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Book 8 of 12 Books
Pages 27483–28121

Part II—Continued

Department of Justice

Antitrust Division
United States v. Microsoft Corporation; Public Comments; Notice

MTC–00024449

From: Keith B. Bassett
To: Microsoft ATR
Date: 1/25/02 12:11pm
Subject: Microsoft Antitrust Case

Hello,

I am writing to address the possible settlement of the US vs Microsoft case. Simply put, the current remedy worries me. If we subscribe to a strictly behavioral punishment for a company which has been proven a monopoly, then how can we design it so that the changing face of technology doesn't allow Microsoft to sidestep it? Because of the volatile nature of the field of technology, and because of Microsoft's proven habit of undermining or purchasing competitors, how can any behavioral punishment forsee the direction that the company will move? Microsoft has shown great ingenuity in getting around this sort of punishment in the past, and the current remedy doesn't appear to be properly drawn to prevent Microsoft from doing so again.

I still subscribe to the idea that a structural remedy would be the best course of action. A dissolution of the company into parts that could compete with each other would seem to produce the greatest economic good for the largest number of consumers and companies. Microsoft would produce better products without the stranglehold on the oem market that they currently hold. Oems would have the option of going with several varieties or flavors of the current Microsoft offerings, which would cause serious competition and improvement in the OS offerings. Bugs would be fixed quickly, and the basic solidity of the OS offerings would increase at a similar rate, as the companies struggled for position. File formats might still be a weapon against competitors, but without one clear leader, the level of interoperability would be a serious selling point. Currently the Office offerings import all documents perfectly, but cannot export to other formats without major problems, even ostensibly "open" formats. However, it appears that the structural remedies have been discarded in favor of action which will be perceived as less drastic. Perhaps some appropriate remedies include the dissolution of the current OEM preload aggrements, with a prohibition of future ones. The Microsoft office suite data file formats could be placed into the public domain, with future format changes coming under review from an independent open standards body. The .NET formats, interconnects and standards could be placed under the overview of an independent open standards body, as could the Microsoft networking protocols.

A drastic, but effective solution would be the seizure and relicensing of the core source code for the range of Microsoft's OSes. If they were relicensed under an open source license they would remain available regardless of the changes made to them. This, while extreme, would allow for the use of the code by the entire marketplace and increase competition in other areas, forcing Microsoft to compete elsewhere. These solutions may seem extreme, but they depend upon the fact that Microsoft has a proven monopoly which was obtained by illegal means. If they did not have a monopoly or if it was retained legally these rules would not apply.

If an effective long term remedy is not obtained, then Microsoft will have been given implicit permission to continue their current and former business practices. In fact it will be an endorsement of them and will endanger what little remaining commercial competition they have. I don't know what this will mean for other big companies in the information business, but it certainly gives them a frightening level of control of the American public's access to those companies and to information in general.

Thanks for your time, I know that this was a simple and general letter, but I wanted to let you know what the general public was feeling.

Keith B. Bassett

MTC–00024450

From: James M. Moe
To: Microsoft.atr(a)usdoj.gov
Date: 1/25/02 12:14pm
Subject: Microsoft Settlement

I do not agree.

Microsoft is a monopoly as found in the original judgment. While not a bad thing in itself, Microsoft has persistently abused its position to the detriment of the computer and software industries. Further it is contemptuous of the prevailing laws and openly continues its abusive practices.

MTC–00024451

From: Dankovits, Kris
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 12:14pm
Subject: Microsoft Settlement

I disagree with the Microsoft settlement. It is a foolish move, designed to help only Microsoft.

Kris Dankovits

MTC–00024452

From: Ryan Lucier
To: Microsoft ATR
Date: 1/25/02 12:14pm
Subject: Microsoft Settlement

I think Microsoft develops O.K products, but getting rid of competition is not a good practice.

MTC–00024453

From: Don Ramier
To: Microsoft ATR
Date: 1/25/02 12:16pm
Subject: Microsoft Settlement

Dear Sir or Madam:

I would like to have my comment entered into the **Federal Register** as required by the provisions of the Tunney Act (Antitrust Procedures and Penalties Act) with respect to the proposed "settlement" of the Microsoft Corporation anti-trust case.

Since Microsoft has shown absolutely no remorse or change in business attitudes following the 1995 anti-trust decision rendered against it, and has been found to be in contempt of court regarding subsequent violations, business activities, business strategies, and programs, I hope and pray that the Federal Government will deny the validity of this settlement on many grounds, including and not limited to the one mentioned above.

This provisions of this settlement are unenforceable. The penalties cannot be enforced, monitored, or even imposed upon the Microsoft Corporation.

I never wanted to have a browser supplied by Microsoft Corporation with their operating system forcibly imposed on my property, my Personal Computer, called Internet Explorer. I use Netscape, a competitor of Microsoft's. My computer fails to operate properly due to malicious engineering by the operating system (Windows) when I respond that I don't want to use Internet Explorer as my default browser. How can I be sure that the I.E. code is to blame? How can the provisions of this settlement be enforced? Computer programming can be "transparent to the user" and can cause lingering damage, and even crippling effects on the property of people like myself, if I don't answer the questions the way the code interprets I should. How can situations like this be monitored by the U.S. Government, or by anybody else, for that matter? This is just one of many examples I could use to describe the performance (or lack thereof) of my property, my Personal Computer, when maimed by any number of versions of the Windows operating system. I am a technical writer by trade, and it is my job to document highly technical programming code of sophisticated software applications. Over the last twenty years, I have been employed by the International Business Machines Corporation (IBM), the Federal Express Corporation (FedEx) and three smaller software development corporations. I have been very well trained to know what the code is supposed to do, and what the code is NOT supposed to do (the actions and mistaken actions of programming code).

In these twenty years of computer related technical writing experience, I have seen the emergence of the operating system named DOS (short for Disk Operating System) that Microsoft created for delivery on the IBM PC, the evolution of DOS to Windows, and, over time, the gradual, yet perceivable, encroachment of the Windows operating environment on my ability to perform my specified tasks within the framework needed. Jumps from versions of operating systems affected the performance of other applications that should not have been affected and this caused much delay in the delivering of my services to my employers in a timely manner.

How can the U.S. Government hope to understand, much less enforce, the terms of this proposed settlement on the intricacies of the Windows operating environment and the thousands upon thousands of lines of code? It is inconceivable to me that the U.S. Government, in all it's might and glory, cannot see that this settlement is just a cop out and is not justice, but an appeasement to the monolithic Microsoft Corporation.

For these and other reasons, I hereby voice my concern over the terms of the proposed settlement and ask that remedial steps be taken to truly and justly dismantle the monopolistic Microsoft Corporation by force of law.

Sincerely,
Don A. Ramier, III
Documentation Specialist
Geobot, Inc.
Memphis, Tennessee

MTC-00024454

From: Jonathan Kamens
To: Microsoft ATR
Date: 1/25/02 12:17pm
Subject: Microsoft Settlement

To whom it may concern:

I have been developing computer software for Windows, Linux and other operating systems for over fifteen years.

I have reviewed the Proposed Final Judgment (PFJ) in United States v. Microsoft. In my opinion, the remedies outlined in that judgment are inconsistent with the Finding of Facts in the case and will not achieve the required goals of eliminating Microsoft's anticompetitive conduct and making it possible for other software vendors to compete with Microsoft on an even playing field in the future.

To mention just one of the many problems with the PFJ, it stipulates that Microsoft must document Windows API's so that competitors can write software which uses those API's to interoperate with Windows, but (a) the definition of what constitutes "API's" and therefore must be documented is just plain wrong, (b) there are no requirements on when API's must be documented, and hence Microsoft may be so slow in documenting them as to make it impossible for other software vendors to take advantage of the documentation in time to compete effectively. Furthermore, the terms of the PFJ and of Microsoft's own end-user license agreements would seem to imply that Microsoft can continue to prohibit other software vendors from implementing and/or using emulations of Windows API's on non-Windows operating systems. For example, even under the PFJ the legality of the "WINE" Windows emulator for linux would still be questionable, despite the fact that "WINE" is clearly one of the largest and most effective tools for leveling the playing field between Windows and Linux.

I sincerely hope that the Court rejects the Proposed Final Judgment and instructs the Justice Department to come up with a new one which addresses the many problems which I'm sure have been brought to your attention.

Sincerely,
Jonathan Kamens
Curl Corporation

MTC-00024455

From: Ernie DeVries
To: Microsoft ATR
Date: 1/25/02 12:19pm
Subject: Microsoft Settlement

I am not a lawyer. I cannot speak to the legal points of the proposed settlement of DOJ's anti-trust action against Microsoft. Although I am a computer professional, in many ways I am just a consumer who is directly affected by the actions of Microsoft because I use personal computers. I can speak to the impact of a settlement on consumers.

The largest personal impact of Microsoft's conduct has been the lack of choice by consumers. Microsoft has a long history of actions such as pre-announcements, feature add-ons and exclusive agreements which have been done not to improve the use of MS products, but simply as preemptive strikes to keep competitors from continued development on products. For me, this kind of behavior is the core issue in MS using it's existing monopoly to enter new markets.

Although it was not specifically addressed in the trial, events at Gateway computer illustrate this problem. There was a time when Gateway included "Office" software with each new computer at no additional charge. Gateway customers were given the choice between Microsoft Office and WordPerfect Office, with no push or coercion toward either product. This practice did not last long, but was replaced by Gateway offering no choice—only MS Office. Anyone who believes that Gateway took this action on its own, without behind-the-scenes "encouragement" from MS, is a fool.

The connection to this case is that even if MS never actually leaned on Gateway to exclude competing products, MS was able to create an environment wherein vendors had to live with the constant threat that they would be cut off by MS or have prices increased by MS so that the manufacturer could not compete. This environment lead directly to reduced choice for consumers with resulting higher prices and lower productivity because the "better mousetrap" never had a chance in the marketplace.

Certainly there were errors in judgment by the original trial judge regarding the sharing of his thoughts about the trial, but as I watched the trial unfold I was repeatedly struck with the thought that Judge Jackson seemed to be the only one involved in the case who was making any sense at all. If the actual judgment of Judge Jackson cannot be implemented, then certainly his intent needs to be preserved.

To accomplish this, I see the following as being critical pieces of the conclusion of this case:

(1) Consumer choice will only be restored when MS is forced to open its files to share information on API calls and file formats so that all competitors have the same advantage as the internal developers at Microsoft. This is not sharing source code, but interfaces.

(2) Exclusive contracts must be prohibited between MS and its OEM customers as well as with VARs (Value Added Resellers).

(3) MS must be prohibited from giving away products. I know this is very difficult to define, but we must never again have a situation like Internet Explorer which was created and given away for the exclusive purpose of undercutting a competitor that did not have the same financial resources as MS. Consumers are not benefited by "free" products when the result is the lack of real alternatives in the marketplace.

(4) Financial penalties. The financial penalties from Microsoft's past behavior must be so severe that MS will never again consider repeating its behavior.

The bottom line is that we need a sentence that restores choice and innovation to the marketplace. MS must become one player among equals instead of being the only player that counts.

Thank you for your time.
Sincerely,
Ernie DeVries
Flagstaff, AZ

MTC-00024456

From: KMGREENHAW@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 12:20pm
Subject: Microsoft Settlement

Dear Department of Justice:

Please accept the settlement with Microsoft.

Bringing this matter to a conclusion will help the economy and boost confidence in the stock market.

Thank you,
Kevin Greenhaw

MTC-00024457

From: Tony H
To: Microsoft ATR
Date: 1/25/02 12:21pm
Subject: Microsoft Settlement

All I can say its a BIG JOKE.
Users Lose
Microsoft Wins
Thank You
Tony Hromadka

MTC-00024458

From: Paul Dupuy, Jr.
To: Microsoft ATR
Date: 1/25/02 12:21pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am opposed to the proposed settlement in the Microsoft antitrust trial. I feel that the current proposed settlement does not fully redress the actions committed by Microsoft in the past, nor inhibit their ability to commit similar actions in the future.

The vast majority of the provisions within the settlement only formalize the status quo. Of the remaining provisions, none will effectively prohibit Microsoft from abusing its current monopoly position in the operating system market. This is especially important in view of the seriousness of Microsoft's past transgressions.

Most important, the proposed settlement does nothing to correct Microsoft's previous actions. There are no provisions that correct or redress their previous abuses. They only prohibit the future repetition of those abuses. This, in my opinion, goes against the very foundation of law. If a person or organization is able to commit illegal acts, benefit from those acts and then receive as a "punishment" instructions that they cannot commit those acts again, they have still benefited from their illegal acts. That is not justice, not for the victims of their abuses and not for the American people in general.

While the Court's desire that a settlement be reached is well-intentioned, it is wrong to reach an unjust settlement just for settlement's sake. A wrong that is not corrected is compounded.

Sincerely,
Paul Dupuy
Software Engineer
Vancouver, WA

MTC-00024459

From: Lori Dupuy
To: Microsoft ATR
Date: 1/25/02 12:22pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am opposed to the proposed settlement in the Microsoft antitrust trial. I feel that the current proposed settlement does not fully redress the actions committed by Microsoft in the past, nor inhibit their ability to commit similar actions in the future.

The vast majority of the provisions within the settlement only formalize the status quo. Of the remaining provisions, none will effectively prohibit Microsoft from abusing its current monopoly position in the operating system market. This is especially important in view of the seriousness of Microsoft's past transgressions.

Most important, the proposed settlement does nothing to correct Microsoft's previous actions. There are no provisions that correct or redress their previous abuses. They only prohibit the future repetition of those abuses. This, in my opinion, goes against the very foundation of law. If a person or organization is able to commit illegal acts, benefit from those acts and then receive as a "punishment" instructions that they cannot commit those acts again, they have still benefited from their illegal acts. That is not justice, not for the victims of their abuses and not for the American people in general.

While the Court's desire that a settlement be reached is well-intentioned, it is wrong to reach an unjust settlement just for settlement's sake. A wrong that is not corrected is compounded.

Sincerely,
Lori Dupuy
Mother
Vancouver, WA

MTC–00024461

From: Scott Tietjen
To: Microsoft ATR
Date: 1/25/02 12:22pm
Subject: Microsoft Settlement

Commentary due to the Tunney Act requirements:

I am a Consultant Computer Programmer/ Analyst and Data Security Analyst. I have reviewed the proposed settlement with Microsoft, and have read many commentaries on it, and I am shocked that our government and nine states have given in to Microsoft in such an outrageous way. There is no possible chance that Microsoft will change its behavior in any noticeable way with the application of this settlement—they will in fact be left alone to do what they want, to whomever they want, any time they want, with no controls whatsoever, despite this "review committee" will do or say. This settlement does nothing to stem Microsoft's anti-competitive behavior—in fact, it provides so many large loopholes that you can drive a truck through them (and, Microsoft will drive many trucks through those loopholes). I will not go into any significant detail—my other collegues that have provided commentary that more than do justice to the topic.

In closing, I support the other nine states and their attorneys-general who disagree with the proposed settlement. Their proposals come a lot closer to actually restoring almost reasonable competition to the marketplace, although they are not perfect requirements either. I am of the camp that believes that Microsoft properly needs to be broken up into several smaller companies, that the industry and economy will not be harmed by such a breakup (just like AT&T, the industry will thrive after such a breakup), and that anyone that claims that harm will result from such a breakup is merely parroting Microsoft spin doctors.

—Scott Tietjen, West Haven, Connecticut

MTC–00024462

From: Christopher Fitch
To: Microsoft ATR
Date: 1/25/02 12:23pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Under the Tunney Act, I would like to comment on the proposed Microsoft Settlement. In the Antitrust trial, a number of findings were made. Further, upon appeal a number of facts were affirmed including that Microsoft has a monopoly on Intel-compatible PC operating systems, and that the company's market position is protected by a substantial barrier to entry. "Furthermore, the Court of Appeals affirmed that Microsoft is liable under Sherman Act ? 2 for illegally maintaining its monopoly by imposing licensing restrictions on OEMs, IAPs (Internet Access Providers), ISVs (Independent Software Vendors), and Apple Computer, by requiring ISVs to switch to Microsoft's JVM (Java Virtual Machine), by deceiving Java developers, and by forcing Intel to drop support for cross-platform Java tools." (from Dan Kegel: http://www.kegel.com/remedy/remedy2.html)

Since Microsoft illegally maintained its monopoly, Microsoft enjoys a strengthened Barrier of Entry and little or no competition in the Intel-compatible operating system market. As such, the Final Judgement must remedy the situation by significantly reducing the Application Barrier of Entry and by greatly increasing competition in the market. The proposed settlement does not remedy either situation, and it actually strengthens their current monopoly and allows for new monopolies to be created. There are a number of areas that are flawed in the Proposed Settlement. A list of them is located here: http://www.kegel.com/remedy/remedy2.html

Some other problems:

* There is no provision for preventing an extension of Microsoft's monopoly into other areas. Any Microsoft products must be provided as additional-cost options with a new computer which allows for a user to not be forced into buying them if they do not wish to.

* There is no provision for opening Microsoft's current and future file formats so that any competitors" applications can properly read/write/modify documents created using Microsoft applications.

* There is no provision for requiring Microsoft to publish, in entirety, the specifications for any networking protocols used in Microsoft's products.

One other critical flaw is the lack of any enforcement in the settlement and the lack of any serious punishment if Microsoft violates the terms of the settlement. In the Proposed Settlement, only investigative issues are covered. There are no mechanisms for punishing Microsoft if they violate any terms. This is akin to a convicted criminal (which Microsoft is) being told at a sentencing hearing that his only punishment is to agree to not commit the crime again, and if the criminal does commit the same crime, he will just be "watched" some more. Without any mechanism for punishment, Microsoft can easily violate the settlement terms with no fear of costs or consequences. The current Antitrust proceedings resulted from Microsoft's violation of a Consent Decree from 1995, and indicate a willingness by Microsoft to break the law to maintain their market share.

For years, it has been stated that computing is critical to the United States" economic future, and as such, to the entire world. If we allow Microsoft to continue to impede competition and destroy innovation by accepting the Proposed Settlement, the country's future and perhaps the whole world's future are in danger of suffering significant damage from which it may take years to recover. Competition is vital to any important market and provides benefits to customers and to the economy. A great example of competition's benefits is in the area of Intel-compatible processors or CPUs. Intel and AMD are the two main competitors in this area, and their competition has had a large positive effect. Their products are better, cheaper, and easily available.

Finally, Microsoft has eliminated customers" choices by restricting changes to applications bundled with their operating system and by forcing computer manufacturers to install their operating system through the use of restrictive contracts. One of the cornerstones of our country is freedom of choice. Microsoft has violated that right and must be prevented from violating freedom of choice any further.

In summary, Microsoft has been found guilty of violating the law. These violations and their damage to the market must be remedied, and future damage must be prevented. The Proposed Settlement does neither and MUST be rejected since it does not serve the public interest.

Thanks for your time,
Christopher Fitch
Senior Software Engineer
Memphis, TN

MTC–00024463

From: Marc Grubb
To: Microsoft ATR
Date: 1/25/02 12:24pm
Subject: Microsoft Settlement

Honorable Judge Kollar-Kotelly:

I would like to call to your attention what I feel are glaring omissions in the PFJ, which allow Microsoft to continue to dominate and monopolize in almost every market, allow exclusionary practices to continue, and fail to adequately punish Microsoft for its anti-competitive behavior. As a Macintosh user, I feel the effects Microsoft's strangle hold on the consumer software market every day. By using the Macintosh Operating System, I can avoid using Windows, though it is a constant struggle to avoid having to use Microsoft's Explorer for Web Browsing or Word and

Excel for Word Processing and Spreadsheets, which are just a few examples. Through their domination, they have virtually eliminated competition for consumer and small business software applications even within the Mac OS.

The PFJ is so vague that it only STRENGTHENS Microsoft's barriers to entry and WEAKENS competition. This hurts consumers and limits innovation and is contrary to the free market principles of our nation's economy. Please strengthen the PFJ to satisfy the Court of Appeal's mandate ruling "a remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct", to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future" (section V.D., p. 99).

The PFJ, in its current form, does none of these things, thereby violating the public trust.

Thank you for your consideration.
Marc Grubb
Roslindale, MA

MTC-00024464

From: Mark Stevenson
To: Microsoft ATR
Date: 1/25/02 12:25pm
Subject: Microsoft settlement

The proposed settlement is a poor one because the "remedies" imposed are so unrestrictive and narrowly-defined as to let Microsoft continue with anitcompetitive actions with almost no change in corporate behavior. There is no sting, and there is no remedy in the proposed settlement.

Mark Stevenson
Fishers, IN
Personal computer consumer/enthusiast

MTC-00024465

From: William Buchanan
To: Microsoft ATR
Date: 1/25/02 12:25pm
Subject: Comment on Microsoft-DOJ settlement

I am outraged at the proposed "settlement" of this conflict. It makes as much sense to me as the first court conclusion in the OJ Simpson case. Gates has simply conned his way out of being found clearly guilty by the very expensive but well executed investigation of Microsoft's actions by the Clinton DOJ. Gates" entire career is based on lying, cheating, stealing and bullying his way around in the consumer community. He has no scruples, other than continually doing anything he can to get the public's money in exchange for their purchases of Microsoft's so-called "innovative" products. These sub par products only appear to be innovative because he has used his wealth and maligned cunning to squash any legitimate competitors. Jackson's characterization of him as a "little Napoleon" is right on. And now for the corrupt tie between G.W. Bush and W. Gates (following White House meetings between the two) to surface as a "just settlement" thrown quickly before a war-distracted US public and its Congress, is really rubbing salt into a big wound.

Hooray for the valor of the states who are holding out and continuing to gun for a real "just settlement", in this case. The only reason the other states that originally were involved had to drop out is that the Gates machine is so well endowed, financially and legally, it is able to intimidate even a relatively large collective of public/legal representatives in its obsessive path of destruction. I'm glad to be a citizen of California, and able to watch my attorney general, Bill Locklyer, lead the charge against prematurely settling with Microsoft.

I would hope that the Federal DOJ could follow the same path in this case, but think that the eagerness of the current administration to satisfy Gates" dreams of walking away unscathed from this situation are so far handing him his wishes, just as though it was a "pardon". If there is still such a value as "justice" in our US, then let it reign supreme. Require Microsoft to be held accountable for what it has already been found guilty of, and make it pay the full and responsible cost of having deliberately committed its heinous actions. And see to it that the Bush administration be held just as responsible and accountable for exercising its Constitutional requirement to uphold justice in this case. Anything less only brings to light that the Bush administration and Microsoft are colluding to dupe the taxpayer into believing that both are worthy of honor, a conclusion that is just not acceptable and well should not be.

CC:abraham fred,Jacobsen Dianne,Lips Rolf,Marasco Joe

MTC-00024466

From: pickens—kim@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 12:22pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Kim Pickens
1901 W Imhoff Rd
Norman, OK 73072

MTC-00024467

From: Chris Mayhall
To: Microsoft ATR
Date: 1/25/02 12:26pm
Subject: Microsoft Settlement—AOL Private Suit

The last thing our country and economy needs right now is yet another frivolous lawsuit that will surely do further damage to nearly everyone's retirement portfolio (particularly in light of recent events with Enron Corporation). Please dismiss the recent lawsuit file by AOL Time Warner against Microsoft Corporation, and ask that AOL Time Warner compete with technology instead of litigation.

Three important points should be noted regarding AOL Time Warner:

1. AOL purchased Netscape for $10 billion dollars in the midst of the DoJ trial, even after hearing concrete evidence that IE's success in the market was based on merit, not market share.

2. Microsoft has tried to with AOL in a variety of areas, including improvement of instant messaging interoperability and getting fair and open access to AOL's dominant cable assets.

3. AOL has repeatedly rebuffed Microsoft's efforts, to the detriment of consumers and the technology industry, and has turned to politics and litigation instead.

As a small-business entrepreneur, I view the relationship between Microsoft's Internet Browser (IE) and AOL's browser (Netscape Navigator) as a straight-forward, very tough, competition between two companies operating in a free-market arena. Nothing more.

AOL Time Warner needs to step up to the plate, quit whining (or rather, attempting to derail Microsoft and as a side-effect derail our economy via litigation), and come out with a superior browser and method for interacting with the internet. AOL Time Warner certainly has the financial assets to compete, and no doubt has technology and personnel to compete, AND has massive leverage in the form of its cable rights and media content (via Time Warner assets).

Do I file a lawsuit when my competition across town comes up with a better service? Hell no, I work longer hours, invest in newer technology, and get my &%$ in gear or else I'm out of a job and the vision that is my company goes down the tubes.

Sincerely,
Chris Mayhall
Applied Digital Photography, LLC

MTC-00024468

From: Michele Midofer
To: Microsoft ATR
Date: 1/25/02 12:26pm
Subject: Microsoft Settlement

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. The conclusions reached in the Revised Proposed Final Judgment is NOT in the public interest.

It encourages Microsoft's monopolitic ways to continue, and this is wrong.

Sincerely,
Michele Midofer

MTC-00024469

From: Ev Plant
To: Microsoft ATR
Date: 1/25/02 12:26pm
Subject: Microsoft Settlement

July 22, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

It is time to stop fiddling with the Microsoft antitrust lawsuit, while the American technology industry burns. I strongly support your leadership in directing your Department of Justice to settle this embarrassment. After three years of lawyering and three months of negotiations, I am glad that the parties, including my home state of Illinois, have agreed to what agreed to what may be the least flawed settlement possible.

Microsoft agreed to give up a great deal in the settlement. Were I in charge of Microsoft, I fantasize that I would have led out to maintain the principles of American free enterprise. However, I respect what Microsoft went through, and Microsoft's choice. Under the settlement, Microsoft sets a precedent as the first company to disclose to its competitors the code for its internal interfaces of an operating system, its popular Windows programs. Further, Microsoft will release its server interoperability protocols, and on a non-discriminatory basis license its copyrights and patents to other companies who might otherwise infringe. Microsoft will modify Windows XP and later to make it easy for others, including competitors, to add their own programs or remove Microsoft's programs integral to Windows. A three-person oversight committee will monitor compliance and field complaints from any party. I think at all of this is too much, but support Microsoft's decision to accept the settlement.

America has always been at the forefront of computer software development. Let's maintain America's leadership position. Your leadership was essential to reaching the settlement. Now your leadership can help convince the Federal Judge to accept the settlement. I appreciate your strong leadership.

Thank you.
Sincerely,
Everett Plant
20 Grand Circle
Danville, IL 61832
CC:fin@mobilizationoffice.com@inetgw

MTC-00024470

From: Al Yee
To: Microsoft ATR
Date: 1/25/02 12:27pm
Subject: Microsoft Settlement

Ever school child in America has been taught about fairness and justice and yet the American political system contimues allow Microsoft to crush its rival. The legal system has proven Microsoft guilty so enforce the law and for once prove that the justice system is above politics.

MTC-00024471

From: Josh
To: Microsoft ATR
Date: 1/25/02 12:30pm
Subject: Microsoft Settlement

I just want to say that I disagree with the proposed settlement. I don't think I need to go into great detail as to why I disagree with it, I'm sure many others have already. My feeling is basically this: This settlement is equivalent to sentencing a serial killer to 100 hours of community service instead of the life sentence (or worse) that they deserve.

Joshua Fluty
Independent Programmer
Greenville, SC

MTC-00024472

From: gagetman33@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 12:26pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Donald Grempler
611 West drive
Glen Burnie, MD 21061-2034

MTC-00024473

From: Shilpa Tilwalli
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 12:33pm

To Whom It May Concern:

In accordance with the Tunney Act I am submitting my opinions on the proposed government settlement with Microsoft in regards to the pending anti-trust case.

I am firmly opposed to the current proposed settlement term in the Microsoft case. The terms do no fully redress the actions committed by Microsoft in the past, nor their ability to commit similar or anti-competitive actions in the future.

Many of the provisions in the current settlement will not effectively prohibit Microsoft from abusing its current monopoly position in the operating system market. In view of Microsoft history of anti-comptetitive practices correcting this is vitally important.

A few issues that have been brought to my attention are:

1) The settlement does not take into account Windows-compatible competing operating systems. Microsoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the settlement fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry.

2) The settlement Fails to Prohibit Anticompetitive License Terms currently used by Microsoft. Microsoft currently uses restrictive licensing terms to keep Open Source applications from running on Windows.

3) The settlement Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft. Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems.

4) The settlement Fails to Prohibit Anticompetitive Practices Towards OEMs. The current settlement allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

Please refer to http://www.kegel.com/remedy/remedy2.html for other issues that must be addressed for the settlement to be fair and equitable to all interested parties.

While the Court's desire that a settlement be reached is well-intentioned, it is wrong to reach an unjust settlement just for settlement's sake. I implore you to look into these and the other issues before before pursuing closure on this matter.

Thank you.
Shilpa Tilwalli

MTC-00024474

From: dave robinson
To: Microsoft ATR
Date: 1/25/02 12:31pm
Subject: Microsoft Settlement

To whom it may concern:

I believe that the proposed settlement is a bad idea. It will not prevent Microsoft from breaking antitrust laws in the future, or punish them for the illegal damage they have already done to companies in my area.

Thankyou very much for your consideration,

David Robinson

MTC-00024475

From: David Sullivan
To: Microsoft ATR
Date: 1/25/02 12:31pm
Subject: Microsoft Settlement

The proposed settlement is inadequate as it stands. There are a number of glaring flaws—for instance, the PFJ prohibits certain behaviors by Microsoft towards OEMs but allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system. But this means that the proposed remedy is little remedy at all for it allows Microsoft to continue to dominate the Intel based OEM market with abandon.

Please reconsider the proposed settlement.

David Sullivan
Associate Professor, MSCD

MTC-00024476

From: Christal Phillips
To: Microsoft ATR
Date: 1/25/02 12:32pm
Subject: Microsoft Settlement

the proposed settlement is bad idea !!!!

MTC-00024477

From: Caroline Lambert
To: Microsoft ATR
Date: 1/25/02 12:33pm
Subject: Microsoft Settlement

I am sending this email because I am concerned that the Proposed Final Judgement does not go anywhere near far enough to stop Microsoft's anti-competitive behavior. There are too many loopholes which others have adequately described. Microsoft's only concern at the end of the day is how many dollars they can suck out of their customers. If the remedies are not made more severe, there will be no limit to the damage they will cause to consumers and the high tech industry in the future.

Caroline Lambert
IT Infrastructure Manager
Agilent Labs

MTC-00024478

From: Mike Zyphur
To: Microsoft ATR
Date: 1/25/02 12:33pm
Subject: Microsoft Settlement

To whom it may concern,

My name is:
Mike Zyphur
New Orleans, LA 70118

I am a Ph.D. student in Industrial and Organizational Psychology at Tulane University, a US citizen, and I do not agree with the proposed ruling. This settlement is a bad idea. If this settlement is the outcome of what was a very telling antitrust trial and fact-finding process by the DOJ then I am going to lose even more faith in the ability of the DOJ to be an island in a sea of corporate-sponsored governmental policy-making than has already been erroded by past DOJ actions. If the currently proposed ruling is allowed to stand, Microsoft will continue its subtle and publicly covert operation of stifling competition and innovation, and (for those who know a fair amount about technology and programming) blatantly produce some of the worst products on the market with virtually no competition that is adequately Windows compatable. Please, please, please, reconsider your proposed decision and be true to the name of your organization. The name that is, in this country, supposed to mean something: The Department of Justice. For how can we, as a nation, attempt to bring and preach justice throughout the world (as we are currently attempting to do) if we cannot even remain unbiased and just in our homeland?

Thank you for your time,
Mike Zyphur

The immature man desires to die for a cause. The mature man desires to live for a cause, humbly.

J.D. Salinger

MTC-00024479

From: jitrbugb@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 12:30pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Betty Norman
326 N. Evans
Pierre, SD 57501

MTC-00024480

From: Anne Dirkse
To: Microsoft ATR
Date: 1/25/02 12:34pm
Subject: Microsoft Settlement

I would like to express my sincere dismay at the injustice of the proposed settlement terms of DOJ vs. Microsoft. Such a settlement does nothing to remedy the stifiling impact that Microsoft has had on the industry. Quite the opposite, in fact it opens up a new audience for Microsoft in a market that they would very much like to permeate. Tecnology can and will do great things for this country, but the essence of its sucess should be the same essence that made this country great: freedom. By allowing Microsoft to continue their non-competetive practices you all but ensure that they will not only have increasing control over the operating system market but also that they will continue their attempts to obfuscate and disable other viable technologies, protocols and revolutionary ideas.

You must act now to make sure the Internet, and communications standards remain open to everyone. The following are critical to any agreement terms:

1. Any application or web service distributed by Microsoft which communicates over a network must first have its protocol approved and published by a fair committee. (The idea is not to hinder Microsoft's ability to create their own protocols, only to insure that other applications will compete on their relative merits.)

2. The committee will also provide a protocol compatibility suite (PCS) for the protocol.

3. No Microsoft product, patch, or web service may be distributed without first passing the protocol compatibility suite (PCS).

4. The latest Java Runtime Environment must be installed and configured on all future Microsoft products for the next ten years—including Java WebStart.

Sincerely,
Anne L. Dirkse
anne@annedirkse.com

MTC-00024481

From: barrie@siast.sk.ca@inetgw
To: Microsoft ATR
Date: 1/25/02 12:32pm
Subject: Microsoft Settlement

The Settlement does not go nearly far enough in punishing Microsoft for it's business practices. The Justice Dept. for political reasons only, completly caved on the settlement.

Bryce Barrie

MTC-00024482

From: Helen Traaen
To: Microsoft ATR
Date: 1/25/02 12:38pm
Subject: Microsoft settlement

Please settle with Microsoft and quit spending tax payers money on this long drawn out process, thank,....

Helen Traaen

MTC-00024483

From: (q)Charles Hethcoat(q) (060)Charles Hethcoat
To:RFC-822=verify@*fxsp0;-kegel.com.microsoft.atr@usdoj.gov@i...
Date: 1/25/02 12:36pm
Subject: Microsoft Settlement

Name: Charles L. Hethcoat III
City: Houston
State: Texas
Title: Concerned citizen; Senior Engineer/Stress Analysis
Organization: Currently unemployed

To Whom It May Concern:

I have signed Dan Kegel's Open Letter to the DOJ because I fully agree with it. Microsoft is being rewarded, not punished. . Now, as a part of this goofy "settlement," the Pied Piper of Redmond is going given the next generation of school children to do with as he wishes.

I say it's spinach and I say to Hell with it.

Cheers.
Charles Hethcoat

MTC-00024484

From: Matthew Jones
To: Microsoft ATR
Date: 1/25/02 12:37pm
Subject: Microsoft Settlement

I believe the current Microsoft settlement is not a good idea. Please review the settlement and make sure it meets requirements and standards of existing laws and regulations. When a corporation such as microsoft defies federal anti-trust laws and calls it aggressive business practices, something must be done about it. now is the time to hold microsoft accountable for their actions and see that the company does not continue in its illegal courses of action.

Thank you for your time
Matt Jones

MTC-00024485

From: ddaupert@csc.com@inetgw
To: Microsoft ATR
Date: 1/25/02 12:12pm
Subject: Microsoft is a monopoly.

Microsoft has been found guilty of monopolistic practices, but my government is set to reward its behavior.

The DOJ/Microsoft settlement is a disproportionately weak response to the harmful, predatory practices of that business entity. Most of the time I believe it is not in our best interests for the government to micromanage free market activities. But in this case, the actions of Microsoft have proven to be harmful to the marketplace community, and by extension the larger economy.

If my government fails to protect the interests of its citizens on such a hugely influential matter, that failure will corrode the trust its citizens place in it. Furthermore, letting the monopolist off so lightly essentially codifies into law its monopolistic practices, and paves the way for further and more egregious activities.

It is my view that a structural response, such as breaking the company into operating system and application entities is not an unfair nor an uncalled for response. I believe Microsoft has proven in the past it is well capable of circumventing the rules other business entities follow in its predatory campaign to stamp out competition. Thus, I believe more conservative behavioral remedies will, in the end, prove no barrier to further illegal and egregious behaviors on the part of this entity.

Dennis Daupert

MTC-00024486

From: ayahone@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 12:35pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
F N Ingram
POB 12446
Odessa, TX 79768

MTC-00024487

From: sherbet—50@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 12:36pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Herbert Rowland
7565 Keating Dr.
Indianapolis, IN 46260-3300

MTC-00024488

From: Christopher Plummer
To: Microsoft ATR
Date: 1/25/02 12:33pm
Subject: Microsoft Settlement

Greetings,

I would like to submit the following as a Tunney Act comment regarding my opposition to the proposed final judgement against Microsoft:

As an information technologies professional for twenty years I have observed the rise of Microsoft and noted with concern many of its anti-competitive and monopolistic practices, only some of which have been addressed by the DOJ case.

In general I am convinced that the remedy proposed will not prevent Microsoft from unfairly maintaining its monopoly, not stop it from thwarting competition and innovation in the computer and every other industry it touches, and will not in the end prevent Microsoft from harming consumers by hindering their choices in the marketplace. The PFJ Contains Misleading and Overly Narrow Definitions and Provisions, Fails to Prohibit Anticompetitive License Terms currently used by Microsoft, Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft, Fails to Prohibit Anticompetitive Practices Towards OEMs, and as currently written appears to lack an effective enforcement mechanism.

Please go back to the drawing board and come up with a remedy that will actually protect and benefit consumers!

Thank you,
Christopher Plummer
Lotus Notes Administrator
Independent Contractor
Flemington, NJ USA

MTC-00024489

From: bsteinhour@santeccorporation.com@inetgw
To: Microsoft ATR
Date: 1/25/02 12:36pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Bill Steinhour
220 Malibu Street
Castle Rock, CO 80104

MTC-00024490

From: Tazanator
To: Microsoft ATR
Date: 1/25/02 12:40pm
Subject: Microsoft Settlement

sir;

I believe that the original proposal of splitting up microsoft into several smaller independant companies is truely what is needed in the intrest of fair play. The court records show they have run a monopoly and violated anti-trust laws and have continued to bully the computer market even during the trial. To belive they won't continue to do the practices that made them the largest in the business is a travisty to justice. In fact to belive they will change and be open to compition is to belive that the windows XP isn't them tring to fix the lemons in Windows 95. If they built cars you know they would have been pushed out of business by now for inferior support and a product that is very unstable. They have kept the markets closed thru their legal department and arm wrangling to the point that there has never been a chance for the american people to stand up and voice what we belive is a better product let alone a company entry to make a better product available to the people.

Please in the interest of the american idea of free competiton bust the microsoft monopoly into several smaller corporations. It would give the computers back to the people that created them allowing the programs to improve instead of repair what microsoft has crippled. —

MTC-00024491

From: Sam Mills
To: Microsoft ATR
Date: 1/25/02 12:40pm
Subject: Microsoft Settlement

Do not settle with microsoft. People who abuse the system must be held accountable.

Sam Mills

MTC-00024492

From: Cesar Rebellon
To: Microsoft ATR
Date: 1/25/02 12:41pm
Subject: comments

Just a quick comment on Microsoft— My feeling, for whatever it may be worth, is that Microsoft, intentionally or not, has so much market share that they inhibit the very competition that our country prides itself in promoting. Just my two cents worth...

Cesar J. Rebellon, M.A.
Applied Research Services

MTC-00024493

From: IVAN BOTVIN
To: Microsoft ATR
Date: 1/25/02 12:41pm
Subject: Microsoft settlement

Gentlemen, I understand that you are now in the process of reviewing the governments settlement with Microsoft. It is my opinion that the settlement is fair and should not be touched. Microsoft is a very important player in the growth of the computer industry. It has been the leader in developing the technology that has brought the computer into the homes of a large percentage of our people. It also is an important source of foreign sales which helps us in our balance of payments problem. It has helped make American business more competitive with it's applications for them. In short, we need Microsoft and we need it with the ability to keep innovating. I support the settlement as it now stands.

Sincerely,
Ivan J. Botvin
5300 E. Weaver Dr
Centennial, CO

MTC-00024494

From: Andy Rosen
To: Microsoft ATR
Date: 1/25/02 12:40pm
Subject: Proposed settlement—unacceptable

To whom it may concern,

I have worked in the computer industry as a software engineer and systems administrator for over 15 years. I am writing to express my concerns about the proposed settlement by the Dept. of Justice and Microsoft. There are two primary goals in any anti-trust remedy: gains achieved through illegal means should be recovered and competition should be restored to the relevant market.

It is my strong belief that, if approved, the settlement would not penalize Microsoft in any way, nor would it restore competition to the relevant market. In fact, it would further entrench Microsoft's monopoly position and allow them, legally, to extend that position to new markets. The proposed settlement includes no penalties for Microsoft. They would simply be allowed to keep the countless billions of dollars they have acquired as a result of their illegal practices.

While the relevant market was defined as Personal Computer Operating Systems, the proposed settlement does nothing to restore competition to that market. Instead, it tries to ensure that third parties will have continued access to the information necessary to write application software for future Windows platforms.

It was shown in the trial that there is a significant "applications" barrier to entry. By helping companies write *more* applications for Windows we would be helping Microsoft to strengthen their position. Additionally, there are loopholes that even a casual observer can recognize. For example, Microsoft would be allowed to determine who will have access to new and existing system interfaces. In other words, they would be allowed to pick and choose who their competition will be in any application software market.

Microsoft would also be allowed to block all access to major portions of their interfaces by claiming they are part of system security, or virus protection, or content management, etc. As they have shown in the past, Microsoft is quite capable, and willing, to tie unrelated products together not for technical reasons, but to eliminate competition. Instead we should be taking steps to bring existing applications to platforms that attempt to compete directly with Windows, such as OS/2, Linux, BeOS, FreeBSD and UnixWare.

Microsoft had their year in court and were found guilty. The trial is over. The appeals process is over. Now is not the time for settlements. Now is not the time for judgment. Now is the time for remedy.

Andy Rosen <ajr@ajr.cx> Senior Software Architect and Systems Administrator
http://www.ajr.cx/pubring.asc

MTC-00024495

From: Carl Stewart
To: Microsoft ATR
Date: 1/25/02 12:41pm
Subject: The Microsoft Case

Hi there,

While I may not be a US citizen, I'm in Canada by the way. Microsoft has abused its monopoly and it should have a remedy put at it. And here's my proposed remedy for it.

1. Split it up into 3 companies. One for operating system products. One for internet software. And the third for any other kind of software.

2. Make it open up the API for all of its operating systems, and future operating systems. So that programmers have the same chance to make great products as it does itself.

3. Any proprietary feature in its Browser that it has, it must open up so that competitors that make other internet browsers can have that same set of features. In other words, it has to submit it to W3C first, then if its approved, it can then add it to its browser. So then its competitors can have the same features as well.

4. When it gives out licenses to OEM's, it cannot limit the OEM to just having its operating system on the computer. This way if the OEM wants to put 2 operating systems on the computer to give its customer's a choice of which operating system to use, or to explore another operating system like linux, while still using windows.

5. Give the OEM's a choice of which browser to ship with the operating system. So if an OEM wants to ship Netscape instead of Internet Explorer, it can. And if the consumer wants to use Internet Explorer, then it can download it from Microsoft. Or at the very least, a stripped down browser, with basic download capabilities and html reading so that the consumer can choose which browser to use.

6. Open up the samba sharing system, so that competitors can have full access on how to implement it in their operating systems. Including how to access it from their operating system.

7. Microsoft cannot limit OEM's as to which software to include and not to include, for example Microsoft cannot give them a lower price or some other deal by only including Microsoft Office and not a competitors Office Suite.

Well there's my ideas on the type of remedy Microsoft should be given. Thanks for listening.

Regards,
Carl Stewart

MTC-00024496

From: chasmid@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 12:39pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Charles Middlebrooks
5005 Casa Grande Dr.
Dickinoson, TX 77539

MTC-00024497

From: Ed Boutros
To: Microsoft ATR
Date: 1/25/02 12:22pm
Subject: Microsoft Settlement

As a user of Apple computer products it should be noted Microsoft has not produced a version of their database called Access for the Macintosh. To many people this may seem insignificant, but what it does is eliminate the full integration of apple computers in business environments. The other point is that in the windows version of Outlook, the mail client, Microsoft created a networked calendar system, which again was not provided for the Macintosh mail client called Entourage. People may say so what, what I say these omissions were done on purpose to maintain Apple's niche status in the computer industry, since when an Apple computer is sold Microsoft generates no money from the transaction, but may my benefit from the purchase of their limited office suite. In order to level the playing field, the company needs to be split in 3 ways, one for operating systems, one for add on software and another for services like web tv and .net. The company has vast influence and must be monitored more closely, since now Microsoft now has the ability to shut off software that is purchased but not registered. There is always the possibility that at some point there could be massive computer shut downs if someone hacked into the activation system, or if a bug occurred in the activation system. This would represent a serious nation security risk to the national and world economy. The implications are serious.

Ed Boutros
24 Oak Brook Dr.
Ithaca, NY 14850
607–272–8902

MTC-00024498

From: Nall, Clinton (SCH)
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 12:45pm
Subject: Microsoft Settlment

I would like to register my disappointment with the current proposed final judgement in this case. The terms API and middleware are so narrowly defined as to make the impact of this judgement minimal to Microsoft. If anything, it will be licensed to continue it's anti-competetive practices with impugnity. Any settlement that does not toss out Microsofts preload agreements and open their office suite formats and networking protocols to the light of day will be a travesty and will pave the way for many more years of the Microsoft non-benevolent monopoly.

Go back and get it right!

Clint Nall
250 Fairfax Drive
Alpharetta, GA 30004

MTC-00024499

From: Kevin Carter
To: Microsoft ATR
Date: 1/25/02 12:43pm
Subject: Microsoft Settlement

RECOMMENDATION: Reject the current proposal. Two facts lead to one conclusion my recommendation:

FACT 1: Microsoft Corporation has proven itself to be a powerful and dangerous force because of the many ways it has leveraged its monopoly in Windows OS-dependent markets.

FACT 2: The current potential settlement between Microsoft Corp. and the U.S. Department of Justice proposes to maintain that dynamic in the long term and impose short-term restraints based on regulatory oversight. CONCLUSION: The current proposed settlement between DOJ and Microsoft Corp. will fail to put an end to the illegal monopoly; fail to prevent a return to anticompetitive behavior; fail to deny the violator the benefits of its illegal actions; and fail to ensure competition going forward.

RECOMMENDATION: Reject the current proposal.

Thank you.

—Kevin Carter
—18 Longfellow Road
—Arlington, MA 02476

MTC-00024500

From: Travis Morgan
To: Microsoft ATR
Date: 1/25/02 12:46pm
Subject: Microsoft Settlement

The proposed settlement for the Microsoft Anti-Trust case is outrageous and should not be allowed!

Travis Morgan
CIO, Inc.
Main Line: 913.962.6222
New Direct Dial: 913.562.5645
Turning Systems into Solutions
www.cioinc.com <http://www.cioinc.com/
Please make note of our new address:
11656 West 75th Street
Shawnee Mission, KS 66214

MTC-00024501

From: bruceleev823@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 12:43pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
bruce venable
26311 judy circle
romulus, MI 48174

MTC-00024502

From: Robert K. Murawski
To: Microsoft ATR
Date: 1/25/02 12:46pm
Subject: Microsoft Settlement

The settlement falls short.

Robert K. Murawski
Research Assistant
Physics Department
Stevens Institute of Technology
Hoboken, NJ 07030
work 201.216.5657
fax 201.216.5638

MTC-00024503

From: GO2GARCIA@HOTMAIL.COM@inetgw
To: Microsoft ATR
Date: 1/25/02 12:44pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Jose Garcia
245 N RIDGEWOOD PLACE
APT. #110
LOS ANGELES, CA 90004–4045

MTC-00024504

From: macworks@telocity.com@inetgw
To: Microsoft ATR
Date: 1/25/02 12:48pm
Subject: Settlement unjust!

Re-instate the original verdict and recommendations of the trial judge. Microsoft should be broken up into a operating system company, and an applications company. The Explorer browser and interface should be removed from the operating system to become a standalone application. Substantial fines should be levied against it for the outrageous misconduct engaged in by Microsoft.

Thanks for listening!

MTC-00024505

From: Steve Meyer
To: Microsoft ATR
Date: 1/25/02 12:49pm
Subject: Microsoft Settlement

I am completely perplexed at the actions of AOL. It is so obvious that AOL (among others) is using the Justice Department/States Atty Generals" offices to act as its private outside counsel in its battle against Microsoft, that it's hard to for me to believe that no one in the government can see what's occurring. This is pure economic politics on the part of the hold-out states and economic blackmail on the part of AOL; and as a taxpayer, I find it offensive that AOL has been using my tax dollars to boost earnings that it cannot get in the marketplace via old-fashioned competition.

If the hold-out states are truly interested in stamping out anti-competitive practices, they need to look no further than their AOL bedfellow. Weren't they the ones who promised open access if they were allowed to acquire Time-Warner? Didn't they promise to allow other instant messaging vendors access to their IM system so we all could benefit? They can't have it both ways. You can't claim Microsoft is anti-competitive in one market while AOL is doing the same thing in another market.

For the record, I don't own Microsoft stock (nor have I ever), but I do use their products daily which is why I, and thousands like me, have jobs today.

Pull the back the covers and stop the charade.

Steve Meyer
Communication Partners, Inc.
858–673–2266 x110

MTC-00024506

From: Barron Koralesky
To: Microsoft ATR
Date: 1/25/02 12:44pm
Subject: Microsoft Settlement

To whom it may concern—

I am firmly against the current Microsoft settlement. The penalties do not at all address Microsoft's misdeeds in the past. Moreover, it allows them to futher gain footholds in other markets. Thereby —increasing— thier monopoly status.

Please rethink the settlement terms.

Thank you,

—Barron Koralesky
Barron Koralesky
AIA[Science]
Macalester College

MTC-00024507

From: Timothy A. Musson
To: Microsoft ATR
Date: 1/25/02 12:50pm
Subject: Microsoft Settlement

I would like to voice my opinion that Microsoft should be severely punished for their anti-competitive actions. The corporate "citizen" that is Microsoft has used its monopoly to severely injure fellow corporations, and thus has hurt consumers. Their actions warrant heavy financial penalties (real dollars to be spent completely freely by the recipients, not donated software and old computers) and oversight.

Thank you,
Timothy Musson
1900 E 30th St. #601
Cleveland, OH 44114 —
Timothy A. Musson
NASA's John Glenn Research Center at Lewis Field
Software Engineer
Zin Technologies
216–977–0608
mussont@zin-tech.com

MTC–00024508

From: shirleyb3@earthlink.net@inetgw
To: Microsoft ATR
Date: 1/25/02 12:47pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Shirley Basista
8623 Hollis Lane
Brecksville, OH 44141–2031

MTC–00024509

From: clrunger@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 12:48pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Carol Runger
24372 N 113th Pl
Scottsdale, AZ 85255

MTC–00024510

From: A. Corkins
To: Microsoft ATR
Date: 1/25/02 12:51pm
Subject: Microsoft Settlement
Dear Judge Kollar-Kotaly:

I'm a Network Engineer working for a large networking equipment provider. I'm writing to express my disagreement with the Proposed Final Judgement for the Microsoft AnitTrust Lawsuit.

After all the effort that has been expended and the findings of numerous Courts that Microsoft in fact established an illegal monopoly. This PFJ does not go far enough to remedy the past wrongs, nor create sufficient provisions to curtail its behavior in the future.

I am very much in favor of free markets and competition, and allowing those that win by establishing new technologies that clearly benefit society from profiting from their efforts. I work for a large networking company that is clearly the leader in its industry, and I also enjoy the fruits of our collective efforts and am proud of how we have benefitted society as a whole.

Microsoft though has sought to maximize its profits and market dominance, through methods which I believe compromise the delicate ethical balance between the benefits of competing in free markets and benefitting society.

Their predatory practices of using their market strength to wrestle Intellectual Property from competitors and partners, they have violated all kinds of fairness standards in my mind. I don't mind seeing weak companies and products being beat, that is certainly a normal and healthy part of business. But when those that might develop competing products are bribed not to do so, are we really better for that? The PFJ supposedly addresses this, disallowing Microsoft from paying people not to develop code, but then allows it if it is "reasonably necessary". But there is no provision for who decides this standard.

The "bolting" of IE, where Microsoft feigned ignorance in allowing people to use other HTTP browsers in my opinion was again abuse of their OS monopoly. IE is an inferior product to some of the other browsers that are no longer being advanced, because Microsoft (who is supposed to be serving its customers well with its OS product), creates barriers to ease of use for other browsers.

Their pre-installation of "middleware" products that can't be removed is yet another area I believe the PFJ doesn't sufficiently address.

Please do not allow this PFJ to go forward in its current form, this would be a disservice to the General Public.

Best Regards,
Adam Corkins
PO Box 640244
San Jose, CA 95164
408–527–5098
CC:microsoftsettlement@alexbrubaker.com@inetgw

MTC–00024511

From: Philip Sekar
To: Microsoft ATR
Date: 1/25/02 12:53pm
Subject: Microsoft Settlement
Dear Mr. Hesse,

There is an old saying:" Do not beat the cow that feeds you with milk".

I am a consumer. As a consumer all I need is the best software for a good price. Bill Gates has provided this to me. I am not alone. We have millioons of people around the whole world who depend on Microsoft Products.

Bill Gates is one of the major contributors to our economy. It is totally unwise to hurt him. I have used Netscape Communicator. My computer was crashed. Netscape Communicator is not as good as Microsoft Internet Explorer. Therefore, if Netscape is not up ro the mark, why should Micrsoft be Punished?

Please spare Microsoft. Please Do not beat Microsoft.

Thank you .
Sincerely,
Philip c. Sekar,Ph.D

MTC–00024512

From: William keith
To: Microsoft ATR
Date: 1/25/02 12:55pm
Subject: Microsoft Settlement
Gentlemen,

Enough is enough regarding the attempted AOL/Netscape interference with the settelment of the Microsoft case. It should be remembered that the "injured" netscape was sold for an enormous amount of money during the litigation over it's "injury by Microsoft". If the company that bought it thought it was so "injured", why did they pay so much money for it? The simple fact is, Netscape is not as good as the Microsoft product, and people do not want to buy it. Please proceed with the settlement, disregarding the attempt to prolong it by AOL.

William N. Keith
HC 1
Box 650
Pontiac MO 65729
417–679–3421

MTC–00024513

From: Michael Thomas (San Diego)
To: 'microsoft.atr(a)usdoj.gov'
Date: 1/25/02 12:58pm
Subject: Microsoft Settlement
To whom it may concern:

I would like to make my comments against the proposed Microsoft Settlement of the Antitrust suit against them, pursuant to the Tunney Act. I oppose the Settlement in its current form.

The Proposed Final Judgment (PFJ) has many issues that do little or nothing to prevent Microsoft from continuing their monopoly of the personal computer operating system market, and is therefore —not— in the public's interest. I agree with all of the problems identified by Dan Kegel's analysis of the PFJ (on the Web at http://www.kegel.com/remedy/remedy2.html).

I would like to expound on one of the issues that affects my interests the most. If I would like to purchase a computer from any of the major Original Equipment Manufacturers (OEMs) in the market (Gateway, Dell, HP, Compaq), but would like to get a computer with a freely available Open Source Operating System (such as Linux, OpenBSD, etc.), I am unable to do so. This is because these OEMs have found it fiscally unfeasible to offer such alternative Operating Systems.

I would like to point out the oddity of the statement that an OEM can not sell a computer with an operating system that incurs no cost to them, because it is fiscally unfeasible. This unfeasibility derives from the fact that these OEMs entered into contracts that allow them to purchase a Windows Operating System at a lower price, due to Market Development Allowances— in effect, discounts. These contracts prevent the OEMs from selling other Operating Systems, by threatening to no longer sell them the Windows Operating System at a lower cost, effectively raising the cost of their manufactured PCs, which leads to fewer sales for that OEM (due to competition amongst the OEMs).

The PFJ has no recourse for this issue, and in fact allows such things. The PFJ prevents Microsoft from retaliating against OEMs that ship computers that have a Windows Operating System —and— a non-Microsoft Operating System, but makes no mention for computers that have —only— a non-Microsoft Operating System. Microsoft is given free reign to retaliate against OEMs that want to sell machines in a configuration that will have either a Windows Operating System or a non-Microsoft Operating System. This is not the way to prevent Microsoft's monopoly from continuing. Instead, it furthers it, allowing Microsoft to force OEMs to sell computers that contain their products.

This is but one of the many things I find problems with in the PFJ. Again, I oppose the PFJ in its current form. Please consider this my plea to reconsider, and to work to make a stronger, PFJ to better serve the public's interest.

Michael J. Thomas
San Diego, CA

MTC–00024514

From: Deanna St. Louis
To: Microsoft ATR
Date: 1/25/02 12:57pm
Subject: Microsoft Settlement

Please uphold the the ruling in the Microsoft Lawsuit. The settlement is fair, and further action, such as breaking Microsoft up or stiffer penalties, would lead to higher costs for both consumers and for businesses. As a computer user, I have not seen the evidence that they state in this lawsuit. I use a variety of software from many different manufacturers. Through the years I have used, and still do, a variety of browsers. Internet Explorer is the browser that I prefer for my general web surfing. This is only because I prefer it to Netscape. Before Netscape or IE, I used Mosaic and Spry Mosaic. I have also experienced other browsers, such as Genii and have written my own browser in Java. All these browsers were free, even before Netscape or IE existed. I downloaded them legally free, received them bundled with a software program, or got them from an ISP. When Netscape became available, I changed from Spry Mosaic. At that time, it had a better interface and more functionality. I then tried Internet Explorer. At first, I did not like IE as much and I was also used to Netscape. However, I continued to use both browsers equally depending on what mood I was in that day. Then newer versions of IE came out with functions and a more professional appearance that I preferred to Netscape's interface. I believe that they were not improving Netscape in its functionality or design. Both browsers installed has not caused my computer to become unstable. Throughout the years, I never noticed any problems with downloading or getting any browser free and legally, including finding the links to download them. I also, did not purchase other software programs that I use, such as Corel's Word Perfect Suite because it had Netscape or Microsoft's Office because it included IE. Today, I use IE. I still have Netscape installed and use it to test Web Site Development. Because the browser now comes as a part of Windows is not the reason that I prefer it, as I started to prefer IE's functionality far before this occurred. In my position I also have to know about a variety of software programs, including browsers. I use Linux, and Windows as operating systems. I have found that Windows to be more user friendly. Costs to businesses that had employees who must learn Linux or both operating systems would be high. However it is an alternative operating system for those who want to use it. In that Linux is available, I do not feel that Microsoft has been curtaining software development. I also am concerned that needing to create new chipsets to run new operating systems or different versions will drive the cost of computers up. I am sure that Hardware manufacturers pass the cost of this research and manufacturing onto the general consumer. Unix has the monopoly on the Internet as it runs on more servers than Microsoft products. I do not feel that Microsoft is curtailing the creativity or competition of software developers. The information that Microsoft has provided in their knowledge base on their product is beyond what most other companies provide to their customers. I appreciate this aspect of Microsoft. Other companies provide little information, and often require a consumer to pay for their repair services for their software products. Giving information about the product would not be a large financial burden to them. Microsoft has been extremely fair to the consumers of their products. I have had OEM's make changes to the Operating System to make their bundled software run. It has been my experience that this has lead to severe instabilities in the operating system. Our financial world and industry depend upon the stability of that operating system. I feel that any advancement toward this end, whether it is integrating the browser or not allowing changes to the start-up screen is very important.

Computers are not easy to troubleshoot when something goes wrong. It simply makes the technicians job harder and adds more costs to businesses. They can already make enough changes to the windows desktop, to satisfy most general office workers and computer users. Since the world economy and my own work relies upon the stability of the operating system, some standardization may need to be done to continue to provide this growth.

As someone who has used computers, taught computers, developed programs in java, c++, and c, I have not seen the evidence of the issues in the lawsuit. I can only feel that this has been done for other reasons. Since some businesses have made bad business decisions or not produced a superior product, Microsoft should not be broken up or undergo further penalties.

MTC–00024515

From: Ryan VanderMeulen
To: Microsoft ATR
Date: 1/25/02 12:58pm
Subject: Microsoft Settlement

Like many other people I'm sure you've already heard speak out, I don't understand how you can say the proposed settlement with Microsoft is fair and just. For as much of my tax dollars that went into fighting them in court and ruling against them, I don't see anything to show for it. Since when does the court allow the guilty to choose their own punishment? I strongly urge you to please reconsider your previous judgment and to do something that will actually punish Microsoft for the horribly anticompetitive actions they've undertaken.

-Ryan VanderMeulen

MTC–00024516

From: Jason Edwards
To: Microsoft ATR
Date: 1/25/02 12:59pm
Subject: Microsoft Settlement

I would like to comment on the Proposed Final Judgement(PFJ). First I hate buying a new computer and not having a choice for the operating system. I think this settlement will help give people a choice in operating systems. While the PFJ prevents Microsoft from changing it's commercial relations with an large OEMs if that OEM is shipping a system with Windows and a non-Microsoft OS, or with more than one OS, it does not prevent Microsoft from changing it's relations with the OEM if the OEM is shipping a system with only one non-Microsoft OS. Additionally, the PFJ does not prevent Microsoft from changing it's relations with small "hometown" OEMs. Please consider these things into consideration when the final judgement is made.

Sincerely,
Jason Edwards
Software Engineer, Utah Interactive
801–983–0275
68 South Main Street SALT LAKE CITY, UT 84101–1525

MTC–00024517

From: Lou Ceci
To: Microsoft ATR
Date: 1/25/02 12:59pm
Subject: Microsoft Settlement

I am writing under the Tunney Act concerning the proposed Microsoft Settlement (United States v. Microsoft Corp., Civil No. 98–1232). I believe the settlement is inadequate and unjust. It will not serve to end Microsoft's unlawful conduct, and does not adequately penalize Microsoft for its unlawful conduct. I am writing this to officially note my opinion as allowed by the Tunney Act.

Sincerely,
Louis G. Ceci

MTC–00024518

From: Jan Robison
To: Microsoft ATR
Date: 1/25/02 1:02pm
Subject: Microsoft settlement
2470 Caladium Drive
Atlanta, GA 30345
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The last thing the economy needs is for Microsoft to suffer damage at the hands of the federal government. If Microsoft is punished to the extreme for their antitrust violations, the consumer will suffer and the technology industry will receive a crippling blow. Last November, a settlement was proposed that allows Microsoft to remain intact, but prevents future antitrust violations. I do not believe that further action is necessary on the federal level.

The settlement provides means through which computer makers and software producers will be able to compete fairly with Microsoft, either by operating within the Microsoft framework, or working independently. For example, Microsoft has agreed to reformat future versions of Windows so that non-Microsoft programs will be supported within the operating system. Microsoft has also agreed not to take retaliatory action in the event that software should be introduced into the market that directly competes with Microsoft technology. I believe the settlement is generous on Microsoft's part, and I do not wish to see this generosity taken advantage of. I do not believe litigation should be continued against the Microsoft Corporation. Those who are currently seeking to undermine the settlement do so for their own profit and not for the greater good. I urge you to support the settlement. It is time to move on.

Sincerely,
Janet Robison

MTC–00024519

From: fmr@mtcw.org@inetgw
To: Microsoft ATR
Date: 1/25/02 12:58pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Frank M. Rich, III
114 Lenape Drive
Lansdale, PA 19446

MTC–00024520

From: Tom Yahnke, Sr.
To: Microsoft ATR
Date: 1/25/02 1:01pm
Subject: Microsoft Settlement

Hello,

I state my opposition to the proposed settlement as follows: The settlement as proposed allows Microsoft to keep their ill-gotten gains. MS has made far more money by illegally leveraging their monopoly power than this litigation has cost them. No amount of new rules, guidelines or increased oversight will change this. If the settlement goes forward as it now stands, they will have come out ahead by billions of dollars. What's a few million in legal fees compared to the billions they've garnered by illegally leveraging their position?

The "security" provision is an enormous loophole. This section of the settlement is so broadly worded that Microsoft can and will drive a truck through it. Word has recently leaked from Redmond that "security will now be a fundamental part of everything we do." While I applaud this change from their previous "see no evil" policy, one must question the implications of its timing. If Code Red, Nimda, and a million email viruses didn't cause them to do this, why now? The answer is clear. If security related technology is exempted from disclosure...

Microsoft does not negotiate in good faith. How many consent decrees and other such agreements were broken before the current suit was filed? Why should we believe that they will follow either the letter or spirit of the proposed settlement, given their past behavior? If they violate the terms of the settlement, how many years will the ensuing litigation take? How many more billions will they glean from their illegal practices in the time that takes? How many more consumers and businesses will be shackled to their revenue stream in that time? Microsoft's negotiations should be given as much credence as the testimony of a convicted perjurer.

The public has a golden opportunity here to curb the abuses of an otherwise untouchable monopolist. Please do not squander it out of any desire for expediency.

Thank you.
—TY

MTC–00024521

From: gprechel@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 12:58pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Gordon Prechel
777 E. Thomas Rd.
Phoenix, AZ 85014

MTC–00024522

From: Jason Hummel
To: Microsoft ATR
Date: 1/25/02 1:02pm
Subject: Microsoft Settlement

Microsoft's stranglehold on the computer industry is stifling competition in almost every sector of the computer field. The proposed settlement is incredibly light and will not deal with their anticompetitive practices at all.

Jason Hummel

MTC–00024523

From: Franz
To: Microsoft ATR
Date: 1/25/02 1:02pm
Subject: Microsoft Settlement

I support the current settlement between Microsoft and the Department of Justice. The settlement provides a fair and reasonable outcome of the case. The settlement will deliver what the DOJ intended to receive without limiting the competition in the market. One has to keep in mind that the ruling will not only effect the way Microsoft can and will do business, but also how the competition and new industries will have to conduct themselves. In my opinion, it's the consumer who is still able to make a decision and they will chose the best and least expensive solution. Other companies are free to develop and market better solutions and the market will take care of this. Any limitation of one company alone will not be just. It will have to be a solution which is valid for all and will also be relevant for the future, no matter which company or product will have the highest market share.

Regards
Franz Rau
Redmond, WA

MTC–00024524

From: Mariette Knoblauch
To: Microsoft ATR
Date: 1/25/02 1:04pm

Subject: Microsoft Settlement

My thoughts are that the proposed settlement in the Microsoft case is completely inadequate. It ignores the damage Microsoft's past anti-competitive practices have done in the past to competing systems (OS/2 and Amiga, for example), and does not do enough to prevent future anti-competitive practices. Any fair settlement must allow competitors access to the desktop and to the APIs, and must contain provisions for oversight of Microsoft's dealings with competitors and OEMs.

Mariette Knoblauch

MTC-00024525

From: Shane Williams
To: Microsoft ATR
Date: 1/25/02 1:04pm
Subject: Microsoft Settlement

I am writing to indicate that I believe the proposed Microsoft settlement is insufficient, contains loopholes and does not properly ensure a fair market for competitors. A number of the flaws with the settlement are listed at http://www.kegel.com/remedy/letter.html (which I have co-signed).

In addition, I would like to emphasize a few problems in particular. First, I strongly believe that one of the keys to creating a fair playing field for Microsoft's competitors (both in the OS and application markets) is opening ALL the APIs in all of Microsoft's OSs. Application developers have long believed that Microsoft (MS) has held back a number of "secret" APIs that allow its software to run more effectively and smoothly on its OSs. In my expereience as a computer user I strongly believe this to be the case. Forcing MS to document such APIs openly and completely will place non-MS application developers on the same footing as MS application developers. In addition, open and complete API documentation would allow competing operating systems to implement similar APIs in the own code. Such non-Microsoft implementations of Microsoft APIs would allow software written for Microsoft operating systems to be significantly more compatible with competing operating systems. In order to not put microsoft at a disadvantage by requiring that only it release full API documentation, the settlement could stipulate that any competing operating system wishing to implement Microsoft's APIs should also make their APIs open and available.

On another note, I am greatly disappointed by the lack of a punitive facet to the proposed judgement. The Findings of Fact in this case clearly indicate that Microsoft abused its monopoly powers to increase it profits and keep out competitors. Furthermore, Microsoft's conduct during and since the trial would seem to indicate no sense of remorse over their actions. To this day they still paint this legal battle as the big government vs. "the right to innovate" rather than out of control monopoly vs. truly free markets. I strongly believe that corporations who not only violate antitrust laws, but continue to flout such restrictions should be punished. Further, if we follow the Findings of Fact that Microsoft's actions helped it strengthen its market position, it is only reasonable to assume that such strengthening led to an increase in Microsoft's profits, even if indirectly. For instance, it is worth noting that since Microsoft's market position has strengthened over the last decade, the prices of their products has increased at a rate beyond simple inflation. This price-gouging is precisely one of the results that antitrust laws were desgined to prevent.

Thank you for you consideration of these points regarding the proposed DOJ settlement with Microsoft and I look forward to hearing about changes to the currently proposed remedies. —

Shane Williams
Systems Administrator UT-GSLIS
Public key #7BBC68D9 at
http://pgp.mit.edu/

MTC-00024526

From: Rodney Gooding
To: Microsoft ATR
Date: 1/25/02 1:04pm
Subject: Bad idea for government settlement

Hi

I wish to voice my objections too the government's settling of the Microsoft anti-trust case as Microsoft still hasn't made any changes necessary as ruled prior with regards to the Microsoft vs. Netscape cases.

What hope is their that any settlements now will be fulfilled. Unless you really allow competition, we are all going to be paying ridiculous pricing for software as their will be no real choice..

Thanks, rodney gooding
Real media user
Opera browser user
Linux user

MTC-00024527

From: Flores, Herbert
To: 'microsoft.atr(a)usdoj.gov'
Date: 1/25/02 1:05pm
Subject: Microsoft Case
Herbert D. Flores
MCSE, MCT, CNE, CNI, CTT
ITD—St. Network Engineer x 6405
Sony Electronics, San Jose
CC: Flores, Herbert
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft,

I understand that the settlement that was recently agreed to between the federal government and the Department of Justice is currently undergoing a sixty-day public comment period. It is my hope that when this period is over, the court will accept the settlement.

The settlement is fair and reasonable and is a far better alternative to breaking- up the company. The settlement was reached after intense negotiation and does not let Microsoft "off the hook," as some of its adversaries are claiming. Not only does the settlement address the all of the complaints in the original lawsuit, but Microsoft has agreed to measures not even at issue in the original case. First and foremost, Microsoft has agreed to share portions of its patented code for the Windows operating system. On a more pedestrian note, it has also agreed not to enter into any agreements obligating any third party to distribute or promote Windows technology exclusively or in a fixed percentage. Furthermore, it has agreed not to retaliate against software developers that develop or promote software that competes with Windows. These measures should appease Microsoft's competitors.

A Microsoft break-up is not necessary. To do so would have seriously compromised the integrity of its operating system that would have disastrous consequences for everyone. This settlement is a far better alternative.

Sincerely,
Herbert Flores
Owner

MTC-00024528

From: adam bowker
To: Microsoft ATR
Date: 1/25/02 1:06pm
Subject: Microsoft Settlement

To whomever it may concern,

I am against the proposed final judgment in US vs. Microsoft. I feel the damage Microsoft has done to the software and OS marketplace is incalculable, and the proposed settlement does little to correct it. I don't feel the settlement levels the playing field for competing operating systems or office software, and would like to see a much stronger penalty imposed. The proposed settlement does not sufficiently relieve Microsoft of the ability to leverage hardware and computer manufacturers unfairly against competing products, nor does it adequately open the Windows API to programmers.

Adam Bowker
Dover, NH

MTC-00034529

From: Jon Laufersweiler
To: Microsoft ATR
Date: 1/25/02 1:06pm
Subject: Microsoft Settlement

Hello,

I state my opposition to the proposed settlement as follows: The settlement as proposed allows Microsoft to keep their ill-gotten gains. MS has made far more money by illegally leveraging their monopoly power than this litigation has cost them. No amount of new rules, guidelines or increased oversight will change this. If the settlement goes forward as it now stands, they will have come out ahead by billions of dollars. What's a few million in legal fees compared to the billions they've garnered by illegally leveraging their position? Why should they change their behavior if it continues to be profitable in spite of antitrust litigation?

The "security" provision is an enormous loophole. This section of the settlement is so broadly worded that Microsoft can and will drive a truck through it. Word has recently come from Redmond that "security will now be a fundamental part of everything we do." While I applaud this change from their previous "see no evil" policy, one must question the implications of its timing. If Code Red, Nimda, and a million email viruses didn't cause them to do this, why now? The answer is clear. If security related technology is exempted from disclosure...

Microsoft does not negotiate in good faith. How many consent decrees and other such agreements were broken before the current suit was filed? Why should we believe that they will follow either the letter or spirit of the proposed settlement, given their past behavior? If they violate the terms of the settlement, how many years will the ensuing litigation take? How many more billions will they glean from their illegal practices in the time that takes? How many more consumers and businesses will be shackled to their revenue stream in that time? Microsoft's negotiations should be given as much credence as the testimony of a convicted perjurer.

The public has a golden opportunity here to curb the abuses of an otherwise untouchable monopolist. Please do not squander it out of any desire for expediency.

Thank you.

—Jonathan Laufersweiler

MTC–00024530

From: evil_spock@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:04pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Robert Giramma
16 Crestview Avenue
Medway, MA 02053–1431

MTC–00024531

From: za60@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:04pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Alex Zappavigna
9250 Dunhill Ct.
Colorado Springs, CO 80920

MTC–00024532

From: Maureen Yahnke
To: Microsoft ATR
Date: 1/25/02 1:07pm
Subject: Microsoft Settlement

Hello,

I state my opposition to the proposed settlement as follows: The settlement as proposed allows Microsoft to keep their ill-gotten gains. MS has made far more money by illegally leveraging their monopoly power than this litigation has cost them. No amount of new rules, guidelines or increased oversight will change this. If the settlement goes forward as it now stands, they will have come out ahead by billions of dollars. What's a few million in legal fees compared to the billions they've garnered by illegally leveraging their position? Why should they change their behavior if it continues to be profitable in spite of antitrust litigation?

The "security" provision is an enormous loophole. This section of the settlement is so broadly worded that Microsoft can and will drive a truck through it. Word has recently come from Redmond that "security will now be a fundamental part of everything we do." While I applaud this change from their previous "see no evil" policy, one must question the implications of its timing. If Code Red, Nimda, and a million email viruses didn't cause them to do this, why now? The answer is clear. If security related technology is exempted from disclosure...

Microsoft does not negotiate in good faith. How many consent decrees and other such agreements were broken before the current suit was filed? Why should we believe that they will follow either the letter or spirit of the proposed settlement, given their past behavior? If they violate the terms of the settlement, how many years will the ensuing litigation take? How many more billions will they glean from their illegal practices in the time that takes? How many more consumers and businesses will be shackled to their revenue stream in that time? Microsoft's negotiations should be given as much credence as the testimony of a convicted perjurer.

The public has a golden opportunity here to curb the abuses of an otherwise untouchable monopolist. Please do not squander it out of any desire for expediency.

Thank you.

—Maureen Yahnke

MTC–00024533

From: Keith E. Risler
To: Microsoft ATR
Date: 1/25/02 1:07pm
Subject: Microsoft Settlement
EMAIL TO: microsoft.atr@usdoj.gov
RE: Microsoft Settlement
FROM: KEITH E. RISLER
DATE: 25 January 2002

These comments are supplied as part of the public comment process required by the Tunney Act, and refer to the proposed settlement of the antitrust trial involving Microsoft Corporation.

As you are likely aware, Microsoft Corporation maintains a mailing list that it refers to as the "Freedom to Innovate Network." During the long period involving its antitrust trial, Microsoft Corporation has sent many "FINFlash" mailings (the term FINFlash being coined by Microsoft itself in such mailings) to persons on their "FINFlash" list.

Microsoft has recently been dispatching FINFlash mailings encouraging people on the FINFLash list to submit comments on the proposed settlement, as permitted by the Tunney Act. Microsoft noted in a FINFlash I received on December 31, 2001 that:

"The law (officially called the Tunney Act) requires a public comment period between now and January 28th after which the District Court will determine whether the settlement is in the "public interest." Unfortunately, a few special interests are attempting to use this review period to derail the settlement and prolong this litigation even in the midst of uncertain economic times. The last thing the American economy needs is more litigation that benefits only a few wealthy competitors and stifles innovation. Don't let these special interests defeat the public interest."

Although I do not agree with Microsoft's unsupported assertion that "special interests" seek to defeat the proposed settlement, I do wish to offer comment as allowed by the Tunney Act. I am not a particularly "special" interest, but for many years was supportive of Microsoft Corporation, purchasing thousands of dollars worth of fully licensed Microsoft software.

I am one of Microsoft's most loyal, repeat customers. I have been on Microsoft's FINFlash mailing list for some time, during the initial phases of the Microsoft antitrust trial, I was a supporter of Microsoft Corporation with respect to the allegations made by the U.S. Government against the company. During the trial and especially in light of the Findings of Fact in the case, my position changed.

I was compelled to conclude by the rational and logical way in which the Findings of Fact summarized many Microsoft practices that had seemed a mystery to me in previous years, that Microsoft has indeed engaged in illegal practices.

As I reviewed the Findings of Fact, it became logically and rationally evident that Microsoft for many years has not been so much in the business of selling products in demand by the public, so much as Microsoft has been aggressively funnelling the public to products it happens to market, or has plans to market.

I use Microsoft products that I have acquired both from my location in Canada, as well as direct from Microsoft in the United States. I am a licensed user of Microsoft Visual Basic version 6.0, and have used that product dating back to its early days as Microsoft QuickBASIC. I am a licensed user of two fully licensed copies Microsoft Office 2000 Premium Edition, one such package being acquired in the United States, in addition to other Microsoft products, the patches and upgrades for which have often been shipped from Microsoft in the United States.

As one who has used Microsoft products in one form or another for almost 18 years now, I can only conclude that the proposed Microsoft antitrust trial settlement is inadequate. My comments are as follows:

1. The proposed settlement fails to effectively prohibit in the future the same illegal or similar conduct that Microsoft Corporation committed in the past.

The oversight concept that has been rolled into this settlement will do no more than guarantee the same kind of corporate behavior that Microsoft engaged in with respect to the previous consent decree. That is to say that, in effect, no real restrictions have been placed on the company by the settlement, in terms of people who would supposedly supervise Microsoft in some ill-defined manner.

2. The proposed settlement does nothing to reign in Microsoft's ability to shape the market as it pleases.

My understanding of U.S. antitrust law is that the general presumption is that the potential harm to the consumer should be the guiding factor; that principle seems to be ignored in the proposed settlement or at best given short shrift.

I believe there is plenty of extant evidence to suggest that Microsoft, despite the antitrust trial proceedings, is even now exercising a degree of market manipulation that suggests it totally dominates most of its key markets. It is reasonable that the court consider how the proposed settlement affects such ability on Microsoft's part to effectively decide where both consumers and competitors go today, tomorrow, and long into future.

Case in Point: Microsoft Corporation some time ago announced its .NET (pronounced "Dot Net") initiative. Referred to as bringing "tware as a service" to the market, when I for one haven't heard anyone I know express an interest in what amounts to forced rental of software, .NET very clearly implies Microsoft's capacity to shape the market at will to the detriment of consumers and competitors.

To be more specific, consider how Microsoft has behaved, and is behaving at this very moment, with respect to its very widely used Visual Basic software, previously in current version 6, and reissued with a pricey new twist in "upgraded" .NET form.

When Microsoft recently announced that the next versions of its programming languages were available, Visual Basic users found that they could no longer continue to upgrade to just Visual Basic! Instead, the Visual Basic user must acquire or "upgrade" to the full suite of Microsoft programming languages now reworked as Visual Studio .NET, just to upgrade Visual Basic. The standalone Visual Basic product has been abruptly eliminated.

Microsoft, as of this writing (January 25, 2002) maintains a web page with a Visual Studio .NET FAQ ("Frequently Asked Questions" page). It is located at: http://msdn.microsoft.com/vstudio/prodinfo/qa.asp

One of the rhetorical questions on that FAQ page asks: "Where are the Professional and Enterprise versions of Microsoft Visual Basic(R) .NET and Microsoft Visual C++(R) .NET?"

The glib Microsoft answer on that FAQ page is that: "The functionality previously available in Professional and Enterprise versions of the individual language products is now available in the Professional and Enterprise versions of Visual Studio .NET .... "

Few companies that I know of have the ability to engage in such tied selling and make it work to their advantage without losing market share. Although one is nominally free to continue using Visual Basic, one has to buy the new Visual C#.NET (pronounced "See Sharp Dot Net") .NET programming language as well, as it comes with Visual Studio .NET. One cannot see many small developers bothering to continue with Visual Basic after being forced to buy much of Microsoft's .NET kitchen sink. Once this forced march investment is made one might as well cave in and rationalize the "investment."

This is the kind of nudging that I have seen Microsoft use over the years; it comes in many forms in my experience, the key indicator being that one tends to be forced marched where Microsoft wants to go today or whenever. Very few companies have the capacity in the marketplace to take a product that stood alone and sold well as such, and then tie its continued currency to buying a full range of .NET specific programming languages as well. I submit that no company should have such power in the marketplace. Aside from the compelled option of having to buy into much of .NET just to get Visual Basic's latest upgrade, there is the not-so-trivial issue of the major cost increase that is involved as well.

Moreover, this bundling move on the part of Microsoft will surely result in .NET applications evolving faster, artificially tending to entrench to a greater degree than otherwise the .NET application framework.

I also feel that one can see Microsoft's control of the marketplace in other respects that the settlement does not address.

Case in point: Once upon a time there existed a whole range of relatively inexpensive tape backup drives that operated off of the floppy cables within desktop personal computers (PCs). Windows 2000 eliminated support for such tape drives, obsoleting users of these devices overnight.

I had two such tape drives in service. One was an HP Colorado 350, the other an Iomega Ditto Max tape drive that was barely two years old. These drives could both operate off of separate controller cards in the PC but they both ended up being unsupported by Microsoft under Windows 2000. In the early days of the PC it tended to be software alone that was obsoleted by version upgrades; now we are seeing a pattern of hardware devices being obsoleted rapidly as well.

I do not believe that it is entirely coincidental that the availability of tape drive support for reasonably priced tape drives in Windows has diminished just as Microsoft introduces optional web-based data storage options. Here is that nudge again.

What seems key here is that Microsoft controls the operating system, which no longer has support for such low-cost tape backup devices built in. The company should not have the power to position consumers to rent subscription (ultimately ".NET") storage space for data, by virtue of dropping out low-cost localized backup options, if indeed that is what the firm has been up to here. After all, Microsoft has maintained support in its operating systems for other devices of similar vintage.

Consequently, I suggest that it is especially important for the court to carefully and studiously examine Microsoft's .NET initiative before issuing any final ruling.

Although Microsoft has claimed that the .NET standards broadly adoptable, the key .NET programming tools are clearly proprietary to Microsoft. If past patterns hold, Microsoft will emerge dominant on the Internet with .NET just as it dominated the desktop with Windows.

It has been said by others that .NET is essentially a Windows redo for the Internet; I believe that to be the case and that the court should examine .NET with great care in this context. Microsoft by all accounts is now sitting on mammoth cash reserves, a portion of which surely represent ill-gotten gains from its antitrust practices.

Microsoft is therefore positioned to leverage its dominance of the emergent software-as-service market from a position of strength even greater than in the past.

In this respect as well, the proposed settlement's failure to require Microsoft to publish the source code of its operating systems (and the code for the .NET framework) looms as a glaring omission, as critics have long argued that Microsoft likely builds secret hooks into software code that favor its own products" operational efficacy.

Any final settlement should require the unconditional, unrestricted, fully public-accessible publishing and web-posting of Microsoft source code, at the very least for all of its operating systems and .NET, past and present.

3. Microsoft was found to have engaged in illegal antitrust practices. My understanding is that there exists a requirement that the party so convicted be deprived of the gains from such activity.

There is nothing in the proposed settlement that suggests any substantive penalty here.

I would suggest that a fair penalty must reflect the removal of some major part of the ill-gotten gains. Perhaps a fair compromise would be to ban Microsoft from proceeding with .NET for a period of some years, and from offering any product definable in any manner as a "web service," or as, "software-as-a-service" or anything broadly equivalent for an appropriate period of time as well. Care would have to be taken to prevent Microsoft from simply establishing separate firms, or partnering with other firms in this respect, during any period of prohibition.

To address the gains Microsoft made during past periods of antitrust behavior, some very heavy dollar penalty should also be imposed in my view, in order to reduce the ill-gotten cash reserve that Microsoft has available now to over-leverage future endeavors.

Such a financial penalty should be sufficient to reduce Microsoft's cash assets to levels similar to other software companies. This would effectively prevent Microsoft from leveraging its massive cash assets and effectively subsidizing its process whereby it funnels both consumers and developers to .NET.

Thank you for affording the public an opportunity to comment at this time.

Keith E. Risler
80 Adelaide Street South, London, ON
Canada N5Z 3K5
Wireless: (519) 851–1323
FAX: (630) 214–5568
Email:
kerisler@execulink.com or
KeithRisler@alumni.uwo.ca
http://go.to/KeithRisler.com

MTC–00024534

From: ben@stanford.edu@inetgw
To: Microsoft ATR
Date: 1/25/02 1:09pm
Subject: Break microsoft up

Hi, I hope this is the address to which the public should send comments on the Microsoft trial. I would like an effective remedy of Microsoft's monopoly. I really resent how everyone sends me .doc files and I have no way to read them unless I give MS some money.

Thanks.
Ben Escoto

MTC–00024535

From: Laurie Keegan
To: Microsoft ATR
Date: 1/25/02 1:10pm
Subject: Microsoft Settlement

I believe the microsoft proposed Settlement is not a good idea. They are a monopoly hurting small business. Please do not sign on to this horrible proposal and force them to come to a real solution to this problem. Don't allow politics to get in the way of justice!

Thank You,
Laurie J. Keegan

MTC–00024536

From: Geoff Newberry
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 1:13pm
Subject: Microsoft Settlement

The proposed settlement lacks strong penalties against Microsoft which is the better beneficiary in the end. Microsoft will continue to conduct its business regardless of the requirements by law to change their monopolistic practices. Your settlement itself lacks "innovation", a term Microsoft loosely uses to describe their product line. Another sad day for America if this settlement is approved.

Geoff Newberry
IT Support
(954) 973–2477
(954) 979–4414 Fax
Taylor Made Environmental
2000 N Andrews Ave Ext.
Pompano Beach, FL 33069

MTC–00024537

From: Bryan Maggard
To: Microsoft ATR
Date: 1/25/02 1:06pm
Subject: Relief from Illegal Actions of Microsoft Monopoly

Dear DOJ,

Following the findings of fact in the U.S. v. Microsoft case, which have stood on appeal, my sincere wish is that relief from future illegal actions by this monopoly can be provided by my government, acting through our courts. Please do not give up the fight to protect US from continuing illegal actions simply because the fight will be long and arduous. I believe that the proposed settlement not only establishes, but enshrines the behaviors of Microsoft that have been found to be illegal and have been significant factors leading to their current monopolies (Operating Systems, Office Productivity Software, Web Browsers). I believe that the consequences of the proposed settlement would be to reward the past illegal acts of Microsoft by encouraging Microsoft to behave illegally as they use the power of their current monopolies to leverage and extend into new monopolies in Internet commerce/trade, Internet certification/credentialing, and providing Internet application services. These three examples are potential growth areas where I am afraid we will see strangled competition and Microsoft establishing new monopolies through illegal actions under the proposed settlement of U.S. v. Microsoft.

I wish to see a remedy that will deter (not encourage) future illegal actions by this monopoly. I realize that it may be impossible to restore competition in current monopoly areas because many of the competitors have long since fallen by the wayside. We need to focus on the future where changes can be made.

Very Truly Yours,
Bryan Maggard
J. Bryan Maggard, Ph.D.
Harold Vance Department of Petroleum Engineering
Texas A&M University
College Station, TX 77843–3116
Phone: (979)845–0592 FAX: (979)845–1307

MTC–00024538

From: wt.catch1
To: Microsoft ATR
Date: 1/25/02 1:08pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please continue the economically necessary prosecution against Microsoft. This hasn't gone on long enough. Microsoft has only agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "levelling the playing field" for Netscape and other Microsoft competitors, with not a nickel going to those grieviously harmed by Microsoft: the computer user. This is another method for states to recover illegally obtained money, and an important precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please prosecute this much delayed and stymied execution of justice more forcefully than has been the case previously. Thank you.

Sincerely,
John McDonald
247 Bancroft
Pacifica, CA 94044

MTC–00024539

From: Hcards707@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:09pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Louanna Peace
204 Cambridge Sta. Rd.
Louisville, KY 40223

MTC–00024540

From: vitamin@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/25/02 1:21pm
Subject: Microsoft Settlement

Dear Sir & Madame,

I'm writing to register my opinion in the Microsoft anti-trust settlement. The proposed decision is an inadecuate response to the problem posed to the computing & consumer market by Microsoft's business practices. My only request is that your office reconsider the pending decision further to account for the broader interests of the U.S. and global computing market. My experience as a system administrator (maintaining and managing Microsoft products) has given me a different perspective on the issue. If monopoly practices in themselves do not offend your office, perhaps a consideration of the billions of dollars in lost business and personal revenue caused in the last year alone from the insecure products Microsoft has released with their guarantee of security may give you pause. Microsoft behaves like a classic monopoly, and spends more money on public relations than it does on securing their products. Their interest in control of the market and the planned obsolecence of their products (for further future revenue) are contrary to the public interest. Only by breaking their hold on the computing world will competitors be able to force higher standards on them. Again, please register my disapproval with the current proposed settlement. I thank you for your time and your efforts in your service.

Sincerely,
Louis Juska
851 Guerrero St. Apt.10
San Francisco, CA 94110

MTC-00024541

From: Michael Klein
To: Microsoft ATR
Date: 1/25/02 1:13pm
Subject: Microsoft Settlement

The proposed settlement is a bad idea. Microsoft continually breaks the law, and shows no respect for the legal process.

—Michael Klein, 25-year veteran programmer

MTC-00024542

From: AlanLand@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:15pm
Subject: Microsoft settlement

I'm afraid I must agree with Steve Jobs complaint about the proposed settlement for Microsoft in the anti-trust issues. Having Microsoft "give" HW and SW to schools is tatamount to "giving" Microsoft part of Apple's most loyal customer base. It really doesn't relieve the pressure of monopoly on any of Micosoft's competitors. I had hoped to see a settlement that helped competitors keep their marketshare, not the reverse. Just having Microsoft "give" away some of the billions of $$ they made using anti-competitive practices doesn't alleviate the issues in the marketplace, especially if it opens new doors in a competitor's market.

Alan Land
Technical Educator and Engineer
San Diego, CA

MTC-00024543

From: DougMurch@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:16pm
Subject: Microsoft Settlement

I wish to add my comments to the proposed Microsoft Settlement. I am a person who has been heavily involved ever since the mid 1950s with application software development, and am a current user of Microsoft's PC software.

I urge acceptance and implementation of the settlement and an immediate end to the associated litigation. From my experience as a user of software products over almost 50 years, I am convinced that Microsoft has brought far more benefits to mass market PC consumers than has any other software company. Microsoft has been a major force for simplifying products, reducing prices, and bringing order out of chaos in a field where techie, user-unfriendly, expensive products and services run rampant. Microsoft simply understands better than its competitors do what the average consumer wants and needs, and how to satisfy those needs at low cost. The average consumer can use Microsoft's products more easily—without expensive consulting help—than the usually more expensive products of other vendors needed to accomplish the same result. Throughout the 1950s, 1960s and 1970s, computer users spent far more to develop and maintain their software than to buy and maintain their computer hardware. When the PC arrived, it dramatically reduced computer hardware costs. One would have expected the relationship between user software and hardware costs to become even more heavily weighted toward software costs. But thanks almost entirely to Microsoft, the exact reverse happened. Software - both operating systems and applications—now cost much less than PC hardware. This is so in spite of the fact the absolute cost of PC hardware keeps dropping at a delightfully rapid rate.

Those who assert that Microsoft's actions have damaged consumers are simply dead wrong. No such damage has occurred or is likely to occur. Quite to the contrary, enormous consumer benefit has resulted. Microsoft is a leading pro-consumer company of our age. It is with great angst that I have observed federal and state litigation against Microsoft in recent years. There are many who, for their private reasons, would wish this litigation to succeed. But had it succeeded in its original form, it would have severely limited the extent to which Microsoft could further improve its products. That would be extremely hostile to consumer public interests. It would mean that consumers would be forced to deal with more software vendors, pay for more for their software products, and endure costs and frustration of having to coordinate among multiple software vendors. Please, do not let this happen. It is time to end this litigation madness now. The Court should approve the Microsoft Settlement and deny all efforts to expand the scope of the Settlement.

A. Douglas Murch
3 Seton Court
Rancho Mirage, CA 92270

MTC-00024544

From: Benjamin Moser
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 1:16pm
Subject: Microsoft Settlement

I believe that the proposed settlement in the Microsoft case is leaving many doors open to anticompetitive behavior. Microsoft has demonstrated in the past that they will consistently exploit any loopholes in a ruling to continue the very behavior that the intent of the ruling is designed to prevent. There are many excellent information sources on the world wide web detailing various loopholes which Microsoft can and probably will exploit if they are not corrected. This settlement should not be approved in its current form.

Benjamin Moser

MTC-00024545

From: Kevin Swarts
To: Microsoft ATR
Date: 1/25/02 1:15pm
Subject: Microsoft Settlement

Dear Mr. Ashcroft:

With all due respect, the lawsuit that the Federal Government brought against Microsoft was a tragic waste of time and taxpayer money. Unfortunately the biggest losers in this ordeal have been the economy and technological innovation. I am very pleased that a settlement was reached between Microsoft and many of its adversaries and that it will not be broken up. My division of Smead Manufacturing creates document management software and our success relies on standardization and Microsoft's integrated software design. If Microsoft were to be broken up it would surely jeopardize the standardization of software we depend on, and thus adversely affect our efficiency. The results could be devastating. Anyone who analyzes the settlement will recognize that it is very fair and resolves the government's grievances against Microsoft. If anything, it deals with Microsoft too harshly. First and foremost, Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system. Second, it has agreed to document many of Windows" protocols that help with interoperability. It also sets up a commission to deal with future problems.

Please finalize this settlement as soon as possible. It is the right thing to do for America.

Kevin M. Swarts
Software Development Manager
Smead Software Solutions
2651 E. Chapman Ave., Suite 201
Fullerton, CA 92831
Phone: (714) 446–6600 ext. 100 Fax: (714) 446–6604

MTC-00024546

From: Marv06@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:15pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Elam Family
Box 1423
Pearland, TX 77588

MTC-00024547

From: choluk@shelton.wednet.edu@inetgw
To: Microsoft ATR
Date: 1/25/02 1:14pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Conrad Holuk
732 West Satsop Road
Montesano, WA 98563–9734

MTC–00024548

From: Jordan M. Hirsh
To: Microsoft ATR
Date: 1/25/02 1:17pm
Subject: Microsoft Settlement

Any remedy seeking to prevent an extension of Microsoft's monopoly must place Microsoft products as extra-cost options in the purchase of new computers, so that the user who does not wish to purchase them is not forced to do so. This means that for the price differential between a new computer with Microsoft software and one without must be equal to microsofts MSRP for the products bundled with the system. Only then could competition come to exist in a meaningful way. The specifications of Microsoft's present and future document file formats must be made public, so that documents created in Microsoft applications may be read by programs from other makers, on Microsoft's or other operating systems. This is in addition to opening the Windows application program interface (API, the set of "hooks" that allow other parties to write applications for Windows operating systems), which is already part of the proposed settlement. Any Microsoft networking protocols must be published in full and approved by an independent network protocol body. This would prevent Microsoft from seizing de facto control of the Internet. As I believe it is and as the judge has suggested it is, it is crucial that Microsoft's operating system monopoly not be extended, and in this I quote the study released a year ago by the highly respected Center for Strategic and International Studies, which pointed out that the use of Microsoft software actually poses a national security risk. In closing, I say that all are surely in agreement that the resolution of this case is of great importance, not just now but for many years to come. This suggests a careful and deliberate penalty is far more important to the health of the nation than is a hasty one.

Jordan Hirsh
1098 B Street
Ashland OR. 97520
541–488–3190

MTC–00024549

From: Aunger, Mitch
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 1:22pm
Subject: Microsoft Settlement—Don't allow this to happen!

I am shocked that the DOJ can possibly believe that this "settlement" is good for anyone except for Microsoft. I'll put it this way—how can you say that Microsoft is a monopoly—and then allow them to expand the monopoly by giving them a bigger hold on the education market? Especially when they give away products that cost them NOTHING to make! I could go on and on, but nobody'd want to read it. I think you get my point. I'm against the current "settlement"!!!!!!!!!!

Mitch Aunger
1934 Parkridge Ave
Brentwood
MO
63144

MTC–00024550

From: Randy Weinstein
To: Microsoft ATR
Date: 1/25/02 2:38pm
Subject: Microsoft Settlement

the remedies to microsoft's monopoly in this settlement are too weak. more must be done to restore competition in the industry.

MTC–00024551

From: Ruth Carver
To: Microsoft ATR
Date: 1/25/02 1:23pm
Subject: Microsoft Settlement

The proposed settlement of the Microsoft Antitrust case is far too favorable to Microsoft and does not go far enough in punishing Microsoft for past behavior not does it contain terms strong enough to prevent a reoccurrence of the type of behavior that cause the Government to bring the suit in the first instance. In particular the school settlement provision is a boon for Microsoft.

Ruth Carver

MTC–00024552

From: Allan Baruz
To: Microsoft ATR,ASKDOJ
Date: 1/25/02 1:24pm
Subject: Microsoft Settlement

Dear Ms Hesse,

The proposed settlement is no remedy for the proven monopolistic behavior of Microsoft as found in the statement of fact. If you believe that corporate wrongdoers should be held accountable for their actions; if you believe that that accountability should be commensurate with the wrong done; if you are a Democrat who believes that the public interest should be protected from ravening corporations; if you are a Republican who believes that corporations should compete on a field free of bullying and threats; if you believe that the future of software, computing, technology, media, and even business should not be left in the hands of the specimen that has consistently shown the worst behavior in each of these fields; if you are at all a moral, ethical, or even self-interested being; you will find that the proposed settlement is no remedy to Microsoft???s monopolistic behavior. As a programmer, I find it most disturbing that the proposed final judgment does not lower the applications barrier to entry in terms of either undocumented file formats or undocumented APIs, for corporations or non-profit organizations. The arrogance of Microsoft speaks of disrespect for its customers, its competitors, and the government which tries to keep a level playing field between them. Please amend the proposal in a manner consistent with the fair application of law—Microsoft must be shown that they are not above the law.

Allan

MTC–00024553

From: Job7@bright.net@inetgw
To: Microsoft ATR
Date: 1/25/02 1:23pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Frank Ca;enda
5147 N Countyline Rd
Marion, OH 43302–9718

MTC–00024554

From: Jamie
To: Microsoft ATR
Date: 1/25/02 1:26pm
Subject: Microsoft Settlement

Dear Department of Justice Folks,

I'm writing to add another voice to the chorus against the proposed Microsoft settlement. It appears to reward Microsoft for years of criminal and predatory practices that have damaged and eliminated innovative competitors and limited consumer choice. Good technologies have been lost, standards have been hijacked into a proprietary fiefdom, consumer choice has been diminished and we now have an industry dominated by a company, Microsoft, that has a history of winning through intimidation rather than through merit. Microsoft's much ballyhooed "freedom to innovate" seems to really mean "freedom to intimidate." They continue to use their monopoly position to move into other markets by forcing others out or simply buying out other companies using their huge stash of ill-gotten gains. It seems to me your case has been too narrowly focused on only a few of the abuses, and even at that, the currently proposed remedy does not have sufficient teeth to prevent further such abuses in the future. It basically tells the world that, in our country, justice is about having money and influence.

As a consumer and as a software developer I am appalled at the limited choices and poor state of technology in the operating systems market as now dominated by Microsoft. I mourn for better technologies that have been eliminated along the way, such as the Amiga and BeOS. I am alarmed at the prospect of Microsoft's philosophy of bullying and mediocrity taking over other markets in technology, commerce, media and the internet itself, all leveraged illegally off of their desktop monopoly. If we are going to have an effective government by and for the people, it behooves us to make every attempt to keep our corporations under our control as a nation, rather than vice versa. If we want a vibrant competitive marketplace that helps us lead the world in technology, commerce and real innovation, we cannot afford to let Microsoft's criminal abuses go essentially unpunished nor can we afford to let these sorts of abuses continue. If we want our economy to thrive we need to unleash real competition.

Best Regards,
Jamie Krutz

MTC-00024555

From: lbstuart@webtv.net@inetgw
To: Microsoft ATR
Date: 1/25/02 1:26pm
Subject: Microsoft Settlement

It is high time all legal litigation be put to rest. The people now need to get on with the need for building back their "nest eggs" this is not necessary. Any more of this kind of court battle needs to be nipped in he bud. It is clearly a waste of money which everyone needs. Stop this now!!

L.B. Stuart

MTC-00024556

From: Devon E Bowen
To: Microsoft ATR
Date: 1/25/02 1:28pm
Subject: microsoft case

I am writing to express my concern over the recent proposed settlement to the Microsoft case. My understanding is that the settlement involves allowing Microsoft to "repent" by donating large amounts of software to schools. Honestly, it is hard to believe this settlement is even being considered. It should be clear to anyone that allowing Microsoft to further spread themselves—especially to youths in a state sponsored educational system— will only serve to extend their monopoly. Education is one of the few areas where truly innovative competitors like Apple still have a reasonable share of the market. Please reject this settlement to the Microsoft case. It is bad for the public, bad for the industry, bad for innovation in general. The only one that will benefit is Microsoft. And aren't they supposed to be being punished?

Devon

MTC-00024557

From: Carnduff, John
To: Microsoft ATR
Date: 1/25/02 1:29pm
Subject: Microsoft Settlement

Input into the settlement process: Navantis, a independent software developer, and our customers are exasperated by the ongoing DOJ issues with Microsoft. This issue and other related legal efforts by competitors run counter to the principles of a free market and in our view are an attempt to distract Microsoft from focusing on developing innovative products and on operating its business. These tactics negatively affect us as well as Microsoft customers. We do not sense that Microsoft customers and partners believe Microsoft is acting inappropriately; we believe that competitors are using unfair tactics to impede Microsoft efforts to satisfy customers instead of directing energy into improving their products, services and marketing messaging. We actively support Microsoft and pass these comments forward as input into the settlement process.

John Carnduff
Executive Vice President
Chief Strategy Officer
Navantis Inc.
21 Randolph Ave., Suite 300
Toronto ON, M6P 4G4
t: 416.532.5554 x271
f: 416.583.4937

MTC-00024558

From: Glenn Shuster
To: Microsoft ATR
Date: 1/25/02 1:21pm
Subject: Microsoft has been through enough letter

Dear ATG Ashcroft, While you have many matters before you, I feel strongly enough about this one to add to your office's burdens. Please end the intercine warfare between the economic leaders of the United States and the government thereof.

Very Truly Yours,
Glenn Shuster

MTC-00024559

From: Edlund, Paul
To: Microsoft ATR
Date: 1/25/02 1:29pm
Subject: Microsoft Settlement
January 24, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

The settlement reached between Microsoft and the Department of Justice will be beneficial for the IT industry and the economy during this difficult time. The antitrust suit may not have directly affected my IT-based business, but it does not mean that it did not have an adverse affect on businesses across the nation. The settlement is designed to provide a guide for good business practice. The settlement promises to provide consumers with more choices, and compensates the so-called losses of Microsoft competitors. Microsoft has agreed to license out its Windows operating system to the 20 largest computer makers on equal terms and conditions. The settlement also instructs Microsoft to provide its competitors with information regarding the various interfaces of Windows. This will lead to better software, at lower prices overall. I strongly recommend that you decide to finalize this settlement so things in the technology sector get [illegible]k to usual. The usual of the technology sector should be innovation, not litigation.

Sincerely,
Paul Edlund
Quest Technologies

MTC-00024560

From: Job7@bright.net@inetgw
To: Microsoft ATR
Date: 1/25/02 1:27pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely
Frank Calenda
5147 N Countyline Rd
Marion, OH 43302-9718

MTC-00024561

From: kimiers@earthlink.net@inetgw
To: Microsoft ATR
Date: 1/25/02 1:26pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
kelly miers
1011 hewitt avenue
everett, WA 98201

MTC-00024562

From: baatman74@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:25pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Virgil Cottongim
3090 64th St SW
Naples, FL 34105–7300

MTC–00024563

From: Jarred Fehr
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 1:26pm
Subject: Microsoft Settlement

Hello,

I have reviewed much of the proposed DOJ settlement with Microsoft and I must say that it is not adequate. I lack the time to go through all the points I have problems with, however I am sure many others will point them out. I can only say that I hope that my government representatives will uphold this nations belief of a government "for the people, by the people" and not "for the corporations, by the lobbyists." Please do not approve any settlement without further review and stronger enforcement.

Thank you,
Jarred Fehr
PC Coordinator
Peachtree Business Products
Marietta, Georgia
678–819–1825

MTC–00024564

From: Boyle, Kevin
To: Microsoft ATR
Date: 1/25/02 1:30pm
Subject: microsoft settlement
To: Renata B. Hesse,
Antitrust Division

Dear Renata,

I object to the current settlement that Microsoft is offering. They are promising to open up their operating system to all and at the same time promising to specialize in security. Their security measures will force every software developer to use their "secure" applications which creates another monopolistic situation. Please reject the currect offering infavor of a truly workable solution, ie. dismemberment or restrict Microsoft's available markets.

Thank you,
Kevin Boyle
Systems Engineer
Diebold, Inc.

MTC–00024565

From: Gary Shade
To: Microsoft ATR
Date: 1/25/02 1:28pm
Subject: Microsoft Settlement

microsoft.atr@usdoj.gov Microsoft Settlement

Hello,

The settlement offered by the Bush administration and some states was not in the public interest. The antitrust case involved abuse of monopoly power by releasing the Windows operating system with the Internet Explorer browser embedded into the operating system. The remedies offered by the Bush administration do not address the nature of the case, and would only serve to further reduce competition in the schools, one of the last remaining venues where competing software can still be found. Any sound remedy should separate the Internet Explorer browser from the operating system. The remaining states that refuse to settle stress this point. Each time the government allows Microsoft to release another version of Windows with the Internet Explorer browser embedded into the operating system, the monopoly path is entrenched further. Make the remedy be an actual remedy to the facts of the case.

Sincerely,
Gary Shade
US Citizen and software consumer

MTC–00024566

From: Robert Eugene Wood
To: Microsoft ATR
Date: 1/25/02 1:30pm
Subject: Microsoft Settlement

The following document is an electronic version of a document faxed to your office on 25 Jan 2002. It is unchanged from the Faxed version.

Robert Wood
117 Gibbon Drive.
Harvest, AL 35757
25 January, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

The following document is a brief objection to the terms of the proposed settlements to Civil Action No. 98–1232 and 98–1233. It is being sent on 25 January 2002 both as a signed FAX (202–616–9937 or 202–307–1454) and as an e-mail message (microsoft.atr@usdoj.gov) to aid in any transcription that might take place. As a defense engineer whose work has been associated with Information Technology for the past 15 years, I have witnessed the damage done by the monopolistic activities of the Microsoft Corporation. I am concerned that if these activities are allowed to continue (and the proposed settlement does not seem to do anything to curb these practices) the company will continue to squeeze out competing operating systems and ISVs until there are no practical alternatives to the Microsoft products. For the sake of innovation, competition, and security we need viable alternatives for operating systems and applications that have been developed independently of Microsoft's codebase. The high numbers of macro viruses (both in documents and e-mail attachments) as well as the recent IIS worms demonstrates the danger of widespread adoption of a single product. With healthy competition, there are enough alternative products that it is impossible to attack them all since they will have different weaknesses. Paragraph III.J of the proposed settlement is especially troubling, since the argument can be made that any component of a Communications Protocol has the potential to "compromise the security of a particular installation or group of installations..." Considering that Microsoft has recently announced that they are finally going to "make security its first priority," I believe that this section will be used to withhold any useful data from release. I recognize the positive aspects of Microsoft's role as the dominant provider of Intel Operating system software, middleware, and applications. The software industry can benefit from the leadership of one entity who has the power and resources to introduce new technologies. Unfortunately, I have seen Microsoft's dominance increasingly used to force alternative products and approaches out of the marketplace. For example, in my organization, no alternative to Microsoft Word is considered by management because it is presumed that no other product can read/write Word formatted text files perfectly. Even those products that currently do a good job on Word file reading/writing are not guaranteed to be able to continue to be able to keep up with the changes to the largely undocumented Word format. The documentation of the modifications Microsoft made to the widely-accepted Kerberos authentication protocol was distributed under a restrictive license designed to prevent the information about the changes to an open standard to be used to create compatible software. This is a disturbing trend. The proposed settlement does not appear to do anything to curb the monopolistic practices of Microsoft. It appears, in fact, to simply formalize them and allow the company to continue its practices with little interference. It does not touch on some of the most commonly used Barriers to Entry that the company puts up to discourage competition such as document formats and changing communications protocols. The proposed settlement appears to set up a system where any potential competitor is relegated to the role of a Microsoft Developer (MSDN is explicitly mentioned as a delivery medium for some of the information) rather than a competitor. It is difficult to compete in an environment where you can not get necessary information on a product until it is almost ready for release. Quality software demands extensive testing in addition to basic development time and if the required information is only released "no later than the last major beta release," then by the time a competitor's product can be finished and tested, the Microsoft product would have long since been deployed.

In the interests of competition, security, and interoperability, Microsoft should be compelled to develop and deploy those protocols required for communication and authentication in cooperation with an appropriate standards body for the widest possible examination and testing. The standards body could then properly oversee the distribution of the protocol to ensure that competitor's software is truly interoperable with the Microsoft product as well as ensuring that competing products do not introduce incompatibilities with the Microsoft product. Microsoft should be compelled to disclose upfront which elements of a new and existing API, Communications Protocol, or Middleware product are covered by the company's own or licensed intellectual property as a part of this standards acceptance process. The result would be a set of protocols that benefit from community involvement and more extensive security testing than Microsoft is capable of on its own.

Sincerely,
Robert Wood

MTC–00024567

From: ray@greeble.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:31pm
Subject: Microsoft Settlement

Microsoft has put forth a very good proposal that will benefit the country in many ways. Please end this waste of money and time quickly, keeping Microsoft in tact.

MTC–00024568

From: Nate Clark
To: Microsoft ATR,ntclark@attglobal.net@inetgw
Date: 1/25/02 1:32pm
Subject: Microsoft Settlement January 25, 2002 re: Public comments; US VS Microsoft Coporation

To Whom it may concern:

This e-mail is in response to the request for public comments on the case of the U.S. VS Microsoft. My major concern is that those responsible for assessing the extent of the damages to the US consumers, businesses, and general technology environment are fully aware of the breadth of the damage that has been caused by Microsoft's actions.

I watched a US official commenting on Microsoft's actions as he acknowledged the fact that Microsoft's actions were in fact unjust and plain wrong, but went on to say that afterall, Microsoft's superior implementation of software technology produced a browser that was much better than the competition—mainly, the Netscape Browser. The very important point missed by this official is that—It IS NOT About the quality of or any aspect of the browsers that have come out of the respective companies in the last few years. Indeed it is not about internet browsing at all !! Please remember that what Microsoft did to bury Netscape was NOT driven by the potential sales of browsers—Free or not, this was not Microsoft's goal. The record states clearly that Netscape was attempting to build a platform and operating system independent environment within which ANY company could develop applications, or any other type of software, REGARDLESS of where their customers buy their computer or operating system. The browser would have been just a minor stepping stone along. As a product, even today many years later, the browser is nothing. It was the intent of the technology that Netscape wanted to develop, the browser being just the first manifestation of this technology, that we NOW DO NOT HAVE.

Netscape saw the opportunity to free the US consumer from the predatory pricing of proprietary computer hardware and software that had been the norm up to and at the start of the small computer revolution. Because of this, Netscape wanted to develop a way for Open Systems software development to work. This is NOT Open Source or free software development, this IS that any company anywhere could write software and compete in a fair marketplace on the merits of its good ideas, excellent qualifications, and better implementation.

What Microsoft did to prevent Netscape from bringing this concept to fruition has been EXTREMELY damaging to the current state of technology in the very real sense that had this not happened, we would now be much further advanced in the ubiquitous integration of computer technology into our society. My personal feeling is that we are at least a decade behind where we ought to be in terms of the extremely powerful and mature use of computer technology. For example, we are seeing more and more powerful supercomputer class equipment, yet it is still in the hands of specialty laboraties. I believe that by this time, these types of machines would have become available to even small businesses; had those that produce software for such systems had the opportunity to supply those solutions to the small systems platforms through the (would have been) open systems nature of the technology. In the original findings of fact against Microsoft, I refer to the often mentioned "Applications Barrier to Entry" which describes the wall, if you will, that Microsoft knowingly and vicously constructed to prevent, or at least delay, other technology companies from playing in the windows game IF they also wanted to target other computer platforms and markets. It has become very clear that it is absolutely NOT possible for software companies to provide multi-platform applications at the single-platform development cost. Why should Microsoft be allowed to so wantanly manipulate the market place such that this is the case ? Unbelievably, companies utilizing Microsoft's version of Java, a language whose basis is that it will help to ensure products can be cross-platform, found out too late that Microsoft had even knowingly placed barriers to cross-platform implementation within that tool. Providing the explanation that these were "enhancements" to the Java environment while trapping developers which may very well have been otherwise successful in an Apple or Linux market. I reiterate my most important point. It is absolutely crucial that those considering the level of punishment Microsoft should recieve MUST understand the impact the company's actions have had on our society from the DEEPEST technical perspective. It is absolutely not true that the consumer has come out all right through what Microsoft has done. 1) In the absence of Microsoft's actions, we would be much more advanced technologically than we are now. It is not in any way true that the brightest technology minds just happened to be at Microsoft over the last 2 decades. And 2) Microsoft's software is not nearly the best there has been or could have been developed. Frankly we have missed what could have been astounding innovation over the last decade at least. Microsoft's software is by no means the best that we could have achieved by this point. As amazing as this technology, and some of the software (including Microsoft's) we've seen come out of it is, I want those who think Microsoft has provided us with some nirvana in software power and sophistication, even without choice, to consider the difference in software between now and even 6 years ago. I contend that the chasm between features and functionality over that time frame would be twice the size today. I contend that Microsoft has kept us from getting there.

Sincerely,
Nathan Clark
625 Popes Valley Dr
Colorado Springs, CO 80919
(719) 265–5191

MTC–00024569

From: Wayne Cater
To: Microsoft ATR
Date: 1/25/02 1:31pm
Subject: Microsoft Settlement

Dear United States Department of Justice,

My name is Wayne Cater. I am a 34 year old computer programmer. Over the past 12+ years I have been fortunate enough to work in the computer field. I have a diverse background of experiences, but as most of the world I have largely made my living writing software that runs on the Microsoft Windows platforms. When the antitrust suite first came up, I supported Microsoft. Then I had a perspective change. I personally don't live in one of the "high technical meccas" of our great land, but I realized that many of the small businesses that used to be around are gone largely because Microsoft decided to include very similar products as part of the Operating System installation. I thought about my family budget. To cut costs and save money, I would take a free package over a purchasable one in most cases. A little late, but better than never—I have realized that Microsoft's actions have stifled creativity in the market. Yes, a larger number of folks are enjoying the functionality / possibilities of the Personal Computer, but revenue that could have been more diversly dispensed across the market and country, has gone into one coffer—Microsoft's Account.

My perspective change has caused me to largely take action. I am moving to Linux desktop product development and to non Microsoft Web based development. While this is not a quick, nor easy move, I am willing to risk the time to prove that it will be better in the long run. My one recommendation would be to force Microsoft to pay for hardware for poor schools and to set up an account in which money could be given to school districts to purchase operating systems and software packages that it would prefer. Please consider my recommendation.

Respectfully,
Wayne

MTC–00024570

From: Ray Ross
To: Microsoft ATR
Date: 1/25/02 1:38pm
Subject: Microsoft Settlement

I don't like the proposed Settlement. Giving Microsoft software to schools costs Microsoft little, and further increases their monopoly. I think they should be required to pay a large cash penalty that the schools can then use to buy what computer equipment and software that they (the schools) see fit.

Thank you,
Raymond Ross

MTC–00024572

From: Buckeyeswede@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:33pm
Subject: Microsoft Settlement C/O Renata Hesse, Esq

Thank you MS Hesse for allowing me to respond to the above settlement. I had the opportunity in the mid 60's to be involved with the startup of a small software/hardware company in Sunnyvale California. We had a tough time getting the company going and had encounters with larger companies who were trying to defeat our company's mission of being the best in the market. We fought back and we eventually grew strong and became the leader in the industry. We received a good offer from a major organization after our sales were in excess of $100 million per year. That is why I defend the free marketplace. The issue here is similar, but only larger in scope. Messieurs Gates and Allen together with a good support team have build a wonderful company that addresses the marketplace. The marketplace is the key issue here with Microsoft. They know the market and the market likes and trusts their product and support line. Sure there is good competition, but it has to remain fair and not negative in its actions. It appears to me that some of their competitors did not analyze the market in enough detail. Therefore, they did not get the market share that they had hoped for in their business model. The settlement is fair and I trust your department will uphold the settlement agreement.

Thank you for your attention to my notes.

Carl E. Holmberg

MTC-00024573

From: Ryan—MacDonald@allianzlife.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:37pm
Subject: Microsoft Settlement

This is a bad deal for everyone but Microsoft. Please don't let them get away with this.

Thank You for your time,
Ryan MacDoanld
Excelsior, MN 55331

MTC-00024574

From: Jay Chu
To: Microsoft ATR
Date: 1/25/02 1:20pm
Subject: Microsoft Settlement
Attorney General John Ashcroft
January 25, 2002
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It has come to my attention that the antitrust suit against Microsoft has reached a settlement as of November 2001. It is my opinion that this settlement should be full and final. One of the biggest complaints from Microsoft's competitors was that the Windows product had a complete monopoly within the computer makers industry. This settlement allows computer makers free reign over which software they choose without reprisals from Microsoft if a competitors product is chosen. I think that this fully addresses this issue fully. It is time to bring this antitrust case to an end. Microsoft has offered good terms to its competitors and to the government. There can be no reason to prolong this case any further. Thank you.

Sincerely,

Paojeh Chu
President
J Chu Consulting Inc.
329 E Beech Drive
Schaumburg, IL 60193
(Tel) 847-891-3997
(Fax) 847-891-8857

MTC-00024576

From: Darren Blaser
To: Microsoft ATR
Date: 1/25/02 1:22pm
Subject: Proposed MS DOJ Settlement

A quick recap of events:

(1) Microsoft begins breaking the antitrust laws.

(2) After a legal spat with the government we get the Consent Decree.

(3) Microsoft abuses the antitrust laws in worse ways than before the consent decree.

(4) Microsoft (a repeat offender now) is convicted in court of breaking several antitrust laws (things seem to be getting worse not better) Now here we are discussing a "settlement agreement" for which there are absolutely no penalties associated with the actual convictions mentioned in item 4, and the thrust of the agreement seems to be: "The previous consent decree seemed to work really well before, lets try and do something just like it again." At least now I understand why my college law professor claimed that our legal system is not about justice, and that it will never provide a just settlement between a "large ruthless entity"(think Microsoft) and a "smaller kinder entity"(think DOJ). The US Government has always been considered the big kid on the block up to now, and as a result our society has enjoyed the benefits of the rule of law generally. It sadens me to think what the future will bring now that one company has demonstrated that the government is no longer the big kid on the block and there are others out there who can ride rough shod over the government's law if they please.

Truely a sad day for the United States. . .

Darren Blaser
5777 N Meeker Ave
Boise, ID 83713

MTC-00024577

From: rlott@insolwwb.net@inetgw
To: Microsoft ATR
Date: 1/25/02 1:31pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Rick Lott
1303 Dupwe Dr.
Jonesboro, AR 72401

MTC-00024578

From: Jonathan Kurtzman
To: Microsoft ATR
Date: 1/25/02 1:35pm
Subject: Microsoft Settlement

Microsoft uses its control over the operating system to lock out competition by (a) preventing competitors from having the same access to the operating system as Microsoft applications have and (b) absorbing promising competitive fields into the operating system. The former means that such applications as Microsoft Office have significant competitive advantages. The latter means that potential competitors are deterred from entering into markets that Microsoft may then absorb.

Both of these are wrong.

MTC-00024579

From: Rod Hauser
To: Microsoft ATR
Date: 1/25/02 1:21pm
Subject: Dear Sir or Madam,

Dear Sir or Madam,

I am writing to protest the current ruling on the Microsoft AntiTrust case. I am a registered voter, taxpayer and citizen of these fine United States. You may verify my identity if you need to:

Rod Hauser
1748 Scenic Meadows Drive
Imperial, MO 63052
636-464-0321

As a professional with more than ten years of experience in the Information Technology field, I have firsthand experience with the problems that Microsoft has caused the consumer, and their support staff. I have supported teachers and students in the K12 public school system, and have performed purchasing and license compliance functions in that same role. The monopolistic behaviors of Microsoft have been significant, and they continue to make software that is not only proprietary, but that does not allow fair competition, one of the tenets of this country. This monopolistic behavior is extensively documented, and I was in favor of the initial ruling against Microsoft. The overturning of that ruling is an abomination, a sign to the American public that the golden rule is very much in effect, and that Microsoft can purchase a ruling with expensive lawyers and big campaign contributions.

Please review the appeal, and take whatever steps are required to force Microsoft to *actually* stop acting like a monopoly, not so simply *say* that they will.

Thank you.
Sincerely,
Rod Hauser
CISSP, St Louis Missouri

MTC-00024580

From: mlhull99@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:32pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,

Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Marie Kuzma
77 Worth Ave
Hamden, CT 06518

MTC–00024581

From: ringme16@pacbell.net@inetgw
To: Microsoft ATR
Date: 1/25/02 1:33pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
james keefer
1211 1/2 guerrero st
san francisco, CA 94110

MTC–00024582

From: Russell Harding
To: Microsoft ATR
Date: 1/25/02 1:36pm
Subject: Microsoft Settlement

To Whom it May Concern,

I am writing regarding the proposed settlement between the U.S. Dept. Of Justice and Microsoft Corporation. I feel as a citizen of the United States, that my best interests are not represented in this settlement. I strongly disagree with the proposed terms of this settlement. I encourage the Dept. Of Justice to reconsider their actions, and let the case be decided by a competent judge, rather than settled out of court.

Sincerely,
Russell Harding
Boulder, Colorado

MTC–00024583

From: jeff garland
To: Microsoft ATR
Date: 1/25/02 12:36pm
Subject: Microsoft Settlement

Hello,

I am a teacher. I try to teach students good values by example and by punishment when necessary. Letting MS get away with their idea of an adequate settlement undermines our efforts to produce good citizens. That is the most important reason for devising a punishment that does not serve MS interests. The whole company ethic disgusts me.

Sincerely, Jeff Garland
Jeff Garland
Science Department
South Eugene HS
541–687–3116
400 East 19th Avenue
Eugene, OR 97401

MTC–00024584

From: Lars Johansson
To: Microsoft ATR
Date: 1/25/02 1:36pm
Subject: Microsoft Settlement

BlankGentlemen: The current Microsoft case is about providing a fair opportunity for all to compete on a level playing field. A federal district court and the District of Columbia Court of Appeals both determined that Microsoft broke the law by illegally maintaining its monopoly in computer operating systems and applications. When a monopolist abuses its position of power to choke off competition by its rivals, it is not only bad for consumers, competing businesses, and the market place, it is also illegal. The United States Department of Justice has proposed a settlement. This letter is written pursuant to federal law which requires the Court to take public comment on the settlement to determine whether approval of the settlement should be granted. The determination shall be based on whether the settlement is in the public interest. The proposed settlement stipulates in part that Microsoft will provide a certain amount of computer hardware and applications to schools. Unfortunately this "penalty" will only strengthen Microsoft's monopoly in the long run. Expressed in the simplest of terms, the proposed settlement is no different than putting the fox in charge of the hen house. As further elaborated upon below it is my opinion that the settlement is not in the public interest and, therefore, it should be rejected. The consumer must be given a free choice to purchase hardware, operating systems, and applications commensurate with his real needs rather than needs perceived and dictated by Microsoft. By opening up the market place to competition the consumer will be assured that the cost of software goes down and that its reliability increases. In fact, software at least equal to that now bundled into the Windows operating system is readily available in the market place for a fraction of the cost Microsoft charges. Let me provide two examples of the costly dilemma an individual user such as myself can be forced into as a result of Microsoft's abuse of power, and which will not be corrected in the proposed settlement:

(1) Two years ago I attempted to buy a lap top computer to be used as a navigational and radio communication aid on my boat during long offshore passages. Needless to say, I had no intention to make my navigation station into an entertainment center, nor did I have any desire to use up valuable space on my hard drive, intended primarily for chart storage, for applications such as word processing, spreadsheet programs, browsers, etc. Considering reliability and service I approached several of the major vendors, such as Dell, Compaq and Gateway, about buying a computer with only the Windows 98 operating system installed. The companies I contacted did not even have the courtesy of providing a response. In fact, they were most likely prohibited from meeting my requirements under their exclusive agreements imposed by Microsoft. I ended up buying a lesser known brand.

(2) For home use I have used Lotus Products during many years. Although a few years old this software is more than adequate for my purposes and will meet my requirements for many years to come. I have also developed extensive spreadsheet programs in Lotus 1–2–3 97 which I use daily and which would take weeks to adapt to Excel. It follows that if I were to buy a new home computer today I would be forced to pay for a range of Microsoft applications which I have no use for, and which I would most certainly delete immediately.

In summary, I recognize that Windows is the operating system of choice for nearly all computer users. However the market place must be opened up to competition in order to to achieve the goals outlined above. Microsoft must be forced to:

(a) discontinue "bundling" of unrelated applications into its Windows operating system, and b) allow the computer manufacturers to pre-load applications of the consumer's choice, if any. Needless to say, this second requirement may require monitoring of the computer manufacturers as well.

Sincerely, Lars Johansson 246 La Pera Circle
Danville, CA 94526–3025 39

MTC–00024585

From: tomkeyes
To: Microsoft ATR
Date: 1/25/02 1:34pm
Subject: Microsoft Settlement

Dear Sir or Madam,

I encourage you to settle the Microsoft lawsuits in the quickest way possible. The current settlement being considered by several states and the Department of Justice seems to be the most efficient means of disposing of this suit. I am an experienced small business user of computer products. I have used at least 10 different operating systems on different computer brands in the last 20 plus years. Microsoft is the oly company that delivered a continually improving mostly effective operating system during that time. Its continual inclusion in the operating system of tools developed by itself and third parties to solve certain problems has been an absolute boon to consumers. You are faced with political contributions and legislative pressure to make life easier for certain competing firms. Complaints abound that access is not simple. You isolate on the inclusion of the browser. Why did you not initiate action when the various fonts were included in the operating system? The use of third party fonts, and bit maps was a real pain by the consumer. Today, I seldom think about them. They are. part of the utility, I never used a browser until it became part of the system. Then the browser helped me, the consumer. Now, at the instance of businesses that could not maintain a lead over a utility that Microsoft made part of the system, you are interfering in areas of technical development that is beneficial to the consumer, and to the economy.

I have much more I can say in support of settlement being considered. Like, why did you not help when we consumers were faced with the fraudulent sales of systems that promised "we can do that" when they could not. I was once told a system could perform some simple accounting functions. It could not even line up the decimal points. I asked government organizations for help. I was told that I should have performed better due diligence, and that it was a contract problem. Now that we have a system that works, you want to limit it. From a consumers perspective, you have picked the wrong target. You should have gone after the various UNIX developers for failing to maintain a uniform system when fragmentation kept consumer prices higher and increased costs of transferring data from system to system. Instead, you go after a working system that continually decreases consumer costs. Nuts!! I told the MN Attorney General that I would organize voters against him in future elections when he joined the suit. I did. He lost. ??0024585—0002 I thought Gore was part of the decision to proceed with the suit, so I organized as many votes against him as I could. I will continue to organize the few voters I know against those that continue to pursue this Microsoft suit until the economic decisions are back into the hands of the consumer economists. We know that a continually improving product at a continually lower price is important. Some folks do not seem to understand that. Settle the suit. Tom Keyes, #262 2650 W. Union Hills Drive

Phoenix, AZ 85027

MTC–00024586

From: srcontracting@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:34pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Harry Rembe
96 Ryan's Way
Hoschton, GA 30548

MTC–00024587

From: jlgrdnr@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:34pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Jerry Gardner
1023 McMahan Ave
Nashville, TN 37216

MTC–00024588

From: Barry Tolnas
To: Microsoft ATR
Date: 1/25/02 1:40pm
Subject: Microsoft Settlement

I think the settlement proposed will have little impact in correcting the monopoly powers that Microsoft has been found by several courts to possess and exercise. Please try to do what is right for the people. Ultimately that is what will help business the most in the long run as well.

Barry Tolnas
213 Rogers St. NW
Olympia, WA 98502

MTC–00024589

From: Graham Metcalfe
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 1:37pm
Subject: Microsoft Settlement

Under no circumstances should the DOJ settle with Microsoft in any way which would allow them to increase their market share. This would certainly include any proposals which would create a government "sanction" in allowing them to dramatically increase marketshare in areas where they are historically not the dominant player. In specific, direct grants of software/hardware systems to K-12 and higher education institutions would help them increase marketshare in an area where use of other operating systems (mainly Macintosh and Linux) have a dominant role.

Graham Metcalfe
Creative Strategist/Senior Architect
(707)780–1709
multimedialive
625 Second Street
Petaluma, CA 94952
(707)773–3434

MTC–00024590

From: TURCOFE@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:39pm
Subject: Microsoft Settlement

Dear Attorney General Ashcroft: As a Microsoft user and stockholder (only 100 shares), I have followed with interest this ongoing anti-trust case for the past few years. I must say I was heartened when it seemed to be reaching final resolution. But, like many other disputes, it seems to be taking on a life of its own, with some groups unwilling to accept the resolution that both the U.S. Government and Microsoft have agreed upon. I feel that Microsoft is a strong, innovative leader in the computer industry and that the growth of its company has been very positive for the employment picture in the Seattle area and elsewhere. It seems to me that the beginning of the downtrend of technology stocks in the Nasdaq correlates to the beginning of the Microsoft anti-trust suit approximately 2 1/2 years ago. Conversely, seeing a true end to this conflict could bring a much-needed rally to that segment of our economy. I have always felt that Microsoft's competitors saw a chance to weaken a strong competitor by crying "monopoly", and, had they spent the time improving their own products over the past few years that they have spent accusing Microsoft, there would be no possibility of monopoly by anyone in the computer/software industry. I believe Microsoft has agreed to the terms of the settlement proposed by the U.S. Government. It seems they are trying to act in good faith. Hopefully we can close the book on this litigation and move forward. As a country, we seem to have many, many more serious problems to deal with in 2002.

Thank you for your kind attention to this matter.

Frances Turco
1065 Rockefeller Drive
Sunnyvale, CA 94087

MTC–00024591

From: Shmuel (Seymour J.) Metz
To: Microsoft ATR
Date: 1/25/02 1:40pm
Subject: Microsoft Settlement

I believe that the proposed settlement with Microsoft is not in the public interest for several reasons. First, Microsoft was violating the consent decree that it negotiated with Ann Bingamon almost from the moment the ink was dry. There is no reason to expect better compliance with a new consent decree. Second, the propsed agreement does nothing to alleviate or redress the harm that Microsoft's illegal conduct has caused and continues to cause to users of, e.g., Linux, OS/2. Third, the proposed agreement diverts penalties into advertising for Microsoft. Providing free Microsoft products to the schools would only exacerbate the harm that it's anticompetitive practises have cause to developers and vendors of competitive products. I am a longtime user of the operating system OS/2, and expect to be a user of the operating system Linux. When I buy a PC, I neither need nor want a copy of Windows. However, Microsoft has used its economic power to force dealers to sign contracts under which the dealers must pay Microsoft a license fee for every computer sold. Those dealers, of course, pass the cost on to their customers, and Microsoft has consistently refused to pay any refunds to those customers. I believe that in order to be in the public interest and to satisfy the intent of the law, any settlement must include the following elements:

1. Require refunds to everyone who has purchased a PC from a dealer who bundled Microsoft products, unless the customer is using those products.
2. Require penalties to be paid to developers on competitive applications and operating systems
3. Require separation of Microsoft into independent hardware, applications, network and operating systems companies.
4. Require publication of all current and future proprietary file formats, communications protocols, etc. and a free perpetual license for their use.
5. Require the divested companies to provide interface data to their competitors at least 6 months prior to providing them to other Microsoft companies. There should be periodic review to determine whether to adjust the length of the interval.
6. Require the applications companies to release new versions of its application for non-microsoft platforms, and require that all new features be available on competitive platforms for at least 6 months prior to making them available on microsoft platforms. As with item 5, there should be periodic reviews.
7. Impose substantial fines.
8. Require providing non-microsoft applications and operating systems to the schools.
9. Prohibit providing microsoft applications and operating systems to the schools.
10. Prohibit any contract with a hardware vendor that requires or encourages bundling of microsoft products.
11. Require the hardware company to develop drivers for non-Microsoft platforms, and require that all new features be available on competitive platforms for at least 6 months prior to making them available on microsoft platforms. As with item 5, there should be periodic reviews.

Shmuel (Seymour J.) Metz, SysProg and JOAT
Atid/2
Team OS/2
Team PL/I

MTC-00024592

From: Johnnie Douglas Muse
To: Microsoft ATR
Date: 1/25/02 1:40pm
Subject: Proposed Microsoft Settlement—Hell No

What a joke. Microsoft would be getting over on the DOJ COMPLETELY if this settlement is allowed to go forward as it is now. This would completely defeat the judgment of monopoly against this arrogant corporation. Please, for the sake of the educational consumer market, do not allow this sneaky attempt to saturate the education market by Microsoft with their shoddy software and the inferior hardware that it runs on. It will only increase the recipient school's expenses in the long run as these computers and the Windows operating system is very problematic and requires more technical assistance and maintenance than systems based on the Mac OS or Linux.

Thank you for your consideration of this viewpoint.

Sincerely John Muse

MTC-00024593

From: Raphael Fleishman
To: Microsoft ATR
Date: 1/25/02 1:40pm
Subject: Microsoft Settlement

I am writing under the Tunney Act concerning the proposed Microsoft Settlement (United States v. Microsoft Corp., Civil No. 98-1232). I believe the settlement is unfair as it will not serve to end Microsoft's unlawful conduct and does not adequately protect competitors, VARs, and OEMs against retaliatory or future anti-competitive action by Microsoft. The spirit of the Sherman Antitrust Act, particularly those clauses of which Microsoft was convicted of violating, is to protect consumers by protecting competition. I believe the burden rests on Microsoft to prove to the courts that adequate anti-monopolist protection is being provided. I have co-signed a petition which details my position in greater detail, and am writing this to officially note my opinion as allowed by the Tunney Act.

Thank you very much,
Raphael Fleishman
Stanford University
Beckman Center B403
Stanford, CA, 94305-5307
650-723-4025

MTC-00024594

From: meltondm@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:38pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Dawn Melton
CWU
Ellensburg, WA 98926-7875

MTC-00024595

From: Phipps, James B SWG
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 1:38pm
Subject: Microsoft Settlement

The Microsft Corp provides a service with the products that they offer, however they are monopoly in every sense of the word. They use a variety of tactics to ensure their position in the business. Without question the Government should look at the AT&T Break up as a reliable model in dealing with Microsoft. I am in favor of breaking Microsoft up into segments that don't overwhelm and control the computer industry and much business today.

James (Jim) Phipps
PMC Solutions
U.S. Army Corps of Engineers
Galveston District
Project Management Branch
Phone (409) 766-3919
Fax (409) 766-6372

MTC-00024596

From: Kerry Gerhard
To: Microsoft ATR
Date: 1/25/02 1:43pm
Subject: Microsoft Settlement

The purpose of this email is to show my support for Microsoft's decision to integrate a browser into their operating system. The following paragraph, taken from a technical piece, best describes my support. "Since Internet Explorer 3.0, Microsoft has provided an open architecture, inviting application developers to integrate Web technology into their applications. Most see this simply as a way to integrate Web browsing into their application. Others see this as a way to implement sophisticated display features that were previously too difficult to implement, or perhaps to replace a less-flexible and hard-to-maintain homegrown system. And best of all, since Microsoft has positioned its Web browser technology as part of the operating system, this functionality comes without prohibitive licensing and royalty issues."

Taken from an article written by:
Dave Templin
Microsoft Corporation
January 2000

As a software developer, every time Microsoft adds a new feature into the operating system, that is another piece of code I don't have to develop myself or license from a third party. This benefits consumers because software vendors can utilize these features without further cost to the customer. With that in mind I can only hope for a speedy settlement that is favorable towards Microsoft.

Sincerely,
Kerry Edwin Gerhard

MTC-00024597

From: Raphael Molina
To: Microsoft ATR
Date: 1/25/02 1:43pm
Subject: Microsoft Settlement

I believe that the proposed agreement is unjust. You will be forcing schools to have an open arena of technology. By forcing Microsoft down schools throat, I believe that schools, consumers, or anyone in general should have the freedom to choose any computing platform. Microsoft should be forced in giving the schools monetary amounts that then the schools can use at their will as to what platform to go to in the computing world. Otherwise Microsoft will continue its monopoly that is currently holds.

Thanks,

R. Molina

MTC-00024598

From: meowdw@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:41pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Dolores Wolf
5002 Olympic Drive
Los Alamitos, CA 90720

MTC-00024599

From: Dan, Brian and Miranda
To: Microsoft ATR
Date: 1/25/02 8:32am
Subject: Microsoft Settlement

Ladies and Gentlement,

Anyone who knows better, thinks the proposed settlement is bad idea

MTC-00024600

From: Brent Ware
To: Microsoft ATR
Date: 1/25/02 1:41pm
Subject: Microsoft Settlement

The proposed Microsoft settlement is a bad idea for many reasons, not least of which is that it is no punishment at all for a twice-convicted monopolist. Allowing them to give away "$1 billion" worth of software which costs them virtually nothing to manufacture is merely a way for them to pry Apple out of the school market, which in fact just furthers their monopoly at the cost of yet another competitor. They have $38 billion dollars in cash, projected to increase by $10 billion in the next year—have them give an actual $5 or $10 billion cash to the schools. They feel a slight financial pinch, the schools get to buy things they need, and it doesn't necessarily kill Apple in that market. In fact, it allows the market to work, instead of having Apple driven out of the school market as a result of Microsoft being thrown in the briar patch.

Brent Ware

MTC-00024601

From: swingingclub
To: Microsoft ATR
Date: 1/25/02 1:45pm
Subject: Microsoft Settlement
Thomas P. Johnson, III Esq.
3904 Montrose Driveway
Chevy Chase, MD. 20815
Phone (301) 215–9889
Fax (301) 215–4178
January 25, 2002

Dear Madam or Sir:

May It Please The Court: I am in favor of a Settlement of the Microsoft matter based on the fact that prolong litigation does nothing for either side but waste resources. In retrospect, this protracted matter of anti-trust litigation against a company who has greatly influenced modern technology does nothing for creativity in the business community. When the Honorable Judge Thomas P. Jackson issued a decision to break up Microsoft, the decision had an earthquake reaction on the stock market. The entire market declined on the day his decision was issued. Further, no entity has come up with definitive numbers to show how Microsoft has caused actual damages. The damages that have been formulated against Microsoft by the plaintiffs have been pure hyberbol and mere speculation at best. I would speculate that the recent move to file a law suit by AOL is a retaliatory act because of Microsoft's involvement in the bidding for AT&T's cable network against AOL. Comcast was the winner and AOL was the loser. Case law in contract matters states: "where there is competition" fairness is not part of the calculus as long as there are no illegal acts. The same principle apply to matters involving Microsoft and its competitors. Some of the business plaintiffs in this proceeding did not have the financial resources to compete in the development of their products prior to this law suit; and, now is crying foul because Microsoft is at a disadvantage at this juncture. There is never a level playing field when there is competition. Microsoft should not be penalized because of the largess of its pocket book. You compete with the cards you are dealt when you do not have the financial resources to compete. A settlement is in the best interest of all sides because: limited judicial resources; defendants, plaintiffs, and the shareholders of all entities involve will benefit because the resources used to litigate this matter could be better used to pay shareholders in terms of dividends derived from profits instead of a writedown because of litigation cost; the litigation cost will most likely be deducted from research and development of new products; and, there will be more money available to settle this claim instead of litigation. On record, which is public knowledge it has been factually shown that the states who participated in the tobacco settlement did not use the money they receive properly according to the terms of the settlement agreement. The states were supposed to use the money to curb teen smoking. Some states used only a fractional amount. I argue this point because the attorneys generals from the various states who are participating in this proceeding cannot show actual physical injury. Economic injury which the states will most likely argue is pure speculation. Economics is a science of speculation and courts do not reward damages based on speculation. This case is unlike the tobacco suit where people died because someone was less than candid about a particular product. This case hinges on business competition and not personal injury. Settlement by any means necessary and not protracted litigation. I would speculate in the event of litigation it will greatly impact our economy negatively as will be reflected in the stock market as was the case in a past decision.

Respectfully submitted,

Thomas P. Johnson, III

MTC-00024602

From: Michael
To: Microsoft ATR
Date: 1/25/02 1:48pm
Subject: Microsoft Settlement

I believe the proposed settlement is a bad idea. I am not in the computer industry, just an end user who has had a personal computer since 1983. I have purchased Microsoft products as well as products from their competition. It is my observation that many hardware as well as software companies failed due to unfair business practices on the part of Microsoft. Others with far great expertise than I have detailed this out for you. As a concerned citizen, I want you to know that I believe the proposed settlement will not effectively stop Microsoft from continuing on as they have in the past, i.e. benefiting from unfair business practices. Thank you for your time.

Sincerely,

Michael Kane

MTC-00024603

From: Brent Ware
To: Microsoft ATR
Date: 1/25/02 1:47pm
Subject: Microsoft Settlement

The proposed Microsoft settlement is a bad idea for many reasons, not least of which is that it is no punishment at all for a twice-convicted monopolist. Allowing them to give away "$1 billion" worth of software which costs them virtually nothing to manufacture is merely a way for them to pry Apple out of the school market, which in fact just furthers their monopoly at the cost of yet another competitor. They have $38 billion dollars in cash, projected to increase by $10 billion in the next year—have them give an actual $5 or $10 billion cash to the schools. They feel a slight financial pinch, the schools get to buy things they need, and it doesn't necessarily kill Apple in that market. In fact, it allows the market to work, instead of having Apple driven out of the school market as a result of Microsoft being thrown in the briar patch.

Brent Ware

MTC-00024604

From: Steven Barnes
To: Microsoft ATR
Date: 1/25/02 1:49pm
Subject: settle now

MTC-00024605

From: kforrest
To: Microsoft ATR
Date: 12/17/01 1:15pm
Subject: Microsoft Settlement

Microsoft needs to be repentant and not rewarded for its previous actions. For years Microsoft has attempted to squeeze into the K–12 education market and now they elect to do it as "compensation" for previous wrongdoing. Please don't give them this "free lunch." If they want to do pentance for k–12 education let them drop a billion dollars into the e-fund and supply truly FREE internet access to all underfunded schools in the nation.

thanks
Kent Forrest
Technology Leader
Parkway School District
Chesterfield, MO

MTC-00024606

From: parkru@saic.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:46pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Russ Park
9826 Colt Lane
Lakeside, CA 92040

MTC-00024607

From: james t. pendergrast
To: Microsoft ATR
Date: 1/25/02 1:50pm
Subject: Microsoft Settlement

My name is James Pendergrast. I have used Microsoft products, but have settled upon the Macintosh operating system as being superior for my needs. It is disconcerting to me to see the business practices Microsoft employs to dominate the field and drive their competitors out of business. The lack of government interest in creating an effective remedy, particularly since the advent of the Current Bush administration, has been disheartening. The current proposal, with Microsoft giving a sham offer to schools is like a slap in the face to everyone who holds fairness and equal dealings for all persons in high regard. It won't cost them anywhere near what they will get credit for, and have the effect of further increasing their presence in the education market, at the expense of Apple computer. Some punishment indeed. Please do what is necessary to prevent such a travesty of justice taking place.

Yours truly,
James T. Pendergrast.

MTC-00024608

From: Syndergaard, Ernie
To: Microsoft ATR
Date: 1/25/02 1:51pm
Subject: Microsoft Settlement

I work in the IT Industry and am very concerned with the proposed settlement of the Microsoft Antitrust Suite. Of particular concern is: Section III.A.2. allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system. Section III.B. requires Microsoft to license Windows on uniform terms and at published prices to the top 20 OEMs, but says nothing about smaller OEMs. This leaves Microsoft free to retaliate against smaller OEMs, including important regional "white box" OEMs, if they offer competing products. These sections clearly allow Microsoft to continue to strong arm most companies who wish to stay competetie "bend" to microsoft will. This proposed settlement is NO FIX TO THE MONOPOLISTIC POLICIES OF MICROSOFT AT ALL! This is purely my personal opinion and does not in any way reflect that of Compaq Computer Corporation or any of it's subsidiaries.

Ernie G. Syndergaard
IT Specialists
Compaq Computer Corporation

MTC-00024609

From: DJMaytag
To: Microsoft ATR
Date: 1/25/02 2:02pm
Subject: Microsoft Settlement

I am part of a worldwide network that is working on getting the BeOS or equivalent back into the market place, but there is no hope of success if the following issues aren't addressed: examples: open Office file formats, Win32 APIs, make dual-boot options mandatory, etc... I am not a very eloquent speaker/writer so I am going to include some links to another who is. I can say with certain confidence, that any remedy that leaves out the OEM bootloader license will have zero effect on any competition being able to someday enter the marketplace to compete against Micorsoft. Here are some exceprts from some articles written by Scot Hacker from byte.com: Regarding the state of the Microsoft monopoly: "But the reality is that Be's failure has made a point to the world, to whit: "Don't bother trying to create a better commercial desktop OS—it doesn't matter how hard you try, how many engineers you throw at the problem, how much money you spend, or how many years you put into it. Microsoft owns that space and, worse, the public is totally complicit with that fact. People will not stop using Windows. It is a losing battle." It is unlikely now that anyone will ever again attempt what Be, Amiga, and IBM attempted. And that's the saddest thing of all—the insidious ways in which the monopoly has wormed itself into the fabric of our economy and culture. The message that "resistance is futile" has been hammered home. The only OS projects that stand a chance are open source, because they don't play by the rules of the economy." Regarding the part of the monopoly the DOJ has seemingly completely missed, the Microsoft bootloader:

"In the 1998–1999 timeframe, ready to prime the pump with its desktop offering, Be offered BeOS for free to any major computer manufacturer willing to preinstall BeOS on machines alongside Windows. Although few in the Be community ever knew about the discussions, Gassee says that Be was engaged in enthusiastic discussions with Dell, Compaq, Micron, and Hitachi. Taken together, preinstallation arrangements with vendors of this magnitude could have had a major impact on the future of Be and BeOS. But of the four, only Hitachi actually shipped a machine with BeOS pre-installed. The rest apparently backed off after a closer reading of the fine print in their Microsoft Windows License agreements. Hitachi did ship a line of machines (the Flora Prius) with BeOS preinstalled, but made changes to the bootloader - rendering BeOS invisible to the consumer—before shipping. Apparently, Hitachi received a little visit from Microsoft just before shipping the Flora Prius, and were reminded of the terms of the license."

"So here we are in 2001, and guess what? It's still not possible to purchase a dual-boot Win/Linux machine. Doesn't that seem kind of odd? With all of the hype Linux has gotten, and with the technical simplicity of shipping dual- boot machines, not a single PC OEM is shipping such a beast. The technology marketplace is glutted with options. Vendors use even the smallest opportunities to trumpet their differentiating factors. Linux is free. And yet there are no commercially available dual-boot machines on the market. Not one. The silence of the marketplace speaks volumes. There is no other way to explain this phenomenon other than as a repercussion of the confidential Windows License under which every hardware vendor must do business." From an article entitled "The De Facto Hardware Monopoly" http://www.byte.com/documents/s=97/byt19990727s0011/index.htm "While the Department of Justice trial focuses on issues such as browser integration, the real point of the trial is often lost in all the hubbub: The hardware industry is, by necessity or by choice, beholden to Microsoft. It's one thing to see an "Intel Inside" sticker on a new machine, but when I see hardware labeled "Designed for Windows 98" or "Windows 98-compatible", a shiver of frustration runs up my spine. Since when should hardware care what operating system it's working with?" From http://lists.elistx.com/archives/interesting-people/200108/msgOO238.html

From: "Brian David Hungerford" <bhungerf@umich.edu>

To: "David Farber \(by way of Bernard A. Galler\)" <dave@farber.net>

The boot license doesn't actually say that you can't install a second OS.

What is says is:

1. You can't deliver a preinstalled machine in which Microsoft's code bootstraps someone else's OS. It is technical possible to

do this with NT/2000/XP/etc., because the NT bootloader is specifically designed to respect the preexistence of another OS and incorporate that into the boot sequence; any MCSE knows this. It's how NT systems allow you to preserve your previous boot option when you upgrade from DOS, OS/2, or Windows 9x/ME. However ...

2. OEM's must use Microsoft's preinstallation tools to deploy the OS on the machine. Since those tools (usually) start by blasting away the contents of the disk and laying down Windows in a fresh partition, any preexisting OS would be destroyed in the process. Hence the trap: deploy the other OS first, and the OEM tools wipe it away;

Deploy it after Windows, and you've used Microsoft's boot code to launch a different OS.

It is trivially easy for end users and VAR's to set up dual-boot systems. But—as the article points out—this would require some interest on the part of customers for post-purchase installation, and there is none. http://www.theregister.co.uk/content/archive/21410.html Between 1997, when the DoJ began taking the browser issue seriously, and when the final arguments were made late in 1999, Be was the only competitor whose business solely depended on providing competition to Microsoft on the consumer desktop. It's strange then that it should ignore such compelling evidence of anti-competitive behaviour. But the Antitrust staff aren't the only people who are reluctant to grasp the nettle. There's a widespread view in the Linux community that offering head-on competition to Windows on the desktop isn't how Linux will eventually win. The argument has some sound reasoning—it points to historical changes in the economics of the infrastructure, of the sort which saw midrange system replaced client/server PCs—but ducks the difficult question. If you are going to offer consumers an alternative to Windows, you're going to need distribution, and overwhelmingly the least troublesome and most convenient distribution point is a preloaded, pre-configured installation. That means access to the PC's boot sequence.

At the LinuxWorldExpo panel discussion Jeremy Allison made few people comfortable with his point that unless you break the client monopoly, "your alternative infrastructure is irrelevant," Very few OEMs can afford not to offer Windows, and while their freedom to offer alternatives is dictated to by the Beast, the alternatives will languish. http://www.theregister.co.uk/content/4/22670.html One possible concession by Microsoft in the proposed AntiTrust settlement has come too late to save the company which pressed hardest for its inclusion: Be, Inc. Section C/4 of the remedy states that Microsoft may not forbid OEMs "offering users the option of launching other Operating Systems from the Basic Input/Output System or a non-Microsoft boot-loader or similar program that launches prior to the start of the Windows Operating System Product". OEM agreements preventing PC manufacturers from advertising the fact that an alternative was in fact, right in front of the user, pre-installed.

In the case of Hitachi, the most significant OEM to offer BeOS preinstalled, the user had to manually install a boot manager to activate the BeOS partition, a process which involved creating their own floppy boot disk. The package could not include a boot floppy, and the Windows desktop had no icons enabling the automation of the process, or even giving any indication that an alternative existed on the PC. I can't grab everything from this article, but it's a good read: http://www.netaction.org/msoft/world/ I found this document via http://www.nyx.net/-lmulcahy/microsoft-bad- faith.html There a whole host of articles out there explaingin why the DOJ missed the boat and why Microsoft is going to get away scot free from this mess if some sever changes don't take place. I can't even begin to explain how bad this is going to be for the US and world economy if Microsoft isn't stopped.

Thank you for yout time,
Mitch Anderson

MTC-00024610

From: Tom Denman
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 1:52pm
Subject: Microsoft
AVTEX
Thomas J. Denman
5775 West Old Shakopee Road
Suite 160
Bloomington, Mn 55437
(952) 831-3710
January 9, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing this letter to simply state my support of the DOJ antitrust settlement involving Microsoft. The settlement reached between Microsoft and the Department of Justice is fair and reasonable. The design of the settlement is to be beneficial to both the IT industry and the consumer alike, without unfairly attacking Microsoft.

It is essential that the DOJ resolve this issue swiftly. An exorbitant amount of American tax dollars have been spent just so that Microsoft's competitors could attack their opposition. This country is based on free enterprise, and it seems that the settlement already goes against the grain of that idea. To continue litigation would just mean a slow suffocation of laissez-faire principles.

As it is, Microsoft will have to give up software codes and intellectual property just to appease the DO J, yet some jealous and selfish special interests would prefer to move on, even though this is clearly not in the public interest. I strongly recommend that all action at the federal level be stopped.

Sincerely,
Thomas Denman
Executive Vice President

MTC-00024611

From: luthered@cox.net@inetgw
To: Microsoft ATR
Date: 1/25/02 1:49pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Edward Luther
94 Henry Clay Rd
Newport News, VA 23601

MTC-00024612

From: Jonathan Leinwand
To: Microsoft ATR
Date: 1/25/02 1:52pm
Subject: Microsoft Settlement

I am concerned that the Microsoft settlement is letting Microsoft do something that would otherwise be illegal. By letting Microsoft provide free software to a market it has not yet dominated, the Justice Department is letting them do exactly what was done to Netscape. Free Windows software will tilt decisions towards Intel based computers running Windows, thus hurting competition in the education market place. The settlement needs to correct the behavior of the offender and not try to punish it or try to do a good deed. Giving out free software from Microsoft will not benefit educators, students or competition.

Jonathan D. Leinwand, Esq.

MTC-00024613

From: Charles Borner
To: Microsoft ATR
Date: 1/25/02 1:55pm
Subject: Microsoft Settlement

Pardon me if I seem naive about this. I simply do not understand why, if Microsoft is guilty of monopolistic practices, the government isn't stepping in and demanding real measures to dismantle this monopoly. Simply allowing Microsoft to give away product and old, refurbished computers isn't an effective remedy to this. It simply mirrors what happened when they began giving their Internet Explorer browser away for free.

Because they have huge, effectively bottomless cash reserves, they can easily weather this settlement. Note: The settlement's cash value is roughly equal to Microsoft's MONTLY profit margin. It doesn't even begin to touch the billions Microsoft has socked away in the bank. Additionally, this damages the competition even further. Because now the government is effectively distributing software for Microsoft. For free. How are competitors supposed to compete with products being GIVEN away? The answer? They CAN'T. So the settlement isn't even a slap on the wrists for Microsoft. It has the effect of giving a government sanction to an illegal monopoly.

And more, government assistance in furthering that monopoly. The DOJ needs to stop trying to take the easy, feel-good way out of this, admittedly, painful situation. The DOJ needs to begin seeking hard, truly workable soloutions that REALLY penalize Microsoft for their illegal activities. Stop doing what's easy, and do what's RIGHT for a change.

Charles Borner: chas@evilnet.net
5550 Abbey Dr.
Suite 4M
Lisle, IL 60532

MTC-00024614

From: P T Withington
To: Microsoft ATR
Date: 1/25/02 1:52pm
Subject: Microsoft Settlement

In my opinion, the Proposed Final Judgement in United States vs. Microsoft is insufficient to prevent Microsoft's continuance of anti-competetive practices to the detriment of computer users everywhere.

P. T. Withington

MTC-00024615

From: David Halonen
To: Microsoft ATR
Date: 1/25/02 1:57pm
Subject: Microsoft Settlement

I oppose "fining" Microsoft by allowing them to have a free hand to donate MS software to schools—its tanamount to letting the fox in the henhouse! The fact that MS writes bad code, has a lousy user interface, and can't spell security to save Bill's fortune is beyond refute. And should not be a part of this settlement process. The fact is that MS has been found in violation of the law. The fact that they look at the law in disdain (ignoring prior rulings) calls out for a stiff punishment. I strongly encourage the gov't to punish MS to the fullest extent of the law. MS has clearly demonstrated time and time again, it only respects pure, unadulterated force. Hit them between the eyes! Its the only language they understand.

Regards,
David Halonen
The Halonen Company
10131 Fairlane, Suite 1215
South Lyon, MI 48178
(734) 449–2956
(810) 923–0780 cell

MTC-00024616

From: Aaron Sherman
To: Microsoft ATR
Date: 1/25/02 1:55pm
Subject: Propose Microsoft settlement

I'll keep this short, since I'm sure many who submit will not. The basic problem that Microsoft's business practices present to the rest of the industry is incompatibility of interfaces. The rest of the industry works very hard in standards organizations, documentation and in other ways to unify interfaces between software applications. Microsoft has done just the opposite. If the only change that results from this investigation is that Microsft is forced to publish details of their interfaces between, e.g., Internet Explorer and the Windows NT/2000/XP operating systems or between Office and the Win32 subsystem in full (not in general detail), then the industry would be able to compete on those platforms with the existing Microsoft products. Generally, this is not required of software companies because they do not straddle the operating system and application software markets. Where Microsoft does, they present a barrier to market for non-Microsoft applications simply by hiding the interfaces that their application products use.

So, in short: publish interfaces well in advance of major revisions; maintain and support published interface implementations accross minor revisions; restrain Microsoft from applying for any patents which could prevent application software competitors from using said interfaces without paying royalties (note: this does not prevent Microsoft from acquiring patents, so long as they do not touch on application/platform interfaces). Interfaces should include: save file formats; application embedding protocols and controls; network protocols; extension languages; system libraries; operating system interfaces to application such as the browser.

MTC-00024617

From: Florence Jones
To: Microsoft ATR
Date: 1/25/02 1:56pm
Subject: Microsoft antitrust settlement agreement

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I support the Microsoft antitrust settlement agreement. While I have been opposed to this lawsuit from its inception, I believe settling the case now is in everyone's best interests. The settlement agreement provides for a variety of concessions on Microsoft's part. They have agreed to increase server interoperability. They have also agreed to make a great deal of changes in the way they handle their relationships with software developers. Once the settlement agreement is finalized, Microsoft will not retaliate against software or hardware developers who develop or promote software that competes with Windows. Nothing more should be expected or required of Microsoft beyond the scope of the current settlement agreement. I urge your continued support of resolving this case. Thank you for your efforts in this regard.

Sincerely,
Florence Jones
PO Box 281/451 Coul Ave.
Buckley, WA 98321
phone 360–829–9293

MTC-00024618

From: Phil Parker
To: Microsoft ATR
Date: 1/25/02 2:06pm
Subject: proposed settlement

I support the Kansas AG and *do not* support the pending settlement.

Phillip E. Parker
Math. Dept. #33
Wichita St. Univ.
1845 N. Fairmount
Wichita KS 67260–0033
USA

MTC-00024619

From: mcgraw@cejka.com@inetgw
To: Microsoft ATR
Date: 1/25/02 1:55pm
Subject: Microsoft Settlement

Microsoft is a convicted monopolist and I do not trust them with my data. I will vote with my conscience next time you guys are up for re-election or anything. "What's good for General Motors is what's good for the country" is and was WRONG.

Haven't we learned enough about the Enron scandal, for instance? What are you guys thinking?

Patrick McGraw
Network Analyst
Cejka & Company
800.678.7858
fax 314 863 1705

MTC-00024620

From: Getz, Steve (SM)
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 1:59pm
Subject: Microsoft Settlement

This settlement is a bad idea. You need to break up the company—split off the operating system group from the rest. First they claim the browser is now part of the operating system. What keeps them from next saying Microsoft Office is now part of the operating system thus killing off the competition for word processing, spreadsheets, etc. Then they can add virus utilities to the operating system.

Steve Getz
Sarnia
519–339–6412

MTC-00024621

From: MKEYSTONEFI@CS.COM@inetgw
To: Microsoft ATR
Date: 1/25/02 1:55pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
MONROE STRAWN
P. O. BOX 1001
NORTH HIGHLANDS, CA 95660

MTC-00024623

From: Tim Van Riper
To: Microsoft ATR
Date: 1/25/02 9:06am
Subject: Microsoft Settlement

In order for this settlement to be fair, Microsoft should not be allowed to pay damages by providing "free" software and/or hardware. The penalty must be monetary so schools can have the freedom to choose which platform they wish. By giving Microsoft the option of paying their penalty in kind, they not only settle the lawsuit, but grab and even larger marketshare by dumping their garbage software and tired old clone hardware off on unsuspecting students and teachers. That surely wouldn't be fair. Make Microsoft pay with REAL money.

Timothy Van Riper
Salem, Virginia

MTC-00024625

From: David Diplock
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 2:03pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530-0001

As a software engineer with over 10 years of experience developing for various platforms, I wish to comment on the proposed Microsoft settlement (PFJ) under the Tunney Act. I agree with the problems identified in Dan Kegel's analysis (on the Web at http://www.kegel.com/remedy/remedy2.html <http://www.kegel.com/remedy/remedy2.html>), and have asked to be included as a co-signer to his letter. In addition, I would like to summarize my personal views on the PFJ. The PFJ as currently written simply does not go far enough. There is no doubt, given Microsoft's past behavior, that it will attempt to circumvent and evade the terms of this agreement. The PFJ is so narrowly defined that it allows plenty of maneuvering room, especially considering that it will be applied in an industry as fluid as the software industry. Therefore, the PFJ will fail in its intended purpose—to prevent Microsoft from continuing its illegal and anticompetitive practices. Such failure would clearly not be in the public interest. Strengthening the settlement agreement, as proposed by Dan Kegel and by certain plaintiff states, is necessary for the remedy to be effective.

Sincerely,
David Diplock
San Diego, California
Software Engineer,
Peregrine Systems

MTC-00024626

From: Michael Dragone
To: Microsoft ATR
Date: 1/25/02 2:02pm
Subject: Microsoft Settlement

To Whom it May Concern:

I'll keep my comments regarding the proposed Microsoft Settlement brief. The settlement in its current form essentially gives Microsoft the legal right to continue to do as they please. Furthermore, I've noticed that it seems to be relatively easy for Microsoft to circumvent any restrictions that are in place that they find to be a hindrance. Microsoft has been found to be a monopoly. This has been affirmed by a Court of Appeals. When AT&T was found to be a monopoly, they were broken up into Baby Bells. I'm not entirely certain that a breakup of Microsoft is the best solution (a slew of Baby Microsofts might not help the matter). Regardless, a harsher penalty must be imposed on this company. They literally have their collective hands in almost every facet of the Information Technology industry. Their use of disgusting business practices to enhance their own net worth causes nothing but disdain. If they are not stopped now, our entire IT infrastructure may one day be entirely Microsoft-driven. This is highly undesirable.

Thank you for your time.

MTC-00024627

From: LUC,BIEN (HP-Cupertino,exl)
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 2:03pm

Hi Mr Attorney General,

Attached please find my opinion about the Microsoft litigation.

Thanks,
Bien Luc
19420 Homestead Road
Cupertino, CA 95014-0606
January25,2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Attorney General:

The economically damaging and unfair litigation against Microsoft must come to an end. The current settlement with Microsoft is in the best interests of California, the IT industry, and the economy. The settlement has placed a number of restrictions on Microsoft. For example, Microsoft has agreed to a "Technical Committee" that will monitor the company's compliance with the settlement. In addition, Microsoft agreed to design future versions of Windows to make it easy for consumers and computer makers to promote non-Microsoft products within Windows. Also, Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system. These changes in Microsoft's behavior will result in more options for consumers as well as expanded competition in technology sector. More importantly, the settlement will end three years of unnecessary litigation and will let us move forward. I urge you to support it.

Sincerely,
Bien Luc

MTC-00024628

From: Ann Lee
To: Microsoft ATR
Date: 1/25/02 2:03pm
Subject: Microsoft Settlement

I believe that the proposed settlement that has been offered, Microsoft giving approx. $1 billion in refurbished computers and software to schools to settle their lawsuits, is not only acceptable, but possibly illegal. Nor does it do anything to address the actual people and businesses that have been harmed by it's monopolic behavior. As John Kheit pointed out in his article in The Mac Observer, http://www.macobserver.com/, ". . . Such predatory pricing and/or dumping tactics are normally illegal for a convicted monopolist. U.S. v. Columbia Steel Co., 334 U.S. 495, 530 (1948); Western Concrete Structures Co., Inc. v. Mitsui & Co. U.S.A.), Inc., 760 F.2d 1013, 1018 (9th Cir. 1985). Thus, it is currently illegal for Microsoft to give its software to the educational market for free or at a price below its costs because they have been found to be a monopoly. However, if the government agrees to Microsoft's proposed settlement with the states, then the government will at the very least be providing Microsoft with an exception to this rule, or at worst be a collaborator in illegal predatory pricing and dumping."

Microsoft should be punished for their anti-competitive behaviour, not rewarded with another market to monopolize. Also, any settlement should be focused towards the consumer and business community, not an irrelevant third party.

E. Ann Lee
2520 W 32nd Avd
Denver, CO 80211
303-455-6728

MTC-00024629

From: Chris McGrew
To: Microsoft ATR
Date: 1/25/02 2:03pm
Subject: Microsoft Settlement

Dear Sirs,

It is my opinion that the proposed settlement is flawed. If Microsoft is guilty of monopolistic practices, as they have been found to be, then the proposed remedy of solution amounts to nothing more than a wrist slap. Microsoft will be little inconvenienced by these measures. I don't believe that breaking up Microsoft into different companies will help and that is not what I believe is fair. I do believe that MS is guilty of monopolistic practices, though I also believe that virtually any company that was able to maneuver themselves into the same position, would have employed almost identical tactics. These need to be curbed to allow industry to flourish.

Microsoft is not a very innovator company, but they do update their products from customer input. They should not be allowed to kill off the smaller fish in the pond before these fish can become real competition by giving away a competing product for free. This practice doesn1t allow for fair competition.

I am not sure how to fix this, but as I have stated earlier, the proposed settlement is nothing more than an ineffectual wrist slap.

Chris McGrew
2605 Oaks Ave
Everett, WA 98201

MTC-00024630

From: Mike Everett-Lane
To: Microsoft ATR
Date: 1/25/02 2:03pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530-0001

Under the Tunney Act, I wish to comment on the Microsoft settlement's inadequacy in improving the competitive environment in the software industry. Specifically, I would like to address the veto against open source programming.

Open source programming is one of the most important revolutions in computer science. The Internet has enabled programmers from across the globe to create software collaboratively. Examples include Apache, GNU/Linux, Samba, etc. Under section J.2.c., Microsoft does not need to make ANY API available to groups that fail to meet "reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business." This effectively gives Microsoft a veto over sharing any information with open source development projects, because Open Source projects are usually performed by volunteers, and therefore would not be considered authentic, or viable businesses. This will have a chilling effect on Open Source development—which in turn will reduce competition and halt the creation of new software. I cannot see how this would benefit consumers. The DOJ should revise its settlement, so that Microsoft cannot discriminate between for-profit and nonprofit groups in API disclosure.

Sincerely,
Michael Everett-Lane
155 Seventh Avenue
Brooklyn NY 11215

MTC-00024631

From: Ron Robertson
To: Microsoft ATR
Date: 1/25/02 2:03pm
Subject: Microsoft Settlement

I wish to comment that I don1t think the proposed settlement against Microsoft goes far enough. Nothing will change or be improved with your current proposal. I also think it1s wrong the way Microsoft breaks every standard and uses their market share to force everyone to use their products, particularly web browsers.

Sincerely,
Ron Robertson
Fresno, CA

MTC-00024632

From: doodles8@pacbell.net@inetgw
To: Microsoft ATR
Date: 1/25/02 2:04pm
Subject: Microsoft Settlement

Gentlemen,

A few brief words stating how upset I am that you are letting Microsoft get away with anti-competitive practices with nothing more than a slap on the wrist. No fine could be enough, given the company's huge resources, and the whole idea to give schools their inferior software was just another obvious grab for market share. The only way to force MS to cooperate is to force them to open their operating system's code for all to see. Barring that, they must make all API files open source, so that other software companies might be able to write programs without the handicap of not having access to the internal system dynamics. If this is the best that the Department of Justice can do for the people of America, you may as well turn in your resignations.

disrespectfully yours
Steve Gattuso

MTC-00024633

From: Larry Melillo
To: Microsoft ATR,microsoftcomments @doj.ca.gov@inetgw
Date: 1/25/02 2:04pm
Subject: Comments on the Microsoft Proposed Final Judgment

TWIMC: Having read the Proposed Final Judgment, I believe harsher remedies are needed to prevent Microsoft from extending its monopoly in the future. In particular, Microsoft can not be allowed to self-regulate itself regarding the classification of new technologies as part of the Windows OS. Unless emerging companies are allowed to have a fair opportunity to develop and exploit breakthrough technologies, this proposed PFJ may allow future technology development to be delayed/ignored based on the whims of a single company's strategic intent. As technology will likely continue to be a major driver of the world's economy, this simply is not an acceptable alternative. At the very least, harsher regulatory controls should be implemented as part of the PFJ.

Regards,
Larry Melillo
San Francisco, CA 94109

MTC-00024634

From: Spunk S. Spunk III
To: Microsoft ATR
Date: 1/25/02 2:05pm
Subject: Microsoft Settlement

Hello,

I would like to voice my opinion of the Microsoft Settlement and ask you to PLEASE continue the trial. The current settlement does nothing to Microsoft and worse yet, many of the "penalties" actually strengthen Microsoft's monopoly. I think it allows them to continue bullying everyone who gets in their way as they always have done and, in fact, are continuing to do.

Thank you,
Brian Ray

MTC-00024635

From: aruss1@gte.net@inetgw
To: Microsoft ATR
Date: 1/25/02 2:02pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
andrew russell 2414 state street erie, PA 16503

MTC-00024636

From: ed@alcpress.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:05pm
Subject: Microsoft Settlement

The settlement reached between the Department of Justice and Microsoft is a disgrace. Microsoft committed crimes and their punishment is no punishment at all! How can I be proud to be an American under these conditions? I take an active part in the education of my children. How do I explain to them that our country is based on law but that law does not apply to the wealthy—that our leaders are corrupt. You're destroying MY country and it's heritage. I'm ashamed of the whole lot of you. You disgust me.

Ed Sawicki

MTC-00024637

From: RBush11235@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:05pm
Subject: Microsoft Settlement

To whom it may concern:

The constant litigations brought against Microsoft, simply because the company is a success, need to stop, and those already brought against Microsoft need to be dismissed, or at least, diminished. The original case brought against Microsoft was a case of "sour grapes", fueled by the liberal, and nonsensical idea that "it's not fair" that one company succeeds more than another. That same nonsensical idea extends to the individual, and therefor those indivduals who succeed are excoriated and punished by an increasingly dictatorial and intrusive government. The idea that the success of one individual helps the success of the next individual is no longer paramount in this country, because that is a capitalistic concept, and the country is becoming more and more socialistic, if not out-right communistic. However, Communism and Socialism are not what made this country great, nor will they keep it great.

Richard L. Bushman
165 Fruit Street
Hopkinton, MA 01748
508–435–4003

MTC-00024638

From: Rod Martin
To: Microsoft ATR
Date: 1/25/02 1:52pm
Subject: Microsoft Settlement

The proposed settlement for Microsoft is a very bad idea and completely insufficient.

MTC-00024639

From: George Heller
To: Microsoft ATR
Date: 1/25/02 2:06pm
Subject: Microsoft Settlement

The proposed settlement is a bad idea. All it will allow for is big companies with deep pockets to tie up cases in court long enough that when the time comes for judgement the whole case seems irrelevant. At that point, they're unaffected because they've already accomplished what they've wanted to do: completely destroy all competition.

MTC-00024640

From: E. Tomchin
To: Microsoft ATR
Date: 1/25/02 2:06pm
Subject: Microsoft Settlement
To: Renata B. Hesse

Antitrust Division
U.S. Department of Justice
Washington, DC 20530–0001

Dear Ms. Hesse,

After reviewing the Microsoft settlement documents it is my considered opinion that the proposed settlement not only does not prevent Microsoft from continuing in their heavy-handed and competition-strangling behavior, but it completely fails to address one of the worst offenses Microsoft has committed to date: to wit, the inauguration of Microsoft's new XP operating system with its Windows Product Activation (WPA) function. WPA appears fraudulent and monopolizing in that if a consumer fails to get Microsoft's permission to activate the operating system, which arguably is their right, it prevents that consumer from accessing their own personal and private files on that computer and permanently locks that consumer out of their own computer. This simple fact seems prima facie evidence that Microsoft has not only failed to adhere to the spirit of the settlement agreement, but has taken their heavy-handed monopoly to new heights.

Further, Microsoft has announced that it soon will cease all support of earlier operating systems, including Windows 95, Windows 98, Windows ME and Windows 2000. This appears to be a monopolizing move that is designed to force people to abandon any earlier operating system they may own and choose to keep and force them to purchase XP. This cessation of support for earlier Microsoft operating systems would not be that heavy-handed and monopolizing if Microsoft would allow the downloading of all necessary security patches and Service Packs so that a user may bring those operating systems up to secure functionality when the operating system needs reinstalling, which it quite frequently does due to numerous bugs and defects in the original product. Overall, it appears that Microsoft is being allowed to continue to control and interfere with a consumer's right to maintain an operating system they have purchased from Microsoft. The settlement does not address any of the issues I have put forth above.

Thank you for the opportunity to address these issues.

Sincerely,
Edward A. Tomchin
P. O. Box 10009
Golden Valley, AZ 86413

MTC–00024641

From: kanb—us@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:04pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Betty Launius
3827 Verner Dr.
Peoria, IL 61615

MTC–00024642

From: Drew Dean
To: Microsoft ATR
Date: 1/25/02 2:07pm
Subject: Microsoft Settlement

(I'm not sure this got through the first time; it's the same text)

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse and Judge Kollar-Kotelly:

I wish to express my belief that the Revised Proposed Final Judgment (RPFJ) in US v. Microsoft is not in the public interest, and respectfully urge the Court not to approve it. While the RPFJ is a substantial improvement over the original PFJ, it remains the case that the exclusions swallow the rule. The following three examples are illustrative, but by no means the only problematic areas in the RPFJ.

(1) Section III.J.2. The exclusions in subpart (b), "has a reasonable business need for the API, Documentation, or Communications Protocol for a planned or shipping product," (c) "meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business," and (d) "agrees to submit, at its own expense, any computer programs using such APIs, Documentation, or Communication Protocols to third-party verification, approved by Microsoft, to test for and ensure verification and compliance with Microsoft specifications for use of the API or interface, which specifications shall be related to proper operation and integrity of the systems and mechanisms identified in this paragraph." serve to exclude the people that most need this documentation, namely, the Samba team (see http://www.samba.org). The Samba team has produced an open-source implementation of the Microsoft SMB/CIFS protocols for file and printer sharing. Being an open source project, their code is freely available, and they are not a business. A reasonable interpretation of subparagraphs (b) and (c) would make them ineligible to benefit from the remedies prescribed in Sections III.D and III.E. Furthermore, the cost of the testing required by Section II.J.2.(d) is likely to be prohibitive for individuals, and non-profit open source projects, further limiting competition. While the Samba team is the most immediately relevant example, these concerns also apply to the developers of the Linux operating system and the Apache Web server.

All three of these programs are used by large numbers of people, and represent direct competition to Microsoft.

(2) The definitions in Sections VI.J, VI.K, and VI.T ("Microsoft Middleware", "Microsoft Middleware Product", and "Trademarked", respectively) appear to exclude Microsoft's Reader (see http://www.microsoft.com/reader). Microsoft Reader is the company's software for the display of electronic books. I reach the conclusion that Reader is not covered by the RPFJ as follows: (1) Sections VI.J.2, and VI.K.2.b.iii both require that the software "is Trademarked." (2) Section VI.T defines "Trademarked". Sub-paragraph (iii) says "asserting the name as a trademark in the United States in a demand letter or lawsuit. Any product distributed under descriptive or generic terms or a name comprised of the Microsoft(r) or Windows(r) trademarks together with descriptive or generic terms shall not be Trademarked as that term is used in this Final Judgment."

(3) Microsoft Reader certainly is a name comprised of "Microsoft" and a generic term, "Reader," and by the plain meaning of Section VI.T.(iii) is not Trademarked. Hence, it is neither Microsoft Middleware nor a Microsoft Middleware Product, and appears to fall entirely outside the scope of the RPFJ. While the electronic book market is highly immature at present, many believe that it will come to dominate traditional, paper-based, publishing. The potential economies of digital storage and transmission are enormous. Publishing is a multi-billion dollar per year market and so the status of Microsoft Reader and competing products will be of great competitive significance. I believe that the public interest is best served by letting this potential market evolve in a free, competitive manner. Leaving Microsoft unconstrained is not consistent with this goal. I also note that Microsoft can avoid having any new product designated as a Microsoft Middleware Product under the RPFJ by the simple expedient of naming it so that it falls outside the definition of Trademarked (Section VI.T). (3) I quote Section VI.U in its entirety: "Windows Operating System Product" means the software code (as opposed to source code) distributed commercially by Microsoft for use with Personal Computers as Windows 2000 Professional, Windows XP Home, Windows XP Professional, and successors to the foregoing, including the Personal Computer versions of the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc. The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion.

This definition has two problems. First, it is internally inconsistent. It begins by defining the code comprising a "Windows Operating System Product." It then follows that definition by contradicting itself. "The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion." Which definition is meant to prevail? Neither is clearly subordinate to the other. Second, in numerous places in the RPFJ, language of the form "not inconsistent with this Final Judgment", "consistent with this Final Judgment", or "exercising any of the options or alternatives provided for under this Final Judgment" appears. It is, however, notably missing in Section VI.U. Given the numerous other appearances of this language, its lack here appears to be significant. While one might assume that any such determinations by Microsoft would have to be consistent with the RPFJ, plain reading of this definition does not require it. As there is no indication that this definition is subordinate to the rest of the RFPJ, this could be interpreted as undermining the intent of the RFPJ, particularly in regard to middleware products. I believe the settlement would be substantially strengthened by replacing the final sentence with: "The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion, consistent with this Final Judgment."

The above examples are illustrative of the flawed approach taken in the Revised Proposed Final Judgment. I believe that the Revised Proposed Final Judgment is not in the public interest, and respectfully urge the Court not to approve it.

Sincerely,
Drew Dean
21070 White Fir Ct.
Cupertino, CA 95014

MTC-00024643

From: Terryk
To: Microsoft ATR
Date: 1/25/02 2:14pm
Subject: Microsoft

I am adamantly opposed to the proposed DOJ settlement. I have been in the computer business since the early "60's. I watched for years as Microsoft ran business after business, out of business. Netscape, a fine browser, was one of the most visible, but by far, not the only one. Stac, a disk compression company is one that comes to mind, when Microsoft "added" a near copy of it to Windows, in the form of "Double disk". The original proposed settlement, breakup of Microsoft, and a Windows product without Internet Explorer was by far the best proposal. I believe the remaining nine states, and now AOL, are absolutely right to demand a much better solution to a major monopolistic company that Microsoft is. Not to mention the arrogance of Mr. Bill Gates.

I. L. Koelling email =
ikoelling@houston.rr.com

MTC-00024644

From: Russell Tilton
To: Microsoft ATR
Date: 1/25/02 2:11pm
Subject: microsoft

We hope that Microsoft stays strong in the marketplace. Personally, we like their products and have no complaints about their service. I would hate to see another negative impact on the NW at this point in time. As long as there are checks and balances, I don't even mind if they control the market place because decentralization may be cumbersome and difficult to work with given the technical expertise needed to work with different systems. They would all need to be integrated. A big order, wouldn't you say?

MTC-00024645

From: Jerome
To: Microsoft ATR
Date: 1/25/02 2:10pm
Subject: Microsoft Settlement

The Federal Anti-trust settlement in this case was a travesty. It did little to a company that violated past agreements on anti-competative behavior of microsoft. The American public deserves a Judicial system that will look out for them, and this settlements do not do this. The Government has proven their case agenst Microsoft, and the Federal Courts have a duty to the people of the United States to ensure that it does not happen again, and the only way that they can do this is to apply a penelty which will discourage, or make it impossable for Microsoft to practice this behavior in the future. Given some of Microsoft's latest aquisitions (intelectual property which includes a rival 3-D graphics technology, Open GL), and software technologies in thier latest OS, I feel that they have continued these pracices even while litigation in the current Anti-trust case is pending. I would like to see harsher penelties applied to Microsoft for these reasons.

Jerome Gantner

MTC-00024646

From: Nick Snyder
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 2:12pm
Subject: Microsoft Settlement

I believe that the only thing Microsoft should be able to do, is pay the money. They should not donate software, computers and what not. They should put the money into a "fund" for each school and have the school buy what computer software, hardware and whatever other computer stuff they need.

Thought I would share.
Nick Snyder

MTC-00024647

From: L.C. Mathison
To: Microsoft ATR
Date: 1/25/02 2:16pm
Subject: Stop Microsoft's Monolopy

The proposed DOJ vs Microsoft settlement is bad for everyone except Microsoft. Please do not accept and make legal the monolopy Microsoft now holds. Please take any appropriate measures to completely stop Microsoft's monolopy by breaking them into competitive companies or stop the pre loading of Microsoft Operating systems and add-on programs such as Internet Explorer which caused the first public outcry.

Please!
Please!
Listen to the people!
Leslie C. Mathison
1128 West Collinwood Circle
Opelika, AL 36801
Phone 334-749-5891

MTC-00024648

From: Son, Seha (S.)
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/25/02 2:14pm
Subject: Current AOL litigation

I believe that the both companies time and resources should be spent toward ultimate end-consumers, not in the courtroom. Both companies should be engaged in fair and mutual competition and perhaps cooperation for the benefit of ,again, consumers. I'd like to see AOL's litigation to end immediately so that the consumers win.

MTC-00024649

From: phillyfanatic@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:13pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now.

Thank you.
Sincerely,
Glenn Koons
5314 4th
Long Beach, CA 90814

MTC-00024650

From: Tom
To: Microsoft ATR
Date: 1/25/02 2:16pm
Subject: Microsoft Settlement

The proposed settlement is not sufficient punishment to Microsoft. Microsoft uses their control of the operating system harm other companies who were trying to compete. A proper settlement would lessen the power that Microsoft wields over the industry.

Tom Solnok
706 Sumac Rd
Derby, KS 67037

MTC-00024651

From: Scott Layman
To: Microsoft ATR
Date: 1/25/02 2:18pm
Subject: Microsoft Settlement

I would like to see Microsoft broken up. If not broken up, then the governmnt needs to keep a very close watch on them. Microsoft shouldn't decide on thier punishment. The courts should, and the punishment should not be in Microsoft's favor. The giving 1 billion $ of microsoft products to schools is just feeding the monoploy fire! Microsoft's business practices are down right EVIL. It amazes me at how they could get away with most of the stuff they do. Microsoft's punishment needs to be harsh.

MTC-00024652

From: rdlamb@attbi.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:18pro
Subject: Microsoft Settlement
RICHARD LAMB

1357 43rd Avenue Unit 35
Greeley, Colorado 80634
January 25,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

The reason I am writing to you is to ask that you make certain the settlement that was reached recently between the Justice Department and Microsoft is concluded. I am concerned that anti-Microsoft groups may try to harm the settlement process. The Justice Department and Microsoft want to settle this case. Antagonists of the settlement contend that this agreement is hard enough on Microsoft. However, considering this settlement makes Microsoft share more information with competing software firms than ever before proves these contentions are wrong. This settlement discloses Microsoft/Es internal interfaces, which is a major concession and unprecedented. Also, Microsoft has agreed to share its secrets of server interoperability. With these two disclosures, Microsoft will be creating more competitiveness in the IT industry. Opponents of the settlement don't seem to be concerned with this; they appear to have more concern with punishing Microsoft.

I appreciate you taking time to consider my views on this issue. I urge you to settle this case as has been planned.

Sincerely,
Richard Lamb

MTC–00024655

From: Sonia Arrison
To: Microsoft ATR
Date: 1/25/02 2:20pm
Subject: Microsoft Settlement
January 25, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Re: Settlement of US v. Microsoft

Dear Ms. Hesse:

The Pacific Research Institute is a non-profit, San Francisco-based public policy think tank dedicated to promoting individual freedom and personal responsibility. This letter is being submitted to the courts as part of the Tunney Act proceedings as it relates to the Final Judgment Stipulation and Competitive Impact Statement in US v. Microsoft. On behalf of Pacific Research Institute, I have written on and researched the Microsoft issue extensively. It is the position of our organization that approving the settlement in this case is in the best interest of consumers and the technology industry.

As the director for the Pacific Research Institutes Center for Technology Studies, I have worked on this issue from very early on in its history. I reviewed the position of the federal government and state attorneys general as well as the position taken by MicrosoftA competitors. The antitrust case brought against Microsoft was neither justified nor in the best interest of American consumers. Now, four years later, the courts have an opportunity to mitigate the mistakes made by the Justice Department and previous courts by supporting the settlement. The settlement being proposed is the right course of action to take. By forcing Microsoft to open their operating system, prevent unfair bundling, and create various forms of oversight, the settlement will address the concerns of those who called for this trial in the beginning. As an added benefit, accepting the settlement will provide a greatly needed lift for the national economy. The damaging effect of this case on our economy is obvious. In the two weeks when the first round of settlement talks between Microsoft and Justice Department collapsed, the value of Microsoft stock in the California Public Employees Retirement System fell by over $700 million. Our current economic climate is not one that can easily withstand another setback of that severity. I am including with this letter an article I wrote in July 2001 and a white paper written by our policy fellow, Helen Chaney. I hope this information is helpful to the court.

Sincerely,
Sonia Arrison
Director, Center for Technology Studies
Pacific Research Institute
755 Sansome Street, suite 450
San Francisco, CA 94111
451–989–0833 x107

MTC–00024656

From: dr2nd@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:17pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Clyde Reynolds
2012 17th Ave ,
Forest Grove, OR 97116

MTC–00024659

From: Phil Russell
To: Microsoft ATR
Date: 1/25/02 2:20pm
Subject: Microsoft Settlement

I respectfully ask that you carefully avoid being swayed by a massive Microsoft-led write-in campaign. I do not favor the "billion dollars in computers and software to schools" settlement for many reasons. It is difficult to trust Microsoft, given the lies Bill Gates is prone to telling. Would Microsoft claim the $429 cost for every copy of Microsoft Office it would give to schools? Or would they claim their actual cost of somewhere less than $2? I suspect the latter. When that copy of Microsoft Office has to be upgraded, doesn't this lock the schools into Microsoft products far beyond the initial copy of the application? Apple Computer is much admired and used in schools. This is one area where Microsoft does not have a 90 to 10 advantage over Apple. The proposed settlement would tear into Apple's share. Given the extreme wealth of Microsoft, gained while unlawfully running roughshod over other companies, one billion dollars in restitution is a huge joke. Perhaps 10 or 15 billion might be more rational. Microsoft is one huge predatory company, intent on taking over EVERYTHING in the computer and internet world and MORE. Strong penalties are necessary.

Thanks for listening to an every-day computer user.

Phil Russell
1420 SW Crest Circle
Waldport, OR 97394
541–563–2501

Explaining the proposed Microsoft punishment:

"...someone is caught breaking into your house, offers to repair the damage instead of going to jail, if they can put up a massive billboard for their house maintenance business in your front yard for six months..."—MacOpinion

MTC–00024660

From: Joel T. Osburn
To: Microsoft ATR
Date: 1/25/02 2:21pm
Subject: Please reject the proposed settlement

A quick review of pertinent Facts: * Microsoft had (and maintains) a monopoly on desktop computer operating systems. * Microsoft used (and still uses) this monopoly to extend it's reach into other markets. * Microsoft developed monopolies in other markets using this general tactic, including but not limited to: internet browsing software, office suites, entry level database software. * Microsoft violated a Consent Decree issued 15 July, 1994 (Civil Action # 94–1564, US vs. Microsoft (http://www.usdoj.gov/atr/cases/f0000/0047.htm), also as a result of abusing it's monopoly to stifle competition, and extend into new markets. * In court, Microsoft, including it's Chairman and it's CEO, repeatedly lied under oath. * By extending it's monopoly via these illegal means, Microsoft has grown at unprecedented rates for twenty years, and is one of the richest corporations in the world, with no debt, and a vast amount of cash. Observations regarding the impact of the above facts on consumers: * The price of software in those markets which Microsoft dominates has remained steady while in other markets average prices have dropped. * There have been no new innovations in general internet browsing software from Microsoft since they released version 5 of Internet Explorer over four years ago. The pace of innovation previously observed was a direct result of competition that no longer exists. Microsoft's Internet Explorer has yet to conform to published, accepted standards;

instead, web developers conform to Internet Explorer's peculiarities rather than the accepted standards. This leads to: By dominating markets, Microsoft has positioned itself and it's products as a defacto standard by extending it's monopoly. This prevents competition; potential competitors cannot meet an unpublished defacto standard, and therefore cannot compete; products developed in this manner appear substandard to the public, which expects behavior as per the "standard" set by the monopoly. Thus competition is stifled and innovation outside of Microsoft limited to those areas in which Microsoft either cannot or has yet to leverage it's existing monopolies to enter.

The proposed settlement fails to: * Compensate any of those affected, either directly or indirectly, by Microsoft's pattern of illegal behavior. * Require Microsoft to either adhere to published standards, or publish those features and behaviors that it has established as defacto standards. * Prevent Microsoft from tying any given new product to it's existing monopolies unbeknownst to the general public, through the common practice of requiring Non Disclosure Agreements before any information is exchanged or contract negotiated. Therefore a company must risk it's very existence under threat of lawsuits, in order to accuse Microsoft of repeating it's illegal behavior. * Provide expedient, impartial resolution of future examples of the same illegal behavior. A "three strikes" type clause may be appropriate, and I'll note that this particular case is actually a second strike, having been brought about by Microsoft's failing to abide by the Consent Decree it agreed to over seven years ago. * Provide any current or future competitors any assurance that they will be able to compete on equal footing, thus raising the requirement to even begin to compete. * Prevent Microsoft from holding equity in or substantial contracts with any direct competitors. They currently hold equity in Apple Computer, which is currently the only legitimate competitor for desktop operating systems, and have a major development agreement with Corel, makers of WordPerfect. This creates a potential conflict of interest for those "competitors": Apple Computer stopped shipping Netscape Navigator with it's personal computers, instead shipping Microsoft's Internet Explorer (which defeats Microsoft's argument that Internet Explorer is a part of the Windows Operating System, and, since this was in exchange for $150 million) constitutes illegal dumping); immediately upon receiving from Microsoft a major influx of capital along with a development contract, Corel stopped development of it's version of the Linux Operating System, and the version of the WordPerfect suite of "office" applications for the Linux Operating system. This would appear to be anti-competitive.

Please reject the proposed settlement; many more appropriate suggestions have been fielded for how to remedy the illegal behavior exhibited by Microsoft.

Thank you for your time.

Sincerely,

Joel T. Osburn

MTC-00024665

From: Peter C Lott
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 2:21pm
Subject: USAGLott_Peter_1016—0115.doc
2700 S Sunland Drive
Tempe, AZ 85282–3387
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

As I read more about the recent developments in the Microsoft settlement, I become more frustrated in the fact that it may be even further delayed. By delaying the enforcement of this agreement, we directly delay the advancement of our American technology industry. As the rest of the global market moves on, America's technology industry is forced to focus on litigation rather than innovation. Not only has Microsoft agreed to make changes in licensing and marketing, but has agreed to design future versions of Windows for easier installation of non-Microsoft software. Beyond this, Microsoft has agreed to be monitored by a committee in order to ensure that they follow proper procedure. All of these concessions are clearly a step toward a more unified technology industry. By working together, we help our American technology industry maintain its position of leadership in this highly competitive global market. As we face this competitive market, we must be prepared for the many changes involved in this industry. By being able to focus on innovation, we can be prepared for these changes and stay on top of the market. By enforcing this agreement, we will be able to utilize it as a guideline for advancement within the market.

Sincerely,

Peter Lott

MTC-00024686

From: John Coble
To: Microsoft ATR
Date: 1/25/02 2:23pm
Subject: Public Comment

This is a Public Comment on the proposed settlement among the Justice Department, the Nine States and Microsoft Corporation. I am also including comments about AOL in its recent filing: I have been a user of Microsoft Windows and many other Microsoft Products for many years. Definitively not because they are the only ones available, but solely because they are the best. (And indeed I have tried many others). No one using Microsoft Windows (any version) is forced to use MSN Internet Browsers as every computer manufacturer lists a wide range of other providers. As for many others including the worst AOL you can go to any computing store and many other stores and get a free CD to load in to your PC in a matter of minutes and use their service. Just because Microsoft has started including Internet Explorer as an integral part of Windows does not force you into something that you do not want. You can indeed delete their ICONS and use any other provider that you desire without any degrade to the general functioning of Windows. I was with AOL and used Netscape and found them to be rife with problems and forced spam of every thing from porno to advertising of anything you could name. I finally got off of AOL and went with QWest because they offered a high speed connection (DSL). I continued to use Netscape until I could no longer stand the errors and finally switched to MSN Internet Explorer and could not be happier. Every Microsoft product that I use is the best and at the best price.

Finally, I do believe that every one that appeared before the courts against Microsoft have in some way been connected to other manufactures or states. (Probably paid off). This case can be settled quickly if the U.S. District Judge, Colleen Kollar-Kotelly would issue an order that with any settlement there will be no money involved. Each party will handle their own legal expenses and once the Judge rules on the case, that is it. No further charges or appeals will be accepted. And for any person or group testifying against Microsoft they must be investigated to determine their ties to other manufactures, states and now AOL. As a final step in the settlement the Judge should ask that the nine states involved should report back to the court within one year on their actions to stop using Microsoft Products. This is a long dissertation; however, I am fed up with my tax dollars being spent on this insurrection against one of the best companies in the world by a bunch of money hungry companies/states that could not succeed on their own.

John T. Coble
2647 98th Ave. NE
Clyde Hill, WA 98004
425 454–4632

MTC-00024688

From: Frank de Lange
To: Microsoft ATR
Date: 1/25/02 2:22pm
Subject: On the Microsoft settlement

Dear sir/madam,

Even though I may not be a US citizen, I still want to add some comments to the proposed settlement in the case Microsoft vs. DoJ. I am a self-employed IT service architect, who has been employed by several Dutch and international companies. Others have commented on many aspects of the settlement. Much of the text seems reasonable. I see two minor points which might need some improvement.

Point 1:

Under I.1. "All terms, including royalties [...] reasonable and non-discriminatory." I would like to refer you to a discussion on RAND (Reasonable and non-Discriminatory) licensing as has been proposed for the world wide web consortium (The organization which sets standards for the world wide web). http://www.w3.org/TR/2001/WD_patent_policy_20010816/ Note especially objections made by some of the w3c contributors. To wit: rand is not non-discriminatory. It discriminates directly against Open Source and Free Software projects. These projects simply cannot use or pay for such RAND licensing due to their legal structure. The arguments that could be made here are very similar to those stated in the w3c discussion. Here are some arguments of my own: Royalty Free (RF) Licensing has been proposed as an alternative, and overcomes this weakness. Why are Free Software and Open Source Software important? There are two arguments based on reason, and one is based on simple demonstration: (1) The free software operating system GNU/Linux is considered by many to be a somewhat important competitor to Microsoft. It is distributed under the GNU general public licence (GPL) which is a distribution license. Allowing Microsoft to discriminate against such competitor would not be fair. It could also hardly be called non-discriminatory, of course.

(2) As far as I know, original implementations of RFC 791 (Internet Protocol) and RFC 793 (Transmission Control Protocol) were released under the university of California's' "Berkeley Software Distribution" License. This is a free software license. These 2 protocols form the heart of the current day Internet. The implementation was left Royalty Free, and hence all parties adopted it. Also, since the original source was open, all parties could learn from it, and the TCP/IP system was quickly adopted worldwide. This is very important. references: IETF RFCs can be obtained from many sources. Here is one on the world wide web.: http://www.ibiblio.org/pub/docs/rfc/rfc791.txt http://www.ibiblio.org/pub/docs/rfc/rfc793.txt

(3) Quite simply put: The Simple Mail Transfer Protocol(RFC821) is royalty free, to the best of my knowledge. This protocol is used to transmit E-mail across the Internet. If it were not for SMTP, and if it were not for its royalty free status, I would not have been able to send this message. A possible solution to the shortcoming in I.1. (and similar problems with related points under I) would be to allow for Royalty Free licensing of at very least the data interchange formats used by Microsoft.

As an aside: Requiring Microsoft to submit their data formats (such as word and excel) to the International Standards Organization (ISO) might improve the situation further. Such standards organizations argue that good standardization has demonstrably improved economic gain, and stimulated competition between all parties concerned. I think that even Microsoft might actually gain from such an action in the long run. I see nothing wrong with this, because such gain would result from fair competition. Reference: www.iso.org

Point 2:

Under J it is said that Microsoft may not disclose information about security systems, and may set almost any requirement when sharing security information with a security vendor.

I am a hacker, not a 'certified computing security professional'. I do not feel the need to be certified by any vendor, as these certifications usually are no more than a guarantee of sbujectivity. Open knowledge of algorithms and methods is a requirement for truly strong security. This seems reasonable to me. After all, if one knows of a certain weakness, one can compensate for it and prevent people from exploiting it.

If a hostile element was to be the only person to know a weakness in a security system, then that person would certainly be able to exploit that weakness. Further, security systems which are put up for public review can quickly be assessed for potential weaknesses, and these weaknesses can be repaired. No such process can be used for systems which are kept secret. A second slight problem which some people have brought up is that there might be a weakness here. People might state "security concerns" as an excuse to sidestep what they are required to do under I in some situations. In fact this does not seem very hard to do from a technical perspective.

In short, section J on the whole might have some weaknesses. It might be a good idea to gain advice from one or more security experts (such as perhaps a professor teaching about data encryption, or people employed by a government security agency) to determine if this is indeed the case.

Kind regards,
Frank de Lange
Moldau 27
8226MV Lelystad
The Netherlands

MTC-00024689

From: pd@complex.Eng.Sun.COM@inetgw
To: Microsoft ATR
Date: 1/25/02 2:23pm
Subject: Microsoft Settlement

I don't feel that the proposed settlement of the Microsoft anti-trust action adequately addresses the issue of monopoly. It lets the monopoly remain. I feel that the best solution would be to break Microsoft into at least 3 pieces, each with rights to the full intellectual property of the existing company. The new companies would then have to compete against each other. The disruption during the breakup would also provide some time for alternative competition to join the market or gain market share. I personally am an Apple MacIntosh user, and I am continually frustrated by the lack of "shelf space" that retailers provide for non-Microsoft products. I am also worried about the gradual creep of Microsoft software becoming the only supported software on Apple systems. My ISP, AT&T broadband, does not support Netscape as a browser or email client. They only support Internet Explorer and Outlook Express from Microsoft.

Thank you for your consideration.
Peter C. Damron

MTC-00024690

From: Lawrence F Povirk
To: Microsoft ATR
Date: 1/25/02 2:24pm
Subject: Microsoft settlement
8127 Brown Road
Richmond, VA 23235
January 25, 2002

To the United States Department of Justice:

Like many investors, I own, through various mutual funds, thousands of dollars worth of Microsoft (MS) stock. Yet, lately I find myself wishing MS would simply close down and vanish. Why? Because I am also a computer user. I spend at least half my working hours at the computer, and like most users, I have dealt with MS products for years. The quality of those products has been variable, but that has been true of most software, so I could not complain too loudly. If I found one of their products genuinely dysfunctional, I could dump it and choose a competing product, as I did several times. Lately, however, I feel I am being increasingly coerced into using MS products, as the alternatives have gradually disappeared. As anyone familiar with the industry knows, this is not because MS has come up with more innovative or more reliable software. Rather, it is because they have been able to target any popular piece of software they choose, use the cash flow from Windows to build a functional duplicate of it from the ground up, bundle their copycat version with Windows or sell it below cost, and drive their competitor out of business. This is classic, textbook monopolist behavior, and it is beginning to stifle the whole computer industry. We need not belabor whether MS acted improperly. Their culpability has already been established. What is at issue is coming up with an effective remedy, that will restore some degree of consumer choice. It is not only companies harmed by MS's behavior, or consumers frustrated by their lack of choice, but disinterested industry analysts as well, who all agree that the settlement now proposed will do almost nothing to alter MS's mode of business or to bring competition back to the software market. There are, however, remedies that might actually make some progress toward that end.

First and foremost, no one should have to pay for a MS product that they do not want. I recently began shopping for a notebook computer, and found it was virtually impossible to buy one from a major manufacturer that was not preloaded with Windows. IBM and Dell both used to offer models with Linux instead, but no longer. Tellingly, both manufacturers took them off the market just when the Justice Department gave up its only real leverage in the antitrust case by removing the threat of a MS breakup.

This coercion of consumers to buy a product they do not want (Windows) in order to get one that they do want (a computer) is precisely what the antitrust laws were intended to prevent. Hence, at a bare minimum, a simple mechanism should be set up such that anyone can get a full refund for any piece of MS software that was bundled with any piece of hardware that they purchased. To circumvent MS's considerable skills in price manipulation, amount of the refund should be set at the greater of the amount the manufacturer paid MS for the software, or a fixed fraction, say 70%, of the retail price of the software. Moreover, the price charged by MS to manufacturers for preloaded software should be required to be published and uniform, so that MS cannot reward manufacturers for promoting MS's interests, or, more importantly, punish them for not doing so. If a consumer wants to return only part of an "integrated" piece of software say, keep Windows but get rid of Internet Explorer, they also should be able to do so, and get a partial refund based on the approximate size of that part of the software (i.e., number of lines of computer code) relative to the whole. Obviously, MS itself cannot be trusted to handle the refund process itself; that will have to be done by an independent entity set up specifically for that purpose, and under court oversight. In the past, MS has argued that, were this to be allowed, users would return the software, and keep using it anyway, or use an illegal copy. But with MS's new authentication/registration requirements, this practice will become impossible, and their argument will become moot—the one small benefit of an otherwise reprehensible policy that may soon widen the "digital divide" into a chasm.

Second, to help level the field in application software, MS should be required to publish the specifications of its main file formats such as .doc, .ppt and .xls. Currently, I am often forced to use MS Word, a program I passionately hate, because coworkers send me documents in MS Word (.doc) format. While competing word processors have devoted considerable effort to creating filters to import and export .doc files, those filters not very reliable, partly if not primarily because the .doc format is secret and ever-changing. Publishing the specifications would probably not solve all interconversion problems, but it certainly would help. Furthermore, MS should be required to maintain input filters of their own for the next three competing applications (e.g., WordPerfect, StarOffice and Applixware word processors), so that documents created on those applications will open in Word, Powerpoint and Excel. Again, and unfortunately, an independent entity will have to be set up to monitor compliance. Even so, none of this even begins to address what may be a much greater means of coercion in the future: MS's apparent plans to make it more and more inconvenient for any Windows user to use any internet services that compete with their own MSN and Passport services. We are now getting only the first hints to what those tactics will be, but they are clearly going to be inextricably built into Windows, and virtually impossible for any Windows user to avoid. Given their control of so much of the basic operation of home and office computers, they really should be barred from providing network services at all. Given that such a restriction is unlikely, their behavior in this area will have to be closely monitored as well, to ensure that they do not shut out competitors entirely.

Of course, I realize that there are those who are perfectly satisfied with the closed, controlled world of computing provided to them by Microsoft. But 20 years ago, there were those who were equally satisfied with AT&T's monopoly phone service, and were dumbfounded at the government's effort to break it up. There were even those who were satisfied with the state-controlled monopolies of the Communist era. That doesn't mean they should have been preserved. History has taught us over and over again that monopolies are a stagnating, corrosive influence on any industry they control, whether it's oil or software. In every case where they were broken up, the result was a wave of innovation and expansion, often going beyond the dreams of even the most enthusiastic trust-busters. I would challenge you to name a single case where the forced restoration of competition in an industry, resulted in worse products being available to consumers. Despite their stability and economies of scale, monopolies are, invariably, a bad deal for consumers, entrepreneurs and society at large; a bad deal for everyone but the monopolists themselves. Microsoft is no different. A copy of this comment in PDF format with facsimile signature, is attached.

Sincerely,
Lawrence F. Povirk

MTC-00024691

From: Robin Downie
To: Microsoft ATR
Date: 1/25/02 2:25pm
Subject: Microsoft Settlement
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

The enclosed letter is for your consideration.

Thank you,
Robin Downic
2684 Elm Drive
Brier, WA 98036–8940
January21, 2002
Attorney General John Ashcroft
US Deparment of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing today to urge you and the Department of Justice to accept the Microsoft antitrust settlement. The issue has been dragged out for over three years and it is time to put it to rest. Microsoft and the industry need to move on.

Some critics say that Microsoft has gotten off easy. In fact, the settlement is quite strict. Microsoft agreed to give computer makers the freedom to install and promote any software that they see fit. Microsoft has also agreed not to enter into any contract with any computer maker that obligates the computer maker to exclusively promote Microsoft software. In fact, Microsoft has agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit. In order to move forward, Microsoft has The settlement is fair and should be accepted. forward is to put the case in the past. made many concessions. The only way to move

Sincerely,
Robin Downie 00024691—0002

MTC-00024691

From: Tony Magnuson
To: Microsoft ATR
Date: 1/25/02 2:25pm
Subject: anti-trust case

The settlement was presented in a way that showed Microsoft's cost in settlement as inflated. The perception is one of Justice serving special interests. This is in the face of the large cache of capital Microsoft maintains which constitutes a tax break for the company and its investors and inflates the value of its stock. A decision by Justice should foster competition, increase shareholder value overall, increase transparency, and send a message that dissembling tactics are not acceptable, even by powerful corporations. I believe the original proposal to break Microsoft into discrete units would have accomplished this. Microsoft is not the only company in the tech arena to be guilty of such tactics, but it represents a clear starting point. This action should not finish with a settlement like this that shows the federal government partnering with Microsoft in wrongdoing. This action should be a beginning of scrutiny of the standards of behavior for industry and the nation as a whole. You will remember Enron.

I am a small business owner and investor in Northern California and user of Microsoft products. I do not want a refund from the company nor anything that would benefit the company nor even the sector specifically. Such a settlement would validate legal bullying and squabbling as a method of reducing competition. I would like to see any settlement invested in the establishment of fairness and transparency in industry as a whole.

sincerely,
David Magnuson
Moss Beach, California

MTC-00024693

From: John (038) Sandee Walker
To: Microsoft ATR
Date: 1/25/02 2:27pm
Subject: Gates lawsuit

This is not about forcing people to buy browsers other than Microsoft. This is about inferior products being pawned off on unsuspecting consumers. The average computer owner has little or no knowledge of how their computer operates—they shouldn't have to it should be designed to work for them. Bill Gates puts out inferior products before they are perfected. He has the money to hipe his products. Unsuspecting consumers have to go through hell using his inferior products. Hard working quality minded smaller companies interested in coming out with superior products don't have the funds or connections to get their products included in the sale of a computer. The general public will benefit because small businesses with superior products are benefiting because Bill Gates has been called on the carpet for unscrupulous tactics. Please realize Bill Gates is not interested in quality product. His ONLY interest is quantity profits at any expense.

MTC-00024694

From: Rick Peterson
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 2:14pm
Subject: Microsoft Settlement

Your Honor,

I have worked in Silicon Valley for 15 years and have personal contact with many high-tech companies. There is a very common theme and that is "fear of Microsoft". Microsoft has clearly abused their monopoly. There are companies that never get funded because they predict that Microsoft will not allow the competition. This is unhealthy for our economy! We need the best technology and the best software to have a chance to make it to the marketplace and to compete fairly there. This won't happen if Microsoft is somehow threatened by it. Microsoft has demonstrated its complete disregard for the law. They do not operate with honor or fairness in the marketplace. Please do what is right and needs to happen. Please break up this ruthless monopoly and force Microsoft to play by the rules of commerce, that govern our great country.

Sincerely,
Rick Peterson, IDSA
Vice President
Studio RED
Tel:650.324.2244 x231
Cel:650.722.2782

MTC-00024695

From: Shulamit
To: Microsoft ATR
Date: 1/25/02 2:24pm
Subject: Microsoft Settlement

Under the Tunney Act, the court must consider public comments prior to deciding on the Microsoft proposed settlement. I am writing to urge you to reject the proposed settlement offer. It does nothing to solve the problem of Microsoft's monopoly and in fact will increase Microsoft's stranglehold in the education market, further adding to the problem.

MTC-00024696

From: JT Thomas
To: Microsoft ATR
Date: 1/25/02 2:27pm
Subject: Microsoft Settlement

In the words of Robert X. Cringely (from pbs.org): Section III(J)(2) contains some very strong language against not-for-profits. Specifically, the language says that it need not describe nor license API, Documentation,, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business: "...(c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, ..." This loophole (as well as others, but I find this the most offensive) are unacceptable. Please reconsider the settlement decision.

Thank you for your attention to this matter.

MTC-00024697

From: jeff
To: Microsoft ATR
Date: 1/25/02 2:29pm
Subject: Microsoft Settlement

Hello Renata—

As a resident of Washington you would think I would be favoring Microsoft in this action. That is not the case. The current settlement actually has the effect of further strengthening Microsoft's monopoly. Make them give the school cash and let the schools decide on what equipment and software to purchase.

Apple Computer has traditionally been very strong in the education market and this is simply a backdoor play for Microsoft to gain market share.

Thank you for letting me voice my opinion.
Jeff Chin

MTC-00024698

From: jpence711@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:28pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Jamie Pence
PO Box 752
Clinton, MO 64735-0752

MTC-00024699

From: Landrus, Kurt
To: Microsoft ATR
Date: 1/25/02 2:30pm
Subject: Microsoft Settlement

I think this settlement is an extremely bad solution. This is not a punishment form Microsoft monoplistic prcatices, it merely enables them to expand into another niche market (education) they do not yet already own.

They have plenty of cash, the settlement should require them to put up cash not donations of MS software.

Please stop this insaity from being approved.
Kurt Landrus

MTC-00024700

From: CICBV@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:30pm
Subject: Microsoft Settlement

Dear Sirs:

The settlement with Microsoft seems fair and equitable and should be settled. It would seem that at this point in history the people would be better served utilizing government resources in more productive ways.

Sincerely yours,
Claudia Pletter

MTC-00024701

From: niner@xel.net@inetgw
To: Microsoft ATR
Date: 1/25/02 2:31pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
J. NINER
149 Topaz
Kissee Mills, MO 65680

MTC-00024702

From: Connie Wickland
To: Microsoft ATR
Date: 1/25/02 2:32pm
Subject: Microsoft settlement
9928 181st Avenue NE
Redmond, WA 98052
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinions regarding the Microsoft antitrust case. I believe that your office reached a fair and reasonable settlement that should allow the industry to return its focus to innovation, rather than litigation.

Microsoft has already agreed to concessions that have set new antitrust precedent. The competition will be allowed to use Windows as a springboard to launch their products that compete directly to those programs already included within Windows. Also, Microsoft will disclose, for the competition, various interfaces in its Windows operating system. Most importantly, Microsoft has agreed not to retaliate against any software or hardware developers that develop or promote software that competes with Windows or that runs on software that competes with Windows.

Microsoft has made these concessions because it realizes that settling the case sooner is better than later. If these concessions were asked from more traditional and understandable industries, I think they would be denounced as going against the principles of competition and free enterprise. Imagine if every Coke can had to have a sample of Pepsi inside, or if McDonalds had to offer Burger King's Whopper to those that wanted it. Would that be reasonable?

This settlement will allow the consumers, the industry, and the economy to move forward. I hope when reviewing this case it will be judged it by its merits, and not by the everlasting chain of competitors" demands.

Sincerely,
Connie WicklandGet more from the Web. FREE MSN Explorer download :
http://explorer.msn.com

MTC-00024703

From: Jay W. Luther
To: Microsoft ATR
Date: 1/25/02 2:35pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

United States v. Microsoft has been a long and complicated case, and a detailed critique of the proposed settlement it has spawned is best left to those who have considered the implications of every line. As one who has represented software concerns, and has some sense of the industry, I would simply offer my conclusion: It is highly likely that the proposed settlement will be completely ineffectual. Put another way, it appears to me that it will have no impact on the industry as the industry currently exists, though some of its provisions might have been modestly helpful in preserving browser completion during the Netscape-Explorer fight.

Particularly egregious here is the carve-out of the free software movement from essentially all of the proposed judgment's benefit. In operating systems, this is the only competition to MS that is significant today, and if there is to be any benefit to consumers from the judgment, open source representatives must have full, complete, and prompt access to all significant interoperability data for Windows, MS middleware and MS Office, with access being controlled by disinterested third parties. This is also true for all competitive office applications. After all these years, it's time to bring to a close the famous axiom, "DOS's [Windows's] not done "til Lotus [WordPerfect, Netscape, etc.] won't run."

Jay W. Luther
Law Offices of Jay W. Luther
Voice: 415–456–6197
Fax: 415–456–8597 00024703—0002 01/29/2002 10:08

MTC–00024705

From: Thomas M. Ferlauto
To: Microsoft ATR
Date: 1/25/02 2:36pm
Subject: Microsoft Settlement

I oppose the settlement. Microsoft has proven to be a monopolistic predator. From Netscape to Java to countless other examples, Microsoft has used its dominate position in the PC desktop OS market to bully competitors or even drive them out of business. The justice department, at the tax payer's great expense, prevailed and demonstrated Microsoft to have violated the law. This settlement renders all of that effort futile and teaches Microsoft the valuable lesson that you can violate the law, but if you fight like hell in the courts you can get away with it. This will only encourage Microsoft to continue its illegal behavior (to this day, Microsoft contends they did nothing wrong). To teach Microsoft a lesson, to deter future criminal conduct, to make Microsoft a good corporate citizen, to foster free competition, and to benefit the consumers, it is imperative that the settlement be rejected and more drastic remedies be sought.

The problem is Microsoft's dominance in the OS market. This gives Microsoft the power, which they are too at ease with using, to dominate every other aspect of computing. Control over the OS leads to control over office suites, which leads to control over web browsers, which leads to control over internet access and content. This domino effect will never end until Microsoft's OS division is made a separate company from its software and internet divisions. That is the remedy that I suggest.

MTC–00024706

From: C.D. Larson
To: Microsoft ATR
Date: 1/25/02 2:36pm
Subject: Microsoft Settlement

Dear DOJ Team:

First, thank you for all you've been busy doing on the terrorism front. I deeply appreciate and support what your team has been doing—both publicly and behind the scenes—to keep all of us safe. I'm writing regarding the Microsoft Settlement. I've been in the computer industry for some number of years and have seen how Micrsopft operates, and I'm disappointed by the proposed settlement. It stifles competition and the economy, and is a real disaster for our industry. Once upon a time, there were many companies who made workable word-processing programs. Innovation and competition flourished. How many such firms can you name today? Not many, I'll bet. That's because of Microsoft's aggressive tactics with Microsoft Word. Is it the best word processing program out there? Hard to say, because nobody compares any more. And there's almost nobody around to compare TO. And that's what I'm talking about. There should be dozens of companies, writing great products and competing on price. And they should be around the world, not just in Seattle.

What our industry is objecting to is Microsoft's continued rampage against area after area of computing. First it was operating systems, then spreadsheets, then word processing, then browsers. Databases are next, followed by imaging. My company's offerings are next; MS is copying our technology to use in their product so they can tell us to go fly a kite. I am not arguing against competition; I'm suggesting we should HAVE some.

My objection is not to Microsoft's "ability to innovate", it's their ability to keep others from innovating. By crushing other firms, they force everyone to use their product regardless of what it costs or how good it really is. That's bad for competition, bad for products, and bad for our country.

I think the settlement—especially in the face of the judge's findings in the case—is a weak slap on the wrist and will not address any of the grievances made. What should be done? I don't think it's necessary for the company to be broken up IF they could be successfully kept out of the applications world.

Charles D. Larson, Jr.
Senior Manager, Technical Marketing
Writing as a Private Citizen

MTC–00024707

From: Johnny Hsu
To: Microsoft ATR
Date: 1/25/02 2:36pm
Subject: Microsoft Settlement

DO NOT SETTLE

Settling with Microsoft will only allow them to substantially increase the market share in core industries where their only competition have an edge. To do so will only hinder the efforts of other companies to operate in a competitive society. To do so will allow Microsoft a backdoor into business areas they've always had trouble breaking into. Microsoft has billions of dollars behind its name, and plenty of this available in cash. A settlement with their goods would cost them a minute fraction of the entire settlement value. A settlement by definition implies some kind of wrongdoing. When a kid does something wrong, you don't just let them go. Good parents will punish them so that they do not make the same mistake again. Allowing them to settle with their products is barely a slap in the wrist. If a settlement is deemed necessary, then the government should punish them realistically, by forcing them to donate cash, not goods or services, on demand. Too many companies have been bullied out of competition through vaporware, through bullish and threatening tactics, through unfair business practice. Any other settlement besides a billion dollar cash settlement would be unjust.

MTC–00024708

From: Frank
To: Microsoft ATR
Date: 1/25/02 2:36pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am opposed to the proposed settlement in the Microsoft antitrust trial. I feel that the current proposed settlement does not fully redress the actions committed by Microsoft in the past, nor inhibit their ability to commit similar actions in the future.

The vast majority of the provisions within the settlement only formalize the status quo. Of the remaining provisions, none will effectively prohibit Microsoft from abusing its current monopoly position in the operating system market. This is especially important in view of the seriousness of Microsoft's past transgressions.

Most important, the proposed settlement does nothing to correct Microsoft's previous actions. There are no provisions that correct or redress their previous abuses. They only prohibit the future repetition of those abuses.

This, in my opinion, goes against the very foundation of law. If a person or organization is able to commit illegal acts, benefit from those acts and then receive as a "punishment" instructions that they cannot commit those acts again, they have still benefited from their illegal acts. That is not justice, not for the victims of their abuses and not for the American people in general.

While the Court's desire that a settlement be reached is well-intentioned, it is wrong to reach an unjust settlement just for settlement's sake. A wrong that is not corrected is compounded.

Sincerely,
Frank Partipilo
234 W Main St
Waukesha WI 53186

MTC–00024709

From: Schulz54@aol.com@inetgw
To: Microsoft ATR

Date: 1/25/02 2:36pm
Subject: Microsoft Settlement

To whom it may concern:

I think the proposed settlement between the Department of Justice and Microsoft is not in the interests of consumers. Please reject this settlement and adopt the one proposed by the nine states.

Sincerely,
E. Matthew Schulz
117 South Scott Blvd.
Iowa City, IA 52245

MTC–00024710

From: spookalew@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:34pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Robert Lewis
5675 Brynwood Lane
Ash Grove, MO 65604

MTC–00024711

From: sev
To: Microsoft ATR
Date: 1/25/02 2:34pm
Subject: Microsoft Settlement

I think the proposed settlement is a bad idea.

MTC–00024712

From: Dale Caughey
To: Microsoft ATR
Date: 1/25/02 2:40pm
Subject: Dear Sirs:

Dear Sirs:

Further llitigation is a wste of taxpayers" funds. Every end user had the opportunity to pick Netscape of Microsoft's Browser. I, like most users picked the better browser.

For the unpicked Netscape to seek the protection of a court is absurd;

Judge Jackson should have recused himself, or resign his position, as he didn't, nor does understantthe American system of fair play.

Dale Caughey, JR

MTC–00024713

From: Matt Bingham
To: Microsoft ATR
Date: 1/25/02 2:43pm
Subject: MS Antitrust case.

How to put it succinctly...? You let em go with a warning. (Rhetorical:) Anyone at DoJ actually believe you won't have to do this again in 5 years and do it right?

MTC–00024714

From: Scott Bergstrom
To: Microsoft ATR
Date: 1/25/02 2:42pm
Subject: Microsoft Settlement

Your Honor,

Those businesses behind the antitrust action against Microsoft are simply second-rate. That they failed to win my allegiance and that of the consuming public is not a product of Microsoft's "vicious business practices" made their products hard to get, but a result of the inferiority of their products. As a former Macintosh user, I switched to Windows when I realized that it was, in my opinion, a better program. The same applies to Microsoft Explorer vs. Netscape Navigator; the former is simply a better product.

I resent immensely the implication that somehow, as a member of the public, I have in any way been duped by Microsoft's practices. To the contrary, they have given me products of tremendous utility at little or no cost.

In short, they're guilty of nothing more than doing business well and providing services to the public cheaply.

I'm writing this to you not as a political activist but as someone who believes—strongly—that the courts should not be suckered by second-rate businesses who are not adept enough in their industry to take on honest and fair competition.

Sincerely,
Scott Bergstrom
Scott Bergstrom
Sr. Copywriter
J. Walter Thompson Specialized Communications
466 Lexington Ave., New York, NY 10017
T: 212–210–1162
F: 212–210–1097
scott.bergstrom @jwtworks.com

MTC–00024715

From: Joseph Roni
To: Microsoft ATR
Date: 1/25/02 2:42pm
Subject: Microsoft Settlement

Department of Justice:

We read with dismay the recent news that AOL-Time Warner has brought suit against Microsoft on behalf of Netscape. We feel this is a political attempt to influence your decision against Microsoft.

Again a few special interest groups are attempting to use this review period to derail the settlement of the Microsoft case and to prolong the litigation even in the midst of these uncertain economic times. As a private citizen my wife and I object to continuing this litigation. The last thing the American economy needs is more litigation which benefits only a few wealthy competitors who cannot compete with their own innovation.

Please don't let these special interest groups defeat the public interest. My wife and I are retired and our invested retirement worth has declined significantly since this litigation was initiated and it seemed to us that it was one of the leading causes for the rapid decline of the NASDAQ stocks and the stock market in general. Let's settle this thing now for the good of the consumer, the industry and the American economy.

Regards,
Joseph and Virginia Roni
Federal Way, Washington

MTC–00024716

From: aleonczy@student.umass.edu@inetgw
To: Microsoft ATR
Date: 1/25/02 2:42pm
Subject: Microsoft Settlement

Section III.2.b clearly allows Microsoft to retaliate against an OEM that is or is contemplating shipping a PC without a Microsoft operating system. This is unacceptable. Microsoft should not be allowed to realiate against an OEM that ships a PC which does not include a Microsoft operating system. "shipping a Personal Computer that (a) includes both a Windows Operating System Product and a non-Microsoft Operating System, or (b) will boot with more than one Operating System;" (US vs MS PFJ)

I propose an amendment: (c) does not include a Microsoft Operating System

Thank You for your consideration,
Andrew Leonczyk

MTC–00024717

From: Stephen Fountain
To: Microsoft Settlement U.S. Department of Justice
Date: 1/25/02 2:38pm
Subject: Microsoft Settlement
Stephen Fountain
374 West Daffodil Rd
Ruckersville, VA 22968
January 25, 2002
Microsoft Settlement U.S. Department of Justice

Dear Microsoft Settlement U.S. Department of Justice:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

Stephen Fountain

MTC-00024718

From: Paul Hayes
To: Microsoft ATR
Date: 1/25/02 2:43pm
Subject: Microsoft

I am appalled that so little has been done to deter Microsoft from continuing their business practices. They have clearly and repeatedly operated in a way counter to fairness, they are unquestionably a monopoly, and they constantly squelch competition. These certainly seem to me to fall within the purview of the US Justice department, and yet you do nothing. It removes my faith in our system of jurisprudence to see these maladies go without remedy.

Thank you for your time.

Paul Hayes —

Why waste time learning when ignorance is instantaneous?—Hobbes

MTC-00024719

From: Bert Rivera
To: Microsoft ATR
Date: 1/25/02 2:43pm
Subject: Microsoft Settlement

Dear Judge,

Please do not let justice become a victim in the Microsoft monopoly case. This PFJ should terminate Microsoft's illegal monopoly. The PFJ SHOULD deny to Microsoft the profits of its past behavior and penalize them. The PFJ SHOULD prevent any future anticompetitive activity. Please make sure Microsoft doesn't get their hand slapped. They are a MONOPOLY!

Thank you.

Sincerely,
Bert Rivera
5444 West 138th Place
Hawthorne, CA. 90250

MTC-00024720

From: Zachary J. Paradis
To: Microsoft ATR
Date: 1/25/02 2:37pm
Subject: Microsoft Settlement

i just wanted to voice my opinion that i believe that Microsoft had been bullying companies for years. they have caused the demise of more than a few tech companies with bright futures. these companies could have continued to thrive and employ people today. microsoft's products are generally less robust and less secure than their competitors, yet their monopoly in the OS/intel market has continually allowed them to win out. the Graphical User Interface, the Media Player, Chat Software, etc., are all examples of software which MSFT has essentially stolen, reproduced crappy versions of and then tied to their OS.

i believe settlement should NOT include the donation of any microsoft products to schools, non-profits, etc. instead, it should be a significant(more than the 1 Billion dollars offered) fine, reparations to the likes of Apple, Netscape, Yahoo, etc., as well as a break up of the company. i also believe it is imperative that the government does NOT use microsoft software. not only is it not secure, but it contributes considerably to the problem.

it is possible to create and open standard with which unix, macOS, linux AND windows could work...

microsoft is just not interested in doing it. for the sake of the country's technological future, it is imperative that the government forces microsoft to open up.

zachary j. paradis
chicago, il

MTC-00024721

From: Steven Marx
To: Microsoft ATR
Date: 1/25/02 2:48pm
Subject: Microsoft Settlement

I am completely opposed to this so-called settlement which imposes no penalties for Microsoft's monopolistic actions and has so many pro-Microsoft loopholes that it would allow the company to continue with any behavior it chooses. The DOJ is acting as if it lost the case and must accept Microsoft's term. Instead, it of course won the case in court and on appeal in every respect. Microsoft should be actually punished for their past behavior and put under severe and enforceable oversite in the future. Any restriction must be quickly enforceable rather than what has happened in the past such as this case, where they tie things up in court for years as they further expand their illegal monopoly as they have with Windows XP and their new software licensing scheme. The current agreement does nothing of any significance, it is actually worse than nothing as it fails to punish and allows Microsoft to continue business as usual. Remember, YOU WON.

Steven Marx, Ph.D. —

MTC-00024722

From: Ben Kuryk
To: Microsoft ATR
Date: 1/25/02 2:45pm
Subject: Microsoft Settlement

I think the proposed settlement is a bad idea!

MTC-00024723

From: Kansas Legislative Education (038) Research
To: Microsoft ATR
Date: 1/25/02 2:45pm
Subject: Microsoft Settlement

January 25, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms Hesse:

On behalf of KLEAR, Inc., an association of Kansas state legislators representing nearly a third of this state's current House and Senate office holders, I write today with their explicit authorization in strong support of the proposed Final Judgment to the Microsoft antitrust case offered by the U.S. Department of Justice and endorsed by nine state attorneys general. Regrettably, Kansas is not yet among the states agreeing to end their pursuit of this ill-conceived litigation. However, we will continue to press the free-market rationale for an end to this counter-productive legal course. With the direct means at our disposal, we have already severely restricted the state resources that may be devoted to its prosecution. The rationale for ending the litigation is squarely in line with our KLEAR philosophy. We stand for the Constitutional principles of limited government, individual liberty, free enterprise and traditional family values. From its initiation forward, the antitrust action against Microsoft has been an affront to these principles that hold real hope in achieving the greatest good for the greatest number of people.

In harmony with a glut of esteemed economists and legal scholars from around the country, we consider the justification for the lawsuit to be baseless. New competitors have emerged to challenge Microsoft's well-earned dominance. Consumer have benefited greatly from reduced prices and improved products. In fact, conspicuously absent at trial and in endless media accounts of the controversy is any evidence that consumers have been harmed. To the contrary, Kansans have lost hundreds of millions of dollars as a result of the antitrust litigation. Our own pension program for government employees in this state has seen its unfunded liability mushroom as a direct product of the legal attack on Microsoft.

When we take into account such tangible negative effects, the fragile case theory, the inappropriate and counter-productive remedies imposed by Judge Jackson, and the threat to this country's core principles of liberty, our decision to support the proposed Final Judgment to this lawsuit is

KLEAR-cut.

Sincerely,
Bob L. Corkins
Executive Director
Kansas Legislative Education & Research, Inc.
827 SW Topeka Blvd., Topeka, KS 66612
785.233.8765 phone
928.244.3262 fax
ks-klear@swbell.net

MTC-00024724

From: iain
To: Microsoft ATR
Date: 1/25/02 6:44am
Subject: Microsoft Settlement

Dear Sir/Madam:

I am writing to express my concern over the Microsoft settlement. This settlement is extremely limited, and absolutely unacceptable and ineffective in limiting Microsoft's predatory, anti-competitive behaviors that have resulted in its massive wealth and monopoly. Sorry I don't have time to write more,

Best Regards,
Iain Huxley.

MTC-00024725

From: Eric C. Forat
To: Microsoft ATR
Date: 1/25/02 2:43pm
Subject: Microsoft Settlement

Your Honor: this Settlement offered by the DoJ is a disgrace to Justice in the US, and it will besmirch whatever was left of the image of impartial justice after the arrival of "barely President" G.W. Bush. In most their endeavours until now, his administration has consistently betrayed their oath to protect the Constitution, and has certainly been the the worst administration since the good bad days of Nixon's. I dare hope that the independent Judiciary will not buckle under their relentless pressure. Please be true to the ideals of Justice that certainly you held once, and do not unleash a rogue Monopolist to continue its depredations on the American future.

Sincerely yours,
Eric C. Forat

MTC–00024726

From: Bonnie Williams
To: Microsoft ATR
Date: 1/25/02 2:46pm
Subject: Microsoft Settlement
Letter attached.
Bonnie Williams
Have a nice day!
bonniew@txcyber.com

MTC–00024726–0001

7562 Highway 21 W
Madisonville, TX 77864
January 24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The intent of this letter is to urge the Justice Department to enact the settlement reached with Microsoft last November. The settlement that was reached is extremely fair and represents an end to this attack against Microsoft. I would hope that after three years of extensive mediation, the Justice Department would finally be satisfied with its pursuit of this antitrust dispute.

Further, the settlement that was reached will benefit consumers of the technology industry. With the interim release of Windows XP, Microsoft will enact a mechanism into the Windows system that will enable users to add and delete programs into their operating system. Thus, users will have increased power to configure their operating systems to their own accords. IF MERGEFIELD PARA2 1/2PARA2+<>

These terms are obviously beneficial to consumers. In addition, enacting this settlement will increase confidence in the technology industries once again. I would hope that the Justice Department recognizes the benefits in enacting this settlement at the end of January. IF MERGEFIELD PA RA4 1/2PARA4+<> IF MERGEFIELD PARA5 1/2PARA5+<>

Sincerely,
Bonnie Williams 00024726——0002

MTC–00024727

From: Kodi Wright
To: Microsoft Settlement U.S. Department of Justice
Date: 1/25/02 2:43pm
Subject: Microsoft Settlement
Kodi Wright
PO BOX 118
Oakton, VA 22124
January 25, 2002
Microsoft Settlement U.S. Department of Justice ,

Dear Microsoft Settlement U.S. Department of Justice:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Kodi Wright

MTC–00024728

From: Mark Smith
To: Microsoft Settlement U.S. Department of Justice
Date: 1/25/02 2:44pm
Subject: Microsoft Settlement
Mark Smith
123 Easy Street
Springfield, NJ 08831
January 25, 2002
Microsoft Settlement
U.S. Department of Justice ,

Dear Microsoft Settlement U.S. Department of Justice:

To Whom it May Concern:

Wazzzzzup?

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Your truly
Mark Smith

MTC–00024729

From: wt.catch1
To: Microsoft ATR
Date: 1/25/02 2:46pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Barbara Mecham
916 Heather Drive
San Carlos, CA 94070

MTC–00024730

From: David Grantham
To: Microsoft ATR
Date: 1/25/02 2:50pm
Subject: Microsoft Settlement

As a person that has been using computers since the early eighties, I personally welcome the changes that Microsoft has developed. People tend to forget that before Windows 3.11 and then Windows 95 was released computers were fairly difficult for average users to deal with. The ease of use of these operating systems helped substantially with the boom in computer sales and usage to the everyday consumer.

Even with these advances however many manufacturers of computer systems insisted on adding their own software to systems to make them even "easier". From a purely technical standpoint many of these added features made useing the system much more difficult due to incompatibilities and poorly written software that made the operating system unstable. Microsoft in order to protect itself did the right thing by dictating what should be on the desktop and how the user should see the system. It is their operating system and it should be work as they see fit.

The inclusion of Internet Explorer with Windows has only improved the useage of the internet. When I first ventured into the world that is the internet I was only provided with a copy of Netscape Navigator...version 1. IE did not even exist yet. For years I used Netscape only, even after IE came out because Netscape offered a superior product, and it was free. However with version 4 of IE that changed.

I was able to download another free browser that offered a faster cleaner web experience. In comparison Netscapes offering was slow and clunky. Therefore I quit useing Netscape and have stuck with IE ever since.

Once IE was melded with Windows 98 it only improved the operating system, makeing navigation in Windows easier. Netscape as a free download still worked under Windows though and in no way did Windows 98 + Internet Explorer keep me from useing Netscape Navigator...instead it was the slowness and instability of Netscapes browser that let IE change my opinion of it. Some argue that Microsoft cripples the Netscape browser when installed on Windows systems. I have never personally experienced this as Netscape on Linux is just as slow and problematic as it is on Windows.

To me without Microsofts efforts we would still be useing many diffrent incompatible systems and the computer boom never would have happend. As it stands today we have three desktop platforms,

Microsoft, Apple, and the many diffrent Linux Distributions. Microsofts monopoly of the desktop has offered us the ability to finally have a compatible platform without the worries of transferring files between numerous types of computers and operating systems. Apple gives us a similar platform offering just as much as Microsoft albeit at prices most people reject. Which leaves Linux as an upstart that may one day work out its usability issues but today still offers more incompatibilities than anything else.

Microsoft should be allowed to dictate how its operating system is distributed on computer systems and what software can and cannot be bundled with it. Without this we will be thrown back to the years where there was more time spent with the headaches of incompatibility and instability than with productivity. Microsoft has done nothing but improve the lives of computer users and should not be punished for this. Instead they should be thanked for pulling all of us out of the dark ages of computers and continuing to provide us with more software features.

MTC-00024731

From: Eric Tooley
To: Microsoft ATR
Date: 1/25/02 2:51pm
Subject: Microsoft Settlement

The Microsoft settelement in my opinion does not stop Microsoft from unfairly using it's market dominance in it's operating systems to control software markets. Microsoft should be split into two companies, software and operating systems.

Thank you for your time.
Eric Tooley
Fireball

MTC-00024732

From: clif
To: Microsoft ATR
Date: 1/25/02 2:51pm
Subject: Microsoft Settlement

Dear Sirs,

I feel there are maney problems with the proposed Microsoft Settlement. One is that you have not realy addressed the applications barrier to entry.

Another option not provided by the PFJ would be to make sure that Microsoft raises no artificial barriers against non-Microsoft operating systems which implement the APIs needed to run application programs written for Windows. The Findings of Fact (?52) considered the possibility that competing operating systems could implement the Windows APIs and thereby directly run software written for Windows as a way of circumventing the Applications Barrier to Entry. This is in fact the route being taken by the Linux operating system, which includes middleware (named WINE) that can run many Windows programs.

Thankyou for your attention,
Clif Cox; system administrator

MTC-00024734

From: Max
To: Microsoft ATR
Date: 1/25/02 2:52pm
Subject: Microsoft Penelties

I think the government should do more in regards to the antitrust case against Microsoft. Microsoft continues to use it's monopolistic market position to gain unfair competitive advantages with it's Windows XP product. The settlement should include more specific measures to restrict this type of behavior. I understand that the government is attempt to expedite the process and bring to a close the case which has dragged on for far too long. But unless the government comes up with a settlement that addresses future products and behaviors more completely, I fear that we will witness the same actions that caused the need for this trial in the first place. We will be in the same place and spend even more of the tax payers money to bring to trial Microsoft again. Isn't the legal process suppose to keep wrongful actions from occurring again, rather than just punish for what has happened in the past? Indeed, we are already witnessing this (Microsoft) corporate repeat offender in action again with Windows XP. enough is enough!

MTC-00024735

From: Alison N. Smith
To: Microsoft ATR
Date: 1/25/02 2:53pm
Subject: Microsoft Settlement

I think that the proposed settlement with MIcrosoft is a bad idea.

alison smith

MTC-00024736

From: Mike Su
To: Microsoft ATR
Date: 1/25/02 2:53pm
Subject: MS/States settlement

Dear Sir or Madam:

This is a matter of ANTITRUST. The proposed settlement only further encourages more monopolistic activities by Microsoft. This is not a punishment in any sense. The settlement is but a tool for MS marketing.

Ying Fu Su
47 Ceadr Street
Chapel Hill, NC 27514

MTC-00024737

From: Jeff Disher
To: Microsoft ATR
Date: 1/25/02 2:52pm
Subject: Microsoft Settlement

Hello,

I do hope that you will not allow Microsoft to settle under the current terms. First of all, it is a very small penalty ($1 billion) in comparison to the amount of money they have made by committing these crimes. This would not properly ensure a deterrent to stop them from doing it again. Also, the distribution of this money as their own products is purely ridiculous. Note that, since Microsoft would be primarily donating their own software to parfies that would not otherwise be buying it, they aren't actually spending any money to provide these reparations. Most important is the long-term effect of this settlement on the receiving markets. Since these markets were going to continue using products made by the competitors of Microsoft, they would now be in a position where it was in their best interests to continue using the software they had acquired for free rather than paying to update what they were using. This will have a terribly detrimental effect on the computer software industry since none of their competitors would be making sales to these markets. In effect, this settlement would be perpetuating and aiding the problem that it was meant to solve. This is simply ridiculous since it leaves the software industry in a worse condition than it was before this began.

I can see a few reasonable solutions: 1) Uphold the earlier decision of the court to break-up the company and proceed with that (bad side effects: short-term disruption in the computer industry on a theoretical level. Since the application and operating system devisions of the company would still exist, albeit as different parts, they could still service all of their customers. The only difference the end-user would notice would be a change in the company name and logo but that shouldn't effect their productivity. Good side-effects: potential to open new markets that were formerly unreachable by competing companies as well as potentially stronger long-term revenues of technology companies currently under financial pressure. Primary benefits would be to companies distributing alternative operating systems, competing office suite products and platform-independence tools such as Java).

2) Insist that Microsoft pay a greater settlement fee than $1 billion and insist that it is in cash, not their own products (bad side effects: this would not actually solve any problem relating to this case. Good side effects: the markets receiving this money would immediately benefit from it. All companies in the market would benefit from the spending of this money in more "fair" measures).

I hope that my ideas and your experience can help resolve this issue in a method that could benefit all parties involved to their owed degrees.

Sincerely,
Jeff Disher
President and Lead Developer of Spectral Class
Spectral Class: Shedding Light on Innovation
http://www.spectralclass.com/

MTC-00024739

From: Eric Anderson
To: Microsoft ATR
Date: 1/25/02 2:54pm
Subject: Microsoft Settlement

To whom it concerns:

I understand you're soliciting feedback on the proposed "Microsoft Settlement". I have not read the settlement. What I know about it has come from television, radio and print media. From what I know of the proposed settlement, I share the concern expressed by those who believe that if Microsoft is allowed to provide that quantity of hardware and software to schools, this may unfairly expand Microsoft's market share in an area they are not presently dominating.

I believe there is a simple answer to this concern. Take the dollar value of the hardware and software that Microsoft will donate, and allow the recipients to choose what hardware and/or software they prefer to work with. This suggestion likely tacks on some administrative cost, but if Microsoft really wants to be fair, they should not be opposed to it, and should be willing to re-negotiate the deal to reflect this approach. Even if it costs them more money.

That's my opinion.
God bless America.
Eric D. Anderson
653 4th St. N.
Hudson, WI 54016–1051

MTC-00024739

From: Ross Kinzler
To: Microsoft ATR
Date: 1/25/02 2:54pm
Subject: Microsoft Settlement

I oppose the proposed settlement for the following reasons: a) The proposed settlement provides for no monetary payments by Microsoft. b) The term of the agreement is limited to 5 years and it should provide for a permanent injunction.

Ross Kinzler
Executive Director
Wisconsin Manufactured Housing Association

MTC-00024740

From: mpreul
To: Microsoft ATR
Date: 1/25/02 2:47pm
Subject: Microsoft Settlement

Microsoft needs to be broken up—come on government get with it. Making the operating system and the software to run on it is just plain not fair. I read somewhere that this is akin to a situation wherein the post office would be the only one selling the letters and boxes, and then sells the stamps to send them. But this is not right— what Microsoft has is the not just the letters and boxes, they're the only ones with the secret to making paper and cardboard and the right to sell the letters and boxes, and the stamps to run on them. This is more like if GM were the only ones to build cars, and that in order to run at over 30 mph, you had to buy gasoline produced by GM—this just is not fair. Our computer wrold will not fall because of Microsoft's break up—this will allow entrepreneurs to step into the gap.

Take Microsoft apart!!
Mark Preul
8628 E. Davenport Dr.
Scottsdale, AZ 85260

MTC-00024741

From: Richard Gorton
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 2:57pm
Subject: Microsoft Settlement (it is a joke)

Sirs,

The proposed anti-trust settlement with microsoft is, as far as I can ascertain, a joke. The terms are so vague as to be completely ineffective. The harshest penalty possible appears (to my reading) to be: "You were bad. Since you were bad, we're going to watch you longer to see if you are bad some more". As for the terms, I was able to come up ways to completely nullify/circumvent a couple of them with only a few minutes of thought. And that's without being an attorney. Personally, I believe a much more effective way to halt Microsoft's continued traditional predatory behavior is to break them up, into a minimum of three groups, and to put chinese walls between them.

Regards,
Richard Gorton (for myself)
161 Temple St.
Framingham, MA 01701

MTC-00024743

From: Steve Steele
To: Microsoft ATR
Date: 1/25/02 2:57pm
Subject: Microsoft Settlement

Please DO NOT allow Microsoft to "give away" software licenses to schools. Please make them instead give money to an independent third party institution that will act as a fund for school systems to purchase the computer systems of their own choice. Allowing them to give away or donate the Windows OS will just allow them to become a bigger monopoly.

Sincerely,
Steve Steele
Systems Admin.
Rice University

MTC-00024744

From: Ben Hall
To: Microsoft ATR
Date: 1/25/02 2:58pm
Subject: Re: Public comments ending soon in MS/States settlement

Please do something to make sure that Microsof cannot just walk away from this with their stock two dollars off the mark for a couple of months. I have been in the technology sector for more than seven years and everytime they have encroached on a technology it has turned out to completely stagnate the said area of development. If there was one instance of Microsoft not trying to completely control whatever they touched it would be one thing but I have yet to see a technology that they have not stolen and changed 10% only to then call their own. Thier OS, Web browser, Office Suite, Email products, Hotmail, MSN, and most especialy their media player have all been from reverse engineering of other company products. Because of the nature of the business they have the advantage of throwing quaduple the amount of people onto a product to meet the release date of any other company. Although this may not be entirely illegal it does say something about their ethics when it comes to how they interact with others. Never have they released or created an open sourced standard or given people access to products without tying three more of their services into it. If this is not using a Monopoly to encroach into existing markets, I don't know what is. And when I speak of this I do not mean Windows 95 but of thier Operating System released after they were found guilty of Monopolistic practices.

Thank you for taking the time to recieve this letter of concern and I hope a just resolution is found.

Sincerely,
Ben Hall
Media Developer, Fallon Inc.
612.758.2131

MTC-00024745

From: Walt Asher
To: Microsoft ATR
Date: 1/25/02 2:59pm
Subject: Microsoft Settlement

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. I am just an ordinary user. I am not a computer guru even though I did build my first computer from a Heathkit. I generally like the Microsoft Windows operating system, however, I did not like the way they have forced people to use their other products. Microsoft had seems to have pushed computer manufactures to include a wide range of their products. As a result so many people use Microsoft Office only because it was included as a free program with the computer when they purchased it. That is ceratinly unfair. I have been useing Corel WordPerfect for several years and found it far better than Microsoft Word, yet few people use it and even fewer computer manufactures include it.

Another complaint I have is that I am forced to accept Microsoft products that I don't need because Microsoft includes them as part of the operating system. Intenet Explorer is a perfect example. I do not like and do not use Internet Explorer, yet it has to be installed on my system. I am not computer literate enough to remove it without causing problems to the operating system. Microsoft could sell a version without Internet Explorer very easily. I am of the strong opinion that Microsoft should be forced to sell the striped down version ONLY. Anyone wanting Internet Explorer, or any other Microsoft product, should be be required to make an effort to obtain that product just is they must do now for Netscape, WordPerfect, etc. When that happens, the market will decide which products are used by businesses and individuals.

One final remedy which I strongly believe should be implemented is that Microsoft should be required to reveal how its other programs are integrated with the operating system. This would allow other software manufactures to make the use of their products interface with and convient to use as Microsoft now does with their products. These things would make Microsoft windows and stand alone product for the benefit of everyone. It will open the doors to fair competition and allows the markey to decide what it wants rather than having Microsoft decide so they can increase the profits and shut out everyone else. I have not problem with Micrsoft making tons of money. I object to being forced to give them my money for products I don't like and don't use just because they have to power to do so.

Thank you,
Walter W. Asher
766 West Key Rd
Troy, TN 38260–4442
(731) 536–5146

MTC–00024746

From: aaron matthew croyle
To: Microsoft ATR
Date: 1/25/02 3:01pm
Subject: Microsoft Settlement

I feel the proposed settlement gives Microsoft too much room to violate the proposal's intention.

—Aaron Croyle

MTC–00024747

From: Lupe Anguiano
To: Microsoft ATR
Date: 1/25/02 3:00pm
Subject: Consumer Protection

Dear Renata Hesse:

I a Latina Technology and Fundraising Consultant. I advice and recommend use of Technology products to education, non-profit organizations and small start-up Latino Businesses in Southern California— mostly in the Los Angeles and Ventura County area. When I add (via basic math) and compare the cost of Microsoft products with AOL, Oracle and others—my adding machine shows great savings purchasing Microsoft products vs. other products. The time for TRUTH has arrived—Why is the Government using tax payers money (my check shows I contribute 40% of my earnings to my Government— Federal and California) to market the products of Technology Companies whom buyers do not purchase from? Why is Government interfering with our FREE MARKET—WHY IS GOVERNMENT INFLUENCING THE CHOICE OF CONSUMERS. WHY IS GOVERNMENT MARKETING HIGHER PRICES. Government has failed to produce an honest consumer related argument against Microsoft. I am so tired of this entire false word game played by lawyers especially from States who refuse to settle with Microsoft. Has Government asked the question—"Is what we are doing hindering the growth and development of the Technology Industry?" We are living in difficult economic times—our Technology Industry needs to be free to grow and innovate in both our Country and in the World—If free to be creative Technology can be a tool to improve peoples lives—not only in the USA but in the World.

I hope what I have written is taken seriously, it comes from a struggling consumer—who is barely making ends meet.

Respectfully,
Lupe Anguiano
Lupe Anguiano & Associates, Inc.
14420 Kittridge St. #220
Van Nuys, CA 91405–5109
Phone: 818.787.8807
Fax: 818.787.8911
languian@gte.net

MTC–00024748

From: Susie Koester
To: Microsoft ATR
Date: 1/25/02 3:00pm
Subject: Microsoft Settlement ->
To: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. I agree with the problems identified in Dan Kegel's analysis (on the Web at http://www.kegel.com/remedy/remedy2.html), namely:

* The PFJ doesn't take into account Windows-compatible competing operating systems

* Microsoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry.

* The PFJ Contains Misleading and Overly Narrow Definitions and Provisions

* The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered.

* The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all.

* The PFJ allows users to replace Microsoft Java with a competitor's product—but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft.NET with competing middleware.

* The PFJ supposedly applies to "Windows", but it defines that term so narrowly that it doesn't cover Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box—operating systems that all use the Win32 API and are advertised as being "Windows Powered".

* The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

* The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware—but only after the deadline for the ISVs to demonstrate that their middleware is compatible.

* The PFJ requires Microsoft to release API documentation—but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.

* The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents.

* The PFJ does not require Microsoft to list which software patents protect the Windows APIs. This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users.

* The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft

* Microsoft currently uses restrictive licensing terms to keep Open Source apps from running on Windows.

* Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems.

* Microsoft's enterprise license agreements (used by large companies, state governments, and universities) charge by the number of computers which could run a Microsoft operating system—even for computers running competing operating systems such as Linux! (Similar licenses to OEMs were once banned by the 1994 consent decree.)

* The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft

* Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems.

* The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs

* The PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

* The PFJ allows Microsoft to discriminate against small OEMs— including regional "white box" OEMs which are historically the most willing to install competing operating systems—who ship competing software.

* The PFJ allows Microsoft to offer discounts on Windows (MDAs) to OEMs based on criteria like sales of Microsoft Office or Pocket PC systems. This allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas.

* The PFJ as currently written appears to lack an effective enforcement mechanism.

I also agree with the conclusion reached by that document, namely that the Proposed Final Judgment, as written, allows and encourages significant anticompetitive practices to continue, would delay the emergence of competing Windows-compatible operating systems, and is therefore not in the public interest. It should not be adopted without substantial revision to address these problems.

Sincerely,
Susan Koester

MTC–00024749

From: rubietuesday@netscape.net@inetgw
To: Microsoft ATR
Date: 1/25/02 2:57pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
RUBIE C. CARTER
1464 KEELER.DR.
IRVING, TX 75060–2640

MTC–00024750

From: Jack, Jeremy C
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 3:02pm
Subject: Microsoft Settlement

It is a sad, sad thing to see a government organization being purchased wholesale. The fact that the justice department is part of the American government makes me profoundly embarassed. In an environment which actually supports the DMCA, however, I suppose this is inevitable. Since Microsoft has made it very clear it does not intend to stop exploiting consumers, the channel, or manufacturers and was willing to boldly and obviously lie in court, and yet has received what amounts to substantially less than a slap on the wrists is truly truly tragic. There is little justice to be found here. Money has spoken far louder.

—Jeremy C. Jack // The thoughts, opinions, and facts stated here are mine alone and not related to Intel or its affiliates.
neutiquam erro

MTC–00024751

From: Matt.Gilbert@PearsonEd.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:58pm
Subject: Microsoft Settlement

I would like to add my voice in opposition to the federal government's givaway to the Microsoft Corporation. While the provision that stops Microsoft from forcing OEMs from producing systems that run alternative operating systems is a step forward, the rest of the agreement will more than likely prove to be unenforceable. You are essentially rewarding Microsoft for abusing its monopoly and encouraging it to engage in more anti-competitive behavior. We can see that the company has wasted no time in using its monopoly power to drive more competitors from the market by the latest version of Windows.

Owning Soldier Field does not give the Chicago Bears the right to build retractable concrete posts in the endzone to prevent the other team from scoring.

MTC–00024752

From:
To:
Date:
Subject:
Ed Teller
Microsoft ATR
1/25/02 3:02pm
Microsoft Suit
Please see attached letter!
THANKS,
Ed Teller
EMAIL: edteller@hotmail.com

MTC–00024752–0001

Wilson E. Teller
3148 Pine Road
Orange Park, FL 32065
January, 25,2002
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As an active member of my community and an avid supporter and user of Microsoft products, I feel I must take a moment of my time in order to voice what I feel is in the best interest of the American people.

Microsoft has done more for the IT world than any other company in history, and as a firm believer in the American ethic of everyone having the opportunity to prosper, I believe Microsoft, under the stated settlement plan, has the right to rid itself of any further legal action. The use of the valuable time and money of the American people has been spent for three long years in this case, long enough for a settlement to be reached.

The settlement would require Microsoft to undergo various changes that further open the gates of competition to new and struggling IT companies. The thrust of the Justice Department's case, that Microsoft used unfair business practices, has now been addressed. The American people deserve to benefit from new innovations in computer software, not just for the sake of the economy, but also to keep American businesses at the head of the pack in the global market.

In your capacity as attorney general, I hope you will speak on behalf of the consumer and tax payer, who want to see Microsoft get back to what it does best: serving the people with manageable, affordable, and innovative computer software.

Thank you for your time and consideration in this crucial matter.

Sincerely,
Wilson E. Teller

MTC–00024753

From: Gina Lee
To: Microsoft ATR
Date: 1/25/02 3:01pm
Subject: Microsoft Settlement

The proposed settlement is a really bad idea, Microsoft is a bunch of crooks, they need to pay for what they have done!!

Gina L. Erickson
137 Fir Street
Camarillo, CA 93010

MTC–00024754

From: Andy McKee
To: Microsoft ATR
Date: 1/25/02 3:03pm
Subject: Microsoft Settlement

The settlement is fair and just; however there are concerns that arise from this action.

(1) If agreed upon, what safeguards would be in place to prevent a repeat of this case under another administration or even a different market.

(2) Would could be the long term solution not to just Microsoft, but others in the information industry?

(3) Would this stop the process or would it just keep on going every time a judge feels differently.

MTC–00024755

From: alaconis@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:00pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
vincent laconis
1006 22nd ave
vero beach, FL 32960

MTC–00024756

From: Vernon.Guilford@mail.sprint.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:03pm
Subject: Microsoft Settlement

I think the proposed settlement is a bad idea!!!!!!!!!!!!!!!!!!!!!!!!!!1

Vernon Guilford

MTC–00024757

From: todd ferguson
To: Microsoft ATR
Date: 1/25/02 3:02pm
Subject: Microsoft Settlement

Dear Sir or Madam:

I feel that the proposed settlement of the Microsoft anti-trust case will not be effective in combating the illegal practices of the company. Furthermore, I feel that the real issues of Microsoft's illegal activities have yet to be addressed. I mainly object on these three points:

(1) They have used their monopoly to push around computer manufacturers, thus forcing competing operating system (OS) makers out of business, and keeping other operating systems to an extremely marginal market share.

(2) They keep their file formats (especially "Office" formats) closed, making it harder for other applications to gain a foothold in the market.

(3) They keep their application programming interface (API) for Windows secret, making it more difficult to compete against them.

I am a user of several alternative operating systems. Thus far, no other OS's have been able to gain market penetration to a substantial degree.

This is largely due to Microsoft's restrictions upon, and threats against computer manufacturers. In one publicly disclosed incident, the company Hitachi was ready to ship computers that could boot into either Microsoft Windows or the Be Operating System. When Microsoft heard about this, they threatened Hitachi by saying they would revoke their license to sell Windows on their computer systems. Faced with losing the ability to pre-install the most widely used OS on their computers, Hitachi chose to remove the ability to boot into the BeOS from their computers. People are much more likely to use an OS if it come with their computer. Because people have not been able to get computers with both Windows and other alternative OS's installed, Microsoft has managed to maintain its grip on the OS market.

My second grievance I think becomes clearer when we look some other areas of computer technology. There are numerous choices in the fields of computer graphics design, viewing, and editing, computer audio design, recording, playback, and editing, and computer video design, playback, and editing. These are also all markets where Microsoft has failed to gain the substantial market share that is has in other computer markets (e.g. OS's and Office software). I think the most important reason is that open file formats (e.g jpeg, mpeg, .wav, etc.) became the standard in these areas of media production, before the closed file formats of Microsoft had a chance to take hold. In the area of Office suites, however, Microsoft was able to get an appreciable market share early on, and the world now has, literally, billions of documents, spreadsheets, etc. in MS Office format. People will not try out another Office suite, because none of them will open up these files correctly, because Microsoft has not disseminated the necessary information about these file formats.

Third is the API. The only people that have full access to the Microsoft API is Microsoft. How can another company expect to publish competing software on the Windows platform, if they do not have access to all the tools necessary for writing software for that platform. Many companies have to write their own API's for Windows, because they cannot get the needed information from Microsoft. This is yet another clear abuse of Microsoft's monopoly.

The current settlement addresses these issues little, if at all. I would lease ask you to reconsider the proverbial slap to the wrists that you are about to give Microsoft, and come up with a solution that will actually bring about change, and return fair play and competition to the computing industry. Any settlement needs to prevent Microsoft from bullying computer manufacturers, needs to force them to open their file formats, and needs to force them to publish their API's. Anything less than that, I feel, will be to little to do any good.

Sincerely,

Todd Louis Ferguson "We are the music makers, we are the dreamers of dreams."

Gene Wilder, Willy Wonka and the Chocolate Factory

MTC-00024758

From:
To:
Date:
Subject:
Roger Allen
Microsoft ATR
1/25/02 3:03pm
Microsoft Settlement

Okeechobee, FL 34974<>
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support of the recent antitrust case settlement between Microsoft and the US Department of Justice. While I think that the lawsuits have dragged on too long I am happy to see a possible ending and that Microsoft will not be broken up. Under the terms of the settlement Microsoft will be increasing it relations with computer makers and software developers, not retaliating against competitors who develop or promote non-Microsoft products, licensing its Windows operating system to the 20 largest computer makers on identical terms and conditions, and forming a three-person team to monitor compliance with the settlement. The terms are fair and should appease all parties involved in the dispute. IF MERGEFIELD PARA2 But clever people like me who talk loudly in restaurants, see this as a deliberate ambiguity. A plea for justice in a mechanized society.<> ......

Please implement the settlement as soon as possible and reprimand the 9 states that are holding out. Thank you for your time. IF MERGEFIELD PARA5 But is suspense, as Hitchcock states, in the box. No, there isn't room, the ambiguity's put on weight.<>

Sincerely,
Roger Allen
15 Montica Drive
Pueblo, CO 81005
00024758—0002

MTC-00024759

From: e.von.breyman@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

Please get this settlement finalized! Microsoft is NOT the consumers s enemy.

MTC-00024760

From: Kdowsiany@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:02pm
Subject: Microsoft Settlement January 25, 2002

Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
RE: U.S. v. Microsoft

OVERVIEW

For more than three years Microsoft has been defending itself in antitrust litigation brought by the U.S. Justice Department and eighteen states, including Ohio. The proposed consent decree between Microsoft and the U.S. Department of Justice reflects a settlement, which adequately protects the interests of the Department of Justice, the states and Microsoft, while achieving the desired goal of consumer protection.

UNCLEAR BASIS FOR ANTITRUST ACTION AGAINST MICROSOFT

Many critics, including the Buckeye Institute (Ohio's free market think tank) questioned the Justice Department's use of antitrust laws against Microsoft to punish the company's innovative use of technology, which provided useful products to businesses and individuals at low prices. The involvement of the state attorneys general was even more puzzling. It has never been clear how Ohio's citizens have been in any way harmed by Microsoft's business practices. The only clear beneficiaries to this antitrust case are Microsoft's competitors who prefer to have Microsoft mired in litigation instead of competing in the marketplace.

IMPLICATIONS FOR ANTITRUST LAW IN THE DYNAMIC TECHNOLOGY MARKETPLACE

This case calls into question the relevancy of antitrust laws in the fast-changing technology marketplace of today. One of the main reasons for the government's case was to ensure competition in Internet browsers. However, within several months of commencement of the case, the marketplace changed dramatically.

Microsoft's core business—writing the operating systems of personal computers—is under serious challenge from Linux and Apple. The center of gravity for computing is shifting away from the personal computer, where Microsoft has a significant presence, onto the Internet where the conglomerate AOL-Time Warner is the major player. As technology progresses, the focus will likely move to personal digital assistants, web-enabled telephones, satellite-based communication devices, and other tools.

The litigation against Microsoft sent a message to the rest of the technology economy that the use of innovation to meet consumer demands in an efficient manner will be punished by government agencies in the courts. This message sent shock waves throughout the American economy and hurt development in the technology sector.

EFFECT ON OHIOANS

The value of Microsoft stock tumbled by nearly 40% as the case dragged on. The more than 100,000 Microsoft shareholders that reside in Ohio collectively lost millions. And that does not include those investors who hold Microsoft stock in their mutual or pension funds. Other smaller technology company stocks fared even worse.

BREAK-UP OF MICROSOFT WOULD WEAKEN ECONOMY AND HURT CONSUMERS

The Buckeye Institute has publicly commended Ohio Attorney General Betty Montgomery, who has been involved with the case from a very early stage, for her support of the settlement and resistance to pursuing the break-up of Microsoft. She recognized that breaking up Microsoft would weaken our already slow economy, hurt consumers, and set a bad precedent effectively discouraging other high tech firms from investing in innovation and creativity.

SETTLEMENT MEETS GOALS OF CONSUMER PROTECTION WHILE PERMITTING CONTINUED INNOVATION IN THE MARKETPLACE

For those who have concerns about Microsoft's business practices, the settlement contains significant rules and regulations on how Microsoft designs, develops, and licenses its software. For example, all new Microsoft operating systems would have to include a mechanism that allows easier removal of the Microsoft Internet browser to switch to a different browser.

Importantly, however, this settlement will still allow Microsoft, which has been a lead engine of the American economy over the last decade, to focus on innovation and productivity instead of on defending itself from government attacks in the courts.

The proposed settlement satisfies the Justice Department and nine of the states that joined in the antitrust action. It adds consumer protections while permitting Microsoft to a responsible industry leader. In the long run, Microsoft's continued ability to innovate and create products that meet marketplace demands is the real benefit to consumers.

Sincerely,
David J. Owsiany, J.D.
President
The Buckeye Institute for Public Policy Solutions
4100 North High Street
Suite 200
Columbus, Ohio 43214
Phone: (614) 262–1593
Fax: (614) 262–1927
E-mail: owsiany@buckeyeinstitute.org

MTC–00024761

From: wendyfairfield@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

I strongly endorse the current settlement.

MTC–00024762

From: verell@rahab.net@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

Giving away software as a freebie to a purchaser is hardly creating a monopoly. This sales tactic is used all the time by thousands of vendors cash rebates Hawaii vacations etc. are all used to vendor advantage. This should force the competitor to build a better product—not to sue the givers of incentives to consumers. In a country where we have three corporations controlling 80% of all cereal grains 80% of all red meats 90% of poultry with NO freebies to consumers and only an occasional price discount why do you pick Microsoft to prosecute? Coca Cola and Pepsi actually conspire to keep smaller brands OFF vendor shelves. We have some really bad monopolies in the U.S. that are gouging consumers horribly on a necessity of life [food] yet you choose to ignore their greed and go after a company that has enabled consumers to take part in the communications boom. Why?

MTC–00024763

From: chstaf01@athena.
louisville.edu@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

Microsoft has a monopoly on personnel and business software that is costing this Country and economy excessively and more open competitiveness is required.

MTC–00024764

From: mf.mathis@gte.net@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

This settlement is fair and will finally end this lengthy and costly suit. Both the national economy and the local economy here in the Northwest will benefit from this settlement. The bottom line is that this is in the best interests of the consumer and is vital to the health of the tech industry and the economy as a whole.

MTC–00024765

From: bkeller@calibresys.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

It s a sad day when innovation and success have to be hobbled by the government just because some some people just can't keep up with the needs of the consumer.

MTC–00024766

From: mursolo@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

First off I want to congratulate Bill Gates and Microsoft for all they have accomplished what he has done with his company is truely the american dream. I also want whomever this concerns to know I am tired of my tax dollars paying for a lawsuit that simply put was initiated by a bunch of sore losers. I do realize that our great countries laws protect against market monopolies but when it happens do we have to treat them as though they are being punished? The fact is Microsoft has accomplished what every company wishes they can complete domination with a quality product. If any other company (Apple AOL & Netscape etc. . .) had the chance they would have done the same. The point is they could not and cannot achieve this so they start pointing fingers and by pointing fingers they openly admit to an inferior product. I am more than capable of installing different products on my Windows systems but I choose not to because I prefer Microsofts products. If the government splits Microsoft or makes them exclude some of the components of the operating system it will actually make Microsoft s market larger because people like me will still buy the seperated components which will probably cost more and hurt the consumer that the government was trying to protect in the first place.

MTC–00024767

From: bickster@att.net@inetgw
To: Microsoft ATR
Date: 1/25/02 3:01pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
William Bicknell
35–17 Ditmars Blvd
#113
Astoria, NY 11105

MTC–00024768

From: christine—doerr@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Any corrective measures must be weighed against the well-being of consumers. In fact the very monopolistic practices for which Microsoft has been criticized were BENEFICIAL to consumers because they provided a standard platform that all application developers can depend on. The result? More reliable application software (=less frustration for consumers). The proposed settlement seems to me to prevent future abuses while protecting consumer rights. We should go forward with it.

MTC–00024769

From: rdornbos@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

I've been using Microsoft products for almost 20 years. Never any problems. Never been pressured to use their products did it by CHOICE as it should be. Govt. should stay out of this and let the public decide what products they prefer to use. McNeely and Ellison are simply unable to compete so they are crying to the Govt. for help. Let the users decide what products they want to use ! ! ! !

MTC–00024770

From: bobnaomi@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

leave ms alone

MTC–00024771

From: hrtuck@att.net@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

Microsoft was found guilty of monopolistic practices. Enron was on the edge of accounting rules Microsoft went over the edge in dealing with competitors and PC manufacturerers. They are delaying a just penalty. They offer to give $1 Billion in software to schools. In 1969 one of the issues in the antitrust case against IBM was that they were selling or giving away computers to Universities. Microsoft has the chutzpah to say this is a good deed when it is nothing more than a marketing ploy to get into k–12 schools. The bundling of Internet Explorer into Windows without permitting PC manufacturers from deleting it was a predatory action against Netscape. When a powerful company offers something free that competes with a product or service of a small company that is predatory. When it looks like a skunk and smells like a skunk it s a skunk.

MTC–00024772

From: traines@inforefinery.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

The government s (at the behest of Netscape and others) continued pursuit of the case against Microsoft is an outrage. I use Microsoft s products every single day. Not because I am forced to by a monopoly or other pressures but because they make quality software. Given the choice between a Microsoft product and another company s I'll almost always choose Microsoft s. Building a browser (or any other functionality) into their operating system is convenient for consumers. And I can load Netscape s browser (or any other software) onto my computer any time I like. I just choose not to. Microsoft should be allowed to incorporate any additional features they choose.

MTC–00024773

From: gbelldabfo@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

I feel very strongly that the settlement is fair and just. I also feel that those that do not think so are driven by competative motives that are not in the interest of those that use technology on a daily basis. I use MS products but do not feel that I have to use them and do use other products that compete with MS products. In no way do I feel that I am hindered as a consumer due to MS s business practices if there is a better product out there I will purchase it to run my business.

MTC–00024774

From: wa—mouse@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

I am in support of this settlement just because I want the matter to go away. Let s close the book on this issue and let the market decide who the winners and loosers not the government or states. This is a free market society and governments and states have no business or knowledge about technology.

We spend too much time in litigation and not much time left for innovation and progress. All this cost tax payers millions of dollars for nothing only politicians and lawers got rich from it. I WANT MY TAX DOLLARS TO BE USED FOR SOMETHING MORE USEFULL (AND THIS LITIGATION IS CERTAINLY NOT USEFULL) OR GIVE ME MY TAX MONEY BACK.

MTC–00024775

From: dcpab@Juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

I have purchased and used Microsoft software for over 15 years. I have tried others and always came back to Microsoft. I do not believe that other companies should be given the technology that Microsfot designed. Let these other companies come up with their own. Too much money has been spent punishing a company that was only carrying out the idea of free enterprise. I suggest that more time be spent on matters that will protect us as individuals from something serious.

Respectfully submitted
D. Carroll Brackett

MTC–00024776

From: csicskcj@rose-hulman.edu@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

At this time in the United States it would seem that going back to business as usual would be the obvious choice. I agree. I think that this settlement although at times unfair to microsoft is better than prolonged litigation. As a consumer I have to say that I was happy to get a free web-browser from microsoft so have no sympathy for netscape s old practices. This settlement should stand and as American corporations the competitors of Microsoft who are really the interested parties should strive to win in the marketplace not the courtroom.

MTC–00024777

From: june.allen@gte.net@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

As a senior citizen and great grandmother I m appalled that this Microsoft case was ever accepted by the courts in the first place. I will NEVER do business with those companies who filed against Microsoft and have personally deleted AOL and any product of the complaintives out of my computer. Please accept the settlement on behalf of all the consumers who were never injured in the first place with the browser.

Best wishes and thank you
June M. Allen

MTC–00024778

From: jmd@wrkgrp.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

The expansion of OS services beginning with the inclusion of TCP/IP to Win95 has been a significant boon to consumers. The Internet explosion occurred with the release of free browsers to the public which financed their invention at the University of Illinois. The concept that the public was harmed by MSFT giving away the browser it originally purchased from the copyright holders mocks any standard of fairness.

MTC–00034779

From: scott.a.oberle@boeing.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Enough is enough!!!!!!!! The first suit was ridiculous now with the AOL suit it is getting out of control. Find another golden goose. Microsoft and the US economy as a whole have suffered enough!!! The justice department netscape and AOL should have to reimburse everybody hurt through this.

MTC–00024780

From: jgsmith@jamesmith.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:21pm
Subject: Microsoft Settlement

I find the proposed Final Judgement to be deficient in several areas, especially when compared to how like behavior would be treated if the defendent were an actual person.

Section III.C.4 does not prohibit Microsoft from requiring a Microsoft Operating System be installed or sold on/with any system containing an alternative Operating System. Nor is this behavior prohibited by section III.G.1.

Section III.D is a closed forum. An open forum modeled perhaps after that of the IETF (Internet Engineering Task Force) should be used to ensure everyone has access. The purpose of this section is to enhance competition. Anyone who is for competition should not be against a little more. Section III.E is also a closed forum. Communication Protocols should be published and should be standardized outside of Microsoft. Internet protocols MUST be standardized via the RFC processes within the IETF.

Section III.G.1 is too weak to keep Microsoft from returning to prior practices. The words 'except that Microsoft may enter into agreements in which such an entity agrees to distribute, promote, use or support Microsoft Platform Software in a fixed percentage whenever Microsoft in good faith obtains a representation that it is commercially practicable for the entity to provide equal or greater distribution, promotion, use or support for software that competes with Microsoft Platform Software" should be struck.

Section III.J.2 should include more than just commercial products. APIs should be available without cost to anyone who has an interest, whether as a hobby or as a business. This is a market economy. If someone wants to do something for free, they should be able to. By limiting access to crucial APIs and protocols to only people and entities which can demonstrate that they will profit from the knowledge, the market has not been significantly opened up. Many innovations, to borrow a term that has been bastardized by Microsoft, come from people toying around with ideas and not trying to make a profit.

By not punishing Microsoft in any significant way, Microsoft, and indeed the world, has learned that to be a success means to break the law big and quick, make a lot of money, and contribute to political parties when you get caught so no one will steal the lunch money from the bully. Enron is making good on this at the moment as well.

In most drug-related cases, the defendent's money is seized before being found to have commited a crime because the money is from illegal behavior, as defined by the prosecution and the police. If that can be done before the case has ever seen a court room, then how much easier must it be to remove money from Microsoft who has already been proven to have broken the law. Microsoft should pay damages in some multiple of $10 billion. Money is all that companies care about—their bottom line—their reason de etre. Everything else in any judgement is just window dressing and will be lived with.

The Justice Department has an opportunity to help the consumer, but the President has an opportunity to help his constituency. I pray the Justice Department will prevail.

James Smith—jgsmith@jamesmith.com/
http://www.jamesmith.com/
jgsmith@tamu.edu http://cis.tamu.edu/systems/opensystems/
CC:jgsmith@jamesmith.com@inetgw

MTC-00024781

From: albaocasio@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Keep settlement as it is

MTC-00024782

From: bobj@microsoft.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

The remaining State CIO s have a political agenda to help prop up Microsoft s competitors. Microsoft has done a great service by building a huge industry in the United States. Microsoft has helped consumers by bringing low cost computing to all of them. The very competitors who are complaining about Microsoft have done nothing to lower their prices to bring more power to consumers except in response to Microsoft s low prices.

Bob Jones

MTC-00024783

From: cncco@alaska.net@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

We are very much in favor for the goverment and Microsoft to settle. Microsoft has done more for the world in PC computer use than any other company. The continous lawsuits by the 12 states and others is nothing more than to extract money for both the lawyers and the states. Go after the types of Enron and accounting firms that would do a lot more good for the public.

Sinserely
Josef Ressel

MTC-00024784

From: michael.little@worldnet.att.net@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

As a Microsoft product consumer would someone please tell me where I have been harmed?????? There are 75 people DEAD as the result of Firestone tires and not near the attention or dollars have been spent on investigating that issue. Yet taxpayers dollars at the prodding of Microsoft competitors continue to be misspent!!!!!

MTC-00024785

From: DaynaWh@windhamhills.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Please do not punish Microsoft for being forsighted and innovative. They are wonderful. They have made my job so much easier. I can troubleshoot so easily with their products and they integrate seamlessly. This is a waste of taxpayer money and of Microsoft s funds. We the consumer are the ones that will ulimately pay the price. Stop the insanity.

MTC-00024786

From: ormetony@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

As a taxpayer and consumer I believe that the recent law suit filed by AOL/Time Warner against Microsoft is an indication that AOL and other Microsoft competitors are using antitrust law as part of their business strategy to compete against Microsoft s products. I do not believe that sanctions against Microsoft will benefit consumers in any way.

MTC-00024787

From: scottomalley@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

To whom it may concern It is my opinion that the antirust suit brought against the Microsoft Corporation is unfair. I fear it is motivated by business interestes rather than the interests of the consumer—which is why antitrust laws were created. I ve worked for 2 years in the Internet industry where I ve learned firsthand why Microsoft dominates the various markets it competes in—their products are superior to the competition. In our society a superior product is rewarded with profit. Please do not penalize a company that makes quality products because of anti-big business propaganda born in the Public Relations departments of Microsoft s jealous competitors.

Thank you.
Scott

MTC-00024788

From: Andrew Frank
To: Microsoft ATR
Date: 1/25/02 3:04pm
Subject: Microsoft Settlement
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530–0001

Dear Mr. Ashcroft,

Like most other companies involved in the IT industry, I have not experienced any particular problem directly attributable to the rather inflammatory litigation involving Microsoft and our government. Our concerns, like most other businesses, center more around concerns of our country's softening economic picture than anything else. That having been said, however, is not to suggest that had this lawsuit continued to its anticipated bitter end, its result would not have complicated the business picture for most IT companies one way or another. It is better for our country and the IT business that this lawsuit has been removed from the contentious battlefield of the courts and has instead been relegated to a settlement. This settlement addresses the issues raised by the court action and serves as a quieter, less factious way to conclude this matter to everyone's satisfaction. It quietly shifts the onus of licensing Windows from individual OEMs to a collective of the top twenty hardware manufacturers. It also subtly forces changes in the way Microsoft designs Windows to accommodate software companies.

I am very much supportive of the settlement, and am hoping that with its acceptance, we can all benefit from being able to move forward.

Sincerely,
Andy Frank
Andrew K. Frank, PhD
Vice President & General Manager
The Training Camp
1812 Marsh Road, Suite 200
Wilmington, DE 19810
1.302.475.0283—phone
1.302.475.1571—fax
afrank@trainingcamp.net
Visit our website at http://www.trainingcamp.net/

"Because you are only as good as what you know"

MTC-00024789

From: forspam2@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Microsoft must be stopped from using its vast predatory powers. There must be NO settlement until this out of control corporation is held accountable for its monopolositic practices. Instead of giving its vastly inferior operating systems to schools it should be made to supply Linux. To do otherwise only allows this monopoly to grow.

MTC-00024790

From: missbalckie@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

What mankind really needs is a break from people like Orin Hatch and Sun Microsystems CEO Scott G. Mc-Nealy who complain about Microsoft. None has bothered to offer a superior product. Instead they have used the government as a strategic weapon to cover their own inability to develop something better.

The time has long since past for people like Orin Hatch and the government to leave Microsoft alone!!!

Douglas Shortridge
117 Cameron Dr.
Battle Creek Mi. 49015

MTC-00024793

From: barrydbloom@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

It is time for companies to quit using the federal government and the judicial process because they can t compete. The computer industry is one of the strongest most profitable industries in the world. Government interfernce at this point in its history is premature and damaging. Please focus your efforts on problems with the telecom industry and leave the computer industry alone. We don t need your help.

MTC-00024794

From: Ramesh.Shah@
sspsolutions.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

I feel the settlement reached by the govt is fair and equittable.In my opinion Microsoft has been picked on for being an sucessful co.I dont see any monopolistic behaviour.Its time to move on and stop wasting tax payer money.

MTC-00024795

From: kennhat@attbi.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:55pm
Subject: Microsoft Settlement

It time tell the friends of Sen. Hatch and the other parties to beat Microsoft in the marketplace and quit trying to use the Goverment and the courts. It is my place as a consumer to pick and chose the best products not the courts. Let us pick the winner not the Goverment !!!!!!!

MTC-00024796

From: agapa1@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

THE ONLY REASON RENO (CLINTON) BROUGHT CHARGES WAS BECAUSE BILL GATES DIDN T GIVE MONEY TO EITHER PARTY. I FEEL THAT ALL CHARGES SHOULD BE DROPPED.

MTC-00024797

From: missal101@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Enough of this attack on one of our most respected companies Microsoft. We expected as much from the previous administration but did not expect the witch hunt to continue in the Bush Administration. Our portfolio. has been negatively affected by the Clinton Justice Department s attack on MS. Stop it now and get back to catching real crooks.

MTC-00024798

From: creightonlvx@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

It s time to get off Microsoft s back. This garbage revolves around a FREE software bundle and a lot of us can see right through the whining about it. THis is really a message that the government will enable anyone to go after successful capitalists and it s a lousy grab for power. Get over it.

MTC-00024799

From: DmanHS@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Bill Gates is just a man in business like anybody else and he came up with a product that s been aggressively marketed and perhaps better than anything else like it. Why should someone or a company be faulted for being better and more successfull than anyone else provided that they are being ethical about it.

MTC-00024800

From: chuckselk@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Can you imagine what life would be like without the computer? How advanced do you think the world would be in computer usage if Bill Gates and Microsoft never existed. Bill Gates should be recognized at the man of the 20th century that has done so much for not only the USA bu the whole world. Other companies are already benefitting from Microsoft s taking risks in the 80s and its pool of ingenuity and software dominance. Don t punish people for being successful except in the income taxes they pay. All branches of government city county state and federal have benefitted from the taxes Microsoft and its employees have paid. Don t stifle new inventions and software.

MTC-00024801

From: Mgostovich@triumphtx.org@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

We founded this country on the belief of free enterprize and freedom to compete in open markets. When a company like Microsoft does this too well everyone jumps in and forces the government to save them. The truth is that if other software manufacturers could put a product that worked as well as Windows we would be using it. Microsoft should have the right to do what it wants with a product that it created. The government nor the other software companys own windows Microsoft does. To tell them what they can and can t do with it is appalling to me.

MTC-00024802

From:
dodd.harris@tricon-yum.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

I am fully supportive of the settlement negotiated between Microsoft and the various Attorneys General referenced here. The uncertainty this case has caused the technology sector has had a strongly deleterious affect on the sector and the stock market and cosumers desperately need security that a final conclusive settlement will provide. Please effectuate the terms of the settlement with all due haste.

Cordially C.
Dodd Harris IV

MTC-00024803

From: lj25seitz@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Please stop this none-sence! It all started with Netscape and it was not a working system than nor is it much better now! It still works like the writer of that program(Netscape) has less than a year of experience. Also every PC that I have bought has always had Netscape loaded on it!!!!!!! They do not have a leg to stand on.

MTC-00024804

From: mikekern@microsoft.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

I think the sttlement was unfair to Microsoft and is being inconsistently applied to computer vendors. There is nothing that MS did that companies complaining about MS have not also done. Indepenent of the question of fairness/rightness there is a blatent inconsistency being applied here. THIS IS CALL FREE ENTERPRISE! Not monopoly. The competitors are taking advantage of the justice system and polictical favortisum to make up for what they lack in their own product line and abilities. This inconsistency would be laughable if it were not for the serious ramification were MS forced to stopped providing the public with the best products it can. Please consider all factors in the light of free enterprise and consistent business practices of all competitors.

Thank you.
Mr. Kernaghan

MTC-00024805

From: RSadler@Tadv.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

For too long the government has assisted Microsoft s competitors. It s time for them to compete in the marketplace not in the court room. The settlement proposed by DOJ is more than fair for all the parties involved and paves the way for a return to normalcy in the technology sector.

MTC-00024806

From: Dessertfox@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Please accept the current settlement and avoid additional litigation. Thank you

MTC-00024807

From: jamesc@phoenixhitec.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Microsoft has provided great convenience for my life and our company s operation. Their products are so good and in the meantime I don t have problem to switch to their competitor s product if needed.

However I will still prefer the Microsoft products. I don t see the monopoly. And I can only see the inconvenience by restriction of a pre-loaded Windows. I totally support the settlement. And I strongly suggest you that not let a few special interests person and not so great competitive competitor to ruin such a great company and their products.

MTC-00024808

From: karen@Reportware.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Please accept this settlement and put this to bed. I believe this settlement is a fair (though tough) compromise that is in the best interest of everyone—the technology industry the economy and especially consumers. For the sake of the economy please use your influence to accept this settlement and allow Microsoft do what they do best develop and distribute integrated software.

Sincerely Karen Hanshaw

MTC-00024809

From: bruce—amberson@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:57pm
Subject: Microsoft Settlement

The current settlement with Microsoft is sufficient. Do not allow those companies who have an agenda other than innovation in the free market sway a fair decision.

MTC-00024810

From: bob@arnoldsmithins.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

I feel the seetlement reached on the Microsoft Case is more than fair and adequate and should be finalized.

MTC-00024811

From: blomsoy@harborside.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:57pm
Subject: Microsoft Settlement

Please do the patriotic thing let Microsoft produce without further interference.

MTC-00024812

From: Todd Azzara
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 3:03pm
Subject: Microsoft Settlement

Dear Sirs,

I believe that the proposed settlement agreement is a bad idea, m'kay? No, really. There are no provisions for Microsoft documenting the API's they DO release, and there is very restricted third-party developer access to any API's, among many other items. Microsoft must be taken to task for its constant anti-competitive practices and this settlement WILL NOT accomplish anything.

Thank you.

Respectfully,

Todd Azzara, Senior Real-Time Adaptor Developer
EP1 Core Adaptor Team
S1 Community and Regional eFinance Solutions Group
12401 Research Blvd. Bldg. 1, Suite 400, Austin, TX 78759
512.336.3000 x3032 / 512.336.3250 Fax
Email: todd.azzara@s1.com

MTC-00024813

From: mgb—bas@mediaone.net@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Darn it get on with this assinine case and accept the settlement completely NOW. Don t let the courts do to a successful and forward thinking company what they did to AT&T. If competing companies want a greater share of the market let them BUILD A BETTER MOUSE TRAP IF THEY CAN.

MTC-00024814

From: Patricia Abbott
To: Microsoft Settlement U.S. Department of Justice
Date: 1/25/02 3:00pm
Subject: Microsoft Settlement

Patricia Abbott
177 Hobble Creek Canyon
Springville, UT 84663
January 25, 2002
Microsoft Settlement U.S. Department of Justice

Dear Microsoft Settlement U.S. Department of Justice:

The Microsoft trial squandered taxpayers dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

Patricia Abbott

MTC-00024815

From: eric@northcomp.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:57pm
Subject: Microsoft Settlement

As a user of both Microsoft and other products forcing Microsoft to submit to this sort of scrutiny is a waste of my tax dollars. Unlike the Baby Bells that seem to avoid all scrutiny like this Microsoft continues to provide BETTER products and BETTER service. Perhaps DOJ should focus on the real crooks like Enron.

MTC-00024816

From: Jera Darklighter
To: Microsoft ATR
Date: 1/25/02 3:06pm
Subject: Microsoft Settlement

To whom it may concern,

I believe that the proposed final judgment for the Microsoft settlement will not effectively eradicate the monopoly that Microsoft has on both middleware and PC operating systems.

Firstly, there are several loopholes in the judgment that will easily allow Microsoft to keep on bundling middleware like Internet Explorer with Windows and thus keeping out competitors like Opera and Netscape. All they have to do is change the product number, and the judgment won't consider it "middleware" anymore. That is just asanine.

Microsoft makes a lot of software that is the industry standard. However, it only runs on Windows (for PC platforms—of course they make it for the Mac too). This makes it really difficult for people who prefer other operating systems, like Linux, to run the programs they really need. These individuals, including myself, are "stuck" using a product that they may feel is inferior to others available. This should not happen in an open market, where competition forces companies to make better products so they can have the largest market share.

Furthermore, although the judgment does take some positive steps toward lessening Microsoft's monopoly, it does not adequately provide for enforcement of the judgment. Please give this judgment some teeth so the average Joe out here has a little choice when it comes to operating systems.

Thank you for your consideration.

Sincerely,

Jordana Kocher
Senior Web Designer
@MOTION, Inc.

MTC-00024817

From: crystal@Reportware.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:57pm
Subject: Microsoft Settlement

Please accept this settlement. It is fair and in the best interest of everyone.

Sincerely

Crystal Shuey

MTC-00024818

From: douggoodyear@att.net@inetgw
To: Microsoft ATR
Date: 1/25/02 2:57pm
Subject: Microsoft Settlement

I have been opposed to the federal government s lawsuit against Microsft from the day it was filed. I have always thought it was a bad idea to punish a company for being successful in the marketplace. Worse it seemed as if the Justice Department was doing the work of Microsoft s competitors—AOL Sun Oracle to name a few—for them primarily because they were losing in the marketplace. For that reason I support the proposed settlement with the government. The suit never should have been brought in the first place. If there s an opportunity to settle it we should do so ASAP—no more money time or energy invested in persecuting this successful company. I support the DoJ s efforts to settle and hope the Department will focus on prosecuting real criminals instead of manufacturing trumped-up cases against good corporate citizens. No more regulation via litigation please.

Sincerely

Douglas Goodyear

MTC-00024819

From: Mac.com
To: Microsoft ATR
Date: 1/25/02 3:06pm
Subject: Microsoft Settlement

Dear Sirs,

I am stockholder in Apple Computers. I am also an instructor of computer sciences at the college level in Tulsa, Oklahoma. As you might expect the outcome of this trial is for most on my mind. I have been reviewing all related materials I can regarding this case since it's inception, and I am a firm believer that our computer experiences would be much better off if Microsoft where a better corporate and consumer partner.

I have read the proposed settlement between MS, the DOJ, and nine states, and agree with many analysts who have said this settlement would do little to inhibit MS from continuing there previous behaviors.

I feel that in order to allow free competition in the operating system market, Microsoft should not be allowed to bundle new software with there OS. To do so allows the company an unfair marketing advantage over competitors. Further, staple applications such as Microsoft Office should be available for all competing OS's with significant market share to warrant a profitable product. That would include the continuation of MS Office for Macintosh and the developing of MS Office for Linux.

Lastly, MS should set specific prices for there products based upon volume and not based on the specific customer. In other words, if Compaq and Dell purchase an equal number of licenses then they should each pay the same price. This would prevent MS from bulling PC venders around based on the business practice of the particular vender.

Joel Sutton
Tulsa Community College
(918) 595–7000 ext 7146

MTC–00024820

From: aitala@olemiss.edu@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Microsoft must be stopped—they are now spamming folks with requests for favorable comments on the settlement. Break Microsoft up stop them from making things even worse.

MTC–00024821

From:
kmaxwell@fabio-perini.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

This settlment forces Microsoft to license any intellectual property rights that others might need to compete with Microsoft. I disagree with this penalty placed on Microsoft which has been placed on Microsoft not for the reason this case initially brought to trial but to penalize Microsoft for being the only company to successfully create an operating system for X86 platform. If the court is going to offer this appeal the appeal needs to be such that in ALL software developers will be forced to license their intellectual property rights. For example Sun Microsystems would have to license their intellectual property to Microsoft. Only in this sense will settlment truly offer something fair and justified.

MTC–00024822

From: Phil Tomson
To: Microsoft ATR
Date: 1/25/02 3:26pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Under the Tunney Act's provision for public comment I would like to comment on the proposed Microsoft settlement.

I have been involved in the computing industry as an engineer since 1984. For the last eight years I have been a software engineer. During this time I witnessed firsthand how the rise of Microsoft's monopoly in the operating system market adversly affected the software industry by limiting choices. Microsoft has been found guilty of anitcompetitive practices and illegally maintaining a monopoly. The proposed settlement effectively does nothing to stop Microsoft's anticompetitive practices and in fact I fear that it will actually give Microsoft the cover of legal authority to continue such practices in even greater amounts. If the proposed settlement is approved unchanged it will have grave negative consequences for the computing and software industries as well as for access to the Internet. These industries are key to the US economy and this settlement effectively hands them over to Microsoft.

The proposed settlement could be fixed with the following requirements:

* Require Microsoft to make it's office suite data file formats public. This would allow competing companies and organizations to create products which can interoperate with Microsoft's office suite, thus allowing competing operating systems to have applications which can read and write these formats which are now ubiquitous due to Micrososft's monopoly.

* Require Microsoft to submit present and future (perhaps for a period of ten years) networking protocols to an independent open standards body. This would prevent Microsoft from creating incompatible netoworking protocols that would shut out competitor's access to the Internet.

Require Microsoft's preload agreements to be vacated and prohibit the creation of new preload agreements.

Require the Windows OS API (Application Programmer's Interface) to be publicly documented. This would allow the development of competing products that could interoperate with Windows. It would also expose certain portions of the API which Microsoft has kept secret up to this point. And this provision should apply to ALL versions of Windows, including Windows XP and WinCE (which are not covered in the current agreement).

Require Microsoft to list which software patents protect the Windows API so that developers of Windows-compatible operating systems can determine what is patented and avoid infringing.

Require that Microsoft change their EULAs to not discriminate against ISVs that distribute Open Source software. Many of Microsoft SDK (Software Development Kit) EULAs prohibit their use with Open Source (freely available under certain licenses like the GPL (GNU General Public License)). This type of discrimination should be eliminated.

And finally, the current agreement appears to lack an effective enforcement mechanism. It does provide for the creation of a Technical Committee with investigative powers, but appears to leave all actual enforcement to the legal system. The agreement needs to be ammended so that it has an effective enforcement mechanism that is invoked when Microsoft breaks the agreement. This is a matter of utmost importance. If the current agreement is not changed, it will effectively hand over large portions of the computing industry and the Internet over to Microsoft's control—this would be a very tragic outcome and it is avoidable.

Phil Tomson
Software Engineer
19310 SW Oak St.
Aloha, OR 97007
ptkwt@aracnet.com

MTC–00024823

From: dogjerde@worldnet.att.net@inetgw
To: Microsoft ATR
Date: 1/25/02 2:57pm
Subject: Microsoft Settlement

The Federal Government has been much too harsh on Microsoft. In the first place there never was a monopoly on Microsofts part. Everyone knows that anyone can and does write software. Nobody has or ever will have a monopoly on writing software. So there was no monopoly and the case should have been dismissed at that point. We who have invested our life savings in a very fine company like Microsoft now see the government destroying everything that we have worked so hard for. Every time lawyers and judges destroy investor confidence by actions such as this our economy our nation our investor spirit is weakened. It is small wonder that our economy is in such bad shape. Every time we consider investing in a particular company we become fearful of what the government may do to a fine company. We are supposed to be a free country. Microsoft certainly followed all the laws. So why punish them? Which companies are we to invest in if not fine companies like Microsoft? It sounds so much like the Democrats. Wait for someone to do well. Then become jealous and ask the government to destroy the company that you are jealous of.

MTC–00024824

From: jenfunk@mac.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:57pm
Subject: Microsoft Settlement

This judgement is a farce. Complete idiocy. Bad Microsoft! We order you to establish yourself in a market you do not already own and in fact one of your most dreaded compettiors DOES own as a PUNISHMENT. Oh yeah I m sure MS is cryin in their beer here. APPLE is the WELL KNOWN dominant educational platform and the judgement all but hands it to them on a silverplatter by REQUIRING THEM to become active in it s makeup. PUNISHMENT would be the m having to SUPPORT the ecucational systme by BUYING APPLES to put in schools. Is this justice? Hell no. It says long live monoploies becasue you ve just insured to get more of the same. More MS dominating every market and NOW the educational market as well wow some punishment. Good job buckwheat.

Hope you can salvage your soul from hell. Yay america. I sure hope the same jdges don t decide the terorrist s fates because they ll be sent to Club Med with explosives.

MTC-00024826

From: shamus@industrialego.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

I support the settlement of US Government s case with Microsoft. I think it is the best interest of consumers to let Microsoft get on with the business of making great software products. The state Attorney Generals are holding out for political reasons that are not in the consumer s best interest. Here in California the state AG is playing to the leaders in high-tech such as Larry Ellison of Oracle and Scott McNealy of Sun Microsystems. What these men have been unable to achieve by consumer choice in the marketplace they wish to force on people using the strong-arm of the government. Sounds likes the mafia to me. Settle the case now.

Shamus Brown

MTC-00024827

From: Stephen Nosal
To: Microsoft ATR
Date: 1/25/02 3:08pm
Subject: the microsoft settlement Folks—

I would just like to express my displeasure with the proposed settlement with microsoft. I oppose it because it does not specifically address the issue of "free" software and volunteer development. If there is no specific language validating volunteer software developers I believe Microsoft will use a "viable business" requirement to exclude these people from developing useful software. As a small business owner, I am unable to afford many of the products that microsoft sells—it comes directly off of my bottom line. Please modify this settlement to insure the rights of volunteer developers to create and release compatible software.

Thank you for your time.
- Stephen Nosal
mybrewpub.com
New York, NY

MTC-00024828

From: mjacobs@microsoft.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:57pm
Subject: Microsoft Settlement

Microsoft has done more than any other high technology company to build products for the people. Please bring this trial to an end as quickly as possible so that the industry can focus on serving the best interests of the American public and not a few of Microsoft s competitors. Settle now and move on.

Thank you.

MTC-00024829

From: morcos@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

I applaude the DOJ for willing to finally settle this ridiculous lawsuit with Microsoft. I believe that the market takes care through competition and hard work and this is what the American system is all about. Let the company do its business and keep the US as the most advanced country in the world and let the whiny competitors of Microsoft work to satisfy their customers by producing better products. It is after all customers who decide which products are the best.

MTC-00024830

From: aadieringer@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Enough is enough stop wasteing money and settle case

MTC-00024831

From: Randy@ReportWare.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:56pm
Subject: Microsoft Settlement

Please put the Microsoft case to rest and approve the pending settlement. As a technology professional I have a great appreciation for the innovation and quality represented by Microsoft s software and don t want to see them impaired by intrusive government action— action pushed by competitors who seek unfair advantage for their inferior products. I don t work for Microsoft nor have any ties to them I simply want the best tools to allow me to do my job and I believe that Microsoft provides them.

MTC-00024832

From: idealist—@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 2:57pm
Subject: Microsoft Settlement

The ruling between Microsoft and the States is extremely fair and should be allowed to stand. The economy can not take all this tearing down of American companies. Don t we still have something called capitalism?

MTC-00024833

From: Jon Bell
To: Microsoft ATR
Date: 1/25/02 3:07pm
Subject: Microsoft settlement

Hello, I strongly agree with the government's stance on this case against Microsoft. In the mid-90s, before this case was brought against MS, I read up on the subject quite a bit.

I went from most people's opinion ("they found the american dream and now they're being punished") to a more informed one. It's obvious that they've abused monopoly power, and it's obvious that it's hurt the market. They haven't necessarily harmed consumers, but abusing the monopoly power they have is bad enough to bring a case against them.

I hope this case results in serious, measurable consequences for Microsoft. You have my support.

Thanks,
Jon

MTC-00024834

From: FXR3464@AOL.COM@inetgw
To: Microsoft ATR
Date: 1/25/02 3:04pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Frank Roche
393 West 49th St 5NN
New York, NY 10019–7900

MTC-00024835

From: ethelp@earthlink.net@inetgw
To: Microsoft ATR
Date: 1/25/02 3:04pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
ETHEL PARKES
1737 TIMSON LAME
BLOOMFIELD HILLS, MI 48302

MTC-00024836

From: Brian Morton
To: Microsoft ATR
Date: 1/25/02 3:08pm
Subject: Microsoft Settlement

As a Macintosh and Linux user, with the exception of using Internet Explorer for OSX, I have read and listened to much of the commentary about the DOJ's settlement with Microsoft and it looks like you guys are selling out. We have seen Microsoft use it's monopoly status and greed to invade every market they enter, let us do the "right thing" and put a hurt on them. I think breaking them up as originally proposed would be a great solution and would then offer some real competition into the computing space.

Brian Morton

MTC-00024837

From: FixIt
To: Microsoft ATR
Date: 1/25/02 3:10pm
Subject: Microsoft Settlement

bad idea guys

MTC-00024838

From: Jim Hassinger
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/25/02 3:10pm
Subject: Microsoft Settlement

This disgraceful defanging of the court's decision will go down in history as a missed opportunity, brought about by the Bush administration's toadying to all sources of capital, from Microsoft to Enron.

The original decision should have been executed, as a bare minimum. My views on the matter are neatly stated by Prof. Lawrence Lessig's recent work on related matter, "The Future of Ideas." The Internet, in particular, must be saved as a truly neutral platform for development. If the government, and its eminently qualified scientists, were to continue actively supporting that rule, Microsoft would be forced to break up by the "free" market created.

Yours truly
James Hassinger
1149 Coronado Ter
Los Angeles, CA 90026

MTC-00024839

From: Randy Ajax
To: Microsoft ATR
Date: 1/25/02 3:10pm
Subject: Microsoft Settlement.

I believe the terms proposed under the Microsoft settlement to be just and fair for all parties.

Thank you
Randy Ajax
President, Vending World
Please visit our web site at:
http://www.vendingworld.com

MTC-00024840

From: Michael R. Brumm
To: Microsoft ATR
Date: 1/25/02 3:11pm
Subject: Microsoft Settlement

I have reviewed the revised proposed final judgment for the USA and individual states against Microsoft.

As an ISV who develops software for Windows, I feel that the proposal is more than fair.

MTC-00024841

From: Art
To: Microsoft ATR
Date: 1/25/02 3:10pm
Subject: Microsoft settlement...

Didn't Netscape give away it's browser in order to insure there would be no competition arise to compete with its" product? If that's not anti-competetive, what is? If Microsoft with its" deep pockets hadn't come along there'd have been no incentive for improvements to Netscape and no Microsoft browser alternative. And Netscape has no damage because its" browser product was being given away free. Microsoft should demand a set-off from Netscape because the growing popularity of IE reduced the financial damage Netscape was inflicting on itself by giving its'loser browser product away.

Art Krannawitter
135 Camino del Sol
Vallejo, Ca 94591
707-557-5909

MTC-00024842

From: moodybk@iimef.usmc.mil@inetgw
To: Microsoft ATR
Date: 1/25/02 3:07pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Bryan Moody
124 Wilson Court
Jacksonville, NC 28546

MTC-00024843

From: Gary Curtis
To: Microsoft ATR
Date: 1/25/02 3:12pm
Subject: Microsoft Settlement

This final settlement does nothing to punish Microsoft for its past behavior or to address that damage that has been done as a result. The effect of this settlement is to bar Microsoft from certain behaviors that have been found to be anti-competitive and illegal. As a result the settlement looks more like a clarification of the law, as it applies to Microsoft business practices. I am certain that Microsoft will find "innovative" new ways to use its monopoly power to hinder competitors even if this particular settlement is rigorously enforced. I am very disappointed that more will not be done to address the damage that Microsoft has done to the advancement of the state of the art in computing.

Gary Curtis (Ph.D Computer Science) —
CC:garycurtis@home.com@inetgw

MTC-00024844

From: Atlas Int'l
To: Microsoft ATR
Date: 1/25/02 3:12pm
Subject: Microsoft Settlement

hello—

i do not have the time in my busy schedule to pen my objections to every single point of the microsoft settlement. suffice to say that this farce of a settlement proposal would be nothing short of comical if it were not for the fact that you (the DOJ) are actually considering it. the whole point of the original lawsuit centered around the "lockin" principle, whereby an entity in essence infects a host (computer user) so profoundly with its product (windows and other microsoft software) that migration to a to a more effective, cheaper, more efficient, or otherwise better system becomes economically and/or logistically unfeasible.

any proposal by microsoft to not only perpetuate its "lockin" practices, but to further press them into areas (education) where it has not been fully implemented is laughable.

the core of the "lockin" problem lies in the fact that microsoft will not divulge information (software APIs) needed by competitors to produce products capable of nominal performance on the same hardware. there is a similar scenario in the microprocessor production industry between AMD, Intel, Cyrix and other chip makers. through intensive and carefully scrutinized licensing agreements, this area has remained free from the strong-armed tactics we see microsoft employ (which Intel would be quite happy to implement ala microsoft—were it not for these agreements). this relationship between microprocessor producers did not happen by accident. it has been the result of the annual multi $million legal efforts put out by the standards boards and involved companies. this is the sort of action that needs to be taken with microsoft. simply allowing microsoft to pass out software which will further their dominance in established markets (and incidently doesnt cost them a thing—what's a cd cost $.02?) and improve dominance in other markets will not solve a thing.

please, for the love of America FORCE this bully of a corporation to play by the same rules as the rest of us.

bob holkan
8109 otium way
antelope, ca 95843
(916) 454-3447

MTC-00024845

From: Michael Favor
To: Microsoft ATR
Date: 1/25/02 3:10pm
Subject: Tunney comments from one software developer

I appreciate the opportunity to comment. I will be as brief as possible, and I hope my comments will be taken seriously.

The proposed remedy recognizes that if Microsoft can keep part of the API secret, it has an unfair advantage over competitive Windows applications, but the proposed remedy seems to limit the use of the

API information by devleopers of competitive operating systems. If Microsoft is required to compete for the operating system market as well as the applications software market, information about the API must be available for use by developers of other operating systems as well as developers of application software. The limiting language in the proposed remedy may seem harmless, but this is a very important point.

Next, if Microsoft is allowed to develop proprietary protocols for network applications like email or web pages, Windows would be required in order to use those applications. In order to allow other application and operating system devlopers to compete fairly against the monopoly, these network protocols must also be published, similar to the API information.

Lastly, the file formats used by Microsoft applications such as the Office software are the logical "interface" between those programs, similar to the Windows API and network protocols. To the extent that these file formats are kept secret, they direcectly hinder the development of competitive and compatible software for Windows and competitive operating systems. I believe that each of these points is critical to the effectiveness of the proposed remedy, and that each one must be addressed in order to prevent Microsoft from directly impeeding the development of competitive and compatible software, and extending a monopoly that has been built based on unfair competition. Thank you for considering my comments.

Sincerely,
Michael Favor
favor@sunset.net

MTC-00024846

From: hanturner
To: Microsoft ATR
Date: 1/25/02 3:13pm
Subject: Microsoft Settlement ATTENTION: JUDGE COLLEEN KOLLAR-KOTELLY

Please settle the lawsuit between Microsoft Corp and the government now. I believe it would benefit the consumer and the economy. As a tax payor, I feel that the government has wasted a lot of money on a lawsuit that should of been settled long ago. Let's do something productive with our tax money. I'm self-employed and been using computers since the early 80's. Computer programs in the 80's were very diificult to learn to use. Microsoft created software that was user friendly and easy for the average person to use. It has improved my productivity and my life.

I URGE YOU TO HELP SETTLE AND THE LAWSUIT NOW. THANK YOU FOR LISTENING TO ME.

Sincerely.
Hanneli Turner
7118 174 St SW
Edmonds, WA 98026

MTC-00024847

From: John Booher
To: Microsoft ATR
Date: 1/25/02 3:14pm
Subject: Microsoft Settlement

To whom it may concern,

I have two brief suggestions on modifications to the DOJ/Microsoft settlement that would be beneficial to consumers and to the software industry. File Formats

All windows file formats should published so that competing developers can make compatible applications available to the public. This would make it more difficult for Microsoft to maintain its monopoly because competitors could make applications that are compatible with Microsoft Office. API

All Windows Application Programming interfaces should be made available to all developers. This would allow developers to produce competing applications in a more equal environment. Also, this information should be freely usable by competitors such as Sun Microsystems and Lindows. This would allow developers to produce competing operating systems in a more equal environment.

Thank you for you time,
John Booher

MTC-00024848

From: Jarod Belshaw
To: Microsoft ATR
Date: 1/25/02 3:17pm
Subject: Microsoft Settlement

I am writing to register my objection to the proposed Microsoft settlement. I do not believe the current proposal serves the interests of promoting competition or remedying the impact on the Amercian consumer. Specifically, I believe the current proposal will stifle competition by giving Microsoft a leg-up on competitors under the guise of a settlement. Permitting Microsoft to settle the matter by delivering Microsoft products to school systems, which traditionally tend to favor other vendors (e.g., Apple), would be tantamount to state-sponsorship of the extension of Mcirosoft's monopoly.

Your attention to this matter is greatly appreciated.

Sincerely
Jarod Belshaw
jarod@oridian.com
"Whom the gods have chosen to destroy they will teach IBM JCL programming."

MTC-00024849

From: EUROSIGN METALWERKE
To: Microsoft ATR
Date: 1/25/02 3:15pm
Subject: ATTN: US DEPT OF JUSTICE
ATTN: US DEPT OF JUSTICE RE: MICROSOFT

Microsoft has made it possible for small businesses like us to afford computers and increase efficiency. Anti-Microsoft companies like Sun, Oracle, Apple et al offer software which is too expensive for the small business/home owner/student. If Sun, Oracle, Apple, Netscape-AOL had competitive products, the market would have rewarded them accordingly. The negative attitude by Microsoft's competitors is truly un-American -where the market rewards companies with the best values in service and products.

It is time to let Microsoft innovate freely!!

Very truly yours,
Jerome R. Bulkan
senior Vice President
Eurosign Metalwerke, Inc.
Margate, Fl

MTC-00024850

From: crouchsr@erlanger.org@inetgw
To: Microsoft ATR
Date: 1/25/02 3:12pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Sheila Renee Crouch
1603 West Varner Road
Hixson, TN 37343

MTC-00024851

From: William Tsun-Yuk Hsu
To: Microsoft ATR
Date: 1/25/02 3:16pm
Subject: Microsoft settlement

To whom it may concern,

I would like to voice my disapproval of the proposed settlement between Microsoft and the Dept of Justice. I don't think it will be at all effective in reducing Microsoft's monopolistic and predatory practices.

Bill Hsu
Associate Professor
Department of Computer Science
San Francisco State University

MTC-00024852

From: IGARFINKLE@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:16pm
Subject: Microsoft Settlement.

As a consumer, I want the Microsoft case settled. Microsoft has contributed more to the economy of this country (and the world) then any other entity in history. Let Microsoft get on with the business of innovating.

Irwin P. Garfinkle, Patent Attorney (Retired)
366 River Road Carlisle, MA 01741

MTC-00024853

From: vampsl@email.msn.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:15pm
Subject: Microsoft Settlement
44 Elsie Lane
Grand Island, NY 14072-2704 IF
MERGEFIELD LCSZ
Okeechobee, FL 34974<>
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

The Department of Justice and the Microsoft have ended their three-year antitrust battle. I think this settlement was long overdue but I welcome an end to this litigation. I do not think the initial lawsuit was merited; but I want to give my support to this present agreement and ask that you do so also. It is time to put this behind us and get back to business.

Microsoft has more than acceded to the Department of Justice's demands. Microsoft has agreed to grant computer makers the rights to configure Windows to promote non-Microsoft software programs; Microsoft has also agreed to a monitoring committee to oversee future compliance. The company is even agreeing to reveal internal information about Windows to enable rivals to write more competitive software. Enough is enough.

We need to move forward. Give your support to the settlement that your department negotiated.

Thank you. IF MERGEFIELD PARA5 But is suspense, as Hitchcock states, in the box. ambiguity's put on weight.<>

Sincerely,
No, there isn't room, the
Patricia Vampotic
0024853—0002

MTC-00024854

From: Pete Rourke
To: Microsoft ATR
Date: 1/25/02 3:16pm
Subject: Microsoft Settlement Enough!

I think that the terms of the settlement are sufficient and tough enough on Microsoft, and they are fair.

I think that we are circling the vultures that are trying to profit from this. The ingrown toenails of the legal battlers should receive another salve besides continuing to fan the flames of media controversy. I think not putting an end to this, will stifle the productive output of Microsoft, which makes products that keep a huge number of other companies generating income and employing millions of workers because of this.

If the legal wranglers of this case are latched on to gaining personal wealth for themselves, or are grandstanding for the benefit of keeping their elected positions, don't recognize that we are tired of this and should go on to other endeavors that produce a more positive output, then our country will continue to be victimized by vultures.

Pete Rourke
480–782–7744 W
480–225–8943 C

MTC-00024855

From: Kelley, David
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 3:20pm
Subject: Microsoft Settlement To Whom it May Concern;

I really think this has gone on to far. I think AOL is using this to much to there advantage. Doing anything to Microsoft will hurt the economy especially in the US. Microsoft is the ultimate example of Capitalism and allowed to continue to contributed to our overall success in the market place and as a country. Can we just even settle on the agreed upon terms and move on?

Further this suite filed by AOL is a cold vicious attack on its competitors over an issue that had already been settled.

David J Kelley
IT—Web Development Lead
Mutual of Enumclaw
800.366.5551 x 3448
253.639.6349
dkelley@mutualofenumclaw.com
pieseczek@hotmail.com

MTC-00024856

From: DavidNXA@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:18pm
Subject: Microsoft Settlement To Whom It May Concern:

As your decision is under consideration in this matter, please remember that it is important to all US citizens to retain freedom in the computing world. To preserve our rights, please make a decision that promotes freedom of choice of operating systems, software and hardware in digital creation and communication.

Thank you.
David Nicksay

MTC-00024857

From: Denny McClarren
To: Microsoft ATR
Date: 1/25/02 3:18pm
Subject: Microsoft settlement

How long are we going to allow this giant to crush any company that come up with brilliant ideas? The proposed settlement is definitely a BAD idea!

Judy McClarren
Holmes Beach, Florida

MTC-00024858

From: Paul C. Dain
To: Microsoft ATR
Date: 1/25/02 3:19pm
Subject: Microsoft Settlement
January 25, 2002
Attorney General John Ashcroft
microsoft.atr@usdoj.gov
US Justice Dept.,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am writing to express my support for this settlement reached between your Department of Justice and Microsoft. While the specific terms of the settlement encompassed more than did the lawsuit itself, the settlement at least brings this entire unfortunate chapter to a close. While I do not necessarily agree with everything that Microsoft has done, I do feel that there could have been any number of preliminary steps that could have been taken before plunging our government into a costly, protracted federal lawsuit. There is an erroneous assumption that Microsoft's products should somehow be in the public domain, as if they, too, are a government entity. Clearly they are not. Microsoft, like any other private American business, should be free to dictate the terms under which it will grant license to use its product.

Sincerely,
Paul Dain
Director, Application Development
Wirestone Chicago
pauld@wirestone.com.

MTC-00024859

From: Dorothy Lutey
To: Microsoft ATR
Date: 1/25/02 3:21pm
Subject: Microsoft

Netscape, AOL, looking for the deep pockets. Go out and earn your own money. Hard work, ingenuity doesn't always pay off.

Kudos to Bill Gates.

MTC-00024860

From: Matthew Motley
To: Microsoft ATR
Date: 1/25/02 3:20pm
Subject: Microsoft Settlement Dear Sir,

I feel that it is imperative that microsoft terminate its monopolistic practices. That is the only result of the settlement that I will consider acceptable. I do not pretend I have any idea about the best way to accomplish this; I leave such judgments to you. However, that Microsoft might continue to parlay its dominant position in computer software into dominance in other markets is unacceptable. Moreover, microsoft clearly has acted in an anti-competitive manner on numerous occasions, without remorse or any sign of a willingness to modify this behavior, and as such should suffer consequences. The penalty must be damagingly stiff, or the damages that microsoft has caused others must be reversed. Perhaps packaging Netscape, not internet explorer with their next 10 million windows sales might help mitigate one of the many anti-trust infractions. But do not back down from justice.

Yours,
Matthew Motley
351A Clinton St.
Brooklyn, NY 11231

MTC-00024861

From: David Huntsman
To: Microsoft ATR
Date: 1/25/02 3:15pm
Subject: Microsoft Settlement Dear Sir:

I have been listening to all this talk and arguments concerning Microsoft. About how all these other companies are jealous of Microsoft and Bill Gates. Here are a few things to remember before passing judgement on this case.

*It was Bill Gates who said, "I will put a computer in every household." All the computer manufacturers laughed at him.

*It was Bill Gates who took the Federal Governments lack of forsight on the internet, and turned it into a trillion dollar business for the world.

*It was Bill Gates who came up with operating systems that a novice computer person could work.

MacIntosh and Apple did nothing but try to get the business community to buy systems that were very difficult to work, extremely slow, very inefficient, and extremely expensive. But now they are angry with Microsoft because Bill Gates did what he set out to do, and every year he is constantly comming up with better ideas for the working class people. Just remember that its the working class people that pay for most everything in this country. Now I grant you that Bill Gates is not being nominated for Sainthood, but think about it, he has accomplished the american dream, and those who couldn't make their dreams come true, are trying to steal his.

In my opinion, which may or may not be relevant, this anti-trust suit is nothing more than another way to waste tax dollars, and the courts time.

Both of which could be used more usefully.

David Huntsman

Harrah, Oklahoma...

MTC-00024863

From: Jimmy Combs
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 3:18pm
Subject: If it weren't for Microsoft . . .

. . . the Department of Justice probably wouldn't even have computers!

If there is just one personal computer, anywhere at the DOJ, that holds Microsoft hardware or software, then the DOJ should be hung out to dry! As bad as you think they are, Microsoft is still the best at what they do. If the competition can't keep up with them and their developments, then tuff luck.

I read today that Wal-Mart is now the largest company in the world. I suppose next week, the Department of Justice will want to shut them down as well.

Thanks.

CC:'webmaster(a)microsoft.com"

MTC-00024864

From: David Wift
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 3:25pm
Subject: ms penalties deal DOJ-

as a technical computer user and graphic/interactive designer, i have been on the front lines of the pc wars for 10+ years—although i use multiple OS's, i most definitely prefer Macintosh, and as such, it has been painful for me to witness the numerous "dirty tricks" that Microsoft has pulled over the years in effort to lock users into their platform and programs. i won't go into details, but will make a few comments, and then make a proposal for penalties:

first off, it is ridiculous to claim that Microsoft is an "innovator'—it is well known that Microsoft's "innovation" is to either buy a smaller company's technology or create copycat programs, which they then leverage into the marketplace using their installed base. secondly, Microsoft hinders computer users worldwide by not adhering to standards developed by industry consortiums—they want consumers to think that a "standard" is something like Microsoft Word—their "extend and embrace" model means that they create a largely compliant product, but then alter crucial code so as to induce confusion, uncertainty and doubt into the marketplace, hopefully locking customers into their platform "for their own good".

i am not optimistic that this judgement will change Microsoft's behavior, unless there is substantial remedy, and i don't mean money—here is my proposal:

Force Microsoft to publish ALL APIs for their Windows operating systems—including the so-called "hidden APIs'—this would allow developers for Windows software to be on a level playing field w. Microsoft's own engineers, as well as allow outside scrutiny of their code. it has been long speculated that Microsoft maintains a huge advantage in developing for Windows because it alone has access to many APIs that outside developers never see

I would like to see additional penalties/remedies, but have no further suggestions—my opinion is that Microsoft has and continues to leverage it's monopoly position for its own gain, and to the extreme detriment of its competitors and its own customers, and without considerable remedy, and lasting monitoring, they will continue unabated, as their recent XP expansion suggests...

sincerely,
-David Witt
Interactive Designer

MTC-00024865

From: Derek Schatz
To: Microsoft ATR
Date: 1/25/02 3:25pm
Subject: Microsoft Antitrust Settlement

Dear DOJ-

I wish to express my extreme disappointment in the structure of the settlement with Microsoft. The agreement does not impose any real hardship on Microsoft, and instead lets them capture positive PR by donating money and software to schools. This part of the agreement, by the way, further strengthens Microsoft's market position by encouraging assault on Apple's traditional strong place in education. Overall, there are insufficient penalties and controls on further anti-competitive behavior. Microsoft in their arrogance clearly regards this whole antitrust episode as merely another business issue to deal with, rather than an impetus to fundamentally change the way they do business. The software industry is somewhat unusual in that the nature of platform standardization enables the market leader to erect strong barriers to entry against new competitors. This is why Microsoft must be limited in a greater fashion than would a market leader in a more traditional type of industry.

Sincerely,
Derek Schatz
Information Security Consultant
Irvine, California
714-508-9344
dpschatz@home.com

MTC-00024866

From: Ron LaMange
To: Microsoft ATR
Date: 1/25/02 3:26pm
Subject: Microsoft Settlement

it's time to setttle this case and move on. The economy is in rough shape and any signs of recovery remain distant. Does delay in settling and moving on help anyone, is it a make work project for the government lawyers

Signed , a concerned taxpayer
Ron LaMange

MTC-00024867

From: dottilivengood@earthlink.net@inetgw
To: Microsoft ATR
Date: 1/25/02 3:26pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001
Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Dotti Livengood
512 Portola Street
San Dimas, CA 91773

MTC-00024868

From: Alex Morcos
To: Microsoft ATR
Date: 1/25/02 3:28pm
Subject: Microsoft Settlement

I am writing to share with you that I am in total support of the Department of Justice and Microsoft on te proposed settlement that was reached recently. The US economy depends on firms like Microsoft for the innovation necessary to keep the US ahead of the rest of the world. As we realized after September 11, America has bigger fish to fry and the DOJ needs to pursue more emminent targets that Microsoft. Microsoft is a good company that produces great products that people love and cannot live without. Let them keep their innovation and creativity and encourage their competitors to do the same rather than use the justice system to weaken Microsoft.

I sincerely hope that you will resolve the issues with Microsoft and that you will finalize the settlement sooner than later. The new administration is already doing some great things that I believe will be remembered in history as the one of the best administrations to govern America. Keep it up and get on with more important issues.

Thanks for reading this. Alex Morcos.

MTC-00024869

From: V
To: Microsoft ATR
Date: 1/25/02 3:29pm
Subject: Microsoft Settlement

I believe that Microsoft has provided great values all along in their products and services, and that the Justice dept and all the competitors that are against Microsoft should settle this case once and for all and quit wasting tax payers money on this bogus filing against Microsoft now and any others in the future.

MTC-00024870

From: Scott Hemmert
To: Microsoft ATR
Date: 1/25/02 3:29pm
Subject: Microsoft Settlement

I have reviewed the DOJ-Microsoft settlement and believe that the settlement could have a detrimental on consumers. The settlement does nothing to jump-start innovation which has been stifled by the Microsoft monopoly. In fact, the many loopholes will in effect legitimize the business practices which the courts have found to be illegal. I feel that this settlement should not be allowed to stand.

Karl Hemmert
Orem, Utah

MTC-00024871

From: Caleb Basinger
To: Microsoft ATR
Date: 1/25/02 3:31pm
Subject: Microsoft Settlement

Stop letting Microsoft leverage their System Software (Windows) Monopoly to drown out all of their Application Software competition. It's absolutely anti-competitive!

The ONLY remedy is to break up the company, so that they won't have the ability to use their Windows market share to boost their application software sales.

It's that simple!!!

Caleb Basinger
Basinger@mac.com

MTC-00024872

From: David Roberts (MCS)
To: Microsoft ATR
Date: 1/25/02 3:31pm
Subject: Microsoft Settlement

As a citizen, a business person, and more importantly a parent; I feel the settlement is fair, just, timely, and makes a difference in the lives of children who are in desperate need o f the fruits of this settlement.

I just came back from Puerto Rico, where they were very supportive of receiving the benefits to the k-12 education system.

Please stop this clearly biased lawsuit protocol and move on.

Respectfully,
David Roberts
Father, Husband, and concerned citizen

MTC-00024873

From: Sira Webmaster
To: Microsoft ATR
Date: 1/25/02 3:31pm
Subject: Microsoft Settlement

To Whom it may concern,

This is a letter from a concerned citizen. I am actually a college student, which puts me in greater contact with computers, as they are in constant use throughout campus. I also work with computers as I am a freelance web design specialist. I felt it necessary to add my thoughts to the pool of doubts and grievances being thrown at microsoft. From my personal experience, Microsoft products continue to meet low quality standards. I feel, as a consumer, that I am being marketed Microsoft products like Hershey's markets candy bars, by throwing new colors and useless features on the outside, while still producing a defunct, mercilessly frustrating product.

Compared to all other operating systems in the world today, I would rate Microsoft Windows lowest on the list. It is badly made, doesn't serve consumer needs, and is a blatant copy of apple's operating system. I feel that Apple never should have lost the lawsuit against Microsoft because the operating system is an obvious mirror image. That issue aside, the quality of Microsoft's products is due to their emphasis and orientation towards producing more, selling more. It is an example of capitalism gone awry, and so I urge you to take matters into your own hands and amend the situation.

Thank you for your time, and I urge you to make a speedy and just decision.

Michael Jergins
The Stein Institute for Research on Aging
http://medschool.ucsd.edu/SIRA/
sirawebmaster@ucsd.edu
(858) 534-6299

MTC-00024874

From: Khouri Giordano
To: Microsoft ATR
Date: 1/25/02 3:31pm
Subject: Settlement

I am a programmer with 15 years professional application writing experience.

About ten years ago, I came to the decision that Microsoft Windows 3.0 was a way to get the graphical interface of the Apple Macintosh on my cheaper Intel based hardware. I went to the Microsoft sponsored developer conferences and came home thinking of how I was going to use the great new stuff coming out of Redmond. Since that time, I've seen Microsoft move into more areas and push out other software vendors, most notably Netscape. Having to write and support software that runs on Windows, I've seen that platform become more complex and more prone to problems. Instead of being able to discover the real cause of a few problems, I've had to work around them. If I were able to fix a problem in Windows and there was a place to submit a change, I would have.

There came a point where I uninstalled Netscape and became a dedicated Internet Explorer user because it had more features and was more stable.

These days, I refuse to buy anything with Microsoft connections. I've switched from Internet Explorer to Mozilla which is the open source project on which the current Netscape is based.

I've come to loathe the company, their practices and their top decision making executives. I and the other Windows programmers where I work all laugh along with the Macintosh programmers at the Microsoft jokes. No one defends them any more. What intelligent person would defend a company that stymies any effort of hard working and innovative people.

I've seen DR-DOS (MS-DOS compatible), GEM (Windows alternative) and even OS/2 (Windows alternative from *IBM* of all companies) come and go. Other efforts to provide compatible software are rendered completely incompatible with every new release from Microsoft. That applies to Windows and their other applications.

I realize now that Microsoft was able to outlast the Clinton administration and now the winds have changed. Microsoft stopped putting up a fight because they knew that the consequences of losing have disintegrated.

My opinion is aligned with that of a wide range of professionals in my field. The current settlement proposal does nothing to inhibit Microsoft. It leaves them free to infiltrate other facets of peoples lives and there is no evidence to make us believe that will not use their hefty presence to squeeze out other players and buy out or crush anyone in their way.

More of the code I've been writing is now for both Windows and Macintosh versions of our products. Both at work and at home, I've come to favor FreeBSD (UNIX operating system) for my Intel hardware. Whenever given the choice to help Microsoft or help someone else, I have to go with the company that plays fair in the marketplace and provides the best products for the best price. That always ends up being NOT Microsoft.

Khouri Giordano
Software Technology Researcher
Nikon Electronic Imaging http://www.nikonusa.com/
kgiordano@nikondev.com 631-547-4335
631-547-0361 Fax

MTC-00024875

From: Ken Graham
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 3:33pm
Subject: Microsoft Settlement

To Whom it May Concern:

Regarding section III H 3, a copy of which is pasted here:

... Microsoft Shall:

3.Ensure that a Windows Operating System Product does not (a) automatically alter an OEM's configuration of icons, shortcuts or menu entries installed or displayed by the OEM pursuant to Section III.C of this Final Judgment without first seeking confirmation from the user and (b) seek such confirmation from the end user for an automatic (as opposed to user-initiated) alteration of the OEM's configuration until 14 days after the initial boot up of a new Personal Computer. Microsoft shall not alter the manner in which a Windows Operating System Product automatically alters an OEM's configuration of icons, shortcuts or menu entries other than in a new version of a Windows Operating System Product.

Please be advised that the above language, specifically: Microsoft shall "Ensure that a Windows Operating System Product does not ... (b) seek such confirmation from the end user for an automatic ... alteration of the OEM's configuration until 14 days after the initial boot up of a new Personal Computer.", does not constrain the length of time for such a reminder, thus allowing Microsoft to indefinitely issue such a dialog until such time as the user caves in, and selects such Microsoft Product or offering.

Is it not the job of the DOJ to redress the harm done by Microsoft? This agreement clearly does not do so. All this language does is delay their existing behavior. It does not fundamentally alter any of the existing Microsoft practices which fall within the scope of the aforementioned section, and fail to fundamentally redress the egregious behavior for which Microsoft has been repeatedly found guilty.

Please be advised that under no circumstances, should any installation of any product from any vendor ever modify any configuration of any component without user confirmation when said component is not directly and obviously under the pervue and user control of said product. Please consider the consequences of allowing any action to the contrary.

That the statement, "the manner in which a Windows Operating System Product automatically alters an OEM's configuration of icons, shortcuts or menu entries" even exists in this agreement is evidence of the DOJ blessing existing Microsoft behavior. It is one thing for AOL to behave like this within their own product. This is an annoying and arrogant behavior on the part of AOL. Since AOL does not allow any third party to interfere with their dysfunctionality, they are perfectly permitted to commit this cardinal sin without fear of judicial review. Additionally, were language like the above employed, they could still behave in such an egregious manner, for what they change is still under their control. However, when Microsoft does this same behavior it is different. This is an uncontested fact(except by Microsoft) who only wants complete free reign. Microsoft has blatantly set out to thwart and circumvent all attempts to prevent it from controlling all aspects, like AOL, and unfortunately, it looks like the DOJ is beFUDdled.(FUD=Fear Uncertainty Doubt/ See Sun vs Microsoft). When I install a new version of any product, on any platform, there should never, ever, be an automatic reconfiguration of any product not clearly and obviously "owned" and affected, by the vendor and application, being installed. Seeing as installing a "new version of a Windows Operating System Product", is clearly unavoidable, they should not be allowed to infect the data and configuration space of vendors and products, not clearly under user control within the application(s) being installed.

A clear case of this, is the look and feel of MS Windows Explorer and MS Outlook(client).

Their behavior is controlled and configured within Internet Explorer. The poor computer user who is not well acquainted with the insidious behavior of Microsoft would be at a total loss to explain this seemingly terrible design and implementation, much less discover how to correct the problem. Upon investigation inside the Microsoft Knowledge Base, one will encounter the phrase "As Designed", which literally means, that this behavior is intended. It is not a bug. They intended to show that Internet Explorer is required, when clearly(to those who are informed and of sound mind and body) it is not.

A cursory examination of the UI's used by Outlook will clearly show that not only is Internet Explorer not fundamental to the OS, but that it was adhoc'ed onto existing applications, in a poorly implemented retrofit, so as to show to the uninformed exactly how required IE really was, when to any sane individual it was clearly not the case.

Regarding:

"Notwithstanding the foregoing Section III.H.2, the Windows Operating System Product may invoke a

Microsoft Middleware Product in any instance in which: ", subsections 1, and 2, of same.

With the issues of securing an operating system, from the point of view of the Microsoft Mindset, as blessed within the guidelines of this agreement, it seems that to abrogate all provisions, requires only the creation of an "OS"(quotes added for emphasis/humor) which has "security", (read as attempt to provide illusion of security). Please refer to the patent granted to Microsoft, by the uspto, called "Digital Rights Management Operating System"(application 227561). Under the guise of security, and NDA(non disclosure agreement), the ability of the public to know what Microsoft is doing will be non-existent. As a primary consequence, no complaint can be filed. Given that congress(lower case to show proper respect) has caved in to corporate conglomerates with the DMCA, then any attempt to discover how Microsoft has broken this agreement will also be illegal. Since this agreement relies on complaint driven inquiry to assess Microsoft compliance, the result will be again for Microsoft to have outwitted and clearly trivialized the DOJ and this court. You need to understand. Microsoft has no intention of keeping this agreement, any more than they have kept prior agreements.

This is not an inappropriate attribution. There exists mountains of evidence to support such an opinion and to act without regard to this evidence is tantamount to negligence and Dereliction of Duty. This agreement is naive, and shortsighted. It is consistent with a desire by the FBI to abridge the rights of citizens to privacy, without judicial review or constraint. This can only be truly accomplished in a closed system, like Windows, and not via the Open Source community. That this opinion is warranted can easily be attested by such things as "carnivore", and "magic lantern", as reported by Reuters, and confirmed by the FBI.

It is the opinion of this citizen, that the DOJ wants Microsoft in place, with its monopoly intact, so as to place their "carnivore"/"magic lantern" on every PC. Everybody knows(that is to say, that both vendors and consumers recognize the need for protection from what Microsoft allows, which is not allowed by default, if not impossible, everywhere else) that Microsoft products are the worlds worst culprits for replicating virii(multiple of virus), and without the possibility of user intervention, thus behaving "as designed"(common phrase Microsoft uses to describe what would normally be called an egregious break of security or serious design/implementation flaw). The protections stated in this agreement do not include the Open Source community. The level of attention and the number of individuals of common intelligence involved in this case suggest that this cannot be an oversite. How is this possible given that Microsoft only considers the Open Source Community and Linux to be a threat? This evidence supports opinions already expressed above regarding the intentions of the DOJ. The DOJ, in order to create the appearance of Justice, allows for: V B, "In any enforcement proceeding in which the Court has found that Microsoft has engaged in a pattern of willful and systematic violations, ...", which is made moot by provision: IV 4 D 4 d, "No work product, findings or recommendations by the TC may be admitted in any enforcement proceeding before the Court for any purpose, and no member of the TC shall testify by deposition, in court or before any other tribunal regarding any matter related to this Final Judgment." A provision, which by declaration, prohibits testimony relevant to the former by those who are most in a position to testify to "a pattern of willful and systematic violations". I was under the impression that it was the intent of the DOJ to effect a change in behavior at Microsoft, and not just the appearance of doing so. I see no method outlined to address situations where legitimate differences of opinion occur. It is not difficult to foresee Microsoft testing the boundaries of this agreement, and getting, via "case law", precedents that result in another 1995 pointless agreement. Especially as it is nothing but SOP(standard operating procedure).

Were I asked to categorize what would be observed in this agreement by any person of sound mind and body, it would be a persistent attempt to appear to constrain Microsoft, without actually doing so. With rare exception, Microsoft is not substantively constrained. In fact, with recent announcements, and the desire of the FBI in concert with the Administration to abridge constitutional rights("carnivore" and "magic lantern"), it would seem inevitable that justice will in this instance, again, not prevail. What I do humbly suggest to this court, which is within the scope and timbre of the existing agreement, is that all complaints be made public via a non DOJ and non Microsoft website(evidence suggests the DOJ is not "clean", and Microsoft we already know cannot be trusted). As each complaint is addressed and resolved, the originating complaint should be annotated as to status and resolution, so that the marketplace, by being fully informed, may execute justice.

Sincerely,
Ken Graham

MTC-00024876

From: Kdowsiany@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:34pm
Subject: Microsoft Settlement (corrected)

January 25, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530

RE: U.S. v. Microsoft

OVERVIEW

For more than three years Microsoft has been defending itself in antitrust litigation brought by the U.S. Justice Department and eighteen states, including Ohio. The proposed consent decree between Microsoft and the U.S. Department of Justice reflects a settlement, which adequately protects the interests of the Department of Justice, the states and Microsoft, while achieving the desired goal of consumer protection.

UNCLEAR BASIS FOR ANTITRUST ACTION AGAINST MICROSOFT

Many critics, including the Buckeye Institute (Ohio's free market think tank) questioned the Justice Department's use of antitrust laws against Microsoft to punish the company's innovative use of technology, which provided useful products to businesses and individuals at low prices. The involvement of the state attorneys general was even more puzzling. It has never been clear how Ohio's citizens have been in any way harmed by Microsoft's business practices. The only clear beneficiaries to this antitrust case are Microsoft's competitors who prefer to have Microsoft mired in litigation instead of competing in the marketplace.

IMPLICATIONS FOR ANTITRUST LAW IN THE DYNAMIC TECHNOLOGY MARKETPLACE

This case calls into question the relevancy of antitrust laws in the fast- changing technology marketplace of today. One of the main reasons for the government's case was to ensure competition in Internet browsers.

However, within several months of commencement of the case, the marketplace changed dramatically.

Microsoft's core business—writing the operating systems of personal computers—is under serious challenge from Linux and Apple. The center of gravity for computing is shifting away from the personal computer, where Microsoft has a significant presence, onto the Internet where the conglomerate AOL-Time Warner is the major player. As technology progresses, the focus will likely move to personal digital assistants, web-enabled telephones, satellite-based communication devices, and other tools.

The litigation against Microsoft sent a message to the rest of the technology economy that the use of innovation to meet consumer demands in an efficient manner will be punished by government agencies in the courts. This message sent shock waves throughout the American economy and hurt development in the technology sector.

EFFECT ON OHIOANS

The value of Microsoft stock tumbled by nearly 40% as the case dragged on. The more than 100,000 Microsoft shareholders that reside in Ohio collectively lost millions. And that does not include those investors who hold Microsoft stock in their mutual or pension funds. Other smaller technology company stocks fared even worse.

BREAK-UP OF MICROSOFT WOULD WEAKEN ECONOMY AND HURT CONSUMERS

The Buckeye Institute has publicly commended Ohio Attorney General Betty Montgomery, who has been involved with the case from a very early stage, for her support of the settlement and resistance to pursuing the break-up of Microsoft. She recognized that breaking up Microsoft would weaken our already slow economy, hurt consumers by limiting product development, and set a bad precedent effectively discouraging other high tech firms from investing in innovation and creativity.

SETTLEMENT MEETS GOALS OF CONSUMER PROTECTION WHILE PERMITTING CONTINUED INNOVATION IN THE MARKETPLACE

For those who have concerns about Microsoft's business practices, the settlement contains significant rules and regulations on how Microsoft designs, develops, and licenses its software. For example, all new Microsoft operating systems would have to include a mechanism that allows easier removal of the Microsoft Internet browser to switch to a different browser. Importantly, however, this settlement will still allow Microsoft, which has been a lead engine of the American economy over the last decade, to focus on innovation and productivity instead of on defending itself from government attacks in the courts.

The proposed settlement satisfied the Justice Department and nine of the states that joined in the antitrust action. It adds consumer protections while permitting Microsoft to continue as a responsible industry leader. In the long run, Microsoft's continued ability to innovate and create products that meet marketplace demands is the real benefit to consumers.

Sincerely,
David J. Owsiany, J.D.
President
The Buckeye Institute for Public Policy Solutions
4100 North High Street
Suite 200
Columbus, Ohio 43214
Phone: (614) 262–1593
Fax: (614) 262–1927
E-mail: owsiany@buckeyeinstitute.org

MTC–00024877

From: jackie hill
To: Microsoft Settlement
Date: 1/25/02 3:29pm
Subject: Microsoft Settlement

jackie hill
367 springdale
bradenton, fl 34210
January 25, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

MTC–00024878

From: Tom Minchin
To: Microsoft ATR
Date: 1/26/02 6:35am
Subject: Microsoft Settlement

Your Honor,

As a private consumer of Microsoft products, I would like to put on record my firm belief that Microsoft has been the victim of a terrible injustice and if anything is owed an apology.

Microsoft has conferred great economic benefits on me, by making my business far more efficient through use of its software. I can only applaud its policy of upgrading its products. If this makes it hard for competitors, instead of trying to shackle Microsoft, these competitors should re-double their efforts to come up with a better mousetrap.

The US is a great country that is supposed to champion capitalism. This means that it should repeal the non-objective Anti-trust laws and let a great company like Microsoft lead the world.

Yours,
Tom Minchin,
1 Robinson Court,
Bayswater North,
Melbourne,
Victoria, Australia 3153

MTC–00024879

From: johnoneill36@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:34pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
John O'Neill
2797 Calle Alegre
CA 94566–5878

MTC–00024880

From: abrsr@epix.net@inetgw
To: Microsoft ATR
Date: 1/25/02 3:33pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Alfred Roeckel
150 N. Crescent St.
tremont, PA 17981

MTC–00024881

From: Dirk Van Dongen—NAW
To: "microsoft.atr(a)usdoj.gov ."
Date: 1/25/02 3:42pm
Subject: Microsoft Settlement

The National Association of Wholesaler–Distributors strongly endorses the bipartisan settlement negotiated between the U.S. Department of Justice, several states and Microsoft . The settlement represents good news for the economy and for consumers of technology.

High technology is not a single industry, but various types of businesses linked together: chip makers, software developers, equipment manufacturers and marketers, service providers, and more, all working to the ultimate benefit of consumers. When government negatively impacts a pillar of the industry such as Microsoft, the entire sector suffers, as do consumers and the economy.

The terms of this settlement address the aspects of the case that were upheld by the Appeals Court, and do so without damaging Microsoft's ability to compete. Microsoft is constrained from harmful competition, but can continue to compete to improve upon and offer Windows, which is used throughout our industry, at a reasonable price.

That is precisely what our members, who are highly dependent upon networked computer systems, need: technology which is easy to use which is available at a good value.

The Microsoft settlement is the best way to achieve these ends , to the benefit of all. Prolonged litigation will only further damage our economy.

Thank you for the opportunity to allow our organization to voice our endorsement for the settlement. We urge its adoption with all due speed.

Dirk Van Dongen
President
National Association of Wholesaler—Distributors
1725 K St., NW
Washington, DC 20006

MTC–00024882

From: Sally70596@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:38pm
Subject: Microsoft Settlement

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys" general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Michael & Sally Pickett
963 Morello Ave.
Martinez, CA 94553–4749

MTC–00024883

From: louzano@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:36pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
LOUIS SPEZZANO
19 WILD HORSE ROAD
STAMFORD, CT 06905

MTC–00024884

From: Christopher J. Carroll
To: Microsoft ATR
Date: 1/25/02 3:39pm
Subject: Microsoft Settlement

Microsoft has clearly demonstrated an utter contempt for for the law of this nation. Time and time again, this corporation has exerted monopoly power to strangle competing technologies. This has resulted in the consumer being forced to purchase and use deeply-flawed Microsoft products due to an effective unavailability of other options. This court should demand fundamental structural changes to ensure that Microsoft can never again use its market power to harm our economy.

MTC–00024885

From: Ogg Robert G
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/25/02 3:40pm
Subject: Microsoft Settlement.

I believe now is the time to settle. After so many years this ongoing case has had a bad ongoing affect in the IT industry. I believe the terms of the deal to be acceptable to both party's and a settlement can and will also help to turn the slowing down of the IT industry as people/company's and concentrate on creating new and improved products

MTC–00024886

From: Carse312@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:41pm
Subject: Microsoft settlement

To Whom it mat concern,

I understand that a few liberally politically comtrolled states comtinue to hold out for a big payday. I consider their actions to be using their constituants as a veil for extortion. No one really believes that these politicians/lawyers concern is for those individual citizens wronged through Microsoft's alleged anti-trust.

On the contrary, if anything at all, most individuals across America, and the world benefited greatly through Microsofts inovative development of components for third party development of Windows and Internet explorer applications.

Microsoft held no one back, rather if anyone was held back in the highly competative software industry, it was of their own undoing.

I remember well in the early 90's, how publicly owned computers at various public libraries across the State of Illinois, refused to install Internet Explorer on their public Internet access enabled computers. Only Netscape was allowed on—public computers then.

How do these States now argue that Microsoft manipulated government agencies into accepting IE on their computers. I see a very deeply seaded attempt by these state governments to dip into Microsoft's deep pockets for no other reason then a source with easy access. You government types really need to be a bit more covert when taking money from a baby.

Sincerly,
Carson E. White, Lawyer/Software developer.

MTC–00024887

From: Charles Myers
To: Microsoft Settlement U.S. Department of Justice
Date: 1/25/02 3:35pm

Subject: Microsoft Settlement
Charles Myers
4326 Mariner Lane
Fairfax, VA 22033
January 25, 2002
Microsoft Settlement U.S. Department of Justice ,

Dear Microsoft Settlement U.S. Department of Justice:

I have closely followed the progress of the Microsoft case. I am greatly saddened at the amount of tax payer's dollars used in this case. While I feel that the Federal government is correct in using legislation and the courts to ensure fair competition and open markes, the time has come to cleanly and clearly make an end to this case. With the United States in a state of economic recession, now is not the time for a prolonged court battle. The technology sector is one of our greatest assets as a nation, and we need to allow them to go back to work on innovating products for this new millenium.

As such, I feel strongly that the breakup of Microsoft is not needed.

What is needed is:

Clear guidance on what is allowable for "bundling" of software;

Release of the source code for present and future Microsoft and non-Microsoft operating systems, and;

Limits on current modes of software licensing.

On this last point, I feel the most strongly. At the turn of the last century, book sellers would put a notice in their books that the book could not be "resold", as the book was considered the intellectual property of the publisher. In another similar case, recording companies in the 1930s tried to expand their rights under copyright protection by using licenses (or contracts) that were implied to be consented to when the consumer opened the package. This was found to be illegal under RCA v. Whiteman by the Second Circuit Court of Appeals.

Yet, in this new century, we are allowing software manufacturers to force consumers to constantly pay for features they do not want or need because of licensing. A simple return to copyright law to apply to all media, i.e. books, recording, and software, would be more beneficial, less costly, and more timely than the current situation. Product innovation should spurn consumer spending—not the fine print on unread licenses! Return software to the protection (and ONLY the protection) offered by copyright law and the doctrine of first sale.

Sincerely,
C. Daniel Myers

MTC–00024888

From: Bill Davies
To: Microsoft ATR
Date: 1/25/02 3:42pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am appalled by the Government's desire to brush a huge monopoly under the rug in the interests of "saving the econonmy."

A federal judge has ruled that Microsoft engaged in monopoly practices, and they should be dealt with accordingly. Your office should not cave.

They continue to drag this out and get their hooks into more and more markets while the parties dicker over a settlement. Can't you see that? Pretty soon people will not be able to access the internet unless they have a Microsoft product or Microsoft operating system. This is sheer madness. I can't believe your office is so toothless.

I hope your office will wake up and put some honest effort into antitrust enforcement against Microsoft, which has been adjudged a monopolist, and which ruling has not been overturned.

Bill Davies
Member, California and Alaska Bar

MTC–00024889

From: dwight@ellensburg.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:41pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Dwight Bolton
630 ALFORD RD.
ELLENSBURG, WA 98926

MTC–00024890

From: Brandon Harvey
To: Microsoft ATR
Date: 1/25/02 3:40pm
Subject: Microsoft Settlement

To Whom It May Concern,

I would like to point out briefly that my e-business, Artsonia.com, runs largely on the Windows platform. We do a great deal of scripting and automation in the course of running an online museum and custom production workshop. We would benefit greatly if Microsoft software interoperated better with software from other developers.

We believe that the proposed settlement does not do enough to ensure this.

Sincerely,
Brandon Harvey
Program Director
Artsonia
http://www.artsonia.com

MTC–00024891

From: Rajen J. Shah
To: Microsoft ATR
Date: 1/25/02 3:45pm
Subject: Microsoft Settlement

I am writing to you with my comments on the proposed settlement between the DOJ and Microsoft on this long-running case.

(1) I am very relieved that a settlement has been reached. In particular, I think a lot of time and money was spent on this case by both sides, and it also caused a lot of distraction in the industry. I am happy to see an end where money is used for more productive activities.

(2) I am concerned that Microsoft be kept from its earlier rough handed practices. There is no need for such behavior in this industry. I believe that the settlement adheres to the findings of the court and will hold Microsoft accountable for conducting legal business practices.

(3) I totally disagree with the "holdout" states stand on increasing the scope of any settlement. What they have proposed smells very much like what Microsoft's competitors have been trying to do to Microsoft—particularly Sun Microsystems, Oracle and AOL. I don't want taxpayer dollars going to fighting on behalf of companies that cannot compete in the marketplace.

(4) I am a software engineer and spend a lot of time on building web sites for customers. My platform of choice is Windows (2000). I had spent an untold number of hours, which I consider wasted, trying to make my software work on multiple platforms. In particular, at least 40% of any project is spent making my applications work on both IE and Netscape. Netscape has fallen way behind in terms of features and should be killed. Also, there is no need to have another browser available to the public, especially if it is something that is developed out of the source of IE that the holdout states are proposing. That will confuse the public and will also cause real problems for people like me.

(5) Also, proposals to provide software such as Office on multiple platforms does not make sense. An untold number of hours would be wasted by Microsoft to do this, and it does not even make sense from a business perspective. If some other company wishes to develop such software for operating systems such as Solaris or Linux, they should do it with their own money. Microsoft already supports Windows and the Apple.

Overall, I strongly support the settlement and wish to move on to solving user problems.

Thank you.
Rajen J. Shah

MTC–00024892

From: j. wesimeyer
To: Microsoft ATR
Date: 1/25/02 3:45pm
Subject: Microsoft Settlement

Dear Madam/Sir: (Jan 25, 2002)

The spelling at the top of this page is slightly in error. The correct spelling is:
John Wiesenmeyer
Caulfield, Mo. 65626

And yes, Im a taxpayer, homeowner, voter. You will find the above person in the Howell County Missouri archives.

I consider myself a Microsoft user, customer, and might I say, VICTIM!!!!!!!!!!!!

Effective e-mails should be short, especially at this time, so I cannot elaborate at length as to my complaints with Microsoft, but Ill list a few:

I had 4+ years experience with Microsofts old OS, DOS 6.22/Windows 3.1 before trying

Windows 98 this past November. So Im not a newbie, as they say.

Nevertheless, it took me several days to figure out how to get Netscape 4.7.8 to run in Win 98. Little obscure dialog boxes all over the place that have to be set so Netscape can work clean and free without Internet Explorer barging in and taking over.

You folks should know all this. Why do you ignore it? And look at the way the Internet Explorer files are WOVEN IN AND THROUGH the Windows Directory. The Windows directory is the heart and soul of the OS.

If I.E. is thickly embedded therein, than how can we conclude I.E. is some kind of separate entity?

Oh well, aside from what is obvious, another gripe I have is that the bar associations, and you at DOJ, have allowed all software producers, not just Microsoft, to run free and clear of any legal retaliation for their defective products. Companies like MS and hundreds of others, have their lawyers write out those clever USER ACCEPTS SOFTWARE [AS IS]] licensing agreements (so-called), which is an insult to consumers.

HOW FAR WOULD YOU HAVE ALLOWED FIRESTONE AND/OR FORD MOTOR COMPANY TO SLITHER AWAY FROM LIABILITY WITH LEGALESE OF THAT SORT????

But you let the software companies do it day in and day out.

Why??????????????

Defective software, from Microsoft and others, has cost me hundreds of hours of wasted time, and in a business setting, costs companies millions of dollars each year in pure waste, because of sloppy program code, and you let them get away with it.

YOU ARE NOT LETTING THE AIRLINES GET AWAY WHEN THEIR PLANES CRASH.

YOU ARE NOT LETTING FIRESTONE GET AWAY FROM LIABILITY.

Your standards stink. Your justice is far from blind; it is prejudicial, to the extreme.

Thank you.

John Wiesenmeyer, voter, taxpayer and veteran of U.S. Army 51st Infantry Division, Charlie Co., 3rd Btn. 1970

417-284-3951

call me, and Ill give you an earful of testimony why all these software bandits should be tar and feathered.

Thank you.

MTC-00024893

From: jim@bostonvr.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:54am
Subject: Microsoft Settlement

Greetings,

I am writing in regards to the impending settlement issues with the US government and Microsoft.

I am deeply concerned of the tone set by the Justice Department and it's willingness to accept the settlement of computers and services for poor schools. This has been well stated in broad terms and I concur with the facts that this sanction against Microsoft is unacceptable.

Furthermore, I am concerned that this settlement is a political move. The issue is that Microsoft has broken the law and been found guilty of monopolistic practices. The only way to control further problems is to break the company up. They won. Now it is time to dismember the company into components and let them as well as other companies continue to compete for business.

This is not a serious problem since the cash the company has can be used to allow each segment of the company to flourish for the short term.

Let each division compete against each other. This is the American way!

Let us look 20 years from now. Microsoft will control your tv, internet, and your online transactions. They potentially have the opportunity to control communication as well as a major player in the banking market. How did they get there, with the resources obtained through a monopoly. Having one company controlling greater than 94% of the computers in this country is a pretty scary.

I will say that again Having one company controlling greater than 94% of the computers in this country is a pretty scary.

This is not a question of innovation. This is a question of control and power.

Would the justice department be concerned if any one country controlled(and Microsoft does) 94% of a market

What if Citibank controlled 94% of all banking in the country

What if Kemper Insurance controlled 94% of all insurance policies commercial and residential?

What is Exxon sold 94% of all oil in the country?

What is Johnson and Johnson manufactured 94% of all drugs in the country?

The list can go on and on. . . . . . .

America is about competition and capitalism.

Taking the software and making code open to others is just plain wrong. The amount of resources required to redevelop new products would take too long for a company to catch up to Microsoft. By breaking the company into parts allows for capitalism to breed a new...........the basis for what this country stands for.

How could the company be broken up.....3 parts.......each company gets all rights to all parts of Microsoft. (intellectual, monetary, as well as assets) Basically this is what happened to ATT but in that instance, there were location issues.....hence the actual dividing was done in territories.... The nature of software is portability....hence let all parts take ownership.

This would allow each part to decide which way the new companies can go forward.

What did the government do with ATT.......ATT had to give up control of the local wires.......

If you break Microsoft up, you will get cheaper products and a race to make a better product.

Microsoft is too big to contend with in any other way. Monetary damages are not enough for it will be the American public that pays......not Microsoft.

Let's look at this a some foresight, courage as well as wisdom. It is the obligation of the justice department to correct a problem that is going to get much worse. I hate Vanilla, let's put some more flavors on the menu.

Sincerely
Jim Mooney
3 Lamb Lane
Boston, Ma 02021

MTC-00024894

From: Janice Kramer
To: Microsoft ATR
Date: 1/25/02 3:47pm
Subject: Microsoft Settlement
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I understand that you will be deciding shortly on finalizing the terms of settlement reached in November with Microsoft. I want the Department of Justice to leave Microsoft alone. This antitrust lawsuit has been the biggest waste of time, has cost the taxpayers millions of dollars, and has negatively impacted the computer industry and the economy. Microsoft has been forced, at the vise of the competition, to defend their business practices, and battle to keep their innovative products and business intact.

With no foreseeable end to the litigation, Microsoft has agreed to satisfy demands made by the competition. The settlement is far more than fair to the competition. I don't feel Microsoft should have to give anything away, and certainly not forced to. I know Microsoft is sharing parts of its Windows programming to allow the computer manufactures to offer software programs other than Microsoft's and users to make the operating system more changeable to their own preferences. I feel that these changes will produce even more superior products from Microsoft and give Microsoft more dominance in the software industry.

Whatever has to be done to return Microsoft back to business immediately is the right thing to do.

Microsoft feels that settling this is the proper thing, and I entirely support this position.

Microsoft has been treated terribly for giving the world Windows. There should be no further legal action taken against Microsoft. Accepting the terms of the Microsoft settlement is the only justifiable course of action.

Sincerely,
Janice Kramer
120 Horton Hwy.
Mineola, NY 11501

MTC-00024895

From: Jansa Hobbs
To: Microsoft Settlement
Date: 1/25/02 3:42pm
Subject: Microsoft Settlement
Jansa Hobbs
Route 1, Box 142
Mauk, Ga 31058
January 25, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement: The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Jansa HObbs, Taylor Co. Ga.

MTC-00024896

From: Philazz@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:48pm
Subject: (no subject)

I get the impression that the United States Government is allowing itself to be used to stop Microsoft, by competitors. They want the government to do for them what they have not been able to do for themselves.

Let Microsoft continue to do the wonderful job they are doing. Where would we be without them. At least Microsoft is keeping the cost of software reasonable.

Phil Azzolina
philazz@aol.com

MTC-00024897

From: Rob Lingelbach
To: Microsoft ATR
Date: 1/25/02 3:48pm
Subject: Microsoft Settlement

The proposed Microsoft Settlement is a very bad idea.

sincerely,
Rob Lingelbach
Sysadm, Computer Animation Lab
California Institute of the Arts
rob@film.calarts.edu
http://www.alegria.com
rob@alegria.com

MTC-00024898

From: Jeff Dean
To: Microsoft ATR
Date: 1/25/02 3:50pm
Subject: Microsoft Settlement

I believe the terms of the settlement agreement between Microsoft, the DOJ, and the 9 participating states are reasonable and fair. I encourage final adoption of this agreement.

Thank you,
Jeff Dean

MTC-00024899

From: Nayfield, Rod
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 3:50pm
Subject: Microsoft Settlement

I believe that this proposed settlement will only lead to extension of the monopoly position of Microsoft. I believe that you should reject this settlement.

MTC-00024900

From: McJ
To: Microsoft ATR
Date: 1/25/02 3:45pm
Subject: Microsoft Settlement

I don't agree with the Microsoft Settlement. I have been dogged and obstructed from doing my job as a process instrumentation and control engineer since 1994 by Microsoft's strangle hold on the computer industry. I have struggled with OEM e.g. Dell, Gateway, Micron, Compaq, and IBM to get computers pre-loaded with other operating systems other than Microsoft, and have repeatedly been told we can't supply anything else. I have asked for OEMs to provide systems without Microsoft Windows e.g. no operating system at all, and have been told I must purchase the systems with Microsoft Windows whether I wanted it or not. So I end up paying for something I didn't want, need, and couldn't use to do the job I was assigned to do. To get around this situation I had to build my own computers and load the desired operating system to do the job. However, there was still an issue with finding software to run on other operating systems other than Microsoft Windows, everybody is writing software for Microsoft Windows. I DON'T AGREE WITH THE MICROSOFT SETTLEMENT! What should be done is to take the money from Microsoft that they obtained illegally through their monopoly power and use it for consumer education about computer operating systems choices, foster development of software for other operating systems, make OEMs provide choices of operating systems to the consumer and disclose to them their capabilities.

MTC-00024901

From: Dean Daniels
To: Microsoft Settlement U.S. Department of Justice
Date: 1/25/02 3:45pm
Subject: Microsoft Settlement
Dean Daniels
6128 Elliot Ave So
Minneapolis, Me 55417
January 25, 2002
Microsoft Settlement U.S. Department of Justice

Dear Microsoft Settlement U.S. Department of Justice:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Dean Daniels

MTC-00024902

From: Jeff Wright
To: Microsoft Settlement U.S. Department of Justice
Date: 1/25/02 3:46pm
Subject: Microsoft Settlement
Jeff Wright
4616 Village Drive
Fairfax, VA 22030
January 25, 2002
Microsoft Settlement U.S. Department of Justice

Dear Microsoft Settlement U.S. Department of Justice:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Jeff Wright

MTC-00024903

From: Darrick Brown
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 3:53pm
Subject: Against Microsoft Settlement
From:
Darrick Brown

80 Mariani Ct
Redwood City CA 94062
(650) 365–5413

Dear Sir/Ma'am:

I work in the computer software industry and I strongly oppose the proposed settlement against Microsoft. The settlement is a step in the right direction, but it is severely inadequate in its reach and scope. I feel that it will insufficiently prohibit Microsoft from committing similar acts in the future, and the proposed settlement also does little to punish them for the acts of which they have been found guilty.

I urge you to find a comprehensive solution that will actually benefit individuals, restore competition to the computer software industry, punish Microsoft for their illegal past actions, and prohibit Microsoft from committing such actions in the future. The health and future of the computer and software industry depends heavily on this decision.

Sincerely,
Darrick Brown
80 Mariani Ct
Redwood City CA 94062
(650) 365–5413

PS—I have included my specific thoughts below in the case where they may be helpful.

In Section III.A, the end of the second paragraph reads: "Microsoft shall have no obligation to provide such a termination notice and opportunity to cure to any Covered OEM that has received two or more such notices during the term of its Windows Operating System Product license."

OEM licenses terms could stretch years, if not decades. This gives Microsoft too much room to exploit this. Section III.A does not give specific situations when Microsoft could issue termination notices. Microsoft could just issue notices for minor problems to get past this "two notice" minimum, at which point they could resume their practice of threatening OEM's with unnannounced license terminations. This part of the proposal should be eliminated.

Section III.J reads: "No provision of this Final Judgment shall:

1. Require Microsoft to document, disclose or license to third parties: (a) portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of which would compromise the security of [a particular installation or group of installations of] anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria..."

You may have noticed that Microsoft has recently changed their entire corporate focus to "security and trustworthy computing". Section III.J would allow Microsoft to easily circumvent the provisions in Section III.D (API disclosure) by claiming that it contains sensitive security related information. The API disclosure should be open accross the board, including security and digital rights management functionality. If their security models were good, it shouldn't matter if other individuals/corporations see them. The security would work as apart of its design rather than its obscurity.

These are the largest flaws of the proposed settlement. These two flaws would cause little change to how Microsoft operates as it provides them ample opportunity to circumvent the major provisions within the proposal. Eliminating these two flaws would make the proposal much better, but it would still fail to properly punish them for the actions they have been found guilty and the proposal is still extremely weak in its enforcement of the provisions going forward.

Thank you for your time.

Sincerely,
Darrick Brown

MTC–00024904

From: avery bartlett
To: Microsoft ATR
Date: 1/25/02 3:51pm
Subject: lay off microsoft

all the government should lay off microsoft because nobody in the government know's anything about running of a business.

MTC–00024905

From: Tim R. Broering
To: Microsoft ATR
Date: 1/25/02 3:49pm
Subject:

Timothy R. Broering
President
Programming And Micros, Inc.
tim@pamcc.com
(937)437–1113
MTC–00024905—0001
PROGRAMMING AND MICROS
146 N. Washington SL
New Paris, Ohio 45347
Phone: [937] 437–1113
Toll free: 888–5-FOR-PAM
Fax: [937] 437–1117
E-mail: Info@pamcc.com
URL: http://www.pamcc.com
January 10,2002
Attorney General John Ashcroft, US DOJ
950 Pennsylvania Ave.
Washington, DC 20530

Dear Mr. Ashcroft,

I really think that our government went to extremes filing this lawsuit against Microsoft several years ago. Of course, Microsoft had a virtual lock on the operating systems software market. But this wasn't necessarily due to Microsoft's refusal to be fair; rather, this was due to the fact that they had the best, most reliable software of its kind that fostered an entire generation of computer users. This is not a monopoly. This is good business.

Microsoft prevented no one from competing with its software, as the U.S. Post Office does by preventing local mail delivery. However, since its software has been so flexible and intuitively easy to use, more and more consumers voluntarily chose it, and are now avid computer users.

All this having been said, I am pleased that there is a settlement in place. Even though this settlement goes beyond the scope of the lawsuit, even obligating Microsoft to divulge interoperability protocols and monitoring Microsoft with a new three-person committee, it has the advantage of ending the litigation. I am hopeful that this settlement will prevail and we can all put this episode behind us.

Sincerely,
Timothy Broering

MTC–00024906

From: Brad Anderson
To: Microsoft ATR
Date: 1/25/02 3:54pm
Subject: Microsoft Settlement

To whom it may concern;

I am fully opposed to the settlement regarding the Microsoft case. I regard the settlement as another opportunity to allow an already very powerful company excessive inroads into the educational market which remains one of the strongholds of Apple computers market share. Though my interest isn't so much in their gain, I fear that any settlement reached with Microsoft that could bias the platform determination of a school, may lead to Apple computers overturn, thereby leaving my, and millions of other users, investments without continued support.

A more fair solution may be to continue with the same monetary settlement, which would have to be spent on competitor's products, i.e. non-wintel systems. This would still provide schools with much needed equipment, while not allowing the corporation to benefit from legislative active which is intended to be a punitive.

Thank You
Brad Anderson
37 Earl Street #3
Malden, MA 02148
781.605.0153
jordiebrad@mediaone.net

MTC–00024907

From: Paton J. Lewis
To: Microsoft ATR
Date: 1/25/02 3:54pm
Subject: Microsoft Settlement

I feel that the proposed settlement with Microsoft is not good for America, and will not prevent Microsoft from continuing its long history of anti-competitive practices.

I am writing as an individual, and not as a representative of Adobe.

Thank you for your attention,
Paton Lewis
Engineering Manager
Adobe Systems
206.675.7399

MTC–00024908

From: Sharrob2@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 3:55pm
Subject: Mcrosoft settlement

To whom it may concern....

I am in agreement with any settlement that Microsoft has agreed to.

Robert W. Moore

MTC–00024909

From: Robert Button
To: Microsoft ATR
Date: 1/25/02 3:55pm
Subject: Microsoft Settlement

I completely DISAGREE with the U.S. v. Microsoft proposed settlement. Microsoft has been found GUILTY of operating a monopoly to the harm of consumers. The proposed settlement does NOTHING to protect consumers from further damage Microsoft could inflict. Something SUBSTANTIAL must be done to ensure that consumers have viable alternatives to Microsoft products in order to maintain competition in the marketplace.

Sincerely,
Robert M. Button
28344 Stonegate Circle
Westlake, OH 44145

MTC-00024910

From: Catfish
To: Microsoft ATR
Date: 1/25/02 3:57pm
Subject: Microsoft Settlement

The original idea that MS should be broken up is the only one that will work—basically they are now getting off scott free because nobody has the balls to challenge them. How a bunch of overpaid government employees and lawyers can argue for years over the bloody obvious is a scandal. It is a self evident truth that they abuse their OS monopoly to strangle everyone else out of the market.

What is there to discuss, break them up.

MTC-00024911

From: Valeri Liborski
To: Microsoft ATR,governor@governor.ca.gov@inetgw
Date: 1/25/02 3:57pm
Subject: Microsoft Settlement

I would like to express my concerns about direction where Microsoft Settlement is going.

Bunch of the companies that not capable to win market place in fair competition with Microsoft are trying to ruin the company by:

Sponsoring Non-profit organizations (and influencing them to take actions that harm MS): American Antitrust Institute (AAI) which finances partially by Oracle;

Failing ridiculous law suites (AOL/ Netscape);

Trying to build negative PR about MS by publishing unverified/incorrect or out of context info (CNET)—every day http://news.com has from one to 4 articles about MS, none of which describes how much company does for customers (more than any other Software company in the world);

Lobbying for Standards bodies to use their technology vs new innovative from MS using muscles of anti-MS coalition and longer market presence: SUN with Java, backed up by Oracle, AOL;

Having double standards for MS and other companies—Java licensing belongs to SUN and MS was sued for using it in its products; and complains about MS not including Virtual Java Machine in XP (perhaps MS doesn't want to have one extra law suite?);

We, people, who are paying both Federal Taxes and California Taxes are concern that these funds are being used to damage economy of country; economy of state; jepardize jobs and wellfare of hundreds of thousands (millions) of people who do have job thanks to Microsoft Technologies—including people who work in thousands of Silicon Valley companies which wouldn't exist otherwise since they are making products on top of MS technologies; decrease quality of life of hundreds of millions of people around the globe who are using Microsoft Products that have best quality and design.

I would recommend settle the outstanding cases and let people in Microsoft do the job and their customers enjoy outstanding products, instead of supporting competitors and allowing endless law suites (seems like anyone who is not lazy is submitting law suite against MS). We all should support US economy and don't kill it.

Market should prove who is best, not regulations on how many titles of Software each company is allowed to produce.

MTC-00024912

From: Ernie Fisch
To: Microsoft ATR
Date: 1/25/02 3:56pm
Subject: Microsoft Settlement

I sent an email yesterday but it was quite brief. I want to expand a bit. As a user of a minority operating system I feel the bite of Microsoft's illegal tactics every day. I can't get drivers for new equipment because of Microsoft's exclusionary agreements with equipment manufacturers. I have more and more trouble using what are supposed to be open media because of Microsoft's subversion of open standards. Too many instances of this stuff occur for it to be an accident. Microsoft wants to destroy minority operating systems.

I find it quite incredible that having proven that Microsoft is monopolistic and uses their position to destroy competition that the government would propose such a feeble and essentially useless remedy. Microsoft monopolistic practices must not only be stopped, they must be reversed.

Ernie Fisch ernfischMicrosoftcox.net

MTC-00024913

From: David Brown
To: Microsoft ATR
Date: 1/25/02 3:57pm
Subject: Microsoft Settlement

I support the agreement of the Department of Justice and the antitrust settlement between Microsoft and DOJ and nine states.

I do not think any further actions are needed and feel that in these times of more important issues we should move on. As a tax payer I think my money could be better spent on other issues.

I hope that the settlement between Microsoft and DOJ will be final in this long issue.

David D Brown
309 Gandy Court
West Columbia, SC 29169
803-951-3789

MTC-00024914

From: Edward Goodrich
To: Microsoft ATR
Date: 1/25/02 3:58pm
Subject: letter to Mr.Ashcroft

Dear Microsoft.

Something happened to the letter I attempted to send to Mr. Ashcroft. Please send it to me again.

I feel that i will need help to forward it. Please call me by phone at 828 287 3434 so that I may comply.

Edward E. Goodrich

MTC-00024915

From:
To:
Date:
Subject:
Dave Beers
Microsoft ATR
1/25/02 3:58pm
Pro-Microsoft

MTC-00024915 0001

It is a tragedy that Microsoft, perhaps the most important and uniformly ethical company in the history of the US, continues to be targeted by incompetent competitors, lawyers, and other parasites who are effectively killing the industry and world economy.

Every industry in every sector has benefitted from Microsoft's unrelenting focus on doing what's fight for the customer, regarless of cost to itself. All arguments within the company about what to do revolve not around how to eradicate competition, but how to do what's right for the customer—get them more features, more capacity for less money.

As a corporation, and as a group of individual employees, no company can claim a more serious and more tangible dedication to education, the arts and sciences, promotion of diversity, and other charitable and laudatory social causes.

As I am primarily an Apple-user, I have personally benefitted from extensive innovation on all three major platfoms (windows, apple, and unix). My bias remains in favor of relatively blue-collar-behavior of IBM/Microsoft/Apple/Dell entities who keep their nose to the grindstone, continually investing in R&D in an endless pursuit of more benefits and better value for their customers, and to whom litigation is at the bottom of their priorities

It is unfathomable to me that any goverment or judicial entity would prefer to hear a story from entities like AOL/Sun/ Oracle who have gone years without making any improvements in either the quality or the value of their own products, in favor of disparaging and litigating against Microsoft, and who spurn investments in R&D, preferring instead to invest in lobbyists, lawyers, and anti-MSFT marketing. AOL with it's cross-media empire that includes controlling interest in cable companies and access to broadband distribution is by far the scariest entity—more so than Microsoft ever was, or could be—to those of us consumers who continue to get billed without recourse, months and years after trying to terminate a relationship with them.

Steve Case and Larry Ellison are the shady and unethical parasitic salesmen.

Bill Gates, Steve Balmer, Michael Dell, and Steve Jobs are creative geniuses and heroes.

.02 cents from: Dave Beers, Seattle WA

MTC-00024916

From: iand and wei
To: Microsoft ATR
Date: 1/25/02 3:59pm
Subject: Microsoft Settlement.

Dear Department of Justice:

Under the Tunney Act, I would like to comment on the proposed final judgement in the United States v. Microsoft case.

As a concerned citizen who has some experience using computers running operating systems from Microsoft and other organizations I am concerned that the proposed final judgement does not protect consumers and companies competing with Microsoft. I use Microsoft operating systems where I work. A few weeks ago my computer suddenly started shutting down improperly, and I called our help desk to ask if they could fix the problem. I was told that the problem was a well known defect in Windows 98, and that Microsoft had no intention of fixing it. This is just a small illustration of the way Microsofts monopoly affects consumers. If there was a true marketplace with competition, Microsoft would have had to fix the problem long ago.

Unfortunately the proposed settlement does precious little to try to develop a competitive marketplace. It proposes to open Microsofts APIs, but the language is so weak as to make it useless in promoting competition. In fact, the only competition for Microsofts APIs, the open source WINE project, is excluded from the API disclosure in Section III.J.2 of the proposed final judgement, because the WINE project is not a business (all business competition having been extinguished long ago by Microsofts business practices).

The major reason people and businesses run Microsoft operating systems is because they need to run the applications that run on those systems. A successful reimplementation of Microsofts APIs, could go a long way to restoring competition in the marketplace. I hope that any final judgement in this case will restore competition.

I fear if this proposed settlement is made final it will cause irreparable harm to the U.S. consumer, to the U.S. software industry, and possibly to the country as a whole.

Sincerely,
Ian Kennedy
1900 S. Eads St., Apt. 512
Arlington, VA 22202

MTC-00024917

From: Gibbs.Ivan.J
To: Microsoft ATR
Date: 1/25/02 4:00pm
Subject: Microsoft Settlement

If Microsoft doesn't get punished for what they have done, you will hurt the American entraepreneurial spirit. I have degrees in Engineering Physics and Electrical Engineering. If I know that a big company can just squash my dreams, I lose motivation to innovate. No matter how much people may like to have one leading monopolistic company to provide everything, it hurts individuals. And this country is made up of individuals, not monopolistic companies.

MTC-00024918

From: Weathers, Norman R.
To: Microsoft ATR
Date: 1/25/02 4:00pm
Subject: Microsoft Settlement

To whom it may concern:

I am writing in reference to the recent settlement talks between the US DOJ and Microsoft. I am saying on record that I strongly oppose the actions that are currently being taken by the DOJ against Microsoft because they are too lenient. My reasoning for this is as follows:

(1) Microsoft has been found guilty of harboring an illegal monopoly. They have been found guilty of destructive business practices, and because of this, they need to have a penalty that once again levels the playing field between the software producers. Opening up some API's to some companies does not allow for competition within the market, especially when a viable alternative to Microsoft is completely overlooked in the settlement, any Open Source Project. For example, a competitor to Microsoft's own network drive capabilities is the SAMBA project, yet, under the current settlement, no API's can or ever will be made available to them. This must be remedied.

(2) Microsoft has levereged parts of its foundations to further its monopolies. For instance, Windows is Microsoft's OS, and through its OS, levereged its own Office Suite to a monopoly of the desktop publishing/ word processing/ information market. Now, many individuals would love to be able to interchange information and data with other individuals who may or may not use a Microsoft Office component, but the sad truth is that the format has never been documented, and has changed with each release of the Office Suite. For example, during a recent job search, I was required to send my resume in Word 98 format. Not just Word, but specifically Word 98. I was fortunate to have a copy of Office 98 installed, but, why couldn't I have used an open format such as RTF, HTML, PDF, XML, etc, etc.... This is because the Office format is the central strangle hold that has held competition out of the market. Open the document formats to the public, and watch competition surge, and with it, better applications.

(3) Microsoft has further entrenched itself into other areas, and will soon become a monopoly due to its strong tactics and user base. For instance, Internet Explorer and Microsoft Network. Microsoft has for all intents and purposes "won the browser wars", or so it thought. They have created several enhancements to the original HTML code (as well as Netscape and some others), but now, due to the fact that Microsoft has a larger user base, they can now dictate "standards" that become very Microsoft centric. This can lead to web sites that don't just say "Best when viewed by MSIE", but web sites that say "Can ONLY be viewed by MSIE". This effectively can shut out a large group, such as Linux, BSD, Apple, Sun, that do not have easy access to IE (I know there are ports available for some of these OS's, but they tend to be troublesome, unstable, and useless). Now, you can dictate another standard that effectively kills off any competiting product because you create the standard. This can be disastourous.

(4) Microsoft continues to further move into markets that are no longer vertical. For instance, the new game console, the XBox. This is now an attempt to move into home game consoles, gaming networks, online gaming, and possibly 2 or 3 other markets. Now, if they move in and follow all the rules and procedures, than they can compete with Sony and Netscape, and create a thriving market. However, if Microsoft handles this market as they have others, by settling easy during this time, do we allow them to legally manuever into this new market and take it over as well?

I am beseaching any and all to please, read this, look back at Microsoft's history, its doings and non doings. Look at the litigations and court cases that have happened, that are pending, and that should have happened. B

y now, we have broken apart AT&T, and Standard Oil. While breakup may not be the answer (but then again, it may be), neither is this slap on the wrist that is basically allowing Microsoft to continue its practices. Remember, not only are they continuing them, but now, with the way we have settled with them, we are getting ready to say, "It's OK, Microsoft. Go ahead and be a monopoly. You are doing nothing wrong."

Let's not send that signal to this convicted illegal monopoly. Let's not take the short road to justice, and thereby ignore justice. Let's not end it for "the country's sake". Let's do the right thing and finally penalize Microsoft for doing what it has done for a long time, breaking the law. Further open API's including document formats and interfaces, open up parts/all of the OS source code, allow other non-profit organizations to be included within the scope of the judgement and ruling, and above all, let's do something to once again promote competition within the world of software development so that we can have a lower cost of software, higher quality, and a higher standard of living through that better software.

Thank you for your time in this matter.
Norman Weathers
System Administrator
Ponca City, OK
74604

MTC-00024919

From: Martin Runyan
To: Microsoft ATR
Date: 1/25/02 4:01pm
Subject: Microsoft Settlement

Dear Sirs,

I am writing to express my strong belief that the Microsoft antitrust matter must be brought to a close quickly and fairly. I believe the Justice Department has found a fair formula for the settlement. I am concerned however that the continued litigation by the states and by Microsoft's competitors is unwarranted and will only hurt our economy.

As a consumer, I feel that Microsoft's products are well designed and fairly priced. I also believe there is more than adequate competition in the emerging Internet services marketplace to ensure that Microsoft's future success will be based on the merit of their new products and not on their past dominance in the operating system arena.

There is no need for further litigation. The only segment of our economy to benefit from that will be the legal profession.

Sincerely,
Martin E. Runyan

MTC-00024920

From: EXKODAKER@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:00pm
Subject: Department of Justice and Microsoft

Corporation settlement.

January 25, 2002

Department of Justice

Re: Antitrust settlement between the Department of Justice and Microsoft Corporation.

Dear Sirs:

I want to take the time to voice my personal opinion about the antitrust settlement agreement. I believe that the provisions of the agreement are tough, reasonable and fair to all parties, and go far beyond the findings of the Court of Appeals. I must also say that I did not agree with the lawsuit itself when it was first filed.

The Microsoft Corporation is the pioneer in our history of technology. They started with little more than ideas and have become a pillar of capitalism, as we know it in this world today. Don't sacrifice what our great nation has been built on.

I therefore urge the District Court to rule that the terms of the settlement are in the public's best interest.

Thank you for your consideration.

Sincerely,

Raymond Merritt

Tucson, Arizona

MTC-00024921

From: genep49@hotmail.com@inetgw

To: Microsoft ATR

Date: 1/25/02 3:59pm

Subject: Microsoft Settlement

Ms. Renata B. Hesse,

Antitrust Division

601 D Street NW, Suite 1200

Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Eugene Peplowski

P.O. Box 3071

Show Low, AZ 85902–3071

MTC-00024922

From: Chadbourne, Seth

To: "microsoft.atr(a)usdoj.gov"

Date: 1/25/02 4:01pm

I write to give you my opinion on the Microsoft settlement. First, let me tell you that I don't have a horse in this race, I don't own any securities of Microsoft or any of its competitors, nor do I do business directly with Microsoft or its competitors. In short, I have no monetary relationship in any way with Microsoft or any of it's competitors. What I do have, is seven years experience as an analyst and portfolio manager for one of the largest and most respected high yield bond asset management companies in the world.

As a patriot, and fierce defender of free markets and the American capitalist system, the entire Microsoft case sickened me from the outset. The genesis of this case was the vitriolic hatred the extreme left wing of the Democratic party has for successful U.S. companies. This was a political case brought by a politicized Justice Department. Now that the scoundrels that ruled the Clinton Justice Department have left their offices, the Bush Justice Department should allow justice to prevail by dropping the case entirely. While Microsoft may have used some aggressive business practices, they did nothing to flagrantly violate the US antitrust laws. Furthermore, U.S. businesses must be allowed a certain amount of leeway if they are to successfully compete in the global economy. Most intelligent professionals on Wall Street agree that even the settlement to which Microsoft agreed is unfair to Microsoft. Please do not punish Microsoft for being a successful American company, as the socialists would have you do.

CC:Hendon, Travis

MTC-00024923

From: Dirtbandit@aol.com@inetgw

To: Microsoft ATR

Date: 1/25/02 4:02pm

Subject: Microsoft Settlement

Karen Hoffman

27633 SE 400th Way

Enumclaw, WA 98022

January 25, 2002

Attorney General John Ashcroft

US Department of Justice

950 Pennsylvania Avenue, NW

Washington, DC 20530

Dear Mr. Ashcroft:

The reason for this letter is to request that you make a good effort to ensure the settlement reached in the Microsoft antitrust case becomes a reality.

Challengers and foes of Microsoft may pressure officials to delay this settlement in favor of continued litigation in this case. They are working under the premise that the courts should punish Microsoft. I do not believe the courts should be used in this way.

Furthermore the settlement that is being offered is a good agreement. The settlement will allow easier placement of non-Microsoft products on Microsoft operating systems; including easier removal of Microsoft components. Additionally the settlement will permit computer makers to place non-Microsoft operating systems on computers with fewer restrictions, even if they also use Microsoft systems. Moreover the settlement creates a technical review committee that includes a full time government monitor to ensure all elements of the settlement are enforced. It is clear that this settlement should be implemented and this settlement is good.

Sincerely,

Karen Hoffman

MTC-00024924

From: ncoley@vnet.net@inetgw

To: Microsoft ATR

Date: 1/25/02 3:59pm

Subject: Microsoft Settlement

Ms. Renata B. Hesse,

Antitrust Division

601 D Street NW, Suite 1200

Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

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This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Norman Coley

266 Vance Dr NE Apt C

Concord, NC 28025–3369

MTC-00024925

From: Doug

To: Microsoft ATR

Date: 1/25/02 4:03pm

Subject: Make Microsoft give out code needed for compatiblity

Regarding the current settlement between Microsoft and the D.O.J. needs to be addressed. I do not know a great deal about it, but I read the Microsoft is NOT required to give software competitors the information needed for compatibility with their operating system.

Software programmers need specific information in order to ensure that their product will work on any Windows based PC. There are also many other issues that need to be addressed with the settlement. I am voicing my disagreement with the proposed settlement.

It gives Microsoft too many advantages.

Douglas Strick

Basehor, KS

MTC-00024926

From: novaman

To: Microsoft ATR

Date: 1/25/02 4:02pm

Subject: Microsoft Settlement

I am so sick of these suits. They were garbage to begin with and the costs to the governments, investors, state pension funds, the economy and Microsoft have been enormous. For God's sake let it die.

The settlement is far better than Microsoft's opponents deserve. The whiners have won and the consumers and investors have lost.

Thomas P Noonan

—4600 S Four Mile Run Dr #219

—Arlington, VA 22204

MTC-00024927

From: Timothy—L—Bennington@RL.gov@inetgw

To: Microsoft ATR

Date: 1/25/02 3:51pm

Subject: Comments

Move forward with the settlement and end the petty persecution of Bill Gates and

Microsoft for having the courage to set standards in the software industry. The sour grapes contention that Microsoft is damaging competition is simply a series of self interest whining promoted by weak unimaginative firms who would rather get even than ahead.

CC:barbbenn@exchange.
microsoft.com@inetgw

MTC–00024928

From: Dirtbandit@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:04pm
Subject: Microsoft Settlement
Randy Hoffman
27633 SE 400th Way
Enumclaw, WA 98022
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The reason for this letter is to request that you make a good effort to ensure the settlement reached in the Microsoft antitrust case becomes a reality.

Challengers and foes of Microsoft may pressure officials to delay this settlement in favor of continued litigation in this case. They are working under the premise that the courts should punish Microsoft. I do not believe the courts should be used in this way.

Furthermore the settlement that is being offered is a good agreement. The settlement will allow easier placement of non-Microsoft products on Microsoft operating systems; including easier removal of Microsoft components. Additionally the settlement will permit computer makers to place non-Microsoft operating systems on computers with fewer restrictions, even if they also use Microsoft systems. Moreover the settlement creates a technical review committee that includes a full time government monitor to ensure all elements of the settlement are enforced. It is clear that this settlement should be implemented and this settlement is good.

Sincerely,
Randy Hoffman

MTC–00024929

From: gkcook@alltel.net@inetgw
To: Microsoft ATR
Date: 1/25/02 4:00pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Gerald Cook
2840 Albert Reid R.
Sautee Nacoochee, GA 30571

MTC–00024930

From: Marshall, Cheshana
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 4:02pm
Subject: Microsoft Settlement

Proposed settlement is a bad idea

MTC–00024931

From: John Torrence
To: Microsoft ATR
Date: 1/25/02 4:05pm
Subject: Microsoft Settlement
John A. Torrence
2906 Coolidge Drive
Bellingham, WA. 98225
January 25,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Re: Microsoft Settlement

Dear Mr. Ashcroft,

I am writing in response to the antitrust settlement between Microsoft and the Department of Justice. In my opinion, the settlement is more than fair, considering Microsoft has agreed to terms that extend well beyond the products and procedures that were actually at issue in the original suit.

As I understand it, among dozens of other things, Microsoft has agreed to server interoperability, meaning that Microsoft gives its competitors the protocols implemented in Windows that are used to interoperate natively with any Microsoft server operating system. They also have agreed to submit to the authority of a three-person technical committee, which will monitor Microsoft's compliance with the settlement and assist with dispute resolution. It is obvious that Microsoft is willing to do what is necessary to bring closure to this matter. The Department of Justice should in return bring all further litigations to a halt.

Sincerely,
John Torrence

MTC–00024932

From: lorddrayke@draykestower.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:05pm
Subject: Microsoft Settlement

To whom it may concern,

I am writing this hoping that many others who have been in a similar position on Microsoft throughout the years will do the same. I am relatively new to the computer industry, having bought my first computer in 1995, and as thus have little to no input for the times preceding this.

I have always been a curious and technically intuitive person and computers proved to follow the same pattern for me. I quickly learned to upgrade and eventually build new computers from their various components. I was oblivious to a great many things early on...... and am still oblivious to many this very day. There is one thing, above most others, I am grateful for becoming aware of during the last 2 years, And that is the behavior of a particular company.... Microsoft. I have been frustrated at the lack of stability, security in their products for many years.... but still find myself having to use them... Simply because there is no viable alternative.... They have preached time and again about how their next Operating System will be stable, or secure but still each subsequent operating system had it's major stability issues and security breeches. But I'm losing my train of thought..... I recently (Nov-Dev 2001) read through the entire findings of fact in the Anti-trust Vs. Microsoft and was just absolutely astonished at the atrocious, and very harmful things they have done. I'm sure you have read through the findings of fact in the case so won't run through all the harm they have done Acting against those who either or indirectly went against their wishes. I am far from an expert on market dynamics and antitrust laws, but there is one thing which I know.

I know it just as I know my name, where I live, or my social security number. I know that the settlement in the antitrust case is not even close to nearing a punishment that will discourage further misdeeds. The establishment of the 3 person Technical Reviewer Board from what I have read has little to no power to actually enforce anything... And what most consider one of the more severe punishments.... The donation of 5 Billion in Computers and Software to the schools.... You know they are going to be donating Microsoft software whenever possible. Their Windows operating systems, MS Office products, and whatever else they can get in. So Let me get this straight..... their punishment is to expand their market share in an area that has traditionally been dominated by Apple? What kind of punishment is that? I can definitely understand why Apple is so distraught over the settlement.

The bottom line is that I feel Microsoft has been taking advantage of their monopoly position to overcharge the consumers for a very long time. Now they have been using it to maintain their dominance and the, ever so important, barrier to entry for any would be competitve technologies. The end result being for them to increase their market share in an area traditionally dominated by one of their only competitors as punishment...

I know I am only one person..... One consumer..... One citizen.......

But I for one am not pleased at this settlement.....

And I for one don't feel the best interests of the consumer were taken into consideration in this settlement.... Since this settlement will in no way hinder or discourage Microsoft from taking advantage of the consumers.

Thank you for your time,
Don Leger

MTC–00024933

From: serenity459@cs.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:02pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division

601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Kathryn Brophy
111 Wall St.
Kalamazoo, MI 49001

MTC–00024934

From: Howard Peterson
To: Microsoft ATR
Date: 1/25/02 4:14pm
Subject: MICROSOFT SETTLEMENT

IF THE U.S. GOVERNMENT SPENT AS MUCH MONEY PURSUING "OSAMA BIN LADEN" AS THEY HAVE IN "HOUNDING BILL GATES AND MICROSOFT", WE WOULD NOT HAVE HAD THE SEPTEMBER 11TH TRAGEDY.

HOWARD PETERSON
907 VANCE ST N
WILSON, NC 27893

MTC–00024935

From: wendy willson
To: Microsoft ATR
Date: 1/25/02 4:08pm
Subject: Microsoft Settlement

Dear Esteemed Justices;

I would like to voice my opinion that it is far beyond time to put a close to this matter and further litigation. The remedies to be imposed are fair and just, and pave the way for competition on a level playing field.

I beseech you to do your best to put an end to what has become an expensive (and now irrelevant, given the more open XP platform and other technological innovations recently) battle. I have confidence that Microsoft has learned its "lesson", and I hope you see the logic in closing this chapter for the sake of our economy, for I do believe, if a settlement is made, stockholders and retailers all over the country will sigh a sigh of relief that will resonate "round the world. I think this single event would make more of a difference than any rate cut by Mr. Greenspan ever could.

Sincerely,
Wendy Willson

MTC–00024936

From: sgmbennett@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:03pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

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Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Robert Bennett
2400 Southlea Dr.
Dayton, OH 45459–3645

MTC–00024937

From: Michael Keating
To: Microsoft ATR
Date: 1/25/02 4:25pm
Subject: Microsoft Settlement

Microsoft is forcing users to use their second rate products. They are forcing open source programs and applications out of the way, by making sure they do not run on windows. Microsoft inserts code into their applications for the sole reason of stopping it from running on other Operating systems.

I am not going to bother with the technical and legal mumbo jumbo which I am sure that many other people have both complained about before, and I am sure that the lawyers have brought to your attention, that is of the unfairness of the Final Judgment in United States v. Microsoft. Microsoft is forcing the computer hardware industry into a wall. It is immpossible to buy a personal computer, either from Gateway, Dell, Compact, or Hewllet Packard, that does not contain Microsofts XP.

Microsoft XP is a horrible product. You are punished if you dont use it, because of lack of newer software on the other operating systems. They release products before they are ready, and then 2 years later release another one that fixes half of the problems.

More should be done to stop this company. They are downright EVIL and that is an understatement. They dont care about their consumer base, just about getting their money.

Please help the american people, by making their lives a little bit less hassled by eliminating their computer woes by taking this company and forcing them to actually ACT upon their mistakes to fix these problems in America's Time of Need.

Anyone that doesn't see how the Microsoft Trail makes a big impact on people's lives (and more so in the future when more products and PCs are a bigger part of our lives), doesn't really deserve to be called an American unless they are CONCERNED about how this hurts the American people, and they feel their pain but dont act upon it.

Thank you,
God Bless the US
The Keating Family

MTC–00024938

From: Harold Morgan
To: Microsoft ATR
Date: 1/25/02 3:44pm
Subject: Microsoft settlement

For Pete's sake, enough already. I believe it is time to end the Microsoft madness and drop these court findings that are damaging our economy. I suggest that the time will come in several decades when the public will look back on the Microsoft debacle as a time of governmental stupidity.

Further, the Gates team and his current software developers will be seen in the same light as Bell, Edison and other progressive inventors. I believe I would not have the wonderful and cheap computer software if it were not for

Bill Gates.
For Pete's sake just stop it.
Harold Bishop Morgan
hmorgan@evansville.net

MTC–00024939

From: Theo Gantos
To: Microsoft ATR
Date: 1/25/02 4:11pm
Subject: Microsoft needs to have checks and balances

Thanks for the opportunity to put these remarks on the record. I have written several articles on the issue of Microsoft in the IT industry and think that allowing them to operate as they have is a great impediment to the industry. Since the IT industry is dominated by the US, this also represents a threat to our GDP. Previous remedies are as insufficient as 2 man police car patrols were against street gang activity in Chicago. Only "proactive" checks and balances will protect our industry. These must that assume that this company will continue to do what it has in the past, abuse its monopoly power. Waiting several years and spending millions of dollars to bring them to trial over violations is like trying to lock the house after it has burnt to the ground.

The government established emissions and safety regulations when it became apparent that the auto industry was inherently unable to self-regulate. I think that Microsoft has the burden to prove that it can prevent future transgressions, which it cannot. I remember a computer industry dominated by IBM in the 1970's which was devoid of serious innovation.

Microsofts hold on the industry is even more pronounced and dangerous.

Here are the links to my publications about Microsoft. I'd like these entered into the record as well.

http://www.teka.com/publications/paper19971030.html

http://www.teka.com/publications/paper19971106.html

http://www.teka.com/publications/paper19980115.html

http://www.teka.com/publications/paper19980304.html

Regards,
Theo Gantos
theo@teka.com
TEKA
1321
Ashland Ave
Evanston, IL 60201–4039

Ph: (847) 864–7390
http://www.teka.com
CC:David M. Deaver,Wendy Crespo work

MTC–00024940

From: j. wesimeyer
To: Microsoft ATR
Date: 1/25/02 4:11pm
Subject: Microsoft Settlement

Dear Madam/Sir: (Jan 25, 2002)

As part of DOJs (and the States) suit against Microsoft, I propose the following as part of the settlement:

1. That Microsoft be handed a court order to change their official company name from: Microsoft—to — THE BUG FACTORY—. And if it should happen that said name is already in use by some well-meaning firm, then just modify same to: THE SOFTWARE BUG FACTORY, or anything so similar. Dont need to be too particular, eh?

2. The courts should also order Microsoft to change their official company logo to that of a spider, mosquito, cockroach, or whatever creepy-crawling critter the justices think most appropriate. Just so it presents the unsuspecting consumer with a general idea that the product inside is BUG INFESTED...

Ladies and gentlemen, what is wrong with this idea? Stevie Balmer, King Willhelms (aka Gates) number one mouthpiece, admitted in the summer of 2000, that Windows 98 had 25,000 known bugs (that is, known to Microsoft). What? Oh sure, Mr. Balmer was speaking at the festivities kicking off the launch of Windows 2000, at that fancy-dan hotel there in San Francisco. Yes, here we have the highest officials of Microsoft admitting before a packed audience, that they know, they admit, that Win 98 had no less than TWENTY FIVE THOUSAND KNOWN DEFICIENCIES, and they got away with that. Consumers had to accept this level of garbage.

Please include the above suggestions in your settlement decree. I would not mind purchasing King Wilhelms next OS, if it was packed inside a box with little bugs printed all round the carton. It would be a form of embarrassment that MS soundly deserves.

Thank you
J.Wiesenmeyer
417–284–3951
veteran
taxpayer
voter
homeowner
law-abiding citizen

MTC–00024941

From: Ted Roby
To: Microsoft ATR
Date: 1/25/02 4:12pm
Subject: Microsoft Settlement

In regards to the proposed settlement for the Microsoft Antitrust Trial, to be submitted by January 28th, 2002:

In reviewing the details of the proposed settlement, I find many loopholes and variations in it's definition. I would like to express simply, and clearly what makes sense to me in regards to the operation of Microsoft.

First, definitions of both Windows OS and Middleware should not be so limited. Microsoft, like any other forward moving business will within the year have new services and applications available that will not be covered by these definitions. To put it plainly, I offer the following statements:

1. Any developer should be able to write software that will run on Microsoft Operating System platforms, in use now or in the future.

2. Any developer should be able to create their own OS that would allow Microsoft and Windows-based applications to run on their OS.

3. Microsoft should not be able to in any way, coerce or use leverage over any computer hardware manufacturer to prevent them from developing for non-Microsoft developers and companies.

In my opinion, this would create an environment where Microsoft's applications and operating systems would stand on their own merit. There is no reason for Microsoft to release any of it's source code if it does not wish to. So long as source code and tools are made available for the use of creating applications that can run on Microsoft operating systems, and operating systems that can run Microsoft applications.

Any punishment taken against Microsoft should be with respect to keeping Microsoft from bullying any developer, service provider, or manufacturer who wishes to use something besides Microsoft products.

Under normal circumstances I would agree with letting a company reward those who use it's products, but since Microsoft has already gained it's monopoly, and has been found to hold far more power than should be allowed, I believe no such benefits shoud be given.

Microsoft needs to let it's applications and services stand on their own merit for a while. It should be encouraged to focus it's efforts on making a product that stands out on it's own without the bullying and coercion that Microsoft has been famous for.

Ted Roby
Systems Engineer
SRA NetWorks
1787 Lencar Way
San Jose, CA 95124
http://www.sranetworks.com
Office: (408)436–6048
Pager: (800)710–5228

MTC–00024942

From: Ruth Millward
To: Microsoft Settlement U.S. Department of Justice
Date: 1/25/02 4:07pm
Subject: Microsoft Settlement
Ruth Millward
9716 Bighorn
Pocatello, ID 83204
January 25, 2002
Microsoft Settlement U.S. Department of Justice

Dear Microsoft Settlement U.S. Department of Justice:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies. Thank you for this opportunity to share my views.

Sincerely,
Ruth Millward

MTC–00024943

From: Eileen T Bender
To: Microsoft ATR
Date: 1/25/02 4:12pm
Subject: To whom it may concern:

To whom it may concern:

While I am aware and appreciative of the contributions, both technological and philanthropical, of Microsoft and the Gates Foundation, I am concerned that the proposed settlement with this company will do nothing to curtail its monopolistic and. exclusionary business practices—practices which seem to fly in the face of their social and ethical commitments. The ethos of exclusion is built in to every product they sell, in effect thwarting the entrepreneurial and creative energies of a free market. This lesson was brought home to me forcibly over the holidays, when I received a gift of a new computer equipped with ab NS XP platform. THe MS software is not only a dominant presence on the desktop, but must be overridden in many cases in order to install the non-MS software which I find necessary to do my work. Sad to say, it is what I as a consumer have come to expect of Microsoft, and I see nothing in the proposed settlement that would restore a consumer's right to choose. Thus, I must boice my disappointment of the proposed settlement, and my hope that it will not be made final until these egregious practices have been curtailed.

Eileen T. Bender
Department of English
Indiana University South Bend
1700 Mishawaka yAve. Box 7111
South Bend, IN 46634
ebender@iusb.edu
574–237–4221

MTC–00024944

From: Jeanne Sarfaty Glazer
To: Microsoft ATR
Date: 1/25/02 4:06pm
Subject: Microsoft Settlement

Just a quick note to let you know I think the proposaed Microsoft settlement is a BAD IDEA!

Sincerely,
Jeanne Sarfaty Glazer Silver Spring, MD

MTC–00024945

From: gail austin
To: Microsoft ATR

Date: 1/25/02 4:15pm
Subject: Microsoft Settlement

I belive the settlement that has been worked out is fair. And now you need to go look at some body like ENRON how realy needed looking at.

MTC-00024946

From: Jeff Knapp
To: Microsoft ATR
Date: 1/25/02 4:16pm
Subject: Microsoft Settlement

Hi, I just wanted to voice my personal opinion on the Microsoft Settlement. First off, I am a Macintosh user only. I do not use Microsoft Windows or Intel based hardware. This is as much a philosophical and ethical stance as much as it is also a practical one. The ethical stance is simply one of being very opposed to Microsoft's predatory and unethical business practices. Their whole stance is one of conquer and destroy the competition.

The practical reasons are primarily rooted in that Macintosh systems and OS are simply superior products that are more ideally suited for my kind of work (animation and visual effects for video).

Over the years, MS has engaged in finding ways to buy out or quash out any competition including attempts at stamping out Apple Computer (though, not before stealing ideas and innovations Apple comes up with). They did so with Netscape by choking off an important source of revenue to Netscape by giving away for free what Netscape had been charging for—the web browser.

Another tactic Microsoft is currently, actively engaging in now to choke off competition is to build their OS in such a way that it is almost impossible to create competing products for "features" built into Windows. Windows XP has a set of built-in media handlers such as video players (Windows Media Player), music and web browsing. MS has written Windows XP in such a way that it is very difficult for a user to get any competing products such as RealMedia and Apple's QuickTime running well. The same goes with web browsers, Netscape and Opera both are cumbersome to get to run adequately in Windows XP. If you want to play an MP3 file, Microsoft has made it nearly impossible to do so in order to quell the MP3 format as competition to it's own music streaming initiative.

On the internet, Microsoft is making many attempts to impose standards and technologies that run only on the Windows platform. A very good example of this is NBC. Any MSNBC, NBC network or NBC affiliate web site that has any sort of streaming media content will not play on the Macintosh platform even though there is no technical reason for such a limitation, Windows Media Player does work on the Mac after all—and that is what is being used on these web sites. It is apparently, strictly a marketing decision to limit the streaming media to Windows only.

My fear is that unless there is a real resolution that has real teeth In it that Microsoft cannot slither its way around, their conduct will continue to be unchecked, they will continue to do business as they always have. I fear an internet that is closed off to everybody who isn't using Windows. I fear any other platform being forced to either conform to Microsoft or be put out of business.

Right now, Microsoft has far too much power and control over the computing environment. I find myself having to dig through the morass of Windows only products and services in search of the few Macintosh products out there. Go into any major computer retailer and it is all Windows. The Macintosh retailers are few and far between. Many of the services out on the internet are Windows only primarily because the developer has chosen to use a Microsoft development product that, of course, only supports Windows users. These developers make these choices often out of fear of Microsoft.

No one entity should ever have so much control that they can dictate the market thus, dictate our range of choices. As it is right now, it is getting very close to the point where it is Microsoft's way or no way. This is ethically and morally wrong.

During the whole Anti-trust trial against Microsoft and the very strong judgment against them, I had counted on the Justice Department to do its job and put a stop to Microsoft's predatory and illegal business practices. Then Bush got elected and I knew all of that was over. Microsoft will, at best, get a light slap on the wrist in the form of some consent decree that was so full of loop holes that they would be able to just move on unimpeded.

The so-called proposal Microsoft has put forward is not only the very piece of swiss cheese I feared but, actually has the audacity to include a mechanism that actually increases their stronghold on the computing world by making schools dependent on Microsoft products and services. It's the old marketing strategy of giving away the razor handle for free and making all the money on the blades.

I implore my government to do its job and put a stop—for real—to Microsoft's predatory and opportunistic business practices and to re-level the playing field so real competition can once again exist in the computer platform market.

Thank you for your time,
Jeffrey J. Knapp
jkdigital@jkdigital.com
Www.jkdigital.com

MTC-00024947

From: Stan Liebowitz
To: Microsoft ATR
Date: 1/25/02 4:16pm
Subject: Microsoft Settlement

I would like to state that I believe the current proposed remedy is reasonable in that it prevents Microsoft from using exclusionary contracts while not harming consumers by fragmenting a market that they prefer to remain intact, as did some other proposed remedies including that of Judge Jackson. Nor does the current remedy reward Microsoft's competitors by hobbling Microsoft's pro-competitive behavior, as other proposed remedies would do.

Although Microsoft may have stepped over the bounds with its contracts, those contracts had little to do with its success, or more importantly, with the failure of its competitors, including Netscape. As my co-author, Stephen Margolis, and myself demonstrate at length in our book: "Winners, Losers & Microsoft" Internet Explorer was a better browser (Microsoft's economist witness misspoke on this issue when he stated that there was little difference between the two-our work was more thorough than his) and as we also demonstrated, large shifts in market share routinely occurred when a new product was acknowledged to be of higher quality, whether it was Microsoft's or someone else's.

Additionally, Microsoft's overall market behavior has been beneficial to consumers. Microsoft is largely responsible for the large decrease in software prices that occurred throughout the 1990s, and is also demonstrated in our book. For an examination of software markets that went well beyond the scope of the trial, in order to see the forest through the trees, I suggest that you read our book. Lest you think that we are merely apologists for Microsoft, I note that we have been propounding the ideas put forward in the book for over a decade in leading academic journals, well before the Microsoft case arose or could even be imagined.

Since Microsoft's illegal behavior had little to do with its success, the remedy should be to prevent that behavior but not to reward its competitors who failed to succeed in the marketplace due to their own missteps. The current remedy does just that. It would be wrong to punish Microsoft merely because Microsoft's competitors wished to weaken competition in the market, as they clearly do. Why else would companies like Sun, which does not have any products in the Windows universe, be so intent on a more "punishing" remedy. Sun has no interest in seeing the Windows/Intel market do well, or for more vibrant competition to occur in that market. It merely wants less competition in the market for workstations and servers, a market that did not play a role in the case since Microsoft is not the dominant player there. Antitrust should not be allowed to be the handmaiden of attempts to subvert competition.

Stan Liebowitz
Professor of Managerial Economics
University of Texas at Dallas
972–883–2807, fax 972–883–2818

MTC-00024948

From: Kevin Ahern
To: Microsoft ATR
Date: 1/25/02 4:16pm
Subject: Microsoft Settlement

Hi:

I'm writing to indicate my displeasure with the proposed Microsoft settlement. It will allow the Microsoft monopoly to not only continue, but to flourish. The Department of Justice needs to rethink its policy and put real teeth in the settlement—not what has been done to date.

Kevin Ahern
Dr. Kevin Ahern, Contributing Editor, Science Magazine
Senior Instructor
Department of Biochemistry & Biophysics

Oregon State University
Corvallis, OR 97331
Voice—541–737–2305
***Note New Email—
ahernk@onid.orst.edu
Web—http://www.davincipress.com

MTC–00024949

From: Doreen Stokes
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 4:17pm
Subject: Microsoft Settlement
CC: "tormist(a)ag.state.ia.us"
January 25, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, NW
Suite 1200
Washington, DC 20530–0001

To Whom It May Concern:

I hope that you will reconsider the decision to settle the United States Department of Justice antitrust lawsuit against Microsoft Corporation. American consumers may have been overcharged $20 billion by the Microsoft monopoly. Your agreement with Bill Gates" company does nothing to rectify past sins by this company or protect against future gauging.

As you know, at least ten consumer groups disagree with your agreement to settle. Microsoft has little incentive to change any of its practices. Their concessions are insignificant. I am proud that my state's Attorney General, Tom Miller, rejected this Microsoft agreement. I believe that Mr. Miller and the other eight state attorneys general see the many loopholes and problems with enforcement that does little to affect change in the computer software industry. Splitting Microsoft into two or three companies may not be the proper response, but neither is this.

Your decision to prematurely end litigation against Microsoft is a mistake. The agreement offers no real incentive to stop monopolistic, anti-trust efforts. It won't help much smaller companies compete and it doesn't serve the American consumer. I ask that you continue to go after Microsoft. It is a duty of the Justice Department to protect the average citizen from companies that have grown too large and too powerful by questionable business practices.

Sincerely,
Doreen Stokes
3609 Wolcott Avenue
Des Moines, Iowa 50321
CC: Iowa Attorney General
US Dept of Justice
microsoft.atr@usdoj.gov
Iowa Attorney General Tom Miller
tormist@ag.state.ia.us
Barb Hildebrandt
benandbarb@qwest.net

MTC–00024950

From: Joseph Ingraffia
To: Microsoft ATR,Microsoft's Freedom To Innovate Netw...
Date: 1/25/02 4:17pm
Subject: Microsoft letter to Attorney General John Ashcroft

Microsoft can only harm themselves by not innovating and overcharging customers.

MTC–00024951

From: GWhit79564@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:18pm
Subject: Microsoft Settlement

Gentlemen:

It is my humble opinion that the terms of the settlement are fair and reasonable to all parties, and exceed the ruling of the Court of Appeals. It is important to our economy that this matter be settled promptly and the industry and Microsoft to move forward.

Sincerely,
George Whitbeck

MTC–00024952

From: Nathaniel Pendleton
To: Microsoft ATR
Date: 1/25/02 4:19pm
Subject: Microsoft Settlement

I must agree with the finding of fact from US v. Microsoft 2001, and Messers Litan, Noll and Nordhaus, http://www.antitrustinstitute.org/recent/162.pdf that Microsoft has violated Section 2 of the Sherman antitrust act, to illegally crush, and will continue to illegally crush, commercial competitors.

Microsoft anti-competitive activity damages the pace of growth, by closing and poisoning standards, to maximize Microsoft's return. Even poising previous Microsoft product standards with incompatibility forces many consumers to upgrade or loose access to a large install base of current users/applications.

Microsoft is very effective at bridling growth of choice with its install base.

Ironically, Open Standards fueled the growth of the internet and information age by creating larger install base for network economies, quietly handling email, and webpages across the net. We must return to, or in some cases reinforce, Open Standards, to fuel choice and price wars.

Microsoft's one way street for importing open standard data, but rarely providing adequate export formats other than proprietary save formats, is preventing users from having alternative choices. Even upgrade of Microsoft products is complicated by incompatible closed and obscure file formats from previous versions of Microsoft products.

But Microsoft's denial of OS and office tools choice, further perpetuates network economy dominance/install base, spurring yet more opportunity for Microsoft to maintain its control of core technologies and add outlying technologies, avoiding price wars, with competitors through tying ensuring license fees, and furthering its control and its dominant role.

Open Standards could again fuel growth by distributing opportunity and control with OS development, application development, and portable data formats. This is not a new trend.

Take for example, TV footage from the 1968 and 1972 Presidential Campaigns, which was closed format and hardware. Most of footage is inaccessible or gone, lost from the historical record, due to technological change.

But in Microsoft's case, we are not loosing access via obscure hardware, because open hardware standards have created compatibility and affordability. We are loosing data access due to arbitrary format changes each software generation by Microsoft.

Computer data can and should be like my boxes of college text books, that I still open and read from for references or pleasure. But Microsoft's closed or poisoned standards will block access to our nations historical record.

Much like NPR's "Lost and Found Sound" only highly paid experts will be able to access historical information by carefully maintained old hardware and old software, will we be able to open obscure Microsoft's data formats such as MS Word's data buffer dump called "quick saves."

This is a yet higher invisible price to pay for Microsoft dominance. Breaking up Microsoft would force a rebirth of Open Standards and spurring real growth and competition in the proposed Baby-Microsoft's, Linux/GNU, MacOS, PalmOS, and even Java.

Open Standards built the internet. Fueling explosive growth in sharing of information and services. Let open standards out of the corner that Microsoft is trying to push them.

Let portable middleware, APIs and exchange formats flourish, and truly see the fabled convergence that we promised actually come rushing in.

Reject the settlement for one with real teeth, break up the company. Separate Windows OS from applications such as Office and Internet Explorer.

Nathaniel Pendleton
5012 45th St. NW
Washington DC 20016

MTC–00024953

From: James Duncan
To: Microsoft ATR
Date: 1/25/02 4:20pm
Subject: Microsoft Settlement
RE: Microsoft Anti-Trust Settlement

Microsoft has been and is out of control. Their plans for the next few years, including the .NET initiative, blatantly leverage their ongoing monopoly status.

I'm voting with my feet.: I'm a contract systems administrator who has used mostly Microsoft applications and operating systems since that's what most businesses are in effect forced to use. I've grown concerned with Microsoft's attitude and policy initiatives. My New Year's resolution was to absolutely reduce my dependence and that of my clients on Microsoft products. Such migrations can be extremely difficult since most overall development has had to be focused on Microsoft compatible applications.

I urge more careful consideration of all Microsoft settlements.

Thank you,
James Duncan
drdunc@earthlink.net
Scotts Valley, CA 95066

MTC–00024954

From: Helchie Charles
To: Microsoft ATR
Date: 1/25/02 4:22pm
Subject:

After the horrible attacks of September 11th I believe that this country needs to start uniting and supporting American based companies. We need to return honor to this nation not litigation. Our success is necessary on all fronts especially technology.

Hopefully, the court and the DOJ will back Microsoft in settling this political case once and for all. It would be nice to see the competitors all unite to start working on great technology instead of trying to create legal smoke screens to fog great visions for our future. Long live the American freedom to work hard and succeed not hire a lawyer. Please settle this mess and let Microsoft get on with it.

Thank you for your time.

Helen Charles

MTC-00024955

From: Karen Thompson
To: Microsoft ATR
Date: 1/25/02 4:22pm
Subject: Microsoft Settlement
Karen Thompson
2520 Oakes Avenue
Anacortes, WA 98221
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I am writing you today to voice my opinion on Microsoft. I am a Microsoft supporter, and I support the settlement that was reached in November. This settlement is fair, and I am anxious to see this three-year-long dispute resolved. There are bigger fish to fry at the present time.

The settlement that was reached in November is sufficient to deal with the issues of this lawsuit. Microsoft has agreed to carry out all provisions in this agreement. Under this agreement, Microsoft must grant computer makers the right to configure Windows in promote non-Microsoft software programs that compete with programs included within Windows. Microsoft also agreed to license its Windows operating system to the 20 major computer makers for an identical price. This settlement will benefit the entire technology industry.

I urge you to support this settlement. This settlement will serve in the best public interest. Thank you for your support.

Sincerely,

Karen Thompson

MTC-00024956

From: Gary L. Vandenberg
To: Microsoft ATR
Date: 1/25/02 4:22pm
Subject: Microsoft settlement

To Whom It Concerns,

Please finish the Microsoft settlement as it has been proposed. Microsoft is one of America's competitive assets in the world economy. It needs to be able to focus on business without more delays and legal proceedings.

Thank you.

Gary L. Vandenberg
Real Estate Solutions/1031 INC
1031 Lake Drive, SE
Grand Rapids, MI 49506
Ph 616-774-1031

MTC-00024957

From: Marlene Morley
To: Microsoft ATR
Date: 1/25/02 4:15pm
Subject: Microsoft Settlement

This Email is to let you know that I agree with the statements made regarding the proposed Microsoft settlement at http://www.kegel.com/remedy/letter.html as well as the content on http://www.kegel.com/remedy/ —

Marlene Morley
Linux Administrator
Hypernet Communications
Website: http://www.hyperusa.com/
Email: marlenem@hyperusa.com
hyperusa.com

MTC-00024959

From: ccarlsen1@compuserve.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:22pm
Subject: Microsoft settlement
2903 116th Avenue, NE
Lake Stevens, Washington 98258
January 25, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to start off by saying that I am not a strong supporter of Microsoft. I don't really have any stong ties to them, but I don't agree with the antitrust suit against them. The settlement that was made between Microsoft and the Department of Justice is more than fair, and it is time this matter was over with. Millions of state and federal dollars have been wasted on this suit. The United States is based upon a free enterprise system; while we may not always agree with the tactics employed by big business, our interference in business undermines the very foundation this nation has been built upon.

Microsoft has agreed to terms that will enable other companies to compete. They have to license the internal codes of Windows to the top twenty companies so they can produce software that is compatible with Windows.

Because of the competition that will arise from this settlement a wider variety of products will emerge. So now, not only will the consumer have a better product, but the prices will be more reasonable. Also, Microsoft will be forced to produce a better product in order to stay competitive.

I would like to reiterate that I am not writing this letter because the issue is personal to me. I am not a huge stockholder and I know no one who works for Microsoft. I do know what is right though, and ending this ridiculous suit against Microsoft is the right thing to do. Thank-you.

Sincerely,

Carl Carlsen

MTC-00024960

From: Calia, Maryann
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 4:23pm
Subject: microsoft settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
January25,2002
RE: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

The case of United States v. Microsoft has been a challenge and an opportunity for both the high tech industry and the American consumer. New and innovative solutions for resolving such a dispute were paramount in coming to a settlement. The continuation of sanctions on Microsoft to foster greater competition in the software industry, as well as allowing Microsoft to remain a viable company has resulted in a benefit for the consumer as well as for the industry. Protecting the consumer and encouraging the creation of new and effective products is always essential in a healthy free economy.

The settlement that the United States has negotiated with Microsoft is in our nation's best interest. It comes at a critical time in our economic recovery when our nation needs more reconciliation than confrontation. I am encouraged by the action of the Department of Justice and support the efforts to settle this case.

Very truly yours,

SALVATORE F. DIMASI
Majority Leader
Massachusetts House of Representatives

MTC-00024961

From: Myroslaw Ryndyk
To: Microsoft ATR
Date: 1/25/02 4:22pm
Subject: Microsoft Settlement
Your Honor:
Myroslaw Ryndyk
250 Velarde Street
Mountain View, CA 94041

As a citizen of this country, a customer and user of high tech products and as a career member of the high tech industry(over 30 years as a software engineer), I want to register my concern about the Proposed Final Judgement(PFJ) in the Microsoft case.

This case has been tried at the Federal District Court level and reviewed at Federal District Court of Appeals. It has been stated by the Appeals Court that Microsoft had aggressively and repeatedly violated United States antitrust laws. Further, the Appeals Court has stated that any settlement between the Government and Microsoft must protect members of the technology industry and the general public by ensuring that any such settlement contain the following three elements: (1) it must terminate Microsoft's illegal monopoly, (2) it must deny to Microsoft the fruits of its past violations and (3) it must prevent any future anticompetitive activity.

From what I have been reading in the press and other sources, it appears that the PFJ falls woefully short on providing those protections:

1. It does not end Microsoft's monopoly and even allows Microsoft to expand its monopoly into other technology markets.

2. It does not adequately address anticompetitive behavior identified by the Appeals Court.

3. It incorporates such large loopholes to its enforcement provisions as to render enforcement meaningless.

4. It does not provide an effective enforcement mechanism for the weak restrictions it does implement.

5. It does not deny to Microsoft the fruits of its past statutory violations. I have watched Microsoft use its predatory monopolistic position to stifle any new product development by potential competitors that might challenge its preeminent position. That activity deprived me, and thousands, if not millions, of other potential users of access to new and innovative products and forced us to, either do without those products, or to rely on less adequate Microsoft substitutes.

It was my fervent hope that the antitrust action by the Department of Justice(DOJ) would reel in this predatory behemoth. The PFJ does NOT meet the standards enumerated by the Appeals Court. I strongly, and respectfully, ask that the Court rule against the PFJ, and, since it's unlikely that further negotiations between the DOJ and Microsoft will produce an agreement that provides the type of protection that the Appeals Court stipulated, I respectfully suggest that Court render a decision based on the trial evidence and the decisions of both the original Federal District Court and the Court of Appeals.

Thank you.

CC:microsoftcomments@doj.ca.gov@inetgw

MTC-00024962

From: Marc Tramonte
To: Microsoft ATR
Date: 1/25/02 4:24pm
Subject: Microsoft Settlement

Microsoft has worked for 25 years to secure a strong but hardly invulnerable position in the computer industry. As long as Apple, Linux, Solaris X86, FreeBSD, dedicated computing devices, and other options exist—by free choice and to anyone as it is today—the very notion of "monopoly" here is fundamentally flawed.

Even if we accept the spectacularly narrow market definition crafted for this case, and accept that Microsoft dominates it, the range of substitute platforms and products and the lightning-fast pace of change in the industry render it meaningless. Windows is a proprietary product, by one company, that took 10 years of hard work to perfect—not an essential service or raw material of finite supply that can be monopolized.

The subtext of the entire case seemed to be "new entrants deserve to win." I disagree. Let them work for 25 years and suffer the slings and arrows if need be, and accomplish their own success the old-fashioned way: Please millions of customers. Fight for it. Earn it. Like Microsoft did. It's hard, but there is precedent.

With all that said, the settlement is a fair compromise given the harsh realities of the situation, and I fully support its acceptance. I hope the judge does okay it and finally puts this case to rest.

MTC-00024963

From: Beth Epperson
To: Microsoft ATR
Date: 1/25/02 4:23pm
Subject: Microsoft

Hello,

As you can see from my email address, I work for Netscape. Even though I am a Netscape employee, I believe that I have an open and objective attitude about fair business practices, ethical conduct and the need to move ones business into new directions.

When the web began to excel and expand beyond government and academia, I do not believe anyone had the vision that it would be as widespread as it has become. The web has provided more exposure and access to so many people around the world, it has indeed been one of the most influential tools of the century. From a business perspective, the exposure is overwhelming, you can reach literally thousands of households with minimal expense. It has truly changed the way we do business.

The most difficult aspect of the web is how to generate revenue. Looking at the culture of business on the web, it is in direct opposition to how we have traditionally done business. In the past, if you wanted or needed a service, you paid for it. The service provider set the price and you were at their mercy. Advertisement was not a true revenue generator, companies spent thousands of dollars per year in getting their brand out to the public. Instead, advertisement was an evil necessity, necessary to the survival of any company. Today, on the web, services are for free, software is free, and many other services that were traditionally revenue generators. Advertisement is a revenue generator, however, advertisements are not for your company, but for other companies on your web site, that is a very dramatic change. Could you imagine 25–30 years ago, getting a brochure in the mail from company XYZ, only to see advertisements in that brochure for companies ABC and DEF? That would just not have happened.

I think in the beginning, Microsoft didn't see the advantages of this new web thing. I think they saw it, analyzed it and walked away. Then the web began to evolve. Numerous companies sprang up based solely on the activities and services—browsing, email, data exchange, etc. AOL, Compuserve, Netscape are just a few of the companies that began to grow and expand. I think that is about the time Microsoft figured out that there was money to be had, but didn't quite know how to get that to happen. The traditional business methodology was not there. Advertising was different, software applications were different, the audience was different, just about everything was different. Netscape at that time had a firm hold on the browser market, and that was our sole source of revenue—the browser, the web server software and advertisement revenue on our site. Microsoft threw hundreds of people into building a browser that would compete—not necessarily to promote competition, but rather to keep people in their market place. But, Netscape continued to dominate the market. At that point in time is where I think Microsoft pursued the path of poor business ethics, they lowered themselves to a level of dirty deeds and actions. If they could not gain market share by creating a superior product, then they would do whatever they had to to run Netscape out of business. And with that task in hand, they did an excellent job.

What I really don't understand, is how do the people who made that conscious decision sleep at night. To lower oneself to perform in such a manner is beyond my comprehension. Should Microsoft be sanctioned for their business practices, yes I believe they should. Would I fine them, no. Would I make them remove applications from their desktop, no. Would I force them to provide alternative software in their bundles, no. What I would do, however, is force them to make their operating system open, accessible and free. Allow all software companies access to the operating system, allowing for greater flexibility and freedom for all users of windows. This would allow companies such as Dell, Compac, Apple to provide software bundles of varying content. It would allow companies such as Netscape to finely integrate with the operating system. This would prevent Microsoft from hiding worms and performance bugs into their operating system that is only triggered via non-Microsoft products. This would allow users to pick and modify the desired software found on each persons desktop. Let the operating system be open and let the specific application software be revenue driven.

Thank you for letting me air my concerns.

Regards,

Beth Epperson

MTC-00024964

From: Anne DeBlois
To: Microsoft ATR
Date: 1/25/02 4:16pm
Subject: Microsoft Settlement

Hi,

I am glad that the DOJ and Microsoft reached an out-of-court settlement. However, as a consumer, I would like you to know that I have never ever approved of such an antitrust trial against Microsoft from the very beginning. Netscape's failure was somehow my own fault, as I did elect to give it up and install Internet Explorer on my own computer. I wish there had been no trial at all, actually. I feel that nobody ever listened to me. Rivals talked, antitrust experts talked, lawyers talked, but what about consumers? What about me? What about MY own choice of software? What about my desire for an unedited Windows XP, because I love it like it is? What about those who won't even think of buying a version of Windows that doesn't include all the stuff they want (Media Player, Internet Explorer and so forth)?

I never felt harmed in any way by Microsoft. On the contrary, I could learn to use a computer very easily thanks to Windows 95. Because of my interest in computers, I then chose to make it a profession, and I found absolutely nothing wrong in Microsoft software, otherwise I would not be using anything from Microsoft today.

I still believe that Microsoft is innocent, and I don't want any ruling to hurt the company, as it would also hurt hundreds of businesses that rely on Microsoft's great technology, it would also cause even more job layoffs in the high-tech field.

I still believe that the marketplace and consumer choice, not Microsoft, sank Netscape and other companies, and I still believe Microsoft has nothing to do with some rivals'' failure. For instance, while the trial was underway, I could download a few updates of Microsoft Internet Explorer, but Netscape Navigator, although it was acquired by AOL, did not improve as well as I wanted it to. THAT is why I gave up Navigator. I don't want Microsoft to pay for Navigator's lack of features.

Please don't forget us consumers! Please keep in mind that we might be hurt by anything you may want to impose on Microsoft. It is not only a matter of triple damages or something, it is a matter of consumer choice and public interest. I don't want corporate greed to win over software quality. I don't want companies like AOL and Sun to be paid millions of dollars while the high-tech industry suffers from that cash flow. Please let Microsoft alone, they are one of your best corporate citizens, no courtroom must kill America's best.

Best regards,
Anne DeBlois, from Canada
CC:kimpoy@microsoft.com@inetgw

MTC-00024965

From: Gwwolter@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:24pm
Subject: opposing the proposed Microsoft settlement

I would like to express my disapproval of the proposed settlement of the Microsoft antitrust suit.

As I see it, Microsoft was found guilty of using its monopoly of the desktop to create a near monopoly of the browser. This was done in spite of the earlier consent agreement where Microsoft agreed to end "tying" other products to the desktop. Microsofts actions have shown that it is not trustworthy.

The proposed settlement essentially has Microsoft agreeing not to repeat their illeagal behavior, not to use their desktop monopoly to leverage browsers. This is closing the door after the horse has escaped. Micorsoft has won the browser war by their illegal activities. Microsoft is now turning its attention to the internet through the .NET venture and to entertainment through its Windows Media Player venture. In both of these Microsoft appears to be using its Monopoly on the desktop to impost a standard on the industry. History has shown that a Microsoft de facto standard soon morphs into a Microsoft only standard. The Monopoly extends. The proposed settlement does require Microsoft to share some of their programers interfaces, or API's. However, the "sharing" is done strictly under Microsofts terms. A better solution is for Microsoft to be required to publish, in open literature, these APIs without use restrictions and agree not to change them before giving ample notice to competitors. The proposed settlement also ignores Microsofts other monopoly, the Office applications (Word, Excel, Powerpoint, Access). Microsoft uses the office upgrade cycle to lock out competition by changing file specifications each upgrade. This prevents competing products from being compatible with Office. Any settlement that intends to prevent future exploitation of Microsofts monopoly needs to address this. At a minimum, Microsoft should be required to do with Office what they are required to do with Windows, release the programers interfaces. Better would be to require that Microsoft publish the API's and file specifications in the open literature so that competitors can create innovative but compatible products.

I urge the government and the court to reject the proposed settlement and rejoin negotiation with Microsoft and the states involved in the suit to propose a meaningful consequence to Microsofts illegal activities.

George Wolter
565 Gibbs St.
Whitehall, MI 49461

MTC-00024966

From: nanikin
To: Microsoft ATR
Date: 1/25/02 4:32pm
Subject: Microsoft Settlement

Greetings:

The proposed settlement, if allowed to stand, will give Microsoft unprecedented access to the minds and pocketbooks of our children for decades to come. Do NOT allow this multi-headed snake of a corporation to slither its way out of a just and fair outcome, by letting it "contribute" Microsoft products and services to educational institutions. Any in-kind settlement MUST include free choice of software platforms, or even a mandated mix of non-Microsoft products, by the intended beneficiaries.

It's bad enough that some of the most interesting sites on the Internet are rapidly becoming inaccessible unless you are using MSIE. I've maintained a Microsoft-free home for many years and intend to keep it that way as long as I possibly can.

Thank you.
Nancy Hoffarth

MTC-00024967

From: John Dowd
To: Microsoft ATR
Date: 1/25/02 4:27pm
Subject: Microsoft Settlement

Dear Sirs:

Below is an article excerpted from the ZDNet News a magazine that has been continually anti-MSFT in its editorial bias. Even they see the frivolousness and pointlessness of AOL's latest foray into this matter. This suit is not about consumers as their has been no harm to consumers demonstrated rather there is only the speculation of possible future harm. If that is the rule to which a company is to be held who would stand up under this benchmark? This whole thing is an effort on the part of MSFT's competitors to win in the halls of government what they couldn't win in the market place. They want to use the government to enrich themselves without bringing better products to the market place. It is really disgusting to find my government not being smart enough to see that it is being manipulated by losers.

Sincerely,
John F. Dowd

Commentary
Advice to AOL: Sit down, shut up
By David Coursey
AnchorDesk
January 24, 2002, 5:20 AM PT

COMMENTARY—AOL Time Warner's decision to sue Microsoft—essentially repeating the federal antitrust case all over again—is hardly surprising. Yet I had hoped that instead of wallowing in the past, Chairman Steve Case and his East Coasters would realize that Netscape lost the browser war because it deserved to lose. And Netscape has continued losing, because AOL Time Warner hasn't done very much to make it a winner—perhaps in a cynical attempt to maintain a cause of action against Microsoft.

Did Microsoft play hardball with Netscape? Of course it did. Did Microsoft go over the line of legality in certain business practices? That's what a federal court has ruled, and the Justice Department has agreed to settle. Is that settlement enough? I don't think so and have already called for stiffer sanctions. But should AOL Time Warner sit down and shut up? Damn straight.

THE NEW LAWSUIT seems to have been filed for the valid reason that the proposed settlement doesn't go far enough. But another decade of legal battles—kept alive by East Coast corporate types dueling people from Washington state—won't improve the situation. AOL Time Warner should push for a better settlement, but opting for endless court actions to settle issues long in the past doesn't seem right.

Indeed, Netscape should have sued years ago, and its case—like the federal one—should be winding its way down rather than just getting started.

I am sure it must be galling for Steve Case and whatever part of Netscape's soul that survived assimilation into AOL (and again into Time Warner) to see Microsoft enjoying a resurgence.

BUT THE FACT REMAINS that since AOL has owned Netscape, it has used its own mighty resources—more subscribers than Microsoft's MSN—and its ability to swing deals with hardware OEMs to very little effect.

Netscape went off into its ill-advised Mozilla open-source effort and has released new versions of its browser that failed to ignite the market. As I remember, the Netscape 6 reviews pretty much said that Microsoft had the better browser.

So if it seems like AOL Time Warner has been swimming upstream, it's not all Microsoft's fault. Again stipulating—I love getting into this Perry Mason stuff—that Microsoft violated antitrust laws and should be punished, the real reason Netscape failed is very simple: customers.

I AM AMAZED that people still debate this, though I think it's mostly from an unwillingness to concede any point to the hated Microsoft, but the browser really does belong as part of an operating system. Indeed, browser technology (along with look and feel) has provided a common user interface and way of doing things. Tying the browser to the operating system, as Microsoft has done, has made computing easier for all of us.

Microsoft was right to bring browsing into the OS, just as it is right to better support multimedia and photography, home video, and soon, broadcast television. Does doing this compete with companies that build stand-alone applications? Of course it does.

But what those companies are supposed to do is create better products that extend and enhance what Microsoft builds into Windows. What Netscape did—actually what AOL did to Netscape—was throw in the towel. That, or the battle just wasn't winnable, not so much because of Microsoft, but because Netscape/AOL Time Warner didn't offer customers anything they really wanted—other than an alternative to Microsoft, and that argument seemed to fall on deaf ears.

If AOL had run the Netscape business to compete, things might be different today. Instead, AOL turned the shell of Netscape into a media company with just enough development around to maintain the fa?ade of being a software company. AOL is many things, after all, but one of the things it's not is a software company.

Suppose AOL had invested heavily in the Netscape server businesses or had sold it to someone who would? Maybe things would be different today, as Netscape browsers used cool features available only from Netscape servers and Microsoft was left in the dust.

MAYBE NETSCAPE AND SUN could have done something more important with Java. Or perhaps the Novell/Sun/Netscape alliance could have gone somewhere. Perhaps if Netscape had been given the resources to fight on, things would be very different today.

I doubt it. Which is why I think Netscape has gone the way it has. Customers voted, and they voted for Microsoft. Were they pushed a bit by Microsoft's illegal practices? Surely, though not as much as I think Microsoft's critics want to believe.

AOL Time Warner has every right to sue, and the case is not without merit. But I hope this new lawsuit is more a ploy to get a better settlement in the federal case—which is warranted—than a means to prolong this battle indefinitely.

But if AOL Time Warner wants to battle over what Microsoft did to Netscape, then the case ought to at least figure in what AOL itself did to the once high-flying browser pioneer.

MTC-00024968

From: Alexander Wallace
To: Microsoft ATR
Date: 1/25/02 10:32am
Subject: Microsoft Settlement

This is a terrible setlement, you are letting MS buy this one!

MTC-00024969

From: gviewgran@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:25pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Nancy Wheeler
2176 Morgans Mill Rd.
Goodview, VA 24095–2767

MTC-00024970

From: bert hunsicker
To: Microsoft ATR
Date: 1/25/02 4:28pm
Subject: Microsoft Settlement

I would like to have the DOJ accept the settlement with Microsoft and put this whole thing to rest.

In the first place, I think it is wrong to prosecute MS as a monopoly. I am old enough to know that the original reason for creating laws to protect the public against monopolies was because of the harm they could do to the public. I truly believe that MS has done more for the public than any other company in the US. They have kept the price of software down to where it is affordable by millions of people instead of just the wealthy. An examination of the primary complainers against MS, namely Sun, AOL/Time Warner, and Apple are all who stand to gain a great deal if the government continues to attack MS. Take a look at Sun and see if they would sell their operating system for $100. and the same goes for Apple. The reason they don't compete well with MS is that they want to ROB the masses with much higher prices for their product.

I find it ridiculous to think that MS has no competition. Unix has been around a very long time as well as Sun and they are competitors. Now there is Red Hat or Linux and AOL/Time Warner is attempting to buy them so they can compete with Windows as an operating system. They paid several Billion dollars for Netscape so I don't think they truly believe they are unable to compete against MS. I put my money where it will do me the most good and that is with Windows by MS. If these others would come up with a good product and keep the price competitive with Windows and other programs by MS, I would certainly consider purchasing from them, but I won't hold my breath as I don't think they are capable of doing anything but bitching about how they are being treated so poorly now.

This whole case has done nothing good for anyone except the Lawyers who live for these cases to come along and the Justice Department is wasting the taxpayers money to continue the case. Penfield Jackson should be disbarred for his so obvious prejudice in his mishandling of the case to start with. Why should he be trusted with any other cases?

I could go on at great length, but suffice it to say that I think this should be ended now and let the courts get on with some real business instead of being used by the complainants. As far as the states who don't want to settle, all they want is a free ride and a bucket full of money.

Bert Hunsicker
8933 East 62nd Court
Tulsa, OK 74133–6362 (
918)459–9533
BertHun@Hotmail.com

MTC-00024971

From: Noel Holshouser
To: Microsoft ATR
Date: 1/25/02 4:44pm
Subject: Microsoft Settlement

As a citizen of the United States of America, a former teacher and an independent computer consultant, I find the proposed settlement objectionable. We who have had to attempt to work in environments containing Microsoft Windows have long suffered from their reliance on hidden, undocumented "hooks" into their operating system. The proposed settlement will do very little if anything to alleviate this. Rather than decreasing the monopolistic position, this settlement will strengthen Microsoft's dominance in one of the few areas where it doesn't already have such position.

Noel Holshouser—Independent Consultant
Plain Dealing, LA

MTC-00024972

From: dbradley@ebenx.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:32pm
Subject: Microsoft Settlement

Hello,

I have multiple concerns regarding MS and any settlement. I have yet to hear any plausible, sincere expression of "contrition" from MS, despite the judgement against them. I believe any punishment should fit the crime. Since the judgement will not be reversed, any punishment or "settlement" needs to address past, present, and potential future transgressions. I don't think it plausible that MS would be "punished" by any attempt at a (even a well-intentioned) "behavior-modification-based" remedy, certainly not by one that actually EXTENDS their (monopolistically gained) marketshare.

Although it is unlikely given the current political climate, (and not precluded by the Appeals Court), I still wish and believe that a split-up MS would be an appropriate punishment because I believe that would create actual (both OS and application) competition amongst the industry players (Apple, Oracle, Netscape, OSF, etc.).

Isn't that what an anti-trust punishment SHOULD do? Souldn't any punishment/settlement be meet (at least) this test? Unless the punishment is —actually— painfull MS will be emboldened to continue to propagate software that makes it easy for some disgruntled teenager (or terrorist) from even a "third-world" location to infect/damage/commandeer-for-unsavory-purpose thousands of (private and public) machines world-wide (some owners of which could (still) be ignorant/unable/apathetic). —

Dave Bradley

MTC-00024973

From: Donahue, Christopher
To: "microsoft.atr(a)usdoj.gov"

Date: 1/25/02 4:31pm
Subject: Microsoft Settlement

To Whom This May Concern:

I believe that the terms of the settlement are tough on Microsoft and may hurt it's revenues. This company has been an innovator in the technology field and has played a key part in the technology revolution. The settlements are fair and reasonable to all parties, and meet—or go beyond—the ruling by the Court of Appeals, and represent the best opportunity for Microsoft, the industry and the economy to move forward.

Thanks for your time in this matter,

Christopher J. Donahue
Pfizer Global Research and Development
Discovery Technologies
Assay Development
2800 Plymouth Road
Ann Arbor, Michigan 48105
734-622-1473 phone
734-622-3244fax
christopher.donahue@pfizer.com

MTC-00024974

From: James Voorhees
To: Microsoft ATR
Date: 1/25/02 4:47pm
Subject: Microsoft Settlement

The proposed settlement should be rejected. I suggest four grounds for doing so. First, the settlement does nothing to undo the damange done by Microsoft in the course of gaining iand then maintaining ts monopoly. It gained that monopoly in part through practices that were uncompetitive.

Second, the provisions for enforcement are inadequate. Should Microsoft be found in violation of the settlement, recourse seems to be, in essence, a continuation of the lengthy legal procedure that has characterized the case thus far. The sanctions Microsoft would face if it violated the judgement should be made more explicit. At the least, a finite procedure should be made explicit.

Third, the Internal Compliance Officer, as an employee of Microsoft, is more than likely to serve, not as a good faith proponent of the settlement, but as Microsoft's apologist to the Plaintiffs, the technical Committee, and the court, explaining why Microsoft followed the letter of the judgement while violating its spirit. This, I believe, follows from Microsoft's corporate culture. It is a central principle of software quality assurance that the person who determines whether a project or program is following the processes and procedures it needs to cannot be paid by or otherwise beholden to that project or program. The Internal Compliance Officer, in essence, serves to assure the quality of the final judgement. The same principle should apply.

Fourth, the selection of the technical committee is biased in Microsoft's favor. In the first place, the criteria for excluding people from consideration are too broad. Given Microsoft's broad reach across the information technology industries, how many qualified technical experts are there who have not worked for a competitor, given a broad definition of the term "competitor," and giventhat Microsoft, having the right to object, can use the broadest of definitions if it chooses to? Is it in the public's interest that this possibility be open? Is it in the public interest that Microsoft have the right to select one member, the right to object to another, and an indirect veto (through its chosen member) of the appiointment of the third?

Please understand that I am not inherently against Microsoft. Indeed, I make my career largely through Microsoft products. But, as I have explained, I dod not believe the proposed judgement serves the public's interest.

James Voorhees MCSE, MCP+I, MCP

MTC-00024991

From: bcawcaw@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:30pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Barb Crow
1144 N Kokomo
Derby, KS 67037

MTC-00024992

From: James E Jurach Jr.
To: Microsoft ATR
Date: 1/25/02 4:34pm
Subject: Microsoft Settlement

I think the proposed settlement is a bad idea. I would like to echo the comments made by Jeremy P. White at http://www.codeweavers.com/jwhite/tunneywine.html and those of Dan Kegel at http://www.kegel.com/remedy/letter.html

Sincerely,

James Jurach, Texas; Developer, Online Banking Services company

MTC-00024994

From: kate.
To: Microsoft ATR
Date: 1/25/02 4:31pm
Subject: Microsoft Settlement

Settling is a horrible idea, prosecute their monopolistic selves until they allow free market competition.

While I believe strongly that their products are unreliable and shoddy enough to drive them out of business on merit alone, their market share forbids this and they strive to maintain this with every move they make and every condescending idea they throw at the government to let them off with a mere telling off when they deserve to be broken in to tiny pieces on the floor.

Catherine Jenkins
State College, Pennsylvania.

MTC-00024995

From: David A. Milligan
To: Microsoft ATR
Date: 1/25/02 4:33pm
Subject: Microsoft Settlement

Dear Attorney General John Ashcroft: I support of the recent settlement between the US Department of Justice and Microsoft. This settlement comes after two generations of software have occurred and it is time to settle. I am glad that Microsoft is not being broken up, but I think the terms of the settlement will correct some of the concerns that I have had with Microsoft's marketing tactics.

Essentially, I think Microsoft has shown heavy-handed methods in their marketing tactics. I think competition is necessary to grow an industry and Microsoft is doing no one any good by wiping out their competitors. The terms of the settlement force them to disclose interfaces that are internal to Windows operating system products and not retaliate against computer makers or software developers that promote non-Microsoft products. I believer that these concessions by Microsoft are fair and represent a step in the right direction. I think that any settlement should include terms that improve competition which is very important to improving our standard of living and productivity.

I hope your office finalizes the settlement and encourages the states to ensure that any further litigation on their part be justified.

Thank you.

David A. Milligan, Principal Engineer, Matches, 2005 N. Mistletoe Lane,
Edmond, OK 73034-6054, (405) 340-2673, Fax (405) 340-7884,
damilligan@matche.com

MTC-00024997

From: Tim Kulogo
To: Microsoft ATR
Date: 1/25/02 4:34pm
Subject: Microsoft Settlement

Any anti-trust settlement that helps Microsoft replace Macintosh in the School System will make Microsoft more powerful in the marketplace, which isn't much of a punishment. For this case to been anything but a waste of time and money, it must result in the creation of an operating system that is available at a lower price than windows, and can efficiently run the software that is available for the windows environment.

Tim Kulogo
Werner Electric Supply
920-969-2132

MTC-00024998

From: Jhilge1032@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:33pm
Subject: Microsoft Settlement

We, Mr. and Mrs. John Hilgendorf, believe the settlement is in the best interest of the consuming public and believe it should be approved. Continuing legal action can hurt the public rather than help it. Please let the open competition between companies continue without hindering a company which has done so much for the general public.

Thank You for your attention!

MTC-00024999

From: Harry vanderBurg
To: Microsoft ATR
Date: 1/25/02 4:35pm
Subject: Microsoft antitrust case

I would suggest to leave the software competition in the market place and spend the millions of legal fees (tax money) on better subjects such as education and healthcare. I personally believe Microsoft did a great job for our society and it was made possible by dedicated hard working developers. I still have to see the so-called negative impact for consumers. Software has never been so cheap and avalaible for a wide range of people throughout the world. Its rivals have to beat this company by making better products instead of going the easy way and try to fight in court.

H.W. van der Burg MBA
Business Consultant
The Netherlands

MTC-00025000

From: GGlenday75@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:35pm
Subject: Has your opinion been counted

I FAXED my letter back to you yesterday.

Sincerely,
George A. Glenday

MTC-00025001

From: Ray Casper
To: Microsoft ATR
Date: 1/25/02 4:42pm
Subject: Microsoft Settlement
January 25, 2002
Attorney general John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. ashcroft:

This letter is in support of the settlement with Microsoft. The settlement is in the best interest of the state, the IT industry, and the economy because it will allow us to direct those millions of dollars into other more important cases and programs.

There are many restrictions on Microsoft as a result of this settlement. for instance, Microsoft has agreed to make available to its competitors any protocols implemented in Windows" operating system products that are used to interoperate natively with any Microsoft server operating system. In addition, Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers on identical terms, including price. Plus, Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system.

Not only is the settlement fair and seems reasonable, but it also will prevent any future anticompetitive behavior. This project has gone on long enough and the general public wants to end the case and return to business as usual.

Thank you for your attention to this matter as well as the other pressing day to day problems you have handled well during your time as Attorney General.

Sincerely,
H. R. Casper
102 Concord Drive
Watkinsville, GA 30677

MTC-00025005

From: cananns@postoffice.pacbell.net@inetgw
To: Microsoft ATR
Date: 1/25/02 4:35pm
Subject: MICROSOFT SETTLEMENT

DOJ:

I am writing to register my objection to the proposed Microsoft settlement. I do not believe the current proposal serves the interests of promoting competition or remedying the impact on the Amercian consumer.

The current proposal is merely an agreement by Microsoft to soft pedal its competition-stifling practices in return for the use of built-in loopholes that give it a leg-up on competitors. For example, permitting Microsoft to settle the matter by delivering Microsoft products to school systems, which traditionally tend to favor other vendors (e.g., Apple), is tantamount to state-sponsorship of the extension of Mcirosoft's monopoly. Microsoft should be required to make payment in cash, and then permit the school systems to direct the use of these funds in the (hopefully technical) areas of its choosing.

Futhermore, I believe the amount of the settlement is grossly inadequate to remove the incentive for Microsoft to continue its practices. I believe Microsoft will treat the settlement as a "cost of doing business", much as any other "administrative overhead".

Finally, I believe the settlement should include requirements for Microsoft to provide open access to interfaces between its products, and to provide an unbundled version of Windows (no Internet Explorer, no Windows Media Player, etc.). These actions are needed to afford competitive products, including open source alternatives, with an environment in which they can compete on a level playing field with a competitor which controls the incumbent desktop operating system technology. Without true, timely and open access to interoperability information, the barriers of entry for alternative commercial and open source products will be too high to overcome the leverage held through its desktop operating system monopoly.

Finally, to permit realistic options for enforcement and to avoid a recurrence of past practices, an oversight committee of some sort is truly needed.

Your attention to this matter is greatly appreciated.

Sincerely,
Alyssa Canann

MTC-00025016

From: Randall Hale
To: Microsoft ATR
Date: 1/25/02 4:37pm
Subject: Microsoft Settlement

To whom it may concern,

I would like to submit to you my opinion briefly.

I believe that Microsoft has used and will continue to use delay tactics to lessen any hardship that may be required of the company and it officers. This has been effectively practiced in this case and other recent legal cases to the point that they have made a mockery of our justices. I know that the appeal process is part of the system and they have the right to do so. But the justices they should not be blind to the intention and the craftiness of this organization.

The Justice was right to not accept Microsoft's last offer it only would have served to reward their bad behavior.

I think that Microsoft should be penalized to the point that it will conform to fair and legal business practices. Microsoft is so powerful that it can change the direction of the wind, with power like this a we need to treat it very respectfully and with sterness.

. Randy Hale

MTC-00025019

From: Oliver Barnes
To: Microsoft ATR
Date: 1/25/02 4:36pm
Subject: Microsoft Settlement

I would like to it to be known that I think the Microsoft Settlement to be a farse.

I believe the only way to end Microsoft's monopoly would have been to break it up into two separate companies, one in the Operating System businees and the other in the Application Software business. This settlement was a direct product of this Administration's ties to Microsoft.

I subscribe to the views expressed in Dan Kegel's petition, and have signed it myself.

Oliver Barnes, US Citizen
Web Developer, self-employed
Brooklyn, NY

MTC-00025020

From: grant@drbelgard.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:34pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Grant Belgard
9566 East Van Pl
Baton Rouge, LA 70815

MTC-00025021

From: Mat Caughron
To: Microsoft ATR

Date: 1/25/02 5:02pm
Subject: proposed settlement is not in the public interest

To Whom it May Concern:

I have nearly a decade of experience in the retail software industry.

The proposed settlement is a bad idea.

Please consider Dan Kegel's suggested revisions.

Thank you,
Mathew Caughron
co-founder
Proteron LLC
11649 Westwood Lane
Omaha NE 68144

MTC-00025022

From: Burt Pittman
To: Microsoft ATR
Date: 1/25/02 4:40pm
Subject: Microsoft Settlement

To whom it may concern

It is clear from court documents and other public information that Microsoft has acted illegally and from all indications will continue to do so in spite of any penalties imposed or agreed to. It is becoming increasing clear that the power that Microsoft holds is not only greater that the other participants in it's market, but it greater even than the Department of Justice itself. The performance of the Dept. of Justice and the political and legal system as a whole does not speak well for Democracy in this country.

MTC-00025023

From: Betty Rae
To: Microsoft ATR
Date: 1/25/02 4:40pm
Subject: Microsoft Settlement

Dear Holders of the Public Trust!

I truly believe that it is in the best interests of the public at large to settle the case between the Department of Justice, the 9 states, and Microsoft.

We and our beloved country need to continue to benefit from the development of the resources and knowledge that Microsoft continually works toward providing, for the good of all, even for their competitors!

Diverting of their finances and energy toward lawsuits on every side is wasting the funds that could much better be utilized for such development. I realize that lawyers involved in this field need to make a living, also, but, indirectly, it seems that it is being done excessively, at the expense of the good of many of our people. I feel this way, because many improvements in medicine, business and daily life are waiting, unfunded, to be developed by Microsoft, and yes, even by those States and Competitors who filed against Microsoft.

The costs, of what I think are lawsuits that benefit few people, place these developments on a back burner, where they should not be.

Let us settle this antitrust case now, without further ado. From here on, please let Microsoft and the States, Competitors, as well as the Department of Justice, go out and do the GOOD that you can do. Please quit wrangling with one another.

Thank you for allowing me to communicate with you. I wish you all the very best.

Sincerely,
(Mrs.) Betty R. Hartwick

MTC-00025024

From: David Williams
To: Microsoft ATR
Date: 1/25/02 4:41pm
Subject: microsoft settlement

A company such as Microsoft should be rewarded for what it has done not penalized.

Sincerly,
David S. Williams

MTC-00025026

From: Kevin Moore
To: Microsoft's Freedom To Innovate Network
Date: 1/25/02 4:42pm
Subject: Re: Has Your Opinion Been Counted?

Let me be honest with you. I think that what the Federal government engaged in during the Clinton administration was political grandstanding, perhaps even some sort of vendetta, but certainly not in the national interest.

I also believe that Microsoft engages in predatory marketing and sales practices. You dominate the computer industry because you are good, but also because you have and continue to throw your weight around. I don't like it any more than I like our huge Federal beaurocracy and it's results.

I agree that it is time to move on. Stop trying to put your competition out of business. And, I strongly suggest that the government—DOJ especially—worry about national security, immigration, and misinterpretation of our Constitution.

Kevin Moore
Erie, PA

—— Original Message ——
From: Microsoft's Freedom To Innovate Network
To: "KWMERIE@HOTMAIL.COM" Sent: Friday, January 25, 2002 1:59 PM
Subject: Has Your Opinion Been Counted?

Has Your Opinion Been Counted?

Earlier this month, you took part in a letter-writing campaign to express your opinion of the antitrust settlement between the Department of Justice and Microsoft. We would like to thank you for your efforts and make sure that when we assisted you in organizing your thoughts on paper, you were completely satisfied that the draft letter fully expressed your own views in the matter. If you would like any changes, we would be happy to make them now.

The public comment period on this settlement ends on January 28. The provisions of the agreement are tough, reasonable, fair to all parties involved, and go beyond the findings of the Court of Appeals ruling; however, the settlement is not guaranteed until after the review ends and the District Court determines whether the terms are indeed in the public interest.

If you would like your opinion to count, now is the time to send in your letter! Please send your comments directly to the Department of Justice via email or fax no later than January 28. If you have already done so, or will do so in the near future, please be sure to send a signed copy to the FIN Mobilization Office, OR SIMPLY REPLY TO THIS EMAIL WITH A SHORT NOTE INDICATING THAT YOU HAVE SENT YOUR LETTER.

Please take action today, to ensure your voice is heard.

Once again, the Attorney General's contact information is:

Fax: 1–202–307–1454 or 1–202–616–9937
Email: microsoft.atr@usdoj.gov

FIN Mobilization Office contact information:

Fax: 1–800–641–2255
Email: fin@mobilizationoffice.com

Your support is greatly appreciated!

FIN Mobilization Office
CC:Microsoft ATR

MTC-00025027

From: Ronald R. Cooke
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 4:44pm
Subject: Tunney Act Comments: Microsoft Settlement

January 24, 2002

Ms. Renata Hesse, Trial Attorney, Suite 1200, Antitrust Division
Department of Justice
601 D. Street, NW
Washington, DC 20530.

Reference: Tunney Act comments in United States of America v. Microsoft Corporation, Civil Action No. 98–1232 (CKK) and State of New York v. Microsoft Corporation, Civil Action No. 98–1233 (CKK).

microsoft.atr@usdoj.gov
With copies to: Interested Parties
From: Ronald R. Cooke
Cultural Economist and Industry Analyst

The Settlement Proposed By The Justice Department Overlooks Reality Consumers within the Information Systems industry have expressed their skepticism about the settlement proposed by the Justice Department. In a poll of readers, for example, ZDNet asked: "Did Microsoft get off easy in the DOJ settlement?" Seventy four percent of the respondents said "Yes". To quote columnist David Coursey, "Nobody is precisely sure what it means, but the total effect seems little more than a hand slap .... Prohibitions that exist in one section seem to be rendered meaningless by another".1 Consumer and industry respondents to the Tunney review process will probably contend that the proposed remedy does not effectively end the anticompetitive practices, will not materially deprive the wrongdoer of the fruits of the wrongdoing, and will do virtually nothing to ensure that the illegality does not recur. The terms of the settlement are much too vague to be of much use. They can be manipulated and rendered ineffective through the legal process. The enforcement mechanism is inadequate. And finally, there is no clear cut way to prohibit monopolistic behavior.

There is a more fundamental issue, however, that has not been adequately addressed by the process of law. It can be expressed as a simple question: How much unconstrained power do we want one single company to have? As the Enron debacle has demonstrated, this is not an idle question. Unrestrained corporate behavior can severely damage consumer rights.

Microsoft has demonstrated that it can dominate the thinking of the PC Culture that it so zealously nourishes. It has an overwhelming influence over the press—and therefore—the opinions of an uncritical public. Within the information systems industry, Microsoft is acknowledged to have indisputable economic, political and cultural power. Comments by members of congress suggest this company also has a growing influence over the legislative process.

Given its announced strategic plans, it should be obvious this company wants more. Much more. Microsoft wants to wield the same kind of influence over the entertainment and communication industries that it does over the computer industry. It currently has aggressive initiatives to dominate the services and content of the Internet and is pressing forward with plans that will effectively manage the access, distribution and use of networked consumer entertainment. Mobile and location technologies will be used to penetrate additional consumer services. .Net will drive the consumer to Microsoft approved content and services. If these initiatives are successful, this single company will be in a position to dictate how we create, store, edit, access, distribute and use all kinds of electronic information. Worldwide. Across three industries.

The reality of this situation raises a number of questions. Given its growing political and economic power, why do we believe that Microsoft will feel compelled to abide by the proposed settlement terms? Will they modify Microsoft's business strategy? Product plan? Will they prevent Microsoft from using integration, bundling and tying as weapons to lock out competitors in three industries? Will the proposed behavior monitoring process guarantee the delivery of reliable products? Improve consumer security? Prevent the abuse of corporate power? Ensure open markets? Encourage competitive innovation?

It would appear that the answer to all of these questions is a resounding "NO". If that is true, then how can any reasonable person claim that the proposed settlement serves the public interest?

Who Is The Consumer?

Consumers have the right to expect that our federal institutions will deliver a settlement that has an immediate, substantial and permanent impact on the restoration of competition within the information systems industry.

But, who is the consumer?

Media and political personalities frequently project the image that all "consumers" are deficient, clueless and vulnerable. It is an image favored by self proclaimed consumer protection groups. Consumers are easily victimized and thus considered in need of protection. Hence in the Microsoft anti-trust case, both the Justice Department and the presiding Judge were concerned that the "consumer" had been victimized by excessive software prices and a lack of choice. This somewhat ill-defined person had been forced to purchase Microsoft software through a captive retail channel and may have been overcharged.

In reality, this image of the "consumer" is misleading. If we want to reach a settlement that protects both personal and institutional rights, we must first agree on a definition for the word "consumer" that incorporates all classes of buyers. For the purposes of this settlement agreement, therefore, we must consider two broad classifications of the concept "consumer"

There are personal consumers and there are Enterprise consumers. Personal consumers engage in personal consumption. This happens when people make purchases for themselves, their families, their friends or anyone (or thing) else that commands their interest. They use their own money. Typical purchases include food, clothing, housing, vehicles and so on. Personal consumption accounts for roughly two thirds of America's GDP.

Enterprise consumers spend money that belongs to the Enterprise. They buy products, property or services for their employer or their business. Broadly defined, Enterprise consumers include any entity defined by the standard industrial classification codes: i.e. insurers, manufacturers, retailers, hospitals, educational institutions, government agencies, personal service businesses and so on. Enterprise consumption accounts for approximately one third of America's GDP.

Both segments of America's consumer population must be protected from Microsoft's assertive marketing power. We must not leave either group of technology buyers in the position that they will be forced to chose key products and services from one vendor, good or not, on terms and prices they can not evade.

One of the more glaring problems with the proposed Microsoft settlement is that while Federal and State authorities have properly reacted to personal consumer complaints, they have failed to deal in a meaningful way with the problems of the Enterprise consumer. Industry wide issues include:

Enterprise networks have become incredibly expensive and difficult to maintain.

Existing PC operating systems are hard to manage and very costly to own.

Internet and Intranet security problems have become so bad that they threaten electronic commerce and the viability of Enterprise operations. There are multiple industry reports that address these issues in great detail. It is worthy to note that excessive information system costs have been calculated in the $ billions per year and that industry publications continue to report on the related management and operating problems. It is also clear that these impediments will continue to plague the Enterprise consumer because there is no effective competition for the architectural concepts promoted by the dominant vendor.

In this legal action however, Microsoft's alleged disregard of consumer needs was never pursued. There appear to be several reasons: some political, some practical, and some due to the inherent obsolescence of the Sherman Antitrust Law. But the issues remain:

If PC operating system development has been paralyzed by the domination of a single vendor, has the consumer been harmed? And if the products are defective, what is the burden of liability?

If network systems design has been primarily driven by the product plan and business model of a single vendor, has the consumer been harmed? And if the underlying system design was dysfunctional, what is the burden of liability?

If a vendor, in order to deflect competition, announces products that do not exist, or products that never make it to market, has the consumer been harmed? And if the consumer was mislead, at what point does this constitute consumer fraud? What is the associated liability?2

If consumer security and safety have been jeopardized by deficient systems architecture and defective products, what is the vendor's liability?3

The complaints against Microsoft are far more numerous than those covered by this narrowly defined legal action. If the court wishes to impose a meaningful settlement on Microsoft, it will have to consider both the concerns of this specific case and the underlying intent of the Sherman Act. There is case law and there is the reality of dealing with an overwhelming marketing machine that is essentially able to set its own agenda.

This reality puts the court in a quandary. If the court is to be forthright in its desire to protect the consumer, it must provide substantial relief for both personal and Enterprise consumption. It will have to deal with both the specific and the ambiguous. It must certainly expand the interpretation of the Sherman Act. And finally, the court will have to make its findings with the knowledge that this settlement will have a bearing on future actions against AOL/Time Warner.

Microsoft The Company

Microsoft's corporate culture is driven by the mantra of revenue growth, institutional power and market control. Software is developed to gain market share or to demolish competition. Software defects and chronic insecurity have been institutionalized as components of the product plan. Microsoft does not have to be driven by consumer wants and needs. Microsoft is free to be driven by whatever strategy protects its revenues and extends its power into additional markets.

Microsoft has been able to adopt competitive software concepts within its Windows architecture, thereby rendering the competitive software irrelevant. Examples include the incorporation of the Internet Explorer browser into the Windows user interface in order to destroy Netscape's Navigator and the inclusion of "Java like" features in the company's .Net strategy, a ploy that will eventually render Java redundant within the Windows environment.

When faced with standards based competition, Microsoft has frequently been accused of using an "embrace, extend, extinguish" strategy to render the standard useless. Microsoft's version may even flaunt the concept of "open standard" by restricting Windows clients from working with any platform other than a Windows server.

Microsoft has convinced a wide range of technologists, journalists, legislators and consumers that it has the exclusive wisdom to provide software innovation.

This—of course—is absolute nonsense. Microsoft is not the only company that understands the fundamentals of software technology. Were it not for the company's monopoly control over the market, consumers would be able to purchase a far superior PC operating system. Other vendors have developed, and are marketing, embedded operating systems with better technology and excellent reliability. Enterprise users have embraced a variety of alternative server operating systems because they have superior reliability and a lower cost of ownership. There are certainly alternative ways to build consumer friendly Internet, e-mail, word processing, spreadsheet, graphics and data base applications. And there are many companies that develop software for the cell phone, PDA, set top box, in-home server and game markets.

Unfortunately, few alternatives can effectively compete against Microsoft's marketing power. This company continues to use integration as a predatory weapon. Competing products, services and content will be hobbled—and thus less desirable.

Management has a vision. Microsoft plans to dominate the computer game, cell phone and PDA/HPC (Personal Digital Assistant/Handheld PC) markets, will force its way into the cable business and fully intends to be a leading provider of Internet services. These are key revenue growth strategies. The company's XP operating system is important because it drives Microsoft's largest revenue stream and the future of the company's .Net strategy. The Stinger cell phone and Pocket PC HPC OS launches open up new recurring mobile network revenue opportunities. The XBox game platform opens a strategic path to the convergence of entertainment and computing in the home. The company is actively tying its computer and communication software product strategy to its Internet services and content strategy. The Internet gives Microsoft a virtually unlimited marketplace that can be molded to the company's operating philosophy. Hailstorm and Passport fit perfectly into this scenario. Network clients using Microsoft software will be tightly integrated with Microsoft application and content servers.

This is, after all, what convergence is all about.

Unfortunately for the consumer, management's vision has a potential downside. Microsoft will be able to demand access to all of the software we use, modify it with or without our knowledge, and make copies of our files. This company will be in a position to monitor our use of the Internet, our political philosophy, our purchase behavior, and our friendships. Will Microsoft actually do this? Will a hacker be able to do the same thing? Does the consumer really want to be this vulnerable? We can understand that Microsoft's business model is driven by the visceral desire to absolutely dominate all high volume software applications. We can also understand that the company's prospects for revenue and profit growth are interdependent with the accumulation of power over the consumer's use of computing technology within the computer, communication and entertainment industries.

It is time, however, to ask one simple question: Does this ubiquity serve the public interest?

On the one hand we acknowledge Microsoft's accomplishments, the intensity of its vigorous pursuit of new markets and its right to function as an independent business. But on the other hand, the court must fashion a remedy that incorporates genuine protection for the consumer. The PC era was lots of fun. The Internet era was a wild ride. But going forward, Enterprise and personal consumers must have cost effective software that is reliable, predictable, useful, secure, easy to manage and open.

Will a court imposed settlement provide the key?

Alternative Remedies

Nine States4, along with the District of Columbia, have presented an alternative proposal of remedy that would, if implemented, partially correct these deficiencies. This proposal has credibility because it directly addresses the findings of this specific case and establishes remedies that are consistent with prior court tests that judged the validity of relief from infractions of the Sherman Antitrust Law.

1. Microsoft would have to offer a stripped version of Windows. Although much thought must go into the implementation methodology of this recommendation, it could have the effect of reducing consumer costs by encouraging the development of alternative personal computing appliances with competitive applications software. It would also have the effect of making it more difficult for Microsoft to exclude competition by tying its operating systems to its applications, content and services.

2. Microsoft must support Java.

Enterprise consumers have espoused Java as a highly useful programming language. Because it is an interpreted, object oriented, platform independent language, Java can be used to reduce the cost of developing, deploying and supporting networked applications. Despite the obvious benefits to the consumer, Microsoft wants to kill Java by making it irrelevant within a Microsoft controlled programming environment. Forcing Microsoft to give its full support to Java would give the Enterprise consumer and applications software developer incremental choice in the selection of development environments.

3. Microsoft would be compelled to make Office available for all popular operating systems.

Consumers have been forced to accept either Apple or Microsoft PC operating systems as a defacto prerequisite for using the company's Office suite. If Office were made available for all popular non-Microsoft operating systems, consumers would have a wider choice of operating system environments. In addition, this recommendation would encourage the development of competitive PC operating systems, presumably based on architectures that could deliver superior reliability, function and security.

Given a carefully constructed court approved implementation and supervision methodology, these recommendations would be most helpful to the restoration of competition within the PC and network appliance software industries. However, if we want to preserve an open and competitive market, and if we want to be vigilant in our support of acceptable corporate behavior, then we should consider three additional recommendations.

4. Restrict Microsoft from the Embedded Systems market. There are a number of reasons to restrict Microsoft's participation in the embedded systems market5. For the purposes of this specific settlement, however, we must focus our attention on the restoration of competition and innovation within the PC market. Going forward, we also need to ensure consumer choice in the markets for set top boxes, entertainment devices and communication appliances, as well as network based content and services. As discussed above, Microsoft's announced strategy is to tie its software products to its services and content businesses. If Microsoft is successful with these initiatives, this company will have greatly extended its marketing power and will be in a position to monopolize segments of the entertainment and communications industries.

For a period of seven years, therefore, Microsoft should be prohibited from selling any embedded systems software products, including CE, its derivatives and any comparable products. If there is to be any credible competition for Microsoft's existing monopoly over PC operating system architectures, it is most likely to come from the manufacturers of network attached appliances. Over time, the embedded software within products will increase in sophistication. There is no reason why these system architec tures can not be used to provide the consumer with the whole range of PC applications.

Microsoft would be compelled to establish a separate company for its CE, Stinger, XBox, PocketPC, set top box and all other currently active embedded systems product efforts within 8 months of signing a settlement agreement. Microsoft would not be allowed to own any part of the company or its stock for a period of 7 years. Any funding for the newly spun-off company must come from sources in which Microsoft has no financial interest. Five years after the spin-off, Microsoft would be allowed to start a new embedded software development effort that could be offered for sale no sooner than seven years after signing the settlement agreement. Placing restrictions on Microsoft's embedded systems efforts will reduce the company's ability to dominate the related communication and entertainment markets. Microsoft would be encouraged to establish partnerships with the existing content and service companies as well as the manufacturers of embedded hardware and software products. These markets can then evolve in ways that are not tied to a single company's business strategy and revenue plan.

5. Place Microsoft under Court Supervision

It is difficult to imagine how the proposed settlement terms will prevent Microsoft from engaging in anti-competitive behavior. One would have to assume that Microsoft is immune from the temptations of corporate power. It would be helpful, therefore, if Microsoft were placed under the supervision of the court. A methodology must be developed that permits complaints of wrongdoing to be reviewed in a prompt and fair manner. Fines and restrictions, where necessary and justifiable, should be imposed by the court after a hearing process.

Court supervision should reduce the need for further Justice Department action and could be used to establish the parameters for pending civil actions. The intention is that Microsoft could engage in any permitted business practice, strategy and tactic it wished, so long as the court agrees that its actions are lawful. The period of supervision should be continued until the court, by its own determination, believes that supervision is no longer justified.

6. Insist on a Code of Conduct

If we assume that we do not want our larger corporations to be driven solely by the mantra of revenue and profit growth, then any company that achieves a dominate position within any single industry has an obligation to adjust its behavior to operate in the public interest. The usual mechanism is through the imposition of government regulation. Absent this solution, the alternative is to insist that the dominant company have a set of enforceable standards against which it is possible to judge individual employee conduct.

Under court supervision, Microsoft should be compelled to adopt a Code of Conduct. Specific sections should address this company's relationship with competitors, suppliers, consumers, and partners. A methodology must be developed that permits complaints of wrongdoing to be reviewed in a prompt and fair manner. Fines and restrictions, where necessary and justifiable, should be imposed against individual employees.

It would appear that these recommendations can be implemented in a fair and equitable manner. The objective is not to unduly punish Microsoft. The Third and Fourth Waves of computing are history. We must look forward, not backward. Punishment is less desirable than the creation of a competitive, needs driven, marketing environment for the consumer. It would appear that all six recommendations, if implemented as a whole, would have a minimal impact on Microsoft's existing revenues and profits. There would be little interference with the company's PC and server software business. Over the next 5 to 7 years, the net effect is that Microsoft would not grow as fast and it would have to look to industry partners for some products compliment its .Net strategy.

For the consumer, however, the restoration of competition within the PC industry will be enormously beneficial. New innovation can take the form of products that are easier to manage, more reliable, more secure, and less costly to own.

The Sherman Antitrust Law

AS a piece of legislation, the Sherman Antitrust Law appears to be obsolete. The Sherman Antitrust Act of 1890 was designed to deal with the political and monopoly power of (frequently interlocking) trusts. Specific companies had pricing, availability, distribution and product power over the consumer. Relief came in the form specific restrictions to business practices and monetary punishment.

The Sherman Antitrust Law does not address the defacto standards issue. Over the last 75 years, the telephone, teletype, electric, water, radio, entertainment, and television industries have been characterized by the evolution of increased concentration based on a company dominated list of defacto standards. Within the public services industries, regulation has been used to ensure that these standards are beneficial to the public interest. There are additional examples of industrial standards that have been promoted for the benefit of all potential players. When RCA set the defacto standards for color television, for example, multiple industry participants were able to adopt them for their individual benefit. Dominant players set the rules of competition and corporate existence. All industries are vulnerable. Airlines, banking, insurance, manufacturing, retailing—it does not matter. The potential for domination—whether by marketing power, financial strength, or technology—exists. And if 21st century industries tend to gravitate toward single standards established by one dominant player, then we need to ask multiple questions:

What is an open and competitive market?

What is the basis for determining economic concentration?

What is market domination?

Should a company be allowed to use it's domination of one market to leverage its customer base into the domination of other markets?

If the consumer is forced to purchase defective and/or dysfunctional products because there is no viable alternative, what is the dominant company's implied liability?

What are consumer rights? (How can they be measured?)

At what point does the power of the dominant player jeopardize consumer rights?

What is a fair penalty for jeopardizing consumer rights?

If a market is dominated by a single company, at what point does this imply that it must assume a fiduciary responsibility to act in the public interest? And what are the guidelines for corporate behavior? How will they be enforced?

How much political and economic power do we want a single company to accumulate within a specific market?

And finally; What is the mechanism for restructuring competition? Obviously, there are many more questions that need to be addressed if the Sherman Act is to be rendered relevant to the realities of 21st Century Corporations. The purpose of this more limited discussion, however, is to demonstrate the deficiencies of the Sherman Act when considering the specific parameters of this settlement. Neither the Sherman Act, nor the proposed settlement, address the realities of existing market structures, emerging technologies, defacto standards, the issues of convergence or the use of 21st century corporate power.

Since the Sherman Act currently provides inadequate guidelines for establishing what will be—essentially—public policy, then the court has two choices:

*Interpret the law within the narrow confines of this case using legal precedent (which essentially will let Microsoft off the hook); or

*Broaden the interpretation of the Sherman Act in order to protect the consumer from further harm that may occur in the future (which will require the Court to consider issues and questions not necessarily documented within the scope of this case).

Either way, the court's determination will be sent to the Supreme Court for resolution.

Conclusion

Since the proposed Justice Department settlement provides only limited relief for a very narrowly defined case, it will fail to provide the public policy guidelines that are so desperately needed to protect the consumer from the abuse of corporate authority. It does nothing to relieve the increasing concentration of political, economic and marketing power that is now occurring within the computer, communication and entertainment industries.

We are thus faced with two realities. On the one hand there is the reality of the specifics of this case and the proposed settlement remedies. On the other hand, there is the reality of the need to maintain open and competitive markets for the products, services and content. A really good settlement will bridge these two realities.

As for the Sherman Act? Corporate governance is out of control. Unfortunately, we all know that Congress will not act until it is politically expedient to do so. Failure to act implies acceptance of the status quo. Competition will fade. Corporate power and influence will be concentrated. More Enron's will happen. By the time congress acts, if at all, it may be too late to impose meaningful reform.

So it is up to our court system, and perhaps the Commissions of the European Union, to both make and execute the guidelines we need to protect the consumer. We want our corporations, including Microsoft, to be successful. We expect them to grow their revenues and profits. We want them to pursue new business opportunities. But we also want them to operate within open and competitive markets so that consumers have an opportunity to purchase the products, services and content they want, at a price they can afford, and on terms that make them practical. That means that our legal system must guard against the potential abuse of corporate power and the inherent problems of market domination. In this settlement, we are asking the court to define those guidelines in a way that protects consumers from the potential of future abuse.

Is that too large a task? Too sweeping a challenge? Too far from the specifics of this case? I think not. It is the reality of 21st century technology and market structures. Convergence, after all, implies consolidation. And consolidation breeds domination.

MTC-00025028

From: Spearlib@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:42pm
Subject: Microsoft Settlement
Attn.: Renata B. Hesse.

The subject settlement is one of the most disappointing things that government has done in a long time. It has no really bases in my opinion. If there is any monopoly it is government.

It appears to me that Netscape and other like companies are pursuing this issue to feather their own nest. It is of no benefit to the American citizens as far as I can see. In fact it is diverting many resources from one of the most creative companies to keep over zealous regulators and litigators from destroying it's ability to compete in the old fashion American way. In my opinion what you, that is the justice department, are doing is about as un-American as it gets.

Spear Lancaster

MTC-00025029

From: Jeff Chirico
To: Microsoft ATR
Date: 1/25/02 4:43pm
Subject: Microsoft Settlement

I am amazed that the DOJ continues this special interest and corporate biased trend of regulating competition in the courtroom. At various times in history different companies have excelled in specific business areas, but as is usual in a market driven economy the balancing of business is achieved through vigorous competition in industry, not through litigation. IBM looked unstoppable when I was growing up, and went through the same defining moments as Microsoft. Years later after IBM's strength was weakened the DOJ then dropped the anti-trust case. What did this endeavor actually resolve, but the weakening of an American enterprise.

Thankfully Microsoft products are American and represent a market segment that the United States still has a significant lead and growth in. Yet, only in America do we thwart such innovative products from growth using the courtroom to pad folks'' resumes in the DOJ.

I hope the Republicans in office will recognize a more laissez-faire approach to the economy, and will now halt this trend by pushing this case out the door with a limited remedy. The current remedy proposed that benefits education seems more than reasonable and honorable to me. The states that do not agree at this point have their own special interests, and are purchased lobbyists for AOL, Sun, and Oracle.

Sincerely,
Jeff Chirico

MTC-00025030

From: Jesse Wheeler
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 4:44pm
Subject: Microsoft Settlement

The proposed settlement with Microsoft is bogus. Please reconsider.

MTC-00025031

From: Darrell McKigney
To: Microsoft ATR
Date: 1/25/02 4:40pm
Subject: Microsoft Settlement

Comment from the Small Business Survival Committee on the Proposed Settlement in United States v. Microsoft
January 25, 2002
Darrell McKigney
President
&
Raymond J. Keating
Chief Economist
Small Business Survival Committee
Small Business Survival Committee
1920 L Street, NW, Suite 200
Washington, DC 20036
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The Small Business Survival Committee (SBSC) believes that the proposed settlement between Microsoft Corp., the federal government and nine U.S. states in the case of United States v. Microsoft Corp. generally serves the ?public interest? and the nation's economic well being.

In its settlement, Microsoft has agreed to a variety of restrictions on its business practices for at least five years. Microsoft also would be subject to (and have to pay for) a full-time, on-site monitoring panel of three computer experts, who would have complete access to Microsoft's software code, systems, books, records, personnel, etc.

Considering that the antitrust case against Microsoft had absolutely no basis in economic reality, and that the government brought its case at the behest of competitors?not consumers—who could not keep up in the marketplace, we view any findings against Microsoft, and related restrictions placed on the firm, as unwarranted. However, given the costs, looming uncertainties, the current economic climate, and penchant for bad law and convoluted economics to dominate in the antitrust realm, Microsoft certainly made the correct business decision in reaching this settlement. Investor's Business Daily hit the nail on the head when it recently (January 22) editorialized:

Late Thursday, Microsoft reported its earnings for the fourth quarter. They included a hefty charge of $660 million, or 8 cents a share, for expenses linked to antitrust lawsuits and ongoing legal action by some states.

Think about it: that's two-thirds of a billion dollars. It could fund a lot of research, give a lot of raises to workers, even fund more Microsoft charity around the country.?

So, the costs of this case for the company, the taxpayers and the economy in general have been formidable.

And make no mistake, these costs are felt by many small businesses. Small enterprises certainly can be affected by the costs of this antitrust case (and others) in their roles as consumers of Microsoft products, and as suppliers to Microsoft. In addition, entrepreneurship and business can be impacted by the message sent by government in a case such as this, i.e., that if a business works and competes hard to succeed and gain market share, the government may move against it through regulation and litigation. That is not a positive economic message for government to be broadcasting into the marketplace.

Microsoft, the many businesses which serve as its suppliers and consumers, and the software industry have been placed at risk due to the government's long antitrust inquisition against Microsoft, and real costs have been incurred. The government's antitrust case against Microsoft has boosted costs, increased uncertainty in the high-tech community, and thereby, hurt the entire U.S. economy.

Looking ahead, it is quite disturbing that government officials—including regulators, lawyers, and judges—have the ability to impose their own anachronistic views of how markets should work on the rest of us, including the high-tech industries of today and tomorrow. Antitrust regulation remains a dangerous wild card in the marketplace. Depending how the latest political breezes happen to be blowing, our nation's most successful companies are in a position to be punished for their success via antitrust actions.

Antitrust law is regularly presented as a bulwark of competition and free markets. In reality, however, antitrust law, for the most part, is distinctly anti-market and anti-competition because it allows government bureaucrats or judges to overrule decisions made by consumers in the marketplace. In the end, government antitrust actions in this case have amounted to nothing more than an effort to protect some of Microsoft's current rivals from the rigors of competition, and/or an effort to expand the reach and control of government.

It needs to be understood that in the free market, businesses compete against current and future competitors. The rapid pace of innovation in the computer industry makes this abundantly clear. Therefore, many antitrust actions exhibit an inability on the part of regulators, government lawyers and some judges to understand the dynamic nature of the marketplace. Markets are not static. The classroom lesson about "perfect competition" does not exist in the real world. Instead, the economy involves a rough-and-tumble competitive process whereby entrepreneurs and businesses create new products and services, innovations, and efficiencies, often generating temporary monopolies that are then obliterated by competitors. Prices and profits act as signals in the marketplace to other businesses and entrepreneurs. An activist antitrust regime, as was exhibited over the past several years in the Microsoft case, disrupts this beneficial economic process.

The fact that antitrust law looms unchanged—to be erratically used as a club by government—will continue to cast a shadow over the U.S. economy, particularly dynamic high-tech industries in which temporary monopolies are the clear rule.

Ideally, the Microsoft case should have been dropped altogether, and looking ahead, dramatic antitrust reform needs to be undertaken to reflect economic reality.

Short of such action though, a settlement in this case, which obviously steps far back from a proposed break up of Microsoft, makes sense. Hopefully, since much of the government's case has been thrown out or overturned, perhaps this Microsoft settlement will serve as a warning that antitrust restraint on the part of the government far better serves consumers, entrepreneurship and innovation, than does antitrust activism.

Darrell McKigney is the president of the Small Business Survival Committee.

Raymond J. Keating serves as chief economist for the Small Business Survival Committee (SBSC).

SBSC is a nonpartisan, nonprofit small business advocacy group headquartered in Washington, DC

MTC-00025032

From: Kevin Mounts
To: Microsoft ATR
Date: 1/25/02 4:45pm
Subject: Microsoft Settlement

As a long-time professional software engineer living in Seattle, I have been privy to a great deal of information about Microsoft's behavior in the software industry, through careful attention to various news media, discussions with other software engineers, including those working at Microsoft, and personal experience. What I know of Microsoft's business practices leads me to the unavoidable conclusion that the company is severely anti-competitive, has been a constant hindrance to progress and innovation in the field of software development, and will not be deterred in the least in some of its more egregious, if less public, practices by the proposed settlement.

Settling with Microsoft on these terms is the business equivalent of Prime Minister Neville Chamberlain's 1938 statement that he had ensured "peace in our time" through his settlement with Hitler over the Sudetenland.

Personally, I don't feel that anything short of liquidation would provide adequate remedy for the harm Microsoft has done to the industry, but as that is unlikely to happen, a break-up along lines similar to Judge Jackson's proposal would be the minimum that would have a noticeable effect.

Kevin Mounts
Mahana Enterprises
kevin@mahana.com

MTC-00025033

From: Will Francis
To: Microsoft ATR
Date: 1/25/02 4:45pm
Subject: Microsoft Settlement

The proposed settlement does very little to limit the scope of Microsoft's anti-competative and anti-consumer acts. Microsoft's "embrace and extend" policy attempts to have solely them control any standard into their own defacto standard therefore not allowing anyone to compete in any meaningful way. Whenever another company invents something novel which may compete meaningfully with a Microsoft product, those companies are either bought outright, or Microsoft "innovates" those same services into their Operating System such that it's pointless to purchase the original competitors products. Java is such a perfect example where Microsoft licensed Java and then "extended" it in such a way that broke compatibility with the original version. This allow Microsoft with it's massive installed base to become the defacto controller of Java. Thankfully, Microsoft lost in court against Sun, but to counter that, they simply stopped shipping Java with their products and invented their own Java-like language. Obviously the same pattern can be said about their browser, their media client, Office products, games, email clients and many more.

In my opinion, Microsoft should be broken up into two companies:

1. An OS company
2. Everything else

Allow other companies to provide services for the OS on a level playing field as Microsoft itself. As long as Microsoft can grow their OS to include whatever industry they which to dominate next, few will dare to compete with them.

Thank you.
Will Francis
US citizen
San Jose, CA
(408) 297-5988

MTC-00025034

From: Patrick Elliott
To: Microsoft ATR
Date: 1/25/02 4:45pm
Subject: Microsoft Settlement

To whom it may concern:

I believe that the terms of the settlement against Microsoft Corporation are reasonable and fair to all parties involved, and meet—or go beyond—the ruling by the Court of Appeals, and represent the best opportunity for the industry to move forward. While I personally do not see any wrongdoing on the part of Microsoft, I am glad to see their willingness to work with the DOJ and the industry to continue to promote fair, competative business practices.

Sincerely,
Patrick M. Elliott, Petersburg, VA

MTC-00025035

From: jamespapa51@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:43pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
James Papa
66 Camille Dr
Rochester, NY 14612

MTC-00025036

From: Francesco Gallo
To: Microsoft ATR
Date: 1/25/02 4:46pm
Subject: Microsoft Settlement
From: Francesco P. Gallo
216 Hitching Post Dr.
Wilmington, DE 19803
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice

These my few lines are a follow up of the short comments I addressed to the Assistant Attorney General Mr. Charles A James at the beginning of January. As one of the consumers we hope that finally the case of Microsoft will be settled, in order to continuing enjoy the improvements in the technology that we are witnessing in our daily life. We fill it is vital that the company, together with the others in the sector, dedicate more time and resources to increase the value added that our Country so badly needed, especially during this period of slow down.

We hope that the conclusion of this case will also avoid other futile actions, as the one we just read in the newspapers about a new legal suit advanced by Aol Time Warner, through Netscape. This settlement that is in the public interest should discourage any future actions that attempt to solve in the courtroom their problems. We thank you for your attention.

Respectfully,
Francesco P. Gallo
CC:Francesco Gallo

MTC-00025037

From: J. Warner
To: Microsoft ATR
Date: 1/25/02 4:47pm
Subject: Microsoft Settlement

I'm hoping the right decision is made and future unlawful practices are deterred. But it appears that Microsoft has been able to side step their unlawful practices, in the past, and continue work as normal. They continue to try and control all computer operating systems and to deter any alternative systems. The proposed Educational solution was just another example of their controlling their destiny. This would have been no punishment for them. It was their way to dominate the Educational market, besides their continued domination of the business and home computer markets. (Also their continued efforts to control the internet.) I'm writing to let you know I appreciate you letting me express my opinions, on the matter, and hope all factors are taken in to consideration. I believe Microsoft has a choke hold on the computer world. If they are not made to let go of that grip, one day it may be to late and we will all pay dearly. Thank you again for your attention.

J.P. Warner

MTC-00025038

From: Robert Calhoun
To: Microsoft ATR
Date: 1/25/02 4:43pm
Subject: Microsoft Settlement

This is in response to the request for Public Comment regarding Civil Action 98-1232 (CKK), United States of America vs. Microsoft Corporation. I do not agree with the proposed settlement. I do not think that the remedies it provides will prevent Microsoft from continuing to abuse its monopoly power in the field of computer operating systems.

About me: I am a professional software developer. I develop custom software primarily for users of Microsoft operating systems. I use development tools sold by the Microsoft Corporation and by National Instruments. I also use and write software for the Apple Macintosh, primarily using development tools provided by Apple Computer.

I have used and programmed microcomputers since 1983. I have used and written web pages for the World Wide Web since 1993. My use of this technology predates Microsoft's interest in it, and this has an influence on my comments. I have a strong belief that the World Wide Web should be based on open standards which allow any software developer to write a browser which allows the user to experience the World Wide Web fully. My specific suggests on the remedies follow my comments on the complaint.

On the complaint: The Government's 1998 complaint is focused on web browsers, specifically on Internet Explorer 4. At this point, Microsoft has released improved versions of their browser, known as Internet Explorer 5 ("IE5") and Internet Explorer 6 ("IE6"). The so-called "browser war" is essentially over, with Microsoft Internet Explorer substantially obliterating the competition from a market-share point of view. (Recent browser usage statistics from TheCounter.com show IE5 has the largest share, at 64%; combined statistics for IE4, IE5, and IE6 top 90%.)

If anything, the Government's complaint underestimates the efforts that Microsoft has taken to reach this outcome. A large part of the problem is the significant amount of time that has elapsed since the complaint was filed. Much of this delay is due to requests for stay and appeals that Microsoft has made. I believe that Microsoft has attempted to delay resolution of this complaint until the political winds changed in Washington, or until the issue became irrelevant. Both have occurred.

Microsoft is clearly capable of writing a best-in-class browser. Microsoft's browser for the Macintosh, IE5 for Macintosh OS 9, is arguably the best browser on any platform. It combines reasonably good standards adherence with significant user-interface enhancements. Apple now ships this browser with every Macintosh. While the browser is certainly very good on its own merits, it has been suggested that Microsoft required Apple to make IE5 the default browser in order for the development of Microsoft Office for the Macintosh to continue. I do not know if such allegations are true, but they are worrisome.

IE5 on the Windows platform also impressive features. One of the most impressive, especially compared with Netscape's offerings, is its rapid launch speed. IE5 simply demolishes the later versions of Netscape Communicator in launch speed and memory footprint.

This rapid launch speed is partially the result of the fact that many parts of IE5 are now built in to the Windows operating system. Not only does IE5 make great use of these specialized operating system components, several software components which are essential for operation of non-browser software are installed as part of the Internet Explorer 5 installation process. Nowhere is this more clear than in the nature of the "file browser" used in Window 2000. This browser is essentially the same software as IE5.

One is called "Explorer.exe" and one is called "IEXPLORE.EXE", but these two applications have so much in common that it is possible to surf the Web with Explorer, or investigate files on a disk drive with Internet Explorer.

It is a well-known fact to software developers that many strange and inexplicable problems with deploying projects that make use of Microsoft's ActiveX technology are solved by the installation of IE5. I do believe that Microsoft is correct when they declare that Internet Explorer is fundamental to the functioning of the Windows operating system. I also believe that they deliberately created this situation. Microsoft has made IE5 an integral part of the Windows operating system, to the point that it Internet Explorer now has its own section under "Internet Explorer: Platform SDK [Software Development Kit]". IE5 is Microsoft's recommended "container" for testing component software using Microsoft's ActiveX interface, and it is at this point 100% necessary when developing certain (non-browser) software on the platform. A World Wide Web full of web pages designed to be viewed with Internet Explorer is a difficult place for the users of other browswers.

I feel I need to make it clear that I don't have a problem with Microsoft adding web capabilities to the core of the Windows operating system. I am not against Microsoft innovating in this area nor in any other area of software development. Certain features (accessing Web pages, parsing the HTML language used to write them, etc.) are relatively low-level functions that arguably belong in a modern operating system. Microsoft has added many, many other operating system technologies (DirectX, NetShow, Windows Media) which also give the end user a richer experience and make it easier for developers to write software for the Microsoft Windows platform.

Where I disagree with Microsoft's approach is that they tend to view any software which has a significant, or potentially significant, market as an area in which they should seek a dominant market position, and they use their monopoly power in operating systems to achieve this.

The principal approach used is a) add components to the operating system which give the operating system new power and flexibility, b) allowing Microsoft's internal software developers superior access to these technologies and c) giving away technologies for free in order to obtain a dominant market position.

With respect to (a) and (b), Microsoft has at different times claimed on one hand that a "brick wall" exists between its operating system groups and its end-user groups, and on the other that customers would suffer harm if the closely coupled operating system groups and end-user groups were broken up into two separate companies. These two statements are mutually exclusive. With respect to (c), Microsoft has argued that free software is in the consumer's best interest. Free software is unquestionably in the consumer's best short-term interest. Sometimes, however, the process is in Microsoft's best long-term interest. As an example, take Microsoft's proposed settlement of the present case with those States which have not signed on to the Justice Department's proposed settlement. Microsoft offered to give refurbished computers and Microsoft software worth a total of approximately $1 billion to the nation's poorest 14,000 school districts. Schools are one of the few markets where one of Microsoft's few remaining competitors in the operating system market, Apple Computer, has a significant market share. The purpose of these free computers and free software appears to be twofold: first, to help students in these poor districts, and second, to ensure these districts make a decisive switch to Microsoft operating systems.

Were it not for Microsoft's monopoly power, I would not be concerned by any of their business practices. The close working relationship between operating system engineers and end-user product engineers is, for example, carried on at Apple Computer and has resulted in the release of highly respected products such as Final Cut Pro (video editing software), to the detriment of the former market leader in this area, Avid. But since Apple Computer does not have monopoly power, it cannot be argued that Apple's 00025038—0003 actions are in violation of the Sherman Anti-Trust Act. It is only because of Microsoft's monopoly power that we must view their business actions in a different, and more critical, light.

In this light, the original 1998 complaint of the Government should be properly viewed as an *example* of Microsoft's anticompetitive practices, rather than a *summary* of Microsoft's anticompetitive practices. The example in the original complaint is no longer relevant, as Microsoft has obtained the market supremacy with Internet Explorer that it desired.

It is too late to correct this: nothing can be done about Internet Explorer's dominance at this point. Rather, the goal of any settlement should be to ensure that Microsoft does not continue to exploit its monopoly power in an illegal and noncompetitive manner. Areas which Microsoft does not yet have market dominance, but which it is currently seeking market dominance comprise the following:

1) The market for streaming audio and video. Currently there are three dominant players: Real Networks's RealMedia, Microsoft's Windows Media, and Apple's Quicktime Streaming. It is generally agreed that the Real Networks product yields the best user experience over unpredictable public networks. Microsoft is currently seeking market dominance in this area by bundling the Windows Media Player with its operating system. This is not always the best experience for consumers; I have found the Windows Media Player to be slow and ungainly for listening to simple .WAV audio files compared with Microsoft's older and less sophisticated audio player, which is no longer available.

2) On-line services: AOL is still the dominant on-line service despite Microsoft's investment in MSN. Microsoft still attempts to increase the use of MSN via a) in-store promotions for new PC owners b) desktop icons for MSN and c) MSN as the default start-up screen for Internet Explorer. If not for these constant promotions and heavy subsidy from Microsoft, it's unlikely that an unprofitable enterprise like MSN would still

exist. AOL allegedly bought Netscape more for the Netscape "portal" than for Netscape's software. This is supported by the fact that the AOL browser is based on Internet Explorer rather than the Netscape browser. AOL failed to realize that as the use of the Netscape browser fell to single digit percentages, the value of the Netscape portal (which was the default home page for that browser) would fall accordingly, which it has. Microsoft has argued that AOL's purchase of Netscape suggests that Netscape was actually a successful, viable company despite Microsoft's anticompetitive efforts. Microsoft has also argued that AOL has squandered this asset, and now seeks legal redress for AOL's failure to use the Netscape resources in an effective manner. I cannot really argue this latter point. AOL was unwise to buy Netscape, which was clearly headed for bankruptcy and, whether or not AOL acquired it, a complete exodus of key personnel. AOL tremendously overvalued Netscape as an asset. It overpaid for it, and it has completely failed to use what remained of Netscape's technological assets in a remotely effective way. Just because AOL is dumb does not mean that Microsoft does not have monopoly power, that they did not abuse that monopoly power in the Netscape case, or that they will not continue to abuse their monopoly power in the future. AOL's purchase of Netscape should be viewed in light of the whole Internet bubble economy, which allowed marginally profitable companies like AOL to buy other companies with overvalued stock. In the case of Netscape, AOL got little for its overvalued AOL shares. In the case of Time-Warner, AOL got a lot. The $4.2 billion dollar Netscape acquisition does not imply that Netscape had a fair-market value of $4.2 billion dollars, because no one in their right mind would pay $4 billion dollars in cash for Netscape. 00025038—0004 Microsoft has stated that AOL spent $10 billion for Netscape, but this is incorrect.

3) Database Technology: Microsoft current makes an excellent database server, known as MSDE, available to developers who own Microsoft's development suite, known as Visual Studio. This product is of very high quality, and developers may deploy it free of charge. The goal appears to be to encourage the use of database routines which are compatible with Microsoft's enterprise-class database product, SQL Server. Microsoft also has developed a blizzard of database-interface technologies (ODBC, OLE-DB, DAO, RDO, ADO, and now parts of the new .NET) which the most diligent database provider would have a hard time keeping up with.

I speak as a developer here. I need to use database technologies in my Microsoft Windows-based applications, and I use MSDE. It's free, it's fast, and it works well with Microsoft's ADO layer, since Microsoft wrote ADO, the OLE-DB layer that ADO calls, and the SQL-Server layer at the bottom.

I doubt that Oracle, IBM, Sybase, and MySQL have the same ability to keep up with Microsoft's changing interface layers that Microsoft's own engineers have.

There are many other examples of areas where Microsoft is currently seeking market dominance. The settlement should be designed to allow Microsoft and other software venders to compete in an unfettered manner without giving Microsoft the unfair advantage of having written the operating system.

Regarding the Settlement:

Sections A–C:

These remedies are focused on preventing Microsoft from retaliating against hardware venders (OEMs) for installing non-Microsoft middleware. The remedies do not prevent Microsoft from installing Microsoft middleware along with the operating system, or at a later time via an automatic download.

In the past, installation of Microsoft software components has often broken competing products that offer similar services. It is not clear whether the behavior is intentional or a result of the relative fragility of the Windows operating system. Usually the end-user's best option is to stop using the non-Microsoft product. Merely preventing Microsoft from retaliating against OEMs is insufficient.

Section D:

This remedy is not enforceable. The Windows API is very complicated. Portions of it could be left undocumented, or provided with documentation which is vague or difficult to understand, and it would be very difficult to prove otherwise. Because the API is so large, it is unlikely that third parties could verify that Microsoft's own engineers used only publicly documented routines in publicly documented ways without a very large engineering effort.

Section J:

Cryptography experts agree that secure cryptographic systems are best built on published algorithms which have a strong mathematical basis for their robustness. This section allows Microsoft to modify cryptography systems, such as the Kerberos system developed at MIT, while keeping the changes 00025038,0005 private. This makes it hard for ISVs to develop products (such as VPNs) which are compatible with Microsoft's offerings.

In General:

The settlement affects only "Middleware" This does not address Microsoft's end-user applications such as Microsoft Office, a widely used program with a proprietary file format. This program has been used to influence the actions of Apple Computer and the lack of it on the Linux operating system makes it difficult to use Linux in an office environment.

Microsoft's approach to software development makes heavy use of shared code ("DLLs") and shared user interface features "ActiveX controls". It is possible for Microsoft to write applications which make use of these DLLs and ActiveX controls to create end-user applications that launch very fast and use little non-shared memory. With these objects built in to the operating system, ISVs have a hard time creating software that can match the small installation size of Microsoft applications. While 3rd parties can add DLLs and ActiveX controls to Windows, they clearly can never remove a pre-existing Microsoft component, which might cause the OS to break. This provides Microsoft with a significant advantage.

The settlement does not address publication of the proprietary networking protocol SMB/CIFS, which any competing operating system must support in order to network with Windows computers. Although Microsoft calls this the "Common Internet File System", it is undocumented. The settlement will be difficult to enforce. Microsoft violated the previous consent decree which was supposed to prevented it from charging OEMs for Windows on a per-machine (rather than per copy of Windows) basis. Nothing was done to Microsoft for violating this consent decree. A simpler solution would be to break Microsoft into two or more companies, one of which would own the Windows operating system and its successors, and one of which would own end-user applications. This approach worked well with Standard Oil and with AT&T. AT&T's situation was vastly more complicated than a Microsoft split would be because of the physical infrastructure involved and the overly specific way the settlement was written. In contrast, IBM was never split up. The IBM consent decree dragged on and on, providing a restraint on IBM's activities and hurting its international competitiveness. I do not want Microsoft's international competitiveness to be damaged. But I do not want them to become the only viable vender of software for large markets.

Microsoft could be split into two companies fairly easily. Both companies could compete, both companies could be successful, and both could have high stock prices. This is the easiest way to ensure that Microsoft provides a level playing field for non-Microsoft software developers.

Sincerely yours,
Robert B Calhoun
Qwerta Corporation
249 Elm St
Oberlin, OH 44074 00025038—0006

MTC–00025039

From: Nathan Myers
To: Microsoft ATR
Date: 1/25/02 4:04pm
Subject: Microsoft settlement

Following are my comments on the court's settlement with the convicted offender, Microsoft, Inc.

Nathan Myers
Placerville, California.

1. It appears to me that all the proposed settlements treat the company as if it had not yet been convicted. Worse, they ignore the company's prior history of consciously circumventing the spirit and letter of court orders. This is a company whose officers have frequently denied the authority of the government to control its abuses. For the outcome of this case to be useful, it must not only prevent the company from harming the nation further, it must demonstrate to Microsoft and others that the law does have teeth even where a large and wealthy corporation is involved.

2. The main public reason for limiting the severity of a sentence has been to avoid driving the offender entirely out of business, harming its employees, existing customers, and stockholders. With Microsoft's monopoly profiteering unchecked lo these many years, it is equipped with tens of billions of dollars to help it ride out any temporary inconvenience, regardless of severity. I see no

practical need to mute the terms in order to allow the company to continue operating. It can afford almost anything, for years.

3. All the proposed settlements I have read were complicated and hard to administer, which probably would result in both successful circumvention and further litigation. Simplicity is essential. Furthermore, the burden of proof that the company is faithfully abiding by the terms must be on the company, not on the government(s) or the company's victims.

4. The primary means by which the company has been able to cement its monopoly has been through enforcement of exclusionary contracts. One effective means of limiting its power would be to specify broad conditions under which courts are directed to rule against the company in disputes, despite contract terms or court precedents. (The company's monopoly and deep pockets inevitably tilt the scales, despite any settlement terms; the court should artificially tilt them back.)

5. Another means by which the company has excluded competition has been to limit access to preferential prices to those who obey it (contract or no). This mechanism should be made unavailable by requiring that all products be available to anyone at a fixed price, regardless of circumstances, with no permission to tailor a product for a particular customer. Even volume discounts tilt the field against smaller competitors; the company has no immediate need to charge smaller customers more.

6. The company has used its control of details of its products'' implementations to exclude competitors. It does this both by changing existing products in undocumented ways to make them incompatible with competitors'' products, and by keeping details of new products secret. Forcing the company to publish freely all details of the external behavior of their products—their "APIs", "protocols", and "file formats"—would reduce this threat. (Note that exceptions for "security details" have already been proven unnecessary and actually harmful to security; given such an exception, critical competitive details could easily be concealed.) The company should be prevented from releasing products until the completeness and correctness of the documentation has been established, so it has incentive to document well.

7. The company has eliminated competition by purchasing control of smaller companies that threatened to develop market share in areas it hoped to dominate. The company should be prevented from acquiring control of other companies, and should be forced to sell off subsidiaries and divisions that would place it in new markets.

8. The company has acquired a large portfolio of patents which could be used as an alternative means to exclude (at least smaller) competitors. While they appear not to have used this mechanism much yet, once other avenues of exclusion are forbidden the company will be tempted to exercise exclusionary patent rights. These patents should be released into the public domain immediately.

9. Much of the company's ability to attack markets comes from its cash reserve. This should be placed in escrow, and cash metered out for individual expenses once it is determined that they do not contribute to monopoly dominance.

10. The penalty for failure to perform up to the terms of the final settlement should be the wholesale loss of trade secret and copyright status for the affected product(s).

11. Those company officers who lied under oath and falsified evidence should immediately be prosecuted for perjury and obstruction of justice.

MTC-00025040

From: Dave Howe
To: Microsoft ATR
Date: 1/20/25 4:48pm
Subject: Microsoft Settlement

Helio:

If you want to fine them a billion dollars then fine them a billion dollars not equipment in kind or refurbished computers. Software CD's cost less than $ 1.00 with overheads fully accounted for. Add a $2.00 book and it's sold by M/S for between $100—$500...."Give" it away and take a tax write off for half...what kind of penalty is this. Refurbished computers are worthless, my old computers won't run squat and no one wants them. Plus the "free" runs out and then you let them start charging for service??? If I could get the Government to help me gain a huge hunk of market share with a positive payout in 3 years I'd do it also regardless of what you called it..

Take the cash and get a penalty with teeth NOT dentures.

MTC-00025041

From: Patricia Riendeau
To: Microsoft ATR
Date: 1/25/02 4:49pm
Subject: Microsoft Settlement

My commnets:

I believe that the terms of the settlement are reasonable and fair to all parties, and meet—or go beyond—the ruling by the Court of Appeals, and represent the best opportunity for Microsoft and the industry to move forward.

Patricia A. Riendeau
Shareholder

MTC-00025042

From: Robert Crull
To: Microsoft ATR
Date: 1/25/02 4:48pm
Subject: Microsoft Antitrust Settlement
Robert John Crull
400 Breckenridge Dr. #4
Huntsville, Al 35802
Attn: Renata Hesse
Trial Attorney
Suite 1200, Antitrust Div.
Dept. of Justice
601 D St. NW
Washington, DC 20530

Dear Sirs:

As a US citizen I am going on record as being opposed to the proposed anti-trust settlement with the Microsoft Corp. It is inadequate to punish them for past monopolistic practices and will not prevent them from engaging in future anti-competitive activities. Any fair settlement that protects the rights of the consumer and a strong competitive US economy must do two things:

Microsoft must be forbidden from entering into exclusive agreements with computer hardware vendors that forbids those vendors from selling computers with non-Microsoft-based computer operating systems. They must also be forbidden from entering into agreements that, while allowing computer vendors to place alternative operating systems on their hardware, require that the Microsoft OS always be the primary boot-up operating system.

Microsoft must be forced to publish all the data required to allow non-Microsoft programmers to write applications that interact with the Microsoft computer operating systems. There can be no secret or hidden access to the Microsoft operating system that only Microsoft applications writers are aware. Such hidden code gives the applications division at Microsoft an unfair advantage in writing their software.

Thank you for your time and consideration.

Sincerely,
Robert John Crull

MTC-00025043

From: HTOPILOWMD@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:48pm
Subject: microsoft settlement

Dear Sir:

As a daily computer user, both at home and in my medical office, I have benefitted greatly from the software produced by Microsoft. It is inexpensive, easy to use and makes work and play easier on many different fronts. I strongly urge you to terminate the ongoing legal harassment of Microsoft and settle the case based on the agreement already negotiated by the DOJ and Microsoft. This will benefit consumers like me who want new and better software from Microsoft and do not want to see the Company spending its money and time defending itself from frivolous suits initiated by its competitors who now have the 9 remaining states as their hired goons. Thank you.

Harvey W. Topilow, MD

MTC-00025044

From: Chris Holt
To: Microsoft ATR
Date: 1/25/02 4:52pm
Subject: Microsoft Settlement

Take the settlement with Microsoft.

Chris Holt
1450 North 1st St. #80
Salinas, CA 93906
831-444-6396

MTC-00025045

From: Gene Coussens
To: Microsoft ATR
Date: 1/25/02 4:52pm
Subject: Microsoft Settlement

I volunteer at a high school where I am trying to keep 30 computers running for the students. My experience with MicroSoft (MS) has been extremely difficult and at times I could not run the required software.

Security of software: MS has no protection against students changing the operating system and application programs unless you purchase the professional version which is extremely hard to maintain. Using another operating system (Linux) the task would be trivial and the software would be secure. Since MS has a monopoly, the application software is only available to run under the MS operating system.

Cost: MS requires licenses for each machine, for a connection to a server, a server license, and licenses for each application that is contained in a computer. The system is designed to maximize the number of licenses because you cannot run an application on the server (central computer) and get the results on the client (the users computer). Each machine must be a full system, on other operating systems one can run applications on the server and view the results on a stripped down machine in front of the user. All of the software for the other system is FREE. Each computer in our school has more than $150 worth of licenses again because MS has a monopoly and prevents software vendors from offering the same material on other operating systems. Because MS updates their software every two years we spend about $75 per machine each year, we call this the MS tax. If vendors try to offer their software on other operating systems MS will not license their application on the MS system.

Ease of Maintenance: MS has been patching together an operating system based on a poorly designed core of software which has been updated every two years. Some application software will run only on some versions of the operating system and not on others. This makes a tangle of application software and different versions of the operating system on different machines. Keeping track of which program is where is very time consuming. On other operating systems there is a slow evolutionary migration of the software which does not require frequent updates and the system appears almost seamless and it is quite stable.

XP Version of Office: MS has changed the licensing method and cost for the new version of Windows. Instead of bulk licensing for schools they now require that we keep track of each license separately. A machine description and the individual license assigned to that machine is registered with MS and we are not allowed to change parts of the computer without contacting MS for a reactivation of the license. This is method of forcing us to get permission to change configuration on our own computers is draconian in nature and we will do without rather than submit to these conditions.

The settlement that is proposed does nothing to prevent the company from proceeding with these practices. Far from preventing abuse this settlement says that the company is correct and is free to find even more ways to fleece the public.

The settlement that the remaining litigants are proposing is a far better agreement for protecting the public. In essence the MS operating system is now a standard imposed upon the industry and should be treated as such rather then the private domain of one company. The settlement proposed by the remaining states creates fair and open standards that will allow the application software companies to write software for the other operating systems, we can then give the end customer some choice in which system is best for their application.

Respectively,
Eugene Coussens
retired Engineer, Hewlett Packard.

MTC-00025046

From: BunBunjr@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 4:53pm
Subject: Microsoft settlement

Please settle this case now. My recommendation is that everyone should just walk away from it all.

Jim Landfield
Tel 703-734-0840
FAX 703-790-9049

MTC-00025047

From: lowilliams
To: Microsoft ATR
Date: 1/25/02 4:54pm
Subject: Litigation

Sirs

I have used computers since the sixties. I have worked with IBM operating systems, UNIX, DOS, and today use MICROSOFT Products. In the early days IBM tried to keep everything proprietary to their systems. For a number of years they were successful. For a while in the seventies the DOJ talked about breaking them up, fortunately nothing came of it. Then IBM became arrogant and figured that no one could ever compete with them. Their positions aided in the demise of Control Data and Univac. Then DEC came along with their smaller VAX but more capable systems using UNIX for technical computing. DEC greatly reduced IBM scientific computing business. Their place in the sun lasted until the mid eighties and then they in turn faced effective competition from HP. HP now holds a major part of the technical computing market. There were dozens of other companies that competed unsuccessfully for this market. IBM created MICROSOFT when they decided the IBM Personal Computer was never going to become big business. They let Bill Gates write the operating system. There were other small computers based on the INTEL, ZLOG and MOTOROLA single chip processors that used several other operating systems. In the early PC days I used a Radio Shack Model 4 (Z-80 processor) with an operating system the name of which I can no longer recall. All this is just to show that companies come and companies go.

With free trade, MICROSOFT will probably be strongly challenged by an Indian or Chinese software firm some time in the next 20 years. The challenge will not come from AOL unless they spend their time and brain power in trying to make a better operating system, browser or what ever and beat MICROSOFT in the market place.

MICROSOFT has created and enforced order out of chaos to the benefit of all humanity. Take word processing as an example. Since the early eighties I have used: "Run Off" a Digital Equipment product, "Scripsit" a Radio Shack Product, "Wolkswriter" a ? product, "Word Star" a ? product, "Word Perfect" a ? product, and "MS WORD".

With most of these other programs digital files were not compatible between computer systems or word processing programs. Today with MS WORD I wrote a book, with text and significant art, and sent it to my publisher in England in WORD format. The publisher can use it for the book without any conversion.

From a users standpoint MICROSOFT products should be ubiquitous. One of the advantages the United states has over Europe and many parts of the world is the fact that 280 million of us speak about the same language. The world of personal computers should also speak one language and until the Indians or Chinese invent a better one, let it be MICROSOFT.

The current agreement reached by the DOJ and MICROSOFT is a good one and should be implemented. Further suits by AOL and the other states should be ignored as frivolous. the Judge should tell AOL to compete on with better products rather than trying to get the government to restrain their competition.

Laurence O. Williams
1059 Oakwood Drive
Alliance, Ohio 44601
330 829 2963

MTC-00025048

From: Joe Parrette
To: Microsoft ATR
Date: 1/25/02 4:56pm
Subject: Microsoft Settlement

Dear Sir or Madam:

The settlement should be vacated and rewritten because of Microsoft's recent billing practices. They have become so onerous that only a monopoly could hope to survive. You have not done enough to disassemble this giant of business. Just look around at their liscensing practices for businesses.

I am sorry I did not have more information to give you but this is just a quick note and reflects a recent change in my stance on this settlement. Up until a few weeks ago I really thought you should stop bothering MSFT but no more.

Thank you for your time.
Joseph Parrette

MTC-00025049

From: Charles Myers
To: Microsoft ATR
Date: 1/25/02 4:57pm
Subject: Microsoft Settlement

I think it would be beneficial for the entire country to settle this case as soon as possible.

Sincerely,
Charles L. Myers, D.V.M.

MTC-00025050

From: prc@duke.edu@inetgw
To: Microsoft ATR
Date: 1/25/02 4:58pm
Subject: Microsoft Settlement

It is my opinion as a citizen of the United States of America that the proposed settlement of the Microsoft Antitrust suit is a bad idea, and that it does not prevent further monopolistic abuses by the company. The best way (in my opinion) to resolve Microsoft's monopoly status is to break the company into several pieces.

History has shown that dividing monopolies brings greater value than allowing them to remain intact. As examples, look at Standard Oil and AT&T—in the long term, these resulting multiple-company systems resulting from each breakup were worth more, paid more taxes, and employed more people than either company ever would have on their own.

Shareholders in these enterprises benefited as well from this growth—the value of their shares soaring as the individual companies competed against each other.

Finally, because of the increased competition that was possible against AT&T and Standard Oil, even more economic growth could be experienced by the nation as outside competitors were able to grow as well.

Thank you,
Patrick Campbell

MTC-00025051

From: John Tanzillo
To: Microsoft ATR
Date: 1/25/02 5:01pm
Subject: Microsoft Settlement

Please complete this action as quickly as possible. The whole process has taken too long. Whichever way it goes is fine with me, just end this legal mess quickly.

Thanks.

MTC-00025052

From: John Carothers
To: Microsoft ATR
Date: 1/25/02 5:59pm
Subject: Microsoft Settlement: split the company

Greetings-

I am writing to ask that you deal severely with Microsoft in the settlement process, as they clearly are a monopoly. Their market share of operating systems must be well over 90%. If that isn't a monopoly what is? This has been the case for over a decade. If that isn't a monopoly what is? They have unfairly come to dominate the web browser market as well with hard-ball tactics, yet many who have suffered dare not criticize them lest they suffer further. If that isn't a monopoly what is?

Please bring competition to the market—don't let them "pay" by giving away their software free and thus further establishing their monopoly. Split the company up!

SIncerely,
john carothers
Dr. John H. Carothers
Biology Instructor
Cabrillo College
Aptos, CA

MTC-00025053

From: Wayne Minor
To: Microsoft ATR
Date: 1/25/02 5:00pm
Subject: Microsoft Settlement

I wish you would stop harrassing Microsoft. I use their products because they are the best value for the money. If you ask me, Apple is a monopoly— you can only use their software on their hardware. But if apple was so good, everyone would use it. Anyway, I think my Justice department has better things to do than try to bring down microsoft. God bless america, you can build a company from nothing to something, and then your enemies can whine to the government to bring you down. Netscape lost out by having a poor product. Oh well......

Wayne Minor
Alcoa, TN 37701

MTC-00025054

From: Donna Aldinger
To: Microsoft ATR
Date: 1/25/02 5:00pm
Subject: microsoft settlement

4074 N Gelding Drive
Prescott Valley, AZ 86314
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to express my opinion about the recent settlement in the antitrust case between the US Department of Justice and Microsoft. First, I do not think my rights as a consumer have been infringed upon. Second, I think that Microsoft has not acted as a monopoly. They have consistently delivered quality products and have not taken unfair advantage of pricing.

Microsoft has agreed to terms that go beyond the issues in the lawsuit. Microsoft must disclose internal interfaces and protocols within Windows, as well as grant computer makers broad new rights to configure Windows to actively promote non-Microsoft products. Microsoft has agreed to the terms in the settlement to bring a close to the litigation. The settlement is in the best interests of the IT sector, the economy, and the public. The alternative is further litigation that is costly to our nation.

Please finalize the agreement and close the case as soon as possible.

Sincerely,
Donna Aldinger

MTC-00025055

From: Julian Dwyer
To: Microsoft ATR
Date: 1/25/02 5:01pm
Subject: Microsoft Settlement

To whom it may concern:

I am writing to voice my thoughts on the Microsoft antitrust case. It seems amazing to me that the punishment for Microsoft, who has acknowledged monopolizing the marketplace with their operating systems and their browser, is for them to supply schools with grants and more computers with their OS and browsers on them. What has become of the Judicial Branch of the United States ?!?! How is this compromise acceptable? Why is it the AT&T has to split up based on government and Federal Court rulings, when they as far as the public knows were not as manipulative in their business practices as Microsoft?

As I write this email, I am using Microsoft software— because it is what Microsoft dictated to Apple that it made the default software. It is good software, but there are several other software vendors that make great email clients that will never be popular because they don't have the muscle of a giant like Microsoft, and can't get a foothold into the market because of that lack of power. I am an avid user of the Apple Macintosh. My entire office uses Apple products. Most of my friends do. We use it because it is a better computer, a better operating system. We use Office for Mac because EVERYONE else uses it— and we need to share files with our clients. If it were up to me, I would probably still use Word— although there is scant competition on the Mac platform, because it is a good product. At least I would have made that choice based on myself and not what I was forced into, as we are now. That it the difference.

The Court has a major role to play in it's rule in delivering a verdict that is amenable to the American people. We have already been disappointed in the Court's deciding of the Presidential Elections. Bear in mind, that I am neither Liberal nor Conservative, Democrat nor Republican. I am, like many Americans a believer in the "American Way" and always searching for Truth and Justice—in its purest form.

Microsoft will never change its business practices unless the Government of the United States, in particular the Department of Justice, does something that ensures that the American people have a choice, a real choice. Do what's right, stop the monopoly. Punish them justly and accordingly.

Thank you,
Julian Dwyer,
Senior Art Director
AD-TECH Communications, Inc.
215 S. 21 Avenue
Hollywood, FL 33020
Tel: 954.923.1600
Fax: 954.923.9005
http://www.medadtech.com

MTC-00025056

From: Stewart Jenkins
To: Microsoft ATR
Date: 1/25/02 5:01pm
Subject: Comments for **Federal Register**

From Webster's Revised Unabridged Dictionary:

Punishment \Pun'ish*ment\, n. Severe, rough, or disastrous treatment. [Colloq. or Slang] 2. Any pain, suffering, or loss inflicted on a person because of a crime or offense. 3. (Law) A penalty inflicted by a court of justice on a convicted offender as a just retribution, and incidentally for the purposes of reformation and prevention.

As defined, Microsoft has not been punished as a result of being found guilty. Microsoft was found guilty of violating both sections 1 and 2 of the Sherman Act. It is unfathomable that the winner in a case, the United States government, would attempt to promote a compromise for the punishment. There is no compromise in punishment. Microsoft lost. They are to be punished.

Justice will not be served by hastening a decision that will affect the people of this country or the security of this country and the world. Microsoft should not be allowed to use the events of September 11 to maintain their illegal monopoly under the guise of "national security". Expediting a settlement will have no effect on defeating Al Qaeda. Allowing Microsoft to maintain its illegal monopoly, as has been suggested by the proposed settlement, will be to the detriment of our nation's security. In late December

2001, the FBI's National Infrastructure Protection Center warned the American public that using the Universal Plug and Play feature of Windows XP would allow an attacker to execute any commands and take any actions they choose on the victim's computer. Other vulnerabilities exist and are listed on the FBI's web site. Using

Microsoft products actually pose a national security risk. A thoughtful, deliberate punishment should be delivered to Microsoft, expediency be damned. Microsoft's monopoly must not be allowed to continue. The only acceptable punishments should include forcing Microsoft to publish their file format standards. Microsoft Word is the most common word processor used. Once you have a grammar checker, a spell checker, multiple fonts, a graphics processor/importer, tables, frames, collaboration features and colored text, then what else is there to exploit? Yet, Microsoft introduces a new version of Word every year or so, its sole purpose being to make the previous version obsolete by changing the file format, or the way the text is stored on a computer. If I write a book using Microsoft Word 2000 and save it to a recordable CD, then I carry the CD to my publisher for publication of my book, I must be sure he can read it on his computer. If he only has a license for Word "97, he can't open the file my book is stored in. The file format changed from 1997 to 2000, even from 1999 to 2000. Text is text, yet at Microsoft's discretion, I cannot use my own creation unless I maintain a Microsoft licensed product. Pretty powerful company, in that they can control how I might access my own intellectual property. Yet a common, or published file format can always be accessed. Others can program competing products to make it possible for me to access my intellectual property on Microsoft operating systems or other operating systems. Microsoft has all the control now.

If anyone thinks Microsoft doesn't want to control the majority of the internet, they haven't been keeping up with the computer industry over the last ten years. Microsoft should be required to publish all current and future internet and networking protocols. If Microsoft does to networking protocols what it has done to document file protocols, we are only a few years away from their being able to control all internet access via their own protocols. They will have a hand in every transaction that takes place over the internet. No money will change hands, no commerce will exist unless Microsoft says so, via their control of the protocols used for internet commerce.

The ability to buy an off the shelf computer system without Microsoft Windows for a lower cost than with Windows should be possible. It currently is not possible. Microsoft operating systems are installed on all consumer grade IBM PC compatible computers. I pay for Microsoft Windows whether I plan to use it or not. If the operating system was sold as off the shelf software, just as all other off the shelf computer software, the customer could then make an informed decision about which operating system would best suit their needs. This would also prevent Microsoft from creating pre-load deals with manufacturers. The customer would commit to the cost of the operating system as a conscious act. Those that don't wish to use Windows could choose an open source or other commercial operating system and would not be forced to pay a Microsoft tax by buying a pre-installed version of Windows that they never planned to use. I currently have licenses for several Microsoft products that I have never used because I could not buy the computer without them. Why do I have to pay this cost? Because Microsoft says I do.—

Stewart Jenkins
Rt.2 Box 147G
Gladewater, TX 74647

MTC-00025057

From: Erick (038) Vielka(a)Home noSpam
To: Microsoft ATR
Date: 1/25/02 5:03pm
Subject: Microsoft Settlement

To the DOJ

As a concerned citizen and a person who makes a living with computers I feel an obligation to send you a comment on the Microsoft settlement. To the point, It is unjust. Microsoft was found to be a predatory monopoly. They still will admit no wrong. Their track record shows that they will not abide by the letter or spirit of this settlement. You seek to place certain people as "watchdogs" over Microsoft yet you cripple them with non-disclosure. Personally I am not a big fan of breaking up Microsoft. However letting them retain all of their code as secret and sacred without prohibiting them fro adding additional "functionality" is a free ticket for more them to continue as they always have. At the very least you must force them to document and disclose their api's this one action will allow others to start to compete on a fairer playing field. What your about to do is sentence everyone to continue to be unable to start to provide an alternative and build a business on it. Microsoft claims that Linux is competition. In many ways this is almost true. However because of Microsoft's history of co-opting creative peoples work changing it just enough and then adding a feature to their os the Linux community has been forced to adopt the GNU license. This means that most development is done for love and not money. This issue frightens many companies that would like to develop and market software to stay away. Microsoft will either steal their idea and put them out of business change their API's to not work with your software and cause you millions in bad press and development. Thanks for listening, please stop this embarrassment of a settlement from going forward. It is anti-competitive, it allows Microsoft to continue all of it's illegal practices, and it is plain unjust.

Sincerely
Erick Jones

I am a registered voter, I do vote, And I have a long memory

MTC-00025058

From: Stacey Barrett
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 4:56pm
Subject: microsoft settlement

It seems obvious that this settlement is not going to solve the problem of Microsoft's monopolizing ways. If anything, it just seems that justice can be bought. THIS SETTLEMENT IS A BAD IDEA!

MTC-00025059

From: arthurguay
To: Microsoft ATR
Date: 1/25/02 5:04pm
Subject: Microsoft Settlement

I spent the majority of my professional career in the nuclear industry (feed materials, plutonium and tritium production) working for AEC prime contractors. As the PC made its debut, we all had the opportunity to test the software developed by Microsoft. Did we like it? You had better believe it! The early word processing and data base programs were a delight. As we moved into retirement, the Microsoft software was even better and we are all in unamimous accord that we wish Microsoft had come to us sooner.

Don't stifle progress. Support Microsoft for what they have contributed to our society ; for what they have done for our kids and grandchildren and others" parents and grandparents.

It seems the major opponents to Microsoft's success are its competitors who can't compete with Microsofts" capability and ingenuity.

Arthur E. Guay
Reno, NV.
(775) 852 1074

MTC-00025060

From: adauria@colesys.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:03pm
Subject: Microsoft Settlement

As an IT profession and technologist I strongly object to the government's persecution of an industry leader. Our industry naturally determines a dominant player in a partcular area. Nonetheless, it is very competitive without the overbearing hand of government because of the rate at which technology moves and new dominant players are selected.

Leave Microsoft alone. The case is wrongly motivated (unfairly protecting competitors and hurting consumers) and will only hurt the industry and the American economy.

MTC-00025062

From: bob@bob.usuhs.mil@inetgw
To: Microsoft
ATR,bob@bob.usuhs.mil@inetgw
Date: 1/25/02 5:03pm
Subject: Microsoft Settlement

As a programmer for 30 years, a University professor for 20 years, and now as a faculty member in a department of Medical Informatics, I would like to comment on the Proposed Final Judgment (PFJ) in United States v. Microsoft. I know that many of my collegues have written to you with detailed explanations about how the PFJ will allow Microsoft to continue to exercise effective anticompetitive conduct that continues its monopoly. I have read some of them. They are accurate and well argued. I urge you to read the message sent to you by Dan Kegel.

I strongly support his view. Much of the PFJ has been crafted in such a way that it allows Microsoft to get around most restrictions, and many important restrictions are missing altogether.

A software engineer can see this where perhaps a lawyer cannot. For one small but potent example, nothing in the PFJ requires Microsoft to release information about file formats. Note that undocumented Microsoft file formats form part of the Applications Barrier to Entry ("Findings of Fact" paragraphs 20 and 39). Why was this omitted?

There are more agreggious problems with Microsoft's behavior that are not addressed by the PFJ. For example, Microsoft "encourages" rumors that WINE, a program that runs under the Linux operating system and allows Windows programs to run under Linux, violates Microsoft Patents. Just what patents those may be has never been revealed, but this rumor has cut off funds and development that would have gone to the support of the WINE project. Microsoft does not promote the best technology.

It innovates by buying up it's competition when it can, and by overwhelming it's competition with inferior substitutes packaged with Windows.

The Proposed Final Judgement is not in the public interest and should not be approved without substantial repair.

Dr. Robert Williams

The opinions expressed herein are those of the author and are not to be construed as representing the USU, the DoD, or the U.S. Government in any way.

MTC-00025063

From: Rob LaRiviere
To: Microsoft ATR
Date: 1/25/02 5:04pm
Subject: My Opinion,

My Opinion,

MFST is still allowed to create new interfaces or modify existing interfaces in thier operating system before release without publication. This allows all internal applications, like Office apps, to utiltize these interfaces before anyone else has access... Giving the applications done by MFST a head-start.

Rob

MTC-00025064

From: David Cole
To: Microsoft ATR
Date: 1/25/02 5:02pm
Subject: Microsoft Settlement

I think the proposed settlement is a veeeeeeeeery bad idea

It makes Microsoft's bad biz practices profitable.

It doesn't prevent bad behavior, anymore than another promise from a fox to not eat any more chickens.

David Cole
Concerned U.S. citizen
CC:0 David Cole

MTC-00025065

From: Sandy W
To: Microsoft ATR
Date: 1/25/02 5:05pm
Subject: Microsoft Settlement

Sandra Walker
229 Lee Street
Rock Hill, SC 29730
January 23, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

The reason for this correspondence is to express my support of the settlement reached in the Microsoft antitrust case and to state I believe you should do likewise. For far too long Microsoft has been coerced into court, spending millions that it could be using to build better products and create jobs.

The settlement reached will give computer makers broad new abilities to offer non-Microsoft products, either as separate operating systems or as components on Microsoft operating systems. This settlement will actually give competitors new advantages against Microsoft. Unbelievably, competitors still are condemning this settlement because they want something that is much more detrimental and unfair for Microsoft.

I strongly urge you to support the settlement that is available in this case and to repel those interests that want to derail it.

Sincerely,
Sandra Walker

He who ignores discipline comes to poverty and shame, but whoever heeds correction is honored.Proverbs 13:18, NIV

MTC-00025066

From: arctophile@msn.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:05pm
Subject: Microsoft Settlement

I wish to strongly defend Microsoft's actions in the marketplace and encourage those involved to minimize if not eliminate the penalties being assigned to Microsoft in the current settlement being proposed. Thank you for your time and attention.

Adam Schmidt
WebTone Technologies
Atlanta, GA
CC:arctophile@msn.com@inetgw

MTC-00025067

From: david shaner
To: Microsoft ATR
Date: 1/25/02 5:06pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am writing regarding the Microsoft Settlement.

Before getting some things off my chest I want to say that the Settlement penalizes Microsoft far more than either is necessary or deserved. If in the end you decided that Microsoft has to much say in contracts then your Settlement is more than enough to correct the situation and so just get the thing done. It is enough. The truth is that the case was never about Microsoft having too much power or even a monopoly; this case was never about truth or justice or even law. This case was always about a few competitors (for the most part competitors who were largely unaffected by Microsoft's contracts with OEMs) abusing the power of the state to protect markets, their overinflated prices and generally prevent Microsoft from competing with them. The law and the American legal system were used as a tool to attack and attempt to destroy a competitor. I cannot tell you how disgusted I was to witness what occurred in this case. What was evidenced is that law in this country is handmaiden to powerful politicians and popular culture. I hope to God I never get dragged into a court of law in this country because the truth is that if the judge doesn't like me the truth won't matter; the truth is that if there is political gain to be made by hanging me, the truth won't matter and I will be hung. Nine states have not agreed to the settlement because Scott McNealy and Larry Ellison and their ilk don't want the states to settle. Nine states have not agreed to the settlement because a few self-serving politicians think they can gain more power by not settling. There is absolutely nothing in their decisionmaking about an adequate settlement or a settlement that best serves consumers. Please salvage some respect for American Law and our justice system. Please show that antitrust law is at heart for consumers not for the few corporate creeps to hide behind when their ineptitude leaves their companies in danger of failing. Please just get the current settlement signed.

Sincerely,
David J. Shaner

MTC-00025068

From: Dan Rose
To: Microsoft ATR
Date: 1/25/02 5:06pm
Subject: Microsoft Settlement

To whom it may concern,

I am writing to express my dismay—or more accurately, utter disbelief—at the Justice Department's proposed settlement in the Microsoft antitrust case. I urge you to reconsider.

The essential problem with the settlement is that it offers no punishment for the years of antitrust violations found by three federal judges. It offers only some weak guidelines for future behavior. This is equivalent to having a trial for a bank robber, finding him guilty, and then sentencing him to being nicer next time he robs a bank.

I have been working with computers and as part of the computer industry for over twenty years. I have been a programmer, a student, a researcher, a manager, and the Chief Technical Officer of a company. I have worked for Fortune 500 companies and 3-person startups. I have a Ph.D. in Computer Science. I have used all sorts of computer operating systems dating back before Windows even existed. I have used the Internet for years, long before the World Wide Web was created. So I think I have a pretty good perspective on how the industry has changed, and what role Microsoft has played in those changes.

Microsoft has portrayed itself, through advertising (as well as a fake letter-writing campaign) as an innovator flourishing in the free market. This simply flies in the face of the facts. Nearly every one of Microsoft's so-called innovations was either purchased from someone else or simply copied. In the latter case, the true innovators were then put out of business through Microsoft's illegal monopolistic practices.

Here are just a few examples, known to even the most casual student of computer history. Which of these innovations came from Microsoft? MS-DOS, the operating system Microsoft provided for the original

IBM PC? No, that was created by Seattle Computer Products. It was originally called QDOS (for "Quick and Dirty Operating System") and was hurriedly bought by Microsoft after Bill Gates learned that IBM needed an operating system for its new PC. Gates told IBM that he had an operating system, then quickly went and bought one. The spreadsheet? No, that was VisiCalc, invented by Software Arts and later perfected by Lotus's 1–2–3.

The modern word processor? No, there were many others, such as WordPerfect, before Microsoft Word.

The ability to network PCs? No, Novell and Apple did that long before Microsoft.

The graphical user interface? Hardly; SRI, Xerox PARC, and Apple all developed the ideas that Microsoft used in Windows. The Internet Explorer web browser? No, that was licensed from Spyglass, the company that commercialized the original version of an earlier browser called Mosaic, which was itself developed at a government-funded research center.

In fact, every one of those innovations was invented by another company and was available to consumers before Microsoft was involved. Microsoft's primary contribution to the computer industry has been in putting the true innovators out of business. It's gotten to the point where entrepreneurs avoid certain markets entirely because they fear the wrath of Microsoft.

I am a capitalist, and I believe in the free market. Yet I also believe that when a company tilts the playing field by ignoring the laws that others are following, it must be held accountable. No one can bring back the many companies Microsoft put out of business. But if Microsoft were held financially responsible for the damage it has done, and made to give back its ill-gotten gains, then there would be an explosion of new innovations that would benefit all of us.

Sincerely yours,
Daniel E. Rose

MTC-00025069

From: Paschke, Kellie
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 5:08pm
Subject: microsoft settlement

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530–0001

Re: Comments Submitted in Support of the Proposed Microsoft Settlement Agreement

Dear Ms. Hesse:

As Chair of the Iowa House of Representatives Judiciary Committee, I can appreciate how difficult it was to reach a proposed settlement in the Microsoft antitrust litigation. I am pleased to add my voice in support of that settlement, not because I agree with the entirety of the case or every single aspect of the agreement, but because it is time to move on. If accepted by the Court, this settlement will allow Microsoft and its competitors to continue the amazing innovation that has defined the past twenty-plus years while also defining the direction of the government's role in the high-tech industry.

Please continue to urge the Court to accept this settlement, because to do so will bring more certainty to an area of the law that can ill afford to be without it.

Sincerely,
Chuck Larson

MTC-00025070

From: register@washingtonpost.com@inetgw
To: American Atr,Microsoft ATR,ASKDOJ,president@whiteh...
Date: 1/25/02 5:08pm
Subject: A washingtonpost.com article from leederone1@yahoo.com

You have been sent this message from leederone1@yahoo.com as a courtesy of the Washington Post (http://www.washingtonpost.com).

SO, WHAT DO YOU HAVE TO SAY ABOUT THESE BACKHANDED DEALINGS! THE PEOPLE DESERVE AN ANSWER TO THIS!!!!

To view the entire article, go to http://www.washingtonpost.com/wp-dyn/articles/A34746–2002Jan24.html Group Faults Disclosure of Microsoft's Lobbying

By Jonathan Krim

Microsoft Corp. and the Justice Department failed to make key public disclosures in connection with their proposed settlement in the company's antitrust case, an organization of antitrust lawyers and academics has charged. In a complaint filed yesterday with the federal judge handling the case, the American Antitrust Institute said Microsoft did not adequately report its lobbying activities about the agreement, as required by the federal law that governs antitrust settlements. Microsoft reported no conversations or contacts with members of the Bush administration about the agreement, except between lawyers who negotiated the deal, which are permitted. The disclosure law is designed to reveal any improper political pressure that might be exerted on the Justice Department on behalf of a company involved in legal action. Microsoft's report surprised many consumer groups and Microsoft opponents, who have watched the software giant spend upwards of $5 million a year on lobbying in Washington. In particular, Microsoft did not disclose any congressional lobbying in connection with the agreement. The company has said it is following precedent in other cases, in which only contacts with the executive branch have been reported under the law, known as the Tunney Act. The antitrust institute, which opposes the settlement, believes this interpretation violates the law, and hopes the judge will enforce it now. "The Tunney Act is supposed to be a meaningful statute, providing meaningful disclosures that will inform the public so that it can fully evaluate an antitrust settlement," said Albert A. Foer, president of the organization. "In this, the most important antitrust case of our generation, it is essential that the process be adhered to with care and commitment."

Microsoft spokesman Vivek Varma said the company's lobbying disclosure complies with the law and "we are looking forward to court review of the settlement." But late yesterday the author of the law, former senator John V. Tunney (D-Calif.), filed an affidavit with the Justice Department saying Microsoft's disclosure violates the intent and letter of the act. "Congress meant members of the Executive, Legislative, and Judicial branches of government," wrote Tunney, now a lawyer in Los Angeles. "Congress specifically intended to cover communications by officers of a defendant corporation, lawyers of such corporation, lobbyists of such corporation, or anyone else acting on behalf of such corporate defendant. If I had not been satisfied this was the plain meaning of the statute, I, as the principal author of the legislation, would not have pressed the legislation through to final passage." In addition to its concerns over the lobbying disclosure, the antitrust institute argues that the Justice Department failed to adequately explain why it limited the agreement to certain sanctions and rejected others that had been pursued by prosecutors in the Clinton administration. Foer said the judge should not rule on whether the agreement is in the public interest until Microsoft and the Justice Department comply with the disclosure provisions. He also said the judge should extend the period for public comment. Microsoft questioned the motives of the institute, saying it has received contributions from Oracle Corp., a Microsoft rival. Foer said Oracle does not influence policy at the institute and is merely one of many companies and organizations that have contributed small sums to it pay its bills. The Justice Department declined to comment on the institute's complaint, which was part of a flurry of activity as the long-running Microsoft case enters a new and more complex phase. The 60-day period for public comment on the proposed settlement is scheduled to end Monday, and both Microsoft and its rivals have been feverishly preparing their views for submission to the court. Trade groups supported by each side have been attempting to generate grass-roots support. In one incident, a telemarketing firm representing pro-Microsoft forces accidentally called one of the leaders of an anti-Microsoft coalition. Gauging public sentiment is difficult, however, because the Justice Deartment so far has declined to make the comments public. A department spokeswoman said past procedures dictate that all the comments must first be collected, and department responses drafted, before the material is submitted to the court and made public. The Justice Department has until the end of February to respond to the comments. After that, it will be up to District Court Judge Colleen Kollar-Kotelly to rule on the settlement. Meanwhile, however, she is scheduled to begin separate hearings on March 11 into whether tougher sanctions should be imposed on the company for violations of antitrust laws. Nine states and the District of Columbia balked at signing on to the federal settlement deal, and are pursuing the case on their own. And this week, AOL Time Warner sued Microsoft directly, seeking damages for its Netscape subsidiary, which was found by courts to have been hurt by anti-competitive acts by Microsoft.

MTC-00025071

From: bobby_fine@entersolve.com@inetgw
To: Microsoft ATR

Date: 1/25/02 5:09pm
Subject: Microsoft Settlement

I am pleased that this is finally coming to an end. We have better things to spend our time AND money on.

Unfortunately, AOL has decided to continue this pursuit. My honest opinion is that Netscape lost its market share because they would not create a browser that complied with standards and ended up frustrating users.

CC:bobby_fine@entersolve.com@inetgw

MTC-00025072

From: Jason Bailey
To: Microsoft ATR
Date: 1/25/02 5:08pm
Subject: Microsoft Settlement

I think that the Microsoft settlement is a bad idea. As a computer user, software developer, and American citizen, I am very unhappy with the terms of the settlement—they are easily met with little financial impact or effect on the way Microsoft operates.

—Jason Bailey

MTC-00025073

From: Lewis Kopp
To: Microsoft ATR
Date: 1/25/02 5:09pm
Subject: Comments on the Microsoft Anti-Trust Settlement

To Whom It May Concern:

I have been involved with computers since the late 70's, having built a MITS Altair 8800 computer, bought an Apple][in '79, and used everything from: a Kaypro "portable" computer that weighed around 25 pounds; DEC PDP-11/23's & 11/73's; DEC Vax and Alpha computers, Apple Macintosh computers, various brands of PCs (I was the micro-computer specialist for the Cleveland VA at one time); and so on. Up to the current PC's with Intel Pentium 4 processors and Macintosh G4s. I even have a paper tape backup of MITS Basic that, I believe, was the first product that Bill Gates wrote and sold.

That paper tape also represents probably the last thing the Bill Gates wrote and originated. Since that point he has made use of his true genius as a marketing person and knowing what products to buy or copy to take Microsoft to the point where it virtually totally dominates the market. The courts have finally admitted what most people in the industry with an ounce of common sense have known for years—that Microsoft was, is, and with the current, proposed settlement will always be—a monopoly.

Better products that Microsoft couldn't buy have been slaughtered in the market place by Microsoft's overwhelming advantage of writing both the operating system AND the primary business applications used under that operating system. Microsoft has NEVER had the best operating system, they have simply have one that is generally adequate along with a set of applications that are pretty good. But this combination and their marketing muscle have led to them dictating terms to businesses around the world. Due to the need for data compatibility between computers, people have been forced to use Microsoft products—whether they wanted to or not.

The proposed settlement largely ignores reality and the way people and companies actually work. When a manager's salary depends on how many employees he manages, it is not likely that he will ever pick a product that would reduce the need for his employees. Consequently, Microsoft products are picked and Information Systems departments (especially the support departments) continue to grow. Along the same lines, consultants will rarely recommend a product that would not require them to come back and help train and maintain it. These realities mean that the proposed settlement is largely a farce and will not in any way curb Microsoft's anti-competitive practices. This is evident in the release of the latest version of their operating systems, Windows XP. Now users will basically be required to have an internet connection so that they can register their copy of XP. And this isn't just the first time they use it! No, they have to do this if they make too extensive of a modification to their computer—whether due to upgrading it or replacement of defective components as well as on a yearly basis. And the yearly registration isn't free! Sure, they get upgrades installed automatically during the year, but the upgrades get installed whether or not they want them! As a software engineer, I know that this is likely to be a nightmare for anyone who uses XP. User: "The computer was working fine yesterday, but now it won't work. I didn't change anything so what happened?" Tech: "Well, there's a problem with the latest update of XP for your particular model of computer. That update was installed automatically when you logged onto the internet this morning." Microsoft's new initiatives for copy protection of music and movies is yet another example of them using their dominance to dictate terms to the public and businesses. In this case, they may have some assistance from shortsighted Hollywood executives who will do anything they can to make it impossible for the average person to make fair use of music or videos that they buy, even though it doesn't prevent a determined professional from making copies that they can then bootleg and who represent the vast majority of illegal copies.

Personally, I believe that Microsoft should be split into at least two companies—one systems software and one application software. The two companies should not be allowed to deal with each other anymore closely than either would with a third party company. This sort of solution would bring competition back into the marketplace instead of letting Microsoft continue on as they have in the past—which is what they did after the previous settlement and is what they will do if the proposed settlement is put into place. As a secondary issue, the monitoring process proposed would be a waste of taxpayer money as well as being totally ineffective. I urge that the proposed settlement be rejected and one put in place that will prevent the abuses that Microsoft has been perpetuating for so long! The courts have ruled that Microsoft is a monopoly. They should be treated as such and broken up.

Sincerely,
Lewis Kopp

MTC-00025074

From: Rusty Carruth
To: Microsoft ATR
Date: 1/25/02 5:10pm
Subject: Microsoft Settlement

The proposed settlement falls far short of the minimum needed to address the violations of law, while it is a good start. One concern I have is related to the following story: http://www.linuxworld.com/site-stories/2001/0820.austin.html which, among other things, says:

"There is an insidious aspect to a citywide, multi-year plan. It locks users into Microsoft products only. While the Enterprise Agreement doesn't specifically prohibit the use of other products, effectively it does. It's logical to assume that if you're paying for MS Exchange for three years why allow a department to consider an alternative. (Microsoft makes hay of this point in a Word-formatted white paper extolling the Enterprise Agreement.)"

Motorola has apparently entered into one of these Enterprise Agreements with Microsoft, and from the way they (Motorola) are acting, it appears that the no-non-Microsoft-software effect may be more than just a side-effect, as Motorola is on a massive effort to REPLACE perfectly working non-windows (and free) mail (and other) tools with Microsoft's versions. Against the strong objections of those whose tools are being replaced. This indicates to me that Microsoft has made little, if any, change to its behavior. This behavior has resulted in the practices which were found to be in violation of the Sherman Act.

Also, since Microsoft has used "middleware" to keep its operating systems monopoly, especially Internet Explorer, it seems that any kind of just settlement must include at least one, and possibly more, of the following remedies:

(1) disallow Microsoft from developing, selling, or buying companies which develop or sell middleware (for a period of, say 7 years from the date of the settlement, after which the limitation will be reduced) (note that this includes .net);

(2) place Internet Explorer in the public domain or otherwise remove it from the suite of Microsoft tools;

(3) place Windows in the public domain or otherwise separate it from the non-OS offerings of Microsoft;

(4) require Microsoft to establish a fund, from which half of the cost of developing/porting software to non-Microsoft operating system(s) would be paid, to a maximum of $500,000 payment. This fund should have some amount of cash up front, with some percentage of Microsoft OS sales price being placed into the fund for some period of years (for example, 10% of the customer sales price would be put into the fund, paid by Microsoft on a quarterly basis, for the next 7 years).

(5) require Microsoft to become more than one company. In any case, the proposed remedy does not adequately address the misdeeds of Microsoft, nor does it even begin to redress the wrongs promulgated against the computer-using public.

I am a computer professional. I write software on Unix systems, and I have been directly (and very negatively) affected by Microsoft's predatory practices.

Please note that I also support and strongly agree with Dan Kegel's Open Letter, which I will be a cosigner of.

Thank you very much

Rusty Carruth

Rusty E. Carruth Email: rcarruth@Tempe.tt.slb.com or rcarruth@slb.com

Voice: (480) 345–3621 SnailMail: Schlumberger ATE ———

FAX: (480) 345–8793 7855 S. River Parkway, Suite 116 \e/

Ham: N7IKQ @ 146.82+,pl 162.2 Tempe, AZ 85284–1825 V

ICBM: 33 20′ 44″N 111 53′ 47″W http://tuxedo.org/~esr/ecsl/index.html

"Why would anyone choose a tool that is the primary virus vector of the known universe?"—me

CC:rcarruth@tempe.tt.slb.com@inetgw

MTC–00025075

From: GP
To: Microsoft ATR
Date: 1/25/02 5:09pm
Subject: An open letter concerning the Microsoft Anti-trust settlement

To whom it may concern:

I am categorically and diametrically opposed to any settlement with Microsoft corporation that:

1. Fails to severely punish Microsoft for its crimes, and
2. Does not apply the strongest remedies available to prevent those crimes from reoccurring

You must make absolutely certain that Microsoft is forever prevented from ever again using its ill gotten market dominance and vast cash reserves to stifle fair competition and innovation in the U.S. computer industry. The damage already done has been great, but make no mistake—this company continues to use the same methods today that initiated this case. From all indications, it will continue to do so until strong legal action is taken to stop it.

History will look back on this critical case and harshly judge whether our judicial system succeeded or failed when faced with such incomprehensible wealth and corrupting power. If you do not stop Microsoft at this time—and the hour is very late indeed—it will soon complete its stranglehold on all areas of the U.S. computer industry including the Internet and beyond and thus destroy the last great competitive advantage our country retains in the world market. History has clearly proven such rogue monopolies to be intrinsically the enemies of our democracy and free market system. Let this duly convicted criminal monopoly know you recognize it for what it truly is.

Highest regards,

Gary Piland

CTO, VP Interactive

Callahan Creek, Inc.

CC:Gary Piland,skeene@callahancreek.com@inetgw,tjohns...

MTC–00025076

From: FJ660@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:11pm
Subject: Microsoft sttlement

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania,NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you today to voice my opinion in regard to the settlement that was reached between Microsoft and the government in November of last year. I feel that this issue has drawn on long enough and that it is time to end this dispute permanently. I support this settlement.

Microsoft has pledged to disclose more information with other companies, such as certain internal interfaces in Windows. Microsoft has agreed to make available any protocols used in Windows operating system that are used to interface with any Microsoft server. These provisions will make it easier for companies to compete. Additionally, Microsoft will agree to be supervised by technical oversight committee created by the settlement.

This settlement will enable Microsoft to get back to the business of technology. I support the settlement, and believe it should be implemented as soon as possible.

Sincerely

Fred Jimeian

MTC–00025077

From: Bud Graham
To: Microsoft ATR
Date: 1/25/02 5:15pm
Subject: Microsoft Settlement

Gentlemen,

Why doesn't AOL wake up and smell the roses and try cooperation once instead of running to the courts.

The consumer would certainly benifit in the long run.

MTC–00025079

From: arthurguay
To: Microsoft ATR
Date: 1/25/02 5:14pm
Subject: Microsoft Settlement

I urge you to look in your own offices and see the proliferation of the "BEST BUYS FOR YOUR MONEY" on your desks and the desks of your interns, aids, and secretaries. What do you see? INTEL-PROCESSOR- POWERED-PERSONAL COMPUTERS WITH MICROSOFT SOFTWARE Why do you see this combination? You see it because you bought the best. YOU MADE THE BEST BUY! If you need further substantiation of your SMART BUYS, go to the Senate and House offices and you will find the same best-of-breed buys.

MTC–00025080

From: Helen Froyd
To: Microsoft ATR
Date: 1/25/02 5:15pm
Subject: Antitrust settlement between Dept of Justice and Microft

Sirs: This lawsuit has continued long beyond any reasonable time period. Probably because it should have been thrown out before it began. However at the present time the provisions for settlement go far beyond what you deserve and I urge you to accept the settlement without further delay.

Sincerely

Helen Froyd.

MTC–00025081

From: jbendo@att.net@inetgw
To: Microsoft ATR
Date: 1/25/02 5:14pm
Subject: Microsoft Settlement

I strongly feel that the government should settle this suit and get on with cleaning up the laws controling all industries and standardize regulation on all government department and their personal to assure that they enforce the laws to the benefit of the public not industry self interest.

John Bendokaitis
17182 Eastview Dr
Chagrin Falls, Ohio 44023

MTC–00025082

From: Terry Egan
To: Microsoft ATR
Date: 1/25/02 5:15pm
Subject: Microsoft Settlement

To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. I agree with the problems identified in Dan Kegel's analysis (on the Web at http://www.kegel.com/remedy/remedy2.html), namely:

The PFJ doesn't take into account Windows-compatible competing operating systems:

Microsoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry.

The PFJ Contains Misleading and Overly Narrow Definitions and Provisions:

The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered. The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all. The PFJ allows users to replace Microsoft Java with a competitor's product—but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft.NET with competing middleware. The PFJ supposedly applies to "Windows", but it defines that term so narrowly that it doesn't cover Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box—operating systems that all use the Win32 API and are advertised as being "Windows Powered".

The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs. The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware—but only after the deadline for the ISVs to demonstrate that their middleware is compatible.

The PFJ requires Microsoft to release API documentation—but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.

The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents.

The PFJ does not require Microsoft to list which software patents protect the Windows APIs. This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users.

The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft:

Microsoft currently uses restrictive licensing terms to keep Open Source apps from running on Windows. Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems. Microsoft's enterprise license agreements (used by large companies, state governments, and universities) charge by the number of computers which could run a Microsoft operating system—even for computers running competing operating systems such as Linux! (Similar licenses to OEMs were once banned by the 1994 consent decree.)

The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft:

Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems.

The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs

The PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

The PFJ allows Microsoft to discriminate against small OEMs—including regional "white box" OEMs which are historically the most willing to install competing operating systems—who ship competing software.

The PFJ allows Microsoft to offer discounts on Windows (MDAs) to OEMs based on criteria like sales of Microsoft Office or Pocket PC systems. This allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas.

The PFJ as currently written appears to lack an effective enforcement mechanism.

I also agree with the conclusion reached by that document, namely that the Proposed Final Judgment, as written, allows and encourages significant anticompetitive practices to continue, would delay the emergence of competing Windows-compatible operating systems, and is therefore not in the public interest. It should not be adopted without substantial revision to address these problems.

Sincerely,
Terrence M. Egan
tegan@ix.netcom.com
Geodesic Tripoint
Cupertino,CA

MTC-00025083

From: joe985@hawaii.rr.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:15pm
Subject: Microsoft Settlement

Why is the government wasting their time and our tax dollars by letting AOL get away with this. As anyone wonder why AOL has to sue in order to compete? Could it be that Microsoft has a better product? I think so. I use IE because it is far better than Netscape.

AOL spends its time and money to gobble up all the smaller ISPs such as CompuServe. They want the competition to go away so they don?t have to compete in a free market. I know they are not using the money to improve AOL's infrastructure. I can tell you some horror stories about AOL and their poor service from my own experience and others.

I have always wonder why is Microsoft being accused of being a monopoly while a company such as AOL Time Warner is not considered a monopoly. IF AOL can not survive on it's own without help from the DOJ, then it should be allowed to fold due to it's own poor product and service.

Thank you for reading my views.
Lawrence Ohnheiser
Aiea, Hawaii

MTC-00025084

From: Joseph Kitchenman
To: Microsoft ATR
Date: 1/25/02 5:14pm
Subject: Microsoft Antitrust Settlement

Mr. Attorney General:

Please advise the competition of Microsoft to stop crying and build a better product! The market place will go with the winner and we all will enjoy their new and wonderful products, as we have done with Microsoft.

This is the American way of business.
When you rip off Microsoft we all lose.
Thank you.
Joseph Kitchenman

MTC-00025085

From: dweist@buckeye-express.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:17pm
Subject: Microsoft Settlement

End this now.
CC:dweist@buckeye-express.com@inetgw

MTC-00025086

From: Karl Klein
To: Microsoft ATR
Date: 1/25/02 4:10pm
Subject: Microsoft Settlement

Dear Ms. Hesse:

It would be a sad miscarriage of justice if the proposed remedy results in the elimination of the one market (education) where MS does not wield complete monopoly power.

The terms of this settlement are completely puzzling to me. How do the terms of this settlement compel Microsoft to change it practice(s)? Please revisit the terms of this settlement and be sure that it does not "reward" Microsoft with a complete monopoly in every aspect of computing—including education.

Respectfully submitted,
Karl W. Klein
Instructional Technology
Education Department
PO Box 2000
State University of New York College at Cortland
Cortland, NY 13045
kleink@cortland.edu
607.753.2444 (voice)
607.753.5976 (fax)

MTC-00025087

From: Paul Mugar
To: Microsoft ATR
Date: 1/25/02 5:17pm
Subject: Microsoft Settlement
2 Inez Street
Camarillo, CA 93012
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I understand the Courts will make a final decision at the end of this month on whether the proposed Microsoft settlement will benefit the public. I believe it's fine as long as Microsoft is left standing, when it's all said and done. If the nine states are allowed to overturn the agreement and move ahead with additional litigation, it could take another three years and billions in legal expenses all incurred by the consumers and the taxpayers. How is that a benefit? Microsoft has agreed to not enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively or in a fixed percentage, subject to certain narrow exceptions where no competitive concern is present. The Company has also agreed not to enter into agreements relating to Windows that obligate any software developer to refrain from developing or promoting software that competes with Windows. From this one could see that Microsoft is more than willing to cooperate in order to resolve this issue.

I urge you to end this now. No more action should be taken at the Federal level.

Sincerely,
H. Mugar
cc: Representative Elton Gallegly

MTC-00025088

From: rbf
To: Microsoft ATR
Date: 1/25/02 5:25pm
Subject: Microsoft settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Subject: Microsoft Settlement

Dear Ms Hesse,

I would like to comment on the Proposed Final Judgement pursuant to the Tunney Act. The settlement does not deal with software incompatibilities introduced by Microsoft to impair competing products, or with their corruption of open standards to the same end. This has been a favorite anti-competitive tactic of theirs, which they have the temerity to call 'innovation'.

The definitions of "middleware" & "API" are excessively narrow, permitting Microsoft to evade them with semantic manoeuvres such as calling a communication protocol an administrative protocol. It does not deal with Microsoft's continuing anti-competetive behavior since the original judgment, such as tying windows XP with .NET. It allows Microsoft to continue milking the public & frustrating competition by introducing undocumented changes in Office formats. It allows Microsoft to continue licensing practices intended to prevent competing products from being installed under their operating system. It relies on behavioral remedies which have in the past been quite ineffective with Microsoft, who simply disregard any agreements to cease their deprecated practices .

I have been a software practitioner for over 25 years. In my experience, Microsoft are without peer in the shoddiness of their products. If they were required to compete on the merits, they would not enjoy their present monopoly, consumers would have reliable computing facilities, & the business world would not be spending $10 billion a year remedying Microsoft's cavalier disregard for quality.

While time is on the monopolist's side, & it would benefit the public to settle the case before Microsoft can extend its monopoly further, the proposed settlement is not in the public interest & should be rejected.

Thank you for the opportunity to comment.

—Rich Fuchs rfuchs@post.harvard.edu

Richard B. Fuchs
1117 Hamilton Ln.
Burlingame, CA 94010–3346
(650) 697 7214

MTC–00025089

From: S T
To: Microsoft ATR
Date: 1/25/02 5:19pm
Subject: Microsoft Settlement

To whoever reads this

My Opinion on this is that you are letting Microsoft off the hook. I completely disagree with letting them off because as both a user and a technical support person, I am sick and tired of dealing with their mess of overly integrated software. I feel that I have been forced to use Microsoft Operating systems, and product, do to Microsoft's Monopoly Why can't I run office on Linux?, Why do I have to spend hours pulling my hair out trying to fix a damaged system that could be easily fixed if I could remove unwanted pieces of the bundled software the installs with a Microsoft OS? I am getting more and more tied of them limiting how I can control my computer. If I was given a chose to run a Microsoft OS or a version of Unix/Linux I would run Unix, because it is stabler, more configurable, and I have the ability to replace any part of the system I want. Plus I can find what any part of the operating system does, because of how available information is on the subject. This isn't the case with Microsoft. I have purchased their technical manuals which for the most part are a joke, and have been getting worse as the years go by. This is a very short list of things that cause me problems, and I don't want to force who ever read this to go on and on. So to sum things up please force Microsoft to change currently they have control and the ability to kill off any one who gets in their way please stop this from continuing.

Thank you
Sam Taxis

MTC–00025090

From: Stanley A. Klein
To: Microsoft ATR
Date: 1/25/02 5:20pm
Subject: Microsoft Settlement

In my view, Microsoft has used a large number of approaches in maintaining its monopoly. The proposed settlement essentially gives Microsoft a government-endorsed license to continue using many of these approaches. Two issues that I will address are the business model apparently assumed by the proposed settlement and Microsoft's use of its office application proprietary data formats as a means of maintaining its monopoly. Implicitly Assumed Business Model

The proposed settlement appears to implicitly assume that the basic business model of the software industry is the closed source model. Under this model, which is used by Microsoft and many other companies, the intellectual property in the software is kept as the proprietary property of the provider. Source code and much of the documentation are disclosed only under limited circumstances, generally involving payment of fees and execution of non-disclosure agreements.

Continued dominance of this business model in the marketplace is very much in the interest of Microsoft, and is especially reflected in the requirement of Clause (ii) of Definition N that defines a Non-Microsoft Middleware Product as one distributing at least one million copies a year. There is another business model, known as the free software or open source business model. (The term "free" in "free software" is in the sense of libre, not necessarily in the sense of gratis.) In this business model, the intellectual property in the software is dedicated to what Lawrence Lessig calls an "innovation commons." There is no fee, royalty, or permission required for the right to obtain the source code, or to copy, modify, or distribute the software. The details, history, implications, and important public benefits of this business model are best explained (in terms understandable by legal professionals) in Lessig's book "The Future of Ideas."

According to numerous press reports, many public statements of its executives, and (in at least one case) an explicit provision included in a non-negotiable end user license agreement, Microsoft regards the free/open-source business model as a major potential competitive threat. The inclusion of clause N (ii) of the settlement allows Microsoft to refuse to provide rights under the settlement to products of ISV's who adopt the free/open-source business model.

For example, it may be almost impossible to determine how many copies of a free/open-source middleware product or software application are distributed in any given year. The software is freely copyable and redistributable by anyone. There is no license registration required under the free/open-source business model, and no other indication that a copy has been distributed unless the user has contracted for value-added services (such as warranty or support) from a particular distributor of the software. As a minimum, Clause N (ii) should be deleted. In addition, the entire settlement should be reviewed to ensure that none of its provisions allow Microsoft to withhold rights under the settlement from ISV's who are part of the community surrounding the free/open-source business model. In that community, a relevant ISV could be a single, technically-qualified individual who makes significant contributions of software to the innovation commons on a spare-time basis. This is reasonable, because software produced by such individuals is often used by millions of users. Office Applications

In my experience, one of the major approaches used by Microsoft in maintaining their monopoly is through their office applications, including Word (word processing), Excel (spreadsheet), Powerpoint (presentation slides), and Access (database). This approach would have been blocked had Microsoft been broken up as provided in the original decision of Judge Jackson. The break-up having been disallowed by the Appeals Court, there need to be provisions added to the settlement that block this approach. Microsoft maintains its monopoly through its office applications by using proprietary file formats that can only be properly interpreted or produced by Microsoft products that run only on Microsoft operating systems. I am an independent consultant in computers, communications, and management science. I have long preferred office applications produced by competitors to Microsoft. My preference is based on what I regard as the superior functionality of those products. However, when I wish to exchange documents with clients or with other participants in professional committees, I am often forced to use formats compatible with Microsoft office applications or to use the Microsoft office applications themselves. Attempting to use third party software with Microsoft proprietary formats often leads to difficulty, because Microsoft uses a variety of technical and legal measures to make it difficult for competing applications to interpret or produce documents in their proprietary file formats. As a result, it is very difficult for a user to avoid using Microsoft applications and Microsoft operating systems if the user desires to exchange office documents with other users. Examples of the measures used by Microsoft include making the formats for new versions of an office application incompatible with the formats of previous versions and prohibiting reverse engineering in their non-negotiable ("click-wrap") end user license agreements.

To prevent Microsoft from using such measures, I believe that the settlement be amended to:

1.Require Microsoft to openly disclose all details of its proprietary file formats, and

2.Require review by the Court of all Microsoft non-negotiable end user license agreements to ensure that the terms and conditions of such agreements do not support maintenance of Microsoft's monopoly. To remedy the Microsoft monopoly will require an extensive period of transition during which users can be expected to use both Microsoft and competing office applications. The period of transition (and therefore the duration of the settlement requirements) should run at least ten years.

Stanley A. Klein
Principal Consultant
Stan Klein Associates, LLC
P.O. Box 2523
Rockville, MD 20847–2523
301–881–4087

MTC–00025091

From: ESS Computers
To: Microsoft ATR
Date: 1/25/02 5:23pm
Subject: Microsoft Settlement
ESS Computers, Inc
1807 HWY 31 SW
Hartselle, AL 35640
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I would like to inform you that I believe that the settlement reached between Microsoft and the Department of Justice regarding the antitrust suit will be a benefit to the IT industry as a whole. The suit has delayed the progress of the technology sector, while along also slowing down the economy. The politicians that carry on litigation against Microsoft have continued to dig further and further into taxpayers'' pockets to fund their personal crusade. This must be stopped. Microsoft has agreed to not retaliate against any OEMs that may ship software that competes with the Windows OS. Microsoft has also agreed to the establishment of a three person ''Technical Committee'' that will monitor its compliance to the agreement.

It is time to put this suit behind us. We cannot go on depleting public resources for an issue that has come to a conclusion. All that remains now is that you make certain that the settlement is finalized, and Microsoft is allowed to return to doing what it does best: innovate.

Dinah Horner
President

MTC–00025092

From: Dennis F. Kahlbaum
To: Microsoft ATR
Date: 1/25/02 5:22pm
Subject: Microsoft Settlement

I will make this brief.

I am in total disagreement with this so-called ''settlement''. Microsoft has been rightfully convicted as being a monopoly, and therefore should be severely punished. This ''settlement'' is simply a slap on the wrist and will NOT change this company's predatory and dominating behavior. The DOJ has wasted years of effort, and money, if this ''settlement'' is adopted. I strongly urge the DOJ to reconsider its position and do whatever it takes to allow FAIR competition to return to not only the computer operating system market, but to whatever Microsoft decides to conquer next (PDAs, Gaming Consoles, etc.)

Thank you.
Dennis F. Kahlbaum

MTC–00025093

From: Harry Binswanger
To: Microsoft ATR
Date: 1/25/02 5:24pm
Subject: Comment on MSFT settlement

To whom it may concern:

I think any attack on Microsoft is unjustifiable. They have done nothing other than create and market software—which anyone is free to use or not, regardless. There's been no coercion and no charge of coercion against Microsoft.

It looks like they are being prosecuted for the ''sin'' of being ''too successful''—i.e., providing ''too much'' value.

No, I am not a Microsoft employee or stockholder—and I don't even like a lot of Microsoft's software. E.g., I use Netscape as my browser. And I use XyWrite instead of Word. Supposedly, I'm not ''free'' to do that—but I am. I am able to decide for myself.

Microsoft should be lauded for its success, not hobbled by government's coercive powers.

Regards,
Harry Binswanger, Ph.D.
President,
TOF Publications, Inc.
Harry Binswanger
hb@alum.mit.edu

MTC–00025094

From: Jerry Clabaugh
To: Microsoft ATR
Date: 1/25/02 5:24pm
Subject: Microsoft Settlement

''None of the people who run divisions are going to change what they do or think or forecast. Nothing.''

-Bill Gates, interview in The Washington Post on the 1995 consent decree, August 1995

''The practices Microsoft agreed to forgo had already served their purpose. Gates was right when he summed up the effect of the [1995] consent decree in one word: ''Nothing.''

-James Gleick, ''Making Microsoft Safe for Capitalism''

The present Consent Decree has many shortcomings which render it ineffective in ''unfettering the market from Microsoft's anticompetive conduct''. In particular, the Technical Committee, which has been characterized as a major concession by Microsoft, gives the proposed Decree the appearance of meaningful enforcement while moving the reality of enforcement beyond reach. These are some of the difficulties with the Technical Committee:

(1) The Committee has wide powers to look at documents and interview individuals, but has no power to cause Microsoft to behave differently.

(2) The information gathered by the Committee will be confidential, unlike information gathered in the past by the Justice Department, further complicating enforcement (B9).

(3) Since Microsoft appoints one of the first two members, and the third member will be appointed by the first two, Microsoft is permitted to establish a committee with a majority of members who have no interest in enforcing the consent decree, even if thay had the power to do so.

(4) The members are supposed to be individuals who are experts in software design and programming (B2), while they will also require expertise in antitrust law and history.

Even though the terms of the proposed Decree are very relaxed, Microsoft, if it remains under the same management and philosophy of the 1990's, will pay no heed to the proposed Decree. If the Decree is accepted, we will be in the same position as in 1996, with a decree in place, but no enforcement options beyond bringing yet another antitrust action.

It is my belief that breaking up Microsoft would be a bitter experience, full of dislocations for all those with an equity in Microsoft; managers, employees, stockholders, and customers. Yet when the antitrust action is brought yet again, the only reasonable remedy then will be a breakup. The only measure we can take now to prevent this outcome is to provide meaningful, effective enforcement in the current case.

The Committee only impedes the job of enforcement. The dissenting States'' proposal does include real enforcement terms, and is a preferable alternative to the proposed Consent Decree.

I have focussed on the Technical Committee, but the present Decree gives Microsoft the imprimatur of the Department of Justice to pursue many anticompetitive strategies. Reading the proposed Decree without context gives one the impression that it was the government that was found guilty of interfering with Microsoft's right to abuse its monopoly. If I have read the news accounts correctly, then it is instead the case that every federal judge who has had to evaluate the Microsoft's behavior (nine, to date) has found Microsoft guilty of abusing its monopoly. Why then, are there so many limitations and exceptions? Is Microsoft in such danger of being unfairly treated by law enforcement, when that enforcement has been vindicated again and again by the courts?

The proposed Decree unfairly limits the ability of the public to seek enforcement of antitrust law against Microsoft, and should therefore be discarded. Even a simple fine would motivate management at Microsoft to learn about the meaning of antitrust law, without limiting the rights of the public.

In addition, the proposed Decree does nothing to ''deny Microsoft the fruits of its violations of the Sherman Act'', as instructed by the Appeals Court.

The importance of implementing an effective remedy looms larger than ever before, since computer security is now an issue that needs very serious attention in the United States:

''In a report released this month titled ''Cyber Threats and Information Security: Meeting the 21st Century Challenge,'' the Center for Strategic and International Studies (CSIS) concluded that the government and the private sector should be concerned about the ''trustworthiness'' of future Microsoft products''

-cnn.com, December 29, 2000

''Gartner recommends that enterprises hit by both Code Red and Nimda immediately investigate alternatives to IIS, including moving Web applications to Web server software from other vendors, such as iPlanet and Apache. Although these Web servers have required some security patches, they have much better security records than [Microsoft's web server software] IIS"

-Gartner Group, September 19, 2001

The fact that Microsoft's attitude toward security remains so casual, despite many high-profile security failures is an indication of the unhealthy effect of their monopoly power. In a competitive market, competitive pressure should have caused Microsoft to "clean up its act" with respect to security. Today, the United States cannot afford an unrestrained predatory monopoly in computer software.

Besides security, the other important reason to reject to proposed Decree and instead insist on real enforcement is economic: Microsoft's policy of extinguishing innovation that it cannot co-opt certainly has benefitted Microsoft and its investors, but threatens the larger United States economy.

The Microsoft monopoly and the consumer software market emerged simultaneously, so no one can say what the economic benefits of antitrust enforcement would be. I can only hope that the Court will give prosperity a chance.

I am in no way a competitor of Microsoft. Thank you for the opportunity to be heard,

Jerry Clabaugh
20 Magoun Street
Cambridge, MA 02140

MTC-00025095

From: wbergset@isd.net@inetgw
To: Microsoft ATR
Date: 1/25/02 5:25pm
Subject: Microsoft Settlement

This anti-trust suits against Microsoft are awful for our economy and for the consumer's. The only people that benefit are lawyers & Microsoft competitors that want to overcharge for their inferior products. I think the government is punishing Microsoft for being successful.

CC:wbergset@isd.net@inetgw

MTC-00025096

From: craigshaynak@
compuserve.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:25pm
Subject: Microsoft Settlement

To Whom it May Concern:

I am writing to express my support for Microsoft in its attempts to reach a settlement on the antitrust action.

It pains me to see valuable resources in the government and at Microsoft wasted on litigation that ultimately has backfired and ceased innovation. As a computer consultant, I am not an agent of Microsoft, but like many others I use their products and development tools in my work. For years people have had a choice concerning which operating system and browser to use on their office and home computer. Did Microsoft strong-arm dealers into selling its operating system with the hardware? How can this be? Consumers in the real world demand and need an operating system for these machines at purchase time. "OEM" licenses grow out of CONSUMER DEMAND, not the demands of a software giant. Does Microsoft benefit? Of course they do. How does this hurt innovation? It is in Microsoft's perpetual interest to innovate because the demands of consumers grow each year; new peripheral and hardware technology demands new operating systems and browsers as well as new applications to handle the merging of these technologies. In fact, Microsoft depends on the new revenues from new versions of its operating system. A well-known criticism of Microsoft is that they charge for upgrades and new OS versions. However, people buy these updates despite the fact that it is still possible to perform all personal and business work running Windows 95 on older machines. Why do people buy the new systems? It usually to take advantage of new hardware or third party technology. Does SUN or AOL Netscape suffer? Simply put, there is no AOL without Windows. There is no Netscape browser without Windows. It is utterly ridiculous for these companies to claim injury while they ride on the backs of the Microsoft operating system themselves. Could operating systems be better? Of course they can, but creating an OS for machines made by a myriad of manufacturers and sold in an infinite number of configurations by various retailers is a large task. I do not see SUN or AOL creating operating systems that are better. I do not see the R&D dollars going towards creating a better mousetrap. This is because litigation has replaced innovation at these companies. Would it be difficult to create an operating system that individuals and businesses would flock to? Yes, of course; unless this OS could run existing business applications and handle existing hardware. This is a tall order and until someone else comes along, Microsoft is filling the need. Not only that, Microsoft helps developers use its technology in offering free seminars and classes. Bookshelves are filled with "How To" manuals on MS development because it is easier to build on Windows than to create an OS from scratch. This is just smart business practice on the part of Microsoft, not unfair.

A case in point to illustrate the Microsoft scenario: Coca Cola and Pepsi have demanded exclusive contracts with supermarkets and fast food chains for years with a minimal amount of antitrust action against them. When Royal Crown was pushed out of these markets, they claimed that Coca Cola and Pepsi engaged in unfair business practices. How often do you see RC in these markets now? Litigation cannot change consumer demand. For all intent and purpose, two cola manufacturers held a monopoly. Do you think supermarkets and McDonalds complained that they had to stock Coke? Of course not. As far as the packaging of the Internet Explorer browser with the Operating System goes, it is unbelievable that this simple concept of integrating the browser with the OS has escaped the Justice Department and the judicial system. An Operating System IS A BROWSER for your hard drive. With technology tending towards Wide Area Networks and Internet services, it is naturally the next step to integrate and combine the browser with the OS. This innovation and simplification has been destroyed by the government and judging from the recent action taken by AOL Netscape, it will be even further delayed if not killed altogether.

I hope you understand that I do not work for Microsoft. I regularly use IBM technologies with many clients including Lotus Notes, AS400 and DB2 databases. These products and services have their place in the market too. In fact, I believe XML technology stems from IBM, if I am not mistaken. How has Microsoft reacted to this? Well, rather than sue IBM or other creators of XML, Microsoft has INTEGRATED and ADOPTED this technology and INCORPORATED it in its new products. Sounds like a smart business practice to me.

So, if AOL wants to make a browser, let them. If SUN wants to recapture some portion of a market they never had, let them create their own OS. That is what Apple has been doing for years. Do they have the large part of the market? No, but they are innovative and successful in their market. In this time of recession and economic recovery, please do us all a favor and help redirect the resources being wasted in this antitrust action.

Craig Shaynak
CRS Consulting
(323) 661–6927
(213) 499–0972 pager
CC:Kurt Eric Schenk (E-mail)

MTC-00025097

From: Greg Smethells
To: Microsoft ATR
Date: 1/25/02 5:25pm
Subject: Microsoft Settlement

Microsoft is a monopoly. This has come about because Microsoft does not play fair when it comes to interfaces that allow interaction with their software or by-products of their software. A major component of this, in the simplest form, is file formats. The major problem different operating system have when interacting with Microsoft's OS is that their competing applications do not properly handle the file formats that are prevalent everywhere due to the Microsoft monopoly.

A remedy would be to enforce all Microsoft file formats to have open specifications that must be correct for periods of time (no lying in the specification). Any changes to the specification would need to be broadcast so that others had time to react. No hurt to Microsoft can come from that aside from better competition. A better solution would be to open-source the code that implements utilization of the file formats in all manner of ways. It would also be wise to enforce that writing programs to these specifications work in almost all cases before assuming that indeed the code and specifications for important protocols is truly opened up. The best solution would be to enforce the openness through a standards committee run by third-party individuals from academia who have no ties to Microsoft, Sun, or Linux companies (Red Hat, etc).

Only when the Microsoft monopoly file format's, protocol's, and interface's specifications are open-sourced, correct, and unchangeable for extended periods, can we assume that others will be able to compete.

Greg
Gregory J. Smethells
Computer Science Graduate Student
University of Wisconsin—Madison

MTC-00025099

From: JonathanGoldblatt@
CompuServe.Com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:25pm
Subject: Settlement is bad for me...

The settlement does nothing to stop MicroSoft from destroying Real Audio the same way that it destroyed Netscape. The settlement does nothing to prevent MicroSoft from making it's online service incompatible with other operating systems and browsers, which it has already done for a short period, to maintain it's monopoly in desktop operating systems and browsers, or devising other novel methods to illegally protect it's monopoly. The settlement does nothing to prevent MicroSoft from making it impossible for free software developers to adapt their software to operate in conjuntion with software on platforms running MicroSoft operating systems, again to illegally protect it's monopoly.

Obviously what would be best for all would be for MicroSoft to come to its senses and accept the responsibilities of being a law-abiding corporate citizen. What is gained for the public by punishing MicroSoft?

Unfortunately, MicroSoft is unwilling to do this, as it has shown by the ambiguous, legalistic language that it has used to describe it's future conduct and it's continuing defence of past conduct that both a District Court judge and a unanimous Appeals Court have found to be illegal. Unfortunately, by not "punishing" MicroSoft, not only will MicroSoft be encouraged to continue its predatory, illegal, anti-competive practices, but others will also. Please spare us.

CC:attorney.general@po.state.ct.us@inetgw

MTC-00025100

From: jayreitz@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:28pm
Subject: Microsoft Settlement

The proposed settlement is absolutely fair in my opinion. Why do less successful, talented and innovative companies feel that the only path to success is through litigation. They should concentrate on building better products.

The settlement should be accepted.

CC:jayreitz@hotmail.com@inetgw

MTC-00025102

From: Jorge Martin
To: Microsoft ATR
Date: 1/25/02 5:27pm
Subject: Microsoft Settlement

I would like to add my name to those who think the proposed settlement with Microsoft is not good.

Jorge Martin
Addison, VT

MTC-00025103

From: Robert N. Brauer
To: Microsoft Comment
Date: 1/25/02 5:27pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

The following proposal is intended as a public comment on the Proposed Final Judgement under the Tunney Act. Executive summary

The Justice Department's proposed antitrust settlement with Microsoft seems to demand that Microsoft do more to open up its application programming interfaces (APIs) to commercial competitors. A more effective remedy would be one that required Microsoft to standardize and publicize the entire set of Windows APIs and the file formats of its Office applications with the express goal of allowing all competitors, including non-commercial developers, to build Windows software applications and operating systems that compete with Microsoft on a level field. Proposal

The Justice Department's proposed antitrust settlement with Microsoft seems to demand that Microsoft do more to open up its APIs to competitors. This addresses the main technical advantage that Microsoft weilds as a monopoly; that many of the Windows APIs and Office applications file formats are hidden, undocumented, or changed at will. This leaves consumers locked into Microsoft's control because their applications cannot be run in a competing environment, and their information cannot be accessed with competing applications. But the fine print makes it clear that Microsoft could pretty much continue with business as usual. No requirement is given for complete disclosure of the Windows APIs and Office file formats. If Microsoft is given the means to withhold portions of these interfaces from competition, then it's monopoly position remains unaltered.

A more effective remedy would be one that required Microsoft to standardize and publicize the entire set of Windows APIs and the file formats of its Office applications with the express goal of allowing competitors to build Windows software applications, and operating systems, that compete with Microsoft on a level field. This should be a public disclosure and not limited to a few Microsoft selected developers. It needs to include all developers so that true competition may be revived.

The remedies in the Proposed Final Judgement specifically protect companies in commerce, organizations in business for profit. On the surface, that makes sense because Microsoft was found guilty of monopolistic activities against "competing" commercial software vendors like Netscape, and other commercial vendors like computer vendor Compaq, for example. The Department of Justice is used to working in this kind of economic world, and has attempted to craft a remedy that will rein in Microsoft without causing undue harm to the rest of the commercial portion of the industry. But Microsoft's greatest competition on the operating system front comes from Linux—a non-commercial product—and it faces increasing competition on the applications front from Open Source and freeware applications.

The biggest competitor to Microsoft Internet Information Server is Apache, which comes from the Apache Foundation, a not-for-profit. Apache supports a significant portion of the World-Wide-Web, along with Sendmail and Perl, both of which also come from non-profits. Yet not-for-profit organizations have no rights at all under the proposed settlement. Section III(J)(2) contains some very strong language against not-for-profits. Specifically, the language says that it need not describe nor license API, Documentation, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business: "...(c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, ..."

The settlement gives Microsoft the right to select it's competition and effectively kill other products, like Open Source projects that use Microsoft calls.

Section III(D) takes this disturbing trend even further. It deals with disclosure of information regarding the APIs for incorporating non-Microsoft "middleware." In this section, Microsoft discloses to Independent Software Vendors (ISVs), Independent Hardware Vendors (IHVs), Internet Access Providers (IAPs), Internet Content Providers (ICPs), and Original Equipment Manufacturers (OEMs) the information needed to inter-operate with Windows at this level. Yet, when we look in the footnotes at the legal definitions for these outfits, we find the definitions specify commercial concerns only.

Under this deal, the government is shut out, too. NASA, the national laboratories, the military, the National Institute of Standards and Technology, even the Department of Justice itself, have no rights. Clearly the disclosure of APIs and file formats must be public and available to the entire software industry. Such a plan would require careful oversight and enforcement, since Microsoft could easily engage in all manner of foot-dragging. If Microsoft set out to be uncooperative, it could release the API information slowly, in deliberately confusing ways, or assiduously following the letter of the court's order while flagrantly violating its spirit.

(There's precedent here: This is precisely how Microsoft behaved during the trial when it told the court that it would supply a version of Windows with Internet Explorer removed from its guts, but gee, sorry, then Windows wouldn't work.)

Remember that Microsoft is in court as a repeat offender; the current antitrust suit, in which a federal district court and an appeals court have both affirmed that Microsoft is a monopoly and that it has abused its monopoly powers, arose out of the failure of a previous consent-decree settlement of an earlier antitrust case. At some point, having repeatedly violated the law, Microsoft needs to pay a price, or it will continue with its profitably anticompetitive ways.

There's no reason to think the Justice Department's proposed settlement will work any better than the consent decree of last decade did. And financial penalties can hardly wound a company that has a cash reserve of billions of dollars. But intellectual property—that's something Bill Gates and his team really care about. Requiring them to divulge some of it in order to restore competition in the software market might actually get them to change the way they operate.

With Microsoft's APIs and file formats fully standardized, documented and published, other software vendors could compete fairly—which, after all, is what antitrust laws are supposed to promote. We might then be faced with a welcome but long unfamiliar sight: a healthy software market, driven, as today's hardware market is, by genuine competition.

Portions of this proposal contain text authored by columnists Scott Rosenberg and Robert X. Cringely.

Regards,
Robert N. Brauer

MTC-00025104

From: mike@sax.net@inetgw
To: Microsoft ATR
Date: 1/25/02 5:26pm
Subject: Microsoft Settlement

To Whom It May Concern,

I would like to express my complete support for the settlement reached between the Department of Justice and Microsoft in the recent anti-trust trial. The settlement addresses all significant issues raised during the trial while at the same time avoiding excessive regulatory measures. I believe that the terms of the settlement will give the parties who opposed Microsoft during the trial important new rights and abilities which will significantly enhance their competitive position. At the same time, the settlement preserves the right for Microsoft to continue to enhance its product based on customer feedback, which has been the fundamental reason for its enormous success.

My sincere congratulations go to both Microsoft and the Department of Justice for their continued commitment to come to a settlement that benefits American consumers and business.

Sincerely,
Mike Sax
President,
Sax Software Corp.
Eugene, Oregon
541) 344–2235
2852 Willamette St. #359
Eugene OR 97405
mike@sax.net
CC:mike@sax.net@inetgw

MTC-00025106

From: paulp@rocketworks.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:27pm
Subject: Microsoft Settlement

My name is Paul H. Parry. I am the Chief Technology Officer of Rocketworks LLC, an Internet integration firm with experience with web server platforms from companies including Microsoft, IBM, Sun, and AOL(Netscape). I am writing to SUPPORT the proposed settlement as the best and fastest way to restore competition to the affected markets, preserve existing competition in related markets, and quickly stabilize to the technology economy at a time when stability is badly needed.

As has been shown in recent analyses (http://www.actonline.org/ press—room/ releases/ACTNov5.pdf), this settlement addresses every concern and infraction upheld by the Courtof Appeals, and provides many additional consumer benefits that are not required by the court's ruling.

The previous, overturned, ruling would have affected other markets, including web server platforms, handheld device operating systems, web content and e-commerce activities, that were not affected by Microsoft's behavior. All of these are thriving, competivive markets in which Microsoft is one of several innovative players. This settlement preserves that competition.

As many have said, Antitrust laws exist to protect consumers, not competitors. This settlement protects consumers more than adequately. The overturned order, as well as the newer request of the non-settling states, are aimed at providing benefits to Microsoft's competitors, without any judgement of whether their failings were due to Microsoft's anti-competitive behavior or their own lack of innovation. The matter of providing remedies to competitors is best left to private actions, such as the one being brought this week by AOL.

Consumers" views of Microsoft and its competitors are clear. In the latest Harris Interactive survey of corporate reputations (http://www.harrisinteractive. com/pop—up/rq/gold.asp), Microsoft was judged to have the 2nd best reputation among the US's 60 most visible corporations. This is up from 9th place in 2000 and 15th in 1999. Meanwhile, America Online placed 50th, down from 39th in 2000 and 26th in 1999. This is just one of many indications over the last four years that consumers like Microsoft's products, services, and corporate reputation.

Thank you for your attention,
Paul H Parry
Chief Technology Officer
Rocketworks LLC
211 Perry Parkway
Gaithersburg, Maryland 20877
CC:paulp@rocketworks.com@inetgw

MTC-00025107

From: Gruber, Brad
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 5:27pm
Subject: Microsoft Settlement

The first resolution of splitting Micro$oft, was by far the best and should have been executed. The only people who didn't want that to happen is Micro$oft and their preferred partners.

I blame the current technology recession on Micro$oft. Sure! They scared every computerized company on the planet into upgrading their systems because of Y2K, draining their budgets, forcing them to spend money they didn't even have. Well guess what... who wrote the software in the first place that was so susceptible to the year 2000 bug?

One topic I have yet to see, is FALSE ADVERTISING! Micro$oft has continually lied about how secure their products are. I shouldn't have to explain this one to anyone that can read. Lied about how much easy it is to use when it is progressively getting more difficult. Selling products that don't work as they are advertised is simply wrong.

There are lemon laws for cars, recalls for everything under the sun. Why doesn't Micro$oft (and every other software company) have to stand by the products they make? If it doesn't work the way it is advertised, why are they the only industry that can get away with it?

There is quite a bit of speculation about the DOJ's decision to "Wimp out". There are also quite a few people that have formed the conclusion that Micro$oft paid for the DOJ's decision and now some of you have summer homes, fancy cars, and trust funds for your kids that you never had before.

Do your job and protect us!

If you don't... who will?

MTC-00025108

From: Derick Siddoway
To: Microsoft ATR
Date: 1/25/02 5:28pm
Subject: Microsoft Settlement

To Whom it May Concern:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case.

My comment on the Proposed Final Judgement is simple. Microsoft has been found guilty in a court of law of not only being a monopoly but of improperly using its position as a monopoly to harm consumers. Any settlement must therefore address this simple statement of fact.

The Proposed Final Judgement does many things, but what it does most effectively is present the appearance of doing something. It may or may not be appropriate to punish Microsoft for past misdeeds, but it is certainly relevant and appropriate to prevent Microsoft from future misdeeds.

The Proposed Final Judgement does none of that. I should probably go further into specifics on this, but others have already done so and have done so much better than I can. Please direct your attention to the comments on this URL: //http:// www.kegel.com/remedy/letter.html

Sincerely,

Derick Siddoway, Salt Lake City, Utah

Derick Siddoway II, Impact Non-privileged primitive users can derick@bitflood.net cause the total destruction of your entire invasion fleet and gain unauthorized access to files.

—CERT Advisory CA-96.13

MTC-00025109

From: parx@theshearers. com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:30pm
Subject: Microsoft Settlement

I, Parx Shearer, believe that Microsoft's actions have been a disgrace to the computing industry and worthy of harsh retribution. Microsoft unashamedly sought to bring down competitors in any manner possible, legal or otherwise. Now Microsoft believes that it can not only get away with this behavior, but continue this behavior in the future. I find this unacceptable and send this comment to you in hopes that justice will be served against Microsoft so that all software vendors may have equal opportunity to offer their products for the betterment of the American society.

Thank you, Parx Shearer

MTC-00025110

From: John S. Hartley
To: Microsoft ATR
Date: 1/25/02 5:32pm
Subject: Microsoft Settlement
CC:MSFIN@Microsoft. com@inetgw, kentammerman@onebox.com...

MTC-00025110 0001

??

Dear DO J,

As I have said and believe with all my heart many times; you people can and do screw up more things than you can possible correct. Enron is something you should focus on. Leave people alone, Microsoft does more good that we benefit from directly as consumers than any other company, when it comes to computers. I dislike the government enough without you people messing around with my computer and software at home. Ask yourself, what could you tell me that might possibly change my mind? 9–11 ? Not hardly! I have since 9–11, come to feel that this government is solely responsible for what happen to us. Now we have given up some more freedom for security. We are a nation of sheep!

Our leadership have been greedy, corrupt, self-serving, too ambitious and many more weaknesses. Sin really can kill! I start at Kennedy (and lets not forget Clit-tongue), (even Westmoreland and Johnson should have been put on trial as war criminals) because that is when I started looking and experiencing the world. I was stupid and young, wanting to do as Kennedy suggested, "Ask not what your government can do for you but what you can do for your country". Idealistic and stupid! The government use to belong to the common American, now it is the hands of... The little guys like me sit out here in the real world, dealing with your realities created by weeping hearts. I have to live your screw-ups and watch the true values of America being flushed down our commodes. How unintelligent our country's leaders have become, not to mention the people that constitute it (me to). I served my country for 10 years and put my life on the line. Now as I look back, I would not do that, I am older and wiser. Would you like to tell me to my face that I am not patriotic? I don't think so, not to my face anyway. I realize you are only a department of this government and I can't expect you to do much more than what you are doing. Individuals that make up our government are fine people, still I wonder how many are too ambitious and self-righteous. Would I welcome any of you into my home? I seriously doubt it with all my heart, just as I know in my heart that our leaders are responsible for letting 9–11 happen. Sorry I have no faith in our government and most of the people in it. Still, I was born and reared in the hills of Virginia. The most I can do is to teach my children that, "this country is only as great as its people and they with many more generations have much to do to make it great again". Because we the people have let stupid leaders both democrat and republican take us astray from the true values. God's values! And yes I write my government representatives and they are in the same boat with you. We don't have the America I grew up and fought for. It was great then but not now. How's that for a prelude to a hate crime?

God Bless America, George Bush
And John Ashcroft
John Hartley
1154 Londonberry Lane
Glen Ellyn, Illinois
(jhartley3@msn.com)

MSN Photos is the easiest way to share and print your photos: Click Here

MTC-00025110—0002
01/29/2002 3:50 P

MTC-00025111

From: Rick Lazansky
To: Microsoft ATR
Date: 1/25/02 5:37pm
Subject: Microsoft Settlement

I'd like to voice my objection to the proposed settlement for Microsoft.

I've been involved in the development of software for 25 years, starting with the software development for operating systems and software tools with Intel Corporation. Over this period, it has become virtually impossible to develop independent software. Most alarmingly the nature of the difficulty has grown exponentially over the past decade.

Competitive software requires modular, independent software application interfaces, open standards, and the free exchange of ideas, techniques, and algorithms. The availability of this information has decreased abruptly in each area in which Microsoft has launch an initiative. Even where Microsoft has participated in an open standard, subsequent events have either a) revealed that their real resources were directed to a proprietary standard, b) that their actual participation in the standard development served to delay the standard in practice, c) they hid or blocked progress towards resolving critical areas or d) that they later sought to "make proprietary" later versions of the standard. Computer users deserve a choice of solutions, whether general software for the consumer, or specific tools for business, engineers, or even software development. Microsoft has increasingly kept this from occurring. The subtlety by which it is possible to preclude effective outside development frightens me. It has become less obvious to even long term practioners perhaps, but using internet interfaces, Java, and even the C programming language has become nearly impossible without incurring delay as well as proprietary platform dependence.

Regards,
Rick Lazansky
Rick Lazansky
VP Product Development
408 987 0603 x314
http://www.xpedion.com
mailto:rick@xpedion.com

MTC-00025112

From: Ron Bolin
To: Microsoft ATR
Date: 1/25/02 5:33pm
Subject: Microsoft Antitrust Business Practices and Preception
RE: Microsoft vs. 9 States

Hi,

Just my 2 cents.

I truly think that Microsoft has excellent products. However, I also believe that they will bury anyone who gets in their way. Something akin to "it's my way or the highway". I'd like to see a binding ruling that makes them more co-operative with others. I guess some of that power comes with their wealth. I don't envy anyone that has to make the ruling. Good luck and do you best job.

Ron

MTC-00025113

From: Jason Thomas
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 5:31pm
Subject: Microsoft Settlement

Please consider the attached comments authored by C. Boyden Gray, Chairman of Citizens for a Sound Economy and partner at Wilmer, Cutler, and Pickering.

Jason M. Thomas
Citizens for a Sound Economy
1250 H Street NW, Suite 700
Washington, DC 20005–3908
phone: (202)942–7621, fax: (202) 783–4687
www.cse.org

Citizens for a Sound Economy...organized Americans committed to preserving our economic freedoms.

CC: Erick R. Gustafson,Paul Hilliar

MTC-00025113—0001

January 23, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

To Whom It May Concern:

I write to endorse resolutely the proposed settlement between Microsoft Corporation and the United States Department of Justice. The consent decree agreed to in U.S.v. Microsoft enjoins all Microsoft actions that were found to be illegal and imposes severe restrictions on the company and its business practices. The decree is the most forceful and the most regulatory ever negotiated by the U.S. Justice Department, wherein Microsoft agreed to provisions that were substantially more punitive than what plaintiffs could have expected to achieve through litigation. For instance:

The company is prohibited from exclusive dealing arrangements or any preferential treatment from manufacturers, access providers, suppliers and vendors. Manufacturers will retain greater freedom to display non-Microsoft software, and will no longer face the risk of retaliation from Microsoft should they choose to promote products made by Microsoft competitors. Should Microsoft fail to abide by any of these restrictions, a committee of experts is to be created that will receive all complaints pertaining to Microsoft's business practices.

The consent decree runs for five years, with an additional two years if Microsoft is found to be in violation of any of its terms—a lengthy period of time in any industry; more so in an industry as volatile and dynamic as computer software.

Despite all of this, opponents of the decree—which include, not surprisingly, many of Microsoft's industry rivals and their supporters—continue to belabor two points: First, that the Court of Appeals decision that led to this settlement upheld the core argument of the government's case, that Microsoft held a monopoly in operating systems; and second, that the settlement between the company and the government is not only inadequate but unenforceable.

First of all, yes, the Court of Appeals did find Microsoft's exclusive dealings to be monopolistic, which is exactly and specifically what the company has been prohibited from doing in the future, according to the terms of the decree. The current District Court judge in the case even made the point that "the scope of any proposed remedy must be carefully crafted so as to ensure that the enjoining conduct falls within the [penumbra] of behavior which was found to be anticompetitive." (transcript of Scheduling Conference before the Honorable Colleen Kollar-Kotelly, September 28, 2001, at 8.) It would seem that specifically prohibiting the company from engaging in the activities that were found to be monopolistic would meet this criterion.

MTC-00025113—0002

As for enforceability, included in the unprecedented provisions of the decree is the creation of an independent three-person technical committee to monitor Microsoft's compliance with the agreement. The committee will reside at Microsoft headquarters and that will have complete access to all Microsoft facilities, records, employees and proprietary technical data. This includes the source code for Windows, which some have pointed out is the equivalent of having access to the "secret formula" for Coca Cola.

In addition to the Technical Committee, the Department of Justice and each of the nine states that have so far settled with the company, will all have the power to monitor Microsoft's compliance and to seek remedy if the company fails to meet the terms of the decree. Microsoft has also agreed to create and implement an internal compliance program to educate their managers and employees about the different restrictions and obligations the decree imposes on them. All of this goes far beyond what the Court of Appeals originally required.

It seems none of this is good enough for those who are determined to pursue this case until the bitter end—an end that could mean bitter consequences for this nation's high-tech industry, not to mention the economy as a whole. The claims that survived the Court of Appeals decision were, and remain, very narrow. The idea of splitting the company apart had been dismissed. The company's "tying" practices were found to be legal. All that was left were proposed measures such as forcing Microsoft to sell Windows software without including its Web browser, instant messaging or media player applications—an indication of just how trivial this case has become in terms of "harm to consumers" when measures such as these become the bargaining chips.

One Microsoft opponent has said that you assume consumer harm results from monopolization. But it is difficult to see how consumers might benefit from having the Media Player or Instant Messaging applications deleted from their software. Microsoft did in fact offer a browserless version of Windows at one point during litigation. Nobody wanted it.

It is important to remember that decrees in civil antitrust cases like this are designed to remedy, not to punish. Microsoft was found to be engaged in illegal business practices, it has been prohibited from those practices in the future, and faces severe repercussions should it fail to meet these prohibitions. And yet, opponents continue to complain that the decree is useless because it will have no "material" impact on Microsoft's business.

Microsoft's opponents like to say there are loopholes in the loopholes, and speak forebodingly of the years of additional litigation that will result. The irony here is that they are the ones refusing to settle the case, they are the ones prolonging the litigation, and they are the ones finding fault with enforcement provisions that are unprecedented in a conduct decree such as this.

MTC-00025113—0003

The Department of Justice, which represents the public and is the principal interpreter of the federal antitrust laws to the Judiciary, has achieved a powerful settlement and wants to move on. There are a few attorneys general with questionable expertise who want to prolong the uncertainty clouding the marketplace. They should recede from the federal action, and let the private sector litigants get back to creating jobs instead of enriching lawyers.

If this case is truly about protecting consumers from illegal and monopolistic business practices, then that has been accomplished in a reasonable, enforceable and unprecedented manner through the consent decree negotiated between Microsoft and the Justice Department and supported by nine States. If, on the other hand, this case has turned into an opportunity to prolong litigation and wring additional dollars out of Microsoft, it is in the best interest of the public, the economy, and indeed the judiciary to bring this case to an end as precipitously as is possible.

Sincerely,
C. Boyden Gray

MTC-00025113—0004

MTC-00025114

From: arthurguay
To: Microsoft ATR
Date: 1/25/02 5:33pm
Subject: Microsoft Settlement

Please recognize three key facts:

1.) Those who are suing Microsoft are second-best companies who can not compete with Microsoft on the quality of software needed by the masses.

2.) I have never met an individual who has said he/she were not satisfied with Microsoft's software. People are NOT saying they have been cheated and or overcharged.

3.) These people, who are purported to have been cheated and or overcharged, do NOT exist. These people are imaginary people who have been created by the second-best software companies.

MTC-00025115

From: Storm North
To: Microsoft ATR
Date: 1/25/02 5:34pm
Subject: Microsoft Settlement

Dear Reader:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. The following is just one instance why I think the proposed is problematic. Microsoft created intentional incompatibilities in Windows 3.1 to discourage the use of non-Microsoft operating systems An episode from the 1996 Caldera v. Microsoft antitrust lawsuit illustrates how Microsoft has used technical means anticompetitively. Microsoft's original operating system was called M–DOS. Programs used the DOS API to call up the services of the operating system. Digital Research offered a competing operating system, DR–DOS, that also implemented the DOS API, and could run programs written for MS–DOS. Windows 3.1 and earlier were not operating systems per se, but rather middleware that used the DOS API to interoperate with the operating system. Microsoft was concerned with the competitive threat posed by DR-DOS, and added code to beta copies of Windows 3.1 so it would display spurious and misleading error messages when run on DR-DOS. Digital Research's successor company, Caldera, brought a private antitrust suit against Microsoft in 1996.

To whoever is reading this, I realize that you have had to wade through a lot of material. I very much appreciate your time and effort.

Sincerely,
Storm North
Plover, Wi. 54467
715.345.2806

MTC-00025116

From: Izzy Blacklock
To: Microsoft ATR
Date: 1/25/02 6:48pm
Subject: Microsoft Settlement

I don't know how much weight my words will have seeing as I'm a Canadian citizen, but I've decided to write anyway. If for nothing else, to show that Microsoft's influence and behavior in the industry is far reaching, effecting people around the world, not just in the US. I've been following this case with great interest since the beginning. There is no doubt in my mind that Microsoft has a monopoly and has used its influence to maintain it's strangle hold on the industry and to leverage it's interests in other areas. This case has clearly shown that Microsoft's behaviour is illegal under your laws and that punitive action is necessary to restore balance to the industry. I've read significant criticism of the proposed settlement from several industry leaders as well as legal experts and the general consensus seems to be that this settlement will do little to stop Microsoft from continuing it's Monopolistic behaviour. This is of great concern to me, as it should be to everyone. Microsoft has shown time and time again that they will take advantage of any loopholes it can, and this settlement seems to be filled with them!

I urge you to seriously consider all the opposition to this settlement when making your decision. The monopolistic behaviour of Microsoft has done more harm then good to the industry in the past. Giving them a simple slap on the wrist now will encourage them to continue this behaviour.

...Izzy

MTC-00025117

From: Tony Cizerle
To: Microsoft ATR
Date: 1/25/02 5:37pm
Subject: Microsoft Settlement

The heck with everyone worried about losing their "comfort zone" that Microshaft HAS illegally woven then into—so they therefor don't want the beast bothered—MicroShaft broke (breaks) the law and NOTHING is done to them.

C'mon—All computers should be able to be PURCHASED WITHOUT any company's software on them—We should not be FORCED by MicroShaft and the DOJ to continue putting up with this illegal garbage...

Dell and all the other mfgrs were BLACKMAILED by MS!!!

Tony Cizerle
http://www.computerbay.com
t@computerbay.com <NEW>
Phone: 602–265–1529 <NEW>
Fax: 602.532.7286

MTC-00025118

From: MikeAaron1@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:37pm
Subject: Microsoft Settlement

Dear Antitrust Division,

I am writing to contribute my comments to the public comments being accepted regarding hte Microsoft Antitrust matter. It appears as if Microsoft is barely being punished for its monopolistic practices. I recommend stiffer penalities including the decoupling of products from their operating system. Is the Internet browser necessarily an integral part of the operating system? Is MSN part of their operating system? Is Windows Media Player part of their operating system? Should Microsoft be allowed to continue bundling these products with their OS to the exclusion of competing products?

This bundling creates a barrier to other software developers. If there is something that comes in Windows on your computer and is presented to you, you will be apt to click the defaults and end up using Microsoft products and subscribing to Microsoft services. This all happens without people knowing there are choices. My father in law and grandmother are not computer experts. They can be hearded around dialog boxes and windows to fulfill Microsoft business plans.

Creating an environment for competitive products to have a chance would help individual developers and small startups achieve economic success. Thanks you for the opportunity to comment.

Mike Aaron

MTC-00025119

From: Frank Devlin
To: Microsoft ATR
Date: 1/25/02 5:37pm
Subject: Microsoft Settlement

To Whom It May Concern,

As a very satisfied user of Microsoft products for many years I believe that the Justice Department suit against the firm was misguided at best. I don't believe the firm has done any wrong to consumers. Consequently, no DOJ actions should be taken against the firm.

Sincerely,
Frank Choltco-Devlin
7175 Horton Road
Hamilton, NY 13346

MTC-00025120

From: Jeremiah C.
To: Microsoft ATR
Date: 1/25/02 5:37pm
Subject: Microsoft Settlement

I strongly support the government in the anti-trust trial. Companies in the past were broken and yet Microsoft wants to get away with a mere billion dollars. Hit Microsoft hard where it really counts: in the bank. Force Microsoft to pay 50 billion dollars (their quarterly revenue) over a year for schools to buy any technologies and forbid any agreements between Microsoft and PC manufacturers to bundle an OS with a computer. I scoff at any settlement that will not change Microsoft deposition towards consumers and competition.

Warm regards,
Jeremiah Cohick

MTC-00025121

From: JEROME TEEVENS
To: Microsoft ATR
Date: 1/25/02 5:36pm
Subject: Microsoft Settlement

There is not much more to add except that it would truely be sad if Microsoft were allowed to continue the practices that limit consumer's choices. The settlement seems to do very little to improve the situation.

PeoplePC: It's for people. And it's just smart.

http://www.peoplepc.com

MTC-00025122

From: Chad Redman
To: Microsoft ATR
Date: 1/25/02 5:38pm
Subject: Microsoft Settlement

MTC-00025122—0001

Dear Sirs,

I would like to add my voice to those who are against the lenient terms of this settlement. For a reasonable non-sociopathic business, one would expect that once they had agreed to the terms, they would follow its intent. But it is clear from past behavior that Microsoft will find any feasible loophole, and barring that, will violate the terms outright. It has shown this not only by **violating a previous consent decree**, but by bundling even more software with its latest operating system, and rushing it out to vendors before the DoJ could restrain it. Most of the specific arguments against the proposal have been expressed more elegantly by Dan Kegel (http://www.kegel.com/remedy/remedy2.html). Although the potential loopholes I point out below may sound absurd, Microsoft has demonstrated that it does not shy from "creative" legal interpretations.

From: III. Prohibited Conduct (sec. A)

...Microsoft shall not terminate a Covered OEM's license for a Windows Operating System Product without having first given the Covered OEM written notice of the reasons for the proposed termination and not less than thirty days'' opportunity to cure ....

Nothing requires that Microsoft's reason be valid. A trumped up complaint could be issued, possibly one which the OEM cannot comply with. After 30 days, the OEM is not licensed. (sec. D)

...Microsoft shall disclose to ISVs, IHVs, IAPs, ICPs, and OEMs, for the sole purpose of interoperating with a Windows Operating System Product, via the Microsoft Developer Network ("MSDN") or similar mechanisms, the APIs and related Documentation...

The groups listed are a subset of all possible users. Can MS exclude anyone from joining MSDN? And what is the cost of joining. For programmers creating cost-free software, is the subscription price prohibitive? Is someone with access constrained from sharing it with others who are not members? Are users constrained in any way in the use of the APIs, such as in creating software under the Free Software Foundations GPL, or in an open source project, such as Linux or Wine, both MS competitors.

... the disclosures required by this Section III.D shall occur no later than the last major beta test release of that Microsoft Middleware. In the case of a new version of a Windows Operating System Product, the obligations imposed by this Section III.D shall occur in a Timely Manner. Meanwhile, all MS project teams can access the APIs at any time earlier than this, which it can use to get ahead of competing products. This is why the term "Chinese wall" gets invoked a lot, and why the proposed remedy was to split the company into OS and software companies. (III.J.2)

c. meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business Microsoft may argue that cost-free or open source software creators are not viable businesses. In fact, they have publicly stated as much already. IV.B.3

Within 7 days of entry of this Final Judgment, the Plaintiffs as a group and Microsoft shall each select one member of the TC, and those two members shall then select the third member. I don't know why MS needs to be involved in this. The TC members are to assist the plaintiffs in the enforcement that the judgment grants them. The Plaintiffs should be able to choose whomever they feel would do the best job at assisting them, hostile to MS or not, as long as their oversight does not violate privacy protections this document grants to MS. How would an MS-chosen TC be helpful to the Plaintiffs? (v)

1. Unless this Court grants an extension, this Final Judgment will expire on the fifth anniversary of the date it is entered by the Court. 5 years is not enough.

2. In any enforcement proceeding in which the Court has found that Microsoft has engaged in a pattern of willful and systematic violations, the Plaintiffs may apply to the Court for a one-time extension of this Final

Judgment of up to two years, together with such other relief as the Court may deem appropriate 7 years is not enough. (VI)

B. "Communications Protocol" means the set of rules for information exchange to accomplish predefined tasks between a Windows Operating System Product and a server operating system product connected via a network, including, but not limited to, a local area network, a wide area network or the Internet. These rules govern the format, semantics, timing, sequencing, and error control of messages exchanged over a network. It should also include MS server products; i.e., tasks between a Microsoft Product and a *client* operating system product. This would include the hypothetical case where an MS online service "embraces and extends" existing internet protocols. Really, this definition should just define it as information exchange between two machines or applications, independent of where the machines are or whose OS is on them.

I. "ISV" means an entity other than Microsoft that is engaged in the development or marketing of software products. I presume the V in ISV stands for vendor. If someone creates a product that he gives away for free instead of sell, is he still an ISV J. "Microsoft Middleware" means software code that ... 2. is Trademarked;

Software code may be copyrighted, not trademarked. I would think this means software product, not code. Oddly, definition (K) does defines "Microsoft Middleware Product" separately, but as a rather narrow set of products. P. "Operating System" means the software code that, inter alia, (i) controls the allocation and usage of hardware resources (such as the microprocessor and various peripheral devices) of a Personal Computer, (ii) provides a platform for developing applications by exposing functionality to ISVs through APIs, and (iii) supplies a user interface that enables users to access functionality of the operating system and in which they can run applications.

Does this mean that MS does not consider a web browser, MSN services, links to MS's preferred online photo developers, or Minesweeper part of the operating system? Q. "Personal Computer" means any computer configured so that its primary purpose is for use by one person at a time, that uses a video display and keyboard (whether or not that video display and keyboard is included) and that contains an Intel x86 compatible (or successor) microprocessor.

Servers, television set top boxes, handheld computers, game consoles, telephones, pagers, and personal digital assistants are examples of products that are not Personal Computers within the meaning of this definition.

MTC-00025122-0003

It is significant that this does not cover server computers such as web servers, and excludes handheld computers or PDAs. And what's the difference between these last two? R. "Timely Manner" means at the time Microsoft first releases a beta test version of a Windows Operating System Product that is distributed to 150,000 or more beta testers.

Why is it important that MS be allowed to withhold information until that point? Surely, anyone can benefit from the information, even if it is subject to change.

U. "Windows Operating System Product" means the software code (as opposed to source code) distributed commercially by Microsoft for use with Personal Computers as Windows 2000 Professional, Windows XP Home, Windows XP Professional, and successors to the foregoing, including the Personal Computer versions of the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc. The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion.

The acts this judgment remedies were taken by Microsoft the Corporation. Therefore, all MS products should be covered, not just this very limited group. In addition to the above specific criticisms, I would like to see protections for freely available operating systems (e.g., Linux) and open source software at least mentioned in the judgment. MS has targeted Linux and open source software as its current primary threats, and will use any tactic within its disposable to extinguish these competitors. For example, a new MS practice is to construct licenses (whether or not for a product covered by the judgment) that specify that the user cannot use a product to create "viral" software, which is specifically targeted at open source software covered by the Free Software Foundation's GPL (MS does or did have such a license for one of its handheld product developer kits).

Thank you for your consideration,

Chad Redman chad.redman@yale.edu
ITS/Admin. Sys., Yale University
00025122—0004

MTC-00025124

From: eric@saddleback.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:41pm
Subject: Microsoft Settlement

Please approve the proposed settlement so this entire issue is put to rest. While no settlement is perfect, this one seems to be quite fair. I think Microsoft should be left alone to produce world class software and that their competitors should do the same instead of dragging this whole thing out.

I think it is in the public interest to approve this settlement so we can all move ahead without further tax dollars spent on this case.

Eric Busby
Foothill Ranch, CA
CC:eric@saddleback.com@inetgw

MTC-00025125

From: Michael Detlefsen
To: Microsoft ATR
Date: 1/25/02 5:40pm
Subject: Microsoft settlement

I think the proposed settlement with Microsoft is a bad idea. Microsoft has shown by their behavior over a number of years that they will ignore any government orders that they do not want to obey.

I was appalled when I read that Microsoft said they wouldn't agree to proposed remedies. This is just another example or the continuing arrogance of the top people of the company. Defendants don't have to agree with remedies ordered by a court, they just have to follow them. Or it was this way last time I checked. If I were in court, I certainly wouldn't get to pick and choose my punishment, why should they?

If they are not handed a remedy that will change their behavior, then they will finally know for certain that they can get away with anything. They should be punished for not only their current behavior, but for not following previous remedies.

It's not very hard to see that their behavior has resulted in severely restricted choices in available software packages over the last ten years. It's hard to see how this situation is of any benefit to consumers.

Mike Detlefsen

MTC-00025126

From: Mike Prettyman
To: Microsoft ATR
Date: 1/25/02 5:41pm
Subject: Microsoft Settlement

To Whom it may concern,

Where to begin? There are so many pages of documentation regarding this case I honestly have only had time to briefly glance over some of it since I have work to do. However, given the information that I have obtained, and based on my own experience in multiple areas of the computer industry over the past years (I was a tech for a small OEM for a few years, then I went on to work for a prominent ISP,Earthlink , as a technician, and currently I am working for a midrange/mainframe broker) I certainly feel that Microsoft is clearly getting the short end of the stick so to speak.

I have no affiliation with Microsoft, nor am I receiving compensation of any sort for voicing my opinion in their favor. What other product on the market is so open that the vast majority of competitors products will function on said product(s). Can you walk into a Ford dealer and ask for a Chevy motor in your new ranger pickup truck? Ok, how about all the onboard computers that control features such as fuel injection systems, traction control, etc? If you believe that Honda has superior electronics can you ask for them in your Dodge? I think you'd get laughed out of the dealership plain and simple.

Now lets take a look at other computer products on the market as a comparison shall we? If I purchase an SGI and want to run down to Best Buy to purchase the latest accounting software to do my taxes will it run on my machine? No. Ok how about if I go get a new video card and more RAM, will it just drop right in and will I be up and running in minutes? No. I would be forced into buying proprietary applications AND hardware if I wanted to add more functionality to my base machine... But I really like the IRIX operating system, wont it run on my PC? No. The same can be said about Sun Microsystems, IBM, and even Macintosh (apple) to an extent. All of the aforementioned systems are closed, proprietary systems that offer an enduser little flexibility and very little in the way of an upgrade path. I don see anyone screaming foul where the other company's are concerned.

Now an "industry standard" has been established. Obviously the bar has been set in terms of performance, flexibility, and a user friendly interface. Is it Microsoft's fault that no other company has even come close to creating a product that can compete on even ground? Do they owe a competitor anything? Should they be forced to fully reveal their API so that other's can steal it, and tap into their bread and butter product? I personally, as well as many of my associates, would answer a resounding NO! That's like forcing coke to disclose what their secret formula is and to go a step further, include a can of Pepsi in every six-pack in the name of "what's good for the consumer". Please let products stand on their merit instead of trying to make everyone "play nice and friendly". The world of big business isn't for the weak, and if a company cannot stand the heat, they should look to get out of software development since its a very cut throat industry.

Surely you will get many email's from people with something at stake (IE: Financial gain if they can force their way into the market by riding Microsofts coat tails into an industry instead of innovating new "must have" products) but you must see them for what they truly are.

Sincerely,
Mike Prettyman

MTC-00025127

From: Les Clark
To: Microsoft ATR
Date: 1/23/02 10:17pm
Subject: Microsoft

I do not agree with the proposed settlement of the Microsoft case. The company has exceeded every limit of decency, pushed legalities to the edge, expressed contempt for the prior settlement against them, and continues in its monopolistic and exploitative ways. It expresses the worst of commerce and the ways in which it operates are most definitely not in the interest of consumers.

MTC-00025128

From: pvieites@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:41pm
Subject: Microsoft Settlement

My name is Pete Vieites and I am an avid consumer of somputer software from various companies. I agree with the settlement actions and feel it's in the publics best interest. It's time for all companies involved to move on and concentrate their efforts on building better products that we demand. For the record, Microsoft's products, have never harmed the consumer. However, this ongoing bickering between Microsoft, the states (as well as the competitors companies they represent) and the Justice department are doing more harm than good.

CC:pvieites@hotmail.com@inetgw

MTC-00025131

From: CMS
To: Microsoft ATR
Date: 1/25/02 5:45pm
Subject: Microsoft Settlement

I feel the current proposed settlement is a very bad idea. It will only reinforce Microsoft's monopoly in the long term. This will only make it more difficult for competition to exist and it will leave the country and the world in a worse position than it is now with regard to Microsoft.

It is my hope that the settlement will be reevaluated and changed into something that solves the monopoly problem, instead of being something that essentially ignores the issue.

Thank you,
CS

MTC-00025132

From: Sandy W
To: Microsoft ATR
Date: 1/25/02 5:46pm
Subject: Microsoft Settlement
Sandra Walker
229 Lee Street Rock Hill, SC 29730
January 23, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

The reason for this correspondence is to express my support of the settlement reached in the Microsoft antitrust case and to state I believe you should do likewise. For far too long Microsoft has been coerced into court, spending millions that it could be using to build better products and create jobs.

The settlement reached will give computer makers broad new abilities to offer non-Microsoft products, either as separate operating systems or as components on Microsoft operating systems. This settlement will actually give competitors new advantages against Microsoft. Unbelievably, competitors still are condemning this settlement because they want something that is much more detrimental and unfair for Microsoft.

I strongly urge you to support the settlement that is available in this case and to repel those interests that want to derail it.

Sincerely,
Sandra Walker

MTC-00025133

From: Paul Mugar
To: Microsoft ATR
Date: 1/25/02 5:44pm
Subject: Re: Microsoft Settlement Letter
——Original Message ——
From: Paul Mugar
To: microsoft.atr@usdoj.gov
Sent: Friday, January 25, 2002 2:17 PM
Subject: Microsoft Settlement 2 Inez Street
Camarillo, CA 93012
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I understand the Courts will make a final decision at the end of this month on whether the proposed Microsoft settlement will benefit the public. I believe it's fine as long as Microsoft is left standing, when it's all said and done. If the nine states are allowed to overturn the agreement and move ahead with additional litigation, it could take another three years and billions in legal expenses all incurred by the consumers and the taxpayers. How is that a benefit?

Microsoft has agreed to not enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively or in a fixed percentage, subject to certain narrow exceptions where no competitive concern is present. The Company has also agreed not to enter into agreements relating to Windows that obligate any software developer to refrain from developing or promoting software that competes with Windows. From this one could see that Microsoft is more than willing to cooperate in order to resolve this issue. I urge you to end this now. No more action should be taken at the Federal level.

Sincerely,
H. Mugar
cc: Representative Elton Gallegly
CC:Gallegly Elton

MTC-00025134

From: Mark.Varsel@frit.frb.org@inetgw
To: Microsoft ATR
Date: 1/25/02 5:46pm
Subject: Microsoft Settlement

Dear Sir,

Any settlement with Microsoft, short of breaking the corporation into smaller business units, is a mistake. As much as Bill Gates would like to contend that Microsoft has advanced personal computing, his company has done immeasurable damage to the PC industry. Microsoft has stifled innovation with its practice of buying the competition. For years, if Microsoft could not successfully compete with a company, they bought the company and shut it down. This practice is easily demonstrated by Microsoft's inferior implementation of data compression and memory management. Microsoft first incorporated data compression into its Windows operating system, which put Stacker Electronics out of business. Microsoft offered its version of disk compression for free. The Quarterdeck Company had superior memory management utilities (QEMM) and multi-tasking software. Microsoft incorporated inferior memory management capabilities into its OS which led to the downfall of Quarterdeck and forever stifled further innovations in each of these areas. In the same way, Microsoft has unfairly crippled Netscape by incorporating its inferior web browser into its OS. Giving away an inferior product that will get a user by is a sure way to stifle further innovation. Stifling innovation at the expense of limiting competition is wrong.

Unfortunately, with the current state of computing, most users will never know what innovations and advancements would have been possible had Microsoft not had a free hand to kill the competition with the power of its monopoly. It is for this very reason that monopolies are illegal.

The government should not give in to Microsoft and Microsoft should be forced to pay for the damage that has been done to the PC industry.

Sincerely,
Mark Varsel

MTC-00025135

From: Frances Burmeister
To: Microsoft ATR
Date: 1/25/02 5:46pm

Subject: Microsoft Settlement

I am absolutely convinced that the settlement recently arrived at between the Microsoft, DOJ, and nine states is more than sufficiently harsh to cover any improper competetive practices they may have used.

It is also critical to consider the enormous good that Microsoft has achieved for not only millions of consumers but also thousands and thousands of business. Microsoft provides top quality applications which have provided benefit to many many users over the years. In addition, by providing a solid, widely accepted development environment, it has made it possible for thousands of small businesses to grow, flourish, and prosper.

I work for one such company and am far more concerned about the serious damage to our business and those thousands of others if Microsoft is restrained from innovating or is so harshly punished that they cannot afford to continue their top quality development efforts.

Frances A. Burmeister
1120 East Madison
Fairfield, Iowa
52556

MTC-00025136

From: G. Del Merritt
To: Microsoft ATR
Date: 1/25/02 5:48pm
Subject: Microsoft Settlement

Dear Renata B. Hesse or To Whom It May Concern—

I offer the following comments on the "Stipulation and Revised Proposed Final Judgment (11/06/2001)": http://www.usdoj.gov/atr/cases/f9400/9495.htm

Specifically:

—Under the "Prohibited Conduct" section, III.J, concerning the requirements of when Microsoft can/must disclose APIs or Documentation, too much latitude is given to Microsoft by both paragraphs 1 and 2. They can "spin" or re-implement almost any documentation or API such that it could be labeled as potentially able to compromise the overall security of the system. The explanation of this section in http://www.usdoj.gov/atr/cases/f9500/9549.htm is of some use here, but I do not feel comfortable with the wording of the Final Judgement itself.

—I fear that section IV.B, "Appointment of a Technical Committee", is destined to failure. Because of the breadth of Microsoft's presence in the software technology sector, just about any non-academic who has technical knowledge can be considered either a competitor of Microsoft or a likely employee/contractor of them. This makes item # 2 difficult to resolve.

—Also in section IV.B, I feel that items 9 and 10 are counterproductive to reigning in Microsoft's practices; without being able to report to the public further transgressions, there are no teeth to the committee. This, I presume, is exactly what Microsoft wants.

—Under section V.B, "Termination", I feel that should Microsoft be found to willfully engage in a pattern of further abuse, the clock should be reset: there should be no "one-time extension" of the remedies. Instead, each infraction can set up a brand new 5-year plan for monitoring Microsoft; there should be no limit to the number of extensions requested.

Throughout this case, and in general, Microsoft's practices have been clearly documented as irresponsible and anti-competitive. There are times when you have to make up for the harm you have done to others; this is one of those times for Microsoft.

—Del Merritt
10 Belknap Point Road
Damariscotta, ME 04543

MTC-00025137

From: Jason Paul Kazarian
To: Microsoft ATR
Date: 1/25/02 5:47pm
Subject: Tunney Act Comment

Microsoft used its monopoly power in one market, namely that for personal computer operating systems, to boost its market share in another market, namely personal computer application software. This practice is illegal. The finding of fact that the preceeding is true was also upheld on appeal.

The court must break the tie. Microsoft has a right to its operating system monopoly but not its application software business: Microsoft engaged in an illegal practice to build and nurture that business.

Any remedy that does not include breaking this tie allows Microsoft to continue operating in violation of the Sherman Anti-Trust act. Such a settlement must not be considered. =====

Jason Paul Kazarian
Email: jpkazarian@leftbrainedgeeks.com
Web: http://leftbrainedgeeks.com/

MTC-00025138

From: John G. Miller
To: Microsoft ATR
Date: 1/25/02 5:47pm
Subject: Microsoft Settlement
January 17, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

The antitrust suit against Microsoft has not had an adverse affect upon my technology-based company as of yet, but if this suit were to continue, it would surely affect it. In a worst-case scenario, if Microsoft were broken up, I could go out of business, even though I am not employed by Microsoft.

There are probably thousands of businesses like mine that would face the same problem. The settlement that was reached between Microsoft and Department of Justice promises to prevent any adverse effects if litigation is stopped.

Under the settlement, Microsoft has agreed not to retaliate against any computer makers if they ship software that would compete with its Windows operating system. Microsoft has also agreed to make all future versions of Windows to be compatible with non-Microsoft products. The settlement also establishes a three-person "Technical Committee" that will monitor Microsoft's compliance to it.

I also do not want to see Microsoft forced to open the code for Windows* to the world. I would not want to be forced to buy my software from India, Germany, Japan or China. If you think that opening the source code to Windows* will help Microsoft's competitors, what do you think it will do to those same competitors when they have to compete with companies in other countries.

To continue litigation is to squander all the time and money spent formulating this settlement. The government must not waste such scarce resources amid recession. I urge you confirm this settlement and allow the industry to move ahead.

Sincerely,
John G Miller
President

MTC-00025139

From: Amy Ayer
To: Microsoft ATR
Date: 1/25/02 5:48pm
Subject: Microsoft Settlement

I was disturbed to learn that the proposed settlement does not include strong requirements that Microsoft document exactly how its operating system works, releasing the information immediately after each change, so that other software companies can design software to run reliably under Microsoft operating systems.

As a professional software instructor, I have observed that many fine programs such as Adobe Photoshop and the Corel office suite run unreliably under Windows, even though Photoshop runs beautifully on Macintoshes and the Microsoft office suite displays far fewer problems.

I believe Microsoft has a history of keeping specifications secret and writing non-standard code (e.g. the scandal a few months ago when they designed www.msn.com to run badly on the Opera browser) as a way of forcing people to use their products rather than superior products by other companies. This is an abuse of power gained by their monopoly on operating systems.

Please alter the judgement to include

1) Clear and full documentation of Windows

2) Clear and full documentation of Microsoft applications, so they can be run on other operatings systems.

Sincerely yours,
Amelia Ayer

Norwich, CT MSN Photos is the easiest way to share and print your photos: http://photos.msn.com/support/worldwide.aspx

MTC-00025140

From: MARK GHALY
To: Microsoft ATR
Date: 1/25/02 5:48pm
Subject: Microsoft Settlement.

MTC-00025140 0001

Mark Ghaly
4452 141st Avenue SE
Bellevue, WA 98006–2310
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW Washington, DC 20530–0001
January 23, 2002

Dear Mr. Ashcroft:

In ancient Greece, a good Athenian is the one that would leave Athens better than he found it. This is precisely why I am writing you this letter. Microsoft can only be accused of democratizing the personal computer. The operating system Windows has enhanced productivity of the PC and made computing available to any one who cared to use it with minimal required skills.

Prior to Windows OS. One was a captive hostage to Apple PC with its planned obsolescence, unless one was willing to invest innumerable hours to learn DOS. I feel that Windows was a gift to us [non-computer literate] and has made computing to the average person easy, intuitive and painless. If we did not have Windows probably we would have had various competing software with a mass confusion in the market.

I am writing you to urge you and the federal government to endorse and implement the proposed settlement plan in the anti-trust case against Microsoft.

The settlement will, I think justly, allow the company to remain a single corporate entity. In view of the enormous contributions Microsoft has made to the IT industry, this a proper response to deeds done and hopefully a harbinger of future good works. Right now the industry needs a stimulant badly.

The government's plan asks a steep price for the company's continued existence. Microsoft will have to open itself up to its competitors in many ways. Windows will no longer be its sole province, nor its marketplace Trojan horse. Windows will now be configured so as to not just accept but promote others software. A government oversight committee will ensure that the company no longer engages in anti-competitive practices.

In short, I believe that the settlement is a proper workable compromise. Please support this plan. I trust and I hope that the motto of the classical Athenian would prevail

00025140—0002

I of 2 01/29/2002 3:59 [

Sincerely,
Mark Ghaly

Get your FREE download of MSN Explorer at http://explorer.msn.com.

00025140——0003
01/29/2002 3:59 I

MTC–00025141

From: Joan Baskett
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement
U.S. Department of Justice,

My husband and I want you to know that, as taxpayers and consumers, we strongly support the Microsoft settlement. Please approve the settlement today!

Thank you for your consideration of our views.

Sincerely,
Ferol & Joan Baskett
7338 S.E. Berryton Rd.
Berryton, KS 66409

MTC–00025142

From: Stephen Quinn
To: Microsoft ATR
Date: 1/25/02 5:49pm
Subject: Microsoft Settlement

I think the government has dragged Microsoft through the mud long enough. Let America get back to business and start by finishing this case with Microsoft.

Thank you for your consideration. S. Quinn

MTC–00025143

From: jhartley3@msn.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:47pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
John Hartley
1154 Londonberry Lane
Glrn Ellyn, IL 60137–6110

MTC–00025144

From: Thomas Crook
To: Microsoft ATR
Date: 1/25/02 5:51pm
Subject: Microsoft Settlement.
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

In accordance with the Tunney act I would like to comment on the Proposed Final Judgment (PFJ: http://www.usdoj.gov/atr/cases/f9400/9495.htm) in the United States of America vs. Microsoft case. I am concerned that so many loopholes are left open in the language of the PFJ that it will be largely ineffective for its stated purpose.

My name is Thomas Crook. I am a US citizen currently living in Sydney Australia and working for a small computer software company with US, UK and Australian offices. I have been involved in the computer industry in some form since the late 1970's and have followed the rise of Microsoft almost since its inception. I have many years experience working as a software engineer and computer scientist. In addition, I have an MBA and studied marketing and economics at the doctoral level for several years.

I have taught university undergraduate and masters classes in business and economics faculties at the University of Utah and the University of Sydney.

An Instance of Consumer Harm and a PFJ Loophole

I start by relating a personal example of a specific harm to consumers arising from the Microsoft monopoly: A few years ago my University department decided that we wanted to move all our computers from Windows 95 and 98 to Windows NT. We also planned to buy some new computers.

Under our University agreement with Microsoft, we purchased Windows NT licenses to cover our existing departmental computers. The agreement required us to buy licenses in multiples of five and we ended up with surplus licenses that we anticipated would be used on newly acquired machines. When the time came to purchase the new computers, we were disappointed to find that well known vendors such as Dell computer would not sell us small quantities of computers without Microsoft Windows licenses. We were forced to purchase software licenses that we would never use. From published press accounts, I subsequently understood that this was required under OEM contracts with Microsoft.

Section III G of the PFJ initially addresses the harm we suffered in this instance, but then immediately offers a gaping loophole!

G. Microsoft shall not enter into any agreement with: 1. any IAP, ICP, ISV, IHV or OEM that grants Consideration on the condition that such entity distributes, promotes, uses, or supports, exclusively or in a fixed percentage, any Microsoft Platform Software, except that Microsoft may enter into agreements in which such an entity agrees to distribute, promote, use or support Microsoft Platform Software in a fixed percentage whenever Microsoft in good faith obtains a representation that it is commercially practicable for the entity to provide equal or greater distribution, promotion, use or support for software that competes with Microsoft Platform Software

Based on Microsoft's past actions, I anticipate that this loophole will be used to ensure that in practice nothing will change and that ordinary consumers will not be able to purchase computers without a Microsoft operating system. (Indeed, I just did a quick online survey of major mail-order hardware vendors and could find none selling a computer without a Microsoft operating system). This loophole should be removed. A Second Instance of Consumer Harm not Addressed by the PFJ

Going back to my personal anecdote: the least expensive way we could purchase our new computers was to buy them with Windows 98. As soon as the new machines arrived, I installed Windows NT on them. We never used the Windows 98 license on the new machines. Further compounding our injury, I noted that the End User License Agreement that came with the Windows 98 prohibited us from using it on a different computer than the one we purchased it with. Contrast this with the case of computer hardware. If I purchased a new computer which came with a modem, and I already had a modem, no one would even think of objecting if I used the new modem on a different machine or turned around and resold it to someone else. Economic theory would argue that such restrictive licensing could only be viably exist in a very imperfect market (e.g. a monopolistic one). Indeed, at the time, given a choice, I would have gladly purchased a functionally-equivalent non-Microsoft product that had no such onerous licensing stipulations—had one existed. I note that the PFJ does not address the type of consumer harm we suffered in this instance. Consumers should not be forced to purchase software they don't need and should be free to resell software they cannot use.

Exclusion of Not-For-Profit Organizations from the Terms of the PFJ PBS columnist Robert X. Cringely noted that "not-for-profit organizations have no rights at all under the proposed settlement." (See http://www.pbs.org/cringely/ pulpit/pulpit20011206.html.) This is an egregious failing. Microsoft has through means fair and foul managed to eliminate the bulk of its for-profit competitors over the years. It has had a harder time dealing with not-for-profit entities. This is not for lack of trying. In the past two years Microsoft has begun to move against the open source movement, as evidenced by its spokespersons using perjoritive terms such as "viral" when referring to certain open source licenses. The PFJ must be altered such that these true competitors are not shut out.

My Agreement with Others" Comments

(1) Codeweavers CEO Jeremy P. White (http://www.codeweavers.com/ jwhite/tunneywine.html) noted weaknesses in the PFJ that would allow Microsoft to undermine the Wine project, an important initiative in restoring competition to the personal computer operating system market.

(2) Dan Kegel noted a number of problems with the PFJ in its current form (http://www.kegel.com/remedy/remedy2.html) I agree with the points he makes.

It is my strong belief that the PFJ in its current form will be largely ineffectual and should not go forward.

Sincerely
Thomas Crook
Engineering Manager

MTC-00025145

From: David Dehghan
To: Microsoft ATR
Date: 1/25/02 5:50pm
Subject: Microsoft Settlement

Please settle this case. Don't waste more time and money. ————'MSN Photos is the easiest way to share and print your photos: http://photos.msn.com/support/worldwide.aspx

MTC-00025146

From: RKH110833@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:51pm
Subject: Microsoft Settlement

The settlement IS in the public interest! I am an AOL subscriber (I don't know about much longer) but I use MS Internet Explorer consistently & don't like to be told (by AOL or Netscape) that I have to use an operating system without Internet Explorer! Richard K. Haynes

MTC-00025148

From: cgreyw@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:50pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW,
Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse: Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Christina Greywitt
1914 Coe's Post Run Westlake, OH 44145–2021

MTC-00025149

From: Kris Klindworth
To: Microsoft ATR
Date: 1/25/02 6:04pm
Subject: Microsoft Settlement

Dear Sirs,

As a professional in the information technology industry, I must respectfully protest the proposed settlement in the Microsoft anti-trust case. This is a company that has been convicted of violating the anti-trust laws at the very time it was under an anti-trust related consent decree. They are a monopoly, they have ignored the law, and I absolutely believe that they have purposefully presented false and misleading testimony under oath. They will continue to do so under this settlement. The difference is that they won't be breaking the law any more because this settlement will give them permission to do these things.

I have read many commentaries which explore the huge and empowering holes this settlement opens for Microsoft, but I will point you to only two that state the case so much better than I could. http://www.kegel.com/remedy/remedy2.html http://www.pbs.org/cringely/pulpit/pulpit20011206.html

You will no doubt have received many emails in support of this settlement from people who have a financial interest in the success of Microsoft. They have no doubt argued that it is in our counties best interest to accept this settlement and put this thing behind us. The problem is that it is neither in our best interest nor will it put this behind us. Our nations interest is best served by a free and open market.

This agreement would only pave the way for Microsoft to consolidate the monopolies it currently holds and use them to move into other areas that they currently have a presence in, but do not yet control. This agreement is not about the past, but about the future and that is what scares me most.

By the way, I should mention that I am speaking here as an individual and a professional, but not on behalf of my employer. Thank you for your time and consideration.

Sincerely,
Kristopher K. Klindworth
Database Administrator
Carle Clinic Association
Urbana, Illinois.

MTC-00025150

From: dale—meredith@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:53pm
Subject: Microsoft Settlement

It's my opinion that Microsoft fulfilled the demands of it's customers. I personally am appalled at the actions of the states that were involved in the suit.

Microsoft has allowed other high tech companies to flourish and has pushed the technology to where it is today. If it were not for Microsoft I feel that we would be putting with substandard software, hardware and interfaces.

The government in this case is "shooting" itself in the foot by punishing a company that has done nothing but answer the requests of its customers. Having worked within the computer industry for the past 10 years, I have seen Microsoft make decision and implement marketing strategies, that those that complain only wish they would/could have made. Shame on all of you for damaging this company and trying make Microsoft "suffer".

I will make Microsoft my prime software vendor, and I will STOP purchasing products from the companies that have done nothing but whine and complain like children about this suit.

My voting and financial donations this year will also reflect my opinion.

—Dale Meredith
CC:dale—meredith@hotmail.com@inetgw

MTC-00025151

From: cgreyw@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:51pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW,
Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Christina Greywitt
1914 Coe's Post Run
Westlake, OH 44145–2021

MTC-00025152

From: Sandy W
To: Microsoft ATR
Date: 1/25/02 5:54pm
Subject: Microsoft Settlement

David Walker
229 Lee Street
Rock Hill, SC 29730
January 23, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

The reason for this correspondence is to express my support of the settlement reached in the Microsoft antitrust case and to state I believe you should do likewise. For far too long Microsoft has been coerced into court, spending millions that it could be using to build better products and create jobs.

The settlement reached will give computer makers broad new abilities to offer non-Microsoft products, either as separate operating systems or as components on Microsoft operating systems. This settlement will actually give competitors new advantages against Microsoft. Unbelievably, competitors still are condemning this settlement because they want something that is much more detrimental and unfair for Microsoft.

I strongly urge you to support the settlement that is available in this case and to repel those interests that want to derail it.

Sincerely,
David Walker

MTC–00025153

From: kburt2@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:53pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Kenneth Burt
17 Bel Aire Ave.
Merrimack, NH 03054–3712

MTC–00025154

From: Todd Henderson
To: Microsoft ATR
Date: 1/25/02 5:56pm
Subject: Microsoft
CC: tormist@ag. state.ia.us@inetgw
MTC–00025154 0001
January 22, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Judge Kollar-Kotelly:

As a small businessman that has been active in the Iowa political process for years, I write to you today because I have come to feel strongly about the Microsoft antitrust case. I feel that the U.S. Department of Justice is trying to settle this case in a manner that does not adequately represent the citizens of this country, let alone the international community.

If my information is correct, Microsoft has already been found to engage in practices that violate antitrust laws, and they should not be exempt, just as I am not exempt. If Microsoft does not like the present scope of antitrust laws, they need to work to have Congress change them, not arbitrarily do as they please. The Justice Department's attempt to settle this case only reinforces their monopoly.

I do not intend to ramble on about all the issues of this broad reaching case that disturbs me, but feel that the very fact that I have this opportunity to be heard, and to have Iowa Attorney General Tom Miller and his staff take an active role in challenging the U.S. Justice Department, is reassuring.

I was taught as a child that a punishment must fit the crime. It appears the U.S. Department of Justice does not hold this belief. Thank you for your time.

Sincerely
Todd Henderson
Cedar Rapids, Iowa
Cc: Attorney General Tom Miller
MTC–00025154—0002

MTC–00025155

From: Bill Beyer
To: "Microsoft.atr (a)usdoj.gov"
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I am writing as a concerned citizen regarding the Microsoft Antitrust Case.

Over the past several years the Microsoft Antitrust Case has been litigated on both the State and Federal level. Recently the Federal government and 9 states have reached an agreement with Microsoft. I believe coming to settlement with Microsoft is good for consumers, the industry and most importantly the American economy. Now is NOT the time to continue litigation on this case. Doing so only benefits the lawyers and a handful of wealthy competitors. More importantly prolonged litigation on this case negatively affects consumers, the industry and the American economy.

Please settle this case now as I believe it is in the people's best interests.

Bill Beyer,
707 West 4th St. #25,
Long Beach, CA 90802

MTC–00025156

From: David Gilman
To: Microsoft ATR
Date: 1/25/02 5:56pm
Subject: Microsoft Settlement

I'm not sure if I've sent you email before or not but in either case... Please settle this lawsuit as quickly as possible. It has been a total waste from the beginning. Microsoft never harmed consumers. The case was a brilliant move but their competitors who were, and continue to be, unable to compete in the open market. Microsoft is being punished for being successful. The case has damaged the economy and the entrepreneurial spirit in the hi-tech industry. The CASE and not Microsoft has damaged consumers.

Thanks,
djg

MTC–00025157

From: SPRURE@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:56pm
Subject: Microsoft Settlement—Please Do Not Delay Settlement

Hello:

I would like to voice my opinion of the Microsoft Settlement. I feel that this settlement is just and very fair for all parties in this matter. You have more important matters to take care of rather than to delay this settlement. Let Microsoft complete this settlement as stated so that they can get on with business. I bet if this settlement is granted the economy will begin to pick up pace shortly thereafter.

So, please grant the settlement because it is fair for all concerned.

Sincerely,
Russell Spruill and Family

MTC–00025158

From: railbender 30378304863059430702 @msn.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Richard Willett
534 West Cheyenne Road
Colorado Springs, CO 80906–2468

MTC–00025159

From: Claude Bravmann
To: Microsoft ATR
Date: 1/25/02 5:57pm
Subject: Microsoft Settlement

Gentlemen:

I feel that instead of constantly harassing Microsoft that the company should be allowed to do business with as little outside/governmental interference as possible. We don't need more government interference, we need more and better products developed and marketed by companies that have the ability and desire to produce those products.

Claude S. Bravmann

MTC-00025160

From: Gordon Bane
To: Microsoft ATR
Date: 1/25/02 5:50pm
Subject: Microsoft Settlement

The settlement will be good for consumers and software manufactures and competitors

Gordon Bane

MTC-00025161

From: Shannon Vest
To: Microsoft ATR
Date: 1/25/02 5:59pm
Subject: Microsoft Settlement

Microsoft is the kind of company that Anti-trust laws were made for. Microsoft has a long history of making money from resources that were once traded freely among computer programmers.

Microsoft has hurt the computer industry through abusing their monopoly on operating systems. In a hundred years, history will bear this out I believe, as people start to examine the differences between the advances that were made against the advancements that COULD have been made in a more level market.

Look at the features in the first or second version of Word?, and look at the features in the current version. Are the tiny differences in productivity worth the thousands ($10,000+) that keeping your application up to speed with the "new" operating system will cost a single user?

NO!

But WE DON'T HAVE A CHOICE! Because of the nature of operating systems these days, a person HAS to upgrade, because inevitably, the simple updates to the system you've purchased will over time render your machine useless without the aforementioned "new" operating system that is always around the corner.

Microsoft has already done all the damage it can do. The settlement will reflect whether or not the Government can admit that damage. Please don't let them off the hook by giving them huge inroads to the education market.

Please show some common sense with dealing with this company. The government certainly have the people to understand what's going on. All that's left is to stand up for what is fair.

Sincerely,
Shannon Vest
Computer Programmer
Edmond, Oklahoma

MTC-00025162

From: Claudia Lively :)
To: Microsoft ATR
Date: 1/25/02 6:00pm
Subject: microsoft settlement

Please get this behind us BY SETTLING.

Our country has much more important issues than interfering with the successful business because of complaints by complainers. If we don't keep plunging ahead, we may belong to England again.

Thanks

MTC-00025163

From: kalawai@earthlink.net@inetgw
To: Microsoft ATR
Date: 1/25/02 6:02pm
Subject: microsoft settlement

In the interest of the U.S. economy, please do not let disgruntled competitors use the courts instead of competing in the marketplace. This so-called "browser war" is ancient history. It is hurting the stock market recovery and the u.s. taxpayer as well.

Microsoft is an engine of economic growth...which we are in desperate need of now...as we try to recover from not only the effects of the recession, but the tragedy of 9/11.

ENOUGH LITIGATION. LET'S MOVE ON!

Jeanne Drury

MTC-00025164

From: arthurguay
To: Microsoft ATR
Date: 1/25/02 6:01pm
Subject: Microsoft Settlement

In 1992, the General Electric Company was in the process of upgrading their local and wide area networks.

Key to the upgrade were "best-of-breed" software programs. The nuclear energy division (GENE) had hundreds of proprietary programs for design of nuclear systems and components and also had access to the UCLA statistical programs (Statpacks).

What else was needed by mighty GE? We needed an email program! Did we write the code ourselves? NO !!! We wanted the best and so we all had Microsft's email installed on our PCs. Thousands of us got the best, quickly; at a bargain price, and it worked right off the bat. NO DEBUGGING NECESSARY. Microsoft talks about the need for companies to have "freedom to innovate". They have demonstrated their technological expertise many times over and this nation is better off because they have used that freedom.

Curtailing that freedom would result in a serious loss by our nation

MTC-00025165

From: Tad
To: Microsoft ATR
Date: 1/25/02 6:02pm
Subject: Microsoft Settlement

To Who it May Concern:

Pursuant to the Tunney Act, I am writing to advise that the proposed settlement of the United States vs. Microsoft antitrust case allows and even encourages anticompetitive practices to continue. The proposed settlement should not be adopted without substantial revision, and is not in the public interest. Of primary concern to me are the following issues which are not addressed in the proposed settlement (From Dan Kegel's analysis on the web at http://www.kegel.com/remedy/remedy2.html):

1. The PFJ places restrictions on how Microsoft licenses its products to OEMs, but not on how it licenses products to large users such as corporations, universities, or state and local governments, collectively referred to as 'enterprises'. Yet enterprise license agreements often resemble the per-processor licenses which were prohibited by the 1994 consent decree in the earlier US v. Microsoft antitrust case, in that a fee is charged for each desktop or portable computer which could run a Microsoft operating system, regardless of whether any Microsoft software is actually installed on the affected computer. These agreements are anticompetitive because they remove any financial incentive for individuals or departments to run non-Microsoft software.

2. Microsoft uses license terms which prohibit the use of Windows-compatible competing operating systems. MSNBC (a subsidiary of Microsoft) offers software called NewsAlert. Its EULA states: "MSNBC Interactive grants you the right to install and use copies of the SOFTWARE PRODUCT on your computers running validly licensed copies of the operating system for which the SOFTWARE PRODUCT was designed [e.g., Microsoft Windows(r) 95; Microsoft Windows NT(r), Microsoft Windows 3.x, Macintosh, etc.]. ..." Only the Windows version appears to be available for download. Users who run competing operating systems (such as Linux) which can run some Windows programs might wish to run the Windows version of News Alert, but the EULA prohibits this. MSNBC has a valid interest in prohibiting use of pirated copies of operating systems, but much narrower language could achieve the same protective effect with less anticompetitive impact. For instance, "MSNBC Interactive grants you the right to install and use copies of the SOFTWARE PRODUCT on your computers running validly licensed copies of Microsoft Windows or compatible operating system." would still allow use of non-microsoft (yet compatible) operating systems.

What is the use in allowing the development of Microsoft-compatible operating systems when Microsoft practices anti-competitive tactics to restrict the use of all other software? There are many other issues we should be concerned with. A more comprehensive list can be found in Dan Kegel's analysis at http://www.kegel.com/remedy/remedy2.html.

Again, I would like to re-iterate that I am commenting on this proposed settlement as provided by the Tunney Act, and I do not feel that the proposed Microsoft settlement is in the best public interest, nor does it effectively prevent Microsoft from continuing anti-competitive practices.

Sincerely,
Tad L. Goetz
thentil@speakeasy.org
303.596.2105
Aurora, Colorado, USA

MTC-00025166

From: J. Joseph Loehr
To: Microsoft ATR
Date: 1/25/02 6:03pm
Subject: worn out and sold out...

I write to express my absolute dismay and disgust with the proposed settlement.

It is unfathomable how our government could consider allowing Microsoft to escape basically intact, with what amounts to not much more than a "slap on the hand, and please don't do it again". If I were Bill Gates, based on how much his company is convicted of doing, and how little he is being punished, after such a long, long delay, I don't think I'd hesitate to aggressively pursue the next opportunity to dominate and monopolize any market. If you think he will, you are sadly naive. As it is, I'm CEO of a small software company, and I and every single CEO of software companies I personally know is well aware of the fact that Microsoft is essentially escaping real and corrective penalties. They have literally decimated and intimidated 100's of software companies into irrelevance, and they do the same with customers, essentially controlling all the choices that are truly available to the typical business. Only the most advanced and astute businesses are able to function without absolute dependence on the Microsoft monopoly. And it will apparently continue. Nothing in this settlement brings significant recompense to the companies and customers who have injured by over 15 years of Microsoft predatory practices.

To have won the conviction against Microsoft was a great step forward. Unbelievably, you've chosen, on behalf of the American Public, to give back that advance in the current settlement. I thank God that there are still some state governments intelligent enough to recognize your capitulation, and who are refusing to settle. I can only imagine that politics have played into this significantly. Essentially, Microsoft's money and influence has resulted in a change of priority regarding pursuit of a Microsoft breakup. I want you to know that as a voting Republican, and small business owner, I am seething about the Justice department's cowardice and compromise in this matter. With unlimited resources and a guilty verdict already in your hand, you should be ashamed. You are supposed to protect the public and business community. In this, you have managed, tragically, to snatch defeat from the jaws of victory.

Joseph Loehr
CEO
PSO Profit Technologies

MTC-00025167

From: P. McDermott-Wells
To: Microsoft ATR
Date: 1/25/02 6:01pm
Subject: Microsoft Settlement
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

RE: Microsoft Settlement

I have been most disturbed by the Federal government's continued proceedings against Microsoft Corporation. In my opinion, the entire suit brought by the Federal government and several states was extremely ill-founded, and strikes a negative blow at the very heart of the free enterprise system through which this country has prospered.

I bought my first ?personal? computer in 1978. It was an Ohio Scientific brand, and it contained 3 separate CPUs and 3 separate operating systems. One of the operating systems was CP/M, which was the front-runner at that time. The second operating system was DOS (by Microsoft). I no longer remember the name of the third operating system, as it never became widely used. There was no ?standard? in PC operating systems at that time, but it was presumed at that time that CP/M would become the prevailing operating system.

Obviously, that did not happen. Microsoft's DOS and later its Windows operating system because the prevailing product in the market.

There are many reasons for this, including:

1. Superior feature content which was readily accepted by users
2. Wide selection of compatible application software, due to a programmer-friendly development interface
3. Availability of information to enable developers to write applications to run on this operating system
4. Affiliate and partnership programs with developers, software and hardware vendors

In short, Microsoft came to the forefront of the industry by offering ?a better mousetrap? than the competition. The Federal government itself has affirmed this fact by making Microsoft products its own desktop standards. (Our company had the privilege of delivering training on Microsoft products to all of the regional offices of the General Services Administration several years ago.)

Microsoft has contributed immensely to the prosperity of this country. And there are thousands of small businesses like ours that would probably not even exist today if we had not had the benefit of Microsoft's partner programs.

It is an extremely dangerous precedent to allow a competitor in the open market to bring suit when it fails to ?win? in the market place. Forcing a company to share its proprietary and confidential research and development information in order to allow its competitors to better compete squelches the free market initiative to invest in R&D. It also has a decidedly malodorous aura of Socialism.

In my opinion, this continued legal action is motivated as much by the anticipated revenues of the legal firms involved as by the competitors? wishes to gain marketplace by any means possible ? an obvious instance of the ?deep pockets? syndrome. Even though the settlement goes further than original complaints in the suit, Microsoft has chosen to settle so that it and the market can move forward. The settlement requires Microsoft to disclose information regarding how it develops it software. Microsoft has also agreed not retaliate against computer-makers that may ship software that would compete with its Windows operating system. Just these two remedies by themselves will have an enormous impact on Microsoft, but there are even more stipulations than that, as you are well aware.

Although I firmly believe that Microsoft should not even be subject to these settlement requirements because I believe it won the prevailing market position by offering superior products, it would be beneficial to the entire industry and to this country to confirm the current settlement agreement and move on to other issues. Therefore, we are urging you to confirm the current settlement agreement as soon as possible, and let the IT industry be free to develop products in an unfettered free enterprise environment.

Yours truly,
Pat McDermott-Wells, President
Mega-Data Services, Inc.
Tel. 561-798-3940
www.mega-data.com

MTC-00025168

From: Alexander Kalymon
To: Microsoft ATR
Date: 1/25/02 6:02pm
Subject: Microsoft Settlement

Dear DOJ,

I believe that the terms of the terms of the antitrust settlement between the Department of Justice and Microsoft are reasonable and fair to all parties. It it critical for a speedy economic recovery of this great nation of ours that a companies such as Microsoft be permitted to continue to innovate and enhance their products in order to maintain their position of providing the favored software used by more computer users than any other around the world.

We need to put this behind us and move forward.

Respectfully,
Alexander Kalymon

MTC-00025169

From: C—Holloway@Juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

Dear Renata Hesse

Thank you for reviewing my comments on the proposed Microsoft settlement. I have viewed the proposed Microsoft settlement and believe that largely serves consumers well. I believe that the settlement will prevent Microsoft from abusing its monopoly position but will still leave Microsoft room to continue innovating. Microsoft has brought some order to the chaos that ruled in the old days. I don t think that Microsoft should be penalized for that. Please respond so that I will know that you received my mail.

Sincerely
Charlie Holloway

MTC-00025170

From: bsuttn@rjsonline.net@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I suppport this settlement. Let's get on with it. Enough time and money has been spent already.

MTC-00025171

From: jonathan—
tolson@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:05pm
Subject: Microsoft Settlement

The government can be helpful in many areas, international trade and diplomacy to name a few. But I believe in the new economy it has bitten off more then it should chew. The software industry is a grotesque anomaly of companies of yesterday and today, enemies, allies, and then enemies once again all merged into one. They are fighting together against a force which is unstoppable by any government force this is time and progress. Every minute that passes the highly perishable goods of software become rotten. The wares must succeed or be trampled by big business, world political powers, or even little children on a PC.

This market is too dynamic to be understood and acted upon by any government, even one as progressive as ours. It is a valiant effort, however inhumane, to control such an animal in the way that has been done. Billions of dollars of progress have been misspent to defend against the possibility of massive controls.

Disservice has already been done to the United States and the rest of the world. Is more punishment necessary?

Jonathan Tolson
Tulsa, OK 74105

MTC-00025172

From: ky7x@earthlink.net@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

The government s suggested settlement is both fair and equitable. Please let it stand as is with finality.

MTC-00025173

From: steve—sodos@moldev.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I fully support the DOJ settlement on 11-3-01. Microsoft has led the PC revolution and should be congratulated for their significant achievements rather than sued. This entire antitrust action has been a blatant attempt by Microsoft s frustrated competitors to get the results in the courtroom that they have been unable to get in the marketplace.

MTC-00025174

From: bonwit69@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I am appalled that a settlement cannot be reached. This is supposed to be America the home of capitalism and free enterprise. I vote for the settlement!

MTC-00025175

From: geschmierer@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I am in favor of Microsoft being able to produce new tools . However this requires listening to the customers as to what they want. Currently it appears that Microsoft is not listening. There are several points that Microsoft needs to consider: 1) Do not be afraid of competition welcome it. Stop being afraid of Browsers currently if I had a choice I would choose IE. This one is a no brainer! 2)Licensing —A salmon swims upstream against the prevailing battle—yes they usually make it but then they die.

You can force your invasive licensing and .NET on the world and you may upset everyone doing it—then your company dies—think about it. 3) Cost of product vs pirating—a) let's face it there are some people out there that will steal no matter what b) there are those who want to comply but the cost is out of reach— consider $100 for FULL version of any OS except high end servers $100—$150 for FULL version of Office—offer larger discounts of multiple license (Home School and Business) c) Multiple computer families—either create a Home license (affordable) for multiple computers or lower the prices per CPU

Remember APPLE essentially built their customer base on students having MAC computers/software in the classroom. Personally Microsoft falls way short—steeper discounts for school. If Microsoft does not upset the customer with their attitude they won t care about competition—the majority of the customers will buy Microsoft products. I would hate to see that go away—What about you!

MTC-00025176

From: hui.wu@ncr.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

Support Microsoft and the settlement

MTC-00025177

From: epssr@prodigy.net@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

Lets leave MSN alone.

MTC-00025178

From: Louis.Sawyer@gnf.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I am a long time IT professional with 36 years experience. I have participated in the evolution of information technology over a long period of time. I was there at the start of the personal computer revolution and have seen Microsoft become the world s largest software company—starting from that point—by making good decisions good products and competing effectively. From the beginning I was amazed by the antitrust action against Microsoft. End users and IT organizations have only benefitted from Microsoft's products. It's clear that the only entities that benefit from continued litigation are Micrsoft s competitors. It s time to bring this sorry chapter to an end by putting this settlement into effect and moving on. I'll always be amazed that my government chose to hold back a high growth business segment where we lead the world. A lot of damage has been done—let s cut our losses and move on. Thank you for your consideration.

MTC-00025179

From: bduke@dccpub.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I believe that Microsoft s innovations have played a very positive role in our develop as a technology leader and hope they are able to continue to innovate without undue restraints. I urge a settlement so that Microsoft and the Department of Justice can both focus on more pressing issues.

MTC-00025180

From: bigrandma@Juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I agree with the settlement

MTC-00025181

From: buttons@eaglebutton.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

Gentlemen:

It is a pleasure to add my voice to those of millions of other Americans who are appalled at some of the steps being taken to harass a company that demonstrated to the entire world the advantages of our capitalistic system. Because of our system which rewards those who are innovative hard working and display leadership Microsoft Corporation has emerged as one of the leading companies not only in the United States but in the entire world. They have attained their position by innovative merchandising and superior products which they continue to update and improve while keeping their prices on a downward course. In addition Microsoft has created features which have facilitated the use of technical products especially among those who find it difficult to integrate these features when offered separately.

What more can our system ask of a company than to provide continually improving products that are on the cutting edge of technology at lower and lower prices and thereby increasing productivity and the well being of all our citizens. Those companies that were unable to compete in the market place because their products were less suitable and their merchandising less satisfactory were unsuccessful and companies such as Borland Novell Netscape and Word Perfect were in fact voted out by the American consumer. Why then at taxpayer expense are actions taken on behalf of other private companies such as those noted above and such companies as Sun Oracle and AOL to divert Microsoft from its mission of providing the best and most advanced technology to American business and consumers at ever lower prices? If these companies would devote their energie

MTC-00025182

From: auntmimi12@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

Let s get over with this lawsuit and leave Microsoft alone. Our country is built on competition. I love Microsoft and there products.

Mary Ann Bullamore

MTC-00025183

From: jerryg@value.net@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I feel this is a more than fair settlement. If it is the consumer you are concerned about and not the competitions best interests then this should be done and over with and this settlement accepted.

MTC-00025184

From: rayh1933@aol.com@inetgw
To: Microsoft ATR

Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I approve of this settlement only because it brings to an end an ill advised and wrongful intrusion of the Department of Justice and the courts into the legitimate competitive ecomomic processes of industry.

MTC-00025185

From: nbleyer@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

My comments on U.S. vs. Microsoft. It is in the public s best interest to bring this settlement agreement with Microsoft to an end.

MTC-00025186

From: theblackotter@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

Microsoft has suffered enough under the government s Anti-Trust lawsuits. A company marketing low-price and high-quality wares is being sued by the government for driving its competitors into the ground with lower prices and free extra applications. Isn t this what capitalism is all about???

This madness needs to stop we are punishing people if they are successful in life! I hope you consider that by making this settlement happen you are also helping to solidify the stock market also. Since the crusade against Microsoft began 4 years ago its stock has been tumbling bringing along with it the Dow Jones.

MTC-00025187

From: cmnsy@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I was once in business and I couldn t compete. I had to take it on the chin and start over. No one rescued me. Why are the plaintiffs against Microsoft any different?

MTC-00025188

From: Marc Turkel
To: Microsoft ATR
Date: 1/25/02 6:04pm
Subject: Microsoft Settlement

Perhaps, as a Microsoft Employee, my input wouldn't be considered objective. However, as someone who lived and breathed the Mac OS platform for 10 years before becoming a Microsoft full time employee 5.5 years ago, I can tell you this company lives to improve the lives of consumers in every way, every day.

Respectfully stated, the DOJ anti-trust suit seems out of step with most of the American public or, more germane to the case, what consumers perceive about the value Microsoft delivers in today's marketplace. In my travels, talking to relatives and friends, many of whom are still running the Mac OS, there is the overwhelming sense that this lawsuit doesn't represent the best interests of consumers but rather, represents the special interests of smaller less successful companies. This then, would be an anti-trust case motivated by commercial interests; the DOJ is being leveraged as a competitive tool by those seeking an advantage in the marketplace. This is a cynical message for the public and the world from the architects of a free market economy.

Since we have a dominant operating system or platform, every electronic interaction consumers receive is compatible with the system you're running, Linux, Mac or Windows. The incentive for software developers to write interoperability in to their applications is not altruistic but economic. If there were no central operating system, we would live in a world of fragmented communication; indeed the very foundation of today's electronic infrastructure would be truncated and shriveled by comparison. In such a scenario, the ability for the average consumer to own, operate and enjoy a computer, would be practically non existent. Computers would still be niche item, enjoyed by a few, the value to society and unfulfilled promise.

The vision Bill Gates had was, "A computer on every desk and in every home". Although this vision is no longer operative at Microsoft, it is plausible that as a society we've arrived as close to this reality as is possible. Due to an economy of scale, prices of hardware and software have dropped while the power and functionality of these products has increased substantially.

Is Microsoft perfect? No. The best I could hope for is a pragmatic and systematic review of the value delivered by Microsoft to the public and the contribution Microsoft has made (directly and indirectly) to the experience of computing overall. Then, as duly elected officials, make decisions in the best interests of consumers and the American public. Reject the sour grapes of competitors who would gladly trade places with Microsoft if they could.

Sincerely Yours,
Marc A. Turkel
American Citizen
11221 75th Ave. NE
Kirkland, WA. 98034

MTC-00025189

From: doriswinfla@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

Microsoft has done a great job and I think it should be treated fairly and justly. I am proud to be a user of this great company and trust it will not be bothered by further litigation.

Doris & Winnie Jacobson

MTC-00025190

From: bigelse436@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I am FOR the settlement

MTC-00025191

From: kyowva@zoomnet.net@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I AM VERY SATISFIED WITH MICROSOFT AS MY SUPPLIER OF MY NEEDS TO OPERATE.

THEY ARE SUPERIOR TO ANY OTHERS THAT I HAVE USED. LEAVE THEM ALONE.

MTC-00025192

From: kennethjguy@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

The government decision about Microsoft should be left alone

MTC-00025193

From: gary.mills@mkcorp.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I beleive the action being taken by the DoJ is a proper one. Microsoft should allow OEM s to offer whatever packages they deem best for their customers. If Microsoft Middleware is as greate as MS believes it is then natural Free-market should determine that not the locking down of an OS level access.

I also content that Microsoft does have a great product for some uses and UNIX is good for other uses but that should be the determination of the end-user not the manufactorer of a product.

MTC-00025194

From: lpropheter@Yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

The proposed settlement is a FARCE ! Microsoft should be PUNISHED not scolded !

MTC-00025195

From: jackhh1@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

It seems we have become a society of legal nit pickers. We need more latitude in business for inovation without looking over your shoulder for a potential law suit. Once a legal action is filed(which is a relatively trivial effort) it can generate millions in expenses and lost time for the defendant. There should be a better process to pre screen anti trust legal activity to prevent the non meritorious actions from causing the market place disruption that occur with examples such as the many Microsoft actions. I am sure a general public pole at this point would have very few supporters of continuing the Microsoft suits.

We are undisputed leaders in the world in a few areas software is one why screw it up.

JHH

MTC-00025197

From: talbers@neo.rr.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I think that the Microsoft settlement is O.K. Microsoft has done a lot for the computer and probably does it more economically than a bunch of little companies could do.

MTC-00025198

From: tandv1@mindspring.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

AS A CONCERNED CITIZEN I WISH TO EXPRESS TO YOU THAT THIS

SETTLEMENT BE DONE AND OVER WITH..WE HAVE SPENT ENOUGH TIME ON THIS. I CAN ONLY SAY THAT I HAVE NO LOVE FOR BILL GATES OR MICROSOFT BUT FEEL WE SHOULD SETTLE AND BE DONE WITH THIS...

THANK YOU

MTC-00025199

From: vrandall@grand.state.ut.us@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

SETTLE IT AND LET THE COMPANY GET ON WITH RESEARCH AND BUSINESS

MTC-00025200

From: billpucci@webtv.net@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

Please let Microsft alone.This is a country of inovation.

MTC-00025202

From: Ryan Dewalt
To: Microsoft ATR
Date: 1/25/02 6:27pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am opposed to the proposed settlement in the Microsoft antitrust trial. I feel that the current proposed settlement does not fully redress the actions committed by Microsoft in the past, nor inhibit their ability to commit similar actions in the future.

The vast majority of the provisions within the settlement only formalize the status quo. Of the remaining provisions, none will effectively prohibit Microsoft from abusing its current monopoly position in the operating system market. This is especially important in view of the seriousness of Microsoft's past transgressions.

Most important, the proposed settlement does nothing to correct Microsoft's previous actions. There are no provisions that correct or redress their previous abuses. They only prohibit the future repetition of those abuses. This, in my opinion, goes against the very foundation of law. If a person or organization is able to commit illegal acts, benefit from those acts and then receive as a "punishment" instructions that they cannot commit those acts again, they have still benefited from their illegal acts. That is not justice, not for the victims of their abuses and not for the American people in general.

While the Court's desire that a settlement be reached is well-intentioned, it is wrong to reach an unjust settlement just for settlement's sake. A wrong that is not corrected is compounded.

Sincerely,
Ryan Dewalt
Ryan Dewalt rdewalt@meridianksi.com
tet@solfire.com—PCCG

MTC-00025203

From: Lura and Dave Ratts
To: Microsoft ATR
Date: 1/25/02 6:05pm
Subject: Microsoft settlement

I want to express my concern that the Microsoft settlement is so long in coming. I feel strongly that we need to stop harassing Microsoft. Microsoft has already agreed to hide its internet explorer icon from the desktop.

Any further action serves only as a gift to the competitors of Microsoft. No money will go to the consumers, supposedly the ones who have been hurt by Microsoft's icon's being on the desktop when the software is purchased and installed.

I know that I made a conscious decision as to which browser I wanted to use, even though the Microsoft icon showed up on my desktop. Surely that is not too difficult to do for the average consumer. We need to allow the competition that exists between companies to do its thing. It is not right to artificially "set" the competition in order that one company or another has an advantage over the others. It would be the same as making Safeway change some of their ways of doing business just because other grocers are not able to do as well.

This sets a terrible precedent for the future. One of the things that makes America great is the free enterprise system!

Thank you for your interest in my opinion.
Lura Ratts
Vancouver, WA

MTC-00025204

From: ronaldon@bellsouth.net@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

Please lets end the fight against microsoft so that they can put the money they spend on lawyers into new and better software. My personal opinion is that a lot of the productivity that is being experienced now is the direct result of computer technology of which microsoft is the leading company in the software industry.

Thanks
Ronald Don

MTC-00025205

From: hornswamp@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I support the settlement with Microsoft. I believe Microsoft is a great company. They have greatly benefited my business with their software. I think our government should put its resources to better use rather than continuing to harrass a fine company like Microsoft.

MTC-00025206

From: Cookiegramma@Juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

I believe in free business. If you invent an idea it shouldn t be taken from you. Jealousy is the usual reason.

MTC-00025207

From: Roy Weeks
To: Microsoft ATR
Date: 1/25/02 6:03pm
Subject: Microsoft Settlement
To: DOJ:

It seems to me that today in this country the government is out to take as much money from every legitimate business it can; tobacco whose product was, and still is a legitimate product for those over 21 years of age. In fact it was legal for years for those 18 and over in many states. What compounds your hypocrisy is the fact that you enjoy millions of dollars for pet programs on the backs of those who choose of their own free will to purchase tobacco profits; ref. federal tax on tobacco products.

Additionally, the federal government subsidized the tobacco farmers for many years probably still does. Now you have sued one of the most successful high tech corporations in the history of this nation because they provided the "best" product to the American public. It's time to get off your pedestal and rethink what your greed for these successful company's profits....you already take too much from "john q. public." You've lost this citizen's respect based on your past and present actions.

Roy L. Weeks
Roy L. Weeks
rweeks@cableone.net
CC:MSFIN@microsoft.com@inetgw

MTC-00025208

From: dbuckley@clevelandgear.com@inetgw
To: Microsoft ATR
Date: 1/25/02 5:55pm
Subject: Microsoft Settlement

hands off Microsoft. government s role is to protect me under the constitution supply me with water roads and control the enviroment though limited taxation. other than that let the free market control itself.

MTC-00025209

From: john licht III
To: Microsoft ATR
Date: 1/25/02 6:07pm
Subject: Microsoft Settlement

John Licht
331 Harbor Place SW
Fort Walton Beach, FL 32548-6503
January 25, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The government has been harassing Microsoft for over three years now and it is time to put the issue to rest. A settlement has been reached and the terms are fair, the government should accept it and move on.

Some people believe that Microsoft has gotten off easy; in fact they have not. The main issues have been settled. Microsoft has agreed to give computer makers the flexibility to install and promote any software that they see fit. Microsoft has also agreed not to enter into any agreement that obligates computer makers to use only Microsoft software. Microsoft has also agreed to provide their competitors with part of the Window's base code in order for them to develop more compatible software.

Microsoft has given up much in order to settle. It is time to allow them and the US economy to move forward. Please accept the Microsoft antitrust settlement. I am really tired of hearing Oracle, Sun, and Aol whine?

Sincerely,
John Licht

cc: Representative Jefferson Miller

MTC-00025210

From: John Crean
To: Microsoft ATR
Date: 1/25/02 6:07pm
Subject: microsoft settlement

If Netscape was a superior product I would be using it.

It is not and never will be.

This is a ridiculous action by an inferior company to gain an advantage.

The only thing Microsoft is guilty of is supplying the public with a quality product. The free market is the judge not Netscape

John Crean
Oneonta NY

MTC-00025211

From: Mohammad Shakeri
To: Microsoft ATR
Date: 1/25/02 6:07pm
Subject: Microsoft Settlement

Although AOL has been lobbying against the settlement through it's media power Time Warner, I believe that the settlement terms are reasonable and fair to all parties. The terms of the settlement are tough, but it represents the best opportunity for Industry and Microsoft to move technology forward and offer the best solutions to customers.

Thank you,
Mohammad Shakeri

MTC-00025212

From: gihuey@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:08pm
Subject: Microsoft Settlement

When the whole world is crashing around our ears and the DOJ continues to work with companies such as AOL, Sun, and Oracle to destroy a company who?

s makes better products then they do is flat out wrong. To allow people that are filled with hate (and yes, the word is not even close to strong enough), let me repeat, HATE Microsoft, they are not out for the welfare of the American people, they have only one addenda in mind and that is to destroy Microsoft. Please do not let this happen. If nothing else, a class action law suite needs to be brought against companies like AOL, Sun, and Oracle for the harm they have done to Microsoft and the American people by using the courts instead of producing a better and affordable product in the market place.

Please stop the madness. Please quit hurting the American people and kick these cases out of the court.

CC:gihuey@hotmail.com@inetgw

MTC-00025213

From: Karausthomasb@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:05pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Thomas Karaus
1057 So. 28 St.
Omaha, NE 68105

MTC-00025214

From: Jeff Zheng
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 6:08pm
Subject: Microsoft Settlement

I am for the Microsoft settlement.

It's time for the companies to drop the lawsuits and get on with the business of competition.

MTC-00025215

From: cr—perry@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:04pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

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This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Clint Perry
797 W Walden Hills Dr
Murray, UT 84123-5407

MTC-00025216

From: cvinson
To: Microsoft ATR
Date: 1/25/02 6:09pm
Subject: Microsoft Settlement
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this letter is to encourage the swift enactment of the settlement reached between Microsoft and the Justice Department. Over the past few years, I have followed the litigation process with great interest.

In this time I have been increasingly upset with the amount of time and money that have been wasted over this dispute. I believe that the terms of the settlement are fair and that the agreement should be enacted.

Microsoft has made many concessions throughout this mediation process. Microsoft has agreed to license Windows at the same rate to the larger PC manufacturers. In addition, Microsoft will also agree to disclose information regarding the internal interface design of Windows. Microsoft has also provided for the creation of the technical board that will review the stipulations of this case.

Microsoft has made many compromises in an attempt to resolve this issue. I trust that the Justice Department would concur and enact the settlement with haste.

Sincerely,
Clay Vinson
1602 Syracuse Drive
Richardson, TX 75081

MTC-00025217

From: ron.baker@blackwell.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:07pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

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This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Ron Baker
20444 S. Sweetwood Lane
Oregon City, OR 97045

MTC-00025218

From: Paul Tomori
To: Microsoft ATR
Date: 1/25/02 6:10pm
Subject: Microsoft Settlement—remove the chains that bind Microsoft... show some respect for our capitalistic ways

To Department of Justice,

With regards to the current legal issues concerning Microsoft, I would like to stand behind Microsoft.

It is apparent that the practices undertaken by Microsoft, if they had been taken by a smaller company on the rise, would have been rewarded. They would have been congratulated on their competitive strategizing and their superior products. It is only because Microsoft is a big company and that its competitors whiners that this has come to a legal battle. Had Microsoft been small and relatively unknown, there would not be this case. It is because they are big that the issue is at hand. They are being punished for being good at what they do... This is symptomatic of our "age of resentment" and a culture who asserts its "entitlement" to the unearned.

My entire company used to use Netscape. We put up with the bugs in their software and the inconsistencies of layout in trying to design websites. When Microsoft came out with their superior browser, we dumped Netscape BY CHOICE and now eagerly await any new innovations Microsoft is able to introduce. If it weren't for the innovations presented by Microsoft and of their commitment to produce cutting edge consumer products, I would not have my business; I would not have my career.

With regard to this over pricing issue... how utterly absurd! I don't think they charge enough !! Show some respect for the core values of America. Let Microsoft be free to design its products as it sees fit and to attach whatever price they so desire. If people don't like the price, they can do without!! If Microsoft tries to price their products too high, the competition will move in. I thought this was the beauty of capitalism. I thought this was the differentiating aspect of America. I thought this was the seat of our example to the world that democracy coupled with capitalism is the only truly ethical system. The funny thing is... I believe Microsoft is only just getting started. There is so much left to do in the world of computing... from Business services to Health services to Artificial Intelligence to communications... etc... etc... Microsoft will rise to these challenges. That is if you let them continue unhindered.

Thank you,
Paul Tomori
Paul Tomori, President
ACTION Corporation
Website Management Excellence
http://www.ActionCorporation.com
paul@ActionCorporation.com
ph. 1–905–734–1780
fx. 1–905–734–7093
cp. 1–905–933–8616
tf. 1–866–848–7778
CC:MSFIN@Microsft.com

MTC–00025219

From: Richard Power
To: Microsoft ATR
Date: 1/25/02 6:12pm
Subject: Microsoft Settlement

LeavesFolks, it's time to put all this nonsense behind us. We, as consumers, were never hurt by Microsoft. We were helped. Legal action against Microsoft is and always was totally unwarranted. Just settle it and let's get our economy back rolling again.

Richard Power
Attorney at Law
P.O. Box 476
Shingle Springs, CA 95682
(530) 677–6344
www.appealsunlimited.com

MTC–00025220

From: Phillip Cripps
To: Microsoft ATR
Date: 1/25/02 6:08pm
Subject: Microsoft Settlement

I believe that the proposed Microsoft/DOJ settlement is not in the public interest for the following reasons:

1. Microsoft has been found guilty of crimes but the proposed settlement does not punish them—it only modifies certain future behavior.
2. Proposed limitations on their future behavior are not adequate since Windows XP already extends the Microsoft monopoly.
3. The proposed settlement fails to remedy the findings of fact.
4. Microsoft does not admit guilt.
5. Microsoft violated the Tunney Act by lobbying the Vice President and members of Congress and failed to appropriately disclose it.

I urge you to do the right thing and reject the settlement and impose remedies that will properly reflect the seriousness of Microsoft's illegal monopolistic activities.

Phillip Cripps
6945 De Celis Place
Van Nuys, CA 91406
818–994–8055
philads@webintellects.net

MTC–00025221

From: Shelley Way
To: Microsoft ATR
Date: 1/25/02 6:14pm
Subject: Microsoft Settlement

I have worked at Microsoft for over ten years. It has been an incredible experience to be part of this company. I started here supporting customers on Microsoft products. This companies success has been in listening to what customers want and delivering it.

I have seen this company grow from approximately 10,000 employees to over 50,000 employees. I have seen the tremendous growth of high tech jobs in the Puget Sound region and throughout the United States. It amazes me that the Clinton administration can take credit for our unprecedented economic growth and yet attack the company that significantly contributed to that growth over the past decade. I can assure you that Microsoft employees in general are hard working, smart, and driven to change the world through technology. We are also people of integrity. We compete aggressively with other software companies, but isn't that the nature of a capitalist society? Microsoft employees are also very generous. Hundreds of employees quietly donated hundreds of hours and hundreds of thousands of dollars to charity as well as contributing time and resources to disaster relief efforts such as the recent tragedy in New York on September 11th. I have also seen millions of dollars donated to charities since I started. Libraries and schools around the world have benefited from Bill and Melinda Gates and Microsoft's prosperity.

The Windows product has created tens of thousands of jobs across the United States, and provided great opportunities for even our competitors. I don?t think it is in the US consumers, our economy, or the high tech industry's best interest to bring down this company.

In the short sidedness and self-serving attitude of the DOJ and our competitors, they have brought this suit against Microsoft. Judge Jackson has sent a dangerous precedent. Based on his interpretation of the anti-trust law, AOL, Cisco, Sun Microsystems, Intel, and Apple are all "monopolists" as well. Waging an attack on these companies as well would decimate our economy and jeopardize the United States preeminent position as the World Technology leader.

I would ask, as a one of the 50,000 employees at Microsoft, to settle this matter fairly and equitably.

Sincerely,
Shelley Way
Seattle, Washington

MTC–00025222

From: filledwiththespirit@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:07pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Elizabeth Jacobs
1308 1/2 Douglas
Wayne, NE 68787

MTC–00025223

From: Dale Hample
To: Microsoft ATR
Date: 1/25/02 6:09pm
Subject: Tunney Act comment re: Microsoft

I am a professor of Communication at Western Illinois University. I have been using computers since 1967, and desktop computers since 1984. I write from the viewpoint of an informed user and concerned citizen. I have no connection with any part of the computer industry, except as a consumer.

As I understand the legal status of the case to this point, Microsoft has been found guilty of establishing its monopoly through illegal means. As a citizen, I am primarily concerned that no individuals or corporation be permitted to retain "profits" obtained illegally.

Convicted kidnappers don't get to keep the ransom, after all. The growth of Microsoft has occurred in good part because of the various predatory business practices they follow, and I hope that the court will take action to undo the profit. It is unreasonable to expect the court to be able to compensate the companies that went out of business, their employees who lost jobs (or who failed in their hopes for entreprenuerial success), or the users who found themselves trying to use software that wasn't supported because the manufacturer was bankrupt.

If you can find a remedy to undo the damage, I hope you will. But even if you cannot, you must destroy the profit. Part of your responsibility is to ensure that no one can enrich themselves by breaking the law, and then just waiting out the length of time that it takes to move a substantial anti-trust case through the court system.

The proposed remedy will not work, in my view. The finding of fact clearly establishes a presumption that Microsoft will certainly try to exploit the inevitable ambiguities in your ruling—inevitable because the computer industry, its products, its services, its very vocabulary, change at a very rapid rate. More, the previous court findings justify the assumption that Microsoft will acatually try to break the law. I am certain that the court is not so naive as to suppose that Microsoft lacked high quality legal advice throughout its monopolistic ascent.

The same lawyers who told them that they could break the law for years before anyone could successfully press a case will tell them the same thing again, within hours of your ruling.

I believe that Microsoft should be broken up, and each of the resulting parts should be placed in such financial straits that they will have difficulty competing. To permit even parts of the present Microsoft to inherit the illegal advantages of monopoly would justify the arrogant contempt for law displayed in Microsoft's actions to date.

Dr. Dale Hample
Dept. Communication
Western Illinois University
Macomb IL 61455

MTC-00025224

From: David Muller
To: Microsoft ATR
Date: 1/25/02 6:10pm
Subject: Microsoft Settlement

I believe the proposed settlement with Microsoft actually entrenches their operating system further in our culture by placing it deeper in the educational system.

I have been affected by their practice of promoting non-compliant standards native to the windows operating system that limit the functionality of my operating system on websites authored with their software. This default "standard", acheived only by the monopoly of their operating system, attempts to cripple the viability of other platforms.

The company demonstrates no concern over it unfair practices, and can surely be expected to continue unless it is appropriately restricted. The current settlement is much too favorable to Microsoft and does not go far enough in establishing effective controls.

David Muller
Ransomville, NY 14131

MTC-00025225

From: Torgeir Kateraas
To: Microsoft ATR
Date: 1/25/02 6:12pm
Subject: Microsoft Settlement

I support Microsoft Torgeir Kateraas

MTC-00025226

From: SCS
To: Microsoft ATR
Date: 1/25/02 6:19pm
Subject: Microsoft settlement

Dear Sir/Madam:

I strongly support the present agreement, between the DOJ and Microsoft, to end the anti-trust litigation.

To impose further restrictions on Microsoft goes beyond reason and gives its competitors advantages—by way of legal remedies—that they cannot get in the market.

Truly yours,
Sergio C. Stone
CC:MSFIN@microsoft.com@inetgw

MTC-00025227

From: shell.net.nz admin
To: Microsoft ATR
Date: 1/25/02 6:13pm
Subject: Microsoft Settlement

I think the proposed settlement is bad idea, enough said.

- Mr Blair Absalom
- Westport, BULLER
- New Zealand
- Network Administrator—Team SNZ
- admin@shell.net.nz
- www.shell.net.nz

CC:petition@kegel.com@inetgw

MTC-00025228

From: GGGhosn@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:15pm
Subject: Microsft Settlement

To Whom it may concern,

It is obvious to all that this is a misguided political vendeta against Microsoft. Everysence this case has started the market and then the economy has suffered.

It is time to let free enterprise work and get the economy going again.

It is a shame the companys that are backing this suit against Microsft connot see that they are cutting their own throats by destroying the market and the economy.

Sincerly,
George G. Ghosn DDS MAGD FICD FPFA

MTC-00025229

From: mxw9@attbi.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:16pm
Subject: Microsoft Settlement

Please accept my comments suggesting that the settlement proposed by Microsoft, the DOJ, and 9 states, be accepted without modification.

This case has gone on now for several years. During those years consumers have enjoyed lower and lower pricing, increased performance and capabilities of both hardware and software, and what can only be described as the fruits of competition on every front.

. To suggest that there isn't competition in the OS market is silly: just walk down the isles of any computer store and look at the dozens of variants of Linux for sale. In Fry's, which is a massive computer store in the Bay Area, you will find more books on Linux than on Windows. The Mac section is also overflowing.

Please don't let this case drag on forever. We consumers are in favor of the settlement and want it to be resolved.

Mark Wagner
2150 E. Interlaken Blvd
Seattle WA 98112

MTC-00025230

From: Sherene Kershner
To: Microsoft ATR
Date: 1/25/02 6:16pm
Subject: Microsoft Settlement

I believe the settlement that is being proposed for the Microsoft Anti-trust case is reasonable and fair. I believe it should be adopted.

I believe it is time to resolve this issue and move on.

Thank you,
Sherene Kershner
14445 NE 40th #D-102
Bellevue, WA 98007
(425) 556-9346

MTC-00025231

From: Robert Dale
To: Microsoft ATR
Date: 1/25/02 6:14pm
Subject: microsoft settlement

Gentlepersons

I believe the proposed settlement is as wrong as if you were handing out a stern look to the guys at Enron. Microsoft's predatory, piratic monopolistic practices have been egregious and harmful to every computer user in the world, and they must not be allowed to continue in this vein.

Robert C Dale

MTC-00025232

From: Jim (038) Marian Buss
To: Microsoft ATR
Date: 1/25/02 6:21pm
Subject: Microsoft Settlement

Honor the settlement! Get the courts and Politicians out of Technology. In the end Technology and consumers lose! Help get the economy moving with Microsoft innovation. Put taxpayers money to better use!

AOL is the biggest conglomerate the world has ever seen!!!

MTC-00025233

From: BeanieCBS@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:18pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel

going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Carol Hilmers
7915 Shady Grove
Houston, TX 77040–4416

MTC–00025234

From: Nathaniel Gray
To: Microsoft ATR
Date: 1/25/02 6:18pm
Subject: Microsoft Settlement

To Whom it May Concern,

I write this letter to state my opposition to the proposed settlement of the Microsoft antitrust case. It does nothing to punish Microsoft for their destructive anticompetetive past behavior or restore competition to the operating systems market and makes only superficial gestures at preventing additional anticompetetive activity in the future. In particular, the open source software community, which in many areas is offering the only viable competition to Microsoft products, appears to be left out in the cold. For example, the proposed settlement gives Microsoft too much leeway in deciding what projects to cooperate with on matters of interoperability.

Section III.J.2.b of the proposed settlement allows Microsoft to veto the licensing of certain APIs, documentation, and communications protocols to any person or entity which does not meet "reasonable, objective standards ESTABLISHED BY MICROSOFT for certifying the authenticity and viability of its business." (emphasis mine) Open source projects are often not-for-profit enterprises, and thus there is no business to judge in this manner. In addition, given Microsoft's past conduct it is outrageous that they should establish the standards by which interoperability decisions will be made. Another baffling oversight of the proposed settlement is its failure to compel Microsoft to make public its many unpublished file formats. One of the most significant barriers to success that any new office software project faces is achieving the ability to load and save documents in Word, Excel, or Powerpoint file formats. Forcing the publication of these formats would finally allow viable alternatives to Microsoft Office, reintroducing competition to a market that Microsoft has monopolized almost as effectively as the operating systems market.

These are but two examples among many complaints I have against the proposed settlement. Rather than repeat the arguments of others I will simply refer you to Dan Kegel's thorough and insightful analysis of the proposed settlement at:

http://www.kegel.com/remedy/remedy2.html and Zimran Ahmed's open letter at: http://www.winterspeak.com/columns/121001.html which analyzes the effect of the proposed settlement on several well-established and legitimate open source projects. In addition, please read the GNU organization's proposals for remedies that would have a real and significant effect on competition in the operating system and application markets:

http://www.gnu.org/philosophy/microsoft-antitrust.html

Microsoft's criminal actions have led to an impoverished computing landscape of closed de-facto standards and no competition. Any settlement which fails to punish Microsoft in a real way for these actions and enable effective interoperability with Microsoft products for commercial AND non-commercial competitors is not just. Any settlement that does not include strong measures to ensure its own enforcement is not just. The current proposed settlement is such a settlement. Please do justice for the American consumer by rejecting it.

Thank you for your attention,
Nathaniel Gray
Graduate Student
California Institute of Technology
Computer Science Department

MTC–00025235

From: lpb@apocalypse.org@inetgw
To: Microsoft ATR
Date: 1/25/02 6:19pm
Subject: Comment on the Microsoft Settlement

Dear Justice people:

I started working with microcomputers in 1985. Back then home and business users had choices of several different kinds of computers. There were Ataris, Commodore 64's, Apples and Apple Macintoshes, and IBM compatible computers, to name a few. There were several different hardware and software platforms. Things weren't compatible with other things, but people shopping for computers had several good choices that provided different features and different price points.

You'll notice today that people have only a few choices when they want a computer. If you go to the store, you can buy a PC running Microsoft Windows, or a Macintosh. The Mac software shelf is much smaller than the PC shelf.

And you know what? If you buy a PC, you take it home and instantly get attacked by viruses and identity thieves. Then you have to pay Microsoft even more money for an "upgrade" that fixes some bug that makes it impossible to get any work done.

You'd think in the last fifteen years that computers would have gotten easier to use, but they haven't. Microsoft keeps saying that their stuff is winning because of better quality, not because they are a monopoly. I don't believe it for a second. I've been here a bit, and computers were easier to use in "85 before Microsoft owned everything.

Lauren P. Burka
305 Walden Street
Cambridge, MA 02138
(617) 876–3574

MTC–00025236

From: Charles Graham
To: Microsoft ATR
Date: 1/25/02 6:17pm
Subject: Letter to the Justice Department regarding Microsoft Settlement

Dear John Ashcroft,

Attached please find my response to your request for input on the Microsoft settlement. Good Luck.

Sincerely,
Chuck Graham
Salem Automation Inc.
4500 Indiana Ave. Suite 40
Winston-Salem, NC 27106
cwgraham@sai-net.com
Phone 336–661–0890xl 06
Copied to Sue Myrick- US House Rep.
CC: Jesse Helms

MTC–00025236—0001

Falem Automation Inc.
Systems Integration Specialists
4500 Indiana Ave. Suite 40
Winston-Salem, N.C. 27106
Phone 336 661–0890 ext 106
cwgraham@sai-net.com
January 25,2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

As a member of the software industry since graduation with a BSCIS and BSBA from Ohio State University since 1984, a Microsoft stockholder and a Microsoft business partner, I find it refreshing to see this ugly chapter of government interference in the fast moving high tech industry coming to a close. Microsoft should be held to the same laws as every other corporation in the land. However, the actual damages to anyone in this case is highly suspect. It appears that this case was brought by a number of companies unable to succeed in the industry without resorting to the courts, and some sympathetic government lawyers eager to hang the Microsoft hide on their wall as a trophy. The issue between Netscape and Microsoft as long since been settled as evidenced by Netscape becoming a Microsoft business partner. Microsoft came up with their own browser, a fairly simple piece of software, rather than buy Netscape licenses for it's thousands of employees. Since the development of the browser was already paid for, they offered the browser as part of their operating system to enhance their Internet presence. I see nothing wrong with this. The general market has flourished well due to the standardization Microsoft provided in operating systems and office suites (Word, Excel, etc.). This country's government should be treating Microsoft as a national treasure. The US government should be approaching Microsoft and asking how we can enhance the development of Microsoft and grow the software industry in the USA as it is one of the few industries with any future in the USA. We are lucky that Bill Gates didn't pack up his company and move it across the border into Canada. Other countries would nurture a wonderful success such as Microsoft, not try to tear it down.

This lawsuit caused the technology bubble to burst and caused more loss in shareholder value for millions of Americans than any other single event in history. If I was a government lawyer, this is not the legacy I would want to leave behind. A legacy in which millions of Americans were robbed of their retirement savings, a legacy of millions of layoffs and company closures. And for what? What did this lawsuit actually accomplish? Even if Microsoft had been broken up, was this a good thing for America? Once again, what could the motives behind this lawsuit be other than a bunch of "has been" sour grapes from companies like Sun Microsystems who got together with a bunch of underpaid government lawyers who want to make a name for themselves and fostered by the Clinton administration who may have been angry with Microsoft for not contributing enough to the Clinton campaign. Isn't there a better use of the justice department's time than this? Isn't there any "real" criminals that you should be focusing on? The settlement, three years and three months in the making, is an agreement that fosters competition, increases innovation and ensures that all parties involved will be held accountable. Microsoft has agreed to a series of provisions that go above and beyond the government's original list of grievances. Windows operating system internal computer interface and native server interoperability protocols will be released by Microsoft to it's very own competitors—that is uncalled for, but true -and a first. Microsoft will help its competitors compete with it by making it easy for them add and remove software in. Windows. This settlement should be the end of this judicial debacle and the final chapter in this unfortunate saga. I strongly urge your office to take no further federal action against Microsoft and encourage the states to follow suit. Thank you.

Sincerely,
Charles Graham
Vice-President Salem Automation Inc.
C: Jesse Helms-
Sue Myrick
NC Senator
NC House Representative

MTC-00025237

From: jonathan—tolson@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:03pm
Subject: Microsoft Settlement

The government can be helpful in many areas,international trade and diplomacy to name a few. But I believe in the new economy it has bitten off more then it should chew. The software industry is a grotesque anomoly of companies of yesterday and today, enemies, allies, and then ememies once again all merged into one. They are fighting together against a force which is unstoppable by any government force this is time and progress. Every minute that passes the highly perishable goods of software become rotten. The wares must succeed or be trumpled by big business, world political powers, or even little children on a PC. This market is too dynamic to be understood and acted upon by any government. Even one as progressive as ours. It is a valiant effort, however inhumane, to control such an animal in the way that has been done. Billions of dollars of progress have been miss spent to defend against the possibility of massive controls.

Disservice has already been done to the United States and the rest of the world. Is more punishment necessary?

Jonathan Tolson
Tulsa, OK 74105

MTC-00025238

From: Nelson Burrell
To: Microsoft ATR
Date: 1/25/02 6:20pm
Subject: miocrtosoft. suit

DEAR SIR :

I WOULD LIKE TO SEE YOU ACCEPT THE SETTLEMENT AS PRESENTED BY MICROSOFT AND LET THE MARKET PLACE DECIDE WHO CAN DELIVER THE BEST SERVICE.

SINCERELY;
NELSON

MTC-00025239

From: Ray D'Andrade
To: Microsoft ATR
Date: 1/25/02 6:21pm
Subject: Microsoft Settlement

I have been using Microsoft products for many years now. I am a computer consultant and I work in many different systems. Their products far exceed the quality of their competitors on the market. In addition, their products are well marketed. They made it easy for anyone to develop software for their platform, and that is why there is more third party support for their platform than any other. These are the reasons that they have the market share of desktop PCs. Now they are starting to dominate the server and backoffice market for the same reasons. I have used competitors products for desktop software and backoffice, and no other competitor comes close to the low cost, high functionality, and high user-friendliness, and customization of Microsoft's products.

The people that I know that work there say that it is an excellent company to work for and it's well managed. They are model for other technology companies to follow. The bottom line is that Microsoft is a well managed company that develops some of the best software that is available on the market. This is why they dominate the market, NOT because of unfair business practices. The initial settlement was unfair to Microsoft because they did not do anything wrong. Any further pursuit of action against Microsoft is even more unfair. You are punishing a company for creating excellent products at affordable prices.

I look forward to the day when these hearings are over and we can all get back to business as usual. No further action is required against Microsoft. The punishment Microsoft received far exceeds what it deserves.

A concerned citizen and technology business owner,
Ray D'Andrade
Bright Network Solutions, Inc.
Princeton, NJ

MTC-00025240

From: Gayle Green
To: Microsoft ATR
Date: 1/25/02 6:21pm
Subject: Microsoft Settlement
4119 North Simpson Road
Otis Orchards, WA 99027–8721
January 12, 2001
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I support the settlement of the Microsoft Antitrust Case. I am outraged about the amount of money and time that has been devoted it. This case should not have been brought in the first place. I am even more outraged by the handling of the case by the judiciary. I believe firmly that the government should simply drop the case against Microsoft, however, as the likelihood of this happening is slim, I support Microsoft's agreement to comply with the terms of the settlement agreement in the interest of ending this costly, wasteful, unwarranted, and needless litigation.

The terms of the settlement are more, considerably more, than fair, just, and reasonable. Microsoft has gone far above and well beyond what should be expected of it. Microsoft has agreed to disclose to its very competitors the interfaces that are internal to its proprietary Windows Operating System. Similarly, Microsoft agreed to not enter into contracts with third parties that would require that third party to exclusively promote or distribute Microsoft products. There should be no hesitation in accepting these terms; no hesitation on the part of the Department of Justice; and, no hesitation on the part of the Court. A nation that hesitates in times of crisis is lost.

And our nation is facing a crisis. I believe firmly that this case was brought as a result of the government's ongoing pattern of interfering with successful American businesses.

Innovative companies, like Microsoft, should be free to further their businesses. When innovative American companies are allowed to freely innovate, American businesses, American consumers, and the American economy in general, will benefit.

Thank you in advance for your attention to this matter and, please, let our nation move forward.

Sincerely yours,
Gayle E. Green

MTC-00025241

From: Peter Ollodart
To: Microsoft ATR
Date: 1/25/02 6:21pm
Subject: Microsoft Settlement

Dear Sirs/Madams:

I wanted to provide comment on the settlement proposal between Microsoft and the Department of Justice Antitrust Suit. I strongly believe we need to finalize this settlement and put this case behind us. It's been going on too long and not settling it at this point does nothing but drag down the economy and helps a few other non-competitive companies whose real motive has nothing to do with the case. This is particularly important at a time when our justice system needs to focus on eliminating terrorism and making our country a safe place to live and work. I have always thought this suit was counter-productive. This suit has been a drag on the high tech economy brought on by our own government. It has been blown way out of proportion and has done a lot of harm to Microsoft, the PC industry and the cottage industry that depends on Microsoft for their livelihood. Quite frankly, it hasn't helped our competitors either. The collapse of the .coms has clearly shown that Microsoft competitors chose a path that relies on over-inflated business plans that are not competitive in the marketplace. It was never clear to me that consumers were ever harmed by Microsoft. In fact, the opposite seems true, where more and more people are able to enjoy computing because of Microsoft. I believe this is a fair settlement that allows enough control while not choking the life out our company. I for one would like it just to be over.

Regards,
Peter Ollodart

MTC-00025242

From: LPhysics@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:20pm
Subject: microsoft settlement

I think it's outrageous that MS has been allowed to bully their way to the top for all these many years. Their requirements to place their browser on the desktop at the expense of Netscape, earlier requirements to bundle Office with machines or not get the latest OS on time, the original complaints that third party developers wouldn't get info about the latest OS until MS had the market wrapped up with their own offerings are all textbook examples of MS promoting and protecting their monopoly in the OS and now the browser market.

As much as I dislike the government sticking their noses where it doesn't belong, it is the only way to protect the public when the free market has been manipulated and subverted as it has by Microsoft. At the very least they should have their business highly regulated and possibly broken up into competing branches. I recommend separate companies for OS and applications. Gates, Balmer, et al should not be able to sit on both boards. The government should constantly monitor the business decisions by both companies (a nonvoting member on each board perhaps) and report back monthly to the Justice Department. As for MS offering to donate used machines and their software to poor schools . . . what a crock! It makes absolutely no sense to let them use a punishment to move into the education market and make even more schools dependent upon their software.

Please help to repair the free market place and slow down the MS juggernaut!!

Lane Hoback

MTC-00025243

From: Peter du Fosse"
To: Microsoft ATR
Date: 1/25/02 6:27pm
Subject: Microsoft Settlement

Any settlement that goes through should be eyed critically and not in ANY way offer any benefits to MS in terms of their barely slowed monopoly. Enforcing a choice for all PC-makers as well as encouraging compensation for companies hurt in the past by their monopolistic behavior would also be a good start (Netscape, IBM, Apple, etc.)

This will determine the future of computing and if you want it to be as lackluster as it has been, with only the interesting things coming from companies *OTHER* than MS, you need to do open the market(s) to *REAL* competition again. (remember the days of 5–7 different "mainstream" computer OSes? I barely do either!)

Thank you for your time.
-Peter du Fosse"
Pete du Fosse"
Photoshop QA
Adobe Systems, Inc.
345 Park Ave. W10–306
San Jose, CA 95110
408.536.3296

MTC-00025244

From: William Liu
To: Microsoft ATR
Date: 1/25/02 6:29pm
Subject: Dear Judge,

Dear Judge,

Microsoft is an organization that has abused it's position as a leader in operating systems software. I have used their products for over eight years and I feel that the upgrades and bugs have cost me and my family hundreds, if not thousands, of dollars. Not only are the upgrades flawed themselves, most users know that they will be needing a newer version in only a couple of months. Something needs to be done to strictly monitor and regulate this problem because the consumers are suffering without reason. Thank you for your time

Will Liu
7143365923
Orange, CA
CC:microsoftcomments@doj.ca.gov@inetgw

MTC-00025246

From: Dan Dittenhafer
To: Microsoft ATR
Date: 1/25/02 6:26pm
Subject: Microsoft Settlement

To whom it may concern,

While the terms of the settlement are tough, I believe they are reasonable and fair to all parties, and meet—or go beyond—the ruling by the Court of Appeals. I support the settlement of this case based on the current terms.

Thank you,
Daniel Dittenhafer
1203 White Oak Cir.
Melbourne, FL

MTC-00025247

From: Smith Kevin
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 6:28pm
Subject: Microsoft Settlement
Re: Comments on the Proposed Microsoft Settlement Agreement
To: Renata B. Hesse, Anti-trust Division, USDOJ
Fr: Kevin A. Smith, Chairman, Arkansas Senate Technology Committee

I just want to add my comments in favor of the Microsoft Settlement. I think it is the right balance between Microsoft's market strenght through the use of its O.S. while allowing continued innovation in software development. Thank you for striking a good and fair balance for the people of the United States, and for innovation in the marketplace (which also helps the US).

Kevin A. Smith

MTC-00025248

From: den geil
To: Microsoft ATR
Date: 1/25/02 6:27pm
Subject: Microsoft Settlement

Gentlemen: I am strongly in favor of a settlement now of the Microsoft fiasco the Clinton engineered. Lets get this settled as currently proposed.

Denis W. Geil, Reno, Nv

MTC-00025249

From: Justin Merkovich
To: Microsoft ATR
Date: 1/25/02 6:24pm
Subject: Microsoft Settlement

To Whom It May Concern,

I want to voice my displeasure with the apparent "kid gloves" approach to the recent Microsoft case. As a user who primarily employs a Macintosh I have to say that I have been on the receiving end of Microsoft's deplorable business practices for quite some time. I wish it to be known that I will be very disappointed in what I will view as acquiescence on the part of the Department of Justice should the DoJ decide not to press Microsoft on its business practices. How long will the government stand for the monopolistic position of Microsoft and the abuses that it enjoys as a result? Are you really afraid that the economy will collapse if you rein in this behemoth? Did communication in the U.S cease to exist when "Ma Bell" was split up? Now is the chance to give competitors a level playing field and let Microsoft stand on the merits of its products rather than on the free rein that the U.S. government has given it to destroy its competition. I don't expect that Microsoft will be sanctioned in any way as a result of this letter or the many other thousands like it that you have surely received. The Department of Justice has given me no reason to believe that it will do ANYTHING to curb Microsoft's DOCUMENTED abuses in light of the fact that it has had chances in the past which were not taken advantage of and that it appears that this opportunity has been squandered as well.

In short, if Microsoft's practices are not a clear cut case of abuse from which the Department of "JUSTICE" is designed to protect the citizens of the United States from, then I don't know what constitutes abuse or what the Department of Justice is doing to protect me. I hope my voice can add to the din of outrage at the apparent bowing to the whims of Microsoft.

Thank you for your time,
Justin Merkovich

MTC-00025250

From: Rick Rousseau
To: Microsoft ATR
Date: 1/25/02 6:27pm
Subject: Microsoft Settlement

To Whom It May Concern:

I've been a computer professional for the last decade working both in systems administration as well as software engineering. I find the proposed Microsoft Anti-trust settlement inadequate and unacceptable. Nothing short of dividing Microsoft's business into seperate operating systems and applications business units makes sense. That's not even taking into consideration any punitive measures that should be imposed on Microsoft for it's unlawful practices.

Please consider your actions carefully.

Rick Rousseau—computer troll

Nearly all men can stand adversity, but if you want to test a man's character, give him power.

—Abraham Lincoln

MTC-00025251

From: DAHud80@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:30pm
Subject: Re: Has Your Opinion Been Counted?

We feel that Microsoft has been un fairly picked on and now is the time to cease and decist any further charges. We have been very happy with Microsoft and thank them for all their help in the computer industry. So lets get off their back.

Sincerely DAHUD80

MTC-00025252

From: colette bottinelli
To: Microsoft ATR
Date: 1/25/02 6:33pm
Subject: Microsoft Settlement

Dear Sir or Madam,

I am writing to voice my support for Microsoft in the DOJ case. I have grown tired and impatient with this matter, as it is clearly a case funded and formed by Microsoft's competitors, NOT its customers (as its competition has been positioning the case).

Microsoft has been accused of overcharging its customers for software. I encourage you to take an audit of what the competitors are charging for their software (and what you get for that price). I believe you will find that Microsoft products are competitively priced, and often offer many more features/benefits to the customers than many other products that are on the market today.

I would also like someone to explain to me how Microsoft can be tagged as a "Monopoly"—while a huge media conglomerate such as Time/Warner, and AOL/Netscape (who is now known for "owning" the internet) can be allowed to join forces without anyone batting an eye?! It has reached the point of being ridiculous.

It is a sad state of affairs this country has found itself in, when lawsuits become the first call to action instead of a last resort. Companies like AOL believe that by suing, they can keep competitors on the defensive and stop them from creating an offering that is better than their own product. AOL has market share dominance, and they have decided that in order to protect that market share they must sue a competitor rather than improve their product to retain/attract more customers. This is a lazy, unethical business practice. I think they have truly embarrassed themselves with this action.

If the government allows these absurd law suits to continue, it will soon have on its hand a crippled industry that has not moved forward in innovation due to forced stagnation. What we will see is more American jobs lost, and foreign competitors soon owning the high-tech sector. It's time to put a stop to this and send a clear message to companies that truly do not have the customers interest at heart, but are using this guise to further their own selfish and uninspired agendas.

Thank you for your time and consideration.

MTC-00025253

From: aauer@deadprogrammers.org@inetgw
To: Microsoft ATR
Date: 1/25/02 6:27pm
Subject: Microsoft Settlement

Dear Sirs/Madams,

I write regarding the ongoing question of remedies in the DoJ vs. Microsoft trial. I am not entirely aware of your policies on considering input from those outside your borders, but given that profound repercussions are likely to be felt from this outcome by industry members and citizens around the globe, I felt that it was imperative that I at least voice my concerns.

It is my opinion, as an IT professional and engineer with computing background, that to ratify the current settlement proposal between Microsoft and the U.S. Department of Justice would be extremely imprudent. Whatever the rationale the Department had in coming to this proposal, I believe it to be erroneous in that it is not only completely wanting in remedy for consumers, but in fact shackles them to further Microsoft monopoly by enshrining many of their monopolistic strategies in legal precedent. Specifically, the lack of requirement to bring the file format of Word into the public domain, the allowance that Microsoft verify entities as "legitimate businesses" (a term as loosely and ambiguously interpretable as they like) and the pencil-thin definitions which will allow Microsoft to continue, and indeed expand, it's unfair monopolistic practices.

I can only hope that this is read, and perhaps, considered.

Very truly yours,
Anthony Auer
CTO, MediaShell Corporation
Toronto, Ontario

MTC-00025254

From: Andrew Lenharth
To: Microsoft ATR
Date: 1/25/02 6:36pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Under the Tunney Act, I wish to comment on the proposed Microsoft Settlement. I beleave the preposed settlement is ineffective in it's attemps to curb Microsoft's anti-competitve behavior.

One of the most effective tools used by microsoft to maintain it's monopoly are propritary file formats used by their application. Without clearly, correctly, and thoughly document file formats, it is extremely difficult for a competitor to create a competing application. This is due to Microsofts monopoly in the office application market. Any competing product that cannot read a microsoft generated file or document has an extremely hard time establishing a foothold, since it cannot deal with the majority of the douments its user receives.

There are many additional problems with Proposed Final Judgement that make it an ineffective tool to combat the finding of fact that Microsoft has anti-competitive behaviors.

Andrew Lenharth
Network Administrator, State of Washington
Debian GNU/Linux Maintainer
Evetett, Washington

MTC-00025255

From: Amy Rogers
To: Microsoft ATR
Date: 1/25/02 6:33pm
Subject: Microsoft Settlement

To Whom It May Concern:

I would like voice my concern regarding the government's actions taken against Microsoft. I appreciate the role of the government in acting as a ?guardian? to protect businesses from unfair practices. However, I do NOT support the continued use of taxpayer dollars to appease those competing with Microsoft. For the most part, those complaining about Microsoft are also huge profitable corporations. They are not small to mid-size businesses that are struggling to get by while Microsoft seeks to destroy them. I believe that if AOL or any of the other big complainers were forced to go through the same scrutiny Microsoft has had to endure for many years they would have failed the test. In fact, many would not remain in business. On the contrary, Microsoft continues to lead the way in technological advances and has also weathered our poor economy well. Despite others efforts to cause the downfall of one of our nations finest corporations it has risen above the controversy and moved forward. It is time for the federal government and remaining states involved in the law suits against Microsoft to move on as well.

As a taxpayer and a voting and concerned citizen I say, ?enough is enough?. Microsoft has agreed to change their business practices. While the standards are tough they have agreed to do what has been declared fair and right by the courts. The law suits need to stop and the government needs to send the message that while protecting fair competition it will not discourage business and technology that gives our nation an edge in the world market.

Microsoft has done far more good than bad. We need more companies like Microsoft to innovate. The freedom to innovate is an important part of our culture and one that allows individuals and corporations to excel domestically and abroad.

Let Freedom Ring!
Amy Rogers
Amy F. Rogers
425–451–1187 Home
425–451–1185 Fax
mailto:amy@doingood.net
CC:Jeff Rogers

MTC-00025256

From: Melanie C. Alexander
To: Microsoft ATR

Date: 1/25/02 6:37pm
Subject: Microsoft Settlement

Dear Sirs:

I protest the laxity of the DoJ settlement in the Microsoft antitrust suit. I am not a software developer, but have been involved in applications development since 1986. I am also a student of history. Microsoft does not make the best operating system or software, but over the years, its unfair practices have beaten down the competition using unfair competitive practices.

The arrogance in Microsoft's response to this suit is too reminiscent of the coal industry, the oil and gas industry, and other ?dirty? industries the trustbusters took on in the past. In these days of business consolidation, and multinational corporations, the Department of Justice should be more representative of the American public, rather than an internationally based corporation looking primarily at the corporate profit picture. I expect the US Department of Justice to take a firmer stand in protection of the rights of American consumers, and the free enterprise system.

MTC-00025257

From: Jolie Maki
To: Microsoft ATR
Date: 1/25/02 6:36pm
Subject: Microsoft Settlement

I agree with the terms of the settlement that the DoJ, Microsoft and the 9 states have painstakingly worked together on. We desperately need to move on to the next set of pressing government issues and leave the business matters of software where they belong, in the hands of the companies that create it, not the courtrooms.

I am truly concerned and disappointed that the "special interests groups" are taking the continued "petty" litigation approach in addressing their shortcomings, to the point of adnauseam. I have always felt privileged to live in a country that supports innovation and forward thinking for the consumers who choose to purchase (or not) such products. However, I believe if we continue this litigation path my faith in the legal process will diminish greatly and our countries economy will continue to suffer as a result.

Please let's get on with it!
Jolie M. Maki
Snohomish, WA
Registered voter- 44th Legislative District

MTC-00025258

From: Scot Ballard
To: Microsoft ATR
Date: 1/25/02 6:32pm
Subject: Microsoft Settlement

Make Microsoft document every file format, and every network protocol so that other software vendors don't have and automatic disadvantage. You should also make sure that they couldn???t dissuade other vendors from actually using these standards.

Do this and you will give Microsoft the right to truly innovate.

Scot Ballard
scot@apple.com
408–974–0575
G.C.S.S.E.

MTC-00025259

From: Bill Durham
To: Microsoft ATR
Date: 1/25/02 6:40pm
Subject: Microsoft Settlement

Honorables,

Under the Tunney Act, I wish to add my voice to those commenting on the proposed Microsoft settlement.

I have perused the Court's findings of fact, and the terms of the proposed settlement. While I do not pretend to be a lawyer, I am a software engineer who has been studying the High Technology industries for well over twenty years. I thus speak as a professional versed in technologic matters.

To put it simply, the court not only has recognized that Microsoft is indeed a monopoly, but they have also found that Microsoft is guilty of actions illegal for such a monopoly—and I find the notion of allowing the convicted to dictate the very terms of its own punishment to be wholly illogical. In examining the proposed remedy, it not only represents a tiny pittance of punitive damage against such a massive entity, but it actually rewards the defendant by giving it the means to extend that monopoly further into a market where they previously held no such status. How, if such a settlement were to be upheld, could it be considered fair and just if the convicted really profits from the so-called "punishment", while their (innocent) competitors are harmed?

Furthermore, it has come to my attention that at the same time that Microsoft was found guilty of violating Sherman, and while proposed remedies have been whittled down to where they actually benefit the convicted, Microsoft has been continuing to thumb its nose, if you will, in the face of justice—and that they are indeed carrying out further predatory attacks against their competitors. The chief complaint I have of late, effecting my own business and career, is the acquisition, last year, of key patents from Silicon Graphics Inc. that could threaten the viability of the only real competitor to Microsoft's Direct3D Software API (Application Programming Interface), namely, OpenGL. If this were to go unchallenged, then Microsoft would be allowed to actually gain control of their competition in this area, and have serious repercussions on the entire 3D Computer Graphics industry including 3rd party software vendors and hardware vendors and even the video game console market.

This is very serious. Microsoft has already been cited for wantonly using the licensing of its own API's, in many areas of Software Development, not just 3D Graphics, as a means to control developers. And allowing this monopoly to now control the licensing of the —competing— API's in 3D Computer Graphics means they now control both sides of that equation—shattering any hope for true competition.

This one example of Microsoft flaunting its might—even in the face of having been found guilty by the Court—is an affront to the very ideals of justice, and would put a dire, oppressive strangle-hold on this industry. If Microsoft prevails in their own sentencing, then I fear they will continue to proceed unabated in their anticompetitive actions.

I know that, given the current sour state of the economy, political "realities" have been suggested as an argument—that in this assumption we must prevent Microsoft's fate from impinging on the economy—nevertheless, for the good of our progeny and for the Rule of Law to be sustained, something extremely —serious— needs to be done to drive home to the convicted party that their actions are to no longer be tolerated in a free and open market. It may still be too much to hope that a serious break-up would be upheld, since—as presumed by many—that such a remedy might actually contribute to the weakening of the economy—but then if that were true, then the very fact that the welfare of just one such corporation could have such an impact on the —whole— economy means that the situation with that obvious monopoly should be rectified to —reduce— its impact, not increase it (as Microsoft's own suggested remedy would cause to occur). If any one company is considered so vital to the whole economy, then, logically, measures must be taken such that we do not have "all our eggs in that one basket."

Please, we beg you, give this considerably more thought.

—Bill Durham,
Independent software engineer

MTC-00025260

From: William Parradee
To: Microsoft ATR
Date: 1/25/02 6:40pm
Subject: Microsoft Settlement

I think the Microsoft settlement is a bad idea.

It will give Microsoft an even more complete monopoly than Microsoft has now.

Some families now use other operation systems and programs. This settlement will cause those families to buy Microsoft products in order to help their children in school. It may keep some children from using other operating systems and programs such as Mac, Linux, FreeBSD, Unix and others. Or any of the other lines of browsers.

If you must order Microsoft to provide computers to schools, order them to install an operating system other than their own—and in good working order. Or perhaps install two operating systems so arranged that either of the two may be accessed and used easily. In that case, perhaps, one of the systems may be their own.

William A. Parradee

MTC-00025261

From: akadug@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:39pm
Subject: Microsoft settlement

Pleas end this costly argument as soon as you can. Douglas Stevens

MTC-00025262

From: Tom Watson
To: Microsoft ATR
Date: 1/25/02 6:39pm
Subject: Microsoft Settlement

The Microsoft settlement is BAD.

Why why why do you let the offender get away and further his monopoly by making schools forced to use the very product that is the subject of the anti-trust action. It makes as much sense as letting a drug pusher give away crack at a school.

NO NO NO!!

Tom Watson I'm at home now!!
tsw@johana.com

MTC-00025263

From: Ronald G Davis
To: Microsoft ATR
Date: 1/25/02 6:39pm
Subject: Microsoft Settlement

The Justice Department should accept the settlement offered by Microsoft and rule to put an end of all lawsuits. Microsoft has used smart business to be at the top of the technical business. Consumers will not be served by continued harassment.

Ronald G. Davis, Portland, Texas

MTC-00025264

From: OKCashel@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:36pm
Subject: Microsoft Settlement

Dear Sir or Madam:

Having followed the Department of Justice v. Microsoft proceedings from the beginning, I believe it is now time to put this matter behind us.

Microsoft is undoubtedly a great American success story; any country would be honored and proud to have them, to reap the vast benefits they have showered on so many for so long, and to take pride in the significant contributions they have made, all over the world. If in fact they did wrong, they have paid the price; we, as a nation, have your pound of flesh, we do not need to draw blood?

Let's get on with business now and focus our attention on much more important matters, such as Enron.

Michael F. Merrick

MTC-00025265

From: Noble Eden
To: Microsoft ATR
Date: 1/25/02 6:43pm
Subject: Microsoft Settlement

Please allow the proposed settlement with Microsoft become final.

Noble Eden, Jr.
5710 Indian Springs
Livingston, TX 77351

MTC-00025266

From: C F Beaver
To: Microsoft ATR
Date: 1/25/02 6:44pm
Subject: Microsoft Settlement

I just wanted to add my voice to the many who say that the agreement reached between Microsoft; the DoJ and several of the states is a reasonable and fair solution to the issues raised by the anti-trust suit.

I believe that the suit was ill-advised from the beginning. In my view, the self-serving actions of Microsoft's competitors initiated a serious and expensive misdirection of industry and national resources, under the false pretense of consumer protection. The negative consequences of that mistaken chain of events are still troubling the nation's economy. Moving on now is in the nation's best economic interest.

Catheirne Beaver
325 Omni Drive
Sparks, NV 89436

MTC-00025267

From: Shirley Adams
To: Microsoft ATR
Date: 1/25/02 6:44pm
Subject: Microsoft Settlement

Please drop this rediculas, ongoing for months & tend to businesses much more important. Ex: Social Security Medical Insurance & % of yearly increases to at least meet cost of living Or % given government empoyees—-Feed the HUNGRY Americans—-& stop borrowing from S.S. so you can stay in black!

Microsoft has offered a generous settlement to the school children of the U.S .A by setting up computers for them to broadening their capabilities.

Your time spent on M/S could have been spent to solve these problems in less time, than this has taken.

Shirley J. Adams
7800 Mockingbird Ln.
Lot 189
N. Richland Hills, Tx.76180
P.S. Thank you for reading this.

MTC-00025268

From: Andrew Wolff
To: Microsoft ATR
Date: 1/25/02 6:41pm
Subject: Microsoft Settlement

AOL had it all and lostr it all. That's American free enterprise! Don't intefere with regulations and penalties.

MTC-00025269

From: reh@grove.ufl.edu@inetgw
To: Microsoft ATR
Date: 1/25/02 6:42pm
Subject: Microsoft Settlement

I am a computer programmer and computer systems administrator. I have been doing this work for nearly twenty years, and I remember the first Microsoft anti-trust case and the earlier IBM anti-trust case.

Having established my old-codgerdom, please allow me to comment on the "Proposed Final Judgement in United States v. Microsoft".

The proposed remedy has many flaws in the details, but more importantly, some basic shortcomings:

1) Inadequate allowance is made for the fact that Microsoft is a serial, unrepentant lawbreaker. Far too much is given over to Microsoft's discretion. For instance, they may withold critical interoperability information if that information would "compromise the security of a particular installation or group of installations of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems". (III.J.1)

Microsoft is not only technically able to engineer gratuituous dependencies on such exempted APIs, but apparently is the party that decides whether such a dependency exists in the first place. Microsoft should never be in the position of interpreting any part of the final judgement. A special master or other external agency should make any interpretation.

Microsoft has earned a presumption of bad faith.

2) No explicit provision is made for competitors to Microsoft that are not, strictly speaking, businesses. The Wine project (http://www.winehq.com) and the Samba project (http://www.samba.org/samba/samba.html) are volunteer efforts that produce software that serves some people, for some purposes as an alternative to Microsoft. The volunteers on these projects do this by reading the documented API, performing experiments and determining the real API. Then they implement as much of that API as they can.

It is true that such an organization often has some corporate assistance, but the project itself is not structured as a business and so would fail to "meet[s] reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business". (III.J.2.c)

3) No provision is made for lowering the user's barrier to migration. Users may well have significant time and effort invested in documents in proprietary Microsoft formats. Microsoft should be forced to open up these formats, so that other vendors may produce fully compatible (at the file level) products, allowing users to move their own work product to other platforms, should they so desire.

— Sincerely,
Rodger Hendricks
Sr. Systems Programmer,
AT/CIRCA, Univ of Florida
E520 CSE
P.O. Box 116140
Gainesville, FL 32611–6140
(352) 392–2007

MTC-00025270

From: RNFrank@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:41pm
Subject: proposed settlement

Any non substantive penalty against Microsoft is a strong reinforcement for corporate malfeasance. By substantive I mean a fine of around 50% of Microsoft's net worth or breaking the company into small enough units that it no longer has the power to rent congress. Richard Frank

MTC-00025271

From: Brian Schack
To: Microsoft ATR
Date: 1/25/02 6:43pm
Subject: Microsoft Settlement

Don't let Microsoft get away with everything they have done to put other companies out of business unfairly and strengthen their monopoly.

MTC-00025272

From: vhavin@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:45pm
Subject: Microsoft Settlement

To Whom It May Concern:

I have a strong feeling that the Sherman Act, proposed long before the software industry was established, and tailored for the traditional business is a wrong vehicle for delivering justice in this particular case. Certain software industry specific merits were completely disregarded by the case originators:

1. Software industry in the US and the entire world is driven by de-facto standards. Large number of leaders (or standard establishing companies) creates obstacles for the industry advancement and in effect harms the consumer. I still remember times when there where dozens of operating systems at the market and mere moving data from one computer to another was therefore a hard problem to solve. This situation simply had to evolve into just a few standard-establishing companies. I personally welcome MS as a leader in software standards since it is employing the most brilliant minds in the software industry today.

2. With all due respect, the software industry can not be ruled by today's judiciary system. They just live in different dimensions. The modern software development is moving in much faster pace, thus making most judiciary rulings obsolete by the time they gets accepted. See for yourself: software industry in general and Microsoft as a company today are very different from what they where back in 1998 when this all started. That's why it is so hard to propose remedies in this case. The final remedies are for the wrong cause and for the wrong times.

3. The product bundling term is very different in today's software that is constantly moving to the component-based architecture. All known operating systems have certain basic components (like Web browser). Sun Solaris, Mac OS and Unix are not exceptions. It's like blaming a car maker for bundling the engine with a car.

4. In this particular case the complaint came not from consumers and/or consumer advocates, but rather from the losing competition. I don?t think the industry should create the precedent when a less successful company can sue the more successful one for loosing the battle. My personal impression is that Netscape Communications has to blame itself for loosing the browsers war. They were enjoying their easy success for too long while their product quality and feature set was deteriorating compared to the competition.

I am sure that the common interest today is finishing this process and all copycats resulting from it. More than enough taxpayer's dollars have been already wasted without any sensible effect.

Sincerely,
Victor L. Havin
Software Specialist.
CC:vhavin@hotmail.com@inetgw

MTC-00025273

From: Glenn Sebolt
To: Microsoft ATR
Date: 1/25/02 6:43pm
Subject: Microsoft Settlement

To Whom It May Concern,

I believe the terms outlined by the current agreement between Microsoft and the Department of Justice are adequate to address the Anti-Trust concerns by all parties.

As an end user, and as an Information Technology professional I have used and will continue to use, support and recommend Microsoft products to my clients. This includes Operating Systems as well as Windows, Apple Office Applications and Internet Browsers. I do believe that Microsoft has the best product, support and pricing on the market and in that I see tremendous value to me and my clients as consumers. I do view the continued pursuit of additional sanctions against Microsoft as productive in any way, and I don't see how additional value would be derived from the additional penalties.

I would hope all parties can bring this matter to a final resolution in a expedient manner.

Thank You,
Glenn Sebolt
1234 28th Street SE
Cedar Rapids, IA 52403
gsebolt4@home.com

MTC-00025274

From: Jon Doe
To: Microsoft ATR
Date: 1/25/02 6:46pm
Subject: Microsoft Settlement

I consider my computer "my tool". I paid for it, and I should be able to use it in any way I like provied that I do not use it to break any laws. If I were to buy a hammer, nobody would tell me that I could only hit nails with it. No one would say, "You can't use YOUR hammer as a nutcracker."

Unfortunately, my computer is useless without an Operationg System. I have to run Windows because some of my programs are not available for other OSes(Thanks to the monopoly). Frankly, Windows is a flawed operation system, and I would rather not use it because it occationaly restricts my productivity. For this reason, I am strongly opposed to any practice(Both technical sabotage and monopoly like practices) that discourages the development of software that works with or in place of Windows.

In its current form, I believe the Proposed Final Judgement is full of loopholes that will continue to let Microsoft exercise a monopoly on the computer industry. The Windows OS must not be allowed to impair the abilities of other software or operating systems. Furthermore, Microsoft should be forced to take further steps to make it easier for developers to create products designed for Windows in order to insure a free market economy.

In addition, I strongly recommend an addition to the settlement which prohibits Microsoft from requiring any sort on internet access or logging onto any Microsoft network to gain full use of Windows.

In other words, Windows should be a stand alone product that does not need to connect to the net to gain functionality. Some people do not have internet connections to make this possible and some would prefer not to get such a connection. I believe that this part should be a temporary stipulation to be reviewed in about five years. At which point a non-biases committee should decide whether to lift the sanction in order to accomodate new technology.

MTC-00025276

From: Brian Freeman
To: Microsoft ATR
Date: 1/25/02 6:46pm
Subject: Microsoft Settlement

this is a bad idea!!!!!!!!

MTC-00025277

From: Holden
To: Microsoft ATR
Date: 1/25/02 6:47pm
Subject: microsoft settlement

Please settle this thing and let it go. It is already costing the consumer too much money.

Much more than we can afford. I truly beleive that this started the economic downturn. If you want to go after a monopoly, why don't you get rid of the post office? It will break us all.

Mr. and Mrs. Robert s. Holden
Let go and let God

MTC-00025278

From: Chad Miller
To: Microsoft ATR
Date: 1/25/02 6:48pm
Subject: Microsoft Settlement

I think the proposed settlement is terrible. In particular, III(J)(2) should not restrict distributions to "businesses".

The only real potential for competition to Microsoft comes from organizations that are too informal (and not-for-profit!) to be called businesses. Other non-business orgs (like the Government) should not be excluded, either. Require MSFT to publish (on an unrestricted website!) the same API documen- tation that their internal application developers have.

Chad Miller <cmiller@surfsouth.com>
<url: http://www.advogato.org/person/cmiller/>

MTC-00025279

From: Woynarowski, Jan
To: Microsoft ATR
Date: 1/25/02 6:45pm
Subject: Microsoft Settlement

To whom it may concern,
January 24, 2002

I would like to express my concern regarding the obstacles to the final settlement in the Microsoft case. It is my deepest belief, that the general public and the economy of our country will benefit from the expedite finalization of this case. Microsoft is a successful company that in not insignificant way has contributed to the computer revolution. I feel that attempts to restrict the further growth of Microsoft serve primarily a very narrow segment of our society that comprises those of Microsoft competitors who are not innovative enough but still would like to impose their un-competitive products on the public and collect un-deserved profits. Being a cancer research scientist, I need efficient software and powerful computers for all aspects of my professional activities. I see very acutely, that it was Microsoft, who has brought us the badly needed software tools at reasonable prices. This in turn has precipitated the never-ending progression in computer hardware power and the development of new scientific instruments that enormously increased our capacity and accelerated biomedically-oriented research. Microsoft has become pseudo-"monopolist" only because its customers voted for its products with their wallets, like I did. Having restricted funds for research, coming in part from taxpayers, it was always my concern to stretch my research dollars by buying quality software, both operating systems and applications. With my purchases, I have voted for innovation and efficiency. Microsoft has responded to my needs over the years in terms of both quality and affordability.

My cancer research laboratory is not an exception. In thousands of laboratories, Microsoft products contribute to the ongoing biological revolution that is already benefiting our lives. Let Microsoft continue to innovate in their specialty, software, because their today's innovations will give us scientist tomorrow new cutting edge tools. Let them continue to develop comprehensive operating systems that will work as smoothly as possible with their application software, because this will save us all money and will increase our efficiency and productivity. Let them donate computers to schools. It will not strengthen Microsoft "monopoly" . To the contrary—some of these kids will get a chance to become Microsoft competitors—and this will benefit all of us.

I feel that it is in the best interest of American science and American society that the infamous Microsoft case is finally closed according to the terms of the agreed settlement. I urge you to accelerate your efforts in that direction.

With regards,
Jan M. Woynarowski, Ph.D.
Associate Professor, Molecular Pharmacology
Cancer Therapy and Research Center
Institute for Drug Development
and
University of Texas Health Science Center
Department of Radiation Oncology
14960 Omicron Dr.
San Antonio, TX 78245
Phone 210–677–3832 Fax 210–677–0058
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Phone 210–677–3832 Fax 210–677–0058
E-mail: jmw1@saci.org
CC:MSFIN@microsoft.com@inetgw

MTC–00025280

From: HalnMarie@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:49pm
Subject: Microsoft Settlement

Dear Sirs:

I believe the proposed settlement with Microsoft is fair and appropriate. The status has been in limbo long enough and the industry has been damaged enough by the uncertainty of the outcome. President Bush has advocated a quick resolve to this in the interest of the U.S. economy as a whole, and I personally agree with him since I, along with all the other stockholders of tech stocks, have lost a lot of my retirement savings during the time it has taken to stabilize the market with a just resolution. Please do not delay any further to accept the agreement reached by Microsoft, the Department of Justice, and nine states, which in my opinion is tough but fair to all parties. I need to regain confidence in the American economy and in my investment portfolio.

Sincerely, Marie Allen Smith, Ed. D.
Retired Educator

MTC–00025281

From: Margaret Ho
To: Microsoft ATR
Date: 1/25/02 6:49pm
Subject: Microsoft Settlement

I'd like to give my opinion of the Microsoft settlement with the government: let the settlement stand and and get the other nine states in on the settlement. Haven't we had enough litigation already? Where is the free market? If Microsoft make inferior products, it would have been left behind. If Microsoft's competitors can't keep up, they need to think of other products or more innovations, not run to big government to pull back Microsoft. We certainly do not need Congress to tell people what to buy or what services to use. Why should Microsoft be punished for success??? The marketplace should level the playing field, not politicans who know little of the details of the workings of business. Microsoft is not the Standard Oil of New Jersey; Microsoft grew big and strong on its own without buying and cobbling together its parts. Does the government want to distract Microsoft with lawsuit after lawsuit so it will fall back with products and innovation (like with IBM years ago), thereby leveling the playing field for its competitors? Let the settlement put an end to this unfair hounding of Microsoft, and the marketplace will take care of business. I really like and use my Microsoft programs and other products every day—I don't want my computer life interrupted! Thanks for listening.

MTC–00025282

From: rhad@rhad-linux@inetgw
To: Microsoft ATR
Date: 1/25/02 6:50pm
Subject: comment on MS settlement
FROM: Hanskarl Borck
2302 W. Bay Area #1704
Webster, TX, 77598
TO: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

To the United States Department of Justice:

I am writing in response to the proposed settlement to the Microsoft Antitrust Case. This matter has become quite important to me in the past several years as a student at the University of Houston, and an active computer user and enthusiast. Within this letter I will first explain why Microsoft must be punished more severely than the settlement proposes. Then I will outline what I consider to be a more fitting settlement.

The Problem with Microsoft

The primary reason that I believe in punishing Microsoft more severely revolves round their blatantly unfair actions in an extremely competitive market. For instance, I can easily cite their purely anti-competitive deals with OEM computer manufacturers, or the obvious bundling of Internet Explorer with the OS purely to dominate the browser market.— However, my primary concern tends to lie not with these problems as much as their unwillingness to adapt to current computer standards and open up their most common APIs and document formats.— It is obvious that Microsoft totally dominates the computer industry.— Through this dominance, its document formats (.doc, .xls, .ppt etc.) have become increasingly used throughout the corporate and personal world.— However, Microsoft won?t let anyone else play. The formats utilized by these programs are unreleased and a closely guarded trade secret.— More importantly, Microsoft has released more and more of their communications protocols to the Internet world without supplying sufficient data to let other systems communicate with them.— They blatantly ignore current standards and introduce intentional bastardizations solely to leverage their monopoly further.— For instance, Internet Explorer contains intentional problems with properly reading and displaying normal HTML as defined in various standards papers.— However, rather than being held responsible for this ?bug?, Microsoft implied that the web sites were responsible instead.— As the public became further and further entrenched in Internet Explorer (via the OEM deals and bundling aforementioned) web designers were forced to ?correct? their good code to display properly on Internet Explorer, leaving people not using Internet Explorer wondering why all of the sudden their standards-conforming browsers no longer worked.

There are hundreds of other examples like that one, many of them much more important. Specifically, with the possible emergence of Microsoft's .NET plan, normal operation under the web, already heavily drugged by Microsoft, would become almost inherently Microsoft based.— The way I read it, .NET creates a one-time access point for all web communication.— You login a .NET server, and then grab the appropriate information to complete online transactions, downloads, password completion, maybe even web-site access.— Does anyone honestly think such unbelievable control would be used fairly by Microsoft?— Does anyone even think that a different operating system would be allowed to login without deliberate loss of functionality, if it could login at all?

MTC—00025282—0002

In summary, Microsoft has abused its monopoly and stifled competition via three prime methods:

1) OEM deals which lock out the competition.

2) Increased bundling of their products with the Windows OS.

3) Releasing file formats, APIs, and communication protocols in proprietary formats.

The Ideal Solution

Contrary to a large majority of people like me, I do not believe that breaking up the company would result in any productive fix for the Microsoft monopoly.— Rather, I would stress that there are two things that must happen.

1) Microsoft must stop making deals with OEM vendors that disallow competition, or punishing those vendors that refuse to capitulate via increased fees or withholdings.

2) Microsoft must release its most common formats, communication protocols and APIs to the public.

With regards to 1), the DOJ settlement has outlined a good set of regulations except the restriction that non-MS middleware must either not display a user interface or should display a user interface similar to the corresponding MS product. This forces competing software vendors to imitate Microsoft's lead in these product lines. To the user then, it seems that Microsoft is the only innovator and the other vendors are merely copying. There should be no restrictions on competing middleware products. The desktop configuration should be entirely up to the OEM.

However, objective 2) is addressed by the settlement but fails in a huge way. Ideally I hope to see after the settlement this type of scenario:

Jon Doe is not a rich man, but he is not poor either.— He desires to buy a computer for his family, and so he heads to the store.— His first option is a computer with the Microsoft Windows OS.— Jon is familiar with it, as he has used it before at his workplace, but he was unaware of the cost, which is much more than he can afford. Upon a closer examination, he realizes that the Windows computer forces you to buy many other bundled pieces of software as well; an office suite, a firewall, a CD-burning program, a paint program, and more.— Reading a little more, J0n als0 discovers that he cannot install any of the programs on another machine in his house because he is only ?renting? the software, and must pay Microsoft again in order to use it again.— Uncomfortable with such limited control over what he pays for, Jon moves further down the aisle to the Linux computer section, which has lower prices. You can buy either a stripped down low cost version, or an intensely modified and software heavy version. Better yet, the cost for the software is next to free, and it can be reinstalled as much as you want. Here is the kicker for Jon:— And it will fully support standard Windows formats and protocols to ensure proper communication in a Windows network. Jon could also look at the Apple section; it too states full computability with the common Windows machines found on the Internet.

MTC–00025282—0003

What I wrote above cannot happen today since the computer and Internet world has been enveloped in Microsoft products. No competition can truly occur until it does happen. Obviously, if these formats and protocols were opened, Microsoft would be forced to lower their prices (finally), and perhaps even offer computer manufacturers a less-bundled operating system. This is the key.— Microsoft in my mind can bundle as much as they want. It drives the price up, and increases complexity.— However, if the competition can compete in a Microsoft dominated Internet and computer world, the lower costs and increased options will force Microsoft to adapt in ways that benefit the consumer.— In other words, Microsoft can certainly attempt to sell as much as they want.— No one can deny that their products are useful and, while lacking stability and security, are fairly user-friendly.— At the moment though, Microsoft has managed to become the only option. They no longer have to price competitively, or market their products based on performance.— They have managed to make alternatives intentionally less functional from a Windows perspective. It is the car equivalent of Microsoft supplying cars that run best on their own proprietary gasoline.— Once they achieve some market dominance, carmakers and gasoline manufactures are suddenly in deep trouble when it comes to breaking into the market.— I believe that it is these proprietary formats and protocols that are really to blame in Microsoft's monopoly abuse.— In order to promote fair competition, these must be made open, and not just to some select groups as the settlement foolishly states.— Open to the General Public.— The people forced to maintain Microsoft products, and use their software are not just these select vendors and groups. More importantly, these binary formats and protocols cannot be seen as intellectual property since Microsoft has managed to become such a dominant player.— They are now the de facto standard.

There are many other things about the settlement I think could be made more friendly to the computer industry and software professionals Microsoft has continually abused.— However, I truly feel that the majority of these discrepancies are unimportant when compared to the necessity of opening the Microsoft APIs, file formats, and communication protocols.— This freedom to expand on the now (albeit unlawfully) standard Microsoft product-line will allow the industry as a whole to slowly catch-up to Microsoft in the computing sector.— This competition and increased innovation will naturally spur Microsoft to better products as well, all benefiting the consumer.— And that is the goal right?

To benefit the consumer.

Sincerely,

Hanskarl Borck

MTC–00025282—0004

E-Mail: rhad <hborck@mail.uh.edu>
Date: 25-Jan-02 Time: 17:54:36 This message was sent by XFMail

MTC–00025282—0005

MTC–00025283

From: mike
To: Microsoft ATR
Date: 1/25/02 6:59pm
Subject: Microsoft Settlement

To Whom it May Concern,

I must strenuously object to the proposed settlement with Microsoft. It is clear that Microsoft is not phased by your actions as they continue, even now the very activities of which they have been convicted. In the past several weeks they have filed a frivolous lawsuit against Lindows Inc. in an attempt to use their vast wealth to bankrupt a competitor. Further, even with action hanging over their heads, they released an operating system with yet more forced hooks in it, and are branching out into the internet infrastructure (.net) and the game box (xbox) arenas. Earlier this week they announced they would extend the capabilities of the xbox to include web browsing, e-mail and other computer related functions. This is clearly a first step (well not really a first step, remember the PC99 standard) to break into the computer manufacturing business. Microsoft producing computers would place the final nail into the coffin of choice for PC owners.

On the issue of a breakup, I don't think this is a good idea. I believe leaving Microsoft intact and compelling them to abide by the additional constraints of being a monopoly would be more effective. A much better solution would be to restrict their exercise of their software patents, and prohibit further patent action. Along with this a true opening of their file formats and apis would be in order. A breakup would leave 2 or more companies, unencumbered with the stigma of monopoly, but with the same majority stockholders and management team. This would almost incurs in the realm of a reward for wrong doing. If a breakup were to be effective it would need to completely disassociate the resulting companies. More importantly the development tools division would have to be spun off. With the development tools being created by an autonomous company, the stranglehold that Microsoft holds on the industry may be broken. No more would there be apis visible only to the developers that create Microsoft operating systems and applications. And perhaps the steady decline of useful documentation for the development tools would come to an end.

Thank you for your attention in this matter.

Michael G. Grello
Principal Programmer
MaranaTha Software

MTC–00025284

From: GTEmail
To: Microsoft ATR
Date: 1/25/02 6:51pm
Subject: Microsoft Settlement

GlacierDear Sir:

I support the settlement agreed to by both parties and I believe efforts to modify the settlement terms are miss-guided.

Please proceed with the settlement on the terms now proffered and accepted. I believe this action will benefit all interested parties.

Sincerely,

Mark K. Young

MTC–00025285

From: pendleth@intelnet.net.gt@inetgw
To: Microsoft ATR
Date: 1/25/02 6:48pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
T.H. Pendle
119 Phyllis Ct.
Vallejo, CA 94590–8118

MTC–00025286

From: Frederick A Farley
To: Microsoft ATR
Date: 1/25/02 6:52pm
Subject: Microsoft settlement

We think this is gone far enough! To do further litigation would only cost more money to the taxpayers and muddy the waters more yet to no avail. We think that Microsoft has paid enough. Lets let them get on with their business of producing quality equipment and programs to better serve the public. Thank You

Loralee & Frederick Farley

MTC–00025287

From: Ron Smith MD
To: Microsoft ATR
Date: 1/25/02 6:51pm
Subject: My Comments

I don't have a clue how the government can prosecute and win the antitrust suit against Microsoft, and then give them back every monopolizing area they already had.

I'm an Apple Macintosh user, so I'm very familiar with Microsoft's attitude toward competition.

The agreement stinks and smacks of someone in the government being paid off.

This settlement is corrupt!

Ron Smith, MD

MTC–00025288

From: VISHNU A GOKHALE
To: Microsoft ATR
Date: 1/25/02 6:52pm
Subject: "Microsoft Settlement."
The Justice Department
Washington D C

Dear Sirs,

Please accept the settlement with Microsoft.

I want to let you know that consumer interests have been well served, and the time to end this costly and damaging litigation has come. Dragging out this legal battle further will only benefit a few wealthy competitors, lawyers, and special interest bigwigs. Not one new product that helps consumers will be brought to the marketplace.

Sincerely,
Vin Gokhale
1/25/02

MTC–00025289

From: Anitabrubaker@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:52pm
Subject: Microsoft Settlement

Honorable Judge,

It is my view that the proposed final judgment in the U.S. vs. Microsoft antitrust suit is seriously flawed.

Microsoft is a convicted monopolist who has run afoul of this country's antitrust laws, making many billions of dollars in the process. This proposed settlement would allow the company to keep almost all of these illegal profits.

I am also concerned that there are no provisions in this proposed settlement to prohibit this monopolist from continuing to engage in anticompetitive activities. Allowing Microsoft to police itself is no solution, and we certainly don't need a government-mandated monopoly.

I urge you to reject the proposed final judgment.

Sincerely,
Anita Brubaker
1502 Esbenshade Road
Lancaster, PA 17601
(717) 295–7374

MTC–00025290

From: actsman1@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:52pm
Subject: I am against these bureacratic lobbyiests and let's get on with the best

I am against these bureacratic lobbyiests and let's get on with the best for all people involved. This has gone on far enough and it is time to do what is right and ethical. I am tired of this political Wrangeling. Where are the people who were sent to Washington for the good of the voters? Get off of your fat duffs and let's be truthful for once. For shame!!!!!

Sincerely,
Douglas Sargeant

MTC–00025291

From: Michael Musty
To: DOJ vs. Microsoft
Date: 1/25/02 6:54pm
Subject: Microsoft Settlement

I am writing to state my opinion of this settlement issue. Firstly, I am a computer consultant and programmer and I use a variety of software languages and platforms. My feeling is that Microsoft has succeeded in the market place because the quality of their software products is far superior to any of the other software vendors. They know how to build software very well. And they deserve their position in the market. I buy their products because I know they will treat me right. You can't say that about Netscape or alot of the other software vendors.

However I do not know much about the inner business strategies and behaviors of the MBAs on their non-technical staffs, so I can't speak about them. I do know, from a technical point of view, they put out a far superior product than netscape and the other software vendors. Please don't restrict their ability to continue producing software the way they do!

Michael Musty
Datapattern Inc
Minneapolis, MN

MTC–00025292

From: jason—lamb@mac.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:54pm
Subject: Microsoft Settlement

I do NOT feel comfortable with this settlement. Please do not make it easier for Microsoft to tighten its strangle hold on the American people. Every day I try to convince someone else to try an operating system besides windows. Linux, BeOS, or MacOS are all good choices. They tell me "Why switch when I know that Microsoft will bully any other competitor out of the way?"

I don't have an answer for them right now. When I see the direction this case is going, I cant argue with them on that point. Why try to evangelize when Microsoft is above the law?

Jason Lamb
Hardware Engineer

MTC–00025293

From: rvuppula@microsoft.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:56pm
Subject: Microsoft Settlement

I approve the proposed settlement in the case between Microsoft, the federal government, and nine states.

-Ravi
CC:rvuppula@microsoft.com@inetgw

MTC–00025294

From: rmbradfo@
rockwellcollins.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:55pm
Subject: Microsoft Settlement

Dear Sir or Madam:

I am writing to express my opposition to the proposed Microsoft settlement. Microsoft has made it abundantly clear over the years that it will willingly cross the line into monopolistic behavior whenever it pleases.

The only feasible remedy to this situation is to break the company into multiple new companies that compete directly. It is not enough to break Microsoft into one operating system company and one applications company, as this would apparently have the effect of spawning two new monopolists in separate markets.

By the way, I am a Microsoft stockholder and have been for many years. As I stockholder, I can and should ordinarily expect the officers of a company to maximize profits. Given the virtual monopoly Microsoft enjoys in the operating system market, however, we can conclude from basic economic theory that Microsoft will not be maximizing profit unless it restricts output below the (competitive market) equilibrium price, thus restricting sales below the welfare-maximizing level. As this is harmful to the public welfare, I hereby sincerely ask that you limit the returns of stockholders such as myself by ending the monopolistic practices of Microsoft once and for all. I have no wish to profit from harm to the public.

Respectfully,
Richard Bradford
Cedar Rapids, Iowa

MTC–00025295

From: Whitney Tracy

To: Microsoft ATR
Date: 1/25/02 6:57pm
Subject: Microsoft Settlement

Dear Sir or Madam,

It is my opinion that the currently proposed settlement with Microsoft is INADEQUATE and IRRATIONAL. I believe that a fair settlement should include a hefty amount of cash ($1 billion+) and legal restrictions on Microsoft's future business developments.

Sincerely,
Whitney A. Tracy
Austin, TX
A concerned US citizen.

MTC–00025296

From: efdjbaron@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:56pm
Subject: Microsoft Litigation

I believe that the proposed Microsoft settlement offers a reasonable compromise that will enhance the ability of seniors and all Americans to access the internet and use innovative software products to make their computer experience easier and more enjoyable.

I strongly urge the Justice Department to adopt this settlement and end the prolonged litigation and high costs to the government of this procedure.

I am offering these comments under current law (known as the Tunney Act) which allows public comment on the proposed settlement up until January 28th.

Thank you for your consideration.
Elmer F. Baron
24670 S.W. Old Hwy 99 W.
Sherwood, OR. 97140
efdjbaron@juno.com

MTC–00025297

From: Jeff Jackowski
To: Microsoft ATR
Date: 1/25/02 6:58pm
Subject: Microsoft Settlement

The Proposed Final Judgement in the case United States v. Microsoft will not prevent Microsoft from continuing anit-competetive practices. The PFJ has a number of loopholes that will allow Microsoft the latitude for monopolistic actions, and Microsoft has already proven that it can find and exploit such loopholes.

The loopholes include:

* Narrow definition for API
* Narrow definition for Middleware
* New Windows operating systems are not covered by restrictions
* Per-processor licensing allowed to continue for enterprises
* Allows restrictions against the creation of Windows compatible systems
* Allows discrimination against Open Source software

These loopholes must be corrected if the anti-trust case against Microsoft is to have its intended effect of restoring competition to the market.

Jeff Jackowski
110A Northington Place
Cary, NC 27513

MTC–00025298

From: Brian Beattie
To: Microsoft ATR
Date: 1/25/02 6:57pm
Subject: Microsoft Settlement

The Proposed Settlement in this case, is severly flawed, propable fataly so.

Microsoft has arguably held a monoply in the PC OS market since 1990 and has used this fact to disadvatage and destroy competitors. This has clearly harmed consumers, by limiting there options. It is difficult to guess as to what developments never say the light of day due the chilling effect of Microsoft actions. That a number of products were not allowed to compete fairly in the marketplace is clear.

Microsofts actions since the inital verdict nakes it clear that Microsoft is unlikely to act lawfully in the future, nor to allow competition to return to the marketplace.

MTC–00025299

From: Maia, Joe
To: Microsoft ATR
Date: 1/25/02 7:00pm
Subject: Microsoft Settlement
Joseph P. Maia
15 Brook Drive
Burlington, NJ 08016
Renata Hesse
Trial Attorney, Suite 1200
Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530

The following comments pertain to the Revised Proposed Final Judgement, 6 Nov 2001 ("Revised Judgement") for the antitrust case against Microsoft ("MS").

I will also refer to the Plaintiff Litigating States" Remedial Proposals, 7 Dec 2001 ("Alternate Judgement").

I am a senior software engineer with over 23 years experience in the software development industry. I have worked as both an employee and as a consultant. I currently work for a major software systems development firm in the defense industry.

Over the course of my career I have worked on development projects for both the defense and commercial industries, designing and developing both system and application software. And as one would expect, over the years I have used a variety of operating systems and programming languages. Most recently I have been developing applications using the Java programming language and runtime system.

The depth and breadth of my experience in the software development industry puts me in a position where my comments may provide additional insight into evaluating the merits of the Revised Judgement. A judgement which I characterize as woefully inadequate. First and foremost, I am deeply disappointed at the decision of the Department of Justice (DOJ) not to pursue any breakup of MS. I was also disappointed when Judge Thomas Penfield Jackson's remedy was announced. I feel that MS should be split into at least four companies: operating systems, office products, enterprise/server products, and consumer products. However, upon reading the details of that remedy, I felt it was the absolute minimum which must be done if there is to be any hope of a successful remedy which will not require continued litigation further down the road. Baring a structural remedy, many of the conduct-only remedies should be designed as if MS were being broken up, as this in many ways is the heart of the problem—MS controls both the operating system ("OS") and many important applications, and has not hesitated to pursue illegal means to use this to their advantage. Since the possibility of a breakup appears moot, the remaining comments deal specifically with the Revised Judgement.

Since my expertise is in the area of software development and not marketing, my comments will deal primarily with the needs of the software development community and the impact that might have on consumers.

A FEW DEFINITIONS

There are a couple of terms which the press seem to always get wrong, or to use interchangeably, when only one term is correct. These terms are used when discussing how a product or application may be included in a supporting OS. "Bundled Product" A bundled product is one which is simply "dropped into" an OS. Its files are completely separate from any OS files. If the product is removed from the OS, it does not affect the continued operation of the OS or of any other application (barring the possibility of unintentional file naming conflicts where certain definition files may have to go into common locations).

"Integrated Product" An integrated product on the other hand is tied into OS files in one way or another (also called "co-mingling of code") so that you cannot remove the product without adversely affecting the operation of the OS and possibly other applications. An "Integrated Product" is quite different from functionality which appears "integrated"—the latter referring to how seamless the interface feels to the user. "Plug-in". A plug-in architecture or API allows for the addition of added functionality to an application or OS through a standardized interface. This may or may not include additional top-level windows, or any new user interface at all. For example: this might allow third-party additions to a graphics editing program which would include additional windows, or it could also define a way for an OS to allow the OS developer or any third party developer to provide "integrated" functionality without undue benefit to the OS developer and without undue bias against any third parties (such as HTML interpreters, or digital video format interpreters).

THE HOUSE THAT MICROSOFT BUILT

I have found that comparing the software development industry to the housing construction industry helps to clarify the issues at hand and will help to point out the problems I see with the Revised Judgement.

The computer OS is very similar to a newly constructed house when you consider what should or should not be included with it. Both provide a framework and a collection of basic services for you to use with all the personal belongings you own. In the new home you have standardized outlets, pre-wired phone lines, a central air/heat unit, built in kitchen appliances, possibly pre-wired cable TV lines, built-in connections for laundry washer and dryer, a water tap for refrigerators which make their own ice cubes, and possibly other items as well.

The computer OS also provides a number of services and built-in applications for basic operations.

The big difference between the two industries is that in the housing construction industry all your built-in appliances, electrical service, etc, are all standardized and publicly known (any built-in appliance can be replaced with another appliance from any manufacturer)—but in the software development industry, the primary OS, the one with a 95% share of the desktop market, has a stranglehold on the industry because of proprietary built-in products (integrated products) and hidden APIs.

The final remedy should address this inequity so the OS is more like an empty new house. This is not to suggest that the OS must be laid bare, but due consideration should be given to the effect on the software development industry as well as consumer choice, if certain products are allowed to be included in an OS without some sort of limitations on how the product or capability is added.

The only equitable way to guarantee an even playing field is to simply not allow any integrated products in a monopoly OS.

Bundled products and plug-ins should be allowed, but only if they can be completely removed and/or replaced with competing third-party products, without restraint, by either hardware manufacturers/resellers or consumers.

If MS were in the housing construction industry, they would want to sell you a furnished house filled with MS-branded appliances and furniture—and so constructed that you would not be able to replace any built-in product with a non-MS product. What is even worse, MS's new licensing policy would be the equivalent of only renting new houses to its customers!

The next few sections detail specific changes and additions to the Revised Judgement which are necessary if there is any hope at all of providing equity to third-party software developers, a Technical Committee with the ability to actually be effective, and true choice for consumers.

THE NEEDS OF SOFTWARE DEVELOPERS

For software developers, the OS is a commodity which drives all product development. Without all-inclusive and detailed information about the services available in the OS, developers cannot develop viable products for that OS. And if one group of developers is given more complete information than other groups, then the more informed developers will produce the more compatible, the more "integrated" (i.e.: more seamless interface), and the more full- functioned product. In a monopoly environment, it is even more important than ever to guarantee the equal distribution of detailed documentation about the controlling OS as well as included Middleware products.

First and foremost, there can be no time limits on requirements that MS divulge full documentation on all existing and new APIs, or upcoming changes to existing APIs, to non-MS developers. Otherwise, the day after the Judgement expires, MS could very easily make a few minor changes to their APIs and not publicize them—and we would be right back where we are today. In fact, all of these comments pertaining to software developers— as well as the comments below discussing consumer choice— should have no time limits!

The Revised Judgement is unfair to non-MS developers in allowing MS to not divulge changes to their APIs until the "last major beta". MS should be required to announce all proposed changes to APIs in the form of a "White Paper" at the time the change is proposed. As each new version of an API is defined or necessary changes to an API are decided upon, MS should be required to announce the new API description. And MS should be required to announce, as accurately as possible, the timeline MS plans for formal release of the modified API. Any "early-release" versions of API libraries made available to MS developers must also be made available to non-MS developers. Any delay in informing non-MS developers of upcoming changes to APIs is an unfair advantage to MS developers. There can be no limitation on who can see this documentation— this information must be available to any interested party without restriction, either via published books at reasonable prices and/or via freely available web pages on the Internet.

The wording of the Revised Judgement pertaining to the definition of "documentation" leaves much to be desired. I believe MS can interpret this to mean they can keep the same level of documentation they current have—which is to say the omission of certain API details as to give MS developers the advantage over non-MS developers. The wording in the Alternate Judgement does a better job of describing what is needed. There can be no question that a full and complete detailed description of all APIs necessary for an developer to develop any kind of software to run on any MS OS or Middleware product be available (preferably on the web) for any developer to reference. I emphasize that ANY MS OS or Middleware product be included in this requirement—this should include handheld devices, new devices (such as the X-Box), and server-side OSs and Middleware.

The level of detail and completeness should be sufficient so that any competent developer can use the API without the need to examine the source code to resolve questions the documentation should answer. This level of detail is well recognized within the software development industry.

Not mentioned in the Revised Judgement are file formats. In a monopoly position, it is important to require the monopolist to divulge file formats which controlling OSs, Middleware, or applications use. These full disclosures allow non-MS developers to develop competing products which can read and/or modify these files. These competing products might run on any OS, not just MS's OS. When MS plans changes to these file formats, they should be required to follow the same procedures detailed above for APIs.

When an OS enjoys a monopoly position, it is very important for the health of the software development industry, the benefit of consumers, as well as the continued operation of standards- development and approval bodies, that the controlling OS supports such standards and does so faithfully. MS should be required to faithfully support all recognized standards which the software development industry and other OSs support now and in the future. MS must be required to implement these standards so that any MS or non-MS product which follows the "standard" can inter-operate with the OS and other MS products without any degradation of function. If MS wants to add "enhancements" to a standard, it must do so in such a way that any product which strictly follows the standard does not see any degradation of function. Failure to require MS to faithfully support standards will ultimately result in important "standards" becoming "Microsoft-ized" which will force users of the "standard" to use MSs OS and applications.

Integration of applications into the OS simply should not be allowed! MS should be required to un-integrate its Internet Explorer product, as well as other products it has integrated into its newest Windows XP OS. Only bundled products and plug-ins, as I described above, should be allowed to be added to an OS. If any "default" applications can be specified in the OS, then any application with the same basic functionality, whether MS or non-MS, should be able to be set as the default. The location in the OS where a default application can be set should be intuitively obvious and not hidden away in a hard to find menu somewhere.

With the above exclusion of integrated products in the OS, any bundled or plug-in product, MS or non-MS, should be allowed to be completely deleted from the OS. In the case where a product must be specified as a default for proper operation of the OS, the user should still be allowed to delete any vendor's product, MS or non-MS, and be given a choice to specify a different default. The only time a deletion would not be allowed is if the product were the 0nly product installed on the OS which could be specified as that default. To "delete" a product should never mean "hide its icon from view"—which is what the Revised Judgement allows. This supports the continued integration of application code into the OS. The code of the hidden product, even though the user no longer sees its icon, can still affect the operation of the OS and potentially disturb the operation of competing non-MS products. Developers need to know that an OS version is stable and unchanging and that installing a new application is not going to change some OS files (i.e. API libraries) and potentially break their applications.

The developing MS .NET initiative should also be mentioned in the final Judgement. A core idea of .NET is the "Common Language Runtime" (CLR). This is a Middleware product just as Java's Runtime System is a Middleware product. It should be clearly stated in the final Judgement that MS cannot develop an OS version where every product is forced to run on the CLR (in other words, MS cannot integrate the CLR into their OS such that other products would not be able to run properly without it). This requirement goes hand-in-hand with requirements stated above to disallow integration of products and to require MS to support existing and future standards as the industry needs. As a monopoly OS, MS must be required to continue to support the widest range of applications and services to guarantee a healthful and innovative climate for software developers.

Specific mention of "intentional incompatibilities" should also be made in the final Judgement. MS was found guilty of adding intentional incompatibilities in an earlier court case involving Windows 3.1 and DR DOS. MS should be warned not to continue this practice in any form. Hopefully the Technical Committee to be set up will be independent and strong enough to be able to guard against this.

THE TECHNICAL COMMITTEE

The proposed Technical Committee must not have undue influence from MS. To this end, no member of the committee should be appointed by MS and MS should not have any veto power or any other kind of oversight power over the committee. There should be no limitation on who can be selected for the committee. MS should provide all necessary money to pay for the committee, but an independent organization should manage the administration of the money.

Technical Committee members should be totally free to divulge to the public any problems or questionable practices it discovers, though source code should not be allowed to be divulged without proper peer review. When questions arise concerning source code, they should first be put through a formal review—if the code is indeed found to contain "illegal" code, then the source code should be allowed to be divulged and MS forced to fix the problem.

The Technical Committee should have full access to not only the source code but all tools, compilers, and pre-processors which might be used by MS so that the committee can verify independently—by generating its own executables from the source code and verifying their equivalence to the released executables—that they have a complete copy of the source code which actually produced the released product. This will protect against the possibility that MS might be hiding bad code by introducing last-minute patches to their source files as they generate their executables.

If the Technical Committee finds repeated infractions of the Judgement, or gross negligence, it should be stipulated that the Court can reconvene at any time to ponder splitting up MS if the conduct remedies are not effective or are simply being ignored.

EQUITY IN CONSUMER CHOICE

The final Judgement should stipulate the following principles which MS must follow to maximize consumer choice:

1. The setting of default applications, and the installation or deletion of applications, should always be user driven. Never should the code decide on its own to do these things.

2. MS should be required to provide only an "empty house" OS with additional CDs which contain all the MS products MS wishes to bundle and/or plug-in to the OS. These additional products are optional. Each product can be individually installed or deleted from the OS. MS cannot scare the consumer into installing its optional products over non-MS products by any comments in documentation or installation windows. Hardware manufacturers and resellers are free to install either MSs optional products or non-MS products. To keep MS from killing other market categories, and to potentially reinvigorate market categories it has already hampered or decimated, MS should not be allowed to include any products on these additional CDs where other non-NS products already exist in the marketplace unless these other products are also offered for free. When competing products for sale exist, MS must compete for market share with separate products at reasonable prices.

3. MS can publish a separately available OS for purchase by consumers which includes all its allowable bundled and plug-in MS products, but it must still include the additional CDs mentioned above so users have full access to installation and deletion options.

4. MS must compete with all other software developers to provide quality products for bundling and plugging in. MS must publish price lists for these products, including volume discounts, just as described for OS price lists, so MS cannot force its add-ons on its vendors.

5. No MS OS, Middleware, application, or plug-in can periodically pop up a dialog or some other message asking the user if they wish to do this or do that or purchase this service or purchase that service. Windows XP is an example of this horrendous behavior. At the very least, the user must be able to turn this "feature" off at any time.

6. When MS releases new versions of software which support modified file formats, MS should be required to provide separately available, reasonably priced or free, software which will convert not only the older format to the new format, but also convert the new format to the older format. This will negate the benefit MS gains by purposely changing file formats for no other reason than to force customers to purchase the latest version of their software.

THE BOTTOM LINE Most of the above suggested remedies would come naturally if the court simply split MS into at least two companies as was originally decreed.

Joseph P. Maia

MTC-00025300

From: Weston Cann
To: Microsoft ATR
Date: 1/25/02 6:59pm
Subject: Microsoft Settlement

I wish to write to express my dissatisfaction with the proposed final judgment (PFJ) in the Microsoft case. I am not a legal professional, but I am a software developer with 10 years of experience developing across the Windows/DOS, Macintosh, and Unix platforms. As an observer of and worker within the software industry, it is my conclusion that while the intent of some provisions in the judgement are worthy, overall, the judgement as written allows and even encourages significant anticompetitive practices to continue. As both a remedy and a punitive action discouraging future misbehavior, it seems likely to fail unless areas of concern are addressed:

(1) The PFJ as I read it in section III requires Microsoft to open up its networking protocols and APIs to certain businesses deemed viable and safe by Microsoft itself, under terms it determines. The release of such protocols and APIs is an essential part of any good remedy, and it is heartening to see it in the proposal.

However, having Microsoft make the decisions about what constitutes a viable business is a formula for failure. It is not difficult to imagine a scenario whereby the processes/criteria for obtaining API and protocol information become a barrier to entry, especially for those organizations not in Microsoft's favor.

Furthermore, a whole host of legitimate organizations are left out under the language of the agreement: academic institutions, governments, public interest groups, and open source developers. Not the least of these are foundations and cooperatives such as the Apache Group, makers of the market leading webserver Apache, and the SAMBA team, makers of software which enables networking interoperability between Windows and other operating systems. Each of these organizations provide valuable and widely used software, but do not qualify as businesses. Microsoft has publicly stated that it considers open source software among the biggest threats to its business, and so Microsoft has incentive to avoid disclosing information to these organizations. A fully effective PFJ absolutely must contain reasonable provisions enabling academic institutions, government organizations, public interest groups, open source developers, and others to easily obtain required information.

It is not lost on me that security concerns are referenced as reasons for the apparent concessions that let Microsoft determine recipients of documentation. Security is not an unreasonable consideration, especially as computing is increasingly associated with connectivity and communications. However, the argument that security must be maintained by secrecy regarding protocols and mechanisms is weak. Modern accepted professional security practices, much like modern academic practices, rely on extensive and open peer review of a security mechanism or protocol, and a system is considered truly trustworthy only after being widely tested with its inner workings exposed. While no system is without security flaws, the recent plague of security problems in Microsoft's email, webserver, and office productivity products highlight the relative ineffectiveness of Microsoft's current "closed" approach.

Thus, a high degree of openness—even regarding things related to security—is unlikely to hurt Microsoft, and might in fact make their products more secure. Additionally, if Microsoft is allowed to avoid disclosing things related to security, is not difficult to imagine a scenario where it would intermingle security protocols and standard communication protocols, thereby relieving itself of any obligation to provide information about those protocols to an outside party. Because the "security" provision outlined in section J provides only weak legitimate benefits at best for Microsoft, and has great potential for abuse, it will need to either be struck from the agreement, or carefully modified with these concerns in mind.

Additionally, the disclosure agreement leaves out file formats, which lag only slightly behind communications/networking protocols and APIs in terms of essential importance to interoperability. Addition of these to the list of things disclosed under the agreement frees consumer data from lock-in by Microsoft, and removes a significant barrier to competing products.

(2) In section III of the PFJ, there is some effort against prohibiting Microsoft from drafting agreements with OEMs that are likely to be harmful to the consumer and competitors. The intent of each agreement seems worthy, but I question the overall effectiveness of the agreements, especially in light of the resourcefulness Microsoft has displayed in skirting the intent of earlier prohibitions on their activities with OEMs. The provisions in the PFJ must be tightened. A complete solution would impose several requirements on Microsoft agreements with OEMs:

(a) Microsoft may only differentiate the prices for any of its products (and associated support services) based on the volume purchased by the buyer. This price may never be greater than the published retail price for the product, or the average of the lowest retail prices found at three retailers, whichever is lower. The list of prices must be publicly available to any individual.

(b) Microsoft must sell (and deliver in a timely manner) to any buyer at the prices established, and may not make any stipulation of OEMs or resellers as a requirement of such a sale, nor make any such stipulations of them as requirement to resell licenses.

Combined with a sufficiently severe penalty for violation, these requirements would effectively immobilize Microsoft efforts to manipulate OEMs. It would also be easy to police: any organization which Microsoft refused to sell a product to or charged a higher-than-published price could simply report to the appropriate enforcement body.

(There is some flaw to these requirements alone—concerns about other incentives would still be present. Microsoft could, for example, say to an important OEM "we'll pay for your marketing budget for the whole year if you will not include Competitor X's software on your machine". This highlights the difficulty of any general solution. Perhaps a mixture of the general language of the PFJ —which discourages Microsoft retaliation —and this section in my document could address the problem.)

(3) Definitions within the PFJ provide loopholes big enough to drive a truck through. The language of the document suffers from lack of technical precision, which, in the end, will degrade legal precision and in turn prevent firm and timely enforcement. I advocate definition changes similar to those recommended by Dan Kegel in his online document at http:// www.kegel.com/ remedy/remedy2.html

(4) I am concerned that the proposed Technical Oversight Committee will have limited power to report their findings and activities publicly. Especially considering the potential for different attitudes regarding enforcement at the DOJ (dependent on prevailing political winds), it would seem important for the industry and the public at large to know how effective the proposed remedies are. The actions and reports of the committee should be a matter of public record.

It is my hope that the court will carefully consider these points and include them in the final judgement.

regards,
Weston Cann
1089 N 250 E
Orem UT 84057
801.225.0304
weston@canncentral.org

MTC-00025301

From: Kromholz Seth-p53201
To: 'microsoft.atr (a)usdoj.gov"
Date: 1/25/02 7:00pm
Subject: Microsoft Settlement

Dear Sir Or Madam:

I am a software engineer who writes code for a living. In addition, I have been following the computer industry intently for twenty years.

Last night I was flipping through an old catalog of software titles for early "mid-eighties" computer systems. Each product in the catalog was sold by a software maker that no longer exists today. Many of these companies were acquired by Microsoft. Others were put out of business by Microsoft.

The software industry today is a repressive environment, mostly due to the lack of ability to compete in so many markets. Every time a new product or innovation is introduced, a department at Microsoft is formed to counteract the threat by introducing a similar product, usually given away for free. There has been no real market force to stop them from using their natural monopoly in software operating systems to dominate nearly every other field of computing. It's as if the maker of the foundation of your house got to dictate everything that gets built on top, from your walls to your window draperies.

I would very much like to see Justice done in this case. The attempt that Microsoft and Bill Gates made to settle the antitrust suit was reprehensible (donating software to schools which cost them next-to-nothing to make but which would entrench them even more heavily in that market at the expense of would-be competitors). Please make sure that this sort of insulting arrogance does not go unpunished.

Sincerely,
Seth D. Kromholz
Software Engineer
General Dynamics Decision Systems
seth.kromholz@ gd-decisionsystems.com

MTC-00025302

From: Alessandro Simonini
To: Microsoft ATR
Date: 1/25/02 7:00pm
Subject: Microsoft Settlement

This settlement is now the only way to keep peace in this complicated market, please leave Microsoft the right to innovate! The Information Technology Market is a Trillion Dorrar Market every year in the world, Microsoft count only for 30 billion, even if you think Microsoft is a Monopoly let this happen, you must to interven only when this monopoly don't innovate more, you may see innovation walking from monopoly to monopoly, from a company to another one... when the innovation is done and the market steady, and only when and if you will see monopoly you will have my consenus to fight the monopoly!

Thanks to read me,
Alessandro Simonini,
Ferrara, Italy.

MTC-00025303

From: Bridget Pitt
To: Microsoft ATR
Date: 1/25/02 7:00pm
Subject: Microsoft monopoly

You need to seriously reconsider the remedies you are taking against Microsoft. If you fail to reduce their total domination of computing, via the leveraging of their operating systems, you have failed the American People. It stifles competetion and innovation and if you dont believe that Microsoft will stop with computing you are truly blind. Revisit the thought processes of the 20th Century's greatest President Theodore Roosevelt. The man who took on the Robber Barrons and won. Bill Gates and Microsoft are even more powerful than J.P. Morgan and John Rockefeller-use the Sherman Anti Trust Act the way Teddy Roosevelt did, do whats best for the United States of America, not the economy in it's current state or the Presidents approval rating; but what is best for the Country long term. Severe measures will allow new start ups with fresh ideas to prosper-as it is now they are forced to play by Microsoft's rules until Microsoft can swallow them whole.

Please consider harsher penaltiesfor the Ghengis Khan of American Business.

Thanks for listening
Ken Pitt

MTC-00025304

From: rwhite9852@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:59pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Sue Whitehorn
2021 Gunn Road
Carmichael, CA 95608

MTC-00025305

From: Peter Cohen
To: Microsoft ATR
Date: 1/25/02 7:01pm
Subject: Microsoft settlement

To whom it may concern:

I have been following the Microsoft case from the very beginning and I have enjoyed a front row view having been an employee of Sun Microsystems for the last four years. In short, I am completely in favor of the settlement that has been reached. And I would insist that all further actions by the states attorney generals end immediately. I never thought the government should have entered this case. It is a totally political action brought about by Microsoft's competitors who have not been able to win in the marketplace based on their own business skills or rather the lack of them. Scott McNealy, the CEO of Sun desperately wants to be Bill Gates, in the worst way. And he is going about it in the worst way. He is extremely envious of his success, wealth, position, etc. and because he can not out market Microsoft he plans to out sue them, and use the government to help. And he is not the only one.

Basically, the government has become a pawn of overzealous,greedy, envious Silicon Valley tycoons who want more. That is a disgusting position for the government to be in and history will show the folly and the mistake it's been. It sets an extremely poor example to the rest of the world that our own government would take sides to bring down one of the most successful companies ever created on these shores.

I and many others are completely shocked that the politicians pontificating about Microsoft's menace can be so fooled and so stupid.

If the other companies complaining had used the same energy they "ve put into this case to create new technologies and innovations they would have already been way ahead of the game by now.

I want to be clear. I don't write this as a disgruntled employee, as I am still heavily invested in Sun as a company. I write this as a person interested only in the truth, which sadly has been missing from this entire case.

MTC-00025306

From: andy fuertes
To: Microsoft ATR
Date: 1/25/02 7:03pm
Subject: microsoft ruling

To whom it may concern,

As a consumer, US citizen, and hi-tech analyst, i am deeply concerned by the lack of measures to punish and/or change microsoft's conduct. The current proposal, which nine states have signed off on, does little to stop Microsoft's illegal conduct. I am apalled. I believe that we need stricter penalites on Microsoft as well as immediate and sustained action to actually stop their abuse of their monopoly position.

Regards
Andrew Albert Fuertes

MTC-00025307

From: David J. Ourisman
To: Microsoft ATR
Date: 1/25/02 7:04pm
Subject: Microsoft Settlement

the microsoft settlement doesn't go far enough

MTC-00025308

From: Arsenio Calle
To: Microsoft ATR
Date: 1/25/02 7:03pm
Subject: Settlement

As an American sufffering for the current state of the economy, in need of a job and work opportunities, I ask that you kindly settle the dispute with Micrtosoft. I don't believe we are going to see the economy bouncing back unless these outstanding legal problems with our major corporations are put behind us, and the companies are allowed to go back to work and invest in new research and development.: and their products start selling and they start hiring more people.

Respectfully yours,
Arsenio Calle

MTC-00025309

From: angell118@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 7:04pm
Subject: Microsoft settlement

I APPRECIATE WHAT MICROSOFT HAS DONE TO ENHANCE SENIOR CONSUMER EFFORT TO AVAIL THEMSELVES OF ENRICHING OUR LIVES, KEEPING IN TOUCH WITH FAMILY AND OVERALL TO KEEP IN TOUCH WITH THE "REST OF THE WORLD" IN OBTAINING INFORMATION TO BETTER OUR LIVES; AND ALSO TO BECOME AWARE OF SENIOR ISSUES THAT MIGHT IMPACT US...BOTH FAVORABLY...AND UNFAVORABLY.

STOP THE GRIEVING PROCESS AGAINST MICROSOFT.

Angell

MTC-00025310

From: Sybil A. SKAKLE
To: Microsoft ATR
Date: 1/25/02 7:04pm
Subject: Microsoft Settlement

It is time this case is set to rest. It has gone on too long. From all I know, Microsoft has not done anything wrong. Don't mess up this company and the lives of those who are employed by the company.

Best wishes,
Sybil A. Skakle

MTC-00025311

From: Galen Panger
To: Microsoft ATR
Date: 1/25/02 7:05pm
Subject: Antitrust case

Hello,

I strongly urge the courts to seriously curb Microsoft's power. The market needs to be reopened to competition. Take a look at Microsoft's record with the security of its products—it's full of holes. More competition would force Microsoft to be serious about protecting its users.

Also, Microsoft has so much influence with its Windows operating system, it could practically take over any market—take a look at how it killed Netscape, how it's trying to kill the MP3 format with Windows Media. Look at how it decided now to not include Java in Windows XP. Microsoft is advancing its strategy using every force necessary—and unfortunately for the competition, it's power is too strong, it's pockets too deep. Do people want Software as a Service? Do people want Microsoft's Software Assurance? Not me. But I will probably be forced to use it.

I thought that splitting Microsoft's Windows from its Applications software was a brilliant idea—and exactly the way to make Microsoft stop using the influence it has to serve its applications" interests (i.e. Internet Explorer). But, please do not force Microsoft to open its source code—that will only help the Company better its products with improved source code. Nonetheless, Microsoft thinks that what it says goes in the market. I really don't like knowing that if Microsoft is introducing a new product, it must make sure it stiffles the competition—aka .Net and Java. Very sad. I hope that somehow Microsoft's power to eliminate competition is severely curbed.

Sincerely,
Galen Panger
Zion, IL

MTC-00025312

From: Rudolf Forster
To: Microsoft ATR
Date: 1/25/02 7:06pm
Subject: Microsoft settlement

My comments regarding the proposed settlement:

I strongly feel that there has already been too much time and money spent on this sham legal attack by the sworn enemy's of Microsoft and the company's leader. I have followed the controversy closely and I find very little merit in the position that has been taken against this company. The action was promulgated by competitors that advocate the destruction of this company as a means to enrich themselves by ridding the marketplace of a strong competitor. The average user of personal computers have benefited immensely by the products and leadership of Microsoft. Because of this company the world has been able to adopt and unite behind the Microsoft standards, and therefore avail themselves of what amounts to a virtual universal language. MS is number 1 for a very good reason. They have produced a product that works quite well. That they got to the market first with the most should be no crime in America. The government should get out of the way and allow the capitalist market to work its magic. Companies that cannot compete successfully should be allowed to fall by the wayside, and not be propped up artificially by government fiat.

Sincerely,
Rudolf Forster
rforster@alltech-inc.com

MTC-00025313

From: WenParrish@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 7:06pm
Subject: Microsoft Settlement

To whom it may concern:

I agree with the terms of the settlement, and believe it's fair, and reasonable. I also believe it's in the best interest of America, and will help the struggling economy.

Please approve this settlement.

Wendell Parrish
488 W. Plumb Lane
Reno, NV 89509

MTC-00025314

From: Ammie Nelson
To: Microsoft ATR
Date: 1/25/02 7:07pm
Subject: Microsoft Settlement

To Whom It May Concern:

I have used the internet for a decade. When AOL first came out I joined not realizing I was not on the world wide web, but stuck in the AOL space where information outside was not made available. (Or at least not that a newbie could understand.) It's that way today!! Ask anyone if they prefer AOL (limited access) to any other company like MSN or Juno or Yahoo and "hands down" the experienced user says NO!! You are trapped inside AOL! Business's advertising in aol must use a different address for access outside AOL. Does that mean all other companies have a monopoly because AOL chooses to remain separate from the rest? AOL is alone and is not compatible with all other companies so they are screaming for a court system to make a judgment on "free" enterprise and innovation that excels the AOL application!! The software made by Microsoft is duplicatable and sets an example of interacting programming that makes the public users life easier. So let AOL get off the pot and developed their own!! WE (john doe public) can chose between them!! The courts really should see the big picture and tell AOL to stop bothering them and wasting my hard earned tax paid dollars!! I will not use AOL EVER AGAIN!! I will use any other application but not theirs!! I have only had bad experiences with that company and the public service policy holds the key to the companies future. Just step back and look at what AOL has done to improve it's position in the technology is uses to exist! Nada! Zilch! Zip!! "I wish I could cry "monopoly" every time my life isn't as successful as any corporation! Just because they have all the brains and money I don't have doesn't mean they should develop above me." Get my point???

MSN has done nothing but excel in this country and it has allowed every home to own a computer!! Free Enterprise!! Free Innovative, Interactive Software technology! Doesn't AOL have this too??? Let them develop something bigger and better and see how much they complain. MSN has never stopped them or any other company from doing just that!

Ammie Nelson
715 Greenbriar Townhouse Way
Las Vegas, NV. 89121
1-702-451-5313

MTC-00025315

From: d minix
To: Microsoft ATR
Date: 1/25/02 7:08pm
Subject: Microsoft Settlement

Please do not allow the Microsoft corporation to settle the case with their offer of software to schools. They must be punished for their anti competitive stance and allowing them to dump their software on public schools only entrenches their monopoly. Let them give cash and let the schools decide how to use it.

Thank you.

David Minix

MTC-00025316

From: Philip Haddad
To: Microsoft ATR
Date: 1/25/02 7:11pm
Subject: Microsoft Settlement

The Association of Concerned Taxpayers (www.aoctp.org) reports that negotiations over the Microsoft antitrust suit are at a critical pass. The Dept. of Justice is asking for public comment.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. "This is just another method for states to get free money, and a terrible precedent for the future," states the AOCTP, "not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen."

This economically-draining witch-hunt has gone on long enough. We need to let the Department of Justice know how we feel about the Microsoft Settlement.

Sincerely,

Philip Haddad

MTC-00025317

From: Michael Allen
To: Microsoft ATR
Date: 1/25/02 7:12pm
Subject: Microsoft Settlement

In my opinion, all lawsuits against Microsoft should be dropped or settled. Let's focus on getting the economy back on track.

-Michael Allen

MTC-00025318

From: karen.holland@abbott.com@inetgw
To: Microsoft ATR
Date: 1/25/02 7:12pm
Subject: Microsoft Settlement

Dear Sirs,

Although I have co-signed the open letter provided by Dan Kegel at his website, I feel it necessary to provide my own comments on the matter of the Microsoft Settlement. It was not until very recently that I was made aware that I could contribute comment in regards to the settlement, and although it is likely that I will not have time to complete my review of the settlement before the deadline for commenting, here are the comments that I have determined to date:

Section III.D.

I agree that the covered items are insufficient to provide equitable development capabilities to Microsoft and non-Microsoft developers. As well, it provides no means to insure promptness of publication (the definition of "timely manner" can easily be worked around) nor remedies for internal communications about the future plans of APIs to which Microsoft programmers may be privy and for which they may accordingly provide for in their programming.

Section III.I.

This section does not provide sufficient requirements to define the patent scope and licensure for intellectual property of Microsoft. A major inhibitor to development by non-Microsoft software developers is the potential of having to defend against the giant that is Microsoft. Legal fees alone may put all but the largest companies out of business long before the suit could be completed even should it result in a favorable decision for the other party. This section has merely provided some access to these patents and intellectual property without providing for their application.

In general, I have been very disappointed with this judgement and do not feel that it is a sufficient remedy. I do not believe that Microsoft has, or will, behave in any better good faith than they have shown in the past and that this settlement does not provide the means to unfetter the market for the long term, if possibly not even for the short term.

Sincerely,

Karen Holland, PE
Sr. Instrumentation & Controls Engineer
Northborough, MA

MTC-00025319

From: Jim Copeland
To: Microsoft ATR
Date: 1/25/02 7:12pm
Subject: microsoft settlement

Dragging out this legal battle further will only benefit a few wealthy competitors, lawyers, and special interest big-wigs. Not one new product that helps consumers will be brought to the marketplace.

James R. Copeland
5763 St. George Ave.
Crozet, VA, 22932
434-823-4293

MTC-00025320

From: Ron MacKinnon
To: Microsoft ATR
Date: 1/25/02 7:12pm
Subject: Microsoft Settlement

To Whom It May Concern;

I'd like to add my concern to the many others who have already made their feelings known on this matter.

I am very practical and pragmatic as to the tools I use, and I don't care much where a quality product comes from. If Microsoft software was the best available and Microsoft had become the dominant player simply due to the fact that they had the best tool for the job at hand and had risen to the top on true merit, I would really have no problem with their being the dominant player in the computing world. I don't want to turn this into a diatribe on the quality of Microsoft's products, but the above is simply not the case.

Microsoft has become the dominant player on the computing desktop through the use of anti-competitive tactics, force, bullying, and the use of a tremendous amount of money and other influence, irrespective of the quality of their products. I believe that the proposed settlement between the Government and Microsoft is a disservice to the tax-paying public. I cannot feel that my wishes have been served by this inadequate solution.

Microsoft must be forced to compete on a level playing field along with all other companies with similar products to offer. If the proposed settlement is allowed, they will simply continue as they have been in the past.

An inadequately subdued Microsoft will continue to attempt to disallow my choice in computing software and hardware. They will continue in their attempt to force me to do my work (and play!) the way they think I should, according to their "vision" for my computing future. They will continue to limit my choices and my options. They have leveraged themselves into a position where they can decide for me how I will use my computer, and almost completely choose what kind that computer will be and what system and application software will be on it.

I have great hope that my voice, and those of the many others who have taken the time to respond to this issue, will be heard and that our wishes will be served.

Thank you very much;
Ron MacKinnon
45840 Hopactong St.
Temecula, CA 92592

MTC-00025321

From: mmn
To: Microsoft ATR
Date: 1/25/02 7:12pm
Subject: "icrosoft Settlement"

Honorable Justice Department, Sir:

The consumer interests have been well served. Please end this damaging litigation.

Respectfully,
Cecil Nickelson
175 Monumental Circle
Sparks, Nevada 89436.

MTC-00025322

From: csbrown@mail.camalott.com@inetgw
To: Microsoft ATR
Date: 1/25/02 7:10pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Laura Brown
304 Alvera
Winters, TX 79567

MTC-00025323

From: Roberta Skibba
To: Microsoft ATR
Date: 1/25/02 7:13pm
Subject: Microsoft Settlement

I believe the proposed settlement stinks. Microsoft needs to be punished enough so that it hurts and they won't err again. Otherwise, it is meaningless.

MTC-00025324

From: Jane Montague Scott
To: Microsoft ATR
Date: 1/25/02 7:14pm
Subject: Microsoft settlement

I would like to recommend that the agreement between Microsoft, the DoJ and nine states be accepted.

It is so foolish, especially at this time of a national economic slump to continue to disable Microsoft.

Sure, lots of unemployed Microsoft technicians might be called back in to resolve the mess if this agreement is rejected, but this is a poor way to resolve the unemployment crisis in the tech world. It appears that the ones wanting to reject it, have crossed the line, from trying to make it fare to all tech companies to get a piece of the action, and have moved into the realm of "lets get microsoft", lets try to make them die.

I'm a home user who just wants all my stuff to work correctly and microsoft does a better job of doing that, as well as constantly creating more solutions to running businesses. In disabling Microsoft, you are disabling users like myself.

Mac computers seem to dominate the market in elementary schools, why don't we site them for unfair practices?

Thanks for listening.

MTC-00025325

From: Michele Acerra
To: Microsoft settlement
Date: 1/25/02 7:15pm
Subject: Antitrust settlement between Microsoft, the DoJ and nine states.

Gentlemen!

I understand that Monday Jan.28 is the last day for public comments on thesubject of this e-mail.

Respectfully, as a shareholder, as a Microsoft software user since day one, as a citizen, believe that all this matter has to stop and that the proposed settlement should be accepted by all parties. The terms of the settlement are tough, but are reasonable and fair to all parties, and meet, and perhaps go beyond, the ruling by the Court of Appeals, and represent the best opportunity for the industry and everybody to move the hell forward!

It is incredible to me that "these pain in the ass" of the AOL subsidiary "Netscape Communications Co." have the balls to still screw around with this matter, now with a private lawsuit! I believe that you guys at the DoJ have to read of the most important industry analysts, including James K. Glassman, (http://www.techcentralstation.com/ 1051/techwrapper.jsp?PID=1051- 250&CID=105 1-012302E) who specifically says: "Instead of straightening out its business problems, AOL has decided to spend its time and effort filing lawsuits against tough competitors—a petty, distracting pursuit that won't help AOL or, for that matter, the U.S. economy, which depends on firms like Microsoft for the innovation necessary to bring about a technology revival."

As an AOL shareholder I could not be more in agreement!

Please stop all this nonsense for the Industry and the Country by starting to inforce the subject settlement.

Thanks for your time and attention
Michele (Mike) Acerra
10, Summer Lane
Califon, NJ 07830

MTC-00025326

From: Steven Paul, CPA
To: Microsoft ATR
Date: 1/25/02 7:16pm
Subject: Microsoft Settlement
RE: Microsoft Antitrust Settlement

I would like to see the proposed settlement with Dept of Justice and the various States Attorneys General concluded. I believe that Microsoft competitors were behind the instigation of the government's lawsuit in the beginning and no value exists in continuing this effort. An effort, I might add that seems to have at its heart the goal of propping up products which may not truly be competition to Microsoft products.

Standardization of various software platforms and aggressive software development guardianship was in my opinion at the root of and will continue (if allowed to continue by conclusion of this case) to keep America at the forefront of this industry. The software products, platforms and hardware development that the government believes were harmed by Microsoft's alleged anti-competitive behaviors were probably not the best platforms, software and hardware protocols in the marketplace. This Darwinian Natural Selection should not be artificially derailed simply to appease Microsoft's competitors.

I found it interesting that Netscape Navigator filed suit against Microsoft in the waning days of the public comment period on the Anti-trust settlement. The timing and stated-motivation were intended to draw attention to another allegation by a competitor of unfair competition by Microsoft. Don't buy it.

This is all part of the show intended to change the proposed settlement terms and protract the government's litigation for the benefit of Microsoft competitors. I'd guess that AOL...the biggest fish in the Internet Service Provider pond...probably knew what it was doing when it purchased Netscape for $10Billion during the Dept of Justice litigation. I don't really think it was gambling on a court judgment that would result in Microsoft's breakup when AOL decided on the purchase. It only indicates how tenuous the leader's real role is in this rapidly evolving industry. And look at AOL/Time Warner itself. It probably controls the largest content for potential future internet traffic. I believe AOL's proclaimed motivations in guiding Netscapes lawsuit against Microsoft are disingenuous.

I do not feel I have been harmed economically from Microsoft's business practices and don't believe you could find any consumers who have been. In fact, I believe that the large drop in prices of computer hardware and peripherals while at the same time having ever more powerful, faster and easier to utilize hardware and software applications has been, at least in part, the fruit of those business practices.

I would like to see the proposed Settlement accepted by all parties. It's time to move on and halt the flow of government resources into this current misguided effort.

Sincerely,
Steven Paul, CPA
4201 Roosevelt Way NE, Suite 206
Seattle, WA 98105
(206) 322–6040

MTC–00025327

From: eneudorff@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 7:13pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Emilia Neudorff
7806 Jason Ave.
West Hillsq, CA 91304–4434

MTC–00025328

From: alan tsuda
To: Microsoft ATR
Date: 1/25/02 7:17pm
Subject: Microsoft Settlement

I believe the settlement does not go far enough.

Alan Tsuda

MTC–00025329

From: RogerCubs@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 7:16pm
Subject: Microsoft Settlement

Attached is a memo to John Ashcroft, Attorney General, regarding the Microsoft settlement.

Roger Cramer
CC: fin@mobilizationoffice.com@inetgw
January 26,2002
John Ashcroft, Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Sir:

The purpose of this letter is to inform you of my support for the recent settlement reached between the Justice Department and the Microsoft Corporation. America is currently in a period of recession. Americans are faced with increasing layoffs and a slowing stock market. Further litigation against Microsoft at this time is unwise policy. In contrast, resolution of this case will spur consumer confidence in the economy and benefit American industry significantly.

The details of the settlement include many concessions made by Microsoft benefiting its competition. Microsoft has agreed to the formation of a supervisory board whose job it is to assure compliance with this settlement. Anyone wary of Microsoft's compliance then should be reassured given the objective nature of this board.

The time has come to finally put this antitrust dispute behind us. The American economy deserves it.

Sincerely,
Roger Cramer

MTC–00025330

From: DUB0543C@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 7:15pm
Subject: Microsoft Settlement.
1601 3rd Street Southwest
Cedar Rapids, IA 52404–2814
(319) 362–0013
January 23, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

When I was informed about my rights under the Tunney Act to express my opinion on the Microsoft case, I could not help but utilize this opportunity. For the past three years I have watched in frustration as this case as dragged on and on and now some states want to push for further litigation. This is unreal! This lawsuit has already cost the taxpayers, Microsoft and the IT industry unspeakable amounts of money.

I am in agreement with this settlement and believe the terms more than allow for competitor's access to Microsoft's infrastructure. For instance, Mircosoft has agreed to allow computer makers to configure Windows in a way that will accomadate non-Microsoft software . They have also agreed to design future versions of Windows that will all for interoperation with non-Microsoft programs. In an addition to all of this Microsoft has made an unprecedented agreement to share internal Windows interfaces with their competitors.

If the aforementioned terms are acceptable to the competitors, what are the states finding fault with. I hope that you will make the decision necessary to bring formalization to this settlement as soon as possible.

Sincerely,
Verlyn Davis

MTC–00025333

From: Jim and Carol McClure
To: Microsoft ATR
Date: 1/25/02 7:18pm
Subject: Microsoft Settlement

Gentlemen:

In reviewing Mr. Gate's performance with the Microsoft Company I urge you to pass the proposal as it is presented by Microsoft without editing.

Sincerely,
Carol A. McClure

MTC–00025334

From: Lou Lopez
To: Microsoft ATR
Date: 1/25/02 7:19pm
Subject: Microsoft Settlement

Gentlemen;

I know of no single contribution in my 35 plus years in business that has enhanced productivity more than the work product of the Microsoft Corporation. Were they guilty of predatory and/or monopolistic practices....you have the facts and you have ruled on them. That is past and there is not one shred of evidence that any of that type of behavior has been expressed in any way by the Microsoft Corporation in the last several years. Indeed, they probably are one of the most ethical firms in the country if not only for the fact that they know that there are numerous parties with virtually unlimited resources that are forever looking for such evidence to create another drain on the public's coffers via your good offices and to drain as much as they can from Microsoft in the naive belief that if they (i.e. Sun, Oracle, AOL) succeed, the loss in market position that Microsoft would suffer would be gained by them.

That "Zero sum" logic is so patently obvious that it is offensive. Is it fair for AOL to dominate both the content and delivery channels of so much of what is available via the internet and television? Is it fair for AOL to now impose increases on the rates of those intermediate ISPs that serve remote areas that suffer from being victims of the digital divide by connecting those folks to AOL? Didn't Netscape really nail its customers in clever ways when it was in its heyday.....look carefully and you will see what I saw.

The "Scott and Larry" show that attempts to provide a "One-two" punch to Microsoft to anyone that will give them an audience is as offensive as their obvious "Zero sum" strategy. If anyone that ever worked for Oracle ever gave honest testimony you would learn from them that the daily demand on every employee from Larry Ellison himself was for them to do what it took to displace any competitor so that Oracle would not only be the dominant database engine provider....but would in time be the only database engine provider. If he had succeeded in his goal he would have had a monopoly ....he just was not good enough to get there and continues to lose market share as I craft this letter to you. Don't think for a minute that if Scott and his Sun team could have locked up the engineering workstation or the Java Script language market potentials for themselves that they would have said "No". Scott, like Larry failed to succeed in monopolizing their chosen market sectors as Bill did....and so their egos and envy and very deep pockets turned them into fools with too much money and too much free time on their hands so they set out to use those resources against Microsoft and in so doing effectively cost the American taxpayer hundreds of millions of dollars to accomplish what a much less aggressive approach might well have accomplished.

There are a number of firms that effectively monopolize their market niches and perhaps without meaning to they effectively employ predatory practices by making it clear that if their customers don't do what they want they will not have access to that firm's goods and or services. Senator Sam Ervin said something in the Watergate hearings that seems to fit, it was the old "Two wrongs don't make a right".

On the other hand it seems unfair that just because Microsoft was the largest of those firms that monopolize their market niches that they alone should be singled out as they have been.

It is time that we redirect our limited DOJ resources to more urgent issues and stop wasting the publics time and money to accommodate the interests of these three enterprises. Microsoft has agreed to the settlement terms and you can be sure that they will not want to go down this path again so this type of behavior will not likely be seen in Microsoft again for years to come. I most sincerely request that we move on to more important issues.

MTC-00025335

From: clancy
To: Microsoft ATR
Date: 1/25/02 7:18pm
Subject: Microsoft brake up

I think this is an attempt to socialize all businesses and against Capitalism. The other companies are only complaining because they did not think of doing what Microsoft is doing. Otherwise they would be doing the same thing.

Stop all the law suits an get back to defending our nation.

Clarence Kahler

MTC-00025336

From: Jorge Barrera
To: Microsoft ATR
Date: 1/25/02 7:19pm
Subject: Microsoft Settlement
15824 168th Avenue NE
Woodinville, WA 98072
January 2, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I work in television production. The future of digital technology in the television industry will again revolutionize our society. For the best benefit to our American society, Microsoft must be free to join in the innovations that will empower our still-unfolding and expanding digital future. I believe that there was never a need to tear Microsoft into pieces, as actually happened with AT&T.

I thank you for your support of the Microsoft settlement. It is the best solution available to us now. The settlement will allow Microsoft to stay together, while also opening up its Windows operating system to the computer industry. Microsoft has agreed to reveal the crown jewels, the internal interfaces and server protocols of Windows. It will license its copyrights and patents on non-discriminatory terms, rather than refuse infringing companies access to its brainpower. The settlement makes sense for the betterment of the industry. I appreciate your efforts to reach this settlement and have the federal court approve it.

Sincerely,
Jorge Barrera
MagicHour Films, Inc.
phone:206 443 9818
fax:206 443 1453
visit our website at:http://www.magichour.com
CC:fin@mobilizationoffice.com@inetgw

MTC-00025337

From: Clark N. Quinn
To: Microsoft ATR
Date: 1/25/02 7:20pm
Subject: Microsoft Settlement

I would like to register my dissatisfaction with the proposed settlement with Microsoft. I understand that the requirements are insufficient to prevent further abuse, and it appears that there are no consequences attached to the anti-competitive actions that have hampered an industry.

Please do review and strengthen the conditions, and consider the justice system remedies for illegal behavior, before settling.

Thanks,—
Clark —
Clark N. Quinn
OtterSurf Labs
clark@ottersurf.com
925-200-0881
http://www.ottersurf.com/

MTC-00025338

From: Mark
To: Microsoft ATR
Date: 1/25/02 7:21pm
Subject: Microsoft Settlement

The proposed settlement has many flaws and is not in the public interest. More needs to be done, as many DoJ people apparently believe; I will pick one key issue.

Creation of an environment where viable alternatives to Microsoft's dominance in desktop operating systems flourish, and where competition in the variety of related monopolies that have arisen and will arise from that dominance is allowed and feasible, requires, in a fast-paced technology environment, both speed and pragmatism.

Speed requires that the eventual actions required of Microsoft should be carried out fully and in a timely manner—the definition of timely to be decided, and compliance to it to be monitored, by the court or the DoJ or other appropriate body, advised by industry.

Pragmatism requires recognising the critical relief that should be provided to non-Microsoft innovators to "level the playing field"—that is, to publish fully all the APIs and file formats used by Microsoft itself, past, present, and, where relevant, future—relevance, to be determined, again, by the court or the DoJ or other appropriate body. It is ingenuous to suppose that Microsoft can be trusted to act fully and completely in accordance with whatever final settlement is reached, and in particular with these two aspects—hence the need for active and appropriate compliance monitoring.

Lindows, Codeweavers WINE, and numerous other innovations will—given these actions—produce in the relatively short term a non-Microsoft desktop operating system that will run Microsoft and other applications software. There will then, and only then, be an environment in which real competition exists.

MTC-00025339

From: Campbell Marquette
To: Microsoft ATR
Date: 1/25/02 7:21pm
Subject: Microsoft Settlement

G'day,

As a long time user of Microsoft products I wish to make a few comments about the proposed settlement.

Microsoft has done more than any other company in making computers a major part of people's lives. They have made software that has enabled anyone to sit down and use a computer, any computer. This would not have possible without the great work Microsoft has done.

The proposed settlement is more than fair, in fact I believe that Microsoft is completely in the right and should be left to continue the great work they have started. Microsoft has done nothing wrong. It is the companies such as AOL that hide behind the courts instead of living in the real world where true competition occurs.

The proposed settlement will force Microsoft to make several major concessions to its operating systems and its business practices. The proposal will make computers more difficult to use, less user friendly and less innovative, unfortunately this may be the best solution we can come up with.

Microsoft is a great company and any harm that is done to Microsoft will cause only harm to the users of computers in the world.

I ask of you to accept the proposed remedies and let Microsoft continue being an innovative company.

Cheers,
Campbell.

MTC-00025340

From: Lloyd Smiley
To: Microsoft ATR
Date: 1/25/02 7:20pm
Subject: Microsoft Settlement

The antitrust lawsuit against Microsoft hit Microsoft and the economy in March 2000; contributed significantly to the slide of the stock market and poor performance of most companies throughout the country for the past 23 months. We cannot justify the continuation of damaging Microsoft for the benefit of Apple, Oracle, AOL Time Warner and the remaining nine envious detracting states.

Linux has become the primary operating system in IBM's most advanced servers, just introduced, a substantial switch from Microsoft Windows and NT to a highly competitive alternative OS. Innovation and the market is working without Federal and State Government intervention. AOL Netscape with 33,000,000 has three times more subscribers than Microsoft Explorer, yet AOL files a lawsuit that Netscape has been disadvantaged. AOL also withholds documents from the litigation process and encourages the nine intransigent states to prosecute with no ending. What gall! What runaway greed!

The Appeals Court and Department of Justice Antitrust Division have an opportunity to put this costly litigation with Microsoft to rest and somehow placate the nine foot-dragging states so we can move on to a more productive period for the entire economy. For God's sake, please put this legal morass in back of us so we can breathe normally again.

As Microsoft customers for the past 20 years we have never experienced any wrongdoing in overcharges in fees or software; in fact, we hope and pray we can do as well over the next 20 years in relying on Microsoft in their outstanding innovations and service to customers, the industry and the economy.

Lloyd Smiley, President
Performa Company
4830 East Coventry Drive
Vero Beach, FL 32967-7301
Lloyd—Smiley@Hotmail.com
Telephone: 561-564-9825

MTC-00025341

From: junecascio@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 7:20pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
June Cascio
654 Jordan St
Shreveport, LA 71101

MTC-00025342

From: Brian Cebull
To: Microsoft ATR
Date: 1/25/02 7:23pm
Subject: Microsoft Settlement
January 25, 2002
Attorney General John Ashcroft
The Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I strongly support the settlement terms that the Department of Justice and nine states reached with Microsoft in November 2001, and I urge you to adopt the terms of the agreement as soon as possible.

The settlement contains tough yet reasonable provisions that will make it easier for companies to compete with Microsoft. Competing companies will receive more information than ever from Microsoft regarding software codes and books. Microsoft must also design future versions of Windows, starting with Windows XP, to make it easier to install non- Microsoft software.

This settlement will not only benefit competing companies but will benefit the technology industry as a whole by allowing Microsoft to devote its resources to innovative software design, rather than litigation. Again, I strongly support this settlement and feel it will serve in the best interest of the public.

Sincerely,
Brian R. Cebull
Nance Petroleum Corporation
PO Box 7168
Billings, MT 59103
(406)245-6248

MTC-00025343

From: Sandra Wright
To: Microsoft Settlement U.S. Department of Justice
Date: 1/25/02 7:17pm
Subject: Microsoft Settlement
Sandra Wright
1104 Old Lynchburg Road
Charlottesville, VA 22903
January 25, 2002

Dear Microsoft Settlement U.S. Department of Justice:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
sandra f. wright

MTC-00025344

From: Stephen Baber
To: Microsoft ATR
Date: 1/25/02 7:23pm
Subject: Microsoft Settlement

To whom it may concern,

It is a great risk to my career as a software engineer that I write to you for the public record as permitted by the Tunney Act. Given Microsoft's vengeful corporate culture, this very document will surely be used to bar me (and the many other's writing in opposition to Microsoft's illegal leveraging of it's monopoly power) from working, if left unregulated and in our lifetimes, by the only remaining technology company in America.

My primary concern is that the settlement being prepared by Mr. Charles James (1) would not prevent the central ways Microsoft was found to have illegally maintained its Windows monopoly, (2) does nothing to restore competition in the OS market, an express Court of Appeals requirement for a Microsoft remedy, and (3) has no provisions directed to Windows XP and other new endeavors of Microsoft to extend and protect its monopoly to new markets in the future, another express Court of Appeals requirement for a Microsoft remedy. The proposal is so far outside the mainstream of antitrust law, and so completely contradicts the DC Circuit's unanimous opinion affirming Microsoft's guilt, that the only explanation must be political.

My suggestions for restoring fair competition are to (1) spin-off every Microsoft product which has market dominance into it's own separate corporate entity, and (2) require that Microsoft publish the file formats and communications protocols used by those products so that competitors may create compatible software and hardware.

My suggestions for punishing this repeat offender are (3) any fines required by the 1995 Consent-Decree should be paid as well as all court costs, and (4) Company president William Harold Gates III and CEO Steven Ballmer should admit their wrong doing on national television, also (5) Microsoft should be barred from spinning their loss into a case of government interference.

Our citizens have given their lives for the principles on which this nation was built, a nation of laws and not a nation of men, I urge you to perform your duty as guardians of justice and protect us from a corporation which has committed flagrantly illegal acts for the maintenance of their monopoly powers. Posterity will remember if we acted when there was still time to stop the disappearance of consumer choice and the free market system.

Sincerely,
Stephen Baber
Software Engineer
2904 24th Ave W
Seattle WA 98199

MTC-00025345

From: Merv R Heebner
To: Microsoft ATR
Date: 1/25/02 7:23pm
Subject: Microsoft Issues

I am writing to let you know that I think that Microsoft is being given the shaft. It is certainly within their rights to market their products as they have done. This country has been built on entrepreneur ship. Actions against Microsoft is a slap in the face of what has made America great.

Thank you.
Merv Heebner

MTC-00025346

From: Nicholas Esposito
To: Microsoft ATR

Date: 1/25/02 7:24pm
Subject: Microsoft Settlement

Please read attachment below.

Nicholas T. Esposito
24 Juniper Creek Boulevard
Pinehurst, NC 28374
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this letter is to inform you of my support of the Microsoft settlement. Over the past three years, the federal government has launched a legal attack on Microsoft. The result of this attack has served only to curb productivity in our technology sectors. Given the current economic recession, I believe that settling this issue will facilitate growth in the industry once more.

Compromises have been made throughout the process. Microsoft has agreed to license Windows at the same rate to the largest producers of PCs. This will ensure that computer makers have a level playing field. Further, PC makers will have the option to market computers that have non-Microsoft software enabled onto the Windows system upon sale. Microsoft agreed all of these changes to in the interests of resolving the issue. I would hope that you see the importance in enacting this settlement at your earliest convenience. Thank you for your time regarding this issue.

Sincerely,
Nicholas Esposito
cc: Representative Howard Coble

MTC-00025347

From: aprice@healthspace.ca@inetgw
To: Microsoft ATR
Date: 1/25/02 7:25pm
Subject: Microsoft Settlement

Your Honor,

I believe the recommendations made here: http://www.securityfocus.com/news/315 would be of very substantive benefit in helping prevent future abuses of monopoly by MS.

Thank You
Andrew Price
C.O.O.
HealthSpace Integrated Solutions Ltd.
HealthSpace USA Inc.
Tel. (604) 860-4224
http://www.healthspace.ca

MTC-00025348

From: John
To: Microsoft ATR
Date: 1/25/02 7:25pm
Subject: Microsoft Settlement
15 Broadway
Ocean Grove, NJ 07756
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I urge you as strongly as possible to settle the Microsoft antitrust case and to end the extensive and costly legal proceedings against them. I find the amount of money spent fighting the case an irresponsible use of resources, and the case should be wrapped up as quickly as possible at this point.

As an everyday computer user, I find a uniform operating system to be beneficial in my ability to smoothly operate my PC. Though some of Mitcrosoft's tactics have been heavy-handed, there is no denying the success they have had in making programs work seamlessly with each other and creating a standard other companies have yet to match. Though they will lose some of their entrepreneurial freedom in disclosing Windows coding to competitors, it will allow Microsoft to get back to business, and to continue paving the way for innovations that benefit millions of people.

Therefore, I am in favor of settling the case as soon as possible. If our past President, Mr. Clinton had spent as much time, energy and money pursuing Bin Laden and company as he had pursuing Bill Gates and company (Microsoft), we as a nation would be in better shape. One of the main reasons I voted for President Bush was in the belief that he would do the right thing.

Sincerely,
John Sosenko

MTC-00025349

From: John
To: Microsoft ATR
Date: 1/25/02 7:25pm
Subject: microsoft settlement
15 Broadway
Ocean Grove, NJ 07756
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I urge you as strongly as possible to settle the Microsoft antitrust case and to end the extensive and costly legal proceedings against them. I find the amount of money spent fighting the case an irresponsible use of resources, and the case should be wrapped up as quickly as possible at this point.

As an everyday computer user, I find a uniform operating system to be beneficial in my ability to smoothly operate my PC. Though some of Microsoft's tactics have been heavy-handed, there is no denying the success they have had in making programs work seamlessly with each other and creating a standard other companies have yet to match. Though they will lose some of their entrepreneurial freedom in disclosing Windows coding to competitors, it will allow Microsoft to get back to business, and to continue paving the way for innovations that benefit millions of people.

Therefore, I am in favor of settling the case as soon as possible. If our past President, Mr. Clinton had spent as much time, energy and money pursuing Bin Laden and company as he had pursuing Bill Gates and company (Microsoft), we as a nation would be in better shape. One of the main reasons I voted for President Bush was in the belief that he would do the right thing.

Sincerely,
John Sosenko

MTC-00025350

From: bekki
To: Microsoft ATR
Date: 1/25/02 7:25pm
Subject: Microsoft Settlement

Please do not accept the proposed settlement as an adequate solution to the Microsoft monopoly. Speaking as a consumer, I am very concerned that this is inadequate protection and in fact only encourages them to continue their illegal actions.

Thank you,
Rebecca Andrews
18 Lansing Street #402
San Francisco, California 94105

MTC-00025351

From: David Kidd
To: Microsoft ATR
Date: 1/25/02 7:28pm
Subject: Microsoft Settlement

I am opposed to the tentative settlement of the United States vs. Microsoft antitrust lawsuit.

David B. Kidd
Mableton, GA

MTC-00025352

From: David Jones
To: Microsoft ATR
Date: 1/25/02 7:28pm
Subject: microsoft.atr@usdoj.gov . DON'T DO IT......

Please note that as a consumer who has suffered under Microsoft's strangle hold on the technology that I hope and pray you will not allow the current settlement proposal to be approved.

Thank you,
David Jones

MTC-00025353

From: Steve Hilditch
To: Microsoft ATR
Date: 1/25/02 7:28pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Please find enclosed my comments regarding the pending settlement between the United States Government, several individual states and Microsoft Corp.

First, let me state that I am neither in the employ nor have any dealings with of any of the parties directly affected by this action, but am a consumer whose past and future access to technology and the advancement to society that a diverse and thriving technology sector offers has been diminished by Microsoft's anticompetitive corporate behavior.

It is my view that the proposed remedies are a grossly disproportionate to the violations of which Microsoft has been proven guilty. The proposed settlement verges on being meaningless in enforcing upon Microsoft any degree of compliance with the principles of justice that are required to curb Microsoft's ongoing anticompetitive behavior .

It is my firm belief that nothing short of the partitioning of Microsoft into separate corporations, each prohibited from engaging with the other to any extent beyond that afforded to a third party, will suffice. In order to avoid the continuance of the damage that has been inflicted within the marketplace to formerly able bodied competitors requires substantial and meaningful action.

I urge you to step above narrow partisan politics and enforce to the fullest degree possible under the law strong measures to deal with the past and future actions of Microsoft Corp.

Sincerely,
Steve Hilditch

MTC-00025354

From: Anil Godbole
To: Microsoft ATR
Date: 1/25/02 7:28pm
Subject: Microsoft Settlement

I believe the settlement with DOJ is very very fair. We should let Microsoft innovate & introduce new products as long as they abide by non-monopolistic business practices.

-Anil Godbole
Cupertino, CA 95014

MTC-00025355

From: Dale Phurrough
To: Microsoft ATR
Date: 1/25/02 7:28pm
Subject: Microsoft Settlement

I agree and support the proposed settlement.

Sincerely,
Dale Phurrough
1723 25th Ave #C
Seattle WA 98122

MTC-00025356

From: Edward Liu
To: Microsoft ATR
Date: 1/25/02 7:33pm
Subject: Microsoft Settlement

Dear Sir or Madam:

I am writing to you under the auspices of the Tunney Act to express my great disappointment in the Proposed Final Judgement in the case of the US vs. Microsoft. In my opinion, the proposed settlement does not adequately punish the acts detailed in the findings of fact, which stated rather unequivocally that Microsoft used its monopoly power to damage its competitors unfairly.

The current settlement is little more than a slap on the wrist, and is disturbingly similar to the consent decree of 1995, where Microsoft promised to amend its behavior in the marketplace. Clearly, as Microsoft's legally defined anti-trust violations demonstrate, the consent decree was completely ineffective in correcting Microsoft's anti-competitive behavior.

I am a computer programmer by profession. In my opinion, the actions of Microsoft do far more harm than good in the industry, stifling creativity and alternatives, while foisting second-rate software on the population through their operating system monopoly. I beg you to reconsider the settlement terms in the anti-trust case.

Thank you for your attention.
Edward Liu

MTC-00025357

From: Darcy James Argue
To: Microsoft ATR
Date: 1/25/02 7:30pm
Subject: Microsoft Settlement

Hello,

As a concerned computer user, I would like to object to the proposed final judgment in United States v. Microsoft. In my opinion, Microsoft has reaped the rewards of years of abusive, illegal, monopolistic practices, and is being let off with a light tap on the wrist. This proposed settlement will not end Microsoft's anti-competitive conduct and does nothing to effectively penalize the company for damage already done.

Only penalties commensurate with the extraordinary scale Microsoft's abuses—including, possibly, the breakup of the company—coupled with strong regulation to prevent further monopolistic practices will restore fairness and competitiveness to the Intel-compatible OS market.

Sincerely,
Darcy James Argue
djargon@mac.com
Boston MA

MTC-00025358

From: dgast@paonline.com@inetgw
To: Microsoft ATR
Date: 1/25/02 7:28pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Donna Gast
511 Lamp Post Lane
Camp Hill, PA 17011

MTC-00025359

From: W. B. Hackett
To: Microsoft ATR
Date: 1/25/02 7:30pm
Subject: Microsoft Settlement

PLEASE SETTLE. END THE MATTER.

My beloved Uncle Sam appears to me (and to many others both in the United States and abroad) to be caught up in time-consuming, very expensive, arguing back and forth. That sort of involvement is counter-productive for all of us.

Microsoft has made enormous contribution to the economy of the United States. Please consider and be as fair and just as possible, but please settle. Please end the whole matter. Please try to do it now.

Godspeed!
Bill Hackett

MTC-00025360

From: Dan Dougherty
To: Microsoft ATR
Date: 1/25/02 7:25pm
Subject: Microsoft Settlement
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have been following the Microsoft litigation for some time now. And now I see some states want to continue this litigation. How long does the public have to put up with this?

A company like Microsoft, that has done so much for this country, has been punished enough.

They have agreed to many concessions and have gone out of their way to correct what others have acussed them of doing.

Please do everything you can to bring this matter to a close and allow Microsoft to get back to what they do best and that is to help keep this country in the forefront of technology. They are very good at that.

Sincerely,
Dan Dougherty, Ret SgtMaj USMC
207 Pineview Rd Jacksonville, NC 28546
Home of Camp Lejeune

MTC-00025361

From: Belcou
To: Microsoft ATR
Date: 1/25/02 7:30pm
Subject: Microsoft Settlement
P.O. Box13148
Burton, WA 98013
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Now that an agreement has been reached, I ask you to approve the settlement in the Microsoft case. The previous break-up attempt seemed to arise from a personality clash during the early stages of this case; however, companies should not be dismantled for such reasons. This recent, more balanced solution should stand.

Microsoft may have been involved in very aggressive marketing techniques, but the company really deserves more appreciation for all the great things it has accomplished for the new economy. The bottom line is that the competition has been weak, and controversial issues—such as bundling features—are actually very convenient. Upon reflection, the deal that has been worked out with the help of a court mediator seems quite reasonable.

If this plan can proceed, industry rivals will have plenty of chances to gain market share. For instance, competitors will benefit from increased flexibility in adding or removing Microsoft software from the Windows operating system, and they will have access to its internal code. Please accept the proposed terms and let the free market decide the rest.

Thank you.
Sincerely,
James Pappin

MTC-00025361—0002

MTC-00025362

From: Justin Aichele
To: Microsoft ATR
Date: 1/25/02 7:35pm
Subject: Microsoft Settlement

Hello,

I am submitting my comments for the Microsoft Anti-trust case. During this case, the evidence that I saw clearly demonstrated that Microsoft tried to destroy competitors like Sun and Apple and Netscape and increase their market share underhandedly rather than by trying to make the better product and win customers by their own choices. This evidence is crystal clear according to what I saw on the internet that was posted by major news organizations who were covering the case.

Personally, I don't necessarily have a problem with a company dominating a particular market or industry. In conversations with friends, I compare Microsoft to Cisco. Cisco has almost as much market share for networking equipment as Microsoft does for operating systems. In fact, 3Com gave up their core switch market because they could not compete with Cisco. I've personally dealt with both Microsoft and Cisco as a customer and as a technician. The difference is this: Cisco listens to their customers and doesn't try to force them into making decisions they don't want to make. They got to number 1 because they built a better product. It is usually priced higher, but the quality matches the price. As a whole, Cisco cares about their customers and doesn't try to dictate to them how things are gonna be done. It doesn't try to exert too much control and take away free choice. Based on Microsoft's recent licensing schemes, it sure seems like Microsoft would love to take away choice from people. They want a revenue stream when they want it and if it doesn't happen that way, then they will penalize people by not allowing them to upgrade for reasonable prices. Microsoft to me displays intense arrogance that has basically gone unchecked. They have something to leverage, though, otherwise people would have left a long time ago. I think that for the health of computing in general, they should be split up. I think a ton of new products would emerge if it was split up. Microsoft wants total control of things and they mask that as services. Services are great to offer, but they become chains when there's no other option. Microsoft wants to eliminate options from people and they have not done a darn thing to earn my trust. I would never trust them with my financial information on one of their servers. It's my info and it'll stay that way.

The bottom line is that this company has grown to be huge in both legitimate ways and in illegitimate ways. Their recent behavior shows that they would love to continue to leverage their control in unethical ways. Split them up and then let's see what happens. The world will recover, and will probably thrive if you guys would stand up to this mega-company and show them that US laws are put into place for a reason.

Hope this helps.

Justin Aichele

"He is no fool who gives up what he cannot keep to gain what he cannot lose"—Jim Eliot, missionary to Ecuador.

MTC-00025363

From: Reg Diodati
To: Microsoft ATR Date 1/25/02 7:34pm
Subject: Microsoft Settlement

Gentlemen and Ladies,

I believe Microsoft should be allowed to abide by the terms of the settlement, and any further action would be designed to destroy the company, doing great harm not only to the US economy but perhaps the world's. The only organizations to be satisfied would be those opposing the existence of Microsoft. They, of course, were no better at wanting to do what Microsoft has accomplished, but simply were not as successful.

Reginald R. Diodati
Troy, PA

MTC-00025364

From: Oldelm@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 7:33pm
Subject: Microsoft Settlement

I join with many friends who welcome settlement of this extremely complex and very costly case. Just about when we average folks are sighing, "At last!" , along comes AOL with another suit! I hope the highly skilled people at Microsoft , AOL, and other high-Tech companies will focus on innovation and service, rather than entangling everyone in litigation.

I've continued to be an AOL subscriber, because of relatively simple access to information & communication—& I can simply NOT choose chat, celebs, movie ratings, "instant savings" offers, etc. I would expect a top-rated provider to be bright enough to invest in ongoing service improvements, rather than assuring wealth for attorneys—at tax-payers" expense. I'll probably continue to use AOL, hoping they lighten up—and brighten up. Users of the remarkable and innovative technology now available do have the privilege of choosing products and services suited to their needs. I believe most of us do not feel trapped by one company or another. We appreciate the Department of Justice efforts to get this monstrous distraction settled!

Grace Allen

MTC-00025365

From: Clyde w. Butler
To: Microsoft ATR
Date: 1/25/02 7:35pm
Subject: Microsoft Settlement !

Hi ! I hope this settlement achieved between Microsoft the Deptartment of Justice and abipartisan group of State Attorneys General is indeed settled in the public interest !

Thank You !

Clyde W. Butler
14701 Dohoney Rd .
Defiance , Ohio 43512–8709
cwmjb@ defnet.com

MTC-00025366

From: Bonnie (038) Cleve Svetlik
To: Microsoft ATR
Date: 1/25/02 7:35pm
Subject: Microsoft Settlement

I believe the DOJ is knuckling under to big business and that the proposed settlement is nothing more than selling out the Citizens of the USA to Microsoft.

I strongly urge continued litigation such as the States who have a spine have done.

Mr.. Cleve Svetlik
2545 Brainard Road
Pepper Pike, Ohio 44124

MTC-00025367

From: Norman Chapman
To: Microsoft ATR
Date: 1/25/02 7:34pm
Subject: Justice Dept. Agreement

Gentlemen:.

It is very distressing to see the continued efforts of competitors of Microsoft trying to destroy efforts of the Justice Dept. and Microsoft in having reached an agreement that is fair and workable.

This latest move on the part of AOL is no more than another attempt to influence both public thinking and the legal system in continuing efforts to punish Microsoft until it is reduced to a company unable to provide the quality of software and services which have served this country so well. It is abhorrent to think that companies such as AOL, Sun, Oracle and others have continued to resort to attempts to defeat competition by litigation instead of the much needed innovation to provide to the American public as well as the rest of the world continued improvements in the quality of computer software and other related components. Our family is pleased with the possibilities that your efforts along with those of Microsoft will result in the removal of further litigation and allow both Microsoft and its competitors to re-engage in the job of developing and delivering the world's finest technology.

Sincerely,

Norman & Isabella Chapman
CC:norm@cadenza.com@inetgw

MTC-00025368

From: Don M. Weber
To: Microsoft ATR
Date: 1/25/02 7:21pm
Subject: Proposed settlement

I am infavor of the compromised settlement agreement with Microsoft.

Thank you

Don M. Weber,Retired in Missouri

MTC-00025369

From: Jerry Spencer Mings
To: Microsoft ATR
Date: 1/25/02 7:37pm
Subject: Microsoft Anti-Trust

From what I've read, the judgment against MS is more of a reward than a punishment.

My first home computer was handbuilt 6800 from a kit (SwTP) and used an ASR33 teletype with punched paper tape as the sole offline storage. Eventually the system was maxed out at 32 kilobytes of pseudo-static RAM.

I remember vacationing in Silicon Valley and lunching with the author of Tiny BASIC. Bill Gates became a hero for releasing 4K (and later 8K) BASIC. Later the original IBM PC was released under a disingenuous marketing plan claiming the 8-bit 8088 microprocessor as being a 16-bit system and hijacking the acronym PC. The home computing comunity was in large part outraged, but business lived and died by the aphorism "Nobody ever got fired for buying IBM." At the time there were several 6800 based home computer systems running UNIX variant operating systems that failed against the tidal wave of EYE-BEE-EM.

Then, somehow, the IBM PC design opened up to independent manufacturers and the hardware market exploded once they discovered to their amazement that the public wanted clones and not compatibles.

Now we reach the point where I gave in and bought a compatible because: 1) It's what they were using at work. 2) There was a LOT of free or cheap software out there.

Then—

I had to upgrade to DOS 3.1 because it was more reliable and fixed the bugs from the previous release.

I had to upgrade to DOS 3.2 because it was more reliable and fixed the bugs from the previous release.

I had to upgrade to Windows 3.2 because it was more reliable and fixed the bugs from the previous release.

I had to upgrade to Windows 95 because it was intergrated and more reliable and fixed the bugs from the previous release and the cheap printers required it and it came with my new faster computer because the new programs were untollerably slow.

I had to upgrade to Windows 98 because it was more reliable and fixed the bugs from the previous release and the cheap scanners required it. IBM was no friend—I bought OS/2 and OS/2 warp 3.

Apple was no friend with their proprietary (overpriced) hardware and software - I had an Apple IIe and the joke was "After you had to buy the entire library of documentation (each manual referred you to another manual) for another $50 you got Steve Job's home number."

I don't have a reasonable solution (I favor breaking MS into a thousand pieces and refunding all Windows [another hijacked name] upgrade fees), but suggest you contact Richard M. Stallman at http://www.fsf.org as his is the loudest sanest voice in the wilderness.

Richard Balding

MTC-00025370

From: Loren Shirk
To: Microsoft ATR
Date: 1/25/02 7:37pm
Subject: Settlement

I agree with the settlement.

Loren Shirk
188 Las Lomas Rd.
Duarte, CA 91010

MTC-00025371

From: JugheadGOP@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 7:38pm
Subject: microsoft settlement

The case was not justified in the first place.

Why is it the roll of Big Government to punish success because competetion complains?

This Country and all Americans can be proud and thankful for the inovation of Mirosoft and Bill Gates.

Sincerely,

Ken Keller

MTC-00025372

From: Steven Ohmert
To: Microsoft ATR
Date: 1/25/02 7:39pm
Subject: Microsoft Settlement

I would like to express my opinion that the proposed settlement in the Microsoft antitrust case be accepted. I believe the remedies are sufficient. It is time for this issue to be done with. The uncertainty and disruption this case has caused in the industry is a prime contributor and belweather for the downturn of the high tech industry in the stock market. The resolution of this matter will be a significant step in the recovery of initiative and innovation that has fallen away as a result of the uncertainties.

I am not necessarily a cheerleader for Microsoft. Clearly, they have agressively and sometimes inappropriately used their market position as a bullying tactic. I believe there are lessons to be learned from this on all sides. I believe this is addressed in the settlement. Punitive actions proposed by opponents to the settlement are drastic, vengeful, and superficial. Acceptance of the settlement sends the clear message that the US government can be a fair and final arbitrator of such situations without being a blind executioner, and cuts short the use of the system as a forum for marketing public opinion and corporate images (by both sides).

Thank you

Steven Ohmert
25731 78th Ave SW
Vashon, WA 98070

MTC-00025373

From: Kevin Jerbi
To: Microsoft ATR
Date: 1/25/02 7:42pm
Subject: Microsoft Settlement

Hello,

I am writing to express my dissatisfaction with the proposed antitrust settlement with Microsoft.

I believe that this settlement does nothing to prohibit Microsoft from continuing its predatory practices in information technology. This settlement has little provision to prevent Microsoft from asserting that any other applications are now part of their Windows operating systems, or from using their strong position in that market to thwart other innovations in different applications.

I fully support the right of Microsoft to continue to develop its products and innovate as they see fit. However, as a confirmed monopoly, they have a specific responsibility to ensure that their monopoly does not illegally extend into emerging markets.

I also fear the enforcement of this agreement. It should be recalled that Microsoft's brazen indifference to their 1995 consent decree began this particular case.

Thank you for your consideration,

Kevin Jerbi
Sr. Technical Support Specialist
Targeted Genetics Corp.
Seattle, Washington.

I am a US citizen, and my address is 1125 NW 56th Street, Seattle, WA 98101.

MTC-00025374

From: meanymom54@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 7:39pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Anne Reiser
47 Meritoria Drive
East Williston, NY 11596–2004

MTC-00025375

From: joylf4533@webtv.net@inetgw
To: Microsoft ATR
Date: 1/25/02 7:39pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now.

Sincerely,

Joyce Foss
731 S. Bluff St.
South Beloit, IL 61080–2165

MTC-00025376

From: AVCS
To: Microsoft ATR
Date: 1/25/02 7:38pm
Subject: Miscrosoft Settlement

TO WHOM IT MAY CONCERN:

Are we not living in America? Land of free enterprise, supposedly a capitalistic economic structure. It is time to leave Microsoft alone. Move on. Do something more constructive with your time. This is nothing more than a witch-hunt on this company.

Rhonda Hubler
949 Enders Road
Halifax Pa 17032

MTC-00025377

From: Joe Cotey
To: Microsoft ATR
Date: 1/25/02 7:43pm
Subject: Microsoft Settlement

Dear Department of Justice,

I am strongly opposed to the proposed settlement. The three top reasons are:

1) It allows Microsoft to keep the financial and business advantages it gained by operating an illegal monopoly,

2) It allows Microsoft to keep the distortions, such as Internet Explorer, Media Player, and others, it added to Windows in defiance of a court settlement,

3) There is no provision to enforce any provisions of this settlement and Microsoft has a long history of doing as they please.

It appears to me that it would be a shame if an industry standard operating system weren't a result of this action. Since Windows is the de-facto O. S., it seems reasonable to me to require Microsoft to release Windows to a standards organization such as IEEE, ANSI, or others. They have certainly recouped and profited adequately for their investment, and the loss of Intellectual Property to the public good seems to me a proper punishment.

Oliver J. Cotey
580 Ahwanee Ave., No. 58
Sunnyvale, CA 94085
tel: (408) 245-3487
e-mail: j.cotey@att.net

MTC-00025378

From: billo123 Owens
To: Microsoft ATR
Date: 1/25/02 7:44pm
Subject: Microsoft Settlement

Please get off Microsofts ass.

William E. Owens

MTC-00025379

From: David Bacher
To: Microsoft ATR
Date: 1/25/02 7:45pm
Subject: Microsoft Settlement

To Judge Kollar-Kotelly and the United States Department of Justice,

I would like to comment on the proposed Microsoft Settlement as allowed under the Tunney Act.

As background, I am a software engineer with 6 years of professional experience developing on Unix and Macintosh platforms.

I have read the Findings of Fact and the Revised Proposed Final Judgement as posted on www.usdoj.gov and I have come to the conclusion that the Proposed Final Judgement does very little to limit Microsoft's acknowledged monopoly power.

Impact on Open Source Software

As a proponent of (and contributor to) open source software, I am concerned by the language that allows Microsoft to conceal APIs selectively from competitors simply because it does not agree with their business model.

To quote Ralph Nader's open letter (http://www.cptech.org/at/ms/rnjl2kollarkotellynov501.html) "What is surprising is that the US Department of Justice allowed Microsoft to place so many provisions in the agreement that can be used to undermine the free software movement. Note for example that under J.1 and J.2 of the proposed final order, Microsoft can withhold technical information from third parties on the grounds that Microsoft does not certify the "authenticity and viability of its business," while at the same time it is describing the licensing system for Linux as a "cancer" that threatens the demise of both the intellectual property rights system and the future of research and development."

As the most powerful corporation in the software industry today, Microsoft should be forced to provide equal access to information to anyone, regardless of whether their business model meets Microsoft's approval.

Failure to Punish Illegal Actions

In addition, the proposed settlement does nothing to punish Microsoft's illegal monopolistic tactics. Microsoft has willingly abused its position in the marketplace and it should be punished. At the very least, it would be appropriate to fine Microsoft for their actions. In addition, Microsoft should be forced to divest itself of those technologies in which it has used its monopoly power to gain a controlling presence. Microsoft should not be allowed to reap the benefits of its illegal actions.

Please consider my comments as a vote against the proposed settlement. Thank you.

Sincerely,
David Bacher
1511 Addison St.
Berkeley CA 94703
drbacher@alum.mit.edu

MTC-00025380

From: john fruttero
To: Microsoft ATR
Date: 1/25/02 7:47pm
Subject: Microsoft Settlement

I am a very concerned citizen who vehemently disagrees with the Proposed Final Settlement.

Thank you for your time and consideration of my view,

John Fruttero; (626)391-8282; 1611 Brockton Avenue, #1, Los Angeles, CA 90025

MTC-00025381

From: Jumana Scoggins
To: Microsoft ATR
Date: 1/25/02 7:48pm
Subject: Microsoft Settlement

Dear Mr. Ashcroft:

I want to use this opportunity to express my support for the settlement reached last November between Microsoft and the Department of Justice. I believe it is time to move forward and allow both sides to concentrate on more important matters.

The settlement is comprehensive and requires many changes on the part of Microsoft. For example, Microsoft has agreed to design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. Consumers will have the freedom to easily add or remove access features built in to Windows or to non-Microsoft software. And to assure this and other provisions are met, Microsoft agreed to the formation of a technical committee that will monitor the company's business practices going forward.

This case has been going on long enough. It is time for Microsoft to get back to competing and designing new software. And it is time for the government to use taxpayer money on more urgent matters like stimulating the economy.

Sincerely,
Jumana Scoggins

MTC-00025382

From: Frank J Gombos
To: Microsoft ATR
Date: 1/25/02 7:48pm
Subject: Microsoft Settlement

I am very disturb that you want to punish successful companies like Microsoft.

They delive superb product and at superb prices.

This is a communist method, to punish successful people.

Sicerely,
Frank Gombos

MTC-00025383

From: Carlin H Freeberg
To: Microsoft ATR
Date: 1/25/02 7:48pm
Subject: Settlement

Go get "em! M'Soft is as guilty as sin and their proposed settlement is nothing more than another devious scheme to leverage themselves into the schools/public agencies, thereby increasing users" dependency on M'Soft products. Hang in there, don't let M'Soft's endless appeals wear down the quest for justice.

MTC-00025384

From: gijosh4507@mac.com@inetgw
To: Microsoft ATR
Date: 1/25/02 7:48pm
Subject: Microsoft Settlement

Microsoft is doing anticompetitive things to keep applications on its platforms. One example is OpenGL and DirectX. OpenGL and DirectX are two APIs that compete with each other. These API's are heavily used in 3D games a market aimed at young people. As of now Microsoft suports OpenGL in it's operating systems, but Microsoft could at its own discretion decide to no longer support OpenGL this would force companies to abandon OpenGL to go in favor of DirectX. Because Microsoft owns DirectX they can keep other platforms from using it.

MTC-00025385

From: d933@lakeozark.net@inetgw
To: Microsoft ATR
Date: 1/25/02 7:48pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW. Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other

Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Don DeFoy
HCR 76 Box 229U
Camdenton, MO 65020

MTC-00025388

From: wt.catch1
To: Microsoft ATR
Date: 1/25/02 7:48pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Eric Rasmussen
97 Bartlett Place
Brooklyn, NY 11229–6361

MTC-00025389

From: Chuck and Deanna
To: Microsoft ATR
Date: 1/25/02 7:50pm
Subject: microsoft settlement

Sirs: Why you want to continue to badger a entrepreneurial company is beyond me! They have made continuous efforts to settle this yet you continue. Our nation could stand to have it's time and funds spent on people and things that are trying to destroy our country instead of a company that has been helping education, economy, and free enterprise. Wake up.

MTC-00025390

From: stoeker@isgroup.net@inetgw
To: Microsoft ATR
Date: 1/25/02 7:51pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Richard Stoeker
Ridge Road
Rt 15 Box 3078
Lake City, FL 32024–8907

MTC-00025391

From: Paul Adams
To: Microsoft ATR
Date: 1/25/02 7:43pm
Subject: my thoghts on this whole ridicuous thing

Follow the money is a good rule to follow and when I saw the AG of I think Mass. answer a question about the legal costs I knew I had it pegged. He said we don't worry about legal costs as Microsoft has to pay all of them because of the original finding. So they are going to work this forevermore. What a shame. We all know who is going to pay.

It also seems to me that the real imploding of the tech sector happenened just after the Clinton folks filled their legal actions. I liked Microsoft Windows and bought some stock years ago and it went right up over $100 and the attack by Clinton put my stock right in the tank and then the others started going with it. I honestly think it was the "trigger". Let the statisticians prove me right or wrong.

All along I kept wondering what it was all about. I liked Netscape and had it on my computer and used it. I liked Real Player for a while and used it also. Then I tried Media Player and switched. Whose fault?

When I went on cable access they started me on Internet Explorer and I found I liked it better then Netscape and now use it. Netscape is still on my computer in case I ever want to use it. Whose fault is this?

So all these setlements are doing absolutely nothing for me except trash my stock value. Pleas cease and desist and do something constructive.

Paul Adams
466 W San Ramon #101 Fresno, Ca 93704

MTC-00025392

From: henrywpark
To: microsoft.atr(a)usdoj.gov
Date: 1/25/02 7:53pm
Subject: Microsoft Settlement

I think that the Microsoft Settlement is a bad idea because it does not address truly preventing Microsoft from leveraging its operating system into other markets.

Henry Park
email—henrywpark@mindspring.com

MTC-00025393

From: JA Stephens
To: Microsoft ATR
Date: 1/25/02 7:54pm
Subject:

Please let Microsoft continue to serve with easier programs to use for those of us that are computers users- but not compute brains. Their programs make it easier-and if it wasn't for their programs, we'd have never purchased a computers. Windows is great.

Thank you.
J.A. Stephens

MTC-00025394

From: John Swanson
To: Microsoft ATR
Date: 1/25/02 7:57pm
Subject: Microsoft Settlement

The Department of Justice should settle the Microsoft case as previously agreed by the parties. The States that continue to fight should be barred from using all Microsoft products and be required to use the inferior products. John Swanson Renton, WA

MTC-00025395

From: Daly Patrick
To: Microsoft ATR
Date: 1/25/02 7:55pm
Subject: Microsoft settlement

I am writing to let you know that in my opinion the proposed settlement between Microsoft and the Department of Justice is a travesty. Microsoft's predatory behavior represents a profound threat to the health not only of the technology sector, in which I work, but of US industry as a whole, and of the United States itself.

If Microsoft can dictate its terms to the US government, who is it that really governs? I urge you to reinstate the eminently fitting decision of Justice Jackson, and break the company up so as to separate the ownership of the operating system from that of the desktop applications.

Patrick Daly
1020 Louise Street
Menlo Park, CA 94025

MTC-00025396

From: WARREN POMPEI
To: Microsoft ATR
Date: 1/25/02 7:55pm
Subject: ANTITRUST SETTLEMENT

Now is the time to finalize the settlement between the Justice Department and Microsoft. As the President of the United States has stated....."we want to encourage innovation, not regulation". The country has been in a steady economic decline for nearly two years since the first verdict was issued by Judge Jackson. Since then it has been an enormous drain on all parties involved.....especially this country. I for one, believe that this issue was ill conceived since the beginning. With the September 11th, 2001 terrorist attack, we, the voting public, are quickly learning that there are far more serious issues for us to be focusing on. I was never one to be very "politically interested", but after watching how some of our elected officials have been handling themselves during this process, from this day forward I intend to take my vote far more seriously when it comes to casting it for political candidates seeking election to public office.

Warren R. Pompei
wpompei@hotmail.com

MTC-00025397

From: RRhein2557@aol.com@inetgw

To: Microsoft ATR
Date: 1/25/02 7:56pm
Subject: Microsoft Settlement

I believe that it is in the best interest of the US consumer that the Department of Justice proposed antitrust settlement with 9 states and Microsoft be accepted.

Richard M. Rheinhardt
1001 Sierra Blanca Ct.
Lady Lake, FL 32159

MTC-00025398

From: Jeff Breitner
To: Microsoft ATR
Date: 1/25/02 7:56pm
Subject: Microsoft Settlement
January 24, 2002
8732 Sumpter Road
Maybee, MI 48159
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530–0001

Dear Renata Hesse:

I am writing to express my displeasure with the proposed settlement between Microsoft and the USDOJ for Microsoft's proven illegal activities. In the name of brevity, I'll keep my letter to three main points. First, how the proposed "opening" of API's, hooks and other areas of Microsoft products will not benefit other companies. I'll also note how Microsoft's acquiescence to allow computer manufacturers to modify the default installation of Windows on their computers isn't the alleged bargain. And finally, the main sticking point in the whole settlement is the federal government's seemingly blind-eye to the billions of dollars of revenue realized through Microsoft's crimes.

The proposed settlement would allow others access to inside information to Microsoft's API's. While this may seem a fitting way to re-introduce competition in the software industry, the language used in the settlement makes it clear that Microsoft still has a significant amount of control over what is actually divulged. The language states that Microsoft will have the ability to determine the suitability of the recipient of this type of information. Within the proposed settlement, there is little detail of who would be qualified and therefore it appears that those able to receive information on API's, hooks and software information is totally arbitrary and subject to the final review of Microsoft.

Further disturbing is the ability of Microsoft to have a unilateral veto of all requests of this type of information under the guise of software security. Simply put, Microsoft could say that the information could not be provided because it would constitute a security compromise of their products.

Open-source operating systems such as Linux or FreeBSD have lived with this situation for over 10 years and have used it to their benefit. Consequently, the ability to control API information as a security precaution seems to be nothing more than one way to slow or stop the dissemination of this information.

Armed with the ability to "lock-down" the API's and the Windows system itself, Microsoft could conceivably use this settlement as a way to thwart interoperability between Windows products and competing operating systems. Through crafty use of frequent Windows updates and patches, Microsoft could simply change its operating code to eliminate products such as Samba, and then point to this settlement as the permission to do so. Since it would be termed a "security" issue, the changes would remain within Microsoft's confidence, and the proposed settlement itself is used as a tool to continue Microsoft's monopoly.

Computer manufacturers and OEMs have complained bitterly over Microsoft's insistence that the appearance of Windows not be modified on personal computers. The settlement gives OEMs significant abilities to bundle products with the sale of the computer and operating system. While this certainly appears to be for the benefit of the consumer, it is blanket authorization for Microsoft to continue to use the monopoly on the desktop operating system to extend into other areas. Already with WindowsXP, Microsoft is demonstrating what would happen with this new-found freedom. Preferential treatment (if not outright advertising) for Microsoft properties exists for Internet connectivity, chat, instant messaging and other services whenever the consumer accesses these services through WindowsXP. This settlement is the government's authorization that Microsoft can use the desktop to continue to promote or even force consumers to use Microsoft services (e.g. Microsoft Passport), ostensibly because the OEMs are allowed to bundle their own services. Language in the settlement is absent that states how this bundling and presentation is to occur, which gives Microsoft incredible leverage over its competition.

The major point I have against this proposed settlement is the ill-gotten gains from Microsoft's abuse of their operating system monopoly. Simply put, I find it reprehensible that anyone associated with the justice department would consider letting Microsoft keep one penny of the billions of dollars raised through these abuses. The message the settlement sends is one of "crime doesn't pay unless you happen to be a large politically active corporation, then it pays handsomely". This is a terribly disturbing message considering the recent Enron debacle. Microsoft acted unfairly, engaged in illegal business activities, economically harmed the consumer and made billions of dollars doing it. They should be penalized and the penalty should commensurate with their earnings and worth.

As a personal note, when the DOJ started their lawsuit against Microsoft, I was vehemently against it. It was Microsoft's own behavior within the trial and it's business practices during and subsequent to the trial that has changed my opinion of the company. They are a predatory company that would not hesitate to use any method for their profit. Their practices are deeply rooted within the company culture, and it is my belief that the only way to make this company "fly-right" is to bring them back to reality with the penalties that would be exacted upon me if I had stolen billions of dollars.

Thank you for your time.

Sincerely,
Jeffrey Breitner

MTC-00025399

From: Ross, Jason
To: "microsoft.atr(a)usdoj.gov"
Date: 1/25/02 7:58pm
Subject: Microsoft Settlement

i am opposed to the proposed antitrust settlement against microsoft. the penalties for manhanling the entire industry are far from sufficient. If the USA is at all concerned about the security of it's digital communication, they have a vested interest in diversifying the computing landscape. The proposed settlement does little to accomplish this, or keep microsoft from continuing in its business practises which led to the monopoly verdice in the first place.

thanks for your time.

Jason "olo" Ross

MTC-00025400

From: pogo
To: Microsoft ATR
Date: 1/25/02 7:59pm
Subject: microsoft puiblic comments

There are too many things on the economic plate and the Microsoft decision should be made immediately.

Walter Robinson
pogo@gnt.net

MTC-00025401

From: David McDonald
To: Microsoft ATR
Date: 1/25/02 8:00pm
Subject: Microsoft Settlement

Please accept the Microsoft settlement as proposed. I believe that it is fair and just. Microsoft delivers a fine product at a very attractive price. I worked in the computer business for 30 years prior to retirement (not with Microsoft) and Operating systems were never so powerful and, imagine, available at only $ 99.

Ever since the action against Microsoft, the entire Technical stock market has been in the tank.

Let's accept this and do what is right for America.

Yes, we do vote.

David McDonald (303) 818–4999
MENU Corp www.menucorp.com
6525 Gunpark Dr., Ste 370–299
Boulder, CO 80301
(303) 530–4986 Fax (303) 530–0983

MTC-00025402

From: EHenn56406@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 8:00pm
Subject: Microsoft Settlement
3919 Fait Avenue
Baltimore, MD 21224
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We are writing you today to express our opinion in regards to the Microsoft settlement that was reached in November. We feel that this settlement is fair and reasonable, and we are anxious to see this dispute resolved. We feel this settlement will serve in the best public interest.

This settlement was reached after extensive negotiations. Microsoft has agreed to all terms and conditions of this agreement, including disclosing information about certain internal interfaces in Windows and any protocols implemented in Windows. Microsoft has also agreed to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions.

This settlement will benefit the economy, the industry, and consumers. Please support this settlement so our precious resources can be devoted to more productive causes. Thank you for your support.

Sincerely,

Emily & Elmer Hennigan

MTC-00025403

From: BILLROCKE@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 8:02pm
Subject: Microsoft Settlement

Dear DOJ:

I am an independent critic of the Microsoft Settlement. As a resident of Massachusetts, and a Computer Scientist, I support MA Attorney General O'Reilly's objection to the settlement.

My objection centers around the "unavailability" of other browsers because of the "interweavability" of Microsoft's Internet Explorer, which comes packaged with Microsoft's Operating Systems, that is, Windows 95,98, ME and now XP.

The built-in compatibility inherent in the Microsoft browser is conspicuously, by design, missing in all the browsers and cause many, many problems and inconvenience when you want to use Netscape or AOL or any other browser.

My real PET PEEVE—AOL is not completely free of its own set of problems and exclusionary practices that warrant your scrutiny.

Bill Roache, CAGS
Computer Scientist
billrocke@aol.com
CC:BILLROCKE@aol.com@inetgw

MTC-00025404

From: Lawrence Neumann
To: Microsoft ATR
Date: 1/25/02 8:04pm
Subject: Microsoft Settlement."

Enough is enough, stop any further action against Microsoft. The continuation of this vendetta by some competitors must stop.

Lawrence A Neumann
33 Blue Ridge Drive
Trumbull CT 06611–4001
(203) 377 1329
neumannl@snet.net

MTC-00025405

From: Gerald Vidal
To: Microsoft ATR
Date: 1/25/02 8:05pm
Subject: Microsoft Settlement

Aloha from the island of Oahu!

The case against Microsoft should be dismissed all together: Look who is complaining, is it the consumers or special interest who uses the law to get ahead in market share (the earning of money). Look who owns Netscape browser(not Microsoft,) look who owns AOL browser (not Microsoft,) and now look what is happening to Netscape and where it is going as a browser and why (not because of Micosoft, but because one owner with two browsers, Netscape and AOL. Microsoft should move as fast as possible to bring the American people software that will better our lives, and not be held back because of mis-use of the Justice in our government.

"The law (officially called the Tunney Act) requires a public comment period between now and January 28th after which the District Court will determine whether the settlement is in the ?public interest.?

Unfortunately, a few special interests are attempting to use this review period to derail the settlement and prolong this litigation even in the midst of uncertain economic times. The last thing the American economy needs is more litigation that benefits only a few wealthy competitors and stifles innovation."

Mahalo,

Gerald Vidal
PO Box 208-MS
Pearl City, HI 96782–0208

MTC-00025406

From: tim jennings
To: Microsoft ATR
Date: 1/25/02 8:04pm
Subject: Microsoft Settlement

Microsoft is an unrepentant felon. Who can doubt that they will continue their illegal, destructive practices, unless they are dealt with very severely indeed. Everything they have said, everything they have done, reinforces this conclusion.

Let's see some law and order where it counts!

Tim Jennings
Jennings and Ponder * World Tales
Sheefra * Celtic Music
Vermont Storytelling Festival
Eastern Coyote Productions
PO Box 1601 Burlington VT 05402
http://www.folktale.net
tim@folktale.net

MTC-00025407

From: Motelman2@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 8:06pm
Subject: Microsoft settlement

Enough is enough! The Dept of Justice has a fair and tough settlement with Microsoft which will allow the country to go forward with more important things.

It is not necessary to make the lawyers wealthy by carrying on this suit unnecessarily.

Blanche Johnson

MTC-00025408

From: Gus Galeano
To: Microsoft ATR
Date: 1/25/02 8:05pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. I agree with the problems identified in Dan Kegel's analysis (on the Web at http://www.kegel.com/remedy/remedy2.html), namely:

* The PFJ doesn't take into account Windows-compatible competing operating systems

* Microsoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry.

* The PFJ Contains Misleading and Overly Narrow Definitions and Provisions

* The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered.

* The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all.

* The PFJ allows users to replace Microsoft Java with a competitor's product—but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft.NET with competing middleware.

* The PFJ supposedly applies to "Windows", but it defines that term so narrowly that it doesn't cover Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box—operating systems that all use the Win32 API and are advertised as being "Windows Powered".

* The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

* The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware—but only after the deadline for the ISVs to demonstrate that their middleware is compatible.

* The PFJ requires Microsoft to release API documentation—but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.

* The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents.

* The PFJ does not require Microsoft to list which software patents protect the Windows APIs. This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users.

* The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft

* Microsoft currently uses restrictive licensing terms to keep Open Source apps from running on Windows.

* Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems.

* Microsoft's enterprise license agreements (used by large companies, state governments, and universities) charge by the number of computers which could run a Microsoft

operating system—even for computers running competing operating systems such as Linux! (Similar licenses to OEMs were once banned by the 1994 consent decree.)

* The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft

* Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems.

* The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs

* The PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

* The PFJ allows Microsoft to discriminate against small OEMs— including regional "white box" OEMs which are historically the most willing to install competing operating systems—who ship competing software.

* The PFJ allows Microsoft to offer discounts on Windows (MDAs) to OEMs based on criteria like sales of Microsoft Office or Pocket PC systems. This allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas.

* The PFJ as currently written appears to lack an effective enforcement mechanism.

We also agree with the conclusion reached by that document, namely that the Proposed Final Judgment, as written, allows and encourages significant anticompetitive practices to continue, would delay the emergence of competing Windows-compatible operating systems, and is therefore not in the public interest. It should not be adopted without substantial revision to address these problems.

Sincerely,

Gus Galeano, Fort Lauderdale, Florida; Graphic Designer

MTC-00025409

From: Jason Cook
To: Microsoft ATR
Date: 1/25/02 8:06pm
Subject: Comments for the **Federal Register**

Renata Hesse,

Is it a crime to maintain a monopoly? Yes it is. Microsoft has already been found in violation. The question now is a question of just punishment. How does the United States of America take appropriate actions to end the Microsoft monopolies and prevent them from recurring?

The proposed settlement does not begin to remedy the antitrust violations for which Microsoft has been found culpable. This is the penalty phase of the case and yet there are no penalties outlined in the settlement. In fact, the proposed settlement arguably would advance the capabilities of Microsoft's monopolies by allowing the corporation to maintain them. Furthermore, that precedent could weaken antitrust law. What other corporations would take advantage of Microsoft's clean break in future cases?

A just penalty would somehow prevent Microsoft from extending its monopoly. For example Microsoft products should be optional when purchasing new computers. That way consumers who do not wish to purchase those products are not forced to do so. This also means that for the price differential between a new computer with Microsoft software and one without, the computer seller must offer the software without the computer. Then and only then can competition come to exist in a meaningful way.

The specifications of Microsoft's present and future file formats must be made public, so that files created with Microsoft applications, whether they be documents or audio-visual media, may be read by programs from other makers, on Microsoft's and other operating systems. This is in addition to opening the Windows API (application program interface).

Any and all Microsoft networking protocols must be published in full and approved by an independent network protocol body (ISO, International Standards Organization). This would prevent Microsoft from seizing de facto control of the Internet.

This is indeed an issue of national interest. Strength in diversity is a biological reality that translates well to this scenario. It has been suggested by the Center for Strategic and International Studies that the use of Microsoft software actually poses a risk to national security. Consider how that risk could increase if there is not a careful and deliberate penalty imposed upon Microsoft for its transgressions. By creating a monopoly Microsoft has strengthened itself and weakened its competitors. But but the bigger it grows, the greater the risk to national interest.

-J

MTC-00025410

From: LGK01@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 8:06pm
Subject: MICROSOFT SETTLEMENT
CC: fin@mobilizationoffice.com@inetgw

Leo G. Kivell
48060 Brewster Court
Plymouth, MI 48170
January16,2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Attorney General:

I am asking that you settle your ongoing case against Microsoft. My faith in antitrust programs has been reduced as a result of this and past trials.

I worked for Ford at the dawn of the technology age, and we had a different computer system for practically each division. The ability to interact was limited by a lack of common standard, which ends up costing consumers more. Microsoft should not be punished for offering consumers the opportunity to embrace and build on such a standard. The concessions Microsoft is making in the settlement it reached with your office go further than the ones other companies in similar situations have made, and they even encompass issues never addressed in the original lawsuit.

I urge you to end all litigation against Microsoft and to settle the antitrust case as quickly as possible. Thank you.

Sincerely

Leo Kivell

MTC-00025411

From: Dr. Homer L. Ontman
To: Microsoft ATR
Date: 1/25/02 8:06pm
Subject: Microsoft settlement

It is my opinion that the settlement made by Microsoft is a fair one and additional litigation would ill-serve the public and therefore should not continue.

MTC-00025412

From: Jack Blalock
To: Microsoft ATR
Date: 1/25/02 8:09pm
Subject: Microsoft Settlement

To Who It May Concern,

When will this all end? When will stop spending the taxpayer's money with all of these ridiculous court proceedings against the one company that seems to make a difference in this country?

The jobs, service, and donations that Microsoft and its employees give to this country are second to none. How can we continue to beat the dead horse about what should be allowed into an operating system for consumers? The product's ease-of-use and integration of products only benefits the users of software users around the world.

Let's get on with life! Enough of all this!

Jack Blalock
Charlotte, NC

MTC-00025413

From: Paul Guppy
To: Microsoft ATR
Date: 1/25/02 8:09pm
Subject: Microsoft settlement.

January 25, 2002

To: Judge Colleen Kollar-Kotelly
c/o Antitrust Division
U.S. Department of Justice
601 ?D? Street, NW
Suite 1200
Washington, DC, 20530

Attn: Renata B. Hesse

Subject: Comment on Proposed Final Judgment in the Microsoft Case.

Dear Judge Kollar-Kotelly

We respectfully encourage you to accept the proposed settlement in the anti-trust case involving Microsoft. We are an association of independent, state-based, non-partisan policy research groups dedicated to promoting free markets and open competition.

This settlement reflects a triumph of the rule of law. It is a perfect map of remedies laid alongside the areas where the Appeals Court found against Microsoft. Certain Microsoft competitors and other critics of the proposed settlement make the core of their objections a call for more stringent restrictions, ranging from prohibition on what they call ?product tying? to a breakup of the company. More extreme critics complain that the remedies do not address products that were not even part of the case.

These objections ignore the decision of the Appeals Court which reversed much of Judge Jackson's original findings. The Appeals Court threw out findings on many fronts related to Microsoft's anti-monopolistic behavior. One key area rejected was the basis used for claiming that integrating Internet Explorer and Windows represented monopoly abuse. The court went further to state that any new burden of proof for "tying" would be immense. The court also rejected the breakup order and made it clear such an order moving forward would be difficult to sustain given the court "drastically altered [i.e., reduced] the scope of Microsoft's liability."

One final objection raised by critics is that Microsoft has a past history of consent decree violation so the company cannot be trusted to adhere to a new decree. This is a patently false assertion. The Appeals Court in June of 1998 rejected the very claim that sent the parties into litigation ? the Department of Justice claim that Microsoft had violated an earlier consent decree. Furthermore, this settlement takes the extraordinary step of creating an onsite oversight body. There are, therefore, no legitimate grounds for an assertion that a consent decree will not constrain Microsoft's behavior in the ways the court intends.

Rather, the proposed settlement directly and concretely addresses each and every key finding upheld by the Appeals Court, and does so with an undeniably stringent remedy. The areas of violation addressed include requiring OEMs to preserve visible access to Internet Explorer, to preserve the original boot sequence, to preserve all Microsoft-supplied desktop icons; entering into exclusive contracts with Internet Access Providers; threatening companies over support for other middleware technologies; and every other key area identified by the Appeals Court.

In our view, there can be no valid objection to this settlement because every major finding of the Appeals Court is stringently addressed with a targeted remedy that specifically prohibits and prevents the behavior in question.

Acceptance of the proposed settlement will send a signal throughout American industry and the country as a whole that in the United States rule of law is alive and well—that defendants face remedies only for those findings against them. Anything beyond this settlement would represent a victory for those who do not seek remedy but rather also unwarranted punishment, and this would be a serious blow to the smooth functioning of free markets and the law that protects them. Participants in the American economy would forever be forced to fear whether the laws they rely upon to safely conduct business will be applied fairly.

As leaders in advancing free market competition in our respective states we believe this settlement serves the best interests of the American public. It fairly resolves a complex and burdensome anti-trust case that is having severe impacts far beyond one company, a case that is acting as a drag on one of the most vibrant sectors of our economy. Settlement of this case will free the high-technology industry to put its fullest efforts into innovation and creativity, and will spur competition in a way that will directly benefit consumers.

Thank you for your consideration.

Signed,*

Daniel Mead Smith ? President
Washington Policy Center
4025 Delridge Way, S.W.
Suite 210
Seattle, WA 98106
Steve Buckstein ? President
Cascade Policy Institute
813 SW Alder
Suite 450
Portland, Oregon 97205
John McClaughry ? President
Ethan Allen Institute
4836 Kirby Mountain Road
Concord, VT 05824
Bob Williams
President
Evergreen Freedom Foundation
P.O. Box 552
Olympia, WA 98507
T. Rogers Wade ? President and CEO
Georgia Public Policy Foundation
6100 Lake Forrest Drive
Suite 110
Atlanta, GA 30328
David Kopel ? Director
Center on the Digital Economy
The Heartland Institute
19 South LaSalle
Suite 903
Chicago, IL 60603
Jon Caldara ? President
Independence Institute
14142 Denver West Parkway
Suite 185
Golden, CO 80401
Forest Thigpen
Mississippi Policy Institute
Don Racheter ? President
Public Interest Institute
600 North Jackson Street
Mount Pleasant, IA 52641
Gerry Dickinson ? Vice President for Policy
South Carolina Policy Council Education Foundation
1323 Pendleton Street
Columbia, S.C. 29201
Jeff Judson ? President and CEO
Texas Public Policy Foundation
8122 Datapoint
Suite 326
San Antonio, TX 78229

*State Policy Network group affiliations are listed for identification purposes only.

Founded in 1992, the State Policy Network (SPN) is an association of independent, non-profit, state-based policy research groups dedicated to promoting free markets and open competition.

MTC-00025414

From: Adrian Gill
To: Microsoft ATR
Date: 1/25/02 8:10pm
Subject: Microsoft and the downfall of BeOS

Dear Sir, One of the reasons for the failure of BeOS, was the inability to induce OEMs to provide true dual-boot machines. Be Inc adopted a non-confrontational approach, seeking to provide a Windows alternative rather than a replacement. It later produced a version that boots from inside Windows, and it even offered OEMs BeOS for free.

However, Microsoft OEM contracts forbid a visible dual-boot option, and although OEMs were keen to differentiate themselves by offering Be's "Media OS" as an alternative, they risked breaching the OEM agreements.

When Hitachi took up the challenge, it was obliged to ship a machine that could —only— boot Windows. It couldn't provide one-click access to activate the sleeper OS that was also included on the machine, and couldn't provide similar easy access to install the BeOS bootloader.

Thank you for your time.

Yours faithfully,

A. Gill

MTC-00025415

From: sidesoft
To: Microsoft ATR
Date: 1/25/02 8:10pm
Subject: Microsoft Settlement

DOJ,

Why are we losing jobs across this country? Why are the stocks of technologies companies free-falling?

The answer is rooted in this litigation. This crusade to increase the stature of a few Attorney General's has gone on to long. This delay has discouraged investors small and large from investing in the technology sector and brought the NASDAQ to historical lows. This effect is real and was predicted by leading economists at the onset of this litigation.

The atmosphere around this and other corporate litigation has a discouraging effect and has created a capital shortage for growing companies resulting in a major decline in economic growth, earnings and most importantly jobs. Please send the Attorney Generals" home to their states, stop wasting our tax dollars and stop the corporate litigation that robs capital needed for growth. As taxpayers, investors and consumers, we can ill afford this protection of our pocketbooks. This litigation has affected retirement funds, college funds and government income. And now our daily jobs are disappearing!

We have recently witnessed the major corporate collapse of ENRON and the major losses to shareholders of this company. These shareholders have placed the deserving blame on the corporate officers of this company. We MSFT investors feel we have been wronged, but have little recourse since the major blame is with our government and specifically our state Attorney Generals.

End your litigation crusade on corporate America and specifically "end the Microsoft case" so our stock markets can flourish and our economy can return to normal.

A small investor from Iowa,
Warren McKenna
Kalona, IA

MTC-00025416

From: walter bogaardt
To: Microsoft ATR
Date: 1/25/02 8:1 lpm
Subject: Microsoft Settlement

As a software engineer and user of various computer operating systems, Unix, Windows, and Linux. I'd like to make my comments known about the Proposed final Judgment in United States v. Microsoft.

The following is my observations and complaints about the DOJ's proposed settlement.

If the proposed settlement is left as is consumers and developers will be held within the continual push of Microsoft propaganda and ideals. Some of these can be detrimental to our scientific and academic communities.

Even one of Microsoft execs have stated that Linux could stiffle innovation. If innovation is being stiffled it is by Microsoft. The scientific communitity as well as the United States government research centers have used linux to create "cheaper" alternative clusters of computers using Linux to create processing power as powerful as some super computers. Higher costs are not inovative. Doing more with less is inovating and cost saving.

Microsoft would lead you to believe that innovation was created only by commercial business. Most of the technology we see today was created in schools by the academic community and by computer enthusiasts. The basic fundamental elements of the internet were designed to share information and not to horde the information for sale.

We must not allow our schools education be dicated by one monopolistic entity. In so far as that our children are forced to learn only of Microsoft Windows OS and there by go into the workforce expousing and reenforceing microsoft os in the workplace and continuing the momentum of monopoly.

Microsoft now has established product lifecycle for license availability and assisted support limits on their software. Now older versions of their software may no longer be supported by them.

This thereby forces the users to purchase a newer version and because of the higher hardware demands of the software requires a user to buy a new PC when their current pc may work just fine. Software that is for sale should be continually serviced by the selling entity if the software continues to work for the user. This should be the cost of doing software business as a software company. Software and specifically Microsoft software has completely avoid all standards of product liability. If a car were to crash or break down as much as their "inovative" products do where would we all be now?

The proposed final judgment by the DOJ is not sufficient in not only the intrest of the consumer, but those entities that must support computer technology in general. Software developers and IT technicians are constantly having to find solutions to problems that Microsoft technology constantly hides. From Application Programing Interface(API) changes to new network protocals and file formats.

Take for instance Microsoft File formats for their word documents. In order to allow other software to read and successfully print or display the contents of this document the programer must "reverse" engineer the information so that it can make sense in another program. This same policy by microsoft of hidding details from other companie's programers lead to the demis of Netscape. Does this mean the demise of WordPerfect, StarOffice, and other wordprocessing programs too? It must be stated that the API's that Microsoft uses to interface to its Windows OS and its Middleware (Microsoft Office, Internet Explorer) should be made more available to public developers.

Microsoft is currently operating in a capacity in it has gone beyond the desktop OS environment and is assimilating B2B services with their .NET and Passport services. They continue to attack companies that they percieve as competitive such as Lindows, which is building a system on top of Linux that allows windows applications to install and run seemlessly. They have almost succeded in eliminating Java from the desktop and with .NET will try to eliminate Java from the server space as well.

Microsoft should do business either as an OS vendor, or a break up of its middleware and server groups into separate entities. In this outside developers should be allowed free access to well document public API's in the windows OS so that they can perform their jobs, and provide consumers with alternative innovative products. This in turn reinvigorates the economy by establishing competition within business.

As a software engineer and user of various computer operating systems, Unix,Windows, and Linux. I'd like to make my comments known about the Proposed final Judgment in United States v. Microsoft.

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This thereby forces the users to purchase a newer version and because of the higher hardware demands of the software requires a user to buy a new PC when their current pc may work just fine. Software that is for sale should be continually serviced by the selling entity if the software continues to work for the user. This should be the cost of doing software business as a software company. Software and specifically Microsoft software has completely avoid all standards of product liability. If a car were to crash or break down as much as their "inovative" products do where would we all be now? The proposed final judgment by the DOJ is not sufficient in not only the intrest of the consumer, but those entities that must support computer technology in general. Software developers and IT technicians are constantly having to find solutions to problems that Microsoft technology constantly hides. From Application Programing Interface(API) changes to new network protocals and file formats.

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MTC-00025417

From: ravenwood171@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 6:08pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Lawrence Clark
171 Ravenwood Blvd.
Barnegat, NJ 08005–2205

MTC–00025418

From: frankijohn@conen.net@inetgw
To: Microsoft ATR
Date: 1/25/02 8:12pm
Subject: Microsoft Settlement

I've followed this anti-trust case closely, and have read the proposed settlement. The only thing I have to say is this: Shame On You, DoJ, for selling out the trust of the taxpayers.

MTC–00025419

From: Warren F Taylor
To: Microsoft ATR
Date: 1/25/02 8:14pm
Subject: Microsoft Settlement.

There they go again! Here's what one writer, James K. Glassman, said: "Instead of straightening out its business problems, AOL has decided to spend its time and effort filing lawsuits against tough competitors—a petty, distracting pursuit that won't help AOL or, for that matter, the U.S. economy, which depends on firms like Microsoft for the innovation necessary to bring about a technology revival." (http://www.techcentralstation.com/1051/techwrapper.jsp?PID=1051–250&CID=1051–012302E)

He also said about consumers that he "can't understand how they're hurt by a business strategy that offers browsers for free." I have written several times to make the point that the only entities being hurt throughout this ridiculous fiasco are those incompetetent businesses—like Netscape—which can't compete. And talk about the pot calling the kettle black! AOL, having bought Netscape for an obscene amount of money, is part of one of the largest communication trusts the world has ever known.

This makes what Theodore Roosevelt faced a century ago seem like a walk in the park.

I still say that the courts and politics should keep out of technological innovation. I know of no better way to guarantee this nation a mediocre future than to destroy the ability of companies to innovate.

Settle this case and let's get on with the business of solving human problems through technological ingenuity and innovation.

Sincerely yours,
Warren F Taylor
Porterville, CA

MTC–00025420

From: John Fodor
To: Microsoft ATR
Date: 1/25/02 8:14pm
Subject: Microsoft settlement

I am completely opposed to the lawsuit against Microsoft that has been filed by AOL. I trully believe that AOL should focus on solving their own problems rather than filing frivolous lawsuits.

I urge that the lawsuit be rejected.

sincerely,
John Fodor

MTC–00025421

From: Redsoccerdevil11@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 8:14pm
Subject: microsoft settlement

I think the proposed settlement on the microsoft antitrust act is a bad idea

MTC–00025422

From: Russell Gordon
To: Microsoft ATR
Date: 1/25/02 8:16pm
Subject: Microsoft Settlement

Get off of Microsofts back and let the consumers settle the dispute by what they buy.. Government has no business involving itself in private business....

MTC–00025423

From: Bud B. Kern
To: Microsoft ATR
Date: 1/25/02 8:16pm
Subject: Microsoft Settlement

It is long since time to get off the back of Microsoft and agree to the settlement as it stands. Microsoft has been good for our country by providing a means for many people to enjoy the technology. Those competitors who joined in this suit have not proven that they were damaged in any way. Please put an end to this suit and let Microsoft and the rest of the industry get on with the process and progress of doing business for the betterment of all of us.

Harry B. and Dona Kern, Sierra Village, CA.

MTC–00025424

From: John Putnam
To: Microsoft ATR
Date: 1/25/02 8:17pm
Subject: Microsoft Settlement

Without Microsoft...I wouldn't get paid...

I want Microsoft to have the ability to continue down the path of innovation without interference from the government.

John H Putnam

MTC–00025425

From: lydiawink@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 8:17pm
Subject: Microsoft Settlement

Enough is enough.

Let everyone know that Clinton did wrong by trying to bring Microsoft down to their friends level. That did not help the economy. Lets move on and let the people choose Microsoft or if they are not happy with them they can start their own.

Lydia Winkler

MTC–00025426

From: Bob Kerstetter
To: Microsoft ATR
Date: 1/25/02 8:18pm
Subject: Microsoft Settlement

Summary: Diversity in OS's would end the plague of viruses, as diversity is difficult to attack. In the nation's security interest MS should be busted.

At first I thought the lawsuit was a crock. I am not an MS product user or a detractor, but always thought Mr. Gates earned his bucks fair and square. But I really don't think so anymore. He basically copies and intimidates to do well. He is really afraid of face to face or shoulder to shoulder competition. He has copied the Apple OS time and again. He has spread lies about Open Source, as witnessed by the Halloween Papers. When Apple innovates something for an MS OS he makes it difficult to operate in Windows. When Apple comes up with an iMovie he makes a cheap copy. He has even copied the name of Mac OS X by calling his own cheap look alike XP, exploiting the confusion factor. He has also copied Apple Digital Hub concept. Finally, IE is too integrated into the MS OSes.

MS is too big and monopolistic for the good of the community. Diversity in OS's would end the plague of viruses also, as diversity is difficult to attack. In the nation's security interest MS should be busted. Get it over. Just do it. Like this:

Division One: Office Products.
Division Two: OS
Division Three: IE
Division Four: Consumer Products
Division Five: Games
Division Six: Hardware as in X Box and Mouse.

Six Divisions would be good.

Also, make them pay Apple $2 Billion for stealing ideas: the look, the feel, the packaging of products.

MTC–00025427

From: JL Kottal
To: Microsoft ATR
Date: 1/25/02 8:19pm
Subject: Microsoft Settlement.

Hello,

I am sadly disappointed in the provisions of the Microsoft Settlement. It would appear that the DOJ proposal abrogated completely any responsibility to recommend punishment of a company that was found guilty, not once but twice. In doing so, the DOJ has wasted a lot of the taxpayer's money on a court case and settlement that will do no justice to those who looked to the DOJ for it.

There seems in the proposed settlement to be no punishment at all, and certainly nothing that would encourage Microsoft to change its business practices. In fact, since then, Microsoft has continued even more so its predatory practices: they have integrated Internet Explorer more tightly into their Windows operating system; their operating system plans for the future named .Net push much more dependency upon using their products; and their latest offering, Windows XP, misleads its users into thinking that they must register with their Internet provider company MSN to use the Internet.

If the DOJ thinks that their proposed settlement has stopped the Microsoft monopoly, then I urge their lead lawyer to call Dell, Gateway or almost any national-level computer manufacturer and ask to buy a computer without a Microsoft operating system on it. Almost without exception, the answer will be that this is not possible: that one must pay for some version of Windows, and that even to buy without an operating system at all and install an alternate system such as Linux is not possible. Until this changes, as far as I am concerned, then the Microsoft monopoly continues to be alive and stronger than ever.

This is only part of the problem with the settlement. As it is, the proposed settlement

* does not take into account Windows compatible competing operating systems
* contains many misleading, or far too narrowly defined provisions, especially in regard to Microsoft's programming application interfaces, in as much as it does not require release or forbids their use, or make clear which patents they use
* does not require release of Microsoft Office documentation, allowing continued use proprietary formats, which are arbitrarily changed with each new version
* fails to address the extremely restrictive license terms Microsoft uses that prevents any of their products from running on other operating systems
* fails to stop Microsoft's retaliation against OEMs who ship personal computers without a Microsoft operating system or with a competing operating system
* lacks an effective enforcement provision

I would like to see a new settlement that takes into account the above. Furthermore, I would like to see a substantial fine imposed upon Microsoft: the only thing that Microsoft seems to understand is the making of money at all costs. Why not punish them in a way that they would understand by imposing a $15 billion fine (about 1/2 of their current operating reserve)?

As it is, the current proposed final judgment will simply allow, if not encourage, significant continuation of Microsoft's anticompetitive practices. As currently written, it is not at all in the public interest and should not be adopted without substantial revision.

J. L. Kottal II

MTC-00025428

From: Barbara Hastings
To: Microsoft ATR
Date: 1/25/02 8:19pm
Subject: Settlement

To whom this may concern:

I believe it would be in the best interests of our country to quietly and quickly settle the case with Microsoft. I say this not because I know anyone who works for Microsoft, but because this dubious case against Microsoft has drug on for way too long. The persons this benefits most are the lawyers who love this all the way to the bank. This situation is counterproductive to the ordinary citizens of the US who stand to lose the most in the long run. The government should not be getting involved in free enterprise.

Sincerely,
Barbara Hastings
bhastings@twmi.rr.com

MTC-00025429

From: Jeff Shuey
To: Microsoft ATR
Date: 1/25/02 8:20pm
Subject: Microsoft Settlement

To whom it may concern;

Please stop wasting our taxpayer dollars supporting the efforts to prosecute Microsoft. The proposed terms of the agreement are going to be difficult for Microsoft to implement and ultimately will harm the consumer in all areas of business. Microsoft is being persecuted for being successful. The United States of America is a capitalist society and should always reward capitalistic behaviour. The claims by the plaintiffs are rife with competitor bashing. If Microsoft competitors cannot win on business level they should not be allowed to win via the courts.

The consumer has NOT been harmed by Microsoft's continuous innovation. In fact, just the opposite is true. Personal computers have become a required tool for in modern society for the home, education and business consumers. Microsoft and the thousands of software developers that have innovated upon the Microsoft platform should be thanked. Microsoft helped create an industry and hundreds of thousands of jobs. The tax revenue alone from these jobs should be considered as great windfalls for some parts of the country—computers being built in North Dakota and in Idaho. Software developers being able to innovate from anywhere—assured that their work will be able to operate on an industry standard platform. Based on the feedback and constant attention to detail the Microsoft Corporation has continued to evolve and innovate the platform by which hardware and software vendors create their livelihood. The personal computer industry is an industry surrounded and founded upon innovation. Microsoft and the thousands of software and hardware developers that have been able to build upon a secure, stable, and innovative platform should be thanked. Microsoft should not be penalized for helping companies succeed. Microsoft should not be forced to become anti-capitalistic.

Please stop wasting my taxpayer dollars to support the frivolous and groundless claims against Microsoft. Please help the economy return to normal by fostering competition—not squashing it with legal rhetoric.

Thank you for your time,
Jeff Shuey
A Concerned Citizen
22914 NE 17th Place
Sammamish, WA 98074

MTC-00025430

From: nat ward
To: Microsoft ATR
Date: 1/25/02 8:21pm
Subject: microsoft settlement

To Whom It May Concern,

I would like to posit at this juncture that I believe that Microsoft, and in turn, Bill Gates, have acted towards both the courts and the American public with a unfathomable disregard for the law.

It saddens me to see the courts capitulating once again to a corporate interest so obviously full of contempt towards the legal system because of their own wealth and power.

I just want it noted that once you, the justice department, bow before the Microsoft giant and give in with little more than a slap on the wrist for Mr. Gates and his corporate cronies, you should hang your heads in shame for you have done a disservice to the American People, and the law which you are supposed to enforce.

Thank You,
Nathaniel Ward

MTC-00025431

From: aull@emeraldis.com@inetgw
To: Microsoft ATR
Date: 1/25/02 8:20pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

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Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Luther Aull
1711 Ninety Six Hwy
Ninety Six, SC 29666

MTC-00025432

From: RAYMOND A MATHISEN
To: Microsoft ATR
Date: 1/25/02 8:22pm
Subject: Microsoft settlement

As a senior citizen ,and as a active Internet user I strongly support the Microsoft settlement.

Raymond A Mathisen
<RBMathisen@juno.com

MTC-00025433

From: Rhett Michelson
To: Microsoft ATR
Date: 1/25/02 8:22pm
Subject: Microsoft Settlement

I do not understand how a monopoly such as this (microsoft case) can result in apparently little or no punishment. The proposed settlement is so poor in light of the proverbial mounds of evidence, that my faith in the federal judicial system is now gone.

Rhett J. Michelson, Ph.D.
Department of Molecular and Cellular Biology
Life Sciences South, 409
University of Arizona
Tucson, AZ 85721-0106
phone: (520)621-9358
fax: (520)621-3709 (dept)

MTC-00025434

From: mindfull
To: Microsoft ATR
Date: 1/25/02 8:24pm
Subject: Microsoft Settlement

more needs to be done.

MTC-00025435

From: Gordon H. Kenyon
To: Microsoft ATR
Date: 1/25/02 8:24pm
Subject: Microsoft in Clahes with it's

identically oriented competitors.

The absurdity of to-days rules of conduct in business, typified by the Enron actions and accounting fiasco, make any minor infingement on a co-competitor seem trivial.........especially when that competitor would most willingly have trespassed on the other, if it had thought of it first.

Look for the benefits received by mankind.......not the minor gains or losses experienced in to-days competitive struggle between players in the field......someone has to be second, or even third.

Respectfully yours,
Gordon H. Kenyon

MTC-00025436

From: Joshua Sucher
To: Microsoft ATR
Date: 1/25/02 8:25pm
Subject: Microsoft Settlement

The Microsoft settlement will be useless in preventing antitrust acts of theirs in the future.

-J

MTC-00025437

From: Ppress322@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 8:25pm
Subject: Microsoft Settlement

Please don't penalize Microsoft for being a successful company in a free enterprise system that we have in the USA.

Be well and take care,
Paulette Singer

MTC-00025438

From: Scott Key
To: Microsoft ATR
Date: 1/25/02 8:25pm
Subject: Microsoft Settlement

To Whom It May Concern.

Please make sure that Microsoft pays actual out-of-pocket money in the upcoming settlement. I wish you would go further and actually stop their monopoly and unfair business practices.

Microsoft is a company without a conscience—perhaps the greatest software pirate of all time—known by all in the industry as a company which would rather steal something than design it for themselves. Then they have the gall to call it "innovation" when they release it. Have you ever tried Windows Media Player and compared it to QuickTime?

Even today, in Windows XP, they release MS Java which effectively kills Sun's inter-platform True Java—a product which a few years ago even Microsoft itself adopted as a "standard."

Java gave the internet viability. Now Microsoft is effectively removing it as the standard they once supported. That again shows their monopolistic power and their actions erode compatibility. Think of the calculator keypad and the telephone keypad. Why are they opposite of one another. Think of the Dvorak keyboard unadopted by the U.S.—even after the Navy Department recommended purchase of 80,000 typewriters in WWII. That keybord is way more efficient and less error prone. THink of how many fewer carpal tunnel injuries there would be had someone stood up for the better mousetrap.

We computer professionals desire—no demand—innovation. We do not get it from Microsoft.

Please be careful of anything proposed by their legal team. Their recent agreement to give a billion dollars worth of software and hardware to under-privileged schools was a sham.

I bet if you figure their true out-of-pocket expense in that proposal, it would have come closer to $100 million. You don't really think that they spent $500 for each copy of MS Office they would "give" to schools. More likely their true cost is $20-$50 per unit. Add to that their trojan horse attempt to gain a foothold in the Apple-dominated education market and you can see they are very slippery operators, indeed.

Please do not fall for Enron-style accounting. Make them pay and stop their monopoly.

Can you believe their attitude?—even as one settlement is proposed, others Like AOL are having to sue to have a chance at viability. In their arrogance, the recent Windows XP was so full of security holes—in this time of war—that they single-handedly eroded the security of the internet. There certainly must have been a pretty big problem for DOD and Justice Department, etc. to call them on the phone.

Then to have Steve Balmer refuse to have his company email purchasers of Windows XP just shows that you are not able to control these guys.

Do not white wash this one.

Thanks for reading this.

SCOTTKEY =-= keyland@attbi.com
=-= 970-223-8179

MTC-00025439

From: Lenn Hann
To: Microsoft ATR
Date: 1/25/02 8:25pm
Subject: Microsoft Settlement

I strongly feel that the proposed settlement is an inadequate remedy to Microsoft's anti-competitive behavior.

Lenn Hann

MTC-00025441

From: Sandy Rylander
To: Microsoft ATR
Date: 1/25/02 8:26pm
Subject: Microsoft Settlement
Rylander Consulting
January 29, 2002
Computer Training and
Macro Programming Specialists
Attorney General ,John Ashcroft
USDepartment of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Annoyed...This is the only word I can think of when the antitrust case against Microsoft comes to mind. This case is a waste of taxpayers" money, and the U.S.

Government needs to focus on more important issues, such as the cable industry.

Even though the terms of the settlement are more than fair, competitors must be aware that this case contradicts most of the practices of small and large businesses. For example, one of the issues in the settlement is a uniform price list, under which Microsoft agrees to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price.

I am a loyal follower of Microsoft. As a business owner who teaches Microsoft Office Suite, this settlement will help my business continue to flourish. And I will keep urging my customers to do the same.

2708 222nd Avenue S.E.
Sammamish, WA 98075
Tel: (425) 392-9710
Fax: (425) 392-4784
E-Mail:
sandy—rylander@msn.com
Sincerely,
??
Sandy Rylander

MTC-00025442

From: DocRay
To: Microsoft ATR
Date: 1/25/02 8:26pm
Subject: Microsoft settlement

Please allow Microsoft the freedom to innovate......if a company's products are widely used and accepted by the public as better than the competition, then that company deserves the success it has achieved.

Dr. Thurman J. Ray

MTC-00025443

From: dudebackus@earthlink.net@inetgw
To: Microsoft ATR
Date: 1/25/02 8:23pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

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Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Walter Backus
14 Mariano Road
Santa Fe, NM 87508-8750

MTC-00025445

From: Thom Lockner
To: Microsoft ATR
Date: 1/25/02 8:26pm
Subject: Microsoft Settlement

Please settle this litigation now so that we can all move on .

respectfully yours
Thom Lockner

MTC-00025446

From: Greg Heck

To: Microsoft ATR
Date: 1/25/02 8:26pm
Subject: Microsoft

Please realize that Microsoft has and still is manipulating the public and businesses everyday. With no real choice in computing platforms, we are at there mercy. By making software unstable unless the company plays by Microsoft's rules we the public are cheated out of some very great and useful software. I could continue for days, but I will stop here and say.

PLEASE PUNISH MICROSOFT TO THE FULL EXTENT OF THE LAW!

Anything less will be a travesty of justice.

Thank you
Respectfully
Greg Heck

MTC-00025447

From: Mike KAZEEF
To: Microsoft ATR
Date: 1/25/02 8:27pm
Subject: Microsoft settlement

I urge DoJ and the nine states to go ahead and approve the final version of the anti trust settlement currently considered for approval.

Innovation should not be taken for granted as if it were a mere commodity.

It is essential for growth and is the engine of progres. Innovation needs favorable conditions to germinate.

The distraction and concerns surrounding an on going and uncertain legal feud, is definitely working in the other direction. It is true at the executive and creative level as well as at the operating level where scores of employees are working watching over their shoulders.Not the kind of mindset to innovate and take risks!

America was built on past innovation. The future will still depend on a vigorous one.

Respectfully
Mike Kazeef
2000 Santiago Dr
Newport Beach, CA 92660

MTC-00025449

From: Andrew Page
To: Microsoft ATR
Date: 1/25/02 8:32pm
Subject: Microsoft Settlement

Dear Sir or Madam,

I believe the proposed settlement with Microsoft will not be effective in preventing Microsoft from committing future antitrust violations.

Sincerely,
Andrew M. Page

MTC-00025450

From: Esther Williams
To: Microsoft ATR
Date: 1/25/02 8:33pm
Subject: Microsoft Settlement

I would like to see this final judgment accepted and let Microsoft and everyone else move on to new innovations.

I worked in programming for scientific research and also network mangement and information systems for 35 years at the University of Illinois. In the early years of desktop computers it was so complicated to have parts of systems from many different software and/or hardware companies and they didn't always work together and it was a headache. My work got so much easier around the time that Windows (especially Windows 95) came out as there seemed to be cooperation in producing compatible software.

At least things worked together without a lot of trouble. And each version of Windows got better.

Please don't send us back to the time when everything was such a mess. Let us accept this agreement and go on. Stop wasting time and money on this battle.

Being at the University of Illinois all of those years, I was aware that both Netscape and Internet Explorer came out of the University of Illinois. I knew that Microsoft wasn't allowed to sell Internet Explorer because of the agreement with the Trustees of the University of Illinois through Spyglass. I knew that the developer of Netscape was allowed to go out and start a company. Microsoft was not allowed to sell Internet Explorer in competition to Netscape—they had to give it out free.

I also understand why Microsoft built their operating system with a browser as so integral a part.

The idea is to make access to other servers on the network or on the internet transparent. In the long run, it was to make it easier for users. As a programmer, I can understand how hard it would be to integrate every single browser—that is part of what would make that mess I was mentioning above.

Obviously, I am not an attorney, but as a user of software both at home and at work, I am satisifed with the final judgment and competitive impact statement.

Thank you for your attention.
Esther A. Williams, Ph.D.
eaw@uiuc.edu

MTC-00025451

From: Sylvia Sur
To: Microsoft ATR
Date: 1/25/02 8:33pm
Subject: Microsoft Settlement

It is incredible that the chief monopolist AOL whose subscribers have to do some work to get to use either Internet Explorer or Netscape is suing Microsoft.

Those who can like Microsoft, innovate. Those who cannot like AOL, sue to paper over their financial and technical difficuties.

The Microsoft attack action over the past three years has had a deleterious effect on our economy and investments.

Please settle this case and let us all move on.

Thank you,
Sylvia Sur

MTC-00025452

From: Jim Williamson
To: Microsoft ATR
Date: 1/25/02 8:33pm
Subject: Microsoft Settlement

I think you guys have whipped up on Microsoft long enough. Let's get on with this settlement.

I for one recall what personal computing was like before Microsoft brought product standardization to my desktop. I don't want to go back!!!!! Nor do I want to see the Federal Government stifling progress by continuing this foolhardy pursuit.

Thanks,
Jim Williamson
PO Box 220
8434 Savage-Guilford Rd
Savage, MD 20763
JDWilli@toad.net
JDWilli Web Site

MTC-00025453

From: carolyn oblak
To: Microsoft ATR
Date: 1/25/02 8:33pm
Subject: Consumer interests have been well served, and the time to end this costly

Consumer interests have been well served, and the time to end this costly and damaging litigation has come.

Dragging out this legal battle further will only benefit a few wealthy competitors, lawyers, and special interest big-wigs. Not one new product that helps consumers will be brought to the marketplace.

thanx
carolyn oblak

MTC-00025454

From: acorbin@iwon.com@inetgw
To: Microsoft ATR
Date: 1/25/02 8:31pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

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Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Alvin Corbin
1087 E. CR 1200 S.
Clay City, IN 47841

MTC-00025455

From: frehse@wcta.net@inetgw
To: Microsoft ATR
Date: 1/25/02 8:33pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

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going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Larry Frehse
23122 Green Pines Road
Park Rapids, MN 56470–6312

MTC–00025456

From: Patricia J Bennatts
To: Microsoft ATR
Date: 1/25/02 8:36pm
Subject: Microsoft Settlement

Please stop this threat to progress and consumer support and settle this case to the company that has shown ability to provide new and desirable innovations in this industry. Let not those who wish to destroy and take unearned advantage of this good company succeed but advise and require they operate and invent their own success and talent.

MTC–00025457

From: Phil (038) Connie Sonntag
To: Microsoft ATR
Date: 1/25/02 8:38pm
Subject: Microsoft Settlement

January 25, 2002
To: US DOJ
Re: Microsoft Settlement

Please settle this case ASAP. AOL can't produce a competitive product, so it has to litigate out its'' competition. I have used both AOL's "NetScape" browser as well as Microsoft's "Internet Explorer" browser and Microsoft's is FAR superior.

Let the consumer decide like they always have in the past and save the consumer (we taxpayers) from paying for AOL's latencies in the courtroom. Let us shift our focus to national security problems rather than AOL's insecurities.

Phil Sonntag
Computer Consultant since 1979

MTC–00025458

From: john marriott
To: Microsoft ATR
Date: 1/25/02 8:38pm
Subject: Microsoft Settlement

I am writing in to voice my opinion against that of Microsoft's. Microsoft is pure evil, for reasons that I'm sure many, many others have already mentioned.

John Marriott

MTC–00025459

From: Gregory P. Keeney
To: Microsoft ATR
Date: 1/25/02 8:41pm
Subject: Microsoft Settlement

I am a software engineer by trade. I make my living by writing software.

Microsoft's practices have resulted in most software development jobs requiring the use of Windows, as well as Microsoft's expensive development tools. While there are many excellent free software development tools available (from the Free Software Foundation and Apple Computer Corporation, and others), these products cannot develop Windows applications.

I strongly believe that any settlement that does not involve Microsoft making their API's (Application Programming Interface) and file specifications publicly available is insufficient.

Thank you.
Gregory P. Keeney

MTC–00025460

From: PolkaDots@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 8:42pm
Subject: Microsoft Settlement

I think this whole allegation against Microsoft is absurd.

If Netscape had the rule, I would would be paying them every year for the "privilege" of using their browser.

The antitrust laws are here to "protect" the consumers. They are not intended to protect Netscape's income. Let's protect the consumer from having to pay through the nose for stuff that Microsoft provides for free.

Mary Doo
55 Ramblewood Drive
Warwick, RI 02889

MTC–00025461

From: kbertsche@mcsi.net@inetgw
To: Microsoft ATR
Date: 1/25/02 8:40pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Katherine Bertsche
281 Sue Ellen Lane
Roseburg, OR 97470–4180

MTC–00025463

From: Lindsay, Pat
To: Microsoft ATR
Date: 1/25/02 8:44pm
Subject: Microsoft Settlement

I respectfully request that this lawsuit against Microsoft, its employees and its stockholders be settled as soon as humanly possible. This lawsuit does our country no good. This lawsuit has cost taxpayers untold dollars, hurt the growth of the entire tech industry, and contributed to the slowing of our economy. The lawsuit was very ill-advised and unfortunate. Let us have closure.

Sincerely,
Pat Lindsay
509 Briar Lane
Mattoon, IL 61938

MTC–00025464

From: Greg Metcalfe
To: Microsoft ATR
Date: 1/25/02 8:44pm
Subject: Microsoft Settlement

I'm amazed that Microsoft's refusal to allow any other OS to be loaded on a hardware vendor's systems (making them dual-boot capable) was never mentioned in the first trial. Surely this is a leveraging a monopoly? Until this issue is addressed, few contenders from the Linux world will have an even remote shot at a noteable desktop market share. I own no Red Hat Linux, et al, stock. And I usually run Linux at home. One of the few, though, and I wish it would spread. Few home users are even aware that fragile operating systems are a Microsoft peculiarity. They think "that's just the way computers are." Because the market is *so* MS dominated.

Isn't the DoJ supposed to be protecting us? Why the cave-in?

Greg Metcalfe

MTC–00025465

From: Jennifer Stock
To: Microsoft ATR
Date: 1/25/02 8:45pm
Subject: Microsoft Settlement

i am against the proposed settlement.

J
Jennifer L. Stock
permanently under construction
http://www.kdpublish.com

MTC–00025466

From: Larry Jordan
To: Microsoft ATR
Date: 1/25/02 8:45pm
Subject: Microsoft Settlement

I would like to voice my opposition to the currently proposed Microsoft settlement.

My fear is that if it is applied, Microsoft will be reasonably free to continue business as usual, which is to act in a anti-competitive, predatory way within the software development community. Here's an example from personal experience that leads me to state the Microsoft needs much more severe sanctions.

In, about, 1993, Stac, a software developer in San Diego, developed a efficient software program for encrypting and/or compressing data files on a computer.

Microsoft licensed their technology then, in violation of their licensing terms, bundled it as part of the then-current Windows 3.1 operating system.

Stac sued Microsoft in court and won. Microsoft was found to have violated the terms of their license agreement, as well as applicable copyright and trade secret laws. Microsoft was forced to pay a $4 million fine.

Microsoft paid the fine, but kept the purloined code in Windows. No longer able to sell their product, Stac went out of business, forcing over 100 people out of work. I never worked for Stac, but had many friends that did. This is not the proper way to reward hard, creative industrious work.

Where is the justice in giving Microsoft a slap on the wrist, when all they'll do is keep on doing what they've been doing?

This is neither fair, nor does it create incentives for other companies to compete against Microsoft.

Anti-competitive, anti-trust behavior needs to be punished in such a fashion that it does not recur. Anything less hurts all of us.

Thank you,
Larry Jordan

MTC-00025467

From: andrew marvin froehle
To: Microsoft ATR
Date: 1/25/02 8:45pm
Subject: microsoft settelement

I bekieve this burocescy against microsoft has gone on long enought. I bekive there was a fare settlement in this matter and it is time to move on before the older citisens get hirt buy having to spend more money on upgrades from what is workking fine for them know.

MTC-00025468

From: Boop Collectibles
To: Microsoft ATR
Date: 1/25/02 8:46pm
Subject: Betty Boop Watches, Water Globes, & More! [Text body exceeds maximum size of message body (8192 bytes). It has been converted to attachment.]

MTC-00025469

From: frank moreno
To: Microsoft ATR
Date: 1/25/02 8:49pm
Subject: Microsoft Settlement

Gentlemen;

I think that we need to see an end to the costly and damaging litigation brought about by Microsoft competitors.

Tank you.
Frank Moreno

MTC-00025470

From: Gil Poulsen
To: Microsoft ATR
Date: 1/25/02 8:51pm
Subject: Comments on the proposed Microsoft antitrust settlement

As a longtime Macintosh user but also someone who recognizes the immense value of the open source movement, I have significant reservations about the proposed settlement. My primary concern is that none of the remedies appear to offer any protection for any of the open source OSs or applications, those which Microsoft is clearly intent on eradicating and which Steve Ballmer actually referred to as a "cancer" in June of last year.

I believe that were remedies specifically put in place to protect open source software from Microsoft's predatory and clearly anti-competitive actions, it would breed some healthy competition for Microsoft, which in the end is best for the consumer. And isn't that what the case is really all about? Thanks for listening. —

Gil Poulsen, Mac Wirehead
AltiM@c Consulting
111 Mali Drive
N. Plainfield, NJ 07062–2355
Voice: 908–222–9001
FAX: 908–222–9002

MTC-00025471

From: fwheeler
To: Microsoft ATR
Date: 1/25/02 8:53pm
Subject: Microsoft Settlement

Gentlemen:

I think the antitrust settlement between Microsoft, the Department of Justice and the nine States" Attorneys General is equitable and fair and should be adopted. It appears to be in the best interest of of the public and will permit the industry to move forward.

Sincerely,
F.E. Wheeler
(fwheeler@Aeneas.net)

MTC-00025472

From: fburdick@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 8:52pm
Subject: Microsoft settlement

I strongly urge the Department of Justice to reach a reasonable settlement with Microsoft. With the soft economy we have today we do not need another Enron. Microsoft employs thousands and a layoff would be disastrous to the economy, especially in the western states. I do not believe that Microsoft has done anything that their competitors have done in a smaller scale, yet they expect the government to advance their causes—or should I say "agenda".

Sincerely,
Frank Burdick
Pueblo, Colorado

MTC-00025473

From: Gilbert A. Wesson
To: Microsoft ATR
Date: 1/25/02 8:52pm
Subject: Microsoft Settlement

I believe that the proposed Microsoft settlement is much too lenient and won't discourage Microsoft's monopolistic practices.

MTC-00025474

From: Mike Saunders
To: Microsoft ATR
Date: 1/25/02 8:53pm
Subject: Fw: Attorney General John Ashcroft Letter

——-Original Message——–

From: Mike Saunders <msaunders@blueridge.net>

Date: Friday, January 25, 2002 8:52 PM

Subject: Fw: Attorney General John Ashcroft Letter

——-Original Message——–

From: Microsoft's Freedom To Innovate Network <fin@MobilizationOffice.com>

To: "MSAUNDERS@BLUERIDGE.NET" <MSAUNDERS@BLUERIDGE.NET>

Date: Monday, January 21, 2002 2:04 PM

Subject: Attorney General John Ashcroft Letter

>Attached is the letter we have drafted for you based on your comments. Please review it and make changes to anything that does not represent what you think. If you received this letter by fax, you can photocopy it onto your business letterhead; if the letter was emailed, just print it out on your letterhead. Then sign and fax it to the Attorney General. We believe that it is essential to let our Attorney General know how important this issue is to their constituents. The public comment period for this issue ends on January 28th. Please send in your letter as soon as is convenient.

>When you send out the letter, please do one of the following:

>* Fax a signed copy of your letter to us at 1–800–641–2255;

>* Email us at fin@mobilizationoffice.com to confirm that you took action.

>If you have any questions, please give us a call at 1–800–965–4376. Thank you for your help in this matter.

>The Attorney General's fax and email are noted below.

>Fax: 1–202–307–1454 or 1–202–616–9937

>Email: microsoft.atr@usdoj.gov

>In the Subject line of the e-mail, type Microsoft Settlement.

>For more information, please visit these websites:

www.microsoft.com/freedomtoinnovate/

>www.usdoj.gov/atr/cases/ms-settle.htm

MTC-00025475

From: WIN B ENDERS
To: Microsoft ATR
Date: 1/25/02 8:54pm
Subject: Microsoft settlement

I think both, the DOJ and Microsoft should accept the terms of the settlement and stop this endless litigation and get on with being productive.

win enders

MTC-00025476

From: brookvue@uslink.net@inetgw
To: Microsoft ATR
Date: 1/25/02 8:51pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Gene Kitzmann
1818 East Five Poiny Lake Dr NW
Hackensack, MN 56452

MTC-00025477

From: Michael T. Wilson
To: Microsoft ATR
Date: 1/25/02 8:56pm
Subject: Microsoft Settlement

To Whom It May Concern:

The settlement offer should be accepted and this matter should be brought to a close.; Microsoft built a better mousetrap and the public bought it. The individuals attempting to undermine the settlement are business entities who want the law to be used as a bludgeon to beat Microsoft out of a portion of the marketplace for them.

Let's end this matter and get on with living. Should anyone have any questions regarding my position on this case please feel free to use the contact information in this email to reach me.

Thank you.
Michael T. Wilson
Attorney and Counselor at Law
631 Crestridge Court
Wichita, KS 67230–1621
Telephone: (316) 218–9998
Facsimile: (316) 218–9998
Website: www.mwilsonlaw.com
Email: mwilson@mwilsonlaw.com
(316) 218–9998.

MTC–00025478

From: Donlorfl@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 8:56pm
Subject: microsoft settlement

do not penalize success which is now in short supply. don moriarty, nokomis fl.

MTC–00025479

From: inetnow@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 8:58pm
Subject: Microsoft Settlement

The case against MS has stalled the IT industry long enough. We are in a recession. The case is old news anyway.

MTC–00025480

From: inetnow@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 8:58pm
Subject: Microsoft Settlement

The case against MS has stalled the IT industry long enough. We are in a recession. The case is old news anyway.

CC:inetnow@hotmail.com@inetgw

MTC–00025481

From: Dan Matulich
To: Microsoft ATR
Date: 1/25/02 8:59pm
Subject: Microsoft Legal Battle

Dear US Government,

Let me clarify: I am a retired engineering manager who uses computer daily and who has learned over the years how to communicate better thanks to Microsoft's ingenuity.

I admire this company as much as I admire Edison. In our market driven economy innovation is the key and competition is the means that customers use to get the best deal. Microsoft was innovative and competitive and daring to take risks. Competitors lost and are trying now through the back door to get some of the lost market share.

Further government intervention will only further exacerbate the economic conditions we presently are experiencing by slowing down further the innovation which was key to a bit prosperity we have had. I do not see any Microsoft competitor coming up with some new ideas other than hiring lawyers to get money by other means. How sad. Don't encourage this kind of effort.

Respectfully,
Dan Matulich
5017 Range Horse Lane
Rolling Hills Estates
CA 90274
Tel 310–373–2940
Dan.Matulich@Verizon.net

MTC–00025482

From: Gary P Greenland
To: Microsoft ATR
Date: 1/25/02 8:59pm
Subject: Microsoft Settlement
To Whom it may concern,

I would like to submit my thoughts on the Microsoft case. I believe it is time to place this matter behind us and move forward. I think that further litigation will only serve to hurt the American consumer. I do not believe Microsoft has committed any antitrust violations. Please rule on this promptly.

Thank You.
Gary P. Greenland

MTC–00025483

From: Ger1329@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 9:01pm
Subject: microsoft settlement

Surely the government-suggested settlement with Microsoft has been patiently arrived-at and seems eminently fair. After all the time and money spent by both sides, isn't now the time to conclude this business and let the government and the company make better use of its energies? I believe so.

Gerald Miller, New York City

MTC–00025484

From: Mike Smith
To: Microsoft ATR
Date: 1/25/02 9:02pm
Subject: Microsoft Settlement

I think it's time for the Government to close this case against Microsoft and give up the Witch hunt the Clintons started . I see no reason to keep dragging this case out .

MTC–00025485

From: bear
To: Microsoft ATR
Date: 1/25/02 9:02pm
Subject: microsoft settlement

It's no secret that Steve Case, Scott Mc Nealy and Larry Ellison are not friends of Microsoft. Competitors often disagree but usually settle their differences by letting the players, in this case the consumer to choose the winner.

What did Microsoft do wrong? Not charging individuals for Internet Explorer was brilliant. I was not hurt as a consumer it was free. As a result I recently downloaded the Netscape Browser for free. Would this be possible if Internet Explorer didn't exist? No matter how you look at it the consumer benefits. Yahoo adopted a similar business plan by giving consumers free access. As a user of all the listed products I think it's great.

In the end the DoJ will decide how big an impact on our economy this settlement will have. A speedy decision will help the economy by providing clarity by Quantifying risk. Investors in 401k, IRA's, mutual funds, state and federal pension plans, and individual investors nervously await the out come. Anything less will leave a cloud of uncertainty, which will keep MSFT and the rest of the market from focusing on their businesses. In this case all investors and the economy will be hurt.

I know the DoJ believes they are smarter and think I'm a simpleton. But my response is to protect my interests not that of MSFT. As a small business owner I believe in free market competition not protectionism. My view is Microsoft gave the end user the best deal. They gave us more for less with seemless integration. Any claim to the effect things would be better if Microsoft innovation is impeded is pure speculation. How many innovations have competitors given to consumers at no charge? People and companies don't always make good on their claims and tend to exaggerate when "if and buts" are added in the mix.

Larry Oshita

MTC–00025486

From: draycox@netscape.net@inetgw
To: Microsoft ATR
Date: 1/25/02 8:58pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Dennis Cox
315 Ashebrook Rd Apt 60
Salisbury, NC 28147

MTC–00025487

From: Mac User
To: Microsoft ATR
Date: 1/25/02 9:04pm
Subject: Microsoft Settlement

To Whom It May Concern,

I am strongly opposed to the settlement offered in the Microsoft antitrust trial. Microsoft has repeatedly used anti-competitive practices to undermine other companies to maintain their monopoly. They also continually use their monopoly power to leverage other markets. This has severely hampered innovation in the computer industry. The penalty for their actions must allow for the re-introduction of true competition into the marketplace. The settlement does absolutely nothing to address these serious issues. Indeed, only a true break-up of the company along with opening up of the source code and data file formats can help. Further a ban is required on their ability to contract with computer manufacturers which prevent them from selling competing software.

As a developer in the computer industry, I personally feel the negative effects of the Microsoft monopoly every day. Something better needs to be done to rectify the situation, and Microsoft will never willingly agree to what is needed. I implore you do the right thing and forget about settlement and enact a fitting penalty that will be effective.

Do not forget that they willfully fabricated false testimony in the original case. How can they be trusted to develop a fair settlement?

Sincerely,
Frank Schima
Gaithersburg, MD USA

MTC-00025488

From: tedorgan@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 9:01pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Tracy Dorgan
1 Birch Hil Drive
Nashua, NH 03063–2502

MTC-00025489

From: Evan J Hale
To: Microsoft ATR
Date: 1/25/02 9:05pm
Subject: Microsoft Litigation

I firmly believe that it is time to end this very expensive court case that is costing taxpayers millions just because one company (Microsoft) makes a better product than it's competitors, thus sells more. It is lining the pockets of competitor big wigs and lawyers. Of course they would like to drag it on. I have urged Utah's Attorney General to go along with other states in bringing this to a halt and hope that the Justice Department can mitigate this before any more money is spent.

Evan J. Hale
ejash@juno.com

MTC-00025490

From: Earl H Barton
To: Microsoft ATR
Date: 1/25/02 9:04pm
Subject: Microsoft settlement

Sirs:,

I think the time has come to put this to an end. The settlement as is, is fair to all and should be ended now. No other company has helped the public as much as Microsoft. They are the only one's I know of that's gives so much to Charity. I dont see any of the others doing this. Just because Microsoft has the best product, as I have used, Is no reason to try to break up the company... Thats just not the American way.

You may use this in any way you see fit. Thank you for letting me put in my two cents worth..

Earl H. Barton, age-70
68 Pine Rd. POB–182
Norris, Tn 37828
earbar1@juno.com

MTC-00025491

From: Mason Thomas
To: Microsoft ATR
Date: 1/25/02 9:07pm
Subject: Microsoft Settlement

MTC-00025491 0001

As a professional working in the technology sector, I often have occasion to use Microsoft software and competing products. I am therefore concerned that the Revised Proposed Final Judgment in the Microsoft antitrust case has a number of deficiencies that prevent the Judgment from providing certain and effective relief for Microsoft's violations of the Sherman Act. Unless these flaws are corrected, the Revised Proposed Final Judgment is clearly against the public interest and will positively harm third parties.

This Comment addresses five serious deficiencies of the Revised Proposed Final Judgment. The deficiencies are discussed in the order they appear in the Judgment, not necessarily in their relative order of impact on injunctive relief. The deficiencies are:

1. The Judgment provides no remedies for past unlawful conduct.
2. Allowing volume discounts anticompetitively maintains Microsoft's monopoly (Section III.A. and III.B.).
3. Restrictions on disclosure of communications protocols maintains a barrier to competition (Section III.E.).
4. Arbitrary five year term of Judgment harms the public interest (Section V.).
5. The definition of "Non-Microsoft Middleware Product" maintains a barrier to competition (Section VI.N.).

Although it is unreasonable to expect a truly optimal Judgment that best serves the public interest, the existence of any one of the above deficiencies—and certainly the coexistence of several of them—will not end Microsoft's unlawful conduct nor avoid a recurrence of violations of the Sherman Act, and is thus outside the reaches of the public interest.

1. Judgment provides no remedies for past unlawful conduct Although the Revised Proposed Final Judgment provides limited remedies "to halt continuance and prevent recurrence of the violations of the Sherman Act by Microsoft" (Competitive Impact Statement, Section I.), it does not in any way "undo its anticompetitive consequences" (Competitive Impact Statement Section IV.B.). There is no provision in the Judgment to remedy any past anticompetitive actions by Microsoft: all provisions in the Judgment attempt to alter the current and future behavior of Microsoft. As such, the Judgment does not effectively restore the competitive conditions experienced by Microsoft prior to its violations of the Sherman Act.

An effective remedy for Microsoft's past illegal actions requires a careful balance to empower injured competitors while not unduly damaging Microsoft. A simple but fair remedy would create a pool of Microsoft's money based on a percentage of sales of Microsoft Operating System Products since the filing of the antitrust complaint till the time of the Final Judgment entered by the Court. The parties damaged by Microsoft's anticompetitive behavior (e.g., Sun Microsystems, Netscape Communications Corp., etc.) would be payed from this pool. The size of the pool and the relative payment terms to competitors are details that require careful consideration.

2. Allowing volume discounts anticompetitively maintains Microsoft's monopoly

Allowing volume discounts serves no procompetitive interest and is in fact very much against the public interest as it serves to illegally maintain Microsoft's monopoly. Section III.A. of the revised proposed final judgment stipulates that "Nothing in this provision shall prohibit Microsoft from providing Consideration...commensurate with the absolute level or amount of that OEM's development, distribution, promotion, or licensing of that Microsoft product or service." Section III.B.2 provides for a licensing fee schedule that "may specify reasonable volume discounts based upon the actual volume of licenses of any Windows Operating System Product..." These provisions allow Microsoft to continue to leverage its monopoly position to illegally maintain that monopoly. The Competitive Impact Statement entirely ignores the anticompetitive ramifications of these terms.

Unlike traditional manufacturing, where the production or distribution of a large quantity of a product can generate "economies of scale" and thereby procompetitively justify non-uniform pricing (e.g., volume discounts), the licensing of software has no significant economies of scale. A comparison with traditional manufacturing is useful. For a car dealership selling hundreds of cars per month, there is economic justification for the car manufacturer to provide a volume discount to the dealership: the distribution costs (shipping) per car are lower than for a dealership selling only ten cars per month. With software however, the only economy of scale obtained is slightly cheaper production materials: compact disks for distribution and paper for documentation and product boxes. OEMs typically only include a compact disk with a new computer purchase, for which the volume production cost is under one dollar (US$1.00). Hence the economies of scale afforded by large scale OEMs to Microsoft are less than one percent (1%) of the retail value of typical Windows Operating System Products. Hence there is no significant procompetitive reason to allow volume discounts to large OEMs.

Allowing Microsoft to offer volume discounts will further entrench its monopoly position. With volume discounts, Microsoft would retain the ability to price its Windows Operating System Product licenses at an artificially low cost to the largest OEM vendors. These vendors would thus have a strong incentive to continue to offer exclusively or predominantly the Microsoft Operating System Product on new Personal Computers. The largest OEM Personal Computer suppliers would have a free market incentive to choose alternate Operating System Products if Microsoft's Operating System Product were instead priced at an open market value. Avoiding volume discounts increases competition while preventing Microsoft from leveraging its monopoly to stifle competition.

This deficiency of the revised proposed final judgment is remedied by deleting the words "distribution" and "licensing" from the last paragraph of Section III.A. and by modifying Section III.B.2 to read "the schedule may not specify volume discounts based upon the actual volume of licenses of any Windows Operating System Product or any group of such products." These modifications will still allow Microsoft to compete in the marketplace based on the merits of the Windows Operating System Products, but prevent Microsoft from anticompetitively erecting barriers to competitive products.

3. Restrictions on disclosure of communications protocols maintains barrier to competition

The Revised Proposed Final Judgment maintains a significant barrier to competing Non-Microsoft Middleware Products by restricting the disclosure of Communications Protocols. Section III.E. of the Judgment provides that Microsoft shall disclose Communications Protocols "on reasonable and non-discriminatory terms." Such terms, however, prevent a large number of established and nascent competitors from obtaining the Communication Protocols. "Reasonable and non-discriminatory" license terms act as an anticompetitive barrier to potential Microsoft competitors, while providing no procompetitive advantage for Microsoft.

"Shareware" software developers typically provide software products (including middleware) free of charge for end users to evaluate, and only demand payment if the end user decides to continue using the software product. Such developers would be unable to comply with "reasonable and non-discriminatory" licensing terms unless a very large percentage of end users payed for the software product. Similarly, the entire "open source" class of software would be unable to meet "reasonable and non-discriminatory" terms as the "open source" licenses allow virtually unlimited duplication and derivation rights. Several important Non-Microsoft Middleware Products are "open source", notably the Samba program (http://www.samba.org), that provides file transfer and print services through the Microsoft SMB Communications Protocol. The Samba program is a well-established and widely used alternative to Microsoft Middleware Products, but it would be effectively prevented from competing with Microsoft through the adoption of "reasonable and non-discriminatory" licensing terms for future changes in the SMB protocol.

This deficiency of the Revised Proposed Final Judgment can be remedied by a simple wording change. The phrase "reasonable and non-discriminatory" in Section III.E. of the Judgment should be changed to "royalty free". Since Microsoft's ability to hide Communication Protocols serves only to prevent competitors from effectively interoperating with Microsoft products and does not in any way increase competition, a mandatory royalty free license would serve to allow both large and small competitors to interoperate with Microsoft products.

4. Arbitrary five year term of Judgment harms the public interest

The Competitive Impact Statement in Section IV.C. claims that a five year time frame for the Judgment "provides sufficient time for the conduct remedies contained in the Proposed Final Judgment to take effect...and to restore competitive conditions to the greatest extent possible." The Competitive Impact Statement provides neither evidence, nor precedence, nor logic to support this claim.

In fact, a five year term may well be too long. The provisions of the Revised Proposed Final Judgment may turn out to be so effective at restoring competition that Microsoft loses its dominance in less than two years in the Operating System market for Personal Computers and becomes unnecessarily hobbled by the restrictions of the Judgment. In such a case, Microsoft would be unfairly restricted from competing in the market for another three years, possibly causing great economic damage to Microsoft and depriving consumers of the fruits of a vibrant competition in the Operating System market.

Alternatively, the provisions of the Revised Proposed Final Judgment might not be sufficient to hinder Microsoft's anticompetitive actions, and Microsoft could continue to violate the Sherman Act through an extended seven-year Judgment period. Clearly such a situation would severely harm the public interest, again depriving consumers of the benefits of a competitive market and stifling the entire Operating System and Middleware market. The arbitrary five year Judgment term length would only be beneficial in the most serendipitous of circumstances, and the arbitrary two-year extension does not mitigate this fault.

The overriding concern of this Judgment is to prevent Microsoft's anticompetitive actions and to restore competitive conditions to the market, and it is that principle that should guide the term length of the Judgment. The most straightforward application of this principle would be to terminate the Judgment when Microsoft no longer enjoys monopoly status. This could be achieved with the following replacement for Section V. (Termination) of the Revised Proposed Final Judgment:

"This Final Judgment will expire when Microsoft's Windows Operating System Product has less than fifty percent share of the Personal Computer Operating System market (as determined by a market study provided by a mutually agreed upon third party)."

With this revised termination clause, the Judgment will stand exactly as long as necessary for the public interest. An alternate definition of monopoly status (i.e., instead of "fifty percent market share") may also be acceptable, provided it is logically and legally defensible, and maintains the intent of the Judgment.

This new termination clause will ensure the return of healthy competition to the Operating System market without unduly burdening—or harming—Microsoft. At the point that Microsoft's Windows Operating System Products have less than fifty percent share of the Personal Computer Operating System market, there is clearly healthy competition in that market, with at least one other dominant competitor to Microsoft. There is then no further reason to impose the conditions of the Judgment. However, Microsoft is not prevented from maintaining its monopoly on the technical merits of its products. The ongoing terms of the Judgment would not be onerous to Microsoft should it maintain a monopoly position without resorting to anticompetitive actions.

5. Definition of "Non-Microsoft Middleware Product" maintains barrier to competition

Although the Revised Proposed Final Judgment seeks to "restore the competitive threat that middleware products posed prior to Microsoft's unlawful conduct" (Competitive Impact Statement, Section IV), the proposed definition of "Non-Microsoft Middleware Product" serves instead to maintain barriers to competition. Section VI.N. of the Revised Proposed Final Judgment stipulates that a software product, among other requirements, can only be considered a "Non-Microsoft Middleware Product" if "at least one million copies were distributed in the United States within the previous year." This requirement is explained in the Competitive Impact Statement, Section IV.A. as being "intended to avoid Microsoft's affirmative obligations...being triggered by minor, or even nonexistent, products that have not established a competitive potential in the market..." As the Competitive Impact Statement makes clear, the definition of "Non-Microsoft Middleware Product" intentionally limits the possible competitive impact of nascent middleware products. Such a limitation is antithetical to the desired goals of the Judgment.

This deficiency of the Revised Proposed Final Judgment can be easily remedied by deleting Section VI.N. (ii) and thus removing the restriction on number of copies distributed. The Competitive Impact Statement in Section IV.A. states that the restriction on number of copies distributed "is intended to avoid Microsoft's affirmative obligations—including the API disclosure required by Section III.D. and the creation of the mechanisms required by Section III.H.—being triggered by minor, or even nonexistent, products..." In other words, Microsoft should not endure an onerous burden in its obligations. However, deleting Section VI.N. (ii) would not create such a burden. Since Section III.D. already specifies that APIs and related Documentation shall be disclosed via the Microsoft Developer Network or similar mechanisms, Microsoft will not require any further effort to make the APIs and Documentation available to ISVs or other middleware developers that have not established a competitive potential in the market—but that nevertheless have the potential to become competitors with Microsoft. Furthermore, the mechanisms required in Section III.H. (such as the creation of Add/Remove icons) are sufficiently generic that they will only need to be created once—and likely already exist—to accommodate all Microsoft and Non-Microsoft Middleware, and hence the expansion of the number and kind of possible middleware competitors to Microsoft again does not create an undue burden on the company.

This Comment has been submitted through both e-mail and facsimile copy.

Respectfully submitted,
Mason Thomas
4333 Wildwest Circle
Moorpark, CA 93021
(805) 530–1502
January 25, 2002

Join the world's largest e-mail service with MSN Hotmail.

http://www.hotmail.com
00025491 0005

MTC–00025492

From: LARRY HAYDEN
To: Microsoft ATR
Date: 1/25/02 9:07pm
Subject: WHAT DID I FIGHT FOR

WHY DID I FIGHT TO KEEP AMERICANS FREE ?WHEN OUR OWN GOVERMENT AND OTHERS LIKE THEM WON'T LEAVE OTHERS ALONE TO PURSURE THE DREAM . IF OTHERS DON'T HAVE A DREAM OF THERE ON THEN DON'T GET INTO OTHERS. BILL GATES AND OTHERS LIKE HIM HAD A DREAM BUT THE GOVERMENT PUT THERE TWO CENTS WORTH IN. THE OTHERS LIKE THE OTHER 9 STATES AND NOW AOL? WELL I GUESS ALL THE THINGS I WENT THROUGH AND OTHERS LIKE ME WELL, I GUESS IT WAS ALL IN VAIN. WE ARE NOT A FREE COUNTRY WHEN THE GOV CAN TELL YOU WHAT YOU CAN INVENT FOR THE BENNIFIT OF OTHERS. I GUESS IT WAS JUST A DREAM.

LARRY HAYDEN

MTC–00025493

From: Dan Liscinsky
To: Microsoft ATR
Date: 1/25/02 9:08pm
Subject: Microsoft Settlement

the proposed settlement is a bad idea.

MTC–00025494

From: Joe King
To: Microsoft ATR
Date: 1/25/02 9:08pm
Subject: Microsoft Settlement

To whom it may concern:

As a consumer of computer software and hardware items, I urge that the Microsoft Case be settled as soon as possible and let this industry resolve the issues through competition rather than through politics and unjust justice.

Thanks, Joe King

MTC–00025495

From: piyush gupta
To: Microsoft ATR
Date: 1/25/02 9:08pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotelly:

I am a first generation immigrant, having arrived here from India 23 years ago. I remember the two things that had most impressed me a short time after I landed. One was the highway system—so cleverly built that one could go from one end of the country to another without encountering any barriers like traffic lights! And the second was the anti-trust system underlying our free market economy that has made ours the most powerful nation on Earth. It was an immense eye-opener for me to find out how the anti-trust sytem had successfully decoupled the film sales market from the film development market and enabled two thriving, competitive markets to develop and benefit consumers nationwide.

Well, I feel that our anti-trust system is letting us down in the MicroSoft case. At least two Federal courts have now determined that MicroSoft is an illegal monopoly—a fact that has been evident for years to professionals in the computing field like myself. I have had some first hand experience in seeing how MicroSoft deals with potential "partners." MicroSoft has yet to deliver any original piece of technology to the marketplace. Their operating system monopoly has been based on getting the DOS software from someone else, partnering then driving IBM away. Their database was stolen from Sybase. Netscape created the browser market, and MicroSoft illegally used their Windows monopoly to virtually drive them out of business.

I work in the computer industry in Silicon Valley. Any enterpreneur who tries to start a company and raise venture capital is now asked how they will prevent MicroSoft from crushing them if they are successful! You can imagine the chilling effect this is having on innovation. If MicroSoft is allowed to continue unchecked, it will be disaster for the American IT industry. Why would you bother to create another innovation like the web browser when you know MicroSoft will copy it, bundle it with Windows, and drive you out of business!

I'm glad the civil suit settlement was rejected— can you imagine, the civil settlement would have provided MicroSoft with a toehold in the education market, the only one where Apple has been able to hold the off!! I hope you will see fit to reject the proposed DOJ settlement as well. It does not punish MicroSoft for its past anti-competitive practices, nor prevents it from continuing to do so in the future. Approving the current settlement will spell disaster for the future economic well being. Thank you.

MTC–00025496

From:MOLITUO@aol.com@inetgw
To: Microsoft ATR
Date:1/25/02 9:08pm
Subject: Fwd: Microsoft Settlement

MTC–00025496 0001

Dear DOJ:

I want to say so much, perhaps too much! Instead I shall offer a number of sentences, keeping them as brief as possible:

(1) As a consumer, I want all manufacturers of the products I purchase to enjoy the freedom to make those products better for me, without the jeopardy of Big Brother Interference!

(2) AS a reader of multiple articles on this endless government harassment of Microsoft, I have concluded simply that a number of companies [all of whom share some specific monopolistic piece of the pie] turned to Government Officials to hamper and hammer Microsoft when this cadre of companies decided they could not defeat Microsoft in a marketplace controlled by the long-standing principles of the American Economic System! Like a child who decides not to slug it out with his nasty classmate; but to go home to summon his "big" brother to do the fighting for him!

(3) As a past student of some psychology courses, I think that Jealousy has had too much to do with this legal pursuit of a premier company. The multibillionaires in control of the "offended corporations" are envious of the astounding success of the richest! Even the Federal and State Governments fall prey to the venom of jealousy seeing what a well-organized and truly innovative Corporation can achieve; while these governmental entities prove largely feckless to their tasks and reckless with taxpayers" money in the process!

(4) In view of Judge Jackson's relentless pursuit of Microsoft and his self-declared antagonism for its officers, it bedazzles me that the Court of Appeals would uphold his Findings as unprejudiced and valid! The fact that he may have declared his belligerence toward Microsoft only subsequent to Court Proceedings cannot distract a thoughtful individual from the fact that those belligerent statements revealed his mindset and opinion throughout the entire course of this legal saga!

(5) By upholding the Jackson Findings, the Court of Appeals covered the "behind" of the Judiciary System; but, in its attempt to protect the Honor of that System, it failed to do true Justice! Could the Judges not see -or did they see but pretend not to see- that hostile statements made by Judges against Principals in their Courts display for the world not a "new prejudice" against a defendant just now judged to be guilty? Simple chronology cannot be invoked to defend a long-standing, vindictive attitude and mindset that dishonor the very Judiciary System the Court of Appeals tried so hard to protect. Despite obvious partiality on the part of the Trial Judge -obvious at least to ordinary laypeople- virtually all his condemnatory Findings were upheld!

(6) The slap on Judge Jackson's hand did not achieve Justice! The Jackson Findings were mortally flawed through and through by the prejudices of a judge who is paid to be unprejudiced! The rejection of a split-up of Microsoft as a remedy was too obvious, really, even to have taken up the Appeal Court's time! Judge Jackson had wrongly escalated his proceedings far beyond the

scope of the suit itself. As a matter of fact, the essence of the case against Microsoft, ie. the bundling, was found by the Court of Appeals in Microsoft's favor! How can a man accused of murder be declared guilty of murder if he is shown to be an adulterer? How can a company accused of illegal bundling -and the finding of illegal bundling is subsequently overruled- be required to pay damages because it had bad business manners?

(7) We are faced now with a New World of Commerce! Competition is no longer valued as the arbiter of corporate success or failure. Now Government and the Judiciary are to be given carte-blanche to police and to punish those corporations that have the temerity to be TOO SUCCESSFUL FOR THEIR COMPETITORS" LIKING!

Thank you.

MTC-00025497

From: Donald W. Hurta
To: Microsoft ATR
Date: 1/25/02 9:09pm
Subject: Fw: Microsoft Settlement

——Original Message——

From: Donald W. Hurta
To: microsoft.atn@usdoj.gov
Sent: Friday, January 25, 2002 6:19 PM
Subject: Microsoft Settlement

To whom it may concern, Enough is enough!!! Let's get on with the economy. leave Microsoft alone!!!

What were you people thinking to start with ? They no more a monopoly than General Motors or Ford. Quit wasting public money on this ridiculous boondoggle.

Sincerely,
Donald W. Hurta

MTC-00025498

From: Carll Frye
To: Microsoft ATR
Date: 1/25/02 9:08pm
Subject: Microsoft Settlement

January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter in regards to the antitrust settlement between Microsoft and the Department of Justice. My opinion is that the litigations against Microsoft need to come to an end and the settlement that has been reached is more than fair and reasonable. Microsoft has agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit. This litigation shows that a normal hardworking person can only get so far. You take a company and put your whole life into it, build it up from the ground up and then the government comes in and tells you that you have to tear it down.

Furthermore, Microsoft gives thousands of people jobs, donates millions to charity, and has developed software that has enabled people to run their own businesses more efficiently. The terms that Microsoft has agreed to have shown that they are willing to do what it takes to end this matter, enabling themselves and the courts to concentrate on more pressing issues. Microsoft has consented not to retaliate against software and hardware developers and promoters that compete with Microsoft. Also, Microsoft will make it easier for non-Windows programs to run within Windows.

It is obvious this issue needs closure. Litigations will continue to waste millions in tax dollars not to mention the effect that it has had on the IT industry and the economy. Microsoft has worked hard to become the company it is and should not be torn down or hassled any further.

Sincerely,
Robyn Frye
15903 SE 58th Street
Bellevue, WA 98006

MTC-00025499

From: estr747962@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 9:06pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
E Strange
35223 Cielo Vista
Cathedral City, CA 92234

MTC-00025500

From: Darlene Wallach
To: Microsoft ATR
Date: 1/25/02 9:08pm
Subject: Microsoft Settlement

The proposed settlement is a very bad idea. It is NO punishment for Microsoft rather it furthers their products being used and precludes the use of other products.

Darlene Wallach
47 Boston Avenue
San Jose, CA 95128–1902
wallachd@earthlink.net

MTC-00025501

From: Rosemary Scanlon
To: Microsoft ATR
Date: 1/25/02 9:10pm
Subject: Microsoft Settlement

Please see the attached letter urging that this settlement be completed.

Enough is enough.
Rosemary Scanlon
10 Clinton Street # 9T
Brooklyn, NY 11201
January 25, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I have been following the ongoing antitrust lawsuit between the U.S. government and Microsoft, and I would like to see it settled according to the terms both sides agreed to in November. Microsoft is making several important concessions to end the case, and I feel that your office should comply with the settlement.

Microsoft has agreed to significant changes to end the suit, changes that will benefit both its competitors and consumers as a whole. Designing new means for computer makers and users to customize their use of Windows and its affiliated programs, as well as to integrate programs by competing developers, enhances the public's freedom of choice, while protecting Microsoft's right to continue developing some of the most innovative technologies in the marketplace.

I believe that the case has been active long enough, and the potential settlement is the only likely way to end it any time soon. I urge you to finalize the settlement and move on to more important matters.

Sincerely,
Rosemary Scanlon

MTC-00025502

From: Matt Covey
To: Microsoft ATR
Date: 1/25/02 9:11pm
Subject: Microsoft Settlement

I'm a software engineer with more than 20 years" experience developing for numerous platforms. I'd like to comment on the Proposed Final Judgment (PJF).

Specifically, I believe the PFJ has 3 serious flaws:

a) it allows many exclusionary practices to continue

b) it does not take any direct measures to reduce the "applications barrier to entry" faced by new entrants to the market

c) it does not deny to the defendant the fruits of its statutory violation

I won't go into details—there are other public comments describing these points*. Instead, I would say that after reading the proposed settlement and it's technical remedies, I see nothing that stops Microsoft from continuing it's current style of business. These remedies will have very little real-world effect. And if Microsoft is allowed to retain the benefits of it's past misconduct and more importantly continue it's anti-competitive behavior, how is this a settlement that benefits anyone except Microsoft?

Certainly it doesn't benefit the consumer.

Sincerely,
Matt Covey
President, Classical Software

* Two examples: http://www.kegel.com/remedy/
http://www.antitrustinstitute.org/recent/162.cfm

MTC-00025503

From: FFALLENBY@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 9:12pm
Subject: microsoft settlement

i believe the microsoft case has gone on long enough. with all the problems the country has now we should get on with the future and not have att gen's of the various drag the case on longer. considering the anti cigarette debacle with the states missusing huge amounts of funds, it makes little sense to allow them to attempt hurting a company that has been so innovating and successful in expanding the tech world. they have been an asset to the country and their pricing has kept the cost of computing reasonable for all of us. Frank Friedland 6945 Fountains Circle

Lake Worth, F e-MAIL ADRESS
ffallenby@aol.com

MTC-00025504

From: Juan Rodriguez
To: Microsoft ATR
Date: 1/25/02 9:13pm
Subject: US vs. Microsoft

Dear Sirs,

I am a network administrator for a small CPA firm in Southern Indiana, and I am also a CPA. As someone who works with computers every day, I will be affected by the outcome of US vs. Microsoft. However, I believe the proposed settlement is not appropriate given the facts of the case or the fact that Microsoft, Inc. has already been found guilty of illegally maintaining its monopoly.

The proposed settlement does not address several issues that I believe are extremely important.

The settlement does not keep Microsoft from preventing computer manufacturers and/or resellers from bundling competing products with the computers and Microsoft operating systems.

The proposed settlement allows Microsoft to keep its illegally obtained profits. Microsoft's monopoly profits are the direct result of its anti-competitive practices. Consumers have overpaid for Microsoft products, specifically the Windows 95 operating system, but this issue is not addressed. Consumers are being harmed because they have overpaid for Microsoft products but that money is not being repaid. Such repayment might have a positive side-effect on the economy because consumers will probably spend at least some of that money if it is repaid. Also, criminals should not be allowed to keep their ill-gotten gains. Criminals should also not be allowed to use their ill-gotten gains to pay for their legal defense.

The settlement makes no attempt to punish Microsoft for their wrongdoings. While the settlement establishes some mechanisms to prevent future wrongdoing, it does not address punishment for past wrongdoings. This is not consistent with the American Justice System.

A more fair settlement should address the following:

1. In order to prevent an extension of Microsoft's monopoly, its products, particularly its operating systems, should be placed as extra-cost options in the purchase of new computers, so that consumers who do not wish to purchase them are not forced to do so. This would help consumers see what they are actually paying for Microsoft products and might cause consumers to consider alternatives. A more informed public should be a desired outcome of the trial for the US Government.

2. The specifications of Microsoft's present and future document file formats must be made public. This will allow documents created with Microsoft applications to be read by applications from other software makers or developers.

3. Any present and future Microsoft networking and authentication protocols must be published and approved by an independent body. This would help prevent Microsoft from seizing control of the Internet and data centers.

4. The money that consumers have overpaid for Microsoft products should be repaid, in order to rectify some of the harm consumers have endured.

Please reject the proposed settlement and work towards stiffer penalties for Microsoft.

Regards,
Juan R. Rodriguez, CPA
New Albany, Indiana

MTC-00025505

From: Paul Slagle
To: Microsoft ATR
Date: 1/25/02 9:17pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Under the Tunney Act, I wish to comment on the proposed settlement of the United States vs. Microsoft antitrust case.

I agree and support several well-written and detailed arguments against the settlement. These include:

http://www.kegel.com/remedy/letter.html
http://www.gnu.org/philosophy/microsoft-antitrust.html
http://www.codeweavers.com/jwhite/tunneywine.html

Personally, I have been a software engineer for over 20 years, working with mainframes, PCs, and Unix boxes. I've worked w/ operating systems from IBM, DEC, Microsoft, SUN, and HP among others. By far the most enjoyable and enriching years have been those working w/Unix and its variants, including Linux. The openness of the Unix community, including commercial companies, is far more in the public interest than Microsoft could ever dream to be.

Microsoft is a monopoly, interested in serving the interests of Microsoft, not the interests of the public. If Microsoft was truly and sincerely concerned about the public interest, full specifications of their APIs would be published. Source code would be freely available. Cooperative efforts on products would be encouraged and would flourish. But that is not how a monopoly such as Microsoft operates, and the proposed settlement does little to change the actions of said monopoly.

Thank you for your time and efforts.

Sincerely,
Paul Slagle
CC:pslag@mail.com@inetgw

MTC-00025506

From: res0s8pt
To: Microsoft ATR
Date: 1/25/02 9:14pm
Subject: Stop Punishiling Success

We urge you not to give in to Microsoft's competitors" unreasonable demands. Our country's increasing harshness towards corporations will not help anyone. Wouldn't we be much better off if families like the Kennedys had used their millions to go into business, thereby employing thousands of people, rather than going into government on the backs of the working class and impeding those who are employing us?

We are retired now, but feel we were much better served by those willing to create business than by politicians claiming to have the interests of the worker at heart while getting paid by our taxes.

Three cheers for Bill Gates, his vision and his courage.

Agnes and Roland Peterson
Malibu, CA 90265

MTC-00025507

From: robert p cp calnan
To: Microsoft ATR
Date: 1/25/02 9:13pm
Subject: MICROSOFT SETTLEMENT

HEY YOU GUYS, STOP THAT CRAP NOW................SETTLE IT!!!!!!!!!

THE WORLD NEEDS MICROSOFT AND YOU GUYS NEED TO GET BUSY ON OUR MORE IMPORTANT ISSUES LIKE HEALTH AND RETIREMENT STUFF.

LISTEN TO THE GRAY HAIRED PEOPLE WHO HAVE LOTS OF EXPERIENCE AND HAVE SPENT TOO MUCH TIME OBSERVING LITTLE FORWARD MOVEMENT IN WASHINGTON.

DO SOMETHING FOR THE PEOPLE INSTEAD OF THE BIG BUSINESSES MICROSOFT HAS SERVED ALL OF US WELL AND DRAGGED US TO WHERE WE ARE TODAY. LEAVE THEM ALONE, GO AFTER THE MORE PRESSING ISSUES..........HOW ABOUT THE HOMELESS, GET THEM ARRESTED SO THEY CAN GET 3 SQUARES........PLEASE STOP THIS MADNESS. WE ARE AT WAR, LEAVE THIS CRAP ALONE.

BOB CALNAN LAKE ELSINORE, CA.

MTC-00025508

From: William James Hart
To: Microsoft ATR
Date: 1/25/02 9:15pm
Subject: MICROSOFT SETTLEMENT

THANK YOU FOR REACHING A REASONABLE AND FAIR SETTLELENT IN THE MICROSOFT CASE.

I USE MICROSOFT PRODUCTS BECAUSE OF THEIR EXCELLENCE AND THE PRODUCTIVE RESULTS I GET.

PLEASE DO NOT LET OTHERS SEEK TO ADVANCE THEIR BUSINESSES BY FALSE CLAIMS, ESPECIALLY WHEN THEY DO THE SAME COMPETITIVE THINGS. LET COMPETITON SORT OUT BUSINESS, PLEASE. SUN MICRSOSYTEMS ARE GIVING AWAY STAR OFFICE AND IT IS A FINE PROGRAM. MICROSOFT ARE NOT CHARGING THEM WITH ANYTHING. THE TRUTH IS THAT SUN AND OTHERS CANNOT GIVE AWAY THINGS BECAUSE MICRSOFT ARE SO MUCH BETTER.

CC:William James Hart

MTC–00025509

From: Popcox13@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 9:16pm
Subject: Microsoft Lawsuit
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support of the United States Department of Justice's recent efforts to settle the Microsoft antitrust lawsuit.

This case really should not have been brought against Microsoft. Microsoft's innovations have and continue to contribute immensly to the productivity and economy of the United States . Microsoft single-handedly through "Window's Operating System" made computers accessible to the world. Computers are now in virtually every household and bussness in the country. Microsoft may have been aggressive in their business dealings, but that is the way of the business world in a free-market society. Aggressive business tactics are not necessarily the same as antitrust violations. Despite my feeling that this case should not have been filed, at this stage of the game I think the wise course of action is to settle the case. The settlement agreement the parties negotiated is fairly reasonable. It will require Microsoft to refrain from retaliating against computer manufacturers that install software other than Windows on their computers. Along those same lines, it will require Microsoft to not retaliate against software developers who develop programs that compete with Windows. These concessions should help the competition operate on a more level playing field.

I appreciate your efforts to settle this case.

Sincerely,
Howard w.Cox

MTC–00025510

From: info@lawtonpauldesign.com@inetgw
To: Microsoft ATR
Date: 1/25/02 9:17pm
Subject: Microsoft Settlement

To Whom it May Concern:

Under the Tunney Act, below are comments on the proposed settlement of the United States vs. Microsoft antitrust case.

The United States Government and the DOJ are doing a great disservice to all Americans by allowing Microsoft to continue to run roughshod over the entire computer industry. The proposed settlement is far too weak and vague and will allow Microsoft to continue in a business-as-usual mode. Microsoft business tactics squelch innovation and keep prices for software high by not allowing other competitors in the market.

Of many, here are two specific areas of the proposed settlement that are lacking power:

1. The proposed settlement does not prohibit anticompetitive license terms. Microsoft uses these restrictive licensing schemes to keep Open Source apps from running on Windows and keeps Windows apps from running on competing operating systems. (In a truly competitive arena, Microsoft Office would run on Linux.)

2. The proposed settlement does not stop Microsoft from using intentional incompatibilities. Microsoft continually inserts intentional incompatibilities to prevent its applications from running on other operating systems.

Thank you,
David Parker
Graphic Designer/3D Artist/ Teacher
Lawton Paul Design
info@lawtonpauldesign.com

MTC–00025511

From: Ken LLewellyn
To: Microsoft ATR
Date: 1/25/02 9:17pm
Subject: Microsoft Settlement

To whom it may concern,

I believe very strongly that the proposed settlement is an extremely BAD IDEA! All you have to do is look at all the loopholes that Microsoft will, of course, take advantage of. The overall effect of the proposal will curb Microsoft's behavior only to a small degree. Once again, the proposed settlement is an extremely BAD IDEA!

Thank you.

MTC–00025512

From: Andrew Hon
To: Microsoft ATR
Date: 1/25/02 9:17pm
Subject: Microsoft Settlement

Settle with Microsoft and you're being had!

MTC–00025513

From: AK Khattab
To: Microsoft ATR
Date: 1/25/02 9:17pm
Subject: Microsoft Settlement

Dear Sirs and Madams"

I believe that the settlement is hard but fair. —

AK Khattab
Lecturer
Aerospace Engineering,
California State University, Long Beach
Tel: 562 985 4339
E-mail: akhattab@csulb.edu

MTC–00025514

From: Cebert Shrum
To: Microsoft ATR
Date: 1/25/02 9:18pm
Subject: Microsoft Settlement

It is our opinion that the Microsoft offer should be accepted. We think that it is a shame what is being done to this company because of their success.

It is another example of meddling like the case of AT&T. We had the best telephone company in the world and now we have a mish-mash and we get less service and it costs more because of one judge. The public is the ones that suffer.

In this case the public has already suffered because the stock is less valuable and if the company is punished more their products will suffer and cost more and cause more jobs to go overseas and increase unemployment.

We think it is time to let Microsoft alone.

Mr. and Mrs. Cebert W. Shrum
3733 Southern Manor Drive
St. Louis, Missouri 63125–4478

MTC–00025515

From: DONALD SCHUMAN
To: Microsoft ATR
Date: 1/25/02 9:19pm
Subject: Microsoft

To Whom it may Concern: Enough is enough. The government, states that continue the lawsuit against Microsoft, and the companies that are unwilling to compete on product capability alone (AOL, Sun Micro Systems, etc) should be stopped. Let's get on with upgrading technology and continuing the capability of company's that are willing to develop products that effect positively the rising productivity gains caused by technology. Let Microsoft and other independents go and produce gains in technology by positive development of products rather then hiding behind the court system and continuing to file unjustified lawsuits. Let freedom ring!!!!! Don Schuman

donald.schuman@worldnet.att.net

May the best product win. A taxpayer and pro freedom of technology person.

MTC–00025516

From: Paul Slagle—WOH email master
To: Microsoft ATR
Date: 1/25/02 9:22pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Pursuant to the Tunney Act, I wish to comment on the proposed Microsoft settlement.

I feel the settlement does not go far enough in penalizing Microsoft for their monopolistic actions. It also leaves too many specifics out of the document in the area of APIs, middleware, "Windows", and others.

It is certainly not in the best interests of the public.

Sincerely,
Paul Slagle

MTC–00025517

From: Kzipperer@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 9:21pm
Subject: microsoft settlement

I am very much for the antitrust settlement between Microsoft, the Dept. of Justice etc. This is a very equitable settlement for all parties.

Kathleen Zipperer

MTC–00025518

From: Arnett Doug
To: Microsoft ATR
Date: 1/25/02 9:21pm
Subject: Comment on the proposed microsoft settlement

I think the proposed microsoft antitrust settlement is a joke. I don't see any effective remedy in it. Microsoft disregarded the spirit of the earlier DOJ agreement, they showed their disregard for the Court in the antitrust trial, and with this proposed agreement they will be able to escape being held accountable for continuing to kill developing technology and competitive companies. You can still see their fundamental behavior in their approach to Windows XP and Passport in spite of their loss in Court.

It is a shame for the Justice Department to have won the battle but now under a new administration throw away that victory.

Sincerely,
Douglas B. Arnett
4405 4th Ave NE
Seattle, WA 98105

MTC-00025519

From: Justin
To: Microsoft ATR
Date: 1/25/02 9:20pm
Subject: Microsoft Settlement

I do not agree with this settlement, and do not believe it to be a good idea.

MTC-00025520

From: Elly Davis
To: Microsoft ATR
Date: 1/25/02 9:23pm
Subject: microsoft settlement

Dept of Justice PLEASE agree with the settlement with Microsoft, thank you,
Elenora Davis, 7652 "C"
Plantz Rd Marysville, Calif. 95901:

MTC-00025521

From: Garrett Slagle
To: Microsoft ATR
Date: 1/25/02 9:27pm
Subject: Microsoft Settlement
TO: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

I do not think the proposed settlement is in the best interest of the public.

Sincerely,
Garrett Slagle

MTC-00025522

From: David Horrocks
To: Microsoft ATR
Date: 1/25/02 9:24pm
Subject: Microsoft Settlement

Hi there,

I'm From New Zealand. In a place that is a green beautiful country, competitive amongst the best of the world for its tourist dollar. Yet in the computer industry our computers here are amongst some of the cheapest in the world!! Yet Companies here are dying over that competitiveness.

What is happening to Microsoft I feel is totally wrong? Instead of embracing the spirit of what Microsoft has done and inspire others to do the same it is being torn down and destroyed so another can take its place? I thought the American dream was to prosper and be an asset to society and your community. If that is a crime the yes Microsoft is wrong. Just because others are late and missed the boat and cant get their act together. Instead have to fight and proclaim war against others that succeed.

Are you going to war against Apple now because they are a monopoly with their own system? On the other hand, slam Linux users because it's free? Please I support what Moorcroft is doing, it's a pioneer in the PC and Internet industry, Microsoft have brought it into our homes into our lives and as to they help enormously in the community, world wide.

Regards

A DR Dos user first, now Microsoft user by choice

David Horrocks
Desktop Applications Trainer
with Microsoft, Adobe and Corel software products note: copies of this email have been sent to other parties for archival purposes

MTC-00025523

From: Brian Korver
To: Microsoft ATR
Date: 1/25/02 9:24pm
Subject: Microsoft Settlement

The proposed settlement is lousy for everyone but Microsoft!

-brian

MTC-00025524

From: Gator
To: Microsoft ATR
Date: 1/25/02 9:25pm
Subject: Microsoft Settlement

Micrsoft must pay for its sin against the people that want choices in there life. It is a human right and must be protected. They have skirted the truth and have done everything in there power to suppress technological vision unless it is there own. May God direct you in your decision.

MTC-00025525

From: Grant Slagle
To: Microsoft ATR
Date: 1/25/02 9:29pm
Subject: Microsoft Settlement
TO: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530-0001

I do not think the proposed settlement is in the best interest of the public.

Sincerely,
Grant Slagle

MTC-00025526

From: Woosten@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 9:26pm
Subject: MicroSoft Settlement

Dear Sirs:

I feel that Microsoft's monopoly in the software market is anticompetitive and anti-consumer and should be corrected by requiring them to pub information on their APIs and other portions of the Windoze operating system. This would allow other software companies to write code that is unimpeded by the interface machinations currently being foisted on us by this company. It would also make changing from one operating system to another relatively painless if the file formats were standardized.

Thank you for the work you have done on this matter.

Sincerely,
Adrian D. Carey
woosten@aol.com

MTC-00025527

From: Samrod Shenassa
To: Microsoft ATR
Date: 1/25/02 9:32pm
Subject: Microsoft's Plea Bargain

To whom it may concern:

Plea bargains are to take place before trials, when the defense enters a guilty plea. Why is Microsoft, after being found guilty of multiple anti-trust violations, given a voice in its own punishment?

The primary goals of any remedial action should be to 1) prevent Microsoft from using its marketshare as a tool to succeed over its competitors, and 2) seek punitive damages for the success it has already enjoyed using those tactics.

If Microsoft is only prevented from further leveraging Windows to destroy future competitors, then it has already won for its past actions. Windows has achieved its dominance, Internet Explorer has already destroyed Netscape, and Office already beat Lotus and WordPerfect. The relative significance to halting future anti-competitive growth is miniscule compared to what has already been achieved.

Microsoft's competitors should be allowed to again compete on equal terms. The trial's initial focal point was the issue of Microsoft handcuffing the browser to operating system to destroy Netscape. As a remedy, Microsoft should be forced to do exactly what it forced Apple to do: bundle both browsers with the OS. It should also be forced to unroot Internet Explorer from Windows, giving users the freedom to safely uninstall it entirely from the system. By shipping Windows with the latest versions of both Netscape and Internet Explorer, users have the choice of completely removing either, both, or neither browser from their system. If Internet Explorer continues to dominate, it will have done so through fair competition. To be fair Microsoft should have the choice of either bundling both or neither browser with Windows— but never one.. The key is to make acquiring and uninstalling equally easy for both browsers. While IE is pre-installed and impossible to uninstall, users need to find and download Netscape from the Internet.

This same requirment can be applied to Windows Media Player, RealPlayer, and QuickTime as well. Either bundle all three, or none at all. Microsoft should also be forced to adopt the "Play Fair" policy currently practiced by Real Networks and Apple: inform users what media types the player supports; recommend alternatives for unsupported media types; give users the option of which supported media types to associate with the player; and don't adversly affect the functionality of other installed media players.

Then there's the issue of fair compensation to its competitors, which seems to have been completely overlooked in this settlement. But that issue may be better settled in Netscape's recent civil case against Microsoft. And finally, what was the reason for not breaking up Microsoft? In other words, why will the government allow the dominant operating sytsem and the dominant Office suite to be in control of a single entity? Does the government truly expect Microsoft's behavior to change, despite highly questionable actions it continues to take to this day, throughout the trial? Has there be any thought given to Microsoft's .NET strategy of market domination? Will Microsoft ever convert Internet Explorer to a fee-based, distributed software model, forcing users to pay a browser fee to surf the net? If so, will users have the option of chosing Netscape or Opera without losing core Windows functionality? Will Microsoft migrate any of the operating system's core functionality to a fee-based, distributed model, forcing users to pay fees even if they chose competitors'' products? With the direction the company is already taking with Windows XP and .NET, the answer to those questions is clear. Thank you for your time.

MTC-00025528

From: Richard Madril
To: Microsoft ATR
Date: 1/25/02 9:28pm
Subject: Microsoft Settlement

Mr. Ashcroft:

Attached are my comments on the Microsoft case. Before you make a decision on this case, please remember all the good things this company has done for our country. It is indirectly responsible for the success of many other companies. Mr. Gates is very generous with his money by helping others as well. Microsoft is responsible for the technological revolution that we have had in the past few years. The government needs to leave them alone.

Sara Smith
993 Athens Road
Crawford, GA 30630
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I think it is irresponsible of the government to make such a tremendous fuss about Microsoft. I do not believe the government has any right to interfere in business. Microsoft has been the means by which a great portion of the country has benefited. Bill Gates has done about as much for the country as anyone else. Microsoft is not an oppressive corporation. Because of the advances Microsoft has made, you do not have to be an expert to use a computer. Now, not only has suit been brought against Microsoft, but also there are those who are not satisfied with the settlement that has been reached and are seeking not to serve justice in the matter, but to cripple Microsoft.

Microsoft does not need to be crippled. The settlement that was reached last November is perfectly reasonable. It prevents future antitrust violations and allows competition within the technology industry to return to normal. Microsoft has agreed, for example, to refrain from taking retaliatory action against anyone who introduces a product into the market that directly competes with Microsoft software. Microsoft has also agreed to reformat future versions on Windows so that non-Microsoft software will be supported by the Windows operating system. This will not only allow its competitors the ability to introduce their own software into Windows, it will also enable computer makers to use Windows as a platform to market their own product.

I do not believe it is in the best interest of the public to continue litigation against the Microsoft Corporation. Microsoft has done nothing that would harm the consumer. I urge you to support the settlement and allow Microsoft to move on.

Sincerely,
Sara Smith

MTC-00025529

From: Jon Grizzle
To: Microsoft ATR
Date: 1/25/02 9:30pm
Subject: Microsoft Settlement

I am a Senior Electrical Engineer who thank that Microsoft has developed a better product than AOL's Netscape browser. I have used the MSN browser and find it very friendly and comprehensive. When I complain to Microsoft Support at mailto:Msupport@microsoft.com they respond to try and help or fix their browser. I pay Verizon $19.95 per month for providing my dial up service. However, I use the MSN browser and Microsoft's Outlook Express. Also, Microsoft Word, Excel, Access, Visual Basic, Power Point, Photo Draw, and other Microsoft applications. I like them all because they have been designed to work together and are reasonably priced. My son and Mom & Dad like that MSN Messenger allows us to save long distance cost to talk daily free. I thank it is a shame having to pay for monthly utility bills when some are for duplicate services. We pay for Internet across the telephone lines, talking over those same lines and talking on a cell phone uses those same lines again. Consequently, we get three different bills every month for those same phone line coming to our home. Soon those same lines will provide TV and many other signals. Homeowners get so many different bills, I'm thinking about a total disconnect.

Back to Microsoft. I like Microsoft and have always thought Bill Gates is an angle when compared to Ken Lay of Enron. If the US Government has nothing better to do and more money than brains spend government time and money bring to court the real crooks like the Lays & Andersons of the world. Clean up our elections, and outlaw soft money. Tell AOL to quit spending money on lawyers and spend their money on R & D. Even if Microsoft lost I would still use their products. I would become a stronger believer in Microsoft.

Regards,
Jon Grizzle

MTC-00025530

From: garyshade
To: Microsoft ATR
Date: 1/25/02 9:28pm
Subject: Microsoft Settlement

Hello,

The settlement offered by the Bush administration and some states was not in the public interest. The antitrust case involved abuse of monopoly power by releasing the Windows operating system with the Internet Explorer browser embedded into the operating system.

The remedies offered by the Bush administration do not address the nature of the case, and would only serve to further reduce competition in the schools, one of the last remaining venues where competing software can still be found.

Any sound remedy should separate the Internet Explorer browser from the operating system. The remaining states that refuse to settle stress this point.

Each time the government allows Microsoft to release another version of Windows with the Internet Explorer browser embedded into the operating system, the monopoly path is entrenched further.

Make the remedy be an actual remedy to the facts of the case.

Sincerely,
Gary Shade
US Citizen and software consumer

MTC-00025531

From: Gregg Christman
To: Microsoft ATR
Date: 1/25/02 9:31pm
Subject: Microsoft Settlement

Dear DOJ:

The settlement is extremely fair allowing over a billion dollars of computers and free software to low income schools.

Secondly, I would like to make a very important point to the DOJ that seems to exist in LALA land. Microsoft is a business that creates products that must be sold to generate profits that in turn pays taxes to the Government. No company that exists today or in the future is guaranteed success it is not automatic and it is earned, so the notion by the by the Federal Government and Microsoft competitors (that want to hide behind the courts rather than compete in the markets) that Microsoft is a monopoly are wrong. Microsoft must go out and compete everyday to win customers by the features and benefits of their products. Microsoft is not forcing anyone to purchase their software consumers have a choice.

Finally, I would like to make one more point regarding the Civil lawsuit by AOL against Microsoft this week. AOL doesn't have a leg to stand on regarding their Netscape and Microsoft's Explorer browser. AOL acquired Netscape during the intial law suit and bundled Netscape with AOL just as Microsoft had already done and they are creating a law suit over a mute point. It is called competition and they copied Microsoft's business model and because Microsoft had already bundled their browser before AOL'a acquisition of Netscape AOL is suing Microsoft. The AOL lawsuit is absolutely ridiculous and completely unfounded.

Gregg Christman
greggchristman@earthlink.net

MTC-00025532

From: Milorad Golubovich
To: Microsoft ATR
Date: 1/25/02 9:33pm
Subject: opinion

By being design, project and engineering manager for over forty years, I knew that creativity and innovation in the work was always rewarded.

If competitors of Microsoft are incapable to be creative and develop new product, we should not penalize the Microsoft engineers but on the contrary encourage them in their efforts for innovation. Only trough the progress in technology we can expect the progress in everyday life and preserve our nation technical leadership in the world.

—Milotad Golubovich
—milgol@earthlink.net
—EarthLink: The #1 provider of the Real Internet.

MTC-00025533

From: John Roth
To: Microsoft ATR
Date: 1/25/02 9:33pm
Subject: Microsoft Settlement

No to Microsoft!!!!

John Roth
jroth1@gte.net

MTC-00025534

From: Gordon McKay
To: Microsoft ATR
Date: 1/25/02 9:35pm
Subject: Microsoft settlement

I'm taking this time to urge you to accept this agreement with Microsoft as my wife and I both consider it to be the most equitable and fairest way to setttle this Antitrust suit.

Sincerely Yours
Gordon C. McKay

MTC-00025535

From: J lowe
To: Microsoft ATR
Date: 1/25/02 9:36pm
Subject: Microsoft Settlement

Judge Kollar-Kotally,

I'm a concerned citizen who believes Microsoft is being let off easy after amassing billions of dollars of illegal profits. Every court has ruled that Microsoft violated anti-trust laws, but the proposed final judgment falls far short of punishing Microsoft adequately. Not only does Microsoft retain its ill-gotten profits, but there's no protection in the settlement from future anti-trust violations. Microsoft's distribution of its products to schools is nothing more than an expansion of the company's monopoly. I urge you to rule against the proposed settlement.

Respectfully submitted,
Jhana Lowe
1040 Edgebrook Lane
Glencoe, IL 60022

MTC-00025536

From: JR
To: Microsoft ATR
Date: 1/25/02 9:37pm
Subject: Microsoft Settlement

Microsoft, through it's monopolistic policies has stifled innovation leaving consumers with technology that is years behind where it would otherwise be. While I applaud the governments efforts to correct this situation the proposed settlement will do little to correct the situation.

The terms of the agreement are too specific and will do nothing more than slightly change the manner in which Microsoft bullies the industry. Any settlement agreed on by the government should be more than a slap on the wrist. Microsoft has been found guilty of engaging in monopolistic practices and should be punished accordingly. More importantly they should be stopped from restricting innovation. Microsoft is becoming the only software company in America. This will ultimately hurt this country as other nations seek alternatives to Microsoft products and ultimately become the ones innovating new technologies.

Thank you,
John Rodriguez
Software Engineer

MTC-00025537

From: telasha@qwest.net@inetgw
To: Microsoft ATR
Date: 1/25/02 9:38pm
Subject: Microsoft antitrust case
January 25, 2002

To Whom it may concern:

I don't agree.

I don't agree with the DOJ's proposed settlement with Microsoft. As a physician and consumer of computer hardware/software solutions, I have found numerous situations in which the behavior of Microsoft impaired my ability to build cost effective solutions to the need for computerization of my medical practice. While part of the government wants HIPAA compliance miracles, the DOJ apparently believes that criminal behavior in Bellvue, Washington is exempt from punishment. Yes, criminal behavior, as there appears to be no dispute that the antitrust laws were violated. How will the proposed settlement repair that damage i.e. "make me whole". The trivial interventions will not bring back the competitors that would have provided me with a wide range of tools. Nor will it provide the kind of level playing field that would allow new competitors to flourish. Shame upon the lawyers who tout this as good work. If I were to lower my standards of practice to that degree, the DEA would not renew my narcotic license, I would be barred from Medicare and Medicaid practice and the state Board of Medical Examiners would start proceedings to pule my license to practice. Yes, I am angry. I am mad as (deleted).

Sincerely,
David P. Telasha, MD
10330 SE 32ND AVE
SUITE 320
MILWAUKIE, OR 97222-6519
Voice: (503) 659-3960
Fax: (503) 659-6607
Web: NWOBGYN.COM

MTC-00025538

From: Edwin S Oxner
To: Microsoft ATR
Date: 1/25/02 9:39pm
Subject: Microsoft Settlement

Gentlemen,

It's time to stop this foolishness. Why punish successful businesses? If a competitor isn't competing, let him die. What you're doing to Microsoft is ridiculous. Why not punish WalMart and target for putting K-Mart into bankruptcy? What's the difference? Or is it that K-Mart management hasn't asked you? Why is it that you love capital but hate capitalism?

Regards,
Edwin S. Oxner
Manchaca TX 78652

MTC-00025540

From: Bill Barney
To: Microsoft ATR
Date: 1/25/02 9:49pm
Subject: Microsoft Settlement

The proposed settlement is a very bad idea. This settlement practically rewards Microsoft instead of punishing them for committing the acts they did and does nothing to make sure they they cannot and will not commit these acts in the future. The fact that such a proposal is even being considered by the DOJ only further erodes my belief that the DOJ is actually interested in justice and not just political maneuvering.

Thank you,
Bill Barney

MTC-00025541

From: Todd Warner
To: Microsoft ATR
Date: 1/25/02 9:44pm
Subject: Microsoft Settlement

My comments will be brief:

Microsoft is guilty of abuse of monopolistic power. Central to this abuse, as with all anti-trust cases, is the practice of building unreasonable competitive barriers for entry into the market. The proposed settlement being fought by "the nine states" is fraught with bad judgement and simply extends Microsofts monopology, and more importantly, raises, ever higher, that barrier for entry by Micosofts competitors.

My solution? Good question. I don't have the answer. Probably something along the lines of Microsoft being forced to disclose all API's of all its software. That is not unreasonable and will allow other to compete on, at least somewhat competitive footing. Another possible, or additional, solution: open-source all Micosoft code. (a) the world would know for sure, how secure Microsofts code truly is, (b) competitors would be able to fully harness Microsofts APIs, and (c) a lot of intellectual property openly visible would stimulate inovation across the industry. Closed-source leads to less innovation.

/odd Warner—<taw@pobox.com>
Tank Commander—NC Army National Guard Software Engineer

MTC-00025542

From: floyd fisher
To: Microsoft ATR
Date: 1/25/02 9:45pm
Subject: Microsoft Settlement

The proposed settlement is nothing more than a chance for Microsoft to get a good PR spin out of their predicament. It totally goes against the idea of paying for your crimes you have committed. Intel was forced to liscense out their chip technology, why can't Microsoft be forced to allow other companies to publish and sell their own versions of Windows? That would make better sense.

IMHO.

MTC-00025543

From: Fred E Bird
To: Microsoft ATR
Date: 1/25/02 9:47pm
Subject: Microsoft settlement

We believe the proposed Microsoft settlement offers a reasonable compromise. Please do not litigate it further!!

Two interested Seniors,
Fred and Edna Lee Bird
4270-B Lewis Ave.
Penney Farms, Florida 32079

MTC-00025544

From: Richard W Carr
To: Microsoft ATR
Date: 1/25/02 9:46pm
Subject: Microsoft settlement

Isn't it about time that these 9 states folded their tents, and stop doling out tax payers money to support a "few whiners" who can't stand up to any competition .–.–. That includes Netscape.–.–.– Again, if they want a bigger piece of the market, let them get out and do something radically different to improve over Microsoft's software.–.–.–. Also, maybe they just don't have a dynamic marketing organization.–.–.– Let's end it now.

Dick Carr

MTC-00025545

From: charles e chapman
To: Microsoft ATR
Date: 1/25/02 9:47pm
Subject: Microsoft Settlement

Please settle this case and allow microsoft to continue making my life better. I have been retired for over 20 years and am very appreciative of Microsoft and what they have done to make computers more friendly.

Charles Chapman

MTC-00025546

From: rscarlet@TheWorld.com@inetgw
To: Microsoft ATR
Date: 1/25/02 9:51pm
Subject: Microsoft Settlement
To: DOJ re Microsoft Settlement

Dear DOJ,

I am deeply distressed that the DOJ, in its proposed antitrust settlement with Microsoft, has abandoned any pretense of ending or controlling Microsoft's abusive monopoly. In particular:

BUNDLING—NOT ADDRESSED—PART I.

I recently purchased a new computer with Windows. I was forced by Microsoft's monopoly to purchase Windows bundled with many other programs I did not need, as I already had these programs (including Web browser, CD writing program, multimedia playing program, etc.). Microsoft's spectacular monopoly-controlled profit margins on Windows make it abundantly clear that the cost of including such extra functions is covered by the charges that I and others pay for Windows. Yet, despite ample legal precedent for controlling such bundling, DOJ makes no attempt to do so. Please note that I also own a Macintosh computer, allowing me to avoid some such charges, but I use computers for my consulting business and I am totally forced by the monopoly to also own a Windows computer. Hence I am forced by the monopoly to pay for whatever bundled extras Microsoft chooses to include.

BUNDLING and ANTICOMPETITIVE PRICING—NOT ADDRESSED—PART II.

By placing no restrictions on bundling, DOJ acknowledges Microsoft's right to destroy any competitor at all. As DOJ knows, a competitor that is perceived as threatening can be wiped out by Microsoft's inclusion of its own competitive software in Windows and Microsoft's forcing of the customers to buy Microsofts version, and/or by Microsoft's use of its monopoly driven wealth to underprice competing products. It is an insult to the public that DOJ has essentially decided to overturn anti-monopoly laws by allowing such business behavior.

ANTICOMPETITIVE BUSINESS STRUCTURE

Microsoft's monopoly includes office software as well as Windows. Microsoft clearly plans its office software strategy to enforce its overall monopoly, even if the office strategy does not otherwise make business sense. It is obvious that a separate office software business plan would by now include a version of Office for Linux, but since Microsoft sees Linux as a competitor to Windows it is happy to otherwise damage its office software potential in order to protect its monopoly. DOJ, by making no attempt to control this behavior (which would probably require splitting Microsoft), is allowing illegal anticompetitive behavior.

SPECIFIC DEFECTS IN THE TOO-LIMITED PROPOSED REMEDY

In section III.C.1 and elsewhere the remedy states: ".–.–. except that Microsoft may restrict an OEM from displaying icons, shortcuts and menu entries for any product in any list of such icons, shortcuts, or menu entries specified in the Windows documentation as being limited to products that provide particular types of functionality .–.–."

This exclusion says that Microsoft, at its own discretion, may take monopoly ownership of any software functionality it chooses. It can do this trivially and without restriction by including all reasonable access methods to the functionality in its Windows documentation. Any Windows user knows there are often many methods to reach the same functionality. Microsoft can list, and hence reserve to itself, all reasonable access methods and make it too confusing or complex to users to reach the functionality provided by a different vendor. Microsoft is making a complete fool of DOJ by slipping in this exception.

Section III.H.2 is greviously, egregioiusly, outrageously (I could go on .–.–.) defective. This section turns the Internet over to Microsoft. It says that Microsoft can implement its own non-standard Internet protocols, accessible only by Microsoft's Windows software, and make the non-standard protocols look "standard" to the Windows (only) user by having Microsoft's software jump in if the customer has been so independent as to dare to use software, even on Windows, from another vendor. Again Microsoft is making a fool of DOJ with this exception. Without this exception, Microsoft's non-standard protocols would be awkward and have difficulty in the marketplace, but this allows them to leverage their monopoly without restriction to force these on the public. If this holds, then 10 years from now as the pundits ask, "How did Microsoft gain control of the Internet?" they will look to DOJ's approval of this exception as the cause! With great disappointment in your anti-public, contrary-to-law, settlement proposal.

Richard Scarlet
rscarlet@theworld.com
Massachusetts

(Small business owner, not in the computer or software business except as an end user.)

MTC-00025547

From: Harvey Lange
To: Microsoft ATR
Date: 1/25/02 9:54pm
Subject: Microsoft Settlement
Hash: SHA1

The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs. Section III.A.2. allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

Have you looked to see what operating systems choices are offered from DELL or Gateway? It does not matter if you are purchasing a new or a refurbished PC, your selection for an operating system is limited to Microsoft Windows 2000/ME/XP. You cannot even order one of these systems without an Operating System. If you buy a system from one of these two vendors, then you must also purchase a Microsoft Operating System to go with it. Even if your old system is crashed and you just want to replace it and install the software (with license) you already have, you can't. Why, because they have to and can only ship Windows.

Section III.B. requires Microsoft to license Windows on uniform terms and at published prices to the top 20 OEMs, but says nothing about smaller OEMs. This leaves Microsoft free to retaliate against smaller OEMs, including important regional "white box" OEMs, if they offer competing products.

I cannot purchase a "Home Brew" PC from most local computer stores with a Windows Operating System installed even if I have an original license and CD. When asked why, I get various reasons like "we don't think your license is real", or "we can only install Windows if we sell you the license", and in one case they admitted "we don't want to risk being sued by Microsoft". It is much safer to sell PCs without operating systems and avoid legal hassles because they cannot afford the legal fees. The government appears to be protecting the big corporations and not the small businesses.

Thank you.
Harvey Lange
Toney, AL

MTC-00025548

From: DALLIN4492@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 9:54pm
Subject: Microsoft Settlement

To Whom it May Concern,

In light of the recent events concerning Enron, can the DOJ move beyond this rediculous anti-trust suit against Microsoft? Enough is enough. It seems Americans are penalized no matter what they do in an effort to save money for their futures. Not only do we have to struggle to make ends meet with exorbitant medical costs for health coverage, but we also must be penalized by watching our investments deteriorate because the government has decided to spend years trying to prove something—what exactly, no one is sure, not even the DOJ. One judge thinks Microsoft and Bill Gates are the Hitlers of the business world; the other judge tells the two sides the thing can be resolved out of court.

Meanwhile, dishonesty commited by a behemoth energy company on a scale seldom seen in recent times, has gone on, unnoticed by the DOJ, because? ? ? ? ? ? ? Why ? ? ? ? ? ? ?

Please, end this fruitless pursuit and let Americans enjoy their computers, their investments, and regain a sense of confidence in "just for all."

Linette Widen

MTC-00025549

From: Beth DeHaven
To: Microsoft ATR
Date: 1/25/02 9:56pm
Subject: Microsoft Settlement

I have worked in this industry for 25 years. Anyone that believes Microsoft has harmed the consumer has got to be kidding. Microsoft has driven the cost of computing down to the point that those of us trying to sell technology solutions can barely make a living. It has been GREAT for the consumer. I only wish Microsoft would enter the furniture or clothing markets. Maybe then those goods would operate on a more reasonable profit model. I believe that the DOJ case in great part is the result of a bunch of competitors that can't figure out a better way to try to improve their market position. Consumers will decide if they don't want to do business with a particular company. Get it out of the courts. This case needs to be behind us. Settle it in a fair manner and then maybe my technology stock portfolio will start to improve. This case is like a dark cloud over the entire tech industry.

MTC-00025550

From: Ken Howells
To: Microsoft ATR
Date: 1/25/02 9:57pm
Subject: Microsoft Settlement

Sirs,

Allowing Microsoft to put more of their systems into schools, where students will only get more used to Microsoft systems and less exposure to alternatives, such as Linux, which I use extensively, is not a punishment for their monopolistic practices at all—it is a reward.

Please find a way to actually disciplin Microsoft for their breach of ethics, and also find ways to force them to allow realistic competition. The fact that computer viruses which only affect Microsoft systems sweep through the internet more and more often, crippling many businesses for hours or days, shows undeniably the folly of having too much of the economic infrastructure relying on one system. Genetic diversity is a powerful defensive weapon in the biological world. Operating system diversity would serve as a similar defense in the digital world.

Best Regards,
Ken Howells
Crestline, CA
CC:ken@willswing.com@inetgw

MTC-00025551

From: clwnm@earthlink.net@inetgw
To: Microsoft ATR
Date: 1/25/02 9:55pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW,
Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
chris weiss
pobox 142
sandia park, NM 87047

MTC-00025552

From: Samuel S. Lung
To: Microsoft ATR
Date: 1/25/02 9:58pm
Subject: Microsoft settlement

To Whom It May Concern

I am writing to state my point of view on the Microsoft settlement case. When technology is developing at such a speedy pace, holding back a leader for years will hurt the competitive edge of US companies in the world market place.

The other countries subsidize their companies to compete internationally while the US suppress their own. Foreign countries will not hold back but join in the kill of America's best. To improve our sick economy we need to help US companies to compete in the world marketplace. Some European countries are joining in the lawsuit against Microsoft and this really hurts to hear this kind of news.

The lawsuit has been dragged on long enough, for the sake of the US economy and the unemployed, I recommend the Department of Justice to settle the case with Microsoft.

This will have a bigger effect on the economy than the numerous rate reductions by the Federal Reserve.

Best regards,
Samuel Lung

MTC-00025553

From: ELLIOTT F CHARD
To: Microsoft ATR
Date: 1/25/02 9:58pm
Subject: MICROSOFT SETTLEMENT

I urge that the JUSTICE DEPARTMENT to accept without further litigation, the proposed compromise settlement being considered. Further litigation would only feather the nests of Microsofts competitors, the Attorneys involved, Lobbyists, and those who would further punish Microsoft. I feel any further action would be detrimental to Seniors like myself in the use of our home computers.

Sincerely
Elliott F. Chard
CC:LeroyRip@aol.com@ inetgw,cristina_ ling@hotmail.com@...

MTC-00025554

From: Francis Ketner
To: Microsoft ATR
Date: 1/25/02 9:59pm
Subject: Microsoft case

We recommend that the proposed compromised settlement of the microsoft case be approved. This will provide many opportunities for seniors to have the privilege of using the internet. We have webtv.net and are able to communicate with our family and friends across North America as well as any place in the world. Also, many helps for health and life information are very helpful. We can be connected with the whole new world.

Thank you in advance for your consideration.

F.D.Ketner

MTC-00025555

From: MrMacman23@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 9:59pm
Subject: Microsoft Settlement

It is wrong for Microsoft or any other company infringe on laws with they have broken many many time. please send a message to Microsoft that breaking the law

MTC-00025556

From: Stephen Granadosin
To: Microsoft ATR
Date: 1/25/02 9:59pm
Subject: Microsoft Settlement
Stephen Granadosin
16230 NE 99th Street
Redmond, WA 98052
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you to encourage the Department of Justice to accept the Microsoft antitrust settlement. The issue has been dragged out for too long now, and it is time to put an end to it. Now that a settlement is available, I think the government should accept it. Competitors think that Microsoft has gotten off easy, but this is simply not true. The settlement was reached after extensive negotiation with a court-appointed mediator, and Microsoft actually agreed to terms that extend to products and procedures that were not even mentioned in the suit. To assure Microsoft's compliance with the terms of the settlement, a technical committee will be set up to monitor Microsoft. The terms of the settlement are fair, and a structure has been created to assure that Microsoft follows the new rules.

Microsoft and the technology industry need to move forward, but in order to move forward this issue needs to be put in the past. Please support the Microsoft antitrust settlement. Thank you.

Sincerely,
Stephen Granadosin

MTC-00025557

From: sundrise51@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 9:57pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Greg Sundt
4201 Hedgewood Dr.
Bloomington, IN 47403

MTC–00025558

From: Jim Bond
To: Microsoft ATR
Date: 1/25/02 10:00pm
Subject: Microsoft Settlement

From Washington State. I say that the government is not doing anything near what they should be doing to stop Microsoft's terrible "business" practices.

MTC–00025560

From: Lundebrek
To: Microsoft ATR
Date: 1/25/02 9:58pm
Subject: Microsoft Settlement

I am a student and a developer of website targeted design and content creations. I feel that Microsoft Corporation has consistently proven itself to be a cruel and anti-competitive corporation, and that the proposed settlement will not substantially prevent them from continuing their current business practices.

Dustin Lundebrek
Morris, Minnesota

MTC–00025561

From: Dane Jackson
To: Microsoft ATR
Date: 1/25/02 10:04pm
Subject: Microsoft Settlement

Do we really need another toothless consent decree? In fact that would be bad enough, but the current settlement is actively harmful. It basically legitimizes many harmful practices of Microsoft. One of my personal favorites would have to be the part of the settlement that allows Microsoft to exclude documentation of anything relating to security (which any security expert will tell you is the exact wrong way to go about security [1]). With Microsofts recent announcement that they are now (after 20 years) finally really focusing on security, they can now exclude anything they want by claiming "it's for security". Am I mistaken? I thought Microsoft was found to be a monopoly that has abused it's power. The punishment for actions has nothing to do with how much time has passed, or whether the market is the same or different. The remedy needs to contain effective measures that will allow competition to re-emerge in the computer software market. [2] I think there are many things that could be done to help re-establish competition and innovation.

Quoting from Dennis Powell (dennispowell@earthlink.net) in his article "Speak Now or Ever After . . . Regret Your Silence"

A just penalty, I continue, would at barest minimum include three additional features:

* Any remedy seeking to prevent an extension of Microsoft's monopoly must place Microsoft products as extra-cost options in the purchase of new computers, so that the user who does not wish to purchase them is not forced to do so. This means that for the price differential between a new computer with Microsoft software and one without, a computer seller must offer the software without the computer (which would prevent computer makers from saying that the difference in price is only a few dollars). Only then could competition come to exist in a meaningful way.

* The specifications of Microsoft's present and future document file formats must be made public, so that documents created in Microsoft applications may be read by programs from other makers, on Microsoft's or other operating systems. This is in addition to opening the Windows application program interface (API, the set of "hooks" that allow other parties to write applications for Windows operating systems), which is already part of the proposed settlement.

* Any Microsoft networking protocols must be published in full and approved by an independent network protocol body. This would prevent Microsoft from seizing de facto control of the Internet. I then point out that if the national interest is at issue, as I believe it is and as the judge has suggested it is, it is crucial that Microsoft's operating system monopoly not be extended, and in this I quote the study released a year ago by the highly respected Center for Strategic and International Studies, which pointed out that the use of Microsoft software actually poses a national security risk. In closing, I say that all are surely in agreement that the resolution of this case is of great importance, not just now but for many years to come. This suggests a careful and deliberate penalty is far more important to the health of the nation than is a hasty one.

In addition to these I feel that Microsoft should not be allowed to buy other companies or technologies from other companies. Microsoft very loudly proclaims to have to innovated extensively, and yet when you look, nearly every successful recent product has been bought from somewhere else. Let them compete against other companies on a fair level. Microsoft should be fined their cash reserves. No other company keeps such a large cash reserve. It would seem this is partly a tax advoidance mechanism[3], and partly to have a lot of cash on hand to facilitate take-over of other industries of companies. [4] Why should a criminal be allowed to keep their ill gotten gains?

[1] It is called "security through obscurity". Most security experts refer to it as this with derision.

[2] I remember a time when I had a choice in office suites. A time when I could buy an x86 computer without a Microsoft OS on it.

[3] The income from dividends is taxed differently than income from stock gains. http://www.cptech.org/ms/rn2bg20020104dividend.html

[4] For an example of this, see Microsoft's selling of the X-Box at a loss to break into the game console market. Why can they do this? Because they have huge cash reserves from their illegal actions.

Dane Jackson—B.Sc. Computer Engineering

Profanity is the one language all programmers know best.

MTC–00025562

From: BWhitehurs@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:05pm
Subject: Microsoft Settlement

Bobby L. Whitehurst
2803 Creek Bend Court
McKinney, Texas 75070
January 24, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylnania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I want to give my support to the settlement that was reached in November between Microsoft and the Department of Justice. After three years of litigation, it is time to wrap this up and move forward in the interest of our economy.

The settlement's provisions clearly show that Microsoft did not get off easy, and in fact, made many concessions. Microsoft has agreed to design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. This gives consumers the freedom to easily add or remove access to features built in to Windows or to non-Microsoft software. In addition, Microsoft's compliance will be monitored by a three-member Technical Committee to be created by the settlement.

Our economy is hurting right now and continuing this litigation will only add roadblocks to a future recovery. Microsoft is too critical to the business community and the economy to hamper their technological innovation any longer. So I urge you to take no further action on the federal level.

Sincerely,
Bobby Whitehurst
cc:Representative Dick Armey
CC:BWhitehurs@aol.com@inetgw

MTC–00025563

From: James Wood
To: Microsoft Settlement
Date: 1/25/02 10:01pm
Subject: Microsoft Settlement

James Wood
240 Oak Tree Ave
Salem, IL 62881–3550
January 25, 2002
Microsoft Settlement

U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
James R. Wood

MTC-00025564

From: Andrew Shafer
To: Microsoft ATR
Date: 1/25/02 10:07pm
Subject: Microsoft Settlement

I wish to state to you my comments on the current Microsoft court settlement.

Punishing corporations for being too successful is counter-productive and discourages individuals from innovating and creating. It casts a long, dubious shadow on the software industry that says, "Succeed, but don't work too hard, that will cause trouble." I urge you to pass the anti-trust settlement in an effort to help all parties involved. A quick, fair ending will ensure continued innovation in the software industry and stimulate economic growth through sales in new markets.

Sincerely,
Andrew Shafer
46867 265th St.
Sioux Falls, SD 57106–7040
shaferandrew@prodigy.net

MTC-00025565

From: BOBA28@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:06pm
Subject: Microsoft Suit

I have written to you before on this issue and I support the proposed settlement that has been reached with the DOJ and half of the states. You should close this case out by supporting this settlement. AOL has now muddied the water. The term "cry baby" comes to mind when I look at what they are trying to do. AOL needs to receive two messages. "Do good in the market place and you will be rewarded" and "The courts should not bail you out if you fail in the market place." AOL needs to receive both of these messages loud and clear. I am thinking of changing from AOL as my ISP. Please, let Microsoft get on with the business of providing quality products at ever decreasing prices to the consuming public. I have no strong relationship with either MS or AOL. I probably own some of each stock in index funds.

Very truly yours,
Bob Andrews
1864 Castle Oaks Court
Walnut Creek, CA 94595–2356
925–933–6569
925–933–8991 (Fax)

MTC-00025566

From: Pat Ivie
To: Microsoft ATR
Date: 1/25/02 10:11pm
Subject: suit/antitrust

Enough if enough. It is time to stop hounding Microsoft because they are successful in marketing their products. Why should we subsidize those who cannot compete? Patricia S. Ivie

MTC-00025567

From: timalvaro@home.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:07pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Timothy Alvaro
902 E Sixth St
Royal Oak, MI 48067–2818

MTC-00025568

From: Nancy S. Goroff
To: Microsoft ATR
Date: 1/25/02 10:02pm
Subject: Microsoft Settlement

I am writing to express my concern at the proposed settlement of the Microsoft vs. U.S. antitrust case. The court has found that Microsoft illegally used its monopoly power, yet the settlement as it stands provides litte assurance that Microsoft will end this behavior. In fact, predatory monopoly bullying is the norm for Microsoft. The settlement needs to have significant muscle behind it to get Microsoft to change its corporate strategy and culture. As written, the settlement lacks an effective enforcement mechanism.

In addition, the wording of the settlement is overly narrow, making it easy for Microsoft to claim that next year's products are outside the scope of the agreement. Terms such as "API" and "middleware" are defined in limited ways that do not apply to all current Microsoft products. Also, Microsoft is supposedly required to provide information to possible competitors, but only in limited form, and at times late in the product development cycle.

In short, the settlement is full of loopholes, and even then it is not easily enforced. Consumers like me need more protection from anticompetitive behaviour. The settlement should be rejected in favor of something better.

Sincerely yours,
Nancy Goroff Whitney
Setauket, NY 11733

MTC-00025569

From: bpfeeney@mediaone.net@inetgw
To: Microsoft ATR
Date: 1/25/02 10:09pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

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Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Brian Feeney
12611 Rose Ave.
Los Angeles, CA 90066–1519

MTC-00025570

From: Christa Kocher
To: Microsoft ATR
Date: 1/25/02 10:13pm
Subject: microsoft settlement

To whom it may concern,

Please do not settle with Microsoft. The current settlement is unacceptable becuase a majority of schools use Macintosh computers, for which the current settlement would be worthless.

Microsoft is a trust to the true definition of the word. You cannot buy a PC computer that does not have windows and the inherent internet explorer already installed on it. Please. We must put a stop to these deplorable business practices.

Sincerely,
Christa M. Gruber

MTC-00025571

From: Jeff Mao
To: Microsoft ATR
Date: 1/25/02 10:13pm
Subject: Microsoft Settlement

I would like to say that allowing MS to give money and/or equipment to the educational system without restrictions simply furthers their dominance in the market. In addition, as a professional educator who is in charge of integrating technology into education, MS products are rarely my first choice. Everyone knows that the total cost of ownership for a windows PC is far higher than for a Macintosh computer. If computers are thrust upon a school without prior planning and an installed support structure will only waste time and money. The computers wil probably collect dust as the schools in greatest need will not have the funds to support the computers or train their faculty.

I think MS should pay out, but perhaps placing that money into a fund similar to the E-rate funds. Those fund then can be given out to schools that need it after they have shown both need and a plan to use it. Allow them to spend it on anything technological in the same way E-rate is used for anything related to telecommunications. Further, 1 Billion dollars seems to be too small an amount for a company like Microsoft. If my company made as much money as Microsoft, then having to pay out 1 Billion dollars wouldn't bother me. It would just be part of the cost of doing business, but it would not change my practices. Bill Gates and his wife alone gave over 20 Billion dollars away last year in charity,...so what do you think 1 Billion dollars for the entire corporation is going to do? Nothing! Increase the fine to something significant so that the company will think again about how they do business. A mere slap on the hand will change nothing. And put the money into a fund that is managed by an outside group, perhaps the government,...perhaps, to ease the cost of administration, simply make them put Billions of dollars into the E-Rate fund. There is already an established structure so it wouldn't add any work or labor or cost,...but it would allow those schools that really need the funding to get it. Perhaps it would allow more schools in need to be able to pay for internal wiring and connectivity. It would allow them to reallocate their own funds to purchase the computers and software, the training and support,...and leave the wires, connectivity etc to the E-Rate.

Thanks for listening,
Jeff Mao
Technology Coordinator
Allendale Columbia School
519 Allens Creek Road
Rochester, NY 14618
585–381–4560 x262
585–383–1191 FAX
jmao@allendalecolumbia.org

MTC-00025572

From: Andrew Anchev
To: Microsoft ATR
Date: 1/25/02 10:14pm
Subject: Microsoft DOJ settlement

I would like to voice my support for the DOJs settlement with Microsoft. I would like to state for the record that I am no nor never have been employed by Microsoft or any of it's contractors, nor do I hold stock in the company or have any other vested financial interest. I have been in the technology industry as a consumer for the last 12 years, and I believe that Microsoft should not be hindered in their attempts to constantly improve and add new abilities to their products. If we begin to apply limitations on what Microsoft can add into their operating system, then we should place the same restrictions on all other operating system vendors.

Sincerely,
Andrew Anchev
San Jose, Ca.

MTC-00025573

From: whalemeat@shaw.ca@inetgw
To: Microsoft ATR
Date: 1/25/02 10:15pm
Subject: Microsoft Settlement

I have read the text of the proposed settlement, as well as various opinions and analyses appearing in the on-line press, and I believe the proposal as it exists is very, very weak. Weak to the point of irrelevance, even. Where is the penalty? What price must Microsoft pay for having broken the law? There is nothing here that is going to prevent or even discourage MS from continuing to bully their own customers. There is nothing here that is going to substantially alter the relationship between MS and their competitors. History has shown that once MS decides to integrate a piece of software into Windows, the competition quickly vanishes. How can anybody compete against something that is being given away? If there is to be a thriving, innovative, competitive software industry MS must be prevented from stealing their competitors customers in this way. The only real, effective, long-term solution I can see is to break the company up. To attempt to police MS in the long term is simply not practical. The bureaucracy that would have to be created to do this effectively would be enormous.

I am extremely dissapointed in the DoJ. I feel they have sold us out, and I hope the Judge sees it too.

M Hale
average computer user

MTC-00025574

From: beasleyd@ptsi.net@inetgw
To: Microsoft ATR
Date: 1/25/02 10:13pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
David Beasley
Rt 1 Box 29a
Beaver, OK 73932

MTC-00025575

From: lydic@penn.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:12pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

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Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Helen Lydic
264 Haskell Rd.
Coudersport, PA 16915–7945

MTC-00025576

From: Annechas611@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:14pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

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Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Charles Obermeyer
611 The Cape Blvd.
Wilmington, NC 28412–3422

MTC-00025577

From: Allen Austin
To: Microsoft ATR
Date: 1/25/02 10:07pm
Subject: microsft settlement

Sir,

The attached letter best states my view on the recent events in the courts concerning the operating practices of Microsoft.

MTC-00025577—0001

Allen Austin
5301 Plomondon Street, Apt. E20
Vancouver, WA 98661–8501
January22,2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I support the Microsoft antitrust settlement reached by your Department, nine states, and Microsoft with the help of a court-appointed mediator. I agree with the 32 states that decided that this suit should never have been brought in the first place. More than anything else, the suit seems driven by of envy and jealousy of Bill Gates, his success, his widely used innovations, his billions of dollars, and his millions of happy customers.

I am one of those happy customers. I have freely chosen Microsoft products because I really like the ease of use and increased functionality I have seen from using them. I use Microsoft Windows, Microsoft Internet Explorer, and Microsoft Works. With Works I have made templates for my repetitive tasks, and designed my own checkbook program, which, thanks to the Microsoft software, has perfect arithmetic.

The settlement will make easier for Microsoft's competitors to integrate their products into Windows, by giving them information about Windows interfaces and server protocols, and making it easier to add or delete the programs and features Microsoft includes in Windows, such as Internet Explorer—which is my browser of choice. Everyone should have freedom—freedom of choice and freedom to innovate.

Your support for the settlement is crucial. America will benefit from the resulting increased cooperation and innovation within the American computer industry. Thank you for your support. And as a member of the public, thank you for your consideration of my comments.

Sincerely,
Allen Austin

MTC-00025577—0002

MTC-00025578

From: ROMROMT35@AOL.COM@inetgw
To: Microsoft ATR
Date: 1/25/02 10:13pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

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This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
ROSE MARIE TAFLIN
2525 IROQUOIS CIR.
WPB, FL 33409–7216

MTC-00025579

From: efduhr1
To: Microsoft ATR
Date: 1/25/02 10:14pm
Subject: Microsoft Settlement

Dear Sir or Madam:

Is the Proposed Final Judgment in the public interest? There is one problem I see in the III. A. 2. provision barring retaliation toward OEMs "shipping a Personal Computer that (a) includes both a Windows Operating System Product and a non-Microsoft Operating System, or (b) will boot with more than one Operating System". The instance of selling Intel-compatible PCs with only one, non-Microsoft, operating system is not considered; it appears Microsoft could retaliate against OEMs who sold PCs equipped this way. For a settlement in the public interest, let the public buy its PCs equipped with whatever operating system they desire, and without consequence to the vendors, from Microsoft, for providing them.

Now going to III. J. 2. (c), where is the consideration for entities that do not happen to be profit-oriented businesses? Striking internet examples are Apache and Perl, both widely used, both developed by non-profit organizations. Since such an organization would have to meet "standards established by Microsoft for certifying the authenticity and viability of its business," Microsoft can deny licenses or access to APIs, communications protocols and documentation, as the Proposed Final Judgment is now written. I don't see that it is in the public interest to exclude the non-profits from the remedies of the PFJ.

Thank you for accepting my comments, under the provision of the Tunney Act.

Edward Duhr 25 Jan 2002
2553 Larkin Road 45
Lexington, KY 40503

MTC-00025580

From: michael—vandellos@msn.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:17pm
Subject: Concerns regarding Microsoft Settlement

I believe it is time to move on with the business of business and stop listening to the complaints of Microsoft competitors who have failed in the marketplace. Please end this tremendous waste of money by both Federal and State Governments, as well as wasting the time, money and energy of one of the few very successful American companies that make a positive impact on the overall economy.

Thanks,
Michael Vandellos
CC:michael—vandellos@msn.com@inetgw

MTC-00025581

From: Milton Karafilis
To: Microsoft ATR
Date: 1/25/02 10:14pm
Subject: microsoft settlement

It's time to accept the settlement and get the economy going again.

Milt Karafilis

MTC-00025582

From: Hanneli Turner
To: Microsoft ATR
Date: 1/25/02 10:19pm
Subject: Microsoft Settlement

ATTENTION: JUDGE COLLEEN KOLLAR-KOTELLY

Please settle the lawsuit between Microsoft Corp and the government as soon as possible. I believe it would benefit the consumer and the economy. As a tax payor, I feel that the government has wasted a lot of money on a lawsuit that should of been settled long ago. Let's do something productive with our tax money.

I'm self-employed and have been using computers since the early 80's. Computer programs were very difficult to master. Microsoft created software that has improved my productivity and my life.

I urge you to help settle the lawsuit. Thank you for listening.

Sincerely,
Bill & Hanneli Turner
CC:hturner@windermere.com@inetgw

MTC-00025583

From: King Wright
To: Microsoft ATR
Date: 1/25/02 10:18pm
Subject: Microsoft Settlement

To Whom It May Concern:

In my opinion Microsoft is doing a great service in creating a uniform platform with many convinces. Let them do what the need to do. Go Microsoft!!!

Nancy Wright

MTC-00025584

From: King Wright
To: Microsoft ATR
Date: 1/25/02 10:18pm
Subject: Microsoft Settlement.

To Whom It May Concern,

Leave Microsoft alone. They are doing a great Job!

King Wright

MTC-00025585

From: Mark Farley
To: Microsoft ATR
Date: 1/25/02 10:22pm
Subject: Microsoft Settlement

I would like to register my discontent at the light punishment proposed to be shown to Microsoft after their having been found to abuse their monopoly position. While it is not illegal to be a monopoly, it is critical to the health of the US and world economies that companies in a monopoly position are not allowed to use their unusual position anti-competitively to disrupt the invention process and ruin the possible success of competitors. Maintenance of a monopoly position in the marketplace should only be legally held by continuing to offer superior products and services, and not through the undermining of potential competition.

I soundly reject Microsoft's argument that their behavior has been good for consumers. If you kill my neighbor, take his home, and give a dollar of what you have stolen from him to me, you cannot argue that I am better off. (This is particularly true if I needed him to help jump-start my car tomorrow.) We will never know how well Netscape and a number of other companies that have been assassinated by Microsoft may have fared on a level playing field.

Proposed settlements at the state level have ludicrously seemed to actually reward and extend the monopolistic abuse rather than give it cause to reconsider its behavior. Thank God for the wisdom of the judge who saw the proposal for what it was.

I can only hope that Microsoft is punished fairly, but very firmly, in a manner that stops cold the abuses of the past. If only a trivial price need be paid for destroying a competitor through illegal action, then no lesson is learned; Only a fair market value of extinguishing competition will have been determined. Microsoft needs to learn that the price is more than they can afford to pay next time. A cost of only a few hundred million dollars is easily passed on to customers at the next program update and the abuses will continue.

I think an amount equal to a year or two of earnings is not too little, nor too much. They will survive.

Thank you for your consideration.

Regards,
Mark Farley
1819 Alta Vista Avenue
Austin, Texas 78704

MTC-00025586

From: (060)Bradley A. Singletary(062)
To: Microsoft ATR
Date: 1/25/02 10:20pm
Subject: Microsoft Settlement

The settlement in the U.S. versus Microsoft case falls short of the mark. Microsoft must allow other companies to compete in their market. Microsoft must take responsibility for it's actions in the computer industry.

As an informed computer user/developer/researcher, I would hesitate to suggest that the U.S. government back a corporation that generates revenue by encouraging stagnation in the american software community. The settlement fails to inhibit or accurately classify Microsoft's behaviour. Therefore, do not accept the settlement as it stands.

Bradley A. Singletary
Ph.D. Student in Computer Science
Atlanta, GA

MTC-00025587

From: David and Shara Danziger
To: Microsoft ATR
Date: 1/25/02 10:20pm
Subject: Microsoft Settlement

To Whom It May Concern:

Please grant approval to the settlement of the Microsoft suit. This is the most straightforward and fairest settlement likely to emerge from this. It is time to put this sorry episode in the past and let Microsoft and its competitors settle things in the marketplace rather than having to focus on fighting lawsuits.

Sincerely,
David Danziger; dsdanziger@yahoo.com

MTC-00025588

From: Eric Rounds
To: Microsoft ATR
Date: 1/25/02 10:21pm
Subject: Microsoft Settlement

Hello;

I want to place my public opinion with the others against Microsoft.

I believe Microsoft has monopolized the computing industry both on the personal/consumer and professional levels. I do not feel that all of their products are "popular" as they advertise. They buy or crush all competition, and offer poor products with unattractive and faulty interfaces. But many of use do not have another choice, because Microsoft has dominated 95% of the industry. I feel that my choices have been increasingly limited to Microsoft, or Microsoft. Not because they have a good product, they don't. It's because they are everywhere. There are other alternatives. But not as "supported" as Microsoft. I say "supported" because, again, who else has the strength in the market? I would personally like to see Microsoft broken up so that XBox, Windows, Expedia, and all the other crappy things they chuck out can compete fairly. If they each have to support there own marketing, then other competitors might have a better chance. This will give use consumers more choice, it will increase higher quality of products, and make me happy.

Thank You,
Eric Rounds

MTC-00025589

From: MORRIS KAY
To: Microsoft ATR
Date: 1/25/02 10:24pm
Subject: MICROSOFT SETTLEMENT

To Whom It May Concern:

Enough is enough.... The proposed settlement by Microsoft, in my opinion, is not only fair, but generous....

Lets stop the bleeding by all, and accept the settlement offer. MorrisKay@Prodigy.net

MTC-00025590

From: Michael C. Thomas
To: Microsoft ATR
Date: 1/25/02 10:23pm
Subject: microsoft settlement

to Whom it may concern:

I am personally very concerned over the Microsoft settlement. It appears that the judgement allows Microsoft to continue their predatory business practices without penalty. I am concerned a verdict without significant consequences for Microsoft will allow the company to continue extinguishing innovation, and competition over a broadening swath of our culture.

-Michael Thomas

MTC-00025591

From: Jerome J Donaldson
To: Microsoft ATR
Date: 1/25/02 10:21pm
Subject: Microsoft Settlement

I believe the proposed settlement with Microsoft is reasonable and proper and this litigation should be drawn to a close now. I also believe that any further delay will continue to have a negative effect on the economy.

I am a retired senior and much of my enjoyment is in using my computer.

Thank you,
Jerome J. Donaldson
6212 Hobart Avenue
Las Vegas, NV 89107–1326
(702) 878–9295
jpdonald@juno.com

MTC-00025592

From: Arthur J Sather
To: Microsoft ATR
Date: 1/25/02 10:22pm
Subject: Microsoft Settlement.

Dear Sirs;

It looks to me that Microsoft was singled out by its jealous competitors and sympathetic government bureaucrats because of it's success.

I concur with the Senior's Coalition that the proposed settlement offers a reasonable compromise that will enhance the ability of Seniors and all Americans to access the Internet and use innovative software products.

God with the settlement agreed with the Government and nine state and end this costly and damaging litigation.

This settlement will have a positive impact on the American economy and help pull us out of the recession.

Dragging out this legal battle further will only benefit a few wealthy competitors's attorneys and special interest bigwigs!

Sincerely,
Arthur J. Sather
11296 So. Clara Anita DR.
Yuma, Az. 85367

MTC-00025593

From: edgewood@mtco.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:22pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Donna Rott
1000 Co. Rd. 1400 N

Henry, IL 61537–9438

MTC–00025594

From: gary lin
To: Microsoft ATR
Date: 1/25/02 10:27pm
Subject: Fwd: Microsoft Settlement

I believe that the agreement reached between Microsoft and DOJ and the nine States is good enough to close the case. We have more important things to do than trying to do a "perfect" job that everybody likes. The subject of safety of our society against terrorists far outweight the last penny of the settlement. We should divert this energy to better protect our freedom.

God bless America.

Gary Lin

MTC–00025595

From: edgewood@mtco.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:25pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Carl Rott
1000 Co. Rd. 1400 N
Henry, IL 61537–9438

MTC–00025596

From: James R. Van Zandt
To: Microsoft ATR
Date: 1/25/02 9:10pm
Subject: Microsoft Settlement

I oppose the proposed Microsoft Settlement.

The proposed disclosure of APIs is not enough to allow free and open competition in the development of applications and middleware. Here are four significant defects:

The disclosure is too late. If API documentation is only released at the "last major beta test" of a new product, then any competing product would start with a handicap of several months, which in the software industry amounts to most of a generation. There is also no assurance that Microsoft would continue to use historical patterns of beta testing. It could, for example, use a series of test versions each released to only 140,000 beta testers. None of these releases would then trigger the disclosure of the APIs.

Potentially significant exclusions. Excluded are "anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems". Without question, Microsoft has legitimate needs in these areas. However, it is well known in the computer security field that "security by obscurity" can work only temporarily. True security is based instead on open protocols and implementations that can be studied, criticized, and improved by many developers. On the other hand, Microsoft can claim that almost any API or protocol has some relevance to piracy, virus protection, authentication, etc. If necessary some authentication measures could be added to ensure this. This would give Microsoft an excuse not to disclose those APIs.

Implementation roadblocks. If someone does implement a protocol or API which Microsoft claims has anti-piracy etc. relevance, then Microsoft can require them to pay a third party to test it. Microsoft could easily use this requirement to delay and financially burden the small companies and independent programmers that have provided so many innovations in the software industry.

Excluded business areas. The agreement addresses only software for "personal computers", apparently permitting Microsoft to set up new monopolies in software for "servers, television set top boxes, handheld computers, game consoles, telephones, pagers, and personal digital assistants", which "are examples of products that are not Personal Computers within the meaning of this definition".

For these reasons among others, I believe the proposed agreement would not effectively prevent Microsoft from maintaining its monopoly in personal computer operating system software, or from setting up new monopolies in other business areas.

—James R. Van Zandt

MTC–00025597

From: John Royo
To: Microsoft ATR
Date: 1/25/02 10:29pm
Subject: Microsoft Settlement

Dear Ms. Hesse:

Thank you for the opportunity to comment.

Since 1986 I have used the Apple Macintosh platform to perform my work.

I find that Microsoft not only stifles competition, but also limits functionality for the consumer. It's operating system, and software are flawed in code and performance. The fact of Microsoft's shear wealth only is the entity able to stop encroachment to its market share by startup's and lesser size companies who do not possess the financial resources to fight this monopoly and it's sub-prime products.

Thank you again.

Sincerely,
John Royo
John J. Royo, III
Financial Resources, Inc. / S.A. Funding Group, Ltd.
john@safunding.com
www.safunding.com
Providing capital to commercial and medical businesses.
Member: BNI (Business Network International) Bethesda Friday Breakfast Chapter
7476 Merrymaker Way, PMB 118A
Elkridge, MD 21075–6887
voice 410–379–6900
Toll Free: 877–311–6736
efax 928–447–9800 (preferred fax)
fax 410–579–4750
I reward for referrals!

MTC–00025598

From: Michael Phillips
To" Microsoft ATR
Date" 1/25/02 10:42pm
Subject" Microsoft Settlement
January 11, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I work in the financial services industry. I see first-hand the economic consequences of "world events". One of the events that negatively affected this country's economy was the antitrust suit brought against

Microsoft. This suit was very unfair. It was a pure political decision; based on the fact Microsoft has deep pockets and failed to have a lobbying group in Washington. I think it is unfortunate that the world works this way, but Microsoft and the Department of Justice did settle. Now it is time to move on. The reason I urge you to approve this settlement is the importance of Microsoft to this country's economy. The "economic slowdown" we are experiencing can be partially traced to the indictment against Microsoft.

The day of the indictment, the stock markets plummeted. Sir our economy will improve, but if we can remove the dark cloud of uncertainty regarding this settlement from the picture, things will improve much faster.

IF MERGEFIELD PARA2 But clever people like me who talk loudly in restaurants, see this as a deliberate ambiguity. A plea for justice in a mechanized society.<> ......

I urge you, as someone who is very knowledgeable about our economy to give your approval to the Department of Justice and Microsoft settlement. Thank you.

IF MERGEFIELD PARA4 Ecce homo ergo elk. La Fontaine knew his sister, and knew her bloody well.<>

Sincerely,
Michael Phillips
January 11, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I work in the financial services industry. I see first-hand the economic consequences of "world events". One of the events that negatively affected this country's economy was the antitrust suit brought against Microsoft. This suit was very unfair. It was a pure political decision; based on the fact Microsoft has deep pockets and failed to have a lobbying group in Washington. I think it is unfortunate that the world works this way, but Microsoft and the Department of Justice did settle. Now it is time to move on. The reason I urge you to approve this settlement is the importance of Microsoft to this country's economy. The "economic slowdown" we are experiencing can be partially traced to the indictment against Microsoft. The day of the indictment, the stock markets plummeted.

Sir our economy will improve, but if we can remove the dark cloud of uncertainty regarding this settlement from the picture, things will improve much faster. I urge you, as someone who is very knowledgeable about our economy to give your approval to the Department of Justice and Microsoft settlement. Thank you.

Sincerely,
Michael Phillips

MTC-00025599

From: Alexandra Radbil
To: Microsoft ATR
Date: 1/25/02 – emsp;10:30pm
Subject: Comments on Proposed Microsoft Settlement

I am writing to express my views on the proposed Microsoft Settlement. My concerns stem from the fact that the settlement favors Microsoft and does not recognize the problems inherent in the settlement for the consumer and for the computer industry. There seems to be no recognition that the "remedies" do not allow for open competition and innovation, but allow Microsoft to continue to dominate the playing field.

Are there any protections for existing open source programs and operating systems such as Linux? I don't think so. Without these protections the consumers lose because there is little opportunity for healthy and innovative competition.

Thank you for the opportunity to express my thoughts on this important issue.

Alexandra Radbil
Project Director
Princeton Strategy Consultants, Inc.
103 Carnegie Center Suite 113
Princeton, NJ 08540
(609) 452—8669—Voice
(609) 452—1017—Fax

MTC-00025600

From: TMarraro@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:30pm
Subject: Microsoft Settlement

To Whom it May Concern:

Isn't it time we moved forward? Let's settle and figure out what happened at Enron please...

Tony Marraro

MTC-00025601

From: Joyce C Allenton
To: Microsoft ATR
Date: 1/25/02 10:32pm
Subject: Microsoft Settlement

This is of special public interest to end and settle this costly and damaging litigation as quickly as possible.

There is no reason to drag this situation on any longer and destroy a good thing.

JA

MTC-00025602

From: Virginia Yager
To: Microsoft ATR
Date: 1/25/02 10:36pm
Subject: Microsoft Settlement

To Whom it may concern:

I agree with the Microsoft settlement. Enough money has been spent on this law suit.

Virginia Yager

MTC-00025603

From: Beatrice Sutton
To: Microsoft ATR
Date: 1/25/02 10:40pm
Subject: Microsoft Settlement

Let's get this settled and move on. Consumer interests have been well served. It is time to end this costly and damaging litigation . Dragging out this legal battle further will benefit a few wealthy competitors, lawyers, and special interest big-wigs. Not one new product that helps consumers will be brought to the marketplace.

Beatrice Sutton; Webster, Florida
blesutton@scia.net

MTC-00025604

From: Neil Schneider
To: Microsoft ATR
Date: 1/25/02 10:40pm
Subject: Microsoft Settlement

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. I agree with the problems identified in Dan Kegel's analysis (on the Web at http://www.kegel.com/remedy/remedy2.html), namely: The PFJ doesn't take into account Windows-compatible competing operating systems

Microsoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry. The PFJ Contains Misleading and Overly Narrow Definitions and Provisions The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered. The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all.

The PFJ allows users to replace Microsoft Java with a competitor's product — but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft.NET with competing middleware.

The PFJ supposedly applies to "Windows", but it defines that term so narrowly that it doesn't cover Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box—operating systems that all use the Win32 API and are advertised as being "Windows Powered".

The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs. The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware—but only after the deadline for the ISVs to demonstrate that their middleware is compatible. The PFJ requires Microsoft to release API documentation—but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.

The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents.

The PFJ does not require Microsoft to list which software patents protect the Windows APIs. This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users. The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft. Microsoft currently uses restrictive licensing terms to keep Open Source apps from running on Windows. Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems. Microsoft's enterprise license agreements (used by large companies, state governments, and universities) charge by the number of computers which could run a Microsoft operating system—even for computers running competing operating systems such as Linux! (Similar licenses to OEMs were once banned by the 1994 consent decree.)

The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft. Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems. The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs. The PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system. The PFJ allows Microsoft to discriminate against small OEMs—including regional "white box" OEMs which are historically the most willing to install competing operating systems—who ship competing software. The PFJ allows Microsoft to offer discounts on Windows (MDAs) to OEMs based on criteria like sales of Microsoft Office or Pocket PC systems. This allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas. The PFJ as currently written appears to lack an effective enforcement mechanism.

I also agree with the conclusion reached by that document, namely that the

Proposed Final Judgment, as written, allows and encourages significant anticompetitive practices to continue, would delay the emergence of competing Windows-compatible operating systems, and is therefore not in the public interest. It should not be adopted without substantial revision to address these problems.

Neil Schneider pacneil@linuxgeek.net
http://www.paccomp.com
Key fingerprint = 67F0 E493 FCC0 0A8C 769B 8209 32D7 1DB1 8460 C47D

.. Windows XP... "most reliable Windows ever." To me, this is like saying that asparagus is "the most articulate vegetable ever."

— Dave Barry

MTC-00025605

From: Beatrice Sutton

To: Microsoft ATR
Date: 1/25/02 10:42pm
Subject: Microsoft Settlement

The proposed settlement offers a reasonable compromise that will enhance the ability of seniors and all Americans to access the internet and use innovative software products to make their computer experience easier and more enjoyable.

Betty Lands
blesutton@scia.net

MTC-00025606

From: John Goodnough
To: Microsoft ATR
Date: 1/25/02 10:42pm
Subject: Microsoft Settlement

To whom it may concern:

I am completely opposed to the governments settlement in the civil antitrust case with Microsoft. Microsoft has been a predator in the technology sector for years and has grown fat by getting away with it. When this case was filed I thought there might actually be justice in the world. But know you're just going to let them continue to abuse the systems and safeguards we put in place in this country to prevent companies like Microsoft from gaining too much control.

I can only encourage you in the strongest terms to reverse this decision and take Microsoft to task for the abuses of our capitalist system. We are not a strong country because of companies like Microsoft. On the contrary, we are strong because of the companies that Microsoft has gutted and destroyed over the years. I can only imagine where we would be if Microsoft had been prevented from stifling development by companies that dared to compete with them. We might not be struggling with a recession today if Microsoft had been stopped 10 years ago. Please take the necessary action now to prevent further damage to the system that build America in the first place. Punish Microsoft for their self serving actions.

John Goodnough
32 Hosmer Street
Acton, MA 01720
978-263-5457

MTC-00025607

From: LelaOmta@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:42pm
Subject: Microsoft Settlement

I'm in favor of excepting the present terms on the Microsoft & DoJ settlement & droping all this appealing. What a waste of funds & time. Lela Omta

MTC-00025608

From: Leon Moore
To: Microsoft ATR
Date: 1/25/02 10:44pm
Subject: Re: Public comments on the settlement between the DOJ and Microsoft

I would like to add a comment for your consideration in the settlement of the Microsoft case. I can say it no better than Russell Pavlicek did in his column The Open Source from InfoWorld.com, Wednesday, January 23, 2002. Let me quote that and ask only that the settlement you configure with Microsoft not reward the company for it's actions that have been deemed in Federal Court as monopolistic.

Personally, I like the counterproposal put forward by Red Hat: Let Microsoft donate money for computing resources for underfunded schools, but let those donations go toward hardware only; then populate those machines with open-source software.

Why open source? Consider the future: What will the schools do when they need to upgrade? If you give schools Microsoft software, they will be caught in the endless upgrade cycle that has characterized life in the Microsoft world. Those upgrades will cost money, money that these targeted school districts, by definition, cannot spare.

Instead, arming schools with open-source software will have two benefits. First, it will set schools down a long-term path that they can afford. The cost of obtaining open-source upgrades is trivial. Without low-cost software upgrades, all those nice shiny computers run the risk of becoming boat anchors in short order. I'm sure someone is saying, "But open source is too difficult to administer!" Such does not have to be the case, but I'll deal with that issue in a future column.

Also, the Red Hat proposal does not reward Microsoft in the long term. If a company is convicted of overpowering markets, why would you reward them by putting one of the few markets they don't lead under their control? This sounds a lot like a seed-unit program for education, not the penalty imposed from losing a trial.

Corporate misdeeds are supposed to earn punishment, not long-term investment opportunities. I believe we would all be better off if the courts acknowledged the difference between the two. —

leon moore USUHS/BID 4301 jones bridge road bethesda md 20814
moore@cim.usuhs.mil 301-295-3669 (ph)
301-295-3585 (fax)

MTC-00025609

From. Eric (038) Emmi Lappoehn
To: Microsoft ATR
Date: 1/25/02 10:41pm
Subject: Microsoft Settlement

To whom it may concern. I, Eric B. Lappoehn, at 8916 Signal Terrace Dr. Las Vegas, NV. 89134 - e-mail: eelapp@lvcm.com sincerely and urgently request that you stop persecuting Microsoft. In all the litigation that has been going on for the last year or so, no one and I mean no one has asked the millions of computer users what they thought about this persecution of Microsoft. Microsoft's competitors are upset that Microsoft is giving away, for free, programs to millions of computer users that THEY want us to pay for. I am very happy to use all the programs Microsoft offers and I DO NOT need THEIR competition. If THEY produce a product that is superior to Microsoft's I will consider it. Up to this point in time I have not seen anything better offered by anyone else. Sincerely, Eric B. Lappoehn

MTC-00025610

From: jim@gemini.smart.net@inetgw
To: Microsoft ATR
Date: 1/25/02 10:49pm
Subject: Microsoft Settlement

As a registered voter in the state of Maryland and a computer professional with 18 years of experience, I would like to take advantage of the opportunity to comment on the proposed settlement between the Department of Justice and Microsoft. While I am not qualified to comment on the legal aspects of the case, I am quite qualified to comment on the technical aspects. However, it is from my perspective as a parent that I have taken a position on this issue.

I volunteered my services in thePTA Technology committee of my daughter's elementary school for 3 years. During that time, the school was provided a computer lab which used Microsoft operating systems and networking software. In planning sessions with the county's IT representatives, we discussed how teachers would be able to use the lab for classwork. I asked how they planned to provide students with user IDs and private work space and discovered that this would not be possible because of the expense and support requirements. When I asked how the students were to maintain their work, I found that the other schools with labs provided floppy disks for each student.

I was astounded. I cannot imagine teachers having time to insert and eject 20 to 30 floppy disks on a regular basis, and so I was sure that the computer lab's effectiveness would be reduced tremendously. In fact, when my daughter began using it, she told me that all she ever did in it was to play some semi-educational games.

The Microsoft and Apple personal computer operating systems were originally designed to be used exclusively by individuals, and therefore do not have multi-user controls built into them. There have been additions to provide some features of a multi-user system, but these are minimal, and in many cases, ineffective. Other operating systems, in particular those based on UNIX, were designed from the beginning for multiple users.

If it were not for the illegal monopolistic practices of Microsoft, school computer labs could be provided with systems that would support many users, each with their own private environment, which would be easily accessible by teachers. This would enable teachers to take advantage of the power of computers to assist in teaching, as opposed to the computer labs being so difficult to use that they become little more than a recreational break.

I hope that the court will weigh heavily the evidence of negative consequences such as these, which have occurred mostly due to Microsoft's abuse of its monopoly. I support a judgement that will prevent Microsoft from continuing to use its monopoly in ways that have been determined by the appeals court to have been illegal.

Thank you.
James J. Sansing
1465 Maryland Ave.
Severn, MD 21144

MTC-00025611

From: carl.lisa@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:49pm
Subject: Microsoft Settlement

U.S. Justice Department
Washington, DC

Please be advised that we support the present proposed settlement for Microsoft , and oppose further litigation. This case has gone on long enough in our opinion and has already probably cost millions in litigation fees. Let Free Enterprise now take over.Do competitors desire fiurther litigation ? Enough is enough!

Carl R. and Lisa Scheuplein 468 Dempsey Drive
Cocoa Beach, Fl 32931

MTC-00025613

From: Burrows Family
To: Microsoft ATR
Date: 1/25/02 10:49pm
Subject: Microsoft Settlement

Microsoft has continued its abusive anti-competitive practices by incorporating into Windows/XP a streaming audio-visual display product. This streaming product is intended to compete with RealNetworks product which had been rapidly gaining marketshare before the advent of WindowsXP.

Having been proved a monopolist (which abused its market position to force the Netscape Navigator web-browser out of the market by including its own Windows Explorer into the Windows operating system) which distorted the market in its packaging of Windows 98, Microsoft has yet to change its behavior—in spite of the court's findings. The solution suggested by the Department of Justice as a settlement provides for no change to this behavior, and provides no punishment for repetitions of past behavior. It requires no change to Windows/XP. It treats the retail cost of software distributed by Microsoft as if it were the real cost incurred by Microsoft in manufacture and distribution.

The Court must set substantive and enforceable limits on Microsoft's behavior. The Court must order Microsoft to make whole its damage to Netscape and to Real Networks; and to cease its packaging abuses in Windows 98 and Windows/XP by unbundling its browser and streaming software as separate installable (or uninstallable) products, purchased separately.

Ben Burrows
406 Shoemaker Road
Elkins Park, PA 19027

MTC-00025614

From: ednellz@ juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:47pm
Subject: Microsoft Settlement

To the Justice Department

I understand that you are in the final stages of the deliberation on whether to accept the settlement or to litigate it further. Why continue to spend money just because some of the companies were not able to keep up with the progress Microsoft was making. The settlement offers a reasonable compromise and I ask that you accept it and get on with other business.

Thank you for the work that you have done.

H. Edgar Roye

MTC-00025615

From: Stephen Lee
To: Microsoft ATR
Date: 1/25/02 10:50pm
Subject: Keep innovation alive

Microsoft is feared by Fortune 500 CEOs. Businesses, many of which have been hurt by Microsoft, refuse to bring up a case against the Redmond giant for fear of reprisal. Software companies stay out of Microsoft's path because they know that if they sell a competing product, they will compete against a "free" version that comes bundled on Windows.

The Dept. of Justice should have Microsoft sell a "stripped" down version of it's operating system.

MTC-00025616

From: mljjj@flash. net@inetgw
To: Microsoft ATR
Date: 1/25/02 10:49pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Mike Herrington
1340 Riverwood
Algonquin, IL 60102–3813

MTC-00025617

From: wrflynt@ yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:52pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Rob Flynt
P.O.Box 1251
Georgetown, TX 78627–1911

MTC-00025618

From: Jason Broccardo
To: Microsoft ATR
Date: 1/25/02 10:55pm
Subject: Microsoft Settlement

To Whom It May Concern,

I am 25 years old. I am part of the first generation of adults who have been using a computer for most of their lives. From the age of ten, there has been a computer in my house. For the past 5 years, in the various jobs I have held, my work could not have been done without a computer. Based on my experience, it is conceivable that when my two year old daughter is my age, the idea of living or working without a computer would be unimaginable to her. Computers, for better or worse, are central to how we interact socially and how we conduct business. Taking this into consideration, I respectfully ask that the government and the courts please reject the proposed Microsoft settlement. Microsoft, having been found guilty of violating the law and being the largest manufacturer of computer operating systems and software in the world, should not be allowed to "get off so easy".

The courts have found Microsoft guilty. The lower courts proposed punishments have been rejected by the Appeals court. Regardless, that does not mean that Microsoft should now have its way. Microsoft should not benefit in anyway from a settlement. If there is to be a settlement, then Microsoft should be held accountable for its actions and punished in such a way that it will not repeat past offenses. I'm afraid that the proposed settlement would encourage Microsoft to do just that.

Please reject the proposed settlement.

Thank you for your time.

Jason Broccardo
Westmont,IL
jkb@mac.com or jkb@splendidezine.com
Jason Broccardo
jkb@splendidezine.com
http://www.splendidezine.com

MTC-00025619

From: ricwhi404@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:57pm
Subject: (no subject)

2–25–2002

To The Office of the U. S. Attorney General; During this public comment period I wish to voice my opinion on the MICROSOFT suit.

The conditions of the present and concluding decision on the Microsoft case are fair and reasonable, so the Government's review should end swiftly. The court should proceed forthwith to agree that the terms are in the public interest. Had the suit been reasonably and rapidly negotiated to begin with, the nation's economy would have been untold billions of dollars better off in 2000 and 2001. For the welfare of the U. S. we sorely need no further interference in private enterprise in this case.

Sincerely yours,
Richard N. Whittier
3991 Briarcliff Rd. N.E.
Atlanta, Georgia 30345–2647
CC:fin@mobilizationoffice.com@inetgw

MTC-00025620

From: Kyle Crawford
To: Microsoft ATR
Date: 1/25/02 10:58pm
Subject: Microsoft Settlement

By not providing some aid for independent software vendors engaged in making Windows-compatible operating systems, the Proposed Final Judgement is missing a key opportunity to encourage competition in the operating system market. The statement in sections III.D. and III.E that the information released is to be used "for the sole purpose of interoperating with a Windows Operating System Product" is too restrictive. It does not promote competition.

Also, the definitions of "Middleware" are too narrow. Middleware should include .NET, Office, Outlook and other Microsoft products. All Middleware APIs need to be documented and available to independent software vendors prior to release. There must be no confusion over which APIs are covered by patents.

The discrimination against Open Source applications is unacceptable. Many of the competing applications are open source.

MTC-00025621

From: E. Glenn Brooks
To: Microsoft ATR
Date: 1/25/02 10:59pm
Subject: Microsoft Settlement

The proposed settlement is a thinly-veiled attempt to extend the Microsoft monopoly to the schools of the US and to pay about 5i on the dollar in settlement fees. I completely object to the current settlement.

-Glenn

MTC-00025622

From: johniejack@home.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:56pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
jack jack
1218 El Rey Ave
El Cajon, CA 92021

MTC-00025623

From: johniejack@home.com@inetgw
To: Microsoft ATR
Date: 1/25/02 10:56pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
jack jack
1218 El Rey Ave
El Cajon, CA 92021

MTC-00025626

From: Randall Krause
To: Microsoft ATR
Date: 1/25/02 10'59pm
Subject: Microsoft Settlement

MTC-00025626—0001

P.O. Box 116
Port Gamble, WA 98364
January 23, 2002

Dear Mr. Ashcroft:
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

I am writing to express my disapproval of three years of lengthy and costly litigation brought against Microsoft. The lawsuit was flawed form the start and represents the political self-interest of a few that have no concern for the American public.

The terms of the settlement are flawed and biased. Microsoft should not be forced to grant computer makers broad new rights to configure Windows" so that competitors can more easily promote their own products, nor should they have to disclose interfaces that are internal to their Windows" products.

While unjustified, I must support the settlement being implemented because our economy needs Microsoft back at business and not worrying about political disputes. Please make sure this settlement comes to a quick end and that no further litigation is taken against one of our nation's greatest assets.

Sincerely,
Randall Krause MTC-00025626—0002

MTC-00025627

From: Mark H. Bickford
To: Microsoft ATR
Date: 1/25/02 11:04pm
Subject: Microsoft Settlement

Dear Ms. Hesse and associates,

I would like to object to the Proposed Final Judgment in the case of United States vs. Microsoft, for the following reasons:

1. The Settlement as proposed only protects the interests of the 20 largest OEMs, and does nothing for small-business PC manufacturers who may wish to make alternative operating systems available to their customers, or provide a link to a local ISP;

2. The Settlement only protects large OEMs who wish to install multiple operating systems on one machine alongside Windows; it does not say that Microsoft cannot retaliate against an OEM who wishes to sell a PC with only an alternative operating system installed. This would have the effect of continuing to force OEMs to install a copy of Windows with every PC they ship.

3. Similar to item 1 above, the Settlement only protects OEMs who wish to install Middleware which already ships at least 1 million copies / year. It does not protect those who wish to install programs which are too new to have that size an installed base, or which may compete with Microsoft products in their intended usage but do not meet the definition of "Middleware" because they do not currently expose APIs (for instance, a simple Email client). In closing, I feel that Microsoft has repeatedly abused their operating system monopoly by using it to create new monopolies (both the current "Middleware" issue and the current state of the office sute category come to mind), and that a judgment that is both more restrictive of Microsoft and more considerate of the needs of small business is called for.

Best regards,
Mark H. Bickford
Portland, ME

MTC-00025628

From: Beryl N Northrup
To: Microsoft ATR
Date: 1/25/02 11:04pm
Subject: Microsoft Settlement

We desire that the Justice Department accept the proposed Microsoft settlement. This has gone on long enough and is jeopardizing the ability of seniors and all Americans to access the Internet and use innovative software products.

Norman N. Northrup and Beryl F. Northrup

MTC-00025629

From: Patrick Insko
To: Microsoft ATR
Date: 1/25/02 11:09pm
Subject: Microsoft Settlement
January 25, 2002
Insko Computer Consulting Group
7922 Burr Oak Road
Roscoe, IL 61073
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

To whom it may concern:

In researching the proposed final agreement in the case against Microsoft, I am troubled by the lack of substance regarding the punishment of Microsoft for abusive and illegal monopoly conduct. I add my voice to those who have already gone to great lengths to illustrate concerns over the proposed final agreement. In addition to that, however, I would like to enumerate a few points, from the perspective of a Macintosh user, which I hope will serve to illustrate predatory behavior on the part of Microsoft and offer alternative remedies and penalties:

1. Although Apple lost its copyright infringement lawsuit against Microsoft alleging that it had copied the Macintosh OS too closely in Windows, Microsoft has effectively isolated Apple from the marketplace since having obtained a monopoly with Windows. Microsoft has since entered into contracts with OEM's (original equipment manufacturers) that preclude them from shipping another manufacturer's operating system, which is a barrier to entry for Apple to pursue OEM's to which it could license its operating system. Any proposed final agreement should preclude Microsoft from contractually prohibiting OEM's from licensing, shipping, and/or supporting a competing operating system. Furthermore, the settlement should contain measures that would prevent Microsoft from retaliating against OEM's that choose to license, ship, and/or support a competing operating system.

2. Microsoft further damages Apple's potential by withholding software, sometimes indefinitely, for the Macintosh. Considering the incredible pace at which the technology industry moves, customers cannot afford to wait many months for software to become available on the operating system of their choice. As such, customers are often forced to purchase personal computers running Windows in order to be technologically current. Consider that Microsoft's agreement with Apple in which Microsoft agreed to provide upgrades to Office for a period of five years expires this year. If Office were not available for the Macintosh platform, it is widely accepted that Apple would have no chance for survival. Were Microsoft to discontinue Office for Macintosh, it would effectively destroy Apple's viability, and as such would constitute a violation of its monopoly power. Any proposed final agreement should offer protection to competitors such as Apple by requiring Microsoft to continue support for critical applications like Office, in order to preclude those companies from going out of business. It should be recognized that a company that is run out of business as the result of another company abusing its monopoly power no longer has the means to pursue a remedy or recourse.

3. Measures must be put in place that would prevent Microsoft from further abusing its monopoly power through its efforts to "embrace, extend, and extinguish." Microsoft has long made it a practice to embrace technologies and standards it regards as potentially lucrative. It then extends the technologies and standards to include proprietary, Microsoft-only additions. Since it has such a vast market share with its operating system, Microsoft is able to force the Microsoft-only technology or standard on millions of customers, which effectively makes the Microsoft version of the technology or standard the one that is overwhelmingly adopted. The inevitable result is that Microsoft's competitors, which in many cases were responsible for the new technologies and standards, are extinguished from the very market they had created. One such example of this abusive and predatory tactic can be found by examining Microsoft's attempts to redefine the standards of Sun Microsystem's Java programming language.

4. Perhaps the most notorious and egregious violation of Microsoft's monopoly power was its decision to freely license Internet Explorer once it recognized that Netscape threatened to dominate the new Internet market. The end result, to date, has been to render Netscape unable to profit from its Internet browser in order to compete with Internet Explorer. Microsoft utilized its massive cash reserves to fund the development and free distribution of software in order to decimate a competitor. Any proposed final agreement must prevent Microsoft from using its massive cash reserves to wage a war of attrition against smaller, less advantaged, companies.

5. The proposed settlement agreement penalizes Microsoft about one billion dollars, which is a fraction of the amount of cash reserves Microsoft maintains. This dollar amount, examined in the perspective of Microsoft's market capitalization, is roughly the equivalent to the amount of money it would lose if its share price were to drop approximately 0.1%. Any proposed settlement agreement must represent a realistic penalty to Microsoft's bottom line as a means to deter future abuses of its monopoly power. A more realistic penalty would be twenty billion dollars.

I hope the Department of Justice takes its role seriously in providing adequate and meaningful penalties and remedies in this case. Microsoft has decimated competition in the software industry, and it is the highest imperative that competition be restored for the good of the consumer.

Sincerely,
Patrick Insko
Principal
Insko Computer Consulting Group

MTC-00025630

From: Ruth (038) Rusty Warner
To: Microsoft ATR
Date: 1/25/02 11:10pm
Subject: Microsoft Settlement

I think this gone on too long. This does nothing but make some lawyers rich. The public as a whole receives no benifits.

CC:William Russell Warner

MTC-00025631

From: Robert P. Fickenwirth
To: Microsoft ATR
Date: 1/25/02 11:10pm
Subject: Microsoft Settlement

To those responsible for litigation in this case. Enough already—please expedite the settlement of this case. More litigation is the last thing I, as a consumer, or the industry needs. Please settle so we all can move forward.

MTC-00025632

From: dh
To: Microsoft ATR
Date: 1/25/02 11:11pm
Subject: microsoft settlement

To Whom It May Concern:

I'm a self-employed IT professional working primarily with personal computers; I use, and support users of, various operating systems, including Macintosh and several flavors of Windows. Although I've not read all the documents relating to the current proposed settlement in U.S. v. Microsoft (Civil Action No. 98–1232), I have been avidly following the case since it began. Based on my understanding of the industry, Microsoft's role in it, and the courts'' findings relative to same, I am flabbergasted and appalled at the terms of the proposed settlement.

Microsoft enjoys a virtual monopoly over large segments of the market, and has engaged in illegal practices in furtherance of this position. Remedies, by definition, should seek to undo the damage inflicted by these practices. The proposed settlement doesn't simply fail in this regard; it will actually exacerbate the damage.

It's long been understood that seeding schools with proprietary technology results in increased sales of that technology to those who've been exposed to it thereby. The reason for this is pretty obvious: people tend to buy those products with which they are familiar, and therefor comfortable. Education being one of the few PC markets that Microsoft doesn't currently dominate, any steps that increase the company's presence in that market will thus have a magnified effect.

So, donating equipment and software to schools is simply good business practice from Microsoft's perspective. This is so even if the real cost of those donations to the company is high, which may or may not be true in this instance, and even if the value to the schools is also high—again, an open question. I am baffled as to how anyone could fail to see the granting by Microsoft of large quantities of its products to the public school system, as being anything other than a boon to the company.

In short, I believe that any meaningful settlement to this case would simultaneously benefit the public, mitigate some of the competitive damage which has resulted from Microsoft's illegal behavior, and discourage the company from behaving in such a fashion in the future. The proposed settlement fails miserably to meet these criteria, and should be scrapped.

Sincerely,
David Hauer
1818 10th Street
Berkeley, CA 94710
david hauer

MTC-00025633

From: snive
To: Microsoft ATR
Date: 1/25/02 11:11pm
Subject: Microsoft Settlement

To Whom It May Concern:

Let's settle this case and move on. All the government's case has done so far, is to hurt the public, which it was suppose to protect. It would be nice if the government would explain, just how all of us will be better off as a result of their case. Are they going to send us a check for dollars lost in stock value because of their actions?

It appears that the Justice Department should have been focused on Enron, which has hurt the American public much more than Microsoft ever could. Maybe microsoft should have contributed more.

Just do It.

Sincerely,

John M. Snively, Jr.

MTC-00025634

From: Loren Chang
To: Microsoft ATR
Date: 1/25/02 11:14pm
Subject: Microsoft Settlement

To Whom It May Concern,

As a citizen of the United States and an avid computer user I feel the need to speak up regarding the settlement proposed by Microsoft Corporation for the antitrust lawsuit being filed against it.

The settlement as proposed by Microsoft is nothing more then a sham and a brazen attack upon the law, the government, and the American people, and shows Microsoft's utter disregard and contempt of the law and the intelligence of the people of this nation. It is also evidence of the laxness and complacency among the highest levels of our government, and the willingness of some of these individuals to sell out all principle in exchange for personal gain. Microsoft has been nothing short of arrogant and uncooperative since the beginning of the antitrust case against it, as demonstrated by it's recent thinly veiled attempt at inundating the lucrative educational market with it's products, even after the guilty verdict was levied.

I urge you to not let this challenge on the freedom, and the law by Microsoft go unpunished. Through it's recent actions, Microsoft has shown that it is a true threat to both innovation, and a fair and free marketplace. I urge you to levy the strictest penalties possible on Microsoft, so that it may never again be the threat to freedom and innovation that it has shown itself to be in the past, and indeed, to this very day. Nothing short of the freedom of our nation, and perhaps the world, rests upon this decision.

Sincerely yours,

Loren Chang

MTC-00025635

From: Hausernet@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 11:14pm
Subject: Microsoft Settlement

Dear Sirs: I am thankful for the Microsoft Windows softward standard, enabling me to correspond without difficulty, use computers at other locations without difficulty and connect to my own computer from other locations. The wide use of Windows also means that it is much easier for programmers to come up with something new, not having to deal with multiple types of software.

We all know the nightmare of dealing with multiple phone companies and their systems. I have never felt that I was overcharged for Microsoft products and feel that bundling has made using the computer easier and cheaper, down-loading only one program rather than several. I am aware of the contents of the settlement and feel it is fair. I believe that competition should take place in the marketplace rather than the courts.

Edna Hauser

MTC-00025636

From: Marc (038) Jeanne
To: Microsoft ATR
Date: 1/25/02 11:16pm
Subject: Microsoft Antitrust

Honor, Judge Colleen Kollar-Kotelly,

Please I urge you, your Honor, to review "The Proposed Final Judgment" with the DOJ and Microsoft. I have been in the IT business for many years and have seen countless times that Microsoft has been less then fair in their business practices, ethical competition, and consumer choice. The IT industry needs protection from Microsoft and Microsoft needs to cease their monopolistic practices.

Thank You,

Marc R. McCamey BST, Tech+
Network Administrator
Interstate Specialties Inc.
1807 Pittsburgh Ave.
Erie, PA 16507
1.800.533.6847
CC:nolandpeebles@attbi.com@inetgw

MTC-00025637

From: Rudy Stefenel
To: Microsoft ATR
Date: 1/25/02 11:22pm
Subject: Microsoft Settlement
To: U.S. Department of Justice
From: Rudy Stefenel
3138 Drywood Lane
San Jose, CA 95132
408-263-5332
1/25/02

It is essential that you incorporate the solution proposed by California, Connecticut, Florida, Iowa, Kansas, Massachusetts, Minnesota, Utah, West Virginia and the District of Columbia into the final Microsoft antitrust settlement. The current settlement has too many loop-holes. Here are are the three points proposed by these states along with the reasons to incorporate them.

Require Microsoft to give computer makers more freedom to feature rival software on their machines. This is absolutely essential and obvious. Computer makers must have this freedom or Microsoft clearly has a monopoly.

Order Microsoft to sell a cheaper, stripped-down version of its Windows operating system. This is a superb requirement because it gives freedom of choice to everyone who uses Windows without stopping Microsoft from innovating. Otherwise Microsoft is forcing everyone to pay for Microsoft's application software programs when purchasing Windows, even if some people prefer non-Microsoft applications software programs.

Order Microsoft to do more to reveal the workings of Windows to competitors. This is absolutely essential. At present, Microsoft's application software programs can run better than their competitors software because Microsoft is not not telling their competitors about all the ways to hitch their software up to Windows.

As an example, part of Microsoft's defense is that their Web Browser, Internet Explorer, is merged with Windows and it cannot be separated out. Actually only part of Internet Explorer is integral with Windows and Windows would function fine with other parts removed.

Microsoft must disclose how to utilize the parts that could not be removed to competitors so that their Web Browsers can use them too or the competitor's web browsers don't have a chance of working as well as Microsoft's.

How does this make Microsoft's Internet Explorer web browser work better? Think about how long it takes to load a web browser. A competitor's web browsers can't possibly load as fast as Microsoft's because the whole browser must be loaded. Only part of Microsoft's browser needs to be loaded because the other part is integral to Windows. People get irritated if they have to wait too long for a browser to load and will end up using Microsoft't browser, even if the prefer other browsers for other reasons. Can't you see how Microsoft is using their Windows operating system, in this case, to leverage unfair competition?

These three requirements, proposed by a few states, are not vindictive and they address Microsoft's antitrust violations head on. They don't stop Microsoft from selling a version of Windows with integral applications software. People who prefer other applications software are not stuck with paying for Microsoft's. Microsoft has full freedom on innovate and so does their competitors. Computer makers have freedom of choice and so does every everyone who uses Windows.

Sincerely,

Rudy Stefenel

MTC-00025638

From: Vagabonds2@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 11:25pm
Subject: Microsoft Settlement

To Department of Justice,

Let us move on with what would help our country and economy the most.

Let us PLEASE move forward. Half the states have agreed with the decision. The Microsoft case has no justifiable reason to continue. The truth is that most consumers appreciate how MICROSOFT HAS MADE COMPUTERS REALLY USER FRIENDLY.

I am also a very typical American public who agrees with most Americans to "MOVE ON!"

Thank You
For Taking The Time
To Read This,
Tamara Fine

MTC-00025639

From: dube
To: Microsoft ATR
Date: 1/25/02 11:28pm
Subject: microsoft settlement

People are sick about AOL .It not the first time that AOL suit some companies .Every time they want to block the expansion to some companies just because them bought the small companies for almost nothing and after that, need some time to get a chance to come first with their technology. They do not have any interest for the customers.

The only thing is important for them to be number ONE. No matter what painful for the old and young peoples who did not have chance to learn the computer at school to use it.I thank you very much micrsoft for what they do for the world; our life change ,I learn to use the computer by myself 15 years ago.It was hard to use all commands and I spent very much time to catch up everything to understand how this will work and be able to fellow the conversation with my children and the employes. The window come and it was the happy time for all to use the computer faster and more efficienty. I use both ten years ago NESCAPE and msn explorer .Always I come back with msn explorer because it was easier.

sincerely dube@sensible-net.com

MTC-00025640

From: elgloyna@ykc.com@inetgw
To: Microsoft ATR
Date: 1/25/02 11:23pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
emmett Gloyna
5947 County Road 284
Edna, TX 77957

MTC-00025641

From: elgloyna@ykc.com@inetgw
To: Microsoft ATR
Date: 1/25/02 11:23pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse: Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

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Please put a stop to this travesty of justice now. Thank you.

Sincerely,
emmett Gloyna
5947 County Road 284
Edna, TX 77957

MTC-00025642

From: John S. Howell, Jr
To: Microsoft ATR
Date: 1/25/02 11:26pm
Subject: Microsoft Settlement
Attn: Renata B. Hesse
Antitrust Division, U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
January 25, 2002
RE: MICROSOFT ANTITRUST CASE—PUBLIC COMMENT for the DISTRIC COURT TO CONSIDER

I am an avid computer hobbyist and software entrepreneur that started in the 1970's, years before Microsoft's name was well known. I have carefully watched, and dealt with Microsoft since they were a tiny company, and I believe this gives me a somewhat unique perspective on Microsoft and their competitors.

The products I have licensed from Microsoft include programming languages like BASIC, Visual Basic, and "C", operating systems like MS-DOS and Windows, and productivity tools like Word, Excel, Outlook e-mail and PowerPoint. I have also licensed software products from Novell, Apple, IBM and others.

More than all of the others combined, the Microsoft products have benefited my business and my personal life in many, many positive ways. From the very first purchase I have found Microsoft products to be of unusually high quality, often innovative, extremely useful, and perhaps above all, a tremendous value for the money. The company is usually very easy and straightforward to deal with.

My company started with IBM, Novell and Microsoft as suppliers. Although we initially favored IBM and Novell products, over the years, we valued Microsoft's more than the others—I believe mainly because Microsoft seemed to understand the technologies and tradeoffs better than their competitors, and were able to consistently produce superior products at a very low price, which made them a lower risk, and a better supplier to us.

One of my concerns with this case is that the complaint against Microsoft originated not with individual consumers, or with Microsoft's partners, but with Microsoft's unsuccessful competitors. These failed businesses must not be allowed to set the rules for the markets in which they failed.

I purchased Microsoft products for my business over their competitors because they were able to consistently provide the best balance features, ease of use, and performance, AND make their products available at extremely attractive prices. Over the years, I have witnessed many hundreds of other business people make their own independent evaluations that resulted in the same conclusion— Microsoft's products were overall better than the competitions—and so they purchased them.

I resent any characterization by the government that Microsoft's customers are "helpless victims" who cannot choose software. Nothing could be further from the truth. More than almost any other type of product I have found that buyers of computer products seek the advice and comment of others before making a purchase.

I also do not believe the government should have any say in what software I should run on my computer, and I resent the idea that a successful business and a successful product should be a threat to anyone.

I believe it is a dangerous policy for politicians to protect some businesses from others. Continued application of the antitrust laws against successful businessmen can only lead to corruption and economic disaster.

And lastly, I believe Microsoft should have the right to its own property, and that it is the government's job is to protect this right, not to take it away.

Sincerely,
John S. Howell, Jr
Naples, FL

MTC-00025643

From: Dino Rachiele
To: Microsoft ATR
Date: 1/25/02 11:27pm
Subject: microsoft settlement

I am outraged by the attack against Microsoft. Microsoft is constantly being punished for being the first and the best at what they do. This is discouraging to many of us who have hopes of attaining the American Dream. Leave those folks alone... please. I have stock in AOL and Microsoft. I am ashamed that AOL has taken this stance. They have better things to do!

Thank you,
Dino Rachiele
President,
Luxury Home Products, Inc.
The Rachiele Group, Inc., Custom Sinks by Rachiele
Oxitech, Inc.
www.luxuryhomeproducts.com
www.rachiele.com
www.oxitech.org

MTC-00025644

From: cruiser@chartermi.net@inetgw
To: Microsoft ATR
Date: 1/25/02 11:25pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Michael Merrick
1605 Baker Dr.
Kalamazoo , MI 49048–1215

MTC–00025645

From: Jeff Donner
To: Microsoft ATR
Date: 1/25/02 11:29pm
Subject: Microsoft Settlement

Hi,

I think the MS settlement should include prohibiting them from putting restrictions on where you can run MS application software. Right now they are beginning to put clauses into their End User License Agreements forcing you to agree to use it only on MS operating systems; this is very anti-competitive, as it is otherwise slowly becoming possible to run MS apps on other OSes, like Linux (using Wine). The only point of such restrictions is to suppress competition with MS" operating systems, the Windows. It does not protect MS intellectual property in any way; users still have bought the MS software, after all.

Thanks,
Jeff

MTC–00025646

From: J.C. Allen
To: Microsoft ATR
Date: 1/25/02 11:28pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Subject: Microsoft Settlement

To Judge Kollar-Kotelly and whom it may concern,

My name is J. C. Allen. I reside in Hampton, Virginia. I am a citizen by birth of the United States.

It should not be necessary to relate this information via email. However, Microsoft Corporation ("Microsoft") has, in the past, falsified support for its position as market leader and its monopolistic, predatory practices. It is imperative that the U. S. Department of Justice (USDOJ) carefully scrutinize the responses it receives regarding the antitrust complaint filed against Microsoft and the proposed Final Judgment, because of these past actions on the part of Microsoft. Some of the email the USDOJ receives may in fact have been manufactured by Microsoft to intentionally deceive the USDOJ. Microsoft has resorted to such impromptu "lobbying" in the past in order to create the perception that the public supports Microsoft's actions in the nation's marketplace. I have no desire to read, in a few months, about a similar deception with regard to the proposed Final Judgment ("Proposed Final Judgment"). It is my opinion that Microsoft will use every tactic possible to convince the USDOJ that the public believes the Proposed Final Judgment is fair. I am the public, and I do not believe it is fair. I can assure you that I am not alone.

The following URL details the efforts of Microsoft to influence Utah Attorney General Mark Shurtleff using these tactics: http://seattletimes.nwsource.com/html/nationworld/134332634—microlob23.html

A portion of the above article (which was originally published by the Los Angeles Times) is quoted below: "Letters purportedly written by at least two dead people landed on the desk of Utah Attorney General Mark Shurtleff earlier this year, imploring him to go easy on Microsoft for its conduct as a monopoly. The pleas, along with more than 100 others from Utah residents, are part of a carefully orchestrated nationwide campaign by the software giant... Microsoft sought to create the impression of a surging grass-roots movement, aimed largely at the attorneys general of some of the 18 states that have joined the Justice Department in suing Microsoft.

The Microsoft campaign goes to great lengths to create an impression that the letters are spontaneous expressions from ordinary people. Letters sent in the last month are on personalized stationery using different wording, color and typefaces, details that distinguish Microsoft's efforts from lobbying tactics that go on in politics every day."

I would like to begin with a quote by former Judge, Stanley Sporkin: "Simply telling a defendant to go forth and sin no more does little or nothing to address the unfair advantage it has already gained..." I would also like to list some of those companies that have unfairly suffered because of Microsoft's illegal monopoly and predatory marketing practices. Following the company name and separated by a colon is the name of the product that Microsoft intentionally sabotaged, copied, or stolen outright. Following the product name and separated from the competing company's name by a semicolon is the name of the product Microsoft developed to integrate the functions of these competing applications into Microsoft operating systems. Note that many of these competing applications are no longer being actively developed because these companies, which depended on revenues from sales, are no longer in business. A few others continue to market new releases, but their user base has dramatically declined:

1. Digital Research, Inc. (then Novell, now Caldera): DR DOS; MS-DOS 5.0 and Windows 3.1, which were intentionally designed by Microsoft to alter the base upon which applications were written for Microsoft operating systems, so that applications written for Microsoft operating systems would be incompatible with DR DOS. The announcement that Windows 3.1 would not be compatible with DR DOS resulted in sales of that product dwindling to practically nothing in months.

2. Real Networks: Real Player; Microsoft Windows Media Player, which has almost completely supplanted Real Player as the de facto internet standard streaming media application. Windows Media Player is bundled with Microsoft operating systems, and is available as a free download for Microsoft operating system users.

3. Netscape Corp. (now America Online/Time Warner): Netscape Navigator; Internet Explorer, which has effectively supplanted Netscape Navigator as the browser of choice among most internet users. In 1995 the vast majority of internet users used Netscape Navigator to access the internet. Internet Explorer is bundled with Microsoft operating systems.

4. Apple Computers: Apple's Graphical User Interface ("GUI"); although Apple borrowed heavily from XWindows for UNIX, Microsoft's first attempt to produce a true GUI operating system featured an almost exact replica of Apple's desktop, right down to the trash can, which Microsoft renamed "Recycle Bin". Apple's GUI became the basis for the present look and feel of Microsoft operating systems.

5. Corel: WordPerfect; Microsoft Office (Microsoft Word). Also: Quattro Pro; Microsoft Office (Microsoft Excel). Both Microsoft Office and Microsoft Word, separately, are frequently bundled with new installations of Microsoft operating systems.

6. Quarterdeck Corp. (now owned by Symantec): QEMM; EMM386.*, a memory manager that enabled DOS-based programs to access more than 640K of memory. EMM386.* (et al.) are necessary components of Microsoft operating systems that run in real and protected mode.

7. STAC Electronics: hard drive compression scheme; Microsoft DoubleSpace. DoubleSpace is a disk utility that is included with Microsoft operating systems.

8. Go Corp.: pen-based computing; Microsoft incorporated the code into its operating systems so that they would be able to recognize the device.

9. IBM: Lotus 1–2–3; Microsoft Office (Microsoft Excel). Also: OS/2; Windows 95. Microsoft refused to provide technical details necessary for third-party developers to develop applications for both Windows 95 and OS/2 to IBM, resulting in a net migration of users away from that operating system as the number of available applications fell. Microsoft office is frequently bundled with new installations of Microsoft operating systems.

10. Sun Corp.: Java, Sun Java Virtual Machine ("JIM"); Microsoft J++, J#, C#, ".NET". Microsoft's non-standard implementation of Java (J++, J#) forced Sun to sue to prevent Microsoft from designing proprietary extensions to the language that were only functional on Microsoft operating systems. Microsoft lost and in retribution announced it would no longer support Sun's JVM in order to force a migration away from the use of Java and to force implementation of Microsoft's ".NET" initiative. In addition, Microsoft has incorporated new features into its newest operating system to further extend its monopoly and sabotage applications in markets which it intends to dominate, for example: Roxio EasyCD Creator (Microsoft bundled the software required to "burn" CDs into its newest operating system, Windows XP); Adobe Photoshop, et al. (Microsoft

PictureIt! is marketed to directly compete with these applications, using a proprietary file format which non-Microsoft middleware cannot support because PictureIt!, by default, stores images in the proprietary file format, and Microsoft has not released details of the file format to third-party developers]; Norton Personal Firewall, et al. (Microsoft bundled a limited firewall into Windows XP).

MTC-00025646-0003

In short, Microsoft has demonstrated time and time again that it is not an innovator, but that it is a ruthless integrator—buying, copying or stealing other companies'' innovations and intellectual property outright, and bundling applications which utilize these innovations with its operating system in order to drive its competitors out of business. Fear of the pending Final Judgment has not caused Microsoft to cease this abusive practice. In fact, the newest components of Microsoft Windows XP (e.g., CD burning software) were developed well after the anti-trust action against Microsoft was initiated.

It is my contention that the Proposed Final Judgment will not "provide a prompt, certain and effective remedy for consumers by imposing injunctive relief to halt continuance and prevent recurrence of the violations of the Sherman Act by Microsoft that were upheld by the Court of Appeals and restore competitive conditions to the market." I believe that the Proposed Final Judgment does "little or nothing to address the unfair advantage [Microsoft] has already gained".

I have no special skills or training which qualify me to comment in detail on the Proposed Final Judgment against Microsoft. I am neither a lawyer, nor an employee of any of the companies which directly compete with, or depend on, Microsoft software. However, I use Microsoft software daily in my work and at home, and it is my belief that the opinions of those who actually use Microsoft products in their daily lives should weigh heavily in any deliberation. We are, after all, the ones who stand to gain or lose the most by any Final Judgment, and we stand to lose a great deal if the Proposed Final Judgment is adopted. My objections to the settlement offered by the United States Federal Government are as follows:

1. A. The internet was developed using open, non-proprietary standards.

B. Microsoft has extended, and is extending, its monopoly by developing proprietary standards which unfairly exclude rivals from developing applications which are fully functional on computers running Microsoft operating systems. C. Microsoft will profit from this exclusion. D. Microsoft should not be allowed to profit in the future from unfairly excluding competitors in the past.

Repeatedly, the court has stated that Microsoft integrated its Web browser into Windows in a non-removable way. However, at the time this claim was made, very early in the anti-trust action against Microsoft, it was a deception. It is possible to remove Internet Explorer ("IE") from Windows 98. This has been demonstrably proven: http://www.cnn.com/TECH/computing/9903/O9/removeie.idg/

MTC-00025646-0004

In fact, an application was developed to remove IE from Windows 98 called "981ire": http://www.981ite.net/

I am not ignorant of the fact that this would eliminate some of the features offered by the integration of Windows 98 and Internet Explorer. However, it would eliminate many of the vulnerabilities which have plagued Microsoft software from the time Microsoft incorporated IE as a component of the Windows operating system and offer enhanced security to the user. Yet requiring Microsoft to enable the end user of Windows to completely remove IE, and therefore eliminate direct access to the operating system (which IE, as a component of the operating system, was designed to allow), is not a condition of the Proposed Final Settlement.

At the time the integration of IE into Windows 98 was first undertaken by Microsoft, the anti-trust action against Microsoft had not yet begun. However, shortly thereafter Microsoft desperately needed a legal defense against the argument that it illegally bundled its Web browser with its operating system to crush rival Netscape. The bundling of IE with Windows 98 allowed Microsoft to establish market dominance and become the de facto standard Web browser. By demonstrating that Windows 98, with IE removed, was incapable of functioning as designed, Microsoft "proved" that IE was a "necessary" component of Windows 98. However, this claim is clearly ludicrous, and has not been completely remedied by the Proposed Final Settlement.

My principle objection is that the USDOJ appears, by way of the language of the Proposed Final Settlement and Competitive Impact Statement, to have accepted Microsoft's claim that IE "cannot" be removed from Windows. I simply refuse to believe that the company that integrated its Web browser with its operating system cannot un-integrate it.

It is my contention that Microsoft's future corporate strategy revolves around the development of a method of delivering digital content and services ("DCS") securely to a computer user, and that, as a business, it is aware of how profitable this will be. Part of this effort is the integration of Digital Rights Management ("DRM") and other schema (encryption, licensing, authentication, etc.) into daily use of the computer through the Windows Explorer shell, and therefore through IE. Any DRM scheme (et al.) proposed by Microsoft will therefore be very lucrative for Microsoft, and for Microsoft's partners, by requiring any user of Microsoft's software to pay a per-use Microsoft "tax" to access DCS via the internet, and by requiring any developer to license this technology from Microsoft.

It is also my contention that the integration of IE with Windows was purposefully undertaken by Microsoft to crush Netscape and establish market dominance before the internet had grown to the point that the technologies for the secure delivery of DCS were necessary, i.e., before there was a market for such technologies. I tip my hat to Microsoft's business acumen. However the internet has grown to the point that no one company can be allowed to stand between the public and the information it offers, freely, to all. With the vast majority of computer users using Microsoft operating systems, this guarantees that internet access is contingent on satisfying whatever conditions Microsoft chooses to impose.

It is my contention that DRM or other schema involved in the delivery of DCS over the internet cannot be proprietary, and that the seeming acceptance, on the part of the USDOJ, of the integration of IE with Windows has given Microsoft an unfair advantage by allowing Microsoft to utilize the leverage gained by establishing its web browser as the dominant web browser to secure future profits, which will allow Microsoft to unfairly extend its monopoly into new computer technologies.

The Proposed Final Judgment does nothing to remedy this, but instead allows Microsoft to profit from actions which would be prohibited under the terms of the Proposed Final Judgment. I propose that the Proposed Final Judgment "level the playing field" by requiring, for example, that language or provisions such as Section III.E of the Proposed Final Judgment be stricken in toto: "Section III.E ... exempts from these licensing requirements certain very limited and specific portions or layers of Communications Protocols which would, if disclosed, compromise the system security provided by Microsoft anti-piracy, anti-virus, software licensing, digital rights management, encryption and authentication features."

It is my contention that the only relief for Microsoft's past abuse is to force Microsoft to openly and publicly disclose all features exempted by the Proposed Final Judgment, to allow no exceptions to the rule of public disclosure, and to require that this occur immediately, i.e., before the one year deadline for disclosure of Microsoft's application programming interfaces ("APIs"). This would allow the development of competing applications immediately. Companies which have unfairly suffered because of Microsoft's status as a monopoly will be able to offer competing applications much sooner than they would have under the proposed schedule. It would have the added benefit of allowing interested third parties to examine Microsoft's proposed DRM, licensing, authentication, et al. to ensure that security is not sacrificed for "features".

2. A. Microsoft's has repeatedly demonstrated that, as a corporation, it does not place a great emphasis on security. B. This has placed an unfair burden on American businesses and individual consumers to secure Microsoft software. C. Microsoft's corporate values are a direct result of the integration of Microsoft "operating systems" and "applications" development under one corporate umbrella. D. The ease with which Microsoft application developers utilize features exclusive to Microsoft operating systems contributes to a corporate climate which is organizationally incapable of responding to security vulnerabilities which exploit those features. E. The only remedy for this situation is to divide the corporation into two separate halves—one to develop the operating system

and the other to develop applications to be run by the operating system—and to require that any APIs necessary to properly integrate an application with the operating system be disclosed to competitors in accordance with the provisions of the Proposed Final Judgment.

I am aware that Microsoft's founder, Bill Gates, recently made a pronouncement concerning computer and information security, in which he stated that security must become Microsoft's top priority. As for me, this is too little, too late. I believe the recent memorandum from Bill Gates is part of Microsoft's strategy to create a safe harbor and shelter large portions of its code base from the disclosure terms of the Proposed Final Judgment—if every API has something to do with "security", none of them are required to be disclosed. This must not be allowed to occur, and if the language of the Proposed Final Judgment is allowed to stand, Microsoft's status as a monopoly will not even be challenged.

The results of Microsoft's "lip service" to security have been widely publicized. Computer worms and viruses written to exploit known weaknesses in Microsoft software have, in the past year, cost American businesses that depend on that software billions of dollars, and been a terrible inconvenience for thousands of computer users who lost data, personal or professional, to malicious code. I have personally invested in anti-virus software and a firewall to prevent worms and viruses that exploit known weaknesses in Microsoft software from affecting me. This may be Microsoft's idea of "driving software development" or the "upgrade cycle", but it is not mine.

MTC-00025646—0006

The ubiquity of Microsoft software is, in large part, responsible for the cost of cleaning up after such outbreaks and patching vulnerabilities caused by "features" that would have been exposed by a thorough code audit, if security had ever been Microsoft's priority. For example, Outlook Express ("OE"), by default, previews a message it receives if the "preview pane" is turned on, and parses any executable script it encounters. This allows a received message, without any further interaction from the user, simply on the basis of being received by that user via OE, to execute malicious code on that user's computer.

Who, at Microsoft, was responsible for making the decision to incorporate this "feature" into OE? Why was it not reviewed and why was it not decided that its inclusion would make OE too vulnerable to attack?

Microsoft, as a corporation, is not capable of developing a truly secure application. The current code base is simply too large for even forty thousand employees to accurately and completely review. It is therefore my contention that Microsoft should be broken into two (or more) separate companies, one to develop Microsoft operating systems, and one to develop applications for Microsoft operating systems. Under the disclosure terms of the Proposed Final Judgment and 1. above, any Final Judgment should require Microsoft to disclose the APIs necessary to properly integrate an application with the operating system in accordance with the provisions of the Proposed Final Judgment. Requiring Microsoft to disclose any APIs necessary for its applications developers to write applications that seamlessly integrate with Microsoft operating systems would guarantee that although Microsoft might gain market share from new APIs which take advantage of integration with the operating system, any competing application developer would be free to use those APIs to enhance their own software in a unique way. Though Microsoft might profit temporarily from the use of exclusive Microsoft APIs, it would not be able to retain a monopoly through obscurity; Microsoft would be forced to truly compete by developing applications which best serve the needs of their users.

3. A. Microsoft has undertaken the development of tools (J++, J#, C# and ".NET") which seek to supplant established programming languages or internet protocols (C++, Java, etc.), and which offer limited, or non-existent, functionality on computers not running Microsoft operating systems or IE. B. These tools directly subvert the open, non-proprietary standards which the internet was developed around. C. Allowing Microsoft to further dilute these standards will increase the cost America's consumers must pay to access DCS via the internet.

It is my contention that Microsoft has undertaken this action to further extend its illegal monopoly, and dominate future internet technologies. The Proposed Final Judgment does not completely remedy this. What has already been proposed, ensuring that Microsoft is no longer allowed to punish Original Equipment Manufacturers ("OEMs") who choose to include competing technologies in their hardware or software products, does limit Microsoft's monopoly somewhat. However, it does not completely address the issue because software developers will always be at Microsoft's mercy when developing applications for Microsoft platforms via the applications barrier to entry. This issue is also addressed, in part, by requiring the disclosure of Microsoft's APIs, which I have already commented on above.

I again assert that Microsoft should not profit from behavior that would have been illegal if the terms of the Proposed Final Judgment had been in force. By requiring the immediate disclosure of all APIs, DRM and other schema, immediately and without exception, competing applications may be developed using established programming languages or internet protocols which provide as much functionality as applications developed using proprietary Microsoft programming languages or internet protocols. This would deny Microsoft the opportunity to further entrench itself as a DCS provider by excluding its rivals with proprietary technologies which only provide full functionality on computers running Microsoft's operating systems or IE, with which Microsoft's proprietary programming languages or internet protocols can be fully integrated.

The loss of revenue due to sales of J#, C# and .NET development tools, instruction manuals, books, peripherals, etc. will be a punishment that truly fits the crime. By trying to encompass and control access to the internet, Microsoft will ensure that future internet technologies offer truly universal access. This will benefit consumers by offering more choices, not less, and by keeping the internet free of the control of pervasive corporate interests which threaten it. DCS will remain inexpensive, in that consumers will not have to pay a hefty "tax" to Microsoft (or any of its partners) simply to access DCS via the internet. The internet was built with the tax dollars of America's consumers, and should be managed by the government in concert with the global community, corporations, and citizens the world over, on behalf of all humanity. Microsoft must not be allowed to control access to the internet, or relegate consumers to a "second-class internet" simply because they are not Microsoft customers.

This concludes my comments. Thank you for your consideration.

J. C. Allen

MTC-00025647

From: Joe Marasco
To: Microsoft
ATR,waba@scientist.com@inetgw
Date: 1/25/02 11:32pm
Subject: RE: Comment on Microsoft-DOJ settlement

I do not agree with you.

Thanks.

Joe

Original Message

From: William Buchanan
[mailto:waba@scientist.com]
Sent: Friday, January 25, 2002 9:26 AM
To: microsoft.atr@usdoj.gov
Cc: abraham, fred; Jacobsen, Dianne; Lips, Rolf; Marasco, Joe
Subject: Comment on Microsoft-DOJ settlement

I am outraged at the proposed "settlement" of this conflict. It makes as much sense to me as the first court conclusion in the OJ Simpson case. Gates has simply conned his way out of being found clearly guilty by the very expensive but well executed. investigation of Microsoft's actions by the Clinton DOJ. Gates" entire career is based on lying, cheating, stealing and bullying his way around in the consumer community. He has no scruples, other than continually doing anything he can to get the public's money in exchange for their purchases of Microsoft's so-called "innovative" products. These sub par products only appear to be innovative because he has used his wealth and maligned cunning to squash any legitimate competitors. Jackson's characterization of him as a "little Napoleon" is right on. And now for the corrupt tie between G.W. Bush and W. Gates (following White House meetings between the two) to surface as a "just settlement" thrown quickly before a war-distracted US public and its Congress, is really rubbing salt into a big wound.

Hooray for the valor of the states who are holding out and continuing to gun for a real "just settlement", in this case. The only reason the other states that originally were involved had to drop out is that the Gates machine is so well endowed, financially and legally, it is able to intimidate even a relatively large collective of public/legal representatives in its obsessive path of destruction. I'm glad to be a citizen of California, and able to watch my attorney general, Bill Locklyer, lead the charge against prematurely settling with Microsoft. I would hope that the Federal DOJ could follow the same path in this case, but think that the eagerness of the current administration to satisfy Gates" dreams of walking away unscathed from this situation are so far handing him his wishes, just as though it was a "pardon".

If there is still such a value as "justice" in our US, then let it reign supreme. Require Microsoft to be held accountable for what it has already been found guilty of, and make it pay the full and responsible cost of having deliberately committed its heinous actions. And see to it that the Bush administration be held just as responsible and accountable for exercising its Constitutional requirement to uphold justice in this case. Anything less only brings to light that the Bush administration and Microsoft are colluding to dupe the taxpayer into believing that both are worthy of honor, a conclusion that is just not acceptable and well should not be.

CC:abraham fred,Jacobsen Dianne,Lips Rolf

MTC-00025648

From: Bob E
To: Microsoft ATR
Date: 1/25/02 11:34pm
Subject: Microsoft Settlement

NOT FAR ENOUGH

MTC-00025649

From: scn@san.rr.com
To: microsoft.atr(a)usdoj.gov.
Date: 1/25/02 11:34pm
Subject: Settlement With Microsoft

Let's move forward and complete the more than fair settlement reached among DOJ, Microsoft and the nine states. To do otherwise is very unsettling to the economy and delays Microsoft's continuing record of helping improve the productivity of companies thoughout the United States of America.

Thank you,
William & Stephanie Necoechea
6509 Caminito Catalan
La Jolla, CA 92037

MTC-00025650

From: Alex Hill
To: Microsoft ATR
Date: 1/25/02 11:34pm
Subject: Microsoft Settlement

The Proposed Settlement of the Microsoft antitrust case is inadequate. There are many problems with the settlement, far more than I can go into. Therefore, I will mention only a few of the inadequacies.

1. Microsoft must allow all third party programmers free access to all APIs and communications protocols used to interoperate with Windows or any other Microsoft products. Section III.J.2b allows Microsoft to release APIs only to a third party that "has a reasonable business need for the API, Documentation or Communications Protocol for a planned or shipping product." This access cannot be limited to commercial programmers. Specifically, programmers who do not seek to make a profit or who are working on open source projects must have the same access to APIs and communications protocol documentation that commercial, for-profit programmers have.

2. Section III.J.1a is a glaring weakness to the stipulation that Microsoft reveal its APIs. Microsoft has repeatedly hidden behind claims that it cannot reveal key elements of its software for "security reasons." This is often called "security through obscurity", and its merit is highly questionable on security grounds; many security experts agree that the only way a security measure can be considered adequate is by allowing the security measure to pass rigorous inspection by security experts. Any good security measure should be strong enough so that even a person who has access to the entire source code of the security protocol cannot break the security.

I do not propose that Microsoft be forced to open its source code for review by outside security experts; such a provision would unfairly limit Microsoft's ability to compete. However, security is not an acceptable reason for Microsoft to refuse to document APIs or communications protocols that, by the Final Judgment, they would otherwise be required to disclose.

3. In productivity software, the most important factor for a potential competitor to Microsoft is the ability to read and write files that are fully compatible with Word and Excel files. The Final Judgment does not adequately require Microsoft to fully document their file formats, so any consumer who does not use Microsoft Office will continue to be at a disadvantage whenever he needs to share a file with an Office using person. Current Microsoft file formats can be read by competing office suites such as Sun's StarOffice or Apple's AppleWorks as long as the files are quite simple. However, any Microsoft Office file that contains more complicated elements such as tables does not display well in other office suites. Therefore, the Final Judgment must be amended to force Microsoft to fully document its file formats, without including any features in the file format that only Microsoft products can effectively use.

Thank you for your time.
Sincerely yours,
Alex Hill
email: alex.hill@oberlin.edu
OCMR 1201
Oberlin College
Oberlin, OH 44074

MTC-00025651

From: vfaas@msn.com@inetgw
To: Microsoft ATR
Date: 1/25/02 11:34pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Vicki Faas
7021 E Townsend Dr
Highlands Ranch, CO 80126

MTC-00025652

From: Lisa Downing
To: Microsoft ATR
Date: 1/25/02 11:15pm
Subject: Microsoft Settlement

The proposed Microsoft settlement is a pathetic slap on the wrist, which will do nothing to restrain a company that has proven again and again that it will do anything to dominate the market, including threatening to strangle its competitors (e.g. Apple, Netscape).

MTC-00025653

From: lorraine snyder
To: Microsoft ATR
Date: 1/25/02 11:39pm
Subject: Mic

Please end the case against Microsoft, now! Microsoft is the gage to the economy in this country! As a country, we cannot afford to have Microsoft attacked! When Microsoft is attacked, the consumers back off from investing! If you want the economy to go under, just keep Microsoft being attacked by yourselves and MONOPOLY'S like AOL WARNER!!! Their Netscape HAS THE MARKET, and they have NEVER BEEN HURT BY THE LITTLE SHARE OF the internet market Microsoft has!

I WANT AOL TAKEN TO TASK FOR BEING AN AGGRESSIVE MONOPOLY!!!! The whole country loves and respects Microsoft except a few of their competitors! All companies have competitors so WHY should this company be discriminated against and allowed to be attacked by their competitors as well as their own country who happily take the tax generated from their products!

Sincerely,
Lorraine M. Snyder
15018 SE Fairwood Blvd.
Renton, Wa 98058

MTC-00035654

From: shawn—hm@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/25/02 11:39pm
Subject: Microsoft Settlement

Please accept this settlement. The charges levied against Microsoft are brought on behalf of competitors and not consumers. Microsoft is a stabilizing force that allows me to know which programs will work with my computer and allows less technical people to have a "breed" of software that they are familiar with. Without that, the industry is likely to fragment and become less secure, predictable, and valueble to businesses and consumers. Microsoft has already attempted to rectify many of the behaviors that have been at issue in the case and this settlement will ensure that they continue to do so. The states that are agains the settlement have no real stake in this case. They're simply attourneys general trying to make a political name for themselves. The DOJ knows that its time to put this issue to bed, as do half the states. Given the economic and social conditions today, it's in everyone's best interest to move on to more pressing issues.

MTC-00025655

From: Steve Pissocra
To: Microsoft ATR
Date: 1/25/02 11:40pm
Subject: Microsoft Settlement

I find the current settlement proposition extremely weak and would like to see harsher penalties levied on Microsoft for the crimes they were found guilty of committing.

Thank you,
Steve Pissocra

MTC-00025656

From: Frank Echanique
To: Microsoft ATR
Date: 1/25/02 11:51pm
Subject: Microsoft Settlement the proposed settlement is bad idea if they win this Microsoft will only continue to rape the computer community for every penny it can get

MTC-00025657

From: Edward J. Dalton
To: Microsoft ATR
Date: 1/25/02 11:47pm
Subject: Microsoft Settlement

I think it is well past time to close the case on Microsoft and allow the settlement to remain as it is. The nine states that are holding out should be required to accept the DOJ's settlement or receive nothing. It's idiotic to claim that Microsoft charged too much for their software and that consumers are entitled to a refund. I have found Microsoft software to be an excellent product at a reasonable price. How would the states refund any money to the consumers after the state and the weasel lawyers take their share off the top: Pennies, perhaps. They're wasting the government's time and money and they should be stopped. As far as the AOL suit goes, they are far worse then any other computer related company when it comes to shady dealings and overcharging customers. In additon, the program disks they mail to potential customers are the worse form of junk mail and are a nuisance. That suit should be thrown out.

Edward J. Dalton

MTC-00025658

From: Don D Thompson
To: Microsoft ATR
Date: 1/25/02 11:46pm
Subject: MICROSOFT SETTLEMENT

I strongly believe that the settlement agreed to between the DOJ and Microsoft was very fair to we the American people. I urge you to not waver from that settlement.

Don Thompson
POBox 5358
Kent, WA 98064

MTC-00025659

From: Jason Pierce
To: Microsoft ATR
Date: 1/25/02 11:45pm
Subject: Microsoft Settlement

I strongly believe that the proposed settlement is a bad idea, and lets Microsoft off with nothing but a wrist slap.

Jason Pierce
www.musmis.com

MTC-00025660

From: trailboss@bigplanet.com@inetgw
To: Microsoft ATR
Date: 1/25/02 11:47pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Tommy Worrell
18725 Bandera Rd.
Helotes, TX 78023-2801

MTC-00025661

From: dfw222@mindspring.com@inetgw
To: Microsoft ATR
Date: 1/25/02 11:49pm
Subject: Microsoft Settlement

I strongly oppose the DOJ recommended settlement in the Microsoft antitrust lawsuit. Microsoft has been adjudicated as an illegal "Monopoly in restraint of trade" and the Court's remedy should address that illegal Monopoly by adopting the proposals of the "9 States" who have courageously refused to join the DOJ's settlement proposal.

David White
computer user

MTC-00025662

From: Len Frazier
To: Microsoft ATR
Date: 1/25/02 11:48pm
Subject: Microsoft Settlement

I believe the proposed settlement is poorly considered. MS, while in some ways has advanced computing in general, has taken its success and used it to stifle competition and innovation.

I believe that the MS settlement requires much more from both MS and continuing, serious, regulation of the company's behavior. Len Frazier

MTC-00025663

From: Gary Liebe
To: Microsoft ATR
Date: 1/25/02 11:48pm
Subject: Microsoft Settlement

Having read through the "Microsoft Settlement" I think that this proposal is a BAD idea , in my job I have the Displeasure of Working on a Windoze Machine running proprietary software. The proprietary software works great and is well written nd intuitive, upon switching back to the Microsoft partition it invariably hangs and / or Freezes. Where I work they have been Dealing with this problem for 10 years. I feel it is only fair to tell you I Am an Ardent APPLE user and from the perspective of standing on the outside looking on as Microshaft slips it to the working public in a most unsatiable condition . Allowing the "Microsoft Settlement" to be implemented would be GRAVE ERROR in my Humble opinion.

Zaiphod@earthlink.net

MTC-00025664

From: Walt Jackson
To: Microsoft ATR
Date: 1/25/02 11:51pm
Subject: Microsoft Settelment

Hello

Dof J This case has gone on way to long,lets conclude it,every thing I have read about thee settlement sounds fair.

Lets move on ,if the other soft companies would focus on development we all win.

MTC-00025665

From: ESBiever@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 11:51pm
Subject: MICROSOFT SETTLEMENT
Attorney General John Ashcroft
US Department of Justice

Dear Mr. Ashcroft:

I am writing to have my voice heard during the 60-day public comment, granted to the settlement of US vs. Microsoft and the ongoing lawsuit.

Microsoft has done nothing but prove that the American dream is alive a well, make a better product and the people will buy it. They have supplied our country with affordable and easy to use software. I for one had never had or used a computer, before March of 2000. I purchased a new Gateway w/ windows 98 2nd edition, and I was up and running in just one day. No classes, just learned from what was supplied to me. I AS A CONSUMER WAS NOT HARMED IN ANY WAY!!

Microsoft has contributed greatly to our national gross product, and kept American software standards in constant motion. They have provided thousands of American with jobs. Not to mention the great generosity of the Gates Foundation.

I believe that the lawsuit should be dismissed, if that is not possible, then the closure is absolutely necessary in order to continue the prosperity of our country and implore Senators and local legislators to stand up for the American people and the American principle. Let Microsoft keep doing what they do best, especially considering they've already accepted the proposed settlement forced on them. Keep the Federal Court from having to deal with this nonsense issue any longer.

Thank you for taking the time to read my letter and I hope you, along with other government heads are really considering the American consumer. WE HAVE NOT BEEN HARMED.

Sincerely,
Ed Biever
Sandwich, IL.
CC:speaker@mail.house. gov@inetgw,dick@durbin.senate.g...

MTC-00025666

From: EVERHJ@aol.com@inetgw
To: Microsoft ATR
Date: 1/25/02 11:53pm
Subject: Microsoft Settlement

MTC-00025666—0001

114 Greenwood Drive
Hagerstown, MD 21740
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to voice my support of the settlement reached between Microsoft and the Department of Justice. This case has been going on for years and I don't see how this issue really represents the consumer interest. Microsoft has hurt no one and it certainly isn't their fault that their competitors aren't as intelligent and innovative. There is already far too much politics in our business and this lawsuit certainly does not provide a good example for future behavior. Money-hungry politicians gave into the complaints of Microsoft's competitors and now taxpayers are footing the bill for a lawsuit that is in no way benefiting them. This settlement, although unfair to Microsoft, fairly addresses the issues of the lawsuit and will indeed restore competition to the computer industry. Microsoft has agreed to share more information with their competitors regarding technology. They will also be making it easier for consumers to configure Windows to access non-Microsoft products. If this does not satisfy Microsoft's competitors, then they are only looking for a break-up and are obviously not willing to compromise. I hope that you make the right decision and accept this settlement to prevent any further tax money being used for selfish and pointless lawsuits. Thank you for your time.

Sincerely,
Hugh Everline

MTC-00025667

From: bev.ted@juno.com@inetgw
To: Microsoft ATR
Date: 1/25/02 11:53pm
Subject: Micro Soft Law suite

I feel that any more wasted time investigating Micro Soft will not benefit the General Population, The only ones that will benefit will be a few High Paid Lawyers and Micro Soft Competitors. STOPP THIS NONSENSE NOW!!!

Sincerely T.W. Axtell

MTC-00025668

From: Richard & Sondra Andersen
To: Microsoft Settlement
Date: 1/25/02 11:49pm
Subject: Microsoft Settlement

Richard & Sondra Andersen
221 Mary Place
Muscatine, IA 52761–5503
January 25, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies. Thank you for this opportunity to share my views.

Sincerely,
Richard & Sondra Andersen

MTC-00025669

From: Erik Friedlander
To: Microsoft ATR
Date: 1/25/02 11:55pm
Subject: Microsoft Settlement

The proposed settlement with Microsoft in insufficient, and currently a bad idea. It needs to be more restrictive on Microsoft for it to be effective

Erik Friedlander
erikf@cse.ucsc.edu
Admit Nothing.
Deny Everything.
Make Counter-Accusations.

MTC-00025670

From: thaddeus@TheRamp.net@inetgw
To: Microsoft ATR
Date: 1/25/02 11:52pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Thaddeus Wronkiewicz
143 Dolores Drive
Bensenville, IL 60106–3419

MTC-00025671

From: Steve Fox
To: Microsoft ATR
Date: 1/26/02 12:04am
Subject: Microsoft Settlement

I am writing to state my opinion that I think the proposed Microsoft settlement would be completely ineffective with regards to curbing anti-competitive behavior from Microsoft.

I have read Dan Kegel's letter at http://www.kegel.com/remedy/letter.html and I agree with the statements made in this document.

Please consider this email a vote against the proposed settlement.

Thank you.
Steve Fox
4215 2nd St NW
Rochester MN 55901

MTC-00025672

From: George Haeh
To: Microsoft ATR
Date: 1/25/02 11:57pm
Subject: Microsoft Settlement

As a software developer for the past three decades, I have been following developments in this case with considerable professional interest. Well before the advent of Windows, I was deeply versed in IBM mainframe operating system technology and able when necessary as a customer to examine source code in IBM operating systems and program products to diagnose programs or produce modifications.

Microsoft however has a different way of doing business that has been thoroughly documented in depositions and direct evidence.

As proposed, the settlement between Microsoft and the Federal Department of Justice will effectively legalise Bill Gates as the Don Corleone of desktop software. No software firm with any aspiration to profitability will dare compete with any application MS chooses to bundle with its operating system.

Worse still is the prospect that once a new desktop application gains a significant market, the proposed settlement does absolutely nothing to prevent Microsoft with its billions from deciding to write a competing application and bundle it with the operating system, just as they have done to Netscape and Real Networks. If the original developer of the new application is lucky, it will get an offer it can't refuse from Microsoft.

The ultimate economic result will be that Microsoft will become the sole source of new desktop applications. This proposed settlement utterly smothers competition in desktop applications.

Yes—Microsoft sells operating systems (and office software) that just about everybody is forced to use to communicate with others—but why does that monopoly entitle Microsoft to create all sorts of new application monopolies in browsers, instant messaging, media players ad infinitum simply by including new applications with its operating systems for "free"?

For consumer convenience, I could find it perfectly acceptable that Microsoft could include an application bundle with their operating system that would be separately priced, just like their Plus! pack.

To prevent propagation of new monopolies, Microsoft should be required to charge a non-predatory price for each separate application (each application could be unlocked through an internet-accessible registration procedure or with license keys separately available at time of purchase). Other software vendors would then be able to compete with their own application bundles made available the same way on a considerably more level playing field. And just as important, every MS-supplied application including MS Office would be built to published operating system interfaces as verified by a master appointed by the court. These interfaces should be made available to outside software developers at the same time they are made available to internal Microsoft application developers (with the proviso that pre-release interfaces are subject to change which will be published externally at the same time as internal publication).

Given Microsoft's key position in the software marketplace, file formats used by its applications and operating systems need to have the same status as programming interfaces to enable the marketplace to compete with equivalent and enhanced products. Do that and you will have real competition and something to show for all the litigation. The previous comments were written before the remedy proposal from the Plaintiff Litigating States was filed. Having read this proposal, I am struck by its simple common sense.

The Plaintiff Litigating States" proposal is the sensible and straightforward set of remedies that directly addresses the findings upheld unanimously by the Appeals Court and puts competitors on a level playing field that should have come from the DOJ if the Federal Attorney-general was faithfully doing his duty as counsel to his client's best interests, the American public.

George Hash
643 Logan Ave.
Toronto, ON
M4K 3C4
416–465–2292
ghash@idirect.com
CC:Nini Redway

MTC–00025673

From: Dave Karnecki
To: Microsoft ATR
Date: 1/25/02 11:59pm
Subject: Microsoft Settlement

To Whom It May Concern:

Enough already! A settlement has been reached, Microsoft has been slapped "in the manner that is appropriate".

What Sun, Netscape, Oracle, AOL, et al need to do is produce a superior product and THEN and ONLY THEN will they gain the increased market share they desire. The courts ARE NOT the place for determining what's best for the consumer and business, the marketplace is. Let's stop the drag and keep those people working! All a prolonged court battle will produce are increased layoffs and job losses.

Respectfully,
Dave Karnecki
Gainesville, Virginia
dck@dasu-ent.com

MTC–00025674

From: beattymp@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/25/02 11:59pm
Subject: Microsoft Settlement

Let me begin by saying that I completely support the settlement and want this entire case brough to completion. Below are some thoughts that came to mind while reading the case against Microsoft.

First of all, the whole browser issue is a complete waste of time for every party involved, and it makes me sick to my stomach to think of how much money my government has wasted chasing this irrelevant case. As a technology consultant who has vast experience in many software platforms, the issue of the browser is ridiculous because any programmer worth their weight in beans could easily program their own browser to any operating system. Netscape had a commanding lead in browser share, which was wasted away by their own business policies and made even worse when Sun acquired Netscape. I used to have a lot of respect for Sun when I was consulting on their platform, but then I saw how their pricing and arrogance stifled innovation in the functionality and integration capabilities of the Netscape browser.

This was also true with Java. It was great when it first came out, as the promise of the technology was the sweetest thing to hit the industry in a long time. By keeping such a tight hold on java, Sun has not only missed opportunity to advance the language, but they have kept many companies from innovating the language to provide a feature set that meets the needs of enterprise customers. When Microsoft added to java, they were only meeting the needs of their customers by filling the void in functionality that Sun refused to provide. Other companies have done the same, IBM, BEA, and others to the point that it takes a "port" of the code from one operating system to the next. This is completely opposite of what the early promise of java was "write once, run anywhere". To meet the needs of my business customers, we always have to find a vendor specific java such as IBM so that we can get the features out of the language that make it usable. If the language was submitted as a standard, these enhancement s would have been made to the language. Instead, Sun has kept the royaltees on all java licensing and has caused the rest of the industry to innovate around their stubbornness. Needless to say, I can better meet the needs of my customers by using another vendors "flavor" of java versus the straight Sun implementation.

The thing that bothers me the most about this case is that most of the "facts" (using the term loosely since I completely disagree with the previous findings of "fact" by the biased judge Jackson) brought to the government's legal team have come from Microsoft competitors, the ones who have the most to gain by hurting Microsoft. I have explained my thoughts on Sun, java and Netscape, and they are just a sampling of why this case should have never made it to the courts in the first place. To blanket this whole case and say that Microsoft is not allowing the industry to innovate is completely ridiculous. Microsoft should be punished for specific actions that have violated the law, and only for those specific actions. Given the amount of venture capital money that was fed into the economy over the last 10 years, there was plenty of opportunity for any company to come to market with new and compelling products. In regards to the settlement, it appears that both sides have made significant concessions to see this to an end. Ever since the DOJ brought this case against Microsoft, the economy has been in a tailspin. It appears that as long as this case is active in the courts, the chains of "waiting to see what happens to Microsoft" will remain, and the economy will remain stale. This tailspin has rippled into other industries and if we are ever to start recovering from this recession, this case needs to be completely settled and resolved.

Please bring this case to an end and let our industry regulate itself. If people are seeing unethical or extremely competitive behavior, they can make their own decisions on who to support with their IT dollars. If companies are explicitly breaking the law, punish them for those specific acts and do not bring the rest of the industry down (and in this case, the whole economy) with them.

Thank you,
Michael Beatty
CC:beattymp@yahoo.com@inetgw

MTC–00025675

From: Myles MacVane
To: Microsoft ATR
Date: 1/25/02 11:58pm
Subject: Microsoft Monopoly

Dear Sirs:

If owning the rights to copies of an operating system used by 98% of the computers in the country does not, prima facie, constitute a monopoly, I don't know what does. Imagine that Microsoft owned the rights to the internal combustion engine. Much as with their Windows operating system, they could control most of the peripherals: radios, CD players, tape players, and GPS systems, for example, that General Motors, Chrysler, Ford, Honda, etc. could put into their vehicles. A better analogy might be...suppose Microsoft, owning the rights to the internal combustion engine, decide to engineer their engine so that only the gasoline refined by their own oil company worked well in that engine. What would happen to the other oil companies? They'd be kaput! That's just about what Microsoft is doing. Microsoft is basically anti-competitive, and it is the public who suffers.

Myles MacVane
13 Lyons Plain Rd.
Weston, CT 06881–0816
m—a—macavane@yahoo.com

MTC-00025676

From: Rich Wendling
To: Microsoft ATR
Date: 1/26/02 12:00am
Subject: Microsoft Settlement

Finally! I wanted to let it be known that it's a good thing you are finally settling this case. The DOJ has more important things to do than to pursue this matter. Thank you.

MTC-00025677

From: Gerard Jeronowitz
To: Microsoft ATR
Date: 1/26/02 12:01am
Subject: Microsoft Settlement

I am ashamed that the U.S. Government is actually considering this settlement with Microsoft. The settlement as proposed will not accomplish the goal of alleviating Microsoft's strangle hold on the computer retailers and industry at large. Remedy by agreement has not worked with Microsoft in the past, and no-one has gone back to actually follow up with, or enforce previous settlements with the company allowing those agreements to be ignored at will.

Microsoft is a predatory monopoly that stifles any real competition by either purchasing the competition, or eliminating a market by providing a free product and bundling it with their operating system, then forcing retailers to install that software as a default. Microsoft has repeatedly attempted to stall any legal proceedings by any means necessary, attempted to mis-lead the courts with falsified or manufactured testimony, and shows nothing but contempt for the process of law.

I do hope that the court will see through this travesty of a settlement and provide substantive, meaningful, and long term remedy. My suggestion is to break the company in to four smaller entities: Internet (MSN, Explorer, IIS), Media and Entertainment (games, XBox, Windows Media Player), Applications and Operating systems (MS Office, Windows) and lastly, Hardware (keyboards, mice, PocketPC). This mix, though likely seen as drastic by many, would minimize the ability of one company to gain advantage from the work of another and provide for an environment of open, honest competition in the spirit of Capitalism and the open market system.

Action such as this is necessary if TRUE innovation and competition is to continue in the future. Thank you for your time.

Gerard Jeronowitz
3041 N Sawyer
Mesa, AZ 85201

MTC-00025678

From: Luke Lin
To: Microsoft ATR
Date: 1/26/02 12:00am
Subject: Microsoft Settlement

I think the Microsoft Settlement is a horrible plan. It allows Microsoft to overtake the only area they currently do not dominate—education.

Luke Lin

MTC-00025679

From: Donald Fox
To: Microsoft ATR
Date: 1/26/02 12:03am
Subject: Microsoft settlement

I feel very strongly that Microsoft has been unjustly accused and persecuted in the matter of their alleged monopoly of computer operating and applications systems. I think it is time to put a halt to this action and proceed with what seems to me to be a very fair settlement.

I don't believe that tough competition should be discouraged in order to protect others from their inability to compete. I believe to do so deprives everyone from using the fruits of that competition. If Microsoft is the one that survives, then so be it. I agree that they should not use predatory and unfair means to achieve their position but as I followed the court actions, it seemed to me that it was not proved that they followed illegal practices.

I strongly urge you to accept the proposed settlement forwith.

Donald Fox
105 Via Eldorado
Warner Robins, GA 31088

MTC-00025680

From: Avi Rappoport
To: Microsoft ATR
Date: 1/26/02 12:04am
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

I object to the proposed Microsoft Settlement, the Proposed Final Judgement. I have been personally injured by Microsoft's monopoly practices, both when I worked for a Macintosh OS software developer, and when I worked for a web server developer. In the latter case, Microsoft included a free web server in Windows NT, which made our cross-platform server software entirely uneconomic. There was simply no longer a market for server software, which destroyed the server division of of my employer, Quarterdeck.

As a consumer and small businessperson, I have been hurt by a lack of choice in operating systems and office automation applications. I had to buy a Windows machine to run certain programs, although I prefer to use the Macintosh OS. I know Microsoft Word, Excel and PowerPoint very well, and would not use them if I had a choice. However, to share files with my consulting clients, I am required to pay for these applications.

I believe that any settlement with Microsoft should have the following characteristics:

—It should reduce barriers to development of applications, especially those which compete with Microsoft products.
—It should require Microsoft to publish all secret APIs used by Microsoft inhouse and close partner developers.
—It should require Microsoft to disclose all patents protecting Windows APIs to avoid inadvertent infringements.
—It should allow users to replace Microsoft.NET with competing middleware.
—It should apply to all flavors of Windows which use the Win32 and associated APIs.
—It should require advance notice and documentation of technical requirements and changes to the middleware.
—It should require complete and current documentation of Microsoft Office file formats, and infrequent changes to these formats.
—It should remove any restrictions on Open Source software.
—It should remove any restrictions on Microsoft software on competing Operating Systems.
—It should punish intentional incompatibilities, as Microsoft has used in the past to keep software from running on other Operating systems.
—It should restrict Microsoft from punishing any OEM, especially smaller companies, that do not want to license Windows for all their systems.
—It should disallow discounts based on sales of other products.
—It should have a strong and automatic enforcement mechanism, with some kind of heavy fines or damages for each infringement.

The Proposed Final Judgement fails in all these aspects, allowing Microsoft to leverage its monopoly in operating systems to other aspects of technology and reducing the free market of ideas. I urge you to consider the issues above in creating a fair settlement that is in the public interest.

Thank you,
Avi Rappoport

MTC-00025681

From: lpear16122@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:00am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Lois Pearson
E. 11114 48th Ave. Spokane, WA 99206

MTC-00025682

From: howard(a)tayler.com
To: Microsoft ATR
Date: 1/26/02 12:05am
Subject: Microsoft Settlement

I believe the proposed settlement is a bad idea. It will not prevent illegal monopolistic behavior in the future, and will actually strengthen Microsoft's desktop monopoly, giving them MORE power to illegally exploit that desktop to soak consumers.

Howard Tayler
Orem, UT

MTC-00025683

From: Steve Corwin
To: Microsoft ATR
Date: 1/26/02 12:05am
Subject: Microsoft Settlement

Throughout this case there's been a lot of talk about Microsoft's freedom to innovate, but what about my freedom to innovate? I'm a profesional software developer with over 10 years experience. Suppose I come up with an idea for a new piece of software, something that most anyone can use. Suppose I start a company to sell it. Under the terms of this agreement, Microsoft is free to release a competing product for free & put me out of business, just like they did to Netscape. Microsoft has almost $38 billion in the bank to fund their efforts. I need venture capital. What venture capitalist will fund me? They know what happened to Netscape. They know what happened to IBM's OS/2. They figure they know what will happen to me. What about my freedom to innovate?

Steve Corwin
steveco@san.rr.com

MTC-00025684

From: Maryln Pedgrift
To: Microsoft ATR
Date: 1/26/02 12:05am
Subject: Litigation

Dear Mr. Ashcroft,

I wish to express my opinion regarding the Microsoft settlement that I thought was resolved in November. I wish to support this settlement in supporting Microsoft. Otherwise, no one will really benefit if this suit continues. Microsoft is a fair company and has agreed to respect other companies in which is fair and lawful. This company has benefited so many people and consumers will be hurt by a continuing litigation. It has agreed to comply with disclosure for use by its competitors and internal interfaces for the windows operating systems.

Please support the settlement. Thank you so much.

Very truly yours,
Maryln Pedgrift
Maryln@primeline.com
CC:fin@mobilizationoffice.com@inetgw

MTC-00025685

From: Edward W Goodwin
To: Microsoft ATR
Date: 1/26/02 12:08am
Subject: Microsoft Settlement

Dear Sirs:

It is high time that the legal actions taken against Microsoft come to a final conclusion. I strongly support the Justice Department in determining a quick and final solution to this law suit. To continue the delay of a final settlement only enriches the pockets of attorneys and a few special interest groups. This case has gone on long enough. The Justice Department now has more pressing issues to face in light of 9/11.

Sincerely,
Edward W. Goodwin
Greenville, SC

MTC-00025686

From: SDFGOLF@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:10am
Subject: Microsoft Settlement

I want to give my support to settlement of the antitrust settlement between Microsoft, the DOJ, and nine states. To let the greedy states and Microsoft competitors seek to persist in their efforts to prolong this case is plain wrong.

In December of last year I bought a new Dell Computer. WindowsXP and Office 2000 are marvelous. Microsoft is a great company with great products. If competitors developed new products and managed as well as Microsoft they could earn money through their product sales insted of suing Microsoft.

Stanley D. Fuqua
5708 92nd Ave. S. E.
Mercer Island, Wa
98040

MTC-00025687

From: Elaine C. Martinez
To: Microsoft ATR
Date: 1/26/02 12:14am
Subject: Microsoft Settlement

Gentlemen:

Please accept the settlement so that Microsoft can get on with the business of serving the people of this country. It is my opinion that Microsoft should never have been singled out and persecuted as it has been in recent times. I love Microsoft products, and I think Mr. Gates is wonderful for giving people such great software at affordable prices.

The ideas put forth by Microsoft are always geared toward increasing productivity, and everyone should support them so we can all have a better life.

I'm retired now, but I really enjoyed working with some of the computers I used in my jobs as a secretary. I consistently found that the computers I liked were all "loaded" with Microsoft products! I hope the courts get finished with Microsoft so that Mr. Gates and his company can get back to business.

Sincerely,
Elaine C. Martinez
Seattle, Washington

MTC-00025688

From: patrick
To: Microsoft ATR
Date: 1/26/02 12:14am
Subject: MICROSOFT SETTLEMENT

Hello

Please expedite this extravagant attorney parade to its inevitable conclusion ASAP.

Do you guys think for one moment our real competitors, the Japanese, the Chinese, the Europeans, would waste any time trying to destroy one of their most successful companies the way we let the parasitic lawyers trash American firms like Microsoft?

Please stop wasting our time and money with this show. Microsoft has helped the world become standardized and productiive.

Please go chase real criminals, like the international drug syndicates ruining our childrens opportunities to even use Microsoft's products. Go chase the importers who are slowly destroying American productive manufacturing jobs. Do somthing that really helps the country, not just the attorneys. The "Justice" department just makes me angry.

Yours Truly,
Patrick J. Driscoll P.E.

MTC-00025689

From: weeones3@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:13am
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Kathleen smith
9617 S. Bell
Chicago, IL 60643–1626

MTC-00025690

From: Harry Lee
To: Microsoft ATR
Date: 1/26/02 12:17am
Subject: Microsoft Settlement

Dear Attorney General,

One of the most productive companies in the United States is Microsoft. Due to its innovations in software, Microsoft has contributed a good share in the growth of the U.S. and the world economy. However, instead of rewarding for its contributions, it is punished for being too big and monopolistic. In its quest for growth, it may have hurt its competitors, but isn't that the way business operates? In competition, there is always one winner and many losers. But losers may improve and win the next time.

Microsoft has done its part to rectify the complaints against it. It has proposed a solution that will be beneficial to schools and the disadvantaged. It is a cost-effective solution, and it is time to move on. Any additional litigation will only raise the cost of software for everyone. In the end, who really pays? It is the consumer. That is not the way to bring us out of recession.

Thank you for reading this e-mail.

Harry P. Lee
HI-IQ Products, Peizen Industries
P.O. Box 1198
Camarillo, CA 93011–1198
Ph: (805) 484–2454
Fax: (805) 383–5909

MTC-00025691

From: John Battick

To: Microsoft ATR
Date: 1/26/02 12:20am
Subject: Microsoft Settlement

Dear Mr. Ashcroft:

I am writing to address the matter of the settlement in the Microsoft Antitrust suit. I am in agreement with the current settlement insofar as to say that no further action should be taken against Microsoft. Although I am in favor of accepting the antitrust settlement I believe that it was wrong from the start for Microsoft to have been sued. I do not think that Microsoft should have been penalized; rather, they should be rewarded for their innovation and creativity in the IT field. As I see it, the entire antitrust proceedings were unfounded and unfair to the concept of free enterprise.

Now is definitely not the time to be handicapping an industry leader such as Microsoft with costly and time-consuming litigation. The current downturn in our economy needs the stimulation which the IT field can generate. By tying up both corporate and taxpayer dollars in the courtroom we are depriving the economy of valuable resources, which could be used to help get our country back on track. For these reasons I believe that accepting the current settlement is not only in the best interest of Microsoft, but it also in the greater interest of the economy as a whole.

Sincerely,
Nancy C. Battick

MTC–00025692

From: Daniel P. Brown
To: Microsoft ATR
Date: 1/26/02 12:20am
Subject: Microsoft Settlement

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
January 25, 2002

Dear Ms. Hesse,

Microsoft is a convicted monopolist. Well, adjudicated monopolist, anyway.

This case should not end without a remedy that restores competition. Any remedy should have four concurrent goals: to put an end to the illegal monopoly; to prevent a return to anticompetitive behavior; to deny the violator the benefits of its illegal actions; and to ensure competition going forward.

Microsoft must be forced to offer a version of Windows unburdened by Microsoft's monopolistic add-ons. The free market, and not Microsoft, must be the mechanism by which emergent technologies are judged. Microsoft must be permanently banned from forcing independent software vendors and internet service providers into exclusive contracts with Microsoft. Allowing a monopolist to withhold platform support from nascent and independent entrepreneurs is antithetical to the functioning of a free market, and strangles, rather than supports, real competition. The appointment of a Special Master overseeing Microsoft compliance must be a part of any settlement. The seed which became the "second" multimillion dollar effort to bring Microsoft into compliance with the law was planted with Microsoft's blatant and arrogant disregard of an earlier toothless compliance decree from the government. This remedy will meet the same expensive end if it is not accompanied by adequate enforcement.

Thank you for your time.

Sincerely,
Dan Brown
Saint Paul, Minn.

MTC–00025693

From: ewaldfernbach@compuserve.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:21am
Subject: Microsoft Settlement

Dear Honorable Judge Kollar-Kotally , my name is Ewald Fernbach, I am working as IT manager for Vector Labs, 30 Ingold Rd., Burlingame, CA, 94087.

Regarding the proposed settlement for the antitrust lawsuit against Microsoft I have the following concerns: The settlement fails to terminate the Microsoft monopoly, and instead guarantees Microsoft's monopoly will survive and be allowed to expand into new markets. All monopolies must be carefully watched to make sure they don't abuse their monopoly position. Indeed, many monopolies are either broken up or carefully regulated in order to protect the public interest. Why is Microsoft allowed a waiver to this general rule? Does the Justice Department think that Microsoft is going to suddenly change its operating methodology? The proposed deal with the justice department does not address the fact that Microsoft has abused its monopoly and is likely to do so again, and again, and again in the future to the detriment of others.

The proposed settlement does not address Microsoft's proven ability to retaliate against would-be competitors and to, in effect, appropriate the intellectual property of its competitors—and even its partners—in fact all who do business with Microsoft. The Appeals court found such past conduct by Microsoft highly egregious yet the Agreement does not address these issues. Again, many of us have been on the receiving end of these types of Microsoft bullying tactics. Bolting. The proposed settlement, as far as I understand it, does not address the issue that fueled consumer criticism and which gave rise to this antitrust case in 1998: Microsoft's decision to bind—or "bolt"—Internet Explorer to the Windows operating system in order to crush its browser competitor Netscape. This settlement gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a "Windows Operating System product." This creates a new exemption from parts of antitrust law for Microsoft and would leave Microsoft free in future versions to bolt financial services, cable television, or the Internet itself into Windows.

Non MS standards. The Court of Appeals affirmed that Microsoft had unlawfully and intentionally deceived Java developers and "polluted" the Java standard in order to protect its monopoly and defeat competition. Yet, the proposed settlement does not restrict Microsoft's ability to modify, alter or refuse to support computer industry standards, including Java, or to engage in campaigns to deceive developers of rival platforms, middleware or applications software. Indeed, Microsoft's decision not to distribute Java technologies with Windows XP, which hurts developers and consumers alike, will be the shape of things to come under the proposed deal unless the Court requires Microsoft to continue to support accepted industry standards such as Java technologies, even if they do not originate from Microsoft.

Middleware. As part of the proposed settlement, Microsoft is required to allow the PC manufacturers to hide Microsoft middleware programs and allow them to install icons or links to competing middleware programs. The only problem is that the PC manufacturers are not allowed to remove the code that could be used to reactivate Microsoft's middleware programs. In other words, two weeks into owning the machine, a consumer could be asked if they want to reconfigure their desktop, install all the Microsoft middleware and delete all the competitor's middleware, which many users would undoubtedly do, without really knowing what they are doing. If they then would find out that the reinstalled Microsoft product is inferior to the competitors product, they would not have an easy way to fall back to the previous settings.

Communication Protocols. The settlement states that Microsoft must now share information on how its middleware and server software work together with Windows. However, Microsoft does not have to disclose this information for middleware it does not distribute separate from Windows, or for middleware it has not trademarked. This leaves the door open for "bolting" discussed above. If Microsoft wants to drive a competitor out of business, they just attach the specific type of software the competitor is involved with to their Windows platform. Once they do that, they do not have to share the API's and other basic information that is needed by the competitor to ensure its software works with Windows. And without reliable access to 90% of the PC's in the world—no competitor can survive. Once the competitor is out of business, Microsoft can separate the software from the Windows package, sell it separately and derive huge margins. In addition, Microsoft does not have to disclose their information to companies that in "their view" do not have a "viable business" (defined as selling at least 1 million units in the previous year).

This loophole will allow Microsoft to hamper new software start-ups from becoming true competitors simply if in Microsoft's "view" they are not a "viable business". Who can really say which new start-up is a "viable business"? Certainly this should not be left to the judgment of a voracious monopolist. Lastly, Microsoft does not have to disclose this coding information if Microsoft deems such disclosure would harm the company's security or software licensing. There is no provision to say who is to make this determination, leaving it on a defacto basis up to Microsoft Enforcement of Settlement Compliance. The proposed settlement requires a three-man compliance team to oversee Microsoft's compliance with the Agreement. Microsoft will appoint one person, the Justice Department another, and the third will be chosen by the two people already appointed. In essence, Microsoft will control half the team. This new team will not be allowed to inform the public of their work, and cannot impose fines. In addition, the work of the committee cannot be admitted into court in any enforcement proceeding. The committee's sole remedy for infractions is for them to inform the Justice Department of the infraction and then the Justice Department will have to conduct their own research and commence litigation to stop the infraction. The Justice Department does not need a compliance group to tell them when Microsoft is doing something wrong, so in reality this group is just a smoke screen and will waste taxpayers money.

In conclusion I think that the proposed settlement has nothing to do with justice but represents the capitulation of the judicial system of the USA. The message this settlement sends is: "you can get away with anything if you have enough money in your corner". This is a very dangerous and discouraging message for corporations as well as for individuals and will definitely add to the already significant corrosion of the publics trust in their country's judicial system.

To me it looks like with the proposed settlement the Justice Department is trying to pretend that justice has been served, whereas in reality Microsoft was able to put itself above the law. As citizen of this country and as computer user I urge you to do everything to prevent Microsoft from continuing its detrimental business practices. I strongly oppose to accepting the proposed settlement in the form discussed above and I suggest a thorough revision of the whole case.

Best Regards
Ewald Fernbach

MTC-00025694

From: Jack Sperry
To: Microsoft ATR
Date: 1/26/02 12:26am
Subject: Microsoft Settlement
15706 SE 173rd Street
Renton, WA 98058–9106
January 25, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to address the recent settlement between Microsoft and the Department of Justice. I am more than happy with this agreement and think it should stand. Any further litigation will be counter-productive and hamper any chance of revitalizing our economy. I did not support the initial lawsuit. There was no consumer abuse. I use Microsoft products because they are quality products at a reasonable price. What's the problem? If there were other products out there of equal quality and equal price, I would use those, but there aren't. Microsoft's competitors have had the same chances as Microsoft. They just have not been able to perform as well. Hence, they run to the government for a leg up.

I am also concerned with the intervention of government in what is supposedly our free market system. Government is taking the intellectual property of a company, and forcing same to disburse it among its competitors. Why should anyone bother to invent something any more if they know it will be subject to delineation among their competitors if they are "too successful"? Would you?

Microsoft has agreed to this principle in that it has agreed to disclose for use by its competitors various interfaces that are internal to Windows" operating system products; Microsoft has also agreed to help companies write software that networks well with their own. Enough is enough. I urge you to give your support to this agreement and allow Microsoft, and this country, to get back to business.

Sincerely,
Jack C. Sperry

MTC-00025696

From: Brent Pickert
To: Microsoft ATR
Date: 1/26/02 12:27am
Subject: Microsoft Settlement

To whom it may concern:

I would like to make my voice heard in the Microsoft Antitrust settlement.

I do not believe that the current settlement will discourage Microsoft in any way from continuing the practices that have led to the trial. I believe that whatever settlement is finally approved needs to make certain that not only is Microsoft punished for their years of law breaking, but also that the settlement puts into place avenues for competitors to make inroads that will add competition to the market. Thank you for your time, Brent Pickert

MTC-00025697

From: mjbgoetz@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:26am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
JOYCE GOETZ
32128 CANYON CREST CT.
WESTLAKE VILLAGE, CA 91361

MTC-00025698

From: Florian
To: Microsoft ATR
Date: 1/26/02 12:28am

MTC-00025699

From: Harry P Gallagher
To: Microsoft ATR
Date: 1/26/02 12:28am
Subject: leave Microsoft alone.

without them there would be no computer industry. I started out twelve years ago with an apple 2C and progressed to a PC. Microsoft made it possible for the unsophisticated operator to learn to operate a computer. Without windows there would have been no computer industry like it is today. They built a better mousetrap and the world beat a path to their door. It created a huge industry which benefited the federal government with more tax income due to the many companies that sold computers. Stay off their back and be glad they are in business.

H.P. Gallagher
4738 Collinos Way,
Oceanside, CA 92056

MTC-00025700

From: AL OIEN
To: Microsoft ATR
Date: 1/26/02 12:29am
Subject: DESTRUCTION OF LIBERTY IN AMERICA

TO WHOM IT MAY CONCERN:

IF YOU ARE UNABLE TO COMPETE IN THE MARKETPLACE THESE DAYS, WHINE TO THE GOVERNMENT AND THEY WILL REWARD YOU BY FORCING YOUR COMPETITION OUT OF BUSINESS. ANOTHER TRIUMPH OF THE MOTHERS OF AMERICA.

al

MTC-00025701

From: grouch
To: Microsoft ATR
Date: 1/26/02 12:30am
Subject: Microsoft Settlement

The "Proposed Final Judgement" in the case of "Civil Action No. 98–1232 (CKK)" appears to be another recipe for failure in a long line of such failures by the Department of Justice with regards to Microsoft. It appears to have no strength with which to interrupt the predatory practices of which Microsoft has been found guilty. It appears to have no ability to restore competition in a market which has been devastated by the illegal leveraging of monopoly power for which Microsoft has been found guilty. It appears completely inadequate to anticipate the future moves Microsoft may make to continue illegally leveraging their existing and expanding monopoly powers.

The provisions of the Proposed Final Judgement appear on the surface to be adequate. However, there are so many exceptions and phrases of "nothing ... shall prohibit" that the settlement is rendered little more than a catalog of past behaviors that the Department of Justice meekly requests that Microsoft not repeat, if it's not too inconvenient for Microsoft. One provision goes so far as to give Microsoft an easy way to circumvent all of the provisions regarding APIs; they only have to tie those APIs somehow to security measures and claim revealing those APIs would compromise security. It should be remembered how

Microsoft claimed their browser was a necessary and integral part of the operating system. Even the definitions are inadequate for they allow much leeway for Microsoft to continue expanding their monopoly into other marketing areas.

The Proposed Final Judgement does little to address the applications barrier to entry. Every provision that prohibits retaliation by Microsoft against OEMs, ISVs, or IHVs, includes loopholes concerning security or intellectual property rights which allow Microsoft an easy side-stepping of the prohibitions. Additionally, nothing is done about the network effects of Microsoft products in creating the barriers to competitors. The data formats of all Microsoft software will continue to be a fearsome weapon preventing the use of any competing product. So long as Microsoft is allowed to hold data hostage to its file formats, the monopoly power is assured and can be leveraged to extend that monopoly in other areas. No competitor may make inroads on a network on which Microsoft has established its lock on the customers data. Once again, while the Department of Justice picks nits with the past, Microsoft has moved on to other ways of ensuring monopolistic power over computer users. The findings of fact showed how Microsoft effectively eliminated the threat to its monopoly from middleware products. The proposed final judgement does nothing to remedy this, and in fact section III.H. has two exceptions that handily provide the means for Microsoft to extend its monopoly into the server market with ActiveX ties between Microsoft middleware and Microsoft servers. As for Sun's Java, Microsoft is well underway to using its current monopoly powers to supplant Java with .NET and C#, again outpacing the Department of Justice as it has repeatedly in the past.

I do not pretend to know the protocols and fine points of the legal profession, but it looks like the criminal in this case gets off without paying for the crime and gets to define much of the contraints, or lack thereof, placed on the criminal's future actions. I see no punishment, no restitution, no barrier to Microsoft continuing to harm customers, competitors, and the computing industry in general in this proposed final judgement.

Terry Vessels

MTC-00025702

From: Larry Anderson
To: Microsoft ATR
Date: 1/26/02 12:33am
Subject: Microsoft case comments

I don't believe the current penalties against Microsoft do justice to them for their wrongdoings or for us, as consumers who are seeing as they settle this case they are manipulating the hardware/software industry on other fronts which most likely will lead to more cases against their practices.

The breakup of Microsoft was in my opinion more just as it would unleverage the company from multiple in-house assaults on various markets from its serveral fronts (operating systems, applications, internet, and development tools). The Education idea as mentioned is only a benefit to microsoft in the long run rather than a punishment. I don't think it is fair to tell a compnay to do create something for or support a platform it does not have interest—but if one holds a monopoly, they should be responsible for keeping the playing field stable and open for competition—Microsoft needs to offer inroads for new technologies (publish standard interfacing detail to key operating system and performance features) to make a product that can work with others (and that will still work with others for a significant period of time) or that others can be data compatible with microsoft's without the threat of them just changing the rules and dargging all the hapless comsumers along with them thus leaving everyone else incompatible again. When you have an 80%+ stake in a broad but key technology (the OS) and with the right marketing you know you can get that 80% to purchase any upgrade in two years (i.e. offer corporate/government/educational discounts on newer but slightly incompatible technology, which forces the need for lower level businesses, local government and consumners to upgrade to also be compatible with the higher levels,) whether they really needed to or not.

I think Microsoft has a need to innovate but also live up to its (and its competitor's) promise of "standard" so others can use microsoft's "standard" to build from without having it turn into the "old standard" mv MS too soon. If Microsoft continues to "business as usual" it will keep costing the conumers: corporate, government, public and private in upgrades and constant re-invention of our technologies and while we keep paying MS for their un-fair practices.

Larry Anderson
San Andreas, CA
(209) 754-1262

MTC-00025703

From: crb
To: Microsoft ATR
Date: 1/26/02 12:38am
Subject: Microsoft Settlement

I believe that the proposed settlement in the Microsoft case is deeply flawed and will only allow Microsoft to continue its predatory tactics in one form or another. I've spent years trying to circumvent Microsoft's control over my personal computer—for instance, I had to spend many hours figuring out why Netscape Navigator wasn't downloaded when I installed my Mac OS. Finally figured out that Netscape Navigator WAS on the disk, but that I had to install it manually (it was obvious that NN was meant to be hidden from the average user).

Microsoft has harmed personal computer users like me who want alternatives to Microsoft products. I am a fervent user of Apple computers, and I want real choice in the marketplace. If Microsoft is allowed to evade any meaningful sanctions, it will just extend its monopoly power indefinitely. Please punish and constrain Microsoft in some real fashion.

Thank you.
Colette Brooks

MTC-00025704

From: Andrew Stewart
To: Microsoft ATR
Date: 1/26/02 12:35am
Subject: I do not agree

This just a light slap on the wrists to Microsoft. Regardless of the alleged importance to the computer industry. Microsoft should be made to understand that you can not just break the law and bully competitors.

>>>>>Andrew Stewart<<<<<<

MTC-00025705

From: Bob McKenna
To: Microsoft ATR
Date: 1/25/02 11:35pm
Subject: Microsoft Settlement

Please see my attached letter requesting an end to the government prosecution of Microsoft in the interest of American consumers and investors.

Bob McKenna
email address: bobmck@hal-pc.org
Phone: (713) 690-6996
2734 Bernadette Ln.
Houston, TX 77043-1801

MTC-00025705-0001

Robert G. McKenna
2734 Berrnadette Lane
Houston, TX 77043-1801
Januarry 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this letter is to request that the government conclude and settle the case against Microsoft. After three years of litigation, too much time and money has been spent in negotiating this case. The investing public has suffered significant losses, as the government has drug Microsoft through the legal system. Continuing this litigation process would serve only to decrease important federal resources and further impact consumers and investors. Microsoft has not gotten off easy in this settlement agreement. The settlement that was reached may not satisfy everyone, but it is in the best interest of all to enact it quickly.

The terms of the settlement agreement are very fair in that they provide for many compromises on behalf of Microsoft. Microsoft has agreed to license Windows at the same rate to the largest PC manufacturers. In addition to this, Microsoft will also disclose all of the information regarding the internal interface and protocols of the Windows system. This allows developers to develop new software and hardware that is increasingly compatible with the Windows system. Moreover the formation of a technical review board will provide for the oversight of Microsoft's further action. This technical board will prevent Microsoft from entering into any anticompetitive behavior. Hence, I believe that the terms of the settlement are fair, further enacting the settlement will benefit the technology industries. Enacting this settlement will help restore confidence in the suffering technology industry. Given the current state of the economy, this is the best course for the Department of Justice.

Sincerely,
Robert G. McKenna
Robert McKenna

MTC-00025705-0002

MTC-00025706

From: DTaylor744@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:32am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
David Taylor
3120 E. Westcott
Visalia, CA 93292

MTC-00025707

From: TMM
To: Microsoft ATR
Date: 1/26/02 12:36am
Subject: Microsoft Settlement

To Whom it May Concern,

Please make sure that Microsoft pays the the highest penalty possible for the damage they have done to people by trying to monopolize the computer software industry. Also don't let them make unfair inroads against Apple computer in the education market by "dumping" PCs on schools, let Microsoft make cash donations instead!

Thank you,
Tom McGrath
1323 Princeton St.
Santa Monica, CA 90404

MTC-00025708

From: JC
To: Microsoft ATR
Date: 1/26/02 12:37am
Subject: Microsoft Settlement

As an American citizen and an avid computer user I'd like to send my voice in regards to the Microsoft Vs DOJ Settlement.

We all know that Microsoft has abused its monopoly power to harm competitiors and consumers. Judge Jackson & The Appeals Court have told us that. That's not in dispute here. It's what we need to do to prevent further abuse of power by Microsoft that we need to resolve.

What Mr. James and DOJ agreed to in the settlement is nothing but a "slap in the wrist". It does not open up competition, it leaves OEMs handcuffed and does not affect Microsoft's behavior in any way. What it does do is legalizes some of the business practices that Microsoft has been thought to be doing illegally.

Microsoft attacks competitors on several fronts. To kill off Netscape and RealPlayer they simply bundle their own competing products in Windows and stops OEM from bundling competing products. They refuse to offer a version of Windows without their own "middleware" programs. They use a different method to kill of competing Operating Systems. First they prevent OEMs from setting up dual-boot systems. Thus that effectively eliminated OS/2 and BeOs out of the market. Those two products were far superior to Windows but Microsoft flexed its antitrust muscle to knock them out.

What does Mr. James offer as a solution to this problem? He forces Microsoft to normalize Windows license prices. But the loophole is that Microsoft can punish OEMs by inflating the cost of Microsoft Office licenses or can simply refust to licese Windows. So that remedy has no effect. Next he opened up OEMs to bundling competing middleware applications. But Microsoft will not have offer a version of Windows without the apps bundled. I guess that's enough of all this explanation, I'm sure you've heard everything already. As a computer user who has followed this case very carefully from the start and know all the ins and outs, I know this "deal" is a raw-deal for the consumers and competitors. Remember the DOJ has won this case in trial, there is really no reason to settle for a slap in the writst now. You could've done that years ago.

Why waste the effort that was put into the case? Just my 10 cents.

MTC-00025709

From: silverhaired3@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:39am
Subject: Microsoft Settlement

Ladies and Gentlemen,

I believe that the proposed settlement offers a reasonable compromise that will enhance the ability of seniors and all Americans to access the Internet and use innovative software products to make their computer experience easier and more enjoyable.

This settlement itself is tough on Microsoft, but is a fair outcome for all parties—particularly senior consumers. Most important, this settlement will have a very positive impact on the American economy and will help pull us from the recession we have experienced over the past year. Consumer interests have been well served, and the time to end this costly and damaging litigation has come.

Dragging out this legal battle further will only benefit a few wealthy competitiors, lawyers, and special interest bigwigs. Not one new product that helps consumers will be brought to the marketplace.

Sincerely,
Bohdan (Don) Tuziw
3108 Coffey Ave
Bellevue NE 68123–1331
PH: 402–291–7177
e-mail: silverhaired3@juno.com

MTC-00025710

From: Olivia Stalter
To: Microsoft ATR
Date: 1/26/02 12:39am
Subject: microsoft settlement Letter sent.
Olivia Stalter stalter@tscnet.com

MTC-00025711

From: Clifford R. Earle
To: Microsoft ATR
Date: 1/26/02 12:41am
Subject: Microsoft Settlement

Dear US Department of Justice and States Attorneys General: I must say, after following Microsoft in the press for the last few years, and the antitrust action specifically, that the proposed settlement in this case seems to do be a poor solution. The reasons are various, ranging from the settlement's poor definition of "covered OEM"; to the too-limited 14-day protection of an OEM's desktop configuration; to the exceptions for invocation of Microsoft Middleware; to impossible conditions for membership in the Technical Committee; to the appointment of an *internal* (?!) Microsoft compliance officer; to the impractical limitation of a one-time only extension of the final judgement; to a confusing and contradictory definitions of Microsoft Middleware, Platform Software, and Windows Operating System Product; to a limiting and back-looking definition of personal computer; to the lack of any language whatsoever that prevents the whole agreement from being rendered null and void if only part of it is—all of which are avoidable or even exploitable by a company which seems to know little, if any, shame.

Please do not allow such a flawed resolution to a solid case.

Best regards,
Clifford R. Earle
Sunland, CA

(California, West Virginia, and the District of Columbia were excluded from the cc line only due to their regretable use of on-line feedback forms rather than e-mail addresses.)

CC:attorney.general@po.state.ct.us@inetgw,ag@oag.stat...

MTC-00025712

From: cgmccurdy@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:39am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Cynthia McCurdy

920 Brookwood Dr.
New Albanyh, IN 47150

MTC-00025713

From: Robin Harding
To: Microsoft ATR
Date: 1/26/02 12:42am
Subject: Fw: MSFT Settelment.
From: ScubaNark@aol.com
Sent: Friday, January 25, 2002 2:38 PM
To: barkerj@3-cities.com;
tcox@ctc.ctc.edu;
Popcox13@aol.com;
ronandcec@msn.com;
hagajim@yahoo.com;
Rmespinola@aol.com;
Neil—Middleton@lambweston.com;
RPerez7581@aol.com;
sunshinecandle@hotmail.com;
samandrosie@home.com;
Sandychip@aol.com;
springen@concentric.net
Subject: MSFT Settelment.

Following is a letter I am sending to the attorney general in support of MSFT case settlement. If you agree in settlement and would like to forward, following is the Email address etc.

The Attorney General's fax and email are noted below.

Fax: 1–202–307–1454 or 1–202–616–9937
Email: microsoft.atr@usdoj.gov

In the Subject line of the e-mail, type Microsoft Settlement.

For more information, please visit these websites:

www.microsoft.com/freedomtoinnovate/
www.usdoj.gov/atr/cases/ms-settle.htm

January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support of the United States Department of Justice's recent efforts to settle the Microsoft antitrust lawsuit. This case really should not have been brought against Microsoft. Microsoft's innovations have and continue to contribute immensly to the productivity and economy of the United States . Microsoft single-handedly through "Window's Operating System" made computers accessible to the world.

Computers are now in virtually every household and bussness in the country. Microsoft may have been aggressive in their business dealings, but that is the way of the business world in a free-market society. Aggressive business tactics are not necessarily the same as antitrust violations. Despite my feeling that this case should not have been filed, at this stage of the game I think the wise course of action is to settle the case. The settlement agreement the parties negotiated is fairly reasonable.

It will require Microsoft to refrain from retaliating against computer manufacturers that install software other than Windows on their computers. Along those same lines, it will require Microsoft to not retaliate against software developers who develop programs that compete with Windows. These concessions should help the competition operate on a more level playing field.

I appreciate your efforts to settle this case.

Sincerely,
Roger CoxGet more from the Web.

MTC-00025714

From: FC003@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:43am
Subject: Microsoft Settlement

Three years ago, the U.S. Department of Justice charged Microsoft with having engaged in anti-competitive behavior based on allegations by its top competitors. Many have argued, and I believe, that Microsoft was singled out by its jealous competitors and sympathetic government bureaucrats because of its success and a desire to see it punished.

I am aware that the Justice Department is in the final stages of deliberating on the proposed Microsoft settlement to decide whether to accept the settlement or to litigate it further. I strongly believe that the proposed settlement offers a reasonable compromise that will enhance the ability of seniors and all Americans to access the internet and use innovative software products to make their computer experience easier and more enjoyable. In my opinion it appears that a few of Microsoft's competitors have continued their aggressive lobbying campaign to undermine the settlement negotiated with the federal government and nine states. The settlement itself is tough on Microsoft, but is a fair outcome for all parties—particularly senior consumers. Most important, this settlement will have a very positive impact on the American economy and will help pull us from the recession we have experienced over the past year. Consumer interests have been well served, and the time to end this costly and damaging litigation has come. Dragging out this legal battle further will only benefit a few wealthy competitors, lawyers, and special interest big-wigs. Not one new product that helps consumers will be brought to the marketplace.

Respectfully,
Perry L Phipps
1418 Virginia Ave
Severn, MD 21144–2632
CC:FC003@aol.com@inetgw

MTC-00025715

From: Lois Cope
To: Microsoft ATR
Date: 1/26/02 12:43am
Subject: AOL has surprised many of its former "constituents"

Sirs:

I am very disappointed to learn that AOL has just filed another lawsuit against Microsoft. It has gotten to the level of "silly", jealous behavior. As it happens, I was one of AOL's first customers I think in the early eighties, when I was using an Apple II in business. Steve Case is a native of Hawaii and I've been very proud of him as a former classmate of one of my daughters.

When the company needed money and offered "deals" if people would advance them funding, I personally did so. Eventually, however, I dumped the Apples and went to the Microsoft equipment because it was more reliable as well as for many other reasons. I eventually have "dumped" aol but use another of their products, Roadrunner, the broadband part of the business as do all the power users I know. To see them turn on Microsoft, which lent them I think $150,000,000 a few years ago when they needed it is really shocking. There is no reason all the software equipment cannot be used together if desired.

I see no reason to give into them now, when the very reasonable settlement has been reached. It is a frivolous lawsuit which appears to have been brought by losers.

Thank you for listening and good luck in your endeavors.

Aloha,
Lois P. Cope
808 488–9413

MTC-00025716

From: Marjoroie Dale
To: Microsoft ATR
Date: 1/26/02 12:44am
Subject: letter to Ashcroft

Letter has been sent on Microsoft's behalf. Hope it helps!

Marjorie Dale

MTC-00025717

From: mom2000
To: Microsoft ATR
Date: 1/26/02 12:45am
Subject: Microsoft Settlement

Gentlemen,

In my humble opinion, it seems Microsoft's competitors are doing everything they can to leverage the Justice Department to do what they could not do in a free market (increase their market share on their on merits). If we the consumers (the market place) did not prefer Microsoft's products over its competitors; and it does have competitors, they would not be the market leader they are today.

With that said, I admonish, that the penalties not penalize Microsoft for its market share, but, only for those areas of liability it should bear for any illegal or proven unfair business practices.

Thank you for all consideration.

MKTG. OPTY=$$$
Marketing Opportunities=Money!
Michael Larkin, IT Executive
1331b Crique Way
Roswell, Ga. 30076–5232
770 641–6591

MTC-00025718

From: Glen Richardson
To: Microsoft ATR
Date: 1/26/02 12:54am
Subject: Microsoft Settlement

I fully support the proposed settlement between Microsoft and the DOJ. Let's end this now.

Glen Richardson
Fort Worth, Texas

MTC-00025719

From: Myroslawa Tuziw
To: Microsoft ATR
Date: 1/26/02 12:50am
Subject: Microsoft Settlement

Ladies and Gentlemen,

I believe that the proposed settlement offers a reasonable compromise that will enhance the ability of seniors and all

Americans to access the Internet and use innovative software products to make their computer experience easier and more enjoyable.

This settlement itself is tough on Microsoft, but is a fair outcome for all parties—particularly senior consumers. Most important, this settlement will have a very positive impact on the American economy and will help pull us from the recession we have experienced over the past year. Consumer interests have been well served, and the time to end this costly and damaging litigation has come.

Dragging out this legal battle further will only benefit a few wealthy competitors, lawyers, and special interest bigwigs. Not one new product that helps consumers will be brought to the marketplace.

Sincerely,
Myroslawa (Myra) Tuziw
3108 Coffey Ave
Bellevue NE 68123–1331
PH: 402–291–7177
e-mail: MIPKA@juno.com

MTC–00025720

From: pricerob@mac.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:53am
Subject: Microsoft Settlement

Dear Sir or Madam

I find it absurd that Microsoft should be permitted to provide to public institutions their operating system and other software as well as hardware that is specific to running their operating system in lieu of a pure cash settlement. Accepting this settlement offer only strengthens Microsoft's monopolistic position and paves the way for further abuses within an environment in which they are not historically strong (i.e. schools). In the long run this will stifle innovation and contribute to a lack of diversity of computer operating systems and hardware. This in turn will make the computing infrastructure more vulnerable to cyber attack and the damage such an attack would produce would be more severe. I urge you to resist the proposed settlement and make the settlement for their illegal activities a true and just settlement which will undo some of the harm Microsoft has inflicted on the computer industry and on consumers. Do not be taken in by this transparent attempt by Microsoft to turn their defeat into their victory.

Sincerely
Robert Price
Research Scientist

MTC–00025721

From: Mike Ryan
To: "microsoft.atr(a)usdoj.gov"
Date: 1/26/02 1:00am
Subject: Microsoft Settlement

Dear DOJ

I urge you to settle the case with Microsoft. The consumer was not hurt by their market dominance. I was actually helped.

As an engineer at a company of 850, when computers first came to the office only the lucky few who had bosses that liked computers could get all of the software they wanted since each item was sold separately and you had to justify each one. And what a mess it was. Some were using non-compatible programs and not all of us had that great boss and could only get minimal software. Then Microsoft started bundling all of the great programs together and the price came way down. Not only that, we all were given "Office" and everyone had compatible programs and everyone had all of the great applications not just the privileged few. So please tell me how did that hurt me. And this browser question, what a bunch of BS. I used Netscape for a long time. Everybody had that option. Anybody with a computer could down load it from their web site. But after a while it just did not have as many features as MS offered. So I switched to the better program. So how did I get hurt? I didn't. Look at Apple, they have a great computer but they always built it themselves and charged too much for both hardware and software. They did not allow clones, which by the way produced the great computer revolution we know today. So I bought a lower cost computer with lower cost software. So how did I as a consumer get hurt? I didn't. Please settle the case with Microsoft and let them continue to produce great software for the consumer at a great value.

Mike Ryan
Bellevue WA
425 641–6920

MTC–00025722

From: Clay C.Landis
To: Microsoft ATR
Date: 1/26/02 12:57am
Subject: Microsoft Settlement

Any company with this much contempt for the laws of our nation should been taught a lesson. Microsoft's monopoly has hurt the development of computing and created an atmosphere where smaller developers simply give up on projects instead of trying to compete with a company willing to do whatever it takes to beat them for no other reason than to beat them. Microsoft produces products that are full of programming errors and poor security that has cost many companies, schools and government offices millions if not billions of dollars. They are not an asset to this country, they are a cancer. And no settlement that adds to Microsoft's monopoly should be considered.

Clay C. Landis

MTC–00025723

From: Tim Lewis
To: Microsoft ATR
Date: 1/26/02 12:57am
Subject: Microsoft Settlement

To Whom It May Concern:

I am vehemently opposed to the current proposed Microsoft settlement. I believe it is nothing more than a slap on the wrists, and that it does nothing to curb or even dissuade Microsoft from future abuses of its monopoly powers. Microsoft has already repositioned itself so that if the current proposal is left unaltered, they will have already slipped themselves through its monstrous loopholes!

Anything short of a breakup of the type ATT experienced will not bring sufficient competition back to the market. As long as Microsoft has the dominant share of the market, they will continue their illegal abuse of monopolistic power.

Thank you for listening.
Sincerely,
Timothy W. Lewis

MTC–00025724

From: joy.holt@att.net@inetgw
To: Microsoft ATR
Date: 1/26/02 12:56am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Joy. Holt
2210 S. 50th St.
Kansas City, KS 66106

MTC–00025725

From: Marcia M Clarke
To: Microsoft ATR
Date: 1/26/02 1:00am
Subject: MICROSOFT SETTLEMENT

I would like to express my view point regarding Microsoft. I feel consumer interest has been well served and it is time to end this damaging and costly litigation against Microsoft. Please accept the proposed settlement as fair and in consumer's best interest. Feel the settlement will have a very positive impact on the American Economy which is so greatly needed at this time.

Thank you.
Marcia Clarke

MTC–00025726

From: Lyn—Hiatt@berlex.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:01am
Subject: Microsoft Settlement
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in order to express my opinion regarding the three-year-long antitrust suit involving the Department of Justice and Microsoft. I do not feel that the suit should have been brought in the first place, but since it was I now feel that it is time for it to come to a close. Microsoft has done their part to bring this matter to a close. They have agreed to terms and conditions that were not even in the original suit.

Every company has a right to explore opportunities and every company's goal is to dominate their marketplace. Microsoft did that. Their competition is angry that they have been left behind. Yes, Windows is the dominant operating system. Due to many factors, including the fact that Microsoft developed relationships and contracts with hardware manufactures and other companies to bundle products. This is common practice in a competitive market. There are other products on the market from which consumers may choose. Consumers choose not to alter the operating system that came with their computer, but they may if they wish.

Microsoft dominates the market because they have the best product for the money. If it were not for Microsoft, I do not believe I would be writing this to you on a computer smaller than the size of my father's first adding machine.

In my mind this suit was unnecessary and unwarranted in the first place. Now I feel the Department of Justice needs to support the settlement and bring a close to all further litigations. Microsoft has done more than what was necessary in this situation.

Sincerely,
Lyn Hiatt
8714 13th Ave. NW
Seattle, Wa 98117

MTC-00025727

From: noel vaneynde
To: Microsoft ATR
Date: 1/26/02 1:03am
Subject: Microsoft Settlement

To whom it may concern,

Please note my dissatisfaction with the Proposed Microsoft Settlement. I have been an active Macintosh user for over 10 years and the actions that Microsoft has taken to limit access to their systems and their barrier to entry into competitive operating systems has caused me and my business great trouble over the years.

The settlement in it's current form will only succeed in strengthening Microsoft's hold on the educational markets and make the current problems worse.

I would be willing to discuss these matters further with you at your request.

Thank you for your attention.

Sincerely,
Noel VanEynde
Afterimages Film & Video
W: 312–661–1122

MTC-00025728

From: Alice Schafer(MITRE)
To: Microsoft ATR
Date: 1/26/02 1:04am
Subject: Microsoft Settlement-Not tightly drawn!

I think that the Microsoft Settlement leave too many loopholes for MS to use. Do not go through with it!

Sincerely,
Alice Schafer
11 Flagg Rd.
Acton, Mass 01720

MTC-00025729

From: Guy Groner
To: Microsoft ATR
Date: 1/26/02 1:05am
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

I am a Certified Internal Auditor (CIA), Certified Information Systems (CISA) and CISSP, a member of the Institute of Internal Auditors, the Information System Audit and Control Association and Information Systems Security Association. I have 18 years" experience is managing and auditing computer systems from microcomputers to mainframe computer. I would like to comment on the Proposed Final Judgment in United States v. Microsoft. Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. I agree with the problems identified in Dan Kegel's analysis (on the Web at HTTP://WWW.KEGEL.COM/REMEDY/REMEDY2.HTML), namely:

THE PFJ DOESN'T TAKE INTO ACCOUNT WINDOWS-COMPATIBLE COMPETING OPERATING SYSTEMS

—Microsoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry.

THE PFJ CONTAINS MISLEADING AND OVERLY NARROW DEFINITIONS AND PROVISIONS

—The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered.

—The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all.

—The PFJ allows users to replace Microsoft Java with a competitor's product—but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft.NET with competing middleware.

—The PFJ supposedly applies to "Windows", but it defines that term so narrowly that it doesn't cover Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box—operating systems that all use the Win32 API and are advertised as being "Windows Powered".

—The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

—The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware—but only after the deadline for the ISVs to demonstrate that their middleware is compatible.

—The PFJ requires Microsoft to release API documentation—but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.

—The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents.

—The PFJ does not require Microsoft to list which software patents protect the Windows APIs. This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users.

THE PFJ FAILS TO PROHIBIT ANTICOMPETITIVE LICENSE TERMS CURRENTLY USED BY MICROSOFT

—Microsoft currently uses restrictive licensing terms to keep Open Source apps from running on Windows.

—Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems.

—Microsoft's enterprise license agreements (used by large companies, state governments, and universities) charge by the number of computers which could run a Microsoft operating system—even for computers running competing operating systems such as Linux! (Similar licenses to OEMs were once banned by the 1994 consent decree.)

—The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft

—Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems.

—The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs

—The PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

—The PFJ allows Microsoft to discriminate against small OEMs—including regional "white box" OEMs which are historically the most willing to install competing operating systems—who ship competing software.

The PFJ allows Microsoft to offer discounts on Windows (MDAs) to OEMs based on criteria like sales of Microsoft Office or Pocket PC systems. This allows Microsoft to leverage its monopoly on Intel—compatible operating systems to increase its market share in other areas.

THE PFJ AS CURRENTLY WRITTEN APPEARS TO LACK AN EFFECTIVE ENFORCEMENT MECHANISM.

I also agree with the conclusion reached by that document, namely that the Proposed Final Judgment, as written, allows and encourages significant anticompetitive practices to continue, would delay the emergence of competing Windows—compatible operating systems, and is therefore not in the public interest. It should not be adopted without substantial revision to address these problems. Additionally, in the the computer security field already have to deal with the heightened risks associated with the numerous viruses and "hacks" of Microsoft software due to their dominance in the market. The risks of a monopoly are greater than merely the loss of competition.

Sincerely,

Guy Groner, CIA, CISA, CISSP, Wheaton, Illinois

MTC-00025730

From: Daniel Voran
To: Microsoft ATR
Date: 1/26/02 1:10am
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice

I am sending this email to comment on the Microsoft Settlement about the pending settlement between the United States Government, several individual states and Microsoft Corp.

I find the settlement to be too lenient for Microsoft. The settlement does not do nearly enough to control Microsoft's monopoly. Microsoft is now trying to take control of the internet through its .net initiatives. A more appropriate settlement would have been to split Microsoft into three or four companies. The proposed settlement is just a slap on the wrist for the company and if it is approved, Microsoft will continue its monopolistic practices to the detriment of the computer industry.

Daniel Voran
dan@hjmag.com
Avenue Services, Inc.
PO Box 23219
Seattle, WA 98102-4105
206-325-4250

MTC-00025731

From: ROBERT WARREN
To: Microsoft ATR
Date: 1/26/02 1:11am
Subject: DOJ—Microsoft

Dear DOJ,

Over the past 20 yrs one cannot help but see the Lawyer Organization may mean well, but the road to hell is always paved with half-truths. It's sad to see this stand-off has nothing to do with the well being of the people. In a comical way, it appears our States are employing a reverse Enron run. Please think of America's future in your decision, we have enough economic stress.

Sincerily,
Bob Warren
Towaco NJ.

MTC-00025733

From: Mtnmegan1@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:14am
Subject: Microsoft settlement

Please finish negotiations and make a settlement soon. It is not beneficial to the public or to seniors to drag this litigation on any longer. The proposed settlement seems fair.

Thank you,
Megan Duffy
Breckenridge, CO 80424

MTC-00025734

From: Ray W Daugherty
To: Microsoft ATR
Date: 1/26/02 1:15am
Subject: Microsoft Settlement

Honorable Judges:

It is high time that this subject is laid to rest. In my opinion it never should have been started in the first place and accepted by the courts. I believe that the patent rights laws should have given protection to Microsoft for what they developed in their own laboratories. The drug companies have protection, why not Microsoft too? Ford and or Chrysler cannot sue General Motors to have them release the specific plans used to develop and produce the very efficient Cadillac 32V Northstar engine, can they? So, how come a competitor of Microsoft can do what they are trying to do?

The sniveling competitors that did not have the expertise to develop the programs on their own should have not even been listened to. They should even be charged for all the expense that Microsoft has been shackled with to defend themselves.

If someone develops a better mousetrap, he is entitled to any and all net proceeds that he can derive from it to compensate him for his time, efforts and ingenuity in developing it. The same principle should also protect Microsoft from undermining by unhappy competitors. They are entitled to any and all profits for their efforts! Enough said! I will be eagerly observing what happens with this matter!

Ray W. Daugherty
RayWDaugherty@juno.com

From: lists@senior.org
To: raywdaugherty@juno.com
Date: Fri, 25 Jan 2002 17:21:20-0500
Subject: SENIORS COALTION URGENT ACTION ALERT Microsoft and big government
Message-ID: <200201252221 g0PMLKK19835@seniors.2rad.net>

URGENT ACTION ALERT

Your immediate response is needed!

Three years ago, the U.S. Department of Justice charged Microsoft with having engaged in anti-competitive behavior based on allegations by its top competitors. Many have argued that Microsoft was singled out by its jealous competitors and sympathetic government bureaucrats because of its success and a desire to see it punished.

The Justice Department is in the final stages of deliberating on the proposed Microsoft settlement to decide whether to accept the settlement or to litigate it further. The Seniors Coalition strongly believes that the proposed settlement offers a reasonable compromise that will enhance the ability of seniors and all Americans to access the internet and use innovative software products to make their computer experience easier and more enjoyable.

Unfortunately, a few of Microsoft's competitors have continued their aggressive lobbying campaign to undermine the settlement negotiated with the federal government and nine states. The settlement itself is tough on Microsoft, but is a fair outcome for all parties—particularly senior consumers. Most important, this settlement will have a very positive impact on the American economy and will help pull us from the recession we have experienced over the past year.

You can offer your opinion to the Justice Department to counter the self-serving and punitive lobbying effort of Microsoft's competitors. Current law (known as the Tunney Act) allows public comment on the proposed settlement up until January 28th. The U.S. District Court will then decide whether the settlement is in the "public interest." Please send your strong message to the Justice Department that consumer interests have been well served, and the time to end this costly and damaging litigation has come.

Dragging out this legal battle further will only benefit a few wealthy competitors, lawyers, and special interest big-wigs. Not one new product that helps consumers will be brought to the marketplace.

YOUR VOICE IS VERY IMPORTANT AND TIME IS VERY SHORT.

Only comments received by January 28th will be included in the public record and submitted to the Court for its consideration. Consumers need to win this battle, so please send your comments immediately to the Justice Department—either by email or by fax—and do it before January 28th.

Don't let these special interests defeat the public interest. Email: microsoft.atr@usdoj.gov . In the Subject line, of the e-mdash;mail.type "Microsoft Settlement."

Fax: 1-202-307-1454 or 1-202-616-9937

To find out more about the settlement and the Tunney Act comment period, go to the Department of Justice Website at: http://www.usdoj.gov/atr/cases/ms—settle.htm

Raising your voice now on this issue really will have an impact.

Thank you for your time.
Mary M. Martin
Chairman and Executive Director
The Seniors Coalition
CC:RayWDaugherty@juno.com@inetgw

MTC-00025735

From: William Glover
To: Microsoft ATR
Date: 1/26/02 1:12am
Subject: Microsoft Settlement

I disagree with the Proposed Final Judgement (PFJ).

The judgement doesn't take into account Windows
—compatible, competing operating systems.

Microsoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry.

MTC-00025736

From: The1stBA@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:17am
Subject: Microsoft Settlement..

This is THE most obtrusive, ridiculous and annoying.. I do subscribe to AOL, but that is short lived I am sure.........I am a 72 year old widow, and have owned a pc for 3 years....prior to that I had never even sat in front of one... Clicked in to AOL, and I am still there....It is easier because I know it......Well, guess what.....not for long. I have the ability (and did) download the XP from the ME, so I am not a real dummy. Our Mr. Gates is the why we are here from the beginning......hats off to him...We owe him SO much. For God's sake.....how about a little credit where a lot is due. I cannot imagine that anyone has read, or will read this e

—mail, BUT....again, thanks that things ARE finally beginning to "Open UP"...i.e........ENRON/Anderson, etal.

I truly hope that this is just the beginning......Bill Gates/Microsoft....NO problem...

(Yes, I am a shareholder—50 shares!!!).
Barbara Ann Wilcoxson

MTC-00025737

From: Charlotte
To: Microsoft ATR
Date: 1/26/02 1:21am
Subject: Microsoft Settlement

Your Honor,

I do not know how a company that has been found to be a monopoly, and a vicious one at that, can be dismissed with a settlement. I believe the behavior was criminal, and yet no criminal remedies have been pursued. I do not see how monetary punishments would bother this company, nor provide incentive to change.

Perhaps they could be required to use the money to buy and distribute their competitors products well into the future. I believe that would bother them far more, and maybe enough to change.

Sincerely,
Charlotte Davis

MTC-00025738

From: Ilya Sandler
To: Microsoft ATR
Date: 1/26/02 1:21 am
Subject: Microsoft Settlement

[Text body exceeds maximum size of message body (8192 bytes). It has been converted to attachment.]

MTC-00025738-0001

Dear Sirs:

I am respectfully submitting the comments below in hope that the settlement conditions would be strengthened to more efficiently prevent Microsoft illegal behavior and encourage competition in software industry.

I am a professional software engineer with a PhD degree in Physics. I have worked with both Microsoft and non Microsoft products. I am deeply concerned about destructive effect of Microsoft on competition in software industry. (The company I am working for is not in software industry and is not competing with Microsoft)

Sincerely yours,
Ilya Sandler
isandler@friends-partners.org

III.A. Microsoft shall not retaliate against an OEM ... because it is known to Microsoft that the OEM is or is contemplating:

1. developing, distributing, promoting, using, selling, or licensing any software that competes with Microsoft Platform Software or any product or service that distributes or promotes any Non-Microsoft Middleware;

2. shipping a Personal Computer that (a) includes both a Windows Operating System Product and a non-Microsoft Operating System, or (b) will boot with more than one Operating System;

The requirement should be expanded to cover any Microsoft business partners (not just OEMs). OEMs are not the only channel through which Microsoft can illegally protect and expand its monopoly. An example of non OEM partner would be America Online and Apple: by threatening to withhold some critical services from these companies Microsoft forced them to replace Netscape Navigator with Internet Explorer as a default browser. In "item 1" the phrase "any Non Microsoft Middleware" should be replaced with "Any Non Microsoft Software" and "competes with Microsoft platform software" should be replaced with "competes with any Microsoft software".

Microsoft should not be allowed to use its monopoly power to interfere with Non-middleware non-platform competition. Item 2 should be expanded to include (c) will have no Microsoft operating system installed (either will have an alternative operating system or have no operating system at all, many computer users would prefer to do installation themselves)

Obviously, without this addition Microsoft is free to retaliate against anyone who ships a Linux only PC (or a PC without Operating System).

III B. Microsoft's provision of Windows Operating System Products to Covered OEMs shall be pursuant to uniform license agreements with uniform terms and conditions

MTC-00025738-0002

There are two kinds of monopolistic behavior which this measure could prevent (a) using existing monopoly in one market to gain a monopoly in another market (b) use its monopolistic position to maintain artificially high retail prices (in particular, forcing unnecessary upgrades) (a typical scenario for (b) works like this: a few key partners are given the latest MSOffice product for a very low price, this latest product uses file formats different from formats of the previous product. So soon there are documents flying around in this latest format and the only way to read them is to upgrade existing MSOffice with upgrade costs in hundred of dollars per seat) Behavior (b) is possible only when there is no competition. In competitive market such a behavior is impossible (e.g. repair/service/most of spare part business of Toyota cars is not controlled by Toyota: Toyota has almost no pricing power over "post-sale" service market) suggested modification 1:

The proposed measure prevents behavior (a) but only partially. Operating Systems are not the only product where Microsoft can use threats of existing license termination as a way to push another product. For example, very few companies may afford to lose MsOffice licensing. Thus Microsoft should be required to uniformly license any product where Microsoft holds a dominant market position (the list of such software should be reviewed regularly and at present it definitely should include all of MS Office components (Word, Access, Excel, PowerPoint). suggested modification 2:

The proposed measure does not address behavior (b) at all. So I propose that the uniform/non-discriminatory licensing covers ALL sales/licensing of specified products (not just sales to "Covered OEMs"). For example, if a covered OEM can buy 1 million of Windows licenses for $5 millions then anyone (including resellers) should be able to buy 1 million licenses for the same price.

This also means that Microsoft should not be able to require a buyer of its software to ship it with a new PC—software can be sold separately. (this should apply to the end user too) This modification greatly reduces Microsoft monopolistic pricing power. An important consequence of these modification (non-discriminatory licensing of specified Microsoft products to all with an explicit permission to resell) is that this would make sections III.A and III.F mostly redundant, as Microsoft will not be able to retaliate against anyone if everyone has non-discriminatory access to all critical Microsoft products.

III.C. Microsoft shall not restrict by agreement any OEM licensee from exercising any of the following options or alternatives:"

The words "any OEM licensee" should be replaced with "any licensee" (including the "end users", see comments to III.A for rationale). The list of activities which any Microsoft licensee should be free to do, should be expanded to include (1) use any Microsoft product in the manner customer sees fit (e.g. run MsOffice under Wine Emulator on Linux operating system, Microsoft however should not have any obligation to support any non-standard environment)

MTC-00025738-0003

(2) resell (with destruction of original copy if applicable/ any Microsoft product at any price

(3) License, use, distribute, promote, develop, sell, support any non-Microsoft products in any lawful manner customer sees fit. Similar comments apply to sections III.F, III.G and III.H In general, my suggestion would be to avoid differentiating Microsoft users into many categories (IHV, ISV, OEM, "Covered OEM", "end user") and granting every category specific rights and instead grant uniform rights to all users. This would simplify both the judgment and its enforcement (as there would be fewer conflicts) >>>

III.E.Starting nine months after the submission of this proposed Final Judgment to the Court, Microsoft shall make available for use by third parties, for the sole purpose of interoperating with a Windows Operating System Product, on reasonable and non-discriminatory terms (consistent with Section III.I), any Communications Protocol that is, on or after the date this Final Judgment is submitted to the Court,

(i) implemented in a Windows Operating System Product installed on a client computer, and

(ii) used to interoperate natively (i.e., without the addition of software code to the client operating system product) with a Microsoft server operating system product. <<<

While this is a good measure, it is made nearly meaningless by the III.I section and III.J.2 exception. (See below for III.I and III.J.2 comments) Instead of subjecting disclosure to III.I section, disclosure of protocols information should be subject to "Interoperability Information disclosure" suggestion below.

Furthermore, the waiting period should be eliminated (the disclosure should begin immediately after the Final Judgment is accepted by the court).

Suggested Interoperability information disclosure. (mostly supersedes III.I and III.J.2)

No competition is possible in software unless a would-be competitor has enough information to interoperate with existing software and especially with Microsoft's. Thus conditions on which the interoperability information is disclosed are extremely important.

The proposed final judgment essentially requires (in section III.I) a would be competitor to negotiate with Microsoft to gain access to interoperability information. This—allows Microsoft to greatly complicate a would be competitor's life—gives Microsoft an ample advance warning of a potential competitor and section III.F.2 gives Microsoft explicit power to allow/disallow competition in many (potentially, all) cases.

Using the car analogy: to manufacture cars which can compete with and provide a drop-in replacement for Ford cars, one does not have to negotiate/enter into any kind of agreement with Ford. Similarly , software developers developing products competing with Microsoft's ones should not have to negotiate/enter into any kind of agreement with Microsoft, even more so, given Microsoft's history of antitrust law violations.

So I suggest that all the information necessary to interoperate with (thus allowing development of viable alternatives for) Microsoft products should be as easily and widely accessible as possible.

The only feasible way to ensure wide and easy access to this information would be to publish it on the web with the following conditions: (approximately in the order of importance)

(1) it definitely should not require *any* kind of agreement (in particular, no mandatory registration) between the reader/implementor and Microsoft (basically, anyone should be able to read it and implement a competing product it without ever talking to Microsoft)

(2) access to it should be free.

(3) Microsoft should also allow

(a) mirror the documentation-verbatim (clearly separated comments should be allowed)

(b) translate it into other computer readable formats (e.g. from MSWord to HTML or to pdf)

(c) translate it into other human languages (and publish the translation)

This disclosure requirement should definitely apply to information mentioned in section III.D (API disclosure) and III.F (network protocol disclosure). It should further apply to File Format disclosure discussed below.. This disclosure requirement does not apply to any information which is not related to interoperability.(for instance if a MSWord utilizes a unique Spell Checker, Microsoft does not have to disclose how the Checker works) This requirement of free access to disclosed information has some obvious consequences:

—Microsoft would not be able to enforce any patents if may have on interoperability information (file formats, network protocols, APIs) (it still may hold and enforce patents on specific implementations of those interfaces)

—if disclosure of interoperability information requires disclosure some 3-rd party information, then Microsoft will have to either drop the product or change it so that 3rd party information is not needed or renegotiate with the 3rd party to allow information disclosure.

The information disclosure procedure suggested above eliminates many potential conflicts between Microsoft and an information request or.

I want to emphasize that having to enter into any kind of negotiation with Microsoft to even start developing a competing product is a major entrance barrier (and this barrier does not exist in most other industries!) and the only way to remove it is to grant a free and easy access to interoperability information as outlined above. >>>

III.J. No provision of this Final Judgment shall:

2. Prevent Microsoft from conditioning any license of any API, Documentation or Communications Protocol related to anti-piracy systems, anti-virus technologies, license enforcement mechanisms, authentication/authorization security, or third party intellectual property protection mechanisms of any Microsoft product to any person or entity on the requirement that the licensee:

(a) has no history of software counterfeiting or piracy..

(b) has a reasonable business need for the API, Documentation or Communications Protocol for a planned or shipping product,

(c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business,

(d) agrees to submit, at its own expense, any computer program using such APIs, Documentation or Communication Protocols to third-party verification, approved by Microsoft, to test for and ensure verification and compliance with Microsoft specifications .... <<<

While an obvious intention of this clause is to prevent piracy/security breaches, such a prevention is not in any way related to this antitrust case. For instance, if a Windows Media Player can play certain content, Microsoft should provide enough information to implement a competing player with exactly same functionality.

If the competing player provides some extra functionality, then whether or not such an extra functionality violates some other law (such as DMCA) should be a separate (and independent of Microsoft antitrust case) issue.

Furthermore, "authentication/authorization security" is an extremely broad concept. For instance, Windows file sharing protocol includes some authentification as do many other protocols (including such wide spread ones as ftp and http which are used on the Internet), so these protocols seem to fall under III.J.2. Which makes section III.F (Network protocol disclosure) dependent on meeting III.J.2 requirements.

Then it should be obvious that III.J.2(b, c, d) requirements give Microsoft enough freedom to never disclose anything (or disclose with a significant delay which is almost the same): consider these scenarios

(1) a startup company will not meet (b) and (c)(business might not seem reasonable or viable)

(2) R&D department of a large company may want to prototype something without specific plans for a specific product (if the prototype succeeds, then the product will go into planning) this will fail test (b)

(3) Microsoft gets a convenient advance warning of any potential competition

(4) requirement (d) allows to delay introduction of any competing product.

(5) open source competition (such as Linux which Microsoft cites as THE threat both in and out of court) would not meet (b) and (c) requirements

(6) Nearly any software feature can be recast as having something to do with security, anti-piracy, or authentification.

In short, I believe, that section III.J.2 is not needed and in its current form it essentially negates any information disclosure requirements which exist in this judgment. Section III.J.2 should be dropped Disclosure of file formats.

Microsoft should disclose its file formats:. first and foremost for Microsoft Office applications (where Microsoft already has a dominant position and possibly *all* file formats used by any software sold by Microsoft. I want to emphasize that file format information is needed for competitors both to MSOffice products AND to Windows Operating System (such as Linux or Solaris)—no competing Operating system stands a chance on a desktop if there is no application for it which can read already existing documents in MSOffice format (and provider of a competing Operating System can not (and should not!) rely on Microsoft to port MSOffice to a competing operating system). Disclosure of file formats would significantly reduce artificial barriers for competitor entrance for both office and operating system markets.

I worked as Director of Windows Products Engineering for Borland International (later to be known as Inprise) in 1997 and 199%. During that period, I was responsible for "the Microsoft relationship" and worked with Borland's attorneys on contracts and other matters with Microsoft. I was asked to contribute my thoughts about Microsoft's anti-competitive behavior during this time, and I wrote the following memo in April of 1998. Its primary message is that Microsoft has never been a proponent of innovation, nor a particularly keen innovator. The same can also be said of the other monopoly force in the PC industry, Intel. However, a big difference between the two has been Intel's strict observance of the law and Microsoft's attempts to circumvent the law. While I was at Borland, several times Microsoft proposed that we sign agreements that forced us to recommend and distribute Microsoft's Internet Explorer to our customers—we ALWAYS red-lined these parts of the agreements.

The bottom line is that this probe could have gone further. Prior to Borland, I spent 11 years with Digital Equipment, now a part of Compaq. During that period, I was exposed to Microsoft's tactics in negotiating licensing of their operating system software to PC manufacturers. You've seen testimony of some PC vendors about this. Microsoft has been able to deliver flawed software to these manufacturers while dictating terms that force the manufacturers to assume most of the technical support burden.

The current remedy being proposed does not go far enough, particularly with a company that has made an art of working around the law. I was very disappointed that a structural remedy was not part of the solution, and I hope that the oversight of the proposed remedy is strict and vigilant.

Thank you,

Joe Falcone

Half Moon Bay, California

A few things that have gone wrong in the PC industry... PC's have never been high tech.

The operating systems are years behind the times in features, scalability and robustness. As Microsoft tries to prove the enterprise-quality of their software, this has become obvious. No Microsoft software is ready for 7x24 operation. When Microsoft made their big pitch for the Enterprise, they committed themselves to run Microsoft on their own products—Windows NT Server, SQL Server, Back Office, etc. Word on the street is that Microsoft is too big to run themselves on their own products. The obvious solution is to go with the flow and put Oracle's DBMS in—but Oracle won't sell to Microsoft for competitive reasons. So this is one of the reasons why the rumor circulated that Microsoft was going to buy Informix (it still could happen). Although this would allegedly buy Microsoft an enterprise-class database engine, the classic Informix relational database product is old (it's been compared to Oracle 6—two generations behind Oracle's current product). Microsoft is between a rock and a hard place.

Some number of Microsoft products are not Y2K safe (Year 2000). And any strong mention of this in public is suppressed—an academic who was collecting Y2K software problem reports on a web site was sent a "cease and desist" letter by Microsoft's legal department. Only Microsoft knows what is good for Microsoft. PC hardware is crude and primitive. I/O buses are slow, difficult to expand, and tricky to design for. For example, some first generation PCI option cards will not work with recent PCI motherboards. This is because the PCI spec was driven largely by Intel to fulfill their agenda. Alternative views are co-opted—Digital's PCI bus committee rep was hired away by Intel early in the program.

The only time Intel had the world's fastest microprocessor was when they had the world's first and only microprocessor. Once other vendors entered the game, the mediocrity of Intel's architectures came to the forefront. The fact is that Intel is a relative newcomer to the computer architecture field. IBM, UNISYS, Digital and others have been designing computers since the 50s. With that experience comes a level of maturity and a portfolio of patents that make it difficult for others to achieve "best-in-class" performance. Today, nearly every RISC architecture in production (Alpha, HP–PA, PowerPC, MIPS, SPARC), is faster than the fastest Pentium-II. Now that AMD, National Semiconductor, and IDT have foundry agreements with IBM, all of them may get access to the high-speed copper interconnect chip process which IBM innovated and may have a substantial lead in due to its own intellectual property. In other words, within a year or so, Intel may not be making the fastest x86 processor.

Microsoft and Intel have tried to restrict what the PC manufacturers can build thru acquisitions, intellectual property (patents), and their PC 9x initiatives. However, these are principally driven by Microsoft and Intel to fulfill their agenda. The original reason to have these initiatives was to try to guarantee for Microsoft that the manufacturers were sticking to a single spec of base PC functionality for their products, rather than have them go off and implementing new buses, graphics, etc. Of course, the result is an industry with no innovation and no variety. All the products are the same. The original objective was to enforce PC 9x compliance by withholding logo branding (Intel Inside or Designed for Windows xx) if the product did not meet PC 9x. It's not clear to what degree they've been able to do that.

The latest incarnation of the initiative is PC 99. Adaptec is a participant in PC 99. Aparently Microsoft in one of their playing god moods decided to remove SCSI hard disks as a supported technology in PC 99. The idea was to replace it with IEEE 1394. The Adaptec folks had to point out that there are virtually no disk drive products available using 1394 as an interface.

Earlier versions of PC 9x made no mention of mobile systems. Even the current mobile systems spec of PC 99 is considered grossly inadequate to the point that a consortium of notebook manufacturers (as reported recently) is banding together to form their own standards group.

Now Intel is using their intellectual property (primarily patents on the Pentium-II interface bus) to restrict who can build chipsets for PCs. Right now, you can really only buy Pentium-II chipsets from Intel. Intel has threatened to sue other companies who enter this field. Traditionally, the pinout of a non- military-classified chip sold on the open market has been a public spec. If you think about it, where would the computer industry be today if you could BUY a chip on the open market, but you couldn't INTERFACE it to anything without a LICENSE from the chip manufacturer. This, in fact, was the problem with the IBM MicroChannel bus. You could build MicroChannel option cards, but you needed to register them with IBM and get an ID for your card (for autoconfiguration) before you sold it. MicroChannel failed as a result, even though it had PCI-class technology years ago (the PCI connector is in fact a MicroChannel-style connector).

Intel's argument is that they are no longer selling "chips" as such, but computer system modules for a patented, proprietary bus (Slot 1 et al). For this there is precedent of course. All of the big computer manufacturers used proprietary buses, for which you generally had to get licenses to build peripherals for. The problem is the tradition and vitality of the PC industry was built around technology that was not under intellectual property restrictions. Now you can only buy chipsets from Intel. The chipsets effectively determine the basic features of the PC, including power management in the case of notebooks. As noted earlier, the notebook manufacturers are already blanching at the thought of having their features, such as power management, determined solely by what Intel's Pentium-II mobile chipsets deliver.

As Intel's standards (Slot 1, PCI, AGP, I20) become established, it becomes easy for Intel to dominate each segment, either solely or collusively with another vendor, such as the case with the intelligent I20 I/O bus and Wind River Systems. When you purchase the i960 RP processor (the heart of the I20 spec), you get the IxWorks I20-compatible Real Time Operating System by Wind River Systems (License included with processor). This event sent shockwaves thru the Real-Time Operating System industry as it would guarantee a stream of revenue for Wind River once I20-enabled systems began shipping in volume.

As Microsoft's initiatives have spread into other areas, such as palmtop computing, we see the same control. In the Windows CE area, the hardware specification is controlled by Microsoft. Manufacturers build to the Microsoft spec and Microsoft delivers executable code to the manufacturers. No source is available and Microsoft develops all the drivers. Is it any wonder that all CE products look the same? The only concession that Microsoft has granted has been the support of different microprocessors, insisted upon by the aggressively competitive Japanese contenders in the high-MIPS-per-milliwatt category. Everyone in the CE space is losing money, everyone except for Microsoft who is apparently charging more for CE than for Windows 95, basing this on the fact that they've architected the entire product, etc, etc. In fact, what Microsoft has done is architect the innovation OUT of the product by controlling it too strictly and not allowing their partners to innovate.

Their goal is to be the mobile communication and computing platform of choice when we get to the point of convergence between palmtops, notebooks, wireless networks, and cell phones—a sort of Pilot on steroids. The most interesting competition going on right now is that between CE and the Pilot, especially now that IBM is backing and reselling the Pilot. Unlike the past, it is clear that anti-competitive actions by Microsoft in that market will not go unnoticed. All of this information is publicly verifiable by hitting the right web sites with the right search keywords. Even the rumors have been reported in one place or another. Just haven't seen anyone put the whole picture together. Enjoy!

MTC-00025739

From: Steve(u)Lieberman
To: Microsoft ATR
Date: 1/26/02 1:21am
Subject: Microsoft Settlement

Dear Sirs:

Please do not allow the AOL lawsuit to derail the important and appropriate settlement between Microsoft and the Department of Justice. For the good of this country and the economy, I urge you to ratify the present settlement between MS, the DOJ and the nine attorneys general.

Steve Lieberman

Oceanside, CA

MTC-00025740

From: qtiptopg@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:23am
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Tamela Forbes
12812 Sierra Creek Rd.
Victorville, CA 92392

MTC-00025741

From: DeathTar@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:28am
Subject: (no subject)

Although I am not entirely on one specific topic that has been directly addressed by the battles against Microsoft I feel that I should point out some major problems I have been experiencing with the company's policies and software lately.

To start off, I should point out that I do use Microsoft windows ME as an operating system so I can't say that I am unwilling to use some of their products but I do find some problems with them. I enjoy using opera as my web browser rather than Internet explorer because it has more features and runs faster and therefore I have chosen to use it. This may seem like an arbitrary statement but it is not because I do not wish to use Internet explorer at all. This is simply not a possibility when using windows as an operating system and I feel that this "feature" of windows not only hurts smaller software companies such as opera or Netscape, which I have also used in the past, but it also detracts from what I as a user and consumer want to experience. If a product does not function to par then the consumer or user, whatever the case may be, should be allowed to choose an alternate source. It is true that internet explorer is a free product and some may even argue that it is part of the operating system, but so is windows media player and I am not forced to use that program when I find another program to take it's place. Every time I open a window I must use Internet explorer. Another problem I have encountered while using opera is that sites that use a MSN passport do not fully support this browser. This would seem opera's fault if it were not that these are the only sites that I have encountered that have this problem. Microsoft is purposefully designing web pages that adhere only to their software. I for one do not find this fair business at all.

MTC-00025742

From: Joe Falcone
To: Microsoft ATR
Date: 1/26/02 1:28am
Subject: Microsoft Settlement

I worked as Director of Windows Products Engineering for Borland International (later to be known as Inprise) in 1997 and 1998. During that period, I was responsible for "the Microsoft relationship" and worked with Borland's attorneys on contracts and other matters with Microsoft. I was asked to contribute my thoughts about Microsoft's anti-competitive behavior during this time, and I wrote the following memo in April of 1998. Its primary message is that Microsoft has never been a proponent of innovation, nor a particularly keen innovator. The same can also be said of the other monopoly force in the PC industry, Intel. However, a big difference between the two has been Intel's strict observance of the law and Microsoft's attempts to circumvent the law. While I was at Borland, several times Microsoft proposed that we sign agreements that forced us to recommend and distribute Microsoft's Internet Explorer to our customers—we ALWAYS red-lined these parts of the agreements.

The bottom line is that this probe could have gone further. Prior to Borland, I spent 11 years with Digital Equipment, now a part of Compaq. During that period, I was exposed to Microsoft's tactics in negotiating licensing of their operating system software to PC manufacturers. You've seen testimony of some PC vendors about this. Microsoft has been able to deliver flawed software to these manufacturers while dictating terms that force the manufacturers to assume most of the technical support burden.

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MTC-00025743

From: Duane Diesing
To: Microsoft Settlement
Date: 1/26/02 1:26am
Subject: Microsoft Settlement

Duane Diesing
PSC Box 6098
Goodfellow AFB, TX 76908
January 26, 2002

Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Duane Diesing

MTC-00025744

From: taojones
To: Microsoft ATR
Date: 1/26/02 1:31am
Subject: Microsoft settlement

Letting them use equipment or software to increase market share in education would be a big mistake let them cough up the cash and let the beneficiary of the settlement decide where it is best spent. Unfortunately being second rate on quality is not a crime but is against the American sprit. Teach them a real lesson and make them reveal source code so that people can undo what they want to tweak themselves if you want to put a holly carburetor on your ford minivan ford has no right to stop you... once you pay for it its your car.Once you fork over your fee you deserve to see what you have bought. Developers have a right to information so they can improve things rather than catching the (security hole) horse out the gate

William Pellegrini
48 Oakcrest Drive
South Huntington
Ny 11746

MTC-00025745

From: steve
To: Microsoft ATR
Date: 1/26/02 1:34am
Subject: Microsoft Settlement

Microsoft has not risen to where it is today by innovation or product quality, but by purloining others technologies into their fundamentally faulty suite of products.

By virtue of simply being in the right place at the right time some 20 years ago, they aquired a toe hold that then became a foot hold in a new and burgeoning industry.

As this foot hold grew, it came to be able to at first just kick its way around, but then learned it could walk all over anyone it chose at anytime it choose. Just because it could didn't mean it had to, but it did. At almost every opportunity. Thus they in effect became the sole arbiter of what products would survive and what ones languished in this new industry. Were the "Standard" they purport to represent a legitimate one based on performance that would be one thing, but it isn't. When MS released Windows-XP recently they touted it as the "Most mature and secure OS they'd ever made!". While that may be true, in terms of the rest of the world it was anything but secure.

Within a few weeks of its release, severe security issues were found by several independent parties. Severe enough that for the first time in its history, the FBI called its own news-conference to announce the dangers they conveyed.

Furthermore, when Microsoft tried to post the fixes XP required to their own site recently, they crashed it, taking it offline for over 5 days. While the irony of the "Most advanced and secure OS!" requiring a "fix" just 2–3 weeks post-release that when applied created a new, bigger and and even more obvious problem is not to be missed. It is a demonstration of the low level of fundamental quality inherit in their software.

This not a unique example, only the most recent (and perhaps most telling). The

U.S.Army, Navy, and FBI have, along with many other .gov sites, dispensed with their Windows based servers as they tired of being hacked so readily.

MICROSOFT IS/HAS/BEEN/ALWAYS WILL BE: Pervasively aggressive in all areas of its endeavors. It has copied even its core functional approach and appearence from outside sources (while stifiling most competing efforts regardless of their actual merit). No amount of money can compensate for the loss of the dynamic society could have had if innovation in a broad field of players had been allowed. If free-market values and innovation had been at play instead of a singularly self-centered corporate one, this issue would represent less today than it does. Any judgment or penalty against MS should go to developing other sources/venues of hardware/software innovation etc. that DON'T depend on Microsoft products to function. Otherwise, the penalty actually create's more need for the already intrusive offender.

Thanks for your time.

This is important, please do the right thing.

MTC-00025746

From: UNITEDJR@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:36am
Subject: Microsoft Settlement

With all the problems this country is having it should be top priority for our government to settle all the Microsoft law suits. The future must have technology working at its best or the terrorist could over come. We must protect free enterprise which is the root of our system. PLEASE vote to settle the Microsoft Law Suits.

Thank you Jerry Robinson

MTC-00025747

From: Alfie Costa
To: Microsoft ATR
Date: 1/26/02 1:38am
Subject: Microsoft Settlement

The Proposed Microsoft Settlement should not allow what it does allow. It is like a muzzle that hasn't been fastened.

Some say that Microsoft has, by various direct and indirect means, purchased this ominously favorable outcome. Supposing this cynical opinion were true, then those who have done the selling should reconsider, if only out of delayed self-interest. The reason being that if they "look the other way" today, (in so manifest an instance of duty), their reputation as guardians of the public interest will diminish tomorrow, so that their services would very probably be seen as hardly necessary. Any office whose duty evaporates, and devolves into a meek sinecure, can't expect much in the way of future emoluments.

MTC-00025748

From: BobNordan
To: Microsoft ATR
Date: 1/26/02 1:36am
Subject: Microsoft Settlement

Microsoft is guilty of the worst case on monopoly in history. The company should be punished harsely and should be broken up into two companies, one for operating systems and the other applications. Fines should be high enough to make sure Microsoft can't afford to break the law again. If they are not stopped now, there will be no stopping them in the future.

Robert Nordan Jr

MTC-00025749

From: bpetit@mac.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:46am
Subject: Microsoft Settlement pI believe the Microsoft Settlement is not going to solve any problems or antitrust issues.

I feel stiffer penalties need to be enforced on this company. Microsoft should not be allowed to make there browser the default browser for the OS.

They abused their position dealing with Netscape and therefore should lose their privilege of forcing manufacturers to except IE as the default browser. I also feel they should compensate ex-Netscape employees for ruining their business model. Microsoft does stand in the way of free market enterprise and actions need to be taken.

Brian
CA, USA

MTC-00025750

From: Dr. Giorgio G. A. Miceli, Sr.
To: Microsoft ATR
Date: 1/26/02 1:49am
Subject: Microsoft Settlement pHello:

Something has to be done about these crybabies... a.k.a. AOL and Netscape. Microsoft is making their product better and better... AOL and Netscape are way behind.

Don't let these crybabies ruin a company that doing their best in innovation.

MTC-00025751

From: Jim Miranto
To: Microsoft ATR
Date: 1/26/02 1:49am
Subject: Microsoft Settlement

Enough with this already. Stop wasting my tax dollars on this trivial stuff.

Spend it on getting our county back on it's feet and safe from terrorists.

James A. Miranto, MCSE
Information Technology Consultant
Email: jim@miranto.net

MTC-00025752

From: Matthew Reed
To: Microsoft ATR
Date: 1/26/02 1:54am
Subject: Microsoft Settlement

The United States Government has an excellent opportunity to encourage competition and help the consumer. The proposed settlement does not fulfill this end. Microsoft should be punished to the degree of their crime.

MTC-00025753

From: Bob
To: Microsoft ATR
Date: 1/26/02 1:58am
Subject: Microsoft Settlement
U.S. Department of Justice.
Reference: Microsoft Settlement,

Consumer interests have been well served, and the time to end this costly and damaging litigation has come. Dragging this legal battle further will only benefit a few wealthy competitors, lawyers, and special interest Big-Wigs. This is ridicules to continue any kind of litigation unless you are anti consumer. Not one new product will be brought to the marketplace, so what's the point???

Respectfully
A Senior Consumer
Robert E Hahn
POBox 899
Buena Vista, CO. 81211

MTC-00025754

From: guybarcelo@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:50am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Martin Barcelona
6642 Lamb Road
New Orleans, LA 70126

MTC-00025755

From: D.Carrico
To: Microsoft ATR
Date: 1/26/02 1:58am
Subject: Microsoft Settlement

Microsoft is a monopoly. You do not need 100% of the market to be a monopoly.

1. Open source *ALL* of the "Internet Explorer" web browser program code.
2. Make them develope a version of "Internet Explorer" and MS Office for Linux.
3. Tell them under *NO* circumstances, can they collect *private information* from there customers using there operating system or applications.
4. All of there current and future protocols must be *approved* by a open standards organizations.
5. Fine them 25 to 50 percent of there *NET* profit. That will help the national debt.

Thank you for your time and help in this matter.

Donald Carrico Jr.

MTC-00025756

From: Ian Johnson
To: Microsoft ATR
Date: 1/26/02 1:59am
Subject: Microsoft Settlement

To Whom it May Concern:

I am not involved in the computer industry. I am an ordinary cititzen and end-user of computer software and just wanted to take a moment to voice my strong objection to the proposed Microsoft settlement.

It takes only a very basic understanding of Microsoft's history to understand that they have succeeded not through innovation but through aggressive and anti-competitive business practices. From the very beginning, in the mid 70s when Bill Gates purchased MS-DOS from a small software company in Seattle and made billions reselling something that cost him about $50,000, to the open aping of Apple's Macintosh operating system in Windows and all subsequent OS releases, Bill Gates has been a copycat, a thief maybe, but not an innovator. Every single product they have ever released has been "inspired" by something that came before.

The operating system monopoly that Microsoft enjoys has given them the leverage to thwart upstart competitors. We all know and acknowledge this. The proposed slap on the wrist makes it apparent that antitrust laws have no teeth. Without a punishment that fits the crime, there is no disincentive for other companies now and in the future to avoid running afoul of antitrust laws.

I resent the millions of taxpayer dollars spent over many years in an effort that apparently will result in a conclusion that antitrust laws were violated but that it's OK to let Microsoft off easy, once again. Those who believe in the free market as an absolute have no understanding of American history and no appreciation for the need for antitrust laws in our highly successful form of capitalism.

sincerely,
Ian Russell Johnson
Corvallis, Oregon

MTC-00025757

From: gramadarz@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 2:00am
Subject: Microsoft settlement

I feel it's time the government take a stand against the bilking of Microsoft. Please get involved and end this persecution of a company because others can't get their stuff together.

Darlene Dwyer
Everett, WA 98208

MTC-00025758

From: root@umr.edu@inetgw
To: Microsoft ATR
Date: 1/26/02 2:02am
Subject: Microsoft Settlement

Microsoft has used their monopoly powers time and time again to strangle innovation, it is time for that to be put to a stop.

MTC-00025759

From: Laura Stephenson
To: Microsoft ATR
Date: 1/26/02 2:08am
Subject: Re: Microsoft settlement

Dear Sir,

I greatly appreciate Microsoft ability to innovatively create sofware projects which assists the consumer in not only their word processing needs, but also in the area of the internet. Yes, there are links between Microsoft and other companies. And true, Microsoft in the largest computer company and the other have not been competing as well. My personal opinion is that the man behind the company is the key. If it weren't for Bill Gates innovative approach to life as well as business, consumers would not buy his company's products. Because Microsoft is simply the best in their area of expertise, they are being punished. Why punish such a terrific company who has simply figured out the key to good business?—working with other to make the best and the most efficient products and services on the market. As a teacher, I want to be the best teacher for my students every day all of the time. Other teachers may become jealous because I am rewarded for my diligence and excellence in the service I provide to our children.

Therefore, I get punished because they can't stand to see someone else half their age do a better and more efficient job than them. In theory, this analogy paints the true picture of what has happend to Microsoft. Other companies are simply jealous of the tremendous network that Microsoft has created and wish that they had done it themselves. They are in it for the money like any other business here on earth!!! What a great ability to meet the needs of their consumer while also doing what they feel called to do!!! Creation of new ideas is often rejected in our society, especially if it goes against the grain of our pocketbook. Another example would be the change from fuel-run vehicles to electric car which are more efficient and more environment friendly.

Anyone who can say that what Microsoft has done is wrong is a hypocrite because no one can truly say that working with others in the business world to create the most efficient and effective products and services is bad. Microsoft simply and intelligently thought of it first!!!

Thank You for keeping Microsoft a leading company in this game that we call computer life!!! May the Lord be with you are you make this historical decision that could positively or negatively affect millions of consumers nationwide!!!

In His Name,
Laura Stephenson
2412 Pleasant Rose Cr.
Bryan, Texas 77808
(979)731-1217

MTC-00025760

From: Colin Kinlund
To: Microsoft ATR
Date: 1/26/02 2:06am
Subject: Microsoft Settlement

To whom it may concern:

I am writing to express my dismay at the inadequacy of the current proposed settlement against Microsoft. It provides neither concise so-called "punishments" nor methods of enforcement and control; Microsoft has repeatedly shown itself to be incapable of independently conducting fair and legal business.

This distinct lack of self-control is exemplified by their continued and blatant monopolistic practices even in recent months, such as their intentionally poor encoding of MP3 files in Windows XP, making their included Windows Media Audio the better choice in quality by default, and leaving the average consumer with no choice but to use Microsoft's new "standard."

Microsoft has shown no change in its approach to business since it was found to be a monopoly 6 years ago, and the current Final Settlement allows Microsoft to continue its illegal practices with virtually the same degree of anti-competitive behavior as before. It is a poorly worded document riddled with loopholes and incomplete statements, and it does nothing to truly address the nature of Microsoft.

I do not support this settlement in its current form. I also urge you to read Mr. Dan Kegel's proposed revisions to the settlement at http://www.kegel.com/remedy/remedy2.html

Thank you.
Sincerely,
Colin Kinlund
Bristol, Vermont

MTC-00025761

From: Tim Thomas
To: Microsoft ATR
Date: 1/26/02 2:10am
Subject: Microsoft Settlement

Dear Sirs;

The proposed Microsoft settlement is a farce. These people are guilty of arrogant and willful acts of disregard for the law, and they should be punished, not rewarded.

I am ashamed of our legal system for their lack of integrity in even considering this settlement.

Sincerely,
Tim J. Thomas
Editor, Mouse Droppings and The Communiqúi
Board member, The Alaska Apple User Group

MTC-00025762

From: Eddie Fourie
To: Microsoft ATR
Date: 1/26/02 6:14pm
Subject: Microsoft Settlement

Enough is enough!

No-one asked me as a consumer whether I was hurt or not by Microsoft's innovation. As a programmer and a technologist myself, I have given up some of their competitor's tools and decided to use Microsoft's platforms, operating systems and products as choice.

Our company makes a living from products Microsoft creates and sells, and it's absurd for people who are non-technical to make decisions of this magnitude.

I therefore urge you stop this crazy lawsuit and get to settlement as soon as possible, as your actions and or lack of affects our business, but not only ours, but hundreds of thousands of other small business out there.

Regards
Eduard Fourie

MTC-00025763

From: Marc S Weintraub
To: Microsoft ATR
Date: 1/26/02 2:11am
Subject: Microsoft Settlement

MTC-00025763-0001

Dear Sir,

In accord with the Tunney Act, I am submitting my comments on the Proposed Final Judgement in the Microsoft proceedings (commonly known by the somewhat inaccurate description: "DOJ vs Microsoft").

There are many reasons why I find fault with the proposed settlement. In order to keep this comment brief, I will focus my comments on one specific are that I believe has not received a great deal of commentary from the public. I am very concerned about the faulty definitions and their implications, there are numerous examples of alterations to definitions found in the Findings of Fact as they have been "reproduced" in the PFJ. For example:

Definition A—"API"

The FOF defines "API" as "the interfaced between application programs and the operating system." The PFJ has altered it to mean only "the interfaces between Microsoft Middleware and Microsoft Window, excluding Windows APIs used by other application programs." The PFJ's definition of API permits Microsoft to omit important APIs that are crucial to Independent Software Vendors" ability to write software that integrates with Windows to the same extent to which competing Microsoft products are able to do so.

Definition J—"Microsoft Middleware" The FOF defines "middleware" as "application software that itself presents a set of APIs which allow users to write new applications without reference to the underlying operating system." The PFJ destroys the intent and spirit of that definition by making it possible for Microsoft to avoid compliance simply by altering the form of version enumeration or the method of distribution of the products it miserly lists as "middleware." The PFJ leaves so many holes open to Microsoft as to make the concept of "middleware" a moot point in terms of measuring Microsoft's adherence to the PFJ's rememdies. That is simply wrong and must not be permitted.

Definition K—"Microsoft Middleware Product"

The PFJ restricts the list of products to Internet Explorer, Microsoft Java, Windows Media Player, Windows Messenger and Outlook Express. It deliberately omits the obvious selections of Microsoft .NET, C#, Outlook and Office. There are, no doubt, other products that fit the proper definition of "middleware" and should be included as well. In fact, ideally, there should not be a list of what DOES apply, rather there should be a list of what DOES NOT. The fact is that no one at Microsoft is going to willingly include every product that should be a member of the list unless forced to do so. By changing the rules of defining the term "middleware" such that everything is included except that which is explicitly excluded, Microsoft will be forced to realistically explain the VALID reasons why any product should be added to the exclusion list. Only then can there be a reasonable expectation that essential APIs MIGHT become available to ISVs.

Definition U—"Windows Operating System Product"

The PFJ makes unreasonable assumptions about what constitutes a Windows Operating System product. It specifically restricts the definition to "only Windows 2000 Professional, Windows XP Home, Windows XP Professional and their successors." What about existing Windows products such as Windows CE? What about the XBox which Microsoft clearly states runs an embedded version of Windows XP? Does "embedded" mean it is not "Home" and it is not "Professional" and therefore it "does not count?" What about the Tablet PC featuring Windows XP Tabled PC Edition? I do not see the words "Home" or "Professional" in that name, does it count? I am certain that my and the ISV industry's answer to each "does it count" question is a resounding YES, however I am equally certain that Microsoft's is a resounding NO.

As the PFJ definition currently reads, Microsoft can evade the provisions of the Final Judgment by shifting its efforts away from the Operating Systems listed in Definition U and towards Windows XP Tablet Fdition.

MTC-00025763-0002

01/31/2002 6:37 PM

Windows CE, Pocket PC, X-Box or some other Microsoft Operating System that can execute Windows applications. That is simply wrong and must not be permitted. True competition cannot be ensured due to the faulty definitions included in the PFJ. The unwarranted restrictions and syntactic gymnastics employed ensure that Microsoft can evade the purpose behind the action taken by the DOJ and several State's AGs. The purpose should be clear to everyone, it is to ensure that Microsoft ceases and desists from i anti-competitive practic

How should the Final Judgment erode the Applications Barrier to Entry?

The PFJ tries to erode the Applications Barrier to Entry in two ways:

By forbidding retaliation against OEMs, ISVs, and IHVs who support or develop alternatives to Windows. By taking various measures to ensure that Windows allows the use of non-Microsoft middleware. A third option not provided by the PFJ would be to make sure that Microsoft raises no artificial barriers against non-Microsoft operating systems which implement the APIs needed to run application programs written for Windows. The Findings of Fact (52) considered the possibility that competing operating systems could implement the Windows APIs and thereby directly run software written for Windows as a way of circumventing the Applications Barrier to Entry. This is in fact the route being taken by the Linux operating system, which includes middleware (named WINE) that can run many Windows programs.

By not providing some aid for ISVs engaged in making Windows-compatible operating systems, the PFJ is missing a key opportunity to encourage competition in the Intel-compatible operating system market. Worse yet, the PFJ itself, in sections III.D. and III.E., restricts information released by those sections to be used "for the sole purpose of interoperating with a Windows Operating System Product". This prohibits ISVs from using the information for the purpose of writing operating systems that interoperate with Windows programs.

MTC-00025764

From: Del Ivey
To: Microsoft ATR
Date: 1/26/02 2:13am
Subject: Microsoft law suit

Dear Mr. Attorney General,

I am writing you to urge you to put an end to the seemingly endless litigation and appeals and new suits brought by the less-than-tenuous attorneys under your jurisdiction. I have been a stock holder and user of Microsoft products for more than fifteen years and find the products more than adequate and very reasonably priced in the market place. I believe what has been accomplished to date in the litigation is more than adequate to restrain Microsoft and allow all the oversight necessary.

Please end this senseless wrangling and get on to more important matters ; such as off shore partnerships of off-balance sheet SPE of you know who.

Yours truly,
Delbert G. Ivey
ivdel@digisys.net

MTC-00025765

From: brian—l@mac.com@inetgw
To: Microsoft ATR
Date: 1/26/02 2:18am
Subject: Microsoft Settlement

This "settlement" does nothing to stop Microsoft from continuing to abuse its monopoly power, nor does it provide any remedies for past abuses.

MTC-00025766

From: Walter
To: Microsoft ATR
Date: 1/26/02 2:21am
Subject: Microsoft Settlement

Dear Mr. James,

The "settlement" you folks have worked out with Microsoft does not address any of the core monopolization violations affirmed by the Court of Appeals (unanimously) in June of last year.

Your settlement is so far outside the mainstream of antitrust law and so completely contradicts the Court of Appeals decision that the only explanation is that you are getting political pressure from Microsoft beneficiaries in the government to cave in.

Microsoft will now go breezily back to its heavy handed practices of pushing out competition. Don't you realize that it is small business that fuels the economy? With your settlement, we might as well give the entire country to Microsoft.

Disgustedly,
Diane Walter
CC:diane@donder.com@inetgw

MTC-00025767

From: kang xu
To: Microsoft ATR
Date: 1/26/02 2:22am
Subject: Re: My comment on Microsoft case

Dear Sir:

Attached please find a letter which expresses my opinion on the antitrust case with Microsoft.

Thanks.
Sincerely,
Kang

Send and receive Hotmail on your mobile device: http://mobile.msn.com

CC:
fin@MobilizationOffice.com@inetgw

MTC-00025767-0001

Kang Xu and Ying Zhang
10521 Polk Square Court
North Potomac, MD 20878
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I would like to give you my thoughts on the Microsoft antitrust case. I support the reasonable settlement that was reached and oppose further litigation. It can only benefit consumers if this case were to come to an end, allowing Microsoft to focus on their business of creating superior, innovative products. I am a government contract researcher and use Microsoft both in my office and at home. Microsoft has standardized computer software, creating increased efficiency for businesses. It is unfortunate that a company is being punished for being successful.

I urge you to please accept the proposed settlement, as it is more than reasonable and will surely promote healthy competition in the computer industry. For example, under the settlement terms, Microsoft will not only share its source codes with their competitors, but also allow extensive flexibilfty to computer makers in way they configure Microsoft software, and that of its competitors on new computers. This, along with other stringent restrictions in the settlement will surely limit Microsoft's own competitiveness, but they are willing to concede to these terms in order to get back to the business of what they do best: providing innovative IT solutions that not only benefit American consumers, but the economy as a whole.

Sincerely,
Kang Xu

K. Xu, 10521 Polk Square Court, North Potomac, MD 20878

Tel.: (301)-394-0043(o);(301)-279-5952(h); e-mail: kang—xu@hotmail.com

MTC-00025768

From: bud kuenzli
To: Microsoft ATR
Date: 1/26/02 2:28am
Subject: Microsoft Settlement

Recently I "signed" (electronically) a letter found at http://www.kegel.com/remedy and this is to be sure you understand it was not done hastily or without consideration. The points made by Dan Kegel were better expressed than had I written my own simple paragraph. I believe it will be a travesty of Justice if the Microsoft case is not brought to a stricter settlement and accounting. I urge you to hold Microsoft to a much stricter standard than that which has been proposed, so as to meet the concerns expressed by Mr. Kegel directly and by me, through his well done web site and commentary.

Thank you.
Bud Kuenzli
Technology Manager,
Austin E. Lathrop High
School, Fairbanks Alaska
wk email: bud@northstar.k12.ak.us
personal email: kuenzli@gci.net
Ab Kuenzli
2025 Persinger Dr.
North Pole AK 99705

MTC-00025769

From: Marc S Weintraub
To: Microsoft ATR
Date: 1/26/02 2:35am
Subject: Microsoft Settlement

Dear Sir or Madam,

In accord with the Tunney Act, I am submitting my comments on the Proposed Final Judgement in the Microsoft proceedings (commonly known by the somewhat inaccurate description: "DOJ vs Microsoft"). There are many reasons why I find fault with the proposed settlement In order to keep this comment brief, I will focus my comments on one specific area that I believe has not received a great deal of commentary from the public.

I am very concerned about the faulty definitions contained within the Proposed Final Judgement (PFJ) and their implications. There are numerous examples of alterations to definitions found in the Findings of Fact (FOF) as they have been "reproduced" in the PFJ. For example:

Definition A—"API"

The FOF defines "API" as "the interfaced between application programs and the operating system."

The PFJ has altered it to mean only "the interfaces between Microsoft "Middleware" and Microsoft Windows, excluding Windows APIs used by other application programs." The PFJ's definition of API permits Microsoft to omit important APIs that are crucial to Independent Software Vendors" (ISV's) ability to develop software that integrates with Windows to the same extent to which competing Microsoft products are able to do so.

Definition J—"Microsoft Middleware"

The FOF defines "middleware" as "application software that itself presents a set of APIs which allow users to write new applications without reference to the underlying operating system."

The PFJ destroys the intent and spirit of that definition by making it possible for Microsoft to avoid compliance simply by altering the form of version enumeration or the method of distribution of the products it miserly lists as "middleware." The PFJ leaves so many holes open to Microsoft as to make the concept of "middleware" a moot point in terms of measuring Microsoft's adherence to the PFJ's rememdies. That is simply wrong and must not be permitted.

Definition K—"Microsoft Middleware Product"

The PFJ restricts the list of products to Internet Explorer, Microsoft Java, Windows Media Player, Windows Messenger and Outlook Express. It deliberately omits the obvious selections of Microsoft .NET, C#, Outlook and Office. There are, no doubt, other products that fit the proper definition of "middleware" and should be included as well. In fact, ideally, there should not be a list of what DOES apply, rather there should be a list of what DOES NOT. The fact is that no one at Microsoft is going to willingly include every product that should be a member of the list unless forced to do so. By changing the rules of defining the term "middleware" such that everything is included except that which is explicitly excluded, Microsoft will be forced to realistically explain the VALID reasons why any product should be added to the exclusion list. Only then can there be a reasonable expectation that essential APIs MIGHT become available to ISVs.

Definition U—"Windows Operating System Product"

The PFJ makes unreasonable assumptions about what constitutes a Windows Operating System product. It specifically restricts the definition to "only Windows 2000 Professional, Windows XP Home, Windows XP Professional and their successors." What about existing Windows products such as Windows CE? What about the XBox which Microsoft clearly states runs an embedded version of Windows XP? Does "embedded" mean it is not "Home" and it is not "Professional" and therefore it "does not count?" What about the Tablet PC featuring Windows XP Tabled PC Edition? I do not see the words "Home" or "Professional" in that name, does it count? I am certain that my and the ISV industry's answer to each "does it count" question is a resounding YES, however I am equally certain that Microsoft's is a resounding NO.

As the PFJ definition currently reads, Microsoft can evade the provisions of the Final Judgment by shifting its efforts away from the Operating Systems listed in Definition U and towards Windows XP Tablet Edition, Windows CE, Pocket PC, X-Box or some other Microsoft Operating System that can execute Windows applications. That is simply wrong and must not be permitted.

True competition cannot be ensured due to the faulty definitions included in the PFJ. The unwarranted restrictions and syntactic gymnastics employed ensure that Microsoft can evade the purpose behind the action taken by the DOJ and several State's AGs. The purpose should be clear to everyone, it includes (but is not limited to):

*erasing the barriers to entry onto the competitive field by ISVs

*promoting positive and unfettered competition

*ensuring that Microsoft ceases and desists from its anti-competitive practices

*preventing Microsoft from obtaining and abusing future monopolistic powers

The proceedings surrounding this case have far reaching implications to the future of Microsoft and the Computer Information Industry. If the barriers to true competition are not eliminated now, they probably never will be. This is a momentous time given the indisputable fact that a US Court has judged (for the first time ever) Microsoft to have used and abused Monopolistic powers and to have actively engaged in a systematic process of preventing and obliterating competition in key sectors of the Computer Information Industry.

If the DOJ permits Microsoft to escape with a slight slap on the wrist and a Settlement that is, for all intents and purposes, unenforceable by virtue of the highway-sized loopholes it gives Microsoft then I must ask you "why do we have a DOJ? What service does it provide to the people of the United

States of America that cannot be better served by the Private Sector and the States" AGs?"

I believe the DOJ serves the people of our nation well, with dignity and honor 99% of the time. I am gravely concerned that the Microsoft Settlement falls under the 1%.

Thank you for you time and attention to this very important matter. Some say this case will make history. I say it already has and will continue to do so for decades to come. We are at a crossroads. We will either have a 900 pound Monopoly Gorilla or we will have the competition that has been the ideal and hallmark of the American Free Trade system. We, the American people, are relying upon you to do what is right and we have faith in your ability and determination to do so.

/s/ Marc S. Weintraub
Springfield, VA

MTC-00025770

From: Charles Martin
To: Microsoft ATR
Date: 1/26/02 2:36am
Subject: Microsoft Settlement

To Whom It May Concern:

I understand you have been bombarded by emails and letters during the public comment period, so I will keep this brief for the benefit of those having to read all those comments.

Point One

Microsoft as a corporation has broken the law repeatedly, even when ordered to stop doing so. They will seemingly use any tactic short of felony murder to maintain their anti-competitive monopoly. This does NOT benefit consumers, it harms them in exactly the same way the US economy would be harmed if GM suddenly made it impossible for any other car maker to work with standard parts. The proposed settlement does little or nothing to PUNISH Microsoft for previous bad acts and bad faith, and in doing so REWARDS the company for this behaviour and thereby guarantees further such lawbreaking, deception and anti-competitive practices.

I suggest that a very, very large fine—in the billions of dollars

—is the only remedy coercive enough to actually foster a behavioural change in the "corporate culture" of Microsoft. Much of the money from this fine should be used to redress wrongs done to MS competitors including AOL/Time Warner, Apple Computer and many PC hardware manufacturers and hundreds of smaller former companies who were bullied right out of the market. The rest of the money should be used to fund efforts to encourage the development of alternate, specialised OSes (for example, an ultra-secure OS for government servers). The precedent for this is already present in the government's own settlement with the tobacco companies.

Point Two

Microsoft has harmed consumers in myriad ways, but they have also harmed—in a considerable way—the security of the United States government, and the US economy through their admitted lapses in security and their drive to become sole-supplier and controller of all microcomputer operating systems and infrastructure. Billions upon billions have been lost in real revenue and productivity thanks to viruses based on weaknesses in Microsoft code. Top secret material and other sensitive data by the truckload has been stolen and criminal behaviour facilitated by security blunders and loopholes deliberately built into Microsoft's OS for either marketing purposes or to enhance the convenience of possible future Microsoft plans for intrusive monitoring. The right to privacy, once the centerpiece of our democracy and the original cornerstone of the Internet, is now but a dim memory that is rapidly eroding thanks to our deep dependence on buggy, vulnerable software and a company who's interests are often in conflict with the best interests of the United States. If a foreign company were doing this to us, we'd likely have charged them with treason via sabotage by now. At the very very least, the government and its contractors should punish Microsoft by doing a thorough audit of government computer usage and replace Windows systems with alternatives wherever possible for at least a period of five years.

Point Three

Microsoft's continued flouting of the law and fair business practices, combined with their documented (by MS itself) threats to competitors by high-level executives in the company (up to and including Chairman William H. Gates III) pose a danger to both society and capitalism itself. Despite it's propaganda efforts, Microsoft is in fact the *least* innovative software manufacturer on the scene and actively crushes innovation it cannot control or buy. The proposed settlement offers no incentive for Microsoft to cease this behaviour, and in fact reaffirms their monopoly and reinforces their right to bully competitors and squash innovation.

My suggestion would be to set vigourous, firmly-enforced limits on Microsoft's ability to interfere with competitors in any arena, and the best way in my honest opinion to do this would be to inflict jail time and other "real punishments" on the top executives of the company, up to and including Bill Gates. A clear message must be sent to both Microsoft *and* future companies that would emulate them, and jail time for white-collar executives would definitely send the right message. The MS executives can share a cell with the Enron executives if you prefer, that's up to you. :)

But it is long past time that Corporate Criminals got treated more like the real criminals they are—they do REAL harm, they hurt REAL people and companies, and they should get REAL punishment. Otherwise, the widening gap between justice for the rich/powerful and justice for the poor/weak will widen into a yawning chasm, and to be blunt I expect that at some point we'll foster civil unrest and a further weakening of our democracy if we as a society continue down that path.

Sincerely,
Charles Martin
Maitland, Florida

MTC-00025771

From: Todd Colburn
To: Microsoft ATR
Date: 1/26/02 2:35am
Subject: Microsoft Settlement

I would like to protest the pending settlement with Microsoft. I do not feel that the proposed punishments will do any good in preventing the continued monopoly practices of Microsoft.

Thank you.
Michael Todd Colburn
Clovis, CA

MTC-00025772

From: James Simons
To: Microsoft ATR
Date: 1/26/02 2:37am
Subject: "Microsoft Settlement"

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement.

I strongly disagree with the proposed settlement with Microsoft.

Thank You.
James Edward Simons.

MTC-00025773

From: Donald G. Ebner
To: Microsoft ATR
Date: 1/26/02 2:38am
Subject: Microsoft Settlement

Dear Attorney General Ashcroft,

As a concerned citizen interested in justice, I am writing to encourage you to do your part to get the Department of Justice to accept the Microsoft antitrust settlement. This issue, which has dragged on for an inordinate amount of time (over three years!), is taking an adverse toll on our fragile economy and needs to be settled with dispatch. From my reading of the proposed settlement, Microsoft has indicated a willingness to accept a long list of concessions, which I consider more than fair. In my considered opinion, the Government needs to accept the firm's offer and move on. You'd be doing a service to our country and the technology industry if you would accept the Microsoft antitrust settlement.

I know you occupy a demanding position, one that forces you to put long hours in your work. But please know that there are a great number of people, yours truly included, who are indebted to you for your tireless efforts and contributions to our nation.

Thank you for your noble service and also for considering this request.

Sincerely,
Donald G. Ebner, Ph.D.
CC:fin@mobilizationoffice.com@inetgw

MTC-00025774

From: Adam Lippiatt
To: Microsoft ATR
Date: 1/26/02 2:41am
Subject: Microsoft Settlement

Dear Sir/Madam

Microsoft should not be allowed to settle on the basis of software, or hardware running their software, being given to schools. This "dumping" of software should be considered anti-competitive and be proscribed. A more appropriate settlement would be cash donated for computers with no strings attached in relation to the software or hardware purchased.

Microsoft should also suffer other penalties which appropriately punish it for its anti-competitive behaviour. Further, limits should be placed on the way it behaves in the future and its ability to use its market power to negatively affect the industry. The Department of Justice should not settle the matter before appropriate sanctions are placed on Microsoft.

Regards

Adam Lippiatt

MTC-00025775

From: dgrigg5885@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 2:48am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Roee Grigg
11266 N 95 E
Idaho Falls, ID 83401

MTC-00025776

From: THOMAS P Mc GUIRE
To: Microsoft ATR
Date: 1/26/02 2:49am
Subject: MICROSOFT SETTLEMENT

MTC-00025777

From: David Groom
To: Microsoft ATR
Date: 1/26/02 2:55am
Subject: Microsoft Settlement

Good People,

Microsoft has been a champion of ensuring consumers benefit from low cost and high volume economics of the PC market. In college, I remember that Apple computers were nearly double the cost of a PC and of course systems from the likes of Sun Microsystems have only been accessible to pocket books of big corporations. Microsoft's success in building popular products at reasonable prices is the obvious reasons for the size of its market share. On the other hand, it is disconcerting that the antitrust trial has drug on so long only to favor the likes of big corporations like AOL, Sun, and Oracle. It is sad to see an American company which has brought such consumer benefit, held back for the welfare of corporations like AOL and Sun.

Let Microsoft compete freely. Let the market place decide which products should win.

Regards,
David Groom

MTC-00025778

From: dave
To: Microsoft ATR
Date: 1/26/02 3:05am
Subject: Microsoft Settlement

Bad form letting Microsoft get away with such a sweatheart deal.

dave di re

MTC-00025779

From: Hans Huang
To: Microsoft ATR
Date: 1/26/02 3:12am
Subject: Microsoft settlement

Let's settle it and move on....good for consumers, good for USA, good for the whole world....................

Hans
Hans Huang,
Executive QA Pgm Mgr, APQA

MTC-00025780

From: Edith Ang
To: Microsoft ATR
Date: 1/26/02 3:13am
Subject: Microsoft settlement

We should thank Microsoft for its operating system and internet web and email programs. There is nothing wrong to offer their programs all bundled together with a discount price. Companies do it all the time. Loss leaders are done at grocery stores. Restaurants offer either Coke or Pepsi products but never both.

If rivals spend more time on offering better programs, public will buy it. Why act like cry babies and ask government to interfere by punishing the hard working and smarter kids. Let the competitors know they must grow up on their own

Just like the auto industry. Each one of them has to come up with something different to compete for the public. Apple Computer has its followers because they keep on develop new things for their customers. Crest toothpaste for a long time out sells Colgate, now the trend is reversing because of new innovation.

Please stop spending tax money to interfere and fatten the lawyers" pockets.

MTC-00025781

From: David C
To: Microsoft ATR
Date: 1/26/02 3:35am
Subject: Microsoft Settlement

I think the settlement is a really bad idea, Microsoft deserves far more strict penalties, they need to remember to be good in the future. They wield too much power for a slap on the wrist.

David Christensen
UC Berkeley Student
Berkeley, CA

MTC-00025782

From: David Lee
To: Microsoft ATR
Date: 1/26/02 3:35am
Subject: Microsoft Settlement

Dear Sir/Madam,

Microsoft should be left alone to make as much money as it can make, and to dominate it's competitors as well as it can. In a free society, the most competent company will dominate, so instead of despising Microsoft for their success, I love and admire the company, and look up to Bill Gates. I don't care about other computer/software companies. I choose Microsoft because they make great products at cheap prices. Even if they raise their prices later, they have a right to do it. I believe Microsoft has the right to sell in a way that pushes it's competitors out of the market. I do the same for the business I work for, to make more money. I respect the opposition companies that do better than ours. These better companies don't owe us their lives. If our business fails, we will take it and respect the opposition more.

I don't believe in self-sacrifice. I believe that if a company fails to compete against Microsoft, how dare that company improve it's market share by the musket of a gun; that is, through the government. Let men live, not by permission, but by right.

David Lee

MTC-00025783

From: james paraiso
To: Microsoft Settlement
Date: 1/26/02 3:36am
Subject: Microsoft Settlement
james paraiso
411 dorothy st #20
el cajon, ca 92019
January 26, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayersO dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
jim & Carrie Paraiso

MTC-00025784

From: Jay Blackman
To: Microsoft ATR
Date: 1/26/02 3:42am
Subject: Microsoft Settlement

I urge the Department of Justice and all other parties to accept the Microsoft settlement agreement. I believe it is a settlement that conforms to the criteria imposed by the Court and is a valuable opportunity for the government and the industry to move forward. Thank you.

MTC-00025785

From: Michael R James
To: Microsoft ATR
Date: 1/26/02 3:42am
Subject: Microsoft Settlement

I believe history will look back on this age in America as the one that did the most damage by abandoning the ideals that made this country so great. This country was founded on the idea that we, as individuals, can achieve what we set out to achieve. We have only the right to try, not to succeed. The clam sits at the bottom of the ocean waiting for food to happen by as it filters the water waiting for nutrition, never experiencing anything other than it's simple existence. The eagle, on the other hand, flies up to a hundred miles searching for food, souring over the landscape and seeing an ever-changing world. The Eagle, not the clam is the symbol of America. What will be our symbol tomorrow? We are surrounded by instances of individuals and corporations pointing fingers at the success of their competitors and whining about how they should be in that seat. How, if everything were more fair, they would be the leaders. It strikes me as more than a little hypocritical for the world's largest communications company (that absolutely refuses to open such a critical tool to today's communication as instant messaging to free competition) to be pointing at Microsoft and whining that they're (recently) acquired Netscape would have been more successful if Microsoft didn't embed IE into windows. Come on, AOL-TW !! You yourselves opted for the superior performance and features of IE over Netscape for your own AOL browsers not too long ago!!!!!!!! Look at the real market facts.. Netscape did fine against IE, even though IE was embedded in windows, Netscape was the preferred browser by most, and was rated as a better product in the media for several versions. Then, starting with version 4.0, IE started to offer more competition as it improved it's performance and feature set. Eventually the media started touting IE as the winner in the "Browser Wars". It was then, and only then, that Netscape started losing market share. Not because IE was embedded into windows (it always had been), but because it became a better product. Simple, huh? As I said we will be looked upon as the age that destroyed competition by punishing those that succeed. Making the right judgment in the Microsoft case will not change this, but at least it will not contribute to it. Who has really been pushing for judgments against Microsoft? The consumers? No. No, I mean the ones REALLY behind all of this. Our government has been wielded like a puppet by those who stand to gain financially. It is so, blatantly obvious to almost everyone I talk to what is really going on. It is embarrassing to watch our own government be played like this. Michael R James Galileo <http://www.galileobas.com/> BAS, Inc. Office 623–551–4296 Mobile 602–549–3903 Fax 623–551–4297 Email <mailto:mjames@galileobas.com> mjames@galileobas.com

MTC-00025786

From: James Plante
To: Microsoft ATR
Date: 1/26/02 3:56am
Subject: Axe to grind—7 to 9

Microsoft microsoft.atr@usdoj.gov Thank you for this opportunity for me to post an incident that was caused by the Microsoft Internet Explorer software package permanently linked to the Windows 98 OS package. Prior to the install/upgrade to Windows 98, my system operated on Windows 95. While working with the 95 OS I choose to upgrade my Wordperfect 5.x to the newer Wordperfect Suite 7.0 (WP7). It is important to realize the sequence in which this occurred. With these two packages installed on the 95 operating software there were no incidents that occurred that would have indicated a compatibility problem. However, after several months of what appeared to be an acceptable operating environment I choose to upgrade the OS to the newer Windows 98, with it's promise of stability and FAT32 capabilities, which I required for expanding my memory storage in support for working with graphics. For approximately 6 to 9 months I worked with the Suite 7.0 with no apparent problems except for a few incidents of an occasional error message indicating a problem reading a bad WP7 operating file. As this time period progressed the error message increased in frequency to eventually delivering the message the file could not be read and a reinstallation of the missing file would be necessary. The problem begins. Several attempts to reinstall the file resulted in permission denied to complete the install. Working on this for several days I finally resorted to calling the WP help desk. After describing the problem to the phone technician, he responded with the question "Do you have Microsoft Internet Explorer (IE) installed on your system? I acknowledged that I did have it installed since it was linked to the current OS, but noted that I choose to use the Netscape internet browser as a preference, so the IE browser was not active. He informed me that regardless, with the IE browser tied to the OS, the affect the IE package has on your system is inevitable. The problem with trying to install WP7 files after the Microsoft IE package is installed is to block the installation of WP7. The phone technician said he would send me a patch, that may or may not work, to work around the effect of the Microsoft IE browser blocking the reinstall of WP7. If it did not work, allowing me to complete the install, then I would have to upgrade to the Wordperfect Suite 9 application software. I did not bargain for The IE Browser's affect on my applications. My intentions were to upgrade, for improved performance, to a better Operating System. With the browser tied into the OS, the browser literally destroyed the reliability of my other applications. This NEVER should have happened. I would like to see this outfit (Microsoft) broken up. Thank you Jim Plante

MTC-00025787

From: Sean Lee
To: Microsoft ATR
Date: 1/26/02 3:59am
Subject: Microsoft Settlement HTC-00025787—0001 file:///C/win/temp/tmp.htm

Dear DO J,

No settlement in this case against Microsoft can bring back the justice, if the settlement is in any way beneficial to Microsoft. The current proposed settlement by Microsoft is totally ludicrous in that it gives Microsoft even more market share in the educational market which is traditionally dominated by Apple, Inc. The raw cost to Microsoft is very minimal. Each copy of Microsoft OS is probably less than $1 (each CD cost about 20 cents in a retail store). However, Microsoft is selling them for probably $100. A billion dollar in software may be just $10 million dollar raw cost in CDs. And obviously, if they choose to distribute the bulk of the software via internet distribution, the raw cost is close to zero, except the occupied download bandwidth.

Dear Judge, the pervasive existence of Microsoft software has become a danger to the public. No email softwares in the brief computer history have been susceptible to virus attack. But Microsoft came up with their "ingenious" Microsoft Outlook email software which has opened SO MANY holes to virus & warms, such as the famous Melissa virus, etc. The monopoly of Microsoft has paralyzed the software industry and consumer public. Without substantial competing choices, we are left with buggy and unsecure products, and the lack of competition fostered an environment where blatant problems are ignored or accepted. So why is Microsoft not liable for the virus problem, when indeed it is Microsoft Outlook that opens the big door to the virus itself?. And it was just simply a total stupidity on Microsoft part that cost the whole United States to spend billions of dollars to fix a Y2K problem. If in 1995, at the time Microsoft publish their Window95 OS, or in earlier 90s, when they publish their MSDOS 6.0, the "ingenious" Microsoft programmers can count their year from 1995 to 2000 or 2001, and then they would have realized that their stored dates in the files are not sufficient. And these MS guys didn't even need to pay for 1 cent for Y2K cost. Instead, they could pitch their new softwares Win98, or Win2000, that those don't have Y2K file:///Cwin/temp/tmp.htm problems. I just don't know what kind of justice is there, if Microsoft is not punished for their mistakes and business practices which have suffocated software innovations.

Sincerely,

Sean

P.S. I'm a software programmer for 20 years, and a hardware chip designer for 5 year. I am sorry to say that software programmers at Microsoft have one of the lower IQs on this planet. They just cannot count from 1995 to 2000, nor they don't know that attached files in the email can be malicious, nor do they know anything about 30 years of speech recognition research at IBM, and ends up buying a speech recognition company, and was unable to develop their own.

MTC-00025788

From: Tims

To: Microsoft ATR
Date: 1/26/02 4:05am
Subject: Microsoft Settlement

I think the proposed settlement for the Microsoft case is a bad idea. It will cost Microsoft a fraction of the estimated cost to donate software and the like. Also, it would reward Microsoft by allowing them to expand their market share in the area of education. There needs to be a "cash" pay out to schools with no incentive fo purchase Microsoft related equipment.

Tims Johnson
Winter Springs, FL 32708
Blacklist Productions
http://www.blacklistfilm.com

MTC-00025789

From: MrActorGuy@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 4:07am
Subject: Microsoft settlement (against)

Hello:

I am against the Justice Department's proposed Microsoft settlement as it now stands because I believe it does nothing to restore competition in the software industry.

First, Microsoft was found to use its monopoly power to stop competition in areas that it felt threatened it's Window's monopoly. These two areas specifically were the internet browser market and where the Java programming language was concerned. This was because both technologies threatened to undermine the Window's Operating System, the source of Microsoft's power. I am against the proposal because it does nothing to restore competiton to the internet browser market, and it does nothing to prevent Microsoft from not supporting Java. I will further explain these two assertions. First, Microsoft already owns the internet browser market due to its anticompetitve efforts. Even if the proposed settlement was to take effect, Microsoft would be under no threat from competition in this market because it has already tied its Internet Explorer browser to Windows. In fact users of Windows have to go out of their way to use alternative products such as Netscape's Navigator Browser and from my experience many people do not even know that alternative products exist (in some cases better products). The proposed settlement does not recitify this situation, as it merely is an effort to stop Microsoft from using its power in this manner again in the future. This really is little concern for Microsoft because it does not need to do this again as it has already killed the competition in this area, and the lack of competion threatens to destroy competition in even other areas, as I will explain further later.

I want to first say that any effort to undue the wrong done by Microsoft must force it to untie its browser from Windows so that other browsers have a chance to compete with Microsoft's browser. Furthermore, Microsoft's browser must be forced to conform to open internet standards and not be allowed to use it's monoploy power to exclude alternate technologies, as it is doing now. For example, many websites now will only work correctly with Microsoft's Internet Explorer. Furthermore, some of these sites will only work correctly if you are using the version of Internet Explorer for Windows, which encourages people to use Windows out of necessity not choice. To illustrate this point I can be using the same version of Internet Explorer on a competing platform, such as a Macintosh computer, as on a Windows machine and some websites will not work properly because Microsoft has made both browsers work differently to the benefit of the Windows version. If a person needs to access some of these internet sites, or encounters this type of problem enough, that person might buy a Windows based computer the next time around just because Microsoft has made it impossible for that person to use another platform. With Netscape's browser I never had this problem. Internet sites viewed on any platform worked the same when using Netscape Navigator. Netscape made the Internet open, Microsoft attempts to make the internet only open to users of its products, which kills competition.

Another thing the settlement should force Microsoft to do is include Java support in any version of Windows that it ships. Windows XP does not do this even though other versions of Windows did. This is a devastating blow to competition. By doing so Microsoft is making it harder for developers to write software for multiple platforms because developers have to write software individually for multiple platforms without Java, whereas with Java they can write software once and it will work on various platforms. As a Macintosh user I can attest to the fact that developers will often neglect the Mac platform because they will have to spend a majority of their time writing software for Windows, which is a larger market. This kills competiton in the operating system market because people will often not buy a Mac because of a lack of software. If a developer can use Java, this problem is greatly alleviated, and Microsoft accordingly should be forced to support it. The current settlement does not do this.

Additionally Microsoft has often held an axe of sorts over the closest consumer based competitor in the operating system market. I am referring to Apple. Apple needs Microsoft Office to survive as most people who want to use Macs still want to communicate with people using Windows. Microsoft in the past has threatened to stop making Office for the Mac if Apple did not bend to its wishes, even though making Office is profitable for Microsoft . Some of these demands have been for Apple to replace Netscape Navigator for Internet Explorer as the default browser on Macintoshes(this dmaged Mac users as Netscape was equal on multiple platforms), for Apple to share some of its proprietary technology with Microsoft so it could make Windows better (taking away Apple's Operating System's superiority), and trying to get Apple to stop making Quicktime, its competing software, for Windows. A deal that guarenteed that Microsoft would produce Office for the Mac is about to expire. Microsoft should not be able to hold the Office knife to Apple's throat any longer. As long as Office is profitable on the Mac platform, Microsoft should be forced to make a version of it for the Mac that is compatible with the Window's version. Even if it is not profitable Microsoft should still be required to make the software for a while, as Microsoft's anticompetive efforts have hurt Apple's market share; and Apple should be given a chance to recover some of this. Microsoft Office started on the Mac, it should be kept there. Doing so allows Apple to compete with Microsoft without the fear of retribution. If this issue is not address, Microsoft will continue to control Apple, which might result in Apple unfairly going out of business. If this happened people like me, who prefer alternate technologies to Microsoft's offerings, will eventually be forced to use only Microsoft products. This not only is anticompetive, but anti-American, as America is about the freedom to choose. Microsoft exterted a great effort to prevent people from doing this, a stricter settlement is in order reverse the damage that Microsoft has done.

Sincerely,
Thomas Paluchniak
414 Kellogg Street #50 Ann Arbor, MI 48105 (734) 665–6381

MTC-00025790

From: donald mead
To: Microsoft ATR
Date: 1/26/02 4:10am
Subject: Microsoft Settlement

The DOJ argument in the Microsoft, MS, antitrust case were excellent. Please carry that excellence through to the end of the process and revise the settlement to reflect the findings in the case. An example of one condition that would bring the settlement more inline with addressing the findings and be cleanly enforceable would be to require MS to make freely and publicly accessible -without any restrictions prohibiting outside usage- all specifications and related information for Application Programmer Interfaces (APIs,) protocols and other interconnections between all software and hardware components at least six months to one year before MS can release a second software component that utilizes that specification. Also when MS implements any standard established by an outside organization that MS be restricted to full compliance with the standard without any additions or modifications other than approved and incorporated into the standard through procedures established by the standard setting organization. Any violation would require MS to remove from the market -with a buy back plan- all products which contain a component which is in violation of this condition with the prohibition from engaging in any activity whatsoever with regard to the product -other than offering to repay any and all purchasers- for a term of six months to one year plus the time which the initial release fell short of compliance. Any further non-compliance would result in MS relinquishing to the public domain the source code for the violating software.

This specific part of a reasonable remedy would allow MS to continue innovating while allowing other vendors to fairly compete within the operating system or application area and restricting MS from using its monopolistic advantages from subverting standards designed to benefit a competitive community and the public.

Thank you for your considerable efforts and diligence,

donald mead
Tucson, AZ

[I am an independent computer consultant whose only connection with this case is that of a concerned citizen and computer user.]

MTC-00025791

From: ruth.annd@ verizon.net@inetgw
To: Microsoft ATR
Date: 1/26/02 4:18am
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Ruth Ann Danielson
5411 144th Pl. SW
Edmonds, WA 98026

MTC-00025792

From: Leonard Cecil—Music of Note
To: Microsoft ATR
Date: 1/26/02 4:46am
Subject: Microsoft Antitrust case

Hello!

If you've got enough money you can buy anything—including your competition. microsoft has proved this time and time again. With the current proposed settlement, Microsoft is proposing to "buy" the school market with it's $1-billion penalty. Donate used hardware and software of it's own kind to schools (btw—is that $1-billion market value or production value. I doubt seriously that a CD with MS-Office cost MS more than $1 to produce, but if donated at market value will be "worth" many hundreds of dollars!) and thereby force the schools to tow the Microsoft line because they will not be able to afford other possible solution in the future without totally new money outputs. In this case MS sets itself up—as it's own punishment—a school monopoly by giving away Microsoft compatable hard- and software.

Now if Microsoft were to donate $1-billion worth of it's competitors" hardware and software, that's more like a punishment, than the above reward they are being sentenced to for monopolistic practices. And furthermore, since when does the convicted get to suggest his/her punishment? The bank robber? The rapist? certainly not. Not even other white-collar criminals like embezzelors and tax evaders. But if you are big enough and rich enough, you can even buy your own punishment.

Phooey!
greetings
Leonard Cecil

MTC-00025793

From: shahid ali
To: Microsoft ATR
Date: 1/26/02 4:51am
Subject: Microsoft Settlement

they filed lawsuit only for a full marketing purpose. They are doing nothing but marketing their own name, everyone knows that microsoft is devoted for the betterment of computer industry. If microsoft favouring the people of the world then who are they to stop microsoft, favouring mankind.

shahid

MTC-00025794

From: A1 Davis
To: Microsoft ATR
Date: 1/26/02 4:56am
Subject: Proposed anti-trust settlement

[Text body exceeds maximum size of message body (8192 bytes). It has been converted to attachment.]

CC: davisal@usa.net@inetgw

MTC-00025794 0001

Albert R. Davis, MD
438 May Street
Elmhurst, IL 60126
Renata Hesse, Trial Attorney
Suite 1200, Antitrust Division
Department of Justice
601 D Street NW, Washington, DC 20530
January 25, 2002

Dear Ms. Hesse,

I would like to take this opportunity to forward my comments to you regarding the proposed anti-trust settlement in the case of USDOJ v Microsoft. I am an anesthesiologist by profession, but have used personal computers since purchasing my first in 1982, and have an undergraduate degree in Accounting and Business Data Systems. I have maintained a strong interest in computers since 1982 and have business experience both as a programmer and as the owner of a computer sales firm.

I want to make it clear at the outset that I am completely opposed to the settlement as proposed. Microsoft's reasons for their position are specious, at best, and the proposal offers neither remedy for Microsoft's past transgressions nor protection from further abuse of both competing interests and the public at large.

As you know, Microsoft was essentially born with a silver spoon in its mouth. The company was intially granted a contract to provide IBM with an operating system for their then-new PC, which at the time immediately overran the PC world and rapidly eliminated virtually all of IBM's hardware competition in terms of non-IBM based architecture. While IBM developed an open architecture for their hardware, Microsoft immediately and aggressively pursued supplier contracts with IBM's competitors, thus very rapidly achieving a monopoly position in terms of operating system market share. By the time IBM introduced the PC-XT, Microsoft held well over 50% of the OS market, including the PC-DOS product sold by IBM under license from Microsoft. In the mid-1980s the limitations of MS-DOS were becoming apparent and IBM and Microsoft started work on what eventually became IBM's OS/2 and Microsoft's Windows NT. Meanwhile, Microsoft initiated sales of their DOS-based Windows product. While early Windows products languished, Microsoft made enormous profits from sales of DOS which they used not only to improve Windows but, more importantly, to buy influence in the PC press and among manufacturers. At a time when PC Magazine often contained more than 400 pages per issue Micorosft bought enormous quantities of ad space, and the largesse of their parties at trade shows and media events was legendary. Microsoft was certainly a major force in the industry and until this point the company was an all-American success story of luck combined with high energy and intelligent business manuevers.

MS-DOS was essentially unchanged from its initial versions until the release of version 4, at which point Microsoft began to write code designed to take advantage of improvements in PC architecture. Its early experience was dismal however, and not only did Microsoft receive its first substantial criticism in the press, it also left itself open for the first time to competition from competing software firms. It was Microsoft's response to this competition—Quarterdeck's desqView and it's associated memory management software, QEMM—that led to my first personal encounter with their detrimental and predatory practices. To make a long story short, I found that Microsoft's Windows 3.0 installation routine searched for a memory manager product from Quarterdeck called QEMM. If it found QEMM, Windows would refuse to install. QEMM released patches, and Microsoft promptly came up with new ways to seek out QEMM and refuse to install. The issues were not related to incompatability or instability—QEMM was a clearly superior product. The entire situation was due to Microsoft's intentional and deliberate willingness to sacrifice the user's time and money in order to defeat Quarterdeck in the memory manager application space. Quarterdeck ultimately declared bankruptcy in the early '90s. This was about the same time period that Microsoft first became noticed within the industry for possible antitrust violations because of a series of alleged patent infrigements and copywrite violations against various companies writing software utilities designed to enhance the performance of Windows. In every case, however, Microsoft succeeded in either appropriating technology or simply driving companies out of business because they had such enormous cash flows that no single small competitor stood a chance against them in court. This was also the time period when Microsoft began to impose what is now called the "Microsoft tax" on PC buyers. Microsoft began to write exclusive, "per-processor" royalty agreements with computer sellers, which meant that anyone who bought a PC was forced to buy the current version of Windows whether they intended to use it or not. The exclusive nature of those contracts prevented

PC retailers from offering any OS other than Microsoft's, and the per-processor tactic forced PC buyers to pay for an MS OS even if they wanted a computer with no OS on which they would subsequently install a non-MS OS. While the "per-processor" clauses may have been eliminated by Microsoft's 1995 consent decree, the fact remains that it is nearly impossible today for an individual to purchase a PC which does not have Microsoft's OS de jour installed on it. In 1995, however, when I went shopping for a PC with IBM's OS/2 OS installed on it, I was unable to find one, despite contacting each of the top 10 PC manufacturers in business at the time. In every case, I was told that I would have to purchase a PC with Windows on it; buying a PC with no OS was not an option. That was the year I began to build my own computers, which is a practice I continue today for essentially the same reasons.

MTC-00025794-0002

Microsoft's business practices from the early 1990s to today are, I'm sure, well known to you. While Microsoft's legal strategy throughout the antitrust struggle has focused on "innovation", the fact is that their business strategy has been much more focused on acquisition. Today 0S/2 is not available on any retail PC that I am aware of, and Linux is supported only as a grudging concession to user demands by companies which are afraid to anger Microsoft.

Microsoft's monopoly has indeed been bad for the industry—witness the decrease in the size and number of both popular and trade journals and magazines, despite the ever present growth of the PC industry (until this year.) Consider that OS/2, which has had practically zero support from IBM since 1988, is still in use in banks and insurance companies across the county. Imagine the growth and innovation which might have arisen from this radically different OS had they had the benefit of a fair sales environment for the past decade. Linux, which is certainly the most innovative business model of the past 50 years, and which offers direct competition to Microsoft, has been stifled much more by Microsoft's strong-arm techniques than by the shortcomings of its sales approach. Even when one considers what is called the "network effect" of an OS which tends to generate pressure towards a monopolistic economic model, the network effect alone cannot begin to account for the inability of either of these equivalent (if not superior) operating systems to affect Microsoft's market share.

Microsoft's monopoly has been equally bad for consumers. The vast majority of computer users simply are not equipped by either propensity or training to become software experts any more than the average driver is equipped to become a mechanic. In the automobile industry reliability has become a given precisely because of that fact. In the Microsoft dominated OS industry, however, unreliability has become a fact of life, to the extent that having a friend or neighbor with computer experience is often listed as an important factor in the computer purchase decision. Microsoft's monopoly position has allowed them to abrogate their support responsibility towards their customers almost completely; since the vast majority of OS sales occur in tandem with new computer sales, and since Microsoft now requires many OEMs to support Windows for them, Microsoft has lost practically all incentive to design reliable products. They are pouring their time and expertise into the acquisition and development of new technology, while caring little for the reliability of their current products. The time and expense costs to both individuals and businesses is enormous; it is common to hear stories of upgrades that never happen because "We finally got it working right, and we don't want to mess with it."

MTC-00025794-0003

The current proposed anti-trust agreement is completley unsuited to solving the problems which exist today because of Microsoft's monopoly, but there is a simple, fair solution. Rather than writing a detailed, convoluted agreement which attempts to address a myriad of problems in a very specific way, each of which can easily be circumvented, the DOJ can achieve the goals of fair business practices, customer service improvement and the elimination of an illegally maintained monopoly thrugh two simple actions.

First, the DOJ should prohibit Microsoft from selling any of its software as part of a hardware "bundle" for a period of at least five years. Microsoft should be allowed to sell directly, through retail, as a contracted supplier to busines or by any other means possible, as long as their products are not bundled with, contingent upon or in any other way linked to the sale of computing hardware unless the hardware is manufactured by Microsoft (such as their mouse, but even including a complete PC should they choose to manufacture one.)

Second, Microsoft should be forbidden from purchasing any company outright, obtaining a majority share in any company or exclusively licensing any company's technology for an equally long time period.

The application of these two constraints will meet all of the DOJ's requirements while not placing unfair, irresponsible or destructive mechanisms in place against the company. Forcing Microsoft to sell its products to the public rather than to OEMs will finally allow the general public to become aware of Microsoft's competition simply because they will see it in the store when they shop; business users, meanwhile, will be able to negotiate with Microsoft for the products they need without the necessity of factoring the "Microsoft tax" into their purchasing decisions. Placing responsibility for the sale back into Microsoft's hands will also require them to once again consider the reliability and stability of their products—performance issues will no longer be "someone else's problem." Installation, maintenance and comparability will all benefit from Microsoft's assumption of this responsibility.

By forbidding Microsoft from gaining exclusive control of computing technology, the restriction against purchasing/exclusive licensing will ensure that Microsoft will not be able to use their 80 billion dollar cash hoard to simply shut out the competition from innovation. Microsoft may obtain new technology as it evolves in the industry, but they must be restrained from preventing their competitors from accessing that same technology.

These two constraints are simple, difficult to circumvent, easily enforceable and reasonably achievable. While economic shifts are anticipated from any effective remedial measures, these restrictions will ensure that the market changes will be relatively gradual and non-disruptive to the company. Assuming that the market responds to the public's need for simple installation and operation of computer OSs the impact on the public will be minor. The additional expense of purchasing an OS will be offset by the decline in hardware prices. While these remedies would not prevent a Microsoft competitor from attempting to obtain exclusive licensing agreements with OEMs, the practical residual effects of Microsoft's current monopoly would make it unlikely for any OEM to sign such agreements. Microsoft has transformed over the years from a lucky, plucky company in the right place at the right time into a malicious behemoth interested only in the domination of its competition without regard to the best interests of its own customers. The currently proposed remedies do not substantially alleviate this transformation, and some other means must be found to re-introduce real innovation and competition into a vital sector of the American economy.

MTC-00025794-0004

I hope you will give serious consideration to these comments, and I appreciate your attention.

Sincerely,

Albert R. Davis, MD

MTC-00025795

From: PAUL HENRY
To: Microsoft ATR
Date: 1/26/02 4:57am
Subject: MICROSOFT SETTLEMENT

I CAN'T UNDERSTAND THE ABSURDITY OF THIS CASE AGAINST MICROSOFT WHO IS NOT A MONOPOLY I DON'T CARE HOW THE JUDGE SEES IT WHAT A MANIPULATION OF THE COURT SYSTEM . CHECK IT OUT TODAY LINUX IS STEALING BUSINESS FROM MICROSOFT IBM HAS A LINUX ONLY SERVER AVAILABLE , AOL HAS FORTY MILLION USERS AND WITH TIME WARNER HAS AN ENORMOUS EDGE OVER MICROSOFT ON THE INTERNET AN UPSTART CALLED LINDOWS IS CHALLANGING MICROSOFT BEA OPERATING SYSTEM IS READY TO CHALANGE ON THE .NET STRATAGY . THE ORIGINAL CASE WAS FOR BUNDLING INTERNET EXPLORER WHERE IT WAS RULED BY THE COURT THAT MICROSOFT WAS WITHIN THE LAW TO DO SO , AT THAT TIME THE CASE SHOULD HAVE BEEN DROPPED , BUT JUDGE JACKSONS VENDETA AGAINST MICROSOFT KEPT HIM GOING TO BRING CHARGES THAT WERE NOT IN THE ORIGINAL CASE CAN SOMEBODY EXPLAIN TO ME HOW WHEN YOU HAVE ALL OF THESE BILLIONARES

SCOTT MCNEALY, LARRY ELLISON,ECT ... THAT THE COURT ALLOW'S THEM TO COMPETE TO DESTROY MICROSOFT WITH LAWYERS INSTEAD OF MAKING THIER OWN COMPETING PRODUCT , THEY HAVE THE RESOURCES ,IBM WAS A JUGGERNAUGHT WITH OS2 WHEN BILL GATES WAS A NOBODY . EVERYBODY HAS A CHOICE TO BUY AN APPLE COMPUTER WHICH IS A PERSONAL COMPUTER JUST THE SAME AS A WINDOWS PC IT "S OPERATING SYSTEM IS BASED ON UNIX THE SAME AS SUNS SOLAIRIS AND THE MANY OTHER FLAVORS OF UNIX WHICH IS WHAT MOST COMPANY'S AND THE GOVERNMENT USE ON THEIR SERVERS. OTHER OS'S ARE BEA, CALDERA ,DOS, COBALT, DR. DOS, ECT... PEOPLE USE MICROSOFT BECAUSE THEY ARE THE BEST, BECAUSE THEY ARE THE ONLY ONES WHO HAVE SPENT BILLIONS IN RESEARCH TO DEVELOP THE ONLY NEW OPERATING SYSTEM BUILT FROM SCRATCH IN FIFTY YEARS , AND BECAUSE THEY ARE THE ONLY ONES WHO HAVE BUILT SOFTWARE THAT WILL WORK WITH THE MILLIONS OF PROGRAMS THAT ARE WRITTEN OUT THEIR .CONSUMERS HAVE A CHOICE SO MICROSOFT IS NOT A MONOPALY JUST THE BEST . SYMANTEC , MCAFEE , AND GAME MANUFACTURERS MAKE FAR MORE MONEY THAN MICROSOFT WITH LITTLE EFFORT COMPARED TO THE MAKING OF WINDOWS XP FOR NINTY NINE DOLLARS , LESS THAN A GOOD MEAL AT A RESTARAUNT I GET FREE UPDATES FOR YEARS , AND IN THE PAST MOST USERS SHARED OR PIRATED A COPY FOR THEIR FRIEND" S TO BOOT AT MICROSOFTS EXPENSE . SYMANTEC AFTER PAYING SEVENTY DOLLARS FOR THIER VIRUS PROGRAM WARNS ME ON A DAILY BASIS AFTER TEN MONTHS TO ANTY UP FIFTY MORE DOLLARS FOR AN UPRADE I HAVE TO PUT UP WITH THIS DAILY AND IF I CAN'T STAND IT ANY MORE, LOSE TWO MONTHS BY PAYING UP . MICROSOFT IS WITHIN THEIR RIGHTS TO DO THE SAME THING MAKE YOU PAY EVERY YEAR TO USE THE OS , AND THEY ARE WITHIN THIER RIGHT TO CHARGE FIVE THOUSAND DOLLARS A COPY AS IT IS MY WRITE NOT TO PAY IT . HOW DARE THE GOVERNMENT AND AOL , SUN , ECT...USE TNE COURT SYSTEM TO EXTORT MONEY FROM MICROSOFT JUST BECAUSE THEY ARE SUCCSESFUL WHY DON'T THEY COMPETE IN THE MARKET PLACE , AND TO THE GOVERNMENT TAX EACH OPERATING SYSTEM IF YOU WANT MONEY, CALL IT WHAT IT IS BECAUSE THE PRICE WILL HAVE TO GO UP TO GIVE YOU YOUR SHARE, BUT REMEMBER YOU ARE NOT ONLY STEALING FROM MICROSOFT , YOU ARE ALSO STEALING FROM THE STOCKHOLDERS , 401K RETIREMENT ACCTS. , TEACHERS ,FIREMEN, POLICE , MOTHERS, CHILDREN ,ECT ... LET THE MARKET DICTATE WHAT HAPPENS , LET BILL INOVATE AND LET US ENJOY WHAT WE HAVE BECAUSE OF HIM . HE SPEND S BILLIONS ON CHARITABLE CAUSES BESIDES WHAT HE HAS DONE FOR MODERN TECHNOLAGY DON'T CAUSE THIS COMPANY TO FOLD LIKE ENRON BECAUSE OF FRIVILOUS LAWSUITS

MTC-00025796

From: valuelink1
To: Microsoft ATR
Date: 1/26/02 5:00am
Subject: Microsoft settlement
240 N Michigan Avenue
Villa Park, IL 60181-2073
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530-0001

Dear Mr. Attorney General:

I had been hopeful that the Justice Department would settle its anti-trust lawsuit against Microsoft for the last year and a half, and I am glad to see the two sides were finally able to reach a reasonable compromise in November of last year. This case has dragged on for much too long, and it is time for the government to spend its time and energy on more important issues than trying to hinder the success of an innovative company such as Microsoft.

Our nation's economy is struggling at the moment, and settling this case will do much to stimulate it. Once competition increases in the technology industry it will get a real boost, and this will affect the whole economy. This will be made possible by Microsoft's willingness to grant rights to computer-makers that will allow them to promote non-Microsoft products within Windows. There is no reason to extend this lawsuit past this point. I appreciate your settling this case and stopping litigation at the federal level. I am looking forward to seeing the government focus on improving the economy in the future.

Sincerely,
Dennis Chesney
dennis@valuelink1.com
cc: Representative Henry Hyde

MTC-00025797

From: ROBERT E LAMBDIN
To: Microsoft ATR
Date: 1/26/02 5:16am
Subject: Microsoft Settlement..

Dear Sir.. Think that the agreement with Bill Bates of Microsoft is fair, and I don't think that you need to drag your feet any longer on this matte settle and lets get on with life and turn your time into helping us X Service men with our dire needs. help is needed today..Robert Eugene Lambdin.. Retired USN..

MTC-00025798

From: Luc Pardon
To: Microsoft ATR
Date: 1/26/02 5:25am
Subject: Microsoft Settlement

Dear Sirs,

Although a citizen of a European Community country, and not a U.S. citizen, I'd like to have my objections on the proposed Microsoft settlement on record.

The proposed settlement will not reverse the harm done by Microsoft as a result of its unlawful actions. Instead, it attempts to prevent them from continuing these actions. To most every prohibition listed, however, there is an "except" clause, listing in vague terms the conditions under which Microsoft would be excempt from the restriction.

It is clear that this will make enforcement impossible, since costly lawsuits will be needed to stop any percieved infringement. This is out of reach for most competitors. It certainly is for companies like mine.

Therefore it is clear that the proposed settlement is ineffective and insufficient. In fact, it will freeze the current situation, which has been established as a consequence of Microsoft's unlawful actions.

Finally, I'd like to point out the harm done to the U.S. international reputation. The sudden reversal of position by the DOJ upon the instatement of Mr. Bush's government has not gone unnoticed, and was in fact expected. Western civilisation is based on separation of powers. The current situation is percieved as a vaudeville. It severely undermines the credibility of the United States as a Western civilized nation.

Thank you for your attention, Luc Pardon
Chief Executive Officer
Skopos Consulting
Middeveldweg 1
Hombeek
Belgium

MTC-00025799

From: Anders Stankiewicz
To: Microsoft ATR
Date: 1/26/02 5:25am
Subject: Microsoft Settlement

In order to restore competition in the software business, Microsoft must be broken into 3 separate companies. One for windows, one for office applications and a third for internet related software. The windows company must be restricted to only building APIs that othercompanies may use.

The Office company must be restricted in the same way from adding direct internet functionality. Rather they must build links to standardised functions such as mail and viewing web contens from inside the office applications. These links must allways be generic and open and allow any other vendor to sell such a software.

If a product is the best, it must have a chance to win... that is not the case currently when Microsoft sets its sights on something.

Sincerely
Anders

MTC-00025800

From: donkenney@compuserve.com@inetgw
To: microsoft.atr(a)usdoj.gov
Date: 1/26/02 5:36am
Subject: Microsoft Settlement

I am merely a layperson and perhaps I misunderstand. I thought that the purpose of an antitrust settlement after the misbehavior of the defendant was determined, was to ensure that the defendant would go forth and sin no more. I must say that Microsoft does not seem to me to be a very repentent miscreant, and that—given that Microsoft probably has no intention of giving up its monopolistic ways without a fight, the DOJ negotiated agreement appears to be utterly inadequate.

It appears to me that the agreement constitues a summary of Microsoft's past anticompetitive practices and a collection of niggling legalisms that might — on very good days—prevent some of them from being repeated.

I would suggest that what is needed instead is a blanket prohibition on ANY practices that allow Microsoft to use its monopoly in the operating system market to further ANY non-OS Microsoft corporate activity of any sort. This should be coupled with effective enforcement mechanisms and draconian financial penalties for transgressions.

I would suggest that any settlement that falls short of that level will merely lead to another trial, another conviction and another settlement a few years downstream.

Why not do the job properly now?

Donald Kenney

MTC-00025801

From: Megan Deon Cross
To: Microsoft ATR
Date: 1/26/02 5:43am
Subject: Rationals

MTC-00025802

From: Philippe Verdy
To: Microsoft ATR
Date: 1/26/02 5:49am
Subject: Microsoft Settlement

About the James K. Glassman's quote: "Instead of straightening out its business problems, AOL has decided to spend its time and effort filing lawsuits against tough competitors—a petty, distracting pursuit that won't help AOL or, for that matter, the U.S. economy, which depends on firms like Microsoft for the innovation necessary to bring about a technology revival." How can such an argument come to the legal field ? There is absolutely no reason why a company can do all it wants, simply because it has a dominating position in the market place. Microsoft has a dominating position, but this CANNOT be an argument that authorizes it to ignore legal constraints that apply to it and all its competitors. If it was the case, then the laws that prevent a company or person to abuse its dominating position in a given area would be senseless.

Fair competition requires that even dominating actors respect the same constraints than its competitors, even when this dominating actor is important or vital for a given economy: the economy is based on the fair competition between actors, whatever their size, nature, or importance. This allows for renewal of the marketplace. And this is also required for the constitutional rights in most democracies that gives the freedom of establishing businesses to every people or company.

The laws that protect consumers or competitors, and allow them to make business in a free but regulated market, act for the long-term safety of the economy: a dominating actor is exposed to the general business-place risks, and may not survive a possible future business-crash, and it is vital for the overall economy that competitors can offer the service previously offered by the dominating actor. And allowing competitors to make business also acts in favor of innovation, by allowing a richer range of alternative products, services and technologies: this is a benefit for the consumer which can determine what he really needs, and which can buy something else that the expensive package what the dominating actor proposes. All this means that Microsoft, as well as its competitors, must respect all fair business rules, including equilibrated business contracts between it and its consumers, providers or co-branding partners. When an actor has a dominating position, the terms of such business contracts tend to become mostly unequilibrated in favor of the dominating actor, which adds constraints and rules that prevent it from its fair obligation without giving any counterpiece to its co-contractants. This is caused by the fact that these contractants have in fact no real possible choice when signing a business contract with this dominating actor.

In that case, the legal intitution must control the terms of all business contracts proposed by the dominating actor, and compare it with terms proposed by other competitors, so that unequilibrated terms of such contracts can be declared void by the justice. When a practice becomes too common, the authorities can regulate nationaly or internationaly to fix a common direction for the justice authorities, and give them legal arguments that can prevent unfair practices.

Philippe Verdy.
France.

MTC-00025803

From: Glenn Holmer
To: Microsoft ATR
Date: 1/26/02 6:09am
Subject: Microsoft Settlement

Dear Sirs:

I am writing in reference to the proposed settlement in the Microsoft antitrust case. I am a professional programmer with 15 years experience, covering numerous operating systems, computer architectures, and programming languages.

I do not feel that the proposed remedies are adequate in the area of documentation. In order to remedy Microsoft's past behavior and prevent it from occurring in the future, the government needs to require that *all* programming interfaces be made public. This includes not only operating system APIs, but networking protocols and file formats as well. (I do not think Microsoft should be required to make its source code public; the implementation details of these interfaces are what make one company stand out with a superior product, and should be protected if the company wishes them to remain proprietary.)

Section III.E of the proposed judgement does not go far enough. All networking protocols must be made public (not just licensed) in order to make sure that server products designed to work with Windows (especially Open Source projects like the Samba project, http://samba.org) do not face a barrier to entry. It is crucial that the Justice Department take a stand in this area now, before Microsoft is allowed to gain an illegal advantage in the emerging area of web services with its .NET technology.

The proposed judgement does not mention disclosure of the formats for data files created by Microsoft applications. As the Findings of Fact notes in section III.B.1.39, "the size of Windows" installed base impels ISVs to write applications first and foremost to Windows". File formats must be made public in order to reduce barriers to entry in the area of productivity applications, specifically word processors, spreadsheets, etc. designed to be compatible with Microsoft Office (for example, Star Office: http://www.sun.com/software/star/staroffice). I can cite personal experience in this area, as job recruiters in my field nearly always require resumes in Microsoft Word format.

Unless stronger measures than those proposed are taken in these areas, I feel that the government's considerable efforts in addressing these issues will have been wasted. Microsoft will still be able to compete on the basis of the quality of its products compared to those of other companies, but if the remedies are not stronger, that competition will never get a chance to exist.

(Note: the address I am mailing from is my home e-mail; my business e-mail is listed in the reply-to header and below.)

Glenn Holmer
gholmer@weycogroup.com
Programmer/Analyst
phone: 414.908.1809
Weyco Group, Inc.
fax: 414.908.1601

MTC-00025804

From: jin choung
To: Microsoft ATR
Date: 1/26/02 5:54am
Subject: Microsoft Settlement

hello,

please don't let microsoft off the hook with a mere slap on the hand. you cannot count on any corporation to "throttle back" of its own accord. every corporation deserves freedom and has its rights but when a corporation oversteps its bounds, it needs to be FORCED into its place. not coaxed. not persuaded. not asked.

jin choung
glendale, ca.

MTC-00025806

From: Ron arky
To: Microsoft ATR
Date: 1/26/02 6:08am
Subject: Microsoft settlement

I feel the start of the dot com crash was the microsoft suit, the sooner it is settled and put behind us the sooner the market can return to normal.

Respectfully
Ron Keller

MTC-00025807

From: Zephyrus14@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 6:15am
Subject: Microsoft Settlement

To Whomever It May Concern,

I am opposed to the proposed settlement in the Microsoft antitrust trial. I feel that the current proposed settlement does not fully redress the actions committed by Microsoft in the past, nor inhibit their ability to commit similar actions in the future. The vast majority of the provisions within the settlement only formalize the status quo. Of the remaining provisions, none will effectively prohibit Microsoft from abusing its current monopoly position in the operating system market. This is especially important in view of the seriousness of Microsoft's past transgressions.

Most important, the proposed settlement does nothing to correct Microsoft's previous actions. There are no provisions that correct or redress their previous abuses. They only prohibit the future repetition of those abuses. This, in my opinion, goes against the very foundation of law. If a person or organization is able to commit illegal acts, benefit from those acts and then receive as a "punishment" instructions that they cannot commit those acts again, they have still benefited from their illegal acts. That is not justice, not for the victims of their abuses and not for the American people in general.

While the Court's desire that a settlement be reached is well-intentioned, it is wrong to reach an unjust settlement just for settlement's sake. A wrong that is not corrected is compounded.

Yours Sincerely,
Adam Myers.

MTC-00025808

From: Steve Waldman
To: Microsoft ATR
Date: 1/26/02 7:12am
Subject: Microsoft Settlement

The attached Tunney Act comments have been submitted by fax (26-January-2002), as an e-mailed PDF document (26-January-2002), and by a commercial overnight carrier (delivery a.m., 28-January-2002). I apologize for the multiple modes of submission, but it is important that these comments be verifiably received by the morning of January 28. I would be very grateful if the Department could provide an acknowledgement of on-deadline receipt of these comments, perhaps by e-mail. Many thanks for your attention and assistance.

Steven Waldman

MTC-00025808-0001

Steven Waldman
44 Stridesham Ct
Baltimore, MD 21209
(410) 336–1408
swaldman@mchange.com
January 26, 2002
US Department of Justice
Antitrust Division
601 D Street NW
Suite 1200
Washington DC 20530
Attn: Renata Hesse

Re: Comments regarding Proposed Final Judgement
United States v. Microsoft Corporation
Civil Action No. 98–1232

Thank you for the opportunity to comment upon the US v. Microsoft Proposed Final Judgement, published in the **Federal Register** on November 28, 2001.

The Proposed Final Judgement as written is not in the public interest. I urge the Department to pursue remedies substantially different from those proposed, whether via further negotiations with Microsoft, or through adversarial proceedings. If the settlement is presented to the District Court without substantial modification, I would urge Judge Kollar-Kotelly make a determination under the Tunney Act that the Proposed Final Judgement would not serve the public interest.

The Proposed Final Judgement Would Do Positive Harm It may seem odd to suggest that an antitrust remedy could be positively harmful. After all, regardless of the remedy, a convicted monopolist cannot leave an antitrust proceeding with more rights than it had when it arrived, and usually leaves with fewer. However, a poor remedy can indeed leave the public in a situation worse than the status quo ante. The current Proposed Final Judgement does so, in two ways.

First, the PFJ describes, permits, and envisions specific future conduct on the part of Microsoft that would itself be anticompetitive. By providing implicit government endorsement for this conduct, the PFJ would make it difficult for the Department, the States, or private third parties to bring proceedings against Microsoft to curb it at a later date. Second, the PFJ contains enforcement provisions whose primary practical effect would be to delay and reduce the likelihood of further action should the company continue to behave unlawfully. In other words, while the Proposed Final Judgement does place Microsoft under some new constraints, it places the DOJ and other potential litigants under even greater constraint. The net effect would be a diminishment rather than an increase in deterrence of Microsoft's anticompetitive behavior.

PFJ Explicitly Permits Continued Anticompetitive Practices The purpose of the Proposed Final Judgement is to remedy Microsoft's unlawful conduct, specifically its unlawful maintenance of a monopoly in Intel-compatible PC operating systems. The reasoning behind the Court of Appeals upholding of the monopoly maintenance claim centered on the idea that there is an "applications barrier to entry" to operating system markets, but that this barrier to entry could plausibly be chipped away at by a class of applications referred to as "middleware". The Court held that Microsoft engaged in various practices to "protect[] Microsoft's monopoly from the competition that middleware might otherwise present", in violation of Section 2 of the Sherman Act. It is these practices that must be remedied. In particular, the Court held that by virtue of restrictive contracts with computer manufacturers ("OEMs"), internet providers ("IAPs"), software companies ("ISVs") and by other means, Microsoft impeded the widespread distribution of middleware that might have threatened its monopoly.

Section III.C.3 of the Proposed Final Judgement forces Microsoft to allow OEMs to automatically launch non-Microsoft middleware at the end of a PCs boot sequence, but only "if a Microsoft Middleware Product that provides similar functionality would otherwise be launched automatically at that time". By this caveat, the PFJ endorses a restriction in an OEM licensing agreement that would otherwise constitute a violation of Section 2 of the Sherman Act under the Court of Appeals" reasoning. The caveat is anticompetitive on two counts. First, it permits Microsoft to "choose its battles": Microsoft need only face challenges from automatically launched middleware where the company feels its own offerings have an advantage. Should a competitor create an innovative middleware product that would threaten Microsoft's applications barrier to entry, Microsoft can prevent its distribution as a default running service indefinitely, by simply not fielding an offering of its own or by quietly integrating but not trademarking its offering (see the definition of a "Microsoft Middleware Product", PFJ, Section VI.K.2.b.iii). Secondly, the caveat necessarily permits competing middleware only if OEMs include Microsoft's offering as well, since by definition (again, PFJ, Section VI.K.2) a Microsoft Middleware Product is a part of a Windows Operating System Product. The Appeals Court noted several reasons why OEMs are reluctant to include two products of the similar functionality in a default installation, including customer confusion; increased support and testing costs; and that it is a "questionable use of the scarce and valuable space on a PCs hard drive." (the Appeals Court quoting the District Court's Findings of Fact) These considerations are cited by the Court in holding unlawful and exclusionary OEM contracts that forced a choice of including Microsoft middleware alone or Microsoft middleware plus a similar competitor. Additionally, even when competitive middleware is preinstalled alongside Microsoft's offering, "network effects" would put any one of several non-ubiquitous occasionally installed competitors at a serious disadvantage with respect to offering by Microsoft, even if inferior, that is guaranteed to be present on all installations. Should Microsoft force an "ours or both" decision with respect to competing middleware as a condition of OEM Windows licensing, it would most certainly be anticompetitive. However, it would also be explicitly sanctioned by the Proposed Final Judgement, and therefore difficult for the government or a third party to oppose. [1]

To the degree that Section III.C might have any effect in allowing OEMs to integrate third party middleware with a Microsoft OS, Section III.H.3 largely eviscerates the hazard to the monopolist by foreseeing a mechanism by which the company's operating systems could ask end-users to confirm an alteration or undoing of OEM additions to the OS fourteen days after the consumer first turns on a PC. For example, under this section, an operating system would be permitted to present a dialog box stating, "Windows has detected that this configuration has been modified from Microsoft-recommended defaults. This may lead to incompatibilities or system faults. [Correct Now?] [Cancel]" Clicking "Correct Now?" would replace OEM-installed non-Microsoft middleware with Microsoft's offering. If faced with the question, a court might determine that such a presentation (which Microsoft's competitors would be unable to make) would constitute unlawful monopoly maintenance by Microsoft. But it would be difficult for the government or for a private litigator to make that case in the face of a Final Judgement that clearly endorses the conduct. The problems thus far mentioned are not unique. The

Proposed Final Judgement is riddled with "loopholes" that not only make it a weak remedy, but that foresee and allow specific behavior by Microsoft that in the absence the Final Judgement would be actionable. By complicating potential future public or private antitrust enforcement against Microsoft, the Proposed Final Judgement would encourage misconduct and do positive harm to competition in the software industry.

PFJ Specifically Discriminates Against "Open Source" Competition Over the past several years, a novel approach to software development known as "open source" has risen to prominence. Under the "open source" development model, many widely dispersed individuals, businesses, and other entities collaborate in the production of complex software products, contributing to what over time has become a rich commons of collectively authored software. "Open source" software is made available free of charge, under licenses that permit widespread redistribution and modification by users, sometimes with the restriction that any derived works must be made available to the public under the same terms.

The business model that supports the continued development of open source software remains to be fully understood. The licensing terms of open source software prevent the exploitation by authors of any limited monopoly that would enable them to profitably "sell" software as traditional software vendors, such as Microsoft, have done.

Nevertheless, a wide variety of actors including individual hobbyists, multinational companies, public and private universities, governments, and nongovernmental organizations have found sufficient incentive to invest substantial amounts of time and money into the production of open source software. In the face of Microsoft's successful and unlawful monopoly maintenance, very few traditional software vendors still stand as competitors in the company's core market of Intel-compatible PC operating systems. Behemoths like IBM and scrappy upstarts like Be, Inc. have battled to gain a fingerhold, but failed to make any headway at all, and their products (IBM's OS/2, Be's BeOS) have all but faded from the computing landscape. The only non-Microsoft operating system that has managed to grow its share dramatically despite Microsoft's well-established pattern of anticompetitive behavior is the open source operating system Linux. Other open source projects that have competed effectively with Microsoft include Samba (which provides Windows interoperable file and print services to computer networks) and Apache (the most popular web server on the Internet).

It appears that the open source development model is somewhat resistant to the sort of anticompetitive behavior that has been effective for Microsoft in the past. One might even argue that the explosion of open source software over the past few years is a response by businesses, developers, and users to an artificially straitened "traditional" software landscape, and is perhaps attributable at least in part to Microsoft's anticompetitive behavior. As traditional vendors have receded from whole categories of software under the self-fulfilling truism that competing with Microsoft is akin to suicide, many entities have for one reason or another decided that the cost of contributing a small portion to the development of alternatives is less than the direct costs (continual licensing fees) and indirect costs (the failings of software not adequately tailored to their needs; uncertainty and future costs created by vendor lock-in) associated with relying on Microsoft products.

Regardless of the whys, open source software now stands as one of the few sources of effective competition against Microsoft. Indeed, while many of the battles that prompted the Justice Department's action against Microsoft are now past and prologue (e.g. the "browser wars" between Netscape and Microsoft), the struggles between open source Linux and Windows in the server space and between open source Apache and Microsoft's IIS remains, among many others, remain active and fierce. [2] Any remedy to Microsoft's anticompetitive behavior that diminishes the likelihood that open source projects can effectively interoperate with and compete against Microsoft's offerings would harm competition in the software industry. Unfortunately, the Proposed Final Judgement in several places explicitly permits Microsoft to discriminate against open source competitors.

Importantly for open source developers, Sections III.D and III.E of the Proposed Final Judgement would obligate Microsoft to disclose APIs, communication protocols, and documentation that might be required to interoperate with a Windows Operating System product. However, the caveats of Sections III.I and III.J restrict these earlier sections, and would allow Microsoft to essentially exclude open source competitors from access to or the use of this information.

For the disclosure requirements of Sections III.D and III.E to have any effect, competitors must be able to use the information disclosed to develop and distribute competing and/or interoperating products.

However, Section III.I foresees a regime under which the disclosed information must be licensed, as it continues to be the proprietary, intellectual property of Microsoft. Section III.I guarantees "reasonable and non-discriminatory terms" for such licensing, based on the payment of "royalties or other payment of monetary consideration". However, "reasonable and non-discriminatory" commercial terms inherently discriminate against open source software, which by virtue of its licensing must be freely distributable and modifiable. Under ordinary circumstances, a company certainly should have the right to offer use of its proprietary technology only under commercial license, and this would legitimately prevent those who might wish to distribute open source applications based on that technology from doing so. But in the case of a company that has a monopoly over a substantial portion of the computing world and that has maintained that monopoly through unlawful anticompetitive conduct, allowing it to require competitors to pay even "reasonable" licensing fees in order to interoperate with its monopoly product provides the monopolist with unjustifiable reward for its misbehavior. In Microsoft's case, permitting such licensing is particularly insidious, because even if it were to provide licensing of its putative IP on absurdly generous terms, for example if it were to levy a royalty of 1 cent per thousand copies, it would immediately exclude what in the present real world are currently its most tenacious competitors from any possibility of interoperating with its software. By permitting "reasonable and non-discriminatory" commercial licensing of technologies the use of which is required in order to compete against and interoperate with Microsoft technologies, the Proposed Final Judgement condones and foresees a practice that would exclude and discriminate against important open source competitors.

Section III.J restricts the scope of the PFJ disclosure requirements where security technologies ("anti-piracy, anti-virus, software licensing, digital rights management, [and] encryption or authentication systems") are concerned. Unfortunately, in today's networked world, no software is untouched by security concerns, and any non-trivial internet application must make use of and interoperate With encryption and authentication systems. Further, non-disclosure of security-critical techniques and protocols is unnecessary: the professional computer security community is nearly unanimous in its disavowal of the notion of "security through obscurity". A well-designed system should be secure even in the face of an attacker who fully understands the algorithms and protocols used to enforce the security. This is not as difficult as it sounds: the academic literature is filled with encryption algorithms and protocols that have never been broken despite massive peer-review, and even some that are "provably secure". Historically, non-disclosure of security techniques in software has more often served to provide cover for shoddy work than to even arguably enhance security. "Security by trade secret" is invariably broken, because, invariably, secret techniques are not subjected to sufficient peer review, and weak secret techniques can be reverse-engineered and then compromised. (See the recent history of CSS, a once-secret, easily broken, scheme for protecting DVDs, for a topical case-in-point.) Microsoft has a particularly poor security record, with respect to both the inadequate security of its products, and its attempts to restrict disclosure in hopes of covering up embarrassing lapses.

Open source software, in general, has a much better reputation for security, owing in large part to the fact that security algorithms in open source software are necessarily published, and are therefore subject to widespread review. Thus it is ironic that Section III.J.2 of the Proposed Final Judgement explicitly allows Microsoft to condition disclosure of security-sensitive technologies to those who "meet[] reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business". Since most open source software projects are not developed or "owned" by any one business, and since the terms of open source licensing often require disclosure of source code, III.J.2 effectively excludes open source software from any access to protocols, APIs, and other information that might be required to interoperate with or compete against Microsoft products that include a security component. Any significant application now must have security designed into it, so Section III.J.2 could be used to effectively lock open source competitors out of the disclosure requirements of the Proposed Final Judgement. It would be difficult to oppose Microsoft in court for discriminating against its troublesome open source competitors when the discrimination is based on the language of a court-sanctioned Final Judgement.

PFJ "Enforcement Mechanisms" Would Hinder Effective Enforcement The following portions of the Proposed Final Judgement would hinder effective enforcement of the agreement: ù Section IV.B provides for the appointment of a Technical Committee to "assist in enforcement and compliance" with the PFJ. The constitution and role of the "TC" is described in detail. The Technical Committee would oversee Microsoft's compliance with the agreement in an ongoing way, and would respond to complaints from the plaintiffs or third parties. However, the Technical Committee has no power other than to assist in Voluntary Dispute Resolution, and, according to Section IV.D.4.d, "No work product, findings, or recommendation by the TC may be admitted in any enforcement proceeding before the Court for any purpose, and no member of the TC shall testify by deposition, in court or before any other tribunal regarding any matter related to this Final Judgement." ù Section IV.A. I requires that "the plaintiff States shall form a committee to coordinate their enforcement of this Final Judgement. A plaintiff State shall take no action to enforce this Final Judgement without first consulting with the United States and the plaintiff States" enforcement committee." ù Section VIII explicitly excludes third parties from taking any role in the enforcement of the Proposed Final Judgement.

Let us be perfectly clear: At the end of the day, the Proposed Final Judgement provides the United States and each of the plaintiff States with a right to sue to enforce its terms. But let's also be honest: the choice by a State of whether or when to enter into complex antitrust litigation against a well-known and well-heeled opponent is politically fraught under the best of circumstances. Under the terms of the PFJ, an unsatisfied plaintiff would be faced with two bad options: 1) the plaintiff can expend resources on a dispute resolution mechanism (the "TC") that the PFJ endorses, but that has no power, cannot be used at all as a basis for further proceedings, and will have no effect unless an amicable resolution is reached; or 2) eschew the dispute resolution mechanism endorsed by the settlement, thereby facing accusations of burdening Court resources unnecessarily, as well as a politically treacherous "consulting" process that would predictably lead to accusations of judicial over zealousness by reluctant former co-plaintiffs. A reasonable non-judicial enforcement mechanism would serve as a basis for judicial enforcement if required. Instead, the PFJ creates a "middle path to nowhere", that increases the political difficulty of undertaking any binding action against the company.

Under the PFJ, the real-world probability that misbehavior on Microsoft's part would bring legal consequences would be less than without the proposed enforcement mechanisms. Thus, the Proposed Final Judgement does positive harm to the public. Complex, Vague, and Contradictory Language Hides New Anticompetitive Tools For Microsoft The ostensible purpose of Section II1.1 of the Proposed Final Judgement is to require that Microsoft license under "reasonable and non-discriminatory terms" intellectual property that software vendors and other parties might require in order to offer middleware products interoperable with Windows. If the wording were less vague (and if "reasonable and non-discriminatory" were changed to "royalty free" to include open source developers), this would be a serious and legitimate remedy: Having unlawfully restricted the development of competing middleware, it is fair that Microsoft be compelled to license, under generous terms, whatever intellectual property nascent competitors would find necessary to interoperate with Windows.

However, the wording of this section is astonishingly vague. Microsoft may be compelled to license its IP to "ISVs, IHVs, IAPs, ICPs, and OEMs" only as required to "exercise options and alternatives expressly provided to them under this Final Judgement". Exactly what "options and alternatives" are provided to these parties by the Proposed Final Judgement is not a matter of scientific clarity, even to the avid reader of the document. What is crystal clear, however, is that those to whom the PFJ purports to offer this relief— the alphabet soup of third parties—have absolutely no standing to enforce (and therefore to enlist a Court's aid in interpreting and clarifying) this or any other section of the Proposed Final Judgement (Section VIII of the PFJ, see above).

Further, in an astonishing twist, Section 111.1.5 exacts the remedy of compulsory licensing not only of the convicted monopolist, but of innocent competitors seeking relief. Section 111.1.5 insists that a software vendor who wishes to provide a middleware product for a Microsoft operating system, if they require access to Microsoft IP to interoperate, must license to Microsoft its own intellectual property. The following language is no doubt intended to soothe competitors: "[T]he scope of such license shall be no broader than is necessary to insure that Microsoft can provide such options or alternatives" (Sec 111.1.5). However, nowhere in the PFJ have I been able to discern any "options and alternatives" that Microsoft must provide to any third parties that would require a license on its part. Microsoft must merely permit practices that it has heretofore managed to prevent, in part by refusing to license its own IP, and it must disclose some of what it has heretofore kept secret. The requirements of Section 111.1.5 unnecessarily and specifically envision a situation where a competitor, attempting to interoperate with Windows in ways that arguably would require some license of IP from Microsoft, could be asked to license its own IP to Microsoft, or else to cease and desist. If Microsoft and the putative competitor were to disagree about what "no broader than necessary" means, a competitor could not enlist any court to resolve the dispute and compel licensing under the PFJ. Thus, the PFJ sets up a situation where Microsoft could "leverage" an interoperability requirement by a competitor or ISV in order to acquire access to the attractive IP of its competitors. In the absence of the PFJ, a court might look at a "we'll show you ours only if you show us yours" requirement as anticompetitive, given that Windows Operating Systems are a de jure monopoly with which many third parties must interoperate or die. However, the Proposed Final Judgement gives cover to the practice by explicitly foreseeing and sanctioning a cross-licensing requirement, diminishing the likelihood of a successful outcome and increasing the burden in litigation for companies that may find themselves in the crosshairs of Microsoft's IP lawyers. Again, the public is positively harmed by the PFJ, because it diminishes the likelihood of legal consequences should Microsoft engage in foreseeable anticompetitive behavior.

Conclusion

A District Court found, and a Federal Court of Appeals, affirmed, that Microsoft engaged over a period of years in multiple unlawful and sometimes deceptive practices in order to maintain its monopoly on PC-compatable operating systems. The fruits of this illegally maintained monopoly have been and continue to be huge for the company and its principals. The Proposed Final Judgement fails to provide any strong remedy for this conduct, and instead shelters the monopolist from potential consequences of past and future misconduct.

The Proposed Final Judgment, by providing court sanction to practices a court might well find to be anticompetitive absent the proposed settlement, leaves consumers, competitors, open source software developers, and other interested parties in a worse position than they would be in if Microsoft were simply left to face private litigation as a de jure monopolist without any specific remedy being imposed in the present case. The Proposed Final Judgement would therefore be harmful to the public interest, and, unless it is very substantially modified, it should be rejected.

Notes

[1] Section III.C.1 suffers from the same flaw. It permits OEMs to install "icons, shortcuts, and menu entries" for pre-installed, competing middleware, but "Microsoft may restrict an OEM from displaying icons, shortcuts, and menu entries for any product in any list of such icons, shortcuts, or menu entries specified in the Windows documentation as being limited to products that provide particular types of functionality, provided that the restrictions are non-discriminatory with respect to non-Microsoft and Microsoft products." Microsoft

would be freed again to create an "ours or both" situation, justified by language it could graft into contracts directly from the Proposed Final Judgement.

[2] For an informal measure of the perceived threat that open source software presents to Microsoft's monopoly, we might examine the lengths to which Microsoft has gone in disparaging such software recently. Microsoft CEO Steve Ballruer has called Linux "a cancer" [Chicago Sun-Times, June 1, 2001] that has "the characteristics of communism." [The Register, August 2, 2000] Ballmet has explicitly described Linux as "threat number 1." [upside.com, January 20, 2001] According to the public comments of Microsoft exec Jim Allchin, "Open source is an intellectual property destroyer... I'm an American, I believe in the American Way. I worry if government encourages open source, and I don't think we've done enough education of policy makers to understand the threat." [CNet news.com, February 15, 2001] [URLs: http://www.suntimes.com/output /tech/cst-fin-micro-01.html; http:// www.theregister.co.uk /content/1/ 12266.html; http://www.upside.com/texis/ mvm/news/ story?id = 3a5e392ca3; http:// news.com.com/2100– 1001– 252681.html?legacy=cnet]

[signed Steven Waldman]

MTC–00025809

From: dinovo@postoffice.pacbell.net@inetgw
To: Microsoft ATR
Date: 1/24/02 9:57pm
Subject: Microsoft

Good grief, how much longer is this charade going to go on! Leave one the most productive, efficient and innovative company in the world alone. Microsoft should be given thanks and awards for single handedly standardizing the PC world and increasing this country—and the world's—productivity. Let the cry babies who couldn't compete and would have balkanized the PC world, to the detriment of all, get on with business today.

Gene Dinovo

MTC–00025810

From: Rob Short
To: Microsoft ATR
Date: 1/26/02 6:21am
Subject: Microsoft Settlement

As a person in the technology field, I believe a remedy should be obtained for Microsoft's illegal practices with all due haste. These illegal practices were well established in the last court case involving Judge Jackson and we have only to find an appropriate remedy. Microsoft's behavior has consistently smothered innovation in many areas by establishing themselves as the de facto standard through the leveraging of their Windows OS rather than product quality. Further, they have leveraged their position by not allowing 3rd party software to run properly on the Windows OS and thorugh intimidation tactics towards rival companies.

America depends upon the free market and innovation to be competitive. Please act quickly and decisively in this matter. The remedy may determine how well America leads technology in the decades to come.

Sincerely,
Robert Short

MTC–00025811

From: Nan F Posnick
To: Microsoft ATR
Date: 1/26/02 6:28am
Subject: Microsoft settlement

Please accept the settlement as is:
docpos@juno.com

MTC–00025812

From: Lane Schwartz
To: Microsoft ATR
Date: 1/26/02 6:40am
Subject: Microsoft Settlement

My name is Lane Schwartz. I am a United States citizen, resident of 207 W. Iowa St, Greenfield, Iowa; I am currently pursuing a Master's degree in Computer Speech, Text, and Internet Technology at the University of Cambridge in Cambridge, England. I have a B.A. in Computer Science from Luther College, Decorah, Iowa. This email is directed to the U.S. Department of Justice as my public commentary on the United States vs. Microsoft, as per the Tunney Act.
****

I believe the Proposed Final Judgement (PFJ) in United States vs. Microsoft to be fundamentally and fatally flawed. The Judgement, as it stands, will not prevent Microsoft from enjoying the fruits of their illegal and anti-competitive policies. Nor will it stiffle future anti-competitive behavior from Microsoft. ***************

I have followed the above case with keen interest for the past several years. I am a programmer and computer researcher, and as such the anti-competitive actions that Microsoft has engaged in have affected me personally even more than the average computer user. I have had to deal with the effects of Microsoft creating their own proprietary version of Java. I have been unable to fully reap the fruits of Sun's competitve, cross-platform technology because of the many web designers who (knowingly or not) wrote applets for distribution via the web that will only run on Microsoft Windows.

I wish to state that the PFJ as it stands is unacceptable. I have read many of the relevant documents in this case, and I believe that the current PFJ will be a mere slap on the wrist of a convicted monopolist. I agree with the issues put forth by Dan Kegel of Codeweavers.com (http:// crossover.codeweavers.com/mirror/ www.kegel.com/remedy/remedy2.html).

I also wish to put my support behind the alternate judgements proposed by the several states in this case.

Please do not sell out to Microsoft in this case. They have committed a serious crime. Do not let them get away with a light remedy. Do not ignore the thousands of developers who wish desparately to create competitive products, but are prevented by the fear of unknown and undisclosed Microsoft software patents. Do not ignore the would-be competors.

Thank you for your time.
Sincerely,
Lane Schwartz
email: los20@cam.ac.uk
permanent address:
207 W. Iowa St.
Greenfield, IA 50849

MTC–00025813

From: Robin Hall
To: Microsoft ATR
Date: 1/26/02 6:41am
Subject: Microsoft Settlement

I can't believe that more hasn't been done to resolve this issue. You let this company get away with stealing from the American people. People who shoplift a candybar get more of a handslap than Microsoft has recieved. They have made it virtually impossible to for any good company to compete by not allowing companies that sell computers sell anything but windows on their machines and on top of that if you purchase a machine from a company like this you need to take what it has you don't even have the option of getting it without an OS. Please review what a catastophic lack of justice this is.

Robin E. Hall

MTC–00025814

From: amaish@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 6:41am
Subject: Microsoft Settlement

Please allow Microsoft to continue their business and allow them to bring us new technology. If they developed the operating system, software, and Windows, they should be allowed to market it and make a profit. I believe the other companies could not do the same so they sued in order to bring Microsoft down. I use Windows and all the software and I am very happy with it and would not buy anything else.

amaish@juno.com

MTC–00025815

From: root@wt6.usdoj.gov@inetgw
To: Microsoft ATR, antitrust@ftc.gov@ inetgw.Ralph@essen...
Date: 1/26/02 6:49am
Subject: Microsoft Jihad: Congrats New Profit Dubya CC: letters@latimes.com@ inetgw,letters@sjmercury.com@i...

MTC–00025815–0002

"The Microsoft PR machine told me it's time stop joking for minute and do something to token earn my $ billions of annual net profit. My belief is that Clinton administration were infidels and I'm happy to declare NEW profit Dubya to take up preaching where old profit Ronnie Reagan left off, peace be with him. And mother Barbara get free Windows upgrade for well handled silver spoon, and Kenny Boy too for teaching me the DC shuffle, ha ha ha... Dallah be thanked."

MTC–00025816

From: Darrell Simon
To: Microsoft ATR
Date: 1/26/02 6:56am
Subject: Microsoft Settlement

I am a U.S. citizen and resident of Texas. The proposed settlement with microsoft fails on the following points:

1) Restoration of a competitive operating systems environment. The remedy seems to perpetuate Microsoft's monopoly power, not nullify it. This settlement isn't going to breathe new life into the desktop OS market.

2) Protection of the consumer. A monopoly can be legitimately maintained in a free

market by a combination of the lowest price and the best features. I can buy a "professional" distribution of Linux for $75 that includes 6 cds of software—development tools, databases, an office suite, two different desktop environments. For Windows XP Home edition, I have to pay $99 [to upgrade—$150 to purchase new] and I get an applications environment, a web browser and some media tools (on 1 cd).

If I want to run Windows XP Pro, I have to pay between $200-$300 depending on whether I am upgrading or purchasing it new. XP Pro adds some server-capability software. If I want office applications, I have to pay $200-$500 for Office XP (depending upon which applications I need to use) For development tools, I would pay $250 for a C++ compiler, $1000 for the entire "Visual Studio" line from microsoft.

Let's re-iterate: Linux Professional Environment—$75, Microsoft Professional Environment—$1800, Oh, and with Linux, I can run it on as many machines as I own. With windows, I need to pay again for each machine I have in my house. This is not free-market pricing; this is monopoly pricing. The final settlement doesn't redress the monopoly situation, the final settlement preserves the monopoly.

If the final settlement is going to preserve the monopoly, can't it at least soften the blow to my pocketbook somehow?

Here are some alternate remedies: 1. Set a price ceiling for Microsoft Software: Tie the price for Microsoft Software to 2 times the price for Linux. Make sure that their software distribution contains what Linux does. I'd gladly pay $150 to get all the Microsoft Suite of software (i.e. Windows XP, Office XP, Visual Studio). So would a lot of people. At that rate, Microsoft might get people to upgrade more often, rather than waiting as long as possible to avoid paying their monopolistic gouge price. It's not a free market solution, but, hey, they're the ones who abused the market system and contracts to preserve their monopoly position.

2. Free upgrade for all (U.S) users. Windows XP only sold 17 million copies in its first quarter (source:Microsoft 2Q FY2002 earnings release). What's wrong with the other 200 million of us that haven't upgraded yet? We get an upgrade, they get to stop supporting Windows 95, 98, NT, 2000 and ME. No, this doesn't really redress the problems of their competitors, but at least everybody gets a good software upgrade, right? What will this cost them? I can buy a writable CD for $.09. I'm sure they get theirs for cheaper. For 200 million copies, their material outlay is only $20 million. The Microsoft Second quarter FY2002 earnings release indicates that they spent $660 million dollars in the quarter on lawyers. This is like a drop in the bucket for them. Spare me the boxed packaging— just give me the CD.

3. Different Licensing Model One person, one license for microsoft software, one fee for all of it. I have two computers at home (two different Windows vintages). At work I have two different work areas, each with a different desktop machine (One Windows NT, one Windows 2000). I sometimes use a laptop (Win 98). I work with people who use PDAs (Windows CE). In a given day, I might have contact with 4–6 different copies of Microsoft windows software, not to mention other applications. Between me and my company, we pay Microsoft 4–6 times for one person. We should set up a different licensing model so that between me and my company, we aren't paying for microsoft on 6 different copies of the same software because we are running multiple machines that I happen to touch every day.

This solution doesn't break the monopoly, either. But it might protect the Microsoft customers against multiple license payments for the same user to use the same tools on different machines. This probably still lets Bill & Co make fists full of dollars.

Ok. So, I don't know if any of my suggestions are the holy grail, and of course lawyers would have to pound on all of these to make them work. But... The current settlement doesn't do a damn thing for the consumer/end user, doesn't end Microsoft's monopoly power, doesn't dilute that power much and probably won't solve anything.

Thanks for listening

-Darrell Simon

I know this is a simplistic suggestion, but, look, anyone who can afford to spend $660 million in a single quarter on lawsuits is going to find some type of loophole in any "fair" settlement (or rather, build in a loophole and get you to sign).

MTC-00025617

From: raidergr8
To: Microsoft ATR
Date: 1/26/02 6:52am
Subject: Microsoft Settlement.

Netscape is not stuggling because Internet Explorer is bundled with the Windows OS. Netscape is struggling because they suck. You don't sue your neighbor because he hired a better architect than you and built a better house. The government needs to start levying some heavy fines on these companies that want to sue other companies for "building a better mouse trap". AOL has 32 million subscribers and they have merged with Time Warner Cable, they are closer to being a Monopoly than Microsoft ever thought of being.

Ray Hedger

MTC-00025618

From: Keith Velleux
To: Microsoft ATR
Date: 1/26/02 7:01am
Subject: Microsoft Settlement

Public Comment on Proposed Final Judgment for United States v. Microsoft Corp., Civil No. 98–1232

I. Table of Contents

I. TABLE OF CONTENTS

II. PERCEIVED PROBLEMS IN THE PROPOSED FINAL JUDGMENT

A. DOES NOT ?RESTORE COMPETITIVE THREAT? IN THE OS MARKET

B. NO SPECIFICATION OF FAIR & REASONABLE PUNISHMENT

C. HIGHLY DEPENDANT ON DEFINITION

D. SUSCEPTIBLE TO SUBVERSION BY MICROSOFT ?INNOVATION?

E. NEEDED INFORMATION FOR MIDDLEWARE DEVELOPMENT NOT GUARANTEED

F. MSDN FOR DOCUMENTATION DISTRIBUTION

G. PLAINTIFF?S DESIRE FOR TIMELY RESOLUTION

III. POSSIBLE ADDITIONS TO THE PROPOSED FINAL JUDGMENT

A. SYSTEM FOR WINDOWS APPLICATION INTEROPERABILITY IN NON-WINDOWS

OSES

B. QUALITY STANDARD FOR APIS BUNDLED WITH WINDOWS OS

C. FAIR & REASONABLE PUNISHMENT (FINES, ETC.)

IV. GENERAL COMMENTS

A. COURT OF APPEALS DECISION & QUALITY STANDARDS FOR SUBSTITUTES OF TIED GOODS

B. DOJ PLAINTIFF NOT BEING AGGRESSIVE

II. Perceived Problems in the Proposed Final Judgment

A. Does not ?restore competitive threat? in the OS market

The Competitive Impact Statement claims to restore the competitive threat that middleware products posed to Microsoft. Nowhere does it try to restore the competitive threat of an OS competitor.

B. No specification of fair & reasonable punishment The Proposed Final Judgment does not call for any fines, imprisonment, or recovery of court costs. At the minimum, court costs should be recovered.

C. Highly dependant on definition Microsoft has demonstrated an ability to position itself so to take advantage of loopholes in terminology of contracts.

D. Susceptible to subversion by Microsoft ?innovation? The evolution of the consent decree case (1995?) into the contempt case (1998) and finally into the Appeals Court ruling on Tying demonstrates that Microsoft can use ?innovation? to ?re-shuffle the deck? on previously defined arraignments.

E. MSDN for documentation distribution Is MSDN a zero cost source available to the public at large? Linux developers would express a need to maintain cost free access.

III. Possible Additions to the Proposed Final Judgment

A. System for Windows Application Interoperability in Non-Windows OSes This addition is similar to the WINE project for Linux. The court should order Microsoft to develop for commercial use a system that would: Allow ISVs to compile unmodified source code of a Windows API program for a different OS using native OS APIs while maintaining the look & feel of that OS. Allow end users to execute (run) ?shrink-wrapped? Windows API programs on a different OS while maintaining, if possible, the look & feel of that OS. Include all API sub-sets [Direct-X, MFC (Microsoft Foundation Classes), etc.] necessary to compile or execute commercially available products. Allow an ISV to use standard Microsoft development tools or the development tools of the native OS. [Microsoft would need to create both.]

Be supported and maintained by Microsoft for compatibility with new versions of Windows for a 5 year period. [An escape clause based on market share is needed.] The OSes to be supported by this system would be Mac OS (an injured party referenced in the case), Linux (an OS for Intel PCs), Solaris X86 (another OS for Intel PCs), and the top

2 other OSes determined yearly. The source code for this system and the system itself is the property of the OS owner, Apple Computer for Mac OS, Linus Torvalds for Linux, Sun Microsystems for Solaris, etc. In addition, the OS owners determine the minimum performance level the system must demonstrate. The cost to develop and maintain this system would count against any fines the court may order.

The justification of this addition is clearly to lessen the ?Applications Barrier to Entry? in the OS market and hopefully prevent abuse of Microsoft's monopoly.

B. Quality Standard for APIs bundled with Windows OS This addition would order Microsoft to release documentation for all APIs (exceptions below) that are used by Windows or any Microsoft Middleware or Applications bundled with Windows, four weeks before product availability (includes changed and new APIs). This would be the basis of a Quality Standard that competitors could use to make substitute products. The Quality Standard must be available to the public at no cost. The API exception is the same security exception as noted in Proposed Final Judgment, but excepted APIs must not prevent a competitor from making a substitute product. The justification of this addition is clearly to lessen the ?Barrier to Entry? in the OS & Middleware markets and hopefully prevent abuse of Microsoft's monopoly.

C. Fair & reasonable punishment (fines, etc.) The Sherman Act calls for fines, imprisonment, or both. Also, the Clayton Act allows the government to recover the cost of suit. As added justification, the court should consider Microsoft's failure to supply ?Pro?Competitive Justification? for its actions and Microsoft's previous convictions.

IV. General Comments

A. Court of Appeals Decision & Quality Standards for Substitutes of Tied Goods The modern definition of Quality is compliance with requirements. On page 79 of the PDF file of the Court of Appeals decision, the court states as part of its decision on Tying, ?It is unclear how the benefits from IE APIs could be achieved by quality standards for different browser manufacturers.? The free software community is full of substitutes for other commercial products. Here is an example to add some clarity: There exists a commercial graphics manager (manages the windows on a UNIX X?Window server) called ?Motif? and a free equivalent (minor differences and some bugs) called ?Lesstif?. An application compiled with Motif can be executed on a system with only Lesstif installed, a clear example of a substitute. In addition, an API is a Quality Standard (at least a partial one). American National Standards Institute has many standards that specify APIs and computer programming languages. Example: ANSI/ISO/IEC 9899–1999 specifies the C Programming Language that includes functions (APIs).

B. Plaintiff's desire for timely resolution possibly interfering with desire for justice Plaintiff's desire for timely resolution has prevented possible determination of further defendant liability, the ?tying? portion of the case being dropped, etc. This added to the difficulty of securing a more server remedy because of less liability.

MTC–00025819

From: Ned Fleming
To: Microsoft ATR
Date: 1/26/02 7:00am
Subject: Microsoft Settlement

I very much believe the settlement allows Microsoft to run roughshod over smaller OEMs—and thus perpetuating their monopoly. I'm also concerned that Microsoft will continues its practice of maintaining a secret list of APIs, which only they know about.

Ned Fleming
1715 SW Crest Dr
Topeka KS 66604
Phone—785–273–8435

MTC–00025820

From: PAUL CAP
To: Microsoft ATR
Date: 1/26/02 7:15am
Subject: Microsoft Settlement,

It is our belief, that a fair and just settlement has been reached and further pursuit of this matter is not needed and will not be in the best interest of our Great Country and it's people!

Sincerely,
Paul & Carolyn Cap
612 Pinehurst Ave.
Placentia CA 92870

MTC–00025822

From: joshvern@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 7:18am
Subject: microsoft settlement

It is past time to end he costly Microsoft litigation and let the negotiated settlement stand. The public will not be served by continuing these lawsuits. Only a few greedy companies and lawyers stand to benefit from dragging this on.

Thank you.

MTC–00025823

From: PackGrot1@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 7:04am
Subject: Microsoft Settlement

Dept. of Justice:

As a citizen and stockholder of both Micrsoft and AOL, I am greatly concerned that the lawsuit recently filed by AOL will hinder the settlement of the Micrsoft case. It is time for the government to put this case to rest! It should never have been started to begin with. What a waste of taxpayers money!!!!

In addition, the timing of the purchase of Netscape by AOL would indicate to me that AOL is simply jumping on the litigation bandwagon, rather than putting their time and resource into duking it out in the competitive arena....where they should be.

It is time to get this mess settled and move forward.

Thank you for your consideration!
Beryl J. Packer, Ph.D.
9421 NW 74th Place
Grimes IA 50111

MTC–00025824

From: Matthew Taylor
To: Microsoft ATR
Date: 1/26/02 7:03am
Subject: Microsoft Settlement

I will keep this very brief because I'm sure you have more than enough correspondence detailing what I am going to say and I don't think I could put it any better than the rest of them. So the bottom line is that I (as well as the rest of my immediate family, 3 registered voters all together) feel that the Microsoft Corp. should suffer harsher penalties than the ones proposed by the Justice Department. That is all I wanted to convey. Thank you.

Matthew Taylor

MTC–00025825

From: Igor Alexeff
To: Microsoft ATR,
Date: 1/26/02 7:12am
Subject: Microsoft Settlement

My personal opinion is that Microsoft has been attacked because it is too successful. The whole concept of punishing a company because it does its job well is repugnant to me.

Igor Alexeff

MTC–00025826

From: Ed Hammond
To: Microsoft ATR
Date: 1/26/02 7:19am
Subject: Microsoft Settlement

As a member of the public, I would just like to add my opinion that Microsoft is a horrible monopoly that seeks to control all areas of our computing lives, and that strong measures are required to break it up and allow for more competition.

Thanks,
-Ed Hammond

MTC–00025827

From: isa kocher
To: Microsoft ATR
Date: 1/26/02 7:26am
Subject: Microsoft Settlement

Dear microsoft.atr@usdoj.gov:

The settlement proposed by the Department of Justice leaves Microsoft ready willing and able to continue without abatement its predatory practices which have seriously undermined any of our most creative entrepenuers" ability to bring new and creative products to the market.

Considering the degree to which Microsoft dominates the retail software market, this has had a depressing and inhibiting effect on the productivity of our most creative businesses whther of not they engage in computer related business. Business and personal software is crucial to our nations economy and Microsoft has deliberately and illegally interfered with the normal economic growth of our nation. Justice must bring the settlementback in line with the seriousness of the offense and the predatory instincts of the offender.

sincerely
Mr. Isa Kocher
9513 Buck haven Trail
Tallahassee FL 32312

MTC–00025828

From: WillieTrez@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 7:44am
Subject: Microsoft Settlement

We've been fortunate to have a mind such as Bill Gates in our country. Please drop this suit. Competition keeps us on our toes. Microsoft is known for innovation.

Enable them to keep going!

MTC-00025829

From: ANDY TURNER
To: Microsoft ATR
Date: 1/26/02 7:21am
Subject: Microsoft Settelment

1/26/02

This situation withe Microsoft should have never occured !! (Thank you Janet Reno / Bill Clinton) It remindes me of the Tobbaco Co.'s who are legal tax paying companies with large pockets that the Federal Government and many State Governments looked at as CASH COW'S to help fill their cash straped coffers. "If there was a real problem with them, then they should be outlawed...but no, they want the TAXES." In Microsoft's case, it's competitors who couldn't keep up or wanted to sell items to the COMPUTING PUBLIC, couldn't because Microsoft was giveing / including them in it's packages.

Do the Federal or State Governments want to kill Microsoft ? No. They just want to legaly pick it's pockets to cover their shortages in their treasuries from poor management!

What's next??....MacDonalds and Fast Foods for fat content, Beer & Soft drink companies. Does the Government think that everyone is stupid and incapable of being responsible for their own actions?

Adults are not children, but they are greedy and some will do or say anything if they think they can get money from a large company, i.e. hot coffee at McDondalds.

Let's get our hand out of Microsofts pockets !!!!!

Sincerely,
Andrew A. Turner

MTC-00025830

From: stanjan@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 7:46am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Stanley Janasiewicz, MD
Rt 2 Box 238A
Wellborn, FL 32094

MTC-00025831

From: HorridoDon@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 7:40am
Subject: microsoft settlement
Attorney General John Ashcroft
U.S. Dept. of Justice
950 Pennsylvania Ave. NW
Washington, D. C. 20530

I would like to see the Dept. of Justice settle it's long standing antitrust laswsuit against Microsoft. This has been going on far too long and it seems the only thing the government and states, that have not committed to settle, seem to be holding out for is blood.

The settlement agreed upon in November is fair and the changes Microsoft is willing to agree to will ensure a more competitive marketplace. I do not know what more the government can ask for.

I am a Microsoft shareholder and Microsoft's financial success affects my financial success. Therefore, with a reasonable settlement drafted, I urge you to finalize it without additional delay. I've already lost plenty in the enron scandal.

Sincerely,
Collette Dobmeier

MTC-00025832

From: RSKMGTPVC@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 7:45am
Subject: Microsoft Settlement

Sir:

I want to register my public comment regarding the proposed antitrust settlement. In my opinion it is time to settle this in any manner available. Although I think it is excessive, if Microsoft agrees to the terms please accept them.

I believe that the finding of Judge Jackson was one of the reasons for the current escalation of the recession. Besides- where would we be without Microsoft? Not nearly as advanced technology-wise as we are.

When I go to purchase software, I do not see a deficiency of other than Microsoft publishers.

Enough is enough. Too much valuable time and money have been wasted on the whole situation.

Thank you for taking the time to review these comments

Albert C Ellet
36 Pond View Drive
Richboro, PA 18954

MTC-00025833

From: grama—dee@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/26/02 7:36am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Lelia P Crandall
540 S Ranch View Circle 62
Anaheim Hills, CA 92807–4328

MTC-00025834

From: andy
To: Microsoft ATR
Date: 1/26/02 7:59am
Subject: Microsoft Settlement

I think the proposed settlement is bad idea.

Andy Bezella
4305 N DAMEN AVE APT 3W
CHICAGO, IL 60618–1732

MTC-00025835

From: rheining@rochester.rr.com@inetgw
To: Microsoft ATR
Date: 1/26/02 7:58am
Subject: Microsoft Settlement

I don't think the proposed settlement with Microsoft is fair, it is far to lenient.

MTC-00025836

From: Kayle Clements
To: Microsoft ATR
Date: 1/26/02 7:35am
Subject: Re: U.S. v. Microsoft: Settlement Information

I am writing to disagree with the proposed settlement with Microsoft. I believe this company has gone out of its way to monopolize the marketplace and keep other computer based businesses from competing on a fair level. And the settlement does not impose enough restrictions and punishment for their past actions.

The effects of this monopoly may not be seen for some time to come, but it is clear to me that Microsoft has done an extremely poor job of self policing in the past. I believe the government should step up to the task and regulate Microsoft to be sure that these types of practices will no longer be tolerated.

I believe the best way to accomplish this is to break up Microsoft into no less than 2 separate entities. This is the only way, in my opinion, to be sure that the company can no longer practice the policies that gave Microsoft the monopoly in the first place. Please do the right thing.

Kayle Clements
3201 12 Mile Road
Rockford MI 49341

MTC-00025837

From: Mark Lavi
To: Microsoft ATR
Date: 1/26/02 7:55am
Subject: My comments on the DOJ-MSFT remedy

I have a long standing background as a consumer of personal computers and online services since the early 80's. Since the early 90's I have developed a career based on

Internet media and Internet technology development working for the first commercial national ISP, News Corporation, and Netscape Communications.

I feel my comments have a historical and technical perspective with an understanding of the issues and business ramifications to the technology markets which Microsoft asserts terrible influence over already. Firstly: the DOJ case never properly defined terms as any computer scientist would do so to separate the "Operating System" market from the "Application Software" market. Since an operating system's purpose is merely to provide access to the hardware of the computer, it is a low level layer which is required for software applications to work—but clearly separate, independent, and crucial to all software.

Because Windows, in all of it's varieties, is an operating system and it's market is for anyone with computer hardware—it's primary distribution is with computer manufacturers (OEM's like Dell, Compaq, HP, Gateway, Apple, etc.) It has been proven that Microsoft's aggressive business contracts have stamped out the competition many years ago, but today prevents any competition for operating systems.

Since Internet Explorere is a software application, it cannot be an operating system. If this were not the case, then Internet Explorer's primary competition, Netscape Navigator software, would logically also be called an operating system. This most certainly is not the case. Therefore Internet Explorer is not an operating system, Windows distributes Internet Explorer, and this is tying two markets together.

The woeful part is that by bundling Internet Explorer into Windows, and now many other software packages: NetMeeting (video conferencing software), Backup (media replication), Defragment and Compression (disk utility), Windows Media Player (video and audio media player), Outlook Express (email software), and Internet Explorer (web browser) would name a few of the bundled software packages and industries threatened by Microsoft's self-serving distribution. Online Services and Fax and Modem software also are industries bundled into Windows.

Microsoft advances it's own technical agendas with these products: making them standards by sheer distribution alone. And Microsoft wields many of these standards in a proprietary manner, preventing competiton for these software packages.

Worse still: the Internet media (web sites) that these software packages promote also are Microsoft owned properties. Internet Explorere promotes the MicroSoft Network (msn), Outlook Express promotes HotMail (a web email system). The new Windows XP promotes photo processing services! How can an operating system imply software and web sites? Windows is not Hotmail, but many people will likely use Hotmail because they got it with Windows and they may not even know that there IS competition on the Internet because Microsoft doesn't provide a choice.

The remedy should be the break up of Microsoft into three business units: Operating System, Applications, and Internet/network services. Microsoft will negotiate with anyone to bundle all three of these business units when they should only promote one at a time. They promote all three when they have no business to do so, and they prevent competition by doing so. They bully companies and partners with threats that they will compete if they do not concede to whatever Microsoft wants (equity, technology licensing, distribution, etc). This behavior happens today, still. Every business contract and deal should be broken apart into three separate business units to prevent tying these separate areas.

Microsoft tries to blend the three technologies (operating system, software application, Internet service) together in every product offering now. Windows XP is the premier demonstration of this. Furthermore, it has left out a key Internet technology by Sun Microsystems called Java—which threatens the Windows operating system. Java is a key feature of Internet Explorer: it allowed it to compete with Netscape Navigator over the past years. Now that Netscape Navigator doesn't control much of the market, Microsoft will not carry Java because they promote their own proprietary technologies and prevent competition for Internet software development.

The technology delivery of this blend of three separate markets (OS, software, Internet) is now one business proposition to the entire market, no choices allowed or even acknowledged by Microsoft. This monopoly is killing the diversity of the economy and technology sector. Lastly: Microsoft must not donate software or old computer hardware as part of the remedy because this is also self-serving to the benefit of Microsoft. The remedy should provide damages and money to the states so that they may CHOOSE the best use of the settlement (perhaps non-Microsoft solutions!)

By allowing Microsoft to provide it's own software (which costs Microsoft almost nothing to produce and distribute) as value for the settlement, the government is distributing Microsoft's monopoly further without choice. By allowing Microsoft to provide old hardware computers, it distributes obsolete hardware and represents a very poor value when compared to the monetary investment that should be made in today's current hardware which represents the most performance and value in the history of the computer industry.

I am sorry I have not organized my thoughts better, but I do not approve of the horrible outcome that is being granted to Microsoft's benefit and the detriment of the computer industry. It will darken the entire future of our world and I must speak out.

Feel free to contact me for clarification or help, —

—Mark

Public key attachment for secure e-mail enclosed.

/\/ My opinions are my own, but you may share them.

// mailto:mark@atarex.com http://www.atarex.com

MTC-00025838

From: rod lyman
To: Microsoft ATR
Date: 1/26/02 7:59am
Subject: Microsoft Settlement

Consumer interests have been well served by the settlement and the time to end this costly and damaging litigation has come. I believe that the proposed settlement offers a reasonable compromise that will enhance the ability of seniors and all Americans to access the internet and use innovative software products to make their computer experience easier and more enjoyable.

MTC-00025839

From: Jim Vickers
To: Microsoft ATR
Date: 1/26/02 8:12am
Subject: SIR I belive that the government should look at all the good that microsoft has done for the world,

SIR I belive that the government should look at all the good that microsoft has done for the world,

THEREFOR THE MICROSOFT SETTLEMENT SHOULD COME TO A END AND BE DROP .AND PUT A STOP WASTING THE TAX PAYER MONEY.

THANK YOU MR. JAMES C. VICKERS

MTC-00025840

From: Carlos Guevara
To: Microsoft ATR
Date: 1/26/02 8:14am
Subject: Microsoft Settlement

To whom it might concern:

Through this note I would like to express my concern that many special interests are trying their best to derail this settlement, in detriment of the economy, the private enterprise and innovation in general.

It is my humble opinion that these same parties are involved in a double standard, pushing for a company to be punished for the same things that they do on a daily basis.

For example, NETSCAPE started the process of bundling things that had nothing to do with each other when they started bundling a WEB BROWSER, with an e-mail client (ever wondered what ever happened to clients like pegasus and eudora??) with their 90% market share browser. Or including a WEB PAGE EDITOR with the browser.

SUN on the other hand has been bundling stuff with their operating system for years. Now, don't misunderstand me, I think bundling things for free is a great practice. In the mid 90s, when SUN started bundling a WEB SERVER with their operating system, and a web browser called HOT JAVA (yes, very much like what they complain that MSFT did), it was a way for small development companies, like the one I work at to get access to this resources without having to shell out a large amount of money, which small companies cannot afford in the early stages of their life.

If it wasn't for bundling software, the way MSFT DOES, the cost of using many of the "commodity" software that we take for granted now would be much more expensive, and that would not be good for the consumer or for the large industry that is software development. In fact, there are LAWSUITS against MSFT about how much they charged for operating systems, when people like NOVELL, SUN and IBM have charged for years thousands of dollars for their different operating systems (that by the way could be available for free like BSD ad LINUX have demonstrated). But it is NOT ok to charge 299 dollars for an operating system from MSFT, that also includes a web browser (Netscape wanted to charge $49 for the most basic browser), and a web server (Nestacape wanted to charge 1000 for their most basic server), mail client, media player (Real Networks charges $19 for their most basic client).

As a software developer I CAN ASSURE YOU, that even though MSFT started bundlling their browser since version 2 (IE 2.0) on Windows 95, it wasn't until version 4.01 that I started to consider it as an alternative to Netscape. Even though I had to pay 49, 69 and up to 79 dollars for the NETSCAPE browser, I (and most other people, since it wasn't until version 4 that the market share for IE started to close the gap with Netscape) because it was better. I didn't stop using Netscape because it cost money, I stopped using it when it didn't become the best web platform.

I know for a fact that the software company that I work for, as many more in the industry, would not have survived if we had to do business in an environment where we had to let people like SUN, ORACLE and NETSCAPE to dictate the way of doing things. As a developer, I have seen an industry of products that work around the MSFT platform thrive. Just look at the number of companies that work with MSFTs platform and compare it to the number of companies that work with ORACLE and SUN. You will see that in that last environment, only BIG players can get in the door. In fact look at some of the products that MSFT has bundled in their operating system for years, and because those products are not as good as the competition, there is still a huge market for those tools, like Anti-virus protection, disk defragmenters and the such. MSFT has bundled a disk defragmenter with every version of Windows since Win 95, but still companies like symantec, DiskKeeper and others have products that are far better and are still in business. So to conclude, let those companies that want to fight MICROSOFT do it on the business field, like Symantec and DiskKeeper, RealNetworks and many others are doing, and not on the JUDICIAL field where NO ONE WILL COME OUT THE WINNER.

MTC-00025841

From: mikulski@gte.net@inetgw
To: Microsoft ATR
Date: 1/26/02 8:14am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
William Mikulski
3223 Chancellor Drive
Fort Wayne, IN 46815

MTC-00025843

From: DON K WILLAIMS
To: Microsoft ATR
Date: 1/26/02 8:18am
Subject: Microsoft Settlement

Dear Sir:

I have watched the long drawn out action and believe that settlement should be completed at this point as defined by the court. I feel that the dammage done to all parties should be finalized and everyone move on.

A tremendous amount of time and money has been expended, however I don't see that anyone is better off especially the consummer.

Closure should be now.

Sincerely,
Don K Williams

MTC-00025844

From: gkern
To: microsoft
Date: 1/26/02 8:17am
Subject: microsoft settlement

Microsofts only crime since the beginning of this whole so called LEGAL and I use the term loosely, circus, has been to create a great company that is good for america and everyone who uses thier products.

Not only are other companies wanting what microsoft has created, but so does our gov. microsoft has done no wrong to me or anyone else that i know or have talked to. MY GOV. can only find microsoft not guilty of wrong doings and let the world of FREE trade go on like it should. MY VOTE IS FOR MICROSOFT AND A GREAT AMERICAN—BILL GATES

THANK YOU
gkern@bullitt.net

MTC-00025845

From: William Shotts
To: Microsoft ATR
Date: 1/26/02 8:22am
Subject: Microsoft Settlement
To: Renata B. Hesse,
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement.

I have worked in the computer software industry for over 20 years and I have deep concerns regarding the effectiveness of the proposed settlement. In my view and in the view of many others, the proposed settlement does little to address the issues raised in the findings of facts in this case. I urge you to seek stronger sanctions against Microsoft (up to and including structural remedies) to insure the future this industry and America's technological leadership.

Thank you.
William E. Shotts, Jr.
500 Twinbrook Parkway
Rockville, Maryland 20851 —
William Shotts, Jr. (bshotts AT panix DOT com)

MTC-00025846

From: norxval@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 8:20am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Vallie Cosper
3905 Valrico Grove Dr.
FL 33594

MTC-00025847

From: jean proudfit
To: Microsoft ATR
Date: 1/26/02 8:32am
Subject: Microsoft Settlement

The states that wish harsher penalties for Microsoft should be told to get lost. Enough already.

Most of our industry has been driven overseas, should be try to drive the rest out. Where has Microsoft harmed the consumer? No where.

Jean Proudfit
Tampa, Fl.

MTC-00025848

From: Dave Garvie
To: Microsoft ATR
Date: 1/26/02 8:36am
Subject: Microsoft Settlement

Please settle the Microsoft suit, and let them get back to business.

Thank you,
Dave Garvie.

MTC-00025849

From: c
To: Microsoft ATR
Date: 1/26/02 8:38am
Subject: Microsoft Settlement

To whom it may concern:

As a software developer who has written for Windows and UNIX operating systems, I would like to comment on the Proposed Final Judgement in the United States vs. Microsoft.

I understand that the intent of the agreement is to prevent microsoft from illegally stifling competition. The current settlement will not achieve that goal. Here is one of the many of the reasons:

Many of the definitios are too narrow to be of any effect. For example, the definitions of Microsoft Middleware Product and Windows Operating System Product are seriously flawed. They explicitly include products that Microsoft does not expect to be critical to their future and exclude important new products.

The whole tenor of the document is that of a firm outward appearance with a very soft and mushy core. If the document is approved as written, I have no doubt that Microsoft will be able to continue it's anti-competitive practices virtually undiminished. There are so many problems that approval is clearly not in the public interest.

Sincerely,
Chris Buoy

MTC-00025850

From: RSHORNER@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 8:38am
Subject: Microsoft settlement

I strongly support the DOJ Microsoft settlement.

Robert M. Horner
2804 Sailors Way
Naples, FL

MTC-00025851

From: Terry Jendersee
To: Microsoft ATR
Date: 1/26/02 8:45am
Subject: Microsoft Settlement
6148 E Campo Bello Drive
Scottsdale, AZ 85254
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in full support of the recent settlement between Microsoft and the U. S. Department of Justice. The lawsuits have been going on for too long now and there could be no benefit for the public for them to continue.

I think the terms of the settlement are fair and reasonable. They will also serve to alleviate competitors" complaints as Microsoft has agreed to grant computer makers broad new rights to configure Windows" so that non-Microsoft products can be more easily promoted. They have also agreed to disclose for use by competitors interfaces that are internal to Windows operating system products.

I hope your office see what I believe and that is that our economy can afford no further litigation. Please implement the settlement. Thank you.

Sincerely,
Terry Jendersee

MTC-00025853

From: Daniel W. Solcher
To: Microsoft ATR
Date: 1/26/02 8:46am
Subject: Microsoft Lawsuit

To Whom It May Concern:

I want to express my opinion about Microsoft antitrust settlement. I really want to get this lawsuit to over with, so my business can start focusing on Microsoft products and its future developments. I understand that Microsoft has done some mistakes, but that is in the past. I work at Fortune 10 company, and I rely on "future technologies" to develop today's software for the company. It's the future of government that I am concerned about that affects Microsoft and my company's position on the computer software technologies.

I ask you to resolve it quickly, accept the settlement, and get it out of the Microsoft's way. That will save taxpayer's money, too. Also if the settlement is over with, then the sales at Microsoft will increase, therefore more tax money to the government.

Thanks,
Dan
Daniel W. Solcher
dan@solcher.net
11439 Baltic
San Antonio, Texas 78213
Vmail:210-308-9651
Fax: 210-308-9302 Web: www.solcher.net

MTC-00025854

From: Richard Carlson
To: Microsoft ATR
Date: 1/26/02 8:47am
Subject: Microsoft settlement

I oppose Florida not joining in the settlement with Microsoft. As a consumer I experience firsthand the "expense" of the breakup for purpose of creating "competition thereby lower costs to consumer" by the telephone company! That has not happened. I now pay $15-$20 more a month to a local phone company who charges me long-distance fees within my local area. I live in the Tampa area and to call friends, transact normal, everyday business, or call restaurants for reservations I pay long distance fees.

My geographic area is similar to the Washington D.C area where you live in Virginia but call friends and businesses in Maryland and Washington DC The breakup of the "phone monopoly" did me no favors.

Also while traveling it is impossible, from some phone companies, to reach your long-distance carrier and you end up paying $3.00-$6.00 per minute for a call. Every home computer owner struggles with keeping their system up—to-date with software and making "compatibility" even more dispersed and conflicted will certainly not be helpful and will cost more in the long run. I can only imagine what a breakup of Microsoft will do to the business community! Please encourage those involved in this decision to leave well enough alone.

Barbara Carlson,
Plant City,
Florida

MTC-00025855

From: Jem Lewis
To: Microsoft ATR
Date: 1/26/02 8:57am
Subject: Microsoft Settlement

To Whom it May Concern,

I would like to voice my opinion that the proposed Microsoft settlement be rejected. I have been reading up on various details of the settlement, and I believe that as proposed the settlement can only hurt consumers like myself, which I understand would be counter to the purpose of the antitrust laws.

I do not believe that true competition can be attained so long as Microsoft is allowed to own standards, whether programming standards in the form of APIs, or in file formats such as .doc or .avi. If one looks at the history of Microsoft's ascendance, it seems to me a large part of their success has derived from their tendency to change API and file formats at will, forcing would-be competitors to play an endless game of catch up. Microsoft Word is the de facto word processor, not because of its technical merits, but because it is the only program that can reliably read and write .doc documents. Can it truly be good for consumers to be forced to buy the latest Microsoft product so they can simply communicate?

For there to be competition, Microsoft needs to freely publish changes to their file formats and APIs several months in advance of any Microsoft product actually using them, thus giving potential competitors the opportunity to compete on features that are important to consumers.

In my reading of the settlement proposal, I find it to be entirely inadequate. Microsoft is very good at squirming through the holes in the fine print, and I see some large holes indeed. Plus, there seem to be no measures to prevent Microsoft from realizing the gain from their illegal behavior, and I believe that was one of the directives of the Appeals Court's findings.

It is my hope that the proposed settlement will be rejected. Consumer choice is the engine that drives innovation, and the single choice of Microsoft or nothing is almost no choice at all.

Thank you for your attention,
Jem Lewis
800 5th Av #101-447
Seattle WA 98104
jemlewis@yahoo.com

MTC-00025856

From: Jim Murphy
To: Microsoft ATR
Date: 1/26/02 9:00am
Subject: Microsoft Settlement fails to Enforce Use of Public Standards
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse:

I have serious concerns about the proposed settlement for the Microsoft case.

My prime concern is that has no effective provisions against Microsoft's practice of deliberately introducing incompatibilities in its products that prevent them from interoperating with non-Microsoft products that conform to public standards. These have the effect of driving out use of the non-Microsoft products. The settlement needs to have effective provisions that force Microsoft to comply with standards.

Truly yours.
Jim Murphy
Wall Township, New Jersey USA

MTC-00025857

From: Orlene McCarthy
To: Microsoft ATR
Date: 1/26/02 9:02am
Subject: Microsoft Settlement

You guys want to help the economy all you have to do is settle this and put a stop to all these law suits. It is so simple the economy was really good until the Clinton guys decided to go after Msft. just look at the facts it is simple spending millions to get the economy going is not the answer you need to settle this.

Msft is the best company and employs millions what is wrong with everyone. Please Please listen to people and do something.

Live,Love,Laugh

MTC-00025858

From: allen n budge
To: Microsoft ATR
Date: 1/26/02 9:04am
Subject: Microsoft settlement

The current agreed settlement is fair and further litigation is not required.

Allen Budge

MTC-00025859

From: Mark Christiansen
To: Microsoft ATR
Date: 1/26/02 9:06am
Subject: Microsoft should be punished

I hope you make Microsoft pay for it's abuse of it's monopoly. They are a monopoly and they are anti-competitive. This is obvious to everyone.

Don't let them get away with their over-pricing and abuse on American businesses and the American public.

Thank You,
Mark Christiansen
25 Wiggin St.
Concord, NH 03301

MTC-00025860

From: Donstites@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:09am
Subject: microsoft settlement

Please stop the nonsense about breaking up microsoft.....microsoft computer applications have been an incredible boom for business productivity...

MTC-00025861

From: Michael.Ronayne@PearsonTC.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:08am
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
Re: Microsoft Settlement
From: Michael E. Ronayne
88 Satterthwaite Avenue
Nutley, New Jersey, 07110
Date: January 26, 2002

I wish to go on record as supporting Microsoft in the current Microsoft Settlement case. While I believe that the original antitrust case should never have been brought against Microsoft and the judicial decisions in the case were seriously flawed, in the interests of both the national defense and the economy of the United States, this case must be brought so a swift and just conclusion. If the national condition were other than it is, I would have urged Microsoft too pursue every avenue of legal redress, to fight the decisions in this case. However, if Microsoft and the Department of Justice have reached an agreement to settle this case, then the terms of the agreement should be implemented quickly, in the national interest.

One of the key arguments against Microsoft in this case involves the struggle between Microsoft and Netscape for market share in the Internet Web Browser market. In this struggle, Netscape is portrayed as the victim who was unjustly deprived of market share by Microsoft. I believe a careful examination of the historical record will show that Netscape's rights to the software they claimed to have developed are not supported by the facts. The reality is that both Netscape's and Microsoft's web browsers are totally based on a web browser development project funded by the National Science Foundation, a branch of the Government of the United States. By distributing Internet Explorer at no cost, Microsoft was enabling software which had been funded by the American people.

History Of Internet Explorer

Every copy of Microsoft Internet Explorer contains the following statement in the "Help"/"About Internet Explorer" pull-down window:

"Based on NCSA Mosaic. NCSA Mosaic(TM); was developed at the National Center for Supercomputing Applications at the University of Illinois at Urbana-Champaign. Distributed under a licensing agreement with Spyglass, Inc. Contains security software licensed from RSA Data Security Inc. Portions of this software are based in part on the work of the Independent JPEG Group. Multimedia software components, including Indeo(R); video, Indeo(R) audio, and Web Design Effects are provided by Intel Corp. Unix version contains software licensed from Mainsoft Corporation. Copyright (c) 1998–1999 Mainsoft Corporation. All rights reserved. Mainsoft is a trademark of Mainsoft Corporation. Warning: This computer program is protected by copyright law and international treaties. Unauthorized reproduction or distribution of this program, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law."

The above statement is in my opinion, is one the best defenses Microsoft can put forward to show that their business practices with regards the marketing of Internet Explorer was completely justified and in fact quite honorable.

The first successful web browser was Mosaic (1,2 & 3), which was developed at the National Center for Supercomputing Applications (NCSA), a unit of the University of Illinois at Urbana-Champaign. The Time Line for Mosaic (4, 5 & 6) is as follows:

Mosaic Timeline

Phase 1 (1987–1992/12): Work leading up to the idea to do Mosaic.

Phase 2 (1992/12–1993/11): Implementation and early adoption of mosaic and NCSA HTTPd by brave souls.

Phase 3 (1993/12–1994/5): Killer-app phase, when the world recognized that this was the next big thing in IT.

Phase 4 (1994/5–1997): Commercialization phase. NCSA continued to develop and improve Mosaic, but the big news was that Netscape was formed and Microsoft transformed itself to make the Web integral to its long-term strategy. It was during this phase that the world's economic and communications structures were changed forever.

In mid-1994 Marc Andreessen, a principle Mosaic developer and recent UIUC graduate, and Jim Clark, the Silicon Graphics founder, founded Mosaic Communications, which was later renamed Netscape Communications (5 & 6). On October 13, 1994 Marc Andreessen announced the availability (8 & 9) of the Mosaic Netscape Beta v0.9. The most interesting item in the announcement was the following:

"Mosaic Netscape is a built-from-scratch Internet navigator featuring performance optimized for 14.4 modems, native J PEG support, and more."

In short, Marc Andreessen developed an entirely new browser in four months, an effort which had previously taken two years, while he was a student at UIUC. As UIUC still had a product named Mosaic, with an installed base of several of several million users world wide (7), Netscape had to drop the word Mosaic from their product and company names.

Other then the issue pertaining to of the use of the word Mosaic, there apparently was no other interaction between Netscape and UIUC. The two questions which beg to be asked are, what are the similarities between early versions of Mosaic and Netscape and was Netscape development initiated while Marc Andreessen was in the employ of UIUC?

With the launch the first commercial version of Netscape in December 1994, Microsoft licensed Mosaic (7) from Spyglass, Inc, a licensing company created by UIUC to facilitate to commercial distribution of Mosaic to over 100 companies (6). Evidently, Netscape was not a Spyglass licensee. In August of 1995, Microsoft launched Internet Explorer v1.0 and the rest is history. From the release of the first version of IE, Microsoft stated that is was its intention to bundle the browser as an integrated component its operating systems.

The reality is that both Netscape and Internet Explorer are directly derived from NCSA Mosaic, Netscape through a re-engineered version of the source code and Internet Explored directly from the original source code. While NCSA Mosaic is owned by UIUC, the critical question is who paid for the research and development costs of Mosaic? The answer is that Mosaic's development was funded by the National Science Foundation's (NSF) Supercomputer Centers program, a branch of the Government of the United States.

It was not Microsoft who harmed Netscape, but Netscape who harmed UIUC and Spyglass. It was Microsoft who rescued the intellectual property rights entrusted to UIUC by the National Science Foundation. For the reasons which I have sighted, Netscape's allegations against Microsoft should be inadmissible. Without Netscape as a plaintive there is no case against Microsoft.

Citations

1. "NCSA Mosaic Home Page" http://archive.ncsa.uiuc.edu/SDG/Software/Mosaic/
2. "NCSA Mosaic History" http://archive.ncsa.uiuc.edu/General/CommGroup/MosaicHistory/timeline.html
3. "NCSA Mosaic History" http://www.ncsa.uiuc.edu/Divisions/Communications/MosaicHistory/
4. "NCSA Mosaic Timeline" http://www.ncsa.uiuc.edu/Divisions/Communications/MosaicHistory/timeline.html
5, "Browser History Timelines" http://www,blooberry.com/indexdot/history/browsers.htm
6. "NSF Initiative Leads to NCSA Mosaic and E-Commerce" http://www.ncsa.uiuc.edu/Divisions/Communications/MosaicHistory/impact.html
7. "Netscape: A history" http://news.bbc.co.uk/hi/english/in—depth/business/2000/microsoft/newsid_635000/635689.stm
8. "Here it is world!" http://groups.google.com/ groups'selm=MARCA.94Oct13005712%40neon.mcom.com
9. "Mosaic Netscape is out the door..." http://www.w3.org/Style/History/www.eit.com/www.lists/www-talk.1994q4/0187.html

MTC-00025862

From: Or Botton
To: Microsoft ATR
Date: 1/26/02 9:12am
Subject: Not a good idea.

Ever since we switched to Microsoft products, our high school computers crash, freeze, require a reboot and etc" more then ever.

This generaly cause tremendous trouble simply because we keep loosing our documents and works. Unless you save religiously every minute, that is.

Not to mention that all those security holes we keep having to patch are a major pain in the neck. Trojan here, E-Mail virus there... it reached the level where you dont even have the OPEN the letter to get infected. Its enough that you're online!

I'd rather have my school receive alternative products then Microsoft products. Not to mention that having them "giving away" Microsoft products will only increase their allready highly influencive monopoly. Alternative programs are designed to be able accept Microsoft files, but Microsoft programs are NOT designed to accept files from alternative programs properly.

So, for a better future—No thanks. We dont want Microsoft here.

MTC-00025863

From: WOLF1597@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:13am
Subject: comment on msft

Just Recently...Five Billion...was offered by Microsoft to ATT...Then paid...to keep a competitor from getting access to Broadband. Microsoft's Monopoly of the PC operating system allows it to cut off any competitor by the knee's. And frankly I think that, they think...any Judge can stop them.

Consider...NETSCAPE! Thank You for allowing me to Comment.

W.M

MTC-00025864

From: kathryncornwell@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:13am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Kathryn Cornwell
Rt 2, Box C–16
Killeen, TX 76542

MTC-00025865

From: Doug Yerby
To: Microsoft ATR
Date: 1/26/02 9:17am
Subject: Microsoft settlement

Dear Sirs,

I have personnally used browsers and programs by other manfactures. These products are very inferior to the Micrsoft products.To make a judgement againts Microsoft seems completely inane.If other companys made a superior or even equal product user would go to it.To punish Microsoft for producing hands down the best product is lunancy.

Sincerly,
Doug Yerby
Valrico, Fl

MTC-00025866

From: Rottet, Kevin J
To: Microsoft ATR
Date: 1/26/02 9:19am
Subject: Microsoft settlement

To Whom it May Concern,

I am personally dissatisfied with the proposed settlement in the Microsoft antitrust case. I feel that competition is essential to the future of the computing industry, and the settlement does not adequately address the clearly illegal past activities of Microsoft that have inhibited or even prevented competition. I am appalled that Microsoft would escape clear punishment for its misdeeds. Furthermore, there are areas of the settlement which do not go far enough in curbing Microsoft's potential to inhibit competition in the future. For instance, there needs to be broader disclosure of file formats for popular office and multimedia applications than what the settlement foresees. It is my hope that the proposed settlement will not take place and the matter will be revisited in a more appropriate fashion.

Sincerely,
Kevin J. Rottet
Assistant Professor
University of Wisconsin-Whitewater
CC:Rottet Kevin J

MTC-00025867

From: mary vensel
To: Microsoft ATR
Date: 1/26/02 9:20am
Subject: Microsoft Settlement
MARY W. VENSEL
4358 TIMUQUANA ROAD, APT. 176
JACKSONVILLE, FL 32210–8561
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I would like to take a moment to express some of my views regarding the Microsoft antitrust case. I feel that the settlement that your office reached was fair and reasonable. I do not see a need for further action at the federal level, especially while Microsoft is involved in negotiations with the remaining states to reach a conclusion.

I believe that this case has hurt not just Microsoft, but the IT industry as a whole, in the sense that it has forced the focus to shift from innovation to litigation. We must restore economic confidence by ensuring that success with consumers will not cause government retaliation, and that standardization and interoperability can win out in the marketplace.

By placing Microsoft under the supervision of an oversight committee to monitor its practices and giving competitors access to Windows code, your settlement will force Microsoft to become a more responsible industry leader, while allowing the competition to share some of its success. Consumers will have more choices, competitors will have more chances, and Microsoft will retain some of the benefits of its innovation.

We must ensure that our country maintains its position as the world's technology leader. I believe that your settlement will allow that to happen. I hope your office will see fit to end this debacle at the federal level and allow the industry and the economy to move forward.

Sincerely,
Mary W. Vensel

MTC-00025868

From: Lane Hartle
To: Microsoft ATR
Date: 1/26/02 9:22am
Subject: Netscape vs Microsoft

I wish everyone would quit picking on Microsoft. This latest proposal to have Microsoft remove the Internet Explorer from the desktop is ridiculous. Why does Netscape feel threatened? If Netscape had an operating system that was installed on nearly every computer in the world, don't you think THEY would have a link to Netscape Communicator on THEIR desktop? And what IS the big deal, anyway?

Both browsers are free, so Netscape isn't losing any money to a competitor.

Recently, I purchased several new computer systems with Windows XP preloaded. I installed Netscape Communicator 6.2, and it promptly crashed every time I ran it. Several MONTHS after the release of XP, Netscape announced version 6.2.1, which fixed many of the bugs for XP users. It was a good thing Microsoft Internet Explorer was already tested and installed under XP, or I would have had no internet access.

If Netscape feels threatened and wants to complain, then Netscape needs to make sure future versions of Communicator function properly when newer operating systems become available. Or, they need to develop their own operating system that supports their own products.

Lane T. Hartle
lanehartle@yahoo.com

MTC-00025869

From: John Donaldson
To: Microsoft ATR
Date: 1/26/02 9:22am
Subject: Microsoft Settlement

I am very concerned that the proposed settlement does not fit the act.

Please rethink the process and require Microsoft to make amends that, at the very least, equal the crime.

MTC-00025870

From: James Bralski
To: Microsoft ATR
Date: 1/26/02 9:30am
Subject: Microsoft Settlement

Dear Attorney General Ashcroft, I support the Microsoft Settlement. It was criminal for the United States Government to attack success in the first place. Repressive government actions are not in my country's best interest.

Settle now. James Bralski Hermitage, PA

MTC-00025871

From: TomG
To: Microsoft ATR
Date: 1/26/02 9:24am
Subject: Microsoft Settlement

I believe that the subject settlement is more than fair. The obligations accepted by Microsoft go far beyond what is reasonable and fair. It appears that a number of vested interests want even more concessions, but they are not in the public interest, nor in the interest of the long term health of the industry. thank you

Make a Great Day TomG (Tom Gerhart) Tampa, Fl

MTC-00025872

From: ColinRamsay
To: Microsoft ATR
Date: 1/26/02 9:29am
Subject: MICROSOFT

I am not a Microsoft employee nor do I have any financial interest in Microsoft. I am a retired business executive, but I am keenly interested in the Microsoft case as a citizen. The additional penalties which the states opposing the DOJ settlement proposal are demanding would be injurious to both our individual citizens who use the Internet and to our nation's world-wide competitive position. If these states, including Florida, get their demands, our nation's digital innovation will suffer, costs will increase and operating codes compatibility will become more complex. Additionally, the attorneys general of individual states will be encouraged to further feed their egos and political ambitions by meddling in future DOJ cases.

Colin N. Ramsay 8303 Royal Sand Circle #102 Tampa, FL 33615

MTC-00025873

From: Herbert Gonzalez
To: Microsoft ATR
Date: 1/26/02 9:34am
Subject: Microsoft settlement.

Enough is enough! Settle the case!

MTC-00025874

From: Ray Buckles
To: Microsoft ATR
Date: 1/26/02 9:45am
Subject: USAGBuckles—Ray—1040—0124

MTC-00025874-0001

4226 Montgomery Place Mount Vernon, WA 98274-8702 January 25, 2002

Attorney General John Ashcroft US Department of Justice, 950 Pennsylvania Avenue, NW Washington, DC 20530-0001

Dear Mr. Ashcroft:

The Microsoft antitrust suit has lingered in the federal courts for nearly four years now. Last June, settlement negotiations began, and it was not until November that a settlement was finally reached. The settlement is pending approval, and next week, the courts will determine whether or not it should be finalized. Unfortunately, Microsoft's opponents would like to see Microsoft more harshly punished, and are seeking to undermine the settlement and bring additional litigation against Microsoft. I do not believe that this is at all necessary. I believe that it is in the best interest of the economy to halt litigation now and to settle the case on the terms proposed last November. Microsoft and the Department of Justice have agreed on a broad range of terms under the settlement that restrict monopolistic actions on the part of Microsoft and require the corporation to effect a number of changes in product and procedure. For example, Microsoft will no longer be permitted to enter into contracts that would require a third party to promote or distribute Microsoft products at a fixed percentage. Microsoft also plans to revise future versions of Windows so that non-Microsoft software will be compatible with the Windows operating system. I do not believe the claims that Microsoft has been dealt with too leniently. Several conditions of the settlement actually extend to technologies and procedures that were not found to be unlawful by the Court of Appeals. The antitrust case has dragged on long enough. I believe it is in the best interest of the public, the economy, and the technology industry to settle the case, and give Microsoft a chance to prove itself in the settlement before dismissing it out of hand. I urge you to allow the settlement to stand.

Sincerely,
Ray Buckles

MTC-00025874-0002

MTC-00025875

From: PAGsurvey@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:36am
Subject: microsoft settlement

Gentlemen: Don't let the computer geeks fool you into thinking we would all be better off selecting and assembling various software components to run on our PCs. That simply is not the case. As a nation we would not have come to the point in computing and information technology without the simplicity Microsoft has brought us. I have been using computers for Civil Engineering and Surveying for thirty years. I remember when this thing would not communicate with that thing because of a lack of a common operating system. Let me also remind you that the anti-trust laws were enacted to protect me, not AOL, Sun and Netscape. If they really had a better idea we would really be using it. Then there is of course the mind boggling question "should we the people be comforted by the fact that a bunch of government lawyers and a judge now have a strangle hold on the computer industry".

If you need a cause to occupy your time do something about the credit card industry and the twenty nine dollar late fees they all have begun charging us in addition to interset. Keep in mind here this is hurting me, not Chase or Citibank. To sum up i believe your efforts are misdirected. Patrick A. Gialloernzo, PE, LS

MTC-00025876

From: Shawn
To: Microsoft ATR
Date: 1/26/02 9:38am
Subject: AOL in Negotiations to Buy Red Hat:
http://www.washtech.com/news/media/14759-1.html
AOL in Negotiations to Buy Red Hat:
http://www.washtech.com/news/media/14759-1.html

Let's see, AOL already owns ICQ, Winamp, Compuserve, Netscape, and Time Warner. Yet Microsoft is the one accused of causing a monopoly. Ironic, eh? I can also imagine this imagine this: aol and microsoft go into direct competition, and they have a "who can buy the most companies" contest. aol buys red hat, microsoft buys macromedia, aol buys apple, microsoft buys adobe, aol buys dell, microsoft buys compaq, aol buys prodigy, microsoft buys earthlink, aol buys ibm, microsoft buys intel, aol buys amd, and then they continue to buy other smaller software companies and computer manufacturers until there are none left. Then one day, they stop arguing, and merge. it's going to hapen, just wait and see.

MTC-00025877

From: Edwin Meyer
To: Microsoft ATR
Date: 1/26/02 9:39am

Subject: Microsoft Settlement—Count this one against Microsoft

Dear People,

As both a producer and consumer of microcomputer software, I am concerned that a vigorous and open market be maintained for software development.

I understand from independent sources that Microsoft has been attempting to influence the responses during the Tunney Act comment period by a concerted effort to solicit favorable comments. To me, this is a typical Microsoft tactic aimed at bolstering its quasi-monopoly position in the desktop software business and extending it to enterprise computing and networking.

I urge the DOJ to support the most stringent provisions possible to limit Micosoft's ability to control and throttle independent software development in these areas.

Thank you for your consideration.

Sincerely,
Edwin W. Meyer
Edwin Meyer Software Engineering P.O. Box 390070; Cambridge, MA 02139
617–876–1350 Fax 605–238–1795
http://www.edwinmeyer.com/

MTC-00025878

From: Wes
To: Microsoft ATR
Date: 1/26/02 9:39am
Subject: Microsoft hearing

MTC-00025878—0001

January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–00001

Dear Mr. Ashcroft:

Pursuant to the Justice Department's requst for public ocmment on the proposed settlement of the Microsoft case, I am writing in support of the settlement.

It is difficult for the average person to understand all of the charges and counter-charges thrown about in a case such as this. Terms such as "restraint of trade" and "predatory pricing practices" have very little meaning to the man on the street. Out concern is whether, after the litigation is over, the public interest was actually served by the lawsuit and its settlement.

The public interest will be well served by this settlement if for no other reason than expanded choice. Microsoft has agreed to allow make it easiser for consumers to use non-Microsoft products and programs when using Windows as their operating system. There will now be greater choice for consumers in selecting Internet providers, media players and other programs.

I hope that this settlement will remain intact after the public comment period. Our economy needs these companies out of the courtrooms and back to work as soon as possible.

Sincerely,
Wesley T. Charpie
Charpie,
3970 Waycross Drive,
Columbus, IN 47203–3526

MTC-00025879

From: FRIT0LAY@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:39am
Subject: Microsoft Settlement

January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The settlement reached in the Microsoft anti-trust dispute is essential to the continued success of America's technology industry in the world market. Our IT industry has floundered for the past three years since the inauguration of this anti-trust suit against Microsoft three years ago. This settlement is fair and is a prime opportunity to put this litigation behind us.

Under the terms of the agreement, Microsoft has agreed to design all future versions of Windows to be more compatible with the products of its competitors. Microsoft has also agreed not to retaliate against any competitor who produces products that compete with its own. And, finally Microsoft has promised to report to a three person technical committee that will monitor Microsoft's compliance to these terms. I believe that this settlement is reasonable for the simple reason that it will allow Microsoft to get back to business without being pirated and split apart.

Thank you for you help in this issue and for allowing me to express my opinion. Free enterprise is a precious commodity in this nation and it must be protected.

Sincerely,
James anf Harriet Lay
1405 Hickory Hollow Dr.
Flint, MI 48507

MTC-00025880

From: Jack Beglinger
To: Microsoft ATR
Date: 1/26/02 9:41am
Subject: Microsoft Settlement

Dear Sirs,

The current settlement plan between Microsoft and the US Department of Justice, fails to stop the "Monopoly Tending" of Microsoft. In actually, it helps strengthen Microsoft's Monopoly to the point of helping Microsoft try to destroy the only competitor to they reign of power—LINUX. The agreement's greatest flaw is the definition of a class of companies that Microsoft "needs" to talk to ISVs and OEMs and the like.

I am and have been both types of "companies". I build my own machines—like a DELL or Gateway. I write code and create Integrated Systems akin to a Symantec or a CSA. But I am also a single person, to small for Microsoft to talk to, to small to afford the cost to go their meetings about their technology. I have for years be forced to buy Operating Systems at full retail prices, though I build me own machines. I was blocked for years of getting Windows 95 OSR2—an OEM only version of the OS containing the newest hardware interfaces.

By allowing this agreement to contain clauses that "anoint" companies that Microsoft must "talk" to you have caused Microsoft greater monopoly power by being the "glue" in a cartel of large companies all protecting they own pocketbooks.

A case in point is IBM. Microsoft was at one time offering PowerPC Windows NT System. PowerPC is used in IBM's Midrange Machines and Apples Macintoch. Microsoft pulled the support of that processor. Which give Intel more years to keep pricing inflated on its processors—both the x86 line and the Alpha that Intel was building for DEC. Compaq Computers now own DEC. Instance Microsoft strengthen two of its best business partners and itself while trying to hurt IBM.

With NDA and limited information that Microsoft is required to release. LINUX will be hurt by not having access to information for compatibility. LINUX is a competing operating system that Microsoft can not buy or sue i nto non-existence. Companies, like RedHat, make money is selling services or easy to install copies of the OS, without having to pay a licensing fee. But LINUX licensee places a burden on a developer that code made avai lable via under it licensee is free of other licensing restricting and the full source is available at no extra charge. In this way the next developer can improve the code and again pass it on. Allows for thousands of people to give a little of themselves for the greater good. Signing a NDA or paying for trips to meetings, places a unfair burden in small "guys" like myself to compete, or share what I have learned. Even to share code, since licensing restrictions may get in the way. Instances,

I am "un-clean" to work on open source projects. I may use some else IP by accident. In the end, the agreement should be blocked and better settlement be reached. IF the agreement is kept, then change it so the following happens:

1) All API's are published, documented, and examples made available 6 months prior to first general release containing the API's. Release of API's is made by any method of Microsoft's choice as long it is also placed on microsoft.com website, easily found (example: Search: "API WinXP") and limited to HTML version 3 display standards. Further not having to register with or agree to a NDA with Microsoft or any other company to gain access to this information.

Further to state... an API is not Intellectual Property, but ways to "talk" to a program that is.

2) A Beta version is released and in the hands of all whom asks for it, no later than 3 months prior the general release or an product. Any changes to that Beta must in the hands of all who received the original shipping, to later than 2 weeks after the change were made or 2 weeks prior to general release, which ever is earlier. An exception is a emergency release because a virus exploit.

3) Remove any clause that defines who Microsoft has to talk to. Instead place "Any person who wishes know".

Change 1, insures that if I wish to create a product that interacts with a Microsoft product, that I have full and complete information. AND will not be blocked or restricted by Microsoft. Change 2, Allows me to make compatibility tests and modification to my code prior to Microsoft releasing their product. This way my customers are protected from changes that may break code they are running. Change 3, Allows anyone who wishes to go a technology meeting will be allowed IT IS NOT LONGER A "PRIVATE CLUB".

If in way I can help, please let me know.

Jack Beglinger
8900 Keeler Ave
Skokie, IL
847–677–2427

MTC-00025881

From: Richard Zelade
To: Microsoft ATR
Date: 1/26/02 9:41am
Subject: Microsoft settlement

[Text body exceeds maximum size of message body (8192 bytes). It has been converted to attachment.]

I strongly object to the presently configured, proposed settle of the Microsoft antitrust lawsuit for the following reasons, and offer some suggestions on changing it to something that will truly benefit the American people and the rest of the computing world.

A third option not provided by the PFJ would be to make sure that Microsoft raises no artificial barriers against non-Microsoft operating systems which implement the APIs needed to run application programs written for Windows. The Findings of Fact (?52) considered the possibility that competing operating systems could implement the Windows APIs and thereby directly run software written for Windows as a way of circumventing the Applications Barrier to Entry. This is in fact the route being taken by the Linux operating system, which includes middleware (named WINE) that can run many Windows programs.

By not providing some aid for ISVs engaged in making Windows-compatible operating systems, the PFJ is missing a key opportunity to encourage competition in the Intel-compatible operating system market. Worse yet, the PFJ itself, in sections III.D. and III.E., restricts information released by those sections to be used "for the sole purpose of interoperating with a Windows Operating System Product". This prohibits ISVs from using the information for the purpose of writing operating systems that interoperate with Windows programs. How should the Final Judgment be enforced? The PFJ as currently written appears to lack an effective enforcement mechanism. It does provide for the creation of a Technical Committee with investigative powers, but appears to leave all actual enforcement to the legal system. What information needs to be released to ISVs to encourage competition, and under what terms? The PFJ provides for increased disclosure of technical information to ISVs, but these provisions are flawed in several ways: 1. The PFJ fails to require advance notice of technical requirements Section III.H.3. of the PFJ requires vendors of competing middleware to meet "reasonable technical requirements" seven months before new releases of Windows, yet it does not require Microsoft to disclose those requirements in advance. This allows Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs. 2. API documentation is released too late to help ISVs Section III.D. of the PFJ requires Microsoft to release via MSDN or similar means the documentation for the APIs used by Microsoft Middleware Products to interoperate with Windows; release would be required at the time of the final beta test of the covered middleware, and whenever a new version of Windows is sent to 150,000 beta testers. But this information would almost certainly not be released in time for competing middleware vendors to adapt their products to meet the requirements of section III.H.3, which states that competing middleware can be locked out if it fails to meet unspecified technical requirements seven months before the final beta test of a new version of Windows. 3. Many important APIs would remain undocumented The PFJ's overly narrow definitions of "Microsoft Middleware Product" and "API" means that Section III.D.'s requirement to release information about Windows interfaces would not cover many important interfaces. 4. Unreasonable Restrictions are Placed on the Use of the Released Documentation ISVs writing competing operating systems as outlined in Findings of Fact (?52) sometimes have difficulty understanding various undocumented Windows APIs. The information released under section III.D. of the PFJ would aid those ISVs—except that the PFJ disallows this use of the information. Worse yet, to avoid running afoul of the PFJ, ISVs might need to divide up their engineers into two groups: those who refer to MSDN and work on Windows-only applications; and those who cannot refer to MSDN because they work on applications which also run on non-Microsoft operating systems. This would constitute retaliation against ISVs who support competing operating systems. 5. File Formats Remain Undocumented No part of the PFJ obligates Microsoft to release any information about file formats, even though undocumented Microsoft file formats form part of the Applications Barrier to Entry (see "Findings of Fact" ?20 and ? 39). 6. Patents covering the Windows APIs remain undisclosed Section III.I of the PFJ requires Microsoft to offer to license certain intellectual property rights, but it does nothing to require Microsoft to clearly announce which of its many software patents protect the Windows APIs (cf. current practice at the World Wide Web Consortium, http://www.w3.org/TR/patent-practice). This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users, as illustrated by this report from Codeweavers, Inc.: When selecting a method of porting a major application to Linux, one prospect of mine was comparing Wine (a competing implementation of some of the Windows APIs) and a toolkit called 'MainWin'. MainWin is made by Mainsoft, and Mainsoft licenses its software from Microsoft. However, this customer elected to go with the Mainsoft option instead. I was told that one of the key decision making factors was that Mainsoft representatives had stated that Microsoft had certain critical patents that Wine was violating. My customer could not risk crossing Microsoft, and declined to use Wine. I didn't even have a chance to determine which patents were supposedly violated; nor to disprove the validity of this claim. The PFJ, by allowing this unclear legal situation to continue, is inhibiting the market acceptance of competing operating systems. Which practices towards OEMs should be prohibited? The PFJ prohibits certain behaviors by Microsoft towards OEMs, but curiously allows the following exclusionary practices:

Section III.A.2. allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

Section III.B. requires Microsoft to license Windows on uniform terms and at published prices to the top 20 OEMs, but says nothing about smaller OEMs. This leaves Microsoft free to retaliate against smaller OEMs, including important regional "white box" OEMs, if they offer competing products. Section III.B. also allows Microsoft to offer unspecified Market Development Allowances—in effect, discounts—to OEMs. For instance, Microsoft could offer discounts on Windows to OEMs based on the number of copies of Microsoft Office or Pocket PC systems sold by that OEM. In effect, this allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas, such as office software or ARM-compatible operating systems.

By allowing these practices, the PFJ is encouraging Microsoft to extend its monopoly in Intel-compatible operating systems, and to leverage it into new areas. Which practices towards ISVs should be prohibited? Sections III.F. and III.G. of the PFJ prohibit certain exclusionary licensing practices by Microsoft towards ISVs.

However, Microsoft uses other exclusionary licensing practices, none of which are mentioned in the PFJ. Several of Microsoft's products" licenses prohibit the products" use with popular non-Microsoft middleware and operating systems. Two examples are given below. 1. Microsoft discriminates against ISVs who ship Open Source applications The Microsoft Windows Media Encoder 7.1 SDK EULA states ... you shall not distribute the REDISTRIBUTABLE COMPONENT in conjunction with any Publicly Available Software. "Publicly Available Software" means each of (i) any software that contains, or is derived in any manner (in whole or in part) from, any software that is distributed as free software, open source software (e.g. Linux) or similar licensing or distribution models ... Publicly Available Software includes, without limitation, software licensed or distributed under any of the following licenses or distribution models, or licenses or distribution models similar to any of the following: GNU's General Public License (GPL) or Lesser/Library GPL (LGPL); The Artistic License (e.g., PERL); the Mozilla Public License; the Netscape Public License; the Sun Community Source License (SCSL); ... Many Windows APIs, including Media Encoder, are shipped by Microsoft as add-on SDKs with associated redistributable components.

Applications that wish to use them must include the add-ons, even though they might later become a standard part of Windows. Microsoft often provides those SDKs under End User License Agreements (EULAs) prohibiting their use with Open Source applications. This harms ISVs who choose to distribute their applications under Open Source licenses; they must hope that the enduser has a sufficiently up-to-date version of the addon API installed, which is often not the case.

Applications potentially harmed by this kind of EULA include the competing middleware product Netscape 6 and the competing office suite StarOffice; these EULAs thus can cause support problems for, and discourage the use of, competing middleware and office suites. Additionally, since Open Source applications tend to also run on non-Microsoft operating systems, any resulting loss of market share by Open Source applications indirectly harms competing operating systems. 2. Microsoft discriminates against ISVs who target Windows-compatible competing Operating Systems The Microsoft Platform SDK, together with Microsoft Visual C++, is the primary toolkit used by ISVs to create Windows-compatible applications. The Microsoft Platform SDK EULA says: "Distribution Terms. You may reproduce and distribute ... the Redistributable Components... provided that (a) you distribute the Redistributable Components only in conjunction with and as a part of your Application solely for use with a Microsoft Operating System Product..." This makes it illegal to run many programs built with Visual C++ on Windows-compatible competing operating systems.

By allowing these exclusionary behaviors, the PFJ is contributing to the Applications Barrier to Entry faced by competing operating systems. Which practices towards large users should be prohibited? The PFJ places restrictions on how Microsoft licenses its products to OEMs, but not on how it licenses products to large users such as corporations, universities, or state and local governments, collectively referred to as "enterprises" Yet enterprise license agreements often resemble the per-processor licenses which were prohibited by the 1994 consent decree in the earlier US v. Microsoft antitrust case, in that a fee is charged for each desktop or portable computer which could run a Microsoft operating system, regardless of whether any Microsoft software is actually installed on the affected computer. These agreements are anticompetitive because they remove any financial incentive for individuals or departments to run non-Microsoft software. Which practices towards end users should be prohibited? Microsoft has used both restrictive licenses and intentional incompatibilities to discourage users from running Windows applications on Windows-compatible competing operating systems. Two examples are given below. 1. Microsoft uses license terms which prohibit the use of Windows-compatible competing operating systems MSNBC (a subsidiary of Microsoft) offers software called NewsAlert. Its EULA states "MSNBC Interactive grants you the right to install and use copies of the SOFTWARE PRODUCT on your computers running validly licensed copies of the operating system for which the SOFTWARE PRODUCT was designed [e.g., Microsoft Windows(r) 95; Microsoft Windows NT(r), Microsoft Windows 3.x, Macintosh, etc.]. ... "Only the Windows version appears to be available for download. Users who run competing operating systems (such as Linux) which can run some Windows programs might wish to run the Windows version of NewsAlert, but the EULA prohibits this.

MSNBC has a valid interest in prohibiting use of pirated copies of operating systems, but much narrower language could achieve the same protective effect with less anticompetitive impact. For instance, "MSNBC Interactive grants you the right to install and use copies of the SOFTWARE PRODUCT on your computers running validly licensed copies of Microsoft Windows or compatible operating system."2. Microsoft created intentional incompatibilities in Windows 3.1 to discourage the use of non-Microsoft operating systems An episode from the 1996 Caldera v. Microsoft antitrust lawsuit illustrates how Microsoft has used technical means anticompetitively.

Microsoft's original operating system was called MS-DOS. Programs used the DOS API to call up the services of the operating system. Digital Research offered a competing operating system, DR-DOS, that also implemented the DOS API, and could run programs written for MS-DOS. Windows 3.1 and earlier were not operating systems per se, but rather middleware that used the DOS API to interoperate with the operating system. Microsoft was concerned with the competitive threat posed by DR-DOS, and added code to beta copies of Windows 3.1 so it would display spurious and misleading error messages when run on DR-DOS. Digital Research's successor company, Caldera, brought a private antitrust suit against Microsoft in 1996. (See the original complaint, and Caldera's consolidated response to Microsoft's motions for partial summary judgment.) The judge in the case ruled that "Caldera has presented sufficient evidence that the incompatibilities alleged were part of an anticompetitive scheme by Microsoft." That case was settled out of court in 1999, and no court has fully explored the alleged conduct.

MTC–00025881–0004

The concern here is that, as competing operating systems emerge which are able to run Windows applications, Microsoft might try to sabotage Windows applications, middleware, and development tools so that they cannot run on non-Microsoft operating systems, just as they did earlier with Windows 3.1. The PFJ as currently written does nothing to prohibit these kinds of restrictive licenses and intentional incompatibilities, and thus encourages Microsoft to use these techniques to enhance the Applications Barrier to Entry, and harming those consumers who use non-Microsoft operating systems and wish to use Microsoft applications software.

Is the Proposed Final Judgment in the public interest?

The problems identified above with the Proposed Final Judgment can be summarized as follows: The PFJ doesn't take into account Windows-compatible competing operating systemsMicrosoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry. The PFJ Contains Misleading and Overly Narrow Definitions and ProvisionsThe PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered. The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all. The PFJ allows users to replace Microsoft Java with a competitor's product—but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft.NET with competing middleware. The PFJ supposedly applies to "Windows", but it defines that term so narrowly that it doesn't cover Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box—operating systems that all use the Win32 API and are advertised as being "Windows Powered". The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs. The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware—but only after the deadline for the ISVs to demonstrate that their middleware is compatible. The PFJ requires Microsoft to release API documentation—but prohibits competitors from using this documentation to help make their operating systems compatible with Windows. The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents. The PFJ does not require Microsoft to list which software patents protect the Windows APIs. This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users. The PFJ Fails to Prohibit Anticompetitive License Terms currently used by MicrosoftMicrosoft currently uses restrictive licensing terms to keep Open Source apps from running on Windows. Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems. Microsoft's enterprise license agreements (used by large companies, state governments, and universities) charge by the number of computers which could run a Microsoft operating system—even for computers running Linux. (Similar licenses to OEMs were once banned by the 1994 consent decree.)The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by MicrosoftMicrosoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems.

The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs The PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system. The PFJ allows Microsoft to discriminate against small OEMs— including regional "white box" OEMs which are historically the most willing to install competing operating systems—who ship competing software. The PFJ allows Microsoft to offer discounts on Windows (MDAs) to OEMs based on criteria like sales of Microsoft Office or Pocket PC systems. This allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas. The PFJ as currently written appears to lack an effective enforcement mechanism. Considering these problems, one must conclude that the Proposed Final Judgment as written allows and encourages significant anticompetitive practices to continue, and would delay the emergence of competing Windows-compatible operating systems. Therefore, the Proposed Final Judgment is not in the public interest, and should not be adopted without addressing these issues.

MTC-00025881-0005

Strengthening the PFJ

The above discussion shows that the PFJ does not satisfy the Court of Appeals" mandate. Some of the plaintiff States have proposed an alternate settlement which fixes many of the problems identified above. The States" proposal is quite different from the PFJ as a whole, but it contains many elements which are similar to elements of the PFJ, with small yet crucial changes.

II suggest amendments to the PFJ that attempt to resolve some of the demonstrated problems (time pressure has prevented a more complete list of amendments). When discussing amendments, PFJ text is shown indented; removed text in shown in [bracketed strikeout], and new text in bold italics.

Correcting the PFJ's definitions

Definition U should be amended to read U. "Windows Operating System Product" means [the software code (as opposed to source code) distributed commercially by Microsoft for use with Personal Computers as Windows 2000 Professional, Windows XP Home, Windows XP Professional, and successors to the foregoing, including the Personal Computer versions of the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc. The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion.] any software or firmware code distributed commercially by Microsoft that is capable of executing any subset of the Win32 APIs, including without exclusion Windows 2000 Professional, Windows XP Home, Windows XP Professional, Windows XP Tablet PC Edition, Windows CE, PocketPC 2002, and successors to the foregoing, including the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc.

Sincerely,
Richard zelade
2821 East 22nd St.
Austin, TX 78722
512-477-1044

MTC-00025881-0006

MTC-00025882

From: John McQuillan
To: Microsoft ATR
Date: 1/26/02 9:40am
Subject: Mr. Ashcroft,

Mr. Ashcroft,

I have attached a letter outlining my strong feelings that the government of the United States move forward with the Microsoft settlement.

Sincerely,
John McQuillan
CC: fin@mobilizationoffice.com@inetgw

12 Bruce Lane
Northport, NY 11768
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Please accept the following comments made pursuant to the Tunney Act's public comment requirement in the Microsoft antitrust settlement.

I support the parties" decision to settle this case. The terms of the settlement agreement are reasonable, and will accomplish the goal of preventing anticompetitive business practices by Microsoft. For instance, design obligations will also be imposed on Microsoft. These obligations will have the net effect of making it easier for consumers to remove and replace features of Windows with software made by Microsoft's competitors, thereby making it easier for consumers to choose other software over Windows, if they so desire. Additionally, a technical committee will be created to monitor Microsoft's compliance with the terms of the agreement.

I am hopeful that, in its review of the settlement agreement, the Court will appreciate the concessions made by Microsoft, the monumental contribution that Microsoft made to productivity of the American economy, and will realize that it will not be in the best interest of the American economy or the American consumer to continue litigating this case.

Sincerely,
John McQuillan
631-757-4522
jmcquill@optonline.net

MTC-00025883

From: Lee D. Ibsen
To: Microsoft ATR
Date: 1/26/02 9:42am
Subject: Microsoft Settlement

As a professional computer user and a patriotic US citizen, I think we owe a debt of gratitude to Microsoft for providing the long-range planning for PC software packages which work seamlessly together. I know that many of the current players did not go through the confusing early years of PCs when users had to resort to writing their own software to get one application to transfer data to another. I did, and as an engineer who used computers as a tool I was very grateful when Microsoft established those interface standards to make the PC so much more valuable as a tool to help me solve my problems. And as new ideas came along I could count on Microsoft to rapidly incorporate them into its growing suite of tools.

I think this whole lawsuit is "Sour Grapes" by jealous competitors. And somewhat politically motivated. What if the government had not allowed Ford to innovate as new features for the automobile were developed? Would you have sued Sears for incorporating the Crescent Wrench in its suite of tools? If it hadn't been for Microsoft, the computer age would probably not have occurred. Instead of a lawsuit—they should be getting awards!

Lee Ibsen
Systems Analyst
USAF

MTC-00025884

From: heinos
To: Microsoft ATR
Date: 1/26/02 9:42am
Subject: Microsoft Settlement

The DOJ anti-trust settlement recently concluded is fair for all parties concerned. Further litigation should be avoided since any outcome will in most probability make it more difficult and costly for the consumer, the computer industry and the economy as a whole. The market should determine who the economic winners and losers are and not determined by the never ending litigation in the courts.

From my viewpoint this anti-trust action was driven more by Microsoft's competitors rather than by the consumer who should always be the real beneficiary of any anti-trust action. It would be interesting to know how many of the 150+ million computer users, excluding those employed by competing firms, voiced a complaint in regards to this lawsuit.

If it wasn't for the low cost bundled standardized operating system packages produced by Microsoft, the computer industry and it's technical offshoots would not be as widespread and orderly as they are today.

In fact, many of Microsoft's competitors would not be in existence today if it were not for the success of Microsoft in developing this mass market. Should a company be penalized for producing a high quality, low cost product purchased by consumers who own 90% of all personal computers? A 90% penetration of the personal computer market sounds like a howling consumer endorsement of Microsoft products! In the area of consumer costs, the cost of an installed Microsoft PC operating system package in a new computer probably wouldn't be enough to pay for an hour spent at dinner for two at most medium priced restaurants; whereas, the consumer gets thousands of hours of enjoyment from the same investment.

Finally, all companies should be free to add (bundle) any features into their products as they see fit to make the product more versatile to the mass of consumers. It's true that some consumers may not want a particular feature in a product, but consumers have always been buying mass produced products with features that they may, or may not use. Should software be sold any differently than other product lines, or do software packages have to be expensively tailored for each of the 150+ million personal computer users? Where would personal transportation be today if the evolution of the automobile was stopped at the invention of the wheel thousands of years ago?

Frank Heino
762 Bison Drive
Houston, TX 77070–4401

MTC–00025885

From: Rick Kennett
To: Microsoft ATR
Date: 1/26/02 9:35am
Subject: Microsoft Settlement
Attention Renata B. Hesse
Antitrust Division U.S. Department of Justice

The proposed settlement does little to nothing to end Microsoft's growing domination of in the computer industry and, more importantly, much more importantly, the Internet. Microsoft continues to leverage their dominance of the Windows OS in areas that that will jepordize not only fair competition but ultimately the freedom of information in general. Somone must ensure that the proposed settlement is scrapped or modified in a way that not only provides justice, but protects our freedom.

Thank You and Regards
Rick Kennett
Guildweb Information and Technology Services

MTC–00025886

From: Gary Wright
To: Microsoft Settlement
Date: 1/26/02 9:42am
Subject: Microsoft Settlement
Gary Wright
32269 Cour Pomerol
Temecula, CA 92591
January 26, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Gary Wright

MTC–00025887

From: Ivo Jossart
To: Microsoft ATR
Date: 1/26/02 9:47am
Subject: Microsoft Settlement

i cannot agree with this court decision.

It's not weakening Microsoft, it's no real punishment for a company that's convicted for unfair practices... (practices that continue going on—have a look at Windows2000 & Windows XP—i cannot remove Outlook Express, Internet Explorer, MSN Messenger).

I also would like to see that the court tells Microsoft that every software inside Windows2000 that was removable in Window98 and earlier, should remain removable. e.g. Internet Explorer, Media Player, MSN Messenger, defragmentation software, windows scripting host...

Due to the connection between the operating system and the internet browser, millions and millions of dollars have been lost—due to virus-spreading activities. No real changes have been made to make the systems safer—by making the Internet Browser a normal application instead of putting it inside the operating system, as Microsoft want is to be. I believe an operating system should server the applications—and there should be a difference between the operating system and the internetapplications—just to keep everything a bit more secure. A lot of software-packages are no real part of an operating system, should be removable and we should have the right to protect our privacy and freedom of choise.

That right is never been more neglected that during the last few years—it started with the apprearance of Windows2000 and it's getting worse every time there's a new operating system on the market.

At this moment we're in no position of asking Microsoft to do so—now at the point that there is an overwhelming majority of IE users, it seems that the company is loosening their grip a bit on the Internet browser-theme. I also want to point out that this company is spreading lies about an open source initiative called linux. It's just a game for them—and there's no way to defend us consumers against these practices.

But right now they're playing the same game as with Internet-explorer vs. netscape on the multi-media streaming market & the instant messaging market. Of course the software is free—but the development costs are hidden into the operating system cost. (look at the higher prices of Windows XP home & Windows XP Profession—vs. Windows98 & windowsNT 4). Normally i don't have the right to interfere, but due to the worldwide effect of this case, I believe it's my moral duty to say something about this important theme. And i believe i have the right to interfere—when an american company hurts a world-citizen, that man or woman should be able to say what he has to say. There's more in this play than just unfair business practices it's the freedom of speach that's endangered.

Kind regards.

MTC–00025888

From: Dan Johnston
To: Microsoft ATR
Date: 1/26/02 9:47am
Subject: Microsoft Settlement

I think think that the proposed settlement with microsoft is a bad idea. I have witnessed and experienced the microsoft monopoly for many years. I believe that the only way to break their monopoly, and to bring not only competition but innovation into the marketplace, is to split microsoft into several (at least 3) different companies, in a similar way as was done to the oil monopolies of many years ago.

Sincerely,
Dan Johnston
Division of Neuroscience
Baylor College of Medicine
1 Baylor Plaza
Houston, TX 77030
713 798–5984 (voice) 713 799–8544 (fax)

MTC–00025889

From: jhministry
To: Microsoft ATR
Date: 1/26/02 9:48am
Subject: Microsoft Settlement

Once again another competitor is attemtping to sue Microsoft for the same thing that the DOJ has tried then for. Microsoft has been tried and a decision has been made by the DOJ. When is the DOJ going to stop allowing any competitors who so desires to continue to harass Microsoft? Let's put an end to this!

Rev Johnie Hinson
Hampton, VA
Jesus Is Lord!

MTC–00025890

From: Scott Swain
To: Microsoft ATR
Date: 1/26/02 9:54am
Subject: Microsoft Settlement

Please leave Microsoft alone! They have done more good by far for this country (and the world) than harm. We have come along way from the American businessman being a hero and that is sad to me. Spend your time (and my tax money) attacking real criminals.

Scott Swain
http://OceanWebs.com
Austin, TX

MTC–00025891

From: dickh@skyhigh.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:48am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other

Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Richard W. Higginbotham

84 Cherokee Trail Medford Lakes, NJ 08055–1602

MTC–00025892

From: The Fallons
To: Microsoft ATR
Date: 1/26/02 9:52am
Subject: Microsoft Settlement

To whom it may concern:

I have been a computer user for a number of years now. I have used both Microsoft's and America Online's products and services. I have also sat quietly and watched the developments of the lawsuit against Microsoft, with no comment other than to shake my head in dismay. Upon seeing that AOL intends to reopen the case with a private action against Microsoft, I felt I had to at least say something on Microsoft's behalf.

To anyone who has watched the development of the technology over the last several decades, it is quite apparent that the charges against Microsoft are baseless. They have been the pioneers in developing operating systems and applications software for consumer use for years. Their actions in the market have been driven, in addition to the obvious motive of market share, largely by consumer feedback and consumer demand. Each one of their developments incorporated new (sometimes even third-party) software, to enhance the users'' experience, without the added cost of having to actually purchase the third-party software at additional cost to the user. At the time, each one of these separate tools incorporated by Microsoft were individually welcomed and even applauded by the consumers who had demanded such incorporation. The industry was being driven by an unusual combination of competition and cooperation, which has contributed to one of the fastest-growing segments of our economy. Concurrently, AOL was developed in an interesting time of technological flux, able to make an industry out of utilizing existing telephone lines (constructed, coincidentally, by another company which fell prey to an anti-trust suit) to conduct a business in which they collected receipts for the use of these existing lines. They created nothing substantial, and they made no contribution to the software or hardware industry other than on their own behalf.

Now the market is suffering, because AOL chose to utilize the court system to accomplish what they were unwilling or unable to do in the competitive marketplace. And we, the people, are not only going to suffer the consequences, we are being asked to pay for the litigation which will yield the end which AOL is seeking. And finally, to add insult to injury, AOL is claiming to be doing all of this ''on our behalf'' as consumers.

It's time all of this hogwash stopped. Enough time, money, and effort have been misdirected already. AOL will not back away or stop the fight until someone tells them to. That someone has to be the Department of Justice, and the time to do it is now. I urge you to do just that.

Sincerely,

Jeffrey S. Fallon

MTC–00025893

From: Diana Carsey
To: Microsoft ATR
Date: 1/26/02 9:53am
Subject: MICROSOFT SETTLEMENT

This message offers a comment on the settlement between DOJ and Microsoft.

I support the settlement already agreed upon that requires Microsoft to make it easier for users to load other programs and that allows programmers to interface with Windows. That's cool. As a new user of an XP, I appreciate the inter-relationships I have found pre-loaded on my machine; and I am glad that XP seems to have adopted this more-open approach.

I do not support harsher penalties sought that would split out Windows from all of its programs. Computers are an essential part of our lives, they should be increasingly sophisticated, not made to be difficult and awkward for us to use. Keep Windows together the way it was invented; and let the competition among creative minds continue in all the other ways that we use these technologies.

Diana Carsey

MTC–00025894

From: Mal Morley
To: Microsoft ATR
Date: 1/26/02 9:58am
Subject: Microsoft Settlement

Gentlemen:

After perusing the proposed settlement, it appears to me that consumer interests have been well served, and the time to end this costly and damaging litigation has come. Please close this suit without further ado.

Thank you,

M. A. Morley

Pasadena, TX

MTC–00025895

From: WRSousa@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:01am
Subject: Microsoft Settlement

I have been using a PC since 1982. I am retired now and living in a large retirement community. I am pleased to see so many senior citizens age 70 and over getting new computers and learning how to make use of them. Our computer club now has over 2000 members! This growth can only be attributed to the simplicity of use that Microsoft has built into its Windows operating system.

I vividly recall the state of affairs in the early days of the PC. The odds were that if you bought a software package it would be so complicated to use (assuming it was possible to install it correctly) and so poorly integrated with other software, that much time, effort and money was wasted. I doubt that the computer industry would be as strong as it is today, and still growing, if Microsoft had not been able to innovate to build in features that make the software simple to use. If they did go a bit too far, the PC User has been the benificiary.

I don't have any sympathy for those who complain that they cannot compete with Microsoft. Build a better product and it will sell! By continuing to pick on Microsoft, the government is, in effect, subsidizing incompetence because only rivals who have nothing to offer will benefit..... Not the PC User or the American people!

If Microsoft overstepped some bounds, government settlements have already been achieved. Enough is enough! Get off Microsoft's back and let them get back to innovating and growing the industry. The American people deserve it.

MTC–00025896

From: Stuart Powell
To: Microsoft ATR
Date: 1/26/02 10:04am
Subject: Microsoft Settlement

Dear Sir/Madam,

Having been found guilty of abusing its monopoly position in the IT market place, it seems odd to me that the proposed settlement amounts to nothing more than a light slap on the wrist for Microsoft, and then offers measures that will potentially further their stronghold in this market. This case should not end with a settlement. Microsoft has been found guilty of a crime and should be punished. By acting to find a settlement in this case that involves input from Microsoft themselves, the message is put across that corporations of this size and power base are above the law. Having been found guilty, they should be punished; it is that simple.

As a global player, Microsoft has abused its position the world over. As such, would it not be prudent to seek advice from the governments of other countries as to a suitable punishment, instead of the perpetrator ?

Microsoft must pay the price for its past misdeeds. Does the US government really want to seem to be less powerful than Microsoft in the eyes of the world ?

Yours faithfully,

Stuart Powell.

MTC–00025897

From: sjjk@bektel.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:02am
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than ''welfare'' for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the

future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
John Klempel
PO box 392
Hazelton, ND 58544–0392

MTC–00025898

From: Cody Fyler
To: Microsoft ATR
Date: 1/26/02 10:06am
Subject: Microsoft Settlement

Your settlement of this case is too lenient on Microsoft. They stifle innovation, charge too much for their products, and produce software that is full of bugs and security holes, and we have no choice but to buy it, as they have eliminated all competition with predatory business practices. Even when they buy a good software product and add it to their line, they manage to screw it up. Please reconsider, and throw the book at them.

Cody Fyler
Web Developer
Wells Fargo Financial

MTC–00025899

From: GeorgeHNJ@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:06am
Subject: Microsoft Settlement

Dear Sir,

The enclosed file is my letter expressing my approval of the settlement agreed to by Microsoft and the department of justice in November of 2001. I think it is a sound and fair agreement. It is high time that the books are closed on this matter so that competition and innovation can resume. Dragging this litigation will cause additional coast and delay competition.

Sincerely,
George Hilal
CC: Fin@mobilizationoffice.com@inetgw
160 Pearlcroft Road
Cherry Hill, N J, 08034
Email: GeorgeHNJ@AOL.COM
Jan. 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to you to indicate my support for settling the antitrust suit against Microsoft. I believe that the agreement reached in November is fair for everyone involved, and that it provides a reasonable solution to the government's wishes to expand competition in the technology market.

Offering consumers new options to remove Windows programs from their computers in favor of those by competitors is only one of the ways that Microsoft would change the way it conducts business with the public and other corporations. The change affects the entire spectrum, from rival companies in the technology sector, down to the individual consumer. The government cannot ask for more sweeping changes than that.

I urge you to settle the antitrust case because its merits were never fully proven, and enough time and money has been spent trying to do so.

Sincerely,
George Hilal

MTC–00025900

From: Hugh Solaas
To: Microsoft ATR
Date: 1/26/02 10:06am
Subject: Microsoft Settlement

Dear DOJ,

I would like to go on record to support a rapid execution of the existing Microsoft settlement. I believe it is fair and would like to see Microsoft getting back to putting all their energy into creating products and jobs, not lining the pockets of lawyers.

Thank you for your consideration,
Hugh O. Solaas
7302 NE Twin Spits Rd.
Hansville, WA 98340

MTC–00025901

From: Hemant C. Patel
To: Microsoft ATR
Date: 1/26/02 10:06am
Subject: Microsoft Settlement

Regarding such ongoing attacks on Microsoft / Bill Gates,

I am seriously concerned, as a very active user / supporter, of Microsoft products and a strong believer in how well established the company has been all these years investing huge sums of monies accompanied with vast resources of human efforts to achieve such high standards in new directions of technology in all the superb products / services they provide, I believe the United States Government should put an end to people who try to unfairly accuse / sue the company for its business success / policies. Instead of encouraging such actions they should put an end to this process that is a total waste of money and time, and concentrate in supporting future research / development of new directions in the Information Technology / related fields. The same resources that are being wasted in these negative fruitless efforts if employed positively would benefit the United States of America as a leading force in this vast field of Information Technology and benefit the worlds people. Why is it that the Government even allows these false groundless accusations to reach such stages and attack individuals like Mr. Bill Gates who has achieved monumental goals successfully to provide such beautiful innovative technology for use by all? I just hope that there is some serious effort to put an end to such waste of resources as this is the very time we should hope for a United and strong effort to support the best we have for the future as it will only get better with such support.

Hemant Patel

MTC–00025902

From: Marie Taney
To: Microsoft ATR
Date: 1/26/02 10:08am
Subject: comment period

Microsoft has shown disdian for the american judicial system, ignored a ruling in the early 90's has crushed or absorbed many companys to keep its monoply position.

The only real sulition is for Microsoft to be forced to reviel all the API's in thier opperating systems in an effort to level the playing field. Microsoft has caused great harm in the computing area and has overcharged for its opperating systems causing harm in American economics

Marie Taney
Monterey California

MTC–00025903

From: Camille Mahant
To: Microsoft ATR
Date: 1/26/02 10:07am
Subject: MICROSOFT SETTLEMENT

I am an admirer and stockholder of Microsoft Corporation, whose products have let me produce high performance work and are better than those of their competitors, some of whose tools I've tried.

Respectfully, I request that the U.S. Department of Justice accept a settlement with Microsoft, and recommend that the individual states who have chosen not to accept it re-consider.

I also have a personal opinion on the recent AOL lawsuit against Microsoft over Netscape—this is an old story and, you know, AOL has sour grapes in an area where Microsoft has superior service and coverage. I think AOL deserves to be countersued for harassment of Microsoft and should not be allowed to use the legal system to attack its competitor which it is unable to surpass in any real business or technical area.

Thank you.
Camille Mahant
42299 Wild Mustang Rd
Murrieta, CA 92562
909–600–8904

MTC–00025904

From: Ron Munier
To: Microsoft ATR
Date: 1/26/02 10:10am
Subject: Microsoft Settlement

The settlement is fair.

Indecision is hurting the economy and the consumer.

Ron Munier
Houston, TX

MTC–00025905

From: lgracey@msn.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:14am
Subject: January 26, 2002
January 26, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

The purpose of this correspondence is to congratulate you on your decision to settle the Microsoft antitrust case. This conflict has cost you and Microsoft time and resources that can now be used for other priorities. Outside special interests with an extreme anti-Microsoft bias are seeking to undermine this settlement. This is regrettable because the settlement will create a more fair and open technology sector of our economy. Microsoft has agreed to offer more information to competitors so they will be able to create more competitive software. Microsoft will also make it easier for competitors to place software on MS systems in the future. A technical committee that includes a permanent government monitor will enforce all provisions of the settlement.

If the settlement goes through Microsoft and the Justice Department will be relieved of the burdens of this case. I feel it is necessary for you to resolutely support this settlement to ward off elements that have no interest in seeing this case settled.

Sincerely,

Louie Gracey

MTC-00025906

From: H—J—Bronson@compuserve.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:13am
Subject: Microsoft vs. DoJ Settlement
January 26, 2002

To Whom It May Concern:

As a citizen and, most importantly, a veteran, voter and taxpayer I cannot understand why the DoJ is still wasting the taxpayers money and its valuable time. The Microsoft settlement is the face-saving end to a wholly unconstitutional, politically corrupt attack on this successful business. The depths of corruption displayed by the previous Administration in falsely bringing on this suit are, forever, a blight on this nation's integrity.

The present Administration and its DoJ representatives bring nothing but disgrace and contempt on themselves for pursuing this frivolous action even to the extent to which you have brought it today.

Settle the damned suit and get on with real problems such as the WAR!!

A less than impressed citizen, veteran, voter and taxpayer,

Jim Bronson, KC8RBI
Frankenmuth, Michigan

MTC-00025907

From: Allen Threatte
To: Microsoft ATR
Date: 1/26/02 10:14am
Subject: Microsoft settlement

To who it may concern:

As a senior who uses the internet and computer software, I urge the government to accept and comply with the negotiated settlement with Microsoft. The breakup of the software company will lessen the ability to work through the internet and will be more complicated.

It seems that the competitors of Microsoft are only thinking of monotary results and not the expertise and ease of operation of a computer by elderly people and a learning public.

Yours in Christ:

Allen Threatte
323 Tattnall St
Claxton, Ga. 30417
912-739-1850
athreatte@Juno.com

MTC-00025908

From: Robert J Goad
To: Microsoft ATR
Date: 1/26/02 10:14am
Subject: Microsoft Settlement

Sirs:

I believe that the settlement of the Microsoft case had dragged on far to long. It is time to initate the settlement and get on to far more important things. To allow Microsoft competitors to continue to insist on larger penalties is not in the best interest of the general public, as far as I am concerned. I am not a Microsoft fan, but enough is enough.

Sincerely,

Robert J. Goad
8441 Flagstone Drive
Tampa, Florida 33615-4915
email address: w7kpx@juno.com

MTC-00025909

From: phoebe—f
To: Microsoft ATR
Date: 1/26/02 10:15am
Subject: Microsoft settlement

I will be brief... At this time our country needs this strong company to be free from these sorts of litigation... they need to continue on creating and providing products that are easily accessed... as a senior citizen nothing has made my life more productive then the constant support from the folks at Microsoft. I understand that they are a stiff competitor lets just let them resolve this grievances .

To all the very difficult work you all are doing our hats are off. sincerely,

PHoebe Fensterman,
Richmond, Va.

MTC-00025910

From: HalRoberts@tx.slr.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:18am
Subject: Microsoft Settlement

I believe that the whole lawsuit was financially, politically motivated and outright unfair right from the start. It was brought into court by people who just could not compete with their own talent with Microsoft's PC operating systems. We still use Microsoft exclusively in all our PC's end user applications and probably always will.

However, if Microsoft is willing to live with the final decision they should be given the opportunity. They believe it is the best place to start over and so do I.

The only reason the opposistion is not satisfied is they were hoping the courts would hand them the keys to the PC operating market.

Hal Roberts
Cisco Constellation TE
Solectron Texas LTD
708-6285 Pager
425-4039 Phone

MTC-00025911

From: Terrence Kearns
To: Microsoft ATR
Date: 1/26/02 10:17am
Subject: MS Antitrust Settlement

The proposed MS settlement not only fails to punish MS for its clear monopolistic and anti-competitve practices, it does nothing to promote a fair market place, and actually solidifies Microsoft's monopoly. The idea of MS "giving" equipment and software to needy schools is like the dope peddler "giving" free samples to the uninitiated. Once MS gets the new schools hooked on their operating system, the schools will soon need the next upgrade, and that one will not be free. Of course the schools will get government grant money to give to Microsoft for the next "needed" upgrade, and the one after that. MS has cleverly furthered its monopoly while giving a public appearance of being generous and charitable. It seems as though the DOJ is taking the position that, "in this time of economic crisis, we dare not do anything to harm Microsoft because Microsoft is the only game in town." Well, that's the whole point, isn't it.

The proposed settlement, by continuing to stiffle alternative operating systems, results in vulneratility to info-terrorism. Terrorists interested in bringing down the economy by introducing computer virus have a perfect opportunity when there is essentially only one operating system to deal with, and that one full of security holes.

MTC-00025912

From: Pres53@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:19am
Subject: Microsoft Settlement

The antitrust settlement between Microsoft, the Department of Justice and the nine states presents a very excellent conclusion to what has been a prolonged matter. Microsoft is being harshly punished but has, nonetheless, accepted these punishments. The litigates should declare victory in this suit and continue on in their jobs by prosecuting terrorists, drug dealers, money launders, and other direct threats to the security of the populace. The settlement is, in fact, an excellent opportunity for the industry and the consumer. The industry can now return to competition in the marketplace where the consumer will be offered all products and have the decision to decide the fate of Microsoft. With this real and evident competition, Microsoft and the industry will be in a position to innovate and improve their product offerings. America and its economy stand at a critical point in our progression. At no other time in this generation have the threats from abroad endangered us as much. We, as a country, must progress and not stagnate through continued gerrymandering. The best way to do this is for Microsoft to return back to its mission of creation, innovation, and manufacturing (creating jobs in America during a recession when stimulus is needed). The Microsoft settlement ought be ratified and this litigation must stop, for the good of the children and the future.

Sincerely,

James P. Hohmann
St. Paul, MN

MTC-00025913

From: Chris Hruska (Grad)
To: Microsoft ATR
Date: 1/26/02 10:20am
Subject: Microsoft Settlement

I believe that the proposed settlement is a bad idea.

-Chris Hruska

MTC-00025914

From: L. Frank Turovich
To: Microsoft ATR
Date: 1/26/02 10:21am
Subject: Microsoft Settlement

Microsoft (MS) should not be allowed to walk away from the damage they have done to both competitors, like Netscape and Sun, and subsequently, consumers of desktop computer products. Allowing Microsoft to continue as they have will lead to them having even more of a monopoly over our life, in more areas, then ever before.

To bring an analogy into the picture, it's not totally accurate, but hints at what I am trying to say. When the Ford Motor Company first starting producing Model-Ts, it was said you could buy them in any color, as long as it was black. To bring this into our day and time, you can buy any x86-based computer from any major PC company, as long as it runs MS Windows.

Now, due to the demands from the customer, and competition from other car manufacturers, Ford eventually was forced to offer cars in other colors simply to remain competitive. This in turn led the other car manufacturers to compete in other ways, to differentiate their product, and remain competitive. This competition has improved the cars themselves, drove innovation, and created several dominant car manufacturers, each one competing on a level playing field. Along the way it built up a huge billion dollar industry that continues to drive our economy.

Microsoft is in the same superior position that Ford once held, but unlike Ford, MS has such a stranglehold over their product line, their buyers, their software producers, their customers, that competition is not encouraged but stifled. Ford was unable to block other manufacturers from creating new products simply because he didn't own the paint companies other companies bought from, didn't own the steel mills that sold steel to competitors, nor owned the roads upon which competitor's cars could drive. MS does own these things, and they use them to monopolize the marketplace, control access to the market, stifle innovation, and as a base to expand their control into more areas of our life.

I for one, do not wish to live in a world where the only choice I have in auto color is black, nor one where my only OS and related software is produced by Microsoft. Not only would it be incredibly boring, but it takes away my fundamental right to choose. If their is only one option to buy, there is no choice. Having a MS-only world is a sure sign of the stagnation of ideas and competition and the decay of our technological infrastructure, and while it may look good in the short term for our economy, the long term will surely suffer enormously from this restriction.

Please make the correct decision to by reject the current settlement as written, go back to the bargaining table, and reach a solid, strong agreement that encourages competition in our marketplace, encourage innovation, and discourage any monopoly from using their vast power to extend their reach into other areas,.

Thank you,

L. Frank Turovich

MTC-00025915

From: noel—harris@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:19am
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Noel Harris
Rt.3, Box55
Cuthbert, GA 31740

MTC-00025916

From: mike foland
To: Microsoft ATR
Date: 1/26/02 10:24am
Subject: Microsoft Settlement

Department of Justice:

It's time to move on! As a "Top 5% of Americans" taxpayers to the U.S. Treasury, I feel the government has reached a FAIR settlement with Microsoft. Let's move on! The DOJ has other things to worry about(Sept. 11th terrorists) to pursue this matter which only benefits Microsoft's competitors. The measures presented in the settlement are fair and both sides can live with that agreement. It's time for the Federal government to move on the other pressing problems. Let's spend those tax dollars fighting foreign enemies.

An American Taxpayer

MTC-00025917

From: Paul Grabowski
To: Microsoft ATR
Date: 1/26/02 10:25am

To Whom it may concern,

I have been a small businessman for over 20 years, and in the beginning we had a staff of 8 or so people, doing about $250,000 of sales a year. Now am selling over a million dollars of goods a year with a staff of 3 people.

At that time, I saw the need for computerization in order to run my business more efficiently and accurately with less overhead. At that time there weren't any personal computers, and I was forced to spend over ten thousand dollars in equipment and programming (this was in the early 80's) to have someone design a simple program that merely did job cost estimating. This was an outrageous amount of money to spend to acquire such a simple task. To learn about DOS was beyond my comprehension and desire.

I have learned that the simple solution to success in business is to "find a void and fill it". By this I mean to find out what people's needs are and to service those needs with simplicity and as little discomfort to the consumer as possible.

I know that Bill Gates did this very thing buy of course on a much larger scale.

Competition is a wonderful and needed thing in America, as the consumer is the one benefiting the most from businesses forcing themselves to be more professional and offering services and products that are better and less expensive than they would be otherwise.

However, just because someone is smart and has foresight and energy to extremely simplify and market a product does not create a monopoly.

UNDERSTAND THIS STATEMENT:

I DO NOT FEEL FORCED TO BUY OR USE MICROSOFT PRODUCTS.... I CHOOSE TO BECAUSE THERE ISN'T ANOTHER PRODUCT THAT DOES THE SAME OR MORE AT AN EQUAL OR LESS PRICE.

Tell the losers that do not have the smarts or know-how to accomplish this task to quit crying in their beer and blaming Microsoft for their own failures. I am a Veteran of the Armed Forces and sacrificed much for this country of ours so that folks can be successful here and hopefully to create a better place for us and everyone else in the world.

So back off Attorney General..... you should salute Bill Gates and his Microsoft staff, not castrate them

Paul M. Grabowski
President of Tallahassee Kitchen Center Inc.

MTC-00025918

From: willie northway
To: Microsoft ATR
Date: 1/26/02 10:28am
Subject: atrocious

Please don't allow the biggest threat to competition in any market to walk away unpunished. Microsoft was found guilty of monopolistic practices, even while their lawyer is in court, the company is busy pulling off further scams to extend their stranglehold over the computing market and our future.

Punish Microsoft, not consumers.

- Willie

MTC-00025919

From: mike
To: Microsoft ATR
Date: 1/26/02 10:28am
Subject: Microsoft Settlement

To Whom it may concern,

The Microsoft settlement is NOT a just punishment, it allows them more market penetration. Please see that Microsoft is punished such that they do not continue as a monopoly. thanks,

Mike Landrus
Austin Tx

MTC-00025920 FROM: Carol A Ghenic TO: MS ATR DATE: 1/26/02 10:27am SUBJECT: Microsoft Settlement

George Ghenic
1760 Culver Avenue
Dearborn, MI 48124
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW

Washington, DC 20530

Dear Mr. Ashcroft:

I am contacting you because I would like to request that you strongly support the settlement reached in the Microsoft antitrust case. We must conclude this case.

Microsoft has been held in court by the government for too long. This settlement will allow Microsoft to return to business and get out of the federal courts. Microsoft has compromised much in this settlement, including agreeing to disclose the proprietary code to competitors. Nevertheless, some opponents of Microsoft may try to undermine the settlement. They would like to see Microsoft damaged in court, and that is wrong.

I thank you for taking the time to consider my views on this issue.

Sincerely,
George Ghenic

MTC-00025921

From: Ed Greenfield
To: Microsoft ATR
Date: 1/26/02 10:28am
Subject: Microsoft Settlement

I would like to let the Department of Justice know that Margaret and Ed Greenfield are in agreement with the Settlement with Microsoft and would like to see this Long and Costly Mess be settled soon as possible.

Sincerely,
Ed Greenfield
618 Emilie St.
Green Bay, WI 54301

MTC-00025922

From: Christian Provenzo
To: Microsoft ATR
Date: 1/26/02 10:25am
Subject: Microsoft Settlement

Dear Parties,

I do not believe that it is right for the United States Government to punish successful entrepreneurs such as Bill Gate and his Microsoft Company simply because they beat the competition in a fair market. Microsoft is simply more successful because it makes better products, and integrates them effortlessly for the user. If Netscape wanted to compete with Microsoft, they should have created their own operating system. Nothing prevented them from doing so. To punish Microsoft simply because they created a successful operating system is wrong, and to impose a sanction that limits the programs that Microsoft can develop as a conglomerate is unconstitutional. If Microsoft wants to give Internet Explorer away with its operating system, it has every right to do so. If another Software company wants to do the same, then may the best products prevail. The bottom line is it is not the U.S. Government's place to determine what is in the best interest of the consumer, that right belongs to the consumer. Microsoft has not forced anyone to use their products; people buy them because they like them. Consumers are the ultimate deciding factor which determines the success or failure of a business. Microsoft's success is a direct result of consumer support. Any action taken against Microsoft is an assault on the freedoms and rights of individuals to be successful and pursue their right to life, liberty, and the pursuit of happiness. Such an action can only be seen as insult to what America has always stood for, freedom.

Sincerely,
Christian A. Provenzo
CC:nprovenzo@moraldefense.com@inetgw

MTC-00025923

From: Jack (038) Dixie Leslie
To: Microsoft ATR
Date: 1/26/02 10:40am
Subject: Microsoft Settlement

TO WHOM IT MAY CONCERN,

ALL OF US GET TO WORK.........IT'S TIME TO STOP THIS PERSECUTION OF BILL GATES AND MICROSOFT..............

JACK AND DIXIE LESLIE

MTC-00025924

From: Rickey Dockins
To: Microsoft ATR
Date: 1/26/02 10:30am
Subject: Microsoft Settlement

To Whom It May Concern:

I am opposed to the proposed settlement in the Microsoft antitrust trial. I feel that the current proposed settlement does not fully redress the actions committed by Microsoft in the past, nor inhibit their ability to commit similar actions in the future.

The vast majority of the provisions within the settlement only formalize the status quo. Of the remaining provisions, none will effectively prohibit Microsoft from abusing its current monopoly position in the operating system market. This is especially important in view of the seriousness of Microsoft's past transgressions.

Most important, the proposed settlement does nothing to correct Microsoft's previous actions. There are no provisions that correct or redress their previous abuses. They only prohibit the future repetition of those abuses. This, in my opinion, goes against the very foundation of law. If a person or organization is able to commit illegal acts, benefit from those acts and then receive as a "punishment" instructions that they cannot commit those acts again, they have still benefited from their illegal acts. That is not justice, not for the victims of their abuses and not for the American people in general.

While the Court's desire that a settlement be reached is well-intentioned, it is wrong to reach an unjust settlement just for settlement's sake. A wrong that is not corrected is compounded.

Sincerely,
Rickey A. Dockins
San Angelo, Texas

MTC-00025925

From: Howard W Granoff
To: Microsoft ATR
Date: 1/26/02 10:31am
Subject: Microsoft Settlement

To Whom it may concern:

In my opinion this Microsoft thing should be settled as quickly as possible. I say damn the selfish interests who stand in the way of progress and what is good for our wonderful country. Get on with doing whatever is necessary to complete the job and the hell with those selfich rats that stand in the way.

Sincerely,
Howard w. Granoff
Senior Citizen

MTC-00025926

From: Margaret Anderson
To: Microsoft Settlement
Date: 1/26/02 10:29am
Subject: Microsoft Settlement

Margaret Anderson
12861 Telfair Ave
Sylmar, CA 91342
January 26, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Margaret Anderson

MTC-00025927

From: whynotwillie@wekz.net@inetgw
To: Microsoft ATR
Date: 1/26/02 10:33am
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW. Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

William Cook
1303—14th St
Monroe, WI 53566

MTC-00025928

From: Tedd Potts
To: Microsoft ATR
Date: 1/26/02 10:22am
Subject: Microsoft Settlement

US Department of Justice:

What specifically did Microsoft do that was illegal? When one looks closely it becomes obvious that Microsoft's "crimes" were: choosing whom to do business with, setting the terms of those business relationships, pricing some products "too low", and pricing other products "too high".

It is important to remember that we are all producers: at a minimum, we produce manual labor and the thought required to make it valuable. Microsoft did not defraud anyone, so if one argues that government should restrict Microsoft's choices, then it would follow that they would wish government to restrict any producer's choices, once the government decides that that producer is too successful.

Note that Microsoft is a target only because they are successful. If they were the size of Apple Computer they would be left free to make their own choices. So, under present American anti-trust regulations, a producer is left relatively free until the government decides he is too successful, at which time the government begins to limit his success and reward his lesser competitors.

This not the proper use of government power in a free society, otherwise all producers, all individuals, would be at the mercy of arbitrary government decisions regarding the "proper" level of success.

That environment would more akin to Communist China's than "the land of the free and the home of the brave".

CC:activism@moraldefense.com@inetgw,Don Potts,Dwight ...

MTC-00025929

From: Patricia Schlinkmann
To: Microsoft ATR
Date: 1/26/02 10:31am
Subject: MICROSOFT SETTLEMENT

AS AN ADVOCATE OF FREE ENTERPRISE AND PROUD OF OUR AMERICAN SYSTEM, I URGE THE DOJ TO ALLOW MICROSOFT TO RUN THEIR BUSINESS FREE OF GOVERNMENT INTERFERENCE.

FREE ENTERPRISE IS THE BASIS OF OUR AMERICAN WAY. DON'T GET INTO THE OVER-REGULATING. ALLOW MICROSOFT THE FREEDOM TO BE THE BEST. GIVE THE COMPETITORS THE RIGHT TO CONTINUE COMPETING BUT DON'T DO IT AT THE EXPENSE OF THIS GREAT COMPANY.

PATRICIA H. SCHLINKMAN,
3401 HIGHWAY 90 EAST,
SCHULENBURG, TX. 78956

MTC-00025930

From: Al O'Brien
To: Microsoft ATR
Date: 1/26/02 10:40am
Subject: microsoft settlement
37 Buckingham Drive
Dix Hills, NY 11746
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to express support for the anti-trust settlement that was reached between Microsoft and the Department of Justice in November of last year. I would like nothing more than to see this matter put to rest, and settling is the right thing to do for all parties involved.

Microsoft's business operations will be watched over by a technical committee that will ensure Microsoft's full compliance with all of the agreed upon terms. If any independent company has a complaint against Microsoft that company may immediately have its case heard by this committee.

Microsoft will share information with its competitors on Windows, and it will design the operating system so that non-Microsoft software can be built into the operating system. I believe this is sufficient to end this case at this time.

When this settlement becomes final, the strong competition in the industry will benefit consumers by providing more to choose from in the marketplace. The industry will receive a real boost, and this will in turn stimulate America's dwindling economy. I am looking forward to the positive effects this settlement will have on our country.

Sincerely,
Al O'Brien

MTC-00025931

From: kenneth nolde
To: Microsoft ATR
Date: 1/26/02 10:44am
Subject: MICROSOFT Settlement

To Whom it may Concern: I am against continued harrassment of the Microsoft corporation. I believe that the suits brought by the U.S. government is frivilous and not in the best interests of the United States, U.S. consumers, and competition in general. I believe that the USG and the various states should cease-and-desist action against Microsoft, it now is overt extortion.

Dr. Kenneth Nolde

MTC-00025932

From: MIKE SEIKEL
To: Microsoft ATR
Date: 1/26/02 10:44am
Subject: Microsoft Settlement

To Whom It May Concern:

I am in favor of the agreed upon settlement with Microsoft. Let's end this and move on.

Mike Seikel
2604 Echo Trail
Edmond, OK 73013-6732
e-mail: exfed@att.net

MTC-00025933

From: Donald F Fix
To: Microsoft ATR
Date: 1/26/02 10:46am
Subject: Microsoft Settlement

Sirs: Being a Senior the Internet is an important daily occupation. The recent legal settlement with Microsoft and it's competitors seems to be adequate. I feel it is a waste of TAXPAYER money to penalize the AMERICAN way of competition in business,and should end with this settlement. I think there are many other problems affecting we AMERICANS that need to be tended to. Please, help us older AMERICANS, allow us to have our affordable INTERNET!!

Donald Fix
nodx@juno.com

MTC-00025936

From: LRDEX@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:53am
Subject: Fwd: Fw: MSFT Settelment.

In a message dated 1/25/02 9:43:56 PM Pacific Standard Time, sunshinecandle@hotmail.com writes: microsoft.atr@usdoj.gov

—— Original Message ——

From: ScubaNark@aol.com
Sent: Friday, January 25, 2002 2:38 PM
To: barkeri@3-cities.com;
tcox@ctc.ctc.edu;
Popcox13@aol.com;
ronandcec@msn.com;
hagajim@yahoo.com;
Rmespinola@aol.com; Neil—Middleton@lambweston.com;
RPerez7581@aol.com;
sunshinecandle@hotmail.com;
samandrosie@home.com;
Sandychip@aol.com;
springen@concentric.net
Subject: MSFF Settelment.

Following is a letter I am sending to the attorney general in support of MSFT case settlement. If you agree in settlement and would like to forward, following is the Email address etc.

The Attorney General's fax and email are noted below.

Fax: 1-202-307-1454 or 1-202-616-9937
Email: microsoft.atr@usdoj.gov

In the Subject line of the e-mail, type Microsoft Settlement.

For more information, please visit these websites: www.microsoft.com/freedomtoinnovate/ www.usdoj.gov/atr/cases/ms-settle.htm

January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support of the United States Department of Justice's recent efforts to settle the Microsoft antitrust lawsuit.

This case really should not have been brought against Microsoft. Microsoft's innovations have and continue to contribute immensly to the productivity and economy of the United States.

Microsoft single-handedly through "Window's Operating System" made computers accessible to the world. Computers are now in virtually every household and bussness in the country.

Microsoft may have been aggressive in their business dealings, but that is the way of the business world in a free-market society. Aggressive business tactics are not necessarily the same as antitrust violations.

Despite my feeling that this case should not have been filed, at this stage of the game I think the wise course of action is to settle the case. The settlement agreement the parties negotiated is fairly reasonable.

It will require Microsoft to refrain from retaliating against computer manufacturers that install software other than Windows on their computers. Along those same lines, it will require Microsoft to not retaliate against software developers who develop programs that compete with Windows. These concessions should help the competition operate on a more level playing field.

I appreciate your efforts to settle this case.

Sincerely,
Roger Cox

MTC-00025937

From: ROBIPPO@cs.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:54am
Subject: Microsoft settlement

The United States is the most free country in the world. We can build a better mouse trap, market it, and make lots of money in the process. In the case of Microsoft it did just that; it made better, easier to use computer software, and sold it at a fair price. If Microsoft is made to share its secrets, the public ends up with software that is harder to use and more expensive. This will only hurt the consumer, business and private. The message you are sending to everyone is "yes, go ahead. Invent something new and improved. Market it and make lots of money—BUT do not get too big, do not make too much money, or the government will force you to go out of business or share your secrets and pay fines. This sounds like a two-year old saying "I want your toy and I want it now and you have to give it to me because I said so." Jealousy? It seems when something works great, is cheap, and the public benefits, the government steps in and forces the issue to break it up. Who loses? I do, along with the rest of the public.

Marianne Ippoliti
e-mail: robippo@cs.com

MTC-00025938

From: Fred Burk
To: Microsoft ATR
Date: 1/26/02 10:55am
Subject: LEAVE MICROSOFT ALONE.

To whom it may concern:

Over the last few months I have asked several of my friends, "when do you think this present economic turn-down started ?" They all respond, my stock investments started their big declines when the last administration started the lawsuites.

Microsoft has done not one thing to hurt the ever day P.C. USER ,ONLY MAKE THE P.C. EASY TO USE. YES, there are few FAT cat companies that found it hard to compete with Microsoft. FREE ENTERPRISE AT WORK. IF I am wrong about this, please show me.

Thank you, Fred

MTC-00025939

From: RHINEHT@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:54am
Subject: Microsoft Settlement

I think that the proposed Microsoft settlement should be approved for this reason:

The Microsoft Settlement is a fair plan that will help the U.S. economy, which depends on firms like Microsoft for the innovation necessary to bring about growth in technology.

Sincerely,
Carolyn Rhinehart

MTC-00025940

From: caradtke@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:54am
Subject: Microsoft Settlement

While you're busy persecuting a well run honest productive company (Microsoft) the "foxes are raiding the hen houses" Enron. Enron have too many political ties to attack them?

Carl Radtke

MTC-00025941

From: Jason Nash
To: Microsoft ATR
Date: 1/26/02 10:56am
Subject: Microsoft Settlement

I would like to voice my concerns regarding the Microsoft and USDOJ settlement:

1. I believe the settlement is fair to all parties involved, possibly too harsh on Microsoft. I am OPPOSED to any additional restrictions or sanctions that may be added to the settlement.

2. I am extremely disappointed with the nine hold out states and I hope every Attorney General in those states lose their re-election bids.

3. The USDOJ should stop pressing companies like Microsoft that innovate and help our economy and go after companies who are true monopolies and damage our economy and consumers. Target No. 1 should be

AOL Time Warner.

Regards,
Jason L. Nash
Toni S. Nash
9472 E Valley Ranch Pkwy
Apt 1057
Irving, TX 75063

MTC-00025942

From: MTMoseley@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:56am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Mary Moseley
P.O. Box 451
7685 Rose Lane
Keystone Heights, FL 32656

MTC-00025943

From: Larry R. Staton
To: Microsoft ATR
Date: 1/26/02 10:58am
Subject: RE: Microsoft Settlement

Sirs:

Just to add my two cents worth as a private citizen. I am concerned that the proposed settlement is insufficient in its depth to address all concerns as to monopoly practices. While I believe that Microsoft produces a number of very fine products, I have concerns that this settlement does not go far enough towards eliminating monopolistic marketing practices within the commercial computer/software/operating systems environment.

Larry Staton
Eastlake, Ohio

MTC-00025944

From: Gail Bradbury
To: Microsoft ATR
Date: 1/26/02 11:00am
Subject: Microsoft Settlement

Hello,

I beleive the proposed settlement, will in the end, do little to dissuade Microsoft from continuing to abuse its current market position. It absoulutely has been shown they will stifle any technology that is of any potential threat to them.

Netscape was effectively killed off as just one example. Please send a clear message and impose strict enforceable standards on Microsoft so REAL innovation is not stepped on in the future.

Thanks for your consideration.

Scott Clark
609 W. 35th St.
Austin, Tx 78705

MTC-00025946

From: Eugene D Gray
To: Microsoft ATR
Date: 1/26/02 11:03am
Subject: microsoft.atr@usdoj.gov .

To The Justice Department;

I am sending my strong opinion to the Justice Department to counter the self-serving and punitive lobbying effort of Microsoft's competitors. Under the current law the U.S. District Court is to decide whether the settlement is in the "public interest." The consumer interests have been well served, and the time to end this costly and damaging litigation has come.

Dragging out this legal battle further will only benefit a few wealthy competitors, lawyers, and special interest big-wigs. Not one new product that helps consumers will be brought to the marketplace.

A loyal American Citizen,
Eugene D. Gray
P. O. Box 154
Fairmount, IN 46928

MTC-00025947

From: RBeem30483@aol.com@inetgw

To: Microsoft ATR
Date: 1/26/02 11:00am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Randy Beem
PO Box 491956
Redding, CA 96049–1956

MTC–00025948

From: Bob Ketcham
To: Microsoft ATR
Date: 1/26/02 11:04am
Subject: Microsoft Settlement

The proposed settlement with Microsoft represents a failing of the DOJ to do its job. The settlement should be much more than the weak, inconsequential, easy to subvert items proposed.

Microsoft has done much, many times to damage companies and innovation though its monopoly tactics. The current case represents prosecution of only a fraction of the many cases that could have been brought. This was a significant instance of those many cases. They have been found guilty. They are a Monopoly. Because of the cost of bringing this case to trial and conclusion and the likelihood that the cost of further cases will be prohibitive, the punishment for this case should be the maximum allowable. Like stopping Al Capone on Income Tax evasion, this case represents a one time chance to stop major criminal activity.

The current settlement will do little to stop Microsoft's inappropriate approach to business. They will be allowed to continue to ruthlessly damage anyone who dares attempt to compete with them. They will be allowed to continue to do much damage to the industry as a whole. The settlement must be rejected and a more appropriate remedy found. Please stop this travesty and find remedies that aren't a joke. Please remember that the anti-trust laws are designed to protect the many simple citizens like me from the damage done by predatory businesses like Microsoft. I will remember how this administration chooses to balance that scale of justice when I next visit the ballot box.

Thanks for this opportunity to comment.

Robert S. Ketcham
2021 Sandy Coast Circle
League City, TX 77573
Bob@Ketcham.com

MTC–00025949

From: WILBERT E LENNICK
To: Microsoft ATR
Date: 1/26/02 11:04am
Subject: STOP LITIGATING AGAINST MICROSOFT!

STOP THE CONTINUOUS LITIGATING AGAINST MICROSOFT WHICH COMPANY IS HELPING THE SENIORS.

LENNICKWE@juno.com

MTC–00025950

From: Chad P
To: Microsoft ATR
Date: 1/26/02 11:06am
Subject: Microsoft Settlement

To whom it may concern:

It has been my experience that politicians and bureaucrats frequently need issues illustrated in a political, economic or legal perspective context rather than appealing to a sense of common good or other such idealisms.

Dealing with Microsoft harshly is your chance to show that regulators are not swayed or pressured by well-financed lobbying and shady spin doctoring. This is your chance to punish an arrogant company that uses Enron-like strategies to keep its position.

Right now, the Enron campaign contributions and political efforts reflect poorly on government.

Microsoft is also a very politically active and influential corporation. In light of the public's perception that Enron bought political favor, it would be a great step to re-instill faith in the institutions charged with overseeing our free market if those in power acted effectively and decisively against Microsoft.

I am in favor of either a breakup of Microsoft and/or the release of some of their key source code to the public at large. The latter remedy will no doubt positively effect the Windows Operating System and result in some true innovations.

Regards,
Chad Prukha
an IT Operations

MTC–00025951

From: Scott Newell
To: Microsoft ATR
Date: 1/26/02 11:07am
Subject: Microsoft Settlement

To Whom It May Concern,

I am writing in response to the proposed MS Monopoly settlement. It does nothing to prevent future bundling of software, as they have already begun with their media player.

Microsoft has already shown contempt for previous judgments, and unless this one has a little more teeth, they will continue to illegally crush their competition and rob their customers (i.e. Most people and businesses.)

Scott Newell

MTC–00025952

From: bbrunwin@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:09am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
HERBERT BRUNWIN
266 ENCANTO AVE
PISMO BEACH, CA 93449

MTC–00025953

From: Fred Thorn
To: Microsoft ATR
Date: 1/26/02 11:13am
Subject: Microsoft Settlement

First, it was Hillary redesigning our health care according to Marx;

Then, it was Janet Reno selecting our browser for us (even tho she didn't know beans about the subject)

Now, it's various politicians redesigning our autos to make them more "politically correct".

Beans again!

I have used both browsers for five years without any difficulty in selecting one over the other....despite not being a computer "nerd" but rather a 75-year old layman, with just enough knowledge to know which hole to punch on a ballot: (R)

Our computer industry has brought us better and faster service at a less and less cost; unlike the states" track record of more and more taxes.

It is just a money grab not unlike the tobacco wars.....only this time our whole economy is at risk.

Fred & Joyce Thorn
2731 St. Cloud Oaks Dr.
Valrico, FL 33594
(813) 689–8989

MTC–00025954

From: joebash
To: Microsoft ATR
Date: 1/26/02 11:14am
Subject: Dear Sir:

Dear Sir:

Why on earth would the clinton Administration & Justice department find it necessary to destroy one of the most productive employer in the United States. All because of some whiney competitors who can't make it without the help of the most corrupt group of politicians in our long history. Leave Microsoft alone and maybe it will give the country a good boost out of the clinton inspired recession. There are plenty of real problems for Washington to deal with. Why not get on with the building process.

Joe & Betty Bannan
CC:joebesh@msn.com@inetgw

MTC-00025955

From: Dan Barthel
To: Microsoft ATR
Date: 1/26/02 11:14am
Subject: Proposed Microsoft Settlement

Sirs,

I believe that the proposed settlement agreement between Microsoft and the DOJ is woefully inadequate. Having been found guilty of major antitrust violations, concrete sanctions and proactive remedies need to be applied. My suggestions are those of a technologist, not a lawyer. These views have evolved over years of frustration trying to build cross platform applications for Windows and the Macintosh. After years of working with Microsoft, I am certain that they will never willingly comply with the following suggestions. Thus, these sorts of concrete remedies must be imposed by the court.

1. The ruling specifically mentioned Microsoft's predatory behavior regarding Java, Netscape Navigator, and Apple Quicktime, and for that matter the Real Player. An appropriate remedy would be to have Microsoft ship each of those products as supplied by the originator of the package with every copy of the Windows operating system. An example of Microsoft arrogance was the unilateral decision to stop shipping Java with Windows XP. There was no technical reason to do this, but the business reason was to again cause disruption and frustration at the consumer level for easy access to non-Microsoft technologies. The rational for this suggestion is having caused harm, repair the harm.

2. Microsoft must supply all current and past file formats for their layered applications to anyone who requests them. These formats should be documented fully so that independent developers can access the binary data for Microsoft Office and all other applications which use a proprietary file format. Microsoft should be specifically prohibited from removing backward file compatibility to existing file formats as a means of insuring interoperability. Any proposed changes must be made publicly available at least six months prior to release of products incorporating these changes.

3. Microsoft must supply documentation to all wire protocols for access to system functions, including, but not limited to: SQL Server, Message Queue, Transaction Server, Directory Services, and File Sharing. These protocols must be made freely available to anyone. Any proposed changes must be made publicly available at least six months prior to release of products incorporating these changes.

4. Microsoft must be ordered to comply with, and not extend, W3C standards. Browser features not part of the W3C XML, XSL, HTML and DHTML specifications must be removed from current products. This point is extremely important, as abuse of standards in this area was used effectively by Microsoft to win the browser war with Netscape. Microsoft has also demonstrated the ability to inhibit interoperability with the changes made to the open Kerbros standard, and with "creative" changes to the SQL-99 standard. This is one of Microsoft's favorite tactics to close doors of interoperability.

5. Microsoft must be ordered to implement comparable and compatible feature sets for cross platform products. In particular, the IE browser for the Macintosh must be improved to the full feature set of Windows-XP.

6. Access to source code must be granted to all, particularly the open source community, not a select few as is the case in the proposed settlement. As written, the current agreement will allow Microsoft to remain a king maker with selected partners.

7. Microsoft should be forced to drop all partnerships and alliances with other companies. All companies must have equal access to Microsoft technologies. Early access of information, if available, must be made available to all interested parties. Non-disclosure information to 3rd parties should be prohibited, and made freely available to all.

8. Volume discounting should be prohibited. One price to all. Period, the end.

9. Bundled pricing should be prohibited. Office should cost the same, with or without a computer or operating license purchase.

10. Competitive upgrade pricing should be prohibited for all Microsoft products, even those that do not enjoy a monopoly position, as simple branding of any Microsoft product implies the monopoly.

11. Beta testing of new products must be made available to anyone who requests participation.

While these suggestions may seem highly technical, they are the kinds of things that can enable competition in the computer community. They are a) concrete, b)open access to all, particularly the open source community, c)encourage and enable the cross-platform interchange of information, d) enable the community at large free access to the data they own, now locked up inside proprietary file formats.

The current settlement relies on Microsoft's willing compliance with the proposed terms. In the past, Microsoft has proven itself adept at stepping through loopholes with great ease. What we need are concrete actions to open access to the technical information required to interoperate successfully with Microsoft products so that innovation and completion can take place. It is easy to judge compliance with the suggestions above. Microsoft should be found in violation if any of the above suggestions are not complied with in a very tight time period, as delay of information is effectively denial of information in this industry.

Microsoft will argue that no other company has to comply with these terms. But no other company has been found guilty of serious antitrust violations. And, as an interesting aside, many companies, Sun, Macromedia, Adobe, Apple, and others, already offer the kinds of access to technical information proposed above. These are not wild haired suggestions, but suggestions that already work.

Hopefully, you lawyers will get some solid technical input before letting Microsoft sneak out the door unfettered to develop in secret, change standards at will, and continue to frustrate interoperability. As to the pricing remedies, it is hard not to see the benefit of one price to all, one relationship with everyone.

Regards,
Dan Barthel
dan.barthel@gsbalum.uchicago.edu
941-389-5610

MTC-00025956

From: Judy Sawyer
To: Microsoft ATR
Date: 1/26/02 11:19am
Subject: microsoft settlement

I believe Microsoft and the D.O.J. has reached a settlement and Time Warner, Napster, and the 9 states left in suits do not have the consumers in mind at all while continuing these frivolous law suits. They have a angry desire to" tear the heart out of Microsoft" as one Red Hat supporter wrote. This will all cost the consumer in the latest soft ware that could be developed. and higher prices. Time Warner and AOL just went up on our cable bill last month from $54.00 to $64.00. Please bring us closure on these ridiculous law suits Judge.

Thank you,
Jennifer Brunson
E-mail Jenobby@juno.com

MTC-00025957

From: jbrasovan@houston.rr.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:15am
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Jane Brasovan
38 Quiet Peace Place
The Woodlands,, TX 77381

MTC-00025958

From: Preston Sanders
To: Microsoft ATR
Date: 1/26/02 11:18am
Subject: Microsoft Settlement.

I am in favor of it because it will help us seniors.

MTC-00025959

From: John Cowan
To: Microsoft ATR
Date: 1/26/02 11:18am

Subject: Microsoft Settlement
613 Navarra Drive
Scotts Valley
CA 95066
Hon. Colleen Kollar-Kotelly,
U. S. District Court
Washington DC

Judge Kollar-Kotelly,

I am very disappointed with the settlement agreement the Justice Department has negotiated with Microsoft Corporation. It does practically nothing to constrain Microsoft's anti-competitive practices. I am particularly concerned about the provisions that require Microsoft to make public its Application Program Interface (API) and the one that prohibits Microsoft from penalizing customers who resell software from other vendors. This excerpt from an article by James Mathewson in the January 2002 Bay Area Computer User Magazine describes the problem better than I could: "Actually, the settlement codifies the legality of Microsoft's predatory practices. What it takes away with one hand, it gives back with the other, and then some. For example, it does force Microsoft to share its Application Programming Interfaces (APIs) with the competition. But it also forces those who use the APIs to share their finished code with Microsoft. The result is that Microsoft would see all of its competition's trade secrets and easily replicate them. Or, though the ruling ensures that Microsoft competitors be allowed to get their icons on PC desktops, the clause only applies to companies who have sold more than a million copies of their software in the United States. The very companies who need a competitive advantage in this case can't get it.

"And these two qualifiers are indicative of the whole agreement. The clincher: Microsoft would be barred from terminating a PC vendor's license agreements because the vendor cooperated with one of Microsoft's competitors. But it could still terminate the agreements, because if it did, the vendor would have to take it to court for violating the antitrust provision. How many small clone shops can afford to fight Microsoft in court? If the government ran out of money trying, not even Dell would fight Microsoft for the ability to put a Quicken icon on a Dell desktop."

I ask that you please require Microsoft to publish its APIs on a public web site so it is available to all, that you require Microsoft to allow all its customers to put whatever icons they wish on the desktop and that you require Microsoft to sell its operating system products to all buyers without penalty, regardless of whatever other business arrangements they make, and without the need to bring suit.

Thank you.

Sincerely,
John F. Cowan
jfcowan@pacbell.net

MTC-00025960

From: charles varano
To: Microsoft ATR
Date: 1/26/02 11:19am
Subject: John Aschroft

Attached is the letter we have drafted for you based on your comments. Please review it and make changes to anything that does not represent what you think. If you received this letter by fax, you can photocopy it onto your business letterhead; if the letter was emailed, just print it out on your letterhead. Then sign and fax it to the Attorney General and carbon copy it to your Member of Congress. We believe that it is essential to let our elected officials know how important this issue is to their constituents. The public comment period for this issue ends on January 28th. Please send in your letter as soon as is convenient.

When you send out the letter, please do one of the following:

* Fax a signed copy of your letter to us at 1–800–641–2255;

* Email us at fin@mobilizationoffice.com to confirm that you took action.

If you have any questions, please give us a call at 1–800–965–4376. Thank you for your help in this matter.

The Attorney General's fax and email are noted below.

Fax: 1–202–307–1454 or 1–202–616–9937
Email: microsoft.atr@usdoj.gov

In the Subject line of the e-mail, type Microsoft Settlement.

Carbon Copy:
Rep. Spencer Bachus
Fax: 202–225–2082

For more information, please visit these websites: www.microsoft.com/freedomtoinnovate/ www.usdoj.gov/atr/cases/ms-settle.htm

The letter follows:

January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I write you as a Microsoft supporter to urge you to help support the recent settlement in its current form. The many concessions that have been made by Microsoft include changes in licensing changes, marketing requirements, and even design restrictions. It is obvious that Microsoft is working toward bettering the entire IT sector. Let us help them do so by helping this settlement move forward. As our economy goes under some strain, it is important for us to support all of our technologies in order to maintain our position in the global market. By delaying an agreement such as the Microsoft settlement, we slow down the advancement of our IT sector and tie up their time in litigation. This is not what we need in the technology industry during a time of recession. Let us make sure that there is no more actions taken against this well thought out settlement. Let the terms speak for themselves and allow us to better help the consumer, the technology industry and our economy as a whole.

Sincerely,
Charles Varano
195 Calumet Drive
Birmingham, Alabama 35242
cc: Representative Spencer Bachus

MTC-00025961

From: Christian Skeem
To: Microsoft ATR
Date: 1/26/02 11:15am
Subject: Microsoft settlement

To Whom It May Concern

As a layman, I find it absurd that such an obvious case of "dumping" and anticompetitive behavior has not met with the severest form of punishment. If there is to be any lesson drawn from this expensive and exhaustive process, at this point the government seems content with letting it be "if you're rich enough and powerful enough, just let us slap your wrists and be on your way"! And please, just because a judge used poor judgment (pun intended), is no reason the U.S., nay the WORLD consumer should be punished and left without choice.

I admit to not knowing the fine points of the laws regarding monopolies and anticompetitive behavior, but it doesn't take an expert or a genius to figure out that if you use your leverage and your money to give an expensive piece of software away "free" (i.e. Internet Explorer), you are going to drive your competition (i.e. Netscape) out of business without much of a fight.

The internet is too important an arena to allow someone so blatantly anti-democratic and opportunistic as Bill Gates become (remain?) the dominant force.

ACT NOW! Appeasement of tyrants is rightly a concept consigned to infamy.

WAKE UP! When it's so obvious to a layman that the EMPEROR (the government) HAS NO CLOTHES! you may be able to sleep through this round, but this will come back to roundly bite us all in our collective naked ASSES!

DO SOMETHING!
Christian Skeem
1919 West Bradley Place
Chicago, IL 60613
773–832–4696
christian@susanins.com

MTC-00025962

From: Warren Bryld
To: Microsoft ATR
Date: 1/26/02 11:19am
Subject: Microsoft Settlement

Dear Mr. Ashcroft: I am writing to express my support for the settlement your office reached with Microsoft in November in regard to its ongoing antitrust litigation. I feel that enough government and taxpayer money has already been spent, and Microsoft should be able to get back to business.

I am familiar with the terms of the settlement, and they are a reasonable way to bring the case to a close. Disclosing unique Microsoft programming codes will better equip competitors to develop programs that operate smoothly within the Windows system, and providing users with new options to remove different programs and replace them with competitors" versions will leave everyone with more freedom of choice.

The settlement was reached in November, so I urge you to end the case with no further delay. The government should comply with the terms it agreed on with Microsoft. Not doing so would fly in the face of being honorable and upfront—two things that the government claims were reasons for bringing a suit against Microsoft in the first place.

Sincerely,
Judy Bryld

MTC-00025963

From: Ardith Brown

To: Microsoft ATR
Date: 1/26/02 11:20am
Subject: "Microsoft Settlement"

It is time to end this stupid law suit. Lets settle this now. The only people that are interested in not settleing this is the attorneys who are making all the money. Let Microsoft get on with its business.

Ardith Brown
17106 E. LaPasada
Fountain Hills, AZ 85268

MTC-00025964

From: cram@fastq.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:20am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Joella Cramblit
2 Regent Wood road
Northfield, IL 60093

MTC-00025965

From: r-a-l
To: Microsoft ATR
Date: 1/26/02 11:21am
Subject: Microsoft Settlement

The terms of the antitrust settlement between Microsoft, the Department of Justice and the nine states is fair and equitable to all parties.

It is now time to move forward.

Sincerely,
Robert Laczko
1234 Naranca Avenue
El Cajon, CA 92021

MTC-00025966

From: DenverD
To: microsoft.atr(a)usdoj.gov
Date: 1/26/02 11:24am
Subject: hurting in Denmark

I'm just a little user that is STILL hurt every single day in Denmark because of Microsoft's aggressive and illegal practices since 1987..

for example:

—in 1994 i bought OS/2 Warp version 3 and was one click to the internet a year before MS got there (with the release of Win95)..

—that version 4 (which was cheaper than Win95 or 98) remains stable, usable and just fine for almost everything i need, EXCEPT when i try to go to almost ANY web site inside Denmark with my Netscape Explorer browser.....it just will NOT work with (for example) my bank <http://www.nykredit.dk/bank/> the bank has a full service, on-line facility written entirely for MS Internet Explorer ONLY....I asked about that problem to my friendly bank man and the OFFICIAL company policy is: 99% of our customers use Internet Explorer and we will NOT support any other..

how did it get that way? MS sold "Front Page" at give away prices...an HTML authoring software pack deliberately crafted to produce web sites which will not work with Netscape AS SHIPPED..

find a Dane in the DC area and ask them to check out Denmark's web sites with ANY non-Microsoft browser except Opera (which was designed from the ground up to TRY to keep up with MS's constantly changing tricks)..

DenverD
A Texan in Denmark
www.Texan.dk

MTC-00025967

From: Johan Lotter
To: Microsoft ATR
Date: 1/26/02 11:25am
Subject: Microsoft

MTC-00025967-0001

In the spirit of full disclosure, I own Microsoft Stock. The Justice Department action against Microsoft, started by the corrupt Clinton administration, has cost me a great deal of money in my retirement funds. I shall remember the great and wasteful injustice done against this wonderful company forever and I shall vote against any politician who did not actively come out in support of Microsoft on the day your suit was first filed. I use Microsoft products whenever they are available, because they are, in a word, superior. Most of the other stuff simply does not work as well. I have actually purchased some of the Microsoft competitors" products and "thrown them away in disgust" because they did not work as well as they should. I was opposed to the entire law suit against Microsoft. I felt it was brought by a bunch of "whiners" who were unable to compete on design, execution and service. I think Microsoft should never have been prosecuted, however, if Microsoft finds the settlement "acceptable", that should be the end of the story. I want you to cease and desist in your persecution of Microsoft. I believe my attitude is typical of vast numbers of US voters.

Put an end to this nonsense!

—Johan Lotter
—Iotteract@earthlink.net
—EarthLink: The #1 provider of the Real Internet.

MTC-00025967-0002

MTC-00025968

From: Paula Tyndale
To: Microsoft ATR
Date: 1/26/02 11:26am
Subject: Microsoft Settlement

I think that the proposed settlement in the Microsoft case is a really bad idea.

Paula Tyndale
718 CR 2415
Eureka Springs, AR 72632

MTC-00025969

From: peter dunn
To: Microsoft ATR
Date: 1/26/02 11:27am
Subject: Dear Attorney General Ashcroft,

Dear Attorney General Ashcroft,

The Government's settlement with Microsoft must be approved to bring this case to a close. It is in the best interests of everyone involved. This settlement is opposed by certain interests that I believe are for self-serving reasons. After 3 ½ years it is time to end this.

Peter A. Dunn

MTC-00025970

From: Ben Larsen
To: Microsoft ATR
Date: 1/26/02 11:26am
Subject: antitrust

Please break up the Microsoft monopoly to ensure a productive future in computing.

Thanks.
Ben Larsen
Salt Lake City, Utah

MTC-00025971

From: David D'Souza
To: Microsoft ATR
Date: 1/26/02 11:27am
Subject: Microsoft Settlement

The Microsoft & DOJ Settlement needs to go through. A compromise has been reached by a majority of the stakeholders and I encourage the DoJ to support it. There is no need for the government to preserve the uncertainty on this matter. As we all know, solutions are never appealing to everyone but this one sets a fair balance for both sides.

Thanks
David D'Souza

MTC-00025972

From: Howard D. Watkins
To: Microsoft ATR
Date: 1/26/02 11:31am
Subject: settlement

THEY CAN NEVER REPAIR THE DAMAGE TO GEOS WORKS . I WANT MY GEOS WORKS BACK! I SHOULD NOT HAVE TO BEG FOR A SIMPLE SOLUTION TO MY NEEDS.——H E L P———!!!!!?????

HOWARD D. WATKINS
w8hwd@yahoo.com

MTC-00025973

From: Rmillerpmiller@cs.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:32am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Ray Miller
4111 W. Arrowhead Rd.
Duluth, MN 55811

MTC-00025974

From: Bob Blackburn
To: Microsoft ATR
Date: 1/26/02 11:35am
Subject: Microsoft settlement

We find it very hard that you have not been able to do the right thing and allow Microsoft to get on with it's business of making America the top of the world in technology.

You realize that our whole economy started down the tube when the justice department started the witch hunt started by Senators who had tech companies in their states and those companies could not stand the fact that another company was better at their business than they were. We do not believe that Microsoft should be broken up nor should it have any kind of a harsh ruling as that again would severly affect the economy and hurt many of us who have been hurt already from the downturn of the economy. We felt that the agreement that Microsoft and the DOJ came to earlier was a fair one for all concerned.

Pat and Bob Blackburn

MTC-00025975

From: Steven J Spain
To: Microsoft ATR
Date: 1/26/02 11:34am
Subject: Microsoft Settlement

For years, Microsoft developers have pushed harder and harder to create new and better experiences for end users. As an independent software developer and student of Management Information Systems, my current station depends on Microsoft; if not for the advances brought by Microsoft, I would not be pursuing a career path I find so satisfying. Microsoft corporation has done so much to bring computing to the masses and to improve the lives of so many people that I, as a consumer, cannot find any way in which they have harmed me. I do not see where any violations of antitrust law were actually damaging to me. Please accept the proposed settlement in the interest of putting this lawsuit behind us and ending the expense of taxpayer dollars on it. Thank you.

Steven J. Spain
sjspain@juno.com

MTC-00025976

From: Brian Peterson
To: Microsoft ATR
Date: 1/26/02 11:42am
Subject: Comments on US vs MS

It's my opinion that the govt should get this thing over with and goes with the terms of the settlement.

I still do not believe the Govt understands the new playing ground in the world of Technology and is applying OLD and ARCHAIC practices to an area so dramatically different than anything we've ever seen as related to business in the past. This is a typical case of force fitting just because this is the way we did things in the past. A lot what has happened here is due to the fact the Good Old Boys in Washington are so obviously out of touch and are unable to grasp new concepts and realities.

I am especially UPSET with AOL/Time-Warner's "SOUR GRAPES" attitude being taken seriously in the first place. They are upset that they AREN'T GETTING THEIR WAY —THAT IS HAVING IT ALL FOR THEMSELVES. They only have themselves to blame because they didn't listen to their customers and therefore produced products such as AOL and NETSCAPE that are just INFERIOR PERIOD. In my mind the US govt should start action against AOL/Time-Warner for trying to do what they claimed Microsoft was doing. I believe AOL/Time -Warner are truly trying to monopolize the internet and data streaming (music sites in particular) and force people to use their inferior and inadequate products systems like AOL and NETSCAPE. I personally never chose AOL because it was obvious to me what they were doing early on and I selected local ISPs for my internet access as my own statement. This is a good example of a megaforce like AOL/Timer-Warner using their MEGABUCKS to get influence and power in govt to get their way — and when money gets involved its amazing how our govt reps cave in and do their bidding. I personally do not buy anything connected with AOL/Time-Warner because I believe they are corrupt. I own no Microsoft stock or Aol stock so I HAVE NO VESTED INTEREST IN EITHER. I call it the way it looks.
RECOMMENDATION: INVESTIGATE AND START LEGAL PROCEEDINGS AGAINST AOL/TIME-WARNER ASAP!!!!!!!!

I FOR ONE WILL CONTINUE TO BUY MICROSOFT'S PRODUCT AS A SHOW OF SUPPORT FOR THE WHAT THEY HAVE DONE IN THE PAST AND FOR WHAT THEY ARE TRYING TO DO WITH TECHNOLOGY AND BUSINESS IN THE FUTURE.

MTC-00025977

From: pcarnagey@axs.net@inetgw
To: Microsoft ATR
Date: 1/26/02 11:37am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Pete Carnagey
18283 Highway DD
Everton, MO 65646

MTC-00025978

From: Joe Carroll
To: Microsoft ATR
Date: 1/26/02 11:40am
Subject: Microsoft Settlement

Though I'm not a big fan of Microsoft practices, I am a fairly content business user of microsoft products. I cannot fault Microsoft for trying to make money as I do the same 6 days a week. If a company is forced to make their product serviceable or standardized or even priced by what the court orders, we have diminished the basic American freedom and right to pursue happiness. Though I don't care for some of the Microsoft policies, I don't run the company and don't have to pay their bills. No one put a gun to my head when I bought the products.

I am a mechanic by trade. I own an auto repair facility. Will I soon be forced into a pricing structure and way of doing business that is determined by court order? Will all the incompetent shadetree mechanics of the world unite and try to control my right to pursue happiness?

Though it's not a popular opinion, I fully support The Microsoft position. Bill Gates my be the richest man in the world but that does not obligate him in any way to share with me any more than I would feel obliged to hand over my account records or earnings to a hobo who's jealous of my position. If I don't like the Microsoft products or their policies, I don't have to buy the product. I can and did actually survive for many years without a computer. There are alternatives out there. Windows is not the only OS out there. I've tried them all; UNIX, Linux, Free BSD, Solaris, PC-DOS, and the list goes on. In the end I still chose windows because overall, It is a superior product. There are choices out there but they just don't measure up. Why should Microsoft be punished for "building a better moustrap"?

Joe Carroll
joe@newperf.com

MTC-00025979

From: CPelleg227@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:40am
Subject: A Microsoft Public Opinion

Dear Lawmakers,

Please allow Microsoft to go on with building the nations economy. Microsoft has done the public a GREAT SERVICE by standardizing the method in which we use software. Through the Windows format we are able to add numerous software programs without the added cost and memory space of having multiple foundation systems for the software to run on. This has simplified the process for the software developers as well by enabling them to build onto windows rather than including bulky basis data with every program.

Some reform may be deemed necessary, but let's work it out and get the forward progress of this great nation back on it's feet again...ASAP.

Thank You for your consideration,
J Pellegrini and C Pellegrini

MTC-00025980

From: Leta Hawn
To: Microsoft ATR
Date: 1/26/02 11:42am
Subject: Microsoft Settlement
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in support of the settlement reached in the Microsoft antitrust case. It is time to put this matter behind us and get back to business. I, personally, did not support the initial lawsuit. I think Microsoft's competitors were using the legal arena to try and cripple their most innovative rival. We complain about the economic slowdown but hamstring the one company that is most responsible for much of our economic vitality over the past decade.

Further, I understand that Microsoft has been more than accommodating with regard to the demands from the Department of Justice. Microsoft has agreed to allow computer makers to ship non Microsoft product to a customer; Microsoft has agreed to a uniform price list; Microsoft has agreed to disclose their internal source codes. This is way more than I believe any other firm would be willing to do.

I urge you to give your approval to this agreement.

Sincerely,
John Hawn
211 Windemere Point Drive
Mount Gilead, NC 27306

MTC-00025981

From: Barbara MacArthur
To: Microsoft ATR
Date: 1/26/02 11:45am
Subject: Microsoft settlement

It is time for this ridiculous attack of Microsoft by our own government to end. Microsoft Corporation has created and helped create a huge industry that has benefitted millions of Americans. I consider it senseless to attack a successful AMERICAN company that has greatly increased the prosperity of Americans and the American economy. As a consumer and an American, I am in full support of competition in the market place without government deciding who shall compete. This action brought by Clinton's Justice Department has wasted public funds in order to take sides in something that should be left to the market place. It's time to end it!

Barbara MacArthur
Vacaville, CA
rimac@quixnet.net

MTC-00025982

From: Marilyn Braiger
To: Microsoft ATR
Date: 1/26/02 11:46am
Subject: Settlement

I have sent my letter to the fax number given in your memo. Good luck!

Marilyn Braiger

MTC-00025983

From: ericroush@mac.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:45am
Subject: Microsoft Settlement

The proposed settlement is inadequate. Microsoft is not sufficently punished for its misdeeds or sufficiently restrained from future anticompetitive action.

Yours truly,
Eric Roush
peroush1@earthlink.net

MTC-00025984

From: Rhmcclure@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:43am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Roy McClure
1069 Broad Ave North
Naples, FL 34102–8104

MTC-00025985

From: Mike May, S.J.
To: Microsoft ATR
Date: 1/26/02 11:43am
Subject: Comments on proposed Microsoft Settlement

Having reviewed the relevant documents, it is my opinion that the proposed settlement in the case of the United States of America v. Microsoft Corporation is not in the public interest. I base my opinion on a number of considerations:

1) The settlement gives the impression that the rich and powerful, even when found guilty, can avoid paying the fair consequences of their guilt, simply because they have the resources to appeal. I note that the federal court found that Microsoft systematically violated the anti-trust laws of the United States and of several individual states. This violation came even though Microsoft had previously entered into a consent decree on anti-trust issues. The appeals court upheld that finding. Given that background, the public interest requires that any final disposition of the case include the legal verdict that Microsoft is guilty, and that Microsoft either acknowledge its guilt, or agree that it will not contest its guilt on these matters in any legal forum.

2) The settlement can only achieve its stated goals if either the government intricately involve itself in technical business decisions, or if Microsoft can be trusted to make routinely make subtle interpretations against its strategic interests to promote competition.

The settlement has a myriad of provisions that are open to wide interpretation in implementation. To mention two specifics, deciding if an API is related to security and deciding if a business decision constitutes retribution are both decisions that routinely need to be made for the settlement to be effective.

It is to be noted that the main reason the government gives for entering into the consent decree is that Microsoft will take all possible appeals to decisions it views as contrary to its interests. Past behavior indicates that this is true. It is unreasonable to expect such deeply ingrained behavior to change with the filing of a decree in which Microsoft still contends it has done nothing wrong.

The length of the current legal proceedings show that government oversight of whether Microsoft's business decisions are anti-competitive will be inefficient at best. Furthermore, as a matter of policy, the government should try to avoid remedies where it needs to involve itself in day to day business decisions. Thus it should avoid relying on behavioral remedies unless it has reason to expect questions of compliance or non-compliance will routinely be settled in a non-contentious manner. Given the history of this case, structural remedies are clearly called for.

3) The settlement does not address the issue of substantial advantages Microsoft acquired through a an extensive pattern of illegal activity.

The Federal Court found, and the Appellate Court upheld, that Microsoft has illegally extended and protected its monopoly through anti-competitive practices. In doing this it has harmed consumers and competitors and has gained profit and an even more dominant competitive position. The public interest requires that at least some of the illegally gained advantage be relinquished.

To give a context for my remarks, I am a private citizen, not employed by Microsoft, any of its competitors, or any government. I do not have stock or other financial interests in any party to the case.

Sincerely,
Mike May, maymk@slu.edu
CC:Mike May S. J.

MTC-00025986

From: Henry W. Tyler
To: Microsoft ATR
Date: 1/26/02 11:47am
Subject: Fw: Microsoft Settlement

Competitors have no right to property owned and created by another Company. The Government has no right to take this property and give it to another Company. I founded and own a software systems company, we have customer and competitors, I don't expect the Government to steal my assets.....I hope the States forget their political agenda and drop any further action.

Henry W. Tyler
13 Bellevue Dr.

Treasure Island, Fl. 33706
htyl@tampabay.rr.com
727-367-7809

MTC-00025987

From: msteinb1@nycap.rr.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:44am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the campaign against Microsoft. Microsoft's success is based on its marvelous work ethic. Netscape used to be a much better product than Internet Explorer, but after long hard work, Microsoft has improved its product. It is now the best, and fully deserves a place on the desktop. The attack on Microsoft is an attack on hard work and success. It devalues entrepreneurship and depresses the stock market. It is an attack on our economy. Please stop.

Sincerely,
Mark Steinberger
29 Woodstead Rd.
Ballston Lake, NY 12019-1624

MTC-00025988

From: Gignilliat@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:52am
Subject: Microsoft

Dear Attorney General Ashcroft:

Though I did not receive the draft letter from Microsoft (probably deleted it not recognizing what it was) I will attempt to put into my own words what I think about the case.

I am a small stock holder, a retired illustrator, 74 years old. I own an equal number of shares of Microsoft and Sun Microsystems, but am glad to see that Sun's shares have suffered even more than Microsoft's, because I believe Scott McNeely set out to organize all the other less successful companies to try to destroy Microsoft because of his own exteme envy of Bill Gates.

I believe Bill gates has benefited the entire world more than any other person in history, including Andrew Carnegie. Of course, he has been competitive. That is the way of a Capitalist country. I doubt if any of the critics would have done less if they could have. As I understand it, the anti-trust laws were created to protect the public from monopolists being able to raise prices to the public. Microsoft has not done this. Nobody in the public has been forced to buy a Microsoft product. They have done so, because of the creative innovation of Microsoft's products.

The Judge who ordered the breakup of Microsoft was obviously prejudiced, so it went to the Appellate court which has handed down a less severe punishment, which Microsoft has agreed to.

Why all the states are suing, I don't understand, unless it's simply greed, and now Europe is trying to cash in on it, too.

At this point we certainly shouldn't be trying to destroy argueably the best company in the country. Will competitors next go after Dell, because Michael Dell built a better mousetrap?

I read that China's economy did better this past year than any other country's, and bought more computers than any other country. We have far more to fear from China's becoming the next greatest superpower in the world, than our most successful companies.

Thank you for your consideration of my opinion,

Respectfully,
Elaine Gignilliat

MTC-00025989

From: Mary (038) Steve
To: Microsoft ATR
Date: 1/26/02 11:52am
Subject: Microsoft settlement

I believe the settlement reached with microsoft is fair and should not be further pursued.

Mary Satterwhite

MTC-00025990

From: J. Jentink
To: Microsoft ATR
Date: 1/26/02 11:54am
Subject: Microsoft Settlement

The proposed settlement is BAD, BAD idea!!!

I have been in the US computer industry since the late sixties and there exists no threat to the long term American economy that approaches where Microsoft is headed. Allowing them to continue their shady practices and underhanded tactics based on monopoly and monetary power must stop. We must come down on them hard and immediately. The proposed settlement is less than a hand slap. We need some real teeth in terms of immediate penalties to aid those harmed, a prohibition of Microsoft expanding their tentacles into new areas and a totally independent mechanism for makes certain their practices are brought back into the norm of honest and fair business practices.

1) The quality and reliability of Microsoft products are at a level that would be unacceptable in any field without monopoly control.

2) Any company that choices to partner with Microsoft has brought about their own death. Some are bought but for most, their intellectual property is usurped by Microsoft.

3) Almost no innovation is happening within the areas of Microsoft control. Companies know that every innovation they introduce will eventually be taken by the evil monopoly. For example, it is almost impossible to get venture capital for software development today. The people with the money know that Microsoft will use its power to take it for their own and then they will have to pay the costs of fighting a legal battle with the big money machine. They know historically that there is not winning, eventually Microsoft will prevail. NOTE: The drying up of venture capital money and the greed of the investment bankers lead to the unsustainable tech market and crash.

4) The only things that Microsoft seems to be afraid of today are truly open standards that they can not "embrace and extend" and the Linux "free and open" operating system. One should note that Linux is a essentially a product of Europe and often associated with their institutions of higher learning. There is little input from US institutions since our universities take our public money but instead of giving new technologies and software developed using this money back to the public, they sell or license them for additional income.

If these trends continue, the world will eventually need a solution to the high cost and low quality of Microsoft products. By that time, only countries like India and China or the EU will have the ability to produce systems and products independent of Microsoft's control. Such a turn of events will dramatically reduce our now dominant position in computing, networking and information engineering to that of a third rate contributor, with a heavy toll on our economy and quality of life.

Thank you for your attention, orignal email sent with wrong Subject line.

J. Jentink

MTC-00025991

From: Dwwender@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:53am
Subject: Microsoft Settlement

I urge you to settle the suit in favor of Microsoft so that we can move forward, not backward. Microsoft's contributions to communication and technology and the world need to be recognized so that this country can go forward.

Diane Wender

MTC-00025992

From: Jeffrey C. Graber
To: Microsoft ATR
Date: 1/26/02 11:55am
Subject: DOJ: It is my opinion that the DOJ should end this anti-trust action

DOJ: It is my opinion that the DOJ should end this anti-trust action against Microsoft and settle this case now in the interest of fairness and the U.S. economy.

Jeff Graber

MTC-00025993

From: Elliot Scott
To: Microsoft ATR
Date: 1/26/02 11:56am
Subject: Microsoft Settlement

In relation with the current matter:

I have a number of questions and comments about the proposed Technical Committee (TC) and the Internal Compliance Officer that is mentioned in the proposed final judgment for the United States v. Microsoft Corporation case. These questions concern the qualifications and responsibilities of the TC as mentioned in Section VI dealing with the compliance and enforcement procedures.

The requirement of not allowing the any member having worked with Microsoft or its competitors no longer than a year ago does not appear to be logical for the first members of the TC. This is because the complaints occurred during 1998 concerning activities of the Defendant in 1996. While I do not expect the requirements to force the TC members to not have any history with Microsoft and/ or its competitors for the last 5 years, I would believe that a revision to the judgment to consider a background check to more carefully choose candidates that are not involved with Microsoft and/or its competitors for a minimum of two to three years. Such a revision to the final judgment would allow the members of the TC to provide a more unbiased perspective of the Plaintiff during his/her term of stay.

The TC should also be required to take notice of all activities and provide a report of findings and information to be stored in a secure location of the member1s discretion. While this can be assumed as part of the judgment, it was not stated in the proposal. By adding a responsibility to loosely monitor the Compliance Officer and its staff, if any exist, and write a history report of complaints filed by logs of the website the Compliance Officer is to create. This log history report should also include a monthly to yearly review of the compliance officer that is appointed by the Plaintiff who monitors all complaints filed either by the website or through other sources. This would provide a balance of power between the responsibilities of the TC and those of the Compliance Officer. This would provide a greater margin of safety from possible mismanagement of the Compliance Officer.

Under Section V.B concerning extension of the final judgment due to systematic violations, the extension should not be limited to one-time extension of two years with possible relief. If it is proven that the Plaintiff has digressed from the judgment, the Plaintiff should be required to continue for an extension of up to three years with necessary relief, with the possibility of a following two year extension with possible relief afterwards if digression continues. This suggestion reflects the fact the Plaintiff practiced anti-trust activities for a period of several years against a number of competitors. Modifications of the final judgment may be necessary in order to stay up to date with the times.

Sincerely,
Elliot Scott

MTC-00025994

From: Bill R Bartz
To: Microsoft ATR
Date: 1/26/02 11:55am
Subject: microsoft settlement

Hi, I just want to add my few cents on this matter. The MS operating system SHOULD be a "stand alone" system. There should not be any other programs that "come up" with the operating system. When other applications are imbedded in the OS, it is extremely difficult for others to write good programs that are reallly fully compatible. It only takes a fraction of a second, given todays CPU speeds, to bring in another application. Please make the OS a stand alone system. Thank you. PS I'm retired, and have no "skin" in this, other than being a frustrated user.

Wm. R. (Bill) Bartz
977 Arnold Way
San Jose, CA 95128
408 971 8928 fax 408 971 8267
email-BBMFG@Juno.com

MTC-00025995

From: John K. Hillman
To: Microsoft ATR
Date: 1/26/02 11:59am
Subject: Microsoft Settlement.

I want to express my support for the proposed settlement. In my opinion it is best for Senior Citizens and the consumer. It is time to end all the litigation that has been costly and going on far too long.

John K. Hillman
khillman@bellsouth.net

MTC-00025996

From: Zdenek Becka
To: Microsoft ATR
Date: 1/26/02 11:59am
Subject: Microsoft Settlement

Dear Sir or Madam,

I am writing to register my concern over the proposed Microsoft settlement. I am concerned that this settlement does not ensure that Microsoft will in fact document its operating system APIs to Independent Software Vendors in the same manner as it does to its own Application Developers. Microsofts ability to include significant application components as part of the operating system makes me wonder how ISVs will be able to compete. Lets face it. MS makes good applications. I use them everyday. But much of the code is included in the operating system. When ISV applications are compared to MSs they appear to consume significantly more resources and so on. If ISVs are allowed to use those same OS/Application APIs, then we will all benefit.

Thank you for listening to my concerns.

Zdenek Becka
5238 Sherrier Place NW
Washington, DC 20016

MTC-00025997

From: millage5@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:56am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Angela Millage
4022 W. Mesa Street
Battlefield, MO 65619

MTC-00025998

From: Orderz@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:59am
Subject: Microsoft Settlement

It has been long enough, no, too long, in the courts. The terms and conditions are fair for all concerned. SETTLE IT! NOW!

W.C. Gawlikowski
14107 Forestvale Dr.
Chesterfield, MO 63017
1.314.453.9196

MTC-00025999

From: Felicity Marsh
To: Microsoft ATR
Date: 1/26/02 11:59am
Subject: Microsoft Settlement

AOL bought Netscape while the anti trust case was on going,assuming the government would slow Microsoft up with the court case and possibly hand Netscape a victory which would allow AOL to capitalize on that with little effort to itself. There never was any concern for the public in this case.

The public benefits from affordable products.—Microsoft produces those. Netscape itself saw the benefit to the consumer of combining the server with the operating system and tried to do that before Microsoft ever did, even though it had a monopoly on servers at the time. That in itself demonstrates that in the world of technology a monopoly lasts only until a better product comes along, had Netscape been able to do a better operating system there would be no Microsoft to speak of.It was there product which did not win in the market.

The public benefits from a system that is easy to operate.- Microsoft produces that,Netscape tried and failed, and can still try again. AOL is big enough to push that forward if it chooses.

The public benefits from a stable product.- Microsoft was working on and has now produced that.

The latter was what Sun Microsystems and AOL feared most and had to stop , one way or another, as that was the biggest threat to their businesses.

The public has watched the economy sabotaged by hiked up values on the stock exchange as other companies thought they would make a fortune in Microsoft's demise, that never happened because a many faceted system is doomed to failure. Speaking with a single tongue is the only way forward for technology.

Instead of straightening out its business problems, AOL has decided to spend its time and effort filing lawsuits against tough competitors—a petty, distracting pursuit that won't help AOL or, for that matter, the U.S. economy, which depends on firms like Microsoft for the innovation necessary to bring about a technology revival.

It will hurt AOL most in the end as Microsoft has the will and ability to close its eyes to the distractions leave them to the lawyers and keep working on its products.

My biggest concern in all of this is that while Microsoft is using its own money to fight this case and others, AOL and Sun are using tax payers money to fight their battles. The tax payers are not in unison about their tax dollars being spent that way -that money is needed elsewhere, particularly now.

Tax payer with a different fiscal agenda,
Felicity Marsh.

MTC-00026000

From: Joan Nims Cook
To: Microsoft ATR
Date: 1/26/02 12:03pm
Subject: microsoft settlement

I think it is time to close the Microsoft Anti trust suits and get back to the economy and what is best for the consumers. I do not see how further legal action against Microsoft will benefit any one except her competitors. How is that the responsibility of the Dept of Justice or the US Government

Joan Cook.

MTC-00026001

From: Les
To: Microsoft ATR
Date: 1/26/02 12:02pm
Subject: Microsoft Settlement

I am writing to respectfully request that the government accept the settlement, that has already been arrived at with Microsoft. It is high time that the competitors of Microsoft and the government recognize that the American system is built on capitalism. In the capitalistic system, only the most agressive and creative come out on top. AOL/Time Warner did not get to where they are by being fair to all of their competitors. They are no less guilty of being agressive to the point of beating their competitors than Microsoft. The bottom line is that Microsoft's browser is superior in every way to Netscape and therefore is used by more people. If AOL/Netscape feel that Microsoft has used its unfair advantage by integrating more closely to its operating system, let them write an operating system. That's the American way.

Thank you for your consideration of this matter.

Lester L. Smith

MTC-00026002

From: Don
To: Microsoft ATR
Date: 1/26/02 12:03pm
Subject: Microsoft Settlement
To: Department of Justice
From: Don Phillips, Consumer, Engineer, Voter

I believe the US Government should settle its antitrust suit against Microsoft immediately. The current proposed settlement should be approved and implemented as soon as possible. This lawsuit never, in any way, represented the interests of consumers. Microsoft has had a long track record of developing and selling software products that consumer like and use. The company's growth and profits are evidence of this. On the other hand, no credible evidence was ever presented during the trial (or after) to show that Microsoft ever did anything that was against consumer interests. Clearly this lawsuit never had any basis in fact and never should have been undertaken. In fact, the lawsuit, itself, has caused major harm to consumers and to the entire US economy.

Also, the government's reputation as being objective and fair has been seriously eroded. In short, the whole process has been a disgrace to justice and an insult to American consumers.

I have worked in the semiconductor industry for 30 years and have had many dealings with Microsoft as well as many of Microsoft's competitors. Also, I have personally used many products from Microsoft and from its competitors. Based on, my long experience with technical products it is very clear to me why Microsoft's competitors have not prevailed in the marketplace.

This lawsuit has clearly been shown to be nothing more than a thinly veiled attempt by weak competitors to do serious harm to a more successful company. This is very disgraceful behavior! For the government to continue to perpetuate this case would be a major miscarriage of justice.

Respectfully,
Don Phillips,
Palo Alto, CA

MTC-00026003

From: Bryan Tighe
To: Microsoft ATR
Date: 1/26/02 12:05pm
Subject: Microsoft Settlement

I feel that the proposed settlement does not provide enough regulations, rules, and other needed stipulations against Microsoft in order for the consumers of America to fully benefit.

Because Microsoft has a monopoly on operating systems, and maintains that monopoly through distribution of their own software with their operating systems, no other operating system can successfully enter into the consumer market. The consumers do not have a choice, and this is not in the best interest for American consumers. Instead, they are required to use one and only one operating system, and another of potential better quality is disregarded before even given its chance. Furthermore, Microsoft has a monopoly on many of its software products. It obtained these monopolies mainly through selling the software along with the operating system. If a consumer buys the operating system, they must buy the software with it. In addition to this, the software cannot run on any other operating system. Likewise, Microsoft will not release all of the technical specifications nessasary to allow other software companies to create products of similar quality. If these other software companies do create softwarg which competes with Microsoft's software, Microsoft has shown a history of giving their products away with their operating system. Then, consumers will not purchase the rival company's software, because Microsoft has used its operating system monopoly to choose the software for them. Of course, that "free" software is not truely free: somehow the cost must be justified, and the prices of other Microsoft products and operating systems will rise to cover the costs.

Let's imagine that company A makes screwdrivers. That same company A makes screws. By a turn of events, the company becomes the dominant provider of screwdrivers, although many other companies still make screws. Also, the screwdrivers which company A sells are often questioned for their poor quality at performing their job and inability to resist breaking under pressure. Now, in this situaiton, if another rival company, company B, made a better screwdriver and sold it at a reasonable price, they would soon easily compete with company A. This is because consumers have a choice, and can choose which screwdriver to purchase. But, before company B comes to the market with the better screwdriver, company A decides that it will manufacture screws which can only be used with company A's screwdrivers. In addition, they give away these new screws with their screwdrivers. Since they have the monopoly on screwdrivers, this effectively hurts the other screw manufacturers" businesses. Soon, the only company making screwdrivers and screws is company A. Also, since they will not release the specifications for their products, no other company can create the same type of screwdriver which uses company A's screws. Similarly, no consumer would purchase screws from another company because they are already "given" screws from company A. Consumers do have the choice to buy screws from another company, but these other companies are already at a disadvantage, because they compete with a product that is free and "readily available" to any consumer which purchased a screwdriver from company A.

The remedy for this problem is to somehow force Microsoft to not distribute any software with its operating systems. Then consumers would have the true choice over which software products to buy. Also, the second part of the solution is to force Microsoft to release all of the needed technical specifications so that other companies can create operating systems capable of running Microsoft's software. This would also allow other companies to create software which effortlessly runs on Microsoft's own operating systems.

Breaking the company into two companies (one for the operating systems, and one for the software) would be an effective method of forcing the above requirements. But this might not be needed if the above requirements could be maintained by some type of watchful technical committee.

The most important issue is choice for the consumer. Once every company has access to the needed technological information, then true choice can be given to the consumers of America. If one company creates a superior technology, and keeps it secret in order to make a profit, then more power to them. But once a company uses that advantage to force their products to be purchased over other companies" products, then the consumer is no longer able to choose, and the proper steps should be taken to rectify the situation.

Bryan Tighe
Software Developer
Arlington, VA
Duke University Computer Science, class of 2000

MTC-00026004

From: Turra2@ao1.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:06pm
Subject: Reply about Microsoft

Dear Sir,

Please see attachment that has my letter. It is called Microsoft litigation.

Sincerely,
Mario Turra
CC: Turra2@aol.com@inetgw

1755 Tommy Lee Cook Rd. Palmetto, Georgia 30268
January 26, 2002
PERSONAL
Attorney General John Ashcroft

Dear Attorney General Ashcroft,

This is to express my opinion on the Microsoft litigation. The matter against Microsoft, in my opinion, should never have taken place. I think the settlement is appropriate and should take place as soon as possible.

Respectfully,
Mario Turra 1/26/02

MTC-00026005

From: Felicity Marsh
To: Microsoft ATR
Date: 1/26/02 12:06pm
Subject: Microsoft

Settle now.—Just do it, for the publics sake. We are fed up, and spent out, and annoyed with you spending our money without consulting us.

MTC-00026006

From: JoLa8191@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:07pm
Subject: Microsoft settlement

Notice that I am a long time AOL subscriber, and have been for many years. Right now, I can access lots of Microsoft stuff, like Internet explorer, whenever I want to because it came with Windows 98. All of the computer users that I know agree that we, as a group, would gain nothing, and lose much, if we could only have a stripped-down version of Windows. Please do NOT make a decision that only benefits Microsoft's competitors, and adversely impacts average computer users.

John Lawrence

MTC-00026007

From: Carol Leiby
To: Microsoft ATR
Date: 1/26/02 12:07pm
Subject: Microsoft Settlement

It is important to the computer industry and to the US economy that this trial be brought to a close. The settlement is fair and any more deliberations would be a waste of people's time and money that could be better spent.

Carol Leiby

MTC-00026008

From: Georgadad@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:09pm
Subject: Re: SENIORS COALTION URGENT ACTION ALERT- Microsoft and big government

This sounds like a fair settlement of Microsoft for all involved. I am a senior citizen and very active with computers. Many wealthy parties may not like that settlement.

I will close this now.
Eugene Bunt
1409 S LUNA ST
LAS CRUCES, NM 88001

MTC-00026009

From: Joyce Hlava
To: Microsoft ATR
Date: 1/26/02 12:12pm
Subject: Microsoft Settlement

Dear sirs,

I just want to register my objections to the proposed settlement. Living in Silicon Valley and working in the industry, I appreciate the fact that Microsoft does indeed establish a standard for most consumer PC products. The way they have done it though is unbelievably coercive. I remember being at a banking trade show about 5 years ago and talking to a Microsoft employee who was working the booth. It was really interesting because he had been VP of sales for a small company which was bought by MS. He said that this start-up had a great technology and had the "normal problems" (which means total stone wall trying to get information) from MS in order to make their product compatible with Windows. When MS realized what their technology did, it came to them with "an offer they couldn't refuse". They had to either sell or MS would develop the technology themselves and incorporate it for free. Having seen what happened to Netscape, a bigger and better financed company, the partners felt they had no choice. This is a story that I have heard over and over.

The proposed settlement is only a slap on the wrist. It allows MS to saturate the education market in a big way. Since this is the only market with a serious operating system competitor (Apple), this isn't punishment, it's a reward.

Joyce Hlava Ogden

MTC-00026010

From: Christopher R. Hertel
To: Microsoft ATR
Date: 1/26/02 12:13pm
Subject: Microsoft Settlement
January 25, 2002
Renata B. Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
Suite 1200
601 D Street NW
Washington, DC 20530–0001
Regarding: The Microsoft Settlement

Dear Ms. Hesse,

I am a member of the Samba Team, an international group of computer programmers who develop Samba, a free software product. Samba implements Microsoft protocols to allow non-Microsoft systems to interoperate with, and compete against, Microsoft's Windows products. Samba is "Open Source", which means that the source code is available for download via the Internet, free of charge, to anyone.

Though Samba is a volunteer effort, our software has been adopted by many major computer vendors including Hewlett-Packard, IBM, and SGI. Several smaller companies have based their entire businesses on our code, and many organizations (including offices within the Federal Government) rely on Samba. We are, most likely, one of Microsoft's biggest competitors in the file-server market.

Because Samba is critical to so many companies, some members of the Samba Team are employed to help maintain the code. This is unusual in the Open Source community. Most of us, myself included, are not paid for our work but participate because we enjoy programming and want to contribute. Other examples of community-driven software include the Linux operating system and the Apache web server, both of which also compete against Microsoft products. It is difficult to estimate the number of Open Source projects under development, but the SourceForge service alone lists over 32,000 registered projects and more than 340,000 participants.

Clearly, Open Source represents viable competition against Microsoft. Unfortunately, the proposed settlement contains wording which would grant Microsoft the right to specifically exclude Open Source projects such as Samba from accessing information required for interoperability. In particular:

* In section III.I, the settlement document discusses the payment of royalties and other "monetary consideration". Open Source developers generally do not keep track of "customers" or collect any money for their products. It is, therefore, impossible to calculate or pay royalties or other fees. Further, the requirement that protocol and API information be licensed from Microsoft would make any such information unusable in an Open Source project. The term "Open Source" means that we make the source code available to anyone who wishes to see it, copy it, or modify it. That would certainly violate Microsoft's licensing terms.

* In section III.J, Microsoft is granted the right to judge the "business need" of a potential licensee, as well as their "authenticity and viability". Open Source projects such as Samba and Linux are not businesses. They are community projects, and would certainly be rejected under these criteria. Thus, Open Source developers are prevented from obtaining information about "anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems", exactly the kind of information that is needed to ensure interoperability with Microsoft products.

There are several more examples in the document, but they all amount to the same thing: Open Source developers are being excluded.

There are many arguments to be made against the revised proposed Final Judgment in the Microsoft case. To me, the most striking is that Microsoft would be allowed to continue control access to this critical information. I urge the Department of Justice to withdraw its consent to the revised proposed Final Judgment.

Sincerely,
Christopher R. Hertel
885 Hague Avenue
Saint Paul, Minnesota 55104

MTC-00026011

From: Patricia R. Prendergast
To: Microsoft ATR
Date: 1/26/02 12:14pm
Subject: mocrosoft settlement

I agree with the settlement for the Microsoft case vs. AOL and DoJ and nine states.

Sincerely,
Patricia R. Prendergast

MTC-00026012

From: bsculp@juno.com@inetgw

To: Microsoft ATR
Date: 1/26/02 12:15pm
Subject: litigation

It is time to stop the litigation against Microsoft and move on.

MTC-00026013

From: Kurt Zadina
To: Microsoft ATR
Date: 1/26/02 12:15pm
Subject: Microsoft Settlement

Not good for the United States.

MTC-00026014

From: Robert Berg
To: Microsoft ATR
Date: 1/26/02 12:16pm
Subject: Tunney Bill

Settlement of this costly litigation will allow all Americans freedom of the Internet and of such software as is needed.

Robert Berg
2435 Ocean Ave.
Bklyn.N.Y.

MTC-00026015

From: Arla3259@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:17pm
Subject: Microsoftsettlement

Please leave the settlement as it now stands. Everyone in our computer club agrees that we do not want a stripped down version of the Windows operating system. We gain nothing and lose a lot!

Arline Lawrence

MTC-00026016

From: Nathan Alderman
To: Microsoft ATR
Date: 1/26/02 12:18pm
Subject: Microsoft Settlement

To whom it may concern:

If I committed some significant white-collar crime, say, embezzlement; if, during the course of my subsequent trial, I made misleading (if not false) statements and instructed my attorneys to provide falsified evidence meant to bolster my case; if I was in fact, found guilty of my crime upon preponderance of the overwhelming evidence, yet continued to insist that I had done absolutely nothing wrong... ... would it then be just for me to dictate the terms of my own punishment? And would it be just for that "punishment" to officially absolve me of guilt, and, in exchange for spending the merest portion of the wealth I had accrued through my illegal and harmful practices, place me in a position to reap enormous future benefits and continue the illegal practices that I had been tried for in the first place?

In my opinion, this is the situation at hand in the Microsoft case. The resolution to their crime may be uncertain at this time, but they have been found indisputably guilty in a court of law— a court for whom they showed nothing but contempt, through repeated and clumsy attempts to mislead the court with badly doctored evidence and vague testimony.

It runs counter to the fundamental nature of the American Justice System that Microsoft, through its vast wealth and political and public influence, should be allowed to escape justice, much less to profit from its crime with a newly established stranglehold on the education market. I salute the Department Of Justice's desire to save taxpayer money by seeking a quick resolution to this case. But I would argue that the eventual financial and economic cost to the average American citizen will ultimately be much greater if Microsoft's proposed remedy is put into effect.

I hereby plead with the court and the Department of Justice not to allow Microsoft to profit from its crimes. For the callous disrespect they have shown to our justice system, and for the vicious and predatory business practices of which they have been found guilty, they deserve the harshest and most humbling of penalties. And they do not, I believe, have any right to decide what that penalty should be.

Sincerely,
Nathan Alderman
San Antonio, Texas

MTC-00026017

From: Andrew Syka
To: Microsoft ATR
Date: 1/26/02 12:19pm
Subject: Microsoft Settlement

As one who owns no stock in any of the companies objecting to the government's settlement, but am a user of Microfsoft's Windows 95 operating system, I submit that the currently proposed settlement has to many loopholes which will permit Microsoft to continue many of its practices alleged to have prevented competition in the industry,

Andy Syka

MTC-00026018

From: Thomas Corriher
To: Microsoft ATR
Date: 1/26/02 12:19pm
Subject: Microsoft Settlement
Contact information:
Thomas Corriher
142 Redwood Drive
Mocksville, N.C.—27028
Phone: 336–391–2713, 336–936–0018 email: corriher@mailcity.com,
hcconst@earthlink.net

Summary

This letter is to plead with the court that it use its wisdom to insure that the abusive monopoly of Microsoft is punished for its arrogant and reckless disregard for law. The proposed settlement does not place adequate restrictions upon Microsoft to prevent it from future abuses. The settlement actually gives Microsoft legal justification to continue its business as usual. The settlement was not a victory for the Department of Justice, it was a surrender. Microsoft has become a disgrace to our nation. They have associated their unique brand of predatory behavior which is driven by perverse extremes of greed to our entire information technology industry, while manipulating the justice system to comply with its agenda. It has earned itself the nickname, "The Evil Empire". I beg you, do something before it is too late. I am terrified of a future in which all information is controlled and monitored by Microsoft. You have a chance to save the world.

Your Honor;

You bear an enormous burden, for you will make history. I am certain that you have read enough technology arguments in recent times. to satisfy you for your lifetime.Your valuable time is already unduly limited.

Making A Mockery of U.S. Law

There are seemingly countless examples of Microsoft's disregard toward the ethics of its own industry, and its brazen contempt toward the laws of the United States. Microsoft altered evidence during the trial in question, and was caught using altered video evidence. As we of the public have come to expect, Microsoft was unpunished. Microsoft funded two separate organizations which pretended to be independent organizations during its trial. These groups filed briefs to support the company, and attempted to rally public support for Microsoft. These facts were made known only after a suspicious person at the Oracle corporation hired a private investigator to rummage through the trash of those "independent" consumer groups. In further disregard for ethics, Microsoft secretly lobbied to have the funding for the Department of Justice substantially lowered after the trial began. One can only speculate if their motive was to prevent their prosecution, or if it was to enact revenge on our nations core law enforcement agency. During the trial, Microsoft claimed that competition existed, while it financially rescued Corel and used that company as evidence that competition indeed survived in the "free market". Both companies then attempted to suppress Corel's benefactor, as it would appear incriminating; and this was in itself an instance of perjury. Thereafter, Corel immediately discontinued work on Linux since it is a potential operating systems competitor for Microsoft. There have been numerous instances in which agents of Microsoft have written letters to various organizations in support of Microsoft. These letters typically dishonestly attack any thing considered to be a threat to Microsoft. The troubling aspect of this behavior is the letters are written to appear as spontaneous testimonials from independent sources. Microsoft's organized campaign of misinformation is so common that there is a name for it. It is called "astroturf"—meaning a fake grass roots movement. You should expect to see many astroturf letters, and I have read that some of the state attorney generals have already been receiving correspondence from people who died years ago. Recently during another trial, Microsoft boldly proposed our government replace Apple's software in the schools with donated Microsoft software, thereby extending its monopoly to education as a remedy to abusive monopoly practices. In further insult to our collective intelligence, the plan would require Microsoft to give its software to schools at its inflated market value and use that as a tax write-off. Under Microsoft's proposed "punishment" for itself, the tax payers would be forced to pay Microsoft to create another monopoly for itself among children.

Time Is Running Out

To Microsoft winning is everything, and in its twisted corporate mind-set it means everyone else must lose. The losers include you and me. Their appetite is unquenchable. The best analogy to Microsoft is to describe it as a cancer. This company has already consumed every other company in the low-end (PC) software market, and is now moving to hijack the free and open Internet with its .Net initiative. Microsoft has even turned its attacks upon free software which is the foundation of all industry standards and the Internet. Even software produced by volunteers is not acceptable to Microsoft, since such software weakens the publics complete dependence on them. Microsoft is in many ways like an illegal drug dealer, because it does everything in its power to kill all competitors while stimulating a complete dependence on its own products. Microsoft is powerful enough to make unquestionable demands against the providers of Internet services, and computer hardware manufacturers. It alone defines the rules and twists standards for desktop computer systems to meet its agenda. Software companies which do not threaten Microsoft's agenda are allowed to live. Microsoft commonly makes its own software function poorly with non-Microsoft software, while adding operating system features to cripple the software of others. To make my case: the mighty IBM is afraid of Microsoft. Everyone is afraid. They are a menace, and they are a significant threat to our liberties.

MTC-00026019

From: im4jesus@kfalls.net@inetgw
To: Microsoft ATR
Date: 1/26/02 12:16pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Cher Brence
5828 Havencrest Drive
Klamath Falls, OR 97603

MTC-00026021

From: john e viano
To: Microsoft ATR
Date: 1/26/02 12:18pm
Subject: Microsoft Settlement

The proposed Microsoft settlement is reasonable and fair to all concerned. I reccommend prompt action to resolve this matter as currently structured. John E. Viano bigjohnn1@juno.com

MTC-00026023

From: Charles Kuske
To: Microsoft ATR
Date: 1/26/02 12:20pm
Subject: Microsoft Settlement

I think the settlement is a bad idea. I have been programming since 1978 and have seen a lot of changes, and change is good. This settlement is business as usual, makes no changes, and is bad.

Sincerely,
Charles Kuske

MTC-00026024

From: Chris Jessee
To: Microsoft ATR
Date: 1/26/02 12:24pm
Subject: Microsoft Settlement

Hello,

As an information technology specialist, I'm writing to express my concern over the inadequacy of the proposed remedies in the Microsoft settlement.

Any remedy short of breaking-up Microsoft will not be adequate in stopping their aggressive monopolistic business practices. Without break-up, Microsoft will continue to destroy their competitors and foist poor quality products on businesses and consumers. An important fact that has been largely overlooked in this case is that Microsoft's stranglehold on the computer industry is national security threat. Many of our government agencies, much of our military and the vast majority of our business and educational institutions operate on and are heavily dependant on Microsoft software. Hardly a week goes by that we don't hear news of the latest computer virus or hacker breakin crippling thousands of servers and desktop computers by taking advantage of the security holes in Microsoft's poorly designed and implemented products. A hacker terrorist could shutdown much of the government, military and business community with a well-written virus that exploits the holes in Microsoft's sloppy code. Hacker attacks cost companies and taxpayers millions of dollars a year because of Microsoft's negligence and our dependence on them. Microsoft should be held criminally liable for the losses caused by their software. Just as Firestone and Ford are held accountable for safety failures, Microsoft and all other software vendors should be held accountable for security failures. Breaking-up Microsoft and fining them to a degree as to cripple them and using the revenue to fund competitors and "Baby Bills" is the only way to ensure national security and consumer choice. Don't allow Microsoft's lobbyists lining the pockets of politicians to threaten the security of our country.

Thank you,
Chris Jessee
jessee@cville.net
203 Camellia Dr.
Charlottesville, VA 22903
804-979-7279

MTC-00026025

From: edie smith
To: Microsoft ATR
Date: 1/26/02 12:24pm
Subject: Microsoft Settlement.

I believe America would not be in the lead of Computer intelligence had it not been for Microsoft. When you are a leader, you encounter jealousy & hate. Americans might be respected around the world but never loved by the world. Such is the case with Microsoft as was the 12 year case against IBM.

Quit biting the hand that feeds you. I am against any breaking apart the Firm of Microsoft. And I am against any party receiving their software codes.

I am going to start a campaign to end Porn spam, the majority coming from AOL member sites, which seems that this would be the interest of the integrity of the internet and software legalities. Porn sites can't think of enough ways to make money, be dishonest in undeliverable return email addresses, leaving the angry recipient no choice but to track down the headers, and source code of the web sites in order to put a stop to them flooding, I said flooding, vulgar, unrequested email to email addresses that they randomly solicit to. This should be against the law. So why don't you put your legal efforts where they protect the public interest. Or are many of you partners with these porn sites and receiving monies on affiliations. Do something about it before I have to, and then your legal teams will be sited,& sued for not upholding the internet laws. (TITLE 18, CHAPTER 47). Ignorance is no excuse in the eyes of the law. I'm tired of drawing a line for your flimsy morals. I have a choice to use Microsoft or any other software I want. Microsoft isn't infringing on my freedom, my private email address, my choice.

Get a real job. timelordess@hotmail.com
depth seeker

MTC-00026026

From: Wesley Taylor
To: Microsoft ATR
Date: 1/26/02 12:26pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

I am writing to comment on the proposed Microsoft settlement as specified under the Tunney Act. In short I agree with the problems identified in Dan Kegel's analysis (on the Web at http://www.kegel.com/remedy/remedy2.html). I specifically want to emphasize problems with the PFJ which affect me as a programmer.

No operating system has any use whatsoever without applications. Thus I am especially concerned about several aspects of the PFJ. First, I believe that the requirement that Microsoft publish its secret API's is not broad enough to require it to publish enough of the API's to enable third party software developers to write programs that compete at any level. This is a problem both for third party application developers, and third party operating system developers such as Sun, Apple or Linux who are trying to write their systems to enable Windows applications to run on their systems. I urge you to seek a broader definition of API from third party software developers which they feel would be sufficient to develop commercially viable software that could interoperate with Windows operating systems or applications.

Second, I disagree with the section of the PFJ which requires the release of API documentation but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.

This goes hand in hand with my first point. A big part of a programmer's software development is checking the documentation of the API's (s)he is using to ensure that his/her own application will interface properly. Prohibiting the use of documentation by competitors is nearly equivalent to not publishing the API's. This prohibition neatly undoes the requirement that the API's be published in the first place.

Third, I urge you to require that Microsoft release documentation which completely describes the format of Microsoft Office documents. A major concern of people who go to purchase a computer is whether they will be able to read documents from others. This means in nearly all cases being able to read Microsoft documents. The usual answer is "no, this program (or this computer) only reads some Microsoft documents." In order to enable third party developers, especially application developers, to compete, they must be able show that their customers have real compatibility. Third party software must be able to read and write Microsoft documents formats, and to do this Microsoft must publish it's Office Document formats.

Finally, I am pessimistic about the enforcement of the PFJ as a whole. I believe that Microsoft has consistently, and with full understanding of what they were doing, broken previously imposed restraints on their monopolistic practices. I urge you to develop a strong system of restraints on Microsoft to enforce whatever PFJ is finally imposed.

Sincerely,
Wesley P. Taylor
taylorjnw@earthlink.net
CC:dank@kegel.com@inetgw

MTC-00026027

From: Jackfrew@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:24pm
Subject: Microsoft settlement

This is in support of Microsoft's position re: AOL lawsuit. IA's success in the market has been proven to be based upon morit, not market share.

Stop all the frivolous lawsuits. Let people get back to work developing improvements to their software instead of spending money on lawyers.

MTC-00026028

From: Teruel de Campo
To: Microsoft ATR
Date: 1/26/02 12:30pm
Subject: Microsoft Settlement

do NOT agree
-=terry(Denver)=-
chusty@attglobal.net
AIM: terryXela *** ICQ: 6387625
Date: US: 01/26/02 / Euro: 26.01.02,
Time: 10:31:05

MTC-00026029

From: Jonathan Van Doren
To: Microsoft ATR
Date: 1/26/02 12:29pm
Subject: Microsoft Settlement

I would like to express my opinion about microsoft-THEY ARE A MONOPOLY! If I had another option besides windows I would definitely have taken advantage of it. Their product is poor and their support is terrible-I have never encountered such rude and arrogant behavior from a "service" entity in my life. When I purchased my computer it came preloaded with windows XP, an untested and microsoft-slanted product that has further entrenched their monopolistic powers.

The government's proposed "settlement" is a travesty of justice, and makes me wonder how much compensation the anti-trust division received for it's condoning of anti-competitive behavior.

Microsoft will never change on it's own, and therefore real action MUST be taken-or the justice department will simply be another competitor that bows it's head in defeat. Get more from the Web. FREE MSN

Explorer download : http://explorer.msn.com

MTC-00026030

From: Richard Lambert
To: Microsoft ATR
Date: 1/26/02 12:30pm
Subject: microsoft settlement

As a citizen of USA, it is my firm opinion the terms of the settlement agreement between 9 states and DOJ are fair and good for the nation.

Do no delay in instituting this agreement.

Dick Lambert
461 Dellbrook AVe
San Francisco, CA 94131

MTC-00026031

From: Jim Fritz
To: Microsoft ATR
Date: 1/26/02 12:32pm
Subject: Microsoft is Good

Dear DOJ,

Thank you for settling the antitrust case against Microsoft (MS). The 9 states which are asking for further remedies don't realize that MS has added incredible value to our world by making information technology ubiquitous at an affordable price. The case should be settled as is without further remedies as this is what is best for the consumer and the industry.

Regards, Jim

MTC-00026032

From: r(u)hodg Hodgson
To: Microsoft ATR
Date: 1/26/02 12:34pm
Subject: Microsoft Settlement

MTC-00026033

From: Sam Hummel
To: Microsoft ATR
Date: 1/26/02 12:35pm
Subject: Microsoft Settlement

This sure sounds like he has more than I do and now I don't think it is fair. Why can't we be glad Microsoft made it so easy for the average person to own a computer. If it wasn't for their innovated ideas and boxing things all together, some of us would never have learned to use the internet. If anybody tries to wrap everything together, it is AOL. Once they install their software on your computer, it somehow connects itself to everything....But that is okay because I chose to use that program to access the web. I have free choice to pick and chose what is offered to me. Let me make that decision and not some other company that is just a spoiled sport.

Sharilyn Hummel, Dover, DE

MTC-00026034

From: Walt Wilson
To: Microsoft ATR
Date: 1/26/02 12:38pm
Subject: Microsoft Settlement

From all information available, I find the proposed settlement with Microsoft to be sorely lacking in real hard punitive punishment for the practices of the past, nor has Microsoft shown any remorse for its prior activities. it continues to bundle software with the intent of pushing aside any competition it might face. The proposed settlement does little if anything to level the playing field for competitive software to be given a fair evaluation on the market place. Microsoft has been, and in this citizens opinion, still is in the business of monopolizing the Operating System and Browser software industry. We as citizens should be given a choice as to what we use, but the efforts of Microsoft prevent that from being a viable alternative as all new equipment manufacturers are still forced to load the Microsoft package of OS and Browser of face being shut out of Microsoft's good graces

Walter L. Wilson
132 Rolling Park Drive
Lexington, NC 27295–6810

MTC-00026035

From: Dow McKeever
To: Microsoft ATR
Date: 1/26/02 12:39pm
Subject: Microsoft Settlement

The Microsoft settlement as currently proposed is unfair.

Dow McKeever

MTC-00026036

From: Lesley D. McDowell
To: Microsoft ATR
Date: 1/26/02 12:40pm
Subject: Microsoft Settlement

I think the proposed settlement is bad idea.

-Lesley D. McDowell

MTC-00026037

From: JOHN N GEHL
To: Microsoft ATR
Date: 1/26/02 12:43pm
Subject: Sirs:

Sirs:

I would like to lend my support to the anti trust settlement between the Department of Justice and Microsoft Corp. It seems to me that the provisions of the agreement , while tough, are reasonable, fair to all parties involved, and go beyond the findings of the Court of Appeals ruling. Hopefully, my feelings and support will be given consideration during the review and a determination made that the terms are indeed in the public interest.

Thank you for allowing me to express my feelings on this matter.

John N. Gehl
CC:fin@mobilizationoffice.com@inetgw

MTC-00026038

From: mdjj77@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:44pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Delores Daugherty
P.O. Box 22
26263 Lake Forest Drive
Twin Peaks, CA 92391

MTC-00026039

From: steve.duenkel@worldnet.att.net@inetgw
To: Microsoft ATR
Date: 1/26/02 12:44pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Steve Duenkel
1762 233rd Place N.E.
Sammamish, WA 98074–4452

MTC-00026040

From: bob vinci
To: Microsoft ATR
Date: 1/26/02 12:48pm
Subject: Microsoft settlement

To whom it may concern,

It is time to resolve the Microsoft suit. The settlement is fair in all regards. Only a need to gain the upper hand in the marketplace keep opponents of the settlement motivated. The best interests of the consumer are served by this settlement. There is no need to further strip away Microsoft's ability to compete. It must be noted that the initiation of the DOJ suit coincided with the "bursting of the technology bubble". It is time for the DOJ to help put the economy and free trade back on track.

MTC-00026041

From: mdjj77@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:45pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Michael Daugherty
P.O. Box 22
26263 Lake Forest Drive
Twin Peaks, CA 92391

MTC-00026042

From: Richard Kosvanec
To: Microsoft ATR
Date: 1/26/02 12:49pm
Subject: Microsoft Settlement

I am writing as a concerned citizen who is both shocked and dismayed that a convicted monopolist seem to be getting even more monopoly power handed to them via the justice system.

Microsoft continues to ignore consent decrees, release insecure products, bury, buy or steal from their competition (they call it a "strategic alliance ") and these practices must be stopped.

The biggest insult to the Justice system, Democracy and the American People is that Microsoft actually has a say in what their punishment will be. Since when do convicted felons have a say in their punishment?

My opinion is this should be done:

1) Microsoft should pay back no less than 10% of their highest net worth back to those that have been harmed by the leveraging their monopoly.

2) Pay all of the court costs so taxpayers such as myself are not footing the bill.

3) No more "secret and exclusive contracts" with OEM's. If I do not want a computer with Windows on it, I should not have to PAY for it anyway!

4) All of their "Office" file formats should be opened up. This should not be an option. They can keep their program's source code a secret, however, any data created with those programs should not be subject to the whim of a monopolist. Microsoft seems to forget too quickly that it is my data and my computer, not theirs.

5) Any and all versions of their operating systems that they discontinue support for should have its source code released. Just because they do not support it, does not mean that it is no longer used, and would decrease the "upgrade treadmill" Microsoft is so famous for creating.

6) Along the same lines as #4 —and I can not emphasize this enough— strict adherence to network/Internet/web protocols. No proprietary extensions (Microsoft's version of Java that was Windows only), no co-opting standards (Kerbos) and no drastic changes to break others products (SMB and others).

7) Look at the suggestions submitted to slashdot.org that echo my sentiments and expound even more my suggestions: http://slashdot.org/comments.pl'sid=26726&cid=0&pid=0&startat=&threshold=3&mode=flat&commentsort=0&op=Change

Thank you for your time.
Richard Kosvanec
Athens, Ga.

MTC-00026043

From: The Provident Search Group, Inc.
To: Microsoft ATR
Date: 1/26/02 12:49pm
Subject: Microsoft Settlement

Dear Mr. Ashcroft:

Please stop further litigation against Microsoft. Since they have agreed to a settlement which is in everyones" interest, it makes no sense to harass them further. To do so will be to negatively affect our economy (which US Government actions have already done due to their involvement in this entire matter).

Furthermore, the US Justice Department has largely been responsible for a dramatic decrease in our portfolio value due to the drop in Microsoft stock precipitated by Government actions.

Thank you,
Frederick & Coleen Walther
PO Box 30
West Poland, ME 04291

MTC-00026044

From: LWydock@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:49pm
Subject: Microsoft Settlement

As a retired Federal Employer and Citizen of the US, I feel it is time that the revised Settlement be accepted and move on to more important issues such as in continuing to make the US a strong competitive force in the world economy. This delay is only benefiting our foreign competition. The competition is trying to tie the hands of an innovative company like Microsoft.

Thank You for allowing me to express my opinion on this important issue.

Lawrence R. Wydock

MTC-00026045

From: Faye Patrick
To: Microsoft ATR
Date: 1/26/02 12:49pm
Subject: Microsoft Settlement

Microsoft has supported our Computer Users Group from the time that we started until and including NOW. We appreciate their support and feel that most other companies quit helping groups such as ours. We are ICON Users Group, located in Springfield Missouri. Microsoft comes to our group and demonstrates their newest software and generally helps our group and other groups similar to ours. I feel that they have made using computers much more user friendly than they were in the beginning. ENOUGH IS ENOUGH!! QUIT THE PERSECUTION OF MICROSOFT!

Sincerely,

Faye Patrick Newsletter Editor ICON Users Group Springfield Missouri

MTC-00026046

From: Jamclouds@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:52pm
Subject: (no subject)

Dear Judge,

Although I am a supporter for free markets and free competition, I do not agree that the Proposed Financial Judgement has been effective in circumventing the monopoly that Microsoft has established. Microsoft has clearly violated anti-trust laws and the PFJ has not been sufficient action taken to curb these activities.

I would hope that more can be done in terms of overturning this settlement.

Sincerely,
Sarah Butler
248 Lincoln Street Lexington, MA
CC:stopmicrosoft@yahoo.com@inetgw

MTC-00026047

From: Craig Reisinger
To: Microsoft ATR
Date: 1/26/02 12:52pm
Subject: Microsoft Settlement

Please accept the Microsoft settlement offer.

I believe that this entire matter qualifies as government sanctioned extortion. Microsoft is a business. A business is started to make a product and a profit. No one was forced to choose any Microsoft product.

Like many millions of other consumers I CHOSE to do so—REPEATEDLY. Microsoft made a profit and I have a product I WANTED. Is there even ONE individual who did not have a choice about which product they would use? NO! To argue that they couldn't figure out the technology and use a competing product has no merit. A Cessna pilot has no right to complain that he cannot fly a 767. An automobile driver has no right to complain that he cannot fly a Cessna.

Computers are not toys. They are very complex tools that have become easier to use and more beneficial because companies like Microsoft work very hard to make that happen. Efforts like this suit are counterproductive, immoral, unconstitutional (in my opinion), and wrong!

Craig M. Reisinger
2500 Deer Valley Rd. #421
San Rafael, CA 94903

MTC-00026048

From: chappell
To: Microsoft ATR
Date: 1/26/02 12:57pm
Subject: Microsoft Settlement
John and Susan Chappell
20630 NE 92nd Place
Redmond, WA 98053
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

The settlement reached between the Department of Justice and Microsoft should be enacted at the earliest convenience of the Justice Department. Three years have now passed since the inception of this litigation. Since this time, enormous amounts of money have been spent in pursuing this litigation.

Given the recent recession and decline in budgetary resources, to pursue this issue any further would be a sad waste of funds. Therefore, I urge you to enact the settlement reached back in November.

The settlement works as a barrier against Microsoft's more cutthroat business practices, while maintaining the company's ability to deliver efficient, integrated software to consumers worldwide.

The settlement agreement contains many compromises on Microsoft's behalf. Microsoft has agreed not to retaliate against manufacturers that ship software that competes with Microsoft. In addition, Microsoft has agreed to license Windows at the same rate to the larger PC manufacturers. Finally, Microsoft will also disclose many of the protocols within the Windows system.

In the end, the enactment of this settlement will be beneficial to everyone involved.

Please enact the settlement.

Sincerely,
John and Susan Chappell

MTC-00026049

From: apachyderm@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:55pm
Subject: Microsoft Settlement

Please accept the proposed Microsoft Settlement. Further litigation will only benefit the trial lawyers and a few greedy states attorneys general.

Dale Nelsen
Nampa, Idaho

MTC-00026050

From: Simon Beaver
To: Microsoft ATR
Date: 1/26/02 12'55pm
Subject: Microsoft Settlement

I am writing to submit my comments on the proposed settlement between Microsoft and the U.S. Department Of Justice. For nearly twelve years now, I have worked in the computing industry. For nine of those years I have been a freelance consultant, and have thus been able to observe the activities of a wide range of companies. I have no affiliation either with Microsoft or any of its competitors. For the reasons I shall set out below, I am strongly opposed to the settlement in its existing form. Whenever someone is found to have broken the law, they are subject to sanctions. Those sanctions vary according to the nature of the offence, but in all cases they have three main components. They provide for an appropriate punishment, they attempt where possible to compensate those who suffered as a result of the offence, and they endeavour to ensure that there is no likelihood that the convicted person will re-offend.

Although different weight will be given to different aspects depending on the nature of the offence—criminal or civil, major crime or petty misdemeanour, etc—some aspect of these three elements is always present. What makes the proposed settlement in the Microsoft case unique, is that none of those elements are present.

To take these three elements in order, let us first look at punishment. Clearly, there is no element of punishment whatsoever contained in the proposed settlement. Microsoft have been found to have been operating an illegal monopoly for the best part of a decade, making excessive profits as a result, and yet no punitive sanctions are being imposed. Yet it has long been a golden rule in the law that a criminal must not be allowed to profit from his crimes. Where someone is convicted of drug-dealing or fraud or gun-running, the courts quite rightly seize their assets. If a murderer seeks to profit by writing a book about his crimes, the law steps in to ensure he cannot make money from his notoriety. Yet in this case, the law seems perfectly happy for Microsoft to profit from their illegal activity. Despite the clear fact that this money was obtained, at least in part, by unlawful means, no action is to be taken. This seems to me wholly incompatible with the basic principles of natural justice. Microsoft have made money illegally, and they should not be allowed to retain it.

The proposed settlement is equally silent on the subject of compensation of victims. Now clearly in this case, the facts make it hard to ascertain exactly the extent of the loss suffered by any given party. Yet it is clear that there have been victims of the Microsoft monopoly. Companies like Digital Research and Netscape have been demonstrated to have suffered directly as a result of Microsoft's actions. Yet the proposed settlement is completely silent with regards to any form of redress.

On the face of it, the settlement seems primarily directed at the third element described, that of preventing the possibility of re-offending. Yet even here, despite that focus, the settlement is sadly lacking. Indeed, far from demolishing Microsoft's illegal monopoly, it seems rather to entrench it in place. Furthermore, the vagueness of the language makes it almost certain that confusion and further litigation will arise. I have a law degree myself, and I can recognise potentially litigious drafting when I see it. The proposed settlement is riddled with such language.

To take just one example, section III C 2 states that Microsoft shall not restrict an OEM from : "Distributing or promoting Non-Microsoft Middleware by installing and displaying on the desktop shortcuts of any size or shape so long as such shortcuts do not impair the functionality of the user interface."

How does the court propose to define impairment of functionality ? Does replacing Microsoft functionality with equivalent non-Microsoft functionality count ? Does changing the look and feel of the desktop constitute impairment ? Would modifying permission levels or unhiding hidden files or directories count ? This kind of language permeates the proposed settlement, and is wide open to abuse and distortion. Furthermore, no part of the settlement actually addresses the problem of how to dismantle the Microsoft monopoly. The proposed settlement might be fine had it been enacted ten years ago, before Microsoft's monopoly had been established. Yet the monopoly is here, it is well-established, and different remedies are required, ones which actually encourage competition and actively seek to break up the existing distorted marketplace.

It seems to me that there are two key elements to this.. The first is to ensure that competing companies cannot be shut out of the marketplace, and the second is to ensure that consumers are able easily to migrate between Microsoft and non-Microsoft products as easily as possible. The proposed settlement goes some way towards this with its sections on OEM licensing, but this on its own is by no means enough.

To take a prime example, one of the major ways in which Microsoft locks in customers and excludes competitors is through the use of proprietary file formats. The .doc files of Microsoft Word, the .xls files of Microsoft Excel, and so on. Although there are some competing products which do a reasonable job of handling these formats, none are able to do so perfectly. A consumer, especially a large business, which has a large body of information stored in files of this type is therefore deterred from moving to a rival by the costs involved in converting from one format to another.

If the proposed settlement required Microsoft to disclose the specification for these file formats, in addition to the disclosure requirements contained in the existing proposals, then companies would be able to produce products which handled these files correctly, and consumers would be able to switch between Microsoft and non-Microsoft products at will, and could mix and match as it suited them. Possibly they might retain the Microsoft product to handle spreadsheets, but use a competing company's word processor. The important thing is that consumers would have a genuine choice, since all products would be able to handle their data.

Perhaps the most worrying aspect of the current proposed settlement is the large number of exemptions it provides for Microsoft. Microsoft gets a number of exemptions from the proposed provisions on grounds of security, anti-piracy, remote administration and various other headings. Taken together, they provide the means for Microsoft to exempt practically everything it does from the provisions of the proposed settlement. It is surely no coincidence that Bill Gates has started making speeches about how security comes first, and how security will be built into everything the company does from now on. If security is an integral part of everything Microsoft does, then everything Microsoft does can be exempted from the terms of the settlement.

Whilst it is clear that the motive behind these exemptions is a noble one, in practice they are so wide as to render the settlement worthless. In my opinion, Microsoft has forfeited the right to this kind of consideration by dint of its long history of unlawful activity. The most important thing now must surely be to ensure that competition is introduced into the marketplace, and that Microsoft has no way to continue its illegal monopoly.

In a related matter, it seems clear to me that the access provisions specified by the proposed settlement need to be radically expanded. In particular, the definitions need to be adjusted to include those companies and individuals producing products for non-Microsoft operating systems which might need to interact with Microsoft products. Provision III J 2 which allows Microsoft to determine the authenticity and viability of a business, is particularly dangerous in this respect.

Microsoft's hostility to open source and free software developers is well known. One Microsoft executive even went so far as to describe them as un-American. By allowing Microsoft to exclude developers simply because they operate on a different business model, the settlement does much to restrict one of the most vibrant and expanding areas of computing, and guarantees that a large number of legitimate users and developers are excluded from benefitting from the settlement provisions.

In summary, then, let me say this. I have neither the time nor the expertise to fully draft a proposed settlement of my own, but it seems to me that there are certain key elements that are essential if the proposed settlement is to effectively dismantle the Microsoft monopoly and introduce genuine competition.

1. Tighter drafting, with far fewer loopholes and potentially litigious language.
2. Actively seeking to promote competition and encourage consumers to exercise choice.
3. Reducing the costs inherent in converting between Microsoft and non-Microsoft products.
4. Removing the exemptions which would allow Microsoft to preserve its monopoly.
5. Ensuring that all business, whatever their nature, have access to the information they require to compete effectively.

There is one final matter which I would like to touch on. In the discussions that have occurred since the proposed settlement was published, a new word has been invented. That word is "Seattlement". As is doubtless obvious, it has arisen because the proposed settlement is seen as having been drafted by Microsoft for their own benefit, without any regard to the actual merits of the case. If the court imposes this settlement unmodified, it will be seen around the world as having capitulated utterly to Microsoft, and to have failed completely to regulate its behaviour or dismantle its monopoly. The Department of Justice will be seen as either completely ignorant of the realities of the case, or more likely as having been bought and paid for by Microsoft and its lobbyists.

The law is the law, and if it is to mean anything, it must apply equally to everyone. Justice must be done, and must be seen to be done. Rich and poor, large or small, all need to have equal protection under the law, or the law becomes meaningless. If this settlement is approved un-amended, it will send the signal that justice in the United States is a commodity. The more you can afford, the more you get. No money, no justice. Surely this is not the message that the court wishes to send to the American public, the American business community, or the world. So in conclusion, it is my belief that this settlement is fundamentally flawed and needs almost complete re-drafting. Not only does it do nothing to damage Microsoft's unlawful monopoly, it actively enshrines that monopoly in law. It doesn't serve the consumer, it doesn't serve the software industry, and it doesn't serve justice; it benefits only Microsoft. For the first time, the law will create a situation in which the criminal is not only allowed to benefit from his crime, but to keep on benefitting from it with the full protection of the courts.

Simon Beaver
Managing Director,
Sternmetal Horizons Ltd.

MTC-00026051

From: HARRBET2@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 12:58pm
Subject: Microsoft Settlement

January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I think it is a shame that the settlement in the Microsoft case was not reached years ago. If the suit had to be brought at all. Microsoft is a successful company, which has led the world into a new era, improved the balance of trade, improved efficiency, and increased the ease with which ordinary people use technology. There have always been choices for people who prefer to use non-Microsoft products. Apple has made its own products-both hardware and software-for anyone who wants to get locked into that single, closely guarded system. Or someone could have tried to use a Unix system at home. But people wanted to use Windows. Microsoft has always been honest and conservative in its financial dealings. Why should we tear Microsoft apart, when it has been so beneficial?

To bring a close to this very distracting and expensive suit, Microsoft has compromised a great deal of its rights. Internal interfaces and server protocols of Windows will be divulged publicly. Exclusive marketing agreements will be allowed to lapse. The Windows desktop will be made fully re-configurable by non-Microsoft companies. Software experts in a technical committee will observe Microsoft's conduct, software and practices with an eagle-eye. This is heavy stuff. Microsoft has not gotten off lightly at all. Only by returning its focus back to accelerated innovation, as directed by its founder, Bill Gates, can Microsoft continue to survive and lead as it has done so well in the past.

The best interests of the American computer sector and the American economy as a whole will be served by the Federal Court's approval of the settlement. Please support this settlement, Mr. Attorney General.

Sincerely,
Betty Harrell
8215 S.W. 82 Place
Miami, Florida 33143
CC:fin@mobilizationoffice.com@inetgw

MTC-00026052

From: Jurrinus ten Brinke
To: Microsoft ATR
Date: 1/26/02 12:59pm
Subject: Microsoft Settlement

The question is will we be better off?

I am an avid Microsoft developer for many years. There is a reason for choosing Microsoft and that is they are the best game in town and always have been. They make it possible for me to develop products for my clients that make their computers usable. Their products put us in the lead. If I had to develop the same products using Sun the cost to my client's would be much higher.

This battle between Microsoft, Netscape, Sun, Oracle is nothing but a bunch of overgrown kids wanting to be the best. You cannot tell me that this antitrust will be over once we punish Microsoft. Downgrading Microsoft at this time will create a vacuum were these other companies can move into. That's what they want. They can't do it in the market place so they are letting the government do their work for them. Don't put your antitrust arguments away cause you will need them again. The end result will be a software industry in ruins. Want examples just look at the airline industry and the telephone industry and tell me we have done well. Have they made it easier for me to fly and make phone calls. What a mess.

Lets stop this now cause your wasting my tax dollars and lets move on. As long as Microsoft returns their profits back into our society through better products and charity, keep their prices and license cost within reason then let it be.

Jerry

MTC-00026053

From: GBauer4966@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:00pm
Subject: Microsoft Settlement

Stop trying to destroy Microsoft. It is good that here is a standard type system so programs are compatible.

MTC-00026054

From: GEORGE D FRENCH
To: Microsoft ATR
Date: 1/26/02 1:02pm
Subject: microsoft settlement

Enough is enough. The trial has cost the public enough of our taxes. To further spend taxes because some companies have not been smart enough to compete is to further their lack of competition in a highly competitive field. I feel that the states are suing only to try to get some of Microsofts funds, not because the states have been harmed.

Thank you. George French.

MTC-00026055

From: NKozimor@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:03pm
Subject: Microsoft Settlement

Dear D. O. J. Representative:

I find it maddening that in this time of recession and war, the United States Justice Department has nothing better to do then to waste our money on pursuing a frivolous law suit that was brought on by politics and soft money! How foolish we must look to the rest of the world!

Nick Kozimor
Mansfield, Ohio

MTC-00026056

From: Lynn and Nancy Trowbridge
To: Microsoft ATR
Date: 1/26/02 1:02pm
Subject: Microsoft Settlement

Dear Sir: Attached please find a letter in relating to a case currently under review in your office. I appreciate your careful consideration of my opinion regarding this case. The letter is in Microsoft Office97 Word format.

Very truly yours,
Lynn M. Trowbridge, Ph.D.
1211 Ames Hill Road
Brattleboro, Vermont 05301–4254
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to address the recent decision reached by Microsoft and the Department of Justice. As everyone is aware, the Department of Justice brought an antitrust suit against the company. I am now retired, but my professional life was spent as a software programmer/manager contracting services to the Federal government in Washington, DC I am well aware of the quality of computer products and believe my comments to be relevant.

Microsoft produces the best commercially available operating system in the country. There are other companies that offer, in my opinion, better software products in other categories, and I am free to use them as I see fit. Microsoft, while it dominates part of the market, dominates that part because it produces a number of excellent products. It does not dominate the entire software market. To punish a company because they make quality products is uncalled for and unwise. Microsoft has contributed mightily to this country's understanding of computers, making them accessible to the average layperson, and, in return, the company has profited. This is entirely in keeping with the American free-market system.

I am happy to see that Microsoft will not be broken up under terms of the settlement. In my opinion, however, Microsoft is being suitably punished for alleged unfair practices. The company is disclosing internal interfaces and protocols to competitors, agreeing not to retaliate against software developers who develop or promote software that competes with Windows, and forming a three-person team to monitor compliance with the settlement.

Although the court decisions are perhaps flawed and the punishments may not be fully justified, immediate settlement of these suits is definitely in the best interests of the public. I take a strong stand against further litigation and hope the government will bring the recently reached settlement to fruition and move on to the solution of other more important national problems.

Thank you.

Sincerely,
Lynn M. Trowbridge, Ph.D.

MTC-00026057

From: Demetrious(u)Harrington
To: Microsoft ATR
Date: 1/26/02 1:04pm
Subject: Anti Trust Case

Hello,

I do believe that the proposed settlement is nothing but a slap on the rists to Microsoft. There is nothing that really limits the stregth of the monopoly. The charges that brought Microsoft to court will not be resolved at all I believe.

demetri

MTC-00026058

From: jan smith
To: Microsoft ATR
Date: 1/26/02 1:04pm
Subject: Microsoft Settlement

I agree with the settlement agreement made between DoJ, 9 States and Microsoft. Please settle it and get on with life.

Thanks for considering my opinion.

mjann@home.com

MTC-00026059

From: Ray Petrone
To: Microsoft ATR
Date: 1/26/02 1:05pm
Subject: Microsoft Settlement

Dear Attorney General Ashcroft and Ladies and Gentlemen:

Let me start by quoting verbatim from Section 3. of the Complaint against Microsoft as posted: "There are high barriers to entry in the market for PC operating systems. One of the most important barriers to entry is the barrier created by the number of software applications that must run on an operating system in order to make the operating system attractive to end users. Because end users want a large number of applications available, because most applications today are written to run on Windows, and because it would be prohibitively difficult, time-consuming, and expensive to create an alternative operating system that would run the programs that run on Windows, a potential new operating system entrant faces a high barrier to successful entry."

Yes, there are high barriers to entry in the market for PC operating systems just as there are barriers in the auto manufacturing industry and others. Yes, I understand that there are several major competitors there but General Motors was the dominant player until GM's lack of vigilance and natural free market forces changed that situation over the last one or two decades.

Oracle has enjoyed a somewhat different but similar position in the market for corporate databases. The issue of applications was similar but the advancement of middleware and market demand for an abstraction layer for access has leveled that playing field. UNIX and its variants were supposedly going to be the only viable operating system of the future. Linux still thinks it is viable and even superior but the public by and large doesn't seem to agree despite the protestations by Linux authors and advocates claiming plenty of applications. Finally, many feel that AOL (including the Netscape merger entity) may have a similar market position which may be the ultimate irony since their Netscape subunit was a prime influence in this suit being brought against Microsoft. I have heard AOL customers say they feel trapped by simple things like their email address on AOL known to their friends. Recall that AOL doesn't providing a forwarding service like phone companies and the US Mail Service (shouldn't they by law?).

I feel you give far too little credit to natural market forces in your evaluation of evidence and make far too much of what little evidence I have seen or read. Have you no faith in our free market society as prescribed by law? And you give far too much credit to a few snippets of emails out of tens of millions of words calling them a pattern of abuse and misconduct. Have you considered that it is our free market system that has created the giant software company known as Microsoft through natural selection of the vast majority of commercial and home customers? It is yet another irony that the DOJ was able to create a successful case in part because it uses Microsoft products that enhance productivity and collaboration. And is it not evident that application developers prefer to write applications to a single platform or interface. Indeed, there are still many companies fairing quite well by writing non-portable applications to COBOL on IBM's former MVS platform. Please recall the near revolt in the 70s when IBM switched its commercial customers (were no home customers then because there was no Microsoft DOS or Windows) from IBM DOS to MVS as the new Mainframe standard? Some customers switched to competing vendors. Some swore to get revenge no matter how long it took while others made the move kicking and fighting because of the mountain of work needed to port applications and JCL.

Moving on to Section 5. of the Complaint—verbatim text is here for reference: "5. To protect its valuable Windows monopoly against such potential competitive threats, and to extend its operating system monopoly into other software markets, Microsoft has engaged in a series of anticompetitive activities. Microsoft's conduct includes agreements tying other Microsoft software products to Microsoft's Windows operating system; exclusionary agreements precluding companies from distributing, promoting, buying, or using products of Microsoft's software competitors or potential competitors; and exclusionary agreements restricting the right of companies to provide services or resources to Microsoft's software competitors or potential competitors."

Your case for tying seems weak at best, I think the Appeals Court said that before me. There were times when Microsoft had to work hard to disengage agreements involving "BUNDLING ", at the OEM's request, (not tying) Windows and Office. Competitors like Compaq and HP cried foul and I have seen the email and such complaints personally. I fail to see where you proved the rest of the allegations in this section but let's assume that you did since the courts would seem to agree and that is the way our system works. Let's set aside the lower court Judge's misconduct as well.

Moving on to Section 10. of the complaint and I quote again verbatim: "10. To respond to the competitive threat posed by Netscape's browser, Microsoft embarked on an extensive campaign to market and distribute Microsoft's own Internet browser, which it named "Internet Explorer" or "IE." Microsoft executives have described this campaign as a "jihad" to win the "browser war."

Yes, they did, didn't they. I heard it personally. And John Young at HP and Larry Ellison at Oracle and Scott McNealy at SunMicrosystems Steve Jobs of Apple and countless others have used equally eyebrow-raising "battle cries" that incorporate words such as "crush, kill, demolish, life-and-death struggle" and so on. Perhaps it isn't in good taste, particularly after events of this past year. That could be debated endlessly. This is done so routinely at American Corporate Sales Meetings that it makes this citation almost laughable. Such invocations are meant to be motivational and that is obvious to even the most casual observer. Occasionally, some poor soul might take to levels only expected from a cult member. Microsoft's employee handbook specifically warns employees not to engage in unethical or illegal acts when competing with termination as the consequence.

The difference between corporate euphemisms like these and statements by governments is this. When governments speak of killing that is precisely what they mean. If you wish to represent the American people fairly then please refrain from such citations in the future. I believe the DOJ should tone down the rhetoric and make better use of its time and our money. One could dissect each section of the complaint, findings and judgment of the Appeals Court but then that individual would be guilty of over-pursuing this matter in the same way that has been done by the DOJ in my humble opinion. Ladies and gentlemen, the "foul" that has alleged just isn't felt by the majority of the public, or if it were, individuals would rush in droves to Linux and its followers who claim application compatibility without any significant reservation.

I cannot finish without commenting on one section of the Competitive Impact Statement (from the Overview of Relief) .-.-. (Microsoft) .-.-. 1) undertook a variety of restrictions on personal computer Original Equipment Manufacturers ("OEMs"); (2) integrated its Web browser into Windows in a non-removable way while excluding rivals; (3) engaged in restrictive and exclusionary dealings with Internet Access Providers, Independent Software Vendors and Apple Computer; and (4) attempted to mislead and threaten software developers in order to contain and subvert Java middleware technologies that threatened Microsoft's operating system monopoly. Here is a point-by-point response:

1) Maybe. So far, this is a so-what since Contracts are restrictive by definition from my recollection of Business Law.

2) Integrated its browser in non-removable way? Similar to the radio in my car? No. It's easier to add a browser than a new radio and much cheaper as in "free" thanks to free enterprise, Microsoft and the former Netscape now part of AOL.

3) In the matter of Microsoft's dealings with Apple, let the record reflect how Microsoft kept Apple financially viable with loans ($350M?) and the last version of Microsoft Office for the Mac.

The latter charitable act made, at best, only modest economic sense for Microsoft from what I can.

4) Our IRS in very simple matters involving small sums probably routinely usurps its power far more than the instances I have seen the DOJ cite. As for subverting Java middleware, you give too much credit to Microsoft and too little to SunMicrosystems from what I hear from dozens of developers I know. At long last in conclusion, I urge you to take the settlement as it stands and move on. Yes, it would have been nice to have another billion in software, services and so on for our poorest schools but we've lost that chance, haven't we. We will have to count on the oft-demonstrated philanthropy of Mr. Gates and Microsoft employees and Alumni to make up for that loss and, to an extent, they will although the concentrated consulting assistance will be hard to replace with a volunteer effort. (Are there plans to investigate the illegality of all corporate donations to schools where a smaller competitor is a vendor?) Again, please just move on and count this one in the win column at your press conference.

Sincerely,
Raymond Petrone, P.E.
Concerned Citizen
Diligent Taxpayer
Honorably Discharged Member of the Armed Forces
Vietnam-era Veteran
Donator of Time to Georgia's Universities (partly from the knowledge gained at Microsoft)
Former Microsoft Employee

MTC-00026060

From: Billy J. Fite
To: Microsoft ATR
Date: 1/26/02 1:05pm
Subject: Microsoft Settlement,

To who it may concern,

The suite, against Microsoft should not have happened,at all.

The suite was not in the best interest,of the general public, and the government, businesses, of all kinds, earthier.

It is not Microsofts fault, that they are way ahead of there competitors,and get there product on the market, before the others do.

If it had not been for all of the smart people,at Microsoft, in getting there technology,in the soft wear world, where would we all be today,with our computers etc., if we had to wait on the other soft wear people, to get the products on the market to us?We would be years behind,in getting this soft wear, for our computers.

The suite, against Microsoft was just a way for a lot of people to get there hands on money,that they DID NOT EARN,because they were so far behind in there planning and thinking, that they could not keep up, with the smarter people, that Microsoft had the smart to hire, that was superior people in laying out the programs, for Microsoft.

So get off of your DUFFS, and throw out this OUTRAGEOUS SUITE, for it has cost everyone a price,in some way, and it is stupid.

I do not think, that you should punish anyone, for there progress, just because the others, are not SMART ENOUGH to keep up. The faster that we can get, the kind of products,that Microsoft brings to the market place, the more it helps all of us, to advance, faster in the growth of our businesses, so we can get our products to the market place faster and cheaper, and that saves us all money, and can have a larger turn over, and maybe put more people to work,which puts more money in the hands of more people to have more buying power, for there families,and that is what keeps our economy turning, at a safer, and easier pace.

For the betterment of our Country, and all the people,Throw the thing out, and DROP All Charges,and get back to Business, for this thing has not only cost Microsoft a lot of money,but also all of the people, that use and need there kind of products,and will just drive the price of the products up, to the people because of the cost, of all of the special interest people,trying to make a fast buck,off of some one elses progress,because it is just like all of the BULL,that was brought on the Tobacco Industry,and has cost us all dearly, in higher prices and TAXES and the money made on that deal, never ends up in the hands of the hospitals, etc., to treat sickness so called cause of some of the peoples sicknesses.

What kind of Bull are we going to come up with NEXT,that will cost the people, while it makes all of the Lawyers and others RICH. So DROP It.

Sincerely,
Billy J. Fite

MTC-00026061

From: Lee Murdoch
To: Microsoft ATR
Date: 1/26/02 1:05pm
Subject: microsoft settlement

I am very much in favor of completing the Microsoft settlement. I am an Apple computer user and Apple has been injured in the past—but that has been settled and both have moved on. Sun, Oracle, and AOL need to move on—create some value for their customers. Poor AOL with 30 million subscribers!

Meanwhile Microsoft continues to bring useful affordable software to market despite all of the sideshow.

Our economy is struggling, we have apparent outlaws running an energy company in Texas and and an auditing profession in serious need of repair and reform. Seems like the Microsoft situation pales in comparison. They make good products, they take care of their employees and sponsor philanthropic endeavors around the world. Maybe just not enough in Washington DC!

Seems like the DOJ needs to re-focus—and perhaps help the courts to do the same.

Lee Murdoch
205 Mariposa
Medford, OR 97504
CC:Diana Murdoch

MTC-00026062

From: Tomlinson David C4C CS14
To: Microsoft ATR
Date: 1/26/02 1:07pm
Subject: Microsoft Settlement

The proposed settlement is a bad idea.

MTC-00026063

From: Gordon Haverland
To: Microsoft ATR
Date: 1/26/02 12:47pm
Subject: Microsoft Settlement

Hello,

I suspect you are getting a lot of feedback from non-US citizens, as this proposed settlement does effect people outside the United States. I am a Canadian.

I've read a lot about various peoples opinions of the proposed settlement, both learned and popular. I tend to agree that the proposed settlement will be ineffective. I can also see the point where structural remedies may not work either.

I believe that Microsoft has amply demonstrated over the years, that it is never happy having a partial share of any market. It has run roughshod over numerous businesses and industries, all in a quest to "own" the market. At present it has 90+% of the PC operating system market and probably 90+% of the "office suite" market. It has a major portion of the business networking market (services offered by NT to business LANs). It has entered the information market by forming a partnership with NBC, the Personal Digital Assistant (PDA) market, the home consumer game market. It seeks to enter the music market and the Internet services (.NET) market. And those are just the markets that come to my mind, there may be more. Even with "just" those markets, if Microsoft follows past practice and grows to effectively "own" all of those markets; are there any governments strong enough to control their actions any more? I don't think so. I think the effort has to be made here and now to effectively rein in this behavior of Microsoft.

I think there are two things that need to be done. Microsoft has made a LOT of money by bullying companies. Someone has proposed numbers, but I think if we said something on the order of $100 billion (10 − 11) US dollars, we would be close. I think Microsoft should be fined that much money; to demonstrate to all that it should not be allowed to keep the proceeds acquired by abusing a fair market. Also, I think a definite limit should be placed on Microsoft (and others) as to just how large a market share they are allowed to acquire in a market which has (or had) competitors. Being an engineer/scientist at heart, I'll pick exp(-1) (approximately 37 percent) as a limiting fraction, but I can even see arguments for allowing more than 50%, where I would suggest exp(-0.5) (approximately 61%) as an appropriate limit.

Thank you for your time.

Gordon Haverland, B.Sc., M.Eng., P.Eng.

MTC-00026064

From: Cam Taylor
To: Microsoft ATR
Date: 1/26/02 1:08pm
Subject: RE: Microsoft Settlement

Deadline Looms for Public Comment

Next Monday, January 28, 2002 is the deadline for submitting my opinion to the Department of Justice on the antitrust settlement between Microsoft, the DoJ, and nine states.

While the terms of the settlement are tough, Microsoft and I believe they are reasonable and fair to all parties, and meet ? or go beyond—the ruling by the Court of Appeals, and represent the best opportunity for Microsoft, the country and the industry to move forward.

Even though the DoJ, 9 states, and Microsoft have agreed on the terms of the settlement, I realize final adoption is not guaranteed. Many of Microsoft's competitors, as well as some of the Attorneys General who did not join the settlement, oppose the agreement and have worked during this period to generate public comment urging that it be rejected.

I urge that the DoJ approve the settlement and this matter be put behind us. Thank you for your consideration.

Cam Taylor, 6577 Upper Lake Circle, Westerville, OH 43082–8126.
ctaylor@ee.net

MTC-00026065

From: RICK MARCINIAK
To: Microsoft ATR
Date: 1/26/02 1:09pm
Subject: Microsoft

Let's get on in life. Settle the damn thing. No company has done more for America the past 10 years. The vote was 41 states for and 9 against. That speaks for itself. There is never a deal that all sides agree on.

I'M FOR MICROSOFT !

MTC-00026066

From: Robert Winterhalter
To: Microsoft ATR
Date: 1/26/02 1:11pm
Subject: Microsoft Settlement

As a member of the IT industry, I can only say that I am concerned with the proposed settlement in the Microsoft Antitrust case. It disturbs me greatly because it doesn't seem like it does anything to either a) actually curb Microsoft of their illegal activities, or b) make any effort to correct what their abuse of monopoly power has done to the computing industry. In fact, the proposed settlement seems more like an affirmation that their abuse of monopoly power is okay. What disturbed me most during the whole trial was Microsoft's unwavering assertion that they never did anything wrong. Further, the proposed settlement seems like it would only aid Microsoft in its continued abuse of monopoly power.

Thank you for taking this into consideration.

Robert Winterhalter
Microcomputer Support Specialist II
Eastern Michigan University

MTC-00026067

From: Lawrence Day

To: Microsoft ATR
Date: 1/26/02 1:11pm
Subject: Microsoft Settlement
To: United States Department of Justice
From: Lawrence Day, 1539 W. George St.
Chicago, IL 60657

As a concerned citizen, I strongly recommend everyone involved in the Microsoft case, to put an end to the lawsuit by accepting the proposed settlement. It will do so much for all communities, especially those who need it most. I do not understand why these nine states, where other main software companies are located, continue their pursuit of Microsoft. The longer this goes on, the longer it will take to help the children the settlement is suppose to help. It will also save American tax dollars.

Litigation is expensive!

Microsoft has done a lot for me personally. It has given me the ability to spend more time with my family by making it easier and faster to do the paperwork required at my job. It used to be so burdensome. Now by using Microsoft Office, I can automate some of it. I can't understand how myself and other consumers have been hurt by this company.

Please relay this information to the Judge and any other parties that can help.

Thank you very much.

Sincerely,
Lawrence Day

MTC-00026068

From: Betty H meng
To: Microsoft ATR
Date: 1/26/02 1:11pm
Subject: Microsoft Settlement

Let's get the real meaning in ALL anti-Trust cases—The market place is where these companies must and should compete—NOT IN THE COURTS— Microsoft wins with consumers—making a farce out of these anti-competitive lawsuits !!!!!!!! the Wall Street Journal said the biggest asset AOL has is what AOL hopes to get from suing Microsoft—I hope our legal system will throw this case and any others OUT and bring status back to our legal system.

Thank you—Brig Gen William J Meng, (USAF Ret)

MTC-00026069

From: AAddon343@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:14pm
Subject: Microsoft Settlement

I totally disagreed with the Government's unnecessary and unwarranted prosecution of Microsoft in this case. Microsoft was just being competitive and the other companies couldn't compete and were sore losers. It is a perfect example of the Government run amok.

However, since Microsoft and the Government have agreed to settle, it is probably the best possible deal for all concerned. Further litigation would only prove to be counterproductive and will only drag the issue out for innumerable years to come. Therefore, I support the settlement, not because it is the right thing for Microsoft to do, but it will get this absolutely silly prosecution behind them.

Anthony Addonizio
AAddon343@AOL.com

MTC-00026070

From: TL
To: "microsoft.atr(a)usdoj.gov."
Date: 1/26/02 1:19pm
Subject: Microsoft Settlement

DOJ,

Microsoft has owned up to its end of the bargain and shown in good faith to come to an acceptable bargain. I think what bothers me most is the fact that our great nation was built on the prospect of business and the freedom to conduct that business in a free nation. We've come a long way in industry from seeking mere quantities to focused quality. Microsoft products are used in just about every aspect of business and government today. It's not because it's the only game in town, but rather the quality it offers to customers. Would be fair to say that any corporation in competition with each other are obligated to have its competitors products included? The consumer has choices, choices built on the principles of freedom. The settlement is fair and for all parties involved.

MTC-00026071

From: reddog@stonemedia.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:12pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
David Dace
72 Sobrante Rd
Belton, TX 76513–6566

MTC-00026072

From: pastordrdave@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:13pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
David Moseley
667 Sunrise Dr.
Phillipsburg, KS 67661

MTC-00026073

From: Dan Mayer
To: Microsoft ATR
Date: 1/26/02 1:18pm
Subject: Microsoft Settlement

'While the terms of the settlement are tough, they are reasonable and fair to all parties, and meet -or go beyond—the ruling by the Court of Appeals, and represent the best opportunity for Microsoft and the industry to move forward.'

Thank you!
Dan Mayer

MTC-00026074

From: Jennifer Bergens
To: Microsoft ATR
Date: 1/26/02 1:17pm
Subject: Dear Sir or Madam.

Dear Sir or Madam,

I wish to express my disapproval of the proposed settlement with Microsoft.

Sincerely,
Jennifer Oquist

MTC-00026075

From: Ruth Swern
To: Microsoft ATR
Date: 1/26/02 1'18pm
Subject: Microsoft Settlement
856 KILMER LANE
NORTH WOODMERE, NEW YORK 1158 1
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear My. Ashcroft:

I think the recent antitrust settlement between the US Department of Justice and Microsoft is fair and just. I also think it is in the best interest of the states, the IT sector, and the economy to have this issue settled and allow the government to focus on more important issues such as education and security..

Under he terms of the settlement them are a couple points I strongly agree with. One forming a three-person team to monitor compliance with the settlement, and two, disclosing internal interfaces to competitors of Microsoft; these the aspects of the settlement will punish Microsoft sufficiently and ensure that competition is increased in the marketplace.

I sincerely hope that opposition subdues quickly because I look forward to seeing new products and service from Microsoft, a company that has led the technology industry and grown at rapid mtc over the last decade. Thank you for your time.

Sincerely,

MTC-00026076

From: Andrew Morrisey
To: Microsoft ATR
Date: 1/26/02 1:17pm
Subject: Microsoft Settlement

I am very concerned that this settlement has gone on for nearly four years and may still be at risk of not being resolved in a timely manner.

I have been involved in the Information Technology industry since 1981 and have seen significant advances and innovations over the years from all major vendors such as SUN, Oracle and Microsoft. I have also seen technology help advance large enterprises, governments, health and industries in such fashion to enable them to increase productivity, decrease operating expenses, increase partner interactions and improve corporate America. More importantly Information Technology has made a very positive impact on the economy in North America and abroad.

However; this legal case has severely impacted many businesses and people around the world by diverting our attention to brace for major un-necessary changes to one of the key players in the industry (Microsoft). This case needs to be resolved quickly and fairly so we can "Get on with business" and begin to focus our attentions on stimulating the economy back to normal in a very different America.

I have read the latest settlement and I believe it is fair and reasonable to all parties involved and I am looking forward to a final settlement in a timely manner.

Andrew Morrisey, I.S.P.
Vice President, Atlantic Region
Qunara Inc. (formerly The EXOCOM Group Inc.) & Microsoft Developer Network (MSDN) Regional Director, Atlantic Canada
* Voice: 902-491-4480 * Fax: 902-422-8901
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MTC-00026077

From: Ric Denton
To: Microsoft ATR
Date: 1/26/02 1:19pm
Subject: Microsoft Settlement
—A consumer view

Dear Judge Kollar-Kotelly:

The following are my own personal views as a regular user of Microsoft application software (Microsoft Outlook, Word, PowerPoint, Excel). The details provided below lead me to make the plea that Microsoft should not be able to use its Operating System Monopoly to freeze out competing application software packages. This means that any settlement needs adequate legal enforcement teeth to ensure the viability of competing application software packages. To accomplish this, there likely needs to be a true "wall" between the Operating System group and the Microsoft applications groups, or even a company breakup to ensure needed competition in applications software.

My view is based on some very simple and obvious considerations. Specifically, I am constantly dismayed at the poor quality of key features in Word, PowerPoint, and Excel. Their drawing packages in these applications are definitely not WYSIWYG (What you see is what you get.) This leads to countless wasted hours to do draw and paste, and redraw and repaste, to arrive at acceptable results. The documentation (Help functions) on these packages is also deplorable. If Microsoft chooses to publish such deficient software, that is of course their choice, but it dismays me that viable alternatives are not available. In the real world no application software developer is able to fairly compete with the Microsoft juggernaut, given the operating system monopoly that Microsoft enjoys.

It is my opinion, based on both the above reality and on my following of the news, that Microsoft will continue to exploit its operating system monopoly as it launches into new applications areas. I gather that these problems fall under the category of "bolting" of operating system/application software.

I have also read that there are related issues in Microsoft's use of hidden controls in their middleware. Further, I have read that Microsoft has communication protocols embedded in their operating software or middleware that would freeze out competition. I do not have the expertise to evaluate this, but these are the kind of practices that would give Microsoft an unfair competitive advantage.

Any application software developer would need the same access to operating software, at the same time, as Microsoft-internal developers if there is to be a level playing field. It strikes me that this is the minimum requirement that should be expected.

Thank you for the opportunity to express my views as part of your deliberation process.

Sincerely,
Richard V. Denton rvdenton@earthlink.net
CC:microsoftcomments@doj.ca.gov@inetgw

MTC-00026078

From: David Turover
To: Microsoft ATR
Date: 1/26/02 1'19pm
Subject: Microsoft Settlement

To all whom it may concern,

I wish to express my displeasure with the weakness of the proposed settlement in the Microsoft antitrust case.

I am a 22 year old student majoring in Computer Information Science at junior college. I have been a computer user since the age of 6, and have been aware of the computer industry since 1995. I have used Microsoft products and consider them generally well developed, and I have also used alternatives to Microsoft's products including BeOS and Linux. I currently use a variant of the University of California's BSD Unix operating system and maintain my parents'' Windows 98 based computers. I have had no employment by nor relations with Microsoft or its competitors other than having been a user of their products.

Microsoft has committed certain crimes for which Microsoft should be punished. These crimes have harmed competitors of Microsoft, and consumers have been harmed by the lack of innovation due to the unnatural downfall of Microsoft's competitors. Although some or many of Microsoft's competitors would have failed in the free market without any illegal actions needing to be be taken by Microsoft, the eventual natural failure of any of these companies should not relieve Microsoft of punishment for using illegal methods to hasten their downfall.

Microsoft has a long history of using illegal, immoral, and disreputable acts to deprive its competitors of the right to compete in a free market. When the government has attempted to enforce its laws by binding Microsoft to agreements to not break the law in certain ways that Microsoft had broken the law, Microsoft has then broken the law in other ways and claimed innocence because the contracts did not explicitly forbid breaking the law in this particular new way. Without any reasonable threat of serious punishment, all further such contracts are certain to be flouted in the same manner, and the failure of the government to seek additional punishment against Microsoft for failing to abide by the earlier consent decrees, especially after the government has already pressed and won its case, shows a lack of willpower to enforce the terms of the existing agreements. By their previous conduct, it stands to reason that Microsoft will exploit this lack of will to enforce the law.

Following are descriptions of a few of Microsoft's better known acts as examples of the company's general behaviour: When there were equivalent alternatives to Microsoft's Disk Operating System and Microsoft Windows was not an operating system but a separate application product, Microsoft introduced a programming routine into a version of Windows that would detect whether it was running on one of these alternate operating systems and if so print a message stating that an error had occurred.

Microsoft distributed this version to technology writers and enthusiasts who took the message to mean and reported it as meaning that Windows might not run well under any operating systems other than Microsoft's, a notion that Microsoft had been actively spreading at the time. (Examining the Windows AARD Detection Code, Dr Dobbs Journal, 1993) Microsoft has paid employees and outside agencies to write letters to the editors of newspapers and magazines, and more recently to the States'' attorneys general pursuing cases against Microsoft, pushing a pro-Microsoft viewpoint while claiming to be independent; and Microsoft employees have posted pro-Microsoft messages to Internet newsgroups and message boards while claiming to be independent. (Microsoft Plans Stealth Blitz to Mend Its Image, Los Angeles Times, April 10, 1998; Also the Phil Bucking and Steve Barkto incidents, and the recent letter writing campaign from the grave to state attorneys general) Given this history, it should be expected that some of the public comments on this issue are from people and organizations paid by Microsoft to write or from people directly influenced by public relations companies paid by Microsoft.

During the time of the "Browser Wars", the installation routine for most Microsoft products would also install Microsoft's Internet Explorer web browser without asking for the user's permission and regardless of whether Internet Explorer was a requirement for whatever product was being installed. Microsoft also threatened computer makers with the revoking of their license to sell Windows unless the computer makers stopped installing products that competed with Internet Explorer. Microsoft's famous investment in Apple came with the condition that Apple would drop Netscape's Navigator web browser and instead make Microsoft's Internet Explorer the only browser offered on systems it shipped.

Microsoft has begun patenting routines needed for programmers to write software that is compatible with Microsoft's software, and has forced programmers to remove such compatibility. (Microsoft Patents ASF File Format, http://www.advogato.org/article/101.html) While this is their right, it makes compatibility with Microsoft software impossible.

Microsoft and its representatives perjured themselves repeatedly during the trial under Judge Jackson, and Microsoft produced and presented as evidence a doctored video demonstration purporting to illustrate the effects of certain changes to Windows 98.

Microsoft in its actions has shown itself to be a criminal organization with little respect or regard for the laws of the United States of America, little respect or regard for the truth, and with little respect or regard for the freedom of the marketplace.

To decide upon a punishment, the main end must be to prevent and discourage Microsoft from continuing to carry out further criminal acts. It is less important to make reparations towards consumers and competitors harmed or to consider the economic impact of the punishment. The result must also treat noncommercial computer users and programmers, such as hobbyists and universities, as fairly as businesses are treated.

A fine is the most obvious method of punishment against a business. However, a fine absent of other punishment will do nothing to prevent Microsoft from continuing to carry out criminal acts as Microsoft has enough liquid assets on hand to painlessly pay any but the most extreme fine.

Another consent decree may be necessary to state specific violations of the law that Microsoft has committed. This would come with two caveats: It must not leave open the possibility of allowing Microsoft to violate the law in ways which other companies are not permitted without government favour, as many contracts between government and businesses do; and a consent decree absent of additional punishment will not dissuade Microsoft from continuing to carry out criminal acts, as earlier consent decrees have not.

The removal of Microsoft's government granted trade protection, in the form of copyrights and patents, on certain of their products is another option that could be considered. A similar option to be considered is the seizure of certain of Microsoft's trade secrets and their release to the public domain. A severe form of punishment along these lines, which has not been used against a major business in recent history, would be the revocation of Microsoft's corporate charter and right to do business within the United States.

Some have suggested that Microsoft's source code be released under the GNU public license used by the Free Software Foundation. I do not agree that this is appropriate, as the benefits would nearly exclusively be towards hobbyists. It has also been suggested by the States that Microsoft be made to make its Office suite of products capable of running on operating systems that compete with Windows. Again, I do not agree with this proposal as, while Office has a monopoly sized user base and is a major source of Microsoft's revenue, it is not the focus of the case against Microsoft and several able competitors exist.

Microsoft has offered, as a settlement to one of the cases against it, to present computers running its software to the nation's public schools at its cost. As schools contain a large number of computers running Apple hardware and software, and these computers would be replaced by the Microsoft computers, such an offer in fact benefits Microsoft rather than punishes and as such should not be considered.

Since the core of the case is about Microsoft embedding products into their Windows operating system, and a major complaint in the industry is of the difficulty of attaining compatibility with Microsoft's operating system, I suggest that the punishment include the seizure and placement in the public domain of all the source files within the development branch of the Windows operating system current to the date of the new decision, including the source code to all programs and libraries that Microsoft considers a part of their OS and is included with Windows in sales to consumers and OEMs. In addition, Microsoft should be stripped of ability to use their patent protections to prevent others from developing products derived from the publicly released source code.

This would punish Microsoft by allowing others to immediately build and distribute operating systems equal to Microsoft's and in doing so threaten Microsoft's market position. With OEMs able to build their own Windows-like systems, most of the points in the proposed consent decree become moot. The process of making products compatible with Windows and its associated programs would be greatly eased with the metaphorical blueprints to Windows publicly available.

Whatever solution is decided upon, it must hold to these points: Microsoft must be given a punishment, not simply a warning, as they continue to ignore prior warnings given them; the punishment must take into account Microsoft's positions of monopoly power and where they have abused this power to muscle into other industries as relevant to the court case; the punishment should favour consumers and the marketplace over Microsoft or a few of its competitors, while not discouraging innovation or competition against Microsoft. Fairness towards Microsoft is unimportant as fairness is more than Microsoft has given others.

With respect and regards,
David M. Turover
Petaluma, CA

MTC-00026079

From: William G. Robinson
To: Microsoft ATR
Date: 1/26/02 1:22pm
Subject: I have reviewed the settlement and

I have reviewed the settlement and urge the DOJ to accept it. I feel that the carping by a number of other manufacturers is just "whistling in the wind," including those states who reject the offer and mine is one of them. I am a former aircraft company executive who is now retired.

William G. Robinson
Topeka, Kansas

MTC-00026080

From: Mary Bertogli
To: Microsoft ATR,tormist@ag.ia.us@inetgw
Date: 1/26/02 1:22pm
Subject: Microsoft Settlement
January 26, 2002
Renata B. Hesse
Antitrust Division
U.S, Department of Justice
601 D Street, NW
Suite 1200
Washington, DC 20530–0001

To Whom It May Concern:

I am writing this letter to ask that you reconsider the decision to settle the United States Department of Justice antitrust lawsuit against Microsoft Corporation. American consumers may have been overcharged $20 billion by the Microsoft monopoly. My concern is that your agreement with Bill Gates" company does nothing to neither rectify past sins by this company nor protect against future gauging.

As you know, at least ten consumer groups disagree with your agreement to settle. Microsoft has little incentive to change any of its practices. Their concessions of handing over some operating systems code and offering manufacturers some sovereignty over Media Player amounts to little more than a light slap on the wrists for a multi-billion dollar company.

I strongly agree with my state's Attorney General, Tom Miller, and the action taken to reject this Microsoft agreement. I believe that Mr. Miller and the other eight state attorneys general see the many loopholes and problems with enforcement that does little to affect change in the computer software industry. Splitting Microsoft into two or three companies may not be the proper response, but neither is this.

Your decision to prematurely end litigation against Microsoft is a mistake. The agreement offers no real incentive to stop monopolistic, anti-trust efforts. It won't help much smaller companies compete and it doesn't serve the American consumer. Please continue to go after Microsoft. It is a duty of the Justice Department to protect the average citizen from companies that have grown too large and too powerful by questionable business practices.

Sincerely,
Mary E. Bertogli
3507 Southern Woods Dr.
Des Moines, Iowa 50321
CC: Iowa Attorney General

MTC-00026081

From: DSeeryUMC@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:21pm
Subject: Microsoft Settlement
416 Maren Street
West Hempstead, NY 11552
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to have my opinion entered in the public record in full support of Microsoft. I understand the terms of the settlement Microsoft has agreed to, and feel that the Justice Department has no other choice but to make the settlement final, for the good of the people. The settlement is extremely fair to all of Microsoft's rivals and gives them a more level playing field to compete within the ever-changing computing and software industry. Microsoft's competitors will be able to give computer users the choice of using Microsoft or non-Microsoft software features within the Windows operating system.

I have followed this case for some time, watching and waiting for something to happen to resolve this issue. The Justice Department has slapped Microsoft in the face for the past three years for being more successful than any corporation. This is not the first time a company has been legally stopped by the government, and I am sad to say, it won't be the last. So much money and government, public and private resources have been squandered trying to prove Microsoft has operated unfairly as a monopoly. What Microsoft has done is give the world incredible software technology that has helped ever day lives and businesses run more efficiently and increasing productivity. The competition has to date, not been able to produce anything close in comparison to Windows.

Sincerely,
Richard A. Seery ??. Mary P. Seery

MTC-00026082

From: O Trapp
To: Microsoft ATR
Date: 1/26/02 1:28pm
Subject: MICROSOFT SETTLEMENT

Greetings,

I am writing in response to the opportunity that the interested public has in the Microsoft Settlement. There are several issues that have bothered me thoughout this case. Many times in the past, Microsoft has blantently ignored ethics in their interaction with competitors.

I was very sorry to hear that Microsoft had done whatever they had done to get the Dept of Justice to cancel the court planned split-up of Microsoft. Now I have read that once again Microsoft has acted as though they are above the law, perhaps because they have the money to attempt to buy what they want. I request that the courts require full disclosure from Microsoft of all contacts with the government under the Tunney Act .

For the record, I own substantial shares of Microsoft. I truely wish they were more ethical in their pursuit of business and would not repeatedly act as if they were above the law.

Sincerely,
Orlin D. Trapp
501 Portola Road, #8143
Portola Valley, CA 94028-7604

MTC-00026083

From: g.osborn@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:28pm
Subject: Microsoft Settlement

Justice Department,

Consumers interest have been well served and it is time to end this costly and damaging litigation. Continuing this legal battle will only benefit a few wealthy competitors, lawyers, and a few special interests.

Sincerely,
George and Mary Osborn

MTC-00026084

From: Moondog123@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:29pm
Subject: Microsoft settlement

Urge you to expedite and approve proposed antitrust settlement between DoJ, 9 states and Microsoft in the interests of the the consuming public. Lawsuits of this type hinder competition, and the innovation that the U.S. economy so badly needs now. Do not put the U. S. government in the position of standing in the way of the advancement of the economy.

J. Kahn
moondog123@aol.com

MTC-00026085

From: Melinda Stimpson
To: Microsoft ATR
Date: 1/26/02 1:31pm
Subject: Microsoft Settlement

I am actually Mike Stimpson, not Melinda, despite what the E-mail header says. I'm writing from home, which is why the header says Melinda.

I have worked as a computer programmer for 15 years, and have tried to keep up on what is going on in the industry. I have used (and written programs for) Microsoft and non-Microsoft operating systems.

I consider the proposed Microsoft settlement to be very inadequate. It does not address the following issues:

Microsoft is not actually punished for its" illegal acts. That is, they are placed under restraint for ongoing conduct, but Microsoft has already profited from their anticompetitive acts, and that is not addressed at all. It seems to me that the amount of Microsoft's profit arising from the acts should be determined (that's hard, I know). Then Microsoft should be fined triple the amount of their unjust gains.

Microsoft is still at a huge competitive advantage in applications due to their monopoly in operating systems. This needs to be addressed by requiring that the programmers writing applications for Microsoft use only publicly available information about the operating system. Otherwise, they may be able to use features—typically function calls—that are not available to others. This lets Microsoft leverage their operating system monopoly to an advantage in applications. Even as Microsoft's applications programmers should not have an advantage in the available operating system features that they can use, they also should not have an advantage in when they can use them. That is, if the Microsoft programmers learn about the new operating system features six months before their competitors, then, all other things being equal, their applications will incorporate the new features six months earlier. Again, this lets Microsoft leverage the operating systems monopoly to an advantage in applications.

It seems to me that, given the previous history of Microsoft anti-trust consent decrees, that this consent decree needs to have some concrete penalties for violation that are stronger than merely extending the same consent decree for two more years. If Microsoft violates the consent decree, what prevents them from violating it for the additional two years? There must be a more severe consequence for violation than merely extending the consent decree.

In light of the above points, I urge that the proposed consent decree be either rejected or considerably strengthened. We need a consent decree that actually addresses the issues of Microsoft's anti-competitive behavior, not merely one that brings an end to the case.

MTC-00026086

From: Virginia Clifton
To: Microsoft ATR
Date: 1/26/02 1:31pm
Subject: Microsoft Settlement
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I'm writing to urge you to support the settlement recently reached between the United States Department of Justice and Microsoft. I feel this is a lawsuit that should have never been launched against Microsoft and believe that it is now time to end it so Microsoft can return to the business of software development. Indeed, Microsoft must feel the same way because it agreed to terms in the settlement that went far beyond the scope of the original lawsuit.

Microsoft has, for example, agreed to license Windows to the 20 largest computer makers on virtually identical terms and condition. Microsoft has also agreed to grant computer makers and software developers broad rights to configure Windows to remove Microsoft products and substitute competing, non-Microsoft products in their places. For example, Netscape Navigator can be installed in place of Internet Explorer; RealPlayer in place of Windows Media Player; and AOL Instant Messenger in place of Windows Messenger. Microsoft has agreed to not retaliate against computer makers and software developers who choose to do this. Further, Microsoft has agreed to not enter into any agreements with other companies that would obligate them to exclusively distribute or promote Windows technology.

Based on the facts of the settlement, I encourage you to accept the terms of the settlement so that Microsoft can carry on the business of developing innovative software.

Sincerely,
Virginia Clifton
1125 Olympia Avenue NE
Olympia, WA 98506

MTC-00026087

From: Sharon Corboy
To: Microsoft ATR
Date: 1/26/02 1:32pm
Subject: aol suit

aol lost in the market place. bardsdale could not compete on the merits of his product.because microsoft makes a better product

thomas a corboy
tccorbor@earthlink .net

MTC-00026088

From: Charles E Davis
To: Microsoft ATR
Date: 1/26/02 1:32pm
Subject: Microsoft Settlement

It is time for the Microsoft settlement to be implemented and let business run its natural course. Too much time and money has been spent to try and satisfy Microsoft's competitors.

Thank you

MTC-00026089

From: Theo Armour
To: Microsoft ATR
Date: 1/26/02 1:34pm
Subject: Microsoft Settlement

I believe that the settlement terms proposed by the Court of Appeals are reasonable.

I hope that the company that brought the Internet to the great majority of desktops in this world will be be permitted to continue giving users affordable, usable and new technologies.

Theo Armour
theo@evereverland.net

MTC-00026090

From: Pschoues@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:34pm
Subject: (no subject)

I think the antitrust settlement between the Dept. of Justice and Microsoft is a fair settlement and should be takeing for the good of all parties.

Paul schouest 25345 Fenner
Street Plaquemine, la. 70764
CC:fin@mobilizationoffice.com@inetgw

MTC-00026091

From: Zelie, Elizabeth A.
To: "microsoft.atr(a)usdoj.gov"
Date: 1/26/02 1:31pm
Subject: Microsoft Settlement

Honorable Judge Kollar-Kotelly,

I am writing in regard to the settlement between Microsoft (PFJ) and the Justice Department. As a student who has taken many computer classes, I have benefited from the products produced by Microsoft, and I am excited to see what they will come out with next.

However, having said that, I do believe that they should not be allowed to continue their monopolistic practices. They violated antitrust laws and should be punished for that. I am a Business Law student and if I have learned anything in my studies, it is that laws are made to be enforced and not to be broken. If Microsoft is not punished for violating a law, but is instead given a pat on the back and taken care of by PFJ, then why should we enforce the law when anyone else violates it?

We are blessed to live in a country with a free market economy, but what good does that do if companies are allowed to become monopolies? That seems to go against the very principles on which this country was founded. Please reexamine this case and do your best to change this settlement. I will be praying that God guides you in making this decision.

Sincerely,
Liz Zelie
Elizabeth Zelie
200 Campus Drive, Grove City College Box #2515, Grove City, PA 16127–2197
zelieea1@gcc.edu
CC:'stopmicrosoft(a)yahoo.com"

MTC-00026093

From: Gemfield Association
To: Microsoft ATR
Date: 1/26/02 1:35pm
Subject: Microsoft Settlement

Dear sirs,

We don't need any more special interests trying to defeat consumers. So why drag out this battle any more? Only a few special interests could benefit from that. The Tunney Act seems to me to well serve the interests of the consumers, and the time to end the litigation has arrived.

Sincerely,
David B. Robinson, J.D. (Hon.), M.Sc.

MTC-00026094

From: Scott Tillema
To: Microsoft ATR
Date: 1/26/02 1:36pm
Subject: Microsoft Settlement

Dear Sirs—

I do not support your actions against Microsoft, and I believe that a great injustice is being committed.

To uphold "justice" is to ensure that a person (or persons) get exactly what they deserve. As a citizen of the United States, I expect my government to serve this principle of justice when protecting the most essential value that we all cherish: freedom.

By freedom, I am refering to our constitutional right to determine, pursue, create, and protect our own values. The opposite of freedom is slavery; it is the act of initiating force against others as a means of acquiring values. The only *moral* use of force is as a means of protection or retaliation against those who would initiate it. Thus, force should only be used as a means of protecting freedom from slavery.

Microsoft has not committed any injustice. They have *earned* their market share by giving the market what it wants. When faced with a challenge, their focus their power and resources on making a better product. If necessary, they have put restrictions on how *their* product may be purchased. They do anything that is *within their power* to advance and protect their products—their values. Yet they have never initiated *force* against any other person. Every man is free to accept Microsoft's terms or part company—unlike a law of the government that imposes its terms by threat of imprisonment. (In fact, as a consumer and computer user, I freely choose to use many non-Microsoft owned products—including a non-Microsoft internet browser (called Opera)!)

I ask you to look at Microsoft and ask yourself: would you classify this corporation in the same category as bank robbers, con-men, rapists, murderers, or terrorists? Do they even share *one degree* of the essence that makes these men criminal? Because, this is what you have done.

The prosecution of Microsoft is a grave *injustice*, committed on behalf of those who would use the government to impose their values by *force*. By pursuing this case against Microsoft, the government has *unfairly* given my fellow citizens the priveledge of using the state sanctioned use of force to achieve their desires. I recognize this as an act of slavery.

Your justification of this injustice is the Sherman Act; a law that restricts the freedom of businesses to determine how their products are traded. The purpose of this act is to impose some ill-conceived economic theory as a matter of law. As it is written it makes every business subject to the whim of a judge's interpretation rather than the facts of reality.

Justice in the world of economics is not served by a judge's whim—it is served by reality. Microsoft, as does any business, recognizes this reality. Regardless of any attempt Microsoft has taken to protect its current products, it cannot escape the need to innovate or create new products. In fact, this is the reason that Netscape lost its own market dominance: regardless of price, eventually Microsoft had to produce a better product. Unless Microsoft continues to innovate and improve, it too will lose its market dominance.

You can see that justice is done: see to it that Microsoft, all businessmen, and all Americans are set free from the tyranny of such laws as the Sherman Act that impose slavery on our lives.

MTC-00026095

From: Jonathan Holbert
To: Microsoft ATR
Date: 1/26/02 1:35pm
Subject: Microsoft Settlement

I don't believe the proposed settlement is sufficient to stop future monopolistic behaviour from Microsoft Corp.

Thank you,
Jonathan Holbert

MTC-00026096

From: gmcgarry1@msn.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:35pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Gayle McGarry
7607 Weeping Willow Circle
Sarasota, FL 34241

MTC-00026097

From: DMiller909@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:40pm
Subject: (no subject)

I am addressing myself to this subject once again in view of the recent events wherein AOL has instituted suit against Microsoft. As we hold stock in the technology companies hoping that one day our grandchildren will benefit through the absorbtion of college costs by said investments. Now I find that the situation has progressed from the sublime to the ridiculous. The

Microsoft competition obviously disregards the effect their actions has created in the marketplace. The officials of these corporations need not worry about the diminishment of their present financial values as they will eventually find retention bonuses or future stock options that will regain present day losses, but the individual investors will not be so fortunate.

The states still involved in the case are more likely supporting the tech companies within their geographical areas and the heck with everyone else. It appears that they will not be satisfied untill they establish what the competition desires It is time to get this situation behind us- It is time to remove the shadows of uncertainty from the market.AND it is time to remove the shackles from the economy that has, in my opinion, sufferred as a result of the added pressures. n closing I can only state that the uncertainty and the actions of the remaining states in opposition to the Microsoft decision of the government has, in my opinion, caused greater financial loss to the investors than the damage the competition and/or Attorney Generals of the respective States claim that Microsoft has caused the public.

Very truly yours..
dmiller

MTC-00026098

From: Nsjarrard@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:41pm
Subject: Microsoft Settlement

Please get this case settled. We NEED Microsoft! It's technology has been very important to me and to everyone I know. Without it's contributions, we couldn't have made the major progress we have made. It's time for this whole mess to be over!

Please adopt the terms of the settlement as they are now and get this thing finished.

THANK YOU!
Nancy Jarrard
15807 Gooseberry Way
Apple Valley, MN 55124

MTC-00026099

From: G Eisenberger
To: Microsoft ATR
Date: 1/26/02 1:41pm
Subject: Microsoft settlement

To Whom It May Concern:

As a retired person who uses Microsoft software, I urge you to settle the DOJ lawsuit.

Years ago when I started working with computers, you had to do most of your own programming. It was time consuming, frequently inaccurate, and totally frustrating. With the Ms windows operating system, I can get up-to-the-minute news, check on my investments, communicate with family and friends, send photos, play games, etc. Last year I was able to get in touch with my buddies from my Navy days and we had a reunion after 47 years.

When you consider the cost of Ms software, compared to cable TV or phone service, it is a real bargain.

Let them keep adding features and improving this wonderful product.

Sincerely,
Gary Eisenberger, Age 67

MTC-00026100

From: Quin Blackburn
To: Microsoft ATR
Date: 1/26/02 1:03pm
Subject: Microsoft Settlement

To whom it may concern:

I am writing as a citizen concerned about the proposed final judgement between the United States and the Microsoft Corporation. I am a Design Engineer in California, with a significant background in computers and programming. I am also a user of Unix, Linux, and other competing operating systems, and therefore I have been exposed to how Microsoft has maintained and extended its monopoly, and I feel that I have been negatively effected by their activities.

While the judgement seems to address a number of the activities that Microsoft has used to hold and extend their monopoly, I think it has a number of weaknesses that will prevent it from accomplishing its purpose. The most likely result I see of approving this agreement is that Microsoft will continue their anticompetitive practices for several more years, followed by another lengthy antitrust trial. The irony is see is that in some cases they may use the proposed judgement as justification for their anticompetitive actions, as it specifically allows some of them to continue.

In section III parts A and B, the intent seems to be to allow OEMs to use Microsoft and competing products freely, without allowing Microsoft to take action to prevent them from doing so. However, it leaves Microsoft ample opportunity to continue to engage in anticompetitive practices. III.A.2 says that Microsoft cannot retaliate against an OEM for shipping computers that have a competing operating system on them, in addition to Microsoft's operating system. However, if the OEM ships any computers that have only the competing operating system, then retaliation is allowed. In effect, this can be read as requiring the OEM to put a Microsoft operating system on all the machines they ship.

Section III.B also specifies Covered OEMs for many of the protections. There are a great many computer manufacturers in this country and abroad, but it seems that only 20 will be protected.

Another thing I notice is that there is no mention of bundled products. This strikes me as allowing them to give discounts on seperate packages, like Microsoft Office, to vendors that behave the way Microsoft wants them to with regard to their operating systems products. These provisions have been used in previous OEM agreements. Since a large percentage of personal computers ship with an office package, this seems to give them a significant loophole to favor certain vendors without changing their cost schedule for their operating system products.

It strikes me as odd that there was no mention of Microsoft's applications, specifically Microsoft Office, in the proposed judgement.

While the trial was based on their operating system monopoly, they have a significant monopoly in the standard office application market that they use synergistically with their operating system monopoly to prevent competition in both areas. I believe that the findings of fact mentioned that they used the threat of withholding Microsoft Office for Macintosh as a lever against the Apple Corporation. The applications are used to support the operating system monopoly, because the lack of a version of Microsoft Office, as the most common office suite of applications, for competing operating systems is a large part of the "Applications barrier to entry" for those systems. The operating system monopoly is used to support the applications monopoly largely by bundling. Microsoft can afford to charge less for their Office suite because they are sellling it with another product, the operating system.

The proposed final judgement makes no attempt to address the applications monopoly, which, while unfortunate, is understandable since the trial concerned their operating systems only. However, it should address how they use their applications to the support of their operating system monopoly. The disclosure provisions should include the APIs and file formats for Microsoft Office, so that competing operating systems can have a fully compatible office suite. The Operating System licensing sections need to mention associated licenses, so that Microsoft doesn't use discounts on one product in lieu of the other.

The disclosure of the APIs, under section III.D, is done via the Microsoft Developer Network. While greater disclosure would aid competition, the choice of MSDN is questionable. In order to use MSDN, a developer needs to accept a "Click Through" agreement drafted by Microsoft. Having wanted to support a Microsoft file format in a competing operating system, I ran afoul of that agreement, which disallowed me from doing so. Indeed, the proposed final judgement only requires the disclosure "for the sole purpose of interoperating with a Windows Operating System Product". Since the entire intent of the judgement is to encourage competition to the Microsoft Windows monopoly, allowing the disclosure only to users of Windows, and for products that only run on Windows seems to completely defeat the purpose. This disclosure will only strengthen the Windows monopoly.

One significant thing I see lacking in the proposed judgement is any sort of penalty. The Microsoft Corporation has been ruled to have broken the law, but the judgement does nothing to "deny to the defendant the fruits of its statutory violation". At best, the judgement simply tells them not to do it again. There seems to be no reason for Microsoft not to continue its anticompetitive activities, since past transgressions of the law have not been penalized, they have no reason to believe that future ones will be. The judgement gives no means of enforcing even its own requirements, save returning to the courtroom and starting this process over from the beginning.

At the risk of destroying my credibility, I have to say that Microsoft works in its own interests alone. They have no interest in competition, and no interest in or respect for the law. They will not follow the intent of an agreement, only the strict letter of it in their most favorable interpretation. If the judgement is not airtight, Microsoft will willfully continue their practices, citing any weakenesses in the agreement as allowing them to do so. The Microsoft Corporation has been convicted of having undue power and an agreement that has any less power will simply be pushed aside like any other competitor to their business.

Also, at greater risk, I would like to note that Microsoft has in the past hired marketing/PR firms which would write a large number of letters from "concerned citizens" in favor of Microsoft. I would hazard a guess that you have a significant number of these letters that have been commissioned in the interests of interfering with the legal process in their own favor.

Thank you for your time,
Quin Blackburn
Valencia, CA

MTC-00026101

From: Rob Cowart
To: Microsoft ATR
Date: 1/26/02 1:44pm
Subject: Microsoft Settlement

My mother is a teacher in an elementary school in North Texas, with about 20 children per grade. They have one computer in each classroom, and it's a Macintosh. If Microsoft gives the school new computers, the children will learn to use those, maybe they will dispose of the older Macs, and then Microsoft will have taken a market away from Apple.

The children will feel comfortable with Windows, and may continue to use it all of their lives. The settlement gives Microsoft the chance to get customers for 80 years or so. If the point of the settlement is to increase Microsoft's market share in the schools, then the Settlement is perfect. But it's not, the reverse needs to happen. Only by competing against itself can Microsoft lose market share. The government split up AT&T, and competition increased and consumers benefited, eventually; this is no different and I don't understand why the government is treating it like it is.

Thanks for reading this,
Robert

MTC-00026102

From: Elizabeth Allison
To: Microsoft ATR
Date: 1/26/02 1:45pm
Subject: settlement misguided

Elizabeth Allison of New York and New Jersey weighing in here to say that the proposed settlement in no way addresses Microsoft's gross abuse of its consumers and, in fact, opens the door to further, albeit different, abuse. Will send longer and hopefully more eloquent words to same effect within 24 hours, time allowing, but wanted to get at least this much said now.

EA

MTC-00026103

From: Carolyn Cooper
To: Microsoft ATR
Date: 1/26/02 1:46pm
Subject: Microsoft Settlement

Dear Renata B. Hesse:

I am emailing about the Microsoft Settlement. It is important that we protect the rights of individuals against corporations in America, and Microsoft is not going to concede unless we make them.

I'd like to focus on just one of these issues which needs to be remedied. Protocols and file formats need to be openly available. For one, it is a widely accepted fact in theoretical research that the only way a protocal can be really secure, is if it is based on the theory in its algorithms, not on the secretness of its methods. When Microsoft hides its protocols, it may leave security holes that we cannot discover until they are broken. Secondly, and most importantly, Microsoft uses its monopoly in the Operating Systems market to create a monopoly in the software market.

If I create a file using Microsoft Office, I should have the right to use that information with another operating system. Microsoft needs to be required to make their file formats available to other programs so that I own my own files. At this point in time, my creations in Microsoft are very difficult to export, and in a certain way, Microsoft owns them. I request you to protect my work, and my rights as an individual.

Thank you,
Carolyn Cooper
Princeton, NJ

MTC-00026104

From: EDPFC@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:47pm
Subject: Microsoft Settlement

To Whom it May Concern!

I am sending this e-mail to voice my opinion on the antitrust settlement between Microsoft, the Dept. of Justice and nine states. Microsoft maybe a bully with their competitors and customers; large companies flex their muscles all the time. I am a small manufacturer, and you should see how the big retailers bully me around! They are creative and built the company from scratch, unlike Standard Oil, for example, who purchases other companies to create a monopoly and for whom the antitrust laws were written. US companies compete around the global. Would you rather a Japanese company have the monopoly on Window? No, I rather it be a US company. Accordingly, I think the settlement is fair, and you should take up Microsoft's offer to supply the poor schools with the latest technology as part of their penalty.

Best Regards,
Ed Esposito
Professional Folding Carts to make life EASIER!
www.FoldingCart.com
Tel. 718-693-9700

MTC-00026105

From: maryannstuart@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:47pm
Subject: Microsoft Settlement

Please accept the Microsoft Settlement and finish this case. Quit spending taxpayer money on this matter. And please don't accept any more lawsuits about this. Microsoft should not have to be tried again on the same or a related matter.

The United States government should never have been involved in a lawsuit against Microsoft in the first place. I disagree with the current anti-trust laws. The government has no business fighting against corporations of our fellow citizens, unless they are doing something actually criminal (such as covering up drug operations or terrorist activities, etc.)

AT&T should never have been broken up, either. Large size and creativity are not criminal. Making a product widely available is not criminal. Competitors have the burden of competing, that is, of finding their own innovative ways to make a place for themselves in the market. Competitors should not have the government's and taxpayers" help to become bullies. Competitors could ask the taxpayers to help fund better education for future employees for the workforce, in general.

The companies that could not hire the brains to figure out ways to effectively compete with Microsoft had no right to take their competitor to court. Rather than wasting taxpayer's time and money on a lawsuit, they and the government should have spent the money encouraging the education of potential scientists, engineers, computer programmers, etc. They should have screened potential applicants and sent them to appropriate schools, keeping a close eye on the quality of training they were receiving. What a difference this would have made!

This country's level of science training has fallen behind what it was in the 1960's under President Kennedy. We should not hinder good thinking and the resulting sensible business practices. We should encourage scientific and technological education, research, and progress.

This is relevant to the present case, because, as I mentioned above, the lack of good potential employees for competing companies is one of the reasons that a case like this ever came to be.

Thank you.

MaryAnn Stuart

MTC–00026106

From: haughton@wpmedia.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:46pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Jim Haughton
600 Green St.
Kingstree, SC 29556

MTC–00026107

From: Knickshl@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:50pm
Subject: Microsoft Settlement

Hello,

I am a student at Stony Brook University and is currently seeking acceptance into the Computer Science Major. I have been reading about the "final judgment" in the Microsoft Case, and I feel that Microsoft is a monopoly. Almost every PC on the planet has Microsoft as their operating system, and I feel that other smaller companies with better software and new ideas should get the chance to promote their company. Therefore, I feel that the Supreme Court's decision to control the promotion and use of Microsoft programs and putting strict conditions on the licensing rights of Microsoft to other companies was the right thing to do. Even though just like many other people around the world, I also use a Windows operating system and will have to get to know the new operating systems that will be coming out after this decision is made final.

P.S. Thank you for letting our voices be heard in this decision.

MTC–00026108

From: CAHein@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:51pm
Subject: Microsoft Settlement

The proposed MS settlement is AWFUL. Don't accept it.

Craig Hein

MTC–00026109

From: adam freeman
To: Microsoft ATR
Date: 1/26/02 1:52pm
Subject: Microsoft Settlement

I really disagree with the proposed settlement. Make Microsoft buy however much its willing to donate of its own products from someone else. Like Apple and Corel and Adobe. Don't let Redmond extend their monopoly into the schools. Punish them instead.

MTC–00026110

From: Cyrus Walker
To: Microsoft ATR
Date: 1/26/02 1:53pm
Subject: microsoft settlement

As currently structured the proposed settled as defined by the DOJ does not actually curtail microsoft's practices. The settlement definitely does not benefit the consumer, small software developer or large software developer. Microsoft does not encourage innovation but actually eliminates and crushes innovative products if the are perceived to be any type of threat to their operating system. The penalties should be more restrictive and actually enforceable if there is to be any benefit for the consumer, competition and innovation from other consumers. No one should be forced to accept something because there are no viable choices. That is what microsoft and this lackluster settlement propose to do, remove the ability to make a choice, just accept what is given to you.

I want to make my own choice!!!!

v/r
cyrus walker

MTC–00026111

From: Alison Randall
To: Microsoft ATR
Date: 1/26/02 1:52pm
Subject: Microsoft Settlement

To whom it may concern,

I wanted to submit my comments on the antitrust settlement between Microsoft, the Department of Justice and nine states before Monday's deadline. I believe the terms of the settlement are reasonable and fair to all parties involved and go beyond the ruling by the Court of Appeals. This settlement represent the best opportunity for Microsoft and the industry to move forward. Adopt the settlement and let's move on to more pressing issues.

Thank you,
Alison H. Randall
Dublin, Ohio

MTC–00026113

From: Scott Cassill
To: Microsoft ATR
Date: 1/26/02 1:53pm
Subject: Microsoft Settlement

Would you please discount the specifics and get to the generalities of acknowledging almost instant obsolescence and the need to develope newer, faster and more efficient programs. Consumers are greatly benefitted by Microsoft's software. Let the consuming public decide at the cash register. Let Microsoft continue to help materially in our losing balance of trade "battle." Let all the titans of tech get to work. They create a great deal of wealth, which is taxable and consumable. This is what made America great.

Let's roll !
Scott and Joyce Cassill
Nordland, WA 98358

MTC–00026114

From: Chad Hasselius
To: Microsoft ATR
Date: 1/26/02 1:56pm
Subject: Microsoft Settlement

I think the proposed settlement is a bad idea. Under the proposed settlement Microsoft will surely continue their anti-competitive practices and ultimately hurt not only consumers, but the future in computing as well. With computers increasingly being integral to society this proposed settlement will ultimately hurt all of society for years to come in many ways. If you go ahead with this settlement and concede to the political reasons for it, this will definately be a dark spot in history. Please do not go ahead with it if you care at all about the ramifications of it, stay strong and fight for the people.

Chad Hasselius
9163 Kirkwood Ln.
Maple Grove, MN 55369

MTC–00026115

From: Chohanmotor@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 1:59pm
Subject: Hi

I wouls say that both United States and Microsoft are right at their own sides. I say this because Microsoft wants to be popular llike any other company's goal would be so it sells its software almost in all pc's. They want people to use their internet browser too so they made their OS's like that the people has to accept the agreement to install Their bowser too in order to get their OS installed. It's kind of enforcement that they're doing but I think that any company who would like o be popular and rich will definately do that. Now on the other hand, United States is right that Microsoft shouldn't do like that to sell their internet browsers like that because like that it'll be a monopoly. No other company can sell their product, for example Netscape. They want to sell their software too. So I think that the case is good in my opinion because If you put yourself in either Microsoft side or United States side you would do the same thing that they're doing. Thanks

MTC–00026116

From: Jean-Pierre Mouilleseaux
To: Microsoft ATR
Date: 1/26/02 1:58pm
Subject: Microsoft Settlement

i truly am disappointed with the proposed microsoft settlement. i would have expected more from a country that was so determined to shatter telecommunications and oil monopolies of the past. the current settlement allows microsoft to further extend it poisonous reach, which seems rather paradoxical. it is difficult to see if microsoft is being punished or rewarded for their perpetually anti-competitive behavior. please reconsider the settlement.

regards,
://jean-pierre

MTC–00026117

From: AnnKom@aol.com@inetgw

To: Microsoft ATR
Date: 1/26/02 2:01pm
Subject: Settlement

Please except the microsoft settlement and move on. we all love microsoft and so do most of the manufacturers..................

MTC-00026118

From: Fortunato Velasquez
To: Microsoft ATR
Date: 1/26/02 2:01pm
Subject: settlement

U.S District Judge Colleen Kollar-Kotelly: January 26, 2002 It is my opinion that the proposed settlement with the Microsoft company is NOT "in the public interest." The company should be prosecuted as predators who have defrauded the public and pursued monopolistic business policies.

Thank You,
Fortunato Vel'squez
Seattle, WA

MTC-00026119

From: rbrakes@mac.com@inetgw
To: Microsoft ATR
Date: 1/26/02 2:00pm
Subject: Microsoft Settlement

From my reading of the settlement, I do not see justice at all. It sounds to me as if Microsoft is being rewarded rather than punished and nothing is being done to prevent their unscrupulous business practices. As a software developer myself for over 20 years, I have found Microsoft to be nothing but an impediment by purposely destroying existing standards and thereby slowing new innovation.

Please consider a punishment more suiting than a simple slap on the wrist as is currently proposed.

MTC-00026120

From: AnnKom@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 2:00pm
Subject: Settlement

Please except the microsoft settlement and move on. we all love microsoft and so do most of the manufacturers..................

MTC-00026121

From: swht@infi.net@inetgw
To: Microsoft ATR
Date: 1/26/02 2:03pm
Subject: Microsoft Settlement

To whom it may concern: I believe the Microsoft settlement is fair. It should be completed now.

Thank you, Dorothy Horstman

MTC-00026122

From: Brad Markham
To: Microsoft ATR
Date: 1/26/02 2'02pm
Subject: Comments on Microsoft Settlement

To Whom It May Concern,

I am a software developer. I use many of Microsoft's products everyday. I believe Microsoft holds a monopoly in the software industry. I am including the text of a column from Byte.com. The column, "The Be View", was written by Scot Hacker in August of 2001. His discussion of why Be, a computer operating system, failed, trying to compete with Microsoft, is a glaring example of why Microsoft is a monopoly. The settlement, as it stands, is a joke to most industry observers. Microsoft was found guilty of monopolistic practices. This settlement is a mere slap on the wrist. It does nothing to change the fundamental problem with Microsoft. This will only be achieved with a much more severe punishment. The only way software development companies will have a chance of surviving in direct competition with Microsoft is if they can compete on a level playing field with Microsoft. This will only happen if Microsoft is broken up. Microsoft can not be allowed to continue it's current business practices in the future. Breaking up Microsoft is the only way that real change will occur in the software industry. In a competitive market, companies survive by creating a good product at a reasonable price. If the product is inferior or too expensive the consumer will buy a competitors product, if the competitors product can be easily substituted for the original. Microsoft has built it's monopoly by making it very difficult to switch to a competitors product. i ask you to consider the merits of this article in your decision. You have the power to drastically change the software industry for the better.

Thank you for your time,
Brad Markham

Peaceful Coexistence? Right.

It is statistically unlikely that a person purchasing a new computer is ever going to change its operating system the OS that comes with the computer you buy at the local computer mega-store is probably going to be the OS you use for years, if not forever. And while it is technically trivial for a hardware vendor to set up hard drives to dual- or triple-boot multiple operating systems, very few people have the interest or the huevos to repartition their hard drives and install additional OSs after the original point of purchase. Therefore, few things could be more financially critical to an operating-system vendor than to have one's product preinstalled on consumer computers. There is no technical reason why CompUSA customers shouldn't be able to walk out of the shop with a machine that asks "Which OS do you want to use today?" upon boot. And yet, even today, after several years of relentless news about how Linux is ready for the general desktop and business customer, one does not find dual-boot Win/Linux machines from large commercial OEMs at any consumer outlet or web shop I know of. Yes, you can get dual-boot machines at some of the smaller shops, but these are the ones that slip under Microsoft's radar, and there's no guarantee that Microsoft won't decide to take action against these vendors at some point. And yes, you can buy Linux-only machines from vendors such as IBM. But think about it: Why would IBM sell Windows machines and Linux machines, but no dual-boot Win/Linux machines? The absence is conspicuous. A few years ago, Be's CEO Jean-Louis Gass,e used the phrase "peaceful coexistence with Windows" to describe his company's intended relationship with Microsoft on the consumer's hard drive. Later, when it became clear that Microsoft had no intention of coexisting with a rival OS vendor peacefully, Gass,e recanted, saying, "I once preached peaceful coexistence with Windows. You may laugh at my expense I deserve it." With so little profit margin in the computer retail business, and with so little to set one brand of computer apart from another, it would seem that out-of-the-box dual-boot capabilities would be a tremendous differentiating factor for hardware vendors. It would seem that there would be financial incentives for computer vendors to be asking Be for 10,000-license deals. These bundling arrangements would be good for Be, good for OEMs, and good for consumers. In his own column, Gass,e has written several times about Microsoft's Windows OEM License and the ways in which it limits the freedoms of PC OEMs. In July 2001, I spoke with Gass,e to find out why no dual-boot computers with BeOS or Linux installed alongside Windows can be purchased today. In the 1998–1999 timeframe, ready to prime the pump with its desktop offering, Be offered BeOS for free to any major computer manufacturer willing to preinstall BeOS on machines alongside Windows. Although few in the Be community ever knew about the discussions, Gass,e says that Be was engaged in enthusiastic discussions with Dell, Compaq, Micron, and Hitachi. Taken together, preinstallation arrangements with vendors of this magnitude could have had a major impact on the future of Be and BeOS. But of the four, only Hitachi actually shipped a machine with BeOS pre-installed. The rest apparently backed off after a closer reading of the fine print in their Microsoft Windows License agreements. Hitachi did ship a line of machines (the Flora Prius) with BeOS preinstalled, but made charges to the bootloader rendering BeOS invisible to the consumer before shipping. Apparently, Hitachi received a little visit from Microsoft just before shipping the Flora Prius, and were reminded of the terms of the license. Be was forced to post detailed instructions on their web site explaining to customers how to unhide their hidden BeOS partitions. It is likely that most Flora Prius owners never even saw the BeOS installations to which they were entitled.

Bootloader as Trade Secret

So why aren't there any dual-boot computers for sale? The answer lies in the nature of the relationship Microsoft maintains with hardware vendors. More specifically, in the "Windows License" agreed to by hardware vendors who want to include Windows on the computers they sell. This is not the license you pretend to read and click "I Accept" when installing Windows. This license is not available online. This is a confidential license, seen only by Microsoft and computer vendors. You and I can't read the license because Microsoft classifies it as a "trade secret." The license specifies that any machine which includes a Microsoft operating system must not also offer a nonMicrosoft operating system as a boot option. In other words, a computer that offers to boot into Windows upon startup cannot also offer to boot into BeOS or Linux. The hardware vendor does not get to choose which OSes to install on the machines they sell Microsoft does. "Must not?" What, does Microsoft hold a gun to the vendor's head? Not quite, but that wouldn't be a hyperbolic metaphor. Instead, Microsoft threatens to revoke the vendor's license to include Windows on the machine if the bootloader license is violated. Because the world runs on Windows, no hardware vendor can afford to ship machines that don't include Windows alongside whatever alternative they might want to offer. The essence of the government's antitrust beef with Microsoft is that the company limits competition by leveraging its dominant position in the marketplace (it's important to remember that monopolies are not illegal abusing them is). To prove its case, the government focused on the browser wars and the harm done to Netscape by Microsoft's inclusion of a free web browser in the operating system. In my opinion, the browser issue pales in comparison to the egregiousness of the bootloader situation. The browser is arguably an essential component of modern computing a commodity product as worthy of inclusion in the OS as a text editor or calculator. Be, too, bundles a web browser with its OS, and I'm glad they do. Questions of how the browser is integrated are much more interesting, since they connect to the point of whether Microsoft's browser bundling intent was anticompetitive or not. In BeOS, for example, it's always been possible to remove the browser from the OS simply by dragging it to the Trash, which is very different from the situation under Windows. But I digress. The point is that the browser situation is easily debatable, while the bootloader situation is far more cut-and-dried. I would wager that few lawyers could come up with a cogent argument to describe how Microsoft's bootloader policy is not anticompetitive in the strictest sense of the term. After all, Microsoft is first and foremost an operating-system vendor. Be and Microsoft were competing on much more similar territory than were Netscape and Microsoft. But when it came to the DOJ vs. Microsoft antitrust trial, things got even more interesting.

DOJ Misses the Point

On request of the DOJ, Gass,e had several pre-trial conversations with prosecuting attorney David Boies* and Assistant Attorney General Joel Klein. Gass,e explained the bootloader situation to them. They listened and heard. But they did not ask Gass,e to testify on the bootloader issue. Instead, they asked Gass,e to testify on the matter of browser integration. Gass,e warned them that he would be a "dangerous witness," since his feelings on browser integration were actually sympathetic with Microsoft's. Gass,e wanted to testify on the bootloader issue, where he felt the core of the case really rested. Klein and Boies told Gass,e he could testify with focus on the "malicious intent" aspect of the browser integration question, but not on the bootloader matter. Needless to say, Gass,e declined to participate in the rest of the case. The bootloader issue was raised during the trial, however. Raised, but not actually addressed, because Microsoft claimed (in a court session closed to the public and the media) that the Windows License was a "trade secret." However, Microsoft never denied that the license exists, and never denied that it works as I've described here. In November of 1999, Judge Jackson released his Findings of Fact, which legally established that Microsoft had been engaging in anticompetitive practices. The Findings mentioned Be and BeOS in several places. However, the only reference to the bootloader situation was found tucked in the middle of paragraph 49, and merely obfuscated the significance of the issue: Although the BeOS could run an Intel-compatible PC system without Windows, it is almost always loaded on a system along with Windows. What is more, when these dual- loaded PC systems are turned on, Windows automatically boots; the user must then take affirmative steps to invoke the BeOS. While this scheme allows the BeOS to occupy a niche in the market, it does not place the product on a trajectory to replace Windows on a significant number of PCs. Despite the convoluted summary, Be's stock price skyrocketed over the next few days as a result of the BeOS mentions in Jackson's findings, eclipsing even RHAT and APPL in trading volume. But that blip on the radar did nothing to mitigate the real issue the greatest opportunity Be had ever had to inform the government and the public of this stunningly obnoxious example of anticompetitive behavior one that, in my opinion, eclipses the browser integration issue had come and gone, leaving Be no closer to securing those all-important bundling deals with the world's largest PC hardware vendors. The burning question, of course, is why Boies and Klein didn't want Gass,e to testify on the bootloader issue, especially when it could have substantially helped their case? The answer provided to Gass,e was that the case was by then already too well established. Including the bootloader issue would have meant rewriting many of the arguments and calling in a new collection of witnesses. In other words, it wasn't convenient for the U.S. government to get to the meat of the matter. It would have been too much of a hassle to address Microsoft's anticompetitive behavior in its purest form. In addition, no PC OEM was willing to testify on bootloader issues. And why would they? The threat of losing favor with Microsoft easily would have outweighed any potential benefit from being able to preload the unproven Be operating system alongside Windows on their machines. Finally, Be didn't have the brand recognition that Netscape did; Netscape made for a much better poster child. *Boies, by the way, did not even have e-mail as of August 2000 the highest technology case in the land was prosecuted by a man who could fairly be described as technologically illiterate.

Controlling the Hardware Landscape

One might wonder, as I did, why Be did not file separate suit on this issue. It would seem that Be's case would be extremely strong, especially with the precedent and backing of the Findings of Fact. In winning such a suit, Be would stand to make a pile of quick cash and to greatly extend their public visibility. Oh, and they might just win the opportunity to ship alongside Windows on consumer computer hardware. But Be did not sue Microsoft, and as far as I can tell, is not currently in the process of suing Microsoft. Why not? First of all, a lawsuit against Microsoft would be incredibly expensive and time consuming. Unfortunately, Be cannot currently afford either the time or the money, not to mention the distraction of a major lawsuit. But couldn't Be have filed suit in early 2000, in the window that opened immediately after the Findings of Fact were released? Yes, answers Gass,e, but Be was waiting to see what the court's recommended remedy would be. After all, it seemed likely at the time that Microsoft would be forced to change many of its business practices. Why should Be have sued to accomplish what it looked like the government was going to do anyway? So here we are in 2001, and guess what? It's still not possible to purchase a dual-boot Win/Linux machine. Doesn't that seem kind of odd? With all of the hype Linux has gotten, and with the technical simplicity of shipping dual-boot machines, not a single PC OEM is shipping such a beast. The technology marketplace is glutted with options. Vendors use even the smallest opportunities to trumpet their differentiating factors. Linux is free. And yet there are no commercially available dual-boot machines on the market. Not one. The silence of the marketplace speaks volumes. There is no other way to explain this phenomenon other than as a repercussion of the confidential Windows License under which every hardware vendor must do business. Last time I checked, x86 computer hardware is supposed to be operating system agnostic. My System Commander operator's manual tells me there are more than 80 known operating systems capable of being booted on x86 hardware (most of them obscure, of course). And yet, Microsoft has managed to massively influence the course of the supposedly OS-neutral hardware marketplace. Compaq, Dell, Hitachi, and all the rest of them work under Microsoft's terms and conditions. Microsoft has shaped and controlled the hardware landscape as much as they have shaped and controlled the software landscape. They're getting away with it. They slipped through the DOJ trial without the bootloader issue becoming the thorn it should have. As far as I know, the terms of the Windows OEM License have not changed. The recommended legal remedies against Microsoft have largely been stricken, and Microsoft is currently deflecting attention from the real issues by agreeing to remove some icons from the XP desktop (as if that mattered in contrast to the larger issues at stake). Klein and Boies helped to prevent the bootloader issue from becoming a central component of the DOJ's case. And we were never the wiser. As a result of all this, Be's business may have suffered in ways that will never be possible to measure. I'd go as far as to suggest that successful bundling arrangements with large PC vendors could easily have made the difference between the obscure BeOS of today and what could have been a popular, user-friendly and profitable alternative to Windows for the masses. On the other hand, Be may have failed to gain mass acceptance even with major vendor bundling deals. But we would have had the opportunity to "experience what a truly competitive situation might be like." In any case, the miscarriage of justice was absolute. What we know for sure is that Microsoft treated the PC hardware platform as if it owned it, and thus hurt consumers, software developers, PC OEMs, OS competitors, and the industry in general. That's a layman's definition of abusing a monopoly. Jean Louis Gass,e, July 2000

Postscript:

My copy of the San Francisco Chronicle for August 17 contains an article on the Palm purchase and includes the following extremely interesting paragraph: Although it will cease operations, Be said that it will retain certain rights and assets, including its cash and cash equivalents $4.9 million as of June 30 and "rights to...bring certain causes of action, including under antitrust laws." In other words, Be may yet opt to sue Microsoft, which could be a very interesting case to watch. Let's just hope the media figures out where the real antitrust issues are this time.

MTC-00026123

From: Margaret Sanchez
To: Microsoft ATR
Date: 1/26/02 2:03pm
Subject: microsoft settlement
Renata B. Hesse
Antitrust Division, US Dept of Justice
Re: Microsoft settlement

I am writing regarding the persecution of Microsoft to let you know how I think and feel about this dastardly affair. I resent the government's implication that I am a helpless victim because I choose to buy a computer with Microsoft software already loaded. I resent the arrogance on the government's part thinking that it can decide what is to be on my computer. This is ridiculous. That is not the government's job. Your job is to protect the citizenry from events such as September 11. Why aren't you persecuting that whole affair more vigorously? Why aren't you going after Iran, Iraq? This is how you choose to spend taxpayer money by persecuting an American company? I cannot remember having instigated a complaint against Microsoft, nor do I recall any other individual doing so. This whole affair has been instigated by competitors who are unable to compete in the free market! Failed business should not be the ones to set the rules for the very markets in which they failed. The government's application of the corrupt and dangerous antitrust laws against successful businessmen is anti-American and can only result in greater corruption in our society as businessmen find it ever more necessary to kowtow to politicians. Microsoft and its owners have a right to the fruits of their labor—their property—and it is the government's job to protect this right not take it away. The government's actions are on principle anti-American and unconstitutional. America is a land open to all who want to dream and work hard to see their dreams come true. If the government throttles success based on the envy and dishonesty of the few then there is no hope left in the world. The antitrust laws are fraudulent and should be repealed. And by the way I love Microsoft products and not having to load software and not having to pay for a browser!

Sincerely,
Margaret and Evencio Sanchez
CC:Margaret Sanchez,Richard Winkler

MTC-00026124

From: Lemon, Michael A
To: "microsoft.atr(a)usdoj.gov"
Date: 1/26/02 2:04pm
Subject: Microsoft Settlement.

Please don't trust AOL,s word ! Aol is the evil one not Microsoft.AOL destructive software has personally caused me $700.00 damage to my computer and software.

I loaded a game and later found that AOL's software loaded with it.When i tried tried to remove it corrupted my software and locked up my computer.Like a worm virus it interlocked in my programs,when i tried to remove it it ripped parts of my programs

apart. My harddrive,memory,audio card,modem had to be replaced.I had to upgrade to the new operating system and scrap the old one all because of AOL.Two other people at work have had the exact same thing happen.

Microsoft provides an excellent product with extra features that help the customer.The computer tech told me to NEVER load anything with AOL on it.He said it innertwines itself like a virus into your computer. I believe that the Government should sue AOL for all the damage they have done.I am out $700.00. Michael

MTC-00026125

From: lherman
To: "microsoft.atr@usdoj.gov"
Date: 1/26/02 2:03pm
Subject: Microsoft Settlement
Lawrence Herman
7 Seneca Drive ??Chappaqua, NY 10514 ?
(914) 238-8565
Saturday, January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you to express my hope that you will see your way clear to expediting the settlement of the Microsoft anti-trust case. This case has seen more than three years of litigation, appeal, mediation and controversy. A fair and functional settlement plan has been reached by the parties and accepted by the court. It's time to end this matter and let Microsoft get back to work. The plan itself would force Microsoft to alter its business practices in a manner that will encourage competition in the IT field. Its Windows systems will be made accessible to other software manufacturers" software. New Windows systems will be developed specifically so as to open them up to exploitation by the company's competitors. An oversight committee will be established to make sure Microsoft no longer engages in anti-competitive practices. In brief the "old" so-called predatory Microsoft will no longer exist. There is no present need to divide up this great and inventive company. And, there is no logical need to delay the implementation of this plan.

Sincerely,
Lawrence Herman

MTC-00026126

From: Paganini
To: Microsoft ATR
Date: 1/26/02 2:02pm
Subject: Microsoft Settlement
11340 Saddlewood Lane
Concord Township, OH 44077-8937
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

The Department of Justice and Microsoft have finally reached an agreement ending the three-year long antitrust case brought against Microsoft. I think this settlement is fair and should stand. The two parties fought it out, worked out an agreement, and it is not for people outside to second-guess these decisions. In my view, Microsoft has been chastened and has agreed to open up their company to competition. Microsoft has agreed to allow third party developers more of its copyrighted material to aid in development of third party programs; Microsoft has agreed to a three person technical committee to monitor future actions; Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products—a first in an antitrust settlement. It seems to me that all this is more than fair to the competition and it is time we put this matter to rest.

I urge you to give your support to this agreement.

Sincerely, John Paganini

MTC-00026127

From: Richard
To: Microsoft ATR
Date: 1/26/02 2:06pm
Subject: Justice for MicroSoft

MicroSoft is a cancer on the technological innovation machine. I am a Silicon Valley entrepeneur and have watched other companies develop new technologies only to see MicroSoft absorb it into its OS. Sure the consumer doesn't care, just like the citizen that buys stolen goods from murky sources doesn't care. The giant hairball from Redmond must be stopped before they kill the innovative spirit of the technology sector.

MTC-00026128

From: Marc (038) Karen Jacobson
To: Microsoft ATR
Date: 1/26/02 2:06pm
Subject: Proposed Microsoft settlement

I am opposed to the current settlement as outlined currently. Microsoft is not a benign monopoly. They use their clout to drive out competition. The control of the source code for their operating system, and the rules and regulations in place to developers, gives Microsoft prior knowledge of cutting edge technology whic they can and do use to curtail competition. I strongly belive Microsoft must be punished along the outline originally set forth by Judge Jackson.

Sincerely,
Marc S Jacobson
Whittier, California

MTC-00026129

From: Rodney M. Jokerst
To: Microsoft ATR
Date: 1/26/02 2:08pm
Subject: Microsoft Settlement

I truly fear the day when I will have to pay MICROSOFT a monthly subscription just to use the internet. The way things are going now, all internet providers will soon require you to use microsoft products just to log in. Once they own the internet it will be practically impossible for anyone to take it back. I use microsoft products only when I absolutely have to. The primary reason that this is required is because they have closed standards so noone can create a word processor that reads word file correctly for example. If they were made to publish in FULL the specs for applications such as Microsoft Office I would have no reason to complain. I have no problem with the whole world standardizing on one document format. I do have a problem with the company not allowing anyone to compete with them by creating a competing product that uses this document format. The internet was created with open standars so that business with different interests could create compatible products yet still compete with eachother. It is painfully obvious that Microsoft has a stanglehold monopoly in the operating systems business. Please do SOMETHING about it...please? I belive that forcing them to open up their API's would be the best solution to this problem...allowing competitors to at least have a fair chance to create a competent product.

thanks

rod

MTC-00026130

From: Colin Pritchard
To: Microsoft ATR
Date: 1/26/02 2:13pm
Subject: Microsoft Settlement

The proposed settlement against Microsoft is a bad idea. It is nowhere near enough of a penalty for the wrongs they have committed against their competitors. A stiffer series of penalties must be implemented to insure a healthy, competitive environment for all.

MTC-00026131

From: Craig
To: Microsoft ATR
Date: 1/26/02 2:08pm
Subject: Microsoft Settlement

Dear Judge,

Though I am a huge believer in free markets, I do not believe the Proposed Final Judgment (PFJ) is a the best solution. Microsoft is a wonderful company staffed by wonderful people, but they are guilty of some very grave anti-competitive violations. Moreover, the PFJ does not provide an effective enforcement mechanism for its remedies

MTC-00026132

From: JAZupkow@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/26/02 2:09pm
Subject: Microsoft Settlement

This has gone on long enough. The lawyers are the only people who stand to benefit from continuance of this suit. There will be no consumer benefit and possible consumer and economic harm to letting this continue.

Stop the insanity! Let's get on with our lives.

MTC-00026133

From: Barbara L Black
To: Microsoft ATR
Date: 1/26/02 2:10pm
Subject: RE: Microsoft Settlement

Dear Atty. General Ashcroft: I am writing to protest any further litigation against Microsoft. The settlement offered is more than fair and the time and moneys of the AGO's office is better spent on REAL problems that affect the lives of the American peoples.

Barbara Black—14515 Granite Valley, #332C-Sun CIty West, AZ 85375

MTC-00026134

From: Shelly
To: Microsoft ATR
Date: 1/26/02 2:11pm
Subject: Microsoft Settlement

Dear Senators Specter and Santorum,

I am writing today to voice my opinion on the Microsoft antitrust case. This case has been going on far too long and further litigation will only stall our economy and the IT industry, which is clearly the last thing we need. The Federal Government should focus their efforts to more pertinent matters. My husband worked in the steel industry for 37 years, expecting to still be working. His company closed , he was forced into retirement and now is in jeopardy of losing his pension. We don't know what we are going to do. We were looking to the government for help. Shouldn't the government try to help companies instead of trying to destroy them? Microsoft has done more for this economy in the last decade than anyone or anything else. I urge you to please do your best to put a stop to any further litigation and advance the current settlement that is in place. Don't let happen to Microsoft what happened to the steel industry. This settlement will benefit the economy and the technology industry. Thank you for your time.

Sincerely,
Michelle Salem Petroci

MTC-00026135

From: Arthur Laube
To: Microsoft ATR,Paul
Date: 1/26/02 2:12pm
Subject: Microsoft Settlement

As a user of MS Windows and with no other vested interest I believe Microsoft did us—the users- a great service in the way they offered their products from their inception until present. We needed a turnkey computer. Press the button and go—and we came very close to getting that only because of the way MS bundled their products with the major supplier of computer hardware. The industry would be many years back if the Justice Department could have prevented MS from their initial marketing efforts. Now that MS is successful their competitors, managed by cry-babies, are screaming foul. Pfooie on them. I bought Netscape, but after several versions I gave up on them and went to MS Explorer and Outlook Express. As for AOL—I was online early with them—they are such a farce. I left them years ago. This is a very huge, immature market—let the market determine the winner and losers. No one is going to monopolize this market. Not ever. Look at the grand old man—Big Blue. At one time such a threat that the Justice Department took them on—but eventually dropped the suit. Their customers took care of their arrogance. They almost went belly-up—but they brought in a marketing man—and he asked their customers a question that Big Blue had never thought of, "What can we do for you? What is it you want from us?" The Justice Department would never have resolved the IBM problem of size. But their own customers chastised them until they reformed. The Justice Department started this MS mess—they should step in and settle it—and make sure that the states settle.

Arthur H. Laube 23 Clover Drive Chapel Hill, NC. 27514 919-967-5484

MTC-00026136

From: wt.catch1
To: Microsoft ATR
Date: 1/26/02 2:10pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Robert Lemert
5154 Merrill
Riverside, CA 92504

MTC-00026137

From: meshkin@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/26/02 2:12pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

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Sincerely,
Lawrence D. Meshkin
950 N. Balsam Circle
Wasilla, AK 99654–5552

MTC–00026138

From: Ruth Vanderpool
To: Microsoft ATR
Date: 1/26/02 2:15pm
Subject: Microsoft Settlement

I am sure that you have read many e-mails complaining about the unethical behavior of Microsoft and while I believe that is true I thought it might scare you into thinking correcting Microsoft's behavior might in fact just be the revenge of a few. Granted the government is allowed to charge for past wrongs and thereby provide a financial incentive to correct the behavior, but I believe Microsoft is guilty of something much more concrete that is not in need of retribution but correction. This being monopolistic behavior. Having heard a mixture of these ideas the courts have come up with a settlement, but this settlement does little to correct the negative behavior that Microsoft is able to do in our economy.

If you recall from basic economic, monopolies operating in a free market are both inefficient and wasteful. It has been shown that while Microsoft is not a pure monopoly it does control a large enough percentage of the market to act that way. The only way of changing this is to allow entry into the market by other competitors, this settlement does not encourage that. In fact the language seems to do little more then provide Microsoft with loopholes in which to escape from. I don't have the time to point out each of these cases but a lot of my views have been reflected in the group letter on-line at http://www.kegel.com/remedy/letter.html. Thank you for listening and I hope this will encourage you to create a stronger settlement that will be more effective.

Ruth Vanderpool
14220 Pacific Ave S Apt L
Tacoma Wa. 98444

MTC–00026139

From: maholley@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/26/02 2:14pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Marie H. Meshkin
950 N. Balsam Circle
Wasilla, AK 99654–5552

MTC–00026140

From: MichaelRobinett
To: Microsoft ATR
Date: 1/26/02 2:16pm
Subject: MICROSOFT CASE

1. IT IS MY UNDERSTANDING THE REASON FOR THE GOVERNMENT'S ORIGINAL ACTIONS AGAINST MICROSOFT WERE PRIMARILY FOR THE INTERESTS OF "CONSUMER PROTECTION" AND I CAN APPRECIATE THE INTENT OF THE ATTORNEYS REPRESENTING THE VARIOUS STATES AND THE FEDERAL GOVERNMENT IN THAT RESPECT.

2. THE GOVERNMENT RESTRICTIONS ON PROHIBITED CONDUCT IN SECTION 111. APPEAR TO BE FAIR MINDED AND CERTAINLY IN THE SPIRIT OF THE ORIGINAL INTENT OF THE SHERMAN ACT, NOTING THAT NOTHING IN THE PROVISIONS PROHIBIT MICROSOFT FROM PROTECTING ITS OWN INTELLECTUAL AND BUSINES PROPERTIES.

3. FAIR PRICING STRUCTURES SEEM TO BE A LEGITIMATE AREA OF CONCERN UNDER ANY SHERMAN ACT PROCEEDING.

4. IT SEEMS HOWEVER THAT MICROSOFT HAS CONSISTENTLY ALLOWED END USER ACCESS TO BOTH MICROSOFT AND NON-MICROSOFT MIDDLEWARE AND PROGRAMS FOR BOTH SIMPLE MODIFICATIONS OR REMOVAL SINCE THE 3.1 WINDOWS OPERATING SYSTEM TO THE PRESENT. SO IT SEEMS THE REQUIREMENTS IN SECTION H STARTING WITH THE WINDOWS XP RELEASE ARE A SOMEWHAT MOOT POINT. WHY REQUIRE MICROSOFT TO DO SOMETHING THEY'VE BEEN DOING SINCE WINDOWS 3.1 THROUGH MILLENIUM?

5. UNDER SECTION H.3., MICROSOFT HAS CONSISTENLY ALLOWED NON-MICROSOFT PRODUCTS TO DETERMINE THEIR OWN CONFIGURATION OF WINDOW & ICON DISPLAY, SOMETIMES MUCH TO MY CHAGRIN WHEN THE NON-MICROSOFT PRODUCTS INSISTED ON JUMPING ON TOP OF THE NORMAL OPERATING SYSTEM DISPLAYS, OR ALLOWING OUTSIDE INTRUDER ACCESS TO THE PROGRAMS THEMSELVES IN SUCH A MANNER AS TO OBSTRUCT THE CONTENT OF WHAT THE END USER WAS ATTEMPTING TO PRODUCE, OR BLOCK PRODUCTION OF DOCUMENTS ALTOGETHER. IN SUCH CASES I PERSONALLY SWITCHED BACK TO THE MIDDLEWARE NATIVE TO THE MICROSOFT OPERATING SYSTEM. IN MY OWN OPINION, MOST MICROSOFT PRODUCTS ARE ENGINEERED OR CRAFTED IN SUCH A MANNER TO PROTECT BOTH THE OPERATING SYSTEM ITSELF, AND THE END USER'S ACTIVITIES, WITH THE INTENTION OF CREATING A LOYAL CUSTOMER BASE, AND ULTIMATELY SELLING MORE PRODUCTS. IT SEEMS THE BASIC UNDERLYING ECONOMIC MOTIVE IS BOTH NON-MONOPOLISTIC IN NATURE, AND TO THE BENEFIT OF THE END USER AS CONSUMER.

6. IF MY MEMORY SERVES ME CORRECTLY, THE ORIGINAL ANTI-TRUST FILINGS COINCIDED WITH THE FREE RELEASE OF THE INTERNET EXPLORER BROWSER, WHICH WAS INTERPRETED BY THE ATTORNEYS REPRESENTING THE VARIOUS STATES AND THE FEDERAL GOVERNMENT AS BEING MONOPOLISTIC IN NATURE AND UNDERCUTTING COMPETITORS. FROM THE END USER OR CONSUMER STANDPOINT HOWEVER, IT HAD THE OPPOSITE EFFECT. IT WAS THE FIRST SIMPLE AND ACCESSILBE RELEASE OF HTML SOURCE CODE IN MY EXPERIENCE AND WAS THE MODERN EQUIVALENT OF THE FIRST RELEASE OF THE GUTENBERG PRINTING PRESS. WHILE COMPETITORS PRODUCTS ALLOWED VIEWING OF HTML SOURCE CODE, THEY WERE NOT AS EASILY USED IN PRODUCTION OF WEBPAGES, OR HTML FORMAT DOCUMENTS AS THE MICROSOFT PRODUCT WAS. WHILE THIS CERTAINLY IS NOT THE SAME AS RELEASING SOURCE CODE FOR COMMERCIALLY LICENSED PRODUCTS, WHICH THE GOVERMENT IS NOT REQUIRING, IT HAD THE EFFECT OF INCREASING THE FREE FLOW OF INFORMATION OF ALL KINDS IN THE MODERN SOCIETY OF THE INFORMATION AGE. FROM A PERSONAL PERSPECTIVE, THE MAIN EFFECT, IF NOT THE ORIGINAL INTENT OF THE GOVERNMENT'S CASE AGAINST MICROSOFT, WAS TO BASICALLY BLOCK THIS FREE FLOW OF INFORMATION ITSELF. MICROSOFT HAD ALLOWED WIDESPREAD ACCESS TO BOTH PRIVATE AND PUBLIC INFORMATION SOURCES THROUGH ITS PRODUCTS, AND HAD "DEMOCRATIZED" THE PRODUCTION OF INFORMATION ITSELF, ALLOWING MULTIPLE VIEWPOINTS TO EASILY BE PUBLISHED VIA THE INTERNET. THE COURSE OF EVENTS SINCE THE GOVERNMENT'S ORIGINAL ANTI-TRUST ACT FILINGS HAS SEEN A SERIOUS REDUCTION IN THE FLOW OF INFORMATION OF ALL TYPES, AND SERIOUS IMPEDIMENTS TO BOTH THE PRODUCTION AND PUBLICATION OF THE SAME. INSTEAD OF INCREASING THE FLOW OF INFORMATION IN A FREE SOCIETY, THE SAME TIME PERIOD HAS SEEN DEVELOPMENTS OF NEW GOVERNMENT TECHNOLOGIES MEANT TO DO EXACTLY THE OPPOSITE. IN FACT IT'S GETTING TO THE POINT WHERE ONE IS NOT SURE THEY'RE ACTUALLY GETTING A MICROSOFT PRODUCT SOMETIMES, OR SOMETHING THAT HAS BEEN ENGINEERED BY ANOTHER BRANCH OF THE PLAINTIFF'S IN THE SUIT, TO DISGUISE ITSELF AS ONE, WHILE PLACING ANOTHER VERSION OF THE TECHNICAL COMMITTEE FROM SECTION 7 ON THE HOME OR OFFICE COMPUTERS OF THE END USERS OR CONSUMERS.

(7. Microsoft shall provide the TC with a permanent office, telephone, and other office support facilities at Microsoft's corporate campus in Redmond, Washington. Microsoft shall also, upon reasonable advance notice from the TC, provide the TC with reasonable

access to available office space, telephone, and other office support facilities at any other Microsoft facility identified by the TC.)

IN A SENSE, THE END USER OR CONSUMER IS BEING SUBJECTED TO THE SAME TYPE OF TECHNICAL OVERSIGHT BY "COUNTERFEIT" PROGRAMS WHICH HAVE ACTUALLY BEEN CLEVERLY ALTERED BY THE "PLAINTIFF'S" THEMSELVES IN THE SENSE THAT OTHER BRANCHES OF THE GOVERNMENT HAVE REQUIRED BOTH THE TELECOMMUNICATIONS INDUSTRY AND ISP PROVIDERS TO PROVIDE INCREASED SURVEILLANCE CAPACITY. IN A TWO PARTY POLITICAL SYSTEM, THAT CAN SOMETIMES HAVE THE UNUSUAL EFFECT OF PRIVATE INDIVIDUALS IN CONTROL OF SEVERAL TRILLION DOLLARS IN GOVERMENT FUNDS AND RESOURCES, ACTUALLY ACTING IN VIOLATION OF THE SHERMAN ACT THEMSELVES FOR FOUR YEAR PERIODS. IN CONCLUSION, IT DOESN'T SEEM THAT MICROSOFT HAS ACTED IN A MANNER DETRIMENTAL TO THE END USERS OR CONSUMERS THEMSELVES. IF ANYTHING, IT ACTED IN A MANNER WHICH ALLOWED END USERS INCREASED ACCESS TO POLITICAL INFORMATION, BUSINESS OPPORTUNITIES, AND PERSONAL EXPRESSION.

RESPECTFULLY,
MICHAEL ROBINETT

MTC-00026141

From: David Ragaini
To: Microsoft ATR
Date: 1/26/02 2:18pm
Subject: microsoft settlement

To Whom It May Concern;

I find it tragically ironic that, at the same time the American government is waging war against an unspeakable evil—radical Islamic terrorists, it is seeking to undermine one of the great forces for good the world has ever seen: the Microsoft Corporation. Microsoft has benefited millions upon millions of people in its 27 years of existence. It has brought the world and knowledge of it to their doorstep. And it has done this without resorting to force; indeed, any privately owned company must accede to the demands of the marketplace (Only government-owned monopolies have the power to force their product upon the populace).

I strongly urge that the government's antitrust case against Microsoft be dropped. It would be a monstrous miscarriage of justice for such a phenomenal agent for good to be punished solely BECAUSE it is good. Microsoft's products have fairly and honestly beaten those of its competitors. The force of our government must be used to fight evil, as it is now doing in Afghanistan; it must never be used to shackle honest, beneficial companies like Microsoft.

Sincerely,
David Ragaini
264 Eagleton Estates Blvd.
Palm Beach Gardens, FL 33418

MTC-00026142

From: PC (pcsbs)
To: Microsoft ATR
Date: 1/26/02 2:18pm
Subject: Microsoft Settlement

I strongly support the acceptance of the current settlement between the DOJ and Microsoft. The DOJ and many states'' Attorney General have, in my opinion, been unfair and extreme in their targeting of Microsoft in pursuit of political goals. I work in the technology industry. I use products of Microsoft's competitors as well as Microsoft. I will use the product that I feel is the best for what I want to accomplish. Microsoft has been innovative with it's products and has marketed them with business savvy. It is unfair to allow it's whining competitors to use the government to stymie competition and artificially alter the effects of the free market. The settlement currently being considered is FAR MORE than fair in righting any technical errors made on the part of Microsoft. For the sake of the US economy and the welfare of innovation and our economic viability and sovereignty in the world, this harassment must stop.

Regards,
PC
Phil Cagle
Irvine, California

MTC-00026143

From: Dennis Austin
To: Microsoft ATR
Date: 1/26/02 2:19pm
Subject: Microsoft Settlement

Dear Sir or Madam:

This email is to express my approval for the proposed settlement of the Microsoft antitrust action. The settlement has been agreed to by Microsoft, the Department of Justice, and nine of the states pursuing a case. It is important that this settlement be approved and the energies of all involved moved on to new challenges.

—Dennis Austin (private citizen)

MTC-00026144

From: bnorf410@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 2:20pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Bailey Norfleet
3825 Old Dover Road N
Woodlawn, TN 37191–9046

MTC-00026145

From: J. Haugh
To: microsoft settlement
Date: 1/26/02 2:30pm
Subject: microsoft settlement

This caving into the several states involved in the microsoft dispute will only discourage new entrepreneures. Leave microsoft alone, I can only commend him, Bill Gates, for his genius.

J.M.S.Haugh

MTC-00026146

From: Rick Wong
To: Microsoft ATR
Date: 1/26/02 2:32pm
Subject: Microsoft Settlement

To whom who may concern,

I would like to express my opposition of the proposed Microsoft Antitrust Settlement in its current form. Based on previous court rulings, it clear that Microsoft had violated antitrust laws and has been continuing to do so. The current proposed settlement not only fails to punish Microsoft's wrongdoing, but also provides Microsoft further its monopoly and antitrust practice. I wish the court would carefully review the case and place put a penalty that is fair for the consumers and industry suffered by the Microsoft monopoly practice.

Sincerely,
Rick K. Wong
California

MTC-00026147

From: jstein@worldnet.att.net@inetgw
To: Microsoft ATR
Date: 1/26/02 2:32pm
Subject: Microsoft Settlement
To: The Honourable Renata B. Hesse:
Judge of the Antitrust Division
U.S. Department of Justice
microsoft.atr@usdoj.gov
Subject: Microsoft Settlement

Dear Madam Justice Hesse,

I am not pleased with the settlement proposed between the DOJ and Microsoft. Microsoft claims that the consumer was not harmed by their actions. I disagree. At one time I had a choice about the Operating System that came with my computer. I also could choose the Word Processor, Spreadsheet and Database applications. I chose to use IBM's OS/2 operating system and Lotus SmartSuite for OS/2. Because of Microsoft's monopolistic practices, my choices have been, for all practical purposes, been reduced to Microsoft OS's and Microsoft applications (Microsoft Office). Most major OEM's preload these on any new computer that I buy. I will have to pay extra to get something else. Because of Microsoft's monopolistic practices, my investments of time and money in OS/2 based products have been rendered to zero value—a loss that has been unfairly placed upon me.

As shown in the "Findings of Fact", Sections 115 thru 132, "In sum, from 1994 to 1997 Microsoft consistently pressured IBM to reduce its support for software products that competed with Microsoft's offerings, and it used its monopoly power in the market for Intel-compatible PC operating systems to punish IBM for its refusal to cooperate. Whereas, in the case of Netscape, Microsoft tried to induce a company to move its business away from offering software that could weaken the applications barrier to entry, Microsoft's primary concern with IBM was to reduce the firm's support for software products that competed directly with Microsoft's most profitable products, namely Windows and Office". I and many others had chosen to use OS/2 and Lotus SmartSuite for OS/2. We did this for very good reasons, especially OS/2's technically superior design. (See Note at end of letter). Not only did Microsoft cause IBM to cease marketing these products, Microsoft caused IBM to cease using these products in their own offices. How can you sell a product that you don't use yourself? (See "Findings of Fact", Sec. 118: "Specifically, the PC Company would receive an $8 reduction in the per-copy royalty for Windows 95 if it mentioned no other operating systems in advertisements for IBM PCs, adopted Windows 95 as the standard operating system for its employees, and ensured that it was shipping Windows 95 pre-installed on at least fifty percent of its PCs two months after the release of Windows 95". The "Findings of Facts", Sec. 116 tells us "When IBM refused to abate the promotion of those of its own products that competed with Windows and Office, Microsoft punished the IBM PC Company with higher prices, a late license for Windows 95, and the withholding of technical and marketing support".

I do not think a fair settlement can be reached until Microsoft makes right the harm done to me and many others. Today, we have to accept Microsoft's poor quality products. Where is Word Perfect and Lotus SmartSuite today? Microsoft has caused to exist an environment in which they control the profitability of competing products. If a company can't get their product pre-installed on a new computer, it can't afford to develop it. And Microsoft makes sure that it's products run better on it's operating systems by denying competitors information (API's) necessary to build competitive products. Recently there has come forth increased concern that the proposed settlement contained many loopholes and exceptions. Serious questions have been raised about the scope, enforceability and effectiveness of the proposed settlement. Please reconsider the current settlement terms so that competitors have a more even playing field in which to compete with Microsoft. This is the only way that I, as a consumer, can choose what software and operating systems are best for me without having to be, at the very least, penalized by much higher costs and being worried abnormally about the survivability of products that compete with Microsoft.

Note concerning the design of OS/2 versus Windows: From an article entitled "The Big Blue-Redmond Connection" by Diane Gartner in IQ Newsletter—Issue #7, January 2000 found at: http://209.0.210.17/IQN/7-2000jan/iqn7-Blue-Redmond—Connexion.html "Big Blue's OS/2 team had discovered that the Microsoft approach of placing the Graphic Device Interface (GDI) plus the Graphic User Interface (GUI) into the kernal was a disastrous mistake that led to instability: any little application "bug" or glitch that would affect the interface also could affect the underlying OS and bring it down to a crash. Microsoft was informed of this danger by IBM, but insisted that their approach gave an important benefit of speed by allowing applications to access the kernal directly—yes, even if it were at the cost of stability. The IBM programmers maintained that such instability was needless, and the crash could be easily prevented; their solution was to separate and protect the OS/2 kernal, without having to sacrifice any speed whatsoever. In fact, IBM independently made that very simple but crucial design improvement, among other innovations, which together have lent stability as well as power to OS/2 ever since the days of version 1.30". "But how did Microsoft react? For reasons we may never be able to fathom, they balked at the very notion of correcting the design error. Whether it was due to obstinacy, vanity or perhaps envy toward IBM's OS/2 programmers, Microsoft's decision was to leave the programming flaw where it was, and ultimately, to leave the team". "Version numbering aside, the changes made by Microsoft to NT did not include the architectural improvements made by IBM to OS/2. Instead of removing the GDI and GUI from the kernal to keep it clean "n" lean like OS/2's, Microsoft actually added more code to the kernal of NT. The ever-increasing bloat has not done NT a bit of good. Instability still occurs today in NT versions 3.5x and 4.x and presumably in Windows 2000. The design flaw is now often referred to as a Ring 0 crash, because that spot is where the GDI and GUI are intertwined in NT. Many application programming errors are made in that area because Microsoft neglects to provide third-party developers with essential information on how to avoid the problem".

Sincerely,
James P. Stein
324 Mt. Royal Blvd.
Pittsburgh, PA 15223–1220
Phone: 412–781–3467

MTC-00026148

From: JFortlage@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 2:33pm
Subject: settlement Enough already.

Where have you been while Enron was running amuck? But then they made major political contributions while Microsoft was just inventing a better mousetrap.

MTC-00026149

From: Jopao@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 2:34pm
Subject: Microsoft Settlement

Please stop this case from going further there is nothing to be gained, the Government on behalf of the Public made fair and equitable settlement. And should be accepted by all States. The Nine States holding should not supersede the will of the 41 States that have accepted the settlement. The majority deserves to be served. IF THIS GOES FURTHER THE BATTLE MAY BE WON BUT THE WAR WILL BE LOST! THANK YOU FOR TAKING THE TIME TO READ THIS!
Joseph Paoletti

MTC-00026151

From: REKLAWCR@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 2:37pm
Subject: Microsoft Settlement

The sooner this is settled the better. Let all those DOJ lawyers work on something more important: Enron & Arthur Anderson.

MTC-00026152

From: Joe Hartmann
To: Microsoft ATR
Date: 1/26/02 2:38pm
Subject: Microsoft case comments

Dear Judge Kollar-Kotelly,

I am a retired aerospace engineer with a 27 year old daughter and a 20 year old son living at home. Both of my children are heavy computer users and we have 4 computers in our home. We use Microsoft and other programs and we have never felt being cheated or overpriced by any Microsoft products. I feel that Oracle, Sun Microsystems and AOL (who are monopolists themselves in certain areas) are jealous of Microsoft and their products that are better than theirs and are trying to hurt Microsoft any way they can. I also believe that Microsoft, more than any other company, helped the U.S. economy become the world leader and do not understand why our government and especially the remaining 9 states want to cripple Microsoft and hurt our economy more. They are not protecting us consumers. I am very happy with all the free bundled programs from Microsoft that I, as a consumer, would have to pay a lot of money for. In my opinion, they are hurting us. Please settle this case favorably for us consumers and Microsoft.

MTC-00026153

From: lbstuart@webtv.net@inetgw
To: Microsoft ATR
Date: 1/26/02 2:38pm
Subject: Microsoft Settlement

The time has come for the Justice Department to end it's expensive and damaging legal action against Microsoft which is not against just one company, but rather an entire industry. The action taken earlier was justified but it has served it's purpose. Further delay is not justified and will serve only to injure those many medium and smaller companies who depend upon Microsoft products. Please complete this legal action for the benefit of all.

Lewis B. Stuart

MTC-00026154

From: Judah Phillips
To: Microsoft ATR
Date: 1/26/02 2:39pm
Subject: Microsoft Settlement

DOJ,

Bad iDEA!

MTC-00026155

From: Bill Bondurant
To: Microsoft ATR
Date: 1/26/02 2:40pm
Subject: No subject was specified.

I am an 82 year old graduate from Northeast Missouri State University(1940)Now Truman State University located in Kirksville, Missouri. My major was Economics and I remember well studying about Anti-Trust laws. I cannot believe what the current administration is trying to do in the case of Microsofts violation of the Anti-Trust laws. It is very apparent to most everyone I talk to that people realize what Microsoft is trying to do and that the Judge who determined that they are in violation of Anti-Trust laws of the United States was right. And the offer of Microsoft to furnish millions of refurbished computers loaded with Microsoft software is just a contiuance of their attempt to monopolize the computer software market. I have been using a computer for about six years, starting on an Apple II that my son gave me, but 6 months later purchased an Apple Peforma and a year ago moved up to an Apple iMac. I realize that 95 percent of computers use Microsoft programs but that is no reason to allow them monopolize the market in violation of the law.

Sincerely, Bill Bondurant, 1709 South Lewis, Kirksville, MO 63501

MTC-00026156

From: Shelly
To: Microsoft ATR
Date: 1/26/02 2:41pm
Subject: Microsoft Settlement

Dear Senator Santorum,

I am writing to let you know my views on the Microsoft settlement. First and foremost, this case has been in litigation for far too many years now. Secondly, this lawsuit should not have concerned the federal government, since no laws have been broken. Settlements have been reached in various states, all of which have involved appropriate concessions, including more information sharing and changes in Microsoft's business practices. I have firsthand experience with big business. I previously worked in the steel industry, and due to government intervention and regulation, I permanently lost the only job I knew. I wish the lawmakers would try to understand what that is like. Pennsylvania's steel industry will never be the same and it's too late to change that. I urge you to please do your best to see that this dees not happen to Microsoft. Our nation's IT industry depends on companies such as Microsoft and our economy also depends on the IT industry. I strongly suggest that it is in the best interest of everyone to discontinue these lawsuits so our economy can return to a sense of normalcy. Thank you for your consideration in this matter.

Sincerely,
John J. Petroci Jr.

MTC-00026157

From: Geoffrey Feldman
To: Microsoft ATR
Date: 1/26/02 2:43pm
Subject: Microsoft Settlement

If this settlement forces Microsoft to change their business practice further than they have, then the consumer will suffer and I will suffer. This case should never have been tried, never admitted to court and never gone as far as it has. It has harmed a company and by extension has harmed my software development business. I am not paid by Microsoft but my customers purchase products from them. I have already been harmed by the absurd and groundless pursuit by the Clinton Justice department of this important American asset. I do not believe that it is possible for any software company to be a monopoly since their product, computer software, is simply ideas in a form of speech logical enough to work in a computer. This pursuit of a software company, alleging monopoly, violates my freedom of speech as a computer programmer and harms me in the practice of my consulting business. Please, do not supress the honest and aggressive competition to make life easier for Microsofts competitors who arguably fail through lack of competence and not lack of opportunity. Impose the most minimal penalty possible on Microsoft and get this farce over with.

Geoffrey Feldman
1541 Middlesex St. #8
Lowell, MA 01851
617-429-8966

MTC-00026158

From: Benjamin Dixon
To: Microsoft ATR
Date: 1/26/02 2:44pm
Subject: Microsoft Settlement

I think Dan Kegel's petition says it best so I won't reiterate all that here. However I will say the Microsoft Settlement is ineffective and will ultimately allow Microsoft to run its business as it always has. Benjamin Dixon

MTC-00026159

From: Dan Derby
To: Microsoft ATR
Date: 1/26/02 2:44pm
Subject: Microsoft Settlement

I feel I've been victimized by Microsoft's monopolistic practices, not only in paying more than a product is worth, but also in seeing the entire computer OS platform I use become ineffective. I purchased MS Office when it was only offered for the Mac (version 3) and was satisfied with the product. However, after MS launched Windows, the next upgrade to Office (Version 4) didn't work as advertised, and interfered with Mac operating system—causing countless crashes (I believe MS Office Manager never worked and was never fixed). This sudden "breaking" of a product originally designed for the Mac but continued to work well on their new Windows OS, implies the company did it damage Apple. Beside defrauding me out of $600, the failure of this program suite to work properly on the Mac, I believe, drove the Mac out of the business and government environments. This loss of market caused my investment in Apple products to become less effective as well. I also believe Apple was unable to protest for fear of further losing MS productivity suite support. While I sincerely feel this is an obvious example of MS's unethical and probably illegal practices. I'm also convinced the proposed settlement gives MS a boost in the education market, again at Apples expense. I have a much simpler settlement: Enforce the government's policy of not allowing sole source purchases. Simply limit MS's total share of any one type of software suite (OS, Web browser, productivity apps, etc) to less than 50% of US government purchases. In fact the US government should never allow any company to control more than 50% of any commonly used software genre owned by the government. WHY AREN'T SOLE SOURCE RULES APPLIED TO MICROSOFT? CAN THE GOVERNMENT DEFEND IT PURCHASING PATTERNS in light of the court ruling?

Dan Derby

MTC-00026160

From: Joyce Clarke
To: microsoft.atr
Date: 1/26/02 2:45pm
Subject: Microsoft Settlement

I disagree with the terms of the proposed Microsoft settlement. As far as I can tell it will change nothing. Microsoft will continue to have the monopoly's stranglehold on operating system, software and in many cases, hardware. Microsoft should be treated exactly as were ATT and IBM— split into separate companies with none having control over or connection with the other.

Joyce
Joyce Clarke
http://jc-clarke.usana.com

MTC-00026161

From: Bob Dunlap
To: Microsoft ATR
Date: 1/26/02 2:45pm
Subject: Microsoft Settlement

This settlement is ridiculous. Microsoft has done untold damage to many competitors with their predatory business practices. This has been proved in court. Their punishment should be more than a wrist slap. It should put them in a position where they can no longer conduct business in this unfair manner.

Microsoft also has disregard for their customers. Since they have the only viable operating system, Windows, they can set the price where they want and provide little or no support after the product is in the marketplace. Look at how the prices of other elements of the PC have dropped drastically, while the price of Windows has stayed the same or increased. And if you have a computer of your own with Windows, you must be aware of the instability of the product. When you call Microsoft for help, they charge exhorbitant fees to resolve problems in their product. There is no warranty!

Periodically, on their own schedule, and with no regard for the needs of their customers, Microsoft will provide an update for Windows via download from their website. This is fine for those of us who have internet access, but the quality of these updates is poor. I have tried installing them and seen my system stability go from bad to worse.

In my view, Microsoft is an arrogant, greedy corporation. Their goal is to squash all competition so they don't have to provide their customers with excellent service. They have no regard for the law or for the courts. They need to receive a strong message that we won't tolerate this type of business conduct!

Sincerely,
Robert A Dunlap

MTC-00026162

From: Dan Derby
To: Microsoft ATR
Date: 1/26/02 2:46pm
Subject: Microsoft Settlement
Subject: Microsoft Settlement

I feel I've been victimized by Microsoft's monopolistic practices, not only in paying more than a product is worth, but also in seeing the entire computer OS platform I use become ineffective. I purchased MS Office when it was only offered for the Mac (version 3) and was satisfied with the product. However, after MS launched Windows, the next upgrade to Office (Version 4) didn't work as advertised, and interfered with Mac operating system—causing countless crashes (I believe MS Office Manager never worked and was never fixed). This sudden "breaking" of a product originally designed for the Mac but continued to work well on their new Windows OS, implies the company did it damage Apple.

Beside defrauding me out of $600, the failure of this program suite to work properly on the Mac, I believe, drove the Mac out of the business and government environments. This loss of market caused my investment in Apple products to become less effective as well. I also believe Apple was unable to protest for fear of further losing MS productivity suite support.

While I sincerely feel this is an obvious example of MS's unethical and probably illegal practices, I'm also convinced the proposed settlement gives MS a boost in the education market, again at Apples expense. I have a much simpler settlement: Enforce the government's policy of not allowing sole source purchases. Simply limit MS's total share of any one type of software suite (OS, Web browser, productivity apps, etc) to less than 50% of US government purchases. In fact the US government should never allow any company to control more than 50% of any commonly used software genre owned by the government. WHY AREN'T SOLE SOURCE RULES APPLIED TO MICROSOFT? CAN THE GOVERNMENT DEFEND IT PURCHASING PATTERNS in light of the court ruling?

Dan Derby

MTC-00026164

From: Tomlohman2@aol.com@inetgw
To: Microsoft.ATR
Date: 1/26/02 2:50pm
Subject: Microsoft Settlement

I strongly support the antitrust settlement between Microsoft, the DoJ and nine states. I believe that the terms of the settlement are reasonable and fair to all parties. It is time to move forward.

Thank you.
Tom Lohman
4011 Winchester Loop
Anchorage, Alaska 99507
(907) 349-3229
tomlohman2@aol.com

MTC-00026165

From: Fred5040@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 2:51pm
Subject: Microsoft Settlement

Please stop any more persecution of Microsoft. Enough is enough! Microsoft should not be disbanded. They product they provide is fantastic value for the price. They are not endangering the end user by bundling their software. If the consumer wants other products, they are free to buy them. Just because Microsoft is successful at what they do, they should not be penalized anymore than they already have. Let the competitors improve their products, that is the fair and American way to compete in today's world.

Joanmarie Hofmann
Wesley Chapel, Florida

MTC-00026166

From: Peter
To: Microsoft ATR
Date: 1/26/02 2:52pm
Subject: Microsoft Settlement

Dear Sirs

The proposed settlement SUCKS!!!

Pete Matuszewski
New Orleans University Student

MTC-00026167

From: W. D.
To: Microsoft ATR
Date: 1/26/02 2:55pm
Subject: Microsoft Settlement Hey Do-dos!

Your job is to break up Microsoft!

It is obvious that they only care about making piles of money for themselves. They care nothing about the LAW or fair competition.

This proposed settlement does nothing to keep MicroSuck from anti-competitive behavior.

The only thing Gates, Ballmer, etc. understand is a big fat stick.

Break them up!!!!!!!!!!!!!!!!!!

MTC-00026168

From: Benjamin Stanley
To: Microsoft ATR
Date: 1/26/02 2:56pm
Subject: Microsoft Settlement

I think that the proposed settlement is a bad idea.

B.

MTC-00026169

From: Roger Zimmerman
To: Microsoft ATR
Date: 1/26/02 2:56pm
Subject: The Microsoft Settlement

To whom it may concern:

I am a computer professional who has used the products of many parties surrounding the Microsoft lawsuit (Sun, Netscape, IBM, and, of course Microsoft, among others) throughout my 20 year career. I believe the best conclusion to this matter would be for the federal and state governments to stop interfering in what is a perhaps America's greatest success story—our computer industry. At the very least, the U.S. government should honor the settlement it has offerred thus far, and should compel all of the states to do the same. Microsoft should be allowed to get on with its business of making good products which serve a dire need in the marketplace.

I speak from a great deal of experience. I use computers in all aspects of my life, from my profession as a scientific programmer, in email communications with my friends and colleagues, and with my three daughters, whom I guide through the use of the internet and in a vast array of educational software. My wife has her own business for which the our home computer is her primary means of communication and research. In all of these pursuits, I have been exposed to a small slice of perhaps the richest and most empowering array of technologies the world has ever seen, or at least that have been made available to the masses.

Many of these products are from Microsoft. By and large, I have found their software to be accessible, understandable, and stable. They get the job done, and their consistency of interfaces, relative ease of use, and interoperability are a great boon to the novice computer users among my family and friends. But, many of the products my family and I use are not from Microsoft. Indeed, at eScription, I work in a small group of engineers which employs a network of 25 Linux-based (purchased from Red Hat) computers to do enormous amounts of computation and database management. We also communicate with our customers and adminstrative colleages on networks of primarily Microsoft-driven machines. These machines interact seemlessly thanks to software and hardware from countless American and international companies. From a consumer's perspective it is impossible to reconcile this panoply of offerrings with any characterization of "monopoly". There is virtually no barrier to obtaining software products from absolutely anyone who produces them. It insults my intelligence to have the government name me as a "victim" of this situation.

The more important point, however, is not the impact of the case against Microsoft on consumers. It is its impact on producers. What kind of a country do we want to live in? Do we want success to be punished or rewarded? Do we want property rights to be protected or infringed? Do we want our corporations to run to the government if they see a better competitor achieving success by providing what consumers want? I submit that the answer to these questions is: we want freedom. The freedom to innovate, to succeed (and sometimes even fail), and yes, the freedom to make our own decisions about what we want to buy. The government can best do its job by protecting these freedoms.

Let Microsoft be Microsoft!

Sincerely,

Roger S. Zimmerman 32 Hastings Street
Wellesley, MA 02481 roger@escription.com
rogerzim@mediaone.net (781)235-1939

MTC-00026170

From: WBracken1@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 2:56pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the

future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
William Bracken
1006 East 11th St.
Lehigh Acres, FL 33972

MTC-00026171

From: Steve Parker
To: Microsoft ATR
Date: 1/26/02 3:06pm
Subject: sign it already

Dear DOJ:

Please put this to rest so we can all get back to business without any more damage being inflicted upon the US public and the US Economy! Not to mention the fact that this has had world-wide impact!

Thanks.

A Concerned Citizen & Computer Consultant
(who does not necessarily care for Microsoft and its products)
Steve Parker
sparker@apk.net

MTC-00026172

From: piano-player@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 3:00pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Gerald Kleppinger
4219 N Elm
Spokane, WA 99205–1459

MTC-00026173

From: Jason A. Tripp
To: Microsoft ATR
Date: 1/26/02 3:04pm
Subject: Microsoft Settlement

Dear Sirs:

I am an independent software developer in Northeastern North Carolina, and I just wish to comment on the upcoming settlement proposed in the Microsoft vs. US DOJ antitrust case. I believe there are very many key points which your proposed settlement did not address, but I believe one of the MAIN points to be that your settlement does not prohibit Microsoft from unfairly modifying (or prohibiting via licensing restrictions) programs based on the Windows API so that they will not run on non-Microsoft operating systems. This type of restrictive programming would force companies to do multiple ports of their software, a costly and time-consuming process, in order to get their software to run on multiple (and Microsoft-competitive) operating systems. The wording of the settlement should be changed to prohibit Microsoft from stopping programs based on the Windows API from running on operating systems other than Windows. After all, in my opinion most people use Windows just because there's so much software written for it; and that software, because of Microsoft's unfair business practices and licensing restrictions, will not run on other OS's. Microsoft would find itself faced with much stiffer (and more successful) competition if it could not unfairly restrict companies which are designing Windows API-based software in this way.

Sincerely,
Mr. Jason A. Tripp
Independent Software Developer
Edenton, NC
jeddhor@yahoo.com

MTC-00026174

From: jovitoIII
To: Microsoft ATR
Date: 1/26/02 3:04pm
Subject: Microsoft Settlement

We feel it is past time to resolve this issue. We believe the settlement if reasonable and fair to all parties involved. The country needs to get past this and it time to be settled.

Thank you
Joe & Vickie Bellotti

MTC-00026175

From: Herman Kling
To: Microsoft ATR
Date: 1/26/02 3'07pm
Subject: Microsoft Settlement
Herman Kling__
9 Jolly Roger
WayWaretown, New Jersey 08758
Fax:
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I write you concerning the recent Microsoft settlement, and the fact that it may be delayed even further than it already has been. After three years of negotiations, it seems ridiculous to hold back this agreement. Not only was this a well thought out procedure, but it was also well monitored.

Why waste our precious resources fighting a battle that has already been won. The more we delay the process the more we hold back our technology industry. This agreement was made in the interest of all parties involved. Microsoft will share information about the internal workings of Windows, and will be monitored by a government oversight committee. Let us allow the terms to work for themselves, and let our IT sector get back to work.

I urge you to support that no more action be taken against this settlement. We need to get our technology industry back on track, and not hold them up any longer.

Sincerely,
Herman Kling__
Fax:
January 7, 2002
Attorney General John Ashcroft
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Washington, DC 20530

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Sincerely,

Herman Kling

MTC-00026176

From: Mary E. Daudelin
To: Microsoft ATR
Date: 1/26/02 3:07pm
Subject: Microsoft Settlement
To: United States Department of Justice
Subject: Microsoft Settlement Comments
Date: Friday, January 25, 2002

To paraphrase Mr. Glassman's comments pertaining to the Microsoft settlement, I feel that AOL could better spend its time in further analysis of its own product (especially with regard to its deployment overseas) rather than in continuing to pursue this case. My own personal experience with AOL has led me to believe that full utilization of the Internet is, in fact, restricted, when using their application.

As a developer of WEB applications for research, business and educational purposes, I have utilized a variety of browsers, development tools and operating systems while producing and testing my applications. Although I use their NT servers and take advantage of their many development tools, such as FrontPage 2002, I have not found that the public cannot access my applications, regardless of their operating system and/or browser type (with the exception of an occasional prototype). In fact, until recently, Netscape has always been my personal choice of browser as it was the one that originally introduced me to the Internet. And SUN's StarOffice product has produced many graduate-school presentations for me.

Because Internet Explorer is so forgiving of my JavaScript scripting errors, I find that I often HAVE to make myself utilize other browsers/systems in my testing to ensure that users who do not utilize their products/systems are not inundated with JavaScript errors that I have overlooked in my own code. My personal belief is that Microsoft has some damn good programmers that pay attention to detail, and, as such, should not be penalized for their technical excellence.

Yes, my job would be even easier if I could convince everyone on this planet to use Microsoft OS's and browsers, IBM laptop computers, the same size monitor and to access the Internet via cable, however, since this attitude smacks of the old telecom mentality (a black rotary phone for everyone, by God!), and because we all have our different comfort levels, I will remain silent on that subject and continue to jump back and forth between computers/systems/browsers in my testing.

In closing, I feel that Microsoft should be used as an example of what works in our economy (little, if any, debt and innovative, easily accessible business solutions at a reasonable cost) and that this case should come to immediate closure.

Sincerely,

M. E. Daudelin

iN21, Incorporated

MTC-00026177

From: Teri Bray
To: Microsoft ATR
Date: 1/26/02 3:09pm
Subject: Microsoft Settlement

I am writing this email in support of the antitrust settlement between Microsoft, the Department of Justice and the nine states. I feel that each of these parties has gone through extraordinary steps to reach a settlement that meets the issues of the original claim and corrects the issues that are addressed in this action. It would be my hope that the court would accept this settlement and, in so doing, help to move these parties toward being a more productive member of the industry and society.

I am very disappointed with the continued negative stance by the remaining states and other organizations that have continued to press for more drastic actions against Microsoft. I do not feel that these steps are reasonable, nor are they in the best interest for the most important people—the consumer. I do not feel that any of these parties have correct motives for their actions.

I feel that Microsoft has taken every step possible to meet the needs of the consumer worldwide through its innovation and market forecasting. I do not feel that Microsoft should be punished purely for better forecasting and having the ability to provide a product that meets consumer needs, while other organizations have failed in this attempt.

While Microsoft has made mistakes in some areas, I feel that the settlement between Microsoft, the Department of Justice and the nine states has taken sufficient steps to correct those areas and helped to ensure that such actions will not be repeated. I feel Microsoft has been a leader in the technological industry and has helped to bring the society to where it is today. Continuing these legal actions not only stifles these organizations, but the technological industry and society as a whole. Accepting this settlement is in the best interest for all parties and will help to move this industry back to one of cooperation, innovation and advancement toward the future.

Respectfully,

Teresa J. Bray

MTC-00026178

From: Michael Drone
To: Microsoft ATR
Date: 1/26/02 3:12pm
Subject: Microsoft Settlement
26 January, 2002

Attorney General Ashcroft,

It is my fervent belief that that Microsoft should no longer be subject to the vagaries of this antitrust suit. The U.S. system of justice, while one of the finest in the world, has in this case been usurped by a group of tech sector companies who are behaving no better than a band of brigands prowling the medieval roadside. To wit, they will gladly plunder a wealthy target to line their own larcenous pockets.

Mercifully, Microsoft and the DOJ have reached a settlement that can put the American people out of this case's misery. In an ideal world, this suit whould never have been brought at all. However, in an ideal world, I'd be romantically involved with Liv Tyler. Suffice it to say, neither of those options are feasible at this time.

Some opponents say that the settlement lets Microsoft off the hook with only a slap on the wrist. I have perused the settlement, however, and can only conclude that those who deride the settlement must be smoking some sort of powerful hallucinogenic substance. Under this settlement, Microsoft will have to accept provisions that would be the WWF equivalent of being on the recieving end of the Undertaker's devastating Last Ride, Stone Cold Steve Austin's patented Stone Cold Stunner, and the most electrifying move in sports entertaintment—the People's Elbow, consecutively. This is the exact antithesis of getting off easy.

This antitrust suit has been more taxing on America's patience than the recent spate of reality-based television. I don't forsee NBC, ABC, CBS, or FOX changing their scheduling plans anytime soon, so the least that the country could do is end this lawsuit and accept the settlement. Thanks to the intern of staff assistant who's reading this for taking the time out of your day. I hope it's been both informative and, in some small part, entertaining.

Sincerely,

Mike Drone

MTC-00026179

From: Doby Fleeman
To: Microsoft ATR
Date: 1/26/02 3:10pm
Subject: Microsoft Settlement

Writing both as an individual citizen, and as a businessman, I find it particularly sad that our system of justice is being utilized to penalize the company that more than any other has been so much responsible for the success of the PC market and for the dominance of the United States in the area of software applications and to .

Tough, maybe, but Microsoft has made Windows DOS the universal language of personal computing. That, alone, brings jobs and prosperity to the US economy.

While the lawsuits have now succeeded in distracting Microsoft and in allowing other operating systems such as Linux to make inroads, it is not obvious that this is a great benefit to the United States or our economy.

While AOL/Time Warner (is that the same Time/Warner who dominates so much of our media markets?) is now trying desperately to push other blockades in the path of Microsoft, hopefully it will not find a willing accomplice in the form of the United States Government.

Please stay the course and provide the impartial justice for which your office is known.

Signed,
Grateful to be an American!
William Fleeman
44513 So. El Macero Drive
El Macero, CA 95618

MTC-00026180

From: Steve Carr
To: Microsoft ATR
Date: 1/26/02 3:16pm
Subject: Microsoft Settlement.

Please resolve this suit against Microsoft quickly and fairly. Due to Microsoft's success and competitive nature, companies who have less superior products and no marketing power are upset and trying to make their fortunes via unfair lawsuits. Local governments that support these companies are of course supporting them (it's their duty) and looking for a piece of the pie.

The browser integration into Windows was not illegal and has not hurt consumers. It's required functionality for today's technology level just as Terminal programs were in the past. In the past when modem dialup was becoming popular, people were required to download modem connection programs from a dialup BBS. Since the OS didn't initially supply this functionality, consumers were left in a frustrating catch-22 situation. They needed dialup access to download a terminal program, but since they didn't have a terminal program, they didn't have dial-up access to do so. Microsoft integrated a terminal program that was good enough for some, while others used it to download their application of choice. If there was not a web browser included with Windows, we'd be in the same position. It's a required feature for today's online access. Users are still free to download other browser software if they choose to do so. There is choice.

The browser functionality was further integrated into the operating system, not to kill off competitors but to gain functionality. Why develop several technologies when one could be used for multiple purposes. Browser software is after all just a language interpreter. It was initially required to support HTML used by web servers. The language became more powerful over time and became used for more than just web server interpretation. Help files for the OS and other applications for example could now be created in HTML instead of using proprietary help file formats. The OS needs functionality built in to read these help files. Non-OS help files (applications) could only be distributed if each application was bundled with interpretation software (browser) unless it could assume that an interpreter was already installed on the computer. For this to be guaranteed, it has to be built in. Browser technology has moved beyond even web server and help file interpretation. Now it's used to browse files and folders on the computer as well. That's a good thing. People can customize how different directories look and have more information available that a flat file list. Again, good for the consumer.

There are other points brought up such as price breaks to OEMs for bulk deals or contracts requiring exclusive application placement to get price cuts. Is that illegal? Not to my knowledge. Many businesses do this. If you buy a product in bulk at the grocery store, it's cheaper. Buy two, get one free. Coupons supplied in the newspaper each Sunday advertise purchase these two products from a company and get a discount on this other product. It's done all the time, it always has been, and it's not illegal.

I'm sorry to babble here, I'm just frustrated that so much time and money is continually wasted to satisfy people that cry fowl when they fail at something. I spilled coffee, I'm going to sue. I can't control myself, punish everyone else and make this illegal. My business didn't pan out because someone wrote better software than me, I'm going to sue. Put a rest to this garbage and stop punishing a company for their success. If you feel you need to protect others from individual success, then propose and create new laws based on the voters opinion; but please don't destroy a company to satisfy sore losers.

These personal opinions are my own and should be treated as such.

Sincerely,
Steve Carr

MTC-00026181

From: Justin Jones
To: Microsoft ATR
Date: 1/26/02 3:16pm
Subject: Microsoft Settlement

Hello,

With Microsoft strongarming the DVD industry into using Windows Media and already holding the patent on the "Digital Rights Management Operating System", they are poised to leverage absurd control over the standards and formats for digital media in the near future. Given that the legal system cannot move as quickly as the software industry, this is a very important opportunity to prevent Microsoft's anticompetitive strategies from spreading into new markets by producing a ruling that will firmly prevent future monopoly and encourage competition in both established and emerging markets.

I support stronger action than the currently proposed settlement, and add my voice to the comments posted at http://www.codeweavers.com/~jwhite/tunneywine.html and http://www.kegel.com/remedy/letter.html.

Thank you,
Justin D. Jones

MTC-00026183

From: Jerry (038) Annette Prioste
To: Microsoft ATR
Date: 1/26/02 3:17pm
Subject: Microsoft Settlement

Please approve the antitrust settlement between Microsoft and the Dept. of Justice and nine states. This settlement is needed to heal the economy. My wife and I believe that the terms are more than fair to all parties involved. The terms will greatly help the consumer have the best products through competition while achieving lower prices. The antitrust laws were intended to keep consumers from paying higher prices due to monopolist practices. The antitrust settlement should not be about helping a few competitors like AOL and Sun Microsystems. AOL already has a lawsuit against Microsoft for a price greater than the value of Netscape.

Let Microsoft and the industry move forward. Microsoft is the best US company ever to promote technological advances and economic growth in this country. Let competition and the consumer determine what is best for technological advances, not government regulation and greedy lobbyist (ENRON as example). The economy and the stock market will improve if this settlement is approve. If the settlement is not approved, consumers and technological innovation will be harmed. Please do the right thing for the consumer, APPROVE THE SETTLEMENT.

Thank you,
Jerry Prioste and
Annette Prioste
11614 North 68th Place
Scottsdale, AZ 85254-5142

MTC-00026184

From: timbloom@mac.com@inetgw
To: Microsoft ATR
Date: 1/26/02 3:18pm
Subject: Microsoft Settlement

harsher punishments need to be done

MTC-00026185

From: Robert H. Schmidt
To: Microsoft ATR
Date: 1/26/02 3:22pm
Subject: Microsoft Settlement

To whom it may concern:

We think it's time the government settled its case against Microsoft. It may be coincidental but the antitrust announcement against Microsoft may have caused the economic downturn and the downward spiral of the stock market—especially the NASDAQ.

The persecution of this corporation was generated by such giants as AOL/Time Warner, who were jealous of its success. It's now time to stop this unnecessary and wasteful expense and get the country and economy moving forward in a positive manner.

Sincerely,
Robert H. Schmidt
Norma M. Schmidt
1313 Franklin Ave.
Cinnaminson, NJ
08077-2711

MTC-00026186

From: Brian Wendell Morton
To: Microsoft ATR
Date: 1/26/02 3:21pm
Subject: "Microsoft Settlement"

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

To whomever this concerns,

I understand that I have the ability to comment on the proposed settlement between the Justice Department and Microsoft.

I am a dedicated purchaser and user of Apple Computer products. Almost from the beginning, Microsoft has done whatever it felt necessary to undermine the Macintosh platform, starting with the outright "theft" of the Graphic User Interface that Apple used to revolutionize the computer for the average user. Until Microsoft realized that the platform was going not to be driven into the ground, MS did its best to co-op and/or drive under any developers who saw fit to produce for the Mac. Now Bill Gates has hedged his bets by owning several hundred thousand dollars of Apple stock.

It is widely believed by those familiar with the case that the proposed settlement is completely inadequate. It will do little to punish Microsoft for its plainly illegal conduct in the past, and virtually nothing whatsoever to prevent future violations of antitrust law. As a consumer, it infuriates me to be forced to pay for increasingly expensive software that diminishes in quality with each release. I applauded the Clinton administration's investigation of Microsoft. Their case was an effort to protect consumers and promote economic growth by restoring fairness and competition to the computer industry. At the start of this administration, it all but announced publicly that it was going to let Microsoft off scot-free, by Attorney General Ashcroft stating that he didn't think the government had a case, thereby, in poker terms, flagrantly showing the other side his cards.

As the nation's legal advocate for citizens against the unchecked abuses of a corporate entity, this act was unconscionable. The United States is a successful nation because its free markets encourage firms to compete for customers by producing high-quality, low-cost goods. This system needs to be protected from monopolists who gain so much power that they can destroy the competitive nature of the markets in which they participate.

I urge all parties involved to reconsider the proposed settlement. Microsoft deserves more than a slap on the wrist for its destructive abuse of its monopoly power. More importantly, American consumers need to be protected against future abuses from a company that sees the political establishment as one to be bought, competitors as enemies to be crushed and where the word "marketing" can be freely substituted for "lying." Sort of like the management at Enron. We know what kind of oversight they got, don't we?

Brian Morton
1602 Hollins St.
Baltimore, MD 21223–2429

MTC–00026187

From: svspire(a)nmia.com
To: Microsoft ATR
Date: 1/26/02 3:24pm
Subject: Microsoft Settlement

I oppose the proposed Microsoft settlement.

There are a number of problems with the proposed settlement, but I will focus on just one here: the lack of a requirement to force Microsoft to make their file formats available.

Today it is virtually impossible to find a word processor or presentation package other than Microsoft Word or Powerpoint. They do exist, but they are barely able to survive. It is also virtually impossible to obtain venture capital to start a new business competing with Microsoft in these areas. This is bad news for consumers. More competition is sorely needed in these markets.

There is one major barrier to entry in these markets: the Microsoft file formats. In order to compete with Microsoft Office products, vendors must make their products "compatible" with Word, Powerpoint, Excel and the rest of the Microsoft Office suite. And making products "compatible" requires expensive reverse-engineering of Microsoft's proprietary file formats. It can be done, but it rarely succeeds 100%, which steers consumers and venture capitalists away from alternative products.

If Microsoft made their file formats publicly available, other vendors would be able to write word processors and other office products that were 100% compatible and thus competitive with those from Microsoft. This would be good for other vendors, good for Microsoft, and especially good for consumers, since there is virtually no competition in this marketplace now.

I do not advocate that Microsoft make their office suite "open source"—they can still maintain their proprietary advantage in the products themselves, but the particulars of the files that their products create should be made known. This will in no way hamper Microsoft's ability to compete in these markets, but it will encourage competition which does not exist today.

I would not advocate that a company release proprietary information of this nature were it not a monopoly and thus a de facto standard in the industry. If healthy competition existed, there would be no need to release the file formats. But Microsoft clearly has a monopoly in this market which will persist unless these file formats are made public, and other remedies beyond those in the proposed settlement are put into place.

Thank you,
Shannon Spires
Computer Scientist
svspire@nmia.com

MTC–00026188

From: Ron Dong
To: Microsoft ATR
Date: 1/26/02 3:26pm
Subject: Miscrosoft Settlement

Dear Sir:

I am a happy Apple customer. I work in the public schools using IMac's. Over the years I have seen the increasing domination of the computer industry by Miscrosoft. When I read the proposed settlement, I was outraged that such a settlement was even being considered. Miscrosoft is monopolistic. If it can get away with "giving" schools old computers that only run Windows, it will be the death of the only competitor left out there, Apple. Miscrosoft needs to be punished for it past practices and not be allowed to continue any of its past predatory practices.

Janice Dong

MTC–00026189

From: Jim/KJ7S
To: Microsoft ATR
Date: 1/26/02 6:21pm
Subject: Microsoft Settlement

Please Open the Attached File This is NOT a Virus

thank You!
Jim Anderson
CC:
Congressman Chris
Cannon,fin@mobilizationoffice.co...

MTC–00026189 0001

JIM ANDERSON
95 N, CENTER, P.O. BOX 1. 4
CASTLE DALE. UTAH 84513
January 24, 2002
Attorney General John Ashcroft
U.S. Department of Justice
95(t Pennsylvania Avenue, NW
Washington. DC 20530

Dear Nr. Ashcroft,

I am outraged that Microsoft was brought to trial three years ago. The case has progressed infuriatingly slowly, and has had a negative impact not only on the technology industry, but on the economy, and ultimarely the consumer as well. Now, as if to add insult to injury, Microsoft's competitors and the nine states m which they have influence arc seeking to undermine the settlement and bring additional litigation against the Microsoft Corporation. This is preposterous. America was built on the principles of free enterprise and innovation, and this settlement allows the government to suffocate the very values upon which the country was founded If Microsoft's competitors want the playing field evened, they need to market a product that is capable of competing on the same level as Microft's.

The settlement is generous on Microsoft's part. and is more than fair to its competitors. In the interest of wrapping up the case, Microsoft has agreed to terms and conditions that extend to various facets of the Microsoft Corporation that were not deemed unlawful by the Court of Appeals. The settlement requires Microsoft to make a number of changes, the most reasonable of which, I believe, mandates open sourcing. Microsoft plans to reveal source code to its competitors for use in producing Microsoft- compatible software and operating within the Microsoft framework, Microsoft has also agreed to provide third parties with a license to pertinent intellectual properly rights, also with the intern of facilitating interaction between various software producers and Microsoft

Absolutely no additional action needs to be taken in the Federal courts, Free enterprise is legal, and Microsoft is guilty of nothing more than success in a free market economy, 1 urge you to support the settlement and allow the industry to recover,

Jim Anderson
CC: Rco. Chris Cantata

MTC–00026190

From: David Brownell
To: Microsoft ATR
Date: 1/26/02 3:27pm
Subject: Microsoft Settlement

Attached, please find my comments in opposition to the proposed settlement of the Microsoft antitrust case. These are in HTML format.

I will be sending these separately in hardcopy, since you appear to have no mechanism to acknowledge receipt of comments submitted by e-mail.

- David Brownell

Proposed Microsoft Settlement: Not In the Public Interest

As a software engineer, with over twenty years in the industry, I feel compelled to comment on the proposed Antitrust settlement with Microsoft. These comments are provided in HTML format. I am sending these directly via electronic mail, and also by "snail mail" because it appears that the DOJ does not have any mechanism to acknowledge receipt of comments delivered electronically.

In brief, I feel this is disappointingly weak and ambiguous with respect to basic requirements for redress and prevention. It fails to unfetter markets, and in many key respects it is amenable to further abuse by Microsoft rather than preventing such abuse. In several respects it seems to reward Microsoft by institutionalizing, rather than destroying or nullifying, its illegally obtained monopoly, even blocking further prosecution for similar future abuses. The public interest is not served by such a settlement. The proposed revision (from California and other states) is a clear improvement, but these comments do not apply to that. Consumers and competitors have both waited far too many years already; it's time for US antitrust law to finally do something significant to deter this particular corporate criminal.

25 January, 2002
David Brownell
2569 Park Blvd #T-201
Palo Alto, CA 94306

Comments on the Revised Proposed Final Judgement

My detailed comments are presented in two broad groups. First are general comments. Then, comments on the proposed settlement are organized according to the sections to which they apply. Note that since the true extent of lobbying by Microsoft has not been disclosed, I am one of many citizens who are concerned about the process that led to this extremely weak proposed remedy. While it has long been clear that Microsoft has not wanted to act in the Public Interest, it now appears that the company has been in contact with groups within the US Government who are likewise not acting in the Public Interest (despite the requirements placed on office holders). Based on the lack of information in the Competitive Impact Statement, it appears likely that at least the US Department of Justice may have some sort of hidden agenda or agreement to promote a weak agreement. This is exactly the sort of behavior that the Tunney Act review process was designed to expose, to help ensure that antitrust settlements are clearly in the public interest.

General Comments

At the beginning, I will mention my disappointment that the Department of Justice has chosen not to consider structural remedies, which could be the most effective and least invasive solution to these antitrust problems.

Microsoft has repeatedly shown its intent to nullify or evade any legal constraints placed on its conduct. Based on that and the previous consent decree, I can not expect further conduct remedies to be particularly effective. Moreover, I would expect the costs of any truly effective conduct remedy to be substantial, since they would need to work against institutional structures which were set up to promote those unlawful anti-competitive behaviors.

Proposed Microsoft Settlement: Not In the Public Interest file:///c/win/temp/response.

In contrast, structural remedies would apportion more of the costs onto the guilty party (Microsoft), which is where they belong. Done well, they would prevent further monopoly abuses in both current and emerging markets, and would help provide redress to the customers by restoring product choice in ways that could not readily be reversed. Alternatively, it could provide a better model for dealing with the core OS monopoly of Microsoft: like other infrastructure providers, it could be a common career. (Other parts might then compete to provide value-added services. However, I note that "Microsoft Office" is also an effective monopoly in one application area.)

The terms of the proposed settlement also discriminate against software in the public commons, which includes Free Software (as well as Open Source Software). Disclosures of technical information are made to companies, but the monopoly harms were also committed against customers that are not companies, and against non-customers. The settlement needs to address all victims of Microsoft's crimes, and it can't effectively do that while assuming that the only victims are Microsoft's customers and market partners (including direct competitors). Moreover, it should not focus (as it does) so exclusively on OEM product distribution channels that other channels are barely recognized.

I would also like to highlight the degradation in security that Microsoft has fostered. Despite some recent initiatives to improve its public relations with respect to such issues, the fact remains that for the last decade or more Microsoft has actively worked to forestall security for computers and the Internet, by encouraging engineering techniques and solutions that were well known at the time to be insecure. (Also, by lack of prompt bug fixes.) Microsoft's monopoly powers were used to prevent better solutions from becoming widely available. Costs of such problems in the year 2001 alone are widely estimated to exceed $2billion to businesses alone. (The best known examples were viruses enabled by Microsoft's executable code technologies, which are by design excluded from technologies such as Java.) These abuses of monopoly power, policies of investing against the public interest, deserve more appropriate consideration in the remedy proceedings than giving Microsoft an effectively unlimited safe harbor provision in this particular area.

Although, as the saying goes, "I am not a lawyer", I found the text here substantially more ambiguous than most legal documents I have had cause to examine. These ambiguities do not arise from the usual causes, such as specific legal terms and idioms, or usages specific to legal contexts. The document just does not seem to be cleanly drafted. Since I know that I'm not alone in finding ambiguities here, I believe this reflects significant underlying problems in this proposed settlement, such as lack of true agreement on the intent of the language. Repeating the fiasco of the earlier Consent Decree is clearly not in the Public Interest.

III: Prohibited Conduct

The conduct that is prohibited does not go far enough to prevent certain notable abuses. And in terms of drafting, the fact that so many of the behaviors described here list required behaviors, rather than prohibited ones, makes me believe that I'm only noticing a handful of the "thought problems" with this proposed settlement.

A

Section III.A.2 supports Microsoft's anti-competitive "no naked PCs" program by allowing Microsoft to retaliate against OEMs with products that do not ship with any Microsoft platform software. An example would be a vendor shipping PCs that offers a base configuration with no operating system at all, or equivalently a Linux distribution (since that could have the same cost of zero dollars). If it only offered a Microsoft OS as an extra cost option (just like any other system component), Microsoft would be allowed to retaliate against such an OEM. Such a vendor would clearly be in the best interest of consumers, since it would support fully informed choice of OS, vendor, and version.

By permitting cross-subsidy, this section effectively permits what it claims to prohibit: retaliation. OEMs that don't promote or license Microsoft products to the satisfaction of Microsoft are effectively retaliated against because they would not receive the "consideration" received by other OEMs. Note that of all this industry's players, only Microsoft has enough power in enough different segments to be able to cross-subsidize in that way.

B

The licensing constraints in III.B that apply to the "Covered OEMs" would only address hardware that has already reached the level of significant mainstream distribution. It also applies only to operating systems products; Microsoft has been shown to have abused its powers in several other product areas. Microsoft's monopoly power remains unconstrained with respect to companies offering choices within smaller markets, which are fundamental sources of innovation (and hence the source of the strongest latent threats to the Microsoft monopoly). Such constraints appear to best serve those Covered OEMs, rather than customers. Customers would be better served by seeing uniformity of pricing even if they use other OEMs. One effect I see is to deliver more equitable pricing to those OEMs, while not constraining Microsoft's behavior in the rest of the market. Moreover, even those OEMs are not protected against Microsoft efforts to churn newer (less well proven, less trustworthy) software by jacking up prices for more mature releases.

In addition to smaller (non-Covered) OEMs and distributors of boxed software (such as Fry's or CompUSA), examples of concern to me include VARs (often working closely with ISVs and IHVs to sell semicustom systems) and corporate buyers. All of those effectively do the later stages of system manufacturing themselves. They would often by preference acquire "naked PCs", perhaps adding specialized hardware, and then install custom packages of OS and application software. It appears that none of these channels are to receive the benefits of the more equitable pricing. Their customers are still fully subject to prices manipulated and inflated by the monopoly powers of Microsoft.

C

III.C seems to allow all such restrictions so long as they are not by "agreement". If that's intended to mean something, it's clearly bad: a loop-hole. If it's not, it should just be removed so that Microsoft is always forbidden such restrictions. Similarly, Microsoft seems to be allowed to restrict all non-OEM customers in these undesirable ways.

III.C.3 could be amusing if I were so inclined. It disallows substitution of non-Microsoft products if they provide a user interface "of similar size and shape". That clearly means that if Microsoft uses a rectangular window sized large enough to desribe what's going on, any other product must either use a non-rectangular window (looking "bad" and hence undesirable), or else must be too large or too small (likewise undesirable). It also appears to mean that if Microsoft bundles a new product that uses some window similar in size and shape to a pre-existing product from some other vendor, the other vendor must change its product. Giving such preferences to Microsoft is ludicrous.

D, E

These sections, in conjunction with bad or weak definitions, comprise one of the weakest parts of this proposed settlement. That is because preferential disclosure of interface information has been a major weapon used by Microsoft to protect its internal developers from competition by other software development organizations. That practice is not substantially reduced by this language. Insufficient/Selective Disclosure "For the sole purpose of interoperating with a Windows OS Product" is a worrisome constrai Proposed Microsoft Settlement: Not In the Public Interest file:///c/win/temp/response. it's not clear that this includes middleware network protocols (including security issues) and file formats. Since the disclosure requirements seems to apply only to "lower" interfaces involved in middleware (to the OS) and network protocols used from a Windows OS product to Microsoft servers, it excludes the key "upper" middleware APIs (to applications) that are the reason for middleware to exist, and all other network protocols (including peer-to-peer, server-to-server). It also does not include interfaces used to boot the operating system. In short, the required disclosures have significant and fundamental technical omissions that will serve to nullify essential goals of having such disclosure requirements.

Restricting the III.D disclosure to "Microsoft Middleware" as used by "Microsoft Middleware Products", as opposed to a more generally useful definition of "Middleware" (see later) provides an unnatural limitation to the level of disclosure that should be required. For example, a specific trademark registration needs to be involved. Moreover, it permits Microsoft to cease disclosures merely by shifting to an exclusively "bundled with the OS" distribution model. While that is a good mechanism to strengthen a monopoly, it is very bad mechanism for the goal of preventing Microsoft from illegal monopolistic behaviors in the future, as required by such a settlement.

Re III.E, I am concerned about the RAND licensing. This is explicitly permitting Microsoft to exclude Free Software (and Open Source) Software development from the requirements. Related text in III.J.2 carves out even broader exceptions from the basic requirement that interoperability specifications be disclosed. In terms of anti-competitive behavior, and in conjunction with some of Microsoft's existing licensing prohibitions related to that significant segment of the software world, this is a really significant issue. Freely licensed specifications should be the rule, and Microsoft should not be encouraged to use its monopoly power to force use of encumbered specifications. In particular, the sort of "embrace and extend" behavior Microsoft has adopted with the Kerberos authentication standard should be disallowed. (Microsoft requires use of extensions to Kerberos, which it has published while still calling them "trade secrets". A network using only standard, non-Microsoft, servers will not work with the latest Windows OS.)

Late Disclosures

The timings of these disclosures are problematic. They grant applications and middleware developers within Microsoft preferential access up to the point where design biases in their favor can no longer in practice be removed or ameliorated: a particularly huge beta test. The industry practice with which I am familar involves full API disclosure at the first beta test, and involves substantially complete disclosure at earlier test stages (alpha tests) where the APIs are still expected to change in significant ways. Such alpha testing is in part to get API feedback, so that key issues that were not recognized or prioritized internally can be addressed before final product decisions are made. (Of course, such feedback benefits from a certain amount of good will towards other companies that Microsoft has not demonstrated.)

In this proposed settlement, external developers are presented with something which is largely a fait accompli, which preserves and strengthens the barriers to entry which favor Microsoft. (It also gives Microsoft developers at least a year's head start.) This sort of disclosure bias could be addressed by a structural remedy that places Microsoft developers for Applications, Middleware, and Operating Systems into separate organizations. The disclosures they make to each other would be the same as those made to other organizations, and would be made at the same time.

Low Quality of Disclosure

There need to be effective mechanisms to expose and fix bugs affecting operation of Microsoft products according to their disclosed interface specifications. If the actual behavior is always going to need to be modified according to a secret buglist that is less available than the base specification, such interface disclosures become ineffective. This implies updating Microsoft product development processes, which have often paid only lip service to the specifications to which they claim conformance, and conform??

For example, the latest versions of Microsoft's Internet Explorer put its XML parser in a non-conformant mode, rather than just fixing the bugs in previous versions. The lack of penalty for false or incorrect disclosures suggests that those will continue to be strategically abused.

Full technical specifications are basic parts of product interface specifications, and should be made available to all customers not just "to ISVs, IHVs, IAPs, ICPs, and OEMs". This should include file format specifications (such as the MS-Word formats), which are directly analagous to the communications protocols that are partially addressed in the proposed settlement (particularly when those files are shared over networks).

Lack of such disclosure prevents customers from accessing their own data, essentially institutionalizing the requirement of a "Microsoft tax" that must be paid by large portions of the computing community. The true test of interoperability specifications is whether they support the development of multiple independent implementations. For middleware this is essential, and Microsoft must not be allowed to pass off shoddy or incomplete documentation as meeting the intent of this proposed settlement. The rule of thumb I have always used is that until it's been corrected by experience from for three independant implementations, a specification must be assumed to have substantive bugs. Since those often include design (including security) bugs, the initial implementation (such as perhaps a test version from Microsoft) must not be given undue deference.

G

III.G.1 says it's OK for Microsoft to have such "fixed percentages" in agreements so long as it's even marginally an underdog with respect to some targetted vendor. (That reading assumes vendors ship only one product of a given type. Other readings are possible, which are even more anti-competitive.) That amounts to saying it's OK selectively pick off competitors until the market is reduced to a duopoly; it's a formula for reducing competition. A goal of this settlement was supposed to be increasing competition rather than blessing more ways for Microsoft to abuse its monopoly power.

H

I'd sure feel better about these allowances (why are they in a section on "prohibitions"?) if they required the Microsoft Middleware Product to actually get removed. Better yet, they should not be installed in the first place. After all, those Microsoft Middleware Products are taking up my disk space, and frequently create security holes by their very existence. (One current example relates to Microsoft's media player providing a way to track users who, for security reasons, choose to disable the ability for sites to track them.)

It's not clear why Microsoft is being given up to a year's more lead time on its competition, since key parts of this clause were announced (with significant fanfare) by Microsoft to take effect in 2001. In the interim, other vendors are being harmed, and consumers are being harmed by the disappearance of such vendors. I'm sure that the III.H.3(b) waiver for automatic updates to my configuration makes Microsoft happy, knowing that two weeks after installation or any upgrade they are free to annoy users at any time because they prefer to use non-Microsoft technologies. I can't see how it would make any competitor happy, since it ensures that at least some customers will switch from that competitive product just to get rid of such "nag boxes". And when I wear my end user hat, I can say that it's clearly not in my own interest to have even more cases where a Microsoft product nags me to do what it wants me to do, rather than what I want it to do. Any more than a single appearance of such nag boxes should be explicitly forbidden.

The second III.H.1 point (more bad/confusing drafting) should be deleted. If there's a technical reason, it would be covered by the second III.H.2 point, and if there is none then I don't want this to be a mechanism whereby Microsoft avoids full disclosure (III.E) of its middleware APIs/protocols. For example, portions of the "dot-NET" infrastructure might be packaged in this loophole, as coud any number of proprietary protocols and file formats.

The example in the second III.H.2 point is bothersome: it considers hosting "a particular ActiveX component" to be a reasonable requirement. On the contrary, security-aware users recognize ActiveX as a fundamental risk to their systems" security, and disable it everywhere possible. Wearing an ISV (or VAR) hat, seeing that "technical reasons are described" is insufficient. That wording allows Microsoft to provide the most vague reasons, including ones that are flagrantly wrong or which embed substantial cost penalties for middleware competitors.

When the World Wide Web Consortium (W3C) recently proposed allowing RAND licensing for standards, on terms not dissimilar to these, that was roundly shot down. The point was made that such terms are fundamentally discriminatory: they preclude Free (and Open Source) Software, which is available without royalty or other consideration. Other text in 111.1.3 allows additional discrimination. It seems that III.I.5 allows Microsoft to extract reverse licences for (effectively) any technologies that are available to someone who needs a RAND licence from Microsoft. Such a reverse licensing constraint discriminates against those which have such licences to be extracted, so that clause is clearly contrary to the "non-discriminatory" requirement. In effect it legalizes a kind of extortion by Microsoft, and can also make the cost of getting such a license no longer be "reasonable" for organizations which become subject to such extraction.

J

I am deeply concerned about the carve-out created for "security" issues. It is far too broad, and among other things institutionalizes the long-discredited notion of "security through obscurity". That policy places individuals (and corporations) at risk because they will not be able to discover (and address) flaws. It does not increase security, since the bad actors will of course not be shy about sharing such information with each other; only people who play by these rules would be placed at risk. The almost unlimited scope of that carve-out also means that Microsoft is being given a incentive to call things security issues when they aren't. For example, Bill Gates recently announced he wants to focus the company on its significant security problems. This has been described as an obvious attempt to focus on ways to fit more work into this carve-out.

This mechanism will be used to create "secret buglists" that undermine the already flawed disclosure rules exactly where they need the most public scrutiny, not the least. Trust is earned, not dictated; so far the record for Microsoft's handling of security problems (beginning at the design stage and also post-shipment) is far below the standard used by most of the industry, notably including the Free (and Open Source) Software segments as well as most commercial UNIX vendors.

In conjunction with flawed legislation such as the DMCA, this is deeply threatening to the individual liberties on which this nation was founded. Under the proposed settlement, if a user stored his (or her) own data in a file, Microsoft is allowed to use "security" allegations to prevent that individual (or his co-workers) from using anything except Microsoft software, and paying the "Microsoft tax", to access that data. I feel that it is essential that the US Department of Justice not undermine fundamental liberties by helping Microsoft to prevent users from accessing their own data using non-Microsoft operating systems, middleware, or applications.

Also III.J.2 seems to give Microsoft far too much control over who gets to see what kind of information. While admittedly there are some tricky policy issues here, the fundamental issue is that a "trusted computer system" is meant to be trusted by its owner, not by someone that happens to be friendly with its manufacturer (perhaps because they both expect to extract more money from owners that way). Clauses (b) and (c) give Microsoft the ability to veto efforts that are not hosted by businesses, such as Free (and Open Source) Software activities or academic research, and hence which clearly do not have incentives to support commercially-motivated security flaws.

IV: Compliance and Enforcement

This proposal is particularly weak, even for what it tries to do. I believe this mechanism was either designed to fail (in favor of Microsoft), or was designed to be a straw man that would be replaced with something that might actually stand a chance of working. For example, something that gives an ISV that has been victimized by a Microsoft action some legal recourse would seem to be desirable. (Except of course to Microsoft.) The rule in IV.D.4.d (preventing this TC or its work from participating in court proceedings) makes me believe the former option may be the most realistic view: this procedure was not intended to succeed at the goals of providing rememedy or preventing further abuses.

Only three people are not enough to keep an eye on such a huge monopoly. That's particularly true since the anti-competitive constraints in IV.B.2 ensure they can't be particularly focussed on (or aware of) the most current tactics used by Microsoft to evade constraints as described in other parts of this proposed settlement. I could almost imagine an office led by three such people, except that each one would surely need a significant staff (IV.B.8.b) that are more actively aware of the issues that need attention (that is, less subject to the IV.B.2 constraints).

Fundamentally, the requirement that the three TC members be "experts in software design and programming" is in some conflict with the requirement that they be effective compliance officers. Surely it is most important that the TC staff hold many such experts than that the nation be combed for true experts that can also be effective compliance officers—which is a rare combination. Most of this section defines a bureaucracy, and any "expert" I've ever known would be deeply stifled by what I read there. The job description is not fundamentally one of software design and programming. And only (IV.A.2.a) during "normal office hours"? Software developers rarely keep banker's hours, and the parts of businesses that work with them also adapt. Of necessity, so would the parts of those offices that work with those parts of Microsoft.

V: Termination

The settlement does not offer stong and effective mechanisms for enforcement: there are no real "sticks". It expires automatically whether or not Microsoft's behavior has been improved. If Microsoft doesn't want to behave, it can stall until the lifespan of the agreement expires. I am deeply concerned by the requirement in IV.D.4.d that prevents any failures of the compliance procedures from being used in court. Rather, they should be key efforts determining whether it is appropriate to terminate this proposed settlement.

The only incentives appear to be within the scope of the current distorted software markets. But until the market structure becomes competitive, rather than monopolistic, today's market incentives only further the Microsoft monopoly. Minimally, no settlement should terminate until those marketplaces are restored to technical and structural diversity, and are healthy in that state. Just knowing that "running out the clock" can't work would be a minimal incentive ("carrots") to encourage that change.

VI: Definitions

A number of these definitions embed strong anti-competitive biases, which work in Microsoft's favor against the competition this settlement is intended to restore. Such definitions nullify the useful effect of what need to be broad constraints on Microsoft's conduct.

A: API

As noted above (III.D, III.E), there are several programming interfaces related to an "Middleware Product", and this specifies "API" as the "lower" level of such interfaces, which are typically operating system interfaces. However, the goal of middleware is explicitly to ensure that applications only need to use the "upper" level, hiding those lower level calls. In particular, when using a middleware API the classic goal is to be independent of the particular OS in use. That is, the goal is to NOT use the APIs covered by this definition. Defining APIs in this unuseful way substantially reduces the scope of the products that this document addresses as competition, and in ways that are strongly counter to normal usage.

This definition reflects a fundamental misunderstanding in that it defines the middleware API at the wrong level. These lower interfaces certainly need to be documented, because they are often currently hidden as operating system "back doors" by Microsoft. In some cases, APIs have been deployed that were not immediately used by Microsoft products, but which were used in upcoming versions. This definition should include all such interfaces that are part of shipping operating systems, regardless of whether they are currently in use.

Such hiding needs to be prevented, since it protects Microsoft's applications barrier to entry, and prevents emergence of competing middleware. Such hidden interfaces have also been known to provide security holes that are intended to facilitate Microsoft (mis)features. They would not normally be called "Application" interfaces in the context of a middleware discussion, and good systems architecture would not even enable the interfaces which bypass security mechanisms. This point is strengthened by the fact that Microsoft does not currently document these APIs, as it would for APIs which it encourages applications to use.

H, I: "Vendor"

This appears to bias the entire settlement against certain kinds of hardware and software development process, such as "Free" and "Open Source" Software. Microsoft should not be given the right to discriminate this systematically against one of its most effective competitors. (And perhaps its last one, given that its monopoly powers to create new barriers to entry are barely affected by this proposed settlement.) Minimally, it should be explicit that such "Free" and "Open Source" Software developers are included among those who should have full access to interface disclosures addressed by this agreement. One simple solution might be to include them as ISVs.

J, K: "Middleware"

Classically "middleware" includes API components that are part of neither the operating system nor the application. The constraints in section VI.J (such as being trademarked) are technically irrelevant, except perhaps towards a goal of minimizing the number of Microsoft APIs which are subject to disclosure. (Such a goal would not be in the Public Interest.)

Middleware is typically intended to insulate applications from operating system issues, such as dependency on any one OS version or vendor. Microsoft has numerous such API components, many of which are licensed as "Redistributable Components", but the proposed settlement excludes almost all such middleware from its inappropriately limited scope. The settlement should apply to all such middleware, not this handful of all such programming interfaces.

Microsoft has used constraints on such components to keep products competing with its own platforms and development tools out of the market. For example, a number of years ago Borland was not allowed to include even the APIs to such components with its development tools because it also offered a technically superior alternative to Microsoft's "MFC". Today, related constraints apply to software that is developed using Visual C++: the "Redistributable Components" middleware may only be used on operating systems from Microsoft. That needlessly ties many applications to a Microsoft OS, and prevents their use with compatible alternatives. Such constraints should be forbidden.

U."

Code for a "Windows Operating System Product" shall be determined by Microsoft at its sole discretion ... this is huge hole. This discretion allows Microsoft to arbitrarily bundle new software which would in ordinary usage be "middleware", and be the subject of competitive markets. To my understanding, this degree of discretion substantially exceeds that allowed by US Supreme Court precedent, as well as that permitted by the Appeals court in this case. Such language is demonstrably counter to the Public Interest.

It has been shown that abuse of such discretion has been one of the core anti-competitive weapons used by Microsoft. For example, it expressly permits the illegal commingling of browser code with the operating system. No settlement can be in the public interest which does not provide redress for those previous actions, and which does not prevent future repeats of such actions.

MTC-00026191

From: Theodore Nelson
To: Microsoft ATR
Date: 1/26/02 3:29pm
Subject: Microsoft Settlement
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Over the past three years, the IT industry has held its breath in anticipation for an imminent end to the US vs. Microsoft lawsuit. Now that a proposed settlement has been reached, consumers and the IT industry have an opportunity to return to business as usual. This is critical for the industry as well as our economy in general.

Under the settlement agreement, Microsoft will not return to business as usual. The settlement will penalize Microsoft and may require it to modify its products. Microsoft will be forever scrutinized by a three-person committee that will also control how Microsoft does business in the future.

I sincerely believe that it is critical for American competitiveness, the IT industry and the US consumer that the proposed settlement be formalized as soon as possible. I urge the Department of Justice to do all within its power to formalize the proposed settlement as soon as legally possible.

Sincerely,
Theodore Nelson, Jr.
2812 Shamrock Drive
Allison Park, PA 15101
cc: Senator Rick Santorum

MTC-00026192

From: Ammon Johnson
To: Microsoft ATR
Date: 1/26/02 3:29pm
Subject: Microsoft Settlement

This is a bad settlement!!

MTC-00026193

From: stuart@gathman.bmsi.com@inetgw
To: Microsoft ATR
Date: 1/26/02 3:23pm
Subject: Microsoft Settlement
Stuart David Gathman
13145 Pavilion Lane
Fairfax, VA 22033
(703)378–9641
stuart@bmsi.com

Dear Sirs,

Based on my best effort to understand the lawyer talk, the proposed Microsoft Settlement does not seem to address some important injustices.

1) SOFTWARE DONATIONS

Since when should Microsoft "pay" their fine with free software? Their competitors would jump at the chance to contribute free software to schools. Let Microsoft contribute just the hardware. Let the schools pick Intel vs. PPC and Windows vs Linux vs Mac.

2) OPEN SPECIFICATIONS

It is good that the settlement attempts to enforce open APIs for Windows. This is good for Windows customers as it allows fair access for non-MS software. However, it is even more important to enforce open public specifications for Microsoft file formats. It should be possible for competing products to import/export Microsoft documents without reverse engineering them. It is critically important for Windows users that external security software be able to reliably strip executable code (e.g. macros, embedded objects) from Microsoft documents. Furthermore, a complex public specification requires a reference implementation. The Windows API will never be properly documented without an open source reference implementation. The reference implementation would not be as efficient as Microsoft Windows, but it would make up for inadequate documentation. If an application runs on Microsoft, but not the reference platform, either the reference platform needs fixing, or Microsoft is pulling another fast one. Microsoft should not be able to prevent alternative implementation by claiming patents for API interface features. (Like Apple did with using compressed images in the QuickDraw API.) If they claim any such patents, they should be waived for non-commercial open-source implementations, and reasonable licensing or cross licensing should be available to a commercial implementor.

3) THE MICROSOFT TAX

I hate paying for Windows when I buy a computer and don't use it. It is not clear to me that the settlement prohibits this. A computer without Windows should be cheaper than a computer with Windows by at least 1/2 the retail cost of Windows. There should be no disincentives for the manufacturer to offer alternative OSes preinstalled. (E.g. increased Microsoft OEM pricing for allowing competitors. I think the settlement prohibits this, but I'm just making sure.) In summary, I think we all agree that Microsoft should be allowed to make money, but not to rule the world.

Stuart D. Gathman

Business Management Systems Inc. Phone: 703 591–0911 Fax: 703 591–6154

"Confutatis maledictis, flamis acribus addictis"—background song for a Microsoft sponsored "Where do you want to go from here?" commercial.

MTC–00026194

From: Jim __
To: Microsoft ATR
Date: 1/26/02 3:33pm
Subject: Microsoft Settlement

Dear Department of Justice,

I believe the antitrust settlement against Microsoft to be fair, and I am hoping it will be final.

Thank you,
Jim Kay (a concerned, voting citizen)
1312 N. Parker Rd.
Greenville, SC 29609

MTC–00026195

From: Fraraycar@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 3:34pm
Subject: Microsoft Settlement

Gentlemen;

I just want to voice my opinion on the case against Microsoft, I believe that the proposed settlement is overall very generous by Microsoft and should be accepted. In fact I do not believe the case ever had any merit, and am disappointed that it ever got this far.

Thank You,
Raymond F Frattini

MTC–00026196

From: Mike Klein
To: Microsoft ATR
Date: 1/26/02 3:36pm
Subject: Microsoft Settlement

Please reject the current proposed Microsoft Settlement.

Microsoft has shown unabated behavior to strengthen, using whatever means it can get away with for as long as it can, its monopoly position in operating systems and other areas. It is broadly defining strategies, many likely illegal, to apply its enormous resources to dominate future areas: Internet access, Internet commerce, personal information management, media content and distribution, and more.

While most of Microsoft's products and services are, at best, mediocre quality with few limited innovations and fundamental advances, they are the only standard by which most people know computers today. Most people do not have any idea of "what could or should have been". This is terribly unfortunate, as many excellent ideas and technologies have been snuffed out by Microsoft's illegal practices and will continue suffer that fate.

Microsoft's continuing illegal actions since it was convicted of illegally using its monopoly position make it obvious that nothing but drastic legal action against Microsoft with massive penalties for future violations will open competition in the computer industry. Please reject the proposed Microsoft settlement, and work on developing a way to open the industry back up to good ideas. Too much is at stake.

Thank you,
-Michael F. Klein, Ph.D.
CC:mike@kleinnet.com@inetgw

MTC–00026197

From: craec@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 3:35pm
Subject: Re: Microsoft settlement

Let's go on and settle this matter. I think Microsoft has been unfairly dealt with in this matter. No one forces a person or company to purchase and use Microsoft products. They furnish a needed product and need to be let alone.

Ray Cantrell
4083 Isom Cove
Millington, Tn 38053

MTC–00026198

From: Leland Scott
To: Microsoft ATR
Date: 1/26/02 3:36pm
Subject: Don't Let Microsoft Off the Hook

Dear Judge,

The facts against Microsoft are clear. Judge Jackson was correct, as was the appeals court, in determining Microsoft to have violated antitrust law. They will continue to do so unless a severe punishment is enacted. Please don't let them off the hook once again.

Windows XP and their .NET initiative are both flagrant examples of their continued search for ways to maintain their illegal monopoly of the computer marketplace, and both of these initiatives came AFTER they had been found guilty of violating antitrust laws by earlier actions. Clearly, they have not learned their lesson, and the Government's proposed settlement is not sufficient to reign them in.

Regards,
A concerned citizen

MTC–00026199

From: Donna Duggan
To: Microsoft ATR
Date: 1/26/02 3:39pm
Subject: Microsoft Settlement

I heard about the opportunity for the public to comment on the proposed settlement, so I figured I would at least give it another try. We believe that the settlement as agreed is just and fair, and we also believe that the time is long past to get this over with. Innovation and progress can not flourish in this type of continuously litigious environment (I am not a lawyer, so I don1t know how that word is spelled, but basically I am sick and tires of all the lawyers filing law suits!). Neither can the U.S. economy, which desperately needs help. Basically, we are sick and tired of some of these companies and their CEOs, who seem to be thriving on the publicity that their constant negativity is bringing them. I never hear them talk about their products and how good they are. I only hear them talk about how bad Microsoft is. Could there be a reason for this? I have said it before, and I will say it again. Neither one of us works for Microsoft, and we also do not know a great deal about computers, so I don1t think we are terribly biased in all of this. But I do know how to find and download a product that I want, and I know how to get rid of one I don1t want. I was not surprised to find Internet Explorer on my PC, and I was also not surprised to find Netscape Navigator on my iMac. I was surprised at how terrible Netscape was, and how many times it caused my computer to crash. When I had finally had enough, I switched to Internet Explorer, and have had no problems. It seems to me that many of these companies would be better served by recruiting and hiring talented programmers who are capable of putting out a reasonable stable quality product, than by suing their competitors. This is the reason that we are currently using Microsoft products; not because of their monopoly, which as far as I am concerned is the natural monopoly of a better product.

I also fail to see how antitrust laws do anything to help the consumer. My perception in the past is that they rend to make my busy life even more busy and difficult. Witness our telephone bill, which is now beyond the comprehension of most non-accountants or Rhodes Scholars. Is this making my life better? I don1t think so. I want my computer(s), and their related software, on which I have become dependent, to function as a seamless, single entity. I like not having to connect to the internet, and having my computer do it for me. If some people don1t, give them that option, but let me keep mine also. But most of all, I would like these companies to work together for the betterment of the industry, and get over their destructive sour grapes. I know—fat chance. But can1t they at least try?

Thank you.
Jim and Donna Duggan

MTC–00026200

From: B Nitz
To: Microsoft ATR
Date: 1/26/02 3'39pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
u.s. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
microsoft.atr@usdoj.gov

Honorable Judge Hesse:

Our nation currently faces far greater challenges than the market abuses of which Microsoft has been found guilty. It is tempting to quietly end this anti-trust case with a minimal or symbolic remedy. I strongly believe that this would be a mistake. A fair remedy will revive the strength and competitiveness of our computer industry. It would also greatly improve the security of our information infrastructure. The proposed remedy has many obvious legal and technical defects which make it unlikely to be any more effective than the remedies levied in previous cases. Section III.J is a loophole which allows Microsoft to continue exposing some internal functions (APIs) and data structures to it's own middleware products without publishing them to potential competitors. The unnecessarily narrow definition of "Personal Computer" allows Microsoft to punish Apple and Sun because neither use Intel X86 compatible microprocessors. I'm also concerned that the complexity of this remedy might cause Microsoft to unintentionally violate some of the terms, which would lead to further expensive court cases.

Others may have already brought these problems to your attention. As a software engineer I would like to address a different aspect of the settlement. I intend to address the national readiness and security implications of anti-competitive behavior and present a possible solution. THE LOST DECADE (THE TECHNOLOGICAL DARK AGES)

I began working in the computer industry shortly before Microsoft released Windows 3.0. By 1985, Amiga, Apple, DEC and others had developed computer operating systems with many features which we take for granted today but which did not exist on Microsoft's dominant OS of that time: Mouse-driven graphical interface with overlapping windows, long filenames, multitasking, color, full screen multimedia video, speech synthesis. These were not fast computers but the operating systems made efficient use of the hardware and provided a level of usability and perceived performance that Microsoft would not attain for another 10 years.

By 1995 Microsoft had captured much of the PC operating system market through practices which have since been repeated in other markets. Competitors were driven into obscurity. When Windows 95 was released, it had many of the features that existed on competing operating systems of the mid 1980s. A common argument for a weak settlement is that without Microsoft, we would not have reached today's level of sophistication . On the contrary, it appears that Microsoft actually retarded the development of efficient desktop operating systems by eliminating viable competition. WHILE WE WERE EDITING AUTOEXEC.BAT FILES...

When I first accessed the internet in the early 1990s, I was surprised to see such an active software development community outside of the United States. People from eastern europe, Germany, Finland, and elsewhere were writing high quality software for computers which were no longer in the U.S. mainstream. We didn't know it, but our concentration on Microsoft Windows was causing us to fall behind other parts of the world. Microsoft Visual Basic and Microsoft Certifications became more important than a college degree in maintaining a software career in the U.S. When Microsoft retires a certification such as MSCE, the student must upgrade their certification lest it becomes as obsolete as Windows 95. It is much like a mechanic who learns how to fix a Model-T Ford without learning how cars work. When presented with a VW Beetle, the overly-specialized mechanic is lost.

When the Microsoft monopoly finally penetrated these parts of the world, many users already knew too much. They refused to regress to the 1980s. A Finnish youth went so far as to create a new operating system. His experiment grew to become Linux, one of the most common webserver operating systems on the internet. Linux is becoming popular on desktops in europe and according to some sources, has a 15% market share in Asia.

It may be no accident that U.S. companies are now exporting jobs to and importing software developers from countries which had active communities of software development outside of Microsoft's sphere of influence. What is known as "Open source" is currently one of the most fertile areas of software development and much of this is taking place outside of our borders. A lack of competition in the U.S. auto industry of the 1970s allowed it to grow inefficient and vulnerable to foreign competition. It appears that we are making the same mistake. Our computer industry is now so dependent on this single vendor that any failure of Microsoft could be more damaging than the collapse of Enron. USING DIVERSITY AS A DEFENSE

It can be easily demonstrated mathematically and with computational simulations that an infrastructure based on diversity is less likely to experience a total failure from a single cause. So when we base our information infrastructure on a single operating system, we are making the same mistake as those who chose a single variety of chestnut tree to shade the streets of American cities. We become vulnerable as those who depended on potatoes for their sole source of food in the 1850s. We needn't repeat this mistake, but if things don't change I fear that we will. Nimbda, Code Red and variants caused an estimated $15 Billion worth of damage. My logs showed that infected Microsoft Windows computers tried to install one of these worms on my computer about 100 times per hour. These attacks were unsuccessful only because my computer was not compatible.

I was fortunate to have developed software under multiple operating systems. My most recent project under Microsoft Windows was the development of software to install security patches, Y2k patches and anti-virus software while removing unnecessary vulnerable features which Microsoft installs by default. I began to see that much of our software industry is dedicated to overcoming limitations in Microsoft Windows.

Here are some examples:

1) Viruses, worms and other vulnerabilities can access all data on a computer and possibly the entire local network.

2) A single application failure can cause a computer to crash.

3) Network configuration changes, security patches or software install usually require a reboot. Dozens of reboots may be necessary to install software for a typical business.

4) The last 3 characters of a filename determine which application is used open the file, but they are often hidden from the user. Creators of simple-minded worms such as "Melissa" and "I Love You" can fool a user into invoking powerful system tools simply by naming the worm something like "hello.doc.vbs" or "hello.pps.reg"

5) Large businesses must work with thousands of computers which may have subtle differences in DLL version numbers, installed patches, hardware interrupts. There is no significant barrier between user data and system data which would allow a corporation to deploy a common environment to its entire workforce. Each computer becomes as unique as a snowflake and the number of potential configuration problems can equal or exceed the number of computers.

Users of Microsoft Windows demand ever faster processors and more memory, but give little thought to the above limitations. They are taken almost as laws of nature to be ignored or worked around. But most of these problems are unique to Microsoft Windows. They were solved long ago by companies such as Sun, Apple, IBM, HP and Digital. The inertia of a non-competitive industry has locked us in the technological dark ages. ALLOWING CONSUMERS TO USE THE RIGHT TOOL FOR THE JOB

When Microsoft captures the market for a product such as a web browser word processor or media player, it has a choice. It can integrate all of these products into Windows or it can pare them down to something marketable to the widest audience. In either case, it is Microsoft, not the consumer, who makes this decision. We are forced to use a tool that is not optimal for our needs. Most people do not need the IIS webserver that came with certain versions of Windows. As we've seen, these unecessary features can open up significant security vulnerabilities. One argument against a strong remedy is that "Microsoft makes good products." This implies that their market position was attained through honest competition and . This is simply not true. Microsoft employs some very talented developers and packages software that meets some consumer needs. Perhaps they could have attained their current market share without illegal anti-competitive practices, but it is now impossible to know.

A careful examination does show that there are very few unique ideas in Microsoft's middleware or operating system products. Microsoft's strength comes not from superior technology, but from the exclusive control of most aspects of an integrated environment. It is only when Microsoft forces the consumer to take it's products "all or nothing" that it can wedge all potential competitors out of a market. The default Microsoft configurations may be appropriate for many small business and home users but they are not the optimal for artists, writers, teachers, scientists, doctors or software engineers. They are a "least common denominator." REENABLING THE EXCHANGE OF INFORMATION

It is in the public interest that files and documents maintain compatibility between different types of computers and between different versions of an application. It is in Microsoft's interest to break compatibility with versions of it's own applications and with competing middleware products. When I receive an email containing an attachment written in the latest version of Microsoft Word, I am forced to upgrade to the sender's version of Word, or hope that my favorite competing product is somehow able to read it, or I can ignore the email. Competitors must devote significant resources in decoding Microsoft's undocumented formats so that their applications can share information. Because of it's marketshare, Microsoft has the luxury of remaining incompatible with competitor's formats.

Shortly after the September 11th attack, the U.S. Government announced a Broad Agency Announcement calling for proposals on anti-terrorism technology. Requirement 3.2.2 of this document states: 3.2.2 File Format and Content

The White Paper shall be prepared in color or black and white in Microsoft (Office-98) Word or Adobe PDF (Version 4 or higher) electronic file format.

The document must be print-capable and without password, using text font and graphic file formats that will cause the document to be NO LARGER THAN 500KB IN FILE SIZE.

Numerous other examples can be found by searching http://www.google.com with the keywords: "white paper" rfp format "microsoft word" shall This default sole-sourcing of Microsoft products is very common on .gov, .us and .mil sites. Why are we storing important government documents in an undocumented proprietary format which is likely to become obsolete next year? Why not use an industry standard such as HTML, RTF, UNICODE or ASCII? Why would the U.S. government accept a format that is known to host hundreds of viruses that already caused billions of dollars worth of damage? It is because few are aware of an alternative. At one time it seemed that the popularity of HTML would solve this compatibility problem. I could view the same webpage on a Sun workstation, a Windows PC, and the text-based "lynx" browser which is useful for the blind or those with slow network connections. By 1998 many websites began using Microsoft proprietary technology in such a way that the lynx browser no longer worked. This problem continues to worsen. Today many web pages are no longer work properly on computers which don't run Microsoft Windows. Information access is increasingly being tied to the products of a single company. PROPOSED REMEDY

A truly competitive market should lead to a system where the consumer and producer's needs are balanced. Microsoft's monopoly status allowed it to shift this balance away from the consumer and at the same time prevented competitors from filling the void in the market. My proposed remedies would address specific problems in the computer industry which were caused by this imbalance:

(1.) PROBLEM: It is in Microsoft's interest to change data formats often so that users are forced to upgrade. It is also in their interest to make their format incompatible with competitors and other industry standards. It is in the public interest that these formats remain stable.

REMEDY: Microsoft data formats must not change for 5 years unless the following conditions are met:

a) The proposed change to the format is published one year prior to its release.

b) The source code for converting between old and new formats is published.

c) The proposed change must be agreed to by a consortium of at least 10 competitors.

d) The proposed change must be voted on by a majority of consumers that is greater than Microsoft's market share for the specific type of product.

(2.) PROBLEM: Microsoft continues to extend its influence into other areas and is on track for making the internet a Microsoft proprietary medium.

REMEDY: Any new API or Protocol that Microsoft deploys on the public internet must meet the criteria for data formats which is described in section (1.)

(3.) PROBLEM: Microsoft packages software in such a way that users must pay for content which they don't need and which degrades the security and performance of their computer.

REMEDY: All documented APIs shall be called "The Operating System." All undocumented API's shall be called "Middleware."

a) Microsoft shall provide the capability to remove all undocumented APIs without degrading the performance or functionality of documented APIs.

b) Microsoft must reduce the cost of this stripped "Operating System" by an amount proportional to the development cost of the the software that was removed.

(4.) PROBLEM: Microsoft's dominance on the desktop leaves our information infrastructure vulnerable to attack.

SOLUTION: Microsoft shall remit a fine of $10 Billion which is to be placed in a fund which will be used to purchase computers for schools, charities, government and non-profit agencies and foreign aid. These computers shall be configured to be incompatible with all existing Microsoft products.

(5.) PROBLEM: It is in Microsoft's interest to obsolete certifications as often as possible. It is in the public interest that this knowledge be general and usable in the future.

SOLUTION: Microsoft shall reimburse students for the cost of any certification which becomes obsolete within 5 years of its creation. SUMMARY

Our free market system is by far the most efficient economic system, but it becomes unstable and dangerously inefficient when an industry is so dominated by a single vendor even in the case where the vendor acts in what it believes is the most benevolent manor. The Sherman anti-trust act is a safety valve which must be used to re-level the playing field when such an imbalance occurs. If fair remedies are not implemented in this case, our important computer technology sector will fall behind and damaging monopolies may soon encompass other industries.

Respectfully Yours,
Brian Nitz
U.S. Citizen Working in Ireland
1 The Priory,
Malahide
County Dublin

MTC-00026201

From: Michael A. Endsley
To: Microsoft ATR
Date: 1/26/02 3:43pm
Subject: Microsoft Settlement

I am against the Microsoft settlement. I honestly hate buying a new computer and having Windows on it when I don't want it.

Michael A. Endsley

MTC-00026202

From: Jason Grochowski
To: Microsoft ATR
Date: 1/26/02 3:43pm
Subject: Microsoft Settlement

Jason Grochowski
970 Jefferson Square
Unit E
Elk Grove Village, IL 60007

January 25, 2002

Renata Hesse, Trial Attorney
Suite 1200
Antitrust Division, Department of Justice
601 D Street NW
Washington, DC 20530

RE: US v. Microsoft proposed final order

As stated in the **Federal Register**:

"Following a 7-day trial in late 1998 and early 1999, the United States District Court found that Microsoft had violated both sections 1 and 2 of the Sherman Act. On appeal, the United States Court of Appeals for the District of Columbia unanimously affirmed portions of the district court's finding and conclusion that Microsoft illegally maintained its operating system monopoly in violation of section 2 of the Sherman Act, but reversed and remanded other portions of the district court's determinations. Specifically, the court of appeals reversed the district court's determination that Microsoft violated section 2 by illegally attempting to monopolize the Internet browser market and remanded the district court's determination that Microsoft violated section 1 of the Sherman Act by unlawfully tying its browser to its operating system." As Microsoft's guilt has been maintained (at least partially) and we are now in the penalty phase of the trial, I find it greatly disturbing that the current settlement does nothing to punish Microsoft for its illegal activities. It also does nothing to create an environment where competing products are given a fair chance against the colossal momentum Microsoft possesses in the software industry. After reviewing the thoughts of several others who have commented on this, particularly the letter published by Ralph Nader and James Love and the comments of Dennis E. Powell of LinuxPlanet, I would like to reiterate the following thoughts on what should be included in Microsoft's punishment:

First, in the purchase of new computers: the purchase of the operating system and the computer hardware itself should no longer be bound together. Users who do not wish to purchase Microsoft Windows would no longer be forced to. Buyers would have the opportunity to evaluate Microsoft's product at its true cost and compare it to alternatives. This step is crucial to give competing products a foothold in the Microsoft dominated world.

Second, Microsoft must make all current and future file format specifications open to the public. This way documents created in any Microsoft application can be read by applications from competing manufacturers. Only then can the true value of their software be determined by the public. Rather than be locked into a particular application simply because of file format issues, buyers can judge the product's features, design, and usefulness on its own merits. The current settlement calls for the opening of the Windows API so third parties can better develop software that works with Windows. This is a good step forward, but this is a world that is increasingly connected electronically—that means exchanging data. We need to be able exchange data that is compatible with Microsoft and non-Microsoft applications. Also disturbing is the clause in the current settlement stating that Microsoft can withhold technical information from third parties on the grounds that they do not certify the "authenticity and viability of its business." This is an obvious attack on the Free Software movement, a key competitor for Microsoft in high-end applications and servers.

Third, any network protocols created by Microsoft need to be published in full and approved by an independent council. This way, Microsoft could not seize control of the the Internet by effectively walling off Windows users from the Linux, UNIX, Mac, etc. users of the world.

Fourth, the committee that oversees Microsoft's future conduct must have real authority. Microsoft itself should have no say in who is appointed to this committee and it should be required to make regular, public reports on Microsoft's conduct. Instead, the current agreement calls for a committee that is sworn to total secrecy, works within Microsoft's headquarters, has two-thirds of its members selected by Microsoft itself, and has limited freedom to interview employees. What possible deterrent to future violations can this provide? The five to seven years of review also seem quite brief considering the current case stems from violations of Microsoft's last agreement to mend its ways back in 1994.

By setting any time limit at all, Microsoft is simply encouraged to continue its habitual stalling and legal maneuvering until the reigns are completely let loose.

Finally, the current settlement has no provisions for any penalty whatsoever. The previous points I've outlined can help prevent future abuses of power, but what of taking away some of their ill gotten gains? Possibilities include, as Nader suggests, divesting them of their browser technology or media player or providing support for companies they have illegally tried to sabotage.

Personal computing technology has already become a cornerstone of our economy, business practices, and daily lifestyle and it will only continue to become more important and more pervasive in our lives. Now is the time to set a clear path ahead that will allow free competition in this market. A dip in the stock market today, that would certainly come following Microsoft's punishment, is trivial compared to future decades dominated by this belligerent, unremorseful corporation.

Sincerely,

Jason Grochowski

MTC-00026203

From: Gerry Kerbyson
To: Microsoft ATR
Date: 1/26/02 3:43pm
Subject: Microsoft Settlement

I strongly believe that the settlement proposed by the Justice Dept. is intolerably unfair to the consumer public and to Microsoft's competitors in the PC software applications field. At a minimum, the settlement must be modified to rectify Microsoft's anti-competitive practice of bundling user applications into its acknowledged monopolistic Windows operating system.

I believe that Microsoft cannot be allowed to combine any application features into its OS, either by constraint by the court, or by severing Microsoft's OS organization from its application organization.

Gerald M Kerbyson

MTC-00026204

From: David A. Young
To: Microsoft ATR
Date: 1/26/02 3:45pm
Subject: microsoft settlement

Hi

I've scanned with some interest the various documents available regarding the legality of Microsoft's business practices. I hope that Goverments at both State and Federal level will act together to insure that those predatory business practices are discontinued.

I especially hope that the Courts do no accept in any way Microsoft's offer of providing free/reduced cost software and PC's to schools as part of any "penalty". I am given to understand that Apple Computer software runs on a very small amount of computers worlwide, saving only that Apple appears to enjoy some larger sucess in schools.

In my opinion, allowing Microsoft to "force out" Apple computers from schools by offering different computers will inevitably lead to an even smaller market share for Apple Computer, thereby increasing Microsoft's already overpowering Monopoly power.

Thank you for your time

David A. Young

MTC-00026205

From: Edwin R. Jones
To: Microsoft ATR
Date: 1/26/02 3:49pm
Subject: Microsoft

12105 Hilltop Drive
Los Altos Hill, CA 94024
January 19, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing because I feel that the agreement Microsoft has reached with your office warrants settling the government's antitrust lawsuit against them. The settlement seems reasonable, and the involved parties should have the freedom to move on to more pressing matters. I strongly feel that lawyers should not be trying to determine what features can be implement in software. Software is complex enough without the people who designed the tax code putting their hand in.

Allowing computer manufacturers a greater ability to configuré Windows to include programs in direct competition with Microsoft's is a necessary step and making it it easier for consumers to integrate competitor's software into the Windows system is a long overdue action. Bet the government should not be what features a in a product.

I urge you to resolve the lawsuit and get on to more important cases.

Sincerely,

Edwin R. Jones

01/29/2002 12:18

MTC-00026206

From: justin.wojdacki@analog.com@inetgw
To: Microsoft ATR
Date: 1/26/02 3:51pm
Subject: Microsoft Settlement

Some points that I feel are important (I am not a lawyer. I am speaking based on what I have read of other peoples" interpretations of the proposed final judgement):

"Windows Operating System" should be defined to be any Microsoft product implementing any subset of the Win32 APIs. This is important as Microsoft is diversifying their operating system product lines beyond their traditional desktop and server markets. Therefore, the definition of "Windows Operating System" should include any and all platforms that the Win32 APIs are available on now and in the future. The complete Win32 API must be made available. This should include alternate entry points to functions (if they exist). An independent team should review the Windows source code to verify correspondence between the published API documentation and the implementation.

Microsoft should not be allowed to add APIs until this process is complete. It would additionally be desireable, although likely unimplementable, to have a 3rd party responsible for defining the Win32 API. This would be akin to the POSIX and SUS (Single Unix Standard) definitions, where a committee defines the API, and developers are free to implement it themselves. Developers may propose extensions to these APIs, but they are not standards unless the committees accept them. Additionally, the final judgment should cover any APIs that Microsoft adds after acceptance of said judgment. Otherwise, third party developers may find themselves at a competitive disadvantage again. No APIs should be withheld from public documentation under any circumstances. No conditions should be placed on the release of any of this API documentation. All intellectual property issues related to any part of any API should be made public as part of that API's documentation.

Microsoft's applications developers (Internet Explorer, Office, etc.) should receive the same information as third party software developers. Additionally, they should receive it at the same time as third party software developers. Should they receive this information early, or receive more detailed information, they then hold an unfair competitive advantage in the software market. Additionally, they should be required to go through the same support channels as third party software developers, lest they potentially receive preferential treatment.

Justin Wojdacki
justin.wojdacki@analog.com (408) 350-5032
Communications Processors Group—Analog Devices

MTC-00026207

From: JoanSchnute@msn.com@inetgw
To: Microsoft ATR
Date: 1/26/02 3:50pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Joan Schnute
140 Cedar Lake Trail
Winston-Salem, NC 27104

MTC-00026208

From: Geoffrey Miller
To: Microsoft ATR
Date: 1/26/02 3:53pm
Subject: Microsoft Settlement

In regards to the proposed Ms Settlement and appointment of a TC: It is my professional opinion that there is no one that can qualify these terms. Any person qualified is by definition a "competitor" or has a "conflict of interest", due to the nature of the computer/technology industry and the reach and control that MS competes in. There is no way that a technically proficient "programming and design" expert can NOT BE in competition with MS at some level. This, coupled with the weak oversights proposed amount to little more than a slap on the hand for Microsoft. There should be NO settlement, that MS was found guilty in the first finding, should then proceed to an appropriate punishment. I am in favor of the original proposal of breaking up MS, a company this large and with obvious disregard for the law, should be broken up.

B. Appointment of a Technical Committee

1.Within 30 days of entry of this Final Judgment, the parties shall create and recommend to the Court for its appointment a three-person Technical Committee ("TC") to assist in enforcement of and compliance with this Final Judgment.

2.The TC members shall be experts in software design and programming. No TC member shall have a conflict of interest that could prevent him or her from performing his or her duties under this Final Judgment in a fair and unbiased manner. Without limitation to the foregoing, no TC member (absent the agreement of both parties): a.shall have been employed in any capacity by Microsoft or any competitor to Microsoft within the past year, nor shall she or he be so employed during his or her term on the TC; b.shall have been retained as a consulting or testifying expert by any person in this action or in any other action adverse to or on behalf of Microsoft; or

c.shall perform any other work for Microsoft or any competitor of Microsoft for two years after the expiration of the term of his or her service on the TC

Geoffrey Scott Miller
Propeller Head
Mad Cow Studios
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(818) 623-9626
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www.madcowstudios.com
"We're outstanding in the field"

MTC-00026209

From: Jerry J OShea
To: Microsoft ATR
Date: 1/26/02 3:54pm
Subject: Microsoft Settlement

Dear Sirs:

I strongly believe that the proposed Microsoft settlement is a reasonable compromise and fair to all parties. Please act to end this costgly and damaging litigation.

Respectfully,
Jeremiah J. O'Shea
E-Mail address: Swifty-O@Juno.Com

MTC-00026210

From: ronaldgminnich@netscape.net@inetgw
To: Microsoft ATR
Date: 1/26/02 3:55pm
Subject: Microsoft settlement

I am a computing professional with 25 years experience. I have worked as both a computer hardware designer and software engineer, specializing in operating systems. I have worked at many different companies in the last 25 years. I have watched Microsoft grow from a vendor of PC Basic to its current monopoly position in the industry. I feel that absent some basic changes your current remedy will leave the US software industry in a very weakened state. In this letter I will focus only on the issue of making the cost of Microsoft software transparent to the user, as well as making its purchase optional. I am asking that you require that the cost of Microsoft software be a separate line item on ALL computer systems sold with Microsoft software pre-loaded. Currently users do not see the price of the Microsoft software they buy, as the Microsoft software is bundled in. Still worse, they have no option but to buy the software. I am further asking that you ensure that Microsoft not outsmart the US Gov't again in this matter; the FTC has tried (and failed) several times to resolve this problem. If there is to be a competitive software business in the US, these two conditions are a minimum requirement. Currently, if I buy a computer system from any major vendor, I am forced to pay several hundred dollars for Microsoft OS and applications software. I have no choice in this purchase. I do not use Microsoft software; I do not want this Microsoft software; I have to erase this Microsoft software every time I get a new computer. In one case I have spoken with IBM about getting a refund on the cost of the Microsoft software. Their response: my only option is to not buy an IBM computer. In other words, Microsoft has left IBM (and many other companies) with no choice but to force customers to pay for Microsoft software, whether the customers want it or not. This behaviour has almost killed competition in the PC software industry. Years ago, one could buy a computer with a choice of pre-loaded software. No longer. The only option offered by most vendors is Microsoft. The US gov't has tried, and failed, several times to change this situation. In 1995 the US Gov't thought it had worked out an agreement with Microsoft to force unbundling. The US Gov't was wrong. In fact, the US Gov't has been consistently outmaneuvered by Microsoft. The outcome of the current trial is one of the last chances we have to save Microsoft competition from complete extinction. There is a precedent for this type of unbundling. You are not doubt familiar with the unbundling of IBM Operating System software from the IBM 360/370 computer systems. That forced unbundling resulted in the creation of credible competition for IBM, and forced the mainframe industry to move forward much faster than would otherwise have happened. Unbundling was tough on IBM, but very good for IBM's customers and US technological innovation. Please consider my request for unbundling. A strong, competitive US software industry is vital to the Nation's security. Your current plans will leave us with a monopoly provider with almost no competition.

At the very least, transparency should be the rule when a computer system is purchased with software pre-loaded.

Sincerely
Ronald G. Minnich
48 Sumac Lane
Los Alamos, NM 87544
505 663 0784

MTC-00026211

From: Arthur E Mari
To: Microsoft ATR
Date: 1/26/02 3:56pm
Subject: Microsft Settlement

Gentlemen:

Please let us get this case behind us and move forward

Our country has more important things to focus on than the continuous litigation costing much with no rewards except to lawyers.

I implore you to stop this now!

We need more Microsofts to develop the millions of jobs as it has in the past.

Competition is using litigation to help themselves and no one else.

Thank you.
Arthur E. Mari

P. O. Box 484
West Dennis, MA 02670–0484
CC:MSFIN@mic@inetgw

MTC–00026212

From: james williamson
To: Microsoft ATR
Date: 1/26/02 3:57pm
Subject: Microsoft Settlement

To whom it may concern.

I have been in the computer industry for forty years and I believe the turnaround in the Microsoft case is a gross injustice and will hurt the market for both hardware and software. I believe that Microsoft lobbying just adds to the selling out of America to the highest bidder please reconsider. There is a great amount of real anger among my associates leading to pledges not to buy another Microsoft product. this anger could hurt an industry that is already scraping bottom.

Sincerely Jim Williamson

MTC–00026213

From: Jon Cochran
To: Microsoft ATR
Date: 1/26/02 3:57pm
Subject: Microsoft Settlement

I'd just like to weigh in with my comment on the proposed Microsoft settlement. I seem to recall that an attempt to curb Microsoft's anti-competitive practices was attempted a few years ago, and they (microsoft) did nothing to keep their end of the agreement.

Please make sure it's done right this time.

Thank you,
Jon Cochran

MTC–00026214

From: benjane@harborside.com@inetgw
To: Microsoft ATR
Date: 1/26/02 3:55pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Ben and Jane Balzer
PMB 111, 1750 Highway 126
Florence, OR 97439

MTC–00026215

From: Kevin Moore
To: Microsoft ATR
Date: 1/26/02 3:56pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotelly,

Under the Tunney Act, I am writing to provide my comments on the proposed antitrust settlement with Microsoft. I am asking that you not agree to the proposed antitrust settlement and instead seek either a structural remedy or more stringent and open-ended behavioral remedies. I am in charge of Information Technology at a small aerospace business located in Southern California, and I feel that we have suffered due to Microsoft's illegal behavior in preventing competition to its products. Their past behavior, especially in flaunting the provisions of the 1995 consent decree and in refusing to admit any wrongdoing in the current case, gives me little hope that the weak provisions I have seen in the proposed consent decree will have any material effect on their behavior. We run Microsoft Windows and Microsoft Office on all of our desktop computers. The use of Microsoft's proprietary Word, Excel, and PowerPoint formats as de-facto standards for information exchange (even by our U.S. Government clients) ensures their continued importance for the foreseeable future. However, I understand that no part of the settlement requires Microsoft to release any information about file formats, implying that there will be no competition to Microsoft on our desktops in the years to come. I would prefer to see either a structural remedy separating Microsoft's operating system and application businesses, or a strong behavioral requirement to release all file formats for interoperability purposes.

The possible extension of Microsoft's desktop monopoly onto our server computers is of even greater concern to me. Our servers currently use the Linux operating system and Samba file serving software. These programs have worked well for us and are a credible alternative to Microsoft's server software. However, the proposed settlement gives no standing to the general public and non-profit organizations which are an important part of the development and support of these programs. The settlement also has too many loopholes in defining what interoperability information Microsoft must release. If Microsoft is allowed to withhold interoperability information from any interested party then they can effectively use their desktop monopoly to prevent an interoperable server program from being produced; their proprietary extensions to the standardized Kerberos authentication protocol are a good example of their willingness to use their desktop monopoly to their advantage in the realm of server software.

Please do not allow a repetition of what occurred in 1995. Small businesses like ours cannot afford to have Microsoft expand its monopoly further and limit our ability to purchase and use software and services in a competitive environment.

Sincerely,
Kevin Moore
Kevin C. Moore, Ph.D. (V) 909 392 3158
Advanced Projects Research, Inc. (F) 909 392 3156
1925 McKinley Avenue, Suite B
Kevin.Moore@advancedprojects.com
La Verne, CA 91750

MTC–00026216

From: lew berish
To: Microsoft ATR
Date: 1/26/02 3:59pm
Subject: Microsoft Settlement
10213 Napa Valley Drive
Frisco, Texas 75035
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The terms of the settlement are fair and a safeguard is in place to make sure that they are followed. All that is needed is for the government to accept the agreement. The terms of the settlement are more than fair. Microsoft has actually agreed to terms that extend well beyond the products and procedures there were actually at issue in the suit. As a term of the settlement a technical committee will be created to monitor Microsoft's compliance with the settlement. I feel that the terms are fair and a safeguard is in place to make sure they are followed.

The only thing left before putting this three-year-old issue to rest is for the Department of Justice to accept the agreement. I urge you to accept the settlement and let the technology industry move forward.

Sincerely,
Lew Berish
CC:fin@mobilizationoffice.com@inetgw

MTC–00026217

From: Terry Williams
To: Microsoft ATR
Date: 1/26/02 4:04pm
Subject: Microsoft Settlement

Go with the settlement.

This has gone on long enough and done little but cost money. Let's get back to business and the marketplace and out of the courts. There are seemingly two groups fighting MS. Its competitors (who might have a biased position) and the computing community who have an irrational hatred of MS (I know having been in the business for 25 years and a dedicated Mac user (but not an MS hater since I could never see the point)).

The consumer hasn't been helped by this at all. MS has traditionally been the low price leader (I remember well when OS/2 cost 600$ and Windows $79 and when Apple charged 2x the PC rate for everything it produced).

It is way past time for this to stop.

Terry

MTC–00026218

From: benson
To: Microsoft ATR
Date: 1/26/02 4:04pm
Subject: USAGBenson—Peter—1071—0124
Attorney General John Ashcroft
January 25,2002
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would lie to briefly explain some of my feeling about the Microsoft antitrust case. I am a user and supporter of Microsoft's products. I cannot say that I agree with every decision Microsoft has made in the past, but business does not equal benevolence. I do agree that there was merit behind the issues that brought about the case, but that was three years and countless taxpayers" dollars ago. It is time to put this matter to rest. If the settlement agreement will allow that happen, then I support it. Under the terms of the settlement, Microsoft has agreed to stop retaliating against those that design or promote non-Microsoft programs. Also, Microsoft will allow computer makers to configure Windows so as to promote those programs. A technical oversight committee will ensure that Microsoft complies with the terms of the settlement. I do not see the need for further federal action. Nine states have already approved the agreement, and Microsoft is negotiating with the remaining states reach an agreement. I fear that some of the states are using consumer protection as a veil for return on investment, and the case may never end. I hope that your office is watching the states" motives as actively as you are watching Microsoft.

Sincerely,
Peter Benson
PO Box 10
San Patricio, NM 88348

MTC-00026219

From: Ryan C. Stehr
To: Microsoft ATR
Date: 1/26/02 4:06pm
Subject: what to do

I think, that to punish microsoft, the ruling of the court should require that only software by the computer manufacturer shold be allowed to be pre-installed on a computer. In other words: if you don't make the software, you have to sell your computer naked.

MTC-00026220

From: David Joerg
To: Microsoft ATR
Date: 1/26/02 4:08pm
Subject: proposed Microsoft Settlement has serious problems

I find I must agree especially with the comments in a letter dated November 5, 2001 from Ralph Nader to Judge Colleen Kollar-Kotelly:

We also find the agreement wanting in several other areas. It is astonishing that the agreement fails to provide any penalty for Microsoft's past misdeeds, creating both the sense that Microsoft is escaping punishment because of its extraordinary political and economic power, and undermining the value of antitrust penalties as a deterrent. Second, the agreement does not adequately address the concerns about Microsoft's failure to abide by the spirit or the letter of previous agreements, offering a weak oversight regime that suffers in several specific areas. Indeed, the proposed alternative dispute resolution for compliance with the agreement embraces many of the worst features of such systems, operating in secrecy, lacking independence, and open to undue influence from Microsoft.

Also:

What is surprising is that the US Department of Justice allowed Microsoft to place so many provisions in the agreement that can be used to undermine the free software movement. Note for example that under J.1 and J.2 of the proposed final order, Microsoft can withhold technical information from third parties on the grounds that Microsoft does not certify the "authenticity and viability of its business," while at the same time it is describing the licensing system for Linux as a "cancer" that threatens the demise of both the intellectual property rights system and the future of research and development.

And:

Another core concern with the proposed final order concerns the term of the agreement and the enforcement mechanisms. We believe a five-to-seven year term is artificially brief, considering that this case has already been litigated in one form or another since 1994, and the fact that Microsoft's dominance in the client OS market is stronger today than it has ever been, and it has yet to face a significant competitive threat in the client OS market. An artificial end will give Microsoft yet another incentive to delay, meeting each new problem with an endless round of evasions and creative methods of circumventing the pro-competitive aspects of the agreement. Only if Microsoft believes it will have to come to terms with its obligations will it modify its strategy of anticompetitive abuses.

Thank you for your attention! Please do the right thing for America, and live up to the American tradition of breaking monopolies and enforcing the law.

Sincerely,
—David Joerg
New York, NY
dsjoerg@yahoo.com

MTC-00026221

From: cookie
To: Microsoft ATR
Date: 1/26/02 4:09pm
Subject: Microsoft Settlement

It's time to be finished with all of the frivolous lawsuits against Microsoft—one of America's finest companies. The most recent filing by AOL/Time Warner—through its subsidiary, Netscape Communications Corporation—is absurd. Enough is enough. These lawsuits are blatant attempts by the parties filing suit to "share" in Microsoft's financial success because they are greedy and incapable of honorable competition.

As a consumer, I have both IE and Netscape browsers. I use them both—depending on my mood. I have never been forced to use one or the other. If one cannot follow instructions for choosing the primary browser, perhaps one should amuse oneself with activities that don't require a computer.

As a taxpayer, I am outraged at the "legal" shenanigans—or circus, if you prefer—and the expenses that will be passed to the citizens of our great country. I believe there are far more pressing issues for the DOJ to handle at this most crucial time in our history.

Sincerely,
A. C. Poh

MTC-00026222

From: TUPAI35@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 4:09pm
Subject: Re settlement.

To whom it may condern. The settlement for Microsoft is really necessary at this time. We have many problems in our country but Microsoft is not one of them. The spirit of this country is kindled by people who have ideas that bring better methods and ease to all of us. Microsoft has done that and others can do the same ina free country.The country needsMicrosoft in full stride to help overcome our recession and put people back to work. With due respect to all, Karen Small tupai35@aol.com

MTC-00026223

From: gcarm1@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 4:12pm
Subject: Microsoft Settlement

This should come to a halt! For the good of the country and for all of us, let's call a stop to the harassing of Microsoft.

MTC-00026224

From: Bpipe2@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 4:12pm
Subject: Microsoft Settlement

Gentlemen, Breaking up Micrrosoft is no help to those of us who only became PC users because of the ease of Microsofts Versions 3.1 and 95 and 98. The features of Microsoft 98, which I use, work smothly. Incompatibility will certainly result if you force others to provide the microsoft features which we find so easy to use. I am not to worried about the other PC providers not enjoying a so called fair market. This should be a free market and those with the best product ought not to be hamstrung by lawyers and the courts. Microsoft developed their code. Why should they give it away as some seem to desire. I am a user and I want to continue to purchase my PCs with all the Microsoft features. Warren Piper, Sun City Center, Fl.

MTC-00026225

From: Sanhare@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 4:14pm
Subject: (no subject)

Get off Microsoft's case. If it was'nt for them we would not be as far as we are technology-wise. LEAVE THEM ALONE. ENOUGH ALREADY.

Sandra Hare Goldbeck

MTC-00026226

From: Zach Kaplan
To: Microsoft ATR
Date: 1/26/02 4:21pm

Renata B. Hesse—

I am writing to voice my comments about the settlement between the United States and Microsoft. Microsoft should be praised instead of punished for its business practices. They're fierce competition has brought me amazing innovations in the field of information technology. I use Microsoft products every single day. As I graduated from College I started a company that build custom software. We were able to utilize tools Microsoft provides for developers in our products. With a very small development team we were able to create software used by small businesses and fortune 500 companies.

We were recently bought out and plan to start a new company. Each day I use Microsoft Word, Internet Explorer, Windows, and other Microsoft tools I am reminded of the thousands of people that devoted countless hours of their lives to create this value that has changed the world for the better. I resent the government's characterization of me as a helpless victim who cannot choose software that is useful to you. I do choose to use different software vendors. Macromedia's web development tools are better than Microsoft's so our company chose to purchase them instead. I do not think that the government has any right to decide what software I use in my computer. I also resent the idea that a successful business and its products are a threat to anyone. We worked very hard on our business to create value we could trade with others. Although our company was much smaller our customers still chose to purchase our products. Also I have read that this whole issue with Microsoft originated with one of Microsoft's unsuccessful competitors. If our competitors were allowed to set the rules for the markets in which we provided more value than them it would be an injustice.

I studied abroad a few years ago and expereinced first hand that in other countries when politicians protect some businesses from others is a dangerous policy, leading to corruption and economic disaster. I felt proud to be an American when I witnessed this activity. I hope you will protect our liberties from this kind of activity. Looking foward I wish to see an America where success is not throttled but embraced. I want a free America where anyone that chooses to think rationally and work hard can create and trade value with others. This is truly the American dream. I feel very strongly that Microsoft has a right to the intellectual property it created with its employees hard work. It is our great government's job is to protect this right, not to take it away.

Thank you for reading my comments,
Zach Kaplan

MTC-00026227

From: Lenore Horner
To: Microsoft ATR
Date: 1/26/02 4:17pm
Subject: Microsoft Settlement

The proposed Microsoft settlement doesn't make sense to me for a number of reasons. It proposes "punishing" Microsoft by letting it get its foot in the door through donated software. It doesn't seem to properly regulate the problematic behaviors. Consider for example the summary points below. per http://www.kegel.com/remedy/remedy2.html#abe

Section III.A.2. allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

Section III.B. requires Microsoft to license Windows on uniform terms and at published prices to the top 20 OEMs, but says nothing about smaller OEMs.

This leaves Microsoft free to retaliate against smaller OEMs, including important regional "white box" OEMs, if they offer competing products.

Section III.B. also allows Microsoft to offer unspecified Market Development Allowances—in effect, discounts—to OEMs. For instance, Microsoft could offer discounts on Windows to OEMs based on the number of copies of Microsoft Office or Pocket PC systems sold by that OEM. In effect, this allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas, such as office software or ARM-compatible operating systems.

One of Microsoft's more reprehensible modes of operation is that of bully: sell my stuff, my way and only my way or I'll put you out of business. The settlement fails to fully and uniformly protect companies from Microsoft's tactics. Why is it acceptable for Microsoft to use pressure tactics on little guys just because they're not top 20? The permission of Microsoft to continue its current licensing practice of charging on the basis of potential machines using the software rather than actual machines using the software is permission to charge for non-existent services. This is something that should be explicitly prohibited for all companies. One does not after all go to the store and buy as much juice as biologists have determined the people in your household could conceivably drink in some set period of time, rather one buys the amount one expects to use and buys more if more is needed. The argument that software can be pirated won't wash since one is presumed innocent until proven guilty. The present Microsoft practice not only presumes guilt but does not even admit of a procedure for proving innocence.

Lastly, given Microsoft's past history, it is imperative that the settlement have clear and potent means of enforcement embodied in the agreement as opposed to mere investigative powers. Thanks for "listening"
Lenore Horner

MTC-00026228

From: Kathleen Turner
To: Microsoft ATR
Date: 1/26/02 4:18pm
Subject: Microsoft settlement
Jan. 26, 2002

The proposed settlement with Microsoft does nothing to lessen the stranglehold this company has on the software industry of this country much as the ancient medieval guilds in past history. The settlement is a bad idea as it does little to allow real innovations to occur in the industry be comletely scrapped and overhauled.

Kathleen Turner
kbt@billygoat.org

MTC-00026229

From: slomo13@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 4:19pm
Subject: Microsoft Settlement

Hi, I support the judgement already made against Microsoft. Please do not impose any more penalty upon them. Merton L. Thornton

MTC-00026231

From: GLansman@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 4:21pm
Subject: Microsoft Settlement

Dear Mr.Ashcroft:

As an independent computer consultant, I am writing to express my support of Microsoft. Much of my daily work is done with Microsoft's software, including Windows NT, Office, FrontPage and Visual Basic.

I have had much success using Microsoft products in working on large projects for my clients. I was never forced to use Microsoft's products, as I had other options. However, Microsoft just happened to offer the best product on the market. I never considered Microsoft exercised any anticompetitive monopolistic influence on me, and I feel this lawsuit was a waste of time and money.

Now that Microsoft and the government have reached agreement, I think all litigation regarding these cases??? issues need to end. Microsoft agreed to the establishment of a technical committee to monitor Microsoft's compliance with the settlement and to assist with resolving any disputes. Hasn???t the court ruled that is enough? Aren't the states pursuing further litigation because of influences from special interest groups? Let's put this antitrust case to bed. There are far more pressing issues that the Government needs to focus on, such as reviving the economy and stimulating the creation of more jobs.

Sincerely,
Gary Lansman

MTC-00026232

From: GARABED HOVHANESIAN
To: Microsoft ATR
Date: 1/26/02 4:22pm
Subject: Microsoft Settlement

Dear Sir :

The Microsoft settlement is a good settlement and is for everyone.

Thanks.
Sincerely,
Nancy Hovhanesian

MTC-00026233

From: Daniel Lee
To: "microsoft.atr(a)usdoj.gov"
Date: 1/26/02 4:22pm
Subject: Microsoft Settlement

Dear Sir/Madam:

My Name is Daniel Lee of San Mateo, CA. I am a professional computer programmer. I feel very strongly that the current Proposed Final Judgement (PFJ) is insufficient to prevent further abuses by Microsoft and fails to punish Microsoft for past misdeeds.

Many have pointed out problems with the PFJ's sections concerning the API's with regard to their definition, distribution and documentation. I wish to point out the main tool through which Microsoft has illegally maintained their monopoly.

One of the most fundamental tenets of U.S. Anti-trust (Clayton Act, 1914) law is that the holder of an essential resource (a railroad trunk or other monopoly) cannot use this hold to restrain trade. The Clayton Act of 1914 specifically prohibits exclusive dealing and similar anticompetitive acts. Microsoft, by virtue of its posession of the Microsoft Windows operating system, through restrictive licensing has specifically prohibited the purchase and installation of potential competitors by OEM's. In Feburary of 1999, the CEO of Be, Inc., a potential competitor to Microsoft Windows in the OS arena, offerred PC makers their BeOS operating system for free. Many PC manufacturers expressed interest, after all, they could then offer their computers with a added value for very little expense themselves. But only one (Hitachi) eventually installed the OS on their computers, and then so thoroughly hidden that it required more than 10 steps to start up the BeOS. The current PFJ fails to prohibit these and other anticompetitive practices by Microsoft towards OEMs. Specifically, the PFJ allows Microsoft to retaliate against any OEM that ships personal comptuers containing a competing OS but no Microsoft operating system. In view of this deficiency and the others pointed out in Dan Kegel's analysis (on the Web at http://www.kegel.com/remedy/remedy2.html) I have reached the conclusion that the Proposed Final judgement, as written, would allow Microsoft to continue its significant anticompetitive practices. The Proposed Final Judgement is not in the public interest.

Sincerely,
Daniel Lee
San Mateo, CA
Senior Software Engineer

MTC-00026234

From: Larry Barone
To: "microsoft.atr(a)usdoj.gov"
Date: 1/26/02 4:35pm
Subject: Microsoft Settlement
To: Department of Justice

Ladies and Gentlemen:

I am an owner of a small engineering services business which has been operating now for the past 25 years. I am writing this letter from this perspective and in particular to comment on the events of the past few years regarding Microsoft, and to also offer my thoughts as a consumer on my opinion of Microsoft as a company, their business practices, and how I view them as a consumer of their products.

I have been watching with much interest, the progress of the lawsuits againsed Microsoft over the past few years. Initially, I was of the opinion that it seemed to be an unusual alliance between government, and Microsoft's competitors. I could understand the desire of their competitors to gain leverage againsed Microsoft whatever way they could, but was surprised that they were able to enlist the aid of the government in their effort. However, as the case progressed, I was persuaded that some of Microsoft's practices were probably subject to criticism with some remediation being in order.

However, I have another way of looking at all of this since I am a committed consumer of their products, which is to attempt to measure what the net benefit has been to the consumer of the all the activities of Microsoft for the past two decades. If the experience of my small company is any measure of the true value that Microsoft products have brought to the small businesses of this country, the net value to the economy of this country has been enhanced beyond measure. For the first five years of operating this business, large investments in computers in excess of $60,000 resulted in only the marginal ability to do word processing. However, in the early 1980's, with the advent of the personal computer, powered by Microsoft operating systems and applications software by Microsoft and other suppliers, our business model was completely automated and revolutionized. In the intervening years, we have witnessed and benefited from an increasing level of integration of applications which have been offered at a cost which goes beyond affordable. In most cases, the price of the current Microsoft small business office automation offerings is under priced when we measure the value it brings to our enterprise. Today that same $60,000 will purchase capabilities which have been conservatively estimated to be worth 100 times the original value. Another perspective about Microsoft which seems to be overlooked at least by the media in their reporting, is that unquestionably, Microsoft understands who their primary customer is—the consumer and small business. Their competitors pay lip service to us but typically have their primary focus on the big corporate and institutional accounts. And regardless of what can be said about their business practices, one of the major reasons for their success is the fact that they are very focused on the needs of their primary customer. I believe that the current settlement which has been agreed to needs to be ratified for the reason, that I believe that the recent legal struggle will have a chilling effect on Microsoft, regardless of the eventual details of the settlement. They will be restrained from behavior which will be in any way interpreted as stifling competition. However, going forward with a settlement is also important, as a signal and precedent to other greedy self interested competitors who would be motivated to get in court what they cannot achieve in the open market. I urge you to ratify the current settlement agreement.

Thank you for considering my comments and opinions.

Larry Barone
President
South Coast Systems, Inc.
2110 E. 1st St.
Santa Ana, CA 92705

MTC-00026235

From: Paul Hubert
To: Microsoft ATR
Date: 1/26/02 4:23pm
Subject: Microsoft Settlement not merely exceedingly bad, but a unique GIFT to a huge corporation .–.–. just wonderful .–.–.

I can only assume that the Federal government and its attorneys are either blind, deaf, and completely moronic .–.–. or have been paid off handsomly under the table.

Congratulations on becoming one with the Living Dead!

MTC-00026236

From: Nigel Gamble
To: Microsoft ATR
Date: 1/26/02 4:26pm
Subject: Microsoft Settlement

I believe the proposed settlement is a very bad idea. I do not see how it will restore competition and effective consumer choice in the personal computer operating system market.

In particular, it excludes the open source development community from consideration completely. Freely available operating systems such as Linux or FreeBSD which are able to run Windows applications would provide very real competitors to the Windows monopoly, but Microsoft does not disclose information about its application programming interfaces, file formats and communication protocols which would allow these operating systems to run Windows applications. A settlement which enforced this would go a long way to opening the personal computer operating system market to real competition, giving consumers a real choice at last.

Nigel Gamble
Operating System Software Engineer & Linux kernel contributor.
Mountain View, CA, USA.

MTC-00026237

From: bobmccroskey@msn.com@inetgw
To: Microsoft ATR
Date: 1/26/02 4:25pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Robert McCroskey
2004 Prestancia Lane
Sun City Center, FL 33573–6915

MTC-00026238

From: JnJRanch
To: Microsoft ATR
Date: 1/26/02 4:28pm
Subject: Microsoft Settlement
Department of Justice:

I feel it is time to settle the Microsoft case and move on. I feel it is a detrement to the country and our economy to continue to drag this suit out.

Jeanne Jacobs (jnjranch@camano.net)

MTC-00026239

From: stsullivan@charter.net@inetgw
To: Microsoft ATR
Date: 1/26/02 4:26pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Sue Sullivan
4389 L. Fayetevl. Rd.
Sharpsburg, GA 30277

MTC-00026240

From: Martin Joseph
To: Microsoft ATR
Date: 1/26/02 4:29pm
Subject: Microsoft settlement comment.

Sirs and Madame's,

I would like to add my voice to those who feel MS is once again trying to thumb there nose at DOJ and the rest of the computer industry while using the so called "settlement" as a tool for further destroying the competitions business and extending there monopoly power into new markets.

Obviously the "feel good" concept of donating to education is destroyed by the fact that:

1) They are trying to damage Apple Computers business in this market.

2) The 1 Billion figure is a joke with regards to Microsoft's actual costs/benefits.

3) They are continuing to behave in the same illegal fashion (ie .NET, Windows XP, Xbox, etc.).

Microsoft was bred on a tradition of paranoia and dirty dealings, the stories in the industry abound. They gained an overnight monopoly based on the market clout of the IBM brand in 1981, when IBM entered the market and (foolishly) allowed MS to license the same software's (dos/basic etc.) that they were licensing to others(compaq, dell, hp, emachines, gateway, etc). This created the current condition of hundreds of vendors competing with products that all use the identical Microsoft OS as there critical element.

I feel that any equitable settlement would involve two parts.

1) a large CASH payment (on the order of 10 billion). Lord knows this is still a drop in the bucket for them.

2) Oversight of there day to day operations by independent persons.

They need to be PUNISHED in way that makes them feel it, and forces them to change there attitude and operations.

Thank you,
Martin Joseph
10553 Alton Ave. NE
Seattle WA, 98125
206 363 1183

MTC-00026241

From: Paul Gabriel
To: Microsoft ATR
Date: 1/26/02 4:30pm
Subject: Microsoft Settlement

Hello,

Just adding my disapproval to the proposed settlement. I'd like to see more source disclosure. Give this thing some real teeth instead of barely a slap on the wrist. Get rid of all the loopholes where Microsoft gets to decide what they will and more importantly will not disclose.

Paul Gabriel
85 Lowell Place
Santa Cruz, CA 95060

MTC-00026242

From: Bill(038)Kim Worden
To: Microsoft ATR
Date: 1/26/02 4:31pm
Subject: Microsoft Settlement

Dear Judge,

I am a concerned citizen voicing my negative feelings about the proposed settlement with Microsoft. Our nation's sense of fair play and honest competition have been the fuel that propelled us to the status of world leader during the industrial, space, and now technology dependent age. Microsoft has played a large part in advancing technology and deserves all the credit for this. However, it does not give them the right to violate the rules set in place to advance new innovations and ensure a healthy economy that relies on competition. Please, do your part in protecting the rights of fair play.

Thank you for your time,
God bless,
William J. Worden, DDS
551 Napa Valley Lane
Crestview Hills, KY 41017
(859)426-1068

MTC-00026243

From: drbeto
To: Microsoft ATR
Date: 1/26/02 4:27pm
Subject: MicroSoft Settlement

Enough is enough, let them go on providing just what the public wants. For me and my household, we are completely satisfied with Microsoft just as they are, let the government better spend their time chasing after illegal aliens and terrorists, and stop trying to bring down the best thing that has ever happened to John Q. Public.

Robert Thomas,
A satisfied User

MTC-00026244

From: P W Mueller
To: Microsoft ATR
Date: 1/26/02 4:30pm
Subject: Microsoft settlement
Microsoft settlement.

I am a computer owner, user and curser. More importantly I am a Microsoft product user. The reason I use Microsoft products, windows, office and word and other support conveniences is because these programs work! The reason I do not use other programs is simply "they do not work" I know that because I have a box full of them and I spent far more in money and frustration for each of them than I paid or endure for Microsoft soft ware .

I know the difference between good tools and bad because 1938 was not a good year for computing tools or an open minds to wacky ideas that employed the use of the wind to transport, record and store data.–.–.–. Yes I believed in the telephone but just barely. Like magic we were told we could instantly retrieve and manipulation documents stored somewhere on a main frame and paper would be a eliminated or possibly eviscerated to quote the State department. To say I was opposed is an understatement but in the late 1980's I was wired with the state of the art Rainbow computing system. My office was now efficient! My people could now do in days what previously took hours by hand. I was now part of the future supervising people that hated me and their job. With a single key stroke or blip in the power or a lightening strike days of work was lost for ever. Since those days I have used many generations of bad programing and worse programs bought by the "DOD" If I forced myself to remember bad memories of my youth I could probably list a number of them but the one I remember most was a $4 million dollar system that was brought into our department The company unloaded the system and left, we sent people to off to a school in the south that arrived at a empty ware house we never heard another word from the company. God alone knows how many Millions of dollars was picked from the pockets of the Government but not a single word was ever uttered by the "DOJ" pursuing this theft of public money.

The point of that boring dissertation is that somewhere Microsoft came along and some bright young man installed an unauthorized copy and wonders of wonders the promise of the future became a reality. We could do all those things that failed with all those other systems.

Now my question to the "DOJ" is why is the "DOJ" so hot on the trail of Microsoft? A company that produces a good product, that supports the community, the State, and the Nation as well as poor countries around the world? Yet by admission the "DOJ" does not have time to prosecute, arraign or even pursue companies and corporations that are absolute frauds. Janet Reno was proud to announce to the world that she had 13 "DOJ" lawyers in Washington DC working full time going after Microsoft and a complete office of the "DOJ" some where in the west working on this one case FULL TIME yet she and "DOJ" were so under staffed and undermanned that it was not possible to even arrest known criminals, the telemarketer's simply stealing from people, the travelers that move about the country that go as far as forcing the elderly to pay for unwanted and worthless construction and repairs, drug dealers, gang's, to hardly say anything about the ENRONS! Or what we know now as the true cost of porous borders This list can go on for a very long time. Sadly the "DOJ" knows all this, none of this is news or even new to them or any one else. So again I ask why is the "DOJ" wasting my tax dollars to come to the aid of a number of "Johnny come lately's " that can not produce a quality product who's motives are clearly to cash in on what Microsoft started from the ground up with a few bucks and guts and neglecting the real problems that are a plague to our society. When Microsoft supports a communities it does so with a dollar at full value unlike the

.010 cents on the dollar a community might get form a government program, when Microsoft gives money, property and training to the community it does so with money it earned unlike the government.

The existence of Microsoft is a United States success story that should be supported not vilified! .-.-. Bill Gates has not run to a foreign country to produce his wares. He started here and so far has stayed here and it baffles me as to why the "DOJ" is so intent on destroying an American success story. It certainly is not for the reasons stated by the "DOJ" "consumer protection" I paid "$398 plus for Corel's word perfect" (a good program) I paid $98 for Microsoft windows and another $89 for Microsoft word (combined far more useful than Corel's program) So who do I need protection from? Microsoft! I don't believe so! So.. to the department of justice once again I say what is going on? I see this pursuit of Microsoft as a vendetta that was clearly stated to the nation and media by Judge Jackson, Janet Reno, and Klien .-.-. and that is a fleecing of the tax payers forcing us to pay for the destruction of a good company and the gifting of funds and rewards to companies that produce inferior products. Companies that want Bill Gates and Microsoft to give them the keys to success as directed by the DOJ" and this is wrong!

Sincerely Paul W. Mueller

MTC-00026245

From: Stephen Estes
To: Microsoft ATR
Date: 1/26/02 4:30pm
Subject: Microsoft Settlement

To Whom It May Concern,

I do hope the DOJ does what ever is possible to get the Microsoft settlement closed and done with. I am a software developer and am amazed at the array of law suits maligned against Microsoft by companies with vastly inferior products. The government in alliance with these jackals have encouraged this deluge. The latest: AOL, seeking damages for Netscape, a horrible product. Just get a competent software engineer to compare the public APIs of the two products. Netscape's is a mess and only a fool would choose to target it for development over Internet Explorer. And AOL squawking about closed monopolies? Ask them why it is not possible to interface with their messenger. Compare this policy to Microsoft's .NET W3C sanctioned architecture where all interfaces are discoverable with a simple invocation of a URL.

Please, end the travesty and let the industry once again freely evolve. Allow us to develop and integrate our products into freely emerging standards without the fear of federal impediment. And if you must meddle, force AOL to open their products, specifically messaging, to the newly standardized interfaces.

Sincerely,
Stephen Estes
Software Engineer
225 Moody
Lufkin, TX 75901

MTC-00026246

From: Carl Youngdahl
To: Microsoft ATR
Date: 1/26/02 4:33pm
Subject: Microsoft Settlement

Dear Department of Justice,

I, a US citizen, believe that the Proposed Final Judgment in the Microsoft Settlement fails to prevent detrimental anticompetitive practices, hinders constructive competition from compatible operating systems, and is not in the public interest. The settlement should be reworked to effectively address these problems in an enforceable way, taking into account Microsoft's position, power, history, and tendencies.

Most sincerely,
Dr. Carl J. Youngdahl
carl@sourcelight.com
CC:Carl Youngdahl

MTC-00026247

From: Don Stephens
To: Microsoft ATR
Date: 1/26/02 4:35pm
Subject: Microsoft Settlement

Dear DOJ;

I urge you to impose severe restrictions on Microsoft to prevent them from taking advantage of their ill-gotten market share to the detriment of the general public. They should not be allowed to "bully" their competitors as they have in the past. As a Java programmer and a Macintosh user, I have suffered doubly from their past anti-competitive practices. I urge you to restore competition to the computer industry by imposing comprehensive restrictions and then following through with close monitoring.

Sincerely,
Don Stephens
908 SE Cora
Portland, OR 97202
stephens@pmug.org

MTC-00026248

From: M.X. Rees
To: Microsoft ATR
Date: 1/26/02 4:38pm
Subject: microsoft settlement

Ms. Hesse-

While nonchalantly frittering away my day at work surfing the internet looking for news about the Enron debacle, I somehow stumbled onto a business news site, and ultimately, after a strange series of twists and turns on the Al Gore Soopahighway, ended up on the US vs. Microsoft site. http://www.usdoj.gov/atr/cases/ms-settle.htm I hadn't realized I was so timely with my search, since the Tunney Act stipulations expire here in a couple of days. Since this is a very democratic republic (viz. Tocqueville), the public actually gets to give its input on the "Public Interest." Excellent.

I want to come out and say that Microsoft has frankly been on the receiving end of the proverbial shaft. This settlement is insane. It scavenges over the intellectual property of Microsoft like vultures in the desert. At the same time, we tell our comrades in China about our committment to private property—particularly intellectual property—and how it is necessary to respect those fundamental rights if they wish to join the WTO. I am sure that there are others who gloat at the irony of how we begin to promote software piracy (and hacking) just as we warn other countries that we value the rule of law to promote success.

Next, changing the power of licensing from the licenser (a software trust) to the licensees (an OEM trust)is a great idea that won't change a darn thing for consumers. Saying that this has anything to do with the public is disingenuous at best. The OEMs, so oppressed by that demon Microsoft, include the poverty-stricken firms of Dell, IBM, and Compaq. The same vow of poverty holds true for Sun Microsystems, AOL, and Oracle, who also are prime litigants in the trial of how Microsoft is a sole corporate tyrant. Sun in particular is the most amusing, since on its website it complains about Microsoft having "monopoly power," while at the same time putting this ironic tagline at the end: "[Sun is] a leading provider of industrial-strength hardware, software and services that power the Internet and allow companies worldwide to ".com" their businesses. With $13 billion [yes, Billion] in annual revenues, Sun can be found in more than 170 countries. -.-." http://www.sun.com/smi/Press/sunflash/2000-04/sunflash.20000403.4.html

It doesn't really seem to me that Microsoft is pushing these guys out of the market.

I realize that the good AG was put in a bad position politically and had to compromise—dropping the case like bricks would have been rather hard to justify to a great deal of loud and important people like the Senate Judiciary Committee and the AOL/Sun/Oracle cartel. Due to the way Washington works, it's very difficult to avoid that. Still, if there was any justice in the world, we'd drop this suit altogether, and have President Bush use some peculiar anachronistic executive pardoning power to vindicate Microsoft. Of course, if there was justice in the world, we'd also hang John Walker Lindh at high noon.

Thank you for hearing my thoughts on this important matter. Keep up the good work at the DOJ, and tell Mr. Ashcroft to hang in there—AG has to be one of the most difficult jobs on Earth these days.

Yours,
Matthew Ch. Rees
4509 Brandywine St. NW
Washington DC 20016
26 January 2001

MTC-00026249

From: Bose, Landric A.
To: Microsoft ATR
Date: 1/26/02 4:39pm
Subject: Microsoft Settlement

The proposed settlement with Microsoft is wholly unsatisfactory, and as a taxpayer I would be highly displeased with a "punishment" of allowing Microsoft to increase it's market share, which is what this suit was concerned with in the first place. If the United States is truly comitted to promoting a fair marketplace, this is the occasion in which to do it.

Thank you for your time.
-Landric A. Bose
Houston, TX

MTC-00026250

From: Paul Luczka
To: Microsoft ATR

Date: 1/26/02 4:39pm
Subject: Microsoft Settlement

Please don't allow onerous regulation and endless litigation to gum up private enterprise and customer choice.

Thank you.

Paul Luczka

MTC-00026251

From: cruss1408@msn.com@inetgw
To: Microsoft ATR
Date: 1/26/02 4:39pm
Subject: DOJ Letters
Letters sent to doj and Senator Santorm

MTC-00026251 0001

Letters sent to doj and Senator Santorm

MTC-00026251—0002

01/29/2002 12:21 !

MTC-00026252

From: Bob Bressler
To: Microsoft ATR
Date: 1/26/02 4:44pm
Subject: Microsoft
Re: Microsoft settlement.
Oak Hill South 302
Penn Valley PA 19072
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530 Dear Mr. Ashcroft,

We are writing about the Microsoft case. This issue has been going on far too long. Microsoft is a good innovative company which is being hurt because of, among other things, the amount of company resources required in this seemingly endless effort. Please do your best to uphold the settlement and ensure the end of this mess.

The settlement is fair, calling for more sharing of technology secrets among competitors and easier access to non-Microsoft programs in the Windows operating system. These will ensure that there is fair competition in the technology industry, which was the main issue of this lawsuit. Please respect the proposed settlement; it is in the best interest of everyone involved.

Sincerely,

Robert A. & Elayne B. Bressler

MTC-00026253

From: Evelyn Cote
To: Microsoft Settlement U.S. Department of Justice
Date: 1/26/02 4:42pm
Subject: Microsoft Settlement
Evelyn Cote
13 Creigmont Lane
Fairfield Glade, TN 38558
January 26, 2002
Microsoft Settlement U.S. Department of Justice,
Dear Microsoft Settlement U.S. Department of Justice:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

• Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

Evelyn Cote

MTC-00026254

From: Ian Filson
To: Microsoft Settlement
Date: 1/26/02 4:45pm
Subject: Microsoft Settlement
Ian Filson
31161 RPO Way, Rutgers, the State University of New Jersey
New Brunswick, NJ 08901
January 26, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

Ian Filson

MTC-00026255

From: SatGuru
To: Microsoft ATR
Date: 1/26/02 4:49pm
Subject: Microsoft Settlement To whom it may concern,

Proposed settlement is too lenient.

I feel that the proposed settlement does not impose enough sanctions and restrictions on Microsoft. The settlement falls far short of penalizing Microsoft for their unfair use of monopoly power in the past and does little to restrain their future use of their monopoly position. Further, their proposal to "pay back" to the community by "giving" Microsoft products to schools and other public institutions (but not give support) is ridiculous. It would only extend their monopoly further without costing them a single red-cent. On the other hand .. if they refunded all payments made to Microsoft from public institutions for past product purchases and support .. now THAT would be meaningful. Microsoft is clearly a monopoly and clearly uses monopoly power to bully its way around the marketplace to push viable competitors into closing their doors.

Microsoft should be forced to choose to be either a platform vendor or an application vendor. It was wrong for them to assume both roles. By 1995 at least, and probably earlier, they should have spun off the applications business (Office products, primarily) into a separate independent business. By keeping both, they effectively shutdown (or shutout) most business application vendors, by competing unfairly. For other vendors to make their own operating systems is like suggesting that other phone companies run duplicate wires and telephone poles in every neighborhood. When an operating system becomes that pervasive it should be treated like a public utility, like part of the national infrastructure, not owned by anyone, but supported by the public, for the public good.

Sincerely,

Sat Guru S Khalsa
21 Baltimore St
Millis, MA 02054

MTC-00026256

From: RUTHANN SUDMAN
To: Microsoft ATR
Date: 1/26/02 4:51pm
Dear Renata B. Hesse

I wish to file a complaint about the proposed Microsoft settlement as allowed by the Tunney Act. Although there are many points to argue in this settlement, I have selected Section III.A.2.

I am concerned because the PFJ prohibits certain behaviors by Microsoft towards OEMs, however Section III.A.2. allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system. I do not find this to be an acceptable solution. I am TIRED of purchasing computers and paying for an Operating System that I will NEVER use. In the past, Microsoft has made legal arrangements with most major OEMs that act to cause financial distress upon said OEMs if alternate Operating Systems are offered on their stock machines. As a result, in the current market the option to purchase a stock machine without the Microsoft Operating System has become nonexistant at mainstream retailers such as Best Buy and Office Depot.

I want it to be made very clear to Microsoft that OEM's may purchase copies of the Microsoft OS/licence at a volume discount even if they choose to offer more than one OS as the stock Operating System install. The volume discount pricing should be the same, whether or not the OEM chooses to offer more than one stock Operating System. An OEM should not be punished for offering their customers a choice.

As an example: If Microsoft can force an OEM to offer ONLY the Microsoft operating system on its personal computers, will all pickup truck owners one day be forced to buy their trucks with snowplows automatically installed because a major snowplow manufacter makes financially advantageous deals with truck manufacturers? I am certain everyone who lives in a more temperate part of the country would be very pleased... just as pleased as I am when I purchase a work machine that has a buggy, security faulted, diseased Operating System installed that impairs my work?

Thank you for your time,

Sincerely,

Ruthann Sudman
2015 41st Street NW # F40
Rochester, MN 55901
(507) 358–7658
rjsudman@charter.net

MTC–00026257

From: golf4dude
To: Microsoft ATR
Date: 1/26/02 4:55pm
Subject: Microsoft Dear Sir,

I would like to comment on the lawsuits that Microsoft has been faced with. I feel that these suits are based on inaccurate charges. These suits have also reduced the nations" wealth and effected personal IRA's far more than the Enron failure ever could. As a matter of fact, I feel that the start of the recent economic downturn can be directly related to the Clinton/Reno court actions against Microsoft I feel that the government is acting to protect companies such as Netscape from unfair practices that are non-existent. Over the years I have purchased several computers, many had Netscape available and needed only to be activated for use. I have used Netscape but chose to use Internet Explorer because I like it. If Netscape develops a better product, I might use it, but that's my choice. I have used AOL, but now I have a local ISP. Is AOL going to bitch and file suit because I am not using their product? The ISP that I am with has 5000 customers and AOL has 9 million, is this unfair practices? As I see it the government's job is to protect me from a monopolistic company not Netscape or AOL from having to compete. The government should focus on protecting the consumer and get out of the business of hampering competition and development.

Ken Dell

MTC–00026258

From: dmdlil167227014@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 4:50pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Maureen Gilbert
1810 Shardell Dr.
St. Louis, MO 63138–1143

MTC–00026259

From: Dreamof427@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 4:57pm
Subject: Microsoft Settlement

Having revieved the tentative Final Judgement of the Microsoft Antitrust case, I urge you to give final approval t the judgement as is stands. It appears that Microsoft has made concessions in good faith and I feel that further interference with Microsoft's ability to conduct business would adversely effect many aspects of the American economy.

Very truly,

Susan Roesler

MTC–00026260

From: jpavlo@ilm.com@inetgw
To: Microsoft ATR
Date: 1/26/02 4:58pm
Subject: Microsoft Settlement

To Whom it May Concern:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. My background: I am a visual effects designer for film. I work at Industrial Light and Magic in San Rafael California using Silicon Graphics and Linux operating systems. Our company uses Windows and Macintosh operating systems as well. Each operating system used here has an important place in our production workflow. I'll try and keep this breif and to the point...

Essentially, I'm totally against the weak settlement proposals and would like the Department of Justice to consider harsher punishment for Microsoft's crimes. I can't imagine that anybody believes the current "toothless" settlement proposals will have any effect on Microsoft's anti-competitive behavior. Even in light of the negative publicity from the trial, and the damning "findings of fact", Microsoft boldly continues to take over everything that's up for grabs (and some things that aren't!). In the several years since the trial began, we've seen Microsoft branching out into new markets and unfairly using their monopoly position to promote Xboxes, the PocketPC, MSNBC, Hotmail, WindowsXP, Windows Media Player, their ".net" strategy... the list goes on and on. I read the news that the US Navy is switching everything over to Microsoft Windows—something I find quite frightening! I also read last week that they just bought all of Silicon Graphics patents in 3D technology—This concerns me immensely, because of the industry that I'm in. They could use these to leverage power unfairly to squash competition in the film and television industry as well as the huge games industry.

It begs the question, why, when Microsoft is in the middle of an antitrust/monopoly trial, is Microsoft even allowed to buy up intellectual property and agresively expand into new markets? Please, reconsider the settlement proposal. They were found guilty of anticompetitve practices in 1995. They got a slap on the wrist and that didn't stop them continuing their illegal business practices that are the subject of the current trial. What makes you think that they'll pay the slightest bit of notice to the current proposals? What should be done? I think they should be hit up with an enormous fine that is in proportion to their huge market cap and value of assets. I think that this fine should not be trivial, it should hurt the company and make them afraid to transgress the law again. I also think that Microsoft should be split up. Clearly they have far too much influence and power for a company that has demonstrated again and again that they are unable to wield this power responsibly.

Essentially, I ask the Department of Justice for Justice.

Thank you,

Joe Pavlo
Joe Pavlo
Industrial Light and Magic
San Rafael, CA, 94901

MTC–00026262

From: William J Crowe
To: Microsoft ATR
Date: 1/26/02 4:59pm
Subject: Microsoft Settlement

I think that the proposed settlement is tough on Microsoft but a fair compromise for all parties concerned. Do not allow this to drag on longer at the interest of some special groups. Yours Truly,

MTC–00026263

From: meisenback@mac.com@inetgw
To: Microsoft ATR
Date: 1/26/02 4:56pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Marilyn Eisenback
3510 Indian Meadow Dr.
Blacksburg, VA 24060

MTC-00026264

From: William R. Hahn
To: Microsoft ATR
Date: 1/26/02 5:01pm
Subject: Microsoft Settlement

Gentlemen:

I, for one, I hope that "reluctant parties" allow the settlement to proceed without further complications.

Microsoft can be "accused" of *Bringing the best software to market that money can buy *Providing excellent customer service and follow-up *Never abusing its extraordinary success by gouging consumers *Coming up from behind in a new field . and ending on top. (i.e. Internet Explorer).

No wonder that AOL and others try to get relief in the courts, when they realize that they are losing in the marketplace!

William R. Hahn
Los Angeles, CA 90049

MTC-00026265

From: Richard Borczak
To: Microsoft ATR
Date: 1/26/02 5:02pm
Subject: Microsoft Settlement

I understand that a settlement had been reached with Microsoft as a result of the long trail, but that competitors are still wanting to go further. I cannot see it. I switched recently from Netscape Navigator to Internet Explorer because I found that IE is BETTER.

I received Netscape navigator years ago, FREE, to use. I see no difference for Microsoft to give IE free than Netscape giving it away.

This foolishness has cost everybody a lot of money already. Don't prolong it.

Richard L Borczak

MTC-00026266

From: John Davis
To: Microsoft Settlement
Date: 1/26/02 4:58pm
Subject: Microsoft Settlement
John Davis
29 Birch Ct.
Oakley, Ca 94561
January 26, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
John A. Davis

MTC-00026267

From: Mark Spacher
To: Microsoft ATR
Date: 1/26/02 5:05pm
Subject: MICROSOFT SETTLEMENT
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This is to ask that you give your approval to the agreement between the Department of Justice and Microsoft. It is time to put this matter to rest. The two parties have worked for three years to settle it and we should abide by their efforts. Any further action will only be a waste of taxpayers" money. The fact there was a lawsuit at all is annoying to me. Bill Gates worked long and hard to make his company successful. Now, he is being punished for it. This lawsuit was more a political ploy than any shady business dealings on the part of a company. Microsoft has also acceded to many of the requests of the Department of Justice. Microsoft will have an oversight committee to monitor future actions; Microsoft has agreed to help companies better achieve a degree of reliability with regard to their networking software. Microsoft will give computer makers broad new rights to configure Windows to promote non-Microsoft software programs. This is more than fair

Give your approval to this agreement. It is time to go forward. Thank you.

Sincerely,
Mark Spacher
40 North Avenue
Rochester, NY 14626

MTC-00026268

From: jack engel
To: Microsoft ATR
Date: 1/26/02 5:06pm
Subject: Microsoft Settlement
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The settlement made between Microsoft and the Department of Justice is more than just. I feel that this situation has dragged on for far too long. I would like to see it brought to a close as soon as possible. Microsoft has agreed to more than they should have, and asking them to do more is absurd.

Microsoft is willing to license some of the internal codes of Windows so that its competitors will be able to develop software that is compatible with Windows. This will allow for more competition within the IT industry, which will in turn help the economy. Furthermore, once this issue is decided at the Federal level, it should be over. The states should not have the option of pursuing further litigation. Thank you for considering our views on this issue. I hope that this matter is soon brought to a close. Our courts should be pursuing more important matters.

Sincerely,
John & Susan Engel
Jack Engel
82 South Avenue
New Canaan, CT 06840
203 966–7576

MTC-00026269

From: M. Schultz
To: Microsoft ATR
Date: 1/26/02 5:06pm
Subject: Microsoft Settlement
Department of Justice

Dear Folks:

When pondering settlement penalties and costs as compensation for monopoly practices, it is appropriate to consider where the electronic industry would be today had Microsoft (MSFT) not been allowed to ride roughshod over the hardware and software industries over the last 9 years. Is it conjecture to work to try to determine where the industry would be or can one forecast with relative accuracy? Forecasting the future is highly problematic but we have many employed in that field, including within the government, so even forward looking is considered a legitimate exercise. This effort, however, is more akin to "Monday morning quarterbacking," and I believe it can be done rather precisely. Determination of the paths available in retrospect can be made highly accurate. There are much better pundits and experts that I to accomplish this but I can tell you from my nearly 30 years of experience in the electronics industry that had MSFT been reigned in by Justice when they began this illegal and unethical activity, the face of the software and hardware world and the high technology industry would be very much different. Netscape might be the largest software company and we could all very well be using Apple computers. There would be much different corporate use globally, and the many flavors of Linux utilized by enterprise would not have appropriated the hundreds of billions of dollars out of the economy that MSFT pulled. How many new firms would this money have spawned? How many jobs would it have created? What new technologies could have been driven that without the world of Windows to crush and destroy them, would now be thriving enterprises?

The reason that the high tech industry is in such a shambles and depression right now is as a direct result of one player dominating the market and the industry for far too long. Nine years without much innovation on the desktop and the resulting spawn of computer viruses are one the best testimonies on the one player who controls everything.

I believe the huge tech industry in the United States would be MORE THAN DOUBLE it's current size today, employing hundreds of thousands of additional workers, had Justice not been asleep at the wheel and MSFT not been allowed to dominate and obliterate virtually everyone in their path.

To make things right, I believe MSFT must be forced to contribute $100 billion dollars to an electronics industry investment fund, so that enterprising companies and individuals can receive funding to bring their ideas and products to market. MSFT must also open all closed standards on their browser and their operating system; their applications, such as Office, etc., should remain their sole IP. This penalty should be paid over 5 years, to give the economy a boost.

This penalty will return some of the money MSFT appropriated from the electronics industry, and although we can never get these nine years back to re-live, at least we can re-establish a level playing field and an atmosphere of innovation once again. This money will create jobs, and these jobs will create a greater tax base. Hopefully, we can re-capture some of the jobs MSFT eliminated from the economy.

Additionally, an oversight committee must be established to make certain MSFT is properly regulated and does not commit further damage to the American economy. Because of MSFT's power and wealth, the individuals on the committee should be rotated every six months.

Again, I firmly believe the computer and electronics industry would be more than double it's current size if one company had not sucked so much capital and resources out of the economy. Imaging spreading all of that capital around hundreds of companies over the last nine years, and I think you would be able to envision where the US electronics industry would be right now. Good luck, keep up the good work and thank you very much for not allowing MSFT to escape and profit from the earlier absurd settlement. Push this win to conclusion.

Best,
Matt Schultz
7985 S. Bemis Street
Littleton CO 80120
CC:Tam Ormiston

MTC-00026271

From: Matt Matthews
To: Microsoft ATR
Date: 1/26/02 5:07pm
Subject: Microsoft Settlement

I am writing to you as a concerned United States citizen to express my opposition to the Proposed Final Judgment put forth by the Department of Justice to settle the current antitrust case against Microsoft. This PFJ does not address adequately the issues raised during that case, especially considering that Microsoft was found guilty of monopoly maintenance. As a user of an alternative, non-Microsoft operating system, I am constantly aware of the difficulties that the Microsoft monopoly imposes on the computing world. I work as a mathematician in the Duke University Mathematics Department, and I routinely run into problems associated with proprietary Microsoft document formats and other proprietary Microsoft technologies. Since much our department relies on non-Microsoft operating systems on faculty desktops, communication with my colleagues or department staff is hindered each time someone with Microsoft Word sends a document by email. Furthermore, my research often requires me to find documents on the web, and occasionally web sites that have information I need use Microsoft technologies that restrict or completely block my access to that information. These technologies are kept secret by Microsoft as part of their monopoly maintenance; the formats change often and are not officially documented, making the creation of interoperable or competing products needlessly difficult. Any proposed final judgment should address this artificial barrier to communication and interoperability that Microsoft has used, and continues to use, to maintain their positions in various markets. Furthermore, any interoperability information should not be restricted to creating products that run on Microsoft operating systems, as the current PFJ does not encourage this cooperation.

Furthermore, Microsoft has a history of intentionally introducing incompatibilities to discourage the use of non-Microsoft operating systems. See the following link for more information: http://www.kegel.com/remedy/remedy2.html#caldera Any acceptable remedy should prevent Microsoft from creating such artificial incompatibilities with future products. The current PFJ does not do this, and for that reason it is unacceptable.

While the current PFJ does create an oversight committee with the technical background to judge Microsoft's conduct, it does not spell out effective methods of enforcement when Microsoft breaks the terms of the settlement, and the prevailing opinion is that the legal system would be the only recourse for dealing with violations. However, in a market as fluid and swift as that of computers and software, any acceptable remedy should include a streamlined procedure for judging alleged violations and imposing penalties. While these are not the only weaknesses of the current PFJ, they are some of the most important. I am hopeful that the Department of Justice will work to formulate a new settlement that has stronger penalties for the actions for which Microsoft has already been found guilty as well as stronger measures to prevent Microsoft from taking future anticompetitive actions. If you have questions or require clarification of any statements I've made in this letter, please contact me via phone or email. My contact information can be found at the bottom of this letter.

Regards,
John V. Matthews, III
Matt Matthews \ ph: 919.660.2811 \ Use GNU/Linux —o) w00t
Duke Univ., Postdoc\ jvmatthe@math.duke,edu
\———————— /\\
Dept. of Mathematics\ http://www.math.duke.edu/jvmatthe/ \ —\—V

MTC-00026272

From:
To:
Date:
Subject:
Brad Borland
Microsoft ATR
1/26/02 5:09pm
Microsoft Settlement
Please see attachment
10831 Valmay Avenue NW
Seattle, WA 98177–5336
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft: I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. It disappoints me that the government has in the past chosen to harass a company like Microsoft. Microsoft has added such a great economic contribution to this country. The contribution extends from Washington State all the way to Washington, DC Microsoft is a core holding of most company retirement plans, 401Ks, IRAs and mutual funds throughout America. Therefore it is in the best interests of almost every American to get this case settled. In order to settle this issue Microsoft has agreed to many terms. It has agreed to design future versions of Windows to be more compatible with non-Microsoft software. It has also agreed to change several aspects of the way it does business with computer makers. Microsoft did not get off easy, there are pages of terms agreed to in addition to these two. Microsoft needs to be able to get back to business. This suit has bogged down the company for over three years now. For the good of American's everywhere I urge you to accept the Microsoft antitrust settlement.

Respectfully
J.Bradford Borland

MTC-00026272—0002

MTC-00026273

From: JOB3313@AOL.COM@inetgw
To: Microsoft ATR
Date: 1/26/02 5:07pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the

future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
RYAN VANDERHEIDE
3369 DANIEL ST
NEWBURY PARK, CA 91320–5015

MTC–00026274

From: Liza Gabriel Ravenheart
To: Microsoft ATR
Date: 1/26/02 5:15pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms Hesse;

This settlement is not in the best interests of consumers here in the US or anywhere. It is not in the interest of our personal autonomies and freedoms. Microsoft must have platforms that are compatible with unix and others that may develop. Diversity and democracy are inseparable. If Microsoft Corporation cannot cooperate with its competitors, then it is not a good corporate citizen of the United States or of the Global community.

Please reconsider this settlement which I feel will substantially destroy the autonomy of people world wide.

Sincerely,
Elizabeth Braude
10266 Old Redwood Hwy
Penngrove, CA 94951

MTC–00026275

From: Jeanne C Delaney
To: Microsoft ATR
Date: 1/26/02 5:15pm
Subject: Microsoft Settlement

Let's get this Microsoft ordeal over with as soon as possible. It is to blame for much of the economic distress in the USA. The only ones profiting from it are the lawyers. Let's get the USA back to business now!

J. C. Delaney

MTC–00026276

From: Benjamin Grossmann
To: Microsoft ATR
Date: 1/26/02 5:15pm
Subject: Microsoft Settlement

I would like to take this opportunity to state that I feel Microsoft should NOT be let off lightly in this antitrust case. They have demonstrated repeatedly that they are capable of abusing their power as a monopoly by stifling competition and crushing the very innovation that created this entire technology revolution.

Thank you.
Ben Grossmann

MTC–00026277

From: Denniston
To: Microsoft ATR
Date: 1/26/02 5:17pm
Subject: Microsoft Settlement
Susan Denniston
4731 117th Place NE
Kirkland, WA 98033
January 25, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

It greatly disturbs me that Microsoft's opponents are currently seeking to overturn the settlement that has been proposed and bring further litigation against Microsoft. I do not believe that this is either necessary or wise. Not only would additional federal action be painfully redundant, it would also negatively impact the economy, the computer industry, and ultimately the consumer.

The settlement seems fair enough to both Microsoft and its competitors. For one thing, Microsoft is allowed to remain intact, but its competitors have had the playing field leveled for them. So operations at Microsoft will continue with several restrictions and changes, but the normalcy that will remain in Microsoft's operations will not hinder or harm the progress of competitors. For example, Microsoft will refrain from entering into any contract that would require a third party to distribute Microsoft products either exclusively or at a fixed percentage. Microsoft has also agreed to document and disclose source code from its Windows operating system for use by its competitors and to facilitate their ability to operate within the Microsoft framework. I believe this part of the agreement is extremely generous on Microsoft's part!

It is in everyone's best interest to drop the idea of continued litigation—especially in light of the ridiculous new lawsuit announced by AOL this week against Microsoft. No one will benefit in the long run from an extended suit. I urge you and your office to support the finalization of the settlement.

Sincerely,
Susan Denniston
Denniston@WinISP.net

MTC–00026278

From: robin mccoy
To: Microsoft ATR
Date: 1/26/02 5:21pm
Subject: Microsoft Settlement

Under the Tunney Act, i wish to comment on the recent proposed remedy for the anti-trust case against Microsoft as found here: http://www.usdoj.gov/atr/cases/f9400/9495.htm I feel that this proposed judgment fails to fully address the issues disclosed in the DOJ's finding of fact: http://www.usdoj.gov/atr/cases/f3800/msjudgex.htm

This judgment will not impede Microsoft from leveraging it's established monopoly in the operating system marketplace against it's competitors, and I wish to voice my dissatisfaction with this proposed settlement.

Thank You,
Michael R. McCoy

MTC–00026279

From: vick@adnc.com@inetgw
To: Microsoft ATR
Date: 1/26/02 5:25pm
Subject: microsoft case

it is time to end that waste of time. the industry needs to get out of the courts, and do software. there should be no support for those who cannot settle.

MTC–00026280

From: CTagliafer@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 5:26pm
Subject: Microsoft Settlement

Enough is enough. Stop harassing Microsoft.

MTC–00026281

From: Linas Muliolis
To: Microsoft ATR
Date: 1/26/02 5:26pm
Subject: The Proposed Final Judgement

Your Honor,

Please review your final judgement for Microsoft with the results being fair business practices, ethical competition, consumer choice being proctected and Microsoft ceasing monopolistic practices. I do not believe Microsoft is being fair and honest.

Linas Muliolis
CC:nolandpeebles@attbi.com@inetgw

MTC–00026282

From: puma@adnc.net@inetgw
To: Microsoft ATR
Date: 1/26/02 5:27pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
LaDonna McCant-Dickey
4539 Derrick Drive
San Diego, CA 92117

MTC–00026283

From: John Hyland
To: Microsoft ATR
Date: 1/26/02 5:32pm
Subject: Microsoft Settlement

Microsoft's absurd narrow interpretation of the Tunney Act should be reason enough for punishment, but it is just another display of the arrogance with which they treat the law of this country. Make them pay mightily from their illegal profits and treat them as other monopolies have been, break them up.

We need some real competition so that consumers can have some choices.

Thank you,
John J. Hyland
Gilroy, CA

MTC-00026285

From: TKOREN1@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 5:33pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
From: Tedd Koren,DC
PO Box 665
Gwynedd Valley, PA 19437–0665
215–699–7906

Dear Ms. Hesse,

I would like to see true justice served in the Microsoft case that is a win-win for everyone. Too often a solution can make matters worse. I feel the following should be considered:

1. The proposed settlement is not in the public interest. The settlement leaves the Microsoft monopoly intact. It is vague and unenforceable. It leaves Microsoft with numerous opportunities to exempt itself from crucial provisions.

2. The proposed settlement ignores the all-important applications barrier to entry which must be reduced or eliminated. Any settlement or order needs to provide ways for consumers to run any of the 70,000 existing Windows applications on any other operating system.

3. Consumers need a la carte competition and choice so they, not Microsoft, decide what products are on their computers. The settlement must provide ways for any combination of non-Microsoft operating systems, applications, and software components to run properly with Microsoft products.

4. The remedies proposed by the Plaintiff Litigating States are in the public interest and absolutely necessary, but they are not sufficient without the remedies mentioned above.

5. The court must hold public proceedings under the Tunney Act, and these proceedings must give citizens and consumer groups an equal opportunity to participate, along with Microsoft's competitors and customers.

Sincerely,
Tedd Koren, DC

MTC-00026286

From: Sean Turner
To: Microsoft ATR,billg@microsoft.com@inetgw,cyrusm@ha...
Date: 1/26/02 5:35pm
Subject: Microsoft Settlement

While Microsoft can be considered a monopoly, should they be punished for this? I used to be a Netscape User; then, when Internet Explorer 3 was released, I tried using it and found it to be substandard and buggy. As a result, I continued to use Netscape. Then, with Microsoft's release of IE 4, I found it to be much faster, more stable, and more feature complete then Netscape, and decided to switch browsers, not because it came bundled with my operating system, but because it was a superior program Microsoft ultimately developed a technologically superior product, is it not logical that people would then use it instead of Netscape? Should they be punished for this? Can you legally punish a company because they are successful? Microsoft integrated its browser to provide a better product for the consumer. They are in no way inhibiting Netscape's ability to accept. They in no way impede a user's ability to download Netscape and use it. Even AOL Time Warner believes IE is a superior browser. In their own AOL browser, they use the IE browser instead of Netscape. Success is not a crime.

Should they be punished for bundling their browser with Windows? Now, the browser is tightly integrated with almost all features of Windows. It is virtually impossible to separate the two. Every time you open "My Computer," view a help file, open Word, boot, or even view your desktop, you are using Internet Explorer. Back when Windows 3.1 was popular, IE didn't exist, and, users used a much more cumbersome and buggy interface to navigate files. Now, instead of using 2 different applications for folder browsing and web viewing, Microsoft integrated the two programs, in effect speeding up overall system performance and reliability. Furthermore, it also helps new computer users to "get online" without having to go through complex processes to install a browser. Now, all someone has to do is boot their computer, and they have all the software they need to connect to the internet. Should Microsoft be punished for enabling people such as my mother to effectively use a computer? If yes, then why not punish Apple? They have much the same approach. Apple controls the all the hardware used on their computers, and install Apple's own programs by default in an attempt to simplify setup for users, thus allowing the computer illiterate to use a computer without having to have a tech-savvy friend set it up for them. This strategy of simplification is used throughout the industry, why should only Microsoft be punished for it? You cannot separate Microsoft because everything is so tightly integrated, Microsoft is nothing without this integration, much like Apple is nothing without their tight integration of software and hardware. This is the direction the entire industry has taken, should we thus turn the clock back on the computer industry?

It is not the government's job to police the computer industry. Before the government tries to break up private monopolies, they should abolish their own. For example the US Postal Service was, for a long time, the only way to send mail, and thus, it had to reason to improve its services and was notoriously slow. With the advent of FedEx and UPS, the postal service has improved its service, but still is loosing market share because other carriers offer a better product. And now the government is trying to make taxpayers pay for its failure by trying to tax email. It is not the government's job to police private industry and punish companies for their success. I ask that the federal government and states drop all charges against Microsoft.

Sean Turner
Sales Representative
Rowena's Designs
15232 Stratford Court
Monte Sereno, CA 95030
Phone: (408) 395–7907
Fax: (408) 395–6923
Email: <mailto:seanturner@yahoo.com> seanturner@yahoo.com
Web: <http://www.sensability.inc.new.net/> www.sensability.inc.new.net

MTC-00026287

From: roelof "t Hooft
To: Microsoft ATR
Date: 1/26/02 5:37pm
Subject: Microsoft Settlement

Hello,

Regarding the DOJ against Microsoft case I would like to ask you : What is going on with the settlement ? As I understand the settlement will give Microsoft more power and ways to do everything that this case was suppose to stop them from doing. Microsoft is too large and powerfull and does and still will harm the customer (in the long run) with their monopolistic practises. Stop Microsoft instead of giving them more power !!

MTC-00026288

From: Marjorie and Victor
To: Microsoft ATR
Date: 1/26/02 5:37pm
Subject: microsoft settlement

We are very much in favor of the microsoft settlement and think it will be a significant boost to the economy.

Sincerely,
Victor and Marjorie Carmody

MTC-00026290

From: Robert D. Smith
To: Microsoft ATR
Date: 1/26/02 5:38pm
Subject: Microsoft Settlement
stopmicrosoft@yahoo.com@inetgw

Honorable Judge Kollar-Kotelly,

<?xml:namespace prefix = o ns—"urn:schemas-microsoft-com:office:office"/> Hello, my name is Robert D. Smith and I am a student at Boston University. I am very much emotionally shaken by the recent settlement between the Justice Department and Microsoft (PFJ). I'd like to present my first argument. The PFJ does nothing to inhibit the activities of Microsoft as a working, fully functional monopoly through the use of its operating system (OS). My second argument is that the settlement is too ambiguous. It does not clearly and directly reprimand Microsoft for the violation of clearly defined anti-trust laws (present and past). It would be a horrid, useless example to set by allowing MS to get away with such an atrocity. Microsoft has many tactics, which are just so very sinister. The corporation is continually escaping proper justice its retaliation schemes, conniving tactics, bolting- domineering schemes, and attacks on Java. All these actions result in a lower ability of competition to reach the same marketing and commercial status as MS. This market is supposedly a "free" market but software standards are being monopolized even as this email is being sent. And to conclude, the PFJ provides an ineffective enforcement mechanism (balance and check) for the weak restrictions implemented on its bodies of influence.

Simply in short, I am deeply perturbed over the recent settlement. This settlement does not regulate Microsoft enough. In this very fashion of advancement, Microsoft will simply continue its monopolistic ways of commerce. And to further clarify my argument, Microsoft is not even being reprimanded for past aggressions, which are clearly evident. The present situation is that an unfeasibly weak standard is in place. I know this simply my opinion, but I would sincerely request that you would do whatever might be suitable to overturn the settlement in review.

Sincerely,
Robert D. Smith
My Address is:
Robert D. Smith
Box 1775, 277 Babcock Street
Boston, Massachusetts 02215

Send and receive Hotmail on your mobile device: Click Here
01/29/2002 1:20 [

MTC-00026291

From: Clay Haapala
To: Microsoft ATR
Date: 1/26/02 5:45pm
Subject: Microsoft Settlement

I would like to state my opinions as being against the proposed Microsoft settlement.

The settlement does little to punish Microsoft for its actions. Worse, it does nothing to provide remedy, or to "undo" the results of those monopolistic actions.

My career has been affected negatively by these actions, primarily by the way that Microsoft's product positions have affected the plans of the companies that have employed me. While it is always the case that the actions of a dominant market player will affect all others in that market space, it has now been established that Microsoft has partially obtained that position through illegal practices.

Since many of these practices involved illegal influences on Microsoft's part to prevent competition to its proprietary products, protocols, and interfaces, appropriate remedies would be a mandatory publishing of these protocols and interfaces.

Jackson's "split the company" remedy would have accomplished this by forcing the separated parts of the company to formally communicate with each other in public ways. Yes, competitors would certainly also be part of those communications, but then, the market winner becomes the one with the best product, sales, and service.

Such publication would also be a great step forward in security. Please see Bruce Schneier's and Adam Shostack's recent article at http://www.securityfocus.com/news/315.

I'm not demanding that Microsoft be broken up, but a publication remedy is appropriate.

Thank you.

Clay Haapala <clay@haapi.mn.org> "A generation of CS and Quake Players

GPG key 8DB9110D being drafted is a scary thought."

2309 Archers Lane—comment seen on
Minnetonka MN 55305 Drippy's 2-Fort TFC server
952–542–9873

MTC-00026292

From: Peter Nicklin
To: Microsoft ATR
Date: 1/26/02 5:40pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms Hesse, The Proposed Final Judgment in the case of United States vs. Microsoft does NOT remedy Microsoft's monopolistic behavior. The settlement still allows Microsoft to continue its monopoly, destroying competing products by selling equivalent Microsoft products below cost, i.e. by bundling them in the Windows Operating System at no extra charge. For example, Microsoft now distributes Windows Media Player in Windows XP for free, thus stealing market from RealNetworks" Real Player and Apple Computer's QuickTime by using its exclusive Windows Operating System distribution channel.

The only cure for this behavior is to prevent Microsoft from:

a) Selling products below cost.

b) Using the Windows Operating System to distribute new products that compete with non-Microsoft products already established in the marketplace.

I recommend that if a non-Microsoft product has more than 20% market share, then it should be considered an "established product" in the marketplace, and Microsoft should not be allowed to bundle a competing product with the Windows Operating System. I also recommend that new Microsoft products that compete with established non-Microsoft products should be developed and sold by a completely independent wholly-owned Microsoft subsidiary. The subsidiary would have no more access to Microsoft APIs and other proprietary information than other companies. Further, the subsidiary would not be allowed to enter into exclusive deals with Microsoft. My recommendation for new products to be developed by a Microsoft subsidiary is a structural remedy but is much easier to implement than breaking the company up.

It would be easier to discover collusion between Microsoft and a subsidiary than by asking a 3-person technical committee to try and baby-sit Microsoft by monitoring compliance with the proposed final judgment.

Sincerely,
Peter Nicklin
SoftFrame, Inc.
P.O. Box 10067,
San Jose, CA 95157–0067.
Ph: (408)379–0171

MTC-00026294

From: Joseph D Krug
To: Microsoft ATR
Date: 1/26/02 5:43pm
Subject: Microsoft settlement

Dear Attorney General Ashcroft:

I would like to see the Microsoft case settled. I believe the government was dead wrong to sue Microsoft.

The company is not a monoply and never was. The government has wasted time and the taxpayers money on this case. It is now time for your office to correct the stupidity of the past Justice Dept. which started this case. I due believe since 9–11–01 the entire federal government has more important issuses to deal with. I have complete confidence your office will resolve this case quickly.

Sincerely,
Joseph D Krug

MTC-00026295

From: thvreela@fuse.net@inetgw
To: Microsoft ATR
Date: 1/26/02 5:41pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse: Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Thomas Vreeland
126 Calumet Ct
Crestview Hills, KY 41017

MTC-00026296

From: Meus1@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 5:45pm
Subject: MICROSOFT SETTLEMENT

Dear Sir:

I keep reading about all these lawsuits against Microsoft. It appears to me that we have reached the stage in this country that we punish success. We seem to be doing all in our power to promote mediocrity. If AOL or anyone else has a problem with the way Microsoft operates, let them develop a better system. Thus the market place will automatically trend to the better system. This is what has happened with Microsoft. They have single handily opened up the world of computers to the lay person (and there are so many of us).

With all the mergers that the government has allowed, it appears almost on the trend of hypocrisy to keep attacking Microsoft. What other companies" R& Ds could not accomplish, they are requesting the courts to do for them. We are a capitalistic country and thus the most wealthy country in the world. Let us not squash our aggressiveness and the desire to excel and succeed, which is what has made us great! With all these lawsuits, Microsoft has had to spend millions of dollars defending itself rather than spending these millions on furthering their R&D.

What may we all have lost?

In addition, how many millions has the government spent to prosecute Microsoft. These monies would have been better spent fighting drug trafficking, etc.

Don't we have anything better to do than to attack one of this world's most creative company?

I humbly submit the above for your consideration.

Sherman A. Rothberg
Bellmore, NY
CC:msfin@microsoft. com@inetgw,Meus1@aol.com@inetgw

MTC-00026297

From: Don Kitchen
To: Microsoft ATR
Date: 1/26/02 6:49pm
Subject: Microsoft Settlement

To whom it may concern

I am a senior systems engineer with a Fortune 500 consulting firm. I have a bachelors degree in computer science and am nearing completion in a master's degree in CS with an emphasis on operating systems. I am writing to voice my opinion on the proposed Microsoft settlement.

I am appalled at the degree to which the Justice department is neglecting the interests of consumers. Microsoft is a powerful company that has been found guilty of illegally extending and maintaining monopoly power. But proposed is basically no penalty to punish for ill-gotten gains. Does no one remember this is the second time around, and that Microsoft previously obtained a consent decree? It was so generous that Microsoft's stock immediately rose. In fact, I would say that the only reason that the case this time around awkwardly centered on browsers is that in the previous agreement, nobody thought to grant Microsoft a loophole to stifle competition in that area.

Those who suppose there has been little harm to the consumer ignore the realities of the computer industry. While costs in every other area go down, the software costs rise, especially when taken as a percentage of the whole system. Also, harm occurs in other ways; witness the recent Microsoft scheme to punish those who do not upgrade immediately to each new product, by eliminating "discounts". Microsoft's very profitability is evidence of their monopoly power. One might say that their investments and spare cash provide a good measure of how large to make the penalty. Microsoft attributes their success to innovation. However, this neglects that the innovators were all with companies taken over by Microsoft's might. This also neglects the innovators stifled by Microsoft, whose monopoly position allows them great leverage against any competing technology. The way they have bundled the browser is just an obvious occurrence of standard practice. There is a joke that if someone made a new chair, Microsoft would innovate Microsoft Chair, and out of desire to provide their customers with everything they need, ship it with their operating system, with mysterious incompatibilities if anyone tried to sit in another brand chair while at their computer.

If allowed to continue leveraging one product to solidify the position of the next, the future of competition looks bleak. Microsoft has promoted its Office suite, web browser, and web server products to prominence based on the strength of its operating system. Since these products are available only for Microsoft's operating system, they in turn reinforce the original monopoly. In the office suite area, it's difficult for competitors to be fully compatible because of changes in the file formats. As a part of the penalties against Microsoft, it should be mandated that all file formats and API's used be fully documented publicly. And unlike the errors in Section III(J)(2) there should be no loopholes to prevent disclosure to not-for-profit groups. Microsoft has abused its own discretion too many times to suppose they will not do it again.

Additionally, in recent years Microsoft has formulated its strategy for internet monopolies beyond the browser, which they will fortify with their existing monopolies. Chief among them are the Windows Media player and .NET. These should be addressed in the settlement, preferably by splitting them to individual companies forbidden to sign exclusive contracts, or Microsoft should be mandated to maintain full functionality on their top two competing operating systems (namely MacOS and Linux). In the area of streaming media, already Microsoft is pushing the innovators out of the field in favor of their own Windows Media player, which limits consumer choice because of course it is available only for Microsoft platforms. The .NET scheme is especially designed to place a single entity as an essential element of any transaction that occurs. This transition is not one that occurs as a result of natural market forces, but rather one that can only be leveraged in by an existing monopoly, for the sole purpose of extending the monopoly. Yet the Department of Justice appears more interested in retreating with honor at the expense of consumer choice. Another ignored consumer harm that has occurred is that Microsoft's products have gaping security holes. Yet they appear to be immune from product liability concerns. In fact, previous shortcomings only serve as inducement for consumers to purchase the next "new and improved" product. In other markets, product liability enforcement would force the vendor to reimburse consumers. Not so in this market. Recall the billions of dollars lost in such occurrences as "I love you", "code red", "nimda", and other embarrassments. Instead, consumers bear the cost. No doubt consumers will continue to bear the cost in the newest product cycle, with "Universal Plug & Play" starting off the new list of security problems; even the "solution" of continual updating only serves to bind consumers more tightly to the monopoly provider.

There are some who say that Microsoft should be rewarded because as a highly successful company they do much good for the economy. While it is true that as a monopoly they have been very successful at maintaining their monopoly, this theory ignores the fact that their income is someone else's expenses. By the same standards, we might laud Ponzi and Enron for the success of their efforts to extract monies from others, if large incomes are so good for a strong economy.

I plead for the current "surrender to Microsoft" to be rejected.

Thank you
Don Kitchen

MTC-00026298

From: virtual
To: Microsoft ATR
Date: 1/26/02 5:46pm
Subject: Microsoft Settlement

I am against allowing Microsoft to continue to wield it's virtual monopoly to stifle competing software innovation. The DOJ/Microsoft settlement is, in my opinion, an insufficient remedy.

Sincerely,
Al Dorsa
Box 223761
Christiansted, VI 00822

MTC-00026299

From: billmueller@pobox. com@inetgw
To: Microsoft ATR
Date: 1/26/02 5:48pm
Subject: Microsoft Settlement

Dear Madam/Sir,

While I do believe that Microsoft often abuses it's position as industry leader in software operating systems to reduce competition, I am not convinced that a harsh penalty is in the best interest of justice or the software industry. Certainly, all of the companies that are urging harsh penalties are or have been, to some extent, guilty of similar practices. Remember that this ruling will set an important precedent which will shape the future of the software industry.

I ask only that you deliver a judgement that causes Microsft some financial pain while at the same time clearly putting this whole thing behind us so that the software industry and the economy can recover.

Regards,
Bill Mueller
CC:billmueller@pobox.com@inetgw

MTC-00026300

From: ken@perth.fpcc.net@inetgw
To: Microsoft ATR
Date: 1/26/02 5:49pm
Subject: Microsoft Settlement

To Whom it May Concern:

I would like to state that it is my belief that the proposed settlement will not achieve its objective of restoring competition back into the software market, nor I fear will it stem the illegal practices of Microsoft.

Although I have many concerns about the proposed settlement, it is sections III.D, III.J.1,2 that concern me the most. Microsoft has publicly stated that their strongest competition is from the Linux operating system, yet these sections would actually protect Microsoft from competition from such non-profit, volunteer organizations. It is my belief at this point that the only hope of real competition will be from these groups. For a settlement to be acceptable, Microsoft cannot be allowed to discriminate against such groups by not disclosing its APIs to them. I therefore kindly ask you to reject this proposal.

Sincerely,
Kenneth Blake

Sunnyvale, CA

My background: Software developer working since receiving M.S. in 1982.

Currently employed at PTC, one of the larger software companies, which sells its products on both unix and Windows platforms.

MTC-00026301

From: Dave Quick
To: Microsoft ATR
Date: 1/26/02 5:48pm
Subject: Microsoft Settlement

The terms of the settlement are tough, and I believe they are reasonable and fair to all parties, and meet— or go beyond—the ruling by the Court of Appeals, and represent the best opportunity for Microsoft and the industry to move forward.

Dave Quick
New Albany, OH

MTC-00026302

From: Phillip Bivens
To: Microsoft ATR
Date: 1/26/02 5:49pm
Subject: Microsoft Settlement

Please reconsider the current settlement as defined between Microsoft and the U.S. DOJ. The DOJ gave up way to much to Microsoft in an effort to spur the economy. The current settlement gives Microsoft complete control of the PC industry and now makes it legal for them to squash the competition. This makes no sense to me as a consumer! If this settlement is approved as stated, what will stop GM or Ford from trying to do the same thing as Microsoft? What will stop General Electric from extending its domain? The government of the U.S.A. is supposed to be for the people and by the people as defined in the Preamble of the Constitution. When did this change to for the "corporations" and by the "corporations"? As defined the settlement is a disgrace on the judicial system.

Regards,
Phillip Bivens
Naperville, IL USA

MTC-00026303

From: Steven Young
To: Microsoft ATR
Date: 1/26/02 5:52pm
Subject: Opinion on Microsoft Settlement

Gentlemen:

Why did you give up on this case? The "settlement" is more like a surrender. With all due respect, one is forced to ask whether someone in Washington is afraid, or was bought off, or simply became conviced of the futility of fighting these people's criminally amassed wealth. We'll all suffer for it.

Why am I bothering to write?

Steven G. Young
Menlo Park, CA

MTC-00026304

From: mpmwxyz@netscape.net@inetgw
To: Microsoft ATR
Date: 1/26/02 5:50pm
Subject: I support any action possible against Microsoft. My first computer was an Imac and I wanted to use N

I support any action possible against Microsoft. My first computer was an Imac and I wanted to use Netscape as my browser, but the computer was set up for Explorer. It took hours of work to get things set up for Netscape. A less tenacious person would have given up and settled for Explorer. Microsoft had an unfair advantage in my opinion. Thank you for your efforts.

Sincerely,
Marilyn Wolf

MTC-00026305

From: Ed Detmer
To: Microsoft ATR
Date: 1/26/02 5:50pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am a long term personal user of Microsoft products, as well as the decision maker for a $200,000,000 dollar business concerning software and operating systems. After exhaustive totally unbiased research we have chosen Microsoft over other companies for our business needs and of our own free will. We do not need or want the federal or state governments playing any role, which would interfere with the free market and our free choice. Take the settlement as proposed and agreed by the US Dept of Justice and the 9 states. Government meddling in free enterprise is very seldom beneficial to the consumer or to the economy. Get the federal and state governments out of this litigation as quickly as possible.

Thank you for taking the time to consider the opinion of a non-government person, with absolutely no bias due to political contributions.

Ed Detmer
V P Corporate Dev
Reeb Millwork Corporation

MTC-00026306

From: Paul Caprioli
To: Microsoft ATR
Date: 1/26/02 5:51pm
Subject: Microsoft Settlement

I urge the judge to reject the Microsoft settlement. Real, substantial, enforceable penalties are needed to curb the Microsoft monopoly's unethical and anticompetitive business practices. As a consumer, the lack of acceptable alternatives to Microsoft's shoddy software is causing me significant trouble and inconvenience.

Regards,
Paul Caprioli
Mountain View, CA

MTC-00026307

From: reynolds558@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 5:50pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
john ohare
64 second st
waterford, NY 12188–2419

MTC-00026308

From: Andrew S. Gardner
To: Microsoft ATR
Date: 1/26/02 5:55pm
Subject: Microsoft Settlement

To whom it may concern, Pursuant to the Tunney Act I am writing you to comment on the proposed settlement in the Microsoft anti-trust litigation. The proposed settlement is inadequate. The settlement creates the appearance of regulatory action to curtail Microsoft's behavior, but it is only the appearance.

Consider the example of AT&T. At the time that AT&T was first laying the copper cable to permit long distance phone service in the US, the cost of doing so was extraordinary. If AT&T had been forced to split the then small market for interstate and intrastate long distance, the cost of providing the service would have been far greater than any potential revenue. Seeking to first serve the interests of American citizens, government on all levels sanctioned AT&T's monopolistic position in the market, and permitted AT&T to use its monopoly position to maintain market stability.

At the time the AT&T anti-trust action began, the market conditions that necessitated permitting monopolistic behavior and its mandatory side effects had disappeared. Seeking again to protect the interests of American citizens, the federal government began the process of permitting competition in the local, interlata, and interstate call markets. The fruits of that action, while certainly detrimental to AT&T at the time, can be seen in the plethora of long distance service providers and the dramatic reduction in the prices of those services.

It could be argued that at the time of the birth of the computer industry that it was in the best interests of the industry for its resources to be concentrated. Without regulation or other federal action, Microsoft concentrated and then abused its power, which is, of course, a question of law answered in this case's judgment.

I believe that the current settlement demonstrates the belief that Microsoft's case is fundamentally different from the case of AT&T. I would argue that they are identical. AT&T provided a service that most Americans consider nearly fundamental. The case against AT&T demonstrated that as much as we might admire or appreciate the products or people of a particular company, the remedies we seek in anti-trust actions must actually remedy the situation. First, the proposed remedy sets a dangerous precedent about the regulation of the software industry.

Because no case exists in a vacuum, we must consider the fact that the implementation of behavioral remedies on Microsoft necessitates the construction of governmental oversight of the software industry as a whole, which has grown incredibly without government interference. We must also consider the precedent we set in beginning the regulation of the software industry. Second, the proposed remedy does not actually remedy the situation. At its most fundamental level, the case against Microsoft as brought by the Justice Department alleged that Microsoft leveraged its position in adjacent but not coincident fields of computing to systematically destroy its competition. Behavioral requirements on Microsoft do no remedy Microsoft's ability to control the industry. Consider the "behavior modification" approach in the AT&T case. Had AT&T not be forced to divest itself of its local carriers and been forced to permit competition in long distance, we would not have competitive local or long distance service. While AT&T might have been a cuddly 800 pound gorilla, it still would be an 800 pound gorilla. To assume that any remedy that does not seperate distinct business units within Microsoft into seperate corporate entities with requirments about lowering the barriers to entry of competitors is foolish.

Thank you for your time,
Andrew Gardner
Andrew S. Gardner
andrew@lanefour.org
520–990–5953—Tucson, AZ

MTC–00026309

From: list(u)7531 at Hotmail
To: Microsoft ATR
Date: 1/26/02 5:56pm
Subject: Microsoft Settlement

Hi,

Microsoft Media Player—

http://www.microsoft.com/windows/windowsmedia/download/default.asp This product is a clear example of Microsoft abusing its monopoly in the software market. In order to access the "MSN Music Radio player" on http://music.msn.com, you need to have version 7 of the Media Player program. However, as you can see from the web page above, they offer the following:

version 6.4 for Windows 95 and NT4
version 6.3 for Solaris nothing for Linux

Considering that Microsoft are expanding into the on-line media business, they clearly abuse their monopoly of Windows OS's against vendors of other Operating System software, and users of older Microsoft products. In order to resolve this, please try to ensure that Microsoft are required to provide identical versions of their software for other systems. On a similar basis, should Microsoft be required to "port" their various programs such as SQL server and the ".NET" server software to other platforms to allow fair competition?

I hope you are able to ensure that these issues are covered by the

Anti-trust settlement.
Thanks,
Adrian

MTC–00026310

From: Mark Beumeler
To: Microsoft ATR
Date: 1/26/02 5:57pm
Subject: Microsoft Settlement

Dear Sirs

The proposed settlement is bad idea.

It does not address the findings of fact. Microsoft is a criminal monopolist. Please consider that the innovation that has been inhibited by Microsoft dwarfs by several thousand fold the puny cost of punishing and restricting Microsoft from all their predatory practices. Your job is to definitively restrict Microsoft from the possibility of monopolistic practices, and punish them in excess of their rewards.

Regards,
Wayne Beumeler

MTC–00026311

From: MIKEASWEYD@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 5:58pm
Subject: (no subject)
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I would like to see the settlement reached between your office and Microsoft in their lengthy antitrust case approved as quickly as possible. To me, the suit is a case of sour grapes, propelled by competitors envious of Microsoft's ability to produce and sell "better mousetraps".

The terms of the settlement will allow the case to end on amicable terms. Microsoft is making significant concessions in the way it distributes its products to manufacturers and the public, and it is taking unprecedented steps in allowing rival companies to learn internal Windows program codes. Microsoft is being more than generous in its efforts to resolve the case. Right now, the Justice Department has more important things to tackle. To free your office's resources to properly prosecute Johnny ben Walker and investigate the Enron fiasco, I urge you to settle the antitrust case without additional delay.

Thank you for your attention to this matter.

Sincerely,
Michael A. Sweyd
3441 Colorado Avenue
Turlock, CA 95382–8111
(209) 669–0415

MTC–00026312

From: TERESA GOODRUM
To: Microsoft ATR
Date: 1/26/02 5:58pm
Subject: Microsoft Settlement

Dear Parties, If the break up of Microsoft would do for the computer industry what the break up of the Bell System has done for the telephony industry I say leave it intact. I understand that the reason that the Department of Justice becoming so deeply involved is to protect the American consumer and all the businesses that are involved with computer software and hardware but why do you not believe that we are capable of making our own choices. AT&T was once an industry giant and had a vast well of designers, engineers, infrastructure, research and development as well as technicians, representatives and operators. Now they are so minor of a player in their original core industry that they have become pitiful. And as more of their offshoots combine back into larger players than they were to be allowed and the "regional" competitors are falling by the wayside through mergers and bancruptcy procedures how can you not see that the same thing may befall the improved version of Microsoft that you think we need to have. All consumers and investors would once again see tremendous potential again elude them and be left buying part A from one division and compatible part B from another division.

Let the public decide and leave Microsoft intact.

Thank you for your time.
Teresa R Goodrum
14979 W Vera Cruz Ct
New Berlin, WI 53151

MTC–00026313

From: Rick Roehrig
To: Microsoft ATR
Date: 1/26/02 6:00pm
Subject: Microsoft Settlement

I wish to add my objection to the proposed settlement of US v Microsoft. The terms of the settlement would neither punish Microsoft for its illegal actions as a monopoly, nor prevent Microsoft from continuing these illegal actions in the future.

Richard Roehrig
Pensacola, FL

MTC–00026314

From: Bill
To: Microsoft ATR
Date: 1/26/02 6:02pm
Subject: Microsoft Settlement

I have followed the issues surrounding the MicroSoft anti-trust suit and related information since the early 90's. I feel that this company, MicroSoft, has long been allowed to terrorize the entire computer/electronic industry. This has to be stopped! There has to be limits on what one powerful company can do to bend the will of independent manufacturers and citizens. MS seems to use every legal trick in the book to prevent competition with their software. Classifying the license agreements, as to how OEM's can install boot-loaders on systems that they manufacture and sell, as intellectual property is absurd. Altering commodity protocols for the benefit of locking users to their software is absurd! Restricting an OEM as to how and when they can sell a naked PC is absurd. I do not use Windows! When I purchased my most recent PC, that was destined to run Linux exclusively, I was forced to also purchase Windows 98SE. I did not even receive a usable version of Win98, if I was to ever choose to use that software. I instead received a recovery disk which is mostly worthless. People call it the MicroSoft tax. I can not think of a more appropriate term!

MicroSoft, in my opinion, is the worst kind of monopolizing threat to global Internet stability. They repeatedly use market share to crush competition and options, forcing their average quality and usually flawed software on the masses. If Microsoft is allowed to continue unrestrained. I think this will have a long term, devastating effect on both the global economy and security of the Internet. An electric power provider would never be allowed to manipulate, with embrace and extend tactics, secret/proprietary electricity that only worked with their devices. Nor would they be allowed to slowly corrupt that moving standard to eliminate all competition. MicroSoft should not be allowed to do the exact same thing with computers, electronic technology and the Internet.

MicroSoft must be restrained and controlled as they have proven time and time again that they cannot act responsibly! They do not innovate, they destroy and rename the lack of options innovation!!!!

Best Regards,
Bill

MTC-00026315

From: Sharlene Shannon
To: Microsoft Settlement
Date: 1/26/02 5:58pm
Subject: Microsoft Settlement
Sharlene Shannon
32056 Pacific Coast Hwy.
Malibu, CA 90265
January 26, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Sharlene Shannon

MTC-00026316

From: LavadaB1948@cs.com@inetgw
To: Microsoft ATR
Date: 1/26/02 6:07pm
Subject: Microsoft Settlement
76TH STREET
LUBBOCK, TX 79424
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The government has unfairly targeted Microsoft and punishing them for rising to the top of their industry. Simply because Microsoft built a better mousetrap and reaped the rewards does not mean that they have broken any laws. This is a case of government over regulation, not hurt consumers.

A settlement has been reached and the terms are fair. Microsoft has agreed to design future versions of Windows to be more compatible with non-Microsoft products. Microsoft has also agreed to several changes in the way they do business with computer makers. Microsoft has agreed to many concessions. It is time that the government accepts the settlement and moves on. Microsoft and the technology industry need to move forward, the only way to move forward is to put this issue in the past. Please allow Microsoft to get back to business as usual, accept the Microsoft antitrust settlement Why punish Microsoft for achieving the American dream by starting from scratch and building such a State of the Art product? Everyone has the same opportunity.

Sincerely,
Lavada Burdett
CC:fin@mobilizationoffice.com@inetgw

MTC-00026317

From: douglasross
To: Microsoft ATR
Date: 1/26/02 6:12pm
Subject: Microsoft settlement
16 Fort Street
Springfield, MA 01103–1208
January 23, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am in favor of the Department of Justice's decision to settle the Microsoft antitrust case. The case has dragged on for long enough. Obviously, Microsoft has the resources to continue the litigation for an extended period of time. I would rather see the taxpayers'' money spent on other endeavors.

I do not believe the government fully understood the technological issues involved in this suit. The Department of Justice's position was comprised by this lack of understanding. Given this disparity, the best course of action is settlement. The terms of the settlement agreement appear reasonable enough. For example, Microsoft has agreed to allow computer makers and consumers to replace features of Microsoft software with that of Microsoft's competitors. This will result in opening up the competition. The reality of the situation is that we live in a Microsoft world. The settlement provides mechanisms for Microsoft's competitors to compete in this world. Microsoft's agreement to disclose interfaces that are internal to the Windows operating system products will also achieve this end.

I support the DOJ's efforts toward resolving this litigation.

Sincerely,
Douglas Ross

MTC-00026318

From: mpmwxyz@netscape.net@inetgw
To: Microsoft ATR
Date: 1/26/02 6:08pm
Subject: Microsoft Settlement

I inadvertently omitted the subject line in a previous message so am resending this to be sure it is received. I support any action possible against Microsoft. My first computer was an Imac and I wanted to use Netscape as my browser, but the computer was set up for Explorer. It took hours of work to get things set up for Netscape. A less tenacious person would have given up and settled for Explorer. Microsoft had an unfair advantage in my opinion. Thank you for your efforts.

Sincerely,
Marilyn Wolf

MTC-00026319

From: Simon Lemond
To: Microsoft ATR
Date: 1/26/02 3:10pm
Subject: Microsoft Settlement

I disagree with the proposed settlement with Microsoft. I think they broke the law and the remedy should be that they are forced to open their system to the applications of others. They should provide full and open disclosure of the interfaces needed to optimize applications with all of the various windows operating systems. They should have to pay back the DOJ for the costs of the lawsuit. They shouls have to put money into a fund to nurture outside development of applications, either by individuals or other corporations.

Microsoft has repeatedly engaged in illegal, unfair, and shady practices. They will continue to run roughshod over any competition unless they are restricted from doing so. I want to se Bill Gates removed from the company entirely, and their plans and strategy should be published at least six months before any new products are released.

They should be forced to deal with the security holes they have left in Windows, InternetExplorer, and Outlook. They need to close these holes or pay damages to victims. They should have to fund a group to improve security and prevent malicious hacking.

Simon Checkner

MTC-00026320

From: Casey Fleming
To: Microsoft ATR
Date: 1/26/02 6:10pm
Subject: Microsoft settlement

Gentlemen:

Comments on the proposed Microsoft antitrust settlement:

I have owned two small businesses. In both cases the software required to run the business was simply not built for the Apple or Unix-based platforms. Thus, due to the particular nature of our industry, we found the Microsoft platform the only reasonable alternative. It was expensive to buy, and expensive to maintain because of it's instability. I have bought Microsoft for years not because I think highly of the product, but because I never had any real choice.

The extra expense reduced our ability to add staffing when it would have been very helpful, and it cut deeply into profits which could have gone to further expand the business.

In a very real way, Microsoft's predatory monopoly practices cost jobs in our community and drained investment capital away re-investment that would have benefitted both our community and our industry.

They suck resources (money and time) away from true productive labor, and harm small businesses in very tangible ways. Forget anecdotal evidence; I have no doubt that a disinterested study of small businesses would yield significant data suggesting that Microsoft's practices are costing hundreds of thousands of jobs and billions of dollars in losses every year, particularly in the small business community.

The settlement with Microsoft must guarantee that they can never again target and destroy other businesses to stifle competition. A breakup of the company seems the only reasonable alternative to those of us in the small business community that have directly suffered from their actions.

Sincerely,
Casey Fleming
Former president, Independent Property Services, Inc.
Former CEO, Loanguide.com,. Inc.

MTC-00026321

From: Jennifer Smith
To: Microsoft ATR
Date: 1/26/02 6:12pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I feel the Microsoft settlement before you has serious flaws, and I urge you to reject it. There is no provision to ensure that their anti-competitive activity won't continue. Every court has agreed that Microsoft has used its monopoly powers to reap unjust profits, yet the company is now being allowed to keep those profits. Please strike down the proposed final judgement as it fails to benefit those Microsoft has wronged—consumers like myself.

Respectfully,
Jennifer L. Smith
401 Eden Road
Apt.L-3
Lancaster, Pa. 17602
717-581-5893

MTC-00026323

From: Thelma Stevens
To: microsoft.atr(a)usdoj.gov
Date: 1/26/02 6:16pm
Subject: No subject was specified.

Microsoft Settlement:

Dear Sirs: We have studied the terms of the Microsoft settlement and believe it is fair and just.and good for our economy and our country.

We hope that you and your committee will back it fully.

Sincerely,
Thelma and Nelson Stevens
Barrington, IL 60010

MTC-00026324

From: Tom Hemmer
To: Microsoft ATR
Date: 1/26/02 6:18pm
Subject: Microsoft settlement

As a computer professional, i have seen the effects of the anti-competitive behavior caused by microsoft. numerous companies with useful and innovative products have been swallowed or ground down by the ruthless, and by the courts definition, illegal practices of microsoft. The current settlement does not go far enough in ensuring that the monopolistic practices do not continue. This settlement has led me to conclude that that, the DOJ and Ashcroft are lapdogs for big business, the proposed settlement is for political purposes and that the DOJ does not care about curbing monopolies for the benefit of the consumer.

MTC-00026325

From: whas1@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 6:18pm
Subject: Microsoft Senior settlement

Don't you think it is about time to settle this law suit and get on with business? I do. So lets get going.

William H. Adams

MTC-00026326

From: Two5alpha@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 6:15pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
John Gaynor
8100 Ridgefield Road
Pensacola, FL 32514-6849

MTC-00026327

From: finnhero@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 6:17pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Mathew Saari
33114 Village 33
Camarillo, CA 93012-7212

MTC-00026328

From: Lee Lamb
To: Microsoft ATR
Date: 1/26/02 6:22pm
Subject: Microsoft Settlement

Your Honor,

I would like to register my position regarding any proposed anti trust settlement with Microsoft.

I will be brief. Microsoft thinks it is above the law. The rules of law are for the little people, not for them. They have consistently used their position to ruin competitors. When they began bundling Internet Explorer with Windows 95. It really didn't work, but because it was part of the system people who didn't know any better used it anyway. So Netscape went from being the major player to a minor player in a very short period of time. Microsoft has always used this method of attack. Bundle a product that isn't ready with windows, overwhelm a proven product, subject the user to security holes, make small improvements to the product over several years, force the competition to accept a minor role in the market, and call this innovation. This system would be tolerable if the software didn't have so many security flaws that it subjects the individual, the family, the company, the government to having it's most sensitive information at risk.

If the law is the law. Microsoft needs to be made an example of because it has flaunted its" disregard law, the consumer, and humanity.

Thank you,
Lee Lamb
16252 Vintage Dr
Plainfield, IL 60544

MTC-00026329

From: Byles
To: Microsoft ATR
Date: 1/26/02 6:27pm
Subject: Microsoft Settlement

I urge you to accept the antitrust settlement agreed to. I feel this is a fair proposal and we need to move on!

Nancy Byles
770 Briercliff Lane
Lake Oswego, OR 97034

MTC-00026330

From: Gregory Ritts
To: Microsoft ATR
Date: 1/26/02 6:31pm

Subject: consent decree

The settlement seems like a fair, negotiated settlement. It seems that each side made some compromises, and that MS will be prevented from overreaching conduct. This settlement ought to be adopted, and the additional remedies proposed by the states and DC rejected.

Gregory Ritts

MTC–00026331

From: Natmet@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 6:33pm
Subject: Microsoft Settlement

I believe that it is in the interest of the American public to complete the Microsoft settlement. This company has done more for our economy than we can even comprehend, and has helped innumerable children in its various benevolent programs. It has helped me personally to enhance my computer skills to help children I have tutored.

Nadalyn M. Cotten

MTC–00026332

From: robert@sisqtel.net@inetgw
To: Microsoft ATR
Date: 1/26/02 6:26pm
Subject: Microsoft settlement
01/26/2002

Honorable U.S. District Judge Colleen Kollar-Kotelly; I am writing you to "throw out" the proposed Microsoft Settlement. This settlement is not in the best interest of the people of the United States. It, surely, is not in the best interest of our free market system. Thank you for allowing me to make this comment.

Sincerely,
Robert L. Hemus

MTC–00026333

From: slwinkler@msn.com@inetgw
To: Microsoft ATR
Date: 1/26/02 6:32pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Suzanne Winkler
3404 Zircon Ln
Rockford, IL 61102

MTC–00026334

From: Tim Rain
To: Microsoft ATR, Microsoft's Freedom To Innovate Netw...
Date: 1/26/02 6:38pm
Subject: Microsoft Settlement
Original Message
From: Microsoft's Freedom To Innovate Network
To: 'rainman@okeechobee.com"
Sent: Saturday, January 26, 2002 17:12
Subject: Attorney General John Ashcroft Letter

Attached is the letter we have drafted for you based on your comments. Please review it and make changes to anything that does not represent what you think. If you received this letter by fax, you can photocopy it onto your business letterhead; if the letter was emailed, just print it out on your letterhead. Then sign and fax it to the Attorney General. We believe that it is essential to let our Attorney General know how important this issue is to their constituents. The public comment period for this issue ends on January 28th. Please send in your letter as soon as is convenient.

When you send out the letter, please do one of the following:

- Fax a signed copy of your letter to us at 1–800–641–2255;
- Email us at fin@mobilizationoffice.com to confirm that you took action.

If you have any questions, please give us a call at 1–800–965–4376. Thank you for your help in this matter.

The Attorney General's fax and email are noted below.

Fax: 1–202–307–1454 or 1–202–616–9937
Email: microsoft.atr@usdoj.gov

In the Subject line of the e-mail, type Microsoft Settlement.

For more information, please visit these websites:

www.microsoft.com/freedomtoinnovate/
www.usoj.gov/atr/cases/ms-settle.htm

5208 Hwy, 441 N.
Okeechobee, FL 34972
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinion about the recent antitrust case settlement between Microsoft and the US Department of Justice. I think the lawsuit has dragged on too long and it is time for the government to stop interfering in big business. We live in a capitalist society where free enterprise reigns.

Microsoft's competitors could not have delivered products and services at the same level as Microsoft and suffered so. Now, they are whining and spending huge amounts of money to lobby politicians and lawmakers to even the playing field. This simply is not right. Why isn't the Government getting involved with the big corporate takeovers and buy out's and especially Wal-Mart. What about the Oil company's they can do whatever they want and get the price's they want. Is this the case of Kitty in the woodpile?

The terms of the settlement will force Microsoft to give up technological secrets they have spent valuable time and money developing. It also prohibits them from entering into agreements obligating third parties to exclusively distribute Microsoft's products. This is a violation of free market principles.

Although I feel the terms of the settlement are flawed, I think implementation is the best way of serving the interests of the public. The alternative to further litigation would cost our nation too much. Thank you for your time.

Sincerely,
Tim Rain

MTC–00026335

From: Dianne Lane
To: Microsoft ATR
Date: 1/26/02 6:41pm
Subject: Microsoft Settlement

Having a Mac allows me to avoid the Windows OS. My operating system came with both Explorer and Netscape. However, when clicking a link or attachment the default goes to Explorer. This is, of course, only a tiny example of Microsoft domination. Since I try to avoid any Microsoft product and do not wish to be forced to use one, I trashed it. Unfortunately, it is impossible for most PC users to find software other than that made by Microsoft. Please make it possible to improve our computer technology by giving competition a chance.

Sincerely,
Dianne Lane
San Jose, California

MTC–00026336

From: Dan Jacobs
To: Microsoft ATR
Date: 1/26/02 6:42pm
Subject: Microsoft Settlement

To whom it may concern,

I urge you to make the terms of the Microsoft antitrust settlement broader than the proposed settlement, which I believe doesn't serve the public interest in its current form. The currently proposed settlement uses language which leaves gaping holes where predatory practices could continue to be used against competitors, simply because they compete against products that weren't specified in the settlement. The public interest would best be served by Microsoft agreeing to abandon all of its predatory practices, not just those mentioned in the proposed settlement, as well as abandoning its predatory practices against all competitors, not just those who compete with the Microsoft products mentioned in the proposed settlement.

Thank you,
Daniel E. Jacobs
3322 Cavan Dr.
St. Ann, MO 63074

MTC–00026337

From: Edward McClanahan
To: Microsoft ATR
Date: 1/26/02 6:45pm
Subject: Microsoft Settlement

I have seen many arguments arguing for and against the idea that Microsoft is a monopoly. My argument is that it acts like a monopoly, uses its market power like a monopoly, its competitors and customers fear it like a monopoly, and therefore for all practical purposes is a monopoly. Thank you for your time.

From the outer realms of Cyberspace,
Edward McClanahan
emcclanahan@cox.net

MTC-00026338

From: Kurt Freund
To: Microsoft ATR
Date: 1/26/02 6:46pm
Subject: Microsoft Settlement

To Whom It May Concern:

It is incomprehensible that the Justice Department caved in to Microsoft with a toothless settlement that will do nothing for the consumer. I can only assume that Microsoft's political contributions and lobbying had much to do with it. The company has again and again shown that it has no respect for the law, the courts, its competitors, or its customers. Judge Jackson might have made inappropriate comments based on his (quite understandable) annoyance at Microsoft, but his findings of fact are clearly correct, which was affirmed by the U.S. Court of Appeals.

I would like to comment on something that has been mentioned less often than other aspects of the case ? Microsoft's domination of productivity software with its Office suite, which contains Word (word processor), Excel (spreadsheet), Outlook (email client), PowerPoint (business presentations), Publisher (publishing), Internet Explorer (of course), and a few other tidbits. Suppose you like one of those products, such as Word. YOU CANNOT BUY IT! The only way to get any of the programs (except IE) is to buy the entire suite. And if you buy the suite to get Word, you also have the other programs, whether you like them or not. Considering the price of Office (much higher than the cost of just the word processor would be), you are unlikely to buy another spreadsheet or database program. Faced with that, how many companies are willing to invest in creating a quality competing version of any one of the suite products? Not many, as you would quickly find by doing some shopping.

Microsoft can indulge in that kind of extortion because of its monopoly of operating systems and its predatory business practices. If another company did produce a decent word processor that challenged Word, it is not hard to imagine that Word would soon be available as a separate product and at a price that no other company could match. Microsoft has stifled innovation and produced mediocre, bug-ridden, defective software for many years, and people continue to buy it because there are no reasonable alternatives. I strongly appeal to the court to reject the Justice Department's proposed settlement and impose restrictions and penalties on Microsoft that are commensurate with their offenses and that will help to create true competition in the software market.

Thank you.
Kurt Freund
8240 Rhoda Avenue
Dublin, CA 94568-1004
Phone: 925-829-6284
Email: durf@attbi.com

MTC-00026339

From: Ellen Vande Kieft
To: Microsoft ATR
Date: 1/26/02 6:47pm
Subject: Microsoft

I have grown to really enjoy my computer and the ability to get all sorts of information about the whole wide world. But the reason I could do so was due to Microsoft and their fantastic software. If I had to install each feature by myself, I could never do so as I am not a "techie". What are all the competitors of Microsoft screaming about, they are complaining because they have failed to come up with a better product and are looking to the government to fight their battle for them. Please allow Microsoft to continue to innovate so that the consumers like me can continue to benefit.

AOL is seeing green at Microsoft's cash and wants the DOL to help them get a share.

Ellen Vandekieft
San Mateo, Ca 94403
CC:MSFIN@microsoft.com@inetgw

MTC-00026340

From: Roger Stewart
To: Microsoft ATR
Date: 1/26/02 6:47pm
Subject: Microsoft settlement comments

I write to complain regarding the DoJ's dangerously cynical sellout of the American people.

The DoJ's toothless settlement snatches defeat from the jaws of victory by shortselling the merits on many counts. Among the many sad weaknesses is API sharing, which is a great idea, but is badly designed. Gaining access to the APIs is made far too difficult and is then rendered nearly worthless by requiring sharing of the finished code with Microsoft. The anti-non-profit language in Section III(J)(2) wipes out Linux and many other OSes competing with Windows. The anti-government language there is also unforgivable. The settlement does not begin to account for the damage done to competitors like Apple.

There are countless more fatal errors with the settlement. Please withdraw it.

Roger Stewart
2403 Greenlee Dr
Austin TX 78703

MTC-00026341

From: JOTHEDY@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 6:50pm
Subject: Microsoft Settlement

ENOUGH IS ENOUGH

I am a subscriber of AOL but do not agree with them or anyone else that is inclined to make Microsoft the scapegoat for all the problems that face the industry in regard to competition. Where would the industry be now if Microsoft never existed? While AOL charges Microsoft with "anticompetitive conduct," it has fought the efforts of Microsoft in the improvement of instant messaging. Which is a big inconvenience to anyone using the Internet for correspondence. This is only a way that AOL uses its anticompetitive conduct.

I am asking for your help in throwing out AOL's recent litigation against Microsoft.

Joyce O. Thedy

MTC-00026342

From: Helen McKay
To: Microsoft ATR
Date: 1/26/02 6:52pm
Subject: Unfair to Microsoft

I do not like what is happening with Microsoft by our governent. It seems that when young people use their brains to invest something for the good of the nation, those in charge do all they can to destroy the Young people.

Here in Memphis, Tenn. we have a level of people with their hands out to the government and it has to supply them with homes, food on their tables, their kids in child care and teenagers in College all the government expense.

Here are a couple of young people contributing to the good of everyone and the govenment comes down on them and takes away the money they have made. Doesn't the government spend enough money to care for those who will not use their brains, or work. Why does the government go after the Microsoft people. Microsoft will listen and has done what is right, but because others want on Microsoft bandwagen it is split up.

The government did that with the Telephone company, now we can't get the operator when we need service, or want to have a phone bill correct. The phone service is rotten and we have to listen to all of the mess on those automated phone. The govenment did not have the right to split up the phone company, it was a good one and people got serve. Now, we have junk pay phones that will not return the money you drop into the phone. We can't get the parties we want because of something wrong. No operators will help us because we can't get them. And the rates are high to even get long distance numbers. Why doesn't the government leave those who have the intelligence to create something good along. No, the government has to support those in Memphis who are too lazy to work. Or the city waste money on arena for basketball teams or some other white elephant us taxpayers have to buy. So not the government has gone after Microsoft to destroy them and bring into the market some more junk, like the junky phones.

Sincerely,
Ms. McKay
583 No. Merton Street
Memphis, Tenn. 38112

MTC-00026343

From: JLor7591@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 6:54pm
Subject: Microsoft settlement

Short but sweet: Do NOT break up Windows.

It would make the computer environment a lot less user friendly, especially for all of the Seniors in my computer beginners class.

J. C. Lawrence

MTC-00026344

From: David Sallak
To: Microsoft ATR
Date: 1/26/02 6:56pm
Subject: Microsoft Settlement

Hello, I am writing to voice my concern regarding the settlement of the lawsuit by the Federal Government of the United States and nine individual States against Microsoft

Corp. Among the many flaws contained in the settlement, I will focus on one ? the creation of an oversight group to ensure that Microsoft no longer violates procedures for which it has been found guilty. This oversight group has no enforcement capability. All they are empowered to do is to point out that if Microsoft has violated one or more of the conditions of the settlement, then this will be brought to the attention of the U.S. Justice Department for review. And what, file ANOTHER lawsuit? This one has already taken more than three years, so Microsoft has incentive to violate conditions of this settlement ? competition can be eliminated via Microsoft1s predatory approach to the consumer and business markets, well before any future litigation has an opportunity to stop Microsoft1s actions in time to save consumers any monetary losses due to lack of competition, or save business competitors from extinction due to Microsoft1s chokehold on their Windows platform.

Microsoft should be bound to terms of an agreement that enables the oversight group to enforce monetary penalties upon Microsoft, payable to the Federal Government and participating States, if Microsoft breaks any terms of this agreement. No other form of penalty is understood by Microsoft ? they are too big to appreciate any penalty other than financial.

You are spending my tax dollars to prevent future anti-competitive behavior by Microsoft, a company found GUILTY of breaking the laws of the Sherman AntiTrust Act by the Federal Government of the United States. Enforce this law to its limits.

Thank you,
David Sallak
President, SNS Corporation
Villa Park, IL
630–567–0984
david@sallak.com

MTC–00026345

From: J. Harrison
To: Microsoft ATR
Date: 1/26/02 6:22pm
Subject: Microsoft Settlement

Hello,

My name is Jeffrey Harrison and I run a company called 23 Skidoo, Inc. Up until recently my company focused entirely on web development. Recently we have changed into other markets but as a web developer I have had to deal with the constant borage of crap from Microsoft and the biddings of Bill Gates. Their products rarely ever work right. Their web browser rarely ever plays by the rules and I am constantly loosing time and money because of them. As a result of their poor operating system I have abandoned their platform all together in my office. I now use Apple computers and here's something really surprising......THEY ACTUALLY WORK, DON'T CRASH, AND I HAVE YET TO GET A VIRUS! I would constantly miss deadlines because of something Microsoft machines would decide to do at the last second. Thereby costing me a lot of money. And because of what they do I have to charge more to my customers. If they would have been playing by the rules instead of whatever they decided was in their interest development costs for thousands of companies would be much less. And I am greatly disappointed in our own justice system as of late.

Microsoft has been getting away with murder for years now. It's not fair to the public and it's not fair to small business.... which employs the majority of the United States last time I checked. You need to set an example with Microsoft. You still need to break them up. And you need to throw out Bill Gates if at all possible. He doesn't care about you.... he doesn't care about me.... and he sure as hell doesn't give a crap about the fact that he sells such a crappy product to so many people. If you let him go on he is just going to do the same things he has been doing for years now. And that is to stiffel innovation. He doesn't innovate. He steals ideas. And he crushes other companies that offer something superior before they get a chance to even come to life. They do not do anything to help the market place. If anything they have helped to destroy it. Hell..... if you take a look around you can go to hacker sites that give you a little string of code that can take down major servers around the globe that use Microsoft software. What kind of company sells such a bad product for so long w/o being penalized?. I mean.... if your car's wheels fell off once a day.... would you still drive that car? This is ridiculous. I can only wonder if you have been paid off like so many other politicians and judges that have let so much of what they do to people just slide.

I am really disappointed in what this country has become. It is a joke.... it is a travesty..... and it is just plain sad that Microsoft has been able to slip through the system of supposed checks and balances for so long without getting so much as a slap on the wrist.

BREAK MICROSOFT APART.....MAKE THEIR CODE OPEN.... WATCH THEM LIKE A HAWK....FINE THE HELL OUT OF THEM.... AND DON'T LET MICROSOFT AND BILL GATES KEEP SCREWING US ALL.

Thank you,
Jeffrey Harrison
Jeffrey Harrison
President & CEO
23 Skidoo, Inc.
http://www.23skidoo.com
445 Round Rock West Dr.
Round Rock, TX 78681
USA
Phone:512–733–2322
Fax:512–733–2321

MTC–00026346

From: Mango50@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 6:56pm
Subject: Microsoft settlement

Dear Sirs/MS:

As a taxpayer, Microsoft user, and as a stock holder I would like to submit my opinion that the settlement agreed to with the justice Department should be fair enough for all states. Please end the litigation.

Sincerely,
Alden G.
Cockburn, MD

MTC–00026347

From: edbar@starband.net@inetgw
To: Microsoft ATR
Date: 1/26/02 6:54pm
Subject: Support For the Microsoft Settlement

Dear Sirs:

This is to express support for final acceptance of the settlement between Microsoft, the Department of Justice, and the nine states. We urge you not to reject this settlement as any delays will not serve the interests of the American people but serve to further the causes of Microsoft's competitors who continue to choose to compete in the courts instead of the marketplace.

The American people are insulted by claims that we have been harmed by Microsoft. In truth, we have been harmed by their competitors who have stalled progress in technology and in the economy. These suits must not be allowed to continue. Before said suits, our country experienced unparalleled growth and prosperity. Our country regained its dominance in technology due to the innovation and growth of Microsoft and the many companies supporting their operating systems.

We respectfully urge you to help return our country towards prosperity by rejecting further lawsuits and further delays in acceptance of the anti-trust settlement.

Edward J. Barsano, CEO
NeuralTick, Inc.

MTC–00026348

From: Inezi@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 6:59pm
Subject: Microsoft Case

We support Microsoft and hope the DOJ does the same.

MTC–00026349

From: neil sullivan
To: Microsoft ATR
Date: 1/26/02 7:01pm
Subject: Microsoft Settlement
P.O.Box 925
Allyn, WA 98524
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I was pleased to see the Department of Justice has made the wise decision to settle the Microsoft antitrust lawsuit. In my opinion, the DOJ was way off base in its decision to file this case. Notwithstanding this belief, I am supportive of the terms of the settlement agreement, and I looking forward to a resolution of this case. Microsoft has agreed to a variety of concessions in the interest of moving forward. They have agreed to change their business practices to quell concerns of anticompetitive behavior. They agreed to not retaliate against those who promote, distribute, or sell software that competes with Windows. They also agreed not to enforce many of their intellectual property rights.

Through the settlement agreement, Microsoft has answered the concerns about predatory business practices. Nothing more should be done beyond the terms of the settlement agreement.

I would suggest that in the future the Government not base their lawsuits on the word of competitors and give some thought to the facts such as the user public was being well served and this special-interest litigation is sure to cost the users more in the long run.

Sincerely,

Neil J. Sullivan

MTC-00026350

From: Constance La Lena
To: Microsoft ATR
Date: 1/26/02 7:05pm
Subject: Microsoft Settlement

The Microsoft anti-trust settlement should NOT include anything that would give Microsoft more unfair advantage than they already have. The current proposal to have Microsoft provide computers and software to schools would do just that. Microsoft now does not have a big presence in schools—Apple does. What the proposed settlement would do is extend Microsoft's monopoly into the one area where it does not presently monopolize the market.

Bad decision!

Constance La Lena
laconstance@ria.net

MTC-00026351

From: Harvey G. Spencer
To: Microsoft ATR
Date: 1/26/02 7:06pm
Subject: Microsoft Settlement

Please do the reasonable thing and settle the Microsoft suits as Microsoft has proposed.

MTC-00026352

From: HermonT@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 7:06pm
Subject: Microsoft Settlement

Enough is Enough

I am a subscriber of AOL but do not agree with them or anyone else that is inclined to make Microsoft the scapegoat for all the problems that face the industry in regards to competition. Where would the industry be now if microsoft never exited?

While AOL charges Microsoft with "anticompetitive conduct," it has fought the efforts of Microsoft to the improvement of instant messaging, which is a big inconvience to anyone using the internet for correspondence . This is only a way that AOL uses ITS anticompetitive conduct.

I am asking for your help in throwing out AOL's recent litigation against Microsoft.

Respectfully,

Hermon L. Thedy

MTC-00026353

From: deanhajr@att.net@inetgw
To: Microsoft ATR
Date: 1/26/02 7:07pm
Subject: Microsoft Settlement.

I have purchased Microsoft products for many years, their roducts are far superior than any other products on the market. I do not feel that they have done any wrong in this situation. They attempt to innovate and improve the PC and software industry.

Its only the those that are unable to keep pace with Microsoft that want to alter the "playing field". So can you tell me what the difference is that microsoft has internet explorer on some PC's and other PC's have AOL as the default. When I purchased this PC I was forced into using AOL, and I did not like it so I removed it. PS. My next upgrade will be microsoft XP.

MTC-00026354

From: Elinor Bickley
To: Microsoft Settlement U.S. Department of Justice
Date: 1/26/02 7:03pm
Subject: Microsoft Settlement

Elinor Bickley
Rt/ 11. Box 210
Santa Fe, NM 97501
January 26, 2002
Microsoft Settlement
U.S. Department of Justice

Dear Microsoft Settlement U.S. Department of Justice:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies. Thank you for this opportunity to share my views.

Sincerely,

Elinor M. Bickley

MTC-00026355

From: stansan@attglobal.net@inetgw
To: Microsoft ATR
Date: 1/26/02 7:07pm
Subject: Microsoft Settlement

I have been a user of Windows and the IE Browser for the past three years having used Netscape prior to that.

As much as I have understood of the settlement proposed between the Department of Justice and Microsoft it seems fair and reasonable. I am satisfied that if I over paid for Windows according to the allegations of antitrust and competitor arguments it was probably a small amount, besides I have had stability of my system and automatic recovery (Win 95, 98) that give me peace of mind.

If Microsoft has been a monopoly it has been a beneficient one to me as the consumer.

Stan Rubenstein
White Plains, NY

MTC-00026356

From: Nathan Z
To: Microsoft ATR
Date: 1/26/02 7:13pm
Subject: Microsoft Settlement

Please do not allow the Microsoft settlement. It will just give Microsoft more leverage and not allow companies like Apple Computer or the Open source movement headed by the Linux Operating System to ever take a respectable part of the market. Microsoft is bad for consumers and America. I, and many others believe this and hope that you take our pleads seriously. Thank you for your time.

Nathan Zamecnik

MTC-00026357

From: Keith Nasman
To: Microsoft ATR
Date: 1/26/02 7:12pm
Subject: Microsoft Antitrust/Settlement

Microsoft's predatory actions aside, additional focus needs to be on how its monopoly can stifle communication. If the dominant format for document communication is a Microsoft Word document, then so be it. The more important issue is Microsoft's control of the format. I believe all public communications formats should be open. Microsoft should be forced to open their formats to the world so that other companies or groups can write software to interact with those formats. It is an unfair use of their market dominance to allow them to stifle communications to their own advantage.

Microsoft needs more than just a pat on the hand.

Sincerely,

Keith Nasman

MTC-00026358

From: Phillip Bashor
To: Microsoft ATR
Date: 1/26/02 7:13pm
Subject: microsoft settlement

7 Highland Avenue
Darien, CT 06820-4707
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft antitrust dispute. I support Microsoft in this dispute and would like to see this three-year litigation battle come to an end. I support the settlement that was reached in November as a means to end this dispute. Microsoft has agreed to all terms of this settlement. Under this agreement, Microsoft must grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows. Computer makers will now be free to remove the means by which consumers access various features of Windows, such as Microsoft's Internet Explorer web browser, Windows Media Player and Windows Messenger. Microsoft has also agreed to disclose information about certain internal interfaces in Windows. A technical oversight committee has been created to monitor Microsoft compliance. This settlement will serve in the best public interest. I am a believer of free enterprise and do not want to see this company punished for being successful. Thank you for your support.

Sincerely,
Phillip Bashor

MTC-00026359

From: JonKai@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 7:13pm
Subject: Microsoft settlement.......

Judge..... anyone who give's MSFT settlement a clean bill of health and that it follows the intent of the John V. Tunney act, after reading John V. Tunney say that MSFT's actions are "inadequate", would be the greatest miscarriage of justice of all time...... THIS SETTLEMENT IS POLITICALLY MOTIVATED... there is no other case that this is more clear on....... please do not mistake this settlement for any thing other than what it is....... a miscarriage of justice....... Former California Senator Accuses Microsoft By Kristi Heim, San Jose Mercury News, Calif.

Jan. 26—Microsoft's failure to disclose all its contacts with the government directly contradicts the intention of a federal law designed to prevent the influence of lobbying on antitrust settlements, the former California senator who wrote the law said Friday.

John V. Tunney, who wrote the antitrust legislation known as the Tunney Act in 1972 and is now a business executive, called Microsoft's brief disclosure of its lobbying activities "inadequate" in an affidavit filed with the Justice Department this week.

jon.

MTC-00026360

From: Yaakov Nemoy
To: Microsoft ATR
Date: 1/26/02 7:17pm
Subject: Microsoft Settlement

I, Yaakov Nemoy, of Fairfield CT, believe that the proposed settlement is in extreme error. You cannot deny the specific practices that Microsoft has taken, though they do not do this anymore, such as forcing computer manufacturers to install only Windows. Microsoft needs to pay for this massive amount of damage done to the computer market, and this settlement will not fully compensate for it'.

MTC-00026361

From: grandpaja@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 7:17pm
Subject: Tunney act is Fair and reasonable

Please vote to quash the ongoing lswsuits and attempts at lawsuit which interfere with the governments ability to end this expensive litigation

Yours John C. Allen

MTC-00026362

From: Sherry Hamilton
To: Microsoft Settlement
Date: 1/26/02 7:12pm
Subject: Microsoft Settlement
Sherry Hamilton
3195 Dayton-Xenia Rd. #900–114
Dayton, OH 45434
January 26, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Sherry Hamilton

MTC-00026363

From: Tom Hamilton
To: Microsoft Settlement
Date: 1/26/02 7:13pm
Subject: Microsoft Settlement
Tom Hamilton
3195 Dayton-Xenia Rd. #900–114
Dayton, OH 45434
January 26, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief. Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Tom Hamilton

MTC-00026364

From: Arthur J. Saulsberry
To: Microsoft ATR
Date: 1/26/02 7:20pm
Subject: Microsoft Settlement

http://www.pbs.org/cringely/pulpit/pulpit20011206.html

MTC-00026365

From: thejokis@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 7:17pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Judy Joki
16222 29th Dr. SE
Mill Creek, WA 98012–7824

MTC-00026366

From: Edward Bauer
To: Microsoft ATR
Date: 1/26/02 7:20pm
Subject: Microsoft Settlement

Dear Sirs,

I feel the proposed settlement with Microsoft is fair and fulfills the finding of the court. I'm upset by the political nature of the lawsuit and the uneven application of monopoly standards to many of the parties that testified against Microsoft in this suit. I recognize these comments mean little with the judgment and settlement at hand, but I would like to record strong criticism of the people in the anti-trust group that have given many unhappy computer companies that couldn't compete a free pass. Everyone seems to forget that IBM with its OS2 operating system was the goliath trying to slay David in the original go round, and I didn't see the government screaming to level the playing field against IBM when they owned all the computer markets. Again, I hope that the DOJ begins a more reasoned and responsible approach to litigation in the future, and I hope that a judge with a modicum of commercial and technical capability hears the case. A judge that can discern the difference between a bunch of whiners and a person with a real complaint.

Edward Bauer

MTC-00026367

From: Dick and Candy James
To: Microsoft ATR
Date: 1/26/02 7:21pm
Subject: Microsoft Settlement
January 26,2002
Attorney General Ashcroft, Justice Dept.
950 Pennsylvania Ave. NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

The purpose of this letter is to inform you of my support for the settlement reached between the Dept. of Justice and the Microsoft Corporation. As a retired economic development consultant, I am aware of the importance of a prompt resolution of this antitrust dispute. Since the inception of this lawsuit, confidence in the technology industry has decreased. The enactment of the settlement, then, will increase confidence in the industry once more. In the current period of recession, I believe that the focus of the Justice Dept. should be to focus on the rebuilding of our economy, rather than the continued waste of federal resources that further litigation would necessitate.

Microsoft has been more than willing to make the concessions in an attempt to resolve this issue. Microsoft has agreed to disclose the protocols and internal interface design of the Windows system. The result of this will be that developers will now be able to develop hardware and software that is more compatible with the Windows system.

Finally, I believe that the settlement is in the best interests of our economy. Please enact the settlement with haste.

Sincerely,
Lloyd Repman
724 Walnut St.
Edmonds, Wa. 98020

MTC-00026368

From: Flash Sheridan
To: Microsoft ATR
Date: 1/26/02 7:22pm
Subject: Microsoft Settlement Re: A FINFLASH FROM THE FREEDOM TO INNOVATE NETWORK

I'm on one of Microsoft's mailing lists, but I believe that their behavior has been both illegal and unconscionable, and that any solution short of a breakup will be, in practice, unenforceable.

MTC-00026369

From: Betty P Fischer
To: Microsoft ATR
Date: 1/26/02 7:21pm
Subject: Microsoft

My opinion is that Microsoft should not be harassed any more. Let the litigation cease. Stop the legal battle.

B. Fischer, Yuma, AZ

MTC-00026370

From: loisandbob@cconnect.net@inetgw
To: Microsoft ATR
Date: 1/26/02 7:21pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
E. Lois Minnoe
220 Channel Run Drive
New Bern, NC 28562-8915

MTC-00026371

From: Green, Ira
To: Microsoft ATR
Date: 1/26/02 7:24pm
Subject: Microsoft Settlement

We strongly believe that the settlement of the suits against Microsoft be accepted by all parties NOW!!! We felt, that in the first place, the suit was improper. Further suits against Microsoft by the states are an improper use of taxpayers money. Users of software will be adversely affected. Microsoft puts out an outstanding product. Executives of Microsoft do not take exorbitant salaries as is happening in many other corporations. Our economy can not stand this continued the abuse of frivolous lawsuits.

Thanks
Ira & Wilma Green
* (310)813-3278
* <ira.green@trw.com>

MTC-00026372

From: Pedro O'Chonagaile
To: Microsoft ATR
Date: 1/26/02 7:26pm Subject" Microsoft Settlement.

Get your FREE download of MSN Explorer at http://explorer.msn.com/intl.asp.

MTC-00026372—0001

Peter Connelly
2519 Dexter Avenue N Apt. C
Seattle, WA 98109
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The Microsoft antitrust case, which is currently awaiting resolution in the federal courts, is verging on the ridiculous. I find it hard to believe that the Department of Justice had nothing better to do with its time and money than to pursue Microsoft for three years straight. This has gone on for long enough.

I ask you to support the proposed resolution, not because it is ideal, but because it represents the lesser of two evils. I would rather see a settlement reached now than face another extended period of useless, unwarranted litigation. Perhaps I would not be opposed to the suit continuing if there were an apparent purpose behind it; but I do not believe Microsoft has done anything to harm computer users.

The proposed settlement is, I think, sufficient response to all claims of antitrust violation. Microsoft has agreed to a wide variety of terms and conditions in the settlement, some of which extend to products and procedures that were not found to be unlawful by the Court of Appeals. Such actions demonstrate a high degree of compliance on Microsoft's part. They have made sacrifices in the interest of wrapping up the case, and I do not believe that more sacrifice should be, or can be, required under the law. Both Microsoft and its competitors are dealt with fairly and justly in the proposed settlement. Microsoft has, for example, agreed not to enter into any contracts that would require a third party to distribute Microsoft products at a fixed percentage. Microsoft has also agreed to disclose internal interfaces from the Windows operating system for use by its competitors. The Windows operating system in future versions will support non-Microsoft software, and this interface disclosure will allow Microsoft competitors to maneuver within Microsoft's operating system and to introduce their own software into Windows.

Absolutely no further action against Microsoft is necessary on the federal level. Again, I ask you and your office to support the agreement and address other issues.

Sincerely,
Peter Connelly

MTC-00026372—0002

MTC-00026373

From: Ann Randall
To: Microsoft ATR
Date: 1/26/02 7:27pm
Subject: Microsoft Settlement

I am appalled at the settlement proposed to settle the Justice Department's suit against Microsoft. It seems to me all the difficult, pricey work has already been done by the Department, and all that's left is for just about any objective judge to impose a monopoly-breaking penalty. Instead, it seems the department is ready to say: "OK guys, we won. Just say "nuff, and promise to do better next time." Meanwhile, Microsoft's arrogance continues, proving the point that they will not stop their anti-competitive practices unless forced to do so. (Examples: increased integration on XP that forces ever more use of Microsoft products; the amazing attempt to settle their dispute by further extending Microsoft influence in schools, one stronghold of Apple computers).

I worked for government many years, and we found that the only preventive measures that worked were penalties that took the profit out of noncompliance. Any penalty short of a profit-breaking penalty is simply a cost of doing business.

Ann Randall
2008 Pine St
Billings MT

MTC-00026374

From: mllawler
To: Microsoft ATR
Date: 1/26/02 7:27pm
Subject: Fw: Microsoft Settlement >
> 2008 W Falls Avenue
> Kennewick, WA 99336-3042
> (509) 735-7932 > > >
> January 23, 2002
> Attorney General John Ashcroft
> US Department of Justice,
> 950 Pennsylvania Avenue, NW
> Washington, DC 20530-0001 > >
> Dear Mr. Ashcroft: >

> I support the Department of Justice's efforts to settle the Microsoft antitrust lawsuit. Enough time and money has been spent on this case, and nothing more will be gained by continued litigation. >

> The terms of the settlement agreement are quite reasonable. Microsoft has agreed to change its business practices so it will be easier for the competition to compete with Microsoft's products. Microsoft also agreed > to document and disclose internal interfaces to its competitors. In addition Microsoft agreed not to enter into contracts, which would require third parties to exclusively sell Windows products. There is little danger that Microsoft will violate antitrust laws once the settlement is approved.

A technical review committee will be created to ensure Microsoft's compliance with the terms of the agreement. In the event concerns arise that Microsoft is not complying with the law, complaints may be lodged with the review committee for investigation. Nothing more should be required of Microsoft beyond the provisions of the settlement agreement. >

—gt; What our economy needs now is stimulation. Allowing Microsoft to get back to business will certainly help stimulate the economy. Thank you for your efforts to bring this case to a conclusion. >

> Sincerely, >
> Marie Lawler
> 2008 W. Falls Ave
Kennewick, Wa.
509-735-7932

MTC-00036375

From: David A Leidig
To: Microsoft ATR
Date: 1/26/02 7:28pm
Subject: Microsoft Settlement

Please bring this matter to the speediest conclusion and as soon as possible. The proposed remedy should be satisfactory. Further litigation is not likely to improve what has already been worked out.

Thank you for your consideration.

MTC-00026376

From: BULLPUP—11@YAHOO.COM@inetgw
To: Microsoft ATR
Date: 1/26/02 7:26pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
ROBERT LANKFORD
11901 SANTA MONICA BLVD #427
LOS ANGELES, CA 90025

MTC-00026377

From: William Maryott
To: Microsoft ATR
Date: 1/26/02 7:39pm
Subject: Microsoft Settlement

I just want to go on record as being extremely upset with Microsofts behavior and with the lack of integrity by the legal profession to put any restraints on this dishonest and powerful Corporation. I am a retired IBM Engineer and I've been involved with every version of Windows back to Version 1.0.

My computer crashes regularly and I have no alternatives but to continue using this poorly written and poorly supported code. If the operating system were separated from the applications, there would be a good chance this might get resolved. Otherwise I expect to just continue to suffer.

William R. Maryott
PO Box 1177
Freedom, CA 95019

MTC-00026378

From: Forrest L Fuller
To: Microsoft ATR
Date: 1/26/02 7:35pm
Subject: Microsoft Settlement

Nothing further is to be gained by dragging out the long Microsoft dispute any further. Accept the settlement and allow all parties to get back to work and get the economy going again. This costly battle benefits no one except the lawyers and lobbyists who are opposing a successful giant. We gain nothing by destroying what we have. accept the settlement. Forrest L. Fuller

MTC-00026379

From: Scott Ellsworth
To: Microsoft ATR
Date: 1/26/02 7:38pm
Subject: Microsoft Settlement

Hello,

My name is Scott Ellsworth. First of all I have spoken to many people about this Microsoft case. I have read literally hundreds of posts in chat forums and also spoke to many coworkers, friends and family members and they all are pretty much thinking the same thing Including my self.

This is what we are thinking:

1. Many people are puzzled about why Microsoft is allowed to give themselves their own punishment and think this is very unfair and suspicious.

2. Most of these people know that Microsoft have purposely used illegal tactics to force companies out of business to take over businesses forced people to use their operating system and their other software and have stollen Apple computers operating system and other companies software. (The latest example of all this is Microsoft saying that for their own punishment that they would donate a couple of million dollars in used Wintel based PC's and software to needy Schools. Which in actuality this would cost barely nothing for Microsoft. This clearly shows that Microsoft was trying to make inroads into Education were other companies dominate such as Apple Computer).

3. Most people DESPISE Bill Gates and Microsoft because of all this!

4. Most people believe that Microsoft controls the world and is a modern day dictator and that this is a sad reality that no one is doing anything about. (Which if you think about it is very true. Their operating system runs most of the worlds computers and most of the worlds every day businesses and home software such as Microsoft Office and Internet Explorer. All of this because of illegal tactics.

5. Most people think that Microsoft should have been split up.

6. Most people think that it is a mystery that

Microsoft weaseled it's way out of being split up and they don't know how the court system could have possibly let this happen after they were found guilty other than that Microsoft had something to do with it (This is very suspicious).

Punishment:

Microsoft should give much more BILLIONS OF DOLLARS specified by the court system to schools that need computers but let the schools decide what NEW computers and software they want which does not necessarily have to be Wintel based computers running the Microsoft Windows operating system and Microsoft software programs. (This would greatly help our school systems).

Microsoft should give Billions of dollars to help the companies that they caused to lose money, market share and other damages to.

The court system should demand that Microsoft let Apple Computer own 50—60% of Microsoft. Since this is who they stollen and continue to steal till today, their operating system and innovation from. Microsoft is one of the worlds biggest if not the biggest and richest companies in the World they should be able to afford all of this. I think this is a fair Punishment.

MTC-00026380

From: Chris Sifnotis
To: Microsoft ATR
Date: 1/26/02 7:38pm

Subject: I despise micosoft and they are just trying to horn in I despise micosoft and they are just trying to horn in on a market that it is not dominant in. I wish they were destroyed because they are ripping people off. when they charge $99/199 for an upgrade or $199/299 full software and linux viriants cost aproximately $69 and full versions of the mac os cost $129 or $69 for education something is wrong. I think the best settlement is to take windows away from them. Make it public domain and every computer company should ship their own operating system. This would spur inovation and compitition to have the best os out there. Then each company would own the hole widget like Apple Computers. Or a smaller kick in microsofts teeth would be to donate 10 billion (they do have 35 billion in cash) in all machintosh machines and software. provide training for schools that dont currently have machines. also microsoft should pay support and upgrade for the next 10 years and to prove it has abondoned its anticompitition practices. If microsoft has not satisfactorily complied they lose the rights to windows and if they do comply another 1 billion gets spred over all of the 50 states into their education programs.

Dont let them play you for the fools. They are not friends of the people.

Chris Sifnotis
Student

MTC-00026381

From: Dunnham@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 7:41pm
Subject: Microsoft Settlement

Dear Department of Justice; Attorney General Ashcroft,

I am upset and dismayed at the cave in by the Justice Department in the Microsoft Antitrust Settlement.

Microsoft is clearly monopolistic and using this power, has hurt competing businesses and consumers. Including Internet Explorer in its Operating System, Windows, Microsoft damaged Netscape and it intended to damage Netscape. Internet Explorer is application software, not operating system software. Microsoft has done this with quite a few programs and has, as a result, harmed the software companies with which it competes. This is unfair business practice and must be stopped. Your settlement won't stop this behavior.

Consumers have been hurt because companies that would offer better products, won't do so if a similar product is offered by Microsoft in Windows.

When Bill Gates says he wants to compete and add value to his Windows operating system, what he is really saying and what he really means is "Microsoft wants to restrict to market by driving competing firms out of business, thereby driving the price of Microsoft software up or at least not reducing the inflated price of the Windows system."

The Windows XP operating system is the latest attempt to gain market share and restrict competition. The use of the Passport system and other tracking software invades the privacy of consumers and allows Microsoft to monitor the habits of consumers so that Microsoft can sell more products and direct consumers to Microsoft "partners" at the expense of other companies. Microsoft's restriction of the opening interface screen is an example of this behavior.

Microsoft should be fined, prohibited from adding products like Internet Explorer to the operating system and Microsoft should be broken up into 2 companies—an operating system software company and an application software company. Anything less will allow Microsoft to dominate and restrict the software and hardware market to the point where development and innovation will be slowed down and may be even stopped. This is not in the interest of the computer industry or the computing public. This will only serve Microsoft's interest of complete domination of the computer and entertainment marketplace.

Sincerely, Richard Farnham

MTC-00026382

From: Juan C Read
To: Microsoft ATR,lists@senior.org@inetgw
Date: 1/26/02 7:44pm
Subject: Microsoft Settlement

Dear Sirs of The Justice Department:

I would like to add my support for the Microsoft company fight against those who are trying to drag Microsoft down. I have used Microsoft products for years and, as a senior, have found them to be the best. If Microsoft's competitors had been as diligent as Microsoft has been in trying to help the consumer, with good products, I feel they would not have to go crying to the government to be bailed out. If a company puts out a good product and gives real consumer service then those companies would not have to worry about competitors.

Please, accept the Microsoft settlement, and stop further litigation. That useless waste of the courtroom money could be put to a much better use elsewhere.

Thank you for reading this E-mail — I?m a strong user and supporter of Microsoft products and private enterprise.

Juan C. Read

MTC-00026383

From: olive70@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 7:48pm
Subject: Microsoft Settelment

I am offering my opinion to the Justice Department to counter the self-serving and punitive lobbying effort of Microsoft's competitors. Current law (known as the Tunney Act) allows public comment on the proposed settlement up until January 28th. The U.S. District Court will then decide whether the settlement is in the "public interest." I am sending my strong message to the Justice Department that consumer interests have been well served, and the time to end this costly and damaging litigation has come.

Dragging out this legal battle further will only benefit a few wealthy competitors, lawyers, and special interest big-wigs. Not one new product that helps consumers will be brought to the marketplace.

MTC-00026384

From: Diane Engles
To: Microsoft ATR
Date: 1/26/02 7:49pm
Subject: Comment on Proposed Settlement

To Whom It May Concern:

I welcome the opportunity to comment on the proposed settlement between the Department of Justice and Microsoft. I am a software developer with over 17 years of industry experience. Over these years I have watched my choices of software development platforms and products decline in number and in quality, due almost entirely to the monopolistic practices of the Microsoft Corporation.

I watch daily and suffer myself as the poor quality of Micosoft's products cause American Industry to lose significant productivity due to system hangups virus infections. The current security flaws revealed in Windows XP are another example of a corporation who produces low quality products because there is no real competition. More secure and robust software exists today, but there is no real marketplace due to Microsoft's years of monopolistic practices.

In my opinion, the proposed settlement will do little to effectively curb

Microsoft and allow a true marketplace and real innovation to develop. I fully support the Kegel letter's (http://www.kegel.com/remedy/letter.html) proposed remedies to effectively remedy Microsoft's years of illegal monopolistic control of the marketplace and the resulting stifling of true innovation. I will mention two of them briefly here:

1) Microsoft's APIs, file formats, and protocols. The complete documentation for these must be made public. Any future changes must also be made public in a timely manner. This should allow other companies to produce products that can compete with Microsoft's products by removing a major barrier to entry, namely that no company can afford to convert all of its existing documents into a new format in order to take advantage of a non-Microsoft office suite or other applications.

2) Microsoft's business practices. Microsoft must not be allowed to enter into deals with OEMs, ISPs, or other businesses that would create disincentives or prohibit those companies from offering non-Microsoft products or services to their customers. Since the vast majority of the desktop computing world currently uses Microsoft products, OEMs, ISPs, and others must be able to offer those products to consumers. To allow Microsoft to continue to take advantage of that situation by prohibiting those companies from offering alternatives, either by outright prohibition, or by economic disincentive, is to allow Microsoft to continue to hold the industry hostage.

Sincerely,
Diane F. Engles

MTC-00026385

From: Jim Day
To: Microsoft ATR
Date: 1/26/02 7:47pm
Subject: Microsoft Settlement

As an MSN user for years I would like to make the following comments regarding the Settlement. I've had numerous opportunities to subscribe to AOl and other internet providers. My choice has been MSN because I belive I get more value from remaining with the Windows environment. Before retiring I worked on many Large mainframes, midsize and small systems utilizing proprietary operating systems (IBM, Honeywell, Burroughs, Tandem, H.P.). I was aware of the costs associated with obtaining and utilizing the associated software and when Windows came along I felt like for the first time I obtained great flexibility at a minimum cost.

If I could purchase a better operating system at a lower cost I would do it. If someone can come up with a greater value I will purchase it. I believe that Microsoft so far has the best operating system at the lowest cost to me.

I hope the settlement is concluded as soon as possible. Those seeking monetary rewards in hope of enrichment would be better off utilizing their time and money creating a better and cheeper operating system for all users.

Hopeful user,
James M. Day
4535 Motorway Dr.
Waterford, Mi. 48328

MTC-00026386

From: Scott Blomquist
To: Microsoft ATR
Date: 1/26/02 7:54pm
Subject: Microsoft Settlement

Having been an avid complainer about Microsoft in the not so distant past, I have begun to truly value the amazing innovation that Microsoft has been bringing to the world for more than 25 years. The currently proposed Final Judgment seems to strike a fair and reasonable balance between allowing Microsoft to continue to drive innovation, and giving its competitors a fair shake at similar innovation on existing and future Microsoft platforms. Under the proposed Final Judgment, consumers will continue to benefit from the great advances by all of the brilliant minds in the software industry. I strongly support the adoption of the proposed Final Judgment in its current form.

MTC-00026387

From: Linda
To: Microsoft ATR
Date: 1/26/02 8:52pm
Subject: U.S. v. Microsoft

To Whom It May Concern:

This email responds to the request for public comments by the Court hearing the case of the US versus Microsoft as part of the penalty phase of that litigation.

Two factors ensure Microsoft's de facto monopoly of the Operating System market:

1. Most people, businesses and government entities use Microsoft operating systems and associated office products. I must communicate with them. If I cannot communicate, I will suffer economic loss. This is commonly referred to as a network effect and Microsoft has brilliantly exploited it.

2. Microsoft has kept its software file formats and interfaces secret. As a result, competing software developers cannot create programs that interact with Microsoft products in a fully functional way. Thus, an overwhelming majority of computer users have no choice but to use the Microsoft OS and associated office products.

It is my belief, based on observation of Microsoft's past actions, that they now wish to extend their reach beyond the PC desktop to control networking protocols for the Internet and act as its gate keeper. This is their ".NET" initiative. This would have devastating consequences for the US economy and security. Microsoft has stifled innovation by its monopolistic practices.

Microsoft products are notorious for their lack of security and vulnerability to attack by the technically incompetent.

I propose these remedies:

1) All specifications for present and future Microsoft file formats and Operating System Application Programming Interfaces (API) should be made public. This will help ensure that any data or documentation I create will still be available to me in the future. It will also allow others to create programs that can meaningfully compete with Microsoft products. These specifications must be publicly available and made part of the public domain. Restriction to "commercial" entities is simply wrong. Open Source software initiatives should also be allowed to make use of this information. I believe this is essential to ensure the long-term availability and security of my data.

2) Any Microsoft networking protocols must be published in the public domain and approved by an independent standards organization; I suggest the Institute of Electrical and Electronics Engineers (IEEE). Already I see Microsoft limiting access to web sites for users not using Internet Explorer. This remedy would help prevent Microsoft from partitioning the Internet into Microsoft and non-Microsoft spheres.

3) Microsoft products should not be bundled as a hidden cost of buying a computer. The choice of buying a computer without any Microsoft products must be present. The real cost of Microsoft products should be presented to the consumer. Without this, there will not be meaningful competition in the OS marketplace.

4) Microsoft should be prevented from entering into exclusive arrangements with computer vendors. These arrangements have been used as rewards and punishments of computer vendors in the past and serve only to maintain monopoly status for Microsoft.

Sincerely yours,
Linda Nusser
linda@trinidadusa.net
Trinidad, CO

MTC-00026388

From: Katrina Illari
To: Microsoft ATR
Date: 1/26/02 7:55pm
Subject: Comments on the Microsoft settlement

Dear Renata Hesse:

I am a concerned computer programmer and user. I use Microsoft Windows as well as Linux at home. For the past few years I have been disgusted to see the increasing number of anticompetitive actions that Microsoft has been able to get away with. The court case seemed to provide a possibility for restoring a competitive market in the computer software business. Microsoft was convicted with anticompetitive behavior. However, the settlement that was agreed upon does not seem to be in the best interests of the consumers.

Some points of concern are:

1) the punishment if further anticompetitive actions are taken by Microsoft. That is that 2 years will be added to the period that they are to be closely watched. I did not see any actual enforcement of the restrictions placed on Microsoft. Just that a board of people would be assigned to watch if they break any of the restrictions and if so, then they will be restricted for another 2 years. Does this provide an automatic solution to any court case filed against Microsoft in the next 5 years? That is will the solution will be that the restrictions will just be extended for another 2 years? This almost seems to be in Microsoft's favor... No enforcement and if they break the rules then the rules will be imposed (with out enforcement) for another two years.

2) The security exemption: Will this provide a hole for Microsoft? For example, will Microsoft just add access control to many of its API and then not publish them, using the security exemption as cover?

3) Will Microsoft simply patent a lot of its interfaces/protocols and then charge companies licensing fees in order to get the information about the API/protocol. I do not see anything in this settlement that would stop them from doing so. As evidence, they already patented the next version of the SMB protocol. This is a protocol which allows you to share drives/files between computers. SAMBA, a popular file server software uses this protocol to share drives between Unix and Windows machines. Once Windows only supports the new protocol, it will once again be impossible to share drives between Windows and Unix systems. As I see it this is simply an extension to the older protocol not something that it would be strategic to have a patent on except if one wanted to eliminate the ability for a Unix machine to share drives with a Windows machine. Surely this is an anticompetitive action against SAMBA.

4) The fact that Microsoft is allowed to include non operating system applications as part of the operating system is not beneficial to consumers. This gives an advantage to Microsoft in marketing of the applications that they include in the operating system. They have a strangle hold on the browser market because of this and in Windows XP, they are trying this with multimedia applications.

Katrina Illari
521 Del Medio Ave #201
Mountain View, CA 94040

MTC-00026389

From: john oakes
To: Microsoft ATR
Date: 1/26/02 7:55pm
Subject: Microsoft Settlement
CC: fin@mobilizationoffice.com@inetgw

MTC-00026389—0001

60 Sterling Street
Beacon, NY 12508
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: My business partner Jack Harrison and I are delighted to see a settlement between Microsoft and the Department of Justice. This settlement is in the best interest of free enterprise and competition.

The attack on Microsoft should never have happened. It demonstrates why the government should keep its hands out of the affairs of free enterprise. It has been another huge waste of taxpayers" money and government and private resources. As business partners in the direct-mail industry, we know that waste must be minimized; budgeting, purchasing, sales, all contribute to business growth and weigh heavily on success or failure.

Resolving to give Microsoft its business back will end the three years of government intervention into Microsoft. This has disrupted the computer and technical industries, where recession and the loss of business have been of paramount concern. Microsoft has continued in its role as the industry leader in providing innovative software (the public and business world have been shouting this for years). The new obligations Microsoft has agreed to will drive competition and collaboration among industries to develop better and more innovative products for consumers, while also providing computer users software options and computer configurations never before seen.

The Department of Justice is at a historical moment in time: preventing more waste while also encouraging economic recovery. The achievement of this will occur when the government precludes any further litigation against Microsoft and accepts these very fair settlement terms.

Sincerely,

John Oakes

MTC-00026390

From: Brandon A. Seltenrich
To: Microsoft ATR
Date: 1/26/02 7:50pm
Subject: Microsoft Settlement

The proposed settlement between the DOJ and Microsoft should be allowed to go through. Microsoft's competitors, mainly led by Sun, Oracle and AOL Time-Warner cloaking themselves behind various so-called non-profit groups, are in fact manipulating the American justice system for their own business desires. These companies were not able to compete against Microsoft in the business arena, so they instead hope to punish them into submission with our legal system.

The suits against Microsoft are not intended to protect and defend the average American; instead, they are designed to make wealthy a few self-interested businesses.

-B

MTC-00026391

From: addison pace
To: Microsoft ATR
Date: 1/26/02 7:53pm
Subject: Microsoft Settlement

Further litigation would be a shameless waste. Those filing against Microsoft are getting their" pound of flesh". Enough!

Addison Pace

MTC-00026392

From: Chris Dobbins
To: Microsoft ATR
Date: 1/26/02 7:56pm
Subject: Microsoft Settlement

Hello my name is Chris Dobbins, I'm a 17 year old living in the California Bay Area. I'm mailing you my thoughts on the proposed Microsoft Settlement.

In my view the proposed settlement is much too weak to do any good against the illegal monopoly that is Microsoft. What is needed is a strong punishment that will enable competition to flourish immediately, creating much needed diversity in the operating system market. Anything else would be down right dangerous.

Diversity is needed to protect the very infrastructure of the internet and computers in general. At this moment thousands of kids younger then me have the ability to write a simple viral program that can create havoc on the internet, spreading through well know holes in Microsoft Outlook and other Microsoft programs which are bundled with the OS. During the many e-mail virus attacks last year I had little to worry about because I use a Macintosh. My computer cannot run programs written for Windows. There are very few viruses for the Mac OS because the relatively low market share means that the cracker will not receive the attention they would get from creating a Windows virus and spreading it world wide.

If the Operating System market were more competitive then computers in general would be safer. Added diversity would not get in the way of communication either. Even though my computer is fully able to network with and talk to a computer running Windows, the differences between the two operating systems mean that it is much harder to infect both computers with the same program.

Microsoft says they are devoted to security, but only now that they are experiencing negative press because of the large amount of security holes in their software. I say it's about time we stopped trusting them with the security of computers everywhere. The Department of Justice has the means to impose strict sanctions and punishments on Microsoft, I say use that power to the fullest, before it's too late.

Thank you for taking my views into consideration,

Chris Dobbins

MTC-00026393

From: Patrick Mahaney
To: Microsoft ATR
Date: 1/26/02 7:57pm
Subject: Comments

To Whom it may concern;

I am a college student studying in the field of Computer Information Systems. The outcome of this settlement will most likely affect the industry I am headed into.

I'd like to express my feelings on a few of the shortcomings of the proposed settlement.

Firstly, the definitions of "Middleware" products are not very clear. From what I understand, there are a lot of loopholes in the section that would allow Microsoft to continue exercising the same business practices in the past. To be more specific, Microsoft could easily change a version number and the software would no longer be considered "Middleware" by the DOJ.

Secondly, another understanding that I have is that a lot of the new regulations and demands do not include Microsoft Windows XP. If this isn't included in the settlement, I don't see how beneficial it would be towards prohibiting antitrust practices.

I would like to see an outcome that will make a difference. Not one that will just temporarily prevent a monopoly.

Thank you for your time.

-Patrick Mahaney

MTC-00026394

From: John Carey
To: Microsoft ATR
Date: 1/26/02 7:57pm
Subject: Comments on Microsoft antitrust settlement

Dear Renata Hesse:

I am writing to comment on the Microsoft antitrust case settlement proposed by the U.S. Department of Justice and others. Both as a consumer and as a software engineer, it is my view that this settlement will fail to protect the public interest from Microsoft's ongoing abuse of monopoly power.

First, let me introduce myself. My name is John Corning Carey. I am a U.S. citizen and resident of Mountain View, California. I have used computers since grade school. My training is in mathematics, but after completing my PhD analytic number theory I entered the workforce as a software engineer. Professionally, I have developed software for Microsoft Windows, Unix, and Linux operating systems. At home I use both Microsoft Windows 98 and Linux 2.4 for a variety of tasks. Let me be the first to say that no operating system is perfect. Each has its strengths and its weaknesses. But can I choose the one that is best for the task? Sometimes I can, but all too often the answer is no, because Microsoft maintains its monopoly.

At work, I have been frustrated by Microsoft's poor documentation, especially for error messages and database connection APIs. Also, Microsoft keeps changing its APIs, rather than fixing them, making it difficult to keep up. My friends tell me about how they can't inter-operate with Microsoft products because the security protocols are secret. And when we consider switching away from Microsoft? The answer is always: no, we can't, because everyone's using Microsoft, and even if they aren't, they soon they will be. And then there are the system crashes...

At home I suffer the same crashes, and much of the software I want to run is available only for Microsoft Windows. What will I do when Windows 98 is no longer supported, and I am forced to use Windows XP? I will have to rent my software, despite the trouble and expense that entails.

So I have a strong interest in aggressive competition in the operating system market. But will the proposed settlement restore competition? I think not, because it has weak enforcement provisions, includes many loopholes, and tends to exclude small/free developers. For example, Microsoft may be required to disclose APIs, but only to businesses that can afford its third-party tests and perhaps non-disclosure agreements. What about open-source developers? And if Microsoft claims that it must keep secret its file formats or file-sharing protocols out of security concerns, will we have to return to court to decide if it is within the law? That would take too long, and defeat one purpose of a settlement—to escape court. In my view, some expedited enforcement and legal review provisions are required. Past experience indicates that there is no "good faith" when it comes to Microsoft, and software's complexity makes it hard to prescript legal solutions.

And finally, what is to stop Microsoft from maintaining its monopoly through patented protocols and formats? They can be disclosed to the world, but nobody else can use them—unless they please Microsoft. Recently I heard that Microsoft has patented a revised version of SMB file sharing. That is death to open-source file servers.

In closing, let me say that I have benefited from some of Microsoft's software, and a competitive Microsoft could be a great help to the software industry. But a Microsoft that can do as it pleases is a great threat.

I was hoping that this case would lead to some real competition, and a flowering of alternatives. But this settlement seems to give in to Microsoft just when the government has won its case. Please consider more effective sanctions and enforcement mechanisms.

Sincerely,
John Corning Carey
2280 Latham St, Apt 6
Mountain View, CA 94040
(650)988–1627

MTC–00026395

From: Mike(038)barbara Gibbs
To: Microsoft ATR
Date: 1/26/02 7:59pm
Michael Gibbs
P.O. Box 601
Myrtle Point, OR 97458–0601
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

The judge should approve the settlement of the Microsoft antitrust case. It would be the best thing that could happen for America to end this court action. It is time to take the bull by the horns and throw it out of the ring. The lawsuit should not have been brought by the Justice Department and the eighteen states. Remember, thirty-two states would not join it three years ago when all they had to do was sign on. Now, though, the settlement provides a way to end the lawsuit that everyone should be able to live with. After all, the judge appointed a mediator who negotiated with the parties for three months to reach an agreement that everyone could live with, everyone except nine states with less successful competitors to Microsoft who think they would o better if Microsoft was forcibly split into pieces. Microsoft should be allowed to get back to the good work they have always done. They are no fly-by-night instant wonder without morals. They have always kept honest books and maintained their legal rights, as they expected others to do. Under the settlement, Microsoft will allowed to go back to work in return for giving up its legal rights to some of its software and business practices. Microsoft will give away to other companies its internal interface code for its various Windows programs, and the protocols that allow its server computers to work with other computers. When a company needs to use Microsoft's other software code, Microsoft has given up its right to say no. Instead Microsoft will license its codes to any company on reasonable, non-discriminatory terms. So, Microsoft will really be surrendering its legal rights to other companies, even those that it would not want to help if it had a choice. This will be good for the computer industry as a whole. It is disturbing, though, to see a great, honest, company like Microsoft forced to give up its legal rights for no good reason. If Microsoft is not safe, who is?

Your support for the settlement is crucial to letting Microsoft and the American computer industry get back to work. Thank you for your consideration and support.

Sincerely,
Michael Gibbs

MTC–00026396

From: karl sebastian
To: Microsoft ATR
Date: 1/26/02 8:07pm
Subject: Microsoft Settlement

Greetings,

I write as a former user of Microsoft software products, and now a user of Apple hardware and software, to protest the apparent lack of will on the part of the American legal system to apply its laws equally and in fair measure to its citizens.

This is a situation reached because of my perceptions of Microsoft as a major obstacle to competitive software innovation, through improper use of its financial strength, and now seemingly to be excused by the American legal system of any significant penalty although found guilty of these practices by that same legal system. Also I write because of my perception of Microsoft as being less of an innovator and more of an imitator. In the process providing software systems that have had defects that have resulted in enormous costs to business worldwide, both through vulnerability to viruses and through faulty operation, and because of the harmful effects they have had on true innovation.

In fact producing products with so many defects that, if experienced in similar measure in any other field of production ,would have long ago resulted in costly litigation by dissatisfied consumers. The other competitive software operating system, Apple, while certainly not a perfect example, would seem to offer some pointers as to a preferred way of doing business in the field of computer operating systems, with their inclination to a more co-operative approach to other software producers, even to the extent of ensuring great compatibility with the Microsoft software through the proper use of generally accepted codes, such as pertain to the Internet. A field where once more Microsoft have a dubious record.

As a resident of Australia, and an admirer of much that is American, the present attitudes and actions of the Microsoft corporation reflect in the microcosm much that is deplored in the macrocosm that is called the United States of America, and if justice is not seen to be done will only be harmful to your reputation in the longer term.

A severe and applied penalty to this arrogant corporation is long overdue and thoroughly deserved.

Yours sincerely,
Karl Sebastian.
karlis@austarnet.com.au

MTC–00026397

From: Brad Smith
To: Microsoft ATR
Date: 1/26/02 5:00pm
Subject: Microsoft Settlement
Hash: SHA1
26 Jan 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Ms Hesse

I am taking the opportunity to comment on the proposed settlement between the federal U.S. government and Microsoft. I have following this case closely since it's inception. I will first provide a brief background of myself and then provide some commentary on the settlement.

I have been a user of microcomputers, what used to be known as IBM clones, since the early 1980s. Before that I used a variety of mainframe and minicomputers. I have been a software developer since 1978 writing database software and analytical software to help me in my profession as a quantitative ecologist. Much of this software development occurred on clones of IBM PCs starting in the mid-1980s. I currently work for the federal government as a manager leading a small software development team. These comments reflect my personal opinions and experiences. I will be 50 in October 2002.

The proposed settlement does not go far enough in providing suitable remedies. What are needed now in the market place are real and viable alternatives to products and solutions offered by Microsoft. This settlement fails, in my opinion, to create a climate that allows for viable products to emerge and flourish. Microsoft through legal and illegal practices has created a multifaceted monopoly that covers operating systems, office productivity suites (MS Office), and access to the internet through MS Internet Explorer.

Viable competition existed at one time across this spectrum of products. One could argue that in many cases, the alternative technology was superior in design and/or implementation. Most alternatives have failed or been marginalized reducing choice to consumers and effectively eliminating competition.

I recommend that the proposal by the dissenting States be used as the starting point as minimum remedies. Negotiations between the federal government and the participating States can be used to set additional penalties and remedies.

Thank you,
Bradley G. Smith
CC:bgsmith@bendcable.com@inetgw

MTC–00026399

From: Del Teel
To: Microsoft ATR

Date: 1/26/02 8:04pm
Subject: Microsoft Settlement

I think the Microsoft settlement falls FAR SHORT of punishment consistent with their CRIME.

THEY ARE GUILTY. THE AMERICAN PEOPLE DEMAND JUSTICE!!!!!!!!!!!!!! NOW!!!!!!!!!

Del Teel
8125 Bush Mill Ln.
Charlotte, NC 28270
800 900 7056

MTC-00026400

From: Laurence Schorsch
To: Microsoft ATR
Date: 1/26/02 8:07pm
Subject: Microsoft Settlement

Dear Renata B. Hesse,

I have signed and endorsed the open letter of Dan Kegel. The Proposed Final Judgement will allow many of Microsoft's anticompetitive practices to continue. Their lack of good faith has been demonstrated enough, even after the PFJ was set out. Microsoft's ruthless and predatory practices are hurting the rest of the computer/software industry, and a toothless final judgement is not in the public interest.

Sincerely,
Laurence Schorsch
Graduate Student, Computer Science
University of Chicago

MTC-00026401

From: jbird1014@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 8:04pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Anthony Campbell
523 Martin Neese Rd
Swansea, SC 29160

MTC-00026402

From: Danae Cann
To: Microsoft ATR
Date: 1/26/02 8:08pm
Subject: Microsoft Settlement
file:///C/win/temp/tmp.

The proposed settlement is just not tough enough! It cannot be effective to the degree necessary for a company like Microsoft.

MTC-00026403

From: JHowe00001@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 8:08pm
Subject: Microsoft settlement
1345 17th Street SE, Apt. B
Auburn, WA 98002
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in favor of the Microsoft settlement agreement. The terms of the agreement are reasonable, and this case should be finalized for once and for all.

By entering into this agreement, Microsoft has essentially agreed to assist its competitors in their quest to compete at the same level as Microsoft. Microsoft has agreed to disclose portions of its code to the other software companies. They have also agreed to design future editions of Windows in such a way that it will be easier to remove features of Windows and replace those features with software designed by Microsoft's competitors. I am satisfied that these types of concessions will achieve the underlying goal of ensuring fair competition is restored.

I feel that The Department of Justice has acted prudently in deciding to settle this case.

The Microsoft Corporation has made extraordinary achievements since it's inception, helping to provide the world with a tool second to none and should not be further penalized for their achievements. Further, I speak from a computer owner's standpoint and not as a stock holder.

Sincerely,
/s/John M Howe
John M Howe
CC:fin@mobilizationoffice.com@inetgw

MTC-00026404

From: Joel C. Sercel
To: Microsoft ATR
Date: 1/26/02 8:09pm
Subject: Microsoft Settlement
To:
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

As a concerned citizen and business owner I am sending you this correspondence to register my concerns regarding the pending Microsoft Settlement. I urge the court to consider the strongest possible settlement against Microsoft which does not damage U.S. industrial competitiveness in global markets.

Press reports of related Microsoft offers to donate software and hardware to schools as part of a settlement offer are particularly concerning to me as such a move would:

1) not alleviate the financial and market share related pain suffered by Microsoft's victims,

2) not cost Microsoft nearly what Microsoft claims it would cost, and

3) would tend to extend Microsoft's monopoly into yet another market.

Any settlement which does not provide some remedy to alleviate market share and financial loss for Netscape and Apple computer is of particularly concern as those two companies, both of which are widely recognized as far more innovative than Microsoft, have been particularly hurt by unfair Microsoft practices. Please ensure that any financial remedies levied on Microsoft are used in such a way as to ensure the increase in Netscape and Apple market shares and the market shares of the other companies hurt my Microsoft practices.

Sincerely
Joel Sercel

MTC-00026405

From: J. Scott Kasten
To: Microsoft ATR
Date: 1/26/02 8:11pm
Subject: Microsoft Settlement
TO:
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
FROM:
Scott Kasten
2120 Manor Dr. Apt 116
Lexington, KY 40502

To the Honorable Court:

As a citizen of the United States and 15 year veteran of the high-tech industry it is both my right, and duty to file comments with the court in the case of U.S. vs Microsoft anti-trust action as described under the provisions of the Tunney Act. I have chosen to write the court because activities of the Microsoft Monopoly have so seriously harmed my industry, that not only have they harmed the end consumer, but they have seriously impaired my ability to work in this industry.

I will begin with a brief summary of my main points before expounding upon them in greater detail with specific facts. Basically, the proposed settlement is unacceptable when viewed in the interest of the public and industry for the following reasons:

[1] The settlement was not written with a proper perspective of the industry as a whole in mind.

[2] The way the settlement is written, it only provides remedy in regards to the current Microsoft platform. Microsoft is already putting their exit strategy to a new platform in place which will have the effect of making the settlement obsolete before it even goes into effect.

[3] There are language inaccuracies that leave the efficacy of the settlement in doubt.

[4] The settlement has very few provisions to remedy Microsoft's most publicly damaging weapon which is their End User License Agreement (hereafter known as the EULA).

Now I will explore each item in greater depth so the court can better understand what actions need to be taken to fix the proposed remedy.

[1] I will start with a brief industry perspective since that forms the root of objections 2 through 4.

In the industry, it has been recognized that operating systems in general have moved from the status of a high-end, high-value product offering to a mere commodity in the same fashion as the use of electricity or telephones did in the early part of the 20th century, or even the computer hardware itself in the latter part of the 20th century. There has not been anything truly new or totally innovative in operating system technology in about the last 15 years or so. Indeed, modern operating systems are based on ideas spawned in universities over 30 years ago, most of which was perfected at least 20 years ago.

Most operating system vendors in the industry have already recognized this and adapted their business models to account for that. Although one would think of IBM, Sun Microsystems, HP, and Silicon Graphics Inc. (now known simply as SGI), as operating system vendors, that view would be somewhat incorrect. Their business models evolved to become hardware and consulting/service vendors that sell packages. Each workstation purchased from SGI comes with an entitlement to run certain releases of SGI's IRIX operating system based on its serial number; operating system upgrades are a rather miniscule portion of their revenue stream. They are even offering a Free operating system (Linux) on some of their offerings. Sun Microsystems gives their operating system away free of charge for personal or non-commercial use, and even makes the source code available without charge to developers that need to inspect it to improve their software offerings that run on Solaris.

Both HP and IBM, most notably IBM as of late, have been making steps to move away from their proprietary operating system offerings to Open Source alternatives such as Linux and various flavors of BSD; both companies have moved to the sale of hardware or software applications and consulting services maintain the cash volume of their revenue streams. And of course, with the decline in market value of proprietary operating systems, we have seen the rise in interest and importance of Open Source, or Free operating systems such as Linux, and BSD to take the place of the proprietary ones.

Companies that have failed to recognize this have perished. Witness the dismantling of Digital Equipment Corporation by Compaq, a commodity equipment and services vendor, The acquisition of Santa Cruz Operation (SCO Unix) by Caldera, a company that is known as a Linux specialist. Novell nearly perished trying to maintain their business model around Netware, but finally appears to have turned things around when they refocused on applications and services the past couple of years.

The real focus in the computer industry is not on operating systems or platforms so much as it is in cross-platform applications, hardware support, and user interfacing. Basically, John Doe with a new digital camera wants to snap some pictures, retouch them on the computer, and make some nice glossy prints for the relatives. He doesn't even want to know anything about the operating system his computer runs, he wants the camera to function with his IBM PC running a PC operating system as well as it does with his friend's Macintosh running MacOS.

In the history of this industry, Microsoft is truly unique. They have maintained and increased their market share and position not through real product innovation, but through predatory practices that resulted in them becoming a monopoly. The maintenance of that monopoly is what has allowed them to keep an artificial floor on the value of the operating system products they offer. Notice the use of the term value here instead of price. Price is what a consumer pays, value is a reflection of the consumer's need. Naturally, the need affects the price one is willing to pay, so there is an interrelationship at work that implies the consumer is paying too much, which I'll explore further in item 4.

[2] Although Microsoft has managed to keep an artificial floor on the value of their operating system products through monopolistic practices, even they realized that the inevitable pressures to marginalize the operating system would become too great for even them to bear. Thus they planned its obsolescence. The new target development platform of choice is going to be the .NET infrastructure. Ancient PC's had a BIOS containing the BASIC programming language/operating system that was permanently embedded in their ROM memory. As full fledged disk based operating systems came about, they marginalized the BIOS. None of the BIOS products these days has a built in programming language. It's only roll is to pull the disk based operating system in off disk now. It has no real apparent value to the end user of the system that rarely even notices the brief BIOS messages that flash by as the system boots up. No one programs to that interface anymore. Microsoft is trying to do the same thing to their own Windows operating system and replace it with .NET. Windows will become little more than a fancy video display driver. No one will program to it anymore. The .NET infrastructure will be the actual target for most future software development.

This is also where I begin to find specific faults in the settlement as written. In section III. Prohibited Conduct, please reference paragraph D. The terse form of which basically says, "Microsoft must publish in full their programming APIs for the Windows operating system." The .NET framework is not specifically mentioned anywhere in the document, but presumably fits in under the definition of "Middleware" as described in sections VI.—J and VI.—K. There is no section or language which indicates that they must fully disclose the middleware APIs. This is a fatal flaw as Microsoft has publicly acknowledged the corporate strategy shift from software publication on the Windows operating system to the .NET infrastructure running on top of it. Thus they can repeat the vendor lockout cycle again on a "whole new" platform, unhindered by the terms of this settlement.

Further, section III.-J, paragraphs 1 and 2 cause me grave concern, particularly in light of the .NET strategy. Section J in summary provides government granted exclusions. Paragraph 1 basically states that Microsoft may keep any programming APIs, methodologies, and information about network protocol layers that relate to anti-virus protection, authentication, or encryption secret. Paragraph 2 allows Microsoft carte blanch to determine to whom they wish to share that information for purposes of interfacing. This goes against what is generally accepted as "best practices" in the industry.

It is accepted practice that network protocols and interfacing standards are proposed and peer reviewed in standards committees such as the Internet Engineering Task Force (IETF) or the World Wide Web Consortium (W3C) to provide for better design, functionality, robustness, and security. Items related to authentication, and encryption in particular need the critical attention of peer review due both to the complexity of such systems, and the importance of the data protected by such systems. It is also accepted practice that the architecture is open so that anyone may produce their own implementation of the standard so that products from different vendors can interoperate freely. After all, that is the end goal, to connect one user with another.

Microsoft has in the past proven their incompetence in the implementation of cryptographic systems and security in general. Witness the introduction of L0pht Crack (pronounced "loft") which could pull encrypted passwords from the Windows NT registry thanks to its flawed cryptographic implementation. The numerous viruses such as Sircam, Love Letter, Nimbda, etc. that have exploited weaknesses in Microsoft's security interfaces. My point here is not to bring new evidence to the court, but more to make the point that sensitive systems related to security, authentication, and encryption need to be designed under the intelligence of multiple parties. Hence the peer review and refereeing process that is so widely used in the industry. It also helps prevent one party from subverting the standards for their own ends.

Micrsoft intends for the .NET platform to help provide a new infrastructure for information storage, security, and identification/authentication, that will help drive a future Internet based economy. With the help of standards committees, implementations from multiple vendors, and so forth, this could be a good thing for society. However, it is far from the public's best interest for one company to own the whole thing. If there's only one implementation, then any security flaws discovered, and experience shows there will be many, can bring down everything. Furthermore, independent companies need to have access to interfacing standards for something as important as this to provide consumers choice in the products and services space connected with this platform.

[3] I have already voiced some concern over where .NET fits into the settlement agreement. However, there are other specific inaccuracies in language and specificity that could render the agreement unenforceable.

In this matter, I would like to refer the court to a very thorough analysis compiled by one Dan Kegel and other parties available on the web here: http://www.kegel.com/remedy/remedy2.html

Mr. Kegel has also submitted, or is in the process of submitting, this document to the court for inspection as part of an open letter with many co-signers as his contribution under the Tunney Act. I will not waste the court's time re-iterating what he has already so carefully documented except to state that I AGREE IN FULL with the assessment provided in that document.

[4] Towards the end, of the document, Mr. Kegel begins to address some issues regarding the EULA agreements that Microsoft imposes on their product users. The settlement makes no requirements for change to potentially predatory practices in Microsoft's EULAs. Unfortunately, that is one of Miscrosoft's tools for manipulating and harming the consumer, and other parts of the industry.

Mr. Kegel points out that the Windows Media Encoder EULA prohibits distribution of certain redistributable components when accompanied with application components that were licensed under a Free or Open Source license. And that the Microsoft Platform SDK and Visual C++ development environment have in their EULA a clause that can make it illegal for you to distribute and run your own created application on a Windows compatible platform such as a Windows emulator on a Sun, SGI, or Macintosh computer, or a PC running Wine, IBM OS/2, or Trumpet Petros, all of which are Windows alternatives. He also points out that some Microsoft utilities such as NewsAlert state in the EULA that they are forbidden to be run on non-Microsoft operating systems.

To those examples, I wish to add a few more.

Microsoft uses the EULA to tie their Windows operating system to the PC on which it was purchased. This means that when a user trashes a PC, he cannot use the same copy of Windows on the new PC, but must instead purchase a new and redundant copy of Windows to be fully in compliance with the licensing agreement. As PC technology dates quickly, users who must update frequently are legally bound to purchase redundant copies of an operating system that they already have, thus helping Microsoft to maintain its revenue stream on what should have already been a commodity item. In the present, Microsoft with the advent of Windows XP has already implemented software EULA enforcement that prevents users from upgrading too many components of their system before they have to go back to Microsoft and re-license the same operating system install on the same PC.

Indeed, Microsoft used to offer a refund for unwanted copies of their Windows software product with this language in the EULA, "If you do not agree to the terms of this EULA, PC manufacturer and Microsoft are unwilling to license the software product to you. In such an event ... you should promptly contact PC manufacturer for instructions on a return of the unused product(s) for a refund. "However, after an unsuccessful campaign on by many users to claim such refunds on an organized "Windows Refund Day" on Feb 15th, 1999, people discovered that Microsoft and its vendors had no intentions of honoring that clause and had no effective refund channel in place., and it appears to have since been removed from the licensing agreement.

Microsoft attempts to limit the constitutionally provided right to free speech in the EULA contained with the Microsoft FrontPage 2002 product for web publishing. It sates, "You may not use the Software in connection with any site that disparages Microsoft, MSN, MSNBC, Expedia, or their products or services, infringe any intellectual property or other rights of these parties, violate any state, federal or international law, or promote racism, hatred or pornography." So if I publish an article on the web using MS FrontPage such as a product performance benchmark that Microsoft finds unfavorable, have I indeed violated the EULA?

Whether or not these agreements are actually enforceable if a matter of legal opinion that I am not qualified to evaluate. However, what is clear is that Microsoft has cleverly left itself some channels through which it can attempt to tie individuals or businesses up in court when it finds their actions displeasurable. The potential legal costs alone have a chilling an dampening effect in the industry.

In closing, I beg the court to find the proposed settlement as lacking in enforceability and effective remedy. This settlement needs to be rejected and reworked keeping the points that I have outlined above in mind. Thank you for your time and consideration in this matter.

Sincerely,
Jonathan Scott Kasten

MTC-00026406

From: Grayshadow
To: Microsoft ATR
Date: 1/26/02 8:10pm Subject" Microsoft
Robert Izzo
50 Kipp Lane, Lot 44
Hudson, NY 12534
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

The stilt against Microsoft should never have been happened in the first plac?? therefore I feel that the settlement they have made with the Department of Justice should stand the way it is and all litigations need to come to a halt. t am now retire but in my spare time, I rebuild and upgrade computers and have always used Microsoft products. Microsoft is being harassed for bring the best at what they do. Bill Gates is an excellent businessman who built this company from the ground up. and now other companies want to take advantage of all his hard work.

We have home computers that are easily used and understood because of Microsoft. They have changed the way the IT industry does business. Now the other companies are going to get the internal codes of Microsoft so that they can design their software to be compatible. I don't necessarily think this b a bad thing but the courts should not be able to tell them they have to do this.

Even though I feel as though the suit should never have happened m the firs place, I think the settlement is better than continuing litigations, Enough damage h been done to the IT industry and the economy already. I hope the Department of Justice decides to rule in favor of the settlement so tiffs whole ordeal can be over.

Sincerely.

MTC-00026407

From: Mike Doherty
To: Microsoft ATR
Date: 1/26/02 8:14pm
Subject: Microsoft Settlement

I don't like the terms of the Microsoft settlement. For one thing, a penalty to Microsoft that allows them to donate computers to schools is inherently wrong. This will undercut the competition even more.

Mike Doherty
Cleveland, OH
Self

MTC-00026408

From: dolfan@seasurf.net@inetgw
To: Microsoft ATR
Date: 1/26/02 8:12pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Michael Johnson
45 Whitebush Way
Astoria, OR 97103

MTC-00026409

From: Andrew Salamon
To: Microsoft ATR
Date: 1/26/02 8:16pm
Subject: MicrosoftSettlement

To Whom it May Concern:

My name is Andrew Salamon, I live in La Mesa California and I am a citizen of the United States of America. I have been a professional computer programmer since 1995 and for the first five of those years I was writing what most people call "mission critical" software for very large organizations: financial, accounting and personnel applications. Eight months ago I left the financial industry and took the Chief Software Engineer position at Nisus Software Inc., whose main product is a Macintosh word processor called Nisus Writer.

Nisus Software has been around for over fourteen years. I don't know too much about the company's history, but I do know that in the past they were much larger than they are today. I can't honestly claim that their smaller size is entirely due to "unfair competition" from Microsoft, but that would certainly seem like a good bet.

I would like to bring up one problem that falls within my area of expertise. Nisus Software gets a lot of complaints along the lines of: "I need to send a file to a co-worker (or colleague, or friend), but they can" t read it because they use MS Word!" or "Someone sent me this .doc (MS Word) file, and when I try to open it in Nisus Writer, it just looks like garbage!". A fair number of these complaints end with, "Well, I'd love to use Nisus Writer but I can't because I need to work with people using MS Word."

Ever since I've started working for Nisus, one of my co-workers has been working on that problem. Specifically, there is a file format called RTF (Rich Text Format) that many different word processors can use. Unfortunately, RTF is not an open standard, it was created by Microsoft. The documentation is difficult to find and even harder to understand. What" s more, it is a moving target and Microsoft's own products rarely adhere to the publicly available information. Documents saved as RTF files by Nisus Writer often show up as garbage text in MS Word, or sometimes even crash it, despite our best efforts to make the document adhere to the "published" standard.

Even if RTF were an open standard, however, it would not completely solve the problem of interoperability because it is an intermediate format that is not "native" to either Nisus Writer or MS Word (or many other other word processors). This means that there will always be a chance of losing data or formatting information when transferring files.

I am not a lawyer but based on my reading of the currently proposed penalty in the Microsoft anti-trust case as well as the commentary of others (including the Electronic Frontier Foundation's legal staff) I would say that there will be no substantial change in the way Microsoft does business given the current settlement.

Andrew M. Salamon

Chief Software Engineer, Nisus Software, Inc.

MTC–00026410

From: Kurt Fleschner
To: Microsoft ATR
Date: 1/26/02 8:18pm
Subject: Microsoft Settlement

To whom it may concern:

I'm writing this e-mail to voice my opinion that the current settlement in the Microsoft trial is insufficient. It's been stated before and found that Microsoft is a monopoly, and that it has participated in unlawful use of that monopoly. I feel that the settlement with Microsoft does not significantly punish the company for its practices, nor keep the company from abusing it's position in the future. I hope the the courts will come to the same conclusion.

Kurt Fleschner

MTC–00026411

From: robinhen2@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/26/02 8:16pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

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Please put a stop to this travesty of justice now. Thank you.

Sincerely,
henry robinson
PO Box 808
Newberry, SC 29108

MTC–00026412

From: Raphael Fleishman
To: Microsoft ATR
Date: 1/26/02 8:21pm
Subject: Microsoft Settlement

To whom it may concern,

I have written earlier to express my concern that the current Microsoft settlement does little in the way of protecting competition, VAR, OEMs, and resellers from retaliatory actions by Microsoft in the event these groups choose to implement non-Microsoft solutions.

I would like to add that I strongly urge the DOJ to pursue further investigation and prosecution of the anticompetitive actions Microsoft used to leverage the web to further its monopoly in Windows operating systems.

Much has been made of Microsoft's right to add features to Windows. It is important to note that the dominant markeshare of Internet Explorer came to pass, besides through the obvious distributional advantage, because Microsoft used the tactics of embrace and extend of the HTML standard in order to pollute standard HTML and make web pages in Internet Explorer render differently than web pages in Netscape. Instead of following the standards of the W3C body Microsoft made up its own.

The network effect of Microsoft's Windows distributional monopoly took part in this because webmasters decided that rendering for Internet Explorer was more important and more stable, from a marketshare perspective, than rendering for Netscape. After all, only some Windows users had access to Netscape or the significant ability and know-how to install it, but all of them had Internet Explorer.

As the proprietization increased and the market of Internet Explorer-enabled web pages increased so did its use. I don't use Internet Explorer as my primary browser, but if I go to certain web pages I'm forced to switch to Internet Explorer instead of using an alternative browser because these web pages have tags that tell me they were optimized for some other browser and won't render correctly in any other.

It is significantly more difficult for competitors to follow the closed proprietary standards of web rendering specified by Internet Explorer than to follow those of the World Wide Web Consortium. It takes significantly more effort on the part of content providers and webmasters to provide two types of web pages, one for Microsoft's proprietary methods, and one for W3C-standarized ones. It's unfair that Microsoft could so easily use an existing monopoly to supplant competitors" products and I fear that with 90% marketshare and the phenomena of institutional resistance to change, combined with a general lack of knowledge of real computing standards (vs. Microsoft's forced-upon-the-consumer proprietary ones), consumers will be artificially burdened in their attempts to adopt alternative communication-enabling products like browsers.

It is important to watch the progress of Microsoft's Windows Media Player, a newly bundled product to allow the visualization of proprietized (non standard, incompatible with competitors) movie media files on client computers across the web, and to determine if the marketshare of exclusive Windows Media Player-compatible content is increasing significantly faster than that of competitors who do not bundle their product with their computers or struggle with decreased distributional advantages like Real Network's Real Player. The inability for consumers using alternative operating systems to browse web content is a significant deterrent to adoption of competitors" Operating Systems and is consequently a clear example of Monopoly Maintenance.

The greatest damage Microsoft caused to consumers is the result of the way in which Microsoft changed the web from a non-proprietized platform- and browser-agnotistic information exchange system to a Microsoft-favored one. That's not only illegal in light of the Court's finding that Microsoft holds a monopoly in the product market to which Internet Explorer was tied, it's unethical, it's immoral, and it violates the rights of consumers to enabled alternative choices.

I am concerned that as long as Microsoft can continue to leverage bundling with Windows Operating Systems in order to set proprietary standards of information exchange—be they text documents, movie files, sound files, or others—competitors are faced with an uphill battle to provide competing proprietary protocols or even to design products compatible with Microsoft's.

With Best Regards,
Raphael Fleishman
Stanford University
Beckman Center B403
Stanford, CA, 94305–5307
mailto:raphaelf@stanford.edu
650–723–4025
CC:gordie@cyclesoft.com@inetgw, info@procompetition.or.

MTC–00026413

From: Larry Ross

To: Microsoft ATR
Date: 1/26/02 8:22pm
Subject: Lawrence-Howard: Ross
Lawrence-Howard: Ross
3109 Alaska Road
Brier Wshington 98036–8452
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

The settlement that has been reached in the Microsoft antitrust case is fair and should be accepted on no uncertain terms. I believe that this suit has only served to waste millions of dollars and innumerable hours of wasted manpower. I feel that this suit has done undeniable damage to the U.S. economy especially within the technology sector itself.

This is a sound settlement. The terms will ensure that Microsoft no longer commits antitrust violations. In exchange for the concessions that Microsoft has made in this case, it will be allowed to continue, conducting business as a whole company rather than being split up in to smaller separate entities. The terms of the settlement require that Microsoft design all future versions of Windows to be compatible with the products of its competitors. It has also agreed not to commit any action that could be construed as retaliatory. I believe that these terms are fair, as is the entire settlement; we need not delay its implementation any longer. Please continue to support American business as you have with the orchestration of this settlement. Thank you.

Sincerely,
Larry Ross

MTC–00026414

From: DTio978444@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 8:20pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Debbie Tio
6907 Cummens Court
Hartford, WI 53027

MTC–00026415

From: Bill Pryor
To: Microsoft ATR
Date: 1/26/02 8:27pm
Subject: microsoft case

Dear Sirs:

I couldn't be more convinced that Microsoft, though it has done a lot to get more people on line, has nonetheless engaged in very clearly monopolistic practices and should be prosecuted just as Standard Oil was about a century ago.

William C Pryor, 2011 W. Katella Ave., # 51, Anaheim, CA 92804.

MTC–00026416

From: Pamela Greaves
To: Microsoft ATR
Date: 1/26/02 8:27pm
Subject: Microsoft Settlement

As a person that relies on technology for my livelihood, I feel I must comment on the Microsoft Settlement issue as a IT professional and a consumer and user of technology.

I have always felt that Microsoft has provided consumers with what they want. Their products are made for ease of use and require little training to get started using them. There are no other operating systems available that offer the ease of use that Microsoft Windows provides.

In reality, if a consumer wants to use an operating system other than Microsoft, it is available. But the fact of the matter is that the consumer would have to be highly technically knowledgeable for that operating system to work properly.

The role that AOL/Time-Warner has played in this is something I have a hard time understanding at all. AOL has itself been practicing in a monopolistic fashion for many years. It is impossible to have an ISP account with AOL without them loading components of little or no value on your computer. The AOL software completely takes over all dial up and internet functions and has been known to completely destroy peoples operating systems. How can this company have any credibility in this matter?

Microsoft has a support and feedback system in place and has been asking consumers what they want to see in a product and provided them with that product. While their business practices may not be ethical, what they provide to consumers is technically unsurpassed by any other software manufacturer.

Business consumers may find more useable products on the market. But home users of computers and software need the ease of use and flexibility that Microsoft offers in their products.

Other companies are lacking in market share only because they choose to not market their products. If we don't know they are available, how can we seek them out?

Pamela Greaves
6116 Vanden Road
Vacaville, Ca
95687
707–446–7347

MTC–00026417

From: kuo-chen@mpinet.net@inetgw
To: Microsoft ATR
Date: 1/26/02 8:28pm
Subject: Microsoft Settlement

The proposed settlement is a bad idea.

Microsoft will still be as bad as it is before the settlement.

Kuo A. Chen

MTC–00026418

From: JasminWilliams@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 8:28pm
Subject: Microsoft Settlement
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Attorney General Ashcroft:

I am in favor of the settlement in the Microsoft antitrust suit and I think the Department of Justice should make their final decision and close the case based on the terms of the settlement. Microsoft has agreed to conditions in the settlement that extend beyond the scope of the original issues at stake in the suit.

In the interest of getting on with business, Microsoft agreed to document and disclose information that will make it easier for computer manufacturers and software developers to have greater freedom of choice. Essentially, Microsoft will agree to give its software code to other companies, with no regard for its own intellectual property rights. Microsoft has also greed not to take action against software designs that compete with the Windows operating system.

It is time to settle this suit and stop spending taxpayer dollars. Microsoft is a capitalist corporation, and as such, should be allowed to pursue its business without being subject to legal action.

Sincerely,
Jasmin Williams
492 Henry Street 6B
Brooklyn, New York 11231

MTC–00026419

From: BYNESTONE@AOL.COM@inetgw
To: Microsoft ATR
Date: 1/26/02 8:30pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

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Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Harmon Byne
121 Shoal creek Rd

Griffin, GA 30223

MTC-00026420

From: criley724@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 8:31pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

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Sincerely,
Claudette Riley
8310 E McDonald Dr #3106
Scottsdale, AZ 85250–6276

MTC-00026421

From: ALAPATA1@AOL.COM@inetgw
To: Microsoft ATR
Date: 1/26/02 8:33pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

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Sincerely,
PAT LAMMERT
3458 NANDALE DRIVE
CINCINNATI, OH 45239

MTC-00026422

From: rufus laggren
To: Microsoft ATR
Date: 1/26/02 8:36pm
Subject: Break up Microsoft

In a word, do it. Separate the operating system company from the software applications development. Separate the major software applications into different companies.

And also, require the remaining (still monopolistic) companies to fully disclose:

1) Their application file formats when the product's market share rises above 30%. At about this level, it becomes a practical business necessity to utilize their formats because they become a de facto standard of exchange. Secret formats which competing applications cannot support fully, reliably, nor in a timely manner, effectively kill off all other competition in that application niche—creating a monopoly which completely stops competitive innovation.

2) The —complete— operating system API, that is, the feature set available for use by programs running under MS operating systems. Application programmers (eg, those who write spreadsheet software) must use these features whenever their programs display, print, communicate or use any of the hundreds of other facilities the operating system (supposedly) provides. Microsoft has historically programmed their software (like their spreadsheet) using "unsupported" "secret" features of their own operating system (Windows) which competing developers were unable to discover in a timely manner. Hence Microsoft application software had a huge advantage in relation to it's competitors. Make it a crime with large penalties if, during any period when either the MS operating system —or— the MS software has a greater than 30% market share, Microsoft application software is found to use "undocumented" features of a Microsoft operating system. Software tools can easily locate and document all features used by a program, so this would be almost trivial to verify.

I worked as a programmer and systems analyst from 1975 to 1985 and as a PC consultant since then. From personal experience, I can say the any software product —must— provide full compatibility with existing standards in it's market (eg. MS Excel spreadsheet format). And the developer without full access to the API of an operating system which his product will run on ... is a complete non-starter. By concealing certain features of both its operating systems" API (claiming them as "undocumented" or "unsupported"—which means that MS will change the code at any time convenient to itself to cause that feature to disappear), and its major document formats, Microsoft has completely stifled competition in the areas of word processors, spreadsheets, and to some extent, webpage development.

The claim that systems would suddenly become unreliable without dominant standards provided by MS... does not seem credible. On the contrary, with the clear exception of its spreadsheet, Microsoft software has proven buggy and difficult to use. Their product development cycle does not seem to respond to basic low-level user complaint in the way a company eager to please its customers would.

As a private consumer and as a professional who must try to find good products for clients, I ask you to please stop the monopolizing of our largest industry. If our software economy is not to suffer the melt down that Detroit went through in the 70's when it faced real competition for the first time, we must nurture and promote effective competition, and actively discourage the cumbersome stifling business practices that MS seems to favor.

Rufus Laggren
Pacifica, Ca.

MTC-00026423

From: Arek Dreyer
To: Microsoft ATR
Date: 1/26/02 8:44pm
Subject: Microsoft Settlement

I object to the Proposed Final Order.

Arek Dreyer
Network Consultant
5512 N Glenwood Ave #3
Chicago, IL 60640
773–251–8931

MTC-00026424

From: GD Peterson
To: Microsoft ATR
Date: 1/26/02 8:39pm
Subject: MICROSOFT PENALTY TOO SEVERE

MY COMMENTS ON THE MICROSOFT CASE ARE.THE PENALTY WAS TO SEVERE AND THE OTHER COMPANYS ARE OUT TO HELP THEM SELVES.I HAVE BEEN HURT MUCH MORE DOLLAR WISE FROM THE CASE THEN ANYTHING MICEOSOFT DID.IM A X-RAY TECH MAKING 22000 DOLLARS A YEAR.WE NEED TO GET THIS CASE RESOLVED SOON.BILLIONS HAVE BEEN LOST BECAUSE OF THIS CASE.

FOREST PETERSON
320 POLK 121
MENA,AR
71953
1–26–02

MTC-00026425

From: Valden Longhurst
To: Microsoft ATR
Date: 1/26/02 8:43pm
Subject: MS settlement

Regarding the Civil Action No. 98–1232 between the UNITED STATES OF AMERICA and MICROSOFT CORPORATION, I would like to exercise my right and voice my frustration. Microsoft is further extending their monopoly by showing no regard to either the court orders or the public sector.

I am an Operations Manager for Kiwi Publishing, located in Spokane, WA, and was recently effected by the Microsoft and Qwest "sell off/buyout" deal. We did not choose to have our Internet Service Provider changed, but without our concent and knowledge Qwest and Microsoft changed hundreds of consumer's telephone service without permission, which is illegal under Section 258 of the Telecommunications Act, 47 U.S.C. ?258.

As a direct result of this action, our business has suffered. This act forcefully prohibited us from contacting hundreds of our customers via e-mail because we were not using the more expensive and less functional Microsoft e-mail software. Our only option was to either individually write each customer or change ISP—both of which hurt us. Because of the time-limited circumstance the VERY time consumming task of manually contacting our hundreds of customers was our only real option.

In our efforts to remedy the situation, three times we called Microsoft and requested they help us use our old automated system of contacting our customers and were thrice told we could only use Microsoft products to send out any e-mails with no exception—which could only happen if we purchased their software.

Furthermore, since we were taken from Qwest's internet service and placed on the Microsoft Network our business internet service has been from terribly slow to completely stopping at times. Again, in our efforts to remedy the situation we were told in order to change to a new ISP, we would have call Qwest and Microsoft to CANCEL the internet service circuit and sign up anew for a different internet service circuit—again provided by Qwest! Now as an engineer in electronics engineering technology and a network administrator, I know a circuit cancellation and renewal is NOT required if you want to change an ISP. What is their motive? What agreement was signed to force that pretended requirement?

Clearly, Microsoft is still making monopolistic agreements with other companies (whether OEMs or not) and tramples the stipulations imposed by the courts under their feet. If anything has changed, Microsoft seems to be more willing to use its monopoly to harm our business and limit our choices than before the courts imposed sanctions upon them! What a gross disregard for our laws and lack of respect for their customers!

I add my voice that the proposed settlement (as is) will do nothing to stop Microsoft from turning their monopoly into a choke yoke for anyone—regardless of law and ethics. Obviously the proposed settlement is not forcing Microsoft to change. This country can not survive upon a total disregard of ethics. This is particularly so with such a large unethical company as Microsoft.

Will you hold our country to ethical standards by requiring our companies to live by ethical standards?

Valden Longhurst
101 East Graves Road #11
Spokane, WA 99218

MTC-00026426

From: Gary Duerksen
To: Microsoft ATR
Date: 1/26/02 4:33pm
Subject: Microsoft Settlement

To Whom it May Concern:

I am a high-technology professional for whom computer usage is a daily necessity for survival. Over the course of my 30-year career I have used mainframes, workstations and PC's running JCL, VMS, UNIX, DOS, Windows, Mac OS, etc.; my opinions do not represent a parochial bias derived from group-identification with one computing platform. I also use Microsoft software regularly and have first-hand experience with some of Microsoft's questionable tactics, such as planting traps in Windows to inform a user of non-existent software problems when attempting to run Netscape Navigator.

The pattern in developing technologies has always shown a migration from myriad proprietary standards to a uniform codified set of standards, typically overseen by an independent professional organization. The development of computer operating systems has also moved in this direction, through promotion of operating systems such as open-source UNIX and Linux, and through the development of platform-independent programming languages such as Java. I am convinced that this progression is both beneficial and essential for the health of the industry.

I believe that the Final Judgement proposal agreed to in November, 2001 will do little or nothing to ameliorate the very real harm that Microsoft's monopolistic abuses continue to do to those businesses dependent on the computer industry. Microsoft has used its overwhelming market-share of computer operating systems to guarantee proprietorship over the application software used on virtually all computers. Not only has this practice effectively eliminated all competing internet browsers and seriously impeded the adoption of Java, it also has the potential to limit the burgeoning market for consumer devices that interface with a computer to those that incorporate proprietary Microsoft software.

There is only one remedy that ensures Microsoft will discontinue its anticompetitive practices: mandate the breakup of Microsoft into separate businesses for operating systems and for application software. Not only will this benefit the entire community of computer users, it arguably might improve Microsoft's profitability.

Gary L. Duerksen, Ph.D.
Director of Optics
Seneca Networks
Rockville, MD

MTC-00026427

From: Leslie Crawford
To: Microsoft ATR
Date: 1/26/02 8:43pm
Subject: Re: Microsoft settlement

Please accept the settlement already made, which was reasonable, and avoid further expensive unnecessary litigation.

Leslie Crawford

MTC-00026428

From: Bruce Cartwright
To: MS ATR
Date: 1/26/02 8:37pm
Subject: Microsoft Settlement
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to voice my beliefs about the November 2001 proposed settlement reached between Microsoft and the government. First, the Department of Justice should never have sued Microsoft. It was completely wrong. Microsoft should not be forced to litigate its business practices beyond what has already transpired. As a Christian, I believe that the government was strictly motivated by greed.

The settlement constitutes a great opportunity for this country, putting disputes to rest, and allowing Microsoft to progress through continued innovation. Microsoft has agreed to have a government appointed watchdog monitor their business practices. If Microsoft breaks any term of their settlement, they will be held responsible for their actions. This is good enough for me to see Microsoft agreeing to be monitored.

The government has moved away from these values as I see it, becoming much bigger than itself, not by the people, or for the people, but by those who run the people, who own the people. As a person who lives by the good word, the people are speaking, I am one voice crying out in the wilderness, "Let Microsoft continue onward, support this settlement without any further punishment or actions against them." This is in the best interest of Microsoft, the government, and the economy and for this nation.

Sincerely,
Bruce Cartwright

MTC-00026429

From: BJUFL@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 8:47pm
Subject: Microsoft Settlement
709 Buckwood Drive
Orlando, FL 32806
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this letter is to express my support of the settlement reached between Microsoft and the Department of Justice. Since the inception of this lawsuit, enormous amounts of federal resources have been spent in court negotiations. During this time the technology industry has seen a significant decline in its markets. Given the current state of the economy, I believe that continuation of this lawsuit would serve only to waste more federal dollars. The settlement that was reached benefits consumers and the technology industry. I urge you to enact the settlement reached in November.

To expand, the settlement agreement most definitely supports the consumers of the tech industry. With the release of Windows XP, users will now be able to add and delete programs easily into the Microsoft system. In addition to this, Microsoft has agreed to disclose some of the protocols in the Windows system so that developers will design more compatible software. Microsoft has made many concessions in order to resolve this issue.

I would hope that the Justice Department recognizes the importance of enacting this settlement. Thank you for your time regarding this issue.

Sincerely,
William Underwood
cc: Representative Ric Keller

MTC-00026430

From: todd chatman
To: Microsoft ATR
Date: 1/26/02 8:49pm
Subject: Microsoft Settlement

To whom it may concern:

I'm writing to denounce the proposed settlement of U.S. v Microsoft.

I join a deafening chorus of both experts and laymen who all agree: this settlement will do virtually nothing to create a better environment for competition in the PC software industry or to improve the social good derived from that industry. Didn't you, the DOJ, learn your lesson in 1995 when you slapped Microsoft's wrist and then had to listen to Bill Gates publicly ridicule the consent decree as essentially meaningless? He was right; that decision did nothing to limit Microsoft's anti-competitive practices, largely becuase the technological map it responded to had been completely redrawn by the time it was written. The same is true in this case—it has lasted just long enough for Microsoft to have moved beyond the terms of this settlement into new realms of market monopolization. The American people cannot afford to sue Microsoft every 3–5 years while its technological future continues to be held hostage to Microsoft's whims. I beg you: Discard this settlement, rewrite it with real teeth, and pursue its enforcement until we see real innovation and competition in the market again.

Sincerely,
Todd Chatman
Urbana, IL University of Illinois —

MTC–00026431

From: rrknorr@earthlink.net@inetgw
To: Microsoft ATR
Date: 1/26/02 8:50pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Rosemarie Knorr
2470 Tapestry Court
Livermore, CA 94550

MTC–00026433

From: Jdores1228@aol.com@inetgw
To: Microsoft ATR,FIN@mobilization office.com@inetgw
Date: 1/26/02 8:56pm
Subject: (no subject)

I am shocked that the U>S> Government went after Microsoft when Time Warner should have been first. The letter that was e mailed to me never arrived. What the Government did does not make sense. If they want to break up a company why wasn't Time-Warner the one????????????????????????????????

MTC–00026434

From: Clint Allen
To: Microsoft ATR
Date: 1/26/02 8:57pm
Subject: Microsoft Settlement

I am one of the many US citizens concerned by this settlement and the ways in which it will affect Microsoft's monopolistic practices. In particular, I would like to point out problems with the following sections:

Section III.A.2. allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

Section III.B. requires Microsoft to license Windows on uniform terms and at published prices to the top 20 OEMs, but says nothing about smaller OEMs. This leaves Microsoft free to retaliate against smaller OEMs, including important regional "white box" OEMs, if they offer competing products. Section III.B. also allows Microsoft to offer unspecified Market Development Allowances—in effect, discounts—to OEMs. For instance, Microsoft could offer discounts on Windows to OEMs based on the number of copies of Microsoft Office or Pocket PC systems sold by that OEM. In effect, this allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas, such as office software or ARM-compatible operating systems.

Thank you for your time.
Clint Allen

MTC–00026435

From: Barbno63200@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 8:59pm
Subject: Mcrosoft ettlement

i think that the Microsoft settlement is good because it give people choices which are bound by the sherman anit-trust act.

CC:barbno63200@al.com@inetgw

MTC–00026436

From: juanito
To: Microsoft ATR
Date: 1/26/02 8:59pm
Subject: microsoft settlement

From what I've heard of the Microsoft anti-trust settlement, I believe it to be not only unfair, but highly counter-productive if its goal is to weaken Microsoft's monopoly on the computing industry.

Juanito Moore

MTC–00026437

From: pilinp@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 8:55pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Pedro Sanchez
4765 sw 6 st.
Miami, FL 33134–1407

MTC–00026438

From: mr.k@fuse.net@inetgw
To: Microsoft ATR
Date: 1/26/02 8:58pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
John Kraemer
3349 Blue Rock Rd.
Cincinnati, OH 45239

MTC–00026440

From: tougholdbird@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:02pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Darlene Brown
205 John Allen Rd.
Roxboro, NC 27573

MTC-00026441

From: racke@3-cities.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:04pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Carolyn Ewing
116 West 28th Avenue
Kennewick, WA 99337-5010

MTC-00026442

From: AlanAroman@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:07pm
Subject: (no subject)

Dear Sirs at the Department of Justice,

I object to the amount of money and time that the Department of Justice has chosen to dedicate to the Microsoft Case. It occurs to me that Microsoft has spent large sums of money to provide products to the American consumer at competitive prices that the American public have chosen to expend. Not only are the products innovative but the selection of products make us the consumer more productive assisting us to be more efficient as well.

My understanding of the proposed agreement judge it to fair, reasonable, but also hard-line. It also as reported by the press far exceeds the findings of the Court of Appeals. I contend that the American public would rather see American spirit and innovation be spent in the form of and on American products that are developed by Microsoft through research and development versus the contrary, the waste of taxpayer dollars and revenue on litigation.

Other priorities are obvious and relevant.

Thank you for your time in reading this letter.

Alan Roman
CC:fin@mobilizationoffice.com@inetgw

MTC-00026443

From: Jason
To: Microsoft ATR
Date: 1/26/02 9:09pm
Subject: Microsoft Settlement

The proposed settlement is worse than a slap on the wrist for Microsoft.

Microsoft has used many tactics to leverage it's monopoly in the computer market. The proposed settlement does not address these tactics or effectively provide recourse.

The proposal does nothing to stop Microsoft to keep using Windows licenses as leverage to increase market share.

It still allows Microsoft to use punitive measures against OEMs that ship computers without Microsoft's operating system. (Even if the end user has no intention of using a Microsoft operating system).

It does not prohibit license terms used by Microsoft to prohibit open source apps from running properly in Windows and fails to prohibt intentional incompatibilites that Microsoft engineers place in Microsoft apps to keep them from running on other operating systems.

The suggestion that Microsoft should "donate" software to schools is a laughably transparent coup de grace for Microsoft. It's not a punishment to be given a billion dollar competitve advantage in one of the few areas where your company doesn't completely dominate the market.

Since Microsoft more or less copied the Macintosh interface, a good start for a recourse would be to require Microsoft to pay a small royalty to Apple Computer for every copy of Windows 95 and Windows 98 sold. (under the provision that Apple be required to use a percentage of this money to subsidize low cost computer equipment to schools.) .net is the next mechanism that Microsoft is trying to use as a control lever. If .net technologies only work on IE running on Windows, Microsoft can use .net to further leverage it's position while forcing users to interact with the internet on Microsoft's terms. This needs to be addressed, possibly by making .net an open source project under the auspices of Netscape and/or Apple. Netscape might be able to monetize .net and ensure that .net technologies work on all browsers and operating systems.

I don't pretend to know the feasibility of such solutions and they may well be ridiculous but I do know this, Microsoft should not be rewarded for it's behavior.

MTC-00026444

From: Dave C
To: Microsoft ATR
Date: 1/26/02 9:11pm
Subject: Microsoft Settlement

To whom it may concern,

I want to open this with a preface. I am not an anti-Microsoft proponent and am a regular user of their products. However, I also believe that the American laws, although not perfect, need to be obeyed. I have been following the Microsoft trial with some interest for awhile now and here are my conclusions.

1. Microsoft was originally found guilty of being a predatory monopoly and ordered to be split into two pieces.

2. A panel of appellate judges found that although none of the previous judge's findings were incorrect in any way there was a bias against Microsoft and that the breaking of the company was not necessary. What struck me here was that NONE of the findings of facts against Microsoft were overturned.

3. Microsoft became a very large financial backer (for the first time ever) in the last presidential election.

4. After the election all charges were summarily dropped. As a law-abiding and voting member of this great country I find it disturbing that our judicial system can be so easily (apparently) bought out. Our forefathers instituted a system of checks and balances to keep one branch of government from gaining too much power over the other branches of government, and yet this seems to be the case. In a situation in which the defendant is undeniably guilty (the guilt of Microsoft was upheld by the appellate panel of judges) a campaign contribution was enough to have all charges dropped. To allow this mockery of our judicial system would be a crime unto itself and reduce the authority and respect that it has engendered over the past two-and-a-quarter centuries. This must not be allowed. I do not think that the punishment should be more than the crime permits, but clearly Microsoft has repeated broken the laws of the United States without any regard or shame. This must not be allowed. Thank you.

Dave Cowen
dback69@hotmail.com

"Teach us to number our days aright, that we may gain a heart of wisdom."—
Psalm 90:12

MTC-00026445

From: Peter Johnson
To: Microsoft ATR
Date: 1/26/02 9:13pm
Subject: Microsoft Hegemony

Despite the restrictions placed upon the Microsoft Hegemony by the Settlement I doubt the Microsoft trust will be effected. Althought the settlement has limited Microsoft's ability to control its competition it has not hit the root of the problem. Just by giving Microsoft competition room to grow will not be able to over turn the vast hold Microsoft has on the software industry. Microsoft is to large almost all of the worlds computers already contain Microsoft operating systems that are stacked full of Microsoft's programs. To the average consumer Microsoft is synonymous with the word computer most people only know how to interact with a computer using Windows. Allowing the Microsoft corporation to survive will do nothing to create companies capable of serious competition. The only true solution to the Microsoft Hegemony is by breaking the company up to create competition within the remnants of Microsoft allowing smaller outside companies to compete directly.

Carl Johnson

MTC-00026446

From: PLAYCON@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:15pm
Subject: Microsoft Settlement

It is time to end this "POLITICALLY BASED" farce. I believe Microsoft has comported themselves in a professional and forthright manner throughout this politically motivated "WITCH HUNT" at the TAX PAYERS expense. If the well connected companies represented by the states attorneys cannot compete in the marketplace then good riddance.

MTC–00026447

From: David M. Weatherell
To: Microsoft ATR
Date: 1/26/02 9:17pm
Subject: Microsoft Settlement

. To whom it may concern:

I oppose the application of antitrust laws against Microsoft. I have developed software for 20+ years and have used several software development tools and environments. . Microsoft has made my job far easier than it otherwise would have been. In fact, it has probably made possible the very existence of my job.

The integration of the operating system and user applications is crucial to my productivity, and using applications developed by the same company radically reduces the learning curve for new products. In addition, the number of software errors in these products is reduced because the same company produces all of the software. In short, Microsoft should not be punished for improving the lives of software developers and end users.

Under a system of objective law, the above information would be irrelevant. The application of justice is not contingent on public opinion. Nor is it contingent on contradictory laws that violate basic property rights and guarantees against involuntary servitude. The Federal Government has neither the moral right nor the legal authority to punish Microsoft under the antitrust laws.

David M. Weatherell
Sr. Software Engineer
(585) 217–9445
1080 Floribunda Way, Apt. G
Webster, NY 14580
CC:activism@moraldefense.com@inetgw

MTC–00026448

From: Marge@cfl.rr.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:15pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Marjorie LaCour
838 Tomlinson Terrace
Lake Mary, FL 32746–6310

MTC–00026449

From: Ann_Blackburn@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:16pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Ann Blackburn
725 Port Malabar Blvd., NE
#203
Palm Bay, FL 32905

MTC–00026450

From: jimmal1@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:19pm
Subject: Microsoft Settlement

ENOUGH!!! End this witch hunt now. I am tired of the government spending my money on lawsuits to give advantages to big-money software companies under the guise of fair trade. If netscape and Sun can't use their own resourses to compete, don't use my pitiful tax contributions to increase their wealth. Let the market place dictate terms of cooperation, not the government. This lawsuit has contributed to the recession enough. Don't let it go any further. Settle!!

Thank you.
Jim Malneritch, taxpayer and voter.

MTC–00026451

From: Jason Bergstrom
To: Microsoft ATR
Date: 1/26/02 9:26pm
Subject: Microsoft Settlement
Attention: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

I would like to register my dissatisfaction with the proposed judgment in the U.S. DoJ vs. Microsoft antitrust suit. The lack of any meaningful punishment of Microsoft or any hint of reparations to a once competitive software industry tells me that my tax dollars have not been well spent.

Please revisit the judgment.

Thank you for your time,
Jason Bergstrom
bergie@aracnet.com

MTC–00026452

From: Gregory Liban
To: Microsoft ATR
Date: 1/26/02 9:28pm
Subject: Microsoft Settlement

Please leave Microsoft alone. I constantly sense that people are seeking revenge against Microsoft in a mistaken way. Microsoft is not a Tobacco company whose products have caused cancer. Microsoft is also not a company whom has thrived because it squeezes out competition just for the sake of market share.

Microsoft wants to give a Billion dollars worth of Computer equipment to those who need it, and whose side does the government take. Gee, not with those whom might need the computers, but with Microsoft's competitors! So where is the cancer here? Now, because its competitors aren't happy, they want to question the very decision of the court and the precepts of the decision in the Microsoft case. Come on; let's get our thinking hats on straight. What is deciding the decision of all the Microsoft issues? Is it poor competition, or poor politics? What is the cancer here? Has government killed the cancer, or is it feeding the cancer? Perhaps the government needs to take a couple of steps back and really figure out what is going on.

Why can't half the automation equipment purchased by Microsoft come from its competitors like Linux, Sun or BeOS. I can answer that! It's because it doesn't meet the need of the common user. Duh? Apple is a niche product—or at least its in many of the schools. Gee, why can't Apple be called a monopoly? Perhaps the government needs to spur across-the-board automation industry growth in non-legal means.

I enjoy Microsoft products and they provide jobs to millions of people in the computer industry. Moreover, Microsoft leads the industry in innovation and meeting the consumer's needs. Don't disrupt a company that helps all of us in so many needs. Moreover, I ask that you don't listen to all the voices that shout Microsoft hatred!

Being a politician or someone in political office isn't always popular. I know because I work in the Federal Government. But, we are always entitled to make good decisions based upon the best available information. Good or bad, easy or hard.

Thanks!
Gregory Liban
Gregory A. Liban
galiban@hot.rr.com
254–699–3460

MTC–00026453

From: Jean and Warren Doremus
To: Microsoft ATR
Date: 1/26/02 9:26pm
Subject: Microsoft Settlement
Please see attached letter.
JEAN & WARREN DOREMUS
January 26, 2002
Attorney General John Ashcroft
U S Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Permit us to offer some of our views about the Microsoft antitrust case. In our judgment, the settlement agreement reached between Microsoft and your department is fair, reasonable, sensible and in the best interests of all parties concerned. We believe it addresses the issues that brought about the case and which nine states have approved. We see no need for further federal action, particularly while Microsoft is negotiating with the remaining states to reach an agreement.

Although the settlement may reach further than Microsoft may have desired, it recognizes that settling this case sooner is better than later. It requires Microsoft to change the way it develops, licenses and markets its software, as well as the way it deals with independent vendors.

Not only does the agreement handle past and present problems, it establishes provisions on how to deal with possible future problems. A technical oversight committee will ensure that Microsoft complies with terms of the settlement, and competitors will be allowed to sue Microsoft directly if they feel they've been treated unfairly.

There comes a time when this litigation must be put behind us, and that time is now. Certainty and stability should be reestablished in the IT sector. The cloud that has been hanging over it for all the years this case has been before the courts ought to be lifted so that the sun can once again have the chance to shine on our economy.

Sincerely,

Jean s. Doremus Warren S. Doremus

66 CAMBERLEY PLACE, PENFIELD, NEW YORK, 14526–2707

E-MAIL: DORAYMEE@ROCHESTER.RR.COM

MTC-00026454

From: KALMAN V ILLYEFALVI
To: Microsoft ATR
Date: 1/26/02 9:27pm
Subject: Microsoft antitrust case
January 26, 2002
Attorney General John Ashcroft
US Department of Justice

Dear Mr. Ashcroft:

I am in favor of the agreement reached in the Microsoft antitrust case. I would like to see the remaining states that are not party to the agreement, settle the case as well. I think their position is ridiculous. It is a shame they have not made the wise decision that the Department of Justice has made to put the case to rest.

The terms of the settlement agreement are fair and reasonable. Upon approval of the agreement, Microsoft will change the way they handle their relationships with computer manufacturers who install software that compete with Windows. They have also agreed to grant manufacturers new rights so they may configure Windows to run with other features of the competition's software programs.

Nothing more should be expected or required of Microsoft than what is contained in the settlement agreement. Thank you for your time and your efforts to settle this lawsuit.

Sincerely,

Kalman V. Illyefalvi and Phyllis S. Illyefalvi

MTC-00026455

From: Jeanpittma@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:29pm
Subject: microsoft settlement

We favor settlement. Delmar & Jean Pittman e-mail address jeanpittma@aol.com

MTC-00026456

From: raphael(u)jones Jones
To: Microsoft ATR
Date: 1/26/02 9:29pm
Subject: Microsoft Settlement

Sirs,

It is with great consternation, that I see this issue continuing to take up so much of the time in our courts at taxpayers expense. Microsoft may have made some errors of judgment, but AOL, and Netscape in particular, was attempting to corner the market themselves. They just finished last. This whole matter is about a competitive, capitalist market, and fairness for the most part is not the issue. I request that the USDOJ disallow this suit and let the market determine what it wants, and may the best, or most aggressive win.

Regards,

Raphael L. Jones

MTC-00026457

From: bobegole@netscape.net@inetgw
To: Microsoft ATR
Date: 1/26/02 9:33pm
Subject: Microsoft Settlement

The proposed settlement between the US Department of Justice and Microsoft is insufficient to remedy the anticompetitive practices of Microsoft.

My main concern is regarding the finding upheld by the appeals court that Microsoft "attempted to mislead and threaten software developers in order to contain and subvert Java middleware technologies". Microsoft should now be required to include a certified compatible Java virtual machine. In the time since Microsoft engaged in illegal conduct against Java, it has developed competing middleware which it is bundling in the operating system as part of it's so-called .NET environment. Microsoft, having engaged in illegal conduct to delay the industry acceptance of Java, now feels safe to exclude Java. This damage needs to be remedied but is not addressed in the proposed settlement. Microsoft should be compelled to include Java for a period that will compensate for the damage inflicted by Microsoft's illegal conduct.

The preceding is a minimal addition that I believe should be imposed on Microsoft. The ultimate solution is to separate Microsoft's platform development (the Window's operating system and .NET services) and the application divisions (the browser, Office, etc.). This is the only way to be certain that other software application companies can compete fairly with Microsoft applications. Until this separation is made, Microsoft applications will continue to unfairly influence extensions in the Microsoft platform and to unfairly gain advance knowledge of features available in the Microsoft platform. Furthermore, the operating system source code should be made open to other computer companies so that they may develop and market operating-system enhancements. This will allow competition in the PC operating system, which has stagnated as Microsoft merely extends their monopoly by tightly coupling applications to the operating system. New versions of the operating system have added integrated web browser functionality, collaboration applications, and other applications but, meanwhile, the operating system core has remained largely unchanged since the release of Windows 95 and Windows NT more than 6 years ago. The operating system should be made open to give others the opportunity to extend platform functionality.

Let me close by saying that it is my belief that the current stagnation in the computing industry is largely due to Microsoft's uncompetitive practices. They have not only actively thwarted competition, as found by the appeals court, but have created disincentives to competition by expanding their definition of "operating system" to include emerging applications and "middleware". Microsoft should be forced to include Java, separate the company's platform and application divisions and open the operating system to competition as a minimal remedy for their uncompetitive behavior. This will also allow other companies to compete fairly and innovate without fear that years of investment and innovation will show up as a mere feature of the next release of Windows.

Effective measures to counter Microsoft's illegal conduct must be taken to ensure the health of the US Technology industry.

Sincerely,

James M. A. Begole, Ph.D.
Computer Scientist

MTC-00026458

From: Russ Aaronson
To: Microsoft ATR
Date: 1/26/02 9:33pm
Subject: Microsoft Settlement
Russell Aaronson
5300 SW 11th St.
Margate, FL 33068
January 26, 2002
Judge Colleen Kollar-Kotelly
United States District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001
RE: US v. Microsoft proposed final order

Dear Judge Kollar-Kotelly,

I teach English and SAT Prep to students at an inner city high school in South Florida. I have reviewed the documents relating to the Microsoft Settlement, and I have found several elements contained within to be highly alarming. I'm certain you have received a considerable number of responses that specifically relate to the language of the settlement, but I would like to appeal to you with a different technique. This letter will provide a few "real world" examples of how Microsoft's policies have hampered students" potential for using new technologies.

On a daily basis, students enter my room to print out documents they created outside the school. They take the documents created with Microsoft Works and try to edit and print them at school, but this never works because Works documents are incompatible with Microsoft's own Office programs that we use at school. Stunned, student after student will ask me how the same company can make two virtually indistinguishable programs on the same platform (again, created by the same company), but neglect to make them work with each other. It never occurs to them that the Works program that comes "free" with the computers their parents purchased is useless for the majority of their schoolwork. Unable to explain the logic or fairness behind this situation, I send them on a scavenger hunt for a working computer with Works installed so they may complete their work.

This is also a situation that the proposed settlement will not remedy. It is difficult enough to help students with programs created on other platforms (though every other platform offers some free, simple method for translating documents back and forth), let alone help them with works created with deliberately handicapped software they were forced to purchase with their computers.

The cost issue also inhibits our ability to make wise software purchases at school. Microsoft's Office suite has always been pricey for education customers, but the new "XP" marketing strategy could make the situation untenable. In a school where it is important to keep every available computer running for as long as possible, the prospects of purchasing productivity software that "expires" when a newer version arrives (or even the prospect of "leasing" software for the same price that used to be required to own it indefinitely) are horrifying. Of course, an educational institution has the responsibility to prepare students for the business world, so we must consider the "industry standard" software, regardless of cost. Put bluntly, this technique places Microsoft's software distribution strategy as the one used by drug dealers who frequent the neighborhood surrounding our school. Again, the proposed remedy does nothing to prevent this situaiton, and as such, the settlement will prove to be as practically useless as an Office XP install disc will be a year from now.

Furthermore, I cordially invite you to a comprehensive tour of our school and it's technological backbone. At Boyd Anderson High School, we take pride in our ability to overcome adversity. I simply wish I could tell my students that their government's concerns about the technological barriers to their success are more important than protecting one of the corporations that creates the barrieres.

Hopefully, your judgement will help me change this situation.

SIncerely,
Russell Aaronson
Teacher
Boyd Anderson High School
(Home of the Fighting Cobras)
3050 NW 41st ST
Lauderdale Lakes, FL 33319
(954) 497–3800, x350
Fax (954) 497–3819

MTC–00026459

From: Wilfred W Foreman
To: Microsoft ATR
Date: 1/26/02 9:37pm
Subject: Microsoft Settlement

Please settle theMicrosoft litigation now. It will not help consumers to drag out the settlement. We would be most benefitted by a timely settlement.

The proposed settlement seems reasonable and could be a help to our stumbling economy. Dragging it out further will only enrich lawyers and special interests. Please help us.

Wilfred & Imogene Foreman

MTC–00026460

From: Shirley544@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:39pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you. Sincerely, Shirley Shirley 9043 Letha Lane Shreveport, LA 71118

MTC–00026461

From: echrist690@earthlink.net@inetgw
To: Microsoft ATR .
Date: 1/26/02 9:43pm
Subject: Microsoft Settlement

My name is Ellie Drew. I am president of the Institute for Conscious Change in Tucson, AZ. I wish to thank all of the public servants in the DOJ for their excellent work in pursuing the Anti-trust case against MS. However the currently proposed remedy fails to even address its own stated intents. Please consider all of the findings in the case against MS in modifying the Revised Proposed Final Judgment and come up with a new remedy which addresses these findings and the current RPFJ's stated intents.

I include here considerations for bringing the RPFJ into accord with the case findings, the RPFJ's stated intents and reasonable remedy given the nature of the situation. My views are substantially the same as those in the comment filed by Robert E. Litan, Roger D. Noll, and William D. Nordhaus. Where I differ in view is in the number and degree of separations. In number: I urge you to require all non-Operating Systems code (using the traditional definition from Computer Science and overseen by an independent panel of university professors doing Operating Systems research) be removed from the ownership of and access by the Divested OS companies. The resulting removed assets would be passed "over the wall" to one of three independent Application companies. These Application companies would be delineated into "client applications", "server applications", and "development tools." Failure to comply with this divestiture within a one year time frame would result in the code for all products found not to have been appropriately apportioned be placed in the public domain. In degree: I urge a new Final Judgment that requires all of the resulting divested companies to make freely available for use all APIs, component/application interfaces, protocols, and other interconnections at the time of the decree and in perpetuity. Where any existing outside standards exist for any of these interfaces all divested companies would be required to implement -without extension or modification- these standards while removing interfaces which overlap any standards within a two year time frame. Failure to comply would result in the code used to implement any non-conforming interfaces be placed in the public domain. In addition all applications produced by the divested companies must be marketed and sold separately for a period of seven years. Failure to comply (such as bundling or tying in software components of different companies or components of the same company) would result in the code of the affected software component being placed in the public domain.

These remedies and penalties for non-compliance are just and due given the egregious nature of the defendants crime and behavior.

Sincerely,
Ellie Drew

MTC–00026462

From: Kathy J Hering
To: Microsoft ATR
Date: 1/26/02 9:45pm
Subject: Please settle this!!

Dear Friends-

As a senior citizen I believe it would be great idea to settle with microsoft. During the time this plan was in place under our last president, he could have been working on the terrorists and may have prevented the incident of last Sedember. I think it's about time that this country get its priorities in order.

Thanks for listening,
Bob Hering

MTC–00026463

From: nickf@primenet.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:43pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other

Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Nick Fletcher
P.O. Box 3374
Scottsdale, AZ 85271–3374

MTC–00026464

From: Lawrence (038) Sarah Ballew
To: Microsoft ATR
Date: 1/26/02 9:49pm
Subject: Microsoft Settlement

Greetings,

I am writing to encourage you in the case against Microsoft. While this company has certainly done a great job of generating jobs and profits, it has done so in a manner which is short sighted and costly to the future of computing in the USA. Please do not simply slap them on the wrist. This company needs to know that it's predatory pricing practices and it's monopolistic methodologies are inconsistent with a free and fair market.

I think one of the clearest signs of Microsoft's negative approach to the whole business of computing is their offer to flood America's schools with old, used, inefficient hardware and software as a way of making amends. That they would be allowed to push their monopolistic practices down the throats of schools is almost laughable if it weren't so typical of Microsoft's thinking. Don't let that happen.

Thank you for your patient and persistent work on this matter. I am sure that you will proceed in this matter with a long term view and with a desire to see the USA public have at their fingertips the very best software applications American companies can produce.

Sincerely,
Lawrence Ballew

MTC–00026465

From: Tom Galvin
To: Microsoft ATR
Date: 1/26/02 9:53pm
Subject: Microsoft Settlement

The proposed settlement is bad idea. The remedy does not correct the abusive behavior of the monopolistic situation.

MTC–00026466

From: rogbryson@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:55pm
Subject: RE: MICROSSOFT JUDGEMENT—SETTLEMENT

GENTLEMEN:

CONSUMER INTERESTS HAVE BEEN WELL SERVED. IT IS TIME TO END THIS COSTLY AND DAMAGING LITIGATION. PLEASE SETTLE WITHOUT FURTHER DELAY.

THANK YOU!
SINCERELY,
ROGER W. BRYSON
5401 SHADOW LAWN DR.
SARASOTA, FL. 34242

MTC–00026467

From: Fred C Hinds
To: Microsoft ATR
Date: 1/26/02 9:55pm
Subject: Microsoft Settlement

Gentlemen:

I think the time has come that you go with the current proposed settlement with Microsoft. These people have helped provide computer equipment and other software products that we as senior citizens can afford . With their help we will have more new electronic equipment to help us and YOU with our daily efforts. In my opinion the time has come to to end this costly and damaging litigation.

Thank you for your time.
F.C. Hinds Jr.
1410 Lorrie Dr.
Richardson, Texas 75080

MTC–00026468

From: James Russell
To: Microsoft ATR
Date: 1/26/02 9:56pm
Subject: Microsoft Settlement

I was a user of Windows 98 from 1998 until just last year. I witnessed first-hand how hard Microsoft made it for me to choose Netscape. Indeed, at one point I did give up Netscape for IE just because it was simpler.

I know use Windows XP, and have been nearly forced into using Microsoft's Passport service, which I don't think is secure, forced into having IE, MSN Explorer, Windows Media Player, Windows Messenger, you name it, I've been forced to install it. What angers me most, though, is that Microsoft has made Windows more bloated and less secure by making me install the IE code (Go to www.news.com and search for "IE" and "security" and you'll see what I mean.), and it makes me angry that I must suffer these security holes because Microsoft wants IE on my computer whether I like it or not.

Forcing Microsoft to ship a fully clean version of Windows is absolutely necessary to restore competition where there now is none, on the Microsoft desktop. Moreover, OEMs need to be assured that Microsoft cannot penalize them for choosing this version of Windows. Microsoft should market this version equally as aggressively as Windows 2000 Home, Professional, or their descendants for a period of no less than 10 years. The price of this "Windows Lite" should be lower than the standard version of Windows enough to compensate for (A) the amount of code removed and (B) the percentage of features removed from the interface.

Further, Microsoft should no longer be able to dictate to any OEM whether a dual-boot operating system can be released on that OEM's systems in any way, nor can they be penalized, threatened, or coerced into dropping deals with Microsoft's competitors. This moratorium should be in effect for 10 years with an option for an additional 5–10 years at the court's discretion.

James Russell

MTC–00026469

From: Kenneth W Wegener
To: Microsoft ATR
Date: 1/26/02 9:57pm
Subject: Microsoft Settlement

I believe that the settlement that has been reached with Microsoft is fair and will benefit consumers. Therefore I urge that you accept that settlement and bring to an end this long trial. It will help our economy much more than continued litigation.

Kenneth Wegener

MTC–00026470

From: Geoff Murray
To: Microsoft ATR
Date: 1/26/02 9:59pm
Subject: Microsoft Settlement

When I joined Intel in 1997, they had a well defined roadmap for releases of faster new processors. But when AMD caught up to and surpassed Intel's performance in 2000, Intel aggressively pulled in its release schedules to be more competitive. That's the kind of competitive pressure that benefits consumers.

Microsoft does not have that kind of competitive pressure. This vacuum allows Microsoft to manage its roadmap as it sees fit, and consumers just have to accept it. The question is not whether Microsoft's products are getting better (they are), it's how much better would they be if they had competition. The gap between what Microsoft is delivering now and what Microsoft would be delivering if it had competition is the measure of society's loss from Microsoft's monopoly.

As a consumer, I was appalled by the Justice Department's actions in settling this law suit. After Microsoft had been found guilty of illegally maintaining its monopoly, the Justice Department unilaterally disarmed themselves by announcing they would not seek a breakup of Microsoft. Then they announced a settlement that had no penalties, no admission of guilt, and a series of restrictions riddled with loopholes and escape clauses.

This settlement does very little to protect consumers from Microsoft's monopoly power. It creates a situation where future illegal Microsoft actions require further negotiations or further expensive, time consuming court actions to be stopped. By taking a hard line on every upcoming issue, Microsoft can delay and negotiate concessions to actions that are harming consumers. Thus, this settlement provides inadequate consumer protection.

After reading about the Enron bankruptcy scandal, it is clear that the Executive Branch and Legislative Branch have serious conflicts of interest that limit their ability to control large businesses. Only the Judicial Branch, which does not need re-election funding, has the independence needed to protect consumers from over zealous corporations. Microsoft has shown contempt for this anti-trust trial since it began. The newly appointed Justice Department leadership has shown very questionable judgment. It is now up to the Judicial Branch to assert its authority in protecting the rights of consumers by rejecting this proposed settlement.

Sincerely,
Geoff Murray

MTC–00026471

From: H Davis

To: Microsoft ATR
Date: 1/26/02 10:00pm
Subject: be fair with Microsoft

To whom this concern:

I have been following this case since it all started. I know what this is all about. Companies like Oracle, Sun, and Netscape, are after the demise of Microsoft. I hate to think what will happen to the computer industry, it will be too costly for the most of us with nothing standard. Where was these companies when the PC industry was getting started. These come lately companies are only after the free for all, after Microsoft is defeated.

Thanks for reading this.
Harvey Davis
ddavis@valint.net

MTC-00026472

From: lloydreba@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 9:59pm
Subject: Microsoft Settlement

Consumer interests have been well served, and the time to end this costly and damaging litigation has come.

Rheboris & Lloyd Reichen
Memphis, TN

MTC-00026473

From: john spaur
To: Microsoft ATR
Date: 1/26/02 9:59pm
Subject: Microsoft Settlement

Microsoft should be broken up.

I have been using computers since 1985 and started with the DOS operating system, before windows. Since the window operating system came into being I have seen a multitude of good software programs and the companies that wrote them go out of business. There is no reason to embed web browsers, movie and video programs, and word processing programs in the operating system. Independent software programs, designed by firms other than microsoft, can be linked with the operating system. microsoft is a terrible monopoly if it is not broken up and severely punished, one day the world will regret this tremendously. However, no one will really believe that until it is too late, and it will be too late when all of the computer operating systems are microsoft and running only microsoft programs.

MTC-00026474

From: Darlene Keefer
To: Microsoft Settlement
Date: 1/26/02 10:00pm
Subject: Microsoft Settlement
Darlene Keefer
114 Valley Road
Roundup, MT 59072
January 26, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Darlene Keefer

MTC-00026476

From: NancyKirch@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:04pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Nancy Crotty
10124 S. Hangman Valley Road
Spokane, WA 99224

MTC-00026477

From: Stan Strick
To: Microsoft ATR
Date: 1/26/02 10:08pm
Subject: Letter in support of Microsoft to Attorney General John Ashcroft

MTC-00026477—0001

1033 Kerria Lane
Camano Island, WA 98282
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am familiar with the settlement that was reached in November. I feel that it is a fair settlement. Further litigation would only prolong the process. I believe that the decision was reached with a great deal of effort. The time was right to settle.

If further litigation is pursued, more of my money as a taxpayer will be spent. Stop spending the taxpayers'' money as well as Microsoft's money and resolve the settlement. I think what is important are the benefits we will receive from the settlement that has already been reached. I especially feel that the computers and software in the schools are essential for our children in this age of technology.

Microsoft is making a good faith effort to appease its critics with this settlement. The provisions requiring information sharing and non-retaliation agreements will increase competition in the technology market. I support the settlement and look forward to the end of this case.

Sincerely,

MTC-00026478

From: jethro23@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:09pm
Subject: Microsoft Settlement

MTC-00026479

From: Jeff Hannon
To: Microsoft ATR
Date: 1/26/02 10:10pm
Subject: Microsoft Settlement 01/25/02
John J. Hannon
13423 S. 46th Way
Phoenix, AZ 85044
Judge Colleen Kollar-Kotelly
United States District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001
RE: US v. Microsoft proposed final order (Microsoft Settlement)

Dear Judge Kollar-Kotelly:

I wish to respectfully express my personal opinion to you regarding the current Microsoft Settlement as provided for under the Tunney Act.

I work for a company in Arizona which produces software utilized by infrastructure contractors (highways, dams, power plants, airports, etc.) in the United States and Canada to bid and build projects. Since the mid 1980's, this software has run atop Microsoft operating systems. We compete against several other products in the marketplace, and win clients by having a superior product and services. This firm I work for (to pay my mortgage) is attempting now to build its future software "platform independent", so as not to be beholden to Microsoft operating systems and applications (MS Office). Attempts such as these, to have the option of using Microsoft products, but not to have to RELY on them, is one aspect that should be considered in the Settlement.

I disagree with the settlement for two reasons:

1.The language in the Settlement gives Microsoft MORE power to stifle Free Software and Open-Source Software development.

If this is the Court's (and the Administration's) political intent, then so be it, but constituents should be made aware of the implications, and why their government deems it so. I'm sure by now you know that the "free" in Free Software refers to freedom and not price.

Since our nation was built upon these principles, any settlement which infringes upon freedom is detrimental to our way of life. Regardless of Microsoft's rhetoric to the contrary, Free and Open-Source software gains customers and users because of having superior quality. This is truly the Open Market at work. Microsoft does not seem to embrace the "open market" concept (where inferior products can be discarded by consumers), nor the concept of freedom (freedom of choice). The settlement appears to empower Microsoft more than before they were convicted of breaking the law.

2.The Settlement is detrimental to our nation's multi-billion dollar Construction Industry.

Since the Settlement has virtually no penalty for Microsoft, and even subtly gives them added powers (J.1 and J.2), the construction industry will continue to spend billions of dollars for non-productive and non-needed operating system upgrades and hardware. This money would be better spent on investments in new jobs and capital equipment (or as profits invested in the stock market). Just at the point in time when the industry is being offered more sensible CHOICES for alternative platforms and superior applications, the Settlement appears to make attempts at beating those choices backward.

I was under the impression that the the Settlement was all about "consumers", not about protecting the position of a convicted monopolist. The Internet and the World Wide Web as we know it today, which was made possible by open-source software, requires little more than internet access as the cost of entry. This settlement will make it cost much more.

Thank You"
John J. Hannon
jj@hannon.net

MTC-00026480

From: Scott Dier
To: Microsoft ATR
Date: 1/26/02 10:10pm
Subject: Microsoft Settlement

To Whom it May Concern:

The Settlement with Microsoft is lacking to give Open Source software an equivilant ground in the world of embedded products. Let's say I wanted to make a device that hooked into a network with Windows machines and I just wanted it to work. In this endevour, I decided to contribute code to the samba project and was just making this device for no profit.

Now, since J,2,c says that I need to have a "business need" for the informations, I can't just call Microsoft up for a full API specification for a paticular communications protocol that they have.

Worse yet, if I were to be able to get that API, I have to ask permission to use the application I wrote because of the verfication requirements.

This is very counterintutive to most IETF (Internet Engineering Task Force) protocols that are used on the Internet and freely developed and distributed for the cause of interoperability. Microsoft wants to contain its communications protocols from Open Source third parties so we can't create an alternative communications platform that can walk-the-walk with Windows platforms. They could easily argue that the Open Source program using their API is going to destroy the vialibility of their business and that the open disclosure in code will allow others to develop possibly "incorrect" implementations of their protocols. Sometimes they might worry that a bug in their protocol design could be massaged by a incorrect implementation and that it would be the *implementors* fault for this, not theirs for designing protcols to be robust. Therefore, I worry that they will just deny anything with a Open Source license to pass their verification even if it has a compliant implementation of the protocol.

The fight isn't about destroying Microsoft, but for forcing interoperability and alternative means from the single vendor that many have been "locked in" to for years. This could extend the market for Microsoft, ISVs, and Open Source users and developers to work together and not have a rift in communications between platforms.

I also believe that some of the arguments that will be recieved detailing the plight of this settlement and how it helps alternative platforms for running windows applications are very important and I would like the Court to please take Jeremy P. White's comments seriously and carefully.

Lastly, I also echo the comments by Dan Kegel and his Open Letter, found at http://www.kegel.com/remedy/letter.html .

Scott M. Dier
1624 Chatham Ave.
Arden Hills, MN 55112
651–631–1827
Employer, but not speaking on their behalf: University Of Minnesota, Computer Science and Engineering
Systems Administrator
Scott Dier <dieman@ringworld.org> http://www.ringworld.org/

MTC-00026481

From: mjlento@iwon.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:07pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Mark Lento
P.O. Box 6419
Hillsborough, NJ 08844–6419

MTC-00026482

From: rbrt3338@netscape.net@inetgw
To: Microsoft ATR
Date: 1/26/02 10:11pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Robert Hoebel
416 Madison Dr
San Jose, CA 95123–5025

MTC-00026483

From: Doug Mason
To: Microsoft ATR
Date: 1/26/02 10:15pm
Subject: Microsoft Settlement

From what I read on the proposed statement, it is only barely lifting a finger to fix the damage to the industry caused by them. This really only gives the OEMs the ability to sell a computer with a non-MS operating system, and could also dual boot. But the developers aren't helped much at all, there are no damages that Microsoft have to pay for how they hurt the companies in competition or the consumer. And as for opening up the APIs it is only going to be distributed by the MSDN, that isn't enough because they could just stash the code to the 3/4 or so of the network that is by subscription only, which in turn helps Microsoft more than it hurts it, because they will have access first, and if the competition wants to build applications that will integrate with Windows at the level that the MS products do, then it would mean paying them for it. As for the Technical Committee, it is too small for one, how much of Microsoft's source code, memos, ect.. could actually be read through with the attention that they deserve? It should be at least ten people, because Microsoft is a very large corporation and I would think produce an very large amount of documentation. And with the language that weeds out just about every "expert in software design and programming" that are out there. I think that this should be changed at least to have microsoft to be forced to open their apis with no strings attached, to the entire world to view, if not the source code for the windows operating systems themselves, so that at least the competition will actually stand a chance against them, because with the present situation, and even if this settlement goes through, Microsoft will be too large to contend with by any single company, most of the competitors either become a part of Microsoft, or the companies die as a result of the microsoft product being forced upon the consumer. I hope that this settlement becomes what the Information Technology industry needs in order to regain the momentum that it had lost over the past year, and that everyone realizes that most of what is good for microsoft is bad for the industry in terms of competition.

Sincerely,
Douglas J. Mason
University Student
60456 Hamilton @ University of Oregon
Eugene, Oregon 97403

MTC-00026484

From: Debjimfl@cs.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:15pm
Subject: Microsoft Settlement
7314 Clearmeadow Drive
Spring Hill, FL 34606
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I think the settlement in the Microsoft antitrust case should be approved and implemented as soon as possible. That would be the best thing available now for America's computer technology industry, America's economy, and the American public.

Personally, I think America should not penalize successful companies like Microsoft for doing a good business, with good products, with tremendously beneficial innovations, with good, honest accounting and accountability.

The settlement will require Microsoft to give up its legal rights to its software and business practice in return for not being subjected to further costly, disconcerting litigation and the possibility of being split up, as AT&T was. For two examples, Microsoft will give away to its industry the software codes for the internal interfaces to its Windows operating system programs, and it will end its legitimate practice of requiring computer manufacturers that want to put its Windows operating system on the computer they build to put it on all or none, and as an integrated package of program or not at all. These changes, and others, will help the other companies in the computer industry.

I appreciate your leadership in settling this case, and ending the litigation against Microsoft. Let's get America back to work. Thank you.

Sincerely,
Clara J. Jones

MTC-00026485

From: JasonY
To: Microsoft ATR
Date: 1/26/02 10:11pm
Subject: Microsoft Settlement

I'll make this short and sweet.

I disagree with the current form of the MS/JD settlement. I believe it amounts to nothing more than a slap on the wrist for MS and an insult to consumers. I believe Microsoft's past behavior (even under legal restraint) clearly demonstrates that they will disregard any but the strongest measures designed to modify their behavior. Consumers suffer when an unrepentant and unfair monopolist like Microsoft is allowed to continue behavoir that is damaging to the marketplace and competition.

Thank you for your time.
Jason Young

MTC-00026486

From: Herbert Dyke
To: Microsoft ATR
Date: 1/26/02 10:16pm
Subject: Re:"Microsoft settlement"

Sirs:

It has been brought to my attention that there is great conflict regarding the Tunny Act soon to be before you.

I strongly believe that the proposed settlement offers a reasonable compromise that will enhance the ability of seniors and all Americans to access the Internet and use innovative software products to make their computer experience easier and more enjoyable.

Yours Sincerely,
Senior Citizen,
C. Herbert Dyke, Jr.

MTC-00026487

From: Avonia Sullivan
To: Microsoft Settlement
Date: 1/26/02 10:14pm
Subject: Microsoft Settlement
Avonia Sullivan
416 Construction Drive
Mayfield, KY 42066
January 26, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Avounia Sullivan

MTC-00026488

From: richman@mail.mac.com
To: microsoft.atr(a)usdoj.gov
Date: 1/26/02 10:18pm
Subject: Microsoft settlement

To the Court:

As an end user (consumer) of computers for the past 20 years, I find the proposed settlement by the Justice Department to be woefully inadequate. My objections concern both the remedies and the lack of consequences if the stipulations of the settlement are violated by Microsoft.

Consumers like myself are slowly but surely being forced to use Microsoft products if we want to get ahead at work or use computers to make our lives more enjoyable at home. The tactics that Microsoft used to put itself in this position were found to be illegal, meaning that consumers would likely have had alternatives if Microsoft had been an ethical, law abiding corporation. I don't see any of the remedies addressing the dearth of consumer choice in PC operating system components or PC office productivity software.

As a consumer, the rise of Netscape in the mid 1990s signified an era where the computer desktop became a richer environment to work in.

No longer were computer users relegated to a mediocre Microsoft Windows environment as there was a nascent, competitive environment whose centerpiece was not the operating system, but rather the web browser. As Microsoft illegally choked off Netscape's ability to generate revenue, the internet became a stifled environment that now requires Microsoft products to function properly. This is serious as Microsoft has become the gatekeeper for every activity of every user of the internet. Microsoft has not demonstrated the ability to be ethical, trustworthy, or law-abiding in this critical role.

As such, I believe that any remedy of this antitrust suit should contain severe enforcement penalties if Microsoft violates any of the remedy provisions. Severe entails any penalties that would jeopardize Microsoft's future business prospects. This includes divestiture of the Windows operating system from other parts of Microsoft and/or publishing the source code of the Windows operating system. Microsoft has violated court orders in the past (i.e. the 1995 consent decree) so the inclusion of severe penalties is the only way to guarantee the effectiveness of a remedy ordered by your court.

To address the lack of consumer choice that has resulted from Microsoft's illegal behavior, I would prefer a remedy that forces Microsoft to publicly disclose the file formats of Microsoft Office productivity software for a period of several years. Since Microsoft file formats have become a de facto standard in the business world, this is the only way to allow competitors an opportunity to provide alternatives in the workplace, which represents Microsoft's most important market.

It is vital that the court recognizes the need to reintroduce competition into the computer software industry.

Finally, I hope you recognize the stranglehold that Microsoft has over the computer industry. Given Microsoft's unrepentant behavior of late for wrongdoings it has committed, a weak remedy today as signified by the proposed settlement will lead to more antitrust violations by Microsoft and yet another Microsoft antitrust trial a few years from now. This would be disastrous for the consumers of computers in this country.

Sincerely,
Michael Richman
3 Hawthorne Ln
Bedford, MA 01730
richman@mac.com

MTC-00026489

From: chazandjerri@northstate.net@inetgw
To: Microsoft ATR
Date: 1/26/02 10:16pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Charles Jones Jr
3406 Greenhill Dr
High Point, NC 27265–1817

MTC-00026490

From: Jason Baietto
To: Microsoft ATR
Date: 1/26/02 10:20pm
Subject: Microsoft Settlement

As an American and a strong believer in Capitalism and free markets I have been outraged countless times by the ferociously anti-competitive practices of Microsoft. I am deeply saddened that the crystal clear analysis of the U.S. government's investigators has been clouded over this past year by the sheer financial and political influence of this immense mega-corporation.

No settlement that has been discussed thus far has adequately addressed the fundamental issues that continue to allow Microsoft to keep a lock-hold on their current monopoly. The issues are their proprietary networking protocols and their proprietary file formats.

The past cannot be undone, and splitting up Microsoft or forcing them restructure their main product offerings will result in little or no benefit to users and provide little or no assistance to competitors.

However, forcing Microsoft to openly document all of their networking protocols and file formats will give competitors the keys they need to produce software that can properly integrate and compete with the many products offered by Microsoft itself. Only by enabling true competition can the process of recovery from the damage Microsoft has caused begin.

Microsoft must not only be required to document their protocols and file formats, but they must also be tested for adherence to their published standards regularly by a third party. Microsoft must incur severe financial penalties for breaking adherence to any published standard in order to subvert the ruling and continue their aggressive non-competitive practices.

Please do not let the ending to this chapter of American history be written by the corporation that has done the most damage to the system of competition that has fueled the industrial and information revolutions of our great nation.

Sincerely,
Jason Baietto
jason@baietto.com
9701 Parkview Avenue
Boca Raton, Florida 33428

MTC-00026491

From: novent@mac.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:23pm
Subject: Microsoft Settlement
to the DOJ;

The settlement with Microsoft is yet another breach of the responsibility of the government to apply laws consistently across all parties across the United States. How can the DOJ settle a case with almost no penalties when nine judges determined that Microsoft broke the law. It is not the Justice department's job to decide which laws it wants to enforce. You have to enforce them all without exception. It's a serious breach of trust when a company can knowingly break the law and continue to break the law, because it knows there will be no significant penalty. I am 100% in favor of competition and free markets, but the boundaries are clearly drawn and Microsoft has crossed the line. Please consider meaningful remedies. The future of many things depends on this case. Don't screw it up.

respectfully
donald guarnieri

MTC-00026492

FROM: E. Jerry Bailey TO: MS ATR DATE: 1/26/02 SUBJECT: Settle with Microsoft
1900 53rd Street N
Saint Petersburg, FL 33710
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: I write to you today to show my support for the recent settlement reached between the Department of Justice and Microsoft. Bill Gates has been an integral part of the building of this nation and for that matter the world's computing abilities. He has been ingenious in the running of his company. I do not believe that the federal government has the right to persecute Microsoft.

Given these sentiments, I am pleased that there may finally be some closure with this issue. Microsoft has been making many concessions to ensure that this occurs. For example, Microsoft will share information about the internal workings of Windows with its competitors, and thus allow them to place their own programs on the operating system. Microsoft has even agreed to the formation of a technical review board whose sole job will be to ensure compliance with the terms of the settlement.

The settlement offers an opportunity to end this lawsuit and returns the country's focus back on business, where it belongs. the federal government must end its pursuit of Microsoft.

Sincerely,
Edward Bailey

MTC-00026493

From: LARRY BALOK
To: Microsoft ATR
Date: 1/26/02 10:24pm
Subject: Settle for Microsoft.

Settle for Microsoft.

MTC-00026494

From: nestor@earthling.net
To: Microsoft ATR
Date: 1/26/02 10:28pm
Subject: Microsoft Settlement

Dear Sir or Madam,

I don't think the proposed microsoft settlement is good for the consumers. Microsoft uses the same tactics that the railroads used one hundred or more years ago to form monopolies. This company is bad for the US. It should be broken up into a systems company and separate application companies. The "Dos isn't done until Lotus won't run" philosophy is still alive in microsoft. They purposely put in bugs to prevent the competator's products from working right.

Thank you for your attention to this request.

Larry Nestor
email address nestor@earthling.net
snail mail address: 17692 Beach Blvd. Ste 309
Huntington Beach CA 92647–6811

MTC-00026495

From: crieth@bu.edu@inetgw
To: Microsoft ATR
Date: 1/26/02 10:26pm
Subject: Microsoft Settlement

The proposed settlement is a terrible idea that does nothing to correct the root of the problem. More strict action needs to be taken against Microsoft to ensure that their monopolistic practices do not continue. I trust in our government to prevent this from occurring. Thank you for your time.

Cory Rieth

MTC-00026496

From: Joe E Jay

To: Microsoft ATR
Date: 1/26/02 10:27pm
Subject: Microsoft Settlement;

If settlement would end litigation and prevent any split-ups of Microsoft, go for it. The taxpayers and computer consumers are tired of this, just as we were when Bell Telephone was keel-hauled and summarily split. Please resolve this situation. Just remember that we consumers are in the middle of it all, and whatever is executed in court, the final cost is eventually passed on to us.

Best Regards,
Joe E. Jay

MTC-00026497

From: Tim Spannaus
To: Microsoft ATR
Date: 1/26/02 10:27pm
Subject: comment

I have carefully considered the proposed settlement between Microsoft and the Justice Department. reading the full text of the proposed settlement and much commentary about it.

Given that the Circuit Court of Appeals upheld the judgment that Microsoft violated antitrust law, it is not at all clear how the proposed settlement provides a remedy proportionate to the violation.

Microsoft has already demonstrated its willingness to ignore remedies based on conduct. The only remedy that adequately addresses the violation is one that requires a restructuring of Microsoft. Then we can let market forces do their work. Enforcing conduct remedies is costly, slow and inefficient compared to structural remedies that, once done, manage themselves through market forces.

Of these, the clearest path to a competitive market lies in separating the operating system business from the application business. The OS business would find it in their interest to publish all the APIs (application program interfaces) to make it easier for all to work well in the Windows OS environment. The application company would find it in their interest to build programs for a variety of platforms to increase (or maintain) market share.

It is critically important that the OS company not be permitted to layer on application software, like media players, photo suites, browsers and the like or it will grow into another anti-competitive monopoly, driving others from the market. Microsoft continues to add application programs to the OS, reducing competition.

This is not simply a competitive issue. The monoculture of Windows computers, running too-tightly integrated mail and productivity suites has already proven to be an attractive and hard to defend environment for viruses and other malicious computer programs. The problem is not just that Microsoft has chsen to ignore many security problems, but that the objectives of ease of use and security are at odds when the solution is barrier-free passing of documents from one program to another. I would be pleased to expand on these ideas if necessary.

Best regards,
Timothy W Spannaus
Timothy W. Spannaus, Ph.D.
Research Fellow, Institute for Learning and Performance Improvement
Senior Lecturer, Instructional Technology
Wayne State University

MTC-00026498

From: friedman@filmmaker.com@inetgw
To: Microsoft ATR
Date: 1/26/02 10:29pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Antitrust Division:

I am a U.S. citizen writing in regard to the Antitrust settlement proposal with Microsoft.

My number one problem with the proposed settlement is that it does not sufficiently force Microsoft to open their proprietary file formats for competitors to use. Many of these file standards are now industry standards only because of Microsoft's anti-competitive practices.

To allow them to remain secret would be to (1) reward Microsoft for its illegal activity and (2) allow the company to maintain their monopoly.

Thank you,
Ron Friedman
Burbank, CA

MTC-00026499

From: wt.catch1
To: Microsoft ATR
Date: 1/26/02 10:30pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Cecil Pulley
1126 St. Julien Dr.
Eutawville, SC 29048

MTC-00026500

From: ASA D TUCKER
To: Microsoft ATR
Date: 1/26/02 10:37pm
Subject: Microsoft Settlement

This question was raised on a Philly radio call-in Without casting stones, it is a legitimate question. There are two men, both extremely wealthy. One develops relatively cheap software and gives billions of dollars to charity. The other sponsors terrorism. That being the case, why is it that the Clinton Administration spent more money chasing down Bill Gates over the past eight years than Osama bin Laden?

Let's get bin Laden. Dragging out this legal battle against Microsoft further will only benefit a few wealthy competitors, lawyers, and special interest big-wigs.

Not one new product that helps consumers will be brought to the marketplace.

MTC-00026501

From: Stephen Berman
To: Microsoft ATR
Date: 1/26/02 10:38pm
Subject: "Microsoft Settlement

To whom it may concern,
This proposed settlement is utter travesty.
Sincerely,
Stephen Berman

MTC-00026502

From: Brian Wood
To: Microsoft ATR
Date: 1/26/02 10:38pm
Subject: Microsoft Settlement

To Whom it may concern,

I'm writing this letter to state that I am not in favor of the Microsoft settlement. It is no where near harsh enough and doesn't go far enough to prevent future abuses by Microsoft.

Microsoft wants everyone to believe that they aren't the big bullies anymore, but their actions speak louder than their words. A few months ago (the day Windows XP was released to the public) you couldn't access MS NBC with a browser other than Windows Explorer. You got a message that stated they wanted to ensure that you got the right user experience so you need Windows Explorer to ensure that. The next day there was an apology from Microsoft stating that it was done in error.

We all know how Microsoft really feels and they haven't changed a bit. Why isn't Java included with Windows XP? Could it be in retaliation to Sun Microsystems? You don't have to look to hard to see Microsoft's true intentions. Microsoft proposed to donate a billion dollars worth of computer equipment, software and services. Do you really think they're concerned about the schools or out to better the market share where they don't have an overwhelming monopoly. I was insulted that they think we are that dumb to not see what they are up to. Have they really changed? These are only a couple of their actions, but what makes it extremely insulting is that they happened while they are in court over the past actions. Wouldn't you think they'd be on their best behavior instead of flaunting their supreme arrogance and belief that they are above the law? From what I've seen so far from the settlement, they have every reason to believe that they are above the law and can get away with anything they please. We barely gave them a slap on the wrist. I know it, they know it and the Department of Justice knows it. For some reason we just want this to go away.

I'm currently living in St. Joseph, Michigan and I very disappointed that the State of Michigan is one of the nine states that settled. I intend to send my Senators and Congressman a letter stating my feelings about this.

For a company that was found guilty to have made many billions of dollars illegally, is this really much of a penalty? I will be outraged if this ends up being their so called penalty. This only attempts to level the playing field from this point forward. I don't think it even goes far enough on that account, but no where do I see anything to penalize them on the past behavior. You'd think the penalty for illegally making billions and billions of dollars and forcing many software companies out of business would be equal to the crime, or more. Wouldn't you? Do I have an unusual since of justice?

Brian Wood
1378 Ventnor Ave
St. Joseph, MI 49085
brian@actionsuperstars.com

MTC-00026503

From: G (038) K Snyder
To: Microsoft ATR
Date: 1/26/02 10:42pm
Subject: Judge Motz decision DOJ,

I favor Mr. Motz's decision and rationale. If Microsoft is to place computers in poor schools they should be ordered to place the competitor1s product (Apple).

A real-world punishment of this nature would very likely teach a lesson not soon forgotten.

Gary Snyder

MTC-00026504

From: Jay Palmer
To: Microsoft ATR
Date: 1/26/02 10:43pm
Subject: Microsoft Settlement

Dear Department of Justice:

I wish to comment on the proposed settlement of United States vs Microsoft.

I believe Microsoft should be left free to produce and sell whatever software they want to. I do not believe they should be punished or restricted in any way, for they have done nothing wrong.

Microsoft has produced many good products that have greatly helped its customers. I, along with millions of other Americans, use this company's products, such as operating systems, web browsers and electronic-mail programs, every day. I am very happy with my purchases, and I very much want Microsoft to be free to offer me its best efforts for sale in the future.

Successful companies do not deserve to be throttled by the government; rather, they deserve to have their property, which they have earned through voluntary trade, protected. The complaints against Microsoft have been made by various unsuccessful competitors. These companies, along with the government, have no right to tell me what software I can buy to run on my computer, nor do they have any right to stop Microsoft from selling software that consumers everywhere are eager to buy. Microsoft has initiated force against nobody. Microsoft, and the people who want to buy their products should be left to peacefully pursue their business. Their success is not a threat to anybody.

Jay Palmer
Bothell, Washington

MTC-00026505

From: Frankie Thomas Robertson
To: Microsoft Settlement
Date: 1/26/02 10:40pm
Subject: Microsoft Settlement
Frankie Thomas Robertson
1110 Usher Street
Mayfield, KY 42066
January 26, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Thank you
F. Thomas Robertson

MTC-00026506

From: Howard L Olivers
To: Microsoft ATR
Date: 1/26/02 10:46pm
Subject: Microsoft settlement

It is time to put this issue to rest. Greed on the part of state governments and trial attorneys are the only reason for continuance. Microsoft has made a fair & just settlement.
Howard Olivers

MTC-00026509

From: Shirley Nall
To: Microsoft Settlement
Date: 1/26/02 10:45pm
Subject: Microsoft Settlement
Shirley Nall
Box 442
Salem, IL 62881
January 26, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

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Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Thank you
Shirley Nall

MTC-00026510

From: Rob Pixley
To: Microsoft ATR
Date: 1/26/02 10:49pm
Subject: Microsoft Settlement

To Whom it may concern:

I am writing you to comment on the proposed settlement in the anti-trust case against Microsoft Corp as directed by the Tunney Act.

My name is Robert Pixley. I am and have been employed as a software developer since 1993. Microsoft's behavior in the marketplace has lead us to this juncture. Unfortunately, each time the legal system has been involved the results have been either a slap on the wrist or outright travesties of justice allowing Microsoft to completely continue it's behavior.

The only sliver of common sense related to this issue was recent judge's denial of Microsoft's "offer" to supply schools with free computers and software as part of a settlement. This behavior crystalizes Microsoft's intentions; at each and every turn attempt to pervert the process and turn it to it's benefit. The offer by RedHat (a Linux distributor) to supply the software for computers purchased by Microsoft was a step forward in fixing the problems of the current marketplace. Microsoft predictably didn't take this offer up as it wouldn't have done them any good. Punishment is not meant to help the convicted. Yet Microsoft attempts this time and time again.

Microsoft has argued that the bundling of Internet Explorer (IE) into the Windows Operation System cannot be undone. For starters, this is completely false. Each and every company makes backups; so they could simply "go back in time" to a point when the code was separate and just "not" integrate it. Would this be difficult, time consuming, and expensive? Of course, but it's not Microsoft well being that should be of concern.

Next, Microsoft has said users asked for the bundling. Is there proof of this? If so, it has not been disclosed in any forum of which I am aware. From knowing many average computer users who use myself as a knowledge source of computers, I have yet to have been asked to bundle IE into Windows. Let us say for a moment that "bundling" the browser does increase usability and is generally a good thing. Then there should be a clear way to include "any" browser to do this work. If it is Microsoft saying that only IE can do the work, then that is clearly a reason they chose to integrate. And that decision specifically wounded Netscape Navigator.

If a "browser" is better at doing certain "OS" functions, than any browser should be able to do the job; not just Microsoft's browser.

Part of the proposed settlement allows OEMs to remove icons to access to IE, but IE itself still remains fully functional in the system. This doesn't stop Microsoft from in the future using the fact that their software still has it's "illegal" functionality. The functionality needs to be removed by whatever means necessary. Microsoft's arguement that Windows needs IE to function should be followed up by asking WHAT specifically the IE component does. If this can't be detailed then it's clear the bundling was done for harmful business reasons, not technical ones. If it can be explained what IE does better than Windows, then release this list. This way, Netscape or another company could create a browser to replace IE completely.

This nicely dovetails into documentation of the Windows API. Having done various programming projects that have entailed this area I can speak from experience it requires very thick volumes purchased 3rd party to understand what is going on. Nowhere from Microsoft is there a list of "all" the APIs and their specifications and usage. How can any company hope to compete when the "rules" of the game are held in secrecy by the opponent? Microsoft cannot be trusted to do this documentation and publication. History has shown they will not disclose anything until it is worse for them to not say anything. Just look to the recent Hotmail vulnerability; until the disoverer of the "bug" publically detailed his findings, Microsoft was willing to allow all it users of the Hotmail service to be vulnerable. Microsoft's response to this was to belittle the finder and say he was wrong for bringing up the problem. Microsoft does not like to have it's problems exposed; that I don't blame them for. However, when you provide the basic tool of modern economics you have different standards applied.

I suppose I could go on at length on any number of other issues but I shall close with this. Microsoft has not yet come to see that they are at fault here and need to change. This settlement does NOTHING to stop them from continuing on their current practices. The terms are so archaic and contain so much convoluted "legalese" that enforcing it will only require even more expensive litigation to determine whether or not it's been accurately followed. Stop this now and find a real settlement that brings Microsoft into understanding they are wrong. That will not be easy nor pleasant. But the consequences of allowing Microsoft to continue it's stranglehold on the computer marketplace are almost immeasurable. To understand just how much power Microsoft holds; attempt ONE day of work WITHOUT using Windows or any Microsoft product.

I wish you luck,

Sincerely,
Robert Pixley
12322 Oak Creek Lane, Apt 605
Fairfax, VA 22033

MTC-00026511

From: Scott Lewis
To: Microsoft ATR
Date: 1/26/02 10:49pm
Subject: Microsoft Settlement

I strongly disagree with the proposed settlement. The proposed settlement seems to do little to repair past damages or to prevent on-going damage to open and free competition in the computer software industry.

1. MS has eliminated virtually all competition in Operating Systems.

2. Many applications providers have been eliminated.

I feel this is due to three primary factors.

1. The size and early popularity of Windows OS.

2. The HIGHLY anti-competitive nature of previous preloading agreements.

3. The relationship of the operating system software and the applications software divisions of MS.

So long as the MS operating system division and the applications software division are under one company, the MS OS division will always (continue) to block the efforts of independent application software companies to compete against the MS application software division.

Currently the most competitive non-linix based competitor to MS Windows is IBM's OS/2 and the related eCS packaging of OS/2. Even this OS system is made uncompetitive due to MS's license requirements and royalties for software code included in the OS abandoned by MS years ago.

What needs to be done.....

1. Cut all royalties to MS that would make other products non-competitive. Perhaps cut the royalties period, since they were put in place during the period when MS was practicing it's anti-competitive policies.

2. Split the MS OS division from the MS Applications division. 3. Prohibit the inclusion of most application software with the operation system.

4. Put in place some form of incentive to utilize a non-MS operating system such as IBM OS/2, eCS Comm Station or a Linix based OS for pre-loaded computers sold.

5. Force the MS OS division to release ALL information regarding the use of all of the OS API's. There must be EQUAL access for all vendors including the MS Application division, Independent Software providers and other operating system providers.

Since the damage has already been done to the competition in the PC software business and critical mass has already been lost for alternatives to the non-MS software solutions, the remedies to the damage must be more than just to make the playing field level. There must be some form of support to the non-MS business community to bring the competition back to the table. The current remedy does not make for equal and open competition much less any form of punitive punishment for MS past anti-competitive practices. —

Scott

MTC-00026512

From: william fongeallaz
To: Microsoft ATR
Date: 1/26/02 10:52pm
Subject: Microsoft Settlement

I suggest that we accept the settlement that was worked out and stop trying to spend more money for something that has been taken care fo . It is hurting the PUBIC in many ways which includes, stock price and value dropping and loosing various mutual funds and individuals,costing more to buy software , and destroying the belief that you or anyone can start a business and make it grow. We arehelping those companies that cannot do it without the unfair help of government.

Thanking you in advance for your consideration.

Yourstruly,
William Fongeallaz
budfonz@aol.com

MTC-00026513

From: Linda Kluthe
To: Microsoft ATR
Date: 1/26/02 10:58pm
Subject: Microsoft case!

Your Honorable Justice,

I was most concerned to read that AOL has filed another lawsuit, and that the Microsoft lawsuits might go on for a longer period of time. I realize Netscape wishes to complain of competition problems, but in truth, as a consumer, God help me if I have to use Netscape software. I believe it is inferior to Microsoft products, and I want the freedom to chose the best product from the best company, and I do not want Microsoft to have to spend their profits on lawsuits. I want them to continue with research and development, so they can continue to provide the consumer with good quality products.

Developing superior products seems to be their only "crime." This has gone on long enough.

Sincerely,
Linda Kluthe
351 4th St.
Scotland, SD 57059

MTC-00026514

From: Lucy Day
To: Microsoft ATR
Date: 1/26/02 10:51pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

I am a third year undergraduate student at the University of Chicago and an American citizen. I am writing because I am outraged at the mistreatment of a truly great producer: Microsoft.

I love Microsoft's products. I have used Microsoft's operating system (Windows), browser (IE), office software (Word, Outlook, Excel), business software (Access), and programming software (Visual Studio, FrontPage). This is an extremely powerful and useful set of tools, and a set of products which far surpasses anything marketed by Microsoft's competitors.

Microsoft is part of my life: my schoolwork, my job, and my recreation. I want to be able to choose to keep buying and using such products. No one in the computer industry or the government should make them have to change what they sell, or share it, or charge less for what they produce.

A successful business like Microsoft is an enormous benefit to the consumer, not a threat. Microsoft offers consumers a trade: their products for our dollars. No one is required to choose Microsoft: each consumer makes his own decision. I do not ask that everyone agree with my choice, only that everyone be allowed to choose. When people do choose Microsoft, as they have done in enormous numbers, Microsoft should be lauded, not blamed.

The people who blame Microsoft for its success are the ones who can't succeed. Microsoft's competitors dragged Microsoft to the courts, not Microsoft's customers. To let the worst producers chain and persecute the best ones is not only unjust, but disastrous for the industry and its consumers. I truly hate to think what the world would be like if Microsoft were picked apart by its jealous, inferior competitors. Not only would industry standards fail, entrepreneurs in any field will lose hope and forsake ambition. Penalizing Bill Gates for his innovation and effort is no way to encourage future generations of businessmen and inventors. His customers have given him his hard-earned rewards—and in a free society, he would be allowed to keep them. America is home of the self-made man; it is home of the right to life, liberty, and the pursuit of happiness; it is the home of the right to the property one has earned; it is the home of a government designed to protect that property.

The government should leave Microsoft free to do business with its customers and partners.

Sincerely,
Lucy Day Werts

MTC-00026515

From: Barbara Wilke
To: Microsoft ATR
Date: 1/26/02 11:01pm
Subject: Microsoft Settlement

Letting a power such as Microsoft get away time and time again will RUIN this industry. Give other corperations (such as Apple, Sun, And Linux Boxes) some chance, because MICROSOFT DESTROYED EACH ONE. If you alow Microsoft to continue it's practices you can kiss Internet freedom and your Credit card numbers goodbye.

MTC-00026516

From: Harold Sullivan
To: Microsoft Settlement
Date: 1/26/02 10:48pm
Subject: Microsoft Settlement

Harold Sullivan
416 Construction Drive
Mayfield, KY 42066
January 26, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Thank you
Harold D. Sullivan

MTC-00026517

From: Bob S.
To: Microsoft ATR
Date: 1/26/02 10:52pm
Subject: DOJ and others

Its like Beta and VHS one wins the other is second and if people wanted other operating systems they will get and use them. AOL is looking for free money to cover their screw-up as well as those lawyers looking to profit from a few that just don't like Microsoft. We all have choices that we can make without those blood sucking lawyers and money loosing .coms looking for a free ride. Thank You from 98%

BobSnow, Aberdeen WA.

MTC-00026518

From: Solomon Akhimienmhona
To: Microsoft ATR
Date: 1/26/02 11:03pm
Subject: Microsoft Settlement

The Department of Justice,

I must comment that all allegations made against the Microsoft Organization are uncalled for,

They were the first to start making reasonable operation systems and friendly Graphics User interfaces and then they made what I would call the best web browsers. Due to the nature of Microsoft's versatility it has been able to get through the nooses of many Computer hardware, software and networking products and companies, as such, creates very little competioin for similar younger companies who create programs that can't withstand Microsoft's in the Market.

Furthermore, taking note of the market situation, the public buys more Microsoft products than others- remember, the choice of purchase still remains in their will, that simple facts demonstrates the relative efficacy of microsoft products.

In addition, logic has it that the longer you stay, the wiser and better you become, Microsoft has been around for a long time, as long as when the major public started becoming computer freindly as such they have had chances to improve thier products and services(e.g MSDOS 3.0 to Windows XP amongst others).

Finally, I feel that microsoft has been one of the best things that have happened to the computer industry and they should be let alone to produce better products and services along with other IT industries in a healthy competitive manner.

Solomon

MTC-00026519

From: SPRURE@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:03pm
Subject: Microsoft Settlement

250 Kimbary Drive
Centerville, OH 45458
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I feel that the Microsoft antitrust case has gone on long enough and that it is time to resolve this issue permanently. I understand that this can happen in the near future.

This settlement will benefit the economy, the industry, and consumers. Under this agreement, Microsoft must share more information with other companies, such as: disclosing information about certain internal interfaces in Windows and certain software codes and books for review by a technical oversight committee created by the government. Competing companies can opt to sue Microsoft if they feel the company is not complying with this agreement.

Allowing Microsoft to devote its resources to innovative practices, rather than litigation, will benefit all of us. I am eager to see the settlement, it its current, fair form, implemented and enforced. I sincerely hope that the Department of Justice can focus on that issue rather than allowing more valuable time to be wasted on continued negotiation.

Thank you.

Sincerely,
Russell Spruill & Family

MTC-00026520

From: Christopher Hoess
To: Microsoft ATR
Date: 1/26/02 11:06pm
Subject: Microsoft Settlement

Greetings,

Having reviewed the Revised Proposed Final Judgement against Microsoft Corporation at <URL:http://www.usdoj.gov/

atr/cases/f9400/9495.htm>, I feel as a consumer and developer of software products, and a producer of electronic documents, in the areas affected by the anticompetitive practices of the Microsoft Corporation, that the Revised Proposed Final Judgement does not offer an adequate remedy for the effects of those practices.

Specificially, the original complaint against the Microsoft Corporation was made with regard to their attempts to eliminate competition in the web browser market. I feel that the current judgement has not sufficiently redressed the damage done to the World Wide Web, and furthermore, is not necessarily sufficient to prevent the Microsoft Corporation from continuing to monompolize that market. My reasons are as follows:

1) Many guidelines exist for the creation of electronic documents to be distributed over the World Wide Web, such as W3C Recommendations <URL:http://www.w3.org/TR/> and "Requests for Comment" issued by the IETF <URL:http://www.rfc-editor.org/>. In practice, different web browsers tend to implement these standards and recommendations in a "quirky" fashion, so that certain parts of these standards will be better implemented than others. In a robust browser market, content created for the World Wide Web will tend to incorporate only the parts of the standards which are supported by the majority of browsers. However, with the increasing dominance of Internet Explorer in the browser market, the content appearing there has shifted towards documents which are "optimized" for viewing by Internet Explorer. Furthermore, the appearance of some of these documents takes advantage of bugs in Internet Explorer, so that a correct implementation of the standards and recommendations will result in a degraded browsing experience. Because of the "poisoning" of web content created by this near-monoculture, alternative browsers will find it difficult to gain acceptance in the market even if Microsoft is barred from retaliating against OEMs shipping them, because current web content is essentially written to the undocumented behavior of Internet Explorer rather than current standards. I believe that Microsoft should be made to provide restitution for its takeover of the browser market, one component of which might be directed at this issue. To help redress the imbalance between Internet Explorer and other browsers due to the state of web content, an additional behavioral remedy should be to require Microsoft Middleware to respect standard protocols. To wit: Middleware such as Internet Explorer, which purports to implement "standard protocols" (that is, those defined by recognized consortia or standards bodies, such as the ISO, ECMA, the IETF, the W3C, and so forth), should be forbidden to retain known and corrigible breaches of those standards (known in Internet Explorer, for instance, as "doctype switching") in new releases of these products. This would simultaneously diminish the unlawfully obtained ability of Internet Explorer to render current content on the web in a manner superior to current browsers, and increase the relevance of the publically available standards for web content.

2) More importantly, there appears to me to be a loophole in the current settlement which Microsoft could attempt to use to avoid losing its dominance through Internet Explorer. The Revised Proposed Final Judgement specifies that Microsoft is not required to divulge information which might "compromise the security of a particular installation". Currently, one important use of Internet Explorer on Windows operating systems is to obtain authenticated security patches from the Windows Update website <URL:http://windowsupdate.microsoft.com/> and install them. Microsoft could potentially argue that the authentication of patches and their automatic installation is protected information under that clause of the Revised Proposed Final Judgement, and thus require the installation of Internet Explorer to obtain such patches from the Internet. Since the timely installation of patches is essential for Internet-connected users, this would essentially require OEMs to ship Internet Explorer with the operating system. However, such security updates make use of a very small portion of the Internet Explorer functionality; contrast with the small utility programs "apt-get", "dselect", and "dpkg", used by the Debian distribution of the Linux operating system. Any Proposed Final Judgement should make provisions to avoid Microsoft bundling unnecessary Middleware by adding security-related functions to it, much as Internet Explorer was bundled into the Windows operating system.

In conclusion, I feel that the Revised Proposed Final Judgement would neither adequately make reparation for the damage inflicted by Microsoft's illicit acts, nor would it prevent Microsoft from continuing to maintain its current monopoly of the browser market in the face of reasonable competition.

Christopher Hoess

MTC-00026521

From: kenboyer
To: Microsoft ATR
Date: 1/26/02 11:07pm
Subject: microsoft settlement

I am in favor of the proposed microsoft settlement. I think the proposed settlement is fair for all sides, and most importantly gives microsoft a chance to concentrate on software and not legal issues that do not affect the end user.

ken boyer

MTC-00026522

From: Johnny L Haynes
To: Microsoft ATR
Date: 1/26/02 11:12pm
Subject: Microsoft Settlement

Please end this farce and let consumers be in charge again.

MTC-00026523

From: George W McCarthy
To: Microsoft ATR
Date: 1/26/02 11:24pm
Subject: MICROSOFT SETTLEMENT

PLEASE BRING THIS CASE TO A CLOSE AND LET US GET ON WITH THE FUTURE IMPROVEMENT OF OUR ECONOMY. THANKS.

MTC-00026524

From: Helgi Heidar
To: Microsoft ATR
Date: 1/26/02 11:15pm
Subject: Microsoft vs.DOJ litigation

I wish to encourage early and prompt settlement of this litigation, which in my opinion is only slowing progress in technology as well as having adverse effect on the US economy. Let us move forward.

Helgi

Heidar MD, Chehalis WA

MTC-00026525

From: Lainie Howard
To: Microsoft ATR
Date: 1/26/02 11:29pm
Subject: Microsoft Settlement

Please don't let Microsoft get away with this feeble settlement. Sure, lots of school children would benefit under their proposed terms, but where is the penalty Microsoft should also pay to directly benefit the many companies they've smashed with their unfair practices??

Lainie Howard
Quicksilver Communications
lainie@quicksilvercomm.com
V: (541) 738-8464
F: (541) 757-7445
http://www.quicksilvercomm.com/

MTC-00026526

From: George Bethel
To: Microsoft ATR
Date: 1/26/02 11:32pm
Subject: Microsoft Settlement

As per the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16, aka: the "Tunny Act", I would like to render a thought in the matter of the United States v. Microsoft.

Being in this business most of my life, starting at age 11, I can say that Judge Jackson's "Findings of Fact", dated 5 November 1999, was a highly accurate document, and I hope that his conduct with the press does not taint the validity and accuracy of the document. Microsoft has unabashedly bullied, badgered and demolished an industry that was ready to exceed years ago.

Anecdotically, I offer the following as proof. In the time following Judge Jackson's "Conclusions of Law" based on the "99 Findings of Fact, the entire industry has undergone a revival. Sun Microsystems has released the Java2 specification and Oracle has made two major releases of its database software. Further, IBM, which has long since abandoned its desktop development efforts, released a long awaited patch to OS/2, an advanced Operating System that could have won out against Windows in fair market situation. IBM has also started a sweeping change in adapting Linux to run on their entire product line; a change that could not have been thought of had IBM feared Microsoft retaliating for setting a non-Windows standard.

Apple Computer Inc., who has seen it's market decimated by a product that borrowed liberally from Apple's own research, has released no less then 5 major revisions of its MacOS, a company that before then, released revisions every 18 months. Apple Computer

Inc. then stopped its releases when Windows 95 was released. While some of the releases were stopped up by its very public internal problems, most of Apple's releases were allowed out because "it was safe to do so". Microsoft will continue to copy the MacOS, but with the Findings of Fact and Conclusions of Law over its head, Microsoft could no longer stop companies from developing for MacOS, fearing the "Oppressive Thumb", as Judge Jackson called it.

The above listed were the lucky companies; others have not fared so well. As I write this note (with apologies in advance for it's length), Be Inc., had its last assets auctioned off. In retrospect, Be never had a chance; it is not possible to create a new Operating System in a computing world dominated by a company and product, as opposed to being dominated by technology, as it was before Microsoft came into the monopoly position it currently enjoys. Another casualty was Silicon Graphics Inc., which just signed over the bulk of its technology patents covering three dimensional rendering to Microsoft. The cost to Microsoft was $62.5 million; the cost to SGI was the very reason for its existence in the computer business. Unless SGI has something up it's sleeve, this company will go away. The postmortem of SGI will have Microsoft's marks all over it. The list can go on, and include some unlikely "allies" of Windows products such as Compaq, Acer and Hewlett Packard, but in the interest of brevity, I will leave this be.

In Microsoft's defense, it is impossible to assign a direct "cause and effect" method to most of the company's actions and the resulting damage to the computer industry. They were more "enablers" that triggered a chain of events that stopped the industry in its tracks for four years and counting. The industry theoretically could have embraced "thin client" computing, pushed by Sun and Netscape Communications (see Finding of Fact, page 10, page 34), and embraced by Apple and IBM; but it didn't. Apple could have competed differently and slowed, or even stopped, Microsoft in the marketplace; or even in the courtroom, had they argued things differently.

But things that can be proved in a courtroom as "Cause and Effect" should be enforced to the full extent of the law, in the same manner that a known murderer and bootlegger can be convicted of Income Tax Evasion.

Microsoft, in no uncertain terms, demolished an industry for its own purposes. However, this brings up our, and your, largest problem: the damage is done. Nothing the court imposes can bring back the companies that died in the process of moving the industry forward. Nothing the court does can uproot the millions of people who have tied their future to Windows, and will resist anything other than their familiar product. Nothing, including the complete and utter destruction of the Microsoft Operating System and supporting company, can repair the damage done to the industry. The court can't even ensure that Microsoft won't find a new way to harm the industry.

At most, all the court can do is unlock the shackles imposed on it by Microsoft. And hope that is enough.

Respectfully,
George S. Bethel
CC:Bill Douthett,Alex Nguyen,Arthur Wu

MTC-00026527

From: beattymp@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:34pm
Subject: Microsoft Settlement—Correction

Please forgive the inaccuracies of my previous email that was sent last night. This is a corrected version of my position on the settlement.

Let me begin by saying that I completely support the settlement and want this entire case brough to completion. Below are some thoughts that came to mind while reading the case against Microsoft.

First of all, the whole browser issue is a complete waste of time for every party involved, and it makes me sick to my stomach to think of how much money my government has wasted chasing this irrelevant case. As a technology consultant who has vast experience in many software platforms, the issue of the browser is ridiculous because any programmer worth their weight in beans could easily program their own browser to any operating system. Netscape had a commanding lead in browser share, which was wasted away by their own business policies.

I used to have a lot of respect for Netscape when I was consulting and building applications on their on their platform, but then I saw how their pricing and arrogance stifled innovation in the functionality and integration capabilities of their version of the browser. Microsoft made it much easier to incorporate more functionality and extend the web experience for their users.

This was also true with Java. It was great when it first came out, as the promise of the technology was the sweetest thing to hit the industry in a long time. By keeping such a tight hold on java, Sun has not only missed opportunity to advance the language, but they have kept many companies from innovating the language to provide a feature set that meets the needs of enterprise customers. When Microsoft added to java, they were only meeting the needs of their customers by filling the void in functionality that Sun refused to provide. Other companies have done the same, IBM, BEA, and others to the point that it takes a "port" of the code from one operating system to the next. This is completely opposite of what the early promise of java was "write once, run anywhere". To meet the needs of my business customers, we always have to find a vendor specific java such as IBM so that we can get the features out of the language that make it usable. If the language was submitted as a standard, these enhancement's would have been made to the language. Instead, Sun has kept the royaltees on all java licensing and has caused the rest of the industry to innovate around their stubbornness. Needless to say, I can better meet the needs of my customers by using another vendors "flavor" of java versus the straight Sun implementation.

The thing that bothers me the most about this case is that most of the "facts" (using the term loosely since I completely disagree with the previous findings of "fact" by the biased judge Jackson) brought to the government's legal team have come from Microsoft competitors, the ones who have the most to gain by hurting Microsoft. I have explained my thoughts on Sun, java and Netscape, and they are just a sampling of why this case should have never made it to the courts in the first place. To blanket this whole case and say that Microsoft is not allowing the industry to innovate is completely ridiculous. Microsoft should be punished for specific actions that have violated the law, and only for those specific actions. Given the amount of venture capital money that was fed into the economy over the last 10 years, there was plenty of opportunity for any company to come to market with new and compelling products. In regards to the settlement, it appears that both sides have made significant concessions to see this to an end. Ever since the DOJ brought this case against Microsoft, the economy has been in a tailspin. It appears that as long as this case is active in the courts, the chains of "waiting to see what happens to Microsoft" will remain, and the economy will remain stale. This tailspin has rippled into other industries and if we are ever to start recovering from this recession, this case needs to be completely settled and resolved.

Please bring this case to an end and let our industry regulate itself. If people are seeing unethical or extremely competitive behavior, they can make their own decisions on who to support with their IT dollars. If companies are explicitly breaking the law, punish them for those specific acts and do not bring the rest of the industry down (and in this case, the whole economy) with them.

Thank you,
Michael Beatty
CC:beattymp@yahoo.com@inetgw

MTC-00026528

From: Joon Hong
To: Microsoft ATR
Date: 1/26/02 11:36pm
Subject: Microsoft Settlement

To whom it may concern:

I'd like to borrow this moment to voice my comments on the Microsoft antitrust settlement.

It is my belief and assessment that the settlement which is currently being proposed is totally against of the American Public's interest, as Microsoft is clearly found to be monopoly in the findings of fact in the trial. Using a series of questionable business/engineering practices to gain software market share has put Microsoft at such unreachable place that the current proposed settlement is not going to be effective at all to bring it down to fair competing level.

It is ironic that this email is being written in hotmail which was "purchased" by Microsoft..

thank you,
J. Hong

January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW

Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to voice my beliefs about the November 2001 proposed settlement reached between Microsoft and the government. First, the Department of Justice never should have sued Microsoft. It was completely wrong. Microsoft should not be forced to litigate its business practices beyond what has already transpired. As a Christian, I believe that the government was strictly motivated by greed.

The settlement constitutes a great opportunity for this country, putting disputes to rest, and allowing Microsoft to progress through continued innovation. Microsoft has agreed to have a government appointed watchdog monitor their business practices. If Microsoft breaks any term of their settlement, they will be held responsible for their actions. This is good enough for me to see Microsoft agreeing to be monitored.

The government has moved away from these values as I see it, becoming much bigger than itself, not by the people, or for the people, but by those who run the people, who own the people. As a person who lives by the good word, the people are speaking, I am one voice crying out in the wilderness, "Let Microsoft continue onward, support this settlement without any further punishment or actions against them." This is in the best interest of Microsoft, the government, and the economy and for this nation.

Sincerely,

Bruce Cartwright

MTC-00026420—0002

MTC-00026529

From: alindon@cinci.rr.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:34pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

andy w. lindon
3238 moyer dr.
franklin, OH 45005–4637

MTC-00026530

From: J. Eric Humphreys
To: Microsoft ATR
Date: 1/26/02 11:38pm
Subject: Microsoft Settlement

Gentlemen and Ladies,

I have read the revised proposed Final Settlement for the antitrust case between the U. S. Government and Microsoft. I agree that Microsoft is guilty of monopolistic practices but I doubt that the Settlement will do anything to punish Microsoft for its past practices or prevent Microsoft from employing similar practices in the future.

I wish to draw your attention to the the criteria listed for membership on the Technical Committee which is supposed to monitor and enforce this agreement. I believe that, as worded, it will be extremely difficult to obtain qualified people to serve on this Committee. Specifically: The requirement that the members must forego employment by either Microsoft or its competitors for two years after such service (IV.B.2.c) is likely to discourage many qualified people from membership on the Committee. People who are experts in software design and development (IV.b.2) know that employment in this field can change suddenly. A limit of six months after service would be more reasonable.

There appears to be no definition of "competitor" anywhere in the document. This would make it easy for Microsoft to object to any proposed member for the Committee that Microsoft deemed detrimental to its business. Some clear definition of the term, or at least a set of guidelines which can be used to determine whether a given business is or is not a competitor, needs to be established.

The requirement that the members of the Committee by proposed within seven days of entry of the final Judgement (IV.B.3) requires that the plaintiffs and Microsoft already be in discussions with prospective members. It is unrealistic to expect qualified people to receive and accept membership on such a Committee when the pay scale has yet to be established (IV.B.6.b). When a case has dragged on this long why quibble over a few days? One or two months might be a more reasonable period for selection.

I hope that you find these comments useful. As background information: I am a Senior Consultant for Sybase, Inc. I have been a software developer for twenty years, mostly as a contractor to the Department of Defense. Most of my work for the past four years has been under the Windows NT operating system. At home I use Macintosh computers, and have for over sixteen years.

I may be reached at:
6625 Windsor Ct.
Columbia, MD 21044
410–730–6533
E-mail:
humphreys1@home.com (will be humphreys1@comcast.net after 28 February 2002)
erich@sybase.com

Sincerely,

J. Eric Humphreys

MTC-00026531

From: Trance Kuja
To: Microsoft ATR
Date: 1/26/02 11:39pm
Subject: Microsoft Antitrust Case

Dear US Department of Justice,

On the Microsoft Antitrust case, many issues concern us. As part of the public, we have views which we wish to be expressed during Microsoft's trial. The two main issues are Microsoft's bundling deal and the settlement with the states.

Microsoft should be able to have the states receive the money and forget the case. It is fair only if the money given is able to compensate for any damages/losses due to Microsoft. As John D. Rockefeller said during the Preliminary Report on Trusts and Industrial Combinations there are many advantages to trusts and other forms of ?industrial combinations.? He lists a few of the most significant advantages as ?extension of limits of business, increase of number of persons interested in the business, and power to give the public improved products at less prices and still make profit for stockholders.? Additionally, he also stated that ?combination is necessary and its abuses can be minimized,? meaning that there are minimal disadvantages which, in fact, are so trivial that they should not be any concern.

The major cause of the trial is Microsoft's action of ?bundling? software. Bundling software is a result of combining products together and having them sold without separation. Thus, people would not spend the money to buy an additional program when they already have a substitute. This has caused the Netscape/Microsoft Trial. This trial has been caused after a complete reversal in Internet Browser Usage. Around 1995 when Netscape launched its first browser, about 80% of the ?web surfers? used their software. Additionally, Microsoft had virtually none. Now, there is a complete reversal in which only about 10% of the Internet browsers used are not Microsoft's Internet Explorer. Netscape is part of that 10%, and bundling causes this whole dilemma. In addition, Microsoft's bundling its web browser with its operating system is absolutely fine. This is because if Netscape had an OS, it could also bundle, but it chooses not to. Thus, the representatives of the public should allow Microsoft to pay the states. In the case with Netscape, the courts should not punish Microsoft since Netscape could do everything Microsoft has done.

MTC-00026532

From: Catherine Hanneken
To: Microsoft ATR
Date: 1/26/02 11:41pm
Subject: Microsoft settlement

It is time to end this costly damaging litagation at Taxpayers expense It only benefits a few wealthy competitors, LAWYERS always there to spend our money for their business and special interests.

Lets get on with the situations that are more important within our higher offices.

Catherine Hanneken
4 Spencer Lane
Watchung, NJ 07069

MTC-00026533

From: travel4me@att.net@inetgw
To: Microsoft ATR
Date: 1/26/02 11:45pm
Subject: Sir;

Sir;

I FIND IT INCONCEIVABLE THAT A CAPITALISTIC SOCIETY'S GOVERNMENT AGENCY WOULD INTERFERE WITH A

COMPANY THAT GENERATED A INDUSTRIAL BOOM, AND ALLOW THE PUBLIC SCHOOL SYSTEM, A FAILURE, TO REMAIN A MONOPOLY WITH INCREASED FUNDING WITH TAXPAYERS MONEY.

SINCERLY,

Eva s. ates

MTC-00026534

From: David M. Reed
To: Microsoft ATR
Date: 1/26/02 11:45pm
Subject: Microsoft Settlement

For the past two years I have compared Microsoft to someone who appears in court for breaking the speed limit—doing 75 MPH in a 65 MPH zone. One of their primary arguments is that things have changed—that stretch of road now has signs posted for 75 MPH— and therefore they can not be guilty of breaking the law. In fact, they believe the limit may soon be 85 MPH in that area, so their actions were well within the law!

In other words, they don't believe the law applies to them. And if it did, things are changing "so fast" that it is irrelevant—for the "natural order of things" is such that they should not be found guilty of violating a 65 MPH law since whatever they might have done wrong then doesn't apply today or tomorrow. I have been involved with support of Microsoft products for over 15 years now. When Microsoft Windows 3.1 was appearing, I learned of Microsoft practices which I considered unethical. That behaviour continued (and to a great extent, got much worse over the years), but I did not know that much of it was actually illegal until I read the Department of Justice document against Microsoft in 1999. In particular, I quickly and clearly understood that what might be unethical for a new or small company could become illegal when done by a company which has a monopoly.

Having a job which involves supporting various operating systems and applications, I understood very clearly a number of facts which Microsoft, in their arrogance, felt that a judge could never understand and rule on. I was shocked by Microsoft childish attempts to claim they did not have a monopoly with their Operating Systems! I understood very clearly that a browser is an application (something the user directly interacts with) that was NOT a part of the OS, no matter what Microsoft did to "integrate" it—for if it were really a "part of the OS", then you could NOT run it on other operating systems, such as the MacIntosh or various Unix systems. Thus, to have included a major application "for free" (or "bundled") with the OS for which they have a monopoly is clearly using one monopoly to achieve another—at the clear expense of competitive products (and thus to the detriment of consumer choice, usability, etc.).

I was thrilled the court found Microsoft clearly guilty of these violations of law. But then, to my great dismay, they were to negotiate a "settlement". When was a murder, a car thief, or anyone else guilty of violating a serious crime against the community, ever allowed to "negotiate" or given any opportunity to propose how they should be punished!

I am angered by the extremely weak "settlement" the DOJ has proposed. I find it only slightly might limit some part of Microsoft's future actions. (But I doubt that, as Microsoft's brilliant minds have already demonstrated they will come up with some way to circumvent the law and rulings, such as their "integrating" the browser into the OS so that it could not be considered a separate application, and thus could not be "bundled". In other words, they moved to make it appear they could not be guilty of using one monopoly —the OS— to obtain another monopoly —with browsers— for they could then claim the browser was not "separate", and being "part of the OS", they could not have violated any law!) And there is nothing I can find that actually might be considered a —punishment— of Microsoft for having broken the law! They continue to flagrantly break the very same laws even now! (After all, if there is seemingly no punishment, and they can earn billions of dollars per month doing so, then they can certainly afford millions of dollars per month to tell the U.S. government that the laws do not apply to them.)

What they did to Netscape and the browser market was NOT the first time they have utilized their monopoly position to extinguish a competitor—they had done it many times before. Their recent Windows XP release clearly shows they are continuing to do that. With that, the cost of the OS continues to stay the same (or increase), in comparison to the PC hardware market, where choice abounds and every couple of years you can buy more than twice the system for less.

Name virtually any computer hardware component, and you will find a multitude of competitors, offering increased performance and features, and continually declining prices. That is NOT happening in the OS market.

The browser competition made it hopeful that the choice of OS would become very unimportant. Microsoft has worked hard to make it so that there are almost no other viable browser competitors. (And since one comes free with the OS which is sufficiently capable, why would anyone consider getting an alternative—whether it cost money or was free.) Worse, Microsoft continues to do things to make it so that users will only want to use their browser, by implementing "non-standard" features, or by NOT implementing standard features. Or even when they set the defaults for web page creation using their FrontPage program which are set to function best (or even only) on a PC (preferably with their Internet Explorer).

Again, their tactics are more than simple "free market competition". And there are laws against it (even if they or others don't think those laws should apply). And they have been found guilty of violating those laws. Now it is up to the court to do two very crucial things:

1) Assure Microsoft is SEVERELY PUNISHED for having flagrantly violated the law (including "thumbing their noses at the court", plus their continuing violation, which they don't believe is "wrong").

2) Structure a "remedy" that will help prevent (or at least seriously discourage) Microsoft from doing more of the same —and similar— violations.

In the early 1990's, not knowing they were actually violating laws, I strongly proposed to many people that a kind of "Chinese wall" be created in Microsoft so that the OS groups are nearly fully isolated from the application groups. I have been convinced for years that Microsoft should be literally broken up into separate companies.

The only change in my belief is that now instead of two companies, they should now be broken up into at least three: OS, applications, and media/internet.

I firmly believe that is best for the consumers, and for the court system. (Overseeing Microsoft is neither good for the company nor the courts nor the consumers. So long as Microsoft remains one company with so many parts, and such a background of behaviour, they will continue trying to circumvent the law, ending back in court a lot.) If Microsoft were a "person", the only way to prevent them from their habitual criminal activity would be to "lock them in prison", where they would be less capable of harming the consumer! (And as punishment for their crimes, together with payment of fines and possibly confiscating the property they used in, and for, committing their crimes.) It seems rather harsh, and may even jeopardize some of my career (that has been spent so extensively in supporting Microsoft products). But I know that consumers have been hurt, I know that Microsoft has broken the law, I know that Microsoft does not want to obey the law (they truly believe it does not apply to them!), and that for justice to be done, Microsoft must be punished, and prevented from further crimes against consumers and the market. In advance I thank those involved who will NOT consider these issues politically, nor simply approach it as allowing Microsoft to "buy their freedom to violate the law". Please see that justice is done. (And since they show not even a semblance of guilt or repentance, mercy does not need to be considered!)

David M. Reed david—m—reed@hotmail.com

Hm 360–653–8673 Wk 425–335–2460

MTC-00026536

From: Andrew McKenzie
To: Microsoft ATR
Date: 1/26/02 11:46pm
Subject: Microsoft Settlement

Respectfully, I see a few problems with the Proposed Final Judgement in the Microsoft Antitrust Case:

The Proposed Final Judgement doesn't take into account Windows-compatible competing operating systems;

The Proposed Final Judgement Contains Misleading and Overly Narrow Definitions and Provisions;

The Proposed Final Judgement Fails to Prohibit Anticompetitive License Terms currently used by Microsoft;

The Proposed Final Judgement Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft;

The Proposed Final Judgement Fails to Prohibit Anticompetitive Practices Towards OEMs;

The Proposed Final Judgement as currently written appears to lack an effective enforcement mechanism.

Thank you,
Andrew J. McKenzie

MTC-00026537

From: jbarrett06@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:44pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Myrna M Barrett
P O Box 660
Linden, TX 75563-0660

MTC-00026538

From: csbatchelder@juno.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:49pm
Subject: MICROSOFT SETTLEMENT

To Whom It May Concern:

I strongly recommend that the litigation against Microsoft be dropped it has been well served and the time to end this costly and damaging litigation has come.

The Settlement will certainly be in the "publics best interests." Consumer interests has been well served and it is time to STOP. So please settle it NOW.

Thank you.
Sincerely
Orvella Batchelder

MTC-00026539

From: crewcut@erols.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:46pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

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This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Ron Pillar
2001 Ruffs Mill Rd.
Belair, MD 21015

MTC-00026540

From: dmwworking@msn.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:49pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

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This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
David Wallace
Box 22
Springdale, WA 99173-0022

MTC-00026541

From: lmath
To: Microsoft ATR
Date: 1/26/02 11:53pm
Subject: Microsoft Settlement

Enough is enough, this is a just and more than fair settlement for a company that gave us software and charged us nothing for it! Let the whiner's shut up and take the profits they didn't deserve!

Please we as a country are at war. Enron and thousands of its employee's are bankrupt. Why continue a suit against a company that hurt no one instead of dealing with real issues like war and bankruptcy?

Settle this suit!
Lynette Matheson

MTC-00026542

From: vincehohn@aol.com@inetgw
To: Microsoft ATR
Date: 1/26/02 11:52pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
James Hohn
PO Box 237
Jefferson City, MT 59638

MTC-00026542—0001

MTC-00026543

From: Christopher A. Smith
To: Microsoft ATR
Date: 1/26/02 11:55pm
Subject: Microsoft vs U.S.

The only way to stop Microsoft from abusing its monopoly power is to take its monopoly away. The company needs to be split into several entities with their own Operating Systems divisions so that they would have to compete against each other for market share. The operating system should not be allowed to bundle software such as Internet Explorer or Windows Media Player. This should be left up to the computer manufacturers to add value to their systems.

This would further benefit consumers in allowing more competition and bringing down prices even lower than they are now.

In addition to splitting up the company, Microsoft needs to pay damages to companies that were harmed by Microsoft's illegal practices. Netscape, Corel and Apple Computer are just a few of that were severely harmed.

Sincerely,
Christopher A. Smith
Docs4Macs
Doctor of MacIntology
Phone: (804) 839-5422
e-mail: chris@docs4macs.com

MTC-00026544

From: J J Simas
To: Microsoft ATR
Date: 1/27/02 12:02am
Subject: Microsoft Settlement

I have been following Microsoft's business methods for some time. And as a graduate of both Computer Science and Philosophy, I have excellent qualifications for opining on this settlement. I'll leave the arguments and details up to someone who is more knowledgeable of law but what needs to happen is the following.

First let me state what is true:

Software and hardware exist at certain levels.

The lowest level is hardware.

Above that are hardware drivers.

Above that is the operating system.

Above that are the applications.

Above the applications are more applications...

That is, each higher level, makes use the lower level.

Then what needs to happen:

What needs to happen is to require any company that makes products at more than one adjacent level to publicly document their application programming interface. This isn't a drain on resources for them because if they are developing at both levels, then they have already produced the documentation. This ensures that competition can exist even in the presence of a monopoly.

File formats must also be open not only to ensure competition (which will ensure the best products survive which helps ensure that we survive) but also so that our data isn't taken away from us. If our data is in a file with a proprietary format, and if the software publisher isn't the only person knowledgeable of that format, then that person can demand whatever price so that we can access our data and that publisher being the only person who knows the format can disallow us from transferring our data to any other format.

Jason
J J Simas
BS in CSci and Philo (Sep 2001)
http://chart2d.sourceforge.net/jjsimas

MTC-00026545

From: newcutashlar@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 12:03am
Subject: Microsoft settlement

Recommend further litigation against Microsoft in the interests of fair competition and true capitalistic economics :

1. Microsoft should be fined severely for attempting to develop a monopoly in software, as proven in court and so adjudged.
2. Microsoft should have the Operating System development separate from the applications development, by fair application of anti-trust law. Two separate entities, in other words.
3. Microsoft's OS code should be made available to all software developers to allow competitive applications development.

Glen L. Keener
14027 Spring Lake Road
Minnetonka, MN

MTC-00026546

From: jimmundy@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/27/02 12:01am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Jim Mundy
307 Westwood Lane
Madison, IN 47250–2973

MTC-00026547

From: Michael Deming
To: Microsoft ATR
Date: 1/27/02 12:07am
Subject: Microsoft Settlement

This settlement will do nothing more than give Microsoft inroads to one of the few markets that it does not yet monopolize. If the DOJ wants to help education with settlement thats fine and good, but do it by making Microsoft pay into a fund that allows schools to purchase the software and hardware of its choice. The education market is one of the few markets that competitors have had some success competing with Microsoft. If this settlement is not modified the education market could see the same competition squashing Microsoft that other markets have seen, and this time with the Governments help.

In general, I do not think that this settlement is harsh enough. Even if the settlement is revised as I mentioned above it is only a small slap on the hand, and will not make Microsoft change its competition squashing ways. Microsoft will only work harder to better disguise it. It is unfortunate that some originally very good software programs have been almost completely eliminated by Microsoft. Programs like Netscape and WordPerfect were once good competitors to Microsoft but due to Microsoft's ways they have become minor players in their areas with the only major player being Microsoft. This is very unfortunate, because if these programs, among others, were the competitors they once were, we would see more innovation and better products. This can also be said when it comes to operating systems.

In closing, I know that in the computer industry, history has proven that the best product usually doesn't gain market share. The program that is the most "compatible" (or marketed as such, which is usually the case) wins the market share points. I know that this is unlikely to change in the near future if ever, but it would be nice to see the better product have enough market share to be able to stay competitive and stimulate innovation and better products. For the most part, Microsoft has not allowed this to happen if they have a competing product.

Thank you.

MTC-00026548

From: Thomas Cook
To: Microsoft ATR
Date: 1/27/02 12:09am
Subject: Microsoft Settlement

The stipulations against non-profit organizations that are included in Section III (J) and (D) are appalling. Microsoft's main competition is from open sourced, free software that is produced by non-profits. These articles strengthen the monopoly that Microsoft holds. Please don1t strengthen Microsoft.

Thomas Cook aka EEvil Tom
tncook@online.emich.edu

MTC-00026549

From: Beverly Lincoln
To: Microsoft ATR
Date: 1/26/02 11:42pm
Subject: Microsoft Settlement

This e-mail is sent in support of the proposed settlement agreement wherein Microsoft will donate more than $1. billion in cash, training and software to help make computer technology and software more accessible to public schools serving nearly 7 million of America's most disadvantaged children. I believe this is a fair and reasonable solution that will benefit consumers, the high-tech industry and the overall U.S. economy.

As a business manager, I have gone through many years of utiliztion of computer hardware and software, as well as purchased computer systems for personal use. I have used both browsers and judge them on their own merits. I admire Microsoft for their innovation to develop usable, practical, software systems. I believe that in the current situation of the economy, and our need for the best in high technologies, time and money spent should be in the areas of innovation, development, and production by all companies, rather than spending time and money for continuing court expenses and politics. Microsoft's competitors should spend their time and money on innovation in producing software products that stand on their own merit.

Thank you for this opportunity to submit my comments on this very important issue.

MTC-00026550

From: B. Forster
To: Microsoft ATR
Date: 1/26/02 8:14pm
Subject: Re: Microsoft Settlement

I think the terms of the settlement are more than adequate and the Microsoft competitors and the nine dissenting Attorney Generals should back off. We need to get the economy moving again. The Country is in dire need of stimulation, innovation and not LITIGATION. Dragging this out is costly and counter productive.

A concerned fellow American

MTC-00026551

From: PJones5220@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 12:20am
Subject: Microsoft Settlement

I urge the acceptance of the Microsoft antitrust settlement that is awaiting final adoption. From what I read in the press it meets the intent of the court of appeals. In my opinion, dragging this out any longer at the insistence of Microsoft's competitors and the renegade states is good for lawyers, but not good for the high tech industry, or the states, as a whole. I believe the faster this case is settled the better.

I am not a Microsoft employee or investor so my opinion is not based on financial gain.

Thank you for considering my opinion.

Sincerely,
Peter Jones

MTC-00026552

From: Rebecca E Frankel
To: Microsoft ATR

Date: 1/27/02 12:19am
Subject: Microsoft Settlement

[Text body exceeds maximum size of message body (8192 bytes). It has been converted to attachment.]

CC:
rfrankel@MIT.EDU@inetgw
MTC-00026552—0001
Rebecca Frankel
MIT Laboratory for Computer Science
Room 435, 200 Technology Square
Cambridge, MA
rfrankel@mit.edu

Response to the Proposed Settlement of the Microsoft Case:

I am writing because I am unhappy about the proposed settlement of the Microsoft antitrust trial.

I do not wish to try to enumerate the flaws of the settlement. I think other people have done a good job of that; for instance, I approved of Daniel Kegel's petition and signed it. In addition, I feel uncomfortable saying anything that might imply that I know better than the judge how to decide issues of law or apply them to a remedy. I am a software engineer; I don't know anything about law. The only special understanding I have is of technology.

However, the problem of the "understanding of technology" is an issue in this case. There has been much griping in technology circles that this settlement shows how thoroughly the legal system doesn't "get" technological issues. But most of this griping is just that griping. You legal people must wonder about us: if there really is something you don't "get," why can't we explain to you what it is? For instance, recently an engineer complained to Lawrence Lessig:

"Members of the judiciary are largely unqualified to comment or judge upon issues of a technical nature, simply because their careers do not incorporate a great deal of technical knowledge, and also because they have not sought it ... My concern is that...we won't have a lot of judges with a high awareness of the intricacies involved for several years. However, the judges presently sitting are essentially creating a body of law to govern what they do not understand."

In reply, Lessig shot back a challenge to us:

"There was a time when I thought that lawyers wouldn't do too much damage... All that has changed now ... This is, in part, because courts don't understand the technology. But I don't think it's because courts don't know how to code. I think the problem is that courts don't see the connection between certain kinds of technology and legal values. And this is because we've not done a good job in demonstrating the values built into the original architecture of cyberspace: That the Internet embraced a set of values of freedom...that those values produced a world of innovation that otherwise would not have existed. If courts could be made to see this, then we could connect this struggle to ideals they understand. Sometimes when I read Slashdot debates, I wonder whether you guys get this connection either... And this leads me to the greatest pessimism: If you guys don't get the importance of neutral and open platforms to innovation and creativity; if you get bogged down in 20th century debates about libertarianism and property rights; if you can't see how the .commons was critical to the .com revolution, then what do [you] expect from judges?

You guys ... built an architecture of value. Until you can begin to talk about those values, and translate them for others, courts and policy makers generally will never get it. Lessig is basically telling us we are being a bunch of inarticulate crybabies. He is right. If we want to claim the right to complain that courts do not understand us, we need to provide a "translation of our values" in terms that a layman can understand.

My goal in this letter is to attempt to provide such a translation, and then use it to make an analysis of the nature of the public interest in the settlement of the Microsoft trial. I am deeply involved with the society that created the values to which Lessig refers. I have spent a large part of the last eight years at the MIT Lab for Computer Science—a place whose extraordinary qualities were better characterized by another student from my floor:

[I]t is tough for most people to imagine a building where a young nerd can walk out of his office on the 4th floor, argue with the founder of the free software movement (Richard Stallman), annoy the authors of the best computer science book ever written (Abelson and Sussman), walk up one floor to run a few ideas past Dave Clark, Chief Protocol Architect for the Internet from 1981–1989, and walk down two floors to talk to Tim Berners-Lee, developer of the World Wide Web.

I know all these people; many of them feel like family to me. I know what they care about, what they hope for, what they dream about, what they fight for, and what they fear. I never imagined that, as an MIT engineer, so much of what I would struggle with would not be the "intricacies involved" in the practice of engineering, but instead the problems of defining and communicating the value that technology can and can't provide to society. The engineers here are in a constant battle to prevent society from destroying the value they try to build for it: this struggle takes up so much of their energy that it is hard to think of what they do as just engineering anymore. I do not like this: I want to simply be an engineer. I wish that you, the court, could take from us the job of defining and communicating values, so we could go back to being ordinary engineers. It is much more natural for you to take on this role, than it is for us to have it. But in order for you to do that, first we would have to explain these values to you.

I am unhappy with the proposed settlement because it shows how deeply the courts do not understand the value that engineers here are trying to build. I could pick on the specifics of the settlement terms ad infinitum, but I feel it would be a pointless exercise, because only a basic failure of understanding of the nature of the public interest could make such a flawed settlement seem acceptable in the first place. But if I claim that there is a basic failure of understanding, that raises a question: "What exactly is it that I think government officials don't understand?" It is rather shocking that we have failed to effectively answer this question. We have told you many things: long stories of power struggles in the browser market, mind-bendingly technical analysis of the proper design of network protocols, plenty of satirical accounts of Microsoft's shady shenanigans, and many other similar things. But we never have given a simple answer to the simple question "What is the nature of the public interest in all these matters?" It is the goal of this letter to try to fill this gap. I will make my argument in a context so ordinary that it may well seem childish, but please bear with me: in my silly example, I think I can capture the essential issues at stake and then tie them back to our complex and confusing real situation.

So here is my simple picture—instead of talking vaguely about the "old economy" and the "new economy," and about the mysterious difference between them, I want instead to talk about two ordinary household tasks: mowing the lawn and cleaning the basement. In my picture "mowing the lawn" will represent the old economy, and "cleaning the basement" will represent the new. (I warned you this would sound silly; but please hang on—it is not as dumb as it sounds). Why did I choose these particular examples? Because I think the fundamental change that we are calling "the appearance of a new economy" is a shift from an economy that strives to increase productivity by automating manufacturing, to one that strives to increase productivity by automating organizational tasks. The new frontier is the reorganization of supply chains and business processes to take advantage of "information technology"—the ability of machines to do the organizational tasks that used to be handled by armies of clerks and middle managers. But this shift is so huge, complex, and hard to picture, that I want to pull it down to earth and discuss its central principles in the context of the kind of organizational task we all are familiar with: the problem of how to bring some order to a messy basement. By way of contrast, I want to compare this task to another one we all know and love: the problem of how to tame an unruly lawn. (You might ask, how is mowing the lawn manufacturing? Well, it is manufacturing shorter grass.)

Now that I have identified my representative "industries", I want to talk about how we can think about the nature of the "public interest" in the context of these tasks. As I continue this description, I hope you will see the advantages of translating our discussion to such a down-to-earth context. In this setting, it is easy to use one's ordinary intuition to understand the public interest in a conflict. Maybe it is hard to interpret the public's interest in the "future of an online architecture for e-business," but how hard is it to think about what you want for the future state of your basement? I want you to see what our conflict with Microsoft would look like if it occurred in this ordinary context.

So, to start my story, let me describe a conflict which illustrates a threat to the public interest in the context of the "old economy." Suppose I need my lawn mowed, and the kid who I usually hire to push my clunky old gas mower around the yard, instead shows up to work with a shiny, spiffy new lawnmower of his very own. He has broken his piggy bank to buy it: he is very proud of himself and shows it off to everyone on the block. His beautiful new lawnmower mows the lawn twice as fast as the old one did. As a result, he can mow twice as many lawns in the same time. Pretty soon he is raking in the cash. He is making so much money, he can afford to lower his lawnmowing rates, so he begins to steal business from the other lawn-mowing kids on the block. The other kids get upset. "He's cheating!" they cry. They gang up on him, beat him up, and smash his new lawnmower. The original kid, recovering in the hospital, appeals to the adults on the block for justice. "The other kids were jealous of my success!" he cries. "They had no right to hurt me or my lawnmower. You should protect me so that nothing like this ever can happen again!"

Should the adults listen to him? Absolutely. Not only was what happened to the kid unfair, it also damaged the public interest. When a kid can mow lawns twice as fast for less money, everyone on the block benefits. He put considerable investment and risk into obtaining his lawnmower, and it provided a benefit for everyone. Yes, he also made a lot of money from his new lawnmower, and maybe he was a little obnoxious about showing it off, but his good fortune was good fortune for everyone. Therefore, his investment deserved to be protected from the destructive jealousy of the other kids. The rich kid should be protected, and the jealous kids should be punished.

Now, to continue, let me introduce another story of a situation which causes harm to the public interest, this time in the context of the "new economy." Suppose I decide to hire a kid to help me clean my basement. This kid works very hard, sorting all the stuff in the basement, building appropriate-sized boxes for various categories of stuff, and carefully labelling all the boxes so it is easy to find things later. His hard work is useful to me: it helps me find things more easily. But there is trouble in my little paradise. One day, my little helper cannot come, so I hire another kid to help out. But this kid is different. He is careless: he puts things in the wrong boxes, and mislabels the boxes. Worse, he is devious: he discovers that if he puts things in the wrong boxes deliberately, and labels the boxes in a scrawl only he can understand, then he can make extra money off me, because I will need his help to be able to find things again. Worse still, he is ambitious: he realizes that if he puts the potting soil in a place where only he can find it, then pretty soon I will be forced to ask him to take charge of organizing the gardening shed as well. Thus he can double the amount of money he can make off me, and there is nothing I can do about it.

So how do we think about the "nature of the public interest" in this situation? Well, in order to answer that question, it is important to ask first "what is the result I am trying to achieve?" If I hire someone to clean my basement, the result I want is a well-organized basement, a basement in which it is easy to find things. The kid who worked hard to sort things accurately and label the boxes clearly helped me achieve my goal. The kid who deliberately mislabeled the boxes and misplaced the potting soil did not help me achieve my goal. He hurt my interests, not merely because he over-charged me, took over my basement, and hatched devious designs on my gardening shed, but much more simply, because he failed to deliver to me the basic effect I wanted and needed. I needed a basement where I can find things easily: he didn't give it to me. By contrast, the first kid, the one who built me a good system of well-organized, well-labelled boxes, did give me the effect I needed. The first kid's actions served the public interest; the second kid's did not.

This observation is the whole secret to understanding the "architecture of value" of which Lessig spoke. What is an "architecture of value?" It is nothing fancy: one can think of it as an information architecture that would remind one of a well-organized basement. This architecture is valuable because the careful sorting and clear labels make it easier to find things. There is nothing terribly subtle or difficult about this idea. The only really deep concept here is the observation that it is useful to ask the question: "what is the fundamental goal we are trying to achieve?" We are entering into an "organization economy," and in such an economy, we want to achieve the goal of being well-organized. These central value of such an economy is no more complicated than the admonition we have all heard a thousand times from our mothers: "it is nice to put things away where they belong so it will be easier to find them again later."

But if it is all so simple, why does it seem so hard? It seems hard because it IS hard, but it is not hard because anything about the situation is complicated. It is hard for quite another reason, which I want to illustrate using a third story. This, my final story, is a classic tragedy.

Let us suppose that the first kid I hired to clean my basement returns from his vacation and ventures downstairs to view the state of his handiwork. When he sees what the second kid has done, words cannot describe what he feels at the sight of the ruin of all his hard work. He grabs the second kid by his shirt collar and drags him to me to face judgment. "He's cheating!" he cries. (He doesn't say much else: unfortunately this first kid—though a good, honest worker— is not exactly the articulate type.) The second kid replies: "He is just complaining because he is jealous of my success! He has no right to handle me this way or damage the valuable "intellectual property" I have created. You should protect me so that nobody can ever treat me like this again!" Now when I hear these words, I remember my earlier trauma when I witnessed the kid with the new lawnmower get beaten up by a jealous gang. I remember how I pledged to the kid on his hospital bed that nothing like that would ever be allowed to happen again. This recollection plunges me into a state of fear and confusion. The first kid comes to me and begs for the right to re-label the boxes correctly: it is hard to deny such a heartfelt request. On the other hand, I made a solemn pledge to the kid in the hospital that I would never, ever allow anything like the disaster that happened to him to happen to anyone else. I am riven in two: I do not know what to do.

So I propose a compromise. I propose that certain of the boxes in the basement are to be declared "Middleware", and I will require of the kid who now owns the organization system of my basement that he reveal the meaning of the labels on those boxes. To protect his "intellectual property," I only require that he reveal these labels to another party when they agree to sign a non-disclosure agreement. The second kid is happy enough to agree to that, especially since he alone knows exactly where he has hidden the potting soil, and he has carefully made sure that the box where it is hidden is not declared "Middleware." In this way, his designs for the takeover of my gardening shed are unaffected. Since summer is coming, the control of the gardening shed is the only thing that really matters anyway, so he loses nothing by signing on to my "compromise".

Now, what can we say about this compromise? Should I say that it is a bad compromise because I was not careful enough to locate the hidden potting soil before I settled on my definition of "Middleware"? Should I say that it is unfair to require people to sign a non-disclosure agreement whenever they want to get a hammer from the basement? I could say all these things, and more, but they seem to skim over the surface of the problem. Much more fundamentally, this compromise represents a failure to think clearly about what we are trying to accomplish. It is in our statement of the nature of the values which we are "compromising" that we have failed. We have failed to understand the essential values that we are pledged to protect.

To appreciate the tragedy of this failure, imagine how this situation would appear to the first kid, the one who cares more than anything about properly organizing the basement. He worked hard and honestly to do the very best job he could, but to no avail: all his hard work was ruined. It wasn't even accidentally ruined—it was ruined on purpose. But when he tries to protest about this betrayal of his values, not only is he not listened to, he is also treated like a jealous, violent gang leader. Since he is not a sophisticated kid, he cannot figure out why any of this is happening to him. It simply feels to him like all the adults around him have gone mad.

I might ask: what exactly were the essential values I failed to understand when I devised my compromise? One might say that my compromise shows how little I understand the values associated with the "new economy." It is true that I have failed to understand how overwhelmingly important it is to have clearly labeled boxes in my basement. But this concept of "value" in the new economy is so very simple and easy to understand, that one might also maintain that I understood it perfectly clearly. When I insisted that the "Middleware" boxes should be clearly labelled, I showed that I DO understand what constitutes value in the new economy.

Nonetheless, my judgment was confused, but it was not a lack of understanding of the new economy that caused this confusion.

Instead, my judgment was clouded by the pain and confusion that the reminder of an old-economy conflict invoked in me. I ran into difficulties because I was led to apply "old economy thinking to a new economy problem." In particular—this is the key point—my real failure came not from a failure to understand the values of the "new economy," but from a failure to understand the values of the old one. When I promised to the kid in the hospital that nothing like what happened to him would ever be allowed to happen again, I did not define very clearly in my head what exactly it was I was pledging myself to protect. What exactly did I promise? Did I promise that in every circumstance where a rich and successful kid was challenged by a poorer, less successful kid, I would always side with the rich kid?

NO, that is not what I promised. I made the promise to the kid in the hospital because I saw that his good fortune was good fortune for everyone, and therefore I pledged myself to protect it. But when I later found myself in a situation when a rich and successful kid demanded that I protect his good fortune, I forgot the rationale behind my original promise. If I had remembered it, I might have thought to ask myself "in this new situation, is this rich kid's good fortune good fortune for everyone?" Hopefully it is clear that this question receives a rather different answer in this situation. So, does my old promise bind me anymore? Am I required to devise a compromise between the interests of the two children in my charge? No, such a compromise doesn't make sense. I could make things much easier on myself if I just worried about protecting my own interests. My interest is to be able to easily find things in my own basement. The first kid fought for my interests, the second kid did not. It is that simple: there is no need for the terrible pain and confusion this case evokes, or the strange and convoluted compromises that are the result.

So, to wrap up my story, I want to summarize the four conceptual errors I made which drove me to devise Such a thoroughly flawed compromise.

First, I made two mistakes in my understanding of the "new economy":

1. I did not understand how much value the first kid provided for me when he carefully sorted and labeled all my stuff.

2. I did not understand how badly the second kid hurt me when he destroyed this careful labeling system. I did not understand how dangerous it is that I have become dependent on his aid to find anything in his system of artfully mislabeled boxes. Second, I made two mistakes in my application of principles that came from the "old economy":

3. When the second kid claimed to me that I had an obligation to protect his incentive to invest, I forgot that the statement of this obligation is that we must protect the "incentive to invest in machinery to make a manufacturing job more productive." I need to protect a kid's incentive to break his piggy bank and buy a lawnmower, or I will have to put up with the fumes and noise from my old gas mower forever. But this obligation does not apply to the conflict between the kids who are cleaning my basement, because there is no machinery that will aid the task of "manufacturing" a cleaner basement. So there is no need to protect the incentive to invest in such machinery.

4. More generally, I made a mistake when I failed to notice how the second kid manipulated and abused my commitment to the values of the old economy with his carefully chosen words. Earlier I said that this kid was careless, and worse, devious, and worse still, ambitious. But worst of all, he is manipulative. He is perfectly willing to take our most central, sacred values and twist them into a empty caricature of themselves to serve his own interests. It is our mistake and our shame that we cannot see what is being done to us.

So now I have completed my story. I have explained the essential failures of understanding that caused me to make a dreadful mistake. I promised earlier that when I was done I would take the lessons I have explained and tie them back to our complex and confusing real situation. So I will describe again the four mistakes I have just identified, this time as they appear in the real world. I contend that this settlement reveals that public officials fail to understand four important concepts that are crucial to understanding the nature of the public interest in the conflict with Microsoft.

First, it reveals that there are two ways that public officials basically misunderstand the "new economy."

1. They do not understand the tremendous value to society provided by the creators of the open standards of the Internet, the World Wide Web, the associated free software that supports the Internet (Apache, Bind, Perl, etc) and the free operating systems Linux and BSD. They do not understand the tremendous value to society of open, well-specified APIs on every level of the information architecture we are trying to build to support the future productivity of our society.

2. They do not understand how badly society is hurt by Microsoft's manipulation of its APIs and file formats. They do not understand how much the constantly changing proprietary file formats hurt ordinary people's ability to get work done, nor do they understand the loss of potential productivity that occurs when a API is obscured or destroyed. They do not understand how Microsoft's control of the platform hurts the prospect for real competition and progress in the computer industry.

Second, more seriously, it reveals two ways that public officials are confused about how to apply the values of the "old economy" in this new situation.

3. They haven't noticed that, just as you don't need a lawnmower to clean a basement, you don't need a lawnmower to write an operating system. All the effort to preserve a delicate balance between the need for open APIs, and the need to preserve the incentive to invest, have missed the point that we are protecting the incentive to invest in a purely imaginary lawnmower. There is no machinery that will make the job of writing an operating system any easier, so there is no need to protect the incentive to invest in imaginary machinery.

4. Finally, they haven't noticed that Microsoft is lying to them. Microsoft is lying in a horrible way: they are invoking the values that honorable public officials have spent their whole lives protecting, and they are manipulating them, using them, twisting them around so they come to mean something entirely different. The government does not detect this duplicity—that is their greatest mistake. We engineers have a name for these kinds of lies: we call them FUD, which stands for "fear, uncertainty and doubt." We watch Microsoft deliberately spread fear, uncertainty and doubt in the government, the courts and the general population, and we view with amazement and horror the enormous power that these lies have over the world. We are lost: we do not know what to do to combat lies which have such terrible power. We are like children who live in a world where all the adults have gone mad. Yours sincerely,

Rebecca Frankel

Has Your Opinion Been Counted?

Earlier this month, you took part in a letter-writing campaign to express your opinion of the antitrust settlement between the Department of Justice and Microsoft. We would like to thank you for your efforts and make sure that when we assisted you in organizing your thoughts on paper, you were completely satisfied that the draft letter fully expressed your own views in the matter.

If you would like any changes, we would be happy to make them now. The public comment period on this settlement ends on January 28. The provisions of the agreement are tough, reasonable, fair to all parties involved, and go beyond the findings of the Court of Appeals ruling; however, the settlement is not guaranteed until after the review ends and the District Court determines whether the terms are indeed in the public interest. If you would like your opinion to count, now is the time to send in your letter!

Please send your comments directly to the Department of Justice via email or fax no later than January 28. If you have already done so, or will do so in the near future, please be sure to send a signed copy to the FIN Mobilization Office, or simply reply to this email with a short note indicating that you have sent your letter.

Please take action today, to ensure your voice is heard. Once again, the Attorney General's contact information is:

Fax: 1-202-307-1454 or 1-202-616-9937
Email: microsoft.atr@usdoj.gov

FIN Mobilization Office contact information:

Fax: 1-800-641-2255
Email: fin@mobilizationoffice.com

Your support is greatly appreciated
FIN Mobilization Office

MTC-00026553

From: Neil Prestemon
To: Microsoft ATR
Date: 1/27/02 12:19am
Subject: Mircosoft Settlement

To whom it may concern;

I would like to voice my opinion on the proposed Microsoft settlement to the antitrust lawsuit. I have to say that the proposed settlement on the table today does nothing to address the real issues in this case. The issues that have made Microsoft the monopoly it is, and the danger to existing competition, and any potential future competition.

There certainly is not a level playing field in many areas. Though I do not believe that it's the government's job to provide a level playing field, I do believe that the government should do something when we're presented with a situation where the playing field has been rotated 90 degrees, and has become an impenetrable wall to the founding of new businesses and innovation.

The areas of danger are as follows:

Programming API's—Microsoft has a monopoly on programming frameworks for it's Windows platform. Any company that wants to write Windows software almost certainly has no real choice other than to use Microsoft's Visual Studio product, and Microsoft Foundation Classes framework. This is due to actions microsoft has taken against former competitors like Borland, and other OS Vendors. When a competitor is forced to use MFC to write third-party software for Windows, and software in the same market is also written by Microsoft, Microsoft then has a huge and unfair advantage, as undocumented features or programming flaws or misleading documentation within MFC itself can cause a third-party developer to spend far more man-hours acheiving the same degree of quality in their product as Microsoft can achieve, because Microsoft programmers also have access to the Microsoft programmers who wrote MFC, and the documentation. This is not merely a competitive advantage. This kind of advantage could be illustrated by analogy if General Motors sold the ONLY set of components by which any other company could build a car. You'd know that necessarily, GM's cars built with those components would be better than other company's cars built by those components. It's through their Visual Studio monopoly that Microsoft leverages an unfair advantage to keep third-party companies writing software less efficiently than they do. I believe that Microsoft's API business needs to be spun off into a separate company.

OEM Licensing—Microsoft should be prohibited from having secret agreements with OEMs. It has been proven in court that Microsoft, as the vendor of the Windows platform, uses such agreements to force OEMs into exclusive deals so that computer manufacturers cannot sell their computers pre-loaded with any other operating system.

File Formats—Microsoft should also be forced to fully document formats of their products, and changes in these formats should not be allowed. As it stands today, if a company does it's work in Microsoft Office file-formats, they are literally "held captive" by Microsoft, because if they choose to switch to a competing product, they will be forced into a costly migration of the data from the Microsoft format to the third-party format. It is not in Microsoft's interest to write translation tools, at least not translation tools that preserve fully, the features of their products in the translation—and though it would be in the interest of a competing software company to provide compatability or document translation, there is no way for them presently to do this with any degree of reliability, because some aspects of the file format are poorly documented, and Microsoft often changes these formats in ways that make it impossible for third-party companies to stay on top of them. Included in "file formats"—should also be Microsoft's protocols, their Kerberos security protocol, (so that consumers can choose third-party LDAP solutions for their Windows networks, instead of being forced to use Microsoft Active Directory), and SMB, their network file-sharing protocol. There currently exists a free-software solution which allows computers of other operating systems to connect with Windows computers, and share files with them.

However, Microsoft has changed their SMB protocol several times in an attempt to cause this other solution to no longer be compatible, and to cause the developers to spend time and effort trying to reverse-engineer SMB so they can fix the problems Microsoft creates. Without this solution (called Samba) it would otherwise be impossible for other operating systems to share files with WIndows computers. The lack of a solution compels many IT managers to simply avoid other operating systems and platforms, and go with a pure Windows-only solution. The most frightening aspects of a Microsoft monopoly lie not in the commercial sector, but in the computing field itself. Never mind the economic damage Microsoft's monopoly has created in crushing many competing software companies—never mind the amount of over charging Microsoft does because they CAN, because there is no other company that can compete with them—never mind the huge labor and hardware costs incurred by Microsoft's customer base due to effort required to work around product defects and poor architectural decisions Microsoft has made— because they CAN, because competing products of higher quality, and lower hardware overhead have all been crushed by Microsoft's monopoly.

The greatest danger is that the US Government relies heavily on Microsoft products, and as such is DEPENDENT on Microsoft to continue providing solutions, and access to data, locked in a proprietary format that cannot be easily or cheaply extracted. The next greatest danger is that of monoculture. In a global computer network, where all computers are Microsoft Windows, they ALL share the same vulnerabilities to viruses and hacker exploits. A monopoly and resulting monoculture in computing is a horrible danger to the security and economic stability of our nation, and even the entire world.

And that is why the government MUST act. Swiftly, and forcefully, to protect it's citizens, and the entire world from this threat. It is the first duty of government to protect. Now that the Department of Justice, and then the US Courts have identified and recognized the threat, it would be folly, and a huge waste of the effort already invested to not act decisively against this threat, before it is too late to stop. Before it encompases other markets, like home electronics, media, and banking.

If you have any need for me to clarify any of my statements, or if you require further comments, I would be happy to provide them. Please feel free to contact me at this email address at any point.

Regards,
Neil Prestemon
Arroyo Grande, CA 93420
neilprestemon@yahoo.com

MTC-00026554

From: Mary T Harvey
To: Microsoft ATR
Date: 1/27/02 12:24am
Subject: This costly and damaging litigation must come to an end. Mary

This costly and damaging litigation must come to an end.

Mary

MTC-00026555

From: jim.lucey@verizon.net@inetgw
To: Microsoft ATR
Date: 1/27/02 12:22am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
James Lucey
1217 E. LaPalma Ave.
Anaheim, CA 92805-1450

MTC-00026556

From: Kathleen L Carey
To: Microsoft ATR
Date: 1/27/02 12:24am
Subject: Microsoft Settlement

It is my recommendation that you accept the proposed microsoft settlement as a reasonable compromise. It's time to move forward and on to other things.

Sincerely,
katcarey@juno.com

MTC-00026557

From: Karsten Wade
To: Microsoft ATR
Date: 1/26/02 7:47pm
Subject: Microsoft Settlement

I think the proposed settlement is a bad idea. Please count my vote as completely against this settlement.

Karsten Wade
karsten@phig.org
http://phig.org/gpg/

MTC-00026558

From: Carol M. Watts

To: Microsoft ATR
Date: 1/27/02 12:29am
Subject: Microsoft Settlement

Punishing Microsoft's monopoly practices by awarding them a monopoly in the school system is just plain criminal. What a sellout! We must have laws and practices which encourage innovation and competition. Do not reward arrogance and unethical behavior—not to mention, illegal actions. Support the public interest.

Carol Watts
448 Knoll Dr.
Los Altos, CA 94024

MTC-00026559

From: Bruce Rogovin
To: Microsoft ATR
Date: 1/27/02 12:31am
Subject: Microsoft Settlement

Please punish Microsoft for it's total disregard for US law and a general lack of any morals. The proposed settlement would do NOTHING to stop Microsoft from continuing in it's illegal ways and gaining even more power and advantage.

Dr. Bruce Rogovin
8686 Winton Rd.
Cincinnati, Ohio 45231

MTC-00026560

From: Jeremy Walton
To: Microsoft ATR
Date: 1/27/02 12:43am
Subject: Microsoft Settlement

Microsoft has clearly broken several laws in its attempt to eliminate competing software corporations. They have carried out actions to do so and have made it clear of their intent to create a monopoly. Microsoft has a dominating role in the industry because most programs must be run using a microsoft operating system such as Windows 95, 98, etc. They realized the threat of a new competitor through the Internet, being web browsers, Netscape navigator, being the main one. They pursued plans to eliminate Netscape navigator and others, as options for internet browsers. Microsoft has tied its windows programs with internet applications, has required that persons distribute its internet software along with other software in exchange for access to their operating system, and has required that they not distribute any non-Microsoft software. The Microsoft corporation should be broken up because of their illegal actions and to help boost the economy via competition.

MTC-00026561

From: Marie Murray
To: Microsoft ATR
Date: 1/27/02 12:45am
Subject: Microsoft Settlement
Marie Murray
P.O. Box 97563
Raleigh, NC 27624-7563
January 26,2001
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

As a rule I hate to see money wasted; there is so much need for funds both here in American and abroad that to squander it is a travesty. One such is the case against Microsoft. Millions of dollars have been wasted on both sides of this dispute. We must stop this misappropriation of American tax dollars. The settlement that was reached in early November is fair. It will halt any further anti-trust violations, alleged or substantiated, with the establishment of a three person technical committee, which will oversee any further practices of Microsoft. Microsoft has also agreed not to retaliate against any company that tries to create software that competes against theirs.

I feel that the sooner this unfortunate litigation is put behind us the better. I hope that we can continue as the leader of the technological field throughout the world, despite the setbacks that we have experienced since the commencement of this suit. Thank you for your time and diligence with this issue.

Sincerely,
Marie Murray

MTC-00026562

From: medurk@concentric.net@inetgw
To: Microsoft ATR
Date: 1/27/02 12:47am
Subject: Microsoft Settlement

Let this settlement go through. There never should have been any investigation into Microsoft (MS) in the first place.

The lawyer that took the case to trial was only looking to make a name for himself. I'm a democrat but this is the one (and only) time I will agree with GOP.

Leave MS alone and never, never, bother them again!

Sincerely,
ME Durke

MTC-00026563

From: Justin
To: Microsoft ATR
Date: 1/27/02 12:50am
Subject: Microsoft Settlement

I would have to say that the settlement proposed is rather weak. It has already been proven that Microsoft Corperation is a monopoly. This is a company that has repeatedly and blatently abused its monoply power. It has obstructed viable competition, ruthlessly destroying or relegating to obscurity any company or product that attempts to compete within its established markets. The continued exsistence of Microsoft Corp. in its current form is anti-competition, anti-American. The computer industry as a whole will fare better with competition and this can only be acheived with the breakup of this monopoly as called for by U.S. law.

MTC-00026564

From: Pryor Garnett
To: Microsoft ATR
Date: 1/27/02 12:51am
Subject: Microsoft Settlement

I oppose the proposed final judgment between the Justice Dept. and Microsoft. Of the many problems I see with the PFJ, I believe the one of greatest concern is that under the PFJ Microsoft retains and will continue to exercise the power to use its dominant control over the operating system for the desktop to maintain existing barriers to the entry by ISVs of application software, and raise new barriers to ISVs of application software against which Microsoft choses to compete. For that, and other reasons, I oppose the PFJ.

Pryor Garnett
Portland, Oregon
pryor.garnett@verizon.net
503-646-2188

Watch the remodel at http://pws.prserv.net/pryor_garnett !

MTC-00026565

From: neldon-joann@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 12:48am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Neldon Jensen
7151 Towncrest Dr.
Salt Lake City, UT 84121-3822

MTC-00026566

From: munafo@ews3@inetgw
To: Microsoft ATR
Date: 1/27/02 12:56am
Subject: Microsoft Settlement
To: Renata B. Hesse Scituate, MA
Antitrust Division Jan 26, 2002
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement.

I believe that the Proposed Final Judgment fails to remedy the illegal practices that were found by the Court of Appeals for a number of reasons, including the following:

Section III.A.2 of the Proposed Final Judgment allows Microsoft to retaliate against an OEM that ships computers containing a Competing operating system that is not a Microsoft operating system. For example, it allows Microsoft to retaliate against IBM and Apple because both of those companies ship Personal Computers that contain a competing operating system (Linux and MacOS respectively) and no copy of Windows.

The definition of "Microsoft Middleware" (Proposed Final Judgment section VI definition J, and Findings of Fact paragraph 28) is too narrow. Microsoft could avoid the remedy by changing product version numbers ("Internet Explorer 7.0.0") or by distributing Middleware exclusively through a different distribution method (like the Internet-based Windows Update service)

The definition of "Microsoft Middleware Product" (Proposed Final Judgment section VI definition K) is too narrow. Microsoft could avoid the remedy by replacing the products covered by definition K with new products. For example, they are already replacing Microsoft Java with Microsoft.NET and C#.

Therefore, I believe that the Proposed Final Judgment is not in the public interest, and must not be adopted without substantial revision.

Sincerely,

Robert Munafo, Scituate, Massachusetts, Software Engineer

CC:me@mrob.com@inetgw

MTC-00026567

From: erer688@cs.com@inetgw
To: Microsoft ATR
Date: 1/27/02 12:54am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

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Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Edward Gerlach
17609 Alexson St.
Springhill, FL 34610-7307

MTC-00026568

From: Steve Paris
To: Microsoft ATR
Date: 1/27/02 12:58am
Subject: Microsoft Serrlement

Please log my displeasure with the Department of Justice(DOJ) settlement with the Microsoft Corporation. This wasn't a settlement, it was a full surrender by the victor. I can not believe that the DOJ actually negotiated with this corporate thug. It should be apparent by now with this second major offense that Microsoft isn't interested in changing its ways. What is needed is a serious penalty that will actually harm the company. The original punishment as imposed by Judge Jackson did not go far enough. Given all of the companies that Microsoft has destroyed and all of the associated employees that lost their jobs, Microsoft as an entity should be dissolved, its corporate officers fined and put into jail.

Stephen Paris
12211 SE 219th Place
Kent, WA 98031
(253) 630-1593
otistek@earthlink.net

MTC-00026569

From: Adam Bezark
To: Microsoft ATR
Date: 1/27/02 1:05am
Subject: Microsoft Settlement

Dear Department of Justice:

Here for your consideration is a hypothetical Legal Scenario. An organized crime kingpin is charged with racketeering. This criminal runs the "mobs" all across America. Whenever someone else has attempted to encroach on his territory, the mobster has resorted to ruthless, brutal, illegal tactics to crush his opponents.

During the trial, his well-paid lawyers repeatedly mock the judicial process. They stall for time so the mobster can continue to collect his racketeering fees. They present shamelessly doctored evidence (easily detected by the prosecution). They point out a "grassroots" letter writing campaign which proves that the public supports the mobster... but it soon turns out that the letters were all written by the kingpin's henchmen and lawyers.

Meanwhile, the prosecution presents overwhelming evidence of the mobster's guilt.

And so, despite the kingpin's most expensive efforts, the court finds him guilty of racketeering. Based on his egregious behavior, the court recommends an unusually stiff penalty. And yet, the appellate court sets that penalty aside, based on relatively minor elements of the trial judge's behavior.

Encouraged by his reprieve, the mobster unleashes a brand-new racketeering scheme designed to ensnare even more victims. Next: In a curious turn of events, the Department of Justice—which has spent years prosecuting this confirmed criminal—quietly announces that it is scaling back or abandoning its efforts to prosecute the mobster. Appalled by these events, the news media and the general public wonder publicly whether the appellate court's soft stance is related to the fact that the mobster donated large sums of campaign funding to the new Administration. Is it possible to buy justice?

Finally, in a grand gesture, the mobster offers a settlement. Instead of going to jail or paying a fine, he generously proposes to construct and operate sparkling new gambling casinos in every state. (At his own expense, of course.)

Now then. In this fictional scenario, what would happen next? Wouldn't the public be outraged by the Department of Justice's apparent conflict of interest? Would the court hesitate to impose the maximum penalty on this unrepentant scofflaw? Without any meaningful penalty, would the criminal be remotely likely to improve his future behavior? So... please tell me. How is the Microsoft case any different?

Respectfully submitted,

Adam J. Bezark

MTC-00026570

From: swesnerwc@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 1:02am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Sharon Bontrager
PO Box 761
Jacksonville, OR 97530-0761

MTC-00026571

From: ChazzSaw@WebTV.net@inetgw
To: Microsoft ATR
Date: 1/27/02 1:04am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

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Please put a stop to this travesty of justice now. Thank you.

Sincerely,

CHUCK SAWYER
516 ORANGE DR., APT. 13
ALTAMONTE SPRINGS, FL 32701-5304

MTC-00026572

From: Edgar Patrick Venzon-Landas
To: Microsoft ATR
Date: 1/27/02 1:09am
Subject: MICROSOFT SETTLEMENT.

[Text body exceeds maximum size of message body (8192 bytes). It has been converted to attachment.]

MTC-00026572—0001

January 26, 2002
Judge Colleen Kollar-Kotelly
United States District Court for the

District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001
Re: Proposed Microsoft settlement

Dear Judge Kollar-Kotelly,

In this age of technological innovation, Microsoft's hegemony in the realm of software threatens the future of computers and software. The danger of settling with Microsoft, thereby allowing the company to operate in its current form, is that it will stifle not only competition, innovation, and technology, but also, the emergence of future platforms that run computers, and in the future, computer-based information services. With its somewhat unchallenged monopoly in the operating system market and its development of .NET web services, Microsoft, in the absence of any forced structural remedies, has the power and resources to further any grip it has on the platforms that will run and drive our programs and information.

To illustrate how Microsoft's dominance in operating systems threatens the future, I came up with a simple and comparable example. For a moment, let us pretend that Microsoft manufactured the door locks to our homes. Door locks are common, somewhat easy to install, and are a necessity because of the fact it serves as the average family's protection against burglars and intrusions. Now, let us assume that one day, Microsoft door locks were installed in your neighborhood. Because of its low price, everyone switched to Microsoft door locks and those who did not had the choice to stay with their current locks made by Doorlock X.

Now, after a few months, Microsoft sent a letter to your neighborhood detailing an upcoming product launch stating that Microsoft just created a new door lock that is smaller and easier to install. As a result, almost all of your neighbors planned to purchase and install the new door locks until they received another notice.

Doorlock X, the other big door lock maker available at the hardware store, rushed to the market with door lock x20, which is just as light and even stronger than Microsoft's door lock. Therefore, in order to compete with the Doorlock X, Microsoft priced its door lock products way below market price and started to package a new bolt lock with its door lock. Doorlock X, to the best of its ability, tried to compete with Microsoft in terms of price, but it failed. While the company and its door locks have not disappeared completely, Doorlock X's newest lock was installed in just one house in your neighborhood. After a year, to further stifle competition, Microsoft created another door lock, which not only required the homeowner to install a new door lock on a brand new door, but also, required the homeowner to install the bolt lock bundled with the door lock. For most of your neighbors, they did not mind the upgrade until they found out that after they installed the new door locks, they could not be removed easily. Not only were they not difficult to remove, Doorlock X could not be installed in your door in the future. Three months later, Microsoft sent yet another notice asking people to upgrade their sets of locks and if they were interested in purchasing home security services. Most of the neighbors, seeing the convenience in not needing to search for another company to provide these services, signed up with Microsoft to provide their doors, door locks, and home security. Three months later, after yet another upgrade and solicitation of new services by Microsoft came along, some of the neighbors refused to upgrade to Microsoft and saw value in Doorlock X's stronger door locks. However, the neighbors were shocked to find that no matter whom they hired, no one could uninstall the locks on their door.

When they called Microsoft, the customer support people at Microsoft told them that it was possible to rip the lock off the door, and then and only then can one install a non-Microsoft lock. After being able to install their new door locks, Microsoft security Services approached your neighbors one day and told them that they could not use their home security services with their new locks. As a result, the Microsoft people disassembled their home security services, sloppily and hurriedly.

After eventually finding new locks and a new home security service provider, your neighbors arrive from work the next day to find out that the entire neighborhood (including yours) behind a electrified gate and manned by Microsoft security guards. Of course, when the non-Microsoft people were denied entry through the new gate, Microsoft told them that they since they do not use their locks nor their security system, they cannot use this gate into their homes. Instead, they must first travel to the other side of the neighborhood and then drive behind the fence until they reach their homes from the backyard. Coupled with this inconvenience, the other neighbors who refused to use Microsoft security services were angry with this and complained again. The people at Microsoft defended their practices by telling them," We have not done anything illegal. We are making this neighborhood safer and you are still able to enter your homes."

A couple of months later, one of your neighbors, John Doe, gave a speech at a neighborhood meeting. In his speech, John Doe told everyone that nowadays, Microsoft Security Services protected most, if not all, of all the buildings and homes in their town. Because of this, all non-Microsoft customers must now carry different guest passes-one for Microsoft secured buildings/businesses, one for Microsoft secured homes, and of course, one for using Microsoft electronic security services. When it could not get any worse, at the end of the month, your whole neighborhood received yet another notice on your bill from Microsoft Home Security Services.

It seems that Microsoft's new electronic motion detection and crime prevention services requires homeowners to not only upgrade your whole home security system, but also, requires every member of your family to identify him or herself with the Microsoft electronic patch (to distinguish between friend and foe), and non-Microsoft secured homeowners or guests who need to enter the secured neighborhood must either register with Microsoft (but not necessarily buy their systems), or risk tripping off the alarms in the neighborhood. Moreover, the system will auto-upgrade itself automatically and start billing each home electronically every month. Failure to pay and/or continue Microsoft security services might result in a two or three-day power outage since Microsoft and your electricity company have struck a deal in wiring your home for Microsoft Home Security. In the end, you and your neighbors have no other choice but to subscribe to Microsoft and every future security upgrade.

Of course, in my allegorical example, the whole progression from the Microsoft door locks to Microsoft Home Security Services reflects the way Microsoft does business. Mainly, Microsoft sells its products and bundles similar, competing products to stifle competition, keeps the competition away by making it difficult for Microsoft customers from switching, requires constant, expensive, and restrictive upgrades that lock the consumer into the Microsoft "way", and finally, it, as seen in the .NET and its recent foray into different services, tries to blackmail the consumer by making it almost impossible to escape their services and products. In short, Microsoft utilizes monopolistic tactics to expand its hold on the various platforms by simply making it difficult and expensive for others to use other alternatives in the market. Because of these reasons, as seen in my example, it is important that you, in your capacity as a judge overseeing this monopoly trial, formally reject the proposed settlement between the Justice Department and Microsoft and impose harsh punishments (preferably structural) to prevent this situation I narrated from being realized in the computer/software/service industries.

Thank you.
Sincerely Yours,
Edgar Patrick Landas.
EMAIL: epland@wm.edu

MTC-00026573

From: Pat Mahoney
To: Microsoft ATR
Date: 1/27/02 1:11am
Subject: Microsoft Settlement

To begin my comments on the Proposed Final Judgment (PFJ) to the Microsoft case, I assert that I am a US Citizen and resident of the state of Illinois.

I have read through several parts of the PFJ. Clearly it imposes restrictions on Microsoft. However upon reflection, and after reading several online critiques of the PFJ, I have come to the conclusion that these restrictions are insufficient.

One item in particular stood out from the others. The PFJ requires Microsoft to disclose certain "APIs" under reasonable and non-discriminatory licensing terms to competing software companies wishing to interoperate with Microsoft products. The problem with this is that "reasonable and non-discriminatory" terms seem to inherently discriminate against one specific Microsoft competitor know as Free software or open source software.

It can be argued that Free or open source software is the chief competitor to the Microsoft monopoly. The Linux operating system, widely seen as a Microsoft competitor, falls under the category of Free software. Free and open source software are unique in that unlike the products of Microsoft they may be obtained at little to no cost and redistributed indefinitely. Free software products defy the concept of "ownership" as everyone has the right to copy, change, or redistribute the software (unlike Microsoft software).

With this in mind, it should become clear that "reasonable and non-discriminatory" license terms discriminate against Free and open source software. Any sort of royalty fee Microsoft may wish to impose when it licenses its APIs to competitors would render Free and open source competition impossible. Because it can be redistributed freely, and because it is difficult to define an "owner", any piece of Free software wishing to use a Microsoft API to compete with an existing Microsoft product cannot possibly hope to satisfy the terms of the license under which Microsoft divulged its API.

For example, consider a Free software product which uses a Microsoft API and must pay a royalty of one cent ($0.01) per copy of the software. Since the software is Free, a user obtaining a copy is free to make copies of his own with no limit. Obviously the product cannot pay the royalty to Microsoft because anyone is possession of a copy is free to make more copies and give these to others who can then make more copies ad nauseum.

So it seems that the PFJ gives Microsoft a "license to discriminate" against what many consider to be its chief competition. In my opinion this does not server the public and must be remedied.

Pat Mahoney<patmahoney@gmx.net>

MTC-00026574

From: Kurt Buecheler
To: Microsoft ATR
Date: 1/27/02 1:11am
Subject: Microsoft Settlement
2304 41st Avenue E
Seattle, WA 98112-2732
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter to express my opinion on the settlement reached between the Department of Justice and Microsoft. For three years I have followed the case against Microsoft with avid interest. I have become increasingly annoyed with the length of the litigation process. The terms of the federal settlement are extremely fair and I believe that it should be enacted without hesitation. Any continued mediation in this case would be poor judgment by the Justice Department.

Further, the terms of the settlement include many concessions on behalf of Microsoft. The terms of the agreement call for the disclosure of protocols and internal interface designs of the Windows system. This will result in the ability for competing developers to produce software that may be more compatible with the Windows system. In addition to this Microsoft has allowed for the formation of a technical review board that is composed of outside members. This panel will ensure Microsoft's compliance with the terms of the settlement.

It becomes increasingly clear that the enactment of this settlement is important. Resolution in this case will benefit the technology industries and the economy. Please enact the settlement.

Sincerely,
Kurt Buecheler

MTC-00026575

From: Sals613@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 1:12am
Subject: Microsoft Settlement

Your Honor,

I urge you to reject the proposed final judgment in the U.S. vs. Microsoft antitrust case before your court.

Every court has ruled that Microsoft violated antitrust laws, reaping billions of dollars of profit in the process. The proposed settlement allows the company to keep almost all of these illegal profits. Furthermore, there is no provision to guarantee us that this monopolist won't wield its market power to crush competition in the future. Microsoft is left to police itself, and its power is in no way diminished.

The proposed settlement has Microsoft "giving" software and hardware to schools. Sounds good politically, but in practice this only increases the monopoly presence of Microsoft. Perhaps the only market they don't completely dominate (education market) will now be owned by this convicted monopolist.

Please reject the proposed final judgment for all these serious flaws.

Sincerely,
Cyrus Salehi
CC:microsoftsettlement@alexbrubaker.com@inetgw

MTC-00026576

From: Jeanette R Laris
To: Microsoft ATR
Date: 1/27/02 1:13am
Subject: Microsoft Settlement

It is time to end this costly and damaging litigation. Please settle this ASAP.

Jeanette R. Laris
Concerned senior

MTC-00026577

From: Joseph A. Sonnier
To: Microsoft ATR
Date: 1/27/02 1:13am
Subject: microsoft settlement

MTC-00026579

From: Lori Buecheler
To: Microsoft ATR
Date: 1/27/02 1:22am
Subject: Microsoft Settlement
2304 41st Avenue East
Seattle, WA 98112
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Today I write to voice my support of the Microsoft settlement. It is true that the Microsoft Corporation has been at the forefront of the technology industries in recent years. Their leadership, however, is the result of a dedication to excellence that is not matched within the industry. The result is the continual production of quality products that out perform any substitutes. This is in by no means a crime. I therefore take issue with the federal pursuit of a case based upon outdated statutes.

Regardless of this opinion, I believe that the settlement agreement is in the best interests of the public. Too much time has already been spent in the litigation process and the entire technology industry has suffered for it. Further, anyone wary of Microsoft's compliance with the terms of the agreement should be eased as the agreement calls for the formation of a watchdog group.

I adamantly believe that enacting the settlement will encourage confidence and growth within the tech industry. The Justice Department should suppress any opposition to the enactment of this settlement.

Sincerely,
Lori Buecheler

MTC-00026580

From: The Chin Family
To: Microsoft ATR
Date: 1/27/02 1:22am
Subject: Microsoft Settlement

To U.S. Department of Justice:

I have been following the Microsoft antitrust case through articles in the San Jose Mercury News. The most recent article from today's paper confirms a disturbing pattern that has plagued the business world...that many have lost their conscience in order to reap larger profits...that competition is no longer the catalyst for developing new products in certain markets...that monopolies continue to exist and operate with impunity.

Former U.S. Senator John Tunney criticized Microsoft's disclosure of its contacts with our government throughout the antitrust case as "inadequate". Microsoft interpreted his legislation, The Tunney Act, with tunnel vision; and ultimately, to their benefit, as the case was settled with the U.S. government and 9 of 18 states. Why have large corporations with their Congressional lobbying groups become so influential in determining the fate of the general public?

This is a company that produces a ubiquitous operating system and now a ubiquitous internet browser; only because it has bullied and squeezed out much of the competition over the years. I am an Apple computer enthusiast, but I have to work in a Windows NT world. Yes, I use some of Microsoft's products on both platforms. Yes, they do make some good software. But is it good because they've lured or snatched up many of the talented people that worked for their competition at one time? Is it good because most consumers do not know or care what else is available because Microsoft applications were pre-loaded with their computer?

Yes, I do not agree with the appeals panel overturning Judge Thomas Penfield Jackson's verdict to split the company in two, which resulted in the Microsoft-U.S. settlement. It's been reported that the settlement is ?riddled with loopholes and ineffective in curbing Microsoft's monopoly practices.? Please do not make an already powerful company more powerful. I will be watching what develops with the European regulators, with the 9 remaining holdout states, as well as with the Netscape browser case.

Thank you for providing a feedback mechanism to the public on this important case.

Regards,
Bobby Chin
Sunnyvale, CA

MTC–00026581

From: Delbert Franz
To: Microsoft ATR
Date: 1/27/02 1:25am
Subject: Microsoft Settlement

The proposed settlement with Microsoft has various weaknesses that if not corrected in some way will render the settlement ineffective in providing a remedy to the past business practices and in the opinion of many, the current business practices of Microsoft. Previous settlements with Microsoft have proved ineffective and it would be unfortunate if this one suffers the same fate.

My comments are restricted to the effect that the proposed settlement appears to have on the rapidly growing segment of computer software known as Open Source. One of the more credible alternatives to a Microsoft operating system is GNU Linux or just Linux for short. This software has been developed by a network of individuals donating their time and expertise over a period of years. Section III of the proposed settlement does not provide any protection for non-profit groups. The lack of such protection then allows Microsoft to move ahead without fear of restraint to undermine if not destroy its most credible source of competition. Linux excels in its ability to interoperate with other operating systems. This has been accomplished by the dint of hard labor deciphering various data and communication formats, with no help from Microsoft. If the settlement goes through as is, it is highly likely that Microsoft will move to change some aspects of the data formats needed for Linux's interoperation with Microsoft software with a concomitant move to enjoin any further interoperation on the grounds that the settlement does not offer protection to non-profit entities.

Clearly the protection offered to for-profit groups by this settlement should be extended to non-profit groups. If it is not, Microsoft will be enabled to severely hamper or even quash the Open Source movement in its effort to create an alternative to Microsoft software. Any business that wishes to use Open Source software must be able to interoperate with Microsoft software in order to survive, solely because of the effective monopoly position that Microsoft currently holds, and clearly wishes to maintain. Destroying or hampering interoperation with Linux and its related software would be the most effective way for Microsoft to disable this competition.

Delbert D. Franz
Linsley, Kraeger Associates, Ltd.

MTC–00026582

From: Paul Searing
To: Microsoft ATR
Date: 1/27/02 1:26am
Subject: Microsoft Settlement

I would like to briefly state my beliefs related to the Microsoft Settlement.

I believe that this settlement is drastically unsatisfactory.

From my readings of the materials I see no reason to believe that this settlement will prevent Microsoft from continuing to participate in illegal, anti competitive practices—the same, similar, and dissimilar to those cited in the original complaint.

Some of the proposed remedies, in my understanding, will actually improve Microsoft's footing in what have been its traditionally weak areas.

I only today learned of the opportunity to voice my opinions on this matter and thus do not have any long or rigorous analyses of problems and/or solutions. However, I do feel strongly about this matter and sincerely hope that just and effective measures can, and will, be taken against Microsoft.

Thank you,
Paul Searing

MTC–00026583

From: Amit Shah
To: Microsoft ATR
Date: 1/27/02 1:27am
Subject: Microsoft Settlement

I think Microsoft should be broken in to three different companies.

1) Operating Software only.
2) Internet browser and Internet services.
3) Application software's only.

The reason why it should be broken in to three different companies is that it uses its operating software platform to destroy the competitors. For example, Windows, at first, distributed its Internet Explorer browser for free. Then they bundled it with Windows ''95 and onwards killing Netscape's business.

Lotus was the first in the market to come with the new concept of Spread Sheet and Wordperfect; but they were systematically killed using the same operating software platform.

Now Microsoft's next target is to destroy Utility softwares like Photo Suites and CD burning software's by incorporating its version of these softwares into Windows XP. On top of this, Windows XP will constantly give conflict messages stating that either Windows or the competitors product will not work properly. These messages are not only irritating but can be threatening for those who are not computer experts; eventually forcing them to convert to Microsoft products.

Bill Gates claims that he and his company have come out with many new and better products. Of these new products, how many are truly his (his company's) ideas? Ever since he has entered the computer industry, he has always "borrowed" ideas from others.

1) He sold off the shelf QDOS (Quick and Dirty Operating System) He never developed it.

2) He stole the idea of using GUI and Windows icons from Apple computers. He never developed it.

3) Re-wrote Spread-Sheet as Excel and Wordperfect as Word, stealing ideas from Lotus. Never developed it.

4) Re-wrote Netscape's Internet Browser as Internet Explorer. Never developed it.

5) Photo Suite, Internet security, CD burning software, disk cleaning etc. were separate softwares, which are now incorporated into Windows XP; none of which were his creations.

Bill Gates has not created any of these but as stolen them. This was ought right theft, done in a legal manner.

Even after practically monopolizing utility softwares, productivity softwares and operating softwares, Bill Gates is out to control the Internet Service area as well. By providing internet services like MSN and Hot mail, he will be able to do this.

Microsoft should be split into three different areas instead of only two or nothing at all because all three areas are keys in monopolizing the business; therefore, the must be kept separate to avoid for a monopoly like Microsoft. Not only has Bill Gates taken over PC relating businesses but he has already started capturing Video-Games as well (Xbox). Microsoft must be split before its monopoly gets out of hand.

MTC–00026584

From: Lil'nMark
To: Microsoft ATR
Date: 1/27/02 1:33am
Subject: Microsoft Settlement

It's time for a settlement

Mark & Lilly White

MTC–00026585

From: Ruth A Distin
To: Microsoft ATR
Date: 1/27/02 1:35am
Subject: Microsoft settlement

I strongly urge you to finalize the settlement with Microsoft!! Please don't let this thing drag out any longer just because of a few sore people. It seems to be a fair settlement.

Sincerely,
Ruth A. Distin

MTC–00026586

From: Steve Cain
To: Microsoft ATR
Date: 1/27/02 1:37am
Subject: Microsoft Settlement

To whom it may concern:

My opinion, for what it is worth, is that our economy began to suffer when you, the DoJ, commenced you attacks on a legitimate and viable company, a company employing thousands and providing a product used by many.

Your suit seems to be based on the premise that we, the consumer, are being ripped off; a puzzling position in that I received my copy of the Windows operating system free and can access the internet with software I received free. I might add that I continue to receive free AOL disks and have never paid for the browser I use, Netscape. I have heard no complaints about those companies giving away free software.

My feeling now is that those who would continue to pursue the suits against Microsoft are looking either for glory or market advantage when they can get neither any other way.

Sincerely,
Steve Cain
Gig Harbor, Washington

MTC–00026587

From: Richard Winkler

To: Microsoft ATR
Date: 1/27/02 1:37am
Subject: RE: microsoft settlement

The excellent e-mail below was sent to you by my sister, and I am writing to you to second everything she says and to ask you to stop being so dishonest and to Laissez-Nous Faire (Let us alone).

Richard Winkler
Richard.Winkler@gte.net
Renata B. Hesse
Antitrust Division, US Dept of Justice Re: Microsoft settlement

I am writing regarding the persecution of Microsoft to let you know how I think and feel about this dastardly affair. I resent the government's implication that I am a helpless victim because I choose to buy a computer with Microsoft software already loaded. I resent the arrogance on the government's part thinking that it can decide what is to be on my computer. This is ridiculous. That is not the government's job. Your job is to protect the citizenry from events such as September 11. Why aren't you persecuting that whole affair more vigorously? Why aren't you going after Iran, Iraq? This is how you choose to spend taxpayer money by persecuting an American company?

I cannot remember having instigated a complaint against Microsoft, nor do I recall any other individual doing so. This whole affair has been instigated by competitors who are unable to compete in the free market! Failed business should not be the ones to set the rules for the very markets in which they failed.

The government's application of the corrupt and dangerous antitrust laws against successful businessmen is anti-American and can only result in greater corruption in our society as businessmen find it ever more necessary to kowtow to politicians.

Microsoft and its owners have a right to the fruits of their labor— their property—and it is the government's job to protect this right not take it away. The government's actions are on principle anti-American and unconstitutional.

America is a land open to all who want to dream and work hard to see their dreams come true. If the government throttles success based on the envy and dishonesty of the few then there is no hope left in the world.

The antitrust laws are fraudulent and should be repealed. And by the way I love Microsoft products and not having to load software and not having to pay for a browser!

Sincerely,
Margaret and Evencio Sanchez
CC:msanc56922@prodigy.net@inetgw

MTC-00026588

From: Abe Gindi
To: Microsoft ATR
Date: 1/27/02 1:38am
Subject: Microsoft Settlement

To US Department of Justice:

There is only one way to prevent Microsoft from using Windows Operating System to its own advantage over its competitors. When Microsoft incorporates its own application software into Windows, it does it by means of an unconventional interface that it calls "seamless" while forbidding others from doing the same thing through the licensing agreement which all users must sign. The solution is to force Microsoft to use the same Windows interface that all others must use and to redefine the interface such that it can be more efficient and generally usable by all potential users. Microsoft intentionally made the interface clumsy and inefficient to the disadvantage of its competitors.

History shows us that this is the best way to solve the problem. IBM had two major interfaces that it was forced to standardize by the anti-trust consent decrees. These are the Disk drive or peripheral component interface, and the channel interface. When disk drive manufacturers succeeded in making plug compatible drives in competition with IBM, IBM made a change to the interface that would have forced manufacturers to make an expensive change to their inventories in order to be plug compatible. IBM was forced through anti-trust action to reverse the change and to make the interface standard. A similar case was made with the channel interface that connects the drive control unit to the CPU channel.

Although IBM complained that standardizing the interface would not allow for improvements and future innovations, the standard channel interface allowed plug compatible competitors to build their own control units to connect to IBM computers. The conditions were that any improvements that IBM made in the future had to be such that the interface continued to be backward compatible. That is old hardware was able to connect to the new improved interface without any changes.

I recently had a similar problem with Windows software. A few years ago, I had some very important software that worked with Windows 3.1. An important improvement was made in a new release of this software but the new release was only compatible with Windows 98. I had to upgrade to Windows 98 in order to use the new release of the software. If the rule of backward compatibility were in force, I could have stayed with my Windows 3.1.

The American National Standards Institute (ANSI) committee has been active and successful in standardizing interfaces in the computer field. The committee is made up of representatives of industry that are interested in each interface. The committee can modify and define the Windows interface to the satisfaction of all major users and make it more efficient and general so that future applications will not be handicapped by an obsolete interface.

Each corporate member of the committee gets one vote in decision making although they may have more than one representative. If Microsoft is forced to use the standard interface defined by the ANSI committee for all its application soft ware, it will not have any advantage over its competitors.

I propose this solution to the Microsoft anti-trust remedy. With all application software having to use a standard interface to Windows, all comers can have an equal chance of selling their software without being bullied by the owner of the Windows Operating System.

Abe M. Gindi
agindi@earthlink.net
CC:agindi@earthlink.net@inetgw

MTC-00026589

From: F. Nourbakhsh
To: Microsoft ATR
Date: 1/27/02 1:52am
Subject: Microsoft Settlement
To:
Renata B. Hesse
Antitrust Division
U.S. Department of Justice

Microsoft has tried many legal maneuvers, political influences, lies and money power to cause delays in this case and make people believe they have done nothing wrong. But the truth is out and everyone I talk to knows that Microsoft will even have a tighter grip on our daily lives if we don't do something drastic about it. We can not sit still and let the gorilla go about it's business practices as in the past. A hefty fine in itself is not an adequate remedy either. Microsoft has to be forced to change the way it does business and has to be monitored to ensure we have fair competition in the marketplace.

I hope that our legal system sees through the smoke Microsoft is hiding behind and does what is Right instead of what may be politically correct or good for the stock market.

I urge the department of justice to give the little guys a chance to compete so that consumers like myself have a real choice. Punish Microsoft to the full extend of the law and force them to change their unfair business practices.

Cordially,
Fred Nourbakhsh
Minneapolis, MN

MTC-00026590

From: Niranjan Pardasani
TO: Microsoft ATR DATE: 1/27/02 1:48am
Subject: Re: Microsoft Antitrust case

Please see attached letter.

Nick Pardasani
3861 Toland Avenue
Los Alamitos, CA 907020
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

I am writing to support Microsoft in the antitrust case they are entrenched in. I am in favor of Microsoft because of America's free market system. I strongly believe that government try to avoid restrictions on free enterprise, and that in this case, Microsoft should be left alone.

In regard to this case, Microsoft has assented to terms that were originally non-factors in this case, such as terms concerning disclosure of intellectual property. Microsoft also will undertake changes in its relationships with other IT companies. Under the settlement, Microsoft promised not to strike back at those developers or makers who attempt to manufacture, ship, or advertise competing companies" software.

I have grown tired of hearing about the Microsoft case. Again, I believe that Microsoft as a corporation should be free to conduct business as it see fit. However, it is my hope that you, as the justice keeper of this great country, will bring this case to a quick and fair end.

Sincerely,
Nick Pardasani

MTC-00026591

From: Janmala9@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 1:47am
Subject: Microsoft Settlement

January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft,

I am writing to express my opinion of the recent settlement between Microsoft and the US Department of Justice. I am happy to see that Microsoft will not be broken up. But a number of the concessions that Microsoft is being forced to make are unfair.

My son works for Xerox. Ever since Xerox's patents expired and they were forced to share their information with other companies, Xerox has not been the same. When a company spends incredible amounts of time, money, and resources to create a technology that other companies were not able to create, the company should not be punished for its innovation. It is the company's right to bask in the fruits of its labor. Compromise is always a difficult thing. I hope Microsoft is making concessions that will be in the best interest of the company, as well as the computer industry.

I also hope the Department of Justice and the nine states in opposition will discontinue any further litigation because it is in the best interest of the American public. I look forward to the IT sector getting back to normal and continuing the growth rate that propelled the economy before the lawsuits began.

Sincerely,
Janet E. Malatesta
1009 Stoneham Circle
Hatfield, PA 19440–4124

MTC-00026592

From: larry@doolittle.boa.org@inetgw
To: Microsoft ATR
Date: 1/27/02 1:49am
Subject: Microsoft Settlement

I am a 43 year-old scientist and engineer. I switched from DOS to Linux in 1993, a change that helps me work more effectively. Even with my nearly exclusive use of Linux, I daily have to deal with unpleasant side effects of Microsoft's monopoly.

I have read the Proposed Final Judgment cover to cover. I concur with the assessment of others, such as Dan Kegel and Robert Bork, that it is a toothless sham which will do nothing to restore choice and competition to the personal computer software marketplace. In it, Microsoft makes minor concessions to its already vanquished foes of the past decade, while entrenching and solidifying its ability to resist its foes of the coming decade.

Microsoft has a long history of buying and/or "cutting off the oxygen" of its potential for-profit competitors. With its enormous stockpile of cash, it's hard to see how any conduct remedy will reverse this trend. These methods of maintaining its monopoly (now shown to be illegal) don't work against free-as-in-speech software, like Linux, Samba, and Wine. For this reason, many people in and out of Microsoft consider such software to have the best long term chances of breaking the Microsoft Windows monopoly. Microsoft's nascent strategies for sidelining these potential competitors will be legitimized and strengthened by the proposed settlement.

I can only find two ways to explain the Justice Department's support of this agreement: either they are totally oblivious to the open source movement and its threat to Microsoft, or they, like Microsoft, want control of computers concentrated in the hands of a plutocracy, and kept away from America's unpredictable and unfettered citizens. Since court decisions have repeatedly confirmed that source code is speech, this second explanation is equivalent to government opposition to citizen ownership of printing presses. Ben Franklin would roll over in his grave. Here are the aspects of the proposed settlement that I find particularly egregious:

*It carefully excludes open source projects, such as Wine and Samba, from the third parties to whom they must release documentation etc. (III.J.2).

*While Microsoft is required to license patents on a non-discriminatory basis (III.I.1), the cash-for-ideas concept itself discriminates against free software, that has no revenue stream or control over its "customers", the free citizenry.

*Microsoft does not have to disclose which patents might apply to its software's functionality, protocols, and interfaces. This leaves its sales force enormous room to inject FUD (fear, uncertainty and doubt) into its discussions with customers considering alternatives to Microsoft. Such behavior is already documented.

*Technical information that Microsoft discloses about its products can not be used to design or implement products that either compete with Windows, or run on operating systems other than Windows (VI.I).

*No requirement is placed on documenting, or even stabilizing, the file formats used to interchange word processing documents. Without such disclosure, attempts by competitors to read or write these documents will be (and have been) unreliable at best. Since many entities, including the U.S. government, often require documents to be submitted in this file format, the lack of compatible software institutionalizes a requirement that everybody buy Windows.

I believe that ending the prolonged anti-trust case with this settlement would send a loud pro-big-business, anti-consumer, and anti-competitive message to the computer industry. While free speech, free ideas, and free software will ultimately survive and flourish without the cooperation of government, this settlement would be seen for years as a win for big money, and a loss for the people. Please join the Attorneys General for California, Connecticut, et al., and reject this settlement as bad for the computer industry, the worldwide Internet, and the nation.

Lawrence R. Doolittle
836 Meander Dr.
Walnut Creek, CA 94598

P.S. Like about 2000 others, I also signed Dan Kegel's open letter, http://www.kegel.com/remedy/letter.html, which goes into more technical detail than this one.

MTC-00026593

From: Possiel@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 1:54am
Subject: Microsoft Settlement

Your Honorable Kollar-Kotally,

I was dismayed when I learned of the proposed judgment that the Department of Justice is considering to accept.

The proposed Judgment does not address the anticompetitive practices that Microsoft was proved to be doing by the appeals court.

I was glad to hear that a Judge threw out Microsoft's proposal that they donate one billion dollars to schools. Imagine a punishment that would enable Microsoft to dramatically weaken Apple Computer's presence in the school systems!

America looks to your wisdom in determining a just punishment and more importantly, ensuring our free market remains truly free from intimidation of monopolistic organizations. Thank you for your consideration,

Joyce Ferguson
San Jose, CA 95134

MTC-00026594

From: Kelley Terry
To: Microsoft ATR
Date: 1/27/02 2:03am
Subject: Microsoft Settlement

The settlement proposed is a nightmare. I look at going into programming and/or servicing linux based machines. According to the settlement the private non-profit organizations that need access to windows api's to make compatible code aren't even considered a business and are therefore denied access to windows code!! Absurd!!

My understanding (perhaps limited) of patent or copyright law was that it was set up to provide protection against others using ideas that took time and effort to produce. That protection is good and it's primary purpose was to promote innovation and invention by giving financial security to the inventor so he could recoup his investment. Microsoft has taken the extreme position (and always has and always will if allowed) of using this copyright protection to promote a monopoly and thereby strangling rather than promoting innovation and invention. I'm no legal expert but that's obviously against the original, basic principles of copyrights.

It said use windows 95 or better so I loaded linux!

In a world without walls and fences who needs windows and gates?

Kelley Terry <kelleyterry@sisna.com>

MTC-00026595

From: Edward Mills
To: Microsoft ATR
Date: 1/27/02 2:04am
Subject: Microsoft Settlement

An Independent User Voice—not lobbied by anyone speaks.

My opinion is that the previous decision to split Microsoft was TOO LENIENT and the current proposed settlement is an insult to any and all who do not own Microsoft stock. I have been a PC user since the early days and have watched Microsoft manipulate the previous settlement on DOS into a joke. They killed Netscape, and before that Wordperfect, and Lotus123, and Quattro Pro which was clearly technically superior to Excel, and before that DR DOS. They have almost delayed this decision till it is moot as the release of Windows XP has already occurred. The proposal to distribute FREE or discounted software is no remedy but rather a well thought out anti-competitive ploy in itself. The best way to secure future use is to get the kids hooked—the tobacco industry and alcohol industry know this and software is even more perverse in that it is legal to promote your product to schools in hope that users will not want to migrate to a different system. Apple knows this and their last hold was that many educational entities still use Mac systems. The proposal would take this one hold away from the only real competitor Microsoft has not completely killed. As a minimum, Microsoft must be made to pay back users who were harmed and not in discount certificates; also they should be broken up into 2 or 3 companies representing Operating Systems, Applications, and Internet. Further their ownership of distribution of information networks should be curbed and they should be restricted to current business applications with proposals for expansion subject to oversight by a court master. I am sure that this is in the minority as Microsoft lobbies effectively by many means including mass e-mail campaigns.

MTC-00026597

From: John Johnston
To: Microsoft ATR
Date: 1/27/02 1:59am
Subject: Microsoft Settlement

Dear DOJ,

The only actions that I have seen that are harming the consumer is the government attempt to create alternatives for the consumer. A computer operating system is not like our highway system. Our cars operate just fine regardless of the road construction, asphalt, cement, gravel, dirt and so on. There was more diversity in rail lines, the spacing of the tracks was different at times. The rail cars and equipment designed for one gauge of road did not work on others.

The comparison between rail lines is much more akin to attempts to engineer compatible software operating systems or features by different companies. IBM attempted to make their OS2 compatible with programs wrote to run on MS Windows. It didn't work, if they couldn't do it, who is going to? Sun Microsystems JAVA is likewise not doing what Sun said it would. According to SUN a software designer could write it once and it would run anywhere. Maybe the ridiculously simple things will, but any meaningful productivity applet still needs to be "tweaked" and then it might not achieve cross platform ability.

Our country will be better off, and our consumers will be better off with one basic operating system vendor than with the market being split between three.

The biggest cry of foul comes from Microsoft's competitors who have had the privilege of over charging business users but are now seeing their revenues crash since they have to compete with equally or more capable software from Microsoft.

This kaleidoscope of lawsuits from the DOJ and nineteen states and now other companies and foreign countries is only going to hurt the consumer and probably the United States.

Sincerely,
John Johnston

MTC-00026599

From: E.S.
To: Microsoft ATR
Date: 1/27/02 1:58am
Subject: I OPPOSE the current Microsoft settlement proposal

I am OPPOSED to the current Microsoft settlement, and I SUPPORT HARSHER PENALTIES against Microsoft.

Microsoft have been convicted of violating the Sherman antitrust law on several counts, and have been found guilty of illegally using their monopoly power in order to maintain their monopoly power, thus destroying competitors such as Netscape and preventing consumer choice by forcing OEM suppliers to use only Microsoft software (or else face unreasonably harsh and anti-competitive penalties by Microsoft).

The current proposal does nothing to penalize Microsoft; without penalties, the nation (and indeed the world) as a whole is not served justice. Allowing Microsoft to escape this long-lived battle relatively unscathed— *especially* after being found guilty on several counts—would make a mockery of our judicial system, and whatever respect for the system that still exists in the minds of the public will be further diminished or destroyed.

Microsoft employees and supporters are viewing these trials collectively as a battle they have fought hard to win. Like Jay Leno said one night in reference to a decision made during the trial (paraphrased): "Finally the little guy comes out on top, right?!" It should be noted that Leno was hired several years ago by Microsoft to help introduce Windows 95 (by using a popular and well-known television personality)...

If the Department of Justice wishes to be viewed as weak-kneed and perhaps even serving of mostly corporate interests, then accepting the current proposal is the path to this public view.

If, however, the Dept. of Justice wishes to be viewed as a respectable entity, unafraid of a challenge, and willing to stand up for that which is legally, morally, and ethically-correct, without regards for whether the criminal is an individual, a company, or a non-profit organization—in essence following the "justice is blind" philosophy that law is thought to abide by—then I once again encourage harsher penalties for Microsoft. Thank you for your time.

MTC-00026600

Date: Sat, 26 Jan 2002 00:44:04 -0800
To: microsoft.atn@usdoj.gov
From: mcvarish <mcvarish@serv.net>
Subject: Microsoft Settlement

To the U.S. Department of Justice:

In reference to the to the antitrust settlement between Microsoft Corporation, the Department of Justice, and nine states, I urge you to adopt the settlement. The terms of the settlement are very strict and provide more than enough punishment for Microsoft. To further punish Microsoft would be to further punish consumers, stockholders, Microsoft employees, and companies that provide material and services to Microsoft. Many thousands of people depend on Microsoft's functioning at maximum potential.

Please, in all fairness, adopt the settlement.

Sincerely,
Mary Alice McVarish

MTC-00026601

From: Bridgewater Family
To: Microsoft ATR
Date: 1/27/02 2:20am
Subject: Microsoft Settlement

I was visiting at Netscape, as a customer, the day after they first met with Microsoft. There was no doubt that they had been surprised and somewhat taken aback with Microsoft's tone.

Based on what we were told, Microsoft offered to partner with them and divide the world into PCs and non-PCs with Microsoft getting the PC world and Netscape getting what was left. Netscape says they turned them down and Microsoft left them with the impression that they would be put out of business. At that time and subsequently I believe that Netscape had a much clearer vision and was as interested in driving the Internet as they were in growing and making money. Microsoft, clearly, has no other interest than market domination and maximizing profits in any way they can. Microsoft has no interest in advancing the Internet or, indeed, any aspect of computer science, utilization, security or performance.

Microsoft is not an engine of advancement or change. There is not one product or service they can point to and say they invented or developed it. There history has been to purchase or drive out of business any competitor and then blanket the market segment with proprietary code to prevent anyone else trying to enter that market. This is not a forward looking strategy—it is the road to stagnation. Established product lines do not move in new ways, they fester under an ever increasing load of new, largely useless, features: all the components of Microsoft Office fall in this category; Internet Explorer is well on the way; XP is not only enormous and slow, it comes with one of the most repressive licensing scheme since indentured servitude.

But, it is Microsoft's arrogance and complete lack of ethics that has prompted me to write. The Justice Department, et. al. settlement left me speechless. No mention that Microsoft has been convicted of breaking the law (which was upheld on appeal). No mention of their bad faith in answering subpoenas or goading a Federal Judge into making non-judicial statements in a fit of pique. Indeed, someone from another planet who read this would wonder what the fuss was about.

The idea of three people living and working at the Microsoft campus and keeping an eye on them is ludicrous on the face of it. How can they ever know what is going on?

Where is the restructuring that is clearly indicated from their actions? Where is any notion of making their former competitors whole? Where, for pity sakes, is any discouraging word?

I think breaking the company up, opening up at least their interfaces so there can be some real possibility of competition and imposing some real punishments— community service at a minimum— will ever convince them that perhaps they have erred. Otherwise, they will simply have a giant celebration on the day this becomes final and laugh off the rest of the industry forever.

Sincerely,
Gary Bridgewater
gbdsb@pacbell.net
IT Manager

MTC-00026602

From: Dream Fountain Support
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/27/02 2:32am
Subject: Netscape / Microsoft

Gentlemen:

I have been a professional web developer for 5 years. During this time I have used both Netscape and Internet Explorer. Netscape contends that Internet Explorer has gained the advantage by bundling their browser with their operating system.

However, as a developer I must disagree. Netscape is simply an inferior product. Designers world-wide are constantly having to re-write good code simply to accommodate the unusual characteristics encountered with the way Netscape displays. New technologies such as layers are not recognized by Netscape. As such, a perfectly acceptable design looks great in IE, but is not nearly as robust in Netscape. Some developers have simply given up on Netscape and now generate code designed only for IE, with a note on the page reading "best viewed with IE" or "not compatible with Netscape". Trying to accomodate Netscape's shortcomings is costing companies large sums of money in wasted time and effort to support a poorly designed pro duct.

It is not my intent to comment on the balance of the lawsuit as a whole, rather my opinion that Netscape was an inferior product several years ago, and their newest version is even worse. The browser war was simply won by the company with the best product.

Sincerely,
Robert Adelfson
Dream Fountain Data Solutions
Internet Solutions for Small Business
947 E. Park Ave.
Gilbert, AZ 85234
www.dreamfountain.com
(480) 813–7711

MTC-00026603

From: Bob Wieman
To: Microsoft ATR
Date: 1/27/02 2:32am
Subject: Microsoft Settlement

Let me make clear at the first that I do not agree with the proposed final judgement as it stands.

I would point out two issues:

The definition of future Microsoft middleware products, outside those that have the same functions as the current Microsoft middleware products, requires that Microsoft has distributed the product separate from the operating system. If Microsoft developed a product to replace a non-Microsoft middleware product, and released it only with the operating system (potentially, the new OS release could just be inclusion of the product), this product would not qualify as a Microsoft Middleware Product, and therefore would not be subject to the access requirements of Section III.H.1, or the substitution of automatically launched middleware of Section III.H.2.

Effectively, the commercial viability of a non-Microsoft Middleware Product is given a time horizon, determined by Microsoft, of the next OS release. At that point, Microsoft can implement a competing API, not bound by these subsections and therefore not necessarily removable or replaceable. A non-Microsoft Middleware Product in this situation will not pose the threat to the OS monopoly that it would have, absent this behavior by Microsoft to illegally maintain its monopoly.

To repeat, the definition of Microsoft middleware products in the proposed final judgement is overly narrow, and therefore the proposed final judgment does not prevent the recurrence of one of Microsoft's exclusionary acts: the integration of a product competing with non-Microsoft middleware into Windows in a non-removable way. The result would be an ever-expanding operating system, taking unto itself any functionality provided by competing middleware, to ensure that no competing middleware could claim usage share wide enough to erode the operating system monopoly.

Secondarily, the question of whether "tying" a (non-monopoly) product to a monopoly is itself anticompetitive under Section 1 of the Sherman Act is a question that I think strikes at the core of people's intuition regarding antitrust law, and a resolution of the question is in the public interest. Not only might the resolution modify the appropriate remedy in this case, but a precedent would be set to measure the behavior of this and other monopoly-holding corporations by.

To sum up: I do not believe that this proposed final judgment prevents a recurrence of the illegal behavior it seeks to remedy. Further, I feel that disregarding the most interesting question of law does not serve the public interest. The people need to know if legislation is required to conform the law to our intent, and monopoly-holding corporations need to know what they may or may not do.

Thank you for your consideration.
Bob Wieman
rewieman@eos.ncsu.edu
Office: Harrelson 381

MTC-00026604

From: FHoot@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 2:33am
Subject: Microsoft Settlement

Your Honorable Kollar-Kotally,

I thank you for your time in reviewing my comments concerning the proposed final judgment against Microsoft.

I have worked in the heart of Silicon Valley for over twenty years and have seen first-hand Microsofts spectacular growth and remarkable contributions to the computing world.

I have also experienced firsthand how a monopolistic corporations anticompetitive behavior has caused inflated software pricing.

I encourage you to find at a proper ruling that would accomplish the following:

Prevent future intimidation in our free market not only by Microsoft but any other company by providing some type of enforcement policy that would truly work. I realize that this would be an extremely difficult task, but I have confidence in our American system.

Design a proper punitive award that would reimburse everyone who has paid inflated pricing. Proof of purchase of products and licensing should be required in order to receive payment for the portion of the purchase price that is determined to be over and beyond what the competitive costs should have been. I strongly urge you to prevent a cash grab by the State governments and deny all such awards. If a state has purchased software, they should receive the same reimbursement of costs as any individual or corporation. Such a move would allow the monies returned to be put back into the economy by investments and additional jobs.

Best Regards,
Fred Hoot
San Jose, CA
fhoot@aol.com
www.fredhoot.com

MTC-00026605

From: Rex Foy
To: Microsoft ATR
Date: 1/27/02 2:37am
Subject: Microsoft Settlement

To whom it may concern,

I would like to express my opinion that the proposed settlement between Microsoft, and the DOJ is unacceptable! The measures proposed are not sufficient a stand against Large monopolies like Microsoft. The only acceptable solution is to divide said monopolies into smaller, competing companies!

Sincerely, Rex A. Foy
401 W. Desert Ave.
Gilbert AZ 85233

MTC-00026607

From: thebod@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 2:40am
Subject: Microsoft Settlement

I consider the proposed settlement, a reasonable compromise enhancing Sr. citizens (and all Americans) an easy access to the NET and innovative software programs......and thereby make their computer experience easier and enjoyable. A!so, acceptance of the proposed settlement, should be a positive influence on the economy and diffuse our recession!!! Unless you're a lawyer...(the only ones to win from hereout) shut this off and lets get it on!!!

D. J. Bodner

MTC-00026608

From: Bruce Gee
To: Microsoft ATR
Date: 1/27/02 . 2:43am
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I am writing this email because I oppose the proposed final judgment between Microsoft and the Department of Justice.

Like most people using computers, I am a user of many Microsoft products. I have great appreciation for their products—they are generally very good. And I admire much of what Microsoft has done in advancing personal computing.

But the end does not justify the means. That is why I oppose the proposed judgment. Microsoft got to their current dominant position with tactics that I believe (and I think the courts have found) are illegal. I think you have heard many of the examples, so I'll not re-hash them to you.

Looking to the future, my overall concern is that Microsoft will, and has shown by its previous behavior, follow the law only in the most narrow definition to their favor. If given any loophole, they will find it, and will abuse the intent of the law. From what I can tell, the proposed judgment, while clearing stating an intent, leaves plenty of room that Microsoft will abuse.

They will use their position in the desktop operating system to try to dominate other areas. This includes servers (Linux and Solaris), web services and content (.NET initiative), entertainment devices (games and TV), handheld computers (Palm), and countless other markets. That is not to say that these product/services will ultimately be bad—it will just eliminate other possible choices from developing fully. I believe that a competitive market benefits consumers by giving broader choices, better products and lower prices. The technology sector outside of the current Microsoft eco-system will gradually disappear if Microsoft is allowed to expand un-checked.

In a large sense, we are already dependent on Microsoft on being a "benevolent dictator" in the desktop operating system and office productivity space. That is why it is critical to structure the proposed settlement so it does not let Microsoft make unlawful use their current dominant position to expand into other markets. We need innovation to come from lots of different sources, including Microsoft. Please make changes to the proposed judgment so it provides a level playing field for all players in a competitive marketplace.

Best Regards,
Bruce Gee
bruce@geeteam.com
1305 Greenwood Ave, Palo Alto, CA 94301
650-328-8091

PS—I also own a small number of shares of Microsoft.

MTC-00026609

From: cashanng@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 2:49am
Subject: Microsoft Settlement

Dear Sirs,

Greetings. As an American I am concerned that the Microsoft case has gone on and on. It needs to be settled now and stop dragging it out and spending (wasting) tax payers money. The present agreement in the case does what needs to be done so let's finalize it and get on with the other jobs.

Sincerely,
Cash Godbold

MTC-00026610

From: Jon Anderson
To: Microsoft ATR
Date: 1/27/02 2:55am
Subject: Microsoft Suit

To Whom It May Concern,

Although I am a long-time user of Microsoft products, I find I am alarmed at the stories I've heard of under-handed competitive practices, and the trend towards fee-based services one can see in the new XP line of products. At this pace consumers can expect to be subject to the same kind of abuse in the use of our computers as we now experience with local and long-distance telephone service where de-regulation has provided us with no real benefit.

I offer one personal example of a company grown to large and too greedy to care about individual consumers: When I purchased Microsoft's PowerPoint 2000 software, it scrambled my installation of MS-Office 97. When I called Microsoft's technical support, I was told that the issue did not reside with the PowerPoint 2000 product, but with Microsoft Office 97...which they no longer supported. I protested that the Office 97 product was fine until the PowerPoint 2000 installation, but was told if I wanted further help, it would cost me $35. I believe that a product costing roughly $250–500 (depending on upgrade versus full version) should be supported when it misbehaves—certainly for more than 4 years. And—as a consumer and writer—I resent the special status accorded software "engineers" who are pushing us towards a system of hourly fees: no one has offered to pay writers every time their articles are read. Furthermore, I have become resentful of continually buying so-called "upgrades" to software which are more aptly called "bug fixes".

I encourage you to take a hard look at this company and do your duty—provide a bulwark for the consumer against corporate greed and abuse. I grow tired of being nickel & dimed to death by companies grown too large to care about customer service. While Microsoft products are generally good—and certainly we need standards for PC operation—the consumer currently finds him/herself with fewer choices than were available even a few years ago. In a market where consumers have no choice, it's up to the government to step in and make sure that choice and a free-market dynamic are restored.

Thank you,
Jon Anderson
University of MN—CALA
612.961.7440
CC:Fred Newman

MTC-00026611

From: JobLeads
To: Microsoft ATR
Date: 1/27/02 2:55am
Subject: Microsoft Settlement

Dear Sir/Madam:

I am opposed to the proposed settlement in the Microsoft antitrust trial. I feel that the current proposed settlement does not fully redress the actions committed by Microsoft in the past, nor inhibit their ability to commit similar actions in the future.

The vast majority of the provisions within the settlement only formalize the status quo. Of the remaining provisions, none will effectively prohibit Microsoft from abusing its current monopoly position in the operating system market. This is especially important in view of the seriousness of Microsoft's past transgressions.

Most important, the proposed settlement does nothing to correct Microsoft's previous actions. There are no provisions that correct or redress their previous abuses. They only prohibit the future repetition of those abuses. This, in my opinion, goes against the very foundation of law. If a person or organization is able to commit illegal acts, benefit from those acts and then receive as a "punishment" instructions that they cannot commit those acts again, they have still benefited from their illegal acts. That is not justice, not for the victims of their abuses and not for the American people in general. While the Court's desire that a settlement be reached is well-intentioned, it is wrong to reach an unjust settlement just for settlement's sake. A wrong that is not corrected is compounded.

Sincerely,
Daniel Maddy
Tigard, Oregon

MTC-00026612

From: GYoung
To: Microsoft ATR
Date: 1/26/02 9:43am
Subject: "Microsoft Settlement"

Microsoft has gotten away with too much and is out of control, please do not let Microsoft get away with just a mild slap on the hand. They have hurt too many companies and individuals. I know as I am one who they have relentlessly attack. We use to average $2.5 million in annual sales with net profit of less than $30,000 after Microsoft's continued attack and negative campaign against us we sold less than $650,000 last year and had a net lost $664,000 which forced me into personal bankruptcy. As if that is not enough they are now demanding $1,000,000 from me and my company plus they want my company name and my web site to do what they wish, all because we do not follow their "desires/demands". I am too small to be able to afford to fight them in court. Is it not clear they are out to destroy who they perceive as a competitor? If you let them off too easily they will continue their evil ways. It is the small business man who is the real victim. If you would like more details of my case I will be happy to provide you with whatever you desire.

Sincerely,
Glenn Young 903-626-5317

MTC-00026613

From: Tony Silva
To: Microsoft ATR
Date: 1/27/02 3:03am

Subject: Microsoft Settlement

Greetings.

I am writing to express my strong objection to the proposed settlement of the Microsoft case. Not only does the proposed settlement allow Microsoft to defraud the government by making reparation in software (for which the real cost is close to zero), but it compounds the problem that led to legal action, specifically, the unfair practices that led to the monopolization of the browser and software markets. "Punishing" Microsoft by allowing it to flood the schools with its software is a farce.

Please, exercise reason and a sense of fairness in proposing a settlement that both punishes the corporation for its misdeeds and helps solve the problems its misdeeds have created.

Tony Silva

MTC-00026615

From: Bryan Lamos
To: Microsoft ATR
Date: 1/27/02 3:11am
Subject: Microsoft Settlement

I'm pro-Microsoft, and I'll be happy when this is over with and Microsoft is allowed to continue to innovate and compete fairly. We need a law to stop competitors from filing frivolous lawsuits against each other!

The following article does a succinct and accurate job of capturing exactly what is wrong with the high-tech industry today, specifically the ability of Microsoft's competitor's to attempt to thwart Microsoft's success by relying on our taxpayer-funded legal system: "Netscape turned out to be a poor investment (its market share has plummeted to about 10 percent, compared with nearly 90 percent for Microsoft's Internet Explorer, which, by the way, AOL chose as its online service's own browser). ...

Speaking of consumers, I can't understand how they're hurt by a business strategy that offers browsers for free. Would consumers—who, after all, are the people who are supposed to be protected by antitrust laws—be happier if they had to pay $100 or $200 for a browser? Free software is hardly a new Internet idea; AOL continually offers "upgrades" to its own service for free. Is it unfairly competing?

It's no coincidence that AOL's dramatic lawsuit comes just as a federal judge is deciding whether to bless a hard-won settlement, reached by nearly all the parties in the massive anti-trust suit against Microsoft. Nine attorneys general, among them America's top publicity-seekers, remain holdouts. They have asked, among other things, that Microsoft be forced to give away the Explorer source code. ...

Instead of straightening out its business problems, AOL has decided to spend its time and effort filing lawsuits against tough competitors—a petty, distracting pursuit that won't help AOL or, for that matter, the U.S. economy, which depends on firms like Microsoft for the innovation necessary to bring about a technology revival."

Please read more at : http://www.techcentralstation.com/1051/techwrapper.jsp?PID=1051-250&CID=1051-012302E, apparently the author feels the same way as the majority of America, the consumers, the real players in this contest. This is crazy!! AOL chooses Microsoft's browser as the browser technology for it's client viewer, basically giving an implicit admission that it is superior than Netscape, then goes on to buy the Netscape browser, then SUE Microsoft because their browser took market share from Netscape??!?!

Bryan Lamos

MTC-00026616

From: larry@larryr.com@inetgw
To: Microsoft ATR
Date: 1/27/02 3:16am
Subject: Microsoft Settlement

I am exercising my Tunney Act right to comment on the proposed settlement. I do NOT believe this settlement accomplishes the goal of returning competition to the computer software markets now dominated by Microsoft. At a minimum, it must extend protection and rights to non-profit organizations as well as commercial for-profit companies.

I support the appointment of Steve Satchell as one of the members of the enforcement committee.

Larry Rosenblum
Sunnyvale, California

MTC-00026617

From: Vasant Ramasubramanian
To: Microsoft ATR
Date: 1/27/02 3:22am
Subject: Microsoft Settlement

To Whom it May Concern:

As a tax paying citizen of the US, I find the DOJ's proposed agreements in the Antitrust case again Microsoft to be both inadequate and ineffective. The US government has expended a tremendous amount of tax payers" money in this particular case. The findings of the Court of Appeals enumerates the crimes of Microsoft, yet the proposed action is equivalent to a "slap on the wrist". The proposed settlement is simply preposterous. It's quite sad that US government will ignore both it's own findings and clearly stated Antitrust laws. One has to wonder who the government is working for, the tax paying citizens who elect the officials, or the businesses that bribe the government? Given the current settlement, I think the answer is clear.

Sincerely,
Vasant Ramasubramanian.

MTC-00026618

From: Ron Hilton
To: Microsoft ATR
Date: 1/27/02 3:27am
Subject: Microsoft Settlement

COMMENTARY ON PROPOSED MICROSOFT ANTITRUST SETTLEMENT:

I have studied the various documents pertaining to the Microsoft antitrust case, including the complaint, the proposed settlement, and the competitive impact statement. In general, I believe that the settlement is a step in the right direction, but is far too ridden with loopholes to be effective as a practical remedy.

To the extent that the settlement requires full disclosure of APIs and protocols, it represents a very satisfactory remedy. The Windows APIs and protocols have become a de-facto standard in the computing industry. Such standards are vital to the interchangeability of software components that must exist in order to enable consumer choice and true competition. However, when one company exercises complete hegemony over such a standard, and can unilaterally shape it to their advantage, with undisclosed interfaces that they alone are able to exploit, anticompetitive harm to the consumer is the inevitable result. Unfortunately, the settlement in its present form is too limited in scope with too many escape clauses to have any real remedial effect. In particular:

1. Section III. D. allows Microsoft to evade full disclosure by requiring membership in the Microsoft Developer Network (MSDN) in order to receive the information. There is nothing to prevent Microsoft from imposing unreasonable fees or other restrictions on MSDN membership so as to deter a potential competitor from obtaining the information.

2. Section III. J. 1. allows Microsoft to evade full disclosure in the name of "security." Security that relies upon obscurity is no security at all. There is much greater security in having an open standard that can be scrutinized and critiqued by all, thereby identifying and eliminating whatever vulnerabilities may exist. Microsoft's dismal record on security speaks for itself on this point.

3. Section III. J. 2. b) allows Microsoft to evade full disclosure by maintaining that a competitor has no "reasonable business need" for the information.

4. Section III. J. 2. c) allows Microsoft to evade full disclosure by refusing to certify the "authenticity and viability" of a potential competitor. Microsoft cannot possibly be objective in making such a determination. The conflict of interest is simply too great.

5. Section III. J. 2. d) allows Microsoft to evade full disclosure by imposing an arbitrarily onerous and expensive burden of proof of compatibility on a potential competitor.

6. Section VI. J. and K. allow Microsoft to evade full disclosure by simply electing not to separately trademark a middleware product that utilizes the API or protocol in question. They can still use the trademarks "Microsoft" and "Windows" in connection with the product without having to disclose the APIs or protocols in question.

7. Section VI. N. allows Microsoft to evade full disclosure to competitors who have not already sold at least one million copies of a competitive product. This is a catch-22 which effectively prevents any small start-up from ever gaining a foothold in the Windows-compatible marketplace in the first place.

The bottom line is that under the proposed settlement, there are any number of ways in which Microsoft can easily evade full disclosure of the de facto standard Windows APIs and protocols which the industry as a whole needs in order to provide true consumer choice among competitive, fully compatible software products.

Here is the remedy that I would propose instead:

1. Microsoft must fully disclose all Windows APIs and protocols by making them freely accessible to the public via the Internet as of the date of the beta release of any software product that employs such APIs or protocols.

2. Any competitor who extends or otherwise modifies the Windows APIs or protocols for their own product must likewise fully disclose such extensions or modifications by making them freely accessible to the public via the Internet as of the date of the beta release of any such software product.

The second requirement above is an important one. It is designed to prevent the proliferation of multiple proprietary, incompatible variations of the Windows standard. That is what caused the fragmentation of the original Unix standard, as Unix competitors sought to "lock in" their customers in much the same way that Microsoft has done with the Windows standard. Only an open standard which is required to remain an open standard can provide a reliable foundation for innovation based on true merit that provides real choice to consumers in a fair and level competitive environment. Unix started out open but became proprietary. Windows started out proprietary, but must become open.

Please note that I am not advocating that Windows become open source. The source code is Microsoft's intellectual property and should not be confiscated. Only the external interfaces (i.e. APIs and protocols) need to be fully opened up to the public.

Thank you,
Ron Hilton
President, Platform Solutions, Inc.
1250 Oakmead Parkway, Suite 210
Sunnyvale, CA 94086–4027
(408)730–6826

MTC–00026619

From: Richard Culbertson
To: Microsoft ATR
Date: 1/27/02 3:29am
Subject: Microsoft Settlement

Microsoft has every right to give away their browser, on the other hand the Netscape browser is a poor piece of programming and should perhaps PAY us to use it.

What this is amounting to is Bill Gates and Microsoft didn't pay enough "shake-down and protection money" to the politicians in Washington DC

Get away from Microsoft.

MTC–00026621

From: Cynder Gray
To: Microsoft ATR
Date: 1/27/02 3:30am
Subject: 1984

In 1984 Apple computer introduced the world to a new way of working with the computer with a now famous commercial.

The commercial aired showing thousands of people dressed in gray clothing in a drab, industrial environment are taking instruction from a man on a TV screen. An athletic woman with a sledge hammer is chased by military police into a main viewing room where she throws the hammer into the screen effectively destroying it. Apple could not have come closer to telling the future. The images are not the same but the message is clear—Microsoft has taken over! Microsoft controls all components of technology. It will soon control access to the internet and eventually will hold information about all users with their new ".net" initiative. One company with so much control over how I work, what I view and how I use and store collateral material is beyond comprehension. Please, stop the monopoly. Break Microsoft up, force them to divest, possibly even make their file standards open source. Cynder Gray

MTC–00026622

From: max2dog@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 3:30am
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Philip Duckham
11610 Waterman Rd
Brooklyn, MI 49230

MTC–00026623

From: Peter Au
To: Microsoft ATR
Date: 1/27/02 3:39am
Subject: Microsoft Settlement

All the law suits including DOJ's and state attorneys" anti-trust suit and civil suits are full of contradiction, irony and hyprocrisy. On one hand Microsoft is accused of anti-trust violation monopolysing and overcharging consumers, and on the other hand was accused of lower pricing than competitors as a form of predatory pricing. Microsoft achieved 95% of the market through good and renovating products and competetive pricing, was accused of monopolyzing. Then no company should try to suceed because if you do, you are a monopoly. The objective of the Anti-trust Law is to prevent any company from dominating the market and gouging prices and thus do harm to consumers. However, Microsoft was accused of bundle products, selling them at lower prices or component such as browser free. I can't see how consumers could be harmed to have some free products or get a good deal in buying bundle of programs. DOJ do have the intention of vaguely protecting the consumers in the long run, but never directly place consumer immediate interest in the equation; is also presuming too much in assuming Microsoft will gouge prices in the future. Every body is innocent before proven guilty. The fact that Microsoft selling the browser program free greatly benefit consumers, and have greatly advance the popular use of internet that renovate this country and the world intellectually, culturally and economically. And now AOL who is charging consumer for using her service is suing Microsoft for harming Netscape. I wonder whether "competition" or "benefit consumer" has any meaning in this society. Any party loses a competition will feel unfair and wants a rematch in a so called "leveling field".

Parties who feel unfair may not be limited to Netscape. There are parties in this country and in history that were, unlike Netscape, arguably really being wronged. Slavery of the blacks, killings of American Indians, slaaughtering of south and central Americans by Spaniards, just to name a few. It would be great to have an equalizer so as to provide fairness to ALL companies, nations and people. Maybe we should all go back to Stone Age, which will be the ultimate equalizer. Of course we know that that is impossible, because the world moves on and keeps going forward. This "leveling the field" idea is kike for us to go backward to the stone age. It is not progress, not advancement, not innovations; it is not an idea of civilization. The consumers will be harmed, the economy willbe harm, and our nation and people will be harmed. Then on the other end of the spectrum, civil suits are accusing Microsoft of overcharging their products. Of course we know that if microsoft lost this suit, each consumer user will get about $10, and millions of dollars will go the lawyers. The settlement of Microsoft to provide millions of dollars of computers and softwares to school was again hampered by selfish and self-serving objections. Certainly any companies are free to provide programs to our schools. One reality the nay-sayers, DOJ and state attorneys keep forgeting but really have to face is: Microsoft have achieve enough critical mass in competition and is been used by say 95% of software users. It has become a defacto standard. If we want our kids to learn softwares, they better learn microsoft's programs first, because they are the most popular ones. This is the system mostly sschools, offices and society. How are we going to stop the engine of progress and moving forward and level the field by pulling back Microsoft ? This is against consumers, against progress, against innovations and against the economy. I think the economy has been harmed enough by all these follies.

CC:msfin@microsoft.com@inetgw

MTC–00026624

From: Jarvis Cochrane
To: Microsoft ATR
Date: 1/27/02 3:48am
Subject: Microsoft Settlement

Dear Ms Hesse,

I have read with interest the documents related to the proposed settlement with Microsoft, and wish to submit the following comments: As an Australian IT professional I believe this case, and the proposed settlement, to have international significance; and that in this matter, as in many others, the United States will be setting a precedent or a standard that will be referred to by other nations.

It is my understanding that the proposed settlement only has legal force within the

United States, and that nothing in the settlement prevents Microsoft from continuing its anti-competitive practices in other jurisdictions, or moving "non-compliant" operations offshore. I strongly approve of the provisions that require Microsoft to make the APIs and communications protocols of its software products available to other software developers. Microsoft have used proprietary APIs and communications protocols to prevent the interoperability of their software with other products. Apart from the anti-competitive nature of the practice, it has significantly increased the complexity and cost of multi-platform environments.

I believe, however, that the provisions requiring Microsoft to make its APIs and communications protocols available to software developers do not go far enough to effectively "level the playing field." My understanding of the proposed settlement is that some API or protocol specifications may be made available only to selected developers, or may not be made available at all where Microsoft can demonstrate that making such information available would present a risk to system security or intellectual property rights.

As an IT support professional and software developer, I can see no justification other than commercial advantage,for not making the details of all APIs and communications protocols publically available at no cost. I strongly encourage you to consider such a measure as part of a revised settlement.

I am concerned that appears to be no fine or other punitive measure imposed upon Microsoft, even though the company has been found guilty of breaching competition law, and has used its market and position and illegal business practices to generate unreasonable profits. There is also the matter of the "hidden" or "follow on" costs borne by consumers, business and the IT industry as a consequence of Microsoft preventing the correct interoperability.

As I have followed this case in the media, I have regularly noted that Microsoft has shown a lack of respect, perhaps even a contempt, for the legal and judicial process.

For these reasons, I would respectfully suggest that it is appropriate and just for a large fine to be imposed upon Microsoft, such monies to be used for international charitable works. To be effective as a punitive measure, such a fine would obviously need to be in the order of some billions of dollars.

In general terms, and in conclusion, I believe the proposed settlement addresses the relevant issues, but does not sufficiently restrict Microsoft, prevent Microsoft from pursuing alternative means to maintain monopoly power, or impose appropriate punitive damages on Microsoft.

I would like to express my appreciation to the Department of Justice for pursuing this matter, and the hope that my comments will be of interest to you.

Regards,
Jarvis Cochrane
cochrane@zyrzyn.com

MTC-00026625

From: bpsems
To: Microsoft ATR
Date: 1/27/02 3:46am
Subject: Microsoft Lawsuit

Dear Mr. Ashcroft:

I believe that the Lawsuit against Microsoft by the Clinton Administration has been a complete waste of time and taxpayers money. Microsoft made computing possible for the individual and small businesess. The consumer has benefited from Microsoft products. Attached is my letter requesting that this lawsuit be settled under the terms agreed between the Dept. of Justice and Microsoft.

Sincerely,
Brian P. Seguin
Professional Land Surveyor
Professional Engineer
3622 99th Street Southeast
Everett, WA 98208
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The antitrust lawsuit brought against Microsoft was unjustified and flawed. The dispute in my opinion arose due to competitors" envy for their own lack of innovation and creativity. Microsoft has been the leading innovator of technology for over a decade. In the 80's when we lagged behind Japan in many industries, Microsoft developed a product that streamlined and made more effective many of our businesses. The company I worked for is a perfect example as it was able to use Microsoft software for its businesses.

The terms of the settlement are harsh and seem to reflect the intense lobbying of Microsoft's competitors. Forcing Microsoft to give up internal interfaces and protocols, making them agree not to retaliate against other vendors, stipulating that they must grant computer makers broad new rights to configure Windows so as to make it easier for non-Microsoft products to be prompted, the settlement also reflects lawmakers and politicians lack of concern for the public. This settlement only aims at giving competition an edge they did not have and could not attain on their own.

Even though I think the settlement is unfair, I must support it because the alternative of further litigation would be too much for our weak economy. I urge your office to take a firm stance against the opposition and stop any further disputes. Thank you.

Sincerely,
Brian P. Seguin
Professional Land Surveyor
Professional Engineer

MTC-00026626

From: Scott Brylow
To: Microsoft ATR
Date: 1/27/02 3:49am
Subject: Microsoft Settlement

Hi folks,

I'm a computer professional who started a web development company in 1994. I have run engineering organizations with multi-million dollar budgets. I consult for companies with software problems and help them select vendors and solutions to address their business needs. And I'm disappointed with the current PFJ in the Microsoft antitrust trial.

I have been doing a fair amount of reading and thinking on the problem, but not as much as many folks out there, so what I have to say will be compiled from a number of chats with friends. What I can tell you is that in my professional experience, Microsoft has not provided winning technology solutions—they have provided winning business solutions that can sometimes hold their own in a technological arena. By virtue of the results of the trial, it is clear that at least some of those successes were due to clear antitrust law violations. Poor technology choice presents a great risk to the large number of businesses out there who are more dependent on information technology (IT) than ever before. It's a huge economic risk in the field that is arguably a significant economic engine for our country.

In that case, it is critical for the economic security of this country that Microsoft —not— be left in a position to continue their anti-competitive behavior.

One strikingly visible difficulty with the proposed remedy is the lack of provision for free software vendors to gain relief from the monopolistic behavior of Microsoft. In my experience as a technology professional, I know that these products, whatever their source, have now earned a place in the IT platform of many large companies. Ask IBM and HP, users of Linux. As the many WWW sites using Apache as a web server or Perl to run scripts. And there are many more similar open source products used throughout the enterprise—sendmail, samba, jakarta, etc.

Please, please reconsider the sections of the proposed remedy (esp. sections III D and III J 2) and strengthen them to ensure that the open source community—providers of some extremely competitive software available for many specific tasks that either competes directly with Microsoft (Apache is the strongest competitor to their IIS webserver) or acts as an ISV working off Microsoft interfaces and at risk under the proposed remedy for that reason (e.g. samba).

Thank you for your hard and positive work to date. I urge you to complete the difficult task of crafting a remedy with the same thoroughness you brought to the prosecution of the case to date.

Thank you for your time.

Regards,
Scott M. Brylow
Independent Technology Management Consultant

MTC-00026627

From: Larry Israel
To: Microsoft ATR
Date: 1/27/02 3:50am
Subject: Microsoft case

U.S. Dept. of Justice:

I hope the DOJ breaks Microsoft into smithereens. They certainly deserve it. In fashioning the remedy, I very much hope the DOJ will look toward the open source software movement for guidance with this case. As society will increasingly depend on computers and the Internet as the primary information infrastucture, operating systems are very important public resources. Non-proprietary, standards-compliant systems are very much in the public interest, allowing interoperability amongst the various hardware and software components of this infrastucture. Rather than the dominant profit-making company working to bring as much business as possible to their own proprietary implementations, everyone is better served by free, open source software, right down to the operating system. For many years, open source software has given us some of the most important innovations, developed by professionals who are abundantly donating their hard work in the public interest. At minimum, Microsoft must have the operating system software split from the rest of the company. Similarly, Microsoft ownership and broadcast of content should be split from all of their software products. Without that, in the future they threaten to control the entire broadcast infrastructure, from media content creation, to broadcast, to the delivery system in our homes. Certainly Prince William makes no secret of his plans for domination of everything he's able to get his hands on. Make them pay for their unethical, heavy-handed and illegal business practices. Stop Microsoft now, while you can.

Larry Israel
Santa Cruz, CA

MTC-00026628

From: Bill Wodarczyk
To: Microsoft ATR
Date: 1/27/02 2:56am
Subject: Microsoft Settlement

William Wodarczyk
62 N. Shaddle Avenue
Mundelein, IL 60060
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr.. Ashcroft:

With 40 years experience in the world-leading American computer software industry, mostly in "big iron" IBM mainframes, I feel I am qualified to comment on the Microsoft antitrust lawsuit. I am reminded of the eighteen-year-long antitrust case against IBM, which at some points, severely damaged that company and held back progress in American industry. Bill Gates has earned his success in a highly competitive industry. When IBM's original personal computer, the "PC" was released the MS-DOS of Gates" Microsoft became the dominant among several operating systems because of a lower price, attention to customers" desires and a dogged search for useful innovations. Since Microsoft's Windows was introduced, it has competed with the Apple Macintosh for ease of use. However, Windows has been a part of a vibrant, diverse, and experimental PC community, while Apple has held its intellectual cards very close to the vest, both for software and for hardware. In this competition, Microsoft's software, combined with hardware from many, many manufacturers got the nod of more consumers. That is simply American free enterprise. In the fast changing software industry Microsoft will only maintain its position against erstwhile competitors, like Apple, the Unix's, Linux, BeOS, Palm, and emerging companies by attention to business fundamental and relentless innovation. The lawsuit is like ankle weights to handicap the best ballerinas, to stifle a determined spirit. Still, I prefer my free enterprise —— free.

The ability of computers to work together is crucial to the effectiveness and efficiency of an enterprise, and, now with the Internet, the whole computing world. Interoperability through compatibility is much more efficient and reliable than translations, emulations, work-arounds, and patch-up-jobs.

By opening up both Microsoft's Windows programs and its business practices, the settlement should provide the technical and corporate interoperability to furnish a much-needed boost for the American computer industry. Internal interfaces and native server interoperability protocols for Microsoft" s Windows programs will be revealed, contracts made non-exclusive, retaliation for promoting non-Microsoft products prohibited, uniform price and terms lists to large computer makers become non-negotiable, addition and removal of programs integral to Windows made easy. Competitors will benefit. Microsoft will be able to hold on if it can work with the industry and continue to innovate. The settlement is about as good as could be expected.

I appreciate your work to see the settlement reached. I would appreciate your continued leadership to see that the settlement is approved by the federal judge and implemented. Thank you.

Sincerely,
William Wodarczyk

MTC-00026629

From: bdkleiman@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 4:03am
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Bernice Kleiman
4077–72 Porte de Palmas
San Diego, CA 92122–5142

MTC-00026630

From: joe skerik
To: Microsoft ATR
Date: 1/27/02 4:20am
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–00

Dear Ms. Hesse,

The following is my commentary on the proposed settlement between the United States Department of Justice and Microsoft solicited under the Tunney Act.

I believe that the settlement proposal is lacking in substance, and cannot effectively address the items which it is claimed to provide relief for. I am in complete agreement with everything which I have read published by Dan Kegel on this topic at this web address: www.kegel.com/remedy/letter.html.

In summary, I would like to register my disagreement with the proposal. Thank you for reviewing this and all comments.

Joe Skerik
P.O. Box 1741
Round Mountain, Nevada 89045
joe@lnett.com

MTC-00026631

From: Haden E Rogers
To: Microsoft ATR
Date: 1/27/02 4:31am
Subject: Microsoft Settlement

The Seniors Coalition strongly believes that the proposed settlement offers a reasonable compromise.

Respectfully,
Haden E. Rogers
9804 Kernville Drive
Las Vegas, NV 89134

MTC-00026632

From: Claudio Friederich
To: Microsoft ATR
Date: 1/27/02 4:32am
Subject: Microsoft Settlement

The United States Department of Justice and eighteen state attorneys general have joined in suing Microsoft Corporation for violation of the Sherman Antitrust Act. Recently, the Department of Justice and nine state attorneys general have reached a settlement agreement with Microsoft. Under the Tunney Act, the Department of Justice is seeking public comment on the settlement.

For many reasons, I am convinced that this entire lawsuit has been, from the beginning, unfair, unjust, and enormously damaging, not just to Microsoft, but to countless people, both in the United States and abroad, and to our economy. The settlement terms would allow the corporate structure of Microsoft to remain intact, and permit Microsoft to remain in control of its intellectual property, and the source code for the products it depends on. The terms of the settlement focus on Microsoft's business relationships with OEMs, and the terms of Microsoft's licensing agreements with them, rather than on its organizational structure and the nature of the technology itself. Therefore, its impact on Microsoft's products and technologies, and the many who depend on them, will be minimized. As such, it is an excellent opportunity to end this ruinous litigation, and the harm that it is doing to the American people, and to our economy. The reasons that this litigation is so harmful are many.

As a consumer, I feel this lawsuit is misguided. The lawsuit alleges that Microsoft Corporation has harmed consumers by illegal use of monopoly power. By my own choice, I spend about a thousand dollars a year on Microsoft software. I could just as easily have bought software from other vendors. Often software from competing vendors is significantly more expensive than software from Microsoft. Often Microsoft's software is significantly easier to use than competitors'' products, or offers more capabilities, and versatility. I therefore fail to see how I have been harmed.

As a citizen, I understand and realize that everyone, including corporations, must abide by the laws, whatever the consequences. However, there is nothing that Microsoft Corporation has done that other large companies in the United States do not routinely do. Large mergers and large, high-stakes investments take place so routinely that they go unnoticed by most people. Corporate rivals cut deals with each other all the time for licensing of technology, advertising space, and endorsements. Companies make deals with others all the time to get favorable pricing and market exposure from each other and effectively handicap rivals. But only Microsoft Corporation is being sued for such activities.

As an employee of a software producer, I understand the hurt companies feel when their products, developed at great expense in time and capital, are shouldered out of the marketplace. I understand that companies such as Netscape and Apple, whose products lost to Microsoft Corporation, feel very bitter about it. However, losing in such a manner is the risk all players in a free market economy must accept. Rivals in the marketplace always try to beat one another, in the quest to succeed, and survive. Some will win, but some will lose. Going into business means you must, right from the beginning, face up to your rivals. Nobody is given a "grace period" in the marketplace. As a professional software developer of Windows software, my success is directly tied to the success of the Windows platform. Every new feature added to the operating system is one new feature available to developers of Windows software. It is precisely such additions that have enabled independent developers to create more powerful software with greater ease. Microsoft Corporation has been accused of "bundling" its Web browser into the operating system to squash competition. However, it has been this "bundling" that has allowed developers of Windows software, without any additional costly tools, without any additional software the end user had to buy, to add rich Internet capability to their software. With one stroke, all the capabilities of the Internet were opened up to all Windows developers, not just those investing in costly additional tools or those developing the functionality on their own, at a great expense in time. This has significantly contributed to Windows'' success, both for end users and developers: enabling everyone to do more with less. It has often been pointed out that Microsoft Windows runs ninety percent of all personal computers. Many developers of software are developing for the Windows Platform. In addition, a great many system integrators, technical support workers, Web site designers, and countless other technology workers our economy is increasingly depending on are involved with the Windows platform. If the Windows platform is harmed, all of these people, both in the United States and abroad, will be similarly harmed. All of the remedies that have been proposed as alternatives to the settlement would hurt the Windows platform and all those involved with it.

Some are seeking to break up Microsoft into separate companies, one for operating system products, one for desktop applications, and one for Internet products and services. As mentioned previously, the ability both to integrate products, and allow them to seamlessly interoperate, is precisely what has helped to make Windows and its software both powerful and easier to use for increasingly sophisticated tasks. Such a proposed "remedy" would, by definition, destroy many possibilities for such integration.

Others have proposed breaking Microsoft into several equal parts, each with the rights to all products. This would be a catastrophe. Instead of one, there would be multiple versions of each Microsoft product. They would evolve separately, and inevitably develop differing feature sets, and requirements, and incompatibilities would emerge. How is the consumer supposed to choose which version to buy? Developers would have to worry about not one, but several, Windows, and so development and technical support and system administrative costs would skyrocket. Incompatibility issues would multiply, and computer use would needlessly become much more complicated. It has been suggested that the source code for Windows should be freely available to the public, allowing any company to develop its own versions of Windows. This would lead to an unlimited number of Windows, which would ultimately evolve differing feature sets, leading to the same disaster as described previously. The Unix operating system, whose source code is freely available, is a case in point. There are many "flavors" of Unix, each of which is supposed to be compatible. But in practice none of them are fully compatible.

Regulations defining what features Microsoft Corporation may and may not add to which products have been proposed. However, as previously mentioned, the integration of features into the operating system is one of the key aspects of Windows that have made it successful, and increased the abilities of its users with lower costs. The lawsuit against Microsoft threatens to harm much more than Microsoft Corporation. It threatens to harm the many people who use, depend on, and have succeeded because of the Windows platform. It threatens the consumer, the very group the lawsuit purports to protect. It already has done harm through large amounts of taxpayer money spent on it, technological stock market losses that arose directly and indirectly from it, and delays in the release of critically needed software. Therefore, as a consumer, as a software developer, and as a Windows user, I implore all those involved to take the opportunity the settlement offer presents to end this lawsuit, before it does any more harm.

Sincerely yours,
Claudio
Friederich
friederir001@hawaii.rr.com

MTC-00026833

From: James E Huninghake
To: Microsoft ATR
Date: 1/27/02 4:34am
Subject: Microsoft Settlement

January 27, 2002

To Whom It May Concern:

I have been deeply distressed by the Department of Justice's legal attacks on Microsoft, a private company that has set the standard for quality products at reasonable prices. I am convinced Microsoft has played a large part in the productivity increases in the United States the last 5 years that have raised our standard of living to a level that makes us the envy of the entire world. I can think of nothing but jealousy and greed being behind the legal attacks that I am convinced was started with the encouragement of Microsoft competitors. Don?t we have better things to do in this country than attack one of the most successful and innovative companies in American history? Lets get back to fighting our real enemies, both at home and abroad ?poverty, poor public education, crime, the Taliban, etc. . I shutter to think of what would come of these if we directed the time and resources used in this frivolous case towards these true threats to the American way of life.

If the DOJ can do this to Microsoft, who is next? Get over the success of Microsoft and get on to other real issues that challenge this country.

James E. Huninghake
4012 Fordham Drive NE
Minneapolis, MN. 55421

MTC-00026834

From: Janice Holder
To: Microsoft ATR
Date: 1/27/02 4:51am
Subject: Microsoft Settlement

I believe that the terms of the proposed antritrust settlement between DOJ, 9 states and Microsoft are reasonable and fair to all concerned. Too much time and money have already been utilized by the parties fighting this.

I trust the Court will adopt the agreement and end the conflict.

C.Janice Holder

MTC-00026835

From: Pamela Rosengren
To: Microsoft ATR
Date: 1/27/02 4:47am
Subject: Microsoft Settlement

A weak stance regarding the crimes committed by Microsoft will not help America's standing internationally. With this proposed settlement America appears to be saying to the international community "crime is OK if it is done by rich white Americans". At the same time by its actions elsewhere America apears to be clearly saying "crime is not OK if it is done by the poor, by non-whites, by non-Americans". Think carefully before ratifying this extremely weak settlement. America needs all the credibility it can get and this is not the way to achieve it.

The consequences of this settlement will be felt worldwide. The Microsoft monopoly is dangerously close to being totalitarian, and it appears to edge closer all the time for example its strategies to control the internet. It is difficult to understand how a nation which champions democracy and capitalism will escape the consequences of turning a blind eye to the predatory activities of this corporation. America will lose its technological edge, lose its lead in the international software market, lose the confidence of other governments (this is happening now), and lose much of the freedom its people enjoy. I am basing these comments on statements by experts in technology and economics, not people who are politically biased.

Pam Rosengren

MTC-00026636

From: jaco1387@bellsouth.net@inetgw
To: Microsoft ATR
Date: 1/27/02 4:48am
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Jeffrey Jacobs
10333 NW 43
Coral Springs, FL 33065–2364

MTC-00026637

From: Helmut Kurt Burri
To: Microsoft ATR
Date: 1/27/02 5:00am
Subject: Microsoft Settlement

To Judge Colleen Kollar-Kotelly

I write to you on the subject of the the United States" civil anti-trust case against the Microsoft Corporation. As you know, on November 6 2001, the United States Department of Justice and Microsoft filed a proposed settlement.

This settlement was not aimed to find remedies for Microsoft infringements of Sections 1 and 2 of the Sherman Act. Rather it is a short term political and economical decision made by number of U.S. states. The decision to settle was not based on having found suitable remedies, that would stimulate innovation and competition in the computer industry nor to deprive Microsoft of its illegal gains. It was sadly driven by a conservative administration in the White House, with strong ties to corporate lobby groups. Microsoft was the second largest campaign donor the last election, giving $4.3 million to both parties, the largest share of this amount going to the Republicans. It now seems that Microsoft's stratagem has successfully divided the coalition of states and may have even bought the submission of the U.S. president to its will. The decision to settle well short of suitable remedies was also taken by states seeing that in slower economic times, their constituents may not look favorably upon a continued and expensive legal battle. Even if the possible long term economic benefits would out-weigh the cost of continued litigation in the immediate future.

The facts have been laid down by District Judge Thomas Penfield Jackson in his final judgment. That Microsoft violated the Sherman Act, the nation's anti-trust law, through the use of its monopoly on the Windows personal computer operating system to stifle competition. Microsoft in so doing extended its reach into new areas as in the case of the Netscape Browser.

This is a practice Microsoft continues to engage in with its latest update to its monopoly product called WindowsXP, by "bundling" Windows Media Player with it. This tactic is aimed at Windows Media Player's competitors; Real Player by Real Networks and QuickTime by Apple Computers. These two products are the current leaders in digital movie streaming.

MSN Messenger is another product which is now also bundled on all WindowsXP operating systems and all copies of Microsoft OfficeX for Apple Mac OSX operating system. This results in MSN Messenger unfairly competing with AOL's instant messenger application. The detrimental effect on consumer choice by such actions is something I am sure you are aware of.

Microsoft continues to engage in practices which have been the focus of the anti-trust action brought upon them and subsequently found guilty of. It has shown that it has no intent at regulating its own actions, let alone ever admitting any form of guilt. Microsoft at times displays an arrogant annoyance that any one ever challenges their might and its innate right to do as it sees fit. This is regardless of good moral and ethical business practices and the law under which it must perform it's business.

Microsoft has often been described as an amoral organization, that will not seek to rectify the error of its ways. It will not heed unless you utilize the power invested in you, given to you by the citizens of the United States. I thus ask that you carefully consider the objections of the nine outstanding states and find stronger remedies that will accomplish the goals, as they were set out in the U.S. Court of Appeals:

(1) to prohibit the illegal conduct and similar conduct in the future,

(2) to spark competition in the computer industry.

(3) to deprive Microsoft of its illegal gains.

All of this should be resolved as quickly as possible in the public's best interest as well as to prevent Microsoft further crippling of the computer hardware and software industry.

I sympathize with your position You are faced with decisions that will have momentous consequence for decades to come. You will define the world that you and I will live in and that our grand children will seek, to enjoy the same freedoms that we should never take for granted, for fear of losing these very freedoms.

Yours Truly
Helmut Kurt Burri
Mook Media—Director
Sydney Australia

MTC-00026638

From: Daniel Dreier
To: Microsoft ATR
Date: 1/27/02 5:09am
Subject: Microsoft Settlement

To Whom it May Concern,

I am a network administrator and software developer at Verinform, a medical database software company. As we use both Microsoft Windows and Linux operating system based computers, I have a number of concerns about the proposed United States vs. Microsoft settlement.

My primary concern is that the proposed settlement does not address the very significant issue of file format documentation and compatibility. The problem we face at Verinform is that Microsoft uses a proprietary and undocumented format for the popular Outlook email program, a component of the Microsoft Office application suite.

Our work requires that we maintain a task list of to-do items, and that multiple employees be able to share these lists. Microsoft's Outlook provides an excellent method of doing this. Since Microsoft does not make public the format in which "Task" list items are transmitted via email, we are forced to use Outlook on all of the desktop computers in the company which need to use the to-do list.

Microsoft does not produce Outlook for the Linux operating system platform. We must therefor use Microsoft Windows, a seperate and unrelated product, in order to use the to-do list.

If the settlement forced Microsoft to release to the public, to competitors, and to the Linux community the format in which Outlook transmits this information, then a competing product could be created for the Linux operating system. Without a competing product, Microsoft has no incentive to release Outlook for the Linux platform; to do so would weaken their stronghold on the Windows operating system monopoly.

I am also concerned about the issue of enforcement. Although the settlement provides for a committee with investivative powers, this committee has no enforcement powers. Microsoft has demonstrated in the past that they are willing to use a lawsuit as a delay during which to exploit a monopoly. For example, Microsoft was taken to court on the issue of having used monopolistic powers to unlawfully give their Internet Explorer product an advantage over Netscape's web browser. By the time that the lawsuit had finished, Microsoft's Internet Explorer had become the defacto standard on the consumer desktop. Regardless of the outcome of settlement, Internet Explorer will continue to be the leading web browser. There are no serious competitors.

Microsoft cannot be allowed to simply ignore decisions of the court, counting on the slow pace of the legal system and the appeals process to protect them. Although I would favor a breakup to force compliance, I understand that this is not generally considered to be a realistic measure to take. I feel that the currently proposed settlement will allow Microsoft to use loopholes to evade the intent of the settlement and simply ignore any elements of the settlements that cannot be otherwise evaded.

Sincerely,
Daniel Dreier
Director of Network Operations
Verinform, LLC.
ddreier@verinform.com
(503)246–2934
7037 SW 54th Ave
Portland, OR. 97219–1340

MTC–00026639

From: Chuck Pliske
To: Microsoft ATR
Date: 1/27/02 5:16am
Subject: Microsoft settlement

Dear folks,

I am writing to indicate my disapproval of the PFJ against Microsoft. As a 30 year computing professional, I have observed firsthand the effects of Microsoft's monopoly on the world of computing, and I believe that the proposed Judgement will do little or nothing to prevent future abuses by Microsoft.

Thanks,
Chuck Pliske
Seawell Microsystems
Seattle, WA 98166

MTC–00026640

From: Helmut Kurt Burri
To: Microsoft ATR
Date: 1/27/02 5:17am
Subject: Microsoft Settlement

To Judge Colleen Kollar-Kotelly

"The price of freedom is eternal vigilance" against those who see our will and our innate rights as a hindrance that must be overcome. So that thee may subjugate us under their domination. We must always make it clear to all that we will not tolerate those who try to decrease our freedom, and take away our choices. We must fight those who corrupt and circumvent the process of law. And do so with impunity, as if thee are beyond the reach of the justice. And the eyes of the people, that the law proclaims to serve. The threat that Microsoft poses, is not confined to within a single nations border. Rather Microsoft is aiming to control, the links that cross these borders, and the very connections that binds one human being with another.

It is thus vital to push forward with, vigorous prosecution of Microsoft. Regardless off the weakness of some in the challenge posed in the defense of democracy.

Helmut Kurt Burri
Mook Media—Director
Sydney Australia

"The surest way to corrupt a youth is to instruct him to hold in higher regard those who think alike than those who think differently." (Nietzsche)

MTC–00026641

From: Shawn Lahr
To: Microsoft ATR
Date: 1/27/02 5:22am
Subject: microsoft settlement

Dear Sirs:

One example of Microsoft's detrimental business practices—for consumers—is what they have done to Web TV. What started out as a promising advancement for web access in the mid "90s—especially for those who didn't want to buy a computer in order to explore the world wide web—was snuffed out when Microsoft bought WebTv and then did not develop it in any way. It is years behind in its non ability to incorporate Java and Shockwave technologies. A promising technology that could have challenged Microsoft Window's utility—or Apple, or IBM for that matter—was bought by Microsoft in order that it could be controlled and not allowed to develop into something would have put the web at the finger tips of millions of people. Microsoft saw a threat and eliminated it. This is just one of many examples of what Microsoft has done to STIFLE competition. Technology suffers. And access for many is still out of reach. The penalty for monopolizing a market should be stiff. It should not further benefit the criminal—by establishing a more powerful position in the education market, for example. thank you for your time,

sincerely,
Shawn L. Lahr

MTC–00026642

From: Gareth Paxton
To: Microsoft ATR
Date: 1/26/02 11:29pm
Subject: microsoft settlement

Dear Sir/Madam

As a BeOS user in the UK I am all too aware of the microsoft stranglehold on the IT industry as a whole.

The most worrying part of the problem was the OEM bootloader licence and its clasification as a trade secret. OEMs were obliged to refuse complimentary operating systems but were unable to offer reasons. This situation is resonant of certain device manufacturers who are "unable" to release the information needed for support on non MS platforms, for no apparent reason.

This is most applicable to "winmodems" which cut Linux and BeOS off from the net—where all the tech support is. MS would have to licence the Windows API to manufacturers, and could include a non disclosure clause to prevent support on other platforms. With "trade secrets" as they are we may never know.

The Legal situation is prohibitive and has held the IT industry back for years, where the richest corps with the best lawyers can cripple the competition. Advanced, faster, more reliable and free operating systems. Bear that in mind next time your PC crashes—how would you feel if your windows box was in control of a life support machine? I would sleep easy if it was my BeOS box.

Dear Sir/Madam

As a BeOS user in the UK I am all too aware of the microsoft stranglehold on the IT industry as a whole. The most worrying part of the problem was the OEM bootloader licence and its clasification as a trade secret. OEMs were obliged to refuse complimentary operating systems but were unable to offer reasons. This situation is resonant of certain device manufacturers who are "unable" to release the information needed for support on non MS platforms, for no apparent reason.

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The Legal situation is prohibitive and has held the IT industry back for years, where the richest corps with the best lawyers can cripple the competition. Advanced, faster, more reliable and free operating systems. Bear that in mind next time your PC crashes—how would you feel if your windows box was in control of a life support machine? I would sleep easy if it was my BeOS box.

Thanks
Gareth

MTC–00026643

From: O (only) W WILSON
To: Microsoft ATR
Date: 1/27/02 5:27am
Subject: RE: MICROSOFT SETTLEMENT
JANUARY 27, 2002
4:25 AM

I AM CONCERNED THAT THE MICROSOFT SETTLEMENT BE COMPLETED AS PER AGREED. CONTINUED CHANGING AND COURT DECREE WILL ONLY LENGTHEN THE PROCESS AND CAUSE FURTHER PROBLEMS WITH OUR NATION'S ECONOMY, THE SUCCESS OF A COMPANY, AND THE AVAILABILITY OF SOFTWARE/HARDWARE FOR THE COMPUTING PUBLIC.

SINCERELY,
O W WILSON, (owilson1@juno.com).

MTC–00026644

From: Robert L. Barnhart
To: Microsoft ATR
Date: 1/27/02 5:36am
Subject: Microsoft Settlement

Stop spending taxpayers money on this lawsuit which will only hurt consumers in the end.

MTC–00026645

From: Allene R Wahl
To: Microsoft ATR
Date: 1/27/02 6:19am
Subject: Microsoft Settlement

You must leave the amazing Microsoft alone. Don't let those special interests defeat the public interest.

Allene R. Wahl, Ph.D., C.N.C.
9746 W. Reeves Ct.
Franklin Park, IL 60131
Ph. (847) 678–5934 e-mail: allenew@juno.com

True cause of immune epidemic:

http://members.tripod.com/immune—disorders/index.html

MTC-00026646

From: gailb22@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 6:46am
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
gail blissitt
324 merkle norman, OK 73069–6430

MTC-00026647

From: Rick Schaller
To: Microsoft ATR
Date: 1/27/02 6:49am
Subject: microsft settlement

Time to settle this matter in the manner proposed by Microsoft and the DOJ. More delay will continue to be a drag on the economy and further innovation in the industry. Anything more is just political and to siphon out money to the lawyers inthe case.

MTC-00026648

From: Dave Cook
To: Microsoft ATR
Date: 1/27/02 6:53am
Subject: Microsoft Settlement
To: US Dept. of Justice
Attn: Antitrust Division
Re: Proposed Final Judgement in Microsoft case

Let me first take a moment to introduce myself. I have been a professional software developer for over 20 years and am currently Vice President of Software Development at a local startup company in San Diego. I have never been employed, either directly or indirectly, by Microsoft, by any company closely affiliated with Microsoft, any of its competitors involved in this case, by the U.S. or state governments, nor by any group tending to take a strident view of the case (e.g. Linux vendors). In the course of my career I have developed software for both Microsoft OSes and other non-Microsoft platforms ranging from DEC VAX and PDP-11 to very small embedded systems. Furthermore, I have no personal relationship with any party involved in the case.

I have followed the course of this case (and indeed the previous case involving Windows 95) with somewhat detached interest, until recently when the proposed final judgement was published. Even though a principal finding of the trial court—that Microsoft has used illegal means to sustain its monopoly in operating systems—has been upheld on appeal, I can find nothing in the proposed Final Judgement that imposes an actual penalty for this violation of law. In addition, I do not believe that the proposed conduct remedies are useful, given that the Consent Decree in the previous case appears to have had no effect in deterring the offenses that are now the subject of the present case. The proposed Final Judgement contains only a section entitled "Prohibited Conduct", and the remainder of the document is concerned with enforcement procedures, termination, and the like. There is nothing resembling a penalty. In effect, the settlement amounts to the command, "don't do it again", despite the fact that consumers have suffered massive tangible economic harm, and that the market has suffered more intangibly from the presence of an illegal monopolist.

Attempting to make some kind of estimate of harm to consumers, suppose that the monopoly has been illegally maintained for 5 years. In that time, roughly 100 million licenses of various releases of Windows have been sold. Let us further estimate that the average effective price to consumers through OEM PC sales has been (conservatively) around $50, and that the absence of competitors has caused that price to be $10 higher than it would have been had there been no violation of the Sherman Act.

On this estimate, the approximate direct economic harm to consumers is in the vicinity of $1 billion. Of course there is a considerable error bar on this estimate as the impact of the illegal behavior is somewhat difficult to quantify, but the essential point is that the harm is certainly enormous and that Microsoft has profited directly from illegal practices.

Given the nature of the case and the existence of ill-gotten profits, an appropriate penalty would be a substantial economic one. I believe that a large cash fine is in order, and if calculated properly would cause sufficient discomfort at Microsoft to provide a real disincentive to continuing the behaviors it has been found to have committed.

That the proposed Final Judgement contains no actual penalty whatsoever in light of this level of harm is, in my opinion, patently contrary to the public interest, and I therefore urge the court to reject it as not being in the public interest, as the court is empowered to do. The government has proven its case, and the public is entitled to something better than a glorified restraining order.

Regards,
David B. Cook
7866 Hemphill Drive
San Diego, CA 92126

MTC-00026649

From: Info 4 SYNass.NET
To: Microsoft ATR
Date: 1/27/02 6:57am
Subject: Crack M$'s monopoly

Hello,

I believe "American Law & Justice" must be blind and deaf ... ... or there is a big corruption by its political elite in the case of Microsoft ;-((

In my eyes: M$ plays a very tricky game ... ... not paying respect to their customers nor the law. Not only this: As a monopolist it cheats and maltreats its customers.

They do not fulfil their obligations to customers needs ... ... they are caring their own cashcow and hide bugs and errors. They are placing "Roadblockers" to get their case running into hell ... ... if this happens: we'll have hell on earth: M$ = the biggest IT dictator affecting the every business around the whole earth !

A product having a market share more than 51% needs special observation including its companies practices ! A company having a product with a market share more than 66 % needs a mandatory break into independent (NO management buyouts) smaller units !! America and the world is fighting against terrorism ...

... M$'s monopoly is a kind of terrorism too: a FATAL economic terror: They have killed so many small but very good companies and products ... ... not only but also its working places and many human existencies. Blue eyes are beautiful ...

... but being blue-eyed to M$ is fatal for us all !! Mister B. G. may be a brave boy and son of his parents ... ... together with his company's gang he is a wolve in sheep fur ;-(FINE it PAINFULL with a sensitive very big money by CASH ! CRACK it into minimum 3 companies like:

1) Operating Systems
2) Application Software
3) Services (ASP, ISP and Joints like Telecom, and others) ...

... these could / should be cracked in perhaps more than only one unit ! DO it ASAP ... ... stop the M$ GAME ... ... before justice and law become inbelievable and looses its power against M$ in its worldwide cheaty, tricky monopoly game !!!

Kind regards and good luck
Albert M. Svoboda
Senior Consultant
IS Management & Organization

MTC-00026650

From: jwb13@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 6:59am
Subject: Microsoft Settlement

Please accept the settlement. It seems fair and continued litigation seems foolish.

MTC-00026651

From: Shawn Wing
To: Microsoft ATR
Date: 1/27/02 7:05am
Subject: Microsoft Settlement

I think the Microsoft settlement is a bad idea. I think it is contrary to capitalism and is bad for the industry.

Shawn Wing

MTC-00026652

From: radioriley@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 7:18am
Subject: Microsoft Settlement

My view of a computer operating system is that of an automobile; How the car works—engine, brakes, etc., is up to the manufacturer. But the accelerator is always expected to be operated by the right foot and found to the right of the brake pedal. In other words, the consumer is not obliged to hire a chauffeur provided by the manufacturer who knows where all the operating lever are secretly located.

J. David Riley
<radioriley@juno.com>
Ph: 941–747–8125 Bradenton FL 34212–2783

MTC–00026653

From: Russ Tuck
To: Microsoft ATR
Date: 1/27/02 7:26am
Subject: Microsoft Settlement

I remember happily paying Netscape a $30–40/year subscription fee for the use of their latest "Communicator" software. Netscape made several regular releases of their software each year, with major new features and improvements in each one. Then Microsoft decided to "cut off their air supply" by developing (at great expense) and giving away similar "knock-off" software.

Netscape was eventually forced to give their end-user software away, and as a result could no longer afford to invest in improving and extending it. Releases became infrequent, and significant new features quite rare. Once Netscape quit innovating in this area, Microsoft mostly quit, too. So several years later, I still prefer Netscape's software. I use it throughout each day for email and web browsing. But I miss the innovative new features and improved reliability Netscape would have added in the intervening years if they had been able to continue selling their software.

I used Netscape Calendar to keep track of my schedule and meetings. But now I'm forced to use Outlook for my calendar, because Netscape didn't have the resources to continue supporting and enhancing their calendar program. So I have to manually manage the sharing of my email between Netscape and Outlook (because the Outlook calendar requires Outlook email).

I had hoped that Netscape's Composer for editing HTML would become my regular text editor. By storing files in HTML, they would have been exchangable with people using all different kinds of software. But development stalled, and Composer never became the alternative to MS Word (and its proprietary file format) that I'd hoped for. Microsoft's illegal behavior has cost me 100s of hours (worth many $1000s) in lost productivity by depriving me of continued software improvements from Netscape.

Russ Tuck, Ph.D.
1136 S. Blaney Ave., San Jose, CA 95129
russ.tuck@alumni.duke.edu
Systems Architect
Pluris, Inc.
10455 Bandley Dr., Cupertino, CA 95014

MTC–00026654

From: energy—savers@msn.com@inetgw
To: Microsoft ATR
Date: 1/27/02 7:24am
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Mike Rodgers
P.O. Box 924532
Houston, TX 77292–4532

MTC–00026655

From: Dan Burgin
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/27/02 7:28am
Subject: Microsoft Settlement

While no lover of Microsoft and their tactics—I feel that any marketshare gained by competitive browsers causes more harm to companies than most people realize. Being an entrepreneur of a venture-backed startup—I, like most of my colleagues, work hard to develop business plans that won't be too attractive for Microsoft to emulate and then destrey any competitors in the space by giving the technology away for free. While this sometimes make finding good Internet technology businesses more difficult—it is capitalism at it's best.

However, many people fail to recognize the incredible waste in development dollars spent by companies who develop Internet products with the browser as the primary client-side interface. I don't really care who wins the browser war, just as long as their is a default standard—right now that standard exists because of the dominance of Internet Explorer. Companies like Microsoft (and AOL/Netscape included) will never be required to build browsers that adhere to standards...quite the contrary, they ignore the standard as a way to compete. This means that if there is no clear winner in the browser war, there are now competing standards with signficant marketshare. This means that products built to work on both the browsers, as they now must, are required to a) either spend vast amounts of capital developing work-arounds for the competing standards, or b) lower the bar with the functionality of their solutions to meet the lowest common denominator of what works in both browsers. Each vendor who gains market share increases this complexity exponentially.

While I was just fine developing for Netscape when it was the dominant browser, I was actually happy when Microsoft came along with a browser that, because it was bundled into the OS, was easier for people to adopt. This gave it massive marketshare (well over 80% today). With minimal effort we now support all versions of Internet Explorer and only the most popular versions of Netscape and achieve 96% market coverage. Just to make matters worse, the open source efforts at Netscape mean that the 6.0 version of the browser works completely different from it's predecessors and the vicious support cycle continues. Most people couldn't care less which browser they use, but to small companies trying to build the next generation of browser-based applications—life is hell when more than one browser has significant marketshare. Browsers are simple interface devices that should be bundled, should be free, and should either follow the standard, or set it.

I am asking you to please consider trying to support a position that does not make market conditions worse, dramatically worse, for small technology business—and to let Netscape die the death it deserves—and that the market has dictated.

Dan Burgin, CTO
Finali Corporation
Westminster, CO

MTC–00026656

From: Barry's—Shurhold
To: Microsoft ATR
Date: 1/27/02 7:29am
Subject: Microsoft Settlement

I think the proposed settlement is bad idea.

Barry Berhoff
Palm City, FL

MTC–00026657

From: Don
To: Microsoft ATR
Date: 1/27/02 7:34am
Subject: Microsoft settlement

Gentlemen,

I believe that the settlement agreed to by the DOJ and 9 states was a fair and equitable solution. Microsoft was a strong competitor in a new rapidly growing industry in which no one new for sure what form the internet would take, and all were looking for an advantage in developing the system which would be chosen as the standard for the industry. Microsoft developed the best system and made it available at low prices. This in turn has led to making the internet affordable to almost anyone. Systems much simpler sold for thousands of dollars just a few years ago. Microsoft surely hasn't hurt the consumer, as he is getting more bang for his buck than ever before.

I think AOL and some of the so called class actions appear to be more aimed at getting a piece of the pie, or more harrassment than any thing else. I think it is time to settle this as the other 9 states accepted, and let Microsoft get back to business. We, the consumers have certainly benefited greatly from their innovation and expertise.

Thank you,
Donald L. Bintliff
Pea Ridge, AR

MTC–00026658

From: DonMatson@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 7:33am
Subject: "My fellings and concerns. "

I have read and have been following reports of the Microsoft case in news papers and am concerned that this is turning into a witch hunt agains't Microsoft, the settlement was by far more than fair, this looks like to me to be another ATT case which broke up a great company and no one was the better for it. Mircrosoft has done a great deal of good and I believe that this suit should end for the good of the whole country, I could go on but I believe you now know my feelings and concerns. thank you for allowing me to share thoses concerns.

Donald E. Matson, Erie,Pa.

MTC-00026659

From: Gordon W grigor
To: Microsoft ATR
Date: 1/27/02 7:32am
Subject: Microsoft Settlement

If you please, Sirs and Madams,

The arrogance displayed by Microsoft in its responses to the DoJ REQUIRE a serious punitive reaction. A serious breaking down of its software divisions, contempt citings for management and financial penalties are the only suitable responses.

yours
Gordon Grigor

MTC-00026661

From: good-dog@northshore.net@inetgw
To: Microsoft ATR
Date: 1/27/02 7:43am
Subject: Microsoft Settlement

Dear Department of Justice;

The proposed settlement with Microsoft (MS) is much too weak to be an effective punishment. I believe this company thinks it can get away with just about anything if it uses words to disguise its true intentions. They are guilty of misleading

In specific, the Educational aspect of the settlement, which would allow MS to give away products and to "sign up" people to use their products for bargain basement prices, is appalling. MS believes they're being fair and generous with their offer, but if they really want to make amends, I second Apple CEO Steve Jobs" idea that MS give only cash for the face value of the settlement rather than product that is actually worth much less.

If you look at the true cost to MS, the real cost of the products they want to give away will not even come close to the retail value. This seems like a typical MS strategy of subterfuge. The equipment, software and support proposed by MS to be given to schools and the alleged price of such a giveaway is not in any way causing MS to "pay". Rather, it's a recruitment move by MS and it will hurt competitors. This would only encourage their monopolistic behavior to continue in the future. What a bargain for MS. No wonder they are excited about their idea!. Please don't let MS get off scott-free with some gentle hand-slapping. They have very deep pockets. Their actions deserve serious consequences. Why would you go lenient on them yet go full tilt on smaller fish? It'd be a slap in the face of all that the United States of America stands for in terms of justice.

You've got MS where you want them, and you can do the general public a huge favor, help to foster fair business practices in the future, and serve justice by punishing these people where it hurts the most; in their wallet and in their reputation. Make them pay royally and do not allow them to create another monopoly in education with their phony giveaway idea.

Thanks.
Mark Winter

MTC-00026662

From: John Stevenson
To: Microsoft ATR
Date: 1/27/02 7:42am
Subject: Microsoft Settlement

I thought that Microsoft had been found in court to have engaged in anti competitive practices. These practices damaged some smaller companies and left them weaker and/or unable to compete except in niche markets. I see NO signs in this proposed judgement that any attempt is being made to manufacture large strong competitors in a manner that would balance the playing field.

Where is justice in this?

Companies "killed off" or seriously damaged by Microsoft's illegal actions have—what redress?

Even for the future what serious levelling of the playing field has been done? I support the suggestion that Microsoft be forced to give cash rather than Microsoft's own products (advertising/training of the next generation of potential purchasers into the Microsoft world) to the disadvantaged schools. Even better might be to force them to make at least part (say—third cash/third competing/third their own—all by retail price) of the "donation" in open source competing products so that the new generation of schoolchildren are exposed to more than Microsoft based computing systems. How big will the total real value of the "donation" have to be to really punish them—the figures I have seen do not look like a punishment—just a slap on the wrist for this giant predatory monopoly who used illegal methods to advance their position. I suggest that since Microsoft have used their illegally obtained virtual monopoly on software to take control world-wide—the schools "donation fine" (as modified above) should be applicable world-wide and should be massively increased.

The USofA so often sets itself up as the maintainer of Justice and Righteousness for the world—the setter of the standards—let us see it publicly discipline "one of its own" which has been found guilty of illegal practices that have damaged many people and companies world-wide.

Yours
John Stevenson

MTC-00026663

From: Shirley A Hackenberger
To: Microsoft ATR
Date: 1/27/02 7:59am
Subject: Others are Jealous

It's time to end this costly battle over Microsoft, others are just jealous. No sense in dragging out this battle, please put a end to this now.

Shirley Hackenberger

MTC-00026664

From: Jo Gimse
To: Microsoft ATR
Date: 1/27/02 8:11am
Subject: "Microsoft Settlement."

PLEASE END THIS FIGHT AND MAKE A SETTLEMENT SO WE SENIORS CAN GET ON WITH LEARNING THIS COMPUTER AND ENJOY IT. WE ARE SO VERY SORRY SOME RICH WANT TO GET RICHER BUT YOUR COMPANY HAS

SHOWN TO US THAT YOU CARE ABOUT THE PEOPLE, BY GIVING OF YOUR SELF AND YOUR PRODUCTS TO THE SCHOOLS, WHICH THEY NEED AND REALLY APPRECIATE.

WE SEE NO WRONG IN ANY ONE GETTING AHEAD BY THEIR BRAINS AND WE SAY, HIP HIP HURRAH FOR YOU.

WE HOPE THEY GET OFF YOUR BACK SOON, AND LET THE WORLD GET ON WITH THEIR LIFE WITH YOUR MICROSOFT. IF THE COMPETITORS WANT TO GET BETTER LET THEM BUT DO THEY HAVE TO DOWN GRADE YOU TO DO IT, NO NO NO !! GOOD LUCK AND WE PRAY YOU GET THIS OUT OF THE WAY SO YOU CAN GET ON WITH ALL THE WONDERFUL THINGS YOUR COMPANY DOES, AND DOES SO WELL.

SINCERELY,
JO & JAMES GIMSE
4829 SOUTH 7TH STREET
TACOMA, WASHINGTON 98405–1206

MTC-00026665

From: Susan M Hansen
To: Microsoft ATR
Date: 1/27/02 8:03am
Subject: Microsoft Settlement: No Good!

The proposed settlement is a bad idea.

I agree with the problems identified in Dan Kegel's analysis (on the Web at http://www.kegel.com/remedy/remedy2.html). I believe that thecourt should reject the proposed USDOJ vs Microsoft final judgment and instead adopt the remedies in the proposed final judgment of the nine states as the final judgment.

Sincerely,
Susan M Hansen
100 Rosewood Rd.
Rocky Pt., NY 11778

MTC-00026666

From: Patricia Riendeau
To: Microsoft ATR
Date: 1/27/02 8:16am
Subject: Microsoft Settlement
1670 SE Chello Lane
Port Saint Lucie, FL 34983
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Our country is based on our desire to succeed. We cherish the ideals that have made this a great nation. Why punishment when success is "too" great? Finally, after three long years, this whole matter seems on the verge of being over and done with. Microsoft was wrongfully prosecuted for being a monopoly and it is high time that this whole matter is resolved so that they can get back to business as usual.

They have such a desire to see this case over and done with that they have made extreme concessions that would normally never be expected of any other business. No other company would be expected to give over its trade secrets so that its competitors could get a leg up. But that is precisely what Microsoft is called upon to do and expected not to retaliate when their products are squeezed out of the market.

I hope that such extreme measures will satisfy everyone, but I'm sure that there are some people who won't give up until they get a personal check from Microsoft. I hope that these people see just how much that this lawsuit is hurting the average American who depends on Microsoft products.

Sincerely,
Patricia Riendeau

MTC-00026667

From: Art Sullivan
To: Microsoft ATR
Date: 1/27/02 8:30am
Subject: Microsoft Settlement

I am a corporate developer and what I see in the settlement does not addrress the major problem I have .

Microsoft with every release appears to exclude more and more software competitors. They are doing this by making middle ware none functional or none addressable.

I suggest the actions outlined below be address.

Thank you for your conmsideration
Art Sullivan
3 Haymount Terrace
Briarcliff Manor, NY 10510

Action

Establishment of a Windows API Standards Expert Group To clearly and unambiguously establish what is required, technically and legally, for an Intel-compatible operating system to install and run Windows applications properly, the Court shall take the following actions with the goal of creating and maintaining an Essential Windows APIs Standard Definition and corresponding Essential Windows APIs Standard Compliance Test Suite:

1. Within 60 days of entry of this Final Judgment, the parties shall create and recommend to the Court for its appointment a six person Windows API Standards Expert Group ("WASEG") to manage the creation, publication, and maintenance of an Essential Windows APIs Standard Definition, and to guide it through the process of being adopted by a standards body such as ECMA or the IEEE.

2. Three of the WASEG members shall be experts in software design and programming, and three of the WASEG members shall be experts in intellectual property law. No WASEG member shall have a conflict of interest that could prevent him or her from performing his or her duties under this Final Judgment in a fair and unbiased manner. No WASEG member shall have entered into any non- disclosure agreement that is still in force with Microsoft or any competitor to Microsoft, nor shall she or he enter into such an agreement during her or his term on the WASEG. Without limitation to the foregoing, no WASEG member shall have been employed in any capacity by Microsoft or any competitor to Microsoft within the past year, nor shall she or he be so employed during his or her term on the WASEG.

3. Within seven days of entry of this Final Judgment, the Plaintiffs as a group shall select two software experts and two intellectual property law experts to be members of the WASEG, and Microsoft shall select one software expert and one intellectual property law expert to be members of the WASEG; the Plaintiffs shall then apply to the Court for appointment of the persons selected by the Plaintiffs and Microsoft pursuant to this section.

4. Each WASEG member shall serve for an initial term of 30 months. At the end of a WASEG member's initial 30-month term, the party that originally selected him or her may, in its sole discretion, either request re-appointment by the Court to a second 30-month term or replace the WASEG member in the same manner as provided for above.

5. If the United States or a majority of the Plaintiffs determine that a member of the WASEG has failed to act diligently and consistently with the purposes of this Final Judgment, or if a member of the WASEG resigns, or for any other reason ceases to serve in his or her capacity as a member of the WASEG, the person or persons that originally selected the WASEG member shall select a replacement member in the same manner as provided for above.

6. Promptly after appointment of the WASEG by the Court, the united states shall enter into a Windows API Expert Group services agreement ("WASEG Services Agreement") with each WASEG member that grants the rights, powers and authorities necessary to permit the WASEG to perform its duties under this Final Judgment. Microsoft shall indemnify each WASEG member and hold him or her harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the WASEG's duties, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the WASEG member. The WASEG Services Agreements shall include the following:

1. The WASEG members shall serve, without bond or other security, at the cost and expense of Microsoft on such terms and conditions as the Plaintiffs approve, including the payment of reasonable fees and expenses.

2. The WASEG Services Agreement shall provide that each member of the WASEG shall comply with the limitations provided for in section IV.E.2. above.

7. Microsoft shall provide the WASEG with funds needed to procure office space, telephone, other office support facilities, consultants, or contractors required by the WASEG.

8. The WASEG shall not have direct access to any part of Microsoft's computer software source code that is not normally available to all ISV's. The WASEG shall not enter into any non-disclosure agreements with Microsoft or third parties. No implementations of any Windows APIs shall be written or published by the WASEG.

9. The WASEG shall have the following powers and duties:

1. The WASEG may require Microsoft to provide comprehensive answers to questions about Microsoft intellectual property claims.

2. The WASEG may require Microsoft to provide comprehensive answers to questions about the inputs, outputs, and functionality of any Windows API; in particular, the WASEG may compel Microsoft to provide complete documentation for hitherto undocumented or poorly-documented Windows APIs.

3. The WASEG may engage, at the cost and expense of Microsoft, the services of outside consultants and contractors as required to fulfill the duties of the WASEG.

4. The WASEG shall establish a publicly available web site not owned or otherwise controlled by Microsoft, and will publish status reports and other information there at least as often as once per month. Documentation on the web site shall be made available subject to the terms of the GNU Free Documentation License; test suite source code made available on the web site shall be made available subject to the terms of the GNU General Public License.

5. The WASEG shall compile a complete list of Windows APIs, including for each API the DLL name, entry point name, entry point ordinal number, return value type, and parameter types. Within 90 days after the WASEG is convened, and on the 1st of each month thereafter until complete, the WASEG shall make the currently completed portion of this list available via its web site. The WASEG shall use tools such as Apius from Sarion Systems Research to verify that the list of Windows APIs is indeed complete, and that installing or running any Popular Windows Application does not cause any unlisted Windows API to be invoked.

6. The WASEG shall compile a complete list of Essential Windows API patents and patents pending, and which Windows APIs each patent covers. The WASEG shall compile this list by asking Microsoft for a complete list of Essential Windows API patents and patents pending, and then determining which Windows APIs are likely to be covered by each patent or patent pending; the WASEG shall use the World Wide Web Consortium's document www.w3.org/TR/2002/NOTE-patent-practice-20020124 as guidance. Within 180 days after the WASEG is convened, and on the 1st of every month thereafter until complete, the WASEG shall make the completed portion of this list available via its web site.

7. The WASEG shall compile documentation for the above list of Windows APIs, including a complete description of the meanings of the return values and parameters, and the effects of the API. The documentation should be composed in a style similar to that used for the Single Unix Specification documentation (http://www.UNIX-systems.org/go/unix). Within 180 days after the WASEG is convened, and on the 1st of every month thereafter until complete, the WASEG will make available the currently completed portion of this documentation via its web site.

8. When the three documents described above—the list of Windows APIs, the list of Essential Windows Patents, and the documentation for the listed Windows APIs—is complete, the WASEG shall undertake to submit them to a standards body such as ECMA or the IEEE as a Public Windows APIs Standard Document, and to make such enhancements and revisions as needed to gain the acceptance of that document as a standard.

9. The WASEG shall create an Essential Windows APIs Standard Compliance Test Suite, and publish it on the WASEG web site subject to the GNU General Public License, according to the following schedule: Within 180 days after the WASEG is convened, the WASEG shall publish test cases for at least fifty Windows APIs. On the 1st of each month thereafter, the WASEG shall publish test cases for at least another fifty Windows APIs; this shall continue until a complete Essential Windows APIs Standard Compliance Test Suite is available on the web site.

10. In the event that a planned update to Windows or any other Microsoft product is expected to result in the creation of new Windows APIs, the WASEG shall create addenda to the above documents and test suite covering the new APIs, make them available via its web site, and undertake to submit them to the same standards body as above as an addendum to the standard.

MTC-00026668

From: John Bork
To: Microsoft ATR
Date: 1/27/02 8:38am
Subject: Microsoft Settlement

To Whom it May Concern:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case.

Background:

I am resident of the State of Ohio and a professional computer programmer who works in both Microsoft and non-Microsoft environments. I have been using microcomputers for over 20 years, and have witnessed Microsoft monopolize the PC world. Lately, however, there seems to be a glimmer of hope in the proliferation of the Linux operating system, which indeed Microsoft has recognized as its greatest potential threat.

Specific Failing in the Proposed Settlement:

The Proposed Settlement does not recognize the unique contribution of the Linux operating system and the so-called "open source movement" to regenerating a competitive market in the PC software business. I executed a search on the Revised Proposed Final Judgment and found no mention of Linux. As for details, I defer to more competent analysts such as Jeremy P. White, CEO of Codeweavers, Inc., and Dan Kegel, who have already submitted comments.

Closing Comments

It is obvious that in the years that this case has progressed, Microsoft has taken steps to further integrate the functionality of its Internet browser into the underlying operating system. The ".NET Framework" Microsoft is now promoting will further extend the reach of their monopoly. Without an immanent settlement or other legal relief, the advance of Microsoft as the default software provider in the PC world only grows stronger. Eventually, there will be no relief possible. As an American and a professional computer programmer, I fear the loss of this freedom.

Sincerely,
John Robert Bork
Findlay, Ohio

MTC-00026669

From: Steve Weller
To: Microsoft ATR
Date: 1/27/02 8:49am
Subject: Microsoft Settlement

I don't like the settlement terms because it will make it difficult for companies like CodeWeavers to put such fine products as Wine.

Steve Weller
Steve Weller
P.O. Box 3528
Newport Beach, Ca 92659

MTC-00026670

From: Mac
To: Microsoft ATR
Date: 1/27/02 8:55am
Subject: Microsoft Settlement

I am a professional marketing and advertising person using an Apple platform computer.

I hope the the DOJ breaks up Microsoft into smaller companies that allow more competition in software and hardware development. The Windows OS should be a separate and non-linked program. Having Internet Explorer as a web browser on an Apple OS computer is a real problem. When installed, it will set itself as the default web browser, even though it is installed NOT AS A DEFAULT in it's own set up process.

It sets too many default preferences for Microsoft products. If Internet Explorer is installed, it will set Outlook Express as a default email program, even when it is not installed on the computer. It also installs preferences for components in the Office suite (iE: Excel, PowerPoint, Word,etc) even though these ARE NOT INSTALLED on the computer. This forces me to have to go through several "preferences" control panels to reset the email program back to either Eudora or Netscape as the default email program. When installing Internet Explorer, there are NO OPTIONS to prevent this. One must install the entire program with other computer preferences being changed without my approval.

There is also, no provision in Internet Explorer to UNINSTALL it from any computer. One must search the hard drives for any and all components that are part of the program. If these are not removed, the computer will crash and other browsers, like Netscape cannot run until they are gone.

Microsoft does make some good products, but when their products reset my preferences, without my approval, this shows how inconsiderate they are of other platforms and software manufacturers. Please break up the company into two.

(1) One for the operating system and one for the other softwares.

(2) Require all Microsoft installers to have specific and individual options for what is or IS NOT installed on any computer. Microsoft has no right to decide what softwares I want or need and should not be allowed to atuomatically install prefences, programs, links or any other component that is not vital to the web browsers operation. I should be able to choose what is installed.

Joe Maltby
gbdesign@new.rr.com

MTC-00026671

From: royerfe@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 8:57am
Subject: Microsoft Settlement

Please end this litigation NOW!!!

MTC-00026672

From: Jeff Bonar
To: Microsoft ATR
Date: 1/27/02 9:04am
Subject: Microsoft Settlement

To Whom it May Concern:

Pursuant to the Tunney Act, I am writing to comment on the proposed Department of Justice (DOJ) settlement of the United States vs. Microsoft antitrust case.

Background:

I am the founder and CEO of JumpStart Wireless Corporation. We develop wireless software applications available for 1/10th the cost of wireless software using convention techniques. As the leader of a small software company, I read the proposed Microsoft settlement with dismay. Microsoft has used it's monopoly position in desktop operating systems (OS) to effectively kill off all competition in the desktop software and small network space. Their business actions over recent months, with the release of the Windows XP operating system, indicate that they have their eyes in similarly killing off competition for multimedia applications and network services—their ".Net" initiatives.

Similar business behavior for Wireless software is only a matter of time. Already Windows CE, Pocket PC, and the code-named "Stinger" phones are marketed using techniques that leverage Microsoft's desktop monopoly.

Software and information technology is a critical part of the evolving "Information Age". To allow one company to dominate leverage their monopoly to dominate major segments of information technology costs all of us—the market cannot function to produce innovation.

I feel strongly that the settlement of Microsoft's monopoly case should provide real, strong, and effective remedies that force Microsoft to compete on a level playing field.

Specific Failing in the Proposed Settlement: 1. The DOJ settlement should restrict the core way in which Microsoft unlawfully maintains its Windows operating system (OS) monopoly, namely bundling and tying competing platform software (known as ?middleware?) like Web browsers and Java, to the OS. While technically obscure, these components are the engine of innovation in the emerging world of networked and wireless applications. Particularly offensive, for example, is the Windows XP decision to treat all Java applications as security threats.The Court of Appeals specifically rejected Microsoft's petition for rehearing on the bundling issue, yet the proposed settlement does nothing about it

2. The DOJ settlement has no provisions to create competition in the OS market that Microsoft unlawfully monopolized. The DC Circuit ruled that a remedy must ?unfetter [the] market from anticompetitive conduct? and . . . ?terminate the illegal monopoly,? but

the DOJ deal does nothing to restore competition with Windows. Most critical, the new settlement should put complete documentation of the detailed Windows information (known as ?APIs?) in the public domain. Because this is technically quite difficult without the release of information that Microsoft withholds from most developers, Microsoft must be compelled for fully cooperate in this activity. As currently formulated, the DOJ settlement only reinforces the Windows monopoly.

3. The DOJ settlement has no provisions directed to new markets where Microsoft is using the same bundling and restrictive practices to preserve and extend its Windows monopoly. Microsoft continues to demolish potential competition in new markets just as it did in 1995–98 to Netscape. The Court of Appeals ruled that a remedy must ?ensure that there remain no practices likely to result in monopolization in the future,? but the DOJ deal does not even try to restrict ways in which Microsoft could (and already has) leverage its Windows monopoly in the future.

Closing Comments:

I have focused my comments here on how the proposed settlement would affect JumpStart Wireless Corporation. I have been particularly helped by the analysis published by the Computer and Communication Industry Association at http://www.ccianet.org/papers/ms/sellout.php3.

I feel that the proposed settlement has other serious flaws. To that end, I would like to echo the comments made by Dan Kegel, whose comments can be viewed at http://www.kegel.com/remedy/letter.html. I strongly support his overall comments on the proposed settlement and would like to add my voice to his.

To whoever is reading this, I realize that you have had to wade through a lot of material. I very much appreciate your time and effort.

Sincerely,
Jeff Bonar
CEO JumpStart Wireless Corporation
Jeffrey Bonar, Ph.D
JumpStart Wireless Corporation
398 West Camino Gardens Blvd #204
Boca Raton, FL 33432
561–347–6710
jeff.bonar@jumpstartwireless.com

MTC–00026673

From: runningfree1@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:04am
Subject: As a 20 year computer user, I want to voice my disapproval

As a 20 year computer user, I want to voice my disapproval of all the attacks on Microsoft. The state of our economy is in part do the the JHAD the Justice Department has made on Microsoft. Consider, if not for Mircosoft you would not likly be able to run your computer. If you think not just try using DOS, or UNIX or the 20 other operating sustem's on the market. Windows made it so any idiot can run a computer which caused millions of people to buy a computer. A few jealous competitors and sympathetic government bureaucrats is not a good reason to wrack havoc on a America dream company.

Gilbert J Smith

MTC–00026675

From: loimcar@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:17am
Subject: microsoft settlement

I support settlement of microsoft issue as best for the citizens of this country.

Lois M Carter

MTC–00026676

From: papaw75@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:23am
Subject: Microsoft Settlement

I feel very strongly that the Justice Department should accept the Microsoft settlement and do NO further litigation on this matter. I believe accepting the settlement will be good for the economy and all parties concerned.

Orbin M. Sexson
105 Patterson Dr.
Au8burndale, FL 33823–2323

MTC–00026677

From: cholley@duke.edu@inetgw
To: Microsoft ATR
Date: 1/27/02 9:24am
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear DOJ,

As an avid computer user, I have been following the Microsoft Antitrust case with interest for several years now. In light of the recently proposed settlement, I am very disappointed in the proposed remedies and I would like to focus on two points:

1. The remedies do nothing to protect the interests of open-source software, such as the Linux operating system and Apache server software. These open-source projects represent some of the few remaining alternative to Microsoft products and must be protected.

2: The proposal does nothing to address the Microsoft .NET project, which is aimed to replace the wonderfully platform-independent Java programming language with yet another Microsoft product. This will allow Microsoft to even further leverage their stranglehold on the Windows operating system by eventually dropping support for Java.

I know that a great many individuals have expressed their own disappointments with the Microsoft Settlement—thank you for taking the time to read mine.

Sincerely,
Christpher Holley
Durham, NC
Medical Student
Duke University
Department of Pharmacology and Cancer Biology
phone: 919–613–8625
fax: 919–681–1005

MTC–00026678

From: Ron E Tecklenburg
To: Microsoft ATR
Date: 1/27/02 9:26am
Subject: Microsoft Settlement

Dear Sir

I am a senior citizen and would like you to know that if it wasn't for Microsoft Windows I would not even be using a computer.Thanks to Microsoft me and thousands like me are doing very well with computers. I hope you will drop the charges against Microsoft Corp.

Thank You
Ronald E. Tecklenburg
2839 Elk Peak Ct.
St. Louis MO. 63129–5706

MTC–00026679

From: Otto C Grummt
To: Microsoft ATR
Date: 1/27/02 9:28am
Subject: Microsoft Settlement

Dear Sir or Madam,

I am just an ordinary citizen who has been following the actions against Microsoft. As such, I have been concerned about the apparent government actions as a plan to "get Microsoft". The actions of Judge Penfield Jackson were particularly inappropriate, in my opinion.

I want to be counted among those who oppose further action against Microsoft. I strongly believe that the proposed settlement offers a reasonable compromise that will enhance the ability of seniors and all Americans to access the Internet and use innovative software products to make their computer experience easier and more enjoyable.

Thank you for allowing me to express my opinion.

Otto Grummt
11104 Flora Lee Dr.
Fairfax Station, VA 22039

MTC–00026680

From: Andy Pasulka
To: Microsoft ATR
Date: 1/27/02 9:30am
Subject: Microsoft Settlement

I do not believe that Microsoft's proposal for a settlement to their antitrust suit is satisfactory in the least. They have proposed their settlement

1. to effectively take squatter's rights on a slice of the educational market they can't win by ordinary measures and

2. to put those users and organizations on the Microsoft upgrade treadmill.

Their proposal does nothing to address the original DOJ complaints, and in fact, reasserts their predatory nature on the marketplace. Please do not accept their proposal.

ANP

MTC–00026681

From: Brian Gockley
To: Microsoft ATR
Date: 1/27/02 9:32am
Subject: Microsoft and Monopolys

Thank you for taking the time to read this letter. Thank you also for you persistent efforts to review this large and important case. I have very little to say that has not already been said, but would like to take this opportunity for public input to do so. I have small business experience with several Operating Systems including Windows, Macintosh, Atari and Amiga. I was a computer store manager that sold these products, a trade publication journalist and a trade show promoter who ran computer shows in CT.

In all of these positions, we were always pushed as much by individual buyers as by Microsoft into selling Windows. Even though most people recognized it as an inferior product, the fact that they used it at work was the determining factor in what they purchased for home use. In theory, this is how the free market is supposed to work: unfettered competition bringing out the best product as the market winner, with a great deal of innovation.

It is hard to argue that there has not been innovation in the computer industry, however, the question is whether it was encouraged or restricted by Microsoft's Windows OS. I think the challenge for the judge is discerning how the mechanics of the industry mean that the OS that sits on top of the hardware controlled instead of opened the market. Because the OS and the hardware have been linked, software developers and programmers have had to write separate versions of all their program. If any one of the companies could have written software that ran on anyone's hardware, then we would have had a very different market. Instead, great innovations like the Atari OS, the Amiga OS, the NeXT OS, GeOS and others would still be around. Other innovations like the Unix/Linux development would not have had to duplicate simple programs like word processors, etc. to run on their own OS. The loss of the code and development time that these innovators wasted is directly because of the unbreakable link between the Intel hardware and the Microsoft software.

The field is far from level, thank you for addressing the manner in which this situation has developed. I hope that your solution encourages innovation and open standards.

Thank You,
Brian Gockley

MTC-00026682

From: Harold L. Burnsed
To: Microsoft ATR
Date: 1/27/02 9:32am
Subject: Microsoft Settlement

I think it would be in the best interet of all concerned to accept this settlement and put it to bed. The cost is getting out of control and no reasonable excuse for it. Let's get on with economy and other issues that face this nation.

Thanks for your consideration to accept the settlement and move forward

Harold L. Burnsed
8612 Rancho Drive
Ooltewah, TN 37363
hburnsed@juno.com

MTC-00026683

From: GERHARD (038) ERIKA DIESENER
To: Microsoft ATR
Date: 1/27/02 9:42am
Subject: Letter to the GENERAL ATTORNEY MR. ASHCROFT.

Dear Microsoft.

My letter was send a couple of days ago to the attorney general Ashcroft. I was very pleased with your draft it realy expressed my thought.

Gerhard Diesener
E-mail. gerderika@ isni.net

MTC-00026684

From: jackchro
To: Microsoft ATR
Date: 1/27/02 9:43am
Subject: free to innovate

Microsoft has inhibited the growth of a very wide range of companies for many years. ONLY the government has the power to protect all of our other software and hardware providers. Clear and accurate evidence was presented, and Microsoft was found guilty. Since when and where do those found guilty get to decide their own punishment? The states that have held out from the settlement are acting on behalf of the citizen and consumer. They need to be respected and heeded. Break the monopoly and let those who truly innovate be free from unfair business practices.

MTC-00026685

From: Dorothy G Munoz
To: Microsoft ATR
Date: 1/27/02 9:46am
Subject: Microsoft Settlement

Gentlemen:

In the best interest of the public in general, especially Senior Citizens, please complete the compromise settlement with Microsoft now.

Thank you.
Sincerely,
Dorothy G. Munoz
DGM6377@juno.com
190 SW 3 St.
Dania Beach, FL 33004–3927

MTC-00026686

From: John Steiner
To: Microsoft ATR
Date: 1/27/02 9:48am
Subject: Microsoft Settlement

Dear Department of Justice:

We are in complete agreement with the following from Computers for Computing Choice regarding the Microsoft case:

Sincerely,
John Steiner and Margo King
Boulder, Colorado

Microsoft has twice been found guilty of serious violations of the

Sherman Antitrust Act, by a federal District Court and by the United States Court of Appeals. While the Court of Appeals reversed the breakup order issued by the District Court, it upheld the trial court's Findings of Fact and affirmed that Microsoft is guilty of unlawfully maintaining its monopoly.

The Court of Appeals ordered the District Court to hold proceedings to fashion remedies that restore competition and deprive Microsoft of the fruits of its illegal conduct.

The Department of Justice is attempting to prevent these proceeding by entering into a settlement with Microsoft that preserves its monopoly power, does virtually nothing to restore competition, and leaves Microsoft with all of the ill-gotten gains from illegally maintaining its monopoly.

The settlement will still allow Microsoft to extend its triple monopoly in operating systems, office applications, and Internet applications. This triple monopoly leaves Microsoft in a position to capture control of the Internet in the same way it gained control of the desktop.

Microsoft is already planning a future in which you will rent its software as a set of services over the Internet. Microsoft will then monitor your computing activities and charge you for them. Essential services will be dependent on databases that store much of your private information at Microsoft data centers and run your transactions through them. The only way to stop this is to restore competition in operating systems, office applications, and Internet applications now.

Consumers for Computing Choice believes that any settlement or Final Judgment must include remedies that provide:

(1) A simple, affordable, and reliable way to run the 70,000 existing Windows applications without modification on all other operating systems.

(2) A simple, affordable, and reliable way to have native versions of Microsoft Office applications on all other operating systems.

(3) A simple, affordable, and reliable way to replace one or more of the four Office applications with competing applications, while retaining the ability to exchange files, data, and services with any Microsoft application.

(4) A simple, affordable, and reliable way to have native versions of Explorer, Media Player and other Microsoft Internet applications on all other operating systems.

(5) A simple, affordable, and reliable way to replace one or more Microsoft Internet applications with competing applications, while retaining the ability to exchange files, data, and services with any Microsoft application.

(6) A simple, affordable, and reliable way to replace any component or feature in any Microsoft software product with superior or special purpose components or features.

(7) A simple, affordable, and reliable way to run any Microsoft software on computers that do not have Intel-compatible microprocessors.

(8) A simple, affordable, and reliable way for software developers to access all the information they need to create products that offer consumers these choices.

(9) A way to ensure that original equipment manufacturers provide consumers with equal access to computers with alternative operating systems, productivity applications, and Internet applications.

(10) A "crown jewel" provision establishing such serious consequences for non-compliance that Microsoft will not attempt to evade the necessary disclosure requirements and other mandates.

MTC-00026687

From: Marvin E Petersen
To: Microsoft ATR
Date: 1/27/02 9:54am
Subject: settleing of Microsoft suit.

I feel that the settlement offered is in the public interest and I want you to settle with M. S. now . they are helpful and not a threat to the selfish competetors. Do it Now.

Marvin Petersen.

MTC-00026689

From: Shawn Cooper
To: Microsoft ATR
Date: 1/27/02 9:59am
Subject: Microsoft Settlement

Dear Renata B. Hesse:

I am very disappointed in the way the Department of Justice settled the Microsoft anti-trust case. What disappointed me most about the settling of this case was the the Department of Justice (DOJ) did not work to seek a remedy that all the suing States accepted. It's my opinion that since the DOJ partnered with the State's to sue Microsoft for anti-competitive practices, then the DOJ should have followed though by creating a settlement that all participants could back.

Sincerely,
Shawn Cooper
4509 Broadway #305
Kansas City, MO 64111

MTC-00026690

From: Timothy Huenke
To: Microsoft ATR
Date: 1/27/02 10:01am
Subject: Please don't settle this!!

Bill Gates and his croneys are criminals. Period. He and his crew have done nothing more than lie, cheat and steal their way to the top. If you don't believe me research the history of the company. So many technological advances have fallen into obscurity because of their business practices it's not even funny. Have you ever seen the BE Operating System? What happened to Word Perfect? Why won't some official admit publicly that Microsoft's entire operating system is nothing more than a cheapened knock-off of the Macintosh Operating System. Letting MS "get away with it" one more time just proves that money will get you anything.This does nothing more than make honest citizens and business both equally jaded and despondent.

Here's an idea for a settlement: Tell Microsoft to put it's money where it's mouth is, and let's see how "innovative" Billy and his team really are. Sequester off the entire design staff of Microsoft for six months letting them have no contact with the outside world. During that time order them to come up with something entirely new and "innovative" for the computer industry. What do you think they would come up with without having other companies ideas to steal? I'll tell you what, you'd get zip out of them. That's because the heads of Microsoft are not creative, innovative folks.

I wouldn't even take into consideration the economic effects of any punitive damages on MS. Even if the company was utterly destroyed, (which in my opinion is the best answer) the technology sector would still thrive. It would simply clear the way for a more competitive tech sector that would rise to new heights unimagined by stock analysts today. I'm sure that there are companies afraid to produce software innovations today because of the fear and loathing imposed by the "Bullies of Redmond".

Do the public a favor for once and properly punish these criminals and treat them for what they are: Technological Cosa Nostra.

Tim Huenke

MTC-00026691

From: Kevin O'Neill
To: Microsoft ATR
Date: 1/27/02 10:03am
Subject: Microsoft Settlement

Greetings,

I say don't let up on them. A large past of their success is based on unfair practices. As a consultant, they have made my like difficult over the years by making it harder or even impossible to install competitor's software.

They have been devious at the cost to the user. Favoritism is unfair to the little guy.

Regards,
Kevin O'Neill
Paso Robles, CA

MTC-00026693

From: Holly
To: Microsoft ATR
Date: 1/27/02 10:05am
Subject: Microsoft Settlement

I am a private citizen writing to register my complaints against Microsoft, and my hope that the Department of Justice might actually look at the issue of Microsoft's essential monopoloy of the software marketplace from the point of view of an ordinary user. MS has developed a wide variety of nice software. However, it's also infamous for bugs and security risks.

Why? Because they care only about controlling the market so they can make the most money possible. Their goal is not to make a reasonable amount of money while serving people well, but to maximise their profit while minimising their investment of money and time. Quality is always the first sacrificial victim of such a mindset. This is the same kind of reasoning that has gotten our planet into such trouble, environmentally, socially, politically....you name it.

As long as the primary goal is making money, and that goal is not at least marginally balanced by a willingness to look down the road at the future, we will have software that crashes computers and doesn't deliver what the hype promised. I wonder just how much wasted time there is in business alone, brought about by MS's buggy programs? How many problems due to viruses, thanks to MS's sloppiness about program security? I'm no expert on these subjects. But I am a Microsoft program user, because there's NO EFFECTIVE competition, due to MS's stridently irresponsible marketing. As a user, I have to constantly back up things, I have to be constantly wary about viruses, I have to assume that new releases will be less stable than old. Surely it's obvious that these mindsets don't advance business, or research, or anything other than MS's income?

I sincerely hope you will look at these issues with the big picture in mind. What will tomorrow's computing future look like with MS in the driver's seat?

Thank you,
Holly Shaltz
http://www.hjsstudio.com
http://www.shaltzfarm.com

MTC-00026694

From: Jim
To: Microsoft ATR
Date: 1/27/02 10:06am
Subject: Microsoft Settlement
821 Cross Street
Destin, FL 32541
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my disgust at the lengthy and costly lawsuit brought against Microsoft over the last three years. Microsoft has been a pillar of our Technology industry creating jobs, generating wealth, and making technological breakthroughs. As a proponent of free enterprise, I think the government needs to stop sticking their noses into private business matters.

The terms of the settlement are very harsh and will inhibit Microsoft's ability to be competitive especially the stipulation forcing then not to enter into third party agreement that obligates exclusive distribution of Microsoft products. Also, forcing them to disclose interfaces that are internal to Windows operating system products seems to be a violation of their intellectual property rights.

Nevertheless, it is in the bets interests of the American public for the litigation to end, so I urge your office to implement the settlement and suppress the opposition from bringing future lawsuits.

Thank you.
Sincerely,
Jim Lundstrom
cc: Representative Jefferson Miller

MTC-00026696

From: DeP's
To: Microsoft ATR
Date: 1/27/02 10:06am
Subject: Microsoft Settlement

Dear Sir,

I am part of a worldwide network that is working on getting the BeOS or equivalent back into the market place. This new OS will have unique & specifics features a part of the classic general computer characteristics. but there is no hope of success if the following issues aren't addressed :

*MS Office and Windows are too close to let consumers choose between several OSs. Working on medias on BeOS (because of its unique features and low cost applications), I has sometimes letters to send and because MS Office monopoly, I have no choice than boot on Windows and work on MS Word. MS Office needs to be opened, so that developers interested in porting it or understanding the document formats can do so either in form of a source code licence or an allowance to see it, check it and "clone libraries", so that applications on non- Windows OSs can read and write MS Office formats for flawless interaction with Windows users.

*All the OEM Microsoft should be able to propose a "dual boo" for an alternative operating system if the consumer wants it. With dual booting, consumers will be able to compare closely the characteristics of teh OS and chose. The pressure of Micorsoft on the

OEM leave the alternative OSs as "geek toys". "TuneTracker" application let you build a fully automatic radio with half the price comparing to Windows applicatiosn.

*The Win32 API needs to be made available (incl. undocumented APIs) so that WINE can be successfully ported not only to BeOS but other OS too.

*The file system needs to be opened, so that BeOS users can continue to access files on non-BFS partitions. This should restore and improve competitiveness in the computer market and improve consumers benefits. This should certainly let me choose between all the products available in the market.

Best Regards
Damien-Pierre LESOT
12, Rue Blomet
75015 PARSI
FRANCE

MTC-00026697

From: Russ Britton
To: Microsoft ATR
Date: 1/27/02 10:07am
Subject: MICROSOFT SETTLEMENT

We are in favor of the agreement. It's time for the Justice Department to spend more time on going after terrorists and less time going after Microsoft on behalf of AOL Time Warner.

Russ & Donna Britton

MTC-00026698

From: Tim Harper
To: Microsoft ATR
Date: 1/27/02 10:10am
Subject: Microsoft Settlement

This settlement is bad. Microsoft has made a habit of providing badly designed and poorly conceived software while doing everything it can to thwart any competition whatsoever. There has never been a release of a Micrmisift product that does not have some major functionality flaw or security hole. It is time to take this corporation to task and force them to behave responsibily as a United States corporation acting in the interest of the US at large.

Tim Harper

MTC-00026699

From: Stuart Wyatt
To: Microsoft ATR
Date: 1/27/02 10:10am
Subject: Microsoft Settlement

Dear sir(s),

Microsoft is getting away scot free. They are a huge monopoly, and if they are not stopped now, then I fear that it will be too late in the not too distant future.

MTC-00026700

From: Tim Harper
To: Microsoft ATR
Date: 1/27/02 10:10am
Subject: Microsoft Settlement

I am against the Microsoft court settlement. I think the settlement is not punishing Mcrosoft for their obvious infractions and does not have the interest of the United States citizenry at heart.

MTC-00026701

From: joseph.fylypowycz@
us.pwcglobal.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:27am
Subject: Microsoft Settlement
FYLYPOWYCZ
36 SCOTLAND DRIVE
READING, PA 19606
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing to express my support of the recent settlement between Microsoft and the US Department of Justice. I am a huge proponent of the capitalist system, and I thoroughly believe Microsoft is one of our country's biggest assets, both through job creation and through technological advances.

I have never felt that my rights as a consumer have been infringed upon. Nor do I feel that Microsoft represents a monopoly, since it consistently delivers quality products at prices that are reasonable relative to the market. Nevertheless, the terms of the settlement will serve to temper Microsoft heavy-handed marketing tactics. Fostering improved relations with software developers and computer makers by changing such business practices as licensing and marketing will help to reach this objective. Moreover, relations will improve if Microsoft eliminates anti-retaliation agreements, which it is also pledged to do.

Although I think the lawsuit was flawed from the start, it is now in the public's best interests for this dispute to go away, and therefore I support the settlement and your office making it become a reality. Thank you for your time.

Sincerely,
Joseph Fylypowycz
CC: Sen. Rick Santorum

MTC-00026702

From: fredged@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:20am
Subject: Microsoft settlement

In my option I think the Microsoft settlement is fair, lets not let the lobbies take control. Get on with it.. End it now.

Fred Gedney
New Smyrna beach Fl.

MTC-00026703

From: Richard Mundwiller
To: Microsoft ATR
Date: 1/27/02 10:21am
Subject: Microsoft Settlement

Dear Mr. Ashcroft:

I am writing to express my support of the settlement agreement between the Department of Justice and Microsoft in their ongoing antitrust case. As a consumer, I find the terms of the settlement and Microsofts concessions to be fair, and I am in favor of ending the case in the quickest manner possible.

The government's antitrust case has been ongoing for three years, but the changes Microsoft has agreed to will allow them to operate legally and promote a competitive marketplace. Ending the case will better allow Microsoft to develope new technology and promote its existing products. Under the settlement, Microsoft will now, for example, be required to adhere to a uniform pricing list when licensing Windows out to the twenty largest computer makers in the nation. With the current slump in the economy, Microsoft's continued financial success is important on a national scale. I would like to see the matter resolved according to the terms of the agreement.

Cordially yours,
Richard C. Mundwiller
HCR 70 Box 1147
Camdenton, Mo. 65020

MTC-00026704

From: PRISCILLA H MORRIN
To: Microsoft ATR
Date: 1/27/02 10:26am
Subject: Microsoft Settlement

Do not let these special interests defeat the public interest. This suit has been ridiculous from the start! What a waist of money and time in the courts.

P. H. Morrin

MTC-00026705

From: sbutler17@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:26am
Subject: Microsoft Settlement

I strongly believe that this investigation has gone on long enough. I also believe that it is in the best interest of all parties involved to bring all charges to a close. Money has been spent on this investigation that could be used in a much more useful way to benefit all Americans. Mr. Gates and Co. have been successful due to hard work and presenting products that have been useful to the American public.

My strong recommendation is that time has come to bring this to an end.

Sylvia Bailey Butler
North Carolina

MTC-00026706

From: Harold Hutchison
To: Microsoft ATR
Date: 1/27/02 10:26am
Subject: Microsoft Settlement

I support this settlement only because it does not appear that this frivolous case will be completely tossed.

I have serious concerns about the fairness of the Findings of Fact in this case issued by Judge Jackson, who had been giving media interviews during the case.

I also question the fact that AOL/Netscape has filed its own suit using these Findings of Fact. This leads me to believe that their complaints were motivated solely to send the DOJ on a fishing expedition that could be used against Microsoft later. There are still alternatives to Windows as an operating system: There is Linux, and there is a competing line of computers in the Macintosh. My brother was able to find copies of Linux and install them. Macintosh is also an alternative for those who do not wish to use Windows. To say Microsoft has a monopoly is a pretty big stretch in my opinion.

From my understanding the browser wars involved some fierce competition, and there were probably a few too many elbows thrown by Microsoft. However, this settlement should address the situation while ending a case that should not have gone as far as it has.

Personally, I'd have felt better had the Findings of Fact and the Conclusions of Law been thrown out altogether, and Microsoft had been granted a new trial. However, a settlement that keeps things at the status quo is one that I can live with. Given the war on terrorism, this case needs to be resolved quickly, even if the settlement is less than perfect. Every dollar spent on this case is money that does not go to protecting us from a threat that is clearly worse than any theoretical threat posed by Microsoft.

This settlement is, on balance, in the best interest of the public, and I support it.

Sincerely,
Harold C. Hutchison

MTC-00026707

From: gcretaf@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:26am
Subject: Settlement

Although I don't believe the justice department or any others should have filed suit against Microsoft, primarily because it seems to me to be an illegal lawsuit, I suggest you approve the Microsoft settlement and get on with life

Gene Cunningham, 15645 130th St, Wellsburg, Iowa 50680

MTC-00026708

From: jerome91@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:30am
Subject: microsoft settlement

I think the settlement is fair and just.

There is no need to destroy them any further.

yours truly
Jerome Seward

MTC-00026709

From: rshelton
To: Microsoft ATR
Date: 1/27/02 10:32am
Subject: Microsoft Settlement

Whom it may concern...

I support the antitrust settlement between Microsoft, the DoJ and nine states.

I believe this settlement to be in the best interest of our nation and struggling economy only because it is the "best deal" that can be struck. This ill-conceived action (the antitrust suit) was a major contributor to our present "line" of the stock market and our economy as a whole. I am appalled that various levels of government are engaged in such an apparent money-grab.

How could I hold such an opinion? By closely observing the progress and aftermath of the tobacco fiasco.

Signed,
Robert and Linda Shelton
(Non-smokers)

MTC-00026710

From: Don Maddux
To: "microsoft.atr(a)usdoj.gov"
Date: 1/27/02 10:32am
Subject: Microsoft

I think the government should get off Microsoft's back. This could have been one of the major contributors to the economy slow down. The only thing they are guilty of is running an outstanding company. They shouldn't be penalized for being good at what they do. The government should spend this time routing out waste in government spending, if it's looking for a real crime. Perhaps with a comprehensive look at the crime of government employee malingering, extravagant retirements, wages, benefits programs and job protections policies, you would better spend your time.

Don Maddux
Prudential Commercial Resources Realty, Inc.
Phone (816) 931-3101 Fax (816) 531-1760
mailto:dmaddux@crrkc.com
3101 Broadway, Suite 300
Kansas City, Missouri 64111

MTC-00026711

From: Ann Clodfelter
To: Microsoft ATR
Date: 1/27/02 10:40am
Subject: Microsoft settlement

Please note the attached letter in support of a settlement in the Microsoft suit.

Thank you.
Ann Clodfelter
Charlotte, NC

3166 Heathstead Place
Charlotte, NC 28210
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement issue. I support the settlement that was reached in November. Too much Government intervention into business, big or small, hinders the free enterprise system, research, and innovation.

Microsoft has agreed to all terms of this settlement, including terms that extend beyond the original issues of this lawsuit and has agreed to disclose more information about certain internal interfaces and protocols implemented in Windows.

To continue dragging on the lawsuit is wasting resources, both private and public. I hope that you will support this settlement so Microsoft and American business can move forward. Thank you for your time.

Sincerely,
Ann Clodfelter

MTC-00026712

From: paul@ishtot.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:39am
Subject: Microsoft Settlement

Dear U.S. Department of Justice Representative:

I write this letter to encourage rapid closure on the Microsoft settlement. As a technology professional and businessman, I have chosen Microsoft products and services when they meet my requirements, and have chosen competitive products in many other cases.

Microsoft does dominate the industry, but that has made it easier for developers to focus on our projects at hand. One example is the ability to focus on a single browser under which our web applications can operate. The Windows operating systems and web server software like IIS have given us access to systems that are easy to use and understand so that we can finish our development projects on time.

I, for one, chose to do most of my development in Macromedia's Cold Fusion—a competitor to one of Microsoft's product. CF allows me to do the things I need to quickly. I am free to chose a Microsoft competitive product and that works for me.

It is time to move beyond this case. Microsoft will always face competitors and some of them will effectively compete to get their products and services to market. At the point that Microsoft uses it monopoly powers to stifle competition in the future, those companies are free to approach the U.S. government to have their case heard. It is time to close this book and allow Microsoft to continue its focus on bringing additional products and services to the marketplace.

Thank you for your time.

Sincerely,
Paul Carney
President
Ishtot, Inc.
paul@ishtot.com
703.869.1088
CC:paul@ishtot.com@inetgw

MTC-00026713

From: David E. Colbert
To: Microsoft ATR
Date: 1/27/02 10:40am
Subject: Microsoft Settlement

Enough is enough. Quit persecuting companies, specifically Microsoft, who make a superior product and DON'T GOUGE the public.

No one is stopping their competitors from producing a better product, but the government(s) sure as hell will stop Microsoft from making a better product by removing all incentive to improve. Wise up you bureaucratic bumbling idiots!

David E. Colbert
Sarasota, FL 34241

MTC-00026714

From: Will von Reis
To: Microsoft ATR
Date: 1/27/02 10:40am
Subject: MSFT is monopoly

As a software developer who uses Microsoft products, I am grateful that they often give away development resources in order to promote the use of their technology. For example, they announced that in the next quarter they will be giving away their .NET development environment for free (it is currently priced $600-$800). This is great, but it also tells me that Microsoft sees a threat to their business coming from this area of technology. As a developer I have witnessed them taking aggressive steps against many other technologies that they must have seen as threats to their core desktop business. It is difficult to evaluate the real threats posed because most of these other initiatives floundered soon after Microsoft introduced their own. Some examples off the top of my head.

MS Win CE -> 3COM Palm
MS Direct Draw -> OpenGL

MS Internet Explorer -> Mozilla/Netscape
MS OCX Web Objects -> Java Applets

From my perspective, MS clearly uses their dominance in one arena to squash innovation in others.

SOLUTION: prevent MS from selling to OEMs. Consumers must install windows themselves. IE you can't buy a machine with windows pre-installed.

This forces them to be vulnerable to the same market forces as everyone else-CONSUMER CHOICE!

Will von Reis
1737 West Arbor Dr.
San Diego, CA 92103

MTC-00026715

From: Paul (038) Elda Reichard
To: Microsoft ATR
Date: 1/27/02 10:48am
Subject: Microsoft Settlement

Please ratify the Microsoft agreement and end this costly and wasteful law suite. Let those who are jealous of the success of Microsoft, produce their own useful products rather than tear down the innovative products of their competitor.

Paul Reichard
Senior Citizen

MTC-00026716

From: Jean Hanamoto
To: Microsoft ATR
Date: 1/27/02 10:48am
Subject: Microsoft Settlement

Good morning;

I must comment on the blind and frustrating way that the court has handled the Microsoft settlement. Bill Gates'' megalomaniacal outlook on the computer world is frightening! Microsoft's need to overpower and ruin other businesses is a slap in the face to our system of justice, fairness, and competition. The most hideous part is that they're still being allowed to make exactly the same moves, and are still taking full advantage of their power over the internet to try to crush any and all that might challenge them. The arrogance and willfulness will not stop until the courts do something drastic.

Please don't let Microsoft bully their way into being the only choice we have.

Sincerely;
Jean Hanamoto
Jean's Artworks
16632 Lone Hill Dr.
Morgan Hill, CA 95037
(408) 776-8664
artworks@garlic.com

MTC-00026717

From: Andrew Zanevsky
To: Microsoft ATR
Date: 1/27/02 9:50am
Subject: Microsoft Settlement

Dear Sir or Madam:

In this e-mail I submit my opinion on the antitrust settlement between Microsoft, the Department of Justice and nine states.

I think that the terms of the settlement are fair to all parties and should be approved. I believe that further litigation against Microsoft would be detrimental to the health of the industry and the U.S. economy as a whole. It could only benefit some of the Microsoft competitors and not the consumers.

I am a professional computer database administrator, consultant, speaker, author, and business owner. My opinion is based on 15 years of industry experience, direct involvement in associations of computer professionals, my expertise in the field, and contacts with colleagues.

I clearly see that if Microsoft is prevented from adding new features to their products, the industry will stagnate. It will lead to increased costs of software for consumers, because we will be forced to buy and integrate numerous products in order to conduct our business. Introduction of new features in the operating system is a natural process of software systems evolution. I believe that any continuation of the legal process against Microsoft will only suffocate progress in computer systems, not invigorate it.

Technology in our industry changes so fast, that Microsoft's lead in operating systems does not guarantee it's dominant position in related markets. We have seen numerous software companies successfully grow from nimble startups to multi-billion dollars corporations. This happens when they have a truly innovative and useful products. But Microsoft often comes up with a better solution and then consumers make their choice. As an industry expert and as a consumer, I urge you to approve the proposed settlement terms and allow Microsoft to continue its research, development, and innovation.

Sincerely,
Andrew Zanevsky
President
AZ Databases, Inc.
zanevsky@azdatabases.com
tel. 847-919-7002

MTC-00026718

From: Tobin Fricke
To: Microsoft ATR
Date: 1/27/02 10:51am
Subject: Microsoft Settlement

Dear Sir,

I am writing to express my comments on the Proposed Final Judgment (PFJ) in the anti-trust case United States versus Microsoft under the provisions of the Tunney Act. I am a citizen of the United States, a resident of the State of California, and a student of Computer Science at the University of California.

I believe that the proposed final judgment is insufficient to end Microsoft's illegal monopoly. The PFJ would do little to improve the competition in the markets dominated by Microsoft.

One of the main provisions of the PFJ intended to facilitate competition in the markets currently controlled by Microsoft's monopoly is provision D in section III which requires that Microsoft disclose to all interested parties the programming interfaces (APIs) used by "Microsoft Middleware" to communicate with the "Windows Operating System," and then only when new major versions of "Microsoft Middleware" are released.

I believe that this requirement must be strengthened. In its current form, provision III-D gives Microsoft an advantage over possible competitors, because Microsoft would only be required to release API information after Microsoft itself has released a product relying on these APIs. Thus, Microsoft will always have a "head start" over possible competitors.

Microsoft will necessarily have better knowledge of the APIs, and hence a significant advantage over any possible competitors in software development, so long as it is Microsoft itself who implements the APIs in the operating system product.

Moreover, the release of API specifications is limited to those used by "Middleware." This is an unnecessary limitation; Microsoft should be required to release all API information used by any product, not just "middleware."

The only possible remedy to this situation that will result in fair competition of software that runs with Windows Operating System Products is complete separation between Operating System and Application Software divisions within Microsoft.

Clear demarkation between OS and application software is not just good for competition, but it is a fundamental engineering principle of computer science. Better specified interfaces will improve security and possibly reduce the thread of worms such as NIMDA, which have caused billions of dollars of damages to organizations dependent upon Microsoft software. Third party application software developers should communicate with the Microsoft Operating System (OS) division exactly in the same manner as the Microsoft Application Software division communicates with the Operating System division. For example, the OS division would publish API specifications, and only after this publication would the application developers (both Microsoft and third-party) be able to use this information. This will result in fair competition in the market of software running on the Windows platform.

This separation would result in a cleanly specified set of interfaces used by non-operating system software to communicate with the Windows Operating System. Not only would this result in fair competition amongst application software developers, but it would also make it possible for a third party to implement a product to compete with the Windows Operating System itself that would be able to run all of the software that can be run by the Windows Operating System itself.

The WINE project is one such effort of a third-party implementation of the Windows Operating System API. However, the WINE project's progress has been chronically plagued by the poor documentation and secret nature of some aspects of the Windows API. A fully documented Windows API would eliminate this hurdle, and allow projects such as WINE to compete with Microsoft's operating system products.

The logical means of implementing this separation is to split Microsoft into multiple entities: one corporation to produce the Windows Operating System, one corporation to produce other application software, and possibly other corporations to handle other Microsoft projects, such as Windows Media Player and Microsoft's media interests.

In the past, corporations have been broken up as a means towards eliminating monopolies. The breakup of AT&T into long-distance and research divisions and the regional bell operating companies, for example, benefited consumers in numerous ways, bringing competition, innovation, diversity, and prosperity to the telecommunications industry. The breakup of Microsoft would have similarly beneficial effects.

Tobin Fricke
25001 El Cortijo Lane; Mission Viejo, CA 92691–5236

MTC–00026719

From: shaner@intercom.net@inetgw
To: Microsoft ATR
Date: 1/27/02 10:55am
Subject: Microsoft Settlement

Please attached document detailing my position on the Microsoft settlement.

Thank-you,
pat
803 Knight Court
Salisbury, MD 21804
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take this time and give you my thoughts on the Microsoft Anti Trust case.

I feel that this case has gone on far too long without making any real progress. Whether or not Microsoft was responsible for any wrongdoing, the proposed settlement will certainly restore fair competition to the computer industry.

I work daily with Microsoft products as a Computer Analyst. Their products and systems integration have my job a great deal easier. They've contributed so much to our economy and have changed the technology industry forever. The settlement calls for Microsoft to share a lot of their interface design and server protocol with their competitors. Additionally, OEM's will be allowed to pre-install competing products within Windows. If there are any problems, there is a Technical Oversight Committee to deal with any future violations or problems.

The proposed settlement is a fair solution to the problematic Anti-Trust case. Our country needs to concentrate their efforts on other issues and ending this lawsuit is certainly a good way to do that. Please accept the settlement and allow our country to flourish again.

Sincerely,
Patrick Shaner

MTC–00026720

From: Owen Cooper
To: Microsoft ATR
Date: 1/27/02 10:54am
Subject: Microsoft Settlement

Microsoft is the leader in supporting a defined interface as a way to allow different groups to work on different components without interfering with each other. Applying this to IE, it would be great if they unbundled IE and published their interface.

Microsoft is great but too monolithic. Having them publish their interfaces and/or source code would not break them up, but would increase competition. Seems a suitable response to the judgement against them.

Owen Cooper

MTC–00026721

From: doramill@msn.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:01am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
DONAL MILLER
2762 TONY DRIVE
LAWERNCEVILLE, GA 30044–5775

MTC–00026722

From: Vern Alway
To: Microsoft ATR
Date: 1/27/02 11:03am
Subject: Microsoft Settlement

The United States DOJ is acting destructively toward an American corporation not on any principle, but because of the size and success of the victim. If Microsoft had done anything wrong, conventional laws of fraud would have been invoked.

It appears that we have a national policy of attacking the best in our system.

Vern Alway
Victoria, Texas

MTC–00026723

From: Nick Ferone
To: Microsoft ATR
Date: 1/27/02 11:07am
Subject: Microsoft Settlement

Dear DOJ,

Please accept this as a Public Comment by Dominic Ferone, of Columbia SC, regarding the Microsoft Settlement.

"The Microsoft Case has hurt investors to the tune of more than 50 million dollars, and even though I am not one of those unfortunate souls, I am a user of Microsoft products and have been since 1991. In my opinion, this case is about envy, and a competitors "rights" to smash his better with the use of a government club if he is unable to adequately compete in the free market. Settle this squabble and let Mr. Gates continue to own 100% of the company he and his partners created. Microsoft innovation in programming languages alone has allowed me to venture into a new career path, and has directly affected my own life positively. The competitors who filed this suit against Microsoft should know that if this case is not settled amicably, then I will NEVER use THEIR products in the future, and will not recommend them to clients of mine."

MTC–00026724

From: Nathan Lineback
To: Microsoft ATR
Date: 1/27/02 11:10am
Subject: Microsoft Settlement

To whom it may concern:

I recently became aware that I have the opportunity to comment on the Microsoft settlement and I felt that I had to say something.

After reading the settlement it seems to boil down to "Microsoft, behave yourself". This is what they should have been forced to do from day one while the trial was going on. Much of this is what any sufficiently large well behaved company should do voluntarily.

As a consumer I have been personally harmed by Microsoft's actions, and I believe Microsoft needs to be punished for it's past actions. I also believe that this settlement will not prevent Microsoft from finding ways to continue to abuse their monopoly.

The part about not having to release documentation regarding security APIs and protocols is just plain dumb. If someone can crack the security just because it is documented, then the software is bad and needs to be fixed. Additionally the availability of information about security APIs and protocols are absolutely critical for inter operability with non-Microsoft products.

The settlement implies to me that Microsoft could license the API documentation however they want. It is imperative that such documentation be public domain, otherwise Microsoft could use their license to exclude certain types of developers.

As for how to properly punish them and make sure they never again do what they did, I am afraid I don't have the answers. I only know this settlement won't do the trick for the long run.

Thank you for your time.
Nathan Lineback
416 Walker St.
Villa Rica, GA 30180

MTC–00026725

From: Merlin Grue
To: Microsoft ATR
Date: 1/27/02 11:12am
Subject: Microsoft Settlement

My name is Merlin Grue and I reside in Oak Creek, Wisconsin. I am sending this message to express my concern about the efforts of some individuals, corporations, and government agencies to inhibit Microsoft's right to compete in the market place and provide quality products at a fair price to me, the consumer.

If I wished to purchase products from one of Microsoft's competitors, I am free to do so, without any intervention from local, state, or federal government.

The only ones who profit from litigation of this sort are the attorneys.

Merlin Grue

MTC-00026726

From: Anthony Mullen
To: Microsoft ATR
Date: 1/27/02 11:13am
Subject: (DOJ Microsoft)

Dear DOJ

I would like to say that the proposed settlement with the government and Microsoft will do little to stop this companies dominant position of the market and the industry.The measures need to be much more substantial to promote innovation and choice to the customers.We need greater competition which will lead to more and better products at more affordable costs.

MTC-00026727

From: epotter275@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:17am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
edwin potter
hc 4 box 184e
brightwood, VA 22715

MTC-00026728

From: Evolving old
To: Microsoft ATR,evolving@cox.net@inetgw
Date: 1/27/02 11:22am
Subject: Microsoft Settlement

To Whom It May Concern,

As a computer professional and an American citizen I believe the the antitrust action against Microsoft is unwarranted and unjust. For the record, I have chosen to use other operating systems (Linux, various flavors of Unix, Mac, and the OS400) instead of Microsoft's wherever possible. The consumers who have bought the Windows operating systems have done so of their own free will. To say that Microsoft has a monopoly is an opinion born out of ignorance and laziness.

I do not like their products but I think it is unfair that the government helps their competitors by bringing this suit. It is anti-democratic, anti-freedom, and born of and supported by jealousy of companies who cannot run a business as well as the management of Microsoft.

Please bring this episode to a close by terminating the antitrust action against Microsoft immediately. Please stop wasting the taxpayers money. Please stop enriching trial lawyers at the expense of productive individuals and organizations. Please stop granting government favors to jealous business competitors. Please stop government actions which hamper the creative endeavors and job creating abilities of businesses everywhere.

Sincerely,
Greg Puetz (native born U.S. Citizen)
Programmer/Analyst
25162 Southport Street
Laguna Hills, CA 92653–4923

MTC-00026729

From: Jack Sheehan
To: Microsoft ATR
Date: 1/27/02 11:22am
Subject: Microsoft Settlement

Attorney General Ashcroft:

Attached is a letter summarizing my opinions on the Microsoft Settlement. I believe that Microsoft provides products of superior quality at fair prices. I do not believe that their business tactics are greatly different from others in the business. With regard to monopoly, there is competition, and there are other choices.

I personally would like to see this matter resolved as expeditiously as possible.

Thank you,
Jack Sheehan
45 Lenor Drive
Harwinton, CT 06791
860–485–1260
JLSheehan@att.net

John J. Sheehan
45 Lenor Drive
Harwinton, CT 06791
January 27,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the settlement that was reached in November between Microsoft and the government. I support this settlement and feel that it will serve in the best public interest. I believe this litigation battle is costly and a waste of resources. I urge you to support this settlement.

I also believe that Microsoft provides excellent products at acceptable prices. With regard to the monopoly argument, other products are available to those who wish to use them. Microsoft should not be penalized because their products are clearly superior to products offered by their competition.

The settlement was reached after extensive negotiations. Microsoft has agreed to all terms and conditions of this agreement, including: designing future versions of Windows to make it easier to install non-Microsoft software and licensing its Windows operating system products to the 20 largest computer makers on identical terms and conditions. A technical oversight committee has been created to monitor Microsoft compliance to this agreement.

During these difficult times, one of our highest priorities should be to boost our economy and aide our businesses. Microsoft should not be stifled or hindered; this will not benefit anyone. Thank you for your support.

Sincerely,
Jack Sheehan

MTC-00026730

From: lucy
To: Microsoft ATR
Date: 1/27/02 11:23am
Subject: Microsoft Settlement
Lucy McClusky
5 Brian Road
Edison, NJ 08817
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: I am writing to offer my support for the settlement that was reached in the anti- trust lawsuit between Microsoft and the Department of Justice last November. Microsoft has been wonderful in making the technology industry what it is today. Yet the industry is hurting as a result of this litigation, and I would like to see an end to it as soon as possible.

Other companies have had the ability to compete with Microsoft, and yet they simply have not been able to do so. Microsoft should not be punished for this, although the company made certain concessions that have allowed this case to be settled so that this whole matter can be put to rest. Microsoft will share information with its competitors on the Windows operating system, and allow computer makers to ship non-Microsoft products for use within Windows without any retaliation. The three person technical committee that will be established will ensure Microsoft's full compliance with these and all other terms of the settlement.

Thank for reaching this compromise with Microsoft. The economy will be revitalized once this case is over, and the technology industry can get back to the success it had before this lawsuit began over three years ago. I look forward to the finalization of this settlement.

Sincerely,
Lucy McClusky

MTC-00026731

From: Dan Harper
To: Microsoft ATR
Date: 1/27/02 11:24am
Subject: Microsoft Settlement

Whatever happened to crime and PUNISHMENT????

A criminal is suppose to be punished, not rewarded.... What next, free condoms to rapists, a free case of scotch and a tank of gas for anyone who kills someone DWI ??

The proposed settlement, is a payoff... Pure and simple... We all knew President Shrub was going to sell out the American citizens to play nice with his big business buddies who got him elected... But this is bad news for everyone but Microsoft.... And I thought they were the bad guys???

If indeed the Department of Justice has anything to do with justice... Then a solution that involves punishment for the monopolistic practices must be brought forward... Otherwise, we might as well rename your little club to the Department of Just Us... (* The rich and shameless)

Sincerely,
Dan Harper

MTC-00026732

From: tata25@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:26am
Subject: Microsoft settlement

Please stop all action against Microsoft. This only hurts us all. The proposed settlement is more than enough punishment.

Manny Alegria4513 S. 14th Ave.
Tucson, Az. 85714
(520) 294–8995

MTC-00026733

From: Ben Schilke
To: Microsoft ATR
Date: 1/27/02 11:28am
Subject: Microsoft Settlement

I am writing to ask that you reject the settlement proposal between Micorsoft and Department of Justice that is before your court. Microsoft ("MS") is a company that practices unfairly and illegally in the software and operating system markets.

Time and again MS has used it's monopoly power or any other advantage to wrongfully gain market share and greater control of these markets. Since being charged with anti-competitive behavior, MS has shown in its defense of these charges the complete disrespect for the idea of fair competition that matches their behavior. To claim responsibility for the innovation in software of the last decade or so is rediculous—those familiar with the software industry knows that MS is not an innovator, but rather borrows or steals so much of what has been considered innovative. The idea that there needs to be a consistent platform so that there is compatitibilty across computers is also bogus: look at how seemlessly MacOS and Windows files are now translated from one to the other. And consider it's proposal a few weeks ago that it donate supposed millions of dollars of software to under-privelege school systems. What kind of company has the arrogance to suggest that "dumping" a product into the one market they have not yet concord (the education market) is a fitting punishment!?!

MicroSoft must not be allowed to enter into this proposed settlement with the Department of Justice if current and potential competitors are to be allowed a chance to compete and provide consumers with real choices in the software market.

Ben Schilke

MTC-00026734

From: Tom Voorheis
To: Microsoft ATR
Date: 1/27/02 11:29am
Subject: Microsoft Settlement

I am sending this e-mail in regard to the proposed settlement in the US vs. Microsoft Antitrust case. The proposed settlement leaves to many open doors to Microsoft to simply work around them, and becomes simply a road bump in Microsoft's domination of the market, rather then its intended purpose to allow for competitors to do what competitors are actually meant to do. compete. I very much urge you to reconsider many of the definition of what Microsoft must do, particularly in regards to the distribution of information regarding all the of the APIs which power all Microsoft windows devices, that is all devices which are run by the Win32 APIs. I strongly urge you to reconsider this settlement, for i disagree with it strongly for it does not fulfill the purpose that it was meant for. my opinion is stated.

Tom Voorheis, Ann Arbor, MI

MTC-00026735

From: jricketts@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:26am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Jane Ricketts
1907 Ferndale
Ames, IA 50010

MTC-00026736

From: Paul W. Kleinknecht
To: Microsoft ATR
Date: 1/27/02 11:30am
Subject: Microsoft Settlement

Dear Judge

I would like to express my concern about the proposed Microsoft settlement. I use many Microsoft products and have enjoyed using them.

I am concerned that if they have broken the law and are not punished, it could have a negative affect on future computer products. I think that Microsoft should be held accountable for their actions. Thank you for your consideration.

Paul Kleinknecht
Paul Kleinknecht
4500 Mid. Mt. Vernon Rd.
Evansville, IN 47712
812–421–0043 phone/fax
palklein@juno.com
CC:dkleinkn@yahoo.com@inetgw

MTC-00026737

From: Cbrad337@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:33am
Subject: Attorney General John Ashcroft Letter

Attached is the file that I have sent to Representative Ric Keller.

Sincerely,
Charles Bradley
1229 Foxden Road
Apopka, FL 32712
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am taking this time to write you regarding the Anti-Trust lawsuit that continues to plague the Microsoft Corporation because I feel your actions on this issue will make a dramatic impact on the American consumer. In spite of the broad range of restrictions imposed, Microsoft's competitors are actively trying to undermine the settlement during this review period. Therefore, it is even more urgent that the government hears directly from the consumers who will be directly impacted by this on-going lawsuit.

Microsoft has undergone three arduous years of scrutiny under the American government and I believe the settlement plan is fair and just. The fact that Microsoft has agreed to not retaliate against other computer competitors, allow competitors to develop software that matches their own, as well as disclose for use by its competitors various interfaces that are internal to Window's operating system products, tells the public and the government that Microsoft is dedicated to supporting a pro-competitive market.

Please take note of my opinions and consider the consumers first when making a decision that will continue to affect the American people. I thank you greatly for your time and consideration in this crucial matter that plagues the ethics of the American tradition.

Sincerely,
Charles Bradley
cc: Representative Ric Keller

MTC-00026738

From: Joseph A. Sandova
To: Microsoft ATR
Date: 1/27/02 11:32am
Subject: Microsoft

Consumer interests have been well served. It's time to end this costly litigation, NOW!

Thank You,
J. A. Sandova
3028 N. 3rd. Street
Whitehall, PA 18052

MTC-00026739

From: Mark Gisleson
To: Microsoft ATR
Date: 1/27/02 11:33am
Subject: Microsoft Settlement

After reading extensively on the proposed MS-DOJ settlement, I am flabbergasted by Microsoft's continued and aggressive disregard for laws they find to be "inconvenient" to the maintenance of their illegally obtained monopoly. The current proposed DOJ settlement prompts me to wonder if there is anything short of murder that will get a billionaire arrested?

This is not a settlement, it's a cave in to a thuggish company run by Enron-like monsters who refuse to understand that the law applies to them as well. I would rather see every purse snatcher and petty thief released from jail than to see one more white collar criminal go free.

Microsoft is overwhelmingly guilty of grossly abusing the law and the markets. Failure to punish them will result in a grievous weakening of our national defense, but the DOJ seems to understand security flaws about as well as you seem to understand the laws regarding full disclosure, ethics, and the binding nature of regulations and laws.

Mark Gisleson
GISLESON WRITING SERVICES
P.O. Box 14264 St. Paul MN 55114
651 644–6408 phone
651 645–3530 fax
resume@gisleson.com
www.gisleson.com

MTC-00026740

From: snaper@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:35am
Subject: Microsoft settlement

I support the present settlement of the Microsoft case and think further litigation is inappropriate

Jerry

MTC-00026741

From: Walter Marlow
To: Microsoft ATR
Date: 1/27/02 12:26pm
Subject: Microsoft Settlement

To Whom It May Concern:

I wish to note my full support for the proposed Microsoft Settlement currently undergoing public comment.

Innovation, improvement, and enhanced functionality are essential for all products offered to consumers, whether automobiles, electronics, software or other. Microsoft provides these in all of their software products and consumers benefit greatly as a result.

Microsoft (and consumers) must be able to move on and continue to improve and to benefit. Finalizing the proposed settlement is key to this, and one significant step towards improving the economy.

Allowing a small but extremely vocal group of failed competitors, Microsoft "bashers" and their political cronies to interfere with this settlement with yet more political and litigious obstructionism will only further stagnate the industry and economy, when we could instead be moving forward.

Rigorous competition is key to our economy and to consumers getting the most "bang for the buck". But when some competitors retreat to the courtroom rather than the drawing board in the face of rigorous competition, everyone loses. It's time to put the courtroom behind us and move forward, focusing on market competition and technical cooperation that will advance and improve the industry, the economy and consumers" interests.

Respectfully,
Walter E. Marlow III
Electronics Engineer
16372 Passing Road
Milford, VA 22514

MTC-00026742

From: reneehudon
To: Microsoft ATR
Date: 1/27/02 11:35am
Subject: Microsoft Settlement

I urge the DoJ to accept the antitrust settlement currently pending. It has met the standards by the Court of Appeals and it is time to move forward. Microsoft is an integral part of our nation's economy and now more than ever we need to reinforce our economic strength. As one brave American recently said—"Let's roll".

Thank you

MTC-00026743

From: Mindsender@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:36am
Subject: Microsoft Settlement

To Whom It May concern,

A Citizens Opinion:

Lighten up on Microsoft. They are to the future what Steel was to the Industrial Revolution. This is not an issue for a slighted individual judges anger, nor emotional ploys used by competitors to gain public sympathy (even if in some part meritorious) to let important little tug boats run the great liner onto the rocks.

Microsoft is led by people who have absolutely no need for Money. This fact should help in evaluating motive. I believe these people simply enjoy exercising their agile brains, and have basic decency, and hope for a better world. They are reasonable scientist/businessmen, and have no more interest in simply playing life away in the pastures of pleasure, than Einstein, Newton, or DaVinci. These maligned Microsoft executives are in fact society's, in the flesh, Santa Claus, and will be remembered thousands of years from now for bring us out of the dark ages.

Lets not mistake these great people of our era, for the Robber Barrons of yester-year. Help them help us all have a better, and better world. They have proven themselves a brilliant diamond passing light with all but a magical ability to heal in every walk of life. Look at the innovation, direct and indirect that we have seen in the last ten years. Get sick, go into a hospital, and just try to imagine how much of your stay is somehow touched by software. That's just one field. What about metalurgy? Factory automation? Engineering design. Government resourses. Military implimentation. Education. The stock market. Scientific research. And we're just at the beginning.

Miracle Microsoft.. because from small beginnings we have witnessed the human seed that will continue to Spawn a new world, long, long.. long, after we are all gone. So we'd better be right in how we cradle this gifted child, and design the structure in which we allow it to grow, healthly. History will look back and say these where the Geniuses that got it right, just as we look back on the lightbulb and the facilities brought to every site to be able to use them, and all things electric. By the simple logical growth set about by the good deeds of these great people, we may someday have "The one BEST Physics teacher in the world.. in every highschool classroom, with teachers of today serving as tutors, while the fundamentals are established by world class expertise aided by personality, graphics, and professional production aids. Most of us had mediocre to TERRIBLE teachers in ALL the sciences in highschool, didn't we? This is wasting our mental resourses and creating pain and a sense of inferiority, in otherwise smart kids who don't realize what happend to them.

With innovators such as these, we may someday accomplish communication with the public to the point that State Governments, holy grail that they currently are, may come to look like expensive redundancy. We may see a world where false boundaries on a map do not provide motive to kill off people on the other side. With communication.. the world becomes more homoginized, less dangerous, and one people. That's what we really are, here on "spaceship ea rth". It's hard to imagine waring with Japan or Germany.. now. What has changed? We are now interdependent. How did that happen. How do we implement it? Could it even exist without...software? Could we keep track of it all?

Ask yourself what YOU are personally doing to accomplish these wonderful spin-Offs. If you're like me, the answer is.. well personally.. NOTHING. Please help educate those you influence to the beauty of the greater picture of our lifetimes. To the extent rules are needed for competitions health, make them with input from both sides, but don't introduce a welfare state for business, that gives a false handicap at the expense of our strongest warrior. This is not a game. Nicey-nice has no more place here than on a battlefield, and most of us have little if any hands on experience in the mud, like the guys who role up their sleeves at Microsoft every day to take on the hardest intellectual challenges we can't even imagine, for the fun of it. Strange people. Strange love. I'll take it.

Thanks for your time,
Paul Larisey

MTC-00026744

From: EOlson1931@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:38am
Subject: Microsoft Settlement

I am a Microsoft supporter.

What ever Microsoft has agreed to is OK with me.

I believe, Microsoft has been attacked by others who could not stand good stiff competition and were a lot of crybabies. They could have done the same thing to forward their businesses if they had the gumption.

Now please let Microsoft get on with their work.

Etta Dell Olson
Elmer A Olson

MTC-00026745

From: Rose
To: Microsoft ATR
Date: 1/27/02 11:41am
Subject: Micrsoft Settlement

This Settlement is unjust because it still gives Microsoft The ultimate control over the market.It still allows Microsoft to sell its products at an outrageous amount, because it is needed to run any programs in today's market. For example Microsoft is selling a 4 year old operating System at $200.00, along with all the other programs at a ridiculous amount. Any Programs out there say you need Windows to run it.

There are other Operating Systems that are Free but you can use a very limited amount of today's programs.. This settlement still allows Microsoft to be a monopoly. Which is against the Law.

Sincerly

Rosemary Formanek, Florida

MTC-00026746

From: jide@ekohotels.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:41am
Subject: Micrsoft Settlement

I work as a systems administrator in the hospitality industry in my country Nigeria. Microsoft products have become for us a great blessing due to the fact that it has provided an easy to learn, easy to support, and easy to use interface and technology.This has also led to gainfull employment for youths who otherwise would have wasting away under the heat of the African sun admist a constant reminder of porverty and underdevelopment.More importantly though is that microsft has brought joy to our homes and given a businesses a chance to compete and a sense belonging in a global village that is our world today.

The settlement is good and fair. Let the others who are against the settlement look for ways to be innovative in their product development instead of seeking to tear apart a good thing. Besides a good product always sells itself.

Thank you

CC:jide@ekohotels.com@inetgw

MTC-00026747

From: Jackie Allison
To: Microsoft ATR
Date: 1/27/02 11:41am
Subject: Micrsoft Settlement

Re: "Tunney Act" It is time to end this costly & damaging ligitiation.

Consumer interests have been well served.

MTC-00026749

From: Tuggle
To: Microsoft ATR
Date: 1/27/02 11:42am
Subject: Micrsoft Settlement

It's time we all understand that there is a pervasive "corporate culture" regarding operating in ethical ways: "Make me". So, your honor, this is as good a place as any to start. Let the punishment, for bad faith and anti-competitive actions backed by corporate officers from the top-down, reflect the public interest more accurately than the settlement deemed acceptable by the President and the other states.

This management style has seriously damaged our country. It has and continues to demoralize and victimize honest workers all over the nation; farmers, factory workers, imported engineers, physicians, nursing home aides, etc . . . .

Help restore confidence in the American system of justice. Start with this decision. Carol Tuggle 117 Charter Oak Rd. Southbury, CT 06488

MTC-00026750

From: chris
To: Microsoft ATR
Date: 1/27/02 11:40am
Subject: FW: on the Microsoft case

Mr. Blumenthal, State Attorney General of CT suggested I forward this.

"Oakleaf, Christopher" wrote:

Dear Mr. Blumenthal,

While I presume you have some technically astute people providing you information, I've not seen anything in the news that suggests any one is aware of the current intertwining of the MS Operating System and the IE browser. At this point in time, anyone updating the browser, say from 5 to 6, is also updating key operating system components. MS has also made it very difficult to back off an update. Today, if you upgrade from ME to XP, for instance, it is not possible to revert to the previous version. The upgrade is one way, which was not true when you went from 98 to ME.

Microsoft never has and never will have any interest in playing nice in the sand box. The comment that follows is a perfect example:

Microsoft spokesman Jim Desler said the company had not reviewed the Netscape lawsuit and could not comment on specific allegations but added:

"AOL purchased Netscape for $10 billion, now AOL wants to blame Microsoft for Netscape and AOL's own mismanagement."

A viewing of "Triumph of the Nerds", broadcast on PBS from time to time, makes Bill Gates stance towards the rest of the industry, and by extension the rest of the country, quite clear: Microsoft plays to win and doesn't take prisoners.

I have been very gratified that your office has continued to pursue this issue, as there's nothing that Bill would like more than for the pressure to go away.

An anecdote: Some years ago, when GE was working out the MSNBC deal with Microsoft, Netscape was the browser of choice within the organization.

Bill Gates was clearly aware of this. The next release of office had not been made available to the company as a site license. Word was that the contract negotiations were stalled. There was no question in anyone's mind that

Bill wanted Netscape off the desktop at GE. While I have no direct evidence, I would not be particularly surprised if Jack Welch didn't tell Bill to take a hike, as the next release of office was available immediately after the closing of the MSNBC deal and Netscape was not removed from the desktop.

Regards,

Chris Oakleaf

An occasional correspondent

As a private contractor, the views expressed here are my own and do not represent those of any entity I may be working for. Dear Mr. Oakleaf:

Thank you for your recent thoughtful correspondence concerning the Microsoft antitrust case.

As you know, on November 6, 2001, the United States Department of Justice and Microsoft filed a proposed settlement. I did not join that settlement because I do not believe it would accomplish the goals we set when we filed the case. Nor would it accomplish the remedial goals set by the U.S. Court of Appeals: (1) to prohibit the illegal conduct and similar conduct in the future, (2) to spark competition in this industry; and (3) to deprive Microsoft of its illegal gains.

You may also express your opinion to the judge of the federal trial court considering this settlement by filing written comments with the United States Department of Justice by January 28, 2002, as follows:

Mail: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

[NOTE: Given recent mail delivery interruptions in Washington, DC, and current uncertainties involving the resumption of timely mail service, the Department of Justice strongly encourages that comments be submitted via e-mail or fax.]

E-mail: microsoft.atr@usdoj.gov

In the Subject line of the e-mail, type "Microsoft Settlement."

Fax: 1-202-307-1454 or 1-202-616-9937

Please keep me informed of your opinions on the case.

Thank you again for contacting me.

Sincerly,

Richard Blumenthal
Attorney General

MTC-00026751

From: Terry Frederick
To: Microsoft ATR
Date: 1/27/02 11:47am
Subject: Micrsoft Settlement

Terry M Frederick
President
Custom Business Solutions
10308 Metcalf, #151
Overland Park, KS 66212
913-384-3373
terryf@custom-solutions.com

I own a small computer consulting firm in Kansas, and most of my business is derived from developing software that runs on Microsoft operating systems. I have developed software for over 30 years, and from my experience, Microsoft's programming environment for third party development on their operating system is the most flexible and has the most features of any operating system ever built.

Microsoft is also one of the least expensive environments for developing third party software. The cost of development tools and libraries is well within the reach of any small business that desires to create new software that will run on Microsoft's operating systems. The main reason I chose to specialize in Microsoft development was due to the great depth of resources and capabilities that are available for software development at a reasonable price.

My business has suffered recently, but not from actions by Microsoft. I am constantly competing with an attitude from potential customers that believe that Microsoft is a bad or criminal company and that they should not develop software on Microsoft's operating system and support a bad company. My customers look at this case, and read the negative comments about Microsoft in the news, and often select non-Microsoft environments for their software development. This courts actions, and the length of time that these proceedings are taking are creating fodder for damage to Microsoft's reputation. The Microsoft competitors that are supporting these court actions against Microsoft are generating propaganda that takes advantage of the fact that Microsoft is being tried for illegal activities.

I have spent years training to become proficient in Microsoft development, and I do not have the resources to train and support programmers in all of the other areas of software development.

The longer this case goes on, the more damage will be done to Microsoft's reputation, and to my businesses ability to get new work.

Please end this case. Microsoft's competitors created this case to use the resources of the Federal court system to damage Microsoft. In fact that is what is happening, and will continue to happen as long as this case continues. As you damage Microsoft, and Microsoft's reputation, you are damaging thousands of other companies that have built their business around Microsoft products. Please end this, now.

MTC-00026752

From: Rex A Kofford
To: Microsoft ATR
Date: 1/27/02 11:48am
Subject: Micrsoft Settlement

The settlement as it now stands is fair to all concerned. To pursue the matter further will hamper the introduction of new products and enrich attorneys.

Sincerely,
Rex & Alene Kofford

MTC-00026753

From: REddy97458@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:48am
Subject: Micrsoft Settlement

All AOL wants to do is to eliminate competition.

If Microsoft wants to give their products away, I say great for the consumer.

I love it.

I am and have been a customer of AOL now for about 5 years and I am considering dumping them because I believe they have a monopoly.

I believe they presently control the Internet and don't want any competition.

Every Microsoft product I purchased, I believe has been a great bargain.

AOL are big cry babies.
Bob Eddy
Grand Rapids, Michigan

MTC-00026754

From: tco2@cornell.edu@inetgw
To: Microsoft ATR
Date: 1/27/02 11:52am
Subject: Micrsoft Settlement

The proposed settlement of the Microsoft case is a bad thing. I find it to be threatening in that it essentially hands the desktop computer industry over to Microsoft. I find it offensive that our U.S. legal system could contemplate it as a remidy for the injuries Microsoft has caused.

Regards,
Todd Olson

MTC-00026755

From: Alan Shackelford
To: Microsoft ATR
Date: 1/27/02 11:56am
Subject: Micrsoft Settlement

I consider anything which threatens the open source and free software movements to be a threat against me. I have chosen (as a free, voting American) not to use Microsoft products. I don't believe in the philosophy they adopted, and will not support them by using their software, either operating system or application. Please be so careful while representing my interests in this settlement. Any action which might interfere with the open source and free software movements is in direct conflict with my interests, and those of millions of other users around the world.

Thank you for your time, and please resist the temptation to cave in and go with Microsoft.

Alan V. Shackelford
ShakNet Mail and News

MTC-00026756

From: wissfire@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:55am
Subject: microsoft settlement

Fed up with the weight lobbyists play in wrecking havoc in this country!

Stop this nonsense NOW before we put more people out of work leaving MORE families without income and children barefoot. There is more than enough of this going on in this USA already.

Stop spending THE PEOPLES MONEY ON THINGS THAT BENEFIT WASHINGTON BIG SHOTS RATHER THAN THE MASSES!

WISE UP!!!
WISSFIRE

MTC-00026757

From: Chuck (038) Jean Trom
To: Microsoft ATR
Date: 1/27/02 11:57am
Subject: Microsoft Sttlement.
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The antitrust lawsuit against Microsoft is unconscionable. I cannot understand why the government would want to tear down American business. This suit attacks the very foundation of what we have built this nation upon: free enterprise. The perpetuation of this litigation cannot and will not aid this country in any way; indeed, it will only hinder the future of America. If we continue to attack the best and brightest of this nation, we will end up with nothing more than mediocrity.

The settlement that has been reached in this case must be accepted; it is fair, and those who think that it "does not go far enough" are clearly not searching for a solution to a problem, but rather their own gain. Under the terms of the settlement, Microsoft will design future versions of Windows to be even more compatible with the products of other companies. The company will also cease all retaliatory behavior against its competitors. The terms of the settlement will be ensured by a three person technical committee, which will monitor the future business tactics of the company.

This settlement must be accepted. We cannot allow political avarice destroy one of the finest companies ever produced by this nation. Thank you for your continued support of American business, and for hearing my opinion.

Sincerely,
Charles Trom
3033 Madeira Avenue
Costa Mesa, CA 92626
CC:fin@mobilizationoffice.com@inetgw

MTC-00026758

From: Dick (038) Shirley
To: Microsoft ATR
Date: 1/27/02 11:56am
Subject: Current Proposed Settlement

It is time the Government got off the back of Microsoft and got beck to work on the current real problems. It appears that since Microsoft has not become the giveaway program such as ENRON that has participated in that the our Senators and Representatives are trying to punish Microsoft.

The actions in the past of breaking up Hughes Aircraft and Hughes Medical Research should have been taken as a lesson.

Because a person makes a Billion Bucks is no reason to try to put him or the Company out of business simply because he/they don't buy into enriching elected officials in Government.

Richard B. Lackie

MTC-00026759

From: Kate Thompson
To: Microsoft ATR
Date: 1/27/02 11:56am
Subject: Micrsoft Settlement
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse:

Please do not accept the proposed settlement with Microsoft. It is not in the public interest. It leaves Microsoft's monopoly intact, is imprecise, unenforceable, and allows the company plenty of opportunities to exempt itself from important provisions.

The applications barrier to entry which must be reduced or eliminated. Any settlement or order needs to ensure that consumers can run any of the 70,000 existing Windows applications on any other operating system.

The settlement must provide ways for any combination of non-Microsoft operating systems, applications, and software components to operate properly with Microsoft products. Consumers must have a la carte competition and choice so that they and not Microsoft choose the products on their computers.

The remedies proposed by the Plaintiff Litigating States are in the public interest and completely necessary, but they are not sufficient without the additional ones mentioned above.

The court is required to hold public proceedings, under the Tunney Act, giving citizens and consumer groups an equal opportunity to participate, along with Microsoft's competitors.

Sincerly yours,
Kate Thompson
PO Box 48
South Tamworth
NH 03883
603–323–7762

MTC–00026760

From: Brian Allemana
To: Microsoft ATR
Date: 1/27/02 11:59am
Subject: Micrsoft Settlement

As is the right of every U.S. citizen during the period of public commentary that is specified by the Tunney Act, I hereby submit my thoughts and opinions regarding the outcome of the anti-trust trial against Microsoft.

I am against the current settlement being offered between the U.S. Department of Justice and Microsoft Corporation. Based on professional study and experience, I believe Microsoft can and will find methods to circumvent this settlement for their own good without considering the impact on the general public. The settlement must be strengthened before I can accept it as a solution to Microsoft's illegal behavior.

The primordial soup of the personal computer industry began with technological hobbyists sharing each other's ideas for the purposes of enhancing that technology as well as purely satisfying their human curiosities. The Internet, once it became public, took off like no other technological development before it, and it is based upon open, non-proprietary technologies that are both robust and exist solely to serve the public good. Likewise, the PC revolution could not have taken off as it did without IBM opening its hardware specifications for the world to understand and enhance. Clearly, technology thrives in an open, competitive marketplace, not a marketplace dominated by a single company.

Microsoft has strived, more aggressively than anyone else, to stifle the competitive nature of the software technology world for their own benefit. Judge Penfield Jackson's Findings of Fact make this point perfectly clear. Companies such as Apple, Compaq, Netscape, Sun, even IBM and Intel, are all cited as having suffered business losses due to Microsoft's anti-competitive behavior. It is clear that Microsoft can no longer be trusted to run their business, particularly a monopoly business, in a responsible manner.

It would be irresponsible of us, as a democratic nation, to allow Microsoft to continue striving for complete market dominance without any substantial checks and balances in place. The current settlement being offered does not provide the fulcrum needed to support such balances. It barely takes a step in the right direction, and that step will prove meaningless once Microsoft begins taking advantage of the enormous loopholes within the settlement.

While the settlement, in spirit, attempts to remedy the complaints originally filed by the U.S. Department of Justice, it does not, on any realistic level, restrict Microsoft from continuing anti-competitive practices. For example, the settlement only specifies a few products that Microsoft must open to competition, and these are not their most important products nor the products most likely to be wielded in their continuation of market control (e.g., it specifies Outlook Express and Microsoft Java, but not Outlook or Microsoft C#). The settlement also fails to encourage competition in the operating system marketplace by not fully specifying that Microsoft must not artificially raise the barriers to entry to their operating system protocols, or requiring Microsoft to publish the specifications when the barriers are raised. This allows Microsoft to grossly inhibit developers of competitive operating systems and/or applications from having the same access to system protocols as Microsoft developed applications (one of the major points of contention within the original DoJ complaint).

Judge Jackson's Findings of Fact outline anti-competitive behavior that the proposed settlement barely begins to address. There is no requirement for Microsoft to open their file formats, minimal requirements to open their networking protocols, and licensing fees are not properly regulated. There is actually room within the settlement for Microsoft to hinder competition by giving unrealistic requirements to competing bodies that try to implement available Microsoft protocols (such as requiring a competitor to meet unspecified technical requirements seven months prior to a "beta test version of [the] new Windows Operating System Product" [section III H.], which, at Microsoft's discretion, may be too soon for a competing developer to implement these protocols).

Overall, it is clear that this settlement falls short of serving the public interest. There are too many loopholes and freedoms given to Microsoft, who, by the course of their own actions, and as determined by a federal court and upheld on appeal, has lost their right to these freedoms by violating federal law.

I hope you will take my thoughts and opinions, as well as the thousands of other concerned citizens who have voiced their points of view, into careful consideration prior to rendering a settlement decision.

Thank you for reading. This message will be duplicated via fax.

Sincerly,
Brian Allemana
Web Developer/Consultant
773.478.9211
allemana@forward.net
http://www.brianallemana.com

MTC–00026761

From: David Yoo
To: Microsoft ATR
Date: 1/27/02 12:00pm
Subject: Micrsoft Settlement

The proposed settlement is a uniformly bad idea.

MTC–00026762

From: George Toft
To: Microsoft ATR
Date: 1/27/02 12:00pm
Subject: Microsoft Settlement—Proposed Final Judgement

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. I agree with the problems identified in Dan Kegel's analysis (on the Web at http://www.kegel.com/remedy/remedy2.html). So as to not waste your time by reproducing the analysis here (see above web site), there are a substantial number of problems with the Proposed Final Judgement (PFJ) that render it ineffective, making the entire DOJ vs. Microsoft case a waste of taxpayer money.

Regardless of the errors discovered in the original trial, the Findings of Fact remain undisputed, and Microsoft must be punished, just like AT&T and IBM were for similar transgressions of law.

I also agree with the conclusion reached by that document, namely that the Proposed Final Judgment, as written, allows and encourages significant anticompetitive practices to continue, would delay the emergence of competing Windows-compatible operating systems, and is therefore not in the public interest. It should not be adopted without substantial revision to address these problems.

TYhank you for considering my opinion.

Sincerly,
George Toft
3455 West Twain Court
Anthem AZ 85086

MTC–00026763

From: REddy97458@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 12:01pm
Subject: Micrsoft Settlement

My second email.

AOL is complaining about Microsoft giving their product away.

In reviewing the Sunday morning paper, I notice so many adds in which retailers are giving products away, such as:

1) Buy one, get one free.
2) Buy one, get two free

There are all kinds of ads like the above.

This includes companies as McDonald's, Meijer, D&W, HP and many other companies.

Are we about to eliminate competition?

I hope not.
Bob Eddy
Grand Rapids, Michigan

MTC–00026764

From: Laura Troth
To: Microsoft ATR
Date: 1/27/02 12:01pm
Subject: Microsoft Settlement

Hello,

I am just writing to add my voice to this injustice that is being done to Microsoft. I always thought that America stood for being a "free" country, where one could rise to the top if smart enough and good enough. Why then is this suddenly being punished. Microsoft employees very intelligent people to develop computer programs, etc. If the people that they employ are the smartest in the field and the products that they develop are way ahead of other companies, is that not part of what it is to be American. It is not their fault that people prefer their products over Apple, etc. I know that I personally used a Mac computer before I ever touched anything with Microsoft in it. I was amazed at the difference. I actually liked to use the computer with the Microsoft products in it. Speaking of monopolies, how is it that Microsoft's offer to provide much needed computers in school was argued against by Mac—who by the way has the monopoly on computers in schools. How is this fair and just to Microsoft. This is ridiculous. I guess what makes me even madder is the fact that Clinton spent more money chasing down Microsoft for some made up propoganda than he did to chase down an known terrorist and murder—yes, we know who that is... Bin Laden. Has it occurred to anyone that if they had not been persecuting Microsoft, there might not have been a Sept. 11??

Also, it is my believe that competition in business is good. It is what drives companies to do better for customers, to develop better products, better service, etc. If you take away this right, you will find people not satisfied with what is left and they will stop buying. How will this help our economy. The bottom like is not that Microsoft had a monopoly, but that they had a better product. This whole thing needs to end now.

Sincerely,
Laura Troth

MTC-00026765

From: Paavo Parkkinen
To: Microsoft ATR
Date: 1/27/02 12:10pm
Subject: The Microsoft settlement

I don't know if non-US citizens are allowed to comment, but I'll do it anyway since I feel that the decision affects me also.

I have never felt the Microsoft monopoly in my life. I learnt to use a computer on a MSDOS. At the time, though, there were other DOS's and I never felt that MSDOS—even though it was the most popular—had a monopoly in the market. At the time Windows 3.1 came out I was already starting to learn other operating systems. And while "the Microsoft empire" grew, I started to grow away from it. Nowadays I use a Microsoft OS only very rarely. I don't have one installed on my home computer and at my school we have ample opportunity to use other operating systems. Needless to say, I have never felt boxed in by Microsoft or their products.

But now, with the Internet, I may very well one day find myself being boxed out. I do have internet connection at home, and use one at school. I use it for school work and for recreation. Especially for my school assignments, the Internet is invaluable. Recently I have been hearing about Microsofts attempts at changing their Internet protocols to be closed to users of other operating systems. I fear that this will close me (and countless others) from a large portion of the Internet. So I wish the settlement between Microsoft and the DoJ to force Microsoft to open their network protocols so the Internet can remain the open and free network of information I have grown accustomed to it being.

paavo.

The human mind ordinarily operates at only ten percent of its capacity—the rest is overhead for the operating system.

CC:dennispowell@earthlink.net@inetgw

MTC-00026766

From: Julio Marquez
To: Microsoft ATR
Date: 1/27/02 12:11pm
Subject: Microsoft Settlement.

As a satisifed consumer of Microsoft products and as a proponent of economic freedom, I have supported Microsoft's legal position in full from the beginning. Please take this into account when determining the DOJ's position in this matter.

Thank you.
Julio Marquez
Managing Director
GEM North America, Inc.
712 Fifth Avenue, 7th Floor
New York, NY 10019
212 582 3400 general
212 582 1517 direct
212 265 4035 fax
CC:activism@moraldefense.com@inetgw

MTC-00026767

From: kin-yip Mok
To: Microsoft ATR
Date: 1/27/02 12:17pm
Subject: Microsoft Settlement.

According to the Information on the United States v. Microsoft Settlement, I think that it really take action to control the threat of Microsoft monopoly power. Since Windows 95 came into the computer OS market, all the people change to their traditional OS interface to GUI. Because of this OS popular, Microsoft tries to extend their empire of Software.

Remember few years ago, the competition between Netscape and Internet Explorer, which Netscape was very popular. Internet Explorer was just very weak online browser. And also, IE was only covered 20% on the market. Nowadays, its already covered over 80%.

One thing, I think Microsoft is very bad OS. They always got the security problem. Many hackers can easy to hack in your computer which is windows OS system. Because of this, the windows OS is prohibited in the department of China. On the other hands I really dont like Microsoft which is they always buy some very powerful software, and then merge into their software system. After that, they dont give any support for some old customer which is very embarrassing. And then many Microsofts software is extremely expensive. Nobody can like it, especially for student.

We want to use more good and powerful software, and we dont want to use only Microsofts software. We have to take very strong action to control the threat of empire of Microsoft.

MTC-00026768

From: lenwal@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 12:21pm
Subject: Microsoft settlement

1/17

It is my strong recommendation that this case be disposed of based on the current recommended settlement. We don't need to keep funding lawyers at the expense of the public.

Leonard Walstad
lenwal@juno.com

MTC-00026769

From: Frederick E. Von Burg
To: Microsoft ATR
Date: 1/27/02 12:21pm
Subject: settlement

Ladies or Gentlemen:

Please be aware that as a senior citizen I am all for the economy-enhancing settlement of the suit against microsoft. Please use my views in any way to urge the holdouts to get on the bandwagon.

Sincerely yours,
Fred Von Burg,
8 Warren Drive
Syosset, NY 11791–6328

MTC-00026770

From: lt
To: Microsoft ATR
Date: 1/27/02 12:23pm
Subject: Microsoft Settlement

I urge you to get this case settled now! I am a senior citizen who uses Microsoft products and services a great deal of the time and have paid close attention to this controversy. The only ones opposing Microsoft are self interested parties who want to illegitamely wish to profit from this. It's about time to play fair and stop the piling on that has been going on far too long.

Thanks,
Louis Torraca
Kailua, Hawaii

MTC-00026771

From: CDoennecke@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 12:24pm
Subject: Microsoft Settlement

I urge you to end this matter—it has drug on way too long. The public always loses in these cases. Please don't become a platform where big crybaby companies attack one another. Microsoft is far from perfect and perhaps needed to have their knuckles rapped a little, but they are far better than their current attackers.

MTC-00026772

From: Jonathan Lemon
To: Microsoft ATR
Date: 1/27/02 12:22pm
Subject: Micrsoft Settlement

Under the Tunney act, I would like to voice my displeasure with the proposed Microsoft settlement. I strongly believe that the proposed remedies do not adequately address the issues, and are not in the best interests of the public.

As a particular example, there is nothing in the judgement that would require Microsoft to document network protocol of WMT streaming media; without this, there is no chance for any competing company to write an application that could work on an alternative platform.

I would also like to add my support to the comments made by Dan Kegel at http://www.kegel.com/remedy/letter.html .

Sincerly,
Jonathan Lemon
Software Engineer, cisco Systems

Stoughton, WI

MTC–00026773

From: Larry Crocker
To: Microsoft ATR
Date: 1/27/02 12:28pm
Subject: Micrsoft Settlement

As a consumer I feel that the proposed Microsoft settlement is more than fair, more so for consumers than Microsoft. I just hope that this settlement does not eventually cost us, the consumer, more money!

Larry Crocker

MTC–00026774

From: DCJessen@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 12:28pm
Subject: Microsoft settlement

I am a microsoft software consumer. I have never been hurt by their policies. To the contrary, If you want your software to seemless work, then buy microsoft. If you are inclined to want your system to crash, spend hours trying to fix it, and constrantly try to get your software to work, then by all means by their competitors bloatware. I believe the Dept of Justice is way out of line here, resorting to blackmail to assist Microsofts competitors, as they is the only way they are real competition. Why don't you ask those lousy policitical attourney generals whos software they use?

If I was Bill Gates, I would make them return all of mine, and not allow them to use it, then they would get a taste of their competitors junk.

Making software interoperable has been Microsofts strong suit. If their competitors were smart they would have done the same, but elected to try and screw the consumer, albet Lotus 123, Work perfect.. Just standalone junk software. Give it to the State Attourney Generals. Personally I would add a donation to Microsoft if they would develop a fund to defeat all these people in the next elections.

David Jessen

MTC–00026775

From: Herbert W Schriever
To: Microsoft ATR
Date: 1/27/02 12:29pm
Subject: Microsoft settlement—Approve

MTC–00026776

From: jtjlucky@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 12:32pm
Subject: Micrsoft Settlement

Enough is enough. This is supposed to be a free enterprise system. If this keeps up, the incentive to create on the part of our society in general will be, if not already, seriously deterred. The question now is, who is the Federal Justice Department working for, the public or the plaintiff?

J. T. Jordan

MTC–00026777

From: Joe McCutchen
To: Microsoft ATR
Date: 1/27/02 12:35pm
Subject: Microsoft

It is a tragedy and a travesty that the U.S. Government has attacked a company because it has been "too" successful. This is yet another example of government engaging in unconstitutional activities and another reason to distrust much of what it does.

The only true monopoly is one with the might of government behind it forcing consumers to deal with it, that does not describe Microsoft. Let the market decide and stop punishing achievement!!

Joe & Barbara McCutchen
2916 Heather Oaks
Fort Smith, AR 72908

MTC–00026778

From: Rocky
To: Microsoft ATR
Date: 1/27/02 12:34pm
Subject: micorsoft
11473 Verna Lane
Woodruff, WI 54568
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am a retired member of the tech industry who is fed up with the Microsoft antitrust case. The federal government needs to leave Bill Gates and his company alone. Government intervention in this matter is no longer necessary.

With regard to the settlement, Bill Gates has conceded more than he had to. One example is the three person technical committee that will consist of three software engineering experts. Now, at any time, a third entity can dispute any portion of the settlement if it feels like Microsoft is not cooperating.

Bill Gates was being more than fair with this settlement. Now, it is the government's job to stay out of it. The country needs, now more than ever, to produce new and different types of technology, for the sake of our falling economy.

Sincerly,
Rocco Caffarella
cc: Representative Mark Green

MTC–00026779

From: Krish Krothapalli
To: Microsoft ATR
Date: 1/27/02 12:38pm
Subject: Micrsoft Settlement

Dear Sir or Madam,

The proposed settlement is BAD.

It fails to mandate anything to curb Microsoft's anti-competitive practices. This monopoly has allowed the actual cost of using Microsoft products to have an estimated ten-fold (or higher) increase over projected costs a decade ago, for certain customers. Without alternatives, customers" hands are tied. Microsoft has leveraged a position that is favorable only to itself, and not to it's customers. Please do not allow this to continue.

Thank you,
Krish Krothapalli, Ph.D.
Redondo Beach, CA

MTC–00026780

From: Rocky
To: Microsoft ATR
Date: 1/27/02 12:37pm
Subject: USAGCaffarella—Rocco—1002—0125
11473 Verna Lane
Woodruff, WI 54568
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am a retired member of the tech industry who is fed up with the Microsoft antitrust case. The federal government needs to leave Bill Gates and his company alone. Government intervention in this matter is no longer necessary.

With regard to the settlement, Bill Gates has conceded more than he had to. One example is the three person technical committee that will consist of three software engineering experts. Now, at any time, a third entity can dispute any portion of the settlement if it feels like Microsoft is not cooperating.

Bill Gates was being more than fair with this settlement. Now, it is the government's job to stay out of it.

The country needs, now more than ever, to produce new and different types of technology, for the sake of our falling economy.

Sincerly,
Rocco Caffarella
cc: Representative Mark Green
CC:fin@mobilizationoffice.com@inetgw

MTC–00026781

From: Aleatha Carlson
To: Microsoft ATR
Date: 1/27/02 12:39pm
Subject: Micrsoft Settlement

The Microsoft proposed settlement is fair for Senior citizens in fact, all citizens.. A counter one is not fair to Seniors. I think this has drug out too long. Why drag it out any longer, especially when the proposed settlement is good.

I have felt all along that the bickering by some is nothing more than jealous on how Microsoft has been so successful. I use Microsoft and appreciate all they have done to help us Seniors to use the computer.

Aleatha Carlson
116 Hahn Rd.
Westminster, MD 21157–4611

MTC–00026782

From: MYTLIU@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 12:39pm
Subject: Microsoft case

Dear Justice Department,

I think that Microsoft should not be able to settle and should not be able to accept money. I think that settling the case and just forgetting about it with the other states is a little like bribery. I am glad that some states did not accept Microsoft's settlement plan because then Microsoft would have gotten away with monopoly. Microsoft already has tons of money so money would not be a big problem.

I was reading the latest cases and noticed that Microsoft was trying to request for a 4-month extension on time to challenge the dissenting states about remedy proposals. This obviously will give Microsoft the advantage they need to win the case.

Microsoft's bundling needs to stop because when people buy their software, they automatically get Internet Explorer. They don't have a choice but to use Internet Explorer. Even though Microsoft's bundling effort is very unique and smart, it is causing other Internet companies to lose money. Soon, Microsoft will own most of the Internet companies if this keeps on going. It will just be like John D. Rockefeller's monopoly ideas. He owned oil companies and controlled a lot of the oil refineries. Then, in 1879, he owned over 90% of all oil refineries. Slowly, he took over almost the whole process of oil companies. John D. Rockefeller once said, "It is too late to argue about advantages of industrial combinations. They are a necessity of Americans to have the privilege of extending their business in all the starts of the Union, and into foreign countries as well." This shows that even back then, people thought that monopoly was a necessity in business life. I don't think that Americans really need them.

The recent saying about how Microsoft should stop their bundling, is too soft. It won't really do anything because Microsoft already has so much software out there that they could stop their bundling, but there would already be a lot of Microsoft software out their with the Internet service.

These are just some of my ideas. Thanks for reading it. :)

From,
Michelle Liu—Harker School
8th grade-Mr. Merrill's History 2nd period class

MTC-00026783

From: tom wible
To: Microsoft ATR
Date: 1/27/02 12:41pm
Subject: Microsoft Settlement

An o/s is to applications as the legal system is to individuals & businesses: both provide the rules and infrastructure that we live under. for 1 company to own both the o/s & apps, where the api is analogous to the rules of evidence, is equivalent to enron owning the court system, with the laws & procedures secret...this is totally unsatisfactory, both as a legal system and as a computing platform. the only meaningful solution is splitting microsoft into an o/s company & an applications company, and requiring the o/s api to be made public.

Tom Wible
203 Cardinal Glen Cir
Sterling, Va 20164

MTC-00026784

From: Wylie Harris
To: Microsoft ATR
Date: 1/27/02 12:43pm
Subject: Microsoft Settlement

To whom it may concern:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case.

The proposed settlement fails to serve the public interest by leaving the Microsoft monopoly on operating systems essentially intact. This failure further erodes consumer protection by preserving the platform by which Microsoft can unfairly and illegally arrogate to itself an increased market share of other domains, such as internet and office applications.

In its current state, the proposed settlement is unacceptable. A revised settlement should be drafted which curtails Microsoft's monopolistic practices.

Thank you for your attention.

Wylie Harris
2126 TAMU
Rangeland Ecology and Management, Texas A&M University
College Station, Texas 77843–2126
979 845 1388

MTC-00026785

From: Rolf Brakvatne
To: Microsoft ATR
Date: 1/27/02 12:44pm
Subject: Microsoft Settlement

Dear Sir or Madam,

I believe that the only reasonable solution in the Microsoft civil suit is to determine total monetary damages (determined by the court), who can draw on the funds and how much, and a length of time these moneys will be distributed. The money damages should be placed in a private fund and administered by an oversight board selected by the courts with one person selected by Microsoft.

Entities drawing on this fund can use the funds for computer related purchases only (as determined by the oversight board) and are allowed the choose ANY vendor, Microsoft and and non-Microsoft products.

Thank you
Rolf Brakvatne

MTC-00026786

From: Wynn Wacker
To: Microsoft ATR
Date: 1/27/02 12:47pm
Subject: Comments regarding the Microsoft settlement

Sunday, Jan. 27th, 2002

This morning at about 8:30 AM, my phone rang with recorded message from Americans for Technology Leadership, an organization which is quite evidently a front for the interests of Microsoft in the anti-trust litigation which it is currently engaged in. The requested my comments regarding the settlement and I have decided to response.

I have watched the developments in Microsoft ever since the introduction of the first PC. The company has a long history of foisting its application software on the public by leveraging its near-monopoly in operating systems (MS-DOS, Windows) through the use of unethical and illegal trade practices.

This has been thoroughly documented by Federal prosecutors. I can say from personal experience that early Microsoft applications software was generally clearly inferior to that of its competitors when it was introduced, and it is unlikely that it would have penetrated the market to the extent it has in the absence of the aforementioned trade practices. I personally resisted using MS application software for as long as I could. I was forced to switch when so many people in the business I worked were familiar only with MS applications because they were the default on shipped computers (due to monopoly practices) that I would have to go along. Some of my coworkers held out on certain packages, such as spreadsheets, until this year. The only individuals I have ever encountered which prefer Microsoft applications are those who have never extensively used the competitions software.

I'm a scientist in the R&D department of a medical equipment firm, so I make extensive use of the Excel & Word software packages as part of Microsoft Office. It is virtually a daily event that people come to me asking how to perform simple operations in this software. These are people with advanced degrees in engineering and science, highly computer literate, and with experience with MS software. They are unable to locate the instructions they need in the notoriously unhelpful Help instructions included with the software, something which has been one of its long-standing features. It's also virtually a daily event that some of the applications software will crash in the middle of use, accompanied by an informative message such as "This program has performed an illegal operation and will be shut down". It is more in the purview of the IT department than mine, but I should also like to remind the Court of the incredibly poor track record of MS software when it comet to security. Even their security patches sometimes need security patches!

The greatest joke of all is that Microsoft is trying to defend itself as a technology leader. It has almost always been a follower, coming out with mediocre me-too products and using its monopoly power to crush the real innovators. The latest round of litigation was set-off by just such an event. Netscape pioneered the development of easy-to-use internet browsers and Microsoft came back to crush them by giving away its browser through the ruse of incorporating it in its monopoly operating system. I know just how un-innovative Microsoft is, because, over the years, many of the software engineers I have worked with have gone to lengths to escape the Windows OS by going to Unix, Linux, etc. They can only due this for their personal computers since the business world is trapped in the Microsoft monopoly. As were many others, I was heartened when it looked like it was possible that the courts might due the right thing and split apart the OS and applications portions of Microsoft. The company, of course, complained that there was no way to restore the competitive environment to the state it was in when it engaged in its illegal activities. Of course, under such a doctrine no murderer should ever be punished because it is impossible to restore the victim to life. Evidently political influence of the variety evident in the recent Enron debacle has prevented this wisest of settlements. Microsoft now wishes to foist a settlement on those litigating on behalf of Microsoft's many victims. I wish to remind the Court that a free market can only exist if the rules of honest competition are enforced. Microsoft has repeatedly disregarded its agreements to abide by fair practices.

I ask the Court not to interfere with the further pursuit of restitution from Microsoft by litigants in this case and wish the Court to take cognizance of the arrogant attempt by Americans for Technology Leadership to artificially generate support for Microsoft.

Wynn Wacker
2109 McKenna Blvd.

Madison, WI 53711
(608) 274–1829
wkw@mailbag.com

MTC–00026788

From: John & BJ Cochran
To: Microsoft ATR
Date: 1/27/02 12:49pm
Subject: Microsoft Settlement
114 Luckie Street
Cartersville, GA 30120
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It is a crying shame that the lawsuit against Microsoft and the ensuing three years of litigation have occurred in our country. Microsoft was more innovative than any of their competitors and therefore became successful. Microsoft really served our country beautifully by standardizing the IT sector, creating jobs, generating wealth, and making technological breakthroughs.

This success does not warrant government interference, and if I did not know any better, I would say it was this lawsuit that contributed to our economy's downfall. The terms of the settlement only reflect the intense lobbying efforts of the competition and the lack of concern from lawmakers and politicians. Microsoft has to disclose interfaces that are internal to Windows operating system products and grant computer makers broad new fights to configure Windows so that non-Microsoft software programs can more easily promoted. These concessions and more are all aimed at helping the competition gain an edge they did not have beforehand. None of the concessions really protect consumer fights.

But, I do request that you implement the settlement because further litigation would only benefit the lawyers" pockets and would do harm to our nation's public. Please take the fight steps. Thank you for your time.

Sincerely,
John Cochran
cc: Representative Bob Bart

MTC–00026789

From: Herbert S. Zischkau
To: Microsoft ATR
Date: 1/27/02 12:52pm
Subject: Microsoft

Gentlemen:

It is time to get off the back of Microsoft and let the economy readjust itself. There is too much government interference.

Sincerely,
Herbert S. Zischkau, Jr.
Winter Springs, FL

MTC–00026790

From: Paul W. Kleinknecht
To: Microsoft ATR
Date: 1/27/02 12:55pm
Subject: Microsoft Settlement

Dear Judge,

I do not believe the PFJ is the best solution for the case against Microsoft. I do not understand all the "ins and out" of the case, but I do know that Microsoft has a monopoly on operating systems on computers that needs to be dealt with. As the break up of ATT has given us better systems and more competition, Microsoft also needs to be "broken up" to bring in more competition and thus better products. The PFJ will allow Microsoft to continue as is—this is not right!

Please do what is right for the American people and American businesses!

Respectfully,
Sarah (nickname Sally) Kleinknecht
Sarah (Sally) Kleinknecht
4500 Mid. Mt. Vernon Rd.
Evansville, IN 47712
812–421–0043 phone/fax
palklein@juno.com
CC:dkleinkn@yahoo.com@inetgw

MTC–00026791

From: Evan D Ravitz
To: Microsoft ATR
Date: 1/27/02 12:57pm
Subject: Microsoft Settlement
Evan Ravitz
1130 11th St. #3
Boulder CO 80302
(303) 440–6838
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse et al,

The proposed settlement with Microsoft leaves MS in the position of controlling the inner workings of most of our computers, which position the judges have found MS abused to the detriment of the people.

I believe the best solution is to "nationalize" their windows operating systems so that a single standard can be agreed among competitors, instead of MS continually manipulating things to keep others" software hobbled or buggy.

The precedent is the US establishing a single standard for telephony decades ago so we can all call each other on the phone. And the parallel catastrophe is the Babylon of cell phone standards which have made cell phones far more prevalent overseas where standards exist. Personally, MS was a catastrophe for me because in 1998 their Outlook program lost my entire address book—hundreds of email addresses—as well as thousands of emails. It took years to recover.

As a programmer since 1968, I assure you there is no reason for buggy software which wastes so many people-years of time, except that MS has eliminated the competition and dominates with their inferior, rushed-to-distribution, insecure stuff.

Sincerely,
Evan Ravitz

MTC–00026792

From: Mario M. Butter
To: Microsoft ATR
Date: 1/27/02 1:00pm
Subject: Microsoft Settlement

I am opposed to the provisions of the Justice Department settlement with Microsoft due to my understanding that under the proposed final order, Microsoft can withhold technical information from third parties. This release of technical information is required for the development of third party software (escpecially public domain software) that will interact with Microsoft products. The withholding of this information will serve only to stifle the development and implementation of free and commercial software over which Microsoft has no control.

Under this agreement, Microsoft has a number of strategies to undermine development of software by other entities, which requires a sharing of information. These actions can allow Microsoft to continue it's monopoly power and to expand that power further into the marketplace. These practices will harm development of alternative software, stifle the development of alternative platforms and lead to more consumer harm as Microsoft continues to increase it's fees for it's monopoly products.

Mario
Mario M. Butter
mbutter@silent-tower.org
mmbutter@mad.scientist.com

MTC–00026793

From: Michael J. Durkin
To: Microsoft ATR
Date: 1/27/02 1:01pm
Subject: Microsoft Settlement

Judge Kollar-Kotally:

Please do not allow Microsoft the easy way out. The proposed final judgement should "terminate" microsofts illegal monopoly, not allow them to thumb their noses at the law because. It should also penalize them the amount of any profits made because of their past behavior. Finally, it should prevent future anticompetitive practices.

This judgement as it stands will not definitively accomplish the above goals.

Michael J. Durkin
509 East Colliery Avenue
Tower City, Pa. 17980
Phone: 717–647–2502

MTC–00026794

From: Robert Gardner
To: Microsoft Settlement
Date: 1/27/02 1:07pm
Subject: Microsoft Settlement
Robert Gardner
3 Splitrock Road
The Woodlands, TX 77381
January 27, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Robert A. Gardner

MTC-00026795

From: Joel D Talcott
To: Microsoft ATR
Date: 1/27/02 1:12pm
Subject: Every time the government gets involved the consumer pays dearly.

Every time the government gets involved the consumer pays dearly. Case in point Gas deregulation. It has cost more poor people tom be without heat ,and the cost of gas twice as much as prior.

Let the companies fight it our! if they cannot compete get out of the business or do more to get up to speed.

KEEP THE GOVERNMENT OUT OF IT.

MTC-00026798

From: Bob Buscaglia
To: Microsoft ATR
Date: 1/27/02 1:18pm
Subject: Microsoft Settlement

I think any settlement that requires Microsoft to have to pay anything is totally ridiculous and I cannot believe you are wasting your time with this. This suit was initiated by Microsoft's competitors— some of the largest and most successful technology companies in this country.

Recently in Omaha, Barnes & Noble moved into a mall. part of their stipulations was the mall had to close down all other booksellers. You mean to tell me that is legal and what Microsoft does is not?

So they bundle other products with Windows? Anyone is free to swap out any software for other products. We don't tell carmakers what type of parts to put into cars, why should we do the same with PC makers? And it is much easier to change an Internet browser than an automobile engine.

Robert Buscaglia
Omaha, NE

MTC-00026799

From: andreww@aaip.net@inetgw
To: Microsoft ATR
Date: 1/27/02 1:27pm
Subject: Microsoft Settlement

I would like to say that the current proposed settlement is no good as written. It will not stop the anti-competative tactics of this company, and does nothing about all the harm allready done.

Andrew James Alan Welty

MTC-00026800

From: Hana
To: Microsoft ATR
Date: 1/27/02 1:20pm
Subject: Microsoft Settlement

I think this settlement is bad. It is just a slap on the wrist for Microsofts obvious attempt to use its monopoly to prevent fair business practices. Please do not allow this settlement to go forth.

Yozo Horiuchi
Bayside, New York

MTC-00036801

From: Grant Miller
To: Microsoft ATR
Date: 1/27/02 1:27pm
Subject: Microsoft Settlement

I think that the proposed Microsoft settlement will be ineffective in preventing future abuse of their monopoly.

MTC-00026802

From: Howard Classen
To: Microsoft ATR
Date: 1/27/02 1:22pm
Subject: Microsoft Settlement

As an end-user of Microsoft products, I disagree with the proposed settlement between the Justice Department and Microsoft. There should be NO company in the United States which, through various means, has been enabled to monopolize a critical market. There really is no meaningful competition remaining in PC operating systems, office integrated software or internet browsers.

Any settlement needs to promote the ability of others to compete in these critical software applications and assure proper monitoring with timelines to accomplish remedies. This might mean opening codes, spin off of segments of Microsoft, large financial penalties for non-compliance, etc.

The proposed settlement is too little too late. Users will not have choice and competition will not be created to produce the needed innovations important for businesses and individuals.

Howard Classen
1075 Elkhorn Road
Royal Oaks, CA 95076–9200
831.728.4248
classen2@pacbell.net

MTC-00026803

From: N. W. Davis
To: Microsoft ATR
Date: 1/27/02 1:22pm
Subject: Microsoft settlement

Please bring an end to this litigation for economy's sake.

nwdavis2@juno.com
N. W. Davis
1102 Mayberry Drive
Tahlequah OK 74464

MTC-00026804

From: Geri Zahner
To: Microsoft ATR
Date: 1/27/02 1:27pm
Subject: Microsoft Settlement

As a normal consumer who has no choice but to use Microsoft's operating systems as a result of the de facto monopoly held by Microsoft, I strongly urge that Microsoft be prohibited from requiring the use of its Internet Explorer browser as a required part of its operating system. This requirement has the very transparent goal of driving all other browser developers out of business and making the access to programs by users of non-Windows platforms impossible. (Microsoft realizes that both Windows based and non-Windows based programs can be operated on multiple platforms through the use of Java—If Microsoft succeeds in monopolizing the browser market, it will be in a position to effectively kill the use of Java as a means of developing software that functions on any but the Windows platform.) Microsoft itself recognizes that the browser capabilities and the operating system are totally distinct: they have always marketed and continue to market and supply their browser as a completely separate software to be used either on its own Windows platform or on other non-Windows platforms. By continuing to allow Microsoft to use tacitly illegal sales and coercive agreements with PC manufacturers and the various Internet Service Providers, etc., the Justice Department will be supporting and furthering the illegal existence and growth of a monopoly to the great detriment of public at large, not just in the U.S., but the world at large.

Please put a stop to Microsoft NOW, so the freedom of choice is not removed from the market place! If Microsoft is not prohibited from continuing on its present course during the resolution of the lawsuits and appeals, all competitors will have been destroyed during this process and, regardless of the legal results, Microsoft will have succeeded in its goal of being the "only game in town"!

Thank You!
Geri Zahner
8825 Jellison Court
Westminster, CO 80021
303–440–7726
Fax 303–939–8353

MTC-00026805

From: Jeanne Miller
To: Microsoft ATR
Date: 1/27/02 1:26pm
Subject: Microsoft anittrust settlement
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to encourage you and the Department of Justice to accept the Microsoft antitrust settlement. This case has been dragged out for three long years; it is time to put an end to it. A settlement is available and I personally do not believe that the terms are even fair, yet,

I would like to see the government accept it.

In order to put this issue behind them, Microsoft has agreed to many concessions, some of which I feel are uncalled for. Amongst other terms, Microsoft has agreed to release part of the Windows base code to its competitors. Give me a break! Requiring such action is hogwash and makes me question how much the Department of Justice values things like patents. Why bother to innovate if your invention will be forcibly stolen from you if it's successful? Thank goodness for Microsoft's success! WHEN WILL THE DEPARTMENT OF JUSTICE RECOGNIZE THAT THE DOMINANCE OF THE WINDOWS OPERATING SYSTEM IS A

GOOD THING!!! Stop punishing the company that brought it to us!! This idea that we consumers have been somehow shorted because of a monopoly is ridiculous. There are times when it is BEST to have a monopoly for the sake of consistency, ease of use, ease of communication, etc.

Microsoft has been a benevolent leader during the technology explosion that we have been experiencing. Let them continue to lead!

I'm sick and tired of all the squabbling. Microsoft and the technology industry (not to mention the rest of the economy, which is greatly influenced by technological innovations) need to move forward, and in order to move forward this issue needs to be put in the past. Please accept the Microsoft antitrust settlement.

Sincerely,
Jeanne A. Miller
4315 Highline Drive SE
Olympia, WA 98501

MTC-00026806

From: jimt23@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 1:31pm
Subject: Current Microsoft settlement

Sirs:

I believe the current settlement in the Microsoft case is a reasonable compromise and fair to all parties.

Please do NOT litigate this matter any further!

Janet Trewhitt

MTC-00026807

From: nighthawk@xwinds.com@inetgw
To: Microsoft ATR
Date: 1/27/02 1:31pm
Subject: Microsoft Settlement

Dear Department of Justice;

I am very much AGAINST the DOJ's proposed settlement in the Microsoft antitrust case.

It will essentially give Microsoft a green light to extend its monopoly into new areas, i.e., digital media.

Please come up with a more just solution!

Sincerely,
Linda Lawson
US citizen and taxpayer
nighthawk@xwinds.com

MTC-00026808

From: Virginia Metze
To: Microsoft ATR
Date: 1/27/02 1:23pm
Subject: Microsoft Settlement

I urge that you stop the persecution of Microsoft and end any further punishment of this company which has succeeded through its own merits and not because of tough business practices.

When I try to do business with any other company, I am again amazed how well Microsoft does in its support to customers, and how badly other companies are doing.

I believe that Microsoft is a monopoly not because it has been "evil" but because it has done well and has won the support of its customers. I will not buy another operating system, and I have resented the efforts which have tried to keep me from enjoying the operating system of my choice.

I would also like to point out that if Microsoft attempts to lower prices, there are actually complaints that it is taking advantage of its monopoly position to drive others out of business! Yet, its very modest prices cause others to complain that they are overcharging consumers. This is so very ludicrous, I can't believe it. I for one felt that the 1995 consent decree was wrong; the justice department should not have pursued it against Microsoft. Everyone I knew got Netscape free at the time and it was their intention to only charge for server software. I could probably dig up email from Marc Andreessen to that effect even still. Yet because Microsoft, which paid for the license for Mosaic, tried to put the browser in the operating system, we all had to pay for Microsoft Plus!

I believe that it was an erroneous finding that Microsoft was an "illegal monopoly." I am shocked that the court found against Microsoft on this basis. Furthermore as I understand it, Judge Penrose Jackson found it was an illegal monopoly as a matter of "fact" rather than of "law", which I would have thought such a finding would be. This of course would be because it is traditionally the case that an appeals court will not overturn findings of fact. In this case they should have done so.

I am also gravely concerned about the "open source" movement. I have seen good products driven out of the market by inferior "free" products which are difficult to use and maintain. Yet because they are free they take just enough of the market that people will not buy the better product. I think that it is wrong to encourage "open source." The punishment of Microsoft and any efforts to increase their cost of doing business by endless lawsuits and other harassment will give impetus to the free source movement.

I have worked with computers since 1961, and I can assure you that open source will not work.

I am very concerned to see huge markets abandoning Microsoft products and going to the "free" operating system Linux, which came out of the Scandinavian countries and was supported by the Free Software Foundation, which is a TAX-EXEMPT CHARITABLE institution. I also urge that you end the tax-exempt status of the Free Software Foundation. There is no reason that I should be supporting them by paying more taxes in order that they do something that helps to destroy the American economy. I even heard that the FSF got donations from Russian communists, but I do not know if this is true.

More and more servers in countries such as China, Korea and other places are going to using Linux because it can be freely copied. I do not want my tax dollars used to put more Americans out of work and put more pressure on the American economy.

Many segments of the American technology economy will not improve until the suit against Microsoft is ended. I am particularly ticked off at the states who pretend to be representing their people but are probably only representing a few companies in their state. I believe it is unconscionable that these states are being allowed to continue to spend millions of tax paper money in an effort to destroy the best software engineering company that we have.

I understand that Microsoft has agreed to go along with the settlement. I feel that the settlement is too tough and actually Microsoft should not even have agreed to go along. I am sure it did so just to end uncertainty in the financial markets and the consumer marketplace. That was very noble of them.

I speak, though they do not know it, for the millions of Microsoft customers around the country who do not even know that their favorite company is "in trouble" or they would be supporting them. So, please give this letter a little more weight than you otherwise might, because they have very few people speaking for them; in some cases, not even their own state's attorney general.

Thank you for your patience, in the event that you have made it to the end.

Virginia Metze
101 Windy Willows Drive
Oakwood, IL 61858

MTC-00026809

From: Carol Sands
To: Microsoft ATR
Date: 1/27/02 1:32pm
Subject: Microsoft Settlement

Dear Judge,

I have been following news reports about the Justice Department's efforts to stop Microsoft from destroying every software company that dares to compete with it. I have just found out that you have been appointed to make the final decision regarding the Proposed Final Judgement worked out between Microsoft and the Justice Department. I urge you to rule against it. I work for a non-profit organization which constantly struggles to meet its sparse budget. If Microsoft becomes the monopoly it wants to become so desperately, consumers, both individual and corporate, will have no protection against price gouging and the superior products that naturally arise out of free market competition. What Microsoft is trying to accomplish is not only legally wrong, it is morally wrong. I again ask you to rule against the PFJ and establish justice for ALL, not justice for the rich and powerful.

Thank you very much.
Carolyn Sands
235 Adams St., Apt 15I
Brooklyn, New York 11201
LAN Administrator, Here's Life Inner City

MTC-00026810

From: Jeff Hecker
To: Microsoft ATR
Date: 1/27/02 1:32pm
Subject: Microsoft Settlement

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

With regard to the revised proposed final judgement (PFJ) in the U.S. v. Microsoft case, I would like to submit these comments for consideration in further proceedings.

I am opposed to the agreement for several reasons. Specific examples follow, but generally, the agreement allows Microsoft to ignore or evade or delay any provision therin by proclamation. I remind the court, that Microsoft lost this case; that decision was upheld by the Court of Appeals; and the Supreme Court of the United States saw no reason to further review the case.

I am disappointed that structural remedies are no longer included in the PFJ. If we learn one thing from history, it would be that Microsoft is undeterred by the law, by the courts, and by any proposed penalty. In previous cases, Microsoft has been found guilty of similar monopolistic practices (See DR-DOS, Stacker). Microsoft may have lost these specific legal battles, but only after they had already won the war. Both competitors were illegally driven out of business before any court could offer relief.

This practice continues today. In other monopoly cases, monopolists are fined for ignoring regulations, the law, and judicial orders. In these cases, the fines are less burdensome than to comply. Ignoring the law, ignoring the courts, is simply an entry on the monopolist's balance sheet. It is simply part of the cost of doing business. An additional cost for the monopolist's customers, the public, to bear.

The effect is that if a monopolist becomes large enough, resourceful enough, then it can effectively ignore the court. This seems likely to happen in this case. Even if the provisions of the PFJ were effective— which, in my opinion, they are not—Microsoft could simply ignore them, prolong the inevitable legal formalities, and then simply pay whatever fines are imposed by the court. The behavior intended by the PFJ will have long since evaporated, if it ever existed at all.

With respect to the PFJ, there are several imperfections which should be addressed before any agreement is considered.

First, throughout the document, many definitions, examples, and conditions are specifically enumerated. This renders them ineffective. Microsoft, by proclamation, can ignore any such definition or condition by simply changing the name of the affected entity. If an "API" (Application Programming Interface) is renamed as an "APS" (Application Programming Specification), then a majority of the PFJ will be rendered useless with one stroke of Microsoft's pen.

"API" is used here simply as an example. Other enumerations, other acronyms, and other phrases are equally vulnerable to redefinition or obsolescence by Microsoft.

Too many of the provisions in the PFJ are conditioned upon agreement by Microsoft. Why? I remind the court that Microsoft lost this case. Their business practices were found to be illegal. I see no reason that the guilty party should hold a trump card when behavioral remedies are imposed. Correcting Microsoft's behavior is the goal of this PFJ. The most serious flaw in the PFJ is Section III.J. Section III.J nullifies the entire PFJ by allowing Microsoft to use it as an excuse to reject or refuse any other element by proclaiming a "security compromise." Microsoft has a long and clear record with respect to security, viruses, trojans, and all manner of compromising software. As nearly every Microsoft product has a woeful security reputation, Microsoft can proclaim that every feature of every product has security implications, and reject every PFJ behavior mandate.

Not to mention the enumerated list of exception which Section III.J provides. For example, this e-mail message, if it had been sent using MSN (the Microsoft Network) would have become copyrighted by MSN! A Microsoft product would be allowed, by Section III.J, to do whatever it wanted with that copyrighted material, including witholding its delivery to the court. And no one would ever know.

That's a rather far fetched example, but it illustrates the latitude granted by Section III.J. A future court would never even hear a case against Microsoft because a pre-trial hearing would invoke Section III.J of the agreement and the case would be summarily dismissed.

Again, I remind the court that Microsoft lost this case in court; the decision was upheld upon appeal, and the Supreme Court of the United States found no reason to hear the case. I believe that history shows that Microsoft evades, obfuscates, or simply ignores the law, the courts, and orders from the bench. I believe that this PFJ lacks any incentive for Microsoft to adhere to it, and indeed, offers a mechanism for total ignorance.

I suggest that the court reject the proposed final judgement in its current form, and that a more robust remedy be found. One that will be less likely to be manipulated and/or ignored by losing defendant Microsoft.

Thank you for your attention,
Jeff Hecker
2121 Shorefield Rd.
Wheaton, MD 20902

MTC-00026811

From: Paul Harold Barsic
To: Microsoft ATR
Date: 1/27/02 1:40pm
Subject: Microsoft Settlement

Dear Ms. Hesse,

I will soon finish a Master's degree in engineering, and I am concerned that the existence of an ever expanding monopoly will make it difficult for me to support my family. I do not believe that the proposed settlement will curb the Microsoft monopoly. I am pleading with you to reject the proposed settlement. It was an agreement that was reached quickly in consideration of our economy, but this settlement is a severe threat to that very economy.

I have a long list of complaints. I will summarize a few of them here. My first complaint is the term of agreement is far too short. Since 1995, there have been four major releases of Microsoft operating systems: Windows 95, Windows 98, Windows 2000, Windows XP. The length of time suggested in the agreement would be only one or two more product release cycles. This is much too short to create a sustained effect on our economy. The provision should be one not of time, but of desktop market share. When it is demonstrated that Microsoft is no longer an illegal monopoly, the restrictions should be lifted.

My second complaint involves the technical committee. It is stated (section IV, subsection B, item 7) that, "Microsoft shall provide the TC with a permanent office, telephone, and other office support facilities at Microsoft's corporate campus in Redmond, Washington." Furthermore, (section IV, subsection B, item 6a) this committee will serve, "at the cost and expense of Microsoft." This makes them indistinguishable from Microsoft employees. It puts Microsoft in a position to place pressure on these three people to settle compliance issues in favor of Microsoft.

My third complaint involves section III, subsection J, item 2. The freedoms given to Microsoft in the name of anti-piracy are absurd. Every API could be manipulated to create a security exploit. The anti-piracy stipulation will allow Microsoft to justify any anti-competitive agreement as necessary to prevent piracy. This supports a model known popularly as "security through obscurity." This model is not valid. The most secure servers on the web are built upon code that is freely available to the public (Apache, NetBSD, OpenBSD, GNU/Linux). The easiest servers to exploit are built upon proprietary code (Microsoft IIS, Microsoft Exchange, Microsoft Windows 2000, Microsoft Windows XP). The number of exploits for web servers running IIS on top of Windows 2000 is astonishingly high (more than 70 new ones discovered in 2001), while the number of exploits for Apache web servers is low (less than 10). It is not a question of market share;

Apache servers power approximately 60% of all websites. I realize that we are talking about desktop systems, not servers, but the key point here is that security through obscurity is not effective. The security clause is entirely unnecessary, and it creates a hole big enough to fit all of Microsoft's operations. In the words of Assistant Attorney General Charles A. James, it's "one of those "duh" issues."

Finally, I would like to see the Microsoft APIs and document formats (especially Microsoft Office) made public. This would level the playing field for any company that wants to create programs to interoperate with Windows. It will facilitate the introduction of new software manufacturers. It will introduce competition. It will create jobs.

Please, protect our country from an unlawful concentration of power in the hands of a small group of men in Washington.

Sincerely,
Paul H. Barsic
3000 S Chautauqua #145
Norman OK, 73072

MTC-00026812

From: Mark Hoffman
To: Microsoft ATR
Date: 1/27/02 1:35pm
Subject: Microsoft Settlement

Say what you will about its monopolistic behavior, Microsoft at least never lied to its investors and employees about its business prospects. In fact, Microsoft is notorious among stock analysts for its conservative business projections. In this day of hot-air stock valuations, hype-filled IPOs, and blue-sky projections, Microsoft's scrupulous honesty in its communications with employees and the investment community is commendable. It's useful to compare that to the shenanigans of a formerly high-flying business that's currently splattered across the headlines. Enron apparently did nothing BUT lie to investors, employees, and the government. And on a more personal note, Bill Gates didn't cash in his chips and flee to the suburbs like so many Enron execs. Instead, he's taken a huge chunk of his money and put it to good use for society. See the story below, for example.

http://www.msnbc.com/news/694130.asp

I'll take Bill Gates's morality any day.

MTC-00026813

From: Gordon
To: Microsoft ATR
Date: 1/27/02 1:38pm
Subject: Microsoft Settlement

May it please the Court,

I find nothing in the Proposed Settlement that could be considered punitive of Microsoft. This is unconscionable. Microsoft's illegally obtained and maintained monopoly of the business desktop has cost American businesses (and also government) billions of Dollars in lost productivity and time wasted by their employees wrestling with Microsoft products when more usable and reliable alternatives exist.

Being forced to use Microsoft tools in place of those I would use by choice has reduced my personal productivity by an average of at least two hours per week, or five percent. The percentage would be larger for someone less knowledgeable about computers.

Microsoft should be fined an amount equivalent to five percent of the salaries of all the office workers that have been given Windows and Office by their employers, times six years since the first settlement, times three.

Gordon MacGinitie
5435 Claybourne St. Apt 704
Pittsburgh, PA 15232

MTC-00026814

From: Rima Karam
To: Microsoft ATR
Date: 1/27/02 1:40pm
Subject: Microsoft Settlement

Honorable Judge Kollar-Kotelly,

I am a student at Boston University, and am writing to you in regards to the Microsoft settlement between the Justice Department and Microsoft.

I am concerned that that settlement does not prevent Microsoft from continuing to be a monopoly.

Monopolies hurt our society and don't allow the people to use the best possible product they can.

It also discourages possible start-ups to come out with a new product against those Microsoft offers.

I'm just writing to ask you to reconsider and turn over the settlement in order to prevent Microsoft to continue with its monopoly. Thank you.

Sincerely,
Rima Karam
Boston University, 2003
CC:stopmicrosoft@yahoo.com@inetgw

MTC-00026815

From: Gene Risoldi
To: Microsoft ATR
Date: 1/27/02 1:41pm
Subject: Microsoft Settlement

Some quick points about this issue:

1. Microsoft's Windows OS is the only US made product I have seen in every country in my travels throughout Europe, S. America and Asia. As a business man, I find it incredible that the only worldwide challenger that could hurt this company in the long run is our own government.

2. I have been involved in companies who have been charged with illegal activities with regard to Sherman's anti-trust laws. I believe that if someone has done something illegally, they should be charged, prosecuted by our laws and pay the claim. I also believe that that same law suggests that we as consumers must have been financially damaged in some way for the law to be invoked. I build computers and have owned Apple products, worked with WARP and used Netscape as my browser. When Microsoft added thier browser to their OS, I couldn't have been happier, and it didn't cost me a cent. In fact, it saved me $49.99 in upgrades everytime Netscape needed some new revenue. Bottom line, Microsoft, because of their mass, their rseearch and their marketing prowess kicked over their competition in favor of the ultimate consumer. I call that smart business and instead of congratulating them, our government, whose members have proven they can't run a damn thing effeciently or well, claims they know how to fix it. How, by breaking the company into little pieces. These are the same people whose number one responsibility is to provide for the common defense...last time I looked, 3,000 people died and the damages were in the $90 billion dollar range? And they want to tell anyone how to operate? I find it difficult to not vomit.

3. Now we have the states suing Microsoft. How in merciful heaven were they damaged? Oh, I know their constituents were damaged. Well, what about the local county and city governments? Don't they have "constituents" and why aren't they involved?

4. Let's talk about the real damage this government has caused those of us who not only are happy with Microsofts activities but bought their stock when we saw that we finally had a dominating worldwide company in the US who could kick some foreign butt. I have just a 1,000 shares, which were once at $120 and after the governent's action, now hovering around $65. Do you in government know how many browsers I can buy for the $55,000 loss your actions cost me personally?

5. Finally, if I were Bill Gates, I say piss on the American justice system and everything it stands for and move my company, the whole kit and caboodle to let's see, how about China? I think they would welcome them. And take how many?, 80,000 directly employed jobs with them plus another what ?, 150,000 supplier jobs. If they made that announcement, I'd buy more stock!

6. However, don't you misunderstand me. I love America, and I know that capitalism and the free enterprise system is unequaled when it comes to producing wealth and creating jobs. I retired at 55, not because I won Dick Gepharts life's lottery, which really upsets the hell out of me everytime I think about his comment, but because I worked my rearend off; spent 65% of my life away from my wife, our kids and our families, so we could take full advantage of the opportunities we were presented within our system. And I have traveled and worked within other countries enough to know how fortunate we all are in America.

7. Finally, I will turn 60 next week and I wish you to know that those of us who are a little older and a little wiser understand that there are those who create wealth and those who wish to take it away and give it to themselves or to those who will give them the power to get it and pass it around. But there is one constant that I have learned and I hope my fellow countrymen pick up on someday soon. Simply, There is only so much money in the system. There are those among us who for whatever reason, will do what it takes to amass as much a share as we can and for most of us, to do so in legal and moral ways. The idea that governement is going to save us money or make us money is smoke and mirrors because it begins and ends as OUR money. If there is a cost, we will pay for it. I think about the tobacco settlement and when I think about how much of it went to "government beaurocrats" to pay the health expenses or to educate kids not to smoke, and I read about what programs it really funded, I can only hope that the rest of the citizens of this country wake up and comprehend how corrupt we have allowed our system to become.

8. And finally, how can it be that when we have a company who truly was responsible for the universal application and use of computers and the prolific results of that use, (which history will soon realize was equal to if not more remarkable than the "industrial age") that we want to tear them apart because they are the best at what they do.

I leave you with what I started this memo about. In our governing system, if someone can be proven to have done something illegally, throw the book at them. But as a governing body, stay the hell out of decisions about running businesses. America can only handle so much incompetence before we really get into trouble.

Given sincerely as an opinion, but with plenty enough historical fact to make my case.

Gene Risoldi
10139 Big Canoe
Big Canoe, GA 30143

MTC-00026816

From: JamesWhatley@msn.com@inetgw
To: Microsoft ATR
Date: 1/27/02 1:41pm
Subject: Microsoft Settlement

The case against Microsoft needs to come to a close. We should not penalize a company for proving excellent products and creating hundreds of thousands of jobs for developers like myself who use Micrsoft products to develop applications. This is how I earn my living.

MTC-00026817

From: nancyreidcaverly@msn.com@inetgw
To: Microsoft ATR
Date: 1/27/02 1:38pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
nancy caverly
11 linda rd.
andover, MA 01810

MTC–00026818

From: The Husons
To: Microsoft ATR
Date: 1/27/02 1:44pm
Subject: Microsoft Settlement

Dear Sirs,

My husband and I urge the acceptance of the agreement reached between Microsoft and the DOJ and some of the states.

We are tired of companies like Sun Microsystems resorting to lawsuits to gain market share instead of good old R and D and marketing efforts on their part.

We also feel that the agreement is fair to all parties involved.

We need to stop wasting resources on lawsuits and let the companies go back to work and get our economy going.

We feel that the lawsuit was without merit and should be settled as soon as possible.

Very Truly Yours,
Margaret and John Huson
801 N.E. Old Belfair Hwy
Belfair, Wa. 98528

MTC–00026819

From: mabo75@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 1:45pm
Subject: microsoft settlement

It's in the interest of all concerned parties that this settlement be put to rest finalizing this suit.

Robert Kline
Mabo75@juno.com

MTC–00026820

From: williamswp@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 1:48pm
Subject: Microsoft Settlement

I believe it is time to end all of the legal bantering and go with the agreed upon settlement. If it is continued further it is only costing the average citizen through our tax money. Use the taxes for more important things.

Warren Williams
9408 E.... 25th Street
Indianapolis, Indiana 46229
317–897–0286
williamswp@juno.com

MTC–00026821

From: Sandra G. Owen
To: Microsoft ATR
Date: 1/27/02 1:48pm
Subject: AOL

It is about time that the settlement previous to AOL is finalized.

AOL is seeking to line its own pockets by adverse action; as stated by one of the Attorneys General who oppose settlement—paraphrased "we will sue and sue because we do not have to pay fees, Microsoft has to do that." AOL itself is wanting something for nothing; riding shirttails to get business without innovation of its own.

I can only hope that the Tunney Review stops all attempts, underhanded ones at that, as the public has had enough of this bickering and most importantly jealously by those not capable of doing there own research and development.

Sandy Owen

MTC–00026822

From: Ron Hitchens
To: Microsoft ATR
Date: 1/27/02 1:51pm
Subject: Microsoft Settlement

DOJ,

I wish to comment on the proposed settlement in the Microsoft Antitrust Settlement.

I have been a computer professional for over 25 years and in that time have observed the behavior of many computer companies. It is well known in the computer industry that Microsoft doesn't play fair. They routinely thwart and/or crush competition in any way they can. Microsoft is predatory, plain and simple.

Microsoft was found guilty of anti-competitive practices. This is good, because it proves out what has been widely known by the entire industry for many years. But the proposed settlement is woefully inadequate.

Microsoft, though clearly found guilty of anti-competitive behavior, is not being punished for that behavior. They are in fact benefiting by the so-called punishment—contributing Microsoft software to schools is hardly a punishment. It is basically low-cost advertising for Microsoft and further helps to squeeze out alternatives. A better punishment would be for Microsoft to donate the cash equivalent of the retail cost of the software, to be spent as the schools please, but that still would not address the real problem.

It's painfully clear the proposed settlement is politically influenced and greased by that best of political lubricants: money. Microsoft has mountains of cash and knows how to wield it as an effective weapon. They are also masters of the FUD attack.

I urge you, the Department of Justice, to not be blinded by Microsoft's propaganda campaign or to be influenced by the political pressures I'm sure are exerted upon you. In this day and age, it seems ethics are a quaint anachronism. Lawyers it seems can twist anything with enough money and PR. Microsoft has the best attorneys money can buy, still were found guilty. Please don't ignore that screaming fact.

You have a chance to do the right thing here, don't blow it. —

Ron Hitchens

MTC–00026823

From: jspricesr@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 1:52pm
Subject: Microsoft Settlement

To whom it may concern;

It is time to bring the Microsoft lawsuit to a halt and stop trying to make a bunch of greedy lawyers rich in the process. The seniors of this country need all the breaks we can get because to date, they are few and far between. We, on social security, cannot even afford our life saving drugs, and the internet is completely out of the question. Most of the Government programs only benefit Minorities and bums except Medicare. Let us get on with this business and stop listening to special interest groups interested in lining their own pockets at the expense of seniors.

Joe S. Price
Crosby, Texas

MTC–00026824

From: Urbie
To: Microsoft ATR
Date: 1/27/02 1:52pm
Subject: Microsoft Settlement

To Whom It May Concern,

I am opposed to the proposed Microsoft settlement because it directly increases Microsoft's share of the educational market.

Sincerely,
Urbano Delgado
me@urbie.com
323–365–1350

MTC–00026825

From: vanharvey2 HARVEY
To: Microsoft ATR
Date: 1/27/02 1:53pm
Subject: Microsoft Settlement

Over the last eight years, I have, by accident, become a software developer. I came into PC's as a sales manager during the time before Microsoft dominated the business software suite's. I began working with Lotus & Borland's products, and then found Microsoft's. I checked them all out, and found that Microsoft's had more of the features and support that I wanted & needed. They enabled me to help my salespeople to make more effective and productive us of their time, in more ways, than any other product available. I became so hooked on being able to unlock people's productivity by fiddling with software code, that I became an Instructor and then fulltime developer.

Through the years, I've found that Microsoft's products consistently give me more of what I need, than any other product out there, and as a result, my professional standing, my income, and my families security, has increased dramatically as well.

That professional and financial security was rocked when the DOJ won it's initial case against Microsoft. My entire industry was affected immediately, and as we in the software industry know, the DotCom bust followed as a direct result.

I resent that my government precipitated this calamity, from an effort to prop up those software companies that I and most of those I work with, try our best not to have to use;

because their products are inferior, and their policies are restrictive and "thuggish" in dealing with developers.

We, the software Developers and users, didn't ask Government to step in and "protect us" by crippling Microsoft—a bunch of 2nd rate companies did, and it was for their betterment, not ours. We use Microsoft because we have decided that their products make our lives and professions, more successful.

Please get out of their way.

If Microsoft stumbles and begins to crank out inferior products, you can be sure that we'll jump ship quickly, (and one of us will create the software that the rest jump to), and we won't need the Government to tell us there's a problem. We don't need the Government forcing us to use inferior products made by inferior companies with inferior bully management, when Microsoft has what we want in the way we need it—now.

Microsoft has a right to design it's software, the way they choose, and we have a right to choose it, if we choose. As an American company, Microsoft has a Right to its property, and it is the government's job is to protect that right, not to take it away.

Please let Microsoft alone, and settle this case quickly.

Sincerely,
Van Harvey
4 Rustic Meadow Ct.
St. Peters, MO 63376
636–939–3411
vanharvey2@msn.com

MTC–00026826

From: CharlesIrv@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 1:54pm
Subject: Microsoft settlement
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to urge you and the Department of Justice to accept the Microsoft antitrust settlement. It's time to end this case, which has been dragged out for over three years.

The suit has hurt not only Microsoft and its stockholders but also the technology industry and the economy as a whole. Any settlement agreement that ends this situation should be seriously considered, and this settlelment, with tough restrictions on Microsoft, should be enacted. It can't reasonably be claimd that Microsoft is getting off easily. The settlement forces them to give up propietary information about and certain controls on their operating system so that others can more easily make and promote products that directly compete with Microsoft products. If Microsoft breaks this agreement they can be punished for contempt of court.

The first step in getting the technology industry back to business is settling the antitrust suit with Microsoft. A settlelment has been drafted and I would like to see it accepted. Only once the antitrust suit is in the past can the technology industry focusd on the future.

Sincerely,
Charles Wright
Charles Wright
6704 Klein Street NW
Olympia WA 98502

MTC–00026827

From: wt.catch1
To: Microsoft ATR
Date: 1/27/02 1:52pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Dustin Cross
IN 47303

MTC–00026828

From: Erv (038) Nancy Otte
To: Microsoft ATR
Date: 1/27/02 1:57pm
Subject: Re: Microsoft Settlement

Gentlemen:

Close this case. This case is simply another mistake by the William Jefferson Clinton term. Let Microsoft continue to help the world develop.

Microsoft has done more to help improve the world than almost all other businesses in the world. Let the free enterprise system continue. More Government will only hold back growth and development.

Sincerely,
Ervin G. Otte
Bedford, Indiana USA

MTC–00026829

From: Alex Johnson
To: Microsoft ATR
Date: 1/27/02 1:58pm
Subject: Microsoft Settlement

Your Honors,

I have suffered greatly from the actions of microsoft over the past years. My work with video has been sabotaged by Microsoft's efforts to break QuickTime and make it look like Apple's fault. At times it has hurt my credibility and many many times has hurt my productivity. My choice of everything in the computer world has diminished as Microsoft has risen. I lost quality alternative word processors, web browsers, and alternate operating systems. Furthermore, I am outraged that Microsoft has never taken the legal system seriously. From all it's falsified demonstrations in the early phases of the trial through it's insulting proposed remedy, it's clear that Microsoft does not respect our court.

The proposed remedy is a joke, and the implementation is an insult. The idea that Microsoft would be able to self-police is not valid. And installing court officers inside of Microsoft who wold be subject to the corporate culture and exposed only to what Microsoft lets them see would certainly do nothing than placate the court, but not offer any real solutions to consumer's problems.

As Microsoft prepares to make another move into homes with the X-box and Ultimate TV, and before they can hurt consumers any more, I recommend you punish Microsoft in a way that will compensate it's customers, who have certainly suffered as a result of the unfair practices of a company with more money than ethics.

Al Johnson
Cincinnati, Ohio

MTC–00026830

From: jay
To: Microsoft ATR
Date: 1/27/02 1:59pm
Subject: Microsoft Settlement

For shame,

Anti-trust was put into place to protect Joe public.... As I see it, it has not been enforced in 20 years. How about going after Microsoft and every other company pre-selling product with no product ready to ship or a responsible shipment date. Or any company that sells beta ware waiting for the public to test it and than usually charges for the upgrade. If they sold a car with non-functioning brakes you would be all over them due to the deaths involved.

How bout doing the right thing for a change and find for the public and not with corporate America who can not be held responsible for anything.... or so it seems

Jay Farber
JFMConsulting
Los Angeles —

MTC–00026831

From: Ted Beel
To: Microsoft ATR
Date: 1/27/02 2:01pm
Subject: Microsoft Settlement
January 27, 2002

Dear Sirs:

I am writing to express my support for the settlement of the antitrust case against Microsoft. As a former Microsoft employee, I think that the employees and executives of Microsoft are looking forward to the opportunity to move past the legal problems. I have no doubt that Microsoft employees will work fairly and honestly, according to the terms of the settlement.

During the past month, many of Microsoft's competitors have reported financial results and made predictions regarding future financial results. I am guardedly optimistic that financial conditions will improve for many high-tech companies as customers see the benefits of open access to Microsoft source code. Reduced support costs may well provide an impetus to growth necessary to lift the industry from its current economic slump.

Thank you for considering my opinions in this matter.

Regards,
Ted Beel
1627 164th Place SE
Mill Creek, WA 98012

MTC-00026832

From: Jerome Borden
To: Microsoft ATR
Date: 1/27/02 2:05pm
Subject: Microsoft Settlement

Dear Sir,

Please get this case settled as quickly as possible. In case you haven't noticed, the current economic downturn started about the time that court decision against Microsoft was handed down. There is nothing "the Market" abhors more than uncertainty. Next on that list is the prospect of hard work being punished. This is why the market goes down when the "economic news" is good. It is afraid of what the Federal Reserve will do. The same is true of the Tax Code and Ecology Regulations causing otherwise willing people to not engage in certain activities. The threat of Legal Plundering is in this list of economic stiflers. Ask any smoker about that. Many businesses go out of their way and threaten legal action to prevent their products from having any contact with aviation because of Fear of Lawyers. A similar cloud fell over the high tech industry starting in mid-2000 and that had a lot to do with Microsoft litigation.

Yours Truly,
Jerome C. Borden (a current Netscape user)
1571 E. Beechwood Drive
Layton, UT 84040–2226
801–586–3616 (days, else 801–593–0078)

MTC-00026833

From: Sameer Chopra
To: Microsoft ATR
Date: 1/27/02 2:08pm
Subject: Microsoft Setttlement

To whom it may concern:

Recently, Microsoft was accused by AOL/Time Warner on behalf of Netscape to have violated antitrust laws. They say that since Microsoft is bundling Internet Explorer with the Windows operating system, they are monopolizing the business. I agree with this statement because by putting their web browser on the computer, most users will use it because it comes installed on the computer. This has the potential to drive Netscape out of business because only people who specifically want Netscape will use it. Those who do not care will use Internet Explorer because it comes installed on the computer.

This event is similar to the time around the industrial revolution, when larger companies would drive smaller companies out of business, then buy them for almost nothing. Similarly, Microsoft is trying to destroy Netscape, but not to buy it out. Instead, it wants to disable AOL/Time Warner's hold in the web browser business. In conclusion, Microsoft's bundling of Internet Explorer with Windows is a clear attempt at a monopoly and must be stopped.

MTC-00026834

From: twdow@cfl.rr.com@inetgw
To: Microsoft ATR
Date: 1/27/02 2:05pm
Subject: Microsoft Settlement

I respectfully suggest that the Proposed Final Judgement be rejected, based on the following facts:

A. There is no provision preventing Microsoft from restricting the use of non-Microsoft middleware as a means by which competing operating systems might make use of software designed for Windows. Such an option would greatly enhance the competitive environment, serve the public interest, and lower the barrier of entry for new operating systems. Microsoft has a history of preventing competing products from working with it's operatng systems, as was the case with Corel's "DR.DOS" product and Windows 3.1. It is certain that they will resume this anti- competitive practice, unless prevented.

B. The provision, in Section III/I, Subsection 5, that a licensee be required to license it's products back to Microsoft, is to Microsoft's advantage. The monopoliust already has an advantage, acquired thought illegal means. any judgement needs to deny Microsoft the ability to preserve and extend it's illegal monopoly.

C. Section III/J, Subsection 2(c), requires that a licensee meet standards ". . . established by Microsoft for certifying the authenticity and viability of its business". This provision is so broad that it effectively makes the final judgement invalid. This provision limits the licensee to "businesses" but, by Microsoft's own admission, some of it's chief competitors are non-business entities like Apache, Samba, and Linux.

D. Nowhere in the PFJ is Microsoft required to disclose information about its file formats (Microsoft Word, Excel, WMP, and so on). It is clear that Microsoft will continue largely unpunished should the Proposed Final Judgement be accepted. Microsoft has been found guilty of maintaining an illegal monopoly. A resolution is needed that is far more effective at delivering a suitable remedy.

Thomas Dow
CC:twdow@cfl.rr.com@inetgw

MTC-00026835

From: Mark Roberts
To: Microsoft ATR
Date: 1/27/02 2:08pm
Subject: Microsoft Settlement

Thank you for presenting me with the opportunity to share my views on the Proposed Final Judgment (PFJ) on the Microsoft case.

I firmly believe that the PFJ will fail to curb Microsofts illegal, anticompetitive behaviors (or as John Ashcroft simply called it, Microsoft's unlawful conduct) due to its failure to either address at all, or in sufficient detail, three main behaviors. 1) Most Windows APIs are shipped by Microsoft as add-on SDKs with associated redistributable components under a very restrictive End User License Agreements (EULA) barring use with Open Source or Free Software applications. 2) Microsoft discriminates against independent software vendors who want to develop Windows-compatible, competing operating systems. 3) The PFJ narrowly defines Windows Operating System Product in definition U to mean only Windows 2000 Professional, Windows XP Home, Windows XP Professional, and their successors ignoring Windows Pocket PC, X-Box, Tablet PC and other OSs which Microsoft is developing.

As I mentioned, most Windows APIs are currently shipped by Microsoft as add-on SDKs with other associated redistributable components. Applications which wish to use the Windows APIs are forced to also use the add-on SDK components even though those same add-ons. The catch, of course, is that the SDK components almost always have very restrictive EULAs prohibiting their use with Open Source or Free Software applications. This directly harms companies wishing to develop software as they are forced to either hope that the people using their product already have up-to-date APIs (which is always possible, but is a poor practice for a company to rely on as their product will quickly become thought of as unstable or unreliable since there is bound to be a group of users who suffer problems due to API problems) or they must shun Open Source and Free Software licenses for their product. Two applications which are harmed by this restrictive EULA include the competing middleware product Netscape 6 (competing against Internet Explorer 6) and the competing office suite StarOffice (a competitor with Microsoft Office XP). The restrictive EULAs thus can cause support problems for, and discourage the use of, competing middleware and office suites. Additionally, since Open Source or Free Software applications tend to also run on non-Microsoft operating systems, any resulting loss of market share by Open Source or Free Software applications indirectly harms competing operating systems.

The PFJ will fail to curb Microsofts discrimination against independent software vendors who want to develop Windows-compatible, competing operating systems. Today, the Microsoft Platform SDK coupled with Microsoft Visual C++, is the primary toolkit used by ISVs to create Windows-compatible applications. However, the EULA for the Microsoft Platform SDK reads in part:

> Distribution Terms. You may reproduce and distribute . . . the Redistributable Components . . . provided that (a) you distribute the Redistributable Components only in conjunction with and as a part of your Application solely for use with a Microsoft Operating System Product . . .

This makes it illegal to run programs built with Visual C++ on Windows-compatible competing operating systems. The PFJ failure to address these exclusionary behaviors will contribute to the Applications Barrier to Entry faced by competing operating systems.

Perhaps the biggest flaw of the PFJ is that it uses an overly narrow definition of Windows Operating System Product in definition dd. Restricting the definition of Windows Operating System Product to only Windows 2000 Professional, Windows XP Home, Windows XP Professional, and their successors ignores many major avenues of growth that Microsoft itself sees in the future of computing. Microsoft's monopoly is on Intel-compatible operating systems not just the three current OSs listed in the PFJ and their successors. Nearly all applications written to the Win32 APIs can run unchanged on Windows 2000, Windows XP Tablet PC Edition, and Windows CE, and with a simple recompilation, can also be run on Pocket PC. Microsoft even proudly proclaims at www.microsoft.com/windowsxp/tabletpc/tabletpcqanda.asp: The Tablet PC is the next-generation mobile business PC, and it will be available from leading computer makers in the second half of 2002. The Tablet PC runs the Microsoft Windows XP Tablet PC Edition and features the capabilities of current business laptops, including attached or detachable keyboards and the ability to run Windows-based applications. Bill Gates, in his address at the recent COMDEX convention (available at: http://www.microsoft.com/billgates/speeches/2001/11–11comdex.asp) with Jeff Raikes assisting him agreed with the statement that the Tablet PC operating system is already able to run all existing Windows programs along with a suite of its own applications. And yet it is highly debatable that the Tablet PC operating system is a successor to any of the three OSs listed in the PFJ. Even clearer is that Windows Pocket PC is not covered in the PFJ as it existed before any of the three OSs listed again, Windows Pocket PC can run versions of many Windows programs. Microsoft is clearly pushing Windows XP Tablet PC Edition and Pocket PC in places (e.g. portable computers used by businessmen) currently served by Windows XP Home Edition, and thus appears to be trying to evade the Final Judgment's provisions. This is but one example of how Microsoft can evade the provisions of the Final Judgment by shifting its efforts away from the Operating Systems listed in Definition U and towards Windows XP Tablet Edition, Windows CE, Pocket PC, X-Box (which in its next generation, currently named Homestation will attempt to dominate the Personal Video Recorder market currently led by TiVO and SonicBlue while becoming the central piece of entertainment in homes or as ABC News said, Microsoft's big black box is but a cog in a more ambitious machine, one designed to tie the software giant to every area of home entertainment. The whole story is available at: abcnews.go.com/sections/scitech/TechTV/techtv—Xbox020123.html) or some other Microsoft Operating System that can run Windows applications.

So what we are left with is a potential shift in Microsofts business away from Windows XP and towards new OSs like Windows Tablet Edition or X-Box or Pocket PC none of which are clearly successors to Windows XP. Instead, they are Windows-compatible operating systems the exact same type of product that Microsoft bars other companies from making as I addressed in my second point. Therefore, the PFJ will allow Microsoft to extend its monopoly as it can (and certainly will) develop distinct new Operating Systems which are Windows compatible while not addressing Microsofts refusal to grant that right to other companies.

Finally, I need to say that the opinions I expressed here are solely my own and are in no way influenced by the fact that one of the paralegals at the Department of Justice is cute!

Sincerely,
Mark Roberts
Washington, DC

MTC–00026838

From: BERNARD FLEISCHMAN
To: Microsoft ATR
Date: 1/27/02 2:10pm
Subject: Microsoft Settlement

From: Microsoft's Freedom To Innovate Network <fin@MobilizationOffice.com>

To: "'bera1626@msn.com'" <bera1626@msn.com>

Subject: Attorney General John Ashcroft Letter

Date: Sat, 19 Jan 2002 14:01:18 –0500

Attached is the letter we have drafted for you based on your comments. Please review it and make changes to anything that does not represent what you think. If you received this letter by fax, you can photocopy it onto your business letterhead; if the letter was emailed, just print it out on your letterhead. Then sign and fax it to the Attorney General and carbon copy it to your Member of Congress. We believe that it is essential to let our elected officials know how important this issue is to their constituents.

When you send out the letter, please do one of the following:

* Fax a signed copy of your letter to us at 1–800–641–2255;

* Email us at fin@mobilizationoffice.com to confirm that you took action.

If you have any questions, please give us a call at 1–800–965–4376. Thank you for your help in this matter.

The Attorney General's fax and email are noted below.

Fax: 1–202–307–1454 or 1–202–616–9937

Email: microsoft.atr@usdoj.gov

In the Subject line of the e-mail, type Microsoft Settlement.

Carbon Copy:

Rep. Robert Wexler

Fax: 202–225–5974

For more information, please visit these websites:

www.microsoft.com/freedomtoinnovate/
www.usdoj.gov/atr/cases/ms-settle.htm

8867 Brittany Lakes Drive
Boynton Beach, Florida 33437
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to show my concern for the Microsoft Antitrust settlement. I believe that the Department of Justice and Microsoft have come to reasonable terms and that the duration of this case should be ended. The settlement enforces a number of restrictions and obligations that Microsoft must follow in order rectify this antitrust violation, which should promote more competition in the software market. Microsoft has even agreed to make available to the competition various interfaces that are internal to Windows" operating system products. In addition to that, Microsoft has also consented to promote competitor's programs within Windows software.

Microsoft has agreed to make drastic changes in order to fulfill their obligations and I think that this settlement should put an end to this lengthy case.

Sincerely,
Arline Fleichman
cc: Representative Robert Wexler

MTC–00026841

From: Timothy o'shea
To: Microsoft ATR
Date: 1/27/02 2:14pm
Subject: Microsoft Settlement

Department of Justice
Timothy o'Shea, International Communications Executive,
620 Euclid Avenue
San Francisco, CA 94118

RE : Final Microsoft Settlement/Judgement

It seems clear that anything that defines a "final" settlement for the Microsoft case must focus on this opportunity to halt monopolistic practices that further define a more limited access to freedom into the future.

After all the resources and expense of the Federal Government in pursuing the formidable position of Microsoft in the market, the initial intention must be paramount: protect future domestic security, rights and economy. Only with a focus on protecting future commerce and individual rights can the government honor its original intention to protect the consumer, the public and the still evolving opportunities of the Information Age and the economies that will emerge within it.

The following are some of the required points that must be included in the spirit and letter of the settlement.

(1) A simple, affordable, and reliable way to run the 70,000 existing Windows applications without modification on all other operating systems.

(2) A simple, affordable, and reliable way to have native versions of Microsoft Office applications on all other operating systems.

(3) A simple, affordable, and reliable way to replace one or more of the four Office applications with competing applications, while retaining the ability to exchange files, data, and services with any Microsoft application.

(4) A simple, affordable, and reliable way to have native versions of Explorer, Media Player and other Microsoft Internet applications on all other operating systems.

(5) A simple, affordable, and reliable way to replace one or more Microsoft Internet applications with competing applications, while retaining the ability to exchange files, data, and services with any Microsoft application.

(6) A simple, affordable, and reliable way to replace any component or feature in any Microsoft software product with superior or special purpose components or features.

(7) A simple, affordable, and reliable way to run any Microsoft software on computers that do not have Intel-compatible microprocessors.

(8) A simple, affordable, and reliable way for software developers to access all the information they need to create products that offer consumers these choices.

(9) A way to ensure that original equipment manufacturers provide consumers with equal access to computers with

alternative operating systems, productivity applications, and Internet applications.

(10) A "crown jewel" provision establishing such serious consequences for non-compliance that Microsoft will not attempt to evade the necessary disclosure requirements and other mandates

The overall question is to ask is if there could be so much smoke around the practices of Microsoft, without the fires of monopolistic strategy being at the source of a strong and growing fire. Such an informational juggernaut position, if unchecked, could unleash a slow burning fire that becomes too much to quell later on.

I hope you will keep these points above in mind. They are, indeed, what is necessary to keep the digital divide from keeping out too many from having access to the future in any meaningful way.

Sincerely,
Timothy o'Shea

MTC-00026842

From: Anant K Saraswat
To: Microsoft ATR
Date: 1/27/02 2:14pm
Subject: Microsoft Anti-trust Decision

As a student in the Master of Engineering Program at the Massachusetts Institute of Technology, I would like to comment on the Proposed Final Judgement.

While the spirit of the ruling, which is to prevent anti-competitive practices by Microsoft, is admirable, the letter of the ruling leaves many loopholes that Microsoft will be able to exploit that will allow it to continue to stifle competition. Specifically:

The definition of the term "API" used in the ruling is extremely narrow—it only refers to the interfaces between Microsoft Middleware products and the OS. This would allow Microsoft to refuse to disclose many interfaces that developers will need to write applications that use Windows. The definition of API used in the ruling should be altered to say, "Application Programming Interfaces (APIs)" means the interfaces, including any associated callback interfaces, that Popular Windows Applications running or being installed on a Windows Operating System Product use to call upon that Windows Operating System Products in order to obtain services from that Windows Operating System Product."

The term "Windows Operating System Product" is also too narrowly defined. It does not include any of the Microsoft Operating sytems that are targetted towards use on laptop computers or PDA's, such as Microsoft Windows CE. These operating systems should also be included in the settlement.

The ruling does not contain language that prevents Microsoft from intentionally designing its products to be incompatible with other operating systems.

The ruling allows Microsoft to retalliate against OEMs that ship PCs which use an OS other than Windows. Given the current popularity of Windows and other Microsoft products, no OEM can afford to risk a cutoff of Microsoft products in retalliation for using competing products. This is a barrier to competition.

The ruling requirs Microsoft to license Windows at uniform terms and published prices to the top 20 OEMs, but does not put any restrictions on its licensing to smaller OEMs. These smaller OEMs are the companies most likely to experiment with other operating systems. Section III.B. allows Microsoft to offer unspecified Market Development Allowances to OEMs. For instance, Microsoft could offer discounts on Windows to OEMs based on the number of copies of Microsoft Office or Pocket PC systems sold by that OEM. In effect, this allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas.

MTC-00026847

From: Dale Lillie
To: Microsoft ATR
Date: 1/27/02 2:15pm
Subject: Microsoft Settlement

Sir or Madam,

I strongly urge the US Department of Justice to settle the Microsoft case now and enter the revised proposed Final Judgment. The case brought against Microsoft was motivated primarily by competitive malice. Settling this case is certainly in the public interest.

Microsoft has been a boon to me by bringing lower PC prices, faster and better computing, and better software development tools. In addition, this lawsuit has cost investors, literally hundreds of billions of dollars.

I have gladly purchased and used Microsoft products for over 20 years. Professionally, I have developed many systems based on Microsoft software products. During this time I have interacted with Microsoft personnel at many levels. At no time did I think that the relationship with Microsoft was not fair or beneficial to me as well as to other parties involved. To the contrary, I believe that Microsoft to a large degree is responsible for the current economic good health of the USA, as well as many other countries of the world.

It is time to end this antitrust action begun in 1997.

Sincerely,
Dale G Lillie
Dale G Lillie
River Forecast Group
<http://WWW.RiverForecast.com> http://www.RiverForecast.com

MTC-00026849

From: Mary/Harold Shelby
To: Microsoft ATR
Date: 1/27/02 2:20pm
Subject: Microsoft Settlement:

Please, PLEASE, let's take the proposed settlement in stride and get on with life. Most of the lawyers already have enough money, and there is really no other reason to have dragged this thing out this long.

A normal business would have long since declared bankruptcy if it were operated in the manner in which this case has been handled. If there is no reason to punish the public further, then settle this case NOW!

Any punishment or fine or any other punitive action taken against a business of nearly any kind is eventually suffered or paid for by the public. Look at the fiasco of the Clinton mess: The jerk was not, nor will he EVER be worth what he cost the American taxpayer, no matter HOW much he and his partner/wife (or whatever) steal. Is that enough said about that IT? A MAN would not have done what that thirteen-year-old punk (at the REAL age of 50) did!!

Thanx for lending me your ear so I might let off some steam!

SINCERELY,
Harold Shelby

MTC-00026850

From: Thurston C Tooker
To: Microsoft ATR
Date: 1/27/02 2:24pm
Subject: Microsoft Settlement

To: US Justice Dept.

Please stop this pending (damaging) litigation against Microsoft Corporation. Only self-serving competitors really want this proposed settlement to drag on. It is, without any doubt, against Public Interest.

T, C, Tooker
5308 Terrace Oak Circle
Fair Oaks, Calif. 95628–3634

MTC-00026851

From: Joyce Cheze
To: Microsoft ATR
Date: 1/27/02 2:27pm
Subject: LEAVE WINDOWS ALONE

Separating Windows would complicate computer use greatly. Also, it would increase the chances of incompatibility.

I teach computers to high school students in Florida. Windows is a wonderful for student use. Separating it would create major learning blocks.

Also, we have limited dollars to spend for our budget. Compatibility is vital. Separation would create serious budgetary concerns for technology in Florida high schools.

Please show common sense. Leave Windows working as it is.

Thank you,
Joyce Cheze
Computer Teacher

MTC-00026852

From: adauer@uns-dv1.jcpenney.com@inetgw
To: Microsoft ATR
Date: 1/27/02 2:27pm
Subject: Microsoft Settlement

I believe that the proposed settlement is not in the best interest of the United States and represents a complete sellout of the American consumer by the Department of Justice. The settlement must be rejected. The long, expensive trial proved beyond any doubt, as evidenced by the unanimous opinion of the District Appeals Court, that Microsoft is an abusive monopolist that doesn't hesitate to use any tactic, no matter how ethical or illegal, to crush any person or company in its way. The settlement at issue does nothing, repeat nothing, to punish Microsoft for its prior and ongoing illegal activities and puts no, repeat no, real constraints on future illegal and/or abusive activities. The proposed settlement is so full of loopholes that it might as well not be in place.

In fact, the details of this proposed settlement are so completely skewed in Microsoft's favor as to allow them to do

—anything— they so choose in the future and it will be allowed.

The proposed settlement stinks to high heaven and must be rejected as completely inadequate.

I'm ashamed that the so-called Department of Justice would even be associated with a settlement this biased against the citizens they're supposedly representing.

Sincerely,
A. Allan Dauer
United States Citizen

MTC-00026853

From: franick1@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 2:28pm
Subject: Microsoft Settlement

URGENT ACTION ALERT

Microsoft should not be punished any further and the litigation against them should be truncated NOW.

We believe that the proposed Microsoft settlement be accepted. We believe this settlement offers a reasonable compromise that will enhance access to the internet and initiate innovative software products in the immediate future and have a very positive impact on the American economy and this recession.

Thank you for listening.
Niketas J. Haldoupis and
Laura F. Haldoupis

MTC-00026854

From: candidus1771@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/27/02 2:28pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen..

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Jake Morphonios
137 Dovick Dr
Banner Elk, NC 28604

MTC-00026855

From: Barbara Bryant
To: Microsoft ATR
Date: 1/27/02 2:32pm
Subject: Microsoft Settlement

Having been in the business world for many years and exposed to the onset of the cyberage, I have never understood how anyone could say that Microsoft has been guilty of violating the anti-trust laws. Bill Gates took an EXPENSIVE product and made it available to the general public and to small business at a reasonable cost!

The suit against Microsoft originated with its unsuccessful competitors NOT with its consumers! Are we going to now see an era where one will be unable to go into competition across the street, sell a better product at a less expensive cost and be successful without some lawyer taking away that right? Thank God this could not happen during Henry Ford's day!

We Americans have seen many rights taken away from us in the past 25 years. It seems the only time we have a "right" is when it appeases the liberal ideology and I, for one, am sick and tired of it. It is NOT the government's place to protect any business from another in a so-called "free country"! AND, it is NOT the government's place (or any money-hungry lawyer) to see that I am protected from myself!

Men and women with the intelligence, foresight and GUTS to do what Bill Gates did should never have HIS PROPERTY taken away by a government— especially the AMERICAN government. HIS rights should be protected. And he should be shown as an example to ALL young Americans to encourage them to reach for the same stars rather than some rock star or athlete that manages to have 5—7 children out of wedlock before reaching the age of 25!

If the government really wanted to do something FOR THE PEOPLE of this country, why do we not see any investigations into the "non-profit" organizations that seem to have to account to NO ONE! It seems one can set up a "non-profit" organization, collect millions, show a very small percentage going to something or some organization that fits the "help a person" category, write off HUGE salaries and contributions to mistresses as "Consulting Fees", extort millions more from other businesses and the IRS "doesn't have the resources to investigate". Forget to include a 1099 from a measly oil royalty of $136.00, as I did a couple of years ago (with a total income of less than $40,000.00) and the IRS seems to have plenty of resources to conduct an audit.

Something dreadfully evil has crept into the American Government ideology and I predict as long as we hard-working, tax-paying Americans sit on our duffs without any outcry, our rights are going to continue to be whittled away in the name of "protecting us" and this country will fall into economic, social and moral disaster. Unfortunately, we have a very good foundation to that end today.

Yours truly,
Barbara Bryant
Levelland, Texas

MTC-00026856

From: waspjj@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 2:32pm
Subject: Microsoft Settlement

To The Justice Department :RE—The Proposed Microsoft Settlement;

The following statement, in part, was sent to me by the Seniors Coaltion.

"The Seniors Coalition strongly believes that the proposed settlement offers a reasonable compromise that will enhance the ability of seniors and all Americans to access the internet and use innovative software products to make their computer experience easier and more enjoyable. Unfortunately, a few of Microsoft's competitors have continued their aggressive lobbying campaign to undermine the settlement negotiated with the federal government and nine states. The settlement itself is tough on Microsoft, but is a fair outcome for all parties—particularly senior consumers. Most important, this settlement will have a very positive impact on the American economy and will help pull us from the recession we have experienced over the past year. Consumer interests have been well served, and the time to end this costly and damaging litigation has come.

Dragging out this legal battle further will only benefit a few wealthy competitors, lawyers, and special interest big-wigs. Not one new product that helps consumers will be brought to the marketplace."

I agree with this completely,and think it is time to put an end to this.

Respectfully,
William S.Palmer

MTC-00026857

From: Frances Ward
To: Microsoft ATR
Date: 1/27/02 2:34pm
Subject: Response to any changes to draft

I do not wish to make any changes in the letter drafted—I wish to stand up for Microsoft—Please be aware this is my notice to ask you to accept my letter in favor of Microsoft. FranWard41 @hotmail.com

MTC-00026858

From: William Pence
To: Microsoft ATR
Date: 1/27/02 2:35pm
Subject: Microsoft Settlement

OK, I have waited almost too late to submit my comments:

The DOJ and judicial system in place MUST place conditions against MS in place with teeth, that will cause a fundamental change to MS business practice. As the courts have already found, MS routinely uses illegal monopoly power to protect and advance its market. This is a competitive stranglehold on the industry that will only hurt the consumer long term. From previous judgements in cases like this, MS will interpret these rulings to their advantage at every opportunity. This means an oversight team NOT SPECIFIED OR APPOINTED BY MS is required. Note that they have already tried this game. Their people must be removed from the oversight team. This oversight team must have authority to REQUIRE MS compliance.

Please, Please, Please do not allow MS to continue to extend their monopoly via illegal tactics. The proposed settlement to provide schools with technology is a JOKE.

1. they do not have a monopoly there, so this will help them alter the balance in their favor.

2. the accounting in use will claim that Windows costs 199.99, and office costs 499.95, when they are basically "free" since MS is just giving copies of existing software.

3. Allowing MS to specify the settlement is like allowing the fox the KEY to the

henhouse, and providing extra place settings for the fox to invite friends.

Several engineer friends of mine and I have watched this trial from the beginning. we all have the collective "duhhh" when the court findings of illegal monopoly practices were published. we have also had the collective "what a waste" watching the current handling of the case. David Boise laid a perfect design to really solve this. Let's no give away the ending. Let's make a real difference to STOP MS from continuing their illegal practices, and allowing real competition from AOL/Netscape, Apple, Real Networks, and others. thanks,

bill—pence@mac.com

MTC-00026859

From: George Papp
To: Microsoft ATR
Date: 1/27/02 2:29pm
Subject: Microsoft Settlement

Hi I'm a college student at The Ohio State University and the Microsoft Settlement is not fair to a successful company who has done more for the public good than any-other tech company in the business.

Why penalize a company because they are successful. Its not Microsoft's fault that consumers do not buy their competitor's junk product. Also, if Microsoft is paying my education. I was fortunate to have been able to trade shares of Microsoft to pay for my college education instead of taking college loans to pay for it. If Microsoft tanks I highly feel that I would not be able to sell shares and make enough money off the transactions to pay for school. Our Country is having tough economic times and penalizing Microsoft for its success would further send our country down the economic toilet.

Thank You,
George M. Papp
Student

MTC-00026860

From: MJHurd@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 2:37pm
Subject: Views on Microsoft and Bill Gates

If I Were Bill Gates
Published in USA TODAY 1/24/00
by Michael J. Hurd Ph.D.

Poor Bill Gates. He doesn't know how to defend himself.

If I were Bill Gates, here is what I would say to defend myself:

I created a company. Millions upon millions of people want to buy my company's products. They do so freely and willingly—often enthusiastically. I never lied to my customers. I never held a gun to their heads. They bought from me of their own free will. My products have transformed the world. The billions I've made are small potatoes compared to the benefit the world has gained from my innovations.

It is true that I package together some of my products. But I created these products. It is my right to package and sell them any way I see fit. It is the equal right of individual consumers to shop elsewhere if they see fit. Many of them do. It's a competitive business, and I have no guarantee of always staying on top. In a free market, there are no guarantees.

Government is supposed to protect its citizens from the initiation of force and fraud. I am guilty of neither. Nobody even accuses me of it. It's not the government's place to decide when one particular company has made "too much" or "cornered the market." This is the consumer's job, not Janet Reno's or Bill Clinton's job.

There is no monopoly, so long as other companies are free to compete with me; and they are free to compete with me. Government should stop telling the public it's only "protecting" them. No such thing is true. If the truth be told, the government is protecting my competitors—not the consumers.

That's what this antitrust case is really all about.

MTC-00026861

From: George J, JUngermann
To: Microsoft ATR
Date: 1/27/02 2:40pm
Subject: Microssoft Settlement

I write this e-mail to let you know I support the proposed settlement as a fair agreement. Any attempt to continue with the court case can only be described as an attempt to benefit the few and not the many affected by this case.

It's time to end this law suit! The settlement is fair to all!

Thanks,
George Jungermann
jungermann@juno.com

MTC-00026862

From: D (038) P Cochell
To: Microsoft ATR
Date: 1/27/02 2:08pm
Subject: Microsoft Settlement

SETTLE THIS LAWSUIT and let microsoft get back to their work of innovating and marketing tech products that the consumers want and need. The tech industry, the country's economy, and consumers information base needs the growth that an innovative company like Microsoft provides.

Let them do it!
Darrell Cochell
Lakin, Kansas
CC:GENERAL@ksag.org@inetgw

MTC-00026863

From: Peter Mogensen
To: Microsoft ATR
Date: 1/27/02 2:41pm
Subject: Microsoft Settlement

The Microsoft trials,

Hello,

I must say, I'm baffled by the development of the various Microsoft Anti Trust trials in the US. In most of Europe the US legal system has a reputation of being mostly about expensive lawyers and politics. Of course, people regards this as satire, . . . until it affects them self. Allow me to introduce myself: My name is Peter Mogensen and I'm a Danish citizen. I write to you since as a daily user of non-Microsoft products, I'm very concerned about the future of the computer industry with the prospects of Microsoft getting out of the current lawsuits the way the settlements are laid out. My daily work is software development, which you might think disqualifies me of representing the average consumers and users of computers and operating systems. I would argue that I am indeed a user of operating systems and other software products (both professionally and as a hobbyist) and my technical knowledge enables me to see parts of the problem that the average user (or lawyer) doesn't see.

I see every day how computer users find it more and more difficult to live without Microsoft products. This would be understandable if Microsoft actually produced innovative, good quality products. But I don't see computers becoming easier to use for the average user. What I see is a lot of users being led into believe that their computer is easier to use than it is. Often at expense of security. Lack of security in Microsoft products (like Outlook/IE/IIS) has cost the users around the world over $10 billion per year the last 3 years. (http://www.siliconvalley.com/docs/news/reuters—wire/1453344l.htm) There's lots of other reasons to not choose Microsoft software. They are not as important here as the fact, that a lot of people actually want to use something else, but often can't.

Why is that? Because Microsoft is enforcing a (almost worldwide) monopoly on operating systems, office applications, web browsers and a few other products.

You might ask, why Microsoft can maintain such a monopoly if there's appealing reasons to choose other products? The answer lies in the way Microsoft conducts business. I would like to highlight two problems which have influenced my life in a negative direction:

1) In the computer world and on the Internet, compatibility is everything.

If over 80% of the users on the Internet are using a system incompatible with that of the remaining 20%, users are not migrating TO the minority but rather FROM. Microsoft knows this and does everything in its power to make the life of the minority as hard as possible bye making it difficult to communicate with the majority.

This is done by heavy use of proprietary protocols and data formats and often by bending or extending their implementations of open standards to only work with Microsoft products. Examples are the ever changing file formats of MS Word, the J++ Java implementation (http://java.sun.com/lawsuit/111798ruling.html) and the modifications to the Kerberos protocol in Windows 2000 (http://www.infoworld.com/articles/op/xml/00/05/15/000515oplivingston.xml).

Of proprietary communication protocols, which Microsoft actively prevents others from implementing, SMB/CIFS is an example. Without the ability for other systems to talk this protocol, Microsoft are keeping other products out of the local network marked, since this is the official way for Windows computers to do file sharing among computers on a local area network.

Please read: (http://linuxtoday.com/news—story.php3?ltsn=2001–11–06–005–20–OP–MS) or here: (http://lists.samba.org/pipermail/samba/2001-November/060505.html) http://perens.com/Articles/StandTogether.html

Most obvious for the average user is the tendency for the WWW to become "best viewed with Internet Explorer".

More and more infrastructure in the western world are placed on the Internet and it is becoming more and more important for citizens to be able to access this information. The problem is that Microsoft encourages people to implement web sites using technology only available on the Windows operating system and in Internet Explorer. Many web sites are specificly designed only to be viewed with Internet Explorer. Many home banking systems are like that. The World Wide Web was never meant to be viewed with only one client. The WWW was meant to be based on open standards to enhance interoperability. That's innovation. Microsoft does not encourage innovation!

If this development is allowed to continue, we risk having a world were more participation in the society requires you to run a Microsoft product, effectively paying taxes to Microsoft. I do not want that, and I do not believe you or your citizens want that either.

2) The way Microsoft has controlled the OEM hardware manufactures during the 90's:

Microsoft had the majority of the market share for operating systems.

Knowing that most users doesn't make changes to the computer system they buy and that most users are reluctant to put too much effort into actively searching for alternatives once they have bought a computer it is easy to use your existing market share (and the need for compatibility) to increase your market share. I've personally been using the BeOS (former http://www.be.com) operating system with much satisfaction. This was an very innovative product fulfilling many of my needs as a ordinary user and as a developer. Including things MS Windows didn't supply. The efficiency and elegance of the system made it a breeze to use compared to the many problems Windows users often experience. Unfortunately the BeOS operating system is no more. Be inc was forced out of business by Microsoft. (http://www.byte.com/documents/s=1115/byt20010824s0001/) The product (BeOS) has been bought by Palm inc, who officially has declared that it will not be continued.

Now . . . the result of Microsofts monopoly and "innovative" behavior is that over 10 years of development on a cutting edge operating system will not be available for consumers.

I can not see how the current market situation in any way is good for the consumer. Microsofts competition has an almost impossible task in just being allowed into the market, since the market is more than often defined by Microsoft products and proprietary protocols.

In the current market, the commercial model fails to work to the benefit of the consumer. Which products actually reach the consumer are dictated by commercial interests, not by innovation. BeOS is an sad example of this.

Now, what should be done to ensure that the competition of an open market will benefit consumers?

Simple: Require the use of open standards. And enforce it. Microsoft should be prohibited from using proprietary protocols and file formats in communication between computer systems and in interfaces between products. Public digital communication should require use of open standards.

Restricting all protocols and file formats in public use to be based on open standards will guaranty every citizen equal rights to participate in the digital society which are becoming more and more important in the western world.

regards,
Peter Mogensen

PS: Though not directly related to the trial, I was very appalled to hear the about the proposed settlement in the private antitrust case. (http://www.siliconvalley.com/docs/news/svfront/ms121101.htm) It's chocking to hear that anyone can think you can limit a monopoly by allowing it to increase its market share. Sorry to address this subject in this letter. I'll just appeal to this court to make an objective and thoroughly considered ruling in this important matter.

MTC-00026864

From: Dan Atkinson
To: Microsoft ATR
Date: 1/27/02 2:50pm
Subject: Microsoft Anti-trust Lawsuit

Stop punishing Microsoft for being a leader in its" industry, and conversely rewarding those competitors who fail to measure up or would like to succeed at Microsoft's expense. This has potentially disasterous consequences for the future of American business. Regards, Daniel J. Atkinson, D.D.S.

MTC-00026865

From: Bob Karr
To: Microsoft ATR
Date: 1/27/02 2:46pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am opposed to the proposed settlement in the Microsoft antitrust trial. I think it does not fully redress the actions committed by Microsoft in the past, nor inhibit their ability to commit similar actions in the future. I think it does nothing to correct or redress their previous abuses. I think some of the definitions in Section VI could be better defined . For example:

I think that Definition K: Microsoft Middleware Product could specifically include Microsoft's .NET initiative, Microsoft Outlook and possibly Microsoft Office as Microsoft Middleware.

I think that Definition U: Windows Operating System Product could include the Microsoft Tablet PC and Windows CE.

Thank you.
Sincerely,
Robert Karr Spring Grove, IL

MTC-00026866

From: Cris Naugle
To: Microsoft ATR
Date: 1/27/02 2:48pm
Subject: don't drop the ball!

I spend ten hours a day working on computers and have done so for at least 15 years. I started working as a researcher in biotech and for the last 6 years I have been running a graphic design company and now we mainly design web sites.

I can honestly say the biggest disasters I have encountered resulted from a MicroSoft product. They release software with major problems, their applications leave gaps in security that have cost corporations billions, and they have done some very sneaky thing to discredit or sabotage another company's product:

1. When I was running an Animal Care and Use Committee at a Boston Cancer Institute, I was streamlining document handling. I used a document template included on Word for Windows. The document wouldn't print out correctly, I was almost fired because we almost missed our federal regulatory deadline -we had to call in outside contractors and consultants -the cause? MicroSoft Word required the use of a Mac font in their template... we used PC's and postscript printers, the Mac font caused a system crash. The fact they were using a Mac font in one of their templates may cause one to wonder where and how they got the template?

2. It was always a joke that there was a flight simulator inside MS Excel, rumor was that the MS programmers placed it there as a joke. But those of use using the software were seriously effected in those days of low RAM, committed by force to not use any other software if using Excel.

3. When the internet was young, it was a given that designers and programmers would create website that were cross-platform and cross-browser compatible -it was our livelyhod that our client's web sites could be viewed by everyone -then MS stepped in and tried to rewrite javascript if you opened a page in Explorer that contained this scripting -you crashed.

4. I was consulting at a dot com when the I LOVE YOU virus hit, we were designing a web site for NYU and running close to being over deadline. Then one morning every image file on every computer was erased. This cost the company millions of dollars and all the consultants were let go. This hurt real people and I can only extrapulate this over all the companies hit.

5. And what about the fund B Gates set up to provide scholarships for minorities and then said he couldn't find any who qualified!

I could go on for days here but seriously, a lot of good companies, Apple, Sun, IBM etc have been seriously hurt -good software destroyed and good companies gone only because an megomaniac wants to be the biggest not the best just the biggest. This is not the American Way.

Don't drop the ball here
Christine J Naugle
SpiralXdesing, Inc
5949–8 Carolina Beach Road
Wilmington, NC 28412
910–452–3304 (local)
866–774–7299 (toll free)
910–793–1137 (fax)
http://www.spiralxdesign.com
We Build Web-Esteem

MTC-00026867

From: HAL TUCK
To: Microsoft ATR
Date: 1/27/02 2:46pm
Subject: MICROSOFT ANTI-TRUST CASE

3213 Oakwood Boulevard S
Sarasota, FL 34237–6412
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I think it's high time that this whole Microsoft antitrust matter was over and done with. The government has no place interfering in private business. This is why I'm pleased that the settlement that you reached with Microsoft will mean and end in sight for this mess.

I know that everyone will respect what Microsoft had put on the table in order to end this whole matter. I can only hope, as a Microsoft supporter, that elements of the agreement, like giving over its code and intellectual property rights to its competitors, will not prove too damaging to the company.

I, along with every other American who depends on Microsoft products in his daily life, want to see an end to this whole affair. Three years is far too long to wait for a final settlement and both sides have far more important issues to worry about.

Sincerely,
Harold Tuck

MTC-00026868

From: hdcallies@msn.com@inetgw
To: Microsoft ATR
Date: 1/27/02 2:45pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Howard Callies 123 Spencer Rd N
Onalaska, WA 98570

MTC-00026869

From: Suzanne Taylor
To: Microsoft ATR
Date: 1/27/02 2:41pm
Subject: Microsoft Settlement

Ten Essential Consumer-Oriented Remedies

Any settlement or final judgment must include remedies that provide:

(1) A simple, affordable, and reliable way to run the 70,000 existing Windows applications without modification on all other operating systems.

(2) A simple, affordable, and reliable way to have native versions of Microsoft Office applications on all other operating systems.

(3) A simple, affordable, and reliable way to replace one or more of the four Office applications with competing applications, while retaining the ability to exchange files, data, and services with any Microsoft application.

(4) A simple, affordable, and reliable way to have native versions of Explorer, Media Player and other Microsoft Internet applications on all other operating systems.

(5) A simple, affordable, and reliable way to replace one or more Microsoft Internet applications with competing applications, while retaining the ability to exchange files, data, and services with any Microsoft application.

(6) A simple, affordable, and reliable way to replace any component or feature in any Microsoft software product with superior or special purpose components or features.

(7) A simple, affordable, and reliable way to run any Microsoft software on computers that do not have Intel-compatible microprocessors.

(8) A simple, affordable, and reliable way for software developers to access all the information they need to create products that offer consumers these choices.

(9) A way to ensure that original equipment manufacturers provide consumers with equal access to computers with alternative operating systems, productivity applications, and Internet applications.

(10) A ?crown jewel? provision establishing such serious consequences for non-compliance that Microsoft will not attempt to evade the necessary disclosure requirements and other mandates.

Suzanne Taylor
Los Angeles, CA

MTC-00026870

From: FigWax
To: Microsoft ATR
Date: 1/27/02 2:48pm
Subject: Microsoft Settlement

Microsoft's competitors can't compete in the marketplace so they have to resort to barratry. The public doesn't suffer from Microsoft's savvy business practices.

The public actually benefits by having only one operating system.

MTC-00026871

From: Eric B Venet
To: Microsoft ATR
Date: 1/27/02 2:45pm
Subject: Microsoft Settlement

Under the Tunney Act, I wish to comment on the proposed settlement in the Microsoft antitrust case. Before I begin, I would like to echo the ideas suggested at http://www.kegel.com/remedy/letter.html and http://www.codeweavers.com/jwhite/tunneywine.html.

My name is Eric B Venet, I am a second-semester junior at the University of Rhode Island, studying Computer Science. I am also an apprentice computer consultant for a small firm in Rockland, MA. In my academic, professional, and even private life I have certainly been somewhat of a victim of Microsoft's monopolistic tactics.

I feel that this settlement is not strong enough for three main reasons:

1. It does not protect the consumer from non-code-based monopolistic tactics.

2. It does not provide adequate access to the Windows APIs.

3. It does not allow for true competition.

1. One of the most hotly debated items of the past year was the rumor of the draconian licensing requirements in the then-upcoming Windows XP. While what eventually came to be was quite tame compared to what was being discussed, licenses are an issue that the settlement doesn't quite pinpoint and solve. Microsoft needs to be prevented from trapping the consumer in an unfair license that may force him or her to keep using Windows, and keep paying for it. For example, even with this settlement in place, Microsoft could update Windows so that all data is encrypted, and cannot be viewed without a licensed, up-to-date version of Windows. This would be a situation where a consumer would have to pay money just to get access to his or her files. While this is an extreme example, it is also one that I believe is unpreventable under the terms of the settlement.

2. As stated in the above-linked documents, a volunteer group could be barred from gaining access to API documentation, thus betraying the very nature of the antitrust findings. The importance of free and easy access to Windows APIs cannot be stressed, enough. Bugs or problems in the Windows code, itself, have caused many errors in the computers of clients that my firm deals with. The time spent repairing the damage done by Windows" problems is time that is billed to the clients, costing them thousands of dollars each year. If the Windows APIs were more open, applications could be written to repair such damage automatically, or even avoid it in the first place. To be more clear, a monopoly is a bad thing, but a monopoly that deals in problematic products can be a fiscal and an emotional nightmare.

3. Drawing on what I've said in number 2, what is to prevent Microsoft from putting code into Windows to keep competitor's applications from running? There is a nigh-infamous rumor that there exists code in Windows to make Netscape Navigator, a competing product to Microsoft Internet Explorer, crash or perform improperly. While this has never been "proven", using Netscape on a PC with Windows is an exercise in futility and frustration, while Internet Explorer serves up the same web pages with little or no problems. To speak of things of more truth than rumor, Microsoft recently removed support for "Plug Ins" from its latest versions of Internet Explorer. This sent many developers scrambling to rewrite their software so it would still function. With Microsoft freely-able to do such things, there is harm to consumers, and also unjust harm to "competing" firms. As far as I understand, there is nothing in the proposed settlement that will truly be able to prevent Microsoft from these tactics, again. The source code to Windows must be monitored or known in such a way as to prevent malicious code from interfering with third party software.

To close, Microsoft is poised to extend its monopoly across many other facets of computerdom with its XBox video game console and its plans for .NET, a Framework for internet applications. Without a stronger settlement, the company's strangle-hold on software developers and consumers will grow even tighter. Computers are becoming integral in nearly all aspects of our everyday lives, and having one company with sole control of software is a very dangerous prospect. The brashness of Microsoft's illegal and immoral tactics are becoming an unfortunate trend in the world of business, and frighteningly, this goes hand-in-hand with a trend of government looking the other way and sticking it to the citizenry while these modern-day robber barons grow richer and more powerful. I realize that the job of government is a daunting one, but it is one that entails maintaining a balance of equality between all people, and at the moment, the balance is visibly shifted towards big business. There is a chance, here to make a true difference and return the realm of computers to one of general advancement of the technology, not just the advancement plans of one close-minded corporation. I hope the right decisions are made. Thank you for your time, and thank you for doing a job that I'm sure many others lack the fortitude to do.

Sincerely,
Eric B Venet
xanthus@earthlink.net
3 Lambert St
Narragansett, RI 02882
401–782–0259

MTC–00026872

From: Johnny Chidiac
To: Microsoft ATR
Date: 1/27/02 2:49pm
Subject: Microsoft Settlement

Dear Sirs:

I wish to express my extreme displeasure with the proposed settlement between the Department of Justice and Microsoft over the antitrust violations of Microsoft. As a matter of court record, Microsoft has proven itself, throughout the proceedings of the case, to be exceptionally opportunistic and absurdly unethical on a number of levels. It should be obvious that Microsoft will stop at nothing in order to prevail in this case (or anywhere else, for that matter) and therefore, that any remedy short of splitting the company would do little to curtail their predatory and unethical business practices. Microsoft is the big bully on the block—the kid that grew up bigger and faster than the other kids—and it will keep on bullying until someone bigger and stronger puts a stop to it. Thank you for your time.

Sincerely,
John N. Chidiac

MTC–00026873

From: Marlin N Bracken
To: Microsoft ATR
Date: 1/27/02 2:49pm
Subject: Microsoft settlement

I truly believe the settlement is fair and adequate. Let Microsoft get on with their business so they can further the computer skills of us seniors at a price that is affordable.

MTC–00026874

From: Jewel H White
To: Microsoft ATR
Date: 1/27/02 2:53pm
Subject:
Subject: Microsoft Settlement

I feel that the settlement offered recently is sufficient and this case should be closed. Otherwise, all the citizens of the U.S. are going to be deprived of future equipment that could make our lives easier and much more pleasant.

Please don't let this continue—the ones that benefit will be the ones that are only trying to take a good company down.

Mrs. J.H. White

MTC–00026875

From: Bob Sprenger
To: Microsoft ATR
Date: 1/27/02 2:54pm
Subject: Microsoft Settlement

As a result of their monopoly, Microsoft is able to deliver a very poor quality product. For example in my own case the following have occurred.

1. About 5 years ago I installed Internet Explorer (a Microsoft program) and immediately my Netscape web browser stopped working. It was necessary to remove both Internet Explorer and Netscape browser and reinstall Netscape to get the browser to work. Microsoft would probably suggest User error or some such, however; a search of the internet indicated mine was not an isolated incident.

2. Installed Windows 3.1 and found there was no compression software in the program as advertised. It turns out Microsoft was forced to remove the compression software because they "borrowed" it from another company.

3. Recently installed Microsoft Windows 98 second edition. Unfortunately, more quality problems, Microsoft included an invalid code to activate the the Operating System. Three days later the vendor supplied me with the proper code. In this case the code was one digit short. Since this code obviously uses a complex algorithm I can understand generating the wrong code, but missing one entire digit is just plain sloppy and displays once again a don't give a damn attitude.

4. My current copy of win98 is painfully slow when performing line printing. Slower than DOS, WIN 3.1, WIN 95, or Linux. Suspect another quality problem, but not defined as yet.

5. Last week I installed Quicken Turbo Tax. My first unrecoverable error in that program pointed at Internet Explorer. (a Microsoft Program)

I would like to dump Microsoft, but they have forced virtually all the application vendors to use their OS to the exclusion of other Systems. The susceptibility of Microsoft software to rogue virus programs is well known. This is scary, particularly when Mr. Gates says he will make security his main emphasis. Frankly its, way, way late for this "action". I put these statements in the same category as his highly publicized charitable contributions—Public Relations WINDOW dressing. My understanding of the penalties assessed Microsoft because of the antitrust suit, were minuscule and will not inhibit their monopolistic operation. I believe the chances for real originality and creativity in the home computer industry has been greatly weakened. Sadly it looks like our Judiciary caved in and lost this one to Micro$oft. Sadly so did the people.

Robert C. Sprenger
1184 Via Mateo
San Jose, Ca 95120

MTC–00026876

From: Bill Mundy
To: Microsoft ATR
Date: 1/27/02 2:54pm
Subject: Microsoft Case

204 Southwest 24th Street
Blue Springs, MO 64015
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

My name is Bill Mundy. I am a resident of Blue Springs, Missouri. I am writing to register my support for the settlement agreement reached in the Microsoft case.

Microsoft has provided great products. If people don't like them, they have other choices. Apple, Linux and others. I remember pre-windows computers with everyone creating non compatible software. Think of the jobs Microsoft has created. Think of the changes Microsoft has brought to our world. The government didn't create these changes, private industry did. Don't stand in the way of progress.

Microsoft has agreed to alter a number of its present business practices so as to create additional opportunities for software developers, distributors and consumers. Under this settlement, consumers will be afforded immediate relief as a result of Microsoft's agreement to open the Windows operating systems to competition from non-Microsoft software providers.

I hope that the public sees the wisdom in implementing this agreement rather than continuing the case in Court. I hope your department does as well.

Thank you for your consideration.

Yours truly,
Bill Mundy

MTC–00026877

From: HAROLD TUCK
To: Microsoft ATR
Date: 1/27/02 2:54pm
Subject: Microsoft anti-trust case

3213 Oakwood Boulevard S
Sarasota, FL 34237–6412
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I think it's high time that this whole Microsoft antitrust matter was over and done with. The government has no place interfering in private business. This is why I'm pleased that the settlement that you reached with Microsoft will mean an end in sight for this mess.

I know that everyone will respect what Microsoft had put on the table in order to end this whole matter. I can only hope, as a Microsoft supporter, that elements of the agreement, like giving over its code and intellectual property rights to its competitors, will not prove too damaging to the company.

I, along with every other American who depends on Microsoft products in his daily life, want to see an end to this whole affair.

Three years is far too long to wait for a final settlement and both sides have far more important issues to worry about.

Sincerely,

Harold Tuck

MTC-00026878

From: ted zaehringer
To: Microsoft ATR
Date: 1/27/02 2:55pm
Subject: Microsoft Settlement

forcing microsoft to gain marketshare is not much of a penalty no matter how you look at it.

this settlement sucks!

thanks.

ted.

MTC-00026879

From: Mark Miller
To: Microsoft ATR
Date: 1/27/02 2:57pm
Subject: Microsoft Settlement

Microsoft must be severely punished for it's arrogant monopolistic business tactics. In addition, Microsoft (practically) forces end-users to use most, if not all, of their applications by tying them (at times without choice) to their operating system. Break them up into three separate businesses:

Operating System
Desktop Applications
Internet Applications

Punish Microsoft in such a way as this which will encourage fair competition and innovation.

Regards,

Mark Miller

markm@swoon.net

MTC-00026880

From: Jan-Erik L(00E4)rka
To: microsoft.atr(a)usdoj.gov
Date: 1/27/02 2:57pm
Subject: Microsoft Settlement

Hi!

I am a user of the OS/2 operating system from IBM. I have found this to be a technologically superior product over the operating systems offered by Microsoft, including their latest version, Windows XP. Unfortunately, OS/2 has been in decline for a number of years from what I believe to be unfair monopolistic marketing tactics of Microsoft. As a result, vendors of OS/2 related products have also diminished over the years. Contrary to arguments by Microsoft that their products encourage competition, I believe the opposite is true; that Microsoft's marketing practices actually discourages competition and stunts technological growth. Consequently, I do not believe the Federal Government's proposed settlement with Microsoft, in its current form, is adequate and that stricter measures be imposed on the company to prohibit such tactics from being used in the future. In other words, I applaud the efforts to seek stricter measures and encourage the efforts to broaden the market for the interest of the consumer. In my opinion a settlement at this point wouldn't benefit the consumers interests.

Sincerely,

Jan-Erik L?rka

Bergsj?

Sweden

MTC-00026881

From: Daniel Herbst
To: Microsoft ATR
Date: 1/27/02 2:59pm
Subject: microsoft settellment
January 27 2002
Public Comment: Civil Action No. 98-1232

As mentioned in the competitive impact statement. Appropriate injunctive relief in an antitrust case should: (1) end the unlawful conduct; (2) avoid recurrence; and (3) undo its anticompetitive consequences. I believe that justice would not be served unless all three of these conditions are met in full.

How can the consequences of Microsoft's anticompetitive conduct be reversed without being forced to pay heavy fines? If Microsoft itself felt that even with its financial strengths and market position that it could not win the browser war without resorting to desperate tactics as stated by Christian Wildfeuer in February 1997 (MS7 004346) and by James Allchin on January 2 (MS7 005526) and by Paul Maritz on June 20 1996 (MS6 6010346), (MS6 6010347), then how could any competitor hope to breech the high berriers to entry into the same market with a fraction of Microsoft's resources? Unless Microsoft is forced to forfeit the riches it inappropriately acquired through unlawful business practice, the balance of a competitive market will not be achieved.

Microsoft has unjustly diminished and or destroyed economic growth of its competitors while at the same time reaping the benefits of this destruction. It is now publicly apparent that the vast and rapid growth of Microsoft was at the expense of both its corporate rivals and the paying public. A large part of any fines to be paid should be made payable to the Microsoft competitors that were most compromised to avoid creating inroads that would only serve to increase Microsoft market share. Take the market share that Apple computer enjoyed in the education sector before July 1994 compared to today as an example of compensation due.

An important point not mentioned in the Civil Action is the large financial ruin that the consumer himself/herself has had to absorb. Using myself as an example, I was forced to replace prematurely a sizable investment in computer hardware due to limited support and incompatibility issues. It is now apparent that Microsoft was at the forefront of these obstacles and responsible not only for the monetary loss, but also the personal ridicule and persecution I received for wanting to use an operating system other than Microsoft Windows. When Paul Maritz was quoted as saying we are going to cut off their air supply he should have realized that it would affect more than just his corporate rivals.

Daniel P. Herbst

MTC-00026882

From: thelitke@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 2:58pm
Subject: Microsoft Settlement

It is my opinion that the time has come to end this costly and damaging litigation.

MTC-00026883

From: William R. Fautch
To: Microsoft ATR
Date: 1/27/02 3:01pm
Subject: Fw: Microsoft settlement

-Original Message ——
From: William R.Fautch
Sent: Sunday, January 27, 2002 11:47 AM
To: microsoft.atr@usdoj.gov
Subject: Microsoft settlement
17304 N. Shady Lane
Newman Lake, WA 99025
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
e-mail microsoft.atr@usdoj.gov

Dear Mr. Ashcroft:

There has recently been a settlement to the antitrust lawsuit between Microsoft and the Department of Justice. While I do not agree with the relentless pursuit of the Microsoft Corporation, I am happy to see that a settlement has been reached. The United States government needs to move on and worry about more important issues.

Microsoft will now be working much closer and communicating much more with their competitors. They will be giving their competitors code and other information that makes up the Windows operating system.

They will also be allowing their competitors to remove Microsoft-made software from Windows, and replace it with non-Microsoft software. Enough is enough.

Microsoft agreed to terms that extend well beyond what was issue in the initial suit, just for the sake of ending this senselessness. I support this settlement and would like to see it implemented as soon as possible.

Sincerely,

Margaret L. Fautch

MTC-00026884

From: H P
To: Microsoft ATR
Date: 1/27/02 3:00pm
Subject: Microsoft Settlement

I think the proposed settlement is bad idea

Hetal Parikh

MTC-00026885

From: Wryjr@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 3:02pm
Subject: comment on the case

I totally disagree with the government's position regarding Microsoft. A close look at the history of this "case" indicates that this is nothing more than a group of unhappy competitors—unable to develop a product as good as or as marketable as Windows and related programs—whining to an administration that is all too happy to punish success in business (though, interestingly enough, they have no problem collecting Microsoft and other business" taxes to redistribute to those who are less productive!).

Bill Gates should be congratulated, not persecuted, for contributing to our Country's immeasurable advances in technology and business brought about partly because of Microsoft's universally compatible and user-friendly platform.

I dare anyone who disagrees to stand by their position and immediately remove all

Microsoft products (including Windows!) from their PCs.

Thank You
Bob Yesbek
Director of Education
Omega Studios School
CC:drhurd@drhurd.com@inetgw

MTC-00026886

From: Tami Krebs
To: Microsoft ATR
Date: 1/27/02 3:03pm
Subject: Microsoft Settlement

I resent that the government feels a need to defend me as if I am unable to choose software that is most useful for me. I do not think that the government has any right to choose what software should or should not be installed on my computer. I use Microsoft's products and I choose to use their products not because they are installed on my computer but because they are beneficial products. These products enable me to easily transfer information from one program (i.e Word, Excel) to another (i.e. PowerPoint, Access) without having to convert information, which makes me more efficient both at home and at work. Microsoft's programs are also compatible with my Palm, which is easy for me to take information from my calendar at work and my calendar at home to sync them up. Please note, I have decided to use the Palm operating system, not Microsoft CE. In no way has Microsoft ever made me use their products. I cannot believe that Microsoft, a successful business, and its products (Microsoft Office Suite among others) are a threat to anyone.

Please remember that this complaint stems from Microsoft's unsuccessful competitors not the the individuals who use the products. Unsuccessful businesses must not be allowed to set the rules for the markets in which they failed. Continued application of the antitrust laws against successful businessmen like Microsoft Chairman Bill Gates can only lead to corruption and economic disaster as shown in many other countries.

I believe the United States should embrace success not throttle it. The United States should also be a place where anyone who works hard and exhibits intelligent decision making has the freedom to become a self-made person, just like Bill Gates is. This is the United States that would make me proud to be an American. Lastly, and most importantly, Microsoft has a fundamental right to its property. It is the government's job is to protect this right, not to take it away. With this in mind, please consider all of these points in your decision regarding Microsoft.

Thank you.
Sincerely,
Tami Krebs
15 Mallard Court
Mechanicsburg, PA 17055
orion@epix.net

MTC-00026887

From: Jeffrey Y. Sue
To: Microsoft ATR
Date: 1/27/02 3:03pm
Subject: Microsoft Settlement

The proposed settlement of the Microsoft anti-trust lawsuit does not go nearly far enough to curb the predatory anti-trust activities of Microsoft. When ATT and Standard Oil were brought to justice for anti-trust activities, both companies were broken apart with considerable restrictions on their actions. Microsoft should be broken apart into at least 4 companies: two competing operating system companies and at least two competing application companies. The competing operating system companies should truly compete by price, reliability and features, and should not be allowed to cooperate with each other. Similarly, the application companies should compete and not be allowed to cooperate. Microsoft has many tentacles, just as Standard Oil did, and some of these other products should be broken off into other companies, e.g., the internet provider MSN, hardware products such as mice, keyboards, and joysticks, the Microsoft television internet hardware, and the consumer game hardware, XBox. Unless Microsoft is broken up into competing companies, the American consumer, and competing American companies will all be losers, and ultimately, so will all Americans.

Jeffrey Y. Sue, MD
PO Box 25763
Honolulu HI 96825

MTC-00026889

From: Sean and Charlene McGrew
To: Microsoft ATR
Date: 1/27/02 3:03pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I am writing to you regarding Microsoft's Proposed Final Judgment as a concerned citizen. I urge you to critically examine the politics involved in this proposal, which sounds suspiciously and alarmingly lenient for a company that has been proven to be in violation of Antitrust laws. On numerous occasions Microsoft has abused its position as an illegal monopoly, adversely affecting several growing companies and thousands of Americans working to find their place in a competitive free-market. Antitrust laws were put in place to foster an environment of healthy competitiveness which would in turn further technology and stimulate the ecomomy. However, I do not believe that the PJF satisfactorily addresses Microsoft's violations in a way that this antitrust activity will be punished or come to an end. In fact, the PJF seems to be doing just the contrary, by conveying the message that their illegal activities are condoned, perhaps even encouraged. I am afraid of what might happen next to this freedom we have tried so hard to preserve if such an injustice is carried out and such a precedent set.

I trust that you will deal with this issue with wisdom and integrity so that justice will be served. Respectfully, Charlene Chen McGrew Sean and Charlene McGrew 4111 Walnut Street #608 Philadelphia, PA 19104 (215)349-6392

MTC-00026890

From: lesrose
To: Microsoft ATR
Date: 1/27/02 3:06pm
Subject: Micro Soft Settlement

Dear Attorney General Ashcroft:

I have been following this Micro Soft case since the government originally went after them and for the life of me can't see us continuing to spend tax dollars pursuing something that in my opinion should never have gone as far as it has. The other complaining Companies are doing well in the market place and I believer Micro Soft is being penalized unfairly for being too successful. Let's put an end to this and settle it the way it has been proposed and get along with other business that has some real meaning to our country like Terrorism, our Economy and a hundred other things that would make better use of our resources as a nation. I think you personally have done a great job since taking over your present position and I" just urge you to concentrate on those things that have meaning for the majority of American and get this Micro Soft business behind us.

Thank your,
Les Bouzek
133 Highway D
Kaiser, Mo 650476

MTC-00026891

From: Darin O.
To: Microsoft ATR
Date: 1/27/02 3:07pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotelly,

I am opposed to the proposed Microsoft Antitrust settlement. The focus of the remedies should be to disgorge any and all additional monopolies created by Microsoft as a result of its illegal use of its OS monopoly, and prevent Microsoft from forming new monopolies (from the illegal use of its OS monopoly). The current settlement allows Microsoft to keep these new monopolies (especially the browser monopoly, a PIVOTAL Internet technology) and does not adequately protect the United States from the illegal use of the OS monopoly in the future.

Special attention must be given to this defendant. It has shown great contempt for all parties opposed to its monopolistic domination of the software market, this includes the judicial system. Microsoft has ignored past judicial orders from previous cases (i.e. the 1994 consent decree), lobbies the Legislative and Executive branches to step on the Judicial branch (and then misrepresents its lobbying efforts), and continues to develop products that extend its monopoly into other product categories.

The proposed Microsoft Antitrust settlement must be thrown out, and re-worked. The nation puts its trust in you to guide this process.

Yours Very Truly,
Darin H. Okuyama

MTC-00026892

From: Donald Kleyensteuber
To: Microsoft ATR
Date: 1/27/02 3:06pm
Subject: Microsoft Settlement

The settlement does nothing to resolve the main monopoly issue: Microsoft's unfair use of its monopoly to take over the market for browsers by including their browser in their operating system. Most computer users do not have the skills needed to make the browser they prefer work properly without interference from Microsoft's. Microsoft should be required to remove their browser from the operating system and clean it up so that any browser may be used.

So far the government and the courts have done little or nothing to require meaningful corrective actions by Microsoft.

Donald Kleyensteuber
CC:Dan Gillmor

MTC-00026894

From: DJMaytag
To: Microsoft ATR
Date: 1/27/02 3:22pm
Subject: Microsoft Settlement

I would to state that as a result of Microsoft's monopolistic actions on the computer industry, one of the choices I had as a consumer for what I would like to have on the desktop of my computer, has effectively been removed by Microsoft's actions, namely in limiting access of any other operating system to be installed alongside any Windows operating system.

This limiting of choice to consumers has resulted in two areas which has hurt me as a consumer:

(1) I cannot go to any computer retailer and choose which operating system I would like in my computer. If I want to use another operating system on my desktop, I have to purchase either a computer with no operating system AT A HIGHER COST or assemble a computer from the various components which make a computer, also AT A HIGHER COST to me as a consumer.

(2) The restrictions have forced other companies out of business, ones which I could choose to use their products on my desktop. This is narrowing the options of operating systems available to me as a consumer, as more and more companies go out of business due to Microsoft putting up barriers to enty to anyone wishing to have an operating system product placed on a desktop computer.

I urge you to take action which will reverse the situation this I face as a consumer that is paying the price for Microsoft's monopolistic actions.

Mitch Anderson

MTC-00026896

From: Bj(00F6)rn S(00F6)derstr(00F6)m
To: microsoft.atr(a)usdoj.gov
Date: 1/27/02 9:17pm
Subject: Microsoft Settlement

Dear Attorney General,

I am a user of the OS/2 operating system from IBM. I have found this to be a technologically superior product over the operating systems offered by Microsoft, including their latest version, Windows XP. Unfortunately, OS/2 has been in decline for a number of years from what I believe to be unfair monopolistic marketing tactics of Microsoft. As a result, vendors of OS/2 related products have also diminished over the years. Contrary to arguments by Microsoft that their products encourage competition, I believe the opposite is true; that Microsoft's marketing practices actually discourages competition and stunts technological growth. Consequently, I do not believe the Federal Government's proposed settlement with Microsoft, in its current form, is adequate and that stricter measures be imposed on the company to prohibit such tactics from being used in the future. In other words, I applaud your efforts to seek stricter measures and encourage you to stand your ground.

Sincerely,
Bj?rn S?derstr?m
?sterbybruk
Sweden

MTC-00026897

From: rvbeard@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 3:16pm
Subject: Microsoft Settlement

Dear Sirs:

Consumer interests has been well served and it is time to settle this costly and damaging litigation now. Please do not keep this going. It is the average person who is to be served and not big business. As an individual I think it is time to stop now.

Thank You,
Sincerly,
Richard Beard

MTC-00026899

From: Betsy Lehrfeld
To: Microsoft ATR
Date: 1/27/02 3:19pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Re: Proposed Microsoft Settlement

Dear Ms. Hesse:

I write to object to the proposed settlement as not being in the public interest. The settlement leaves the Microsoft monopoly intact. It is vague and unenforceable. It leaves Microsoft with numerous opportunities to exempt itself from crucial provisions.

A solution to the Microsoft monopoly problem should be market based and self-enforcing. Any solution that requires constant policing and is perceived as punitive will only contribute to Microsoft's sense that it has been wronged and encourages a culture of evasion ? already evident in various recent Microsoft actions.

The answer is to take away Microsoft's ability to exercise monopoly power. To do this, the applications barrier to entry must be reduced or eliminated. Any settlement or order needs to provide ways for consumers to run any of the 70,000 existing Windows applications on any other operating system.

Consumers need a la carte competition and choice so that they, not Microsoft, decide what products are on their computers. The settlement must provide ways for any combination of non-Microsoft operating systems, applications, and software components to run properly with Microsoft products.

The remedies proposed by the Plaintiff Litigating States are in the public interest and absolutely necessary, but they are not sufficient without the remedies mentioned above.

The court should hold public proceedings under the Tunney Act, and these proceedings must give citizens and consumer groups an equal opportunity to participate, along with Microsoft's competitors and customers.

Thank you for your attention.

Betsy E. Lehrfeld
7214 Blair Road, NW
Washington, DC 20012
(202) 882–6664

MTC-00026900

From: S. Gallagher
To: Microsoft ATR
Date: 1/27/02 3:12pm
Subject: Microsoft Settlement
January 27, 2002
Renata Hesse
Trail Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530
Email: microsoft.atr@usdoj.gov
Re: Microsoft Proposed Final Judgement Comment

Dear Sir or Madam,

Thank you for the opportunity to comment on the proposed Microsoft Final Judgement. My comments center around minor modifications to subsections III.A.2 and III.C.4 concerning original equipment manufactures (OEM) installation of alternative operating systems. Given the central importance of restoring competition for antitrust relief I believe that clarification of subsection III.A.2 and III.C.4 and an additional aspect of the extant OEM operating system license arrangement merit consideration. I hope that you will concur that these adjustments will enhance the possibility that competition may one day return to the present monopoly in the personal computer market.

A. Subsections III.A.2 and III.C.4 both refer to OEM's shipping personal computers with products in addition to Microsoft products or multiple operating systems. The language in these provisions would not prohibit Microsoft from retaliating if an OEM offered consumers a single alternative operating system. Given that a monopoly was found to exist and that the purpose of antitrust enforcement is the restoration of competition, shouldn't OEM's be able to offer consumers alternatives without fear of retaliation from the monopolist?

B. At present the OEM Windows Operating System license requires recourse to the OEM by a consumer if the consumer does not accept the terms of the licensing agreement. If consumers remove an OEM installed Windows Operating System product before using it they should be insured of recompense from either the OEM or Microsoft. Given that Section III.B requires the publishing of the royalty schedule for Windows Operating System Products it should be possible for consumers to know the exact cost of the OEM installed Windows Operating System and, as a result, their corresponding recompense if they chose not to accept the license. Given this information a consumer could make a rational choice between the OEM installed Windows Operating System and some other alternative operating system. Given that a monopoly was found to exist in the Personal Computer operating system market, it seems the Proposed Final Judgement should insure that customers are not needlessly charged for the monopolist's product if they do not use it. As a customer, I should not have to buy a product I don't want. If I do not agree to Microsoft's licensing agreement language, my recourse should include them, not only the OEM.

Microsoft can make very good products, this comment is being created and transmitted using them. I applaud the efforts towards reaching an appropriate settlement.

Thank you for your time and the opportunity to comment.

Sincerely,
Scott Gallagher
3229 Taylor Spring Lane
Harrisonburg VA 22801

MTC-00026901

From: stbl45@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 3:22pm
Subject: settlement

Please settle this dispute and let's get on with life. Hasn't the economy suffered enough?

MTC-00026902

From: Lloyd E Wiles
To: Microsoft ATR
Date: 1/27/02 3:24pm
Subject: Microsoft Settlement

I believe in American Free Enterprise. If we out preform our competitors we should be able to reap the benefits of our hard work.

I feel the break up of the telephone company was a disservice to the American public as would be the breaking up Microsoft.

I think to further penalize Microsoft would a blow to free enterprise in America.

Please drop any further action.
Lloyd Wiles
34 Peavey Ave.
Windham Maine 04062

MTC-00026903

From: Andrew Pizzello
To: Microsoft ATR
Date: 1/27/02 3:24pm
Subject: Microsoft Settlement

To Whom it May Concern:

Microsoft has unlawfully used its monopoly power to greatly subdue the competition, causing damages to many companies including Apple Computer, Inc. and consumers worldwide. It is to my knowledge that Microsoft Corporation holds approximately 90% of the computer operating system market.

Naturally, consumers have a minuscule selection of products and services from Microsoft's competition when 90% of the personal computers purchased are sold preinstalled with Microsoft Windows and other Microsoft technologies such as Internet Explorer, MSN Internet Service, and MSN Messenger. Many beginners and new computer buyers will be unaware of other products and services available with the vast array of Microsoft products already installed on the computer for their 'convenience'.

Microsoft's acts are in violation of the Sherman Act. These anti competitive actions have caused great damages to innovative companies accepting the challenge to legally compete and base their successes on customer loyalty and quality. Many companies have incurred staggering losses due to Microsoft's negligent business practices. For example, Apple Computer, Inc. was financially handicapped by Microsoft's operating system monopolization between the years 1995–1998. After being criticized by industry veterans, Microsoft invested capital into Apple Computer in order to keep operations functional for the sake of hiding future allegations.

The fall of Apple Computer would have provided Microsoft, Inc. with 95% of the world's personal computer operating system market.

The overwhelming market share percentage is a strong indication of unfair business practices and violation of United States law. I am fully in support of any consequences Microsoft, Inc. should incur during the court proceedings. For the future of fair business practices, I ask that the U.S. Department of Justice prosecute Microsoft, Inc. within full accordance of the United States Constitution.

Sincerely,
Andrew Pizzello

MTC-00026904

From: Gabrielle Comfoltey
To: Microsoft ATR
Date: 1/27/02 3:27pm
Subject: Settle the Microsoft Case Please!!

Please settle the case against Microsoft for once and for all and let this company get back to doing what it does best—contribute to the world economy and its people.

The extent of damage that the DOJ's actions have had and will continue to have on technology innovation and American enterprise is totally out of proportion to the "crime" that Microsoft has been deemed to have committed.

Yes, Microsoft used aggressive tactics to secure its business. So to do a multitude of other large corporations.

Microsoft is one of the most successful companies to be built EVER! It has provided thousands and thousands of jobs and created untold wealth not only for its owners and employees but also for the millions of shareholders.

Thanks to the continuing vendetta against the company by the DOJ and the nine states and their lawsuits, millions of dollars in pension funds and senior's investment accounts have been lost.

ENOUGH IS ENOUGH.

I believe that the DOJ is taking too much control into its own hands. The government should not be trying to control business to the extent that is.

After Microsoft, who will be next? In many respects I think that the various government lawyers need to continually justify their existence. As I stated in a previous email, fighting a battle in the courtrooms and boardrooms against successful companies is not what I consider to be the primary role of our judicial system. Microsoft, and its founders Bill Gates and Paul Allen, through their phenomenal success have been able to give incredibly generous public gifts to the schools, the arts, health organizations, etc. Why is the government so intent on destroying the creative initiative of our most brilliant entrepreneurs. Surely Scott McNeely and Larry Ellison when they spearheaded this rout of Microsoft didn't have in mind that the entire industry should be turned on its head.

This government, and indeed the nation, has its priorities wrong. There are a multitude of SERIOUS issues facing our nation and what do we have taking up huge amounts of time and money?

I am sure it is easier and more lucrative for the lawyers and politicians to spend countless hours and taxpayer dollars on meetings, high priced hotel and board rooms, expensive retainers and offices, etc etc than on the real but not so "tidy" issues that plague America. If the governments and their agencies would spend half the time and energy on the less glamorous issues just think what could be accomplished. Where do I think government dollars should be directed: Here are a few suggestions:

Housing for the ill, homeless and future boomers who will not be able to find accommodation as they approach the next decade.

Adequate health care for everyone.

Repair and replacement of the infrastructure in our cities and towns. Neglect of the basic infrastructure—the roads, freeways, sewer, water and power conduits—will result in a breakdown of many systems if these are not dealt with on a proactive basis.

Repair of our schools and school systems. Our children and teachers are being shortchanged. We do not need government intervention in the education curriculum as much as we need government support to provide healthy, safe, properly equipped classrooms and support for better teachers.

Fix the unequitable system of justice wherein we have first time offenders and youthful offenders incarcerated with hardened criminals.

And, of course, use the government's resources to continue the fight against terrorism, both external and domestic, and work with our nation's largest companies rather than against them.

I could go on, but you get the picture.

—SHOULD HAVE THE COURAGE TO MAKE SOME SENSE OF THIS MICROSOFT CASE. DO NOT THROW OUT THE BABY WITH THE BATHWATER. LEAVE MICROSOFT ALONE AND GET ON WITH TAKING CARE OF THE REAL NEEDS OF THE NATION!

MTC-00026905

From: Bobbie Bamford
To: Microsoft ATR
Date: 1/27/02 3:28pm
Subject: MICROSOFT SETTLEMENT

TO THE JUSTICE DEPARTMENT. . . . .

DO YOU KNOW WHAT JUSTICE MEANS??? DO YOU REALLY BELIEVE YOU ARE BEING FAIR TO MICROSOFT REGARDING THIS SETTLEMENT? THIS IS "SUPPOSED" TO BE A "FREE" COUNTRY—THE LAND OF OPPORTUNITY??!! MICROSOFT HAS DONE WONDERS FOR OUR ECONOMY, WHICH NEEDS ANOTHER "BOOST" RIGHT NOW. YOU "BIG-WIGS" AND OUR GOVERNMENT HAVE NO IDEA WHAT A TOUGH TIME THE MIDDLE CLASS AMERICAN IS HAVING RIGHT NOW

NOR DO I THINK ANY OF YOU CARE! YOU HAVE THE COUNTRY BY A TAIL WHILE YOUNG COUPLES WITH FAMILIES CANNOT MAKE ENDS MEET BECAUSE WE ARE TAXED TO DEATH.

I THINK WASHINGTON DC HAS ENOUGH TO DO WITH OUR TERRORIST SITUATION AND THE THEIVES OF ENRON WITHOUT WORRYING ABOUT MICROSOFT.

SINCERELY,
BOBBIE BAMFORD
ARIZONA

MTC-00026907

From: Frank Zepf
To: Microsoft ATR
Date: 1/27/02 3:30pm
Subject: Microsoft Settlement

I wish to express my opinion on the Microsoft Settlement,I feel that it is fair to all parties concerned.

Many of Microsoft's competitors oppose the agreement for their own good and are trying to generate public comment urging that it be rejected.

Microsoft has a good product and if someone does not like it let them buy something else.

If some does not like the Internet Explorer you can download Netscape for free.

Thank you,
Frank V. Zepf
52 Pennsylvania Ave.
Massapequa,NY 11758–4838
Phone 516–798 0353

MTC-00026908

From: Grubert
To: Microsoft ATR
Date: 1/27/02 3:29pm
Subject: Microsoft Settlement.

We are opposed to the Micosoft Settlement because it has insufficient guarantees that Microsoft will not continue to use it's desktop monopoly to damage competition.

Please consider that Microsofts programming API's are the computing equivalent of legal contracts, and must be consistant and stable in order for competition to be meaningful. It would be wise to find some way to ensure that Microsoft does not use changes in it's API only to trip up competitors products by changing behaviours in the undefined areas of this technical contract.

A contract must be clear, sufficiently complete and retain it's meaning over time. So should a published API spec by a monopolist.

Given that the API is now the playing field of software product competition, the API is an area that needs to be regulated.

In addition, OEM licences for MS products should be the same, i.e., MS should not be able to favor one OEM vendor over another as this allows them to punish OEMs for offering competing products.

Thank You
G.R. Svenddal
Gromit Consulting
Minneapolis MN.

MTC-00026909

From: Allen Tien
To: Microsoft ATR
Date: 1/27/02 3:32pm
Subject: Microsoft Settlement

The problems with MS reflect larger and very important issues on a national and international scale. What is the role of government in regulating huge multinational corDoratiOns? Why is there a growing pattern of manipulation and a widening gap between what corporations say and what they do? The recent emergence of unethical and probably illegal behavior at Enron and Anderson is only the latest of a number of known cases. There are certainly many more questionable but not publicly questioned situations. In the case of Microsoft, their pattern of disingenuous statements, distortions, and outright lies appears to be based upon their assumption that the average user does not understand information technology and the market dynamics of information technology, and that lawmakers and judges also don't understand. That pattern has been present since early in Microsoft's history. Most recently, they have added more "standard" American business practice, making large cash contributions to politicians, and hiring teams of lobbyists.

One of their main themes is that they are always doing whatever they do for the "benefit of the customer." They repeatedly make statements about innovation and competition and serving the interests of customers, but these statements fly in the face of their own history. They imply that customers are those who accept Microsoft big brother version of reality, and label others as frustrated competitors who resort to legal attacks rather than innovation, or the "cancer" of open source software such as Linux (which they cannot control or co-opt). Depending upon the specific context, at times the degree of hypocrisy seems to approach delusion. Microsoft has not been averse to using legal tactics, threats, and lawsuits to try to achieve their goal of complete domination.

Meanwhile, they continue to design their products and product strategies to create dependencies, using their control of the desktop operating system to undermine competing applications such as WordPerfect. For most users, there is not much difference between Word, Wordperfect, Ami Pro, or other word processing packages, spreadsheets, or presentation slide system. Why is then is Microsoft Office's market share so large?

In the same way Microsoft crushed Netscape they crushed WordPerfect, which at one time had similar market share as Netscape. Microsoft Office was pushed onto users using the same or similar tactics that were used to push IE onto users. Now that Microsoft has a monopoly not only with the operating system but with Office, they continue to manipulate users through technical issues such as file formats. For example, the default installation of Microsoft Office does not include the import filters for WordPerfect files. It is not unusual for Word users who receive a WP file to think that the file is damaged or incompatible because when they try to open a WP file, Word will generate a message that suggests something is wrong. Even if the user understands that it is easy for Word to import a WP file if the import filter is installed, they may not have convenient access to the Office CD to install the filter. These relatively small maneuvers nevertheless add up to continued pressure on users to use Office, further cementing this application stranglehold, while Microsoft might still claim that they "fully support" interoperability with other applications.

As person who bought his first PC in 1986 and has used different version of DOS, Windows, Mac, and Unix-based operating systems, and who has been involved with software development for many years, I have observed Microsoft's business practices from a technically intimate perspective. I have seen first hand phenomena such as Windows 3.1 generating an error with Digital Research DOS (DR-DOC). It seemed like sabotage then, and subsequent evidence indicates that it was in fact deliberate. I used disk compression utilities from a company that was subsequently put out of business by Microsoft's continuing "integration." I recall the out-of-court settlement where Microsoft paid over $100 million to Stac, a disk compression vendor that had first worked with Microsoft and was then dumped by Microsoft. After dumping Stac, Microsoft released their own disk compression bundled with DOS, essentially taking away the market from Stac. It was technologically clear that Microsoft had stolen Stac's intellectual property, but because the settlement was out-of-court, they never admitted any wrong-doing. One wonders if Bill Gates or Steve Allen or other at Microsoft really think they did anything wrong or not.

After Windows version 1 and 2, Windows 3.11 was finally usable, and did offer useful functionality. At that time Word Perfect was, arguably, the best word processing application available. Why then did every computer come with Microsoft Word? It was an inferior product for many years. It seems that it was because of Microsoft's bundling and pricing manipulations of PC manufacturers and distributers. It was not due to market demand, at that time. Microsoft understands very well the dynamics of market choice, and the pressures placed on customers when an increasing number of people use their products. Why did they change file formats with each new version of Word? They claim it was for technical reasons, but in typical Microsoft fashion, that claim is misleading. There may have some minor technical reasons, but the larger and obvious reason is to shift the dynamics in their favor. Why do they currently not provide conversion filters for Wordperfect as the default installation? As a person who continues to use Wordperfect, when I send files to colleagues, many of them are unable to import the files into Word, and because they do not understand the inner workings of Word and Microsoft's compulsion for market dominance, they tell me things like "Your file was bad," or "Word cannot import the file." Of course it is easy to install the import filter (if one can find the Windows CD). But for many people, this creates a significant barrier. This is one of the many ways that Microsoft uses their illegal monopoly to leverage even greater market share and to create false impressions that other software is inferior or incompatible.

Using revenue from their monopoly to give away products to destroy competing companies, such as Netscape, is an obvious example. Outright sabotage is perhaps a thing of the past. However, even recently they have been found by Kodak to have configured Windows XP in a manner to undermine Kodak and foster Microsoft products. Again, this is behavior that emerges in numerous ways, relentlessly using their monopoly in every possible way to expand their market range and control. Their fervent claims to be doing all this entirely for the customer border upon delusion. Surely all companies are trying their best to provide customers with great products. It just happens that one of them controls the core technology, the operating system, that other applications all depend upon. Their use of this was found to be illegal, and the appeals court affirmed this. Unfortunately, the decision to split the operating system and application parts of Microsoft into two companies, which is the only full remedy, has been reversed. It needs to be reinstated. Why is this the only remedy that will be effective? Why should be government and the courts undertake this draconian step? Why shouldn't we just "let the market decide?" There are many complex legal arguments, but I believe the main issue is simple. The antitrust law that is currently in place was based upon consideration of the role of government with respect to unfettered growth in the late 1800's and early 1900's of large corporations such as Standard Oil. This was a period that could be characterized as robber capitalism, where anything goes. It resulted in the establishment of industrial systems that provided consumers with good things. But it also concentrated power into the hands of a relatively small group. The relentless nature of power was recognized by our founding father, hence the checks and balances that are a fundamental part of our society. It is important that the balance of power be maintained. It is a serious issue for our future. If the distribution of power is no longer balanced, we risk adverse and even destructive consequences. Microsoft has been successful in lowering costs relative to early monopolies such as IBM, and being part of the rapid growth of personal computers (they claim they are responsible for this, but it is not hard to imagine that the demand was there and they rode the wave, rather than creating it). But the thinking and tactics they used to gain dominance were destructive to other companies and to customer choice all along, and now that they have even more power, all the evidence suggests that they will continue to use it in the same manner.

As another example of their thinking, it is now apparent that Microsoft considers open source software such as Linux, Apache, and other software to be a threat to their market control. They have called open source software a "cancer." At they same time they make statements about the importance of being allowed to compete without restrictions. It would be fine and wonderful if Microsoft was to use their huge resources to compete on the basis of really improving their products. It is not fine and wonderful that they be allowed to continue using their monopoly to manipulate and force customers to use their products.

We use Microsoft Windows as our development and implementation platform. With Windows 2000 and XP, it has finally become a reasonably stable and effective operating system. However, I do not use Microsoft Office, Explorer, Microsoft development tools, Outlook, or other Microsoft products and tools. There are alternate products and tools that are not only equal but superior to Microsoft products and tools. However, each incremental step the Microsoft takes appears to be designed to increase the pressure to use Microsoft products and tools. We do not want to be forced to do so.

To provide some personal background, I am a licensed physician and Board Certified psychiatrist who also has a Master's degree in biostatstics. I was a tenure track faculty member at the Johns Hopkins School of Public Health with a joint appointment in the Johns Hopkins School of Medicine from 1988 to 1997. Since then I have been engaged as the President of Medical Decision Logic, Inc., a small medical and public health software company. Hence I consider the Microsoft situation from several perspectives, as an experienced user, a software designer and developer, from broader social and cultural perspectives, and from a psychiatric understanding.

Based upon Microsoft's long-standing pattern of behavior and relentless drive to greater market power, heedless of ethical and most recently legal rules, I conclude that the only remedy that can prevent continuation of the same behavior is a structural remedy that separates and frees Microsoft divisions to compete fairly in their markets. Simply put, the operating system group will be free to support all applications without engaging in discouragements and subtle sabotage for competing applications, and the application group will be free to create applications for all platforms, including Linux platforms. This would result in even greater contributions to the market and better choices for customers.

Any remedy or settlement that is not structural is unlikely to be effective, because otherwise Microsoft will continue to be Microsoft, a highly aggressive, unethical, and illegal monopoly that does not respect the government, the courts, or anyone who disagrees with them.

Allen Y. Tien, MD, MHS
President and Research Director
Medical Decision Logic, Inc.
724 Dulaney Valley Road
Towson, MD 21204
&
Clinical Associate Professor
West Virginia University School of Medicine
Department of Behavioral Medicine and Psychiatry
West Virginia University
Morgantown, WV
web site address: www.md-logic.com or www.mdlogix.com
tel: 410–828–8948, 410–821–5618
fax: 410–828–8948

MTC–00026910

From: Colin Chicoine
To: Microsoft ATR
Date: 1/27/02 3:32pm
Subject: Re: Applelinks—The MACINTOSH Portal!

I will excuse my self for my english witting skills.

I would like to take this moment to ask the US justice department to break apart MICROSOFT as much as you legally can so no one software company can ever regain control of the market. I as a consumer do not like to be told what to buy. but for the last 10 years the only operation system available to the home market was Microsoft windows.

Just recently are we seeing other operating systems more available to the public thanks to the publicised Microsoft anti trust case. New applications for the "other" operating systems are making there way to the market but still Microsoft buys off bright ideas and keeps them excluesif for the Microsoft Operating system. Take for example Halo from Bungie Software. This was and is a revolutionary action game that was developed for Apple Macintosh computers. This was going to give a tremendous boost to the Macintosh operating system. But not to long ago Microsoft bought off Bungie. Now with no guarantees for a Macintosh release I just pray! I also would like to mention that Microsoft should be forced to follow the internet, video, mp3 standards and ban Microsoft the development of such new standards without the aprouval of the software developping community.

Make Microsoft pay for there abusive practices because if you don't they will be stronger.

Colin Chicoine
Canada, Quebec

MTC–00026911

From: Donald Lee
To: Microsoft ATR
Date: 1/27/02 3:33pm
Subject: January 27, 2002
January 27, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I would like to voice my support for the settlement of the Microsoft case. It is high time that this case comes to an end. This case is an embarrassment to American business, as Microsoft has merely adopted an aggressive business strategy and created products that gave them an edge in the market. This is what business is all about, but now Microsoft is forced to defend their success and change their entire way of doing things.

As part of the settlement, Microsoft is going to give away their source codes and server protocol, even though it should be protected as part of their own intellectual property.

But they are willing to give up a lot so that this lawsuit can be ended as soon as possible.

Please do your part and see that Microsoft is not further punished for transforming our computer industry into an international model of success. Please accept this settlement, it is the right thing for our struggling economy.

Sincerely,
Donald H. Lee
Ann R. Lee

MTC-00026912

From: cjbells
To: Microsoft ATR
Date: 1/27/02 3:33pm
Subject: Microsoft Settlement
12134 SE 13th Street
Bellevue, WA 98005
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As someone who has not supported the harsh direction of the government's anti-trust lawsuit against Microsoft Corporation, I would like to add my approval of the pending legal settlement. This is a realistic compromise that should please all parties involved and halts the ongoing waste of taxpayer dollars that would be better spent on our terrorism effort.

With this fairly negotiated agreement, both sides have pledged to several significant steps that will encourage competition in the software market. Software developers will receive access to Microsoft technologies and be able to license its intellectual property, while enjoying the increased flexibility of computer makers to select the software programs of their choice. The continuing verification provided by a technical committee of software experts should make this plan quite productive when implemented.

As our economy struggles to rebound from a weak stock market and ongoing recession, it seems like a measured solution would be the best one to this dispute at this point. Please accept these very balanced terms and allow the new economy to stabilize and grow without further disruption.

Sincerely,
Clyde Bell

MTC-00026913

From: Aedis
To: Microsoft ATR
Date: 1/27/02 3:36pm
Subject: Microsoft Settlement

I am writing to voice my dissatisfaction with the following elements of the proposed final settlement (PFJ) reached with Microsoft:

The PFJ doesn't take into account Windows-compatible competing operating systems

Microsoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry.

The PFJ defines "API" in a way that allows for exploitation by Microsoft.

The PFJ defines "Microsoft Middleware" in a way that allows for exploitation by Microsoft.

The PFJ allows users to replace Microsoft Java with a competitor's product—but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft.NET with competing middleware.

The PFJ defines "Windows" in a way that excludes many applicable Windows-based products.

The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware—but only after the deadline for the ISVs to demonstrate that their middleware is compatible.

The PFJ requires Microsoft to release API documentation—but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.

The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents.

The PFJ does not require Microsoft to list which software patents protect the Windows APIs. This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users.

The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft, which is unacceptable for many reasons including:

1. Microsoft currently uses restrictive licensing terms to keep Open Source or Free Software apps from running on Windows.
2. Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems.
3. Microsoft's enterprise license agreements (used by large companies, state governments, and universities) charge by the number of computers which could run a Microsoft operating system—even for computers running Linux. (Similar licenses to OEMs were once banned by the 1994 consent decree.)

The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft, which is unacceptable for many reasons including the following:

1. Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems.

The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs

The PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

The PFJ allows Microsoft to discriminate against small OEMs—including regional "white box" OEMs which are historically the most willing to install competing operating systems—who ship competing software.

The PFJ allows Microsoft to offer discounts on Windows (MDAs) to OEMs based on criteria like sales of Microsoft Office or Pocket PC systems. This allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas.

The PFJ as currently written appears to lack an effective enforcement mechanism.

I respectfully insist that this settlement be rewritten to correct these issues. The corrective measures I support can be found at http://www.kegel.com/remedy/remedy2.html.

Thank you for your time and consideration.

Sincerely,
Brian Schallhammer

MTC-00026914

From: KERNLHANDY@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 3:36pm
Subject: Microsoft Antitrust Case
Renata B. Hesse
Antitrust Division
US Dept of Justice
601 D St NW
Suite 1200
Washington, D. C. 20530-0001

Dear Ms Hesse,

I am deeply disturbed that the Department of Justice (DOJ) has moved to settle with Microsoft (MS) in a manner that leaves consumers and professionals subjugated to dictatorial business practices. I have a quarter century of experience in logistics and as a marketing/communications consultant. In these roles, I've observed how monopolistic MS information technology (IT) inhibits productivity. As a proposal developer working on numerous bids with IT companies for commercial and government contracts, I hear frequent complaints from clients and co-workers about the limitations of MS systems and software and their lack of compatibility and interoperability.

The well-documented MS shortcomings are costly and prevent hardware and software competition that could speed innovations and IT accessibility to more consumers around the world.

During my career on active duty and in the reserves with the U. S. Air Force our government passed competition legislation to resolve problem problems such as the $600 hammer and $1000 aircraft toilet seat that gained such media notoriety in the 1980s. Similarly, any resolution of the MS case that does not maximize competition and consumer choice is not in the best public interest.

At it's most basic level, any resolution of the MS anti-trust case must provide complete information needed for software developers to:

1. Write an affordable and complete Windows Application Environment so Windows applications run on other operating systems without modification;
2. Create products that exhange files, data, and services with any MS product;
3. Replace components in Windows, Office, and Internet Explorer with superior or special purpose components; and
4. Modify MS software to run properly on computers wtih different microprocessors.

Without these settlement provisions, consumers working with the 70,000 MS Windows applications will continue to face unnecessary costs, limited choices, operational complexity, and reliability problems.

Enforcement provisions in the proposed settlement are also inadequate and virtually assure the monopolistic MS grip will continue to stifle competition, creativity, and cost-effectiveness. Since the Tunney Act allows for public proceedings, the DOJ should annouce such sessions at the earliest opportunity to allow consumers to show that an adequate settlement must encompass much more than the current proposition.

Sincerely,
Redmond H. Handy
President, Government and Business Consulting
1400 16th St NW
Suite 330
Washington, D. C. 20036
202–462–8800

MTC–00026915

From: jrshears
To: Microsoft ATR
Date: 1/27/02 3:32pm
Subject: Microsoft Settlement

Dear Sirs:

We believe that the litigation against Microsoft has gone on too long. It is time to settle without further litigation. We believe the consumer's interest has been well served, and Microsoft is being penalized plenty with the current settlement proposal. Please ... settle and let Microsoft get on with its business!!!

Sincerely yours,
Jacquelline Z. and Leslie R. Shears
1676 Pinecrest Drive
Orange Park, FL 32003

MTC–00026916

From: Peter
To: Microsoft ATR
Date: 1/27/02 3:39pm
Subject: Settlement

Sirs,

The settlement needs to be as strong as possible to control the monopoly's practices that inhibit the growth of competition in many technology fields.

Peter J. McMenamin

MTC–00026917

From: Benjamin Hays
To: Microsoft ATR
Date: 1/27/02 3:39pm
Subject: Microsoft Settlement.

To whom it may concern;

I have been a user of Microsoft products for the last 8 years. I have used their products by my own choice, not by coerison or force. And if Microsoft gets broken up, I will lose that choice.

By puting any restrains on Microsoft's business, the quailty of their products (i.e. Windows, Office, Internet Explorer) will decrease. That quailty will not decrease due to a faulty busines idea, or marketplace competition, but because of the involment of the government.

We, the people, will make our own choices. And we, the people, will choose, though our own pocketbooks, to keep Microsoft in business, or if they should go bankrupt.

Sincerly,
Benjamin Hays

MTC–00026918

From: GSmith1152@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 3:42pm
Subject: Microsoft Settlement

To the Department of Justice:

I am 51 year old nanny housekeeper contacting you to support the Microsoft settlement now under review. Enough litigation! It serves none of us in a positive way. It seems that the settlement reached is in everyone's best interest.

AOL has had, and continues to have, other avenues to use in pursuit of solving their disagreements with Microsoft. Litigation costs the taxpayers.

Enough!

Sincerely,
Gina Ryken

MTC–00026919

From: john anderson
To: Microsoft ATR
Date: 1/27/02 3:41pm
Subject: Microsoft Settlement

January 23, 2002

Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

The three-year-long process of filing suit against Microsoft is about to come to a close. I am concerned about the impact on the USA economy and the industry in particular considering the time and money wasted in litigation. In my opinion, any further litigation is sponsored by competition of Microsoft. The holdouts clearly hope to prolong settlement as a weapon against innovation and of little cost to them.

Microsoft has agreed to a long list of terms, some of which were not even issues in the original lawsuit.

Microsoft agreed to computer-making flexibility, meaning that Microsoft agreed to grant computer makers new rights to configure Windows as they see most fit for their customers, even if they end up including non-Microsoft software. Computer makers will also be free to remove the pathways by which consumers get to various features of Windows (like Explorer), and replace them with different paths for different programs. Having used Microsoft products at home and at work some of the products being demanded by competition through litigation are totally stupid wasted efforts as the market is nil.

Obviously, Microsoft was and is willing to do what was necessary to bring this matter to a close, and the Department of Justice should follow suit, so to speak. The settlement should stand as it is and there should be no more litigation.

Sincerely,
John Anderson
13526–118 Ave NE
Kirkland, Washington 98034

MTC–00026921

From: Peter DeVries
To: Microsoft ATR
Date: 1/27/02 3:45pm
Subject: Microsoft Settlement

It is my opinion that the proposed Microsoft Settlement is not severe enough to adequately punish Microsoft for it's previous actions, nor does the recommended oversight prevent the company from continuing to abuse it's monopoly power to the detriment of US consumers.

Sincerely,
Peter DeVries
Network Operations Manager
UW-Madison Medical School
Email: pdevries@med.wisc.edu

MTC–00026922

From: Terry Stuart
To: Microsoft ATR
Date: 1/27/02 3:46pm
Subject: Microsoft Settlement

I am a small business owner/operator and I have long been concerned about the Microsoft monopoly. I use their products daily, they work well and I am happy to pay for them, but I am afraid that they are getting a stronger and stronger stranglehold on the software market. They are a slippery bunch! I don't want to live with the consequences of their monopoly. I just learned about the work of Consumers for Computing Choice and support it 100%. Please incorporate these remedies in your final judgment regarding the company:

(1) A simple, affordable, and reliable way to run the 70,000 existing Windows applications without modification on all other operating systems.

(2) A simple, affordable, and reliable way to have native versions of Microsoft Office applications on all other operating systems.

(3) A simple, affordable, and reliable way to replace one or more of the four Office applications with competing applications, while retaining the ability to exchange files, data, and services with any Microsoft application.

(4) A simple, affordable, and reliable way to have native versions of Explorer, Media Player and other Microsoft Internet applications on all other operating systems.

(5) A simple, affordable, and reliable way to replace one or more Microsoft Internet applications with competing applications, while retaining the ability to exchange files, data, and services with any Microsoft application.

(6) A simple, affordable, and reliable way to replace any component or feature in any Microsoft software product with superior or special purpose components or features.

(7) A simple, affordable, and reliable way to run any Microsoft software on computers that do not have Intel-compatible microprocessors.

(8) A simple, affordable, and reliable way for software developers to access all the information they need to create products that offer consumers these choices.

(9) A way to ensure that original equipment manufacturers provide consumers with equal access to computers with alternative operating systems, productivity applications, and Internet applications.

(10) A "crown jewel" provision establishing such serious consequences for non-compliance that Microsoft will not attempt to evade the necessary disclosure requirements and other mandates.

Sincerely,
Terry Stuart

MTC–00026923

From: iTypical Male
To: Microsoft ATR
Date: 1/27/02 3:47pm
Subject: Microsoft Settlement

The settlement is a slap on the wrist joke. One of the few things Microsoft doesn't monopolize in is education. And weith the proposed education settlement, it opens the door for them to. Isn't that just what you don't want to do?

The settlement is a joke. Had it been a less powerful company, something more drastic would have occured. But it didn't. Do something real punish them.

-William Done

MTC-00026924

From: Pantelic, Milan MD
To: "microsoft.atr(a)usdoj.gov"
Date: 1/27/02 3:50pm
Subject: Microsoft Settlement

Ladies and Gentlemen,

I will not recapitulate the arguments your have (no doubt) received to date on the inadequacy of the proposed Antitrust settlement with Microsoft—I would simply like to add my voice to the chorus.That Microsoft has indulged in anti-competitive business practices is of no doubt—shamelessly and unapologetically, at that.None of what has transpired has changed the corporate culture in which this behavior is ingrained. The illegal practices of which Microsoft has been deemed guilty are the merely the tip of the technological iceberg, as this company attempts to make every open standard its own by leveraging its monopolistic power and enormous financial resources.The current settlement proposal adequately addresses neither remediation nor punishment. Please do not allow Microsoft to evade the spirit of Justice by providing software and computers in lieu of a direct monetary penalty— this has the effect of more firmly seating the hook in the mouth of their prey, not to mention giving them greater access into the educational market, one of the few arenas that they do not already dominate!I frankly doubt the adequacy of the settlement amount (even if paid in cash) to punish a company of Microsoft's size. To do it in the fashion proposed is simply to punish the fox by giving him the key to another henhouse.As a medical and computer professional who is interested in maintaining and fostering innovation, wide access and open standards, I deplore the conduct of this company and fear for the industry's future if this kind of behavior is not controlled.

Milan V. Pantelic, MD
Henry Ford Hospital
2799 W Grand Blvd
Detroit, MI 48202
(313) 916-2825

MTC-00026926

From: Tom Peck
To: Microsoft ATR
Date: 1/27/02 3:50pm
Subject: Microsoft Settlement

I am opposed to the settlement reached between the Dept. of Justice and Microsoft for the anti-trust case against Microsoft.

This settlement allows Microsoft to continue its anti-competitive practices. As shown in the trial, and upheld by several appeals, Microsoft has abused its monopoly to damage third party software developers. This abuse has affected not only those developers, but consumers as well, by limiting choice in the software market and allowing Microsoft to charge artificially inflated prices for their software.

Specifically, the wording of the settlement allows Microsoft to continue its anti-competitive behavior against free, or open source, software. The careful wording of the settlement only requires Microsoft to disclose APIs to other businesses. A developer of a free or shareware application is excluded from this information.

Microsoft should be required to divulge ALL information about their APIs to anyone who asks for it. This documentation could easily be put on Microsoft's web site at very little cost to Microsoft. An independent review panel would insure that information is updated in a timely fashion and that the information is correct.

Thank you.

MTC-00026927

From: Michdebhol@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 3:54pm
Subject: Microsoft Settlement

I am against the proposal.The proposed settlement is not in my interest. Deborah Hollings

Columbia, South Carolina

MTC-00026928

From: Ken Kennedy
To: Microsoft ATR
Date: 1/27/02 3:53pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am writing to comment on the proposed settlement of the US vs. Microsoft antitrust case.

I believe that there are many significant failures in the proposed settlement.

In general, I believe that it fails to —significantly— punish Microsoft in any way. The Findings of Fact are clear, and the Court of Appeals affirmed that Microsoft is liable under Sherman Act for illegally maintaining its monopoly by imposing licensing restrictions on OEMs, IAPs (Internet Access Providers), ISVs (Independent Software Vendors), and Apple Computer, by requiring ISVs to switch to Microsoft's JVM (Java Virtual Machine), by deceiving Java developers, and by forcing Intel to drop support for cross-platform Java tools.

I do not believe the the proposed settlement makes sense in a such a situation. Microsoft was WRONG; Microsoft BROKE THE LAW, and therefore...Microsoft gets to negotiate terms they find acceptable?

This flies in the face of justice.

More specifically, I object to portions of section III, as they relate to API disclosure. Microsoft has already removed all business competitors (in some cases, using the aforementioned illegal tactics), leaving only volunteer projects and open-source software as viable alternatives. However Section III.J.2 would allow Microsoft to refuse to provide information due to failure to meet "reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business".

Open Source and Free Software is precisely NOT a business in and of itself, and could therefore easily be prevented by Microsoft from obtaining this information. However, these same Open Source and Free Software projects and volunteer groups are providing the best and most aggressive competition for Microsoft that exists presently.

It would be tragic for the government to allow Microsoft to use this proposed "remedy" as a weapon against the sort of competition that it is supposed to enable.

I appreciate your time in reviewing my comments.

Sincerely,
Ken Kennedy
425 Lindbergh Dr NE, Unit D-2
Atlanta, GA 30305
404-262-6439

MTC-00026929

From: Kenneth Townsend
To: Microsoft ATR
Date: 1/27/02 3:54pm
Subject: Microsoft Settlement

Microsoft through out the years has provided software and support for the business world. The competitors do not provide a product of equal value to the computing world. Please do not punnish a company for producing a superior product.

Kenneth Townsend
ktownsend@juno.com

MTC-00026930

From: Carlton Thiele
To: Microsoft ATR
Date: 1/27/02 3:54pm
Subject: Microsoft Settlement
10148 Reagan Dairy Trail
Bradenton, FL 34212
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take this opportunity to express my opinion about the antitrust settlement that has recently been made between Microsoft and the Department of Justice. Microsoft has agreed to terms that extend well beyond the products and procedures that were at issue in the suit, for the sake of wrapping up the issue. It is obvious that Microsoft has clone more than what was necessary on their part and the DOJ should follow suit. Not only has Microsoft provided businesses and homes with excellent products and service over the years they have also donated millions to charity and provided thousands of jobs. They should be allowed to continue on with business as usual.

The terms that Microsoft has agreed to are more than fair, and all litigation against Microsoft should be put to a stop. Microsoft has agreed to design future versions of Windows, beginning with an interim release of Windows XP, to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. In relation to this, Microsoft has also agreed not to retaliate against any designers and producers of software and hardware that competes with Windows.

It is clear that this issue needs to come to a close. Not only are the litigations wasting millions in tax dollars, but also it is affecting the IT industry and the economy.

Sincerely,
Carlton Thiele

MTC-00026931

From: Howell, William (MD)
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/27/02 3:53pm
Subject: Microsft Judgement

Allowing Microsoft to link the IE browser to their OS and to enforce this with business practice pressure has undermined alternative browser development and stunted the growth of Java as a cross-platform language.

Educational grants as the punishment for such behavour merely helps establish the monopoly more.

I have just been informed by my ISP that my internet access by default will be via MSN.com.

MTC-00026932

From: Jerald Mara
To: Microsoft Settlement U.S. Department of Justice
Date: 1/27/02 3:53pm
Subject: Microsoft Settlement
Jerald Mara
847 N. Jerico Dr.
Casselberry, FL 32707
January 27, 2002
Microsoft Settlement U.S. Department of Justice

Dear Microsoft Settlement U.S. Department of Justice:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Jerry Mara

MTC-00026933

From: John Gibson
To: Microsoft ATR
Date: 1/27/02 3:56pm
Subject: Microsoft settlement

Dear Sirs and Madames,

I am writing to express my opposition to the Proposed Final Judgment (PFJ) for the Microsoft antitrust case. Not only is the PFJ far too weak, but it has no effective enforcement mechanism to assure Microsoft follows even its weak restrictions. Moreover, Microsoft has a well-documented history of creatively exploiting loopholes and prolonging litigation in order to continue its anticompetitive and illegal business practices. These practices have substantially harmed businesses and consumers. Unless a stronger and more strongly enforced settlement is reached, we can expect further harm and more litigation.

The PFJ is too weak in too many ways to list here. Here are a few weaknesses that particularly concern me, as a independent software developer and a supporter of free or open-source software.

(1) The PFJ defines terms such as "API", "Microsoft Middleware", and "Windows Operating System Product" so narrowly that restrictions can be circumvented by changing distribution methods or product names (see http://www.kegel.com/remedy/remedy2.html).

(2) The PFJ allows Microsoft to continue anti-competitive practices against free and open-source software. Section III.J.2 allows Microsoft to condition disclosure of documentation and APIs to third parties on its own interpretation of the "authenticity and viability" of the third party's business. Microsoft's greatest current competitor is the Linux operating system, which is written by a loose coalition of independent software developers and owned by no single company. Microsoft would be free to determine that Linux is not a viable business and withhold technical information.

(3) It does nothing to prevent Microsoft from using artificial incompatibilities and restrictive licensing to increase the barrier to entry for third-party operating systems that attempt API-compatibility with Microsoft's operating systems.

(4) It allows Microsoft to continue to withhold information about its file formats, although undocumented file formats form an important part of the Applications Barrier to Entry (Findings of Fact paragraphs 20 and 39).

The PFJ's enforcement mechanism is also too weak. Only one of three members of the Technical Committee will be selected without Microsoft's influence. This is a absolutely shocking concession.

A company with Microsoft's long history of ruthlessly illegal and anticompetitive behavior cannot be allowed to choose the policemen who watch over it. Further, the PFJ gives the Technical Committee no enforcement powers of its own. All disputes are passed on to the courts. But as this and other lawsuits have shown, the courts act far too slowly to deter Microsoft from illegal action.

Consumers and business have suffered considerable harm through Microsoft's illegal maintenance of its monopoly. Microsoft has accumulated billions of dollars of consumers" and business's money by hundreds of dollars for software whose marginal cost is tens of dollars, and whose development cost is negligible in comparison to those billions. Consider also, that open-source software companies offer similar, even superior software free of charge. Microsoft's software is widely viewed in the open-source community as buggy, unstable, and generally inferior. Microsoft's operating systems crash far more frequently than their alternatives. Microsoft's insecure programming methods are the basis for the majority of Internet viruses. Microsoft's unpublished file formats and the subsequent difficulty of transferring files to non-Microsoft software have caused countless people countless hours of frustration. Yet consumers and businesses are locked into Microsoft's software, due to a combination of economic "network effects" and artificial barriers to entry supported by Microsoft's illegal, anticompetitive business practices.

Microsoft has a stranglehold on both the computer operating system market and the office productivity software market. It has demonstrated repeatedly that it will do anything it takes, legal or illegal, to maintain its monopoly. Consumers and businesses have been harmed, substantially. The Court and the Justice Department simply must impose broader and more strongly enforceable restrictions on Microsoft, or the harm will continue and another lengthy suit will follow.

John F. Gibson
Researcher in fluid dynamics
Independent developer of scientific software
Tutor, St. John's College
Santa Fe, NM 87505
(505) 992–2935

MTC-00026934

From: HLSOL@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 3:59pm
Subject: Microsoft Settlement

Dear sir:

I would like to see that the Microsoft case finally comes to a conclusion which will preserve the foundations of a free society in its preservation of respect for property rights.

Microsoft has always been of positive benefit to the consumer in enabling everyone to have access to his own PC, packaged with virtually all the needed software at a reasonable price. To find that Microsoft is undercutting the costs of its competitors is the problem of its competitors, it is not Microsoft's problem, and it is not a problem for the consumer. It is because of Microsoft that the PC has become an indispensable addition to my home; I do not owe any thanks to it's competitors for Microsoft's accomplishments.

I do not want the government interfering in my ability to choose what software I run on my PC. If other companies have a beneficial product, let them compete for my business in the marketplace, and not seek special privileges from government by trying to invoke the gross ambiguities inherent in the antitrust laws. When politicians protect some businesses from others they engage in a dangerous policy. Continued application of the antitrust laws against successful businessmen can only lead to corruption and economic disaster as shown in many other countries. I want a free America where anyone with enough intelligence and hard work can be a self-made man like Microsoft Chairman Bill Gates. This is the only way everyone can benefit, including the competitors of Microsoft, who now are able to compete in a market that did not exist before. The only way that this country can remain free is to fully recognize and protect the principle of property rights inherent in constitutionally guaranteed individual rights.

Sincerely,
Henry Solomon
hlsol@aol.com
CC:HLSOL@aol.com@inetgw

MTC–00026935

From: Diane Swan
To: Microsoft ATR
Date: 1/27/02 4:00pm
Subject: Microsoft Settlement
Lawrence Swan
17517 Osprey Road
Arlington, WA 98223
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to write and express my support of the recent settlement that has been reached between Microsoft ant the Department of Justice. This lawsuit has occupied the attention of the courts and the IT industry for far too long. If the federal government intended to produce consumer benefit with this suit, the matter should have been resolved long ago.

Due to the proposed settlement, Microsoft will be forced to renounce intellectual property rights to parties who feel they need access to Microsoft's products in order to produce their own. Along with that, Microsoft will be forced to use a uniform pricelist that will certainly decrease Microsoft's profitability for years to come. These and many other terms of the settlement more than compensate all the plaintiffs in the suit.

Since the current settlement provides compensation, deserved or no, to all the parties in the suit, the proposed settlement must be made formal. Those who would see the suit reopened for litigation only want to strip Microsoft of more money and market power for their own selfish gain. The Justice Department must see that the proposed settlement becomes formal as soon as legally possible.

Sincerely,
Larry Swan

MTC–00026936

From: Jeff Chapin
To: Microsoft ATR
Date: 1/27/02 3:56pm
Subject: Microsoft Settlement

I am an average home consumer of Microsoft products, and I do not believe that I have been victimized by Microsoft in any way. I like Microsoft products and they have only been a positive and useful tool for me and my computing needs. I have found Microsoft to be very innovative and progressive in the last decade. They have been at the leading edge of technology and bringing this technology to consumers at very reasonable prices. Furthermore, I feel that I have the ability to choose what software I like and companies are always willing to listen to their customers. I feel that this antitrust case is completely bogus. It has been propagated by Microsoft competitors and power-hungry politicians.

Microsoft has been unfairly and wrongly taken over by the government at the request of its competitors.

The antitrust case and in fact the antitrust laws in general are statist and immoral. Microsoft has a right to its property, which the government should not be able to take away at its whim. Microsoft has become the leader in the software industry through superior products and fair capitalism. This case has put our country on a dangerous course of more government control over our economy and our individual lives.

The shareholders of Microsoft have a right to their company and antitrust is nothing short of theft.

Jeff Chapin
Hutchinson, KS

MTC–00026937

From: Kathy Morgan
To: Microsoft ATR
Date: 1/27/02 4:01pm
Subject: Microsoft Settlement
Re: Revised proposed Final Judgment, United States v. Microsoft

Sirs:

I have reviewed the proposed Final Judgment referenced above and I beg the court not to accept it. This proposed settlement is so severely flawed that it would be contrary to the public interest.

Microsoft has been found by the Court to be a monopoly that has abused its monopoly powers by engaging in anticompetitive practices.

This has had several effects on end users such as myself: (1) Many of Microsoft's products are priced out of reach of many users; they have a long history of buying out competitors and discontinuing the competing products, so they can charge any amount they like. (2) When they are unable to buy out a competitor, Microsoft provides a competing product free with the Windows operating system until the competitor is forced out of business or relegated to marginal status.

Examples include Outlook Express, which is a seriously inferior product and violates many Internet standards—but it is used by more people than any other mail or news client because it is preinstalled when a computer is purchased, and Internet Explorer—integrated into the Windows operating system. (3) Because of Microsoft's devious and unfair practices making it impossible for competitors to access and use Windows API's, authors of other middleware products are unable to compete with Microsoft and so their products may never become available for for people like me to purchase. (4) OEM licenses have forced providers of hardware to discourage competing operating systems or prevented hardware providers entirely from offering bundles which include competing products or hardware which has no operating system preinstalled. (5) Large users with "site" licences are forced to pay licensing fees for every piece of hardware capable of running Windows, whether or not the hardware actually does have Windows installed. (6) Microsoft software which has been distributed in furtherance of their abusive monopoly is notoriously insecure and susceptible to malicious worms, viruses, and trojans which directly adversely affect those whose systems become infected and indirectly adversely affects all of us who have Internet connections when we receive dozens or hundreds of copies of virii propagated by MS software or our Internet Service Provider's mail servers or routers crash under the impact of the thousands of copies passing through them.

It appears to me that because of the unreasonably restrictive terms of the agreement and definitions in the proposed Final Judgment, Microsoft's monopoly position and ability to use the monopoly to unfairly discourage competition will actually be strengthened rather than remedied. Additionally, the wording in Section III.B will still allow Microsoft to "punish" some OEM's who fail to "play ball" with Microsoft by offering special prices and discounts to all others.

My interest in the Microsoft Settlement: I am a United States Citizen, 54 years of age, residing in Tok, Alaska. I am an end user who is affected by the outcome of this case purely as a person who buys and uses computers. I am not employed by any computer hardware or software company or individual and as far as I know I am not related to any hardware or software companies or individuals.

Sincerely yours,
Kathy I. Morgan
Box 342
Tok, AK 99780–0342

MTC–00026938

From: Wayne Turner
To: Microsoft ATR
Date: 1/27/02 4:04pm
Subject: Microsoft Settlement

I do not think the Microsoft monopoly or the purposed settlement are in the consumer's best interest.

MTC–00026939

From: TLusa84757@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 4:05pm
Subject: Microsoft antitrust case
2142Blake Boulevard SE
Cedar Rapids, IA 52403–2824
January 25, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC? 20530–0001

Dear Mr. Ashcroft:

I am writing toexpress my views regarding the Microsoft antitrust case.? I have always felt that this entire suit haswasted far too much taxpayer funds.? Ialso believe that the company has been treated unfairly in this case, as theyare only guilty of acting in the true spirit of free enterprise.? As far as I am concerned, Microsoft has done what all ambitious companies should strive to do—create a well-needed product,use unsurpassed marketing strategies to sell the product, and make aprofit.? No one can argue thatMicrosoft's extraordinary strides haven???t changed the IT industry forever.

In their efforts tocome to agreement with an aggressive government and get on with steadyproduction, Microsoft has conceded far beyond obligations that fairness requiredof them.? They have compromised theircompetitiveness by agreeing to grant their competitors access to internalWindows code, protocols and codes.? Theyhave even agreed to have their compliance monitored by an external oversightcommittee. All these attempts onMicrosoft's part are sure to prevent future antitrust violations.? I believe it is a very well organizedagreement and everything should be done to formalize it as soon as possible.

Sincerely,

Thom Lusardi

MTC–00026940

From: Webmaster
To: Microsoft ATR
Date: 1/27/02 4:05pm
Subject: Microsoft Settlement

Dear Department of Justice:

I am writing to you as someone who has been involved in computers for the past 25 years, grew up near Microsoft, and have been on both sides of the love "em or hate "em Microsoft fence. I would like to give you my observations and comments about the computer industry as it relates to the Microsoft case.

A Brief History of the Personal Computer (circa 1980 to 1995) Circa 1980, the personal computer was born, and within a few years, the PC's killer applications (namely spreadsheets, word processors, and presentation graphics programs) made the PC an indispensable business tool. Innovation and competition were strong and consumers benefited from new products such as Lotus 123, Word Perfect, and Harvard Graphics.

Over the years, Microsoft also innovated and introduced refined versions of its DOS and Windows operating systems. By the mid- to late 1980s, IBM had finally lost its dominance of the open hardware platform it created. The failure of the more-closed PS/2 and the further advances of PC "clones" drove prices down while driving hardware innovation and performance. The proliferation of low cost personal computers drove the further adoption of Microsoft operating systems.

During the early 1990s, Microsoft, funded by its operating systems success, also delivered innovative and superior products such as Excel and Word. These products rightfully claimed market dominance over their competitors. These products also became strong revenue producers for Microsoft. Through widespread adoption of Microsoft operating systems, consumers benefited, and developers were overjoyed.

Microsoft further created excellent developers" tools and wooed developers to create applications for Windows.

The Personal Computer Matures (circa 1995) Unfortunately, towards the mid-1990s, the PC market was becoming mature. The personal computer had run its course, and networked, not personal, computers were the new frontier. Microsoft and other personal computer software vendors turned to competing in feature wars by adding features that were largely useless to the majority of users and by driving a new software business model: the upgrade cycle.

Prior to this time, innovation in the personal computer industry was high and product quality was excellent. I remember when a bug in software made headlines and was truly an embarrassment to the company that wrote the software. Prior to this time, new major releases were truly valuable and, because of attention to quality, customers quickly adopted the latest technology.

Subsequent releases of personal computer software generally offered only minor functional improvements while adding substantial incompatibilities and instability through buggy software. Often upgrades were mostly bug fixes. Software incompatibilities with hardware, however, drove hardware sales that had now become dependent on software upgrade cycles. Many in these industries became staunch supporters of Microsoft because their livelihood depended on it.

It is considered by some that post Windows 95 OSR2, the Windows 98, Windows 98 SE, and Windows Me operating systems were progressively worse releases. Certainly corporate America began to shy away from these frequent and "problem-full" upgrade cycles. Software manufacturers, Microsoft in particular, faced with spiraling support costs resulting from product deficiencies and poor quality, began charging customers for support. This further alienated customers who had become dependent on the technology.

In the mid-1990s, while working with software developers, I learned Microsoft had a new trick in addition to upgrade cycles. Because of Microsoft's dominance of the personal computer operating system, it began dangling new over-hyped technologies to developers but withholding adequate information to get the programming done. To that end, Microsoft would supply expensive consultants. Through the use of consultants, Microsoft could control who had access to what technology. Microsoft seemed to provide consultants to companies developing products that further enhanced the appeal of the "Microsoft platform". Unfortunately, I learned first-hand that once Microsoft deemed your software was no longer strategic or was competitive, the support vanished. The same strategy also applied to hardware.

Originally, Windows NT ran on Intel, DEC Alpha, MIPS, and PowerPC platforms. Once Microsoft pulled the plug on support for the non-Intel platforms, these other platforms vanished almost overnight.

Around this time, it was also widely known that Microsoft employed an "embrace and extend" philosophy. The implementation goes something like this: Once a new non-Microsoft technology emerges, Microsoft discredits the technology and withholds operating system support.

This minimizes the revenue that a potential competitor could derive in the early stages of a product's life that could be used to fund additional development. Meanwhile, Microsoft had a chance to study and subsequently implement competing and typically inferior technology into its operating system. At times, by only announcing that Microsoft will develop a competing technology, Microsoft could convince its customers to abandon the new non-Microsoft technology or, at least, sit-and-wait until it was built-in for "free". The pattern generally continued by starving the original innovating companies while developing its own technology. Typically, by a 3.x release, Microsoft had monopolized the technology while the original innovators had gone out of business.

What was happening to hardware and software developers was that they were learning a message from Microsoft that was loud and clear. The message was that if you were not strategic to Microsoft, you were "history".

The Networked Computer Industry (circa 1995 to Present) Fortunately, for consumers and developers, the need to transcend the "personal" in PC and become networked exploded with the adoption of the Internet. There was incredible excitement and innovation as numerous companies worked around the clock to develop new products, services, and applications. HTTP, HTML, and Java were the tools to break the industry free. There was a big problem with the Internet to Microsoft because it didn't use Microsoft technology and, further, it could minimize the importance of the Microsoft Windows operating system.

Once again, Microsoft attempted to discredit the technology while buying itself time to determine how to best "embrace and extend" the technology. I do admire Microsoft in its ability to turn its entire company around in "Internet time" to address this great threat.

Unfortunately, this has been to the detriment of consumers and the Internet as Microsoft is trying and succeeding at crafting its own version of the Internet.

There are numerous examples of this strategy. As far back as Stacker vs. DoubleSpace, to QuickTime vs. AVI, MP3 vs. WMA, RealPlayer vs. WMA, Java vs. MSJava vs. C#, JavaScript vs. JScript, and more.

Microsoft has sought to pollute every interoperable and de facto standard with it's own "embrace and extend" but incompatible version.

In the case of Netscape Navigator and Internet Explorer, Microsoft claims its dominance is due to Internet Explorer being a better browser. It, in fact, is a better browser—on Microsoft Windows.

However, this is clearly because any company is unable to compete with a Goliath company that gives the product away for free (far below its cost).

I remember sitting in Microsoft briefings while they insisted that they were "browser agnostic". The audience snickered as surely they were browser agnostic as long as the browser was a Microsoft browser.

Microsoft even feigned cross-platform support by offering a Unix version of Internet Explorer that never worked and which has been subsequently dropped. Now that Microsoft owns the browser, there is no need to support other platforms. It is quite a disconcerting that the fate of Apple rests upon Microsoft's willingness to supply it Microsoft Office and Internet Explorer. Without these core applications, no desktop operating system could survive.

My Views on What Needs to Change

What has happened is that the technologies Microsoft has added to its operating systems have not been for "free", as Microsoft would like us to believe. They have come at a high price of stamping out non-Microsoft developer innovations. They have come at a price of security and reliability, as there is really no other choice for corporate America. They have come at a price of Microsoft-ifying the Internet and attempting to replace every open and interoperable standard that the rest of the world has tried to create. Microsoft continues by trying to force its dominance into product areas of hand-held computers, video games, entertainment, and Internet service.

A recent example is the announcement of MSN as the number one search engine. It is actually not surprising, as MSN is the default search tool in Internet Explorer.

The sad reality is that Microsoft already owns the desktop, the corporate office suite, and the web browser. It has purposely integrated the browser into the operating system so that it loads faster and is more difficult to remove. Microsoft has also tied its desktop and server operating systems together with almost identical code-bases. I think it is quite dangerous that Microsoft is trying to tie its Windows desktops to its Windows servers to displace other more reliable, open, and secure server operating systems from competitors. Microsoft is trying to unfairly force itself into the server market by way of the desktop. At the same time, Microsoft is trying to create its own version of the Internet as well as force users to use its Passport service.

In the early 1990s, I was an adamant Microsoft fan. Unfortunately, their patterns of behavior towards outside innovators and of tying numerous Microsoft products together have changed the way I make choices. More and more, I choose open solutions whenever possible even though I know there is a threat that Microsoft may eventually kill them. A prime driver of the current downturn in the computer industry, I believe, is the lack of innovation. I am quite confident that a plethora of reliable and secure multimedia (audio, video, photography, speech), networking (collaboration, communication, interactive, wireless), and business applications are possible and awaiting development. The unfortunate reality is that Microsoft holds the keys to the client operating systems that these applications need. At this late point, I'm not sure what type of settlement/remedy would be appropriate. Microsoft has already cost the technology industry (including Netscape) irreparable harm and continues to further cripple it to serve its own agenda. At the beginning of the antitrust cases, I thought it might be reasonable to break Microsoft into 3 separate companies: Desktop OS, Applications, and Server OS. The reason for splitting out the Server OS would be to prevent Microsoft from unfairly tying Windows clients to Windows servers. Unfortunately, the code-base is the same, so perhaps only strict conduct remedies might work. Internet Explorer must be considered an application and stripped from the operating system. Further, it must be made available in fully functioning form across major operating systems (Windows, Mac, Unix, Linux). To do this, it must be stripped of its Windows-specific technologies and implemented in a truly cross-platform manner such as the Mozilla/Gecko/Netscape product. It must conform to open and not proprietary standards. The same exact requirement also needs to be made of Microsoft Office. These applications are critical to the functioning of American businesses and should be regulated like a utility.

Another sad reality is that Microsoft developers and personnel are "soMicrosoft", in general, they do not understand other and outside open technologies. Assuming Microsoft was split, it would take years for personnel to retrain themselves to understand non-Microsoft technologies and to begin developing products that conform to open standards. Because there is such a closed—almost incestuous—Microsoft culture, the separate companies should be geographically dispersed to prevent inevitable commingling. Although such as break-up would cause tremendous anxiety in the industry, I think it is necessary in order to give other operating systems a fighting chance and to convince the non-Microsoft development community that it is safe to innovate once again.

I would estimate the disruption could last 2 to 4 years. The current prospects, however, are continued stagnation, meaningless upgrade cycles, poor reliability and security, and less choices as Microsoft continues to take over all aspects of computing, networking, entertainment, and identity/payment systems. Considering I originally wrote this on a Windows NT (1995) machine with Word 97, I would be willing to use Windows2000 and other current software versions for a few years in the hopes of gaining truly open computing platforms and radically new and innovative products in the future.

Finally, please compare the personal computer software and hardware industries over the past 5 to 10 years. Despite a dominant, but somewhat less adversarial, Intel, the hardware industry has delivered products that are many, many times over faster, more reliable, and more functional at fractions of the price of what they used to cost. A modern PC can be bought for $500 that includes a monitor and printer and is better than most corporate desktops. On the other hand, new non-upgrade versions of Microsoft's latest Windows XP Professional and Office XP will cost you more than the hardware. This is truly ironic considering there are no real manufacturing costs to the software and considering the marginal benefits provided to consumers by the marginal softare upgrades during the same period.

Best of luck. We are counting on you,
Brett Duke

MTC-00026941

From: Art Holland
To: Microsoft ATR
Date: 1/27/02 4:06pm
Subject: Microsoft Settlement
Renata Hesse
Trial Attorney
Suite 1200
Antitrust Division, Department of Justice
601 D Street NW
Washington, DC 20530

Dear Ms. Hesse,

Microsoft was the first to exploit if not realize that the PC business was like any other modern business that depends on interoperability—he who can establish and control the standards will become a very profitable monopoly. Just like roads, telephones and many others—the business of computers is about having them interoperate—whether on networks or through packaged software.

Microsoft has gained this leverage through control of the API's and file formats combined with some very unsavory business tactics. The result is that people need Windows and they need Office. To choose anything else is to make significant compromises in one's ability to interact with others.

MS has exploited this, protected it and been convicted of illegally maintaining it and lost on appeal. This monopoly is stifling progress. Why would investors attack a monopoly? It's financial suicide.

Remedy:

Fine them billions for breaking the law
Openly publish API's and file formats subject to the satisfaction of an independent board.
Make available a version of Windows that contains no applications (the things people actually buy computers for) at 1/2 the price of any other version.

Thanks.
Sincerely,
Art Holland

MTC-00026942

From: hf.consult@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 4:07pm
Subject: Microsoft settlement
1900 53rd Street N
Saint Petersburg, FL 33710
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I write to you today to show my support for the recent settlement reached between the Department of Justice and Microsoft. Bill Gates has been an integral part of the building of this nation and for that matter the world's computing abilities. He has been ingenious in the running of his company. I do not believe that the federal government should punish this ingenuity. I do not believe that the federal government has the right to persecute Microsoft. Given these sentiments, I am pleased that there may finally be some closure with this issue. Microsoft has been making many concessions to ensure that this occurs. For example, Microsoft will share information about the internal workings of Windows with its competitors, and thus allow them to place their own programs on the operating system. Microsoft has even agreed to the formation of a technical review board whose sole job will be to ensure compliance with the terms of the settlement.

The settlement offers an opportunity to end this lawsuit and returns the country's focus back on business, where it belongs. The federal government must end its pursuit of Microsoft.

Sincerely,

Edward Bailey MTC—00026942—0003

MTC–00026943

From: KENWINFARM@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 4:08pm
Subject: Microsoft

Why don't you leave Microsoft alone for everything you become involved in you Screw it up. Attorneys are screwing this country to Hell and back and Greed is all. They care about.

Ken Stewart

MTC–00026944

From: d.s.sanford@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 4:08pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Dorothy Sanford
Assembly Drive
Cartersville, GA 30120

MTC–00026945

From: Matthew
To: Microsoft ATR
Date: 1/27/02 4:10pm
Subject: Microsoft Settlement

Dear Sirs,

The proposed settlement is unacceptable and gives Microsoft even further headway into a market where Apple Computer, Inc. was previously the leader.

Please do not let this pass.

Matthew

MTC–00026946

From: BELLLCI@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 4:14pm
Subject: Microsoft Settlement

I feel that the Microsoft Settlement is not in my interest for countless reasons.

Rebecca Bell
Jekyll Island, GA 31527

MTC–00026947

From: Ken
To: Microsoft ATR
Date: 1/27/02 4:17pm
Subject: Microsoft Settlement

I have read the proposed settlement of the Microsoft anti-trust case and I believe that it does not adequately prevent Microsoft from abusing its monopoly power as a lever to gain new monopolies, destroy U.S. businesses, and ultimately to milk consumers for unnecessary, insecure, and unwanted "features". The settlement must be toughened and made bulletproof, but with the same speed that this one was cooked up.

There are bigger loopholes in this proposal than in previous agreements with Microsoft, which they subsequently defied with impunity. Redefining words like "browser" and renaming products like "Windows 95" instead of "DOS 7 + Windows 4.0" is the level of deceipt that they would use to break this agreement as well. They are on the verge of relabeling MS Office as a "subscription service".

Ken Conrad
Dayton, Ohio

MTC–00026948

From: Oscar A. White
To: Microsoft ATR
Date: 1/27/02 4:17pm
Subject: Microsoft hearings

To whom it may concern,

I believe that the proposed settlement with Microsoft should go forward as agreed upon. The competition should leave them alone, if they, the competition can do a better job of developing software then they should get on with it. Leave the people alone who have proven they have the smarts and resourses to do the job!

Sincerely,
Oscar A. White

MTC–00026949

From: CHerUbicXGuRLie@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 4:20pm
Subject: Microsoft Settlement
Lisa Luo
01–28–01

The only reason that the U.S. versus Microsoft case came about is because of the word, ???success???. Because of Microsoft???s great dominance in the computer world, many competitors are expectedly intended to cripple the company. In some ways, Microsoft is expected to be charged since they had ???destroyed competition in the market for Internet browsers???, according to a federal trial court. Microsoft actions??? such as ???delivering a web browser with its Windows software packages??? undermines many companies such as Netscape???s monopoly power. If two similar products are placed before me and one of them was packaged with an extra item, I would grab for that product. Who wouldn???t want free items?! Microsoft???s fault of continuous prosper should be controlled to prevent serious consequences.

In this technological advancing world, many competitors of the economy strive to dominate all by having the best of the best. I think the limits of Microsoft???s conduct from the revised proposed final judgment is very suitable to prevent a single dominance and to have a world of equal attempts to gain and profit. Microsoft should be controlled so there wouldn???t be an ultimate consequence of ???misuse [in] its operating system monopoly to artificially exclude browser competition and deprive customers of a free choice between browsers???. Microsoft should also, ???allow applications to run in multiple operating systems???, so competition would revive. Leaving some space for other companies to strive in some way will provide everyone with ???economic freedom???.

CC:Jqchick@aol.com@inetgw

MTC–00026950

From: Steven L. Mading
To: Microsoft ATR
Date: 1/27/02 4:20pm
Subject: Microsoft Settlement

I am writing as a concerned citizen employing my rights under the Tunney Act, which state that the proposed Microsoft Settlement with the Department Of Justice must allow for a period of public comment. This message is my public comment.

In short, I think the proposed settlement is inadequete to remedy the situation.

Rather than give a list of reasons, which would be repetative with lists in other people's letters, I will simply expand on one point I find partiularly important: Microsoft Office dominance:

The proposed remedy of forcing Microsoft to publish their program calls (or "API") because they have become de-facto standards doesn't address the other more important de-facto standard over which they enjoy control—namely the file formats they use for saving Office documents in programs such as Word and Excel. Because compatability with Microsoft Office applications has become a neccessity with their monopoly position, if Microsoft can continue to hide the format of these files, they can continue to deny competing products entry into the marketplace. Many aspects of modern life, for good or bad, have come to depend on Word(tm) documents as the standard form of business interchange. There are even many Human Resources departments in large companies that will only take electronic resumes in Microsoft Word format and no other. It should be obvious that there are monopolistic influences at work when to look for a job, you must own a product from one specific company and no other. Certain government offices also dissemate public information in Microsoft Word(tm) format.

Now, I feel the ideal remedy would be to educate people on how they are helping prop up the monopoly situation every time they choose to only accept input in Microsoft Word format and no other—but such a remedy isn't ever going to occur. In a free market, monopolies don't Steven L. Mading at BioMagResBank (BMRB). UW-Madison Programmer/Analyst/(sometimes SysAdmin) mailto:madings@bmrb.wisc.edu B1108C, Biochem Addition / 433 Babcock Dr / Madison, WI 53706–1544

MTC–00026951

From: hwl@familyclick.com@inetgw
To: Microsoft ATR
Date: 1/27/02 4:20pm

Subject: Microsoft Settlement

I am AGAINST the proposed settlement of the antitrust case involving Microsoft Corporation. Companies that achieve great levels of success as measured by revenues, profits, market share, etc. by producing innovative products, better quality, lower price, etc. in a totally legal and ethical manner should not be penalized just because they are successful. Unfortunately, too many people and government bureaucrats automatically regard success in the private sector as indicators of illegality, and I am usually against the Department of Justice pursuing antitrust cases.

However, Microsoft has clearly achieved its stature via deceit and other illicit means, as demonstrated during the court proceedings in this antitrust case as well as other litigation such as Sun Microsystems vs. Microsoft regarding Java. Some of the issues that stand out in my mind are:

Microsoft's "embrace and extend" approach in developing its own versions of products: Notice that a possible tool from another vendor has potentially significant popularity in the market and would consequently enhance the overall market for PCs and the Microsoft Windows operating system. Offer support to that vendor to help their product be successful. Once Microsoft sees the unexpectedly high success of the product, begin developing a similar product, merge it in with the Windows operating system so that people can easily transition, then extend the new product by adding features incompatible with the original, more popular product. Arrange with PC vendors restrictive licensing agreements that prevent them from selling PCs with both Microsoft and non-Microsoft products. The result is that the former supporter stabs the original vendor in the back. Such has happened with Netscape and was in progress with Java until Sun Microsystems successfully litigated. There is a new browser available from the open-source/free-software community (which Microsoft hates) called Opera; Opera could not access many of the Microsoft web pages because they were designed for Internet Explorer by using extensions to commercial standards that only Internet Explorer recognizes, and yet Microsoft falsely claimed that it was Opera that violated the standards (the Opera developer is a member of the standards committee and pointed out where Microsoft's web pages violated the prescribed standard).

Microsoft repeatedly gave self-contradictory testimony at the trial. Much of their testimony was demonstrated totally fallacious by experts for the Department of Justice. Microsoft cannot be trusted to come close to telling the truth under oath. Microsoft needs to be put in a position that it is impossible for them to break the final settlement when they are not under oath.

Microsoft has the lion's share of the very large PC operating system market, and they can change Windows whenever they wish, which can end up deliberately creating incompatibilities with other vendors" application tools running in the Windows environment, whereas the application tools departments in Microsoft are informed of the changes in Windows and can accommodate. This results in Microsoft having an unfair advantage in developing applications tools when they control the dominant operating system. One can quite reasonably ask why the other vendors do not get into the operating systems business, competing head to head against Microsoft, and take control of their own destiny. The problem is that most of the companies producing applications tools are small and require all their resources to go into the development of the specific tool. Operating systems are far more complicated pieces of software taking many years to develop. The only operating system offering Microsoft Windows any substantive competition at all is Linux (which Microsoft wishes to kill also), and Linux has been in development ten years now with some significant work still left. This is why the industry desperately needs Microsoft split between its Windows operation and its application tools operation.

Microsoft shows its true colors by seeking legislation to outlaw the use in government-funded activities of software developed under the GNU Public License, including Linux. Such software might actually succeed where no other has: provide meaningful competition and take significant market share from Microsoft.

The findings of fact regarding Microsoft's adverse monopolistic behavior have held firm in the courts—for good reason, The proposed settlement does nothing to redress past wrongs nor does it put adequate teeth into preventing future misdeeds of similar ilk. I have been a professional software developer for a variety of applications for almost 30 years and an adjunct professor in electrical engineering and computer science for 15 years. I have used both Microsoft and non-Microsoft products during that time, as well as followed the actual technology involved.

Please take these issues into account and rule in a manner so that vendors besides Microsoft have the opportunity to play a significant, successful, innovative role in the software marketplace. I regard the original ruling of splitting Microsoft into an operating system company and a totally separate application tools company to be very wise and appropriate. The proposed settlement is not.

Howard W. LUDWIG, Ph.D.
11666 Darlington Drive
Orlando FL 32837

MTC-00026952

From: Herman Choper
To: Microsoft ATR
Date: 1/27/02 4:19pm
Subject: Microsoft Settlement

This settlement will have a very positive impact on the American economy and will help pull us from the recession we have experienced over the past year.

The Senior Citizens are the ones that are suffering the most from this recession.

Thank you for taking the time to hear from us.

Herman Choper
chy6@juno.com

MTC-00026953

From: John Springer
To: Microsoft ATR
Date: 1/27/02 4:20pm
Subject: Microsoft Settlement

I oppose any settlement with Microsoft that does not make these provisions:

1. Penalize them for putting other companies out of business by bundling "good enough" software with Windows and Office, thereby destroying existing markets.
2. Prevent them from effectively forcing proprietary standards onto the world by building them into Windows, ignoring standards organizations, and not publishing specifications.

I think Microsoft is being allowed to dominate and control an industry that is as essential today as the telephone is. It is as though AT&T 50 years ago had been allowed to build phone systems that wouldn't let customers talk to anyone using non AT&T equipment.

John Springer
Portland, OR
Golly—I think it's raining out there.

MTC-00026954

From:
Derek.Tarvin@DecisionOne.com@inetgw
To: Microsoft ATR
Date: 1/27/02 4:23pm
Subject: Microsoft Settlement

I would like to take a moment to express my displeasure with the currently proposed settlement in the Microsoft Anti-trust Lawsuit. My understanding of the settlement is that Microsoft is to give copies of it's Operating System and software to schools, etc. This whole issue was brought about by Microsoft's manipulations to get their software on as many computers as possible. The proposed settlement would merely extend the current issue into schools without rectifying the original issue.

While I don't like punitive actions, I believe that a solution that is more inline with solving the original issue is warranted here. Personally, I think a settlement that creates more competition within the Operating System software industry would be the best solution. Possibly a settlement that would require MS to supply schools with computers with an alternative Operating System such as Linux or the Macintosh Operating System.

Thanks for your kind attention.
Derek Tarvin

MTC-00026955

From: Dave Kopel
To: Microsoft ATR
Date: 1/27/02 4:23pm
Subject: Microsoft settlement

I am writing this letter to express my support for the proposed Microsoft settlement. In contrast to the alternatives proposed by the non-settling states and by the companies which have used this lawsuit as a means of harassing Microsoft, the proposed settlement is reasonably based on the decision of the Court of Appeals.

In my book "Antitrust after Microsoft," I argue that one of the central flaws of antitrust law is its erratic and unpredictable application. Another flaw is how often companies are targeted as a result of politics and lobbying. The Microsoft case was an egregious example of both. Settling the case would not only be good for the American economy, it would be a constructive step forward for the rule of law.

Sincerely,
David B. Kopel
Director, Center on the Digital Economy
Heartland Institute.
Research Director,
Independence Institute

MTC-00026956

From: Ken Arromdee
To: Microsoft ATR
Date: 1/27/02 4:19pm
Subject: Microsoft Settlement

As a computer professional and PhD in computer science, I'm writing to express my concern about the revised proposed Final Judgment in the US vs. Microsoft case.

I'm particularly concerned as a user of the Linux operating system. Linux may be the most viable competitor to Windows right now, and any settlement should prevent anticompetitive actions towards Linux. I'm disturbed, however, by the loopholes in the settlement, both with respect to competition with other operating systems in general, and specifically in connection with Linux.

—In section III.a.2, Microsoft is prohibited from retaliating against OEMs who include both Windows and another OS on their computers. However, the prohibition doesn't include computers shipped with *only* a competing OS. The prohibition should be extended to include such computers.

—Section III.d requires that Microsoft disclose information to ISVs, IHVs, IAPs, ICPs, and OEMs about middleware APIs. Section III.e requires similar disclosure of communications protocol, and section III.i requires that Microsoft licenses any associated intellectual property. These seemingly reasonable clauses would exclude Linux:

() The reference to ISVs (independent software vendors) would at first seem to let the information be used with Linux. However, Linux is written by volunteers; it's not clear whether the term "ISV" would include a typical Linux developer.

() According to section III.i.3, Microsoft can prohibit sublicensing or transfer of intellectual property rights. The Linux kernel and many other parts of Linux are written under a license (GNU General Public License) which requires that the licensed program be freely modifiable and distributable. Prohibitions on sublicensing/transfer would violate the GPL, preventing Linux from using the information.

() Royalties for licensing the information must be "reasonable and non-discriminatory". Since typical Linux developers are volunteers who don't profit from their code, any "reasonable and non-discriminatory" fee greater than zero would make it impractical to use the information with Linux. Some types of "reasonable and nondiscriminatory" terms may be even worse; for instance, since Linux may be freely copied, a per-copy fee paid by the developer would impose a potentially infinite cost.

() Section III.j.2 permits Microsoft to disclose the information only if the user has a reasonable business need, which wouldn't apply to a Linux developer writing code as a volunteer project. It also lets Microsoft require a third-party compliance test at the user's expense, which is inappropriate for a volunteer making no profit.

() The information can only be used for interoperation with a "Windows Operating System Product". This prohibits many reasonable uses, such as making a non-Windows operating system able to run Windows programs. Also, if the use of the information is restricted, it may be difficult or impossible for a programmer who has seen the information to ever work on Linux, since he would never be able to prove that he isn't using information in a prohibited way.

This problem with the Judgment can only be fixed by not allowing restrictions on distribution or use of the information.

—Microsoft is not required to release information about file formats, such as in Microsoft Word, and Word is not included in the definition of middleware.

—The definition of "middleware" is tied to the specific version numbers used, allowing Microsoft to easily get around the judgment simply by changing its numbering scheme.

—The exemption in III.j.1 for technology necessary for anti-piracy, licensing, and authorization is a very big loophole. For instance, Microsoft could create middleware that only runs applications that have been digitally signed by Microsoft, and then not tell third parties how to create signed applications, allowing Microsoft to control which applications are run.

—The proposal should also prohibit anti-competitive licenses. Many Microsoft products contain clauses that prohibit running them on non-Windows operating systems. Some specificallyt mention open-source software (which includes Linux). For instance, Microsoft's Mobile Internet Toolkit's EULA contains a prohibition on not using "Potentially Viral Software" (defined as to include open source) tools to develop software that uses the kit.

—The proposal should prohibit Microsoft from requiring that licensees not publically discuss the product, the license, and/or the license terms.

Kenneth Arromdee
January 27, 2002

MTC-00026957

From: kb2ip@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 4:27pm
Subject: Microsoft Settlement

It is time to settle. It will have a very positive impact on the present economy and it will help in pulling us out of the recession we have experienced over the past year.

Paul trepanier
Fairport, NY

MTC-00026958

From: Daniel Haun
To: Microsoft ATR
Date: 1/27/02 4:28pm
Subject: Microsoft Settlement

I would like to express my dissatisfaction with the proposed Microsoft settlement. The proposed final judgement, as written, is vague and full of loopholes. It claims to address the serious issues raised against Microsoft, but is worded in such a way that it would have no significant effect. Please do not adopt the judgement in its current form.

Daniel Haun
Network Support Analyst
Adventist Health
2100 Douglas Blvd.
Roseville, CA 95661

MTC-00026959

From: Jack Rodgers
To: Microsoft ATR
Date: 1/27/02 4:29pm
Subject: Microsoft Settlement

Has anyone consider the possiblity that Microsoft is forcing peripheral manufactures such as recording devices, cell phone cards, MPG3 players, etc. to ONLY SUPPORT MICROSOFT since most of these devices do not include support for Macintosh or Unix computers. It is almost impossible to buy one of these devices that download or upload data from a computer and find support for anything but Microsoft Windows.

Jack Rodgers
<mailto: jackrodgers@earthlink.com>

MTC-00026960

From: Stephen Degler
To: Microsoft ATR
Date: 1/27/02 4:31pm
Subject: Microsoft Settlement

Hello,

The purpose of this mail is to comment on the proposed Microsoft settlement as outlined in the Tunney Act. I have read over Dan Kegel's comments http://www.kegel.com/remedy/letter.html and I find that I am in agreement with them. I have also mailed Mr. Kegel and indicated my willingess to be to be a cosigner of his letter.

It is clear to me that the settlement represents a sudden and drastic change in direction towards the resolution fot he Microsoft case. It is cowardly and insincere to aggressively and successfully pursue a (just) decision against Microsoft, and then suddenly back off with a toothless settlement. This change in direction is clearly due to the politics and policies of the Bush administration.

In my limited understanding of our political system, this seems to indicate that the independence of the judical branch of the goverment has been compromised in some way. This has much greater impact on American society than the Microsoft case itself. I believe that most Americans who understand the actual issues surrounding this case are deeply troubled by the proposed settlement and would like to see one which addresses Microsoft's practices with remedies that will end their monopoly. The proposed settlement is a sellout which will undermine the peoples" faith in the ability of our goverment to act in the interests of the American consumer.

Thank you for your attention to this matter.

Sincerely,
Stephen Degler
PO Box 707
Philmont, NY 12565
CC:senator@clinton.senate.gov@inetgw

MTC-00026961

From: Ashley Grayson
To: Microsoft ATR
Date: 1/27/02 4:32pm
Subject: Microsoft Settlement

Dear DOJ:

I understand that according to the Tunney rules I can comment on the DOJ settlement with Microsoft.

As a long time Microsoft customer, who has used a wide variety of their products, I can say that the settlement is a very bad idea. Microsoft is a ruthless monopoly and predatory organization that has set back the progress of American innovation by ten or more years. Unchecked, Microsoft will continue to abuse consumers and think of itself as outside the law.

The DOJ should rethink the settlement and act quickly to break up Microsoft.

Regards,
Ashley Grayson

MTC-00026962

From: dgcj4
To: Microsoft ATR
Date: 1/27/02 4:32pm
Subject: Microsoft settlement

Now we have another COMPETITOR wanting to use our tax money to fight their market fight. How long is the government going to allow this fiasco to continue? A reasonable settlement was at hand and it seems those groups that are looking to wrench money for themselves out of the whole affair are allowed to continue to drag this on. Competitors continue to use litigation and the government to impede competition and innovation for us , the consumer. AOL paid $10 billion for Netscape, they obviously saw current value but did nothing to enhance or innovate its services and they wonder why it could not compete. The government needs to end this Microsoft thing and let the marketplace to resolve consumer choice between competitors by itself. Some will survive and others who cannot provide a service wanted by consumers, such as integration of software capabilities, or who cannot offer sufficient support will not.

MTC-00026963

From: ROY C HENDERSHOT
To: Microsoft ATR
Date: 1/27/02 4:33pm
Subject: Microsoft Settlement

This litigation against Microsoft is at the point of lunacy. It is time to STOP, END IT, and keep the American public from having to continue to pad the lawyer's wallets (through government channels) of those trying to destroy Microsoft, ie, their competitors. Keep the proposed settlement where it is.

R.J.HENDERSHOT
Arizona

MTC-00026964

From: Dan Copeland
To: Microsoft ATR
Date: 1/27/02 5:26pm
Subject: Microsoft Settlement

Two federal courts have declared that Microsoft is an illegal and anticompetitive trust and in violation of the Sherman Act. Microsoft continues to extend its anticompetitive behavior with the introduction of its .NET initiative, Passport and other information-hoarding schemes, and the integration of such technologies with Windows XP.

The currently proposed settlement is an insufficient remedy. I urge the Department of Justice to abandon the settlement in favor of one which addresses the problems outlined in the original Findings of Fact.

Daniel P. Copeland
2 Vulcan Stairway
San Francisco, CA 94114
(415) 522-6676

MTC-00026965

From: Peter Sanders
To: Microsoft ATR
Date: 1/27/02 4:34pm
Subject: Microsoft Settlement

To Whom it May Concern:

I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case.

I am against the current proposed Microsoft settlement—It does not provide any remedy to the continueing and systemic antitrust violations that Microsoft has committed over the past 10 years, nor does it promise to prevent any future violations.

The proposed settlement does nothing to address the "Microsoft tax" present on the vast majority of PC systems available for purchase on the market. It is impossible to purchase a non-Windows system in any mainstream retail store in any area that I have researched.

Sincerely,
Peter Sanders

MTC-00026966

From: Stan Novacki
To: Microsoft ATR
Date: 1/27/02 4:38pm
Subject: Microsoft Settlement

I would like to state that I am opposed to the proposed settlement of the Microsoft anti-trust case. I believe that the proposed settlement does not adequately ensure that Microsoft's anti-competitive behavior will be curtailed, let alone eliminated. By failing to restrain Microsoft's repressive actions, emerging technologies which promise to promote technological progress and foster consumer choice are still prey to Microsoft's systematic and illegal elimination of threats—whether real or merely perceived—to its monopoly in PC operating systems and applications.

Thank you for the opportunity to express my concerns.

Stanley M. Novacki, III
4640 5th Street South
Arlington VA 22204
snovacki3@yahoo.com

MTC-00026967

From: Andrew Puplis
To: Microsoft ATR
Date: 1/27/02 4:38pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice

Dear. Ms Hesse: This comment is in response to proposed Settlement between the US Department of Justice and participating states, and Microsoft. For the following reasons, the settlement should be rejected Section 3(b) only covers the top 20 OEM's. All other OEM's are not subject to pricing protections. This appears to create a high market entry barrier.

Section 3(c)(1): Allows Microsoft to prevent the display of Middleware icons, menus, etc. by other manufacturers as long as they similarly prohibit their own display of Middleware. This exception essentially allow Microsoft to maintain the status quo by disallowing other middleware manufacturers from displaying their icons. Consumers not aware of another choice will choose Microsoft.

Section 3(c)(2) Allows Microsoft to prevent the display of non-Microsoft middleware displays if they do not impair the functionality of the user interface. However, the decision if the user interface is impaired seems to be left up to Microsoft to determine.

Section 3(c)(3) requires that non-Microsoft Middleware providers make their icons of a similar size and shape as Microsoft's. This restriction seems to rekindle Microsoft's attempt to obtain copyright protection on utilitarian aspects of the windows interface. This the exact opposite claim they made in Apple vs.. Microsoft. In addition, this requirement seems to expose middleware manufactorers to potential claims for copyright and trade dress violations.

Section 3(c)(5) requires that the OEM comply with reasonable technical specifications established by Microsoft. Has Microsoft published or otherwise released these technical specifications? What is to prevent Microsoft from creating specifications that hinder the operability of another operating system and defend those actions as reasonable for the functionality as they have historically done to prevent Non-Microsoft Middleware?

Section 3(e) requires the availability of a communications protocol to allow interoperability with Windows. This won't be made available for another nine months after the submission of the proposed final judgment. Nine months in computer industry is an eternity. Microsoft has already shown its aggressiveness in this area. Allowing a nine month "buffer" before communications protocol is made available will give Microsoft additional time to shore up a monopoly over Middleware. In addition, the settlement agreement fails to provide the conditions under which the communications protocol. It is assumed that it will be provided under a confidentiality agreement. However, Microsoft may institute more restrictive terms under the guise of security that will render the availability moot. Indeed, other portions of the Settlement allow Microsoft to withhold information based on security concerns. This leaves Microsoft with the ability to restrict communication protocols to the point that they are useless.

Section 3(h)(3) Allows Microsoft to alter icons, start menus, etc. of non-Microsoft Middleware providers 14 days after bootup of a new PC. Most computer users are not technically proficient to understand the impact of changing the Middleware applications that lets them browse the internet, view pictures, play music, etc. In addition, 14 days may not be long enough for a new computer user to understand what middleware is and how it interrelates with what they view, listen to, etc.

Section 3(h) allows Microsoft to prevent non-Microsoft Middleware from contacting Microsoft Servers.This section essentially eliminates the force of the Settlement. Users who normally use Non-Microsoft Middleware must use Microsoft Middleware (including web browsers) in order to contact Microsoft for updates, security patches, or other information from Microsoft. Because of Microsoft's lackluster security, contacting Microsoft's servers is almost a weekly event. Users will eventually choose the path of least resistance because of the need to constantly contact Microsoft servers. It seems that Microsoft's lack of security can be used to their advantage. In addition, this section fails to address Microsoft's .NET strategy (which will likely be defined as outside the context of general web browsing by Microsoft). This Settlement should act prospectively to prevent future harm, not retrospectively to address issues that are already moot.

Section 3(h) Also allows Microsoft to prohibit Middleware that fails to implement a reasonable technical requirement. This section allows Microsoft to prohibit any Middleware that it doesn't like. Meaning, that Microsoft can require the Middleware to use proprietary Microsoft technology for which is may charge additional (and perhaps cost prohibitive) fees. This also, has the side affect of allowing Microsoft to further close competition in the computer industry by imposing proprietary technology. Section 3(h) allows Microsoft to refuse to disclose API's or Communications Protocols to those may compromise the security, anti-virus, anti-piracy, etc. This term allows Microsoft to refuse to provide API's or Communications Protocols under the guise of security, functionality, or rights protection. Again Microsoft could utilize this provision to refuse to provide Communication Protocols to potential Middleware competitors using these excuses. Section 3(h) also leaves it up to Microsoft who may obtain the API's and Communication Protocols. In addition, Microsoft may test the proposed Middleware for compatibility. However, there seems to be no procedure and standard for evaluating what Microsoft can choose to reject and on what grounds. The vague term "functionality" has been used throughout this Settlement without definition other than that Microsoft gets to decide what it is. General Comments: Many terms of the Settlement leave it up the reasonableness and discretion of Microsoft. This seems foolhardy because the very reason this lawsuit and proposed Settlement exist is because Microsoft has historically acted unreasonably and in bad faith against potential competitors. Therefore, leaving so many decisions to the discretion of Microsoft with regard to what their competitors may or may not do is (for lack of a better term) idiotic. In addition, their stall tactics and unreasonableness in court proceeding indicate they will stretch the Settlement terms to their logical extremes in order to continue to operate "business as usual."

It seems that the Department of Justice's stance on the Microsoft case has changed with the changing of Presidential administrations. The Court of Appeals has ruled Microsoft a Monopoly, yet the Settlement terms are surprisingly light on Microsoft and don't address prospective behaviors. It leaves most important decisions to Microsoft and limits who may enforce the Settlement to the Department of Justice, whose it under scrutiny from the industry and political organizations alike. Indeed, a non-profit Antitrust group may be filing suit because Microsoft and the Department of Justice failed to disclose all communications regarding the proposed Settlement. In addition, private organization are filing suit against Microsoft (e.g. Netscape) because they view the settlement as ineffectual. While these allegations may or may not be true, these facts raise suspicions that the term of the Settlement was politically motivated or improperly obtained by Microsoft.

Finally, the Settlement contains so many ambiguous terms and loopholes that additional lawsuits will be inevitable. However, this Settlement will limit those suits and who can bring them without addressing the illegal conduct of Microsoft.

Respectfully Submitted,
A. Ryan Puplis, esq.
2246 West Armitage
Chicago, IL 60647

MTC-00026968

From: Jack Wilson
To: Microsoft ATR
Date: 1/27/02 4:40 pm
Subject: Microsoft Settlement

I have worked in the computer industry for many years including several years where I worked directly with Microsoft software developers. Microsoft executives have demonstrated multiple times that nothing less than a breakup of the company will stop them from breaking the antitrust laws.

Sincerely,

MTC-00026969

From: Ray (036) Roberta
To: Microsoft ATR
Date: 1/27/02 4:42pm
Subject: My opinion

Please consider my opinion in the Microsoft matter, attached.

Thank you.
10950 Fury Lane
La Mesa, CA 91941
January 11, 2002
Attorney General John Ashcroft,
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing in response to the outcome of the Microsoft antitrust suit brought on by the Department of Justice. In my opinion, the case was without merit. I do not believe Microsoft infringed on any antitrust laws, either at the state or federal level. Likewise, I am adamantly opposed to any further legal action taken against Microsoft. I am, however, delighted to see the issue laid to rest. In this sense, I am satisfied with the settlement reached last November, and I hope that it will be enacted both nationally and eventually in the State of California. As such, I would appreciate it if you would press Attorney General Lockyer to become a party to the settlement.

Despite the unwarranted nature of this case, Microsoft has been willing to incur penalties in the interest of resolving this dispute. Microsoft has agreed to share information about the internal workings of the Windows operating system with its competitors. This disclosure of information will enable competing software designers to replace their own programs where Microsoft programs have been. Licensing of Microsoft's Windows system has also been guaranteed at a constant cost. Thus, computer makers will be able to receive the popular OS at equal prices across the board. Thus, the settlement is constructed to give Microsoft competitors access to formerly protected information.

These compromises are enormous. Yet, I will begrudgingly accept these terms as long as it ends this relentless persecution of Microsoft.

Sincerely,
Roberta Wisniewski

MTC-00026970

From: Fern Egurin
To: Microsoft ATR
Date: 1/27/02 4:45pm
Subject: Microsoft Settlement
January 27, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

I am a retired schoolteacher who uses Netscape software, and I fully support Microsoft in the antitrust case brought against it by the U.S. Government. I have never been restricted in what type of software I should use, nor have I been restricted in what type of computer to use. This case will enhance growth for competitors in several ways: Microsoft has agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows. In addition, Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price.

If a general consensus was taken regarding this case, I believe most would agree that Microsoft's business practices were fair and above board. People are concerned with two issues when comes to the IT industry...service and price. Please accept the proposed settlement so that Microsoft and consumers can put this issue behind them.

Sincerely,
Fern Egurin
8970 South Hollybrook Boulevard
Pembroke Pines, Florida 33025

MTC-00026971

From: chersouth@earthlink.net@inetgw
To: Microsoft ATR
Date: 1/27/02 4:41pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Cheryl Southwick
326 Wauwinet Rd
Barre, MA 01005

MTC-00026972

From: Edward A. Simmons
To: Microsoft ATR
Date: 1/27/02 4:45pm
Subject: Please consider this carefully!
Greetings!

I debated this for a long time, before finally deciding to say something on this subject of Microsoft vs. DoJ. See, I am so disappointed the DoJ has completely and utterly failed the public it represents with this "alleged" settlement with Microsoft. As sad as it appears to be, if you have money and a monopoly you can do whatever you please, buy whomever you want. Here we have a totally unrepentant Microsoft dictating what the terms of settlement are. Microsoft needs to be stopped if there will ever be any claims of justice in our judicial system. Will my letter make a difference? Will my plea fall on deaf ears? Will my faith be restored in our justice system? As important as justice is, it should never be rushed for the sake of convenience of the court. I'm appalled at the idea that the events of Sept. 11, will even suggest that this case be expedited. What an absurd idea. I am stunned speechless this attitude, or the appearance thereof exists in this current court. Like any American, I am deeply saddened by the 9/11 events and my hearts goes to the families of those affected by it. Here on the other hand, we have Microsoft enjoying the fruits of it's monopoly prior to that event, and indeed long after. Think carefully about what is at stake here.

What actions would I like to see in regard to making things right again? Start with stopping Microsoft from forcing OEMs to pre install it's OS on all new computers. If an OEM wants to sell a Microsoft product, do it separately and fully disclose the costs. As a consumer, I don't want to pay Microsoft for an OS I don't need or want. There's something badly wrong in this country when a convicted monopolist can force OEMs to pre load products, and our judicial system turn it's head. Thanks for taking the time to read this. Do not neglect your responsibility to the citizens of this great nation.

Edward A. Simmons
(937) 321–8266

The greater danger for most of us lies not in setting our aim too high and falling short; but in setting our aim too low, and achieving our mark.

MTC-00026973

From: Elaine Kurlander
To: Microsoft ATR
Date: 1/27/02 4:47pm
Subject: Attorney General John Ashcroft
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Dear Attorney General Ashcroft:

I would like to give you my thoughts on the Microsoft Anti-Trust case. I have been following the case and am very happy that this settlement has been reached.

I use Microsoft on a regular basis and am very happy with their products. I've never been prevented from using other products. I just haven't wanted to. But as part of the settlement, Microsoft is allowing other products on their Windows software. They have also made it easier for other companies to compete with them by handing over some of their technology secrets. When these companies come up with products competing with Microsoft, Microsoft has even agreed to not use ordinary normal business tactics to retaliate in the spirit of free competition. I hope that the Federal Government can set a positive example for the states still pursuing this mess.

Please maintain this settlement to help our economy in these difficult times.

Sincerely,
Elaine Kurlander
3314 Midfield Road

MTC-00026974

From: jjpilger
To: Microsoft ATR
Date: 1/27/02 4:50pm
Subject: Microsoft settlement
5035 Pine Bark Circle
Atlanta, GA 30338
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530
Dear Mr. Ashcroft:

I favor the settling of the Microsoft antitrust case. I firmly believe that this litigation is not in anyone's best interest and would have not been brought except for the actions of the company's principle competitors, Sun Microsystems and Oracle Corp.

Who has been harmed? Not the users of personal computers. My life, for example, has been made much easier because of Microsoft's products. As to the charges that Microsoft engaged in anticompetitive behavior, government should expect ferocious fights among major enemies, stand aside and let the best win. Sadly, when the competition couldn't win in the marketplace, they took to the political arena. And a search will reveal that Mr. Scott McNealy and Mr. Larry Ellison are no strangers to practices that they condemn in others. The pot calling the kettle black, if you will.

Both of the above men would better serve their respective companies and the American public at large, were they to devote their full time and energy into improving their products rather than lying awake dreaming up new diatribes against their more successful competitor, Microsoft.

In closing, please note that I am not a shareholder in any of the above firms. I ask, please conclude this needless prosecution.

Sincerely,
(signed)
John J. Pilger
(770)391–0842

MTC-00026975

From: ??
To: Microsoft ATR
Date: 1/27/02 4:49pm
Subject: Microsoft Settlement

The original settlement between Microsoft and the government in November of 2001 was one in which Microsoft decided to give the government a certain amount of money, agreeing to change some of the ways the company runs. Microsoft was convicted by the government of breaking antitrust laws. Some states are still against Microsoft being a monopoly. There is a question of whether or not Microsoft really is a monopoly. The Sherman Antitrust Act of 1890 prohibited what Microsoft is said to be doing now, which is being a monopoly.

I believe that Microsoft really is abusing its power. They have provided every Microsoft computer with Internet Explorer, which really is being too competitive. I believe that the government should not have allowed Microsoft to make a settlement because now we see how competitive Microsoft really is. In November of 2001, the government should have sued Netscape to the full extent. The settlement offered by the government was wrong I believe because it let Microsoft off the hook too easily.<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office"/>

Netscape was right to have sued Microsoft otherwise this case with Microsoft would have never ended. Netscape was bought by AOL Time Warner, another company that has been in controversy with Microsoft, in 1999.

The Sherman Antitrust Act prohibited exactly what Microsoft is doing now. It said that there should be no more monopolies. The question is however: is Microsoft really a monopoly? Also, monopolies began at the start of Industrial America after the Civil War. John D. Rockefeller said that one of the disadvantages of monopolies is that "...the power conferred by combination may be abused..." (John D. Rockefeller on Industrial Combinations. From U.S. Industrial Commission. From Preliminary Report on Trusts and Industrial Combinations. 1st Session of 56th Congress. (Dec. 30, 1899). This was a quote from a commission-like interview.]

From:
Irine Tyutereva
8th Grade—The Harker School in San Jose, CA

MTC-00026976

From: David Pihl
To: Microsoft ATR
Date: 1/27/02 4:52pm
Subject: Microsoft Settlement

For years, I have observed Microsoft from the perspective of an industry insider, and a consumer. Mr. Gates is often credited with the very notion that software should be a protected intellectual property. Yet Microsoft has consistently violated the intellectual properties of others, such as the developers of Stacker.

Whatever technicalities have allowed Microsoft to steal key elements of the Macintosh operating system, Netscape, DOS, etc., it is clear that they never intended for the rules to apply to them.

If it were up to me, I would order many of Microsoft's existing intellectual properties (copyrights, patents, trademarks, sourcecode, etc.) into the public domain. This would not prevent them from developing new, innovative technologies which they can patent, copyright, or protect in other ways.

This would also not dissalow Microsoft from selling the products they presently manufacture, as in the case of Caldera, or of Red Hat Linux. Anyway, it's something to think about.

MTC-00026977

From: Edward B. Riggio
To: Microsoft ATR
Date: 1/27/02 4:53pm
Subject: Microsoft Settlement
To: US DOJ

It is time to finalize the Microsoft Settlement.

Lets not prolong this expensive Microsoft settlement any further. The actions agreed to by Microsoft, Justice Department and nine states including New York where I live, are fair and good for consumers.

AOL is trying to gain a competitive edge by delaying the settlement. They have no case. We need to get on with strengthening the economy and one way to do this is to finalize the Microsoft Settlement by February 1, 2002.

Respectively,
Ed Riggio
Woodstock, NY 12498

MTC-00026978

From: Mary Brislawn
To: Microsoft ATR
Date: 1/27/02 4:52pm
Subject: Letter Please read attachment. Thank You
1108 Z Street
Vancouver, WA 98661
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
January 17, 2002

Dear Attorney General Ashcroft:

The intention of this letter is to give my support to the settlement that was reached between Microsoft and the Department of Justice last November. The antitrust suit went on for over three years and cost the Microsoft Corporation and the government millions upon millions of dollars.

Microsoft has been a major benefit to the economies of Washington and the United States. It has created a huge number of jobs, and has made our IT industry the world's gold standard. There are terms in the settlement that go beyond what was at issue in the lawsuit, especially the terms that makes Microsoft develop Windows differently in the future. It will be designed to make it easier for competitors and consumers to remove various facets of the operating system.

At the conclusion of this comment period, I hope you will give your approval to the settlement in the Microsoft case.

Thank you.
Sincerely,
Mary Brislawn

MTC-00026979

From: John Thomas
To: Microsoft ATR
Date: 1/27/02 4:55pm
Subject: Microsoft Settlement

My name is John Thomas, and I am an 18-year-old American citizen residing in North Carolina. Having reached the milestone year, I think I've finally earned the right to voice my opinion and have it matter.

Regarding the antitrust situation with Microsoft corporation, I think that the government is taking the wrong tack. To the average American consumer (a category into which I place myself), it would appear that our government is making him into a helpless victim, one who cannot even choose correctly the software for his computer that would be most beneficial to his work or pleasure. Perhaps I'm completely wrong, but it just seems to me that the government doesn't have the right to decide what can be in my computer or not. After all, I built it. I paid for the components and screwed them together. I paid Microsoft $99 for the upgrade to Windows 98 and I use it for hours per day. At my job at a therapy clinic, I benefit from Microsoft Excel spreadsheets and Microsoft Word's easy-to-use word processing software.

This case would seem to be a gross miscalculation on the government's part. If I could point your attentions to the fact that the antitrust complaint originated with some of Microsoft's more unsuccessful partners, realize that this wasn't a cry from the people, or from the people Microsoft partners... this was an attempt to lash back at the successful company by its competitors left in the dust. It seems completely illogical and unjust to allow the men whose businesses failed in this particular market to set the regulations for those who have not, like Microsoft corporation. One question weighing most heavily on my mind is, how can a successful business AND its useful products be a threat to anyone? After all, if one doesn't like Microsoft's products, one doesn't have to use them. I am, after all, also an avid Linux user. If I so chose I could stop using all Microsoft products permanently. However, I choose not to because they are useful, easy to use, and most efficiently get my daily tasks taken care of. I don't see a threat here. I see a businessman, Bill Gates, helping the world to run more smoothly and efficiently, as well as making himself quite a living in the process.

Speaking of Bill Gates, I grew up as a teenager hearing about his rise to one of the richest men in the world. This case would seem to suggest that those who are successful are put on a leash, with a choke chain attached. I've noticed this with the income tax as well. Sitting as I am in the lowest tax bracket and thus paying the least percentage of my income, I still find it unjust that those who are more successful than I, must pay a greater percentage of their income. Correct me if I'm wrong, but growing up I'd always thought that America was supposed to be free. I want that free America—an America where I, with my considerable intelligence and a liberal dose of plain old hard work, could maybe BE the next Bill Gates.

But why would I WANT a successful business? This case seems to demonstrate the truth of the maxim that if my business fails, I can bring down my successful competitors out of spite. How dare they rise above me. How dare they be successful where I was not. How dare they offer a superior product, and charge what it's worth. How dare they take advantage of a free market.

A free market. Isn't that what we're supposed to have here in America? At the very least, that's what they've been teaching me in these public schools from which I so recently graduated. It would seem to me that in a free market such as the one we have in this wonderful country, that Microsoft corporation— just the same as myself—has a fundamental right to its property. Correct this high-school graduate if I'm wrong, but I think the government is supposed to protect the rights of all citizens to their life, liberty, and property. It looks to me like we're robbing Bill Gates of his life, because we're taking his business... and his liberty, because we're shackling him and his freedom to run his business as he sees fit... and his property, in the form of this unjust and illogical antitrust case.

Thank you for your time in listening to my voice. It is, after all, 1/270,000,000th of this country.

John J. Thomas
CC:activism@moraldefense.com@
inetgw,jkaxiom3@aol.com@...

MTC-00026981

From: Anastas Pazevic
To: Microsoft ATR
Date: 1/27/02 4:56pm
Subject: Microsoft settlement

I urge you to quickly ratify the Microsoft settlement. Further lawsuits by various states will only benefit lawyers and foreign competitors who would be the 0nly benefactors in the demise of our wounded economy. We need strong, competitive and innovative Microsoft Corporation. We, the retired, are most grateful to Microsoft and its contributions to America and we wish this witch hunt to stop. Thank you for considering.

Anastas J Pazevic
Anastas Pazevic
anastasjp@earthlink.net
EarthLink: It's your Internet.

MTC-00026982

From: lin—da2001&fxsp0@
yahoo.com@inetgw
To: Microsoft ATR
Date: 1/27/02 4:53pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Linda Rivera
12270 SW Center St. #114
Beaverton, OR 97005

MTC-00026983

From: sbates1906@aol.&fxsp0com@inetgw
To: Microsoft ATR
Date: 1/27/02 4:55pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Shirley Bates
1906 Leavenworth
San Francisco, CA 94133

MTC-00026984

From: Patrick Fleming
To: Microsoft ATR
Date: 1/27/02 5:08pm
Subject: Microsoft Settlement
Department of Justice,

Regarding the proposed settlement of the current Microsoft antitrust suit I believe that the penalties proposed are too light and will force the government into further court cases with Microsoft in the future. When choice is taken away from the consumer, as in this case, we are harmed. As the past behavior of Microsoft shows, they are not interested in the consumer, only in increased or maintained market share. In 1994, Microsoft moved to shut Netscape out of the browser market- not through increased performance and enhanced abilities, but rather through restrictive licensing practices forcing OEMs into installing only Internet Explorer on Windows operating systems installed by the OEMs. Today, on Microsoft's own website it is declared, "Windows 2000 Professional is designed to make it easier for organizations to embrace the Internet. The built-in Internet Explorer (IE), a tightly integrated browser, provides users with a faster and richer Internet experience. With support for Dynamic HTML (DHTML) and Extensible Markup Language (XML), it offers a powerful platform for developers to create highly scalable end-to-end e-commerce and line-of-business web applications." This appears to be in clear violation of past consent decrees regarding Windows and the Internet Explorer software. They have expanded the hold on the browser market by implemented unwritten, undocumented, protocols and extensions into Front Page that did not, and still do not, display correctly using any browser except Internet Explorer forcing web surfers to use IE when viewing pages written using Front Page. The resulting statistics gathered by web site owners and operators shows a decided advantage to IE and leads to reduced standards coding and towards IE specific coding- a self-fulfilling prophecy. The more IE specific the coding the higher the percentage of users will use IE to view the page driving the statistics higher still on IE causing programmers to believe (if they only look at their own stats) that IE is the predominate browser. MS account executives are able to convince technology purchasers that the only web server viable is the current offering of Windows 2000 running Internet Information Server 5.0 since statistics show IE as the highest used browser and W2k/IIS5 as the only server capable of using the proprietary extensions of all those IE browser users. Eventually this circular logic begins to lock in the browser and then the server market, standards fall by the wayside, and users of other browsers find that they are unable to view a larger and larger percentage of web sites without using the operating systems and browsers provided by MS.

It is no great leap to imagine that Microsoft will not follow the latest settlement as written (even though it is not very harmful to Microsoft as written) and will continue to move forward "embracing and extending" until the operating system encompasses every conceivable function driving out not only potential competing operating systems, but all software manufacturers as well.

Just as we would not want to have a single company supplying our automobiles, computers (without the operating system installed), gasoline, steel, electricity, telephone access, tires (suppose only Firestone tires were available?) we should not want a single company controlling our computers, which web sites we can view, and which software we can use. Allowing Microsoft to maintain their monopoly in the manner prescribed can only worsen the state of computer security, preclude choice to the end user and reduce the overall quality of available products. The originally penalties imposed by Judge Jackson should be reinstated. Microsoft needs to be forced to compete on an even level with Netscape. It should be forced to open all of its APIs to the programing community at large so that all products can inter operate equally with the operating system. Only by having real solutions rather than a slap on the wrist as imposed by this agreement can we be assured that Microsoft is competing fairly, rather than shutting out competitors by hiding parts of its functionality within the APIs. Already MS has integrated the browser into its operating system. When a real threat of an office suite of products emerges will they then integrate MS Office into the operating system as well? The only real solution is to break MS up into the three distinct companies that Judge Jackson proposed forcing equal competition. Oversight of the settlement needs to continue for longer than the five (or seven) years proposed as well. Would the Justice Department have agreed that AT&T not be forced to break up or that they would only be restricted to five years of oversight? I believe not.

Microsoft has been charged with, and found guilty of, seriously damaging customer choice, forcing artificially high prices, suppression of competition and blatantly ignoring their previous consent decree. The punishment should fit the crime.

Patrick Fleming,
Consumer

MTC-00026985

From: BatVomit@&fxsp0aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 4:59pm
Subject: Microsoft Settlement

I feel that the proposed Microsoft settlement is a bad idea. This settlement is a mere slap on the wrist and will not prevent Microsoft from continuing the break the law in the future.

MTC-00026986

From: Adrian P. Sinnott
To: Microsoft ATR
Date: 1/27/02 5:00pm
Subject: Microsoft Settlement

I would like to voice a complaint against the proposed Microsoft settlement.

Microsoft has bullied there way through the computer market and now truly has everyone by the short hairs. After reviewing the current settlement, I find it woefully inadequate.

Regards,
Adrian P. Sinnott

MTC-00026987

From: Jack Lloyd
To: Microsoft ATR
Date: 1/27/02 5:03pm
Subject: Microsoft Settlement

Hello,

I belive the PFJ is insufficient to prevent future monopolistic actions on the part of Microsoft. Of greatest concern for me is Microsoft's use of frivoulous patents and/or abuse of the copyright system to prevent reverse engineering to allow for interoperable products. I feel this is a certral issue with the problem which should be better dealt with.

Sincerely,
Jack Lloyd
Johns Hopkins University

MTC-00026988

From: Salzberg, Steven L.
To: "microsoft.atr(a)usdoj.gov"
Date: 1/27/02 5:05pm
Subject: Microsoft settlement

Dear Dept of Justice:

I think the proposed settlement with Microsoft is bad for the country, bad for the computing industry, and bad for business worldwide.

I have been watching Microsoft grow since its founding when I was a computer science Ph.D. student, and I can honestly say that I do not know of a single major innovation they have introduced. Their claim that they just want to be free to innovate is nonsense. Their strategy is to copy what works and then use their monopoly to destroy the competition. What we end up with is inferior products with no choice. It's really unfortunate. Breaking up the company is the obvious and best choice for solving the problem: the operating system needs to be sold by a completely separate unit. Only then might we have a hope of seeing some true competition.

I urge the DoJ to reject this settlement.

Steven Salzberg

Steven Salzberg, Ph.D. Email: salzberg@tigr.org

Senior Director of Bioinformatics http://www.tigr.org/salzberg

The Institute for Genomic Research Ph: (301)315–2537 Fax: (301)838–0208

9712 Medical Center Drive, Rockville, MD 20850

Research Professor, Dept. of Computer Science, Johns Hopkins University,
Baltimore, MD 21218

MTC–00026989

From: Anthony Mirvish
To: Microsoft ATR
Date: 1/27/02 5:10pm
Subject: Microsoft Settlement

Dear sir, -

I am writing in connection with the proposed settlement of the Microsoft anti-trust case and to voice my support for the complete vindication of Microsoft and its policies. In reaching your final decision on the disposition of this case I would encourage you to consider the following points.

a.. The anti-trust laws are based on a fundamentally false and reasonable view of so-called "perfect" competition.

b.. Under this view, companies that actually attempt to change market conditions i.e. to compete, can be charged with anti-competitive measures.

c.. Competition is dynamic; no particular configuration in the market at any one time is fixed. If some new product that made personal computers obsolete were developed, Microsoft would not be able to give its products away. If it anticipated such a development, it would have every right to them.

d.. Companies can be prosecuted for raising prices, lowering prices, holding prices firm, entering into agreements with other companies, and for improving the efficiency and quality of their products (as in US versus Alcoa).

e.. This creates arbitrary and essentially ex post facto laws, preventing companies from knowing in advance when or if particular measures will cause them to violate the anti-trust laws.

f.. It is unjust to attempt to apply laws whose basic concepts are unreasonable, whose application is arbitrary, and which (if viewed as ex post facto laws) unconstitutional.

g.. The historical basis for the anti-trust laws is false.

h.. Even the great so-called monopoly cases of the early 20th century (esp Standard Oil) misrepresented the operations of the market.

i.. In most cases, asymmetrical competition and the effect of different products have been ignored.

j.. In Standard Oil, the enormous financial gains of entering the oil market had already brought Standard's share down to 60% (and dropping) at the time it was broken up.

k.. An industry consisting of a few companies, making marginal changes in price and market share, is not an example of competition.

l.. True competition and innovation (which Microsoft is alleged to have stifled), involve the development of different products, not complaints about being unable to offer a similar but inferior product (which is what Microsoft's competitors desire).

m.. Microsoft has made an enormous investment in developing good quality products.

n.. There are several other operating systems and browsers on the market. No one is prevented from using them. Bill Gates did not stop Linux from developing.

o.. In areas where Microsoft's products are less than perfect (for example, I prefer WordPerfect to Word), choosing competitor's products produces no ill-effect. If I tried to not pay taxes for a year, the effect would be different. This is the difference between true coercion and having to make a choice in the market.

p.. More than 95% of all anti-trust cases are brought by competitors of the company being sued.

q.. Anti-trust encourages political/judicial resolution of market competition. PACS and donations to political from technology companies have skyrocketed since this case was brought.

r.. One may disagree with Microsoft's concept of bundling its products with its operating system, but it is a perfectly reasonable and innovative concept of how software should operate. It is distinct from that offered by Microsoft's competitors.

s.. None of Microsoft's competitors have behaved as if they really want to compete i.e. by developing superior or fundamentally different and innovative products and then marketting them.

t.. None of Microsoft's competitors have been willing to accept the voluntary decision of millions of satisfied customers, all of whom have accepted and seen merit in Microsoft's products (and in its concept of bundling them with an operating system).

u.. It is wrong to force individuals to subsidize or support the products of companies that they have already rejected.

v.. Individuals (and by extension companies) have a right to their own property. This means that they have a right to determine the terms on which those products are developed or sold.

w.. The right to own property means the right to use and dispose of it—this involves the right to make contracts, and contracts are inherently exclusionary in that they are between a finite number of parties.

x.. If wealthy private individuals like Mr. Gates do not have a right to their own property, which they have built-up and earned lawfully, or to hold it only by political sufferance, then none of us ultimately have a right to our own property.

y.. No one is supposed to lose their rights just because they are rich and successful. No part of our constitution says otherwise. It speaks of equal protection for all.

z.. No one has a right to another person's property, person, time or good opinion. aa.. There is no such thing as a right to a particular market share other than the one that one has earned.

ab.. There is no such thing as a right to immunity from failure or from the effects of poor business decisions (or to the consequences of superior decisions made by others).

ac.. There is no such thing as a right to a given product, at a given price, at a given time. Consumers have only four honest choices in a market: buy what is offered on the terms set by the seller, do without the product, purchase another product (if available), persuade the seller to change his terms (perhaps by using less). There is also the option of developing a competing product. Microsoft's "competitors" have been unwilling to truly do the latter and refuse to accept the judgement of millions of satisfied customers.

ad.. Microsoft's "competitors" should not be allowed to profit through the courts when they have failed in the marketplace.

Sincerely,

Anthony Mirvish

CC:activism@moraldefense.com @inetgw,letters@capitalis..

MTC–00026990

From: somdbob@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 5:07pm
Subject: Proposed Microsoft Settlement

Folks at DOJ

Please leave the proposed settlement as is. It's fair to all concerned, including senior consumers. It's time to move on.

R. Waddington
5207 Acorn Drive
Camp Springs, MD 20748

MTC–00026991

From: Bill Dennis
To: Microsoft ATR
Date: 1/27/02 5:05pm
Subject: Microsoft Settlement

Lawmakers:

I hope that you will reject the Tunney Act settlement in the United States vs. Microsoft antitrust lawsuit. I believe that this settlement will only cement Micosoft's stranglehold on PC development by creating a new generation of children who are taught to believe that a computer always runs Microsoft Windows. They will just grow up believing in whatever their teachers show them on Microsoft powered PC computers.

Thanks,

Bill Dennis
904–268–3359
billden@mediaone.net
www.jacksonville.net/billden

MTC–00026992

From: Stuart H Van Dyke
To: Microsoft ATR
Date: 1/27/02 5:11pm
Subject: microsoft settlement

This case has gone on long enough. A reasonable settlement has been reached, and the action should not be prolonged to benefit some of the competitors. Let's get on with our business.

MTC–00026993

From: John Fusek
To: Microsoft ATR
Date: 1/27/02 5:11pm
Subject: Microsoft Settlemen

Gentlemen;

I am against the proposed Settlement with Microsoft. As an independent consultant in Linux I feel that the settlement would have an adverse effect on the open source community.

I also support Steve Satchell as one of the members of the comittee to enforce the terms.

John Fusek
ulspin@visi.net

MTC–00026994

From: Brad
To: Microsoft ATR
Date: 1/27/02 5:15pm
Subject: Microsoft Settlement

I wish to say my opinion about the settlement by claiming it's not enough to stop the Microsoft monopoly which would continue for many more years if this agreement is approved.

Brad Petrik

MTC–00026995

From: Mr David Sundqvist
To: Microsoft ATR
Date: 1/27/02 5:17pm.
Subject: Microsoft Settlement

Dear Department of Justice,

The damage that Microsoft has caused the computer industry is immense. They have, time after time, showed that they will tolerate no competition, and that they are willing to take any measures, legal or not, to crush any apparent competition. Their definition of competition is virtually anyone who makes any significant profit in a segment where they are active.

The result of this is that today, it is virtually impossible to create new consumer software for the PC market. You will not make any profit from it, because if you make a successful product your best bet is to get bought by Microsoft and maybe regain what you spent on development. The alternative is that they copy the product and "integrate" it in Windows (also known as dumping) and kill off your buisness. An industry where your only place is to be a risk taker for a monopoly is not a healthy industry. They are on their way to do the same thing with the server market. This time leveraging the desktop monopoly, making sure that the deals for the desktop becomes painful if companies do not buy the server products.

The remedy in the settlement is not enough. It is not a significant deterrent to prevent further illegal practices, nor does it adress the structural damage to the industry that their practices have resulted in. The courts and the department of justice must not allow lawbreakers to profit from their illegal actions and sneer at the legal system in the way that Microsoft has done.

Please make sure that crime does not pay. This settlement does not do that, because the "pay" for this crime ranges in the hundreds of billions of dollars, and unless stronger remedies are used the illegal practices will continue.

Best regards,
David Sundqvist
Pia Roennqvist

MTC–00026996

From: Shawn MacDougall
To: Microsoft ATR
Date: 1/27/02 5:14pm
Subject: Microsoft Settlement

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

It is the belief of many in the education and technology fields that the proposed antitrust settlement with Microsoft Corporation is not in the best interests of the American people. It does not protect against future abuses and in fact encourages the spread of the Microsoft software monopoly by proliferating the use of their operating system and attendant application programs to the exclusion of very viable software alternatives. Students in American public schools can only learn to use computers, an essential skill for the coming generation, on the products provided to them.

The Northern Territories school district in Australia, with a population of just over 200,000, finds that it saved $1,000,000 in the first year alone by using Linux alongside Microsoft products to provide computer education at all grade levels. This was enough to allow the school district to purchase an additional 1,000 computers for distribution in the schools and as loaner units for students (and their parents) to use at home. In a few short years their children will be competing, very effectively, on the worldwide intellectual marketplace against American children whose access to hardware was hampered by the prohibitive cost imposed by the practice of using Microsoft products all but exclusively in the public schools. The Australian experience could have been dramatically more productive had they used Linux as the operating system on all their computers but it was a good initial step.

The present savings represent its use in their servers only. http://opensourceschools.org/article.php'story=20011207001012102 In Brazil, Rio Grande do Sul's state university has saved about $500,000 using a free alternative to software running with Microsoft's proprietory database system. Using the free, open source database called SAGU, the school and 5 branch campuses manage matriculation, grading, scheduling and several other administrative functions. The student computer labs have also saved thousands of dollars using Linux as a replacement for Microsoft Windows. Relicensing fees have dropped dramatically in the three years since switching over to Linux totalling a savings of around $20 million. http://www.businessweek.com/technology/content/oct2001/tc20011025—8523.htm

Microsoft should pay its fine in hardware donations only. Red Hat Software of Research Triangle Park, NC, (near Durham, NC) has offered to provide pro-bono copies of the Linux operating system corresponding to a Microsoft donation of hardware. Any donation of software that Microsoft might choose to make would not be included in the proposed settlement but must also be a pro-bono gesture corresponding to the Red Hat Software offer. Moreover, any copies of software Microsoft might donate should require no payment of any sort by the schools at any forward point in time. It must be a true donation of indefinite duration, just as the Red Hat offer is. Otherwise, if required to pay, the schools would eventually have to abandon their training programs for lack of funds to re-license / upgrade their software. http://biz.yahoo.com/bw/011120/202744—1.html

While Microsoft Corporation should not be excluded from expressing generosity, such generosity, expressed as software gifts, only furthers their ability to monopolize the marketplace and should not be permitted as a part of the penalty for having followed illegal practices in the establishment of their dominance in the software market.

Microsoft has painted itself the champion of choice and freewill while villifying open-source software as being un-American. It is time for their actions, public and private, to match their very public words.

Software donations should be no part of the proposed settlement. Shawn MacDougall
1331 Terry Ave #705 Seattle, WA 98101
206.652.1492

MTC–00026997

From: bwood@providentmutual.com@inetgw
To: Microsoft ATR
Date: 1/27/02 5:17pm
Subject: Microsoft Settlement

I would like to add my voice to the thousands of others who are ready to let Microsoft get back to work. The terms of the proposed settlement seem fair to all parties and best of all, would put an end to this destructive legal hassel. I am an average American working for a living. I use Microsoft products every day and am grateful to the company for all they have done to make our lives better. As owner of a small amount of Microsoft stock, it is hard to see that any good for anyone can come from further legal attacks on Microsoft. Enough is enough.

Bonnie F. Wood
Provident Mutual Life Insurance Company
B3S
Bonnie—Wood@providentmutual.com
610–407–1462
fax 302–452–7264

MTC–00026998

From: John Fusek
To: Microsoft ATR
Date: 1/27/02 5:21pm
Subject: Microsoft Settlement

To whom it may concern:

I am against the settlement as it currently stands.

John Fusek

MTC–00026999

From: nidia@snio.net@inetgw
To: Microsoft ATR
Date: 1/27/02 5:19pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
maria Belcea
11 Carter Brook Lane
Princeton, NJ 08540

MTC–00027000

From: Dylan Thurston
To: Microsoft ATR
Date: 1/27/02 5:22pm
Subject: Microsoft Settlement

To whom it may concern,

I urge you not to accept the proposed final judgement in United States v. Microsoft Corp., Civil No. 98–1232. The proposal is flawed in many ways, as detailed by Dan Kegel <http://www.kegel.com/remedy/letter.html>, who I largely agree with. Let me focus on one particular issue which is not covered by his letter: the terms under which Communications Protocols and other APIs are to be released.

Section III.E of the PFJ provides for the release of Communications Protocols under "reasonable and non-discriminatory terms". Similar terms are described in other sections. Such terms exclude an extremely important class of software: free software. Users of free software have the liberty to "run, copy, distribute, study, change and improve the software" <http://www.gnu.org/philosophy/free-sw.html>. Documentation released under reasonable and non-discriminatory (RAND) terms is not useful for free software producers: typical RAND terms prohibit public disclosure of the information, but free software is, by definition, distributed with its source.

Lest you think that free software is unimportant, let me note that the protocols at the heart of the Internet and the WWW—including the TCP/IP protocol for routing information, the DNS protocol for distributing domain names, the SMTP protocol for sending e-mail, and the HTTP protocol behind Web pages—were produced using free software and are commonly implemented using free software. For instance, in the domain of Web servers, Apache (a free software project) is in active, direct competition with Microsoft's Internet Information Server. More generally, the GNU/Linux operating system, a free software system, figured promninently in the original trial as an alternative to Microsoft Windows.

The PFJ does nothing to help a large class of competitors to Microsoft: free software projects. Please do not accept it in its current form.

Sincerely Yours,
Dr. Dylan Paul Thurston
Research Fellow
Harvard University
Chung-chieh Shan
Research Assistant
Harvard University
CC:Ken Shan

MTC–00027002

From: Dave Powers
To: Microsoft ATR
Date: 1/27/02 5:22pm
Subject: Microsoft Settlement

There is no good reason NOT to break up Microsoft.

Dave Powers

MTC–00027003

From: John Fusek
To: Microsoft ATR
Date: 1/27/02 5:25pm
Subject: Microsoft Settlement

Dear Sirs,

I am against the settlement as it does not provide adequate protection for the Open Source movement.

John Fusek

MTC–00027004

From: Damien Barrett
To: Microsoft ATR
Date: 1/27/02 5:30pm
Subject: Microsoft

As pointed out by Dan Gillmore, Microsoft has clearly violated parts of the Tunney Act.

Not to mention they've been openly and arrogantly abusing their monopoly power in the desktop market for years.

It's time for the U.S. Government stepped in and forced Microsoft to play fair. I'm getting tired of paying outrageous prices for Microsoft's not-so-great software. Were competition introduced back into the market (were MS to play fair), I'm certain us IT admins wouldn't have to constantly deal with the almost daily vulnerabilities in MS software.

Make Microsoft play fair. Break them up. I don't care as long as the industry continues to improve. With MS in the lead and stifling the innovation of hundreds of technology companies, it's doing little but stagnating.

I wanted to go on record with my viewpoint. I'm hoping that the USDJ gets enough emails to finally take notice of Microsoft's abuses of power and does something to stop this juggernaut of irresponsibility from extending into other markets.

Damien Barrett

MTC–00027005

From: Eloise Knapp
To: Microsoft ATR
Date: 1/27/02 5:32pm
Subject: MICROSOFT SETTLEMENT:

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take this opportunity to discuss my feelings regarding the antitrust settlement that has been reached between the Microsoft and the Department of Justice. I feel that the settlement is more than fair and the matter needs to be wrapped up as soon as possible. Microsoft has even agreed to terms that extend past what was originally in the suit. The damage that has done to the IT industry and the economy is not worth what will come out of continuing ligations.

Microsoft generosity in our area alone (Washington State) is greatly appreciated and much needed. Cut backs with Boeing and the ENRON business—is cutting into small business—having dealt with Enron. This is only the tip of the ice berg in our state. It is now very important, people in this state ban together, to try and keep our economy a-float.

Microsoft support—money and computer supplies—is very important to the area's-areas that otherwise wouldn't have the opportunity to experience the likes of, because lack of state money to support education

- mainly due to the location and size of the county the schools are located in. What I have read and heard
- these are the counties Microsoft seems to reach out to, generously. Not to mention Microsof't generosity overseas.

From what I see—the terms of the settlement are fair; they will benefit the consumer and other companies. Microsoft has agreed to document and disclose for use by its competitors various inerfaces that are internal Windows" operation system products-a first in an antitrust case. MICROSOFT HAS ALSO AGREED TO LICENSE ITS WINDOWS OPERATING SYSTEM PRODUCTS TO THE TWENTY LARGEST COMPUTER MAKERS ON IDENTICAL TERMS AND CONDITIONS.

Please encourage the Justice Department to put and end to all of this. Thank you for allowing me the opportunity to express my views.

Sincerely,
Eloise Knapp
13730 15th Ave NE
B201
Seattle, Washington 98125

MTC–00027007

From: JNHOFNIC@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 5:30pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
James Hall
POB 6733
Marietta, GA 30065

MTC-00027013

From: RDNicks@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 5:34pm
Subject: Competitors actions

Let's face it, the technology that we are enjoying today would be so disorganized and costly that it would be impossible for the majority to have it available. Microsoft has had the foresight and the where with all to make it work. I can't imagine what it would be like if we had even as few as 5 operating systems to choose from. Every program company would have to develop 5 different programs instead of just one.

We need standards that every vender can work with. Microsoft has established those standards.

The competitors are just wasting the taxpayers money in their pursuit of Microsoft.

If you want to go after monopolies, how about the security industry? Just about every one of the manufacturers of mechanical security devices is, at present owned by two foreign companies. They have even absorbed the trade journals. Most of the manufacturers that have been absorbed date back to the industrial revolution.

Roy W. Nicholas CML
2731 Lynn St.
Bellingham, WA 98225

MTC-00027014

From: Dr. Stephen J. Kennedy
To: Microsoft ATR
Date: 1/27/02 5:25pm
Subject: Microsoft Settlement

To Whom It May Concern:

There is nothing that has done more harm to innovation in computer software than Microsoft.

Microsoft is largely an "anti-innovation" company. The development of the company is, is for the most part, based on ruthless, unethical, and probably illegal business practices. The result is that the computer software landscape is now largely the "dead zone". Would you like to use a word processor? Sure, no problem, as long as it is MS Word. I still recall how appalled I was the first time I noted the National Science Foundation (the primary federal funding agency for basic research in the physical sciences) was requiring grant applications in WORD! The product of a private company. It was as if giving Microsoft money was an unavoidable tax levied on anyone who wanted to be a citizen of this country. There was a time, which I can well recall, when there was a wide choice of word processing software, both on the DOS (later Windows) and Macintosh side.

Is this because of the inherent superiority of Word? That is laughable. Word has it's adherents but in my opinion is far down the list of good design. After the monopoly was established we entered into the endless cycle of useless upgrades, cleverly insinuated by Microsofts purposeful file incompatibilities.

Another unavoidable tax levied by an entity that is now as powerful (or apparently more powerful) than the federal government elected to represent us all. Other areas, followed the same pattern.

The proposed settlement is an obscene joke and apparently we will have to kill the smothering influence of Microsoft in some other way. I am absolutely opposed to the settlement as described in the press.

Regards,
Stephen J. Kennedy

MTC-00027015

From: Michael Wittman
To: Microsoft ATR
Date: 1/27/02 5:35pm
Subject: Microsoft Settlement

As a software engineer with 11 years experience developing software for Microsoft Windows and other operating systems, I'd like to comment on the Proposed Final Judgement in United States vs. Microsoft. I belive that the proposed settlement is not in the public interest. In fact, it is so seriously flawed and full of loopholes that it would allow Microsoft to continue its anticompetitive business practices virtually unchanged. Even worse, these practices would then have the imprimatur of the United States government, resulting in even less competition in the market for operating systems. Many significant loopholes in the proposed settlement are evident in the definitions of various terms. It is troubling to note that several definitions adopted in the Findings of Fact have been watered down to the benefit of Microsoft. For example, "API" is defined in the proposed setttlement to mean interfaces between Microsoft Middleware and Microsoft Windows. However, the same term is defined in the Findings of Fact as the interfaces between application programs and the operating system. Curiously, the latter definition is the one actually used in industry, while the former is the one proposed by the government and Microsoft.

While this difference in definition may seem trivial to layperson, its inclusion would have a very serious effect on the ability to interoperate with software produced by Microsoft. It could permit Microsoft to restrict the release of information needed to use fundamental operating system functions such as application installation, which would make it difficult for parties not favored by Microsoft to compete with its operating system. Another troubling aspect of the settlement also relates to APIs and is detailed in section III. J. 1. It describes exceptions to the required release of API information which would effectively give Microsoft carte blanche to make any APIs it disclosed unusable to competitors. It could do this by integrating encryption or security functionality with any API, even if that functionality was purely superfluous to the main purpose of the API. By integrating this functionality in such a way that it had to be used in order to make use of the remaining parts of the API, the entire API could be made unusable to competitors.

For these reasons and many others, I strongly believe that the proposed settlement is not in the public interest and should be rejected by the court.

Sincererely,
Michael Wittman

MTC-00027016

From: Lord J.A.Cummings
To: Microsoft ATR
Date: 1/27/02 5:40pm
Subject: Microsoft Settlement

Dear Sirs,

To spare you the time of reading again many of the same strong opinions given by others outraged by Microsoft's End User License Agreement, I shall be voicing my opinion by joining those masses in number, in requesting that you please reconsider the leniency against Microsoft in the proposed Antitrust settlement.

Thank you,
Lord J.A.Cummings

MTC-00027017

From: Chris Rotella
To: Microsoft ATR
Date: 1/27/02 5:39pm
Subject: Microsoft Settlement

Microsoft is a convicted monopolist. Why are they getting off with a slap on the wrist? They deserve to be split, completely separating the Applications and OS divisions. Internet Explorer must be removed from the OS. Microsoft is a convicted monopolist. The cost of their monopoly grows each day. How much money has been lost because of the security holes in their products? The number is in the billions.

Microsoft is a convicted monopolist. However, they still continue to leverage their monopoly power so as to control other areas. Witness the bundling of software with Windows XP. Out of the box, Windows XP cannot rip CDs to MP3s. It can however, rip CDs to Microsoft's propriety WMA format. Microsoft is a convicted monopolist. They should be punished as one.

Thank you,
Chris Rotella
Math major
Carnegie Mellon University

MTC-00027018

From: Gary Lindgren
To: Microsoft ATR
Date: 1/27/02 5:40pm
Subject: Microsoft Settlement

Judge Collen Kollar-Kotelly:

From my understanding, the Tunney Act requires full disclosure of all government contacts. Most of the attention has been that Microsoft has been not disclosed all of the lobbying that they have done. But does the Tunney Act also require full disclosure by the supporters of this suit against Microsoft. I am referring to Apple, Sun Microsystems, and Oracle Corp. I believe that these companies must also disclose all contacts they have had regarding Microsoft. I know that several times, President Clinton stayed at Steve Jobs home while visiting the Bay Area. I'm sure Microsoft came came up as a topic at supper time. Please look into this.

Thank you,
Gary Lindgren
585 Lincoln Ave
Palo Alto CA 94301
650–594–3846

MTC–00027019

From: Shabana Insaf
To: Microsoft ATR
Date: 1/27/02 5:42pm
Subject: Microsoft settlement
Renata B. Hesse
Antitrust Division, U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse,

I have been a highly satisfied customer of Microsoft products for a decade. I prefer to use the microsoft internet explorer over the Netscape browser, since it is linked to many programs and therefore is very convinient to use. It is beyond my imagination that offering such convinience to customers is unlawful in a country such as America which stands for freedom. It is time we re-examined the anti-trust law structure which allows unsuccessful businesses to force the market down so they can compete. This is not in accordance with the fundamental principles of capitalism. As a consumer, I am appalled that a company that offers it's browser for free is being harrassed because another company wishes to compete by charging for their browser. As a taxpayer, I lose from both sides since my tax money is being used to destroy a company that has served the people of America with its ingenuity and courage. I hope that the department of justice will not commit this act of injustice directed towards microsoft and ultimately towards all the people of America.

Sincerely,
Shabana Insaf
Shabana Insaf
Senior Research Scientist I
Wyeth Ayerst Research
Department of Infectious Diseases Research
Building 222, Room 3149
401 N Middletown Road
Pearl River, NY 10965
Phone: 845–732–2241
Fax: 845–732–5561
E mail: insafs@war.wyeth.com
CC:letters@capitalismmagazine.com@inetgw,activism@mor...

MTC–00027020

From: Jack Benner
To: Microsoft ATR
Date: 1/27/02 5:42pm
Subject: Microsoft Settlement

Dear Sirs,

I believe the proposed settlement is bad idea because Microsoft's domination of the current OS, applications and internet browsers markets is dangerous. Only one microprocessor family is supported. Our infrastructure in the USA is dependent on Microsoft making the Windows OS secure which they have been unable to do even with their latest Windows XP. Make Microsoft share information so that all developers can compete on an equal footing. Make Microsoft enable cross platform sharing of information. Apple, Unix, Linux and any other OS should be able to be good clients and servers in a Microsoft network or Intra/Internet. Finally a provision establishing such serious consequences for non-compliance that Microsoft will not attempt to evade the necessary disclosure requirements and other mandates.

Thank you,
Jack S. Benner II, PhD
benner@neb.com

MTC–00027021

From: Pat Russell
To: Microsoft ATR
Date: 1/27/02 5:45pm
Subject: Microsoft Settlement

It is time to close this issue, accepting the settlement proposed. Competitors should not be given the opportunity to force the issue to remain in costly litigation.

Patricia Russell

MTC–00027022

From: mayer ilovitz
To: Microsoft ATR
Date: 1/27/02 5:42pm
Subject: Microsoft Settlement

[Text body exceeds maximum size of message body (8192 bytes). It has been converted to attachment.]

To: Renata B. Hesse
Antitrust Division
US Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Under The Tunney Act, I would like to add some comments on the proposed Microsoft settlement.

By this point, you will have received many letters from those who have presented the flaws of the proposed settlement in far more detail and far more eloquently than I could at this late date. However, I feel compelled to to reiterate some of their points. -

The very history of this proposed settlement is disconcerting. It was created by a newly appointed head of the antitrust division of the DOJ and Microsoft's lawyers. By all reports, all the other DOJ lawyers, who had spent years on the case, all the other State's lawyers and their technical support staff were excluded from these proceedings. Though I am not a lawyer, what I have read of the settlement itself and the many reviews about it, the document reads like something that was dictated entirely by Microsoft's lawyers and provides a "settlement" overwhelmingly to Microsoft's benefit, and little to no long term benefit for anyone else.

The settlement specifies an enforcement mechanism that for all practical purposes would be toothless. It specifies a three member committee to oversee the judgment. However, Microsoft would have influence over the selection of one (if not two) of the members. This is like asking the fox to guard the hen house. Further their authority would extend only to "assisting in voluntary dispute resolution". Worse, according to the settlement, non of their findings or recommendations could be used in court in enforcement proceedings nor would they even be allowed to report any of their findings or recommendations to the Courts or Congress.

While it makes some attempts to address the issues related to the "big 20" OEMs, it does nothing for smaller OEMs, corporations, universities or smaller end users. Contracts such as MS's "Enterprise Agreement" are ignored. The Enterprise Agreement can provide sizable discounts on MS software and upgrades. However, the big catch to this agreement is that the company must use MS products instead of alternatives. Even in a healthy economy, the pressure to minimize expenses are great. In a less than ideal market, it only gets much worse. So, to take advantage of discounts in Windows & Office, one is forced to accept Outlook and Internet Explorer and reject Netscape Navigator and other alternative products. Potentially, the wording of the Enterprise Agreement might even be interpreted to prohibiting the use of Linux, BSD or some other non-MS PC desktop and server operating system. The combination of things like the EA and the propensity for Windows based applications to treat the presence of non-MS applications as a "problem" that needs to be fixed, leads many corporate IT groups to give in and convert to "pure MS" desktops that excludes non-MS components.

- The definitions of the terms "Windows OS", "API", and "Middleware" specified in the settlement are so restrictive that future implementations and trivial derivations of major middleware and API components would be exempt from any restrictions. Further major current and imminent applications, APIs, and middleware products are completely ignored. .NET, the linchpin in Microsoft's effort to build an Internet equivalent to its Desktop domination, is completely ignored by the settlement. The .Net initiative has been public knowledge for a long time now, but there is no reference to it in the settlement. Likewise, the MS office suite is completely excluded. The single strongest weapon in Microsoft's arsenal for protecting the Windows Desktop monopoly has been, and continues to be, MS Office. Time and again, the number one reason given for having to use Windows on the Desktop is the need for compatibility with MS office documents and applications. Thus, it could easily be argued that MS Office constitutes a monopoly situation in its own right. Further, MS's frequent changes in document formats between revisions of the product forces all users to upgrade en masse to newer versions of Office (and usually newer versions of Windows). This both further adds to MS's (prodigious) revenue stream and makes if very difficult (if not impossible) for third parties to create compatible products. The specifications for all MS Office documents and API interfaces must be made open and available in a timely fashion for this monopoly to be broken. Also, the many offshoots of Windows are ignored by the settlement. No mention is made of WindowsCE, Pocket PC, Tablet PC or X-BOX, which is really just a slightly stripped down PC running a variant of Windows. Each represents Microsoft's efforts to leverage its

Windows monopoly into other market areas. The Settlement displays numerous anti-"Open Source" biases. Many experts agree, and the top executives at MS have essentially admitted, that Open Source is the single greatest threat to Microsoft's monopoly. The existence of operating systems like Linux and the BSD variants, applications and middleware products like Apache webservers, SAMBA file and print sharing have permitted many to reject Microsoft's Windows Desktop and Server OS platforms in favor of alternatives. Yet, the settlement threatens all of this. The settlement does nothing to prevent MS from retaliating against an OEM that ships a PC that is preloaded with only a non-MS operating system. Further, alternate Operating System vendors such as BE were ultimately driven out of business because OEMs refused to preload BeOS in addition to Windows. Their reason: fear for their license agreements with Microsoft. The way the settlement is worded, MS would be able to deny Open Source developers access to APIs, communication protocols and other documentation essential to maintaining compatibility with their Windows counterparts. The restrictions on document disclosure as they relate to "encryption, authentication anti-piracy" and related issues as determined by Microsoft presents many opportunities for mischief on Microsoft's part. The settlement makes no references to restrictive licensing conditions such as: preventing the distribution of otherwise redistributable components when it is done ONLY for use by MS-based products and on MS-based Operating Systems, and explicitly forbids its distribution for use with open-source products and OSes.

—The settlement does nothing to address Microsoft's use of its monopoly derived power and financial resources to push into new areas with the intent to claim a dominant position. Their huge cash horde (by some recent reports in excess of 30 billion dollars) puts them in a position to trivially crush a competitor in any new ventures.

—With the the X-BOX, Microsoft is targeting the game console market. This system is essentially a slightly stripped-down PC running a variant of Windows. Reviewers of the system have said that it has features significantly beyond those of its competitors and is selling the units at a serious loss. This is in combination with a reported 500 million dollar ad campaign. At the same time Microsoft used its power to convince many musicians to provide their music for use in MS XBOX games for little or no financial compensation in exchange for mentioning of the band's name in the game. In most cases, one would have to dig into the bowels of the games to find out who provided the music. Normally, companies would pay tens of thousands for such music per game. (see New York Times 11/15/2001—THE POP LIFE; For Musicians, Microsoft's Xbox Is No Jackpot) Recently, Microsoft announced that its next target will be the "Gameboy" handheld game market.

—Microsoft for several years has been pushing to get cable and DSS providers to use MS-based set-top decoder boxes. In general, the providers have refused, fearing a repeat of MS's takeover of the PC. MS appears to now be using its financial muscle to buy its way into the settop market. It provided large sums of cash to help Comcast win its bid for AT&T's cable system. Recently, directly and through his Foundation, Gates purchased 500 million dollars worth of Cox Communication stocks. In both cases, it will be much harder for these cable companies to reject the replacement of set top boxes with those that are Microsoft-based.

—Microsoft continues its push to dominate the Internet. .NET is Microsoft's latest attempt to redefine the Internet on its terms. This would extend its monopoly from the desktop to the Internet. Either by outright purchasing or dealmaking, Microsoft is forcing more and more dialup and DSL/cable end users to use MSN. At the same time, Warner Cable has complained that inherent incompatibilities in Windows XP prevents their high-speed cable systems from working with XP-based computers. This would not be the first time that Microsoft implemented incompatibilities with the express purpose of hindering a competitor (the DR-DOS case). By the use of EULAs or the explicit design of websites owned by Microsoft or its partners, non-MS browsers and Operating Systems are blocked from accessing various websites and services. The EULA for MSNBC's NewsAlert software only permits you to run the software on systems running a non-competing operating systems. It has been reported that Microsoft and its partners have, either intentionally by design or unintentionally by using an MS product, built websites that explicitly recognize connection attempts by Netscape/Mozilla clients and reject the connection. When the users changed the client identification to something else, the problem went away.

—Microsoft's involvement in things like E-Books and Digital Rights Management also concern me. I am concerned that Microsoft will use its dominant positions to make these things only available on MS-compatible/approved products. For these and many other reasons, the proposed settlement, as currently presented and without major revisions, must be rejected. The alternative will lead to an even greater monopoly extending far beyond the PC Desktop and into many other aspects of our digitally-enabled world.

Mayer Ilovitz
New York, NY

MTC-00027023

From: Toby Austin
To: Microsoft ATR
Date: 1/27/02 5:47pm
Subject: Microsoft Settlement

The proposed settlement with Microsoft is nothing more than a convenient way for them to "donate" their own software to schools, thus increasing their market share. Please reconsider.

Toby A S Austin

MTC-00027024

From: Carolyn Freeman
To: Microsoft ATR
Date: 1/27/02 5:47pm
Subject: MICROSOFT SETTLEMENT

If the CEOs of the internet "competitive" companies would quit crying and create instead, there would be sufficient for everyone. I cannot understand how the government who is supposed to represent all citizens can consider tying the hands of one company and call it competition. So much for hard work and creative effort. Hopefully I will still have the right to spend my money as I see fit to buy the product(s) I choose at the market place. Make a good product at a good price, the public will purchase it. The offer made by Microsoft to supply schools, etc. is terrific - not only will the children benefit, the government can get out of business manipulation. Why is success always penalized!!!

MTC-00027025

From: Toni Savage
To: "microsoft.atr(a)usdoj.gov"
Date: 1/27/02 5:22pm
Subject: Microsoft Settlement

Please also allow OEMs to configure MicroSoft software with any defaults a user would be able to change, ONLY so long as they specify to their customers exactly what it is that they changed. In other words, if they want to change the default home page to be their home page instead of MSN.com, they should be allowed to do so.

Toni Savage
196 Dean St.
Brooklyn, NY 11217

MTC-00027026

From: Tim/Mary Irvin
To: Microsoft ATR
Date: 1/27/02 5:51pm
Subject: Fw: Microsoft Message

January 24, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I'm writing to urge you to accept the terms of the settlement recently reached between Microsoft and the United States Justice Department. The settlement will result in a much more competitive environment beneficial for all parties involved. Microsoft has, for example, agreed to grant broad new rights to computer manufacturers and software developers to configure Windows to promote non-Microsoft software programs that compete with Microsoft programs included within Windows. This means computer manufacturers can replace Internet Explorer with Netscape Navigator; Microsoft Media Player with RealPlayer; and Windows Messenger with AOL Instant Messenger. Microsoft has further agreed to not retaliate against computer makers and software developers who choose to take this route, nor will Microsoft retaliate against computer makers who ship competing operating systems. Overseeing the terms of the settlement will be a Technical Committee comprised of three persons who are software engineering experts. This Technical Committee will assist in any dispute resolution, should a complaint be filed. Based on these facts, I respectfully request you to accept the terms of the settlement.

Sincerely,

Mary and Tim Irvin
722 Poplar Drive
Bellingham, WA.98226

MTC–00027027

From: JMyers
To: Microsoft ATR
Date: 1/27/02 5:53pm
Subject: Microsoft Settlement

Dear DOJ,

Especially now more than ever should one corporation hold a stranglehold on what is arguably the most important industry in the world?Especially a company whose record of security and shady business practices be allowed to run free to devour and destroy other companies.Microsoft makes Standard Oil look like a bunch of choir boys.The time is right for not a slap on the wrist-or worse yet help in controlling the education sector-but a comprehensive and severe crackdown on this company.It is time for Microsoft to be punished for their morally,ethically and I believe in some regards down-right criminal behavior.

Thank you for listening,
James F.Myers Jr.

MTC–00027028

From: AHERSTEL@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 5:54pm
Subject: Microsoft Settlement

Stop badgering Microsoft. Admit once and for all that Bill Gates and his crew built a better mousetrap. Were it not for them, the common man wouldn't be enjoying the delights of computer ownership.

I'm 78 and worked up from DOS 3.0 to Windows 98, and it didn't cost me an an arm and a leg. My grandchildren were literally weaned on my computors. Please exercise your authority on prosecuting the ENRON thieves and their cohorts.

Andrew J. Herstel
9035—28th Street
Brookfield, IL 60513–1015
708–485–2129
e-mail aherstel@aol.com

MTC–00027031

From: Yaw Kordieh
To: Microsoft ATR
Date: 1/27/02 5:56pm
Subject: Microsoft Settlement

My name is Yaw Kordieh. I feel that Microsoft's decision of gaining monopoly power by preventing other software companies from distributing their software worldwide was wrong. Microsoft has always been successful promoting their software because most computers are pre-installed with their software, Windows when consumers first buy it. There hasn't been any competition from any other software as well. So the Microsoft software, Windows has been well known to people. I agree with the idea of a remedy because it won't allow Microsoft to gain monopoly power illegally and any other practices in the future. It also gives other software companies a chance to expand their software to other places in the world, which also creates competitiveness among the softwares. With the arrival of Netscape and Java, Microsoft felt that they both created a threat to their company because they had special applications that allowed them to run on most programs. Microsoft's decision of creating the Internet browser, Internet Explorer was a good idea because it gave people the chance to decide which Internet browser they wanted, instead of just accepting what they already had on their computer. So the actions that Microsoft took was unfair to other companies and to the consumers. I feel that if there were other companies that made software, then consumers can choose which program they would like to use.

MTC–00027032

From: — —
To: Microsoft ATR
Date: 1/27/02 5:57pm
Subject: Microsoft Settlement

Comments Concerning the Microsoft Proposed Settlement,

01/27/02

Dear Judge Colleen Kollar-Kotelly,

The anticompetitive and technically inaccurate settlement agreed to by the U.S. Justice Department is tainted and should be set aside as not in the public interest.

I have over ten years experience of dealing with Microsoft closely and 20 years of experience developing software across multiple platforms. I am an expert at understanding software design. Microsoft has caused great harm to this country by limiting consumer choice and retarding innovation. A narrow settlement with middleware defined incorrectly will continue to harm consumers.

Windows XP continues the Microsoft tactic of limiting consumer choice. How this is done is quite subtle. Microsoft bundles applications with the operating system. The consumer by default uses the Microsoft applications. This is because the consumer would have to make extra tedious efforts to use applications from other vendors. In contrast, the Microsoft applications like Passport and Instant Messaging are rudely in your face. Microsoft uses its PC operating system monopoly to leverage into unrelated businesses.

The consumer has been further harmed by Microsoft amassing monopoly profits. In the final economic analysis, the consumer pays for product from other computer industry vendors. When those vendors have to pay Microsoft higher prices because of the monopoly, they are passed on to the consumer.

Any settlement should restore consumer choice and competition to the PC software industry. As presently drafted, the proposed settlement is not much better than no settlement at all. Let's review some of the loopholes in the settlement.

* III: Microsoft can still pay off cooperating OEM's that do Microsoft's bidding.

* III.C.3: Too restrictive.

* III.F.2: Microsoft continues to control ISV's software development.

* III.G.1: Microsoft can continue to pay vendors to promote its software platform.

* III.H.1: Users should be allowed to remove any application. Users should be able to remove any API's from the operating system (that could pose security risks).

* III.I.5: In order for a vendor to obtain Microsoft's technology, the vendor must surrender intellectual property rights.

* IV.B.10: This is an unconstitutional free speech restriction.

* IV.D.4.d: TC members should not be excluded from the legal process. This is an attempt to silence witnesses.

* V. Any settlement should be permanent.

* VI.A: API's should include interfaces used by device drivers and the interfaces used by real middleware to call operating system services. API's are not just application programming interfaces.

* VI.D: All OEM's should be covered, not just the top 20.

* VI.K: Internet Explorer, Windows Media Player, Windows Messenger, and Outlook Express are APPLICATIONS, not middleware!

* VI.Q: A personal computer can be a server. Server software should not be excluded from illegal monopoly maintenance behavior. A PC can be both a client and server at the same time and this is integral to Microsoft's architecture. I want to draw special attention to Section III.J.1.a.

This section puts the security of this country at risk. At a minimum it need to be rewritten. Microsoft cannot be allowed to have a monopoly with respect to security software. Microsoft must be required to disclose security API's and documentation. This will enable competitors to provide add-on security solutions to Microsoft's historically insecure products.

The proposed settlement is complex and subject to interpretation and will generate years of unending legal wrangling. This legal cost will further burden the computer industry and ultimately harm the consumer. In contrast, it would be very simple to create a clear cut settlement that would be easy for everyone to understand and not subject to interpretation. Such a settlement would even protect Microsoft stock holders. Unfortunately, because I deal with Microsoft as a software developer, I cannot reveal who I am, for fear of souring my relations with Microsoft. The opinions expressed are my own and do not represent the opinions of present or past employers.

MTC–00027033

From: surfsup58@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/27/02 5:55pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Jeri-Ann McCauley
4375 S. Atlanticv Ave #7
New Smyrna Beach, FL 32169

MTC-00027034

From: CIPost2@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 6:00pm
Subject: Microsoft Settlement

Is there any question that the settlement offered by the Bush administration and certain states was NOT in the public interest?

Respectfully submitted,

Charles I. Post

MTC-00027035

From: levractn@wyoming.com@inetgw
To: Microsoft ATR
Date: 1/27/02 5:56pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Frank Ehrenford
39 Rolling Hills Drive
Cody, WY 82414

MTC-00027036

From: Rich Latour
To: MICROSOFT ANTITRUST
Date: 1/27/02 6:01pm
Subject: Prosecute Ballmer and Microsoft For Illegal Lobbying

I just read Kristi Heim's newpaper article in the San Jose Mercury News detailing claims by former senator John Tunney that Microsoft is once again acting illegally in inadequately disclosing lobbying efforts to influence the antitrust case against it.

There are too many allegations of corruption at Microsoft. I request that a tough prosecutor be put in charge to get to the bottom of this issue and to prosecute those at Microsoft responsible. It is clearly in the public interest to send a message to Microsoft regarding lawful behavior. Put Mr. Ballmer and company in jail if necessary.

Rich Latour

MTC-00027037

From: jsatterfield@dfn.com@inetgw
To: Microsoft ATR
Date: 1/27/02 5:58pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse: Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Jack Satterfield
2902 S. Lea. Ave
Roswell, NM 88201

MTC-00027039

From: Marv Norman
To: Microsoft ATR
Date: 1/27/02 6:04pm
Subject: Microsoft Settlement

The attached personal letter contains my request that the DOJ conclude their efforts to settle the litigation with Microsoft.

Best regards,

Marvin G. Norman

Marvin G. Norman
7950 Winchester Circle
Goleta, Ca., 93117
Tel: (805) 685–6341
Fax: (805) 685–6371

January 26,2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing because I am a steadfast supporter of free market enterprise, and of Microsoft's freedom to dictate its own business practices in the pursuit of success. Therefore, I am urging you to finalize the settlement reached in November in your office's antitrust case against the company.

The lawsuit was originated and continued by Microsoft competitors who tried to win market share via the court system. Those companies should have been more concerned with manufacturing the best product possible; however, the terms of the settlement will ensure that Microsoft gives them more of a shot to claim more of the market. Disclosing parts of Windows" internal interfaces and no longer requiring computer makers to bundle other Microsoft products will give everyone a fair chance to come out ahead.

I am not a Microsoft shareholder. I simply believe in their right to control their destiny, and as such, I implore you to settle the case at once.

Sincerely,

Marvin G. Norman

MTC-00027040

From: Ron and Me
To: Microsoft ATR
Date: 1/27/02 5:58pm
Subject: Microsoft Settlement

We fully support Microsoft in all of their endeavors. They are an excellent company and should be fully supported by the U. S. Government for what they have added to our economy.

Sincerely

Ron and Mary Ellen Harpster

MTC-00027041

From: Robert J Ball
To: Microsoft ATR
Date: 1/27/02 6:07pm
Subject: Settlement

I believe it is in the best interest of the public to finalize the settlement with Microsoft. Microsoft produces a product unmatched in quality and nothing should be done to limit access to such quality.

RJ BALL

MTC-00027042

From: Steve Pogge
To: Microsoft ATR
Date: 1/27/02 6:10pm
Subject: Microsoft Settlement

Dear Department of Justice,

Our country and its economy has suffered enough. Please approve this settlement and allow our country to move forward on those issues that truly threaten our freedoms such as terrorism.

Thank you for your time and consideration,

Steve Pogge

MTC-00027043

From: gamecuber13
To: Microsoft ATR
Date: 1/27/02 6:11pm
Subject: Microsoft Case

Justice Department-

Regarding the decision on the Microsoft Case, I have some input which I hope will be of use to you in your final verdict. In my opinion, I believe that Microsoft should not be able to make a settlement in the case, by creating a monopoly, Microsoft is not only being an unfair business, but it is also, at the same time hurting the economy. By driving other companies to bankruptcy, the stock market is damaged overall since all the people who own the stocks of these companies lose their money and only the individuals who own Microsoft stocks benefit.

Microsoft's strategy for beating other businesses is unfair as well. Microsoft has bundled their browser, Internet Explorer, with the computers sold by companies such as Dell, Gateway, and IBM. Therefore, the predominant operating system in use is Internet Explorer, proving the bundling scheme as an unfair advantage.

Microsoft's strategy is similar to that of Industrial big businesses from the past in American History. J. Piermont Morgan owned one such of these monopolies. He was completely in Control of the Railroad and Iron businesses and came to acquire the Shipping industry as well. The main plan of companies owned by people like Morgan, Rockefeller and Carnegie was unfair. They would offer companies in other areas where there products were not the majority a small amount of shares (worth less than their company's value) for them to give over their business to the monopolies. If these companies refused, the monopolistic companies would reduce their prices in the particular area where these products were sold and sell their products there for cheaper than it costed to make them; this was not a great loss because the monopolies were so rich that they could afford to do so. Using this method, they would drive other smaller and weaker companies out of business.

This strategy is similar to Microsoft's. Theodore Dressier wrote an excellent novel, "The Financier", which describes monopolies and big business over powering weaker and smaller businesses. One excerpt from "The Financier" concerns a short tale about a lobster and a squid. Both are placed in a tank. The squid is placed in as prey for the more powerful and armed lobster. The lobster, symbolic of the big businesses and monopolies, well armed with its pincers, is perfectly capable of destroying the squid, which represents smaller businesses which have no way to survive against more powerful business. In the story, the author tells of how the Lobster would daily try to capture the squid and the squid would always escape, but part of it would get cut of by the lobster. Then, finally, one day, the lobster catches the squids. From this experience, the narrator tells us of a conclusion he draws, "Things lived on each other-that was it. Lobsters lived on squids and other things. What lived on lobsters?"

Dressier describes how powerful big businesses are. This method is nearly identical to Microsoft's ruthless actions toward other companies.

To make Microsoft atone for its misdemeanors, I would suggest breaking the company apart into to smaller companies. Another option would be to force Microsoft to stop bundling their computer software with computer hardware. I hope that my opinion has helped in your arriving at a decision in this case.

A Student Citizen,
Vikram Srinivasan

MTC–00027044

From: josh
To: Microsoft ATR
Date: 1/27/02 6:12pm
Subject: Microsoft Settlement

From the beginning of the era of the Personal Computer, Microsoft has led a virtual monopoly in the market of Operating Systems. They have used various nefarious business practices in order to maintain their foothold in the market. Microsoft has a tendency to embrace technologies, extend them, then subsequently extinguish the competition. When Microsoft first released Windows 95, it came packaged with a program for Microsoft's new online service, The Microsoft Network. The icon for this program was put on a prime location on the desktop. Popular online services such as AOL and Compuserve, which freely distribute their client software, were nowhere to be found on the desktop, but were buried on the CD.

Another clearer example is the integration of Microsoft's web browsing software Internet Explorer with the Windows 98 operating system. When your browser appears in over 90% of the installed base of computer systems around the world, there is little chance for any sort of competition. This is what competitor Netscape argued, and this is one of the issues that the Justice Department takes task with.

Personally, I don't think the DOJ settlement will hurt Microsoft much. Their foothold in the computer market is already too strong. This is in part because "the damage already done", people are very used to using Microsoft branded software and will not want to take the time to learn something else. Computer makers will still bundle Microsoft Windows with their machines because it is what the customer demands. This case has effectively dealt a weak blow to Microsoft in image, but not in strength. The software juggernaut that is Microsoft will continue to dominate in the future because its roots are too deep. And if left unchecked, they will continue embracing, extending, and extinguishing.

MTC–00027045

From: Betty Holt
To: Microsoft ATR
Date: 1/27/02 6:13pm
Subject: hphphp1Microsoft Settlement
11 512 66th Ave Court NW
Gig Harbor, WA 98332
Attorney General John Ashcroft
The Justice Department
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 27, 2002

Dear Mr. Ashcroft,

I am taking this opportunity to express my concern about the current situation in the US vs. Microsoft lawsuit and] certainly hope these public comments make a difference in the final outcome of the litigation. For starters, Microsoft had no reason to be attacked by the government in the first place, but unfortunately, lawyers and lobbyists have done a good job of keeping the American people paying millions of dollars on behalf of an accusation that should have no basis in this country.

The proposed settlement by the District Court should be accepted and implemented as soon as possible so that this country can see Microsoft thrive again for the American people and the American economy. The world is always looking for new, comprehensible and affordable software to facilitate a faster, more efficient business environment, and no other corporation has done this as well as Microsoft has. Why should we criminalize them for their success and their ingenuity that has put America on top of the IT industry?

[cannot reiterate enough how much I, along with millions of other Americans, want to see this litigation over with. It is the consumers who will be further affected by this legal action.

Sincerely,

MTC–00027046

From: Adrienne (036) Steve Osborn
To: Microsoft ATR
Date: 1/27/02 6:14pm
Subject: Microsoft Settlement.

Recommend further litigation against Microsoft in the interests of fair competition and true capitalistic economics :

1. Microsoft should be fined severely for attempting to develop a monopoly in software, as proven in court and so adjudged.

2. Microsoft should have the Operating System development separate from the applications development, by fair application of anti-trust law. Two separate entities, in other words.

3. Microsoft's OS code should be made available to all software developers to allow competitive applications development.

Stephen M. and Adrienne G. Osborn
26 N Sunset Drive
Camano island,
WA 98282–8607
e-mail: theplace@whidbey.net

MTC–00027047

From: David Jaber
To: Microsoft ATR
Date: 1/27/02 6:13pm
Subject: Microsoft Settlement

Greetings,

I had a few concerns about the Microsoft Settlement I'd like to register. Simply:

1. The proposed settlement is not in the public interest. It ignores the all-important applications barrier to entry which must be reduced or eliminated. Any settlement or order needs to provide ways for consumers to run any of the 70,000 existing Windows applications on any other operating system.

2. Consumers need a la carte competition and choice so they, not Microsoft, decide what products are on their computers. The settlement must provide ways for any combination of non-Microsoft operating systems, applications, and software components to run properly with Microsoft products.

3. The remedies proposed by the Plaintiff Litigating States are in the public interest and absolutely necessary, but they are not sufficient without the remedies mentioned above.

4. The court must hold public proceedings under the Tunney Act, and these proceedings must give citizens and consumer groups an equal opportunity to participate, along with Microsoft's competitors and customers.

Please change the decision to reflect this. I appreciate the opportunity to comment.

MTC–00027048

From: KMApland@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 6:13pm
Subject: Microsoft Settlement

Sirs:

Please give consideration the my follow ing conclustions concerning the settlement of the Micrososft anti trust case:

1. This case was instigated by competitors of Microsoft, namely Sun-microsystems, Oracle, and AOL. The pricipal owners, having made their billions, proceeded to spend vast sums lobbying for the anti trust case against Microsoft.

2. As the case began, the stock market began its decline, cuminating in the present lower level. I believe the American public lost confidence in the entrepeneuerial form of business that has led to the success of Microsoft. The fact that the govenment has pursued this case smacks dangerously of Socialism.

3. The American public has been forced to not only carry the burden of the court costs for this case, but has endured loss of personal

income, resulting in the loss of tax revenues to both state and federal governments. Has anyone come up with the combined figure of personal income loss and government tax revenue loss? It must be staggering!

4.I personally have found no one agreeing with the Attorney General's statement that Microsoft is not good for the consumer. On the contrary, those I have polled have only favorable comments for Microsoft products and pricing. Interestingly, when the Attorney General of Connecticut was putting a spin on Microsoft, he was asked if he used Microsoft software. He admitted to using same both in his office and at home. Surely, if Microsoft is so bad for the consumer, he, of all people, could have found other products to purchase and use.

5. The timing of the new suit brought by AOL against Microsoft seems a little suspect.

6. 41 out of 50 states have agreed to the settlement between Microsoft and the government. How can 9 states dictate to 41?

Thankyou for your time and attention to my conclusions.

Yours truly,
Ken Apland

MTC-00027049

From: srjburkhardt80@msn.com@inetgw
To: Microsoft ATR
Date: 1/27/02 6:14pm
Subject: Microsoft Settlement

To- The Courts,and those whom are Concerned-

I am an American citizen 82 yrs. young,that loves computers,I have most of the lastest devices on my PC.while.I dont pretend that I know how,to use all of these,programs etc.I do know that without companies such as Microsoft,we as a nation, would be hurting,in this field of endeaver.

You are inthe process of finalizing a settlement ,for which I as a Senior, believe is a reasonable compromise,that will enhance the ability of all concerned,to access the internet and use innovative products,for more enjoyment.

I know a little about techincal progress,having been a military pilot for many years,and its a good thing that there is competition,if there wasn't ,perhaps I would not be here today>

Competition in this situation,seems to want results,based on what the Courts will decide,rather than their own efforts.Only in America,it seems,that,one, or a Company ,is punished for their success.

It would appear that this has dragged long enough,we have a compromised settlement,please dont allow those who state,in the public interest, to muddy up this settlement !

I'm one of the,public,and as a Tax Payer,I strongly believe this should be settled,asap...

Thanks for(Tunney Act) for allowing me to comment.

Very Truly Yours,
Joseph Burkhardt
(srjburkhardt80@adelphia.net)
1590 E-11th No st.
Mountain Home ID 83647

MTC-00027050

From: Alan Campbell
To: Microsoft ATR
Date: 1/27/02 6:18pm
Subject: Microsoft Settlement
To: Department of Justice
Washington, DC
Re: Microsoft Settlement

To Whom It May Concern:

As a taxpayer and citizen of this country, I am appalled by the impending settlement with Microsoft. The software giant has repeatedly violated anti-trust laws in its merciless drive for not just market dominanace, but for virtual monopoly status, and this proposed settlement will do little to deter Microsoft's predatory behavior. I am absolutely opposed on grounds of the public interest and open competition in the marketplace.

Sincerely,
Alan Campbell
170 Crescent Road
Athens, Georgia 30607
706/208-0630
SS#258-74-7766
CC:phollings@alum.mit.edu@inetgw

MTC-00027051

From: Bruce Horn
To: Microsoft ATR
Date: 1/27/02 6:18pm
Subject: Microsoft Settlement

To whom it may concern,

I believe that the proposed antitrust settlement with Microsoft is tremendously inadequate. Microsoft has been found guilty of extremely serious violations of the Sherman Antitrust Act, and the proposed settlement will just encourage further violations.

I have worked in the computer industry for 25 years, and have held positions at Xerox PARC and Apple Computer, among other companies. In my opinion Microsoft's behavior has held back computing progress and has cost the entire country hundreds billions of dollars in lost productivity. Personally I have witnessed Microsoft's repeated theft of Apple's intellectual property, for which they escaped punishment. The proposed settlement would preserve Microsoft's monopoly, would not restore competition, and at the same time would allow Microsoft to keep its ill-gotten gains from the past decade of monopolistic behavior. In addition, it would encourage and help Microsoft to establish yet another monopoly in the Internet space.

Perhaps most chilling is Microsoft's plan to capture essential personal and private information on their proprietary databases, and force you to run all on-line transactions through them. They also plan to monitor everyone's computing activities and charge for them on a rental basis. This must not happen. There must be alternatives available that allow people to use whatever operating system they wish, and whatever applications they wish, on whatever platform they wish. This includes running Microsoft applications on non-Windows platforms. Any behavior by Microsoft to attempt to control the Internet space must be prohibited. The proposed settlement is seriously flawed and must not be enacted.

Sincerely,
Bruce Horn
Chief Technical Officer, Marketocracy, Inc.
Mammoth Lakes, CA 93546-1692

MTC-00027052

From: Matthew Tubbs
To: Microsoft ATR
Date: 1/27/02 6:25pm
Subject: Microsoft Settlement

To the Honorable Court:

As a citizen of the United States and experienced computer professional of several years, I have seen the damage that Microsoft has inflicted on the computer industry and consumers with its blatant violations of antitrust law. While I feel that the proposed settlement is a step in the right direction, I think that there are a few items that need to be addressed:

I. The proposed final judgment excludes open source competitors. Open source operating systems such as Linux and open source projects such as Wine, Apache, and Samba offer consumers real choice because of their quality, stability, speed and security. For these reasons, open source software and operating systems are a viable competitor to Microsoft, and should be treated as such in the wording of the proposed final judgment. Specifically, Microsoft should be required to disclose the Windows API's to open source groups, as well as documentation on communication protocols.

II. In addition to API's and communication protocols, Microsoft should be required to fully disclose its Microsoft Office binary file format specifications to competing organizations. Releasing these file formats would remove the barrier for entry to the office software market, greatly benefiting consumers.

Sincerely,
Matthew R Tubbs

MTC-00027053

From: DFEDRIGON@AOL.COM@inetgw
To: Microsoft ATR
Date: 1/27/02 6:20pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
DON FEDRIGON
PO BOX 962
ELK RAPIDS, MI 49629

MTC-00027054

From: Michael Blakeley
To: Microsoft ATR
Date: 1/27/02 6:22pm

Subject: Microsoft Settlement

I think that the proposed DOJ-Microsoft settlement is a bad idea. It doesn't do enough to penalize Microsoft for past anti-competitive practices, and doesn't do enough to ensure against future anti-competitive practices by Microsoft. Also, the proposed settlement does nothing to redress damages suffered by consumers as a result of Microsoft's monopolistic practices.

In my view, breaking up Microsoft into several smaller corporations, would be a better solution, along with substantial monetary awards to Sun and Netscape. Failing that, substantial monetary awards should be accompanied by strict regulation of Microsoft as a public-interest entity.

Thank you for your time.

Michael Blakeley
Foster City, CA
self-employed Internet consultant

MTC-00027055

From: CLIFFORD WOOLFOLK
To: Microsoft ATR
Date: 1/27/02 6:25pm
Subject: Microsoft settlement http://www.bidville.com/myads.asp?id=cliffordii

190 Oakridge Drive
Berkey, OH 43504-
January12,2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am writing to express my opinion on the settlement reached between Microsoft and the Department of Justice in November of last year. As I understand it, Microsoft has agreed to a wide range of restrictions and obligations that would allow other computer makers more ease of competition. I believe Bill Gates has worked hard to accomplish what he has, and if Microsoft has so much influence, then more power to Mr. Gates. Unfortunately, there are those who disagree.

It has come to my attention that there are nine states now that are in opposition to the terms of the agreement reached in the antitrust case. They are seeking to extend the suit and undermine the terms of the settlement. This is ridiculous. Microsoft did not get off with just a slap on the wrist. They have agreed not only to license their Windows operating system to the 20 largest computer makers, but they have also granted these computer makers rights to configure Windows so that non-Microsoft programs can be promoted within its operating system. Microsoft has agreed to terms that exceeded even the bounds of the anti-trust case, and I am of the opinion that they have been more than fair.

Mr. Ashcroft, I do not believe that this suit should continue. The nine states that currently oppose the terms of settlement have lost sight of justice and have become vengeful. The Department of Justice has no right to mete out vengeance. I do not think the matter should be further pursued.

Sincerely,

Margaret Woolfork

MTC-00027056

From: Bill Zaumen
To: Microsoft ATR
Date: 1/27/02 6:27pm
Subject: Comments on Proposed Settlement

While I have to wonder if a full breakup of Microsoft is not the only effective remedy, the proposed settlement is inadequate even in what it tries to do.

1. The settlement treats consumers as second-class citizens. For example, on page 6, it prevents Microsoft's software from automatically altering an OEM's configuration without first waiting 14 days and asking the user for permission. Nothing, however, tells them to similarly respect a user's configuration—one set by the user regardless of what the OEM did.

2. It is ineffective in some respects. For instance, while it allows Microsoft to ask a user if he or she would like to change a configuration and requires that all options be fairly presented to the user, it does not prevent the obvious tactic: to badger the user to change the settings to ones Microsoft desires and then say nothing after a user does that. Since with enough repeated tries, a user will eventually click an unintended option, the result will be to move users to Microsoft products whether the users want to do that or not.

3. Under "III Prohibited Conduct," the settlement prevents Microsoft from retaliating against an OEM that includes both a Microsoft OS and some other OS. Other provisions deal with dual booting. Nowhere does it say, however, that Microsoft cannot retaliate against an OEM that provides customers the option of obtaining a computer without any Microsoft OS at all. I really have to wonder about this. A while ago, I read that Dell was again selling Linux systems. When I checked Dell's web site, it contained a page with links to Linux systems for the federal government, businesses, and businesses and small offices. Of these three links, two were broken. The only one that functioned was the one for the U.S. government. When you found something about a system were you could run Linux, and clicked on a link, you'd be taken to a windows-only page. I think it is apparent that Dell is discouraging customers from buying Linux systems. With the whole PC industry having serious difficulties attracting customers, I've really got to wonder why anyone would throw customers away. One explanation for this behavior could be pressure from Microsoft. As a consumer, I want protection against that (regardless of whether or not this is what is going on in Dell's case).

4. The settlement has a loophole about disclosing APIs if that would compromise security, digital rights management, anti-virus technology, etc. It is well known that security through obscurity is no security at all. This loophole will not protect computer systems, but it will provide Microsoft an excuse for divulging nothing about APIs or anything else.

I would strongly recommend starting from scratch and proposing a settlement that would actually do something to protect the public and other businesses.

Regards,

William T. Zaumen
912 Clara Drive
Palo Alto, CA 94303

PS as a disclosure, I work for one of Microsoft's competitors. My comments above are personal ones.

MTC-00027057

From: David Stansell
To: Microsoft ATR
Date: 1/27/02 6:28pm
Subject: "Microsoft Settlement"

Hi,

I would just like to complain about the proposed MS settlement. The idea seems to be that Microsoft is legally entitled to bribe the only market segment that to date it has not dominated—education.

It makes no sense to me. I think it is very important that a firm like MS should be treated as any other otherwise people will continue to lose faith in the government and cynicism will prevail.

MS is not an evil company, but it does what it can get away with. I would be grateful if you could play your part in refocusing the efforts of this group of talented people towards competing by producing better goods rather than doing so by throwing its commercial and political weight around.

There is no doubt in my mind that this will enhance, rather than reduce, the effectiveness of the US economy—read the recent articles in the "economist" for one of the most unbiased assessments to date.

Thanking you in advance,

David Stansell.

MTC-00027058

From: Thomas P Larson
To: Microsoft ATR
Date: 1/27/02 6:29pm
Subject: Microsoft

Dear Sirs:

I am a Senior Citizen and have followed and used Microsoft products for many, many years. In many cases there were alternatives, but Microsoft was the choice.

I urge you to accept the offered settlement. It appears to me that continuation will benefit only a few with special interests and will delay Microsoft in their efforts to make computers an even better and more desirable product.

Respectfully,

Thomas P. Larson
Normal, IL 61761
McLean county

MTC-00027059

From: Dennis Moon
To: Microsoft ATR
Date: 1/27/02 6:32pm
Subject: Microsoft Settlement

To whom it may concern.

More than enough time, energy, and tax dollars have been spent on the Microsoft antitrust case. I have never believed Microsoft to be guilty of anything other than being a superior competitor in what I believe and hope is still a free market.

I am an information systems professional with over fifteen years of experience integrating Microsoft products, operating systems, and developing application with their tools. I have come to appreciate how superior their products work together to create robust and innovative applications used to facilitate the improvement of corporate business processes.

As a consumer, I find the prices for their software and operating systems to be very fair and much less costly to purchase and implement than most of their competitors. In fact, over the years Microsoft has had to substantially increase the cost of their development tools and server projects simply to attain the perception of the legitimacy for their products within the corporate world. If it were not for the fact that Microsoft competitors sell equivalent software products for many more times than the prices at which Microsoft could sell them and still make a profit, Microsoft products would cost even less than they do today.

I greatly appreciate the fact that Microsoft continually adds to the value of their operating systems by integrating new technologies into the code base, thus minimizing the need to spend additional precious dollars to obtain the latest innovations and increased capabilities.

I am appalled by their competitors attempts to beat them in the court room when they can not do so in the open market. This frivolous lawsuit has served only to increase the cost of Microsoft products as well as the cost of their competitors products.

Microsoft has agreed on the terms of the settlement with the Department of Justice. Please end this once and for all.

Dennis M. Moon

MTC-00027061

From: Willie Smith
To: Microsoft ATR
Date: 1/27/02 6:36pm
Subject: Microsoft Settlement

Please be advised that we support the settlement that has been reached in the U.S. vs Microsoft as fair. We have also faxed a letter to you to that effect.

James R. Smith
Willie Smith

MTC-00027062

From: Teri DeMatteo
To: Microsoft Settlement
Date: 1/27/02 6:32pm
Subject: Microsoft Settlement

Teri DeMatteo
9703 Benner Road
Johnstown, OH 43031-9106

January 27, 2002

Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Teri DeMatteo

MTC-00027063

From: Geoffrey Broadwell
To: Microsoft ATR
Date: 1/27/02 6:17pm
Subject: Microsoft Settlement

To whom it may concern:

I am a user of, and a software developer for, freely available operating systems such as Linux and the BSD variants of Unix. I have read and agree with Dan Kegel's analysis of the Proposed Final Judgment at: http://www.kegel.com/remedy/remedy2.html.

However, I feel that Mr. Kegel's analysis, in its detail, loses some of the overall flavor of how a free / open source software user and developer would view the case.

As a free software user, a few issues are important to me:

* I must be able to read, write, and edit documents and other data complying with all standards and de facto standards in use in the corporate world or the Internet at large.

* I must have access to programs that interoperate with all standard and de facto standard protocols (and all clients, servers, and peers implementing those protocols) in use in the corporate world or the Internet at large.

* I must be able to use entirely freely available software to perform these functions. This requires both that barriers to the development of such software be low, and that artificial restrictions to their use, such as unfairly restrictive licensing terms, unclear patent infringement issues, and the like, be removed.

As a free software developer, different but related issues are important:

* The free software community must have unfettered access to complete, accurate, and timely documentation for all data formats in common use in the corporate world or the Internet at large.

* The free software community must have unfettered access to complete, accurate, and timely documentation for all protocols in common use in the corporate world or the Internet at large, along with documentation for known variances of commonly used clients, servers, and peers from the expected and / or standard protocol behavior.

* For cases in which use of, implementation of, or interoperability with an API is necessary (in the broadest sense), similar access to complete, accurate, and timely documentation for that API must also exist.

* Test suites that can be used to show compliance or noncompliance of an implementation to these documents must exist, suitable both to test that competitive implementations perform properly, and possibly more importantly, to test that the documentation is an accurate reflection of the true behavior of the original implementation(s) that made use of, or provided, said data formats, protocols, and / or APIs.

* Restrictions to development or use of compliant or interoperable software for any data format, protocol, or API, must be minimized. In particular, license restrictions that limit the use of a program, data format, API, or protocol inclusively or exclusively with regard to certain operating systems, license terms for other software in the user's or developer's computing environment, competing software implementations, etc., must be disallowed.

In addition, any components or data files that all compliant or interoperable software implementations must distribute to be deemed compliant or interoperable, must allow such distribution by other implementations, for installation in any software environment that a user or developer sees fit.

* Hidden restrictions to development or use of competitive software, such as the status of patents or pending patents whose applicability to relevant data formats, protocols, and / or APIs is unclear, must be dealt with in good faith. For example, no developer or vendor of software should be allowed to threaten that use of competing software "might" infringe "certain" patents held by the developer or vendor or any of their partners.

For cases where a developer or vendor can definitively claim that unlicensed use of a competing product making use of, implementing, or interoperating with, any data format, protocol, or API, would constitute infringement of a patent they own or control, such patent must be licensable under terms that would not be onerous to developers or users in the free software community. Per-seat licensing, licensing that requires large payments, licensing that involves non-disclosure agreements, and licensing that requires specific action by any person or entity other than the initial developers of the competing software, are all instances of onerous terms that must not be allowed to stand.

All of these comments have been generic, without reference to the specific case and judgment at hand, but I hope it is clear that many of the concerns that I list above have not been adequately addressed by the Proposed Final Judgment in United States v. Microsoft Corp.

Other analysis and commentary, such as Mr. Kegel's work linked above, offer specific possible improvements to the Proposed Final Judgment that will address some of these concerns. When taking these suggestions into account during revision of the proposal, please also consider whether the various suggestions go far enough to adequately address my concerns as a user and a developer from the community at large. While I believe that all software developers and vendors should be held accountable for how they address or fail to address these concerns, it is especially important to require this of Microsoft, since Microsoft maintains a monopoly position for implementations of a great many standards and de facto standards.

Thank you in advance for your consideration,

Geoffrey Broadwell
Free Software User and Developer
San Francisco Bay Area, California

MTC-00027064

From: John. Anderson
To: Microsoft ATR
Date: 1/27/02 6:37pm
Subject: Microsoft Settlement Letter

Dear Mr. Ashcroft-

Attached is a letter urging your support for a speedy settlement in the Microsoft case.

Thanks in advance for your action in this matter

Sincerely,
John Anderson, ceo
6 Sigma Leadership Corporation
4929 Canterwood Drive NW
Gig Harbor, WA 98332

January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have personally founded six small businesses, each providing software and related services to companies and consumers. Also, I have worked for five of America's largest businesses, performing turn-around leadership to help restore them to competitive health. I know what it means to compete here in America, where entrepreneurship and a free market economy have historically been protected by our government. I think it is a shame that the previous administration punished successful entrepreneurship and stifled creativity—and has left your department to bat cleanup. The Microsoft antitrust suit is the perfect example of this. I am appalled that the negotiated settlement has been rejected by half of the plaintiff states—without even giving it a trial period—and thus letting six months of negotiations go to waste. I think before rejection is considered, it is necessary to give the settlement a chance.

It is a disgrace that the settlement should be delayed to give Microsoft's opponents a bigger piece of the pie. I think the settlement is fair as it stands. Microsoft has agreed not to enter into any contracts that would require a third party to distribute or endorse Microsoft products either exclusively or at a fixed percentage. Microsoft also plans to design future versions of Windows so that the operating system will support non-Microsoft software. I believe that these terms are more than reasonable. In the long run, I believe the economy and the consumer would benefit from a speedy settlement. I urge you to give your support to the settlement.

Sincerely,
John Anderson
4929 Canterwood Drive NW
Gig Harbor, WA 98332
6 Sigma Leadership Corporation
Gig Harbor, WA 98332
John Anderson
President

MTC-00027065

From: Lawrence Person
To: Microsoft ATR
Date: 1/27/02 6:37pm
Subject: Microsoft Settlement

To all it may concern,

I believe that the proposed Microsoft settlement is a bad deal for computer users, for the computer industry, and for the nation as a whole. It does nothing to address Microsoft's predatory and monopolistic tactics, nothing to address the fact that it's blithely broken previous consent decrees and defied court orders, and nothing to provide relief for companies and consumers who have been harmed by these practices. It should be rejected and far more stringent financial and structural penalties imposed.

Despite their slogan, Microsoft has achieved it's current position not by "innovation" or hard work so much as by imitation (Apple) or outright theft (Stack Technologies) of the innovations of others. It used strong-arm tactics, sharp practice and predatory pricing to establish it's monopoly in operating systems, then illegally used that same monopoly to grab equally compelling strangleholds on other areas of the software industry. At best Microsoft is a sandlot bully, threatening others with its monopoly power to get its own way. At worse it's a third world dictator, knowing it's above the law (witness its boldfaced violation of its first consent decree, and how it lied, repeatedly, in court) with the firm knowledge that it's too powerful to be punished.

A company truly dedicated to innovation would not wait two years to address the myriad security vulnerabilities of Windows and Outlook. If a different component on Ford trucks were to blow up and be recalled every week, Ford would be out of business very quickly indeed. If Microsoft did not wield such monopoly power, it would not be able to get away with selling such defective products.

Microsoft has proven again and again that consent decrees are entirely inadequate to stop its predatory practices. Only harsh, structural and lasting penalties will be able break it's monopoly power and return real competition to the markets it illegally dominates.

For penalties which would truly address Microsoft's monopoly power, punish it for past transgressions, and provide real relief to the victims of it's illegal actions, I propose the following:

1. Microsoft should be levied a $10 billion fine. Half of this money should be earmarked for the DOJ and state attorneys general to pay for the cost of prosecuting Microsoft, and to pay the cost of future oversight and enforcement, and half should be returned to the consumers and companies harmed by Microsoft's predatory practices.

2. The source code for all Microsoft products released through 1999 should be released in their entirety and made available to the public to be used by anyone to create their own versions of Windows, Office, etc. without paying royalties to Microsoft. This would also provide relief from Microsoft's monopolistic practice of using "embrace and extend," i.e., making it's products intentionally incompatible with established computing standards for the sole purpose of using it's illegal monopoly to erect barriers to competition. With the source code readily available, it would be a simple matter both to engineer compatibility to Microsoft's "enhancements," and to recompile Microsoft programs to adhere to open computing standards.

3. All the Application Programming Interfaces (APIs) to all shipping Microsoft products should be published and made freely available. This would prevent Microsoft's anti-competitive tactic of leveraging it's Windows monopoly through the use "secret" APIs in Windows that only Microsoft programmers can use to enhance their other product lines.

4. Microsoft should be split into no less than four separate companies: One responsible for Windows, a second for Office, a third for Internet Explorer, Back Office, Outlook, and all it's other Internet-related software, and a fourth for everything else (X-Box, WebTV, etc.). However, source code for all of Microsoft's currently shipping products should be distributed to each of these companies, with each having the ability to reuse or sublicense such code. This would create many competing products in segments of the market previously dominated by Microsoft, to the great benefit of consumers. These companies would also be barred from merging with each other or sharing directors for at least ten years.

5. The above companies would have one year to plug all known security holes in Windows and Outlook. After that period, they would be made financially liable for any economic damage such vulnerabilities in their software cost customers who had all current security patches installed but were still victimized by hackers or viruses.

6. The MS Office spinoff would be required to produce simultaneous versions of Office for the most recent release of Mac OS and Linux, at price parity with the Windows version, for a period of five years.

7. A government oversight board would be created with the authority to unilaterally impose fines, order remedies, change contracts, and release source code in order to implement the judgement.

This is a very radical remedy, and one I do not suggest lightly. In fact, I consider myself to be a Libertarian, one who believe that government should remain small and interfere in the free market only under the direst circumstances. However, one fundamental precondition for a free market is that those competing in it must obey the rule of law. Microsoft has shown, again and again, that it is willing to break and flout the law for it's own benefit, and to maintain it's illegal monopoly power. If Microsoft's earlier predatory practices had been curbed or punished when the first occurred, the government would not be faced with these vexing antitrust issues. But now that it has reached this point, serious structural remedies are the only solution. Microsoft has proven time and time again that it will not stop abusing it's monopoly power. It's now up to the courts eliminate that monopoly.

Lawrence Person,
Austin, Texas,
Science Fiction Writer

Lawrence Person
lawrenceperson@jump.net
Nova Express Web Site: http://www.sflit.com/novaexpress

MTC-00027066

From: Andrew Wildenberg
To: Microsoft ATR
Date: 1/27/02 6:40pm
Subject: Microsoft Settlement
CC: Andrew Wildenberg

To the Department of Justice, Antitrust division:

I would like to express my strong objection the Revised Proposed Final Judgment (RPFJ) in US v. Microsoft. It is a settlement riddled with loopholes and ambiguities. It offers nothing that will 'unfetter a market', 'terminate the illegal monopoly', or 'ensure that there remain no practices likely to result in monopolization in the future" but will instead afford Microsoft new, court-sanctioned, ways to extend its monopoly and discourage competition and innovation in the industry.

I am an instructor of Computer Science at the State University of New York at Stony Brook. I also have extensive experience as a software developer in industry and a private contractor. I regularly use Microsoft products professionally and privately. My main operating system is Microsoft Windows 2000, although I regularly use Mac OS, Solaris, FreeBSD, HP-UX and Linux in my work.

One area of particular concern is the section of definitions in the RPFJ that relate to APIs and Middleware. The definition of API is given as follows:

"Application Programming Interfaces (APIs)" means the interfaces, including any associated callback interfaces, that Microsoft Middleware running on a Windows Operating System Product uses to call upon that Windows Operating System Product in order to obtain any services from that Windows Operating System Product.

The important point is that this definition specifies only a small portion of the interface as being relevant to the RPFJ. Specifically, interfaces called internally by the operating system itself are exempt, as are interfaces called by other Microsoft software such as the Office suite.

In the past Microsoft has regularly changed common definitions within the computer science literature to suit the whims of its litigation. Most recently it argued that Internet Explorer was in fact an inseparable part of the core operating system. While that particular program has been addressed by this particular decree's definition of middleware, there is no protection that future applications programs won't be relabeled as either 'core OS" or 'applications" In either case, APIs used by these new components can lawfully be withheld from 3rd party developers.

Middleware and Microsoft Middleware is defined in several parts, but important ones include:

part K1: "the functionality provided by Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express and their successors in a Windows Operating System Product"

While it is good to name specific products as middleware, for the most part, the ones chosen are all technology that Microsoft has already supplanted: Outlook Express will soon be replaced by Outlook, Windows Messenger by .NET services, and the Microsoft JVM by C#. Because those three products already exist at this time, it can be argued that the decree has specifically excluded them from its definition. The phrase 'and their successors" is a troublesome one, given Microsoft culture and programming practices. Microsoft is known for leading the industry in code re-use. A code analysis comparing Windows 2000 software to its middleware would show a large portion of it had been borrowed from the core OS. In such a culture, source code can not be the basis for determining the lineage of software: either everything will be related (too generous) or nothing will be related (too restrictive). If, on the other hand, 'functionality" is the basis for lineage, then the picture is more complex: Is Windows 2000 a successor to Windows 3.1 or a completely new and unrelated product? If new, when did the new product become new? Under what definition will the innovation be measured and what threshold will distinguish 'new" from 'extended'?

part J: Software code described as part of, and distributed separately to update, a Microsoft Middleware Product shall not be deemed Microsoft Middleware unless identified as a new major version of that Microsoft Middleware Product. A major version shall be identified by a whole number or by a number with just a single digit to the right of the decimal point.

This claim allows Microsoft to arbitrarily change APIs at any time, and not disclose them to developers. The computer industry is notorious for manipulating release numbers, and for those numbers not adequately measuring when a release is 'major" or not. Using this ability to change APIs, it would be possible for Microsoft to sabotage competing products, as it did during the Dr-DOS case, by manipulating the APIs in a way designed to break the competing products. Since a competing product must be able to run on all versions of Microsoft middleware, such a change in API would mean a huge advantage to Microsoft's in-house development teams.

Furthermore, restrictions on which APIs released provide other methods for Microsoft to impede 3rd party development. Specifically, by the RPFJ, Microsoft can not be required to document, disclose or license to third parties: (a) portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of which would compromise the security of a particular installation or group of installations of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria; ... Prevent Microsoft from conditioning any license of any API, Documentation or Communications Protocol related to anti-piracy systems, anti-virus technologies, license enforcement mechanisms, authentication/authorization security, or third party intellectual property protection mechanisms of any Microsoft product to any person or entity on the requirement that the licensee: (a) has no history of software counterfeiting or piracy or willful violation of intellectual property rights, (b) has a reasonable business need for the API, Documentation or Communications Protocol for a planned or shipping product, (c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, (d) agrees to submit, at its own expense, any computer program using such APIs, Documentation or Communication Protocols to third-party verification, approved by Microsoft, to test for and ensure verification and compliance with Microsoft specifications for use of the API or interface, which specifications shall be related to proper operation and integrity of the systems and mechanisms identified in this paragraph.

Microsoft has begun a push to become the most secure operating system in the world. Indeed Bill Gates has said that security should be the company's top priority and that it should be embedded at the most basic levels of the operating system. If Microsoft follows through on this, it could reasonably argue that it could not release the majority of APIs because they were related to security.

In past statements Microsoft has emphasized future work integrating digital rights management into its OS. A reasonable implementation of this would be to have the OS automatically check for digital rights every time that a file is opened. Again, by the same logic, it could decline to release the API for opening a file, arguably one of the most basic APIs in an operating system.

Furthermore, the restrictions on potential licensees require a large amount of disclosure to Microsoft, including the disclosure of company confidential information to a designated agent of Microsoft. Microsoft is allowed to set arbitrary standards for using the protocols without regard to what is reasonable. Microsoft is allowed to set arbitrary standards for what constitutes a business. In the non-Microsoft Middleware Product definition, one of the standards is that a million copies of the product were shipped in the US in the previous year (i.e. products less than a year old or those primarily distributed outside the US do not quality). Similar restrictions for a 'reasonable business" could include revenue or distribution figures that would, as an example, exclude a large portion of the free software products.

In summary, I feel there are serious defects in the Revised Proposed Final Judgement. I have outlined my objections in three specific areas: the definition of "API", the definitions of the various kinds of "Middleware", and the various exemptions and requirements related to API disclosure. While I feel there are other problems with the decree, these are the areas I have the most expertise in commenting on, and so I have chosen brevity over completeness. If this RPFJ is accepted, it will strengthen Microsoft's monopoly by providing court-sanctioned methods to leverage its current market dominance in operating systems to new and emerging markets.

Sincerely,
Andrew P Wildenberg
Department of Computer Science
SUNY Stony Brook
Stony Brook, NY 11794–4400

MTC–00027069

From: Bill Herman
To: Microsoft ATR
Date: 1/27/02 6:46pm
Subject: Microsoft Settlement

Dear Judge Hesse,

I am writing this email in response to the public comment request period of the Microsoft settlement case.

I have programmed personal computers since they became available on the market and am deeply concerned with the legal attack on Microsoft. I have used DOS since the product's inception. I have used the Microsoft products ACCESS and EXCEL to hold and organize my data. I have used all versions of Windows when Microsoft created them. I have used Internet Explorer to view the web. At every phase of my professional career, Microsoft has helped me reach my goals. Microsoft has continually anticipated the market and expanded their product line to capitalize on that market. At every turn, they release new and more robust versions of their products. They have continually run after the American dream!

What is their reward? They get slapped with a mammoth anti-trust suit, not from the consumers they "harmed", not by some public outcry, not by any of their partners, but from their unsuccessful competitors! What these competitors could not win in a free market, they hope to extort by using the law as a club. If the same antitrust laws were applied to the auto industry, we would all still be riding model T cars since the buggy whip manufacturers could claim "unfair competition" and "intent to monopolize". If constantly improving one's products to gain market share is a crime, then you have to arrest everyone in any successful business, including myself! Failed businesses must not be allowed to set the rules for the markets in which they failed.

Just as the government protects my right what I read, what I say, or whom I associate with, it must protect my right to choose what software I have on my computer! The way to protect that right is to allow Microsoft and its partners to license and bundle software as they see fit, not as their competitors see as "fair". I am not a helpless victim. I make choices in operating system and applications. I can choose the best package for me. The court should not interfere with that choice. Everyone, including Bill Gates, has a fundamental right to his own property. By violating his rights, you violate mine. It is your responsibility to protect that right, not take it away by interfering with how Microsoft or its partners offer their products. A free society and a free economy go hand in hand. History is littered with examples where politicians meddled in a free market. The consistent long-term result was economic stagnation and political tyranny. By becoming a self made man, Bill Gates has not harmed me. In fact, he has helped me greatly. Don't punish success. Rule in favor of Microsoft and stop this travesty of justice!

Sincerely,
William R. Herman
308 108th Ave NW Apt A411
Bellevue, WA 98004
wrherman@iqmail.net

MTC–00027070

From: LCento1724@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 6:46pm
Subject: micro soft settlement

Attorney General of the United States:

I understand terms of agreement regarding suit between Department of Justice, 9 states, and Microsoft have been agreed to by parties involved. I would like to see these terms finally adopted as agreed to.

Yours truly,
Lorraine Centofante, an interested citizen
CC:RFC-822=MSFINMicrosft.com.
UM.A.2870.4@msfin.unitym...

MTC–00027071

From: Paul Iadonisi
To: Microsoft ATR
Date: 1/27/02 6:48pm
Subject: Microsoft Settlement

I am opposed to the Proposed Final Judgment in the United States v. Microsoft antitrust case.

I am a System Administrator who has been employed in the computer industry for fifteen years. In those fifteen years, I have seen the results of the illegal monopolistic practices of Microsoft that the company was found to be guilty of by U.S. District Judge Thomas Penfield Jackson on November 5, 1999.

I have seen products discontinued by companies who had difficulty breaching the high barrier to entry that Microsoft has consistently kept artificially high. In many cases, the discontinuation of these products harmed the businesses I was employed by.

I have seen companies who I was employed by place less and less emphasis on quality and security in their products and instead focus on become partners with Microsoft to the exclusion of competitive technologies. This has occurred even in cases where the non-Microsoft technologies were of significantly higher quality than their Microsoft counterparts. In at least one case, I was personally harmed by these decisions through a reduction-in-force that was clearly aimed at those who did not agree with the decision to use Microsoft technologies.

All of this could not have occurred were it not for Microsoft's illegally obtained monopoly position. The current Proposed Final Judgment does little to penalize Microsoft for its behavior and little or nothing to prevent future abuses. The Proposed Final Judgment in fact codifies Microsoft's behavior into law.

I strongly urge the court to reject the Proposed Final Judgment currently in consideration and instead work with the nine states who have refused to enter into the agreement for their alternate settlement proposal.

Any proposed remedy should have little or no input from Microsoft. The convicted criminal should never have a say in what punishment he should endure. I am disappointed that the Department of Justice has capitulated to so many of Microsoft's demands in the current Proposed Final Judgment and I urge the court to refuse to accept this agreement. —

Paul Iadonisi
Senior System Administrator
Red Hat Certified Engineer

MTC–00027072

From: Lisa A Cate
To: Microsoft ATR
Date: 1/27/02 6:48pm
Subject: Microsoft Settlement

As a computer user,I don't think that it is right to punish Microsoft excessively.In any industry there will be some companies that are the leaders.Microsoft is a leader in the technology and software industry.They should have the right to make any improvements they feel are desirable to their products.If Microsoft has been "bullying" OEMs or their competitors(I'm unsure whether or not they've been doing this)then some behavior remedies may be in order.Breaking Microsoft up would be excessive punishment for anything they may possibly have been guilty of.Including Internet Explorer with Windows is very beneficial for computer users who enjoy internet activities.Even those who prefer Netscape can use Internet Explorer to download Netscape.There isn't any problem downloading competing products that I have found.That is hardly the way I'd expect a company taking advantage of being a monopoly to be doing.While I prefer to use Internet Explorer,I have downloaded Netscape for people who prefer Netscape without any problems doing it and using Internet Explorer to do the downloading.I started using computers October of 1995 and have been learning about how to do stuff with them mostly through reading about it on the internet.If the DOJ is looking for a company that needs a good swatting way more than Microsoft...AOL would be one that does.They bought Netscape and let it stagnate.Now they try to make it look like it's all Microsoft's fault that they have been steadily losing market share with it.There was some news reported in a local newspaper (The Durham Morning Herald) that AOL had plans to aquire RedHat Linux which hasn't happened so far.That makes me think that the only reason AOL bought Netscape was so they could use it to sue Microsoft.AOL ruined my Gateway 133 pentium PC.I wasn't having problems with it until making the mistake of putting in AOL software.I later found that other people have had even worse experiences with AOL than I had.Microsoft has been made to look like the evil monopoly by the likes of AOL and others whose doings make Microsoft look angelic by comparison.This covers most of the points I thought needed to be made about this so I'll close.

Lisa A
Cate
lisacate@rocketmail.com

MTC–00027073

From: Effie Robbins
To: Microsoft ATR
Date: 1/27/02 6:47pm
Subject: microsoft settlement

This suit must get over with as it is wasting the taxpayers and shareholders money. Microsoft is a very reputable company and the Department of Justice needs to finalize a decision as it makes our JUSTICE SYSTEM what it appears to be—a money wasting, ineffective system that does not work for the best interest of—WE, THE PEOPLE who pay and use this system. It just opens doors for lawsuits on any and all companies and has absolutely destroyed our faith in the stock market.

When you are through then you can punish Judge Penfield Jackson for discussing a case to the media and public before it was finalized. At that point, this suit should have been dropped in its entirety.

MTC-00027074

From: Brendan McCullough
To: Microsoft ATR
Date: 1/27/02 6:54pm
Subject: Microsoft Settlement

I don't agree.

MTC-00027075

From: Larry French
To: Microsoft ATR
Date: 1/27/02 6:51pm
Subject: Microsoft Settlement

Microsoft deserves our country's highest honor and praise for accomplishing all it has done and absolutely DOES NOT deserve anyone's scorn or to be punished for working hard and thinking smart. Please show our country, please show my son, that that it pays to work hard and think smart. No one has EVER been forced to buy a product from Microsoft, not even once. In a free market, customers always purchase the best products that they can find at the lowest price. To punish Microsoft for its success will only serve to limit the goods and services that are available to the consumer. In essence, punishing Microsoft will be equivallent to punishing the consumer.

Please show that hard work and smart thinking pay better than political pull! Please show Americas children that it is OK to make heros out of successful companies and people that do the right thing instead of treating them like common criminals.

Please set Microsoft free and do not punish them!

Sincerely,
Larry A. French

MTC-00027076

From: Dpww@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 6:52pm
Subject: microsoft settlement

i think the settlement reached between the DOJ and Microsoft shold stand and the matter closed. Some may see Microsoft not as anti -competative but as super-competative. They have established cutting edge products priced to consumer satisfaction and are maximizing their profits. This is a textbook economic business model.

If competitors want to earn a bigger share of the market they should come out with a better product or a cheaper one. Computer users are sophisticated enough to recognize a better value and generally well able to afford it if they choose. In every industry if you want to capture more market share you should have to earn it.

As far as the dissident states, i think they are headline seekers attempting to get some unrestricted funds from the "cash cow" much as was the case with the tobacco industry.

I dont think anybody gains by continuing this legal battle.Businesses who feel aggrieved can sped thie own time and shareholders dollars fighting with Microsoft. They might be better advised to spend the efforts in making a better product.

MTC-00027077

From: John Edstrom
To: Microsoft ATR
Date: 1/27/02 6:51pm
Subject: Microsoft Settlement

Greetings,

This note is to express my dissatisfaction with the agreement reached in the Microsoft anti trust case. I have already co-signed a letter from Dan Kegel which pretty thoroughly covers most of my objections to the settlement. I personally believe that only a breakup of MS into independent operating system and application/services companies. But I guess that isn't even on the table anymore.

I endorse Mr. Kegel's criticisms of the settlement and his suggestions on better ways to deal with those issues. However, one thing that I find especially irksome and unjust about MS's illegal activities is absence of protection for the consumer. In the past 4 years I have purchased 3 computers. All of them had MS Windows (NT) pre installed. I don't like Windows. I don't use it. I resent being forced to buy it just to get the hardware. More, I can't even find out how much of the total unit price was devoted to the unwanted software. I was told that the information could not be divulged because of the OEM's contract with MS and it wouldn't do me any good since there are no refunds for unrequested, unused software.

In order to prevent this unjust situation from continuing I therefore additionally suggest that something like the following be included in final judgment.

1) The price of all MS software pre installed on a computer will be clearly published on all invoices and in all advertising where the price of the OEM product is displayed.

2) There will be a mechanism whereby a customer can obtain a full refund by returning the software that they didn't ask for, don't want and never use.

3) 1&2 above will be made retroactive to when the action culminating in this settlement was initiated. People who were charged for MS software without their permission during this period will be informed how much they paid for it and will be given an opportunity to return any unused software for a refund plus an interest charge on the money while it was under MS's control.

I don't think that this will affect many people, most of whom would buy and use MS Windows anyway. Still, there is no good reason for not informing people what they are spending their money on and, the notion that consumer choice can regulate markets is just a cruel joke as long consumers are forced to buy Windows anyway even though they choose to use something else.

John Edstrom
Apt. 1
845 SW 10th
Newport, OR 97365

MTC-00027078

From: mbernicegray@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/27/02 6:49pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Bernice Gray
105 Dawn Drive
Fayetteville, GA 30215

MTC-00027079

From: Jim Mitchell
To: Microsoft ATR
Date: 1/27/02 6:55pm
Subject: Unjust Justice

To whom it may concern:

I am completely outraged at the lawsuit against Microsoft. This organization has done more for this country and its people than all of the organizations that are obviously dead set on the financial ruin of Microsoft and the USDOJ and some members of our government is supporting it. This company has not harmed the people (financially or otherwise) and has done nothing to hurt compitition except compete in one of the most compititive markets in the world. Their prices have been very fair and compititive and their products are superior to all.

Just a few days ago I received updated browser software from my internet provider and guess what, the browser provided was Netscape with no other options and when I started to load it, it gave me no choice except to install Netscape. It took several hours to remove Netscape because it is an inferior product and difficult to use when compared to similar products in the market place (including Microsoft Internet Explorer). At least I have always had the option of loading other supporting products when installing microsoft products. There has always been several choices available or the choice to install none.

My personal request; In the name of the majority of the people, drop this litigation and stop wasting our hard earned tax money because of a few very greedy and less qualified compititors, states and some of their legislators. Please challenge any compititor to provide a superior product and they will gain market share immediately. What happened to the old saying, "Build a better mouse trap and the world will be at your door".

Sincerely,
J. R. Mitchell,
a very concerned Washington State Voter and Citizen.

MTC-00027080

From: Jack Lichten
To: Microsoft ATR
Date: 1/27/02 6:54pm
Subject: Microsoft must not be allowed to do this!

YOU MUST NEVER LET MICROSOFT GET AWAY WITH THIS!!!!!!!!!!!!!!! Yes, it would help the schools, but in such a way as to give monopolize the educational market as well in favor of Microsoft!!! With this plan, Microsoft would give schools super-new Wintels or super-old Macintoshes.

Because of the fact that the Wintels (backed by Microsoft) would be much more souped up than the Macs, the entire school computer buisness would fall to Microsoft (and I'm sure you can guess why). Passing this new agreement would do just that. Remember Standard Oil? This is just that, for the 20th century-ers.

Just my two cents.

MTC-00027081

From: tnhills@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 6:56pm
Subject: Microsoft settlement

Greetings;

I feel the settlement agreement that is now in effect is fair to both Microsoft and their competiors. I would like to see that settlement approved and not allow anymore lawsuits against microsoft.

Sincerly,
Darlene Hill
P.O. Box 410
Ridgetop, Tn
37152
tnhills@juno.com

MTC-00027082

From: Sean Roberts
To: Microsoft ATR
Date: 1/27/02 6:58pm
Subject: Microsoft Settlement
1/27/2002

To whom it may concern,

My name is Sean Roberts and I am writing to voice my opposition to the current Microsoft settlement proposal. This proposal does nothing to address the issue of Microsoft's dangerous lack of software quality and its effect on national security, nor does it address the "iron fist" policy Microsoft employs to choke off the free exchange of information by limiting communication to Microsoft platforms only. The Microsoft settlement proposal not only fails to punish Microsoft for its behavior, but also fails to address the real issue—Microsoft's unwillingness to play on a level playing field.

In this letter I provide details to support my opposition. These details include information about the use of the Internet to freely exchange ideas and Microsoft's serious impact on that free exchange.

I will also give my own negative experiences with Microsoft products and the impact of such poor quality software on national defense.

Background

I work for a company that writes software for US missile defense. Unlike the business world where Microsoft products often provide the only software solutions, the science and defense communities employ a variety of computing solutions—typically various flavors of UNIX. The reasons for employing these alternate platforms are multiple and include, but are not limited to, security, reliability, and computational speed. Microsoft does not offer a platform that can handle the types of computationally complex problems many scientists are trying to solve.

Free Information Exchange vs. Proprietary Protocols

The Internet as we know it today grew from the seed of ARPANET, a network of military computers built for communication between defense installations, and communication between defense research scientists. Later ARPANET was made public so researchers and academics outside the defense industry could benefit from the open sharing of ideas and information that the defense researchers found so useful. At that time, because the protocols were free and open, anybody could get involved in the sharing of information, regardless of the platform they chose to use. Later the business world came to benefit from this ability to share information, to manage their finances, and to allow communication between departments that were separated by large distances. Soon this network grew to allow average citizens to access vast amounts of information that had previously been unavailable to them.

Recently, Microsoft has begun to employ proprietary protocols that prevent citizens using non-Microsoft platforms from being involved in the sharing of information. If you wish to communicate with someone who uses Microsoft products you must also use Microsoft products. It now appears that the Internet, a publicly built and maintained infrastructure designed to allow everyone to participate in a climate of open exchange of ideas is becoming something else indeed. It seems that the Internet is doomed to become yet another strategic tool to maintain and further Microsoft's dominant position in the desktop operating system market, and to allow Microsoft to make further inroads into the server market.

The .NET initiative is taking Microsoft's "domination" strategy to new levels (in light of Microsoft's past actions, to think otherwise would be na<ve). This strategy allows Microsoft to gain dominance, not because Microsoft has a superior product, but because its protocols are secret and proprietary. As a result Microsoft is not driven by the need to produce a stable, reliable, and above all secure product. Microsoft does not operate in a climate of fair competition, but in a climate of monopolistic advantage. This has a negative effect on society as a whole, and on the defense industry in particular.

Poor Quality Microsoft Software and National Security

Let me give an example of how Microsoft's poor software design can have a negative effect on defense work. My company had to electronically transmit software we developed to another company in the defense industry, on the other side of the country. We tried to accomplish this transmittal at a time when a Code Red Worm was attacking vulnerable Microsoft products. The traffic associated with this worm slowed the network to such an extent that we were unable to transmit our software.

We eventually had to mail our software on a CD! Our country's missile defense was negatively impacted because of Microsoft's poor software design. Should we wait until another Microsoft vulnerability slows or damages the Internet to such an extent that vital national defense work is not only delayed, but cannot be done at all?

This is just one example of indirect harm to national security due to Microsoft and this harm is minor compared to more direct assaults, ranging from DDOS attacks on government computers, to financial theft, to computer espionage. To maintain a free society we must never allow any single entity to take control of the lines of communications or to dictate the manner by which people access information!

No computer system is going to be 100% secure. As a result of their monopoly Microsoft does not gain from producing a quality product, but instead from secret protocols. Thus Microsoft does not put a premium on stable, secure systems. Microsoft must be made to play on a level playing field if they are to ever shift their focus from using their monopoly to eliminate the competition to producing a product whose success depends on the quality of the product.

Microsoft Settlement Proposal

The current settlement proposal does not address the issues of Microsoft's serious lack of software quality and its effect on national security, nor does it address the Microsoft's "iron fist" policy to choke off the free exchange of information by limiting information transfer to Microsoft platforms only. Thus, the proposal not only fails to punish Microsoft, but also fails to address the real issue—Microsoft's unwillingness to play on a level playing field. I have heard some say that punishing Microsoft too harshly is a threat to national security because of the potential financial ramifications. My response to this concern is to ask, "Is it a good idea that a company becomes so large and powerful that we cannot punish them for their indiscretions for fear of the economic ramifications?" I would argue that not punishing them hard enough presents a far greater national security threat.

If Microsoft cannot compete on a level playing field, they are really nothing more than a paper tiger. Consequently, basing an entire industry as crucial as computing upon the platform of one such a company is dangerous to the extreme. Artificially supporting Microsoft by allowing them to play by their own rules is simply delaying their fall, and the longer we wait the worse the fall will be. Not punishing Microsoft hard enough also sets a dangerous precedent that will make it difficult to level sanctions against them or any other company in the future that commits further offenses. "Caving in" to Microsoft will prove that our government finds this monopolistic behavior acceptable, and will invite other companies to copy Microsoft's actions. Failing to deliver appropriate punishment will introduce more problems, and certainly will not solve the already existing problems I alluded to earlier.

Summary

In summary, I urge you to provide a settlement with Microsoft that both levels the playing field and punishes Microsoft for it bullying tactics. To level the playing field, the settlement should require all protocols, file formats, and API's to be made public. To punish Microsoft, the settlement should fine Microsoft an amount large enough to make sure Microsoft feels it.

There very well may be economic ramifications from such a settlement, but if we bear those economic impacts now, we can still recover. However, if we delay, the economic ramifications could become truly damaging and even debilitating. The settlement must make the statement that no one, not even Microsoft, can get away with this type of behavior.

Sincerely,
Sean Roberts
413 East Swallow Road
Ft. Collins, CO 80525
sean623@attbi.com

MTC-00027083

From: Brad Jackson
To: Microsoft ATR
Date: 1/27/02 6:58pm
Subject: Microsoft Settlement

Under the Tunney Act, I am commenting on the proposed DoJ-Microsoft settlement.

Microsoft's behavior over the last several years has been arrogant, greedy, anti-competitive, belligerent and ruthless. Bill Gates was extremely combative and uncooperative in giving his deposition during the anti-trust trial and that is a perfect reflection of Microsoft. They entered into exclusive agreements with ISPs to only distribute IE.

They threatened OEMs if they tried to distribute the Netscape browser. They intentionally tied IE into Windows so that it couldn't be easily uninstalled. They could have created IE so that a few core DLL files that are used for rendering HTML by third-party applications are left and the rest of IE could be uninstalled, but Microsoft deliberately chose not to provide that option. Microsoft claimed that IE can't be removed, but they were proved wrong by, of all people, a biologist (!), that runs the www.98lite.net Web site. Even though most users would agree IE is superior to Netscape, Microsoft's very rapid increase in browser market share cannot be explained by that superiority, but can only be explained by bundling IE and making it the default browser on all versions of Windows from OSR2 up to XP.

Microsoft continually harps about their "freedom to innovate" but when a giant like Microsoft supposedly innovates, no one else can, because Microsoft won't let them. They are crushed under the foot of the giant, as Netscape and many others can testify. And Microsoft doesn't really innovate anything. DOS was based on an operating system they bought. The Windows GUI was based on the work of XEROX PARC. Word and Excel are just copies of other companies" ideas. Power Point was bought from another company. Java was invented by Sun and JavaScript was invented by Netscape. IE was based on the Mosaic browser source code that Microsoft purchased. MSN was created specifically to attack AOL.

Windows Messenger was specifically created to attack AOL's IM client and will almost certainly meet the same fate as Netscape's browser. Winamp will eventually be crushed by Media Player. Most Windows users are too dumb to realize there are better third-party products than what Microsoft bundles. Users won't go out and download Netscape 6.2 or AOL IM or Winamp because they have what they need. And then all the competing products disappear because no one knows they exist and then Microsoft's monopoly is expanded into even more markets than operating systems. And the juggernaut marches on in search of still other companies and products to steam roll. Who's next? Palm? WinZip? Firewall products? Anti-virus products? Real Player?

Now Microsoft has left Java out of Windows XP because they want to kill it off and replace it with C#. And they deliberately aren't providing .NET or C# support for Linux because they want to kill it off too.

And they've dropped support for the plugins that are supported by the Netscape browser, forcing plugin developers to write ActiveX controls. And recording studios are now shipping copy protected music CDs which have Windows Media-encoded versions of the music for playing on a computer. But the Microsoft-proprietary music file format can only be played on Windows computers, leaving Linux users in the dark. And the X Box is a ploy to get Windows into everyone's living room. I'm sure there are countless other examples I haven't though of.

I firmly believe that in the near future, Microsoft will switch Windows to a subscription-based pricing scheme, much like AOL, MSN or a private ISP. You'll be required to pay $20 a month to use Windows or your computer will stop functioning. Don't think they won't try to do it because they can and if they decide to do it, what choice do any of us have?

Microsoft has such a stranglehold on the desktop market that they can extort as much money from companies as they choose. They've recently changed their licensing scheme to force customers to upgrade more often or else they will have to buy the full version instead of an upgrade. This which will cost companies more, making Microsoft even richer. And it's not as if they need more money. They're sitting on an estimated $36 billion in cash and they're one of the few companies that's still very profitable even with the economy in recession. It doesn't take a genius to see why they're still profitable. It's because they have millions of individual users and businesses firmly by the balls.

What's a company going to do if the don't agree to Microsoft's terms? Switch to Macintosh or Linux? Either of those alternatives probably aren't too appealing to most companies. Mac hardware is expensive and Linux isn't quite user-friendly for most users. And the training and support costs would be enormous for either. Most companies will reluctantly pay the costs that Microsoft demands because there really aren't any viable competitors to choose from. And just imagine a world without Mac and Linux. If the market for Macs continues to shrink, and Apple finally decides to kill it off, then Linux will be the only other choice.

Can you think of any other market in which there is only one viable choice? Imagine if there was only one automobile manufacturer and they only sold two makes of cars. Or one television manufacturer that sells two models. This is analogous to Microsoft selling Windows 2000 and XP. The companies in markets where consumers only have one choice, such as electricity, natural gas or telephone, are regulated monopolies because it's necessary to prevent customers from being gouged by a greedy business. Why should Microsoft be an exception to this rule? The so-called "punishment" that was agreed to by the DoJ and Microsoft is not even the equivalent to a slap on the wrist. The executives at Microsoft must be jumping for joy at having received such a light sentence. It's the equivalent of a serial killer being given community service and being placed on 30-day probation. What a f—ing joke. The millions spent on the anti-trust trial so far have been wasted if we let Microsoft off with the current (pathetic) agreement. We need to get something back from what we've spent so far and that means real punishment with sharp teeth. Microsoft should have no say in its punishment. Do we give serial killers a choice about how many years they're sentenced to or whether they would like the death penalty? We need anti-loophole clauses that threaten Microsoft with a death penalty, such as forcing them to release the source code to Windows, if they try to do something sneaky like finding a loophole to get out of a restriction and effectively raising their middle finger to the DoJ.

Never ever underestimate how devious they are capable of being. If you turn your back for a split second they will shoot or stab you in the back. An absolutely air-tight agreement is mandatory.

Some ideas for effective forms of punishment for Microsoft include:

1. Force them to document the file formats used by Word, Excel, Power Point, Access, etc. so other companies can make fully compatible products, thereby increasing competition, which will increase the quality of the products, drive down the currently outrageous prices and give individual consumers and businesses a real choice

2. Force them to distribute a version of Windows without IE, Media Player, Windows Messenger, the firewall, etc. at a discounted price

3. Make IE source code available under a reasonable license

4. Prevent Microsoft from being able to punish OEMs that choose to distribute alternative operating systems like Linux or

alternative browsers like Netscape or Opera on their desktop systems

5. Under anti-trust law, Microsoft must be denied the fruits that they've enjoyed from abusing their monopoly power, therefore they must be fined an appropriate amount of money, enough so that it will be a serious deterrent from future infractions

6. As long as Microsoft controls more than X percent of the desktop market, say 75%, force Microsoft to license the source code to all future versions of Windows to third-party companies for a reasonable price, including the ability of those companies to distribute their own customized versions of the operating system

7. Force them to document all communication APIs such as file and printer sharing or things like the NTFS filesystem, and prevent them from using sleazy tactics like parenting these technologies or forbidding reverse engineering to prevent others from making inter-operable products, like SAMBA.

8. Force them to make Linux versions of products such as IE, Office, Media Player, etc. to promote competition on the desktop

9. Continually monitor Microsoft's power and market share in all the different markets that they are attempting to gain monopoly power in and if they start to become too powerful in a market, actions must be taken to promote competition

10. Force all APIs to be documented so products like Wine, LindowsOS, Win4Lin, etc. can provide complete support for Windows under Linux The thought of a world where numerous markets are controlled by a malevolent monopoly like Microsoft is chilling and should be of great concern to everyone. Please take steps to ensure that significant competition is promoted in any markets that they are attempting to gain a choke hold in so that consumers can have the benefits of superior product quality, lower prices and more than one choice.

Brad Jackson
Programmer Analyst
Cedar Rapids, IA

MTC-00027084

From: Frederick Bauman
To: Microsoft ATR
Date: 1/27/02 6:58pm
Subject: Re: U.S. v. Microsoft: Settlement Information

"break-ups" are silly. Consider the following as a loose framework for long term and meaningful solutions:

1. oversight committee (to oversee the following)

2. percentage of yearly gross of Microsoft to technology start-up fund. To which technology related companies may apply to for grants.

3. cease and desist of any mergers or acquisitions

4. immediate re-negotiation of all OEM contracts (specifically to include multiple OS on boot-up)

5. open Windows source code to new open developer committee (specifically to ensure security and compatability)

MTC-00027085

From: bekki
To: Microsoft ATR
Date: 1/27/02 6:59pm
Subject: Microsoft Settlement
Renata Hesse, Trial Attorney
Suite 1200, Antitrust Division, Department of Justice,
601 D Street NW, Washington, DC 20530
Re: Public comment (Microsoft case settlement) that under the Tunney Act must be considered before the settlement is accepted.

Dear Mrs. Hesse:

I would like to respectfully request that you reject the Proposed Final Judgment in its present form.

The Proposed Final Judgment as currently written appears to lack an effective enforcement mechanism. Although it provides for the creation of a Technical Committee with investigative powers, it leaves actual enforcement to the legal system. I believe this will cause the Technical Committee to quickly become irrelevant. I am convinced Microsoft will waste no time in exploiting this fact in view of the lack of resolve shown by the Justice Dept. to carry out an effective punishment in the sentencing portion of the case. If this administration does not show now that it is capable of acting with forceful determination, then I have no doubt that Microsoft will be emboldened and will push its bullying practices to new heights.

There are too many problems with the PFJ in its current form to address effectively in this letter so I would like to keep it as brief as my conscience will allow so I will just point out several of the most glaring injustices:

Microsoft is going to replace Java with .NET. But the PFJ does not allow users to replace Microsoft.NET with competing middleware. This is a serious flaw since the PFJ already allows users to replace Microsoft Java with a competing product. In any case, the PFJ's definition of "Microsoft Middleware" is so narrow that it can be easily sidestepped making any remedy tied to this definition irrelevant.

The PFJ's definition of Windows is also so narrow that it will surely not cover subsequent versions or other related Windows-based operating systems (XP, CE, etc.) that use the Win32 API and are advertised as being "Windows Powered". This shortcoming will again make any any remedy tied to the definition irrelevant.

By not providing a remedy helping software vendors engaged in making Windows-compatible operating systems, the PFJ is ignoring an opportunity to foster healthy competition in the Intel-compatible operating system market. Furthermore, by allowing these practices, the PFJ effectively condones the extension of Microsoft's monopoly in Intel-compatible operating systems. Microsoft's continued leverage of their illegal and ill-gotten monopoly on the desktop has now positioned the company to extend its control to the Internet. As a citizen I am dismayed: the continued indifference of this administration will ultimately lead to a monolithic entity controlling all relevant aspects of our cyber-society. As a consumer I am saddened: we will face a world devoid of choice in that arena. In the end, we will all have to pay the price.

The PFJ, by allowing this unclear legal situation to continue, is inhibiting the market acceptance of competing operating systems: Section III.I of the PFJ requires Microsoft to offer to license certain intellectual property rights, but it does nothing to require Microsoft to clearly announce which of its many software patents protect the Windows APIs. This leaves Windows-compatible operating systems in an uncertain state in which they do not know if they are infringing on Microsoft software patents.

It is disconcerting that the PFJ still allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system. Section III.B. requires Microsoft to license Windows on uniform terms and at published prices to the top 20 OEMs, but says nothing about smaller OEMs. This leaves Microsoft free to retaliate against smaller OEMs. Section III.B. also allows Microsoft to offer unspecified "Market Development Allowances" to OEMs that promote other unrelated Microsoft applications or products. This is a huge loophole that will again allow Microsoft to leverage its monopoly into other areas.

To conclude, I would like to plead with this administration to stop its apparent indifference to the wrong-doings of large corporations such as Microsoft and to apply true remedies with real teeth when a corporation has been found guilty of monopoly.

I sincerely hope that the currently unfolding Enron debacle will make this administration more sensitive to the fact that tacitly supporting another large company's practices, like Microsoft's, by turning a blind eye to its illegal business practices will ultimately carry an enormous price to our society.

You now have a historic opportunity to redress this and apply real remedies that will send the message that illegal business practices will not be tolerated any more.

I urge you to act now, decisively, and with justice on behalf of our future. I want to believe that you will do the right thing.

I really wish to thank you for your time and for considering my views.

Sincerely
George Soler
Software Developer, eRide Inc.
7 Hallam St. 3A
San Francisco, California 94103

MTC-00027086

From: Michael Jaehrling
To: Microsoft ATR
Date: 1/27/02 6:58pm
Subject: Microsoft Settlement

To whom it may concern:

Microsoft should be lauded, not hounded. In working for their own success they have made all of our lives easier and more enjoyable. If there have been others who have not been able to compete (and there have been many who can and are), that is how business works.

I say: LEAVE MICROSOFT ALONE!

Let them get on with their business—making better software.

Sincerely yours,
Michael Jaehrling

General Manager
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MTC–00027087

From: Chasslay@ao1.com @inetgw
To: Microsoft ATR
Date: 1/27/02 6:59pm
Subject: Microsoft Settlement
CC: microsoftcomments@doj.ca.gov;
@inetgw,steven.rutste...

I strongly oppose the Justice Department's proposed settlement of the Microsoft antitrust case for the following reasons:

Five Fundamental Flaws in the PFJ:

1. The PFJ does not End Microsofta. TMs Monopoly and Even Allows Microsoft to expand its Monopoly into Other Technology Markets. The deal fails to terminate the Microsoft monopoly, and instead guarantees Microsofta. TMs monopoly will survive and be allowed to expand into new markets. Microsoft has always found it advantageous to leverage its operating system monopoly position in order to maximize its own profits, which many of us have experienced firsthand.

In other words, to maximize profits (the goal of every public company), monopolists are almost forced to maximize the market power that their monopoly gives them. And this is why ALL monopolies must be carefully watched to make sure they dona. TMt abuse their monopoly position. Indeed, many monopolies are either broken up or carefully regulated in order to protect the public interest. Why is Microsoft allowed a waiver to this general rule?

Does the Justice Department think that Microsoft is going to suddenly change its operating methodology? The proposed deal with the justice department does not address the fact that Microsoft has abused its monopoly and is likely to do so again, and again, and again in the future to the detriment of others,

2. The PFJ Does Not Adequately Address Anticompetitive Behavior Identified by the Appeals Court.

A. Retaliation. The proposed settlement does not address Microsofta. TMs proven ability to retaliate against would-be competitors and to, in effect, appropriate the intellectual property of its competitors a." and even its partners a." in fact all who do business with Microsoft. The Appeals court found such past conduct by Microsoft highly egregious yet the Agreement does not address these issues. Again, many of us have been on the receiving end of these types of Microsoft bullying tactics.

B. Bolting. The PFJ does not address the issue that fueled consumer criticism and which gave rise to this antitrust case in 1998: Microsofta. TMs decision to bind a." or a.??bolta.. a." Internet Explorer to the Windows operating system in order to crush its browser competitor Netscape. This settlement gives Microsoft a.??sole discretiona.. to unilaterally determine that other products or services which dona. TMt have anything to do with operating a computer are nevertheless part of a a.??Windows Operating System product.a.. This creates a new exemption from parts of antitrust law for Microsoft and would leave Microsoft free in future versions to bolt financial services, cable television, or the Internet itself into Windows.

C. Java. The Court of Appeals affirmed that Microsoft had unlawfully and intentionally deceived Java developers and a.??polluteda.. the Java standard in order to protect its monopoly and defeat competition. Yet, the proposed settlement does not restrict Microsofta. TMs ability to modify, alter or refuse to support computer industry standards, including Java, or to engage in campaigns to deceive developers of rival platforms, middleware or applications software.

Indeed, Microsofta. TMs decision not to distribute Java technologies with Windows XP, which hurts developers and consumers alike, will be the shape of things to come under the proposed deal unless the Court requires Microsoft to continue to distribute Java technologies.

3. The PFJ Incorporates Such Large Loopholes to Its Enforcement Provisions as to Render Enforcement Meaningless.

A. Middleware. As part of the PFJ, Microsoft is required to allow the PC manufacturers to hide Microsoft middleware programs and allow them to install icons or links to competing middleware programs. The only problem is that the PC manufacturers are not allowed to remove the code that could be used to reactivate Microsofta. TMs middleware programs. In other words, two weeks into owning the machine, a consumer could be asked if they want to reconfigure their desktop, install all the Microsoft middleware and delete all the competitora. TMs middleware, which many users would undoubtedly do.

B. Communication Protocols. The PFJ states that Microsoft must now share information on how its middleware and server software work together with Windows. However, Microsoft does not have to disclose this information for middleware it does not distribute separate from windows, or for middleware it has not trademarked. This again is the huge loophole of a.??Boltinga.. that was discussed above. If Microsoft wants to drive a competitor out of business, they just attach the specific type of software the competitor is involved with to their Windows platform. Once they do that, they do not have to share the APIa. TMs and other basic information that is needed by the competitor to ensure its software works with Windows. And without reliable access to 90% of the PCa. TMs in the world a." no competitor can survive. Once the competitor is out of business, Microsoft can separate the software from the Windows package, sell it separately and derive huge margins. In addition, Microsoft does not have to disclose their information to companies that in a.??their viewa.. do not have a.??viable businessa.. (defined as selling at least 1million units in the previous year).

This loophole will allow Microsoft to hamper new software startups from becoming true competitors simply if in Microsofta. TMs a.viewa. TM they are not a a.??viable businessa... Who can really say which new startup is a a.??viable businessa..? Certainly this should not be left to the judgment of a voracious monopolist.

Lastly, Microsoft does not have to disclose this coding information if Microsoft deems such disclosure would harm the companya. TMs security or software licensing. There is no provision to say who is to make this determination, leaving it on a de facto basis up to Microsoft.

C. Bribing Competitors. The PFJ states that Microsoft a.??shall not enter into any agreementa.. to pay a software vendor not to develop or distribute software that would compete with Microsofta. TMs products. However, another provision in the Agreement permits those payments and deals when they are a.??reasonably necessary.a.. Who is the ultimate arbiter of when these deals would be a.??reasonably necessary?a.. The Agreement does not specify so Microsoft may well be allowed to make that decision.

4. The PFJ Does Not Provide an effective Enforcement Mechanism for the Weak Restrictions it does Implement,

The proposed settlement requires a three-man compliance team to oversee Microsofta. TMs compliance with the Agreement. Microsoft will appoint one person, the Justice Department another, and the third will be chosen by the two people already appointed. In essence, Microsoft will control half the team. This new team will not be allowed to inform the public of their work, and cannot impose fines. In addition, the work of the committee cannot be admitted into court in any enforcement proceeding. The committees sole remedy for infractions is for them to inform the Justice Department of the infraction and then the Justice Department will have to conduct their own research and commence litigation to stop the infraction. The Justice Department does not need a compliance group to tell them when Microsoft is doing something wrong, so in reality this group is just a smoke screen.

5. The PFJ Does not deny to Microsoft the Fruits of its Past Statutory Violations. Under the proposed settlement, Microsoft is only marginally penalized for its anticompetitive misdeeds. Every court involved with this case has acknowledged that Microsoft broke the antitrust laws, yet under the terms of the proposed Agreement, Microsoft would be allowed to retain almost all of the profits gained from these activities.

Nor does the PFJ make an accounting of all the gains Microsoft made through its illegal activities, nor does it try and compensate those harmed by Microsofta. TMs misdeeds. Through this proposed settlement, the Justice Department is sending a very clear (and very dangerous) message that anticompetitive behavior is totally acceptable. Every large potential monopolist is being told that they can get away with this sort of illegal behavior without fear of losing any of the profits made from such conduct. There is every incentive for future monopolists (most definitely including Microsoft) to engage in this type of predatory conduct and no incentive not to.

Charles C. Slay
PO Box 27, Branson, MO 65165

Telephone: 417–334–2210
Email: chasslay@bigfoot.com

MTC–00027088

From: JHimers@cs.com@inetgw
To: Microsoft ATR
Date: 1/27/02 7:01pm
Subject: Microsoft Settlement

It is clear that the current Proposed Final Judgement does in no way address the anti-trust allegations/findings of previous courts. Worse still, there seems to be no mechanism in place for ensuring 1) that such behaviour is corrected in the future and 2) that the consumer is protected from the lack of choice provided by a Microsoft Monopoly. I would urge you to protect the public consumer as well as other IT companies that are doomed to failure because of the monopolistic conduct of Microsoft.

Joshua C. Himes
2733 Cantwell Road
Virginia Beach, VA 23456–6633
(757) 427–0965 (Home)

MTC–00027089

From: Rick Legge
To: Microsoft ATR
Date: 1/27/02 7:02pm
Subject: Microsoft Settlement

I am writing to express my strong opposition to settlement of the Microsoft Antitrust case because the reasons outlined below.

1. Microsoft, through their unfair marketing and promotion tactics have successfully established their operating systems and office suite applications as de facto standards throughout the United States, and world business communities.

2. Because of the pervasive use of these operating systems and applications there is no longer a viable free market survival opportunity for competing operating systems or applications.

3. This lack of survivable opportunity has created and is perpetuating a market so completely dominated by one technology and one company that there no longer exists free choice in the market place.

4. This lack of survivable opportunity effectively prevents research and development of better, more advanced, more efficient, and more reliable operating systems and applications and this deprives our nation and the world of progress.

5. Microsoft's predatory practices perpetuate their complete dominance by failing to seamlessly exchange information with competing applications and operating systems even though the competitors are able to seamlessly exchange information with the Microsoft products.

6. This barrier to seamless interchange and communication creates an onerous obstacle to any individual or business that would otherwise vote for another application or operating system in the free market by purchasing other manufacturer's products

7. Market dominance, such as the dominance enjoyed by Microsoft, enables the company (Microsoft) to market products to our nation and the world that are flawed and defective beyond reasonable standards and that same dominance robs the consumer of his/her ability to "vote" for alternatives by purchasing and using alternative software.

The free market, and the United States Federal Government would not allow the manufacture and sale of an automobile, or pacemaker, or simple power tool or kitchen appliance that periodically stopped functioning and needed to be "re-booted". Yet Microsoft operating systems and software, which unquestionably have this unacceptable characteristic, are allowed by the lack of viable free market survival opportunity and their complete dominance of their market to be widely used in Public Safety dispatch and communications systems, the nation's public switched telephone network (PSTN), medical emergency and delivery systems, as well as other systems that directly impact public health and welfare and defense of the nation. More reliable and efficient alternatives are unavailable because one company completely controls such a dominant share of this market that innovation, improvement and progress are prevented. This absence of choice is as un-American as a single telephone company, or a single presidential candidate on the ballot.

Our trust is in you, the people of The Department of Justice, to do the right thing with this difficult problem and create an environment that fosters progress.

Sincerely,
Richard C. Legge Jr.
231 River Village Drive
DeBary, Florida 32713
386–753–1105
CC:Attorney Florida State,microsoftcomments@doj.ca.go...

MTC–00027090

From: Burton Cohen
To: Microsoft ATR
Date: 1/27/02 7:01 pm
Subject: Microsoft Settlement

Here are two articles that should help you realize that Microsoft is less than honest (first article) and not being given a harsh penalty for having been convicted of braking the law:

This first article is from the San Jose Mercury News which interviewed the author of the Tunney act:

Posted at 12:23 a.m. PST Saturday, Jan. 26, 2002

Lobbying act author criticizes Microsoft
Antitrust disclosure called "inadequate"
BY KRISTI HEIM
Mercury News Seattle Bureau

Microsoft's failure to disclose all its contacts with the government directly contradicts the intention of a federal law designed to prevent the influence of lobbying on antitrust settlements, the former California senator who wrote the law said Friday.

John V. Tunney, who wrote the antitrust legislation known as the Tunney Act in 1972 and is now a business executive, called Microsoft's brief disclosure of its lobbying activities "inadequate" in an affidavit filed with the Justice Department this week.

The declaration comes at a crucial point in the long-running case as a federal judge is deciding whether a proposed settlement between Microsoft and the federal government is in the public interest.

Tunney has been silent on antitrust matters for years but said in an interview with the Mercury News that he felt compelled to "set the record straight."

"I do have some pride in my legislative record and my history of service in the Senate, and I don't like to have my words and my intention being misinterpreted," Tunney said in a telephone interview Friday.

The Tunney Act was passed in 1974 after the Nixon administration dropped an antitrust case against telecommunications giant ITT and it was later found that ITT had secretly negotiated to pressure the Justice Department to agree to a settlement.

"The disclosure provisions were designed to help ensure that no defendant can ever achieve through political activities what it cannot obtain through the legal process," Tunney stated in his affidavit filed Thursday.

"Failure to comply with these provisions raises an inference or, at a minimum, an appearance of impropriety."

In their brief filing two months ago, Microsoft's lawyers followed a narrow interpretation of the law. The company reported to the court only a handful of contacts, those with Justice Department lawyers and two federal mediators.

Tunney said the law was intended to cover contacts with any member of the executive, legislative or judicial branches of government by any company lawyer, lobbyist or executive.

Tunney was asked to provide his interpretation by Jeff Modisett, a partner in law firm Manatt Phelps & Phillips in Los Angeles, where Tunney practiced after leaving the Senate until 1983. The firm's clients include Microsoft rivals Oracle and AOL Time Warner. Tunney said he has no involvement in the case itself and was writing simply as the author of the original legislation.

Microsoft did not report its extensive lobbying of Congress or a White House meeting last summer between its chief executive, Steve Ballmer, and Vice President Dick Cheney.

"We made the full disclosure that was required by the Tunney Act and are looking forward to the court's review of the settlement," Microsoft spokesman Jim Desler said Friday. Microsoft used a precedent set in the AT&T antitrust case in deciding only to disclose contacts with the executive branch.

Tunney argues that Congress specifically intended to cover communications by corporate officers, lawyers, lobbyists or "anyone else acting on behalf of such corporate defendant" with "any officer or employee of the United States concerning or relevant to such proposal."

"If a defendant corporation did not have to disclose any contacts or communications with the government" until an actual settlement decree is in place, he wrote, "the very purpose of the disclosure would be defeated."

The settlement reached in November between Microsoft, the Justice Department and nine states is under review by U.S. District Judge Colleen Kollar-Kotelly. The settlement has been criticized as being riddled with loopholes and ineffective at curbing Microsoft's monopoly practices. A 60-day public comment period regarding the proposed settlement ends Monday. (Comments can be submitted by e-mail to microsoft.atr@usdoj.gov. Nine other states, including California, chose not to sign on to the proposed settlement and are pushing for harsher remedies. A hearing in their case is scheduled for March 11.

Tunney is president of JVT Consultants and sits on several executive boards, including that of Foamex, a Linwood, Pa., producer of cushioning for bedding, furniture and other markets.

The second article is from an Industry pundit who declares that the punishment that was worked out is not a punishment but in fact a victory for Microsoft and a defeat for free enterprise.

It appeared in Industry Week this weekend:

Articles—Publication Date 2.1.2002

E-Business Commentary—Gates Skates

Microsoft walks away with a sore wrist and a slice of Apple's pie.

By Doug Bartholomew

It was the Slap Heard "Round the World.

That wimpy "thwack" sound you heard was Microsoft Corp. getting a swift wet one on the wrist from the U.S. Government's rubber noodle out back of the Justice Department woodshed. I mean, that cheeky guy from Seattle with the ego the size of Jupiter and a net worth greater than half the countries on earth will think twice before doing that again!

But, hey, lest you believe Big Redmond got away without being punished, think again. Microsoft, in exchange for the dismissal of more than 100 private class-action antitrust cases, will have to cough up $1 billion dollars" worth of its software and services free to the nation's poorest public schools. Alright! Eliot Ness and the G-men to the rescue!

But wait. Now comes Apple Computer CEO Steve Jobs—sore sport! Jobs cried foul, charging that the so-called "punishment," instead of restricting Microsoft's aggressive activities, actually gives Microsoft the keys to the lucrative educational software business.

wow. You can see why this deal would give Jobs a burr the size of a grapefruit under his saddle . Except for some high-powered graphic stuff used by a few dozen people who make movies with computers, education is one of Apple's few remaining markets of any size. And no wonder. Just about every cubic gigabyte of corporate computing turf on the globe is taken up by scores of different versions of Microsoft Windows residing on a few hundred million Intel-powered PCs. I mean, the last time Apple had more than a single-digit share of the market, there was a buffalo on the nickel.

Under Uncle Sam's wrist-whipping plan, Microsoft would implant a million rebuilt computers and a million copies of Windows operating-system software in more than 12,500 schools in low-income neighborhoods over the next five years. The company also would be made to donate $450 million to a private foundation to fund grants, training and technical help for the schools— the idea being that computers and software are no good without the staff and training to put them to use.

Apple has complained that the problem with the settlement lies not in its intent, but in the way it's set up to encourage the use of Microsoft software. Apple wants to ensure that school administrators are free to pick whatever computers and software they want. Thus, Apple is imploring the Feds to revise their plan and force Microsoft to provide funds, not machines and software. Remember, this is a company sitting on $35 billion in cash. It's useful to keep in mind, though, that politics and business have at least one thing in common with sports, and that is, it's never over until it's over. Microsoft may not be off the hook just yet.

No, we're not talking about the Lone Ranger to the rescue. It seems that nine states and the District of Columbia have decided to continue litigation against Microsoft in hopes of swapping out the government's wet noodle for a stiff chunk of hickory with a few nails poking out one end. Consumer groups are up in arms, too. "Consumers in the United States already have lost $10 (billion) to $20 billion in overcharges due to the Microsoft monopoly," says Mark Cooper, director of research of the Consumer Federation of America. "We don't want to lose billions more."

Will the Feds listen? Will the Department of Justice toughen up its settlement proposal?

Don't bet on it. When you have a nation that's mired in recession and a stock market that behaves more like an old swayback mare than a bull or a bear, it's time to pull in your horns. Anyone who wonders why the Feds backed off should simply recall the decades-old adage about General Motors and America. It's clear Washington believes that the same holds true for Microsoft today. That's right, for what it's worth, Uncle Sam believes what's good for Microsoft is good for America.

Hey, it could be worse. I mean, Microsoft could have gotten 10 detentions and had to write on the title screen for Windows XP, "I WILL NOT monopolize the software business, I WILL NOT monopolize the software business, I WILL NOT . ."

Doug Bartholomew is an IW senior technology editor. He is based in San Francisco.

I hope that you will make sure that Microsoft is not allowed to dictate the settlement but rather it will be your judgment that they must pay a heavy penalty for the misdeeds which they have been convicted of.

Burton Cohen
TBI Computer, LLC
bcohen@tbicomputer.com
(203) 222–1878 Telephone
(203) 858–4728 Cell Phone

MTC-00027091

From: Nate Bargmann
To: Microsoft ATR
Date: 1/27/02 7:00pm
Subject: Microsoft Settlement

I am writing to express my concerns about the tentative settlement reached between the US Department of Justice and Microsoft Corporation on November 6, 2001. I find little in this settlement agreement that will stop the predatory practices of Microsoft and ensures a level playing field for all competitors with regard to file formats, network protocols, and Original Equipment Manufacturer licenseing agreements. Even more egregious than the weak settlement agreement is the lack of a penalty for violations of antitrust law. The US District Court found Microsoft guilty of several violations of antitrust law and on appeal those findings were upheld. The settlement does not adress these issues in any substantive way as the behavior restrictions amount to, in common parlance, a slap on the wrist. Nothing less than a real and severe penalty will prevent this issue being revisited in several years. If a severe penalty is not assessed, respect for antitrust law will be severely weakened by future companies that gain a majority market share and is a dangerous precedent.

In addition to a substantive penalty, I believe we have an opportunity to prevent further market place abuse on the part of Microsoft. The remedy must include provisions for ensuring that Microsoft's Office file format specifications are made publicly available (under a royalty free license that does not allow use restrictions) to any software author writing an interoperable program on any operating system, not just Microsoft Windows. Likewise, network protocols must be simarily publicly disclosed as with the Office file formats. Finally, the Application Programming Interface specifications for all versions of Microsoft Windows must be likewise disclosed to prevent abuses due to Microsoft's applications writers having privileged access to the Windows source code.

Finally, Microsoft's ability to control a purchaser's choice of operating system and application software through OEM license agreements must be eliminated. Microsoft must be barred from dictating in any way the software any OEM wishes to offer for sale with its hardware. Microsoft's role must be limited to producing its software and offering it to OEMs in the same manner as it is offered to the retail sales chain.

In addition, OEMs must be required to disclose the real licensing cost associated with preloading Microsoft's products as a seperate pricing option, such as many do with a display monitor now. Microsoft must be barred from OEM licensing arrangements that prevent an OEM from offering hardware without an operating system installed or prevents an OEM from offering its systems preloaded with any competing operating system(s) and application software.

Failure to enact and enforce all of these conditions and impose substantive and severe penalties for past violations of antitrust law will result in further antitrust proceedings against Microsoft. This is something I do not wish to see. Rather, I want to live and work in a country with a growing, varied, and vibrant Information Technology infrastructure. Stopping Microsoft's predatory and illegal monopolistic practices ensures such a future for me and generations to come.

Respectfully submitted,
Nathan F. Bargmann
P.O. Box 22
Bremen, KS 66412
email: n0nb@netowrksplus.net
Wireless Amateur Radio Station N0NB
Internet n0nb@networksplus.net

Location Bremen, Kansas USA EM19ov Wichita area exams; ham radio; Linux info @ http://www.qsl.net/n0nb/

MTC–00027092

From: Bruce W. Bromley
To: Microsoft ATR
Date: 1/27/02 7:03pm
Subject: Microsoft Settlement
Bruce W. Bromley, Ph.D.
Senior Princpal Scientist
7112 Cheshire Ct.
Alexandria, VA 22307
703–765–5074 (home)
202–223–8808 (work)

Dear Sirs:

I would like to comment on the proposed final judgment between the United States of America and Microsoft Corporation. I feel strongly that this proposed settlement is inadequate to protect consumers and software developers from Microsoft's monopolistic practices.

Although I feel there are many problems with the proposed settlement, I will discuss only one— running programs in Windows ("middleware") not developed by Microsoft or using Microsoft proprietary tools.

Section H of the proposed settlement is vacuous.

As I read section H, it requires that Microsoft not preclude the use of non-Microsoft programs. The caveat is that non-Microsoft programs must implement Microsoft—proprietary constructs (e.g. "ActiveX") and architectures ("a server maintained by Microsoft"—i.e. anything running Windows). The net result is that only Microsoft-based software can be used with Windows.

Any acceptable settlement should unequivocally restrain Microsoft and threaten disembowelment.

Sincerely,
Bruce W. Bromley, Ph.D.

MTC–00027093

From: Lea
To: Microsoft ATR
Date: 1/27/02 7:02pm
Subject: this country was built on free enterprise—

this country was built on free enterprise—

i applaude Bill Gates for what he has done. He is the best of the best! why do those who can't compete with him try to take away all that he has done ?

Bill Gates has given to all the folks who know nothing about computers, a chance to learn.

If it weren't for Bill Gates, I never would never know how to surf the internet

Bill Gates is a perfect example of folks who make a difference in our lives,and how to improve ourselves!!

Why does the government try to stop creative people? Bill Gates has given so many folks so many ways to use their computers, and the rest of the industry is so jealous of what he has done.

I hope that Microsoft goes on forever!!

MTC–00027094

From: Bob Redfern
To: Microsoft ATR
Date: 1/27/02 7:03pm
Subject: Microsoft Settlement

Gentlemen:

Lets stop bleeding good tax money into something that should have been settled months ago. This is a system of free enterprise. Stop wasting tax dollars to support a bunch of money hungry lawyers and groups who just can't cut it in todays competition. Time is money and you are wasting it.

Robert Redfern
Melbourne, Fl 32940

MTC–00027095

From: Henry H Yeh
To: Microsoft ATR
Date: 1/27/02 7:04pm
Subject: Microsoft Settlement

Dear Mr. Ashcroft:

Please find the attached letter showing my support for the Microsoft Corporation. I am also faxing you a signed copy for your record. Thank you for your consideration of this matter.

Sincerely,
Henry Yeh
L & H of California, Inc.
Tel. (562) 926–2512
Fax. (562) 926–2226
e-mail: cyberyeh@vistawear.com

L & H of California, inc.
13825 bentley place cerritos/ca 90703
Phone: (562) 926–2512 Fax: (562) 926–2226
January
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter to show support for the Microsoft Corporation in light of the recent litigation against them and pending settlement. I firmly believe that Microsoft has done absolutely nothing wrong and therefore should not have to undergo any further litigation. I do not believe that Microsof t ever had a monopoly. I think that adding new features to your products in order to stay competitive in a fiercely competitive industry should not be considered a monopoly, but a good business practice. To give a loose comparison, I think that if a car manufacturer wishes to make its cars more attractive by / adding features like the navigational system or a special stereo, they should be allowed to do that with no penalty. I also believe that without these little "extras" companies, including Microsoft w ould not do as much business as they do.

Microsoft has been more than accommodating in their recent settlement with the government. In fact, in my opinion they have already given too much considering that they have done nothing wrong. I think that Mic rosoft's willingness to comply is best illustrated by their acquiescence to a "Technical Committee" that monitors their compliance with the settlement and will assist in the resolution of any disputes that other companies or states may have with Microsoft.

I also believe that Microsoft's Internal Interface Disclosure is a sure sign of the fact that they are willing to try and resolve this issue.

I look forward to a swift end to this entire issue. I believe that Microsoft has given on many issues without getting much in return and I believe that they have done so with a spirit of good business practice in mind. I appreciate your consideration of this matter.

Thank you.

Sincerely,
Henry Yeh

MTC–00027096

From: David Burr
To: Microsoft ATR
Date: 1/27/02 7:05pm
Subject: Microsoft
David Burr
4870 Wildrye Drive
Boise, ID 83703
January 27, 2002
Attorney General John Ashcroft US Department of Justice, 950 Pennsylvania Avenue, NW Washington, DC 20530–0001

Dear Mr. Ashcroft:

As a computer professional that has been following the Microsoft antitrust case, I personally feel this has all been a waste of time and money. This case is damaging the economy. I am afraid for any recourse if we allow this litigation to continue.

Microsoft has done everything in their power to get this case resolved but there seems to be no end in sight. I was glad when a settlement was reached in November, but now that several states and companies want to pursue further litigation, it's upsetting. Microsoft did not get off as easy as its opponents would have you think. They went through years of extensive negotiations and mediation. Microsoft agreed to disclose various internal interfaces of their operating system to the competition. This makes them vulnerable. How many other software companies would agree to disclose such proprietary information to their competitor's? Yet, this doesn't seem to be enough.

What does it take to resolve this dispute? Let's end this litigation so we can move on to more pressing issues facing Americans. Thank you for your consideration.

cc: Senator Larry Craig
Sincerely,
David Burr
davidnburr@cableone.net

MTC–00027097

From: Mike (038) Sherri Unger
To: Microsoft ATR
Date: 1/27/02 7:05pm
Subject: Microsoft Settlement

Attached are my comments on the Microsoft Settlement. I've attached both a signed and unsigned copy of my comments.

Thank you for the opportunity to comment on the settlement.

Sincerely,
Sherri A. Unger
712 Castle Pines Dr. North
Salem, OR 97303–7480
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 27, 2002

Dear Mr. Ashcroft:

I am strongly in favor of a prompt settlement to the Microsoft anti-trust case. Your Department and Microsoft, along with a majority of the party states, have agreed to terms on a settlement. The trial court has endorsed it. The majority of Americans and of people in the IT industry will welcome it. Outside of the greed and petulance of a minority, there is no call to prolong this litigation. I think it is in everybody's true best interest to resolve this matter and ratify the settlement plan.

The plan will allow Microsoft to continue to function in its present corporate form. In return, Microsoft has agreed to radically alter both its business practices and philosophy. It will eschew any predatory or retaliatory marketing practices. It will endeavor to configure new Windows systems to readily accept its competitors" software. It will no longer contractually require computer manufacturers to exclusively use Microsoft software in its licensing agreements. It will share its technology to an unprecedented degree with the rest of the IT industry.

These and other terms underline Microsoft's commitment to its industry and its vision for a vibrant technological future for America. Please use your influence to see the plan ratified.

Sincerely,
Sherri A. Unger

MTC-00027098

From: Song Tan
To: Microsoft ATR
Date: 1/27/02 7:13pm
Subject: Microsoft Settlement

I would like to comment on the Proposed Final Judgment in United States vs Microsoft.

I am not a lawyer. I am not a member of the computer industry. I am a U.S. citizen who is concerned about the proposed judgment because it fails to hold Microsoft accountable for its illegal monopoly now or in the future. Instead, I believe the proposed judgment provides a blueprint for Microsoft to maintain an illegal monopoly by obeying the letter of the Proposed Final Judgment, but not the spirit of the law.

I agree with the comments of Dan Kegel at http://www.kegel.com/remedy/letter.html

Here are specific problems I have with the Proposed Final Judgment:

1. Critical terms are defined so narrowly that it will be easy for Microsoft to continue its anticompetitive behavior while still obeying the Proposed Final Judgment. Examples of unnecessarily narrow definitions include "Application Programming Interfaces", "Microsoft Middleware", "Microsoft Middleware Product" and "Windows Operating System Product".

2. The Proposed Final Judgment fails to provide for future advancements in the industry. Microsoft's .NET plans will perpetuate its illegal monopoly and yet .NET is not adequately covered by the Proposed Final Judgement.

3. The Proposed Final Judgment does not provide an effective enforcement mechanism. It is strongly reminiscent of the 1994 consent decree in that Microsoft simply agrees to behave itself in the future. Microsoft has shown that it will either flaunt the rules in the settlement or find legal loopholes to achieve the same effect.

Our society does not look kindly on repeat offenders, especially ones who blatantly flaunt the law. Why should Microsoft be any different? Among the many important issues at stake here is the fundamental idea that a company that commits illegal actions should not benefit from those actions. The Proposed Final Judgment rewards Microsoft with the legal means to perpetuate its illegal monopoly. I am disturbed that the typical citizen will view the Proposed Final Judgment as evidence that big businesses can lobby our government into turning a blind eye towards illegal actions. (We've now seen the terrible consequences when a company abuses the public trust with the collapse of Enron.) The remedies in the Microsoft case must "unfetter a market from anticompetitive conduct" and "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future" (Supreme Court Rulings quoted in section V.D of the Court of Appeals judgment). The Proposed Final Judgment fails to meet these criteria and should therefore be rejected.

Sincerely,
Song Tan
Dr. Song Tan
Assistant Professor in Biochemistry & Molecular Biology
Center for Gene Regulation
Dept of Biochemistry & Molecular Biology
108 Althouse Laboratory (office & lab in 3 Althouse Laboratory)
Penn State University
University Park, PA 16802
email: sxt30@psu.edu
phone: 814-865-3355
(These comments are my own and do not necessarily reflect those of my employer).
http://www.bmb.psu.edu/tan
fax: 814-863-7024

MTC-00027099

From: Brett R
To: Microsoft ATR
Date: 1/27/02 7:17pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am a programmer who has been working in the computer industry for about five years now.

People mostly choose their operating system for what applications they can run. And so the obvious way of curtailing Microsoft's monopoly in the operating system market is to make them allow other operating systems to run necessary applications, or at least applications fully interoperable with the Windows versions.

I'm surprised and upset by the revised proposed final judgement's neglect of this obvious action. Everyone I've ever tried to introduce Linux to eventually came up with the question "can I run Microsoft Word in Linux?". When they found out they couldn't, they usually started to dismiss the idea. Microsoft's monopoly of the operating system will survive as long as does the exclusivity of their middleware.

We certainly can't expect Microsoft to release fully functional versions of all of their middleware for all of the various competing operating systems. But we can and should require them to release complete working APIs so that anyone who wants to can make compatible software that will run on other platforms.

Microsoft will howl that this will be very damaging to their business, but the court's responsibility is not to protect Microsoft. In fact, they're at the bottom of the list of those the court should protect— they've broken the law. The court's responsibility is to take action aimed at restoring competitive conditions to the operating system market. The RPFJ can't do this because it doesn't address the middleware problem.

In fact, the RPFJ exacerbates the problem because in those areas dealing with the release of APIs, Microsoft is given extensive discretion over to whom it must release them. Microsoft has to see the recipients as "viable businesses", which shoots down most Open Source projects because they're creating out of love for innovation and community and not out of commercial interests.

I have communicated only a small portion of my complaints about the RPFJ. Even in the limited scope of the suggested action against Microsoft, I see many loopholes that we can expect them to exploit (please see http://www.kegel.com/remedy/remedy2.html). I doubt the RPFJ will do anything to revive competitive conditions.

Brett Rasmussen

MTC-00027100

From: Gordon Snider
To: microsoft.atr(a)usdoj.gov
Date: 1/27/02 7:11pm
Subject: Microsoft Settlement

I don't agree with the settlement.

The Microsoft predominance must be broken. The company should pay a lot of money but not one byte of Windows software should be used as part of the settlement. Competing operating systems and programs only should be used.

MTC-00027101

From: mnjsonshadow@msn.com@inetgw
To: Microsoft ATR
Date: 1/27/02 7:14pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Nathan Roads
P.O. Box 60693
San Diego, CA 92166

MTC-00027102

From: Mary French
To: Microsoft ATR
Date: 1/27/02 7:11pm
Subject: Microsoft Settlement

Dear Mr. Ashcroft

I am writing to encourage you to accept the Microsoft antitrust settlement. This issue has been going on for too long and it's time for it to stop. I believe Microsoft has made many concessions and the settlement is fair to Microsoft's competitors.

I urge you to accept the settlement.

Regards,
Robert French

MTC-00027103

From: Corey Minyard
To: Microsoft ATR
Date: 1/27/02 7:11pm
Subject: Microsoft Settlement

I'm writing because of my concern about the current Microsoft settlement. I'm concerned that the settlement does nothing to solve the problem and actually makes the problem worse. It does nothing to solve the root of the problem, instead it gives minor financial penalties, vague requirements that Microsoft could use to their advantage, and actually gives Microsoft the capability to crush its strongest competitors. Microsofts current strongest competitor is open source, from software like Apache, Linux, and Samba. Microsoft has called Linux its "#1 enemy". Yet the Proposed Final Judgement (PFJ) ignores the very existance of open source software and gives Microsoft tools to effectively eliminate open source competitors by not allowing disclosure of APIs, protocols, and file format to open-source competitors. Any proposal that allows licensing fees or non-disclosure agreements for APIs, protocol, and file formats effectively kills open source.

APIs, protocols, and file formats are the roads of the software world. No one must pay anything to know how to build something that works on a road (the analogy is weak, but please bear with me). Much like roads tie places and transport into one unified system, APIs, protocols, and file formats should tie software, computers, and networks into a unified system. If one company owned the transportation infrastructure, it would by default have a huge competative advantage. It could do special things to the roads and offer its own brand of cars that worked much better than its competitors cars. It could deny access to competitors roads. Much like cable and phone companies, the government would be expected to manage such a company. But the government "owns" the roads, and it would really be unthinkable to place this critical infrastructure in the hands of a private company.

Yet the APIs, protocols, and file formats that the vast majority of computer users use is owned by one company and kept private. In my opinion, the greatest thing that would improve competition in the marketplace would be to require all Microsoft's APIs, protocols, and file formats to be made public. This would allow competing vendors to build compatible products that interworked well. Microsoft may complain that this is not fair, and perhaps it is not. But Microsoft has been found guilty in court, fairness is not required in the settlement.

Instead, we need a settlement that actually solves the problem. The settlement also does not address Microsoft Office, which has an even larger market share the Windows. The file formats of Office should be opened as well.

Any large business with a lot of smart people working for it will twist anything they can to their advantage. Any proposal from Microsoft must be looked at in that light. Do not allow Microsoft to be able to set any standards for who it allows access to anything. Allowing Microsoft to decide anything gives them a competative advantage. Make access to the information public, or at least let some independent third party decide.

I am not anti-Microsoft. I want them to continue to make products and compete. But I want others to be able to compete as well. Please make this possible.

Thank you for your consideration,
Corey Minyard
972-414-7855
minyard@acm.org
7406 Wheat Field Rd
Garland, TX 75044

MTC-00027104

From: Shon Burton
To: Microsoft ATR
Date: 1/27/02 7:19pm
Subject: Microsoft Settlement

A plea to the powers that be;

my name is Shon Burton. I am a co-signer on Dan Kegel's "Open letter to the DOJ"; therefore I'll keep my own comments brief. I am a founder and principal of two technology companies, a software company and a service company. I also have over 10 years of in-depth experience with Microsoft products. I was formerly a Microsoft Certified Professional, and have been offered employment with Microsoft in the past.

I feel that the proposed settlement in the DOJ vs. Microsoft case is a gratuitous waste of time and taxpayer money. The settlement is insufficient and will not prevent the obvious and inexcusable anti-competitive behavior that Microsoft continues to blatantly display. Microsoft will stop at nothing. After the initial DOJ scrutiny regarding Internet Explorer, Microsoft made harmful design changes to nearly all of its products so that Internet Explorer would be required for those products to function. In doing so, Microsoft compromised the security and reliability of it's own core products (Windows, Office, Back Office) in an effort to force Internet Explorer onto every system.

This is not an isolated incident. It is happening continually with various other "stowaway" components that Microsoft pushes onto the unwitting user in the form of "software dependencies" often to the detriment of the core product itself.

Microsoft purposely works to sabotage 3rd party software inter-operability in an effort to force users of one Microsoft product or service into using additional Microsoft products and services.

Microsoft continues to work against established open standards (W3C, IEEE, IETF) in an effort to gain further dominance in the Internet and other emerging markets.

Microsoft's anti-competitive behavior stifles innovation and negates forward progress in the technology industry, and the world. Decisive action must be taken to stop it.

In closure, I would like to thank those who have taken the time to read this and all other public comments. I appreciate the effort that is being put forth to insure a just and proper resolution in this matter.

Sincerely,
Shon Burton
President
Dataverse Corporation

MTC-00027105

From: Mr. Tofslie
To: Microsoft ATR
Date: 1/27/02 7:21pm
Subject: Microsoft Settlement

Respectfully, I encourage you to rethink the proposed settlement with Microsoft. Without going into the fine details, it really DOES boil down to a free "back door" for Microsoft into the schools. Apple has had to work and spend legitimate dollars to build its market share in the education market. It is not a good plan. Please do not agree to it.

Thank you.
Sincerely,
Wayne Tofslie
Teacher
Heritage Christian School
Bozeman, Montana

MTC-00027106

From: Priest
To: Microsoft ATR
Date: 1/27/02 7:22pm
Subject: Microsoft Settlement

I really think that Microsoft is getting off waaay too easy. Big monopolies cannot be allowed to just bulldoze every other competitor, especially when their means of destroying everyone in their path has been shown to be.... well, "less than ethical" would be a polite way to put it. This settlement rewards greed, narrow-minded self interest, and unscrupulous behavior. We certainly don't need this in a world where "might makes right" is already too often the rule.

Sincerely,
Heather Priest

MTC-00027107

From: bill goins
To: Microsoft ATR,larry—craig@craig.senate.gov@inetgw
Date: 1/27/02 7:31pm
Subject: 11875 N Strahorn Road

11875 N Strahorn Road
Hayden, ID 83835
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have been following this Microsoft antitrust case and find it unsettling. I believe this suit is all based on jealousy on the part of its competitors.

Now we are in a recession. IT stocks are down, and the technology sector is down. Is it all worth it?

Microsoft obviously wants to resolve this dispute. They agreed to not retaliate against computer companies who ship software that compete with anything in is operating system. They also agreed to make their internal operating system protocols available to their competitor's software within the Microsoft server. This seems more than fair to me.

This needs to end. The settlement can be the conclusion that this case so desperately needs. Thanks for your concern of this matter.

Sincerely,
William Goins
cc: Senator Larry Craig

MTC-00027108

From: Lawrence W Mahar
To: Microsoft ATR
Date: 1/27/02 7:22pm
Subject: Microsoft settlement offer

I agree with the Senior Coalition position shown below that the government should accept the Microsoft offer.—Larry Mahar, 945 Murray Road, Middle Grove, Ny 12850, phone & FAX 518–587–6781.

URGENT ACTION ALERT

Your immediate response is needed!

Three years ago, the U.S. Department of Justice charged Microsoft with having engaged in anti-competitive behavior based on allegations by its top competitors. Many have argued that Microsoft was singled out by its jealous competitors and sympathetic government bureaucrats because of its success and a desire to see it punished.

The Justice Department is in the final stages of deliberating on the proposed Microsoft settlement to decide whether to accept the settlement or to litigate it further. The Seniors Coalition strongly believes that the proposed settlement offers a reasonable compromise that will enhance the ability of seniors and all Americans to access the internet and use innovative software products to make their computer experience easier and more enjoyable.

Unfortunately, a few of Microsoft's competitors have continued their aggressive lobbying campaign to undermine the settlement negotiated with the federal government and nine states. The settlement itself is tough on Microsoft, but is a fair outcome for all parties—particularly senior consumers. Most important, this settlement will have a very positive impact on the American economy and will help pull us from the recession we have experienced over the past year.

You can offer your opinion to the Justice Department to counter the self-serving and punitive lobbying effort of Microsoft's competitors. Current law (known as the Tunney Act) allows public comment on the proposed settlement up until January 28th. The U.S. District Court will then decide whether the settlement is in the "public interest." Please send your strong message to the Justice Department that consumer interests have been well served, and the time to end this costly and damaging litigation has come.

Dragging out this legal battle further will only benefit a few wealthy competitors, lawyers, and special interest big-wigs. Not one new product that helps consumers will be brought to the marketplace.

YOUR VOICE IS VERY IMPORTANT AND TIME IS VERY SHORT. Only comments received by January 28th will be included in the public record and submitted to the Court for its consideration. Consumers need to win this battle, so please send your comments immediately to the Justice Department—either by email or by fax—and do it before January 28th.

Don't let these special interests defeat the public interest. Email: microsoft.atr@usdoj.gov . In the Subject line of the e-mail,type "Microsoft Settlement."

Fax: 1–202–307–1454 or 1–202–616–9937

To find out more about the settlement and the Tunney Act comment period, go to the Department of Justice Website at: http://www.usdoj.gov/atr/cases/ms-settle.htm

Raising your voice now on this issue really will have an impact.

Thank you for your time.
Mary M. Martin
Chairman and Executive Director
The Seniors Coalition

MTC-00027109

From: Sean Lutkenhouse
To: Microsoft ATR
Date: 1/27/02 7:26pm
Subject: Micrsoft Settlement

Dear Judge-

What Microsoft is attempting to do behind the backs of Americans, is an attrocious attempt at violating even more anti-trust laws. Has Microsoft ever played this game of capitalism/competition fairly? I doubt it.

This would not only be bad for the computer industry and all other computer companies (like Netscape) but would be terrible for our economy. This would create a rise in unemployment, which is the last thing that this country needs, right now especially, with almost no jobs available.

Do not let this pass; do not allow Microsoft to rule the world; do not eliminate competition. America needs you to stand up against this rising dictator, that is Microsoft.

Thanks.
Sean Lutkenhouse
907 W. 28th St.
Los Angeles, CA 90007

MTC-00027110

From: David Rosenthal
To: Microsoft ATR
Date: 1/27/02 7:27pm
Subject: Micrsoft Settlement

I object to the proposed settlement.

I am an engineer with more than 25 years experience of the software business. I have worked in companies that cooperate with Microsoft, companies that compete with Microsoft, and companies that do both. I am currently employed by Sun Microsystems. My objections are my own and would not necessarily be shared by Sun's management.

My objection to the proposed settlement is as a consumer over many years of Microsoft's products. Microsoft has been determined to have harmed the consumer in that it maintained a monopoly through various illegal tactics, principally by tying other products to its monopoly operating system. The proposed settlement does nothing to remedy the harm which I and other consumers suffered in the past, nor to prevent Microsoft inflicting similar harm in the future.

A key enabler of Microsoft's tying of additional products to the operating system is the ability, through the terms of the End Use License Agreement (EULA), to disclaim all liability for the correct and safe functioning of the individual products and the bundle resulting from the tying. Microsoft's monopoly not merely deprives customers of choice in operating systems, it also deprives them of remedy when the product they are forced to choose fails to perform as they might reasonably expect it to, let alone as Microsoft claims it will.

The harm done to consumers through the security flaws in Microsoft's products is the stuff of legend. The estimates of the cost of even a single security flaw that allows a virus to propogate range into the billions.

I urge that any settlement of this case include a remedy that reduces this enormous cost foisted onto consumers. Micosoft should be prevented from disclaiming liability for the performance of any product for which they have a monopoly, or which is tied to a product for which they have a monopoly. For any product that is available to consumers of Microsoft and non-Microsoft products on the same terms, Microsoft should continue to be able to disclaim product liability, as their competitors do. Consumers of these products have a choice of operating systems and, if Microsoft's fail to work as expected, can switch.

For any product that is an operating system, or which is bundled with an operating system, or which is available only on Microsoft's operating systems, or which is available on more favorable terms on Microsoft's operating systems, the customer has no choice or faces exhorbitant switching costs. In these cases, where Microsoft is exploiting a monopoly that it has sustained using illegal tactics, the consumer should be given an effective remedy if the product fails.

The essential effect of this condition would be to raise the cost to Microsoft of exploiting its illegally maintained monopoly by tying additional functions to its operating system. At present, the cost of doing is negligible. With this condition, the additional cost of bundling a new function into the system over distributing it on the same terms on all platforms would be very significant—if it was bundled Microsoft would have to stand behind it.

Microsoft will, no doubt, argue that if they were unable to disclaim liability for the performance of their operating system they would have to raise prices to cover the cost of the liability. But note that this would not increase the cost to consumers. They already bear the cost of the liability—Microsoft's EULA transfers it to them. They would pay more for the operating system and less to cover its failure to operate as they have a right to expect.

It would be hard for the government to argue that it was in consumer's interests to prevent them from seeking a remedy when Microsoft's products failed them.

Consumers have suffered for many years as Microsoft's products have failed to live up to their advertised reliability and security. They have had no choice but to continue buying and using them, as Microsoft used illegal tactics to maintain its monopoly. They have had no remedy under the EULA. Please take this opportunity to provide consumers with a real remedy.

David Rosenthal
427 Alma St. #407
Palo Alto CA94301

MTC-00027112

From: zyxar zyxar
To: Microsoft ATR
Date: 1/27/02 7:40pm
Subject: Microsoft Settlement

To Whom It Concerns:

As a participant in the development, test, and support of computing systems, including hardware and software, since 1984 I have a vested interest in the remedies that might be imposed on what has now become a long pattern of anti-competitive behavior from Microsoft. My observations of Microsoft began in 1993 when I was an IBM employee working in the AS/400 software competitive analysis group. As part of my training I sat through an hour-long session in 1994 with one of IBM's corporate attorneys who went over guidelines and rules of conduct that IBM employees should adhere to when dealing with customers, suppliers, Value Added Resellers, and competitors. Near the end of this presentation I asked the attorney how IBM was supposed to compete with Microsoft when Microsoft regularly practiced much of what she had identified as inappropriate behavior? She mumbled something about IBM taking a more conservative approach to law than many other companies but never did answer the question. That was eight years ago.

There are two areas addressed by the Revised Proposed Final Judgment that I think are important to consider: the Original Equipment Manufacturer (OEM) market for the distribution of personal computing (PC) hardware and the Independent Software Vendor (ISV) market. I think the proposed remedy goes a long way toward adequately addressing the OEM market for the distribution of PC hardware although my experience and expertise in this area is somewhat limited. Through Microsoft's contractual manipulations the OEM market became a highly effective and exclusive distribution channel for Microsoft operating systems, applications and middleware technology and clearly this needs to be remedied. I do not believe the proposed remedy adequately addresses the unfair advantages Microsoft has in the development of application software through control of the Application Programming Interfaces (API) of their operating system and middleware products.

I believe we can establish fairness in the software market for Windows applications only by forcing a separation between Microsoft's operating system (OS) group and their applications group. Their OS group should in effect be separated as an independent company from their applications group. The flow of information from the OS group to any application organization be it Microsoft or a third party development organization should be only through publicly published documentation. Certainly any application development group should be able to voice its opinions, plans, and concerns directly to Microsoft but any technical discussions regarding the proposed plans, release dates, APIs, or other pertinent data related to operating system plans should only be available to all vendors at the same time through public documentation.

Contrary to what many Microsoft employees believe, this will not lead to the downfall of Microsoft and the collapse of the US technology economy. Microsoft is a strong company with an unparalleled pool of technical skills and will continue to thrive even if they are made to compete fairly.

I offer my reasons for this belief in the supporting arguments that follow.

In the early years of the PC industry Microsoft and other vendors who were supplying operating system software were focused on operating system revenue. There was no application market because there were few applications. Many small innovative companies recognized the possibilities afforded by cheap personal computing hardware and things we take for granted today like spread sheets and word processors were invented, developed and successfully marketed by companies other than Microsoft. Almost all of the innovative companies who invented and successfully commercialized applications 10 years ago have market shares subordinate to Microsoft in the very application categories they developed. Additionally the fact that these companies chose to develop applications for Windows helped create the popularity and standardization on Windows that would lead to Microsoft's monopoly position.

Eventually the market for applications became greater than the operating system market. Unfortunately when Microsoft moved into the application market they began to tilt the deck in their favor by building stuff into their operating systems that would benefit their applications without making all of this information available to third party development organizations. (I knew IBM developers who voiced their opinion that Microsoft was not being very timely in the dissemination of information that they needed to finish their development work.) Microsoft could write applications that utilized OS functions and APIs that other vendors might not even know existed until Microsoft's application products were released and in the market.

As an example of one such advantage it has been known in the past that Microsoft has utilized what are termed ?undocumented functions? in their operating systems. An undocumented function puts a third party application developer in a tough situation if he or she has knowledge of such a function. Does a developer use the undocumented function, which clearly allows the development of a better application, and risk having to rewrite that application later if Microsoft removes the function in a new release? Or does the developer forego use of the undocumented function compromising the application in exchange for avoiding a potentially messy application rewrite or a bunch of unhappy customers?

In this kind of environment Microsoft will always have an advantage for planning future application products. Knowing that the OS group is going to provide function X or API set Y or new technology Z in the future they can begin implementing application C based on this knowledge well in advance of the actual implementation or release of that function in effect giving them a head start for their application development teams over the rest of the industry. And at their whim they can drop support of these technologies later on if it suits them effectively stranding an ISV in a technical ?no mans land? forcing them to re-architect their application because a function they expected to use is no longer being offered by Microsoft.

In it's defense against allegations from Netscape, Microsoft has argued that Internet Explorer is an integrated part of the operating system. No one with even a rudimentary understanding of computer science believes that a browser is an OS service function. However, the fact that Microsoft would argue this makes my arguments above even more salient. Microsoft thinks they are justified in arbitrarily subsuming an application by claiming it is part of the operating system. So some vendor like Netscape (or Stac Electronics, or Norton Utilities) gets a great idea, puts a lot of capital at risk to develop and market that idea and then sees a competing product distributed through the exclusive windows operating system distribution channel and given away for free. Microsoft chose to choke off Netscape not because they wanted to make money In the browser market but because they feared that browsers could become a new market for software sold on personal computers. And if another company could control the standards, APIs and middleware for which PC software was written it would seriously jeopardize Microsoft's control of software development and that control translates into revenue and profitability. Better to lose a little money now than risk losing control of the whole software franchise. With the shadow of this specter hanging over the market for PC applications how is our capitalist free enterprise system supposed to work? I would argue that for quite a while now Microsoft shareholders have reaped the rewards for the innovation of and risks taken by companies other than Microsoft.

In my work I extensively use Internet Explorer (IE) and Netscape Navigator (NN) to test my applications. Although the difference between the two products is very small and certainly not enough to justify the almost complete dominance that IE enjoys over NS despite the early dominance NS had over IE. I believe IE is a better browser than NS. Could IE have an advantage by virtue of the fact that it is so tightly integrated into Microsoft's OS code? Can Netscape ever build a browser that loads as quickly or performs as well as IE without the benefit of being as tightly integrated into the OS? I don't think so. And even more important than the fact that IE has an advantage by being more tightly integrated into Windows is the fact that it is pre-installed on every Windows PC.

Having any middleware preloaded on every Windows PC shipped confers a huge advantage in follow on revenue associated with the standards that can be established and the code that will then be implemented around those standards. If Microsoft controls those standards they can effectively manipulate the technology and APIs to their advantage.

In 1984 I as an engineer for IBM had to help publish a set of specifications relative to the external behavior of the Diskette Storage subsystem I helped develop so any third party vendor could learn enough about the IBM equipment to service it and effectively compete with IBM for lucrative service revenue. It seems that someone believed it was important to provide a more level playing ground in the market for hardware service. Today some 16 years later the market has moved from hardware, which in most cases is a commodity, to software. But the same rules that did and still do apply to IBM hardware should also apply to Microsoft operating system software.

Sincerely,
William A. Shaver
Netelligent Consulting,
Somerville, MA 02144

MTC-00027113

From: Kenneth J Hendrickson
To: Microsoft ATR
Date: 1/27/02 7:39pm
Subject: Microsoft Settlement
Date: 27 January 2002
To: microsoft.atr@USDoJ.gov
Subject: Microsoft Settlement
To:
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
From:
Kenneth J. Hendrickson
2747 W. Anklam Rd., Apt E.
Tucson, AZ 85745–3705

Dear Renata,

Executive Summary:

I strongly urge the Department of Justice (Doj) and the Court to modify the Proposed Final Judgment (PFJ) in order to achieve an effective remedy against a continuing Microsoft monopoly, and the harm to consumers that will inevitably continue to result.

The modifications I recommend are:

1 Microsoft must be required to publish COMPLETE and ACCURATE documentation for all Application Programming Interfaces (APIs), protocols, and file formats, for *ALL* Microsoft products. This should include a requirement to publish full and complete source code. However, as the source is likely to be very difficult to understand, Microsoft must also be required to fund an independent documentation effort to study the source code and completely and accurately document it. Such documentation and source code must be made available AT NO CHARGE to anybody who wants it, via an Internet download. In addition, Microsoft must NOT be allowed to require a Non-Disclosure Agreement (NDA) in order to obtain this important information.

2 Security considerations must NOT be an excuse for continuing the harmful practice of closed, hidden, and/or undocumented APIs, protocols, and file formats. All algorithms, APIs, protocols, and file formats, must be COMPLETELY and ACCURATELY documented, *ESPECIALLY* when those algorithms, APIs, protocols, and file formats are needed for security and authentication. Sections III.J1 and III.J2 should be entirely stricken from the PFJ.

3 Microsoft must not be allowed to use its patents offensively. A patent is a government granted monopoly. As Microsoft already has a monopoly (even without government granted patents), and has been convicted of illegally ABUSING that monopoly, the government should not be in the business of granting Microsoft more monopoly power with which to abuse its competitors. The PFJ should be amended to forbid Microsoft from using its patents offensively.

Before preparing my comments, I read the following documents in their entirety:

1 Original Complaint http://www.USDoJ.gov/atr/cases/f1700/1763.htm

2 Findings of Fact http://www.USDoJ.gov/atr/cases/f3800/msjudgex.htm

3 Stipulation and Revised Proposed Final Judgment

http://www.USDoJ.gov/atr/cases/f9400/9495.htm

State's Proposed Final Judgment

http://www.NAAG.org/features/microsoft/ms-remedy—filing.pdf

Competitive Impact Statement

http://www.USDoJ.gov/atr/cases/f9500/9549.htm

Justification for my Recommended Modifications:

Full Disclosure of Algorithms, APIs, Protocols, and File Formats:

I was very heartened to note that the PFJ would require that Microsoft must publish details of its APIs (section III.D. and others). However, as published, this provision will be largely ineffective, because it does not include Free Software and Open Software development efforts.

Microsoft's own lawyers indicated in 1999 that Microsoft views Linux and the GNU GPL license as its greatest threat. http://www.OReillyNet.com/pub/a/mediakit/linux.html

Microsoft produced a white paper on the GNU GPL license, in an effort to dissuade companies from trying and/or using Linux. http://www.Microsoft.com/business/downloads/licensing/Gpl—faq.doc

Although Linux and the Free Software movement are not yet a true competitor to Microsoft (as stated in the Findings of Fact), Linux offers the best hope for a future competitor to Microsoft. In light of this, the Doj and the Court should tailor the PFJ such that it does not lock out Free Software and Open Software developers from the fruits of the PFJ.

Free Software and Open Software developers must be granted access to COMPLETE and ACCURATE documentation on *ALL* algorithms, APIs, protocols, and file formats for *ALL* Microsoft products, without any cost, and without any non-disclosure agreement (NDA) requirements.

The most complete and accurate documentation is the actual source code, and so that should be made available. The source code, however, is not enough. It is likely that the source code will be very difficult to understand; therefore Microsoft must also be required to fund an independent documentation effort to study the source code and completely and accurately document it. Such documentation and source code must be made available at no charge to anybody who wants it, via an Internet download, without any requirement for an NDA.

Without this extremely important provision, the most important potential competitor to Microsoft's monopoly will not be able to compete. In addition, without this important provision, Microsoft will be able to *CONTINUE* using closed and secret APIs, Protocols, and File Formats to extend, enhance, and broaden their existing monopoly. It is absolutely necessary that the PFJ be amended to require that Microsoft COMPLETELY and ACCURATELY document *ALL* of their algorithms, APIs, protocols, and file formats, and provide this information at no charge and without NDA requirements to everybody, via a free Internet download.

Security:

The security technique espoused in the PFJ is "security through obscurity". The idea is that if nobody knows how authentication or encryption is accomplished, they will not be able to bypass the authentication routines or break the encryption. There is a significant problem with this idea (and thus with the PFJ): IT IS FALSE! It is widely known and accepted within the security community that "security through obscurity" is no security at all.

SECURITY THROUGH OBSCURITY IS NO SECURITY AT ALL. The following papers detail why "security through obscurity" is no security at all:

http://Slashdot.org/features/980720/0819202.shtml

http://www.VnuNet.com/Analysis/1126488

http://www.WideOpen.com/print/101.html

http://www.NightfallSecurity.com/whitepapers/obscurityeu.html

http://www.Albion.com/security/intro-8.html

http://www.eCommerceTimes.com/perl/printer/11060/

http://Adjacency.org/essays/securitythroughobscurity.html

http://www.Treachery.net/-jdyson/tooreon2001/

Many more examples exist; they can be found with a Google search.

http://www.Google.com/search?hl=en&q=%22security+through+obscurity%22&btnG=Google+Search

This is perhaps the most important comment I am making, so I will repeat this important point:

SECURITY THROUGH OBSCURITY IS NO SECURITY AT ALL.

Bruce Schneier and Adam Shostack, two of the world's foremost experts in the area of computer and network security, have given a list of recommendations for Microsoft to follow in order to achieve more secure products, after the recent announcement by Bill Gates that Microsoft will henceforth be concentrating on security.

http://www.SecurityFocus.com/news/315

IT WILL BE NOTED THAT NOWHERE IN THIS LIST OF RECOMMENDATIONS IS

THERE ANY NOTION THAT ANYTHING SHOULD BE KEPT SECRET. Instead, the recommendations from Messrs Schneier and Shostack encourage complete openness, full and accurate documentation, and a waiting period before Microsoft's proposed protocols and encryption methods are implemented. This is in order that the security community may examine Microsoft's proposed protocols and encryption methods and algorithms in order to find weaknesses, and repair those weaknesses, *before* they are implemented and insecure systems are built and fielded. Messrs Schneier and Shostack also encourage Microsoft to publish its entire source code, even though they have no hope that Microsoft will do this. The source code should be published so that the security community can examine Microsoft's *implementations* for flaws and weaknesses, and suggest remedies for those flaws and weaknesses. The most well designed security protocols and encryption algorithms can be made worthless by poor implementation. The only way to check the implementation is to have access to the source code..

It is in the best interests of all those who must use Microsoft products, and all those who use computers on networks that include Microsoft products (which includes the entire Internet), that Messrs Schneier's and Shostack's recommendations are adopted by Microsoft. Paradoxically, it is also in Microsoft's best interests to adopt *ALL* of Messrs Schneier's and Shostack's recommendations!!

If Microsoft is forced to COMPLETELY and ACCURATELY document *ALL* algorithms, APIs, protocols, and file formats—without restriction—and make the documentation and source code available to everybody without charge, and without any NDA requirement, bugs will be found in Microsoft's code and fixes will be suggested, just as they are for other open source OSes such as Linux, FreeBSD, NetBSD, and OpenBSD. Microsoft's products will improve as a result of this process. Microsoft will receive the benefit that all Open Source software receives: bug fixes, increased security, and increased stability, all at no cost to Microsoft.

Microsoft will be opposed to this requirement, arguing that their business will be destroyed by forcing their code open.

This is not true! COPYRIGHT LAW AND CONTRACT LAW PROVIDE ALL THE LEGAL PROTECTION THAT MICROSOFT REQUIRES TO MAINTAIN THE VALUE IN THEIR SOURCE CODE. In the end, however, it does not matter if Microsoft benefits from the PFJ. What does matter is that Microsoft's monopoly abusing powers are restricted, and that the Doj and the Court create the possibility for competitors to Microsoft to arise in the marketplace. Microsoft has been found guilty of abusing their monopoly. One of the ways that Microsoft has abused their monopoly is by using closed and proprietary algorithms, APIs, protocols, and file formats, and by changing them from time to time in order to create incompatibilities with non-Microsoft products, and with older Microsoft products that Microsoft wishes to make obsolete. Microsoft's *secret* algorithms, APIs, protocols, and file formats are part of the problem that the Doj and the Court must remedy. Such secrecy cannot be part of the solution, even when it comes to "anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria". Furthermore, in light of the fact that SECURITY THROUGH OBSCURITY IS NO SECURITY AT ALL, there is never any justification for any "governmental agency of competent jurisdiction" to "direct Microsoft not to" COMPLETELY and ACCURATELY document *ALL* algorithms, APIs, protocols, and file formats—without restriction—and make the documentation and source code available to everybody without charge. Therefore, section III.J1 and III.J2 must be entirely stricken from the PFJ.

As it is necessary to require Microsoft to COMPLETELY and ACCURATELY document *ALL* algorithms, APIs, protocols, and file formats—without restriction—and make the documentation and source code available to everybody without charge, and without any NDA requirement, it is not reasonable to require "any of the Plaintiffs to keep secret any information or documents obtained from Microsoft" as detailed in section IV.A.3 of the PFJ. This section should also be stricken from the PFJ.

Patents

Patents are a government granted monopoly. Microsoft has been judged to have a monopoly, and further, to have illegally abused that monopoly. For this reason, Microsoft should be forbidden from using its patents offensively. The government should not continue to grant a preferential monopoly to a convicted monopoly abuser.

This is especially true in the case of Open Software and Free Software. Those who develop Free and Open Software and give it away to the world for no charge are greatly enhancing the wealth of the entire world. These people CANNOT afford to participate in the patent system. In addition, those who develop Free and Open Software are often philosophically opposed to the patent system, and would not participate even if they could. These people who are greatly increasing the world's wealth, should not have the patent system used against them by a convicted monopoly abuser.

Microsoft has already threatened to use patents as an offensive weapon against Linux, the Free Software Foundation, the GNU Project, and other Free and Open Software producers. Full details can be found in the 2nd Halloween document. http://www.OpenSource.org/halloween/

In order to protect the Free and Open Software movement from future monopoly abuse, Microsoft must be forbidden from using their patent portfolio offensively. This prohibition should *never* expire. A clause to this effect must be added to the PFJ in order to achieve an effective remedy.

Enforcement

A *very* strong enforcement mechanism needs to be put in place by the Doj and by the Court. We have arrived at this juncture today because Microsoft failed to abide by previous consent decrees (1994) of the Court. Microsoft has proven themselves to be obstinate and belligerent. They cannot be trusted to obey this PFJ without strong and effective oversight.

If by some unfortunate circumstance, the Doj and the Court decide not to require Microsoft to disclose all source code, then an especially vigorous enforcement mechanism must be put in place to ensure COMPLETE and ACCURATE documentation of *ALL* algorithms, APIs, protocols, and file formats. I would suggest that the PFJ should include a clause stipulating that if anybody finds any errors or discrepancies in Microsoft's documentation, then at that point the Technical Enforcement Committee shall have the authority to immediately force the disclosure of all relevant source code, in order to force compliance with the COMPLETE and ACCURATE documentation requirement.

Dan Kegel's Comments

I would like to add that I am a co-signer to Dan Kegel's comments. http://www.Kegel.com/remedy/letter.html

I fully agree with Mr. Kegel's entire letter, including all links therein, and strongly urge that each of the problems noted therein must be remedied in the PFJ before the PFJ is adopted by the Doj and by the Court.

Thank you,

Kenneth J. Hendrickson

* All web references were current on 26–27 January 2002, during the writing of these comments.

MTC-00027114

From: Robert Langer
To: Microsoft ATR
Date: 1/27/02 7:55pm
Subject: Micrsoft Settlement

I am very disappointed with the settlement between Microsoft and the Department of Justice. After finding Microsoft guilty of illegal Monopolistic behavior I find the proposed settlement doesn't penalize Microsoft or deter Microsoft from additional Illegal behavior. It allows Microaft to keep all profits from Illegal behavior.

I totally disagree with the proposed settlement.

Robert Langer
2904 Shoto Road
Two Rivers, WI 54241
rlanger@charter.net

MTC-00027115

From: AC5ZJ@cs.com@inetgw
To: Microsoft ATR
Date: 1/27/02 7:44pm
Subject: Microsoft settlement

I DO NOT believe the Microsoft settlement was fair. Microsoft was and still is guilty of unfair practices regardless of who they do business with. Products sold to the public are intentionally faulty and the "fix" is always sold as an "upgrade." I believe that Microsoft should have been completely shut down, divided into a million pieces and David Gates sent to jail for the rest of his natural life.

Thanks for the opportunity to vent. I know it won't do any good. The bad guys all win these days and I am sure will continue to win until the U.S. is just another totally corrupt country.

Jerry L. Wilson

MTC-00027116

From: JForsterMD@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 7:45pm
Subject: Subject: "Microsoft Settlement"

I am a surgeon, working at the University of Kansas Medical Center and I am convinced that Microsoft is anti-competitive and seeks to stifle innovations in personal computing. In particular, Microsoft, but its bundling of software, has caused the elimination of competiting software programs in the realms of web browsing, slide presentation, word processing, spreadsheet, and operating systems. Due to Microsoft's tactics, the cost of computing is higher and the innovation is lower, and we, as consumers, are faced with uninviting options. I do not feel that Microsoft is any different than any of the previous monopolies that have been forced to divide, such as Standard Oil or ATT.

Thank you for your time,
Jameson Forster, MD

MTC-00027117

From: LKBaker1320@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 7:45pm
Subject: Microsoft lawsuit

I believe that more than enough taxpayer money has been spent on the Microsoft lawsuit. Please settle this matter as soon as possible.

Thank you.
Linda Baker

MTC-00027118

From: milton t curry
To: Microsoft ATR
Date: 1/27/02 7:45pm
Subject: Micrsoft Settlement

As an 89-year-old senior citizen, I have found Microsoft's software to be generally user-friendly and helpful in my personal activities. It has disappointed me that Microsoft's competitors have attempted to stifle Microsoft's innovative efforts to improve their materials, thus putting a damper on their efforts to simplify and improve their offerings to the public. I hope that those in power will bring this dispute to a settlement in the near future. (At least while I can enjoy it!).

Thanking all concerned, I am:
Milton T. Curry,
725 Gulf Coast Blvd., Venice, FL. 34292.
Ph.: (941) 488–0195

MTC-00027120

From: huckleberrycove@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 7:49pm
Subject: Microsoft settlement

This is a unique situation where a company has grown large because it offers a worthwhile service. No one has to buy the service. Those of us that do have gotten our moneys worth. We like what Microsoft does and is doing.

This is a clear case of where the least government is the best government. If Microsoft was aggressively taking something of value from someone who did not want to give it up, then it would be a government matter.

Such is not the case. The government should apologize to the Microsoft Company and get on with reducing government influence in all of our lives.

Thank you,
Peggy and Ken Maultsby

MTC-00027121

From: Alexander Krumbach
To: Microsoft ATR
Date: 1/27/02 7:51pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am opposed to the proposed settlement in the Microsoft antitrust trial. I feel that,while covering many vital aspects of the case, the current proposed settlement does not fully redress the actions committed by Microsoft in the past, nor inhibit their ability to commit similar Sherman violations in the future.

In the past, the people most hurt by Microsoft were not the hardware distributors or the existing middleware vendors, but the developers of new applications. With each new version of Windows, it has become increasingly impossible for any vendor outside of Microsoft to introduce a new feature— such as Plug and Play or USB support—to the market without Microsoft's collaboration. The potential new technologies that have been stifled by Microsoft's vice-like grip on innovation has done the market far more damage than could ever be measured in a dollar amount.

To this end, there is only one possible remedy.

Microsoft, as a software vendor, lives on its" intellectual property. That property does not only include the copyrights it holds on the source code to Windows and the other softwares it sells, but also the patents and trade secrets that Microsoft has, over the years, added to its" code to hinder competition. The copyright and or patent of code, while in some circles of dubious quality, is never categorized in the same manner as trade secrets. The computing sector has an interdependence of intellectual works never before seen in any industry, and the use of trade secrets is the greatest possible artificial barrier Microsoft has erected in its" illegal actions.

Furthermore, this action is in direct opposition of the actions of other software vendors. There are several standards bodies in the computing world, including the International Standards Organization [iso.org] who define standards in many fields, the Institute of Electronic and Electrical Engineers [ieee.org] who help define standards in hardware peripheral design, and the World Wide Web Consortium [w3c.org] devoted solely to Internet standards. The standards are open for public inspection and independent review, and encourage further development in the fields they cover.

I would suggest a single remedy appropriate to this problem: Microsoft must be forbidden to declare any portion of their product a trade secret, and as a result make available to public examination and independent re-implementation (for interoperability, educational and testing purposes only) technical specifications for all of their system APIs, file formats, media codecs, and any other method of system interaction not covered by a patent. The information could be, at little cost, be added to Microsoft's Developer Network, found at msdn.microsoft.com.

The benefits of this action far outweigh the apparent dangers. First, this action is not as invasive as it may seem, still allowing Microsoft to protect its" current patents or copyrights, and no limit is levied against Microsoft for patenting further technologies. Second, this action does not greatly affect Microsoft's competition: most or all of the information to be disclosed has either been disclosed on the Microsoft Developer's Network or has been repeatedly legally reverse-engineered. Third, this completely removes the artificial barrier raised against the developers of new technologies.

While it may be noted that Microsoft is a member of many standards bodies, too numerous to mention in a short letter, as a developer in the computing industry I have noted a distinct trend on the part of Microsoft to abandon widely-held standards in favor of their own protocols and methods, often of similar or identical name to the official standard, and generally a trade secret. While I shall withhold judgment of such actions, it must be noted that they lead to an inevitable destruction of competition. The current settlement does not cover such actions; I therefore submit my solution to be considered as a part of additional action to prevent this violation of anti-trust law from being repeated.

I believe this action is the best possible remedy applicable to Microsoft. As shown by the antitrust trial, Microsoft has historically used the trade secrets cocooned into the products it sells to stifle competition and hamper entrance of new technologies into the market. The most direct and least intrusive method to end such practices would, of course, to remove the possibility of the same circumstances arising again. To this end, I suggest that measures be added to the settlement that would forbid further development of technologies within Microsoft to be declared a trade secret, for they are clearly only used in a violation of the law.

MTC-00027122

From: Will Nielsen
To: Microsoft ATR
Date: 1/27/02 7:51pm
Subject: "Microsoft

I think the proposed settlement is a bad idea.

MTC-00027123

From: George S Halfin
To: Microsoft ATR
Date: 1/27/02 7:52pm
Subject: Microsoft settlement

I say leave Microsoft alone. They are one company in this USA that is helping to keep this country ahead of foreign innovations.

MTC-00027124

From: Stuart Sherwood
To: Microsoft ATR
Date: 1/27/02 7:53pm
Subject: Microsoft Settlement

To the District Court Judge

America is great because it's foundations provide us freedom. Freedom from the initiation of force.

Freedom for the best within us to achieve the happiness we all deserve. Continue this tradition, allow Microsoft to produce without the shackles of force and to achieve their happiness, for their achievements benefit us all.

Stuart Sherwood

MTC-00027125

From: Katrina Illari
To: Microsoft ATR
Date: 1/27/02 7:56pm
Subject: Microsoft Settlement

Dear Renata Hesse:

I already commented on the Microsoft settlement. However I did not use the correct subject line. That is, I used a subject line that seemed logical to me, not the one posted on:

http://www.usdoj.gov/atr/cases/ms-settle.htm#submit

Because I want to ensure that my comments will be heard, I am including below an exact copy of the email that I sent earlier except this time I am using the assigned subject. I am sorry for the duplicate email and hope that I did not cause you any trouble because of it. I sent my earlier email on: Sat, 26 Jan 2002 16:55:15 -0800 (PST) from this email address.

Katrina Illari

Dear Renata Hesse:

I am a concerned computer programmer and user. I use Microsoft Windows as well as Linux at home. For the past few years I have been disgusted to see the increasing number of anticompetitive actions that Microsoft has been able to get away with. The court case seemed to provide a possibility for restoring a competitive market in the computer software business. Microsoft was convicted with anticompetitive behavior. However, the settlement that was agreed upon does not seem to be in the best interests of the consumers.

Some points of concern are:

(1) the punishment if further anticompetitive actions are taken by Microsoft. That is that 2 years will be added to the period that they are to be closely watched. I did not see any actual enforcement of the restrictions placed on Microsoft. Just that a board of people would be assigned to watch if they break any of the restrictions and if so, then they will be restricted for another 2 years. Does this provide an automatic solution to any court case filed against Microsoft in the next 5 years? That is will the solution will be that the restrictions will just be extended for another 2 years? This almost seems to be in Microsoft's favor... No enforcement and if they break the rules then the rules will be imposed (with out enforcement) for another two years.

(2) The security exemption: Will this provide a hole for Microsoft? For example, will Microsoft just add access control to many of its API and then not publish them, using the security exemption as cover?

(3) Will Microsoft simply patent a lot of its interfaces/protocols and then charge companies licensing fees in order to get the information about the API/protocol. I do not see anything in this settlement that would stop them from doing so. As evidence, they already patented the next version of the SMB protocol. This is a protocol which allows you to share drives/files between computers. SAMBA, a popular file server software uses this protocol to share drives between Unix and Windows machines. Once Windows only supports the new protocol, it will once again be impossible to share drives between Windows and Unix systems. As I see it this is simply an extension to the older protocol not something that it would be strategic to have a patent on except if one wanted to eliminate the ability for a Unix machine to share drives with a Windows machine. Surely this is an anticompetitive action against SAMBA.

(4) The fact that Microsoft is allowed to include non operating system applications as part of the operating system is not beneficial to consumers. This gives an advantage to Microsoft in marketing of the applications that they include in the operating system. They have a strangle hold on the browser market because of this and in Windows XP, they are trying this with multimedia applications.

Katrina Illari
521 Del Medio Ave #201
Mountain View, CA 94040

MTC-00027126

From: Richard Price
To: Microsoft ATR
Date: 1/27/02 7:55pm
Subject: Microsoft Settlement

I am addressing this letter to those representing the public interest, pursuant to the Tunney Act's provision that members of the public may comment on the proposed antitrust settlement, particularly with regard to whether the settlement serves the public interest.

Having read the proposed settlement and the associated documentation, I believe that this settlement is both entirely inadequate to address the crimes committed by Microsoft, and contrary to the public interest. The original complaint claims that its intent is to "restrain anticompetitive conduct by defendant Microsoft Corporation" and "to remedy the effects of its past unlawful conduct." The proposed final judgement does neither.

The effects of Microsoft's past unlawful conduct have been to establish an almost unassailable barrier to market entry, and to provide Microsoft with an immense financial windfall by permitting the company to overcharge consumers for its products. While the proposed final judgement does reduce Microsoft's capability for retaliation against competitors, it does little to ensure that Microsoft will not continue to raise barriers against developers of other operating systems that attempt to enable their products to run programs written for Windows; it does little to ensure that innovative companies will be able to reap the fruits of their efforts in the marketplace; and it does not return to the public the billions of dollars in excess revenues extracted from consumers through inflated prices and bundling of unwanted software with other products.

As noted in the original complaint, Microsoft attempts to maintain its monopoly in operating systems and achieve dominance in other markets through use of tie-ins and other anticompetitive agreements that deter innovation, exclude competition, and rob customers of their right to choose among competing alternatives. The effect of the proposed settlement is to legitimize and perpetuate Microsoft's monopoly by permitting Microsoft to continue the same anticompetitive behavior that it used to establish that monopoly in the first place. This monopoly has actually created a situation that is dangerous to the public, as Microsoft's products are both insecure to the point of creating a serious risk to consumer privacy, and so error-ridden as to cause billions of dollars of economic losses to individuals and businesses annually due to lost and damaged data caused by Microsoft programs crashing.

There are many features of the proposed settlement that lead to the conclusion that Microsoft will benefit from the settlement at the expense of the public.

First, Microsoft is not prohibited from intentionally introducing incompatibilities with competing software, as it has done for anticompetitive purposes in the past, most notably in the development stages of Windows 3.1.

In addition, open-source or freely-available software ("freeware") has become a major source of competition in the marketplace. The proposed settlement does not encourage this competition. Microsoft would be permitted to discriminate against these developers by distributing new products and operating system components with restrictions against using them in open-source or freely-available software.

Also, Microsoft produces and distributes for free a number of products that are not part of the Windows operating system, but are restricted in their use to Microsoft operating systems only by licensing terms. This is not justifiable by any technical argument, and serves only to raise a barrier to competitors.

Another way that Microsoft restricts development of competition is through its development tools that are widely used to develop software. Partly because Microsoft has inside knowledge of the operating system, these tools are among the best available for development. The licenses for these tools include restrictions on using the products developed using the tools on operating systems other than those produced by Microsoft. This restriction is clearly anticompetitive, and is not justifiable by any technical argument.

Finally, the provisions for enforcement and oversight of the final judgement are inadequate. Under the terms as described, Microsoft can evade the intent of the final judgement through abuse of technicalities and loopholes that are not adequately addressed. As an example, the narrowness of the definition of "Microsoft middleware" would permit Microsoft to avoid revealing important programming interfaces, thus hampering efforts by competitors. Important elements of the operating system and applications (file formats, programming techniques) would remain proprietary, either because their documentation would not be required or because Microsoft holds patents on them, and would not be required to license them.

In order to remedy these fatal weaknesses in the proposed settlement, a number of actions are required. First, Microsoft's products must be sold as options in the purchase of new computers, so that the user who does not wish to purchase them is not forced to do so. This means that computer sellers must offer the software without the computer, in order to prevent the current situation in which sellers claim that the price differential is only a few dollars although the cost of the same software from other sources is very high.

Second, Microsoft should be required to expose all programming interfaces with its software—not only Windows itself, but the numerous products that Microsoft has brought to market dominance by exploiting its illegally maintained monopoly. In addition, all the formats of files used by Microsoft's products should be made publicly and freely available. All information presented by Microsoft under the settlement should be available not only to for-profit companies, but also to open source software initiatives, with no discriminatory licensing requirements.

Third, Microsoft should be prohibited from introducing changes to its software for the sole purpose of inhibiting its competitors, without any technical justification, as determined by independent analysts appointed by the court.

Fourth, if Microsoft makes software freely available, that software should be available to the public as a whole, and not only users of other Microsoft products.

Fifth, Microsoft should not be permitted to place restrictions on the use of its development software that could serve as barriers to competition.

Sixth, Microsoft should be required to return to the public the billions of dollars in revenues that it has acquired due to its illegally maintained monopoly, and to perform this restitution in a fashion that does not reinforce or extend that monopoly.

As a user of an alternative operating system known as OS/2, I am well aware of the damage done to the public interest by Microsoft's abuse of its market power. For over a decade, OS/2 has possessed features that Microsoft has only begun to include in its operating systems in the past few years. In spite of OS/2's clear superiority, Microsoft's anticompetitive behavior effectively shut OS/2 out of the market. Because of this, developers have spent very little effort in developing applications for this platform. My costs for software and training for OS/2 have unquestionably been higher than they would have been if Microsoft had not used illegal and anticompetitive methods to prevent the widespread adoption of this operating system, and the software that is available to me now is of lower quality than would otherwise be the case. The proposed settlement does nothing to help me recover my investment in this competitive software, or to restore a competitive enviroment in which 0S/2 development would be revived. Millions of other purchasers of 0S/2 and other competing products are in the same situation. As another example, my fiancee uses project management software called Ecco. This software received awards for several years in a row for being the best of its kind. Within a year after Microsoft began bundling its project management software (Microsoft Project) with Windows, the company that owned Ecco ceased development because it could no longer make a profit. The users of this software have also been harmed by Microsoft's illegal practices, and the proposed settlement does nothing to make them whole.

In light of the egregious weaknesses and loopholes in the proposed settlement agreement, and the fact that the proposed agreement therefore cannot be considered to be within the reaches of the public interest, it is my hope that the settlement will be rejected, and a new settlement constructed that eliminates these problems, restores competition to the marketplace, and returns Microsoft's ill-gotten gains to the public from which they were extorted through product tie-ins, exclusionary distribution agreements, and other flagrantly anticompetitive business practices.

Thank you,
Richard Price

MTC-00027127

From: Joseph Esrey
To: Microsoft ATR
Date: 1/27/02 7:56pm
Subject: Microsoft Settlement

To Whom it May Concern,

I am an ordinary consumer with no personal ties to the computing industry other than my own interest and enthusiasm for it. I am not presently employed by anyone in the computer industry, and having gotten my BA in Anthropology, I do not anticipate being so in the future. I am writing not as someone with any financial interest for or against Microsoft; I am merely an ordinary citizen who has been repeatedly outraged by what I see as the many, many transgressions of this company, and the way it repeatedly eludes penalty for its actions. As one who regularly uses a computer and is enthusiastic about it, I have followed the activities of Microsoft with interest and alarm. From all I have seen in the last few years of watching this industry, Microsoft has consistently demonstrated a wanton disregard for ethical business practices or the best interest of its customers. While competition and self-interest are natural directives in the business world, Microsoft has repeatedly overstepped the boundaries of ethics, and quite likely even law, in its ambition. It has repeatedly thumbed its nose at attempts to curb its objectionable behavior; its callous disregard for ethics or fair play is matched only by its appetites for power and profits. Many other companies find themselves paralyzed by this company; the ways in which Microsoft has retarded and stifled innovation are too numerous to count (though ironically, Microsoft frequently paints itself as an innovator, despite having originated little of value to the computing world). Microsoft has given every indication that it desires more and more power, and with the increasing pervasiveness of the electronic world in our culture it stands to hold greater sway over even the most mundane and fundamental parts of everyday life. I for one did not invite this presence into my existence, yet I find it difficult to avoid it.

Even when faced with punitive action, Microsoft has consistently demonstrated extraordinary arrogance in its behavior and its will to extend its monopolies. The recent example of its proposal to "pay" for its crimes by flooding schools with cheap-to-produce software materials that would strengthen its market penetration in schools while simultaneously avoiding paying more than a fraction of the fines it wished to portray itself as paying was simply the most recent instance of this.

Microsoft has shown itself to be above no means in trying to portray itself as a victim, to the point of forging letters from dead people in attempting to create the illusion of grassroots support. I strongly urge you to hold Microsoft truly accountable to its crimes, and to levy a real, significant, serious penalty against the company.

Sincerely,
Joseph Esrey
1710 NW 2nd Ave. Apt. 11
Gainesville, FL 32603
(352) 374–1440

MTC-00027128

From: Bret H. Reavie
To: Microsoft ATR
Date: 1/27/02 7:57pm
Subject: Microsoft Settlement

I have always been a satisfied customer of Microsoft products and I do not believe this legal case will protect me or any other consumer. Consumers did not make the original complaint, Microsoft's competitors did. The US governments efforts to undermine corporations that have been "too" successful is a threat to the US economy and is merely punishing those who have served their customers best.

America and the world needs more people like Bill Gates.

Bret Reavie
A satisfied Microsoft customer
CC:activism@moraldefense.com
@inetgw,letters@capitalis...

MTC-00027129

From: JimDargin@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 7:59pm
Subject: Microsoft Settlement

Microsoft's business practices are entirely to aggressive and our government is the only body left that can put some controls on their activity.

Two examples:

1. Their insistence on controlling what the desktop looks like by computer vendors such as Dell. Microsoft would not even allow Dell to put certain icons in view on the machine even if the software behind the icon was actually installed on the machine.
2. Forcing computer vendors such as Dell or Compaq to pay an operating system royalty to Microsoft even if the vendor chose to put a Linux operating system on the machine instead of the Microsoft OS.

This is entirely too much power in the hands of a powerful company. The proposed settlement, as I understand it, is too soft on Microsoft. Please make some adjustments or oversight to control their business practices with respect to other hardware and software vendors.

Sincerely,
Jim Dargin

MTC-00027130

From: Mike Harrold
To: Microsoft ATR
Date: 1/27/02 8:00pm
Subject: Microsoft Settlement

To whom it may concern,

I find myself in a strange position. One part of me believes that an end to the Anti-trust case is beneficial to everyone. The far reaching consequences of this trial go way beyond the companies involved, all the way to the backbone of our economy.

That said, I simply cannot agree with the proposed settlement in its current form, particularly the lack of spine in the enforcement provisions. An oversight panel that is severely restricted in releasing its findings? Or in other words, a panel that can be all too easily silenced by the political process, something we should all be very concerned about. In addition, I find this case analogous to a murder trial where the defendant was found guilty, whose guilt was upheld by the Court of Appeals, yet receives probation from the District Attorney prosecuting the case in order to avoid a length sentencing phase. I am sure I am not alone in my thoughts on this.

I point the Court toward the proceedings in the recent civil case, where the proposed settlement was also rejected, the Judge in that case correctly identifying that the "punishment" was far too lenient, not to mention rather inappropriate given the facts of the case at hand. It would have been easy for the Judge to have accepted the settlement in order to put an end to the case, but such a settlement would have not been for the benefit of the plaintifs. I see a striking similarity here; the settlement on hand is clearly far more beneficial to Microsoft than it is to the consumers who have suffered at the hands of such a monopoly. I urge the Court to reject the settlement at this time, and to encourage the parties to continue negotiations toward a settlement. However, the Court must also send a clear signal to the parties that any settlement must not only address the core claims of the case, but also provide for —speedy— injunctive release from any future monopolistic behaviour by Microsoft. Otherwise we will find ourselves in this same position again very soon.

Mike Harrold
CC:ao@infinet.com@inetgw

MTC-00027131

From: Stu
To: Microsoft ATR
Date: 1/27/02 8:00pm
Subject: Settle Microsoft Please

STU STEPHENS
650 Alderbrook Lane
Olga, WA 98279
January 27, 2002

Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The issue has been drug out for over three years now, and it is time to put an end to it. A settlement is available, and the terms are fair; I would like to see the government accept it. In order to put this issue behind them Microsoft has agreed to many terms. They have agreed to design future versions of Windows to be more compatible to with non-Microsoft software. They have also agreed to change several aspects of the way they do business with computer makers. Microsoft has agreed to many terms; I would like to see the government accept the settlement and move on.

Microsoft and the technology industry need to move forward, the only way to move forward is to put this issue in the past. Please accept the Microsoft antitrust settlement.

Sincerely,

Stu Stephens, Owner and Associate Broker
RE/MAX Island Properties, Eastsound WA

Stu Stephens, Assoc. Broker, CRS, ABR, GRI RE/MAX Island Properties PO Box 1449 or 199 Main St., Eastsound WA 98245 800 551–1677, 360 376–2599; fax: 360 376–6211
<www.orcas-stephens.com>
<www.orcasislandonline.com>

MTC-00027132

From: Ryan Williams
To: Microsoft ATR
Date: 1/27/02 8:00pm
Subject: Unacceptable

I have read the settlement between the United States Government and Microsoft, and I do not find it acceptable. The settlement does not even begin to address the problem at hand: the illegal operating system monopoly Microsoft holds. It appears instead to be an almost-clever series of loopholes which may permit continued illegal behavior.

Let me give some illustrations:

III.C.5 . "Presenting in the initial boot sequence its own IAP offer provided that the OEM complies with reasonable technical specifications established by Microsoft, including a requirement that the end user be returned to the initial boot sequence upon the conclusion of any such offer."

—This was written either by a novice, or by an individual with Microsoft's interests at heart. Software does not exist but for the cooperation of those who write it. Most "technical specifications" exist as agreements between programmers (many as RFCs). Consequently, if Microsoft chooses not to cooperate, it has the ability to change its "technical specifications" so that other companies cannot comply and still assert that they are within the bounds of "reasonableness". Consequently this clause holds no water and appears to be cosmetic.

III.C.3 "Launching automatically, at the conclusion of the initial boot sequence or subsequent boot sequences, or upon connections to or disconnections from the Internet, any Non-Microsoft Middleware if Microsoft Middleware that provides similar functionality would otherwise be launched automatically at that time, provided that any such Non-Microsoft Middleware displays on the desktop no user interface or a user interface of similar size and shape to the user interface displayed by the corresponding Microsoft Middleware."

—This essentially allows OEMs to use non-Microsoft middleware only if such middleware apes what Microsoft middleware does already. I can think of no poorer excuse for "competitiveness." III.J.1 "Require Microsoft to document, disclose or license to third parties: (a) portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of which would compromise the security of anti-piracy..."

—1) It is well known in the security industry that open documentation (indeed—revelation of source code) leads to a more secure product, not less. The idea that revealing some layer of a Microsoft protocol would compromise its security is perfectly fraudulent. I could explicate this point further, but I feel that it is unnecessary since this information is widely known (and must have been ignored in the writing of this settlement).

2) On a more disturbing note, this allows Microsoft the ability to refuse disclosure of any of its protocols for "security reasons", real or not. Since other companies require these protocols to interoperate with Microsoft's products, this is in effect giving Microsoft the ability to guarantee that only Microsoft may make middleware for its operating system. In a competitive situation; this would be disadvantageous to Microsoft, since middleware makers would simply switch to another operating system. In this world where Microsoft's operating system overwhelms the market, middleware producers will go out of business if they switch to another operating system.

All these references to "menus" and "icons" are disturbing when it is certainly conceivable that these visual aids will disappear and change over time as Microsoft's product evolves (perhaps they will disappear precisely to circumvent this settlement's stipulation. At this moment, there are very few OEMs that can carry on business without a contract to distribute Microsoft's operating system. As a consequence, none of them will have an alternative but to sign any license that Microsoft cares to write. Microsoft doesn't need to make their licenses "reasonable" nor "non-discriminatory" because it would be financially impossible for an OEM to contest one. This situation is subject to change, but without real, visible constraints, Microsoft will maintain a stranglehold on its Covered OEMs.

The fundamental problem with Microsoft's situation—that it has illegally maintained its monopoly and stifled competition, is not given much consideration. Much more of the volume of the settlement is devoted to appointing "Compliance Officers" and "TCs" than was spent on the rights of the OEMs to choose a non-Microsoft product. Nor does the settlement hint at how non-Microsoft products are to gain a foothold enough to compete at all. The fundamental problem here is that Microsoft is eager and capable of leveraging its dominant share in the Operating System market into an anticompetitive advantage for its other products (and further extend its monopoly at the same time). The settlement needs to address that, rather than grant piddling "exceptions" for other software companies.

-RYaN
Ryan D. Williams, MIT Class of 2003

MTC-00027133

From: Rebecca Ryness
To: Microsoft ATR
Date: 1/27/02 8:04pm
Subject: Microsoft Settlement

No company should be allowed to abuse antitrust laws, including Microsoft. I understand that Microsoft is considered by some a "good" company, but they are guilty of some very serious violations in regard to competition in their field. I do not think that the Proposed Final Judgment is the answer.

Please reevaluate the rulings on this case with comments such as mine in mind.

Thank you.
Rebecca Ryness
(323)663–3344

MTC-00027136

From: Kerwin Brown
To: Microsoft ATR
Date: 1/27/02 8:05pm
Subject: Microsoft Settlement
To:
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

I do not see this settlement as being effective since.

1) It does not do anything to alleviate the problem of Microsoft being a monopoly since it leaves the company intact.

2) It is to difficult to enforce the provisions and allows Microsoft to exempt itself from key ones.

3) Microsoft still decides what products are in computers that consumers buy.

4) The products they provide do not run well with non Microsoft products so consumers either have to deal with conflicts, obtain and install a whole new operating system or purchase Microsoft products only.

5) Microsoft has a history of not holding to agreements when it serves the companies purpose.

The remedies proposed by the Plaintiff Litigating States are good and serve the public interest but do not go far enough without addressing the above issues. Also citizens, consumer groups, Microsoft customers and Microsoft's competitors must be give an equal opportunity to participate in public proceeding held under the Tunney Act by the court.

Thank You for your time
Kerwin Brown
604 W. Beardsley
Champaign. IL 61820
(217—) 352–3312

MTC-00027137

From: John ODell
To: Microsoft ATR
Date: 1/27/02 8:05pm
Subject: Suit

I think that everyone should leave Microsoft alone; every company out there has the same opportunity to make the great impact on the technology and business in today world. If not for alot of time in development of there product Microsoft has taken, we would be 10 to 15 years behind. Everyone user has the choice to use whatever software out there. Like most of my friends use Netscape not IE, or other e-mail suite then Outlook. As for the software that Microsoft integrated in to there OS I personal do not use most of it I buy software that I like and have been using for along time. So as to say that by integrating of software in Microsoft OS people do have a choice to use it or buy the ones they like (when you buy a car there is a car stereo in made by the manufacturer, you have the option to use it or buy one that you like.

AOL messenger is not the only one out there. Many can integrate in to each other and are very much alike. There has been a messenger of some type along time before AOL came along. And all things that are invent has came from ideas of something else that is in use, so to say AOL has to be the only one to have a messenger or the use of one is about the same thing that everyone is up in arms that they say Microsoft is doing.

Thank you and let Business grow and no Government control of it, it unproductive.

John H. ODell
Bonehead a Shock
Wave Lab

MTC-00027138

From: Brad (038) Jo-Anne Jircitano
To: Microsoft ATR
Date: 1/27/02 8:06pm
Subject: Microsoft Settlement
Honorable Colleen Kollar-Kotelly,
U.S. District Judge

Microsoft needs to be fairly punished for its anticompetitive and monopolistic behavior. The current settlement proposed by the U.S. Government and Microsoft is woefully inadequate. The abandoned proposal to break-up Microsoft into two or more companies would have advanced the goal of restoring innovation and competition in the marketplace. When I buy a personal computer today, I can choose between several manufacturers (HP, Sony, IBM, Gateway, Compaq etc.) and the internal chips are manufactured by either Intel or Amdahl. [These choices exclude Apple Computer, Inc., which is at most, a niche player in the personal computer business.] When it comes to choosing a suite of applications (word processor, spreadsheet etc.) the only viable choice for the rank and file user is Microsoft Office. This automatically limits my operating system choice to one manufacturer, Microsoft—Windows XP or Windows 2000. Why couldn't I choose a Linux operating system and get Microsoft Office as an application suite? Because that would create competition for Microsoft's operating system. This competition would, in turn, create innovation in the marketplace. We might find that Sun Microsystems might offer it's operating system for personal computers if Microsoft Office were ported to that operating system.

This is why Microsoft felt it had to illegally attack Netscape. Netscape was becoming so powerful/popular that innovative companies were beginning to write word processor and spreadsheet applications that would work directly within the browser—Netscape Navigator. If this trend were allowed to continue, American consumers would have been able to actually choose the operating system that would be installed on their personal computer. If Microsoft allowed this trend to continue, consumers would have been given the freedom to not choose Microsoft as the only viable vendor for their personal computer operating system.

Microsoft Corp. has been found guilty of breaking the laws of this country. Many consumers and potentially innovative companies have been deeply harmed. Microsoft needs to be punished and the punishment needs to attempt to restore a free marketplace, innovation and competition in the personal computer industry. The proposed settlement does not do this. As a citizen of the United States of America, I look to you to see that justice prevails. Regards,

Brad A. Jircitano

MTC-00027139

From: Dickrae51@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 8:07pm
Subject: Re: Microsoft settlement

I sincerely hope that this self-serving, tax wasting lawsuit brought about by so-called competitors will be quietly dumped on the ash heap of thousands of other wasteful lawsuits of no merit. Microsoft has allowed me, a senior citizen, to enjoy the benefits of computerization and the Internet at a cost that has always been affordable to everyone. If the competitors wish to compete, they can stop whining and start spending what Microsoft has had to spend on research and development to make their products attractive and reasonably priced. All this lawsuit has done is hasten the slide into recession and a battered stock market. It's time that everyone realizes the damage this idiocy has created.

Richard J. Schuster
3835 Caughlin Parkway
Reno, Nevada 89509

MTC-00027140

From: Ken Casey
To: Microsoft ATR
Date: 1/27/02 8:09pm
Subject: Micrpsoft Settlement

It is difficult for me to understand why the Federal Government would single out Microsoft for this type of legal action. Those of us in the real world sincerely appreciate the opportunity afforded us by the wonderful products produced by this company.

It appears that you are attempting to hold Microsoft back to allow those other companies to catch up or even overtake them.

Where do you think this country would be if it were not for the software development done by Microsoft?

I can't understand why you would want to penalize a company for succeeding. Please listen to the common man for a change and leave this company alone.

Ken Casey
Broker-Owner
Ken Casey Realty
13710 Hwy 441, Suite 200
Lady Lake, FL 32159 1–888–716–6709

MTC-00027141

From: Tom Will

To: Microsoft ATR
Date: 1/27/02 8:09pm
Subject: Microsoft Settlement
Thomas E. Will
3660 Fawn Drive
Canfield, OH 44406
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I believe that the antitrust suit that was brought forward against Microsoft has taken the eye off of innovation. The settlement that was reached between Microsoft and the Justice Department pledges to put the drive to innovate back into the IT industry. The settlement is designed to give the consumer and economy a much needed confidence boost.

Under the settlement, Microsoft has agreed to license its Windows operating system to twenty of the largest computer makers on equal terms and conditions, including price. The settlement instructs Microsoft not to enter contracts that would restrain software developers from developing or promoting software that would compete with its Windows. Microsoft has also agreed to the establishment of a three-person "Technical Committee" that would observe its conformity to the settlement.

I believe that the settlement addresses the demands of the suit adequately, and ft would be beneficial in providing assistance to the revival of the economy. It's time to get on with business. I strongly recommend that you maker certain to finalize this settlement.

Sincerely,
Thomas Will
CC:fin@mobilizationoffice.com@inetgw

MTC-00027142

From: Jack Lilygren
To: Microsoft ATR
Date: 1/27/02 8:11pm
Subject: Microsoft Settlement
622 Dundee Lane
Holmes Beach, FL 34217
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Three years is a very long time. With the economy in its current shape and so many other important causes that tax payer dollars could be used for, there could never be a better time to close this case. Microsoft has contributed too much to society, the economy and the IT industry to be punished the way they have been. Microsoft's innovations have changed the computer technology forever and enhanced the professional and personal lives of millions of users around the world.

In addition to the soundness of Microsoft's innovations, the past three years has proven that Microsoft is has fortitude and strength. Though the lawsuit has, without a doubt, cost Microsoft millions of dollars and unspeakable frustration, I believe that the hardship they have had to endure throughout this litigation will only help to make them a better company.

They have already displayed gracious compliance to the terms of the settlement and have even agreed to issues that were not even at issue in the lawsuit.

It should no longer be necessary for competitors to accuse Microsoft of trying to corner the market. This is because Microsoft has agreed to create future versions of Windows that would allow for compatibility with non-Microsoft products. Additionally, competitors will have access to internal Windows interfaces—an unprecedented move in an antitrust case.

It is my hope and the hope of many observers that this matter will come to a close as soon as possible. We are counting on your vigilant efforts.

Sincerely,
John Lilygren
jlilygrn@tampabay.rr.com

MTC-00027143

From: Jack T. Dwyer
To: Microsoft ATR
Date: 1/27/02 8:06pm
Subject: Microsoft Settlement

As a taxpayer and citizen, I would like to add my name and that of the other members of my family in requesting that the DOJ finalize the proposed settlement agreement with Microsoft and move on with more important work and pressing issues. In my opinion, this whole issue and that of AOL's pending lawsuite is nothing more than a continuing effort to stifle Microsoft's innovative efforts, and subsidize other non competetive companies at taxpayers expense. I am really tired of this issue, and would like to see some progress on behalf of consumers, technology, and the government. These companies, AOL Netscape and others are working to defeat Microsoft's efforts to move on, and are using politics and the courts to futher their ambitions.

Lets all move on and devote our time to more rewarding work. Let the success or failure of private companies depend on their own efforts, not on their abilities to manipulate the DOJ and the courts.

Sincerely,
Jack Dwyer
Jetlag@networld.com

MTC-00027144

From: Phil (038) Barbara Stone
To: Microsoft ATR
Date: 1/27/02 8:11pm
Subject: Microsoft Settlement

One of the fundamental functions of the United States government is to protect its citizens from the initiation of force and fraud. Microsoft is guilty of neither. Millions of people buy Microsoft products of their own free will. No one forces them to do so. The American people are not "helpless victims" who cannot choose software that is most useful to them. The government does not have a right to decide what can be on my or anybody's computer.

It's not the government's place to decide who has "too much" of the market. It is the consumer's job to do that by deciding what to purchase. The complaint against Microsoft originated with its unsuccessful competitors, not with its customers or partners. Failed businesses must not be allowed to set the rules for the markets in which they have failed.

Microsoft has a fundamental right to its property. The government's job is to protect that right, not to take it away. You must vote in favor of Microsoft because to do otherwise would blunt the entrepreneurial spirit if this great country.

Barbara Stone,
Strongsville, OH

MTC-00027145

From: MCCUE
To: Microsoft ATR
Date: 1/27/02 8:14pm
Subject: all done

I hope this will help

MTC-00027146

From: Margaret K. Herrin
To: Microsoft ATR
Date: 1/27/02 8:13pm
Subject: Microsoft settlement
Margaret Herrin
9 Pebble Lane
Signal Mountain, TN 37377-2142
January 12, 2002
Attorney General John Ashcroft
United States Department of Justice
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am writing to express my support in the three-year antitrust settlement between Microsoft and the federal government. I sincerely hope that no further litigation is being sought at the federal level.

Taking in to account the terms of the agreement, Microsoft did not get off easily. In fact, Microsoft is left to make several significant changes to the ways that they now handle their business. For example, Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products. With the many terms of the agreement, I see no reason to pursue further litigation on any level against Microsoft. Thank you for your consideration.

Sincerely,
Margaret Herrin

MTC-00027148

From: Jim Brauner
To: Microsoft ATR
Date: 1/27/02 8:23pm
Subject: Microsoft Settlement

It is simple. I expect the government and legal system to punish predatory business practices when they are judged as such. Microsoft should have little to no say so in what their penalty should be. It should hurt them and cost them lest you send a message to them that because they have billions to try to change the truth of their conviction is not going to work.

Penalize them to the full extent of the law so that they hopefully learn a lesson. If you don't do that then just take you pathetic system and go home, you are not needed nor are you helpful.

MTC-00027149

From: pvnyejag2@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 8:25pm
Subject: microsoft settlement

WHEN ARE YOU PEOPLE GOING TO REALIZE THAT THE PEOPLE OPPOSED TO MICROSOFT ONLY WANT TO DESTROY AN INOVATIVE AND SUCCESFULL BUSINESS ENTRAPENEAUR,WHO HAS DONE MORE GOOD TO BRING COMPUTORS AND COMPUTING OUT OF THE DARK AGES.LETS QUIT WASTING (MY) TAXPAYERS MONEY ON THIS WITCH HUNT AND GET ONTO SOMETHING USEFUL.....!!!!!!!!!!!!!!!!!!!

Thomas J. Hankamp
318 Creek Rd.
Pleasant Valley,N.Y. 12569

MTC-00027150

From: Jared
To: Microsoft ATR
Date: 1/27/02 8:27pm
Subject: Microsoft Settlement

I wish to state, for the record, that I am opposed to the current Microsoft anti-trust settlement. It is not in my interest and neither serves justice nor justifies the vast expense that taxpayers have contributed to thwart yet another abuse of market power by yet another behemoth corporation.

Jared C. Rypka-Hauer
Continuum Media Group LLC
Burnsville MN

MTC-00027151

From: Ann Gambrino
To: Microsoft ATR
Date: 1/27/02 8:26pm
Subject: re: Microsoft cases
January 26, 2002
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o: Renata B. Hesse
Antitrust Division, U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotally:

I write to express my concerns about the proposed settlement of the Microsoft cases. As the executive director of business/trade association, I consider myself to be very pro-business and generally supportive of free enterprise and open competition. However, in order for the free enterprise system to properly work, there must be an opportunity for businesses to actually compete against each other! I respect Microsoft for what they have been able to accomplish, but I believe Microsoft has gone too far in some of its practices. As a result, a competitive market in their sector no longer exists, and businesses and consumers are hindered and frustrated.

I understand that a settlement has been proposed that the Department of Justice has found acceptable. I further understand that various attorney generals have also found the proposed settlement acceptable. The Attorney General of the State of Utah is not one of them. I support his position and believe that the terms of the settlement are too lenient on Microsoft. Adoption of the proposed settlement would do nothing but delay the imposition of reasonable sanctions, prohibitions, and conditions on Microsoft until the next government action is taken, if any. In the meantime, Microsoft would essentially walk away with a hand-slap and the ability to continue its anti-competitive behavior. This could also set a precedence that would allow other businesses to take similar control of a market, because they know that they could get away with only lenient punishment, if any.

I ask the court to conduct hearings to determine an appropriate remedy that will reasonably penalize Microsoft for past actions and prevent future violations of antitrust laws. Such an action will only be in the best interest of all businesses and consumers.

Sincerely,
Ann Gambrino, executive director
Utah Hotel & Lodging Association
CC: The Honorable Mark Shurtleff, Utah Attorney General
Jonathon Jaffe, The MWW Group

MTC-00027152

From: J. Andrew Hoerner
To: Microsoft ATR
Date: 1/27/02 8:26pm
Subject: Microsoft Settlement

I am a consumer of Microsoft software, in both my personal and my professional capacity. I strongly oppose the current settlement, which does little or nothing to prevent Microsoft from continuing to extend its virtual monopoly on operating systems for desktops and laptops to other forms of software, by either integrating them with the OS, or requiring software developers to make various concessions for the privilege of building complicated interfaces with the OS. I believe that no solution can be adequate unless it either splits Microsoft into an OS company and an applications company or makes the OS source code available to all, including MS's own applications developers, on a uniform basis.

Andrew Hoerner
J. Andrew Hoerner
Senior Research Scholar & Director of Research
Center for a Sustainable Economy
1731 Connecticut Ave, NW, #500
Washington DC 20009
phone: (202) 234–9665
fax: (202) 588–1297
ahoerner@wam.umd.edu
http://www.sustainableeconomy.org/

MTC-00027153

From: dwelter@coin.org@inetgw
To: Microsoft ATR
Date: 1/27/02 8:23pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Don Welter
515 Defoe Dr.
Columbia, MO 65203

MTC-00027154

From: RGAshbaugh@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 8:26pm
Subject: Microsoft settlement

Leave them alone. They provide outstanding products and service.

Rusty Ashbaugh

MTC-00027155

From: Robert Walion
To: Microsoft ATR
Date: 1/27/02 8:28pm
Subject: Microsoft settlement

.This proposed "settlement" is a joke.Microsoft essentially has offered nothing and is probably laughing at the court for even considering the proposal.Microsoft needs to be dealt with harshly.Instead,the Justice department wants to lightly slap them on the wrist.

There should be a $10 billion fine at the very least.This still wouldn't really hurt Microsoft since they currently have almost $40 billion in cash reserves.The company should still be broken up and it's conduct in the marketplace closely monitored.After seeing several states sign off on this travesty of a "deal',I won't hold my breath waiting for that to happen....

God help us all if this is how the Govt. deals with white collar criminals.

Robert Walion

MTC-00027156

From: barbipayne@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 8:24pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Barbara Payne
10021 Cavalry Dr
Fairfax, VA 22030–1913

MTC-00027157

From: H. Peter Anvin
To: Microsoft ATR
Date: 1/27/02 8:28pm
Subject: Microsoft Settlement

To:
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington DC 20530–0001
microsoft.atr@usdoj.gov
From: H. Peter Anvin
4390 Albany Dr Apt 46
San Jose CA 95129–1621
hpa@zytor.com

To the Honorable Court:

As a resident of the United States and a professional software developer, I would like to comment on the proposed settlement in United States vs. Microsoft, as provided by the Tunney Act. I believe the proposed settlement contains severe flaws in that it seems to lack proper provisions for enforcement, and fails to address some of the real consumer concerns going forward.

First of all, let me refer to you to a very thorough and insightful analysis provided by Mr. Dan Kegel, available on the World Wide Web as http://www.kegel.com/remedy/remedy2.html. Mr. Kegel carefully addresses many of the shortcomings in the proposed settlement, and advises how to adjust it to make it more appropriately fit the current situation.

Rather than reproducing the points of Mr. Kegel's analysis here, I would like to explain why it is imperative that these elements take into account. The goal of the settlement should be to rectify the anomalous situation that has developed in the computer industry through the unlawful anticompetitive conduct on the part of Microsoft.

FOR THERE TO BE A VIABLE ALTERNATIVE TO MICROSOFT, THE INTIMATE CONNECTION BETWEEN OPERATING SYSTEM VENDOR AND APPLICATION SOFTWARE MUST BE BROKEN. At one time, it was commonplace for software vendors to release their software for multiple platforms. Today, due to the overwhelming dominance of the Microsoft platform, Windows is generally the only platform for which software can be obtained, regardless if the software is from Microsoft or not. Therefore, the settlement must create conditions under which we can move from a Microsoft- centric software market to a competitive software market, and the only way to do so is by making it possible to create a standard platform, an Application Programming Interface (API), and enforce its use. This is addressed by Mr. Kegel in the proposal of the creation of a Windows API Standards Expert Group and requiring Microsoft to cooperate with it; a proposal which I fully support.

FOR THERE TO BE A VIABLE ALTERNATIVE TO MICROSOFT, FILE FORMATS MUST BE DISCLOSED. Microsoft have, by leveraging their Windows monopoly, established monopolies in other areas, such as productivity applications. Today it is commonplace for people in business situations to receive Microsoft Office documents as e-mail attachments; it being assumed that the recipient has access to Microsoft Office as a matter of course. The Findings of Fact ?20 and ?39 address the barrier to entry; this is an essential part of the barrier that needs to be overcome.

FOR THERE TO BE A VIABLE ALTERNATIVE TO MICROSOFT, THE FINAL JUDGEMENT NEEDS TO BE STRICTLY ENFORCED. Microsoft has in the past, such as after the Consent Agreement of 1994, dealt with antitrust settlements by making trivial changes that amount to little more than relabelling to their business practices in order to avoid the bite of the settlement. Due to the very rapid pace of the technology industry, renewed court action is likely to delay until the renewed monopoly situation is already a fait accompli. Therefore, the Final Judgement needs to have independent oversight, capable of imposing strong sanction without further court action.

FOR THERE TO BE A VIABLE ALTERNATIVE TO MICROSOFT, OPEN SOURCE SOFTWARE NEEDS TO BE ALLOWED THE SAME ACCESS AND PROTECTION AS COMPETING COMMERCIAL SOFTWARE. A number of items in the proposed Final Judgement specifically excludes so-called Open Source software. However, it has shown over the past several years that the most likely candidates to challenge Microsoft as a monopoly are exactly such Open Source operating systems and software, such as Linux, an operating system developed by Linus Torvalds in conjunction with a large number of volunteers and, more recently, corporations. It is therefore imperative that the proposed Final Judgement be revised to give Open Source software developers full parity with commercial software developers.

As outlined above, I believe the Proposed Final Judgement is not in the public interest as it will not perform its intended function of restoring competition to the software marketplace. I refer to the proposal of Mr. Kegel for the details on how it may be revised.

Sincerely,
H. Peter Anvin
San Jose, California

MTC–00027158

From: Julie Davidson
To: Microsoft ATR
Date: 1/27/02 8:30pm
Subject: Microsoft Settlement

From the Competitive Impact Statement, section II, Overview of Relief: "The relief contained in the Proposed Final Judgment provides prompt, certain and effective remedies for consumers. The requirements and prohibitions will eliminate Microsoft's illegal practices, prevent recurrence of the same or similar practices, and restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings."

I think the Proposed Final Judgment does not begin to achieve this. MS is nothing if not creative when it comes to "business methods". Not to mention language interpretation...

And how does it happen that the definition of Microsoft Middleware omits MS Office and Outlook (but includes Outlook Express ???) I mean, if we're going to "restore competitiveness", why play favorites?

cc: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
CC:snail mail

MTC–00027159

From: Shane Chen
To: Microsoft ATR
Date: 1/27/02 8:30pm
Subject: On the Proposed Final Judgment.

To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

I'd like to comment on the Proposed Final Judgment (PFJ) in United States v. Microsoft (http://www.usdoj.gov/atr/cases/ms-settle.htm). My name is Shane Chen. I'm currently working as a web master for the Institute for Creative Technologies (www.ict.usc.edu). In the past five years, I also worked as a network administrator, and technical support. I can easily attest to Microsoft domination of the office applications, middleware, and operating systems market.

If the PFJ "must seek to "unfetter a market from anticompetitive conduct", to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future" (section V.D., p. 99), the current proposal is wholly inadequate. Not only are the terms such as "API", "middleware", and "Windows OS" too narrowly defined, the current PFJ seems to only be a veiled attempt at "punishing Microsoft."

In short, the current PFJ still leaves everyone at the mercy of Microsoft. MS could rename a product, create a new product, fail to provide sufficient documentation to competitors, etc., and even if MS was caught violating the PFJ, they would spend months and years in court to argue that they weren't in violation. Meanwhile, business still has to go on. People still need operating systems to drive their machines, MS word to do word processing, etc. And MS's competitors would suffer because the easiest way to easier compatibility and avoid problems would still be to use MS products. Because of this, the current PFJ cannot possible restore competition to the computer software market. The easiest and the most elegant solution, is not by doing anything directly to Microsoft, but putting Microsoft in the position where they actually have to compete, instead doing anything they please knowing full well there's not a thing anyone could do about it. This is NOT an impossible task. However, to accomplish this, the U.S. government would have to lead the way.

If the U.S. government would decree that all government software be switched away from closed sourced proprietary solutions to open source based solutions, then everyone could compete fairly. This would give immediate incentive for all businesses wanting government business to at least in part run open source software. Microsoft would instantly cease to be the dominate player in the computer software market. This is of course, not excluding Microsoft from competition. Microsoft is welcome to compete in that space. They could provide open source solutions or file formats, or at the very least, have to also create products that can no longer exclude competition by intentional proprietary design.

The simplicity of this solution would actually restore competition to a market that is currently at the will and whimsy of Microsoft. Of course, the appellate courts have no such legal power to decree this, but the dominance of Microsoft in the computer software market space will require a solution of this magnitude.

God save us all,
Shane Chen

MTC-00027160

From: Dick and Candy James
To: Microsoft ATR
Date: 1/27/02 8:30pm
Subject: Microsoft settlement
January 27, 2002
Attorney General Ashcroft, Justice Dept.
950 Pennsylvania Ave. NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I would like to urge you to support the settlement that has been reached between the Dept, of Justice and the Microsoft Corp. It is time to get back to rebuilding our economy, especially the technology field which has been so badly hurt in this recession.

Sincerely,
Carlyn and Richard James
741 Walnut
Edmonds, Wa. 98020

MTC-00027161

From: Todd Grant
To: Microsoft ATR
Date: 1/27/02 8:35pm
Subject: Microsoft Settlement

To Whom it May Concern:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. As a Small business owner in the computer technology field, I will keep this brief. Each day Microsoft goes with out checks in place to monitor the tactics they use, the harder it is for me to provide my customers with the best solution available.

In short, the proposed settlement is a bad idea

Sincerely,
Todd Grant—Consultant
NT Consultants
tgrant@ntconsultants.net
http://www.ntconsultants.net

MTC-00027162

From: Jud Meaders
To: Microsoft ATR
Date: 1/27/02 8:34pm
Subject: Microsoft Settlement

In the two months or so since I first wrote, nothing has happened to change my mind re your caving in to the Microsoft Corporation with your "proposed settlement." Microsoft continues its anti-competetive practices, seemingly with your blessing. They continue to use their monopoly position to leverage their way into other key areas of the economy. Again, with your blessing.

Does the public know that the federal government is Microsoft's largest customer? How is it, given the judgment against them, unanimously upheld, that the government continues to purchase products and services from them, and still keeps them on a preferred supplier list? Pardon my cynicism, but could it be their money and influence? What else could it be?

Does the public know that Microsoft has not paid ANY federal income taxes for at least the past two years, maybe longer? Do they know how Micorosft is doing that? Can you say non-expensed stock option grants? Do they know that Microsoft's internal auditor was fired several years ago because he wouldn't go along with what he considered securities fraud? That he received a $4 million settlement with the company that included a gag order?

Given the penchant of this administration for secrecy, it may take us some time to find out just what the government's ties with Microsoft really are (how else to explain such a capitulation to an arrogant, unrepentant monopolist?). But I will do what I can to see that those ties are exposed, by writing letters such as this one, by staying informed, and by letting my elected Senators and Representatives know of my opinion. I am forwarding a copy of this e-mail to each of them.

Thank you for your time. I hope your future actions prove me wrong.

Jud Meaders

MTC-00027163

From: John Stevenson
To: Microsoft ATR
Date: 1/27/02 8:35pm
Subject: Comment for the Record Microsoft Antitrust Case

Dept. of Justice—Interested Parties

I believe that your prosecution of Microsoft is nothing less than an attempt to tear down a company that has earned its way in the marketplace. This country is about achievement and that means winning and losing. Your job is to simply keep your hands off the process.

Sincerely,
John Stevenson
1109 Don Gaspar Lane
Santa Fe, New Mexico 87505

MTC-00027164

From: jake—michel@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/27/02 8:38pm
Subject: Microsoft Settlement

To whom it may concern:

Currently the software development industry is at an inflection point. The monolithic application architectures of the 1980's and 1990's are giving way to architectures based on Object-Oriented design and XML-based interoperability.

With its .NET software initiative, Microsoft is providing the leadership that PC developers are looking for. Microsoft's work in the languages and tools area is critical work that enables thousands of independent developers to add value around the PC platform. My view is that Microsoft is stepping into a void caused by a failure in leadership at Sun Microsystems. Sun has impeded the market with legal tactics and government lobbying, to prevent desktop developers from innovating with modern programming languages. Sun, as a server vendor, has a vested economic interest in today's "dumb client," and has used legal and political tactics, as opposed to technological innovation, to preserve today's outdated status quo.

Technologists may look back at the 1998–2001 period as a period of frozen innovation, as competitors choose to compete on the basis of lawsuits and government budgets rather than deliver products desired by the market. In my opinion, much of the "dot.com" meltdown has been caused by technological stagnation around mid-1990's software architectures. The simplistic, dumb-terminal model of the HTML browser did not create a platform where programmers could create a distinct value proposition. The bottom line is that this industry needs to get back to work. Microsoft appears to be taking a leadership role in delivering to the programming languages and tools necessary to allow 3rd parties build the software systems of tomorrow. This is work that must go forward without further delay. The alternative is continued economic crisis in the Information Technology industry.

Sincerely,
Jason Michel
CC:jake—michel@yahoo.com@inetgw

MTC-00027167

From: Don
To: Microsoft ATR
Date: 1/27/02 8:38pm
Subject: Microsoft settlement

Microsoft won the settlement a long time ago. Let us move on.

MTC-00027168

From: jproud@micron.net@inetgw
To: Microsoft ATR
Date: 1/27/02 8:38pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Jerry Proud
Rt. 1 Box 67
Marsing,, ID 83639

MTC-00027169

From: Grady B Nichols
To: Microsoft ATR
Date: 1/27/02 8:41pm
Subject: Microsoft Settlement

Please accept the proposed Microsoft Settlement and move on to more important business. I believe Microsoft is being punished for being innovative and successful.

Grady B. Nichols
400 Kiowa St.
Montevallo, AL 35115–3671

MTC–00027170

From: rurich@tway.net@inetgw
To: Microsoft ATR
Date: 1/27/02 8:37pm
Subject: Microsoft Settlement

After review of the Proposed Final Judgment in the United States vs. Microsoft Corporation case, I find the proposed remedy to be insufficient to serve the public interest. The remedy fails to fulfill two of the three goals an appropriate solution should provide. This Proposed Final Judgment fails to prevent future antitrust violations by Microsoft, and fails to undo the consequences suffered from Microsoft's violations. I also believe the Proposed Final Judgment extends too much protection to Microsoft's monopoly of operating systems. Relevant chapter, section, subsection information will be enclosed in parenthesis where it is believed appropriate and beneficial.

Instead of preventing future violations, the Proposed Final Judgment seems to protect Microsoft from new threats. My main concerns are the limitations as described below:

(III.C.3) Limiting automatic launching of middleware to only "similar functionality" that Microsoft already delivers prevents new functionalities from being introduced. This section seems to guarantee Microsoft the right to decide what types of middleware may automatically run.

(III.D) By limiting the released APIs to only those Microsoft has already used in middleware, Microsoft is protected from middleware using new features Microsoft has not yet applied to middleware products. Essentially this guarantees Microsoft the first chance to use an API feature, and further the right to prevent some API features from becoming available to middleware products that might use those features in a way that could threaten Microsoft's operating system monopoly.

(III.H exception 1) This exception states Microsoft may invoke Microsoft middleware to interoperate with a server maintained by Microsoft. Microsoft's .net initiative seems to plan for the increased use of servers maintained by Microsoft for many activities. By allowing this exception, it may serve to allow Microsoft to invoke their middleware on an increasingly frequent basis, at least in part eliminating the ability for non-Microsoft middleware to effectively compete. Through this exception, Microsoft could also illegally maintain the Windows operating system monopoly, and even create new monopolies, by placing critical components of Windows onto servers maintained by Microsoft.

(III.H exception 2) This exception provides Microsoft the opportunity to override a non-Microsoft middleware product with a Microsoft one should the non-Microsoft middleware fail to implement a feature the Microsoft middleware implements. This seems to suggest Microsoft may be given the right to make sure a Microsoft interest will always function, which seems likely to allow further abuses of the Microsoft Windows monopoly.

The Proposed Final Judgment fails to undo the consequences of Microsoft's illegal anticompetitive behaviors. If Microsoft had not illegally maintained the high application barrier to entry, many things would certainly be available to a much broader range of operating systems, yet I can find no actions taken to undo these damages Microsoft inflicted. Further, Microsoft is actually rewarded for the antitrust violations they have been found guilty of.

Due to Microsoft's maintenance of the applications barrier to entry, a large amount of additional power and influence was gained by Microsoft. This gained power likely led to many new proprietary standards released by Microsoft having unnaturally high acceptance, rather than alternative standards being created that would not be under the control of Microsoft. Examples of standards released by Microsoft (not necessarily affected by Microsoft's antitrust violations) include, but are not limited to, Windows-Media Formats, Active Server Pages, and DirectX. It is essential to ensure functionality provided by Microsoft standards that would have been fulfilled by non-Microsoft standards had Microsoft not broken antitrust laws be available in a similar fashion to how the non-Microsoft standards would. Further, Microsoft should not be allowed to profit from such standards more than they would have had Microsoft not violated antitrust laws.

In regards to the rewards Microsoft will receive under the Proposed Final Judgment, (III.I) allows Microsoft to license (in addition to their legal intellectual property) the intellectual property that illegally gained value through Microsoft's anticompetitive behaviors. This results in Microsoft being provided with new revenue streams as a result of their illegal actions. This sets a bad precedent by allowing a company to violate antitrust laws, and then establish permanent revenue streams from those same violations.

I have another fairly minor concern about the definition under (VI.J) of "Microsoft Middleware", which states a major version is described as one with either a new name or a new whole number or number directly to the right of the decimal point. If Microsoft were to change their versioning system, it seems this could become ineffective. It also seems this may cause Microsoft to change their view of when a new version is worth the trouble of labeling with a new whole number or number directly to the right of the decimal point.

Overall, the Proposed Final Judgment seems to be lacking on many critical points, and provides no way to introduce future revisions should they be necessary to correct the oversights of the Proposed Final Judgment.

Richard Urich
rurich@tway.net
1146 Pointe Newport terr 208
Casselberry, FL 32707
(407) 493—7906

MTC–00027171

From: Eddie Birmingham
To: Microsoft ATR
Date: 1/27/02 8:44pm
Subject: Microsoft Settlement United States Department of Justice:

I am a Software Developer and have been watching the Microsoft case from the beginning. I DO NOT support the US DOJ's position on Microsoft for reasons I have outlined below:

1. The software I am developing is called TLMAXCAP (tlmaxcap.com). It is a program designed to help smaller companies/manufacturers, that ship product on semi trailers, manage their shipments. It includes functionality for importing data from their existing computer system, printing of important shipping documents like Carrier Confirmation Reports and Bills of Lading, and it allows an unskilled person to arrange the product on the trailer so that weight is distributed evenly over the entire trailer. This product was developed with Microsoft Access and Microsoft Visual Basic.

2. Furthermore, it is only because of products like MS Access and MS VB that this new software can be developed by one person (me), in a one bedroom apartment for under $7,000 and in only three months. In fact, the cost of the software was less than $1,200. This doesn't mean I couldn't have used another software alternative. It does mean it would have cost ME more time and money and the software would probably not have been as feature rich.

3. Furthermore, by using my software, companies will be able to cut down on the number of errors and mis-calculations in the shipping process. For example, one "standard" operating procedure in the shipping industry is to have a semi-trailer weighed before it actually "hits the road". If the load is not arranged properly (e.g. over-weight), the driver returns to the Shipper and has the problem resolved. Some of the benefits of reducing the number of times this "procedure" occurs, include: saving Driver time and money, less gas used (less pollution), saving the Shipper time and money, and better efficiency for everyone in the supply chain.

4. Furthermore, I believe these facts dispute the claim by the US DOJ that I am a helpless consumer. I know what I want and I know how to get it. I have molded Access and VB to fit my needs and have exploited the features of those two products to offer an exceptionally powerful product at an exceptionally attractive cost to Customers. I would challenge the Court to come up with a better solution to offer the same product, with the same features, as I have developed—real OR imagined.

5. Like most American's, I want to become successful. This level of success will be determined by me, but TLMAXCAP is a step in the right direction. It just so happens there is free software out on the Internet that does some of what my software does. Should I sue them? What if other competitors decide to lower their prices in response to my software? Should I sue them? Should they sue me for having a lower price? What if a price war breaks out and pretty soon my software is $1. I can't live off of $1 software.

so hopefully I would have a better business model that would allow me to outlive (in a business sense) some competitors so I could start charging something for my software again. Should they sue? Should I sue? Okay, so I won't give my software away, but at what price does it become anti-competitive?? It would be a race to the courthouse! Should I even be having these concerns?? How much am I going to have to raise the cost of my software by so I can have a little war chest just for litigation? Who wins??

6. Finally, I am not a Microsoft fanatic. I am not offering this information as a confession or a justification, but only so the Court knows my real view: I want the best products and I don't care who builds them; I believe the free markets and competitive nature within, will afford me this. I am typing this e-mail using Netscape and Netscape Navigator is my browser of choice. I hate IE and I have expressed this distaste to Microsoft and my reasons for this "hate". I would not use IE simply because Microsoft developed it (that would make me a fanatic). In fact, my *only* complaint about Netscape is that whenever I hear about this DOJ vs. Microsoft case I am reminded that one of the major players is Netscape (AOL, now) and that leaves a bad taste in my mouth—that I am actually supporting the very anti-competitive vermin responsible for this whole mess. I would only like to point out that Netscape was able to beat its previous competitor, Mosaic, with a better product, Navigator (it was once just called Netscape). Mosaic was Free, but Netscape was better. So if Netscape was able to beat Mosaic in the free markets of the United States, why can't they beat IE?? If Netscape was still trying to be competitive (which this Court Case has assured is not happening) they would be out showing the world how their browser is better because it doesn't crash as often, it doesn't do a bunch of stuff on their PC they don't know about, they are less prone to virus attacks, they are much easier to configure, they aren't tied into a million other parts of the OS so there are less parts to break, etc. etc. In any case, I think this is a question for the market place to answer, and not the Courts.

Thank you for your time,
Eddie Birmingham
burma@qwest.net

MTC–00027173

From: r.w.vavra@worldnet.att.net@inetgw
To: Microsoft ATR
Date: 1/27/02 8:41pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Robert Vavra
9897 SE 178th Place
Summerfield, FL 34491

MTC–00027174

From: Jeff Beverly
To: Microsoft ATR
Date: 1/27/02 8:48pm
Subject: Microsoft Settlement

I think that it would be wise to settle for the terms that Microsoft has agreed. The Microsoft Corporation has produced and licensed high-quality software products to the World. Their software is far superior to anything that I have tried using. They have, in no way, stopped other companies from competing with them. If Microsoft wants certain computer makers to bundle only Microsoft products, that's there business. If I don't want to use Microsoft products on my computer, I won't buy the computer that is only bundled with Microsoft products. I'll buy something else. There are plenty of computer manufacturers from which to choose. It is not Microsoft's problem that no other computer software maker can make an operating system as functional as Windows. The successes of Microsoft have been remarkable, and companies like AOL, Netscape, and Sun Microsystems are jealous of that success. It was wrong for the United States government to take sides with the "cry baby" companies and weaken, perhaps, the most successful and technology-driven company in the world, The Microsoft Corporation.

Sincerely,
Jeff Beverly

MTC–00027175

From: J.B. Nicholson-Owens
To: Microsoft ATR
Date: 1/27/02 8:54pm
Subject: Microsoft Settlement

Dear Your Honor,

Pursuant to the Tunney Act, I wish to comment on the proposed settlement of the Microsoft case. I feel that this settlement would be contrary to the public interest, and I strongly oppose it. The proposed settlement would cement Microsoft's market dominance (a dominance largely realized through unsavory means) and, more broadly, it would seriously harm competition and innovation in the computer industry. Both of these outcomes are highly undesirable.

The cornerstone of this case involves competition. Historically, rival firms and developers have found it very difficult to compete with Microsoft for two main reasons; Microsoft's proprietary file formats and proprietary Application Programming Interfaces (APIs). APIs function as an interface that allows different software programs to interact with one another; for example, APIs allow a word processing program to work together with a computer's operating system. The problem here is that Microsoft prevents competition by using secret APIs; Microsoft's applications and operating systems employ undocumented program instructions (that is, program instructions that are not publicly released). Microsoft places valuable functionality in secret APIs and thus prevents competition from leveraging that functionality. For example, while many developers can write a word processor to attempt to compete with Microsoft Word, a non-Microsoft word processor will never offer certain features available only through secret APIs—features only a Microsoft word processor (such as Microsoft Word) is able to provide.

Furthermore, Microsoft's management of its file formats also stifles competition. In addition to being secretive with the details of critical file formats, many Microsoft application file formats change with successive versions of the program; for example, from one version of Microsoft Word to the next. These shifting file formats are primarily designed to prevent competition. By rendering it impractical for potential competitors to develop compatible substitutes which read and write Microsoft file formats—a critical step in making a viable product—competitors are unable to supply a fully compatible alternative to Word or other Microsoft programs. It has been difficult to write a fully compatible Microsoft Word alternative because determining the Microsoft Word file format is both undocumented and changing. As a result of secret APIs and secret changing file formats, rival products are rarely developed.

Given the critical roles played by APIs and file formats, it is crucial that any proposed settlement do three things:

1. Force Microsoft to disclose all of the file formats and APIs available in all shipped products (including future enhancements). This will end the secrecy around Microsoft's file formats and APIs which will help remedy Microsoft's prior abuse of their monopoly.

2. Force Microsoft to use only disclosed file formats and APIs in products it will ship from now on. This will prevent future abuses by preventing Microsoft from using newly invented secret file formats and secret APIs. Microsoft would remain free to innovate and improve their software by changing their APIs and file formats as needed, but they would be forced to distribute programs built solely on disclosed file formats and APIs.

3. Allow anyone to develop software programs with the disclosed file formats and APIs. This, taken with the previous two actions, will allow viable competition with Microsoft. Just because specifications are documented does not mean other developers are free to develop software based on those specifications, hence the need for this third settlement term.

The settlement in question does not do any of these things; rather, Microsoft is free to continue its past practices. If one clause requires publication of an API or file format, for example, it is accompanied by another clause that prevents a competing developer from actually using that information. The final judgement leaves Microsoft free to continue shipping software that uses secret APIs and secret file formats. Nothing in the final judgement allows for or requires provision of Microsoft APIs and file formats in a way that will encourage markets and competition.

Frankly, this situation is no different—and no better—than the one that prevailed before the filing of this Microsoft anti-trust case. Given this, it is obvious that an alternative policy is required, one that will promote fair competition, and, fortunately, the broad outlines of such a policy are clear. Simply put, Microsoft must be compelled to compete. They must be required to publish all their APIs and file formats (including future enhancements) with the agreement that other firms can write software that complies with these Microsoft specifications. Microsoft must also be required to use only the published file formats and published APIs in shipped products so they cannot continue the anti-competitive practice of developing secret functionality. Such an approach would have numerous benefits. First, real competition would be a boon to consumers. Consistent with the fundamental principles of markets, this would be likely to provide lower software prices in many cases. Furthermore, competition would also provide a wider product range. Given Microsoft's general dominance, most users are afraid to use non-Microsoft products because they are justifiably concerned that their existing Microsoft-based files or documents will be incompatible with non-Microsoft programs. Clearly this discourages development by other firms, and it locks users into obtaining and using a single product.

By shipping software using only published file formats and APIs, however, competing firms would have an incentive to develop competing products, some of which would undoubtedly provide greater satisfaction and value for many consumers. Finally, competition would spur innovation and development in the software industry. In many cases, frankly, Microsoft products have prevailed because of market dominance rather than quality. Microsoft products contain many undesirable features—vulnerability to viruses, poor privacy protection and so on—which have been allowed to arise and persist because there is little or no pressure to fix them; consumers disillusioned by poor Microsoft products typically have nowhere else to go. Clearly, competition is the remedy for this.

To restate and conclude, the point here is simple: competition. Competition is the cornerstone of the market, and, if allowed to flourish, it usually works well. Microsoft knows this and Microsoft has been working very hard to stifle viable competitive alternatives. You have the power to limit their aggression against competition by refusing the settlement on the grounds that it does not adequately address Microsoft's actions in regard to their handling of file formats and APIs. Please don't let Microsoft continue to prevent consumers from enjoying better computer systems, and please encourage a situation where people can pick products based on their merits rather than on a Microsoft monopoly. Please help contribute to an atmosphere which will foster innovation and development in this vital sector of the economy. Please reject the Microsoft settlement, because it will allow Microsoft to continue making a mockery of consumers, competition, and the computer industry.

Sincerely,

J.B. Nicholson-Owens
P.O. Box 2412
Station A
Champaign, IL 61825–2412

MTC-00027176

From:OldManFromSceneTwentyFive
To: Microsoft ATR
Date: 1/27/02 8:49pm
Subject: Microsoft Settlement

I am writing with respect United States v. Microsoft proposed settlement. As a student of technology, specifically Electrical and Computer Engineering, and an Open Source (GNU General Public License) advocate, I have a somewhat unique vantage point from which to analyize Microsoft's reign over the PC industry. When Microsoft's overpriced products are compared with open-source free products it becomes clear that something is wrong. The software that Microsoft offers, in terms of security, useability, and stability, is putrid. The situation is somewhat akin to rope and rats being processed into canned meats before regulations were passed. Unfortunately, simple regulations are not possible in this quickly evolving field. The only force capable of protecting the public is competition. Microsoft's monopoly is like no other. The nature of the electronic frontier allow many new ways for Microsoft to stifle competition, and as a result they will always be one step ahead of the law. This is why I believe much stronger action is required. I favor honorable judge Thomas Penfield Jackson's suggestion, that Microsoft be required to provide accurate disclosure of, and support for, their programming interfaces (APIs, see Jackson's Finding of Facts), enabling third parties to develop interoperable systems with Microsoft's own offerings.

Eric Innis (transient—earthworm@yahoo.com)

Faux Pas III <fauxpas@temp123.org> wrote:

Under the provisions of the Tunney act, American citizens have the right to comment on federal antitrust settlements such as DoJ vs Microsoft.

Information about the suit, including the text of the proposed settlement, are here:

http://www.usdoj.gov/atr/cases/ms—index.htm

To let the federal government know how you feel about the settlement, send mail here, subject 'Microsoft Settlement':

microsoft.atr@usdoj.gov

Inside sources say that responses received thus far have been overwhelmingly in favor of Microsoft, and have mostly come from Microsoft employees and others that the corporation has solicited to submit their opinions.

In case anybody cares, here's what I said.

I am writing with respect to my concerns with the settlement reached with Microsoft in the DoJ suit, regarding anticompetitive practices and abuse of monopoly power. I am a professional working in the field of computer network security, and I have witnessed throughout the years a host of situations in which the American public have been victimized by Microsoft's abuse of their overwhelming monopoly. Based on my reading of the proposed settlement, I feel obliged to comment that the remedies put forth thereby will be greatly inadequate to reintroduce competition into the numerous markets currently owned by Microsoft, or to mitigate the tangible damage in terms of both direct financial loss and, indirectly, through an absence of customer service, attention to security and stability and the end-user's rights of fair use.

As an alternative remedy, I favor the suggestion put forth by the honorable judge Thomas Penfield Jackson, that Microsoft be required to provide accurate disclosure of, and support for, their programming interfaces (APIs, see Jackson's Finding of Facts), enabling third parties to develop interoperable systems with Microsoft's own offerings. This would, in my opinion as a computing professional, reintroduce customer choice into the marketplace and encourage merit-based competition, ultimately benefiting consumers through improved value offerings as well as a more rapid pace of innovation, which has been largely stifled during the period of Microsoft's unshakeable dominance.

In short, I wish to cast my voice into the pool of those who, as registered voters and as active participants in the United States economy, insist that Microsoft's transgressions be dealt with fairly, decisively, effectively, and expeditiously.

Josh Litherland (fauxpas@temp123.org)

"give me my shoes, and Ill give you your eye."

MTC-00027177

From: PCJorgensen
To: Microsoft ATR
Date: 1/27/02 8:48pm
Subject: Microsoft Settlement

To the Department of Justice:

I am still trying to figure out how Microsoft has hurt consumers by possibly costing us a few extra dollars for software. I have a choice in buying software. I didn't have a choice when I got locked into AOL's infamous 5.0. Three years ago, after going through several months of abysmal service from AOL, I decided to change to MSN. I found out the hard way that AOL 5.0 was set up so that I could not change my ISP to MSN. I was locked into AOL without my consent and AOL refused to do anything about the problems, except to tell me to "just reload AOL and IE". After the fifth or sixth run-through with AOL "techs", I gave up and bought another computer to make the change to MSN. MSN was a huge upgrade in service for half the price of AOL through my local Costco. That is consumer injury, not allowing us to make our own choices. I have heard of quite a few others who had the same problem when a family member innocently downloaded a "free" AOL diskette or CD and was locked into AOL. How many of AOL's millions of users are in the same situation? Once it's loaded, you are locked into it without some expensive tech work to change the mistake. AOL is still advertising their version 5.0 on some internet sites. Whatever the DOJ believes Microsoft overcharged me was peanuts compared to what AOL cost me.

AOL was one of the original complainers in the MSFT suit, now they are whining again that MSFT has damaged them in the "browser wars". In 1996 when I began on AOL, Netscape was part of AOL, but if you had problems with Netscape, you were out of luck. MSFT gave away IE and had good consumer help with any problems. Consumers who got fed up with Netscape chose IE, and the rest is history.

AOL is whining because they got stuck with a loser, but consumers have the right to choose the best product for them.

My husband and I scrimped and saved to buy Microsoft and other stocks over the last ten years as part of our retirement funds. We watched helplessly as our retirement funds dropped by the day as the Microsoft debacle went on, even crashing our employee IRAs. Washington Mutual Bank pulled a scam on our family that cost us over $65,000, then hid behind lawyers, legal jargon and a tiny loophole in the law. I have spent two years battling them to correct the problem with no success. Consumer protection by the DOJ? What a joke.

Patricia Jorgensen
3503 Alaska Road
Brier, WA 98036
(425) 481–7186
PCJorgensen@msn.com

MTC–00027178

From: David Nordgren
To: Microsoft ATR
Date: 1/27/02 8:54pm
Subject: Microsoft Settlement

Greetings,

I wish to voice my concern about the proposed settlement with Microsoft: Section III.A.2 does not prevent Microsoft from retaliating for personal computers shipped by OEMs with only a non-Microsoft operating system installed. This is a traditional non-competitive practice by Microsoft which unduly strengthens their position in the marketplace.

The judgement is behavioral only and does not offer punitive remedies.

As a citizen I am very concerned that corporations be subject to punishment for wrongdoing. In my view the anti-competitive behavior by Microsoft was quite significant and there should be proportionate punitive remedies.

Regards,
David Nordgren
9174 West Branch Road
Duluth, MN 55803

MTC–00027179

From: David Bednarczyk
To: Microsoft ATR
Date: 1/27/02 8:56pm
Subject: Microsoft Settlement

The proposed settlement is only going to give Microsoft another market to consume. The education market has been an Apple domain and still is a viable solution for educators. Microsoft "donating" PC hardware and software will only further their strong hold in the PC world. Microsoft should give money to the schools to be used for whatever technology is needed.

Thank you,
David Bednarczyk
Senior IT Manager
dbednarczyk@earthlink.net

MTC–00027180

From: Dale Pontius
To: Microsoft ATR
Date: 1/27/02 8:53pm
Subject: Microsoft Settlement

To Whom it my concern:

I am writing my comment on the proposed settlement of the United States vs Microsoft antitrust case, under the Tunny Act.

I do not believe the proposed settlement provides for any significant benefit to the consumer or improvement in the competitive landscape of the software industry.

Microsoft's past and present actions in monopoly maintenance and extension have two key bases: control of Standards such as Programming Interfaces and file formats, and preload agreements to have their Operating System installed on the vast majority of new PCs sold. I will address inadequaces of the proposed settlement on each point, in turn.

The issue of Interface Documentation should parallel cases of ATT and IBM, but it falls far short. First, by "Interface" I mean more than just the "Windows API" cited in the settlement. This should include not just "Applications Program Interfaces" (APIs), but "Systems Programming Interfaces" to enhance competition in middleware development, "Wire Protocols" to preserve competition in Internet, multimedia, and communications development, and "File Formats" to restore competition in Office software, as well as other areas.

To expand on the 'File Formats' for a moment, my neighbor was recently "forced" to purchase Microsoft Office, even though he prefers Word Perfect. He needs to exchange documents with colleagues, they use Microsoft Word. Word Perfect offers import/export abilities for Microsoft Word documents, but because the File Format changes subtly (and unnecessarily, for any reason other than anti-competition, according to some) with every release, it is impossible for any other company's product to interoperate correctly.

Standards are supposed to be stable, and allow interoperation. That was the effect of the antitrust actions against ATT and IBM. Telephone and computer interfaces were properly opened and documented, and certain amounts (6 months review) of stability inserted to allow competition. To me, Microsoft's "use" of standards seems akin to either malfeasance or misfeasance. Either they are wielding standards as a weapon, to hinder competitors, or they are terribly inept at crafting stable standards. In either case, it is dangerous and counterproductive to leave the situation as-is.

The proposed settlement seems oriented more toward allowing inspection of source code by corporate competitors, and makes numerous allowances for exclusion. To begin, merely inspecting source code can give insight, but is far from proper documentation. Second, in the PC Operating System marketplace, the only competitor Microsoft has is not a corporation at all, but a loose assortment of volunteer individuals. That the /only /significant PC OS competitor is based on volunteers and free software is telling, and the proposed remedy does nothing to assist this effort, rather it may well hinder it.

My second main basis of contention was preload agreements. If I buy a PC from a large manufacture, I essentially have no choice but to receive Windows. While a previous court decision outlawed per-CPU licensing, Microsoft was free to set contracts that essentially amounted to the same thing. They can also the discount rate (price below retail) to enforce their terms, because the profit margin is so small, and a good discount on Windows can make the difference between profit and loss. The PC manufacturer cannot refund my money, and nor will Microsoft. (because Microsoft's customer is the PC maker, not me.) So essentially, Microsoft has guaranteed income based on other companies" production, also not based on their performance. What other company enjoys substantial income independent of their actions? How can /any company/ compete effectively with them?

For this problem, I would suggest the additional remedies: The cost of Windows must be itemized as part of the cost of the PC visible to the customer, and Microsoft must refund that cost upon request and suitable assurance that the Windows license has not been used by the customer.

Perhaps the customer needs a 'decline license' option upon first boot.

A final item related to this OS license issue. Microsoft must not force conditions upon PC manufacturers that will render PCs unbootable by any OS other than Windows. Microsoft already puts obstacles in the way of multi-booting Windows alongside other OSs, I've lived with them for years. At the very least, those obstacles cannot be allowed to become more onerous.

Thank you,
Dale Pontius
DEPontius@edgehp.nols.com

MTC–00027181

From: krckrc@mail.frii.com@inetgw
To: Microsoft ATR
Date: 1/27/02 8:56pm
Subject: Microsoft Settlement

To Whom it May Concern:

I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case.

One of the weaknesses I perceive in the proposed settlement is that does little to force Microsoft to open up its APIs, communications protocols, and file formats to allow interoperability between Microsoft and non-Microsoft software products. Do the complexity of the Microsoft interfaces whatever mechanisms used to enforce their openness must be proactive and penalties swift and sure in order to get the interfaces documented in a complete and timely manner. Microsoft should also be prevented from using patents on various aspects of its interfaces to limit their use by others.

Sincerely,
Kenneth Chaney
Fort Collins, Colorado
CC:krckrc@frii.com@inetgw

MTC–00027182

From: PCJorgensen

To: Microsoft ATR
Date: 1/27/02 8:55pm
Subject: Microsoft Settlement

To the Department of Justice:

Re: Microsoft Settlement I am John D. Jorgensen, a 36-year Boeing Aircraft Company employee, an Aeromachinist union steward and have had perfect attendance for 25 years.

Antitrust laws were written for the consumer, not competitors of companies! The only consideration the government has given is to Microsoft's competitors, leaving the consumer out in the cold. Microsoft has never done anything to damage me, AOL has damaged me severely. AOL ruined my computer with their 5.0 virus software so that I was unable to use any other service provider. AOL is a predatory monopoly.

They give away free CDs and diskettes, you load it into a computer and then you are locked into AOL.

Your system is ruined and in many cases the hard drive is also ruined. AOL is more expensive than other ISP's but you cannot use them. The government has sued the wrong company. They don't listen to the consumer.

The Department of Justice is doing the bidding of AOL/Time Warner, Oracle and Sun Microsystems in the name of saving the consumer a few dollars on software. The government has crashed the stock market, ruining working people's 401K's to the tune of six trillion dollars. The Justice Department should be ashamed. Read the case with an open mind, not through the eyes of Penfield Jackson. Why did he rule this way with no evidence? The Justice System has to protect the 18 states and their attorneys-general. I believe the constitution (Article 1, Section 10) will prevail in this one and we will have 18 bankrupt states, this is a very sad thought, when it should come back against AOL, Oracle and Sun.

It's absolutely appalling that a company like AOL should be allowed any input in this case. The government has let the AOL, Sun Microsystems and Oracle foxes into the hen house. The Justice Department also has an obligation under law to not damage Microsoft stockholders, most of whom do not work for Microsoft. Just the opposite has happened. The 18 states" attorneys-general sensationalized the trial and did talk shows. Eighteen states have disgraced our monopoly justice system. They should have no say in this as they are a "minority of states".

I am very unhappy with the Justice Department and have lost confidence in the rule of law. I think the case against Microsoft should be dropped. Period. I have read everything written on the case, and this is a horrible miscarriage of justice.

Sincerely,
John D. Jorgensen
3503 Alaska Road
Brier, WA 98036
(425) 481-7186
PCJorgensen@msn.com

MTC-00027183

From: michaeljanet.mcauliffe@verizon.net@inetgw
To: Microsoft ATR
Date: 1/27/02 8:54pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Janet McAuliffe
11407 17th Pl. NE
Lake Stevens, WA 98258

MTC-00027184

From: Curtis A. Ridgeway
To: Microsoft ATR
Date: 1/27/02 8:57pm
Subject: Microsoft Settlement—Make Them Hurt

To Whom It May Concern,

Microsoft is unethical in its business practices and has shown no remorse. Nothing can be done to made them ethical.

—Make them provide source code to competitors to allow for for interoperation

—Make them provide internal software specifications to competitors.

I recommend MicroSoft be broken up into 2 or 3 parts to allow for competition just like what was done to the phone company.

A fine should be about $40 Billion real dollars (It must hurt):

Half for the companies they destroyed like Netscape and half as a fine to be paid to the IRS to offset everyone else's tax burden. It should not be software which is free to them and only increases their monopoly.

Microsoft should be forced to make a reliable product and provide free customer support.

Everyone suffers from their poor quality and system engineering practices. IBM is known as big blue. Windows is known for the "Blue Screen" of the computer crash.

Just my opinion,
Curt Ridgeway CC:ridgeway@cruzio.com@inetgw,logicace@pacbell.net@in...

MTC-00027185

From: Charles Aunger
To: Microsoft ATR
Date: 1/27/02 9:00pm
Subject: Microsoft Settlement
January 17, 2002
Attorney General John Ashcroft
U.S. Justice Department
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

At long last, this debacle of an antitrust trial between the government and Microsoft has sputtered to a settlement. While the settlement is weighed slightly against Microsoft, it at least has the advantage of ending the litigation.

This entire lawsuit was, I believe, grounded in much misinformation and misunderstanding. A company's "dominance" in any particular market does not necessarily mean that it has achieved that status through anything other than legal—albeit aggressive—means. I believe this to have always been true of Microsoft. Microsoft never manipulated the marketplace to force anyone to purchase its system. Rather, its pricing policies, its integration, and its reliability attracted most people to its product. This is enviable, not despicable.

When our government engages in a mission to "level the playing field" for all, there is the natural side effect of having to "dumb down" those that have been successful, and force them to either step aside, or give away their hard-earned successes to those less fortunate souls who are not as creative or as industrious. This attitude is reflected in the settlement. Microsoft is being forced to give up some of its source code to others in order to satisfy the government need to level the IT playing field.

While it is useless to object, I find that the settlement at least has the advantage of ending the contentious nature of the trial. For this reason alone, I find myself supporting it.

Sincerely,
Charles Aunger
Chief Technology Officer
PO BOX 470671, CELEBRATION,
FLORIDA, 34747-0671
www.vhinternet.com, TEL: 407 709 6559
FAX: 407 650 2703

MTC-00027186

From: aty@mintaka.sdsu.edu@inetgw
To: Microsoft ATR
Date: 1/27/02 9:00pm
Subject: Microsoft Settlement

I wanted to let you know I think the proposed settlement of the anti-trust action against Microsoft is entirely too lenient, considering the fact that their anti-competitive actions have been well documented and established in the courts.

I suggest the best action to take, for the benefit of the computing public, would be to force Microsoft to publish their source code. This would allow the numerous bugs in it, which Microsoft has shown little interest in fixing to be cleaned up by the many capable programmers. As an example of how effective this process can be, take a look at the Open Source industry, and the Linux operating system in particular.

—A. T. Young
(aty@mintaka.sdsu.edu)

MTC-00027187

From: Angela
To: Microsoft ATR
Date: 1/27/02 9:00pm
Subject: Microsoft Settlement
Mrs. Angela M. Rasely
H.C. 1, Box 2055
Tannersville, PA 18372-9030
570-620-9506
arael@uplink.net
January 27, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you to show my support of the proposed settlement between the US Department of Justice and Microsoft. I feel this agreement is fair and that it is in the best interest of the people that this case comes to a final end. Budgets at the state and federal levels have been exhausted and we need our government to conserve resources.

Three years has been too long for this lawsuit to occur. I am happy to see that the terms of the settlement do not break up Microsoft. The concessions do not let Microsoft off easy as they will be forced to disclose for use by their competitors internal interfaces and protocols. They will also be forced to grant computer makers broad new rights to configure Windows so as to make it easier for competitors to promote their products.

So, although flawed, I support the settlement and ask your office to suppress opposition and make the settlement and reality. Thank you for your time.

Sincerely,
Angela Rasely
cc: Senator Rick Santorum

MTC-00027188

From: tom.crosby
To: Microsoft ATR
Date: 1/27/02 9:01pm
Subject: Microsoft Settlement

Please see attached.

January 27, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft, Apparently, the federal government defines "success" as meaning "antitrust" and seems to derive great satisfaction from misapplying this incorrect definition in order to destroy "overly successful" American companies such as Microsoft. It really is a shame, and I am very glad a settlement was reached that keeps Microsoft intact.

This is the second time I have seen the federal government go after a successful company. Unlike Microsoft Case, the company in the second case was small, very successful and growing very quickly. There was also a much larger company selling the same products, in the same market. Yet, because a competitor complained, the government argued that the company was a monopoly in the marketplace (defined to be the users of its equipment). Since the larger company was also very successful, growing rapidly, and could supply an alternative system, it is hard to understand the thinking in this case. In both cases, the real issue seems to be that there were mistakes made by management in their strategy and tactics in dealing with a competitor. Rather than admit they made these mistakes, they have decided to blame someone else for their failures and try to obtain additional rewards for their poor work.

Unfortunately, the litigation cost American taxpayers and the Companies untold millions of dollars to prove one thing: the government egregiously misapplied outdated antitrust law, written for nineteenth century smokestack industries, to 21st century technology innovation and business practices.

While the settlement may spare Microsoft from being broken up, it still applies stringent requirements that will substantially force it to change the way it conducts business. I will not list all of them, as I am sure you are familiar with the settlement. Microsoft agreeing to cede its source code for the Windows operating system to its competitors is unprecedented in an antitrust settlement, and ought to indicate the magnitude of this settlement

The High Technology Industry is an industry where prices go down every year and product functionality improves. I do not understand why the Government thinks this is harmful to consumers. If this settlement is done incorrectly, I think the consumer will end up paying more, especially for support. Support will become a disaster as more vendors add their software and do no integration testing with all the other vendors" software. I hope you will close this case quickly and with the least possible damage to the computer end user.

Sincerely,
Thomas W. Crosby Jr.

MTC-00027189

From: Craig
To: Microsoft ATR
Date: 1/28/02 1:02pm
Subject: Microsoft Settlement

Microsoft has for years used illegal and unethical means to secure a monopoly in the computing industry.

As I understand the workings of anti-trust law, this calls for (among other things) divestiture of all profits made from the illegal activities.

The proposed school settlement plan brought forth by MS and the DOJ, would be a reward rather than a punishment. This settlement would allow Microsoft to extend it's monopoly into one of the few areas it has been unable to penetrate through it's normal, devious devices.

The proposed settlement also, simply put, does little to insure future compliance with the law, as it has far too many loopholes and lacks harsh enough penalties, if they violate it or other anti-trust laws in the future.

I would submit that this is the time to send a message to industry that, crime doesn't pay. The only way to accomplish this is through large fines, which would take away all the profits they have made from their illegal activities.

The only way to insure against future infractions, would be to include a "Crown Jewel" clause, such as disclosure of their source code, or forcing them to re-license it under the GPL.

I further submit that the arrogance and contempt shown by MS throughout the previous proceedings... the very thing that drove the original judge to distraction, should be considered heavily in this matter. Gates and Company have shown nothing but contempt, for our legal system, for the free enterprise system, for the computer field, for our government and for their customers.

I beg you to do something that will actually have an affect on MS... not just give them a slap on the wrist.

MTC-00027190

From: Lois M. Russell
To: Microsoft ATR
Date: 1/27/02 9:02pm
Subject: Microsoft Settlement

Gentlemen:

It is my judgment that the proposed Microsoft compromise settlement as worked out will be beneficial to all users and want to add my support to the settlement. I understand some competitors are fighting this settlement, but it seems to me this matter has dragged on long enough and should be brought to a speedy conclusion now that a settlement has been agreed upon.

I hope you are able to complete this matter swiftly.

Lois M. Russell

MTC-00027191

From: Alan E.
To: Microsoft ATR
Date: 1/27/02 9:03pm
Subject: Microsoft Settlement

Microsoft has forged the path to the future in the computer industry, giving us quality products at an affordable price. Because of Bill Gates, even those who would destroy Microsoft are able to successfully operate computers. Microsoft's competition has faltered for one reason: Microsoft is the best. The government's assault against our nation's finest businessman is a travesty and an affront to the concept of liberty.

Alan Edwards

MTC-00027192

From: Ahearncj@cs.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:03pm
Subject: Microsoft Settlement

We are strongly against the state of Florida and other states pursuing litigation against Microsoft.

The outcome of this action will only be incompatible with the interests of consumers of Microsoft products. The main consequence, we believe, will be in the development of inferior products that cost more and do less.

Additionally, Microsoft needs to be remunerated for its innovative product rather than being punished by giving away information to competitors. An immediate settlement with Microsoft, without further costly litigation, is in the consumers interest rather than pumping up the CV's of the various Justice Department members.

James P. Ahearn, M.D.
Carol M. Ahearn

MTC-00027193

From: Richard Forno
To: Microsoft ATR
Date: 1/27/02 9:02pm
Subject: Microsoft Settlement
CC: rforno@infowarrior.org@inetgw

I write to comment on the proposed settlement between the US Department of Justice and Microsoft (the Proposal). I believe that the Proposal makes progress in the right direction, but does not go far enough.

For the record, I am the Chief Technology Officer for a Dulles, VA information security firm that works closely with the US national security community. I am the former Chief Security Officer for Network Solutions, Inc. (acquired in June 2000 by VeriSign) and have held other information security positions in the United States government, including the US House of Representatives.

I am the co-author of "The Art of Information Warfare (1999) and "Incident Response" (2001) and pen a recurring column on information security topics at Securityfocus.Com. Further, several of my security-oriented whitepapers are available at my personal website, Infowarrior.org. I am also a frequent conference presenter and an adjunct lecturer at the American University, and conduct recurring lectures at the National Defense University in Washington, DC.

I wish to thank Paul Johnson for his invaluable assistance in drafting many of the following paragraphs, which voice the comments of many others in my profession.

I strongly urge an appropriate outcome that favors the computing community and not the proprietary and profiteering needs of a proven monopoly.

/s/
Richard F. Forno
Chief Technology Officer
Dulles, Virginia Security Firm
www.infowarrior.org (personal site)
rforno@infowarrior.org

Summary of Key Issues

Microsoft holds a dominant position throughout the software industry. A remedy which deals exclusively with "middleware" is not sufficient. All Microsoft software should be covered.

Microsoft's monopoly position is founded on its control of proprietary interfaces. Microsoft products are linked through a network of proprietary interfaces, making it difficult for competitors to produce software that will inter-operate with Microsoft software. If the proprietary interfaces were published then competitors could produce software that competed directly with Microsoft without the expensive and error-prone process of reverse engineering.

These proprietary interfaces are in the form of file formats, network protocols and APIs. All three need to be made available to competing products.

Where two Microsoft products work together the interface between them can best be made available by setting up a "Chinese wall" between the development groups responsible for them, and then requiring Microsoft to publish all the technical data that is exchanged between these groups.

Where one copy of a product communicates with other copies of the same product (such as when an MS Word document is sent to another MS Word user) the file format or communication protocol should be published in a form which allows independent verification that the product conforms to the published description.

The "security related" exception to disclosure should be narrowed to include only keys, passwords and similar security tokens.

Microsoft's Position

Microsoft currently holds a dominant position in the computer software industry, and as I shall show below it maintains this position through control of proprietary interfaces.

Over the past decade Microsoft has repeatedly demonstrated a willingness to evade or ignore regulations aimed at curbing its monopoly power. There is no reason to expect this behaviour to change. Therefore any effective remedy must be drafted to block not only the past misdeeds of Microsoft but any it might devise in the future. The rules under which Microsoft is to operate must be unambiguous and, as far as possible, free from the need to make value judgments as to whether Microsoft has fulfilled its obligations sufficiently. Any such judgments will may be used as delaying tactics by Microsoft.

Product Tying

The current case was originally concerned with the alleged tying of Microsoft Internet Explorer with Windows 95, in violation of anti-trust law. However the list of features which users expect to find in an operating system has evolved over time, and continues to do so. A previous example concerns "disk defragmenters", which optimize the arrangement of data on a disk in order to speed up access. Before Windows 95 these programs were sold separately by competitors to Microsoft. When Windows 95 was released it included a disk defragmenter. The competing companies could no longer sell their existing products, but there was no public outcry because disk defragmentation is generally considered to be a function of the operating system.

Suppose that ten years ago Microsoft had been effectively prevented from adding new features to Windows: today a modern PC would have to include a dozen or more small packages of software which would be more economically produced and sold as a single product. Computer vendors would have to purchase and integrate all of these small packages, and buyers would have to cope with a bewildering checklist of small but important items that they would have to ensure their computer included.

Thus a fair and effective remedy cannot enjoin Microsoft from ever bundling new functionality in its products, even when a market for that functionality already exists in third party products.

The Proposal also sets rules for the related issue of the "Desktop".

This properly prevents Microsoft from ensuring that its products are more prominent on the desktop than those of its competitors. Such user interface concerns are important, but are not the subject of this note.

Interfaces

The Proposal concentrates on the "Application Programmer Interfaces" (APIs) to Microsoft "Middleware" (a vaguely defined term, roughly meaning software that sits between the operating system and the applications employed by end users).

The Proposal is right to concentrate on interfaces. Microsoft has always used proprietary interfaces to manipulate the market and lock out competition. To illustrate how this works, suppose Microsoft sells products Foo and Bar which communicate via a proprietary interface. I purchase Foo, and subsequently want the added functionality of Bar. There may be many competitors in the market for Bar, but they are effectively excluded from my consideration because their products cannot communicate with Foo.

Similarly if copies of Foo communicate with each other through a proprietary interface then anyone wishing to work with me must also purchase a copy of Foo. This creates a "network externality" which ensures that, even in a competitive market, the best option for an individual consumer is the product with the largest market share, since this brings them into the largest population of potential collaborators.

By creating a web of proprietary interfaces, both between products and between its customers, Microsoft has ensured that it is locked into its market in a way that has never before been possible. It is this stranglehold on the market for software that must be broken. Since Microsoft has used its control of proprietary interfaces to achieve this, it is on interfaces that any effective remedy must concentrate. The focus of the Proposal on "middleware" is misguided. It excludes applications and operating systems, which are the two areas where the monopoly power of Microsoft most needs to be restricted. Furthermore its vague definition creates too much opportunity for Microsoft to redefine critical interfaces as something other than "middleware", leading at best to argument and delay.

Examples

It is worth looking at two of these interfaces to see how they lock Microsoft into the market.

Microsoft Office is the leading "office productivity suite". There are competitors, but they are critically hampered because their users cannot reliably exchange documents with MS office users. Some degree of inter-operability does exist, but this has been enabled by painstaking "reverse engineering": the competitor can only learn about document formats by inspecting the files created by Office and trying to deduce how each part of the document is encoded in the file. This process is expensive and error-prone, and Microsoft can always introduce new features faster than they can be reverse engineered. As a result no existing competitor to Office can reliably import a complex document. Consumers know this, and therefore avoid these competitors. This prevents the competitors from gaining market share, no matter how good their products might otherwise be.

The Kerberos security protocol was developed by MIT and has now become an important component of many systems. Microsoft included Kerberos support in Windows 2000, but with a small change. Kerberos is an "authentication" protocol: it guarantees that the parties to a transaction are who they say they are. Microsoft added authorization data to the protocol. This meant that Windows 2000 would only grant access to shared files and printers if the Kerberos "ticket" presented by the user had been issued by a Windows 2000 server. This appears to have been an attempt to lock competitors (including the freely available MIT server) out of the market for Kerberos authentication products. In response to a public outcry within the computer industry Microsoft first insisted that the format of its extra data was a trade secret, and then released the data on its web site under a "click-through" license under which the recipient promised to keep its contents a secret. I will return to this strange license later in the section on Open Source Software.

The net effect of this web of proprietary interfaces is to make any mix of Microsoft and competing products less functional than a pure Microsoft solution. A pure non-Microsoft solution is not usually possible, either because Microsoft has driven the competition into the ground or because there is a need to communicate with others who are using Microsoft. Hence the only choice is between a pure Microsoft solution and a mix. In a world which is dominated by Microsoft there can only be level competition if the interfaces to Microsoft software are equally open to all competitors.

Files, Protocols and APIs

There are three types of interface which an effective remedy must address: files, network protocols, and APIs.

Files stored on disk are an important repository of value for any computer user. The ability to read this data and exchange it with others is the most important requirement for any new software.

Therefore Microsoft should be required to disclose the file formats for all its software. This will enable competitors to create software which reliably works with files created by Microsoft software. The main immediate effect of this will be to enable competitors of Microsoft Office to compete on a level playing field. In the longer term it will prevent Microsoft from using the proprietary file format of any popular application to Gain a monopoly position through market lock-in.

Similarly, protocols used to communicate over networks should be opened up. The Kerberos example above illustrates how even seemingly minor proprietary extensions can create strong market lock-in. As the Internet becomes increasingly important so the use of proprietary protocols will become an important method for Microsoft to maintain its monopoly position unless it is stopped.

APIs are a much more complicated issue than files and protocols. For every file format or network protocol used by Microsoft there are thousands of "function calls", the basic element of APIs. Function calls are used both within a single product and between products.

There is no simple way to distinguish the function calls which are made within a product and those made between products unless the products in question are designed to work separately as well as together. Microsoft has already used this fact to obfuscate the question of whether Internet Explorer is intrinsically integrated with Windows 95. It can be expected to use this tactic again in the future. Since it is not feasible to use product tying rules to prevent this (see above), I suggest that Microsoft be required to identify every API which is used to communicate between software in two different products, and disclose that API in full. The smallest unit of "API" to be disclosed should be the "DLL" (Dynamically Linked library). In Windows a DLL is a single file which provides collection of functions to other software. Making DLLs atomic for disclosure purposes will encourage Microsoft to keep the APIs for communication between products distinct from the APIs within products, thereby reducing the work required by competitors who wish to offer competing products which offer the same APIs.

Disclosure Mechanisms

Detail

The Proposal has nothing to say about what level of detail will be included in the interface descriptions. This issue is not trivial.

For programmers, the ultimate description of what a function within an API does is the source code which implements that function, which leads programmers to say "use the Source, Luke" when when with a detailed technical query about a piece of software.

However the inspection of source code is not always practical, either because the code in question is proprietary (as in this case), or just because it would take too long to understand. Hence developers routinely produce documentation which describes the functions in an API in a more readable form.

The Proposal seems to envisage this kind of documentation being made publicly available. However there does not appear to be any incentive to Microsoft to make this documentation complete or accurate, other than enforcement by the courts. Since this kind of document can never be 100% complete or accurate the question will arise as to whether it is good enough. If Microsoft acts true to form it will inevitably argue that its documentation is indeed good enough, and will carry on arguing this until it becomes a moot point.

To avoid this problem I suggest that Microsoft be required to erect "Chinese walls" between the development groups working on different products. Only published documentation may be exchanged between these groups. Hence if Microsoft wishes to sell two products which work together it can only do so if it also informs its competitors how to make products which will can work just as effectively.

The remaining problem on detail is the file formats and protocols used when one copy of a product communicates with other copies of the same product. The Chinese wall system will not work here. However since this problem is restricted to file formats and protocols the problem of ensuring the adequacy of documentation is much smaller.

Established techniques (such as BNF grammars and state machines) can completely describe file formats and protocols, and these can be used as the basis of an unarguable technical finding that either the software or the documentation is defective. This is not a complete solution to the problem, but it should level the playing field sufficiently to allow competition.

Publication and Open Source

Since this case started Open Source Software (OSS), such as the Linux operating system, has become a significant competitor to Microsoft. Therefore any effective remedy must take account of the special requirements of OSS development over normal commercial software development. The primary issues here are costs, trade secrets, and patents.

Costs:

Whatever disclosure mechanism is chosen for interface descriptions, it must be within the financial reach of open source developers. A subscription of several hundred dollars a year, such as is required for the Microsoft Developer Network, is trivial for a competing software company but a major hurdle for a volunteer developer working on OSS. Given that interface descriptions must be prepared for competitors, there is no reason why they should not be distributed for free over the web rather than only made available to an exclusive club.

Trade Secrets:

Microsoft must not be allowed to pretend that these interface descriptions are trade secrets, as it tried to do with its extension to Kerberos. Because OSS packages include the full source code they inevitably reveal the full details of their operation to any programmer who downloads them. If Microsoft can claim trade secret status on an interface it can effectively block any OSS package from using that interface, since to do so would reveal the "secret" of its operation.

Patents:

Microsoft has not made much use of patents to protect its market, preferring to rely on proprietary interfaces. However if it is prevented from using proprietary interfaces it may decide to use patented ones instead.

When Microsoft next introduces a new interface, especially a network protocol, it would be a simple matter to obtain a patent covering the operation of that interface. At that point any competitor wishing to interoperate with Microsoft products using that interface would have to license it from Microsoft. The usual solution in such situations is to require licenses on "Reasonable And Non-Discriminatory" (RAND) terms. However even RAND terms require payment. OSS developers are unable to offer payment.

Therefore the Remedy should require Microsoft to license its patents on RAND terms to commercial software vendors and on Royalty Free terms to Open Source projects.

Incidentally, Microsoft has described OSS as "un-American" and "an intellectual property destroyer". These descriptions try to tar OSS developers with the same brush as software pirates. This is incorrect. Software pirates selfishly take the work of others and use it without paying. OSS developers take their own work and permit others to use it for free. This is a wholly generous act, fully in keeping with the American ideals of volunteerism and service to one's community.

Security Details

The Proposal includes a broad exception for "security related" information. However Microsoft could argue that almost any interface, especially APIs and communication protocols, is "security related" if it is used to carry any kind of authorization or authentication information. Indeed, it made exactly this argument when it initially refused to reveal its extensions to

Kerberos. Therefore the exception for security related information must be narrowly drawn.

Fortunately this is not a major problem. It is a basic principle of computer security that would-be intruders will eventually learn the operational details of your security mechanism, either by reverse engineering or by other less legitimate means. Any security which depends on the intruders remaining ignorant of these details is known as "security through obscurity", and regarded by security practitioners as inadequate at best. Therefore the only items which should need to be kept secure are the keys or passwords which operate the software. These can be easily changed if they are compromised.

Hence if security interfaces are well designed then they will not need to be kept secret. And if they are not well designed then Microsoft should be required to remedy the fault rather than keep this fact secret.

Conclusion

The proposed Settlement would have little effect upon the business practices of Microsoft. If adopted in its current form them the result will be no change to the behaviour of Microsoft, and yet another prolonged court case in another five or ten years.

Any effective settlement must concentrate on opening up the markets that Microsoft has effectively closed by its use of proprietary interfaces, file formats and protocols.

As a final note, I would like to close with the same advice I give to my clients in the United States government regarding Microsoft products: Use at your own risk—if the technical problems with these products (security and stability) don't give you reason for concern, the inability to escape to an alternative is an even harsher problem to contend with. Microsoft's products and business strategies have, and continue to be, a clear and present danger to the security of our national information infrastructures. It is my hope that this legal action will be one that is not only beneficial to the technology economy but our national information security posture as well.

Richard F. Forno
Chief Technology officer
Dulles, Virginia Security Firm
www.infowarrior.org (personal site)
rforno@infowarrior.org

MTC–00027195

From: eas884@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:03pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Elizabeth Slaughter
1228 W. Lincoln Ave
Albany, GA 31707

MTC–00027196

From: PETEOCEANSIDE@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:07pm
Subject: Microsoft Settlement

I sure hope that our Government does not hinder Microsoft when this case is finally settled. I resent the fact that a successful business can be seen as a threat to anyone.

I use their products and enjoy them immensely.

I believe that the Government should leave Mocrosoft alone to run their successful business without outside interference.

Thank you,
Pete O'Neill
3169 Trinity Street
Oceanside, New York 11572
e-mail PETEOCEANSIDE@aol.com
CC:activism@moraldefense.com@inetgw

MTC–00027197

From: Hal Stone
To: Microsoft ATR
Date: 1/27/02 9:08pm
Subject:
CC:
fin@mobilizationoffice.com@inetgw
7024 Augusta National
Fayetteville, PA 17222–9418
January 10, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

As a person who has been in the technology industry for some time (I was first involved with Univac I Serial number 1) I was disappointed to see the government bring suit against Microsoft. I am however happy with the settlement that was reached and I hope it is well accepted by all parties, including those states that still refuse to settle.

The settlement, that has been fairly mediated over three years, is equitable to all parties. It also answers many of the problems brought forth by Microsoft's competitors and resolves them fairly. For example, I think it is demonstrative of Microsoft's good intentions that it agreed to be monitored by a three-person Technical Committee, and open up its intellectual property in the internal interfaces of its Windows operating system programs to its competitors.

I have used numerous Microsoft products for about 20 years and have found them innovative and productive for even casual users. The cost of these products has dropped considerably during the years of my use. To discourage this kind of innovation is detrimental to users as well as others that would work hard to create other such products. The harassment of this company has, in my opinion been bad for our country, possibly even the world economy.

Responsible controls are important, of course. But extreme control is detrimental to the best interests of an average computer user.

I am grateful that you would take the time to consider my thoughts on this matter. Please use them, as well as those from all the other Microsoft supporters to work out what is in the public's best interest.

Sincerely,
Hal Stone
cc: Senator Rick Santorum

MTC–00027198

From: jmf66@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:13pm
Subject: Micro-soft Settlement

I strongly endorse Mary Martin's letter < SENIOR COALITATION PRESIDENt it's time for all of us to Unite in this Great country o f ours and quit acting like a bunch of ILLITERATES; we need to get this country's economy back on track and get on with tihe order of the day.

There will always be some want something for nothing, and will do anything to get it. The Justice is needed Now". Thank you for giving me the opportunity to express myself.

JKOHN MILLER
e-mail addrress jmf66@juno.com

MTC–00027199

From: JOYCE E BLANKENSHIP
To: Microsoft ATR
Date: 1/27/02 9:13pm
Subject: Re: Microsoft Settlement

To Whom It May Concern:

I would like to urge the Justice Department to stop the litigation against Microsoft. I think the settlement is fair to everyone except of course, Microsoft itself. I personally use Microsoft Windows and Microsoft Word and other programs. I am 79 years old and have found these programs easy to learn and to use. I would not be interested at all in changing to other programs.

Please stop the litigation. Thank you.

Joyce E. Blankenship
1593 Manor Drive
Salem, Ohio 44460

MTC–00027200

From: Cghort@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:14pm
Subject: Microsoft Settlement
Attorney General John Ashcroft
U. S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I wish to express my satisfaction and agreement with the Attorney General's decision to end the Justice Department's antitrust lawsuit againsy Microsoft.

It is my understanding the agreement to do so was arrived at after extensive negotiations with a court-appointed mediator.

It is also my understanding Microsoft has agreed to license its Windows operating system products to the twenty largest computer makers on identical terms and conditions including price, and to document and disclose for use by its competitors, various interfaces that are internal to Windows" operating system products.

It doesn't seem there should be a need for any future lawsuits against Microsoft. The company has already compromised considerably in this suit and should not be distracted from innovation and progress any longer.

Sincerely,
C. G. Horton

MTC-00027201

From: KatherinX@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:15pm
Subject: Microsoft Settlement

As the Government nears the decision phase of the Microsoft Settlement in the Anti-Trust case against Bill Gates, I would like to add my comments as a United States Citizen and tax payer.

It is my firm conviction that the entire case against Microsoft has been ill advised and a total waste of tax payer dollars. Bill Gates and his company has revolutioned the world, in the footsteps of Alexander G Bell nd Thomas Edison. Rather than punish him and his employees, he deserves a monument in Washington DC. His innovations and foresight have brought the computer age to to virtually every American. His business practices have not broken rational laws. He exercised his Freedom as a Capitalist. Has this nation forgotten the principles upon which it was founded? Are we to forever continue to apolgize for creating a society which the entire population of the planet wishes it could emulate, with the minor excetion of some religious fanatics bent upon destroying the very thing that represents life as we know it?

Has not the horrific attack on the American way of life on Sept 11 not shown every thinking person that we must defend the Capitalist sytem and not destroy ourselves?

Bill Gates deserves our gratitide, not a vindictive lawsuit and punishment designed to gratify the sour grapes of those who could achieve or even conceive of his accomplishments.

Please use your authority to dismiss all pending charges, and allow Mr. Gates to continue to strengthen our economy and boost our standing in the world arena. As the United States faces an ever increasing rise of hostility from those who seek our destruction, and those to evil to care, it is imperative to prove to the world that Capitalism is the only valid and rational form of economics and a desirable one to follow. By allowing Bill Gates and Microsoft to continue as a viable enterprise, you will show the world we stand by our convictions.

MTC-00027202

From: Nan Cummins
To: Microsoft ATR
Date: 1/27/02 9:14pm
Subject: Settlement

The settlement as stated is fair to all and should be excepted as is. Jealous competitors, (who started this whole problem) and others, are trying to undermine the settlement. This should not be aloud to happen. I urge you not to let this happen. Settle this NOW!!! Let Microsoft do what it does best.

Sincerely
Nan Cummins

MTC-00027203

From: Daniel Kruse
To: Microsoft ATR
Date: 1/27/02 9:15pm
Subject: Microsoft Settlement

I, under no circumstances, call this "settlement" a settlement. If anything, it'll make Microsoft an even more powerful monopoly. This "settlement" is a joke and a sham. I do not agree with this settlement!

Daniel Lee Kruse

MTC-00027204

From: reg@casten.org@inetgw
To: Microsoft ATR
Date: 1/27/02 9:18pm
Subject: Microsoft Settlement

As a computer user who regularly needs to communicate with computers running a Microsoft operating system, the wording of this judgement causes me great concern. Microsoft certainly should not be allowed to use its predominant position in the operating system market to close the lines of communication to other software.

The following is quoted from an article by Robert Cringely, Dec. 6, 2001, and it describes loopholes Microsoft could use to shut out the free software community:

Section III(J)(2) contains some very strong language against not-for-profits.

Specifically, the language says that it need not describe nor license API, Documentation, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business: "...(c) meets reasonable, objective standards established by M icrosoft for certifying the authenticity and viability of its business, ..." Section III(D) takes this disturbing trend even further. It deals with disclosure of information regarding the APIs for incorporating non-Microsoft "middleware." ...

Brian J. Casten
reg@casten.org

MTC-00027205

From: jimlou2@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:17pm
Subject: Microsoft Settlement

Dear Sir,

Please end the Microsoft lawsuit and settle the case. I firmly beleive that Microsoft has been a tremendous boon to the economy and I have benefitted greatly from their technology and products. I want to see the case settled immediately in order for our economy to begin a comeback.

Thank you.
James E. McMillen
3368 Corsica Way
Oceanside, CA 92056
760-435-9200

MTC-00027206

From: Matt B.
To: Microsoft ATR
Date: 1/27/02 9:19pm
Subject: Microsoft Settlement

To Whom It May Concern:

As you have most likely already heard, the Microsoft settlement is too lax against Microsoft. It cannot be properly enforced.

To remedy this, I would suggest breaking Microsoft up into three companies: Windows Inc. (operating system), Microsoft (software), and Web. This would prevent MS from taking over all three markets.

MTC-00027207

From: Dixon Teter
To: Microsoft ATR
Date: 1/27/02 9:14pm
Subject: Microsoft Settlement
1/27/02
Antitrust Division, U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Sirs:

I sincerely hope that the Department of Justice will not allow AOL's recently filed suit against Microsoft to delay the ending of that travesty.

As a consumer I greatly enjoy using the superior products that Microsoft offers. The fact that they have had to waste hundreds of millions of dollars fighting to retain their own property has cost me personally.

By Microsoft not being able to use that money for growth and product development I have been unfairly denied access to better and less expensive products.

I have been denied that by this suit. This suit was brought neither by the millions of satisfied Microsoft customers, nor by their vendors. It was brought by failing competitors. AOL is not a failing competitor of Microsoft's, quite the contrary, they have the dominant market share to Microsoft's small minority slice.

But, AOL is failing. Their suit is only a ploy to distract from their own failings. It is also a clear attempt to become another parasite itching to feast off of Microsoft's success.

This is America. isn't it? Don't we stand for free trade and freedom—not "beat your "competition with dirty politics", ? The United States government is there to protect private property, isn't it? Where are Microsoft's private property protections? Why am I being penalized because some other company has run crying to "Big Mother" rather than standing up and trying to win fairly?

AOL must not be allowed to do this. Please restore the full faith and trust in the Department of Justice by dismissing not only AOL's frivilous and groundless suit, but also and more importantly, the one against Microsoft.

Sincerely,
Dixon Teter, Ph.D.

MTC-00027208

From: sysadmin
To: Microsoft ATR
Date: 1/27/02 9:21pm
Subject: Microsoft is a blackhole

I feel that any settlement the DOJ makes with Microsoft will cause more harm than good. Microsoft should be forced to take full responsibility for the monopolistic blackhole they have created.

Since Microsoft has embarked on a disinformation campaign, many people feel that Microsoft is the only software company. This is not true.

There are many alternatives that could fill the void if Microsoft were to fail. More specifically, there is Sun Microsystems, Apple, IBM, and and many Linux companies.

Bill Gates will argue that his company is helping create standards of quality. This statement follows hundreds of security holes, thousands of bugs, and the technical documents that label Widows as the most unstable OS.

Microsoft sucks up everything in its wake. Currently, Microsoft has been attacking the Open Source movement. According to Microsoft, the Opensource movement (more specifically the GPL) is a cancer. They call it a cancer because they can not control it. Normally, Microsoft would purchase any competing idea and store it away. They store every bit of creativity the software industry has. If anything it is Microsoft, that is the cancer. It should be removed.

Your's truely,
Thedore Knab
Systems Engineer [UNIX]
Washington College
300 Washington College
Chestertown, MD 21620
Office: 410-810-7419
Fax: 410-778-7830
email: ted.knab@washcoll.edu

MTC-00027209

From: Einer Elhauge
To: Microsoft ATR
Date: 1/27/02 9:20pm
Subject: To Renata Hesse,

To Renata Hesse,

Please find my Tunney Act comments attached.

Sincerely,
Einer Elhauge
Professor of Law
Harvard Law School
1575 Massachusetts Ave.
Cambridge, MA 0213 8
TEL: 617-496-0860
FAX: 617-496-0861
EMAIL: elhauge@law.harvard.edu

UNITED STATES v. MICROSOFT, No. 98-1232 (CKK)

TUNNEY ACT COMMENTS OF PROFESSOR EINER ELHAUGE ON THE PROPOSED SETTLEMENT BETWEEN THE UNITED STATES AND MICROSOFT

I have been a strong supporter of the Bush Administration and its Antitrust Division.

But I am also a strong supporter of the Court of Appeals decision in this case,[1] and even if I were not, the legal conclusions and factual findings sustained in that opinion must be treated as authoritative for this Tunney Act proceeding. In my view, it would set a terrible precedent contrary to the public interest if a unanimous en banc opinion that found the most important firm in our economy committed repeated serious antitrust violations lacking any procompetitive or technological justification, as the opinion here did, received only the largely meaningless enforcement provided by the proposed settlement between Microsoft and the United States?

I submit this Tunney Act comment as a professor of antitrust law and because of my interest in the proper development of antitrust law. I have not been paid by anyone else to work on the Microsoft case, and do not submit this comment on behalf of any other party. I am instead submitting this filing pro bono, on behalf of the public interest. I am a Professor of Law at Harvard Law School, where I teach antitrust law, but submit these comments in my personal capacity, and the views expressed here are not offered on behalf of, nor intended to express the views of, Harvard University.

The key finding of the district court, which I think has not received enough attention, is that, to foreclose its rivals, Microsoft engaged in technological bundling of other software into its operating system that not only had no procompetitive or technological justification,[3] but actually worsened the technological performance of its own products. The district court found Microsoft" s technological integration made its product work more slowly:

"[A]ccording to several standard programs used by Microsoft to measure system performance, the removal of Internet Explorer by the prototype program slightly improves the overall speed of Windows 98. Given Microsoft's special knowledge of its own products, the company is readily able to produce an improved implementation of the concept illustrated by Felten's prototype removal program. In particular, Microsoft can easily identify browsing-specific code that could be removed from shared files, thereby reducing the operating system's memory and hard disk requirements and obtaining performance improvements even beyond those achieved by Felten."[4] Nor was this reduction in speed compensated for by increased stability or security.

To the contrary, the district court found that Microsoft's technological bundling made its operating system both more prone to crashing and more susceptible to virus infections.

"Microsoft has harmed even those consumers who desire to use Internet Explorer, and no other browser, with Windows 98. To the extent that browsing-specific routines have been commingled with operating system routines to a greater degree than is necessary to provide any consumer benefit, Microsoft has unjustifiably jeopardized the stability and security of the operating system. Specifically, it has increased the likelihood that a browser crash will cause the entire system to crash and made it easier for malicious viruses that penetrate the system via Internet Explorer to infect non-browsing parts of the system."[5]

A fortiori, the district court found that those who did not want Internet Explorer suffered worsened technological performance from Microsoft's bundling because they were saddled with "an operating system that runs more slowly than if Microsoft had not interspersed browsing-specific routines throughout various files containing routines relied upon by the operating system" and that meant "performance degradation, increased risk of incompatibilities, and the introduction of bugs."[6]

The district court also found that, in addition to conferring no technological benefit on its own products, Microsoft's bundling degraded the technological performance of rival products. The court concluded that Microsoft's:

"actions forced OEMs either to ignore consumer preferences for Navigator or to give them a Hobson's choice of both browser products at the cost of increased confusion, degraded system performance, and restricted memory.

Microsoft forced those consumers who otherwise would have elected Navigator as their browser to either pay a substantial price (in the forms of downloading, installation, confusion, degraded system performance, and diminished memory capacity) or content themselves with Internet Explorer.

None of these actions had pro-competitive justifications."[7]

Microsoft was further found guilty of other technological manipulation that inflicted technological degradation on other products.

"Microsoft went beyond encouraging ICPs [Internet Content Providers] to take advantage of innovations in Microsoft's technology, explicitly requiring them to ensure that their content appeared degraded when viewed with Navigator rather than Internet Explorer"[8]

Indeed, the district court even found that Microsoft engaged in efforts that resulted in technological degradation for software users generally.

"Finally, by pressuring Intel to drop the development of platform-level NSP software, and otherwise to cut back on its software development efforts, Microsoft deprived consumers of software innovation that they very well may have found valuable, had the innovation been allowed to reach the marketplace. None of these actions had pro-competitive justifications."[9]

The findings that, to foreclose rivals, Microsoft engaged in technological integration that had no procompetitive or technological justification were fully vindicated by the Court of Appeals. That Court concluded:

"Microsoft proffers no justification for two of the three challenged actions that it took in integrating IE into Windows—excluding IE from the Add/Remove Programs utility and commingling browser and operating system code.

Although Microsoft does make some general claims regarding the benefits of integrating the browser and the operating system, it neither specifies nor substantiates those claims. Nor does it argue that either excluding IE from the Add/Remove Programs utility or commingling code achieves any integrative benefit .... Microsoft failed to meet its burden of showing that its conduct serves a purpose other than protecting its operating system monopoly."[10]

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[1] See Elhauge, "Competition Wins in Court," New York Times, (June 30, 2001).

[2] The points addressed in this memo apply both to the initial proposed settlement, and the revised proposed settlement to which nine states have agreed.

[3] United States v. Microsoft, 84 F.Supp.2d 9, 53-56 (D.DC 1999).

[4] Id. at 54 (emphasis added).

[5] Id. at 53 (emphasis added).

[6] Id. (emphasis added).

[7] Id. at 111.

[8] Id. at 91.

[9] Id. at 11.

Further, the Court of Appeals also repeatedly found that Microsoft engaged in a series of other anticompetitive acts that foreclosed the freedom to choose the best technology and had no procompetitive justification or technological benefit whatsoever. The Court of Appeals found that Microsoft's primary justification for its exclusive contracts with Original Equipment Manufacturers "borders upon the frivolous," and that with one narrow exception, "all the OEM license restrictions at issue represent uses of Microsoft's market power to protect its monopoly, unredeemed by any legitimate justification."[11] The Court of Appeals similarly found that Microsoft" s exclusive contracts with Internet Access Providers had no procompetitive justification,[12] that "Microsoft . . . offered no procompetitive justification for its exclusive dealing arrangements with the ISVs [Independent Software Vendors],"[13] that "Microsoft offers no procompetitive justification for the exclusive dealing arrangement" with Apple,[14] and that "Microsoft offered no procompetitive justification for the default clause that made the First Wave Agreements exclusive as a practical matter."[15] The Court of Appeals also found that: "Microsoft's conduct related to its Java developer tools served to protect its monopoly of the operating system in a manner not attributable either to the superiority of the operating system or to the acumen of its makers, and . . . Microsoft offers no procompetitive explanation for its campaign to deceive developers."[16] Finally, the Court of Appeals found: "Microsoft does not ... offer any procompetitive justification for pressuring Intel not to support cross-platform Java."[17]

True, the Court of Appeals did not specifically pass on the district court's findings that in fact Microsoft's efforts at technological and nontechnological foreclosure had adverse technological effects on the performance of its own products. But the Court of Appeals statements repeatedly sustaining the district court findings that Microsoft" s whatsoever imply approval of those more specific findings as well. In any event, none of the district court findings that Microsoft's efforts at technological and nontechnological foreclosure had adverse technological effects was reversed as clearly erroneous by the Court of Appeals, and thus each of them remains the binding law of the case.[18]

These prior findings cannot be second-guessed at this stage, and frame the Tunney Act question. The Court of Appeals decision is authoritative on lower courts, and all prior district court findings of fact that were not reversed by the Court of Appeals are also binding under the law of the case. Nor would a Tunney Act proceeding be an appropriate forum for second-guessing the accuracy of the findings in prior opinions since such a proceeding does not purport to redo the fact finding process. To be sure, neither the Court of Appeals nor the prior district court judge ever reviewed the proposed settlement or made any Tunney Act ruling about whether it was in the public interest. But my point is not that these prior findings settle the Tunney Act question. My point is rather that any Tunney Act ruling must assume the correctness of these findings.

Further, this is not a typical case of settlement proposed before trial or appeal, where the court conducting a Tunney Act proceeding has reason to defer to government authorities on the uncertainties and costs of securing and defending a judgment of liability. Here, the trial and appeal are already over, and the findings and judgments have already been secured and successfully defended. Nor is this anything like an earlier Microsoft Tunney Act proceeding, where the judge that disapproved a proposed settlement was reversed for relying on facts he read in a book but the government's complaint never alleged and were never tested by the adversary process and appeal.[19] Here the relevant facts were alleged by the Department of Justice, found true in an adversary proceeding, and sustained by an en banc court of appeals. Thus the Tunney Act question before this court should properly be framed as follows.

Given an antitrust defendant that has been found repeatedly willing to engage in anticompetitive technological and nontechnological conduct that had no procompetitive justification at all, but indeed degraded technological performance, is it in the public interest to approve a settlement that preserves the discretion of that defendant to engage in technological bundling and design that excludes rivals and lacks any demonstrable technological benefit?

II

Bundling two products in a way that confers some positive technological benefit but also anticompetitively forecloses rivals raises very troubling issues about whether courts can really assess and weigh the magnitude of the conflicting effects. Such a case might pose serious concerns about whether efforts to remedy the anticompetitive effects would have the adverse consequence of deterring technological innovation. In prior writing with co-authors, I have been so troubled that such an antitrust inquiry might itself deter technological progress that I proposed that product bundling that confers any technological benefit (that consumers could not themselves equally achieve through their own bundling) should be deemed a single product, and thus not challengeable as illegal bundling even though any technological benefit might possibly be outweighed by greater anticompetitive effects.[20] Similarly, my co-authors and I concluded that product design decisions that advantage an associated defendant product over rival products should not be deemed a technological tie unless the product design lacks any technological benefit.[21]

This proposed test was repeatedly cited with approval and largely adopted in an earlier Court of Appeals decision that reviewed a claim that Microsoft's conduct violated a consent decree.[22] However, the en banc Court of Appeals decision in this case has interpreted antitrust liability more expansively. It decided that, for purposes of both monopolization and tying claims, a positive technological benefit from technological integration or design is not a sufficient defense, but rather must be balanced against any anticompetitive effect.[23] This test a fortiori condemns the cases without any technological benefit that would be condemned under my test, but also condemns some technological integration or design that does confer a positive technological benefit. Such a test, if adopted in a consent decree, might raise serious questions as to whether in practice enforcement would be either unfeasible or unduly deter technological progress.

I was, however, of the view that the Court of Appeals misapplied this test because it considered technological benefits that could equally be obtained by consumer bundling. See Elhauge, "The Court Failed My Test," The Washington Times, A–19 (July 10, 1998). The Court of Appeals did so because it mistakenly thought that otherwise the test could not distinguish the case of an integrated operating system distributed on three diskettes, but the test does in fact distinguish this case when properly combined with the threshold test that consumers desire the unbundled product. Id.; X AREEDA, ELHAUGE & HOVENKAMP, ANTITRUST LAW 1743 (1996). This threshold test should be applied before a court.

But it is an entirely different matter where, as here, a firm technologically bundles or designs its products in a way that anticompetitively forecloses its rivals without any procompetitive or technological justification whatsoever, and indeed retards technological progress. Such behavior lacks any plausible justification, or even the patina of one, and must be strongly condemned and rooted out of a competitive economy. Thus, the minimum requirement that any settlement must meet before it can be said to have provided the remedies necessary to protect the public interest from the continued threat of Microsoft's antitrust violations would be to at least restrict Microsoft from continuing to technologically bundle or design products in ways that foreclose its rivals but do not improve technological performance at all. This proposed settlement fails this test. The bottom line is that, while the settlement provides some restrictions on various nontechnological methods of foreclosing rival applications, it does nothing effective about technological foreclosure. It does not even bar efforts to foreclose rivals with technological manipulations that affirmatively harm the performance of Microsoft products.

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[10] United States v. Microsoft, 253 F. 3d 34, 66–67 (DC Cir. 2001) (en banc) (emphasis added).

[11] Id. at 63–64 (emphasis aded).

[12] Id. at71.

[13] Id. at 72 (emphasis added). The Court of Appeals did not reach the question whether Microsoft's dealings with Internet Content Providers had a procompetitive justification because the appellate court concluded the trial court had not found an anticompetitive effect from this conduct. Id. at71.

[14] Id. at 74 (emphasis added).

[15] Id. at 76 (emphasis added).

[16] Id. at 77 (emphasis added).

[17] Id. at 77 (emphasis added).

[18] Id. at 117–118 (sustaining the district court findings of facts except for those few that the court of appeals held were clearly erroneous).

[19] See United States v. Microsoft Corp., 56 F.3d 1448 (DCCir. 1995).

[20] See X AREEDA, ELHAUGE & HOVENKAMP, ANTITRUST LAW • 1746 (1996).

[21] 21 See X AREEDA, ELHAUGE & HOVENKAMP, ANTITRUST LAW • 1747 (1996) (offering analysis and collecting cases).

[22] United States v. Microsoft, 147 F.3d 935,948–51 (DC Cir. 1998).

[23] 253 F.3d at 59, 65–67, 95.

Nothing in the proposed settlement prevents Microsoft from anticompetitively foreclosing rivals by simply selling its operating system with other Microsoft software included, even if such bundling confers no technological benefit whatsoever or even harms performance. Nor does the proposed settlement even bar Microsoft from purposefully designing its operating system in ways that confer no technological benefit but make rival software work poorly. In both respects, the settlement deletes reaches any of the five grounds under which a defendant might prove that two items that meet this threshold test nonetheless constitute a single product. Id. at 1744–50 (laying out the five grounds). restrictions the trial judge had previously ordered as necessary remedies during any period Microsoft was not broken up.[24] Given the judicial findings of a repeated past willingness to subordinate technological performance to the goal of anticompetitively foreclosing rivals, it is hard to see how it can be in the public interest to leave Microsoft unrestricted in these ways.[25] The proposed settlement leaves Microsoft free to harm competition at the cost of technological progress in precisely the ways it was found to have done so in the past.

Indeed, in both respects the proposed settlement actually worsens this problem. First, the proposed settlement not only fails to prohibit, but appears to sanctify bundling despite the lack of any technological justification by providing that Microsoft has the "sole discretion" to decide what to include in its operating system.[26] Second, the proposed settlement not only fails to prohibit, but gives Microsoft affirmative incentives to design its operating system in ways that work poorly with rival products because that would create a "functionality" problem that justifies express exclusion of rival products under the proposed settlement.[27]

True, the proposed settlement does impose some restrictions. It would prohibit Microsoft from using agreements or threats to prevent computer makers or software developers from dealing with Microsoft's rivals. It would also prohibit Microsoft from making it impossible for computer makers or buyers to customize their operating system to add or substitute rival software. And it requires Microsoft to disclose the interface codes or server protocols necessary to design rival software to run on its operating system.

But none of these restrictions matter if Microsoft is free to engage in technological foreclosure. If the computer makers and consumers who buy the Microsoft operating system are forced to take a technological bundle that (without any technological benefit) includes other Microsoft software, those computer makers and consumers will have little incentive to substitute rival software, even if the rival software is technologically superior. For example, suppose Microsoft and its rival both offer software that costs $10 to make, but consumers value the rival software at $15 and the Microsoft software at $10. Without bundling, computer makers or consumers would buy the rival's superior software. But with bundling, the Microsoft software is already included in the price of the operating system. Thus the computer makers or consumers would not pay $10 to get the rival software when the improved performance is only worth $5. Computer makers or consumers will have even less incentive to use rival software that works worse because Microsoft purposefully designed its operating system in ways that confer no technological benefit but create interoperability problems for rival software.

Antitrust law and settlements should not impede genuine product innovation. If Microsoft bundled software to achieve technological benefits that would not be available if buyers combined their own software choices, then bundling should be permitted. But the appeals court concluded that Microsoft failed to show any technological benefit for its technological bundling, and the proposed settlement leaves Microsoft free to repeat bundling that lacks any technological merit. Likewise, if an operating system design decision makes Microsoft software run better, Microsoft should be free to adopt it even if it hampers rivals until they make modifications to take similar advantage of the improvement. But the proposed settlement leaves Microsoft free to make design decisions that actually degrade operating system performance in order to create problems for rival software.

In another binding ruling, the Court of Appeals held that:

"The Supreme Court has explained that a remedies decree in an antitrust case must seek to 'unfetter a market from anticompetitive conduct,' to 'terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future."[28]

The proposed settlement remedies fail this obligation because they do not unfetter the market from the past anticompetitive technological bundling and product design. The proposed remedies do not terminate the illegal monopoly. The proposed remedies do not deny Microsoft the fruits of its statutory violation since Netscape and Java remain technologically foreclosed with their diminished market shares. Nor do the proposed remedies do anything to prevent Microsoft in the future from again inflicting the same anticompetitive product bundling and design that forecloses rivals but lacks any technological benefit.

III

Many have apparently been under the misimpression that the government plaintiffs could no longer pursue remedies against technological bundling because the government plaintiffs dropped their tying claim. But this decision to drop the tying claim, which I applauded,[29] did not reduce the need or ability to restrict technological foreclosure as a remedy for the antitrust violations that the Court of Appeals found Microsoft committed. This is true for two reasons.

First, dropping the § 1 tying claim did not amount to dropping all claims against technological bundling because the Court of Appeals specifically found that Microsoft's technological integration violated Sherman Act § 2.[30] Thus, at a minimum, the prior findings require an effective remedy against technological bundling that forecloses any rival software that could pose a competitive threat to the operating system itself.

Second, it is well-established law that antitrust remedies may need to prohibit conduct beyond what would violate antitrust law in order to be effective. Indeed, if all antitrust remedies did was repeat the legal prohibitions contained in existing law, they would hardly add anything. In particular, the Supreme Court decision in Loew's held that, when a defendant has engaged in illegal bundling, "To ensure .. that relief is effectual, otherwise permissible practices connected with the acts found to be illegal must sometimes be enjoined." [31] Thus, where a defendant has been found guilty of illegal technological bundling and design to protect its monopoly power, it would be appropriate to make the remedy ban all forms of technological bundling and design that foreclosed rival products but lacked any technological benefit, without specifically requiring proof that the foreclosed products posed a meaningful threat to the monopoly power. After all, when a defendant engages in technological manipulation that has no technological benefit at all, the only rational reason for its conduct must be to anticompetitively foreclose rivals. Given the absence of any procompetitive virtue, there is no reason to inflict on the public the additional cost and uncertainty of proving that the foreclosure had an anticompetitive effect. That is particularly true where the tying claim was dropped for the strategic reason of getting more quickly to the imposition of remedies, and not because the tying claim was ever rejected on the merits.

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[24] See United States v. Microsoft, 97 F.Supp.2d 59, 68 (D.DC 2000) ("Microsoft shall not, in any Operating System Product distributed six or more months after the effective date of this Final Judgment, Bind any Middleware Product to a Windows Operating System unless: (i). Microsoft also offers an otherwise identical version of that Operating System Product in which all means of End- User Access to that Middleware Product can readily be removed (a) by OEMs as part of standard OEM preinstallation kits and (b) by end users using add-remove utilities readily accessible in the initial boot process and from the Windows desktop; and (ii) when an OEM removes End-User Access to a Middleware Product from any Personal Computer on which Windows is preinstalled, the royalty paid by that OEM for that copy of Windows is reduced in an amount not less than the product of the otherwise applicable royalty and the ratio of the number of amount in bytes of binary code of (a) the Middleware Product as distributed separately from a Windows Operating System Product to (b) the applicable version of Windows."); id. at 67 ("Microsoft shall not take any action that it knows will interfere with or degrade the performance of any non- Microsoft Middleware when interoperating with any Windows Operating System Product without notifying the supplier of such non-Microsoft Middleware in writing that Microsoft intends to take such action, Microsoft's reasons for taking the action, and any ways known to Microsoft for the supplier to avoid or reduce interference with, or the degrading of, the performance of the supplier's Middleware.")

[25] Indeed, the prior district court remedies would seem to constitute the law of the case of what remedies are necessary to remedy the antitrust violations that were inflicted through technological bundling and design.

[26] Revised Proposed Final Judgment VI.U.

[27] Id. at III.C.1, III.H.1,

[28] United States v. Microsoft., 253 F.3d 34, 102 (DCCir.2001) (en banc) (emphasis added) (citing Ford Motor v. United States, 405 U.S. 562, 577 (1972), and United States v. United Shoe, 391 U.S. 244, 250 (1968)).

[29] See Elhauge, "A Smart Move on Microsoft," Boston Globe (Sept. 11, 2001).

[30] 253 F.3d at 64–67.

In any event, even under the most narrow possible reading of the prior holdings in this case, any proposed remedies must undo the adverse effects of (and deprive Microsoft of the fruits of) the prior technological and nontechnological misconduct that the district court and Court of Appeals found specifically foreclosed Netscape Navigator and Sun Java. This would at a minimum indicate that an appropriate remedy would include an obligation that Microsoft must carry Netscape Navigator and Sun's version of Java on its operating system, so that those products would have the opportunity to serve as a rival platform for applications, just as they could have had without Microsoft's illegal conduct. Unfortunately, such a remedy is probably now insufficient, since the foreclosure of these products has prevented a series of technological developments that otherwise might have occurred had every computer had a rival applications platform that could access the Internet. But, at least prospectively, such a remedy would offer a nice market test of the proposition that consumers might prefer to use these rival products as their applications platform, because the remedy would afford consumers the market choice of doing so or not.

IV

Even if one got past the proposed settlement's failure to deal with technological foreclosure, its efforts to deal with nontechnological foreclosure have problems as well. In particular, even the weak restrictions that the proposed settlement would impose have various loopholes that undermine their effectiveness. One troubling loophole delays Microsoft's obligations to make disclosure and allow removal of Microsoft middleware for up to twelve months.[32] That is a lifetime in computer software development, and one wonders whether rivals, with that kind of time lag, will ever overcome it. Further, the proposed settlement permits Microsoft not to disclose code that would compromise the security of "anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems." [33]It is quite possible that some of this code might be vital to the interoperability of rival software. Further, excluding disclosure of authentication codes may allow Microsoft to exclude rivals to Passport, its Internet authentication system, and then tie E- commerce to its authentication monopoly. The proposed settlement also leaves Microsoft free to use financial inducements to encourage computer makers to favor Microsoft applications as long as those inducements are "commensurate" with their sales of the Microsoft application or reflect "market development allowances." [34] Microsoft can also enter into joint ventures or contractual arrangements with software developers that bar them from dealing with rival applications if that furthers some bona fide contractual purpose,[35] which probably will not be difficult to find. Finally, the whole proposed settlement would only last five years, leaving Microsoft free to engage in the full range of its past anticompetitive conduct starting in 2007. The mere fact that this threat will be looming in 2007 means that, even if the proposed settlement restrictions were effective, this looming threat would likely discourage any investments in long term software development, which may take years before it results in a product and require several years of profitability after introduction to recoup the investment. Indeed, since some of the proposed settlement obligations would not kick in for a year, the proposed settlement would leave rivals with only a four year window to try to profitably recoup investments in rival products that Microsoft could foreclose. This is probably insufficient even if, contrary to fact, the restrictions did meaningfully prevent foreclosure.

V

Given the above, I am reluctantly forced to conclude that approving the proposed settlement as a final judgment would not be "in the public interest," as the Tunney Act requires. 15 U.S.C. § 16. It fails to "terminat[e] alleged violations," the "duration" and "relief sought" are unsatisfactory, the "anticipated effects of alternative remedies" that dealt with technological foreclosure and dealt better with nontechnological foreclosure would more effectively protect the public interest, the proposed remedies are not "adequa[te]" to correct the violations found by courts, and "the impact of entry of such judgment upon the public generally and individuals alleging specific injury, from the violations set forth in the complaint" would be negative. Id.

The proposed settlement should thus be modified to bar Microsoft from engaging in technological integration or design that forecloses rival products but lacks any technological benefit, and to provide more effective remedies against nontechnological methods of foreclosure by closing the various loopholes in the proposed settlement that I have described above.

Respectfully Submitted,
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January 27, 2002

MTC–00027210

From: al.scott@us.army.mil@inetgw
To: Microsoft ATR
Date: 1/27/02 9:21pm
Subject: Microsoft Settlement

Dear Sirs: I have read the proposed settlement. It thoroughly addresses oversight of prohibited behavior on the part of Microsoft. I feel it is a step in the right direction but it is short sighted as it really does not say ?What you did was wrong, now pay a price for having done so.?

Nothing addresses any penalties for having operated as a monopoly. This to me ignores the harm done to the industry and customers to date. I also feel there is a serious dilemma in setting any penalties. One side me says ?this nation enjoys a leading role in global information technology, we should not hurt our overall standing?; the other side says ?a crime should never pay, there must be an appropriate punishment?. The settlement as proposed never even entertains an aspect of just punishment.

Microsoft is a monopoly and enjoys the leverage of being the desktop operating system publisher for the world. It can spread into almost any other market segment if only by virtue of having enough money to buy into one. Their dominance today is built on their past containment, absorption, and removal of other competing companies and technologies. A lot of inspired innovation died along the way to getting to the current market state. There is no commercially viable x86 operating system in existence. Just weeks ago another company Be OS failed. There is almost no way to make a business of a selling a new operating system without selling it with a non-Intel based computer system. Microsoft has a commanding lead and has locked out competition for the desktop OS market, for both consumer and business users.

The wealth of this corporation limits any meaningful financial penalty. Monetarily, I do not feel a dollar figure can be set that would really impact them because the cost would only be passed on to the customers. In effect, we as its customers, would be billing ourselves.

Here are three possible penalties:

1. Prohibit Microsoft and its major affiliates from merging or spreading into any other diversifying business ventures for the next three to five years. In effect freeze Microsoft's current expansion for a fixed period of time giving competitors some opportunity to survive and grow.

2. Set up a venture capital startup fund using $1 billion paid by Microsoft to support

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[31] United States v. Loew's, 371 U.S. 38, 53 (1962); X AREEDA, ELHAUGE & HOVENKAMP, ANTITRUST LAW c111758, at 349 (1996).

[32] Revised Proposed Final Judgment III.D, III.E, III.H.

[33] Id. III.J.

[34] Id. III.A, III.B.3.

[35] Id. III.F.2, III.G.

new alternative (competing) U.S. based operating system and software developers. Prohibit Microsoft from ever acquiring or partnering with these companies.

3. Encourage sectors of the U.S. government to procure fewer Microsoft products by offering budgetary inducements through GSA for using alternative sourced products for a period of three to five years. This opportunity would encourage developers to bring new products to market possibly spurring competition and better pricing. Consumers would benefit in having more choices.

Sincerely,
Alvin Scott

MTC-00027211

From: David Miller
To: Microsoft ATR
Date: 1/27/02 9:24pm
Subject: microsoft settlement

I hope you will consider a remedy with a little more teeth than the one that has been proposed. I still use Netscape because I prefer it, but even though one can download it free of charge, it is still easier for most folks to use IE because it comes with their OS. Netscape's improved the new versions to the point that reviewers are praising it over IE, but it is still hard to use it because it is not universally supported. Either through fear of Microsoft or because of cost effectiveness, it is not always supported by website developers or even internet providers. It is rather sad when one's own ISP will not support one's use of Netscape because not enough customers use it to justify training their tech support, when you know that people aren't using Netscape because it was muscled aside. I have even found web sites that won't display in Netscape. I don't know if that is because the site has an agreement with Microsoft or because they choose not to design the site for both browsers because they don't think there will be enough traffic from Netscape customers to be worth the cost. Please consider a remedy that will change things enough to give a practical choice to those of us who would like one. Requiring Microsoft to sell a version of Windows without IE would be a good start.

MTC-00027212

From: sysadmin
To: Microsoft ATR
Date: 1/27/02 9:25pm
Subject: Microsoft Settlement

I feel that any settlement the DOJ makes with Microsoft will cause more harm than good. Microsoft should be forced to take full responsibility for the monopolistic blackhole they have created.

Since Microsoft has embarked on a disinformation campaign, many people feel that Microsoft is the only software company. This is not true. There are many alternatives that could fill the void if Microsoft were to fail. More specifically, there is Sun Microsystems, Apple, IBM, and and many Linux companies.

Bill Gates will argue that his company is helping create standards of quality. This statement follows hundreds of security holes, thousands of bugs, and the technical documents that label Widows as the most unstable OS.

Microsoft sucks up everything in its wake. Currently, Microsoft has been attacking the Open Source movement. According to Microsoft, the Opensource movement (more specifically the GPL) is a cancer. They call it a cancer because they can not control it. Normally, Microsoft would purchase any competing idea and store it away. They store every bit of creativity the software industry has. If anything it is Microsoft, that is the cancer. It should be removed.

Your's truely,
Thedore Knab
Systems Engineer [UNIX]
Washington College
300 Washington College
Chestertown, MD 21620
Office: 410–810–7419
Fax: 410–778–7830
email: ted.knab@washcoll.edu

MTC-00027213

From: Jimmy Tucker
To: Microsoft ATR
Date: 1/27/02 9:25pm
Subject: Microsoft Settlement
Jimmy W. Tucker
998 Damrosch Street
Largo, Florida 33771
January 25, 2002
Attorney General John Ashcroft
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I support the settlement of the Microsoft antitrust case. It is time to put this lawsuit behind us and move on to better things like developing better products. Microsoft and its competitors should all be improving and innovating all the time, not focusing on litigation. The people in the marketplace will choose the best products for their needs. So far the people have chosen Microsoft. The fact that Microsoft has been dominant does not mean it has been harmful. Along with Intel on the hardware side, Microsoft has dictated the standard that people have chosen to follow and build upon. I do think the corporate world needs some oversight. The settlement will open up Microsoft to its PC industry even further than it is now. This is in stark contrast to the successful, but not dominant strategy of Apple Computer, which has been to maintain close, sole, proprietary control over all major facets of its business, from design to manufacturing, and from hardware to software. Microsoft has agreed, for example, to disclose the copyrighted software of the internal interfaces to Windows. I am pro-competitive. The settlement will be good for American consumers and industry, in my opinion.

I thank you, Mr. Ashcroft, for your support of the Microsoft settlement.

Sincerely,
Jimmy W. Tucker

MTC-00027214

From: Paul C Halstead
To: Microsoft ATR
Date: 1/27/02 9:25pm
Subject: Microsoft Settlement

To the Justice Department

In accordance with the Tunney Act I wish to comment as follows. "Consumer interests have been well served and the time to end this costly and damaging litigation has come. Dragging out this legal battle further will only benefit a few wealthy competitors, lawyers, and special interest big-wigs. Not one new product that helps consumers will be brought to the marketplace."

Very truly yours
Paul C Halstead

MTC-00027215

From: Glen Kleinknecht
To: Microsoft ATR
Date: 1/27/02 9:27pm
Subject: Microsoft Settlement

Dear Judge,

I am a personal computer user as well as running an inner-city non profit which uses 10 computers. I have found that Microsoft a generous company for us. However, I do not believe it to be in the benefit of users like me and my inner-city work to benefit from an environment of one company controlling the computer operating system market. Nor do I believe that it is beneficial to M.S. M.S. will benefit from a truely competitive market Therefore, I want to express my concern about the PFJ as a good solution. Please consider this user as one who would not want this "judgement" enacted.

Thank you for your consideration. I am sure you will render the fair conclusion on PFJ.

Glen Kleinknecht
Director, Here's Life Inner City
(NYC)
CC:microsoftcomments@doj.ca.gov@inetgw

MTC-00027216

From: wbusch
To: Microsoft ATR,Mary Fentress
Date: 1/27/02 9:27pm
Subject: Microsoft settlement

Microsoft needs to be broken up to allow fair competition to other developers. Over the years they have stolen technology from many companies. Most recently mouse technology that netted them hundreds of millions of dollars. Even with the legal battles going on they show NO intention in changing business as usual practices. They had to pay Stac technologies $ 120 million in the past..they didn't care they made much more. They said it wasn't possible to separate the browser from Windows. It was another lie. A product called 98 Lite did just that. Now they say it is possible but they continue to work at making it impossible in future versions of th OSes they build. They all but killed off Dr DOS which was superior at the time. They destroy, buy off or steal technologies as needed to control the marketplace. They can not be trusted to police themselves and should be broken up into several separate entities that would not be able to prevent development of alternative operating systems,or new technologies by money and influence. Just as they recently tried to "settle" with the government by putting even more of their software into schools to further expand Microsoft's presense. They continue to prey upon the public as well developers. I am a user of Microsoft products and I am currently enrolled in Microsoft classes in college which I pay for myself without financial aid. Despite this I know that if we do not stop the marketing of new OS every two years for the sake of profit we will soon destroy all competition at an enormous expense to all users.

Thank you for this opportunity to speak out.

MTC-00027217

From: Joe Barr
To: Microsoft ATR
Date: 1/27/02 9:33pm
Subject: Microsoft Settlement

To Whom It May Concern:

My name is Joe Barr. I am a United States citizen residing at 1715 High Road, Kyle, TX, 78640. I have been using personal computers since before the introduction of the IBM PC and the luck of the draw which gave Microsoft its monopoly on the PC operating system market on day one. I have worked in the computing industry since 1974, either as a programmer, manager, consultant or journalist.

I have seen Microsoft's dishonest, duplicitous, and illegal business tactics destroy a healthy market and replace it with one devoid of real innovation and competition. I have seen software developers lose their life's savings as a result of the malignancy of the Microsoft monopoly. I have been witness to the perjury of Bill Gates in the STAC case, the rigged demos in federal courts, and the false statements made under oath of the top Microsoft executives. And I am not alone. Millions of others have seen the same thing.

I am submitting these comments in hopes that they will reach the judge who will rule on the proposed "settlement" between Microsoft and the DOJ in the long-running antitrust case. I know that many others will be writing to point out their views on the legalities of the settlement. I am not qualified to do that. I am certain that the judge needs no help from me in determining that on her own. I merely wish to state the obvious: the settlement is all about politics, not justice.

There are terrible shortcomings in the proposed settlement. The most notable among them are:

1. The restraints it asserts are weak and inconsequential.
2. No penalties are prescribed for failure to abide by them.
3. The loopholes are larger and more numerous than the restraints.
4. If this settlement is accepted by the court, it will not hamper Microsoft's ability to llegally extend its monopolies one iota. In fact, the settlement will strengthen its ability to do exactly that.

Under the leadership of the Bush administration, the DOJ did not even bother to assign a competent negotiator to the task of reaching a settlement. Ashcroft personally took the United States biggest threat to Microsoft off the table, and Charles White evidently could do nothing but repeat "Yowsa, Mister Gates, Yowsa" at every stage. No matter that the world knows Microsoft not to be trustworthy, White and Ashcroft leave important matters completely up to Microsoft's judgement in the settlement. Their greatest accomplishment for the United States in the document seems to have been to win the right for the DOJ to jointly (with Microsoft) decide who would oversee the it.

Ashcroft and White have humiliated and shamed the entire Department of Justice in their rush to deliver to Bill Gates and Microsoft the "Get Out Of Jail Free" card promised by President Bush. Their work is nothing short of an indictment of the American legal process: justice for sale to the highest bidder. One administration, one Enron, one Microsoft. Justice for all three.

No mere tinkering with the current settlement would be sufficient to correct the wrongs resulting from Microsoft's past behavior or even to insure they do not continue. A just settlement must contain swift, sure, and painful punishment as a consequence for failure to abide by its terms. Microsoft has proven itself countless times not to trustworthy. They must be made to behave, or else they won't. It is as simple as that.

Here's hoping that you will throw this outrageous political settlement onto the scrapheap where it belongs. Unfortunately, you face opposition to an equitable settlement not only from Microsoft, but from their purchased political appointees as well.

/Signed/
Joe Barr
CC:joe@pjprimer.com@inetgw

MTC-00027218

From: Cebert Shrum
To: Microsoft ATR
Date: 1/27/02 9:32pm
Subject: Microsoft Settlement

It is our opinion that the Microsoft offer should be accepted. We think that it is a shame what is being done to this company because of their success. It is another example of meddling like the case of AT&T. We had the best telephone company in the world and now we have a mish-mash and we get less service and it costs more just because of one judge. The public is the ones who suffer in cases like this. In this case the public has already suffered because the stock is less valuable and if the company is punished more, their products will suffer and cost more and cause more jobs to go overseas and increase unemployment.

We think it is time to let Microsoft alone.

Mr. and Mrs. Cebert W. Shrum
3733 Southern Manor Drive
St. Louis, Missouri 63125–4478
CC:gebhardt@mail.house.gov@inetgw

MTC-00027219

From: Richard Dunn
To: Microsoft ATR
Date: 1/27/02 9:31pm
Subject: Microsoft Settlement

I feel that the proposed settlement does not go far enough in ensuring that Microsoft will cease it's predatory actions. The company has repeatedly announced their plans to expand and dominate other markets like they have the PC market.

Richard Dunn
5588 Tosca ct.
Placerville, Ca 95667
(530)677–8400

MTC-00027220

From: John H. Lindsay
To: Microsoft ATR
Date: 1/27/02 9:33pm
Subject: Microsoft Settlement

rway Hill Crescent,
Kingston, Ontario, K7M 2B4,
Canada,
2002 01 27.
Ms. Renata Hesse,
Trial Attorney,
Antitrust Division,
United States Department of Justice,
601 D Street, North West, Suite 1200,
Washington, DC 20530 U. S. A.

Dear Ms. Hesse:

Subject: Proposed Microsoft Settlement: I wish to comment on the proposed Microsoft Settlement. You will note form the above address that I am a Canadian, and thus not directly concerned with the Proposed Microsoft Settlement. However, I submit that considering where I am writing from, what my background is and what sort of things I do, I am uniquely placed to offer comment which may be informative and useful to you in this matter.

I say that Microsoft's restrictive sales and software development methods and practices have had a more devastating an effect in Canada on software development than in the States. That, however is a matter for the Canadian Departments of Justice and of Trade and Commerce and our courts, and is not my point here.

It would be interesting to me for you to consider at some time in the future whether Microsoft's actions taken in the U.S. both directly and through Microsoft Canada, and having effect in Canada to restrict competition among software manufacturers and distributors, including U.S. manufacturers and distributors marketing in Canada, is subject to your laws. Again, this is not my point here.

My point is that Microsoft's restrictive practises have spilled over the border and had such a huge effect and have been so penetrating in Canada, affecting even little one-person near- hobbyist operations like mine. Those practises must then have affected every corner and every small computer user, software creator and distributer in the U.S. Further, I have read the document COMPETITIVE IMPACT STATEMENT, Civil Action No. 98–1233 (CKK), and in it, I find in it very little that I could call sufficiently punitive, corrective, recompensatory, effectively preventative, of deterrent to or controlling of Microsoft restrictive practises, especially as it relates to little people like me but in the U.S., little people who don't have the money to hire a lawyer, and who look to you for protection from predatory giants.

I am a retired professor of Computing Science; I taught 15.5 years at Queen's University here in Kingston, and 17.5 years at Royal Military College (compare: West Point, U.S. Naval Academy, U.S. Air Force Academy all rolled into one, made a degree-granting university, and reduced to Canadian size) also here in Kingston. My field of study is computer programming languages, particularly the macro languages, macro language programming systems, and compilers. I'm still studying in my "retirement" and working on a computing project that in all my years at the two universities, I never had the time or resources to do. In this project, I'm a one-person organization, a unique one-person programming organization among many such unique one-person organizations everywhere in the world. There are many such one-person organizations in the United States, hobbyists, and many of the creators of shareware, freeware and open-source software for instance. You may wish to browse the Hobbes archive of OS/2 software from around the world at http://hobbes.nmsu.edu/pub/OS2 at New Mexico State University; the majority of it is contributed by OS/2 programmers in the United States, almost all little people like me.

My project is the Rosanna programming language and programming system, a system to permit the creation and use of programming languages peculiar to a problem or class of problems at hand. I plan to release it not for profit, but under a type of licence which expects the user to do something agreeable to him in thanks to the good Lord or for his fellow man—I call it Samaritan ware—in return for the right to use Rosanna. This puts my work in much the same classes as freeware or shareware, or open-source software (mine will be open-source too, but with a difference).

In my work, I use the OS/2 operating system for a number of reasons: (1) the design of the system which helps in the organization and creation of software, (2) the availability of ALL the API documentation in open form, (3) the ready availability of high quality software, especially compilers for a huge number of programming languages and well-conceived and well-written programmers" utilities, (4) its invulnerability to almost all. the computer viri and worms, especially the ones introduced in the last year or so, and (5) the stability of the system—I think I have to reboot about once every five or six weeks or more, except when I have to reboot to install a new piece of software. You have heard the sorry tale of the failure of OS/2 in the market place caused by Microsoft's actions. We OS/2 programmers are loosing our favourite operating system bit by bit as a result.

Our loss, the loss of the little one and two-man programming organizations, including those in the United States, is in very large part, intangible. The rewards of the freeware programmer are just those of knowing that he has done a good job (the quality of work produced by OS/2 programmers seems to be a good level higher than the quality of much on the market or available on the InterNet) and the knowledge that there are people who will use his work. If OS/2 falls into disuse, we will have few to use our work, and that will be what Microsoft has done. The shareware programmer looks for both those rewards and the fees paid by the users. They will be out-of-pocket due to Microsoft's restrictive practises too.

I see no cause for relief in the present proposed Microsoft Settlement for the little non-Microsoft programmer in the U.S. but like me. We need our user base back, a user base that has been taken from us by Microsoft's improper actions. There is nothing in the proposed settlement that gives us that user base back, and there is no effective way to compensate us all for that loss.

Please send the proposed settlement back to the drawing board for the sake of my U.S. counterparts. In particular, I suggest that every clause be examined for things which can be made ineffective by Microsoft's evasive actions, and please, please, don't include a clause like the gift of Microsoft software to schools and colleges. That's a subtle form of Microsoft advertising; students learning to use a piece of software at a school, college or university tend to continue to use it afterwards in their work. If anything, I suggest that you make Microsoft buy software from other non-related suppliers equal in value to what they offered to give, including but not limited to OS/2 from I.B.M., Linux, B.S.D. Unix, Corel software including WordPerfect, and so on, and give that to schools, colleges and universities.

Yours very truly,
John H. Lindsay.
John H. Lindsay 48 Fairway Hill Crescent,
Kingston, Ontario,
Canada, K7M 2B4.
Phone: (613) 546–6988 Fax: (613) 542–6987
jlindsay@kingston.net

MTC–00027221

From: jsterner
To: Microsoft ATR
Date: 1/27/02 9:34pm
Subject: Microsoft Settlement
From: "Microsoft's Freedom To Innovate Network" <fin@MobilizationOffice.com>
To: <JSTERNER@GLOBE-NET.NET>
Sent: Sunday, January 27, 2002 6:22 PM
Subject: Attorney General John Ashcroft Letter

Attached is the letter we have drafted for you based on your comments. Please review it and make changes to anything that does not represent what you think. If you received this letter by fax, you can photocopy it onto your business letterhead; if the letter was emailed, just print it out on your letterhead. Then sign and fax it to the Attorney General. We believe that it is essential to let our Attorney General know how important this issue is to their constituents. The public comment period for this issue ends on January 28th. Please send in your letter as soon as is convenient.

When you send out the letter, please do one of the following:

* Fax a signed copy of your letter to us at 1–800–641–2255;

* Email us at fin@mobilizationoffice.com to confirm that you took action.

If you have any questions, please give us a call at 1–800–965–4376. Thank you for your help in this matter.

The Attorney General's fax and email are noted below.

Fax: 1–202–307–1454
or 1–202–616–9937
Email: microsoft.atr@usdoj.gov

In the Subject line of the e-mail, type Microsoft Settlement.

For more information, please visit these websites:

www.microsoft.com/freedomtoinnovate/
www.usdoj.gov/atr/cases/ms-settle.htm

CC: Jack Sterner
328 Thomas Barbour Drive
Melbourne, FL 32935

January 27,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I never thought that Microsoft should have been brought to trial. If Microsoft had been doing something wrong, America would have known about it long before, and the consumer would not have stood by and shelled out cash for products that were shoddy or overpriced. I am not an expert on antitrust law, and I do not know everything that has gone on in the case, but I am a consumer of Microsoft products, and I am affected by the recession America is currently in, and I believe both the economy and computer industry have suffered because of this case.

The proposed settlement is perfectly reasonable; unfortunately, Microsoft's opponents do not agree. They are currently seeking to undermine the settlement and continue to litigate against Microsoft. I do not believe this is wise or needful. Microsoft has agreed to a variety of terms aimed specifically at decreasing their dominance in the market. Microsoft's competitors will be given a great deal of advantages. For example, Microsoft will reformat the Windows operating system so that future versions of the software will support non-Microsoft programs. Competitors will be allowed to use Windows to introduce their own software to consumers. Computer makers will also be given the right to reconfigure Windows by removing Microsoft applications and replacing them with competitive alternatives.

The economy needs to get back on its feet, and this is the perfect opportunity to give it the chance to do so. The settlement that was reached last November needs no modification. I urge you to support it and to move on.

Sincerely,
John Terner

MTC–00027222

From: Alex Wallace
To: Microsoft ATR
Date: 1/27/02 9:35pm
Subject: Microsoft Settlement

Dear Dept. Of Justice:

I believe that Microsoft's proposed "settlement" is the most ridiculous thing I have ever heard of. You cannot allow Microsoft to sneak out of their dillimma by further pushing their monopoly- which was what they were in trouble with in the first place. Perhaps their punishment could be for them to pay fines to all the companies they have pushed down with their monopoly? Apple and Netscape come to mind...

Sincerely,
Alex Wallace

MTC–00027223

From: Philip Seal
To: Microsoft ATR
Date: 1/27/02 9:36pm
Subject: Microsoft Settlement

To whom it may concern:

As a citizen of this wonderful country and a taxpayer, I wish to object most strongly to any changes that might be proposed or made to the settlement that was legally reached after very much discussion and deliberation, by the court in this matter concerning this great company. Please don't allow this matter to be dragged on any further. There is no need to waste our precious resources on useless wrangling just to satisfy the greed of a few individuals, who are only looking for ways to line their pockets at the expense of a successful Company, and of the entire population of this great nation of ours. Let's get on with more important items that might benefit and improve our economy. "Enough is Enough."

Philip Seal
Sunrise FL

MTC-00027224

From: Mark (038) Pam Collier
To: Microsoft ATR
Date: 1/27/02 9:37pm
Subject: Microsoft Antitrust Case
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We would like to see the antitrust case against Microsoft settled. We think it is ridiculous that this case was filed at all, and we are pleased that efforts have been made to resolve the lawsuit. The terms of the settlement agreement are reasonable. Microsoft has made many concessions. Once the settlement agreement is approved, there should no longer be any concern about anticompetitive behavior on Microsoft's part. Microsoft has agreed not to take retaliatory action against those who develop or promote software that competes with Windows. Additionally, Microsoft has agreed not to enter into contracts with third parties that would require the third party to exclusively sell Microsoft's products. Nothing more should be required of Microsoft.

We urge the court to approve the settlement agreement in its present form. Thank you for reviewing these comments.

Respectfully,
Mark & Pam Collier

MTC-00027225

From: MERLE G WEAVER
To: Microsoft ATR
Date: 1/27/02 9:37pm
Subject: Microsoft settlement

stop the delaying, move on to let Microsoft do its job.

merle weaver

MTC-00027226

From: Mike Letcher
To: Microsoft ATR
Date: 1/27/02 9:37pm
Subject: Microsoft Settlement

My opinion on the above referenced settlement is that there should have never been a suit or judgement against Microsoft in the first place, therefore all charges and penalties should be dropped. Microsoft should be allowed to do business as they choose (just as anyone in a free country should) so long as they do not physically initiate force or threaten physical harm. They got their economic power through free trade and the fact that, besides myself, many, many persons freely chose their software over other available products. This suit is a travesty to freedom.

Sincerely,
Michael Letcher
United States Citizen,
State of Missouri

MTC-00027227

From: John Grauch
To: Microsoft ATR
Date: 1/27/02 9:26pm
Subject: RE: Microsoft Settlement

Judge:

As a soon-to-be graduating college student, I would just like to voice my concern about the possible negative ramifications, should the Microsoft be allowed to continue in its present monopolistic trend. You have the fate of the free world in your hands, please seriously consider how truly monopolistic Microsoft is. The proposed final judgement does not adequately remedy the situation.

Thank you for your time,
John Grauch
USC college student

MTC-00027228

From: jrob@jump.net@inetgw
To: Microsoft ATR
Date: 1/27/02 7:13pm
Subject: Microsoft Settlement

Dear sirs,

Having watched the computer industry for about 20 years now, I have witnessed the Microsoft corporation as it has grown from the supplier of software for "hobby" computers to its present day dominance in the software industry. And I have watched as it has systematically destroyed any company that has attempted to do business selling software, starting with Digital Research in the 1980's. As near as I can tell, Microsoft has never been the innovator it claims to be, but rather exists by adopting the ideas of others and marketing them as its own. Therefore, it is with great disappointment that I learn that the punishment for abusing its monopoly power will in essence be, that it must promise to be nice and not do it any more. Note that Microsoft has never publicly acknowledged its own wrongdoing! A more realistic judgement, in my opinion, would be to completely revoke the IPRs that have allowed it to become the monster it is. Not forever, not for every company. Just for Microsoft and just for a period of say, 5 years as in the current judgement. During that period, Microsoft could no longer make wild claims of "piracy" nor force users to "sign" a ridiculous "contract" merely by clicking their mouse. If someone wished to copy or reverse-engineer Microsoft products during that period, he or she could do so with impunity. It would serve as a reminder to Microsoft that it —can— be regulated, and that the foundation of its business model is in fact government regulation.

James Robertson

MTC-00027229

From: Michael B. Parker
To: "microsoft.atr(a)usdoj.gov','verify(a)kegel.com"
Date: 1/27/02 9:43pm
Subject: RE: Verifying you as cosigner of Open Letter to DOJ

Name: Michael Parker
City: Los Angeles
State: CA
Title: Software Architect
Organization: n/a

I am signing www.kegel.com/remedy/letter.html because I believe Dan Kegel accurately points out that the proposed final judgment with Microsoft considerably falls short of ending anti-competition practices, such as (very offensively), preventing Publicly Available Software from being redistributed with MS Windows (Media Encoder 7.1 SDK) (http://www.kegel.com/remedy/remedy2.html#isv.oss). While it might be easier to debug if it was just one make of software, that is not even beginning to be sufficient technical reason to insist on doing so universally, and the fact that a stipulation such as this would exist in the settlement would suggest to me that the settlement is still ill-spirited and Microsoft would may well still put in anti-competitive practices anywhere they could.

CC: Paul Belvoir
Michael Scott Klein

MTC-00027230

From: TrojansUSC@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:40pm
Subject: Microsoft Settlement

Dear Judge—

I'm a college student and thus have been a big supporter of Microsoft products (mainly Microsoft Word). However, I do not believe it is right they were able to be granted a deal giving them full leverage over the competition. We live in America under a Democracy. Thus, a company based in the states should not rule as a dictatorship. If our country is not run in this manner, what makes a company believe they can do so?

Sincerely,
Robyn Freeman
814 W. 28th St.,
Los Angeles, CA 90007
CC:microsoftcomments@doj.ca.gov@inetgw,dkleinkn@yahoo...

MTC-00027231

From: Daniel Speers
To: Microsoft ATR
Date: 1/27/02 9:40pm
Subject: Microsoft Settlement

Very simply put, this Settlement is a bad idea. The reasons are many and the following URL is merely a good start.

http://www.kegel.com/remedy/letter.html

Dan Speers
15 Maxine Drive
Morristown, NJ 07960
973-898-0906

MTC-00027232

From: Rayson Ho
To: Microsoft ATR
Date: 1/27/02 9:42pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Renata,

I am from Ontario, Canada. I just graduated from the computer engineering program at the University of Toronto. I recently saw the Open letter from Dan Kegel's web site about the Microsoft settlement. As a member of this industry, I think I need to say something. I strongly agree with the problems identified in Dan Kegel's analysis (on the Web at http://www.kegel.com/remedy/remedy2.html) I also agree with the conclusion reached by that document, namely that the Proposed Final Judgment, as written, allows and encourages significant anticompetitive practices to continue, would delay the emergence of competing Windows-compatible operating systems, and is therefore not in the public interest. It should not be adopted without substantial revision to address these problems.

Sincerely,
Rayson Ho,
Toronto, Canada;
Recent Grad,
U of Toronto.

MTC–00027233

From: Jabreitman@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:43pm
Subject: Microsoft Settlement

I urge you to reject the proposed settlement in the Microsoft antitrust case and to require that Microsoft adhere to a market based approach that is self-sustaining, rather than to regulatory remedies that require constant policing. I do not believe that Microsoft, a company that has repeatedly been found to violate antitrust laws, should be broken up. Rather, its 70,000 applications should be able to run on all competing operating systems. This solution will allow consumers to enjoy the advantages of current and future competing products without denying them the use of any Microsoft products. Such an approach is not designed to "punish" Microsoft, but to promote a level playing field in which consumers can freely shop for the mix of products that best meets their needs at competitive prices.

Jerald A. Breitman
15 Innisfree Drive
Durham, NC 27707–5069

MTC–00027234

From: Renhao Zhang
To: Microsoft ATR
Date: 1/27/02 9:43pm
Subject: Microsoft Settlement

Dear Justice Official,

I'm writing this letter to voice my opinion regarding the Microsoft Anti-trust case as allowed by provisions of the Tunney Act.

As a technology consumer and a computer user, it is virtually impossible to conduct my affairs without some form of association to the products of Microsoft, the defendant of the anti-trust trial. As such, the decision and outcome of this trial is of great significance to me.

I agree with the conclusions of the courts Finding of Facts as published here: http://www.usdoj.gov/atr/cases/f3800/msjudgex.htm but I do not support the proposed final judgment as published here: http://www.usdoj.gov/atr/cases/f9400/9495.htm

I object for the following reasons:

(1) Although the spirit of the remedial actions are a step in the right direction, they are too loose and do not go far enough. Too much of the language and the details of how relevant items are defined are too vague. As it stands, the door is wide open for the defendant to construct and exploit loopholes that defeat the original purpose of the judgment rendered. Microsoft has a corporate history of placing self-interest above the public good and can not be trusted to abide by a weak judgment by the Department of Justice.

(2) The decision to remove the order to break up the company along product lines is a critical mistake that will hurt the ultimate goals of this trial. Microsoft has already been found guilty of illegal monopolistic business practices. Keeping the monopoly intact does nothing to punish the guilty. If allowed to stay intact, Microsoft will continue it's history of bullying and pressuring competitors with it's market dominance along multiple fronts of the consumer electronics and computing industry. As of today, Microsoft has well established holds in the general desktop computing, PDA, and game console markets all under the banner of the Windows operating system. Microsoft can not be allowed to use the Windows to destroy the diversity of a healthy market.

(3) Though the guilty verdict establishes Microsoft as a repeated transgressor of fair market practices, no action has been taken to punish the company for past deeds. Over the years, Microsoft has littered the corporate landscape with the remains of corporate entities whose products and market objectives came into conflict with Microsoft. Many surviving companies and computer product producers have testified to the various forms of attack Microsoft has engaged in to stifle competition. It isn't fair to those market participants who have suffered on account of Microsoft for the company to get off so lightly. In addition to the remedial measures, Microsoft needs to be aggressively punished for it's previous business practices as an example to future potential corporate law breakers.

These comments I respectfully submit to the government in the hope that it will aid the cause of justice.

sincerely,
Renhao Zhang

MTC–00027236

From: Thomas Parkhill
To: microsoft.atr(a)usdoj.gov
Date: 1/27/02 9:43pm
Subject: Microsoft Settlement

Gentlepeople:

There is, in my opinion, little justice in the recent decision regarding Microsoft and its business practices. I disagree with this settlement most strenously!

Thom Parkhill
Department of
Religious Studies
St. Thomas Unversity
Fredericton, N.B.
Canada E3B 5G3
parkhill@stthomasu.ca

MTC–00027237

From: Dick Humphrey
To: Microsoft ATR
Date: 1/27/02 9:47pm
Subject: Microsoft Settlement

It is my understanding that Monday, January 28, is the deadline for individuals to submit their opinions to the Department of Justice on the antitrust settlement between Microsoft, the DoJ and nine states. I respectfully ask that you consider the value of competitive practices, not legal means, to attempt to capture customer market share. Microsoft spent over $2.0 Billion in legal fees last year. They have agreed to make some concessions to abide by your original concerns and now we find lobbyists and competitors are forging ahead with competitive issues to keep Microsoft from carrying out their daily operations that have certainly meant a great deal to the day to day operation of each American's life to make it more productive and efficient. While the terms of the settlement are tough, it is my understanding that Microsoft believes they are reasonable and fair to all parties, and meet—or go beyond—the ruling by the Court of Appeals, and represent the best opportunity for Microsoft and the industry to move forward.

I respectfully ask that you not reject the settlement and get this legal mess behind us. Thank you for your consideration.

Dick Humphrey
Littleton, CO
dhumphrey1@msn.com
303–770–8881

MTC–00027238

From: Lawrence W Mahar
To: Microsoft ATR
Date: 1/27/02 9:46pm
Subject: Microsoft case
From: Lawrence W Mahar
945 Murray Road,
Middle Grove, NY 12850,
home & FAX 518–587–6781,
e-mail: larrywmahar1@juno.com.
<larrywmahar1@juno.com>

I agree with The Senior Coalition in recommending an acceptance of the Miscosoft offer.

URGENT ACTION ALERT

Your immediate response is needed!

Three years ago, the U.S. Department of Justice charged Microsoft with having engaged in anti-competitive behavior based on allegations by its top competitors. Many have argued that Microsoft was singled out by its jealous competitors and sympathetic government bureaucrats because of its success and a desire to see it punished.

The Justice Department is in the final stages of deliberating on the proposed Microsoft settlement to decide whether to accept the settlement or to litigate it further. The Seniors Coalition strongly believes that the proposed settlement offers a reasonable compromise that will enhance the ability of seniors and all Americans to access the internet and use innovative software products to make their computer experience easier and more enjoyable.

Unfortunately, a few of Microsoft's competitors have continued their aggressive lobbying campaign to undermine the settlement negotiated with the federal government and nine states. The settlement itself is tough on Microsoft, but is a fair outcome for all parties—particularly senior consumers. Most important, this settlement will have a very positive impact on the American economy and will help pull us from the recession we have experienced over the past year.

You can offer your opinion to the Justice Department to counter the self-serving and punitive lobbying effort of Microsoft's competitors. Current law (known as the Tunney Act) allows public comment on the proposed settlement up until January 28th. The U.S. District Court will then decide whether the settlement is in the "public interest." Please send your strong message to the Justice Department that consumer interests have been well served, and the time to end this costly and damaging litigation has come.

Dragging out this legal battle further will only benefit a few wealthy competitors, lawyers, and special interest big-wigs. Not one new product that helps consumers will be brought to the marketplace.

YOUR VOICE IS VERY IMPORTANT AND TIME IS VERY SHORT.

Only comments received by January 28th will be included in the public record and submitted to the Court for its consideration. Consumers need to win this battle, so please send your comments immediately to the Justice Department—either by email or by fax—and do it before January 28th.

Don't let these special interests defeat the public interest.

Email: microsoft.atr@usdoj.gov.

In the Subject line of the e-mail, type "Microsoft Settlement."

Fax: 1–202–307–1454

or 1–202–616–9937

To find out more about the settlement and the Tunney Act comment period, go to the Department of Justice Website at: http://www.usdoj.gov/atr/cases/ms-settle.htm Raising your voice now on this issue really will have an impact.

Thank you for your time.

Mary M. Martin
Chairman and Executive Director
The Seniors Coalition

MTC–00027239

From: elliota@quik.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:48pm
Subject: Public Comments

I am writing this email to state that I am opposed to the terms of the Microsoft Settlement as they are currently stated. One of the biggest objections that I have is the proposal that Microsoft be allowed to give away software to public schools as part of the terms of the settlement. This does not penalize them for past behavior. In fact it encourages them to continue this because this settlement then greatly expands their market share and ties more school systems into this operating system.

Thank you for listening to my comments.

Elliot Abramowitz
Glendale, Az

MTC–00027240

From: John Parmater
To: Microsoft ATR
Date: 1/27/02 9:47pm
Subject: microsoft settlement

Dear Judge,

I know the Bush administration wants to be friendly to business by being friendly to Microsoft. However, as was establish during the trial, Microsoft has been quite hostile to business and hostile to the welfare of the United States of America. Please do whatever you can to rein in this behemoth.

Thank you.

John Parmater

MTC–00027241

From: Jerome B. Bonat
To: Microsoft ATR
Date: 1/27/02 9:53pm
Subject: Microsoft Settlement

I admire the products that Microsoft has brought to the marketplace —I do not think they should be punished for being effective in the capitalistic system.

Jerome B Bonat
Boca Raton Fl
561 482 6779

MTC–00027242

From: Akkana
To: Microsoft ATR
Date: 1/27/02 9:55pm
Subject: Microsoft Settlement

I would like to add my voice to those protesting the settlement in the Micrsoft case proposed by the Department of Justice. The proposed settlement is too weak, and does nothing to punish Microsoft for its past illegal behavior or to prevent it from continuing the same patterns of behavior in the future. As a temporary measure, it would be a welcome help which might help get the industry moving again while stricter measures are being considered; but by itself it will not change anything in the long run.

There's no question about Microsoft's guilt: both the district court and the appeals court found Microsoft guilty of violating sections 1 and 2 of the Sherman antitrust act. So how can we allow a settlement which levies no penalty whatsoever against the lawbreaker—which allows Microsoft to keep the billions of dollars of profits which have come out of the pockets of consumers and of the many smaller companies which it has trampled in the course of maintaining its illegal monopoly? The proposed settlement would send a clear message that companies are free to break the law with impunity.

We've already seen how effective a weak settlement will be on modifying Microsoft's behavior. Did the agreement of July, 1994 (http://www.usdoj.gov/opa/pr/Pre—96/July94/94387.txt.html) help in ending the company's monopolistic and bullying practices? Evidently not, or they wouldn't have been found guilty in the present case. Nor has the current proposed settlement (which Microsoft claims to support) prevented them from imposing licensing and registration agreements in their most recent software products which maintain their software monopoly and keep users from trying software from other sources. Another weak settlement is an engraved invitation for more monopolistic behavior and many more court cases in the years to come.

III: Prohibited Conduct More important, though, is what the settlement says about Microsoft's future behavior. The settlement will place no significant restrictions on Microsoft's anticompetitive behavior, and allows the company to continue to use its monopoly to lock out other software products.

The spirit of the settlement is fine. Microsoft's most egregious violations, which have had the worst effect on competition, have been its restrictions on licensees, OEMs and other customers restricting their ability to run other operating systems or software from sources other than Microsoft, and the bulk of the settlement attempts to address such issues. However, it is so specific and its scope so limited that the current settlement by itself will not cover the modern applications and the sorts of customers which provide the bulk of Microsoft's income.

Microsoft has already shown itself willing and able to work around loopholes in the proposed settlement. Consider its current enterprise licensing scheme, announced after the publication of the proposed remedy, which offers discounts to companies which sign an agreement not to use non-Microsoft products. Does this behavior become acceptable simply because most businesses do not fall under the heading of "IAP, ICP, ISV, IHV or OEM"?

The loopholes in III J don't specify who is to make the determination as to what constitutes encryption, anti-piracy, licensing, digital rights management, etc. What is to prevent Microsoft from claiming that all of its APIs are critical to one or more of these technologies? Who has the right to overrule them?

IV: Compliance and Enforcement Procedures: Who is to enforce these rules and ensure that Microsoft doesn't continue to flout the law as it has in the past? IV B 3: Microsoft itself has half the responsibility (one of the first two members plus half a vote as to the third member) for selecting members of the oversight committee? Isn't it unusual for convicted criminals to be allowed to select the guards who will oversee them? These committee members, moreover, will be funded by Microsoft and will work at Microsoft's headquarters? It's hard to imagine that any technical committee will end up being a tough enforcer of the law under such conditions. And why is the technical committee prohibited from disclosing the details of any complaints or proceedings, by IV D 4(e)? Let's face it: Microsoft isn't going to change its behavior willingly, and a small number of people chosen by Microsoft, financially beholden to the company and working side by side with company employees, in secret and out of public view, is not going to change anything.

Conclusion: An immediate measure is needed. Since the settlement, Microsoft has already shipped new software which is even more flagrantly anticompetitive than their previous products, and has announced new licensing policies which flout the spirit of all of the proposed settlements. Further deliberation may be needed regarding a strong remedy which will break Microsoft's stranglehold on the market and restore competition to the software industry. If that is the case, please consider imposing temporary sanctions (perhaps akin to the proposed settlement) to send a message that Microsoft must cease its illegal activities immediately.

For the long term, though, I urge you to reject the proposed settlement as too weak and too riddled with loopholes to do any long-term good. Please consider imposing a much stronger settlement that (1) imposes punishment for Microsoft's intentional and flagrant violation of the law, and (2) imposes real and enforceable guidelines (or structural remedies) which will offer real relief to the millions of consumers and the hundreds of companies who are suffering from Microsoft's current stranglehold on the software market.

Thank you very much for your attention.

Akkana Peck
Software Engineer
549 Arleta Ave
San Jose, CA 95128
(408) 297–5257
akkana@shallowsky.com

MTC–00027243

From: Alexander Bogdashevsky
To: microsoft.atr(a)usdoj.gov
Date: 1/27/02 9:53pm
Subject: Microsoft Settlement Microsoft

Settlement is a really bad idea. But you know what, I am not surprized at all...

Alexander Bogdashevsky

MTC–00027244

From: Peter Traneus Anderson
To: Microsoft ATR
Date: 1/27/02 9:53pm
Subject: suggestion

I suggest that Microsoft be required to make the .doc, .xls, Media player, and other binary file formats public, so competitors can write format-compatible programs. This eliminates the problem of people being forced to use Microsoft products because someone sent them a file in a Microsoft format.

Peter Traneus Anderson
42 River Street
Andover, MA 01810–5908
traneus@mediaone.net

MTC–00027245

From: BDHER@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:54pm
Subject: Microsoft settlement

Dear Attorney General Ashcroft,

Please settle the microsoft case.We must end all litigation. Let's focus on reviving the economy. Microsoft has agreed to do many things to help everyone.Why not stop all of this now, and settle their case?

We must settle, and settle now.

Sincerely,
Bill and Dorothy Herndon

MTC–00027246

From: Jake Robb
To: Microsoft ATR
Date: 1/27/02 9:57pm
Subject: Microsoft Settlement

I do not feel the need to reiterate the complaints against Microsoft which I am sure you have read or heard thousands of times by now. I want to voice my opinion against Microsoft's proposed settlement. The following web page references several arguments against the settlement. I have read several and agree with an alarming majority of the agruments. I encourage you to read them; they provide excellent coverage of the many opinions against the settlement.

http://www.kegel.com/remedy/

I urge you not to approve the settlement.

Sincerely,
Jake Robb
Grand Rapids, MI
Software Engineer

MTC–00027247

From: Steve Wheeler
To: Microsoft ATR
Date: 1/27/02 9:57pm
Subject: Microsoft Settlement

I am opposed to the Microsoft settlement as it currently stands. Microsoft has been convicted of using monopoly power in unlawful fashion. The currently-proposed settlement has fewer teeth than the consent decrees that Microsoft has already ignored. Besides there being no significant penalties applied, the decree allows Microsoft to use its desktop monopoly to leverage access to and control of further markets. There is no recourse to this, because all Microsoft has to do to remain compliant with the settlement is to state that whatever feature they use to provide such access and control is defined to be part of the Windows operating system.

Sincerely,
Steven R. Wheeler
4655 Perry Street
Denver, CO 80212

MTC–00027248

From: Janice Wolfe
To: Microsoft ATR
Date: 1/27/02 9:59pm
Subject: Microsoft Settlement

Hello,

As a consumer of Microsoft products, I feel my opinion is noteworthy. Microsoft has been unfairly scrutinized and penalized in the past, present, and may be in the future; however, peer companies who may have needed review seem to have gone unblemished. WhY???????????????????????. Micosoft is ok for me.

MTC–00027249

From: Richard L Steiner
To: Microsoft ATR
Date: 1/27/02 10:01pm
Subject: Microsoft Settlement

I would urge the Justice Department to end the costly and damaging litigation against Microsoft. I believe the proposed settlement is in the public interest. I believe that this settlement serves well consumer interests.

Thank you.
Richard L. Steiner
Consumer

MTC–00027250

From: Geoffrey Feldman
To: Microsoft ATR
Date: 1/27/02 10:02pm
Subject: Microsoft Settlement

Geoffrey Feldman
iddlesex Street #8
Lowell, MA 01851
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have thought from the beginning that the antitrust case against Microsoft is wholly and completely wrong. There never should have been a trial in the first place. Antitrust laws are outdated in a global market. The consumer is not protected by legislation that punishes success. Microsoft's opponents claim that Microsoft holds a monopoly on the technology market. I submit that such a monopoly is impossible. Computer technology is based on innovation, and innovation is driven by ideas. Ideas cannot be monopolized.

Microsoft's supply of ideas comes from its programmers, and its programmers are by no stretch of the imagination bound to Microsoft for eternity. They are free to leave to work for other companies or to start software businesses of their own, and often do so. This hardly denotes monopolization of creativity. When Microsoft succeeds in the computer industry, it does so because it is competent, not because of some sinister conspiracy to barricade other companies'' progression. Furthermore, Microsoft relies on other companies to manufacture its hardware. This is also not indicative of monopoly. Microsoft may enter into exclusive contracts (although such will no longer be permitted under the settlement), but this represents an agreement reached between two responsible parties, and what they do is their own business, as far as I am concerned. Indeed, there is nothing private or secret about Microsoft's software. The settlement requires open sourcing, but that does not mean that Microsoft code was entirely inaccessible before. Any determined developer or programmer, given the time and the drive, could have figured out what Microsoft was doing long before now. Microsoft is not an icon of oppression; rather the corporation stands for freedom. Apple is, in contrast, more monopolistic, although less successful than Microsoft. Apple has control over manufacture of hardware as well as software, and has no intention of opening up the market. It has ceased to innovate because it hasn't had the need do so. Apple works with Apple alone; it has neither diversified nor made outside contracts, and yet it is not nearly as successful as Microsoft is. Even quasi-monopolistic practices are bad business. Monopoly does not mean success, nor is the inverse the case. IBM was once dominant in the market, much as Microsoft is today, and they lost a great deal of consumer support when Microsoft began putting out their product. IBM may regroup and begin to compete head-to-head with Microsoft again in the future, and I would gladly welcome such an attempt. Tough competition breeds better products and a greater degree of innovation.

The consumer benefits from competition between companies of similar strength, and I say more power to anyone who wants to come up against Microsoft.

I am appalled at the claims that have been made in order to bring Microsoft to trial. They are clearly unfounded and irrational. I believe in a kind of business Darwinism: the stronger the product, the better chance there is of survival. I do not think it is wise to protect businesses from the harsh realities of tough competition. It does not benefit the consumer to have weak companies thrust into the market and given advantages they have not earned. This case has gone on long enough, and the greatest harm it has done is to the technology industry and the economy. Computer makers and users are scared to make a move until this case gets resolved, and it is crippling production and sales. Moreover, the case has had a tremendous financial drain on the economy. You can track the litigation across the years by looking at the NASDAQ. The longer the suit lasts, the lower the numbers get. This is not rocket science, Sir. I do not believe Microsoft is guilty of anything more than success in a fast-paced industry. I agree that Microsoft is tough, and provides a higher challenge for its competitors to meet. I would rather see the challenge met and a stronger company to emerge than Microsoft's creativity stultified and the incompetent companies given the chance to invade the market. Again, I am outraged that the case was ever brought in the first place, but I prefer settlement and a return to business than painfully redundant litigation. I urge you to support the settlement and allow Microsoft to get back to business. At this time, the jusctice department pursuit of Microsoft is causing me hardship through its disruption of the computer industry. This will only be relieved by the justice department concluding this matter in the most expeditious way and one most favorable to Microsoft.

Sincerely,

Geoffrey Feldman

MTC-00027251

From: Todd Harrell
To: Microsoft ATR
Date: 1/27/02 10:03pm
Subject: Consumer Concerns about MS Settlement...

Dear DOJ,

My name is Todd Harrell and I wish to submit my comments regarding the MicroSoft case. Let me preface my comments by pointing out that I have used personal computers since 1983. I have used several platforms and today use a combination of both Windows and Apple based systems. I do not wish to engage in a platform war, each OS has its advantages and disadvantages. My concern is for the future of software development as it relates to my home use, and business use.

It is my belief that the intense competiton within the software industry is the reason software has evolved at such a rapid pace. It is my opinion that the business practices of Microsoft threaten the entire industry. Let me point out that while Microsoft holds a monopoly on Operating Systems, I do not feel that this in itself is wrong. If a product gains dominant market share based on its own merits, I support its position. What concerns me is the predatory lengths that MS has gone through to protect its monopoly.

(1) Innovation: One way I believe MS threatens innovation is with its selective targeting of competition.

Example 1: For several years, I used a presentation package known as Aldus Persuasion. Compared with Poweroint, Persuasion seemed to have a much more robust set of features. Best of all, Aldus corporation aggressively developed this package and each new release had a wealth of new tools and features. In my opinion, Powerpoint was simply an inferior program. It appears that Microsoft simply gave Powerpoint away, and by bundling it with its Office suite, it gained a much higher distribution. While Persuasion was a far superior program with a promising future, it could not compete with MS's predatory practices. Persuasion was finally discontinued. Not only did the loss of Persuasion limited my choice, it cost me financially because I had to adopt Powerpoint as a presentation package.

Since the death of Persuasion, Powerpoint has all but stopped evolving. I use a lot of software (including Powerpoint) an I am used to seeing new features as software is upgraded. Unfortunately, without competition, Microsoft has no reason to develop Powerpoint any further. While most other software continually grows, Powerpoint it essentially unchanged from the versions I purchased 5–6 years ago. Powerpoint is a very crude package with limited functionality. It has certainly not evolved at a rate consistant with most professional software.

Example 2: Word vs. Word Perfect. While the focus of my work doesn't require much word processing, I have used (I currently have licenses of) both products. Simply put, I find WordPerfect easier to use. WP also seems to have a reputation of simply being a better package. As with Persuasion, WordPerfect has all but disappeared in the wake if Microsoft's marketing practices.

(2) Choice: It is my belief that as a consumer and business owner, Microsoft has unfairly limited my choices of software (beyond issues as listed above)

Example 1: For years, I have used Netscape Navigator. Upon the initial release of Explorer, I tried MS's browser for possible use as my primary browser. I simply did not like Explorer, and continued to use Netscape (NN). It seems that in recent years, as Explorer gained market share, NN began having compatibility problems with certain web sites. While I certainly have no proof, I am concerned that perhaps MS's server software or marketing practices have purposely sought to ensure that MS controlled sites or ISP's intentionally "break" with browsers other than IE.

Example 2: Ease of use. While I use both Windows and Macintosh, this past year I have used mostly the Windows OS (because of certain software requirements). In my opinion, windows is a more difficult OS to use and maintain. For many network administrators, windows offers a deep, flexible perating system that gives them a lot of technical control. For most of us users though, it is needlesly complex, and arguably obsolete. The Macintosh is strong in the educational community because of its ease of use. School systems can't afford all the network personel required to maintain a PC network. Under the current "proposed" settlement, schools will be forced to accept old computers and a Windows standard. Kids will be raised in an environment where only one OS exists. I doubt most school systems will be able to maintain an efficient network based soley on Windows with out spending lots more for the additional support requirements.

I guess I can go on and on. If you recieve this email and wish for me to contribute further, I will list more of the concerns I have. Innovation is everything in this industry. If Microsoft is allowed to continue its practices, otherwise progressive companies will have no incentive to innovate and the entire industry will stagnate. Consumers will be hurt as software stops evolving and MS is allowed to raise prices, restrict use and control an industry and technology founded on innovation. Microsoft is not ethical or responsible with its monopoly. They have hurt the OS market, they are hurting the handheld market and now they are moving into the gaming industry. What's next?

Simply put, I am a consumer, I want choices, I expect innovation. Microft's practice continues to threaten both.

Todd Harrell
Techna Design Studio
Charleston, WV

MTC-00027252

From: Daniel D. Allen
To: Microsoft ATR
Date: 1/27/02 10:06pm
Subject: Microsoft Settlement

It is time to accept the Settlement offered to Microsoft by the Justice Department. It is reasonable, and pushing it any further will only increase the cost to everyone and won't help anything. Betty Allen, 520 Old Post Rd. Tolland, CT 06084. (A Senior)

MTC-00027253

From: Chris Oxenreider
To: Microsoft ATR
Date: 1/27/02 10:04pm
Subject: Microsoft Settlement. (NAY)

To whom it may concern:

I find that the proposed final judgment against Microsoft lacks in a great number of areas. Specifically I wish to highlight these important places where improvement, in my opinion, should be sought.

(1) The settlement is too full of specific industry jargon which may become obsolete or rendered useless within a short span of time.

(2) Microsoft to pay the legal fees for the DOJ. Microsoft has been proven in court to have been a monopoly. It is customary and usual for the party who has been found against to also pay the legal fees of the winning party, including, but not limited to the DOJ and the states Attorney Generals offices involved.

(3) Divesting Microsoft of it's non-software business interests. Microsoft is a monopoly. Allowing it to continue to own, hold or have influence over it's competition (Apple) through direct investment should be prohibited. Allowance for grants and gifts may be allowed provided that they come unencumbered.

Microsoft should not be allowed to own any hardware or service providing (Internet, travel, shopping, video games, print media, etc) business that is not directly related to it's operating system or applications. Microsoft should be limited to it's software business and not allowed to own or have major holdings (25%) n telecommunications, travel, banking, industrial, utility, or commerce business where it's full weight and power may be used to allow it to gain additional monopoly standing.

Microsoft's interest, in whole or in part, in Internet service providing companies is akin to allowing Standard Oil to continue as it was, but then allowing it to buy companies that make oil using equipment and engineering them to become less oil efficient so as to use more standard oil.

(4) Limitations on Microsoft for the purchase/acquisition of other technologies and companies (world wide). Microsoft may no longer purchase technology or software companies outright. It my license on a non-exclusive basis from those companies.

(5) Inadequate penalties against Microsoft.

No monetary awards have been stated to help those companies that have been hurt by Microsoft's monopoly status (Microware, Netscape, SUN, etc).

(6) Microsoft will be fair and create a "Chinese wall" between the Operating system division and the Applications division and only the publicly published API interfaces from the documentation of each may be used to develop software within Microsoft. If the Applications developers can only use the published "API's from the Operating system developers and vice versa. No unpublished "faster" Microsoft exclusive API's will be created.

(7) Inadequate definitions. Examples include Compromised security, and anti-privacy.

(8) Microsoft shall not overly encumber competitive analysis of it's software by unduly restricting it's license agreements to prohibit competitive analysis (for example as Oracle on NT vs Solaris).

(9) No provisions for fostering competitive software creators. There are no provisions for fostering (via monetary penalties) other alternative software and operating systems. Unencumbered university grants and gifts. Grants and gifts to independent software developers, consultants and individuals. Microsoft may license the technologies from the above mentioned, but may not have exclusive right to those technologies.

(10) No provisions for fostering competitive operating systems. Microsoft shall agree to make available the 20 (minimally) most popular software applications for home and the 20 (minimally) most popular software applications for business applications on the top 10 competing operating systems. Said software will be identical to that released for it's own operating system in features. Software for the top 5 competitive operating systems shall be available no more than 90 days after the release for it's own operating system, and no more than 180 days for the remaining operating systems.

(11) Inadequate oversight of Microsoft post settlement.

(1) The TC should be 7 people (1 Microsoft selected member, 3 plaintiff selected members, and 1 designated representative each from the groups IEEE, IETF and NIST [or their successors/assigns]).

(2) Define "any competitor to Microsoft" (does that mean any LINUX users)

(3) no provision for input from enlightened public members

(12) Stipulation that Microsoft must adhere no only to the letter of the law but the spirit of the law as well.

(13) Termination should be no less than 15 years and no more than 35 years.

(14) Inadequate stipulations that Microsoft must adhere to international and Internet (IETF, RFC, et all), POSIX, etc [or their successors and assigns] with out rendering them incompatible in the Microsoft implementation.

(15) Inadequate stipulations for opening Microsoft's standards to allow interoperability from competitive software creators with out encumbering non-disclosure, or requisite partnerships or strategic alliances. Example: Opening the standards for .doc and presentation format so a competitive interface to an "outlook client" might be created.

(16) Exclusive use of Microsoft owned and or operated information distribution systems as the sole point for the dissemination of data regarding interoperability. The use of a wholly owned Microsoft network at the control of Microsoft to disseminate information about how to create compatible software seems counter intuitive. Minimally, this information should be freely available from a Microsoft supported third party. Information above and beyond what is required by the final judgment may be on Microsoft network for a fee is not unreasonable.

(17) Inadequate allowance for "open source" developers to flourish.

MTC-00027254

From: Pooka1@afxsp0aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:09pm
Subject: Microsoft Settlement
January 27, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft,

I am writing to respond to the Justice Department's request for comments from the public on the proposed Microsoft settlement. While I am sure this settlement agreement will have its detractors,it seems a reasonable compromise. Hopefully it will bring stability and progress in the software industry.

This settlement offers the opportunity to close the case with certainty. Microsoft has offered a number of serious concessions, including its agreement to open Windows operating systems so that non-Microsoft software can be configured into the system. If implemented, this provision, standing alone, will have an immediate, positive effect on the software market. Please take advantage of this opportunity and settle the case as soon as possible. The public interest will not be served by the alternative.

Sincerely,
Milton Ross
108 Meadowbrook Country Club
Ballwin, MO 63011

MTC-00027255

From: hank henry
To: Microsoft ATR
Date: 1/26/02 1:06pm
Subject: Microsoft Settlement

Hello, I have never sent a letter like this before.I would have never thought it would be necessary.

I used to be a fan of Microsoft, I thought they represented the American dream.i.e.

A group of young entrepreneurs changing the would for the better and getting rich in the process.

Having watched there business practices over the years, and now working in the computer industry, I have a completely different view of Microsoft. They are predators that feel that they are above the law. If any other industry behaved in such a fashion there would be a public outcry. Computer operating systems are harder for most to understand. (If one company owned 95% of the petroleum distribution centers in our country, than started a car company and changed all the fueling nozzles to only fit their car it would not be tolerated) They do not even seemed to have learned by this latest litigation, they seem even more arrogant then usual.

Fair competition is good for our economy and society, abusing a monopoly to stifle competition is not.

Thank you for time
Hank Henry

MTC-00027256

From: Ralph Alberti
To: Microsoft ATR
Date: 1/27/02 10:09pm
Subject: Microsoft Antitrust Agreement

I implore you to move beyond this settlement and let Microsoft continue to go about its business of creating products that benefit us all.

Ralph Alberti

MTC-00027257

From: Frank Disparted
To: Microsoft ATR
Date: 1/27/02 10:08pm
Subject: Assalt on Microsoft

I Microsoft has been a great benefit to me as a user of their products. They produce the best and have made a standard for the industry, if you remember a few years ago when one could spend hours trying to make a new program work. I thing the people bringing charges against Microsoft are fishing for money. The other competitors cannot keep-up and are leaning on the Government to help them compete. It is shame an American Company leading the world get stabbed in the back form it own government. Would everyone be happy if we shipped Microsoft to China? Shame shame shame.

Frank L. Disparte
Kiwanis Club Huntington Beach
Ocean View Key Club Advisor
fldisparte@pobox.com

MTC-00027258

From: Mickey Roberson
To: Microsoft ATR
Date: 1/27/02 10:18pm
Subject: Microsoft Matter

Dear Attorney General Ashcroft

I am retired now, but in my working career I labored at a large company for others and finally as the owner of my own company. I understand how business works and there are occasions when the Federal and State governments do have a stake in how a business conducts its affairs. Unabashed polution of the environment, negligent disregard for workers'' safety, underage and illegal immigrant labor come to mind. However, this Microsoft prosecution has been wrongheaded and bogus from the start.

Microsoft being charged as being monopolistic is ridiculous and I am living proof of that. In my life with computers I have owned SIX Apple laptop computers and ZERO computers that use any Microsoft products at all. To the best of my knowledge I have never contributed one cent to the revenues of Microsoft or the personal fortune of Bill Gates. I have purchased Apple computers with ease as well as the software to operate them and am perfectly happy with my computing access, so how in the world can Microsoft be a monopoly if I have nothing to do with them. If someone does not like Microsoft, just buy an Apple like I have.

The only thing I know about Windows is that it is an operating system I do not need, use or want. My understanding though is that Microsoft has agreed to share some sort of protocols or proprietary information that would help its competitors benefit from Microsoft innovation and market penetration and that seems reasonable enough to me to settle this prosecution that should never have taken place to start with.

This Federal prosecution and the resulting original decision are to me the seminal events that started the plunge of the NASDAQ and the fall of the value in many technology stocks, which by the way has cost me many thousands of dollars in the value of my retirement savings. This plunge has also cost hundreds of thousands of people their jobs, resulted in I am sure billions of dollars of loss to our general economy and a tremendous reduction in the tax dollars flowing into the federals coffers as revenue. It seems almost insane for the U.S. government to attack one of its largest companies which was the world leader in an area in which the only direction seemed up. Some foreign governments give monetary support to their own companies in an effort to compete with U.S. companies, but here with Microsoft the Federal government is trying to destroy a U.S. company. Since Microsoft was not, is not and cannot be a monopoly, it would be interesting to know why Janet Reno and her associates really prosecuted, but I will not hold my breath waiting for the truth as that will never be known.

Please Mr. Ashcroft, halt this persecution and reach some sort a settlement that will allow the technology sector of our economy to begin to recover where common citizens can go back to work in this sector and help bring us out of this recession. To continue this prosecution or end it with some draconian destruction of Microsoft with only worsen the economy, cause more bankruptcies and cost more thousands of workers their jobs. Bill Gates has been humbled. U.S Senators and Representatives have had plenty of face time on TV. Enough damage has already been done, please no more.

Sincerely yours,
Mickey Roberson
Atlanta, GA

MTC-00027259

From: FRED21@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:17pm
Subject: Microsoft Settlement

Gentlemen:

PLEASE LEAVE MICROSOFT ALONE. THEY HAVE BEEN HOUNDED ''ENUF. I HAD A COMUTERBACK WHEN I HAD TO HAVE SOMEONE PROGTAM IT FOR ME ''TILL BILL AND HIS CREW CAME ALONG AND GAVE US A PROGRAM THAT EVERYOND COULD USE. A REAL STANDARD.

MTC-00027260

From: Sudeep Gupta
To: Microsoft ATR
Date: 1/27/02 10:19pm
Subject: Microsoft Settlement

To whom it may concern, I am an avid user of Microsoft products, but I do not agree with the Department of Justice's settlement agreement with them.

Microsoft engages in predatory pricing, locks out competition to their products by leveraging their monopoly in other fields, and even behaved appallingly during the trial— faking video-taped evidence, lying about statements (such as claiming they don't track ''market share''), and other issues. It surprises me that the settlement is so favorable to them. I am concerned that the settlement does nothing to address the fundamental problem that Microsoft can leverage their monopoly in operating systems, business software, and their growing influence with media and Internet content to bolster their control in any of the other business spaces.

Please reconsider the proposed settlement, and develop a plan that will actually benefit consumers and prevent Microsoft from engaging in illegal business practices.

Sincerely,
Sudeep Gupta
6209 Monticello Drive
Frisco, TX 75035
972-712-1020

MTC-00027261

From: John Eure
To: Microsoft ATR
Date: 1/27/02 10:20pm
Subject: Microsoft Settlement

Please reject the proposed settlement in favor of one that will actually prevent Microsoft from continuing to illegally exploit its monopoly. At a minimum, this should require them to offer all of their desktop programs (Office, for example) for MacOS and Linux (the only other significant desktop OSes), and to offer all of their server programs (IIS, for example) for Linux, Solaris, and several other varieties of UNIX (the only other major server OSes). By requiring them to provide applications support to their major OS competitors, you will prevent them from leveraging their OS monopoly into a number of applications monopolies, as seems to have already happened with word processing, where MS Word is the default standard. (By the way, all this could also be accomplished by braking the company up into OS, applications/hardware, and networking divisions.)

I urge you not to cave in to Microsoft's continuing whining. The US economy cannot afford to support the dead weight of a monopoly for any longer. Competition equals a healthy free market, and a monopoly provides neither. If Microsoft's punishment is inadequate, I fear that its straglehold on the stagnating US tech market will drag our economy into a deep and long-lasting depression.

Thanks,
John Eure
(a US citizen, registered voter, and computer scientist)

MTC-00027262

From: David Walser
To: Microsoft ATR
Date: 1/27/02 10:21pm
Subject: Microsoft Settlement

I believe the proposed settlement in this very important trial is not in the public interest.

First, the settlement doesn't go far enough in preventing Microsoft's further abuse of its monopoly for continued monopoly maintenance. Through its control of the technology and licensing, Microsoft is able to make its software widely used. For software such as Office and Media Player, Microsoft controlled file formats become entrenched, and interoperability becomes crucial to users who wish to use non-Microsoft software. Microsoft's ability to control these file formats through control of the technology and licensing allows them to hamper attempts by makers of alternative software to interoperate with these file formats. An effective remedy, that would reduce the barrier to entry for competing operating systems, would require Microsoft to make full specifications to these file formats openly available to the public, in advance of the release of the Microsoft products the formats are to be used with. They should also be prohibited from using Intellectual Property laws such as Copyright and Patenting to get around this requirement. When Microsoft argued their Copyright allowed them to completely control the desktop shipped by OEMs, the Court already shot down this argument. The file formats should be completely open with no limitations, which brings me to my next complaint about the settlement. It relies heavily on the use of ''Reasonable and Non-Discriminatory'' (RAND) licensing of technologies for which Microsoft is required to cooperate with the industry. Unfortunately, as has been discussed recently at the World Wide Web Consortium (W3C), RAND licensing can't avoid being discriminatory, as it's incompatible with Open Source licensing (as defined by the Open Source Initiative, http://www.opensource.org/). As Open Source software is the only credible competition to Microsoft currently, this is a very big problem. The remedy should rely on no provision which lets Microsoft only cooperate with commercial entities, and should be careful that Open Source software can benefit equally.

Another problem with the proposed settlement is it is very vague, and gives Microsoft too much power over carrying out the provisions of the settlement. A remedy should be very clear about what Microsoft must do, and cannot do. It should be very clear where authority lies in carrying out and enforcing it, and that authority should not lay in the hands of Microsoft's directors. There are too many places in the proposed settlement where exceptions are defined, and Microsoft gets to decide when those come into play. As should be obvious from the last settlement reached between Microsoft and the DOJ, exceptions and loopholes should be kept to a minimum. The exceptions in the current proposed settlement reduce it to almost nothing.

Finally, the biggest problem with the proposed settlement is it lacks an effective enforcement mechanism. Under its terms, Microsoft could more or less ignore it, with no real penalty. An appropriate remedy should be careful to address this.

MTC-00027263

From: Daniel Brewer
To: Microsoft ATR
Date: 1/27/02 10:16pm
Subject: Microsoft Settlement

I object to the settlement with Microsoft as it is currently proposed. The settlement is a step in the right direction, but it is not sufficient to stop the harm that Microsoft's monopoly inflicts on consumers and competitors. I believe that it would leave Microsoft basically intact and with too much room to evade the settlement's provisions. Also, it would do too little to end the barrier to market entry that Windows" existing applications hold against all other operating systems. Further, the settlement would not end the barrier to entry that Windows" boot loader enforces against other operating systems.

I believe that we must have public proceedings under the Tunney Act to give consumers a voice in creating a fair settlement.

Thank you for your time in reading this message.

Daniel Brewer
503 SE 12th Ave Apt #11
Portland, OR 97207
(503)231–8977

MTC-00027264

From: tfeazel@&fxsp0one.net@inetgw
To: Microsoft ATR
Date: 1/27/02 10:19pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Terry Feazel
7195 Wyandot Lane
Middletown, OH 45044

MTC-00027265

From: BSSklavier@&fxsp0aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:23pm
Subject: Microsoftsettlement
To whom it may concern,

As a consumer of microsoft products I think they should be lauded—not persecuted—for what they have done. Please leave microsoft alone. They should not be punished for the good job they have done.

Our country did not fight Communism in Europe and Asia only to bring it here in this antitrust; read harassment, case against Microsoft and its brilliant, humanitarian creator, Bill Gates.

Please praise microsoft instead of attacking them.

Bradley Sidman
CC:activism@moraldefense.com@inetgw

MTC-00027266

From: Paul Olofson
To: Microsoft ATR
Date: 1/27/02 10:24pm
Subject: Microsoft Settlement
Attn: Department of Justice

In response to the DOJ's unwarrented assault on Microsoft, I would like to contribute the following points.

Item 1)

Price of Operating System

US Government—The US Government claims that Microsoft should only charge $45 for their operating system. Their current price gouges the consumer.

Reality—Out of the several of operating systems on the market, Windows is priced competitively. Microsoft had 2,600 people working on Windows 2000. They spend 6 billion a year on R&D. They should be allowed to charge a price that consumers think the product is worth and to run their own business. There is a free operating system named Linux on the market. You can pick up a popular version of this free software at CompUSA for about $80. The judge in the Microsoft case seems to think that Microsoft should charge less than the free operating system. Additionally, lowering the price would improve market position, an idea the US Government opposes.

Item 2)

Microsoft gave away Interned Explorer to try to put Netscape out of business and dominate the internet browser market.

US Government—US Government claimed that Netscape was severely damaged by MS because Netscape also had to give away its browser to compete, thus depriving NetScape revenues and a chance to compete in the marketplace.

Reality—This point is contrary to the first item of MS overcharging consumers. What better deal for consumers than free? During the trial, the value of Netscape went from 5 billion to 10 billion when it was finally acquired. How can a company be put out of business if it was valued at 10 billion dollars? Using US Government logic, the real culprit would be America Online. AOL, the dominant internet service provider, has swallowed up two companies that used to charge for their browsers (first CompuServe then NetScape). Lastly, note that AOL has refused to endorse browser standards. Without these standards companies are forced to spend time and effort on cross-browser development. Since the Netscape browser has refused to adopt those standards, the market share of the Netscape has continued to decline.

Item 3)

Microsoft is a Monopoly

DOJ—Microsoft is a Monopoly due to their percent market share in intel based computers.

Reality—I can remember when DOS 5 and Windows 95 came out. At CompUSA? consumers put their names on waiting lists to buy the new operating systems. Do people do this for OS2, Linux or Apple operating systems? Consumers like Windows at the price offered or they would buy other products. How much market share should MS give up before they are not a considered a monopoly? Who would decide what consumers would have to switch to other operating systems?

MS has 10% of worldwide software market while Cisco has an estimate 75% of worldwide router market and currently is the highest valued company in the world. I guess Cisco is next!

Item 4)

Microsoft stifles innovation

US Government—US Government claims that MS dominance stifles innovation. I don?t think US Government offered any evidence here.

Reality—When I started working as a government contractor in 1989, everyone I know used Lotus and WordPerfect. Over the next couple of years, MS introduced Office for Windows which included a host of features other companies didn?t have. Drag and drop, autofill, autocorrect, outlining and a standard programming language across applications (VBA) to name a few. When my colleagues, in the office of diehard Lotus and WordPerfect users, started using the new releases of Microsoft Software, they as well as myself were happy to have the new capabilities and switched to Microsoft products. Microsoft consistently has top rated products at competitive prices. Please review the following web sites as evidence of this. www.tpc.org http://www.microsoft.com/sql/evaluation/news/default.asp

TPC.org shows that Microsoft is the leader in ecommerce software (database and operating systems) in terms of overall speed and in price/performance. The Microsoft site references the award Microsoft SQL Server has recently won. Most notable is the industry survey of 5,000 businesses as the best business database software.

The list goes on for many Microsoft products.

Item 5)

Bill Gates has too much money.

Reality—I heard that one on CSPAN. ?No one person should have that much money.? Bill Gates owns about 16% of a company he helped start over 25 years ago. That's a crime? Microsoft pays a lot in taxes and employs thousands of people who also pay a lot of taxes and develops great products.

Item 7)

The other bigger question

US Government thinks the US Government should control private companies.

Reality—I am sure everybody would disagree with this fact idea, but the actions of the government prove otherwise. The private sector is the better innovator. Why would anyone want the government deciding what a private company could put in software?

Microsoft invests billions of dollars in R&D every year to find out what people want and how things work best. They use this data to implement these ideas in software consumers want to buy.

Thank you.

Sincerely,

Paul Olofson

4524 Banff Street

Annandale, VA 22003

MTC-00027267

From: lady Bug

To: Microsoft ATR

Date: 1/27/02 10:25pm

Subject: Microsoft Settlement

Dear Department of Justice:

The Microsoft settlement was good, because it allows computer manufacturers to provide competitive services along with Windows without worrying about any negative reactions from Microsoft. Competition is healthy for the economy (quality and price stability) and consumers can actually choose from more choices.

Thank you.

MTC-00027268

From: ZH299@aol.com@inetgw

To: Microsoft ATR

Date: 1/27/02 10:25pm

Subject: Microsoft Settlement

To Whom It May Concern I am a 19 year old student in New York. I am currently studying in the field of Information Systems. This United States vs Microsoft case affects not only those in the field already, but those who plan to pursue a career in computers and those who use the products on a day to day basis.

I think that the case against Microsoft should be left alone because if more smaller companies are allowed to come in, it can hurt the economy even more. I think they should be left alone because they are a closed market space, if smaller companies came up and made products and made it free or sell it cheaper, the stocks would go down drastically. It wouldnt be an unhealthy competition because Microsoft products are already settled and proven. We have already seen disasters that have shaken the economy. We do not need a technology disaster on top of all that has occured. Everyone is used to the products that are being used currently; that a change might not be appreciated greatly.

Thank you for allowing me to share my input.

Sincerely

Zohra Habib

MTC-00027269

From: Reed, Eric

To: "microsoft.atr(a)usdoj.gov"

Date: 1/27/02 10:23pm

Subject: Microsoft settlement

I do not believe that the "Anti-Trust" laws in this country are in the "public good". I think they only prop up companies that can not compete in the market, and, in so doing, prop up prices which would otherwise be lowered by a more pure form of competition.

I also think that asking the public what is in there own best interests will yield you nothing but 250 million different best interests.

Eric Reed

MTC-00027270

From: Robert Ripley

To: Microsoft ATR

Date: 1/27/02 10:27pm

Subject: Microsoft Settlement

Dear Mr. Ashcroft:

Please see letter attached.

Sincerely,

Robert Ripley

10507 View High

Kansas City, No 64134–2448

January 25, 2002

Attorney General John Ashcroft

US Department of Justice

950 Pennsylvania Avenue, NW

Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to express my support for Microsoft in its antitrust case. In November 2001, Microsoft agreed to settle the case. There are many provisions that Microsoft has accepted that make a strong case for accepting the settlement.

Microsoft has approved the sale of its products, at an equal price for all, to the leading 20 computer makers. Not only this, but Microsoft has granted rival software developers open access to Windows and other documents relating to Microsoft products. These are only two of the many areas in which Microsoft has agreed to compromise.

I believe that the terms of the settlement with Microsoft are liberal towards their rivals, to-say-the-least. The Justice Department should take this historic opportunity to end this antitrust case and let all sides involved move on to bigger and better endeavors.

Thank you.

Sincerely,

Robert Ripley

MTC-00027271

From: Aps42616@aol.com@inetgw

To: Microsoft ATR

Date: 1/27/02 10:28pm

Subject: Microsoft settlement

I believe that the Microsoft organization should not be split up or be subjected to any division such as AT&T. This will only confusion prices of soft ware will increase and any service will be subjected to fees.

MTC-00027272

From: James E. Swain

To: Microsoft ATR

Date: 1/27/02 10:28pm

Subject: Microsoft Settlement

It is outrageous that Microsoft should have to be involved in any "settlement!" The executives and employees of Microsoft should be praised for the tremendous wealth they have created—not vilified for their success.

The Justice Department and law enforcement agencies should only be concerned with Microsoft if there have been violations of the rights of others. Since there weren't any, Microsoft should be left alone to do business as they see fit and continue to create wealth.

James E. Swain, Ph.D.

MTC-00027273

From: Eileen J. Palumbo

To: Microsoft ATR

Date: 1/27/02 10:29pm

Subject: Microsoft Settlement

Please get this settlement done with now. Microsoft has already agreed to the settlement terms and is trying to cooperate fully with the Justice Department. No one wins by dragging this out and only more money is being spent by a government that is pouring billions into the economy and defense. We don't need to be spending money on a case that should have been settled months ago.

Eileen Palumbo

MTC-00027274

From: annepattex@aol.com@inetgw

To: Microsoft ATR

Date: 1/27/02 10:26pm

Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division

601 D Street NW, Suite 1200

Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Anne Teixeira

1743 N Wintook Dr

Ivins, UT 84738

MTC-00027275

From: Bob W. Nix

To: Microsoft ATR

Date: 1/27/02 10:30pm

Subject: Microsoft settlement

Don't drag this out any longer as it will only punish more consumers. Settle with

Microsoft and get on with it! Let the free enterprise system work

Bob Nix

MTC-00027276

From: Greg Wojcik
To: Microsoft ATR
Date: 1/27/02 10:28pm
Subject: Microsoft Settlement
CC: Gregory L. Wojcik Ph.D.
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
From: Gregory Wojcik
7145 Hihn Road
Ben Lomond, CA 95005

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. I work for a company that produces software which operates on multiple platforms including Windows, and am also an end-user of several Microsoft Operating Systems, Middleware and Applications both at work and at home.

The Court of Appeals affirmed that Microsoft (MS) has a monopoly on Intel-compatible PC operating systems, and that the company's market position is protected by a substantial barrier to entry, and that Microsoft is liable under Sherman Act 2 for illegally maintaining its monopoly. According to the Court of Appeals ruling, "a remedies decree in an antitrust case must seek to 'unfetter a market from anticompetitive conduct', to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future".

Like all those found guilty of a crime, Microsoft need to be punished for their actions—ideally in a way that attempts to restore competition and undoes the damage inflicted on the consumer by their anticompetitive behaviour. MS has profitted greatly from their behaviour, and the fruits of their illegal actions must be denied to them.

Previous court ordered remedies have shown that Microsoft willfully ignores and attempts to circumvent any restrictions placed on them by careful selection of the language used in these remedies, and stalling with continued appeals such that by the time a resolution occurs, there is no surviving competition.

Microsoft show no signs of remorse or attempts to change their pattern of behaviour. Indeed, while conceding certain points on existing Operating Systems (OS), they are careful to ensure that applications (such as Microsoft Office Suite) and future products such as .NET are excluded from any restrictions. It is clear from their pattern of behaviour that they will attempt to monopolise these markets, and that nothing but the most severe restrictions on their behaviour will have any effect.

Since many of the companies adversely affected by Microsoft are no longer operating due to the illegal monopoly, it is hard to make reparation to them. Rather, the remedy must seek to redress the harm done to the consumer, and to prevent Microsoft continuing to use its illegaly gained market dominance to monopolise new markets. It is apparent that Microsoft traditionally gains dominance in a new market buy tying sales of one product to sales of another—for example, the bundling of Microsoft Office with Windows, and the intimidation of Original Equipment Manufacturers (OEMs) to ensure that this continues to the exclusion of competitors. Their willful circumvention of previous court restrictions, which violate the spirit if not the exact letter of the agreements, indicate that MS must be given no latitude in which to avoid punishment. The only option remaining if this is true, is a structural remedy.

Structural Remedy: The existing MS corporation must be split into at least 5 separate companies, each of which is barred from operating in the other 4 areas or joining with one of the other compnaies for a period of not less than 10 years. The company should be split along the following lines:- Operating Systems, Computer Programming Languages (must include .NET and C#), Applications (such as MS Office), Hardware (including XBox), and Internet Services (MSN etc).

Microsoft continually use their monopoly position in each of these sections to dominate others—and must be denied the opportunity to do so in the only method it appears that will work. It is imperative that the .NET be split from all other services, since it is clear MS intends to use this to tie in future applications and services and 'lock out" competing products. Previous anti-trust cases which have resulted in large corporations being split extensively detail prohibitions on these individual companies. It is clear that despite all evidence pointing to a structural remedy as being the only solution, the courts are unlikely to impose such a remedy. Whether or not this is implemented, the following aspects of MS illegal behaviour must be addressed.

Consumers Overcharged and Require Compensation: In addition to monopolising markets, the consumer has been harmed by Microsoft products being overpriced than would have occurred had competition been available. Once again, Microsoft must be denied any profits from their illegal activities. The consumer must be recompensed for this, and so a substantial cash fine should be levied against MS, which would then be divided amongst all registered users of Microsoft products. This fine should be no less than 1 billion US dollars—note that MS currently have cash reserves of over $35 billion and this is increasing rapidly—it is a small fine to MS.

Should this not prove to be practical, then MS should still be fined, but with the money going to the purchase of computer and computer related hardware for schools, colleges and charity groups. MS should not be allowed to provide software for these systems, and alternatives such as Apple computers or free software such as Linux must be used instead. This will not only return some benefit to the consumer, but prevent further harm done to MS competitors.

Applications Barrier to Entry: Significant barriers exist to competing products in the marketplace due to Microsofts illegal monopoly. These must be eroded and removed in the following ways: By forbidding retaliation against OEMs, Internet Access Providers (IAPs), Independent Software Vendors (ISVs), and Independant Hardware Vendors (IHVs) who support or develop alternatives to Windows.

All APIs and file formats (MS Word, MS Excel, MS Access, MS Powerpoint, MS Outlook and Outlook Express, WMP—the Microsoft Middleware Products) should be available to ISVs and HSVs. File formats should be open and available for public viewing at no cost. Any changes made to APIs and file formats must be announced and specified a period of time must have passed before these changes are implemented (e.g. 180 days for APIs and 90 days for file formats). Current definitions of APIs allow MS to avoid releasing documentation on many important interfaces. File formats, while an important barrier to entry, are currently not included in the proposed settlement and must be publicly disclosed.

Wording of the licence agreement for ISVs accessing APIs and documentation shall state that it will solely be for the purpose of interoperating with a Windows Operating System Product or with application software written for Windows. Current phrasing limits this to OS only.

Definitions of requirements for companies or individuals to access APIs should be publicly available and independently enforced—MS should have no say in this part of the decision process.

All patents covering the Windows APIs must be disclosed. Currently those ISVs producing Windows-compatible operating systems are uncertain if they are infringing on Microsoft software patents. Wording of the current proposed final judgement should not prevent ISVs using released APIs to make alternative OSs compatible with Windows based OSs.

Forced Upgrades Must be Stopped: MS abuses its monopoly postion by forcing consumers to upgrade from older products to newer ones, at substantial cost. Since there is now no effective competition due to the illegal actions, the consumer has no alternative but to go with MS products. By altering file formats in latest releases that are incompatible with older versions, and by removing older products from sale, MS force the consumer to upgrade.

To prevent this, file formats for all Office Applications and WMP must be publicly available at no cost to allow alternatives to be developed. This is mentioned in detail above.

To prevent the removal of older products that are still viable applications, Microsoft must continue to support older products for at least 15 years after their introduction. MS may choose not to support the software during this time citing that it is not a useful product, in which case it is allowed to do so but must make the entire MS source code to the application publicly and freely available. Under these circumstances, users may maintain and compile the software themselves. This will apply to operating systems as well as middleware and applications.

Prohibiting practices towards OEMs: In addition to current restrictions in the

Proprosed Final Judgement (PFJ), Microsoft must be restricted against reprisals for OEMs that sell PCs with a competing OS but no Microsoft OS.

The PFJ requires Microsoft to license Windows on uniform terms and at published prices to the top 20 OEMs, but says nothing about smaller OEMs. This leaves Microsoft free to retaliate against smaller OEMs if they offer competing products. There should be selected 'groups" of OEMs of varying sizes, for example OEMs 1–20, 21–100, 101–1000, 1001+, and in those bands prices must be uniform and published on all MS OS, Applications, and Middleware products.

Market Development Allowances (discounts) to OEMs must be fully disclosed in public. Discounts may not be given in one product (e.g. Office Applications) due to sales in another product (e.g. OS). This will prevent MS using its OS dominance to move its monopoly into other areas. Enforcement: MS will attempt to circumvent all remedies to the best of their ability. Strong, independent and effective supervision of MS is necessary, and a panel of several industry experts (chosen by the courts and complainants, with minimal input by MS) must be allowed full and unfettered access to MS documents. They will be provided with support staff, and be paid for by MS at competitive rates given their experience. This panel should have the ability to force release of MS documentation and source code, and delay the release of products until compliance is complete. Any undisclosed APIs discovered should result in a large cash fine. Current proposed enforcement allows no incentive for MS to comply with the remedy. Some of the above stated remedies may seem extreme, but given the magnitude of the MS corporation and the extend to which it has broken the law, the remedies must be of a similar magnitude. As stated in the first few paragraphs, the intent of any remedy is to restore competition, terminate the monopoly, deny the benefits of the illegal actions, and prevent such abuses from ocurring in the future. Due to the uncooperative nature of MS, the remedy must be decisive and strongly enforced.

While MS has already done considerable harm to the consumer by its illegal actions, there are many future markets in which MS can gain a further monopoly—and exacerbate the problem. They must be prevented from doing so. If an individual commits a crime where the public have been illegaly overcharged that individual will be fined, and perhaps imprisoned—and certainly would be if he was a repeat offender shown to ignore previous court orders. Microsoft must be no different, or justice will not be done, and will not be seen to be done.

Dr. Greg L. Wojcik
7145 Hihn Road
Ben Lomond, CA 95005
Phone: (831) 335–4670
E-mail:greg@ca.wai.com

MTC–00027277

From: Jason G. Fleming
To: Microsoft ATR
Date: 1/27/02 10:30pm
Subject: Microsoft Settlement

I am AGAINST the proposed settlement. Microsoft cheats. They are GUILTY, and a break-up is the only useful remedy.

Jason G. Fleming
North Carolina State University, USA
http://www4.ncsu.edu/jgflemin

MTC–00027278

From: Wilbur Goodwin
To: Microsoft ATR
Date: 1/27/02 10:32pm
Subject: MICROSOFT SETTLEMENT
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

In accordance with the review and comment provisions of the Tunney Act, as noticed in the Federal Register, I am most appreciative of the opportunity to provide my comments pertaining to the proposed Microsoft Settlement. These comments are provided in addition to those previously provided by me in my email to you dated January 5, 2002. My comments are provided for your serious consideration as follows:

I recently learned that AOL-Time Warner (AOL-TW), through its subsidiary, Netscape Communications Corporation, filed suit against Microsoft this past Tuesday for alleged anticompetitive conduct regarding its browser, charging that Microsoft's Internet Explorer (IE) browser illegally harmed Netscape Navigator's (NN) browser. This is absurd! I find it most ironic that AOL-TW purchased Netscape Navigator for $10 billion in the midst of the Department of Justice trial, even after hearing concrete evidence that IE's success in the market was based on merit, not market share !! I fully concur with that evidence because I have both browsers installed on my personal computer, which I use every day, and I can assure you that I use IE almost exclusively because of its comparative speed, efficiency and overall reliability. I seriously question AOL-TW's motive for their ill-timed, ill advised decision. In my humble opinion, this latest legal move by AOL-TW appears to be an attempt to once again retreat from the rigors of competition to the safer confines or the courtrooom, where the company is obviously much more comfortable. I am most disappointed, though not surprised, that AOL-TW has again chosen litigation over some other much more constructive resolution to this matter. I firmly believe that Microsoft has consistently tried to work more closely with AOL-TW in a variety of areas, including improvement of instant messaging interoperability, getting fair and open access to AOL-TW's dominant cable assets and partnering in technology standards that are key to developing future innovative technologies.

Based on my knowledge and belief, AOL-TW has repeatedly rebuffed Microsoft's efforts, to the detriment of consumers, shareholders and the technology industry, and has turned to politics and litigation instead, a most cost-inefficient process for all concerned!Furthermore, more litigation is the last thing that consumers, shareholders and the industry need. AOL-TW and Microsoft both need to focus on market competition and technical cooperation that will make consumers" computing experiences easier, more efficient and more enjoyable, rather than spending more needless time and resources in the nation's courtrooms. It is my firm conviction that if AOL-TW would focus their efforts, energies and R&D funding on innovation rather litigation by acquiring, nurturing and maintaining a technical staff of highly skilled manpower resources, as Microsoft has, they would not have to resort to such needless litigation and the federal courtrooms! Moreover, it is my opinion that If they (AOL-TW) can't compete on their own merit in this arena (internet browsers), then they should reassess their business strategy and pursue another course of potential opportunity!

I am not only disturbed, but I am appalled, by the timing of the AOL-TW lawsuit. I simply can't help but believe that AOL-TW's lawsuit was calculated to undermine the proposed settlement achieved among Microsoft, the US Department of Justice and a bipartisan group of State Attorneys General in the original antitrust case! Let it be known that I fully support the proposed settlement between Microsoft and the US Government. I believe this proposed settlement is more than fair to both Microsoft and its competition, and I sincerely hope that there will be no further action taken against Microsoft at the Federal level. This proposed settlement has been reached after extensive negotiations, and allows Microsoft to continue designing and marketing its innovative software, while benefitting the technology industry as a whole.

Microsoft has pledged to carry out all provisions of this proposed settlement, and the US Government has created a technical oversight committee to ensure Microsoft's compliance therewith. I sincerely believe that this proposed settlement will benefit everyone—the economy, computer industry, consumers and shareholders. Furthermore, I believe it will be most productive to allow Microsoft to devote all of its available resources to innovation, something it truly excells at, rather than further needless litigation. By ending this needless and futile litigation, in my opinion, AOL-TW can also cut its "losses" as well and get back to the basics. Truly a win-win situation.

Accordingly, I strongly urge you to do everything in your power, legally possible, to ensure that the proposed settlement is finalized and executed in the most expeditious manner.

Thank you for the opportunity to provide comments on this matter.

Wilbur L. Goodwin (Retired)
104 Emerald Lake Road
Columbia, SC 29209–4243
Email Address: jgoodwin3@sc.rr.com

MTC–00027279

From: David Zdanowicz
To: Microsoft ATR
Date: 1/27/02 10:32pm
Subject: Microsoft Settlement needs adjusting

I am an (ISV) Independent Software Vendor, in the computer arena since punched cards and paper tape days. I have used competing products (non Microsoft) for DOS and Windows desktop development for over 20 years. Borland's Turbo Basic totally ruled in quality, speed, etc, over Microsoft's Quick Basic.

Result: Quick Basic had to be improved. I do remember the incompatibilities Microsoft introduced in Windows 3.1: DR DOS , later Novell DOS 7. 1996 Caldera v. Microsoft antitrust lawsuit. DOS API ?s were used to call up the services of the operating system.

As for the Windows world, I do not use any Microsoft development tool. I've found better ones. FREEDOM OF CHOICE IS WONDERFUL. Microsoft still sells plenty of desktop OS's for which I will continue to develop for. HOWEVER non-documented API calls (section III. B.) DEFINITELY HINDERS COMPETITION by wasting time correcting the behavior of the Windows API. Perhaps Microsoft could afford a messily $10 million/yr to an INDEPENDENT organization to better document THEIR UNDOCUMENTED API. III

Definition A—SHOULD define "" to mean the interfaces between application programs and the operating system; NOT just the interface between Middleware(definition J) and Windows. Definition K defines "Microsoft Middleware Product" to mean essentially Internet Explorer (IE), Microsoft Java (MJ), Windows Media Player (WMP), Windows Messenger (WM), and Outlook Express (OE). ADD: Office Products and Outlook, preferably delete Middleware terminology altogether.

III.J.2 Exceptions

Microsoft seems to be able to cut off information given to projects such as Wine (runs some of Microsoft's API calls). Projects like Linux's WINE should also be supported with some donations ? Supporting free enterprise. Microsoft should feel honored that their interface (desktop) is so popular. Requiring "Windows software" to be run on a "Windows operating system" should be totally denied (from some of their C++ licensing).

David Zdanowicz
Windows and Web Developer
Florida

MTC-00027280

From: ELmdOrReNatA@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:33pm
Subject: Microsoft Settlement
Ronald Ramasami
Suny Stony Brook Student
Elmony, NY
11003
1/27/02

Upon hearing the settlement in the United States v. Microsoft case, as a concerned college student and computer science major hopeful, I was personally dissapointed to hear that Microsoft recieved such a lenient settelment. Although the the courts decision allows for open competition among browsers, media tools and other software applications the settlement does virtually nothing to displace microsoft windows as the worlds leading OS. With Microsoft now under the microscope of the federal government its underhanded dealings against other OS competitors will be thwarted. However, since millions are already comfortable with Windows, why should they change? They wont. Microsoft windows will continue to be the dominant OS and through this system Microsoft can continue to manipulate and distribute any application they wish as was evident with their internet explorer browser. In order for Microsoft to be put in check one must go for the heart, and the heart of Microsoft is windows.

MTC-00027281

From: Gruetzner
To: Microsoft ATR
Date: 1/27/02 10:33pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

This comment is submitted in accordance with the provisions of the Tunney Act concerning the proposed settlement of the prosecution of Microsoft, Inc. ("Microsoft") for violations of the Sherman Antitrust Act.

I am a private consumer of computer hardware and software products. I own no stock nor have financial interest in Microsoft or in any of its competitors (exept as may or may not be held by mutual funds I have invested in).

Microsoft has been found guilty of violating the Sherman Antitrust Act. However, the proposed settlement does not end the monopoly Microsoft has in operating systems, office applications, and internet applications. In addition, it does not deprive Microsoft of its gains achieved through its illegal practices.

Any reasonable settlement must provide for the establishment of significant competition in operating systems, in office applications, and in internet applications. It must separate these three activities of Microsoft, and provide that any combination of Microsoft and non-Microsoft software, internet applications,and operating systems may be run at the consumer's discretion.

The Justice Department should ensure that the court hold public proceedings under the Tunney Act which give citizens consumer groups, as well as Microsoft's competitiors and customers, an equal opportunity to participate.

Thank you very much for your time and consideration.

James K. Gruetzner
c/o 9407 Shoshone NE
Albuquerque, NM 87111
(505) 844–9508

MTC-00027282

From: ronsumner
To: Microsoft ATR
Date: 1/27/02 10:32pm
Subject: Microsoft Settlement
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The settlement in the Microsoft antitrust case should be approved by the Court. It is my opinion the agreement appropriately safeguards against future antitrust violations. I believe the continuing of this case through trial will not result in any better of a result than what is provided for by the settlement. The settlement will impose numerous obligations on Microsoft. Microsoft will be required to disclose portions of its code to its competitors. They will also grant computer manufactures the right to configure Windows in such a way that it will be easier to run non-Microsoft programs while running Windows.

These changes will result in restored competition. If steps are taken to restore competition, there should be no further prosecution of the antitrust case.

Thank you for your time and attention to this matter.

Sincerely,
Ron & Joanne Hyland
15114 74th Street E.
Sumner, Washington 98390

MTC-00027283

From: Strgaze777@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:34pm
Subject: MicroSoft proposed settlement

My opinion of this proposed settlement is that MicroSoft wins again with very little or no punishment for the monopoly that they have been convicted. I see no long lasting effect by instituting this settlement and they will be free to continue the monopoly with little interference from the government. I would strongly urge a punishment with some real teeth in it that would limit their ability to continue business in the same way they have gotten away with for years.

Doyle Rogers
Terrebonne Or

MTC-00027284

From: —
To: Microsoft ATR
Date: 1/27/02 10:35pm
Subject: Microsoft Settlement.

Microsoft Settlement.

My name is Dong hyub Cho. I would like to talk about my opinion with Microsoft and U.S. Microsofts monopolized most of the world market, thus many problem are generated. The big problem that we can consider is that a right of consumers who want to choose their taste of verity things was lost by Microsofts.

Second, as Microsofts sells their product with explore and media player, products such as internet surfing and multimedia ones made by other companies sustain a loss. By according to EU's opinion, intentionally Microsofts is designed not to work software made by other company in Window products well, so Microsofts limited competition with others.

Last, by according to security professor who works at IT, personal information in computer can be hacked easily. Whenever many people surf internet, usually they use Explore program in windows. If the cookies that contain personal information were stolen away, cracker can steal someone's money from bank.

Even though, at the beginning time, when window 3.0 appeared in the world, there are other O/S that people can use in their computer, the reason Why Microsofts can monopolize their field is simple. The answer, why Windows products are used by many people is that those are good and easy for public.

But nowadays, we lost our right to choose O/S and there are some problems which I mention above, so I think that huge dinosaur, Microsofts must be divided, as if AT&T was divided. I understand that in these days, U.S. economy is not good and if Microsofts is divided, there are no advantages to help for economy to be active; however viewed in long time, it will be good for both of the public and economy. Through many competitions with companies, the public can use their program with cheap and good quality.

I think that if O/S such as LINUX or P/S elevate their program for the public to approach more easily and Microsofts is divided with, naturally both of the public to use computer and government can find solution and live with good computer communicate life.

MTC–00027285

From: John Gilmore
To: Microsoft ATR,gnu@toad.com@inetgw
Date: 1/27/02 10:37pm
Subject: Microsoft settlement

I think the proposed settlement of the Microsoft antitrust litigation is a travesty of justice.

Whether or not Congress defines "being too successful" as a crime, it is clear that there are MANY, MANY things that Microsoft did that were crimes—such as threatening DEC with cancellation of their Windows license if they released a competing product. Such as signing a contract with Sun that said they'd only release compatible Java products, then deliberately breaking the compatability in their release. Such as their current nuisance suit against competing OS vendor Lindows, when there are hundreds of products that even include the literal word "Windows", about which Microsoft hasn't complained. They continue to use their OS monopoly as a way to leverage themselves into other businesses, such as file sharing, credential storage, and digital rights management.

Even the actions that they propose to take to "remedy" their past monopolistic acts are monstrous—such as "giving away" millions of copies of (zero marginal cost) software to schools, so that even more students can be trapped into the Microsoft monopoly at even younger ages.

The proposed settlement should be REJECTED. The honest prosecutors, if there are any left on the case, should stall the case until a non-corrupt Presidential administration is in office and they can resume the case. "The fix is in" in this Administration.

John Gilmore

MTC–00027286

From: Aaron Zinman
To: Microsoft ATR
Date: 1/27/02 10:36pm
Subject: Microsoft Settlement

I am horrified at the lack of judgement on the real methods of pursuing a monopoly that the judgement does not address. While the judgement does require middleware to be removable from Windows, it does not take into account the fact that your average user will not do that. The average user will use what is installed in their computer, which is all proprietary software. Microsoft is attempting to levy its relationship on all types of file formats, wether that be using ActiveX instead of Java, which only works in Windows, windows media formats, which barely work on the mac side and have no other ports, or Microsoft Office documents that have file format standards that can be quite difficult to import/export with 100% accuracy. On the networking side, they force horrible/insecure products with all non-documented proprietary protocols upon networks creating a nightmare for network administrators to truly create a cross-platform environment without having large amounts of "Microsoft Solutions". Now with .NET, they are going to attempt to force everyone to pay yearly licenses for software, a practice never heard of before, to access products over the web to make it seem open; however, in the end the addition of Windows-only based controls and support will force people to again use Windows.

I hope that the American justice system will actually withhold its principle values and see the modern day Standard Oil to its proper place.

Aaron Zinman
618 Sausalito Blvd
Sausalito, CA 94965

MTC–00027287

From: neal uhlich
To: Microsoft Settlement U.S. Department of Justice
Date: 1/27/02 10:33pm
Subject: Microsoft Settlement
Neal Uhlich
120 Canterbury Dr
Carrollton, Ga 30117
January 27, 2002
Microsoft Settlement U.S. Department of Justice,

Dear Microsoft Settlement U.S. Department of Justice:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Neal Uhlich

MTC–00027288

From: Lynn3454@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:38pm
Subject: Microsoft Settlement

Please read the attached letter.

2626 E Broad Street
Bexley, OH 43209
January 27, 2002
AttorneyGeneral John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington,DC 20530–0001

Dear Mr.Ashcroft:

We are writing this letter to convey our outlook on the suit against Microsoft. We believe that the suit has put a shroud over the free-market. The settlement that was reached between Microsoft and the Justice Department will provide the consumers with more choices and let them decide what the best product is.

This settlement was arrived at after extensive negotiations. Allowing further litigation will mean the waste of time and money invested in drafting the agreement. The settlement guides Microsoft to provide its competitors with information regarding the development of its products. Microsoft has also agreed not to retaliate against computer makers that may ship software that would compete with its Window operating system. We urge you to put an end to this costly litigation, as the taxpayer cannot continue to afford such expenditures. It is strongly suggested that you move to finalize the settlement.

Sincerely,
Edward & Marilynn Hilt

MTC–00027289

From: Mtbarri@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:35pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Marie Barattucci
1756 Conifer Avenue
Kissimmee, FL 34758

MTC-00027290

From: jsober@christcom.net@inetgw
To: Microsoft ATR
Date: 1/27/02 10:37pm
Subject: Microsoft Settlement

Greetings

I feel the proposed settlement is tough but fair. I feel the company is being penalized for being creative and successful, but I certainly welcome competitive creativity when, where and if available. As a computer user my world has been greatly expanded due to programming available to me, a 59 year old.

Obviously this has made for geometric growth in our economy as well. Let's hope this agreement does not send us backwards but opens new doors for more users.

Thank You,
Jimmy Sober
366 S Edward St.
Decatur, IL 62522

MTC-00027291

From: karay@bellatlantic.net@inetgw
To: Microsoft ATR
Date: 1/27/02 10:36pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Robert Keagy
320 Greenfield Drive
McMurray, PA 15317

MTC-00027292

From: Ted Brown
To: Microsoft ATR
Date: 1/27/02 10:34pm
Subject: Microsoft Settlement

I am concerned about the settlements being discussed in the Microsoft Anti-trust case. Every settlement offer I've seen seems to forget that every court ruling has agreed that Microsoft is a monopoly and abused it's monopoly power. This letter is my attempt to classify what I think the settlement agreement should contain. I can't stress how lacking I find the current settlement plan. As a computer professional, the current settlement will do nothing but harm the current market and stifle any future innovation.

Relying upon conduct remedies without strict enforcement will not work. This has been tried with Microsoft before and it didn't work. Microsoft's statements and actions underscore that they do not agree with the courts ruling and will subvert it by any means necessary. The court must supervise Microsoft closely and have strict penalties for non-compliance. Microsoft should have no control over this oversight. The current settlement offer is filled with loopholes that Microsoft will exploit at every available opportunity.

Mostly I think the settlement should focus on defusing the power the Microsoft abused, encouraging competition, and forcing Microsoft to make amends for it's past deeds.

I propose that remedies should affect Microsoft in the main ways: —divest non-core parts of Microsoft that are parts of attempts to monopolize new markets. (Pocket PC, WinCE, XBox, Microsoft Games). —adjust Microsoft's contracts with Original Equipment Manufacturers (OEM). have Microsoft divulge information needed for competition products to interoperate with Microsoft Products. That is, bring competition into the market place. Fines paid to a non-profit association to encourage open source development. Divest non-core MS Assets

Formost, I believe that the rulings should not force a full scale breakup of Microsoft. Divulging portions of Microsoft that aren't core business but are attempts to gain further control and penetration in new markets should be considered. I would consider the X-Box gaming console, and Pocket PC (WinCE), and Microsoft Games as prime targets for divesting. They are not part of the core business so will not harm Microsoft. By removing these ventures from direct Microsoft control, they can be left to sink or swim on their own merits, as free markets are supposed to operate.

Even so, this is the least of the remedies I propose. If the other remedies are enacted, the market might be able to correct for Microsoft's deep pockets. OEM Remedies

The primary remedy must include freeing Original Equipment Manufacturers (OEMs) from Microsoft's control. Everyone has heard of the main OEM's, Dell, Gateway, IBM, Compaq, but this list includes the multitude of small shops that build custom PCs.

The primary tool that Microsoft used to control OEMs was altering the price of Windows. If an OEM didn't follow the Microsoft line, Microsoft would raise it's price for Windows for that OEM. Since OEMs can't complete without Windows, raising the price could directly hurt their profits and marketshare. To couter this, Microsoft should be forced to use unified pricing. The cost of Windows should be based upon the volume sold and on nothing else. Every OEM could see the price and it would be the same for any given level of volume. If you sold 1 million copies of Windows the cost is $x. If you sell 5 million the price might be less, but it's the same for every OEM who sells 5 million copies. Furthermore, Microsoft requires that it's 0EMs support the copies they sell. Since this is the case, Microsoft's agrument that it needs to control "first boot" (the users first experience with Windows when they boot a new machine) is a fallacy. Especially since Microsoft no longer allows full install disks to be distributed with new machines (users can't reinstall Microsoft Widows from nothing, they can only restore the factory default settings). If Microsoft does not support the user, then it no longer needs to control first boot. The remedy should allow the OEM to do anything to their installed copy of Windows that an end user can do.

This power to "do anything an end user could do" must not be limited. It must specifically include the following powers, so Microsoft can not try subvert the language of the ruling as it did it's earlier consent decree. —OEMS can create Multiple Boot machines, specicially allowing other 0S's to be installed as the default. —OEMS can remove/add icons from the desktop —OEMS can remove/install programs as well as components of Windows. Simply put, an OEM should be able to configure Microsoft Windows in any way open to an educated consumer.

"Multiple Boot" should be expanded upon, since due to Microsoft, few outside the computer profession have heard of it. There are other Operating Systems (OS) for Intel compatible machines. An experienced user can configure a machine so that it has multiple operating systems and choose which one to run when the machine starts up, with OS chosen as the default (the one that will boot if no choice is made). The strongest OS competitor to Microsoft is GNU/Linux, an open source operating system. The cost of GNU/Linux is zero, it's produced by thousands of volunteers instead of a corporation.

Installing Linux is easy for an educated user, harder for a novice users. It's difficult to get Windows and Linux to co-exist on machine, the process is daunting to normal users. For experienced users (an OEM) it's easy. Once installed, it's easy to switch back and forth from one Operating System to another by a simple reboot. Right now no OEM sells a dual-boot Linux/Windows computer. No OEM offers a dual boot Linux/Microsoft Windows computer because Microsoft's contract with them specifically forbids this. A machine that has Windows on it can not have any other visibile Operating System, that is no way to choose the other operating system. This clause must be removed as it's a primary method that Microsoft uses to maintain its monopoly. If users will not buy machines w/o Windows, but would buy machines that easily allowed them to switch from Windows and another operating system, they should be allowed this choice. Instead, Microsoft abuses it's position to ensure that this option is never given to consumers.

Similarly, Microsoft uses it's doctrine of "First boot" as part of it's plans to move into new markets. By removing Microsoft's control of first boot, and giving it to multiple OEMs to control, the market can begin to correct for Microsoft's past abuse. The best thing about this is that control is moved outside Microsoft into multiple hands and the government doesn't have to dictate what can and can not go on the desktop. Microsoft's scare tactics about fracturing the marketplace with non-compliant versions of Windows is just that: a scare tactic.

Open Information

There should be enough open information for a programmer to write programs which read/write Microsoft file formats and communicate with Microsoft products. That is, be able to ensure that they can create a product that can compete and communicate with Microsoft's Products. I do not mean, as has been suggested by some, that Microsoft should be forced to move it's source code into the public domain. Instead, enough information would be divulged for others to write programs which compete with MS products.

To encourage competition, Microsoft should be forced to fully and openly specify any protocol used to comunicate with Microsoft products. The following should be fully specified:

—Any and All File Formats used by any Microsoft Product. Specifically include Microsoft Office.

—Document all Application Programing Interfaces (API). Any API used by a Microsoft product must be documented. Products can have hidden internal APIs used only by that specific program. Microsoft Windows XP can have hidden APIs, but they can only be used by Microsoft Windows XP. If a separate product (Microsoft Office, Microsoft IIS, etc) uses the API then it must be fully documented. Care must be taken to describe product. A simple definition is if it's available for sale individually it's a product, even if it's offered in a bundle with other products. Microsoft Word is a product even though it's part of Microsoft Office as well. If a something is offered as an optional install, then it's a separate product. If Microsoft currently has part of their website specifically targeted towards it, then it's most likely a separate product.

—All communication protocols must be documented. This includes protocols for networking (including security protocols for authenticating with the network), interapplication communication, and any other method that two individual Microsoft products communicate with each other. (Any protocol that one licensed copy of Microsoft Windows XP uses to communicate with another copy must be fully documented.) Note, these remedies do not include Microsoft having to release any source codes. They do enable other companies to freely products that compete with Microsoft. Microsoft can still compete on pricing, quality, and innovation. Microsoft even gets the head start as they only have to release the specification when the release a product, so Microsoft gets a head start (and has an enormous head start with all it's current programs). Furthermore, this specification is not an onerous burden. It should be part of Microsoft's existing engineering discipline. Much of this data is already available, but it's currently licensed so that you cannot use the information to create products that compete with Microsoft.

After documenting, if a shipping Microsoft product does not conform to the specification Microsoft will have a month to do one of the following: —amend the specification so the given product confroms to the new specification. —release an update to the product so that it conforms. —remove the product from sale until such time as it conforms to the specification.

Remember, Microsoft writes the specifications in the first place, there should be no reason it's products won't comply with their own specifications.

If Microsoft does not comply, then the court should take strict actions for non-compliance. The first action should be a large fine. But, for extreme cases, in the settlement should give the court the option to take the complete source code of the given product and release it into the public domain. If Microsoft claims that it cannot factor out the code for the product for some reason, it should be forced to open all codes until the given product is fully specified. Again, this threat should only be used if Microsoft is found non-compliant with their own specifications and fails to fix them after initial fines. The heavy hand hiding behind the agreement will ensure Microsoft's compliance.

Furthermore, any patent that Microsoft has that covers any part of the released specification must be opened into the public domain. Microsoft has stated that this is unacceptable, but anything less is not an acceptable remedy from the court. Patents are not a major factor in the computer industry, as Software patents weren't even legal until past 1992. Some reading on "patent abuse" will show there is wide-spread support for banning computer patents in the industry. This is a narrowly defined opening of specific patents though, not of every Microsoft patent. Only those needed for to implement a given specification would be opened. Otherwise, the court risks having Microsoft open it's specification only to find that it's useless as no one can implement them due to patent issues.

Security should not be a reason that Microsoft can not reveal a specification, even in our current climate. Security that relies upon hiding protocols does not work, it's referred in the security community to as "Security through Obscurity". Simply put, it relies upon others not figuring out how you did something as an essential component of security. Someone eventually figures out how the system works, and then breaks it. No matter how well done, a bad design can be exploited. In an open process, focus is put on making the security design sound. This is then implemented. Some implementations even give out full source code so any implementation mistakes can be corrected. A survey (avoiding Microsoft sources but focusing on the security community) will find that OpenBSD, Linux, and Apache have a much better security record than Microsoft Products despite having all their source codes freely available.

But, most importantly in today's current world, multiple implementations are stronger. That is, if everyone uses the same security tools, it's much easier to exploit them. In biology, a genetically diverse population is more resistant to disease. If there are multiple instances of Microsoft's security design, some will be resistant to exploitation. This makes all computers more secure.

Fines

There is little doubt that Microsoft's current net worth is largely due to it's monopoly. As such the fines should be of the same order. This poses a sticky problem for the court to administer a multi-billion dollar fine.

Formost, since Microsoft uses this "warchest" to continue it's conquest of it's current markets and extend into new ones, their bank account must be depleted. To avoid the Government administering such a large fine, Microsoft should be ordered to pay out a large percentage of it's case reserves to it's shareholders. This is quite fair, the shareholders loose no value and suffer no harm. At the same time, Microsoft looses the ability to buy it's way into new markets and to buy out it's competition.

At the same time, by it's abusive tactics Microsoft did harm the market. So it should be forced to pay some minor restitution to the defendents listed in the case. This part is lacking in the current agreement.

But, simple restitution is not enough due to the widespread nature of Microsoft's abusive actions. It should be forced to by a billion dollars into a fund which will promote open source development. This will encourage development of software which competes with Microsoft but doesn't support any one company directly. By earmarking some of these funds to the development of educational software it could also help address a national need at the same time. Schools would get access to free high quality software that could be modified as suits them. The fund should stipulate that software written is released under a currently approved open source license. While the fund should support software written for Microsoft Windows, it should require that any software written for Windows also support some other operating system. The converse should not be true, if the software is written for Linux, Mac OS X, Mac OS 9, or any other non-microsoft operating system, it should not be required to support Microsoft Windows. This last fine will encourage competition in the marketplace and help ensure that Microsoft's hold on. the market diminishes.

MTC-00027293

From: Dorianne L Feign
To: Microsoft ATR
Date: 1/27/02 10:40pm
Subject: Microsoft Settlement

To whom it may concern;

I think that the government has been too easy on Microsoft, especially since the new administration took over.

I have been in the computer business since 1949 and have never seen such a devastating monopoly as Microsoft in this or any business. They have stifled competition by more than one means. Today, for example, I went to look for computers for some of my clients and couldn't find ANY personal computers that were sold WITHOUT Windows XP (which is insidious, invasive software) and either Microsoft Office or Microsoft Works "bundled" with the computer. If these are forced on the purchaser, what normal buyer would go out and buy any competitive software when the Microsoft "junque" is included "FREE!". What software developer could fight that? There are only a few specialty applications that are sold by any company other than

Microsoft, and I can see Microsoft inching up on them also.

If we don't do something to encourage other software developers, the only choice other than Microsoft will be with the Apple family of computers. And even there, Microsoft is creeping in.

Please take care of Microsoft properly before we have only Microsoft software in the whole world!!!

Dr. David Feign
Computer Systems Consultant
d.feign@ieee.org

MTC-00027294

From: Jason Purdy
To: Microsoft ATR
Date: 1/27/02 10:40pm
Subject: Microsoft Settlement

To Whom It May Concern,

I would like to add my voice to the hopefully growing dissent of the upcoming Microsoft Settlement and how it would benefit Microsoft more than the good of the public. Microsoft has historically demonstrated monopolistic tendencies and the proposed settlement is at best, a slap on the wrist and is not the lesson they need to open the "playing field" for current and future competitors in the technology arena.

Thank you for your attention.

Kind Regards,
Jason Purdy
Chief Technologist, Journalistic, Inc.
Cary, NC

MTC-00027295

From: Jay Llewellyn
To: Microsoft ATR
Date: 1/27/02 10:40pm
Subject: Microsoft Settlement

Jay Llewellyn
323 Highland Farm Road
West Chester, PA 19382
zenjkl@bellatlantic.net
610-738-8476
January 31,2002

Dear sir or madam:

As a computer user I am an interested party to the current anti-trust settlement, and I am submitting comments an proposed actions against Microsoft, which I believe will correct the current situation. My opinions, based on 16 years of industry experience, which include being the former Global Technical Account manager for such PC OEM's as IBM, Digital Equipment, now part of Compaq, Unisys, and Gateway 2000 during my employment by Netscape from April 1996 through December 1998.

Currently I am employed by The Vanguard Group as the Chief Architect for Advanced technology, I do not represent The Vanguard Group for the purpose of this letter, but I mention my employment as a reference for my overall credibility. During my employment by The Vanguard Group have created a partnership with Microsoft and have worked closely on the development of products and I've been quoted by Microsoft a number of times, http://www.microsoft.com/presspass/press/2001/MarO1/03- 05SupportPR.asp. I mention my relationship with Microsoft to demonstrate that as an former Netscape employee I am not motivated by anything other than achieving a fair and even playing field.

I not only bring an insider perspective on the inner-workings of the PC OEM business, the software industry in general, and the average consumer. I am also aware of the issues faced by a large organization which spends a significant amount of money buying PC's and associated software for PC's. I am confident that I bring a unique and insightful position on the current situation. I have spent a considerable amount of time over the last five years analyzing the existing situation, and have arrived at what I believe, are the most compact, understandable, balanced, and enforceable set of restrictions possible. My goal is not to cripple Microsoft or impose unreasonable restraint, but merely to level the playing field. These restrictions are organized in three groups, the first group address the issues of bundling products with the operating system, the second group is focused on the bundling of products with sale of personal computers, and the third group concerns itself with the publishing of Windows API's.

Restrictions with the Operating Systems for bundling, un-bundling and free The first restriction placed on Microsoft would prevent them from simultaneously bundling products into any or all of their operating systems, and un-bundling the same product by allowing it to be downloaded, or distributed free of charge. Microsoft is retroactively bundling products with all previous versions of their operating system when they allow bundled products to be distributed free of charge. The simultaneous act of both bundling and un-bundling of products creates an unfair advantage based on their monopoly position with operating systems for personal computers. Unless this practice is prevented, it will be impossible, to level the playing field for competitors. Any product from a competitor that is deemed a threat to an existing Microsoft product, or to the operating system itself, can easily be eliminated by the simple action of bundling a similar Microsoft product into the operating systems and allowing the product to be downloaded free of charge for those people who don't have the latest version of the operating system.

As an example, if Microsoft were to bundle Microsoft Money into versions of the Windows operating system and then made the product free to download for everyone who had an older version of Windows it would overnight change the market share for Microsoft Money and it's competing product Quicken from Intuit. How many people would be inclined to purchase Quicken from Intuit at a list price of $49.99, when Microsoft Money is available free? How long would Intuit be able to compete with free, and how long after the demise of Intuit would Microsoft stop aggressively updating the product, or worse start charging for updated tax code information, something that Microsoft was willing to give away when it had competition?

The second restriction placed on Microsoft would prevent the distribution any product free of charge. Because of the Microsoft monopoly for PC operating systems the free of charge distribution is really an implied contract for the bundling of products with the operating system both in the future and retroactively. The implied bundling would drive competition out of the market, and once competition is a driven from the market Microsoft is free to charge anything they chose.

Microsoft has a choice for each and every new product they develop; should they bundled it with the next version of an OS, or should they sell it as a standalone product? Either way a Microsoft product is never available as a free download, except as a trial version or through an early access program, or a similar policy which Microsoft consistently enforces for all products, regardless of price. Retroactive bundling must be prevented.

As an example of how these restriction would be applied, I'll demonstrate using a fictitious Microsoft product XYZ, and a fictitious Microsoft OS version ??. Microsoft develops a new product XYZ version 1.0. Microsoft must make a decision; do they bundle the product with the next variant of their operating system, or do they sell the product standalone now?

Microsoft could not to bundle XYZ 1.0 with a version of an operating systems which had been available prior to the introduction of XYZ 1.0, retroactive bundling is forbidden, in any way shape or form. Microsoft has every right to bundle XYZ version 1.0 with OS version ??, but once the product is bundled with the OS it is not available separately as a freely available download, it is not allowed to be included on CD-ROM's that are provided with computer books. It is bundled with OS version ??, and the only way that XYZ version 1.0 is available is for the consumer to buy OS version ??, or an upgrade to version ??. Normal bug fixes, and minor updates would be allowed to the product, via free download, or low cost CD distribution., which is how it is accomplished today. If Microsoft chose to upgrade XYZ to version 2.0 the only way that Microsoft could distribute XYZ version 2.0 is with the next version of OS version ??, and the only way that the consumer could receive version 2.0 of XYZ would be through the new purchase of new OS version ?? that has XYZ 2.0 bundled, or a purchased upgrade for OS version ??.

If Microsoft chose not to bundle XYZ version 1.0 with an operating system, then Microsoft would sell XYZ as a standalone product. Time limited, or feature restricted versions could be available via download, or possibly included with CD-ROM's included with books, but the full version must be purchased. If Microsoft chose to upgrade XYZ to version 2.0 the consumer could only receive XYZ version 2.0 one of three ways, either through a paid upgrade to the product, purchasing the new version, or purchasing a subscription to the product, but version 2.0, or the upgrade to version 2.0 would never be available via free download. Since Microsoft has many different operating system variants, they could choose too bundle XYZ 1.0 with one or more of their operating systems, but exclude XYZ 1.0 on other operating systems.

The only way that XYZ would be available for the excluded operating systems would be via purchase of the standalone product. The product would never be available free of charge for the excluded operating systems.

Upgrades would behave has explained previously, for both the bundled and standalone products.

This remedy would allow Microsoft to Innovate, but it would not allow their products to gain dominant market share over time without competing on either price, or features. The act of bundling and un-bundling eliminates all distribution barriers for Microsoft, this is an unfair advantage and must be eliminated. Microsoft exploited this advantage with Internet Explorer, and they could exploit it again at any time with any product. This remedy would level the playing field for companies competing with Microsoft, it is simple to understand and very easy to enforce, without the need for an oversight committee. The net effect would prevent Microsoft from gaining an unfair advantage for other product segments via their operating system monopoly. Personal computer sales restrictions

The restrictions on the bundling of operating system or standalone products with the purchase of a personal computer are simple to understand and very easy to enforce, without the need for an oversight "committee, and the restrictions in no way limit Microsoft's ability to innovate or sell any products. The restrictions are outlined below:

No Microsoft product, that is operating system or standalone product, can be automatically included with the purchase of a personal computer, all Microsoft products are consumer optional purchases. No Microsoft product can automatically be included with the purchase of any other Microsoft product, free of charge or not. All Microsoft products sold by PC OEM's cannot differ from retail versions, including but not limited to: documentation, installation methods, distribution medium, etc. Specifically the version of operating systems purchased by the consumer is a limited copied for a particular configuration, vendor, or situation. All prices for Microsoft products, sold by PC OEM's will have a reasonable cost, meaning not excessively cheap relative to list price. Microsoft cannot finance the sale of Microsoft products through other means.

No Microsoft product can be offered with the purchase of personal computer as a zero cost option, unless as a limited time offer, as a rebate, or as a special deal.

All Microsoft products when selected for purchased by a consumer with a new computer will have a individual line item, it will also have a non-zero, and reasonable cost, unless as a limited time offer, as a rebate, or as a special deal Microsoft cannot dictate what version of their operating systems are available for sale with a personal computer, the consumer will make that optional selection from the versions offered by the PC OEM. Microsoft cannot restrict the versions of their operating systems available to PC OEM's, if the OS is available for sale, PC OEM's will have the option to sell it with their computers. Microsoft cannot influence or incent PC OEM's to favor the sale of a particular operating system version. Once a consumer has selected a Microsoft product it can be customized in any way by the PC OEM, via direction from the consumer. The PC OEM will be acting as an agent of the consumer, not as an agent of Microsoft. Which means that a customer can select the default Microsoft installation, or choose a customized version offered by the PC OEM, or create their own customized version, if offered by the PC OEM, of course additional cost may be incurred by the consumer for exercising this choice.

Microsoft shall publish ALL API's for all their Operating Systems. Because Microsoft owns a monopoly in PC operating systems they can create unfair advantages for their standalone products by using features of the operating system known only to Microsoft. Punishment

Punishment for violation of any restrictions will be a dollar amount equal to the gross revenue generated by the sale of any and all product that that fail to comply, from the time Microsoft is in violation until the situation is remedied. The punishment is fair considering Microsoft has profited unfairly at the expense of others, and has accumulated an enormous amount of cash because of this unfair profiteering. A severe penalty is also incentive for compliance. Final Thoughts

Unless the distribution methods that Microsoft currently enjoys are changed, and I'm confident that the changes I have outlined are the most fair and succinct, Microsoft will be able to overrun any product at any time simply by declaring a similar Microsoft product bundled with the OS and allowing it to be downloaded free of charge. Retroactive bundling, and the distribution of products free of charge must be prevented. The restrictions outlined would not require the appointment of an oversight committee.

Any solution that is more complicated would be unfair to Microsoft, it would be impossible for Microsoft to conduct business if they are scrutinized by an oversight committee.

The outlined changes would also help to strengthen the PC OEM's, a business sector which is in a dire state. The dire state of the PC OEM business has been created by Microsoft through their restrictive license and contract agreements. When a PC OEM is forced by Microsoft, under terms and conditions favorable to Microsoft, to include Microsoft products, this forced inclusion is really a cost for the PC OEM's, which they cannot pass on to the consumer. Under the new restrictions the real actual cost of Microsoft products would be reflected and the PC OEM's would have the chance to receive a fair and reasonable profit from the sale of Microsoft products with their computers. As an example the list price of Windows XP is $199, because of the volume that PC OEM's buy they may be able to achiever 60%, or greater, discount, some of which could be passed on the consumer, but the PC OEM would still make money on the sale of the Microsoft OS, and the consumer could pay less than list price. The PC OEM could also charge for the customization of the OS, which would have benefits for the OEM and the consumer.

Microsoft has created an artificially low price for Microsoft products bundled with new computers through restrictive monopolistic practices. Protecting prices for consumer good would be short sighted in this case. It is true that there could be an increased cost for the consumer when buying a new computer, when a consumer chose to add Microsoft products, but the consumer would also have a choice to not pay the increased cost. Currently Microsoft dictates what is purchased and at what price.

The consumer should have the choice, even if it means the choice might cost a little more.

The outlined changes would also benefit large organizations which buy PC that have an OS bundled, but are then forced to buy enterprise OS licenses from Microsoft. This double dipping by Microsoft would be a welcome relief by large organizations, it would also clear up an extremely complex licensing situation, which is un-necessary and only beneficial to Microsoft.. The restrictions that have been outlined would not impede Microsoft at all, in fact had this model been in place since the last consent decree levied against Microsoft, they would have made considerable more money on their operating system, and there would still be competition in the browser marketplace. For Internet Explorer alone, if Microsoft had not bundled that product with the OS they would have sold at least 20 Million copies at $49.99 which means they would have made, an additional $1 Billion in profits. Microsoft should be forced to comply with these restriction immediately and for a period of not less than 8 years, where the restrictions and market conditions could be re-evaluated.

Sincerely,
Jay Llewellyn

MTC–00027298

From: Michael Pakovic
To: Microsoft ATR
Date: 1/27/02 10:40pm
Subject: Microsoft Settlement

To Whom it May Concern:

First, let me state that I am not currently, nor have I even been, an employee of Microsoft, or any of its competitors. I have a Bachelors degree in Electrical Engineering, and I am presently the Lead Engineer on the S-3B Program for Computer Sciences Corp. My expertise is in operating system and application design..

Listed below are a few of the major issues I have with the settlement.

*Microsoft shouldn't have the right to appoint a representative to the Technical Committee ("TC"). This committee's responsibility is to ensure Microsoft's compliance with the Settlement, which resulted from their anti competitive business practices, and as such, should consist of three Plaintiff selected members.

* Microsoft can continue to make OS API changes and provide them internally to their application developers long before they provide them to third party developers. As proposed in the settlement, the API information must be made public before the last BETA release of a new Windows Operating System Product. This conceivably might give third party developers a very short period of time (a day?) to analyze the API and develop software to take advantage of any new OS enhancements. This will put third party developers at a distinct disadvantage, and will continue the Application Barrier to Entry ("ABE").

* There are many loopholes in the settlement which will inevitably lead to further court proceedings. Microsoft has endeavored to stretch out the court proceedings as long as possible, and this agreement will allow them to continue with that practice.

* Lastly, Judge Jackson's Findings of Fact found a large number of anti competitive practices, and the proposed settlement, while attempting to prevent future anti competitive behavior, does nothing to correct the unjust gains Microsoft has accrued as a result of their practices. Internet Explorer has almost totally displaced Netscape. Microsoft Office has almost totally displaced Word Perfect Office. Even with the publication of the Windows API's, no other Office suite will be able to compete with Office— the user base is just to large. Only by giving Microsoft incentive to port their current applications to competing operating systems, will the ABE be removed.

In conclusion, the only effective way to remove the ABE, and promote fair competition, is to separate Microsoft into two companies. An operating system company which will continue to produce the Windows

Operating System, and an application company which will produce Office and Microsoft's other applications. This arrangement will remove the advantage Microsoft application developers have over their third party counterparts, and will give the application company incentive to port Microsoft applications to other operating systems. I recommend the proposed settlement be rejected, and that Judge Jackson's judgment be enforced.

Sincerely,
Michael Pakovic
Lead Engineer, Computer Sciences Corp.

MTC-00027297

From: R. Kline
To: Microsoft ATR
Date: 1/27/02 10:41pm
Subject: Microsoft Settlement

The current settlement with Microsoft will largely leave it's monopoly leverage intact, and therefore does not address the basic problem of allowing Microsoft to control prices, stifle competition, and drive or buy out any significant competition using the cash it has accumulated with monopolistic pricing. In order to address these problems Microsoft should be made to provide source code for its operating system to competitors, and all interfaces to the operation system should be made publicly available to prevent Microsoft from thereby making it difficult to impossible for competitors to cleanly access the operating system. Without these reforms, M$ will likely continue to leverage its current monopoly, gain control over more aspects of the Internet, and prevent the kind of innovation and price reduction that only comes from real competition.

Robert Kline
299-3B Gemini Drive
Hillsborough, NJ 08844

MTC-00027298

From: Kenneth Arnold
To: Microsoft ATR
Date: 1/27/02 10:42pm
Subject: Microsoft Settlement

I am writing to express comments on the proposed Microsoft settlement, with expectations that it will be considered under the Tunney Act.

As a user of many different operating systems, office productivity applications, and web browsers, including those distributed by Microsoft as well as those distributed with or without cost and with or without freedom to examine and improve internal workings (i.e. open source), I view Microsoft's current monopoly status as severely limiting the freedom to innovate of all other involved companies and independant developers.

The Department of Justice has recognized this, but the proposed settlement does not, in my view, take sufficient action to alleviate Microsoft's stranglehold on the software market, restore the freedoms of competition and innovation to other developers, and provide remedy for the deep-seated damages already done my Microsoft's monopoly status.

Specifically, as a US citizen and a user of computing technology in my daily work, I value freedom of choice. In the Microsoft case, this choice is the choice of what software I use to perform various tasks, what infrastructure software is used to allow other software to run, and what entity is in control of data both on my personal computer and on servers used to store and/or distribute content used on my computer, to name a few significant concerns. It is currently possible to operate a computer completely without Microsoft products, as I have done at times, but it can be exceedingly difficult, mainly due to Microsoft's monopoly on the rest of the market comprised of people and organizations with whom I interact. For example, a huge number of applications require the Win32 API in order to run. The Win32 API is currently only implemented in Microsoft Windows to a sufficient degree to run these programs usefully; there is little freedom of choice in running these applications in any operating system other than Windows. Essentially I am forced to use Windows in order to run any of those large number of programs which I may need, and the proposed settlement does nothing to alleviate this requirement. In essence, Microsoft currently dictates what products can and cannot be used on nearly all personal computers that are currently running Microsoft products. While this in itself is bad enough, what many analyists believe Microsoft is planning to do with its monopoly is still more disturbing. With its ".NET" initiative, it appears that Microsoft is beginning in its plan it move software to service-type use. The end result could be renting the ability to use software, with little practical restrictions on the degree of control Microsoft could exercise over the costs of such services and the monitoring or even controlling of what consumers are doing with these services. Though the proposed remedy is absolutely necessary, they are not sufficient without amendment to address concerns that I have only briefly and incompletely alluded to above.

Thank you for your careful consideration my comments as well as those of many other citizens in this matter.

Kenneth C. Arnold
12652 Golden Oak Drive
Ellicott City, MD 21042
(410) 531-0856

MTC-00027299

From: Square Circle Consulting LLC
To: Microsoft ATR
Date: 1/27/02 10:49pm
Subject: Microsoft Settlement

I am opposed to the Microsoft Settlement.
Thank you for taking my comments,
David Hanke, CEO
Square Circle Consulting, LLC
Solutions & Support for Macintosh

MTC-00027300

From: Nicki Anderson
To: Microsoft ATR
Date: 1/27/02 10:43pm
Subject: Microsoft settlement

Dear Mr. Ashcroft: Please support the settlement recently reached between the US Dept. of Justice and Microsoft. It is my belief that this lawsuit should not have been launched against Microsoft and think it is now time to settle it so that this country and Microsoft can get back to business as usual. Microsoft developing software and the US government taking action on the economic situation we are in. Microsoft agreed to license Windows to the 20 largest computer makers on virtually identical terms and conditions. They have agreed to grant computer makers and software developers broad rights to configure Windows to remove Microsoft products and substitute competing, non-Microsoft products in their places. Netscape Navigator can be installed in place of Internet Explorer and AOL Instant Messenger in place of Windows Messenger. Microsoft has agreed not to retaliate against computer makers and software developers who choose to do this. Microsoft also agreed not to enter into any agreements with other companies that would obligate them to exclusively distribute or promote Windows technology. I encourage you to accept the terms of the settlement so that Microsoft can continue developing innovative software.

Sincerely,
Mrs. Nicki Anderson,
318 N.E. 161st.,
Shoreline, WA 98155-5739.

MTC-00027301

From: Pat Dooley
To: Microsoft ATR
Date: 1/27/02 10:44pm
Subject: Microsoft Settlement

Sirs:

I've been appalled by the vendetta against Microsoft. This has not been an action by dissatisfied consumers but rather an action instigated and financed by AOL, Sun and Oracle, Microsoft's whining competitors. The biggest losers so far have been the American economy and consumers. Enough already. Call off the lawyers and let's get back to business. If AOL and company really want to beat Microsoft in the marketplace, now's their chance. Bill Gates has bet the company on his .Net initiative and it will require the software industry to rethink everything. It opens the door for Oracle, Sun and AOL to offer cost-effective alternatives. Instead, it seems they'd rather resort to the courts.

MTC-00027302

From: ray
To: Microsoft ATR
Date: 1/27/02 11:46pm
Subject: Microsoft opinion

Dear Sir's

I don't feel that it is in the best interest of all of the users of Microsoft OS what the nine states have in mind is, that they are not in this fiasco with the consumer in mind at all, and we all know that there objective is the dollar bill. Who would benefit from all of this? certainly not the consumer.

Microsoft is a great and innovative company and there products are of the highest quality. As a consumer, leave Microsoft alone.

as ever
Ray Appleton
ray@netecin.net
appletonray@hotmail.com

MTC-00027303

From: Terri Holsinger
To: Microsoft ATR
Date: 1/27/02 10:44pm
Subject: Microsoft Settlement

To the US Dept of Justice.

Please approve the terms of the settlement. I believe the terms are tough but they are reasonable and fair to all parties, and meet the ruling by the Court of Appeals, and represent the best opportunity for the industry to move forward. Thank you for allowing my opinion to be heard.

Terri Holsinger,
317/846-4187,
Carmel, Indiana

MTC-00027304

From: Acholm@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:45pm
Subject: Microsoft settlement

The U.S. economy, which depends on firms like Microsoft for the innovation necessary to bring about a technology revival.

It's time to accept the agreement and allow Microsolft to move on the close this matter.

Audrey Holm

MTC-00027305

From: Merle S. Insinga
To: Microsoft ATR
Date: 1/27/02 10:45pm
Subject: Microsoft Settlement

I do not believe that the proposed settlement of the antitrust case against Microsoft is adequate. Any penalty that is imposed on Microsoft must punish it for the illegal actions of which they were convicted, restore competition in the desktop operating system market, and prevent Windows XP or other new Microsoft products from using illegal means to continue to protect their monopoly and extend that monopoly to new markets. I do not see how this weak settlement will accomplish those requirements.

For example, while the settlement would force Microsoft to describe and license it's APIs to competitors, it allows Microsoft itself to define what organizations qualify as competitors. Most importantly, it allows them to exclude non-profit or government organizations from receiving this information. By their own admission, they consider Linux and other open-source software to be a threat, so they would surely use this loophole to prevent this threat from getting this information and using it to make inroads against their monopoly.

That is just one example of the many flaws in this proposed settlement. This proposed settlement must be replaced with a far, far stronger one that meets the requirements mentioned above and will have some real effect in the marketplace.

Thank you.
Sincerely,
Merle S. Insinga
New Hampshire

MTC-00027306

From: James Kilmartin
To: Microsoft ATR
Date: 1/27/02 10:47pm
Subject: Microsoft Settlement

I am writing to let you know I support your efforts to settle the Microsoft suit. I think the settlement is a good compromise and is fair and equitable. I also think that the Nine state AGs pursuing more penalties are nothing more than a front for Microsoft competitors, and to allow them to prevail would be a grave error.

I hope common sense prevails when the Judge renders her opinion.

James Kilmartin
Bethel, CT

MTC-00027307

From: Martee377@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:47pm
Subject: Microsoft Trial

To Whom It May Concern:

I was recently reading up on the Microsoft trial and I am very happy with the way things went in the trial. When I first heard about the trial I was actually mildly disturbed. I did not believe the Microsoft Corporation to be a monopoly. To me they were just simply the better of all the software making corporations. Also, there aren?t many other companies that make software such as Microsoft Windows or Microsoft Office. However, I can definitely see why the lawsuit was filed in the first place. It seemed like Microsoft had virtually taken over control of software production. When you think about it, they basically are the only operating system that most average people can think of. However, the more knowledgeable person knows about other systems. UNIX, for example, is another operating system that is used. Not only do they have the more popular operating system, but Microsoft Office programs, such as Excel and Word, are all over as well. The settlement that was reached by the U.S. and Micro soft was both necessary and fair. I personally am very happy that the corporation didn?t break up. Such a breakup would probably set back the economy a couple of steps. I am really pleased that it didn?t go as far as to breakup the company.

MTC-00027308

From: lesanncarter@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:49pm
Subject: Microsoft Settlement

I think it would be better for all concerned if all parties would agree to the present proposels and not drag this lawsuit out any longer.

Thank You,
Lester D. Carter

MTC-00027310

From: Thomas A Miller
To: Microsoft ATR
Date: 1/27/02 10:49pm
Subject: Microsoft Settlement

Dear Sir:

Speaking as a member of "The Public", as in "The Public Interest", it is my opinion that Microsoft has done far more for the Public Interest than against it. For what transgressions the may have had, I believe the presently agreed upon settlement is more than just compensation, and that Microsoft has been duly punished. Therefore, I strongly recommend that the case be closed, now, without further hearings. Further hearings would become harassment of Microsoft, and would not be in the Public Interest

Sincerely, (signed)
Thomas A Miller
12902 Wheatland Rd
Fairfax, VA 22033-5300

MTC-00027311

From: Msquires@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:50pm
Subject: Microsoft Settlement

As a student of computer science, I have mixed feelings about this issue. Microsoft's control of the software industry was not obtained from doing anything illegal. If a company creates an operating system, they should have full control of what software can and cannot be functional in their own operating system. If it was not for Microsoft developing their operating systems, the companies which software is being hindered, would not have an OS to develop for in the first place. If these companies feel that Microsoft is not treating them fairly they can go and develop their own OS. Microsoft is the perfect example of capitalism at its finest. Microsoft's business is Microsoft's business. No one is forcing millions to purchase any Microsoft products. There are several alernatnive operating system, many of which can be obtained free from the internet. From my personal computing experience, I feel that Microsoft's products are lacking. I currently use both Microsoft and non-Microsoft operating systems and it suit es me fine. If further development in computer software is truly being hindered by Microsoft, the foundations of capitalism will lead to the downfall of Microsoft.

MTC-00027312

From: J Marvin Klopstad
To: Microsoft ATR
Date: 1/27/02 10:52pm
Subject: Microsoft Settlement

I feel that the U.S. Government is unfair In this case. The whole thing should be dropped if Netscape wants to compete let them build a better mouse trap.I think what Microsoft charges for its software is fair. Does the C.E.O. of Netscape & A.O.L. give as much money to schools and etc as Microsoft I dont think so. The stockholders and the consumers are the losers and have been severely damaged by this law suite. I think that Netscape & A.O.L. are just jealous. The Government lawyers are just trying to make a name for themselves. Anybody that thinks the breakup of A.T.&T. Has benefited any one is a Fruit Cake, my phone bill tripled, the service is poor at best and the Co. is in shambles. The DoJ attorney Joel Kline stated on T.V. that the breakup of A.T.&T. brought us the Touch Tone Phone he does not know what he is talking about either, we had the Touch Tone Phones before 1972 and at least a type of mechanical version of Touch Tone was installed prior to 1950 only used by long distance Operators. The DoJ should accept Microsoft's good faith settlement and the government could get on with better and more important things.

Thank You

J. Marvin Klopstad

MTC-00027313

From: Rodney M. Chun
To: Microsoft ATR
Date: 1/27/02 10:52pm
Subject: Microsoft Settlement
FROM: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
Rodney M. Chun
1663 Kentfield Avenue
Redwood City, CA 94061

To the Honorable Court and the U.S. Department of Justice:

As a concerned citizen, a professional economist, and a database developer, I feel compelled to submit the following comment on the Revised Proposed Final Judgment (RPFJ) issued November 6, 2001 in the case of United States v. Microsoft Corp. I strongly believe that the RPFJ as it now stands is not in the "public interest" due to the gaping loopholes and imprecisions that even an individual not trained in law, such as myself, can identify.

Let me begin with a simple statement of fact: A lower court has found, and an appellate court has concurred that Microsoft has violated antitrust laws by undertaking illegal actions which have impeded effective competition against it. The purpose of the RPFJ is to provide remedies for these transgressions, and most importantly, to inhibit Microsoft from engaging in future activities which would serve to preserve its monopoly in operating systems.

The RPFJ contains such imprecise language that one can only wonder if it was purposely crafted to furnish Microsoft exploitable loopholes. While the list that follows is far from exhaustive, I feel it summarizes some of the shortcomings, omissions, and definitional problems which render the RPFJ an inappropriate remedy for the harm Microsoft has done to the public and an ineffective deterrent to future Microsoft offenses. Specific references to sections of the RPFJ are given in parenthesis.

1. The RPFJ does not include all of the conduct the court found to be in violation of antitrust laws. In particular, it does not address the issue of commingling of middleware code with the underlying operating system.

2. The RPFJ gives Microsoft the sole discretion over the definition of the "Windows Operating System" (VI.U). This oversight combined with the previous point essentially gives Microsoft every incentive to embed middleware code, such as the Internet Explorer, into the "operating system" and thereby evade all restrictions imposed on its middleware products.

3. The RPFJ's definition of "application programming interface" (API) is unorthodox and restrictive. Typically an API is the interface between an application program and the operating system. Yet the RPFJ (VI.A) defines an API to be only those interfaces used by Microsoft Middleware. There are over 13,000 API "hooks" into the Windows Operating System, of which only a fraction is actually used by Microsoft Middleware. Hence, any directives to make API's (as defined by the RPFJ) public, potentially excludes the release of information regarding other useful Windows OS APIs—the lack of which could essentially make an ISV's product uncompetitive with a similar Microsoft product. Microsoft has already used this informational asymmetry to its advantage in the past (see Finding of Fact, 90, 91) and there is no reason to believe that it would refrain from using this ploy to illegally preserve its monopoly in the future.

4. The RPFJ's definition (VI.K) of "Microsoft Middleware Product" essentially consists of Internet Explorer, Microsoft Java, Window Media Player, Windows Messenger, and Outlook Express. This list is grossly incomplete if one considers middleware to be any application software that itself presents a set of APIs that allow users the ability to write new applications without reference to the underlying operating system. For instance, one can write database applications using Microsoft Access and Visual Basic for Applications (VBA) without ever using a native Windows OS API. This applies to the entire Microsoft Office family of programs. Furthermore, I find it peculiar that Outlook Express is listed while Outlook (the full-featured version of Outlook Express) is omitted. Furthermore, Microsoft's ".NET" system—seen by most as a Microsoft version of Sun's Java—is also noticeably omitted.

5. The RPFJ gives Microsoft the explicit right to continually and automatically persuade end users to revert back to Microsoft middleware, after 14 days, in the event that a 3rd party application has been installed. As an end user of Microsoft Windows, I do not welcome a daily barrage of dialog boxes begging me to favor Microsoft products over my preferred alternative. I find it objectionable that any software company should be encouraged to engage in this type of marketing just as I am opposed to telemarketing phone calls, Email spam, or unsolicited junk mail.

6. The RPFJ is deeply flawed with regard to enforcement. The proposed remedy lasts five years with a minor sanction of a one-time extension of two years in the event of non-compliance. It is extremely naive to believe that Microsoft will cease to be a monopoly in five years—and will thereby have insufficient market power to engage in illegal behavior to preserve its monopoly—particularly considering the large network effects and complementarities that exist in software products. Microsoft has been declared a monopoly. As long as it remains a monopoly, it should be regulated as such until Microsoft can prove itself otherwise. The inclusion of an expiration date for sanctions serves to ameliorate most of the effect the remedy proposes to offer. Furthermore, I see no concrete penalties whatsoever in terms of non-compliance. While I am not an expert in contract law, even I know that a contract must clearly specify the penalties for violations of the agreement. In the absence of such sanctions, the document is little more than a wish list.

My list of objections to the current RPFJ is not exhaustive, and I have only focused on the problems I find most obvious. Further comprehensive evaluation is available in the comments made by the economists Robert E. Litan, Roger D. Noll, and William D. Nordhaus (January 17, 2002; available from the American Antitrust Institute web site). In addition, another excellent analysis done by Dan Kegel is available at: http://www.kegel.com/remedy/remedy2.html

I agree with the comments in both of these documents:

In closing, let me leave you with a parable that summarizes some of the shortcomings in the RPFJ. In my parable a large 18-wheel truck is speeding and weaving down an interstate highway. Do to its recklessness, several car accidents have occurred in its wake, and a state highway patrol car has pulled the truck over. The cop is informed by his superior to apply the relevant traffic laws, which, in my story, have been modeled on the RPFJ. Here is what the traffic cop reads in his codebook:

-The traffic law allows the driver of the truck the right to define what a "truck" is.

-The traffic law is not clear on which part of the truck is actually defined to be speeding.

-The traffic law suggests a fine of $1 since the damage only consisted of "compact" cars.

The traffic law only mandates that the driver obey the speed limit for the next 5 miles. Any further transgressions will result in this restriction applying for 2 more miles. After the maximum of 7 miles, the truck driver can do anything he wishes. Furthermore, the traffic law is completely silent on what the penalty will be for further violations.

-The traffic law allows the driver to demand back his $1 fine after 14 days.

The US Department of Justice has won a historic ruling against Microsoft, a victory which has been largely upheld by the appellate Court; Microsoft has been found guilty of engaging in illegal activities in its attempt to preserve a monopoly position in the software industry. As a result of these activities, it has most certainly increased its monopoly power and has done unfathomable damage to the development of innovative technologies and new products which may have existed, but for Microsoft's actions. I urge the US Department of Justice to withdraw its consent from the present RPFJ. Any new settlement should address the current RPFJ's obvious shortcomings. As it stands, it will not unfetter the market from Microsoft's anticompetitive conduct, nor will it properly penalize Microsoft for its past behavior.

Sincerely,
Rodney M. Chun, Ph.D.
Senior Research Analyst
Sphere Institute
Phone: (650) 558–3980, ext. 17
e-mail: rchun@SphereInstitute.edu

MTC–00027314

From: Jason Wood
To: Microsoft ATR
Date: 1/27/02 10:52pm
Subject: Microsoft Settlement

To Whom It May Concern:

The proposed Microsoft Settlement primarly addresses present and future concerns of commercial entities. It seems that this will promote a better relationship between OEMs and Microsoft. It, however, does not fully address past behavior of Microsoft. Microsoft's grievances have limited OEMs and others in what they could do with their(the OEM's) products. The proposed settlement does not fully address this past behavior. Microsoft through their forceful agreements with OEMs and others has blocked other companies and non-commercial entities from getting a fair chance to compete. Unfortunately, these actions have already occurred. The future restrictions that will be placed on Microsoft in this settlement will not give competitors the ability to catch up with Microsoft.

I am opposed to the currently proposed settlement. I feel it lacks significant punishment for past actions on behalf of Microsoft. It also fails to the provisions necessary to allow for a truly competitive operating systems market. There is also little to no provision for non-commercial software and development, which also is struggling to find its place in the market.

Sincerely,
Jason A. Wood

MTC–00027315

From: scm@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/27/02 10:54pm
Subject: Microsoft settlement

To Whom it May Concern:

I do not support the proposed Microsoft settlement, and recommend Judge Jackson's judgement be enforced.

Valerie Collins
Senior Software Engineer, Computer Sciences Corp.

MTC–00027317

From: Scott Swanson
To: Microsoft ATR
Date: 1/27/02 10:55pm
Subject: Microsoft Settlement

To whom it may concern:

I am writing in response to the request for public comments on the proposed settlement between the department of justice (DOJ) and Microsoft Corp. (MS) referenced on the web site at http://www.usdoj.gov/atr/cases/ms-settle.htm.

It is my opinion that the settlement against Microsoft is not fair to American consumers and does nothing to limit the anti-competitive actions of this monopoly. To call the current settlement proposal fair belittles the intelligence of the American population and does no credit to its government. If any settlement were to be at all effective, it would have to limit the companies ability to maintain, or extend, its monopoly. This is not currently the case.

If competition is to be encouraged, Microsoft will have to be stopped from being able to "bundle" their software. Bundling their software (or including multiple products in one package at one price) gives them the opportunity to make it more expensive to buy a product from a competitor and limit the ability of that competitor from being able to compete on a level playing field. Each piece of software distributed by Microsoft should be sold separately with a separate price.

Microsoft should be limited from adapting standards to suit their own purposes. Any file formats or communication formats should be released to anyone interested long before it could be included in any product. This would limit the ability of Microsoft to abuse their position on the majority of desktops to extend it to another area where they didn't yet have a stronghold.

The entire application programming interface (API) should be made available to anyone that wishes to program against any Microsoft application. This would allow programmers external to Microsoft to compete on equal footing with those inside Microsoft. Microsoft has been found to have illegally maintained its monopoly position. Yet there has been no remedy for this situation proposed that would hamper that illegal activity. I strongly oppose the current proposal and hope that a much stronger ruling will take its place.

Scott Swanson
3539 27th Place West, #314
Seattle, WA 98199

MTC–00027318

From: Charles A. Brown
To: Microsoft ATR
Date: 1/27/02 10:58pm
Subject: MICROSOFT SETTLEMENT

DEAR SIR/MADAM THE TIME HAS COME TO SETTLE THE MICROSOFT SQUABBLE AS IT IS NO LONGER SERVING THE BEST INTEREST OF THE PUBLIC TO CONTINUE LEGAL ACTIONS WITH MORE COSTS TO THE PUBLIC AND MICROSOFT. THE OFFER BY MICROSOFT TO SETTLE WITH THE GOVERNMENT WILL BENEFIT MOST USERS AND THE PUBLIC.

CHARLES A. BROWN

MTC–00027319

From: Jason Westlake
To: Microsoft ATR
Date: 1/27/02 10:53pm
Subject: Microsoft Settlement

It's a bad idea to settle with Microsoft, mainly because it won't teach them a lesson... a paltry fine or "donation" to education won't do anything to teach them; they have billions upon billions of dollars in cash. The DOJ must act harshly! The only way to prevent them from continuing to act in anticompetitive ways is to BREAK UP MICROSOFT! PLEASE BREAK UP MICROSOFT!

Thanks,
Jason Westlake
Computer Technician
Newnan, GA

MTC–00027320

From: Leroydede@ao1.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:02pm
Subject: Mircrosoft Legal Problems

Lets resolve the microsoft issues. We need to warn microsoft that they should not infringe on others or prevent competition. The government should be reasonable regarding the fine and close all Microsoft legal problems.

See attachmentr.

Vernon Dede
301 Woodland Trail
Keller, 17< 76248–2630
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

After three long years of antitrust lawsuit court battles, Microsoft and the government have a settlement that has profound implications for all software publishers, the rest of the computer industry and consumers. By ending this case, the government is freeing this innovative giant to create more jobs. That's good for our lagging economy. Under the agreement, computer manufacturers were granted new rights to configure systems with various Windows features hidden or removed to make competing, non-Microsoft software more prominent. Microsoft must also design future versions of Windows to make it easier for users to install non-Microsoft software. Finally, it is obliged to disclose information about certain internal interfaces in Windows. The agreement goes far beyond the original issues in the lawsuit, but Microsoft agreed to it just to get the legal hassles over with. If we have solved problems with the agreement that we never set out to solve in the first place, there is clearly no need for further federal action after the agreement's approval.

Sincerely,
Vernon Dede

MTC–00027321

From: Tim Ambrose
To: Microsoft ATR
Date: 1/27/02 11:03pm
Subject: Microsoft settlement!

To whom it may concern,

I guess this will never end. I just heard that AOL is going to take Microsoft to coart over the same thing that it's been compaining about for ever. It should be very obvious what their game is, and tat is to hang their competetor up as long as possible while they gain in market share and time. The same appleys to these state law suits except all the attorney generals want is fame and noteriety. I hate what our country and it's court system has become! Anybody can take anybody to court without any real reason, except to try and bring them down and all the while bringing our country and the lives of the inocent doun with it.

PLEASE END THIS CANCER ON MICROSOFT.

MTC-00027322

From: Conniejo Squires
To: Microsoft ATR
Date: 1/27/02 11:05pm
Subject: Freedom To Innovate-Microsoft
Renata B. Hesse
Anti-Trust Division
RE: Microsoft Settlement

It is important to all that this law suit end. Microsoft has by their example taken the computer and software industry above and beyond the industries expectations. Our country has always been one that we have the freedom to inovate. Microsoft has made computer use possible for many users by making a working software that all could use easily. It is unfair to punish them for doing this. In the end the consumer is the one that suffers. When A.T.& T. split to meet the courts demands now we receive three different bills each month rather than one. The consumers are the ones that have to deal with the consequences. This doesn't seem fair.

Microsoft has free of charge given computers and software to many schools in Washington State and a few to other states as well. If they had not done this the schools would not have been able to provide computers for the children to use and have this opportunity.

America has managed on Competition being healthy. It makes the product better. It sounds to me that the complainers do not have the intelligence or where with all to inovate something on their own, to make a product that is competitive and make it better for all consumers. So why should Microsoft have to be punished because they were willing to inovate.

Sincerely,
Connie Jo Squires
Spokane, Washington 99208

MTC-00027323

From: Ed Pope
To: Microsoft ATR
Date: 1/27/02 11:06pm
Subject: Comment on Proposed Settlement

I do not believe the settlement is in the best interests of the free enterprise system.

Ed Pope
Atlanta, Georgia

MTC-00027325

From: SMRiebe@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:06pm
Subject: Microsoft Settlement

Dear Department Of Justice: It is my belief that your settlement with Microsoft is more than fair. In fact I believe that being a person that has followed the case detail by detail from the start that this case against Microsoft should have never been brought in the first place.

Further I believe it was the other large software companies that by their own doings couldn't build a better product and spent their energy and money instead in the government arena to try and delete the only competition they had, Microsoft.

I have for the past 5 years used and owned stock in AOL. They have a good product but it is just not right for them to use the courts and our government to try and defeat Microsoft. They should spend their (AOL) time and resources rather to build a better product and service. The freedom to compete is what this country is all about. You don't see Microsoft crying foul! The people of the world are better served by allowing all companies to compete. Yes, there will be a winner maybe and a looser but that doesn't mean we don't let the winner win.

Let the consumer decide with their dollars who they want to do business with. We don't need our government deciding for us.

I say the same thing I have from the start.. "Leave Microsoft Alone" Our country will be a better place for it. Beyond that I feel it is more than generous of Microsoft to give computer support to our schools.

Regards,
Steve Riebe
4125 86th Ave SE
Mercer Island, WA 98040

MTC-00027326

From: Tom Simpson
To: Microsoft ATR
Date: 1/27/02 11:07pm
Subject: Microsoft as Monopoly

Dear Sirs:

This short note is to state my position that Microsoft has consistently proven itself to be a company that is willing to run roughshod over its competitors and has further used its monopoly position in order to extort concessions from others in the industry and to foist technically inferior products upon entrapped customers. In other words, they generally do all of the ugly things that we know monopolies did over 100 years ago, when the Carnegies, Rockefellers and Morgans of the world abused and used the marketplace to claw their way to the top. Now, Microsoft has set its sights on the Internet itself. They simply must be stopped.

Tom Simpson
Graduate School
University of South Carolina—Columbia
3420 Heyward St.
Columbia, SC 29205

MTC-00027327

From: bgreslic@notes.concord.org@inetgw
To: Microsoft ATR
Date: 1/27/02 11:04pm
Subject: Microsoft Settlement

I am writing to voice my disgust with the proposed settlement for the Microsoft case. This settlement does not do anything to quell Microsoft's power, and looking at the settlement I can see legal holes the size of Alaska which Microsoft can use to all but ignore this settlement.

Microsoft has unfairly gained a monopoly in the Intel Operating System market, and is currently using illegal and immoral tactics to become the only provider in the browser market, web services, desktop recording software, and other fields.

This trial is based around the browser war between Internet Explorer and Netscape, however the bigger picture is that Microsoft has been abusing its power for years. Even when faced with preliminary injunctions they have laughed in the face of the law and put together a legal team that no company has the power to fight against.

The courts have ruled a few times that Microsoft has a monopoly, and is abusing that power. While I don't know what the answer is, this settlement does nothing against this problem. Splitting Microsoft into many smaller separate companies (IE, OS, Office, and others) might be a place to start. Now that Microsoft has the market share in web browsers (since the lawsuit was filed, Microsoft has moved from a 50% share in browsers to over 80%), they are trying to use that power to further remove Netscape from the playing field, and Java at the same time. Their newer browsers are moving from the Netscape plug-in applications to a new style, forcing new companies to choose between Netscape and Microsoft, which will further the gap. Microsoft is also steering their browsers away from Java and towards their proprietary .NET platform.

Another downside to the proposed settlement is the time factor. This settlement is only for 5–7 years, while it has already taken over 3 years to come this far. If we are going to go to all the time and expense, let us monitor the company for 15–25 years, and make penalties strong, clear and concise. We should not have to go through another 3 years of trials when (not if) Microsoft violates the settlement, just to give Microsoft a slap on the wrist.

Thank you for your time. Ben Greslick
Network Administrator
The Concord Consortium
"Integrating technology into the classroom"
www.concord.org

MTC-00027328

From: Edward Kiser
To: Microsoft ATR
Date: 1/27/02 11:12pm
Subject: Microsoft Settlement

Hello,

I am writing in order to comment publicly about the proposed Microsoft settlement, as allowed by the Tunney Act. I fail to see how Microsoft has done anything but set terms upon the use of its own property. Those terms may be unpleasant for some people, I admit, even as they become very pleasant for others, but such terms do not infringe anyone's rights. They cannot. For who has the right to meddle in a deal between two other people, a deal involving only property which those two people own?

As a Microsoft operating system user, I fail to see how Microsoft could set any terms that would be any worse for me than if it had never created its property in the first place. What if Microsoft charges a million dollars for a license for the next version of Windows? I can refuse to buy it. What if Microsoft creates a patch which disables my favorite software? I can refuse to install that patch, or if I accidentally install it, I can reinstall the operating system from the original CDs and thereby remove the patch. Can Microsoft remotely disable my copy of Windows? No; Microsoft and I have a contract, and I have not accepted, and will not accept, one that gives them remote-disable capabilities. I fail to see how Microsoft can infringe my rights through any licensing scheme or any combination of features or any technical features or any pricing strategy. (Fraud or an infringement of privacy would hurt me, but Microsoft is not accused of those things.) Even if I were an OEM, or a browser writer, Microsoft could do nothing to me without my consent, except offer my customers a better deal than I can, and take them all away. But customers are not a right; customers choose what is best for them. A business has to earn customers!

It is quite easy to see, on the other hand, how a government of power-hungry politicians and judges could ultimately force me to write software only to its specifications, or the specifications of my competitors. It is easy to see how a government could make people think that they could demand any product from me, merely because they decided it was "possible" for me to make that product—and how a government could back such demands by force, without regard for whether I chose to make such a product. It is easy to see that anything done to Microsoft sets a precedent that could reach back to me, and any attempts to reassure me that these kinds of punishments apply only to Microsoft, make me worry more, because that means the principle of equality before the law has been discarded. It's also easy to see how a corporation such as Netscape might hope to get ahead by buddying up to local politicans and attorneys general, when it fails to get ahead by superior products and, more importantly, business strategies. Netscape's business strategies were more responsible for its fate than Microsoft's strategies. Rather than aggressively adding features to version 4.0, Netscape decided to do a bottom-up rewrite of its browser, which it ultimately had to make open source. Even then, development proceeded so slowly that two key developers eventually resigned. Netscape's bad decisions gave Microsoft time to get farther ahead. Politicians welcome such a deal as the one they made with Netscape, and they welcome the power that comes with it, while Netscape welcomes the opportunity to vanquish its competition by dishonest means. That's something Microsoft never did. Microsoft has not been dishonest, although it may have aggressively made some predictions about what other people would do and used them to frighten still other people—who perhaps need not have been frightened. Furthermore, Microsoft never lobbied politicians until it was forced to do so by this very case. In self-defense.

It seems remarkable that OEMs feeling threatened by Microsoft would not have banded together to produce an alternative to Windows. Is it possible that they were prevented from doing so by the same anti-trust laws that Microsoft is accused of breaking? This case has been a travesty and a sham, and since it is already irreversible, the best thing for America would be if Microsoft got a token sentence and were let alone, and then if this law were found unconstitutional, as it ought to be found.

Sincerely,
Edward Kiser
Jacksonville, FL

MTC-00027329

From: Lincoln Thomas
To: Microsoft ATR
Date: 1/27/02 8:25pm
Subject: Microsoft Settlement U. S. District Court Judge Colleen Kollar-Kotelly:

As a systems engineer and software developer focused on the success of the consumer, I ask you to consider the stronger remedies against Microsoft proposed by the 9 non-settling states and the District of Columbia. I will let their arguments stand on their own merits. I have 12 years of experience in software development since graduating from U. of Arizona with a B.S. in Systems Engineering. I develop and lead development teams working on many platforms including UNIX, Windows, and VMS, in many languages including C, C++, and Java. Most of my projects involve large-scale cross-platform software systems. The ability of technology to communicate effectively across different platforms allows consumers to utilize that technology in a simple and seamless manner. Microsoft's monopoly position has allowed it to engage in illegal practices that impede the ability of other companies to implement the interaction of Windows and non-Windows systems effectively. Microsoft's behavior has hurt the entire software technology industry and will continue to slow its advancement, to the detriment of consumers in the long run, unless the stronger remedies are imposed.

My opinions are my own and do not necessarily represent the opinions of any of my past or current employers.

Thank you for your time and consideration.

Sincerely,
Lincoln P. Thomas
Software Engineer and Team Leader
Colorado Springs, Colorado
lincoln.thomas@adelphia.net

MTC-00027330

From: Linda Chia
To: Microsoft ATR
Date: 1/27/02 11:10pm
Subject: Microsoft Settlement

The concerned parties in this frivolous lawsuit MUST SETTLE so Microsoft (and the industry as a whole) can continue to move ahead with the freedom to innovate and thus create jobs to bring this country out of its recession.

I have been unemployed since June 2001 when my job was eliminated. I would much rather see all the concerned use their time, talent, and resources to help put U.S. citizens back to work!

Thank you.
Linda J. Chia
3032 N. Kenmore Ave.
Chicago, IL 60657–4365
773–281–6320 voice/fax

MTC-00027331

From: T.K.Egan
To: Microsoft ATR
Date: 1/27/02 11:09pm
Subject: Microsoft Settlement

The proposed settlement is at best lousy for the consumer, for the United States, and for anyone who uses a computer. However my comments are in line with Dan Kegel's open letter (http://www.kegel.com/remedy/letter.html) to with I have asked my name be added as a co signer. I hope the government will do the right thing and act in the interest of America and her people.

MTC-00027332

From: Darrell Michaud
To: Microsoft ATR
Date: 1/27/02 11:09pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotelly,

In accordance with the Tuney act I would like to offer my humble opinion regarding the proposed Microsoft Settlement.

I believe that many parts of Section III, Prohibited Conduct, are well-intended but contain enough technological loopholes for Microsoft to render them ineffective. Prohibited Conduct A.1 and A.2 are meaningless as a remedy because Microsoft no longer needs to retaliate against OEM distributors directly to maintain its monopoly. Over the past few years Microsoft has introduced deliberate technical devices to prevent its software from being used in dual-boot environments. Even if a distributor wishes to create dual-boot options for their customers and is protected from direct retaliation, Microsoft still retains the technological means to prevent dual-boot solutions from being competitive.

Prohibited Conduct C (all numbered items) suffers from the same flaw. The proposed judgement states: "Microsoft shall not restrict BY AGREEMENT any OEM licensee.." (emphasis added) There is nothing said about technological restrictions that accomplish the same ends as the prohibited conduct. Just as Microsoft was able to circumvent the spirit of the Supreme Court's judgement through technological means (ie, integrating their web browser into the Windows(TM) Operating System), so too will they circumvent the spirit of this proposed remedy.

Until Microsoft is restricted from both agreement/contract retaliation and technological retaliation, they can continue to leverage their monopoly illegally.

Thank You,
Darrell Michaud

MTC-00027333

From: SkipOliva27@ao1.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:12pm
Subject: Microsoft Settlement
January 26,2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

On behalf of myself, I respectfully submit the following public comment on the Proposed Final Judgment in the case of United States of America, et al. v. Microsoft Corporation, District of Columbia Civil Action No. 98–1232. The District Court is entitled to consider the "impacta" of the proposed judgment on "the public generall" Under that broad criterion, the proposed judgment clearly fails to meet even a superficial test for serving the public interest. Rather, the proposed judgment is based on the Court's acceptance of an incorrect and fraudulent premise, as initially set forth by the United States in its complaint, and applies the antitrust laws of the United States in a manner inconsistent with its intent and practical scope. In addition, the proposed judgment assumes that the public is incapable of asserting its self-interest in the absence of government action, a presumption that is offensive on a personal level and an expression of bad public policy. In reviewing the proposed judgment and the accompanying Competitive Impact Statement ("CIS"), the United States offers no verifiable claim that any action taken by Microsoft harmed consumers or the public interest. What they do offer is a narrative describing the failure of Microsoft' competitors to provide a product that the public supported, through the mechanism of the free market, to the extent that the competitors could maintain a profitable enterprise. This failure by Microsofta.TMs competitors does not, however, constitute something that is detrimental to the consuming public.

The central thesis to the government's case is the belief that Microsoft enjoys monopoly in the operating system market. This is an incorrect belief, the prior findings of the District Court and the United States Court of Appeals to the contrary notwithstanding. Microsoft has never enjoyed a monopoly in the operating system market, or any other market it has competed in for that matter. In the most fundamental sense, a "monopoly" is an entity which enjoys an exclusive license to trade in a particular market. Such a license can only be granted by the affirmative act of a government entity. Microsoft does not, and has never, enjoyed such a government license to monopolize the operating system market.

The United States has confused Microsoft "TMS" position of relative dominance as constituting a monopoly. They betray this logic at numerous points in the proposed judgment and CIS. For example, on page 25 of the CIS the United States claims the proposed judgment will allow computer manufacturers freedom from coercion or retaliation by Microsoft" This is an absurd claim. Coercion is defined as employing a threat of force against an individual to force them to act against their self-interest. There is no evidence that Microsoft can use force against anyone. It does not possess a police force, or an army, or a court system. Microsoft has no means to exert its will to the extent that it violates the rights of another. What the company has done is use legitimate and legal tactics, including the retaliation the government improperly condemns, to aggressively compete within the market.

The market within which Microsoft competes has, in fact, been misidentified repeatedly by the government, the District Court, and the Court of Appeals. According to the CIS, the market for monopolization purposes is supposedly restricted to operating systems used on Intel-compatible personal computers. The United States deliberately excludes operating systems on non-Intel compatible computers because, the CIS says, consumers are very reluctant to substitute away from Intel-compatible personal computers because to do so would entail incurring substantial costs and would not result in a satisfactory substitute. Thus we have a real gap in logic. If the consumer is not substituting a non-Intel computer for an Intel computer based on considerations of price and quality, is that not a consumer choice? The free market is defined by the choices made by consumers. The government takes a contradictory and irrational approach, defining the market in such a limited way as to make the definition arbitrary and capricious.

I have been a computer user for more than a decade. In that time I have often weighed the option of purchasing Intel-compatible computers over non-Intel models. My choice has weighed a number of factors, including price, availability of application software, quality of the components used and even aesthetics. My ultimate decision is not important; what is important is that I considered models across the market without regard for the government's arbitrary and exclusionary definition and made an informed and voluntary choice. Millions of other consumers have done likewise, and the government's claims here are an attempt to deny this fact. Similarly, on the many Intel-compatible computers I have purchased through the years, there have been times where I have declined to use a Microsoft operating system. I did so irrespective of the fact that a Microsoft OS was pre-installed and programmed to boot with the computer. As an informed consumer I made the effort to consider other operating systems and install one independently. The proposed judgment here assumes I am incapable of that action, for it assumes such an act would only be undertaken if multiple operating systems were made available to me at the time of purchase. Similarly, the proposed judgment presumes the presence of desktop will help non-Microsoft middleware programs compete with Microsoft programs; in fact millions of computer users already do so without such manipulative prompting at the behest of the government. For the government to state otherwise is illogical, offensive, and not in the public interest.

Additionally, the proposed judgment is not in the public interest because it would inflict a manifest injury against the rights and liberties of the people of the United States, specifically the right of private property. A key component of the proposed judgment's remedy is a requirement that Microsoft make its source codes available to a government-sanctioned oversight committee, which in turn is supposed to ensure these same source codes are made available to non-Microsoft middleware producers, so that these companies can create products to compete with Microsoft. Since the United States would retain the right, under the proposed judgment, to determine and enforce the scope to which these source codes are to be made available, the final judgment constitutes a seizure of private property the source codes and its subsequent conversion to a public good. Such an act is wholly incompatible with the Constitution of the United States and even the antitrust laws that are supposedly being enforced in this case.

From a practical standpoint, the antitrust laws were designed to impose static remedies upon static industries where the market and its competitive components could be easily quantified and centrally managed. The software industry is neither static nor easily quantified. It is a dynamic marketplace of ideas and innovation, and such an entity cannot be centrally managed or overseen in a rational manner. Even the Court of Appeals admitted as much in its review of this case last year, noting that the software industry would continue to evolve many times before this case was concluded. This evolution continues regardless of Microsoft's dominance of the Intel-compatible OS market, but it will not continue if extensive government oversight is introduced into the marketplace. This proposed judgment unreasonably attempts to dictate the competitive balance in an industry where such a concept has been rendered virtually meaningless. Software is not like the railroads or petroleum refining. Any individual can use their mind and inexpensive equipment to write an operating system, develop a word processing program, or even lay the foundation for a global information network. The entire barriers to entry analysis employed in the CIS for this case is thus completely without merit.

The proposed judgment seizes Microsoft's property for the express purpose of enhancing Microsoft's competitors. Such an act should offend every American who owns private property of any kind, because if a large and successful corporation is not entitled to the fruits of its own labor, than what hope is there for the ordinary American citizen of less affluent means? The proposed judgment, rather than serving the public interest, will only serve to undermine public confidence in the government's role as the final guarantor of private property rights.

As a concerned citizen, I urge the District Court to reject the proposed judgment and dismiss the government's complaint without further delay. Barring that unlikely action, I would encourage the United States to reconsider its position on Microsoft, and its enforcement of antitrust laws in general. This case has demonstrated the futility and harm that can result from the application of irrational and immoral public policy.

Sincerely,
Skip Oliva
2000 F Street, NW, #315
Washington, DC 20006–4217
SkipOliva27@aol.com

MTC–00027334

From: Jonathan Kiang
To: Microsoft ATR
Date: 1/27/02 11:12pm
Subject: Microsoft Settlement

The proposed settlement is a bad idea. It is a reckless abdication of the Federal government's antitrust responsibilities.

The Court of Appeals affirmed that Microsoft violated Federal and State antitrust laws. Any settlement or judgement needs to supply both a remedy against future violations and a deterent to potential violators. This one provides neither.

Considering that Microsoft performed many of its illegal activities under the apparently mosty hypothetical onus of the consent decree stemming from the government's 1994 antitrust case, the proposed final judgement leaves Microsoft too leeway in its actions. Microsoft has shown no indication that it would be inclined to follow the spirit or intent of the antitrust laws if left to its own devices, and the proposed final judgement fails to account for this.

The proposed final judgement, if approved, would make the 1956 du Pont cellophane case look like a brilliant piece of antitrust reasoning. If the goal of the antitrust laws is to promote consumer welfare and the competitive process, then the proposed final judgement fails to do either.

Sincerely,

Jonathan Kiang

MTC-00027335

From: Tom Dilligan (091)Tall Mini-God(093)
To: Microsoft ATR
Date: 1/27/02 11:13pm
Subject: Microsoft Settlement

To whom it may concern:

I have been a software developer and watcher of the computer industry for the last 18 years. In that time I have developed software for a large array of systems from home computers (with both non-Microsoft and Microsoft operating systems) and for large mainframe systems. I am currently employed as a Senior Systems Developer for Industrial Light + Magic.

I would like to comment against the Microsoft Settlement of the Anti-trust lawsuit against them, pursuant to the Tunney Act. I oppose the settlement in the current form for the following reasons. The proposed settlement largely consists of donations to schools. This will do nothing to hinder Microsofts actions in the market place. If anything, this will increase Microsoft's market share. None of the reports that I have read state that Microsoft will include support contracts for the software that they are donating Software without support costs nearly nothing. The costs of producing software falls primarily into two categories: development and support. The costs of distributing (CD-ROMS, documentation, packaging) are tiny in compared with the development costs and support costs. In the case of Microsoft products, no part of the purchase price goes to support costs, because Microsoft support is done through a pay per incident. Calling Microsoft for any support reason will cost $50.00 or more per call, unless a support contract has been purchased.

If no support contracts are provided, and no support is provided as part of the purchase price, then it can be argued that the entire purchase price is going towards the development of new Microsoft software. The development costs of the software have already been recaptured, as evidenced by Microsoft's 36 billion dollar cash reserves. This cash reserve is nearly twice that of General Motors, a company that reports seven times the sales of Microsoft.

These cash reserves allow Microsoft to come into any marketplace and give away (dump) software until they have forced any competitors out of the market. Clear examples of this happening in the past include the internet browser software Netscape. In the case of Netscape, Microsoft was very successful in giving away their browser software, and in fact forcing people to use it by making it an integral part of the user experience. Microsoft included the server software with the "server" versions of Microsoft's operating systems (i.e. Windows NT, Windows 2000). Netscape only had the revenue generated by their browser and server products to generate income. With Microsoft effectively giving the software away, it became increasingly difficuly for Netscape to function as a business, eventually getting purchased by what is now America Online / Time Warner.

Microsoft's business practice of taking serious losses to penetrate into the market place can be easily seen right now with Microsoft's introduction of the X-Box gaming system. Microsoft has never competed in the home videogame console market. The retail price of an X-Box is approximately $350.00. Most analysts have estimated the actual cost of production to be closer to $500.00. In any sort of trade arrangement, this would be considered "dumping". Sony, Nintendo, and Sega (Microsoft's competition) all sell their come consoles at close to cost, but do not actually lose money.

Microsoft has engaged in highly restrictive licensing practices that has made it "unfeasable" for OEM computer manufactures (Dell, Gateway, IBM, ect...) to support non-Microsoft operating systems. This has forced free and / or alternative operating (i.e. Linux, FreeBSD, OpenBSD, BeOS) into the domain of the technical hobbyist, which is an extremely small portion of the operating system market.

Microsoft delays or suppresses publication of interfaces, protocols, and file formats that would be useful to third party developers. These interfaces, protocols and file formats are all available to Microsoft programmers, but are (in general) not available to non-Microsoft programmers. This gives Microsoft an insurmountable edge in that they can easily write software that interacts with other Microsoft software, but non-Microsoft developers are unable to write software with tight integration to Microsoft products.

Microsoft is notorious for taking industry standard interfaces, protocols, and file formats, changing or extending them slightly before integrating them into Microsoft products. This allows them to proclaim "industry compliance", but they will rarely publish the extensions that they have made to the interfaces, protocols, and file formats. This has two unfortunate effects. The first is similar to the point raised above: only Microsoft can effectively use the extended interfaces, protocols and file formats. The second is that by not announcing or documenting extensions, they have effectively made the interfaces (or protocol, or file format) Microsoft's, as nobody can extend or change the interface without potentially interfering with Microsoft's extensions (because nobody outside of Microsoft knows what Microsoft is doing). In light of this, clearly more punative actions must be applied to Microsoft to force it into a position where it cannot simply walk into any market and crush it by sheer financial clout. I would propose the following as the sort of steps that must be taken to limit Microsoft's monopoly power.

Microsoft's cash reserves must be drained. This would involve a penalty (or stock dividend) in the range of 33 billion dollars, and would bring Microsoft's cash to gross income ratio into the same range as other large companies (such as General Motors).

Microsoft should adopt a simplified, non-restrictive licensing policy for OEM computer manufactors. Failing this, an outright ban should be made on bundling non-free software with computers. While a split of the Microsoft corporation is desireable. It is very difficult to define a dividing line. I would propose a remedy of modularizing of the software packages produced so that each application would have a specific task (i.e. word-processing, spreadsheet, illustration, painting, ect...) as opposed to massive conglomerations of product (i.e. Microsoft Office). The only contact that the teams would have would be via publicly published documentation on interfaces, protocols and file formats. This would allow for outside manufacturs to tightly integrate their software with Microsoft's products.

These are a small sampling of the concerns that I have with the proposed settlement between the Department of Justice and Microsoft. Consider this my plea to reconsider the proposed settlement, and work to make it sufficiently strong as to actually stop Microsoft in their quest to completely dominate the computing industry.

Thomas A. Dilligan
San Rafael, CA.

MTC-00027336

From: dave@campdave.newww.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:13pm
Subject: Microsoft Settlement

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. I agree with the problems identified in Dan Kegel's analysis (on the Web at http://www.kegel.com/remedy/remedy2.html).

I find it particulary objectionable that the PFJ doesn't take into account Windows-compatible competing operating systems. MicroSoft should not be allowed to raise artificial barriers against non-Microsoft operating systems which implement the APIs needed to run application programs written for Windows.

This problem alone makes me conclude that the Proposed Final Judgment as written allows and encourages significant anticompetitive practices to continue, and would delay the emergence of competing Windows-compatible operating systems. In addition to the other problems expressed by Dan Kegel, I strongly believe that the Proposed Final Judgment is not in the public interest, and should not be adopted without addressing these issues.

David B. Belser

MTC-00027338

From: John Fulton
To: Microsoft ATR
Date: 1/27/02 11:25pm
Subject: Microsoft Settlement

To Whom it May Concern,

I would like to comment under the Tunney Act on the proposed settlement of the United States vs. Microsoft antitrust case. I realize that you have to go through a lot of material, so in order to be as brief as possible I would like to echo the comments made by Dan Kegel, which can be viewed at: http://www.kegel.com/remedy/letter.html

I support his overall comments on the proposed settlement and would like to add my voice to his.

Thank you,

John Fulton

Webmaster, Rutgers University Computing Services

MTC-00027339

From: Young Jun Key
To: Microsoft ATR
Date: 1/27/02 11:15pm
Subject: Microsoft Settlement

To Department of Justice

Hello, I'm a student who is interested in studying computer science at State University of New York at Stony Brook. First of all, I'm very disappointed at the outcome of the trial. I was in the United States when the trial was on going, and I fully understand the effect of the tragedy of September 11th on the trial. Although I'm not a citizen of the United States of America, and I don't fully understand the importance of Microsoft as an national financial benefactor, I feel that trial was too much subdued due to the national crisis. As far as my understanding goes, United States has built it's economic strength upon technological basis. Computer technology is the most outgoing technology of the age and the Microsoft is the leader of the computer software. They are clearly violating the anti-trust law. When there are less than 10 corporations competing in one specific field of business then the business is being monopolized. I've used almost every version of Microsoft Windows and it's clearly becoming more focused on the Microsoft corporation itself. I believe this convenience is winning the market. We need to provide more chance and equal opportunity to other venture businesses that's being blocked by the Microsoft giant. This trial may benefit American economy for the moment, but we need to realize that it is only a temporary solution. I think that the issue must be brought back into the court for more fair and just solution.

Sincerely,

Young Jun Key

MTC-00027340

From: V.V.
To: Microsoft ATR
Date: 1/27/02 11:16pm
Subject: Microsoft Settlement

I wish to comment on the recent AOL "Legal Strategy" I believe this lawsuit has anything to do with consumers. AOL has been using the political and legal systems for competing against Microsoft for several years. This is just the next legal tactic in their business plans.

AOL or anyone need not advise Microsoft that their marketing strategy should be "stripping down Windows", and instead of wasting time in courts try to build a Operating System like Windows and see how it takes to do that and if ever it is possible for anyone to make a world class OS like Windows.

The question to challenge browser integration with Windows is itself invalid because

1. Microsoft does not charge for their browser
2. Any AOL patron can easily install their own browser if they dont wish to use the MS browser
3. AOL itself follows the same strategy by acquiring Netscape and bundling theor browsers everwhere (even in my laundry underwears!!!) A spam of the highest degree.

Therefore please dont disturb Microsoft time with the non-sense court matters, but rather challenge and compete them in the Marketplace.

Sincerely,

Vivek Velso

MTC-00027341

From: Neale, Bennett
To: "microsoft.atr(a)usdoj.gov"
Date: 1/27/02 11:16pm
Subject: Microsoft Settlement

Dear Sir/Madam:

By way of the Tunney Act comment process, I am strongly urging you to reconsider the settlement of the United States vs. Microsoft antitrust lawsuit. Thank you for your time.

Bennett Neale
bneale@edmunds.com

MTC-00027342

From: mabel@qtm.net@inetgw
To: Microsoft ATR
Date: 1/27/02 11:13pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Anne Canning
23431 Fosdick St.
Dowagiac, MI 49047–7433

MTC-00027343

From: EHOO88@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:19pm
Subject: MICROSOFT SETTLEMENT

Gentlemen:

Please settle this lawsuit in favor of Microsoft and stop wasting money and time constantly trying to breakup Microsoft.

Microsoft is a magnificant firm with brilliant ideas and has helped America to be a pioneer in the field of internet and software. Microsoft has helped students, business people, lay people and people all over the world with their products.

All these lawsuits disrupting Microsoft is a waste of money and time.

God bless America.

Sincerely, Elaine Hoo

MTC-00027344

From: Kathleen Dolan
To: Microsoft ATR
Date: 1/27/02 11:20pm
Subject: Microsoft Agreement

Dear Renata Hesse, Trial Attorney:

I wish to add my voice to the concerns over the proposed settlement of the Microsoft Antitrust Case. I believe that Microsoft has made it extremely difficult for anyone to purchase a computer without using Microsoft operating systems and software. Because of their marketing strength, they have been able to make almost all computers sold in the US dependent on their operating systems and software. This proposed settlement does not deal with the basic issue of the case: the stifling of competition in the operating system market. Please do not allow this to go through.

Thank you,

K.A. Dolan
Dolan and Taylor Associates
P.O.Box 531
Garrett Park, MD 20896.
CC:kdolan@dgs.net,Steven C Johnson

MTC-00027345

From: A-Valkanas@neiu.edu@inetgw
To: Microsoft ATR
Date: 1/27/02 11:15pm
Subject: Microsoft Settlement

27 Jan 2002

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft Corporation antitrust case. I wish to state how disappointed I am in US Atty. Gen. John Ashcroft, Illinois Atty. Gen. Jim Ryan, and all the other states" attys. general in this extremely weak and poor settlement with the Microsoft Corporation. With their track record of poor products and their quashing of almost every possible threat to their monopoly (such as the cases with Netscape and their pending litigation against Lindows), Microsoft has acted against the public's welfare and has cost the economy great quantities of productivity. For example, assuming a user base of one million users who must endure one crash of their Microsoft OS, a 240 day work-year of 8 hour work-days and an average salary of $22,500, those unscheduled coffee breaks cost a total of over $29,000,000 per annum in lost productivity. This amount does not take into account the time needed to recreate lost works in progress or delays to customer inquiries because of the delays.

I also wish to add that I am in full agreement with the statements of Dan Kegel, located online at http://www.kegel.com/

remedy/letter.html ; Jeremy P. White, CEO of CodeWeavers, Inc, located online at http://www.codeweavers.com/jwhite/tunneywine.html ; and the Free Software Foundation, located online at http://www.gnu.org/philosophy/microsoft-antitrust.html.

Any settlement with Microsoft is unsatisfactory. This company, and its management, need to be punished much more severely than this settlement possibly would. Sincerely,

Andrew Valkanas
2523 W Farwell Ave
Chicago IL 60645

MTC-00027346

From: Grayson Aahr
To: Microsoft ATR
Date: 1/27/02 11:22pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Ms. Hesse,

The proposed settlement is not in the public interest. The settlement leaves the Microsoft monopoly intact. So long as it is intact the company and its leadership will do all in its power to stop legitimate competition. This is not our free enterprise system. Consumers need competition and choice so they, not Microsoft, decide what products are on their computers. Microsoft must not be permitted to decide what programs will run on MY computer. It must not decide the direction of the entire marketplace. Let the "invisible hand" of the market work. The remedies proposed by the several States are certainly necessary and in the public interest, but they are not sufficient without removing the proven illegal monopoly power from the hands of the malefactors.

I strongly urge that public proceedings under the Tunney Act be held so that the entire public may be heard, not just a narrow group of interests.

Clifford I. Nomberg, J.D.
Post Office Box 243055
Boynton Beach, FL 33424–3055
561–733–3069

MTC-00027347

From: William Law
To: Microsoft ATR
Date: 1/27/02 11:21pm
Subject: Microsoft Settlement

To the Department Of Justice:

Hi, my name is William Law, and I for one think it was a great idea to file a lawsuit against Microsoft. Truthfully, I think it was wrong for what Microsoft did, to do things illegally, and the theory for them to take over the whole entire business. First of all Microsoft had too much power, and had too much monoplies. Not only that, but in order for Microsoft to gain such power, they had illegal acts to help eliminate its rivals and made sure Microsoft was the only operating system for PC's and OEM's. Not allowing other internet companies, and had restrictions on OEM's. They broke the first and second act of the Sherman Act. They tried to eliminate Netscape by limiting it's resources, and as well as java. Trying to delete Java, is trying to eliminate other programmers to in such eliminating other possiblities for choice of Netscape. Microsoft did not give other smaller companies a chance to grow in the market. Which can result in overpower in the market. Which in that case, Microsoft can raise it's prices on their products, and no one can do anything about. Since they are the only operating and software out there to support a PC, and other OEMS.

Breaking up microsoft can help consumers to have more options and save more money when it comes to Pc's and programs for the operating systems. I am glad that you gave freedom to the OEM's as well as other small business's the right to choose alternative operating systems for the consumer's PC. As well as not letting Microsoft to corporate with Windows was also a good idea, so that way Microsoft can't restrict certain software only to Windows. That way Windows is open free for other software programmers to share with. All these new rules will definetly help people save money, and save the market from the might powerful Microsoft from conquering all of it. What you have done was a great idea, and I for one am glad that somebody has put a hold on Microsoft from taking all of the computer business. I also wanted to say, letting people write comments to the department of justice was a great idea. That way you can hear from the people's point of view. Thank you for your time and patience.

Sincerely,
William Law

MTC-00027348

From: Harold J Williams
To: Microsoft ATR
Date: 1/27/02 11:21pm
Subject: Microsoft Settlement

To Whom It May Concern

AN IMMEDIATE SETTLEMENT FOR MICROSOFT IS IMPERATIVE!!!

My feelings right now is that Microsoft is being shafted and penalized for being a successful company by the Government (DOJ) as well as bunch of competitors that are seemingly not smart enough to be as good as Microsoft. They are trying to get some of Microsoft's smarts by filing lawsuits.

All of those ridiculer suits should be thrown out and so Microsoft can get on with it business of providing high tech software and hardware to the public.

I do not believe Microsoft is over prised as I have a lot of Microsoft software on my computer. My e-mail is not Microsoft but sure is not AOL and never will be!!

Harold J. and Carole L. Williams
21104 33rd Drive SE
Bothell, WA 98021–3235

MTC-00027349

From: Stephen Horlander
To: Microsoft ATR
Date: 1/27/02 11:22pm
Subject: Microsoft Settlement

The fact that a convicted monopolist, who has deliberately hurt competitors and suppressed innovation, can be let off with a slap on the wrist truly makes me wonder about the state of our legal system. This proposed settlement in no way will limit Microsoft from continuing to abuse their illegal monopoly, and crushing potential competition and further strangling their own customers, who will be left with little or no choices.

Already Microsoft has laughed at the Department of Justice and the community at large by further populating their operating system with services such as Windows Messenger or Windows Media Player or the dreaded Passport, which seeks to obtain a new monopoly on not just operating systems but on a persons personal information. These services are not even removable by the end user, they are stuck with them just as they are stuck with Internet Explorer. Not only must people suffer with un-needed programs but Microsoft quickly proceeds to shove notices for these services in the users face with no way to disable them.

Microsoft uses its monopoly on operating systems and browsers and office software to keep a hold on its customers, customers who have no way to escape because Microsoft will not release its file formats or protocols to the public. I really hope that someone comes to their senses before it is too late. Please show Microsoft that it cannot do what ever it wants with no consequences just because it has enough money and power to do so.

MTC-00027350

From: John McNair
To: Microsoft ATR
Date: 1/27/02 11:22pm
Subject: Microsoft Settlement

To Whom It May Concern:

I would like to express my concern about the proposed settlement in the case of United States of America vs. Microsoft Corporation. I oppose the settlement on several grounds enumerated as follows:

I. The settlement fails to address the real damages inflicted on Netscape Corporation, OEMs, and most importantly, consumers with respect to the bundling and dumping associated with Internet Explorer. The United States originally brought the case in question against Microsoft because of harm it inflicted on consumers and competitors in the course of attempting to destroy Netscape. Microsoft spent over $100 million developing a product that it never intended to sell. The sole stated purpose of developing Internet Explorer was to destroy competition in the browser market. This is according to thousands of internal emails entered into evidence during the course of this trial.

Since the focus of this trial was illegal monopoly abuses concerning internet browser software, any remedy should give some attention to that particular market.

II. The settlement essentially provides that Microsoft must intend to obey the law in the future (at least for the term of the settlement). This settlement is no stronger than existing antitrust legislation and hence is a waste of paper. At best one could argue that this agreement delineates specific actions that are acceptable and not acceptable so that Microsoft cannot claim ignorance of the intent of antitrust laws in the future. However, ignorance is not what lands

Microsoft in court. It is arrogance, a total disregard for the rules that govern civilized people, that puts Microsoft on docket after docket.

III. The settlement is ineffective to prevent future abuses along the lines of Microsoft's well-documented modus operandi. Since the agreement fails to address past grievances, the presumption is that it should curtail future criminal activity at Microsoft. The court would do well to remember who the defendant is. This is the company that:

A. intentionally caused their own applications to fail sporadically when running on top of DR DOS to make that operating system seem unstable. They were ironically forced to resort to this because DR DOS was actually a far superior product than MS DOS in terms of stability and usability.

B. forced OEMs to pay license fees to Microsoft for each computer shipped whether they shipped with IBM's PC DOS or with MS DOS. This made PC DOS appear to be more expensive. This practice continued until a court ordered them to stop—eight or nine years later. And to my knowledge, Microsoft complied with that court order. However, the order came shortly before Windows 95 shipped, and where they left off with MS DOS, they picked up with Windows.

This practice is one of the major harms inflicted on consumers by Microsoft. It is impossible for a consumer to buy a pre-assembled computer from a major OEM without paying a license fee to the Redmond monopolist. Forget illegal anti-competitive practices, perjury, and extortion for a moment. Why should consumers be forced to pay for something they don't even use? In some cases Microsoft is paid for machines that ship with no operating system at all. This practice has to stop.

C. intentionally forced Word Perfect to crash sporadically when running on Windows so that it would appear to be even more unstable than Microsoft Word. This practice continued until Microsoft destroyed Word Perfect as a viable competitor. Many still consider Word Perfect to be a superior product, but that consumer choice has all but vanished.

D. dumped $100 million worth of development effort into a product to destroy their competition.

E. repeatedly gave false testimony in this trial and even submitted doctored evidence.

F. is run by a man that has told reporters that he is more powerful than the President of the United States. Why then should he have to obey US law?

G. is emulating their Internet Explorer chicanery in an attempt to crush Real Networks. Microsoft is integrating Windows Media Player into the OS and making Real Player a very difficult alternative using the same tricks that worked on Netscape. If they force OEMs to ship include Media Player and exclude Real Player, and if they make Real Player extremely difficult to install, that consumer choice will vanish as well.

These are not speculative claims. Every statement above, except G, is either from William H. Gates, III, other Microsoft executives or substantiated in a court of law. This is a very short list of reasons not to trust this company to operate in good faith. Repeatedly Microsoft has promised not to abuse its monopoly power, and repeatedly they have reneged. Why should the court trust them this time? This agreement requires far too much good faith on the part of Microsoft to have any effect at all.

The loopholes are many and large. For one thing, the agreement for all practical purposes concedes Microsoft's current operating system monopoly is a fact of life. However, "the software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion." This is how the Internet Explorer debacle was enabled for so long. Microsoft simply declared that the browser was an integral part of the operating system in order to circumvent a previous court order. One could argue that this tends to push Microsoft into shoddier software design practices than even they are wont to embrace, but that is outside the scope of this complaint. Section III.6.D provides that Microsoft shall disclose APIs in a timely manner while section III.J.1.a provides the legal loophole by stating "J. No provision of this Final Judgment shall: 1. Require Microsoft to document, disclose or license to third parties: (a) portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of which would compromise the security of ... anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems ..." Microsoft has recently announced (1/15/02) that pervasive security is number one priority. This is too convenient. This gives them the argument that they do not have to release any APIs (or the ones they most want to protect) because of security risks. Microsoft can arbitrarily choose which APIs to expose, and still claim that they acted in good faith as they understood this settlement. The line is sufficiently fuzzy that any decent $500/hr lawyer should be able to drag out a case based on failure to disclose APIs for years.

Section VI.D restricts the definition of Personal Computer to x86-based platforms. Microsoft would not be in violation of this agreement if they extended their predatory practices to say, a Power PC-based platform. Microsoft has recently announced an initiative to produce a virtual hardware layer to run the Windows operating system that is similar in principle to the Java virtual machine. This would mean that Windows could run on any platform. Again the timing of such an announcement is far too convenient. This is yet another way that Microsoft can circumvent the terms of this agreement. Microsoft has demonstrated repeatedly that they have no respect for the law. They will agree to anything that they deem to be a reasonably cost effective means of getting out of court. The terms of the agreement matter little to them for it will be business as usual within a month. Anecdotally, I have known of former Microsoft employees claiming that they know of no other company that spends more of its resources on simply destroying its competition (using Fear, Uncertainty, and Doubt). Hoping that Microsoft will suddenly change its attitude is pure fantasy.

In short, this settlement is more of a pat on the back than the slap on the wrist it was intended to be. Microsoft has successfully waged a public relations campaign that has clouded the issues involved. When Bill Gates is whining that he's not allowed to innovate, it's easy for some to forget that he has been in court almost continuously for fifteen years for theft of intellectual property, bundling, dumping, coercion, and extortion. While not everyone has agreed with Judge Jackson rulings, I still think it must take some preponderance of evidence for a federal judge to characterize publicly the nation's most prominent CEO as a "common street thug." It's sick Orwellian humor that Microsoft should complain that they have been denied the opportunity to innovate when they have unashamedly destroyed anything that threatened their tyrannical stranglehold on the PC industry.

John R. McNair, Jr.
john@mcnair.org

MTC-00027351

From: Rchadrick@cs.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:23pm
Subject: Microsoft Settlement

The United States should settle with Microsoft now. Impose reasonable restrictions on the company and let everyone go back to work doing what they do best. Monetary penalties should be kept to a minimum. There is more important work to be done for the good of the Country. Greed should not be rewarded. The States should join the Federal settlement. Holding out to further appease the various special interests is not warranted except to exploit the situation and to extort money nefariously.

Richard Hadrick
Spring Hill, Florida

MTC-00027352

From: lgreenberg@mac.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:23pm
Subject: Microsoft Settlement

I urge you to support competition in the computer world. Microsoft must not be allowed to become so powerful that users come to rely even more than they do now on a single entity. Any settlement must open opportunities to alternate technologies, allowing Americans a choice.

Thank you.
Lee Greenberg

MTC-00027353

From: Roger Sumey
To: Microsoft ATR
Date: 1/27/02 11:25pm
Subject: Microsoft Settlement

To whom it may concern,

In accordance with provisions of the Tunney Act, I am sending these comments on the Proposed Final Settlement of the United States vs Microsoft antitrust case.

The proposed settlement is seriously flawed in numerous respects. It does not redress the market gains Microsoft has achieved though illegal, predatory manipulation of OEM's, ISP's, and customers to eliminate or control any and all competition to it's monopoly in operating systems or office products, and extension of that monopoly to networking middleware. It does not restrict Microsoft from using it's monopoly position in the future to again prevent consumers from having effective alternatives to Microsoft products. It has several provisions that provide legally recognized grounds for it to conduct anti competitive behavior in regard to the open software movement that now is it's only competition, as stated by Microsoft itself. Lastly, it provides a completely inadequate enforcement mechanism.

I find that the proposed settlement simply does not serve justice in that it provides equal consideration to Microsoft with the Government in consideration of issues of enforcement. The mechanism for selection of overseers that provides parity to Microsoft is offensive on it's face. Add to that the requirement for secrecy on their part, prohibiting one of the bastions of America's freedom, the press, from revealing any information to the public concerning Microsoft's implementation of the settlement will prevent that most effective check on Microsoft's often egregious business practices. Microsoft has been found guilty of illegal actions. The settlement should reflect that fact and in my opinion it does not.

There are many other aspects of the settlement that are seriously flawed that I will not detail. It does not deal realistically with Microsoft's long history of predatory behavior that continues to this day. Just yesterday, January 26, I read a report of Microsoft denying information on .Net technology to an developer because they refused to develop exclusively with .Net, intending to support Java networking solutions also.

My comments on the proposed settlement are most respectfully tendered.

Roger Sumey
4309 Snowdrop Court
Ellicott City, Maryland
(410) 465–6690

MTC–00027354

From: Jonathan Sorger
To: Microsoft ATR
Date: 1/27/02 11:26pm
Subject: Microsoft Settlement

To U.S. Department of Justice:

I have been following the Microsoft antitrust case and have noticed a disturbing pattern that has plagued the business world...that competition is no longer the catalyst for developing new products in certain markets...that monopolies continue to exist and operate with impunity.

Former U.S. Senator John Tunney criticized Microsoft's disclosure of its contacts with our government throughout the antitrust case as "inadequate". Microsoft interpreted his legislation, The Tunney Act, with tunnel vision; and ultimately, to their benefit, as the case was settled with the U.S. government and 9 of 18 states. Why have large corporations with their Congressional lobbying groups become so influential in determining the fate of the general public?

This is a company that produces a ubiquitous operating system and now a ubiquitous internet browser; only because it has bullied and squeezed out much of the competition over the years. I am an Apple computer enthusiast, but I have to work in a Windows NT world. Yes, I use some of Microsoft's products on both platforms. They do make some good software. But is it good because they've lured or snatched up many of the talented people that worked for their competition at one time? Is it good because most consumers do not know or care what else is available because Microsoft applications were pre-loaded with their computer? I'd love to become a full-time Linux user, but am forced to use the ever-pervasive Microsoft Word because no alternatives exist.

Please do not make an already powerful company more powerful. I will bewatching what develops with the European regulators, with the 9 remaining holdout states, as well as with the Netscape browser case.

Thank you for providing a feedback mechanism to the public on this important case.

Jonathan Sorger
Washington, DC
CC:jsorger@aol.com@inetgw,dennis@bme.jhu.edu@inetgw,d...

MTC–00027355

From: Glenn Larson
To: Microsoft ATR
Date: 1/27/02 11:26pm
Subject: Microsoft Settlement

I believe that the proposed settlement with Microsoft is a bad idea. By allowing them to pay their fine by donating used Pc equipment (running Windows OS no doubt) to our nation's schools, they are simply guaranteeing themselves future money in support contracts and a large user base which will require "upgrades" when the license on their current operating systems expire.

Sincerely,
Glenn Larson
glennlarson@bigfoot.com

MTC–00027356

From: Earl Jenness
To: Microsoft ATR
Date: 1/27/02 11:23pm
Subject: Microsoft Settlement
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Thank you for reaching a settlement in the Microsoft case. Our economy is not in a position to grow with Microsoft tied up in Court.

This settlement was reached after lengthy deliberations between your department and Microsoft. The deliberations were aided by a court-appointed mediator. The concessions are hard fought on both sides, and should not be discarded.

If the settlement is implemented, there is serious potential for both strong short term growth and sustained long term growth in the computer industry and the economy. In the short term, the effects of the settlement will be immediate. Computer makers will be allowed to reconfigure Windows operating systems to add existing software programs from non-Microsoft companies. In the long term, Microsoft's agreements to revise its pricing practices and distribution agreements will allow for sustained growth by providing incentives for research and development.

I hope that common sense prevails and this settlement is approved.

Sincerely,
Earl Jenness

MTC–00027357

From: Sexy Nye
To: Microsoft ATR
Date: 1/27/02 11:27pm
Subject: Microsoft Settlement

An entrepreneur is someone who should be highly respected and commended for their accomplishments. Unfortunately there are times when you reach the top; you will find there are people who want to bring you down. I feel this is what is happening in this case. Why should Microsoft be punished for their exceptional success? In my opinion the accusations of monopoly are false due to the fact that competitors are still in business selling their software. It just so happens Microsoft sells more. I feel it is untrue that users are not able to use whatever software they choose. A computer only does what a user tells it to do. If you tell the computer to uninstall a piece of software and install another, it will do just that. Computer users have a choice of what software they want to use. Microsoft shouldn?t be punished for being #1.

MTC–00027358

From: Dennis Catt
To: Microsoft ATR
Date: 1/27/02 11:28pm
Subject: Microsoft Settlement
US Department of Justice,

I just wanted to give my idea of a practical solution. Though I do not believe that Microsoft should open its source code to its different applications, I do believe that Microsoft, and all software companies open the source to text, graphic, audio and video formats that are used and affect the internet. What it boils down to is that people want to have access to all content on the internet... it if being a video clip on CNET or a graphic picture or just simple text that might be proprietary to one application. I believe that software companies should share file formats of all types that range from anything that affects the internet and even Office Suites. They can keep their source code to themselves, since that is the bread and butter of their product. But file formats do not need to be proprietary, I think this will open the software industry to new opportunities and horizons and help out the computer industry as a whole. This would then keep from startup companies and companies already in the field from being discouraged by Microsoft's anti-competitive practices. As for the operating system issues, I believe that the OEMs should be held responsible for neglecting the consumers freedom of choice. I don't believe that OEMs should be required to have to sell choice operating systems to their customers, but offer technical support to both the developers and the consumers. What I mean by this is that if I a customer calls into let's say Dell or Gateway computers for information about if their computers are compatible with a particular operating system, they should have that information, and the information should be readily available. Not only is Microsoft guilty of anticompetitive behaviour, but the OEMs have helped Microsoft force products on consumers, that don't realize that other options are available, which has made the consumer believe now that everyone be compatible with Microsoft's products. Also the OEMs of computer hardware must readily provide information to other Operating System developers and be held accountable if they discriminate any developer in the market, including Linux and other such developers.

The truth is that software developers and consumers lose to such actions of anti-competitive behaviour that has damaged the computer industry as a whole and placed it in the turmoil that it is in now. I feel that you will do what is best for the computer industry and for the rights of the consumer. The most important thing look out for and to protect is our freedom of choice... something Microsoft has all but taken from us, the consumer. Thank you for your time and I wish you good luck.

Best Regards...
Dennis

MTC-00027359

From: Amish Shah
To: Microsoft ATR
Date: 1/27/02 11:27pm
Subject: Microsoft Settlement

Honorable Judge Kollar-Kotelly,

I do not agree with the Proposed Final Judgment (PFJ). As I am a big advocate of technology and its advancement, I feel that Microsoft does nothing but hinder its process. As it has been obviously concluded numerous times over, Microsoft has made it very difficult for software companies to compete on the same level with its anti-competitives tactics. For ANY software company to compete with the Windows operating system or Office suite applications it would take tremendous dollars (billions most likely) to reach a user base of Microsofts level. As I write this email to you, I am using Microsoft Windows, Microsoft Outlook Express, I read an article on the Internet through Microsoft Internet Explorer, and later tonight I will write a paper in Microsoft Word. I can choose not to use these software products, but when I wish to work with the rest of the world out there electronically, I am left at the moment with only one choice of Microsoft. It is very unfortunate.

Sincerely,
Amish Shah
Box 6251
518 Park Drive
Boston, MA 02215
CC:stopmicrosoft@yahoo.com@inetgw

MTC-00027360

From: Nikesh J. Morarji
To: Microsoft ATR
Date: 1/23/02 11:29pm
Subject: Microsoft Settlement

Dear Sir/Madam,

Microsoft has not at all received the punishment that it is due. It is a bully in the marketplace and I for one support any decision involving breaking the company or curtailing it's growth into other areas. i.e. push it's Xbox machine as a trojan horse into living rooms and solidifying Microsoft's control over the end user and the marketplace.

Sincerely,
Nikesh J. Morarji
nmorarji@acs.ryerson.ca

MTC-00027361

From: BCook10707@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:3lpm
Subject: Fwd: Has Your Opinion Been Counted?

Has Your Opinion Been Counted?

Earlier this month, you took part in a letter-writing campaign to express your opinion of the antitrust settlement between the Department of Justice and Microsoft. We would like to thank you for your efforts and make sure that when we assisted you in organizing your thoughts on paper, you were completely satisfied that the draft letter fully expressed your own views in the matter. If you would like any changes, we would be happy to make them now. The public comment period on this settlement ends on January 28. The provisions of the agreement are tough, reasonable, fair to all parties involved, and go beyond the findings of the Court of Appeals ruling; however, the settlement is not guaranteed until after the review ends and the District Court determines whether the terms are indeed in the public interest. If you would like your opinion to count, now is the time to send in your letter! Please send your comments directly to the Department of Justice via email or fax no later than January 28. If you have already done so, or will do so in the near future, please be sure to send a signed copy to the FIN Mobilization Office, or simply reply to this email with a short note indicating that you have sent your letter.

Please take action today, to ensure your voice is heard.

Once again, the Attorney General's contact information is:

Fax: 1-202-307-1454 or 1-202-616-9937
Email: microsoft.atr@usdoj.gov

FIN Mobilization Office contact information:

Fax: 1-800-641-2255
Email: fin@mobilizationoffice.com

Your support is greatly appreciated!
FIN Mobilization Office

MTC-00027362

From: Nels Christian Hansen
To: Microsoft ATR
Date: 1/27/02 11:31pm
Subject: Microsoft Settlement

I'd like to begin with a recommendation: have some techies find out where each comment came from originally and throw out the 5 trillion or so that come from the microsoft domain. If you don't think they'd try to pull something like that, I refer you to http://news.zdnet.co.uk/story/0,,t269-s2102244,00.html .

I believe that the corporate culture at Microsoft has been and shall continue to be one which flaunts its monopoly power over the world, and some slap on the wrist will do nothing important. I'm not sure which particular alternative solution would be best, but the damage they have done to the software industry as a while in the past several years has been astonishing. As a result of their anticompetitive business practices, an excellent company (Netscape) and its product were brought to financial ruin, software prices have risen at a rate far greater than inflation to the point where a simple operating system and office suite, microsoft windows and microsoft office, cost nearly as much as 2 entire computers. Additionalliy, they continually "upgrade" their office suite for no purpose other than to force everyone to pay them extra money and they design their product to not be fully compatible with previous versions so that as soon as one person purchases it, everyone is forced to. I would praise microsoft for its development and implementation of new technologies at a rapid rate into their operating system, but at the same time they don't seem to have any respect for the concerns of us consumers regarding security, oftentimes implementing new technologies without sufficient testing, leaving systems vulnerable to security exploits. And then, when you download the patches (and they refuse sometimes to explain what the patches fix), new problems are introduced to a system which was perfectly fine. And they can get away with it because they have no competition. They are price gouging and under-innovating. Some competition needs to be introduced somehow. One interesting proposal I heard was break Microsoft into 3 companies all of which have rights to all of Microsofts products (windows, office, IE), and then allow the free market to reduce prices to a reasonable level, and then whichever is the most innovative for the least cost will triumph, whereas under the current system every time microsoft releases a new anything it triumphes, even if it is worse than the prior product (for example, windows ME, which crashed my computer so much more than windows 98 that I uninstalled it and put 98 back on). Something drastic must be done—or else everyone will be forced to learn some archaic operating system like linux simply because they can't afford the 10 trillion dollars microsoft is charging per copy of Windows.

Nels Hansen

Undergraduate at Stanford University, in Stanford, California

MTC-00027363

From: FRED21@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:31pm
Subject: MICROSOFE SETTLEMENT

GENTLEMEN;

PLEASE LEAVE MICROSOFT ALONE. THEY HAVE BEEN HOUNDED "ENUF. I HAD TO HAVE SOMEONE PROGRAM MY FIRST COMPUTER AT GREAT EXPENSE. NOW WITH WINDOWS, WE CAN ALL RELATE TO EACH OTHER. BILL SHOULD HAVE MOVED TO CANADA OR SOMEWHERE. SO OUR GOVT.; COULDN'T BOTHER HIM. HE RECOGNIZES THAT WE HAVE TO LET OTHERS DO BUSINESS AND HAS MADE CHANGES.

FRED D. WINTER
4660 MONTICELLO
BEAUMONT, TEXAS 77706
FRED21@AOL.COM

MTC-00027364

From: Tavis Barr
To: Microsoft ATR
Date: 1/27/02 11:34pm
Subject: Microsoft Settlement

To Whom It May Concern:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. I urge you to not accept the settlement that the Justice Department and

Microsoft have proposed.

Microsoft has continually abused its control of bottleneck facilities— resources that it currently monopolizes—to gain monopolies in new markets. It has used its monopoly in the productivity suite market to help perpetuate a monopoly in the desktop operating systems market, and it is now attempting to use its monopoly in the operating systems market to create a monopoly in the web services market that has the potential to be even broader than the one it now enjoys.

A key in opening up these bottleneck facilities is to allow third parties—both commercial and non-commercial—to gain the ability to create alternatives for Microsoft products and thereby prevent Microsoft from stacking one monopoly on top of another. This would principally require opening up Microsoft's APIs, and providing a strong guarantee that third parties would not be subject to patent enfringement lawsuits for writing programs that emulate these APIs.

The proposed settlement allows far too many loopholes to be seen as a serious remedy. First, because so many forms of communicatiion between computers and their subsystems involve authentication, an exemption for not sharing security-related APIs could be interpreted broadly by Microsoft as a requirement to share very little. Second, the requirement is largely backward-looking: It does very little to require Microsoft to publish the APIs for the .NET middleware that it is currently using to develop a new monopoly in web services. Third, Microsoft can still use End-User License Agreements to prevent its own software from running with other people's implementations of its APIs. Finally, there is no protection from patent-infringement lawsuits for parties that attempt to duplicate implementations of these APIs, or even a requirement that Microsoft state which API implementations may be subject to patent-protection. The lack of such information means that Microsoft can threaten patent-infringement lawsuits to clients of its potential competitors without providing any specifics as to what the infringement is.

There are many more flaws in the proposed settlement, but I believe the above are enough to generate serious reservations about adopting it. I thank you for your time and attention.

Sincerely,
Tavis Barr
Assistant Professor of Economics
Long Island University
202 Hoxie Hall
C.W. Post Campus, 720 Northern Blvd.
Brookville, NY 11548

MTC-00027365

From: William Moss
To: Microsoft ATR
Date: 1/27/02 11:34pm
Subject: Microsoft Settlement

To whom it may concern,

Under the provisions of the Tunney Act, I am writing to add my voice strongly against the proposed settlement of the case of the United States of America vs. Microsoft Corporation (Civil Action No. 98–1232) as is encouraged. From my perspective, Microsoft's anti-competitive practices have almost destroyed innovation in the computer field today. No punishment can undo this damage as it is now impossible to bring back the competitors that have been forced out of business or into other markets. Please consider requiring the proprietary standards Microsoft uses to lock developers into their technologies to be opened to the public domain (if not the actual source code, at least a well documented specification). Though there are other problems with the settlement, this omission is one of the most glaring to my eyes.

In summary, the currently proposed settlement between the USA and Microsoft is insufficient and should be changed.

Thank you for considering my comments. I hope this missive reaches you in time.

Mr. William Lorenzo Moss IV

225 Moss Side Drive, Athens, GA 30607, (706) 548–7273

3801 West Hayward Court, Tucker GA 30084, (770) 270–9217

MTC-00027366

From: ronc@hal-pc.org@inetgw
To: Microsoft ATR
Date: 1/27/02 10:35pm
Subject: Microsoft Settlement

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA,
Plaintiff,
vs. Civil Action No. 98–1232 (CKK)
MICROSOFT CORPORATION,
STATE OF NEW YORK ex. Rel.
Attorney General ELIOT
SPITZER, et al.
Plaintiffs,
Civil Action No. 98–1233 (CKK)
vs.
MICROSOFT CORPORATION,
Defendant.

May it please the Court: I am writing to the Court as a concerned citizen and member of the Texas Bar who is also an Adjunct Professor of Law (Computer Law) at South Texas College of Law in Houston, Texas.

I have observed the proceedings of the Microsoft Antitrust case and now, under the provisions of the Tunny Act, I come before the Court and pray that the Court considers the following remarks regarding the Settlement between the United States Department of Justice and Microsoft Corporation (the "Settlement"), to wit:

1. Microsoft has achieved its monopoly through careful manipulation of the network effect. The network effect has been discussed in other documents now before the court. Put simply, the network effect is present when software developers create software for a particular platform which attracts users. More users attract more developers who develop more programs which attract still more users, and so on. The critical aspect of the network effect is communication. The core function of a network, after all, is the transfer of information from one entity to another. Communication on a network is accomplished through various means, including protocols (such as TCP/IP), formats (such as the .doc format for Microsoft Word documents), and application programming interfaces ("API's"). Microsoft has purposefully devised formats and protocols that are difficult to decipher and thus difficult for competitors to create software that is interoperable with Microsoft's products, thereby encouraging users to avoid non-Microsoft products.

Microsoft adroitly exploited the network effect to protect and extend its monopoly, in an illegal manner, by careful selection, protection, and imposition of proprietary communication formats, protocols, and API's. Microsoft protects its formats and protocols with abusive copyright and patent legal actions against competitors.

2. Because Microsoft illegally maintains its monopoly by manipulation of the network effect, any remedy imposed on Microsoft must address Microsoft's ability to manipulate the network effect. Competition cannot be restored unless and until Microsoft is precluded from manipulating the network effect in an illegal manner that maintains or raises the barrier of entry for competitors.

The Settlement is completely silent as to formats, and is almost completely silent as to protocols and API's. Moreover, where the settlement is not silent, the loopholes that have been afforded to Microsoft will render those portions of the remedy impotent. For example, in Part III (Prohibited Conduct) of the Settlement, Microsoft need only provide an API set for Windows XP, Service Pack 1, and only for the API's used by Microsoft middlware. What if Microsoft declares, as they have in the past, that Internet Explorer is a part of the operating system and not part of middleware, and thus Microsoft's API's to Internet Explorer remain unpublished. This tactic could be used for any program that Microsoft desires, and gives Microsoft the ability to circumvent the remedies of the Settlement.

3. Microsoft must not be allowed to use patents to circumvent any settlement or court sanctions. The Court should include within the remedy a provision that precludes Microsoft from asserting intellectual property rights that attenuate or otherwise defeat any provision of the remedy.

4. Eliminate the OEM restriction. This is considered in the Settlement with the Department of Justice. However, the language used in the Settlement Agreement leaves wide latitude for Microsoft to punish OEMs for displeasing Microsoft, simply by saying that the sanctions imposed on the particular OEM by Microsoft is for another reason.

5. Portions of the Settlement prejudice Open Source software development — Microsoft's only real competition. For example, in Part III(E), Microsoft is required to allow third parties to have access to the Windows Operating System Product for the "sole purpose of interoperating with a Windows Operating System Product, on

reasonable and non-discriminatory terms." However, those terms struck by Microsoft would certainly include a monetary royalty, which would be prohibitively expensive for any open source project that would otherwise compete with a Windows Operating System Product.

6. There must be a "fast track" procedure for settling disputes arising from Microsoft's behavior after the Court has issued its remedy. The Court should take a cue from the dissenting nine states had appoint some type of Magistrate who can make decisions and impose sanctions on Microsoft before the damage is done. Microsoft has a well established history of delaying implementation of remedies until a technological circumvention for those remedies has taken hold in the market. In other words, Microsoft has in the past made technological changes in their products that defeat conduct remedies and used tactical legal maneuvers to delay rescission of the remedy-defeating conduct until it is too late for the market restore the previous level of competition.

7. What about punishment for ill-got gains? Can we allow Microsoft to break our laws over the course of many years and pay no fine? Is Microsoft to be allowed to retain the enormous sum of money ($34 Billion USD in cash alone) that it has received through the inordinately high prices of its famously poor quality products? Is the Court going to let crime pay and provide an example to future Microsofts that violating the Sherman Act does indeed pay?

Conclusion: As the Settlement does not address adequately Microsoft's ability to affect the network effect, and thus cannot force Microsoft to change its behavior. Moreover, there is no punishment of Microsoft for past wrongdoing, and thus the remedy does not serve as a deterrent to future wrongdoing by Microsoft or those who would copy its behavior.

Consequently, the Settlement is not in the public interest and should be struck down by the Court.

Respectfully submitted,
Ronald L. Chichester

MTC-00027367

From: Michael Marking
To: Microsoft ATR
Date: 1/27/02 11:35pm
Subject: Microsoft Settlement
Hash: SHA1
Sunday, 2002.01.27
Renata B Hesse
Antitrust Division
U S Department of Justice
by e-mail to microsoft.atr@usdoj.gov

Dear Renata B Hesse:

I am opposed to the terms of the proposed settlement ("Stipulation") in United States of America vs Microsoft Corporation. (Civil Action No. 98–1232 (CKK)) There are many faults in the terms of the Stipulation. I will briefly list some of the most egregious:

(1) The penalties proposed to be paid Microsoft Corporation for past actions are wholly inadequate when viewed against the scope and severity of Defendant's past actions. Although it is impractical for the most part to attempt to restore conditions to those existing prior to the unlawful conduct of the Defendant, Microsoft will be allowed to retain almost all its unlawfully-acquired profits, and no attempt is being made to compensate past or existing customers and competitors in any way for their injuries. One of the most profitable violations of the law in history is not being redressed.

(2) The development of open-source and free software is one of the most innovative, vital, and fastest-growing segments of the information services industry. It is also (by Microsoft's own words) the strongest threat to their monopoly. By the inclusion of terms allowing Microsoft to avoid licensing APIs and other information to non-business entities, the Stipulation actually strengthens Microsoft's monopoly. As such it works to achieve the opposite of what is ostensibly desired.

(3) The details of the terms allow Microsoft to delay releasing important information (such as APIs) until their value has been considerably reduced, while allowing its own middleware and application developers to use them early. This permits Microsoft to continue to to act in the very way which is contrary to the law, to use its monopoly in one market to further its own dominance in another.

Microsoft's own developers in middleware and applications areas have a distinct advantage over those of competitors, allowing Microsoft to continue to use its monopoly in one market to unfairly compete in other markets. This Stipulation does almost nothing practical to remedy that situation. APIs should be published as soon as the middleware and applications developers have access, not after they have made use of them.

(4) Some of the terms are vague. For example, their is no specificity with regard to the level of detail required for documentation of interfaces and other technical information. Although such matters are sometimes difficult to specify, in other agreements it has sometimes worked well to make comparisons. (The Stipulation might specify documentation quality, detail, and thoroughness equivalent to that found in some other specific documents. The comparative documents might even be certain ones from the Microsoft Press.) Similarly, there are no definitions of releases or other critical business and engineering activities and events. Is an "evaluation copy" or "test copy" given in advance of a beta to be excluded from the requirements of the Stipulation?

(5) The ability of Microsoft to enter without restriction into joint venture or joint development agreements is an easy way for them to circumvent some of the other restrictions.

(6) Microsoft is free to use combinations of the various loopholes (such as the joint venture or development clause in Paragraph G) to put development of critical sections of the code out of the reach of the restrictions given in the stipulation, folding those technologies back into Microsoft when convenient for them. Through back-licensing and option agreements, the requirement to publish APIs in a timely fashion will have been avoided.

(7) The Stipulation focuses on desktop computers. However, Microsoft and most of the rest of the industry feel that future growth will be more in areas of entertainment, networks, and embedded systems. Since there is an apparent surrender on the part of the United States regarding past unlawful actions and profits, a forward- looking agreement should at least consider the way Microsoft's business will operate in the future..

In summary, the Stipulation seeks to bypass the law, legitimizing conduct which violates the anti-trust laws. It is little more than a sell-out.

Normally, I would think that the short (five-year) term of the Stipulation is too short to be effective. However, under the circumstances, this agreement may make matters worse rather than better, so—if it is permitted at all—perhaps it should expire after only a year. At that time, the Court should review how well the terms of the Stipulation have worked to further the interests of the people of the United States.

Sincerely yours,
Michael Marking
Bionic Buffalo Corporation
2533 North Carson Street, Suite 1884
Carson City, Nevada 89706–0147
marking@tatanka.com

MTC-00027368

From: Bert (038) Vivian Goff
To: Microsoft ATR
Date: 1/27/02 11:36pm
Subject: Microsoft Settlement

This e-mail is to express my strong concern with and disapproval of the proposed settlement between Microsoft and the government. I urge that much stronger constraints be placed upon Microsoft than now proposed. I am especially concerned about the monopoly situation with pre-loading Windows on virtually all Intel systems sold. There should be substantial unbundling of the software from the hardware so that both consumers and business have a meaningful choice.

The situation with Office software is not much better, but here I think the problem has more to do with Microsoft's control and frequent changing of the file formats. I recommend that the solution include public, free documentation of all file formats BEFORE release of any office product upgrades. In addition, there should be clear public documentation of ALL operating system (Windows) functions used by Office.

Hopefully a settlement will address these issues and ensure a much more open marketplace in the future.

Sincerely,
Bert Goff
Stoneridge Systems Consulting
56 Linda Lane
Bethel, CT 06801
e-Mail: bertgoff@attglobal.net
voice: (203) 205–0150

MTC-00027369

From: Daryl L. Biberdorf
To: Microsoft ATR
Date: 1/27/02 11:37pm
Subject: Microsoft Settlement
Renata B. Hesse

Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Re: opposition to proposed Department of Justice settlement with Microsoft

I am writing today to oppose the proposed Department of Justice settlement with Microsoft. I have been a professional programmer and database administrator for approximately twelve years. I am the lead author of the book PowerBuilder 5 How-To, published in 1996 by the Waite Group Press (ISBN 1571690557). I have two primary problems with the settlement. The first problem is that the requirement to publish Microsoft APIs (III.D in the proposed settlement) could be interpreted to mean that the interfaces may be made available solely to commercial entities. The list of recipients of the published APIs includes ISVs, IHVs, IAPs, ICPs, and OEMs. None of the definitions of these terms refers specifically to individuals. As a programmer (possibly as a hobbyist with a new idea working in my spare time), I do not believe any of these terms requires Microsoft to publish their APIs to me as a specific individual.

Microsoft should be compelled to publish their APIs, period. I should not be required to declare myself an "entity" (which usually implies a business entity such as a partnership or corporation) in order to study Microsoft's APIs.

The second problem is more serious. The proposed settlement requires Microsoft to publish details of their communication protocols (III.E). However, this requirement is completely negated in III.J.1, which explicitly ALLOWS Microsoft to refuse to publish APIs involving encryption in numerous forms (anti-piracy, network security, operating system security, etc.)

There are scant few communication protocols in this wired age that do NOT require security or encryption or both. Basic protocols like SMTP (the Simple Mail Transfer Protocol, used for transferring Internet email) can require senders to provide a username and password or to have an identifiable domain name. Can Microsoft avoid publishing their email protocols (or entensions to standard protocols like SMTP) simply by claiming "security"? The next generation network protocol in use on the Internet, IPv6, offers encryption as a CORE component.

That is, you cannot use IPv6 without encrypting the connection. Microsoft can use III.J.1 to restrict publication of a CORE network API under the claim of "security".

Additionally, Microsoft has modified existing STANDARD protocols in such a way as to prevent interoperability with other products. Perhaps the best example is Kerberos, a system of authenticating users securely. Originally developed at the Massachusetts Institute of Technology, it has become a standard technology in security-conscious implementations. All UNIX vendors, Linux, and several database vendors offer Kerberos implementations that easily integrate and work together. Microsoft's implementation of Kerberos in Windows 2000 was an "extension" of Kerberos that did NOT interoperate at all. Can Microsoft prevent the integration of their product with other products in use at a site simply by claiming "security"?

Microsoft has repeatedly altered the Windows file- and print-server protocol, SMB, in order to foil the freely available Samba implementation. SMB networking authenticates users, thus involving "security". Samba is offered by a group of individuals working together across the globe. They are not an easily-recognizable "entity". Thus, the two problems I have discussed come together and make it impossible for the Samba team to deliver a product enabling non-Microsoft systems to interoperate with Microsoft products. This product is popular and effective. No wonder, since it is significantly cheaper to implement that Microsoft's solution. Does anyone doubt that, based on their previous history of monopolistic practices, Microsoft would seek to withhold details of Windows networking APIs on these grounds?

To recap, I oppose this settlement because it fails to protect individuals" ability to learn and study Microsoft's APIs and because Microsoft will almost certainly refuse to publish APIs that involve "security" in the broadest sense possible. This settlement should be re-worked to remedy these problems.

Finally, I agree with the points made by Dan Kegel, whose comments can be viewed at http://www.kegel.com/remedy/letter.html. I add my support to his words.

Sincerely,
Daryl L. Biberdorf
2117 Larkspur Drive
Carrollton, Texas 75010
972.543.7535 office
214.731.8496 home
darylb@pobox.com

MTC–00027371

From: pray@meer.net@inetgw
To: Microsoft ATR
Date: 1/27/02 11:33pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
McLaughlin Vivienne
HC. 82 Box 49
Marlinton, WV 24954

MTC–00027372

From: Steve Golowich
To: Microsoft ATR
Date: 1/27/02 11:37pm
Subject: Microsoft Settlement

Dear Antitrust Division:

Under the Tunney Act, I would like to comment on the proposed final judgment (PFJ) in United States v. Microsoft. The PFJ is not in the public interest. Of the many reasons why this is so, I would like to emphasize the fact that the PFJ does too little to erode the Applications Barrier to Entry. In particular, the PFJ does nothing to prevent Microsoft's use of undocumented proprietary file formats as barriers to entry in various markets. In my own daily work, I often find it impossible to avoid using Microsoft products to read files created by Microsoft Office and sent to me by others. This situation must be remedied by forcing Microsoft to publish all of their proprietary file formats, and more generally, any proprietary protocols necessary to interoperate with Microsoft products. This issue will grow in importance with Microsoft's attempt to dominate the internet with their .NET initiative.

Sincerely,
Steven E. Golowich, Ph.D.
41 Havenwood Drive
Livingston, NJ 07039
973–758–9249

MTC–00027373

From: Gainhead@cs.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:38pm
Subject: Support For Microsoft To the Department of Justice,

With much respect, I ask the court to rule in Microsoft's favor. A free society means a free and unregulated economy. Microsoft is morally justified in conducting business in any way it wants, as long as no fraud is committed.

Success should be praised, not punished in a free society

Marc Diamante
Pembroke Pines, FL

MTC–00027374

From: Ladytan81@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:39pm
Subject: Microsoft Settlement

Dear Judge,

I am upset about the recent settlement between the Justice Department and Microsoft (PFJ). The PFJ does nothing to stop Microsoft from operating as a monopoly. Second, the settlement does not punish Microsoft for clearly violating anti-trust laws in the past. By letting Microsoft get away with its retaliation tactics, bolting schemes, and attacks on Java a terrible standard is being set. All these tactics lower competition in a suppossedly free market and also limit softward standards. Finally, the PFJ does not provide an effective enforcement mechanism for the weak restrictions it does implement.

I would request that you do your best to overturn this settlement.

Sincerely,
Tania Butler
248 Lincoln Street,
Lexington MA
CC:stopmicrosoft@yahoo.com@inetgw

MTC-00027375

From: Tom Gwozdz
To: Microsoft ATR
Date: 1/27/02 11:38pm
Subject: Microsoft Settlement

I am opposed to the proposed settlement against Microsoft. It is my opinion that the settlement is inadequate in providing reparations for Microsoft's actions, and in preventing Microsoft from commiting such actions in the future.

The settlement does nothing to prevent Microsoft from continuing in its abuse of its monopoly. Futher, it does nothing to help repair the damage that Microsoft has done to the software and computer industries. It is my opinion that a new settlement should be drafted to address these issues.

Thank you for your time.

Sincerely,
Tom Gwozdz

MTC-00027376

From: Christopher Scott Archibald
To: Microsoft ATR
Date: 1/27/02 11:40pm
Subject: Microsoft Settlement

the way i see what the settlement, your just giveing Microsoft more power than before. They get to stay the way they are, and now as there punishment they have you donate computer using there software and to school and give support. Isn't the whole case about how Microsoft became a Monopoliy. And now your giving them a chance to make it bigger. What i see happening is Microsoft getting bigger with the help of the US goverment. And how can we turst are goverment when they help Monopoliys.

Christopher Scott "Sugarbear" Archibald

MTC-00027377

From: DHAVAL PARIKH
To: Microsoft ATR
Date: 1/27/02 11:40pm
Subject: Microsoft Settlement

TO the Court

My opinion about the case of U.S. vs. Microsoft anti-trust is that the act of monopoly done by the Microsoft is a serious concern to the industry, users and the overall growth of the system. Today Microsoft is one of the largest industries producing almost all verity of applications and operating systems.

My Points against Microsoft

The settlement will make only temporary difference, as it has no firm and fundamental action to solve the case.

The harm is that it is preventing the new companies to rise by its uncompetitive price and product, a reaction of one company as a whole.

Microsoft providing unnecessary software's (like Internet Explorer and other application programs) with its operation system has result in loss of many small web-based software companies trying to grow.

Splitting of the company is the best option and in best interest of the people and new companies.

Microsoft releases test version of its operating system for free or nominal cost and thereby capturing the market letting no other operating system to spread in market.

Microsoft has a great name in the so defined .com Internet Company and now .NET, which is considered to be controlling the whole e-commerce. But it is not a wise act for one company to control nor is it possible to do so. It will result in overall disaster and prevail to Internet to flourish in all aspects.

By ending my viewpoint I request the court to consider all aspects in the betterment of people and industry and reinforce the facts for positive results in future. sincerely

MTC-00027378

From: Jason
To: Microsoft ATR
Date: 1/27/02 11:40pm
Subject: Microsoft Settlement

To the Department of Justice, Antitrust Division:

Leave Microsoft alone. They have never used force, the threat of force, or fraud, against their customers or competitors. Government prosecution of any person or group for any other reason constitutes an act of despotism. And that is exactly what the Sherman and Clayton Acts have institutionalized: despotism.

The government does not know what's best for Microsoft, it's competitors, or me—the consumer of products in the markets Microsoft has entered. Everyone has the fundamental right to keep and dispose of the products of their labor. This means me, and this means Microsoft. If Microsoft wants to "bundle" its web browser on Windows, but not Netscape's browser, that is Microsoft's right. If Microsoft wishes to provide Original Equipment Manufacturers with Windows only when those OEMs agree to refrain from including a competitor's software, that is Microsoft's right. If other people or firms do not like Microsoft's manner of business conduct, they are free to refrain from doing business with Microsoft.

Government imposition on the non-coercive business policies of private citizens and companies represents a violation of the inalienable individual rights recognized and guaranteed by the United States Constitution. Antitrust is an immoral, impractical system. Leave Microsoft alone.

Sincerely,
Jason Matthew Lewis

MTC-00027379

From: Michael Jochimsen
To: Microsoft ATR
Date: 1/27/02 11:16pm
Subject: Microsoft Settlement

As a former employee of Microsoft who was part of the engineering effort behind IE, I have followed the United States vs. Microsoft case with great interest. Now that a Proposed Final Judgment has been filed, I would like to offer my comments as part of the public commentary provided for by the Tunney Act.

In order for the Proposed Final Judgment to meet the standards of a remedies decree in an antitrust case, it must free the market from anticompetitive conduct by the defendant, terminate the defendant's illegal monopoly, deny the defendant the fruits of their illegal actions, and prevent the defendant from abusing their monopoly in the future. I will briefly examine the how the Proposed Final Judgment addresses each of these requirements. A variety of anticompetitive conduct was found in the course of the trial. This included restrictive OEM contracts and restrictive and exclusionary dealings with internet access providers and software developers. Microsoft also engaged in a campaign to mislead, confuse, and threaten software developers in an attempt to constrain Java, and illegally tied their Internet Explorer (IE) browser software to the Windows Operating System. The Proposed Final Judgment attempts to address the restrictive OEM contracts by constraining the terms Microsoft can use in OEM contracts. However, it only addresses a segment of the OEM market, that being the 20 largest OEMs. Smaller OEMs, including local and regional OEMs, are not covered by the terms of the agreement and remain subject to prejudicial pricing and uncertain access to Microsoft's operating systems. This is thus at best a partial remedy, and leaves a significant portion of the OEM market vulnerable to strong arm tactics.

Attempts are also made by the Proposed Final Judgment to eliminate exclusionary contracts with OEMs, internet access providers and software developers. However, an exception states that Microsoft may enter into fixed percentage contracts if it is "commercially practicable for the entity to provide equal or greater distribution, promotion, use or support for software that competes with Microsoft Platform Software" (III.G.1.) Given that zero cost competitors exist today (many Linux distributions come to mind), this clause renders the prohibition effectively void.

While some attempt is made by the Proposed Final Judgment to prevent Microsoft from threatening software developers, no effort is made to prevent a campaign of the sort used to confuse and mislead developers considering Java. To this day we continue to see publicity efforts to marginalize Java, and we are seeing another such campaign underway to spread fear, uncertainty, and doubt (FUD) about the viability of Linux (an alternative operating system). The Proposed Final Judgment does nothing to constrain this behavior. The limitations of the Proposed Final Judgment can be seen quite clearly when one considers the means used by Microsoft to marginalize Java on the desktop. As described in the Competitive Impact Statement filed with the court, Microsoft pressured third parties not to support cross-platform Java, used technological means to maximize the difficulty with which Java applications could be ported from Windows to other platforms, and used other anticompetitive measures to discourage developers from creating cross-platform Java applications. While some of the more explicit means used (payoffs to keep applications on a single platform) are prohibited, most of the means used to stifle Java could still be used under the Proposed Final Judgment. This is a clear failure to address the very methods which were used to uphold Microsoft's monopoly.

In order to eliminate Microsoft's illegal monopoly, the Proposed Final Judgment ensures OEMs of the ability to include alternate operating systems on personal computers without fear of retaliation.

However, this merely opens one distribution channel which had been illegally closed by exclusionary contracts. It does nothing to address other ways in which Microsoft's monopoly has been maintained.

Microsoft has also maintained its monopoly by maintaining a high Applications Barrier to Entry, as described in the Competitive Impact Statement. One way to reduce this barrier is to provide a middleware solution which allows developers to write to an intermediate layer rather than to the underlying operating system. This is the approach taken by Java, and several other computer languages have taken similar approaches (Perl, Tcl, Python, and Ruby are examples). Another alternative is to duplicate the entire Windows API (application programming interface), allowing programs written for Windows to run elsewhere.

The Proposed Final Judgment attempts to require non-discriminatory documentation of the Windows API, but it only covers that portion of the API used to communicate with middleware by Microsoft applications. There is no requirement to provide non-discriminatory documentation for portions of the API which are used by non-Microsoft middleware, but not by Microsoft middleware. Further, no requirement is made that the complete API be documented, which means that Microsoft is under no obligation to aid an attempt to duplicate the API in its entirety. Furthermore, section III.J. explicitly permits Microsoft to exclude portions of the API which relate to systems concerned with authentication, encryption, digital rights management, anti-piracy, anti-virus, and software licensing. These shortcomings effectively cripple any attempt to duplicate the Windows API, and also serve to constrain the effectiveness of non-Microsoft middleware systems. Consequently, the Applications Barrier to Entry will remain high.

The Proposed Final Judgment also attempts to force the non-discriminatory documentation of all native communication protocols used to communicate with the Windows operating system. Again, though, we find the security exception of section III.J. crippling the intent. By simply requiring the protocol to begin with an authentication exchange, the protocol can be barred from non-Microsoft use. An analogy would be the case of a locked room, where the contents of the room are described in full, but the key is not available. Microsoft has already begun moving in this direction with the Passport service in the NET initiative.

An additional barrier which exists for competing operating systems are the file formats used by Microsoft applications. If these formats were publicly available, then non-Microsoft applications could attempt to provide the application functionality on alternate operating systems, thereby increasing the attractiveness of alternate operating systems. Without a public file format, however, users remain locked into their existing applications, and the applications must move to alternate operating systems. Given that Microsoft is the single largest application software vendor in the world, we can expect no movement in this field. This is not addressed at all by the Proposed Final Judgment.

Finally, nothing in the Proposed Final Judgment would prevent Microsoft from making use of forward incompatibilities to frustrate middleware competitors. This tactic was used against DR-DOS when Microsoft moved from Windows 3.0 to Windows 3.1. At that time, Windows itself was middleware of a sort, sitting on top of the MS-DOS operating system. DR-DOS was a work-alike operating system which implemented all the functionality of MS-DOS, and which also would allow Windows 3.0 to run on top of it. When Windows 3.1 was released, it continued to run on MS-DOS, but when run on DR-DOS it mysteriously failed. Whether Windows 3.1 actually checked for the existence of DR-DOS, or merely made use of undocumented APIs within MS-DOS, the effect was the same. With the exploding popularity of Windows, DR-DOS shortly exited the marketplace. This same technique could be used to "break" popular middleware going forward from one version of Windows to another.

The fruits of Microsoft's illegal conduct have been continued dominance of the personal operating system market, as well as new dominance in the web browser market and marginalization of Java as a viable middleware solution. At the very least a denial of these benefits should promote non-Microsoft browser and middleware solutions and constrain further attempts by Microsoft to grow in these new markets. However, the Proposed Final Judgment does no more than make alternate browsers and middleware possible (and significant flaws exist in that attempt, as described above). The inertia of the marketplace will likely leave IE as the dominant browser for the forseeable future, as the cost to merely compete with it would be prohibitive for all but the largest software companies, many of whom are fighting defensive battles elsewhere.

The Proposed Final Judgment also makes no attempt to restore Java as a middleware alternative, nor does it promote any other non-Microsoft middleware systems. Nor is Microsoft itself constrained from further middleware development. The C# language and common language runtime (CLR) specified in Microsoft's .NET initiative match many of the middleware features of Java. It is expected that Microsoft will use this to attempt to further marginalize Java as a middleware solution. Yet no mention of .NET is made in the Proposed Final Judgment, even in its definition of Microsoft middleware.

Several provisions are made within the Proposed Final Judgment to prevent Microsoft from again abusing its monopoly position with regards to middleware. However, absolutely no provisions are made to prevent leveraging the monopoly to expand into other markets, such as server operating systems, handheld computers, and game consoles. Yet these are all markets that Microsoft is actively trying to expand into, and they are already using their monopoly in desktop operating systems to leverage the server market. Unless the proposed remedy delimits the extent that Microsoft's monopoly can and cannot be used when moving into new markets, we can expect to find another antitrust suit wending its way through the courts within a few years. The Proposed Final Judgment also delineates procedures for enforcement. Key to enforcement is the appointment of a technical committee of three individuals, one to be chosen by the plaintiffs, one to be chosen by the defendant, and one to be chosen by these two individuals after their selection. This seems contrary to common sense, however. It is unusual for an organization convicted of wrongdoing to be allowed an equal say in the choice of personnel to enforce compliance. While Microsoft should be allowed to object on reasonable grounds, it seems to me that the selection of the individuals charged with ensuring compliance should remain strictly with the Enforcement Authority, which under the Proposed Final Judgment would be the Plaintiffs.

Furthermore, the technical committee and their staff are strictly prohibited in their communications outside of Microsoft and the Plaintiffs. Thus, they shall disappear from public sight for the duration of their duties, and the only communications which they will make will come through the Plaintiffs or Microsoft. As a member of the public I can see no need for such a gag order to be placed upon the technical committee. Certainly they will have access to confidential documents and trade secrets, but this restriction of all public communication strikes me as excessive.

Moreover, whether or not Microsoft still has a monopoly, or is still abusing its monopoly, the Proposed Final Judgment will terminate in seven years. This even if Microsoft engages in a pattern of willful violation of the Proposed Final Judgment. A hard limit of this sort begs to be abused as the end of the term nears, and we may well find ourselves back in the courtroom once again. The Proposed Final Judgment manages to check Microsoft on some fronts, but does not get to the core of the problem. Some of the anticompetitive conduct exercised by Microsoft is prohibited, but some remains. Rather than removing the monopoly, it allows it to continue, and may in fact allow new barriers to be raised preventing erosion. Microsoft is not significantly penalized for their abuses in the past, and in fact are allowed to retain their dominant position in the web browser market. The means used to deflect Java are not addressed, and .NET is ignored as an important new middleware product. Microsoft is not prevented from leveraging their monopoly to extend into other markets, as they are currently doing in an attempt to dominate the server operating system market. In conclusion, the Proposed Final Judgment fails to meet the standards of an antitrust case remedies decree, and as a result fails to serve the public interest.

Michael Jochimsen

MTC-00027380

From: Tom Bryan
To: Microsoft ATR
Date: 1/27/02 11:42pm
Subject: Microsoft Settlement

I am disappointed with the provisions outlined in the "Stipulation and Revised Proposed Final Judgment" in United States v.

Microsoft Corp., Civil No. 98–1232. After reading Judge Jackson's findings of fact in this case, I had expected a much stricter remedy.

I am a professional software engineer and a computer hobbyist. I use 4 different operating systems almost every day, and only one of those is a Microsoft operating system. I program in several cross-platform (i.e., the same program runs unmodified on different operating systems) computer languages, including Java, Python, and Perl. Because Microsoft has a monopoly on PC operating systems, I must always consider how my programs will interoperate with Microsoft's operating system and the applications that Microsoft bundles with its operating system in an abuse of its operating system monopoly. I am extremely concerned by the stifling of good, innovative ideas by Microsoft's monopoly.

In its current form, the "Stipulation and Revised Proposed Final Judgment" does not appear to directly address Microsoft's business practices that lead to its conviction for abusing its monopoly power in the PC operating system market. Microsoft has been able to leverage its operating system to force its applications as "de facto" standards. The only ways to prevent Microsoft from continuing to abuse its monopoly in this way are to force it to produce complete documentation of its file formats and APIs or to forbid Microsoft from bundling any application with its operating system. The first option would permit competitors to create solutions that interoperate with Microsoft's products and operating system. Users could choose these competing products if they desired because they would still be able to exchange documents and connect their systems to systems running Microsoft's operating systems and applications. The second option would force Microsoft's application developers to compete directly with other application developers to sell products to run on Microsoft's operating system. The second option would be difficult to enforce without splitting Microsoft into multiple companies.

Although the proposed final judgment contains provisions requiring the release of documentation, non-commercial entities seem to be ignored in the list of parties who might request the documentation. Since several of the most viable competitors to Microsoft's operating system monopoly (e.g., GNU/Linux, GNU/HURD, and FreeBSD) are developed by individuals in a volunteer or non-commercial capacity, I fear that Microsoft will use the exclusions in the proposed final judgment to stifle competition from these developers.

Many businesses that do not directly use one of these operating systems still use software and middleware developed for one of these operating systems in their commercial products. For example, my company's software requires a product developed by volunteers called SAMBA to share files with Microsoft operating systems. If the SAMBA developers were unable to access appropriate API documentation from Microsoft, it would cripple of the functionality of my application.

I also program for a non-profit organization in my free time. I am concerned that this organization will not be able to access the documentation it needs from Microsoft in developing its software. Excluding non-commercial entities from accessing documentation of Microsoft file formats, communication protocols, etc. is an unacceptable restriction that would place non-profit organizations and volunteer programmers at an unfair disadvantage when attempting to interact with Microsoft's operating system. It would also stifle some of the products that are crucial in the current competition to Microsoft's operating system.

As a user of the GNU/Linux PC operating system, I would like the remedy to require Microsoft not to certify any hardware as working with Microsoft software, unless the hardware's complete specifications have been published, so that any programmer can implement software to support the same hardware. Since Microsoft has a monopoly on PC operating systems, many hardware vendors only release their specifications to Microsoft. To further competition to this operating system monopoly, others need hardware specifications to develop competing solutions. Coupling Microsoft's hardware certification with a requirement to make the hardware specifications openly available would put pressure on hardware manufacturers to foster competition in the PC operating system market.

I find the current proposed final judgment in this case to be completely unacceptable. I feel that the Department of Justice is permitting a company that was convicted of abusing its monopoly in my industry to return to the same abusive business practices. I see no provision to prevent Microsoft from bundling applications with its operating system, which would seem to be the most logical remedy since it was originally charged with unfairly bundling a browser with its operating system. Although the remedy contains provisions to require the release of documentation by Microsoft, those provisions contain too many loop holes that permit Microsoft to exclude the competitors it fears the most, such as the developers of the GNU/Linux operating system and supporting software. I would like to see these deficiencies in the proposed remedy corrected.

Tom Bryan
Senior Software Engineer
Itron, Inc.

MTC–00027381

From: Dea Biberdorf
To: Microsoft ATR
Date: 1/27/02 11:43pm
Subject: Microsoft settlement
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Re: opposition to Microsoft settlement

I would like to write to oppose the Microsoft settlement with the Department of Justice. I oppose this settlement because no part of this document requires Microsoft to publish their proprietary file formats. Without a complete knowledge of the format it impossible for competing products to even IMPORT files from Microsoft products properly. I cannot open a Word document in OpenOffice and expect it to work. There are simply too many details that Microsoft does not publish. The original findings of fact in this case note that these proprietary formats are part of the Applications Barrier to Entry. This settlement does not help in addressing this problem.

Sincerely,
Dea L. Biberdorf
2117 Larkspur Drive
Carrollton, Texas 75010
214.731.8496
dea@pobox.com

MTC–00027382

From: High Mobley
To: Microsoft ATR
Date: 1/27/02 11:42pm
Subject: Microsoft Settlement

Hello. My name is High Mobley, and I am a systems and network administrator in Athens, GA. I am writing to tell you that I find the currently proposed settlement in the Microsoft antitrust case to be insufficient. I believe that it does little or nothing to actually punish Microsoft for its illegal monopolistic abuses of which it has been found guilty. In my mind, Microsoft should not only be punished for its past monpolistic abuses, but should also be prevented from the same and similar abuses in the future.

The currently proposed settlement attempts to restrain Microsoft from committing future abuses of its monopoly power. However, it seems that there are simply too many loopholes that, based on its past actions, I feel certain Microsoft will be eager to take advantage of.

In order to encourage Microsoft to truly change its abusive behaviors, I think that there should be strong penalties levied against it for the abuses that brought about the current legal suit. Microsoft's offer to buy computers for underfunded schools is a bad idea because it would allow Microsoft to gain a stronger foothold in the minds of today's schoolkids, who will become tomorrow's business managers and IT directors. Why let Microsoft reward themselves? I do think that the company RedHat had a wonderful idea that Microsoft would give money for computer hardware only, while Redhat will donate operating system and application software, and provide free software upgrades in the future as well.

In order to ensure that Microsoft not repeat its past mistakes, I would like to see strong limits upon its ability to sell and market its products in ways that allow it to exert control over other businesses in the marketplace. Certainly requiring open API documentation is an ideal method to accomplish this, except that it could be rether difficult to enforce. This is a difficult situation to create easily enforceable remedies for! Perhaps splitting the company into three separate and wholly independent companies is not such a bad idea after all. Each company would be an exact replica of the current Microsoft, with Windows, Office, etc. in their stables. Then let competition take over from there.

You have a very tough row to hoe! My best wishes to you all in the DOJ who are working on this case. Keep up the good fight and know that the American public appreciates your every effort to bring about remedies which benefit the general marketplace.

High Mobley
Network Specialist
Advantage BHS
Athens, GA

MTC-00027383

From: David W
To: Microsoft
ATR,president@whitehouse.gov@inetgw
Date: 1/27/02 11:43pm
Subject: microsoft anti-trust case
CC: cyrusm@harker.org@inetgw

Dear Mr President and U.S. Department of Justice,

I would like to express my opinion concerning the Microsoft anti-trust case. Microsoft's use of its operating systems to gain customers for its web browser, Internet Explorer, instead of Netscape, violates the anti-trust act. When a buyer purchases a non-Macintosh computer, a Windows operating system is included. Bundled with this operating system is Windows web browser Internet Explorer. Because Windows is the main operating system used in America, and Internet Explorer is included with it, Netscape is not given a very large available market. Microsoft should not be allowed to use its almost complete monopoly of the operating system market to gain a monopoly of the web browsing market. Although Microsoft has been sued by many state justice departments, this issue has not been resolved.

Microsoft's payoff of the state justice departments was not a fair punishment for their actions.

The small amount of money Microsoft agreed to pay was nothing compared to their large profits.

Their agreement to follow antitrust regulations without state interference is ineffective because there is no way to monitor whether or not they are following through with their agreement. Examples of monopolies and trusts that were created illegally can also be seen in history.

One example of a trust that was illegal was John D. Rockefeller's Standard Oil Company. Rockefeller used his company's resources to buy out his competition. As he reported to a congressional committee investigating trusts, or industrial combinations, he felt that industrial combinations were a good thing. One main difference between Rockefeller and Bill Gates is that Rockefeller realized that industrial combinations could have a large amount of power which could be abused. He also realized that there would need to be some amount of "state supervision, not of a character to hamper industries."

AOL Time Warner's suit against Microsoft for Netscape's loss of income should be allowed to continue in that Microsoft abused its power by closing the web browser market. The state settlements that Microsoft made should be reconsidered, and the government should continue its investigation into Microsoft's operation system monopoly.

Sincerely,
David Woolsey
8th Grade Student at The Harker School,
San Jose, California

MTC-00027384

From: drusch@o1g.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:44pm
Subject: Microsoft Settlement

I wanted to second this letter which was sent previously. I also am in the high tech industry and see how Microsoft out maneuvers the legal processes to dominate the market in any way possible. Any resolution which provides more exposure for Microsoft products is meaningless. A user spends significant amounts of effort becoming familiar with their operating system of choice and the potential expense of changing systems has never been adequately appreciated.

In addition to this, rather than repeat anothers eloquent statements I will just voice my approval and copy Kasten's email below.

Thank you for your time,
Douglas Rusch
TO: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
FROM: Scott Kasten
2120 Manor Dr. Apt 116
Lexington, KY 40502

To the Honorable Court:

As a citizen of the United States and 15 year veteran of the high-tech industry it is both my right, and duty to file comments with the court in the case of U.S. vs Microsoft anti-trust action as described under the provisions of the Tunney Act. I have chosen to write the court because activities of the Microsoft Monopoly have so seriously harmed my industry, that not only have they harmed the end consumer, but they have seriously impaired my ability to work in this industry.

I will begin with a brief summary of my main points before expounding upon them in greater detail with specific facts. Basically, the proposed settlement is unacceptable when viewed in the interest of the public and industry for the following reasons:

[1] The settlement was not written with a proper perspective of the industry as a whole in mind.

[2] The way the settlement is written, it only provides remedy in regards to the current Microsoft platform. Microsoft is already putting their exit strategy to a new platform in place which will have the effect of making the settlement obsolete before it even goes into effect.

[3] There are language inaccuracies that leave the efficacy of the settlement in doubt.

[4] The settlement has very few provisions to remedy Microsoft's most publicly damaging weapon which is their End User License Agreement (hereafter known as the EULA).

Now I will explore each item in greater depth so the court can better understand what actions need to be taken to fix the proposed remedy.

[1] I will start with a brief industry perspective since that forms the root of objections 2 through 4. In the industry, it has been recognized that operating systems in general have moved from the status of a high-end, high-value product offering to a mere commodity in the same fashion as the use of electricity or telephones did in the early part of the 20th century, or even the computer hardware itself in the latter part of the 20th century. There has not been anything truly new or totally innovative in operating system technology in about the last 15 years or so. Indeed, modern operating systems are based on ideas spawned in universities over 30 years ago, most of which was perfected at least 20 years ago.

Most operating system vendors in the industry have already recognized this and adapted their business models to account for that. Although one would think of IBM, Sun Microsystems, HP, and Silicon Graphics Inc. (now known simply as SGI), as operating system vendors, that view would be somewhat incorrect. Their business models evolved to become hardware and consulting/service vendors that sell packages. Each workstation purchased from SGI comes with an entitlement to run certain releases of SGI's IRIX operating system based on its serial number; operating system upgrades are a rather miniscule portion of their revenue stream. They are even offering a Free operating system (Linux) on some of their offerings. Sun Microsystems gives their operating system away free of charge for personal or non-commercial use, and even makes the source code available without charge to developers that need to inspect it to improve their software offerings that run on Solaris. Both HP and IBM, most notably IBM as of late, have been making steps to move away from their proprietary operating system offerings to Open Source alternatives such as Linux and various flavors of BSD; both companies have moved to the sale of hardware or software applications and consulting services maintain the cash volume of their revenue streams. And of course, with the decline in market value of proprietary operating systems, we have seen the rise in interest and importance of Open Source, or Free operating systems such as Linux, and BSD to take the place of the proprietary ones.

Companies that have failed to recognize this have perished. Witness the dismantling of Digital Equipment Corporation by Compaq, a commodity equipment and services vendor, The acquisition of Santa Cruz Operation (SCO Unix) by Caldera, a company that is known as a Linux specialist. Novell nearly perished trying to maintain their business model around Netware, but finally appears to have turned things around when they refocused on applications and services the past couple of years.

The real focus in the computer industry is not on operating systems or platforms so much as it is in cross-platform applications, hardware support, and user interfacing. Basically, John Doe with a new digital camera wants to snap some pictures, retouch them on the computer, and make some nice glossy prints for the relatives. He doesn't even want to know anything about the operating system his computer runs, he wants the camera to function with his IBM PC running a PC operating system as well as it does with his friend's Macintosh running MacOS.

In the history of this industry, Microsoft is truly unique. They have maintained and increased their market share and position not through real product innovation, but through predatory practices that resulted in them becoming a monopoly. The maintenance of that monopoly is what has allowed them to keep an artificial floor on the value of the operating system products they offer. Notice the use of the term value here instead of price. Price is what a consumer pays, value is a reflection of the consumer's need. Naturally, the need affects the price one is willing to pay, so there is an interrelationship at work that implies the consumer is paying too much, which I'll explore further in item 4.

[2] Although Microsoft has managed to keep an artificial floor on the value of their operating system products through monopolistic practices, even they realized that the inevitable pressures to marginalize the operating system would become too great for even them to bear. Thus they planned its obsolescence. The new target development platform of choice is going to be the .NET infrastructure. Ancient PC's had a BIOS containing the BASIC programming language/operating system that was permanently embedded in their ROM memory. As full fledged disk based operating systems came about, they marginalized the BIOS. None of the BIOS products these days has a built in programming language. It's only roll is to pull the disk based operating system in off disk now. It has no real apparent value to the end user of the system that rarely even notices the brief BIOS messages that flash by as the system boots up. No one programs to that interface anymore. Microsoft is trying to do the same thing to their own Windows operating system and replace it with .NET. Windows will become little more than a fancy video display driver. No one will program to it anymore. The .NET infrastructure will be the actual target for most future software development.

This is also where I begin to find specific faults in the settlement as written. In section III. Prohibited Conduct, please reference paragraph D. The terse form of which basically says, "Microsoft must publish in full their programming APIs for the Windows operating system." The .NET framework is not specifically mentioned anywhere in the document, but presumably fits in under the definition of "Middleware" as described in sections VI.—J and VI. K. There is no section or language which indicates that they must fully disclose the middleware APIs. This is a fatal flaw as Microsoft has publicly acknowledged the corporate strategy shift from software publication on the Windows operating system to the .NET infrastructure running on top of it. Thus they can repeat the vendor lockout cycle again on a "whole new" platform, unhindered by the terms of this settlement.

Further, section III.–J, paragraphs 1 and 2 cause me grave concern, particularly in light of the .NET strategy. Section J in summary provides government granted exclusions. Paragraph 1 basically states that Microsoft may keep any programming APIs, methodologies, and information about network protocol layers that relate to anti-virus protection, authentication, or encryption secret. Paragraph 2 allows Microsoft carte blanch to determine to whom they wish to share that information for purposes of interfacing. This goes against what is generally accepted as "best practices" in the industry.

It is accepted practice that network protocols and interfacing standards are proposed and peer reviewed in standards committees such as the Internet Engineering Task Force (IETF) or the World Wide Web Consortium (W3C) to provide for better design, functionality, robustness, and security. Items related to authentication, and encryption in particular need the critical attention of peer review due both to the complexity of such systems, and the importance of the data protected by such systems. It is also accepted practice that the architecture is open so that anyone may produce their own implementation of the standard so that products from different vendors can interoperate freely. After all, that is the end goal, to connect one user with another.

Microsoft has in the past proven their incompetence in the implementation of cryptographic systems and security in general. Witness the introduction of L0pht Crack (pronounced "loft") which could pull encrypted passwords from the Windows NT registry thanks to its flawed cryptographic implementation. The numerous viruses such as Sircam, Love Letter, Nimbda, etc. that have exploited weaknesses in Microsoft's security interfaces. My point here is not to bring new evidence to the court, but more to make the point that sensitive systems related to security, authentication, and encryption need to be designed under the intelligence of multiple parties. Hence the peer review and refereeing process that is so widely used in the industry. It also helps prevent one party from subverting the standards for their own ends.

Micrsoft intends for the .NET platform to help provide a new infrastructure for information storage, security, and identification/authentication, that will help drive a future Internet based economy. With the help of standards committees, implementations from multiple vendors, and so forth, this could be a good thing for society. However, it is far from the public's best interest for one company to own the whole thing. If there's only one implementation, then any security flaws discovered, and experience shows there will be many, can bring down everything. Furthermore, independent companies need to have access to interfacing standards for something as important as this to provide consumers choice in the products and services space connected with this platform.

[3] I have already voiced some concern over where .NET fits into the settlement agreement. However, there are other specific inaccuracies in language and specificity that could render the agreement unenforceable.

In this matter, I would like to refer the court to a very thorough analysis compiled by one Dan Kegel and other parties available on the web here: http://www.kegel.com/remedy/remedy2.html Mr. Kegel has also submitted, or is in the process of submitting, this document to the court for inspection as part of an open letter with many co-signers as his contribution under the Tunney Act. I will not waste the court's time re-iterating what he has already so carefully documented except to state that I AGREE IN FULL with the assessment provided in that document.

[4] Towards the end, of the document, Mr. Kegel begins to address some issues regarding the EULA agreements that Microsoft imposes on their product users. The settlement makes no requirements for change to potentially predatory practices in Microsoft's EULAs. Unfortunately, that is one of Miscrosoft's tools for manipulating and harming the consumer, and other parts of the industry.

Mr. Kegel points out that the Windows Media Encoder EULA prohibits distribution of certain redistributable components when accompanied with application components that were licensed under a Free or Open Source license. And that the Microsoft Platform SDK and Visual C++ development environment have in their EULA a clause that can make it illegal for you to distribute and run your own created application on a Windows compatible platform such as a Windows emulator on a Sun, SGI, or Macintosh computer, or a PC running Wine, IBM 0S/2, or Trumpet Petros, all of which are Windows alternatives. He also points out that some Microsoft utilities such as NewsAlert state in the EULA that they are forbidden to be run on non-Microsoft operating systems.

To those examples, I wish to add a few more.

Microsoft uses the EULA to tie their Windows operating system to the PC on which it was purchased. This means that when a user trashes a PC, he cannot use the same copy of Windows on the new PC, but must instead purchase a new and redundant copy of Windows to be fully in compliance with the licensing agreement. As PC technology dates quickly, users who must update frequently are legally bound to purchase redundant copies of an operating system that they already have, thus helping Microsoft to maintain its revenue stream on what should have already been a commodity item. In the present, Microsoft with the advent of Windows XP has already implemented software EULA enforcement that prevents users from upgrading too many components of their system before they have to go back to Microsoft and re-license the same operating system install on the same PC.

Indeed, Microsoft used to offer a refund for unwanted copies of their Windows software product with this language in the EULA, "If you do not agree to the terms of this EULA, PC manufacturer and Microsoft are unwilling to license the software product to you. In such an event ... you should promptly contact PC manufacturer for instructions on a return of the unused product(s) for a refund. "However, after an unsuccessful campaign on by many users to claim such refunds on an organized "Windows Refund Day" on Feb 15th, 1999, people discovered that Microsoft and its vendors had no intentions of honoring that clause and had no effective refund channel in place., and it appears to have since been removed from the licensing agreement.

Microsoft attempts to limit the constitutionally provided right to free speech in the EULA contained with the Microsoft FrontPage 2002 product for web publishing. It sates, "You may not use the Software in connection with any site that disparages Microsoft, MSN, MSNBC, Expedia, or their products or services, infringe any intellectual property or other rights of these parties, violate any state, federal or international law, or promote racism, hatred or pornography." So if I publish an article on the web using MS FrontPage such as a product performance benchmark that Microsoft finds unfavorable, have I indeed violated the EULA? Whether or not these agreements are actually enforceable if a matter of legal opinion that I am not qualified to evaluate. However, what is clear is that Microsoft has cleverly left itself some channels through which it can attempt to tie individuals or businesses up in court when it finds their actions displeasurable. The potential legal costs alone have a chilling an dampening effect in the industry.

In closing, I beg the court to find the proposed settlement as lacking in enforceability and effective remedy. This settlement needs to be rejected and reworked keeping the points that I have outlined above in mind.

Thank you for your time and consideration in this matter.

Sincerely,

Jonathan Scott Kasten

This message was sent using Us.Net Webmail.

MTC-00027385

From: Keith Schmidt
To: Microsoft ATR
Date: 1/27/02 11:43pm
Subject: Microsoft Settlement

To whom it may concern:

In accordance with provisions in the Tunney Act, I am writing this to comment on the proposed settlement in the anti-trust case U.S. v Microsoft.

I am a software developer both professionally, and as a hobbyist. I have written software for Microsoft operating systems (DOS and Windows 95/NT) as well as for several variants of Unix.

I believe that the proposed settlement is very seriously flawed and should be abandoned. Firstly, the proposed settlement does not adequately punish Microsoft for the detrimental effect on consumers caused by their abuse of their operating system monopoly. Secondly, the behavioral remedies proposed are insufficient, and in several cases, unworkable.

The Court should note that this is not the first time Microsoft has used its monopoly on the Windows operating system to drive a direct competitor (with a then-superior product) out of business using illicit, if not illegal, means (see Caldera v Microsoft regarding Digital Research's DR-DOS). Microsoft has also been documented to provide extra functionality in some operating system API's which are disclosed to Microsoft application developers, but not to third party application developers (see Microsoft v Intuit regarding undocumented system calls). Furthermore, this case is not the first time Microsoft's anticompetitive marketing practices have been brought before the Court (see the first U.S. v Microsoft case and the resultant Consent Decree). Moreover, as their violation of that same Consent Decree brought about this current case which resulted in the judgment against Microsoft, I believe that forgoing punitive damages and relying on Microsoft to police its own behavior is unconscionable. I do not have the time to illustrate all of the flaws which I find in the proposed settlement, I will choose a few representative ones. Firstly, I will address the broad exemption given to Microsoft to avoid disclosure of all API's and protocols as they relate to security. If the Court has not been made aware, during the course of this comment period, it was disclosed that the integration of the Internet Explorer browser with the Windows operating system carried with it a massive security flaw. This flaw allowed a malicious person free reign to take over any Internet-connected machine so configured.

As such, it could easily be argued that all API's relating to Internet Explorer and its integration with Windows should be exempt from disclosure due to security concerns. If this is the case, the settlement will fail to address the core of the case which culminated in Microsoft having been judged an illegal monopolist.

Secondly, as per the proposed settlement, Microsoft may elect not to divulge its API's and protocols to any organization which is deemed to not have a viable business plan. This exemption may be used to exclude several key classes of application developers. Primarily, this will affect Open Source and Free Software projects, many of which are based on the efforts of hobbyists and are not backed by companies with business plans (viable or otherwise). As Microsoft faces much of its current competition form such projects, it would be unconscionable to stifle these under the guise of punishing Microsoft. Secondarily, entrepreneurs will be dissuaded from competing against Microsoft. For example, Microsoft could determine that any company seeking to write a better version of, say, Internet Explorer does not have a viable business plan. More importantly, such a company would have to announce its intent to compete (via its business plan) before being allowed to examine Microsoft's API's. This alone would give Microsoft a competitive advantage unknown to any other company in any industry in the world.

Lastly, I wish to address the implementation of the three-person technology committee proposed to oversee Microsoft's compliance with the proposed settlement. The only parallel I can devise for the utter absurdity of having two of the three members chosen or approved by Microsoft is the Colombians allowing Escobar to build and staff his own prison. Even ignoring the fact that they will be provided benefits by Microsoft (such as office space) while serving on the committee, the amount of oversight required to ensure compliance is far greater than three people can reasonably be expected to accomplish. For example, if they chose to audit Windows XP to ensure that it contains no code designed solely to degrade the performance of other vendors" applications, it would take them the rest of their natural lives merely to read through the hundreds of millions of lines of source code involved, let alone to analyze its effects.

In conclusion, I hope that I have successfully explained why I feel that this proposed settlement is deficient, and that the ideas within this comment will be considered when the proposed final judgment is revisited. I believe that a structural remedy would be preferable as it would require less continuing oversight. Barring that, I would like to see at a minimum enforced public disclosure of all API's, protocols and file formats, because, without the help of large numbers of software developers who are not affiliated with Microsoft, effective oversight will be impossible. Microsoft claims that these are their exclusive intellectual property. Be that as it may, they are also the core of the monopoly, and the strength behind the documented abusive practices.

Sincerely,

Keith Schmidt

MTC-00027386

From: Rhinodrivr@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:44pm
Subject: Microsoft Settlement

It is truly amazing that a company that has done so much for the productivity of a nation should find it the subject of a lawsuit. If the consumer does not want to buy it, they vote with their feet. The only monopoly I know of that has ever existed was accomplished through government legislation and collusion. The market has never permitted one.

If everyone is so upset with Microsoft, let them use OS/2, Unix or any of the other operating software on the market.

This is just plain wrong. The right would be for the judge to say the people have spoken in the market place. No further comment or abjudication is necessary.

Sincerely,

Captain Russell Cowles

A300 Captain at, but not speaking for, American Airlines

MTC-00027387

From: Jeffrey E. Harris
To: Microsoft ATR
Date: 1/27/02 11:39pm
Subject: Comments on the Proposed Microsoft Settlement
CC: Randy Steer,Allan Villabroza

My name is Jeffrey Harris. I currently work as a network administrator and software developer for a company that provides computer services to both government and industry. The company I work for has established a number of partnerships, the most significant ones being a Microsoft (MS) Solutions Partner and a Lotus/IBM Business Partner. I hold Microsoft Certified System Engineer and Microsoft Certified Systems Administrator certifications on the Windows 2000 Operating System, and the Windows NT operating systems, and I have worked with all versions of Microsoft Windows (both server and desktop versions where applicable) from Windows Version 2 to Windows XP in both a professional and personal capacity. I also hold certifications from Lotus Development on their Groupware Applications (Lotus Notes/Domino). I believe that my qualifications, as well as over 10 years experience working with computers and computer networks, including MS and non-MS products, make me well qualified to comment on the proposed MS settlement. Please note that I speak as both a computer professional, and as a consumer.

Also note that nothing in this message reflects the opinions or position of the company I work for, and I am acting ONLY in my own personal capacity in submitting these comments.

I ask that my comments be entered into the Federal Record, and considered by the presiding judge in determining the Court's final decision. I also ask that the Department of Justice acknowledge receipt of my comments.

My comments are based on a review of the original government complaint, the proposed settlement, and the Justice Department's Competitive Impact Statement (CIS), as published on the US Department of Justice's (USDOJ) website, and the Appeals Court's ruling as published on the Appeal Court's website.

Executive Summary: I STRONGLY oppose the MS Settlement in its current form. In my opinion, the agreed-to settlement will do little, if anything, to restrict MS" abusive and illegal monopolist practices, and will mainly serve to prevent the government from documenting and presenting any future abuses for legal sanctions. I cannot see how the settlement that is proposed even pretends to remedy the antitrust violations for which MS has been found culpable, and how it will meet the required standard of remedying anti-competitive practices that have harmed consumers. The company has been found in violation of Federal Anti-Trust Law, and this is the penalty phase of the case, but the settlement contains no penalties and actually advances MS" operating system monopoly in a number of ways, as I discuss below. I recommend that the Court either reject the proposed settlement outright, or modify the settlement to close the numerous loopholes identified below. I have provided some additional remedies for the Court's consideration, which are not part of the proposed settlement, but which, in my opinion, will further the public interest, if adopted by the Court.

Background: The United States and several of the states filed suit against MS claiming violation of various provisions of the Sherman Anti-Trust Act. After a trial, and appeal, a ruling was made and upheld that MS monopolized the PC Operating Systems market in violation of Section 2 of the Sherman Act. The US Court of Appeals remanded the case back to District Court, for, among other things, a new determination of penalties for this violation. The Court asked the plaintiffs and MS to attempt to reach a settlement acceptable to both sides that would address the practices that MS was found guilty of.

An agreement (which was subsequently revised) was reached by both parties, and the revised agreement presented to the Court for approval. The US Department of Justice, in accordance with Federal Law, has solicited public comment on the proposed settlement.

Comments on the proposed agreement:

General Comments: This agreement focuses too much on middleware and middleware products (as defined in the proposed agreement); for my discussion in this section, I refer to them both as simply "Middleware". The original complaint against MS does not mention Middleware at all (I did a word search for "Middleware"). However, the provisions of the settlement, with few exceptions, focus on Middleware. The USDOJ in the CIS (page 2) states that the Appeals Court upheld the conclusion that MS acted to protect its operating system monopoly from the threat of Middleware. Yet, the Appeals Court's decision only mentions Middleware 39 times in a 43304 word opinion, and while the decision did address MS" objections to the District Court's decision, some of which were based on the exclusion of Middleware as a mitigating factor in MS" favor, the Appeals Court decision looks beyond that. Both the original Trial Court, and the Court of Appeals noted in their rulings that Middleware, in and of itself, does not provide enough incentive for users that it would end MS" illegal monopolistic practices. Therefore, in my opinion, the proposed agreement wrongly focuses on remedying MS" illegal actions by trying to promote competition in Middleware.

Furthermore, the ultimate goal of any settlement from this anti-trust action should be the promotion of competition that allows users a choice in the selection of operating systems. USDOJ (on page 25 of the CIS) reminds us that "Appropriate injunctive relief in an antitrust case should: (1) end the unlawful conduct; (2) "avoid a recurrence of the violation" and others like it; and (3) undo its anti-competitive consequences." The Appeals Court Decision stated "From a century of case law on monopolization under (2) however, several principles do emerge. First, to be condemned as exclusionary, a monopolist's act must have an "anti-competitive effect." That is, it must harm the competitive process and thereby harm consumers. In contrast, harm to one or more competitors will not suffice. "The [Sherman Act] directs itself not against conduct which is competitive, even severely so, but against conduct which unfairly tends to destroy competition itself." Spectrum Sports, Inc. v. McQuillan, 506 U.S. 447, 458 (1993); see also Brooke Group Ltd. v. Brown & Williamson Tobacco Corp., 509 U.S. 209, 225 (1993) ('Even an act of pure malice by one business competitor against another does not, without more, state a claim under the federal antitrust laws .... ")."

I do not really see where the proposed agreement meets any of the criteria the USDOJ lists, nor is there any substantiation by USDOJ in the CIS of how the proposed agreement will definitively benefit consumers. From my reading of the document, the proposed agreement does not directly provide any benefits to the consumer; the benefits accrue to OEMs, ISVs, IAPs, and ICPs, with the expectation that the benefits may flow through to consumers. For example, allowing OEMs to provide dual operating systems on PCs for consumers does consumers no good if the OEMs choose not to provide a choice of operating systems, and similarly for middleware. For this reason alone, the Court should reject the proposed agreement as being inadequate.

Specific comments:

Paragraph III A. purports to restrict any retaliatory behavior against any OEM (i.e., computer manufacturer) for exercising its rights under the proposed agreement, or for various activities related to non-Microsoft software. However, nothing in this paragraph discusses the right of an OEM to ship a computer system without an operating system at all. Although most new computer systems have a version of a Windows operating system installed, it is virtually impossible to buy a PC from any major OEM without a MS operating system, let alone a non-MS operating system, and the price of that operating system is passed along as part of the cost of the system, whether the consumer wants it or not.

USDOJ (on page 27 of the CIS) states that MS can only base consideration on the absolute level or amount of the OEMs support for the MS product or service, rather than on any relative level or amount. What does "absolute" mean, and how can this be enforced?

Also, the USDOJ discusses (on page 28 of the CIS) that OEMs are protected against sudden loss of Windows licenses. However, MS can still cancel licenses AFTER the 30 day opportunity to cure, which could still result in continued anti-competitive behavior by MS.

This provision also does not prohibit MS from retaliating against an OEM that makes a good-faith complaint against MS alleging a violation of the proposed agreement, which is either not brought forward to the Court for action, or is ruled as not being a violation of the settlement. In essence, an OEM would have to consider whether or not the harm it believes it may be suffering from MS as a result of a purported violation of the proposed agreement is worth additional penalties it may suffer from MS if the Court does not agree with the purposed violation (or no action is taken by the Plaintiffs), and does not redress them.

Paragraph III B addresses the requirement for MS to license its software using uniform royalties, and to make available to the covered OEMs and Plaintiffs information on the royalty schedule. The proposed agreement does not provide for public access to this information.

Paragraphs III B2 and B3 allows MS to specify "reasonable" volume discounts based upon the volume of licenses. What is considered "reasonable"? Who will decide if MS is specifying "reasonable" discounts? The lack of definition of "reasonable" is one reason to make the royalty schedule public, so that if the public believes that MS is not being reasonable, it can ask its government representatives in the USDOJ and the various states to take action.

Furthermore, when discounts are based on volume of licenses, it provides incentive for MS to continue to push for the installation of a MS product on EVERY system that an OEM ships, since the more that are installed, the bigger the discount for" the OEM. This flatly contradicts the purpose of the proposed agreement to curb MS" monopolistic practices.

USDOJ (on page 29 of the CIS) defends this provision, noting that it is based on "verifiable criteria", which is "uniformly applied". Yet, this "verifiable criteria" could still be biased in favor of MS—for example, a requirement that a browser provide an integrated Windows logon capability. Most browsers, including Internet Explorer, provide a capability to allow users to access remote servers that restrict access based on user accounts.

Internet Explorer also has a capability to "pass through" a user's credentials in a way that no other mass-market browser has (unlike other browsers, there is no need for a user to enter a username and password). Therefore, MS could include this as a "verifiable criteria", which would be heavily biased in favor of Internet Explorer.

Also the USDOJ (on the same page of the CIS) defends the selection of the 20 largest OEM for protection. However, no data is provided for what percentage of all Windows licenses those 20 largest distribute compared to the total universe of OEMs, and compared to all Windows licenses distributed from all sources. Furthermore, there is no protections for end users who buy retail copies of MS products, instead of obtaining them through the purchase of OEM systems. Since consumers MUST be the ultimate beneficiaries of any anti-trust action, there needs to be relief for these purchasers as well.

Paragraph III C4 prohibits MS from restricting "dual booting", but again, if the OEM chooses not to provide this option, or chooses not to provide an option to purchase a pre-installed non-MS operating system, nothing will change for consumers. Therefore, focusing this relief on OEMs is misplaced.

Clarification for Paragraph III C5: Does "initial boot sequence" refer to setup of the program, or the initialization of the operating system after the operating system is installed and the user starts, or restarts, the computer? Please add this term to the list of definitions in the proposed agreement.

Paragraph III D requires two different release dates for operating system documentation and APIs; one is tied to the earlier of the release of Windows XP Service Pack (SP) 1, or 12 months; the other is tied to a "Timely Manner" as defined in the proposed agreement, and purportedly applies to operating systems released after Windows XP. Note that Windows XP is the client side operating system for the latest release of a MS Windows Operating System. The corresponding server version is now called ".net server", and is still in Beta test. Therefore, if MS releases the last beta of .net server prior to the release point based on Windows XP SP1 or 12 months, which requirement applies?

Also, what is considered "a new version"? For example, MS released Windows 98 Second Edition (SE) as a "new" version of the Windows 98 operating system, yet many people (myself included) feel that Windows 98 Second Edition was really just an upgrade or SP release to Windows 98, and yet MS implicitly recognized that by providing a special "step up" installation version of Windows 98 SE that could only be used by owners of the original Windows 98 version.

Paragraph III E requires disclosure of communications protocols. However, MS could sidestep the requirement in this provision by not including the protocol in the operating system distribution itself, but instead require an add-on product to provide the capability; the add-on would be distributed either by automatic download to clients, or other means of distribution to client systems other than including it in the operating system distribution. For example, Windows 95, Windows 98, Windows ME, and Windows NT 4.0 machines require an "add-in" package (an "Active Directory Services Client") to interoperate in certain ways with Windows 2000 servers. This software is not included with those operating systems, but is available for download from MS, or from the appropriate Windows 2000 server installation CDs. The USDOJ (on page 39 of the CIS) explicitly acknowledges this limitation of the proposed agreement.

Paragraph III F discusses retaliation by MS against companies that exercise options under this proposed agreement. However, Paragraph III F1, similar to what was noted above for Paragraph III A, does not prohibit MS from retaliating against an ISV or IHV that makes a good-faith complaint against MS alleging a violation of the settlement, which is either not brought forward to the Court for action, or is ruled not a violation of the proposed agreement. In essence, an ISV or IHV would have to consider whether or not the harm it believes it may be suffering from MS as a result of a purported violation of this agreement is worth additional penalties it may suffer from MS if the Court does not agree with the purposed violation (or no action is taken by the Plaintiffs), and does not redress them.

Paragraph III F 2 grandfathers any current restrictions between ISVs or IHVs and MS under the proposed agreement, but goes on to allow MS to craft partnership agreements that would prohibit these companies, such as the one I work for, from entering into other partnership agreements with companies that compete with MS (i.e., Lotus/IBM since their e-mail system competes with MS'). This one provision could nullify the entire benefit the USDOJ is trying to achieve for the ISV/IHV community, and could actually serve to STRENGTHEN MS' anti-monopolistic practices.

Paragraph III G discusses MS agreements with independent companies such as ISVs and OEMs. MS could avoid the restrictions in this paragraph by establishing joint development efforts that bind the other party—in essence, by providing substantial consideration to induce companies to establish such efforts. In addition, MS could avoid the restrictions in this paragraph by licensing intellectual property (IP) for its exclusive use—thereby making such IP unavailable for non-MS products, either for direct incorporation into those products, or for indirectly use as middleware to achieve interoperability with Windows operating systems. Again, this provision could nullify the entire benefit the USDOJ is trying to achieve for the ISV/IHV etc., community, and could further serve to STRENGTHEN MS" anti-monopolistic practices. For example, in the CIS, USDOJ discusses (bottom of Page 14) how MS coerced Apple to adopt Internet Explorer in exchange for continued development of MS Office for Apple systems. Such behavior would still be legal if it is part of a joint development effort or investment in Apple by MS.

MS could also establish fixed percentages for distribution of MS products. Using the example cited by USDOJ (on page 44 of the CIS), an IAP could agree to ship Windows Media Player on 70% of its software distribution if it can show it is commercially feasible for it to ship 70% of its software distribution with a non-MS media player. While it may be commercially feasible, that is not the same as being competitively advantageous for it to ship the non-MS media player, particularly if MS is paying it substantially more to ship Windows Media Player. Such action could ultimately result in the loss of competing products as a result of MS" deep pockets and marketing muscle with IAPs.

I note that III G 2 prohibits MS from offering IAPs placement on the desktop in exchange for IAPs agreeing to refrain from using competing non-MS Middleware Products, yet nothing prohibits MS from offering a quid pro quo for an IAP—placement on the desktop (which need not be a formal part of any agreement) and a percent placement in the IAPs distribution packages (as discussed in my previous paragraph) in exchange for significant payments by MS. Paragraph III H discusses requirements for MS to allow removal of Middleware and Middleware products by end users. MS could avoid the requirements of III H 1 by separating Middleware Products (as defined in the proposed agreement) from the operating system as add-ons, and enabling automatic download to clients (or perhaps by requiring OEMs to install them separately from the basic operating system on their systems, but nevertheless pre-installing those components as well). Such "Middleware Products" (in quotes because software as discussed in this scenario does not meet the definition in the proposed agreement) may be required for full functionality of the operating system, yet, because they do not meet the formal definition of Middleware Products in the proposed agreement, would not require the uninstall capability.

Paragraph III H also could invoke a "poison pill" response by requiring the enablement of either all MS Middleware Products or all Non-MS Middleware products as a group; for example, a user may be forced to pick Windows Media Player and Internet Explorer over a non-MS browser and media player because he dislikes Internet Explorer, and would prefer a non-MS browser, but feels he needs to have Windows Media Player. While there is still an element of choice in this scenario, the available options are not necessarily desirable to users, and implicitly may favor MS, because users may stick to products they know, rather than ones they do not.

There are also a number of important additional exceptions to the applicability of Paragraph III H. First, MS can avoid the provisions of this paragraph by carefully crafting Middleware Products to require the type of functionally which excludes it from this provision.

Second, a significant number of systems with Windows operating systems do not connect to a server outside the Internet, yet those systems can be bound by the restrictions that apply for systems that DO connect to servers. Since most systems that do not connect to servers outside the Internet are those purchased and used by consumers, this exclusion will have the biggest impact on them. Third, the provisions apply essentially to existing technology as of the previous operating system. Therefore, when MS releases a new operating system, it is not bound to the provisions of this paragraph for any new Middleware products until and unless it carries the product forward to the next succeeding Windows operating system, or it releases that Middleware less than seven months prior to the last beta test version of that new operating system.

Also, what is "a server maintained by Microsoft"Is that an Internet accessible server operated by MS or a subsidiary to provide specialized services, such as Hotmail or Passport? Or is it a computer running a Windows server operating system? Please clarify. If it is the former, why should consumers be locked into accepting a Microsoft Middleware Product, particularly if they do not intend to ever use the MS servers?

Paragraph III I discusses requirements for MS to license its IP. However the restrictions of this paragraph, particularly Paragraph III I 3, may unduly restrict the development of non-Microsoft middleware or other rights contemplated by this agreement. For example, if Sun Microsystems wants to obtain MS IP for the purposes of making its Java Virtual Machine interoperate with Windows XP, MS could restrict the ability of Sun to distribute the Virtual Machine to other ISVs for the purposes of building software applications that run on that Virtual Machine, undermining the intent of this provision.

Furthermore, Paragraph III I 5 requires that any company that seeks to assert its rights under the proposed agreement may have to license its IP to MS. The USDOJ's discussion in the CIS not withstanding, I do not understand why a company would need to submit to MS ITS IP to assert its rights under the proposed agreement; this requirement could serve as a mechanism to restrict companies" reliance on the proposed agreement, since companies may have to consider whether it is in their best interest to license their IP to MS, and they may decide that they should forgo protection under the proposed agreement, rather than share sensitive IP information with MS, which is NOT the intent behind the proposed agreement. Companies should not have to make such an onerous choice.

Paragraph III J discusses restrictions and rights MS has in licensing documentation and API information, and in my opinion, this paragraph provides the best means for MS to avoid compliance with many other provisions of the proposed agreement. First, in Paragraph III J 1, MS is permitted to not disclose API and other information related to anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems. The USDOJ's description of this exclusion as "narrow", and comments in the CIS (page 53) notwithstanding, such exclusions serve to only undermine the intent of the proposed agreement, and limit the benefits to anyone outside MS. For example, MS is developing a new strategy ("Dot-NET") that provides for distributed application and transaction processing across a network of servers, and is incorporating the capability for doing this in its soon-to-be-released .NET server software. Any distributed application processing MUST provide capabilities for securing transactions, and yet, under this exclusion, MS would not be required to release necessary APIs or documentation to allow non-MS Middleware and applications to compete equally with MS software. Similarly, MS would not have to release salient potions of APIs for Windows Media Player (which incorporates Digital Rights Management APIs) or APIs that non-MS anti-virus software manufacturers could use to improve the performance of their products (for example, obtaining information about how scripts that are run using MS" native Javascript or Visual Basic scripting engines, since this could touch upon how MS incorporates anti-virus measures into the engines to protect against certain types of virus-infected scripts).

USDOJ also states this provision is necessary for MS to comply with "lawful orders" of federal agencies to not disclose certain information on security grounds. To my knowledge, no such "lawful orders" currently exist, and even if they do, or will so in the future, the wording of this paragraph could have been tailored to say exactly that no more and no less. As the wording stands, it goes well beyond being able to comply with such "lawful orders" Second, Paragraph III J 2 allows MS to place restrictions on licensing APIs, communications protocol and documentation relating to the functions discussed in my previous paragraph. An API, or a communications protocol, and their associated documentation generally provide the means for calling a function from the operating system (for example, accessing a file on a computer) without explaining all the details of how the underlying mechanism operates (for example, the file format of a "token" necessary to verify that the user is authorized to access that file).

In many cases, communication protocols themselves are publicly defined and available on the Internet for review, particularly those that relate to the Internet. Therefore, I do not understand how restrictions on the release of such information harm MS; however, I do see harm to consumers and independent software writers (i.e., individuals who author and market their own software, generally as "freeware" or "shareware" via the Internet) since the necessary information that software writers need to write software that competes with MS Middleware Products may be unavailable, and therefore their products will be unavailable for consumers to select in place of an equivalent MS product.

Paragraph IV A 3 restricts the ability of Plaintiffs to release information provided by MS except as it may relate to an enforcement action, and under certain other conditions. Such restrictions limit the availability of information that may be useful in private litigation against MS that relates to the proposed agreement, but which the states and the USDOJ, for whatever reason, do not use to bring enforcement actions against MS. In essence, short of an enforcement action, this provision makes it difficult for the public to know if MS has breached the proposed agreement, and more difficult for others to prove that they did so. Paragraph IV B 2 discusses requirements for individuals to serve on the Technical Committee (TC). The requirement for individuals to be "experts in software design and programming" unduly disqualifies a large class of individuals who are experts in administering computers, but who do not write software. TC members also need to know how to administer systems, since software design alone may not reveal obvious restrictions (i.e., a vulnerability due to a specific operating system configurations that falls outside the scope of the software design itself or Middleware Products that require a specific hardware configuration in operational systems that again is outside the software design itself).

Paragraph IV B 2 a specifies that a TC member shall not have been employed by a competitor, unless agreed to by both parties. How is a competitor defined? Since MS makes a large range of software and hardware products, and provides a range of services, including Internet access, does this mean that any employee in any company that makes software or hardware for systems that utilize MS software or hardware or provides services in markets that MS competes, such as Internet access, would be prohibited from serving on the TC without approval from both sides? I believe that the term should be defined explicitly and narrowly in the proposed agreement from its possibly broad usage (i.e., competitors are the 20 largest ISVs, and the 20 largest IHVs based on license revenue to MS, the 20 largest IAPs, and the 20 largest service providers for support on MS software and hardware, based on annual revenue).

Paragraphs IV B 9 and 10 place restrictions on members of the TC and their staff, including requirements to treat all information as confidential, and prohibitions on public statements. Such restrictions limit the ability of the public—who are supposed to be the ultimate beneficiaries of this agreement—from being informed on substantial or even individual issues with regard to MS" compliance with this proposed agreement (the TC is allowed to keep complainants informed on the status of complaints made to the TC, but only to the extent it does not breach their restrictions in this paragraph). Again, should the Plaintiffs not make an enforcement action against MS as a result of TC action (an issue that I will discuss further in my next paragraph), purported violations of this agreement may never be made public.

Paragraph IV D 4 d prohibits any work product, finding, or recommendation by the TC from being admitted in an enforcement action against MS for violation of this proposed agreement. This provision, in my opinion, will fatally cripple the ability of the Plaintiffs to pursue an enforcement action. Even if this provision only applies to voluntary dispute resolution activity (and it is not clear to me that such a limitation applies, even though it is in the section for voluntary dispute resolution), it is highly likely that prior to an enforcement action, the Plaintiffs would pursuit voluntary dispute resolution with MS, thus prohibiting, in this scenario, the admission of any TC work in a subsequent enforcement proceeding.

The Plaintiffs may also wait to see a pattern of behavior, and then act. Many individuals or small company make use of the dispute resolution process to seek redress against violations of this agreement by MS. If the Plaintiffs then decided to seek an enforcement action based on a compilation of those complaints, no further use of information that the TC produced could be used in the subsequent enforcement action.

I also believe that the restrictions of this paragraph may go well beyond the literal bar on enforcement actions. Although USDOJ, in the CIS (page 59), has stated that this restriction would not bar subsequent enforcement actions based on derivative use, nowhere in the proposed agreement is this explicitly stated. Therefore, MS may have a viable argument—based on precedent for limited immunity in criminal cases—that any evidence compiled by the Plaintiffs that relies on, or is derived from, TC materials may be inadmissible because it was only available as a result of, or knowledge of, TC work, and therefore is indirectly admitting TC work. Whether or not such a defense would succeed would not be known until, and unless, the Plaintiffs bring an enforcement action, and the courts rule on such a motion and any appeals. Therefore, I believe that this provision should be stricken from the proposed agreement to prevent any bars on future enforcement actions.

Section V discusses termination of the proposed agreement. While I offer no opinion as to whether or not five years is an appropriate and equitable period for the proposed agreement to last, I highly question the benefits of possibly extending the proposed agreement for another two years, should MS engage in a pattern of willful and systematic violations (a charge that may be difficult, if impossible, to prove, based on my previous comments). Why should the same prohibitions for another two years cause any change in MS" behavior, if the previous five have not? I remind the Court that this is the THIRD enforcement action against MS in the last 10 years.

Definition J is for "Middleware". I see several problems with this definition. First, Middleware must be trademarked. Should MS want to evade the provisions of this proposed agreement, it merely has to not trademark any Middleware. While MS may lose some legal rights should it not trademark a given Middleware, it may still hold "branding" rights with regard to the Middleware (i.e., the name "Topaz" may not be trademarked for a future version of an e-mail client, but everyone associates Topaz as its relates to e-mail with MS), and it may be to MS" advantage in any given case to NOT trademark a specific piece of Middleware.

Second, the definition requires that the Middleware in question must update the appropriate Middleware Product to the next major version number, as that term is defined in the paragraph. However, MS can avoid the invocation of this definition by changing the way it versions products. Instead of a release changing a Middle product to version 6.1 from 6.0, for example, the Middleware changes the version to 6.01 or 6.0, Service Pack 1. Both of these latter nomenclatures are ones that MS uses today. With such nomenclature, a "Middleware" release may NEVER trigger the definition, and the restrictions accorded such a release under the terms of the proposed agreement.

Third, the Middleware in question must contain user interface elements. Although USDOJ (on page 18) tries to defend this requirement, I believe it only serves to undermine their intent. User Interface can apply to either the Middleware Product itself, or the interface of the Middleware installer (the redistributable file which installs the Middleware for the user). If USDOJ is referring to the Middleware installer, then I concur with this part of the definition. If they are referring to the Middleware Product itself, then any Middleware that provides updates without changing the user interface is not covered. For example, MS releases service packs for software, which fix bugs in the operation of the software (for example, how a program utilities memory) but do not change the user interface. Therefore it this interpretation applies, then Middleware that does not include updates to the user interface would not meet the definition. At a minimum, I recommend the definition of "user interface" be clarified", and also that this particular part of the definition of Middleware be revised, should "user interface" apply to the Middleware Product itself.

The forgoing discussion on Definition J concerning trademarking also holds for Definition K. However, note that Middleware Products must also be considered part of a "Windows Operating System Product". As that term is defined in the proposed agreement (see discussion of Definition U below), software that would otherwise be considered Middleware Products may not be if 1) it was NEVER distributed separately from the operating system or 2) MS defines the operating system product as not including that software. Definition N, and the requirement for distributing one million copies of a software product in the last year for the definition to apply, in my opinion, prevents smaller ISVs and individuals from receiving the protections contemplated by the proposed agreement. One of my primary concerns is that since individuals and companies cannot seek protection or redress under the proposed agreement unless their products meet the distribution requirement, MS can suppress competition from these products by the same methods it has in the past, and also prevent these products from reaching a critical distribution where they could become a direct threat to MS. For example, Opera is a web browser that competes with Internet Explorer. Unless Opera meets the distribution requirements, MS could prevent Opera developers from obtaining necessary information they require to provide the same capabilities—or better—that MS puts in Internet Explorer. Therefore, Opera could conceivably disappear from use, restricting consumer choice and competition. The USDOJ (on page 21 of the CIS) defends this provision, arguing that products that have not been demonstrated as being competitive and chat may be unknown to MS do not deserve protection under the proposed agreement. However, as I stated, this provides incentive to MS to crush any possible competition before it can grow". to be significant (which can occur very quickly), and I strongly doubt that MS would be unaware of any software that is rapidly being adopted by consumers. A much lower threshold, such as 1000 copies or 20,000 copies, make more sense to me, and would better achieve the same intent without unduly burdening MS.

Definition U is for "Windows Operating System Product". MS, and MS alone, defines what constitutes a Windows Operating System Product. Therefore, as discussed above, MS has the ability to control what is considered Middleware and Middleware Products, and thus the overall scope of the proposed agreement, by how it defines a Windows Operating System Product. There must be a more restricted definition, for example, core services that required for an application to function or everything that is included on an installation CD (although as previously discussed, that particular definition is subject to manipulation as well), rather than MS being allowed to define the term to its best advantage.

Recommendations: I recommend that the Court reject the proposed agreement as written. The proposed agreement fails to meet the basic requirement, articulated by the Appeals Court, that any agreement provide benefits and promote competition for consumers. Nothing in this agreement directly benefits consumers, and all the of indirect benefits depend on the willingness of independent companies to innovate in a way that will benefit consumers. If the proposed agreement is approved by the Court, the only beneficiaries of the proposed agreement may be the 20 largest OEMs, various IAPs and ICPs, and some ISVs and IHVs, but even that is not certain, based on MS" past practices, and the number of limitations in the proposed agreement as discussed above.

Furthermore, a number of provisions will inhibit enforcement of this proposed agreement, should MS violate it. Therefore, it is very conceivable that the proposed agreement may only serve as a toothless tiger—ignored by MS, and unenforceable by the Plaintiffs. If the Court wishes to use the proposed agreement as a framework for injunctive relief, I recommend any proposed agreement or injunction include the following changes:

1. MS should be prohibited from retaliating against any company that files a complaint alleging a violation of any proposed agreement or injunction, whether or not the complaint is pursued or upheld. However, MS would be allowed to seek restitution from a company that filed a complaint only if it could show bad faith or reckless disregard on the part of the company that filed the complaint.

2. MS would be allowed to cancel licenses for Windows software issued to any company

that would be protected under any proposed agreement or injunction, but only after demonstrating to either a majority of the Plaintiffs or the Court it had a legitimate business interest in doing so.

3. Provide public access to royalty and licensing information for companies that would be covered under any agreement or injunction. Specific company identification need not be disclosed. Define what is reasonable in terms of volume licensing.

4. Specify that verifiable criteria, as used in the proposed agreement, must be approved by a majority of the Plaintiffs or the Court as being non-discriminatory; that is, MS must not be permitted to use criteria that it knows gives it an unfair advantage over other vendor's products.

5. Expand the coverage to protect more than just the 20 largest OEMs, and provide benefits to end-users and businesses who purchase Windows Operating System Products at the retail level, or through distributors in bulk.

6. Define "Initial Boot Sequence".

7. Clarify that for operating systems releases prior to the twelve month window or Windows XP Service Pack 1, the requirement for releasing operating system documentation and APIs is the same, and that the last beta requirement only applies to operating systems released after that milestone.

8. Clarify what is considered a new version and what is considered a major version. Any definition should not allow manipulation by MS.

9. Eliminate the loopholes on disclosure of communication protocols by eliminating the requirements that they be included in an operating system distribution.

10. Allow MS to withhold information on APIs and other information related to anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems ONLY when complying with a "lawful order" of a federal agency or any court.

11. Overturn current agreements between an ISV or IHV and MS that restrict the ability of independent companies to promote or develop software that competes with MS, unless MS can demonstrate to a majority of the Plaintiffs or the Court that any such agreement does not unduly stifle competition.

12. Prohibit MS from structuring joint development efforts with an ISV or OEM that prevent competition unless MS can demonstrate to a majority of the Plaintiffs or the Court that such restrictions serve a bona fide business purpose for a reasonable period of time.

13. Prohibit fixed percentage agreements with IAPs, regardless of the commercial feasibility of distributing rival products.

14. Close loopholes in the definition ou Middleware and Middleware Products as they relate to "user interfaces" (at a minimum define what is meant by "user interface"), whether they are trademarked or not, whether they are part of the operating system product or not, and whether they are downloaded or included with operating system distributions.

15. Require MS to allow removal of Middleware and Middleware Products only on a product by product basis, not on an "All MS" or "All Non-MS" basis, and

16. Eliminate the exceptions that allow MS to invoke MS Middleware Products in the case of a server maintained by MS.

17. Eliminate the requirements that other companies must allow licensing of their IP to MS, or agree to restrictions on distribution of products that may be based on MS IP, unless MS can demonstrate to either a majority of the Plaintiffs or the Court a bona fide business purpose in imposing these requirements.

18. Eliminate restrictions on public release of information by the Plaintiffs which might otherwise only be released as it may relate to an enforcement action, and under certain other conditions. MS would be notified in advance and given an opportunity to appeal release of the information to the Court.

19. Include a requirement that at least one member of the TC must be an expert in software design and development, and at least one member an expert in computer system network operating system or network application administration.

20. Clarify the definition of "competitor" as it relates to TC employment.

21. Eliminate restrictions on public release of information or statements by the TC, similar to that for the Plaintiffs. The TC would still not be allowed to release information deemed confidential by MS without MS" approval, the approval of a majority of the Plaintiffs, or the Court. In a situation where release of such information is contemplated, MS would be afforded adequate opportunity to appeal a decision of the Plaintiffs to the Court. Note that the reason for allowing the release of confidential information in this manner is to prevent MS from arbitrarily considering all information confidential, and therefore not releasable at all, while still affording MS some protection for legitimately confidential information.

22. Eliminate provisions that prohibit admission of any work product, finding, or recommendation by the TC in an enforcement action against MS for violation of any proposed agreement or injunction.

23. Provide for, in the event that MS engages in a pattern of willful and systematic violations, a more meaningful set of penalties. For example, MS may have to rebate to consumers, based upon proper proof of purchase, a flat amount for any operating system purchased over the period of the agreement, whether the purchase was made at retail or via purchase of an OEM system with the operating system pre-installed.

24. Reduce the distribution requirement in the definition of Non-MS Middleware Product to 1,000 or 20,000 copies.

25. Change the definition of "Windows Operating System Product", so MS cannot decide what constitutes a Windows Operating System Product.

I also recommend consideration of possible some alternative provisions, which were not part of the proposed agreement; however, some of these are being pushed by the states that demurred on the proposed agreement:

1. A requirement that MS bundle Non-MS Middleware Products with its operating system products. This would primarily benefit those consumers that purchase retail versions of MS operating systems, and those who buy systems from OEMs who choose not to integrate non-MS Middleware Products. MS would be allowed to charge a reasonable fee to ISVs whose products they incorporate to defray the costs of integrating such Middleware products into its operating system distribution packages.

2. A requirement that MS structure volume licenses with OEMs in such a way that OEMs must allow end-users to elect not to purchase a Windows operating system with their PCs at all.

3. A requirement that MS provide a "secure facility" for inspection of code. This facility could be used to keep producers of non-Microsoft middleware up to date on integration and interoperability issues with MS operating systems.

4. A requirement that MS make Internet Explorer "open sourced"—that is, MS would be required to disclose and license all source code for all Browser products and Browser functionality.

5. A requirement that MS distribute with all of its operating systems a version of the Java Virtual Machine (or runtime environment) that conforms to Sun Microsystems" Java specification. MS distributed a non-compatible version with previous operating systems, and stopped distributing it with Windows XP, although it does have the same non-compatible Java Virtual Machine available for download. The reason that MS cited for not including it in Windows XP is that it was prohibited by Sun from doing so (which is true), although Sun has long expressed willingness to allow MS to distribute a Java Virtual Machine as long as it conforms to the Java standard. Since MS has refused to do so, MS is technically prohibited from distributing the Java Virtual Machine it has.

6. A requirement that MS only incorporate standard communications protocols in its products. A standard communications protocol is one that has been ratified by either the International Standards Organization, or the Internet Engineering Task Force. MS would be required to adhere to the strict requirements of the ratified standard, although it could at any time propose new standards or modifications to existing standards for adoption by either body.

7. A requirement that MS make its consumer operating systems "open sourced"—that is, MS would be required to disclose and license all source code for its consumer operating systems. Of all the proposals, this is the one that would most benefit consumers, because it is the only option that truly promotes innovation and competition at the operating system level, and would give users a real choice in operating systems, a choice, that most likely, will not require them to give up applications they have chosen to use, or lock them out of potential future applications. Summary: I believe we are all in agreement that the resolution of this case is of great importance, not just now, but for many years to come. This suggests a careful and deliberate penalty is far more important to the health of the nation than is a hasty one.

Any agreement, or any injunction, must ultimately answer the question .... How do consumers benefit from this?" The USDOJ has not satisfactorily answered this question in their CIS; they have focused on the benefits for companies. As written, the proposed agreement only indirectly, at best, benefits consumers.

In addition, the proposed agreement focuses too much on Middleware and Middleware Products and not enough on operating systems. Both the District Court and the Court of Appeals have noted that a reliance on Middleware and Middleware Products is not a substitute for remedying an illegal monopoly on operating systems.

I believe that the Court has made a well-intended effort to speedily resolve this case by asking the parties to come to a proposed agreement. However, as I hope I have demonstrated, the proposed agreement falls far short of what is necessary to benefit consumers, and redress illegal monopolistic behavior. Therefore, the Court needs to look at alternatives and changes to the agreement that will ultimately benefit consumers by changing MS" illegal monopolistic practices. For the Court's benefit, I have provided a list of changes that I believe will benefit consumers.

Jeffrey Harris

MTC-00027386

From: ALadd70022@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:46pm
Subject: Microsoft settlement

Dear Sir:

As both a Microsoft stockholder and product consumer I find the on going legal proceedings against the company unsettling.

At first thought I see it as an attempt by the legal community to go after a "Cash Cow" gleaning as much of the companies financial resources as possible in the name of protecting the consumer. Cases brought against other companies in the past have garnered very little for the consumer but have fattened the wallets of legal community.

As an investor in Microsoft I have watched the value of my holdings plummet, at times, by more than fifty percent. This loss in wealth, due to the constant legal battles, has not settled very well with me as, I am sure, it has with others who have portions of their retirement savings tied to the companies fortune.

As a consumer of Microsoft products I don't really understand the problem. I have had both MSN and AOL. installed in our machines and have chosen to use AOL. I have Microsoft's Money program installed on our new machine from the manufacturer but have chosed to use another financial program without encountering any problems from the company. When we first bought a computer I chose to use another word processing program because I found it better than the Microsoft product that was installed from the factory. I don't see where Microsoft has caused me any damage as a consumer. All you have to do is use your head a little bit and decide what works best for you.

I have to comment on the business practices that the company has been accused of using over the years. Having been in the business community for over thirty years I can well understand why the company might have acted on the defensive in its dealings with other companies. It is a dog eat dog world and if you don't protect yourself then another company will cut your throat. Ethics in the business world are a facade used to get whatever you can for yourself and screw everyone else. So I don't see where the company acted any different than how any of its computitors would have under the circumstances. Just look at what AOL is doing to small web site providers and the Enron case.

In closing, I hope that there is a reasonable settlement to the case that allows the company to spend its resources developing product that will improve the productivity of the country and not on defending itself against a continuing parade of legal battles.

Sincerely,
Anthony V. Ladd

MTC-00027389

From: Ben Levi
To: Microsoft ATR
Date: 1/27/02 11:49pm
Subject: Microsoft Settlement

January 27, 2002
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse,

I concur with the Consumers for Computing Choice, who believe that any settlement or Final Judgment must include remedies that provide: (1) A simple, affordable, and reliable way to run the 70,000 existing Windows applications without modification on all other operating systems.

(2) A simple, affordable, and reliable way to have native versions of Microsoft Office applications on all other operating systems.

(3) A simple, affordable, and reliable way to replace one or more of the four Office applications with competing applications, while retaining the ability to exchange files, data, and services with any Microsoft application.

(4) A simple, affordable, and reliable way to have native versions of Explorer, Media Player and other Microsoft Internet applications on all other operating systems.

(5) A simple, affordable, and reliable way to replace one or more Microsoft Internet applications with competing applications, while retaining the ability to exchange files, data, and services with any Microsoft application.

(6) A simple, affordable, and reliable way to replace any component or feature in any Microsoft software product with superior or special purpose components or features.

(7) A simple, affordable, and reliable way to run any Microsoft software on computers that do not have Intel-compatible microprocessors.

(8) A simple, affordable, and reliable way for software developers to access all the information they need to create products that offer consumers these choices.

(9) A way to ensure that original equipment manufacturers provide consumers with equal access to computers with alternative operating systems, productivity applications, and Internet applications.

(10) A "crown jewel" provision establishing such serious consequences for non-compliance that Microsoft will not attempt to evade the necessary disclosure requirements and other mandates.

Thank you for considering my views.

Robert Ben Levi
151 Wildcat Lane
Boulder, CO 80304
303-546-0679

MTC-00027390

From: Mitchell Baker
To: Microsoft ATR
Date: 1/27/02 11:49pm
Subject: Microsoft Settlement

The Proposed Settlement Fails to Remedy Antitrust Violations and Fails to Protect the National Interest

The Proposed Settlement Should Be Rejected

1. Microsoft has maintained its operating system monopoly through illegal means. The proposed Settlement suffers from two critical flaws: it allows Microsoft to maintain all the benefits of its illegal activities, and it will be ineffective in preventing Microsoft from continuing its actions to maintain its monopoly position.

2. The activities likely to maintain Microsoft's operating system monopoly in the next few years are not the same activities that illegally maintained it during the past. The proposed Settlement may perhaps prohibit continuation of some of the activities that benefited Microsoft in the 1990's, but it will do little if anything to prohibit the activities useful in illegally maintaining the operating system monopoly today.

3. The Microsoft operating system monopoly is bad for our national interest. The Microsoft system is notoriously poor at protecting data, and is far behind other available options. Assisting Microsoft to maintain its monopoly position, as does this proposed Settlement, makes it very, very difficult for citizens, consumers and businesses to take steps to protect their sensitive personal and business data.

4. The proposed Settlement threatens innovation. Innovation in software development is critical to our national interest. Significant innovation in software development comes through the open source, free software and educational communities—this is how the Internet was born. Similarly, the proposed Settlement harms consumers by discrimination against non-profit software development activities. For example, section III(J)(2) of the proposed Settlement allows Microsoft to withhold information from those who do not meet Microsoft's criteria for the "viability of its business." Section III(D) specifies that Microsoft disclose information regarding APIs to /commercial/interests. This language could be interpreted to allow Microsoft to withhold information from open source and free software groups—groups which are at the forefront of a great deal of software innovation. And also to withhold information from those software development teams most likely to provide a

choice to citizens and consumers. Many activities by non-profit groups provide the foundation for commercial activities as well as enormous benefit to consumers. Any suggestion that these groups could be excluded from whatever protection the proposed Settlement offers should be eliminated.

5. The specifications for Microsoft APIs and file formats must be public. Providing subsets of this information to subsets of the development community does not provide an effective remedy. Our national interest and well-being as citizens depends on innovation and choice, particularly in the way we handle digital data. The illegal activities of Microsoft threaten this well-being, and the proposed Settlement is a monumental failure on all fronts. I urge the Court to resist the allure of a speedy answer, and to reject the proposed Settlement.

W. Mitchell Baker
2704 All View Way
Belmont, CA 94002

MTC–00027391

From: Mariam Rangwala
To: Microsoft ATR
Date: 1/27/02 11:5l pm
Subject: microsoft vs netscape public opinion, as follows:

January 27, 2002

To All Who This May Concern:

I think that the Microsoft Company should not settle because they have already settled and agreed with the federal government and several other states on a criminal suit. This civil suit against Microsoft is for the financial compensation of Netscape. This claim against Microsoft will be hard to prove because Microsoft is an extremely prosperous and large company. Also, Netscape had taken many missteps in the marketing and product development, which enabled Microsoft to provide a continually better browser. Technology changes very quickly and the importance of taking advantage of solidifying and maintaining market positions is essential for each company to succeed. Netscape was not able to do these things. In addition, this matter is several years old and it would be very difficult to prove civil liabilities and new technologies that are constantly changing, since a great deal of the matter is "blurred." Finally, Netscape is not an independent country. AOL Time Warner purchased it and this company knew what they were buying since they bought Netscape less then two years ago.

"In 1899, Rockefeller, founder of the powerful Standard Oil Company, testified before a congressional commission that was investigating industrial combinations." This case describes the positive things about the combination of companies and the large amount of money that monopolies bring in. Also, money helps the economy grow and prosper; the idea of large businesses was that anyone can rise up to become rich and therefore this was a great way to have businesses.

This relates to the current because both companies were being sued because they were guilty of being monopolists. This is a crime because monopolies can take over the business world because they have large amounts of power, and many smaller companies must abide their rules. This makes monopolists rich companies who can set all the rules and have every other company listen to them.

Sincerely,
Mariam Rangwala

MTC–00027392

From: Vince Fosterknows
To: Microsoft ATR
Date: 1/27/02 11:51pm
Subject: Microsoft Settlement

Drop the MS fiasco, which was started without merit. Get on with the critical business at hand in putting terrorists behind bars!!!

MTC–00027393

From: wn2y@juno.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:50pm
Subject: Microsoft Settlement

I am writing this comment because I received a telephone solicitation last evening, requesting that I visit a web site and compose one from there in favor of the proposed settlement. I do not favor the proposed settlement. I read, understood, and agreed with the findings of fact and law reached by Judge Jackson, and favor the remedies proposed by him. I offer the following suggestions for improvement:

The prohibited conduct enumerated in section III.2 should include discriminating against an OEM for selling a personal computer with another operating system installed, regardless of whether a Microsoft operating system is also bootable on that computer. Microsoft should be prohibited from requiring the installation of one of its operating systems on all PCs sold by an OEM or licensee. Licensing fees should be based on volume alone, not on percentage of sales. There should be provision for the preservation of records for the term of the consent decree. It would not be unreasonable to preserve daily backups of the corporate e-mail systems, on DVD for example, to ensure that evidence of further violations of antitrust law would be more easily documented.

Five years seems too short a period for supervision of the company. I would think an eight year term, with the possibility for two three-year extensions, more appropriate.

Francis E. Johnson
10 Alfred Drive
Poughkeepsie, NY 12603

MTC–00027394

From: SlashDevNull
To: Microsoft ATR
Date: 1/27/02 11:51pm
Subject: Microsoft Settlement

Hello,

I am writing to protest the settlement of the Microsoft case. Microsoft is has illegally leverage their illegally created monopoly in Operating Systems to create a monopoly in browsers and office productivity applications. I do not believe that the DOJ should settle the case and should push for a breakup of microsoft. I believe the breakup should be into three parts; Operating Systems, Business applications, and internet related technologies. I also believe that microsoft should be forced to sell off their programming language division and be forced to use a third party1s tools. This would ensure that microsoft could no longer put other companies at a disadvantage by ?hiding1 APIs that only they have access and knowledge.

Microsoft has hurt the consumer repeatedly by their predatory practices and they should be reigned in. The decision should be more than just a fine. No matter how large the fine is, if the decision does not force microsoft to stop their illegal practices, then the decision will be viewed by microsoft simply as the cost of doing business. And no matter the amount of the fine, microsoft would view a fine as a welcome and preferential decision.

This is the DOJ1s chance to level the playing field for all of microsoft1s competitors and to establish choice as an option. Please do not waste it.

Thank you,
David

MTC–00027395

From: Leslie Gialamas
To: Microsoft ATR
Date: 1/27/02 11:51 pm
Subject: Microsoft Settlement
CC: microsoftcomments@doj.ca.gov@inetgw

Judge:

I think that Microsoft has dominated almost all computer based industries for long enough. They have been using these "monopolistic practices" to work against the government, and for that they should be punished to the maximum extent of the law. There are many other companies with the same technology as microsoft, who want a chance to make it in the computer industry. Microsoft should be broken down and not allowed to maintain their position in this high tech industry. Competition is a crucial part of any business, Microsoft needs to feel the pressures of having a competitor. Thank you for your time.

Sincerely,
Leslie Gialamas
Phone # (213) 741–1886
Los Angeles, CA

MTC–00027396

From: Mike Droney
To: Microsoft ATR
Date: 1/27/02 11:52pm
Subject: Microsoft Settlement

To whom it may concern,

This is a letter regarding the nature of the settlement between microsoft corp. and the US government concerning the anticompetitive practices that the softweare company has practiced for years. I believe the settlement does very little to open the way for other companies to compete against microsoft. The language used in PFJ are obscure and vague at best, allowing certain loopholes to be exploited to the benefit of Microsoft in circumventing the various agreements reached between the two sides. For instance, the settlement does force microsoft to reveal its APIs to the competition. However, the inverse of this is true also, with the competition having to do the same with their software. This leaves smaller companies at risk from the same predatory practices that have been the trademark of microsoft, i.e. microsoft, now having access to foreign ATIs, may "plagiarise" the products, thus. According to James Mathewson's column at Computer User.com, this is "indicative of the whole agreement". According to the same journalist, the supposed $1.4 blillion dollar computer and software settlement donation will help to enhance Microsoft's philantropic image.

Where is the justice or rationale for such a settlement, and who is the real winner in this outcome. Not alternative software companies, and certainly not the public.

Sincerely,
Michael Droney.

MTC-00027397

From: Joe Reed
To: Microsoft ATR
Date: 1/27/02 11:56pm
Subject: Microsoft Settlement

To whom it may concern,

As an advocate of individual rights and capitalism, I am deeply disturbed by the DOJ's attack on Microsoft in the name of consumer protection. I do not believe the government has the right to dictate how Microsoft builds and markets its products, nor do I believe the government has the right to tell me what software I have on my computer. Microsoft has committed no crime, and I as a consumer need no such protection from the government.

Microsoft reached its current market position through years of extensive research and development, innovation, and careful marketing (not to mention a lot of hard work). Microsoft never forced anyone to buy their products, and in fact has no legal power to do so. Microsoft's sales were the result of voluntary agreements that were reached by the mutual consent of both parties, into which the government has no right to interve. Millions of customers, myself included, have made a voluntary conscious decision to purchase Microsoft products because of the values they provide (e.g., features, compatibility, upgradeability, stability, etc.), not because we were coerced or threatened.

Microsoft has the right to do whatever it wants with its products, including adding features it determines will enhance the value of its products, selling or licensing its products to whomever it chooses on whatever terms are agreed to by both sides, and revealing or concealing design details as it sees fit.

Microsoft's products are not public property to be designed or dispensed at the whim of its competitors or the government. In addition, this case is further flawed in that it was brought about as a result of complaints by Microsoft's competitors, not by an outcry from consumers. And the proposed "solutions" will do nothing but prop up Microsoft's unsuccessful competitors who have chosen to compete in the courtroom rather than in the market.

The government's number one job is to protect individual rights. In this case, the government has not only miserably failed to do so, but is in fact become the biggest threat to individual rights. This case should be thrown out, and all anti-trust regulations should be immediately repealed.

Sincerely,
Joe Reed Friendswood, Texas

MTC-00027398

From:QueenOFtheTigers@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:53pm
Subject: hi

I feel that what microsoft is doing is wrong. Why should that company be able to have the power to avoid sharing their product with other companies so they can also develop similar software. Just because microsoft is a big and powerful company doesnt mean they have the right to peform monopoly. If other companies can not then why should microsoft have the right to. Also the fact that they are denying that they have and its taking so long for the courts to press charges on them is wrong. If it were another company that was not as popular they would have been out of buisness. from, chrystal torres

CC:queenofthetigers@aol.com@inetgw

MTC-00027399

From: Jim Snyder
To: Microsoft ATR
Date: 1/27/02 11:48pm
Subject: Microsoft Settlement

The proposed settlement is woefully inadequate.

I'm a long-time computer user (30 years), a computer programmer, a part-time system administrator in my office, and the administrator of a home network of Macintoshes, Unix machines, and a Windows machine. The settlement does little or nothing to address key Microsoft holdings which buttress Microsoft's monopoly and make it well-nigh unassailable: Microsoft proprietary application interfaces, protocols,and file formats. I wish to focus primarily on file formats. In my workplace the use of products which compete with Microsoft products—OS other than Windows, word processors other than Microsoft Word, spreadsheets other than Micro- soft Excel, and web browsers other than Microsoft Explorer—is difficult and sometimes simply not possible because no competing vendor has products which are fully compatible with the Microsoft file formats.

These competing products are not fully compatible because Microsoft does not release specifications for its file formats. Competing vendors must reverse-engineer Microsoft file formats, which change every time Microsoft releases new versions of its applications, typically about every year or two, and this process of reverse-engineering takes time.

Because any product which is less than fully compatible with the monopoly product is at a competitive disadvantage, every product which competes with a Microsoft monopoly product is automatically at a competitive dis- advantage, not because of technical inferiority or higher cost, but because Microsoft can (and does) act to prevent compatibility, rather than competing on the basis of price, performance, and other market-differentiating issues, eg security.

There is no benefit to society when Microsoft locks out competition in this way. There is of course no guarantee that competing products would eat into Microsoft's market share, but it does seem reasonable to believe that Microsoft would be forced to compete on price, performance, etc, if the playing field were leveled. Microsoft is clearly not competing on price and performance at this time.

Indeed, this behavior is reminiscent of Bell System behavior in the 1950s and 1960s which led to the Carterfone case. Microsoft need not threaten to disconnect customers who use non-monopoly products as did AT&T): these customers are automatically at risk of disconnection from the monopoly customer "network" because Microsoft denies the vendors of non-monopoly products the information they must have if they are to produce products which are compatible with monopoly products, and hence able to compete with monopoly products. In effect, file formats are the "interconnection specifications" which the Bell System was compelled to provide (as a monopoly) to vendors who wished to compete for telephone business. Microsoft, as a monopoly, should likewise be compelled to provide interconnection specifications to their applications, so that other vendors can build applications which compete on a level playing field with Microsoft's monopoly applications.

Nothing in the settlement addresses file formats. Hence if this settlement is approved, Microsoft will continue to enjoy a monopoly in the applications space. And while their OS monopoly is not seriously threatened at this time, the Microsoft applications monopoly strengthens the Microsoft OS monopoly.

I suggest that Microsoft should be compelled to release specifications for their file formats on a timely basis—and that "timely" be explicitly defined so that competing vendors can release compatible products at the same time that Microsoft releases new versions of its monopoly products. I suggest that access to these specifications should be open to everyone by publication on an open web site. I suggest that any competitor should be able to obtain a copy of the specifications either as a printed manual or on a CDROM (eg in pdf format) at a nominal cost-of-materials charge.

I suggest that updates and specification changes to these file formats should be made available on a timely basis—and again, that "timely" be defined explicitly, so that competing vendors can retain compatibility with monopoly applications.

I suggest that stiff penalties should be put in place so that if Micro- soft fails to release file format specifications in accordance with the constraints put in place by the court—and Microsoft's past behavior indicates that they will drive a truck through any constraints if they believe they can get away with it—then Microsoft should be penalized sufficiently severely that the the cost of doing business in defiance of the court's orders will not long be sustainable. Any constraints on Microsoft's behavior must have teeth in them.

I suggest that there should be a watchdog group to which competitors can bring complaints of non-compliance by Microsoft's with these provisions. I further suggest that this watchdog group have the author- ity to direct Microsoft to release documents immediately, and to impose monetary penalties on Microsoft for non-compliance. Because Microsoft has always used time to its advantage, I suggest that penalties accrue from the time Microsoft has failed to respond to requests for information, and accrue during any appeals process.

I further suggest that the release of incomplete, incorrect, misleading, or unusable information (for example, the release of specifications on Hollerith cards) incur punitive fines above and beyond any fines imposed for failing to comply with timelines specified for release of specifications. Microsoft should be compelled to release to competing vendors whatever specifications are provided to its own programmers simply because Microsoft is a monopoly. Other vendors cannot compete on a level playing field with the Microsoft monopoly without this protection. Although I have focussed on file formats (because those affect me most directly in my work) much the same is true of application programming interfaces (APIs) and protocols—these are the interconnection specifications between applications and the Windows operating system in the former case, and between services and clients in the latter.

I suggest that the same constraints I have proposed for Microsoft file formats also be applied to APIs and protocols.

To go slightly further, Microsoft must be prohibited from sabotaging open protocols such as http by what Microsoft officers have called "de-commodification" of such protocols—willful Microsoft changes to established protocols which result in non-Microsoft products failing to produce expected results ("being incompatible") when dealing with information produced by Microsoft products. Microsoft must be made to play by the same rules as everyone else, lest they drive everyone else out of the game.

Microsoft should not be permitted to use their monopoly control of interconnection specifications as a barrier to competitors entering the market, just as the Bell System was not permitted to use its monopoly customer base and control of interconnection specifications to exclude non-Bell vendors from the marketplace.

Respectfully,
J.H.Snyder
jhsnyder@aya.yale.edu

MTC-00027400

From: Akira Negi
To: Microsoft ATR
Date: 1/27/02 11:54pm
Subject: Microsoft Settlement

Dear Sirs:

With respect to the current Microsoft anti-trust case, I urge you to NOT settle for anything less than a split up of the company. There are a number of incidents that lead me to believe this, but the most of recent such event was when Windows 95 based computer had a problem when adding a hardware. Specifically, Windows 95 OS would crash every time it tried to find a new driver for the new hardware. After some investigation, I concluded that the only chance was for me to reinstall the Windows software. I then found out that it was not possible to do that without going back to the DOS prompt, because Internet Explorer 4.0 was loaded on the computer. I tried to remove it, but Windows refused to let me do so.

This is a clear example of Microsoft forcing its OS and its internet browser both onto the uses at the same time. Seeing that it was not possible to fix a problem I had at hand without going back to the DOS prompt (which defeats the whole purpose of using Windows in the first place), it appears to me that Microsoft would benefit from stopping its practice of using its market share in the OS to force applications onto the users—at least the problems would be solvable without taking a brute approach. Moreover, if forced to consider products more independently, perhaps Microsoft would consider builing more stable OS and more stable internet browsers, which would have eliminated my problem to begin with.

It is my opinion that if Microsoft were two (or more) separate corporations, it would be forced to create their programs in a more modular way with clear interfaces, which would in turn open the doors for other software companies to create a similar, competitive products. I'm sure I'm not the only person who have experiecnced problems with softwares crashing and hanging up the OS. No other industry would accept a product that would have to be rebooted every day or so to keep everything operating normally. Having a clear interface between the OS and applications would make it easier to build a more stable product. For the exact reasons stated above, I do not deem a small penalty to be a sufficient outcome in this anti-trust case. Microsoft's anti-competitive practices must be stopped now, or we risk losing many of its great competitors, including Netscape and Correll (maker of Word Perfect). Our society cannot afford such a loss. We need those competitors to keep producing their respective products in order to have improvements and advancements in softwares. I would find any result that does not put an end to Microsoft's current business practices utterly unacceptable.

Thank you for your time, and good luck in the proceedings.

Sincerely,
Akira Negi
912 Cedar Fork Trail
Chapel Hill, NC 27514 USA
919–969–7720
anegi@nc.rr.com

MTC-00027401

From: Scott Currie
To: Microsoft ATR
Date: 1/27/02 11:55pm
Subject: Microsoft Settlement

I am a programmer by profession; I have never had any legal training or experience. As such, it makes understanding a settlement such as the Microsoft Proposed Final Judgment difficult for me. However, as the results of this landmark case will impact my chosen profession for years to come, I have felt compelled to do what I can to understand this judgment. While I do not grasp the entire scope of the document, I have seen what I view as some problems with the wording therein. These flaws very well may allow Microsoft to avoid the intended punishment, and continue its monopolistic behavior.

One of the few real competitors to Microsoft's products are the loosely organized people who contribute to various open source projects, such as Linux, Apache, and Samba. This judgment does very little to protect these projects. For example, the Samba project develops networking products that interoperate seamlessly with Microsoft products. By using the Samba product, one can create a network server that runs any variety of operating systems, and yet fully functions with Microsoft products as well. This type of interoperability is very important to open competition, as the server administrator can choose the superior products even if they are from different vendors, and expect the network to work well together.

I believe that the clause in the judgment requiring Microsoft to publish their Application Programming Interfaces (APIs) is probably the single best way to ensure competition. If the ground rules for how programs communicate are public knowledge, then there will be true competition, and the best product will be the one chosen by the users. I believe there are gaping holes in the wording of this clause. I understand the intent behind the security exceptions to disclosure in Section III.J.

However, in this networked era in technology, nearly any transactions carried out by computers are potentially security risks. I am concerned that with Microsoft's reluctance to give up their monopoly, they may claim that releasing key components of, for instance, authentication schemes would compromise the security of their products. However, the piece that was withheld was also a key component that a competing project such as Samba would need to be able to interoperate seamlessly.

Another concern is that the publication of these schemes will be under a commercial model. The above open source projects are distributed freely across the Internet, and do not have a per-user charge. Yet the Proposed Final Judgment would allow Microsoft to charge money for access to their APIs. When a project such as Samba is mainly programmed as a hobby, and given away with no concern for profit, the commercial licensing of these APIs will preclude the open source project from benefiting from the settlement.

A final concern I have is that the enforcement committee does not have legal authority to impose punishments should Microsoft choose to violate the terms of this agreement. A According to Section IV.D.4.d, "No work product, findings, or recommendation by the TC may be admitted in any enforcement proceeding before the Court for any purpose, and no member of the TC shall testify by deposition, in court or before any other tribunal regarding any matter related to this Final Judgment."

It makes no sense to disallow the findings of an oversight committee in a legal complaint. I believe when a company has proven itself to be opposed to voluntary steps to avoid monopolistic behavior, there should be a mechanism for the oversight committee to enforce violations of the PFJ.

In light of these concerns with the settlements reached, I do not believe that the Proposed Final Judgment will accomplish the re-establishment of competition in the technology sector. I call upon you to reject this settlement, or at least address these concerns that will enable Microsoft to continue to engage in monopolistic behavior, despite this Final Judgment. Thank you for the opportunity to comment.

Sincerely,

Scott Currie, Programmer Analyst

PS I have also faxed these comments to the appropriate number.

MTC-00027402

From: Michelle Trostler
To: Microsoft ATR
Date: 1/27/02 11:56pm
Subject: Microsoft Settlement

The Microsoft settlement is not in the public interest because consumers need freedom of choice to decide, without the intereference of Microsoft, what products are on their computers. The settlement must provide ways for any combination of non-Microsoft operating systems, applications, and software components to run properly with Microsoft products.

This is so basic. Please do not bend to the will of big business while compromising the interest of common people.

Thank you,
Michelle Trostler
Sunnyvale, CA

MTC-00027403

From: Dave Michaelian
To: Microsoft ATR
Date: 1/27/02 11:56pm
Subject: Microsoft Settlement

Dear Judge,

Though I am a huge believer in free markets, I do not believe the Proposed Final Judgment (PFJ) is a the best solution.

Microsoft is a wonderful company staffed by wonderful people, but they are guilty of some very grave anti-competitive violations.

Moreover, the PFJ does not provide an effective enforcement mechanism for its remedies.

Best,
Dave Michaelian
CEO, BridgePath Corporation
Campus Crusade for Christ @ USC
Campus Director
2643 Magnolia Ave.
LA, CA 90007
dave.michaelian@uscm.org
213-748-8141
CC:microsoftcomments@doj.ca.gov@inetgw,dkleinkn@yahoo...

MTC-00027404

From: Steve Pietrowicz
To: Microsoft ATR
Date: 1/27/02 11:57pm
Subject: Microsoft Settlement

Hello.

I'm writing to you concerning the proposed settlement between the Justice Department and Microsoft.

I believe it is wholly inadequate, and offers no real remedy against Microsoft's past and current business practices.

I've been working in the industry for the last 17 years, and started working with personal computers in 1978. I've worked for a number of different companies, and worked on a variety of computer platforms, both large and small. Throughout that time, as a consumer, I've seen a number of things that Microsoft has done to maintain it's stranglehold on personal computers. I'm going to address one of those, because I believe it goes to the heart of how Microsoft treats what it views as competing platforms, and how it will continue to behave unless this issue is addressed.

The Java programming platform allows programs to be written which will run on multiple platforms, without needing a special version of the program for each of those programs. This completely eliminates the need for special versions of the same program for different platforms. Instead of having a version for Microsoft windows, another version for the Apple Macintosh, and yet a third for a UNIX system, there is only one version that is needed. Many many companies have licensed the Java programming language, including Microsoft. However, instead of adhering to the license agreements it made with Sun, Microsoft came out with it's own incompatible version of the Java programming language, at first without telling programmers that it was incompatible. I say, "at first", because it wasn't until there were a number of news stories that pointed this out to programmers. Microsoft's response was that there version was an improvement of Java, when in fact, the sole purpose was to make versions that only worked on the Microsoft platform. In the end, Microsoft has decided to drop Java all together, and Java is no longer included in the Windows operating systems it recently released (Windows XP).

What Microsoft did, at the very beginning of Java's popularity, was to create a wedge that prevented people from writing programs using Microsoft's Java for other platforms, just to keep it's monopoly intact. I contend that the sole purpose of their licensing the Java platform was use the incompatibilities Microsoft itself created to prevent developers from creating software on other platforms.

This has happened time and time again. Look at any of the more popular programs that Microsoft viewed as "threats" to it's existence. Here is a reference to an article of another instance of this sort of behavior: http://eatthestate.org/03-07/MicrosoftPlaysHardball.htm This article describes how Microsoft successfully prevented a highly successful competing product (vs MSDOS), DR-DOS, from running with Microsoft Windows 3.1. From the article:

"The plan was to plant code into Windows which would "put competitors on a treadmill" and cause the system to "surely crash at some point shortly later." In order words, Windows would intentionally bomb if it detected DR DOS."

The article sites that the Department of Justice found this out from a memo by Microsoft VP David Cole. The engineers at Microsoft that created this code to prevent DR DOS from running even went so far as to encrypt part of their work to avoid detection.

Additionally, in October of 1996, Microsoft was successfully able to prevent Compaq computer from allowing Apple to include their Quicktime viewer in products it shipped at that time, because of "incompatibilities" with Windows. Microsoft had a competing technology, ActiveMovie, which shipped instead.

I urge you to read the rest of this article, which I've attached below. Microsoft has shown time and time again that it will try and introduce code or technology into it's products to prevent them from becoming successful. It's very important this is addressed. And there are several ways to do this.

First, require that Microsoft ship Sun Microsystem's Java with all Windows platforms. This should be a version that passes all tests that Sun requires of it's OEMs, and does not include anything that would break Java programs if executed on other platforms. This is very very important, because while Java was prominently brought up in the trail, there is nothing in the DOJ settlement that addresses it.

Second, require that Microsoft publish the complete operating system source code to Windows, with (and this is important) the tools necessary to build the operating system from source code to binary executable. This will prevent Microsoft from creating "special code" that prevents what it views as a competing technology, from running.

Microsoft has shown time and time again, that it can not be trusted to "do the right thing". The court should set into place a judgement that requires it to do so.

This is only one issue, and one aspect of how Microsoft conducts itself. Consider how Microsoft has acted in the past on other issues: It required computer manufacturers that sold systems that ran Windows to pay royalties on Windows licenses, even though the system shipped with another (or without) an operating system; It threatened computer manufacturers by saying that it would withhold the Windows operating system, unless they agreed with Microsoft's terms, forcing computer makers to comply.

Please carefully consider all the e-mail you've received, and draft a new, stronger judgement that the one that DOJ currently proposes. Microsoft has already been found to be a monopoly. Please take steps that are more than the slap on the wrist that the current DOJ proposal is.

I look back over the years and think of all the companies that Microsoft prevented from succeeding because of practices I illustrated above. Worse, I think of the number of conference rooms I've sat in, where people said things like "We can't do this project. If Microsoft ever decides to do this sort of thing, we'll be crushed". I don't think people that aren't in the computer industry realize how often this takes place.

It's time it stopped.
Stephen R. Pietrowicz
January 27, 2001
Engineer

MTC-00027406

From: Jeremy Praissman
To: Microsoft ATR
Date: 1/27/02 11:57pm
Subject: Microsoft Settlement
Jeremy Praissman
7 Wainscott Lane

East Setauket, NY 11733
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW

As a long time computer user, I waited the June 7th, 2000 verdict in the Microsoft antitrust case with great anticipation. When the ruling was released, it seemed to be a much needed reining in of an anticompetitive behemoth that had stifled growth and innovation in the computer software industry for years. How far we have come in the short year and seven months since then.

Despite the later unanimous 7–0 decision in the Court of Appeals upholding the verdict that Microsoft is a monopoly that engaged in anticompetitive practices and thus broke the law, the proposed remedy has shrunk considerably in scope and reach, from the initial drastic solution of splitting the company, to the current consent decree—a mere slap on the wrists. This reversal in the DOJ position and Microsoft's fortunes can hardly be seen as random, apparently riding hard on the coattails of the recently installed Bush administration. Further indication of potential (hidden) political influence in this matter is the recent revelation that Microsoft has included none of the details of its congressional lobbying in information supplied to the court in direct violation of the terms of the Tunney Act(http://www.washtech.com/news/regulation/14834-1.html). Note that Microsoft spends more than $5 million a year lobbying congress.

Regardless of how the current proposed consent decree came to be, I believe that if anything, it is certainly —not— in the public interest.

Many of the issues that must be addressed under antitrust legislation, such as "redistribution of the ill-gotten gains" do not seem to be mentioned at all in the decree. Further, the decree is ambiguous in many places and generally weak. It seems to in fact condone some of the very behavior that resulted in the current antitrust litigation. I will discuss two of the problems extant in the proposed consent decree that I feel most strongly about.

The court has acknowledged that one of the most significant problems potential competitors to the Microsoft operating system monopoly face is the "Applications Barrier to Entry." As Microsoft has been so successful in marginalizing non-Microsoft operating systems, there are no —companies— offering a viable challenger to Microsoft Windows. Thus it is with consternation that I note no clauses catering to the only current reasonable challenger: open source software. I feel that the dcree should mandate the release of all Windows Operating System Product APIs, including those related to security, for the purpose of not only building software to operate within a Windows Operating System Product but also for the purpose of developing middleware to allow other operating systems to run Windows software. This would be a clear step toward opening the market to competition.

I also feel strongly about the fact that the Technical Committee mentioned in the consent decree would have little actual enforcement power. This leaves enforcement of the decree up to further litigation. Microsoft has, through its considerable resources, dragged even this trial on for a ridiculously long time. During the period of litigation, Microsoft integrated the Internet Explorer product further into the Windows operating system releasing Windows 98, an act clearly disrespectful to both the plaintiffs and the judicial system. Windows Me, Windows 2000 and Windows XP have also been released and are installed on millions of computers. These are clear indicators that litigation is not fast enough to effectively stem Microsoft bad behavior. This in addition to the fact that Microsoft has enough money to continue litigation almost indefinitely.

I am strongly against the currently proposed consent decree. I am particularly concerned that if this decree were to become binding, it would adversely effect future antitrust litigation against Microsoft. For more lucid and thorough analysis of the proposed decree, I direct your attention to the comments of Dan Kegel, available at http://www.kegel.com/remedy/letter.html. I fully support his comments and analysis.

Thank you for reading my comment. I appreciate your time and attention.

Sincerely,
Jeremy Praissman

MTC–00027407

From: faith32@bright.net@inetgw
To: Microsoft ATR
Date: 1/27/02 11:55pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Marilyn Riddle
5669 State Route 29 E
Sidney, OH 45365

MTC–00027408

From: Tony Sellers
To: Microsoft ATR
Date: 1/27/02 11:58pm
Subject: Microsoft Settlement

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. I oppose the proposed Microsoft Settlement. I hope to send a follow-up message in the morning detailing my opposition, but let this statement suffice for now: I fear for the private ownership, security, and confidence of data stored by or passed through Microsoft software due to Microsoft's use of proprietary and closed file formats, APIs, and network protocols, especially in light of their publicly expressed intentions to shift their software to a subscription sales model. Microsoft have been found guilty of abuse of their monopoly position in this case, and are being offered a pathetically weak settlement by the D.O.J. on behalf of the citizens of the U.S. and the world. Please abandon this settlement and play to win.

It would be better to warn Microsoft to behave and put them on a sort of administrative probation than to settle so weakly. You have the power to make this settlement on my behalf, but you do not have my consent to do so.

C. Anthony Sellers
a private individual
Miami, Florida

MTC–00027409

From:kbk@float.ne.mediaone.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:52pm
Subject: Microsoft Settlement

Gentlemen:

On November 5, 2001 I sent the following letter to Thomas Reilly, Massachusetts Attorney General, stating that I supported him in his decision not to join the settlement.

I am not, nor have I been, associated with the software industry per se, but I have used computers as an engineer and physicist for over 35 years. I have watched the industry develop and I'm pretty well acquainted with the fortunes of the companies involved. I do not have a financial interest in any software company, although I did own some Apple stock for a few years.

I stand by the comments in my letter, with one exception: I have been in communication with Starbucks, and they have now added the ability to use credit cards on starbucks.com. I believe this is due, at least in part, to comments by people like myself. It should be noted, however, that using Passport is much more convenient, and that is the way it usually goes.

As an aside, and with reference to the Enron debacle, I would surely like to see all contributions by corporations to government officials cease. I note that Microsoft is now making heavy contributions.

Further, the Microsoft proposal to put computers and software into schools as part of a settlement was laughable to those in the know, because that is exactly how you extend the monopoly to the detriment of the competition. As a Republican I voted for President Bush, and I continue to support him vigorously. However, I cannot agree with the administration's policy on the settlement of this case. I would like to see Microsoft's business practices curtailed before more damage is done.

Sincerely,
Kurt B. Kaiser
8 Bayview Road
Ipswich, MA 01938
978 356 5220
Letter

To
Massachusetts Attorney General
One Ashburton Place
Boston, MA 02108–1698
Dear Attorney General Reilly:

I am pleased that you have decided to proceed with your action against Microsoft. Although the Appeals Court unanimously determined that Microsoft's actions were monopolistic, the settlement does not provide any remedy which would correct the situation or prevent its further extension in the future. Part of the justification for the settlement appears to be along the lines of, "What is good for Microsoft is good for the country."

There are precious few vendors now which provide applications for PCs. Adobe and Intuit come to mind. The rest have been crushed (Netscape) or bought out by Microsoft (Visio). Real Player, I understand, will no longer work with Windows XP as Microsoft extends its domination into the multimedia applications. MS has a long history of this kind of abuse, going back to the days of DOS when incompatibilities were deliberately introduced to defeat DR DOS.

Microsoft does not have a superior product, just the dominant one. Bill Gates has singlehandedly destroyed more creativity than any person in history. There is a theory that if MS was stopped, the consumer would suffer. I don't believe that to be the case. There would be a relatively short period of stagnation, during which the current OS and applications would be used, followed by a great outpouring of superior products. Right now, few want to try to compete, the risk is too great.

I notice that the New York Times is now offering an online edition which is exactly the same as the print edition. To view it, you must have Microsoft Windows and Microsoft Internet Explorer. If the consumer wants to use his Macintosh, or Netscape, or Linux with Netscape, well, he's just out of luck. It doesn't make sense economically for the NYT to develop compatibility with those OS and applications because of the dominance of Microsoft. Why are they incompatible? Because of Microsoft's policy of "embrace, extend, and extinguish." Microsoft has introduced incompatibilities (e.g. ActiveX) which make sure that competition is shut out.

If you want to buy coffee on starbucks.com, you have to use Microsoft Passport. No credit cards or PayPal are accepted. I expect to see many more sites like that. Apparently a major reason Starbucks chose MS Passport was that MS claimed it was much safer to have a central repository than to have the consumer store credit card numbers on his own machine. As you may have heard, Wired recently had an article about a programmer who defeated Passport Wallet in less than an hour, and that MS had to shut down Passport to make "corrections." I personally don't want my credit card numbers in the hands of MS because I believe they are not competent to safeguard them. I resent the lack of choice that is developing.

These situations could not have occurred if Microsoft had not been allowed by the government to establish the most pervasive monopoly the world has known.

Sincerely,

MTC-00027410

From: Joseph R. Justice
To: Microsoft ATR,petition@kegel.com@inetgw
Date: 1/27/02 11:59pm
Subject: Microsoft Settlement

Whom It May Concern:

My name is Joseph R. Justice. I live in Alexandria, VA. I am a computer programmer and software developer; currently I am an independent programmer, but in the recent past I worked for several business units of the Thomson Corporation including West Group and Research Institute of America. (This message should be taken solely as a reflection of my own personal views, and not as an indication of the views of any current or past employer.) I am writing to comment on the proposed final settlement between the United States Government and several states to their current antitrust lawsuit against Microsoft Corporation. (See the URL "http://www.usdoj.gov/atr/cases/ms-settle.htm".)

I believe that the proposed final settlement does not adequately punish Microsoft for its past anticompetitive and illegal behavior performed in the marketplace and against consumers, end-users, and competitors. I also believe that the proposed final settlement will not prevent Microsoft from continuing and increasing its illegal activities in the future. In fact, I believe that the proposed final settlement as is will only be seen by Microsoft as encouragement and a sanctioning by the government of its past and future illegal activity. Therefore, I believe the proposed final settlement in its current form should not be accepted, and that it should be substantially or even entirely redrawn.

I further agree with and wish to co-sign the "Open Letter to DOJ Re: Microsoft Settlement" by Dan Kegel. (See the URL "http://www.kegel.com/remedy/letter.html".) To that end, this message is also being sent to the e-mail address "petition@kegel.com" as my request to be a co-signer of this letter.

Thank you for your time. If you need to contact me concerning this letter, I can be reached at the e-mail address "jrj@radix.net", the street address of "2727 Duke Street # 1407, Alexandria, VA 22314", or the phone number 703–567–5057.

Sincerely,
Joseph R. Justice

Joseph R. Justice jrj, (at) radix.net == (AOL IM) JosRJust == anon-24205, (at) anon.twwells.com ==
(EFNet) IRC: jrj, jrjx, jrjxx
http://www.radix.net/jrj "
CC:Joseph R. Justice

MTC-00027411

From: D S
To: Microsoft ATR
Date: 1/28/02 12:00am

From my understanding of the case, the so called restrictions to the company Microsoft was only a coverup done by both microsoft and the government. The government needs to prove themselves by "making things right". Microsoft on the other hand need to remain as "monopoly" and do the many evil things that they do as a multi-national company.

The fact that remains abhorrent to me is that XP will be free of any significant restictions. This made the case rediculous in terms that it fails place restriction on the current company product. It also shows a flawed in judgement by the judge. For a law is useless unless it can and will place restictions on microsoft now and in the future. Digging up old dirt and sueing them will not prevent new ways to breaking the law. "If approved, some analysts said the agreement could greatly benefit computer manufacturers, which would have the freedom to substitute non-Microsoft applications on Windows, including Web browsers, e-mail clients, media players and instant-messaging applications."

The above statement clearly shows lack of judgement. If the proposal is approved, the general public will not so earily accept software other than microsoft. People who are used to doing things the microsoft way will resist change, especially from companies they have never heard of.

MTC-00027412

To: microsoft.atr(a)usdoj.gov
Date: 1/27/02 11:37pm
Subject: Microsoft Settlement

Ramiro Prado
January 27, 2002
2286 S. Blue Island
Chicago, IL 60608
Education Student at University of Illinois at Chicago

The Anti-trust case against Microsoft is not just a case against anti-competitive practices; this case involves the control and dissemination of knowledge. Like Gutenberg's printing press , the World Wide Web (WWW) is the present day access point for knowledge. No single company should have a monopoly on the interface to access the WWW or on the standards to create WWW content.

The progress of the United States, as a technological power, is directly linked to the technical ability of its population. A monopoly on the WWW is a threat for the advancement and continued technological leadership position that the United States has enjoyed.

The bundling of Windows and Internet Explorer has forced innovation to be dictated by a single company. It was the inherent openness of the WWW that spurred the new digital revolution, and the creation of new jobs for the U.S. economy. However, Internet Explorer's domination has stifled innovation on the WWW, because a single browser means strict adherence to a monolithic ideology of WWW content creation and delayed development of the second generation of the WWW.

Microsoft's new .NET initiative is the final stage of control over the WWW. By creating proprietary standards Microsoft will also be in control of the content of the WWW. This new standardization will force all content on the web to be Microsoft approved. A single company with so much power over intellectual as well as commercial information has never been seen and should never be seen.

In spite no sign that Microsoft will change its monopolistic ways. Microsoft's .NET initiative is the new threat to an open and beneficial information highway. A just decision must be made to protect the access and content of the WWW, without a commercial company dictating what future technologies may bring.

MTC-00027413

From: Brian Albers
To: Microsoft ATR
Date: 1/28/02 12:04am
Subject: Microsoft Settlement

To Whom It May Concern:

I'm writing to express my deep and sincere displeasure with the terms of the final settlement in the Microsoft antitrust case. I feel that the proposed conditions in no way restrict the company from repeating the actions that caused the problems in the first place; furthermore, the conditions include no significant penalty and enforcement in them, implying that there was no reason to pursue this case in the first place.

If Microsoft is allowed to continue its monopolistic behavior without check, it will cause even more problems in the industry beyond those already well documented in the trial. Please reconsider the proposed conditions, which do more harm than good. Penalties and enforcement.

Sincerely,
Brian Albers
San Jose, CA

MTC-00027414

From: Tellapple@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:04am
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC

Dear Ms. Hesse:

I wish to oppose the proposed settlement in the Microsoft case. I do not feel the decision is in the public interest. In my experience with working with computers I have been annoyed by the virtual Microsoft monopoly in many areas and I feel the decision is both vague and I do not see how it can be enforced. I feel that once the publicity has faded, the situation will return to "start" and Microsoft will go back to using illegal and non competitive means to take over the software industry. I believe that computer users must have a choice in their decisions about what products to use on their computers. I believe that the settlement must provide ways for competing non-Microsoft operating systems, applications, and software components to run properly with Microsoft products.

I hope that you will take my protest into consideration.

Sincerely yours,
Marianne J. Huber
4 E. 82nd St.
New York, NY 10028

MTC-00027415

From: Andy Tripp
To: Microsoft ATR
Date: 1/28/02 12:04am
Subject: Microsoft Settlement
To: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement
Date: January 27, 2002
From: Andy Tripp
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Attached is my comment on the proposed Microsoft settlement:

To: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement
Date: January 27, 2002
From: Andyn Tripp
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Introduction

I wish to comment on the Microsoft Proposed Final Judgement[1] (PFJ) settlement as provided for under the Tunney Act[2].

About Me

My name is Andy Tripp and I am a software developer in the Telecommunications Industry. I've been developing, testing, and supporting software in the industry for 17 years. I have no attachment with either Microsoft or any of its competitors. While I use the Java programming language (which Microsoft has been hostile to), I would say that I am impacted by the Microsoft case in much the same way that most people in the software business are. While I am more openly critical of Microsoft than most, I would say I'm a fairly typical software professional. Having worked for AT&T and its offspring for 15 years, I also know a little more about monopolies and divestiture than most. Being a member of the "Slashdot crowd" (a technical news site), I also tend to follow Microsoft and it's legal cases more closely than most.

About This Document

This document has three parts. In Part 1, I highlight some of the reasons why the Proposed Final Judgement (PFJ) does not serve the public interest by noting where it falls short and by pointing out potential loopholes.

Because most of the problems of the proposed settlement have already been pointed out by others, I rely heavily on quotes from others here.

In Part 2, I explain why I think that nothing short of splitting Microsoft into three companies will restore competition to the OS and Web Browser markets. While a forced divestiture may seem extreme, I'll try to make the case that it's the only way to restore competition.

In Part 3, I ask for a heavy fine against Microsoft as a deterrent to future illegal conduct. I suggest some starting numbers for calculating what would be an appropriate fine, emphasizing that the fine must be large enough to be an effective deterrent.

Here is the outline of this document:

Introduction
  About Me
  About this document
Part 1: Problems With The Proposed Final Judgement
  API Disclosure
  OEM Provisions
  Desktop Icons
  Technical Committee
  Conclusion: The many loopholes in the PFJ Need to Be Closed
Part 2: Microsoft Should Be Split into 3 Companies
  Justification for a Split
  Why Internet Explorer Should be A Separate Company
  Why Windows Should be A Separate Company
  How to Determine "Operating System" vs. "Application"
  How to Enforce Separation: A Technical Committee
  How a Microsoft Split Would Restore Competition
  Conclusion: Splitting Microsoft is the Only Way to Restore Competition
Part 3: Deterence: Levy a Heavy Fine
  Final Thoughts
  References

Problems With The Proposed Final Judgement

API Disclosure

There are certainly many loopholes in the area of API disclosure. Zimran Ahmed [3] points out these problems, among other things:

The fact that the definition of "middleware" excludes "outside the context of general Web browsing" doesn't make much sense. And the phrase "that designated Non-Microsoft Middleware Product fails to implement a reasonable technical requirement..." gives Microsoft an easy "out" to determine for itself what's "middleware" and what's not.

The definition of "Communications Protocol" is too narrow and seems to exclude SAMBA [4].

Microsoft would not have to disclose any API related to security. It would be easy to label just about anything "security-related".

Microsoft would not have to disclose any API to any group that meets "reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business." That would exclude open source as well as government, educational institutions, standards bodies, etc.

There is no reason to exclude these groups.

Another major problem with the API disclosure is that it forces those who use the APIs to share their finished code with Microsoft. There is no reason to force companies to expose anything to Microsoft.

OEM Provisions

The PFJ's treatment of Microsoft's relations with OEMs has a fatal flaw: Even if Microsoft is prohibited from relatiation, it would be corporate suicide for an OEM to cross Microsoft. To quote the Computer and Communications Industry Association[5]:

> ...even its limited provisions (API disclosure, icon removal, etc.) rely exclusively on OEMs to provide a competitive alternative to Windows...there is no likelihood that any OEM will use its small freedoms under the settlement to choose to compete with Microsoft.

This trial has shown that OEMs have been bollyed by Microsoft so badly that they have good reason to fear retaliation if they step out of line.

Former Netscape CEO James Barksdale describes the Microsoft/OEM relationship "Finlandization"[6]:

During the Cold War, we used to refer to a concept known as Finlandization. What this referred to was that Finland was nominally free of the Soviet Union, but was so threatened by it, it could not act unilaterally without tempering its actions so as not to offend its giant neighbor which could crush it at will. The technology industry now, and after the settlement with DOJ, is still effectively, Finlandized by Microsoft. It is still dominated, and will still cower in fear of the monopolist unbound.

Desktop Icons

The PFJ ensures that non-Microsoft companies may get their icons on the Windows desktop, but the clause only applies to companies who have sold more than a million copies of their software in the United States.

There does not need to be any such limitation. Hardware vendors, service providers, and all kinds of non-software companies might want to pay OEMs to put their icon on the desktop.

Technical Comittee

The three-person technical committee (TC) that the PFJ proposes has some serious problems. First, the fact that Microsoft would be allowed to choose one member, who would in turn help to choose a second, is troubling. No convicted criminal gets to choose his guards, his judge, his jury, or even his parol officer, and Iraq does not get to choose its weapons inspectors. Microsoft would surely choose someone who is biased in favor of the company.

As the TC would work in secret, so there would be no public pressure on Microsoft to simply ignore them.

The TC would have no specific enforcement power. All they could do is report back to the DoJ on what's happening inside Microsoft.

The TC members would be payed by Microsoft. That creates a conflict of interest.

Conclusion: The many loopholes in the PFJ Need to Be Closed

The PFJ has been widely critisized [7,8] and software industry is virtually unanimous in it's characterization of the PFJ as being full of loopholes and ineffective. The more generous critiques call it a "slap on the wrist". I believe the most common view of it was put simply by Massachusetts Attorney General Tom Reilly, when he said[9] that the deal was "full of loopholes and does little more than license Microsoft to crush its competition."

Part 2: Microsoft Should Be Split Into Three Companies

In this section, I will explain why I think that the PFJ is not sufficient to stop the unlawful conduct of Microsoft and restore competition to the OS and Web Browser markets. I propose splitting Microsoft into an Operating Systems (OS) company, a Web Browser company, and an Applictions (and everything else) company.

Justification for a Microsoft Breakup

While most of the remedies in the PFJ attempt to "terminate unlawful conduct" and "prevent repetition in the future", none even come close to attempting to "revive competition in the relevant markets". In his legal summary of the Microsoft case[7], Paul M. Kaplan states:

Finally, the Court highlighted its major concerns with its entry of the Final Judgment—namely, "to terminate the unlawful conduct, to prevent its repetition in the future, and to revive competition in the relevant markets". Supra at 3. United States v. United Shoe Machinery Corporation, 391 U.S. 244 (1968) provides guidance as to the judicial relief that should be granted where a defendant is found guilty of violating 2 of the Sherman Act. In that case, the Court stated that the appropriate relief in a "Sherman Act case should be to put an end to the combination and deprive the defendants of any of the benefits of the illegal conduct, and break-up or render impotent this monopoly power found to be in violation of the act. In short, the remedy should achieve its principal objects, "to extirpate practices that have caused or may hereafter cause monopolization and restore workable competition in the market'." Supra at 252

The remedy must be strong enough that in the future, people look back and say "there is now competition in both the PC Operating Systems market and the Web Browser market because of the Microsoft trial."

The CCIA[5] also points out that the settlement does not address the core monopoly problem:

the DOJ settlement would not restrict the core way in which Microsoft unlawfully maintained its Windows operating system (OS) monopoly, namely bundling and tying competing platform software (known as "middleware") like Web browsers and Java, to the OS the DOJ settlement has no provisions to create competition in the OS market that Microsoft unlawfully monopolized.

The DOJ settlement has no provisions directed to new markets where Microsoft is using the same bundling and restrictive practices to preserve and extend its Windows monopoly. Typified by Windows XP, which ties Internet services, digital media software and instant messaging (among other features) to Windows, Microsoft is demolishing potential competition in these new markets just as it did in 1995–98 to Netscape. The Court of Appeals ruled that a remedy must "ensure that there remain no practices likely to result in monopolization in the future," but the DOJ deal does not even try to restrict ways in which Microsoft could (and already has) leverage its Windows monopoly in the future.

In fact, as the CCIA mentions above, Microsoft is continuing its illegal practice. Today, Microsoft not only enjoys an OS monopoly, it now enjoys a Web Browser monopoly and an "Office Applications" monopoly. It is using the same tactics that it's been conviced of to extend its OS monopoly to a "Media Player" monopoly and "Instant Messanger" monopoly. Microsoft claims[10] that many of these "applications" are or should be integral parts of the operating system. But in fact, viable markets already exist for these applications. The Web Browser market was once very profitable for Netscape. Many non-Microsoft "Office Applications" have done fine in the past, and certainly there are many "Media Player" and "Instant Messager" providers today.

Why Internet Explorer Should be A Separate Company

In my opinion, there is simply no way to restore competition to the Web Browser market other than to separate the IE application from the rest of Microsoft. Anything short of that would allow Microsoft to fund IE development from it's monopoly-generated funds. If IE were forced to be self-sufficient, it would help to level playing field with other web browsers—both existing and potential new ones. Microsoft would argue that Netscape is funded by AOL, and thus would have an unfair advantage. This is true, but some advantage is now needed to restore competition now that IE has around 85% market share. By analogy, AT&T had far more restrictions place on it after its divestiture than its competitors. This was necessary to attempt to create competition. It's true that all else being equal, it would be unfair to only restrict Microsoft. But all else is not equal: Microsoft has been convicted of illegally maintaining and extending its OS monopoly to the browser market.

Microsoft would also argue that the consumer would be harmed because IE today is free. IE in fact is not free.

Consumers are simply paying for it as part of the price of Windows.

The separation of IE from the rest of Microsoft would be necessary but not sufficient to re-establish competition in the web browser market. There would need to be the regulations you might expect to ensure that it's really separate: No cross-ownership, no special agreements, no comingling of code, etc. between these two companies. And just as local phone companies could not enter the long distance market until they had competition in their local market, The IE company would need to be restricted from the OS market, and the OS company from the browser market, until competition existed.

The CCIA and SIIA organizations filed a "friend of the court" brief[12] in which they forcefully argue the need for not just the OS be split from the rest of Microsoft, but for the Web Browser part of Microsoft to be separated also. Judge Jackson seemed to feel that this was the best solution, but as it was not the one recommended by the prosecution, it would have been inappropriate to impose it. But two things have changed since then. First, the effects of Microsoft's illegal activity continues to give IE increased market share and erode the competition in the Web Browser market. With over 85% of browser market share, Microsoft now has (or is close to having) a monopoly on the browser market, which it didn't have just two years ago. Second, the DoJ, under a new administration, has not only dropped it's efforts for a structural remedy, it has agreed to this very weak PFJ. To some extent, the DoJ has "switched sides", now siding with Microsoft on a weak remedy. While there was little reason to second-guess the 2-way split supported by the previous DoJ prosecutors, there seems to be plenty of reason to question whether the current DoJ is doing what's in the public interest.

As you might guess, others[13,14] have also recommended this 3-way split.

Why Windows Should be A Separate Company

Separating IE from the rest of Microsoft would attempt to remove the illegally established monopoly in web browsers, but there still is the issue of Microsoft continuing to extend its OS market to other markets, such as Media Players, Instant Messaging, Virus software, etc. The court found that Microsoft attempted to maintain its monopoly through restrictive OEM contracts, and illegally extend it through web browser tying. But, of course, it did not find Microsoft illegally extend their OS product to these other areas, as Microsoft only started to bundle these recently. But the principle is the same: to tie an application that is in a competitive market into the monopoly OS. The remedy must take steps to stop this activity. By analogy, when someone is convicted of stealing from a bank, the remedy should also prevent or discourage him from stealing from anywhere else. In fact, the remedy should discourage him from breaking any law even remotely related to the original crime.

So how to prevent Microsoft from its ongoing practice of taking over markets by extending Windows to include them? The only way to do this is separate the OS into its own company. This remedy has wide acceptance as the most effective solution, including several thorough briefs[11] supplied to the court. I believe this remedy is the only way to prevent Microsoft from continuing to illegally maintain and extends its OS monopoly. A large fine may discourage it, but only a structural remedy would prevent it.

The Windows product must be split into a completely separate company from all other products in order to stop it from growing by consuming other application areas, and thus illegally extending its monopoly. The company would need to have the obvious restrictions: No cross-ownership, no special deals with other companies, and no extension into other markets. In addition, as was the case for .AT&T, it would need to be profit-regulated to ensure that it does not overcharge customers.

How to Determine "Operating System" vs. "Application"

The difficult part of enforcing such a split would be on the technical issue of not allowing the OS to grow into "application" areas. Bill Gates, in his disposition[10], lists many "gray areas" which are not considered part of the dictionary-definition of "Operating System", but which recently have tended to be delivered as part of the operating system:

Font management
Disk backup, optimization, compression
A shell (DOS/Unix command line)
A help system
Anti-virus software
Remote boot capability
Graphics support
A control panel
ù email capability
demos to show off OS features.

This is just a rough list off the top of his head; there are probably hundreds of such areas that some might consider "part of the OS", and others would consider "applications". In this deposition, the DoJ presented dictionary definitions of "Operating System" and "application", and then noted that the web browser was always referred to, even by Microsoft, as an "application". But Microsoft has a valid point here: many features are delivered with the OS these days, and the consumer does benefit from their inclusion.

How do we determine whether these and other "pre-packaged applications" may be included in the OS or not?

My proposal is to ask a simple question:

Has there been, is there, or could there be, a viable market for the feature as an application that's separate from the OS ?

Certainly, there are many email applications for sale out there. There is healthy competition in the anti-virus software market. There are businesses who's products are disk management. And there are alternative "shell" products such as MKS Toolkit. Microsoft could argue that the Operating System would be better if these where included, but that's not the point. The point is that they did (or do, or might someday) also exist as "applications" within a viable market where competition exists.

Another analogy: Certainly a car would be "better" if it included any number of built-in features: a car stereo, a map, a compass, a thermostat, etc. And in a competitive market, no one would restrict a car company from including such features. But if one car company had a monopoly, inclusion of more and more of these features would destroy the existing markets for these products and would be illegal under the Sherman Act. Only features which are absolutely critical for the car to function (such as tires and an engine) should be allowed to be packaged by the convicted monopolist.

How to Enforce Separation: A Technical Committee

If we had a separate Microsoft OS company, it would need to be restricted from entering any area where a viable market already exists. Further, we would need an enforcement mechanism by which this company would be forced to remove or usable any feature that has a viable market outside of the OS.

Certainly there are vibrant disk management and anti-virus markets today, and Norton (the leading non-Microsoft player in this market) and others should get the benefit of having these features unbundled. In addition to an existing market being criterion for unbundling, a past market should be grounds also. So Opera or Netscape/AOL should not have to prove that the browser market is still competative, just the fact that Netscape dominated a non-OS web browsing market in the past should be justification for unbundling it from the OS.

More recently, certainly AOL dominates an "instant messaging" market and Real Networks is in a viable "media player" market. On the other hand, I don't know if there is a viable market for "font management" or "control panel" or "OS demo" or "remote administration" markets outside of the OS itself.

The determination of whether a product is (or could be) a "viable application" as opposed to only an "OS feature" should not be left to the traditional court process because it is too slow. In the fast-moving software industry, it's just not practical have a trial and take years to make such a determination. With Microsoft now bundling Media Player in Windows XP, for example, Real Networks could easily be long gone two or three years from now.

I propose an independant panel or "Special Master" appointed by the court to determine whether a particular feature once had, does have, or could reasonable have, a viable market as an application. This panel would analyze the feature from an economic point of view, not a technical one. In this way, it would not be enough for Microsoft to simply claim "It would be cool to browse your local disk using your web browser." or "It would be convenient for the user to have a disk compression utility built in to the OS." Instead, Microsoft would be required to show that disk compression software (for example) is not a viable application, never was a viable application, and never could be a viable application outside of the OS itself. Non-Microsoft companies could petition the panel to have a feature considered to be an application, and if the committee agreed, it would have the power to force the Microsoft OS to unbundle it from the OS.

Such a "technical committee" should differ from the TC proposed in the PFJ:

It should be independent of Microsoft
All it's activities should be public
It should have enforcement powers
Its members should be selected by the court

How a Microsoft Breakup Would Restore Competition

How would a three-way company split and a Technical Committee as outlined above stop the ongoing extension of Windows? First, the committee would certainly have one ruling already decided: there certainly was once a viable web-browser application market, and Microsoft should be immediatly forced to unbundle it.

Companies such as AOL, Real Networks and Norton could immediately petition the TC to have instant messanging, media player, Virus and Disk management be declared viable markets, and Microsoft would be forced to unbundle these features from the OS. Over time, more an more features would be unbundled from Windows, until eventually all that would be left is what the dictionary says is an Operating System: just the "kernel" and basic device management. The Technical Committee's job would be to remove the "Application Barrier to Entry" for each type of application, one by one.

This is the only way I can envision returning competition to what is today the almost all-encompassing area of an "Operating System". The only other suggestion I have heard that even attempts to restore competition would be to split Microsoft into several "Baby Bills"—smaller companies that all share the rights to Windows.

I doubt that that would work. For starters, all employees could simply quit and all one company— perhaps on their first day, and perhaps all join the company led by Bill Gates. Conclusion: Breaking Up Microsoft is the Only Way to Restore Competition

In conclusion, I do not take proposing a breakup of what's probably the worlds most successful company lightly. But I think the situation now parallels the situation with AT&T before divestiture. There was no real long-distance competition then, and there is no real operating system competition now or in the foreseeable future. While AT&T was prohibited then from entering new markets (like local service), Microsoft is not restricted from extending the OS into all sorts of other software markets. While there was a fairly clear distinction between long-distance and local phone service for AT&T, there is no such clear technical boundary between an operating system and an application. We can be sure that if left unchecked, Microsoft will continue to extend Windows into all sorts of other areas. In fact, all the Microsoft employees in all their testimony where careful never to rule out any software as potentially being part of the OS. The best we can do is basically to say "If there was, is, or could be a market for it outside of the operating system, then we must eliminate the barrier to that market's existance: force its removal from the Windows operating system." Part 3: Deterence: Levy a Heavy Fine Aside from the structural remedy I propose here and the contract and API-related remedies proposed in the PFJ, I don't understand why there is no punishment proposal in the PFJ, such as a heavy fine. I do understand (at a high level—I Am Not a Lawyer) that this is a civil case in which the goal is to stop the behavior and the criminal cases (such as the class action suit filed by states and the recently filed suit by AOL/Netscape) are meant to provide relief for the victims (consumers in the one case and a company in the other). But it seems to me that the simplest, easiest to implement, and least controversial way to stop Microsoft from continued illegal activity would be to levy a heavy fine for its previous illegal activity. How large of a fine?

Large enough that Microsoft executives would regret having done the illegal activities and would not do them in the future, simply on economic grounds. To this day, Microsoft executives say "We've done nothing wrong", and that may never change. The court can't change that, but the court can levy a fine that will cause them so say "...but we won't do it any more because it would be bad business."

Of course, calculating an appropriate fine would be very difficult, but here are some rough numbers to consider. Microsoft has several tens of billions of dollars in cash, and I believe roughly half is from the sale of Windows. Windows 95, 98, 2000, cost around $90, a little less when preloaded by an OEM. Microsoft's own trial testimony indicated that around $49 would have been a reasonable price for these products. (Microsoft enjoyed an 88% return on investment, compared to 13% for other industries). So multiplying a $40 "overcharge" by the number of copies of Windows 95, 98, and 2000 sold would give a ballpark figure of the amount of damages to consumers. Perhaps other versions of Windows (such as Windows XP) and their prices should be taken into account. Certainly, upgrade prices (as opposed to "complete versions") should also be considered.

I believe it would take a fine in the tens of billions of dollars for Microsoft's past illegal activities to be considered as having been a bad business decision. Such a fine would not be enough to put Microsoft out of business, but enough to do serious damage comparable to that suffered by Netscape. Final Thoughts

Thank you for reading this document. I think input from the public, and from people in the software industry in particular, should be given very serious consideration considering the huge impact this ruling will have on the industry. I believe the Tunney Act included this comment period for just such a situation as we have today: when the Department Of Justice, for whatever reason, wishes to settle an antitrust case in a way that does no serve the public interest, the public should be heard.

References
[1] Proposed Final Judgement
[2] The Tunney Act
[3] Zimran Ahmed, Letter to the DoJ, 12/10/01
[4]SAMBA
[5] Computer & Communcations Industry Association, "US vs. Microsoft: A Trial Perspective"
[6] James Barksdale Letter to Chariman Leahy and Senator Hatch
[7] Epstein Becker & Green, The Unfolding Microsoft Drama: Shattered Windows:
[8] On the Proposed Final Judgment in United States v. Microsoft
[9] BBC News: Microsoft Settlement Search Continues
[10] Deposition of Bill Gates, December 15th, 1998
[11] United States vs. Microsoft Remedies Papers
[12] BRIEF ON REMEDY OF AMICI CURIAE COMPUTER AND COMMUNICATIONS INDUSTRY ASSOCIATION AND SOFTWARE AND INFORMATION INDUSTRY ASSOCIATION
[13] Is It Too Late To Split Microsoft In Three?
[14] Microsoft Remedy Redux

MTC-00027416

From: James Austin
To: Microsoft ATR
Date: 1/28/02 12:07am
Subject: Microsoft Settlement

As a concerned citizen, I wish to offer comment concerning the proposed settlement of United States v. Microsoft.

I am a civilian employee of an agency of the United States Government, where my job function is the administration of a network of personal computers and the technical support of the users of those computers. However, I offer the following comments purely as a private citizen, without the encouragement or even the knowledge of my employer.

I have been an interested observer of the computer industry in various capacities for more than twenty years, and have been professionally involved in the industry for ten. In that time I have seen the development of the industry from a perspective rather different from that usually discussed. My experience is that of someone who has directly used the technology and helped others to use the technology, working alongside both the users of that technology and others whose professional duties were similar to my own. These experiences have taught me several things which I am compelled to share.

First: The case of United States v. Microsoft is almost certainly one of the most important cases of all time, for how this is resolved will have repercussions certain to outlive anyone of this generation now participating in the actual case.

What is at stake is not merely the future practices of one corporation, or even the future structure of one industry. What is at stake is nothing less than the nature of access to information, from the individual citizen to the largest private and public institutions.

Many years ago, I heard of a Jesuit philosopher who had written about an idea he called the "knowlosphere." He imagined that as more and more information was transmitted via computer technology, there would arise around the earth a sort of "sphere of knowledge" that would surround the earth the same way the atmosphere does, and that there would come a point in which the essential sum total of all human knowledge would exist within this sphere. Furthermore, this would eventually become so important to the lives of people that it would become impossible to switch off once switched on. Though he imagined this in terms of communications satellites (the highest technology available to him at the time), I maintain that a world of personal computers all connected via the worldwide Internet is the true realization of this vision.

We must now ask ourselves this question: do we wish to allow, indeed do we dare allow, the fundamental infrastructure of human knowledge and thought to become in practice (if not directly in law) the private commercial domain of one corporation?

Second: Microsoft already monopolizes several areas of computer technology, and is working hard to monopolize others.

This point seems hardly worth discussing, because as I write this, the courts have repeatedly ruled that Microsoft is indeed a monopoly and is guilty of breaking the law. What is more interesting is that to this very day, I am unaware of any admission Microsoft has ever offered, to anyone at any time, that it has been found guilty of breaking any law. Indeed, only within the last few months has it acknowledged in any public statements that any court rulings went against it, and vaguely at that.

Third: Microsoft has proven repeatedly that it cannot be trusted even with the level of power it enjoys today.

Microsoft portrays all concern over its power and actions as solely the product of disgruntled competitors. While even that would justify intervention if the competitors were disgruntled because of actions which broke the law (as the courts have repeatedly ruled was in fact the case), what is more significant is Microsoft's actions not against its competition but against its own customers.

Consider that under the First Amendment, I have the legal right to criticize my government, perhaps even harshly so, and I may even do so in a forum sponsored by that same government. The courts have interpreted this right to extend further; for instance, I may use a telephone and still criticize whatever company provides my telephone service. But I may NOT utilize Microsoft products to criticize Microsoft. This is not a paranoid fantasy, it is a direct reading of clauses in the licenses of several of their products, which explicitly forbid one to "criticize or disparage Microsoft and/or its products and/or services." Indeed one license actually forbids the "parody" of Microsoft products and services.

Microsoft demands that companies engaged in any joint ventures waive their rights to sue Microsoft for patent infringement "even should evidence arise that such infringement has occurred." And there are more additional examples than I have time to list, of Microsoft using the courts to squelch criticism and then thumbing its nose at the courts when they issue rulings Microsoft does not wish.

We must now ask ourselves whether the interest of the people of the United States is served when one company not only has the power to behave in this manner, but actually does so, and thus far with impunity. Fourth: Microsoft's already dangerous power is increasing. It has been widely noted that when the Internet first began to become a household word, Microsoft largely ignored the whole phenomenon. Now that Microsoft has taken notice, their objective is nothing less than the total control of the Internet. During the time between the filing of United States v. Microsoft and today, Microsoft's plans to destroy Netscape (publishers of what was at the time overwhelmingly the most widely-used browser for the World Wide Web) have come to fruition, and they now face essentially no competition in that area.

One has to ask why Microsoft wanted to destroy Netscape so badly that they would give away a competing product for free. One reason is that control of the web browser gives one control of the choke point for information and commerce on the Internet. The other reason is that Netscape had ambitious plans to enhance their browser and ultimately to "grow the browser into an operating system of its own" which would have threatened Microsoft's monopoly. Perhaps such a scheme would have proved beneficial to the public, but it was a threat to Microsoft, and like all such threats before, could not resist Microsoft's destructive power.

Today Microsoft controls the web browser, and much evidence exists that its ultimate plan is to take control of the basic protocols that servers use to communicate with each other across the Internet itself. Once that happens they will essentially have the level of power that a company would have if they controlled all bank ATM machines, all telephones, all newspapers, and all radio and television stations. All access to information in any form from anywhere at any time would generate profit for Microsoft, and be subject to their approval.

We must now ask whether this is a desirable future for a free people. Fifth: People like me, in the trenches, have long considered Microsoft dangerous.

I could tell you so many stories. Just the jokes we tell to each other betray a deepening gloom about the future. Alas, I am facing a strict deadline for public comment and this must leave them for another time.

Sixth: The proposed settlement of United States v. Microsoft is NOT sufficient. It contains insufficient punishment for past transgressions of the law, insufficient guarantees against future transgressions of law, NO compensation for victims of those transgressions of law, and insufficient remedies for the consequences of past transgressions of law. Much more needs to be said, but as the period for public comment is ending I must draw to a close. But I cannot urge strongly enough that this settlement NOT be accepted as is.

Sincerely,
James R. Austin

(Should this be required by law, my full address is as follows:

155 Watkins Mill RD
Apt. C
Gaithersburg, MD 20879–3336)

MTC–00027417

From: Dennis Wilson
To: Microsoft ATR
Date: 1/28/02 12:07am
Subject: Microsoft Settlement

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement

I use Microsoft products, and I benefit from them and their features. Microsoft did NOT force me to buy and use their products. I chose them because they are superior to anything offered by their competitors. I resent the government's characterization of me as a helpless victim who cannot choose software that is useful to me. I do not think that the government has any right to decide what can be in my computer. I resent the idea that a successful business and its products are a threat to anyone. I would like to remind the court that the complaint against Microsoft originated NOT with individual consumers, or with Microsoft's partners, but with Microsoft's unsuccessful, jealous competitors. Failed businesses must not be allowed to set the rules for the markets in which they failed. I would also like to remind the court that for politicians to protect some businesses from competition by others is a dangerous policy. Continued application of the antitrust laws against successful businessmen can only lead to corruption and economic disaster as exists in many other countries. I want to see an America where success is not throttled, but embraced. I want a free America where anyone with enough intelligence and hard work can be a self-made man like Microsoft Chairman Bill Gates. Microsoft has a fundamental right to its property. It is the government's job is to PROTECT this right, not to take it away.

Best regards,
Dennis Wilson
DennisLeeWilson@Yahoo.com

"Intellectual honesty [involves] knowing what one does know, constantly expanding one's knowledge, and NEVER evading or failing to correct a contradiction. This means: the development of an ACTIVE mind as a permanent attribute."

Ayn Rand

MTC–00027418

From: Kory Hamzeh
To: Microsoft ATR
Date: 1/28/02 12:08am
Subject: Microsoft Settlement

Please give serious consideration to the contents of: http://www.kegel.com/remedy/letter.html

Sincerely,
Kory Hamzeh
West Hills, CA

MTC–00027419

From: The Dream Factory
To: Microsoft ATR
Date: 1/28/02 12:10am
Subject: Microsoft Settlement

Hello,

As I understand it, MS1 settlement offer would have them giving away hardware/software to public institutions (school etc.) Now, that1s the core sector of their direct competitor (Apple). I fear the Mr. Gate1s business acumen sees in this an opportunity to give away "samples" of his products to a new generation of buyers, which would only lead into making Microsoft stronger and bigger.

Thank you for your time.
JF Leduc,
Montreal Canada

MTC–00027420

From: Jeff Prus
To: Microsoft ATR
Date: 1/28/02 12:12am
Subject: Accept the Current Microsoft Case Settlement

Dear Sir or Madam,

I would like my opinion to be considered for the Microsoft case. I believe the current settlement is fair and urge you to settle this case now. I believe continuation of this litigation is harmful to both the software industry and the economy.

By continuing to add features and functionality to Windows, Microsoft has advanced the PC platform while reducing the costs to the consumer. Furthermore, I believe that Microsoft's ability to add features to the operating system only creates parity with other firms that also incorporate new functionality within the operating system itself, namely Apple's OS X and various versions of Linux. I believe the states that continue to oppose the settlement are only trying to achieve a settlement windfall for Microsoft competitors within their states, however, at a significant cost to the high-tech industry and overall economy.

That being said, I do believe that Microsoft's dominance in the desktop PC operating system market creates a disadvantage for competitors and thus warrants some restrictions in order for other companies to be given a chance to compete.

These include the requirement for Microsoft to include some other companies'' products within Windows as an alternative to Microsoft products. This requirement is covered within the existing settlement. This continued litigation is damaging one of our countries great corporations and I believe a fair and equitable settlement has been proposed. As such, I urge you to settle this case now. The only winner in this continued litigation is the legal profession.

Thanks,
Jeff Prus
jgprus@hotmail.com
(773) 525–1969

MTC–00027421

From: Mary E. Daudelin
To: Microsoft ATR,Mary E. Daudelin
Date: 1/28/02 12:11am
Subject: RE: Microsoft Settlement

Comments included in body of email, in case you don't have MS Office 2000 to read the attachment of my earlier e-mail.

Sincerely,
M. E. Daudelin
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Dear Mr. Ashcroft:

To paraphrase Mr. Glassman's comments pertaining to the Microsoft settlement, I also feel that AOL could better spend its time in further analysis of its own product (especially with regard to its deployment overseas) rather than in continuing to pursue this case. My own personal experience with AOL has led me to believe that full utilization of the Internet is, in fact, restricted, when using their application. As a developer of WEB applications for research, business and educational purposes, I have utilized a variety of browsers, development tools and operating systems while producing and testing my applications. Although I use Windows NT servers and take advantage of their many development tools, such as FrontPage 2002, I have not found that the public cannot access my applications, regardless of their operating system and/or browser types (with the exception of an occasional prototype). In fact, until recently, Netscape has always been my personal choice of browser as it was the one that introduced me fully to the Internet. And SUN's StarOffice product has produced many graduate-school presentations for me.

Because Internet Explorer is so forgiving of my JavaScript scripting errors, I find that I often HAVE to make myself utilize other browsers/systems in my testing to ensure that users who do not use MS products/systems are not inundated with JavaScript errors that I have overlooked in my own code. My personal belief is that Microsoft has some very good programmers that pay attention to detail, and, as such, should not be penalized for their technical excellence.

Yes, my job would be much easier if I could convince everyone on this planet to use Microsoft Windows OS's and IE browsers, IBM ThinkPad laptop computers, the same size/resolution monitor and to access the Internet via cable or high-speed access, however, since this attitude smacks of the old telecom mentality (a black rotary phone for everyone, by God!), and because we all have our different comfort levels, I will remain silent on that subject and continue to jump back and forth between the plethora of computers/systems/browsers that I access in my testing.

In closing, I feel that Microsoft should be used as an example of what works in our economy (little, if any, debt and innovative, easily accessible business solutions at a reasonable cost). Beyond the concessions contained in the settlement agreement, nothing more should be expected or required of Microsoft at this time. I appreciate your efforts to quickly settle this case.

Sincerely,
M. E. Daudelin
——Original Message——
From: Mary E. Daudelin
[mailto:marydaudelin@smyrnacable.net]
Sent: Monday, January 28, 2002 12:06 AM
To: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement
Comments on the MS Case:
See attachment.
Sincerely,
M. E. Daudelin

MTC–00027422

From: podoo@netins.net@inetgw
To: Microsoft ATR
Date: 1/28/02 12:10am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than ''welfare'' for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Ella B Lankford
P. O. Box 266
Seneca, MO 64865–0266

MTC–00027423

From: Rick Kennell
To: Microsoft ATR
Date: 1/28/02 12:16am
Subject: Microsoft Settlement
To Whom it May Concern:

I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. I am a computer engineer with several years of experience in industry as well as a university instructor. I look forward to a future where I can work in my chosen career of software engineering although, in light of the proposed settlement, this future is fading. I am opposed to the proposed settlement because it does not go far enough to remedy the damaging market structure set up by Microsoft that almost completely squelches other software environments as well as their developers. I find that the terms of the proposed settlement will do nothing more than prolong the status quo. In particular, I find the fact that the settlement would allow Microsoft to continue its damaging anticompetitive practices of economically barring OEMs from shipping computers without Microsoft's OS to be the greatest problem. A correction of this element alone— simply to restore a free-market economy to the PC industry—would be a welcome relief to the industry.

I appreciate the sentiment that a settlement should be reached quickly in order to avoid wasting taxpayer money. I would only hope that if money is to be spent for this at all, that the job should be completed in such a manner as to make it worth the effort of starting the process in the first place. The settlement, as it stands, DOES NO GOOD.

Sincerely,
Richard L. Kennell
Visiting Instructor of Electrical and Computer Engineering
Purdue University
West Lafayette, IN

MTC–00027424

From: MTyler3767@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:17am
Subject: microsoft settlement January 27, 2002 Attorney General John Ashcroft US Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530
Dear Mr. Ashcroft:

A settlement to the antitrust suit against Microsoft has finally been reached, and I hope that it is implemented as soon as the public comment period is over with. This proposed settlement stands to benefit everyone involved, and best of all, allows Microsoft to get back to helping the economy instead of wasting valuable time and money in court.

The economy started its downward spiral the day the suit against Microsoft was announced, and three years later we find ourselves in a recession. Did no one realize just how important Microsoft is to the economy? They provided tens of thousands of jobs to Americans across the country and to people around the globe. I hope this settlement will pave the way for the economy to get back on its feet, and with Microsoft agreeing to work more closely with its competitors, the market has to improve. I know there are many who worry weather Microsoft will adhere to the terms of the settlement, but they have no choice. An oversight committee has been set up that will monitor Microsoft's compliance with the settlement.

Everything needed to improve our economy is in place. The settlement must now be approved in order to get the ball rolling. cc; Representative Maxine Waters

Sincerely,
Mose Tyler

MTC–00027425

From: Bikermandav48@aol.com@inetgw

To: Microsoft ATR
Date: 1/28/02 12:18am
Subject: Microsoft vs Netscape Opinions Dear the Department of Justice:

Hello, I am from California, and am in the eight grade, and I have a few issues to discuss about the way Microsoft is handling this current case. Right now, Microsoft has made many illegal moves that are all punishable because they are against certain laws set forth in the late 1800's and early 1900's. For example, the Sherman Anti- trust act started a movement to protect the smaller companies. Microsoft has disobeyed, and they monpolized, and are taking advantage of Netscape, which is backed by and even bigger company, AOL Time Warner. The first trial that Microsoft was tried on was very similar to this one. Netscape is sueing, because Microsoft Internet Exploer covers 90% of the Internet Market Share, and the government wants to give an equal perentage of the Internet Market Share to smaller companies like Netscape and AOL. Microsoft is also tried for bundling software in PC'S, which is also illegal. Microsoft should also pay heavy fines for violating anti-trust laws. Therefore, Microsoft rightfully should get this punishment that will come, because it does not give smaller companies a chance.

From:
David Yao

MTC-00027426

From: Delbert Hart
To: Microsoft ATR
Date: 1/28/02 12:19am
Subject: Tunney Act comment

I have been active in the computer field for over 10 years. I am currently an assistant professor in the computer science department at the University of Alabama in Huntsville. In brief I believe that the proposed settlement will not be effective in curbing the predatory practices used by Microsoft. The most significant deficiencies is the ambiguity in the wording, which may make enforcement difficult. I also have some concerns about the technical committee, especially the technical committee's inability to make public comments. It is reasonable for them not to be able to reveal intellectual property, but they should be able to speak about general issues related to Microsoft's compliance.

I hope that revisions can be made to the settlement to clarify many points and to allow the public direct access to the technical committee. Although I have kept these comments short, I would be happy to provide more details about possible improvments. These are my own opinions and not necessarily those of my employer. —

Del Hart Assistant Professor dhart@cs.uah.edu University of Alabama in Huntsville

MTC-00027427

From: Doug Rothert
To: Microsoft ATR
Date: 1/28/02 12:19am
Subject: Microsoft Settlement To whom it may concern,

I really intended to make this a longer, more thought out letter, but as the time draws to a close to express my concerns you will get the brief version:

(1) I don't think the existing settlement will restore competition, and I believe it is too little too late. In fact its hard to imagine competition returning to my field (Software Engineering) within the next 5 years or so. I won't dare make a guess of anything beyond that. But the offer on the table is wrong and is a defeat for the consumer, the tax payer, and our nation as a whole. A chilling fact: in some colleges they have ceased teaching fundamental computer science classes such as compilers and operating system in favor of essentially training sessions for integrating things with Microsoft software. Their point being, which are you most likely to use on your job? Only one large company works on compilers or operating systems now . . .

(2) If in fact you do go forward with this proposal and you are looking for someone to be on a team to oversee Microsoft technology, I offer my resume for the job. You can find it online at: http://www.oneheadcount.com:81 I have an interesting past that would clearly disqualify me from being a candidate under the current guidelines of being totally impartial to anything and everything. I've spent most of the last 9 years working on products that combated Microsoft indirectly through my job at IBM. I've worked on OS/2, Netscape, and Java to name a few technologies . . . I also have a fair background on alternative OSes such as Linux and NetBSD. I tend to be drawn toward very large, complex systems of software and I am good at digging into the details, yet keeping the broader picture in mind. I am a technical philosopher of sorts, and I feel I could add balance to a team of experts in favor of competition.

Thank you for your time and effort,
Doug Rothert

MTC-00027428

From: Karelle Scharff
To: Microsoft ATR
Date: 1/28/02 12:19am
Subject: Microsoft Settlement

I believe that Microsoft should be forced to contribute a significant amount of money to the poorest schools. NOT software, NOT hardware, particularly not software or hardware from which they would stand to profit through updates or any other means. In this case, significant means an amount that would get their attention, ie would actually hurt them. Let the schools decide where they should spend the money. I believe too that there should be some sort of ongoing accountability—so the next time they use monopolistic tactics (and they will) the fine is actually GREATER.

Karelle Scharff
p.o. box 203
Ward, CO 80481

—

They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety.—Ben Franklin

MTC-00027429

From: RON BALDWIN
To: Microsoft ATR
Date: 1/28/02 12:18am
Subject: Subject line of the e-mail, type Microsoft Settlement. CC: fin@mobilizationoffice.com@inetgw Ronald W. Baldwin 509 Huntington Drive Greenwood, MO 64034 (816) 537–6323 E-Mail IBALD2AG@NETZERO.NET January 27, 2002 Attorney General John Ashcroft US Department of Justice, 950 Pennsylvania Avenue, NW Washington, DC 20530–0001

Dear Mr. Ashcroft:

I was pleased to learn that the Justice Department has reached a proposed settlement agreement in the Microsoft litigation. You now have the opportunity to clean up the mess created by your predecessor. Microsoft was the target of this litigation because of its size and because of its great degree of success. Your implementation of this settlement will bring an end to the political witch-hunt. Microsoft has placed a number of concrete proposals on the table to resolve the case. They have agreed to changes in almost every aspect of their business operations, from pricing, to distribution, to system design. These changes, if implemented, should provide additional competitive opportunities for Microsoft's competitors and more choice for computer users.

Please go forward with the settlement and let Microsoft get back to business.

Sincerely,
Ronald W. Baldwin

MTC-00027430

From: Tanuj T
To: Microsoft ATR
Date: 1/28/02 12:20am
Subject: Microsoft Settlement

This is too easy a way out for Microsoft, predominantly because Microsoft has so much money, the charges Microsoft need to pay to settle its monopoly won't even scratch the company. This is meaningless because large companies will continue to get monopolies and pay them off without any problems. The settlement needs to go farther than that; to prevent large companies from getting away with monopolies easily.

In addition to it being too easy for large companies to get away with monopolies, other companies also bundle up their software, such as Apple. So in reality they are also cutting off the market because Apple requires you to purchase their software and hardware because it won't work any other way.

For example, the Mac Operating System obliges you to also buy a Mac printer, Mac compatible word processors, Mac games, Mac compatible browsers, etc.. They are cutting off the market from Microsoft and other companies, who can't put too much software on it because it's not compatible or else pay Apple to get it on. Because Microsoft doesn't want to waste their money, they just place it on their own OS. It's exactly the same idea: Microsoft bundles up Office and IE, just the same way Apple bundles up their software. However, if Apple receives the lawsuit, they will suffer a lot more than Microsoft, who won't get affected by the lawsuit because they have so much money.

(Tanuj)
CC: cyrusm@harker.org@inetgw

MTC-00027431

From: Dan Veditz

To: Microsoft ATR
Date: 1/28/02 12:22am
Subject: Microsoft Settlement

I object to the proposed settlement in the Microsoft anti-trust case. Please listen to the Attorneys General of the nine dissenting states and send this proposal back to the drawing board.

Even on the surface the settlement doesn't go far enough, but worse it's full of the sorts of loopholes that Microsoft abused to make the 1995 consent decree effectively meaningless.

-Daniel Veditz

MTC-00027432

From: Ray G Spangler
To: Microsoft ATR
Date: 1/28/02 12:21am
Subject: microsoft settlement

Please expedite the settlement with microsoft. This unnecessary litigation has already cost us too much. Continuing the suit will only further damage our economy and delay further development of new technology for our future.

Ray Spangler—rayzzz@juno.com

MTC-00027433

From: Peter Hollings
To: Microsoft ATR
Date: 1/28/02 12:27am
Subject: Microsoft Settlement

I hold an advanced degree from the Sloan School of Management, Massachusetts Institute of Technology in the areas of information technology and finance. I have over 30 years experience in these fields, during which I have developed a deep understanding of the processes of competition and innovation in the computer software industry. I first became aware of Microsoft around 1982 and have been a constant observer of that company's business practices over the succeeding years. My purpose in writing is to express my opposition to the proposed settlement that has been reached by the US Department of Justice and Microsoft concerning their antitrust suit. Not being trained in the formalities of the legal profession, I am writing nevertheless in the hopes that you will take notice of my objections as an American citizen, affected by this settlement, and despite their probable formal incorrectness. I make this expression on my personal behalf, although I firmly believe it also reflects the interests of the businesses that I have presently or formerly been associated with in either employment or consulting roles. I firmly believe and respectfully request that the Court consider:

1. That as a past and potential future purchaser of Microsoft products, and as user of computing systems generally, that no aspect of the proposed settlement is in my interest.

2. That I firmly believe that approval by the Court of the proposed settlement would be bad for consumers, bad for business, bad for innovation, bad for the beneficial functioning of market economics, bad for constitutional rights, such as privacy and security, and it would materially and adversely impair the public's perception of government integrity.

3. I state my belief that the proposed settlement is so thoroughly flawed in every aspect that I respectfully request that the Court reject it from further consideration.

4. I respectfully request that the court give full consideration to the filing by the American Antitrust Institute captioned as COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF. This complaint sets forth numerous instances in which both the DOJ and Microsoft have failed to comply with specific disclosure requirements of the Antitrust Procedures and Penalties Act ("Tunney Act"). Most importantly are the failure of the DOJ to provide an accounting of how the settlement reached is in the public interest and the failure of Microsoft to fully identify its contacts with the government relative to the settlement. I will note here that the public press includes numerous articles relative to Microsoft's lobbying activities relevant to the antitrust settlement decision, none of which were included as required in Microsoft's report in compliance of the reporting requirement. This combination of circumstances gives the appearance that the public institutions of the American people are being manipulated against their interests and in a concealed way.

5. I respectfully request that the Court give full consideration to these circumstances identified above and fully investigate and correct any improprieties in the functioning of our government in the interest of preserving the American people's confidence in both the Executive and Judicial branches of our government. The proposed settlement is such an egregiously bad agreement and so contrary to the public interest that I cannot conceive that it was honestly arrived at.

Thank you,
Peter Hollings
Atlanta, GA 30342
phollings@alum.mit.edu

MTC-00027434

From: Richard Frick
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 12:20am
Subject: Microsoft Settlement January 27, 2002 Dear Judge Kollar-Kotelly,

It is my understanding that over the past three years every federal court that has reviewed the Microsoft antitrust case has found that Microsoft repeatedly and aggressively violated U.S. antitrust laws and was liable for its illegal conduct. Most recently, a U.S. Court of Appeals ruled unanimously that Microsoft had clearly violated antitrust laws and that any government settlement with Microsoft, in order to protect other members of the technology community and the larger public, must have three key elements:

1. Terminate Microsoft's illegal monopoly,
2. Deny to Microsoft the fruits of its past violations, and
3. Prevent any future anticompetitive activity.

It is further my understanding that the Proposed Final Judgment fails to meet any of the three standards established by the court.

My experience with Anti-Trust and Nintendo certainly influence my feelings about this Microsoft's situation.

After four years of preparation for a trial, we settled out of court with Nintendo on the advice of our Anti-Trust council (Joe Alioto). He said that the current Anti-Trust climate let any business do anything they wished including breaking Anti-Trust law as long as it made "business sense". As a result my company, which held a valid US patent for technology making our products legal and compatible with Nintendo's game unit, died and left over 300 employees without United States based cartridge design, development and assembly work. The story of my company was featured in the PBS series "Losing the War with Japan". This story won an Emmy for investigative reporting.

By not enforcing Anti-Trust laws, Microsoft will continue to do the same to other companies as happened to my employees and our company. I am sure, however, that Sun, AOL, Oracle and many others, in Microsoft's position would act in exactly the same manner. I don't want Microsoft to be replace by Sun, AOL or Oracle as the reigning monopoly. I simply believe Anti-Trust laws must uniformly and vigorously enforced!!

I work with people who absolutely "hate" Microsoft. They believe everone who works for Microsoft are losers. It is a "religious" thing similar to what Mac owners feel about Apple. At another small software firm I worked for, we were always panicked that Microsoft would eliminate the need for our software by baking it's capabilities into the operating system. Our original product was only available on the Mac. We were very cautious with Microsoft "evangelists" who visited and encouraged the development of a Windows version. They wanted to "assist" us in the development. We didn't trust Microsoft and figured they wanted to understand our code for their own purposes. I would like to see Microsoft punished more severely than what seems to be happening but I do not want them destroyed. I do not believe they need to be broken up. I would like to see most of the $36 billion they have in cash taken away and spent enforcing the court ordered three key element mentioned above. This would send a strong message to companies similar to Microsoft that Anti-Trust laws must be observed.

If Microsoft had to make the "Windows" operating system public domain, be paid a royalty for each copy used ($20.00), other innovative companies could flourish and Microsoft would continue to be strong and powerful. I personally like Microsoft products. They have brought stability to an otherwise fragmented platform market.

Knowing that this document is of public record, causes me some fear. This fear is based on the fact that I earn my living in the software industry. Should I become the target of Microsoft rage for writing this, I could be deprived of my ability to earn a living. It is my strong belief that this is public disclosure is seriously limiting other of my collegues writing to you.

Best Regards in a very difficult decision and thank you for reading this e-mail.

Richard Frick
richardf@clickaction.com
CC: Richard Frick,'microsoftcomments (a)doj.ca.gov"

MTC-00027435

From: Robert Chang

To: Microsoft ATR
Date: 1/28/02 12:25am
Subject: Judge Kollar-Kotally, Judge Kollar-Kotally,

As a member of the high tech industry for a number of years, I wish to voice my objection to the proposed final judgment in the U.S. vs. Microsoft case. Microsoft has used its Windows operating system monopoly to bully other software and hardware companies, and every court has ruled that they have violated anti-trust laws. However, the proposed settlement allows Microsoft to retain virtually all the profits it made illegally. Microsoft would be the winner if this case resulted in business as usual, yet that is precisely what the proposed final judgment is considering. There must be assurances that Microsoft's anti-competitive activities will cease.

Respectfully,
Robert K. Chang

MTC-00027436

From: Keith E. Folsom
To: Microsoft ATR
Date: 1/28/02 12:27am
Subject: Microsoft Settlement To whom it may concern,

My name is Keith Folsom. I am the Director of Systems and Communications at Pacific Lutheran University in Tacoma, Washington. I have been a computer professional since my graduation from college with a Bachelor's degree in Computer Science in 1981. I have had many roles in the field, including Software Engineer, Programmer, Systems Administrator, and manager. My desire to stay current in a field I really enjoy convinced me to enter an evening Master's program in Computer Science and Engineering at the University of Washington in 1999. I completed this program last month, graduating with a Master's degree.

I am writing this letter in order to urge you to consider more far-reaching sanctions against Microsoft than those proposed, which I feel is justified in light of the conclusion that the company is a monopoly. It is my opinion that the sanctions as proposed will do little or nothing to prevent Microsoft from continuing to use their monopoly power to crush competition and true innovation in the computing industry.

I do not believe in a government that unnecessarily interferes in the matters of industry. Free enterprise and capitalism normally self-regulate. But when a company grows too large and is no longer subject to the normal laws of economics, a government has the duty to reign this company in. As I've watched Microsoft gain a strangle-hold on the computing industry, I've also seen my choice of products and solutions dwindle. It frankly scares me. And Microsoft's latest attempt to control the Internet with their .NET initiative convinces me that they have not learned any lessons from the long battle against the Justice Department in the anti-trust case. They are determined to own it all.

Once again, I urge you to consider stronger measures against Microsoft, up to and including splitting the company into smaller, more fairly competitive units. I believe such measures are the only way to prevent the computing industry from sinking into a mire of mediocrity, with no true choice of solutions for computing problems. This is what monopolies do unless they are stopped. Please stop Microsoft.

Sincerely,
Keith Folsom
Director, Systems & Communications √ folsom@journeyman.org
Pacific Lutheran University √ WWW—http://www.plu.edu/folsomke
Tacoma, Washington √ PGP—<homepage>/pgp.txt

MTC-00027437

From: Alen Shapiro
To: Microsoft ATR
Date: 1/28/02 12:28am
Subject: Microsoft Settlement

The proposed Microsoft settlement is a BAD idea. I'm a computer professional. I am a partner and co-founder of Softek Partners Inc. (http://www.softekpartners.com). I develop portable software that runs on Windows, UNIX and Macintosh. Time and again I've seen Microsoft produce software that adheres to standards, gain market share and then subtly "extend" the standard to provide "new facility". Trouble is the "new facility" will only run under Microsoft operating systems which means that software developed using the "new facility" is no longer portable.

This is a monopolistic tactic of the worst kind. Subtly locking software development into the Microsoft supported platforms. The initial software developers are seduced by the recommended "new facility" and can hit 95% of their market with the product they develop thus perpetuating the monopoly and making it harder to jump the hurdle that would allow software developer to port their software to other operating system (i.e. non Microsoft operating systems).

For examples of this behavior just look at the Microsoft Visual C++ programming suite. Look at the extensions to the ANSI standard. Other compiler producers (e.g. Metrowerks) have to support Microsoft's non-portable extensions to sell their competing products, and that's just on the Windows platform. What about UNIX and Macintosh. These other platforms should be encouraged as an alternative to the monopoly. The current settlement does nothing significant in this regard. Microsoft need to be prevented from extending standards without providing timely support for competing products in the areas they dominate. Microsoft are just too big for other industry participants to do anything other than roll over when threatened.

Another example is the treatment of Sun's Java (dutifully extended by Microsoft).

How about ".net" which is a "new" spin on an old (portability) idea. Why do I need to be tied to Microsoft services to take advantage of it. I do not trust Microsoft to allow competition in this area. They must be required to release all API specs. (including file formats) to all who request them with sufficient time to take advantage of the specs. Microsoft should not be allowed to own this resource. Once again, they are too big and will stifle innovation and the general commerce that would have resulted.

The Internet is a public resource, it should be protected. No one company should be in a position to own it or it's resources. For example, Microsoft is in a good position to implement "extensions" to the TCP-IP protocol to, say, "save the net" from its security vulnerabilities. It is a logical step for them to take. Perhaps not now but soon. Once those new TCP-IP stacks are distributed (only on Microsoft platforms of course), interoperability with other platforms would be denied at a fundamental networking level. Currently Microsoft selectively target competing technologies by adding them to exclusions in their "terms of use" license. They should be stopped from doing this. Specifically, I should be able to run Microsoft products in whatever emulators I choose, without Microsoft being allowed to stipulate within which virtual environment they may run. This will prevent Microsoft from limiting their software to only run in the environments they sanction and should help limit Microsoft's monopoly. Of course, the above preventive measure only works if Microsoft actually publish their APIs and file formats and, if there are any independent developers left to use these specs.

You have the chance to set a line in the sand. Don't back down now, not after all the hard work you've done. Put enforceable limitations on Microsoft's business practices in place now and then enforce them when Microsoft test how far they can go and how far you are prepared to go to stop them.

Your current (proposed) settlement has already been marginalized. Do you really want to have to do this whole thing over again in a year when Microsoft feel comfortable enough to pretend your definitions are no longer applicable? What remedies will you be able to enforce?

Alen Shapiro
CTO Softek Partners Inc.

I was just trying to turn my SPARC into a FLAME and I Carbonised it!!

MTC-00027438

From: david@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/28/02 12:29am
Subject: Microsoft Settlement

I respectfully submit you do not accept the Microsoft settlement. While I have not been a Systems Admin. for over ten years now, I can state with some certainty the tactics I have seen used by Microsoft are not normally innovative, but rather monopolistic. At one time Microsoft had competition in all areas (Lotus comes to mind the quickest), but in any area Microsoft wanted to own the market, the competition usually was squeezed out, often by the use of vague, or changing standards within their operating system. I saw this same technique brought out again with the idea of placing "free" computers and software in schools. This solution would basically have the US government assist Microsoft in their attempt to force Apple out of the schools, allowing Microsoft to monopolize even the educational system.

PLEASE don't take the easy way out of this one! I have the opinion, as simplistic as it may sound, that Mr. Gates was so arrogant on the witness stand because he had little fear of even the United States Government. His product was in most government offices and all he had to do was threaten national security with the threat of total economic and governmental collapse if Microsoft was broken up, but I fear it may well be the other way around. It may well be Microsoft's products which some day bring a collapse of the US economy—or worse.

I am sorry I have no "hard evidence" to point to, but to those who have watched, Microsoft's intent has been clear nearly since the first contract with IBM: "assimilate or exterminate" could well have been their battle cry as they attempted to own a piece of every desktop in the world.

Please do not allow the US Government to assist Microsoft in their growing monopoly... Please do not settle with Microsoft according to the latest terms.

Respectfully,

David Roberts (Diagnostics Software Engineer)

47 King Street
Nashua, NH 03060
David Roberts @ Home
Email: roberts@speakeasy.org

MTC-00027439

From: Andrew Schaaf
To: Microsoft ATR
Date: 1/28/02 12:29am
Subject: Microsoft Settlement To the Department of Justice:

The current proposal for the Microsoft settlement does not do enough to prevent Microsoft from staying a monopoly in the computer industry. Even after being found guilty of being an illegal monopoly, Microsoft's behavior has not changed. Regulation of their behavior, with the threat of severe criminal penalties for failure to comply, is the only remedy that will stop them.

Microsoft should be forced to release the specification to their file formats (Word, PowerPoint, etc). This would allow other companies and people to create programs that could read and write to formats that currently only Microsoft fully knows, thereby promoting competition. As a user, I am annoyed when I receive a Word attachment from someone, because I have to ask them to send it again in some "open" format such as RTF, or open it in a program that attempts to read Word files, but can't do it very well.

Please ensure that a settlement not only punishes Microsoft for their anti-competitive behavior, but also prevents FUTURE anti-competitive behavior. Microsoft will continually test their limits with authorities, and if their acts go unpunished by those in charge, they will continue to act the way the have, only this time they will push their limits even more. Microsoft did not become #1 because of their "quality software." they became #1 by intimidation and brute force.

I have read about the proposed settlement, and I am not in favor of it in its current state. Please consider this a vote against the current settlement, as well as a vote to seek a settlement that is more favorable to Microsoft's competitors.

Andrew Schaaf
New York

MTC-00027440

From: Ranger
To: Microsoft ATR
Date: 1/28/02 12:31am
Subject: Microsoft Settlement

I am extremely disappointed in the Department of Justice settlement with Microsoft. This seems more a issue of the Government having been asleep at the switch while Microsoft honed its skills in predatory tactics and built a monopoly. Now the Government cannot find an appropriate remedy in order to reintroduce constrictive competition into the PC software industry.

It is not too late for the Government to stand up to Microsoft and do the right thing. There is enough information from the existing facts in evidence to force Microsoft the step back from monopolistic practices.

As for the proposed settlement, it isn't just me and most of the World (both free market and not), that consider the DOJ settlement to be a bad joke, but it also of the view of your coplaintives who have decided to continue the case on their own.

As a taxpayer, I find it miserable that my hard earned money can't buy me better representation against the big guy. You are cowards for not standing up to be counted. Hide your inferiority behind a faceless bureaucracy.

Do the right thing, punish Microsoft so that this doesn't happen again, and restore an innovative free market.

Stuart Simpson

MTC-00027441

From: James Tracy, Ph.D.
To: Microsoft ATR
Date: 1/28/02 12:31am
Subject: Microsoft Settlement

Please settle the Microsoft Case. It seems clear to me and many of my friends that the settlement is in the public interest. Only competitors can level the specious argument that Microsoft's innovation is an antitrust violation. Let's compete in the market place rather than litigate in the courts.

Dr. Jim Tracy

MTC-00027442

From: Kevin Bullock
To: Microsoft ATR
Date: 1/28/02 12:35am
Subject: Microsoft Settlement To whom it may concern:

The proposed settlement with Microsoft is woefully inadequate. It will not change their behavior as a corporation nor provide any meaningful benefit to the public interest. Please refer to Dan Kegel's comments at the following address:

http://www.kegel.com/remedy/remedy2.html

Also please take into consideration Ralph Nader and James Love's comments at: http://www.cptech.org/at/ms/rnjl2kollarkotellynov501.html

Thank you.

—

Pacem in terris / Mir / Shanti / Salaam / Heiwa

Kevin R. Bullock

MTC-00027443

From: David Fetrow
To: Microsoft ATR
Date: 1/28/02 12:32am
Subject: Microsoft Settlement

I have been a programmer for slightly longer than Microsoft has been in existence. I have used many of their products from CP/M Microsoft Basic onward through Office XP. I have a great deal of respect for the company but believe they will absolutely take advantgae of every legal, or remotely argueable legal, maneuver they can think of to expand Microsoft beyond its current desktop monopoly and they think very well.

They remind me of IBM in the early 80's that used its legal limits as a weapon (e.g. The famous IBM confidentially agreement. I may have signed one of these. I can't tell you. If we had a meeting, the IBM rep could have recorded it on video and showed it on TV).

In the past Microsoft has defined words as they see fit: Make a network browser part of the OS and they can bundle it (even if they also make it available on other operating systems such as MacOS and Solaris). This was a redefinition of what is usually called an operating system (as an aside: Notice they didn't include the profitable Office in that redefinition). In the early days of Windows NT, Steve Ballmer claimed NT Workstation and NT Server were different architectures. This is true only if you allow a couple dll's and some settings to constitute a different architecture. Not the usual definition.

My understanding is that Microsoft defines certain terms in the current proposal and that they must make public certain API's (defined by Microsoft) to competitors (also definited by Microsoft). I believe allowing them to define what constitutes the Windows API is a fundemental flaw. What is Windows? If the browser isn't part of the WindowsOS after all but all the internet functionality is folded into the browser code, can they keep the internet API's secret? What if they rename Windows "Doors"? How far can Windows morf before it is no longer covered? Is .net fundementally different from Windows?

I believe allowing them to define what a competitor is, is worse. Was Netscape a competitor? They admitted it was a threat but was it a competitor? Is Linux a competitor? Linux isn't even a company but a loose federation of sometime warring tribes. The public line is Linux is a niche OS, internally the infamous Halloween Documents show some real worry and preperations for battles: technical, legal and PR. Under this proposal Microsoft is thus able to provide huge barries to entry.

As a monopoly Microsoft can smoother innovations it isn't ready for by using these techniques to make the innovation unworkable in Windows until Microsoft can "innovate in" something they themselves own.... later on. Delaying rather speeding innovation. This is not (in my opinion) in the public interest.

David Fetrow
fetrow@apl.washington.edu/dfetrow@scn.org

My opinions are my own and may not be those of my employer.

(206) 850–3381

MTC-00027444

From: Doug Mitchell

To: Microsoft ATR
Date: 1/28/02 12:33am
Subject: Microsoft Settlement

In summary, I think this settlement is a bad one.

The longer version is that this settlement has one major loophole that jumps out to anyone who understands the first thing about the current state and near-term future of computing. Given the success that Microsoft has had in the past in twisting consent decrees, there are likely several other that are malleable to Microsoft's long-term plans. The major loophole is the provision which gives Microsoft control over information flow for the purposes of "security" and "authentication/authorization", among others. The next generation of Microsoft technologies (known as .NET) are distributed technologies that are totally reliant upon security and authentication. Any delay on information flow will damage, possibly irreparably, any possible competitive software. Without information from Microsoft, any work to reverse-engineer protocols would be a violation of federal law under the DMCA. Providing the legal cover for Microsoft to justify delays will provide Microsoft a window of opportunity to provide a competitive, bundled solution to undercut third-party software. It is quite frankly astounding that a provision that is this damaging to non-Microsoft software could even be considered minimally effective by someone versed in the software industry.

There are, in fact, several ways to fix this flaw. The simplest way would be to strike Section J in its entirety, but this would merely leave the rest of the hidden flaws. Another option would be for the federal government to simply drop the case, despite its victory in both trial and appelate court. This would go back to the status quo prior to the anti-trust action, but it would have the benefit of not providing legal cover for Microsoft to delay information. A far better solution would be to rewrite the entire solution to incorporate three features. First, reasonable and non-discriminatory licensing of the operating system to any and all vendors at equivalent pricing. Second, all API's for the operating system must be fully and openly documented, with no exceptions. This would protect the underlying source code of Microsoft and would encourage Microsoft to remove bundled features not essential to the core operation and therefore open the door for realistic competition. Third, full and open documentation of all data file formats. With these three components, Microsoft would be able to compete to the best of its ability, and third-party software would be able to do the same.

Doug Mitchell
Madison, AL

MTC-00027445

From: Robert A. Lentz
To: Microsoft ATR
Date: 1/28/02 12:37am
Subject: Microsoft Settlement To Whom it May Concern:

I am writing to exercise my right under the Tunney Act to comment on the proposed settlement of the United States vs. Microsoft antitrust case. I have been a using computers since the age of fifteen, when my parents got one at home. Since then I have been a continuous user of computers as a consumer, and based upon this experience I am opposed to the proposed settlement.

Over the past eightteen years I have seen many innovative and useful software programs be released by many different companies, and have been a satisfied customer of several of these companies.

Unfortunately, the lifespan of these companies has not been great. What I have seen repeatedly is that once their product becomes popular, Microsoft will copy its functionality into its products, Office and/or Windows, and the company will steadily lose customers.

So, what I have repeatedly seen is that my choice as a consumer has been diminished by the predatory practices of which Microsoft has been found guilty. To me, the proposed settlement has far too many conditions exempting Microsoft's behavior under certain conditions. This does nothing to improve my choice as a consumer in those areas. Nor do I see how this remedy allows for a climate in which new companies have air to breathe. As has been reported in the mainstream press, all venture capitalists ask potential software startups about how Microsoft competes (currently) in their area and what their plan is if Microsoft gets interested in the startup's area.

We have seen, in the instance of the web browser wars, how Microsoft will ruthlessly use any tactic to gain control of popular markets. While we are a free capitalist society, we do believe in fair competition, including anti-dumping statutes. Microsoft's size and resources, plus their desktop and "office productivity" monopoly allow them to unfairly tie and bundle, often "dumping" the product on the market at a great loss. As a consumer I feel this must be corrected.

Lastly, I must wonder about Microsoft's need to tie all this software into Windows. I thought Windows was merely the operating system. My understanding of a computer operating system is that it is supposed to provide the fundamental management of and interaction with the hardware that applications require. Thus, it seems to me that when Microsoft ties a software application to Windows, it is perverting what an operating system is supposed to be. I don't see merely bundling applications as "innovation", but rather as a marketing tactic in which Microsoft is abusing its monopolistic position.

Thank you for your time and attention.
Sincerely,
Robert A. Lentz
2200 Columbia Pike #513
Arlington, VA 22204
703-892-4306

MTC-00027446

From: Steve Thom
To: Microsoft ATR
Date: 1/28/02 12:53am
Subject: Microsoft Anti-Trust case

I respectfully ask that the proposed settlement be set aside, and the entire case be re-thought in light of continuing, dare I say increasing anti-competitive practices by the defendant.

History will regard this legal event as a watershed for Microsoft's goal of global information technology domination. Your decision in this matter will be either a textbook case for proper, restrained government intervention, or a case for the largest pass given in history. If the former is chosen, the climate will be shifted in favor of balance. If the latter is decided, Microsoft will be emboldened further. It may not be possible to have a case of this nature again.

Thank You,
Steven G. Thom
32 North 12th Street
Saint Charles, IL 60174-1725

MTC-00027447

From: Margaret C Worsham
To: Microsoft ATR
Date: 1/28/02 12:37am
Subject: Microsoft Settlement

I, Margaret C. Worsham, strongly urge the Justice Department to accept the Microsoft Settlement. The consumer interest has been well served and the time has come to end this costly and damaging litigation

MTC-00027448

From: Sean Turner
To: Microsoft ATR
Date: 1/28/02 12:39am
Subject: Microsoft Settlement

While Microsoft can be considered a monopoly, should they be punished for this? I used to be a Netscape User; then, when Internet Explorer 3 was released, I tried using it and found it to be substandard and buggy. As a result, I continued to use Netscape. Then, with Microsoft's release of IE 4, I found it to be much faster, more stable, and more feature complete then Netscape, and decided to switch browsers, not because it came bundled with my operating system, but because it was a superior program Microsoft ultimately developed a technologically superior product, is it not logical that people would then use it instead of Netscape? Should they be punished for this? Can you legally punish a company because they are successful? Microsoft integrated its browser to provide a better product for the consumer. They are in no way inhibiting Netscape's ability to accept. They in no way impede a user's ability to download Netscape and use it. Even AOL Time Warner believes IE is a superior browser. In their own AOL browser, they use the IE browser instead of Netscape. Success is not a crime.

Should they be punished for bundling their browser with Windows? Now, the browser is tightly integrated with almost all features of Windows. It is virtually impossible to separate the two. Every time you open "My Computer," view a help file, open Word, boot, or even view your desktop, you are using Internet Explorer. Back when Windows 3.1 was popular, IE didn't exist, and, users used a much more cumbersome and buggy interface to navigate files. Now, instead of using 2 different applications for folder browsing and web viewing, Microsoft integrated the two programs, in effect speeding up overall system performance and reliability. Furthermore, it also helps new computer users to "get online" without having to go through complex processes to install a browser. Now, all someone has to do is boot their computer, and they have all the software they need to connect to the internet. Should Microsoft be punished for enabling people such as my mother to effectively use a computer? If yes, then why not punish Apple? They have much the same approach. Apple controls the all the hardware used on their computers, and install Apple's own programs by default in an attempt to simplify setup for users, thus allowing the computer illiterate to use a computer without having to have a tech-savvy friend set it up for them. This strategy of simplification is used throughout the industry, why should only Microsoft be punished for it? You cannot separate Microsoft because everything is so tightly integrated. Microsoft is nothing without this integration, much like Apple is nothing without their tight integration of software and hardware. This is the direction the entire industry has taken, should we thus turn the clock back on the computer industry?

It is not the government's job to police the computer industry. Before the government tries to break up private monopolies, they should abolish their own. For example the US Postal Service was, for a long time, the only way to send mail, and thus, it had to reason to improve its services and was notoriously slow. With the advent of FedEx and UPS, the postal service has improved its service, but still is loosing market share because other carriers offer a better product. And now the government is trying to make taxpayers pay for its failure by trying to tax email. It is not the government's job to police private industry and punish companies for their success. For example, the government split the Bell phone companies, and at the time, many people reported even worse service then when they were a single company, hardly a win for consumers. I ask that the federal government and states drop all charges against Microsoft.

Sean Turner
Sales Representative
Rowena's Designs
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Web: <http://www.sensability.inc.new.net/> www.sensability.inc.new.net

MTC-00027449

From: Oz Suguitan
To: Microsoft ATR
Date: 1/3/02 12:41am
Subject: Microsoft Settlement

Please, please, please, do not let Microsoft get away with beating up the market. Don't let them continue to bully us into following their corporate strategy. I'd like to one day have a choice for word processors, choose a non-Microsoft product, and be assured that my documents and applications will work correctly. I'd like for Apple to have a serious chance at putting out a secondary OS, without fearing the loss of MS Office for Macintosh. I'd like to know that Microsoft's products, if I choose them, have been well tested by Microsoft, because of competitive pressures, instead of the current system where I'm forced to buy the damn software whether it's buggy or not, because ALL the applications I use (which are probably owned by Microsoft) will require an upgrade. There's no competition, because they were allowed to kill or brutalize their competitors unfairly. YOU NEED TO MAKE THEM PAY FOR PAST MISTAKES TOO. I know that this case only focuses on the Netscape stuff, but don't forget what happened to Novell, Borland, and others. They need to be broken up. This is the best way to get them to follow the rules and play fair!

This settlement stinks. Donations of THEIR software and hardware to charities only propagates use of their software and hardware. You are just giving them what they want. I'm disgusted.

Oz Suguitan

MTC-00027450

From: J. Scott Edwards
To: Microsoft ATR
Date: 1/28/02 12:41am
Subject: Microsoft Settlement

Hello,

I wanted to submit my comments on the proposed Microsoft settlement. I am very much opposed to the settlement. I don't feel that it goes far enough to restore competition in the computer industry. I am much more impressed by the 9 dissenting states proposal, and I beg you to reject the current settlement and back the remaining states.

First of all I feel that the settlement was prompted by the Bush administration and therefore it was very much politically motivated. In my mind there is no way that this settlement would ever have happened under the Clinton administration. I also read that Microsoft donated far more money to the Republican party, and there is no doubt in my mind that they wanted to get Mr. Bush elected. I feel that the settlement should be rejected on this basis alone.

Second of all, Microsoft's monopoly has not been a benifit to the public. Since the trial began, a promising competitor to Microsoft (Be Inc. makers of the excellent BeOS) has gone out of business. This was no doubt due to Microsoft controlling the boot loader. While the settlement addresses the boot loader issue, I don't feel that it goes far enough to prevent future abuse. If I had my way I would force Microsoft to make all of their systems dual bootable by default. Linux is free, they should have to include it with Windows to give the public an option. Or better yet: make Microsoft pay to resurrect BeOS and include it on some computers systems.

Third, I have just discovered in the last few days that Microsoft has extended their monopoly in yet another way, right under your noses. There are now audio CD's on the market which will only play on computers with the Windows Operating Systems (for example the CD More Fast and Furious). This is an OUTRAGE!! There is no way that they should be allowed to sell CD's that are only playable on machines with Windows.

Another recent example is Microsoft suing Lindows, saying people will confuse Lindows OS with Windows XP. This is rediculous, it is obviously another attempt my Microsoft to quash a competitor.

I could go on, but I will end it here with a request to PLEASE reject the settlement. Thanks for your time.

James Scott Edwards
Salt Lake City, UT

Please note that I am not affiliated in any way with any of Microsoft's competitors. I am a software engineer and I have worked on and used many different computers systems in the last 25+ years. I have seen many abuses by Microsoft and I hope that you can stop them and restore competition in this industry.

CC:sedwards@qrwsoftware.com@inetgw

MTC-00027451

From: Christopher N. Deckard
To: Microsoft ATR
Date: 1/28/02 12:40am
Subject: Microsoft Settlement

Hello,

I am concerned about the settlement between the US Department of Justice and Microsoft Corporation. After years of court battles, depositions, shuffling of paper, it seems that we are no where near a settlement which will punish Microsoft for their monopolistic behavior, and we are no where near a settlement which will protect not only the Open Source community, but closed source corporations as well.

I am particularly concerned about the fact that there is nothing in the settlement which prevents, or punishes, Microsoft in the event that they "sabotage" Windows applications to not run properly on competing operating environments. Within the next few years, there will be many applications which have the ability to run Windows software, but not on a Microsoft Windows operating system. Particularly software from the Wine project. Microsoft is known for sabotaging software to not function as intended on competing products.

Take for instance Digital Research's DR-DOS operating system. (Digital Research's successor is Caldera). Microsoft added code to beta copies of Windows 3.1 so it would display spurious and misleading error messages when run on DR-DOS. They are known for these kinds of practices, and if there is nothing in place to prevent them from doing it again, it will happen. In the case of the Wine project, this would completely put an end to any kind of functioning software which Microsoft didn't have under its monopolistic grip.

I strongly urge the US Department of Justice to take a better look at a proper settlement. One which will benefit not only the Open Source development community, but competing corportations as well. The DOJ has spent years trying to do the right thing... the DOJ should end it the right way.

Thank you,
Chris
Christopher N. Deckard
Lead Web Systems Developer
cnd@ecn.purdue.edu
Engineering Computer Network
http://www.ecn.purdue.edu/
Purdue University

MTC-00027452

From: ddj@aros.net@inetgw
To: Microsoft ATR

Date: 1/28/02 12:41am
Department Of Justice
Microsoft Case
Tunney Act comment
January 28, 2002

At the request of the DOJ, this Tunney Act comment is being submitted by email.

The Revised Proposed Final Judgment in U.S. vs. Microsoft is not in the publics best interest, because Microsoft's monopoly will remain intact.

Some concerns are:

1. The court has determined that Microsoft maintained its monopoly illegally, partly by overcharging consumers, worldwide. The United States taxpayers should not shoulder the burden for the expenses that Microsoft will incur to mitigate the illegal activity. Microsoft management and/or shareholders should pay the expenses, after taxes have been calculated. Will Microsoft be permitted to use the expenses incurred as a result of this settlement, to reduce taxable income?

2. Microsoft's illegal activities extend to most of its products, however, the Revised Proposed Final Judgment generally only addresses a type of product referred to as "middleware". Will there be further litigation that addresses the Operating System and other products?

3. The proposed resolutions may provide some relief for ten or twenty large companies, under licensing agreements, but Microsoft remains in control. How will small companies and not-for-profit organizations compete?

4. Most, if not all of Microsoft's "inventions", have come from competitors, or academic institutions funded, in part by the very consumers that Microsoft has exploited. Does the Revised Proposed Final Judgment change what was illegal and unethical in the past, into legal and accepted activities?

5. The damage done to consumers by this monopoly goes well beyond monetary damages. The restrictive way in which Microsoft constructs its products, makes it very difficult and expensive to use the full potential of a computer. The lost opportunities to gain new knowledge and abilities, are enormous to children and adults, especially to those that are monetarily disadvantaged. Will the Revised Proposed Final Judgment be a tool for widening the information divide?

6. Microsoft's model encourages monopoly by default. To share ideas with someone that uses Microsoft products it is easier and sometimes necessary to use Microsoft products. This isn't a technical requirement, it is deliberately enforced by Microsoft's business practices. If the Revised Proposed Final Judgment is adopted, will people still be obliged to purchase Microsoft products to communicate with people that only have Microsoft products?

7. Competition is an essential component of the United States economy. Without competition there is no way to set a fair value for products and services. By allowing Microsoft to continue controlling the computer software industry, it will not be possible to determine a fair value for the products and services that the software industry produces. If the Revised Proposed Final Judgment is accepted, what will stop Microsoft from pursuing its monopoly?

8. It seems unnatural for one company to control the tools of communication. Microsoft didn't invent; the computer, software, email, or the Internet. Yet, Microsoft has control, or, is pursuing control of all those and other communication tools. This control, which has been obtain by illegal activities, would not be palatable even if it had been obtained legally. If the Revised Proposed Final Judgment is approved will Microsoft still be permitted to control communication?

9. The Free Software (free as in free speech) and Open Source communities have a healthy amount of competition in each type of product that they produce. These communities are populated by talented professionals and, also, by those that are learning. If the environment that Microsoft participates in is healthy why is there no competition?

10. The founder of Microsoft, William Gates, has publicly referred to Free/Open Source software as a cancer. Some of the groups and individuals in Free Software/ Open Source communities, feel that it is more important to help disadvantaged people, than to be paid for their time and expertise. Will Microsoft be allowed to destroy these communities?

Those are just a few of many concerns raised by the Revised Proposed Final Judgment in, U.S. vs. Microsoft This settlement was arrived at during a time of unprecedented grief and tragedy for the United States and World, following the events of September 11, 2001. Further pressure was put on those in the Judicial branch by President Bush, when he asked that this case be settled quickly. The terrorists should not be allowed to affect the good judgement of those that uphold the law.

The following is an example of misinformation that is present in this case:

Quoting from the Competitive Impact Statement, under, B. Factual Background, 1. Microsoft's Operating System Monopoly "Microsoft has monopoly power in the market for Intel-compatible personal computer operating systems and undertook an extensive campaign of exclusionary acts to maintain its operating system monopoly. The relevant market for evaluating Microsoft's monopoly power is the licensing of all Intel-compatible personal computer operating systems worldwide. Intel-compatible personal computers are designed to function with Intel's 80x86 and successor families of microprocessors (or compatible microprocessors). Operating systems designed for Intel-compatible personal computers do not run on other personal computers, and operating systems designed for other personal computers do not run on Intel-compatible personal computers. Moreover, consumers are very reluctant to substitute away from Intel- compatible personal computers (for any reason, including an increase in operating system prices) because to do so would entail incurring substantial costs and would not result in a satisfactory substitute. Thus, a monopolist of operating systems for Intel-compatible personal computers can set and maintain the price of a license substantially above that which would be charged in a competitive market without losing so many customers as to make the action unprofitable."

This statement comes to a correct conclusion, but the facts are wrong. Operating systems can and are built to run on a variety of microprocessors. Debian GNU/Linux supports several microprocessors. Microsoft makes huge profits, but has ignored the other microprocessor manufactures, probably because the profit margins wouldn't be as high. This practice may be good for Intel, but isn't good for Intel's competitors, and it isn't good for consumers. The reason everyone uses Microsoft products, is that Microsoft products will not communicate with other software. Microsoft and Intel don't have technically superior products, they are locked in a monopoly, that is driven by Microsoft's unwillingness to communicate.

The standards for formating documents, spreadsheets, etc., need to be in the public domain. We need to be able to communicate freely. The free market system needs to be dominated by healthy competition, not by monopolies.

The states that did not agree to the Proposed Final Judgment, have written a proposal that could break the monopoly that Microsoft holds. It is not the only possible solution. Any workable solution must remove control of the standards from Microsoft.

The Revised Proposed Final Judgment; is not in the publics best interest, will not remove the monopolist powers from Microsoft, will not provide justice for those that have been and are being harmed. I ask that Judge Colleen Kollar-Kotelly not accept the Revised Proposed Final Judgment.

Thank you for your consideration.
Douglas Jensen
South Jordan, Utah USA
computer user

MTC-00027453

From: Paul Shryer
To: Microsoft ATR
Date: 1/28/02 12:42am
Subject: Microsoft Settlement

I am writing to express my disagreement with the proposed settlement between US DOJ and Microsoft.

I am a Information Technology Professional who works on a daily basis with Microsoft software and license agreements. There are many problems I have noticed with the Final Judgement proposed by the DOJ, I shall mention the two greatest issues I have with this settlement.

1. A provision is included to "prevent Microsoft from using Anti-competitive practices against OEM who load competing practices." There is a big loophole in this provision unfortunately. It does not prevent Microsoft from charging a set price to all OEMs and then providing discounts and rebates to OEMs that sell only Microsoft products or that help Microsoft extend its monopoly into additional markets. Several companies currently use similar agreements and programs. It would take little effort for Microsoft to adopt similar practices.

2. This proposed final judgement does not seem to have any sort of enforcement. While it is true that the proposal calls for a three person panel to review the activities of Microsoft I seen nothing that empowers the panel to do anything more than recommend to Microsoft management. They do not seem to have any real power to overrule management and prevent

Microsoft from undertaking anti-competitive practices.

Paul Shryer
Network Technician
Duluth, MN

MTC-00027454

From: Stevens, Derek
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 12:43am
Subject: MICROSOFT SETTLEMENT

DR SIRS,

I HAVE BEEN WATCHING THE UNFOLDING OF THE MICROSOFT CASE AND I AM CONVINCED THEY HAVE BEEN RAILROADED. I THINK NOW IS THE TIME TO GET THIS THING BEHIND US, AS OUR COUNTRY IS ABOUT TO HEAD OUT OF RECESSION. AFTER WATCHING THE ENRON DEBACLE AND THE CS FIRST BOSTON ESCAPADE I CAN'T REALLY SEE WHAT MICROSOFT IS BEING PUNISHED FOR? SO I THINK THE SETTLEMENT IS A FAIR ONE AND LETS GET ON WITH OUR LIVES.

THANK YOU,
DEREK G. STEVENS

MTC-00027455

From: Brian Reed
To: Microsoft ATR
Date: 1/28/02 12:43am
Subject: Microsoft Settlement

Hello,

I write to comment on the proposed Microsoft settlement as a software programmer/consultant for the Windows platform for over 5 years (and for MS-DOS 10 years before that) In summary I feel the settlement is well intended but falls well short of appropriate action.

I don't suggest or desire radical action like splitting up the company or forcing release of their source code, and I'm not confident either would help the computing consumer anyways. For me, it's very much about fair marketing and advertising practicies. The settlement must be more forward looking. The harm done in the past by MS marketing, advertising, OEM deals, etc methods cannot be undone ... the question is where do we go from here, today. For the last couple years, the DOJ suit has forced them to tread lightly ... that in itself has been halfway helpful, thank you! MS must be relieved of power to regulate their OEM resellers and competition as they have done in the past. It is the resellers that can best customize systems for clients and move the state of the art of computer use ahead, now that there are many qualified personal & business OS options.

Attention must also be given to MS affiliations. Monopoly power can be abused here especially, for example the advertising of affiliates and 3rd parties embedded in every Windows install I've seen since Win95. Or especially the old MSN "deal" with new PCs... users committed to 3 years of MSN membership to get a rebate on the PC, only to find out that the MSN ISP usage is a horrible pain in the neck that they've contracted to for the full term. The new MSN deal is that it's free for a limited term (I believe 1 year), but what they don't tell us is that it's a *LIMITED* MSN connection (not the typical Windows OS DialUp!), and that it requires extra, custom MSN software which itself is practically unusable. Also, I believe the proposed settlement has many loopholes, with many due to insufficient definitions of terms like "API".

Thank you for the opportunity to submit my comments,

Brian G. Reed
Warren, MI 48088

MTC-00027456

From: Mark Hinds
To: Microsoft ATR
Date: 1/28/02 12:43am
Subject: Microsoft Settlement

The proposed settlement fails to restore or protect competition in the PC OS market place. It seems to legitimize MS's monopoly and places far to much discretion in MS's hands. One need only apply the following simple test. If MS agrees to something then it must be good for MS. MS has agreed to this settlement and therefore the settlement must be good for MS. If the settlement did protect and foster future competition then MS would not agree to it. It is simply a fact that MS will have to be ordered to do anything of substance to remedy its abuses. It is very disturbing that the DOJ has opted for expedience in place of justice and public benefit. With real competition the price of PC operating software would be 1/10th of today's MS prices, and quality (i.e. robustness and security) would be years ahead of MS's current quality.

MS used its PC OS dominance to extinguish Netscape. It has been found that this was done deliberately to protect its PC OS monopoly. MS must not be allowed to benefit from this illegal conduct and must be prevented from repeating such conduct in the future. The proposed settle makes no effort to deprive MS of any benefits it accrued as a result of illegal conduct, does nothing to mitigate the effects of the conduct, and makes only a sheepish effort to prevent it in the future.

I strongly urge the court to reject this settlement and hold proper public hearings to find an effective remedy. Further, I see the only effective and workable remedy to be structural. It will not be possible to enforce conduct remedies with MS. It has not worked in the past and will not work in the future.

Mark Hinds
Concerned US Citizen
Senior SW Engineer
Edmonds WA 98020

MTC-00027457

From: Suen Kit Chau (Jason)
To: Microsoft ATR
Date: 1/28/02 12:30am
Subject: Microsoft Settlement.

Dear U.S. Department of Justice

As I read from your website, the United States and Microsoft tentatively agreed to the entry of a revised proposed final judgment to resolve the United States'' civil antitrust case against Microsoft on November 6, 2001. I believe Microsoft is not guilty because of following points.

(1) In 1995 years, No one can believe computers can develop or improve that fast. Microsoft Internet Explorer Web browser combine with Windows operating system. However, it is just a part of system in operating system. And unfortunately, other co-operate such as Netscape also created same system. It will not be happened if US government can make a law especially for computer system.

(2) I believe it is only a kind business method. If other company can have that powerful to compete with Microsoft, Windows will not longer be the popular operating system anymore. Strongest company can earn more money than other. It is the rule in the business world.

(3) However, I think Microsoft should have partnerships with other company, such as Netscape, JAVA, Sun Microsystems. Seen that, customer can get more benefits.

thanks for reading my email.

Suen Kit, Chau

MTC-00027458

From: john paulson
To: Microsoft ATR
Date: 1/28/02 12:47am
Subject: Microsoft Settlement

Greetings,

I oppose the proposed settlement in the Microsoft anti-trust case for the following reasons:

The Microsoft Office suite is one reason for the entrenchment of the Windows operating system on personal computers. The lack of viable non-Microsoft equivalents to MS Office is one source of that entrenchment. Document formats are descriptions of the files produced by the Microsoft Office suite of products (MS Word, MS Excel, MS Powerpoint).

Document formats are distinct from APIs.

Nowhere is there a requirement that Microsoft document and freely disclose the document formats used by their office products.

Because the document formats are not available, developers of products wishing to inter-operate with or compete with those of Microsoft Office must reverse engineer the document format. Besides being time consuming, this is an error-prone process. The resulting products fail to work as well with the documents. In addition, changes made by Microsoft to those document formats when new versions of Microsoft products are released require non-Microsoft to once again perform reverse engineering. This delays the release of competing products, further cementing Microsoft's entrenchment in office productivity applications.

THEREFORE:

Microsoft must document the formats of files produced by their office productivity applications.

Microsoft must make that documentation freely available, so that non-Microsoft products can read and write documents produced by Microsoft's office productivity applications.

And, Microsoft must release the document format concurrently, if not prior to, the release of newer versions of Microsoft's office productivity applications.

Section III(J)(2) contains some very strong language against not-for-profits. Specifically, the language says that it need not describe nor license API, Documentation, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business: "...(c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, ..."

(The above quotation is from http://www.pbs.org/cringely/pulpit/pulpit20011206.html) As that article states, Microsoft faces competition from open source software, such as Linux, FreeBSD and Samba. Microsoft should not be allowed to forbid disclosure to asymmetric threats to its dominance.

THEREFORE:

Microsoft should release the API, Documentation and Communications Protocols to all who ask, or make it freely available (by placing on their website, www.microsoft.com). This will in no way hinder Microsoft's ability to innovate and develop new products and combinations of products, but it will allow non-Microsoft developers to inter-operate with Microsoft products.

Microsoft has proposed deploying many millions of dollars worth of computers and (Microsoft) software to (K-12) schools. This should be rejected out of hand. Currently, the only meaningful competition Microsoft has in the K-12 education marketplace is Apple Computer. Were Microsoft to —sell— computers running Microsoft software to schools at discounts of 80 to 90%, it would be viewed as an anti-competitive action by a monopolist: dumping. Giving it away can only be worse, (mega-dumping?).

THEREFORE:

Microsoft should not be allowed to donate computers and software. If Microsoft wishes to aid schools in this wise, it may donate money and allow the educators to decide how to spend it on computers and software.

Sincerely,

John Paulson

MTC-00027459

From: Brendel, Gregory J
To: Microsoft ATR
Date; 1/28/02 12:51 am
Subject; Microsoft Settlement (Please Support)

January 16, 2002
Gregory Brendel
4650 Cole Avenue #326
Dallas, TX 75205-5547
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I want to take a moment to express my support for the recent settlement concluded between Microsoft and the Department of Justice. I believe this agreement is good for the computer industry and consumers in general. The settlement is comprehensive and requires many concessions from Microsoft. For example, Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products. Also, Microsoft will be monitored under the agreement by a three-member Technical Committee to assure the company meets its obligations. This committee will also take complaints from any third party who feels Microsoft is not complying with any provision of the settlement. As a worker in the computer industry, I understand the importance of Microsoft to our industry and the entire economy. I also believe the government has more important matters to handle than to penalize a great American company such as Microsoft. Please focus my tax dollars on Homeland security and also on protecting U.S. Companies from illegal competition from foreign companies. Please look into tactics of the Japanese companies who control the flat panel computer screen market.

In summary, I hope the federal government will continue to support the settlement and not reopen litigation.

Sincerely,

Gregory Brendel

MTC-00027460

From: Thomas J. Valerio
To: Microsoft ATR
Date: 1/28/02 12:51am
Subject: Microsoft Settlement

My name is Thomas Valerio. I've been a professional programmer for more than 20 years now, a large part of that spent as a systems programmer working on an operating system used by the University of Michigan. In the late 80's the University of Michigan made the determination that it was no longer in the best interest of the university to put a large amount of effort into operating system development and made a determined effort to migrate off of the operating system that it had helped develop. In the summer of 1996 that migration was substantially completed and the university ceased all non-comercial operating system operation and development. As an active developer of that operating system I was clearly at a crossroads in my career, in retrospect I realized that my concern for my future was not tied specifically to the operating system that I had spent so much of my professional life working with, but that I was unlikely to see the inside of another operating system unless I went to work for a commercial operating system company. After 20 years in a university environment, I felt that that was clearly an unlikely option. It was around this time that I discovered Linux. In the 6 years that have passed since then the computing landscape has changed dramatically. In particular Microsoft has developed from a major player into a monopoly and we have arrived at the point where it has no viable commercial competition. It does, however, have the possibility of some very serious competition in the form of Linux, and the support of the legions of individuals that quietly and persistently move Linux and other open source projects forward. In order for that competition to flourish however, it must have the blessing of the court. While I certainly am aware of the genesis of the current anti-trust case with respect to Netscape, the fact is that that particular battle has been lost and like Humpty Dumpty and the Kings Men, there is nothing that the court can do about it. So, to get to the heart of my point, the most disappointing aspect of the Proposed D.O.J. settlement is that when the possibility of serious competition from Linux and Open Source looks the most promising, the proposed settlement is silent with respect to non-comercial solutions, which are clearly the only real, viable competition in sight. There are clearly many other aspects of the proposed judgment that argue for it's rejection by the court and I would like to express my support for most of them as well. I accept the fact that this has been an extremely difficult case and a very drawn out process, however I think the court has an obligation to reject this proposed settlement and failure to reject it will have a serious, detrimental, and long lasting negative impact on the entire software business. I apologize for a less than elegant presentation of my argument, others have written far better on this subject than I, and I want to thank the court for considering my opinion.

Thomas Valerio

MTC-00027461

From: Eli Arnold
To: Microsoft ATR
Date: 1/28/02 12:53am
Subject: Anti-trust

I have just cancelled my AOL subscription upon learning that they had joined the attack on Microsoft. To create a product and sell it with conditions is neither immoral, nor illegal, and the Sherman anti-trust act is being once more used in a contradictory, unfair, and unjust manner. AOL has in no way been wronged by Microsoft and neither has Internet Explorer. I personally use microsoft products everyday, and they are well designed and quality products. Microsoft is the shining example of American productivity and achievement and is personally inspiring to me. It seems that the original American values, ingenuity, independence, economic and social freedom, are quickly being destroyed by overregulation, concern for the public good at the expense of the individual, and "economic rights." Their is no right to a profit, nor to success, and the states and corporations suing Microsoft should take notice of the fact. Microsoft has never used physical coercion to pursue it's "interests." The same cannot be said for the United States Government. I am an intelligent, competent and capable young man, but watching what's being done to Bill Gates I feel a hesitation to pursue achievements of my own in this nation. I could not keep quiet, as he has, and watch, while people who could not have written a single line of Explorer's code determine the future of his lifes work, of his personal achievements, and prevent him from being able to plan a single day ahead, as he cannot plan for the arbitrary whims of society. Someday, a nation will inherit the moral legacy which the founders of this nation reached nearest, and the productive and intelligent members of this society will desert. You read these letters, because the opinions of the majority seem to be surpassing in importance the notion of individual rights. Its Socrates execution all over again.

Eli Arnold (503) 254 8513
15811 E. Burnside St. Portland OR 97233

MTC-00027462

From: shinpou@clubaa.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:56am
Subject: Microsoft Settlement

Dear Sir:

If public profits are considered, Microsoft Corp. should provide ANSI with Windows 98, WindowsME, and Office2000, and it should withdraw them from the client market.

Sincerely
ASKA Intelligence Systems, Inc.
TEL 81–722–80–0918 / FAX 81–722–80–0917
e-mail:sympoe@askainfo.co.jp

MTC-00027463

From: Jeff Rehbein
To: Microsoft ATR
Date: 1/28/02 12:55am
Subject: Microsoft Settlement
January 27, 2002

To Whom it May Concern:

In accordance with the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. I believe that there are many problems with the proposed settlement. As shown by Dan Kegel's open letter (http://www.kegel.com/remedy/remedy2.html), there are so many holes in the settlement that it is essentially useless. However, I will focus my comments on a specific group of actions by Microsoft that affect my work directly.

I work as a Macintosh game developer. My work entails both porting games originally written for the Microsoft Windows platform to run on the Macintosh platform, and writing original games for the Macintosh platform. In the following paragraphs, I will show how Microsoft's anticompetitive actions have harmed (and are continuing to harm) me, my company's customers, and the customers of virtually all developers of games for the Macintosh.

In 1992, OpenGL was introduced as an open standard application programming interface (API) for 2D and 3D graphics. Over the years, it has gained wide adoption by operating system vendors (OSV) and graphics sub-systems hardware vendors (GSHV). Seeing that adopting OpenGL would increase the number of games available for the Windows platform, Microsoft adopted it. However, Microsoft only adopted it because it didn't have a competing product.

As Microsoft has done time and time again, it quickly turned out it's own version of someone else's innovation. In this case (as in most cases), it's version (Direct3D) was nowhere near as good as the original. However, Microsoft tied it to Windows (still on the same pattern) and to its development environment and some developers used it. Recently, Direct3D has became good enough to compete with OpenGL. So what did Microsoft do? It removed OpenGL support from Windows XP before release—support that was already there. OpenGL can still be used, but the support has to be added by each GSHV, seriously complicating the situation.

Removal of OpenGL support from Windows harms several groups of people:

1. Developers who know and wish to use OpenGL in a Windows application.
2. Developers who want to write 3D (and 2D) applications that can be compiled for Windows and other operating systems from one codebase.
3. Developers who port applications originally written for Windows to run on other operating system (the original application may have been written with OpenGL under different circumstances, making it far easier to port)
4. In the long run, other OSVs that depend on OpenGL will likely be harmed. This is because usage of OpenGL will drop off, which will lead to a stagnation in the OpenGL standard.

As if removing OpenGL support from Windows wasn't enough, Microsoft recently purchased key patents from Silicon Graphics, Inc. that may give it even more ammunition against the competing, open standard. I can't say for sure what Microsoft will do with this new power, but given its past history I think it's a sure bet that it will be bad for OpenGL, and by extension, bad for developers and consumers. One company should not be able to so negatively affect an open standard. Unfortunately, the proposed settlement does nothing to prevent this sort of activity. Microsoft also hurts all developers who port Windows games to the Macintosh by keeping all DirectX APIs usable on Windows alone. Microsof routinely changes the API calls so that developers can't make a "glue library" (a glue library is used to easily convert calls to one API to calls to different API) that can keep being used in each new project. There is no need to so routinely change the actual interface calls of APIs. Other OSVs do everything they can to keep those calls the consistent. Doing otherwise would break compatibility and drive away developers. Only a company with a monopoly could do this and survive. One DirectX API in particular gives port developers trouble—DirectPlay. DirectPlay is an API that makes it relatively easy to add networking features to a game. Because of the lack of documentation of the internal message structure, any port of a game originally written using DirectPlay cannot communicate with the original version. This relegates users of the ported version to a second-class status. Although technically possible to reverse-engineer the protocol, Microsoft actively thwarts such attempts. The one known instance where the protocol was reverse-engineered and used in a product (which took 6 months), Microsoft promptly overhauled the protocol and released a new version which completely broke the compatibility. Microsoft's actions with the DirectX API serve solely to strengthen the applications barrier-to-entry, even at the expense of their own developers. Unfortunately, the proposed settlement does absolutely nothing to alleviate this or any problems concerning this barrier. The unfortunate truth of the matter is that there is no remedy for the above problems short of separating the OS business from the rest of Microsoft. As show in the previous reference to Dan Kegel's open letter and in my own, the proposed settlement will do little to limit Microsoft's anticompetitive behavior. It would be a grievous waste of taxpayer money if this settlement was the end result of the case. I implore you to reconsider this course of action.

Thank you for your time in considering this matter.

Sincerely,
Jeffrey Rehbein
Macintosh Games Developer

MTC-00027464

From: paul podnar
To: Microsoft ATR
Date: 1/28/02 12:56am
Subject: Microsoft settlement

I do not believe that the proposed remedies represent what is in the best interest of the people or the computer industry. My company has been damaged by the illegal workings of Microsoft and so have many others in the world.

The entire Apple computer platform and Motorola has been damaged by the monopolistic practices and pressure put on Apple to stop certain developments. Netscape went from a majority player in the browser field to a minority player and almost bankrupt. Java was corrupted by the efforts of Microsofts J++ development and not Microsoft is after the internet with their .Net strategy which was really built upon Netscapes efforts.

Microsofts efforts also misrepresent the stability and security of all their operating systems and application programs. Many individuals and businesses have been damaged due to lost work and downtime caused by the low quality standards of the Microsoft software.

My remedies would include:

1. A payment to Netscape/AOL for the market stolen by Microsofts free browser. This might be one half of current estimated Internet explorer users times about 29 dollars for the people that would have purchased a Netscape product.
2. A major free update of Windows 98 and the Office program which would run on the computers purchased by businesses in the 1998 year which would work as advertised and be much more stabile.
3. A payment made to Sun for damages done to the JAVA platform
4. A payment made to Apple computer for the damage to the internal development of software which is known in the industry including Quicktime and Apple Works.
5. The inclusion of Quicktime as the default Windows Media Player/ Authoring medium to generally further the multimedia capabilities of millions of Windows users.
6. The inclusion of firewire support on all Windows desktops to further the advance of this quality high speed Apple bus technology.
7. Finally, a public admission of guilt from Bill Gates as to his involvement in the above matters and a media broadcast of the trial findings and testimonies key industry and Microsoft personnel. I would find the truth of this case much more interesting than the

OJ Simpson trial and much more valuable to the industry, the populace and history.

Thank you for this forum to come forward and for a small part in the process of Justice.

Paul j. Podnar
President
Accommodata Corporation

MTC–00027465

From: Andy Cristina
To: Microsoft ATR
Date: 1/28/02 12:54am
Subject: Microsoft Settlement

To whom it may concern,

I apoligize for submiting this email so late, but I with to express my opinion that the proposed Microsoft Settlement is not sufficient to allow other companies to produce viable competing products. My main complaint is that Microsoft is not being asked to release the Microsoft Office document formats. In order for a competing product to have a chance, it must be able to let the user read and write Office files.

Andrew Cristina,
University of New Orleans,
Association of Computing Machinery Chair
Software Intern at Penta Corporation

MTC–00027466

From: Kent Rosenkoetter
To: Microsoft ATR
Date: 1/28/02 12:58am
Subject: Microsoft Settlement

As a graduate student in computer science (University of North Carolina—Chapel Hill) I cannot help but be aware of the Microsoft anti-trust case. And while I believe it to be one of the most important cases for the computer industry in years, I tend to avoid dwelling on it because all I can feel is frustration. Microsoft has:

1. Used their OS monopoly and OEM agreements to prevent any computer manufacturer from selling dual-boot systems, effectively killing BeOS and incredibly slowing the spread of other OSes, particularly Free Software and Open Source OSes.

2. Used their Windows OS to spread Internet Explorer and Outlook Express, making the entire world suceptible to hundreds of viruses that do not work on any other browser/email client. This costs American business alone billions of dollars every year.

3. Many other similarly disgusting actions I do not need to list because I know many of my colleagues have already done so in detail.

My frustration stems from the proposed settlement. First, that the breakup of Microsoft did not take place. Though I do not believe a mere two pieces would have been sufficient, it would at least have shown the public that the government is willing to mete out some serious punishment for such flagrantly illegal behavior. Second, that such a puny settlement would be proposed and even endorsed by members of the government. The settlement does not adequately restrict MS's future behavior, it leaves huge loopholes for exploitation, and it for the most part neglects the concept of compensation. While I believe the settlement may have been negotiated in good faith by the prosecutors, the final agreement does not account for the severity of the crimes or for MS's habit of exploitation and arrogance.

Actually, I do not believe that any settlement negotiated with Microsoft will be in the public interest. Microsoft's lawyers will not agree to anything that will seriously curtail MS's activities, and MS's activities are entirely centered around control of all aspects of computing. No, that is not an overzealous fanatical statement. That is a direct extrapolation of the past trends that led to MS's current monopolies in operating systems, office software, and web browsers, extended to current plans like .NET and subscription-based software licensing. Any final judgement capable of effectively affecting Microsoft will never be agreed to by Microsoft.

This email is meant to express extreme displeasure with the proposed settlement. It is not meant to offer possible alterations for the reason above. Though my original thought when I learned of the breakup Judge Jackson ordered was "Three companies. Operating Systems, Applications, and Web Services." It seems that won't happen now. If you truly want an effective solution, force Microsoft to pay damages to every person and business that is a victim of a Microsoft-only virus. That will not eliminate their monopolies or promote competition for the future, but it will certainly take away their financial gain from their illegally acquired monopolies. It will also make the millions that have been victims of the serious problems in Microsoft software feel a little better.

Kent Rosenkoetter
Graduate Student
University of North Carolina at Chapel Hill

MTC–00027467

From: Eric Weeks
To: Microsoft ATR
Date: 1/28/02 12:59am
Subject: Microsoft Settlement

I wanted to take some time and proactively tell you that I am very disturbed at the proposed Microsoft settlement. Microsoft's actions have been devastating to many companies and in the industry and have significantly slowed innovation and progress. Their claims to the contrary are ludicrous upon a review of their effect on the industry.

I am particularly concerned about their Trojan horse of "aid" to schools by donation of hardware (compatible with Windows of course) and software (surely their proprietary software) which can be donated at a real cost which is a very, very small fraction of the retail cost. The beauty of this arrangement for Microsoft is that it also gives them a greater market share in the one area they don't have a monopoly—schools. Apple is reportedly running scared and they should be. It's a hidden coup for Microsoft. Microsoft has broken the law and despite their benefit to the American economy, there have been corresponding, huge, losses in jobs, smaller, innovative companies, and value to customers. Look at the price of Microsoft Office. Look at how inferior software (Windows and countless other pedestrian Microsoft products) has become the de facto standard when reasonably priced, superior products (Macintosh OS, Oracle, Linux, Alternate DOS providers) barely survive or are quashed, squeezed out, or bought out by Microsoft. They are a monopoly that hurts the industry. These are only a few of the issues.

Please don't let Microsoft slip away. They need a reasonable punishment and organizational solution that will stop the abuses they have perpetrated and continue to perpetrate.

Thanks for your time.

Eric Weeks
Salt Lake City, Utah

MTC–00027468

From: ajg407@casbah.it.northwestern.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 12:58am
Subject: Microsoft Settlement

Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW., Suite 1200
Washington, DC 20530–0001

Dear Renata Hesse,

I feel that the proposed settlement with Microsoft does not prohibit Microsoft from continuing the anti-competative practices that that have been described in the finding of fact, and does not include sufficient remedies that are in consumer's best interest. Computers are a mainsay in the home, business, and research environments, and will only become more important in the future for increasing the quality of life in the United States. Allowing Microsoft to use its dominance in the these markets to maintain its position and stifle or buy-out competition is harmful to consumers and the economy by setting up large barriers for innovative software products to enter the markets. A satisfactory settlement must address these issues and have measures to monitor and significantly penalize Microsoft in ways other than giving away software for continuing the illegal practices that have been determined in the finding of fact.

Respectfully,
Aaron Gruber
Research Assistant
Northwestern University
2022 Colfax St Apt 2
Evanston IL 60202

MTC–00027469

From: David Joham
To: Microsoft ATR
Date: 1/28/02 1:01am

To whom it may concern,

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. I have been a software developer working with Microsoft and its competitor's products for over ten years. During this time, I have personally witnessed many overt acts of anti-competitiveness by Microsoft that have directly harmed my clients. When Microsoft was found guilty of being a monopoly, I was optimistic that at last, this behavior would be ended.

Much to my disappointment, the proposed settlement will do little to change the behavior of this monopolist in my situation.

Specifically, since my company is a small solution provider, section III.B allows Microsoft to continue their threats of retaliation if my company so much as hosts a training seminar with one of their competitors. While my situation may be viewed as an issue with a small group of Microsoft representatives, I believe that this small group accurately reflects the culture of the company at large. This culture has directly cost my clients many thousands of dollars and will continue to do them harm well into the future if the proposed remedy is allowed to stand. Specifically, the proposed remedy does little to prevent Microsoft from bringing harm to my company if I propose solutions to my clients that involve non-Microsoft software, even when this software is cheaper, more suited to their task and more appropriate to their situation. In addition to the above concerns, I believe that the proposed settlement has other serious flaws as well. However, I felt it best if I focused on how the settlement impacted me directly and let others speak about the more general aspects of the settlement.

To that end, I would like to echo the comments made by Dan Kegel, whose comments can be viewed at http://www.kegel.com/remedy/letter.html . I strongly support his overall comments on the proposed settlement and would like to add my voice to his.

Thank you for your time and attention in this matter. If there is any more information that I may provide to you to help you in your deliberations, please feel free to contact me.

Best regards,

David Joham

MTC-00027470

From: matchx70@hhotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:01am
Subject: Microsoft Settlement

A single minded focus of a great company like Microsoft—to simplify the computing experience, and making IT affordable to a common man—has really been a path breaking achievement of the 20th century. Any adverse judgement will only harm the end-consumer, who will be forced to cough up money for the most essential of features & innovations. Growth & well-being of Microsoft is essential to foster competition and health of IT industry not only in the US, but of the economy world-wide.

CC:matchx70@hhotmail.com@inetgw

MTC-00027471

From: George H. Darfus
To: Microsoft ATR
Date: 1/28/02 1:02am
Subject: MICROSOFT SETTLEMENT

Dear Sirs:

This E-mail is sent to urge you to hasten to a conclusion of the action against Microsoft. From what I have read on this matter, the tentative settlement which was reached some time ago seems like a reasonable approach.

As a consumer, I can very strongly state that I have not been hurt by Microsoft. Their products have been easy to use and are certainly fairly priced. As I understand, this area of law is supposed to protect consumers. The only way I have been hurt is that way too many of my tax dollars have been used to prosecute a company which, in my opinion, did not deserve prosecution.

Enough is enough. I thank you for taking the time to read my input.

Very respectfully,
George H. Darfus
LCDR, USN (Ret.)

MTC-00027472

From: Barton
To: Microsoft ATR
Date: 1/28/02 1:03am
Subject:

From: Tina Barton—Dighton, KS
Attorney Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW., Suite 1200
Washington, DC 20530

Dear Attorney Hesse,

While we appreciate all the work that has been put into the Microsoft antitrust case, I think America certainly can benefit from the settlement of the Microsoft antitrust case. I understand that 30 million dollars have been spent thus far on this case. Let's not spend any more.

Please thoughtfully consider accepting this final judgment and end this antitrust case.

Sincerely,
Tina Barton

MTC-00027473

From: Aaron Nemetz
To: Microsoft ATR
Date: 1/28/02 1:08am
Subject: MIcrosoft Settlement

Hello, I'm Aaron Nemetz, a student in eight-grade attending The Harker School. This as you presume is a letter about the recent cases on Microsoft. First I would like to talk about Judge Jackson's decision to split the company into many pieces. This for one is a horrible idea because it could lead to many monopolies, where each part will already have a huge user base, which seems to be very loyal to Microsoft's product. The company is like a worm, when you cut a worm in half trying to kill it the results are completely different. Over time there are two worms!! This is the effect that could possibly happen if this action was taken. Now for the recent case, where Microsoft is being tried upon the idea that they are breaking the Antitrust Laws by making a trust with Internet Explorer. This case can be taken many ways. One thing comes to mind is John D. Rockefeller, a businessman who monopolized the oil industry by the late 1800?s. His strategies were quit different; he would change prices in certain locations to run out the competition in those sites. That strategy was only used if other small companies didn?t agree to join him in monopolization by handing over all there refineries for some price. Looking over the history Rockefeller's Standard Oil Company one can conclude he used trusts, just like Bill Gates has done. Yet while Rockefeller's company joined with other companies in the industry, Bill Gates merged with software to only improve his own OP's efficiency and user-friendliness. Looking over the case I have a few more opinions. First as others believe this is yet another case started by AOL/Time Warner to slow down and make money off of Microsoft. One way I believe all Internet access companies can compete would be through rebates. Both Apple and Microsoft should come with a rebate, which would work on many of qualified Internet applications. This way competition would be restored once again. Even though the public does not seem to care too much about this monopoly I have thought of a simple plan that would replace interest in buying the best product.

THANX,
Aaron Nemetz

MTC-00027474

From: Tonitrus
To: Microsoft ATR
Date: 1/28/02 1:07am
Subject: Microsoft Settlement

I do not think the Microsoft settlement will help customers. Any reasonable solution must have ways for Windows programs to work on other Operating Systems, as Microsoft used its monopoly to get all of those programs over to the Windows platform. Also, the solution should allow users to choose what products they are purchasing, and not Microsoft. I personally believe that Microsoft should release the source code to Windows. This would allow the WINE (Wine Is Not an Emulator) project to fully emulated Windows, and allow Windows programs to run on anything that WINE itself will run on. This would also aptly punish Microsoft for its actions. The Windows source code should be put under the GNU Public License. This should be done for several reasons:

If Microsoft released Windows source code, they would immediately go back and start the same process over again, so that their next version could be properly rigged. (Undocumented APIs, for example). The GNU license would allow anyone to take any good points that Windows might have (I don't really know of any), and incorporate them into better things. Also, if the Windows code was under the GPL, Microsoft would have to release the source code with every release of Windows.

This would be the most effective way of shattering Microsoft's control of the OS market, and it would severely weaken them against their main competitor, Linux, which, due to the fact it lives off the GPL, would be able to appropriately absorb any necessary features that Windows could have. If the code were freely available, users would be able to decide for themselves what to get, by downloading the code, or getting it from a friend (legal under the GPL).

This is the most effective way of breaking Microsoft's monopoly on the OS market. Not only should the code be made available, but it should be GPL'd. The effects of this are very useful, and beneficial to everyone, except, of course, Microsoft. Also, the insult of having their OS GPL'd would put the message across very clearly to them.

excelsior,
Dustan Bower
315 Ladd rd.
Fishersville, VA
22939

MTC-00027475

From: PastorSmith@excite.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:03am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division 601 D Street NW., Suite 1200 Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Ken Smith
1223 Merry Brook Dr.
Kalamazoo, MI 49048

MTC-00027476

From: Michael L. Mitchell
To: Microsoft ATR
Date: 1/28/02 1:07am
Subject: Microsoft Settlement ** Secret **

Hello,

I would like to provide my comment on the settlement that the Justice Department has entered in with Microsoft. I believe that the settlement is quite adequate. If anymore were to be done it has a reverse effect of harming the consumer (me). I think it is time that this matter be settle and the allow Microsoft and the Justice Department move forward.

Thank you
Michael L. Mitchell
Brandon, FL

MTC-00027477

From: James Carter
'To: Microsoft ATR
Date: 1/28/02 1:07am
Subject: Microsoft Settlement

DOJ,

The proposed settlement is NOT in the publich interest... it is ineffective and has large loopholes. My name is James Michael Carter. I am a real person working in the computer industry (programmer) who can tell story after story of microsoft abuses. I have followed and complained about Microsoft abuses since the early 90's (before much of their behavior was successfully brought to the attention of anti-trust enforcers). (real person in contrast to Microsoft's fraudulant 'astroturf" fake citizen's responses which have been at least several times caught!) I am very much against the proposed settlement. It is not in the public interest. As a start, I advocate the changes proposed at: http://www.kegel.com/remedy/remedy2.html With further resources at: http://www.kegel.com/remedy/

Also I echo Ralph Nader's criticisms: http://www.cptech.org/at/ms/rnjl2kollarkoteltynov501.html

To highlight some general problems, there are not protections for Non-MS operating systems to get hold of technical interoperability details and API's in order to build compatible and/or competing products and systems. Further, MS should not be allowed to buy technology companies.., they absorb and kill off competition and gain beach-heads ensuring the next big thing will be in their controls—leveraged off their existing stranglehold and $36 billion bank account. Profits they did not mine from the ground, but taken off the backs of consumers!! Microsoft yells how all they want to do is innovate and compete .... yet their behaviour and snubbing of the law and our courts show their words are as trustworthy as their products" security. Make MS publish any and ALL API's, protocols, and file formats 3 months before any distribution so others may compete with them (as they profess to want).

Prevent them from buying any other companies (to make them compete and —innovate— as they claim they want to do. Make them publish all their source code.

Microsoft wants to innovate— and —compete— ?? Well then make them do exactly that .... Microsoft's history shows they do all to NOT have to compete... So, let's finally make them do what they —CLAIM— is all they want to do .... The public interest requires it.

I also think microsoft should be broken up by product lines. Structural remedies are often only remedy to fix where company shows in its history to ignore consent decrees and have a penchant for not complying and for litigating (delaying until the damage is already done) (years and years now...).

I am a modestly self-employed programmer, who has personally suffered and seen the abuses at the hands of Microsoft. Please don't let the average folks down.

I would help you with new remedies or evaluation of such in any way I can.

sincerely,
James Carter
221 Hosea Ave. Apt. 2
Cincinnati, Ohio 45220
(513) 559–9701
jcarter9@fuse.net

I attach for completeness the kegal analysis remedy fixes (which I endorse and propose as well):

http://www.kegel.com/remedy/remedy2.html

On the Proposed Final Judgment in United States v. Microsoft Contents

Introduction
Understanding the Proposed Final Judgment
How should terms like "API", "Middleware", and "Windows OS" be defined?
How should the Final Judgment erode the Applications Barrier to Entry?
How should the Final Judgment be enforced?
What information needs to be released to ISVs to encourage competition, and under what terms?
Which practices towards OEMs should be prohibited?
Which practices towards ISVs should be prohibited?
Which practices towards large users should be prohibited?
Which practices towards end users should be prohibited?
Is the Proposed Final Judgment in the public interest?
Strengthening the PFJ
Correcting the PFJ's definitions
Release of Information
Prohibition of More Practices Toward OEMs
Summary

Introduction

As a software engineer with 20 years" experience developing software for Unix, Windows, Macintosh, and Linux, I'd like to comment on the Proposed Final Judgment in United States v. Microsoft.

According to the Court of Appeals ruling, "a remedies decree in an antitrust case must seek to 'unfetter a market from anticompetitive conduct', to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future" (section V.D., p. 99).

Attorney General John Ashcroft seems to agree; he called the proposed settlement "strong and historic", said that it would end "Microsoft's unlawful conduct," and said "With the proposed settlement being announced today, the Department of Justice has fully and completely addressed the anti-competitive conduct outlined by the Court of Appeals against Microsoft."

Yet the Proposed Final Judgment allows many exclusionary practices to continue, and does not take any direct measures to reduce the Applications Barrier to Entry faced by new entrants to the market. The Court of Appeals affirmed that Microsoft has a monopoly on Intel-compatible PC operating systems, and that the company's market position is protected by a substantial barrier to entry (p. 15). Furthermore, the Court of Appeals affirmed that Microsoft is liable under Sherman Act ? 2 for illegally maintaining its monopoly by imposing licensing restrictions on OEMs, IAPs (Internet Access Providers), ISVs (Independent Software Vendors), and Apple Computer, by requiring ISVs to switch to Microsoft's JVM (Java Virtual Machine), by deceiving Java developers, and by forcing Intel to drop support for cross-platform Java tools.

The fruits of Microsoft's statutory violation include a strengthened Applications Barrier to Entry and weakened competition in the Intel-compatible operating system market; thus the Final Judgment must find a direct way of reducing the Applications Barrier to Entry, and of increasing such competition.

In the following sections I outline the basic intent of the proposed final judgment, point out areas where the intent and the implementation appear to fall short, and propose amendments to the Proposed Final Judgment (or PFJ) to address these concerns.

Please note that this document is still evolving. Feedback is welcome: to comment on this document, please join the mailing list at groups.yahoo.com/group/ms-remedy, or email me directly at dank-ms@kegel.com.

Understanding the Proposed Final Judgment In crafting the Final Judgment, the judge will face the following questions:

How should terms like "API", "Middleware", and "Windows OS" be defined?
How should the Final Judgment erode the Applications Barrier to Entry?
How should the Final Judgment be enforced?
What information needs to be released to ISVs to encourage competition, and under what terms?
Which practices towards OEMs should be prohibited?
Which practices towards ISVs should be prohibited?
Which practices towards large users should be prohibited?
Which practices towards end users should be prohibited?

Here is a very rough summary which paraphrases provisions III.A through III.J and VI. of the Proposed Final Judgment to give some idea of how the PFJ proposes to answer those questions: PFJ Section III: Prohibited Conduct

Microsoft will not retaliate against OEMs who support competitors to Windows, Internet Explorer (IE), Microsoft Java (MJ), Windows Media Player (WMP), Windows Messenger (WM), or Outlook Express (OE).

Microsoft will publish the wholesale prices it charges the top 20 OEMs (Original Equipment Manufacturers) for Windows.

Microsoft will allow OEMs to customize the Windows menus, desktop, and boot sequence, and will allow the use of non-Microsoft bootloaders.

Microsoft will publish on MSDN (the Microsoft Developer Network) the APIs used by IE, MJ, WMP, WM, and OE, so that competing web browsers, media players, and email clients can plug in properly to Windows.

Microsoft will license on reasonable terms the network protocols needed for non-Microsoft applications or operating systems to connect to Windows servers.

Microsoft will not force business partners to refrain from supporting competitors to Windows, IE, MJ, WMP, WM, or OE. (Roughly same as F above.)

Microsoft will let users and OEMs remove icons for IE, MJ, WMP, WM, and OE, and let them designate competing products to be used instead.

Microsoft will license on reasonable terms any intellectual property rights needed for other companies to take advantage of the terms of this settlement.

This agreement lets Microsoft keep secret anything having to do with security or copy protection.

PFJ Section VI: Definitions

"API" (Application Programming Interface) is defined as only the interfaces between Microsoft Middleware and Microsoft Windows, excluding Windows APIs used by other application programs.

"Microsoft Middleware Product" is defined as Internet Explorer (IE), Microsoft Java (MJ), Windows Media Player (WMP), Windows Messenger (WM), and Outlook Express (OE).

"Windows Operating System Product" is defined as Windows 2000 Professional, Windows XP Home, and Windows XP Professional.

The agreement can be summed up in one breath as follows: Microsoft agrees to compete somewhat less vigorously, and to let competitors interoperate with Windows in exchange for royalty payments.

Considering all of the above, one should read the detailed terms of the Proposed Final Judgment, and ask one final question:

Is the Proposed Final Judgment in the public interest?

In the sections below, I'll look in more detail at how the PFJ deals with the above questions.

How should terms like "API", "Middleware, and "Windows OS" be defined?

The definitions of various terms in Part VI of the PFJ differ from the definitions in the Findings of Fact and in common usage, apparently to Microsoft's benefit. Here are some examples:

Definition A: "API"

The Findings of Fact (? 2) define "API" to mean the interfaces between application programs and the operating system. However, the PFJ's Definition A defines it to mean only the interfaces between Microsoft Middleware and Microsoft Windows, excluding Windows APIs used by other application programs. For instance, the PFJ's definition of API might omit important APIs such as the Microsoft Installer APIs which are used by installer programs to install software on Windows.

Definition J: "Microsoft Middleware" The Findings of Fact (? 28) define "middleware" to mean application software that itself presents a set of APIs which allow users to write new applications without reference to the underlying operating system.

Definition J defines it in a much more restrictive way, and allows Microsoft to exclude any software from being covered by the definition in two ways:

By changing product version numbers. For example, if the next version of Internet Explorer were named "7.0.0" instead of "7" or "7.0", it would not be deemed Microsoft Middleware by the PFJ. By changing how Microsoft distributes Windows or its middleware. For example, if Microsoft introduced a version of Windows which was only available via the Windows Update service, then nothing in that version of Windows would be considered Microsoft Middleware, regardless of whether Microsoft added it initially or in a later update. This is analogous to the loophole in the 1995 consent decree that allowed Microsoft to bundle its browser by integrating it into the operating system.

Definition K: "Microsoft Middleware Product"

Definition K defines "Microsoft Middleware Product" to mean essentially Internet Explorer (IE), Microsoft Java (MJ), Windows Media Player (WMP), Windows Messenger (WM), and Outlook Express (OE).

The inclusion of Microsoft Java and not Microsoft.NET is questionable; Microsoft has essentially designated Microsoft.NET and C# as the successors to Java, so on that basis one would expect Microsoft.NET to be included in the definition.

The inclusion of Outlook Express and not Outlook is questionable, as Outlook (different and more powerful than Outlook Express) is a more important product in business, and fits the definition of middleware better than Outlook Express.

The exclusion of Microsoft Office is questionable, as many components of Microsoft Office fit the Finding of Fact's definition of middleware. For instance, there is an active market in software written to run on top of Microsoft Outlook and Microsoft Word, and many applications are developed for Microsoft Access by people who have no knowledge of Windows APIs.

Definition U: "Windows Operating System Product"

Microsoft's monopoly is on Intel-compatible operating systems. Yet the PFJ in definition U defines a "Windows Operating System Product" to mean only Windows 2000 Professional, Windows XP Home, Windows XP Professional, and their successors. This purposely excludes the Intel-compatible operating systems Windows XP Tablet PC Edition and windows CE; many applications written to the Win32 APIs can run unchanged on Windows 2000, Windows XP Tablet PC Edition, and Windows CE, and with minor recompilation, can also be run on Pocket PC. Microsoft even proclaims at www.microsoft.com/windowsxp/tabletpc/tabletpcqanda.asp: "The Tablet PC is the next-generation mobile business PC, and it will be available from leading computer makers in the second half of 2002. The Tablet PC runs the Microsoft Windows XP Tablet PC Edition and features the capabilities of current business laptops, including attached or detachable keyboards and the ability to run Windows-based applications."

and

Pocket PC: Powered by Windows

Microsoft is clearly pushing Windows XP Tablet PC Edition and Pocket PC in places (e.g. portable computers used by businessmen) currently served by Windows XP Home Edition, and thus appears to be trying to evade the Final Judgment's provisions. This is but one example of how Microsoft can evade the provisions of the Final Judgment by shifting its efforts away from the Operating Systems listed in Definition U and towards Windows XP Tablet Edition, Windows CE, Pocket PC, X-Box, or some other Microsoft Operating System that can run Windows applications.

How should the Final Judgment erode the Applications Barrier to Entry?

The PFJ tries to erode the Applications Barrier to Entry in two ways:

By forbidding retaliation against OEMs, ISVs, and IHVs who support or develop alternatives to Windows.

By taking various measures to ensure that Windows allows the use of non-Microsoft middleware.

A third option not provided by the PFJ would be to make sure that Microsoft raises no artificial barriers against non-Microsoft operating systems which implement the APIs needed to run application programs written for Windows. The Findings of Fact (?52) considered the possibility that competing operating systems could implement the Windows APIs and thereby directly run software written for Windows as a way of circumventing the Applications Barrier to Entry. This is in fact the route being taken by the Linux operating system, which includes middleware (named WINE) that can run many Windows programs.

By not providing some aid for ISVs engaged in making Windows-compatible operating systems, the PFJ is missing a key opportunity to encourage competition in the Intel-compatible operating system market. Worse yet, the PFJ itself, in sections III.D. and III.E., restricts information released by those sections to be used "for the sole purpose of interoperating with a Windows Operating System Product". This prohibits ISVs from using the information for the purpose of writing operating systems that interoperate with Windows programs.

How should the Final Judgment be enforced?

The PFJ as currently written appears to lack an effective enforcement mechanism. It does provide for the creation of a Technical Committee with investigative powers, but appears to leave all actual enforcement to the legal system.

What information needs to be released to ISVs to encourage competition, and under what terms?

The PFJ provides for increased disclosure of technical information to ISVs, but these provisions are flawed in several ways:

1. The PFJ fails to require advance notice of technical requirements Section III.H.3. of the PFJ requires vendors of competing middleware to meet "reasonable technical requirements" seven months before new releases of Windows, yet it does not require Microsoft to disclose those requirements in advance. This allows Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

2. API documentation is released too late to help ISVs

Section III.D. of the PFJ requires Microsoft to release via MSDN or similar means the documentation for the APIs used by Microsoft Middleware Products to interoperate with Windows; release would be required at the time of the final beta test of the covered middleware, and whenever a new version of Windows is sent to 150,000 beta testers. But this information would almost certainly not be released in time for competing middleware vendors to adapt their products to meet the requirements of section III.H.3, which states that competing middleware can be locked out if it fails to meet unspecified technical requirements seven months before the final beta test of a new version of Windows.

3. Many important APIs would remain undocumented The PFJ's overly narrow definitions of "Microsoft Middleware Product" and "API" means that Section III.D.'s requirement to release information about Windows interfaces would not cover many important interfaces.

4. Unreasonable Restrictions are Placed on the Use of the Released Documentation

ISVs writing competing operating systems as outlined in Findings of Fact (?52) sometimes have difficulty understanding various undocumented Windows APIs. The information released under section III.D. of the PFJ would aid those ISVs—except that the PFJ disallows this use of the information. Worse yet, to avoid running afoul of the PFJ, ISVs might need to divide up their engineers into two groups: those who refer to MSDN and work on Windows-only applications; and those who cannot refer to MSDN because they work on applications which also run on non-Microsoft operating systems. This would constitute retaliation against ISVs who support competing operating systems.

MSNBC has a valid interest in prohibiting use of pirated copies of operating systems, but much narrower language could achieve the same protective effect with less anticompetitive impact. For instance, "MSNBC Interactive grants you the right to install and use copies of the SOFTWARE PRODUCT on your computers running validly licensed copies of Microsoft Windows or compatible operating system."

2. Microsoft created intentional incompatibilities in Windows 3.1 to discourage the use of non-Microsoft operating systems An episode from the 1996 Caldera v. Microsoft antitrust lawsuit illustrates how Microsoft has used technical means anticompetitively. Microsoft's original operating system was called MS-DOS. Programs used the DOS API to call up the services of the operating system. Digital Research offered a competing operating system, DR-DOS, that also implemented the DOS API, and could run programs written for MS-DOS. Windows 3.1 and earlier were not operating systems per se, but rather middleware that used the DOS API to interoperate with the operating system. Microsoft was concerned with the competitive threat posed by DR-DOS, and added code to beta copies of Windows 3.1 so it would display spurious and misleading error messages when run on DR-DOS. Digital Research's successor company, Caldera, brought a private antitrust suit against Microsoft in 1996. (See the original complaint, and Caldera's consolidated response to Microsoft's motions for partial summary judgment.) The judge in the case ruled that "Caldera has presented sufficient evidence that the incompatibilities alleged were part of an anticompetitive scheme by Microsoft." That case was settled out of court in 1999, and no court has fully explored the alleged conduct.

The concern here is that, as competing operating systems emerge which are able to run Windows applications, Microsoft might try to sabotage Windows applications, middleware, and development tools so that they cannot run on non-Microsoft operating systems, just as they did earlier with Windows 3.1.

The PFJ as currently written does nothing to prohibit these kinds of restrictive licenses and intentional incompatibilities, and thus encourages Microsoft to use these techniques to enhance the Applications Barrier to Entry, and harming those consumers who use non-Microsoft operating systems and wish to use Microsoft applications software. Is the Proposed Final Judgment in the public interest? The problems identified above with the Proposed Final Judgment can be summarized as follows:

The PFJ doesn't take into account Windows-compatible competing operating Microsoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry.

The PFJ Contains Misleading and Overly Narrow Definitions and Provisions The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered. The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all. The PFJ allows users to replace Microsoft Java with a competitor's product—but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft.NET with competing middleware. The PFJ supposedly applies to "Windows", but it defines that term so narrowly that it doesn't cover Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box—operating systems that all use the Win32 API and are advertised as being "Windows Powered".

The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs. The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware—but only after the deadline for the ISVs to demonstrate that their middleware is compatible.

The PFJ requires Microsoft to release API documentation—but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.

The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents. The PFJ does not require Microsoft to list which software patents protect the Windows APIs. This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users.

The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft

Microsoft currently uses restrictive licensing terms to keep Open Source or Free Software apps from running on Windows.

Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems.

Microsoft's enterprise license agreements (used by large companies, state governments, and universities) charge by the number of computers which could run a Microsoft operating system—even for computers running Linux. (Similar licenses to OEMs were once banned by the 1994 consent decree.)

The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft

Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems.

The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs

The PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

The PFJ allows Microsoft to discriminate against small OEMs—including regional 'white box" OEMs which are historically the most willing to install competing operating systems—who ship competing software.

The PFJ allows Microsoft to offer discounts on Windows (MDAs) to OEMs based on criteria like sales of Microsoft Office or Pocket PC systems. This allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas.

The PFJ as currently written appears to lack an effective enforcement mechanism.

Considering these problems, one must conclude that the Proposed Final Judgment as written allows and encourages significant anticompetitive practices to continue, and would delay the emergence of competing Windows-compatible operating systems. Therefore, the Proposed Final Judgment is not in the public interest, and should not be adopted without addressing these issues.

Strengthening the PFJ

The above discussion shows that the PFJ does not satisfy the Court of Appeals" mandate. Some of the plaintiff States have proposed an alternate settlement which fixes many of the problems identified above. The States" proposal is quite different from the PFJ as a whole, but it contains many elements which are similar to elements of the PFJ, with small yet crucial changes.

In the sections below, I suggest amendments to the PFJ that attempt to resolve some of the demonstrated problems (time pressure has prevented anything like a complete list of amendments). When discussing amendments, PFJ text is shown indented; removed text in shown in [bracketed strikeout], and new text in bold italics.

Correcting the PFJ's definitions

Definition A should be amended to read

A. "Application Programming Interfaces (APIs)" means the interfaces, including any associated callback interfaces, that [Microsoft Middleware running] ,Popular Windows Applications running or being installed on a Windows Operating System Product [uses] use to call upon that Windows Operating System Product in order to obtain any services from that Windows Operating System Product.

Definition U should be amended to read

U. "Windows Operating System Product" means [the software code (as opposed to source code) distributed commercially by Microsoft for use with Personal Computers as Windows 2000 Professional, Windows XP Home, Windows XP Professional, and successors to the foregoing, including the Personal Computer versions of the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc. The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion.] any software or firmware code distributed commercially by Microsoft that is capable of executing any nontrivial subset of the Win32 APIs, including without exclusion Windows 2000 Professional, Windows XP Home, Windows XP Professional, Windows XP Tablet PC Edition, Windows CE, PocketPC 2002, and successors to the foregoing, including the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc. Four new definitions should be added:

V. "Popular Windows Applications" shall be defined as as the top 10 selling applications as reported by NPD Intelect Market Tracking in each of the categories Business, Education, Finance, Games, Personal Productivity, and Reference, plus all Microsoft Middleware Products.

W. "Essential Windows API Patents" shall be defined as those patents held by Microsoft which cover Essential Windows APIs, such that those APIs cannot possibly be implemented without infringing upon said patents.

X. "Essential Windows APIs Standard Definition" shall be defined as a document, suitable for approval by a standards body such as ECMA or IEEE, which accurately defines the inputs, outputs, and behavior of each Essential Windows API, and enumerates any Essential Windows API Patents.

Y. "Essential Windows APIs Standard Compliance Test Suite" shall be defined as software source code which, when compiled and run, automatically tests an operating system for compliance with the Essential Windows APIs Standard Definition, and outputs a list of each API which fails to comply with the Essential Windows APIs Standard Definition. The test suite should run unattended; that is, it should be capable of running without human interaction or supervision.

Release of Information

Section E should be amended to remove the restriction on the use of the disclosed information:

... Microsoft shall disclose ... [for the sole purpose of interoperating with a Windows Operating System Product,] for the purpose of interoperating with a Windows Operating System Product or with application software written for Windows,

Because any new competitor in the Intel-compatible operating system must be able to run Windows applications to have a chance in the market, and because Microsoft has traditionally used undocumented Windows APIs as part of the Applications Barrier to Entry, the Final Judgment should provide explicitly for a clear definition of what APIs a competing operating system must provide to run Windows applications. The best way to do this is by submitting the API definitions to a standards body. This was done in 1994 for the Windows 3.1 APIs (see Sun's 1994 press release about WABI 2.0 and the Public Windows Initiative). The result is Standard ECMA-234: Application Programming Interface for Windows (APIW), which provides standard definitions for an essential subset (four hundred and fourty-four out of the roughly one thousand) of the Windows 3.1 APIs; it was rendered mostly obsolete by the switch to Windows 95. The Final Judgment should provide for the creation of something like ECMA-234 for the various modern versions of Windows. Because Microsoft currently claims that it has intellectual property rights that protect the Windows APIs, but has never spelled out exactly which patents cover which APIs, the Final Judgment should force this to be spelled out.

A new section IV.E should be created to achieve the above goals by adding the following text:

E. Establishment of a Windows API Standards Expert Group Within 60 days of entry of this Final Judgment, the parties shall create and recommend to the Court for its appointment a six person Windows API Standards Expert Group ("WASEG") to manage the creation, publication, and maintenance of an Essential Windows APIs Standard Definition, and to guide it through the process of being adopted by a standards body such as ECMA or the IEEE.

Three of the WASEG members shall be experts in software design and programming, and three of the WASEG members shall be experts in intellectual property law. No WASEG member shall have a conflict of interest that could prevent him or her from performing his or her duties under this Final Judgment in a fair and unbiased manner. No WASEG member shall have entered into any non-disclosure agreement that is still in force with Microsoft or any competitor to Microsoft, nor shall she or he enter into such an agreement during her or his term on the WASEG. Without limitation to the foregoing, no WASEG member shall have been employed in any capacity by Microsoft or any competitor to Microsoft within the past year, nor shall she or he be so employed during his or her term on the WASEG.

Within seven days of entry of this Final Judgment, the Plaintiffs as a group shall select two software experts and two intellectual property law experts to be members of the WASEG, and Microsoft shall select one software expert and one intellectual property law expert to be members of the WASEG; the Plaintiffs shall then apply to the Court for appointment of the persons selected by the Plaintiffs and Microsoft pursuant to this section.

Each WASEG member shall serve for an initial term of 30 months. At the end of a WASEG member's initial 30-month term, the party that originally selected him or her may, in its sole discretion, either request re-appointment by the Court to a second 30-month term or replace the WASEG member in the same manner as provided for above.

If the United States or a majority of the Plaintiffs determine that a member of the WASEG has failed to act diligently and consistently with the purposes of this Final Judgment, or if a member of the WASEG resigns, or for any other reason ceases to serve in his or her capacity as a member of the WASEG, the person or persons that originally selected the WASEG member shall select a replacement member in the same manner as provided for above.

Promptly after appointment of the WASEG by the Court, the United States shall enter into a Windows API Expert Group services agreement ("WASEG Services Agreement") with each WASEG member that grants the rights, powers and authorities necessary to permit the WASEG to perform its duties under this Final Judgment. Microsoft shall indemnify each WASEG member and hold him or her harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the WASEG's duties, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the WASEG member. The WASEG Services Agreements shall include the following:

The WASEG members shall serve, without bond or other security, at the cost and expense of Microsoft on such terms and conditions as the Plaintiffs approve, including the payment of reasonable fees and expenses. The WASEG Services Agreement shall provide that each member of the WASEG shall comply with the limitations provided for in section IV.E.2. above. Microsoft shall provide the WASEG with funds needed to procure office space, telephone, other office support facilities, consultants, or contractors required by the WASEG.

The WASEG shall not have direct access to any part of Microsoft's computer software source code that is not normally available to all ISV's. The WASEG shall not enter into any non-disclosure agreements with Microsoft or third parties. No implementations of any Windows APIs shall be written or published by the WASEG.

The WASEG shall have the following powers and duties:

The WASEG may require Microsoft to provide comprehensive answers to questions about Microsoft intellectual property claims.

The WASEG may require Microsoft to provide comprehensive answers to questions about the inputs, outputs, and functionality of any Windows API; in particular, the WASEG may compel Microsoft to provide complete documentation for Windows APIs, including hitherto undocumented or poorly-documented Windows APIs.

The WASEG may engage, at the cost and expense of Microsoft, the services of outside consultants and contractors as required to fulfill the duties of the WASEG.

The WASEG shall establish a publicly available web site not owned or otherwise controlled by Microsoft, and will publish status reports and other information there at least as often as once per month. Documentation on the web site shall be made available subject to the terms of the GNU Free Documentation License; test suite source code made available on the web site shall be made available subject to the terms of the GNU General Public License.

The WASEG shall compile a complete list of Windows APIs, including for each API the DLL name, entry point name, entry point ordinal number, return value type, and parameter types, as well as which versions of Windows it is supported by and what percentage of Popular Windows Applications use it. The WASEG shall publish this list on the WASEG web site subject to the GNU Free Documentation License, according to the following schedule: Within 90 days after the WASEG is convened, the WASEG shall publish this information for at least three hundred Windows APIs. On the 1st of each month thereafter, the WASEG shall publish this information for another three hundred Windows APIs. This shall continue until a complete list of Windows APIs is available on the web site. The WASEG shall use tools such as Apius from Sarion Systems Research to verify that the list of Windows APIs is indeed complete, and that installing or running any Popular Windows Application does not cause any unlisted Windows API to be invoked.

The WASEG shall compile a complete list of Essential Windows API patents and patents pending, and an evaluation of which Windows APIs each patent covers. The WASEG shall compile this information by asking Microsoft for a complete list of Essential Windows API patents and patents pending, and then determining which Windows APIs are likely to be covered by each patent or patent pending; the WASEG shall use the World Wide Web Consortium's document www.w3.org/TR/2002/NOTE-patent-practice-20020124 as guidance. The WASEG shall publish this information on the WASEG web site subject to the GNU Free Documentation License, according to the following schedule: Within 90 days after the WASEG is convened, the WASEG shall publish an evaluation of 30 patents. On the 1st of each month thereafter, the WASEG shall publish an evaluation of another 30 patents. This shall continue until evaluations of all patents claimed by Microsoft to cover the Windows APIs have been published on the WASEG web site.

The WASEG shall compile documentation for the list of Windows APIs defined above in section IV.E.9.e, including a complete description of the meanings of the return values and parameters, and the effects of the API. The documentation should be composed in a style similar to that used for the Single Unix Specification documentation (http://www. UNIX-systems.org/go/unix). Within 180 days after the WASEG is convened, and on the 1st of every month thereafter until complete, the WASEG will make available the currently completed portion of this documentation via its web site.

When the three documents described above—the list of Windows APIs, the list of Essential Windows Patents, and the documentation for the listed Windows APIs—is complete, the WASEG shall undertake to submit them to a standards body such as ECMA or the IEEE as a Public Windows APIs Standard Document, and to make such enhancements and revisions as needed to gain the acceptance of that document as a standard.

The WASEG shall create an Essential Windows APIs Standard Compliance Test Suite, and publish it on the WASEG web site subject to the GNU General Public License, according to the following schedule: Within 180 days after the WASEG is convened, the WASEG shall publish test cases for at least fifty Windows APIs. On the 1st of each month thereafter, the WASEG shall publish test cases for at least another fifty Windows APIs. This shall continue until a complete Essential Windows APIs Standard Compliance Test Suite is available on the web site. In the event that a planned update to Windows or any other Microsoft product is expected to result in the creation of new Windows APIs, the WASEG shall create addenda to the above documents and test suite covering the new APIs, make them available via its web site, and undertake to submit them to the same standards body as above as an addendum to the standard.

Prohibition of More Practices Toward OEMs

III. A. 2. of the Proposed Final Judgment should be amended to read 2. shipping a Personal Computer that (a) includes both a Windows Operating System Product and a non-Microsoft Operating System, or (b) will boot with more than one Operating System, or (c) includes a non-Microsoft Operating System but no Windows Operating System Product; or ...

Summary

This document demonstrates that there are so many problems with the PFJ that it is not in the public interest. It also illustrates how one might try to fix some of these problems.

Dan Kegel

MTC-00027479

From: SKen339122@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:08am
Subject: MICROSOFT SETTLEMENT

Hello,

While I am in agreement with your settlement of the Microsoft debacle, please encourage other states to be involved with this settlement.

At no time was this ever a consumer problem. The problem lies solely with competitors who could not keep up with the innovations of Microsoft. Everyone in the United States of America has the opportunity to be creative and to build any type of business. When the government decides to break apart companies because you listen to the ear of the incompetent competitors, you weaken the creative business spirit of our great country. It is time your issues with Microsoft be over.

I am a shareholder of Microsoft and have great respect for this company. Mr. Gates did not live off the banks as most companies seem to do but built this company by his innovations and creativity. You would do much better in the protection of the little people, like me, by taking care of businesses like the cable companies, which we have no choices, and Enron.

Thank you for listening to one of the "little people" of this country.

SANDY

MTC-00027480

From: Stephanie Bricker
To: Microsoft ATR
Date: 1/28/02 1:09am
Subject: "Microsoft Settlement"

To whom this may concern:

The federal court has reviewed the Microsoft antitrust case and found that Microsoft has repeatedly violated U.S. antitrust laws and should be liable for its illegal conduct. Microsoft seeks to heighten its power and control in the world, in an effort to squash competitors, it seeks to merge with other companies and therefore install Internet Explorer as the default operating system in connection with Windows. This will lessen the use of netscape. However, many people favor netscape and this step by Microsoft will only inconvenience such users and create disfavor towards Microsoft. I urge you to hold Microsoft accountable for its actions not allow for such monopolies to take place. In addition, Microsoft should not be able to attach other products or services, especially items that do not even have anything to do with operating a computer.

Furthermore, the economy needs competition. It is the fundamental aspect in the economy. Please allow for the continuation of technological competition because it is essential in economic survival and the satisfaction of consumers.

Thank you for your time,
Stephanie Bricker

MTC-00027481

From: Michael Batchelder
To: Microsoft ATR
Date: 1/28/02 1:09am
Subject: Microsoft settlement

I would like to register my dissatisfaction with the proposed settlement in the case of US v. Microsoft. As an information technology professional, I have personally witnessed Microsoft's policies restricting consumer choice (my own, w/regard to purchasing computers without Windows operating systems), failing to provide quality service (for which increased competition should be the solution), and limiting, rather than encouraging innovation.

Should the Department of Justice choose to move forward with the proposed settlement, I will take it as compelling evidence that the Bush administration is clearly a government "for large corporate interests, by large corporate interests, and of large corporate interests", at the expense of the peoples" interest.

Thank you,
Michael Batchelder
Redwood City, CA

MTC-00027483

From: AbigailJHoover@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:09am
Subject: my opinion

I'm writing to express my opinion on the antitrust case against Microsoft. What must be taken into account is how much Microsoft has given the world. Not only technology, but jobs, products, entire industries. Microsoft revolutionized personal computers in a way that has improved the lives of most everyone I know. The simplification of personal computing has made it possible for any one of any age and background to utilize technology. Why must Microsoft be punished for success? There is no logic to that. Human beings evolve and make improvements not because they are being "fair" ... technology and business are not polite playground play. It benefits no one to punish Microsoft for success. It benefits us all to encourage achievement. Microsoft would not be seen as threatening if it had not earned the undeniable excellence with the consumer, creating standards in the industry that were challenging to stay abreast of. Competition is the healthiest motivater; it keeps us all reaching higher and higher, improving and strengthening and evolving. If we punish success, we endanger our very evolution.

MTC-00027484

From: whij0@nodots-daemon@inetgw
To: Microsoft ATR
Date: 1/28/02 1:12am
Subject: Microsoft Settlement

PURPOSE: This document is respectfully submitted as public comment on the Proposed Final Judgement in United States v. Microsoft pursuant to the Tunney Act.

QUALIFICATIONS: The author has technical and managerial experience in Information Technology covering large mainframe to Unix mid-range to PC systems extending over more than three decades. This experience has been in private industry but also includes part-time involvement in independent consulting and providing advice for friends. The author holds the Microsoft Certified Systems Engineer (MCSE) certification.

SUMMARY: In its current form, the Proposed Final Judgement fails every remedy objective provided by The Supreme Court. Therefore, it should be rejected and stringent interim conduct restrictions applied.

DISCUSSION: Microsoft was tried and found guilty of violating sections 1 and 2 of the Sherman Antitrust Act. The findings were upheld under appeal. The current task is to determine appropriate remedies. In 391 U.S. 244, The Supreme Court provided criteria for the remedies in antitrust cases: "It is of course established that, in a 2 case, upon appropriate findings of violation, it is the duty of the court to prescribe relief which will terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future. . . . The trial court is charged with inescapable responsibility to achieve this objective . . . ."

First, let me acknowledge my disappointment at the loss of structural remedies. Microsoft has been extremely innovative with interpreting conduct restrictions in the past (Civil Action No. 94-1564, http://www.usdoj.gov/atr/cases/f1300/1329.htm). Given such past behavior, only an extremely tight and well designed (both technically and legally) document only containing conduct restrictions will be effective.

The structure of the Proposed Final Judgement (PFJ) is as follows:

I. Jurisdiction
II. Applicability
III. Prohibited Conduct
IV. Compliance and Enforcement Procedures
V. Termination
VI. Definitions
VII. Further Elements
VIII. Third Party Rights

Nowhere does the PFJ address "deny to the defendant the fruits of its statutory violation." Although section III discusses conduct restrictions, there is no language to "terminate the illegal monopoly" and ensure no "monopolization in the future". Rather, the current PFJ serves to acknowledge, strengthen and continue the monopoly. Section III, A deals with not retaliating against OEMS. Starting with III, A, 2 "shipping a Personal Computer that (a) includes both a Windows Operating System Product and a non-Microsoft Operating System, or (b) will boot with more than one Operating System;"

Conspicuous by its absence is considering the possibility of shipping a Personal Computer with only one non-Microsoft Operating System or no Operating System at all. Even more interesting to note is the last paragraph: "Nothing in this provision shall prohibit Microsoft from providing Consideration to any OEM with respect to any Microsoft product or service where that Consideration is commensurate with the absolute level or amount of that OEM's development, distribution, promotion, or licensing of that Microsoft product or service."

Although retaliation is prohibited, this paragraph provides the necessary loophole by allowing selective Consideration. This appears to be a variation on the theme of vendors providing a cash discount when they were prohibited from applying a credit card surcharge. In both cases the same result is achieved.

The open source initiative has been a nemesis to Microsoft. Unlike, a traditional profit oriented business, the usual tactics haven't worked to eradicate them. The design of the PFJ appears to be geared to assist in this objective starting with the explicitly named list of commercial type organizations in section III, D. An explicitly named list inherently excludes anything not listed. This is further emphasized in III, J, 2, b-d: "(b) has a reasonable business need for the API, Documentation or Communications Protocol for a planned or shipping product, (c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, (d) agrees to submit, at its own expense, any computer program using such APIs, Documentation or Communication Protocols to third-party verification, approved by Microsoft . . ."

Open source initiatives tend to be non-commercial projects whose source code results are freely published on the Internet. They clearly fail b) and c) since they do not have traditional business plans. They could not afford d), which is unnecessary anyway, since the source code is readily available. The references to RAND (reasonable and non-discriminatory) licenses (the subject of serious debate in the W3C standards approval process) fall in this same category. The open source initiatives could all be rendered obsolete merely by selectively changing the APIs to be incompatible with the current ones and leveraging the PFJ and the DMCA to prevent access to the information necessary to attain compatibility. In one easy move, the open source problem is eliminated with a release change. This could spell the end of projects such as WINE (a project to run Windows applications on non-Windows Operating Systems) and Samba (a project to provide Windows type file and print services on non—Windows Operating Systems and to connect to Windows hosted file and print services from non—Windows Operating Systems).

The PFJ is fraught with loopholes. This document discusses just a few.

CONCLUSION: The general tone of the PFJ merely acknowledges that Microsoft is a monopolist rather than serving to "terminate the illegal monopoly" and ensure no "monopolization in the future" as well as not addressing "deny to the defendant the fruits of its statutory violation." The PFJ in its current form is grossly inadequate. A major overhaul is required to meet the stipulated criteria. The court should reject it.

Should the current PFJ be adopted, no business would attempt to compete with Microsoft in any area Microsoft has an interest. Should anyone be foolish enough to do so, there would be no external funding available due to the enormous risk of failure. This document will not serve to restore competition.

Given Microsoft's past behavior, significant interim conduct restrictions should be applied to temper future damage pending the probable lengthy resolution of this matter.

SIGNATURE:
James R Whitten
Overland Park, KS
whij0@swbell.net

MTC-00027485

From: jbarney
To: Microsoft ATR
Date: 1/28/02 1:10am
Subject: microsoft settlement

I am a small business owner. Ten years ago my business had to cobble together a variety of software programs in order to operate my business because one program would not talk to another program. To do so was very expensive and time consuming.These are the very companies that are suing Microsoft. Along came Microsoft and tied it all together, and did so at a reasonable price. These other companies are just whining because they still don't have the ability to come up with a workable system. Their is no antitrust case against Microsoft. Nobody has been hurt. Quite the contrary, Microsoft has made life a lot easier for most of us. It is just a political charade. Quit spending taxpayer money, throw the case out. and get on with life.

Jack Barney

MTC-00027486

From: Bob
To: Microsoft ATR
Date: 1/28/02 1:16am
Subject: Microsoft Settlement

"Below please find a copy of an original post I made to Slashdot 11/2/2001 about Microsoft and the nature of the problem their behavior represents to the computing industry. You may read it directly here http://slashdot.org/comments.pl'sid=23317&cid=2513826 but I have chosen to reproduce it here for you immediate use.

I feel that this analogy is very fair-operating systems ARE essentially program utilities that handle the allocation of system resources, and so competing against a company that is both your competitor and the power company puts that company in a position from whence a trust can arise (and has in the case of Microsoft). A breakup as envisioned by the original judge or a source code release free of limitations other then not being able to use the code for OS sales would be appropriate remedies.

I truly hope that you listen to myself and other computer professionals, and stand ready to explain my position and conclusions with anyone from the DOJ or any other government officer in order to facilitate a return to a balanced, competitive and useful software market environment. I can be reached via this email address or at home, 972–437–6795.

Imagine if your local power company was a conglomerate that could also compete with your toaster maker company.

Microsoft Power & Light decides to change the voltages to everybody's home every three years, requiring a complete change to all the appliances and home systems. This suits you fine as it drives more toaster sales, so while you question the ethical validity of these changes, the havoc it creates and the incredible costs it imposes on the community, the business model is there- you are on board.

MSP&L tries to enter into the toaster market, but they can't make a toaster as good as you. You think all you have to do is continue to make a better toaster- you poor deluded fool.

MSP&L approaches you and says hey we will force all the homeowners to have a specific plug and voltage for toasters, sign up with us and we can guarantee you your share of the toaster market and we'll get our share. You don't dare refuse because the implied threat is that the proprietary toaster plug can be used to lock you out just as easily as lock you in. The consumers go along because you set the quality standards and if you are on board it must be an okay plug standard, and besides those malfunctioning MSP&L toasters are mighty cheap. Now all of a sudden you are a "strategic business partner", desperately hoping that MSP&L or an appliance giant will buy you out.

MSP&L has locked you into a standard under their control, but now some MS VP genius decides that toasters are strategic (it's not an appliance, it's ad-revenue!). They mess with the voltages every year so your toasters malfunction and their toasters work until you spend valuable design and retool time "fixing" your toaster. They create SmarToaster technology that sends email recipes to their toasters to enhance the toaster experience and incidentally deliver ads, actually their real revenue stream in the toaster market. The convection/microwave people are destroying your upper-end toaster market, so you are totally squeezed. Then to finish you off, MSP&L gives toasters (which they finally have kind of working) to everyone during the next voltage change.

You are done for.

But hey our government is here for you! The DoJ comes by and says, gosh that's wrong, MSP&L cannot use their power monopoly to squash the toaster market, MSP&L play nice. MSP&L agrees, then builds the NeToaster standard that requires you to use a certified bread or pastry and you can't remove the ads.

ActiveOvenLife cries out for justice because they can't impose their own toaster standard on all the households. Now the DoJ says okay MSP&L, play nicer. Don't you feel good ex-toaster guy?

Hmmmm, maybe you should have lobbied for standard electricity settings instead of letting greed get to you, treated the power company as a monopoly utility and allowed everyone to build the best appliances that compete on their merits. Open source electricity standards and government-regulated power? That's just wacky and unAmerican!

The truly frightening thing is that if Microsoft continues to get away with this, the rest of the corporate world will follow suit and we will end up with crazy costs, financial and personal, in all sorts of real life situations like the above.

The excellent railroads, electricity, roads and telecommunications infrastructure that all Americans enjoy did not happen by accident. It was a combination of visionaries, greedy people and governmental community laws that gave us industries and standards that work.

If the Microsoft culture is allowed to dominate computing, then we will experience what our forefathers avoided by stopping railroad magnates or Standard Oil from controlling the lifeblood of our nation. God help us if we have failed to learn those lessons.

MTC-00027487

From: Keith Beavers
To: Microsoft ATR
Date: 1/28/02 1:15am
Subject: Microsoft Settlement

In my opinion Microsoft has demonstrated much good faith in effort to finish this matter. The same doesn't seem to be true of the competition.

Sincerely,
Keith Beavers

MTC-00027488

From: Dave Kennedy
To: Microsoft ATR
Date: 1/28/02 1:16am
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement.

While there are good aspects of the Proposed Final Judgement (PFJ), I will concentrate instead on the issues that need correcting. In addition to these comments, I agree with Dan Kegel's open letter and essay "On the Proposed Final Judgment in United States v. Microsoft". He has invested a great deal of effort into systematically identifying the flaws in the PFJ and in designing suggested corrections. I was surprised to find that:

—The proposal does not even address the issue of Microsoft intentionally designing into their operating system roadblocks to Non-Microsoft operating system developers for the purpose of maintaining their monopoly.

—The proposal provides definitions of Microsoft's current and future products that are too narrow. Briefly, the definition of "API" is succeptible to version number modifications and the definition of "Middleware" is succeptible to distribution method modifications. For example, the PFJ would not cover Microsoft's software that is distributed via Windows Update. This is a serious loophole.

—The proposal neglects to address the release of file formats for "popular" office productivity software. This is a critical aspect of Microsoft's monopoly power as it provides leverage for excluding Non-Microsoft operating systems just as do its tactics regarding Internet Explorer. Office productivity applications have become a very important feature of operating systems, and non-disclosure of office application file formats prevents other operating systems from providing compatibility with Microsoft office applications, and, of course, Microsoft's office applications are not capable of running on any but a select few operating systems. This constructs a prohibitive sacrafice that is necessary for switching to Non-Microsoft operating systems because the end user's office application documents cannot be converted to formats that are usable by the Non-Microsoft operating system. All intellectual and time-related investments in such documents would be lost if an end user chose to switch to another operating system. As a result, Non-Microsoft operating systems become less commercially viable. Undocumented file formats have already been found to strengthen Microsoft's Applications Barrier to Entry in the "Findings of Fact" paragraphs 20 and 39. This issue should not be ignored by the Final Judgement.

—Only forcing Microsoft to disclose its pricing schedule to the top 20 customers is wholly inadequate, for it neglects protection of all other customers, especially those who are not as powerful as the top 20.

—Many people are confused and frustrated that the Free Software Movement issues relating to Microsoft's abuses are not addressed by this PFJ.

For example, forcing Microsoft to "disclose to ISVs, IHVs, IAPs, ICPs, and OEMs, for the sole purpose of interoperating with a Windows Operating System Product, via the Microsoft Developer Network ("MSDN") or similar mechanisms, the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product." (The Proposed Final Judgement) does nothing to prevent witholding or implementation of technical information from developers of efforts toward operating systems that provide Microsoft operating system functionality for non-Microsoft operating systems. An example of such a project is WINE. In addition, it is rather alarming to find that many aspects of the proposal do not explicitly allow private developers who are creating products for Non-Microsoft operating systems to implement the technical information mentioned. How is the restriction to businesses and organizations justified? Why are the secret patents held by Microsoft not addressed by this Proposed Final Judgement? There are many other issues with the Proposed Final Judgement that I have not discussed here. Please refer to Dan Kegel's essay, "On the Proposed Final Judgment in United States v. Microsoft", for a more thorough description of the problems and their solutions. While some of these points may not be an immediate concern to some, they must be covered in the judgement because: "... as is indicated by the record in this case, Microsoft can and does take advantage of any loopholes in contracts to create barriers to competition and enhance and extend its monopoly power." (Ralph Nader and James Love, 2001) Is this what the USDOJ intends to allow?

Please, let's have a geniune effort at disciplining Microsoft.

Thank-you.
David W. Kennedy
Student
Engineering, Computer-Science
University of Illinois at Urbana-Champaign

References:

Dan Kegel's Open Letter to DOJ Re: The Microsoft Settlement

URL: http://www.kegel.com/remedy/letter.html

Ralph Nader and James Love, November 5, 2001, "RE: US v. Microsoft proposed final order"

URL: http://www.cptech.org/at/ms/rnjl2kollarkotellynov501.html

MTC-00027489

From: jwjptw
To: Microsoft ATR
Date: 1/28/02 1:15am
Subject: Microsoft Settlement

Dear Sirs:

I would recommend that the DOJ stop any further action against Microsoft and accept the settlement. I have been involved with computers for 24 years and decided long ago it made sense to go with Microsoft products beginning with MS-DOS. They have developed good products with excellent support and training. They have empowered the home computer user to expand his vision and utilize tools that previously were beyond his expectations and without effort to learn programming in order to achieve immediate success. Microsoft has done more to advance human knowledge and productivity than any single corporation has in the technical age. Many of the plaintiffs exhibit greed and envy in their comments and actions while trying to get the government to grievously impair a competitor when their primary damage is to their egos.

The attorneys in the federal government, states, and some individual corporations have used this venue to enhance their own public images, which is such a waste of public money. You have a settlement; take it and get on to matters that are more important.

Thank you,
Jack Jenkins

MTC-00027490

From: Michael Capehart
To: Microsoft ATR
Date: 1/28/02 1:18am
Subject: Microsoft Settlement

The settlement is a bad idea, and will only serve to let Microsoft off with a slap on the wrist for destroying any real chance for competition in the computer software industry. Stop them now, because you will not get another chance.

Mike Capehart
mwcapehart@earthlink.net
mikespager@earthlink.net

MTC-00027491

From: Rosemary Loven
To: Microsoft Settlement
Date: 1/28/02 1:13am
Subject: Microsoft Settlement

Rosemary Loven
P.O. Box 385
Bishop, CA 93515–0385
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies. Thank you for this opportunity to share my views.

Sincerely,
Rosemary Loven

MTC-00027492

From: Kevin P. Rice
To: Microsoft ATR
Date: 1/28/02 1:18am
Subject: Microsoft Settlement

My name is Kevin Rice. I live in Bellevue, Washington, and work as a business analyst. As part of my work, I use many of Microsoft's products, including Microsoft Windows NT and Microsoft Office 97. I consider myself to be a power user and build sophisticated documents with Microsoft Excel and Access that include procedures written using built in macro language for Office, Visual Basic for Applications. At home, I use an Apple Macintosh and Microsoft Office 98, so I am familiar with multiple computer operating systems.

The Revised Proposed Final Judgement as currently structured does not meet the public interest. The proposed penalties are inadequate given Microsoft's anticompetitive behavior as outlined in the Findings of Fact, and Microsoft has too much influence over enforcement through the Technical Committee. The current competitive situation in the computer industry and its impact on consumers requires tougher, enforceable penalties.

According to the Findings of Fact, Microsoft has engaged in anticompetitive business behavior. It is important that there be punishment for this behavior; without adequate punishment, Microsoft has no incentive to discontinue and alter the behavior deemed anticompetitive by the courts. Microsoft could easily defend itself against complaints using the legal system, while small businesses with innovative products beneficial to the consumer would have no practical recourse, even in the courts, if they were the victims of any anticompetitive practice by Microsoft. The Final Judgement in Civil Action 94–1564 prohibits Microsoft from entering "into any License Agreement that by its terms prohibits or restricts the OEM's licensing, sale or distribution of any non-Microsoft Operating System Software product." Also, Microsoft cannot enter into an agreement with an OEM that prohibits the OEM from "licensing, purchasing, using or distributing any non-Microsoft product." According to the Findings of Fact, Microsoft has already violated the prohibitions in the Final Judgement by not allowing OEMs to install their own tutorial software to their computers" boot sequence. This prevented OEMs from offering a useful benefit to consumers. Microsoft also violated the spirit of the Final Judgement by not allowing OEMs to delete the Internet Explorer icon from the Windows desktop; this discouraged OEMs from putting an alternative browser on the desktop because it would be confusing to consumers. Given this behavior, stricter remedies would be appropriate. However the Revised Proposed Final Judgement does little more than restate the prohibited behavior of the previous Final Judgement using more precise language updated to reflect the current industry environment. This will not prevent Microsoft from altering their behavior in ways that may (or may not) be in compliance but would still be anticompetitive, requiring more legal action and prolonging harm to consumers. The language in the RPFJ also does nothing to penalize Microsoft for illegal behavior. This will make the prohibitions in the RPFJ more difficult to enforce, since violations of the prior Final Judgement resulted in no significant penalty to Microsoft.

The RPFJ calls for the establishment of a Technical Committee, with one member chosen by Microsoft and another member that the Microsoft-chosen TC member must agree to. Given that Microsoft has been "found guilty" of anticompetitive monopoly maintenance, they have too much influence over the makeup of the TC. The selection process for the Technical Committee is analogous to giving an accused murderer the ability to choose some of the jurors for his trial. A better alternative would be to give Microsoft limited veto ability similar to a jury selection process, with members randomly selected from a pool of candidates that meet the qualifications outlined in the RPFJ.

The current Revised Proposed Final Judgement does not improve the competitive environment in the computer industry and does not benefit consumers or the public interest. Because of the lack of serious alternatives to Microsoft products, consumers pay more for those products in extra time spent resolving defects in Microsoft software.

These defects range from bugs that interfere with the desired use of computer software to vulnerabilities to viruses such as Melissa, Code Red, and Nimda. In addition there may be an unknown number of potential innovations in computer hardware or software that will not be made available to consumers because of fear of anticompetitive business practices by Microsoft. Netscape is but one example of what can currently happen to a business with an innovative product in conflict with Microsoft's business goals. Therefore, it is critical that any settlement or other remedy of this case effectively curbs Microsoft's anticompetitive behavior.

MTC–00027493

From: Brian Leair
To: Microsoft ATR
Date: 1/28/02 1:19am
Subject: Microsoft Settlement

To Whom it May Concern:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case.

I am a professional software developer. I develope commercial software that runs on the Windows plaftorm in addition to several unix platforms.

I believe that there are several significant failures of the proposed settlement.

III.D. API Disclosure

It is completely unclear how this requirement differs from what they do now voluntarily. The Windows API is incredibly complex and very difficult to document. One competitive barrier Microsoft uses is that they document most of their API, but omit certain key pieces of information. However, an omission of information is nearly impossible to prove. Further, there seems to be some belief that if third parties have access to the source code, the documentation will somehow magically improve. I do not see how this could be—reviewing the source code and correcting the documentation will be a monumental task, and no third party that I know has the resources or ability to do this.

III.J.2 Exceptions

This section specifically excludes many software developers from participating in the benefits of III. MS has so ruthlessly exterminated all business competitors, that the only viable competition comes from volunteer efforts. Yet III.J.2 easily allows Microsoft the latitude to exclude independent developers from the benefits of these remedies.

There are several specific damages that consumers may suffer if a stronger settlement isn't reached

Microsoft can use it's API barriers to make it so costly for competitors to enter a market space the consumer will be given only ONE current viable option. Namely the option created by microsoft.

To whoever is reading this, I realize that you have had to wade through a lot of material. I very much appreciate your time and effort.

Sincerely,
Brian D. Leair of OPNET Technologies

MTC–00027494

From: Alice Kvasnak
To: Microsoft ATR
Date: 1/28/02 1:21am
Subject: Attorney Geneeral John Ashcroft:

Dear Mr. Ashcroft:

Recent events have led to a settlement in the Microsoft antitrust case. I am pleased this settlement was reached because it means Microsoft will be able to finally focus on software and not the courts. I trust you will support this settlement.

Forces that hold an anti-Microsoft agenda are trying to derail this agreement and have Microsoft dragged back to court. They desire a harsher conclusion to this case, one that will be injurous to Microsoft. They prefer to compete with Microsoft in the courts, and not in the real world.

Ironically this settlement will be good for Microsoft's competitors,yet most still oppose it. Because the settlement exposes Microsoft's code, competitors will be able to create better software and make it work better on Microsoft's operating systems. We must not punish Microsoft for it's success;we should settle this conflict now.

Sincerely"
Alice Kvasnak
4802 Ponte Vedra
Otter Creek Lane
Beach,Fl.32082

MTC–00027495

From: Bob Bainbridge
To: Microsoft ATR
Date: 1/28/02 1:21am
Subject: Microsoft Settlement

I worked for IBM Corporation for 40 years and during that time saw many abuses by Microsoft Corporation. I saw the IBM PC Co., a division of IBM, become so fearful of Microsoft's abusive power that they refused to preload IBM's own operating system, OS/2, on customer machines. Microsoft threatened to withhold Windows shipments to IBM which would have virtually put the IBM PC Co. out of business. This was back when Bill Gates saw OS/2 as a real threat to his WIndows system. They also charged IBM higher prices for Windows than other competitors. I saw them make a minor upgrade from Windows 3.1 to 3.11 that suddenly caused all Windows programs to no longer run under OS/2. IBM then had to patch OS/2 to allow the Windows programs to run. They finally reached the point where IBM knew they were chasing a moving target and froze the WIndows code at that point. Because of this most newer WIndows programs will not run under OS/2. I saw other companies, like Gateway, pressured by Microsoft to the point that they would not preload OS/2 and would not support it if a customer called with a problem. Only in Europe, where Bill Gates didn't have as much clout, did OS/2 flourish. At the time of my retirement in 2000, IBM was still using OS/2 to run most of the mainframe consoles since IBM mainframe customers wouldn't tolerate the flakiness of Windows. By gaining a monopoly Microsoft has been able to push untested and unstable software products onto their customers and then charge them for the upgrades to fix the problems as in Windows Second Edition. The DOJ settlement has let Microsoft off with a "smack on the hand" and is much too light of a punishment. ONly after a large financial penalty will they change their arrogant ways.

Robert P. Bainbridge
41867 Debra Dr.
Elyria, OH 44035-1131
bob—bainbridge@prodigy.net

MTC-00027496

From: Benson Chow
To: Microsoft ATR
Date: 1/28/02 1:30am
Subject: Microsoft Settlement

Microsoft has tried hard to squash all competition. And it has succeeded. One specific example is how the company's product, Internet Explorer, has quickly reached the top. Now with so many users, and them putting in proprietary extensions that nobody knows except Microsoft, it essentially makes Netscape and other browser users crash or render pages incorrectly— thus forcing us to use their product if we wish to obtain their content. This is totally unacceptable, we have a right to choose what product to use to view content. This is like having only one brand of TV available. Imagine having to watch news where you *must* buy a specific brand of TV, else it won't work. The same thing has happened to Operating Systems and Office Applications. I agree with the ruling that Microsoft has violated the Sherman Antitrust Act.

I do however have a complaint about the proposed remedy. Microsoft wants to donate millions of dollars worth of goods to needy schools. This sounds very good on the surface, we are helping our the most disadvantaged children.

Now the problem is, it does not solve the problem we have ruled against. Those millions of dollars worth of "goods" they want to be Microsoft goods. Now we are going to be feeding these Microsoft goods to the children. They will grow up thinking Microsoft is the only thing available, and will continue to buy Microsoft software. Have we done anything? No—we have made the problem WORSE. We need to bring different choices to our children in order to guide them that there is more than Microsoft.

Many possible other solutions are possible. While it would be nice to allow companies that were destroyed by Microsoft to be rejuvinated, this is short of impossible. Or perhaps a rebate to all purchasers of Microsoft software. No, this is not good either, it does not help the problem. We need to do something that makes a difference—A charitable donation is a good start. But it needs to show choice. Perhaps they must purchase machines and software from their remaining competitors for their settlement. Perhaps they should open up their standards to allow competitors to once again compete. It's a tough call, destroying a powerful company is never a good thing, but a virtual, "cyber monarchy" could be formed and Microsoft at its head, with the current settlement as it stands today.

I am a Linux user. I would like to see things such as them complete the following at an unspecified percentage and split:

-Open up Internet/application/operating standards they have created to allow competitors to design competing products.

I would like to see projects like Netscape, Caldera Office, and WINE to get big breaks from the settlement.

-Purchase computers for schools for the same amount, but use competitor software or buy more computers and use open-source, or free software.

I do not necessarily want to see a breakup of the company. They will still hold a monopoly on their respective business units.

Thank you for reading this. I hope this will encourage you to reconsider the settlement and let users and thousands like me to enjoy content the way we want to, instead of how Microsoft wants to.

-bc

MTC-00027497

From: The L1 Ranger
To: Microsoft ATR
Date: 1/28/02 1:32am
Subject: Microsoft Settlement

"Leave Microsoft Alone"/

-The L1 Ranger!

MTC-00027498

From: Javier L. Madrid
To: Microsoft ATR
Date: 1/28/02 1:34am
Subject: Microsoft Settlement

Your Honor,

Now is the time to preempt the further spread of Microsoft's plans to expand their ill-gotten monoply. The company that started by offering products to make computing easier for non-programmers has reached a point of diminishing returns for those same people. For a number of years now their efforts have been focussed more on the protection of their revenue stream (you and I) than on true innovation. Not only have they been bereft of innovative products but have hired away from academia and their rivals truly innovative thinkers thus preventing the fruits of their scientific labor benefiting their competitors. From my vantage point from within the Tech Industry I feel that this unapologetic and arrogant company that has grown so huge in its pervasiveness in every day life must be dealt with in a truly historic harsh fashion. As they have dealt brutally from a business perspective with those perceived as even remotely competitive whether it be a single person or a company so they too must now be taken to task.

These are my recommendations:

(1) They are not to be allowed to expand to ANY new technical markets for 10 years either by partnership or funding or purchasing of companies or rights to technology.

(2) Levy a 10 billion dollar penalty against the company and only accept CASH, and not spread over 5 or 10 years of installments. Use the money to help fix our educational system.

(3) They must open the entire set of Windows APIs and file formats now and in the future to truly foster competition and innovation. Your Honor, it is key that this company not be allowed to "embrace and extend" their monoply.

Their true intentions are not so much about producing good products as it is about preserving at all costs a regular tithing from you and I.

Your Honor, it is time for you to "think outside the box".

MTC-00027499

From: Douglas Gray
To: Microsoft ATR
Date: 1/28/02 1:34am
Subject: Microsoft Settlement

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement.

I am concerned that the proposed settlement does not adequately address a number of issues in connection with the case (as outlined in the open letter by Dan Kegel of kegel.com), and believe that competition would be harmed by the adoption of the settlement, i.e. that the settlement is NOT in the public interest.

Sincerely,
Douglas Gray
Postgraduate Researcher
University of California San Diego
San Diego CA

MTC-00027500

From: Brad Harvell
To: Microsoft ATR
Date: 1/28/02 1:33am
Subject: Microsoft Settlement

I think the proposed settlement is bad idea.

Thank you for counting me.

MTC-00027501

From: Michael J. Kennedy
To: Microsoft ATR
Date: 1/28/02 1:35am
Subject: Microsoft Settlement

To the Honorable Court:

I have read and cosigned the Open Letter to DOJ Re: Microsoft Settlement written by Dan Kegal, and I am writing to further express my opinion of the Proposed Final Judgement in the United States v. Microso case. I believe that the Proposed Final Judgement should not go through the way it is. I am aware that the Department of Justice concluded that Microsoft has engaged in monopolistic behaviors and that Microsoft has used its position of power to prevent competition. However, this main problem still has not been addressed fully. Under the settlement as it currenly is written, Microsoft would essentially be able to continue its anti-competitive practices merely by altering some of its company procedures.

I believe that Microsoft should be required to publish documentation of its APIs for uninhibited use by developers of alternative software systems. This will serve to reduce the "appications barrier to entry," allowing developers of competing products to add compatability for existing standards. This, in turn, allows those developers to make a successful entry into the software market, thus promoting competition.

I also contend that Microsoft should be disallowed to certify hardware devices as "designed for Windows," unless the specifications of those devices are released to the public. Consumers don't want to use an operating system that doesn't support their hardware. Maintaining secret hardware specifications hinders the development of free operating systems that run on a wide range of hardware.

In conclusion, I believe that the Proposed Final Judgement is not good enough and is in need of revision. The revisions should ensure that Microsoft cannot resume actions that are anti-competitive and that are not in the public interest. Thank you for your time and consideration.

Sincerely,
Michael J. Kennedy
Champaign, IL
Computer Science Student
University of Illinois

MTC-00027502

From:bishopjim@mindspring.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:37am
Subject: Microsoft Settlement

Please consider the merits of the settlement for the good of the U.S. economy and our technology industry. They are reasonable and fair to all parties, and meet ? or go beyond—the ruling by the Court of Appeals, and represent the best opportunity for the industry to move forward.

Jim Bishop
Marietta, GA
678.523.3912

MTC-00027503

From: Benson Chow
To: Microsoft ATR
Date: 1/28/02 1:40am
Subject: Microsoft Settlement

Appended contact information.

Microsoft has tried hard to squash all competition. And it has succeeded. One specific example is how the company's product, Internet Explorer, has quickly reached the top. Now with so many users, and them putting in proprietary extensions that nobody knows except Microsoft, it essentially makes Netscape and other browser users crash or render pages incorrectly— thus forcing us to use their product if we wish to obtain their content.

This is totally unacceptable, we have a right to choose what product to use to view content. This is like having only one brand of TV available. Imagine having to watch news where you *must* buy a specific brand of TV, else it won't work. The same thing has happened to Operating Systems and Office Applications. I agree with the ruling that Microsoft has violated the Sherman Antitrust Act.

I do however have a complaint about the proposed remedy. Microsoft wants to donate millions of dollars worth of goods to needy schools. This sounds very good on the surface, we are helping our the most disadvantaged children.

Now the problem is, it does not solve the problem we have ruled against. Those millions of dollars worth of "goods" they want to be Microsoft goods. Now we are going to be feeding these Microsoft goods to the children. They will grow up thinking Microsoft is the only thing available, and will continue to buy Microsoft software. Have we done anything? No—we have made the problem WORSE. We need to bring different choices to our children in order to guide them that there is more than Microsoft.

Many possible other solutions are possible. While it would be nice to allow companies that were destroyed by Microsoft to be rejuvinated, this is short of impossible. Or perhaps a rebate to all purchasers of Microsoft software. No, this is not good either, it does not help the problem. We need to do something that makes a difference—A charitable donation is a good start. But it needs to show choice. Perhaps they must purchase machines and software from their remaining competitors for their settlement. Perhaps they should open up their standards to allow competitors to once again compete. It's a tough call, destroying a powerful company is never a good thing, but a virtual, "cyber monarchy" could be formed and Microsoft at its head, with the current settlement as it stands today.

I am a Linux user. I would like to see things such as them complete the following at an unspecified percentage and split:
—Open up Internet/application/operating standards they have created to allow competitors to design competing products.

I would like to see projects like Netscape, Caldera Office, and WINE to get big breaks from the settlement. —Purchase computers for schools for the same amount, but use competitor software or buy more computers and use open-source, or free software. I do not necessarily want to see a breakup of the company. They will still hold a monopoly on their respective business units. Thank you for reading this. I hope this will encourage you. to reconsider the settlement and let users and thousands like me to enjoy content the way we want to, instead of how Microsoft wants to.

—bc
Benson Chow, blc@q.dyndns.org
3500 Granada Avenue
Santa Clara, CA 95051
408–569–2132

MTC-00027504

From: Jessica Kohagen
To: Microsoft ATR
Date: 1/28/02 1:38am
Subject: "Microsoft Settlement"

I am writing as both a concerned college student and as a concerned consumer. I truly believe that open competition in every market promotes better quality and utilizes all the available resources. I fear that the demand for engineers in computer-related fields will decrease significantly if Microsoft's competition is restricted or eliminated. In addition, the development of computer-related technology maybe be slowed if companies aren't trying to "get an edge" over one another. Keeping unrestricted competition will ensure state-of-the-art technology and quality products for the consumer as well as job openings and possible entrepreneurships for those currently in the industry as well as those who will be entering it within a few years.

Sincerely,
Jessica Kohagen
Pardee Tower #612
614 W. 35th Pl.
Los Angeles, CA 90089
CC:microsoftcomments@doj.ca.gov@inetgw

MTC-00027505

From: Cody Ashe-McNalley
To: Microsoft ATR
Date: 1/28/02 1:39am
Subject: Microsoft Settlement

Dear United States" Department of Justice,

I am writing to urge the government not to seek any settlement which allows Microsoft to continue the anti-competitive, anti-consumer business practices that it has used, still uses today, and openly plans to continue to use. I have spent my entire professional life working in the fields of information technology and software development. Microsoft has had an unfairly taxing effect on every aspect of the industry I have experience in.

While certainly not all, I believe the following two issues are the primary obstacles in dealing with the Microsoft monopoly: One, their use of proprietary, undocumented, and ever-changing file formats, application program interfaces (APIs),.and security authentication methods; two, the draconian and unlawful enforcement of licensing agreements with original equipment manufacturers (OEMs).

The first issue, proprietary file formats, has hindered me personally, and has undoubtedly affected every citizen of the United States who has used Microsoft Office products. As consumers desire more access to the Internet and multimedia files, this problem will only increase. As it is, there is already a huge deficiency in the basic functionality of Microsoft products on the Apple Macintosh operating system.

The second issue, unlawful licensing agreements with OEMs, is analogous to the system of rebates that allowed John D. Rockefeller's Standard Oil to maintain a monopoly in the oil industry. There is effectively no point of entry for competition in the market for small business and consumer computing goods in the United States. This has become an indirect tax on every consumer purchasing a personal computer. However, this has probably hurt the small businesses of America most of all. Business today depends on computers, and they have no choice but to become Microsoft customers. Their success depends on Microsoft from their very inception.

The United States has had enough success controlling anti-competitive monopolies to still offer an environment full of opportunity for its citizens, both as consumers and business people. I greatly hope that the United States Department of Justice can persevere in restoring that environment for the twenty-first century.

Sincerely,
Cody Ashe-McNalley
11700L National Blvd. #103
Los Angeles, CA 90064

MTC-00027506

From: Steve Black
To: Microsoft ATR
Date: 1/28/02 1:42am
Subject: Microsoft Settlement

Microsoft's competitors would have you believe that they are pure innocents that have been grossly wronged by the "evil empire". In many ways, Microsoft competitors are no better than Enron in their execution of modem business ethics. Much of the anti-trust complaint reads as if the government and judicial were brain dead. It's difficult to understand how highly educated attorney's can be so ignorant of the principles of debate, however, it's not fallacy of logic that's on their minds, but how to get maximum mileage from legal loop-holes. Here's my opinion on the entire anti-trust case:

The government's anti-trust suit has been no benefit to the consumer. It has primarily provided fuel for ambulance chasers. Anti-trust concepts, over 100 years old, are being used as a loophole to accomplish political and business goals that were not the original intention of anti-trust.

Software is neither a limited resource nor is it controlled by any single individual or company. The government has ignored the Apple, HP, Sun, et.al., which are monopolies in the computer workstation industry. Their proprietary software will only work on their proprietary hardware. As a result, huge promises have been made, but innovation has been nil, and prices are exorbitant. This has hurt businesses large and small. Consumers have been hurt by high prices being passed through in the goods and products produced by all American industries.

This is far worse than the telephone monopoly, which has not been stricken with the greedy intentions of Sun and Netscape/AOL-Time Warner. Cell phone makers have not sued traditional telephone company monopolies, instead, they have created an original new product that offers the consumer something new and that they are willing to pay over twice the cost to own. Government tolerance of airline fare and automotive gasoline price monopolies has also hurt consumers significantly and shows a pattern of abuse that has the look and feel of corruption. The government has relented to political pressure from politicians and greedy CEO's that have prevented the passage of many updated and revised laws that could prevent them from being used with corrupt intentions.

The PC revolution has allowed anyone to own a high performance computer. The monopolistic workstation vendors have lost billions from their market that went from 860,000 professional workstations to $10,000 PC systems. To say that these companies have a grudge against Microsoft is a gross understatement. The consumer, the American economy and the world in general can be thankful of Microsoft's effort to innovate and advance PC technology. They are by no means the only company to do so, but in no way should they be destroyed by two greedy individuals and an industry that was getting rich by stealing millions from consumers instead of competing in the market place.

In contrast, Microsoft has made it possible for everyone to own and operate a computer at extremely competitive prices. It is blasphemy that Sun or other companies and state Attorney General's suggest that Microsoft has over-charged consumers. It's also interesting to note that if Microsoft had lower prices, they would have been accused of trying to run their competition out of business by flooding the market with cheap software. There simply is no safe strategy to avoid the egregious actions of those who insist on perverting anti-trust laws to their own financial and political gain.

There are many reasons why Microsoft was the choice of consumers and became dominate in the PC software market, but it is very likely primarily due to their far superior product than the gross incompetence of their competition. Consumers have been damaged and angered so much by proprietary and incompetent software that it's no wonder they have no tolerance for incompatible, proprietary systems. The majority of consumers and their businesses have used a loud and clear voice in the market place to tell Apple, Linux, BeOs, and others that they dislike their business model of high prices and proprietary design.

In drastic contrast, Microsoft's products are compatible with thousands of other successful software products on the market today. In fact, one company that claimed in a congressional hearing that Microsoft disabled their software was totally embarrassed by private independent testing labs that proved otherwise. In no way has Microsoft's competitors played fair and their current abuse of anti-trust law is a distortion of reality.

It is also interesting that the judge and companies that warned that the proposed settlement involving distribution of Microsoft software to many poor schools districts would put Apple's monopoly at a disadvantage. They are certainly not unaware that schools are under siege from American businesses that want PC's in the schools, so they don't have to re-train all the students. It costs billions of dollars that are passed through to consumers, to train, maintain and update computer software in every business in this country today. The waste would be monumental if each company had to maintain multiple computer systems and they know this to be an irrefutable fact from past experience. This is just one of the many forces that has created the Microsoft monopoly. Microsoft's only part was to provide the best possible software, but they were entrapped by anti-trust terrorists while trying to keep people from stealing their software, In contrast, Netscape has tried to bully their way into a tiny segment of the operating system market by offering a product that is a niche element of the basic operating system. One of the primary functions of an operating system is to connect the central processing unit (CPU) with the internal and external hardware attached to the computer. The Internet is merely an extension of the basic computer network and nothing more.

The need for a special browser to access the Internet is only a viable marketing concept if it significantly improves that concept or offers consumers significant value. Netscape has done neither. In fact their market share is far larger than they want you to know, since many users are still using old versions. This is because their newer version 6.0 was very poorly written and there really isn't much else that a browser can do other than be a simple path to the Internet where content that neither Microsoft nor Netscape control is the desirable goal of the consumer.

It is well documented in the press that Netscape version 6.0 was such a failure and performed so poorly that is was soundly panned by the experts and most advised against upgrading. Microsoft's dominance again is shown to be due to superior competence and based on merit, while their competition had abdicated their responsibility to deliver a quality product to the consumer. Netscape's loss of market share is primarily due to their lack of innovation and their product simply does not provide any value to the consumer.

Claims that Microsoft wants to control the Internet are a good example of fundamental misconceptions and the high level of miss-information in the anti-trust suit. Web site owners are responsible for the content on their sites and there are no technical, political or legal barriers to web content other than federal and state statutes, which apply equally to everyone.

Likewise, consumers have determined what browser they prefer. The majority of consumers want nothing to do with Netscape and they have good reasons for that decision since compatibility, reliability and security are far more important than the marketing hype and illusionary benefits and features of any browser. The alleged damage and losses experienced by Netscape primarily exist in the minds of their attorneys and nowhere else; certainly not in the minds of consumers.

Whether Microsoft is a monopoly or not has nothing to do with the success of Netscape. Consumers must have an operating system for their computers and the CPU must communicate with internal, external and network drives (servers). The Internet is simply the extension of the basic computer system hardware. Netscape's loss of market is due to their own incompetence and nothing else.

Steven M. Black
1916 Camas Court SE
Renton, WA 98055–4501
01/31/2002 7:20 F

MTC–00027507

From: ChristianK1@prodigy.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:39am
Subject: Microsoft Settlement
≤Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Christian Kulczytzky
807 Rennard Street
Philadelphai, PA 19116

MTC–00027508

From: Ken Kundert

To: Microsoft ATR
Date: 1/28/02 1:43am
Subject: Microsoft Settlement

It is clear to me that the DOJ caved in to intense lobbying pressure when it agreed to the current settlement. That is the only way to explain it. Anybody that has paid any attention to Microsoft's behavior of the last decade knows that this settlement will have no significant impact on Microsoft. They will ignore it like they ignored both the law and the restrictions that they agreed to in the past. Furthermore, I do not believe that they would have been offered this settlement had they not improperly influenced both the Executive Branch and our law makers. Giving Microsoft this settlement shows the people of the United States and the world that justice in America does not apply to the very wealthy.

It is my sincere hope that the original spirit of the Tunney act is followed. If so, I confident that it will come out that Microsoft was able to buy a very favorable settlement. At the very least, I hope that you reject the DOJ settlement and go with the settlement proposal of the 9 dissident states. Better yet, I hope you return to the idea of breaking up Microsoft. I have been involved in the software industry for 20 years, though I have never been directly or indirectly employed by either Microsoft or its competitors, and I can say with great confidence that Microsoft, with its monopoly position, has slowed the progress of the computer industry by at least 10 years. The cost of not having competitors to its buggy and insecure software has been vast. Breaking up Microsoft will be the best thing for consumers.

Ken Kundert

MTC-00027509

From: Richard Probst
To: Microsoft ATR
Date: 1/28/02 1:45am
Subject: comments on proposed Microsoft settlement

I am writing to comment on the proposed Microsoft settlement. I believe the settlement is deeply inadequate, and should be rejected by the Court, for the following five reasons:

(1) The settlement provides no protection for all but the largest Microsoft competitors. It prevents Microsoft from blocking what is referred to as "middleware", but only if the provider of the middleware has sold a million copies of the application and has been in business for over a year. Thus, AOL, Kodak, and Real Networks are protected from Microsoft's monopoly power, but not the smaller and younger firms that are the true source of innovation. Instead, the settlement should prevent Microsoft from blocking middleware from the desktop, no matter who provides the middleware. Only with this provision will consumers benefit from unchecked innovation.

(2) The settlement allows Microsoft to prevent its licensees from placing non-Microsoft icons on the desktop, unless the icon competes with a Microsoft product. Microsoft should have no control over what icons its licensees can place on the desktop. As written, the settlement could allow Microsoft to block the availability of an innovative application until Microsoft had completed its own competitive offering, thus eliminating any early-to-market benefit to the application inventor.

(3) The settlement does not require Microsoft to publish its APIs until the "final beta" release. This is much too late to allow another firm to develop or modify an application to use a new API before Microsoft officially launches the new release. This means that Microsoft can control which applications work with a new release of an operating system at the time of the release, which gives Microsoft power to limit innovation by its competitors. Instead, Microsoft should be required to publish APIs earlier in the history of a release (6 months before commercial availability is a reasonable requirement), and to publish timely updates if the APIs change before the "final beta" release.

(4) The settlement requires firms that use the APIs published under the terms of the settlement to give Microsoft the code which they wrote to use the APIs. Under no circumstances should Microsoft have the right to code developed by its competitors. This provision of the settlement actually rewards Microsoft with a competitive advantage, which is an ironic and inappropriate response to illegal monopolistic behavior.

(5) The settlement does not prevent Microsoft from structuring discounts to punish its licensees who work with Microsoft competitors. It also allows Microsoft to terminate a licensing agreement without prior notice—which could prevent a hardware vendor from delivering a new computer model on schedule (for example, in time for the Christmas selling season). If the termination is determined not to have been legal under the terms of the settlement, Microsoft will be forced to reinstate the license, but the hardware vendor may already have been irreparably damaged. Instead, the settlement should require Microsoft to get prior approval for license terminations and changes in discounts.

These and other flaws in the proposed settlement have led me to wonder if Microsoft's own lawyers drafted some of the terms. The settlement is not a sufficient punishment and will not prevent further monopolistic behavior.

The Court should reject the proposed settlement.

Sincerely,

Richard Probst CC:attorney.general@po.state.ct.us@inetgw

MTC-00027510

From: Lindsay Ray
To: Microsoft ATR
Date: 1/28/02 1:46am
Subject: Microsoft Settlement

Dear Judge,

I don't think that the PFJ is the correct solution to this problem. Microsoft is a fabulous company, however, they are in direct violation to the law. They are guilty of some very serious anti-competitive violations. The PFJ does not provide an effective enforcement mechanism. What microsoft has done to many companies is very wrong and needs to be stopped. It is not fair. The world needs competition.

Thanks

Lindsay Ray 213-764-3843
CC:dkleinkn@yahoo.com@inetgw

MTC-00027511

From: Carnese, Dan
To: Microsoft ATR
Date: 1/28/02 1:47am
Subject: Re: comment on proposed Microsoft settlement

This is a correction to a comment submitted earlier this evening.

From: Dan Carnese
To: microsoft.atr@usdoj.gov
Sent: Sunday, January 27, 2002 8:36 PM
Subject: comment on proposed Microsoft settlement

Microsoft has repeatedly shown bad faith in dealing with software companies.

I believe the only effective way to prevent it from future violations is to prevent those violations from being in its interest.

Dividing Microsoft into an operating systems company and an applications company is the only way to have this happen without onerous and unworkable review by an external entity of Microsoft's business activities.

As a Microsoft stockholder, I believe this is the best way to preserve and increase shareholder value, while having the company behave in a lawful and ethical manner.

Dan Carnese
560 Lakeview Way
Redwood City, CA 94062

MTC-00027512

From: kevins@indepth-tech.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:48am
Subject: Microsoft Settlement

Ladies and Gentlemen:

I whole heartedly support the proposed settlement agreement in U.S. v. Microsoft. While no settlement is likely to please all, this settlement has well thought out, purposeful remedies that will encourage technical innovation and market competition. It is time to accept the fair remedies of the settlement and allow the industry to concentrate on creating the new computing products that will create jobs and stimulate the economy.

Kevin Schuler
President
InDepth Technology
CC:kevins@indepth-tech.com@inetgw

MTC-00027513

From: Jim White
To: Microsoft ATR
Date: 1/28/02 1:48am
Subject: Microsoft Settlement

To whom it may concern:

This my public comment under the Tunney Act.

I am OPPOSED to the revised proposed Final Judgement to resolve the United States" civil antitrust case against Microsoft as it currently is formulated (11/06/2001).

The proposed remedies are entirely inadequate to resolve ongoing anti-competitive practices by Microsoft with regard to the development and marketing of software competing with the Windows Operating System. Of particular importance is that no provision is made to prevent

Microsoft's efforts to subvert the development and distribution of free and open software that competes with Windows. Microsoft is using its many entangling End User License Agreements for both its applications (such Internet Explorer, Microsoft Office, etc) and SDKs (software development kits, necessary in many cases for practical development of applications to be used with or to compete with Windows) to REQUIRE that the End User to only use the application software on a Microsoft licensed operating system. This is blatant product tying to the monopoly Windows OS with the direct consequence of preventing the distribution of legal competing products.

Thank you for your consideration.

Signed,
James White
Software Consulant
Laguna Hills, CA

MTC-00027514

From: Deepak Shah
To: Microsoft ATR
Date: 1/28/02 1:50am
Subject: MICROSOFT SETTLEMENT
January 27, 2002
VIA FACSIMILE & EMAIL
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Sir/Madame, The Microsoft settlement proposed by the Justice Department should not be approved by the court. It does not adequately prevent Microsoft from abusing its monopoly powers. It is also a poor solution in that it will be complicated to enforce and Microsoft will have economic incentive to try to circumvent the agreement.

No doubt, there are precise legal standards that the court must follow in reviewing the settlement and making its decision. As a layman, I cannot hope to address the intricate legal issues as to what is explicitly mandated by statute and precedence—I can only speak in broad terms. My background is that of an engineer (M.S. in EECS) with 20 years of experience using PC software at work and at home and that of a founder and officer of a small software development company. I comment mostly from the perspective of an end user of PC software products.

As a businessman, I have had substantial experience negotiating, implementing, and litigating business agreements. I have found that the best agreements are those that (1) align the economic interest of the two parties (i.e. there is no economic benefit to either party to try to circumvent the agreement) and (2) are simple. The proposed settlement agreement is neither. As one example, the language in the agreement requires Microsoft to provide access to certain information only to viable business entities. In paragraph III(J)(2)(c) , the proposed settlement states that Microsoft will not be required to provide API's or Documentation to an entity that fails to meet ?reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business.? Arguably, this language could allow Microsoft to exclude access to small businesses, start-ups, and Linux developers (or other non-profit type software developers) if it was in Microsoft's economic interest to do so.

For a second example, the proposed settlement requires Microsoft not to automatically override OEM settings. Paragraph III(H) (3) (b) says Microsoft must not seek permission from the end user for ?[automatic] alteration of the OEM's configuration until 14 days after the initial boot up of a new Personal Computer.? What does the agreement mean by initial bootup? Strictly speaking, ?initial bootup? could be interpreted to mean the first time the unit is turned on by the manufacture or the local retailer (for testing & verification purposes) and not the first time the end user turns on the machine. (As an aside, why does Microsoft need to be able to automatically override any settings? It should be sufficient to notify the user in the manual or on-line help that the user can change his settings by selecting the proper options in his application program or Windows operating system.) If such a simple item is this complicated to interpret and enforce, what does it augur for the rest of the agreement?

While it may not be the perfect solution, separating Microsoft into two independent companies meets the criteria stated above for a good business agreement. One, a breakup is simple, once it is completed, it is done—there is no agreement to interpret. Two, a breakup eliminates any economic incentive for Microsoft to circumvent an agreement because there is no agreement to circumvent once the breakup is completed.

My strong feelings about this case arise because I constantly find I have no real choice in my selection of PC operating systems and applications. As much as Microsoft's legal counsel and economists may argue about the user having choices and being better off, I find from my personal experience, that I am not.

If I am unhappy with my GM car, I can easily switch with my next purchase to a Toyota, Ford, Chrysler, Honda, etc. at zero cost. If I dislike my Sony television, I can buy a Zenith, JVC, Philips, or Panasonic, etc. without constraint. Nowadays, I have the freedom to switch phone service or my television reception from cable to satellite. Even with my PC, I can switch from Dell to IBM, Compaq, HP or others. But, I cannot switch from my use of the Microsoft operating system or Microsoft applications without cost. so substantial as to be prohibitive.

On the surface it may appear that there are alternatives to Microsoft's operating systems and applications. However, there are six barriers which effectively prevent me from using a competitor's product. First, because of Microsoft's market dominance, there is far more support from other vendors for Microsoft's products. For example, an application program or peripheral such as a printer may not be supported under either the Apple or Linux operating systems. Other vendor's import/export utilities, synchronization functions or the like may only support dominant Microsoft applications such as Word or Excel. Similarly, web sites may be designed to function best with Microsoft Internet Explorer as compared to competing products.

As a concrete example, consider my brother's experience with the Apple Imac. My brother's children learned to use the Imac growing up because of its superior user interface as compared to Microsoft windows. However, my brother is now finding that it is too difficult to support the Imac on his home network and DSL line. Vendors just do not provide the same support for Apple that they do for Windows. Additionally, it is too difficult to maintain both Windows systems (for his use) and Apple systems. Therefore, he is forced to switch the children to using Microsoft Windows.

Second, if I wish to use a non-Microsoft product in an area where Microsoft is entrenched, I will be at a tremendous disadvantage when trying to share information. I will be speaking French when everybody else is speaking English. For example, given that everybody uses Microsoft Excel or Word, what real freedom do I have to select a different word processor or spreadsheet (even if superior) when I will be unable to share files with my clients or vendors.

Third, I have invested substantial time in learning to use and debug my existing Windows and Microsoft application programs. I cannot afford to switch to a competing operating system or application and start at ground zero on the learning curve. The amount of time it takes to learn to use a new application is enormous. It far outweighs the dollar cost of purchasing the product. To become as proficient in another word processor application as I am in Microsoft Word after years of use would take months at the very least. No one can afford that cost. AS applications grow larger and more complex, this barrier grows larger and larger in Microsoft's favor.

In an interview, Bill Gates himself points out that Microsoft's biggest competitor (when they release a new operating system) is themselves. Users who have already invested time and money in purchasing and using an older version of Windows are loathe to switch to a new version because of the cost in dollars and time to install, debug, and learn the new version. Imagine then the barrier posed to a completely new operating system or application.

Fourth, there is risk that if I am using a non-Microsoft product, the vendor will eventually be forced out of business by Microsoft and I will ultimately have to switch to the Microsoft product anyway. This was the case with my Lotus and WordPerfect products. In both case, I was finally forced to switch to Microsoft products when the vendors went out of business. Now, if I need to choose between a Microsoft and competing product, the safe decision is to select Microsoft because it is likely the competitor will be eventually driven out of business.

Fifth, there is a cost to switch to a new application because of prior work (data files) that has been generated by the old application. If I have a substantial amount of prior work saved in data files produced by my Microsoft applications, switching to a competing application means I lose compatibility with all of my old work. At the very least, I will have to spend time converting the data files with the accompanying risk of losing information or formatting.

Sixth, It is risky to use a non-Microsoft product because Microsoft has the upper hand in keeping its applications in step with operating system upgrades and taking advantage of new operating system features. Microsoft is in a position to improve its products faster because it is also in charge of the underlying operating system. By the same token, Microsoft applications are least likely to break with operating system upgrades. No competitor has that same advantage. (If Microsoft argues there is no advantage, then it should have no complaint against being separated into two independent companies).

In summary, I do not have the freedom to choose to use Microsoft products because they are superior but am forced to use them because the investment in time and potential risk to use competing products is too high. There are many examples where Microsoft did not have a superior product (or, initially, even a product), but ultimately succeeded due to its monopoly position. For a non-exhaustive list, consider the products: Word (vs. WordPerfect), Excel (vs. Lotus), Internet Explorer (vs. Netscape), Microsoft Project (vs. Symantec's Timeline project management software) and even Windows (vs. the Macintosh). In each of these cases, Microsoft did not have the first product or even the better product. Yet, over time in each case Microsoft has either put the other product out of business or become the clear-cut market leader.

In these cases, Microsoft did not succeed because it was the innovator; but because it had a monopoly in the operating system market. It could use its ownership of the operating system and its monopoly profits to enter new markets and eventually push out the competition. No other company, even dominant ones such as Lotus, WordPerfect, and Novell with all their financial resources, has been able to compete successfully against Microsoft because of the monopoly Microsoft enjoys.

Another example of the monopoly power Microsoft enjoys, is its recent decision not to include JAVA in its latest version of Windows. Given the runaway popularity of JAVA, only a monopoly such as Microsoft could risk making that decision. In a competitive environment, no operating system vendor would decide to exclude JAVA and pursue its own initiative. Microsoft can afford to do that because it wields such absolute control over the operating system market. A consumer has no alternate choice of operating systems so he is forced to accept Microsoft's decision to exclude JAVA from the operating system.

As a final example, consider the operating system called 7OS/27 developed and marketed by IBM. There can be no question that it was a superior operating system and years ahead of Microsoft Windows. It failed however because of the barrier posed by Microsoft's installed base of users. The fact that even IBM failed to make any headway in the market is further evidence of Microsoft's power as a monopoly.

Microsoft may argue that the reason for its success in all of the above examples is that it had the better product or strategy. This is patently false. Microsoft was not the first one to introduce a windowing operating system, an internet browser, the concept of a spreadsheet, a word processor, etc. Microsoft has only been successful in first copying and then outlasting the competition.

Microsoft argues that there is no need to regulate Microsoft as a monopoly because technology and the product landscape change so fast that not even Microsoft can exercise monopoly powers. I think it is just this argument taken in context of Microsoft's success time after time over the last decade that is the smoking gun. No company other than Microsoft has been so successful. It is so unlikely that in an area where the pace of change is this fast, that any one company could be so successful in every endeavor it undertakes, that it must be taken for granted that the company enjoys substantial monopoly power.

Contrast Microsoft's situation to that of microprocessors and Intel. Intel is a dominant market leader but faces fierce competition from AMP, Motorola, and others in the microprocessor market. As a result, we have seen a 100-fold or more increase in price vs. performance (comparing a 33MHz 80386 processor to a 2GHz Pentium II) over perhaps the last 10 years.

Imagine a situation where Intel enjoyed the same monopoly position that Microsoft does today. That is to say, there was effectively no competition from AMD, Motorola, or others. Without doubt, we would not have seen the same increase in performance vs. price. Intel would not have been forced to innovate and cut prices at the rate it is forced to do so today in order to maintain its market leadership. This is clearly evident from the reported news where each time AMD releases a microprocessor, Intel responds by cutting prices. Of course, there would still have been improvements in microprocessor performance if Intel was a monopoly, but nowhere near the current pace. Intel would have made slow improvements at its own unhurried pace under little pressure from others.

Microsoft has at times argued that it is not a monopoly because the price of its operating system software (as a percentage of the price of a PC) has come down over the years and this is characteristically untrue of monopoly pricing. Even if the price of software is in fact lower today than 10 years ago, it is a meaningless statistic. The relevant question is what would the price of software be today if Microsoft did not enjoy a monopoly position. As compared to the innovation fostered in the microprocessor arena due to competition, software performance has advanced relatively slowly. There certainly has not been a 100-fold increase in the performance of Microsoft's software over the last 10 years.

In considering the proposed settlement, the court must balance protecting Microsoft's rights and our system of free enterprise against the damage to society from continued abuse by Microsoft's monopoly position. I think the court must err on the side of the consumer. On a big-picture scale, there is no great damage to Microsoft, its shareholders or the concept of free enterprise by breaking Microsoft into separate operating companies. On the other hand, there is potential for great damage to innovation and free enterprise if Microsoft is free to remain a monopoly and to use its power to stifle new products and block the success of other companies.

In conclusion, the question simply comes down to whether the typical end user is better off because of Microsoft's monopoly. As a typical end user, I am firmly convinced that I am not and hope that the courts will take strict action.

Sincerely,

D. Shah

MTC-00027515

From: Roy S. Alba
To: Microsoft ATR
Date: 1/28/02 1:51am
Subject: Re: Microsoft Settlement

Dear Sir: I will attain the age of 75 this coming July 27th, and I have been following the US Justice Department's case against Microsoft since its inception, and I believe the proposed settlement is in the best interest of all the parties.

To reject the settlement and to pursue it further can only lead to killing the Goose That Lays the Golden Eggs. If not killed it would be so frightened that it would stop laying Golden Eggs.

I pray the court will approve the Settlement.

Roy S. Alba

CC:rsa1800@cs.com@inetgw

MTC-00027516

From: Frank Perara
To: Microsoft ATR
Date: 1/28/02 1:52am
Subject: FW: Microsoft Antitrust Litigation
From: Frank Perara [mailto:f.perara@verizon.net]
Sent: Sunday, January 27, 2002 10:41 PM
To: microsoftatr@usdoj.gov
Subject: Microsoft Antitrust Litigation

Dear sir's,

I am a completely satisfied customer of Microsoft products from the DOS to the present Windows operating systems. I believe that Microsoft has pioneered the computer industry and has given the consumer high performance equipment in the marketplace where others have competed fairly to provide freedom of choice at a fair price. The consumer has benefited from Microsoft products and business practices. I believe the case against Microsoft is without merit and is sponsored by those who have not been as successful in the marketplace as Microsoft. I believe the settlement that Microsoft has proposed is fair and urge you to approve it.

Thank you

Frank Perara

MTC-00027517

From: ray spence
To: Microsoft ATR
Date: 1/28/02 1:53am
Subject: Microsoft Settlement

Dear DOJ,

I am writing in response to the proposed settlement to Civil Action No. 98-1233—the antitrust case against Microsoft.

I am not in favor of the settlement terms. It seems to me that this set of requirements are solely concerned with either

1) allowing OEMs the right to alter the Windows OS desktop, boot any Windows OS computer into another non-Microsoft OS or in general work with non-Microsoft vendors to sell non-Microsoft products—or—

2) allow non-Microsoft software developers, Internet providers and content providers contractual access to the Windows OS.

I agree that what I've outlined above, and what is the entirety of the proposed settlement is necessary. I do not believe this settlement goes far enough.

Microsoft was found guilty of antitrust activities which has allowed it to occupy a monopolistic control over the computer industry. Here is a paradigm which just might provide a novel problem for antitrust legislation; to wit, the monopoly exists now, so any settlement must take steps to immediately restore fair competition to the computer software industry. Yet unlike an entity such as AT&T where simply breaking up the single company into many different corporate entities allowed competition, Microsoft's monopoly does not control from one service (phone service) but from the myriad software applications that are available from ISVs which are available *only* for Windows.

This marketplace condition creates the notion that the only viable OS choice is Windows. I believe we have arrived at this condition from the close relationship between Microsoft's Office product and the fact that Office was and is written primarily for Windows and still for only one other OS—the Macintosh OS. As Microsoft used both legal and illegal paths to place both these products at the forefront of all IHV concerns the business world came use these two Microsoft products seemingly without exception. If a company chose to use Office it commonly chose Windows as its OS. At the present time it seems that Office and Windows are just two more tools on any corporate desk alongside pens, scissors, paper staples etc. But the difference from the other tools is that Windows and Office come from just one single company whereas one can pick and choose from many sources for their pens and paper. The most salient fact in this case is that Microsoft is indeed a monopolist yet the question as to just how to reduce this monopoly is still unanswered in this proposed settlement. Clearly the DOJ needs to address the current state of Microsoft's monopoly.

My assessment of the main two targets of this settlement above do nothing to reduce Microsoft's monopoly. Furthermore I firmly believe that unless the above corporate dependence on Microsoft Office is reduced Microsoft's monopoly will continue. The only meaningful solution is to somehow separate either Windows or Office from Microsoft's control. I would guess that this approach was intended in the first decision to break Microsoft into two or more companies.

Although I support such a corporate division if that path isn't available then I propose forcing Microsoft to divest itself at least of the Office suite of applications. The second requirement would be that the new Office owner must make Office available to other OS products other than Windows on an equal update schedule. Then the computer-using world should get closer to a real choice at least in the OS market, which is the true kernel of this monopoly.

Sincerely,

Ray Spence

MTC-00027518

From: Robert Wohlfarth
To: Microsoft ATR
Date: 1/27/02 9:25pm
Subject: Microsoft Settlement

The Microsoft Settlement, in its current form, offers little protection to consumers from monopolistic practices. Microsoft is permitted to continue bundling unneccesary software with its operating system. And it may continue to exclude competition through license agreements. The license agreements are the greatest threat to consumers. They prohibit computer makers from using any software but Microsoft. The software license prohibits a user from researching software problems, even if Microsoft refuses to acknowledge those problems.

These license provisions allow Microsoft to run roughshod over consumers. And only strengthen its monopoly position. The current settlement does not appear to address these issues.

Thank you for considering these comments.

Robert Wohlfarth
rjwohlfar@galaxyinternet.net
Chesterfield, IN

"Is not life more important than food, and the body more important than clothes?"—Matthew 6:25b

MTC-00027519

From: darrell
To: Microsoft ATR
Date: 1/28/02 1:54am
Subject: Microsoft Settlement—Destroying Credibility of Justice System

Gentlemen:

The Microsoft settlement is legitimately destroying any credibility the justice system might have had in administration and regulation of antitrust laws. Yes, I know lawyers love to point out it is a legal system rather than a justice system. However, in the long run effective government must reflect some rough notion of equal protection, government not for sale and some approximation of morality and ethical conduct. The Microsoft case and settlement dramatically illustrates the complete lack of those values being reflected in the "system's enforcement" of legal rules of behavior. By the way, it isn't the "system" simply because you are a person reading this; please wake up and do your job —"Judge".

Over 30 years ago, I took a single MBA course on antitrust law. It was very clear that predatory pricing policies were strictly illegal, under both Sherman and Robinson-Pattman. When Microsoft priced its competitive product at $0 it was obviously the ultimate predatory pricing policy. It is amazing and embarrassing that it took the government over three years to conclude what was common knowledge on the streets of America as we watched Microsoft drive Netscape out of the business with a $0 price.

Furthermore it was a lame excuse that because it was technology, somehow the antitrust laws did not apply. If you recall people used the same lame excuse to monopolize weaving looms earlier in the last century. As incredibly slow and inept as it was, the court finally concluded what was obvious when viewed cleanly. Without the confounded web of minute bafflegab supported by the economic might of Microsoft to bring any legal argument on antitrust from the last 100 years up for discussion, a reasonable man could have had the case concluded in about a week, at least in my opinion. The result for Microsoft has been to delay a court decision out of the realm of timely relevance.

The current settlement does nothing to insure behavior will change nor punish that behavior in any way that has effective business force sufficient to curb it in the future. The simple fact is that Microsoft is a monopoly. Furthermore, it has used and is using that power to ever extend that monopoly to the net and beyond. They are again doing it thinly veiled, openly in defiance of national law.

As an MBA/MSEE/CEO with over 25 years in the electronics industry, I can testify that the current settlement is a pathetic travesty of justice and law. From my point of view, an appropriate and practical remedy would be to break Microsoft into 6 Companies, all with the same code sources to start out, no interlocking ownership allowed and let each segment markets and compete like everyone else. That solution or one like it would solve the problem because each of those companies could choose to supply source or not to customers, add special features for target markets, and each would be forced to serve their markets aggressively or have it taken away by someone willing to do a better job—Just like everyone else! That solution or others that would really work are not hard to come up with; however, Microsoft clearly will not like it; which in turn is a good indication it would be a good solution. Any notion that a team of lawyers and bureaucrats could control Microsoft's behavior through administrative mechanisms independent of their wealth, power and influence is an expensive exercise in futility.

As a practical matter, it simply won't work.

Currently reported massive lobbying efforts by Microsoft and their failure to disclose contacts and/or who they have given money to gain influence renders Government authority over the rich laughable! Somewhere along the line the judicial system must recognize that the appearance of impropriety does damage to it's very credibility. In the public eye Microsoft has not only bought off the US Government but the government has provided an overly complex legal framework to allow obfuscation of the core elements of antitrust laws. Yes, I know bought off implies direct gangsterism but the effects of massive money are indirect and probably more damaging to our society. Influence on the political system is secured through massive lobbying and "political contributions" which in turn influence the courts. The Tunney Acts recognized the antitrust influence mechanisms. Those acts required at least disclosure.

Somehow the Microsoft legal team continues to obfuscate even those explicit laws while they continue to avoid effective remedies against their monopoly.

I strongly urge the current court to reconsider a different break up of Microsoft and secure a solution that is widely expected to work. The high tech software industry does not inherently follow large economies of scale that might justify a larger single company being the supplier of all software on the planet. Instead the most efficient economic production is achieved with smaller companies focused squarely on specific needs. All the downsizing and reorganizing of the last decade, even during strong economic times, attest to the "right sizing" of high tech companies. Even premier electronics companies such as Hewlett Packard have historically kept profit centers and business units below 400 people or so. At least until the original founders retired or passed on that system has worked well for them. More recently, when that company began operating in a monolithic mode, troubles began.

Incidentally, I am a republican.

Sincerely,
Darrell L. Wilburn
Saratoga, California
CC:dgillmor@sjmercury.com@inetgw

MTC-00027520

From: Steve Sergeant
To: Microsoft ATR
Date: 1/28/02 1:55am
Subject: Microsoft Settlement

Comments regarding Proposed Final Judgement

United States v. Microsoft Corporation
Civil Action No. 98–1232

I am writing to express my disapproval with the Proposed Final Judgement as it currently stands. I fully agree with the comments filed by Ralph Nader on this matter <http://www.cptech.org/at/ms/rnjl2kollarkotellynov501.html>. In Judge Jackson's findings of fact, he identifies the key to Microsoft's ability to maintain their monopoly power: The withholding of the technical details necessary for potential competitors to develop interoperable products.

The Proposed Final Judgment specifically denies access by non-commercial software developers to full documentation of Microsoft interfaces and file formats. The most likely threat at this time to Microsoft's monopoly position is from the non-commercial, volunteer collaborative efforts of "open source" software developers. A truly effective remedy would allow such developers to access any information necessary to build operating systems that are interoperable with Microsoft application programs, or to build application programs which interoperate with application programs or operating systems produced by Microsoft.

The final judgment must not permit Microsoft to discriminate who can purchase technical information about their products. Allowing Microsoft to discriminate only perpetuates their monopoly. This technical information must not be licensed in any way that restricts any other developer from creating a competing or interoperable product, for clearly the purpose of the remedy is to encourage competition.

This case is our best hope, as consumers of personal computer products, that competition and a free market will return to the software industry. When the average person can walk into any store that carries computers, software, or related accessories and find a wide range of options that are in no way dependent on Microsoft, then this case will have succeeded. Otherwise, I feel this case will have failed to enforce the anti-trust laws.

Steven E. Sergeant
1055 Summerwood Court
San Jose, CA 95132–2958
SteveSgt@effable.com
Voice & FAX: 408/937–8116
PCS/Cell: 408/829–7372

MTC-00027521

From: D. Mark Abrahams
To: Microsoft ATR
Date: 1/28/02 1:57am
Subject: Microsoft Settlement

The proposed settlement is a bad idea—it is not in the public interest. There are numerous problems with it.

The problem I wish to emphasize is that it does not adequately allow developers using competitive operating systems (for example, Linux) to provide mechanisms so that duly-licensed copies of Microsoft applications can be made to run on the competitive operating systems. This helps continue Microsoft's monopoly on operating systems (and, in turn applications).

Thank you for your consideration.
D. Mark Abrahams
President, Abrahams-Rizzardi Inc.
(a very small independent software consulting firm)
Berkeley, CA
ph (510)524–1294

MTC-00027522

From: GRRaisler@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:56am
Subject: Microsoft settlement

Sirs: Tomorrow the trial against Microsoft, which began months ago, will continue on. I sense the citizens of The United States and the world in general long for a resolution to put this trial behind us.

Since September 11th, we need not dig more holes to hinder our future, but let the amazing talent of all our technological companies deliver superior products.

Thank you for your time,
Gordon Raisler

MTC-00027523

From: Betty Marler
To: Microsoft ATR
Date: 1/28/02 1:57am
Subject: Microsoft Settlement

I believe in Microsoft and want to support them but I am not sure how to do that. I am so tired of reading about the lawsuits against them and the judges who seem to be trying to destroy the company with their decisions.

You would think that our government would be doing everything they could to support a company like Microsoft! It has had such a positive impact on our economy. Instead of being proud that our country has a company that is a leader in technology, it seems the government is trying to destroy Microsoft. Do whatever you have to do to support them so they can spend their time, energy and money to innovate instead of defending their success.

MTC-00027524

From: Mickey Aberman
To: Microsoft ATR
Date: 1/28/02 1:59am
Subject: Microsoft Settlement

Public Comment:

I have no dog in the Microsoft fight. Nevertheless, I have been following the case since the trial started. Microsoft was proven to have committed massive antitrust violations. During the trial it was caught falsifying a demonstration, and its executives were caught lying many times. The court of appeals en banc upheld the findings of serious violations and monopolizing on a scale that is huge. This was apparently the full court of appeals, comprised to a large extent of conservative judges).

How can Microsoft have any hope of avoiding massive punishment?

A defendant one-tenth the size, whose violation had one-tenth the scope, would be trying to keep its executives out of jail.

The Microsoft settlement is surreal (and unfairly favorable to the Defendant). It looks like political connections or intimidation have prevailed over justice.

Microsoft really needs to be broken up into three parts.

John M. Aberman
2145 Radcliffe Avenue
Charlotte, NC 28207
(704) 372–5646

MTC-00027525

From: Mark Johnson MD
To: Microsoft ATR
Date: 1/28/02 1:58am
Subject: Microsoft Penalty is Grossly Inadequate; I too have been greatly harmed!

To whom it may concern:

I feel compelled by duty to communicate my dismay and disappointment regarding the current terms of the Microsoft settlement.

Frankly, the Justice Department sold out.

After essentially a decade of similar allegations and toothless consent decrees, Microsoft has finally been conclusively proven in our nation's courts to have illegally used its monopoly power to dominate new markets. There is no question that a majority of consumers have experienced harm by Microsoft's business practices, even if most remain unaware of this harm.

Microsoft has been very successful in serially establishing its own software offerings as industry standards, which admittedly has some consumer merit. However, all along the way, better offerings from other innovative and worthy companies were destroyed or rendered utterly irrelevant in Microsoft's trademark fashion. Microsoft's office suite and web browser were "good enough", but would not have competed successfully with products from other companies (ie WordPerfect, Informix, and Netscape) had they not been so closely tied to contractual distribution obligations with the Windows operating system. In large measure, Microsoft has removed consumer choice and often reduced discerning consumers to nothing but followers. Those who venture away from Microsoft solutions know that they run the risk of obsolescence or irrelevance. This is a very stifling revelation. We should expect to base our software purchase decisions on quality, reputation, and value. We should not be dissuaded from purchasing from a given vendor simply because they conflict with Microsoft's latest growth strategy. Look at WordPerfect, Netscape, and Apple as prominent examples of reputable companies whose loyal customers, in many cases, have been severely harmed or detracted by the anticipated consequences of Microsoft's business practices.

Too many worthy companies with innovative, quality products have been reduced to irrelevance for anyone to be justified in laying the blame on them or their management. If they are in a market that Microsoft wants, they will never win. Period. Look at Netscape's travails for a prime example.

Finally, I have one profound example of personal harm. Long before the Palm Pilot, or Microsoft's Windows CE machines were available, I embarked on software development for Apple's Newton handheld. Several years later, just as my small company was about to release our first major solicited product, Apple showed signs that it was going to discontinue the Newton platform. Even more interesting was the fact that a business interest liked our product so much that they considered purchasing the entire Newton division from Apple, just to keep our product viable. We met with several key people at Apple under non-disclosure and, prior to terminating our discussions, were warned that we would feel intense pressure from Microsoft. We would be in their "cross-hairs" even as Netscape was at the time, and as Palm would be in the near-future. We were advised that, consequently, this would become a non-sustainable business. Three days later, Apple announced to the world that it was indeed discontinuing the Newton, which business decision likely cost me well over $1 million. And general consumers of the Newton were left with expensive machines, but no future. In summary, Microsoft's business tactics have greatly harmed me and have certainly harmed most consumers in general.

Please, remedy the Microsoft problem in such a way that this whole court proceeding is not similarly reduced to irrelevancy (or worse, implied endorsement.) Sadly, I fear that the terribly important points of this case were somehow lost in the change of administration and the general economic downturn of Sept. 11. Microsoft's punishment strategy was clearly to put forth delays in settlement until a sympathetic administration (or judge or settlement offer, or set of world events, etc) would surface, and this is exactly what seems to have happened. Nevertheless, a tempered (ie really punished), Microsoft would become a better corporate citizen. Healthy competition based on merit, not coercion, must be restored, in order to ultimately benefit all consumers.

Most sincerely,
Mark R. Johnson, MD
(801) 944–4950
1899 East Siesta Drive
Sandy, UT 84093
mjohnsonsprint30@earthlink.net

MTC-00027526

From: Zardus@nbwrpg.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:51am
Subject: Microsoft Settlement

Hello. I am writing to join the many people to comment on the Microsoft settlement. I don't think that Microsoft is being punished enough for the following reasons:

1. Microsoft uses its dominance in the market to elbow out competition. This one is obvious, and the settlement doesn't do much to help this. It might require that MS release their API, but it only requires it to release the specs after they've implemented them. That could take other companies months to keep up, letting Microsoft still dominate the market.

2. Microsoft spreads FUD (fear, uncertainty, doubt) about Linux, MacOS, and other competitors. Most of this FUD are lies, made simply to keep people from using a superior product.

3. Microsoft is very obviously anti-competitive. Little shows that more than their recent lawsuit against Lindows.com. Their claim, that Lindows will be confused with Windows XP, is very ridiculous if you look at the logos and the names. The lawsuit is more likely an attempt to get Lindows.com out of the market before they can threaten MS's power and further Linux in the real world.

For those reasons, I think that Microsoft's punishment should be more severe. Please consider this in your decision.

Yan Shoshitaishvili
Tucson, AZ

MTC-00027527

From: Blake Couch
To: Microsoft ATR
Date: 1/27/02 9:55pm
Subject: Microsoft Settlement

The proposed settlement is, in a word, a joke. Where are the financial penalties that might actually make Microsoft sit up and take notice? Where is the divestiture that might actually remedy the damage that they have caused? This citizen says "thumbs down" to a settlement that does virtually nothing to punish the greatest corporate felon of the last fifty years.

Sincerely,
Nicholas Couch
Englewood, Colorado

MTC-00027528

From: olivier@tesla.intra.calle.org@inetgw
To: Microsoft ATR
Date: 1/28/02 2:04am
Subject: Microsoft Settlement

I wish to express my opposition to the Proposed Final Judgment with Microsoft.

I do not believe the proposed remedies will do anything to curb the behaviors of Microsoft which were found to be in violation of antitrust laws when the company was found guilty.

For example, the proposal includes many opportunities or loopholes for Microsoft to exclude itself from API disclosure requirements. It can simply claim that there are security reasons for not documenting an API. It can itself define who is a true competitor. Why does this Proposed Final Judgment allow Microsoft such leeway in deciding itself whether it con be excluded from a requirement of the Proposed Final Judgment?

Allowing Microsoft to claim security as a reason to not disclose an API is ridiculous. Unix and Unix-like operating systems describe all their APIs clearly, some even give you all their source code (Linux, FreeBSD, OpenBSD, etc.) and do not consider this a security problem at all.

Security through obscurity, as it is called, is most definitely not better than security through open discussion, availability and peer review, and in my opinion (and that of many security experts) is worse. I believe that this particular exception to disclosure should never have made it into the Proposed Final Judgment.

My opinion that the Proposed Final Judgment lacks any true corrective power goes beyond the comment above, but applies to it as a whole. I believe that this Proposed Final Judgment heavily favors the guilty in these proceedings and fails to adequately represent the United States of America. We the people, represented by the Department of Justice, received a verdict of guilty against Microsoft, yet it now seems that we are backing down in the sentencing phase. The fact alone that the guilty party in this matter likes this Proposed Final Judgment makes it suspect beyond specific problems with it.

In summary, I believe the Proposed Final Judgment is not in the public interest. It does not seriously, nor effectively address the illegal behavior of the convicted monopolist, Microsoft.

Respectfully submitted,
Olivier Calle
Senior Software Engineer, Citizen of the United States of America
PO Box 752
Marysville WA 98270–0752

MTC-00027529

From: Pedro Celis (wrnha)
To: Microsoft ATR
Date: 1/28/02 2:06am
Subject: Microsoft Settlement.

Republican National Hispanic Assembly of Washington State

Dear Sirs,

As Chairman of the Republican National Hispanic Assembly of Washington State we offer our endorsement of the agreement reached by Microsoft, the U.S. Department of Justice and nine states. The settlement should be accepted not only for its specifics, but also for the principles that it represents. Whenever conflicts arise, our government should strive to find common ground and reach compromises with business. Negotiation and settlement is a better model for government-business relations than litigation. It is unfortunate that the dispute between Microsoft and the government has already resulted in such a long and costly trial.

Better still, government should seek to minimize its interference with the competitive market place; it should work as an ally with, not an adversary to, business.

Litigation is never good for business or industry. Because virtually all businesses rely on technology, the Microsoft case affects us all. As the case proceeded, it appeared that government, not the competitive marketplace, might establish the direction of technology. Such an event would have proved disastrous for the technology industry, for the greater business community, and for the economy. We are happy to see that a comprise and agreement has been reached between these parties and we encourage you to accept this settlement.

This settlement would be fair and reasonable at any time, even if our economy was growing at a rapid pace. However that is not currently the case, and for that reason it is all the more important that the settlement be finalized and the American technology industry starts to benefit from a public policy that minimizes costly regulation, ensures competition, and promotes fair trade and intellectual property enforcement in international markets.

Sincerely Yours,
Pedro Celis, Ph. D.
Republican National Hispanic Assembly.
Washington State Chairman

MTC–00027530

From: tom@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/28/02 2:09am
Subject: Microsoft Settlement

I would like to comment on the "Proposed Final Judgment" (PFJ) to resolve the USDOJ's antitrust case against Microsoft. First, it seems to me very likely that if this PFJ is approved, Microsoft's leadership will proclaim themselves to have been vindicated (despite conviction, which was upheld on appeal), and that they will proceed to ridicule and demean this judgment much like they did the previous consent decree, the abrogation of which led directly to this antitrust case. The reason behind my assertion is that the PFJ neither punishes Microsoft for any of their illegal acts, nor remedies the effects of those acts, nor offers any substantial protection against the likelihood of Microsoft committing similar illegal acts in the future. The PFJ leaves Microsoft's monopoly intact, leaves Microsoft with an extraordinary amount of cash that they have obtained from their monopoly, and allows them to continue leveraging their monopoly to compete unfairly with other businesses.

It seem obvious that the only way to protect other businesses from unfair competition based on Microsoft's monopoly is to isolate the monopoly products and their profits from Microsoft's other business concerns. A crude way to do this would be to split Microsoft into two pieces: a monopoly platform software business, and an independent non-monopoly business. This is what the DOJ originally proposed and Judge Jackson ordered, so it is surprising that such a remedy is no longer under consideration. I wonder why that is?

There also exists an alternative approach to this problem that is simpler, may be more effective, and almost certainly would be much more beneficial to all sectors of the public: release Microsoft's monopoly platform software products under a strong open source license such as the GNU GPL.

This would satisfy Microsoft's OEMs by allowing them full access to the source code and giving them the right to modify and reproduce the software freely; it would also ensure Microsoft full access to any further developments made to the code base; but the critical effect would be to eliminate Windows as a monopoly, therefore eliminating all prospect of Microsoft abusing that monopoly. (Microsoft would also have to give up the Windows trademark, which should be assigned to a standard group, such as has already been done with the Unix trademark.) While this may seem a bit unconventional, the basic fact is that open sourcing Windows would put it on the same footing (except for its vast advantage in legacy applications and hardware support) as its only remaining competition (Linux and BSD Unix). We also know from experience with open source software that it can continue to be developed and even become significantly more robust even without business sponsors.

I don't see how anything less than such a solution begins to solve the monopoly leverage problem. However, if you must limit yourself to a "behavioral" solution, the PFJ needs to be strengthened in several ways:

1) You should require that Microsoft publish and strictly adhere to a price list for all Windows-related operating system platform software, and all applications software that runs on Windows platforms. The PFJ limits this to the "top 20" OEMs, but the broader requirement would simpler and clearer to implement and monitor, and would be less tempting to Microsoft to abuse.

It is important here to include applications software in order to limit (at least make public) any suspicion of Microsoft using their platform software monopoly to subsidize their applications software busienss. Moreover, there should be no exclusions for "market development" consideration, since any such exclusion would allow Microsoft to cut inequitable deals, and because with a monopoly already in hand there's no need for market development.

2) The prohibitions against Microsoft retaliation have too many exceptions. Is there really any reason to permit Microsoft to retaliate against an OEM other than non-payment or impropriety in accounting?

3) All Microsoft interface specifications and documentation that are made available to OEMs, IHVs, ISVs, etc., should be made available to all parties on equal terms. In particular, there should be no discrimination against noncorporate developers or users (especially open source software developers). There should be no restrictions in Microsoft licenses or contracts against reverse engineering.

4) There should be a requirement that formats for all data that is stored to disk by Microsoft platform software and/or operating systems be documented and freely licensed; this is intended to eliminate one significant method that can be used to lock current customers in and unfairly perpetuate Microsoft's monopoly position (although it would be a good rule to apply to software companies, as it protects users" investments in their data).

5) There should be some form of oversight to prevent Microsoft from using lawsuits to hobble potential competition, including open source software developers.

6) There should be severe restrictions against Microsoft buying other companies. In general, it would be much more appropriate for Microsoft to pay its monopoly profits out to shareholders as dividends which would be reinvested diversely than to allow Microsoft to extend its monopoly through acquisition.

7) The "security" loophole needs to be carefully monitored to prevent abuse.

It's not clear what the enforcement mechanism in the PFJ is. There needs to be a method to prevent Microsoft from acting in violation of the agreement, rather than depending on decade-long post facto litigation.

The Technical Committee proposal needs to be expanded to include some degree of oversight and review from more sectors of the public. The PFJ seems to be preoccupied with concerns of OEMs, but there are many other recognizable groups which have distinct concerns, including the open source community and several classes of end-users.

An important thing to note in these nine points is that not only do they fall short of a structural or open source remedy, they are actually much milder than traditional monopoly regulation, which often requires regulatory approval of prices and contract terms and strictly prohibits non-monopoly business activities. (E.g., AT&T before their breakup.)

Another thing to note is that while Microsoft has effectively destroyed any possibility of another commercial software company challenging them in the areas which they monopolize, it is still possible that Microsoft's behavior can be mitigated by market factors due to open source software. Open source already operates at a considerable disadvantage vs. Microsoft (look at Microsoft's balance sheet), so we need to be very careful that nothing we do here further disadvantages the open source alternative.

I've also read the dissenting States" counterproposal, which is much clearer and preferable regarding OEM contracts and retaliation, but contains several proposed remedies that are, I think, counter-productive. These include:

1) Open sourcing Internet Explorer: While this has some poetic justice, IE (assuming it is extractable from Windows, which Microsoft contends it is not) has no value as open source itself, especially without a strong commitment (which can hardly be mandated) from Microsoft to the open source process.

2) Requiring Microsoft to distribute Java: This strikes me as inappropriate direction to Microsoft (it is one thing to tell Microsoft not to do something, but forcing them to do something they do not want to do is not likely to be a happy solution for anyone); it also strikes me as inappropriate to mandate Java as a standard, especially given that it is controlled by a private company.

For whatever it's worth, I am a software engineer and writer. I've used Microsoft products extensively for over 20 years, as well as Unix for a similar period, and have worked on software products for a similar period—both applications and system software, including operating systems and programming languages.

I feel that Microsoft did some remarkable work in their earlier years, but I've noted that their products have deteriorated and become markedly more ominous, especially since Windows 95 and the advent of IE, although one might also dateline this against the emergence of Bill Gates as the world's richest man. When I was growing up it was often said that "power corrupts, and absolute power corrupts absolutely"—I think we've started to see the fruits of that truism in Gates and Microsoft. At the start of this antitrust case it was often opined that the case would amount at best to "too little, too late." If you accept the PFJ, that opinion will be affirmed, and it will be left to some future generation to stand up to the corruption of Microsoft's power. I pray that this court can and will stand up for us now.

Thank you for the opportunity to comment.

Tom Hull
thull at kscable.com
http://www.tomhull.com/

MTC-00027531

From: Patrick Melody
To: Microsoft ATR
Date: 1/28/02 2:10am
Subject: Microsoft Settlement

To Whom It May Concern:

I am writing in regard to the Microsoft Settlement. I am troubled by the settlement as it does not appear to do anything to remedy harm caused by Microsoft's actions nor do anything to promote the public good. As background information on myself, I have a master's degree in computer science and have worked as a professional programmer since 1995. Previous to this I have used and programmed computers as a hobby since high school in the early 1980s.

The operating system is the lowest level of software on a computer, on which all other software running on the computer depends. The value of a ubiquitous operating system to the public is that it provides a unified platform on which to target applications. Program developers need learn only this one system, and large numbers of users may then enjoy the availability of numerous application programs.

Furthermore, these users can easily interoperate with each other since they all share the OS as a common infrastructure. The value of a ubiquitous operating system to it's owner is the dependence of millions of users on the owner. This dependence can be used to leverage dependence in other areas besides the OS. The Internet "works" and has enjoyed great success because it was built on open protocols that are independent of any particular hardware or software program. Even though you and I may use completely different hardware platforms, operating systems, and/or email programs, we can still exchange email with no difficulties. Even though our web pages may be produced with different authoring programs and we may use different web browsers, we can still read each others web pages. This is due to the open protocols and data formats used on the internet. In the age of the disconnected desktop computer, the operating system was the common substrate. In the age of connected systems a new common substrate as appeared: communications protocols and file/data formats. The benefit of the public to these open protocols and formats is clear: the ability to have software written by anyone interoperate seamlessly and effectively with software written by anyone else.

First, any networking protocols used by Microsoft must be fully published and approved by an independent network protocol body before any Microsoft software using them is deployed. This especially applies to the .NET and associated Hailstorm and Passport technologies, which Microsoft is clearly positioning to be tomorrow's ubiquitous software infrastructure. The purpose of this is to ensure the ability of anyone's software to interoperate with Microsoft software and prevent Microsoft from using their OS monopoly to gain a monopoly over internet usage.

Second, any file formats used by Microsoft must be fully published so that these files may be read and written by independent developers, again to ensure interoperability with Microsoft's software.

Finally, there must be effective provisions for the settlement to be enforced since a settlement that can be ignored without severe repercussions is no settlement at all.

Microsoft has repeatedly indicated it feels it has done nothing wrong and that this entire case is an unjustified imposition on it, even going so far as to fake video evidence in front of a federal judge. Such a defendant cannot be trusted on its own recognizance. The current settlement has no teeth.

Microsoft will undoubtedly cry that these measures are unfair. However, the rules of business are different for monopolists than for non-monopolists; and there must be a penalty for monopolists found guilty of illegally maintaining a monopoly as Microsoft has done. As such, these measures are not unfair and would greatly serve the public interest by allowing nonmonopolist software to interact on even ground with the monopolist's software, allowing more competition and more options to the public in choosing their products and services.

Sincerely,
Patrick J. Melody
3708 Acosta Rd
Fairfax VA 22031
pjmelody@concentric.net
pjmelody@acm.org

MTC-00027532

From: B. Kosnik
To: Microsoft ATR
Date: 1/28/02 2:11am
Subject: against settlement as currently proposed

I am sending this as a concerned US citizen who works in the information technologies field. I am saddened that this promising lawsuit might end up doing so little.

The settlement will still allow Microsoft to extend and keep private all of its office application API, as well as office application file formats and intra-application communication protocols. Allowing this, in my opinion, is giving Microsoft consent to continue on as a monopolist in the desktop OS and desktop application space.

It is imperative that all Microsoft file formats be released publicaly, along with Microsoft-supplied validation suites to ensure format fidelity. These formats should be freely licensed to all, allowing even software that is not sold (ie free software) to make use of these formats for data interchange.

Note that this allows all kinds of information tools, free and non-free, but explicitly demands a level and competitive playing field.

Thanks,
Benjamin Kosnik
CC:bkoz@redhat.com@inetgw

MTC-00027533

From: Rob Pegoraro
To: Microsoft ATR
Date: 1/28/02 2:17am
Subject: Microsoft settlement

I oppose the proposed settlement for the reasons set out in the article below, which I wrote for the Washington Post in early November. Although I wrote it on my employer's time and money, it does not necessarily represent the Post's views on this matter. I can, however, attest that it accords with the opinions of a great many readers, if my own e-mail is any evidence.

Sincerely,
Rob Pegoraro
By Rob Pegoraro
Friday, November 9, 2001; Page E01

What are we going to do about Microsoft?

The government has been fretting over this question for the past decade. So far, it has compiled an impressive record of the things Microsoft has done wrong in the past.

Unfortunately, it always seems to find out about these abuses after the damage has been done. And it has yet to effectively address what Microsoft might do in the future.

The proposed settlement between the Department of Justice and Microsoft announced last week continues this embarrassing tradition. It's not just that this slim document fails to mandate any punishment for breaking the law (the next time I get a speeding ticket, can I negotiate this kind of arrangement, too?), or that its numerous "nothing in this section shall prohibit" clauses appear to vacate most of its provisions. The real problem is that it focuses so much on the individual PC desktop, when Microsoft is moving on to other battles.

This settlement spends much of its time trying to carve out space for PC manufacturers to add non-Microsoft "middleware" to run a broader set of applications. This would have been a laudable goal half a decade ago, when PC vendors aggressively experimented with their own front ends for Windows.

As the court case thoroughly documented, Microsoft didn't like this creativity one bit and quickly quashed the manufacturers" dissent. In response, the proposed settlement's first prescription begins with the phrase "Microsoft shall not retaliate" and goes on to stipulate how Microsoft must treat all its licensees equally and fairly. The hope is that this government-mandated liberty will encourage PC builders to offer choices outside the Microsoft way.

"I think it's going to help," said Daniel Morales, a vice president with MandrakeSoft, a Linux distributor in Pasadena, Calif. But he warned: "There's a lot of details that are very slanted towards Microsoft."

None of the manufacturers I contacted wanted to speak, on or off the record, about any of their plans once the settlement goes into effect. Most didn't want to comment about the settlement at all. It's remarkable how many different reasons these companies offered for not talking about the biggest issue in the industry in a decade.

But neither the manufacturers" sudden case of laryngitis nor any subsequent failure to offer new choices to consumers should surprise anybody. In the bruised, battered PC business, there's nothing to be gained by alienating your biggest supplier. The agreement can't repeal this law of human relations.

"In the real world, there are ways to express displeasure without violating that agreement," said Dan Kusnetzky, vice president for systems software research at IDC, a leading industry analysis firm. And Microsoft often doesn't appear to understand that the phrase "abuse of monopoly power" isn't a compliment. It continues to push its Passport user-ID system on customers in the hope of turning this scheme into an Internet-age Social Security number—I've had to enter my Passport login just to download a software update. Windows XP relentlessly promotes Microsoft's own software, services, formats and marketing partners. Just weeks ago, the company locked non-Microsoft browsers out of its MSN.com site.

The proposed agreement's more promising terms apply not to computer manufacturers but to independent software developers. The deal would require Microsoft to document all its applications programming interfaces, or APIs—the ways programs work with Windows itself— as well as some of its networking protocols.

That's a fine start. But the agreement fails to tackle Microsoft's other big leverage point—its proprietary file formats. "The reason I can't walk into an organization and say "I'm going to use my Linux box" is that people will send me Word documents that I can't read," said Jeremy Allison, co-author of the Samba cross-platform networking program.

The Microsoft Office formats are the classic case of this lock-in. Developers of competing word processors and spreadsheets have little choice but to make sure their products can read and write these proprietary formats.

"We don't get any help from Microsoft," said Iyer Venkatesan, Sun Microsystems" product manager for the StarOffice productivity suite. Some documentation is available, but it's "incomplete and full of errors and inconsistencies," e-mailed Shaheed Haque, a developer of the KOffice suite for Linux.

Sun would like to see Microsoft's formats turned into open, published standards. Allison would like to see the same thing done for all of Microsoft's communications protocols, beyond the settlement's limited requirements. With open access to the Windows APIs as well, said Kusnetzky of IDC, "it would make it much easier to create an collaborative environment."

There's a model for this sort of requirement—telephone and electric utilities, which developed into monopolies and now are required to open their facilities to competitors.

But the Microsoft agreement doesn't follow this particular logic. It still could—should—be amended. But what if it isn't?

Microsoft is an odd company to contemplate. It employs a lot of smart people and can produce software of amazing quality. But it also has repeatedly broken the law and shows few signs of having learned its lesson.

If you don't want Microsoft's way to be the only way, there are things to consider.

Does the need to work with the same files as your Windows-using colleagues mean you need to use Microsoft applications, too? Does it even require you to run Windows itself? Are there better choices in Internet access than Microsoft's MSN? Even if Microsoft prods you into signing up for a Passport account, do you actually need to use it?

In other words: What are you going to do about Microsoft?

Living with technology, or trying to? E-mail Rob Pegoraro at rob@twp.com.

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MTC–00027534

From: Kyrieeleeson@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:18am
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Vince Bradley
5329 Summerlin Road
Fort Myers, FL 33919

MTC–00027535

From: David O'Brien
To: Microsoft ATR
Date: 1/28/02 2:23am
Subject: Microsoft Settlement

The proposed settlement as it stands will not curtail Microsoft's actions in the computer industry. It does not go far enough to restrict Microsoft to legal and fair play. One can easily see parts of it are vague and Microsoft will be able to drive an 18-wheeler thru the loop polls in it.

Microsoft did not take the 1995 DOJ agreement seriously, nor will it take this current agreement seriously.

Please do not accept and approve the proposed settlement as it currently stands. Please send it back to the drawing board.

David (obrien@NUXI.com)

MTC–00027536

From: Ramon G. Pantin
To: Microsoft ATR
Date: 1/28/02 4:54am
Subject: type Microsoft Settlement

Dear Department of Justice representative,

Attached is an HTML document with my comments about the settlement proposed. I have included my background and contact information in that document. Please feel free to contact me at:

rgp@scalio.com
or at home at:
425–889–1043

if you have trouble with the attached documents.

Sincerily,
Ramon G. Pantin
CC:rgp@veritas.com@inetgw,Argenis Tovar

MTC–00027537

From: Ed Dunphy
To: Microsoft ATR
Date: 1/28/02 2:20am
Subject: Microsoft Settlement
CC: ed@instantsoft.com@inetgw

Ed Dunphy
President and CEO
InstantSoft Inc.
476 East Campbell Ave,
Campbell CA 95008
(408) 871–3092
ed@instantsoft.com
Suite 200

To: US DOJ
Subject: Microsoft Settlement
Date: Jan. 27, 2002

Your Honor,

I run a small independent software company (ISV) located in Campbell California which is next to San Jose. We have about 10 people and we work with programmers from all over the world. We have chosen to be in the software industry and therefore I would like to exercise my right to provide to you my opinions as a technical professional executive. Please let me first tell you a little bit about my background.

I was born in Washington DC in 1950. My father was a Colonel in the US Army and was in the Judge Advocate Core. He also practised in the U.S. Supreme Court and my mother worked for the Dept of Commerce. My mother's father was the Governor of Montana and another great relative was territorial Governor of Hawaii appointed by Roselvelt and bumped out of office when marshal law was enacted during the attack on Pearl Harbor.

In 1973 I received a Masters Degree in Computer Science Mathematics and Statistics from the University of New Mexico where I was raised. My professors were mostly from

Sandia and Livermore Labs. Immediately after college I worked at the Air Force Weapons Laboratory with all appropriate clearances. It was 1972–3 when Microsoft started in Albuquerque working on schemes to bundle their basic interpreter with memory upgrades to the Altair (first PC).

My career took me to Massachusetts and Connecticut and back working for in computer graphics software for mechanical engineering for 15 years as a vendor, then a consumer in Combusion Engineering MIS group (which was then a Fortune 42 company) and Prime Computer Inc. a company which introduced the first LAN-intrinsic operating system and multiproccessor based 32-bit computers.

In 1986 I moved to Europe to work as a Vice President at International Computers Limited and returned to the US in 1987 to work for Sun Microsystems Inc.

Four years ago I left Sun to found InstantSoft. Inc. I use Microsoft products every day and have for decades. I use Netscape products every day and have since they started. I have read dozens of books, talked to dozens of people and written reports and books about the software industry. I am a published author as well as an software industry expert.

I followed every minute of testimony and even downloaded Judge Jackson's opinion in the US DOJ vs. Microsoft Antitrust case. I read hundreds of the thousands of depositions that were posted online thanks to the T-1 I have to use.

It is with this near total immersion of personal and professional interests that I feel compelled to write to express my objection to the settlement proposed by the Bush Administration's US DOJ. I will set out in this letter why I believe the proposed settlement is not in the publics best interest.

I would like to share with you my strong concerns and reservations to the proposed settlement for three reasons.

1. Microsoft's competitive position as a monopolist discourages real innovation in the software industry.

The proposed settlement does not create a serious oversight function to monitor Microsoft. A vendor of this size, in an industry this dynamic; is extremely complex both technologically and structurally. There ought to be a department of the government involved in intellectual property the same way we have the Dept of Agriculture. The proposed settlement is so weak as to be disengenuous.

Microsoft can afford to match 1000 people for every one the US DOJ might have involved in oversight and still get an ROI out of it. Why not make Microsoft foot the bill out of penalties to fund 1000 people required to really be able to track this complex company in this highly complex industry? Microsoft's success is so huge and they have created such a mess that the US DOJ should make them fund the governments oversite rather than it being funded by the tax payers of the US.

No expense should be spared to enforce our antitrust laws. This should stay in remain until Microsoft market share falls below 50%. Microsoft's should no longer be allowed to conduct business that extends their monopoly.

There isn't really a single remedy or set of "point remedies" that will fix this. Its impossible to predict the future, but rest assured Microsoft will be a player in the future no matter what the US DOJ does. Judge Jackson's structural remedy for breakup was a logical conclusion. When Microsoft announces a new operating system, which ISVs and vendors are as "in the know" as Microsoft's own application software product groups? Applications will drive the operating system and due to its size and breadth, Microsoft can leverage its unfair competitive advantage to divisions within Microsoft giving them a completely unfair competitive advantage in terms of inside information and time-to-market.

No independent software company can compete with Microsoft unless Microsoft chooses to let it be. Does the proposed settlement do anything to curb or control or monitor the infamous chinese firewall that doesn't really exist?

2. Microsoft's illegal and unethical business conduct has made Bill Gates and 2 others from Microsoft among the 5 richest people in the world. The wealth and power of this company and its founders and senior management is simply staggering.

The proposed settlement is not even a tap on the wrist to Microsoft. In fact, it will only solidify the fear that Microsoft now has more power than the US Government and the Vatican combined. The only thing Microsoft understands and seeks is money and power.

The proposed settlement does nothing to put substance behind the "you are guilty of antitrust" message.

Shouldn't they really have to now change their attitude?

Being a monopoly is not illegal, but once found a monopoly why would the US DOJ not take commensurate and serious actions that are more proprotionate to the consequence and economic impact of their practises in the software industry. I do not see how any economist would look at the facts here and conclude that Microsoft has not profited enormously (and in my opinion largely as as a consequence of unethical and illegal business practises over decades.)

The proposed settlement seems politically motivated. If this was oil instead of software, or Bush was from the software industry, maybe it would a different story. Is it possible that Microsoft is so elite, and so smart, and so aggressive, that it blows the minds of experts in our government as to how to deal with it in the aftermath of finding it a monopoly? This reminds me of a CEO I heard about who was shown a brand new computer that was a lot smaller and more powerful than the existing computers who said "cool, so does this mean it will take fewer people to operate since its so small?"

What indication does US DOJ have that Microsoft will really change its attitude and behaviour? How many times will they have to be found out before some sort of consequentiality cuts in? It should be three strikes and you are out, not three strikes and we'll let you walk anyway.

Should Microsoft have been allowed to fund Apple its long term rival to the tune of $150 million just to prop it up so as not to look like it killed Apple too?

I'm convinced that Microsoft and its founders are so highly integrated that to take action against Microsoft and not its founders misses the whole point of understand and curbing their excessive power. Microsoft has a legal racket. You can shut down the racket but it won't stop it. Isn't it like dealing with the mafia? Don't you have to deal with the Godfathers and the Dons? The proposed settlement does nothing to deal with the root issue. Whose behaviour needs to be changed? How is the proposed settlement going to put anybody in a position of power over the richest men in the world? This is why we have a government, to represent ALL of our interests.

A company that moves as much wealth out of the pockets of users and into its treasury has to be admired. But when the company is using an illegal recipe to stay there the US D0J can't just let it slide. we are supposed to have and enforce the laws.

3. Finally the proposed settlement raises the price of software for consumers and raises the barrier to entry for any company with new and highly innovative software.

I am forced to pay a premium for often questionable value when I purchase Microsoft software. When Microsoft entered the server software market with a vengance with Windows NT. I remember purchasing a license for $4000 so that my Microsoft SQL Server could be accessed from the internet on the NT operating system. There was no product delivered, there was no manual, there was just a license. Don't hold me to the exact price, but this struck me as very odd and basically deceptive.

Microsoft, following a best practise of IBM, simply waits it out and targets any vendor who begins to acheive a level of mass market penetration not only of the for software, but in virtually any and every type of software one can imagine. If you look at the history of acquisitions by Microsoft, it is hard to square this against the claim that they are interested in innovation. The only innovation they really care about is innovation that extends their market share and dominance. Isn't this capitalism running unchecked?

Linux is an interesting threat to Microsoft. Why? Because a) its open source, b) its basically free and d) they can't control it. Should the government not promote open source and standards-based technologies in the interests of companies competing on the basis of excellence in implementation?

Microsoft's cash machine is fueled by upgrades and new releases. Microsoft actually promotes how its old software was so buggy that users will benefit by buying the new upgrade. Does this sound like a good deal to you? Linux stands in stark contrast since it is technology that does not have business dependence built into it.

Microsoft even capitalizes off of its own mistakes. I was amazed to have a Microsoft employee at Comdex show me with pride how you can search the 35 CDs of bug fix notes—and the CDs only cost hundreds of dollars. Is this innovation or a damn clevor built-in business scheme to embed unfair competitive advantage into Microsoft every go-to-market scheme?

Does the proposed settlement provide any real incentive to Microsoft to drop prices, to ship high quality product or to lower the lockin of customers and companies who have no choice but to use Microsoft products? A monopoly can get away with things that other vendors can't. They, not the customer, can dictate what options are available to the customer.

One of the areas I have spent a great deal of time researching involves best practise in business partnering.

Microsoft and many other leading software vendors have purchased research reports and consulting from my company over the years. This work and direct contacts with professionals in major corporations has given me tremendous insight into how large companies work with other companies to move their markets. The area of focus I have had has been Software partnership programs. Microsoft spends well over a billion a year on developer programs alone. A monopoly should not be allowed to use its resources to coopt and literally buy business allegiance from independent companies. I would therefore emphasize the any proposed remedy that does not have a proper level of investment behind it is not going to be able to recognize and monitor Microsoft's approach to business. What is required is comparable to the sophistication of a small department in an intelligence agency.

Conclusions

The proposed settlement is not in the industry's or the consumers best interest. It is not really in Microsoft's interest either because the likelihood that Microsoft will be back on the hot seat in the future is inevitable. Civil actions against Microsoft will likely be impacted adversely should the proposed settlement prevail.

While I have opinions about a fair settlement, what I really expect and hope for from the US DOJ review of the proposed settlement is that it will be rejected and sent back to the drawing board as incomplete. Among the difficiencies in the proposal you might want consider stressing the following in re-defining an appropriate and fair settlement:

1. Microsoft's business, and the personal business of its leadership, need to be systemically and deeply monitored. There should be a whole series of fixes each aimed with laser precision on specific elements of their conduct of business vis a vis their competitors, their supply chain and their business partnership agreements. What is needed are a sequence of precision hits not carpet bombing. The proposed settlement should define a far more robust process behind it that is auditable.

The audit results and conclusions should be presented to an independent advisory council composed of good people that can contribute value in the process. The record of Microsoft's involvement in standards bodies should be monitored to ensure they are participating in advancement of the industry and not just themselves. The participation of members of these standards bodies participation in such an independent advisory council might also be recommended.

2. You can't aim a remedy let alone deliver it with 2 troops on the ground. The US DOJ needs to put a small army to deal with this form of sophistication in unfair corporate practise.

The government needs to provide safe harbor for competitors of Microsoft. Microsoft should not be above the American legal system. The proposed settlement needs to demonstrate to the American public that the settlement gives the government sufficient resources to deal with Microsoft everytime they stray out of their box and that the box itself will need to be reexamined and adapted every quarter as industry dynamics change.

There should be a proposed budget to support whatever the watchdog group is that is setup. That budget has to be at least a few orders of magnitude higher that it currently is to have an credibility compared to what is at stake here.

3. Microsoft's monopoly should be viewed as putting them in the category of a monitored utility. Since everybody needs what Microsoft produces and especially since Microsoft has demonstrated its ability to kill its competitors.

Their behaviour and history demands a serious regulatory oversite. While DOJ stopped the Intuit acquisition there should be a hundred times more scrutiny applied to their actions now that they are a certified monopoly. Self-policing is a non-starter.

The proposed remedy might recognize that Microsoft has more resources than the US DOJ. The proposed settlement should recognize the unique technological stranglehold Microsoft has on the computer and software industry. Perhaps limits can be placed on just how far Microsoft should be allowed to tie the government itself up in knots while maximizing their lobbying and soft money contributions to politicians.

4. Since a structural remedy seems to drastic, surely Microsoft should be made to give back some of their ill-gotten gains. Not only should the Government fine them in an ongoing way to cover its costs of oversite and regulation, but it should go further to ensure that those responsible for future abuses will be face consequences and that means those in charge at the top. The proposed remedy should define clear consequences not just to the Microsoft corporation but to key officers who continue to engage in illegal and unethical conduct.

5. Microsoft should be made to defend every pricing action, every new product introduction, every upgrade, every acquisition, every ad campaign and so on. They have not only banked a fortune but they seem to have created a possibly unstoppable franchise. The government should realize that corrective actions will take time and that its job has only started.

It strikes me as unusual that the US DOJ would not seriously consider consulting with the appropriate ministries especially in Europe where the jury is still out on how the governments will come down on Microsoft antitrust. Would it not be better to coordinate with them on matters of intellectual property? While Robinson Patman might have no corallary in the rest of the world and while it might be imperfect, would it not be prudent to demonstrate a more coordinated response to Microsoft to get their attention?

In conclusion, it seems only reasonable to explain why I took the time to write to you. I am an American entreprenuer in the software industry. It strikes me that there is no logical explanation why the US DOJ proposed settlement is in the best interests of the general public. As a highly informed and concerned professional it is great to have the opportunity to provide you with these comments.

In the name of innovation, Bill Gates is allowed to effectively create a tax on the Microsoft installed base by creating an incompatibility or discontinuity in technology that virtually forces me to have to get upgrades and screw with my computers not because I want to but because there is no other choice. Microsoft should be monitored in terms of its compliance with industry standards so they can not go their way when the industry needs to go the way of open source and standards based computing.

When multitasking preemptive kernel source code is available for free off the web, why don't I use it? The answer is usually applications.

Microsoft refuses or can't or won't put their applications on any open source GPL or public domain operating system. The computer industry will only be healthy and grow if open market forces are allowed to function. The industry is out of balance and luckily, finally, the government recognized it. Now the government should take the lead to ensure that the richest man in the world and his friends don't stifle commerce and extract excessive profits from the general public as well as the American government because they can as a monopoly.

I believe that Microsoft is far more calculated than parts of the FBI or CIA. Don't let this monopoly dampen innovation and value creation in such a critical industry. Computing is now as pervasive as any utility. We do not want one utility vendor buying the market out and killing competitors and then setting whatever price they want. We need to restore competition which will create more innovation, reduce prices through open market competition and provide some relief from the imposition of a ongoing Microsoft tax on all of us.

Your decision regarding the proposed settlement is really about the fundamental right to no taxation without representation. As agents of the public interest, please give this matter the serious consideration it deserves despite its complexity.

Thanks for hearing me out.

MTC-00027538

From: Alexa Frazee
To: Microsoft ATR
Date: 1/28/02 2:35am
Subject: Microsoft Settlement

Dear Judge,

I am responding to the news of the Proposed Final Judgement with Microsoft; As a student at a private university, I am very concerned about my government's recent actions, allowing for such a monopoly. I have no problem with Microsoft as a company, but i do recognize the need for competition in the marketplace. The Microsoft product is all too often in need of improvement and to eliminate any and all of its competitors will only cause the industry to progress slowly and loose some of its quality.

As a consumer, I would appreciate being offered cutting edge, top quality software. I feel that my government is obligated to ensure a competitive, progressive industry. Please do what you can to preserve the ideals of the American marketplace.

Thank You, Alexa Frazee
(213) 742–0128
CC:microsoftcomments@doj.ca.gov@inetgw,dkleinkn@yahoo...

MTC–00027539

From: jremy-doj@law.uoregon.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 2:36am
Subject: Microsoft Settlement

To Whom it May Concern:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. There are several significant failures of the proposed settlement. I will limit my comments to one specific problem.

I believe Microsoft should give $1 billion in cash to help schools, instead of software and some money. This would seem to only hurt Microsoft's competitors in the education market as it is difficult to compete with free software. A far better settlement might be for Microsoft to give their proposed $1 billion—in cash—to an independent foundation, which will provide our most needy schools with the computer technology of their choice.

Thank you for the opportunity to share my opinion about this very important decision.

Sincerely,
Jeremy Zane
Network Administrator
University of Oregon School of Law

MTC–00027540

From: Bill Hattenhauer
To: Microsoft ATR
Date: 1/28/02 2:38am
Subject: Well WELL

NO SURPRISE! MICROSOFT IS GUILTY OF MAINTAINING A MONOPOLY- BUT SUFFERS NO PENALTY!

NO JUSTICE TODAY! This company profits illegally from it's thoughtful actions, robs the world of great competitive ideas by it's business practices, and is found guilty in court and is extended NO REAL PUNITIVE ACTION> NOT SMART.

Our only hope now is that Linus Trippolli develops a new secret operating system that costs $40–50 US that runs all middleware and user programs on every system and completely disregards who the manufacturer of that software is. But in the mean time MS is busy trying to get new proprietary "standards" adopted by anyone stupid enough to accept the norm.

YOU GET AN F. Hope the DOJ doesn't get the chance to prosecute the terrorists or we all will be in for it. My vote is Military Tribunal after this.

MTC–00027541

From: Felmeyfamily@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:34am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Kathleen Felmey
26445 SE Rugg Road
Gresham, OR 97080–8644

MTC–00027542

From: Marc Brenner
To: Microsoft ATR
Date: 1/28/02 2:43am
Subject: Fw: Microsoft Settlement revised letter with address and phone
From: Marc Brenner
To: microsoft.atr@usdoj.gov
Sent: Sunday, January 27, 2002 11:28 PM
Subject: Microsoft Settlement

I and my family feel that the proposed settlement will not benefit the public interest. Microsoft should be forced to open its applications to other platforms, so that software and hardware from other vendors will run without crashing with Microsoft products and so that other platforms can develop and integrate with Microsoft applications.

The court should hold public proceedings under the Tunney Act to give all parties the abilities to participate in settlement.

Thank you for your consideration.
Marc Brenner
835 Topper Lane
Lafayette, CA 94549 Ph: 925 283 3408

MTC–00027543

From: Randolph Mitchell
To: Microsoft ATR
Date: 1/28/02 2:45am
Subject: Antitrust Remedy

Microsoft Corporation's consistent pattern of monopoly abuse and intellectual theft is as damaging to American interests as Enron's abuse of accounting practices.

The Department of Justice must sharply curb Microsoft Corporation in order to preserve freedom of choice in the computer market, and to encourage the entrepreneurial innovation necessary to maintain America's lead in computer hardware and software.

Sincerely,
Randolph Mitchell
P.O. Box 9
Oakville, CA 94562–0009
707–944–8755
Randolph Mitchell
<mailto:ranny@napanet.net>
<http://www.homewine.com>

MTC–00027544

From: Michael A. Alderete
To: Microsoft ATR
Date: 1/28/02 2:59am
Subject: Microsoft Settlement
Antitrust Division
U.S. Dept. of Justice
601 D Street NW, Suite 1200
Washington DC, 20530–001

To Whom It May Concern:

I am writing to exercise my right under the Tunney Act to voice my strong disapproval of the current proposed settlement of the Microsoft anti-trust trial. The proposed settlement is both weak and lacking strong enforcement provisions, and is likely to have zero (or worse) effect on competition within the computer industry, with continued and increased harm to consumers in the form of fewer options in the software market and continued increases in the price of the Microsoft software consumers are forced to buy.

Microsoft was convicted of abuse of monopoly power by one Federal judge, and the judgment was largely upheld by another seven Federal justices. In evaluating any proposed settlement, keep repeating one Important Phrase over and over: "Microsoft is guilty."

The seven justices of the appeals court ruled that any actions taken against Microsoft (a) must restore competition to the affected market, (b) must deprive Microsoft of the "fruits of its illegal conduct," and (c) must prevent Microsoft from engaging in similar tactics in the future. The proposed settlement fails on every one of these.

(A) Restore Competition

Among the many flaws in the proposed settlement is the complete disregard for the Open Source software movement, which poses the single greatest competitive threat to Microsoft's monopoly. Most organizations writing Open Source software are not-for-profit groups, many without a formal organization status at all. Section III(J)(2) contains strong language against non-for-profits, to say nothing of the even less-formal groups of people working on projects. Section III(D) also contains provisions which exclude all but commercially-oriented concerns.

To restore competition the settlement must make allowances for Open Source organizations—whether formal not-for-profit organizations or informal, loosely associated groups of developers—to gain access to the same information and privileges afforded commercial concerns.

(B) Deprivation of Ill-Gotten Gains

Nowhere in the proposed settlement is there any provision to deprive Microsoft of the gains deriving from their illegal conduct. Go back to the Important Phrase: "Microsoft is guilty." In most systems of justice, we punish the guilty. But the current proposal offers nothing in the way of punishment, only changes in future behavior.

Currently Microsoft has cash holdings in excess of US$40 billion, and increases that by more than US$1 billion each month. A monetary fine large enough to have an impact on them would be a minimum of US$5 billion. Even a fine that large would be a minimal punishment. Microsoft's cash stockpile is used, frequently and repeatedly, to bludgeon competitors, buy or force their way into new markets, or simply purchase customers, with the long-term intent to lock people and organizations into proprietary software on which they can set the price. Taking a "mere" US$5 billion from their stockpile will have zero effect on this practice.

For that reason, Microsoft's cash stockpile must be further reduced. In addition to the monetary fine, Microsoft should be forced to pay shareholders a cash dividend in any quarter in which they post a profit and hold cash reserves in excess of US$10 billion. The dividend should be substantial enough to lower Microsoft's cash holdings by US$1 billion, or 10%, whichever is greater.

(C) Prevention of Future Illegal Conduct

The current proposed settlement allows Microsoft to effectively choose two of the three individuals who would provide oversight of Microsoft's conduct and resolve disputes. The proposed settlement also requires the committee to work in secret, and individuals serving on the committee would be barred from making public or testifying about anything they learn.

This structure virtually guarantees that Microsoft will be "overseen" by a do-nothing committee with virtually zero desire or ability to either correct Microsoft abuses, or even call attention to them.

Instead of the current proposal, a five-person committee should be selected. Microsoft may appoint one person, but will have no influence over any of the other four. For the four, two should be appointed by the Federal court of jurisdiction, one should be appointed by the U.S. Department of Justice, and one should be appointed by the U.S. Senate. At least two of the appointees should have technical experience and be competent to evaluate technical proposals and arguments by themselves, without the filters which assistants would bring.

These are hardly the only thoughtful and reasonable suggestions you will no doubt receive regarding the proposed settlement of this anti-trust case. And these are hardly the only suggestions which should be adopted if the settlement is to prove effective. But all of them are essential to that aim, and adopt them you must.

Thank you for your time and the opportunity to comment.

Respectfully,
Michael A. Alderete
569 Haight Street
San Francisco, CA 94117
(415) 861–5758
alderete@haightlife.com
Latest News: <http://www.michaelandrochelle.com/about/michael/blog>
Michael A. Alderete
<mailto:alderete@haightlife.com>
voice: (415) 861–5758

MTC–00027545

From: aharoyan@ucdavis.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 2:50am
Subject: Microsoft Settlement

the proposed settlement is bad idea.

MTC–00027546

From: D. Hugh Redelmeier
To: Microsoft ATR
Date: 1/28/02 2:53am
Subject: Microsoft Settlement

I will keep my comments brief. I am a software developer and consumer, not a lawyer. I will not repeat points that are well presented, for example, by the submissions of the American Antitrust Institute:

<http://www.antitrustinstitute.org/recent/163.cfm>

and Dan Kegel:

<http://www.kegel.com/remedy/>

The proposed final judgment in the US v. Microsoft case is inadequate.

Microsoft has been found to be a monopolist. It has been found to have willfully and illegally exploited its monopolies. Microsoft has delayed the day of reckoning, multiplying the damage.

The purpose of the proposed final judgment is to deny Microsoft the benefits of its unlawful behavior, to remedy the damage, and to prevent future misbehavior. I fail to see how it would substantially accomplish any of these goals.

The fact that several attempts have been made to tame Microsoft's illegal behavior suggests that any settlement must be carefully crafted to be "leak-proof". Speed is of the essence in response to future misbehavior—irreparable damage can happen much more quickly than litigation can be resolved.

As far as preventing future misbehavior, it seems to me that each monopoly must be eliminated or at least circumscribed to prevent its expansion. Microsoft has continually grown its monopolies and caused them to buttress one another. It has also used its monopolies to advance its other interests.

I can think of many possible settlements. Perhaps the approach most generous to Microsoft would be to break Microsoft up into independent companies that each would be allowed to hold a single monopoly, and no more. These companies would have to be constrained to deal with each other in a way that did not favor them over third parties.

It has been said that there is need for a quick settlement to protect our security. Microsoft is the source of a disproportionately large number of computer security problems. Most believe that this is partly caused by their monopoly position. So if security is to be considered in this case, it would be one more reason to deal more effectively with the monopoly issues. Security is a public interest.

D. Hugh Redelmeier, PhD.
hugh@mimosa.com

MTC–00027547

From: Elizabeth Bonney
To: Microsoft ATR
Date: 1/28/02 2:54am
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice

I have endorsed Dan Kegel's letter concerning the proposed Microsoft settlement. I feel that the letter provides a good overview of the problems I see with the settlement, in particular the inadequate provisions to limit Microsoft's anticompetitive practices towards OEMs. These practices have already limited the opportunities of other software vendors, such as Be, Inc., to gain a share of the market, and allow Microsoft to avoid competition with other vendors based on the merits of their products.

Elizabeth Bonney,
Cranford, NJ

MTC–00027549

From: Keith (038) Arlene Varnau
To: Microsoft ATR
Date: 1/28/02 3:03am
Subject: Microsoft settlement
7612 140th Place NE
Redmond, WA 98052
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We are sending this letter to express our support of the Microsoft settlement. We have followed the lawsuit against Microsoft with much interest. It is our opinion that the government was unwarranted in its case against Microsoft in the first place. Yet, we believe that resolving this issue will help to rebuild the technology industries.

Microsoft has offered many concessions throughout the process. Microsoft agrees to the formation of a review board whose purpose would be to ensure Microsoft's compliance with the terms of the agreement. The formation of this group should reassure those that are wary of Microsoft compliance with the issue. The review board will be composed of outside members who are objective to the outcomes of the settlement.

We believe that Microsoft has been more than generous throughout this process. We hope that the Attorney General agrees with the importance of enacting the settlement.

Thank you for your time regarding this issue.

Sincerely,
Keith & Arlene Vernau

MTC–00027551

From: CigarBoy19@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 3:07am
Subject: Microsoft Settlement

Dear Sir or Madam,

I am writing in support of the settlement the justice department has reached with Microsoft. It is high time that this petty case, brought about by the jealousy of Microsoft's hapless competitors, be put behind the nation. Microsoft has consistently been one of the greatest technological innovators in the world. Particularly at this time of crisis, I believe we should put all our national resources to use for the good of the nation. Our greatest national resource is the entrepeneurship of men such as Bill Gates. I hope that this saga will finaly end with this settlement so that Microsoft can continue innovating and improve our lives with new technology.

Sincerely,
Elie Poltorak

MTC–00027552

From: Leonard F Morse
To: Microsoft ATR
Date: 1/28/02 3:08am

Subject: Microsoft Settlement

I am an IT professional (now retired) and have been in the computer field for over 30 years. I urge you to end the DOJ/Microsoft stand off as soon as possible. The terms already agreed to by most parties to the suit are fair and just. Those wanting to continue are doing so for their own ends—mostly dislike of the Microsoft success. I choose to buy and run Microsoft software because it is better, not because it is forced upon me. AOL et al are attempting to win in court what they could not win in the market place.In addition, the question appears to be moot. AOL purchased Netscape yet didnot include it in their latest version of AOL—version 7.0—choosing to bundle MS Internet Explorer instead.

The entire affair is little more than a tempest in a teapot

Leonard F Morse

MTC-00027553

From: George M. Boyd
To: Microsoft ATR
Date: 1/28/02 3:12am
Subject: Microsoft Settlement

I disagree with the proposed settlement of Microsoft v DOJ.

George M. Boyd
9635 Penfield Ave.
Chatsworth, CA 91311–5516
818–349–3974

MTC-00027554

From: Fred Strauss
To: Microsoft ATR
Date: 1/28/02 3:14am
Subject: microsoft settlement

I am a consumer and I am appalled that the justice department may be willing to end this lawsuit by helping Microsoft get richer. The biggest problem with Microsoft is that Microsoft has a monopoly on which operating system a computer comes with. I would suggest that the government force Microsoft to make all of its programs available for all other operating systems. Then it would be easy and useful for consumers to try other operating systems. This would also create some competition for Microsoft, which would help our entire economy.

MTC-00027556

From: Brad Matter
To: Microsoft ATR
Date: 1/28/02 3:19am
Subject: Microsoft Settlement

To whom it may concern—

I strongly oppose the proposed terms of settlement in the case of United States of America vs. Microsoft, and State of New York ex. rel. vs. Microsoft.

The terms of the settlement are far too weak and do far too little to prevent Microsoft from continuing in its pattern of unlawful conduct, and do nothing, so far as I can tell, to remedy the effects of its past unlawful conduct.

The terms of the settlement are written with such a degree of specificity that they effectively amount to closing the gate after the cows are out of the corral. For example, releasing APIs is discussed, but there is no mention of file formats—leaving a gaping loophole through which Microsoft can drive its monopolistic efforts.

Another gaping loophole is in section III.H.2, which mentions "Top-Level Windows"—which are defined as being able to hold sub-windows. All Microsoft need do is create a window that can't hold a sub-window, or create some "innovative" new windowless technology, and section III.H.2 no longer applies.

In fact, since the settlement fails to address Microsoft's future behavior in any meaningful way, it's entirely possible that Microsoft may just have some such thing in store via its .NET initiative. Given Microsoft's past behavior, I have no doubt that future Microsoft "innovations" will be specifically tailored toward evading the terms of the settlement and that it will continue to illegally maintain and extend its monopoly.

The exclusion of all devices except for very narrowly defined "personal computers" is similarly disquieting.

Microsoft's conduct over the years has flouted both ethics and the law. It gained its monopoly in part through a scheme called "per-processor licensing", in which computer manufacturers paid Microsoft for every computer they sold, whether it had a Microsoft operating system or not. Microsoft thus effectively taxed the computer industry, and made money even when someone else's products was sold.

Ironically, it is harder today to buy a computer with a non-Microsoft OS than it was when Microsoft stopped the practice as part of a consent decree (part of which, if I recall, Microsoft later broke). Lately, I've been shopping for a computer for a work-related project which requires Windows XP Professional. None of the inexpensive computers in my price range come with Windows XP Professional, but all come with some flavor of Microsoft operating system. It seems absurd that I can't buy a computer without an OS and add the OS of my choice to it. In this case, Microsoft gets paid twice; once for a product which I can't use. I see nothing in the settlement which addresses this problem.

I've heard some (weak) arguments that Microsoft must be interfered with as little as possible because of its alleged importance, to the national economy, national security, or both. It seems ridiculous to me. An economy in which robust competition flourishes is more important than one in which Microsoft flourishes at the expense of the innovation and efficiency which are driven by that competition.

The enormous number of "internet" worms and viruses that make the news on such a regular basis are Microsoft worms, written to exploit the weaknesses in Microsoft's software. If Microsoft had to compete on the basis of security, those weaknesses wouldn't exist. Instead, Microsoft spends its money on activities to expand its market share, whether those activities are legal or not.

I do not see how these actions (and inactions) of Microsoft contribute to national security or the economy in any positive sense. Acceptance of the settlement as it currently stands will simply allow Microsoft to continue to illegally maintain and extend its monopoly by working around its weak provisions. Worse, acceptance of the settlement will effectively protect Microsoft while it does so, since the government is unlikely to take any action against Microsoft for the duration of the 5-year period or for some years afterward.

I urge that the settlement be rejected, and that any future settlement or judgement against the company not merely bar it from practices it no longer needs (Netscape's no longer a threat; after the per-processor licensing practice was banned as part of the earlier consent decree, a Microsoft executive said that it "had achieved its purpose" and was no longer necessary). Any future action must at a minimum truly remedy the harm caused by its past unlawful conduct, and effectively prevent it from engaging in illegal behavior in the future.

Ideally, any such judgement or settlement would include penalties stiff enough to ensure that the executives at Microsoft would get the message any such future behavior would not be tolerated. This is a company whose paid "grass-roots" efforts have included letters from dead people! They don't understand ethics, but they do understand power.

Brad Matter
1217 NE 70th Street
Seattle WA 98115–5628
206.527.8334

MTC-00027557

From: brett@shadowed.net@inetgw
To: Microsoft ATR
Date: 1/28/02 3:19am
Subject: Microsoft Settlement

To Whom it May Concern:

I feel the Proposed Final Judgment in the United States v. Microsoft case is fundamentally flawed and does little to "unfetter [the] market from anticompetitive conduct", fails to terminate Microsoft's illegal monopoly, and preserves intact countless practices which will maintain and extend the Microsoft monopoly in the future. I would also like to add my voice to sentiments expressed by Dan Kegel at http://www.kegel.com/remedy/letter.html . I strongly support the views Mr. Kegel expresses on the proposed settlement.

This proposed judgment is definitely not in the public interest.

Sincerely,

Brett Miller

MTC-00027558

From: Mark Plimley
To: Microsoft ATR
Date: 1/28/02 3:23am
Subject: Microsoft Settlement

Dear Sirs, As a software engineer and computer professional for over 25 years, I believe that I am fully qualified to comment in the public interest regarding the proposed Microsoft Anti-trust settlement. I have followed the proceedings against Microsoft throughout the trial and post-trial period. It continues to amaze me the audacity with which the Microsoft Corporation and its" lawyers have flagrantly ignored anti-trust law.

I feel that one must judge a corporation as one would judge an individual, by its actions, not by its words and promises.

Actions, not words, reflect the true nature of a group or individual. Microsoft continues to display disrespect for the laws of our nation. The most recent example of this is their extremely narrow interpretation of the Tunney Act disclosure requirements, violating the intent of the law.

To this day, Microsoft Corporation refuses to accept responsibility for its anti-competitive actions. When an individual, or in this case an organization, refuses to correct their anti-social behavior despite repeated warnings, then society must act to prevent such behavior from re-occurring in order to protect itself.

The DOJ must not back down, for the sake of the public and the software industry. Microsoft's claims that severe repremands and restrictions would hinder competition is completely absurd. The only hope that the software industry has for any semblence of competition is to establish stringent and enforceable restrictions on any and all future anti-competitive practices by the Microsoft monopoly. The settlement that allows Microsoft to donate software and (old) computers to schools will only serve to increase their influence over the marketplace. This is exactly what Microsoft intends, and must be firmly rejected.

The only type of settlement that should be considered is one that genuinely promotes competition in the marketplace. As Microsoft has clearly shown that they cannot be trusted to act in the interest of anyone except themselves, I believe that a valid settlement can only come from those in the industry who have been harmed by Microsoft's anti-competitive behavior as a monopolist. If Microsoft want to donate computers and software to schools, it must be in the form of money without any restrictions whatsoever. The recipients of the funds must have total control over what they purchase.

With ample evidence that their word cannot be trusted, it would be irresponsible for the DOJ to consider any Miscrsoft claim of harm to the industry if real sanctions were to be imposed upon its illegal business practices. The DOJ must not back down on the demand for real and effective reform of known monopolist business practices. There is plenty of potential competition that will keep the software industry healthy, despite any short-term setback by Wall Street gamblers.

So I urge the DOJ, for the sake of the future of the software industry and the people of the United States that you represent, to insist on effective corrections to the long-standing anti-competitive practices. And I do not believe Microsoft will respond to the seriousness of their business practices with anything except harsh punishment. With $65 billion in cash reserves, any reasonable punishment will have little impact on their future. And any damage to their stock will easily recover in short order. The DOJ must maintain the long-term interests of the public ahead of any short-term harm to investors of an irresponsible corporation.

Sincerely,
Mark Plimley, President
Plimley Consulting, Inc.
1454 Goldenlake Rd.
San Jose, CA 95131
email: markp@blueneptune.com

MTC-00027559

From: Jay Dernovsek
To: Microsoft ATR
Date: 1/28/02 3:23am
Subject: Anti-Trust Remedy

I find the current remedies for the Microsoft anti-trust conviction unacceptable. Please consider the following as appropriate action for remedy: Microsoft produces an operating system as well as applications that run on its operating system. Having inside knowledge of the operating system is a tremendous advantage when writing applications. Microsoft abused this advantage by witholding key elements of the application program interfaces (API's) from competing application writers. As remedy, the operating system business should be separated from the application development business. Once split, the operating system company should furthermore be prohibited from providing information other than its published API to any other company. This will insure fair competition for all application developers.

Microsoft's discount policies have made it all but impossible to purchase a computer without their operating system. As remedy, Microsoft should be made to abolish its present multi-level discount practices, and be made to use a single tier discount schedule based solely on volume. This will allow hardware manufactures and system integrators the option of offering competing products without financial penalty.

Microsoft has used its operating system's dominance to capture the office suite, web browser, and other application markets. A separation of the operating system and application businesses will remedy this abuse. Microsoft has established itself as a major content provider (MSN) and has acquired other media holdings such as MSNBC. Microsoft also offers a variety of web services, such as Hotmail, Passport, etc. Microsoft is creating a dangerous situation whereby one entity is attempting to control both information (content) and the distribution channels used to convey information. As remedy, Microsoft should be made to divest its media holdings and Internet businesses, or to form a separate company for such activities Microsoft obfuscates the file formats used by its business applications.

These formats are constantly altered, creating a false need to upgrade and preventing competing applications from exchanging data. This abuse not only stifles competition, but also causes unnecessary reduction in productivity. Through their dominance, these file formats have become ubiquitous. Since this dominance was acquired illegally, Microsoft's file formats should no longer be permitted to remain proprietary, and should be turned over to an independent standards body. This will allow efficient data exchange, and will remedy the unfair advantage Microsoft has created for itself.

Microsoft abused its monopoly to gain control over commonly used protocols and languages by adding proprietary extentions. Their contamination of HTML and JAVA are two examples. As a remedy, Microsoft must be forced to comply with existing protocol and language standards. Furthermore, Microsoft should be prohibited from having voting rights is any standards organization as punishment for its prior abuse.

Microsoft has demonstrated a disregard for computer and network security. Countless hours of lost productivity can be attributed to the weaknesses of Microsoft products. As a remedy, Microsoft should made to secure its products without the customary upgrade charges. Microsoft should also be held criminally liable for the virus propagating nature of Microsoft Outlook. Until their security issues are resolved, Microsoft should be banned from providing products or services to financial, medical, and government institutions.

Microsoft has demonstrated a lack of respect for personal property and privacy. Their products consistently consume disk space with unwanted, unnecessary, and often unused components. Software is added without permission or control. System settings (many affecting security) are altered without notice. Their operating system is used as a billboard for unsolicited advertisement. Their products communicate without asking permission. As a remedy, Microsoft must be made to understand that computer resources, including disk space, are personal property. Uninvited occupation is trespassing. Furthermore, strong legislation needs to be passed concerning software that makes unauthorized communication, especially for the purpose of monitoring personal activity.

Microsoft has trademarked commonly used words for many of its products. Examples include Word, Office, Outlook, Explorer, Passport, Windows, etc. They bully other companies who use these common words in association with competing products, while ignoring other companies that do the same for complimentary products. Most businesses cannot afford to gain justice when faced with Microsoft's vast legal and financial resources. As remedy, Microsoft should be made to replace their common-name trademarks with names that are distinctly unique.

As further punishment for anti-trust, Microsoft should be banned from political lobbying and should not be permitted to make political contributions of any kind.

Thank you for your consideration.

Regards,
Jay Dernovsek
Madison, Alabama CC:jayd@zaeresearch.com@inetgw

MTC-00027560

From: Andrew Reitz
To: Microsoft ATR
Date: 1/28/02 3:26am
Subject: Microsoft Settlement

I believe that the proposed settlement is a bad idea, because it still allows Microsoft plenty of room to continue to operate their monopoly. Even more hurtful, however, is that the PFJ (Proposed Final Judgement) enhance the ability of other entities to compete with Microsoft at the OS level, using Open Source tools such as Linux and WINE.

Sincerely,
Andrew Reitz

Recent Graduate, University of Illinois at Urbana-Champaign
areitz@cs.uiuc.edu

MTC-00027561

From: ritat@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 3:25am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Kathleen Webb
3108 E. Sierra St
Phoenix, AZ 85028

MTC-00027563

From: Galen Seitz
To: Microsoft ATR
Date: 1/28/02 3:38am
Subject: Microsoft Settlement

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case.

The proposed settlement is little more than a slap on the wrist. This settlement will do little to deter Microsoft's anticompetitive practices.

I urge you to seek stronger remedies.

Sincerely,
Galen Seitz
Senior Engineer
Seitz & Associates
Portland, Oregon

MTC-00027564

From: lz b
To: Microsoft ATR,lizzy14371@aol.com@inetgw
Date: 1/28/02 3:38am
Subject: Microsoft Settlement

To the United States Department of Justice, I am writing to you concerning the Microsoft Settlement. I believe that the cause of Microsoft having 90 percent of the browser market share is obviously, Internet Explorer being included in the Microsoft operating system. Therefore, I think that Microsoft should pay Netscape a large enough amount of money so that Netscape will be reimbursed for the terms they suffered, including a loss of customers.

Yet, this reimbursement will not suffice Netscape to be completely prosperous unless Microsoft goes bankrupt with the loss of money. Along with the reimbursement, Microsoft should have to guarantee that further releases of operating systems will not include the Internet Explorer program.

Sincerely,
Elizabeth Burstein
An 8th grade student at the Harker School
In San Jose, California

MTC-00027565

From: Jeremy Mazner
To: Microsoft ATR
Date: 1/28/02 3:42am
Subject: In support of settlement

To whom it may concern,

As a member of the software development community, and a long time computer user, I write to express my firm support for the proposed settlement expressed in the Nov 6 Revised Proposed Final Judgement.

Any software developer will tell you that their best work is done on the backs of others". The same holds true in any industry—we make advances by building on the current generation of technology. It is natural and expected that the baseline for any technology continue to evolve. It was a revolution in the early 1990's for a consumer operating system to include native support for internet protocols like TCP/IP, and that revolution enabled an entire new generation of software to be written. No longer did an application developer have to worry about how their application should communicate with other computers—the operating system provided that bsaeline functionality, so that the developer could focus on their real value-add. Similarly, the inclusion of HTTP and HTML protocols in Windows provides a baseline for developers today, making it possible to build new categories of applications that leverage the world wide web, without having to implement these protocols from scratch every time. As a developer, I rely on a robust, evolving platform that I know will provide the same baseline services on every computer on which my application is installed.

By way of comparison, can you imagine a home electronics company like Sony building products for a world where every house might have a different type of electrical service? 110V at 60Hz here, 220V at 50Hz there, 150V at 80Hv elsewhere. To succeed in mass-marketing products, they'd need either a huge variety of power supplies and product "SKUs" to fit the variety of power services, or they'd need to invest research into a universal power supply that would work with them all. Either option is a waste of not only Sony's time and effort, but of every other company that would sell consumer electronics—they'd each have to reinvent the wheel to create this universal power supply, and that's money that could have been spent on developing new types of products.

As a computer user, I want the most features I can get for the lowest cost. As an advanced user, I appreciate the flexibility to add or remove components and change defaults as I see fit, but that doesn't mean I don't want a complete, modern, functioning operating system out of the box. You'd be hard pressed today to find users who don't want access to the internet, email, and instant messaging when they turn on their new computer. To suggest that such functions are not part of the core operating system is to ignore the evidence of today's marketplace, in which not just Microsoft, but Apple and RedHat include these functions to satisfy customer demand. I support the proposed remedy allowing consumers to remove default functionality, but it is non-sensical to suggest that there is no benefit to having it there in the first place.

It is equally non-sensical to suggest that a "trimmed-down" operating system deserves a cheaper price than one with the complete complement of functionality. Today's software market clearly establishes that ISVs are willing to pay per-unit premiums to OEMs to include their applications on new computers. If AOL is willing to pay $5 per machine to have its software installed, and Real Networks the same, then a "full-featured" computer with their software should cost $10 less than the trimme-down version.

A version of Windows lacking modern communications features would rightly cost more that the deluxe package.

In the interest of full disclosure, I will note that I am both a Microsoft employee and shareholder. My views, however, are my own, and do not neccesarily reflect those of my employer and its officers. MSN Photos is the easiest way to share and print your photos: Click Here

MTC-00027566

From: Justin M.
To: Microsoft ATR
Date: 1/28/02 3:51am
Subject: Microsoft Settlement

Dear Department of Justice,

It is going to take more than a slap on the wrist to stop Microsoft's anticompetitive actions and undo their consequences. I am convinced that the current proposed settlement is no more than just that. I do not see any real punishment here for Microsoft. I do not see any real opportunity for competitors to jump into the Intel-compatible operating system market, and I do not see anything that takes away the advantage Microsoft has given its products through anticompetitive means.

Described in the competitive impact statement, are parts of the Proposed Final Judgment which contain exceptions. I fear that Microsoft will find ways to use these exceptions to anticompetitive ends. For example, I feel that this proposal does not effectively curb Microsoft from using license termination as a threat to OEMs. It does not put restrictions on the kind of reasons that can be given for license termination, and it does not specify how long Microsoft must wait between license termination notices. I am sure that if I can find even one such loophole, lawyers can find many more.

I also wonder why only 20 OEM's are protected by this Proposed Final Judgment. It concerns me that a creative, smaller company can still have it's innovations thwarted by Microsoft's anticompetitive practices. More over, if this case is settled with a non-punitive arrangement, it will set a precedent that will allow Microsoft and other monopolistic bullies to get away with anticompetitive behavior DESPITE CONVICTION.

This would make the Sherman Act and other antitrust laws ineffective, and would be a disservice to the American people.

Let's prove that the American justice system cannot be swayed by even the most powerful and richest individuals and corporations. This is what the Sherman Act and antitrust laws were written for.

Signed,

Jennifer Baer and Justin Montejano

MTC-00027567

From: Rob Terrell
To: Microsoft ATR
Date: 1/28/02 3:52am
Subject: Microsoft Settlement

I have been a professional in the computer business for over 20 years. I'm not some anti-Microsoft zealot; I use Microsoft software on a daily basis, as I have for years. However, Microsoft's market power makes it very nearly impossible for smaller companies, companies where true innovation arises, to compete in a meaningful way. The proposed settlement does nothing to protect our smaller companies against Microsoft's monopoly.

Technology is a malleable, shapeshifting thing. Any behavioral remedies that apply to technology can be easily coded around, the same way Microsoft was able to code around physical hardware limitations, such as the 640k limit. I feel that a structural remedy is the only thing that can level the playing field.

Thanks for listening,

Rob Terrell

MTC-00027568

From: johnm@manuka.terrigal.net.au@inetgw
To: Microsoft ATR
Date: 1/28/02 3:56am
Subject: [Fwd: Microsoft Settlement]

Respected Members of the U.S Justice Department.

For some time I have watched the Antitrust case of several U.S states vs Microsoft with hope, trepidation and sometimes dismay. As a technologist for over a decade I have observed the tactics Microsoft has employed to maintain it's dominant market position often at the expense of business.

It seems to me that these enteprises have to pay a "Microsoft Tax" and in return, innovation and competition is stiffled. This is surely a development America and her corporate citizens can ill afford to allow continue. I beleive that the point has been reached where Microsoft has become a burden to the information economy, and an appropriate settlement must be reached. I believe a break up of the company would serve little or no purpose as the real issue is Microsoft's behaviour and strategies focused on leveraging market share through control of innovations by restricting vendor freedom. A settlement that benefits the I.T industry by re-introducing competition, will create a stimulus in the economy as a result of freedom of choice. I reason that such a settlement will also benefit Microsoft by creating change within the corporation.

These practises must stop for the information economy to evolve and such mechanisms for acheiving this may include:

1. Publish Interfaces and standards.

An end the Microsoft (MS) practice of "embracing and extending" method of aquiring ownership of publicly owned protocols. This could be acheived by requiring MS to publish the extensions to file formats, software interfaces and communications formats on implementation of a software component. It is this behavoir that threatens to uproot the Open Systems Interconnect model that is the foundation for the information economy.

2. Defensive only Legal and contractual restrictions Prevent MS from using aggressive patents, lawsuits and non-disclosure agreements to restrict innovation. These tactics used against vendors and particularly volunteer computer programers and computer scientists destroy enterprise and opportunity within the information industry.

As an Australian citizen I respectfully ask you consider my contribution as a friend of the American people. Your decisions will have internationl ramifications and I would hope these suggestions provide you with some useful insight.

John Mifsud
Terrigal Australia
Email: johnmifs@au1.ibm.com

MTC-00027569

From: Zachary Weinberg
To: Microsoft ATR
Date: 1/28/02 3:57am
Subject: Microsoft Settlement

Dear sir,

I write to express my concerns with the proposed settlement. I do not believe that the Proposed Final Judgement as it stands will have any significant effect on Microsoft's anti-competitive practices. I'd like to endorse Dan Kegel's open letter and analysis of the PFJ, which you may find at http://www.kegel.com/remedy/letter.html and http://www.kegel.com/remedy/remedy2.html respectively.

Thank you,

Zachary Weinberg
Software Consultant, CodeSourcery LLC
Berkeley, CA

MTC-00027570

From: Shane
To: Microsoft ATR
Date: 1/28/02 3:58am
Subject: Microsoft Settlement

Hello,

I would like to make a comment regarding the Microsoft Anti-Trust case.

For years I have been working with computers, at home and at work. I see the importance of computers, the trends in technology and understand the role of consumers in it all. Without a doubt, I believe that Microsoft has helped hundreds of millions of people throughout the world. The amount of good they have produced is un-measurable. I have watched and read about the Anti-Trust cases and see that every accusation is a lie. They don't hurt consumers, consumers are not complaining, corporations who aren't good enough to prevail in the market place are complaining. It's obvious that their attacks on Microsoft have hidden agendas other than their goal of helping consumers since it's ridiculous to say that Microsoft has hurt them. Every legal trick is being used against them; millions are being wasted on court costs. All because Netscape Navigator isn't better than Internet Explorer, all because Microsoft gave it away for free and tries to offer consumers everything they need to run a computer in one package. If Microsoft loses this case, this will be one of the most underestimated atrocities of the century. The attack of the good for being good. The denial of property rights. The lose of freedom. All and much more that cannot and should not happen. Justice eventually always prevails.

I hope it happens soon.

SHANE E STAATS
<mailto:shane1800@hotmail.com>
shane1800@hotmail.com

MTC-00027571

From: Frank Warren
To: Microsoft ATR
Date: 1/28/02 4:00am
Subject: Microsoft Settlement

I have been involved with PC's since the first Altair. Microsoft's list of abuses, criminal and civil violations, and outright piracy, are legend within the industry. The proposed settlement does not address the illicit profits that have been made through such piracy, theft of intellectual property, or extortionate methods of acquiring and crushing innovation in the industry.

Microsoft has spent the last 22 years planning, and then implementing, the dismemberment of one firm after another, and getting away with it. Microsoft is a killer whale, whose attack on the body of the industry is to be answered with a band-aid.

The original plan of your department to break Microsoft apart would have helped, and demonstrated that pirates cannot thrive just because they become rich at it.

Microsoft has pillaged, plundered and raped the entire industry. More, their .NET plans shows that they do not intend to stop. Now they want to own the Internet itself.

Withdraw the offer of this settlement if you expect any of us to obey any of your laws.

Sincerely,

Wilson Franklin Warren
Livermore, California 94550

MTC-00027572

From: Arun Rao
To: Microsoft ATR
Date: 1/28/02 4:05am
Subject: Microsoft Settlement

To Whom it may concern,

I would like to put forth my opinion that the proposed Microsoft Settlement does not prevent Microsoft from using its monopoly of desktop operating systems to further its ventures into other markets. The settlement does not punish microsoft for its illegal activities.

Microsoft has slowly begun its transition from a desktop PC software provider to enterprise, consumer devices and service provider company. The proposed settlement doesn't prevent Microsoft from utilizing its 95% desktop pc market share to push its monopoly into other areas such as internet services. Microsoft's .NET is such a service, which microsoft is using its latest version Windows XP to push into the market.

Microsoft has broken the law and been found guilty. Microsoft has hurt consumers by removing, the very fundamentals of a free market economy, choice. Consumers can never truly obtain fair prices for services with out competition. Microsoft has crushed competition using its power, the power of its monopoly. Many companies have gone bankrupt and many more will eventually because they cannot penetrate a Microsoft dominated market. This will eventually hurt consumers more.

I implore you to reconsider the settlement and opt for a judgement that will provide, consumers and the companies that have been hurt by Microsoft's illegal acts, justice.

Sincerely,

Arun Rao

MTC-00027573

From: Nick Banfe
To: Microsoft ATR
Date: 1/28/02 4:12am
Subject: Microsoft Settlement

Dear Sir,

UI am writing in regard to the Micosoft settlement. I am a concerned citizen, Silicon Valley

.Comer and I am apaulled at the judgement.

This amounts to nothing more then momopoly and fixing.

Nick Banfe
1716 Morgan Street
Mountain View, CAl 94043
(650) 964-6425
Sincerely,
Nick Banfe

MTC-00027574

From: Jon Hutchinson
To: Microsoft ATR
Date: 1/28/02 4:16am
Subject: Microsoft Settlement

This whole suit is frivolous, was just brought about as a sideshow to distract the public from the real corruption that had been going on in the White House and parts of the Federal Government in the later part of the last decade.

It all should all be thrown out immediately, as it has directly or indirectly affected the economy, in an adverse way, and the thousands of investors who have invested in a great and innovative American company like Microsoft.

Jon Hutchinson
Seattle, WA

MTC-00027575

From: Calvin
To: Microsoft ATR
Date: 1/28/02 4:22am
Subject: Microsoft Settlement

I am opposed to the settlement agreement reached between the United States Justice Department and Microsoft to settle the antitrust case won by the United States of America.

The settlement will not increase competition in any market where Microsoft has a major offering. In markets where it has a monopoly, such as operating systems and business applications, it will only serve to strengthen it's monopoly. This reduces competition in other markets where Microsoft may choose to compete because of the advantage the monopoly provides.. This is what the Antitrust act was creaated to prevent.

Nothing in the agreeement will insure that other companies or individuals will have an equal opportunity to bring improved products to market because Microsoft will still control the operating system, the business applications and now, the browser. Improvements in web development can be stifled by Microsofts bundling of the browser to eliminate competition in that market. Future bundling or application tieing is not covered in the settlement if it is not related to an OEM contract.

In particutlar, web developers are now beholden to Microsoft to insure their software and services will work on most computers. At a whim, Microsoft can easily disable those developers offerings if it wants to offer it's own services or products by simply modifying the browser, operating system, or business applications to give a preference to the Microsoft offering. Microsoft can do this after an OEM sale of it's operating system when XP or future operating systems must register and receive an authorization so that they will function.

By the time legal action can be taken against Microsoft to prevent this activity, the damage to competing companies and individuals is already done. Not unlike what happened to Netscape after Microsoft tied Internet Explorer to it's operating system.

Additionally, Microsoft was found guilty of violating the Sherman Antitrust Act. The settlement contains no punishment for Microsofts illegal behavior. If this crime has no punishment, why is it a law? If Microsoft violates the settlement agreement, it will only result in further litigation, but not in any punishement.

I believe a much harsher penalty, such as breaking the company into smaller competing companies to increase competition in the market would provide a much better remedy to Microsofts illegal behavior and would benefit the economy generally by increasing comepetition.

Thank you for your consideration.

Calvin Tolman
software and content developer
721 E 300 S
Salt Lake City UT 84102
CC:calvin@xmission.com@inetgw

MTC-00027576

From: mothership
To: Microsoft ATR
Date: 1/29/02 4:20am
Subject: Microsoft Settlement

I would like to disagree with the micro soft decision as I think it would hinder anyone who wants otouse the internet...

Bruce Vasconcellos...
Fiji

MTC-00027577

From: mesmith@panix.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:32am
Subject: Microsoft Settlement

Remarks on the proposed settlement of the Microsoft anti-trust case. This piece is not comprehensive, but the analytical and historical points I make apply to most aspects of the problem. Among the different classes that are impacted by the Microsoft monopoly are the classes that buy Microsoft as consumers, producers and vendors. I contend that these direct victims are not its principal victims.

I identify three principal classes of victims:

1) Those (such as myself) engaging or aspiring to engage in Microsoft-free microcomputing.

2) Those through choice of employer, authority, supplier, customer, or other outside relation or agency are compelled to work with Microsoft products. These people suffer contact with inferior products and the spiritual stress of contact with an enterprise whose "business model" is founded on the stifling of human cooperation and technical advance.

(It is disgraceful that children should be exposed to Microsoft Windows in schools; this kind of publicly sanctioned exposure is harmful to their education and to their moral development).

3) The General Public.

I write primarily on behalf of Microsoft-free microcomputing and to a large extent for the General Public and the national interest.

This response is organized in the following manner:

1) What is an Operating System, and what Microsoft has converted it into.

2) How is this monopoly harmful and dangerous?

a) Economic costs of Microsoft's monopoly

b) Supposed costs of remedies

c) Broader costs and dangers

3) Why the proposed remedies are either useless or counter-productive.

4) Some recommendations for remedy.

1) What is an Operating System, and what Microsoft has converted it into.

The Operating System (OS) is a system of programs that runs the computing machinery, placing the machinery under a unified control so that it can service the other programs (the "jobs") running on the computer and regulate their contention for resources. The OS provides programs with an environment and a set of standards for accessing that environment. Programs are ordinarily written to the environment provided by the OS, not directly to the machinery.

Microsoft does not share the "naive" view of a computer held by entrepreneurs, workers, scientists, engineers, programmers, students, or ordinary users, viz., of a computer as a machine for extending and multiplying capabilities. Microsoft sees computers as something for which access can be restricted and ransomed for profit, and sees the operating system as a particularly strategic chokepoint. To Microsoft, a computer is not an engine, but a venue for selling applications. In this view, computer capabilities do not flow from Microsoft, they are withheld by Microsoft and released in restrictive form.

"MS-Windows—the Inextricable DOS"

MS-Windows is a computer program effecting the illegitimate and technically unnatural integration of non-operating system functionality into the OS for the sole purpose of fortifying and extending Microsoft's MS-DOS monopoly. (In the current DMCA vernacular, some might call it "an anticompetition device."). MS-Windows is designed to ensure 1) that competing operating environments (e.g., Geoworks, Quarterdeck, HP) will not be viable on a Microsoft platform, 2) that the degree of control exercised by Microsoft over applications will be greater than that which would be possible in DOS, and 3) that the operating system, operating environment, user interface, and application programs will be so entangled as to deliberately block the government from being able to separate them (separation is a necessary step in the type of approach that the governments are now pursuing). By blurring these boundaries, Microsoft creates a burden-barrier to economic evaluation, law enforcement, industry, competitors, and government regulators. Thus, any application running on MS-Windows that Microsoft covets, it has the power to appropriate.

Poor security was already a hallmark of Microsoft Operating System, but it is a necessary by-product of the attempt to create a monopoly-application posing as an operating system because of the artificial integration of the application-level ("user space") with the operating system. (A significant share of the economic damages caused by Microsoft is attributable to its faulty security).

It is not really possible to write a good system that runs on a bad operating system. When the Operating System overwrites memory locations or crashes without recovery, the application suffers. A large portion of the resources of the development process must be diverted to "defensive programming", an attempt to protect the integrity of the program and data from the defects of its running environment, an attempt which can only be partly successful at best.

2) HOW is this monopoly harmful and dangerous?

2a) Economic costs of Microsoft's monopoly

In 1983, the issue may have been Microsoft overcharging customers. At that time, the spectacle of Microsoft selling a badly broken Operating System and charging its victims for the repairs dominated the scene.

By 1984, Microsoft's monopoly was the central problem facing microcomputing. IBM-Microsoft was harming: 1) Digital Research, the leading low-end operating system 2) hardware manufacturers and vendors designing or selling non-compatible systems 3) software companies. Microsoft's variant of DOS, ruthlessly extended by the creation of Windows was designed to trap customers into their proprietary closed "Microsoft market" As long as their software is incompatible with acceptable norms and established standards, technical, commercial and legal, their customer-victims will have to follow them to whatever computer platform and network site that Microsoft chooses.

An assessment of the costs to the economy of the Microsoft monopoly must include the enormous resources that were diverted to dealing with problems that existed only as a result of programming in the Microsoft environment, e.g., the years of 640KB limit, "expanded and extended memory", inability to share peripherals because of a single-user limitation. These difficulties, tied exclusively to the Microsoft environment, added directly to the cost of development, linked software to transient problems, and were a barrier-to-entry, preventing programs from being written, products from being delivered on time, etc.

Microsoft has been able to work with some manufacturers to create computer peripherals that have deliberately had vital parts removed so that they cannot function except with the antidote—the matching version of the Microsoft Windows Operating System. These crippled machines (many names including winmodems, winprinters) have introduced much uncertainty into the buying process, making purchases much more difficult, the end result much inferior even for those able to run these mutilated devices and the life expectancy of the equipment diminished as they are now wholly dependent on the version of MS-Windows.

The operating system defines the environment for software development. If the OS is replaced, the software will often not be portable.

2b) Supposed costs of remedies

Contrary to the impression of those outside the field, Microsoft's creativity has thus far been restricted to how to hold, strengthen and extend the monopoly it was given. The cost of dropping Microsoft is far from great because it is a hollow system that has never had the stability to allow programming, so few programs of long-term values have been written. Microsoft uproots its customers anyway as part of a business cycle posing as a product cycle, so there is effectively no cost to uprooting the system.

The question is not whether we are better off with Microsoft and today's computers than without Microsoft but with the computers before the IBM PC. Nor is it a choice of the chaos of freedom with incompatible zones of products versus the "order" of one dominant zone triumphant, albeit wholly incompatible with all others and unable to change. At every stage there were better alternatives and economic losses should be measured against contemporary alternatives. Superior alternatives that were driven off the field by Microsoft succumbed to monopoly power and not superior quality or lesser costs. The value of the choice to the decision maker was not based on technical merit but rather on permission to participate in a closed market.

The "network effect" here is not primarily a concomitant of the number of applications. That is a secondary cause of a more fundamental strategy of creating a network of captive users. The "network effect" is the number of captive users. Microsoft's market and its product are the network of customer-victims. The operating system is the chain that binds that network. This would not be the case with an open operating system, it is a consequent of deliberate artificial restrictions.

A cursory look at Microsoft's advertisements reveals what it thinks are its strongest assets.

1) Microsoft offers vendors and developers access to this large market. It is made to appear as if Microsoft were providing a service by building a market and making it accessible to commerce; in point of fact, Microsoft's role is to build a virtual wall and provide conditional entry on both sides of the gate, i.e., restricted access to the market and from the market.

2) Microsoft sells its business and marketing power. They say, "join our Program X (on their unfavorable terms) and we will include you in our profit world, providing contacts and customers."

2c) Broader costs and dangers.

MICROSOFT HAS PREVENTED SOFTWARE FROM BEING DEVELOPED, BY CHANGING THE DEFINITION OF THE SOFTWARE ENVIRONMENT. A stable platform is a pre-condition for long-lasting software, and the long operational life of the software amortizes the development costs. THE MICROSOFT MONOPOLY ABORTED THE BIRTH OF AN AMERICAN SOFTWARE INDUSTRY (on the low end of computing). Indeed, the benefits of the special laws written to encourage the healthy growth of that industry have been reaped by the main forces set against its development.

The development of the "personal computer" has been greatly retarded by its diversion to the dead-end of the single-user system.

A "personal computer" is in the first place a microcomputer. The same microcomputer is personal if used by one person in that way, and a group machine if used by a "group". With a multi-user operating system, different accounts can be set up and used concurrently, whether by a single person or a group of persons. Timesharing has been the norm in computing since the mid-nineteen-sixties; Microsoft is decades behind the industry. Compare the processor speed and memory of a 486 to a PDP–11! MS–DOS and MS-Windows are hopelessly uncompetitive on price/performance with multi-user DOS and Unix-like systems. (In a January 2002 column in ComputerWorld, Nicholas Petreley details how the latest version of MS-Windows is still sub-minimal in its ability to allow multiple users to function concurrently).

Computers are a technology that is inherently adaptable to personal styles of work. Microsoft has designed a system imposing a uniformity that undermines the liberating promise of this technology.

Not all software is an endpoint; software can be built on other software, e.g., customized macros. All of this is lost in the Microsoft environment. Microsoft is transience. The transience of Microsoft makes the solution of the problem before you relatively easy, since abolishing Microsoft will not hurt secondary developments. Old programs will not be lost—Microsoft has already robbed its victims of any programs and experience they might have developed through time. (In contrast, the UNIX and VMS programs that I wrote since 1982 are still usable today. The investment in learning UNIX and in writing for UNIX is still amortizable, and will continue to be good for decades to come.)

The Proposed Final Judgment shows no cognizance of the breakthrough in computing in the 1980's that multiplies the potential for programs to build on other programs. The Free Software Movement is revolutionizing the organization of computing and the potential values of computers.

The PFJ exhibits a parochial view that ignores that the world at large will be building its computer infrastructure on free software implementing open standards.

With respect to the two principal classes of victims: those working outside that closed market, and humanity as a whole, which has suffered multi-trillion dollar losses. The solution should not be inclusion in that market, because that Microsoft-dominated market is qualitatively inferior. The solution is the dissolution of that market and the migration to other, superior markets.

It is anticipated that the 21st century will experience "Cyber Wars." Machines using Microsoft Windows are especially vulnerable and will be attacked. Every part of American life that relies on these systems will be placed in jeopardy by such an attack.

MS–DOS and MS-Windows are not secure. Every machine that is running such a system and is connected externally by network is vulnerable to attack. There is a multiplicity of vulnerabilities involved. It is common knowledge that Microsoft has a backdoor built into Windows— that means that Microsoft has built a means of external entry into Microsoft Windows; any program employing the entry sequence has complete control over the machine. Microsoft Windows is architecturally unsound and insecure—once breached, too much of the system is exposed; application programs run with too much power over the system. Microsoft has designed Windows to spy on its customer-victims (e.g., to survey non-Microsoft products and to verify licenses); these features can be "cracked" and exploited by non-Microsoft attackers as well.

An Internet Service Provider can read and store all traffic passing through its system. Control over ISPs gives Microsoft access not only to the work of their customers, but to all the email sent by their customers to innocent third parties. This power plus the power to read all networked machines running Windows adds up to a greater power than either taken severally.

As the world's citizens begin to employ higher quality, non-Microsoft systems that express true American values, our technological, industrial and military superiority will fade. (Already the export of Microsoft products to foreign markets is damaging the reputation of U.S.-made goods).

3) Why the proposed remedies are either useless or counter-productive. Many of Microsoft's improper and criminal activities have been exposed and addressed in prior cases. This proposed remedy and this proposed settlement offer a woefully inadequate structural framework for addressing these problems. Any analysis of how Microsoft expanded its monopoly and responded to previous failed attempts at correction would be sufficient to show that Microsoft has shown itself immune to these remedies.

Since an unambiguous specification of the system is not feasible given even the best intentions, it is always possible to claim compliance with the Decree while maintaining effective incompatibility.

A computer in a networked environment should not be considered personal. If Microsoft's market is defined as personal computers, the court will miss its mark. Microsoft is moving its market to the network, where the environment will be rental license-enforcing, insecure and privacy violating. Microsoft is able to tap and control computers running Microsoft Operating Systems owned by government, business, religious and non-governmental organizations, schools, research establishments, accounting and law firms, medical practices, and private individuals and families.

A secret OS and secret applications are able to work together secretly. MS-Windows can store information anywhere without the knowledge of the user. The OS has access to everything on the system. If encryption is done with software that Microsoft can identify, the OS can copy the plaintext that is being encrypted; and vice versa for the decryption.

In the absence of general legislation regulating the use of, and providing for inspection of, all source-secret software sold to the public and used by the government, the court must make decisions on how to counter this threat when exercising its supervisory power in cases such as this, where such software can be used in violation of antitrust laws.

The objective should not be minor adjustments to the profit-imbalance that exists for producers in that market. It is that closed market itself that should be the objective of the antitrust forces. THE AIM SHOULD BE THE MIGRATION OF TRAPPED CUSTOMERS OUT OF THE MARKET. This Proposed Final Judgment allows Non-Disclosure Agreements (NDAs). These agreements have been used by elements of the computer industry to circumvent (First Amendment) freedoms and to manipulate affairs to cover up information perceived by them as potentially damaging to them and to suppress progress.

4) Some recommendations for remedy.

It is critical for the remedies in the cases that have been and will be filed against Microsoft to define the monopoly in terms of the customer base and the software, not solely in terms of the hardware. Microsoft was not a computer manufacturer prior to the Xbox (peripherals aside). Microsoft enjoys a monopoly position on "personal computer" or "Intel-compatible"-based microcomputers, and that monopoly needs to be addressed. Failure to acknowledge and address the other end of the monopoly (or the other monopolies) will mean that neither the discourse, nor the remedial action, will be able to track Microsoft across changes of hardware to handheld, "game computers", embedded devices, cable television and set-top boxes, assaults on the Internet and telecommunications, copyright enforcement, and the Microsoft charity racket, and extortion operations that rely on privacy violations and access to computers and Internet packets.

Compatibility with previous versions must be demanded and enforced. Programs written for a given version will be broken by revision (called by Microsoft "Service Packs"). When software is changed, the system often breaks. So-called "upgrades" need to be rigorously backward compatible to avoid this. Customers do not want their working environment and their archives made unreliable or unusable by these forced purchases.

The file formats, communications protocols, interfaces and any other related material that is necessary to the migration of data tied to any application needs to be available to competing products and any other program for any purpose. It should be published and disclosed in full, at once and maintained for each revision on a timely, ongoing and accurate basis. Such disclosure must be in a form where anyone can access this material outside of Microsoft's knowledge, and with full indemnification from any so-called "intellectual property" issues. The interfaces and formats, like the "look-and-feel" are not the product, and should be considered as public domain, not as proprietary. The restrictions in the PFJ III. D and E are completely unacceptable; they are counter to the goals of the judgment. The goal should include that authors or companies engaged in developing conversion programs or products, in whole or in part, or providing such programs or services will be free to do so without any debt, royalty or obligation to Microsoft, its subsidiaries or partners. It is imperative to address boot problems such as mandating that Microsoft will not require a particular sector, partition, or drive and possibly providing penalties for interference by Microsoft with installation of other systems, for example, by erasing or destroying the integrity of other partitions.

Copyright the screen?

In the appeal of this very case, Microsoft claims that because they copyrighted the appearance of their product's image, they should be able to prevent the owner of the screen from displaying a related image. Please consider the clear implications of this ownership argument for all the other copyrighted screen images in the world.

Following the bombing of the World Trade Center, the Red Cross had to put out a call for Microsoft licenses. It should be made clear to everyone in the world that license restrictions have no force in emergencies. Attempts by companies such as Microsoft to put automatic license enforcement into software can potentially result in death, possibly on a large-scale.

On remedy by disclosure of API's:

Microsoft programmers in other parts of the company have access to these critical details in advance of their competitors and can influence the design decisions. A wall of separation is a necessity, so that no internal or privileged communications occur. (See for example Network Solutions, Inc. where such a wall has been created between the registration of domain names and the database implementation. (I have no knowledge of whether this has proven successful, but I cite it as a precedent for this approach, perhaps worthy of investigation.)) Microsoft has the sole power to decide and effect changes. One of the central problems in software maintenance is the cost of changed designs, including interfaces. In particular, this is a major concern of the area known as "Object-Oriented Programming" (committing to an interface is considered by some authors as a "contract" between the programmer/designer and the user of the program interface). Computer programs are best written by individuals or small teams. In any large project, and Microsoft Windows is one of the largest, no programmer or manager can comprehend or control the situation, even with full access and authority. There are multiple versions, some written specifically for individual OEMs and clients (and doctored versions submitted to courts), and multiple revisions. The capability of even Microsoft to find what it wants and effect changes that it wants is costly and limited. This is further compounded not only by the complications resulting from proven misconduct but by the quality of Microsoft's design, programming and development environment. An inspector or team of inspectors appointed by the Court would have limited capabilities even under the dubious assumption of a willing and helpful host.

Make sure that inspectors are not limited to read-only access. The rules of engagement must include the ability to copy, modify and test the programs in whole or in part, in special environments and in conjunction with any programs immunized from all licensing restrictions. Non-disclosure agreements have been used to neutralize critics, by exposing them to material covered by the NDA.

Divest all Internet-related holdings including UUNet, Spyglass and hotmail. Terminate the NCSA Mosaic license to Spyglass.

The proposed final judgment focuses too narrowly on the motive of large profits in its analysis of the dynamics of the computer market. Most authors of books, articles, music, poetry, and computer programs do not have such an expectation, and are thus not motivated by it. The force of not-for-profit work in computers is an indisputable fact. (The Internet was built by volunteers). This Judgment threatens to strangle these great creative forces.

I urge all actors in this case to exercise the options under the Tunney Act and withdraw the proposed settlement.

Michael E. Smith
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MTC-00027577—0008

From: Joe Martin
To: Microsoft ATR
Date: 1/28/02 4:44am
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
Re: Microsoft Settlement

I have been following the Microsoft Antitrust case with great interest. As a consumer, I find myself very much at the mercy of Microsoft's monopoly power. When I shop for a computer, I see only one brand of software available pre-installed—Microsoft. Email attachments I receive are often in file formats that can only be read by Microsoft software. I have felt like a captive of this juggernaut for years, and I fear the future holds more of the same.

When I learned that Microsoft had been found guilty of anti-competitive use of their monopoly power, I was encouraged. I looked forward to seeing them punished for their illegal actions, and restrained from repeating them in the future. I was very disappointed to read the proposed settlement. There appears to be no significant penalty for the past abuse of their monopoly power. I saw only the mildest of restrictions, aimed at industry conditions of the past rather than of the future. Microsoft keeps all the fruits of their past criminal behavior, and there is no incentive not to behave as arrogantly in the future as they have in the past. The provisions are cleverly drawn, so as to leave Microsoft plenty of room for evasive maneuvers. Interestingly enough, they are also worded so as to deny any relief to developers of open source software, which Microsoft has acknowledged as the greatest remaining threat to their dominance of the software industry.

The stock price told the story. It was not significantly affected by publication of the proposed settlement. The industry recognized that it would have little impact. An adequate settlement should have some impact on Microsoft's business, and this is not an outcome to be feared. Exposing the perpetual windfall that is Microsoft to the pressures of normal competition will be a good thing for the economy as a whole.

I would look for two things in any acceptable settlement. First, penalties that punish past abuse, and then restrictions to prevent future abuse. Many possible measures would serve both objectives.

Consider the following:

1.) Make Microsoft publish all of their proprietary file formats and communication protocols immediately. Specify harsh penalties if they are inaccurate or incomplete in publishing these. They should be required to drop all proprietary extensions to industry standards from their Web development software, except for such extensions which are accepted by a majority of competitors in the industry within a reasonable time after their publication.

2.) Void all exclusive or restrictive agreements with PC vendors which impose any financial or other penalty, direct or indirect, for including competitors'' application software or for selling PC's loaded with other operating systems. Prohibit such agreements in the future.

3.) Require Microsoft to strip XP of all bundled applications for which established competitors offer free versions of an alternative. They are repeating in the multimedia player software market the exact same conduct for which they were just convicted in the Internet Browser market.

4.) Consider dividing the company, but not in the way most often proposed. The link between operating system and applications has been exploited so thoroughly that the damage cannot practically be undone, but the link between software and the delivery of services and content has not yet been exploited to the same extent. Require Microsoft to spin off all software development operations, separating them from the services and content portion of their business.

Appoint monitors at each resulting unit to enforce their independence from each other. Alternatively, consider regulating them as a monopoly, just like a utility. Control their prices, and supervise the quality of their service, for the benefit of consumers.

The consistent pattern of Microsoft's behavior in the past is a fair way to predict future behavior. Unchecked, they can be expected to use anti-competitive measures in their efforts to dominate the markets they are entering now and chose to enter in the future. I would say to the court that you have an unrepentant law breaker in your hands, a repeat offender. Deal with them severely.

Thank you for considering my comments.

Jonathan Martin
Mobile, AL

MTC-00027578

From: John Giannandrea
To: Microsoft ATR
Date: 1/28/02 4:52am
Subject'' Microsoft Settlement
Attached in HTML and Plain text.
http://www.meer.net/j g/doj—comments.html
jg@meer.net
Comments on the Revised Proposed Final Judgment
http://www.meer.net/jg/doi comments.html
John Giannandrea, Independent Software Developer,
Formerly ('94-'99) Chief Technologist in the Internet Browser group at Netscape/AOL

Summary

After reviewing the Revised Proposed Final Judgment, the Competitive Impact Statement, the May 18th 1998 Antitrust complaint together with the findings of the District Court and the Court of Appeals I submit that the Proposed Final Judgment fails to describe effective remedies for Microsoft's illegal activities.

An effective Final Judgment would prevent recurrence of the illegal behavior and provide relief and protection for independent software developers to develop innovative new middle-ware products and compete with Microsoft in the market for Windows software. The terms of this Final Judgment will not achieve this result because it is seriously flawed.

These comments briefly describe the following problems with the Proposed Final Judgment:

1. Problems with the scope of the remedy
2. Shortcomings in the OEM configuration provisions
3. Loopholes and technical shortcomings with the wording of the judgment
4. Restrictive language related to Intellectual Property.
5. Problems with the term and proposed implementation
6. Flaws in several of the definitions

Taken together I believe these flaws in Proposed Final Judgment make it an inappropriate remedy for the illegal behaviors found by the Court of Appeals. While changing some of the specific wording of the Final Judgment and removing some of the loopholes will make it stronger, on balance it is a wholly inappropriate remedy for the ongoing harm done by Microsoft in protecting and extending its Windows monopoly.

jg@meer.net
January 27th, 2002.

1. Problems with the scope of the remedy

There are several problems with the scope of the proposed remedies which are likely to make it ineffective in practice. The Final Judgment does not correct the harm done to the marketplace today by Microsoft's existing software products, nor address the issue of backwards compatibility and harm done to the market by ongoing changes ("upgrades"). Nor does the Final Judgment address the crucial issue of APIs in Microsoft middle-ware products themselves, as opposed to APIs in the Windows Operating System Product.

1.1 What products fall under the proposed remedy?

Sections III.D, III.E and III.H limit the practical effects of the Final Judgment to some future versions of Microsoft's latest operating system product (WindowsXP, SP1) or 12 months from submission of the Final Judgment. This will not provide effective remedy for the actual installed base of Windows users, of which WindowsXP remains a small minority. Microsoft's monopoly position is, and will be for the length of the initial proposed term, made up of Windows2000, WindowsME, Windows98 and Windows95 products and their associated middle-ware product lines. It is in these products that harm is and was being caused by the illegal activities. For the Final Judgment to be effective in providing relief, the communications protocol and Windows API disclosures need to apply to the actual installed base of Windows. It is no more technically difficult for Microsoft to document current APIs than it is to do so in future products.

The final paragraph of III.H limits the proposed remedies to middle-ware as defined by a timeline relative to the release of new Windows operating system products. The reality is that the illegal conduct relates to all existing and past Microsoft middle-ware products, and the release of future versions of Windows will not significantly affect the harm being done in the marketplace. There is no technical reason why existing Microsoft and non-Microsoft middle-ware will not be compatible with future versions of Windows. In fact Microsoft makes considerable effort to ensure that Windows is "backwards compatible" with its own applications.

Remedies need to apply to all future versions of Windows, and all middle-ware now and in the future, and the obligations of the monopoly holder should not change unilaterally with a product release cycle under their express control. Much of the harm found by

the Court is related not just to the disclosure of interfaces and APIs, but to the fact that Microsoft can stop supporting a documented feature or API without consulting the affected parties.

One possible way to improve the Final Judgment would be to add a new condition to III. C. that allows OEMs the option of shipping any prior Microsoft middle-ware with any subsequent version of Windows.

1.2 Middle-ware APIs are as important as Windows APIs

Section III.D. proposes that Microsoft shall disclose APIs used by its middle-ware to interoperate with a Windows operating system. Since middle-ware such as Internet Explorer or Windows Media Player has added, subtracted or altered significant APIs with each subsequent version, including minor, so called "maintenance" versions, and since these APIs are depended on by the the majority of ISVs. III.D. should be extended to require disclosure of all APIs used by, or provided by any Microsoft middle-ware product, including APIs in other middle-ware software.

1.3 Changes to current and past middle-ware needs to be covered

The definition in VI.J excludes software in minor version changes from the definition of Microsoft middle-ware. Yet it was exactly such a minor change that disabled Java for millions of Internet Explorer users, or forced thousands of ISVs to abandon the Web Plug-in API and redevelop or abandon their middle-ware. (See http://www.meer.net/jg/broken-plugins.html)

At a minimum all software middle-ware released by Microsoft and in use by a majority of Windows users should be covered by the Final Judgment for it to be effective.

2. Shortcomings in the OEM configuration provisions

It is clear from the findings of the Court that there needs to exist remedies that enable OEMs and End Users to be able to add, remove and replace middle-ware without limitation by Microsoft through its Windows product. It has been shown to the Court that its technically easy to allow middle-ware either from Microsoft or its competitors to be added and removed from the Windows operating system. The current language in the Final Judgment does not protect distribution of new and innovative forms of middle-ware and therefore fails to remedy the current situation where investment and competition in Windows middle-ware is "chilled" by Microsoft's prior and current practices.

III.H.3 allows Microsoft to undo an OEM configuration in any subsequent version of a Windows product and to change the way an OEM's configuration interacts with Windows in each subsequent version. This lack of "backwards compatibility" is in Microsoft's interest at the expense of the OEM's investment.

III.H.3. Allows Windows OS to undo an OEM's configuration automatically after 14 days. But it does not give the same capability to an ISV, or the OEM themselves. If a third party provides competitive differentiation by adding features and services on top of Windows they should be able to do so with no hindrance from Microsoft at all. If it is determined that Windows should have a "revert" feature that disables or undoes an OEM's enhancements, then that feature should have an "undo" capability so that the enhanced product purchased from the third party is not irreparably harmed by the behavior of the Windows software at some later time.

III.H attempts to give end users and OEMs the right to add and replace non Microsoft middle-ware with competitive middle-ware, an essential component of the proposed remedies. Rather than just stating this as a simple requirement, additional restrictions are imposed in III.H.2:

that competing middle-ware be replacing a Microsoft middle-ware

that the middle-ware be a specific subset of possible middle-ware that has a particular and limited type of user interface

that Microsoft can require (and itself present?) a confirmation dialog for the end user if the change is made by software that the user presumably installed themselves

III.H.3 imposes conditions on Microsoft operating system products altering OEM configurations, but Microsoft middle-ware also has a documented history of making such alterations. The Final Judgment does not protect OEM investments or end user choices unless it enjoins all Microsoft software products from altering, without express permission, the end user experience. It is exactly Microsoft's ability to make unilateral changes that expresses its monopoly power and distorts the market for improvements to Windows.

The mechanism proposed in III.H. 1 allows Microsoft to provide a interface choice to enable "all Microsoft Middle-ware Products as a group". This should be specifically disallowed since it reinforces the distinction between Microsoft and non Microsoft software, and suggests that an end user would be given the default choice of "taking everything" (i.e. all available Microsoft middle-ware, turning off competitors middle-ware) in order to allow ease of use and configuration.

III.C.3 The requirement that a non-Microsoft middle-ware product should display a user interface "of similar size and shape" to a Microsoft middle-ware product is technically onerous. The additional inferred requirement that a middle-ware product can only launch automatically if a Microsoft middle-ware product were otherwise to do so, is also technically unreasonable. If the purpose of this remedy is to allow competition in such middle-ware; to allow, for example, an OEM to configure a PC so that it connected automatically to an IAP or ICP on boot up, then these restrictions would preclude this.

3. Loopholes and technical shortcomings with the wording of the judgment

There are significant exceptions and conditions attached to the definitions used by the Final Judgment. These exceptions appear to make the remedies themselves weaker and in several cases are technically inaccurate or groundless.

3.1 Excluding existing middle-ware

Section III.H after III.H.3 describes two exceptions where Microsoft middle-ware would be allowed to execute in preference to competing Middle-ware. These exceptions effectively negate the value of III.H and are seriously flawed.

3.1.1 The first exception is for middle-ware "invoked solely for use in inter-operating with a server maintained by Microsoft". Given the current and past scope of MSN and the services provided by various servers in the "microsoft.com" domain, this exception is unreasonable. For example, a component of Windows that contacted a server to upgrade or maintain the device driver software on a Personal Computer would be exempt from III.H. This would presumably preclude an OEM from providing their own value-add service using the same component APIs of Windows. As the value and prevalence of network services grows, Microsoft would be able to continue to exclude competing middle-ware as long as they could define the service as being hosted at Microsoft. This would also include most .NET services, which Microsoft has publicly stated will be at the core of most end user functions in all future versions of Windows. The proposed remedy for past behavior is ineffective.

3.1.2 The second exception is if "non-Microsoft middle-ware fails to implement reasonable technical requirements...". This is an unreasonable and overly broad restriction on the proposed remedy. The specific example given, failure of support ActiveX, is a most egregious example. ActiveX is not a feature of Windows, it is an API created for Internet Explorer middle-ware expressly to tie that middle-ware to the Windows platform. In a healthy competitive environment it should be end users that conclude if middle-ware is providing "functionality consistent with the Windows product", not Microsoft. The idea that Microsoft themselves are qualified to say what is and what is not a valid non-Microsoft middle-ware product puts the fox in charge of the henhouse. In fact by the definitions of this section of the Final Judgment, most existing successful non-Microsoft middle-ware (Java, Netscape Navigator, Web Plug-ins) would be exempt from the remedy. It was precisely the success of these products, demanded by end users, that precipitated the threat to Microsoft and led to the illegal behavior.

3.2 Limitations on disclosure of communications protocols

Section III.E. Requires disclosure of any communications protocol implemented in a Windows OS installed on a "client" computer.

This would appear to exclude protocols implemented as Microsoft middle-ware, such as Web Browsers, or communications middle-ware such as e-mail programs (Outlook Express) or streaming media players (Windows Media Player). It would also appear to exclude protocols implemented in the same copy of Windows, running as a "server". Given the advent of "peer-to-peer" computing this distinction excludes more significant protocols than it includes. To meet the intent described in the impact statement, the requirement should be the disclosure of any communications protocol implemented by the Windows Operating System Product and any Microsoft middle-ware product.

3.3 Preventing disclosure on "security" grounds. Section III.J. 1.a attempts to limit the APIs and protocol descriptions to be published as part of the proposed remedy. The exceptions include those that would "compromise the security..." of the Microsoft products. It is well known and supported by the majority of reputable computer security experts, including many who work for Microsoft Corporation, that disclosure of the mechanisms of software makes it more secure, not less secure. In fact requiring Microsoft to document and disclose APIs will make the products more secure as flaws are discovered by peer review and then repaired. Computer security should not be considered valid technical grounds to limit disclosure.

3.4 Limitations on who can access the disclosures

Section III.J.2 places all kinds of limitations on the disclosure of the information central to the proposed remedy. In III.D the Final Judgment requires Microsoft to disclose APIs to all listed parties via "MSDN or similar" i.e. publicly and for a small fee. This conflicts with III.J.2 which allows Microsoft to withhold such information unless Microsoft itself determines "a reasonable business need", or that the requester meets "standards established by Microsoft for ... viability". These restrictions are unnecessary and are not vital to the remedy. The required information should be disclosed simply, via MSDN or Microsoft.com, to anyone who has a valid Windows license. Section III.J.2 additionally requires that non-Microsoft middle-ware innovators be in "compliance with Microsoft specifications" and, at their own expense, pass a Microsoft defined third party verification test. These new tests and requirements are onerous, and do not exist in the market today except as optional marketing programs. In particular the non-Microsoft middle-ware at issue in the anti-trust action would not have met these standards. These additional requirements and limitations will serve to place further hurdles in front of middle-ware ISVs. They only serve the interests of the monopolist in limiting access to the required APIs as has happened in the past as documented in the Findings of Fact.

4. Restrictive language related to Intellectual Property.

The licensing terms implied by the Final Judgment are both more onerous than the prevailing market today, and unfairly biased in favor of Microsoft.

The terms of III.G are not in force if Microsoft licenses intellectual property from the third party. This would appear to allow, for example, Microsoft to enter into an exclusive distribution arrangement with an ICP if the ICP had a reciprocal license to Microsoft for some middle-ware enhancement related to their Internet content. This kind of transaction is common in the industry today and would seem to weaken the intent of III.G Section III.I.5 grants Microsoft the right to require a competitor to license to it IP rights to "relating to the exercise of their options or alternatives provided by this Final Judgment". This is an onerous and unreasonable requirement because Microsoft does not need such non reciprocal IP rights to comply with the Final Judgment. (Could such rights be licensed father by Microsoft to other ISVs?)

III.I requires Microsoft to reasonable and non discriminatory licensing of any intellectual property required for the market to take advantage of the provisions of the Final Judgment. However there is a restriction (H.III.3) on sub-licensing. This would in practice curtail most ISV business models if a technology innovator was unable to resell its technology to an "end user" OEM or ISV without that entity then being required to obtain a license from Microsoft.

The last paragraph of III.I explicitly states that the terms of the Final Judgment will not confer any rights with regard to Microsoft IP on anyone. But as the Final Judgment requires disclosure by Microsoft of APIs, protocols and detailed documentation of mechanisms inherent in middle-ware interfaces, then certain legal rights are in fact surrendered in most jurisdictions.

III.I does not address the significant and influential market in royalty free software (such as Linux) and the open standard nature of the Web protocols and standards. Industry standards groups which Microsoft itself is an active member of such as W3C (The World Wide Web Consortium) customarily require all APIs and protocols to be royalty free. Yet III.I potentially places further restrictions or costs on ISVs developing products and innovations under that model if they wish to integrate them with Windows.

5. Problems with the term and proposed implementation

5.1 Term is not long enough

The Final Judgment has a term of five years (V.A), or seven years with additional violations. Given the pattern of illegal behavior by Microsoft since 1995 and the fact that Windows Operating system product cycles are frequently many years apart, the scope of this agreement appears unusually short. A 10 or 15 year agreement would be more appropriate.

5.2 Issues with creating a competent technical body

The Final Judgment requires a three person technical committee. While this committee is intended to be knowledgeable about software design and programming, it also needs to be knowledgeable about Internet standards and protocols, online transactions and web e-commerce architectures and business models. It is unlikely that a committee as small as three people will have the requisite skill set to oversee the broad range of initiatives and innovations that center on the Windows platform and are the subject of the monopoly concern. The committee would be more in keeping with industry standards and accepted practice if it were larger and comprised of experts in several fields.

5.3 Public disclosure of information relating to enforcement

Section IV.B. 10 and other language in IV (e.g IV.D.4.d) suggests that the Final Judgment requires the work of compliance and technical overview to be conducted in secret. For example if an ISV submitted a complaint to the TC or the Microsoft Compliance Officer it is not required that the complaint and its response be published (IV.D.3) It would be more in keeping with industry standards and accepted practice for technical discussion around the enforcement of a Final Judgment be open to wider technical review. This would improve the quality and accuracy of such review as well as reassuring the community of OEMs, ISVs etc. that the enforcement process was actually working. At a minimum there should be a requirement that the TC host an independent web-site to communicate with the industry about the status of enforcement issues.

6. Flaws in several of the definitions

There are many problems with the definitions of key terms that affect the meaning and substance of the Final Judgment.

VI.A. A suitable definition for Application Programming Interface needs to include interfaces provided by middle-ware itself, since middle-ware can include tiers of software, not just a simple arrangement where middle-ware calls the Windows software layers. A more accurate and common definition of APIs would be independent of both the terms Windows and middle-ware.

VI.B. The scope of Communications Protocol should not be limited to communications with a "server operating system". This excludes the concept of one Windows XP PC talking to another PC, which is a common occurrence and should be within the scope of the remedy. "Peer-to-peer" is an example of a middle-ware category that is not covered by this definition.

VI.J.2 and VI.K.b.iii both require that the covered software be "Trademarked" to be under the terms of this agreement. This requirement seems to exclude certain middle-ware. For example "My Photos" and "Remote Desktop" are new middle-ware in WindowsXP and are apparently not trademarked. VI.T defines Trademarked to exclude certain named products regardless of their impact in the market.

VI.J.4 excludes software that has no user interface, such as a streaming video codec or a web commerce protocol handler. VI.K. 1 lists certain products explicitly as middle-ware. Given that the Final Judgment as written only covers Windows XP and subsequent versions (it should be modified to cover prior versions), the list of covered products and categories should also include MSN Explorer, Microsoft Outlook and other Microsoft Office components, Windows Movie Maker and others.

VI.N limits the definition of a "non-Microsoft middle-ware product" to one that has shipped 1,000,000 copies in a previous year. Under this definition, Netscape Communicator would not be covered by this Final Judgment, nor would Sun's Java JVM, both examples cited by the Court of middle-ware that require relief. The idea that a competing product has to already be successful to receive the protection of the Final Judgment is flawed. This condition should be removed.

VI.N defines non-Microsoft middle-ware in terms of code exposing APIs, which are defined in VI.A as being uses by Microsoft middle-ware (this is a circular definition). More importantly, non Microsoft middle-ware should not be defined more narrowly than Microsoft middle-ware. Not all middle-ware "exposes a range of functionality to ISVs though published APIs" although some (like Java) does. The original Netscape 1.0 web browser would have failed the definition in VI.N VI.Q defines Personal Computer as using an Intel x86 processor. Microsoft has in the past and will most likely in the future ship Windows Operating systems for processors other than x86. The Court found that Microsoft's illegal practices in respect of distribution of Internet Explorer also extended to the Macintosh Power-PC platform so this definition is overly narrow.

VI.R. 150,000 beta testers is an unusually large number, even for Windows and suggests that "timely manner" would be defined as the last test release of a Microsoft product rather than the first public test release. The interests of the enforcement are better served if Timely Manner was defined as the first public test release of a Windows OS product.

MTC-00027580

From: Jason W. Solinsky
To: Microsoft ATR
Date: 1/28/02 4:54am
Subject: Microsoft Settlement

My name is Jason W. Solinsky. I am a software entrepreneur and have served as the Chief Technology Officer of four different enterprises.

I am writing in opposition to the proposed settlement of the Microsoft anti-trust case.

My opposition is for the following reasons:

1. The proposed settlement is almost entirely focused on measures to prevent abuses by Microsoft in the future, and does not address past behavior in any substantive way. Nor does it provide any incentive for

Microsoft not to repeat its past actions.

Microsoft was found to have violated the Sherman anti-trust act in numerous ways to preserve its monopoly on consumer operating systems, the single most valuable monopoly on the planet, conservatively valued at $150–200 billion dollars. As a software entrepreneur, I can tell you that every startup is asked "The Microsoft Question" by potential investors. "How will your venture fair if Microsoft decides to aggressively target your space?". A fear that Microsoft will do to new companies what it did to Netscape has caused at least six companies that I am personally aware of not to be started. This suggests that nationwide THOUSANDS of new enterprises and sources of innovation and competition for Microsoft have been destroyed by Microsoft's behavior.

Despite this, the proposed settlement is almost entirely focused on preventative measures. If, in 1995, Microsoft was offered the choice of ceasing all illegal activities or entering into this settlement in 2002, Microsoft would, without question, have chosen this settlement. Protecting a $200 Billion dollar asset, even slightly, is worth suffering the negligible restrictions placed on Microsoft by this settlement a thousand times over. By offering a settlement which results in a business outcome that is superior to not violating the law in the first place, you send a clear message to future executives that they can ignore our nation's anti-trust laws with beneficial results.

2. The proposed remedies will not prove effective in preventing future abuses by Microsoft. The findings of fact, made much of the fact that the software industry is a rapidly changing business. The department of justice seems to have completely forgotten about this in drafting the settlement. Nearly every provision has had loopholes placed in it that dramatically weaken its effectiveness.

As an expert in computer security, I would like to focus in particular on the provision that exempts Microsoft from disclosing the details of its security APIs if Microsoft feels that such a disclosure would compromise the security of its products. I note the following:

A: The single most important step in ensuring the security of a product is public disclosure of its security mechanisms. This allows other experts to review its safety, and it permits potential users to make informed decisions about the risks inherent in the product. Especially in the wake of September 11, allowing an exemption which encourages less secure products is unthinkable, yet that is precisely what the department of justice proposes to do.

B: Microsoft has historically used security protocols as a method of preventing compatibility with third party products. Witness what Microsoft did with Kerberos. It doesn't matter how open Microsoft's APIs are if they are permitted to design incompatibilities into their security protocols that prevent effective interoperation.

Given this is surprising and unfortunate that the Department of Justice has agreed to this provision. If no other change is mode to this settlement, which on the whole I believe is entirely in adequate for the circumstances, I strongly encourage the DOJ to tighten this provision by providing that a SINGLE COMPUTER SECURITY EXPERT UNAFILLIATED WITH MICROSOFT be given the ability to review all materials that Microsoft wishes to keep secret under this provision and UNILATERALLY reverse Microsoft's decision. Anything less will not only result in less secure products, but will give Microsoft a government-endorsed anti-competitive tool so powerful, that the remainder of the settlement is of little significance.

In conclusion, I think that this entire settlement is inadequate for the circumstances, and encourage the DOJ to pay particular attention to the security exclusion, which reflects a lack of knowledge of computer security by its drafters.

JWS

You can contact me as follows:

Jason W. Solinsky
268 River St. #2
Cambridge, MA 02139
(617) 547–3555
CC:solman@uspowersolutions.com@inetgw

MTC-00027581

From: Ohairyl@aol.com@inetgw
To" Microsoft ATR
Date" 1/28/02 4'57am
Subject" Microsoft Settlement

I oppose the settlement reached in the Microsoft antitrust case. I am not a lawyer and I had a lot of trouble as a result, trying to follow the documents made available to the public at: http://www.usdoj.gov/atr/cases/ms-settle.htm#docs but I and my family and business do use computers, and the outcome of this case is critical to our future.

I just fail to see that there is any penalty in the settlement, and I fail to see any admission of guilt on the part of Microsoft (MS) or its senior executives. On the contrary, with the exception of the fact that there will be three people charged with monitoring MS for a very limited time (MS has been making flagrant violations of law and of ethics for over twenty years!), there seems to be no penalty at all. There is no fine, and there is no breakup. Historically (to the best of my recollection, including AT&T and Standard Oil) in the case of major monopolies a breakup always came about which would allowed increased competition not only with outside competitors bu t also among the various new units resulting from the breakup.

I am also concerned about the Department of Justicef??s (DOJf??s) and the Governmentf??s interest in the public interest. It was explained shortly after the September 9, 2001 terrorist attack that the government felt the pursuit of justice with respect to MS was not a high priority. I was shocked at the comments. No other felon was let off the hook because of the events of 9–11.

I am further concerned about major political contributions made in 1999 and earlier and the impact that they have on the Governmentf??s view of what is right and wrong and what penalties should be imposed. The specter of impropriety is certainly present.

And I am concerned about MS's influence during this public comment phase because in the past it has been demonstrated that MS has orchestrated a f??stuff the ballot boxf?? approach which they have taken many times in the past while trying to influence the Government and the public to act in its (MSf??s) behalf. One recent example of this was reported by ZDnet News (http://news.zdnet.co.uk/story/0,,t269-s2102244,00.html):

<<In December, Java was more popular than .Net for building Web services, according to a ZDNet UK poll, but weeks later the position had dramatically reversed; investigation revealed just what lengths Microsoft will go to to promote its products

Thus I wouldnf??t be surprised at all if they have tried to rig this public comment phase of the f??settlementf??toward their own best interest. What has the impact of MS's collective behavior, ongoing yet today, been on the public? Take the cost of computer operating systems as but one apparent example.

A competitor with about 5% of the market sells its new operating system, Mac OS X v10.1, for a recommended retail of $129. Updater packs were made available to users of the earlier OS X v10.0 for free, for about 5–6 weeks after release. After that the updater package costs $19.95 direct from the manufacturer, with proof of ownership of the v10.0 software. Microsoft meanwhile also introduced a new operating system (well, a modification to Windows 2000) called Windows XP (Win XP). The updater for the f??homef??edition has a recommended retail of $99, while the full version of this edition is $199. But to get the full-featured version one needs to buy the f??Prof?? edition for which the upgrade costs $199 and the full version costs $299! I note that Mac OS X v10.1 is a full blown OS, not a f??Homef?? version, and that the full-blown networking capability built into OS X can only be obtained on the Windows/Intel platform (IBM compatibles, or f??PCsf??) by buying Win XP Pro.

Further more, the lack of competition permits these overpriced products to be inferior in many ways. One way seen by all in recent weeks is the admission by Mr. Gates that MSf??s products lack security. Indeed many security updates have already been released for Windows XP which MS calls f??The Worldf??s Most Secure Operating Systemf??! Security and freedom from attack by viruses have plagued the Windows-based software for years, and yet because there are no real alternatives the public has little to no choice or say in the issue. Given that the MS user base is about 90% of the marketplace worldwide, versus Applef??s 5% (with the balance being distributed among users of Linux, Unix, BeOS, IBMf??s OS2 and a few others), and that Win XP was in development about a year versus some 6–8 years for Mac OS X, there is something drastically wrong with this pricing structure in that the products from Microsoft, by any comparison or analysis, are dramatically overpriced.

But what in the settlement addresses this? What penalty is imposed for the past practice of overcharging for products that has resulted because of the monopoly obtained by illegal and unethical business practices?

Further the company has taken steps in Windows XP to further defeat competition! For instance, the plug-in for the international streaming media standard for the Internet, namely QuickTime, was deleted from this version and further the former version of the plug-in no longer works because of a slight change in the code of this operating system (OS). Another example is that MS made other changes to Win XP which drop support for what was called f??NetBEUIf??, which made communication between PCs and Macintosh computers (using programs such as MacSOHO and Thursbyf??s DAVE) possible. And yet, while MS has dropped support for NetBEUI, their own web site makes it available for installation into XP, but has a very obtuse statement, on a page called f??How to Install the Netbeui Protocol on a Windows XP-Based Computerf?? posted October 25, 2001 at: http://www.microsoft.com/WINDOWSXP/pro/using/itpro/networking/netbeui.asp The statement on this page reads: f??This article describes how to install the NetBEUI protocol on a Windows XP-based computer. This may be useful because the NetBEUI protocol is not included in the list of installable protocols in Windows XP even though the files that are needed to install the protocol are included with the installation CD-ROM. It is important to note that the NetBEUI protocol is not supported on Windows XP.f??

So the attempts by MS to defeat any competition by questionable means continues even through and beyond the judgment of guilt and the pursuit of the penalty for that guilt!

Thus, to this day, the leadership of Microsoft continues its practices, and refuses to admit any guilt. In and fact in public appearances both Mr. Gates and Mr. Balmer have denied any wrongdoing or any guilt either by the members of the leadership or by the corporation, and not only are non-repentant but also seem to taunt the world to do anything about their behavior!

How, I ask, is a panel of three over a period of five years, going to end these practices and bring about legal and fair behavior not only in terms of the competition MS faces, but also in terms of the pricing of its monopolistic products? It canf??t and it wonf??t. The behavior and business practices continue to this day and will march on into the indefinite future. Indeed ALL settlements to date seem to have been dictated to the prosecutors and the various governments and individuals brining suit in all trials. ALL these settlements enhance MS's long-term dominance, and do essentially nothing to penalize it or to force it into a position where the end of unfair, illegal, immoral, unethical and anticompetitive can be assured!

In closing, I am dismayed that the illegal tying of features to its software which inhibit and prohibit competition is not being pursued but indeed is continuing unflagged. I am dismayed that there is no economic penalty imposed. I am dismayed that the same leadership which resulted in the flagrant violations in the first place will continue to guide this company and that the company has not been broken into separate divisions with new management. I am dismayed that nothing anywhere addresses the overpricing of inferior products which has occurred for decades and which continues to this day. And I am dismayed that the attempt to prevent future behavior is, as a result of the flaws noted in the settlement, totally inadequate to the task. I sincerely hope that as a result of these considerations, the settlement reached will be vacated and that the Department of Justice will dictate to Microsoft the penalties which should be forthcoming, instead of allowing Microsoft to dictate what it is willing to accept.

With sincere regards,
Robert J. Patterson, II
1825 SE Mandrake Circle
Port St. Lucie Florida 34952
Ohairyl@aol.com

MTC–00027582

From: Mildred Olsen
To: Microsoft ATR
Date: 1/28/02 4:58am
Subject: Microsoft Settlement

Please except settlement. Our economy is being drained by lawsuits, manufacturing overseas movements and overseas sell offs. PLEASE put America first and not self serving interests that are destroying our economy internally.

Having grandchildren, I often wonder what they will be facing in thirty years from now!

Mildred Olsen

Very small business owner using materials made in America.

MTC–00027583

From: Add-Hoc Enterprises
To: Microsoft ATR
Date: 1/28/02 5:10am
Subject: DOJ/Microsoft settlement comments

To whom it may concern:

I am writing to express opposition towards the proposed antitrust settlement between the Department of Justice and Microsoft.

Although not trained in legal matters, I believe that a settlement, to be defensible, must provide remedies for the alleged violations affirmed by the Court of Appeals'' ruling. The current proposal does not prescribe any remedies for the court's finding of liability for monopolization.

The proposal does not provide adequate reparations for many issues. Many of the provisions apply to Microsoft products and services currently shipping (i.e. Windows Operating System and Microsoft Developer Network,) but changes in computer technology and product branding such as .NET would allow Microsoft to easily bypass these restrictions within the five year life of the settlement. Thus, the settlement should not be tied to particular Microsoft product(s), but should focus on Microsoft's anticompetitive behavior. Also, the provision that prohibits Microsoft from retaliating against businesses that do not support its products lacks a clause to disallow Microsoft to reward companies that do support them (i.e. bonuses and spiffs.)

Ultimately, the proposed settlement would do little to restore competition.

Thank you for your consideration.

Respectfully,
Richard Clayton
Phoenix, AZ

MTC-00027584

From: Donovan Jocque
To: Microsoft ATR
Date: 1/28/02 5:18am
Subject: Microsoft Settlement

To USDOJ,

Settlement is a bad idea.

Any proposed settlement that would effectively allow Microsoft to continue in it's abuse will be bad for everyone. Microsoft can not be trusted to do as they say; enforcement is needed.

Moreover, any proposal that would extend Microsoft's OS monopoly into the education sector would be disaster for consumer choice. If Microsoft takes over the education market, the Apple platform's long-term viability will be threatened.

Please, do not settle on Microsoft's terms.

Donovan Jocque
Commerce, Michigan

MTC-00027585

From: Yajima Satoshi
To: Microsoft ATR
Date: 1/28/02 5:19am
Subject: Microsoft Settlement

I'm happy to submit my comment on Microsoft Settlement. I would like to say that Java is somehow misunderstood. Before the judgement, it is necessary to reconsider what Java really is.

* Java is rather more disadvantageous to customers;

(Windows never need Java.)

Although Java is said to be multi-platform, it is NOT correct in some sense.

Java is one monopolying platform which prevents each vendor from developing their unique features of operating system. Java uses its own User Interfaces which would eliminate unique User Interfaces features of each OS vendor.

Most of Windows customes are NOT familiar with the Java standard user interface, Swing.

Java is a threat thad prevents operating system from persuing unique benefits of each own features.

So, it is not strange that Microsoft didn't adopt pure Java technology.

Best Regards,
Satoshi Yajima (kv8s-yjm@asahi-net.or.jp)
Itabashi, Tokyo, Japan

MTC-00027586

From: Scott McCarty
To: Microsoft ATR
Date: 1/28/02 4:58am
Subject: The Microsoft Decision

The Freedom to Stifle Innovation

Will the Justice department has abdicate from its responsibility to protect business and consumers from Microsoft?

Long time readers of my Web site, www.GraphicPower.com, already know that I consider Microsoft to be the embodiment of evil business practices. Many innovative software companies have met their demise because Microsoft decided to put them out of business. I celebrated Judge Jackson's original verdict that ordered the breakup of the software monopoly. Jackson's only fault was getting so incensed by the arrogance, obfuscation, and obstructionism of the Microsoft defense, that he developed an obvious, if just, bias. What we have here is one of the most open, and shut cases of the century.

Microsoft has stifled innovation, stolen concepts, and buried small developers for at least 15 years. Is it any wonder that Judge Jackson developed an attitude?

What Comes Next?

The bad news is that Microsoft will probably have another two years to intensify its stranglehold on the software industry. We are beginning to see some of Microsoft's new "innovations" in Microsoft Office XP. Installation of virtually any non-Microsoft application or utility can disable vital applications unexpectedly when you are away from your office and do not have access to your original software disks. Microsoft Office XP can prompt for the original CD to re-authorize your software while you are on a plane putting the finishing touches on a mission critical presentation. What this implies is that Microsoft is laying the OS groundwork for application expiration. No longer will our license to use the software that we buy be perpetual. Microsoft will be forcing users of their software to pay a licensing fee annually.

Microsoft is also positioning itself to be the sole developer of entire genre of applications. Look at what they did to Netscape. Netscape was a vital, profitable company? a leader in the development of Web browser software. They were on the verge of deploying Netscape communicator as a fully featured commercial application for, perhaps, $35.00. Microsoft came along with Internet Explorer. They did not emasculate Netscape by simply producing a better product and giving it away for free. Microsoft made it difficult to even use Netscape.

Many versions of Internet Explorer refused to download Netscape, and Internet Explorer has its hooks so deeply into the Windows operating system that uninstalling it is a bizarre ordeal. Then, Bill Gates rammed an anti-competitive deal down Steve Jobs gullet. Microsoft would agree to continue support and development of Office for Mac only if Internet Explorer was the default browser for the Mac OS. MS also cast a $150 million vote of confidence in Apple by the purchase of non-voting stock. It was extortion and bribery to insure that Netscape would never evolve into a commercial software product. The Microsoft Juggernaut is poised to trample business and home users as well as software developers.

It is no surprise that Attorney General Ashcroft, the Justice Department, and the Bush administration would take a pro-business stance in the Microsoft case. Just what is the truly pro-business path? The only answer can be to break up Microsoft. The best scenario would be the breakup of Microsoft into three separate companies.

Operating Systems
Application Software
Internet Services

The current Microsoft strategy is to entwine their applications and Internet access into the operating system so tenaciously, that it will be difficult, even impossible for the average user, to install and successfully use non-Microsoft software. This would make the path of least resistance for most businesses to standardize on an all Microsoft suite of applications. Microsoft Access, SQL Server, and Exchange are all train wrecks. Business will have to conduct itself in frequent "crisis" mode while the IS department struggles with unstable business information systems. Cost of support will continue to skyrocket as these systems get more and more complex and require more thousands of dollars in training for IS managers to maintain their qualifications and competence. The Justice Department's decision to forge ahead with a weak response to Microsoft's illegal business practices will cost business a huge fortune. We may never know what went on behind closed doors between the Bush administration and Microsoft. This sudden reversal in policy makes the hair stand up on the back of my neck. I never thought anything like this could happen in the US, but then again, I never thought the Presidency could be stolen either.

Microsoft routinely withholds vital system call API's (application program interface) from developers. This gives MS the edge over everyone else in developing fully featured software for Windows. Part of the remedy MUST be that the MS operating systems division must share vital technical information about their operating system with all developers in exactly the same manner as with the Microsoft application division. For Example, I would like to see Star Office for Linux, Windows, and Mac OS be reasonably priced and compete directly with Microsoft Office for Linux, Windows, and Mac OS. We will never see Microsoft applications developed for Linux systems so long as Windows and application development are the same company.

Technological Genocide

Microsoft has actually been intensifying its anti-competitive strategy since the original verdict. Now that the verdict has been upheld, it is unlikely to be reversed no matter how many appeals Microsoft may file. The new evidence of Microsoft's accelerated stranglehold strategy should have been considered prior to any new remedy being imposed. The Justice Department should have been swift and sure, and not let Microsoft continue to suppress innovation and competition. Microsoft is demonstrating no remorse, no reform, taking no prisoners. What we are witnessing is technological genocide on a global scale. Avoidance of Microsoft software is not just a personal issue with me...it is a matter of socioeconomic ethics. The only way for us to stop this destructive force of evil is to refuse to use, sell, or support Microsoft products. Take a stand for freedom. Take a stand for innovation. Take a stand for the American Way. Be Microsoft free.

Scott McCarty / Systems Integration
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MTC–00027587

From: Reed Laughlin
To: Microsoft ATR
Date: 1/28/02 5:31am
Subject: Microsoft Settlement

To Whom It May Concern:

I do not believe the proposed Microsoft Settlement to be in the public interrest, as it would not prevent Microsoft from further abusing its monoply power. Specifically, it does force Microsoft to disclose al file formats used with their Office Suite to allow interoperability with competing products. It also fails to complete. Unser teh Tunney act, further proceedings should be held in public to allow the public an equal opportunity to participate, and past communications between teh DOJ ad Microsoft should be disclosed.

Thank You,
Reed Laughlin
2812 30th Ave West
Seattle, WA 98199
(206) 286–1994

MTC–00027588

From: Malcolm Boura
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 5:32am
Subject: Microsoft Settlement

I have been following the DoJ's interractions with Microsoft with some perplexity. I thought the USA was run by an elected government but it would appear that if a company is big enough then it is allowed to use illegal practices to maintain an illegal monopoly. To be blunt, the DoJ is bringing the USA into disrepute. Or perhaps the explanation is that world monopoly, and the abuse of that monopoly, is acceptable when it is a US company?

Malcolm Boura
Senior Software Engineer
Pace Micro Technology PLC

MTC–00027589

From: jritt@math.bu.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 5'38am
Subject: Microsoft Settlement
Jason Ritt
Mathematics Department
111 Cummington Street
Boston University
Boston MA 02215

I am sending these comments on the proposed Microsoft antitrust settlement, in accord with the Tunney Act.

As a researcher in the field of theoretical neuroscience, I am deeply concerned about deficiencies in the Proposed Final Judgment (PFJ) that could allow Microsoft's abusive behavior to continue in a manner harmful to our nation's scientific community. Below I (1) briefly describe my work, as an example of a typical use of computing in science, (2) discuss open source and free software development, non-commercial activity which is essential to the health of academic research, (3) comment on the threat posed by Microsoft to such software, and the inadequacy of the provisions in Sections III and IV of the PFJ to protect against this threat. It should be noted that although academia is a small "niche" market compared to the general public, it is behind much of the nation's technological, and hence economic, development.

(1) My research relies heavily on scientific computing, by which I mean the use of intensive calculation in the solution of scientific problems. Specifically, I create and operate software that simulates the biological activity of neurons (cells responsible for, among other things, brain function), using both standard programming languages (eg, C) and commercial products that provide a computing environment (eg, MATLAB by the Mathworks Corporation). These simulations serve as tests of theories of neural behavior and function. In addition to increasing our basic understanding of life processes, such work by me and others contributes to the development of technologies ranging from medical devices to improved electronics.

Scientific advancement requires effective interaction between researchers. While publication in academic journals is still important, direct communication via email and the sending of documents, data and computer code over the Internet now form an integral part of almost all collaborations. Computers thus have a dual value to the scientist: they are indispensable directly as computing tools, but also as communication tools.

(2) For me and most of my colleagues, the unquestionably best choice of operating system is Linux, a well known alternative to Microsoft Windows. Linux is superior in this context because it is computationally efficient; is typically packaged with a number of applications useful in scientific computing, communication and publication; has advanced scripting, automating and project management capabilities; can be extensively customized for a given task; and is available at little or no cost, which is especially important for publicly funded projects.

As described in Judge Jackson's Findings of Fact, Linux was produced primarily under the "open source" model of software development, in which many developers, often in disparate parts of the world and with no contractual arrangements between them, cooperate in correcting and extending the body of code which forms the software. Typically, most if not all of these developers volunteer their efforts. However, open source is not equivalent to free of charge; for example, the for-profit company Red Hat sells a popular distribution of Linux. Researchers typically use a mixture of free and commercial software.

Academic research in general, and scientific computation in particular, has thrived on the spirit of open sharing of software. In addition to the Linux operating system, such activity has created many valuable applications, for example sendmail (which led to the widespread use of email as a means of communication) and LaTeX (a typesetting program which is a universal standard for document preparation among mathematicians and physicists). Moreover, the TCP/IP protocols (which form the backbone of the Internet) and the HTML standard (which created the World Wide Web) were produced in academic environments and released to the public domain. Another example of the importance of the open source nature of Linux to current research is provided by colleagues here at Boston University.

They are extending state of the art technology, known as the dynamic clamp, which allows the design of an unprecedented set of experiments involving the interaction of a computer with biological tissue. A crucial component of the technology is a variant of the Linux operating system, known as Real Time Linux, which they have adapted to their needs. It is the open source model which gave them the necessary access to the basic code of the operating system (and in the same spirit they have made their improvements available to the community).

(3) Microsoft has publicly acknowledged its hostility to the open source community. For example, Microsoft Senior Vice President Graig Mundie has repeatedly argued that the General Public License (GPL), which promotes open source software and which governs the release of GNU/Linux, is a threat to the software industry, and Microsoft Chief Executive Steve Ballmer referred to software released under the GPL as a "cancer". While these comments are specifically about the GPL, they are widely seen as part of a general anti-Linux strategy. In particular, Microsoft is committed to the development of its .Net platform, but lacks total control over the market due to the existence of the highly popular open source server software apache, which runs under Linux. See CNET for example articles summarizing the GPL comments (http://news.com.com/2100–1001–270684.html), and the consequence of Linux for Microsoft's long term goals (http:/ /news.com.com/2t00–1001–268520.html?legacy=cnet).

Given that Linux is currently the source of Microsoft's strongest competition, it is shocking that the PFJ, which is supposed to prevent Microsoft's illegal abuse of its monopoly, specifically condones discrimination against Linux. In particular, Section III.J(2) exempts Microsoft from disclosing information or providing licensing (of protocols I discuss below) to not-for-profit organizations. Since the benefits of the open source community, which created Linux, derive precisely from a mix of for-profit and volunteer efforts, this Section allows Microsoft to continue abuses against its primary competitors.

J(2)b says organizations seeking information or a license must have "a reasonable business need for the API, Documentation or Communications Protocol for a planned or shipping product" J(2)c requires that the organization "meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business".

Under this wording, organizations which develop a "free" open source operating system or application could be denied status as a "business", and hence have no remedy under the PFJ. It is especially onerous that it is left to Microsoft to establish the standards for what constitutes "authenticity" and "viability".

The protocols in question are for "anti-piracy systems, anti-virus technologies, license enforcement mechanisms, authentication/ authorization security, or third party intellectual property protection mechanisms". While seemingly restricted to certain sensitive systems, this list potentially impacts all software. Even something as simple as a request for a new window could require a form of authentication, for example if that request comes from a networked application. This clause also affects any program which needs access to Windows file systems, such as the popular open source cross-platform file system SAMBA, because access to a hard drive or other storage medium has potential impacts on piracy, viruses and intellectual property concerns. As its past behavior has shown, Microsoft is willing and able to exploit such loopholes.

Moreover Section IV, concerning Compliance and Enforcement Procedures, provides no specific mechanism through which Microsoft can be brought into compliance if it is determined that it is not. The Technical Committee established under IV(B) has authority only to investigate and report. IV(A) gives the plaintiffs exclusive responsibility for enforcing the judgment, but describes no procedures by which they should do so. In fact, IV(A)4 authorizes plaintiffs to seek necessary orders from the Court, essentially guaranteeing further litigation and eliminating any value of the PFJ.

For reasons outlined in (2) above, there are powerful incentives for certain researchers to use the Linux operating system. However, Microsoft's monopoly, and the consequent widespread use of its proprietary file formats, introduce significant costs due to interoperability limitations. Moreover, the monopoly has the indirect effect of discouraging some third party software vendors from porting their products to other operating systems. To the extent that its goal is specifically to reduce the availability and quality of Linux and other open source software, Microsoft threatens to significantly harm users of scientific computing. While it is doubtful that this result is intentional, it is an unavoidable consequence of the fact that important software development is being done at the interface of for-profit and not-for-profit organizations. Any settlement which does not include strong guarantees against abusive practices towards open source software will create a damaging ripple effect, which could hamper the future advancement of science and technology.

In summary, I ask you to reject the PFJ as written, and seek more effective remedies that preserve the value and viability of open source software, including for those outside the information technology industry.

Sincerely,

Jason Ritt

MTC-00027590

From: Ross Brazzi
To: Microsoft ATR
Date: 1/28/02 5:43am
Subject: Microsoft Settlement

Operating Systems from Microsoft are found in over 95% of computer desktops, and by definition, that level of market share constitutes a monopoly. Microsoft aggressively protects its monopoly, and consequently consumers pay the prices dictated by Microsoft for Operating System and Application Software such as Microsoft Windows and Microsoft Office. For the benefit of consumers, competition must be introduced into the desktop market, and the most efficient method is through market forces, not regulation or consent decree. Microsoft should be broken up into separate and independent companies: one that develops Operating Systems software, such as Windows, one that develops Applications Software, such as Office, and one that encapsulates its Online and Broadcast Services, such as MSN and MSNBC. Market forces would provide a natural incentive for these separate and independent companies to offer their products and services on many platforms, including those of former competitors of the original, monolithic Microsoft. For instance, a separate and independent company that develops Microsoft Applications Software would want to broaden its user base by porting its products, such as Microsoft Office, to other Operating Systems, such as Linux. As a result, other vendors of Operating System Software such as Linux, can compete on a playing field that is more level when attempting to offer an alternative Operating System for the desktop market. Today, most businesses will not even consider an alternative Operating System, unless it runs Microsoft Office, because they are locked into the proprietary document formats of Microsoft Office. Splitting up Microsoft may seem drastic, but in the long run, it is the most effective and efficient way to introduce competition in a market controlled by one company.

MTC-00027591

From: Qrlevis@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:51am
Subject: Microsoft Settlement
January 28, 2002
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

I am emailing you because I've just learned of the possibility of a settlement with Microsoft that will not solve many of the problems caused by the MS monopolies.

I have had personal experience with just one of the various problems. I have had numermous problems going back and forth between the tech. support of Microsoft and tech. support of other software firms. It's just like the old days back in the 60's when IBM had a virtual monolopy on the mainframe computer business (I sold Honeywell computers to the federal government back then).

Some of my problems with Microsoft-versus-others are still there and I just have to live with them. Unless MS opens up its operating systems so that other software developers can develop problem-free interfaces, these problems will continue.

Please DO NOT SETTLE FOR LESS!!

Call me any time to discuss.....

Thank you,
Wilson Levis
Senior Associate
National Center for Charitable Statistics
The Urban Institute
2100 M Street, NW
Washington, DC 20037
202/261–5401

MTC-00027592

From: Michael Backes
To: Microsoft ATR
Date: 1/28/02 6:17am
Subject: Comments

To Whom It May Concern,

I feel that the U.S. Government needs to act decisively to curb Microsoft's abuse of its monopoly power in the software marketplace. I have suffered because of Microsoft's actions in the marketplace in the following ways:

1.) Microsoft slavishly copies the innovations of other smaller companies, such as Apple Computer's Macintosh operating system, effectively co-opting these innovations, and therefore making it difficult for the smaller company's innovations to be rewarded through increased sales and developer support. This means that Microsoft has unfairly impeded Apple's ability to compete, which has resulted in fewer software applications being developed for Apple's MacOS. Each time that Apple releases a new version of their Macintosh operating system, Microsoft seems to copy the new features of the MacOS into its own Windows operating system. Microsoft seems to hold Apple hostage, since Microsoft's Office applications are so crucial to the survival of the MacOS, that if Microsoft decided to kill development of their MacOS products, it could very well spell the death of the Macintosh in the marketplace. That seems completely unfair and anti-competitive.

2.) Microsoft seeks to extend its monopoly into other areas, by leveraging its monopoly on the PC to give it an unfair advantage in other markets. Microsoft's development of an internet browser seems to have marginalized other browsers to the point where no other company will enter the market. Microsoft is currently attempting to dominate the videogame business through the release of its Xbox videogame console. Two of the videogames that I hoped to buy and that had been announced for competing platforms, have been canceled because of Microsoft's actions. HALO, the most anticipated game for the Macintosh, was canceled because Microsoft bought the company that was developing HALO for the Macintosh and made the game exclusive to the Xbox for the forseeable future. Shenmue II, a game made by Sega, was cancelled for release on Sega's own Dreamcast, because Microsoft bought the rights to release it exclusively on the Xbox.

I think the only fair solution to curbing Microsoft's abuse is to force Microsoft to spinoff their Internet, videogame, and application business units from their operating system business. The world will be a much better place for if such a split were to be enforced by our government. It would help our economy, because it would encourage thousands of software developers to bring new, innovative products to market. Please be brave and make the decision to curb Microsoft's abuse of their monopoly power.

Michael Backes
co-founder
American Film Institute Digital Media Studies Program

MTC-00027593

From: Daniel A. Lorca-Martinez
To: Microsoft ATR
Date: 1/28/02 6:27am
Subject: Microsoft Antitrust Trial

Dear Sir or Madam:

Prior to relating my thoughts on the case at hand, I would like to disclose that I am very minor shareholder of Apple Computer, Inc., one of Microsoft's competitors.

On Previous Actions:

I would like to start out by recalling that Microsoft has been convicted of illegal business practices more than once. In 1995, I believe, they reached a settlement with the government, only to circumvent the sanctions imposed.

My fear is that this will happen again. Microsoft literally drove Netscape-a company that once was a corporate giant-out of business overnight. Once they gave away their browser, there was little incentive for individuals to purchase the competing product from Netscape. Regardless of what can be said about AOL purchasing Netscape being proof that the computer industry is fluid and can fight Microsoft, that deal never would have happened if Microsoft hadn't reduced Netscape's business to dust. It also would have been impossible for any other company to give away its software-and this goes to the heart of why Microsoft has been found guilty of abusing its monopoly.

Many people equate this trial to IBMs antitrust trial. I would like to point out that yes, there are some similarities on the surface-but they end there.

1) IBM was not purchasing most competing products. To this day, Microsoft has yet to truly create innovative products in-house aside from Excel and Word. Powerpoint, Access, FoxPro, and even Internet Explorer, the reason behind this trial, were purchased. (Taken from an Amicus Brief from the trial presided by Judge Jackson that specified which products were purchased.)

2) IBM lost its monopoly position in the computer market due to many factors, in part arrogance, lack of vision, and lack of drive. Microsoft, as a company, is very smart and nimble. They have learned from the mistakes or their predecessors, including this major oversight of IBM's. Microsoft is being very careful about being caught with its proverbial pants down-and in fact have gotten into almost every single major business development early on, from cable news to set-top boxes for TV (even with latecomers, such as its entertainment console, the X-Box).

The computer industry, on its own, would be flexible enough to compete with Microsoft on the basis of merit and price. The problem is that Microsoft is very quick to see such competitors early on, and either buys them out or drives them out of business with its guerrilla marketing tactics (the FUD factor: Fear, Uncertainty, and Doubt). This can be seen prominently, for example, when Microsoft-influenced people state that Apple could go out of business, or that Linux can't last long because it is a free operating system.

On the "Freedom to Innovate":

Someone on the internet suggested a great solution that in addition to any other penalty, Microsoft should be prohibited from using patents acquired from other companies for a period of three years. This would keep them *really* innovating, as opposed to innovating by acquisition.

Sometimes, innovation by Microsoft is truly a bad thing. As a company, it has the habit of "embracing and extending" open standards, such as HTML and Java. Java is a Sun trademark and, they sued Microsoft when it included Java with Microsoft's modifications without mentioning the difference. Sun won, and Microsoft had to issue a recall and pull the product from the shelves. The problem is that other standards like HTML don't have the high priced lawyers that Sun does. My solution to that would be to have Microsoft list products that are, for example, HTML compatible, if and only if the standard is followed to the letter. No extensions to HTML, no extensions to Java-just the pure, unadulterated standard.

On the matter of Remedy:

It is imperative to see that desperate times call for desperate measures. Microsoft has fought tooth and nail against the possibility of being broken up. As a company, it has argued that severe limits to its freedoms would be detrimental to them, the economy, and indeed the world. The problem is that yes, they are very important and determine the outcome of much that goes on in the computer industry. They have abused their power though. Most importantly, weak antitrust remedies will not help-Microsoft will find a way around them. Where some litigation has stopped companies from abusing monopoly power, Microsoft has demonstrated that nothing short of completely and forcibly changing their business tactics will help. Yes, this may mean that certain otherwise unreasonable penalties will be applied to Microsoft. Unfortunately, the court, on behalf of the American people, has no other recourse-minor fines and weak penalties will not curb Microsoft's corporate behavior. The solution proposed by Judge Jackson of dividing the company into two entities was an ideal solution. It would allow the company to do everything it was doing before, but without the strongarm tactics to make up for the software's shortcomings. If Microsoft's applications (Office, Explorer, Access, etc) was split from its Operating System division (XP, 2000, NT, etc), there would be a plethora of offerings that would become available. The Linux operating system has gained much ground-and while its users enjoy free software, if Microsoft offered its software for Linux at the same price point as its offerings in Windows, it would make a profit. One of the main reasons why this is still not being done is that making Linux a viable platform (by offering Office, for example) would undermine Windows's standing as the predominant operating system. As a separate company, the MS Applications Company would be free to offer what they like to whomever they like. Then Windows would be free to compete on its innovative qualities on equal ground.

Alternatively, it would be possible to have Microsoft license the software (and APIs) it did not want to make for alternative platforms, such that an independent developer would be able to make an official Office package that is guaranteed to be compatible with its Windows counterpart. Because it is licensed, Microsoft would be guaranteed a profit. No loss would occur, since they would not have to make any investment. If the product fails, they don't have to worry about it either.

On Anti-Competitive Practices:

It is a matter of record that Microsoft has used restrictive contracts and licenses to force partners to exclude competitors. If Gateway preinstalled the Netscape browser and placed the Navigator icon on the Windows 95 desktop the license price of Windows went up. This was used as an effective tool to weaken Netscape's position in the OEM market.

Recently, Microsoft's Software Licensing Agreements (I believe in Visual C++ 7) have started including a clause that prohibits the use of its software compilers to create freely distributable software and source code under the GNU Public License. This is a significant blow to the community that believes in free software. Most importantly, there is no reasonable explanation to include such a clause other than specifically to hurt the free software movement. It is widely known that Microsoft has inserted code into their various software products to slow or even downright disable competing software. Microsoft Office version 4 for the Macintosh took roughly 4–10 times longer to launch on the Macintosh than on a comparable PC. It has been shown that Netscape browsers perform slower on Windows than MS Internet Explorer; even controlling for relative speeds on the Macintosh (the only other platform available for browser comparison) there was nowhere near the discrepancy. Apple's Quicktime software, after installation of Windows Media Player (Microsoft's competing media software), was found to stop working.

On Conspiracy Theories:

Personally I generally regard conspiracy theories with contempt. day my brain was on autopilot, however, and I thought of a few interesting "coincidences".

One

Microsoft was well into the proceedings of the Antitrust trial in May of 1998 when it decided to invest $150 million in non-voting Apple stock and promise Microsoft Office for the Apple Macintosh five years.

The advantages:

* Keeps the only real competitor alive for as long as necessary (five years is plenty of time to get the main Antitrust trial over). Apple, without Microsoft's office suite of software, would slowly but surely go out of business.

* As a bonus, they look benevolent, keeping a struggling company alive. Apple, at the time, had over $2 BILLION in its cash reserves. They hardly needed an influx of 7.5%.

* Microsoft continues to receive quite a bit of revenue from Office for the Mac-certainly more than enough to warrant its development. They would most likely continue to develop Office for the Mac anyway. Of course, this does not preclude Microsoft from approaching Apple and saing "If you do not set Explorer as the default browser on your Macintosh machines, we will stop making Office for your Mac OS." [Paraphrased from court documents.]

* Instant riches: $150 million doubled overnight, and today that investment is worth around $450 million.

* Microsoft and Apple settled on numerous instances of patent-infringement litigation for an undisclosed sum. Reports commonly say around $300-$500 million, but were worth more than $2 billion (source: Gil Amelio, ex-CEO of Apple).

* Best Of all, they had no long term commitment-they are free to stop making Office for the Macintosh in May 2003, roughly the expected date of the end of the antitrust trial.

On the note of conspiracy theories, a fringe theory:

Judge Jackson was widely regarded as an even handed official, with (if any) a tendency to favor capitalism and less government intervention. It struck me as very odd that he ruled against Microsoft, conducted himself in a manner very unbecoming of an officer of the court (belittling witnesses, speaking to the media about the case extensively before and after the ruling, etc.). He should have known about the appearance of impropriety it would create and how it would negatively affect his rulings on the case. If he were a lesser man, I would be inclined to think that he handed down the worst judgment he could think of, knowing that it would be tossed out and replaced with a lesser penalty. Microsoft, knowing about the actions of this lesser man (than the Hon. Jackson), would be comforted that their biggest fear (being split into two or more companies) would not come true because of this conduct. Thank you very much for your time and attention. I appreciate living in a society where my opinion matters and is heard.

All the best,
Daniel A. Lorca-Martinez
1240 Evelyn Ave.
Albany, CA 94706
(510) 558–8999

MTC–00027594

From: conner
To: Microsoft ATR
Date: 1/28/02 6:32am
Subject: Antitrust Suit Against Microsoft

Dear Sir/Madam:

I am not necessarily a fan of Microsoft. I do, however, believe that Microsoft, and its customers, should be allowed to do business as they see fit. I do not think that a third party (Netscape, Sun, et al.) should be allowed to interfere with any consensual transactions between Microsoft and its customers. I am a Microsoft customer and user. I also use Linux, Netscape, Sun and many other non-Microsoft products. I know computer professionals who make it a point of not using Microsoft products—it is possible and it is certainly their right to do so. I am an engineer and software developer, and if I did not wish to use Microsoft products, I could do so and still generate applications (which could be compatible with Microsoft products). Microsoft does not and cannot own the entire software industry. It has dominance in the software industry, but it is not a monopoly: there are many competitors. If customers did not like Microsoft as much as they did, there would be many more competitors. The only things that could prevent such competition are forces outside of Microsoft, its customers and its competitors.

If I were to try to compete against Microsoft (which I can do because of my very low overhead), would it be reasonable for me to claim that Microsoft should give me its source code or be forced to do business in another fashion so that I could compete? If so, I could claim the same against any business larger than my own, or any new engineer could claim the same against me. If the department of justice were to act on such claims, disastrous consequences would follow. Confidence in the ability of the government to protect business would be greatly diminished, and businesses would be less likely to pursue or continue new ventures. As an example, observe the behavior of the stock market after Judge Jackson's decision (which was later called into question). It is not only the direct consequences of such decisions, but their underlying principles that should be questioned. Adherence to such principles has consequences not only in business, but also in every aspect of our lives. The principle I am defending is an individual's right to life, and his concomitant right to pursue his livelihood in his own way without violating the rights of others. So long others? rights are not violated, I must respect Microsoft's right to do business as it wishes, if I am to respect any rights.

Charles D. Conner
Professor, Electrical Engineering
Capitol College
Laurel, Maryland

MTC–00027595

From: steve skinner
To: Microsoft ATR
Date: 1/28/02 5:36am
Subject: Microsoft Settlement

The people who would benefit from this action iarenot the people who would buy computer products and services but rather Microsoft's compeitors. These people like Sun and AOL are the businesses that prey on the public. AOL charged me over $900.00 for services that a hacker used and I ended up paying for because they made it impossilbe for me to contest. Microsoft provides what we need.

MTC–00027596

From: Jay Sulzberger
To: Microsoft ATR
Date: 1/28/02 6:38am
Subject: Microsoft Settlement

Dear Judge Kollar-Kotelly,

I write in order to persuade you that the main thesis of the economic theory of the Department of Justice and the States antitrust case is not true. This main thesis is that the "applications barrier to entry" is the most important mechanism whereby Microsoft maintains its high proportion of OSes installed on Intel-compatible peecees.

Though I think the main thesis false, and therefore the theory defective, I do believe that Microsoft and the large OEMs have engaged in a combination in restrain of trade, and that this combination is illegal under the Sherman Act. I also believe that damages are due every single user of a Microsoft OS who was not offered at point of sale of the hardware a choice of operating systems for the hardware. The injury is plain: viruses, worms, and trojans infest all Microsoft "Windows" operating systems, and such systems are, even without infestation, unstable, difficult to manage, and lacking in features provided by other operating systems for Intel-compatible peecees. No other vendor's operating systems are so incompetent. Please allow me to make a personal offer to the Court: If you wish, I will demonstrate, upon 48 hours notice, a fine GNU/Linux system which can be seen by the court to be more attractive to the eye, easier to understand, and richer in services, programs, and amusements than any Microsoft OS. This system will be provided with all "office productivity applications" needed. The system will have neither viruses nor worms nor trojans, nor will it crash.

Let us state what the "applications barrier to entry" is. Here is paragraph 3 of the original complaint in Civil Action No. 98–1232 3. There are high barriers to entry in the market for PC operating systems. One of the most important barriers to entry is the barrier created by the number of software applications that must run on an operating system in order to make the operating system attractive to end users. Because end users want a large number of applications available, because most applications today are written to run on Windows, and because it would be prohibitively difficult, time-consuming, and expensive to create an alternative operating system that would run the programs that run on Windows, a potential new operating system entrant faces a high barrier to successful entry.

This is nonsense. Most first time buyers of a home or small office computer know of exactly two kinds of computers: a "peecee", also called a "Microsoft peecee", and the Macs made by Apple. Most first time buyers do not know that there are operating systems other than Microsoft operating systems that run on Intel-compatible peecees. Indeed most users of computers do not know even what an operating system is. So most buyers of Intel-compatible peecees certainly do not consider various possible OSes they might buy, since they are unaware that a choice is possible. And indeed, in CompUSA today not one single computer is offered for sale with anything except a Microsoft OS on it, unless the computer be a Mac. Now it is elsewhere claimed, notably in Judge Jackson's Findings of Fact, that the reason Apple has a small share of the market is that there are fewer applications available for the Mac. This is also nonsense. Most Macs cost about twice what a comparable Intel-compatible peecee costs. Clearly this is what accounts for the small share of Macs purchased. Buyers know that the peecees with Microsoft OSes and the Macs are roughly comparable in their powers, and buyers choose the much less expensive peecees with Microsoft OSes pre-loaded.

So what then accounts for the large proportion of Microsoft OSes running on Intel-compatible peecees? The answer is simple, and neither the Justice Department nor the States dispute the fact: Most people will never install an operating system from scratch themselves. So if the computer comes with but one OS, that is the OS that will be run on the machine until the machine is either scrapped or sold to someone who knows how to put another OS on the machine. Now Microsoft in close concert with the large OEMs has arranged that only Microsoft OSes are on the machines sold by the OEMs. This explains why Microsoft OSes run on such a large proportion of Intel-compatible peecees. There is no need to postulate any decision by buyers as to what OS will be run on the hardware. Buyers, except for a small minority, buy a unitary system composed of OS and hardware. There is a minority, perhaps ten or twenty percent, depending on what part of the world we look at, of buyers who know that other OSes can be installed on Intel-compatible peecees. It is remarkable that almost every single person who has ever succeeded in installing a non-Microsoft OS on their Intel-compatible peecee continues to use the non-Microsoft OS. Indeed, most go on to either remove all Microsoft OSes from their own machines, or, in some cases, use the Microsoft OSes to play a few favorite games, which do not run on the other operating systems. Yes, there are a few programs which some people find have no better competitor on a non-Microsoft OS. Of course, there are literally thousands of programs which run exclusively, or nearly so, on the free Unices, such as GNU/Linux, FreeBSD, NetBSD, and OpenBSD, and are equally beloved by their users, who feel there are no competing programs which run on any Microsoft OS. I repeat, because the statistics are so extreme: almost everyone who ever uses a non-Microsoft OS on Intel-compatible peecees finds the non-Microsoft OS superior to the Microsoft OSes. Almost the only people who use Microsoft OSes exclusively are those who have never tried a non-Microsoft OS. In other words, in the market of end-users of Intel-compatible peecees, Microsoft OSes are a catastrophic flop. Microsoft is not a success in the market, rather Microsoft, in concert with the large OEMs, is a success at keeping the existence of a market in OSes a secret, and by this means swindling millions of unknowing end-users into running Microsoft OSes. How this effective combination in restraint of trade came to be I do not discuss here, except to say that even if, in certain market segments years ago, Microsoft once was a success, that is no reason Microsoft should be allowed to shield itself from the market by illegal combinations today.

At this point a defender of the proposition that Microsoft OSes are really quite good for most end-users might claim that the twenty percent of the population which today finds the free Unices superior is simply that twenty percent of the population with a special hobbyist and/or professional interest in certain aspects of computers and their uses. The claim will be that the eighty percent who run Microsoft OSes are those without this special interest and that thus, today, really, the free Unices can present no serious competition to Microsoft in the market. This claim, that only a small limited number of end-users will find the free Unices superior is definitely wrong and I have myself demonstrated it by helping set up office lans with most of the machines running some free Unix. People who have never used anything except Microsoft or Apple OSes, when they sit down to work, find that the free Unix they are running is better than the source-secret OSes they have used before. Now, indeed, not everybody immediately prefers a free Unix to their old familiar Windows, even if there are no viruses, no crashes, etc.. But most do come, after a few weeks of use, to like their free Unix better than their old Windows. Some do not, of course, but, as mentioned above, the number who decide Windows is better is very small.

We note that again and again the Justice Department and the States state that it is difficult for a user to install a browser that does not come pre-loaded on their machine at time of purchase. The DOJ and the States must surely admit that it is much more difficult to install a whole new OS. So by their own argument the DOJ and the States argue the effectiveness of the real barrier to entry, namely that the OEMs only sell Intel-compatible peecees with Microsoft OSes pre-loaded.

To sum up the argument so far: We have demonstrated that the "applications barrier to entry" is not the real barrier to entry. The real barrier to entry is that most buyers of Intel-compatible peecees are never given a choice of OSes. They run what comes on the machine because they can do nothing else.

We now argue that the main remedies put forth in both the DOJ and Agreeable States and also the Hold-0ut States proposals are structurally inadequate to restore competition, we shall not argue in detail, though we agree with Dan Kegel and others that, even in their own terms, both proposals fall short. But our argument will be against the main thrust of both proposals.

Let us consider the players in the game:

1. Microsoft
2. The OEMs
3. Browser and Middleware Vendors, non-Microsoft vendors
4. Applications Vendors
5. EndUsers

The strategy, with rationale, of both proposed remedies is the same:

1. No attempt is to be made to directly foster competition at the level of the OS, because there Microsoft is for now invulnerable.

2. But, by a hinge movement of markets, Browser and Middleware Vendors, if Microsoft plays fair with them, can help nurture competition. It is left vague as to when any of this competition is expected to take place at the level of OS.

3. One mechanism by which Browser and Middleware Vendors and also Applications Vendors can be helped to be competitive with Microsoft in the markets for Browser and Middleware and Applications is by constraining Microsoft to fairly reveal APIs.

4. Another mechanism by which Browser and Middleware Vendors and also Applications Vendors can be helped to be competitive with Microsoft in by constraining Microsoft from threatening OEMS who pre-load non-Microsoft Browsers, Middlewares, and Applications on their machines.

5. EndUsers will now have a choice of Browsers, Middlewares, and Applications on the machines they might buy. EndUsers will not have any choice, at least for some years, of whose OS is on the machines they might buy. By 1 above, it will be a Microsoft OS.

The center of the strategy of the proposed remedies is 3. But 3 cannot possibly work. Fair publication of the APIs of Microsoft OSes/Middleware cannot make non-Microsoft Browser, Middlewares, and Applications Vendors competitive with Microsoft acting as a Browser, Middlewares and Applications Vendor.

The owner of the OS decides what runs, and what runs well, and what runs badly, etc.. The owner decides all such questions. And for any source secret OS, there is only one owner: the vendor. No matter what icons appear on the startup screen, what fine Java or better than Java stuff is on the box, if the owner wants something else on, it goes on. If the owner wants your stuff to go away in a year it goes away. In the United States there is no economic, no political, no legal force capable of stopping the owner of the OS from doing with the OS whatever the owner wants.

The owner of the OS has such power because of the relation of applications to the OS they run on top of. Here it is important to recognize that a piece of middleware is simply another application in its relation to the OS. Let us consider two competing applications, one written by a non-Microsoft company, the other by Microsoft. Assume both these application run atop a Microsoft OS. Assume further that Microsoft is making a full scale honest flat out effort to abide by a strict order to provide complete, fair, and timely access to the whole API of the Microsoft OS. This situation would, if anything, strengthen Microsoft's advantage in building a better application. At the end of one year of writing code Microsoft's application will run better than its competitors. I repeat, we assume that Microsoft does not cheat at all. Why will the Microsoft product run better? Because only

Microsoft can debug both sides of the OS:Application interface, that is, both sides of the real API, which API is not fully known, even to Microsoft, before the projects is under way.

The non-Microsoft vendor can only debug the Applications side, based on a necessarily incomplete and sometimes simply wrong published API. No API is ever well enough defined and well enough understood that no exploration form the OS side reveals nothing new of advantage. You must always debug on both sides, passing in your design, coding, and testing fluidly from one side of the API to the other. Only Microsoft can do this, in our example, and this has nothing to do with the childish but nonetheless effective cheats that Microsoft has committed in the past, such as the famous DRDOS false boot up message, and which Microsoft continues to commit today. One of the mechanisms of the extraordinary success of free software in the past fifteen years is precisely that the code of the OS is not secret, and so may be read and modified and redistributed by anybody who wishes and has the capacity. Thus there is no "owner" of the OS with unique powers of design, coding, and debugging. Hence both competition and cooperation are possible.

Microsoft is not some strange subtle powerful company. By virtue of its unique access to the source code, and its power of copyright over the source code, it is simply the owner of the OS.

To sum up the second part of the argument: Without competition at the level of the OS, the OS owner still dictates which applications work well, and which applications do not work well. The only way to get competition above the level of the OS, is to get competition at the level of the OS. And the only way to get competition at the level of the OS is to give the end user a fair choice of OSes, a choice completely separate from the choice of hardware, at point of sale of the complete system, that is, hardware and software.

So we come to one clause of a remedy that we believe will restore competition in the market for OSes for Intel-compatible peecees:

1. Require Microsoft to sell every instance of any single line of its OSes at a single uniform price to everyone, whether Dell or me or the public school down the street or the white box builder up the block.

2. Require all vendors of Intel-compatible peecees to sell the hardware completely separately from the OS.

Microsoft and its creatures will claim that 2 would impose on those buyers who ask for a Microsoft OS an unfair burden, because such buyers would have hard time installing their Microsoft OS instance. I would agree, if that were what I propose. No, let Dell do the install, just as now, but the price of the OS must be broken out in the bill, and that price must be the same for a pre-loaded OS as for a copy in cardboard box. Naturally a complete finely drawn clause here would have to ensure that Red Hat, Be, The FreeBSD Crew, Debian, etc. were treated exactly as Microsoft would be by the OEMs.

I thank the Court for its work and for reading this!

I remain, as ever, your fellow user of free software, Jay Sulzberger.

For purposes of identification only:
Jay Sulzberger <secretary@lxny.org>
Corresponding Secretary LXNY
LXNY is New York's Free Computing Organization.
http://www.lxny.org
Co-Winner of the First Linus Torvalds Community Award 1999

PS. If you use the web or email you use free software. The Internet is built of and on free software.

MTC-00027597

From: Christopher Bradley
To: Microsoft ATR
Date: 1/28/02 6:48am
Subject: Microsoft Settlement

Dear Sirs;

I am not satisfied with the current ruling "against" microsoft. I believe they have a virtual monopoly on operating system software which they have strengthened both by intimidating business tactics and by bundling their software together, thus forcing users to use their software to do any meaningful work. I als0 strongly object to their entrenched reluctance to open up their code for public inspection. I agreed with the original Penfield rulings and think that the company's monopoly should be broken up.

It's very difficult to fix a car if you don't know how the pieces fit together, and the company refuses to sell you a shop manual. I have spent many hours trying to keep my home computer going. This is particularly difficult in the Windows environment due to the inaccessibility of the basic operating system.

Lastly, please DON'T let microsoft donate thousands of computers to our schools. That is a move to further consolidate their hold of the educational marketplace, and perhaps their hold of the next generation with their fault ridden products. It would not be an act of philanthropic charity.

Thanks for your time,
Christopher C. Bradley, M.D.-Ph.D.
Department of Neurology, Yale University School of Medicine
15 York Street, LCI 701
P.O. Box 208018
New Haven, CT 06520–8018 (203)785–4085

MTC-00027598

From: Dave Solomon
To: Microsoft ATR
Date: 1/28/02 6:49am
Subject: Microsoft Settlement

The current proposed settlement of the Microsoft antitrust case is not in the public interest, I strongly believe. It opens a gaping loophole in the antitrust laws, through which Microsoft could, and almost certainly would, continue to abuse its monopoly market power in the huge market for Intel compatible personal computer operating systems.

This loophole, which I see as very dangerous, is at the end of the settlement text. It grants Microsoft sole discretion in deciding what is a part of the Windows (tm) product.

This loophole would allow Microsoft to determine, for example, that all of these things are part of the Windows operating system: o Internet Explorer (but —not— Internet Explorer for Macintosh!), thus resolving, by corporate decree, a product tying issue that is still unresolved from the Microsoft antitrust trial and appeals court ruling;

o email software (Microsoft may already have monopoly status in this market as well, by vice of their predatory pricing and bundling of their Outlook products);

o anti-virus software, threatening several currently thriving products from Norton, McAfee, etc.;

o graphics software along the lines of PhotoShop;

o income tax preparation software, thus assimillating the flourishing market for income tax preparation software into Microsoft's Windows market.

o any other new and popular software genre that develops in the future.

This case is highly visible and controversial, and was initiated under a major political party (the Democrats) that is now out of power in the executive branch of our government. This settlement proposal has all the earmarks of political convenience and expediency that it should not have, and none of the earmarks of thoughtfulness, thoroughness, and fairness that it should have.

Please give the current proposed settlement the rejection that it so richly deserves.

Dave Solomon
13917 Crest Hill Lane
Silver Spring, MD 20905–4464
<davy@witty.com>

MTC-00027599

From: Terry Quigley
To: Microsoft ATR
Date: 1/28/02 6:52am
Subject: Microsoft Settlement

To whom it may concern,

I've watched with interest the unfolding of the Anti-trust case against Microsoft, and found the original recommendation fo a Microsoft split up travesty of justice. That Anti-trust should be such a potent force in the USA is in itself bizarre. Here's a country that has shown the rest of the world that Capitalism actually works. Capitalism works because it has its own inbuilt system of checks and balances i.e. the free market, and, properly implemented, isn't weighed down by tons of regulation. This is especially the case in the IT industry where Microsoft has been and continues to be such a positive force. From my knowledge, no IT company has ever effectively monopolised an industry segment. If an IT company found itself in a monopoly position and chose to compromise prices and/or quality, its monopoly position would be temporary at best—technology is changing far too quickly for someone to take an uncompetitive position.

I'd like to finish by stating that Microsoft should be lauded for its contribution to the IT industry and to America as a whole, and not be dragged through a costly (to American taxpayers and Microsoft), unnecessary court case; it should not be punished for its success. Microsoft is a very positive example of what can be done when Government is the instrument not the controller of the people.

Come on guys, let America pump its chest with pride not resort to punitive insecurity.

Yours sincerely,
Terry Quigley, M Info Sys
38 Eddys Grove
Bentleigh, 3204
Victoria, Australia.

MTC-00027600

From: Mark Boszko
To: Microsoft ATR
Date: 1/28/02 7:01am
Subject: Microsoft Settlement

I wish to express my displeasure with the DOJ's proposed settlement with Microsoft, for the following reasons:

1. The proposed settlement is not in the public interest. The settlement leaves the Microsoft monopoly intact. It is vague and unenforceable. It leaves Microsoft with numerous opportunities to exempt itself from crucial provisions.

2. The proposed settlement ignores the all-important applications barrier to entry which must be reduced or eliminated. Any settlement or order needs to provide ways for consumers to run any of the 70,000 existing Windows applications on any other operating system.

3. Consumers need a la carte competition and choice so they, not Microsoft, decide what products are on their computers. The settlement must provide ways for any combination of non-Microsoft operating systems, applications, and software components to run properly with Microsoft products.

4. The remedies proposed by the Plaintiff Litigating States are in the public interest and absolutely necessery, but they are not sufficient without the remedies mentioned above.

5. The court must hold public proceedings under the Tunney Act, and these proceedings must give citizens and consumer groups an equal opportunity to participate, along with Microsoft's competitors and customers.

Thank you for considering my points.

Mark Boszko
374 N SUMMIT AVE STE 101
GAITHERSBURG MD 20877–3116 301–977–0401

MTC-00027601

From: DanielH13@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:01am
Subject: Rule against microsoft!

I'm writing to urge you to take more harsh action against Microsoft. The current recommendation of having microsoft supply thousands of computers to schools is actually rewarding Microsoft, rather than punishing them. One market which has been successfully addressed but a competitor to Microsoft is the education market. Now the recommendation to "punish" microsoft it to use the law to force them into one of the few markets where a competitor has managed to carve out a niche. Microsoft must be laughing all the way to the bank on that one. PLEASE, do not allow this company to become even more entrenched and allow it to further dictate the future of software development and even more importantly, the way people work and learn.

Dan Hogan
6703 Ilex Ct.
New Market, MD 21774–2907
301–865–3712

MTC-00027602

From: Karl O. Pinc
To: Microsoft ATR
Date: 1/28/02 7:11am
Subject: Microsoft Settlement

Dear Sirs and Madáms,

I attach 3 versions of my comments, a PDF file for printing, a HTML copy for following references, and a ASCII text copy for interoperability.

Regards,
Karl O. Pinc <kop@meme.com>

Subject: Microsoft Settlement
To: microsoft.atr@usdoj.gov (U.S. Department Of Justice)
From: kop@meme.com (Karl O. Pinc) 5512 S. Woodlawn Chicago, IL 60637

Introduction

I write so that there is a public record which points out that the Stipulation and Revised Proposed Final Judgment 1 does not provide the relief claimed in the Competitive Impact Statement [2], and to point out that at least some of the failure of relief should be clear to anyone, with or without computer industry background. Further, I describe how the Proposed Final Judgment explicitly authorizes Microsoft's continued use it's monopoly powers to advantage over it's competitors. I therefore conclude that the public and the marketplace would be better served if the Proposed Final Judg- ment was scrapped and the government imposed no penalty on Microsoft. Finally, I point out the means, as generally acknowledged in the industry, by which Microsoft intends to preserve and extend it's monopoly and an obvious way in which Microsoft can be prevented from doing so.

I do not have time or energy to analyze the entire Proposed Final Settlement. I focus on only a few elements and how they meet the relief claimed:

"The Proposed Final Judgment will provide a prompt, certain and effective remedy for consumers by imposing injunctive relief to halt continuance and prevent recurrence of the violations of the Sherman Act by Microsoft that were upheld by the Court of Appeals and restore competitive conditions to the market." [3]

Contractual freedom unrestrained by monopolist pressure

Starting with the first relief claimed:

"Ensuring that computer manufacturers have contractual and economic freedom to make decisions about distributing and supporting non-Microsoft middleware products without fear of coercion or retaliation by Microsoft, by broadly prohibiting retaliation against a computer manufacturer that supports or distributes alternative middleware or operating systems." [4]

Let us examine this claim. Presumably, the following elements provide the above relief:

"Microsoft shall not enter into any agreement with:" (item 1.) "any IAP, ICP, ISV, IHV or OEM that grants Consideration on the condition that such entity distributes, promotes, uses, or supports, exclusively or in a fixed percentage, any Microsoft Platform Software..." [5] In plain english, Microsoft may not prohibit an OEMs [6] from putting a non-Microsoft program on the computers they sell. However, note the exception that immediately follows: "except that Microsoft may enter into agreements in which such an entity agrees to distribute, promote, use or support Microsoft Platform Software in a fixed percentage whenever Microsoft in good faith obtains a representation that it is commercially practicable for the entity to provide equal or greater distribution,, promotion, use or support for software that competes with Microsoft Platform Software" [7]

At first glance, it seems that Microsoft can require OEMs to distribute Microsoft software, but only in equal or smaller quantity than the OEMs distribute non-Microsoft software. Indeed, this would be the case if product at issue was not software. However, Microsoft need only require OEMs to distribute Microsoft software in a quantity which matches not the actual quantity of non-Microsoft software shipped, but the quantity of non-Microsoft software which is "commercially practicable" the OEM to ship. To investigate the "commercial practicality" of distributing non-Microsoft software, examine a short list of products which are the primary competition for various Microsoft products:

. The Netscape [8] web browser in place of Microsoft Internet Explorer (IE)

. The AOL [9] software used to connect to the AOL Internet service in place of Microsoft Internet Explorer which connects to the MSN Internet service

. The Apache [10*] web server in place of Microsoft Internet Information Server (IIS)

. Linux [11] in place of Microsoft's operating systems (XP, Win 2000, Win ME, Win 98, Win95, etc.)

. StarOffice [12] in place of Microsoft Office (Word, Excel, Power Point, etc.) [13]

The above non-Microsoft programs all have one thing in common. They are free of charge. The only cost associated with the distribution of these programs is the amount of space the programs occupy on the computer's hard drive, a negligible cost in today's era of cheap hard drives. Or, looked at another way, the computer's owner can completely recoup the disk space taken by any of these programs for the cost of dragging the program into the trash. For all intents and purposes these programs, arguably Microsoft's strongest competitors, are free. This means it is "commercially practicable" for an OEM to distribute any or all of these programs with every computer sold.

Therefore under the terms of the Proposed Final Judgment, Microsoft may require "any IAP, ICP, ISV, IHV or OEM" to include a Microsoft program 100% of the time. The Proposed Final Judgment allows Microsoft to collect a 'tax" on every sale. Should Microsoft for some reason find it to its advantage not to charge for its software, the simple fact that a product is always sold with Microsoft programs pre-installed is an advantage not granted to the competition. Imagine how much it would cost to have someone install, for example, a copy of the Microsoft XP operating system on a computer you already own.

As written, this clause of the Proposed Final Judgment authorizes Microsoft to continue to reap advantage from its monopoly. Removing this loophole seems straight-forward. The clause could read: "except that Microsoft may enter into agreements in which such an entity agrees to distribute, promote, use or support Microsoft Platform Software in a quantity equal or less than the distribution, promotion, use or support for software that competes with Microsoft Platform Software

On casual reading of the judgment the appearance is that this clause does nothing more than allow Microsoft to negotiate a share of business comparable to the it's competitor's share. Yet the simplicity of the revision which would meet this "fair share" requirement leads me to conclude that the more complex "commercially practicable" phrasing of the Proposed Final Judgment is deliberately included to allow Microsoft to use its monopoly to force contractual arrangements which ensure the ubiquitous presence of Microsoft software on all computers.

Indeed as: "Nothing in this provision shall prohibit Microsoft from enforcing any provision of any license with any OEM or any intellectual property right that is not inconsistent with this Final Judgment."[27] the final judgment clearly allows Microsoft to make contracts requiring the distribution of its software on all of a vendor's products if the vendor wants to distribute any of Microsoft's products.

Competitive market conditions

The Competitive Impact Statement state that the purpose of the judgment is to "restore competitive conditions to the market".[28] To see that the judgment does not accomplish this goal you must first acknowledge that Microsoft's most significant competition is not based in any one company. Microsoft's most significant competition is from Open Source[29,30] software. If this is apparent to you, feel free to skip forward.

The Open Source competitor

To make clear the magnitude of the threat posed by Open Source to Microsoft, I analyze here the entire range of Open Source programs. The non-Microsoft programs mentioned in this segment are all Open Source unless otherwise indicated. Although the Competitive Impact Statement emphasizes middleware, and the middleware competitive market, in the words of the Competitive Impact Statement, it is Microsoft's "operating system monopoly" that Microsoft engaged in illegal acts to protect. Therefore an analysis of more than just middleware competition is in order. Microsoft has illegally bolstered its operating system business and the remedy should address the competitive market for operating systems as well. Irrespective of what the remedy addresses, the presence of Open Source operating systems in my examples serve to illustrate the power of Open Source software as a class of programs and in no way diminish the threat Open Source middleware poses to Microsoft. First, note that the Open Source operating systems are the only[34] operating systems which run on the same hardware as the Microsoft operating systems, the PC hardware. Almost by definition they are Microsoft's only competition. Although Microsoft seems entrenched in the dominant position as the software supplier for "commodity" computer hardware, it is clear that in many emerging markets Open Source software is the market leader, not Microsoft. The Apache web server is the market leader with twice the market share of Microsoft.[35] Open Source leads Microsoft in the embedded systems 38 market.[39] Linux is replacing existing Unix systems in the fast paced environment of the special effects studios.[43] Open Source software is capturing markets Microsoft hopes to move into, and even appears to be eroding some of Microsoft's existing markets. The market share of Open Source software is often hard to measure, as there is centralized distribution point, but by all accounts the share of Open Source operating systems on server 46 systems is growing. A (Microsoft funded) Gartner[47] study[48] (3rd Qtr, 2000) found 8.6% of the servers sold were shipped with Linux. A IDG[49] study[50] (Aug, 2000) found Linux had achieved a 17.2% penetration in the server market. InfoWorld[51] (Aug, 2000) reports[52] the Gartner study predicts "that by 2005, Linux, Unix, and Windows 2000 will account for 77 percent of the server market. More important, the report expects that the 77 percent will be split equally among the three." Point of sale systems are moving to Linux. ZDNet[53] reports[54] (Jan, 2002) "Boscov's, with 36 locations in six states in the mid-Atlantic region is replacing 500 Windows NT servers with Linux on an IBM zSeries 900 mainframe". Even the traditionally conservative financial services market is adopting Linux. Information Week[55] reports[56] (Oct, 2000) Linux is gaining a foothold on Wall Street and in the broader financial-services community". An IBM[57] press release[58] (Aug, 2001) hollered "WALL STREET MOVES TO LINUX AND IBM FOR FINANCIAL TRADING" when portions of the New York and American Stock Exchanges began to run on Linux. Mainstream publications are beginning to publish Linux related information for the general public, like The Chicago Tribune[59]'s Linux and Things[60] series. It s no wonder that the arrival of a Microsoft Office compatible Open Source program, like the aforementioned Star Office Suite or the AbiWord[61] word processor or the Gnumeric[62] spreadsheet are considered developments which could finally break Microsoft's hold on the computer desktop. An October, 2001 analysis[63,64] of the Open Source movement for the British Government concludes "we as yet see no sign that OSS will become a viable alternative to Microsoft Windows, for user's (general purpose) desktop machines in the corporate or home PC markets. However, OSS on the desktop may soon become a significant player in the developing world." It also concludes "Within five years, 50% of the volume of the software infrastructure market could be taken by OSS." The progress made by Open Source programmers has not been lost on Microsoft. In October of 1998 internal Microsoft documents which discussed the threat to Microsoft poised by Open Source and possible responses was leaked to the public. These internal Microsoft documents became known as the Halloween documents[66], these documents were later confirmed[67] authentic by Microsoft. In October of 1999 Wired[68] reported[69] "Aubrey Edwards, group product manager in the business enterprise division at Microsoft." said "There's a lot of interest around Linux and we need to compete." In May, 2001 Microsoft spoke out against Open Source. ZDNet reported[70] "Microsoft on Thursday stepped up its long-running battle against the open-source software movement, and in another story[71] said the speech came across as an attack, as if Microsoft feels the desperate need to discount what people see around them-that open-source software is doing real and solid computing work for an evergrowing number of computer users, big and small." It appears Microsoft is increasingly threatened by Open Source. The Register[72], a British news source which writes in an excitable style reported[73] in Dec, 2001 that it had obtained a confidential memo from Microsoft Windows Division Vice President Brian Valentine who was reported to have written to his sales team "Linux is the long-term threat against our core business. Never forget that!".[74]

Judgment sanctioned suppression of the Open Source competition

The Proposed Final Judgment is supposedly

"Creating the opportunity for software developers and other computer industry partici pants to develop new middleware products that compete directly with Microsoft by requiring Microsoft to disclose all of the interfaces and related technical information that Microsoft's middleware uses to interoperate with the Windows operating system."[75]

However, the judgment allows Microsoft to withhold "all of the interfaces and related technical information" from Microsoft's most significant competitor, the Open Source programmer. This is because Open Source software is not, historically, produced by a company. It is produced by a loose collection of individuals who use the Internet to collaborate, some of whom are sometimes paid for their efforts by the companies which employ them. The judgment reads: "Microsoft shall disclose to ISVs, IHVs, IAPs, ICPs, and OEMs, for the sole purpose of interoperating with a Windows Operating System Product, via the Microsoft Developer Network ("MSDN") or similar mechanisms, the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product"[76]

But Open Source programmers are not ISVs, IHVs, IAPs, ICPs or OEMs and so Microsoft need not disclose anything to them. Open Source programs are, by definition, given away if they are distributed by their author. Not only is there no company to which Microsoft can release a license granting information, there is no money to pay for such a license. The Judgment continues:

"Microsoft shall make available for use by third parties, for the sole purpose of interoperating with a Windows Operating System Product, on reasonable and non-discriminatory terms (consistent with Section III.I), any Communications Protocol that is, on or after the date this Final Judgment is submitted to the Court, (i) implemented in a Windows Operating System Product installed on a client computer, and (ii) used to interoperate natively (i.e., without the addition of software code to the client operating system product) with a Microsoft server operating system product."[77]

But, the cited Section III.I makes it clear that the disclosure again need only be made, under license, to ISVs, IHVs, IAPs, ICPs, or OEMs. The Open Source programmer is excluded.

To exclude any possibility that Microsoft might have to release specifications to an Open Source programmer the judgment requires that the information recipient must have "a reasonable business need for the API, Documentation or Communications Protocol"[78] and that Microsoft will judge "the authenticity and viability of its business"[79] before releasing information. Open Source programming is not a business, and is therefore explicitly excluded.

Clearly the Proposed Final Judgment benefits the large commercial software developer, and excludes the Open Source movement, Microsoft's most significant competitor, from the benefits. Microsoft can only gain from the inevitable lessening of Open Source's market share.

A continued extension of the Microsoft monopoly

Microsoft is widely acknowledged to be attempting to become the primary issuer of electronic identity documents. The idea is that each individual is to have a single user-name and password, held by Microsoft. This new "passport" is to replace the separate user-names and passwords presently issued by banks, merchants, bulletin boards, and anybody who requires authentication before access is granted to a web site or other electronic document. Microsoft's product is called "Passport", and it's an essential component of Microsoft's new .NET technology. Note that the centralization of the identification information, and the corresponding tendency toward a "natural monopoly", is intrinsic to the Passport idea. Microsoft is explicitly not required "to document, disclose or license to third parties: (a) portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of which would compromise the security of" ... "authentication systems" 80. As the Passport technology is all about communications protocols supporting authentication systems, the judgments again authorizes Microsoft to keep secret the information it uses to extend it's monopoly.

A reasonable way to prevent the extension of Microsoft's monopoly would be to require Microsoft split off it's Passport division.

Conclusion

That a judgment should be so flawed, so unable to provide relief, and so sympathetic to the monopoly it is supposed to be protecting the public from, and that such a judg- ment is the second try at a resolution, leads me to believe that, for whatever reason, the judicial system is unable to provide any relief and will only make things worse should it change the status quo. As it stands, the proposed judgment is clearly worse than no judgment, as it explicitly grants Microsoft the right to use it's monopoly power to suppress it's competition. Left to itself, Microsoft will eventually collapse under it's own weight, as IBM did. I urge the court to reject the Proposed Final Judg- ment.

BEGIN RATIONALE: Although it's not within the court's power to so order, and shouldn't be, it's too bad that the obvious remedy cannot be applied—a moratorium on federal government purchase of Microsoft products. ;-) END

RATIONALE:

Notes

1. http://www.usdoj.gov/atr/cases/f9400/9495.htm

2. http://www.usdoj.gov/atr/cases/f9500/9549.htm

3. Competitive Impact Statement, Section I

4. Competitive Impact Statement, Section I

5. Proposed Final Judgment, Section III, Sub-Section G

6. Original Equipment Manufacturer, i.e. the folks who sell computers.

7. Proposed Final Judgment, Section III, Sub-Section G, item 1

8. http://browsers.netscape.com

9. http://free.aol.com/

10. http://httpd.apache.org

11. http://www.linux.org

12. http://www sun.com/software/star/staroffice

13. You may never have heard of

14. http://www.sun.com/software/star/staroffice or it's twin

15. http://www.openoffice.org . They are sponsored by

16. http://www.sun.com . To quote a

17. http://www.govtalk.gov.uk/documents/QinetiQ—OSS—rep.pdf "The first real trials are starting now." Early adopters include

18. http://www.newsforge.com/article.pl'sid=01/08/10/1441239 and

19. http://www.vnunet.com/News/1124456 . You know some thing's up when you suddenly get

20. http://www.businessweek.com/magazine/content/O2—O4/b3767021.htm of the old StarOffice, which has been available since at least December 1999, in response to the interest generated by

21. http://consultingtimes.com/sofeatures.html

22. http://www.techtv.com/print/story/0%2C23102%2C3351510%2C00.html

23. http://www.linuxplanet.com/linuxplanet/reviews/3818/2/ the

24. http://www.linuxplanet.com/linuxplanet/reviews/3857/1/

25. http://www.linuxplanet.com/linuxplanet/reviews/3841/2/ StarOffice. (A sample quote:

26. http://www.smartcomputing.com/editorial /article.asp?article=articles%2Farchive%2Fc0101%2)

14. http://www.sun.com/software/star/staroffice

15. http://www.openoffice.org

16. http://www.sun.com

17. http://www.govtalk.gov.uk/documents/QinetiQ—OSS—rep.pdf

18. http://www.newsforge.com/article.pl'sid= 01/08/10/1441239

19. http://www.vnunet.com/News/1124456

20. http://www.businessweek.com/magazine/ content/02—04/b3767021.htm

21. http://consultingtimes.com/sofeatures.html

22. http://www.techtv.com/print/story/0%2C23102%2C3351510%2C00.html

23. http://www.linuxplanet.com/linuxplanet/reviews/3818/2/

24. http://www.linuxplanet.com/linuxplanet/reviews/3857/1/

25. http://www.linuxplanet.com/linuxplanet/reviews/3841/2/

26. http://www.smartcomputing.com/editorial/article. asp?article=articles%2Farchive%2Fc0101%2F 59??

27. Section III, Sub-Section A, paragraph 3

28. Competitive Impact Statement, Section I

29. http://www.opensource.org

30. I use the term "Open Source" loosely in this document to encompass both the

31. http://www.opensource.org and the

32. http://www.gnu.org Speaking rigorously the Free Software movement's

33. http://www.gnu.org/copyleft/ are the largest threat to Microsoft, although much Open Source software giving Microsoft stiff competition is not licensed under a copyleft-style license.

31. http://www.opensource.org

32. http://www.gnu.org

33. http://www.gnu.org/copyleft/

34. As far as I know.

35. See the various methods of measurement and market breakdowns at the widely followed

36. http://www.netcraft.com/survey/ and

37. http://www.securityspace.com/s—survey/data/index.html web server surveys.

36. http://www.netcraft.com/survey/

37. http://www.securityspace.com/s—survey/data/index.html

38. Embedded systems are the software that runs computers built into items which are not themselves computers—the computers in everything from cell phones to dishwashers.

39. A

40. http://www.evansdata.com/emtarg.htm

41. http://evansdata.com/ESTOC.htm shows the number (27%) of embedded developers choosing Linux for their next project to be nearly double the number (14.1%) choosing the Microsoft product. According to a (April 2001)

42. http://www.linuxdevices.com/ articles/AT2492406168.html survey, "the percent of developers considering using Embedded Linux for new projects has zoomed to the number two spot (38%)—second only to market leader Wind River's VxWorks."

40. http://www.evansdata.com/emtarg.htm

41. http://evansdata.com/ESTOC.htm

42. http://www.linuxdevices.com/articles/AT2492406168.html

43. From the on-line news source

44. http://www.salon.com/tech/feature/2001/11/01/linux—hollywood/ : "Linux goes to the movie .... Who says free software is passe? Hollywood's special-effects industry can't get enough of the operating system built by hack- ers, for hackers." The movies Shrek and

45. http://www.nwfusion.com/newsletters/linux/2001/01156783.html were brought to you by Linux.

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MTC–00027602—0009

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72. http://www.theregister.co.uk
73. http://www.theregister/co.uk/content/4/22770.html
74. To my knowledge, the authenticity of this memo has not been denied by Microsoft.
75. Competitive Impact Statement, Section II, bullet 6
76. Proposed Final Judgment, Section III, Sub-Section D
77. Proposed Final Judgment, Section III, Sub-Section E
78. Proposed Final Judgment, Section III, Sub-Section], Paragraph 2
79. Proposed Final Judgment, Section III, Sub-Section J, Paragraph 2
80. Proposed Final Judgment, Section III, Sub-Section J, Paragraph 1

MTC–00027603

From: Daniel Upper
To: Microsoft ATR
Date: 1/28/02 7:05am
Subject: Microsoft Settlement

The proposed settlement is grossly inadequate in two substantial ways.

First, it doesn't address the primary reason that business users use Windows, which is Microsoft's "Office" suite of productivity applications — notably Word, Excel, and Powerpoint. Most businesses and industries (the legal profession being something of an exception) have effectively standardized on these applications. Because most office workers have the Office applications available, it is common practice to email documents to others in Word, Excel, and Powerpoint file formats.

This common practice effectively requires everyone in the business world to have applications which can read and write Office file formats. And— because only Microsoft knows all the details of these file formats— the only applications which can read and write all aspects of these formats are those sold by Microsoft. Most word processors have some ability to read Word documents, but stop short of implementing features like "change tracking", which is widely used in collaborative work. The non-Microsoft tools I've tried for reading Powerpoint presentations have all been unable to render some slides intelligibly at all. I, for one, use Linux for almost all of my computer tasks, but can not function in the business world without access to a Windows computer.

So Microsoft has two mutually supportive monopolies, one on operating systems Windows and the other on productivity application suites. Resolution of case must provide a way for other OSes to have full use of/access to MS Office format documents. And it is not sufficient to require MS to sell versions of the Office applications for other OSes. MS has sold versions of the applications for MacOS, and MS has manipulated the production of these versions in ways which have enhanced the Windows monopoly.

Microsoft should publicly document all file formats and network protocols it uses. Such documentation can be inadequate— accidentally or deliberately—so if there's any doubt that the documentation is adequate, MicroSoft should be required to publish working code. In addition, the clauses in Microsoft's End User Licence Agreements (EULAs) which prohibit the user from disassembling, decompiling and reverse engineering should be voided and Microsoft should be prohibited from including such clauses in future EULAs.

Second, the proposed settlement only seeks to provide relief to Microsoft's commercial competitors. Certain clauses in the proposed settlement, such as Section III(J)(2), require Microsoft to make specified information available to businesses, and let Microsoft judge who qualifies as a business. Various not-for-profit entities, including not-for-profit organizations, individuals, universities, and government agencies—are important participants in the software industry. Public interest is not served by excluding them.

Quite a bit of important and widely used software is developed by non-for-profit entities. Such software includes the Linux OS, which is developed by an ad-hoc group of programmers and may be the OS which comes closest to competing with Windows. There are indications that Microsoft is concerned that Linux and other "open source" software may become important competitors. (Although there are companies in the business of enhancing and selling Linux, most Linux software is not written by these companies.) Instead of requiring Microsoft to make specified information available to specific businesses, the settlement should require Microsoft to publish the same information publically.

Daniel R. Upper
1330 NW Hillcrest
Corvallis, OR 97330

MTC–00027604

From: mfpedersen@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:02am
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Marian Pedersen
PO BOX 1518
Layton, UT 84041–6518

MTC–00027605

From: Joseph Gilvary
To: Microsoft ATR
Date: 1/28/02 7:07am
Subject: Disagree with settlement

I disagree strongly with the proposed settlement. I would like to express my disappointment that the Justice Department and several states, including shamefully, my home state of Maryland, would consider ending the actions against the predatory monopolist Microsoft without ensuring sufficient protection for consumers to ensure a competitive environment in the future. Microsoft's actions have stifled, not encouraged innovation in the software industry.

Respectfully,
Joseph Gilvary

MTC–00027606

From: L. Drew Pihera
To: Microsoft ATR
Date: 1/28/02 7:08am
Subject: Microsoft Settlement

This settlement is a bad idea for a number of reasons. The most prevalent in my mind is the fact that currently, businesses and consumers really have no choice in the matter of what operating system to buy. I am currently at work, where I am a research scientist for the Georgia Institute of Technology's Research Institute. I am not composing this email on a Linux machine, though that would be my preference. In fact I have requested such a machine, but it has been deemed not doable. The reason I am told, is that we must remain compatible with the rest of the world. So by default, because everyone runs Windows, we must. Not because it's the better product, not because it's cost effective, but because they hold the monopoly on desktop systems. I have asked other system administrators why they run Windows, and the reason is some permutation of a need for Windows to remain compatible or a need for Microsoft Office for the same reason. Without a choice, productivity is cut. There are countless times I would have been able to produce work faster if I did not have to deal with Windows, but I did not have a choice. If I want to run Linux at home, I have to buy a second computer because first and foremost, I need to stay compatible with work, and thus must have a Windows machine. The cycle is never ending. I have also had to port code from various other operating systems to Windows as well, most recently in a language called "C" which is supposed to be standardized. This means that I should be able to take the code straight to the Windows machine and use it, as I used nothing but the "plain vanilla C" as we call it (meaning using nothing but the standard functions of the language). There were however multiple changes that needed to be made to the code however in order to get it to work. These were usually just a simple name change for a function call, but this is an illustration of another way Microsoft breaks inter operability to maintain a monopoly and force people down the Windows path.

L. Drew Pihera
Research Scientist I
Electronic Systems Lab,
Georgia Tech Research Institute
Atlanta, GA 30332 Phone: (404) 894–7041

MTC–00027607

From: Nick McKnight
To: Microsoft ATR
Date: 1/28/02 7:11am
Subject: Microsoft Settlement

To whom it may concern,

In regard to the specifics of the proposed final judgement, Section III.J.2.c would allow Microsoft to condition licensing of security-related APIs based on their right to certify the "authenticity and viability" of a potential licensee's business. This right could be used by Microsoft to block progress in many free software projects aimed at interoperability. Active third-party involvement would be needed to insure equitable standards in the licensing of security-related APIs. I feel the comments offered at http://www.kegel.com/remedy/letter.html should also be considered. Based on his comments at http://slashdot.org/article.pl'sid=01/12/17/1235220&mode=thread I believe Stephen Satchell should be considered for appointment to the proposed three-person Technical Committee.

With greater dependence on digital infrastructure, the availability of software that is both secure and open to innovation is a critical need. I believe free software such as GNU/Linux can help fulfill this need and should be encouraged.

Sincerely,
Nick McKnight, Lawrenceville, GA;
Software Engineer

MTC–00027608

From: Nathan Florea
To: Microsoft ATR
Date: 1/28/02 7:12am
Subject: Microsoft Settlement
Antitrust Division, Department of Justice;

I have numerous problems with the Proposed Final Judgement between Microsoft and the Department of Justice. I believe it is inherently flawed and will prove ineffective. I think it would have been unacceptable before Judge Jackson's Findings of Fact. After that, however, any settlement as favorable to Microsoft as this one is mind boggling.

I think the specific reasons the Proposed Final Judgement is flawed have probably been adequately covered in comments from my fellow citizens. Instead, I will write about why I do not think any behavioral remedy will be adequate to curb Microsoft's anti-competitive practices. This is something that I can perhaps provide some unique or at least less common insight on.

I think that the corporate culture at Microsoft will make any behavioral remedy ineffective. As someone who worked at Microsoft during the antitrust trial, I think I have some understanding of the corporate culture there. It is very insulated. A large portion of people who work at Microsoft have no professional contact with anyone outside of company. It is very polarized with an "us against the world" mentality. The use of anything but Microsoft products, unless there is absolutely no Microsoft alternative yet, is frowned upon. And Microsoft believes it did nothing wrong. This is evidenced in the public statements from its executives, such as Bill Gates and Steve Ballmer. Never have they said that Microsoft did anything wrong. In fact, they have constantly claimed Microsoft has done nothing wrong, even after Judge Jackson's findings. And this permeates throughout the corporate culture. Never did I hear a Microsoft employee voice an opinion out of line with the company's position. Never did I hear anyone admit the DOJ case had any validity.

Until Microsoft changes their corporate culture and acknowledges that it engaged in anti-competitive practices, a behavioral remedy will simply be an obstacle to work around or through. And Microsoft has proven how effective it can be at getting around any behavioral changes with the previous consent decree. Expecting a behavioral change to be effective given Microsoft's track record and unyielding stance is foolishly optimistic at best.

Please reconsider a structural remedy. At the very least, make a genuine attempt to change the corporate culture. Microsoft has to take responsibility for its crimes before any settlement can move forward.

Sincerely,
Nathan Florea

MTC–00027609

From: wayne swygert
To: Microsoft ATR
Date: 1/28/02 7:14am
Subject: Microsoft settlement

To Whom it may concern:

Please put an end to the persecution of Microsoft—this lawsuit is nothing more than envy on the part of their competitors who wish to substitute political and legal manouvering for free market competition-which is all Microsoft has ever done, despite dishonest publicity to the contrary. The fact remains that Microsoft does not have the power to force anyone to buy it's products—it's just not possible. Only the government can physically coerce.

Therefore, please end this lawsuit now...cease punishing Microsoft...it is immoral and unjust.

Sincerely,
Wayne Swygert

MTC–00027610

From: Mott Dave Contr WRALC/LYSBD
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 7:13am
Subject: Microsoft Settlement

The proposed settlement does not go far enough to punish Microsoft. Their monopoly has damaged quality and innovation in the computer industry. Their success in the consumer operating system market has spilled over into enterprise software. Uninformed, non-technical business managers who use Microsoft products at home, like them, and do not have enough experience with computers to recognize low-quality products when they see them, have forced businesses into using Microsoft products. Technical business people have been forced to use their inferior products simply because of Microsoft's monopoly in consumer software.

Microsoft should be punished for their monopolistic abuses. They should be forced unequivocally to open up all technical details of their enterprise operating systems (Windows 2000 Professional and Server, Windows XP Professional and Server) and all technical details of Microsoft Office in order to enhance competition.

They should be forced to help competitors "catch up". They should be forced to allow porting of Microsoft Office to Linux and Solaris operating systems.

MTC–00027611

From: Greg Allen
To: Microsoft ATR
Date: 1/28/02 7:16am
Subject: Microsoft Settlement
Department of Justice,

Microsoft should be allowed the freedom to innovate and compete in the competitive software industry. Most of us in this industry can see through this case to the real issue of Microsoft's competitors attempting to use the legal system as the means to an end. I strongly support Microsoft and their freedom to innovate.

Sincerely,
Greg H. Allen
Allen Consulting Services,
President and CEO.
mailto:allenconsult123@hotmail.com

MTC–00027612

From: BSHART@aol.com@inetgw

To: Microsoft ATR
Date: 1/28/02 7:17am
Subject: Microsoft Settlement

Please do not penalize success.

Thank You,
Lewis Hartman
4867 Granger Road
Akron, Ohio

MTC-00027613

From: Green, Steve W. (O85)
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 7:19am
Subject: Microsoft anti trust settlement

I believe that the provisions of the agreement in the Microsoft antitrust case are tough, reasonable, fair to all parties involved, and go beyond the findings of the Court of Appeals ruling. They should be enacted as currently agreed without any changes, deletions, or additions.

MTC-00027614

From: Joshua Davis
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 7:21am
Subject: Microsoft Settlement

The purpose of government is to enforce the laws decided by the individuals that we vote into office. To compromise this process will compromise the purpose that government holds in our lives. I believe this decision is an example of how foolish we become when our decisions are dictated by individual financial gain.

Joshua Davis
Research Scientist I
Electronic Systems Lab,
Georgia Tech Research Institute
Atlanta, GA 30332
Phone: 404.894.7554

MTC-00027615

From: Matthew Bromley
To: Microsoft ATR,activism@moraldefense.com@inetgw
Date: 1/28/02 7:21am
Subject: Microsoft

I support microsoft and believe that they should not be penalised for being successful. I resent the government's characterization of me as a helpless victim who cannot choose software that is useful to me. I do not think that the government has any right to decide what can be in my computer. I resent the idea that a successful business and its products are a threat to anyone. The complaint against Microsoft originated not with individual consumers, or with Microsoft's partners, but with Microsoft's unsuccessful competitors. Failed businesses must not be allowed to set the rules for the markets in which they failed. I want to see an America where success is not throttled, but embraced. I want a free America where anyone with enough intelligence and hard work can be a self-made man like Microsoft Chairman Bill Gates. I believe Microsoft has a fundamental right to its property. It is the government's job is to protect this right, not to take it away.

matthew bromley

MTC-00027616

From: McCabe, Patrick
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 7:24am
Subject: Microsoft Settlement

I believe that the purposed settlement is reasonable and fair to all parties. Settle this case now and let's get on with business. Building better products through innovation is the solution.

Pat McCabe
patrick.mccabe@vw.com

MTC-00027617

From: Dr. Charles Stewart
To: Microsoft ATR
Date: 1/28/02 7:25am
Subject: Microsoft settlement

Dear Sir/Madam,

I would like to submit this argument to the Microsoft settlement consultation process (Tunney act), to the effect that the appeal court justice in charge of the DOJ/Microsoft case chould overrule the settlement and pursue a strong structural remedy, such as the originally proposed breakup. This argument is available online, together with comments from interested parties, at: http://www.advogato.org/article/425.html

I believe that it is the responsibility of the Department of Justice, and not Microsoft, to protect the economic interests of the computer industry by protecting competetion and innovation. The DOJ strongly argued for this position in its suit against Microsoft, but in its recent settlement it has reversed its position, apparently concluding that what is good for Microsoft is good for the software industry. If the DOJ truly believes this, then it should appeal the current verdict. To reverse its previous legal position without arguing for this reversal in court is unethical, because this constitutes a vacation of its responsibility to uphold the public interest.

I think the above conclusion, that the DOJ has abdicated its position as guardian of the public interest, is inescapable if we accept the following theses:

1. Microsoft's responsibility to its shareholders entails its aggressive exploitation of the whole of its competitive strengths: Microsoft has pursued a clear and consistent position in court. While Microsoft's performance in Judge Jackson's court may indicate that Microsoft tampered with evidence, where it stands in respect to its position as monopoly has been clearly argued with both conviction and integrity. It is this: the lesson learned from IBM's troubles with antitrust suits in the 1980s is that a dominant business in the computer industry can only protect its shareholders interests by maintaining its monopoly without being intimidated by the threat of antitrust legislation.

2. In Microsoft's business, only the paranoid survive: Furthermore, for Microsoft to maintain its monopolies in an industry that changes as quickly as the computer industry means that it must extend its monopoly to any new market whose products threaten to displace its current monopolies. Microsoft understands that its responsibility to shareholders requires it to leverage its existing monopoplies to intimidate and undermine rivals in other markets whose products possess this power; this is the principal conclusion of Judge Jackson in the trial brought by the DOJ.

3. Microsoft's monopolies injure business innovation, technical innovation and price competition in the computer industry: Especially they undermine the competitive strengths of alternatives developed by companies too small to challenge Microsoft in the courts, such as Be's BeOS and Dave Winer's Frontier, and of contributions by developers in the free software community such as Linux and Zope.

4. To maintain competition in the markets in which Microsoft dominates through its advantages as a monopolist requires Microsoft to be successfully limited in the courts.

5. To restore competition to these markets without infringing Microsoft's 'right to innovate" requires a structural rather than a behavioural remedy: Microsoft is a 'serial recidivist': there is a long history of bevioural remedies that have failed to deter Microsoft from effective exploitation of its monopoly position. The DOJ argued strongly for a break up of Microsoft in the trial courts. If it no longer believes that Microsoft's monopoly position requires effective legal limits, it has a duty to make its reasons for beliving this public. Its failure to do so is a very gross failure of its ethical and legal mandate to protect competition from monopoly abuse in the computer industry. I believe that the courts should pursue a structural remedy, ie. a breakup of Microsoft, irrespectively of the DOJ's new position in the proposed settlement.

Dr. Charles Stewart
(associated with Dept. Computer Science, Brandeis University)

MTC-00027618

From: Ahaleblian@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:26am
Subject: Microsoft settlement

To Those Concerned:

It is fair to say that Microsoft has been a pioneer in the field of computers programming and this computer age. Its motto "freedom to innovate" has resulted in the many improvements in the American life, be it commerce, manufacturing, transfer of information, individual amenities, learning etc., In fact it has impacted every phase of human activity, not only in the USA but throughout the world.

As an ex-Associate Professor (retired) in the field of business management, accounting and finance, I have witnessed the development of the various Microsoft programs over the 15 years and their impact on the students" ability to use them to accelerate the rate and, thus, the volume of learning. It is also fair to say that Microsoft's contribution to the other pioneers to create peripheral electronic products by providing capital through investing in such ventures or providing its products to enable them to build on the basis of such information. The cumulative benefit to of all the enterprises to humanity has been greatly enhanced,

The charges brought forth against Microsoft's that business activities were monopolistic and the decision issued by Judge T.P Jackson has been adequately proven to be an erroneous one over the period between its inception of the charges made and the present by the mere facts of the industries" (and substantial competitor companies) activities and mode of operations e.g. Aol - Netscape -Time Warner and many others. I am willing to accept that the technical aspect of the law resulted in fines, and that Microsoft is willing to go the extra mile to resolve the issue by proposing a, more than generous, settlement. which is now being unreasonably turned down.

The penalties that seem to be on the table are substantial and extremely unfair to Microsoft's investors who have patiently awaited for the day that they will be rewarded in terms of dividends. The investors have realized the necessity of reinvestment for the development of new and innovative products and the accumulation of profits for use for the new products. Now the resources are being diverted to other parties'' benefit. I believe this is totally unfair if not utterly unwise.

The stance of the nine states is an extremely self-serving one. Who are they to say that their citizens were overcharged on Microsoft products? I cannot imagine any individual who feels any differently then I. Microsoft did not put a gun to my head to force me to buy its product. I did it voluntarily and gladly. I would like to know how these state litigants intend to spend the monies that they aspire to receive, Surely they don't, and cannot, identify each of the product purchaser and give them their refunds. Even if they tried, the bureaucratic system would absorb the lion's share of the funds, leaving pennies on the dollars to the actual purchasers of the product. I for one, am looking for a fair return on my hard earned investment. I can only expect that to happen if this case is closed and Microsoft can continue to exercise its prerogative and right to innovate.

Microsoft has the right to protect its intellectual property and the right to innovate without impediments. Its business practices are no different from those of the competitors who have survived the present depressed economy.

ITS TIME TO SETTLE THIS ISSUE AND MOVE ON.

Respectfully,
Albert J. Haleblian
CC:MSFIN@microsoft.com@inetgw

MTC-00027619

From: Michael.Panzera@sealedair.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:26am
Subject: microsoft settlement

Please find attached my sentiments supporting a speedy resolution of the Microsoft anti-trust case. I think it would be good for our economy.

Thanks
Michael Panzera
(See attached file: USAGPanzera—Michael—1078—0121 .dot)
207 Burlington Road
Freehold, NJ 07728

January 22,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft

I am writing to state my support for the settlement of the Microsoft antitrust case. I appreciate your leadership in directing your Department to negotiate for three months with Microsoft in order to reach this reasonable settlement. It is time now to move on.

Gratitude is what I have for your sensible leadership on this matter, Mr. Ashcroft. Thank you for your support.

Sincerely,
Michael Panzera

MTC-00027620

From: Todd Olson
To: Microsoft ATR
Date: 1/28/02 7:27am
Subject: Microsoft Settlement

To the Honorable Court:

I find it doubtful that the currently proposed remedies for the issues of the Microsoft case will succeed in meeting the ruling of the Court of Appeals as to what ''a remedies decree in an antitrust case must seek''. Herein two additional remedies are proposed which I believe substantially improve the resolution of this case. Following the statement of the proposals, are comments on the motivation and justification of the proposals, which in turn are followed by some details of the proposal. Since my experience in legal matters is very limited, I hope that others who are more experienced will see merit in the general nature of these proposals and refine them to a form that is suitable for use in this matter.

PROPOSAL SUMMARIES

Proposal #1: Jump starting the strangled OEM infrastructure for marketing non Microsoft operating systems by requiring Microsoft to pay for it's creation.

Proposal #2: To reduce the probability of future illegal monopolization resolve that the only contractal terms between Microsoft and other parties that can be litigated and enforced in US courts are those that have been made widely and publically available adequately prior to the violation of terms in question.

PROPOSAL RATIONAL

Proposal #1 is a necessary addition to the proposed remedies as it is the only way to ''deny to the defendant the fruits of its statutory violation''. As long as it is essentially impossible to to purchase an intel based desktop computer system with a non microsoft operating system (such as BeOS, Lunix, *BSD), particularly from a major hardware vendor which has long been a problem for both my private activities as a computer hobbiest and my professional activities as a computer support provider, as long as this situation remains, then Microsoft is enjoying the fruits of its past illegal monopolistic behaviour. Normally if merchant X entered merchant Y's place of business and destroyed merchant Y's merchandise we would say to merchant X ''not only must you not do that again, you must renumerate merchant X for the cost of undoing the damage you did, so that he can return to business''. Why then, if merchant X has carried out this distructive behaviour repeatedly for years would w! e only enjoin merchant X to stop that behaviour and tell merchant Y that they must bear the cost of the damage they have received with out renumeration? Do the OEM's actually find the current proposed remedies convincing enough that they are willing to make the investement to be able to ship computers with non Microsoft operating systems? In evaluating the proposed remedies, the court should ask the OEM's this question. I suspect that in the absence of the addition of proposal #1 they will not, and hence the proposed remedies will do little to change the current market situation for consumers of computer systems. It is likely more must be done.

Proposal #2 is a necessary addition to the proposed remedies as it is the only way to ''ensure that there remain no practices likely to result in monopolization in the future''. Microsoft's track record in creating innovative ways to bully other businesses is sufficently well established that merely (narrowly) listing past transgressions and saying ''don't do that again'' clearly won't prevent them from undertaking new bullying in unlisted areas, particularly new markets. It is in everyone's best interest, including Microsoft's, that they grow out of this behaviour. It has long been understood that they way to minimize egregious bullying behaviour is to require all transactions occur in public ... that is why we put lights by ATMs .... and why the US constitution goes to some length to require that governmental proceedings must no be behind closed doors. Should we abandon this sound principle here, when it is most needed?

I believe that neither of these additional proposals (as elaborated below) impose undue burden on Microsoft. I believe they are necessary to provide relief and restitution to all of us living in a world stunted by Microsofts past practices. I believe that these additions will strengthen both the US economy, by freeing it from over dependance on one providor of computer services, and also strengthen Microsoft, by encouraging it to stop spend so much of it's energies on destructive practices, trying to keep the rest of the world down, and rechannel those energies to new constructive activites.

PROPOSAL DETAILS

Proposal #1: Jump starting the strangled OEM infrastructure for marketing non Microsoft operating systems by requiring Microsoft to pay for it's creation.

The goal is to rapidly create an OEM infrastructure that co-markets with the current Microsoft OS based computer systems, computers that—on the same hardware, out of the box—run non-Microsoft operating systems, both in addition to and instead of the Microsoft OS ... at minimal additional cost. The deliverable is that it be possible to purchase from major OEMs both individually and in large quantity, standard hardware that out of the box (a) directly boots into at least one non Microsoft operating system (b) directly dual boots into at least one non Microsoft operating system in a manner easily managed by a novice computer user. (c) directly multi boots in to at least two different non Microsoft operating systems in a manner easily managed by a novice computer user. Option (a) should be available in (say) 4 months, option (b) in (say) 6 months and option (c) in (say) 8 months.

One key issue is ensuring that such an infrastructure is not unnaturally re-strangled by Microsoft (or any other party). Although the effectiveness of the proposed remedies to "unfetter a market from anticompetitive conduct" is doubtful, as a hypothetical, lets take them as adequate and pass on to the other key issue which does not appear to be addressed in the proposed remedies.

The other key issue is the cost of creating this infrastructure. we propose that Microsoft pay for the creation of this infrastructure. This should be viewed in a renumerative rather than a punative light. This should be viewed as an aid to recovering what would have been had Microsoft not abused it's monopoly.

There are at least two different types of cost involved:

(a) the one time costs faced by the OEMs in creating an infrastructure that permits them to ship hardware with a variety of operating systems.

(b) the costs (both one time and on going)of ensuring the other operating systems to be shipped work on the hardware that is shipped
which suggests at least two different levies on Microsoft assets:

(a) Microsoft should be assessed a one-time, non-punative, fine of some appropriate amount (perhaps US$100,000,000), to be disbursed by neutral, knowledgable trusteeship, over a short period of time (perhaps 9 months), to the OEMs, for the sole purposes of implementing the proposed infrastructure, and getting the alternate operating systems working on the shipping hardware.

(b) A fee, to be paided by Microsoft, to a neutral trusteeship, is to be assessed on every copy of Microsoft operating system shipped, for some intermediate period of time (perhaps 3 years), and is to be used for the sole purpose of underwriting the work of keeping the alternative operating systems operating the rapidly mutating hardware shipped by the OEMs. The level of the fee will be reviewed and adjusted every few months.

Thought might also be given to levying a fine on Microsoft to be used as a startup investement to bring BeOS back to the market place. Note that the aim is to bring in to existance what we most likely would have had, had Microsoft not strangled it. The aim is not to demand that Microsoft underwrite the system beyond some reasonable incubation period.

There are many details to be worked out...

(1) Who chooses what operating systems are available? It is preferable that many choices be made available, and let the customer choose. Personally I'd like to be able to choose at least one linux, one *BSD, and BeOS.

(2) Who provides the boot loader? Clearly this should *not* be in the hands of Microsoft. It is to be hoped that the industry can spec an fully open standard that Microsoft then be compelled to comply with.

(3) What will prevent Microsoft (or other vendors) from having their operating system damage other systems installed (over writing boot blocks, etc). Perhaps large punative damages if this occurs would be appropriate.

(4) How to ensure that Microsoft does not force the rate of (gratuitus) hardware mutation so high (by rapidly changing what hardware they support and don't support) that other OS providers are exhausted by trying track it? In part by steeply raising the above mentioned fee imposed on each shipped Microsoft OS for underwriting this work on other OS. And perhaps in part by additional legal remedies.

(5) How to avoid having two hardware systems emerge ... one that can not run anything but Microsoft's OS, and one that runs everything else?

(6) Note that Microsoft must have no say in how the various moneys are disbursed ... I don't think we can yet trust Microsoft to not trojan such an effort.

(7) How to avoid building the proposed infrastructure in a way the Microsoft ends up controlling? Perhaps Microsoft must be explicitly forbidden to participate in the infrastructure development. Note care should be used to avoid building with pieces that Microsoft can end-of-life there by gutting the infrastructure shortly after it is built.

Proposal #2: To reduce the probability of future illegal monopolization resolve that the only contractal terms between Microsoft and other parties that can be litigated and enforced in US courts are those that have been made widely publically available adequately prior to the violation of terms in question.

The goal here is to create an environment where it is much harder for Microsoft to engage in the sort of divide and conquor bullying tactics of the past. This remedy should be in force for ten years. At which point it should be reviewed and extended if need be.

One way to insure public availability is to levy an annual fine on Microsoft that a neutral trusteeship would use to maintain a website with all published Microsoft contracts. The website must be well connected and widely accessible with a wide range of standards complient web browsers in an anonymous manner (no registration, etc).

It is very important that all the information be available to everyone. Based on my experiences at the retail computer level, I believe that many small business would have choosen other products years ago, and hence not be trapped in the current gratuitious upgrade intensive, insecure, computing environment they now find themselves in, if they had know what sort of business tactics Microsoft was using. By making this information open to all, the public and the markets can police Microsofts future behaviour, rather putting that burden soley, and inappropriately, on the courts.

To guard against obsfuscation, vagueness, and excessive subtlety the above fee should also be disbursed periodically to a variety of independent evaluators who should be charged with evaluating the clarity of the contracts, and the degree to which several innocuous interlocking contracts can establish monopolistic dominance. Of particular concern are terms such as "... vendors in good standing" which leaves the meaning of the contract entirely up to Microsoft, and are a particular effective form of bullying. Appropriate punative fines should be levied if such Microsoft is found to be engaging in such evasive and injurous practices.

CLOSING REMARKS

I believe the above to-be necessary in resolving the Microsoft case. However it most likely will not be sufficent.

I hope that the court finds something of use in these remarks.

MTC-00027621

From: N2URO@ao1.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:31 am
Subject: Microsoft Settlement

To whom it may concern:

The following comments are being submitted pursuant to the Tunney Act in response to the proposed settlement of The United States v. Microsoft, Inc.

Sincerely,
Samuel Greenfeld

Personal Background:

I am an electrical engineer presently working for the United States Army. Due to outstanding security issues I will not comment further about my specific position. I have a bachelors degree in electrical & computer engineering and an masters degree in engineering with an electrical specialization. I am also a certified engineer-in-training in the state of New Jersey.

In the past I have performed computer consulting where I designed and managed entire Internet and Intranet systems. I have worked computers systems both reliant and not reliant on Microsoft products. In the process I have done limited integration and seen the interactions of Microsoft products with those from other firms. My comments come from the perspective of an end-user, programmer and systems administrator.

The enclosed comments are to be taken as my personal comments; they are NOT necessarily the official views of the U.S. Army, the U.S. Government, nor any portion of either organization thereof. Any questions about my comments should be directed to the email address from which this message was sent.

General Information:

Microsoft's products have become de-facto standards in the United States" computer market. Approximately 90% of all computers presently in use today are estimated to be using a Microsoft operating system. The next-nearest competitor is believed to be Apple computer, with a market share of approximately 5%.

The lack of a significant competitor has discouraged manufacturers of other devices from supporting other operating systems. Many hardware items now are designed primarily for use with Microsoft-running computers. "Winmodems" and "Winprinters", found in almost any computer store, are so named because they and their software drivers rely on features found in Microsoft Windows products. Winmodems themselves have become so popular due to their low cost that many computer manufacturers no longer supply full-featured modems; the term itself can be found the packages of many modems in computer stores.[1] In the software world, products that do support non-Microsoft operating system (OS) platforms tend to charge more for versions that do not run on a Microsoft OS. This is largely due to economies of scale since Microsoft's operating systems dominate the market. Except for certain specialized applications, the high price of programs for non-Microsoft operating systems tends to turn off cost-conscious companies from purchasing non-Microsoft operating systems and their programs in the first place.

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[1] An example of a winmodem can be found at http://www.usr.com/products/home/home-

In addition, software and hardware companies often refuse to support efforts to use their hardware and/or software on other platforms due to the support headaches and expenses this causes. This causes problems for projects like SANE [2], which attempts to allow users of Linux (one alternative operating system), to use photographic scanners on other platforms.

Shortfalls of the current proposal / Proposed additional remedies:

The court, having recognized that Microsoft's operating system lead has effected competitors, has proposed opening up many of Microsoft's programming interfaces, protocols and related to third parties.

While I agree with the court's intent, I personally believe the current settlement fails to address the needs of several parties. Please find the additional items I wish to be addressed lettered below:

A. The current proposal fails to provide a competitive market for third-party replacements of Microsoft middleware and operating systems: The settlement as currently written requires Microsoft to generate information about its protocols and upcoming interfaces in the beta stage of projects [3]. This is a phase too late for many firms to match Microsoft's development, and will result almost always in Microsoft being first to market.

An example of a software project already continuously caught lagging behind Microsoft's protocol changes is the Samba project. [4] This project attempts to create an alternative client and server for Microsoft's SMB Networking protocol. Given a lack of documentation and constant tweaks, quirks, and other issues, they constantly find themselves at least a year behind Microsoft's current network server protocol revisions.

In order for there to be a level playing field for Microsoft, Samba, and other developers (regardless of area), protocols and APIs, however tentative, must be made available within sixty (60) days of Microsoft's development of them at least for the first five (5) years of the settlement. Without such a provision, companies will be unable to match Microsoft's market offerings in a timely manner, and hence many often fail to produce timely competing products.

B. The current settlement fails to address the needs of independent, typically non-commercial and/or "free" software developers: The Samba project, mentioned above, has no real "home-base" organization that can sign contracts on its behalf, nor could be considered a "business" by any stretch of the imagination.

While a skilled engineer might be able to build or repair a record player or cassette deck, building a home-brew CD or DVD player is almost out of the question. Hence, many hobbyists have turned to software development. The number of hobbyist-designed programs on the market today is significant; they range from paint programs to office suites to independent operating systems with their own supporting middleware.

Many companies employ the people working on products such as Samba could sign these contracts on their employee's behalf. But there is no single business that could sign the necessary paperwork to make an alternative version. Non- disclosure agreements may also be problematic, as many freely available programs make their source code available for others to modify to their unique requirements.

Since independent and home developers often like to make products that compete with Microsoft's products, the settlement must be modified so any party, regardless of business, educational, or other status, can acquire information on Microsoft's APIs. Such terms should allow the resulting end products in the vast majority of cases to exist in source code form.

C. The current proposed settlement fails to include a user education segment. Few users change or remove the default programs that Microsoft and/or the OEM that built a computer provide. A joint-industry effort must be made to educate consumers to ensure they understand they have alternatives, even if said alternatives cost money over what they paid for software to be included with a computer.

D. The current settlement proposal fails to provide a means to identify the party most likely at fault due to a user's problem. When software and/or hardware products interfere with one other, the makers of the products involved may span several companies. Such companies, as those familiar with attempting to get technical support are aware, tend to blame each other.

There must be a clear registry or other source that a user can see that tells them whose product is performing can perform function on their computer. The registry must state at the very least the manufacturer of said item, the installer of said item and a technical support contact and means (phone, email, etc.). This registry must also note if several products are capable of performing said function; these programs may interfere with each other as well.

All "ll-behaved" programs made after this registry program is incorporated into Microsoft's operating systems (and made available for older ones as a retrofit) should use this registry. That way both users and technical support personnel are aware as to what performs what task on a user's system.

MTC-00027622

From: Scott F Keep
To: Microsoft ATR
Date: 1/28/02 7:31am
Subject: MICROSOFT SETTLEMENT

I am a lawyer but not an antitrust lawyer. I am not sure I understand why the government brought its suit against Microsoft in the first place—or to the extent that I understand why the suit was brought, I am not sure I agree. In any event the suit was brought and there is now a proposed settlement. I am also a consumer of computer software and hardware, as are the three other members of my family. I believe that this litigation has been expensive for all sides. It has added to the cost of computer produces and had a chilling effect on the entire computer industry for unknown or speculative future gains. While I am a computer consumer/user, I am not a guru. I don't need 10 different operating systems. I need one that will integrate easily all the different applications. I need standardization and easy of integration.

I believe that settling this litigation now—and the quicker the better—is in my family's best interests and in the best interests of the vast majority of computer users.

MTC-00027623

From: simon.bates@allsop.co.uk@inetgw
To: Microsoft ATR
Date: 1/28/02 7:09am
Subject: Microsoft Anti-Trust Case

I understand you are listening to public opinion on the case against Microsoft. That, if I may say, is your first mistake. It is not a matter of public opinion whether Microsoft is allowed to be free to sell its product to a willing buyer- in a free society. Any such transaction has nothing to do with parties outside of that transaction. How dare you be so presumptuous! Microsoft has added incredible value to all our lives, business and public and must be left free to continue its product development and promotion in any way it see fit.

Land of the Free? Only if you realise the evil that this case is trying to perpetrate.

Simon Bates
Waterloo, London.

MTC-00027624

From: Stuart J. Hysom
To: Microsoft ATR
Date: 1/28/02 7:53am
Subject: Microsoft Settlement

To Whom It May Concern:

I am opposed to the proposed settlement in the Microsoft antitrust trial. I feel that the current proposed settlement does not fully redress the actions committed by Microsoft in the past, nor inhibit their ability to commit similar actions in the future.

The vast majority of the provisions within the settlement only formalize the status quo. Of the remaining provisions, none will effectively prohibit Microsoft from abusing its current monopoly position in the operating system market. This is especially important in view of the seriousness of Microsoft's past transgressions.

Most important, the proposed settlement does nothing to correct Microsoft's previous actions. There are no provisions that correct or redress their previous abuses. They only prohibit the future repetition of those abuses.

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product.asp'sku=3CP5699A . Note the description states that the item is "designed exclusively for the Windows operating system."

[2] The SANE Project Internet homepage: http://www.mostang.com/sane/.

[3] Reference Section III.D of the Competitive Impact Statement.

[4] http://www.samba.org

This, in my opinion, goes against the very foundation of law. If a person or organization is able to commit illegal acts, benefit from those acts and then receive as a "punishment" instructions that they cannot commit those acts again, they have still benefited from their illegal acts. That is not justice, not for the victims of their abuses and not for the American people in general. I don't believe that the current proposal provides adequate reparations to those injured by Microsoft's anti-competitive behavior.

While the Court's desire that a settlement be reached is well-intentioned, it is wrong to reach an unjust settlement just for settlement's sake. A wrong that is not corrected is compounded.

Sincerely,
Stuart J. Hysom
Department of Sociology
Emory University
1555 Pierce Rd. NE
Atlanta GA, 30322
404–727–7510

MTC–00027625

From: tswann@aperturefever.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:54am
Subject: Microsoft settlement

To whom it may concern:

As a professional computer programmer and computer user for almost 2 decades, I feel obligated to make a comment regarding the settlement the DOJ has reached with the monopolist Microsoft. Given Microsoft's history of using its monopolist position to force its way into one market after another and leaving a trail of crushed competitors in its wake, I feel the proposed settlement agreement is a travesty of justice. Microsoft has the attitude that its behavior has benefitted customers when in fact the only entity that has benefitted is Microsoft. Furthermore, I strongly believe that Microsoft will continue to behave in a manner that will cause further violations of the anti-trust act unless the government sends it a message, in the form of a *much* stronger punishment, that this behavior will not be tolerated.

As things stand, MS will continue to break the law, and they will have to be forced into court to make them comply. Of course, all this will take years, as MS will send a swarm of lawyers to delay any legal action until it's far too late to do anything about it. Microsoft is *right now* using its monopoly to work its way into new markets, yet nothing is being done about it. The longer the government waits to act, the worse things get for consumers.

A stiff fine (as a percentage of Microsoft's worth..say 1%), separating the operating systems from the applications divisions of Microsoft, and forbidding Microsoft from entering any new markets for a couple years (to allow a competive environment to develop in these new areas) are all required to put Microsoft in a position relative to other companies that will allow competition to once again thrive to the benefit of the consumer.

Thomas Swann
Oviedo, FL

MTC–00027626

From: Eben Moglen
To: Microsoft ATR
Date: 1/28/02 7:53am
Subject: Microsoft Settlement

Please find attached a filing under 15 U.S.C. Section 16 in relation to the above matter.

Very truly yours.
Eben Moglen
Professor of Law
Columbia Law School,
435 West 116th Street,
NYC 10027
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moglen@
General Counsel,
Free Software Foundation http://
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January 27, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms Hesse,

I am Professor of Law at Columbia University Law School in New York, and General Counsel (pro bono publico) of the Free Software Foundation, a non-profit § 501(c)(3) corporation organized under the laws of the Commonwealth of Massachusetts, with its headquarters in Boston. I make this statement under the provisions of 15 U.S.C. § 16(d) concerning the Proposed Revised Final Judgment (hereinafter "the Settlement") in United States v. Microsoft Corp.

The remedies sought to be effected in the Settlement are, in their broad outline, appropriate and reasonable measures for the abatement of the illegal conduct proven by the United States at trial. The goal of such remedies is to require that Defendant affirmatively assist the restoration of competition in the market in which the Defendant has been shown to have illegally maintained a monopoly in violation of 15 U.S.C. § 2. The remedies embodied in the Settlement would substantially achieve that goal, appropriately furthering the Government's pursuit of the public interest, if the Settlement were amended to rectify certain details one-sidedly favorable to the Defendant's goal of continuing its illegal monopoly.

Defendant—in the interest of continuing unabated its illegal monopoly—has artfully drafted certain clauses of the Settlement so as to hobble potential competition, giving the appearance of affirmatively assisting to undo its wrong, but covertly assisting instead in its continuance.

The District Court found that the Defendant had illegally maintained a monopoly in the market for Intel- compatible PC operating systems. (Findings of Fact, November 19, 1999, • 19.) The mechanism of that mo- nopolization, the court found, was the attempt to establish exclusive control of "application program interfaces" ("APIs") to which applications developers resort for operating system services, so as to prevent the possibility of "cross-platform" development threatening Defendant's operating systems monopoly. (Findings of Fact, • 80 and passim.)

The Settlement accordingly makes appropriate provision to require Microsoft to provide access to full and complete technical information about its APIs on non-discriminatory terms, so as to prevent Defendant's prior conduct in erecting artificial and illegal barriers to entry to the monopolized market.

But the precise terms of the Settlement create a series of artful technical loopholes vitiating the primary intention. Section III(D) provides that:

Starting at the earlier of the release of Service Pack 1 for Windows XP or 12 months after the submission of this Final Judgment to the Court, Microsoft shall disclose to ISVs, IHVs, IAPs, ICPs, and OEMs, for the sole purpose of interoperating with a Windows Operating System Product, via the Microsoft Developer Network ("MSDN") or similar mechanisms, the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product. (emphasis added)

The "sole purpose" requirement means that Defendant does not have to make any such API information avail- able to developers of software whose purpose it is to make competing Intel-compatible PC operating systems. Only those who make programs that interoperate with Windows Operating Systems Products may receive such information. Under § III(I)(3), an applications developer who has received licensed information concerning Defendant's APIs could be prohibiting from sharing that information with a maker of a competing Intel-compatible PC operating system, for the purpose of interoperating with that competing product. Under § III(I)(2), if a potential competitor in the market for Intel-compatible PC operating systems also makes applications products, it can even be prohibited from using licensed information it receives in order to make those applications interoperate with Defendant's products also interoperate with its own competing operating system.

What should be a provision requiring Defendant to share information with potential competitors in the monopolized market turns out, after Defendant's careful manipulation, to be a provision for sharing information "solely" with people other than competitors in the monopolized market. The same language has been inserted into § III(E), thus similarly perverting the intention of the Settlement with respect to Communications Protocols.

Defendant has not merely engaged in this undertaking with a goal to the exclusion of potential future competitors from the monopolized market. In the teeth of the evidence, long after having been proved to have behaved with exaggerated contempt for the antitrust laws, Defendant is attempting in the very Judgment delivered against it to exclude from the market its most vigorous current competitor.

Defendant's most significant present challenger in the Intel-compatible PC operating systems market is the collection of "free software," which is free in the sense of freedom, not necessarily in price: thousands of programs written collaboratively by individuals and organizations throughout the world, and made available under license terms that allow everyone to freely use, copy, modify and redistribute all the program code. That free software, most of it licensed under the terms of the Free Software Foundation's GNU General Public License ("the GPL") represents both an operating system, known as GNU, and an enormous corpus of applications programs that can run on almost all existing architectures of digital computers, including Intel-compatible PCs.

Through one such free software component, an operating system "kernel" called Linux, written by thousands of individuals and distributed under the GPL, the GNU operating system can execute on Intel-compatible PC's, and by combining Linux with other free software, GNU can perform all the functions performed by Windows. Non-Microsoft Middleware can execute on Intel-compatible PCs equipped with components of GNU and Linux. Intel-compatible PCs so equipped currently account for more than 30% of the installed server base in the United States, according to independent industry obsevers.

The District Court found that "by itself, Linux's open-source development model shows no signs of liberating that operating system from the cycle of consumer preferences and developer incentives that, when fueled by Windows" enormous reservoir of applications, prevents non-Microsoft operating systems from competing." (Findings of Fact, November 5, 1999, • 50.) (referring, confusingly, to the combination of GNU, Linux, and other programs simply as "Linux.") The District Court correctly found that in order to compete effectively with Defendant in the desktop operating systems market for Intel-compatible PCs, systems equipped with the free software operating system should be able to interoperate with "the enormous reservoir" of Windows applications.

There is no inherent barrier to such interoperation, only an artificial barrier illegally erected by Defendant. If Defendant were required to release information concerning its APIs to the developers of free software, GNU, Linux, the X windowing system, the WINE Windows emulator, and other relevant free software could inter-operate directly with all applications that have been developed for Windows. Anyone could execute Windows applications programs bought from any developer on Intel-compatible PC's equipped with the competing free software operating system. And because, as the District Court found, the cost structure of free software is very much lower than Defendant's, the competing operating system product is and would continue to be available at nominal prices. (Findings of Fact, November 5, 1999, • 50.)

That would be too effective a form of competition, from the Defendant's point of view. For this reason, Defendant has included in the Settlement the terms that exclude from API documentation precisely those to whom it would be most logically addressed: potential competitors seeking access to the monopolized market. If the Settlement were enforced according to its intention, the result would be immediate and vigorous competition between Defendant and the parties against whom, the District Court found, Defendant was illegally maintaining a barrier.

The Settlement should be amended to level that barrier, which the current language inserted by Defendant artfully maintains. The language of §§ III(D) and III(E) should be amended to require Defendant to release timely and accurate API information to all parties seeking to interoperate programs with either Windows Operating System Products or applications written to interoperate with Windows Operating System Products.

For the same reason, Defendant's attempt to continue denying the free software development community access to its APIs through the imposition of royalty requirements, in § III(I)(1), should be removed. As the District Court recognized, free software development means that everyone in the world has access, without payment of royalties or prohibition of redistribution, to the "source code" of the software. All APIs and other interfaces are fully available at all times to anyone who wants to interoperate with the existing programs. This, and the ability to reuse existing program code in new programs without payment of royalties or license fees, permits vast numbers of interoperable, high-quality programs to be written by a mixture of volunteers and professional project developers for free distribution.

By authorizing Defendant to engage in non-reciprocity by charging royalties for the same information about its programs, thus purposefully ousting volunteer developers, and by prohibiting "sublicensing," thus precluding profit-making developers from seeking interoperability with volunteers, the Settlement is craftily perverted into a mechanism whereby Defendant can continue to withhold API information so as to preclude the operations of potential competitors.

The Settlement should be modified so that § III(I)(1) requires reciprocity, by precluding the imposition of royalties on developers who make their own APIs fully available without payment of royalties or license fees, and so that § III(I)(3) precludes limitation on sublicensing, and requires Defendant to release API information on terms reciprocal to those on which competitors make their own API information available.

In one additional provision Defendant has attempted to subvert the intention of the Settlement in order to preclude effective competition by the Intel-compatible free software operating system. Under § III(J)(1), Defendant may refuse to disclose "portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of which would compromise the security of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria."

This provision is so indefinite that Defendant can be expected to argue that all APIs and Communications Protocols connected with the security and authentication aspects of electronic commerce (including especially "without limitation" keys and authorization tokens, which are the basic building blocks of all electronic commerce systems) can be kept secret.

At present, all such protocols and APIs are public, which is appropriate because—as computer security experts would testify if, as it should, the District Court seeks evidentiary supplementation under 15 U.S.C. 16(f)(1)—security is not attained in the computer communications field by the use of secret protocols, but rather by the use of scientifically-refereed and fully public protocols, whose security has been tested by full exposure in the scientific and engineering communities.

If this provision were enforced as currently drafted, Defendant could implement new private protocols, extending or replacing the existing public protocols of electronic commerce, and then use its monopoly position to exclude the free software operating system from use of that de facto industry standard embodied in its new unpublicized APIs and Protocols.

Defendant then goes further in § III(J)(2), according to itself the right to establish criteria of "business viability" without with it may deny access to APIs. Considering that its primary competition results from a development community led by non-profit organizations and relying heavily on non-commercial and volunteer developers, one can only conclude that Defendant is once again seeking the appearance of cooperation with the rule of law, while preparing by chicane to deny its injured competitors their just remedy.

The Free Software Foundation not only authors and distributes the GNU General Public License, and in other ways facilitates the making of free software by others, it also manufactures and distributes free software products of its own, particularly the GNU operating system, and sells compilations of its own and others" free software.

The Foundation sustains specific injury from the violations set forth in the complaint that are not remedied by (and indeed are specifically excluded from) the Settlement. The Foundation and the other free software developers with whom it acts are the single most significant competitor to the Defendant in the monopolized market, and the adoption of the Settlement as drafted, with its terms so carefully designed by Defendant to preclude its effective competition, would be a travesty.

We urge that the Settlement be amended as we have described.

Very truly yours,

Eben Moglen

MTC-00027627

From: Pascal Goguey
To: Microsoft ATR
Date: 1/28/02 7:56am
Subject: Microsoft Settlement

To whom it may concern,

Dear Sir, Madam,

I am not sure my comments will be valid since I am posting from abroad. However, it may be a good thing to stress that people from the whole world, and not only US are frustrated by Microsoft practices, mainly for the following reasons:

1. Impossibility to buy an Intel-based machine which is not preloaded with any of the versions of Microsoft Windows;
2. Impossibility to get a refund from Microsoft in most of the countries when sending back the OS;
3. Extreme difficulty for an OEM to sell machines equipped with alternative operating systems;

As for the recent settlement, it leaves a lot of room for reinforcement of Microsoft's monopolistic position. In particular, the fact that Microsoft must provide software for free to school is like a powertool in Microsoft's hands: first, it costs them a subdollar fee to duplicate the software, and they could even make it downloadable, and second, it will be a free advertisement campaign as all the students in these schools will become used to their products, and therefore more likely to purchase what they are used to. The settlement also lacks a true anti-monopolistic policy.

I am not optimistic enough to think my contribution would change anything, but I hope a significant number non-US residents will join in the same effort.

Best regards,
Pascal Goguey
Kamigyou-ku Ishiyakushi-cho 699
Oomiya doori Motoseiganji-sagaru,
Charmant co-po nishi-jin 302
602–8226 Kyoto, Japan.
Work phone: +81 6 6906 3475
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MTC–00027628

From: Josh Fryman
To: Microsoft ATR
Date: 1/28/02 7:58am
Subject: Microsoft Settlement

To those involved in the Microsoft settlement case:

I am writing you to express my concern over the Proposed Final Judgement (PFJ) that is being considered. As a PhD student and researcher at Georgia Institue of Technology in the College of Computing, I note with a technical perspective that the PFJ is not in the best interests of the public.

I have watched Microsoft and its behavior for the past 20-odd years, and tell you freely that the glaring tricks present in the PFJ will enable Microsoft to continue with their anti-competitive practices, and even make the situation worse. The result of being found guilty of Anti-Trust laws should leave Microsoft punished and —incapable— of repeating the business decisions and practices that fostered such acts.

While I know the holes in the PFJ to be many and quite large, here I will pick just one item and try to bring it to your consideration. In the PFJ, Microsoft is required to share the Windows operating system APIs with competitors. The wording which this is done, however, is so weak and narrow that several problems exist.

1—Microsoft determines who it's competitors are, and what pieces of software meet the weak definition of API.

2—Microsoft clearly states that only for-profit companies can even be considered as to whether or not they are competitors, a decision again which only Microsoft can render itself. This immediately precludes free software, such as the Linux operating system of many news articles, from being able to use any information Microsoft may release.

3—Well known and practiced software engineering and research terms and definitions, such as API, are rewritten in this PFJ such that many Microsoft's own products would not be bound by any parts of the PFJ.

Expressing the concept here in simple terms, if a little over-simplified, may help your understanding. An "API" is an overloaded acronym. It has meant in a traditional sense "Application Programmer Interface", or some close variant. In a modern sense, the "API" is not restricted to Applications or Application Programmers, but is meant in a broader sense of *any* piece of software interacting with *any other* piece of software on a system must do so through a set of published interfaces. These interfaces are an "API".

Microsoft has a long history of publishing only part of the API suite for it's products, such as Microsoft Windows and Microsoft Internet Explorer, to name just two of the multitude. While competitors struggle to work with the Microsoft APIs, Microsoft's own products use undocumented (unpublished) APIs that are faster, simpler, and have more features. (Not all unpublished APIs are faster/simpler/etc, but many are.) When competitors discover these undocumented APIs, Microsoft has a known habit of changing them to break competitors software, starting the cycle over again of hidden API discovery.

Another typical example of Microsoft behavior can be seen in their Windows 2000 operating system. They took a known public standard, called Kerberos, for secure authentication of users via password and login names, for a baseline system and integrated it into Windows. Then, to "extend it", they very slightly modified the behavior to be feature-wise identical but implementation-wise incompatible with all other kerberos based systems. They then billed this as "all-new" technology and made their changes a hidden, unpublished secret such that other companies" products could not interface with Microsoft's products. Their change? Several "bits" in the structure of a kerberos message are reserved, but meant to be 0. Microsoft set some of these bits to 1, breaking the standard.

How do these examples relate to the issue at hand? In a very simple manner, they illustrate typical Microsoft behavior. Now, in the PFJ, Microsoft will be able to set its own standards for who may be considered a competitor, and who may see what it considers an API. It even allows Microsoft to change the APIs without telling anyone until much too late!

This is unjust. For this one area to be corrected, Microsoft should be required to do something along the following lines:

—All products must have their APIs published and released into the public domain. Any patents or copyrights on these API designs are also released into the public domain. (Here "All products" would be restricted to Microsoft Windows, Microsoft Internet Explorer, and all other programs that are installed by default with any Microsoft Windows operating system product.)

—Microsoft can not change the API without a 6-month prior public notice in DOJ designated major forums for the industry.

—Microsoft must allow individual components to be opted as not installed, as well as removable after installation, without degrading the system behavior in any way.

—Any Microsoft product found to be using undocumented or unpublished APIs immediately becomes public domain, and all source code, patents, and copyrights are released to the public domain.

—Any Microsoft product found to be violating the terms of this section becomes public domain property, with all source code, patents, and copyrights released to the public domain.

These first three simple guides would allow any and all companies to compete with Microsoft in a fair manner. It would also prohibit Microsoft from unfairly changing their APIs without giving fair warning to competitors. The final clauses are meant to be a deterrent to Microsoft for violating these rules.

These are the types of rules and judgements expected when a major monopoly-holder is found guilt of illegally maintaining their monopoly and abusing their power. Not the light wrist-slap that the PFJ is when examined closely.

Regards,
Josh Fryman
210 Arrowhead Rd
Bogart, GA 30622
email: fryman@cc.gatech.edu
phone: 706–548–8784
PhD Student and Researcher
College of Computing
Georgia Tech

MTC–00027629

From: Chip Piller
To: Microsoft ATR
Date: 1/28/02 8:00am
Subject: microsoft anti trust comments

I find the terms outlined in the Proposed Final Judgement (PFJ) of the Microsoft Antitrust case to not be in the best interests of the public. In general I find that the PFJ does not go far enough in it's remedies, that the PFJ should be rewritten so that the language and terms used in the document are more clearly defined, and that the PFJ be more direct and eliminate exceptions and allowances so as to be more restrictive and to eliminate loopholes.

Section III Prohibited Conduct

This sections states that the royalty schedule will be "established by Microsoft and published on a web site accessible to the Plaintiffs and all Covered OEMs". I would like for the schedule to be made available to the general public. Also, the nature of the web site and access to the web site both need to be defined. The concern here is that Microsoft will prepare the web pages and web site in a way that favors or requires the use of Microsoft products for proper access.

III–B–2 permits Microsoft to charge different amounts for it's products based upon "reasonable" volume discounts. The term reasonable must be defined. However, even if reasonable is defined this volume discount amounts to nothing less than discrimination against small businesses and individuals and therefore should not be permitted. The royalties, fees, and charge schedule should be uniform across the board and should be made public.

III–B–3 Market development allowances. The court has determined that Microsoft is a monopoly and the court has found Microsoft guilty of anti-competitive practices. I am opposed to the court making provisions for Microsoft for market development. This exception makes no sense.

III–D/E This is a very important section. Microsoft must be required to make full and complete disclosure of the API's and documentation necessary for interoperating with all Microsoft software products, not just the Microsoft operating system.

This disclosure needs to be made to the general public and without charge so that members of the open source programming community may develop their software to be compatible with the software produced by Microsoft. This disclosure should be changed to include items such as the Microsoft file formats used by the Microsoft operating system as well as the file formats, communication protocols, and authentication methods used by other Microsoft products such as Word, Excel, and Exchange.

In addition I would like to add that I believe that competition for Microsoft will come from the open source programming community, which is comprised of volunteers around the internet. I would like to see the PFJ remedies be available to these people who will then be able to make their software compatible with that of Microsoft so that consumers will be given a real choice in their software.

Regards,
Maurice F. Piller, Jr.
2631 Blue Meadow Lane
Knoxville, TN 37932
Email: piller@visi.net

MTC–00027630

From: Ronald W. Greiner
To: Microsoft ATR
Date: 1/28/02 8:11am
Subject: Settlement

1. Please allow the proposed settlement to proceed allowing for minor minor adjustments.

Please allow the State of Oregon to set their own policy for the Right to Die. I have voted republican most of my life but sticking your nose into this issue make me think your religious feelings are more important than my right to choose. They are not!!!!!

MTC–00027631

From: fbcjames@ktc.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:12am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
James Ervin
625 Washington St
Kerrville, TX 78028

MTC–00027632

From: Steven.Spaletto@ey.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:13am
Subject: Microsoft Settlement
Tax Compliance—State and Local Tax Services
Ernst & Young LLP—Indianapolis Shared Services Location
5451 Lakeview Parkway South Drive
Indianapolis, IN 46268
Phone: (317) 280–3614
Fax: (317) 280–6102
EYCOMM: 2477726

Dear Sir or Madam,

Given the economic recession we are presently in, as well as the events of September 11, I think it is absurd how much time, energy, and money my government has wasted in pursuing Microsoft. Like only a few other times in our nation's history, we should be able to discern acts of true hatred and evil, those that cause significant amounts of real harm to the citizens of this great country, from the acts of an organization that has produced such overwhelmingly positive results for not only its people and shareholders, but also for its industry and this country as a technological and economic super-power. Time does not permit me to go into all the details of my position, but I think it is well past the time for the government (including the Department of Justice) to get back to protecting those that it is supposed to protect.

I say these things not as a Microsoft employee (or as a relative of an employee) or shareholder, but as a taxpayer who funds the operations the government of this country. In a capitalist society there will always be sour-grapes. I think the founding fathers would shudder at the thought of the government tampering as heavily as it has with Microsoft.

Let's let business get back to business, and let's have government work on protecting citizens from REAL harm.

Steve.

MTC–00027633

From: Daniel Phillips
To: Microsoft ATR
Date: 1/28/02 8:21am
Subject: Microsoft Settlement

In 1989, Microsoft apparently obtained a patent covering two principle components of a W3C recommendation, CSS and XSL. Microsoft was a member of the committee drafting the recommendation, and filed for the patent during the time the recommendation was being drafted: http://www.delphion.com/details?pn=US05860073— (US5860073: Style sheets for publishing system)

There was some coverage of this sad affair at the time: http://www.zdnet.com/sp/stories/news/0,4538,2205109,00.html

The question is, might Microsoft intend to use these patents in an attempt to erect new barriers in front of competitors with regard to the CSS and XSL standards? What is to prevent that? Considering the doubtful circumstances in which the patents were obtained, might it not be prudent to compel Microsoft to rescind these patents, or equivalently, release them into the public domain, in order to ensure that these patents are not misused.

Daniel Phillips

MTC–00027634

From: Mike Sallman
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 8:08am
Subject: Microsoft Settlement

I would like to urge you to reconsider the proposed final judgment in this case. This settlement does little to deter Microsoft from their monopolistic practices and even less to provide redress for past anti-competitive activities.

Microsoft's monopoly stifles innovation, creativity, competition and freedom which are the hallmarks of our free-enterprise system.

Michael Sallman
IT Administrator
Fidelity Bank

MTC–00027635

From: woods@wrkcs.net@inetgw
To: Microsoft ATR
Date: 1/28/02 8:15am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Elizabeth Woods
R.D. #1 Box 100–A
Corsica, PA 15829–9635

MTC–00027636

From: Ingham, Richard
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 8:18am
Subject: Microsoft Anti-trust case

This is to comment that I support this ruling. It will be better for the economy to move beyond this. The plaintiffs shold not be able to win in the courtroom what they cannot win in the marketplace.

Respectfully,
Richard Ingham
mailto:ringham@foxboro.com

MTC-00027637

From: Bill Hopfer
To: Microsoft ATR
Date: 1/28/02 8:20am
Subject: Microsoft Settlement
Bill Hopfer
2684 Seneca Drive
Jacksonville, FL 32259
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am outraged that Microsoft was attacked three years ago. The antitrust suit has been less about reprimanding illegal activity than it has been about greed and jealousy. I would like to see this case settled as soon as possible; it has truly been a disgrace. Microsoft puts out an excellent product and it has been good for the American public by standardizing software with Windows. Where would we be without such a user-friendly interface? Back at DOS or Basic, trying to communicate with the computer at various prompts and having to learn the language of the operating system in order to do so.

The settlement is good for the consumer. The consumer will benefit because Windows installation will not be mandatory on most computers and both computer makers and users will be allowed to reconfigure Windows as they see fit. Microsoft will accordingly reformat Windows so that it will support software alternatives.

I am upset that Microsoft's competitors wish to continue the suit against the Microsoft Corporation. This has gone on far too long already. It is time to settle. I urge you to support the agreement reached last November.

Sincerely,
Bill Hopfer

MTC-00027638

From: Nelligan, Michael P
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 8:20am
Subject: Microsoft Settlement

There are many problems with the proposed settlement. As a user of several "open source" I would like to address two major ones.

First the required API sharing limits those to whom Microsoft would have to make API specifications available in such a way that many open source projects could be excluded. Further it allows Microsoft to place limits on how such specifications may be used or distributed. In order to be more fair Microsoft should be required to make ALL APIs publicly available so that all software producers (large or small, profitable or not) could benefit and continue to work on developing competitive products.

Second, the settlement makes no mention of file format specifications; for example Word .doc files and Excel .xls files. Microsoft uses its file formats to make it more difficult for competing products to compete by not publishing the format specifications and by changing with most new versions of their software. Because of this projects to create competing software must spend excessive amounts of developer time and effort in figuring out how to be compatible with Microsoft's products. Supporters of Microsoft frequently point to a failure to read and write Microsoft file formats as a reason why competing products are not as good as Microsoft's products. In the trial Microsoft pointed to open source products as potential dangerous competitors for themselves. The judge did not find that such products were competitive but did believe that they could be. To allow Microsoft to use the Final Judgment to limit the ability of open source projects to produce strong compatible by competing projects would defeat the intention of using the judgment to promote competitiveness in the market place.

Thank you for considering these objections.

Michael P. Nelligan Network Systems Analyst for Battelle Memorial Institute,
505 King Ave., Columbus, Ohio, 43201
Resident of Ohio at 60 Euclid Ave., Columbus, OH 43201

MTC-00027639

From: Dale Wiener
To: Microsoft ATR
Date: 1/28/02 8:30am
Subject: Microsoft Settlement

Dear Attorney General Ashcroft

The lawsuit forged against Microsoft by the Department of Justice was uncalled for. Microsoft has been painted in a bad light through this litigation. The only thing Microsoft is guilty of is providing consumers with superior products. The purpose of this letter, however, is to express my support of the settlement.

The settlement came at great cost for Microsoft. Microsoft has agreed to disclose the internal interfaces of its Windows operating network. This is revolutionary in that it allows Microsoft competitors to gain access to interface. Interface disclosure will further allow developers to replace competing software into the Windows" system.

I believe that these sacrifices are necessary only in that they allow Microsoft to begin concentrating solely on the practice of software design.

Sincerely
Waltraud Wiener

MTC-00027640

From: Morris, Mitchell
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 8:28am
Subject: Microsoft Settlement

I would like to register my objection to the proposed settlement in US v. Microsoft. Specifically, I object to section III.J.2.c wherein Microsoft reserves the right to refuse to disclose information to entities which don't meet Microsoft's standards for business viability. Given our American tradition of individual effort and entrepreneurship, I find this claim that a citizen must prove his business viability to Microsoft's satisfaction before being allowed to compete in the marketplace to be most distasteful.

Thank you,
Mitchell Morris

MTC-00027641

From: Frank Biggs
To: Microsoft ATR
Date: 1/28/02 8:33am
Subject: Microsoft Settlement

Based upon reading the decision, I do not believe this adequately addresses the issues of the Microsoft case. It fails to punish past practices that the DOJ proved or to prevent future actions of the same nature by Microsoft. The wording of the decision will allow Microsoft to manipulate the language to its advantage and to continue its activities virtually unabated. With this in mind, the decision should be rejected.

John F Biggs II
12346 Swan Wings Place
Huntersville NC 28078

MTC-00027642

From: stepheni@linc.cis.upenn.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 8:34am
Subject: Microsoft Settlement

Dear Sirs,

I am an academic computer user of some years" experience. I avoid Microsoft software as much as possible. On occasions when I have used it, I have found it to be unreliable, insecure and prone to viruses. Most of the people I speak to who do use it feel that it is imposed upon them, that they have no real choice, and have submitted with a "you can't fight city hall" attitude. This letter is a small attempt at fighting city hall.

In my view the two worst aspects of the Microsoft Corporation's behavior are its bullying tactics and its deliberate subversion of standards such as email and web-page formats. These are difficult practices to legislate specifically against, but they are made possible by the sheer size and power of Microsoft, which is why the original idea breaking up the corporation was a good one. Smaller, competing companies could not commit such abuses as successfully. Although it is difficult to frame rules to outlaw bullying as such, there are several specific instances of it that could be prevented, but are not, in the proposed settlement. One is forcing manufacturers to include a Microsoft operating system with their computers, whether or not the customer wants one. Another is forbidding the use of free software in conjunction with various program components. Both of these are outrageous impositions on the customer, made possible only by Microsoft's monopoly position. In fact the only time I run a Microsoft operating system these days is to do my income taxes. I don't know for certain why no one produces a tax program for, say, Linux, or some other Unix-like operating system. It would be simple enough to do. The tax programs are simple combinations of well-established spreadsheet and browser technologies, and don't depend on the operating system to any serious extent. It would be quick and cheap to port the tax programs I have used to Linux, and the Linux market, while not comparable in size to the Microsoft one, must be large enough to be profitable for such a small extra outlay of effort. My guess, however, is that the potential profit is not big enough to offset the threat of retaliation by Microsoft. They are big enough that all they need to do is hint at retaliation.

Another general tendency that cannot be prevented outright, but could be better curbed than it is in the proposed settlement, is acting as if Microsoft owned the user's computer. Their software has always made unannounced edits to system files and replaced system components at will. Now they are putting in license provisions that have the effect of requiring the user to get their permission to upgrade his/her own hardware. Surely it must be possible to force them to give the buyer of software the right to use it as he/she sees fit, within the general framework of the law.

Although these are not the only shortcomings of the proposed settlement, they are the ones that seem most vital to me. I'm sure that others will write to you focussing on different ones.

Yours respectfully,
Stephen Isard

MTC-00027643

From: Bob Gordon
To: Microsoft ATR
Date: 1/28/02 8:36am
Subject: Microsoft Settlement

To whom it may concern:

The current "settlement" is a bad one because it does not address the basic issue of Microsoft's monopoly of of desktop operating systems.

MTC-00027644

From: Kevin Krumwiede
To: Microsoft ATR
Date: 1/28/02 8:34am
Subject: Microsoft Settlement

I am a student and independent software developer. Though I am not well-versed in legal matters, I found the provisions of the proposed Microsoft settlement fairly easy to understand. However, as an independent software developer, I believe I have a much better understanding of their implications than the average person.

I do not believe the provisions of the proposed settlement will significantly affect Microsoft's stranglehold on the market, for the reasons I have outlined below. It is important to remember that Microsoft basically invented the industry they dominate. Microsoft's rise to power was contemporary and symbiotic with the invention and widespread adoption of personal computers. Prior to that time, computers were not consumer products. It was largely a hardware market, and software was something that just came with the hardware. Much of the software in use was independently developed and freely distributed. Microsoft cunningly exploited the growing PC market to gain a monopoly on the operating systems and software that runs them.

Today, the only significant threat to Microsoft's monopoly is the same kind of independently-developed, freely-distributed software that existed before it—software developed by people like me. Perhaps as a blacklash against Microsoft's business practices, and spearheaded by the operating system known as Linux, free software has made a significant comeback in limited areas of the market. However, it has been unable to gain a foothold on the desktop—the market for operating systems and applications currently dominated by Windows 98/ME/XP, Microsoft Office, and Internet Explorer— for reasons not sufficiently remedied by the proposed settlement.

The settlement wisely recognizes the ubiquity of Microsoft's proprietary APIs and protocols and the necessity of making them available to developers who can't compete without them and often can't (legally) reverse-engineer them (sections III.D and III.E). Conspicuously lacking is a similar provision concerning proprietary file formats, which are crucual to any interoperability with Microsoft's Office products. To its credit, the settlement also prohibits many of the anti-competitive practices that Microsoft has used to maintain its monopoly.

But here is the key shortcoming of the proposed settlement: none of its provisions benefit Microsoft's real competition, the free software developers. We are not officially-recognized ISV's, IHV's, IAP's, ICP's, or OEM's; we are a loose-knit organization of individuals around the world, working on countless independent projects in our free time and with no expectation of monetary retribution. Few of us would ever "[have] a reasonable business need for the API, Documentation or Communications Protocol for a planned or shipping product" (section III.J.2(b)) or "[meet] reasonable, objective standards established by Microsoft for certifying the authenticity and viability" of our development efforts (section III.J.2(c)).

Few of us would meet the "reasonable and non-discriminatory" terms of the provisions (particularly section III.I.1) and thus would not benefit from sections III.D and III.E. Likewise, few of us can afford to "submit, at [our] own expense, any computer program using such APIs, Documentation or Communication Protocols to third-party verification" (section III.J.2.(d)). The solution, as I see it, is to require that Microsoft publish the specifications of its proprietary APIs, protocols, and file formats, making them available not just to qualifying competitors, but to all competitors. This would ensure interoperability of all independently-developed software with Microsoft's products, eliminating the single greatest obstacle Microsoft has employed to keep upstart competitors out of the market.

Thank you for considering my comments.

Kevin J. Krumwiede
1807 Woodlands Drive
Smyrna, GA 30080
(770) 431-8185

MTC-00027645

From: Ty van den Akker
To: Microsoft ATR
Date: 1/28/02 8:37am
Subject: Microsoft Settlement

I am vehemently OPPOSED to the proposed settlement on the grounds that the settlement is too narrowly defined to be of any lasting effect in the dynamic software industry.

Ty van den Akker
Arlington, MA 02474
Ty van den Akker
nakker@oculustech.com
(617) 426-4277 x311
Oculus Technologies Corp.
http://www.oculustech.com
Boston, MA

MTC-00027646

From: Edward Remmers
To: Microsoft ATR
Date: 1/28/02 8:38am
Subject: Microsoft Settlement

Dear Attorney-General Ashcroft:

I am writing to endorse the proposed Microsoft Settelement. I think that it is fair, but very onerous. Unfortunately, there are critics who wish to impose a "success tax" on Microsoft. In my opinion, this is very unfair. These critics wish to dismantle the free enterprise system in the U.S. Unfortunately, critics of Microsoft sound like "cry babies." Instead of crying, they should work at out-performing Microsoft. I strongly urge you not to respond to the "cry babies." Many states have accepted the proposed settlement as fair.

Please have the DOJ accept the proposed settlement. Only the trial lawyers will benefit financially from this case. Please place the interest of our country above the interests of the "cry babies" and trial lawyers trying to line their pockets.

Edward G. Remmers

MTC-00027647

From: Anthony Cullen
To: Microsoft ATR
Date: 1/28/02 8:38am
Subject: Microsoft Settlement

This is a raw deal for consumers and does very little, practically speaking, to redress the harm done to consumers or to prevent further harm in the future.

Anthony P Cullen
S/390 Technology and Architecture Division
Alliance Custom Microprocessor Design
D/zdza ms p/312 914-435-4758

MTC-00027648

From: BRIDGE4404@AOL.COM@inetgw
To: Microsoft ATR
Date: 1/28/02 8:36am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
BETTY RIDGE
10549 54 AVENUE NORTH
ST PETERSBURG, FL 33708

MTC–00027649

From: Charles Boncelet
To: Microsoft ATR
Date: 1/28/02 8:37am
Subject: Microsoft settlement

I am a Professor of Electrical & Computer Engineering, with a joint appointment in Computer & Information Sciences at the University of Delaware. I have published widely in these areas for 20 years. In my opinion, the proposed settlement does nothing to curb Microsoft's excesses. Over the years, Microsoft has used (and abused) its monopoly position to stifle innovation and eliminate the competition in many ways.

I suggest Microsoft be split into two companies, one responsible for operating systems (e.g., Windows) and one for applications, e.g., Office. Failing that, the government should insist on at least three things:

1. The file formats used by applications such as Office should be made open the public. This would allow other, generally much smaller, companies to produce products that interoperate with Microsoft's. (What Microsoft did to the the office productivity software producers far exceeded in its venality what they did to Netscape in the browser wars.)

2. Any networking standards used in Microsoft products should be open and public. Again, this would allow other products to interoperate with Microsoft's. This is crucial in a modern, networked computer world.

3. Disallow any contracts between Microsoft and computer vendors that restrict the ability of the computer vendors to supply alternative software and operating systems on their computers. Computer vendors should be allowed without penalty to produce machines that run linux, BEOS, MAC OS, etc without interference from or tithing due to Microsoft. Microsoft has been a cancer on the industry. Please do not allow them to continue.

Sincerely,
Charles Boncelet
(work) 302–831–8008
Dept. of Electrical & Computer Engineering
(fax) 302–831–4316
University of Delaware, Newark DE 19716
http://www.eecis.udel.edu/boncelet/
Email: please use boncelet@udel.edu, boncelet@ece.udel.edu, or boncelet@mail.eecis.udel.edu. Other addresses are unreliable.
CC:boncelet@udel.edu@inetgw

MTC–00027650

From: Kukla, Jim
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 8:36am
Subject: Microsoft Settlement

I believe that the proposed settlement is a bad idea. The information contained in this e-mail including any attachments may constitute Corvis Corporation Proprietary Information that is subject to Non-Disclosure Agreement and cannot be disclosed to any other party without the express consent of Corvis Corporation. If you are neither the intended recipient of this e-mail nor responsible for delivering this e-mail to the intended recipient, note that any dissemination, distribution, copying, or retention of this e-mail is prohibited.

If you believe you have received this e-mail in error, we request that you notify the sender by return e-mail and then delete this e-mail and any return e-mail immediately.

MTC–00027651

From: Kalisvaart, Adri
To: Microsoft ATR
Date: 1/28/02 8:40am
Subject: Microsoft Settlement
Lincoln RI, January 27, 2001
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
e-mail: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement

Dear Mrs. Hesse,

I am an immigrant from Germany and I remember how my parents became accomplices in the crimes committed by their government by virtue of being Germans. That is the reason why I must register my opposition to the injustice done to Microsoft by the Justice Department. My reasons are best expressed in a letter of mine in the 12/6/99 issue of TIME. Therefore, I am sending you the unedited version of that letter.

Dear Time Editor:

Lynching is alive and well in America. No, not in some backward corner of these United States. This time the lynching takes place in Time [November 15, 1999 Busting Bill] and on CNN for the whole world to watch. This time the Justice Department of the United States of America is proudly committing this heinous crime.

Who is being lynched? No, not some unfortunate person for having the wrong skin color. This time the victim is a productive genius and creator of wealth for himself, for me and for countless millions around the globe. It is Bill Gates.

Yes, there is a criminal in the case of US versus MS, but it is not Microsoft. I resent it very much that I am an accomplice to this crime by virtue of being an American. What is most appalling in this case is the victim's inability to defend himself. Bill Gates should have demanded that the Justice Department cease violating his inalienable rights—namely, his right to his life, his liberty and his property. By failing to do so, Bill Gates has become an accomplice in his lynching.

Sincerely, Adri Kalisvaart
5 Wake Robin Road # 2004
Lincoln RI 02865–5220
Home Tel: (401) 333 6303
Office Tel: (508) 236 1021
e-mail: a.kalisvaart@ieee.org

MTC–00027652

From: Timothy McGinnis
To: Microsoft ATR
Date: 1/28/02 8:42am
Subject: Microsoft Settlement
See attached
Timothy S. McGinnis
MTC–00027652 0001
1929 Pendelton Drive
Raleigh NC 27614
January 27,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As you know, Microsoft has been undergoing a three-year lawsuit by the US government and I'm using this opportunity to voice the opinion of the average American consumer.

I am an IT professional and use the products of many vendors including Microsoft's. My colleagues and I have stated many times that Microsoft has been the main contributor to the success and growth of the industry. This lawsuit has given an unfair advantage to other software providers who seem to be capitalizing on this misfortune. What we need to do is move this case out of Federal Court once and for all and stop wasting the time and money of American people. Microsoft should not have to be spending its budget on legal matters, instead, investing it on creating new more efficient software to bring our world further into the technological evolution that we've headed in. Microsoft has played a phenomenal role in the success of our country's economy, both locally and globally, and for the good of all consumers, seeing Microsoft free from litigation will help boost this recession we're in out the door.

The settlement should be embraced to make supporters and competitors satisfied with the procession of production in the IT industry and the competitive market. The settlement will ensure the compliance of Microsoft's actions as pro-competitive. Let our country move on from this lawsuit and get on with more serious issues plaguing our nation. I thank you for your attention and ongoing support for the American consumers.

Sincerely,
Timothy McGinnis

MTC–00027653

From: Mark Gryska
To: Microsoft ATR
Date: 1/28/02 8:41am
Subject: Microsoft Settlement

Dear Sir(s) Madam(s),

I find the proposed settlement of the Microsoft case unsatisfactory. As a computer professional for more than 15 years I have watched Microsoft grow from a small company to a very large company. In that time I have been dismayed by the business practices of the company which I feel have stifled technical innovation by means of broken standards and aggressive actions towards its competitors. As a consumer and user of Netscape Navigator I feel that I have been harmed by the tactics by which Microsoft sought to make Internet Explorer the number one browser.

I see further signs that the company is making in roads in 3D gaming and stands to follow much the same pattern as it has in the past. I believe that the company should be broken up into at least 3 seperate entities and face heavy fines.

Sincerely,
Mark Gryska

MTC-00027654

From: Lea Blanton
To: Microsoft ATR
Date: 1/28/02 8:45am
Subject: Microsoft Settlement
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support for Microsoft and the settlement that was reached in November. Microsoft has pledged to carry out all provisions of this agreement and create more opportunities for competing companies. Under this agreement, Microsoft must license its Windows operating system products to the 20 largest computer makers. Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system. The settlement contains many guidelines that Microsoft has fully agreed to uphold.

I see no reason to continue costly and expensive litigation that drives down stock prices and contributes additional uncertainty to individual and organizational purchasing plans in an already uncertain economy. This settlement will serve in the best public interest. Please support the November settlement.

Thank you.
Sincerely,
Lea M. Blanton
611 Westridge Drive
Burlington, NC 27215

MTC-00027655

From: Manohar Hora
To: Microsoft ATR
Date: 1/28/02 8:46am
Subject: Microsoft Settlement

Sir:

It is very unfortunate that in spite of all the advances that have happened in the Tech Industry, you are after Micro soft that is responsible for the advances. why don't you waste public money on some thing worthwhile. History will tell that the Justice Dept. was responsible for the down fall of US Computer Industry. This is business. Let every one struggle without any help from the Govt.

One concerned citizen

MTC-00027656

From: dkitts
To: Microsoft ATR
Date: 1/28/02 8:46am
Subject: Microsoft Settlement

'Will you PLEASE leave Microsoft alone and end this case now. As an IT professional, I see many of my peers in jeopardy of layoff or already looking for jobs due to the slowing of companies application development cycles. Much of this has to do with the economy, but when times are tough economically, companies stop spending on "risky" investments. The turmoil surrounding the Microsoft case has made companies put many projects on hold due to anxiety on the base operating systems to run the applications on. The anti-trust case is helping to keep that up! I believe that a quick settlement will help bolster the economy, help the .com industry back on it's feet and will be the best thing for the United States.

I also believe that Microsoft has had a historically better record of keeping the consumer and businesses best welfare in mind than most other vendors. BEFORE MS, companies like Apple charged OUTRAGEOUS amounts of money for their software, particularly operating systems. Now, you can buy sophisticated operating systems like Windows 2000 Professional for under $400!!!!

I also thoroughly believe that Microsoft came to market years ago with better, more consumer friendly products than Netscape and AOL and therefore deserved to win the market share they have. When a truly better product IS available, I'm sure the IT industry will flock to it. Look at the interest in Linux! It is mainly a warmed up version of the venerable UNIX operating system, but they have sold TONS of copies just out of curiosity of the IT industry. If Linux ever is proven to be better, it will flood the IT landscape in months...but, at this point, it is simply not technically better or more efficient. (By the way, IT professionals will argue UNIX vs. Windows vs. whatever forever, much like teenage boys will argue over which was faster, Pontiac or Ford)

As far as Netscape goes, a few years ago I attended a Netscape Professional Developers Conference (sponsored by Netscape). At that point in time they pretty much stated on an emotional, not logical, level that they hated MS. They didn't even want to build a Web server to run on a Microsoft platform!!! I believe that Netscape (AOL) will whine forever about Microsoft and will always be trying to manipulate the courts, the DOJ or whoever they can to try to "compete" with Microsoft. This is not because the are not allowed to compete in the market place, it is because they just simply cannot produce anything better than equivalent products. Please stop wasting my tax money on Microsoft...I'd much rather pay for the War on Terrorism. Even if the amount of money spent on the Microsoft Anti

Trust case only equates to one day of expense for the War on Terrorism, I'd MUCH rather spend the money on day hunting for bin Laden, than years hunting Bill Gates.

Just my humble opinions,
D. Frank Kitts
dkitts@yahoo.com

MTC-00027657

From: Srivastava, Samir
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 8:49am
Subject: Microsoft Settlement

Dear Madam/sir,

Please note my wish as a citzen of the United States of America to disagree with the settlement as offered by the Justice Department to resolve the Microsoft monopoly case.

As I understand it, the goal of the Justice department should be to ensure that a fair and just solution be implemented in the interest of the American Public, as well as sufficient punishment for the wrong doing engaged in by Microsoft. I believe the current soultion offered fails on both counts listed above. Microsoft has been found to be a monopoly (this in itself is OK) in operating systems, but they have been found to use this power to inhibit competition and gain market share in other areas such as browsers and Office productivity software. This behavior was rightly found to be illegal. Sufficient punishment demands that they be prevented from engaging in this kind of practice ever again.

Under the current proposal, Microsoft would get lots of legal "wiggle room" to comply with the letter of the law but not the intent of the law. Since Microsoft has previously proven to be very good at avoiding complience (the original consent decree from the 1980's), one can assume without a doubt that Microsoft will again play these games. So, the punishment part of the proposal must be designed so that Microsoft will not have anything to gain by playing legal games. It should be a very large cash fine, as this is the only way to get the attention of high paid executives that consider themselves above the law.

Secondly, for a fair and just solution for the American public, the Justice department should rule that Microsoft has to publish all the data formats for its data files. This should not be a burden to Microsoft. These data formats are important because one has to have knowledge about the formats to read the data. As it stands, Microsoft does not share this data with the industry and prevents other companies from being able to read its data formats, such as MS Word files for example.

There is no reason that MS Word files from one user need to be read only by another MS Word user, except for the fact that it is difficult and time consuming to decode by anyone else without information from Microsoft. This is analagous to AT&T only being able to call other AT&T customers or phones. But this is not the case, in fact, in the telecommunications industry the signalling standards (or data format) for a call are well known public information.

This means that if I want to phone home to the USA from Switzerland, all I need to do is call my number in the USA. Because the signalling standards are known by everyone, the Swisscom phone switch can convert my request such that is easily decoded by the AT&T phone switch. With this well known or open data format, the public is well served. Notice that there is no affect to the intellectual property of AT&T or Swisscom. The public does not know or care how the phone switches work as this is not published, but only that the data formats are known so the systems can interoperate.

I believe that the same model should be applied to the Microsoft case. I don't care what they put into windows, but when they take the data formats for the Internet browser, MS Office suites and a host of other programs and refuse to share the formats publicly, the public will have no choice but to use only Microsoft software to be able to decode them. Notice that even on the Mac platform, one must use MS Office programs to be able to read a Word document sent by someone else.

I sincerely hope that you will read my proposal and implement a tough but fair solution in the Microsoft case. Please make sure that the American people win in the name of justice, fairness and innovation for the sake of a free world.

Thank you for giving the American public a chance to comment on this issue.

Thank You and regards,
Samir Srivastava
Core Network Engineer
COLT Telecom AG
Badenerstrasse 820
CH–8048 Zrich
t: +41 1 5 600 900
f: +41 1 5 600 910
e: mailto:samir.srivastava@colt.ch
www.colt.ch
we make business straight.forward

MTC–00027658

From: Chris Hanson
To: Microsoft ATR
Date: 1/28/02 8:51am
Subject: Microsoft Settlement

I am President of a small software and consulting company named bDistributed.com, Inc., located in the Chicago area. (Web site and contact information below.) As President of a company that develops software primarily for the Apple Macintosh and Sun's Java technology, I strongly believe that the Microsoft antitrust settlement does not go far enough to I don't think any behavioral remedy will work on Microsoft. They have an established pattern of behavior of ignoring behavior remedies, disobeying court orders, lying to federal judges, and so on. The only remedy that will work and restore competition to the marketplace is structural: The company needs to be broken up and there needs to be heavy government oversight not only of the resulting "Nanosofts", but of the interactions between them and the rest of the market.

Here's my recipe for a workable breakup: Nanosoft 1 does only operating systems (both workstation and server). Nanosoft 2 does does only workstation applications, including Office, the Outlook client, the Messenger client, the NetMeeting client, and so on. Nanosoft 3 does only server applications, including SQL Server, the Outlook server, the Messenger server, the NetMeeting server, etc. Nanosoft 4 is the content company (MSN).

The workstation and server application companies would only be allowed to communicate through open, publicly-documented protocols. In other words, other companies could write fully-functional Microsoft Exchange clients that compete with Microsoft Outlook without reverse-engineering. And so on. Also, I believe that Microsoft needs to be compelled to support the competitors they harmed for a certain period. Microsoft should be required to do the following:

(1) Bundle AOL Time Warner's Netscape web browser with the Windows operating system for a period of 5 years, and work with all interested external developers to make it possible to fully replace Internet Explorer as the default browser (including in places like the help system).

(2) Bundle Apple's QuickTime multimedia technology with the Windows operating system, and make it possible to use it instead of Windows Media Player for all multimedia access and playback on the system. Microsoft is currently attempting to use its monopoly power in operating systems software to extend its monopoly in multimedia playback—AFTER BEING RULED A MONOPOLY—and this action is necessary to counter that attempt.

(3) Continue to support, promote, and keep up-to-date Microsoft Office on the Apple Macintosh for a period of 5 years, and expand their support to include up-to-date Macintosh versions of the Microsoft Outlook email and scheduling application (or add 100%-compatible functionality to the Microsoft Entourage for Macintosh email and scheduling application), the Microsoft Access database, and the Microsoft Project project management application.

(4) Publish all specifications for all native data formats and protocols of all Microsoft applications under a royalty-free and non-discriminatory license, IN PERPETUITY, allowing developers to create applications both for Windows and for other platforms that compete directly with Microsoft applications with a reasonable guarantee of 100% compatibility.

I believe the steps above are necessary to restore healthy competition to the computer software marketplace. Even without a structural remedy, the above steps would go a long way; with a structural remedy, the above steps would ensure non-Microsoft software developers are on a more level playing field than the current settlement proposal allows. And without at least (2) through (4) above, Microsoft is effectively unrestrained from eliminating its remaining competition. We cannot let this happen if the software industry is to remain a vital and growing sector of the worldwide economy, because without the return of true competition it will stagnate.

—Chris
Christopher M. Hanson, President
Email: cmh@bDistributed.com
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Phone: +1–847–372–3955
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Personal Email: cmh@mac.com

MTC–00027659

From: Sean Chisek
To: Microsoft ATR,Ron Steward
Date: 1/28/02 8:58am
Subject: Microsoft Settlement

The proposed settlement is bad for consumers and useless as far as breaking the Microsoft monopoly.

Sean Chisek

MTC–00027660

From: Victor Laties
To: Microsoft ATR
Date: 1/28/02 8:57am
Subject: Microsoft Settlement

Please continue the court action against that predatory company Microsoft. Don't be influenced by the intense lobbying effort on the part of that company. Netscape was the originator and the most innovative outfit to work in this area. Microsoft acted as a bully and is certainly in a monopy position right now. Nothing in the proposed settlement will serve the public influence.

Victor Laties

MTC–00027661

From: Chris Hanson
To: Microsoft ATR
Date: 1/28/02 8:59am
Subject: Microsoft Settlement

(This is an amended version of a message I sent accidentally. One item, (5) below, was added to a list of suggested remedies.) I am President of a small software and consulting company named bDistributed.com, Inc., located in the Chicago area. (Web site and contact information below.) As President of a company that develops software primarily for the Apple Macintosh and Sun's Java technology, I strongly believe that the Microsoft antitrust settlement does not go far enough to I don't think any behavioral remedy will work on Microsoft. They have an established pattern of behavior of ignoring behavior remedies, disobeying court orders, lying to federal judges, and so on. The only remedy that will work and restore competition to the marketplace is structural: The company needs to be broken up and there needs to be heavy government oversight not only of the resulting "Nanosofts", but of the interactions between them and the rest of the market. Here's my recipe for a workable breakup: Nanosoft 1 does only operating systems (both workstation and server). Nanosoft 2 does does only workstation applications, including Office, the Outlook client, the Messenger client, the NetMeeting client, and so on. Nanosoft 3 does only server applications, including SQL Server, the Outlook server, the Messenger server, the NetMeeting server, etc. Nanosoft 4 is the content company (MSN).

The workstation and server application companies would only be allowed to communicate through open, publicly-documented protocols. In other words, other companies could write fully-functional Microsoft Exchange clients that compete with Microsoft Outlook without reverse-engineering. And so on.

Also, I believe that Microsoft needs to be compelled to support the competitors they harmed for a certain period. Microsoft should be required to do the following:

(1) Bundle AOL Time Warner's Netscape web browser with the Windows operating system for a period of 5 years, and work with all interested external developers to make it possible to fully replace Internet Explorer as the default browser (including in places like the help system).

(2) Bundle Apple's QuickTime multimedia technology with the Windows operating system, and make it possible to use it instead of Windows Media Player for all multimedia access and playback on the system. Microsoft is currently attempting to use its monopoly power in operating systems software to extend its monopoly in multimedia playback—AFTER BEING RULED A MONOPOLY—and this action is necessary to counter that attempt.

(3) Continue to support, promote, and keep up-to-date Microsoft Office on the Apple

Macintosh for a period of 5 years, and expand their support to include up-to-date Macintosh versions of the Microsoft Outlook email and scheduling application (or add 100%-compatible functionality to the Microsoft Entourage for Macintosh email and scheduling application), the Microsoft Access database, and the Microsoft Project project management application.

(4) Publish all specifications for all native data formats and protocols of all Microsoft applications under a royalty-free and non-discriminatory license, IN PERPETUITY, allowing developers to create applications both for Windows and for other platforms that compete directly with Microsoft applications with a reasonable guarantee of 100% compatibility.

(5) Include the latest version of Sun's Java Virtual Machine with the Windows operating system for a period of 5 years, and ensure it works properly "out of the box." Java provides developers with the ability to easily create rich software applications that work well both on Windows and on other operating systems like Apple's Mac OS X and the Linux operating system. By including good support for Java with Windows, developer risk in writing for Java would be greatly reduced. I believe the steps above are necessary to restore healthy competition to the computer software marketplace. Even without a structural remedy, the above steps would go a long way; with a structural remedy, the above steps would ensure non-Microsoft software developers are on a more level playing field than the current settlement proposal allows. And without at least (2) through (5) above, Microsoft is effectively unrestrained from eliminating its remaining competition. We cannot let this happen if the software industry is to remain a vital and growing sector of the worldwide economy, because without the return of true competition it will stagnate.

Chris
Chris Hanson
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Personal Email: cmh@mac.com

MTC-00027662

From: Paul Lewis
To: Microsoft ATR
Date: 1/28/02 8:59am
Subject: Microsoft Settlement

Microsoft has twice been found guilty of serious violations of the Sherman Antitrust Act, by a federal District Court and by the United States Court of Appeals. Any settlement of this case with the US Justice Department must not allow Microsoft to continue its monopoly practices. To do so would seriously dampen software innovation in the United States and threaten our global economic competitiveness.

Paul H. Lewis
Government Documents Librarian
USC Aiken Library
Aiken, SC 29801
http://library.usca.sc.edu
803-641-3320

MTC-00027663

From: Ed Lorenzen
To: Microsoft ATR
Date: 1/28/02 8:54am
Subject: "antitrust"

I use many Microsoft programs on my computer, and also many from other manufacturers. I resent this attempt by unsuccessful competitors to interfere with my selection of software. If their products are any good they would not resort to the under-handed tactics that they are using here. Please drop this unfair suit. I do not believe that the Department of Justice, or any court, is competent to determine how I will use my computer, and I resent this effort to control my personal property and actions.

Microsoft has a fundamental right to its property, and the government's job is to protect this right, not take it away. Control of any business by the government is obscene, and has been repeatedly shown to be a failure, not in the public interest.

Brar E Lorenzen
Prescott Valley, AZ
CC:activism@moraldefense.com@inetgw

MTC-00027664

From: Ledoux, David C
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 9:00am
Subject: Microsoft Settlement

Dear Sir,

I am firmly OPPOSED to your proposed settlement of the Microsoft anti-trust case. The settlement is far too weak and will not prevent Microsoft from continuing to leverage their ever-growing monopoly until they control ALL of the computing industry and all of the Internet. I am sickened that my government would allow that to happen. Microsoft has been found by the courts to be a MONOPOLY, which they built by engaging in illegal and immoral business practices, and they must be broken up and/or prevented from using that monopoly to further harm the free market system on which our nation depends for its prosperity.

Microsoft has, in the past, wriggled out of consent decrees, and there is no reason to think that they will not be able to work around this extremely weak settlement. A 3-member oversight committee (with one member from Microsoft!) is worthless to enforce this, as well. For this settlement to be anything other than a slap on the wrist, Microsoft must be forced to publish ALL of their APIs, and be forbidden from any and all anti-competitive licensing practices, just for a start. Their contracts with OEMs must be published and monitored by the courts to prevent such things as their dual-boot restriction, which the current settlement does not even address!

Finally, there should be language in the settlement by which Microsoft will be forced to publish ALL of the Windows source code if they do not comply 100% with the spirit and letter of the settlement.

Thank you for allowing me to comment on this.

Sincerely,
David C. LeDoux
Reston, VA

MTC-00027665

From: James E. Leinweber
To: Microsoft ATR
Date: 1/28/02 9:01 am
Subject: Microsoft Settlement

I am strongly opposed to the proposed settlement in the Microsoft Antitrust case as entirely inadequate and counterproductive, and not in the public interest.

The likely effect of adopting it would be an maintenance of Microsofts current OS, Office suite, and Web browser monopolies, and their extension into new areas. This would give rise to the need for yet a third antitrust case a few years from now. I entirely agree with the criticisms and comments in the "open letter" submitted by Dan Kegel under the Tunney act (see <http://www.kegel.com/remedy/letter.html>, though I am submitting my own additional comments rather than co-signing his.

I have worked in the computer industry for 30 years, including 20 years experience with Unix systems and intensive deployment of Microsoft products since 1993. Though I have no legal training, I have followed the Antitrust case with interest, and have read the Findings of Fact, the Conclusions of Law, the appeals court ruling, and the proposed settlement. I found the facts entirely accurate, the conclusions persuasive. The appeals court ruling was slightly dissappointing, while the proposed settlement appalls me. and Microsoft's tactic with their first antitrust case, resulting in the consent decree, was to obey the letter of the agreement while completely violating its spirit. That is what led to the current antitrust case. The proposed settlement basically has Microsoft promising not to repeat several of the ploys which entrenched their current monopolies, while doing nothing to reduce those monopolies, and blatantly inviting them to extend their monopolies into new areas.

Tactics Microsoft has used, which have affected me, and which are not addressed by the settlement include:

* Deliberately introducing new API's and abandoning support for old ones, in order to provide a "moving target" too costly for competitors to be compatible with. This imposes extra costs on my organization to convert our own applications to work later versions of Microsofts own software. This has been particularly noticable in the mutation of the Visual Basic interface to Microsoft Office.
* Similarly, use of new secret file formats in their office suite to prevent compatibility with competing products, even their own. When Office-97 was first introduced, it was incapable of writing Office-95 format documents. This tactic forced people to upgrade to new versions in order to be able to read documents from early adopters. My organization had to abandon the use of Wordperfect, which we prefered as a word processor, due to the difficulty of exchanging documents with organizations using Microsoft Word. Similarly, their "embrace, extend, extinguish" approach to Internet protocols. This tactic, of designing proprietary additions to widely used protocols is designed to capture control of technologies, which can in turn be used to extend their monopolies and further increase the application barrier to entry as cited in the findings of fact. It was quite notable with their implementation of Java—which they

lost a court case over. A more recent example is their introduction of proprietary extensions to Kerberos authentication protocols in Windows-2000. Existing Kerberos clients can authenticate with Microsoft servers, but Microsoft clients cannot usefully authenticate with non-Microsoft servers. They are currently extending this into their Passport service, in an apparent attempt to create a new monopoly in Internet authentication services. These abuses of their monopoly power to pervert interoperability has forced my organization to deploy more Microsoft servers than we would otherwise wish to.

* Gratuitous incompatibilities with competing products. Note that Microsoft lost a private antitrust case with Caldera over this MTC–00027665—0002 involving Windows 3.1 and DR-DOS, though the terms of their out of court settlement are secret. In another example, when Microsoft introduced windows NT 4.0, they removed support for the IBM OS/2 "HPFS" filesystem, though the windows NT 3.51 drivers operated perfectly well under windows NT 4.0. Microsoft utilities deliberately reported HPFS file systems as "damaged", when they were not. The continuation of this and similar tactics forced my organization to stop using os/2 in any significant way.

A particularly blatant and egregious example of this was during 2001, when—while waiting for the appeals court to finish its antitrust ruling!—Microsoft (1) removed Sun-compatible Java from windows-XP (2) broke compability of Netscape browser plugins with Internet Explorer 5.5 via service pack 2, without even the excuse of a new browser internal architecture (3) broke compatibility with Apple Quicktime multimedia, which competes with Windows Media player. If that is their behavior while under court scrutiny, one can scarely imagine what they might do after the settlement.

* raised prices on older OS's which had competition, such as DOS and Windows 3.1, above the price of newer OS's which did not yet have competition, such as Windows-95. In a competitive market they would not have been able to do that, and this abuse of their monopoly position was a deliberate tactic to rapidly move the installed base of systems toward an increased application barrier of entry. This contributed significantly to the extension of their OS monopoly into the office suite arena. It raised the cost of deploying PC's in my organization, as we opted not to deploy windows-95 to any significant degree.

Having destroyed most of the commercial competition already, the next big threat to their monopoly position may be from open source projects such as Linux. The proposed settlement creates several new possible obstacles to the prospect of open source competition, as described in Dan Kegel's letter. The loophole that security-related protocols do not have to be disclosed is particularly glaring.

This secrecy is a bad security practice—ask anyone at the National Institute of Standards and Technology who was involved the exemplary and open development of the Advanced Encryption Standard (AES or Rijndael) currently replacing the obsolete 1970's Data Encryption Standard (DES). In addition to being a bad security practice by a vendor whose monopoly position in the industry makes their security weaknesses a matter of national security interest, it is anticompetitive. Ask anyone on the team of the "Samba" project which tries to provide file sharing and printing services on Unix systems compatible with Microsoft file and print sharing about the difficulties which Microsoft's changes in unpublished security protocols have created.

* Deliberately dropping support for older software to force users to upgrade to newer software. For example, Microsoft is no longer providing security fixes for Internet Explorer 4.0, in the hope of forcing users onto later versions which are more incompatible with their competitors. This summer they will stop providing fixes for NT 4.0. My organization is still running IE 4.0 on NT 4.0, but we will be forced to upgrade this year by this tactic. Furthermore, Microsoft next ploy seems to be attempting to use the Digital Millenium Copyright Act, the antitrust settlement itself, and the California pricing case to extend its monopolies further and prevent competition from open source projects. Accordingly, I suggest that the proposed settlement be significant extended to include measures such as:

a) Microsoft has to publish all API's and file formats in their final form 6 months before any product using them is first sold.

b) All contract terms have to be published, and they may not sign exclusive contracts with one vendor whose terms are not available to other vendors.

c) depositions and settlement details from other antitrust cases may not be held secret, in order to allow collaboration between the various victims of their monopoly.

d) Microsoft cannot sue open source projects for infringement of patents or trade secrets. Copyright suits against open source projects would be limited to copying of code or documentation; they could not sue over API's nor programming languages.

e) intellectual property such as patents must be licensed on equal and generous terms to all commercial firms.

f) Microsoft may not sue anyone for violation of patents which affect Internet Standards adopted by the Internet Engineering Task Force (IETF).

g) Microsoft may not raise prices on previous products faster than rate of inflation, nor price new versions below old versions

h) Microsoft must provide security fixes for older versions of products for 7 years from the date of first retail sales.

i) under ongoing court supervision, violation of these terms is punished by fines of 1 million dollars per day per product until the violation is remedied.

I don't know if the antitrust laws permit it, but a fitting response to Microsofts abuse of monopoly power to crush competition and extort excess profits would be to impose a large fine, perhaps as high as 10 billion dollars, and then use it to finance open source projects under a BSD-style license. The results would be equally available for commercial or public use, or even by Microsoft itself. The public and government would benefit from the resulting freely available software, while commercial competitors of Microsoft who bid to provide it would benefit from the revenue, the base of code, and the experience of writing it.

Sincerely,
James E. Leinweber
Information Systems Specialist
Wisconsin State Laboratory of Hygiene
University of Wisconsin
465 Henry Mall
Madison WI 53706

MTC–00027666

From: Jack Reece
To: Microsoft ATR
Date: 1/28/02 9:03am
Subject: Microsoft Settlement

If there has ever been any doubt that AOL does not want a fair and expedient solution to it's legal challenge to Microsoft, then it's latest legal action should remove a "all" doubt. The irony of all their actions is that there has never been a ground swell of consumer complaints stating that the consumer has been hurt by Microsoft business practices.

It is obvious that AOL Time Warner is trying to use the courts for it's own competitive purposes. It is also time to challenge whether AOL is monopolistic in it's own business as the largest internet provider. If AOL should in fact buy the Linux operating system, I suppose we will see yet another challenge to Microsoft in the courts. For the sake of the technology industry, the nation's economy, and America's consumers, let's get these issues out of the courts and into the competetive marketplace where they should be.

Jack D. Reece
419 Chesterwoods Court
High Point, NC 27262
336–841–7810

MTC–00027667

From: Carl F. Brechler
To: Microsoft ATR
Date: 1/28/02 9:03am
Subject: Microsoft Settlement

As the Justice Department is in its final stages of deliberating on the proposed Microsoft settlement to decide whether to accept the settlement or to litigate it further. It is my position that the present proposed settlement be adopted since it offers a reasonable approach to the solution of the suit. It offers a compromise that will enhance the ability of all Americans to access the Internet and use innovative software products to make their computer experience easier and more enjoyable. Furthermore, it offers the potential of additional innovative products to enhance worker productivity.

Sincerely,
Carl F. Brechler
3025 Red Wing Court
Bettendorf, IA 52722

MTC–00027668

From: John Quirk
To: Microsoft ATR
Date: 1/28/02 9:03am
Subject: Microsoft case

Dear Dept. of Justice:I am most concerned about your decision to settle your pending suit with Microsoft. I strongly believe it will not resolve the problem and may actually create additional problems down the road. With the Enron debacle hanging over our collective heads, this quick fix appears to be another possible blunder on government's part. Do take some time to really think this thing through and get some input from different sectors of the economy.Quite simply put, I am saying no to the Microsoft settlement.

John Quirk
14 Waterview Drive
Saratoga Springs, NY 12866
Telephone 518/ 226–0427

MTC–00027669

From: Satoshi Yajima
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 5:11am
Subject: Microsoft Settlement

I'm glad to post the comment on Microsoft Settlement.

Thank you.

* Internet Explorer really needed for customers In early 1990s, Microsoft Windows 3.x have "File-manager", file-managing utilities, although some of third vendors produced alternatives of File-manager. Because file-managing utilities such as File-manager was essential part of operating systems; customers could not do anthing without it.

The same thing is true to IE, the Microsoft's browser. Now that the Internet is essential to our information society, operating systems couldn't work well without browsers. Microsoft has to develope browsers to make their operating system worth enough for customers

* Micorsoft have no intention to monopolize the market, I think. Now they are promoting ".NET Platform." This platform collaborates other platforms; they will not replace other platforms with their own operating system, Microsoft Windows. .NET Platform makes Microsoft Windows interconnect with other platforms throughout the Internet.

Microsoft should grow up the computer technology with being free from any legal unreasonable restriction.

* Large share of Windows is never a barrier to market's growth. Someone would say Microsoft Windows have large share of the Market and it causes other vendors to develope new operating systems. I would say, it is WRONG.

Developing operating system is, originally, difficult to develop and cost too much. Even though there were many operating systems used now, it would be difficult to develop new OS. Large share of Microsoft Windows have no relations with the fact that other vendors couldn't develop new operating systems. Regards.

Satoshi Yajima (s2-yajima@nri.co.jp)
Tokyo, Japan.

MTC–00027670

From: TMcAdman@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:09am
Subject: Microsoft Settlement

Please get on with the settlement process. There is no reason to prolong an investigation that has already been concluded.

Microsoft is experiencing the same downturn in fortunes as any other software company and will forever be subject to the likes and dislikes of the marketplace without regard to size of company and its market share.

Leave them alone!

Let those with new ideas and processes innovate and create...marketplace advantage is available to anyone offering something better than the competition. And the ultimate judge of something better...the marketplace.

Please, quickly and without fear, rule in favor of settlement.

Thomas L. McEnaney
Owner-Pres.
The Star Alliance
6285 Fieldstone Place
Reno, NV 89523–1204
775–787–0433

MTC–00027671

From: MACKERSIE, DAVID
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 9:11am
Subject: Microsoft Settlement

Please let the Microsoft settlement stand. I believe it is strongly in the public's best interest.

Microsoft is an important driver for lowering the cost of technology. As a user of Microsoft products for the past 20 years, I have noticed that the company has consistently lowered the cost of technology for every market that it has entered. Just as the industrial revolution lowered the cost of textiles by mass production and economies of scale, so too does Microsoft lower the cost of software by mass production and economies of scale. The complaints against Microsoft are like the complaints of artisans and craftsmen who have been forced out of work. We feel sympathetic for their loss, but we know that economies of scale serve society best.

Best Regards,
David Mackersie
Sr. Principal Software Engineer
PRI Automation

MTC–00027672

From: Ezra Berch
To: Microsoft ATR
Date: 1/28/02 9:11am
Subject: Microsoft Settlement

To Whom it May Concern:

As provided by the Tunney Act, I wish to comment on the proposed settlement of the United States vs. Microsoft antitrust case. I believe the settlement is not in the public interest and is harmful to consumers. It will allow Microsoft to continue to be an illegal monopoly.

A few years ago, another antitrust case by the government against Microsoft was settled by means of a consent degree. That consent degree did almost nothing. As a result of its ineffectiveness, the current antitrust case was filed. This previous case shows that stronger penalties are needed to curb Microsoft's illegal behavior. The penalties proposed by the Settlement are not even close to being strong enough.

One of the major penalties of the settlement is the limited disclosure of some Windows API's to competing companies. However, this provision, like other parts of the settlement, is full of loopholes. For example, Microsoft need not release this information to groups which do not meet certain criteria as a business (Section 3(J)(2)(c)). However, some of the biggest threats to Microsoft, such as the Linux operating system and the Apache web server, would not be covered by this. Furthermore, Section 3(J)(1) allows Microsoft to not disclose information for security reasons. This loophole allows Microsoft to not disclose some information simply by classifying it as part of a "anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication system."

Finally, there is no real enforcement mechanism included in the settlement. Any company hurt by a major violation of the settlement by Microsoft would have to sue Microsoft if the government does not agree with its claim. Many smaller companies have nowhere near enough resources to sue a big company such as Microsoft. In addition, in the years it takes for the lawsuit and its appeals to be resolved, much damage will already have been done. In summary, I am strongly opposed to the proposed settlement between the

United States and Microsoft.
Sincerely,
Ezra Berch
11713 Stonington Place
Silver Spring, MD 20902

MTC–00027673

From: Rep.Kreuser
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 9:14am
Subject: Microsoft Settlement
January 28, 2002
Ms. Renata Hesse
Trial Attorney
Department of Justice—Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to urge your approval of the settlement of the U.S. v. Microsoft case. Microsoft has been a leader in innovative technology and has provided tremendous benefits for consumers. Prompt settlement of this case is in the best interest of consumers, our schools, and of our economy.

Technology can be a very powerful teaching tool. To prepare today's students to be tomorrow's leaders we must take every step to ensure that the technology is available to every student. A settlement such as this could assist less fortunate school districts in obtaining the technology necessary for quality education. Over $30 million in taxpayer money has been spent on this case. It is now time to put this matter behind us and move forward.

Sincerely,
Jim Kreuser, Assistant Assembly Democratic Leader
State Representative
64th Assembly District

MTC–00027674

From: Jim Holron
To: Microsoft ATR
Date: 1/28/02 9:13am
Subject: Microsoft Settlement

The settlement allows Microsoft to strengthen the hardware barrier to entry. Specifically, in section III, paragraph A, section 1, the restriction applies only to middleware. This restriction should also apply to device drivers and applications.

It appears that Microsoft is currently working to keep hardware manufacturers (video card manufacturers, sound card manufacturers, etc) from supporting non-Microsoft operating systems. Unless the settlement is rewritten to stop this behavior, Microsoft will be able to strangle hardware support for non-Microsoft operating systems. Unless all APIs are made public, Microsoft will be able to deliberately sabotage non-Microsoft products. Since all application software depends on the operating system, Microsoft can implement two versions of an API, a secret one that works correctly, and a public one that contains bugs. Indeed, through six weeks of reverse engineering, my employer has found exactly this situation! All APIs should be published and made available to the public, including open source developers who can not abide by non-disclosure agreements or pay royalties (such as The GIMP, and the Apache web server, both of which run on top of Windows).

Microsoft's current monopoly position depends on a complex web of secret standards. By using proprietary, non-published standards, Microsoft traps its customers. All communication and storage standards should be published and freely available to the public. Anyone, including open source developers, should be able to develop products compatible with the De facto standard. Proprietary security standards endanger Internet security and hamper development of new technologies. The entire security community understands that unpublished standards are a security hole waiting to happen. The world's most rigorous security standards are published and scrutinized by security experts throughout the world. If a security hole exists, public scrutiny will discover it before a malicious intruder can exploit it.

If Microsoft security standards remain secret, malicious intruders will reverse engineer the code, find the security holes, and exploit them before Microsoft can discover and fix the holes. This reality has played out over the past several years as worms and virii plagued the Internet. Microsoft should not only publish all security standards, they should publish the standards a full year before deploying them, thus giving the public time to discover security holes before they can be exploited.

Microsoft recently proclaimed that they will focus on "trustworthy computing". In response to this notice, some of the world's leading computer security experts have outlined policies that Microsoft should take to improve security. One of those recommendations was to publish all security standards before deploying them. This settlement specifically allows Microsoft to flaunt that expert advice in an apparent misunderstanding of computer security.

Over the past several years, Microsoft has used its monopoly position to crush competing products. They essentially wiped out OS/2 and BeOS (both competing operating systems), Lotus Office Suite (still exists, but nobody wants it because it doesn't support Microsoft Office documents), and HP OpenMail (which threatened Microsoft's customer lock-in strategy).

To counter Microsoft monopolistic practices, the industry has responded by developing open source software. Open source software is developed by volunteers throughout the world. All of the source code is available to anybody who wants it. People may freely contribute to the code, and freely distribute the code. The open source community has become Microsoft's new prime target for destruction. Since open source software is not controlled by any one company, Microsoft can not buy it or drive it into bankruptcy.

In a leaked memo (which Microsoft admits to writing), Microsoft outlines their plans to attack the open source community. Their plan is to take existing open standards, make trivial modifications so that they are no longer compatible, and deploy those modified standards.

Furthermore, Microsoft plans to patent their changes so that no one can develop a compatible product. This settlement makes provisions for for-profit closed source companies to access Microsoft's proprietary standards, and to license the necessary patents to implement those standards. If this settlement goes forward, it will not only be difficult, but also illegal for open source developers to create software which can inter operate with the De facto standard. The open source community has made tremendous contributions to society. Their work is valued in the billions of dollars. Dozens of companies in the United States alone, base their business on developing open source software. This settlement will allow Microsoft to crush those companies, and hinder development of future open source projects.

Any adequate settlement will guarantee that any software, including open source software, will be able to inter operate with Microsoft software.

MTC-00027675

From: aprice@howmet.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:14am
Subject: Microsoft Antitrust Solution

I disagree with the proposed solution to Microsoft's antitrust case.

Allen R. PRice
219 S. Livingston
Whitehall, MI 49461

MTC-00027676

From: Harms, Marilyn
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 9:14am
Subject: Microsoft Settlement

I do not see how breaking up a company, that does great work, will help anyone. I believe good competition is the answer and that only makes the playing field level for all players.

I think if the company could make it's products more interchangeable with other computers, they would still come out the winners, but let the other companies attempt to compete on the same playing field.

We need more competition, not laws to limit peoples initiatives and work and excel in their particular field. How would we be where we are without this great incentive to be the best.

Marilyn Harms, B.S., PA-C
Clinical Coordinator
USDSM PA Studies Program
Vermillion, SD 57069
605–677–6568
Fax 605–677–6569

MTC-00027677

From: carolyn.davidson@wachovia.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:15am
Subject: Microsoft Settlement

Please see the attached as my views on this matter. I am involved in the commerce of the technology sector in the RTP. THank you for your attention.

(See attached file" USAGDavidson—Carolyn—1006—0121.doc)

Carolyn Davidson
January 22, 2002
46 Kimberly Drive, Durham, NC 27707
Attorney General John Ashcroft
The Department of Justice
Washington, DC 20530

Dear Mr. Ashcroft,

The purpose of this letter is to voice my support for the settlement that was reached between the Department of Justice and Microsoft. Since the beginning of this case, three years ago, the Department of Justice has spent an enormous amount of time and money pursuing the anti-trust dispute. While I certainly speculate the merits of this case, I was pleased to finally see the end of this dispute. I believe it is in the best interests of everyone involved that the matter be resolved. Given the current state of the economy, resolution of this case would naturally spur economic recovery in the technology markets, which is important here in the Research Triangle.

The terms of the agreement represent' compromise on the behalf of Microsoft. The stipulations of the settlement call for the licensing of Microsoft at a uniform rate to the largest twenty PC manufacturers. In addition to this, Microsoft is also willing to disclose the protocols of the Windows design system, allowing for the design of software that is increasingly compatible with Windows.

It is my opinion that the settlement should be enacted at the end of January. I certainly believe that the time has come for resolution. Resolution in this matter is altogether beneficial. Thank you for your time regarding this issue.

Sincerely,
Carolyn Davidson

MTC-00027678

From: Lisa Munsat
To: Microsoft ATR
Date: 1/28/02 9:15am
Subject: Microsoft Settlement
Ms. Renata B. Hesse
Antitrust Division
United States Dept. of Justice
Washington, DC

Dear Ms. Hesse,

I am very concerned about the proposed Microsoft settlement because I do not believe that it is in the public interest. We, the consumers, need competition and choice so that we can decide for ourselves what products we want on our computers, and we need to be able to combine non-Microsoft products with Microsoft products on our computers. Also, the current proposed settlement leaves too many loopholes for Microsoft to exempt itself from crucial provisions. Thirdly, the court must hold public proceedings under the Tunney Act so that citizens, consumer groups, customers, and Microsoft's competitors can equally participate.

Thank you for considering my comments and input.

Sincerely,
Elizabeth M. Munsat
1505 Lamont Court
Chapel Hill, NC 27517
(919) 929–7282

MTC-00027679

From: Chriss Winston
To: Microsoft ATR
Date: 1/28/02 9:15am
Subject: Microsoft Settlement

Dear General Ashcroft,

I am both a consumer of Microsoft products and a small stockholder. I have seen the money my husband and I set aside for our son's college education cut in half since the federal government, under the last Administration, undertook what I believe was a vendetta against a great company. Now, you have a chance to right a wrong. As a consumer, I am very happy with both the quality and price of Microsoft's products. I have seen no indications whatsoever of price gouging. To the contrary, over the years, Microsoft's products have become less expensive not more while offering the consumer increasingly improved technology. There has been no harm to the consumer period. As far as I'm concerned, the entire case should be thrown out, but at a minimum, you should settle it and let the tech sector recover from the near fatal attack by the Clinton administration. If anyone is to blame for the fall of tech stocks over the past 18 months, it is Al Gore and Bill Clinton, and the sorry mess began with their ill-advised, politically-motivated Microsoft anti-trust suit. Please right this wrong and settle with Microsoft.

Sincerely,
Chriss Winston
P.O. Box 129
Pomfret, MD 20675

MTC-00027680

From: Dan Tepper
To: Microsoft ATR
Date: 1/28/02 9:16am
Subject: Microsoft Settlement

Hi!

I just wanted to take a few moments to comment on the proposed settlement to the Microsoft Anti-Trust case. The proposed settlement is not sever enough, there is no real punishment for Microsoft included in the settlement, it does nothing to ensure that Microsoft does not continue to abuse their monopoly. Microsoft obviously feels the same way, as shown by their recent attempt to expand their monopoly into the education market (one of the few markets they do not have a monopoly in).

Please do not approve this settlement..

Thanks,
Dan Tepper
Concerned Citizen

MTC-00027681

From: charles—hohn@drsoptronics.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:17am
Subject: Microsoft Settlement

The actions of Microsoft Corporation and their agents demonstrate that they willingly and illegally leverage their influence to damage and even ruin competitors. This is bad not only for the consumer, but incredibly unfair to the people (and their families) that put forth an honest effort to bring something to the market place, believing that they would compete on a level playing field. Justice cannot be served to these individuals and companies. But to those who would place their efforts at risk in the future, they must believe that the fruits of their endeavors will not be wrestled away by a stronger entity.

In this society, we are dependent on the judicial process to punish such offenders, at least to the minimum degree, such that it is a real deterrent to like or repeat offenses.

It is my belief that the current settlement proposal cannot possibly accomplish this goal.

Sincerely,
Charles E. Hohn
Software Engineer
CC:charles—hohn@drsoptronics.com@inetgw

MTC-00027682

From: Tony Smolar
To: Microsoft ATR
Date: 1/28/02 9:17am
Subject: Microsoft Settlement

I am writing against the proposed settlement in the Microsoft case because I do not believe that it is strong enough. I believe that a strong an effective penalty is needed against Microsoft because their past behavior has shown that they will sidestep weak government action, and continue to use whatever tactics are necessary to maintain their current monopolies and pursue new ones

Thank You,
Tony Smolar

MTC-00027683

From: Steward, Ronald Ray (UIS Student)
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 9:19am
Subject: Microsoft Settlement

Renata B. Hesse

I am writing regarding the Microsoft Antitrust case. I am a graduate student in computer Science at the University of Illinois at Springfield. For many years I have watched the developments in the computer industry. I have been greatly disheartened

MTC-00027684

From: L. Charles Andersen, Sr.
To: Microsoft ATR
Date: 1/28/02 9:18am
Subject: Microsoft Settlement

To Whom It May Concern:

As a United States Citizen and tax-payer I want to make my opinion heard regarding the Microsoft Settlement. I believe the original lawsuit was politically motivated and clearly not in the interest of the American economy or anybody beyond Microsoft's competitors. The proposed settlement is reasonably fair and should move forward as quickly as possible. Delaying the settlement will only prolong the problems with the economy we are currently experiencing and hurt Microsoft and the IT industry even more.

Thank you,
L. Charles Andersen
Caledonia, Wisconsin 53108

MTC-00027685

From: Jacques Guenette
To: Microsoft ATR
Date: 1/28/02 9:17am
Subject: Settlement

To whomever it may concern :

Let's settle this and move on. We all have better things to do, and we can all benefit from Microsoft focusing on business, not legaleze. Jacques Gu• nette

President
DLGL LTD
Jacques (Jag) Gu• nette
jacques.guenette@dlgl.com
jguen99@aol.com
tel. 450–979–4646
fax 450–979–4650
cel. 514–942–1267

MTC-00027686

From: jnrkenad@utk.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 9:25am
Subject: Microsoft settlement
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to express my support for the settlement that was reached in early November in the Microsoft antitrust dispute. It is my opinion that this suit has only wasted America's time and money since its inception three years ago. Any further litigation needs to be halted and this settlement accepted as a fair conclusion to a frivolous suit. The American economy has gone into decline; I believe that the stock market crash we experienced two years ago was in part a direct result of this suit. We will not see the end of this current recession until Microsoft and American business in general can operate without the interference of the government.

A politically biased White House I believe, instituted this suit. It was a significant factor in my voting Republican in the last election. I agree with this settlement only because it puts a stop to this frivolous litigation, in a perfect world this suit would be dismissed. Thank you for your time and for the effort that you and your colleagues have put into seeing this suit come to an end. It has cost American citizens millions of lost dollars in personal and retirement savings due to the damage to Microsoft share prices.

Sincerely,

John Kennedy
520 Charleen Lane
Knoxville, TN 37920

MTC-00027687

From: ParisiHC
To: Microsoft ATR
Date: 1/28/02 9:26am
Subject: Microsoft Settlement
** Confidential **
W204 N9187 Lannon Road
Menomonee Falls, WI 53051
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

I am writing to express my opinion regarding the legal dispute between Microsoft and the Department of Justice. I feel that the settlement reached between the two is fair, and this matter should end quickly. The agreement is fair because it requires significant changes in Microsoft's future business dealings. To give you one example, Microsoft consented to license its Windows products to large computer makers at the same rate and on equivalent terms and conditions.

In summary, the Microsoft case has reached a fair settlement. Future government intervention will only hamper business as a whole. Please conclude this case, and allow Microsoft to develop now so that it can improve the nation's economy.

Sincerely,
Henry C. Parisi
Henry Parisi
cc: Representative F. James Sensenbrenner, Jr.
HC Parisi
W204 N9187 Lannon Road
Menomonee Falls, Wisconsin 53051
Home: 262 251-1539
Mobil: 414 416-2107
e-mail: hparisi@wi.rr.com

MTC-00027688

From: Vincent Caputo
To: Microsoft ATR
Date: 1/28/02 9:26am
Subject: Microsoft Settlement
2801 Deer Street
Mohegan Lake, NY 10547
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This is to give my approval to the agreement reached between Microsoft and the Department of Justice. This was reached after three long years of litigation, costing both parties enormous amounts of money. It is time to end this debate and move forward. Microsoft has also evidently been chastened and has agreed to any number of demands from the Department of Justice. There will be a technical committee to monitor future adherence; Microsoft has agreed to allow computer makers to ship non-Microsoft product to customers; Microsoft has agreed to design future versions of Windows providing a mechanism to make it easier to promote non-Microsoft software; Microsoft would help companies better achieve a greater degree of reliability with regard to their networking software. Microsoft has done a great deal to pay for any "sins" it may have made.

Please give your support to this agreement. It is time to move on. We have more important things to worry about.

Sincerely,
Vincent Caputo

MTC-00027689

From: wendt@research.buffalo.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 9:27am
Subject: Microsoft Settlement

My opinion is that all of Microsoft (MS) competitors are out to increase their market share of comparable products. Whetehr their product is superior or infurior. Those states most likely have financial(in the form of hometown jobs or other state benefits) or re-election agenda's or both.

CC:wendt@research.buffalo.edu@inetgw

MTC-00027690

From: Anna Quirk
To: Microsoft ATR
Date: 1/28/02 9:27am
Subject: Microsoft Settlement

I think it's disgraceful that Microsoft should settle out of this case with such little consequence for their business practices. I thought this was an anti-trust case. How does this settlement settle the issue of anti-trust? I find it completely unacceptable.

Anna Quirk
Hinesburg, VT

MTC-00027691

From: Gerald McClain
To: Microsoft ATR
Date: 1/28/02 9:29am
Subject: Microsoft Settlement

Gentlemen:

Enough is enough!!!!! Let's get on with starting our economic engine again. Microsoft products have made our workplace a better work place. We need the inventive create ideas that drive a great economy. The savings in our factories and business offices has been tremendous!! Wake up, don't kill our economy again. While the terms of the settlement are tough, I believe they are reasonable and fair to all parties, and meet—or go beyond — the ruling by the Court of Appeals, and represent the best opportunity for Microsoft and the industry to move forward.

Please give us in industry a break and let our economy get going again. I teach teachers, professors, and trainers from industry and government how to train at a distance using two way video, web based instruction and virtual courseware. We have gone so far, yet have so far to go to achieve the dreams of students and facility to distance learning. We need the creative talent of Microsoft working at the forefront driving our economic engine.

Please give us a break and settle the Microsoft suites.

Gerald R. McClain
Vice President Internet and Multimedia
Teletraining Institute
1524 W. Admiral
Stillwater, Oklahoma 74074
Telephone: 405-743-3463
Email: <mailto:gerald@teletrain.com> gerald@teletrain.com
URL: <http://www.teletrain.com/> http://www.teletrain.com Retired Professor and head of Mechanical Design and Manufacturing Engineering Technology, Oklahoma State University

MTC-00027692

From: Mark Hofmann
To: Microsoft ATR
Date: 1/28/02 9:30am
Subject: Microsoft Settlement

To Whom It May Concern:

I am opposed to the current settlement that has been placed on Microsoft. I feel that the judgment does not go far enough to address the issues that the investigation of Microsoft has uncovered. While there are some parts of the settlement that will keep Microsoft from committing these same illegal acts in the future, there has been nothing put into this settlement that ?rights the wrongs? of the past. We do not allow criminals in this country to get away with murder if they say they will not do it again.

Microsoft should not have this privilege, either. This is also not a guarantee of the future, either. Consider the 1995 consent decree levied on Microsoft. They paid almost no heed to the courts then, and if the past is any indication of the future, then it is likely that Microsoft will not fully comply with this settlement, either. There needs to be just punishment and enforcement.

I thank you for all of the hard work that you do for the good of the country and appreciate your hard work.

Sincerely,
Mark Hofmann
22 Green Woods Lane
Unionville, CT 06085

MTC-00027693

From: Jim Kull
To: Microsoft ATR
Date: 1/28/02 9:33am
Subject: Microsoft Settlement

Please do something about Microsoft. They have nearly eliminated all competition. They stole windows from Apple and are currently destroying Netscape. Please help.

Thanks,
Jim

MTC-00027694

From: Lin Tuschong
To: Microsoft ATR
Date: 1/28/02 9:31am
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW Suite 1200 Washington, DC 20530-0001 Madam, I am writing about the current Microsoft suit upon which decisions are about to be made. Current proposed settlement issues will allow Microsoft to continue to extend its monopoly, and, potentially to gain a major stake in the control of the internet. It will also provide the company with opportunities to set aside crucial provisions of the settlement. The settlement will not allow consumers to run paid-for Microsoft

applications on other operating systems. If a customer purchases a product, it should be their decision upon which operating system it will run.

Consumers who are spending their hard-earned cash have a right to choose what products they wish to install on their computer systems, rather than having Microsoft make their decisions. This has the potential to continue to injure other players in the computer field, many of whom offer good quality product that currently has difficulty competing with Microsoft. In the spirit of free enterprise, and to uphold the standards against monopolies, the settlement issue need to be reconsidered and other choices must be made.

Thank you for your time.

Lin Tuschong
6821 NW 30th Ave.
Fort Lauderdale, FL 33309
954–975–2703

MTC-00027695

From: Gary L. Breeden
To: Microsoft ATR
Date: 1/28/02 9:37am
Subject: Microsoft Settlement

Dear Sirs, I would like to voice my opinion regarding the case the Justice Department is involved with regarding Microsoft Corporation. Herein my comments: Unfortunately DOJ and US Courts actions against Microsoft appear to be driven more by Competitors than CONSUMERS! I have over twenty five years of experience in computer and information systems development for both fortune 1 companies and small businesses and have "grown up" with almost every type of computer system imaginable.

I have seen everything form the "big blue hand of IBM" as it strangled creativity with its structured products to the free handed "scare tactics" of the UNIX crowd (e.g., SUN, Corel, AOL/Time Warner, AT&T (a hideous monopolist even today)) who shout wondrous promises of "open systems" that to this day are so closed that very few applications run consistently between/among the myriad of UNIX and LINUX variants. For the most part, the UNIX/LINUX crowd is still playing the same old games ... point fingers and shouts negatives about anyone in their gang who proposes a standard that is not in tune with their individual biases. As a result, the world has a UNIX/LINUX platform that is so fragmented that the proponents aren't quite certain how to "pull it together". And they are not listening to CONSUMERS as we vote by buying the products we want! MICROSOFT! Creative, interactive, integrated products that work as expected when needed without a gaggle of technocrats to keep it running.

Let's give credit to a great AMERICAN effort ..... Bill Gates and Microsoft .... they pulled together products that are overwhelmingly major customer successes. They created innovative products that deliver innovative solutions to day-to-day business as well as household solutions! WE AS CONSUMERS KEEP BUYING THEM BECAUSE WE WANT THEM! DOJ apparently believes American Consumers are not intelligent enough to make rational decisions. What happened to "majority opinion"? If we don't believe a product adds value to our wealth and lives, we WILL NOT BUY IT! Let the market do its thing! Keep government out of the free market. If Microsoft's competitors create better products, American Consumers will buy them. Microsoft has brought consistency through innovation and creativity to an industry that historically has been overwhelmingly structured and pragmatic at the expense of the every day consumer. I remember when IBM's operating systems for PCs cost over $500 dollars! Sun Microsystems OS's cost into the thousands of dollars to run their microcomputers. American Consumer's are getting a feature laden, innovative products (Windows OS & Windows Office) at unbelievably low prices. Microsoft has in total brought computing machines into consumer's homes at prices that are affordable! IBM, SUN, etc. would be thriving if they modeled their product offerings after Microsoft (creative and innovative consumer oriented/driven). Microsoft listens

.....If their competitors did, they would enjoy the spoils of success The campaign being waged by the trustbusters lawyers at DOJ and our Courts opens the door to a multitude of private lawsuits This litigation could end up looking a lot like the tobacco industry, with a lot of lawyer time (and FEES) and a big legal process for Microsoft and the computer industry to manage. Almost before the ink was dry on the judge's "finding of fact" lawyers began generating fees by filing class-action suits against Microsoft. Nearly 290 cases are currently pending in 32 states and the District of Columbia. The Justice Department thus spent 40 million+ dollars in TAXPAYER FUNDS to prosecute a case that wiped out at least $80 billion in privately owned assets of TAXPAYERS and could ultimately obliterate much more. In spite of the warning signs, former Netscape CEO Jim Barksdale (a Microsoft Competitor) continues to peddle the notion that a government-ordered break-up of Microsoft "is the simplest solution."

In reality, the simplest solution is to let the free market work rather than allow government lawyers apply nineteenth-century statutes to the twenty-first century economy. Lawyers making money for lawyers .... what a conflict of interest! All credible studies I've read regarding consumer opinions regarding DOJ vs. Microsoft have OVERWHELMINGLY been in favor for letting the free market work and keeping the government (especially the DOJ with its 19th century mentality) out of it. Listen to the consumers and not competitors! American Consumers are taxpayers! Give us a break! Clearly these cases are motivated by special interests and not consumer opinion! The DOJ experts for the most part are Microsoft competitors whose products have not competed based on quality, interoperability, and usefulness with Microsoft's products. Apparently they collectively "hired" the DOJ to do their dirty work for them! America was built on the concept of free market and competition with very limited government intrusion. America's innovation and creativity has been a bi-product of this approach. Now we reward companies (e.g., Microsoft) who have been creative and innovative by permitting their competitors via the DOJ to blast this great American approach.

Get real DOJ .... join the twentieth century! Listen to the consumer! We vote with our buying dollars! The DO J, US Courts, and our government must come to grips with the fact that successful American businesses should not be subject to the political whims of anti-capitalist apparatchiks, greedy lawyers, and publicity-hungry politicians who have little understanding of the high-tech economy. Bill Gates created a company worth half-a-trillion dollars, a company now co-owned by tens of millions of Americans (TAXPAYERS!). He created wealth. The would-be regulators can only destroy wealth. In the case of Microsoft, so far they have wiped out at least $80 billion (and the number is growing). Destroying wealth is not creating wealth. Even Microsoft competitors that "stand to benefit" from the case, including Sun Microsystems, AOL (which owns Netscape), IBM, and RealNetworks all experienced significant declines in share prices as a result of their actions in this regard.

I guess the competitors who sponsored this DOJ trustbuster event are reapin9 their rewards now. If they can compete with products of equal or better quality with Microsoft, consumers will buy their products! That's what free markets ensure. Drop the ego trip DOJ and get out of the case and let the free market work! We are not a socialistic economy!

The money DOJ has spent on this case could have been better spent fighting the real monopolist .... oil companies, mass media, medical companies (doctors, drug companies, providers), auto companies, insurance companies, utilities (especially the government ones like TVA), and the idiotic, egotistical government agencies that refuse to move into the 20th century and act normal. What's next, will the DOJ storm the offices of Microsoft armed with semi-automatic arms and carry away Bill Gates and hold him in some government facility or compound (AT TAXPAYERS EXPENSE) until the DOJ completes stroking its ego?

LISTEN TO THE CONSUMERS DOJ! WE AREN'T AS STUPID AS YOU IMPLY WE ARE.

IF WE DON'T LIKE A PRODUCT, WE WILL STOP BUYING IT IRRESPECTIVE OF THE MARKETING AGREEMENTS MANUFACTURERS AND VENDORS MIGHT HAVE.

AMERICAN CONSUMERS ARE NOT DUMB! WE DON'T NEED HAND HOLDING; WE ARE MATURE ENOUGH TO MAKE COMPETENT DECISIONS!

Apparently the DOJ needs to observe and learn from AMERICAN CONSUMERS ! I do NOT feel that consumers have been harmed by Microsoft; in fact, I firmly believe the economy, consumers, government, and taxpayers owe Microsoft and Bill Gates a warm hearted "Thank you" for the American wealth they created.

Microsoft's products are very consumer oriented and deliver functionality that consumers are and have demanded. Admit it DOJ. You made a mistake. Or are you free to admit it?

Gary Breeden
glbreeden@isabiz.com
http://www.isabiz.com
865–719–3561

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MTC–00027696

From: Damon Merrill Cann
To: Microsoft ATR
Date: 1/28/02 9:38am
Subject: Microsoft Settlement

I am a Ph.D. student in Political Science at the State University of New York at Stony Brook. I object to the proposed settlement. Microsoft has become too large to provide any of its services well. Their practice of bundling software products deceptively traps the average consumer into using inferior products. It prevents competitors from entering the market. Reducing barriers to entry is critical to a competitive economy.

I further object to the practice of creating intentional incompatibilities in Microsoft products that prevent them from running on other operating systems. The proposed settlement would not remedy this problem.

As a catch all, I agree with the criticisms leveled at the porposed settlement which are published on-line at http://www.kegel.com/remedy/letter.html Please reconsider the settlement.

Sincerely,
Damon Cann
Ph.D. Student
SUNY at Stony Brook
37 Soundview Dr.
Port Jefferson, NY 11777

MTC–00027697

From: Strawn, Natalie M.
To: Microsoft ATR
Date: 1/28/02 9:38am
Subject: Microsoft Settlement

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 120
Washington, DC 20530–0001

Dear Ms. Hesse: I am writing in full support of the proposed settlement agreement with Microsoft that would provide technology funds, computers, and software in low-income communities.

As a future educator, I know that the state of Wisconsin would benefit from the technology funds.

Technology enhances what is taught in the classroom and students take away not only knowledge of the content area, but it also allows the students to become technology savvy. Being technology literate is not a privilege, but a need in today's world. Due to the lack of funding in school districts in the state of Wisconsin, some schools aren't getting the same advantages as other schools. With the proposed settlement, students would get the technology they so greatly need.

The proposed Microsoft settlement is a great opportunity for the schools, teachers, and students of Wisconsin. The settlement would help us make sure that no student, in the area of technology, is left behind.

Thank you.
Sincerely,
Natalie Strawn
UW- Eau Claire Student
321 4th Avenue
Eau Claire, WI 54703

MTC–00027698

From: Ken Seikel
To: microsoft.atr(a)usdoj.gov
Date: 1/28/02 9:33am
Subject: Microsoft Settlement

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530–0001
Microsoft Settlement

I am a U. S. citizen with 28 years experience developing software for computers. I wish to express my concern that the proposed settlement agreement is inadequate remedy, in light of the considerable public harm.

A pattern of Microsoft behavior is evident, (including the disregard for the 1995 consent decree), suggesting that unless an effective remedy is enacted at this time, the public will continue to suffer from the lack of competition and we will again be searching for remedy in some future litigation of an even more complicated nature.

The proposed settlement will be an ineffective remedy. It appears likely to provide a roadmap for future behavior which would exploit the loopholes, further harming the public. In effect, it grants Microsoft rights which would not otherwise exist. By allowing Microsoft the power to define the terms, it may actually foster anticompetitive behavior. By focusing on commercial competition, it ignores or even hinders open source software, one of the most viable alternatives to Microsoft software. I believe that an effective remedy must educate and inform the public, promote competition and prevent further abuse of monopoly power. The following comments may be helpful in achieving that result.

Restrictive licensing terms prevent public disclosure of Microsoft product performance characteristics. Even freedom of speech is under attack from Microsoft. Provisions in the license for their web site creation tool prohibit anti-Microsoft statements. Microsoft must make public service announcements, acknowledging their violations of antitrust law, and the harm caused to the public. Complete disclosure is required. They recently attempted to hide information from the public by barring the media and the public from upcoming depositions Additionally, Microsoft did not fully disclose congressional lobbying or contact with members of the current administration as is required by the Tunney Act.

Federal regulations have provided for educational information to the public in many product areas. Product labeling provides food product ingredients, automobile fuel efficiency, appliance energy consumption, tobacco and alcohol health considerations. Imposition of labeling requirements for PCs will similarly benefit the public.

When the IBM PC was introduced in 1981, operating system software was not bundled into the system price. IBM offered several operating systems for the PC. The public chose the lower cost solution, which was IBM's version of Microsoft DOS. The public deserves choice today, but it is effectively denied by the bundling policies of the Microsoft OEMs.

For any computer system offered with Microsoft software, OEMs must make that same system as readily available without the Microsoft software. The price difference must reflect the actual costs associated with providing the Microsoft software, support and warrantee services. A refund based model is not adequate. The costs must be fully disclosed on the product labeling and Microsoft must not financially benefit from the sale of a system without Microsoft software.

Uniform pricing for Microsoft products should be via a single, published, public volume discount schedule. Pricing must not be influenced by any other consideration. The software resulting from Microsoft's claimed "freedom to innovate" should be offered as separate products, not bundled into Windows. "Freedom to innovate" should not imply "freedom to integrate".

Microsoft must be prevented from practicing their "Embrace, Extend, Extinguish" tactics to wrest control of standards to their benefit. Their dot.net plans are an attempt to extend the monopoly to the internet itself. Microsoft must be prevented from using their current monopoly power to extend it into new areas. New versions of Microsoft products as well as new Microsoft products must, as the installation default, compatibly interoperate with prior versions of Microsoft products and other non-Microsoft software programs. Thank you for your consideration.

Sincerely,
Kenneth W. Seikel
1226 Eastwood Circle S. E.
North Canton, OH 44720
Take care... Ken Seikel kseikel@neo.rr.com

MTC–00027699

From: Robert Browner
To: Microsoft ATR
Date: 1/28/02 9:39am

To Whom It May Concern: I have followed this litigation since it inseption. I belelive it was politically inspired and used as an escape from other problems. I also believe that if it went to the Supreme Court it would be ruled in favor of Microsoft. However, under the current situation both Microsoft, the government, and the several states agreed upon this settlement. I belelive it should be accepted as is and let all parties go on with more important and revelant business.

Robert Browner

MTC–00027700

From: Eric Wadsworth
To: Microsoft ATR

Date: 1/28/02 9:41am
Subject: USAGWadsworth—Eric—1004—0126.doc

5005 Timber Edge Drive
Richfield, OH 44286
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am glad that the Tunney Act allows me to participate in some small way in showing my support for Microsoft in the settlement of the antitrust case. Microsoft has been a strong source of support for American prosperity of quite some time now. With the legal wrangles of this court action behind it,

Microsoft should be able, I hope, to return to its business of providing innovations to increase efficiency for business and around the world.

The settlement is, like all settlements ever, a compromise. In my opinion, Microsoft graciously conceded the most. All it got was to have the court action end with it still in one piece. In exchange, it conceded to give up its United State Constitutional protected copyright and patent interests. For example, Microsoft is documenting and disclosing to the other companies who make software the digital code to the various internal interfaces of its Windows operating system programs. Microsoft is in good company with great, bold, innovative technology companies like IBM and AT&T in being sued for antitrust.

Thank you so much for having enough sense to work to end this mess with a settlement that is worth agreeing on. I appreciate your leadership.

Sincerely,
Eric Wadsworth

MTC-00027701

From: Hohn, Charles
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 9:41am
Subject: Microsoft Settlement

The actions of Microsoft Corporation and their agents demonstrate that they willingly and illegally leverage their influence to damage and even ruin competitors. This is bad not only for the consumer, but incredibly unfair to the people (and their families) that put forth an honest effort to bring something to the market place, believing that they would compete on a level playing field. Justice cannot be served to these individuals and companies. But to those who would place their efforts at risk in the future, they must believe that the fruits of their endeavors will not be wrestled away by a stronger entity.

In this society, we are dependent on the judicial process to punish such offenders, at least to the minimum degree, such that it is a real deterrent to like or repeat offenses.

It is my belief that the current settlement proposal cannot possibly accomplish this goal.

Sincerely,
Charles E. Hohn
Software Engineer
CC:Beattie, Chris,Wheaton, Ken,Antle, Deborah

MTC-00027702

From: Duff, Michael
To: Microsoft ATR
Date: 1/28/02 9:43am
Subject: Microsoft Settlement

I believe this settlement is a BAD idea and very bad for the computing economy.

Microsoft shouldn't be destroyed by punishment, but should also not be able to buy their way out of this.

Michael P. Duff, Jr. <michael.duff@divine.com>
Director, divine Advanced Web Technology (Chicago)
Work 312–601–3048 Cell 630–408–7538
http//www.divine.com http//duff.dnsalias.com

MTC-00027703

From: Bagby, Jon W. (091)C(093)
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 9:45am
Subject: Microsoft Settlement

Your Honor

Fact 1: Microsoft Corporation has broken no laws.

Fact 2: This frivolous lawsuit should never have been entertained by any court.

Fact 3: I resent the government's belief that it has to force it's "protection" on me when I neither want nor need it.

Toss this litigation out into the street where it belongs.

Stop punishing businesses and individuals for their hard work and success. Stop allowing (empowering?) failed businesses to set the rules for the markets in which they couldn't compete in the first place.

Thank you.
Jon W. Bagby
IT Professional
CC:'activism(a)moraldefense.com"

MTC-00027704

From: Raymond Peeples
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 9:46am
Subject: Microsoft Settlement

Sirs,

I am in favor of the settlement and urge it's adoption! Thank you!

Raymond C. Peeples Jr.
Service Repair Coordinator
Stanley Elevator Co., Inc

"The time when you need to do something is when no one else is willing to do it, when people are saying it can't be done." Mary Frances Berry

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MTC-00027705

From: mdstoffel@mmm.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:46am
Subject: Microsoft Settlement

End the lawsuits and let the market determine the best solution. AOL has nothing to complain about when it comes to unfair practices and monopolies.

Mick Stoffel
651–733–7932

MTC-00027706

From: Nicolas Ouedraogo
To: Microsoft ATR
Date: 1/28/02 9:41am
Subject: Microsoft Settlement

As a computer professional working and interacting with Microsoft products for the past 10 years, I have numerous first-hand experiences of the ill-effects of Microsoft's abuses of monopoly powers and predatory business practices on my daily work. Although living and working abroad, these abuses and practices have and still are affecting me personally and professionally, which shows how far-reaching the ill-effects can be.

After closely watching this case, including relevant documents of the trial and numerous commentaries in the press, I believe that the proposed settlement will not achieve its goals and, as an american citizen, I feel compelled to express my concerns about it. Microsoft's past and present behaviours have already been described at length during the trial, but the ones which have affected me the most can be summed up as:

(A) illegally restricting competition in the OS market

(B) illegally using its monopoly position in the OS market to enter other markets or restrict competition in other markets

However, the proposed settlement fails to correctly address those two points, and does so in various ways, notably:

- Microsoft's past behaviours have showed how clever it can be in finding and exploiting loopholes in its agreements—the DOJ has a first-hand experience of this (cf. the 1995 consent decree with Microsoft). The proposed settlement is too vaguely worded in this respect, so careful attention should be given to the various means (and their wording) needed to acheive these goals.
- Also of the highest importance, specific means should be provided to guarantee that open source and free software can develop unharmed by Microsoft's actions. By Microsoft's own admission, free software (and particularly the Linux OS) is its biggest competitor, but strangely the proposed settlement's wording of Microsoft's behavioural remedies specifically includes only commercial software developers—thus leaving free software developers, most of whom are individuals or not-for-profit entities, with no rights at all, as though they don't even exist.

Even worse, Section III(J)(2) contains some very strong language against not-for-profits. Specifically, the language says that Microsoft need not describe nor license API, Documentation, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business: "...(c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, ..."

The same goes for Section III(D), which deals with disclosure of information regarding the APIs for incorporating non-Microsoft "middleware", and which gives some rights to commercial concerns only. This is particularly unfair, because Microsoft's harms have and still are affecting not only businesses, but also the public at large, including individuals and not-for-profit organizations.

So, in my view, any settlement should include, as a bare minimum, the following requirements:

(A) To restore competition on the OS market, the proposed settlement should:

1. Require Microsoft to:

—publish OEM prices for licenses to all version of Windows and its successors.

—offer different prices for the same product based only on quantity bought. The complete pricelist must be made public and access to the different prices cannot be tied to factors other than quantity.

—publish the conditions under which it gives access to the source code of any of its OS, and provide such accesses in a non-discriminatory way These mesures would provide a mean for consumers to make informed choices when selecting computer platforms to buy, prevent Microsoft from illegally using OEMs to raise the barrier to entry in the OS market, and prevent Microsoft from threatening ISVs to deny them access to the source code of its OS.

2. Prevent Microsoft from:

—refusing to sell licenses of its OS to anyone

—entering in a bundling agreement or contract which includes a Microsoft OS, with OEMs or resellers

—using a software-related patent to block or hinder the development and public offering (free of charge or for a cost) of a software competing with Microsoft's products. Microsoft should be required to license, free of charge and in a non-discriminatory way, any software-related patent it owns to any software developer, provided the software using the patent will also be publicly available free of charge. Commercial software using Microsoft-owned patents can be required to license these patents for a reassonnable cost, provided that that cost is published by Microsoft and equally applied in a non-discriminatory way to all commercial vendors.

—publicly offering (free of charge or for a cost) any hardware device driver without also publicly offering, free of charge, its source code.

—certifying any hardware as working with Microsoft software, unless the hardware's complete specifications are publicly available free of charge.

These five measures combined would remove a big part of the barrier to entry illegally placed by Microsoft on competing products in the OS market, and prevent future actions by Microsoft to restrict competition, including those from open-source and free software products.

This would also prevent Microsoft from using hardware devices as a mean to maintain its monopoly position:

- by ensuring that any hardware supported natively by a Microsoft OS can also be supported by any other OS (including open source and free software operating systems like Linux)

- by ensuring that Microsoft cannot use its "seal of approval" to reinforce its monopoly position by helping hardware manufacturers in marketing products for which the specifications are not publicly available.

(B) To prevent Microsoft from using its OS monopoly as a way of achieving another monopoly position in another market, the proposed settlement should require Microsoft to:

—publish, free of charge and without any non-disclosure requirement, complete documentation of all interfaces between software components, all communications protocols, and all file formats used in any software publicly offered (free of charge or for a cost) by Microsoft for the past three years, and those publicly offered (free of charge or for a cost) by Microsoft for the next ten years. These documentations for software publicly offered (free of charge or for a cost) by Microsoft for the past three years must be publicly available at most one year after the date the settlement is in effect.

—publicly provide answers, free of charge and in a reasonable time, to all questions raised by anyone regarding any aspect of an interface (as distinguished from implementation techniques) that the published documentation fails to address, and do so for the next ten years.

—make available in a convenient way, the ability to remove any software component that is part of a Microsoft OS (such as Internet Explorer, Windows Media Player, etc..) and replace it with a competing software component.

These three mesures combined would ensure that complete interoperability with Microsoft present and future products becomes possible, thus guaranteeing that fair competition can exist in all software markets in which Microsoft is present. They also address some of the past harms done by Microsoft by requiring it to use some of its ill-gotten gains to provide the public with some means to interoperate with some of its past, still widely in-use software.

I sincerely hope that my concerns about the proposed settlement will be correctly be addressed, and I will watch very closely the outcome the case.

Regards,
Nicolas Ouedraogo
C.T.O.
Juillerat-Grin S.A
17, rue de la Fontenette
1227 Carouge
Switzerland
tel. : +41 (22) 827–3030
fax: +41 (22) 827–3033
email: nicolas@jgsa.ch

MTC–00027707

From: Clayton Carter
To: Microsoft ATR
Date: 1/28/02 9:46am
Subject: Comments Regarding Microsoft Settlement

I am convinced that the punitive measures laid out by the proposed Microsoft settlement are wholely inadequate and mostly ludicrous. I'm speaking mainly of the supposed $1 billion that will be invested in poor schools, but I'm also convinced that bulk of the rest of the settlement is little more than a slap on the wrist. In regards to the $1 billion to be invested in the public school system, I can't help but be flabergasted. While not myself a huge fan of Apple computers, I whole hearted agree with the comments that Steve Jobs made about the settlement. I believe that the most relevant of his points was that pouring money and computers loaded with Microsoft software into the school system would do nothing more than train entire generations of students to be future Microsoft customers, further guaranteeing Microsoft's stranglehold on the personal computing industry.

Few would doubt that computers will play a larg part in our future. In light of this, you have the chance to affect (and benefit) our future profoundly by putting Microsoft in its place and removing from their hands the power that they currently hold over the computing industry.

I trust that you will act in the best interest of the American people.

Thank you.
Clayton Carter
Information Technology Specialist
Harvard/Smithsonian Center for Astrophysics

MTC–00027708

From: Fraser Smithson
To: Microsoft ATR
Date: 1/28/02 9:47am
Subject: Microsoft Settlement

Please enter my letter attached in comment for Microsoft Settlement Public comment.

Fraser Smithson
Fraser D. Smithson
2390 Tarpon Road
Naples, FL 34102
941–793–5155
fraserS62@yahoo.com
January 31, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I believe the antitrust case against Microsoft should never have been brought.

However, as it was actually brought three years ago, I believe that the settlement agreement is the best think for Microsoft, and for America. Continuing this wasteful litigation will not benefit any one.

The settlement was not reached in haste. All parties had a chance to bring up their concerns and grievances and issues during three months of negotiations with the mediator appointed by the new federal judge on the case. Microsoft gets to stay intact. The companies behind the government antitrust action get Microsoft to abandon many of its legal rights. Copyrights and patents of intellectual property rights were protected by America's Founding Fathers in the United States Constitution over two hundred years ago. Microsoft has taken a strong stance to protect its intellectual property. After all, intellectual property, the collected, written down in software code, and tested mental power of its employees is practically the whole business worth of the software industry. I know that Bill Gates and his co-workers at Microsoft have faced difficult challenges in the past, since they were founded a little over twenty years ago. Under the settlement, Microsoft will be helping the entire computer industry, including the many leading companies that are American. That should be seen as in the best American interest.

Thank you for your support of the Microsoft antitrust settlement.

Sincerely,
Fraser Smithson

MTC-00027709

From: Marty Altman
To: Microsoft ATR
Date: 1/28/02 9:49am
Subject: Microsoft Settlement
CC: Marty Altman
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Sirs,

Pursuant to the Tunney Act, I would very much like to add my voice to the objections over the proposed Microsoft Settlement. I won't belabor the details here, as folks like Dan Kegel (http://www.kegel.com/remedy/remedy2.html) have done an outstanding job with these points. I strongly support his "Open Letter to DOJ Re: Microsoft Settlement" (http://www.kegel.com/remedy/letter.html).

I believe the Proposed Final Judgement is critically flawed in several ways. Perhaps the most objectionable to me is that it doesn't require any fundamental shift in monopolistic attitudes or practices in order for Microsoft to successfully litigate their way to "compliance".

Quoting from Dan Kegel's introduction:

The Court of Appeals affirmed that Microsoft has a monopoly on Intel-compatible PC operating systems, and that the company's market position is protected by a substantial barrier to entry (p. 15). Furthermore, the Court of Appeals affirmed that Microsoft is liable under Sherman Act ?2 for illegally maintaining its monopoly by imposing licensing restrictions on OEMs, IAPs (Internet Access Providers), ISVs (Independent Software Vendors), and Apple Computer, by requiring ISVs to switch to Microsoft's JVM (Java Virtual Machine), by deceiving Java developers, and by forcing Intel to drop support for cross-platform Java tools. Clearly Microsoft has exercised monopolistic practices, and the Proposed Final Judgement provides little real relief for the software development, vendor, or end user communities. If nothing else, the definitions for key terms in the settlement are sufficiently narrow to allow Microsoft to employ a long standing tactic of litigating their way to what they feel is a successful end.

Perhaps more subtle there don't seem to be any provisions in the settlement designed to alter, let alone provide substantive punishment for, Microsoft's history and culture of predatory attitudes. Deeply held attitudes will not change themselves- they require a catalyst. In my view, the Proposed Final Judgement has no sting.

Quoting again from Dan Kegel's introduction:

According to the Court of Appeals ruling, "a remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct", to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future" (section V.D., p. 99).

I respectfully disagree with Attorney General Ashcroft's assessment that the Proposed Final Judgement would, "end Microsoft's unlawful conduct." In my view, the final judgement should include three principal aspects:

- enough procedural remedy to affect a significant shift in Microsoft's monopolistic business practices,
- enough sting to affect a significant shift in Microsoft's predatory business attitudes, and
- enough compliance machinery to assure both these shifts take place.

I agree with the conclusions stated elsewhere that the Proposed Final Judgement, in its current form, does little to affect Microsoft's monopolistic attitudes and practices, and is therefore not in the public interest. It should not be adopted without substantial revision.

Thank you for your time,
Marty Altman
Senior Scientist
Science Applications International Corporation
Orlando, Florida

-The opinions expressed herein are my own, and should in no way be interpreted as belonging to SAIC.

MTC-00027710

From: Phillips, George H.
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 9:49am
Subject: Microsoft Settlement

To whom it may concern:

I believe the Microsoft settlement to be completely inadequate. As an IT professional, I have been hobbled for years by inferior software forced upon me by the illegal practices of Microsoft. They need to be reigned in now! Thank you. These opinions are mine alone and not those of my employer.

George Phillips
Email: ghp@miami.edu

MTC-00027712

From: stevenhjohnson@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:51am
Subject: Microsoft Settlement

To: Renata B. Hesse, Antitrust Division, US Dept of Justice I would like to submit a comment on the Microsoft settlement proposal. I believe the settlement must include a very strong provision assuring inter-operability.

I believe it is the responsibility of the U.S. Government to drive this process, as it will not happen without U.S. Government leadership. When railroads were first being built, there were no standards. Different rail lines were built with different guages. Each community had its own local time.

There wasn't any such thing as a standard guage, or a standard time zone. It proved impossible to serve the public interest without governmentally enforced standardization.

A standard track guage was agreed upon. The U.S. Government created and imposed Standard Time Zones to ease the problem of railroad scheduling.

You now have a similar responsibility in software. Unless the U.S. Government mandates inter-operability, the Sherman Act will, for all practical purposes, become a dead letter with respect to the software industry.

Inter-operability protects the consumer, and it protects competition, and it's the only meaningful way to apply the Sherman Act to this vital industry. Inter-operability means that files created by one application must be readable by the next.

Regardless of who the application creators are.

Spreadsheet files must be equally readable by all software applications. Word processing files must be equally readable by all word processing applications.

It's the software equivalent of standard guages and standard time zones. If you don't establish and enforce an interoperability rule, you'll dry up the market for smaller scale competitors and turn the market over to its biggest player.

You'll give a de facto green light to monopoly.

Thank you for your consideration.

I look forward to the DOJ exercising leadership that protects America's strong commitment to competitive capitalism, that honors America's enduring hostility toward monopoly.

Sincerely yours,
Steven H. Johnson
Annapolis MD 21401

MTC-00027713

From: Wendy Pellegrini
To: Microsoft ATR
Date: 1/28/02 9:49am
Subject: I am against this "settlement"

I am against this "settlement".

This settlement does not punish Microsoft for their criminal behaviour. It rewards them. At the very least, you must force them to open their APIs so that competitors might stand a chance of competeing in the future.

Wendy Pellegrini
Software Engineer
Zixlt.com, Inc.

MTC-00027714

From: Stanley R Droy
To: Microsoft ATR
Date: 1/28/02 9:57am
Subject: Microsoft Settlement, From strophe @juno.com

Dear Sir: I have been dealing with the computer makers, software producers since 1969. Thats right 32 years ago. During the last 10 years, Microsoft corporation has done everything it could to help this country rise in its computer usage and availability to the common public. They should be given a medal for their achievements. To continue any form of prosecution is outrageous. We should help and support the Microsoft company, instead of stealing their assets for political gain. If the States need money, they should tax all the people in their state to acquire funds and not join a bandwagon of bandits. Sincerely yours,

Stanley R. Droy

MTC-00027715

From: Dan Warburton
To: Microsoft ATR
Date: 1/28/02 9:59am
Subject: Microsoft Settlement

Dear Sirs,

I am very concerned that as a Monopoly microsoft is allowed to leverage this status in other ventures. I know ATT was not allowed to invest out side of its on field. So I don't think Microsoft should be allowed to invest outside the Windows/Office area. Specifically , as a monoply Microsoft should not be investing in Network Services (msn.net) or ISP servcies (MSN/Quest) or Media (msnbc). Microsoft should divest it's self of these companies.

Thank You.

MTC-00027716

From: Laurent Domenech
To: Microsoft ATR
Date: 1/28/02 9:59am
Subject: my comments

Since your time is valuable, I'll make it short: Microsoft's position is a threat to consumers. The monopoly should be broken.

Thanks,
Laurent

MTC-00027717

From: GNewt2@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:59am
Subject: Microsoft settlement

Enough is enough—Let microsoft innovate to help get this economy moving again.

George Newton

MTC-00027718

From: Steve McGee
To: Microsoft ATR
Date: 1/28/02 9:59am
Subject: Microsoft Settlement

DOJ,

As a taxpayer and software engineer, I think all the legal action against Microsoft is ridiculous. I am not now and never have been a Microsoft employee, but I've used their products for many years. They have done nothing but improve the quality of software and lower the prices of software. I don't agree with all their actions, but I don't agree with the court's decisions against them.

Regardless of my feelings, I believe any punitive action should be tempered with a sense of reality. These guys have created lots of jobs for lots of people, and I cannot see any downside to that.

Let's get this settled and over and move on. Let AOL and Sun and the rest complain all they want, but let's move on. Steve McGee Lakewood, Colorado

MTC-00027719

From: Alfieri, Matthew
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 10:00am
Subject: Microsoft Settlement

—— Original Message ——

From: Microsoft's Freedom To Innovate Network [mailto:fin@MobilizationOffice.com] Sent: Sunday, January 27, 2002 8:09 PM
To: "MATTHEW.ALFIERI@USA.XEROX.COM"
Subject: Attorney General John Ashcroft Letter

Attached is the letter we have drafted for you based on your comments. Please review it and make changes to anything that does not represent what you think. If you received this letter by fax, you can photocopy it onto your business letterhead; if the letter was emailed, just print it out on your letterhead. Then sign and fax it to the Attorney General. We believe that it is essential to let our Attorney General know how important this issue is to their constituents. The public comment period for this issue ends on January 28th. Please send in your letter as soon as is convenient.

When you send out the letter, please do one of the following:

* Fax a signed copy of your letter to us at 1–800–641–2255;

* Email us at fin@mobilizationoffice.com to confirm that you took action.

If you have any questions, please give us a call at 1–800–965–4376. Thank you for your help in this matter.

The Attorney General's fax and email are noted below.

Fax: 1–202–307–1454 or 1–202–616–9937
Email: microsoft.atr@usdoj.gov

In the Subject line of the e-mail, type Microsoft Settlement.

For more information, please visit these websites:

www. microsoft.com/freedomtoinnovate/
www.usdoj.gov/atr/cases/ms-settle.htm

Matthew Alfieri
7 Northfield Gate
Pittsford, NY 14534
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The intention of this letter is so that I may go on record as being a staunch supporter of the proposed agreement that was reached between Microsoft and the Department of Justice. The litigation between these two has gone on for long enough, more than three years actually. It is time to put this issue to rest and move on.

The settlement actually goes further than Microsoft would have liked, but they decided to settle because it was in the best interests of the IT industry and the American economy. The settlement mandates that Microsoft make future versions of the Windows operating system to include a feature that makes it much easier for computer makers and consumers to remove Microsoft software programs from Windows and then replace it with non-Microsoft software. This completely opens the industry up to much more competition, and the companies producing the competing software will need to deliver a "Grade A" product to the market, or people will simply not buy it.

Everything is now in place for a stronger IT industry and a healthier economy. I support this settlement because it looks out for everyone's best interests. Thank you.

Sincerely,
Matthew Alfieri
Matthew Alfieri

MTC-00027720

From: Steward, Ronald Ray (UIS Student)
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 10:00am
Subject: Microsoft Settlement

Dear Renata B. Hesse:

I am writing regarding the Microsoft settlement to express my disagreement. I am a graduate student in computer science at the University of Illinois at Springfield. I have observed the software industry for several years and watched as Microsoft grew into the monopoly it is now.

This entire settlement is flawed. It apparently attempts to protect competition from other venders that wish to run their software on the Microsoft operating system. Microsoft has already killed off the competition in the office suite and other key markets. This action is simply too late.

Much more important is that proposed settlement goes way beyond too little and is entirely superficial. Software design is very complex. There are a million ways to produce incredible advantages when the developer controls both the operating system and the software to run on it. The proposals merely attempt to preserve access to use and what might be thought of as advertising or ease of install. After this settlement has the illumination of time, it will be seen as a technical travisty of justice.

This court case will make all others pale in comparison. In the future anyone contesting Microsoft in court will likely have to prepare their briefs with pen and paper because the software giant will have access to everything written or transmitted by computer and all users will be registered for targetted monitoring. Perhaps even every computer with a microphone attached will need to be unplugged to avoid eavesdropping.

George Orwell could not imagine the power you are conceding to the Software giant.

I look to our future and weep,
Ron Steward
CC:'ron.steward(a)epa.state.il.us"

MTC-00027721

From: SEska20356@cs.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:00am
Subject: Microsoft Settlement
JONATHAN ESKANDER
33 ARLINGTON RD.
SCARSDALE, NY 10583
January 27, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing this letter today to express my deep concern over the antitrust lawsuit against Microsoft. I believe that the sooner this suit comes to a close, the better. We have spent countless taxpayer dollars on the frivolous pursuit of case and it needs to come to an end.

It is my opinion that the settlement that has been reached in this case is fair. Microsoft will design all future versions of its Windows operating system to be compatible with the products of its competitors. The company will also license Windows out to the top 20 computer manufactures at the same price and on the same terms. This settlement will be ensured by a three-person technical committee, which will monitor Microsoft's future business tactics and their compliance with the settlement.

This litigation needs to end. Please support this settlement. Thank you.

Sincerely,
Jonathan Eskander

MTC-00027722

From: Lester Housel
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 10:00am
Subject: Microsoft Settlement
105 Lake Brantley Terrace
Longwood, FL 32779
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my full support of the recent settlement between Microsoft and the US department of Justice. I think the lawsuits were unjustified in the first place and should have ended long ago.

The terms of the settlement do not even protect the consumer and reflect the intense lobbying efforts of Microsoft's competitors and the apparent lack of concern for the public's best interests by the lawmakers and politicians. For instance, Microsoft is forced to disclose interfaces and protocols that are internal to Windows" operating system products. They also must grant computer makers broad new rights to configure Windows so that competitors can more easily promote their own products.

In spite of these flaws, I urge your office to finalize the settlement. The alternative of further litigation would be detrimental to our economy. I hope you suppress the nine states that want to drag this thing through the mud.

Sincerely,

MTC-00027725

From: Choi, Eunice Q
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 10:03am
Subject: Microsoft Settlement

The Microsoft settlement is more than just and fair. Please settle the case so that Microsoft will continue to deliver innovative software for consumers at a reasonable price.

This case was not a case to protect the consumers but a case for the benefit of the competitors.

MTC-00027726

From: SEska20358@cs.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:02am
Subject: Microsoft Settlement Case
Maria Eskander
33 Arlington Rd.
Scarsdale, NY 10583
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to take this opportunity to express my support for the settlement that has been reached in the Microsoft antitrust case. I feel that prolonging this lawsuit will only hinder the future development of business in this nation. This country and its success have been built by the hard work and entrepreneurial sprit of American businesses. This suit chips away at this very foundation.

The settlement that has been reached in this case is fair. Microsoft will design all future versions of Windows to be compatible with the products of its competitors; they have also agreed to cease any action that may be considered retaliatory. The terms will be ensured by a three person technical committee that will monitor Microsoft's compliance with the settlement. This settlement is the best option for America for the simple fact that it will bring this case to a close.

Microsoft is one of this nations largest employers, and continuing this suit is an imprudent move at this time. Thank you for your support of this settlement.

Sincerely,
Maria Eskander

MTC-00027727

From: Christine Scammon
To: Microsoft ATR
Date: 1/28/02 10:01am
Subject: microsoft settlement

Dear Judge,

I'm a concerned citizen who would like to voice her opposition to the proposed final judgment being considered in the Microsoft suit. Microsoft has used its Windows operating system to destroy competitors in other software markets, and every court has concluded that it has violated anti-trust laws. The proceeds of these violations is huge, yet this settlement does nothing to undo those profits, and if allowed to continue in these practices, it will certainly have serious consequences for the rest of the companies in this industry. If the proposed final judgment is adopted, Microsoft is the winner. I urge you to reject the proposed settlement.

Respectfully submitted,
Christine Scammon
Champlin, MN

MTC-00027728

From: Peter F. Dubuque
To: Microsoft ATR
Date: 1/28/02 10:05am
Subject: Microsoft Settlement

I am writing to oppose the proposed settlement in the antitrust case against Microsoft. The company has been twice found guilty of violations of the Sherman Antitrust Act. I believe the proposed settlement is grossly inadequate in preventing future violations of the law. It does nothing to ensure a viable software market in which companies other than Microsoft can develop an innovative new product without facing the threat of Microsoft rolling out a free knockoff embedded in the operating system.

It does nothing to ensure that alternative products have the information needed to interoperate with Microsoft products. It does nothing to address the fact that the consumer marketplace is impoverished by other companies" inability to compete against Microsoft in the present state of the market. And it provides no significant obstacle to further violations of the law. (If the consent decree is violated, it gets extended two years...what kind of remedy is *that*?)

Any reasonable settlement should at the very least include the following:

- Complete and accurate documentation of *all* Microsoft file formats and interfaces, to allow competing products to operate in conjunction with them
- Prohibition of deliberate measures taken to prevent interoperability with non-Microsoft products
- Prohibition of anti-competitive pricing of Microsoft products (e.g. discounts on licenses to companies who agree to not use competing products such as Linux)

Ideally, I'd also like to see a ban on any product or company acquisitions by Microsoft, or any joint ventures with other companies that might allow Microsoft to leverage its monopoly to enter a new market (e.g. transaction fees for electronic commerce or home entertainment).

Microsoft has been found guilty of antitrust. I find it utterly unconscionable that the DOJ, having won its case, is willing to throw out years of work with the utterly inadequate settlement it has proposed.

Peter F. Dubuque—peterd@shore.net

MTC-00027729

From: Harold Holderith
To: Microsoft ATR
Date: 1/28/02 10:04am

Attached is a letter prepared by Microsoft which I have signed and which I wholeheartedly endorse.

Harold Holderith
565 55th Av N.E.
Saint Petersburg, FL 33703
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take a moment to express some of my views regarding this case. I am a user of Microsoft products and a general supporter of the company. I believe that it is an example of the successes that can be gained under the free enterprise system. Although I do not agree with every decision that Microsoft has made, I do believe that it is entitled to its position as the industry leader.

There will always be those that try to litigate away pieces of a company's market share. We just have to be careful to recognize when consumer protection is used as a veil to hide return on investment. I concede that Microsoft has tried to block entry to the market by independent vendors, and in that light we should reprimand Microsoft. I believe the settlement your office reached with Microsoft provides the common ground. It is fair, reasonable, and extensive. I do see the need for further action at the federal level.

The settlement will force Microsoft to be a more responsible industry leader while allowing it to retain its competitive advantage. It has agreed to change the way it licenses, markets, and develops its software, as well as the way it deals with those that design or promote non-Microsoft programs. It will disclose various protocols and interfaces within Windows for use by the competition, and will allow non-Microsoft programs to be promoted in Windows.

It appears to me that the necessary corrections have been made to address the issues that brought about the lawsuits. We must now allow the IT industry and the economy to move forward. This settlement is the tool. It has been three years and countless dollars in the making, and should be given a chance to work.

Sincerely,
Harold Holderith

MTC-00027732

From: travel3@netzero.net@inetgw
To: Microsoft ATR
Date: 1/28/02 10:03am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
D. Lewis
PO Box 9145
Bakersfield, CA 93389-9145

MTC-00027733

From: Barbara Fiegas
To: Microsoft ATR
Date: 1/28/02 10:09am
Subject: Microsoft Settlement: Proprosed Final Judgement Judge,

We are writing today to emplore you to take the Proposed Final Judgement and add some teeth. As the Court of Appeals has affirmed Microsoft had unlawfully and intentionally deceived Java developers and "polluted" the Java standard, we are asking you to restrict their ability to modify Java technologies and add punitive incentives for them to support computer industries standards.

As a small business, we appreciate the free market opportunities that exist here in America, and hope you will keep them firmly in mind as you make this decision.

Respectfully yours,
Barbara Fiegas
Swift Fulfillment Services
1A Glenwood Ave
Lynbrook, NY 11563
voice: 516-593-1198
fax: 516-596-2911

MTC-00027734

From: Gary Gordhamer
To: Microsoft ATR
Date: 1/28/02 10:09am
Subject: Microsoft Settlement

To whom it may concern,

I would like to express my dis-satisfaction with the current proposed settlement between the DOJ and Microsoft. I have been working in the information technology area for over 10 years now, and have seen the Windows platform grow from a limited use simple operating system, to a monopolistic control of the destop and mid-range server market.

Their growth has been through the use of legal and illegal business practices as shown by the verdict the recent and distant court cases.

The current proposed settlement does not seem to offer any form of monopolistic control as it would seem is required.

I tend to compare this to the monopoly of the phone system. When the "baby" bells were born, the only way they could complete was by strict adhearince to standards set by the goverment (FCC), and strick fines for not following these standards.

This allows me to choose from many differnt phone options, and phone hardware which I can purchase at many store from many vendors. Yet when I choose to purchase a computer, or computer operating system there tends to be only one option available. With fixed price, fixed features and limited compatible options.

The current settlement proposole does not offer a open fixed standard that is controlled external to Microsoft. It does not put into place a way to infuse the market with competing companies that will be able to deliver product to the supply chain as Microsoft can.

I would hope that one day I can visit my local Wall-Mart store and see a set of competing products on the shelf, offering various options and price points. Untill then I must still lease my computer from Microsoft and get only what they allow, much like the phones of the 1970's that I leased from AT&T.

Respectfully,
Gary Gordhamer
Owner / DBA
H&H Consulting services, LLC.
Waukesha, WI

MTC-00027735

From: Dale Beeman
To: Microsoft ATR
Date: 1/28/02 10:10am
Subject: Microsoft Settlement!
Dale Beeman
598 Foxwood Boulevard
Englewood, FL 34223
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

For quite some time now, I have been following the case against Microsoft filed by the DOJ. I am therefore quite familiar with the issues involved. Considering that this case has dragged on for over three years, spending an exorbitant amount of taxpayer dollars, I am very pleased that a settlement has finally been proposed. Though I strongly feel that the terms of the settlement are very harsh for Microsoft, I am willing to support this in the interest of putting this matter to bed.

Ending this lawsuit now is a very necessary action to help boost the sagging economy and revitalize the slowing innovations in the IT industry. In order to achieve the fastest close to this matter, Microsoft has agreed to terms that were not even found illegal in the lawsuit against them. They have also agreed to terms that have the distinct potential to limit their competitiveness. Microsoft agreements include the unprecedented move to share their internal Windows interfaces. Microsoft has also agreed to cease its more aggressive marketing practices.

This kind of settlement has obviously taken some time to draft and the terms of which should more than appease Microsoft's opponents. There is therefore no need to press this matter any further.

Sincerely,
Dale Beeman

MTC-00027736

From: Judy L. Powers
To: Microsoft ATR
Date: 1/28/02 10:11am
Subject: Microsoft Settlement

Gentlepersons:

It is absolutely amazing to me! AOL-Time-Warner is the king of the industry in keeping its customers captive by providing a whole ?city? of options to its bank of members (mostly first-time internet users), and then making it difficult for their less experienced members to get out of AOL to surf freely on the web. And these are the people crying ?sue the bastards? about the Microsoft Corporation? Isn?t this the pot calling the kettle black? Protracted and repetitive litigation is never a benefit to the public, and rarely to either client, just to the attorneys. Is AOL's counsel short on billable hours these days?

Thanks for listening. Let's stop the litigious behavior, thank the judiciary for its most diligent work and call it a day with the spurious afterthought suits.

Judy L. Powers
6593 Alleghany Court
San Jose, CA 95120
judylou@powerslink.com
CC:msfin@microsoft.com@inetgw

MTC-00027737

From: Walt Goodpastor
To: Microsoft ATR
Date: 1/28/02 10:11am
Subject: Support for Microsoft

Punishing successful producers like Microsoft is not only morally wrong, it is stupid and self-defeating. It rewards Microsoft's competitors, thereby assuring that consumers will be stuck with inferior products and services.

Free-market competition obtains the best results by rewarding the superior performers. It is a process of selection of the best, not a process for inclusion of the mediocre and inferior. Free-market competition is not the "Special Olympics," and if the foolish people who insist on making it so are successful, the result will be a degradation of the quality of life for everyone.

MTC-00027738

From: howard—diamond@corpsoft.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:13am

Subject: Microsoft Settlement

The outcome of Microsoft antitrust case will be critical to the technology industry's future. Unfortunately for those of us in the industry, the remaining states want to prolong the case and impose broad, irresponsible remedies.

The Microsoft antitrust case has been a key factor in slowing innovation and growth in Massachusetts's technology industry. It was not mere coincidence that the decline of the industry followed in the footsteps of this case. With the future of Microsoft and the Windows platform in doubt, the case brought crippling uncertainty to the industry. Smaller entrepreneurial companies that have been the lifeblood of this industry were forced to hold back on innovations because of their limited research and development budgets. With fewer innovations coming out of smaller software developers and uncertainty as to the future of the platform, corporations also slowed their own IT spending.

To make matters worse, the state attorneys general who did not to join the existing settlement are pursuing remedies that will wreak havoc on the rest of the industry as they attempt to lock down Microsoft. By some accounts, they would require Microsoft to produce over 1000 different versions of Windows. For software developers, the testing of products for bugs and compatibility issues is one of the most expensive parts of product development. How will the garage-based software developer ever meet the demands of testing their products on all those versions?

If the attorneys general want to ensure a healthy future for the technology industry, they will join the Department of Justice and nine other attorney generals in the effective settlement already reached.

Further litigation will only continue the economic downturn and their proposed alternative to the settlement will likely result in further consolidation in the industry and the death of the independent software developer.

Howard Diamond
Chairman, Corporate Software & Technology

MTC-00027739

From: Clint Miller
To: Microsoft ATR
Date: 1/28/02 10:13am
Subject: Microsoft Settlement
Please see the following letter regarding the Microsoft Settlement:

Clinton Miller
8609 51st Terrace, East
Bradenton, FL 34202
January 26, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today with the hope that my views on this matter will play a role in bringing closure to the excessively overdone lawsuit against Microsoft.

After three long years of litigation, with its immoderate allocation of taxpayer dollars, I was very pleased to hear that the DOJ proposed a settlement last November. Bringing closure to this case will give the economy the boost it needs and give Microsoft the opportunity to get back into the game and stabilize the IT industry once again.

I have a hard time grasping what the dissatisfied states have issue with and why they continue to press for litigation. If they closely examine the terms of the settlement, they will see that Microsoft's concessions are more than fair. They have even agreed to terms and conditions that were not even at issue in the lawsuit. Microsoft's competitors should be satisfied to know that Microsoft has agreed to disclose their internal interfaces as well as provide licenses for their intellectual property. Over and beyond this, Microsoft has also agreed to create future versions of Windows that will allow for non-Microsoft compatibility.

To me, if the Government, Microsoft and the competitors are satisfied with the fairness of the settlement, this should be more than enough for formalizing it.

Let's do this soon, in the best interest of all parties involved.

Sincerely,
Clinton Miller
CC:fin@mobilizationoffice.com@inetgw

MTC-00027740

From: Mike Anderson
To: Microsoft ATR
Date: 1/28/02 10:13am
Subject: Microsoft Settlement

To whom it may concern,

Pursuant to the Tunney Act I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. I will be brief here because I feel that others far more qualified and eloquest have already state the why's and wherefores of my position. Suffice it to say that I feel the proposed settlement fails completely to punish Microsoft for the anticompetitive practices that they were found to have employeed.

And on a similar note I also feel that there is no real enforcement of the remedies whih are put forth in the proposed settlement. The remedies which are put forth, being wholly inadequate in it's attempt to modify the business practices of Microsoft, are provided no real means of enforcement. The psuedo-enforcement provided in the proposed settlement amounts to an oversite committee with no powers to enact change except through the courts.

Thank you for your time. I hope that I have been able to add something positive the discourse.

Michael J. Anderson
Bartlesville, OK 74006
msbjs@swbell.net

MTC-00027741

From: Marc Garon
To: Microsoft ATR
Date: 1/28/02 8:02am
Subject: Microsoft Settlement

I am among the millions of computer system professionals who disapproves of the measures imposed against Microsoft, as they are woefully inadequate in proportion to the damage incurred on the IT industry.

MTC-00027742

From: John E Campbell
To: Microsoft ATR
Date: 1/28/02 10:13am
Subject: Microsoft Settlement

To the Department of Justice

I wanted to let you know that I strongly support the negotiatedsettlement of the Microsoft case in its present form. I urge you to support this result and feel it is very much in the public interest.

I will greatly appreciate your consideration of my comments and your efforts to help effect a final settlement along lines of that already proposed.

Thank you very much.
John E. Campbell Jr.
PO Box 537
Sanibel FL 33957

MTC-00027743

From: Michael Shuey
To: Microsoft ATR
Date: 1/28/02 10:15am
Subject: Re: Proposed Microsoft anti-trust settlement

Attn. Renata B. Hesse
Antitrust Division
U.S. Department of Justice:

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. In particular, I would like to voice my concerns over section III D, API Disclosure.

It has been ruled (and upheld in subsequent appeal) that Microsoft has abused its monopoly power, particularly in the areas of operating system software and business applications. As long as Microsoft is able to modify the application programmer interface (API) secretly the company will always be able to prevent competing business applications from running at peak efficiency and to prevent non-Microsoft operating system code from running the latest Microsoft business software. Unless Microsoft is forced to openly publish the Windows API specification third-party developers will always be unable to compete on equal footing. A measure like section III D is necessary.

While section III D is a step in the right direction, the proposed remedy is far from an effective solution. The Windows API is one of the most complex software interfaces in use today—merely documenting it is a daunting task.

With such a large degree of complexity it is quite easy to omit certain details. In the current settlement there are no provisions to handle such omissions, whether they are accidental or intentional. As the Windows API evolves (witness the changes that occur with every major new release of operating system software) it would be very easy to again recreate secret, proprietary API extensions to restore competitive edge for Microsoft business software. Without some kind of regular auditing procedure for the Windows source code, performed by a well-funded neutral third party, there is no way to guarantee that complete, accurate documentation will continue to be made available.

Unfortunately, a third-party code audit would not adequately solve the problem. Currently, according to Definition A and

Definition J in the proposed settlement, the Windows API is limited to interfaces between Microsoft Middleware and Microsoft Windows, excluding APIs used by other programs or hardware device drivers. Without providing a broader definition of "API" Microsoft can easily avoid the API disclosure restrictions by merely claiming to have integrated a portion of their application software with the underlying operating system (such as in the case of Internet Explorer).

Futhermore, the definition (J) of "Microsoft Middleware" itself is problematic. The definition limits itself to particular versions of Microsoft software distributed via conventional channels. Newer versions of Microsoft software, or versions of existing software introduced though online services, may not be counted as "Microsoft Middleware" for the purposes of this settlement, effectively allowing Microsoft to extend their API to support their software without concern for API disclosure.

Without some signiciant revision to the proposed settlement, I believe that little will be done to prevent Microsoft from continuing to abuse its monopoly to limit the amount of choice available to the consumer.

Mike Shuey

MTC-00027744

From: Albert Fedorchak
To: Microsoft ATR
Date: 1/28/02 10:17am
Subject: Microsoft Settlement

I believe the proposed anti-trust settlement is not in the consumers best interest. Microsoft has abused their position and stifled compitition, created incompatibilties with other OS's and even with it's own OS. They should be broken up and auctioned off to the hightest bidder. Criminal charges should be filed for conspirasy to gain market share by illegaly abusing thier monopoly and some of the major player should go to JAIL.

Albert Fedorchak

MTC-00027745

From: acarter@irimicorp.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:15am
Subject: Microsoft Settlement

As a tech entrepreneur for the the past 12 years, I've traditionally had little concern for how government could or might affect my business. With most small businesses, there isn't the time to follow legislation nor the resources to hire lobbyists as AOL, Sun, Oracle and Microsoft do.

However, the influence that government wields over our industry appears to be increasing and has finally forced me to take notice and get involved. Through my membership in the Association for Competitive Technology and other organizations, I have started to follow these issues more closely and, at least, attempt to voice my concerns with lawmakers. It's clear that small technology businesses can no longer afford to simply ignore the role government plays our industry, despite the likelihood they won't be heard.

Nowhere has this been more obvious than in the Microsoft antitrust trial. In the absence of an active community of small tech businesses, corporate behemoths that have branded Microsoft "public enemy number one" have claimed the mantle of "Defenders of the Industry." Yet, their cries for further litigation and harsher remedies seem to be borne less out of concern for industry as a whole and more out of corporate self-interest. If they are successful, the result would be further damage to the entrepreneurial technology companies that are the life blood of the industry.

While it may go too far in some areas, the settlement agreed to by the DOJ, nine states and Microsoft addresses the real concerns of small tech businesses. The provisions that guarantee access to the information (API's and other code) necessary for developers, create transparent pricing, and force Microsoft to relinquish control of the desktop will ensure innovation and competition will continue to flourish.

The biggest benefit of this settlement, however, is that it finally puts this case behind us. While it has loomed over the industry, small tech businesses have been held hostage as the industry waits to see the outcome of the trial. The outcome of the case will have collateral effects throughout the industry and the threat of court-mandated technological changes has left small companies with larger partners having limited budgets for research and development in limbo. Many small companies find their success in Microsoft's wake. Minor penalties levied against a behemoth Microsoft, even in the form of handouts to Microsoft's behemoth competitors, will have deadly ramifications to small companies technologically on the edge and financially on the bubble.

Judge Kollar-Kotelly, I urge you to accept this settlement no behalf of the thousands of small tech businesses that need closure to these case, not continued litigation to benefit a few of Microsoft's largest competitors.

E. Andre Carter
President
Irimi Incorporated
CC:acarter@irimicorp.com@inetgw

MTC-00027746

From: Eleanor Polini
To: Microsoft ATR
Date: 1/28/02 10:15am
Subject: re: microsoft settlement
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I write you today to support the Microsoft settlement. This settlement agreement contains provisions that extend well beyond the products and procedures that were actually at issue in the suit. After three years of needless lawyers and testimony, and another three months of intense negotiations with a court appointed moderator, this settlement has been reached and should be implemented.

The provisions of the agreement include requirements for Microsoft to dramatically change its business practices and to become accountable to the government and the industry. One of the most significant developments in the case is Microsofts agreement to license its intellectual property to competitors. The provision requires Microsoft to license that intellectual property, instead of prohibit the other company from using it. To ensure accountability and compliance with this settlement, Microsoft has agreed to submit its business practices and engineering to a three person, government appointed technical committee

These provisions, among others, will serve to increase competition and foster innovation inside the technology industry. I support the settlement, and want the country to move forward.

Sincerely,
Eleanor Polini

MTC-00027747

From: Hilton, Keith
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 10:18am
Subject: Microsoft Settlement

This lawsuit needs to be settled now! While Microsoft may have gone too far in some of it's business practices, it's competition is using the courts and the politicians to fight, rather than doing it in the marketplace. It's hurting consumers and having a negative affect on the marketplace.

Keith Hilton
Verizon Information Services
Manager—Planning, Performance and Measures
Phone: (972)453–3763
Fax: (972)453–7961
keith.hilton@verizon.com

MTC-00027748

From: Melanie Reisenauer
To: Microsoft ATR
Date: 1/28/02 10:23am
Subject: Anti-trust suit against Microsoft

Dear Madam or Sir:

You must not use our United States government to attack a private company! If Microsoft has committed a crime (a real crime, i.e. real fraud or real coercion) then by all means fine them, jail them, etc.. but to attack Microsoft for the reason that we all know they are being attacked—because they are "too big/successful/profitable, etc.." is immoral and goes against what the Founding Fathers of this country fought for; the freedom to educate oneself, learn a skill, enter the market with that skill and become successful (yes, even if more successful then the competition)—the American Dream.

To attack a company because of it's ability to be successful sends a very negative message to all entrepreneurial individuals; which by the way, without those individuals this country would not have the standard of living that it does today. The message states very plainly, "Be careful! Do not become too successful! That which you have spent your life building with your own sweat, initiative, and hard work can be taken from you (by our own form of coercion) because we have the power and the guns."

I would ask you, "By what authority?" How is it possible in the freest nation on earth that you are able to take up guns and the threat of a jail sentence or heavy fines and penalize someone/a company for their ability to be very successful???? Success is not a crime and the instant you treat it as such you have moved us closer to becoming a socialist/communist government controlled state. Haven't any of you read any history? Don't you know that this is exactly what happened in Nazi Germany and Soviet Russia? Their "governments" (today we see them for what they were—thugs; thugs with guns and power) decided they had the right to simply take over private businesses, all in the name of "the people". Look where it got those "people". There ceased to be private business, no one could find a job, food lines, production as they knew it came to a halt, the "government" lived like kings while their "philosophy" "for the people" killed them!!

So I ask you again, "By what authority?" Do we need to destroy the last great bastion of freedom on this earth (America) with tyranny rule and socialist/communist policies just so that Bill Gates, and any others who have created wealth both for themselves and countless others will be "brought down to a manageable size?" And who arbitrarily and by what authority decides what is a "manageable size?"

Again, "by what authority?" Answer that question honestly. If you do, your answer will be, "By no authority." You are simply assuming the right to do this and yet you have none. Rights are bestowed onto the INDIVIDUAL to protect them (and their property/company) from majority rule, government coercion, mob rule, etc. All are just different names for the same group.

This is a very immoral and slippery slope that you embark upon. You should turn and immediately walk away from this slope, knowing that this country will be safe again from anyone spouting "in the name of the people".

Bill Gates is one of those "people". What about his rights? Does he not deserve the same protection from force/coercion/mob-majority rule? That answer is yes, not because he is extremely wealthy, but inspite of it. He has not committed a crime, he is not a criminal. He is a man with a vision and the fortitude to make it happen. Does our United States Government now have the authority to punish such men???

Anyone reading this e-mail, if you've even allowed yourself to read this far and haven't deleted it by now, should pick up a copy of Ayn Rand's : Atlas Shrugged and read it. It is where you will find the answer to the question: "By what authority?"

A United States citizen,
Melanie M. Hoffman

MTC-00027749

From: Steve Edgecomb
To: Microsoft ATR
Date: 1/28/02 10:21am
Subject: Microsoft Settlement

I am a long time user of Microsoft products. They have always worked for me and been what I needed as a user.

Having said that, I think Microsoft has used less than savory business tactics to gain market share. I feel that Microsoft is attempting nothing less than complete domination of the PC software market. That is a strong statement I know. I will not attempt to recap any of the testimony that anyone has heard in this case. You know better than I what has transpired. As a user and as an IT Director, I make that strong statement from a cost basis. Microsoft releases software with a lot of features, and a lot of bugs. This is an attempt to rush to market. They then produce an "upgrade" which they charge for. Sometime, they charge a lot. Most often, the upgrade is what they promised would be in the first version.

I am all for better products and new features, but it should, number 1, work; and number 2, not cost a fortune to upgrade or to keep pace. I fear the price structure should Microsoft gain total control of this market. Even now, it is a confusing array of license structure, upgrade costs, service packs, and patches.

Steven H. Edgecomb
IT Director
Mutual Benefits Corporation
steven.edgecomb@mutualbenmail.com

MTC-00027750

From: Daniel Sells
To: Microsoft ATR
Date: 1/28/02 10:24am
Subject: Microsoft Settlement

Please Stop Wasting MY Tax Money!!!!!

This lawsuit is a huge waste of tax payer money. The federal government should use MY tax money to provide valued services to me and all Americans.

WHAT DOES ANYONE STAND TO GAIN BY SUEING MICROSOFT? Know one is forced to buy the Windows operating system, browser or any other Microsoft product. Apple Macintosh has been around for years and is a very viable alternative to the Windows platform for all who chose such. Linux is growing in popularity as another choice. I don?t understand why your DOJ is pursuing this. If other companies want to sue Microsoft, they have the courts to do so. Let AOL, IBM or whoever sue them WITHOUT USING MY TAX DOLLARS! The DOJ should step down and let the other companies battle this out as long as their willing to pay.

Thank you,
Daniel Sells

MTC-00027751

From: rdwelch@swbell.net@inetgw
To: Microsoft ATR
Date: 1/28/02 10:25am
Subject: Microsoft Settlement
908 Dutch Mill Drive
Ballwin, MO 63011-3548
January 28, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I understand that the Justice Department is presently soliciting comments from the public regarding the proposed Microsoft settlement.

I am a retiree who owns Microsoft stock. I also own two computers that are using the Microsoft operating system. I will soon own a third one. We have come to where we are in this technology due mostly to the efforts of Microsoft. I do not see that the Microsoft operating systems have hampered others from getting into the business. In fact I am writing this to you using the Netscape Messenger program.

It is my wish that you approve the settlement. This case has been pending for over three years, and during that time the offensive and advantage have changed hands too many times to count. The prospect of additional litigation offers only one certainty: uncertainty.

The settlement on the table takes away that uncertainty. While I am sure there will be some argument in the details, the agreement provides substantial opportunities for growth in the research and development of non-Microsoft software programs. Microsoft has agreed to eliminate restrictive activities in the areas of pricing, licensing, distribution and system configuration.

I hope that you see the wisdom of going forward with this settlement in the very near future.

Sincerely,
Roy D. Welch

MTC-00027752

From: Gwendalle Cooper
To: Microsoft ATR
Date: 1/28/02 10:26am
Subject: Microsoft Settlement

I strongly advise that the settlement already stipulated be accepted regarding Microsoft. Enough is enough.

Sincerely,
Gwendalle cooper

MTC-00027753

From: Gil Friend
To: Microsoft ATR
Date: 1/28/02 10:28am
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse,

I am writing to comment on the proposed Microsoft/DOJ anti-trust settlement. As a business executive at a company both highly dependent on computing technology and specifically involved in software development, I've come to the conclusion that this settlement is not in the public interest, and fails to remedies the problems that provoked the action in the first place.

The settlement leaves the Microsoft monopoly intact, with numerous opportunities to the company to effectively exempt itself from crucial provisions. The recently proposed "donation" to schools is just one example of how Microsoft can turn matters to their own advantage (in this case by decimating Apple's position in the education market).

In addition, the proposed settlement fails to address the critical "barrier to entry" problem, enabling Microsoft to maintain an effective "lock" on the applications market.

Consumers, not Microsoft, should decide what products are on their computers. The settlement must eliminate Microsoft's various barriers—business and technical—to allowing combinations of non-Microsoft operating systems, applications, and software components to run properly with Microsoft products.

The remedies proposed by the Plaintiff Litigating States are in the public interest and absolutely necessary, but they are not sufficient without these remedies.

The Tunney Act provides for the Court to hold public proceedings, with citizens and consumer groups afforded an equal opportunity to participate, along with Microsoft's competitors and customers. I hope you will encourage those proceedings, and consider carefully how to proceed in this matter. Your decisions have great significance for the health of the US economy's most vital industries, by eliminating Microsoft's ability to illegal constrain markets and innovation.

Thank you for the opportunity to comment on this important matter.

Sincerely yours,
Gil Friend
President & CEO
Natural Logic, Inc.
PO Box 119
Berkeley CA 94701

MTC-00027754

From: Raymond Rider
To: Microsoft ATR
Date: 1/28/02 10:30am
Subject: Microsoft Settlement
4537 Amboy Road
Memphis, TN 38117-6101
January 28, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

Thank you for your leadership in these trying times.

As a systems administrator I am directly affected by the setbacks in the industry. The American technology industry has been on hold since the inception of this suit three years ago. I have been without work since September 2000 due to a crash in the IT industry, for the most part a direct cause of the attempt to split Microsoft into smaller pieces. This has caused extreme problems in the American IT field. A once strong and promising field, in which America was the leader, has become a wasteland of ruined American companies and unemployed American professionals. The harmful antitrust lawsuit against Microsoft must end. This lawsuit is the cause of these problems. The sooner this litigation comes to an end the better it will be for America. Because Microsoft has agreed to settle on terms favorable to its competitors there is no reason to continue the suit. Microsoft has agreed to publicly document and disclose to its competitors the Windows operating system internal interfaces and server interoperability protocols. I can tell you that these are huge concessions of intellectual property rights.

Thank you for the work you have done in bringing about this settlement. Hopefully Microsoft and the rest of the American IT industry will be able to get back to business, and America can get back on its feet. Thank you.

Sincerely for American IT resurgence,
Raymond Rider

MTC-00027755

From: Sage M. Friedman
To: Microsoft ATR
Date: 1/28/02 10:28am
Subject: Microsoft Settlement
To:
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

I would like to comment on the settlement in the Microsoft case. As I see it this settlement does not address the fundamental issues of Microsoft's aggressive and illegal behavior as a monopolist, further it gives Microsoft far to many opportunities to continue its behavior.

Among those issues not addressed is the barrier to entry for emerging operating systems, which will not be able to run any of the 70,000 existing application available on Windows. Consumers need freedom from intrusion by Microsoft into their computing choices. Microsoft has demonstrated a unwillingness to let consumers choose their own software, they have done this by including irrelevant software in with Windows. They have extended their monopoly into the realms of photo processing, forcing consumer to choose between Microsoft's stable of photo developers when developing electronic photos unless the consumer follows complicated procedure to find other options.

The remedies proposed by the Plaintiff Litigating States are far superior to the proposed settlement. I respectfully urge you to hold public proceedings under the Tunney Act to give citizens and consumer groups an equal opportunity to participate in this process.

Thank you
-Sage Friedman
-Richard Perl
Pacific Partners
1 West 67th Street, #500
New York
NY 10023

MTC-00027756

From: brandon rettke
To: Microsoft ATR
Date: 1/28/02 10:29am
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Dept. of Justice
601 D. Street, NW
Suite 120
Washington, DC 20530-0001

Dear Ms. Hesse:

I write to you in support of the proposed Microsoft settlement that would direct millions of dollars to in-need schools across the country for much needed technology.

While much attention is given to the lack of technology in poor urban areas, we can not forget that many rural schools lack the even most basic technology in their schools. There are parts of rural Wisconsin that don't have 911 in every part of the county, or schools that don't have classrooms with phones, let alone computers.

Technology can be used as a wonderful teaching tool, and I encourage the U.S. Government to support the settlement as a way to get much needed money to our schools in need. Thank you for your time.

Sincerely
Brandon Rettke
3122 Glenhaven Place
Eau Claire, WI 54703

MTC-00027757

From: PHaw410653@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:27am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Paul Hawkins
8931 Farley
Overland Park, KS 66212

MTC-00027758

From: john@mitre.org@inetgw
To: Microsoft ATR
Date: 1/28/02 10:31am
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

As allowed under the Tunney Act, I want to comment on the settlement proposed to deal with the Microsoft anti-trust case. My main concern is that the proposed remedy fails to prohibit intentional incompatibilities historically used by Microsoft. In many documented instances in the past, Microsoft has purposefully made its applications impossible to run on competing operating systems. I believe that this is anti-competetive, given their admitted monopoly, yet the proposed remedy does not deal with this at all. See the following Web page for details of this: http://www.kegel.com/remedy/remedy2.html#caldera In general, I agree with the problems identified in Dan Kegel's analysis: http://www.kegel.com/remedy/remedy2.html

Thank you.
John Burger
Writing for myself

MTC-00027759

From: Rosemary Tracey
To: Microsoft ATR
Date: 1/28/02 10:31am
Subject: Microsoft Settlement

Leave Microsoft the opportunity to move foward. Terms of settlement are tough enough, do not reject settlement.

MTC-00027760

From: Stephen S. Messutta
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 10:32am
Subject: Microsoft Settlement

1/28/02: Several years ago, when I was desperately trying to convince my family that Mac was superior, my kids insisted they wanted the "Magic Schoolbus" programs, which were offered exclusively by Microsoft Home and supposedly worked on Mac and PC.

We eventually purchased 2 of the programs. One worked "ok" and the other did not, for no apparent reason. Nothing I did made it work. Microsoft offered tech support but only at a toll-call phone number. When I did reach tech support they could not help. What I learned about why one of the series would work fine and the other not, however, made me sick.

Microsoft was really a software "broker", buying or commissioning programs from different people but packaging them as their own. So you could have different programs with different glitches, nothing the same. If you bought a "package" or wrapped programs, such as Microsoft Office, the programs might not work with each other. In addition, they might issue the program to get the "jump" on someone else, whether the software was proven or not.

Thus you could have a program which had been designed for PC but which was offered on the same CD or disk for MAC, but did not work properly on a MAC machine. Sometimes it felt as though it was a conspiracy to make MAC users switch to PC just to get the programs to work right. I tested my theories because I purchased a MAC Performa 640CD, which had both a MAC platform AND PC platform—with MAC-OS on one side and Windows 3.1 on the other. What I felt began to happen, however, was that fewer and fewer programs were offered as MAC compatible, in order to get the programs out into the PC market quickly and beat Microsoft to the punch, because if the program was first offered as MAC compatible Microsoft would try to clone a deceptively similar version of it for Windows which did not function well or at all on MAC. If you destroy the software market, the demand for the hardware disappears . . . . What I also learned was that because MS-DOS was so cumbersome compared to MAC–OS, that more and more "power" was needed to run the "Windows" programs—resulting in the need for more and more powerful machines, resulting in extremely rapid obsolescence. To me this is a primary illegal and unfair combination. In terms of my 640CD, I witnessed the difference there as well: MAC-OS programs continued to work fine for upwards of 5 years. I had a lot of other software, such as Broderbund, for children, which was wonderful and educational, and with which I never had a problem, MAC or PC. After less than a year, however, Windows 3.1 was outdated because newer PC software required more power.

Especially as a member of my local school board, I feel that Microsoft deserves not only to be dismantled, but severely punished for effectively putting an unfair and unnecessary drain on our economy in its attempt to monopolize and destroy all competition.

When two brats—Steven Jobs and Bill Gates—have the power to manipulate the economy that way, enough is enough. They might as well have been named "Armour" and "Swift" and Upton Sinclair might just as well have written about the excesses of the software industry. I also believe that in an attempt to undercut MAC, PC began to rely upon cheap, inferior foreign components. Among other things, this resulted in a loss of jobs in a potentially rapidly growing sector of our economy.

Finally, I believe that the "Microsoft" scandal, as I would like to call it, has been more devastating than ENRON to millions of ordinary citizens who attempted to follow the prior administration's lead in ramping up to the "information superhighway", and that the entire system of issuance of patents and copyrights needs to be overhauled: if a person has the ability to create a "superior" program from which another can create an inferior "clone" but outmarket the superior product, there is something wrong with our system of protection for intellectual property.

Stephen Messutta
1043 Manor Drive
Wilmette, IL 60091
Messdad@aol.com
Cell/VoiceMail: 847.606.2782
CC:'rks(a)pcsintl.com"

MTC-00027761

From: Doug Clark
To: Microsoft ATR
Date: 1/28/02 10:35am
Subject: Microsoft Settlement

I want to add my request that the final settlement of the Microsoft case be based on much harsher terms than the ones now being considered. As a consumer I am concerned that Microsoft will again abuse the very lenient terms now proposed. As I see the new Microsoft XP operating system unfolding I am again seeing their monopolistic practices continue. An example, MS has now (or in the near future) ended all direct support for its past operating systems. This forces consumers to switch to the new and only other available operating system. MS has further begun a pricing strategy that will not allow consumers to buy their product outright at a reasonable price; which forces consumers to "rent" their products. Once this phase is complete, MS can raise the "rental" price at their whim. Thank you for allowing me to contact you.

Sincerely,
Douglas Clark
4107 Jefferson St.
Austin, Texas

MTC-00027762

From: Kenneth W Cochran
To: Microsoft ATR
Date: 1/28/02 10:35am
Subject: Microsoft Settlement

The current Microsoft Antitrust Proposed Settlement is grossly insufficient as a Remedy for their practices.

Thank you for your attention.
Kenneth W. Cochran, CDP
Alexander City, Alabama

MTC-00027763

From: The Salmons
To: Microsoft ATR
Date: 1/28/02 10:35am
Subject: settlement
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

The boom in technology over the past ten has been the energy behind our economic prosperity. New innovations lead to confidence and spending among Americans. Our economy is need of assistance. Accepting the Microsoft settlement is the first step to economic recovery. The Microsoft Company and the Department of Justice have done an excellent job in finding the balance for marketing their product without endangering their competitors.

Please adopt the settlement and bring the issue to closure.

Sincerely,
James E. Salmon
Moab, Utah

MTC-00027764

From: Dean Barrere
To: Microsoft ATR
Date: 1/28/02 10:35am
Subject: Microsoft Settlement
1200 Virginia Drive
Tipp City, OH 45371
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

This settlement is important to our economy. Our country must move on. As I am happily using the new Microsoft XP, I can only further express my concern regarding the delay in the settlement's approval. Of course, I release that much of the current delay is due to legal requirements, including the public comment period required under the Tunney Act, during which time I am writing now.

As I review the terms of the settlement, it seems that Microsoft is making a concerted effort to make beneficial changes in licensing and marketing of its world-renowned software. While it seems evident that the settlement only benefits all involved, I do not understand why there would be any further action taken on the Federal level. Why tie up tight budgets fighting a battle that has already been settled well?

Better to peaceably resolved disputes at relatively low cost and with a good spirit created, than to litigate disputes at high expense with only smoldering rancor created. As our economy is challenged, let us help promote the competitive nature of America, and help foster America's economic growth. Let's get back to business, and let the American IT industry help us get back on our feet. I thank you for your support of the settlement.

Sincerely,
Dean Barrere

MTC-00027765

From: Sudha
To: Microsoft ATR
Date: 1/28/02 10:35am
Subject: Microsoft Settlement

It does not make sense to consider Microsoft a monopoly. Titans like IBM and SUN have been the real monopoly for years—just check out any of their products like LearningSpace from IBM or Java.

1. Microsoft's products are VERY EASY to use as opposed to other products that have very difficult learning curves.

2. It is very easy to learn Microsoft product with EXTENSIVE help within the application, may books to choose from, and also on the web. On the contrary other products do not even have books. Training and support from other vendors are 10 times more expensive!

3. IBM and SUN have been the real monopoly. They always have "pushed" their products—I know for a fact from first hand experience. And when they ruled all were happy!

Sudha
Database Administrator
Department of Human Oncology
Telephone: 608.263.1549
Email: <mailto:sudha@mail.humonc.wisc.edu>
sudha@mail.humonc.wisc.edu

MTC-00027766

From: Burgess Allison
To: Microsoft ATR
Date: 1/28/02 10:33am
Subject: Microsoft Settlement

I oppose the Proposed Final Judgment:

- The Proposed Final Judgment fails to prohibit anticompetitive practices towards OEMs.
- The Proposed Final Judgment fails to prohibit anticompetitive license terms currently used by Microsoft.
- The Proposed Final Judgment fails to prohibit intentional incompatibilities historically used by Microsoft.
- The Proposed Final Judgment preserves Microsoft's monopoly power—which Microsoft has been found guilty of abusing.
- The Proposed Final Judgment does nothing to restore competition.
- The Proposed Final Judgment allows and encourages significant anticompetitive practices to continue, would delay the emergence of competing Windows-compatible operating systems, and is not in the public interest.

It is astonishing that this settlement was arranged and publicized as being pro-business in the aftermath of September 11. The Proposed Final Judgment is only "pro" for one business—Microsoft. It is anti-business for hundreds of other companies and for the overall health of the IT industry.

The Proposed Final Judgment is also anti-law and anti-courts. Microsoft demonstrated during hearings before the court a wanton disregard for the truth, and for the respect due to federal courts and the US Department of Justice. Its representations mocked the court system and the Department of Justice. To reward such a company with this Proposed Final Judgment is nonsensical, and would hurt the long term effectiveness of our antitrust laws and the respect for our system of justice.

Not to put too fine a point on it, but if this Final Judgement is approved, Microsoft will openly gloat about the accuracy of Bill Gates" prediction from 4 years ago, "There is no fine, there will be no fine, no-one ever pays a fine."

This hurts business and it hurts the justice system.

G. Burgess Allison
8301 Westchester Drive
Vienna, VA 22182
allisons@tidalwave.net
703-280-1477

Yes, I am a US citizen of voting age.

MTC-00027767

From: Kevin J. Burgam
To: Microsoft ATR
Date: 1/28/02 10:38am
Subject: Microsoft Settlement

The proposed settlement as it currently stands is bad idea. It will not foster greater competition, nor will it prevent Microsoft from monopolizing a truly great resource, the internet. Please stop it.

Thank you.
Kevin J. Burgam —

Kevin Burgam is a Technical Support Specialist with Datacomp Appraisal Services, Inc.

He may be contacted by the following methods:

email: kjb@DatacompUSA.com
phone:616-574-0480 x215
direct: 616-988-4215 or 877-407-0215
fax:616-574-0486
Datacomp Appraisal Services, Inc.
3215 Eaglecrest Dr. NE Ste.100
Grand Rapids, MI 49525-7046

MTC-00027768

From: MTsinis@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:39am
Subject: (no subject)

4 Spruce Drive
East Brunswick, NJ 08816-2017
January 10, 2002
Attorney General John Ashcroft
US Department of Justice, 950 PennsylvaniaAvenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

During the beginning ofNovember 2001, the Department of Justice, Microsoft Corporation, and ninestates, with assistance from a mediator negotiated the terms of a settlementthat will bring an end to the antitrust lawsuit. The suit has been going on for over three years, and I supportany agreement that will put this senseless suit to rest.

Per the settlement,Microsoft has agreed to design future versions of Windows to provide a functionto make it easy for computer makers, consumers and software developers topromote non-Microsoft software within Windows. The function will make it extremely to add or remove access to featuresbuilt in to Windows or to non-Microsoft software. Consumers will have the freedom to choose to change theirconfiguration at any time.

This is a good settlement for all involved, especially consumers. I support the settlement, and hope it isapproved as soon as possible.

Sincerely,
Marina Luzanskaya

MTC-00027769

From: weijianzhang@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:41am
Subject: Microsoft Settlement

I am sad to see that Microsoft competitors resort to political tricks to win what they lose on the market. Business competition should be resolved on the market not in court. I see absolutely nothing wrong with Microsoft business competitive tactics. People in Microsoft work like crazy and nobody in the world work as hard as they do. Let's not try to destroy the pride of an American business success. Otherwise, see what's happening to Auto industry.

We are losing the war on automotive. Aerospace, barely. Software is our last frontier and we are still maintaining the leadership status. We need the leader, the vision and more importantly, the pride.

CC:weijianzhang@hotmail.com@inetgw

MTC-00027771

From: candacehawthorne
To: Microsoft ATR
Date: 1/28/02 10:43am
Subject: Settlement

Dear DOJ,

I feel the settlement is fair and should be finalized as soon as possible. The Democrats are leading the march against Microsoft and I feel they are being over zealous and greedy. Microsoft has allot of cash and this suit opens the door for the leaches to come out.

Microsoft has won based on having better products, not how they were marketed or how business practices were handled. Netscape makes a sub standard product and always has. Computer users know what's out on the net to download and try and they do. Ninety percent of them choose Microsoft for ease of use, updates and great functionality. Please get the other nine states off of Microsoft's back. It's unAmeican and anit business to let the fleecing of Microsoft continue. AOL, SUNW and ORCL will have to compete on their own merits and quality of products just like Microsoft does everyday.

Microsoft has tons of competition just like everyone else. Microsoft is a LEGAL MONOPOLY. Please wrap this which hunt up and put an end to it. This is not helping the economy or American business.

Sincerely,
Candace Hawthorne
Metairie, LA 70001

MTC-00027772

From: DanceDEA@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:43am
Subject: Microsoft Settlement

Instead of praising a company such as Microsoft and Mr. Bill Gates for giving us the technology they have; there are envious and greedy companies that are always filing lawsuits because they are not as clever.

God Bless Microsoft.
Vickie Sheer

MTC-00027773

From: Edward Hejtmanek
To: Microsoft ATR
Date: 1/28/02 10:46am
Subject: Microsoft Settlement

- to whom it may concern,

I am in the eighth grade and have been assigned to learn all that I can about the Microsoft cases, the current one and the one that started in the 1990?s. I typically sympathize with big companies and I am an avid user of Internet Explorer. I believe that if the states want to settle out of court, as they did in the first case, then that is a perfectly acceptable alternative and therefore the older case was settled fairly.

The new case of AOL-Time Warner and nine states versus Microsoft, is deserved on Microsoft's side. They used anti-competitive business practices to get over the Netscape Navigator. But the question is really is it a better system? If it is then it should have more of the browser market and deserves it. For example, I recently heard that AOL uses the Explorer as it's default for when you join. Why would they do that when they have their own browser, unless it is inferior to the Internet Explorer. So if it is a superior browser why are they taking them to court, they want Microsoft to not bundle the browser with the operating system? Fine, they won?t need to if it is a better system they will have the same, or more of the market. As John D. Rockefeller incorrectly said ?Combination [monopoly] is necessary.?

Edward Hejtmanek

MTC-00027774

From: Rick Davis
To: Microsoft ATR
Date: 1/28/02 10:44am
Subject: Microsoft Settlement

As a professional consultant who makes a living developing and implementing Microsoft based solutions for my clients I have to say that having a single, standardized browser is actually in the best monetary interest of my clients for the simple reason that they don't have to pay me to develop and test an Internet based solution across multiple, incompatible browsers.

A browser is similar to a TV—everyone agrees on the frequencies (standards) and then vendors produce products to take advantage of the standards. . . and, like it or not, since version 4.0, Microsoft has created the best browser on the market. So I think Microsoft actually did everyone a favor by making a superior product available for free.

Additionally, if you go back and read some PC Week (now eWeek) articles from "96 & "97 you'll see that Netscape was planning on adding operating system features to Netscape in a bid to increase its functionality. Microsoft had a dominant position in the desktop O/S market and needed a browser. Netscape had a dominate browser and needed an O/S. IBM, Novell and Apple had tried unsuccessfully for years to supplant Microsoft and failed—and believe me, as one who lived through it as a professional, it was due to the inadequacies of their products and not Microsoft's "strong armed tactics". At this point common sense should prevail and show that Microsoft only needed a good browser to send Netscape to the scrap head of software history—and that's just what happened.

This case has been a waste of taxpayer's money to the sole benefit of Sun and Oracle. As a tax payer I'd like to know why my money is being used to promote their agenda instead of letting the market speak for itself—as it clearly has.

I know Microsoft has been found guilty and I disagree with the arguments used to reach the conclusion as they are technically inaccurate... but that" s now water under the bridge.

So I urge you to please accept this settlement, quit wasting my money, and get on to prosecuting real criminals.

Sincerely,
Rick Davis
President
Davis Computing, Inc.

MTC-00027775

From: schlatkm@maritz.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:41am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Michelle Schlatre
7605 Westgate Blvd
Austin, TX 78745

MTC-00027776

From: Morris Richards
To: Microsoft Settlement
Date: 1/28/02 10:41am
Subject: Microsoft Settlement
Morris Richards
8605 East Mc Kinley Street
Scottsdale, Az 85257-4527
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement: The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Morris W. Richards

MTC-00027777

From: Lawrence, Mark
To: "microsoft.atr(a)usdoj.gov"
Date: 1/24/02 10:22am
Subject: Microsoft Settlement

I think that the Settlement as it is right now is a farce! Microsoft needs to answer for the crimes committed.

Mark Lawrence
Hospital Billing Clerk
Human Resources Health Center
Tel: (305) 638-6661 ext. 3060
Fax: (305) 638-6856
mailto:mlawren2@um-jmh.org
<<Lawrence, Mark.vcf>>

MTC-00027778

From: Scott Dawes
To: Microsoft ATR
Date: 1/28/02 10:46am
Subject: Tunney Act; Microsoft settlement
To: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. While many technologically astute industry insiders have harmoniously raised their voice in Anti-Microsoft fervor, the consumer has been largely unheard and is at risk of great harm by the lawsuit and the Proposed Final Judgment in United States v. Microsoft. I assert that the Proposed Final Judgment is not in the public interest.

In the days of Windows 3.1 and early in the era of Windows 95, Compaq Computers and a few other computer manufacturers loaded their own Graphical User Interface (GUI) on their DOS/Windows PCs. It was a disaster. Customers had to learn how to use each unique GUI. Manufacturers GUIs were designed to take over the computer desktop and were resilient to novice users attempts at removal or deactivation.

If there were other computers in the home or office, or at home versus at work or school, customers were confused and frustrated.

The manufacturers GUIs were typically poorly designed as opposed to the Windows

GUI, which had been thoroughly researched and designed. In addition to poor aesthetic design, the third party GUIs were prone to be buggy, exasperating hardware and software compatibility issues. Computer retailers and sales people had to spend a great deal of time at their own expense deactivating those GUIs. This was necessary in order to minimize product returns by frustrated consumers.

Even in those early days of Windows, the Windows 3.1 GUI was a vast improvement over the naked DOS environment or the Manufacturers GUI. The arrival of Windows 3.1 prompted an explosion of business in the computer industry. When CPM was young and DOS was new, we had to pay hundreds of dollars for even the poorest quality menial desktop application software. The industry had not caught on to the notion that software for consumers should be designed to the consumers liking and needs.

The pre-Windows computer industry had not been exposed to significant competition and we the consumers paid excessive prices for computer hardware, software and related services as a result. The software we got was generally overpriced and seldom performed as promised.

When Microsoft entered the OS and application arena, things began to change. Suddenly there was a savvy competitor on the scene who listened to their customers. Microsoft delivered applications that fit our needs at prices we could afford. Owning a computer no longer required a consumer to be hamstrung by software vendors and technicians who previously demanded exorbitant prices while failing to deliver promised results. Thanks to Microsoft, the time-honored notion of striving to deliver value and service collided headlong with an aloof industry formerly oblivious to such a precept.

Since Microsoft has entered the arena, the industry, though begrudgingly, has matured. Companies today must deliver as promised and at fair prices in order to survive. Though many were forced to become better companies as a result of Microsoft competition, the carping from carpetbaggers in the industry has continued unceasingly. With Microsoft Windows, a customer can take a new computer home or to the office and with no prior knowledge of computers, can be enjoying the fruits of the technology age within hours if not minutes. I challenge any novice to do the same with a UNIX or LINUX computer, an exercise that I propose every person involved in United States v. Microsoft should undertake. The exercise would quickly reveal that it is the comparative superiority of the Windows product and not trade practice that is responsible for Microsoft's phenomenal success. Microsoft has put the consumer in the drivers seat and the industry resents that fact.

The growth of the computer industry has outstripped the capacity of business legal jurisprudence. The Justice Department lawsuit against Microsoft has attempted to reconcile emerging intricacies of an industry that did not exist when the anti-trust laws were written. The Proposed Final Judgment in United States v. Microsoft, in it's attempt to punish Microsoft, risks punishing the consumer instead. It is apparent that the governments suit against Microsoft has persisted only as a result of a massive lobbying effort on the part of bitter competitors who were for the most part striped of their technologically tyrannical power over consumers.

Please do not return us to the dark ages by allowing equipment manufacturers to alter the functionality of the Windows desktop. Please do not discourage Microsoft from integrating intrinsic elements of business and personal computing into a single cohesive operating system. These things not only should be engineered and delivered by a single source, but must be delivered by a single source if computing is to continue to evolve. And lastly, please do not interfere with the computer users ability to send and receive spreadsheets, word processing documents and email documents seamlessly to other associates across the nation and around the world. As such would be the effect of placing inferior products at an artificial advantage by crippling Microsoft's ability to lead the technology in the consumers direction.

The problems you strive to resolve in your Proposed Final Judgment are a noble and justifiable cause, but are tantamount in this case, to burning the forest to prevent forest fires. The solution to all of the problems you embrace must be addressed in new laws and mandated standards designed to accomplish for all computer users what Microsoft has succeeded in providing for their customers. That is standardization of how the computer is used and how business and personal files and information are shared. In the vacuum born of legislative inaction, Microsoft has been forced to undertake and has accomplished this extraordinary task for their customers in spite of being confronted with an unwilling industry and a hostile government.

I beseech you to invoke whatever means are available and necessary to abate any potentially harmful effects against Microsoft in the Proposed Final Judgment or the Amended Proposed Final Judgment.

Failure to do so will ultimately and necessarily result in greater harm to the public whom you seek to protect.

Finally, aggressive anti-Microsoft email campaigns by embittered industry insiders are hereby rebuked and as such are not likely representative of the public or of public interests. Such campaigns are likely to be an exploitation of the justice system for purposes of financial gain and for resolution of personal grievances. I beseech you to consider and weigh them as such.

Respectfully,

Scott Dawes, Tulare, California, Computer user since 1979

MTC-00027779

From: Aaronson, AM (Alan)
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 10:46am
Subject: Letter re Microsoft Settlement
<<Doc1.doc>>
Alan Aaronson
Akzo Nobel Functional Chemicals LLC
5 Livingstone Avenue
Dobbs Ferry, New York 10522-3407

This message, including attached files, is confidential and intended for the addressees only. Any unauthorized use, dissemination of the information, or copying of this message is prohibited. If you receive a message not being the addressee, please notify the sender by returning the e-mail immediately and delete the message.

January 26,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in the chemical industry and use Microsoft's Windows on a daily basis. From my experience and in my opinion, Microsoft's Windows has become the standard operating system for business and personal computing.

The most reasonable choice for the Justice Department is to conclude the antitrust lawsuit with Microsoft and allow them to return to business with the terms of the settlement having been enacted. The government has aggressively sought to break-up Microsoft over the past three years. This offensive from the Justice Department has diverted attention from other ways of dealing with Microsoft's excessive tactics—including strong-arming competitors—that I have read about in the media.

I am pleased a settlement has finally been reached. As I understand them, the terms of the settlement require Microsoft to deal more fairly with competitors and not to retaliate in any way against vendors who want to use competitors" software instead of Microsoft's. I feel that the terms Microsoft has agreed to serves their best interests at this time, and gives the competition reasonable means by which to win consumer loyalty.

The best action the Department of Justice can take is to end this onslaught against Microsoft for being very good at what they do. I think the best is yet to come from Microsoft, and this country's economic rise. I seriously urge the Department of Justice to accept the terms of the November settlement with Microsoft.

This opinions expressed in this letter are my own and are not meant to represent thóse of my employer.

Sincerely,

Alan Aaronson

MTC-00027780

From: Bill Herring
To: Microsoft ATR
Date: 1/28/02 10:47am
Subject: Proposed settlement between the Department of Justice and Microsoft

Dear Sirs and Mesdames:

I do indeed believe that Microsoft has in some cases been an overbearing competitor, and probably should be brought in line, but as a user of Microsoft products, I do not believe that Microsoft should be prevented from providing the software that we as a country have profited from.

I have used Microsoft program products for years as well as software from other producers. I find that Microsoft sets a standard that their competitors sometimes find it hard to meet. As a user, I value that they produce programs and systems that are rich in function, of high quality, and are sold at a price that I can afford.

The fact that they have become a de facto standard, and that I can use their office products and exchange information with others without running into compatibility problems is also important to me, and is a major factor in my businiss use of their products.

By all means hold them to correct behaviour, but punitive actions that lessen their ability to meet their customers needs would be contrary to good business practice, and, I think, would cost us dearly as a nation and as an economy.

Thank you for your attention,
William L. Herring
System Administrator
Strategic Power Systems, Inc.
11301 Carmel Commons blvd,
Charlotte, NC 28226

MTC-00027781

From: Dean Stelow
To: Microsoft ATR
Date: 1/28/02 10:45am
Subject: Microsoft Settlement

Please proceed with the settlement as it currently exists. Its fair and has the added benefit of helping our kids in school get modern computers and software.

Thankyou,
dean stelow
nordev inc

MTC-00027782

From: wooljo@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:46am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
John Woolley
2324 Dolores Court
Pinole, CA 94564–1804

MTC-00027783

From: James Adams
To: Microsoft ATR
Date: 1/28/02 10:49am
Subject: Microsoft Settlement

Is this Microsoft "compromise" a joke? If that is the proposed solution you might as well save the taxpayers a ton of money and not even attempt to do anything to Microsoft. The only people this settlement will hurt is the end-users whether they are home users or corporate users.

I realize that a person with $80+ billion has a lot of influence on the American justice system but that does not give him the rights to mandate to every single PC manufacturer and PC buyer what we should be using. The only thing this "compromise" accomplishes is still giving Mr. Gates his money but also costing us the end-users more by having to purchase another "option".

If you truly want to make the industry fair and best for economy you would force Microsoft to actually have a choice. Let us buy a PC without shoving Windows and Office down our throats. Let us buy it with a non-Microsoft OS and not have to pay for Windows. Give a choice of one or the other or no OS at all. That is truly what the industry wants and needs to see.

Your compromise will in now way punish Microsoft at all. They still get their money. They still have their OS and Office on all PCs.

At the very least something should be done to slow down the release of new OSes. It costs American business a small fortune to keep up with a new OS every two years. Not to mention the IT professionals like myself that are trying to complete certifications it is nearly impossible to keep up with the new OS changes unless you spend $10,000 every two years to go to a "boot camp" to get your certification. Or even just to get familiar with the new changes in the OS. It is a tech support person's nightmare to keep changing OSes every two years.

Thank you for you time and I truly hope that more comes out of this case than the simple slap on the wrist that is proposed. I don?t know that I have a good solution either the only thing that I hope is that we are truly given a choice of operating systems on a PC and not have to pay for something we don?t want.

Thank you,
James Adams
Network Manager
Cashco, Inc.
607 W. 15th
Ellsworth, KS 67439
Phone: 785–472–4461 Ext. 182
Fax: 785–472–8543

MTC-00027785

From: Ron Coveney
To: Microsoft ATR
Date: 1/28/02 10:51am
Subject: Microsoft Settlement.

The Microsoft Settlement is not enough but a break-up is by far worse. What is needed is that they be regulated as a legal monopoly. This gives the government the ability to respond as needed when issues arise. Further, they could reduce the MS selling prices which has been a sticking spot. With what they pay out in dividends to still have over $35 billion dollar in cash on hand shows they are over charging. Again break-up is not an option. The problem with the industry was; all the different operating systems prior to DOS and making all their code public just helps hackers. Yes other companies need access to the code but it needs to be controlled and secure, thus regulation.

Ron Coveney

MTC-00027786

From: mark nesky
To: Microsoft ATR
Date: 1/28/02 10:52am
Subject: Microsoft Settlement

I firmly believe that Microsoft is a monopoly, and I hope they are prosecuted.

Microsoft is a colossal company, and as a consumer, I feel like their monopoly is much more far-reaching than just their web browser, Internet Explorer. And I am not referring to their flawed implementation of Java or the control they exert over computer manufacturers ability to configure the machines they sell. I am referring to their overall market pervasiveness, that my only choice for word processing and spreadsheet software is Microsofts Office program. And that I need to use the Microsoft Windows operating system to be compatible with the network where I am employed. There are alternative software programs to those offered by Microsoft, but often they are harder to find and less likely to be fully compatible with the software used by colleagues.

I believe a poignant example of their monopoly is the way they can intentionally make older versions of their software incompatible. What I mean is, when a few people upgrade to the newest version of a Microsoft product, their colleges must also upgrade if they want to be able to share files. Thus I could have a perfectly good piece of Microsoft software that serves my needs as is, yet be forced to pay money to Microsoft in order to maintain compatibility. THEY ARE BREAKING SOFTWARE I OWN, SOFTWARE THAT ONCE WORKED FINE.

A friend of mine who is a Linux programmer explained how Microsoft broke Excel files. My friend was writing a program that read in Excel files for use in an alternate spreadsheet program that runs on Linux. His study of two versions of the file format showed them to be exactly the same except a small tag in the beginning that stated the version of Excel that created the file. Because of this tag, older versions of Excel refuse to open the file, even though the file is fully compatible. Thus Microsoft used the file format to force Excel users to upgrade, even though the new file format is identical except for this tag!

A well-designed file format should transcend software versions. When a new feature is added to the file format, that feature can be tagged with a name when it is used. Thus a file that does not require the new feature will be identical to the old file format, and a file that does use the new feature can mostly be read by older software, which can read everything except the part with the new feature, which it will ignore. The practice of intentionally breaking older files is immoral. But since there are few alternatives to Microsoft software, people must buy and keep buying it.

Microsofts new subscription based business model is simply making their shady forced upgrades explicit. As described above, they are forcing people to upgrade to new versions by making older version incompatible. But with a subscription model, they will force us to upgrade because our license has run out. The only reason they could get away with such atrocity is because they are a monopoly! From a prosecution point of view, perhaps the browser war with Netscape is a more clear-cut example of Microsofts monopoly. With Internet Explorer preinstalled and available in the start bar, the start menu, and on the desktop, it is clear that Microsoft is leveraging their operating system to promote their web browser. And with such a huge user base viewing the web through the Microsoft browser, Microsoft can sell default bookmarks to companies and promote its own wares through bookmarks and the default home page, furthering its monopoly.

Microsoft is so big and influential, that I worry that they will buy and cheat their way out of prosecution. I bet that their will be a disproportionate amount of pro-Microsoft email sent to the DOJ because Microsoft will be encouraging all its employees to flood this email address with praise. Microsoft will stoop that low, and if opportunity presents, much lower. If Microsoft is not prosecuted harshly, I fear the situation will worsen. They will get away with more and more, and their size and influence will grow. If their influence grows any more, there may not be an opportunity to prosecute again.

Their potential to influence has grown tremendously, especially now that they have bought NBC. I have not yet seen them abuse this power, but that is probably because I do not watch TV. But if Microsoft continues to grow, and even the news is delivered with a pro-Microsoft slant, there may be no hope for competition in the future. I believe that Microsoft has grown out of hand, and I really hope the government can stop this problem before it gets too late.

One proposed solution I heard in the continuing coverage of the trial was to break Microsoft into several smaller companies. Such a split might separate the operating system from other software programs. I believe such a split will be a good step in the right direction. But I hope that is not the only penalty imposed on Microsoft. Another part of the solution should be requiring Microsoft to standardize and make available their file formats and interfaces. All communication between Microsoft programs, across networks, and between programs and the operating system should be well documented. In addition, this documentation should be made available well in advance of the software that makes use of it, so companies can make their alternative products compatible the moment the Microsoft programs hit the shelves. If the alternative software is fully compatible, then I believe it will have a much better chance of surviving. And I think that increased compatibility will benefit the software world in general. Standardized interfaces and file formats will make sharing file across versions, platforms, and vendors much more reliable. There will be much more competition and innovation.

Recently Microsoft proposed a settlement to the case brought against them by the states. The settlement proposed by Microsoft would not help, Microsoft offered to give a large dollar amount of their software away to schools. Fortunately, I think that the states saw through this ploy. This would not be punishment; this would simply be Microsoft furthering its monopoly! Microsoft would have extended its user base to many more people. And when these students left school, they would expect Microsoft software in the work place, because that is all they will have known!

If Microsoft escapes prosecution, it will only be because they are so big and influential. How ironic. Please do not let this happen!

If I sound biased, it is because I feel like I have been forced to use Microsoft products. There is little choice. And the choice there is, is obscured by a lack of money for marketing. When I mention alternative operating systems like BeOS (which recently went under) people dont know what I am talking about. Likewise, few people have heard of other office vendors. Some of the alternative programs are better and cheaper, yet they go on unnoticed. I am strongly opposed to Microsofts monopoly, but I want to be clear that I do not work for any competitor. Neither my employer nor myself stand to benefit directly from the prosecution of Microsoft. But I believe the whole United States will benefit if this monopoly is stopped.

Thank you for giving me the chance to express my opinion.

I hope that justice is performed fairly. And I hope the outcome is determined by what would be best for this country and its people.

Sincerely,
Mark Nesky

MTC-00027767

From: Dan Rosenthal
To: Microsoft ATR
Date: 1/28/02 10:53am
Subject: Microsoft Settlement

Microsoft is a tough competitor primarily because it's products are functional and always improving. The reliability and compatibility of their products has brought order to a chaotic software market.

Standards are necessary in every market: the standard distance between tracks beneath railway cars allows trains to cross our country regardless of the rail provider. The standard number of volts and the shape of outlet receptacles allows appliances to be used safely regardless of the corporation that builds them or that generates the electricity. (This is been standard in-country, but not world-wide, causing a need for special plugs when traveling).

Microsoft is setting national and international standards because it manufactures customer-preferred products. Customers have voted for Microsoft by using and purchasing their software. We should encourage such an innovative company...not penalize it for it's success.

Dan Rosenthal
Columbus, Georgia

MTC-00027768

From: Jim Worthington
To: Microsoft ATR
Date: 1/28/02 10:53am
Subject: Microsoft Case

I believe strongly that the penalties for Microsoft's antitrust misbehavior need to be sufficient to strongly discourage such behavior in the future. Microsoft's competitors have been seriously wronged by its illegal tactics. Microsoft does not appear to believe it has done anything wrong despite rulings to the contrary and continues to act in similar anti-competitive ways.

It is important to restraint the company's behavior in order to create a competitive software environment. I hope that you will rule accordingly.

Sincerely,
James M. Worthington
President
WorthSoft, Inc.

MTC-00027769

From: pixel fairy
To: Microsoft ATR
Date: 1/28/02 10:58am
Subject: Microsoft Settlement

my comments have two focuses. I'm certain you have already read much of why the proposed remedy will have little effect on the practices. i have found nothing in the proposed remedy to repair the damage and restore the market place. my first concern is what Microsoft hides and from whom. while implementation is intellectual property, the apis, protocols, and formats should now be publicly available for reasons described below. ive also included a comment about the scope of the settlement.

in section III.I the formats, apis, and protocols need to be publicly available, this is the only way to really lower the barrier of entry to anyone who wants to make compatible software, and is especially important to developers of free software. in its current form, Microsoft can exclude certain parties such as free software developers. also section III.D mentions MSDN as a delivery channel. this would force developers to sign up for Microsoft services in order to obtain the information. the information should be mirrored by at least one independent third party. section III.J.2 is especially dangerous as discussed below.

because Microsoft has illegally dominated the desktop operating systems market, competitors should now be able to make thier software compatible at the api level, which is why the operating systems api needs to be public knowledge so that third party implementations (win32 emulators, compatibility layers, etc) can be developed, removing that barrier of entry. this is very important as windows compatibility has become essential for any commercial desktop software to survive or operating system to be viable to a large market.

any deviance from the published api should be carefully appraised, and documented and fixed in timely manner. a hard deadline should be set for at least documenting any error in Microsoft's implementation to allow outside developers to know about and work around such.

III.J.1 can be abused, if left in the settlement should be watched very carefully by the TC, but preferably taken out. implementations of well designed security protocols are just as effective if the implementation let alone the api is exposed. this clause could easily be used by Microsoft to continue to use secret interfaces in thier products.

III.J.2 need to be taken out as it is very dangerous. it could easily be abused. Microsoft should not be able to set the standards on who can access thier api documentations for the reason set above and because this clearly allows Microsoft to decide who can and can not be privy to the information. Any organization or individual that Microsoft deems a credible threat would be denied access to the information, or at least delayed until it the protocol was changed. this was probably included by Microsoft lawyers as a way to counter the threat of free software or open source developers and has no value in restoring competition or redressing the damages done. Microsoft should only be allowed to use thier patents or copyrights defensively and this restriction should also extend to any companies owned by Microsoft. This idea is discussed by the gnu project at http://www.gnu.org/philosophy/microsoft-antitrust.html

Microsoft has recently acquired some of the ip regarding opengl from sgi. opengl is an open 3d graphics library used on many platforms including windows. its in competition with Microsoft direct 3d which only runs on windows. if Microsoft used this to inhibit development of opengl or tie it to windows directly or indirectly it would have a horrible effect on the computer graphics industry.

The settlement only applies to desktop software. microsoft is also in other bussiness and has other software departments that are related, and thus the settlement should apply to all of the corporations software.

MTC-00027790

From: Tacke
To: Microsoft ATR
Date: 1/28/02 10:52am
Subject: Microsoft Settlement
Department of Justice
Washington, D. C.

Ladies and Gentlemen:

I believe the proposed settlement should be approved by the Department of Justice.

I have thought from the outset of this litigation, and continue to believe, that this action by the government was unwarranted and motivated by political interests led by Sun Microsystems and Oracle. The nine states objecting to this settlement are also aligned with these political interests. More recently, AOL Time Warner, a significant Microsoft competitor, has piled on.

To alter this proposed settlement as advocated by its opponents would do nothing but weaken Microsoft against these powerful rivals. And, their gains would not have been as a result of their innovation, vision, or management skills, it would be because of unwarranted government intervention.

Microsoft's activities have not harmed consumers. To the contrary, consumers and the US economy have benefited enormously from Microsoft's innovation and persistence. To alter the proposed settlement with the result of weakening Microsoft against its competitors would harm consumers.

This litigation has been a waste of taxpayers" money.

Approve the settlement and let the free market system work.

Respectfully submitted,
Stephen P. Tacke
4943 Sandestin Drive
Dallas, Texas 75287
CC:'Steve Tacke"

MTC-00027791

From: cocacola@essex1.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:54am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Randall Stogentin
4013 W. Ogle St.
Dixon, IL 61021

MTC-00027792

From: Judy Thornburg
To: Microsoft ATR
Date: 1/28/02 10:56am
Subject: Microsoft Settlement

I feel the whole law suit was frivolous from the very beginning. This country is about competition and being innovative. If a company falls behind is is probably do to the lack of the above two things.

I use a Apple computer. A couple of years ago I had a Permorma 5215CD, with an older operating system, it got so I could not get Netscape product to work on it, Microsoft Explorer did, so when I purchased an iMac I went to the Microsoft product because it worked on my older computer! Government needs to keep its hand out of the running of business in this country.

Judy Thornburg

MTC-00027793

From: ergeorge@att.net@inetgw
To: Microsoft ATR
Date: 1/28/02 10:58am
Subject: The proposed MS Antitrust
Settlement is INADEQUATE!

The current proposed Microsoft antitrust settlement is completely inadequate to address the abuse of monopoly power that Microsoft has perpetrated in the past decade. In particular, I feel that the only way to redress this grievence, and open the market to competition is to open the Microsoft APIs and protocols, and to protect all OEMs from microsoft retaliation for shipping systems with competing operating systems.

The open API clause in the existing agreement is flawed on several counts:

- The term "API" is defined so narrowly that several important protocols and platforms are not included at all. The most important of these are the MS Office document formats, and the .NET platform.
- The settlement requires Microsoft to release API documentation but it prohibits competitors from using this documentation to help make their operating systems compatible with Windows. So, what exactly is the point of releasing the APIs, and how would this distinction be enforced?
- MS is not required to release the APIs and documentation before the products are released. This means that competitors are constantly playing catchup, and microsoft can effectively change the rules at will to deliberately destroy compatibility with competing products. I would reccomend that the APIs and documentation be publically published, without restriction, at least 3 months prior to the release of any product using those APIs.

On the question of OEMs, the settlement allows microsoft to continue discriminating against small "white box" OEMs that account for a large proportion of system sales. In my opinion, all OEM sales should clearly break out the cost of the operating system from the cost of the hardware, service, etc.

Please do not let this settlement go forward.

Respectfully,
Eric George
Colorado Springs, CO

MTC-00027794

From: Pradipkumar Ramanlal
To: Microsoft ATR
Date: 1/28/02 10:58am
Subject: Microsoft Settlement

This comment urges the presiding judge to reject the proposed settlement.

Little in the proposed settlement between "The Government" and "Microsoft" addresses one of the most perverse actions that Microsoft can take to

(1) impede competition,
(2) further strengthen its windows monopoly,
(3) stifle innovation and
(4) harm the consumer

The issue pertains to Microsoft's ability to bundle software. Microsoft has steadfastly maintained there should be (little or) no restriction on its ability to "innovate" (i.e., to add additional features to the Windows Operating System like Internet Explorer and Windows Media Player).

Unless the issue of bundling is adequately addressed is any settlement, the following scenario will almost certainly prevail:

Innovators generally have a strong interest to expend large amounts of resources (money and talent) to create middleware because of the hugh market that exists and the potential for windfall profits if successful.

But innovators are cognizant of the fact that the risk-rewards structure is extreme: winner-take-all.

Innovators are also cognizant of the fact that there is a significant advantage to being first-to-market.

Thus success demands aggressive competition and a quick outlay of large amounts of resources. It is just such innovation and tactics that brought about technologies of significant value to consumers: the browser (by Netscape) and the streaming audio/video (by Realnetworks).

It a competitive system, innovators are willing to take hugh risks if the potential for hugh rewards exists.

But Micorosoft, by using its monopoly power, has successfully decoupled the rewards from the risk. It has found a way to lay claim on the reward following its discovery, while assigning the costs associated with unearthing this discovery to the original innovator.

How is this possible?

A big part of the innovative process is to uncover the product or service consumers demand most. To that end, innovators expend valuable resources on inventing all kinds of products and services since initially it is unclear which one will "click" with consumers.

Microsoft has simply to sit back and let all the innovators in the market do their creative work and expend their resources. Once the dust has settled, and the winning product or service is revealed, Microsoft steps in and creates a product to compete solely with this winning product. In a competitive system, such a strategy would be futile lacking the "first-to-market" advantage. But not so for an entrenched monolpolist.

By bundling its competing version of the winning middleware to the operating system, Microsoft has the benefit of offering a winning product without having incurred the true expense incurred in uncovering this winning product, which is the sum of all the resources spent by all innovators in total in uncovering this product (most of them of course unsuccessfully).

Traditionally, Microsoft has bundled this winning software into the operating system so that consumers have the perception that they get it for free. What is being done is that Microsoft garnishes the product from the innovator and passes it on to the consumer at no charge.

Why shouldn't the govenrment be happy if the consumer gets something for nothing? First, it stifles further innovation since innovators now understanding there are no rewards to taking hugh risks.

Second, with more and more winning middleware products added to the operating system, the Windows monopoly becomes further entrenched at a disproportionately low cost to Microsoft. Third, with all future innovators deterred from the market, consumers must rely soley on the innovative power of the monoplist.

Of course, there is the proposed remedy that Microsoft offer different versions of the operating system at different prices to afford the winning middleware innovator the opportunity to profit.

This remedy is vastly subject to manipulation by Microsoft because the costs and revenues are decoupled.

Costs are determined by the cumulative labor expenses of the industry as a whole and the success likelihood of any one firm, while revenues are determined by whatever Microsoft sees fit to set the price differential between the two versions of the operating system, one with and the other without the middleware.

Proposed price differentials based on the length of code are also subject to manipulation given that Microsoft can make ite base-version operating system any length is chooses.

These is also the issue of when the APIs are made available to the outside innovator and microsoft internal developers for software upgrades of this winning middleware. They must be made available at the same time.

Of course, microsoft is apt to claim in future, as it has in the past, that the added winning middleware is now an "integral" part of the operating system and therefore the playing field with respect to API disclosures will not be level.

The only remedy to ensure future innovation persists is if Microsoft competes on the same terms as all the other innovators in generating new and winning middleware.

In the least disruptive way to microsoft, this can best be accomplished by requiring microsoft to form a wholly owned subsidiary with whom microsoft has a public and transparent arms-length relationship on the same terms offered to all competitors producing bona-fide competing middleware.

Sincerely,

Pradipkumar Ramanlal

Associate Professor of Finance

University of Central Flroida

Orlando, Florida

MTC-00027795

From: Burton W. Phelps

To: Microsoft ATR

Date: 1/28/02 10:59am

Subject: Microsoft settlement

Please read the attached letter.

Burton W. Phelps

Support the NFA. E-mail your Congressional Representatives and support the NFA budget and ask for more personnel to do the job.

Go to www.mrsmith.com for Congressional e-mail addresses.

1213 Lorene Drive, Pasadena, Maryland 21122-4895

410-437-1990 Fax 410-360-7043 E-mail: ics1@cablespeed.com

January 28, 2002

Attorney General John Ashcroft

US Department of Justice

950 Pennsylvania Avenue, NW

Washington, DC 20530

Dear Mr. Ashcroft:

As a Microsoft supporter, it is essential that I show my support for the settlement but also for the company's return to developing new products. Microsoft has done a lot for the technology industry and is responsible for leading the way in software development. They should not be chastised for coming up with the most innovative ideas and the best products. In this light, Microsoft is the embodiment of the American dream to achieve success. We should embrace this accomplishment instead of discouraging it. This celebration of success can begin with the end of the Microsoft Antitrust case.

Three years have passed since the beginning of this case and it has taken the Department of Justice and Microsoft too long to reconcile differences. I am confident that the terms of the settlement are a result of careful analysis that will best serve the interest of all entities involved. First, Microsoft has agreed not to retaliate against those that directly compete with Microsoft as well as those who support those competitors. In addition, Microsoft has agreed to grant computer makers the right to remove consumer access to features of Windows and instead replace those features with access to non-Microsoft software programs. Furthermore, Microsoft has agreed not to enter into any agreements that will obligate any third-party to exclusively endorse any Windows technology.

As you can see, the Department of Justice has taken extreme care to resolve this case to the best of its ability. The terms involved are reasonable and fair in the eyes of the public, the State, the IT industry as well as the economy. Clearly, the best course of action to take is to end the settlement.

Sincerely,

President

MTC-00027796

From: jrkjr@att.net@inetgw

To: Microsoft ATR

Date: 1/28/02 11:00am

Subject: The Honorable Department of Justice:

The Honorable Department of Justice:

I would like to express my opinions regarding the Microsoft case. Since all the evidence points to the fact that Microsoft was guilty, why not let them pay their fine and the world could back to business. The Attorney Generals of the dissenting States should look at the problems in their own backayrds, instead of prolonging this issue. Most States these days have budget deficits, so what is the benefit of directing additional time and resources to this matter. I'm sure if you polled most consumers, myself included, they would not feel terribly slighted by the Microsoft actions. If I were due compensation, I would donate the money to Homeland Security, which is something really important!

Sincerely,

J. R. Kot Jr.

MTC-00027797

From: Andymo13

To: Microsoft ATR

Date: 1/28/02 10:59am

Subject: Microsoft Settlement

As an American citizen having watched this case go on and on for far too many years at the urging of Microsoft's primary competitors, it is time it is put to bed. The settlement is fair and reasonable.

While the competitors may still be complaining, there has never been any proof that consumers have been harmed in any way. Let's stay focused on the consumer and encourage big corporate tech companies to do so as well. They and all of us would be better served by better products, than by more law suits.

Approve the settlement. Let Microsoft get back to doing what it does best, serving their customers.

MTC-00027798

From: Jeffrey S. Smith

To: Microsoft ATR
Date: 1/28/02 11:00am
Subject: Microsoft Settlement

To Whom It May Concern:

I have been watching the Antitrust Suit that was brought against Microsoft since it was filed with great intrigue. Since public opinion has been welcomed, I would like to give my input.

I have worked in the Electronic Security Industry for the better part of 23 years. The last 7 years I have worked for a Software Development Company that specializes in Computer Software and Hardware for the Electronic Security Industry. Until recently, we did not develop or use any of the Microsoft Operating Systems for development of our software. We have always purchased the computer from companies like Everex, Premio, Digital, Compaq, etc. Until the Antitrust charges were filed, we were forced to buy Windows Operating systems along with the machines. Bare in mind, we never ordered the hardware with even a hard drive in them, but we were forced to buy the operating system because as I was told by all of the companies we purchased from, ?That the agreement that they have with Microsoft states that they have to sell a Microsoft Operating System with every computer sold?. 4 or 5 years in a row, we would end up donating 200 to 300 new operating systems to some local vocational schools since we could not resell them, as they were OEM versions of Windows. Obviously, this is just one of many scenarios that Microsoft seemed to have created and fostered into the current situation. I feel that scenarios like this are why the DOJ did the right thing in bringing the Suit against Microsoft. Obviously, scenarios like this are clearly anti-competitive and a win/win situation for Microsoft. They get to make a sale even though us and other companies had no intention of using their Operating System. Hardly seems like Freedom To Innovate as Microsoft has said.

In my opinion, they should not be broken up. I feel that more damage would come as a result if they were, economically as well as technology wise. However, I feel the penalties need to be much stiffer than what is proposed currently for the settlement. The financial penalties are not nearly stiff enough. They should not be allowed to give computers to schools as part of the settlement since this will obviously hurt Apple with their excellent school program that until now Microsoft has not really cared about. Possibly donations to charities or other worthwhile causes would be good as part of the settlement. Microsoft and other companies need to remember this case as a reminder of how not to do business. The only way to do that is to hit them in the wallet and possibly some sort of log term Federal oversight for a few years to keep them honest. (If that is possible).

I truly feel Microsoft is an amazing company and a lot of the Technology that we have at our fingertips is thanks to them. They should have the Freedom to Innovate, putting a stranglehold on the bulk of the Technology Industry is not Freedom. There truly is no other game in town currently as far as the technology goes. However, if Microsoft would have been allowed to continue several years ago, there would never be a chance for any other company to even attempt to do what Microsoft has done. If things are done right in the settlement, maybe there will be some new players in the game.

Sincerely,
Jeffrey S. Smith
Operations Manager
Bold Technologies Ltd.
(847) 625–7700 voice
(847) 625–5500 fax
A Bold Group Company
Chicago London Rotterdam
www.boldgroup.com

MTC–00027799

From: Brian Filipiak
To: Microsoft ATR
Date: 1/28/02 10:57am
Subject: Re: U.S. v. Microsoft: Settlement Information

Hello,

I am writing to let you know that I feel the proposed settlement is inadequate in many respects, specifically with regards to proposed remedies regarding what Microsoft would provide to school districts. This would only *enhance* their monopolistic practices, not rectify the problems. Please reconsider the actions you have proposed, and look to some of the other useful suggestions proposed elsewhere.

Sincerely,
Brian Filipiak
Brian Filipiak
Teacher Education
313L Porter Building
Phone: 734.487.7120 x 2645
Grant Associate
College of Education
Eastern Michigan University
Fax: 734.487.2101

MTC–00027800

From: Hull, Tom
To: Microsoft ATR
Date: 1/28/02 11:03am
Subject: Microsoft Settlement

As a customer of Microsoft, I strongly support the proposed settlement. I believe that Microsoft products offer excellent value and have improved my productivity at my office and my home. Also, as a believer in the capitalist system, I am very concerned about harsh remedies being imposed on a company which has demonstrated shown true entrepreneurial vision. Without the leadership of Microsoft, the digital communication system that we function on today might not have been achieved.

MTC–00027801

From: Kuzdas.Tommy
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 11:01am
Subject: "Microsoft Settlement."

Tommy D. Kuzdas
7205 West Marine Drive
Milwaukee, WI 53223
Email: tommy.kuzdas@wepco.com

Dear Sir, as a concerned citizen in the state of Wisconsin I have been tracking the Microsoft case with some interest. As a consumer I was very, very angry with microsoft for dictating to me what software would be loaded on my computer. I am still very angry with being forced to accept Internet explorer and other Microsoft products as a condition of buying a computer.

I believe the aggreement that the federal government is trying to force on the states is totally unacceptable for the following reasons: 1. Microsoft is not forced to admit guilt. Microsoft was convicted of being a monopolist and of abusing its power in violation of both articles of the Sherman Anti-trust act. This conviction was upheld UNANAMOUSLY by a seven judge panel in a federal appeals court. In addition the U.S. Supreme Court has turned down Microsoft's appeal. Has any defendant convicted of a crime ever been able to bargain their way out of a conviction? I find this concept to be repugnant and outrageous! Furthermore, Microsoft was given every opportunity to change its conduct over the last seven years. Microsoft deserves no sympathy! My smpathy is reserved for Microsofts victims. Finally if this conviction is overturned the ability of the computer industry and of consumers to recover damages will be all but destroyed.

2. Microsoft should have absolutely no say in how they are to be policed and regulated. The job of the technicle monitors should be to uphold the interests of the public and of the rest of the computer industry. Microsoft's interest is in maintaining its Monopoly and continueing to strangle the rest of the industry through tactics of extortion, exclusive contracts, and product tying.

3. The aggreement should be open ended with regards to time. I do not believe that any company over the next five to seven years will be able to directly threaten Microsoft's monopoly. A serial killer when convicted gets the key thrown away. Microsoft should be treated the same. Not withstanding comments later in this letter, I feel the aggreement should last at least ten years with the provision that if Micosoft violates any part of the aggreement it gets extended for another 10 years. Microsoft should also be reguired to pay all reasonable costs for required enforcement actions.

4. The aggreement lacks teeth. Microsoft conduct reflects a total disreguard and contempt for our justice system. Assessing a fine of a million dollars a day or even ten million dollars a day means NOTHING to Bill Gates. I believe that Microsoft should be required to forfiet their copyrights to ALL of their operating systems (DOS versions 1.0—6.0, Windows, Windows 3.0, Windows 95, Windows 98, Windows 2000, and Windows Melenium)if they are ever found in contempt for violating the consent decree and that such judgement would be final and not subject to appeal. I do not mean the government now owns Windows. I mean the copyrights cease to exist.

Windows and DOS becomes freeware availible to be used as individual companies and individuals see fit.

5. Microsoft may argue that such a penalty is too harsh. My rebuttle would be to simply point out that based on their past behavior strong motivation is required to ensure compliance with the consent decree.

Microsoft needs to stop walking the line, stepping over, then becoming good boys again when their errors are pointed out. I would recommend that the anti-trust compliance officer be given power to disaprove of any contracts he believes violates anti-trust law , and that such contracts be reported to the justice department. The software industry and the federal government should get to decide who fills this important post. Microsoft should also be advised that they would be expected to obey the consent decree in spirit as well as word.

In conclusion I would like to say the following:

I believe that Microsoft should be held accountable for violating the Sherman Anti-Trust act. I believe that the copyrights to all of Micrososft's operating systems should be disolved because Microsoft used their copyrights in a manner which violated the Sherman Anti Trust Act. This action would be simple, severe (the equivilent of a 500 billion dollar fine), and would end Microsoft's monopoly power. This punishment would send a strong message to the computer industry. (A message I believe the industry wants to hear). The computer industry would be able to make competing operating systems by decompiling and reverse engineering Windows. This punishment would also created the paradign shift which Microsoft fears. A shift that I believe the computer industry desparately wants and that would have benifitted consumers. A proliferation of operating systems based on Windows API's would also creat the ideal conditions for Sun Microsystems JAVA programing language. Stripping Microsoft of their copyrightsthis would also save the federal government the hassle of monitoring Microsoft's corperate conduct.

I aknowledge that creating such a shift would give Sun Microsystems a monopoly of their own. However I believe the owners of Sun Microsystems would be very carefull about how they conduct bussiness. Microsoft has claimed that anti-trust laws have no place in the computer industry because of the pace of inovation. Microsoft could not be more wrong. The anti-trust laws are not about technology. They are about bussiness ethics and fair play. Protecting consumers and small bussinesses from predatory bussiness practices. Ethics are universal and transend any bussiness including the computer industry.

I have strong objections to the prevailing philosophy in the Federal Court System that companies engaging in anti-competetive behavior should not be punished, only restrained. This philosophy does nothing to right the wrongs of competitors harmed by illegal marketing practices. I would point out that Judge Jackson could have sentenced Bill Gates and Steve Ballmer to three years in a federal prison and confiscated Microsoft. (I understand that had he done so the punishment would have been vacated for being too harsh). Congress intended that anti-competitive behavior be punished as criminal behavior.

As a consumer I would very much like to see Sun Microsystems vision come to pass. "Write once, run anywhere!"

Microsoft must be forced to pay for the manner in which they undermined competition based on the merits.

I ask that the judge presiding over the punishment phase of this trial see this letter.

Respectfully,

Tommy D. Kuzdas

MTC-00027802

From: Dave Dooling
To: Microsoft ATR
Date: 1/28/02 11:06am
Subject: Not tough enough

Gentlemen:

As a freelance writer I would like to register my string disapproval of the weak remedies proposed in the Microsoft antitrust settlement. Microsoft has behaved like a corporate thug and has even acted as if it was above the law. The supposed side-by-side demonstration of two different operating systems in court—which turned out to have the results altered—should have earned the lawyers time in jail for perjury and contempt. As a science writer, I know that the correct way to run the test would have been with two identical hard drives swapped in and out of the same machine so the test would be a true apples-and-apples comparison. It is an example of how Microsoft does what it wants. The proposed remedies would leave the field open for them to continue taking advantage of the consumer and to prey on other businesses. In particular, the proposal to give away software and old computers means nothing as far as financial penalties go. Microsoft will tout the retail value of packages that actually cost them a small percentage to manufacture. They will then have schools locked into Microsoft software and have to pay dearly for upgrades in the future. The situation is more like a pusher giving a school kid the first fix for free. Microsoft is too big for the national good. They control most of the desktop and are trying to extend their reach into more of business and entertainment. I strongly feel that stronger remedies are required, including splitting the company into three or more separate companies. I further believe that given the reliance of American business on Microsoft products that the U.S. Government should consider regulating Microsoft as a public utility.

Sincerely,

Dave Dooling

Dave Dooling / D2 Science Communications
555 Sparkman Drive, Suite 820C / Huntsville, AL 35816 USA
256–890–0972 (voice & fax)
256–830–5800 (Sharon, my wife and secretary,
wolf.mother@d2sci.com)
dave@d2sci.com http://d2sci.com

MTC-00027803

From: Rjdar12@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:01am
Subject: Microsoft Settlement

I think the settlement proposed by Microsoft is very generous. The benevolent education of our youth is a good idea. Please let our creative corporations do their job and help America stay number one.

Ralph Darnell

MTC-00027804

From: Dan Jenkins
To: Microsoft ATR
Date: 1/28/02 11:02am
Subject: Remedies for Microsoft antitrust suit

I've been a system administrator, programmer and technical support person for about 25 years. As Microsoft's products and behavior have directly affected me and my clients (and will continue to do so), I must comment on the suit.

In all my years in the industry, I have seen relatively little of the often-claimed innovation of which Microsoft speaks. I have seen competitive companies purchased and put out of business—eliminating competing product lines. I have seen information obfuscated and altered in small, undocumented ways to preclude competition—and to force client's to upgrade to maintain basic compatibility within their own companies. I have seen (and continue to see) severe security flaws.

These flaws have cost my clients and our whole economy enormous amounts to battle.

So, given a history of consistent, persistent abuses, I submit that only pervasive, unarguable remedies will cause Microsoft to alter its behavior.

Microsoft's proposal to provide large amounts of their products for use in the school's merely demonstrated their monopolistic behavior. The school's would have required ongoing support and upgrades—which would have cost more money that poor school's don't have in the first place. By entrenching themselves in the school's, they would have deepened their hold on the mind share of the next generation of computer users, thereby, perpetuating their monopoly. In my opinion, these remedies ought to include (at least) the following items:

- Prohibit bundling contracts whereby the cost of the operating system is included invisibly in the cost of the system. That way, the consumer is aware of what he is paying for, and what alternatives would truly cost.
- Require formats and APIs to be documented. Microsoft uses much that is proprietary in their system, which can then, in turn, lock out competitors from creating competing programs. (The fact that Microsoft has the best-selling operating system with an embedded web browser, and the best-selling office software suite, gives them an almost airtight stranglehold on what is essentially a self-contained system.)

Therefore, I recommend that all proprietary formats, protocols, etc., be opened: the API, itself, file formats for all (non-licensed) applications, communications protocols, and anything else that would hinder competitors from being on a level playing field when writing applications for the Windows platform.

- Separate the application development from the operating system development. Microsoft application developers gain an unfair advantage in internal knowledge of Microsoft operating systems over their competition.
- Require email and web clients be separately installed from the operating

system. Both Internet Explorer and Outlook are installed by default on Windows platforms. Most customers do not even know other alternatives exist. If a new Windows system prompted to install these components and indicated that alternatives exist (such as Netscape, Opera, Eudora, and others), then customers would have the chance to choose alternatives. This would also potentially reduce some of the impact of the security flaws—as most have been due to the email or web browser clients Microsoft provides.

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Federal Register

5–3–02
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Book 9 of 12 Books

Friday
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Friday
May 3, 2002

Book 9 of 12 Books
Pages 28123–28698

Part II—Continued

Department of Justice

Antitrust Division

United States v. Microsoft Corporation; Public Comments; Notice

MTC-00027805

From: Sudha
To: Microsoft ATR
Date: 1/28/02 11:04am
Subject: LOGICAL EXPLANATION—Freedom to Innovate

Below are comments to specific issues addressed in the Court Case, http://www.usdoj.gov/atr/cases/ms-settle.htm#docs

Item #2: Someone else please invent a better operating system than Windows! Also if MS Windows has monopoly, what about Intel—would they be "monopolizing" the intel chip market?

Item #3: A better operating system will always win the user market.

Item #4: How ridiculous! When Netscape owned 70% of the market, was it not a monopoly?

Item #7: Java is very difficult to learn. Training is unaffordably expensive.

Item #11: Netscape is NOT the browser innovator—give credit to the real innovator, please!!! (universities!)

Item #18: Microsoft has a right to "tie" all ITS products together! Integrating applications makes better use of system resources.

Item #24, 25: As long as Windows is the operating system used, the creator of Windows, who is Microsoft, has the right to present it anywhich way to the users as they please—basic human right of ownership!

Additional Comments: Seems to me like other vendors like IBM and Sun and Netscape had nothing to complain about as long as THEY owned the lion's share of the market. Their products were difficult to use and hard to learn.

Microsoft brought the computing technolgy to the layman's door making it possible for the total computer illiterate people to be able to actually use the computer in effective and efficient ways, which would have been totally impossible otherwise!

Sudha
Database Administrator
Department of Human Oncology
Telephone: 608.263.1549
Email: <mailto:sudha@mail.humonc.wisc.edu> sudha@mail.humonc.wisc.edu

MTC-00027806

From: Bartucz, Tanya Y.
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 11:03am
Subject: Tunney Act Comments

Attached please find the Association for Competitive Technology's Tunney Act comments on the Microsoft settlement. A paper copy has been submitted by fax.

Tanya Bartucz
Sidley Austin Brown & Wood LLP
1501 K Street, NW
Washington, DC 20005
(202) 736–8067
Fax (202) 736–8711

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. Civil Action No. 98–1232 (CKK) MICROSOFT CORPORATION, Defendant. STATE OF NEW YORK ex rel.Attorney General ELIOT SPITZER, et al.,Plaintiffs,) v. Civil Action No. 98–1233 (CKK) MICROSOFT CORPORATION,Defendant.

COMMENTS OF THE ASSOCIATION FOR COMPETITIVE TECHNOLOGY

The Association for Competitive Technology ("ACT") hereby submits its comments on the Revised Proposed Final Judgment ("RPFJ") that has been proposed by most of the plaintiffs, including the United States, and defendant Microsoft Corporation. ACT is a trade association representing some 3,000 information technology ("IT") companies, including Microsoft, on a number of issues important to the industry. ACT's mission is to promote a vibrant, competitive IT industry and a vibrant IT marketplace in which consumers, not the government, pick winners and losers. Because ACT believes that, on balance, the RPFJ will be good for both the industry and consumers, it supports the RPFJ. ACT also opposes the radical proposals advanced by the remaining plaintiffs because they would harm the industry and serve no other purpose than to advance the interests of such Microsoft rivals as Sun Microsystems, Oracle, and AOL Time Warner.

INTRODUCTION AND SUMMARY

The purpose of a Tunney Act proceeding is to determine whether the settlement that the federal government has entered into is within the reaches of the public interest. United States v. Microsoft Corp., 56 F.3d 1448, 1460 (DC Cir. 1995) (internal quotation marks and emphasis omitted). The RPFJ easily meets that forgiving standard. Indeed, as shown in detail below, this conclusion is easily established by measuring the RPFJ against four settled principles that govern relief in all antitrust cases, and by comparing the RPFJ to the radical remedies that have been proposed by the States that have refused to consent to the RPFJ ("Litigating States").

First, it is well settled that an antitrust remedy should be designed to protect consumers rather than advance the interests of competitors. The RPFJ will accomplish this goal. It prevents Microsoft from engaging in exclusionary or retaliatory tactics, as well as foreclosing a number of more specific paths to unfair competition. However, it is carefully crafted to ensure that Windows will remain available to consumers as a reliable operating platform.

By contrast, many of the Litigating States' proposals seem to have been designed by Microsoft's competitors. Indeed, the companies that will benefit most from the Litigating States' efforts are the same ones that have led the campaign to scuttle settlement efforts case and to impose far-reaching restrictions on Microsoft: AOL Time Warner, Sun Microsystems, Oracle, IBM, and Apple. As a prominent commentator recently noted, Microsoft's enemies were largely responsible for instigating the lawsuit and were active behind the scenes in helping the government frame the charges and compile the evidence. Executives from Sun, AOL, Netscape and other companies testified against Microsoft. Fred Vogelstein, The Long Shadow of XP, Fortune, Nov. 12, 2001. Each of these companies dominates a particular market that is distinct enough from Intel-compatible PCs not to be a part of this case, but related enough that Microsoft's rivals fear Microsoft's competition. For example, Sun Microsystems dominates the market for server operating systems, but its market share is being eroded by lower-cost alternatives from Linux and Windows. Why Competitors Are Largely Quiet on Microsoft Settlement, Associated Press, Nov. 15, 2001; Peter Burrows, Face-Off, Bus. Wk., Nov. 19, 2001, at 104. In asking for must-carry provisions for Java, limits on technical integration and the use of Microsoft middleware, and restrictions on Microsoft's investment in intellectual property, Sun seeks to maintain its stranglehold over the server marketplace. Similarly, Oracle enjoys a privileged position in the server database market but it, too, is facing stiff competition from lower-priced alternatives that are gaining increasing favor with reviewers and customers. As Oracle tries to move into different markets, such as e-mail, where consumers expect tighter integration, it will be unable to maintain its high prices unless Microsoft's capacity for product improvement is limited. Finally, Microsoft and AOL are both dominant companies, orbiting in separate if overlapping domains. Yet both companies regard themselves as being on a collision course, as all forms of information and entertainment, including music and movies, are increasingly rendered in digital form. Steve Lohr, In AOL's Suit Against Microsoft, the Key Word Is Access, N.Y. Times, Jan. 24, 2001. An internal document makes clear that AOL is willing to take any necessary steps to gain control of the desktop, including even spreading false rumors about the stability of Windows XP. See http://www.betanews.com/aol.html.

4 Beyond these companies' own statements and court filings their views are parroted by various proxies. These include organizations that were specifically formed to hobble Microsoft, such as the misnamed Project to Promote Competition and Innovation in the Digital Age ("ProComp"), and existing trade organizations that these companies have recently joined and come to dominate, such as the Computer and Communications Industry Association ("CCIA") and the Software Information Industry Assocation ("SIIA"). The apparently high level of coordination between these groups and the Litigating States' counsel is ample reason for skepticism when examining some of the States' arguments.

The reality is that these rivals, both directly and through their proxies, are trying to use the courts to increase their own profits rather than consumer satisfaction. This is shown by the fact that, while they condemn Microsoft for integrating its products, they, too, are vying to bring integrated products to consumers. For example, Sun's SunONE initiative tries to offer the same level of integration as Microsoft's .Net service. See SunONE, Services on Demand vision, at http://www.sun.com/software/sunone/overview/vision/. Not surprisingly, Oracle shares this vision of a global network of centralized information and online services. It envisions an all- Oracle solution, advising businesses to "wage their own war on complexity" by turning to Oracle for "an integrated, complete software suite." AOL is likewise promoting its "AOL anywhere" strategy, which makes its popular services and features available to consumers anywhere, anytime through multiple platforms and mobile devices. Clearly, these companies do not believe that selling IT products piecemeal best meets consumers' needs, yet that is what they are trying to force Microsoft to do.

Second, it is equally well settled that an antitrust remedy should be tailored to fit the conduct that has been found illegal. Here, the RPFJ carefully addresses each of the types of conduct that the Court of Appeals found illegal. It regulates the agreements that Microsoft can enter into and prevents Microsoft from retaliating against software or hardware distributors. The RPFJ also gives both computer manufacturers and consumers more choices in configuring their computers, and specifically enables them to turn off any Microsoft middleware and replace it with the middleware of their choice. And the RPFJ requires Microsoft to disclose technical information and license its intellectual property to those whose products interoperate with Windows.

To be sure, the RPFJ in some respects goes beyond the findings of illegal conduct affirmed by the Court of Appeals. Unfortunate as that may be, it should not deter the Court from adopting the RPFJ. As the District Court for the District of Columbia stated in another context: If courts acting under the Tunney Act disapproved proposed consent decrees merely because they did not contain the exact relief which the court would have imposed after a finding of liability, defendants would have no incentive to consent to judgment and this element of compromise would be destroyed. The consent decree would thus as a practical matter be eliminated as an antitrust enforcement tool, despite Congress' directive that it be preserved.

United States v. American Tel. & Tel. Co., 552 F. Supp. 131, 151 (D.DC 1982), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983) (mem.). Nevertheless, the vast majority of the RPFJ's provisions respond to the findings that were affirmed by the Court of Appeals. Virtually all of the proposals by the Litigating States, by contrast, address areas wholly outside the scope of this case, such as Microsoft's corporate acquisitions, the Office suite of programs and, of all things, Microsoft's conduct of its intellectual property litigation. The Litigating States' proposals should be rejected for that reason alone.

Third, any antitrust remedy should minimize "collateral damage" to third parties. Here, the RPFJ carefully avoids serious harm to other sectors of the information technology industry.

The Litigating States' proposals, by contrast, would inflict enormous damage on the rest of the industry. Perhaps most important, their proposals would fragment the Windows standard and, in turn, profoundly disrupt other businesses that rely upon it. The Litigating States' proposals would also weaken intellectual property protections, setting an unnerving precedent for any IT firm aspiring to lead its market, and slow the pace of research and development in the IT field. Fourth, an antitrust remedy should be easy to administer, and not be regulatory. The Litigating States, in an effort to impose their concept of "competition" in the information technology industry, would create a court-run agency to supervise Microsoft's every move and to judge its every action. In contrast, the RPFJ would create a more independent, more limited supervisory body that would have full access to Microsoft information, but that would not combine the roles of prosecutor and judge. This too counsels strongly in favor of the RPFJ, and against the proposals advanced by the Litigating States.

The remainder of these Comments is organized as follows. Section I summarizes and explains in more detail the four principles that are pertinent to the District Court's determination of whether the RPFJ is within the reaches of the public interest. Microsoft, 56 F.3d at 1460 (internal quotation marks and emphasis omitted). Section II applies these principles to the RPFJ and, for comparison purposes, to the proposals advanced by the Litigating States.

I. THE PROPER ANALYTICAL FRAMEWORK FOR EVALUATING ANTITRUST REMEDIES.

Antitrust law recognizes that competition gets its vigor from the urge to win. A desire to ensure that all competitors will do equally well makes robust competition impossible and sets the stage for price-fixing and similar behavior. Accordingly, antitrust law and antitrust remedies are designed to foster real competition, so that consumers and the wider economy can ultimately benefit. Thus, while competitors Î driven by their own urge to win Î may try to misuse antitrust law to further their own goals, government agencies and courts should be vigilant to ensure that their power is used in consumersO interests rather than competitorsÓ. The case law on remedies generally Î and antitrust remedies in particular Î supports the goal of harnessing competition. A close reading of that case law reveals four specific principles that promote that goal, and that are dispositive here.

A.Any Remedy Must Have A Probability Of Benefiting Consumers, And Not Be Designed to Punish the Defendant Or, Worse, To Enhance The Position Of the Defendant's Rivals.

Perhaps the most important principle of antitrust law is that any remedy must be designed to benefit consumers, not just punish the defendant or enhance the position of the its rivals. The law is clear that, in a civil antitrust case, any injunctive remedy must be, as its name suggests, remedial rather than punitive. E.g., United States v. E. I. Du Pont de Nemours & Co., 366 U.S. 316, 326 (1961); International Salt Co. v. United States, 332 U.S. 392, 401 (1947); Hecht Co. v. Bowles, 321 U.S. 321, 329 (1944). Moreover, as Judge Robert Bork has shown in his famous book, The Antitrust Paradox, the entire purpose of antitrust law is promotion of consumer welfare, not the protection Î or enhancement Î of competitors. Robert H. Bork, The Antitrust Paradox 51, 56–89 (1978); see also National Collegiate Athletic Ass'n v. Board of Regents, 468 U.S. 85, 107 (1984).

It follows that any remedy must have as its principal purpose the promotion of consumer welfare. And, as the District Court recently noted, the states have the burden of establishing the efficacy of every element of the proposed relief in achieving that objective. Hearing Tr., Sept. 28, 2001, at 8, United States v. Microsoft, No. 98–1232 (D.DC). For two reasons, it is doubtful that any remedy at all is needed to protect consumers in this case. First, it appears that the particular conduct at issue in this case has never harmed consumers in any meaningful sense. The government's own witness, Professor Frank Fisher of MIT, testified during the trial that the narrow conduct found unlawful by the Court of Appeals had not harmed consumers at all. When asked by plaintiffsÓ counsel whether that conduct had harmed consumers, Fisher replied: [O]n balance, I would think the answer was no, up to this point. Trial Tr., Morning of Jan. 12, 1999, at 29 (Fisher), United States v. Microsoft Corp., 87 F.Supp.2d 30 (D.DC 2000), aff'd in part, rev'd in part, 253 F.3d 34 (DC Cir.), cert. denied, 122 S.Ct. 350 (2001).

If Microsoft's conduct did not harm consumers even on balance it is difficult to see how any remedy is now needed to protect them. But if any remedy is needed, the Court must be careful not to risk harming consumers by adopting remedy proposals such as those advanced by the Litigating States remedies which, to paraphrase Abraham Lincoln, are of the competitors, by the competitors, and for the competitors.

Second, even if Microsoft's conduct could have harmed consumers in some way, any such risk has now abated. This entire case is premised on the assertion that Microsoft enjoys market power by virtue of the fact that a high percentage of IBM-compatible PCs use Windows as their operating system. Whether or not that was true when the case was tried, such knowledgeable industry observers as Sun's president have effectively conceded that whatever market power Windows might once have given Microsoft is now virtually a thing of the past. For example, in his January 3, 1999 interview on 60 Minutes, Scott McNealy rejected Leslie Stahl's suggestion that with its Java software, Sun now ha[d] a chance to make Windows obsolete. Instead, McNealy retorted, Windows is obsolete, [and] we have a chance to show the world that it is. 60 Minutes (CBS Television Broadcast, Jan. 3, 1999). McNealy elaborated this theme in a subsequent Wall Street Journal op-ed piece, which appeared more than two years ago. He asserted that, because of the growth of the Internet, [a]

few years from now, savvy managers won't be buying many, if any, computers. They won't buy or build anywhere near as much software either. They'll just rent resources from a service provider, primarily over the Internet.-Scott McNealy, Why We Don't Want You to Buy Our Software, Wall St. J., Sept. 1, 1999, at A26. McNealy's predictions are already being borne out. A recent article assessed the changes in the operating system market. It noted that Microsoft's main markets are maturing and the entire ground under its empire is shifting. Market researchers expect PC sales worldwide to drop [in 2001] and at best to stagnate in 2002. What is more, software is increasingly a service delivered over the Internet, meaning that operating systems are no longer central. Microsoft: Extending Its Tentacles, The Economist, Oct. 20–26, 2001, at 59. Thus, whatever market power Microsoft now possesses is rapidly being eroded, or is already effectively gone. In short, because Microsoft's present market power is limited at best and will be further eroded in the near future, there is no need for antitrust remedies. See also William E. Kovacic, Designing Antitrust Remedies for Dominant Firm Misconduct, 31 Conn. L. Rev. 1285, 1314 (1999) (explaining that rapid technological change can indicate the instability of market power, and therefore to the need for milder remedies). At a minimum, any antitrust remedy must take into account the dramatic decline in any market power Microsoft might previously have enjoyed, and be limited accordingly.

B. The Remedy Should Be No Broader Than Necessary To Address The Conduct That The Court Of Appeals Held Illegal.

Another principle that must guide the analysis of any proposed antitrust remedy is that it must be no broader than necessary to address the conduct that has been found illegal. As with all injunctive relief, the substantive prerequisites for obtaining an equitable remedy as well as the general availability of injunctive relief . . . depend on traditional principles of equity jurisdiction. Grupo Mexicano de Desarollo, S.A., Inc. v. Alliance Bond Fund, 527 U.S. 308, 319 (1999) (quoting 11A C. Wright, A. Miller, & M. Kane, Federal Practice and Procedure u 2941, at 31 (2d ed. 1995)). And one of these traditional principles of equity jurisdiction, id., is that an injunction should be no more burdensome than necessary to prevent a recurring violation of the law. See generally Madsen v. Womens Health Center, 512 U.S. 753, 765 & n. 3 (1994), and cases cited therein. This is as true in antitrust as in other areas of the law. For example, in the Lorain Journal case, which Robert Bork believes is the closest to this one, the Court noted that, [w]hile the decree should anticipate probabilities of the future, it is equally important that it ... not impose unnecessary restrictions. 342 U.S. at 156. The Court of Appeals recognized this principle when it instructed the District Court that any remedy should be tailored to fit the wrong creating the occasion for the remedy, Microsoft, 253 F.3d at 107, i.e., that it should be focused on the conduct [the court] has found to be unlawful and should be limited to provisions that are required to rectify [Microsoft's] monopoly maintenance violation, id. at 104, 105.

Consistent with these principles, since at least 1911 it has been the law in antitrust cases that ordinarily ... [an] adequate measure of relief would result from restraining the doing of such [illegal] acts in the future. Standard Oil Co. v. United States, 221 U.S. 1, 77 (1911) (emphasis added). In other words, an injunction simply forbidding the specific conduct found to

Normally, of course, a settlement is reached before a trial on the merits. In that situation, it is clear that a reviewing court cannot expand an antitrust decree to remedy perceived problems that lie outside the scope of the complaint. That was the thrust of the Court of Appeals' 1995 Microsoft decision, 56 F.3d 1448. Furthermore, any such action by a reviewing court would most likely be unconstitutional. Id. at 1459; see also Maryland v. United States, 460 U.S. 1001, 1006 (1983) (Rehnquist, J., dissenting). Here, of course, the Court of Appeals has affirmed some of the district court's findings of liability. Expanding the remedy to address issues as to which liability has not been proven let alone issues as to which liability has never been alleged would clearly exceed the District Court's power.

be illegal is ordinarily considered sufficient. Or, as the District Court recently explained, the scope of any proposed remedy must be carefully crafted so as to ensure that the enjoin[ed] conduct falls within the . . . behavior which was found to be anticompetitive. Hearing Tr., Sept. 28, 2001, at 8.

Some commentators have nevertheless argued that the District Court is obligated to terminate Microsoft's dominant market position, which they characterize as an illegal monopoly. Jennifer Bjorhus, Settlement Draws Frustration From Few Tech Giants That Spoke Out, San Jose Mercury News, Nov. 3, 2001, at 20A. But this argument rests on a misinterpretation of the pertinent case law, including the Court of Appeals' decision. Contrary to this argument, the law does not require that a remedy attempt to recreate the world as it might have existed absent the violation or deprive a defendant of the proceeds of its business. Instead, where a violation is found, the remedy, as the Court of Appeals pointed out, should be designed to unfetter' the market from the anticompetitive conduct.' Microsoft, 253 F.3d at 103 (quoting Ford Motor Co. v. United States, 405 U.S. 562, 577 (1972)) (emphasis added).

That, moreover, is why the Court of Appeals placed heavy focus on the requirement that, before a court can seek to undo an alleged monopoly, there must be a significant causal connection between the allegedly illegal conduct and the existence of that monopoly. The District Court recently echoed this same theme when it remarked that it intended to fashion an injunction that would avoid a recurrence of the violation and . . . eliminate its consequences. Hearing Transcript, Sept. 28, 2001, at 9 (emphasis added).

There is a vast difference between unfettering or unshackling a market from prior anticompetitive behavior, and attempting to reconstruct the market as it might have existed absent that conduct. The former is a legitimate objective of an antitrust remedy; the latter is not.

In the District Court's words, attempting to reconstruct the market as it might have been absent the conduct at issue goes well beyond simply eliminating the consequences of anticompetitive conduct. Antitrust law does not attempt to recreate or to maintain by detailed regulation a perfect world. Its goal is to restore competition, including legitimate competition by the dominant firm. Ford Motor Co. v. United States, 405 U.S. 562, 577–78 (1972). C.The Remedy Should Avoid Or Minimize Collateral Damage To The Rest Of The IT Industry.

Another traditional principle[] of equity jurisdiction,' Grupo Mexicano, 527 U.S. at 319, is that any relief imposed by a court should not inflict unnecessary harm on third parties. Atchison, Topeka & Santa Fe Railway Co. v. Wichita Board of Trade, 412 U.S. 800, 824 (1973) (plurality opinion); Gilbertville Trucking Co. v. United States, 371 U.S. 115, 130 (1962). In this case, there is a real risk of harm to the entire IT industry as well as consumers. As explained in the attached affidavit of ACT's president, Jonathan Zuck, (Exh. A) both consumers and IT companies derive enormous benefits from the existing Windows platform. For IT companies in general, and ACT's members in particular, that platform is unusually valuable and important for at least three reasons.

1. Constant Improvement and Addition of New Features and Functionalities. One reason Windows is so valuable to the IT industry is that Microsoft has constantly improved it. For example, as Mr. Zuck explains, each new release of Windows contains software drivers for the major new printers and other peripheral devices that have been released since the prior version of Windows. This means that developers of applications such as money management software, graphics programs, etc., do not need to create their own drivers for these devices or, worse, choose from among several competing drivers. Affidavit N 7.

Virtually everyone in the IT industry, moreover, has a strong interest in seeing this trend continue in the future. The addition to Windows of such new functionalities as voice recognition, for example, will allow software developers to add such features to their products at minimal cost. Those costs will increase dramatically and consumer benefits will be reduced if software developers are forced to develop their own voice recognition features or, worse, to port their programs to several competing voice-recognition programs. Id. N 8. 2.Windows' Uniformity and Widespread Acceptance. Uniform standards are likewise crucial to an efficient, rapidly evolving IT sector. As Mr. Zuck explains, communications and Internet standards provide the language necessary for many different computers to talk or network with one another, enabling, for example, users of the World Wide Web to locate and retrieve the information they seek. Operating systems perform a similar function, allowing hardware devices and software applications to communicate with a computer. Indeed, it is Windows' consistency that makes it so valuable.

As the Court recognized in its Findings of Fact, Windows exposes a set of application programming interfaces' that lets software interact in a consistent way with any Intel-compatible PC. United States v. Microsoft Corp., 84 F. Supp. 2d 9, 12–13 (D.DC 1999) (Findings of Fact). This means that the same software will run on all Windows-based PCs and, by and large, all hardware devices can be used as well. Affidavit N 10. Hence, the consumer avoids the need for time-consuming, often expensive retraining, and thus has a greater incentive to learn how to use the existing system. Also, the widespread acceptance that Windows enjoys makes it easier to ensure that computer products (both hardware and software) work the way they are supposed to, and work well with each other. Operating system consistency usually means that software will operate normally even if the type of computer changes. For example, WordPerfect will function as advertised on a Windows-based Dell computer or a Windows-based Compaq computer. Id.

For these reasons, as Mr. Zuck explains, the cost per potential customer of developing a piece of software for the Windows operating system is significantly lower than the cost for the UNIX operating system. And that, of course, translates into more software and lower prices for consumers. Id. N 13.

In addition, more than any other operating system, Windows has remained compatible with software written for older Windows versions. As a result, consumers have much greater confidence that the software they purchase will work when they upgrade to a new Windows release. Hardware manufacturers and developers similarly face much less risk that their research and development expenditures will be stranded if Microsoft releases a new version. Id. N 14.

3. Windows' Low Cost to Consumers. The Windows operating system also allows the developer, or other providers of support services, to support end-users at minimal cost. As Mr. Zuck explains, each operating system not only has signature application interfaces and user commands, it also presents its own set of bugs and system errors. Thus, to provide software or

In its consistency from one computer and software program to another, Windows is markedly different from the UNIX operating system. That system is in reality a collection of similar operating systems, including Sun's Solaris, Digital's UNIX, HP's HP-UX, IBM's AIX and SCO's UnixWare. See http://www.techweb.com/encyclopedia/defineterm?term=unix. Although different versions may be desirable with respect to many products, for most computer users such a proliferation promises nothing but confusion, lost time, fewer applications, and higher prices. For example, a consumer who shifts from one UNIX-based computer to another UNIX- based computer may find that the two computers use different UNIX versions with different features, functions, and idiosyncrasies. Consequently, the consumer may have to devote considerable time and expense learning how to perform the same tasks on the second UNIX- based computer that she already knew how to perform on the first platform. Worse still, the software applications or hardware equipment she purchased for and used on the first computer may be incompatible with the version of UNIX installed on the second computer. And a UNIX user obviously has less incentive to develop skills tailored to her particular system if it is likely that she will use a different UNIX operating system in the future. Affidavit NN 11–12.

15 hardware support, a developer must train personnel to identify and understand the idiosyncrasies of each operating system under which it markets its product. These increased support costs increase prices and decrease consumer demand for products and services. Id. N 15. Consumers, moreover, obtain all of these benefits inexpensively. Compared to the cost of a typical PC, and to the cost of the software typically installed on that PC, the cost of Windows (at about 5% of the PC's price) is relatively small. A low price, coupled with all the benefits stemming from Windows' widespread use, drives up demand by making computer products more affordable and attractive to consumers. Id. N 16.

As Mr. Zuck explains, the widespread use of an inexpensive, constantly evolving operating system is particularly important in an industry as dynamic as the information technology industry, which constantly generates both new products and new uses for those products, and for which new developments such as the Internet can redraw the competitive landscape overnight. A popular operating system like Windows allows consumers and developers to act quickly and with confidence that software and hardware will work on most PCs today and in the future. And the fact that many consumers choose Windows adds a measure of stability to a highly dynamic industry.

For all these reasons, any remedy that resulted in the balkanization of Windows would have a disastrous effect on the entire IT industry. Software developers, Internet access providers, and others rely on the widely installed, constantly improving Windows platform as the groundwork for their own products. If there were no consistent platform, software developers would have to try to port their products to various operating systems, increasing those products' costs substantially, or else they would have to accept a much smaller market share.

This, too, would drive up prices because the cost of distributing software is tiny compared to the cost of developing it.

Windows' importance as a consistent platform is illustrated by the fact that, when it appeared that Microsoft might be broken up, stock prices in the rest of the IT industry fell. Kenneth G. Elzinga, David S. Evans, Albert L. Nichols, United States v. Microsoft: Remedy or Malady?, 9 Geo. Mason L. Rev. 633 (2001). Likewise, any remedy such as those proposed by the Litigating States that would fragment Windows would be unlawful because of the harm it would impose on third parties.

D. The Remedy Should Be Judicially Administrable, Not Regulatory.

Finally, any remedy should be judicially administrable and not put the courts in the position of having to oversee product design. United States v. Microsoft Corp., 147 F.3d 935, 948 (DC Cir. 1998). Some have suggested that the kinds of extreme remedies proposed by the Litigating States are in some sense alternatives to regulation. But history suggests quite the opposite.

In 1982, for example, AT&T entered into a consent decree designed to remedy what the government perceived as anticompetitive practices, and to allow AT&T to compete in new markets. Then too, the provisions of that decree were touted as an alternative to regulation. But in practice, the break-up of AT&T generated pervasive judicial participation in the telecommunications industry. For example, between 1984 and 1995, the court ruled on over 250 waiver requests pursuant to the consent decree. Most of these were necessary to allow the companies spun off from AT&T to respond to market developments that had not been anticipated when the decree was entered. Although 96 % of the requests were eventually approved, the average delay prior to approval was four years. It is not surprising, then, that Congress put the court out of the telecommunications business when it passed the Telecommunications Act of 1996.

This kind of intrusive, time-consuming regulation is particularly ill-suited to a rapidly- changing industry such as IT. For example, many settlement opponents have made proposals resting on a distinction between middleware and the operating system. But this distinction is dubious even now, and is rapidly being eroded. The federal courts are not equipped to draw lines in the shifting sands of information technology.

Notwithstanding this reality, some settlement opponents have proposed ongoing regulation of Microsoft's conduct, or detailed enforcement provisions envisioning ongoing judicial involvement in Microsoft's management. Some have even proposed egregious private attorney general provisions that would simply foment litigation and enrich plaintiff's lawyers. All of these proposals would create the kinds of problems that arose in abundance in the wake of the AT&T consent decree.

Other cases demonstrate the dire consequences that can arise when courts attempt to regulate an industry under the guise of an antitrust decree. For example, in United States v. United Shoe Machinery Corp., 110 F. Supp. 295 (D. Mass. 1953), aff'd, 347 U.S. 521 (1954), the district court imposed extensive regulation on the shoe machinery industry over a ten-year period. The remedies were meant to end United's practice of distributing shoe machinery through long-term leases and to make shoe machinery available from a variety of sellers. To this end, the court restricted lease terms, required United to offer its machines for sale in addition to leasing them, and required United to charge separately for services such as repairs. Id. at 352–53. However, a 1993 study concluded that the court order destroyed many efficiencies arising out of the technical realities of the shoe manufacturing industry, impaired the quality of United's performance, and likely contributed to the dramatic decline of the domestic shoe industry in the 1960s and beyond. Scott E. Masten & Edward A. Snyder, United States v. United Shoe Machinery Corp.: On the Merits, 36 J.L. & Econ. 33 (1993); see also Lino A. Graglia, Is Antitrust Obsolete?, 23 Harv. J.L. & Pub. Pol'y 11, 17 (1999). For all these reasons, judicial regulation of the IT industry, or any portion of that industry, is to be avoided at all costs.

Indeed, that appears to be the main message of the DC Circuit's earlier decision rejecting the preliminary injunction that the Government sought. Microsoft, 147 F.3d at 948 (Antitrust scholars have long recognized the undesirability of having courts oversee product design, and any dampening of technological innovation would be at cross-purposes with antitrust law.). And the Court of Appeals' most recent decision is entirely consistent with that message. Microsoft, 253 F.3d at 101–07. Indeed, even Judge Jackson has acknowledged that in this case, as in others: The less supervision by this court, the better.' John R. Wilke, For Antitrust Judge, Trust, or Lack of It, Really Was the Issue, Wall St. J., June 8, 2000, at A1.

II. THE RPFJ IS CONSISTENT WITH ALL OF THESE PRINCIPLES, WHEREAS THE PROPOSALS BY THE LITIGATING STATES AND OTHER CRITICS WOULD VIOLATE EVERY ONE OF THEM.

On balance, the RPFJ complies with these four principles and is therefore in the public interest. Like most settlements, it is less than perfect. However, the purpose of this proceeding is not to produce a perfect order. The court must review the settlement that the parties have agreed to, and enter it so long as the proposal falls within the reaches of the public interest.' Microsoft, 56 F.3d at 1458 (DC Cir. 1995) (emphasis in original; citations omitted); see 15 U.S.C. u 16(e) (Before entering any consent judgment proposed by the United States under this section, the court shall determine that the entry of such judgment is in the public interest.).

It is clear that entry of the RPFJ is in the public interest. The federal government has explained at length in its Competitive Impact Statement that the RPFJ will provide a prompt, certain and effective remedy for consumers by enjoining the conduct that the Court of Appeals found to be illegal, and by restoring competitive market conditions. Competitive Impact Statement at 2, United States v. Microsoft, No. 98–1232 (D.DC Nov. 15, 2001) (CIS). Each of the Court of Appeals' findings of anticompetitive conduct is addressed by at least one provision of the proposed final judgment. See Exh. B (table showing which provisions address each finding of illegality). Indeed, the RPFJ's provisions regarding server protocols, and its enforcement provisions, extend beyond the anticompetitive conduct found by the Court of Appeals. Accordingly, any notion that the RPFJ only tells Microsoft to go forth and sin no more, United States v. Microsoft Corp., 159 F.R.D. 318, 334 (D.DC 1995), rev'd, 56 F.3d 1448 (DC Cir. 1995), is ludicrous.

In contrast, the Litigating States and other critics of the RPFJ have proposed a variety of radical remedies that they claim would be more effective than the RPFJ in restoring competition. However, these proposals violate the four principles described above, and are in fact designed to benefit Microsoft's competitors. Indeed, these proposals would advantage Microsoft's competitors in areas other than PC operating systems, which is the only market at issue in this case. Moreover, rather than seeking to restore competition, these proposals and others like them seek to impose a court-designed, court-regulated regime that is especially inappropriate for a rapidly changing area such as IT. A principle-by-principle analysis highlights the flaws in these proposals.

A. The RPFJ Is Designed To Benefit Consumers, Whereas The Litigating States' Proposals Are Designed To Benefit Microsoft's Competitors.

As noted above, the most vital principle in designing an antitrust remedy is that it must be designed to benefit consumers rather than competitors. Unlike the Litigating States' proposals, the RPFJ easily complies. Consumers will benefit from the guaranteed flexibility and choice provisions in the RPFJ. All new Microsoft operating systems, including Windows XP, will have to allow end users to readily remove or re-enable Microsoft's middleware products such as its Internet browser, instant messaging tools, media player, and email utilities. While end users can already remove Microsoft middleware from Windows XP, the RPFJ will make it easier for users to switch and compare among competing middleware products, including those installed by computer manufacturers and those readily accessible over the Internet. Most importantly, the RPFJ preserves the integrity of the Windows standard while making it easier for other platforms to compete with Windows. As discussed above, the network effects that characterize the operating system market mean that consumers and the IT industry both benefit when they know that the platform they rely on is widely used, and will continue to be widely used in the future. Findings of Fact at 19–23; see also Affidavit NN 9–14. By and large, the RPFJ avoids requirements that would encourage the emergence and sale of multiple, incompatible operating systems under the Windows brand name. At the same time, the RPFJ protects Microsoft's competitors in several ways. Most importantly, it forbids retaliation against OEMs, u III.A, requires uniform license terms for the twenty largest OEMs, u III.B, and prevents Microsoft from including various restrictive provisions in OEM licenses, u III.C. Thus the RPFJ opens up the valuable OEM distribution channel to competitors, addressing the Court of Appeals' most substantial concerns. By increasing competitors' access to OEMs and by preventing Microsoft from negotiating quotas with IAPs, the RPFJ reasonably ensures that consumers will have access to whatever products they want.

By contrast, a central thrust of the Litigating States' proposals is to break Microsoft's control over the Windows brand. Forcing Microsoft to break up Windows into what a court conceives of as its component parts both destroys the utility of the standard Windows platform and entangles judges in a maze of technical regulation that they are poorly equipped to solve. If implemented, the LSPFJ would result in the creation of as many as 4,000 different versions of Windows, each requiring support not only by Microsoft but also by OEMs, software developers, and other IT professionals. This outcome would worsen, not improve, the lot of consumers. It would only serve to weaken Microsoft's product offerings, confuse users, drive up prices, and limit software choices.

Such remedies would also create concerns about privacy and security. Consumers are concerned and rightly so about on-line privacy and the security of their electronic information. E.g. David Ho, Identity Theft Tops Fraud Complaints, Wash. Post, Jan. 24, 2002 at E4. Because Microsoft would have almost no control over access to its code and to its technical information under the states' plan, hackers and other unsavory characters would find it much easier to penetrate the most common privacy and security protections. It would also be harder for Microsoft to control computer piracy, which in the end drives up prices to consumers. By making the fruits of Microsoft's innovations readily available to competitors, the Litigating States' proposals would also harm consumers by reducing Microsoft's incentive to innovate in the future. Indeed, it is likely that Microsoft's research and development budget, which has historically been the largest in the industry, would be substantially reduced to the 22 detriment of consumers. Property ownership is the cornerstone of a free market system; as property rights are eroded, so is the incentive to put that property to its most valuable use. Beyond these problems, the Litigating States' proposals are patently designed to provide specific benefits to Microsoft's principal competitors, and to reinforce their dominant positions in markets that are irrelevant to this litigation. This approach to remedies is contrary to the interests of consumers and the rest of the IT industry, and contrary to antitrust law. Benefits to AOL Time Warner. Some of the Litigating States' proposals will directly benefit AOL Time Warner. For example, the Litigating States' proposal to break Microsoft's control over the Windows brand, and the proposed prohibition on making Microsoft middleware the default for any functionality, LSPFJ u 10, unless the OEM or other licensee can override the setting and designate a different default or give the end-user a neutrally presented choice means that consumers who think they are buying a coherent, integrated operating system designed by Microsoft will get something quite different.

To see how this benefits AOL, consider the following scenario: AOL's Magic Carpet service will compete with Microsoft's .Net services. If Microsoft designates .Net as a default service in Windows, AOL can ask computer sellers to re-direct the default to Magic Carpet. Indeed, AOL's strategy is to do just that. Alec Klein, AOL to Offer Bounty for Space on New PCs, Wash. Post, July 26, 2001, at A1 (In internal AOL documents, the media giant lays out a strategy that calls on manufacturers to build into their new personal computers icons, pop-up notices and other consumer messages aimed at pushing aside Microsoft by giving AOL's own products prominent placement on PCs. It's the latest foray in an intensifying feud between the two technology titans over consumers and supremacy on the Internet.) Yet this hybrid product will still be marketed as a Windows system, making Microsoft responsible in consumers' eyes for programs it has no control over, and giving AOL a free ride on Microsoft's reputation and marketing.

Other users will be provided with a bewildering array of choices, all presented in a neutral manner, i.e. without guidance as to what product best suits their needs. Yet sophisticated users who have information about middleware alternatives do not need neutrally presented choices to help them make their decisions. Less sophisticated consumers are entitled to get the brand they paid for, or at least to be told how to get that brand. The RPFJ's Section III, by contrast, puts Microsoft and its competitors on a level playing field, with minimal judicial intervention.

Benefits to Sun Microsystems. Another Microsoft rival, Sun, would also benefit directly from the Litigating States' proposals. Sun would benefit most obviously from the proposal that Microsoft include Sun's Java with every copy of Windows. LSPFJ u 13. Apparently Sun sees no conflict between that proposal and the proposal that Microsoft make available middleware- free versions of Windows at reduced prices. It is hard to argue that this requirement would benefit consumers, who can already get Sun's Java free from those web sites that use it. The federal government's settlement with Microsoft will make Sun's Java even easier for consumers to obtain by allowing OEMs, IAPs, and ISVs to provide it to their customers without fear of retaliation. But under the Litigating States' proposal, all consumers would have Sun's Java forced on them.

Benefits to IBM and Apple. The Litigating States' proposals also benefit IBM and Apple, giving them each an Office suite. IBM wants Office for Linux, and under the Litigating States' proposal it will get its wish by snatching Microsoft Office source code at the auction price. Under that proposal, Microsoft must maintain and support Office for the Macintosh even if it is a money-losing proposition. And if Apple is unhappy with the Office support Microsoft has to provide, it can snatch the source code at auction, and have an Office all its own. LSPFJ u 14. These porting proposals go far beyond the scope of this case, which is the Windows operating system market.

Conversely, the federal government's settlement with Microsoft addresses the Court of Appeals' only holding of anticompetitive behavior involving Apple, namely the agreement that Apple would distribute Internet Explorer exclusively. Under the RPFJ, Apple, like all ISVs, is free to distribute and promote non-Microsoft platform software without fear of retaliation. The states' proposal would give a free ride to a handful of companies and would impose an unnecessary burden on Microsoft but would not benefit consumers.

The states' proposals also provide free source code for Microsoft's Internet Explorer, LSPFJ u 12, giving IBM a good browser for the entire line of IBM computers and Apple a leg up on its software design. But once again, the problem with all this generosity is that its sole purpose is to benefit competitors and harm Microsoft, not to benefit consumers.

B. The RPFJ Is Narrowly Tailored To The Court Of Appeals' Ruling, Whereas The Litigating States' Proposals Go Well Beyond It.

Another key flaw in the Litigating States' proposals is that they go well beyond the Court of Appeals' ruling. Indeed, the sweeping scope of the Litigating States' proposals suggests that they mistakenly read the Court of Appeals' decision on liability as a broad affirmance, rather than as it was in fact a reversal in part containing very precise, narrow holdings on liability. Indeed, the DC Circuit reversed the District Court's findings that Microsoft had committed attempted monopolization and illegal tying.

As to the remaining findings, the Court of Appeals affirmed only some of the District Court's findings that Microsoft had illegally maintained its monopoly. Microsoft, 253 F.3d 34.

The Court of Appeals held that some exclusionary contracts and negotiating tactics were unlawful; that Microsoft had acted illegally in deceiving developers about its own Java language; and that Microsoft had illegally excluded Internet Explorer from its Add/ Remove facility and intermingled its Internet Explorer and operating system code. The Court also emphasized that, on remand, the District Court must base its relief on some clear indication of a significant causal connection between the conduct enjoined or mandated and the violation found directed toward the remedial goal intended.' Id. at 105 (quoting 3 Philip E. Areeda & Herbert Hovenkamp, Antitrust Law N 653(b), at 91–92 (1996)).

Section III of the RPFJ addresses each of these holdings. As to exclusionary contracts and high-pressure negotiations, the RPFJ forbids Microsoft to retaliate against OEMs, u III.A; requires Microsoft to sell Windows to the twenty largest OEMs under uniform license terms, u III.B; and forbids retaliation against, or exclusionary agreements with, ISVs or IHVs, u III.G, u III.F. As to Java, the RPFJ requires disclosure of information needed to design other software to be fully compatible with Windows, u III.D, and requires Microsoft to license its intellectual property to rivals, u III.I. As to Internet Explorer, the RFPJ forbids Microsoft to restrict any OEM from modifying their computer interfaces in various ways, such as removing the Internet Explorer icon, u III.C, and requires Microsoft to allow end-users to remove access to Microsoft Middleware or to designate a non-Microsoft middleware product as the default instead of the Microsoft product, u III.H.

The Court of Appeals was also quick to note that much of the conduct that Microsoft was accused of and even conduct that was found to be anticompetitive in particular settings is common in business, and is usually not anticompetitive. But the states' proposed categorical bans sweep in a host of pro-competitive conduct, in disregard of the Court of Appeals' instruction that any remedy be narrowly tailored to specific holdings of illegality. For example, the states would ban exclusive dealing across the board. Yet the Court of Appeals explained that: "exclusive contracts are commonplace especially in the field of distribution in our competitive, market economy, and imposing upon a firm with market power the risk of an antitrust suit every time it enters into such a contract, no matter how small the effect, would create an unacceptable and unjustified burden upon any such firm." Microsoft, 253 F.3d at 70.

Similarly, the proposed judgment reflects an implacable hostility to integrating an internet browser or any additional functionality with the basic Windows operating system. Yet, as the Court of Appeals observed, [a]s a general rule, courts are properly very skeptical about claims that competition has been harmed by a dominant firm's product design changes. Id. at 65.

In perhaps the Litigating States' most egregious proposal, Sun CEO Scott McNealy got a special gift he has always wanted, see Peter Burrows, Face-Off, Bus. Wk., Nov. 19, 2001, at 104, — the ability to stop Microsoft from buying anything that could help it compete with Sun. If Microsoft wants to make an acquisition, an investment, or an exclusive license, it must notify the plaintiff states' attorneys two months in advance. LSPFJ u 20. The states make this proposal despite the total absence of any takeover-related findings anywhere in this case. It was precisely this type of overreaching that the Court of Appeals soundly rejected in 1995, when it reversed Judge Sporkin's refusal to approve the federal government's settlement with Microsoft and reassigned the case to a different district judge. Microsoft, 56 F.3d 1448. Judge Sporkin had gone beyond the complaint to try to force the parties to address his own concerns about vaporware. The Court of Appeals found that effort inappropriate. And it is no more appropriate for the Litigating States, at this late date, to try to drag in new issues and punish Microsoft for conduct that it never had a chance to defend. If a claim is not made, a remedy directed to that claim is hardly appropriate. Id. at 1460.

Another example of overreaching is buried in the Litigating States' proposals regarding orders and sanctions, and which singles out for punishment any groundless claim Microsoft makes of intellectual property infringement. Again, Microsoft's conduct in intellectual property litigation is no part of this case.

Finally, the Litigating States' proposed ban on retaliation against those who participated in the litigation is not grounded in any finding of illegality, even though Microsoft has been enmeshed in antitrust cases for years and has presumably had ample opportunity to retaliate unhindered. The RPFJ retaliation ban, in contrast, is clearly aimed at the possibility that Microsoft might try to punish companies that do not cooperate with Microsoft's business goals. The Court of Appeals envisioned that Microsoft would continue its normal business relations, albeit with injunctions in place against specific conduct found to be anticompetitive. The RPFJ provision implements that vision, while the states' proposal would open the door to unfounded claims of retaliation by any disgruntled participant in the litigation.

Of course, the RPFJ itself is overbroad in some respects.

Yet despite these problems with its scope, it is clear that as a whole, the RPFJ falls within the reaches of the public

For example, the Proposed Final Judgment defines Microsoft middleware as including Outlook Express, photo and video editing software, and other products that cannot serve as competitive threats to Microsoft. RPFJ u VI.K.1. This definition clearly overreaches. This case is about Microsoft's response to the emergence of middleware as a competitive threat a possible alternative platform for software developers that could run on a variety of operating systems and thus would make software independent of Windows. Only middleware that can interest. It addresses the Court of Appeals' findings of illegality, remedies them all, and ensures competitive conditions in the market for Intel-compatible PC operating systems. C.The RPFJ Will Benefit The IT Industry, Whereas The Litigating States' Proposals Would Impose Substantial Harm On Other IT Companies. The RPFJ also offers significant advantages to the IT industry. Most importantly, of course, it preserves the integrity of Windows. But it also serves the IT industry by achieving a relatively quick resolution of this dispute. Litigation over remedies, possibly followed by appeal and remand or further appeal, could take years. The Supreme Court has recognized that a government antitrust consent decree is a contract between the parties to settle their disputes and differences, United States v. ITT Continental Baking Co., 420 U.S. 223, 235–38 (1975); United States v. Armour & Co., 402 U.S. 673, 681–82 (1971), and normally embodies a compromise; in exchange for the saving of cost and elimination of risk, the parties each give up something they might have won had they proceeded with the litigation. Armour, 402 U.S. at 681. The RPFJ has the virtue of bringing the IT industry certain benefits and protections without the uncertainty and expense of protracted litigation, Armour, 402 U.S. at 681; Microsoft, 56 F.3d at 1459; it will provide prompt, certain and effective remedies, CIS at 3.

The RPFJ also directly helps OEMs and other IT firms. Many of the options that will benefit consumers will also benefit the companies they buy from. As discussed above, OEMs serve as an independent basis for software development across different operating systems poses a competitive threat to Windows. Microsoft, 253 F.3d at 53. Similarly, the RPFJ overreaches when it requires that Microsoft disclose communications protocols used to interoperate with Windows 2000 servers and their successors. The Court of Appeals' definition of the relevant market made it clear that servers are not a part of that market and therefore, that they are not a part of this case. Microsoft, 253 F.3d at 52–53. As explained above, the only connection between servers and this case is that Microsoft's competitors in the server market have been highly influential with the Attorneys General who continue to litigate this case. The server protocols themselves are irrelevant and thus compelling disclosure is both overbroad and designed to benefit competitors rather than consumers.

29 that equip their products with any Microsoft operating system will benefit from guaranteed flexibility under the RPFJ. The twenty largest OEMs will also be entitled to uniform licensing terms, with some flexibility for volume discounts and marketing allowances. OEMs will have the ability to lease desktop space as well as space in the boot sequence on their computers by installing or promoting non-Microsoft products and services; IT companies will thus have the option to negotiate with the OEM(s) of their choice for that space. By contrast, the states' proposal to give the OEMs the choice of which parts of Windows to include on their computers and forcing Microsoft to accommodate those choices would fragment the Windows standard. As explained above and in Mr. Zuck's affidavit, such fragmentation would have disastrous effects. Creating multiple versions of Windows would slow the release of new versions of Windows and would make it impossible for software developers to program with confidence. Either they would write only to the leanest version available, depriving consumers of the benefits of most of Windows' functionality, or they would have to write multiple versions of each program, substantially increasing development costs and customer confusion. A stagnant, fragmented Windows would hurt the entire industry.

On another front, the RPFJ benefits all IT providers, including Microsoft's competitors, by guaranteeing access to technical specifications. Microsoft would have to promptly disclose technical information that enables any Windows operating system to communicate with Microsoft servers and with all Microsoft middleware products. uu III.D, III.E. To encourage more non-Microsoft middleware, the settlement forces Microsoft to license any intellectual property rights that others might need to compete with Microsoft. u III.I. And as with OEMs, Microsoft could not penalize any software developer, service provider, or hardware vendor that develops or sells products that compete with Windows and Microsoft middleware. uu III.A, III.F.

By contrast, as discussed above, the Litigating States' proposals would stifle innovation further by weakening or entirely eliminating Microsoft's intellectual property rights, thereby reducing its incentive to innovate. E.g. LSPFJ uu 1 (stripping down Windows), 2(a) (mandatory licenses), 3 (mandatory licensing of predecessor versions), 4 (disclosure of APIs and technical information), 12 (giving away browser), 14 (mandatory porting), 15 (intellectual property licenses), 19(f) (intellectual property claims). These provisions would not only hurt Windows, but also would instill in any sensible IT executive the fear that success will lead to confiscation. Even if these proposals did not end Microsoft's improvements to Windows, another provision would likely do so. That is the Litigating States' proposal to require Microsoft to notify any ISV of non-Microsoft middleware of any planned action, sixty days in advance, if the action will interfere with the middleware's performance or compatibility with Windows, unless the action is taken for good cause. LSPFJ u 5. After the notification, the ISV could complain to Microsoft's court-installed regulators to try to block the change.

The states' broad prohibitions on exclusive dealing and on agreements limiting competition also would prohibit Microsoft from entering into joint ventures with any other members of the IT industry. Because IT products are so interdependent, both consumers and companies would suffer if the only option is to design around Microsoft products, and the option of collaborating with Microsoft on entirely new projects is excluded.

D. The RPFJ Attempts to Structure a Workable Compromise, Whereas the Litigating States Propose to Establish a Court-Run Ministry of Microsoft. Finally, the approach of the RPFJ is not unduly regulatory. To be sure, the enforcement mechanism is too intrusive and could be substantially improved. However, the substantive provisions of the RPFJ focus on improving competition rather than micromanaging markets or product design. Thus, most of the injunctions tell Microsoft what not to do, rather than imagining what a perfect competitor might do and then attempting to enforce that vision. Not so the proposal by the Litigating States. They have proposed ongoing regulation of Microsoft's conduct, including ongoing judicial involvement in Microsoft's management, by a special master who would serve as an investigator, prosecutor, judge, and potentially even witness against Microsoft. LSPFJ u 18. The special master would be free to receive and act on even anonymous complaints, again a procedure that the Court of Appeals harshly criticized when Judge Sporkin used it. Microsoft, 56 F.3d at 1464. These proposals are most likely unlawful, if not unconstitutional. Id.; Microsoft, 147 F.3d. at 954 (granting mandamus to vacate non-consensual reference to a special master where [t]he issue here is interpretation, not compliance; the parties' rights must be determined, not merely enforced). And in all events, they would allow Microsoft's rivals to thwart competition at every turn.

The Litigating States also err in proposing an unduly long duration period. Any remedy in this case must be sensitive to the rapid pace of technological change in the operating system market. An injunction that is appropriate today may be completely unsuited to tomorrow's market. If, as The Economist has written, operating systems are no longer central, then there is little point in regulating that market. Microsoft: Extending its Tentacles, The Economist, Oct. 20–26, 2001, at 59. The RPFJ recognizes this reality by limiting its term to five years, with the possibility of a two-year extension. u V. Not so the Litigating States, who in their rush to ask for the most punitive remedies available seek a ten-year term for the judgment. In an effort to cover unforeseeable eventualities, the States also define key terms such as middleware, browser, and technical information so broadly that the proposed judgment is in some ways absurd. For example, it appears that the middleware definition would include parts of Windows 3.0, which was developed before anyone thought of Java or Internet Explorer. Because they are unworkable, many of the Litigating States' proposals invite additional judicial involvement through complaints by competitors or others; indeed, the provisions for anonymous complaints invite not only involvement, but abuse.

In short, the Litigating States' proposals pose an enormous risk of ongoing judicial regulation. Not only would they require substantial modification of Microsoft's internal management structure, but they would require the District Court to set up its own regulatory agency, headed by the special master and potentially including a substantial staff, all paid by Microsoft. Courts are simply not designed for this sort of ongoing regulatory role, particularly in a field as far removed from their expertise as IT. At best, the Litigating States' proposals would create a contentious, judicially-regulated regime in place of a market. At worst, they would seriously impair IT innovation, at everyone's expense.

CONCLUSION

For all these reasons, the RPFJ should be adopted, and the Litigating States' proposals should be rejected.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA, Plaintiff,
v. Civil Action No. 98–1232 (
CKK) MICROSOFT CORPORATION,
Defendant
STATE OF NEW YORK ex rel.)
Attorney General ELIOT SPITZER, et al.,)
Plaintiffs,
v. Civil Action No. 98–1233 (CKK)
MICROSOFT CORPORATION,
Defendant.

DECLARATION OF JONATHAN ZUCK
January 25, 2002

Qualifications and Scope of Testimony

1. My name is Jonathan Zuck. I am over 18 years of age. I reside at 3701 Upton Street NW, in Washington, DC. I am President and Executive Director of the Association for Competitive Technology (ACT). I make this declaration in my capacity as President of ACT, which declaration is based on my personal knowledge of the facts set forth herein. To my knowledge, the factual assertions presented in this affidavit are true and correct.

2. ACT is a nonprofit association representing over 9,000 companies and individuals in the information technology (IT) industry. ACT members include independent software developers, hardware developers, systems integrators and on-line companies, many of whom are small and medium-sized businesses who depend on Microsoft technology for their success. Protecting the freedom to achieve, compete and innovate, ACT is dedicated to preserving the role of technology companies in shaping the future of the IT industry. Although their businesses vary, ACT members share a preference for market-driven solutions over regulated ones. Through education, advocacy and collaboration, ACT gives the IT industry a powerful voice in shaping its future. Although Microsoft is also an ACT member, ACT's interest in the remedies phase of this case stems primarily from the serious adverse impact the remedies proposed by the Litigating States will have on ACT's other members, and especially on independent software vendors (ISVs) in the business of developing applications software for use by business and consumers.

3. I became President of ACT in 1998. Since assuming leadership of ACT, I have been responsible for providing analysis, commentary and background information on behalf of the IT industry on a broad range of technology issues being debated in the public policy arena: I have appeared on a wide variety of television and radio programs, and do a large amount of writing for trade publications such as PC Magazine, PC Week, DBMS, the Visual Basic Programmer's Journal, and Windows Tech Journal. I have coauthored several books on the subject of Windows application development, including Visual Basic How-To. I also regularly speak at trade conferences in the United States and around the world on matters important to ACT's membership.

4. Prior to becoming President of ACT, I spent more than 15 years as a professional software developer. Most recently, I served as Director of Technical Services at the Spectrum Technology Group in Washington, DC, a consulting firm specializing in client/server, Internet and data warehouse solutions. Prior to that, in 1988, I founded and served as President of User Friendly, Inc., of Washington, DC, a company providing consulting and software development services to local businesses. The company expanded into commercial software development with Crescent Software in 1992. I also set up U.S. operations for Matesys, a French software firm that produced client/server development tools including ObjectView. At Matesys, I was responsible for product management, marketing and sales, and helped build the company into an $11 million business before it was sold to Knowledgeware.

5. The purpose of ACT's Tunney Act comments, and of my Declaration, is to provide the Court with the IT industry's perspective on the Revised Proposed Final Judgment (RPFJ) as well as the industry's perspective on more radical proposals that have been advanced by various groups, including the Litigating States. Specifically, this Declaration seeks to explain the importance of the standard, constantly evolving Windows platform and the heavy costs that would be imposed by the Litigating States' proposals or any other proposals that impair Windows' integrity. For the reasons explained below, ACT believes that the Litigating States' proposed remedies could well be devastating to the IT industry, with no corresponding benefit. In contrast, the RPFJ will likely preserve and even strengthen the IT industry.

Value of Windows

6. In various ways, the Litigating States' proposals will threaten the three features of the Windows operating system that make it so valuable to the IT industry: (1) the fact that Microsoft constantly improves it by adding new features and functionalities; (2) its uniformity and widespread acceptance; and (3) its low cost to consumers.

7. Constant Improvement and Addition of New Features and Functionalities. One reason Windows is so valuable to the IT industry is that Microsoft has constantly improved it. For example, each new release of Windows contains software drivers for the major new printers and other peripheral devices that have been released since the prior version of Windows. This means that developers of applications such as money management software, graphics programs, etc., do not need to create their own drivers for these devices or, worse, choose from among several competing drivers.

8. Virtually everyone in the IT industry, moreover, has a strong interest in seeing this trend continue in the future. The addition to Windows of such new functionalities as voice recognition, for example, will allow software developers to add such features to their products at minimal cost. Those costs will increase dramatically and consumer benefits will be reduced if software developers are forced to develop their own voice recognition features or, worse, to port their programs to several competing voice-recognition programs.

9. Windows' Uniformity and Widespread Acceptance. Uniform standards are crucial to an efficient, rapidly evolving IT sector. Communications and Internet standards provide the language necessary for many different computers to talk or network with one another, enabling, for example, users of the World Wide Web to locate and retrieve the information they seek. Operating systems perform a similar function, allowing hardware devices and software applications to communicate with a computer. Indeed, it is Windows' consistency that makes it so valuable.

10. As the District Court recognized in its Findings of Fact, with Windows the operation of both the computer and the software is the same from computer to computer. This means that the same software will run on all Windows-based PCs and, by and large, all hardware devices can be used as well. Hence, the consumer avoids the need for time-consuming, often expensive retraining, and thus has a greater incentive to learn how to use the existing system. Also, the widespread acceptance that Windows enjoys also makes it easier to ensure that computer products (both hardware and software) work the way they are supposed to, and work well with each other. Operating system consistency usually means that software will operate normally even if the type of computer changes. For example, WordPerfect will function as advertised on a Windows-based Dell computer or a Windows-based Compaq computer.

11. In its consistency from one computer and software program to another, Windows is markedly different from the UNIX operating system. That system is in reality a collection of similar operating systems, including Sun's Solaris, Digital's UNIX, HP's HP-UX, IBM's AIX and SCO's UnixWare. See http://www.techweb.com/encyclopedia/defineterm?term=unix. Although different versions may be desirable with respect to many products, for most computer users such a proliferation promises nothing but confusion, lost time, fewer applications, and higher prices.

12. For example, a consumer who shifts from one UNIX-based computer to another

UNIX- based computer may find that the two computers use different UNIX versions with different features, functions, and idiosyncrasies. Consequently, the consumer may have to devote considerable time and expense learning how to perform the same tasks on the second UNIX- based computer that she already knew how to perform on the first platform. Worse still, the software applications or hardware equipment she purchased for and used on the first computer may be incompatible with the version of UNIX installed on the second computer. And a UNIX user obviously has less incentive to develop skills tailored to her particular system if it is likely that she will use a different UNIX operating system in the future.

13. For these reasons, the cost per potential customer of developing a piece of software for the Windows operating system is significantly lower than the cost for the UNIX operating system, which translates into more software and lower prices for consumers.

14. In addition, more than any other operating system, Windows has remained compatible with software written for older Windows versions. As a result, consumers have much greater confidence that the software they purchase will work when they upgrade to a new Windows release. Hardware manufacturers and developers similarly face much less risk that their R&D expenditures will be stranded if Microsoft releases a new version.

15. Windows' Low Cost to Consumers. The Windows operating system also allows the developer, or other providers of support services, to support end-users at minimal cost. Each operating system not only has signature application interfaces and user commands, it also presents its own set of bugs and system errors. Thus, to provide software or hardware support, a developer must train personnel to identify and understand the idiosyncrasies of each operating system under which it markets its product. These increased support costs increase prices and decrease consumer demand for products and services.

16. Consumers, moreover, obtain all of these benefits inexpensively. Compared to the cost of a typical PC, and to the cost of the software typically installed on that PC, the cost of Windows (at about 5%) is relatively small. A low price, coupled with all the benefits stemming from Windows' widespread use, drives up demand by making computer products more affordable and attractive to consumers.

17. The widespread use of an inexpensive, constantly evolving operating system is particularly important in an industry as dynamic as the information technology industry, which constantly generates both new products and new uses for those products, and for which new developments such as the Internet can redraw the competitive landscape overnight. A popular operating system like Windows allows consumers and developers to act quickly and with confidence that software and hardware will work on most PCs today and in the future. And the fact that many consumers choose Windows adds a measure of stability to a highly dynamic industry. This Court should avoid any remedies that would threaten or undermine these benefits.

Potential Adverse Effects of the Litigating States' Proposals on Consumers and the IT Industry

18. The RPFJ will increase consumer choice while maintaining the integrity of the Windows platform. OEMs and consumers will be free to add whatever products they choose, even to the startup sequence, or to disable access to Microsoft middleware, but consumers will still be able to choose Microsoft products and programmers will still be able to invoke Windows' full functionality. RFPJ u III.

19. In contrast, the Litigating States' proposals will impose tremendous costs on the IT industry, its consumers, and the public at large.

20. Balkanizing Windows. A central problem with the Litigating States' proposals is that they would allow OEMs to create what would amount to separate versions or flavors of the Windows platform. As a result, the proposal would set in motion a process that could well result in the balkanization of Windows, to the detriment of IT companies and consumers alike.

21. The Litigating States' proposals would require Microsoft to offer stripped-down versions of Windows, with the middleware elements removed, at reduced prices. OEMs could then either leave those elements out altogether or replace them with competitors' products. As a result, a software developer can no longer assume that particular Windows components will be readily available to consumers. The developer must then purchase the needed feature from Microsoft and include it with its own program, or it must force the customer to purchase it from Microsoft. Either way, both the developer and the consumer would ultimately suffer from the need for a second, unnecessary transaction.

22. As an example, suppose that a company had an application that relied upon a Windows innovation to automatically support the display and navigation of its HTML-based on-line help system. The proposed remedy lets OEMs sell Windows without that support middleware, so the developer would have to incur the costs to create, distribute, and support its own middleware for on-line help display without delivering any greater value to customers.

23. The Litigating States' proposed remedy, moreover, actually gives OEMs an incentive to strip down Windows before offering it to consumers. That is because Microsoft shall offer each version of the Windows Operating System Product that omits such Microsoft Middleware Product(s) at a reduced price (compared to the version that contains them). Litigating States' Proposed Final Judgment u 1. Under the Litigating States' mistaken notion of Middleware, Windows itself would have been called Middleware, since it originated as an application running on top of DOS. There can be no doubt that the implementation of this concept would effectively balkanize what is now a uniform, coherent software platform. This balkanization would of course destroy one of the characteristics of Windows that makes it so valuable to developers of software and hence consumers its consistency from one Windows-based PC to the next.

24. Uncertainty in the IT Industry. Yet another major cost of the States' proposal is the tremendous uncertainty it would create and, indeed, already has created in the industry and the associated financial markets. The uncertainty surrounding the long-term implications of the proposed remedies is already causing software and hardware developers, as well as their current and prospective clients, significant harm. I do not believe that the vast majority of the conduct remedies proposed by the Litigating States will do anything but create an unwieldy regulatory regime for software and hardware designers.

25. A major source of uncertainty has to do with the future of the Windows platform. We do not know whether, assuming that the Litigating States' proposals or similar proposals are adopted, Windows will continue to be the standard operating system, or whether it will be viable at all.

26. For all these reasons, the mere fact that the Litigating States have proposed such extreme remedies is already creating a certain amount of paralysis among those in the IT industry who are working to improve existing products and to create the products of the future. Conclusion

27. While the RPFJ is superior to the Litigating States' proposals in many ways, a crucial difference is that the RPFJ would preserve the integrity of the Windows standard. By doing so, it will preserve the integrity of the IT and particularly the software development industry.

28. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge:

Jonathan Zuck, President,
Association for Competitive Technology
Signed this the 25th day of January, 2002

MTC-00027807

From: Shaun Savage
To: Microsoft ATR
Date: 1/28/02 11:04am
Subject: Stop MS, for the comsuner sake!!

HI

This is not a legal argument, it is a personal experiance in dealing with MS. The settlement is bad. It does not deal the the problem of MS rape of the consumer and developer.

MS Modis Operandi(sp) is to control the access to computers and make money! This is at the expense of consumers and developers. When Word98 first came out it could not write Word95 format. This prevented the two programs sending file back and forth. This forced the Word95 user to upgrade(spend money).

MS does NOT follow standards!!! Even when thay help define the standards they break the same standards they help define. This forces developers to write new work arounds for the "intentianl bugs/features". This make MS products incompatiable with all other software, because these bugs are unpublished.

There is a difference between API (Application Programming Interface) and (protocols/file formats). An API requires a library that know the (protocol/file format).

To be interoperable the lowlevel protocols and file formats need to be known. This includes security protocols. MS does not intovate!! they take existing ideas and comercialize the one method of doing that idea. The only reason they can do that is that they are an monopoly. If low level formats and protocols are published then the "secret" is in the quality in programming the application. This is where the compitition come in. If they can do something better than someone else in an open playing field, that is the way to compete. An monoculture of computers is very instable. the security of MS products is terrible!! When you allow the mix of data and program to be exchanged between systems then there is a lack of security. MS allows the transfer of data AND code in its data documents. VERY BAD! A way to force MS to improve service/products to the consumer is to allow compitition. To allow compitition ALL (that means ALL) low level protocols, file formats, and algorithms needs to be in the public domain. MS will try to sneak out of doing any change in its MO, and put paper work and beurcrat stuff, and legal stuff between change. Just look at the lies and "tricks" they pulled during the trial phase. Any settlement needs to have teeth. Really BIG teeth!!!

I, as an consumer, can't take legal action against MS, I don't have the money, time,. . .

I may have a justice case the MS harmed me, but I can never seek or have justice on my own.

"The goverment is here to protect me from things I can't protect myself from"

Please protect me from Microsoft!

Shaun Savage
20477 SW Tesoro CT
Aloha OR 97006
savages@pcez.com

MTC-00027808

From: Hans Reiser
To: Microsoft ATR
Date: 1/28/02 11:03am
Subject: Microsoft Settlement

If you are not able to process html format for proper printing, or you lost the html version I sent, please accept this email (excepting this sentence) as my comment on the proposed settlement, otherwise please accept the html version which preceded this.

MS Settlement Reflects Deep Failure To Understand Implications of "Patching" Technology

The positions of the DOJ, the States, and even Lawrence Lessig are based on a failure to understand that something unique to the software industry, which programmers call "patching" technology, makes software products infinitely separable if an essential facility called "source code" is provided. No disclosure of APIs, and no structuring of APIs, can accomodate all potential products in the manner that disclosure of source code plus use of patching does. Every line of source code is a possible location for insertion of new code that forms a new product. This new code can be distributed separately from the original source code, and post-sale added by the consumer, via what programmers call a "patch". Patching technology fundamentally changes product separability, making separation dependent on the essential facility called "source code". Non-programmers seem to not yet understand this. Persons who work in the Linux industry know this from experience, and I will try to convey this experience as someone who has built a business from the sale of patches (for the ReiserFS filesystem) in the only market where I had access to kernel source code.

Software is unique in that "Compiler" technology allows consumers to effectively reassemble software themselves.

A compiler is a computer program that takes a set of instructions about how to build a program (called "source code"), and builds the software. Almost all software is actually assembled by compilers not humans, and the work of humans is almost entirely in creating the source code.

You have probably never used a compiler to assemble software yourself as a consumer because:

*you are not a Fortune 500 company with a staff of trained system administrators

*you probably use Windows not Linux, and Windows does not give you access to the essential facility known as "source code" that your "compiler" needs to reassemble your software

*the new crusade by Linux to make the compilation process user friendly has only just started Because you have never done it yourself, your intuition may tell you that it is not feasible, or that it is not feasible for a large market. Beware this intuition, it is simply wrong. The Fortune 500 are a significant market for antitrust purposes, and Linux is rapidly moving towards making asking compilers to perform reassembly a friendly experience for average persons.

It is frequently efficient to post-sale integrate software for a large part of the market, and it is getting more so with time. This is deeply different from physical products such as cars, in that most persons do not find it as effective to buy a collection of parts and self-assemble because they would have to do the work of assembly. With software, the computer does the work of post-sale assembly, and the consumer simply tells the computer to do it, goes to make some tea, comes back, and the job is done.

For instance, the business that I own (Namesys, see www.namesys.com) made its money entirely from sales of a filesystem (ReiserFS) that was sold separately from the operating system (Linux) for the first few years of our business. The revenues from this were enough to support us. Paying consumers such as MP3.com would take our source code, add it to the Linux kernel source code, use a compiler, let their computer do a few minutes of work to reassemble the kernel, and get a better filesystem as a result of it. This allowed MP3.com to save $20 million dollars according to their estimate. Others in my industry also sell filesystems separately from operating systems (www.veritas.com got its start that way, and still makes simply enormous amounts of money from doing so, there are others....).

Notice that I say filesystem. Your intuitive notion of what is an operating system probably tells you that the filesystem is part of the operating system. You may be tempted to think that what is part of the operating system is not viable as a product sold separately from the operating system. Lessig thought so, and this is because he lacks experience selling operating system components in the Linux/Unix programming industry.

Think of Jefferson Parish, and understand that software takes the fine distinctions of Jefferson Parish to their extreme:

*Software can be integrated in its functioning, and yet separate in its sale, and this means separate as a product for purposes of anti-trust law. (Most software products are functionally integrated with a separately sold operating system.)

*Software can be integrated in its physical distribution, yet separate in its sale. (Purchase of a CDROM holding the software is often separated from purchase of a license to use, and it is often considered efficient by publishers to bundle physical distribution without bundling licensing.)

*Software can be sold and transmitted over the Internet with no physical product created at all.

There is only one characteristic that necessarily defines the separation of a software product, and that is the license. A license is a contract, and contractual tying is illegal under the Clayton and Sherman acts.

Yet wait, if software products are so easily separable, why aren't there far more OS components out there being sold? Control over an essential facility is the answer.

Secret source code can be an essential facility the equal of putting a combination lock on every bolt in a car, and then declaring the combination to be a trade secret.

You wouldn't allow this for a car, yet traditional industry practice is that source code is kept a trade secret. The crisis our industry is facing, in which monopoly control is the norm in all parts of it not in infancy, is directly caused by this industry practice of secret source code. It is not necessary that the text be kept secret for copyright protection on books to be maintained, and it is also not necessary for software that the source be kept secret to protect ownership of it. Far from it, the underlying historical motivation of copyright and patent laws is to bring more information out of trade secret status.

We have a widespread well-entrenched industry practice that keeps an essential facility (source code) under the control of monopolists (of which Microsoft is merely the largest), and we have almost complete monopolization of the software industry in each of its mature niches. These are cause and effect.

I pray to you to not allow their continuance. Open up the operating system source code, and go even further. Declare that software is per se separable where source code is available. Declare source code to be an essential facility. Return copyright and patent practices to their historical roots, and require that information created be made public if it is to be protected.

Please do not hesitate to ask me to comment in greater detail or respond to your questions in this matter. I am available for in person testimony if desired.

I have great respect for Reilly and Lawrence Lessig generally, and for their arguments in most other matters, and I hope it is understood that I merely have an advantage in possessing "patches" sales experience.

As for my needs, please create the legal conditions which will allow me to port ReiserFS to Windows and sell it separately from the operating system, by giving me the access to source code that I need to do the port, and to sell the patch separately from the OS.

Essential Facilites Related Citations

[U.S. vs. Trans-Missouri Freight Ass'n, 166 U.S. 290 (1897)] is the original precedent.

[MCI Communications v. AT&T Corp. 708 F.2d 1081 (7th Cir.), cert. denied, 464 U.S. 891 (1983)] describes a case more recent (it is a persuasive rather than controlling authority). Note that the 4 part test lacks any component referencing the need for a market to have been active at some point prior to the refusal to deal, and is the better for that lack.

Profit To The Monopolist From Tying

The Chicago School, to which the current DOJ administration adheres, holds that there is no incentive to monopolists to engage in tying because it believes they cannot extract more profit from forced sales of the tied product than they would from raising the price of the tying product, unless business efficiencies exist. For this reason, they feel that there is no need for the Clayton prohibition against tying, and feel there are civil liberty reasons to avoid government intervention into markets. Their analysis assumes the tied product is part of a fully competitive market, and for this reason it is deeply flawed.

The profit to the monopolist from engaging in tying is the difference between the market price and the marginal cost. For less than fully competitive markets, which is to say most markets, this is a non-zero amount. For software, especially software sold and distributed over the Internet, the marginal cost is close to zero, and the motivation for engaging in tying is extremely high. Senators Sherman and Clayton were much more knowledgable about economics than the Chicago School is paid to think (various monopolists have given large funding sums to pro-trust law schools). Some might like to think that, but for government, free choice expressed in the market would free us, but in sad reality the government is not the only means by which people organize to control and plunder the public. Cartels and monopolies take away our freedoms as well. The only thing worse than a government controlled economy is a monopoly controlled economy.

The Settlement As A Whole

I am opposed to the settlement as a whole. President Bush owns stock in Microsoft, and he appointed to head the antitrust division at the DOJ someone who is widely known to be opposed to laws against tying. When someone is opposed to a law that they are supposed to prosecute, they should not be allowed to settle a case their predecessor started. The proposed settlement is designed to be toothless, and to do nothing. Do not allow President Bush to settle this case, and thereby cripple the ability of the next administration to enforce the law. The failure of Microsoft and the DOJ to adhere to the contact disclosure provisions of the Tunney Act is one more reason to reject the settlement.

Conclusion

If you have the courage to firmly reject this settlement, if you declare software to be per se separable, and if you move aggressively to enforce the claim of the States while we wait for a new administration, you will have earned the admiration of the American people. Some of them will even know this.

More importantly, you will.

Sincerely,

Hans Reiser
Owner/Operator of Namesys
Author of ReiserFS, a significant component of Linux
5918 Marden Lane
Oakland, CA 94611
phone: +1 510–339–1044 (USA)
+7 095 290 6405 (I am currently in Russia)

MTC-00027809

From: Joanne Tur@ao1.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:08am
Subject: Microsoft Antitrust lawsuit

Mr. Ashcroft,

Attached is a letter from me regarding the antitrust lawsuit agaist Microsoft. Please consider my feelings on this matter.

Regards

Joanne Turner
210 Manchester Street
Danville, CA 94506
January 27, 2002
≤Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I write today to document my support of the recent settlement proposed by the DOJ in its antitrust lawsuit against Microsoft. I support this settlement because its formalization will mean that Microsoft's attention will no longer be diverted and they can get back to the business of creating excellent products. The formalized settlement will also mean that the IT industry will get the boost it has lacked since the beginning of this case. This boost will undoubtedly affect our failing economy positively.

I am pleased with the terms of the settlement as it stands, and I feel that Microsoft has made substantial strides to honor these terms. The compliance with these terms will ensure that competitiveness in the IT industry will be highly increased thereby giving consumers greater choices. Microsoft has already agreed to give their competitors license to their intellectual property and have also granted access to internal codes and protocols. These moves are all pro-competition and should more than quell the concerns of Microsoft's opponents.

It is my hope that you will see how crucial formalize this settlement is to the consumer, the IT industry and the economy and bring this matter to an expeditious close.

Sincerely,

MTC-00027810

From: Onnie Shekerjian
To: Microsoft ATR
Date: 1/28/02 11:09am
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
January 28, 2002

Dear Ms. Hesse:

The United States v. Microsoft Corporation litigation, which was brought nearly four years ago, should be ended with the consent decree by your Court.

Products which formed the basis for the Microsoft case in 1998 have since disappeared, becoming obsolete antiquities to be viewed with a smile and a ?remember when? usually reserved for hula-hoops and RC Cola. Other issues at the core of the case have also changed almost unidentifiably or have been sold or merged with others.

The failed Microsoft Network is one of the best examples. It was part of the case in the beginning, but has since faded from the landscape as another of Microsoft's unsuccessful ventures. What's lost in the haze in the anti-trust argument is that Microsoft has probably experienced as many failures as successes, but instead of employing more attorneys to even the playing field by litigation, they employed more developers and more R&D folks.

It's clear that Microsoft's innovations over the past 25 years were not anti-competitive, witnessed simply by the robust software marketplace we have today. In fact, the products and platforms Microsoft offers continue to make other products possible, like educational and learning programs.

New products and consistently decreasing prices cannot be symptoms of a closed or anti-competitive marketplace. The cries of ?monopolist!? against Microsoft, it turns out were an overreach.

More regulation will only damage one of the most promising industries in America. I hope you will sign off on the settlement agreement between Microsoft and the Justice Department and nine state attorneys general.

Sincerely,

Onnie Shekerjian
1301 East Myrna Lane
Tempe, Arizona 85284

MTC-00027811

From: Guinn Unger
To: Microsoft ATR
Date: 1/28/02 11:10am
Subject: Microsoft Settlement
Attorney General John Ashcroft

Dear Mr. Ashcroft:

I believe that the demands to break up Microsoft in the beginning of the antitrust suit against it would have had an adverse effect not only on my business but the IT industry as a whole. Fortunately, the settlement reached between Microsoft and Justice Department is reasonable. To settle this case is in the best interests of the consumer and the economy. While I do believe that sanctions against Microsoft are appropriate, we need to react rationally and not do anything that would result in damage to the economy.

Thank you.

Guinn Unger, President

Unger Technologies, Inc.
Microsoft Certified Partner
Compaq Solutions Alliance Partner
geunger@ungertech.com
www.ungertech.com
281–367–2477

Education is not the filling of a pail, but the lighting of a fire.—
William Butler Yeats

MTC–00027812

From: Frank Patitucci
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 11:10am
Subject: Microsoft Settlement

The purpose of this email is to add my voice to those opposed to the proposed settlement of the Microsoft Antitrust case. Much stronger penalties and remedies are necessary if Microsoft's behavior is to change.

The company has been convicted of committing crimes. It needs a punishment that matches the crime.

I am the CEO and Chairman of a private, employee owned company with about $20 million revenue and 200 employees. We provide employee relocation services to corporations when they transfer their employees. I am a card carrying capitalist. I have a degree from Stanford Graduate School of Business and have served as a part time professor there. Our capitalist system is the most productive economic engine ever invented. BUT it needs to be protected and guided by government (all branches) in order to continue to serve us and to be a model for the rest of the world.

Unfortunately, Microsoft represents capitalism at its worst. Here's how Microsoft's anti-competitive and anti-capitalistic behavior affects my company.

First, our company is now almost entirely dependent on Microsoft technology to provide our services. Frankly, when our computers go down we cannot do productive work. We are dependent on internal and web based systems to communicate with our clients, to manage our vendors and to perform basic business functions. All of our systems are Microsoft. And according to our IT staff "we have no choice".

Second, Microsoft limits the software we can purchase. At one point we had a database system called Foxpro. Foxpro was purchased by Microsoft. We purchased an accounting system called Great Plains. Great Plains was also purchased by Microsoft. We used to use word processor, spreadsheet, e-mail and presentation software produced by other companies that worked on the Microsoft operating system. I am now told by our IT staff that we can no longer purchase these products because they are not "compatible" with our other software. What happened to the companies that produced these excellent products? "We have no choice".

Third, we are paying more to Microsoft software than we should. How else could they accumulate $35 billion in cash in the face of the current recession? When I ask our staff what would happen if Microsoft increased tripled their licensing fees, they say, "we have no choice". We would have to pay whatever price they ask. There is no other product or service that we purchase as a company, other than public utilities, for which we have absolutely no choice.

The long term success of capitalism depends on free markets, fair competition and freedom of choice in selecting products and services. We don't have any of these in this very important sector of our economy, due to the illegal practices of one company: Microsoft.

I believe the Courts have two choices. The first is to allow Microsoft to maintain it's monopoly. If so it should be declared a public utility and regulated as such. Alternatively, the company should be broken up into enough parts that will encourage competition. This kind of remedy has proven to be successful in both the oil and telephone industries.

The proposed settlement is neither of these, and should be rejected. One last point, the fact that Microsoft is actively lobbying for the proposed settlement is cause for very great concern. We need to remember that Microsoft committed crimes and the remedies should be painful to the criminal. The current solution will send the worst message possible to current and future capitalists.

Sincerely,
Frank M. Patitucci
Chairman, CEO
ReloAction

MTC–00027813

From: Carlos Andrade
To: Microsoft ATR
Date: 1/28/02 11:12am
Subject: Microsoft Settlement
January 16, 2002
Attorney General John Ashcroft
The Justice Department
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing in support of the recent settlement between the Department of Justice and Microsoft. I am not as acquainted with all the details of this that I would prefer, but this entire lawsuit seems to have come about simply because some of Microsoft's competitors grew weary of trying to compete with Microsoft's Free Internet Explorer. I personally use IE and have done so for a while. I appreciate the fact of having free software with the operating system that I got with my computer. I understand that Netscape does not appreciate not being able to get my $40 or so dollars which I would have had to pay to them to get an Internet Explorer, because Microsoft provided it for free. This, in my opinion, is not a proper utilization of our legal system.

I use Microsoft products in my business and have found that their software is simply better and more reliable than anyone else's. I have used Netscape which I had received from my ISP, but I found Microsoft's product more user friendly and les problematic when it came to updates. Microsoft exerted no amount of influence for me to reach that conclusion. Simple experience has done that.

I believe that this lawsuit was simply an effort to force Microsoft to "dumb down" its efforts and allow other, software developers a chance at catching up. I also think that when a customer buys an operating system that has some added features such as a stable Internet explorer, the only one that benefits is the consumer. They don't need to go out and purchase additional software to get on the web which is what most customer are now getting computer for. This settlement has thankfully nullified the effort to separate IE form Windows. It is fair and offers pragmatic answers to complex problems, such as competitors" worries about interoperability of Windows and OEMs irritation with Microsoft for shipping additional software along with Windows. Though the settlement extends a bit beyond the scope of the original lawsuit, it does end the litigation and should, in my opinion, be accepted.

Sincerely,
Carlos Andrade
Carlos Andrade
Network Administrator

MTC–00027814

From: carlos kennedy
To: Microsoft ATR
Date: 1/28/02 11:13am
Subject: Fw: Attorney General John Ashcroft Letter
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 28, 2002

Dear Mr. Ashcroft:

I am extremely pleased to hear that the Justice Department has finally decided to end its persecution of Microsoft, and agree to a settlement. Microsoft was never a monopoly; it simply provided the best product that people enjoy.

I hope that people will appreciate what Microsoft has sacrificed in order to bring an end to this settlement. Among the many terms they have agreed to, Microsoft has promised to allow computer manufacturers to pick and choose not only what Windows programs they will feature, but they can also include numerous Microsoft competitive programs in the computers they ship.

There are, of course many other terms in the settlement that are also damaging to Microsoft, but I just wanted to make a brief point, as I'm sure there will be numerous emails coming in on the side of Microsoft. Thank you for taking the time to hear me out on this matter.

Sincerely,
Carlos Kennedy
4 Marwood Court
Flat Rock, NC 28731
828–697–1203

MTC–00027815

From: James D Lane
To: Microsoft ATR
Date: 1/28/02 11:13am
Subject: Microsoft Settlement

Gentlemen;

This thing has drawn on far to long. I shiver to think of going back to the good old days of DOS. Force an end to this now and don't let the states draw this out any longer. Jim Lane, a Windows fan.

MTC–00027816

From: ACEEBO@aol.com@inetgw
To: Microsoft ATR

Date: 1/28/02 11:13am
Subject: Re: Has Your Opinion Been Counted?

THE ECONOMICS OF THIS COUNTRY HAVE BEEN DAMAGED BY THE US GOVERNMENT BRINGING AN ANTITRUST SUIT AGAINST MICROSOFT, WHICH COMPANY HAS DONE MORE TO ADVANCE COMMUNICATIONS AND THE COMPUTER INDUSTRY IN THIS COUNTRY THAN ANY ONE ELSE.

FOR LORD'S SAKE, PLEASE ACCEPT THE SETTLEMENT NOW BEFORE THE COURTS AND LET'S GET ON WITH THE REAL BUSINESS OF THE COUNTRY. TOUGH COMPETITION BETWEEN COMPANIES IS WHAT HAS MADE THIS COUNTRY GREAT.

THOSE STATES THAT DON'T WANT TO ACCEPT THIS AGREEMENT SHOULD BE THROWN OUT OF THE UNION. THE PEOPLE OF THEIR STATES HAVE BENEFITED FROM MICROSOFT AND ITS CREATIVE OPERATING SYSTEMS FAR MORE THAN ANY ALLEGED UNPROVEN DAMAGE.

THE DEPARTMENT OF JUSTICE ALMOST RUINED IBM WITH THE EXPENSES OF ITS ANTITRUST ACTI ON AGAINST THEM AND THEY HAVE GONE A LONG WAY IN DAMAGING THE ABILITY OF MICROSOFT TO COMPETE IN THE MARKET PLACE WITH THE EXPENSE OF DEFENDING THEMSELVES AGAINST SOME AN UNWARRATED ANTITRUST ACTION..

ALFRED C. BODY aceebo@aol.com

MTC-00027817

From: Scott Ventura
To: Microsoft ATR
Date: 1/28/02 11:14am
Subject: Microsoft Settlement

From:
Scott Ventura
9 West Squire Drive Apt 1
Rochester NY 14623
585-475-9865
ventura@MailZone.com
To:
Renata B. Hesse
Antitrust Division
u.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
FAX: 202-307-1454 or 202-616-9937
Subject: Microsoft Antitrust Remedy Proposal

I am writing to express my disapproval of certain terms of the remedies set forth in the antitrust case against Microsoft. My concerns stem from examining the document located at the following URL: http://www.usdoj.gov/atr/cases/f9400/9495.htm

The proposed remedy is a bad idea. As currently outlined, it allow Microsoft to gain an even larger market share rather than force it to compete more fairly.

Documentation/Disclosure/Licensing of Security-Related Interfaces III J: No provision of this Final Judgment shall:

1.Require Microsoft to document, disclose or license to third parties: (a) portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of which would compromise the security of a particular installation or group of installations of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria; or (b) any API, interface or other information related to any Microsoft product if lawfully directed not to do so by a governmental agency of competent jurisdiction.

There is a saying in the computer security industry: "Security by obscurity is no security at all." The phrasing in the above passage gives Microsoft leeway to obscure from public scrutiny the protocols and APIs that are of greatest importance to computer security. Encryption and authentication are complicated concepts. Encryption systems must be subjected to extensive attacks by the security community at large before they can be trusted. Furthermore, the interfaces to the encryption system must also be examined by security experts before they can be trusted. According to III J 1, Microsoft will not be required to document, disclose, or license this information to the vendors of security-related products whose security would be compromised by flaws in the API or protocol. Microsoft will be the only company in possession of the information needed to make security-related software secure.

Although I am no fan of digital rights management systems, I must express my concern for copyright holders, as well. Copyright holders will be subject to the greatest losses if any level of the digital rights management system is compromised. If the decision of to whom to document, disclose, and license the details of the digital rights management system in Windows is left solely to Microsoft, then Microsoft could enter into exclusive agreements with some copyright holders and not others. This would result in an imbalance in the ability of content providers and copyright holders to protect their properties to the abilities of the best experts royalty money can buy.

Worse, Microsoft could elect to not document, disclose, or license these details to any non-Microsoft entity. Then Microsoft would be poised to become the only copyright holder with access to the information required to make working digital rights management systems for their properties.

Conclusion

Microsoft is an extremely slippery company. They have reached their current position of market dominance through questionable business practices and not quality product. I sincerely hope that the final version of the remedies forces Microsoft to either produce good software or get out of the way so others can. We've been tolerating insufficiently useful computers for too many years already.

Respectfully,
Scott D. Ventura
—
Scott Ventura
ventura@MailZone.com
http://FeedMyEgo.com/

MTC-00027818

From: Brian Gollum
To: Microsoft ATR
Date: 1/28/02 11:15am
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse: I am writing to give my comments on the Microsoft antitrust settlement. I believe this settlement is counter to the interests of the American public, deleterious to the American economy, and inadequate given the findings of fact in the trial. Microsoft's anti-competitive practices are counter to the law and spirit of our free-enterprise system. These practices inhibit competition, reduce innovation, and thereby decrease employment and productivity in our nation. Microsoft's monopolistic practices cause the public to bear increased costs and deny them the products of the innovation which would otherwise be stimulated through competition. The finding of fact which confirmed that Microsoft is a monopoly requires strict measures which address not only the practices they have engaged in in the past, but which also prevent them from engaging in other monopolistic practices in the future.

It is my belief that a very strong set of strictures must be placed on convicted monopolists to insure that they are unable to continue their illegal activities. I do not think that the proposed settlement is strong enough to serve this function.

Sincerely,
s/Brian L. Gollum
Brian L. Gollum
5820 Phillips Avenue
Pittsburgh, PA 15217
412-422-8455

p.s. I agree with the problems identified in Dan Kegel's analysis of the settlement <http://www.kegel.com/remedy/remedy2.html>.

MTC-00027819

From: Erin Barnes
To: Microsoft ATR
Date: 1/28/02 11:15am
Subject: Microsoft Settlement

I think it is time to end the suit against Microsoft. The settlement is sufficient and will allow Microsoft and the rest of the industry to move on and continue building great products for consumers. The continuation of this suit is bad for the US econonmy and bad for consumers.

Thank you,
Erin Barnes
Pacifica, CA

MTC-00027820

From: j jasper
To: Microsoft ATR
Date: 1/28/02 11:16am
Subject: Microsoft Settlement

a bad idea
please reconsider
thanks

MTC-00027821

From: dianaheileman@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:16am
Subject: Microsoft Settlement

I believe the settlement is balanced and fair for the industry and consumers. Given the current climate after the recession and 9/11, I feel that we need to settle this and not let it drag on, so we can focus on economic recovery and fighting external enemies.

Thanks, Diana Heileman

CC:dianaheileman@hotmail.com@inetgw

MTC-00027822

From: Thomas Vaught
To: Microsoft ATR
Date: 1/28/02 11:16am
Subject: Microsoft Settlement

As a software developer for over 11 years, I am very dissappointed in the Microsoft settlement. It basically validates the Microsoft monopoly without any acknoledgment of guilt or meaningful reparations to the industry they have damaged.

I believe that Microsoft has illegally obtained their monopoly and are using it to further their reach while keeping innovative technology such as Java from reaching consumers.

Please consider forcing Microsoft to ship a standards compliant version of Java with their operating system. This will allow developers and consumers to benefit from the latests technology for writing and delivering applications.

Also, I believe that Microsoft should be forced to ship Netscape along with Internet Explorer so that consumers will have a choice of browers.

Thank you for your time and consideration.

Thomas E. Vaught
9844 S. Bucknell Way
Littleton, CO 80129

MTC-00027823

From: chip@the-altmans.net@inetgw
To: Microsoft ATR
Date: 1/28/02 11:07am
Subject: Microsoft Settlement

I think the remedy is fair and should end the case completely. I do not feel that Microsoft has hurt the public in any matter. Ten to fifteen years ago the computer industry was in a mess. There was no standard operating system. If you went to purchase a computer at Radio Shack you would get a computer running Deskmate. If you went to an Apple distributor you got the Apple operating system. If you went to IBM you got their OS operating system. And then of course you had Windows. Kids in school learned Apple but could not go into businesses and run their computers. The average person had to have an apple computer so their kids could do homework and an IBM computer so they could work at home.

Since then and thanks to Microsoft the industry has been standardized, kids in school can go out in the world and run computers. Employees can go home and work on a computer with the same system they use at work. By becoming standardized, how does this hurt consumers? Microsoft has saved the average consumer thousands of dollars. By their continued innovation and development of the operating system they have added tools and recourses that would have cost the average consumer a lot of money. If Microsoft charged for each addition to its product, or forced the consumer to purchase such things as Internet explorer, word, notepad, a calculator, Paint, the basic TCP/IP protocols, the average person could not afford these add ons and would be shut out of the internet.

As for Internet Explorer, that was the best thing that Microsoft ever did. It made surfing the web enjoyable. Question, did you ever try to use Netscape Navigator before Internet Explorer came along, I have and it sucked. You had to pay around $50.00 for it, it took several hours to down load and would crash so often that trying to look up one item would take hours. Microsoft came and gave you Internet Explorer, which at first had its problems, but when they finally integrated into the operating system, it was fantastic, you could surf the net and really enjoy the experience. System hangs and lockups that occurred often before integrating disappeared. And by integrating the software it saved me money, how DID this hurt me? I know the argument it hurt competition, my argument is it did not hurt competition, it caused competition. It caused Netscape to wake up and make a better product. At a more reasonable price, this let the consumer save money by being able to buy a better product at a lower cost. Microsoft did nothing wrong. Those consumers that wanted Netscape still continue to use it, if Netscape wanted to keep customers, and gain customers, they should have developed a product that knocked the socks out of Internet Explorer, but did they no, they cried and sued.

They gave up, because they would not take the time and resources to develop a better product. I, know, the argument how could they when they did not have the money because Microsoft was giving the product away, simple, build it and they will come. The consumer wants better products and if the consumer found an item better those that can afford will buy it.

Is it wrong, to build your business, and to protect your business. NO, it is not wrong! Microsoft played hard ball, yes, but how is that different from any other company that wants to grow, expand, and make a difference. Netscape, AOL, Sun Microsystems and others are playing hard ball now, buy suing Microsoft, because of their jealousy over the dominance Microsoft has. If the companies really cared about the consumer, they would build better products that would blow Microsoft way. But do they no, the run and scream and sue Microsoft, because Microsoft does not play fair. If these companies would build better products on the same caliber as Microsoft, consumers will go there; they will buy what they want. But stripping down Windows will only hurt the consumer, because the costs associated with buying each piece of software will be more than the average consumer can afford. But those that can afford the software will buy the better software. How is this any different ! from the auto industry? Yes, I know that there are several companies competing equally, If I went to ford to buy car should they be required to give me a stripped down car. So that I can go to Chrysler to purchase the motor, to Bose for the stereo, to Goodyear for the tires, to Monroe Muffler for the Shocks, and Muffler. NO, they provide the basic systems and then you buy the additional or custom items that you want. Microsoft does that they provide the consumer with the basics and let the consumer buy what they want. The problem is the other companies are not making products that are better and more desirable.

End the lawsuit now and let Microsoft go back and build and innovate so that the envelope of information and knowledge becomes more reliable and available to the average consumer, and so that these other companies will be forced to push the envelope even further buy building better software. If these companies would just worry about building better software that pushes the limits, they would not have to worry about Microsoft.

MTC-00027824

From: Wilhelmina J Matern
To: Microsoft ATR
Date: 1/28/02 11:16am
Subject: mICROSOFT sETTLEMENT

Dear DOJ,

May I beg of you either to stop this Microsoft settlement nonsense, or just retire and get out of the way?

This is all making our government look like something we can all be thoroughly ashamed of. To spend this much time on Microsoft's "unfairness", a company so productive and worthwhile to America's economy - and by a government so monopolistic and unproductive of any real benefit to the public, and towards which we are becoming more and more cynical in re the grandstanding for self-aggrandizement that is about all we see government officials doing anymore.... we hear or see another thing on this suit and we just cry out "oh,no!". While we are all thinking about an economic stimulus and instead this goes on and on and on and..... the ultimate non-sequitur. Please, get it over with and move on to Marc Rich, or the dishonest Fish and Game people trying to shut down so much of our economy with lynx hairs, or the mess DOI has made of Indian Trust Funds, or .. you can name it, we know you can.

Please reassure us again that the federal government sees and understands itself as the chief impediment to justice in society today and will not tolerate this core human indecency in Washington any longer. And believe me, we'll be pulling for you again with loud hurrahs soon's we see the first inkling of it!!!

We DO wish you all the very best,

Rev. Dick Matern
Ft Defiance ,AZ

MTC-00027825

From: Rich Smith
To: "microsoft.atr(a)usdoj.gov."
Date: 1/28/02 11:09am
Subject: Punish Microsoft

Dear Sirs,

PLEASE punish microsoft.

Richard A. Smith
Thousand Oaks, California.

MTC-00027826

From: Chip Witt
To: Microsoft ATR
Date: 1/28/02 11:17am

Subject: Microsoft Settlement

To whom it may concern:

The proposed settlement against Microsoft has many flaws, but my problem with it is more philosophical in nature than most that I have heard. My understanding is that this judgment is supposed to be a punitive measure to correct monopolistic behavior in what should have been an open market place. With that in mind, should not the mere threat of such judgment modify Microsoft's behavior?

I have followed the proceedings against Microsoft fairly closly, as I am an IT Professional. During the trial through today, Microsoft continues to forge ahead mightyly developing partnerships and products that forcably squeeze competitors out of any market they decide to pursue. It is my humble opinion that the proposed settlement should take greater care to protect the consumer by evening up the playing field on which Microsoft competes. I see this proposed settlement as nothing more than a slight public slap on the wrist. Although it is a step towards the right direction in limiting some of Microsoft's anti-competitive practices, it does not prevent Microsoft from finding new ways to exploit the gains they have made in the market place as a monopolist.

This is much akin to closing the barn door after the cow has already gotten out. More must be done.

Thank you for your time and the opportunity to comment. —

CW

Chip Witt, MBA
Witt'z End Technologies
PO Box 885
Cotati, CA 94931–0885
(V) 1–888–719–9277
(F) 1–800–514–3098
(E) chip@wittzend.com
(W) www.wittzend.com

MTC–00027827

From: Fairborn Area Chamber of Commerce
To: Microsoft ATR
Date: 1/28/02 11:18am
Subject: Microsoft Settlement
Attention:
Ms. Renata B. Hesse,
Trail Attorney,
Department of Justic,
Washington DC

Microsoft has for many years provided products to consumers and businesses and has also provided opportunities for other such companies to develop programs for the Windows system as well. The settlement worked out by the Department of Justice and the bipartisan group of state attorneys general to bring the anti-trust case to an end should be agreed to by all parties in order for people to return to work especially during this critical period we are now facing in our economy. We support the Department of justice and the Attorneys General for their untiring efforts to put an end to this case and agree to a settlement that is in our nation's best interest. We don't need any more people added to our unemployment roles.

John G. Dalton, Executive Director
Fairborn Area Chamber of Commerce
12 N. Central Ave.
Fairborn, OH 45324
Ph: (937) 878–3191 FAX: (937) 878–3197
E-Mail: chamber@fairborn.com
Web Page: www.fairborn.com

MTC–00027828

From: Daniel.Jack@us.hsbc.COM@inetgw
To: Microsoft ATR
Date: 1/28/02 11:05am
Subject: Microsoft Settlement

Please refer to the attached letter concerning my support of the proposed Microsoft settlement.

(See attached file: USAG DJ 25-Jan-02.doc)

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CC:fin@mobilizationoffice.com@inetgw

Daniel Jack
81 Bleloch Avenue
Peekskill, NY 10566
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing to voice my opinion of the Microsoft antitrust case.

I think the U.S. Department of Justice should accept the terms of the settlement, which represents the best possible outcome.

Microsoft has agreed to several points, including the licensing of Windows operating system products to the 20 largest computer companies. For the sake of concluding this suit, Microsoft even agreed to several terms that extend to products not at issue in the lawsuit.

Furthermore, I am a proud shareholder (since 1995) and a user of Microsoft products. I believe that I and many other customers worldwide have benefited from Microsoft's products and pricing and have never been harmed by any of their actions in the very competitive global marketplace for information technology, particularly PC software.

This is a respectable agreement. The economy and the American consumer should benefit from the terms in this settlement. I hope you will support it.

Sincerely,

Daniel Jack

MTC–00027829

From: Joanne Backs
To: Microsoft ATR
Date: 1/28/02 11:20am
Subject: Microsoft Settlement

My comment on the Microsoft Settlement is that it should be accepted by all and the litigation ended!

Enough is enough.

P.S. I use Netscape Navigator on an Apple imac.

Joanne Backs

MTC–00027830

From: Aldo Mancini
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 11:18am
Subject: Microsoft Settlement

Dear Mr. Ashcroft,

I am attaching a letter to express my opinion regarding the lawsuit against Microsoft. Please provide this correspondence your necessary attention.

Sincerely,

Aldo Mancini
President & CEO
Mancini Enterprises, Inc.
1940–1 North Commerce Parkway
Weston, FL 33326
Phone: (954)217–9113 x101
Fax: (954) 217–0113
e-mail: amancini@mancini.net
URL: www.mancinienterprises.com

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<<Letter to John Ashcroft for Microsoft- 01–28–2001 .dot>>

CC: "fin(a)mobilizationoffice.com"

January 28, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

In the hopes to be heard, regarding the Microsoft lawsuit, I am writing this letter to express my opinion.

As a small business owner, we always strive to provide our customers the highest level of service and products they are purchasing from us. In order to differentiate us from our competitors, from time to time, we include free services and add-ons to our products to build on our promise to the customer.

I have always disagreed with the lawsuit against Microsoft and I believe that Microsoft is entitled to dictate the terms under which it will sell its software, even to its OEM customers. The uniform pricing mechanism will give the 20 OEMs all the benefits of a union with none of the hassles vis-a-vis Microsoft. The very idea that a few of Microsoft's most ardent competitors wanted government sanction to pillage Microsoft's success is disturbing.

I am somewhat pleased that this settlement has been accepted. It has the advantage of ending this sad chapter in our histor3,. However, the terms of the settlement seem to give the government one last poke at Microsoft by requiring it to release some of its venerated source code to its competitors. As a Microsoft partner, Microsoft has always provided to us an insight to its source code to allow us to build better software products without releasing its right to the ownership of such code. It should be to the discretion of Microsoft to determine which companies, if any, need to be provided access to this valuable asset. This, however, is a topic for a future letter.

For now, let's just leave the settlement stand as is and move on.

Sincerely,
Aldo Mancini
CEO
Mancini Enterprises, Inc.

MTC-00027831

From: T. Gray Curtis
To: Microsoft ATR
Date: 1/28/02 11:23am
Subject: Comments on Microsoft settlement
To: Department of Justice
From: Thomas Gray Curtis, Jr.
1443 Beacon Street, Apt 617
Brookline, MA
Subj: Comments re Microsoft Settlement
Date: January 28, 2002

Bill Gates wants to insure innovation by Microsoft. To further this objective, Microsoft has impaired the ability of others to innovate. A marketing genius, Gates wants to convince everyone that empowering innovation by Microsoft is in everyone's interest. Microsoft has damaged the software industry by restraining trade as means of maintaining competitive advantage. I cannot quote you specific dollar values of the impact of this restraint, but I will relate to you one anecdotal instance which may be an illustration.

During the late 1980's and early 1990's two colleagues and I were developing software for IBM and subsequent electrical utility companies. The software implemented on a PC the functionality of Geo Facilities Information System (GFIS) software, which required a more expensive mainframe computer. GFIS was used by electrical utilities to help them manage their electrical grids. The new software ran on IBMs OS2 operating system. Over the course of several years IBM, Florida Power and Light and Duke Power probably invested on the order of one million dollars in the development.

As a result of the competition between IBM and Microsoft (Windows v OS2), what I refer to as the Microsoft Wars, viability of OS2 as a ubiquitous operating system was destroyed. The consequence of this was that the cadre of developers creating applications software was reduced. For a while in the early 1990s I developed software for the AIX unix operating system. The size of that market and the cost of unix development drove me out of software development by 1995. I have finally, starting in 2002, reentered the software development arena. I am reluctantly developing software for use under Windows 2000. Primarily because that is the largest market.

I am not privy to the facts with regard to the abrogation of the contract between IBM and Microsoft for the development of the graphical user interface for OS2. I have seen only from afar, via the news media, the machinations of Microsoft in dealings with companies such as Sun MicroSystems over JAVA and Netscape and AOL over browsers. Microsoft business practices sicken me and damage the ability of the software industry to innovate. I had hoped that the federal government would seek a remedy which would restore some balance to the industry by separating the operating system unit from the application development unit. Microsoft is like a black hole in our solar system. It suppresses competition to such an extent that the light of some new products will never be seen.

Microsoft's practices will continue unless steps are taken to protect the small cap companies which would try to innovate. A case in point is the small Rachis Corporation of Marlboro, MA. This startup company develops software for the emerging interactive TV market. They provide system integration test and evaluation and software for hardware manufacturers, application vendors, middleware, and network operators. Scientific Atlantic, a set-top box manufacturer, partners with RACHIS despite efforts by Microsoft to provide software to Scientific Atlantic. Microsoft appears to be eyeing the media industry as an arena in which to throw it's weight around. Microsoft has created Microsoft TV and with it's holding in ComCast has some influence over the deployment of the cable network acquired by ComCast from AT&T.

Please keep an eye open for the Microsoft guerrilla vis a vis Rachis.

Respectfully submitted.
Gray Curtis

MTC-00027832

From: Ellen Ryan (MSLI)
To: Microsoft ATR
Date: 1/28/02 11:24am
Subject: Microsoft Settlement

I came to the U.S.A 4 years ago from the United Kingdom to work temporarily while my husband attends university out here. Before I came here I believed that America had a fair & competitive economic system that rewarded innovation and hard work. I have been sorely disappointed. Leave companies free to innovate. Stop using tax dollars to defend cases that only satisfy the political agenda rather than protect citizens.

Ellen.

MTC-00027833

From: Mary Rocco
To: Microsoft ATR
Date: 1/28/02 11:25am
Subject: Microsoft Settlement—NO!
BlankRenata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

I've been requested by Microsoft to send you a letter in support of their settlement, but I will not do that because I OPPOSE THE SETTLEMENT. Microsoft continues its predatory and unethical business practices unabated and obviously the Department of Justice has not gotten its message through to Mr. Gates yet. I think you should continue to take steps to curb Microsoft's rapacious and insidious monopolistic practices which are not only unfair restraint of trade but also extremely detrimental to the end consumer. Microsoft's programs act more like viruses than computer applications. Please continue attempting to put a stop to this monopoly.

Sincerely,
Mary A. Rocco
3217 Cheviot Vista Place, #108
Los Angeles, CA 90034–3546

MTC-00027834

From: Tennison, James
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 11:24am
Subject: Microsoft Settlement

To whom it may concern,

I would like to comment on the proposed settlement in the Microsoft Antitrust Case.

The first thing I would like to say is that from day one I have been appalled that such a thing as the Microsoft Anti-trust Case even exists. It is immoral.

My family and various relatives have been using Microsoft products including MS-DOS, Windows 95, 98, NT, 2000 and Internet Explorer for years. Had I been unhappy with Microsoft products I could have purchased other brands such as Apple with their Apple OS, Sun with their Solaris or Red hat with Linux to name a few. I have never been under the ignorant opinion that there are no other choices for my computing needs. Microsoft products have worked well enough and I've been quite happy with all I could do with them.

Microsoft is extremely successful for good reason. Microsoft products provide a full range of capabilities, have great prices and wonderful availability. It is my reasoned opinion that Microsoft products have been a boon to the citizens of the United States and the world. Microsoft's products have only offered positives to the lives of countless people.

Before you think that I am a total Microsoft zealot I will inform you that I have also happily owned and used Sun products (Sun Solaris workstations), Silicon Graphics and Apple products (Macintosh I, II, Quadra 410). I also happily employ the Netscape browser on all three of my PC's.

I strongly hold that Microsoft has the absolute right to freely pursue it's interests in the capitalist market of the United States. This includes their right to bundle their various products any way they see fit. No one, and certainly not our government, has the right to dictate what products Microsoft can produce and must not initiate force against this outstanding company. Microsoft has always providing products and services in the absence of any compulsion. Moreover, Microsoft, unlike the US Government, cannot use force to make people buy it's products. And, since the only legitimate purpose of government is to deter and punish those who use force, the attack on Microsoft because it is successful completely inverts the role of government. The Microsoft Anti-trust case has once again made our government, justly a protector of rights, instead a powerful violator of rights. It is extremely disheartening to see such rampant totalitarianism! In addition, the antitrust laws being used in an attempt to lynch Microsoft have been called into effect not by citizen's complaints against Microsoft's products, but by Microsoft's unsuccessful competitors. These companies seek to "win" in the marketplace by resulting to force and not by offering superior products with superior marketing. Moreover, instead of using guns themselves to force consumers to buy their products, these companies seek to use force by proxy, with the US Government acting as their agent. This is truly a despicable attempt to influence the market through the pure use of force. They are employing the very corrupt anti-trust laws, applied by a government on a mistaken crusade to eliminate the infidel (a hugely successful Microsoft), to "win" in the marketplace. This is an unconscionable injustice! This should be the illegal activity which is attacked by a just government. Shame! The Anti-trust laws used by their willing governmental accomplices were unjust at their inception and remain so today. They represent non-objective law. Laws that should not and must not exits.

Individual rights, which also apply to the American businessmen of Microsoft, are not granted by our government. Just government serves only to protect the rights of it's citizens. Microsoft has an inalienable right to it's products (bundled as they desire) and profits.

Many smart people in the United States Justice Department have created a case against Microsoft based on the subjective egalitarian premise that big is bad. They punish success for being success. They have erred in that they never sought to fully understand the legal premises they employ. To find out whether they are just. They relied instead on a history of precedence generated by a wholly mistaken initial premise. That premise is that force can and should be used to do good. That force should be used to elicit an egalitarian ideal. As if the alleged good of society trumps the rights of innocent individuals. Actually, our government is employing a Marxist socialist concept. The group has rights superior to those of the individual.

Let us place reason firmly in it's seat. Leave Microsoft alone to create even better and more successful products for the free American capitalist consumer. Drop this unjust case immediately! No punishment is due Microsoft. With a great flourish of marketing skill, Microsoft has brought the computer to the world and changed history. All of you persecutors should feel the guilt of your brutish and totally unjust quest to destroy the good because it is good.

Thank you for letting me defend the rights of American businessmen.

James G. Tennison Jr.

MTC-00027835

From: Eric Thompson
To: Microsoft ATR
Date: 1/28/02 11:24am
Subject: Microsoft Settlement

Dear Honorable Justices,

Microsoft has twice been found guilty of serious violations of the Sherman Antitrust Act, by a federal District Court and by the United States Court of Appeals. While the Court of Appeals reversed the breakup order issued by the District Court, it upheld the trial court's Findings of Fact and affirmed that Microsoft is guilty of unlawfully maintaining its monopoly. As I understand it, the court must hold public proceedings under the Tunney Act, and these proceedings must give citizens and consumer groups an equal opportunity to participate, along with Microsoft's competitors and customers.

Please allow consumers participation.

Regards,
Eric
Eric Thompson
Strategic Renewables Group
4834 Hart Drive
San Diego, CA 92116
619–521–0444 office/mobile
619–521–0515 fax
erict@strategicrenewables.com
www.StrategicRenewables.com

MTC-00027836

From: Larry Mull
To: Microsoft ATR
Date: 1/28/02 11:27am
Subject: Microsoft Settlement

DEADLINE:In times of a struggling economy, I find it confusing that we're still arguing against Microsoft. It's time for this settlement to be accepted and let's move on. Or maybe it's about states trying to increase their revenues and attorneys building a retirement. Sheez. At one time no on thought the Japanese could compete in the domestic automobile market. Who's going to be the Japanese when it comes to software in 10 to 20 years?

If we continue, we will prove where businesses should not be in the future.

MTC-00027837

From: Carey Gifford
To: Microsoft ATR
Date: 1/28/02 11:27am
Subject: Microsoft Settlement

I oppose the proposed Microsoft Settlement for the reason that it is not in the best interest of the public at large, nor in the interest of the future evolution of electronic technology.

Carey J. Gifford
togiffords@aol.com
Alpharetta, Georgia

MTC-00027838

From: Hbsjps@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:27am
Subject: Settlement

To Whom it May Concern:

I support Microsoft's point of view. Please register me as a supporter of microsoft.

Joan Peven Smith
Miami, FL

MTC-00027839

From: FullcutInc@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:27am
Subject: (no subject)

January 28, 2002
Attorney General John Ashcroft
US Dept of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing to give my support to the agreement reached between Microsoft and the Dept of Justice. I did not support the original lawsuit against Microsoft.

I do not think the case was warranted. The lawsuit was more political than any outrage over unethical business dealings. Bill Gates has carried the technological revolution on his shoulders. He has enabled the average person to become part of the technological ago. Does anyone remember what it was like before Microsoft? Bill Gates standardized computer software to enable its compatibility with other software. And people bought the product, because it was the best and it still is.

Bill Gates has agreed to any number of terms demanded from the Dept of Justice. Microsoft has agreed to share its source codes and books pertaining to Windows, that Windows use to communicate with other programs; Microsoft has agreed to a three person technical committee to monitor future compliance; Microsoft has agreed to contractual restrictions and intellectual property right.

This is more than fair.

Give your approval to this agreement. Allow us to get back to work. Honestly, I do not agree government intervention on technology and its innovation. it only serves as a hindrance. Microsoft's dominance on computer and technology is due to superiority of its products and its marketing skills.

Sincerely,
Marc Hui

MTC-00027840

From: Your Name
To: Microsoft ATR
Date: 1/28/02 11:28am
Subject: Microsoft Settlement

Dear Ms. Hesse,

I am writing in regard to the proposed settlement in the Microsoft Antitrust case. I feel that there are tremendous problems with the proposal and support the open letter written by Dan Kegel. There you will find my signature along with many many other people who are also concerned by this proposal.

I also support Dan Kegel's essay regarding the problems and difficulties that the proposed settlement will create. I hope that the Department of Justice will seriously reconsider the problems with the plan and work to revise it so that it will be of benefit to computer users.

If Microsoft is not reined in and given more stringent guidelines to follow, they will continue to create products which don't work and there won't be any alternatives available. I am glad that there are alternative operating systems available currently, but they deserve just as much access to the market as Microsoft has.

Thank you for your time and consideration of this matter.

Sincerely,
John D. Brosan

MTC-00027841

From: James R. McCartney
To: Microsoft ATR
Date: 1/28/02 11:27am
Subject: MS v DOJ

I am against the proposed settlement with Microsoft. It does not do enough to punish the software company or ensure changes in behavior in the future. Netscape was replaced as the dominant web browser by Internet Explorer(IE) because IE was free. Microsoft has already been found liable for misusing it's operating system monopoly to make this happen. IE is now used by most Internet users because it is free and supplied with Windows and Macintosh by default. No other browser has a chance to gain market share because of this.

Now that IE has become the leader, it has stopped using Netscape's "plug-in" technology for enabling helper applications to open alternate Internet content. Active X is the new proprietary solution and give Microsoft an advantage in writing helper applications for IE. Even if they are required to release the API(Application Programmer's Interface) for Active X, it still gives them the advantage. They have the code first and they have the "real code." I would not be surprised, nor should anyone, if they release to other vendors an inferior subset of the API. This will give Windows Media Player, Word, Outlook, and Messenger a lead on other current market leaders like Real Player, Adobe Acrobat, Eudora, and AOL Instant Messenger.

Microsoft has also dropped support for Java in it's latest operating system, XP. This is hardly in the consumers best interest, as a large quantity of useful programs are written in this platform independent language. This can only be Microsoft's attempt at punishing Sun Microsystems and no one can stop them from doing this. They should work with Sun to make a good version of Java for Windows. The solution proposed by the Justice Department seems like a giveaway. It is notable that it comes right after the executive branch has become Republican. I would like to see a more objective resolution to the illegal behavior by Microsoft. Thank you...

James McCartney
2668 East Hardy Lane
Fayetteville AR 72703

MTC-00027842

From: Jef Pearlman
To: Microsoft ATR
Date: 1/28/02 11:28am
Subject: Microsoft Settlement (Against)

I'm just emailing to add my vote to those against the current proposed settlement. Hopefully I have reached you in time. Plenty of others have emailed their reasons, so I won't spend any time rehashing the arguments here, except to say that I believe that the current settlement in no way punishes Microsoft, and in some ways helps them further their use of their monopoly to spread their influence in various industries.

Thanks.
Jef

MTC-00027843

From: GJP85@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:29am
Subject: Microsoft Settlement.

In this litigation and all such endeavors the United States Government has become the ENEMY of the Business Community. If they were concerned about the Economy AND the health of the business community in the United States they would act like foreign governments and support and in some cases provide financial support as well instead of hampering and stifling business and research and development. Please allow Microsoft and all other businesses compete without government interference and do not allow yourselves to be manipulated by competitors constantly complaining, they are only looking for a government sponsored "Leg-Up"

Jerry Purcell
106 Cedar Drive
New Britain, PA 18901-5229
215-230-1911
CC:fin@mobilizationoffice.com@inetgw

MTC-00027844

From: Nathan Stratton Treadway
To: Microsoft ATR
Date: 1/28/02 11:29am
Subject: Microsoft Settlement
January 27, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NE
Suite 1200
Washington, DC 20530-0001

I think the current proposed settlement with Micrsoft is a bad idea and should be abandonded.

It has many faults, but to pick one: my business is dependent on using Samba to allow our Unix machines to inter-operate with our Windows machines on our network. The proposed settlement does nothing to protect the rights of non-commercial projects like Samba, and the millions of users of such projects, against Microsoft's actions.

Thank you.
Nathan Stratton Treadway
Ray Ontko & Co.
822 E Main St.
Richmond, IN 47374

MTC-00027845

From: Bob Petolillo
To: Microsoft ATR
Date: 1/28/02 11:35am
Subject: Microsoft Settlement

It's time for the government to back off of private lawsuits against businesses and to stop legislating private commerce as much as it is.

The role of government should be to provide NECCESSARY regulation of private commerce.

We have gone WAY BEYOND that role in trying to legislate equality and/or fairness into private industry.

The government bureaucracy is in no way qualified to judge the effects of legislation on the citizens and their economy and has already caused a great deal of damage to the private sector with its extensive meddling.

Lawsuits and legislation targetted against legitimate enterprises like tobacco companies (as disgusting as cigarettes are), gun manufacturers, Microsoft, and many others are not the role of our government.

Continued abuse of legislative and executive power is only going to continue to erode the faith of the citizens in our government and cause more divisiveness and discontent that is already out there. Unneccessary governmental interference and gross fiscal irresponsibility have damaged this country greatly. In the latter half of the twentieth century our culture has gone a long ways toward becoming a "third-world" country due, in large part, to out-of-control actions by our legislature and the government bureaucracy. We have a long way to go still, but I shudder to think about the future my children may have to deal with. Please re-think your position on the role of government and let's get back to the basics of running the government, not running the people and industry in it.

Sincerely;
Bob Petolillo
CC:fin@mobilizationoffice.com@inetgw

MTC-00027846

From: Sheldon Robinson
To: Microsoft ATR
Date: 1/28/02 11:22am
Subject: Microsoft Settlement

I don't feel particularly verbose today, but I've written and read much on the reasons Microsoft must be broken into a minimum of two companies.

Microsoft owns the OS which is fine. Microsoft also makes applications for their OS which is not fine. Why? Microsoft does not fairly publish the specification of the interface to their OS. When Microsoft builds an application and another company builds a competing application, Microsoft is guaranteed to build the better application because they have intimate knowledge of the OS. Microsoft knows how the optimize their applications in ways their competitor cannot know.

Any settlement which stops short of breaking Microsoft into an OS company and an applications company is in my view and the view of many others a lost settlement.

Sheldon

MTC-00027847

From: Davis, Mark
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 11:31am
Subject: Microsoft Settlement

Dear Officials of the Department of Justice,

As a private citizen and long time user of products produced by both Microsoft and its competitors, I support the proposed settlement that has been worked out by the DOJ and Microsoft. I feel that additional punitive measures would be unfair to both Microsoft and, more importantly, to consumers using Microsoft products, and so I urge adoption of the settlement as it exists. Thank you.

Mark F. Davis
1110 Manzanita Dr.
Pacifica, CA 94044
(650) 355–8064

MTC-00027848

From: Harold kline
To: Microsoft ATR
Date: 1/28/02 11:32am
Subject: Microsoft Settlement

Dear Sirs and Madams:

It is time to put to rest the Microsoft Case. This ill-advised litigation was likely the cause of the present recession our country is enduring, and its continuation is only going to prolong the economic troubles.

While the Tunney Act fails to satisfy Microsoft's most vocal critics— the competitors and their greedy lawyers—it provides a fair solution to the alleged monopolistic practices of Microsoft, and it benefits the country as a whole to get this behind us and move on. Dragging on this battle will only pad the pockets of the lawyers, and a few special interest parties.

Many consumers, including myself, do not agree that Microsoft did anything wrong. Without the Windows technology and the innovations that that company continues to develop, the personal computer industry wouldn't be half as strong as it is today. Any continuation of the litigation against Microsoft only smears the entire industry and keeps the economy from recovering.

Please bring this farce to an end.

Harold Kline
Kansas City, MO

MTC-00027849

From: Madison90@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:32am
Subject: Microsoft Settlement

Dear Attorney General Renata Hesse:

The provisions of the Microsoft agreement are tough, but I believe the terms-which have met or gone beyond the findings of the Court of Appeals ruling-are reasonable and fair to all parties involved. This settlement represents the best opportunity for a great company like Microsoft (whom has changed the lives of millions of people for the better) and the industry to move forward. Microsoft has helped so many people work and live more efficiently and effectively. It is time to move forward and approve this settlement which is in the best interest of the people of this country.

Thank you.

Jennifer M. Freeman
833 Trailing Ridge Road
Franklin Lakes, NJ 07417
201–891–6040

MTC-00027850

From: Don Briggs
To: Microsoft ATR
Date: 1/28/02 11:32am
Subject: Microsoft Settlement

Dear US DOJ,

One outcome of the Microsoft settlement should be that, when submitting information electronically to government agencies, one should never be required to submit documents in Microsoft proprietary formats. Government agencies should never require text documents in Microsoft Word format, for instance. To do so reinforces Microsoft's monopoly position.

Regards,

Don Briggs
1530 Lockhart Gulch Road
Scotts Valley, CA 95066

MTC-00027851

From: triem@isd.net@inetgw
To: Microsoft ATR
Date: 1/28/02 11:34am
Subject: Microsoft Settlement

Dear Sir or Madame,

I am a consultant working in the Intelligent Transportation Systems area of Transportation Planning. As such, I frequently make recommendations to clients of all types, public and private, about software acquisition and use.

This experience has given me a great deal of exposure to software vendors (particularly Microsoft) and to the various methods they employ in marketing their products and competing with other producers. I also have a background in economics (B.A. University of Minnesota) and am a certified planner (AICP).

My concerns stem from the continuing trend of Microsoft's alterations to licensing policies and the fact that often times no additional value is offered to the consumer, even though a greater revenue stream is generated for Microsoft. This, coupled with a practice of intentionally making newer versions of products incompatible with previous versions, causes a situation of "forced" upgrades for consumers. This is particularly troubling for small public entities, such as para-transit providers, whose mission is to provide mobility to handicapped persons, often on very limited budgets.

This is relevant to the settlement at hand for two reasons:

(1) The Settlement does not address the separation of applications from operating systems in any meaningful way. Thus Microsoft is able to build in version incompatibilities and tie them to the operating system itself. In the transportation community, we have a joke: "If Microsoft made cars, every time you changed your tires you'd have to build all new roads." Although exaggerated, this illustrates the point of a monopolist manipulating product to "force" secondary purchases.

(2) The Settlement does not address past harm. Under the current proposal, a three-person oversight team would be established to assure that Microsoft does not further abuse monopolist power. Although debate can be had on whether this mechanism would even be effective in that role, my concern is more that there is no provision for punative action against Microsoft or compensation to those harmed by the abuse. An analogy would be a person convicted of bank robbery and simply assigning them a parole officer to assure that they didn't rob the same bank again.

For these reasons, I belive that the proposed Settlement is not in the best interests of the public and should not be agreed to.

Thank you for your consideration in this matter,

Mark R. Gallagher, AICP
999 Grand Ave. #4
St. Paul, Mn 55105

MTC-00027852

From: Tim Egbert
To: Microsoft ATR
Date: 1/28/02 11:23am
Subject: Microsoft Settlement
Attention: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
January 28, 2002

Sirs and Madams:

I oppose the Proposed Final Judgment (PFJ) in United States vs. Microsoft because it (1) does not adequately address the issues raised in Judge Jackson's findings of fact and conclusions of law, (2) will not remedy the past illegal monopolistic behavior of Microsoft, (3) will not prevent Microsoft from committing future monopolistic abuses, (4) will ratify many of Microsoft's practices that have been adjudicated as unlawful, and (5) will allow Microsoft to continue such practices under the cloak of final judgment.

Microsoft has been adjudicated to be a monopoly and to have acted illegally in many particulars, which rulings have been upheld on appeal. It has become evident that to this day, Microsoft does not believe it has done anything wrong and is using all means at its disposal to avoid any real consequences for its illegal actions. The Justice Department and the Court have a duty to promote a remedy that is effective and consistent with previous findings in this case.

I believe that Microsoft has shown that it will not negotiate in good faith to promote an effective and just settlement of this case. It therefore behooves the Justice department and the Federal Court not to insist on a negotiated settlement, to fashion a truly effective remedy, and to seek to impose such a remedy on Microsoft within the proper powers of the judicial system. There is no good reason to continue to negotiate with this intransigent and adjudicated wrongdoer.

Rather than restate all the well reasoned arguments against the PFJ, I have added my name to the "open letter" submitted this day by Dan Kegel as set forth on his web site at: http://www.kegel.com/remedy/remedy2.html.

Yours truly,

Timothy P. Egbert, J.D., Ph.D.
4388 Inverary Dr.
Salt Lake City, UT 84124
801–274–0476
CC:Tim Egbert,Attorney General

MTC-00027853

From: PhantomPC2@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:35am
Subject: Microsoft Settlement
2056 E Golf Avenue
Tempe, AZ 85282
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The last three years of litigation against Microsoft has been unjustified. The original intent of the lawsuit was to protect consumer by breaking up a monopoly and stop infringement on consumer rights. Microsoft has consistently delivered high quality goods at normal prices, which goes against standards definition of a monopoly and has never infringed on my rights.

In fact I think their innovation has standardized the technology industry making it easier for users around the world to operate. That is why I disagree with some of the terms of the settlement because they give Microsoft's interfaces and protocols away. This is a violation of Microsoft's intellectual property rights.

I request that your office finalize the settlement as soon as possible and ignore the nine states that are holding this thing up. They are obviously not concerned with the public's bets interests. Thank you.

Sincerely,

Joel O'Connell

cc: Representative Jeff Flake

MTC-00027854

From: Michael Martin
To: Microsoft Settlement
Date: 1/28/02 11:29am
Subject: Microsoft Settlement
Michael Martin
6712 Riviera Drive
North Richland Hills, TX 76180-8120
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

Michael R. Martin

MTC-00027856

From: Barling, Roy
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 11:30am
Subject: Microsoft Settlement

Dear Sirs/Madams,

I'm writing to express my opposition to the settlement being proposed between some of the States and MicroSoft.

Microsoft has been convicted, and that conviction upheld on appeal, of violating several parts of the Sherman Anti-trust Act. The settlement in its current form does nothing to repair the damage that has already been done to the software industry. It also does nothing to prevent them from continuing to abuse their monopoly position. Furthermore it does nothing to place monetary damages on their past abuses, nor does it establish any framework to punish the abuses that they will most assuredly commit in the future. There is no reason that Microsoft should be allowed to keep all of their ill gotten gains or continue to abuse their monopoly with anti-competitive practices. Please consider some of the many suggestions already sent in by industry luminaries that would restore competition and innovation to the software industry. Thank you.

Roy Barling, MCSE

MTC-00027857

From: Tony DeCicco
To: Microsoft ATR
Date: 1/28/02 11:37am
Subject: microsoft settlement
Anthony DeCicco CPA / ABV
7710 Cumberland Road
Largo, FL 33777
January 25, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

It is high time for this antitrust suit between Microsoft and the Department of Justice to come to an end.

For three years now, people in both the IT industry and many average people who depend on Microsoft products, have waited for this case to be settled.

Unfortunately seeing this case put to rest could mean a severe change in the way Microsoft does business.

Opening up its code to the competition and allowing computer manufacturers broader freedoms in how they configure Windows will mean a serious loss of control over its product for Microsoft, and they will have to carefully rethink their business strategy.

But they obviously feel capable of doing so if they have agreed to the settlement, so I can see no reason not to move forward on this issue. Let's put an end to this case at the federal level and move on once and for all.

Sincerely,

Anthony De Cicco CPA / ABV

MTC-00027858

From: Ronald R. Cooke
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 11:39am
Subject: Tunney Act Comments: Microsoft Settlement

Unfortunatley, the e-mail I sent last week lost the footnotes.

This attachment should include them.

Ron Cooke

January 24, 2002
Ms. Renata Hesse
Trial Attorney
Suite 1200
Antitrust Division
Department of Justice
601 D. Street, NW
Washington, DC 20530.

Reference: Tunney Act comments in United States of America v. Microsoft Corporation, Civil Action No. 98-1232 (CKK) and State of New York v. Microsoft Corporation, Civil Action No. 98-1233 (CKK).

microsoft.atr@usdoj.gov
With copies to: Interested Parties
From: Ronald R. Cooke
Cultural Economist and Industry Analyst

The Settlement Proposed By The Justice Department Overlooks Reality

Consumers within the Information Systems industry have expressed their skepticism about the settlement proposed by the Justice Department. In a poll of readers, for example, ZDNet asked: "Did Microsoft get off easy in the DOJ settlement?" Seventy four percent of the respondents said "Yes". To quote columnist David Coursey, "Nobody is precisely sure what it means, but the total effect seems little more than a hand slap .... Prohibitions that exist in one section seem to be rendered meaningless by another"]

Consumer and industry respondents to the Tunney review process will probably contend that the proposed remedy does not effectively end the anticompetitive practices, will not materially deprive the wrongdoer of the fruits of the wrongdoing, and will do virtually nothing to ensure that the illegality does not recur. The terms of the settlement are much too vague to be of much use. They can be manipulated and rendered ineffective through the legal process. The enforcement mechanism is inadequate. And finally, there is no clear cut way to prohibit monopolistic behavior.

There is a more fundamental issue, however, that has not been adequately addressed by the process of law. It can be expressed as a simple question: How much unconstrained power do we want one single company to have? As the Enron debacle has demonstrated, this is not an idle question. Unrestrained corporate behavior can severely damage consumer rights. Microsoft has demonstrated that it can dominate the thinking of the PC Culture that it so zealously nourishes. It has an overwhelming influence over the press—and therefore—the opinions of an uncritical public. Within the information systems industry, Microsoft is acknowledged to have indisputable economic, political and cultural power. Comments by members of congress suggest this company also has a growing influence over the legislative process.

Given its announced strategic plans, it should be obvious this company wants more. Much more. Microsoft wants to wield the same kind of influence over the entertainment and communication industries that it does over the computer industry. It currently has aggressive initiatives to dominate the services and content of the Internet and is pressing forward with plans that will Quotation from: "MS settlement reads like a fairy tale". David Coursey, ZDNet, November 5, 2001.

effectively manage the access, distribution and use of networked consumer entertainment. Mobile and location technologies will be used to penetrate additional consumer services..Net will drive the consumer to Microsoft approved content and services. If these initiatives are successful, this single company will be in a position to dictate how we create, store, edit, access, distribute and use all kinds of electronic information. Worldwide. Across three industries.

The reality of this situation raises a number of questions. Given its growing political and economic power, why do we believe that Microsoft will feel compelled to abide by the proposed settlement terms? Will they modify Microsoft's business strategy? Product plan? Will they prevent Microsoft from using integration, bundling and tying as weapons to lock out competitors in three industries?

Will the proposed behavior monitoring process guarantee the delivery of reliable products? Improve consumer security? Prevent the abuse of corporate power? Ensure open markets? Encourage competitive innovation?

It would appear that the answer to all of these questions is a resounding "NO". If that is true, then how can any reasonable person claim that the proposed settlement serves the public interest?

Who Is The Consumer?

Consumers have the right to expect that our federal institutions will deliver a settlement that has an immediate, substantial and permanent impact on the restoration of competition within the information systems industry.

But, who is the consumer?

Media and political personalities frequently project the image that all "consumers" are deficient, clueless and vulnerable. It is an image favored by self proclaimed consumer protection groups. Consumers are easily victimized and thus considered in need of protection. Hence in the Microsoft anti-trust case, both the Justice Department and the presiding Judge were concerned that the "consumer" had been victimized by excessive software prices and a lack of choice. This somewhat ill-defined person had been forced to purchase Microsoft software through a captive retail channel and may have been overcharged.

In reality, this image of the "consumer" is misleading. If we want to reach a settlement that protects both personal and institutional rights, we must first agree on a definition for the word "consumer" that incorporates all classes of buyers. For the purposes of this settlement agreement, therefore, we must consider two broad classifications of the concept "consumer". There are personal consumers and there are Enterprise consumers.

Personal consumers engage in personal consumption. This happens when people make purchases for themselves, their families, their friends or anyone (or thing) else that commands their interest. They use their own money. Typical purchases include food, clothing, housing, vehicles and so on. Personal consumption accounts for roughly two thirds of America's GDP. Enterprise consumers spend money that belongs to the Enterprise. They buy products, property or services for their employer or their business. Broadly defined, Enterprise consumers include any entity defined by the standard industrial classification codes: i.e. insurers, manufacturers, retailers, hospitals, educational institutions, government agencies, personal service businesses and so on. Enterprise consumption accounts for approximately one third of America's GDP. Both segments of America's consumer population must be protected from Microsoft's assertive marketing power. We must not leave either group of technology buyers in the position that they will be forced to chose key products and services from one vendor, good or not, on terms and prices they can not evade.

One of the more glaring problems with the proposed Microsoft settlement is that while Federal and State authorities have properly reacted to personal consumer complaints, they have failed to deal in a meaningful way with the problems of the Enterprise consumer. Industry wide issues include:

Enterprise networks have become incredibly expensive and difficult to maintain.

Existing PC operating systems are hard to manage and very costly to own.

Internet and Intranet security problems have become so bad that they threaten electronic commerce and the viability of Enterprise operations.

There are multiple industry reports that address these issues in great detail. It is worthy to note that excessive information system costs have been calculated in the $ billions per year and that industry publications continue to report on the related management and operating problems. It is also clear that these impediments will continue to plague the Enterprise consumer because there is no effective competition for the architectural concepts promoted by the dominant vendor.

In this legal action however, Microsoft's alleged disregard of consumer needs was never pursued. There appear to be several reasons: some political, some practical, and some due to the inherent obsolescence of the Sherman Antitrust Law. But the issues remain:

If PC operating system development has been paralyzed by the domination of a single vendor, has the consumer been harmed? And if the products are defective, what is the burden of liability?

If network systems design has been primarily driven by the product plan and business model of a single vendor, has the consumer been harmed? And if the underlying system design was dysfunctional, what is the burden of liability?

If a vendor, in order to deflect competition, announces products that do not exist, or products that never make it to market, has the consumer been harmed? And if the consumer was mislead, at what point does this constitute consumer fraud? What is the associated liability?2

If consumer security and safety have been jeopardized by deficient systems architecture and defective products, what is the vendor's liability?3

The complaints against Microsoft are far more numerous than those covered by this narrowly defined legal action. If the court wishes to impose a meaningful settlement on Microsoft, it will have to consider both the concerns of this specific case and the underlying intent of the Sherman Act. There is case law and there is the reality of dealing with an overwhelming marketing machine that is essentially able to set its own agenda.

This reality puts the court in a quandary. If the court is to be forthright in its desire to protect the consumer, it must provide substantial relief for both personal and Enterprise consumption. It will have to deal with both the specific and the ambiguous. It must certainly expand the interpretation of the Sherman Act. And finally, the court will have to make its findings with the knowledge that this settlement will have a bearing on future actions against AOL/Time Warner.

2 The announcement of non-existent products was an issue in the Justice Department's case against IBM. It puzzles me why Justice chose not to pursue this issue in its development of a case against Microsoft.

3 The National Academy of Sciences has recommended the creation of laws that would establish vendor liability for security breaches that are the result of vulnerable software products.

Microsoft The Company

Microsoft's corporate culture is driven by the mantra of revenue growth, institutional power and market control. Software is developed to gain market share or to demolish competition. Software defects and chronic insecurity have been institutionalized as components of the product plan. Microsoft does not have to be driven by consumer wants and needs. Microsoft is free to be driven by whatever strategy protects its revenues and extends its power into additional markets. Microsoft has been able to adopt competitive software concepts within its Windows architecture, thereby rendering the competitive software irrelevant. Examples include the incorporation of the Internet Explorer browser into the Windows user interface in order to destroy Netscape's Navigator and the inclusion of "Java like" features in the company's .Net strategy, a ploy that will eventually render Java redundant within the Windows environment.

When faced with standards based competition, Microsoft has frequently been accused of using an "embrace, extend, extinguish". strategy to render the standard useless. Microsoft's version may even flaunt the concept of "open standard" by restricting Windows clients from working with any platform other than a Windows server.

Microsoft has convinced a wide range of technologists, journalists, legislators and consumers that it has the exclusive wisdom to provide software innovation.

This—of course—is absolute nonsense. Microsoft is not the only company that understands the fundamentals of software technology. Were it not for the company's monopoly control over the market, consumers would be able to purchase a far superior PC operating system. Other vendors have developed, and are marketing, embedded operating systems with better technology and excellent reliability. Enterprise users have embraced a variety of alternative server operating systems because they have superior reliability and a lower cost of ownership. There are certainly alternative ways to build consumer friendly Internet, e-mail, word processing, spreadsheet, graphics and data base applications. And there are many companies that develop software for the cell phone, PDA, set top box, in-home server and game markets. Unfortunately, few alternatives can effectively compete against Microsoft's marketing power. This company continues to use integration as a predatory weapon. Competing products, services and content will be hobbled—and thus less desirable.

Management has a vision. Microsoft plans to dominate the computer game, cell phone and PDA/HPC (Personal Digital Assistant/ Handheld PC) markets, will force its way into the cable business and fully intends to be a leading provider of Internet services. These are key revenue growth strategies. The company's XP operating system is important because it drives Microsoft's largest revenue stream and the future of the company's .Net strategy. The Stinger cell phone and Pocket PC HPC OS launches open up new recurring mobile network revenue opportunities. The XBox game platform opens a strategic path to the convergence of entertainment and computing in the home. The company is actively tying its computer and communication software product strategy to its Internet services and content strategy. The Internet gives Microsoft a virtually unlimited marketplace that can be molded to the company's operating philosophy. Hailstorm and Passport fit perfectly into this scenario. Network clients using Microsoft software will be tightly integrated with Microsoft application and content servers.

This is, after all, what convergence is all about.

Unfortunately for the consumer, management's vision has a potential downside. Microsoft will be able to demand access to all of the software we use, modify it with or without our knowledge, and make copies of our files. This company will be in a position to monitor our use of the Internet, our political philosophy, our purchase behavior, and our friendships.

Will Microsoft actually do this? Will a hacker be able to do the same thing? Does the consumer really want to be this vulnerable?

We can understand that Microsoft's business model is driven by the visceral desire to absolutely dominate all high volume software applications. We can also understand that the company's prospects for revenue and profit growth are interdependent with the accumulation of power over the consumer's use of computing technology within the computer, communication and entertainment industries.

It is time, however, to ask one simple question: Does this ubiquity serve the public interest? On the one hand we acknowledge Microsoft's accomplishments, the intensity of its vigorous pursuit of new markets and its right to function as an independent business. But on the other hand, the court must fashion a remedy that incorporates genuine protection for the consumer. The PC era was lots of fun. The Internet era was a wild ride. But going forward, Enterprise and personal consumers must have cost effective software that is reliable, predictable, useful, secure, easy to manage and open.

Will a court imposed settlement provide the key?

Alternative Remedies

Nine States'', along with the District of Columbia, have presented an alternative proposal of remedy that would, if implemented, partially correct these deficiencies. This proposal has credibility because it directly addresses the findings of this specific case and establishes remedies that are consistent with prior court tests that judged the validity of relief from infractions of the Sherman Antitrust Law.

1. Microsoft would have to offer a stripped version of Windows.

Although much thought must go into the implementation methodology of this recommendation, it could have the effect of reducing consumer costs by encouraging the development of alternative personal computing appliances with competitive applications software. It would also have the effect of making it more difficult for Microsoft to exclude competition by tying its operating systems to its applications, content and services.

2. Microsoft must support Java.

Enterprise consumers have espoused Java as a highly useful programming language. Because it is an interpreted, object oriented, platform independent language, Java can be used to reduce the cost of developing, deploying and supporting networked applications. Despite the obvious benefits to the consumer, Microsoft wants to kill Java by making it irrelevant within a Microsoft controlled programming environment. Forcing Microsoft to give its full support to Java would give the Enterprise consumer and applications software developer incremental choice in the selection of development environments.

3. Microsoft would be compelled to make Office available for all popular operating systems. Consumers have been forced to accept either Apple or Microsoft PC operating systems as a defacto prerequisite for using the company's Office suite. If Office were made available for all popular non-Microsoft operating systems, consumers would have a wider choice of operating system environments. In addition, this recommendation would encourage the development of competitive PC operating systems, presumably based on architectures that could deliver superior reliability, function and security.

Given a carefully constructed court approved implementation and supervision methodology, these recommendations would be most helpful to the restoration of competition within the PC and network appliance software industries. However, if we want to preserve an open and competitive market, and if we want to be vigilant in our support of acceptable corporate behavior, then we should consider three additional recommendations.

4. Restrict Microsoft from the Embedded Systems market.

There are a number of reasons to restrict Microsoft's participation in the embedded systems market5. For the purposes of this specific settlement, however, we must focus our attention on the restoration of competition and innovation within the PC market. Going forward, we also need to ensure consumer choice in the markets for set top boxes, entertainment devices and communication appliances, as well as network based content and services. As discussed above, Microsoft's announced strategy is to tie its software products to its services and content businesses. If Microsoft is successful with these initiatives, this company will have greatly extended its marketing power and will be in a position to monopolize segments of the entertainment and communications industries.

For a period of seven years, therefore, Microsoft should be prohibited from selling any embedded systems software products, including CE, its derivatives and any comparable products. If there is to be any credible competition for Microsoft's existing monopoly over PC operating system architectures, it is most likely to come from the manufacturers of network attached appliances. Over time, the embedded software within products will increase in sophistication. There is no reason why these system architectures can not be used to provide the consumer with the whole range of PC applications.

Microsoft would be compelled to establish a separate company for its CE, Stinger, XBox, PocketPC, set top box and all other currently active embedded systems product efforts within 8 months of signing a settlement agreement. Microsoft would not be allowed to own any part of the company or its stock for a period of 7 years. Any funding for the newly spun-off company must come from sources in which Microsoft has no financial interest. Five years after the spin-off, Microsoft would be allowed to start a new embedded software development effort that could be offered for sale no sooner than seven years after signing the settlement agreement.

Placing restrictions on Microsoft's embedded systems efforts will reduce the company's ability to dominate the related communication and entertainment markets. Microsoft would be encouraged to establish partnerships with the existing content and service companies as well as the manufacturers of embedded hardware and software products. These markets can then evolve in ways that are not tied to a single company's business strategy and revenue plan.

5. Place Microsoft under Court Supervision

It is difficult to imagine how the proposed settlement terms will prevent Microsoft from engaging in anti-competitive behavior. One would have to assume that Microsoft is immune from the temptations of corporate power. It would be helpful, therefore, if Microsoft were placed under the supervision of the court. A methodology must be developed that permits complaints of wrongdoing to be reviewed in a prompt and fair manner. Fines and restrictions, where necessary and justifiable, should be imposed by the court after a hearing process.

5 A more detailed discussion of the basis for the recommendations and comments

presented in this document may be found in my book: "CyberCarnage: Everything We Own Is Obsolete"

Court supervision should reduce the need for further Justice Department action and could be used to establish the parameters for pending civil actions. The intention is that Microsoft could engage in any permitted business practice, strategy and tactic it wished, so long as the court agrees that its actions are lawful. The period of supervision should be continued until the court, by its own determination, believes that supervision is no longer justified.

6. Insist on a Code of Conduct

If we assume that we do not want our larger corporations to be driven solely by the mantra of revenue and profit growth, then any company that achieves a dominate position within any single industry has an obligation to adjust its behavior to operate in the public interest. The usual mechanism is through the imposition of government regulation. Absent this solution, the alternative is to insist that the dominant company have a set of enforceable standards against which it is possible to judge individual employee conduct.

Under court supervision, Microsoft should be compelled to adopt a Code of Conduct. Specific sections should address this company's relationship with competitors, suppliers, consumers, and partners. A methodology must be developed that permits complaints of wrongdoing to be reviewed in a prompt and fair manner. Fines and restrictions, where necessary and justifiable, should be imposed against individual employees.

It would appear that these recommendations can be implemented in a fair and equitable manner. The objective is not to unduly punish Microsoft. The Third and Fourth Waves of computing are history. We must look forward, not backward. Punishment is less desirable than the creation of a competitive, needs driven, marketing environment for the consumer. It would appear that all six recommendations, if implemented as a whole, would have a minimal impact on Microsoft's existing revenues and profits. There would be little interference with the company's PC and server software business. Over the next 5 to 7 years, the net effect is that Microsoft would not grow as fast and it would have to look to industry partners for some products compliment its .Net strategy.

For the consumer, however, the restoration of competition within the PC industry will be enormously beneficial. New innovation can take the form of products that are easier to manage, more reliable, more secure, and less costly to own.

The Sherman Antitrust Law

As a piece of legislation, the Sherman Antitrust Law appears to be obsolete. The Sherman Antitrust Act of 1890 was designed to deal with the political and monopoly power of (frequently interlocking) trusts. Specific companies had pricing, availability, distribution and product power over the consumer. Relief came in the form specific restrictions to business practices and monetary punishment.

The Sherman Antitrust Law does not address the defacto standards issue. Over the last 75 years, the telephone, teletype, electric, water, radio, entertainment, and television industries have been characterized by the evolution of increased concentration based on a company dominated list of defacto standards. Within the public services industries, regulation has been used to ensure that these standards are beneficial to the public interest. There are additional examples of industrial standards that have been promoted for the benefit of all potential players. When RCA set the defacto standards for color television, for example, multiple industry participants were able to adopt them for their individual benefit.

Dominant players set the rules of competition and corporate existence. All industries are vulnerable. Airlines, banking, insurance, manufacturing, retailing—it does not matter. The potential for domination—whether by marketing power, financial strength, or technology—exists.

And if 21st century industries tend to gravitate toward single standards established by one dominant player, then we need to ask multiple questions:

?What is an open and competitive market?

?What is the basis for determining economic concentration?

?What is market domination?

?Should a company be allowed to use it's domination of one market to leverage its customer base into the domination of other markets?

? If the consumer is forced to purchase defective and/or dysfunctional products because there is no viable alternative, what is the dominant company's implied liability?

?What are consumer rights? (How can they be measured?)

?At what point does the power of the dominant player jeopardize consumer rights?

?What is a fair penalty for jeopardizing consumer rights?

If a market is dominated by a single company, at what point does this imply that it must assume a fiduciary responsibility to act in the public interest? And what are the guidelines for corporate behavior? How will they be enforced?

?How much political and economic power do we want a single company to accumulate within a specific market?

?And finally: What is the mechanism for restructuring competition?

Obviously, there are many more questions that need to be addressed if the Sherman Act is to be rendered relevant to the realities of 21st Century Corporations. The purpose of this more limited discussion, however, is to demonstrate the deficiencies of the Sherman Act when considering the specific parameters of this settlement. Neither the Sherman Act, nor the proposed settlement, address the realities of existing market structures, emerging technologies, defacto standards, the issues of convergence or the use of 21st century corporate power. Since the Sherman Act currently provides inadequate guidelines for establishing what will be— essentially— public policy, then the court has two choices:

? Interpret the law within the narrow confines of this case using legal precedent (which essentially will let Microsoft off the hook); or

Broaden the interpretation of the Sherman Act in order to protect the consumer from further harm that may occur in the future (which will require the Court to consider issues and questions not necessarily documented within the scope of this case).

Either way, the court's determination will be sent to the Supreme Court for resolution.

Conclusion

Since the proposed Justice Department settlement provides only limited relief for a very narrowly defined case, it will fail to provide the public policy guidelines that are so desperately needed to protect the consumer from the abuse of corporate authority. It does nothing to relieve the increasing concentration of political, economic and marketing power that is now occurring within the computer, communication and entertainment industries.

We are thus faced with two realities. On the one hand there is the reality of the specifics of this case and the proposed settlement remedies. On the other hand, there is the reality of the need to maintain open and competitive markets for the products, services and content. A really good settlement will bridge these two realities.

As for the Sherman Act? Corporate governance is out of control. Unfortunately, we all know that Congress will not act until it is politically expedient to do so. Failure to act implies acceptance of the status quo. Competition will fade. Corporate power and influence will be concentrated. More Enron's will happen. By the time congress acts, if at all, it may be too late to impose meaningful reform.

So it is up to our court system, and perhaps the Commissions of the European Union, to both make and execute the guidelines we need to protect the consumer. We want our corporations, including Microsoft, to be successful. We expect them to grow their revenues and profits. We want them to pursue new business opportunities. But we also want them to operate within open and competitive markets so that consumers have an opportunity to purchase the products, services and content they want, at a price they can afford, and on terms that make them practical. That means that our legal system must guard against the potential abuse of corporate power and the inherent problems of market domination. In this settlement, we are asking the court to define those guidelines in a way that protects consumers from the potential of future abuse.

Is that too large a task? Too sweeping a challenge? Too far from the specifics of this case? I think not. It is the reality of 21st century technology and market structures. Convergence, after all, implies consolidation. And consolidation breeds domination.

MTC-00027859

From: Bill Horne
To: Microsoft ATR
Date: 1/28/02 11:39am
Subject: Microsoft Settlement

I believe that the proposed DOJ settlement with Microsoft is wrong and will further eliminate lawful competition with this criminal corporation. Do please consider changing the settlement to help struggling Operating Systems developers as well a browzer developers.

Bill Horne

"Five minutes after any agreement is signed with Microsoft, they'll be thinking of how to violate the agreement. They're predators. They crush their competition. They crush new ideas. They stifle innovation. That's what they do."—

Massachusetts Attorney General

Thomas F. Reilly

MTC-00027860

From: Jack
To: Microsoft ATR
Date: 1/28/02 11:37am
Subject: Microsoft Settlement
2601 NE Jack London #14
Corvallis, OR 97330
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am sending this email to show my support for the settlement reached in the Microsoft antitrust case. The settlement should make it easier for other companies to work with Microsoft and its products. I find it weird that the suit was brought in the first place, since companies that wanted more business in this industry could get it by making their products better. I think innovation, by the whole technology industry including Microsoft, should be encouraged, not stifled.

I work in the computer printer segment of the computer technology. Compatibility of our printers with popular software is important to our business. It could be of some considerable benefit to our partners, the computer industry, and us in general, that the settlement will allow us to have the open access to Microsoft's copyright software code for the internal interfaces of the widely used Windows programs.

Industry standards are the lifeblood of peripheral products, such as our printers. Microsoft has greatly helped the industry by setting an affordable, easy to use standard that a wide range of people around the world have chosen to adopt out of the multitude of systems available.

Other terms in the settlement, such as changes to Microsoft's ability to exercise its contract rights will help the industry, including Microsoft's rivals, such as AOL Time Warner. AOL will be able to work with computer manufacturers to remove Microsoft's Internet Explorer and Windows Messenger and replace them with AOL's own Netscape Navigator and AOL Internet Messenger, AIM. So, in terms of the American computer industry as a whole, the settlement's requirements of increased openness, flexibility and disclosure from Microsoft should lead to greater experimentation and innovation. Microsoft should benefit too, from the end of the distractions to its business focus and costs of litigation.

The settlement is, in my opinion, in the public interest.

Sincerely,
Jack Kolb

MTC-00027861

From: Mark McGee
To: Microsoft ATR
Date: 1/28/02 11:38am
Subject: Microsoft Settlement

Dear Sir/Madam:

I am writing in support of the settlement agreement entered into by Microsoft, the Dept. of Justice, and nine states.

It's best for everyone involved to proceed with the provisions agreed to and get on with business.

Sincerely,
Mark McGee
Sammamish, WA

MTC-00027863

From: Guthrie Chamberlain
To: Microsoft ATR
Date: 1/28/02 11:38am
Subject: Microsoft Settlement

Dear Mr. Ashcroft

I am writing today to voice my opinion on the Microsoft Antitrust case. As an owner of a business that is part of the IT industry I feel this case has been dragging on for too long and it has hurt not only Microsoft, the entire IT industry and indeed the entire economy. The government has no rights meddling in the affairs of independent business unless it is truly hurting consumers through unfair practices. This is certainly not the case with Microsoft who has facilitated computing technology to benefit the majority of the world's population. Productivity and creativity has been stifled and it is now showing in the marketplace. Our economy has grown so much in the past two decades, due mainly to Microsoft and other key companies providing innovative products to the general consumer.

I have firsthand experience dealing with Microsoft, as I work as a Systems Integrator, creating and installing networks. Their products have made our business and the majority of our clients run smoothly and more efficient. As Microsoft experienced problems due to these lawsuits, so have we and it has affected the entire economy. I feel part of the recession that we are now experiencing is due to these lawsuits. I ask that you please take the public's concern into consideration and help put an end to the lawsuits. Additionally, I hope that remaining nine states can come to quick settlements, without further scrutiny from the government.

Sincerely,
Guthrie Chamberlain
President www.eagletgi.com
Guthrie.chamberlain@eagletgi.com
Phone: 740.373.9729 x101

MTC-00027864

From: Carol Hansell
To: Microsoft ATR
Date: 1/28/02 11:39am
Subject: Microsoft's campaign for comments

FYI: "Americans for Technology Leadership" phoned our (small) office 3 times plus sent us a brochure in the mail soliciting comments in support of their position on the Microsoft case (that the November agreement be accepted as the final word). Only by carefully checking their web site does one find out that they are funded by Microsoft Corp. (a "Founding Member"). Personally I do *not* support allowing predatory or anti-competitive business practices, and I think any comments submitted through "Americans for Technology Leadership" (there is a form to fill out on their web site) should be viewed in light of their being solicited by an intensive campaign funded by Microsoft Corp. (through a front organization) presenting the Microsoft position only in favorable terms.

Thank you for your interest in fairness.

Carol Hansell,
Administrative Assistant
Association of Boards of Certification
208—5th Street, Ames, IA 50010–6259
Phone (515) 232–3623 / Fax (515) 232–3778
http://www.abccert.org

MTC-00027865

From: Adam Wunn
To: Microsoft ATR
Date: 1/28/02 11:39am
Subject: Microsoft Settlement

The settlement is a bad idea. It allows Microsoft to just go about is business of squashing everyone else. Look at the areas they now control! They want more and they are now being rewarded with a slap on the hand. America needs Microsoft stopped from ruining competition in the computing landscape. Microsoft has proven duplicitous and has displayed their outright blatant lying nature over and over again.

Save the taxpayer some money and do the job right this time, otherwise we will just revisit this in a few years. Microsoft has shown a propensity to skirt the rules or follow them long enough to make it pretty window dressing. Fix the problem, make they do the time for the crime.

MTC-00027866

From: psewell psewelll
To: Microsoft ATR
Date: 1/28/02 11:40am
Subject: The way I see the Microsoft settlement

Sir:

How does one go about expressing their opinion, about something that there government said is in their best interest of there citizens of our wonderful USA.

Here are my thoughts on this settlement concerning Microsoft Company , which I believe is the first true all American USA company..

First allow me to say up front here, I started reading the court documents about the terms of the settlement and was very troubled by the findings and ground rules laid down for Microsoft. It reads like more money out of the public pockets and nothing to protect our best interest. in the software or computer world.

I feel that the agreement isn't really in the consumers best interest nor is it in Microsoft's best interest, this is my opinion. The decree reads like a very confusing judgment. which. in the end I believe will put software & computers out of reach for the average everyday American citizen.

Now mind you. I said average citizen, not those who are already at the bottom or top. of the food chain. [no disrespect meant there] Why do I say this. Because you have took a company in the name of some folks greed and put a price tag on everything which has to do with technology , which, technology has no price tag, nor is mankind a third of the way ready for this wonderful new world of technology. I hope and pray you understand this statement. this could destroy generations of children now, and those to be born.

I wonder in today's world, does any one really care about the citizens of our nation or humanity. Maybe the green god rules in total. Heaven help us. There will never be a standard set for software. that is the way I see it at this time from the decree being handed down..

I have shelf's full of useless software which doesn't work on my computers. I purchase software & hardware from those who only seek profit, and no perfection in there software to work with any OS system. let the buyer be truly aware of what this will eventually lead to with software for the consumer.

Or even Companies at there total own risk we will take your cash and bed... you the consumer. The internet will all but be destroyed by those who would benefit from it, in the name of greed and jealousy by a few. Who only have there interest at hand, so sorry but this is how I see it from the beginning of this to continued law suits against Microsoft. Allow me to state that I have no axe to grind with anyone nor do I work for Microsoft.

I choose on my own to use Microsoft's products because their software was the only software that actually works for me being a lay person, and I didn't need a PhD to use Microsoft's software, they supported there software, with out charging outrageous fees to fix there product if something went wrong with there software, which was a rare thing for such a large software company. to take responsibly for there products... Nor did they tease me with there browser like Netscape did [my very first browser] offer me the bare bones files, in order for there browser to work I had to spend hard earn funds at that time to get it to work for me [very complicated] to enjoy using what my and a lot of other folks tax dollars have already paid for, the Internet.

I hope you understand what I am trying my best to get across to you here. I think this issue should be rethought and support Microsoft more then what it isn't doing now in my opinion, my sixty three years could be wrong , but I don't think so.

This isn't a phone company or a light company, etc.. we cannot continue to destroy companies because someone thinks that they are to wealthy or that they want part of the action, the phone company is a good example.......this company Microsoft is part of the very back bone of our nation the new frontier of the twenty-first century. they are a American Global Company with major assets here in the mother land, supply jobs to the best and brightest of our youth to move forward in the 21st century...who sets good standards on how a company should treat those who work for them fairly........this is Wonderful.........this is something we can not destroy in the name of greed.....you know like when we first started out as a raw nation, an new frontier the west ...... in the earlier years. We can never revert back, even thought some of us think that is what it will take to get our house in order . it Takes honesty & compassion for mankind to put our house in order, if we are lucky as a nation.

I would also like to suggest that we change some of those outdated Sherman act laws, they are a great guide to follow , but horrible to use against companies in today's world, those standards where for that time period in our history, we also need to remove a lot of business tax shelters and start making them pay there fair share, restore checks and balances, not when someone thinks a company are person is to large are to big. also, we need to allow those who build there own companies from there pockets not the tax payers pockets. a little more legal lead way. Sometimes we will need to allow a company to be a monopoly [this is one of those instances] with guidance's. By those whom we tax payers, pay as our watch dogs to protect us an our country from being devoured. Does that make sense. No two babies are birth the same way, I had to throw that in, It must be said. No I do not own any stock in Microsoft.

Thank you for allowing me to voice my opinions. God bless you and our Nation.

PL Sewell
http://www.sewellsports.com

MTC-00027867

From: Pindel, Dave
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 11:48am
Subject: Microsoft Settlement

David L. Pindel
Instructor of Biology
Division of Biology and Chemistry
Corning Community College
1 Academic Drive
Corning, NY 14830
(607) 962–9536
January 27, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I appreciate the opportunity to comment on the settlement agreement reached between Microsoft and the Justice Department in the antitrust litigation. Please do not forego the opportunity to settle this case now. The settlement provides benefits for the economy which can be taken advantage of now rather than taking the risk of litigation. The remedies awarded by a Court may not be as advantageous to the public.

Microsoft has agreed to eliminate a number of alleged barriers to competition by adjusting its pricing policies, eliminating restrictions in its distribution contracts with third parties, and allowing competition from non-Microsoft software within Windows systems. These changes will help the computer industry as well as provide greater choice of products for consumers.

Sincerely,
David Pindel
418 Sunset Drive #14A
Coming, NY 14830
MTC–0002786/—0002

MTC-00027868

From: Steven White
To: Microsoft ATR
Date: 1/28/02 11:42am
Subject: Microsoft Settlement

Since today is the deadline for public comments, I thought I would add one parting shot to the email I sent some weeks ago and the hand-written note I sent yesterday by fax. I assume that a lot of people more knowledgeable than I have explained the details of why the settlement is too weak to stop Microsoft from stifling innovation (unless it's their own) and driving other companies out of business. I have seen pages of it in mainstream newspapers and computer publications, and I have gotten a clear explanation from my own state attorney general. You must have seen those also. Let me just make one non-technical point.

Don't be swayed by the marketing-type arguments I hear. Some people say that this whole affair is just Microsoft competitors jealous of Microsoft's success and unable to compete with them, and looking to the government to help them. That is not correct. As the findings of fact told, the issue is that Microsoft will not LET other companies compete. Their way of "competing" is not to make a better product, it is to drive competitors out of business. That's why they have things like the contracts with computer makers that prohibit computer makers from even talking about competing products, let alone selling them. You might make a settlement that says to Microsoft, "No, no no, you mustn't do that any more," but they will find a way around that. They might not make the contracts any more, but they will use subtle strong-arm tactics, or will find something that follows the letter of the law but not the intent of the settlement. There must be someting structural that forces them to behave, not just what amounts to a scolding.

And also don't be fooled by the "freedom to innovate" arguments where Microsoft says that a settlement prevents them from "innovating" and puts the government into the software design business. That is not the point. The point is that Microsoft stops others from innovating and that is what prevents the computer industry from being all it can be. Microsoft's tactics starve other companies from the money they could use to offer better products. The BE-OS is a perfect example. Microsoft's contracts prevented BE-OS from being sold by computer makers. This deprived BE of money it could have used to improve its product so more people would want to buy it. BE went bankrupt.

And finally don't be swayed by arguments that what is good for Microsoft is good for America. Bringing Microsoft to heel will not cripple the economy or have some catastrophic consequences.

I have four computers at home and none of them run any Microsoft software. I have to struggle a bit with them, but I get by just fine. With more money going to other companies, it will get only better.

Thank you.
Steven White
City of Bloomington
2215 W Old Shakopee Rd
Bloomington MN 55431–3096

USA
952–563–4882 (voice)
952–563–4672 (fax)
swhite@ci.bloomington.mn.us

MTC–00027869

From: Gary Enos
To: Microsoft ATR
Date: 1/28/02 11:44am
Subject: Microsoft Settlement

To whom it may concern,

I have watched the case against Microsoft and believe the actions to date to be an atrocity of justice. The actions taken against Microsoft have been of questionable substance and lacking a justified agenda. The negative affects on the technology sector and the de-valuation of one of America's greatest assets "Microsoft" has been hard to justify.

Microsoft has influenced the growth of the computer and compute environments more than any company in history. Many companies and manufacturers have benefited from the open development and utility of the Windows operating system and Microsoft certifications. The continued attack on Microsoft is un-productive and a challenge to the innovative spirit and freedom to grow that is typified by American business.

The marketplace has demanded close integration of OS and functionality. Integration of form and function is not a wrong doing and Microsoft should be commended for all they have accomplished and brought to America's technical dominance. UNIX manufacturers have been imbedding programs in the OS for years; MacOS contains many imbedded functions. Microsoft has done nothing wrong and has acted responsibly to meet the needs of the market and the installed base of PC users/manufacturers. Microsoft is strong because they develop superior products in response to demand. They must be allowed to continue pushing the envelop and to have the freedom to innovate.

The States which have failed to support the DOJ decision are wrong. It is wrong for AOL/Time Warner and Netscape to pursue or be permitted to pursue continued challenges against Microsoft. There is not value in the pursuit, only further devaluation of a great company and the harm to many investors and the technology industry as a whole.

AOL and MSN both offer messaging. AOL, Compuserve, ATT and other services are offered as part of the Online services load of Windows 98, ME, 2000 and XP systems. The users have complete freedom to select ISP, Browser, and email client. The fact that Explorer, Outlook express, and MSN are options to the OS load is perfectly acceptable. These are also superior applications.

Please take action to prevent further legal challenge and wasted energy to defend Microsoft's freedom to innovate. The DOJ has decided; lets get on with re-building the US economy and re-vitalizing the technology sector of this great country.

Regards,
Gary Enos
6842 West Sherri Drive
Macedonia, Ohio 44056

MTC–00027870

From: Roz Crowell
To: Microsoft ATR
Date: 1/28/02 11:43am
Subject: Microsoft Settlement

To whom it may concern:

For heavens sake, PLEASE, adopt the terms of the agreement with Microsoft and let the country get on with living and move this industry forward!!

Thank you!
Sincerely,
Mrs. H. Crowell

MTC–00027871

From: Bryan Campbell
To: Microsoft ATR
Date: 1/28/02 11:43am
Subject: Microsoft Settlement
Bryan Campbell
bryany@pathcom.com
28 January 2001
Ms. Renata Hesse
Trial Attorney
Suite 1200
Antitrust Division
Department of Justice

A Cornerstone Technology for the Twenty-First Century

"Home users who buy new PCs don't have much choice in operating systems. Once Windows XP ships, nearly all computers will be sold with it installed." "When your six-month-old version of MusicMatch Jukebox doesn't work, you may decide just to live with WMP [Windows Media Player]." The New Windows, PC Magazine 30 October 2001

http://www.pcmag.com/article/0,2997,s%253D1590%2526a%253D15591,00.asp

This phase of the antitrust trial concerning Microsoft products is occurring at one of the most trying times in the history of the United States. The due deliberation given it (going on as does all business) says much about the resolve of the nation and its allies. Personal Computers are vital to the world economy which means even in this dire time the United States needs to ensure the vitality of the whole Personal Computer industry which is a mainstay for the engine of the world economy in this new century. Security is best served by having a strong economy that has the means to lift up the world into a new prosperity as was done after World War II.

At question in this case is the unfettered access to the next generation of the common infrastructure. Microsoft Operating Systems have become the cornerstone for running a myriad of Personal Computers world-wide! These Operating Systems take a place beside raods and highways, electricity, and the telephone system, as infrastructure services that are fundamental to everyday life in modern society. Care must thus be observed with the newest Microsoft system, Windows, to see that it remains a platform any company or individual may build on and garner the full benefits of any innovation.

1. The Revised Proposed Final Judgement gives Microsoft too much influence over how other developers can implement their programs. Section III.H allows OEM installs of non-Microsoft products. That clause is made too narrow by Section III.H.3.2, which states Windows may invoke a Microsoft product (Section III.H paragraph 2) if another product does not meet a "reasonable technical requirement" (ActiveX) consistent with Windows. Once it is in writing, ActiveX support will be a minimum for all programs to meet. That will be anti-competitive by requiring programs to be a proprietary Microsoft ActiveX control as a "reasonable technical requirement" to allow OEM installs when some software firms would prefer to use only Java. Studying constitutions and court decisions is part of my background and I have seen innocuous clauses gain unexpected importance.

Section III.H.3.2 could be such a clause causing OEMs to leave Microsoft programs in place. That Microsoft has broad latitude to override OEM software choices makes this Judgement contrary to the public interest. Section III.C of the Judgment, indeed, seeks to leave open such options. Generally, as Microsoft does not give tech support to 0EM built systems, there is not a strong business reason for Microsoft to so closely govern the initial boot. Buyer recourse is to an OEM, which bears the costs of more technical support phone calls if it deploys a confusing initial boot or a confusing configuration. Microsoft costs do not raise due to some inept OEM ideas so OEMs can certainly be left to their own ideas on finalizing systems. OEMs carry the financial burden of manufacturing and selling what they build so OEMs need the freedom to install programs that make those systems most attractive to buyers. If an OEM markets PCs that misbehave, a Web or other review will quickly make that news and the market will react leading that OEM to fix its error without reflecting on Windows itself. Microsoft paternalism is unnecessary. Not to say that it can not protect the reputation of its product, only that in ensuring Windows works as expected Microsoft does not also stifle non-Microsoft programs because those developers choose to use their own vision on the Windows Operating System.

1a. The revised settlement gives Microsoft far too much competitive advantage because Section III.H.3.1 and its preamble let the Windows Operating System select Microsoft programs to connect to a Microsoft server. That leaves the door wide open to Microsoft specifying, for example, only Internet Explorer may be used to update Windows so people wishing to use other browsers still need be familiar with Internet Explorer. People using the Lynx browser perhaps because of reduced vision or Opera's browser due to physical disability would have no way to visit Microsoft Web sites or to update Windows. This settlement may allow discrimination and or infringe upon the Americans with Disabilities Act (ADA) and perhaps other codes if a secondary route is only left to people with disabilities. (Plus their Personal Computers are painstaking configured to allow independent operation which a central authority is unlikely to be able to clone no matter how strong its motivation!) From a wider perspective, this clause gives Microsoft too much latitude to disregard individual choice.

Other vendors will be reluctant to write similar programs knowing reasonable earnings from the work is unlikely as possible customers will not use a program since Windows may by-pass it at critical times when customers need be most familiar with their programs to ensure successful outcomes. Moreover, the Court of Appeals Ruling on page 30 (using the Adobe PDF rendering) notes having two browsers on systems is unpalatable to OEMs as some customers will phone the support line asking which browser to run. OEMs seek to limit such costly calls so OEMs will not configure systems with two similar programs to avoid customer confusion. Because OEMs carry the burden of product support they need to be able to configure systems to best suit the individual buying a system. Windows is a most adaptable Operating System allowing buyers to run Personal Computers in a personalized fashion, giving OEMs an option to begin the personalization process would be one way to make using a new Personal Computer easier. Conversely, if via Section III.H.3.1 Windows ignores buyer chosen software to increase ease of use by using only one browser buyers will of necessity run Internet Explorer to be able to update Windows. Some violations the Court of Appeals upheld deal with promoting exclusive use of Internet Explorer, no part of any settlement should allow for any similar eventuality. Microsoft must be encouraged to quickly implement open standards so any browser can interact the same way with any server. The guiding goal should be the example of the telephone system which at one time only allowed equipment built by the phone company to be connected to the system. By the early 1980s, equipment built by any manufacturer was allowed to connect to the telephone system something that helped the greatly expanded types of telephone services available now. Plus at that time telephone companies stopped requiring that handsets be wired into the system by their employees as telephone sockets were fitted with jacks that allow easy connection of handsets. Having seen other technologies become much easier for customers to handle alone it would be most unfortunate to go backwards against that trend by letting Personal Computers appear to be devices that only a central authority can setup.

Car dealers offer customers many options, although the supply chain for assembly is long with an involved manufacturing process. Since car dealers let customers pick items such as seat color likewise 0EMs can have options for Web players, browsers, and other preferred software components. (Dell Computer buyers custom configure hardware for new systems http://www.zdnet.com/anchordesk/stories/story/0,10738,2834200,00.html fifth paragraph, doing the same with some Web "plug-in" software merely extends an existing concept.) Yes the finishing stages of Personal Computer assemble will change to yield widespread benefit as new systems have the newest versions of programs installed.

Customers satisfaction should go up given less need to update new systems with the most recent versions of programs helping lower or hold steady OEMs costs by reducing phone calls to support on what to do when an update causes a malfunction. Microsoft benefits by having some updates done before customers receive systems. A 3 Dec 2001 article at http://www.wired.com/news/print/0,1294,48756,00.html shows a patch which closes many security holes in Microsoft Outlook is very seldom downloaded as a percentage of estimated Outlook users. And that a tiny test group had little success installing the patch. (Having run desktop systems for 23 years, I'm fully familiar with instructions for software I found those for the patch process involved. Not complex, just a process needing diligence to complete.) All software firms try to make updates easy, yet customers, especially the majority not interested in the technology itself, are fatigued by frequent updates. By having the Operating System supply fewer components (where they become outdated with unfortunate speed) OEMs will be able to relieve buyers of some extra setup chores, making them more immediately productive! For retail sales OEMs could provide CDs (which stores could also update) with new versions of programs.

Returning to the comparison with the phone system where interoperability (meaning seamless operation between components from diverse manufactures) reigns supreme the idea that only Microsoft programs (besides when self-updating) be allowed to access Microsoft servers is as inefficient as calling the phone company for customer service merely to be told to call back on handset it built. Possible problems with other browsers using Microsoft servers probably stem from Microsoft placing proprietary functions in its own Internet Explorer browser (please see http://www.pcmag.com/article/0,2997,s%253D1470%2526a%253D4804,00.asp) and then using those function on Microsoft servers. The public interest is only served by universal Web access as exemplified in continental telephone systems where those responsible for the system do not limit customer choice. lb. My 23 years of experience with desktop class computers (then called "micros") stems from my being a person who is physically disabled (having Cerebral Palsy entails lack of fine motor control, unsteady and shaky movements, and difficulty in moving). That familiarity with keyboards began in about 1961 with I began using a headwand to type on a typewriter. My first "micro" computer in 1978 enabled me to complete a Bachelor of Arts in History by 1982. Even a computer did not speed up my typing though (a photo at http://www.opera.com/press/guides/operapower suggests how I work) so the whole Degree took seven years to finish, letting me to all the reading (and much more) related to the History, Political Economy, and Economics courses for the Degree. A background enabling me to place this case in a broader perspective than is often done, with the skill to look at all factors and sides before writing an analysis.

Vital to note also is the wide power of software to do amazing things! It is software which transforms the diverse components within desktop computers into cohesive wholes able to a universe of tasks. If you do not want to, or cannot hold down two keys at once solutions abound! A two key command can be programmed on to one key or software 'holds" modifier keys like Shift on till another key is typed. Personal Computers adapt to the person. For browsing the first thing I did on purchasing Web access in 1995 was Search for a suitable browser and found NCSA Mosaic 2.1 highly usable.

Please see http://archive.ncsa.uiuc.edu/SDG/Software/mosaic-w/releaseinfo/2.1/WBook—60. html for its one key commands which were enough for keyboard Web navigation, at that time. By mid-1996 the Web was more complex and Opera Software http://www.opera.com had a browser that has since filled the bill. Being able to find and run commercial software is huge a cost saving, too. On the Web site for the White House, "Fulfilling America's Promise to Americans with Disabilities" http://www.whitehouse.gov/news/freedominitiative/freedominitiative.html says adaptive technology to make Personal Computers usable by people with a disability costs $2000 to $20,000 a system. In comparison Opera and this macro program (to program commands or often used phrases to run by typing one or two keys) http://www.macros.com together cost $65, showing that great software can reduce some expense of making computers usable by people with a disability. Such a large saving is rare, yet it illuminates the power of software.

The malleable nature of software is the vital point as that versatility lower costs. Every program does not have to use the exact same approach to accomplish any task. Most programs even have a few ways to do any one task. Some macro programs carefully guide you through macro building, the one I run also does direct building which is less work for me. Neither approach is more correct, the best solution is the one most suited to the interest and skill level of the person performing the task. With Microsoft moving to place more full programs in the Operating System the best feature of software, its malleable nature, will be lost.

We risk reaching a point where people only know how run a few programs by rote as they service the computer instead of computers serving the individual. In an enlightened age of reduced regulation it is very strange to see Microsoft regulating the Personal Computer industry. Because many clauses in the Proposed Judgement give Microsoft ways around prohibitions, especially Section III.H.3 using the word 'notwithstanding" (meaning despite stated limits Microsoft may have its way), it is no over statement to say Microsoft may now regulate its industry. With it being able to still influence many aspects of OEM systems customers will largely see Windows in the form Microsoft wants, placing it at the center of the Personal Computer letting Microsoft regulate industry affairs. When a monopoly impedes the free flow of products that is at odds with the nominal workings of a capitalist economy and its open markets.

1c. Technology plays its best role in economic growth when it is deployed in a manner that does not favor or give special status to any party (which is separate from financial returns due product creators). Applying that concept to Operating Systems for Personal Computers is illuminating. DOS began in 1981 as a system with the bare essentials to run a computer, some might say so bare that it was like selling an engine with no spark plugs.

Other vendors began selling software to perform such essential tasks. In 1991 Microsoft released DOS 5 which later with DOS 6 were the first more complete versions, (http://www.nukesoft.co.uk/msdos/dosversions.htm) less requiring third party software to enable computer features of that day.

Notable these implementations left room for improvement and customer choice. Although by 1993 the engine definitely included spark plugs demanding customers seeking their view of complete computing were free to buy software offering a full of range options in areas like memory-management from a number of vendors. What Microsoft added to DOS are functions virtually fundamental to the workings of an Operating System, yet there was no wide attempt to exclude other vendors from those markets. Windows 95 had improved memory-management so third party software for it all but vanished, which is natural because the Operating System should be able to handle a basic computer resource like memory itself.

To understand the impact of combinations a careful review of whether another product brings a finishing touch to an Operating System does help. Optional utility software to check Operating System integrity and better memory-management refine the Operating System, increasing its ability to perform without incident. Those items represent more intensive development of what the Operating System is meant to do, make Personal Computers ready and able to run programs the owner needs. A built-in browser, media player or the like expands the Operating System without increasing the integrity of that software. Expansion adds to the Operating System without polishing it. When such tying occurs the Operating System can become more difficult to maintain, unlike the customer benefits derived from intensive development.

Problems with an expanding Operating System are illustrated by the security holes Internet Explorer lends Windows. Two articles on http://www.extremetech.com/article/0,,s%3D25124&a%3D21033,00.asp explain matters. "Microsoft Releases IE 'Mega-Patch'" notes that a combined patch now closes various Internet Explorer holes (one even lets someone take over your computer, details on http://www.infoworld.com/articles/hn/xml/01/12/13/011213hnbackdoor.xml). Yet it is not always clear the browser must be updated to version 5.5 before the patch will install, thus after download some people gave up. Brett Glass writes further in the article that stopping is bad, the patch is essential since Microsoft nearly always has Internet Explorer run, (to view email sent in the style Web pages) "unbidden," even if computer "owners" act "to make another browser the default". That means owners using another browser must still maintain Internet Explorer because Microsoft expanded the Operating System to include its own product. That means just not using Internet Explorer does not avoid security problems in Windows. Extra software in the Operating System brings extra problems. This is a particular bad time for compromised security so it is unwise to make people work hard for security.

Despite such hard work the second article, "Internet Explorer Violates Basic Security Principles," on the above link says that how Javascript runs in Internet Explorer makes it vulnerable. Malevolent Web sites can "hijack browsing sessions," steal items like credit card numbers from browser cookies or read sensitive information from files on computers. No patch existed when the article went to the Web on 10 Jan 2002. Disabling Javascript is the only way to seal the gap for now. And that makes the Web very difficult to use since many sites employ Javascript to exchange information with browsers and to have Web page pieces properly placed. An expanded Operating System makes it difficult for people to decide what browser best serves their interests because Internet Explorer asserts itself in Windows.

And it seems silly, at first glance, to seek other programs when the Operating System maker provides software in a persistent manner to do things. That persistent hampers competitors from fulfilling the browser or other functions. Brett Glass notes that Internet Explorer at time runs despite efforts of computer owners to have Windows launch a non-Microsoft browser when a third program requests browser functions. Such behavior is anticompetitive because it will cause some users to surrender and use Microsoft products to get their jobs done instead of toiling to have Windows always use the browser they want. Usually Microsoft says bundling will not inhibit customer choice of software that does not seem to reflect real world experience. Worse than being anticompetitive is that people are led to using software which is not secure. Bringing the discipline of the market is the best way to let customers choose great and secure software uninfluenced by the first blush of tying.

2. How Microsoft dominance and now monopoly in desktop class computer Operating Systems functions demonstrates surprising durability. A product primarily sold on new computers each edition of the Operating System has a fresh plateau to maintain its dominance. Not depending on static plants or structures to provide goods or services in a certain locality means this monopoly is unlikely to weaken due to age, obsolescence, or outside encroachment. Not having to finance and maintain fixed assets to manufacture tangible products means Microsoft is able to quickly apply resources to new challenges without the lag and expense of having to retool manufacturing plants to build new kinds of products. Which is not to say software development is instantaneous or that Microsoft has no costs only that the expenses are not structural, not binding it to one course for any time span. With little to hinder it Microsoft can quickly respond to meet emerging market trends making the monopoly durable.

What sustains the Operating Systems monopoly is fascinating. Increasing yearly sales of systems licensed to run Microsoft Operating Systems created a huge installed base of systems with the hardware specification derived from the first IBM Personal Computer in 1981. About 100 million Windows client licenses (including corporate updates) now ship yearly, with declining computer prices making it more "enticing" to buy new systems than to try upgrading old ones http://www5.zdnet.com/zdnn/stories/news/0,4586,5100875,00.html. With Windows put on many new-systems the monopoly is self-renewing as the equipment it runs on is continually updated. For entities running Windows there is not one large unit or factory to age and be replace by equipment from competitors at one moment in time. Interesting too, is that buyers of the Operating System pay for the equipment its runs on, relieving Microsoft of paying for equipment to maintain the monopoly. Low costs to Microsoft, with no decisive point in the product cycle to switch vendors due to continual buying means the Operating System monopoly is durable and long lasting.

Development of this point stems from the Court of Appeals note that Joseph Schumpeter saw only temporary monopolies in technology. The ruling (page 12) cites Schumpeter's idea of product improvement causing many firms to dominant a market in sequence. A dynamic technology market would appear difficult to dominant for long, as another firm will improve the given item such that buyers flock to for a few years till a third firm replaces it and so on. That works when a given item has no dependances on it. If changing the one item, however, demands that other things must be changed too product improvement has difficulty unseating the first monopoly.

Schumpeter's theory does not apply to Personal Computers Operating Systems because Schumpeter could not be expected to foresee the huge network effect in this arena. Producing a better Operating System in isolation will not enable buyers to adopt it. When Microsoft began with MS-DOS and early Windows it did not face a dominant rival "with a massive an installed base and as vast an existing array of applications" (Court of Appeals ruling page 23). Instead of being temporary deep support makes the Windows monopoly most resilient.

2a. Remedies to antitrust activities need to reflect the strength of the Microsoft monopoly. It is very durable so the company is much, much more likely to be able to damage other firms than anything in a judgment disrupting it. Windows is as much a cornerstone of personal computing as are plumbing and electricity to a building. Buyers require Windows to be able to run the programs that form their daily activities and will purchase the Operating System in a basic or its present expanded form. Any discomfort experienced by Microsoft is a necessary of result of allowing the free market to again operate. Bumps in the new open market road are just the expected opposite reaction to benefits from antitrust activities. In specifying what Microsoft must not do its ability to employ its own interpretations of matters needs to be considered to achieve the desired result. The firm managed to sidestep the 1994 Consent Decree http://www.usdoj.gov/atr/cases/f000/0047.htm (page nine, paragraph three) item that Microsoft not require notification of any New System line sold with no Microsoft Operating System. In a most innovative fashion, Microsoft had a contest in early 2001 to have system builders inform Microsoft of systems shipped without Windows. Builder employees gained more valuable prizes for telling Microsoft of higher numbers of non-Windows system sales. Microsoft wanted to see that Enterprise licenses are not misunderstood as covering new systems, a necessary thing noted in, "Microsoft offers PC builders prizes to be finks" http://www.infoworld.com/articles/hn/xml/01/05/02/010502hnsitelicense.xml

Letters to Enterprise license holders could of accomplished the same result without garnering builder sales information which is private between seller and buyer! Instead, what Microsoft did went against the idea of the 1994 Decree with a method to gain details on builder sales by using a voluntary entry to contest which seems to get around the point Microsoft not require such information, except perhaps to dissuade clients running non-Microsoft server Operating Systems ("Be a Microsoft Stoolie, Win a Chair" http://news.cnet.com/news/0–1278–210–5816847–1.html). Though it is unknown if Microsoft used information from the contest to influence software usage it is seen that Microsoft cuts close to prohibited actions in pursuing its goals, for this case all requirements must be exacting to prevent sidesteps. Nor can the anticompetitive ingredient of the contest be ignored as it clearly made known Microsoft's concern over systems selling without Windows. Because builders must be able to put Windows on desktop computers to retain buyers, system builders (particularly less known firms) could take pause and decide not to risk relations with Microsoft by selling relatively few (if more expensive) server systems without Windows. All system software and hardware suppliers can be replaced except for Microsoft because only it licenses Windows which brings together all the products from other suppliers into a cohesive unit that can be sold.

Such complete dependence on a single supplier for the only product with no substitute would make builders wary of offending Microsoft since it is the only firm in the Personal Computer industry that can put other firms out of business by halting access to merely one product. The Court of Appeals ruling on page 16 says customers will not change Operating Systems due to the cost of new programs and training for them which is a burden while other Operating Systems offer fewer programs.

Also, each hardware component requires a piece of software referred to as a "driver" to mediate communications between a component and the Operating System the "driver" is written for. Component makers write Windows "drivers" almost exclusively so system builders lack options for any simple substitution. Thus relations with Microsoft are a prime concern leading builders to stay attuned to what Microsoft wishes. Yes, another Operating System can be used, yet it demands a seldom seen deep commitment. Lack of "drivers" deters buyers from trying another Operating System on new computers, adding to why buyers stick to Windows despite frequently new purchases. Linux distributors do provide "drivers" with their Operating System, but these seldom drive all features on components making these "drivers" unattractive substitutes. Components makers over time have sold many items in their product category making it difficult for distributors of other Operating Systems to timely develop "drivers" to suit specific components. A tiny part of the remedy should prohibit Microsoft from in any way deterring or interfering with components makers possible writing "drivers" for other Operating Systems.

3. Pricing is the one area where, at a glance, the Operating System monopoly is not readily discerned. The price is usually not high compared to other Personal Computer components so previously cost was not an issue. Point 2 of this submission notes Windows sales are now about 100 million unit a year. Over an approximate three year mainstream life of an Operating System total sales do perhaps yield a monopoly like profit. Especially as Microsoft has low fixed costs. A humble suggestion to the Court is to investigate the cost of producing software in a very high volume to discover how price per unit relates to production cost. Another item to account for is Microsoft having no direct enduser support costs when builders put Windows on systems. Not facing that cost could let a lower price yield unexpected returns.

Annoyance, too, is a reason Microsoft has unremarkable prices. In software development "the-state-of-the-art" produces good programs which seldom run as well as common, everyday devices. The science, or art, of software is young so somewhat less reliability is reasonable. That means to sell many units a year prices cannot be maximized to the same extent, for example, as can prices for ad space in the sole newspaper for given area. Annoyances is even the name of a popular Web site http://www.annoyances.org for dealing with Windows so what have been moderate prices were a trade-off to keep buyers. Of Windows 98 a prominent writer said one reason to spend the $90 is that 98 crashed less than Windows 95 http://content.techweb.com/winmag/library/1998/0701/ana0001.htm

4. Bundling is a pivotal matter here making understanding it important. Bundling is common to enhance the value of new kinds of products, movie rentals included with VCR purchases when that product was new to spur customer interest, a process now happening with DVD players, are fine examples of the more frequent kind of bundling. When Personal Computers first became fast enough to display usable graphics on monitors writers of programs to do charts and graphs arranged to have makers of the new, fast graphic boards for systems bundle those programs with new boards to increase sales of both products! All temporary arrangements to boast new product recognition.

Similar to this Operating System and browser packaging, "AWeb-II 3.4 Packaged with Amiga OS3.9" http://browserwatch.internet.com/news/story/news-20001229–1.html Amiga is a neat, niche computer and Operating System with some loyal supporters. Bundled with Amiga OS3.9 is the AWeb browser for buyers to try out as v3.4SE Special Edition has some features disabled so if folks wish to keep using it they need to buy a full version. Limited versions let prospective buyers try a product without damaging potential sales. Notable these test versions can be removed from systems if customers so wish. Probably the instances of Operating System and browser bundling presented at the original District Court hearing allowed the browser to be removed from the Operating System, as well. What Microsoft did in binding Internet Explorer to Windows was atypical since other programs can always be removed. Apple Computer could not create and tie the two products together, for instance, being under contract to Microsoft for its MacOS Internet Explorer to be the default browser on Apple systems.

That the Internet Explorer experience can be duplicated on Apple's MacOS without placing that Microsoft browser in the Apple Operating System shows the browser is a product category, not Operating System plumbing like memory-management that wholly depends CPU and Operating System interaction. That the product category exists is illustrated by its functions. Unlike most computer programs a browser is meant to show on a local system information that is formatted into Web pages on remote computers. A browser would quickly become boring without a connection to the Web to provide fresh and new information. A browser is part newspaper, radio, and TV for computers that only really shines because of its outside connection while other programs deal what they create. Separating the browser from other software is that it does not create what it displays. Even most computer games create files to allow games to be resumed at a later time.

Demonstrating a possible market for browser is difficult because once a firm with market power uses its builder distribution network to distribute its browser with no regard to cost by not charging for it buying a second browser seems odd. NetMechanic http://www.netmechanic.com though, is a firm in business to make Web sites work in a variety of browsers, and different types of computers, demonstrating not everyone prefers the Web as presented by Windows through Internet Explorer. Tastes do change. One noted computer commentator recently wrote (20 Dec 2001) he now uses Opera's style of having a number of Web pages open within the browser's one window (called MDI), instead of one program for each Web pages as Internet Explorer does producing a "blizzard" of separate programs http://www.scotfinnie.com/newsletter/18.htm.

If the playing field was more level, with no firm having market power using its very special access to computer distribution, there is reason to think buyers would seek browsers that suited their individual preference instead of just happening to use what ships with the computer. Equally important is that other types of computers do access the Web so a proprietary specification of how to interact with browsers is anticompetitive since it favors one type of computer. Microsoft's main focus is the Personal Computer, making it less interested in the advancement of other computers to protect its principal area of business. That is natural for Microsoft to do, yet it is bad for customers as possible choice for computers will not have the options as the kind Microsoft caters to. An example is on http://www5.zdnet.com/zdnn/stories/comment/0,5859,5101802,00.html noting that Microsoft's PDA named the Pocket PC does not support Apple's Mac computers. Not a big item, yet it is another way to make Windows look better. Microsoft is so fiercely competitive it should not be left to handle a cross-platform standard better formulated by an industrial association.

(I must now apologize to the Court as time is now very short to finish the filing and I still type slowly so I need to work in point form, I hope you will excuse me.)

These 4 columns note that open standards greatly reduce costs for buyer and much improve the number and quality of available choices. "Standards can put you in control"

http://techupdate.zdnet.com/techupdate/stories/main/0,14179,2837626,00.html

Open Standards Vital, PC's Founding Fathers Say"

http://www.extremetech.com/article/0,3396,s%253D201%2526a%253D11568,00.asp,

"Why we should hail IBM's ode to open source—the Purple Book"

http://zdnet.com.com/2100–1107–503981.html and "Group builds onto wall of Web standards" http://news.com.com/2100–1023–802022.html. The W3C stands for Web open standards with interoperability between all software, Microsoft should be urged its lead.

5. The most effective remedy to administer with most ease is that Microsoft only sell Windows with the basic plumbing to run computers for the 1st 30 months of a judgment. That will be called disruptive, yet it is the best way to remind everyone Windows is the means to let many companies run programs on Personal Computers, not just Microsoft, and not as 2nd class players. If that is not done Microsoft will have decreasing reason to accommodate other firms on Windows as those firms will not much add to Windows" popularity. Plus that will encourage Microsoft to have enough Windows" APIs so any browser runs all browser functions in Windows instead of the APIs being limited to Internet Explorer.

During that 30 months programs now in Windows will sell at prices as determined from sources like the Web. After 30 months such programs and basic Windows most stay available for 10 years. And Microsoft may then sell 2 other Windows versions with prices reflecting having some extra programs in 1 version, and all extra programs in the 2nd version; as well as direct Microsoft support being of 1 contact for setup (only good if used in 1st 35 days after buying) that may go on for a time after the contact began, and a 2nd 6 months starting from a later contact within 15 months of system purchase. Simple reason for Microsoft support is that it be responsible for any full programs put in with Windows, that is only creating a consequence for Microsoft's action which is fundamental to a well running market economy.

5a. Judgment needs to last a long time so market can develop products and just get use to being fully open (so participants in markets related to Personal Computers have no reason to act in anticipation of its end).

Allowing time for those notions to be entrenched so OEMs will react strongly to unusual demands instead of merely accepting them so Microsoft regains its position.

That is a big concern given Microsoft's habit is to disparage what other firms make. "Novell sues Microsoft over ad campaign" http://news.com.com/2100–1001–273775.html while a later review found the Novell progressing quite well, 17 Dec 2001 "Not Just Another NOS—NetWare 6 includes impressive Web tools, file and print services"

http://www.eweek.com/article/0,3658,s%253D708%2526a%253D20078,00.asp.

Unfortunately such ads and the blocking of 3rd party browsers from some Microsoft Web sites occurred while Microsoft negotiated this Proposed judgment suggesting Microsoft may not be serious about this process. It was soon seen that the browsers dealt well with the Microsoft sites. "MSN.com shuts out non-Microsoft browsers"

http://news.com.com/2100–1023–274944.html, "Parts of MSN Still Off-Limits to Amaya, Opera Users"

http://browserwatch.internet.com/news/stories2001/news-20011101–1.html,

"Microsoft backpedals on MSN browser block"

http://news.com.com/2100–1023–274980.html. Perhaps 1 remedy could have Microsoft mostly deal in the benefits of its own products in ads and not supposed flaws in what other firms produce, generally leaving buyers to decide what suits them best.

5b. To give independent developers the opportunity to write a browser based on its code, Netscape Communications made its source code available through http://www.Mozilla.org. As a result the specification for Netscape style "plug-ins," which add functions as helpers to browsers, is now commonly known. This specification allows any company developing a browser to run "plug-ins" in its browser application.

Because Microsoft now has such a wide lead in browser usage, its support of "plug-ins" in all its browsers is critical to such helpers being created both in ActiveX and "plug-in" style. To give market forces the chance to establish a market for browsers, Microsoft shall include "plug-in" support in all its browser for 12 years. That period will begin on the first day of the first month after Microsoft demonstrates restored internal "plug-in" support in all current (or future) browsers from by Microsoft, its subsidiaries or successors. Menu and other means that exist to modify program options in Windows could turn off "plug-in" support. If it becomes apparent "plug-ins" fall out of common usage Microsoft may be allowed to end its support early.

A 12-year time period is necessary since many Web sites are built to mainly support Internet Explorer and many Web designers will require time to become accustomed to using an open standard (likely from http://www.w3.org). Customers will also need to adapt and choose a Web browser that best meets their usage requirements, the usual way of choosing products. And the 12-year period approximately doubles the time Microsoft hindered usual market forces through special distribution requirements. Thus, 12 years is reasonable recompense to that market.

Restored Microsoft "plug-in" support (dropped in August 2001 http://news.cnet.com/news/0–1005–200–6881773.html) is a fine part of a remedy as it reinvigorates the browser market without steering it in any direction. Requiring Microsoft to publish its source code for Internet Explorer would merely develop copies with strengths and weaknesses similar to the original. Leaving them dependent on Microsoft for core code development, not creating an open market. Browsers do not relate to the booting of computers so showing source code is currently unneeded. So long as a browser is not commingled in the Operating System it is just another program making for easy substitution. Both ActiveX and "plug-ins" have strengths and drawbacks with no clear winner. ActiveX deeply ties into Windows, which is troubling if security breaks down. Meanwhile, Microsoft has doubts about "plug-ins." Such issues are exactly the type best left to customer choice.

More importantly, ensured "plug-in" support only produces a level playing field since all browsers have good access to helper programs leaving it to market forces to determine what browsers succeed. This point is forward looking as it leaves the market open with minimal or no market distortion making it very much in the public interest.

6. Varied point2: Using ActiveX on the Windows Update site does not exclude people from general access to the Web as the Court of Appeals ruled. The anticompetitive element is that only Microsoft knows how to have browsers run ActiveX meaning that users must maintain Internet Explorer to be-able to reach the Update site which is a crucial, must reach site for anyone running a Windows Operating System! Above this filing shows it is a long and somewhat difficult process to keep Internet Explorer current and secure. Also the Court of Appeals ruling (page 30–1) says Microsoft twice acknowledged two browser icons can be confusing. Running two browsers would be confusing as well, the easiest course for most people is to only run Internet Explorer. It thus has a very distinct advantage over other browsers. Yet Microsoft must ensure the integrity of its products so of course it may have Windows invoke a single purpose client that would check and service only Microsoft software. Such a client would have limited, specialized usage likely only for connecting to Microsoft servers, it will not be anti-competitive because it will not effect perceptions of programs from other vendors. That differs from the present wording of Section III.H.3.1 and its preamble which gives Microsoft programs special rights users could see as making it better than similar products from other vendors.

6a. Relating to Microsoft Passport: If Microsoft wants customers to create a basic account (using an existing e-mail address) before providing product assistance that account should only be for dealing with Microsoft, and not for dealing with other firms over the Web. Privacy and security concerns of individuals deem that each person be able to make their own decision on whether to create an account to deal with Microsoft alone or a process for giving out information to third parties. Having 2 kinds of accounts means Microsoft will not be able to unduly leverage the Operating System monopoly into the de facto identification and information dispersal process for the Web. That will also much decrease the possibility that newcomers to PCs would erroneously think only Microsoft provides software for this class of computers. A central repository for all personal information will be probably a target for thieves trying to steal credit card number to commit fraud and perhaps where malevolent forces will go for personal information in efforts to build false identities. Signing in to a creation like Microsoft Passport is not something to be done while people are trying to setup another product. It must be considered on its own drawbacks or merits, and then perhaps entered into.

Thank you for this opportunity.

Sincerely,

Bryan Campbell

MTC-00027872

From: Bradley G Leonard
To: Microsoft ATR
Date: 1/28/02 11:44am
Subject: Microsoft Settlement

I, Bradley G. Leonard, am a U.S. citizen who disagrees with the proposed settlement. It is a bad idea.

MTC-00027873

From: Garrett Williams
To: Microsoft ATR
Date: 1/28/02 11:40am
Subject: Microsoft Settlement

To whom it may concern,

I strongly encourage a fair and appropriate settlement concerning Microsoft and their anti-trust violations. The company in question has abused it's position and created an unfair market place to which they are the dominate player. In order to right this situation the government must truly punish Microsoft for their unethical behavior. This means creating opportunities for other companies that have suffered at the expense of Microsoft's business practices. Proposals such as the education solution only increases Microsoft's market share and shows that the current presidential administration is oblivious to the current problem. Microsoft is a monopoly and that is definitely not beneficial to the economy. In order to increase competition steps must be taken to thoroughly punish Microsoft and give businesses such as Apple Computer, Java, and a host of others a fair chance.

Thank you,

garrett williams

MTC-00027874

From: Violet L Hubbard
To: Microsoft ATR
Date: 1/28/02 11:44am
Subject: microsoft setlement

AS A SENIOR CITIZEN, I FEEL THAT THE SETTLEMENT IS AS FAIR AS POSSIBLE. WE CONSUMERS NEED TO WIN ONE EVERY NOW AND THEN.

W.H. HUBBARD,
7700-1 S. ARAGON BLVD.
SUNRISE, FL. 33322

MTC-0027875

From: Rick Spiewak
To: Microsoft Settlement U.S. Department of Justice
Date: 1/28/02 11:39am
Subject: Microsoft Settlement
Rick Spiewak
37 Berkeley Rd.
Framingham, ma 01701
January 28, 2002
Microsoft Settlement U.S. Department of Justice ,

Dear Microsoft Settlement U.S. Department of Justice:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is time for this trial, and the wasteful spending accompanying it, to be over so that companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Thank you for this opportunity to share my views.

Sincerely,

Rick Spiewak

MTC-00027876

From: Gary Hill
To: Microsoft ATR
Date: 1/28/02 11:45am
Subject: Microsoft Settlement Support
Gary G. Hill
44024 Countryside Drive ? Lancaster, CA 93536
January 26, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

As an elected member of the Antelope Valley Health Care District representing 450,000 people, I am writing this letter as in support of the settlement in the case against Microsoft. I believe that this whole suit was a waste of time and money. Only in America do we focus on tearing down success, and destroying a product line the works. There are choices out there, but none of them work as well as the Microsoft products.

There are more pressing issues that are of concern to me in this country such as the energy crisis here in California. The state has lost $22 billion dollars resulting in consumers getting gauged. In addition, the price of gas has risen 20 cents per gallon, just in the last week. The Department of Justice should have taken a strong NO to the rash of oil company mergers this past decade; we can live without a home computer, but must have gasoline (real public transit has not arrived yet)

Microsoft did not get off as easy, as its opponents would have people think. They agreed to terms beyond what was required in the suit. They also agreed to design future versions of Windows, starting with an interim release of XP, to provide a mechanism to make it easy for computer companies, consumers and software developers to promote non-Microsoft software within Windows. Microsoft seemed to be generous when settling the case. Let's end litigation now so that Microsoft can go back to work. We, the American people, need a company like Microsoft to stay strong, so they can continue to create innovative products, well paying jobs, and help strengthen the tech sector of the economy.

Sincerely,

Gary G. Hill
(661) 723-6035
(661) 723-6180—Fax
ghill@qnet.com
Gary G. Hill
Director of Finance
City of Lancaster
Lancaster Redevelopment Agency
44933 No. Fern Avenue
Lancaster, CA 93534
(661) 723-6035
(661) 723-6180—Fax
ghill@qnet.com

MTC-00027877

From: Bill Baker
To: Microsoft ATR
Date: 1/28/02 11:46am
Subject: Microsoft settlement

Please settle this suit now and let Microsoft get on with its business.

Thank you,

Bill Baker
2051 Morningside Drive
Mount Dora, Florida 32757

MTC-00027878

From: Don Campbell
To: Microsoft ATR
Date: 1/28/02 11:47am
Subject: Microsoft Settlement

The current settlement of the Microsoft case is a travesty. Since becoming a monopoly, Microsoft has almost continuously ignored antitrust law against anticompetitive behavior. When caught and tried, they deny the obvious. After agreeing to cease the anticompetitive behavior they carry on as before.

They have shown negligible effort at compliance and continue to operate against consumer interest and consumer choice. If anything, they have extended this approach beyond their traditional software market into other markets of Internet and media commerce.

I do not think that a remedy which falls short of structurally modifying the company will work. Microsoft will go on as usual and destroy more companies. In so doing they will continue to chant the false mantra that they are "innovating" and being punished for that. They should be broken up, Windows code should be opened up to the competition and they should not be allowed to leverage their current monopoly into new ones.

Don Campbell

MTC-00027879

From: Tom Skinner
To: Microsoft ATR
Date: 1/28/02 11:47am
Subject: Microsoft Settlement
January 27, 2002
Attorney General John Ashcroft

US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The antitrust suit against Microsoft has been settled. This agreement was arrived at after extensive negotiations with a court-appointed mediator. The whole process took three years, which I believe is long enough, if not too long. This settlement has profound implications for all software publishers, the rest of the IT industry, and consumers.

New government regulations will be imposed on the IT sector. The proposed agreement requires major changes in how Microsoft develops and markets its products, while allowing competitors the possibility of suing the company if it does not comply with these new rules. The settlement is in the best interests of the state, the economy and our nation as a whole.

The recession has had a devastating effect on budgets at both the state and federal levels. It is important to allow the IT industry the ability to concentrate solely on its business at hand. The original agreement reached by the Justice Department is beneficial to the industry and the economy at this point. The settlement needs to be agreed upon by all members of the federal government, permitting us to continue being a leader in the technological market at home and around the world.

Sincerely,
Tom Skinner
6186 Mountain Vine Avenue
Kannapolis, NC 28081
CC:fin@mobilizationoffice.com@inetgw

MTC-00027880

From: vv.mann (a) home
To: Microsoft ATR
Date: 1/28/02 11:50am
Subject: Microsoft settlement
VIRGINIA V. MANN
3004 Normandy Place
Evanston, Illinois 60201
January 25, 2002
Renata B. Hesse
Anti-trust Division
US Department of Justice
601 D Street, NW
Washington, DC 20530

Dear Ms. Hesse:

I was pleased to hear that the Department of Justice had settled its ridiculous suit against Microsoft.

Clearly, this lawsuit was politically driven and using our government and our laws in this fashion was unfortunate from the beginning. I am relieved to see this dispute resolved, although believe it should never have been brought in the first place.

Although Microsoft has agreed to the restrictions in this settlement, I believe it is unfortunate that our government has chosen to do anything less than completely dropping the case. Microsoft has done more to improve our efficient and effective communications than has any other company in history.

They should be left alone to continue their fine work without further interference from our government. Sincerely,

MTC-0027881

From: VanderPyle, Nicholas
To: Microsoft ATR
Date: 1/28/02 11:51am
Subject: Microsoft Settlement

Whomever it may concern,

My JOB is dependant on the hard work Microsoft has done to create products, support, and certifications!

I depend on being able to go home to a computer that is similar to the one I use at work, being able to keep all my tasks and appointments with me on the road in my handheld computer, and using the internet in an easy and efficient method. Microsoft has jumped through hoops to make sure I can do all of that without learning several new operating systems, buying several browsers, and having compatibility problems with my handheld computer.

Consider a world where your missile defenses are running on a LINUX computer whose core operating software is partially written by a 12year old in Russia... and it has a fatal bug! You can't exactly goto a single company and demand a fix overnight like you can Microsoft.

Don't make a mistake by hurting the one company that has driven innovation as well as created and supported hundreds of thousands of jobs WORLDWIDE.

Thank you for your time.
Nicholas VanderPyle
Boeing
Fort Walton Beach, FL
(850)302–4553
<mailto:Nicholas.Vanderpyle@Boeing.com>

Please update your contact lists to reflect this email address!

Do NOT use HSV.Boeing.com

CC:Microsoft's Freedom To Innovate Network

MTC-00027882

From: Peter Hill
To: Microsoft ATR
Date: 1/28/02 11:51am
Subject: Dear Judge,

Dear Judge,

As a young person, I would like to see growing oppurtunities in computer choices in my future. Microsoft is a wonderful company staffed by wonderful people, but they are guilty of anti-competitive violations. They should be punished according to US laws. If this is accomplished, it will provide a better and more competive market for me to enter.

Thank you,
Peter Hill
66 Hobson St.
Boston, MA

MTC-00027883

From: Jane Quirk
To: Microsoft ATR
Date: 1/28/02 11:51am
Subject: Microsoft settlement

Dear Attorney General Ashcroft:

It seems to me that the Microsoft antitrust suit has gone on long enough and has been subject to some questionable decisions. Microsoft has been a leader in its field and that always brings a certain amount of envy. The settlement agreement seems to be fair and I feel Microsoft has agreed to put some checks and balances in place to avoid the possibility of conflict in the future.

I am in favor of the terms of the settlement and hope you will consider an end to this expensive litigation and allow all parties to move on.

Thank you,
Jane Quirk

MTC-00027884

From: Caghan, Susan
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 .11:51am Subject: Microsoft Settlement
http://www.primepro.com
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I believe that the antitrust suit against Microsoft has been detrimental both to the economy and to the IT community. This suit was an attempt by Microsoft competitors to use the legal system to manipulate a market for their own gain. It is time to let us in the technology industries get back to the work; to do our part in moving our economy forward.

The antitrust suit has had a negative, trickle-down consequence, that if not stopped, will lead to spiraling business downturns both of companies that partner with Microsoft as well businesses that use Microsoft products. The settlement guidelines are tough and rigorous. It is time to finalize the settlement and let us get back to the work of revitalizing the economy and the IT industry.

I urge that all action taking place at the federal level be stopped. Microsoft must be allowed to return to innovation.

Sincerely,
Susan Caghan
President

MTC-0027885

From: Marmelstein Robert E LtCol AFRL/IFSE
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 11:52am
Subject: Re" Microsoft Settlement

See atch.

Robert E. Marmelstein
Robert Marmelstein
67 Whitford Ave.
Whitesboro, NY 13492
January 25, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I have been following this case, and don't believe litigation was necessary at all. The computer industry is very competitive. I believe the competition pursued litigation in order to distract Microsoft and level the "playing field". Now that several more states and companies want to pursue further litigation, what are they trying to accomplish?

Microsoft has been more than fair in settling this case. They agreed to license its operating system to the twenty largest computer companies for identical conditions and prices. They also agreed to design all future versions of Windows, to provide a mechanism to make it easier for computer companies, consumers and software developers to promote non-Microsoft software within Windows.

Let's end the distraction and go back to business. Microsoft can go back to reviving its company and the technical sector. Government can work on bringing us out of this recession.

Sincerely,
Robert Marmelstein

MTC-00027887

From: RandyRotter (MSN)
To: Microsoft ATR
Date: 1/28/02 11:53am
Subject: Microsoft Settlement

This whole jihad against Microsoft by varied government officials at the behest of Microsoft's competitors has been ill advised, corrupt and unproductive. It has harmed the company, harmed our international leadership in technology, harmed how young people view a career in technology, harmed the consumer with legal fees added to product cost, and introduced the attempt to have technical elegance determined by states'' attorney generals.

Do not let the zealots and the cynics determine the fate of Microsoft's ability to delivery complex solutions. Look at the strides being made in China with wireless and you will see what can happen quickly if we weaken our own ability to provide large scale solutions. I am old enough to have learned to drive in a beautiful 1960 Buick convertible. Within a few years I watched the automobile industry's abilty to product a decent car greatly decline relative to our competitors and saw the takeover of our main industrial hallmark by foriegn companies. We have had to wait for Microsoft to create an American world competitive flagship company to again provide the ability to command domestic and world markets.

Because this case is about the fragility of intellectual property, the old rules do not always apply and should not be allowed to push an American success story into mediocrity.

Randall Rotter
9013 Nisqually Way NE
Bainbridge Island, WA 98110
(206) 855–9625

MTC-00027888

From: Edward Goodrich
To: Microsoft ATR
Date: 1/28/02 11:52am
Subject: Microft Settelment
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I understand that the Department of Justice is presently accepting public comment on its agreement with Microsoft to settle the antitrust litigation. I wholeheartedly support the agreement. Microsoft was just being punished by the last administration for its success, and that's not fair. Microsoft's competitors complained that they were frozen out of competition by Microsoft's licensing and pricing practices as well as by their inability to offer competing software within the Windows system.

Microsoft has agreed to uniform pricing guidelines as well as less restrictive licensing agreements with distributors. Microsoft has also agreed to open its operating systems to competing software applications.

I believe that Microsoft's actions more than adequately answer the complaints, and Microsoft should be allowed to get back to business. Please implement the settlement as soon as the law allows. Thank you for your consideration and attention.

Sincerely,
Edward Goodrich

MTC-00027889

From: Kenlindsay@lani.net@inetgw
To: Microsoft ATR
Date: 1/28/02 11:50am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than ''welfare'' for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Ken Lindsay
6272 209th. rd.
Live Oak,, FL 32060

MTC-00027890

From: Doug Grinbergs
To: Microsoft ATR
Date: 1/28/02 11:53am
Subject: Microsoft Settlement

With respect to the proposed Microsoft settlement, I would like to offer these brief comments:

To the great disadvantage of its customers, as well as users and manufacturers of competing systems, I believe that it would effectively leave the monopoly intact; well-funded, highly-paid, highly-motivated Microsoft lawyers will easily avoid the vague settlement rules and the giant will continue largely unchecked. Public meetings are essential to a democratic process and there should be public hearings nationwide to afford citizens the opportunity to speak out on this important matter.

Doug Grinbergs
satile@pobox.com
PO Box 17455
Boulder, CO 80308 USA

MTC-00027891

From: Mitch Stone
To: Microsoft ATR
Date: 1/28/02 11:55am
Subject: Microsoft Settlement

I wish to register my strenuous objections to the proposed settlement to the Microsoft Antitrust case.

Of all the provisions which I find most objectionable are those related to so-called ''middleware.'' The proposed settlement provides Microsoft with more control over software to be included with Windows then they have today. If the settlement is approved, they will be permitted to discriminate in ways which before the settlement would almost certainly generate antitrust scrutiny. This proposed settlement does not open the door to middleware development, it slams it shut.

This settlement does not promote competition; it institutionalizes the Microsoft monopoly. To approve it would not be in the public interest.

Mitch Stone
mitch@accidentalexpert.com

MTC-00027892

From: Thomas Hahn
To: Microsoft ATR
Date: 1/28/02 11:55am
Subject: Microsoft Settlement

Gentlemen:

I would like to add my voice to those who feel that this is a just settlement and should go forward without further delay. Thanks.

Thomas Hahn

MTC-00027893

From: Bob Frazier
To: Microsoft ATR
Date: 1/28/02 11:55am
Subject: Microsoft / AOL Settlement

Sir;

I am completely in agreement with the DoJ settlement worked out between Microsoft and AOL. It satisfies the ruling of the Court of Appeals and represents the best opportunity for this industry to move ahead.

Sincerely,
Robert D. Frazier
19 Applewood Lane
Temple, NH 03084

MTC-00027894

From: golubicv2@attbi.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:55am
Subject: Microsoft Settlement

Dear Sir/Madam:

I just wanted to comment on the Microsoft matter with respect to ''pending'' matters in the courts. I feel as a consumer that Microsoft has been a strong American company and has helped to ''standardize'' the disparate software in the PC industry over the last 10 years. Competitors such as AOL (who BTW appear one again to be against ''standardization'') are not happy with a ''large systems integrator'' concept, which by default in the software industry goes to the Most Aggressive Company ..in this case Microsoft. Most Microsoft products I purchase are ''fairly priced''. In fact SUN's compilers and tools were once ''way more expensive'' than Microsoft products, but thanks to the ''Microsoft Trial'' their SUN product line ''price'' has improved ''considerably'' for consumers. Microsofts'' has always been in the $100–500 range...I was mystified as to why ''consumers were hurt" as SUN claimed. (they were probably jealous of volume)

However aggressive Microsoft has been, it HAS helped to achieve standardization, which the PC industry needed to "get off the ground" and bring "mass market" consumer awareness to many things, PC desktop, Common Operating Environment, Office tools, etc all of which operate "together" with a forward vision that DOES include many growth opportunities for smaller competitors. I know of many small vendors who "need" standardization that Microsoft provides as a "defacto large systems integrator" for consumers. AOL, who makes only a Browser (purchased for $10B from Netscape) and its AOL instant messenger are only TWO products. This is not enough to "standardize an industry" and consumers like myself (who are also software developers) are aware of this and keep Microsoft in the "lead role" by spending our consumer dollars for "better integration"...what in fact comsumers vote for with their $$$.

When AOL makes products that "hit all bases" as far as "developers need" I'll buy more AOL products...right now they have a limited product line...who's fault is that????? If $10Billion were spent in the right place it may not have happen as it did.

If they (AOL) want to be a "large systems integrator" in "consumers minds" they they should compete by trying to "bring together" lots of smaller companies as Microsoft has done well as a platform and help consumers "see this" instead of just complaining and trying to do this "via other means"...thinking the browser is the "only thing" that consumers "see" ...in fact alot more goes on in terms of data, binaries and libraries that make an "integrated product" which microsoft has been far "better at doing" than AOL and their "vision". end of comments.

+vfg
Vince F. Golubic
Software Developer & Consumer
Allen, Texas
CC:golubicv@ieee.org@inetgw

MTC-00027895

From: James E. Strang
To: Microsoft ATR
Date: 1/28/02 11:58am
Subject: Letter

Please see attached letter regarding Microsoft.

James E. Strang
Campbell Company
(p): (206)763–5000
(f): (206) 763–6700
e-mail: jstrang@campbell-co.com
CC: fin@mobilizationoffice.com@inetgw

575 S Michigan Street
Seattle, WA 98108
January 27, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing in full support of the recent settlement between Microsoft and the US Department of Justice. It is time that this foolishness comes to a prompt end. More than enough time has been used to cover all of the bases and I feel that it is just a political standoff at this point.

The terms of the settlement make apparent to me the intense lobbying efforts of Microsoft's competition as they will be granted new rights to configure Windows so that non-Microsoft products can be promoted more easily and also be given interfaces that are internal to Windows" operating system products.

Even though these concessions do not actually protect consumers and just help Microsoft's competitors that were unable to be innovative on their own, I urge your office to finalize the settlement. It is in the best interests of our economy, IT sector, and public for the case to end and our country to move on. Thank you.

Sincerely,
John Odonnell

MTC-00027896

From: hayas@ib.stortek.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:56am
Subject: MicroSoft Settlement
Date: Mon, 28 Jan 2002, 09:55

Sirs:

Regarding the MicroSoft Settlement "Proposed Final Judgment", I am in extreme opposition.

I am in complete agreement with the amendments proposed by Dan Kegel (ref: www.kegel.com/remedy) in his essay to be submitted to the DOJ, entitled "On the Proposed Final Judgement in the United States vs Microsoft".

It has been my professional observation over the last 20 years that Microsoft provided useful innovative products SOLELY when there was string and significant competition.

It is my strong belief that should the PFJ be approved, the result will be an extraordinary loss of innovation in commercially available software within the United States; a significant erosion of respect for the US laws and regulations thus established, mainly among commercial and independent software developers in other nations less tolerant of large corporate monopolies; and a significant increase in litigation in the Federal courts to challenge the consequences of the PFJ.

NB: this note represents ONLY my PERSONAL OPINION, and should not be construed as representing any official position of Storage Technology Corporation.

Jeff Hayas
Senior SW Engineer, Storage Technology Corporation
Email: jeff—hayas@stortek.com
Phone: 303–661–8691 (w), 303–938–8933 (h)
Postal: POB 1378; Boulder CO 80306–1378
Proverb: "Be well, stay in touch, and do good work."

MTP-00027897

From: cstauffer@swmail.sw.org@inetgw
To: Microsoft ATR
Date: 1/28/02 11:53am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Curtis Stauffer
1600 Univ. Dr. E.
College Station, TX 77840

MTC-00027898

From: Anthony, Kelly K.
To: Microsoft ATR
Date: 1/28/02 11:57am
Subject: Microsoft Settlement

Dear Ms. Hesse:

I am wriing in support of the proposed settlement agreement with Microsoft that would provide technology funds, computers and software to schools in low-income communities.

Wisconsin schools would benefit from the technology funds. Our state falls below the national average in the percentage of fourth through eighth grade students in schools that have computers available in all classrooms. As a future teacher, I am learning about teh benefits of technology in the classroom.

However, many schools do not have the funds or equipment to give the students these experiences. I think teachers and students should be given the opportunities technolgy can give.

Computers are important educational tools in schools. No student or teacher should be denied this opportunity. THe proposed Settlement is very positive and would benefit students, teachers, schools, and communities that need the technology funding most.

Thank you.
Sincerely,
Kelly Anthony

MTC-00027899

From: Steve Anderson
To: Microsoft ATR
Date: 1/28/02 11:57am
Subject: The proposed settlement in the Microsoft antitrust case does not go far enough

Dear Sirs,

The only way to level the playing field after the years of abuse by Microsoft is to let the competition have access to the source code.

Microsoft should be compelled to make available a license to any interested party for the source code for all versions of Windows(R) for a reasonable fee, perhaps $1,000,000.

Thank you.
Steve Anderson
Phone 480–315–8577

FAX 508–300–0337
stevea@eosgroup.com
www.eosgroup.com

MTC–00027900

From: VLKBARKAN@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:59am
Subject: Microsoft settlement
205 Sweetwater Trace
Roswell, Georgia 30076
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement. I feel this debate has gone on long enough, and I feel after three years of litigation enough resources and time have been wasted on this issue. It is time to focus our attention on more pressing concerns facing us today.

I am a believer in free enterprise, and I do not think Microsoft should be penalized for doing its job well. That is the goal of every American worker. This settlement finally ends three years of litigation and will allow Microsoft to continue designing and marketing their innovative software, while no longer focusing on litigation. This settlement was reached after extensive negotiations, and Microsoft has agreed to terms that extend well beyond the original terms of the lawsuit, just for the sake of ending it. For example, Microsoft will now be required to share information regarding the nature of the internal workings of its Windows operating system, allowing them to place their programs on it. Personally I consider this akin to charging the consumer for e-mails because the post office is losing money...paying a competitor because they aren't smart enough to compete.

During these difficult times, one of our highest priorities should be to stimulate our businesses so as to strengthen our lagging economy. Please support this settlement.

Sincerely,
Victoria Barkan

MTC–00027901

From: Gordon Slipko Sr.
To: Microsoft ATR
Date: 1/28/02 12:00pm
Subject: microsoft settlement

I as an american can not beleive that you keep harassing a company that has changed America for the better. It hasn't hurt anyone, but today in our justice system we allow everyone to sue everyone. Its all about money money mnoey, 1st it was one lawsuit, then another,now everyone wants to get in on the pie,because they know microsoft has the money and until they get their hands on it this will just keep continuing. LETS GET ON WITH OUR OTHER PROBLEMS IN THE WORLD TODAY AND LEAVE MICROSOFT ALONE. ENOUGH IS ENOUGH. THANK YOU ROSE MARIE SLIPKO thank u and please confirm this email, have a nice day gordon

MTC–00027902

From: Les Dunaway
To: Microsoft ATR
Date: 1/28/02 12:00pm
Subject: Microsoft

I have been in the business since 1964. I saw the creation of Microsoft and have seen their business practices over the years. Microsoft exists only because of their dishonest and immoral business practices. They have never produced even on product that could have succeded in an open market.

Les Dunaway

MTC–00027903

From: jane wellens
To: Microsoft ATR
Date: 1/28/02 12:00pm
Subject: Microsoft Settlement

I am a shareholder of Msft stock and think this is time to put an end to the trials and settle this at once so we can all get back to business. This is very disruptive to the business climate that is dealing with a whole new set of issues themselves since 9/11. Jane WellensGet more from the Web. FREE MSN Explorer download : http://explorer.msn.com

MTC–00027904

From: Alonzo Gariepy
To: Microsoft ATR
Date: 1/28/02 12:00pm
Subject: Microsoft Settlement

To Whom it May Concern:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. An important point to be made regarding the large amount of comment that you have received regarding this case is that the many points made must be taken very seriously, although some are not as well presented in these emails as they might be with more time or by other people. I doubt that any quick resolution to this case will do justice to the many issues raised; the answers are not obvious and the exact solutions are not necessarily ones that have been considered by the DOJ up to this point.

Microsoft continues to roll over software companies by incorporating into Windows features that have been developed by other companies as their main product. One continually comes back to this issue of what Microsoft should be allowed to make part of its Windows product. What is needed is some philosophical (and eventually legal) foundation for the consideration of this issue. Despite work on such products as Wine (a linux Windows emulator) Microsoft has a defacto monopoly. Ironically, the hardware involved is one of the most diversely manufactured devices in history. One of the reasons this continues to be so is that Microsoft puts a huge amount of work into making sure that Windows will run on all the different PCs that are manufactured with their huge diversity of devices, and Microsoft includes a great number of drivers for all these devices.

Regardless of whether one can ever forsee an alternative to Windows, the problem is that every time Microsoft adds a feature to Windows, that feature becomes part of its monopoly. The marginal cost for the consumer is perceived as zero, and the originator of the feature in some other company can no longer compete. A perhaps too simple example is that the latest Windows OS supports ZIP files as virtual folders, saving users from having to acquire another piece of software to open ZIP files.

Many such pieces of software are free or shareware, but shareware is a valid marketing model and its developers deserving of protection as anyone else. The greatest example of this would probably be Netscape.

Perhaps what is needed is some kind of patent protection. Once someone else has made an add-on for Windows to perform a certain task, Microsoft (and perhaps others) cannot add that feature to Windows without paying some kind of royalty. Nothing else strikes me as a reasonable long term solution to this problem. As an experienced software developer, I don't generally believe in the concept of patenting software, but in this particular case, it appears an ideal solution.

Sincerely,
Alonzo Gariepy
(ex microsoft software developer)
alonzogariepy@mac.com

MTC–00027905

From: Shu Jan Lin
To: Microsoft ATR
Date: 1/28/02 12:01pm
Subject: Microsoft Settlement
Shu-Jan Grace Lin
204 Christopher Lane
Ithaca, NY 14850–1715
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to support the recent settlement between the US Department of Justice and Microsoft. I think the lawsuit has gone on for way too long now and is becoming a waste of taxpayer dollars. The government interferes with free enterprise too much and should start facilitating business instead of hindering it.

I care about what is fair for the public and I think that although very harsh, the settlement is in the best interests of the public. Microsoft will make some concessions that include disclosing interfaces internal to Windows" operating system products, granting computer makers broad new rights to configure Windows, and forming three-person team to monitor settlement compliance.

I hope that your office does what is best for the American public, not what is best for politicians, lawmakers, or big business that can't win in the market. Please make the right choice and finalize this settlement. Thank you.

Sincerely,

MTC–00027906

From: Thomas Winzig
To: Microsoft ATR
Date: 1/28/02 12:02pm
Subject: Microsoft Settlement

The problem with the Microsoft settlement is that it leaves them intact. If you want to really open up the computer industry to newcomers, and punish Microsoft for their illegal activities, you should break them up into five or more groups. An operating system company; an applications company; an internet services company; a hardware company; a gaming/entertainment company. If you are not willing or able to do that, then consider the following:

FAIR OEM CONTRACTS

Force Microsoft's OEM licensing deals to be fair. They killed Be, Inc. and many other companies that offer choices to consumers with these OEM deals. Specifically, Be was unable to deliver it's well-regarded OS via new PC's, because the OEM's would not (could not) bundle it on their new PC's, due to Microsoft's contracts. Be even offered to give their OS to OEM's for FREE to try and break into the market. Only Hitachi risked the wrath of Microsoft, and even then, they were not able to show the installation of BeOS to the end-user (due to Microsoft's license restrictions).

Microsoft should be forced to come up with a fair contract for an OEM which does not provide a BARRIER TO ENTRY for other OS companies, and which is the same for all OEM's.

DISTRIBUTE (BUT NOT NECESSARILY "OPEN") WINDOWS SOURCE CODE

Force Microsoft to sell their operating systems with the source code. I'm not talking about Open Sourcing their OS—just provide the source code with the copy of Windows that was purchased. The source code license would restrict distributing the source code, but would NOT restrict developers and consumers from being able to create applications that integrate with Windows just as well as Microsoft's applications. It would also allow developers and consumers to do things like: create patches to remove MSIE entirely; find and fix bugs in security before Microsoft can, etc. But the primary purpose is to allow third parties to be able to develop competing applications that integrate well with Windows.

COMPLETELY DETAIL ALL MS OFFICE DOCUMENT FORMATS

Force Microsoft to release the full documentation and all related source code for their Office document formats. Microsoft has used the full force of its monopoly to get people hooked on Office products. Now that Office has a monopoly on the production suite market, the barrier to entry is maintained because new office suites cannot adequately read/write the MS Office documents. If the full documentation and source code for those document formats was released (and required to be updated for each new version of these formats), then third parties could provide read/write abilities in their competing office suites, and consumers would have a choice. As it is now, most people HAVE to use Office, because their friends and co-workers do, and they must be able to share documents with them.

Thomas Winzig
8187 Sully Dr.
Orlando, FL 32818
407-293-7087

MTC-00027907

From: Mikal Mathisen
To: Microsoft ATR
Date: 1/28/02 12:04pm
Subject: Microsoft Settlement
11753 Sunrise Drive NE
Bainbridge Island, WA 98110-4349
(206) 842-5154
January 28, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement issue. I support Microsoft and I support the settlement that was reached in November. I believe it will serve in the best public interest to end this costly litigation battle.

This settlement is fair and reasonable. Microsoft has agreed to all terms and conditions, including: disclosing information about certain internal interfaces included in Windows and designing future versions of Windows to make it easier to install non-Microsoft software. A technical oversight committee has been created to monitor Microsoft compliance.

During these difficult times, one of our highest priorities should be to boost our lagging economy. Restricting Microsoft will not accomplish this end. Please support this settlement so this company can get back to the business of creating innovative software, which will benefit all of us. Thank you for your time.

Sincerely,
Stephanie Mathisen

MTC-00027908

From: Chris
To: Microsoft ATR
Date: 1/28/02 12:03pm
Subject: Microsoft Settlement

It is apparent that Microsoft violated the law and the spirit of the law regarding antitrust regulation. The Bush administration's settlement proposal is totally INADEQUATE. It does not do enough to eliminate Microsoft's monopoly and force changes in the software market.

MTC-00027909

From: fred tenore
To: Microsoft ATR
Date: 1/28/02 12:04pm
Subject: Microsoft

I don't side with Microsft,they will do it again Now how is it he came by windows. now how is it microsoft wound up in court, are you goiung to let it happen again. So attack! repeat attack! Fred Tenore

MTC-00027910

From: Charles Faulkner
To: Microsoft ATR
Date: 1/28/02 12:06pm
Subject: Microsoft Settlement
Charles Faulkner
647 Brookfield Avenue
Brookfield, MO 64628-1206
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

In this era of bad economic times, the news of a proposed settlement between the federal government and Microsoft was most welcome. I just hope that the settlement is not unfairly torpedoed during the public comment period.

This settlement was not proposed by Microsoft merely as a way of extracting itself from this litigation. The settlement contains a number of substantial changes in Microsoft's business practices and the proposal has met the preliminary approval of a court- appointed settlement mediator. The most significant concession in my opinion is Microsoft's agreement to grant broad new rights to computer makers to configure Windows operating systems so as to promote competition from non- Microsoft software programs. Both competitors and consumers should applaud these moves.

Please don't allow all of the hard work put in reaching this settlement to have been a waste of time. Thank you for your consideration.

Sincerely,
Charles Faulkner

MTC-00027911

From: Decker F Wong-Godfrey
To: Microsoft ATR
Date: 1/28/02 12:01pm
Subject: Microsoft Settlement

Dear Sir or Madame,

I am writing as a concerned citizen about the proposed settlement with Microsoft. As a professional in the industry, and as a general computer user, I do not believe that the proposed settlement is in the public interest for a number of reasons. These are a few:

* The PFJ doesn't take into account Windows-compatible competing operating systems

* Microsoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry.

* The PFJ Contains Misleading and Overly Narrow Definitions and Provisions

* The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered.

* Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems.

* Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems.

* The PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

* The PFJ allows Microsoft to discriminate against small OEMs— including regional "white box" OEMs which are historically the most willing to install competing operating systems—who ship competing software.

* The PFJ as currently written appears to lack an effective enforcement mechanism.

Thank you,
Decker F. Wong-Godfrey
1006 S 312th St #233
Federal Way, WA 98003

MTC-00027912

From: Simon Lewis
To: Microsoft ATR

Date: 1/28/02 12:05pm
Subject: Settlement Comment

I do not agree to the terms of the pending settlement. I believe in the market place and competition, by requiring Microsoft to release all of its API's. That way, companies can innovate new products because they will know how to make them work on the monopoly platform, rather than having to ask Microsoft's permission. No-one owns the English language, and no company should be allowed by *unlawful* conduct) to build a monopoly on what is essentially a computer language.

MTC-00027913

From: William Trueman
To: Microsoft ATR
Date: 1/28/02 12:07pm
Subject: Microsoft Settlement

I wanted to comment on the microsoft settlement that has been reached. Microsoft needs to be punished more that this settlement proposes for its anticompetitive, anti-innovative practices. Due to its monopoly there has been a squash on Operating Systems competition due to the inability for other superior OSes to compete with Microsoft Windows. These operating systems such as Macintosh OS, need to be given a chance. This settlement does not provide enough to resolve the problem of the Microsoft monopoly and its ranging effects on competition.

Will Trueman
Macintosh and Windows user and owner

MTC-00027914

From: amford@american.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 12:07pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Ms. Hesse,

As an educator and working professional in the Computer Industry I thank you for the opportunity to express my concerns regarding the Microsoft Settlement. While unqualified to speak on the legal merits, my opinion on the affects on the computer industry may be of some value.

Microsoft has always been an aggressive marketer of their technology and vision of the computer in business and home. While I respect their right to do so, I disapprove of some of their tactics and the long term consequences of their clear and pervasive market monopoly. Netscape was only one of their most visible victims. Do not forget WordPerfect or Lotus 1–2–3, both overcome, in part, by their inability to operate as effectively on Microsoft operating systems as their Microsoft analogs, Word and Excel.

Because Microsoft has developed this strategy of supporting their internal developers, the marketplace is less able to provide innovative new alternatives. The most recent example is the decision by Microsoft to not support the developing standards for JAVA programming, thus ensuring another round of incompatibility issues with applications developed using non-Microsoft tools. In other words, Microsoft is saying "Buy our development tools if you want your applications to run as well as possible on our operating systems".

The critical distinction is between the Operating System and the Application domains. A forward looking option is to enforce transparency on the operating system; that they publish all the specifications, functions, and procedure calls available to any application. This will ensure as level a playing field as possible, so that any application developer will be able to utilize any feature of the system as effectively as a Microsoft application developer.

With regard to counter arguments that this will compromise intellectual property or corporate secrets, their copyright will still be protected under U.S Law. They will have the remedy of the courts for any perceived violation of their rights, and they will be treated as any other author with regard to the fruits of their labor.

While some remedy is necessary, in my opinion, to balance this market influence, I disagree that the firm should be broken up. It is a complex and possibly intractible problem with which you are faced. The advantages Microsoft has provided to all of us in developing, standardizing ,and popularizing personal computer technology cannot be discounted. But some enforcement of checks and balances must be found a reasonable course. The current proposal may be unenforcable and may provide opportunities for Microsoft to avoid compliance or exempt itself from the provisions.

I encourage you to hold open hearings and permit input from any interested party, not only the competitors and the plaintiffs in the case. Provide a forum for robust discussion of opportunities for cooperative change.

Microsoft isn't going anywhere; decisions of this magnitude deserve open dialog, consideration of many differing perspectives, and careful deliberation.

Thank you for taking the time to consider these comments. If you have any questions please contact me at your convenience.

Sincerely,
Alan M. Ford
Instructor
Computer Science & Information Systems
American University
4400 Massachusetts Ave., NW
Washington DC 20016–8116
phone: 202.885.2283
fax: 202.885.1479
email: amford@american.edu

MTC-00027915

From: Joseph Haefeli
To: Microsoft ATR
Date: 1/28/02 11:56am
Subject: Microsoft Settlement

To Whom it May Concern:

After reading about the Microsoft antitrust settlement, I must comment that I do not feel it is in the best interest of the US or the US school systems to give Microsoft yet another opportunity to practice their bombastic, destructive practices. Giving Microsoft the opportunity to further their power via their so-called giving of technology to schools just serves to erode in their favor one of the few remaining fields where they do not currently have a monopolistic grip. Additionally, the amorphous nature of this part of the agreement leaves schools vulnerable to onerous license agreements in a few years.

Thank you for consideration of these comments.

Joseph Haefeli
Director of Computer Resources
College of Performing & Visual Arts
University of Northern Colorado

MTC-00027916

From: Kimberly Brosan
To: Microsoft ATR
Date: 1/28/02 11:22am
Subject: Microsoft Settlement

Dear Ms. Hesse,

I am writing in regard to the proposed settlement in the Microsoft Antitrust case. I feel that there are tremendous problems with the proposal and support the open letter written by Dan Kegel. There you will find my signature along with many many other people who are also concerned by this proposal.

I also support Dan Kegel's essay regarding the problems and difficulties that the proposed settlement will create. I hope that the Department of Justice will seriously reconsider the problems with the plan and work to revise it so that it will be of benefit to computer users.

If Microsoft is not reined in and given more stringent guidelines to follow, they will continue to create products which don't work and there won't be any alternatives available. I am glad that there are alternative operating systems available currently, but they deserve just as much access to the market as Microsoft has.

Thank you for your time and consideration of this matter.

Sincerely,
Kimberly A. Brosan

MTC-00027917

From: Brubaker, Tony
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 12:07pm
Subject: Microsoft Settlement

Honorable Judge Kollar-Kotally,

I am writing to express concern regarding the proposed Microsoft anti-trust settlement. The settlement does not adequately resolve the damage caused by Microsoft's monopolistic practices and does not provide adequate guarantees that Microsoft will not continue to engage in monopolistic practices.

Even though the courts have determined that Microsoft violated the U.S. anti-trust laws, the proposed settlement would allow Microsoft to retain the profits from its illegal practices and does nothing to provide remedies for the many companies that were negatively impacted or put out of business by Microsoft's illegal activities.

Furthermore, Microsoft is essentially being asked to police itself, so there is no assurance that Microsoft will not continue to engage in illegal practices. Microsoft can largely carry on as it had before, and the government is therefore implicitly endorsing Microsoft's monopoly.

I ask you to reconsider the proposed settlement and find another solution that addresses the issues that are mentioned above. Thank you very much.

Sincerely,
Anthony Brubaker
13 Viburnum Court
Lafayette Hill, PA 19444

MTC-00027918

From: rcolli23@csc.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:56am
Subject: Microsoft Settlement

Dear Mr. Ashcroft,

That Microsoft has maintained a very strong position in the IT marketplace is a given. That Microsoft has done so unfairly is not. Microsoft has always maintained its position of strength through business strategies that simply make good sense. I am not so sure that these strategies warrant this federal lawsuit.

That the lawsuit suddenly collapsed into a settlement rather makes my point. Even though the terms of the settlement are certainly not favorable to Microsoft, it has the advantage of ending the suit. That Microsoft will be forced into a position of greater cooperation with its OEMs and third party software developers is good. However, that they will be forced to give up some more of its source code is not. Since both sides have agreed to these terms suggests that the settlement will be more constructive than the suit would have been.

I am writing to add my own support to the settlement. I am hopeful that any additional court action on this matter will be unnecessary.

Sincerely,
Ray Collins
Senior LAN Administrator
Computer Sciences Corporation

MTC-00027919

From: Tim Spink
To: Microsoft ATR
Date: 1/28/02 12:08pm
Subject: Microsoft Settlement

Honorable Judge Kollar-Koteily, As a management student at Boston University, the settlement between that US Justice Department and Microsoft (PFJ) disturbs me.

To begin with, the PFJ still allows Microsoft to operate as a monopoly through its Windows operating system. In addition to giving permission to Microsoft to continue breaking anti-trust laws, PFJ does nothing to punish the company of its monopolistic practices from years past.

Microsoft has routinely used monopolistic strategies to gain a larger market share with little regard to competitive practices defended in the American legal system. Not only has superior software been either absorbed or destroyed by the company, but the chance of other companies moving competition further in the industry has been effectively terminated by Microsoft and this settlement. In fact, the PFJ does little to enforce the weak restrictions demanded of Microsoft.

To sum up, I'm deeply concerned the recent settlement does not regulate Microsoft's monopolistic tactics, nor does it punish the company's disregard for established law. I request that you do your best to overturn this settlement.

Respectfully,
Tim Spink
Box 5778
140 Bay State Road
Boston, MA 02215

MTC-00027920

From: T Bird
To: Microsoft ATR
Date: 1/28/02 12:09pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I am objecting to the proposed final settlement that the DOJ and MS have agreed upon behind closed doors. Not only does this go against the findings by the U.S. Court of Appeals but, in facts allows MS to go unpunished for past wrong doings.

In addition, the Proposed Final Judgment permits Microsoft to continue its predatory practices at the expense of other companies. Thus, my main argument encompasses the preservation of healthy competition and the promotion of diversity with in the business sector. For a single entity, such as MS, to control 80 to 90 percent of the market for PC operating systems, e-mail readers, and office productivity software (which undoubtedly can spread viruses) is clearly a significant risk to security. To then allow that monopoly to actively attempt to drive out its remaining competition would hardly be in the public interest.

Therefore, I submit to you in all fairness that the Proposed Final Judgment will not solve the Microsoft issue.

ALL THE BEST,
DR. JIMENEZ
1786 LE BEC Court
LODI, CA

MTC-00027921

From: Justin Jones
To: Microsoft ATR
Date: 1/28/02 12:09pm
Subject: Microsoft Settlement

Dear Mr. Ashcroft,

Today I write to encourage the Department of Justice to accept the Microsoft antitrust settlement. This issue has been festering in the courts for over three years now and it is time to put an end to it. A settlement is available and the terms are fair, and I for one would like to see the government accept it.

In order to put this issue behind them Microsoft has agreed to many terms. They have agreed to design future versions of Windows to be more compatible to non-Microsoft software. They have also agreed to change several aspects of the way that they do business with computer makers. Microsoft has even agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit. Microsoft has given a lot to be able to put this issue behind them, I would like to see the government accept it.

Microsoft and the technology industry need to move forward. The only way to move forward is to put this issue in the past. Please accept the Microsoft antitrust settlement.

Sincerely,
Justin Jones

MTC-00027922

From: Sarah E Kleinknecht
To: Microsoft ATR
Date: 1/28/02 12:08pm
Subject: Microsoft Settlement

Dear Judge,

I would like to express my concern about the case against Microsoft. Microsoft has become a monopoly on the operating system on computers. Microsoft needs competition so that we the American people can receive the best products. In the case, the PFJ will allow Microsoft to continue as a monopoly which is not right! Thank you for your consideration.

Respectfully,
Sarah Kleinknecht
184 Earhart Hall
West Lafayette, IN 47906
(765) 495–6126
CC:dkleinkn@yahoo.com@inetgw

MTC-00027923

From: Mark J Antlitz
To: Microsoft ATR
Date: 1/28/02 12:11pm
Subject: Microsoft Settlement

In my opinion the government is bullying Microsoft. Our taxes would be much better spent going after companies such as Enron and friends. It is quite clear to me as well as any other educated individual that our government as well as corporate America wreaks with corruption. It is time to focus on this very real problem and stop attacking the innocent in an effort to hide the guilty.

Sincerely,
Mark Antlitz
mja57@prodigy.net

MTC-00027924

From: Stephen Yoakum
To: Microsoft ATR
Date: 1/28/02 12:10pm
Subject: Microsoft settlement

let it go cut some slack, Accept the offer of Microsofts pack further litagation will only enhance the position of a very few.

MTC-00027925

From: david levitt
To: Microsoft ATR
Date: 1/28/02 12:12pm
Subject: Microsoft Settlement

The proposed settlement will not end abusive, anti competitive acts by Microsoft. Any suitable remedy should include as a minimal subset: Public disclosure of all file, disk, network protocol and other data interchange formats used by Microsoft operating systems and programs. This information to be sufficient to allow seamless translation to and from Microsoft file formats, and seamless interoperation with Microsoft software.

Full disclosure of all Application Programming Interfaces. Microsoft applications forbidden to use interfaces unavailable to independant software developers.

No software discounts other than quantity purchased. Uniform, publicly available price schedules. Microsoft product licences to be made transferrable and vendable, the same way physical products are treated [e.g. textbooks, novels and other common publications].

No penalties may be asesed by Microsoft against computer manufacturers, software developers or end users for using non-

Microsoft software or supplying it as an option.

Computer manufacturers to have free reign to sell the hardware and software that they deem approriate, including systems without an installed operating system, or systems operable with multiple operating systems.

Microsoft software installations are not permitted to disable currently functional software. Microsoft to be forbidden to announce products prior to 90 days before shipment to customers.

Any group monitoring terms of the settlement to have the right and duty to provide public disclosure.

David Levitt
19 Doral Lane
Bay Shore, NY

MTC-00027926

From: Terri Tenore
To: Microsoft ATR
Date: 1/28/02 12:13pm
Subject: microsoft

I don't side with Microsoft, how do you think he came up windows, why is it Microsoft was in court! "they will do it again". attack repeat attack

Fred Tenore

MTC-00027927

From: caos vida
To: Microsoft ATR
Date: 1/28/02 12:12pm
Subject: Microsoft Settlement

I very much feel that Microsoft has too much control of the market and this needs to be corrected. I belive that linux and any other operating system should have an fair chance to gain access to our computing world and be able to coexist. This is no different than the AT&T breakup and the soloution to that worked very well I think in retrospect.

kevin j brennan
rd#2 box 148
frankford de. 19945

MTC-00027928

From: Roger Mullan
To: Microsoft ATR
Date: 1/28/02 12:12pm
Subject: Microsoft is an essential part of the recovering IT industry

To whom it may concern

I am a computer programmer and I feel that a whole and strong Microsoft , as an industry leader, is an essential part of the recovering IT industry. Some of Microsoft's tactics may be less than honorable but that is business , the software and standards they produce are essential to millions of people's business and social lives. I appeal to you to, please not allow any group or individual , to threaten the evolution of the IT industry and the progress that Microsoft is making in all aspects of there newly innovated standards and software.

Any breakup of Microsoft would put the industry back, at least 10 years and who knows how long it would take to recover,affecting the work and recreation of millions.

I trust you will take these facts into account, when making your judgment.

Yours truly
Roger K Mullan
IT Consultant

CC:Microsoft ATR

MTC-00027929

From: David Taber—DOTnet Consulting
To: Microsoft ATR
Date: 1/28/02 12:13pm
Subject: Microsoft settlement citizen/competitor input

I understand that there is still time to submit public comment/ recommendations on the Microsoft antitrust settlement.

Summary:

* The software industry is so complex, and Microsoft so dominant, that administrative and procedural remedies will be a complete waste of time for the government and Microsoft itself. There are too many loopholes and back- doors to ever regulate the company as structured.

* Splitting the company up would work to an extent, but over the long run would simply create two or more monopolies, rather than one big one.

* Perversely, the industry actually prospers when there is a near-monopoly to drive de facto standardization. The software industry does *not* thrive on the chaos of small players. So the industry would be best if there were a quasi monopolist that didn't do economic harm.

* The only way to actually neutralize a monopoly in the software industry is to fundamentally alter the economics of the monopolist. With the incentive gone, the behavior and damage to the industry would fade away.

* The operating systems market for Intel-based PCs is brain-dead: it exists, but it does not function in any meaningful sense. So there is an opportunity to neutralize the bad effects of the Microsoft monopoly.

* The government can use the argument of eminent domain to declare the PC OS "marketplace" as property that will be taken over in the public interest. The government then grants this "marketplace" as a dead-zone in which only Microsoft can be a commercial supplier. The government pays Microsoft one dollar a year, and the fees paid by PC vendors for their operating systems goes to the US treasury. (An alternate form of this recommendation is just to put Windows into pure open source, where many vendors can work to make the system more secure and reliable while no vendor can charge for the product.)

* Microsoft thus has an incentive to keep their OS innovations going (to make their applications business prosper, but they get no monopoly profits from the OS. They also have little power over the PC vendors or application vendors.

Now that I've written the "summary," I'll spare you the details.

Regards, and good luck.
David O. Taber
DOTnet Consulting
555 Bryant Street, Palo Alto CA 94301
voice: +1–650–326–3405 (rolls to voicemail)
page: dtaber-page@forte.com (keep your message just one line ! !)
fax: +1–650–326–1475
mail: DOT@D-O-Tnet.com
ICQ: 138661538
www.D-O-Tnet.com

MTC-00027930

From: Raj
To: Microsoft ATR
Date: 1/28/02 12:13pm
Subject: Microsoft Settlement

Judge Kollar-Kotally,

I wish to express my personal perspective on Microsoft vs. U.S

As an 8th grader in Rantoul, Illinois I have concluded and noticed many disturbing views of Microsoft's control of the software industry or as we would say monopoly. I really don't think its fair Microsoft is a monopoly because of the prices it sets on software. $200 on software program which I know it would be about $50 if there was competition.

I have learned in school about the Sherman Anti-Trust Act was too weak or very ineffective because of big companies bribing high officials which I think that Microsoft is doing. I might not have any proof but I know that Microsoft is at least violating some part of the Sherman Anti-Trust Act which I think is really wrong. If we let one company do this then slowly more and more companies will start doing this in other industries.

Although I like the stuff Microsoft makes the thing is that they set the prices to high.We all know that there are many more companies competent enough to make such software if given a chance. That way people will have more variety. Microsoft is just taking it easy with coming out with not so late and just adding a few adjustments to their software at their own price and pace they would like to set it at. If there are more companies the quality of the product will become better and that way many companies will join in to make the best quickly. The prices will be low and the people will be content.

Thank you
Sincerely Yours,
Yashua Bhatti

MTC-00027931

From: Bob Petolillo
To: Microsoft ATR
Date: 1/28/02 12:14pm
Subject: Microsoft Settlement

Please see the attached letter concerning the lawsuit against Microsoft.

Bob Petolillo
Enterprise Data Solutions
148 Basil Court
Lawrenceville, GA 30043–6126
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 26, 2002

Dear Mr. Ashcroft:

As a member of the IT industry, I welcome an end to the Microsoft anti-trust case. This case has had a debilitating effect on the IT industry and the economy in general. If fair competition is the desired end to the government's actions, competition is not encouraged by draining the energy of one competitor. You do not get a better race by hobbling the favorite. Howsoever, a means to end this case exists in the proposed settlement agreement before you now for consideration. It should be adopted and this case resolved. The settlement fairly deals with the positions of all the parties. Microsoft, by its terms, will remain one sole corporation, but will take certain actions to dilute its monopolistic influences in its industry. Microsoft will now configure its Windows platforms to invite the use of non-Microsoft software. It will no longer contractually constrain computer manufacturers to the nearly exclusive use of Microsoft products in licensing agreements. It will submit itself to ongoing review by a new federal oversight committee. It has committed itself to a completely new method of doing business entailing an active effort to foster competition. Microsoft deserves to continue to thrive. It is an elemental force in perhaps our nation's most important industry. Please support this settlement.

Sincerely,
Robert Petolillo

MTC-00027932

From: Kevin McDaniel
To: Microsoft ATR
Date: 1/28/02 12:11pm
Subject: Microsoft Settlement

Distiguished Gentlemen,

Please accept my attached letter of opinion for your consideration on the current Microsoft Settlemt Case. I am hopeful my opinions will be mirrored in policy by the party and administration I so adamantly support.

Respectfully,
Kevin McDaniel
President
Arrival Technologies Inc.
415 Security Square
Gulfport, MS 39507
228-314-1100 ext. 101
228-323-1166 cell
228-897-1109 fax
kmcdaniel@arrivaltech.net

Arrival Technologies, Inc.
Your Single Source for Business Technology
January 16,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I suspect the Justice Department offered to settle its antitrust lawsuit against Microsoft due to your taking over as head of the agency. As a reasonable man you probably recognize the Clinton Administration's antitrust suit against Microsoft, and their intended break-up of the company, jeopardized software innovation and standardization. This scenario would seriously hinder the United States'' competitive edge and is why the settlement should be finalized without further ado.

If one accepts the premise that Microsoft is a monopoly, which I do not, the settlement will cure the problem. The settlement speaks for itself: 1) Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system; 2) Microsoft has agreed not to retaliate against the software developers who make or promote the software that competes with Microsoft. While these are only two tenets of the 22 pages of the settlement, they alone should make Microsoft's competitors happy because they will inhibit anti-competitive behavior. I find it curious that certain opponent's of Microsoft reject the settlement and refuse to sign on to it. It is unfortunate; they should not be allowed to derail the process.

I am a small business owner in South Mississippi who specializes in computer networking and software support. It is my steadfast belief that the free market should be allowed to determine which products are bought and sold by professionals in the industry. Microsoft offers superior products and this is why they possess the market share they do. This lawsuit has not only affected my business but also my investments in the market. It is my hope that the government will accept the settlement in as timely a manner as possible so our industry can begin to heal from this unnecessary intrusion into the free market.

Sincerely,
Kevin McDaniel
President
Cc: Senator Trent Lott
415 Security Square, Gulfport MS 39507
228-314-1100

MTC-00027933

From: Neal Lindsay
To: Microsoft ATR
Date: 1/28/02 12:15pm
Subject: Microsoft Settlement

To Whom it might concern:

I am a network administrator for a small engineering company, and I have been working with computers for half of my life—usually on Microsoft operating systems. I have had the chance to use other operating systems (such as various Unices and Linux) and many have signifigant advanced features that Windows (even XP) has not come close to. Microsoft has the money to implement such advanced features, but it does not have to because its customers are locked into its operating system. This is probably the single largest problem plaguing the computer world right now, and this case has the opportunity to force Microsoft to open up and let in any companies brave enough to challenge it. That being said, I do not believe that the proposed Microsoft settlement goes far enough. The idea of making Microsoft open up its APIs is a good one, but it is weakened by the restrictions placed upon it. For example, any scrutiny of Microsoft's code is bound to reveal security holes (Microsoft software is traditionally full of them). Microsoft would almost certainly use this as an excuse to not open up more than a token amount of what would be needed for a company to compete with them.

This case is complicated from both a legal standpoint and a computer technology standpoint—to the point that almost noone can understand the proposed settlement. You are not likely to find an impartial voice in all of these public comments—everyone has a stake in the outcome. But please, don't let Microsoft off with just a slap on the wrist. They have continued to violate anti-trust laws even as they were in trial for breaking those same laws. They need some sort of serious penalty AND need to take steps to reverse their ill-gained market shares in many different markets.

Thank you.

Neal Lindsay
Network Manager

MTC-00027934

From: O B
To: Microsoft ATR
Date: 1/28/02 12:15pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I am filing my objection to the Proposed Final Judgment in the Microsoft case. In the last several weeks, close friends and relatives have brought this proposed settlement to my attention and in all honestly I dont like what I see. I cant possibly imagine the Department of Justice throwing out court findings that indicts Microsoft for all illegal activities both past and present. First and foremost the Proposed Final Judgment grants MS a government mandated monopoly that threatens to destroy any and all serious Microsoft competitors. Im all for free enterprise and what it symbolizes. To strike a huge blow against the spirit of free enterprise, one need not look any further than to allow MS to monopolize every sector, whether it is the gaming industry or the software industry, by eradicating most if not all competitors. By all means diversity is one essential ingredient in maintaining a healthy industry and more importantly a thriving economy.

I submit to the Court that the Proposed Final Judgment does not solve the Microsoft issue.

Respectfully,
ERLIN JIMENEZ
1786 LE BEC COURT
LODI, CA 95240

MTC-00027935

From: RDRoach22@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:16pm
Subject: Re:Moicrosoft Settlement

I favor having al lof the states settlle the Microsoft cases in the manner thant has alreadyh been done by the other states. It is time to bring these actions to a conclusion.

Sincerely.
Robert D Roach Jr

MTC-00027936

From: Bev
To: Microsoft ATR
Date: 1/28/02 12:16pm
Subject: antitrust lawsuit

Microsoft is a creative, tough company which may, or may not, have had some anti-trust practices in the past, but it is time to move on. The company has worked hard to develop products that people need and use. Just because some other companies are unable or unwilling to work as hard and creatively, they should not be allowed to succeed by bringing Microsoft down. This company has done much for the economy and needs to be allowed to move on past this lawsuit. Please find in favor of the Microsoft settlement as presented.

Thank you,
Bev and Morris Crump
6105 284th Street NW
Stanwood, WA 98292

MTC-00027937

From: George J. Papanicolaou

To: Microsoft ATR
Date: 1/28/02 12:15pm
Subject: Microsoft Settlement

To Whom it May Concern:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. The proposed penalty for Microsoft's violations is entirely prospective and the predictability of the penalty to effect a sufficient diminishment of Microsoft's anticompetitive behavior is completely inadequate, including being overly complex and to vague, especially in light of published comments by Microsoft CEO Steve Balmer after Microsoft's conviction that he does not even know what a monopoly is. Furthermore, Microsoft has failed to live up to previous agreements. In addition, Microsoft did not report its extensive lobbying of Congress or a White House meeting last summer between its chief executive, Steve Ballmer, and Vice President Dick Cheney. This is a violation of the Tunney Act itself.

What would make the settlement fair? Divide the company into Applications and System Software entities with a firewall between them. Had politics not interfered, this approach was the only logical choice. Failing this reasonable approach, other remedies, although half-measures are required.

1) Open up all Windows APIs to all interested parties with thorough documentation and standardization. Exorbitant penalties would be made if either the APIs are not fully documented or if non-open APIs are used by Microsoft.

2) Open up all Microsoft Document Standards and publish them immediately because market dominance has created a defacto standard for such files. In addition, the use of a non-Microsoft standards board, modeled on the W3 organization for web site documents, could insure that office as well as other documents generated by Microsoft applications would be fully usable, readable, and alterable by other programs. This would allow some competition in the office suite industry and hopefully prevent the use of "Microsoft only" codes in browser or office apps that prevent others from having a choice in selecting an office suite. Also, features that allow a user to assign the opening of programs with other apps through a central registry would be useful, allowing an individual to easily bypass Microsoft Products and Services.

3) Microsoft should be required to produce Office Software for the Macintosh system as long as Apple remains in business. It should not be able to again threaten Apple with canceling further Mac Office development. In addition, Microsoft must be required to make the Mac Office Suite with the same features and document transparency as the Windows version. They must also not hobble the software in any way to make the Windows version appear faster. As Mac Office is a profitable venture for Microsoft, failing to manufacture it would be indicative of a monopoly threatening a small rival.

In addition, software which can interact with Microsoft server products, such as Outlook, should be made available for the Mac, including subsequent operating systems, and have all features available in the Windows client.

4) In order to give more choices to consumers, either Microsoft should create a Linux version of their Office and Browser software or should license their software and/or "look and feel" to anyone wishing to produce software for the Linux system. This would keep Microsoft from keeping offices and homeowners away from alternative operating systems. Microsoft used to offer Word for Unix systems with far fewer users than Linux. It cannot argue that as a company with monopoly powers and rich coffers that it isn't feasible.

As someone who has been using computers and programming them for seventeen years, I have seen little innovation from Microsoft. The advances in the field have been due to smaller players that have been crushed by Microsoft. Currently, Microsoft has monopoly powers and is seems less concerned with innovation, reliability, and security, than with market domination and extension. Our national security and economic competitiveness requires a stronger action than has been proposed by the Justice Department.

Regards,
George J. Papanicolaou, PhD.

MTC-00027938

From: Fred Tenore
To: Microsoft ATR
Date: 1/28/02 12:16pm
Subject: Microsoft

I don't side with and don't trust Microsoft. They will do it again, so attack! repeat attack!

Frederick Tenore

MTC-00027939

From: Adam Christian Smith
To: Microsoft ATR
Date: 1/28/02 12:19pm
Subject: Microsoft Settlement

I would just like to add my two cents on how I personally have seen Microsoft quell, steal, or destroy creativity in the programming and software market using proprietary language. Secondly, they are dirty as hell. They leverage there power and when questioned, they act like they can1t "innovate" if they are restricted in any way. Truth be told, Microsoft has never "innovated" a thing in their history. It has all been direct copies, cheap rip-offs of other platforms, or buyouts of small companies again putting them in the position to dominate a market.

Thanks,
Adam

MTC-00027940

From: jerldon
To: Microsoft ATR
Date: 1/28/02 12:20pm
Subject: Fwd: [MICROSOFT SETTLEMENT]

DEAR SIR

I AM A CONCERNED CITIZEN WHO BELIEVES THAT THE CLINTON ADMINSTRATION STARTED THIS ANTITRUST STUFF AGAINST MICROSOFT SIMPLE TO ALLOW THEIR ATTORNEY FRIENDS TO MAKE A LOT OF MONEY IN LEGAL FEES AND HAd nothing to do with microsoft being A MONOPOLY. THEY JUST HAPPENED TO BE AN EASEY TARGET. I AM SURE IF YOU

LOOK AROUND YOU CAN FIND SOME REAL PROBLEMS IE ARTHUR ANDERSEN, ENRON, ETC.

SINCERLY
JC BOATRIGHT
1345 FALKENBURG RD
TAMPA, FL 33619
813 657 2663

MTC-00027941

From: Page, Nathan (N.L.)
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 12:30pm
Subject: Microsoft Settlement

I agree with Microsoft.

MTC-00027942

From: u V
To: Microsoft ATR
Date: 1/28/02 12:21pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

Your honor, I am stating my objection to the Final Settlement agreed upon between the Department of Justice and Microsoft. I wanted to point out several underlying flaws attributed to the Proposed Final Judgment.

One noticeable flaw encompasses an inept enforcement device implementing restrictions. The settlement in other words closely monitors and screens all of Microsofts business activities. This close scrutiny insures MS complies with all restrictions entailed in the agreement.

A three man compliance team will oversee and insure that Microsoft comply with the stated rules and regulations. Yet, this three-man oversight committee will be composed of the following: one appointee from the Justice Department, one appointee from Microsoft, and another appointee chosen by the two existing members. In turn, Microsoft will control half of the oversight team.

Also, in the likelihood of any enforcement proceeding, all findings by the oversight committee will not be allowed into court. The sole purpose of the committee is to inform the Justice Department of all infractions by Microsoft. Subsequently the Justice Depart will launch its own investigation into the matter and commence litigation to halt all infractions. When all is said and done, the oversight committee is just window dressing, who will not strictly oversee Microsofts business moves?

In my opinion, the Proposed Final Judgment does not provide appropriate restrictions against Microsoft. What reassurance do we have against Microsofts illegal and illicit activities? I can assure you that the Proposed Final Judgment does not effectively nor sufficiently address the question. In conclusion, I submit your honor my objection to the final settlement in the Microsoft case.

Sincerely,
Dr. Cesar Ortiz
285 Glennwood Ave.
Daly City, CA 94015
650–758–2658

MTC-00027943

From: Jean Peterson
To: Microsoft ATR,jpeterson@ets.org@
inetgw,djinn1@ix.n...

Date: 1/28/02 12:21pm
Subject: Judgement

If I understand the Judgement correctly, Microsoft is to receive no "punishment" at all for it's illegal activities. They are only instructed to stop performing them. This is a problem. Perhaps the Government or the Court feels that Microsoft has already suffered some penalties because of the interruption of business and other interference because of this litigation. However, in other cases where, for instance, a criminal's punishment is limited to something already done (i.e. "time served"), sentence is still passed for the record and that stipulation that the sentence is to be considered "fulfilled" is still entered into record. And considering the amount of money that the various governments have had to spend in legal proceedings simply to force Microsoft to stop behaviors that were illegal to begin with, the governments should at least apply penalties to recoup these monies in the interests of their constituents.

Jean Peterson

MTC-00027945

From: Purple Rose
To: Microsoft ATR
Date: 1/28/02 12:21pm
Subject: Microsoft Settlement

Deborah E. Rose
7804 Briana Renee Way
Las Vegas, NV 89123-0449
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I support the recently proposed antitrust settlement between Microsoft and the Department of Justice. I would like to see an end to this lawsuit and I believe this is one of the more favorable resolutions. Microsoft has given up access to several of its Windows products, and given up much of the code that helps Windows run efficiently.

Historically, Windows has been a large part of its competitive advantage. This is a very generous concession on the part of Microsoft. I hope that you will support Microsoft. It has stood out as a great example of a company that can be charitably generous and still make lots of profit. We should allow it to continue these efforts.

Sincerely,
Deborah Rose

MTC-00027946

From:
DEMatthews2@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:24pm
Subject: Antitrust settlement

Renata Hesse: I believe that the antitrust settlement between the USDOJ, Nine States and Microsoft should be approved. From my perspective, as a consumer, this suit was never about my protection, How am I hurt by getting something for free, that someone else wants me to pay them for? Putting the browser in the operating system is so logical that I have wondered about the suit from the beginning. This entire process has been brought on behalf of competitors. I did not think that this was the purpose of antitrust efforts. But, the judges have ruled, so the best thing to do is get the settlement approved and move on.

Duane E. Matthews
7817 SE 75th Place
Mercer Island, WA 98040-5501

MTC-00027947

From: Peter McDonald
To: Microsoft ATR
Date: 1/28/02 12:25pm
Subject: Microsoft PFJ Comments.

To whom it may concern,
<mailto:microsoft.atr@usdoj.gov>

As a consumer of Microsoft products as well as a business professional in the software industry I would like to add a few important comments concerning the proposed final judgment between the US DOJ and Microsoft. Simply put the proposed settlement does very little to address the three items listed by the US Court of Appeals. Hence, my recommendation is that the PFJ proposal in its current form is not acceptable. I ask that the DOJ needs to address the three key components listed unanimously by the U.S. Court of Appeals ruling. Specifically, to

*terminate Microsoft's legal monopoly

*deny Microsoft the fruits of its past violations

*prevent future anticompetitive activity.

As an observer and professional in the software world I define Microsoft's mantra to be one of domination. Over the past few decades Microsoft has uses both legal and illegal practices to attain their goal of domination. If the current PFJ is accepted, I'm left with two questions.

First, does the DOJ's definition of effective anti-trust work include the supporting of monopolies? Second, is the precedent for dealing with companies with a track record of violating anti-trust laws to condone their track record of violations? I hope the answer to both questions are no. As such I ask that the current PFJ be updated to include the three items unanimously decreed by the US Court of Appeals.

It is great to be an American where each individual has a voice. Thank you for your consideration of this issue.

Regards,
Peter McDonald
Peter McDonald
Director
VerdiSoft
Palo Alto, CA
650 812-8511 office

MTC-00027948

From: Michael Horowitz
To: Microsoft ATR
Date: 1/28/02 12:24pm
Subject: Microsoft Settlement

Hello,

One complication in this case is defining what a computer Operating System(OS) is. Microsoft keeps adding features to Windows and every time it does, it stretches the meaning of the term "Operating System". What Microsoft sells now is not so much an OS, but a combination of an OS and assorted applications. No doubt you are aware that what Microsoft does in expanding the scope of the OS is tantamount to what, in other contexts, is called "dumping". It is as if Toyota started selling its cars for $3,000 instead of $19,000 to drive Ford Motor out of business. This is exactly what Microsoft does and has done many many times. They can do it because they are rich enough and because the incremental cost of software is almost zero, brutally different from an automobile. This case may have been about web browsers, but people in the computer field have seen Microsoft use the same tactic (give away software to kill the competition) many times.

MY SUGGESTION:

I suggest that development of Windows be assigned to a separate company that is restricted to developing an Operating System in the strictest sense of the term. This will require monitoring by an independent entity as to just what features and applications belong in the base OS and which are considered external applications (more on this below). I'm not sure if this separate Windows OS only company should be for profit or not.

This would let Microsoft add whatever features and applications they want to the core OS and sell a product called Microsoft's Windows. However, Dell and Compaq and Gateway and IBM would also be free to add whatever features and applications they wanted to the core OS and sell it as their version of Windows. Any software company should be free to license the core Windows OS and add whatever features and applications they want and sell it on the open market. Each company selling a version of Windows would compete based on price, their reputation for quality software and support, and the features and applications they chose to include. This, by the way, is how Linux is sold with the exception that the core Linux OS is free. I am not suggesting that the core Windows OS be free.

Drawing the line between the core Windows OS and extra-add-on applications could be a full-time job. In the case of word processing for example, it seems obvious that Notepad and WordPad are not full-blown word processors and therefor could be included in the core OS. In contrast, Word and WordPerfert are full featured word processors and therefore falls into the category of a seprate application. In other areas the distinction will not be so easy to make. If a program to play sound files can have 100 features, which of those features qualify for a bare-bones version that can be in the core OS and how many features does a program need before it qualifies as a full-blown application that can not be included in the core OS? Someone will need to decide.

That's my 2 cents. Thanks.
Michael Horowitz

MTC-00027949

From: HHawkjr@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:24pm
Subject: Microsoft Settlement
Attention: Renata B. Hesse
Antitrust Division
Department of Justice

It is my opinion the settlement represents the best opportunity for Microsoft and the industry to move forward. The rulings are fair to all parties involved.

It is also my opinion that Microsoft is one of a few American corporations that truly has the "consumers" best interest at heart. I can't say that for many other corporations.

Respectfully,
Wendy C. Hawkins
8838 E. Sunnyside Drive
Scottsdale, AZ 85260
480/314–8586

MTC–00027950

From: judythw(a)earthlink.net
To: Microsoft ATR
Date: 1/28/02 12:25pm
Subject: Microsoft Settlement

Sirs:

I ask you to please not allow Microsoft to continue its monopoly operation. I ask for freedom to choose. We are trying to preserve our freedoms now. Please help.

Judyth O. Weaver, Ph.D.
73 Montford Avenue
Mill Valley, California 94941
415–388–3151

MTC–00027951

From: Bock, David
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 12:27pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally:

I am writing to comment on the Proposed Final Judgement with Microsoft. As one involved in the software industry, I appreciate the contributions of Microsoft. However, their dominance of operating systems has given them extraordinary market power, which they have used ruthlessly to crush competitors and forestall innovation in the interests of consumers. The PFJ needs to be materially strengthened to level the playing field. The sanctions must be strong and the disincentives to further monopolistic behavior clear. Do not allow Microsoft to play on complexity, market uncertainty or promises of different behavior in the future. The company's culture is one of ruthless competition at a time when they should be providing support rather than destruction. They now operate a utility, are enjoying monopolistic returns on capital and are utilizing their financial strength to maintain a monopoly position.

The consumer is served by the standardization that Microsoft's success has brought. But the consumer is also vulnerable to the abuse of monopoly power. The public interest requires that the Federal government either sanction and restrain the monopolist or eliminate the monopoly position.

It's that simple.

Sincerely yours,
David Bock
EVP and CFP
Pedestal Inc.

MTC–00027952

From: bobjomurrell@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:26pm
Subject: microsoft settlement

Please settle with microsoft.

MTC–00027953

From: Aaron S Kamlay
To: Microsoft ATR
Date: 1/28/02 12:26pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am writing to comment on the Proposed Final Judgment (PFJ) of the United States v. Microsoft antitrust case. I believe that the PFJ does very little to discourage Microsoft from continuing its anticompetitive practices, and fails to restore balance to the markets which have been seriously damaged by those practices in the past.

Specific Failures of the Proposed Final Judgment:

1. Section III.J.2

Section III.D requires Microsoft to licence "the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product" to "ISVs, IHVs, IAPs, ICPs, and OEMs". However, section III.J.2 essentially gives Microsoft the freedom to choose which ISVs, IHVs, etc. may receive this information by allowing Microsoft to require that any licensee "(a) has no history of software counterfeiting or piracy or willful violation of intellectual property rights, (b) has a reasonable business need for the API, Documentation or Communications Protocol for a planned or shipping product, (c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, (d) agrees to submit, at its own expense, any computer program using such APIs, Documentation or Communication Protocols to third-party verification, approved by Microsoft?"

This gives Microsoft the ability to keep the "applications barrier to entry" artificially high. There are no restrictions on what Microsoft may consider "authenticity and viability of [the licensee's] business" or even a "reasonable business need". It could be used to keep start-up or open source software projects from gaining access to APIs crucial to their success; in fact, it could allow Microsoft to restrict such projects from information to which they had prior access via the MSDN. (See, for example, Jeremy White's analysis of the impact of section III.J.2 on the open source Wine project at http://www.codeweavers.com/jwhite/tunneywine.html.)

2. Section III.D.1

Section III.D.1. exempts Microsoft from the requirement to "document, disclose or license to third parties: (a) portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of which would compromise the security of a particular installation or group of installations of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems?"

It has been reported by a variety of news agencies that Microsoft has plans to include digital rights management, authentication, and other related security features in future versions of Windows. See for example,

The Register, Mar 23 2001,
"MS plans "Secure PC" that won't copy pirated audio files"
http://www.theregister.co.uk/content/4/17851.html

Wired News, Feb 13 2001,
"Windows XP Can Secure Music"
http://www.wired.com/news/technology/0,1282,41614,00.html

Microsoft has already included encryption services in Windows 2000 Service Pack 2 (see http://www.microsoft.com/windows2000/downloads/servicepacks/sp2/default.asp).

Given Microsoft's past actions, including integration of Internet Explorer with the Windows OS, and more recently integration of Windows Media Player with WindowsXP (see http://news.com.com/2100–1040–256387.html?legacy=cnet), there is every reason to assume that Microsoft will integrate current and future installations of "anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems" into the Operating System. Thus many key APIs, such those dealing with basic network communication, file/disk access, and even simple multimedia capabilities could be claimed as exceptions under section III.D.1. Again, this would serve to keep the "applications barrier to entry" artificially high.

3. General Remedies and Penalties

Microsoft has been found guilty of maintaining their monopoly status through illegal means. They should not be allowed to maintain the profits earned by doing so. The PFJ basically codifies the current status quo into law, and neither punishes Microsoft for their past infractions nor prevents them from similar actions in the future. Strong structural and financial remedies and/or penalties are necessary to restore balance to a horribly damaged marketplace.

The Proposed Final Judgment is completely unacceptable as a resolution to the U.S. v. Microsoft case. Please consider stronger, more effective remedies.

Thank you,
(signed)
Aaron Kamlay
Nashville, TN 37212

MTC–00027954

From: v g
To: Microsoft ATR
Date: 1/28/02 12:26pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

With all due respect, I object to the (PFJ) Proposed Final Judgment in the Microsoft case. There are numerous flaws in the final proposal, which undoubtedly gives Microsoft absolute, power to continually abuse their existing monopoly position. Based on my review, the proposed settlement overlooks one thing. This one defect contains a faulty mechanism to implement appropriate restrictions. As stated in the settlement, Microsoft will be closely monitored to comply with all restrictions encompassed with in the stated agreement.

A three man compliance team will oversee and insure that Microsoft comply with the stated rules and regulations. Taking a closer look however, this three-man oversight team will be composed of the following: one appointee from the Justice Department, one appointee from Microsoft, and another appointee chosen by the two existing members. In turn, Microsoft will control half of the oversight team. Also, in the likelihood of any enforcement proceeding, all findings by the oversight committee will not be allowed into court. The sole purpose of the committee is to inform the Justice Department of all infractions by Microsoft.

Subsequently the Justice Depart will launch its own investigation into the matter and commence litigation to halt all infractions. When all is said and done, the oversight committee is just window dressing, who will not strictly oversee Microsofts business moves? In my opinion, the Proposed Final Judgment does not provide sufficient and appropriate restrictions or penalties against Microsoft. What reassurance do we have against Microsofts illegal and illicit activities? I can assure you that the Proposed Final Judgment does not effectively nor sufficiently address the question. Therefore I submit to the court my objection to the Proposed Final Judgment.

Respectfully,
Mrs. Alsida Ortiz
285 Glennwood Ave
Daly City, CA 94015

MTC-00027955

From: esterhazy@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:26pm
Subject: Microsoft settlement

Consumer interests have been well served and it is time to end this costly litigation against Microsoft now.

Helene K. d'Esterhazy

MTC-00027956

From: Classic de Sign
To: Microsoft ATR
Date: 1/28/02 12:31pm
Subject: Microsoft Settlement

Dear Ms. Hesse:

I am the owner of a small interior design firm and would like to comment on the settlement with Microsoft.

I believe that there is undue haste in reaching a settlement for what has been a carefully executed pattern of illegal behavior by Microsoft. Microsoft controlled the application market so tightly in the Macintosh operationg system that it not only drove out competitors like WordPerfect but used its applications as hostage to obtain concesions from Apple Computer, Inc.

The pattern of illegal behavior forced Apple to offer the Microsoft, Internet Explorer to be the supported application by Apple. If this would not have happened, there would have been no Office, Word or Excel. Futhermore, those us who used Netscape still found that the presence of Microsoft codes in the office applications to crash the Netscape browser. The choice for us was the applications or the Netscape browser. The same type of illegal tactics got its media player dominance after finding that they copied code from QuickTime. This issue was closed when Microsoft gave money to Apple to drop the suit. The patter of illegal tactics by Microsoft is quite large and pervasive and I find the current proposed settlement to be insufficiently punitive to punish or to encourage Microsoft to change its ways.

I strongly suggest that the monetary settlement be cash and that the sum be increased to 5 Billion dollars, a sum that will teach a lesson and one that Microsoft can afford.

Sincerely,
Louis R. de Alvare

MTC-00027957

From: Nolan Lameka
To: Microsoft ATR
Date: 1/28/02 12:28pm
Subject: Microsoft settlement

I believe the microsoft settlement is as fair as it can be . Personally I think the government had no business interfering in business on the side of microsofts" competitors.

Leave Microsoft alone or at least don't be a tool of AOL, Oracle, and SUNW.

Nolan A Lameka
nal1212@yahoo.com

MTC-00027958

From: jonathon
To: Microsoft ATR
Date: 1/28/02 12:23pm
Subject: Microsoft Settlement

Count this as one vote against the proposed Microsoft/DOJ settlement. I feel this agreement is a bad idea and would not be in the interest of computer users. Concrete steps should be taken to stop bad business practices. Reason needs to prevail.

Jonathon Vreeland
www.spork.nyc.ny.us
email: jv@spork.nyc.ny.us

MTC-00027959

From: Freddy Thomas
To: Microsoft ATR
Date: 1/28/02 12:29pm
Subject: Microsoft Settlement.
18203 Max Middleburg Road
Maxville, FL 32234
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinion of the recent settlement between the US department of Justice and Microsoft. I think the lawsuits have dragged on for far too long now and have been a waste of taxpayer dollars. I am a proponent of free enterprise and the government's interference with Microsoft is ridiculous.

The only criticism of Microsoft could be that their marketing tactics are a bit heavy-handed, but that is hardly an antitrust violation. The terms of the settlement are harsh against Microsoft and should appease all competition. Microsoft will be disclosing interfaces that are internal to Windows operating system products. They will also be granting computer makers broad new rights to configure Windows so that competitors can more easily promote their own products. These concessions and more should appease all parties involved in dispute.

I urge your office to do what is right for the public and our economy and finalize the settlement.

Thank you.
Sincerely,
Homer Thomas

MTC-00027960

From: microscopes__sls__svc@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:26pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Harold Anderson
P. O. Box 118
Falls of Rough, KY 40119

MTC-00027961

From: Ken Valero, Sr.
To: Microsoft ATR
Date: 1/28/02 12:29pm
Subject: Microsoft Settlement

As a Macintosh user I feel that Microsoft did nothing wrong. I believe what we have here is envy of Microsoft's competition in that they did develop the idea first. Bill Gates had the foresight and ambition to move ahead when he did. After all is this not the land of opportunity and free enterprise. The competition was asleep at the switch and Gates seized the moment.

Bill Gates and Microsoft should be praised for advancing the technical knowledge of computers that we are all benefiting from.

So, my feeling is that the Federal Government should get off the back of all businesses both big and small so that we can make progress. It is about time that all entrepreneurs are recognized as the people that make this country as great as it is and make the economy strong.

Ken Valero, Sr.
President K V Associates, LLC

MTC-00027962

From: Liz
To: Microsoft ATR
Date: 1/28/02 12:30pm
Subject: Greetings,

Greetings,

I feel that the current settlement does not adequately address Microsoft's nearly complete monopoly in the United States" computer industry. It also fails to restore competition to the United States" software industry. Please consider rethinking the settlement.

Thanks,
Liz Loveland
Somerville, Massachusetts

MTC-00027963

From: Mark A. Montgomery
To: Microsoft ATR
Date: 1/28/02 12:29pm
Subject: Microsoft Settlement.
C/O Renata B. Hesse, Antitrust Division,
U.S. Department of Justice,
601 D. Street NW. Suite 1200,
Washington, DC 20530–0001

To: Judge Colleen Kollar-Kotelly

My name is Mark Montgomery. My background includes being an entrepreneur and management consultant who was also an early booster to Microsoft dating back to 1981. Since that time, my consulting assignments have numbered in the hundreds, including dozens of small businesses in networked industries and recently specifically within the IT industry cluster.

I converted our business consulting firm in 1995 into an independent tech incubator and lab. My only business partner joined our firm in 1997 after working for Microsoft for 17 years. I myself trained with Microsoft products to become an NT network administrator, programmer, and analyst who has tested every major public technology Microsoft produced during the period of this case, watching in amazement and sometimes horror at the pace of justice when compared to the environment in question.

I am writing today primarily because circumstances in this case may allow me to see more potential areas of damage than others. As any of us who have worked in predatory environments know all too well, it is rarely what we see that threatens our system, but rather what we cannot. In this case, I do not believe that any human is capable of identifying even a small portion of the damage being done to consumers, much less society, including of course eventually Microsoft and their investors.

I would like to explain some of our attempts to work with Microsoft at every level, and the extreme financial stress, disappointment and embarrassment a few of their executive actions have caused us and others, but the topic today is on the proposed settlement pursuant to the Tunney Act. I have carefully studied the proposed settlement as well as every document filed in this case since the beginning of the trial. In the early stages of the case, I provided analysis for the members of our global digital network.

In addition, I may have been the first to publicly label Microsoft a threat to the global economy, one of the most difficult declarations of my career that may also partially account for our failure in attracting external funding to our ventures.

For me, this case represents a test of the very credibility of the U.S. justice system. Although the case history has been difficult, and I have not always agreed with the rulings or conduct of the court, the system credibility was from my view in a recovery phase until the USDOJ agreed to settle as proposed. The agreement of the USDOJ to settle on the proposed grounds is where the system broke down entirely. I'll leave it to others to speculate and/or determine why.

The proposed settlement is a disgrace and an insult to those of us who risked everything we had, and often lost, to speak out against what I believe ranks among the most dangerous threats to the future of the world in our time; the ability of innovative technology to be conceived, hatched, and reach maturity. I fear that if the proposed settlement is adopted, and the EU and Congress also fail to restore liberty within global IT markets, that our creative scientific genius will fail to meet the significant challenges lying directly in our collective path.

Therefore, from my perspective, the world simply cannot afford to allow the proposed settlement to stand. It would be more favorable to risk having an appeal overturned on technical grounds, and allow the political process to work (or not), than to suffer the stamp of approval from the very entity charged to defend and protect us against illegal predatory practices. A portion of the still untold story of modern predatory strategy, generally speaking, is just how successful preventative efforts have become with respect to the invisible potential competition, and that topic is certainly not limited to Microsoft. Indeed Microsoft is a nascent latecomer in that regard when compared to the more historically entrenched vertical industry leaders, revealing another glimpse of why justice must be served in this case.

I submit to you that a just conclusion to this case is entirely possible, but a negotiated settlement that provides justice may not be.

Thank you for your consideration of my views, and God's speed in your work.

Mark A. Montgomery
Founder/CEO
Global Web Interactive Network LLC

MTC-00027964

From: Raymond.Fairbanks;@
LibertyMutual.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:30pm
Subject: Microsoft Settlement
January 28, 2002
Attorney General John Ashcroft, US Justice Department
950 Pennsylvania Avenue, Washington, DC 20530–0001

Dear Mr. Ashcroft,

I'm glad that a settlement was reached in the antitrust case between Microsoft, the government and nine states. However, I don't feel there should have been any litigation in the first place. Free enterprise should manage itself.

Not only has Microsoft agreed to make sweeping changes so that to computer manufacturers can configure Windows in order to promote competitor software programs that compete with programs included in Windows. They've also agreed to not enter into any agreements forcing other companies to distribute or promote any Windows technology exclusively or in a fixed percentage, except for a few exceptions where there isn't any competition anyway.

It is obvious to me that Microsoft is cooperating so they can go back to business and help revive the technology sector of the economy. No more action should be taken at the federal level at all.

Sincerely,
Raymond Fairbanks

MTC-00027965

From: Don Monk
To: Microsoft ATR
Date: 1/28/02 12:28pm
Subject: Microsoft Antitrust Case
Please see attachment.
12 Fortune Cove
Brevard, NC 28712–9101
January 27, 2002
Attorney General John Ashcroft
United States Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing in regards to the settlement reached in the antitrust case between the U.S Government and Microsoft in November of 2001. I am asking you to support the agreement. I do not believe any further measures are necessary.

As you know, the settlement requires Microsoft to promote competition from other computer makers. For example, Microsoft must license its Windows operating system to other computer makers and to grant them rights to configure Windows to meet other system specifications. Furthermore, Microsoft has been required to design further versions of Windows in a manner that would make it easier for competitors to promote non-Microsoft software within Windows. It is my opinion that this legislation is sufficient. Microsoft was not dealt with lightly, and I believe that further litigation would be less of a productive and more of a vindictive nature.

I am satisfied that Microsoft has been justly dealt with in the antitrust case. Further litigation would no doubt lead to restrictions and obligations on products and technologies that did not fall within the scope of the case. Microsoft has paid its dues to society; now I ask you to let them get back to business. I appreciate your taking time to consider my views on the issue.

Sincerely,
Donald W. Monk

MTC-00027966

From: I Y
To: Microsoft ATR
Date: 1/28/02 12:32pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I am opposed to such a preposterous solution in regards to the Proposed Final Judgment in the Microsoft case. Based on past findings the Court of Appeals has found Microsoft guilty of violating all rules of the anti trust laws.

Yet the PFJ (Proposed Final Judgment), the Department of Justice throws out these findings, indicting Microsoft on all charges of business wrongdoing. More importantly, the PFJ allows Microsoft to continue with its monopolistic practices. I strongly believe you will receive similar appeals entailing the numerous errors apparent in the final settlement. To make a long story short, the PFJ does not effectively break up Microsoft. But in fact, permits Microsoft to leverage its current monopoly position and expand its business into several other technologies markets. In the past most monopolies were either broken up or carefully regulated. Why not Microsoft?

Severe reprimands by the DoJ do not drastically alter Microsofts existing operation methodologies. Time and time again as history will show, Microsoft will abuse its monopoly position. Breaking up Microsofts business into several parts just might be the best antidote to prevent MS from even doing more damage to the industry. Therefore I submit to you that the Proposed Final Judgment does not solve the Microsoft issue.

Respectfully,
Dr. Joseph Ortiz
1001 Vine Street
Paso Robles, CA 93446

MTC-00027967

From: Steve Hill
To: Microsoft ATR
Date: 1/28/02 12:31pm
Subject: Microsoft Settlement

Dear Judge,

As a high school student, I look forward to working with computers. However, Microsoft's recent tactics and monopolistic tendenencies will hurt competition in the computer industry. This will cause the quality of computer related software and operating systems to suffer. The recent settelement between the justice department and Microsoft will allow this to continue.

Please overturn this settlement.
Stephen Hill
66 Hobson St.
Brighton, MA

MTC-00027968

From: Victor Mieres
To: Microsoft Settlement U.S. Department of Justice
Date: 1/28/02 12:26pm
Subject: Microsoft Settlement
Victor Mieres
3914 Caney Creek Rd
Austin, TX 78732
January 28, 2002
Microsoft Settlement U.S. Department of Justice

Dear Microsoft Settlement U.S. Department of Justice:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Victor Mieres

MTC-00027969

From: jorge godoy
To: Microsoft ATR
Date: 1/28/02 12:31pm
Subject: Microsoft Setlement

I'm faxing my opinion today.
Sincerely
Jorge Godoy

MTC-00027970

From: Robert Sartin
To: Microsoft ATR
Date: 1/28/02 12:33pm
Subject: Microsoft Settlement

I am against the current proposed settlement of the United States vs. Microsoft case.

I have been programming professionally for 20 years. In reviewing the terms of the settlement, I am unable to see how the terms will in any meaningful way improve the competitiveness of the current environment. The disclosures required by Microsoft are too weak and the exemptions too great. It will be trivial for Microsoft to continue to keep secret important information and use it for unfair competitive advantage. The proposed settlement will perpetuate an environment in which Microsoft can, and based on past experience will, withold critical information from developers who are perceived to be competing with Microsoft. Lack of access to such information, generally available for other platforms and specifically available to Microsoft and partner teams working on similar applications, will prevent a developer from producing competitive products. Continued tight bundling and coupling of Microsoft's chosen solutions will prevent new entries into the market of better technology at lower prices.

Consumers will continue to be forced to purchase and use the solutions provided by Microsoft. The price we pay will be higher due to the lack of credible competitive alternatives. Technical innovation will be decreased because it will not be necessary for competitiveness. Any settlement in this case must include provisions that will create a truly competitive environment, including competitors in the commercial and free software marketplace, and offer a variety of choices to consumers.

Regards,
Robert Sartin
10412 Ember Glen Drive
Austin, TX 78726

MTC-00027971

From: Faith A Hill
To: Microsoft ATR
Date: 1/28/02 12:33pm
Subject: Microsoft Settlement

Dear Judge,

As a young person, I would like to see growing oppurtunities in computer choices in my future. Microsoft is a wonderful company staffed by wonderful people, but they are guilty of anti-competitive violations. They should be punished according to US laws. If this is accomplished, it will provide a better and more competive market for me to enter.

Thank you,
Faith Hill
66 Hobson St.
Boston, MA

MTC-00027972

From: Johan L Lotter
To: Microsoft ATR
Date: 1/28/02 12:34pm
Subject: Microsoft

We attach a letter pertaining to the Settlement. Sincerely, Johan L Lotter

Lotter Actuarial Partners Inc.
Consulting Actuaries and Project Managers
915 Broadway
New York, NY 10010
TEL (212) 529-8600
FAX (212) 529-6297
jllotter@lotteract.com
Web: lotteract.com
January 28, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I have followed the case against Microsoft for the past three years, watched media coverage from both sides, and I have concluded that Microsoft, in whatever strong-arm tactics they used, should never have been punished like this. This is a slap in the face to one of the most, if not the most, successful companies in history.

In my opinion, the Department of Justice has no right to seek further legal injunctions against Microsoft. The settlement Microsoft has proposed, benefits the competition far more than it should. The best thing for this company, the economy, and the general public is to settle this case, so that Microsoft can get back doing what it does best, fulfilling the computing needs of users. Windows is incredible; there may never be a product quite like it. I can see how the have-nots want to have a big piece of the haves. The settlement certainly gives the have-nots what they want without handing over Microsoft.

I believe that Microsoft is entitled to this settlement in every way. It appears to be reasonable to Microsoft and more than fair to the competition. Approving this settlement can do so much good for the economy, which has been weakened by stresses on our country. I passionately urge you to agree to settle this case.

Sincerely,
Johan Lotter
President

MTC-00027973

From: Travis Cramer
To: Microsoft ATR
Date: 1/28/02 12:34pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am writing to address the issue surrounding Microsoft, and their abuse of antitrust laws. In my opinion, Microsoft should not be able to abuse these laws. First of all, abusing law is illegal, so the corporation is breaking law. Second, the size of Microsoft is the closest thing to a monopoly. They have unbelievable power, and they are making it extremely difficult for any competition to exist. Our government set our economy up in such a way to prevent monopolies from forming. Microsoft is violating these laws, and that must be stopped. Microsoft must be kept under the law, punishment of some sort is necessary.

Thank you for your time on this matter.

Sincerely,
Travis Cramer
1247 W 30th St., Apt. 110
Los Angeles, CA 90007

MTC–00027974

From: T Mac
To: Microsoft ATR
Date: 1/28/02 12:35pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I wanted to state my objection and the error existent in the Proposed Final Judgment. There are several apparent flaws with in the final proposal favoring Microsoft. Based on my assessment the proposed settlement does not dish out any due justice or punishment on the side of Microsoft. At the same time no devices are in place to ensure MS compliance to the stated rules enclosed in the settlement.

Although being closely monitored, Microsoft will not have any direct supervision to reassure the company complies with the stated agreement. A three-man compliance team overseeing Microsoft remain in alignment to the stated rules and regulations. This three-man oversight team will be composed of the following: one appointee from the Justice Department, one appointee from Microsoft, and another appointee chosen by the two existing members. In turn, Microsoft will control half of the oversight team. All findings by this committee will not be allowed into court. The sole purpose for such a committee is to inform the Justice Department of all infractions committed by Microsoft. Subsequently the Justice Depart will launch its own investigation into the matter and commence litigation to halt all infractions. When all is said and done, the oversight committee is just window dressing. In turn, who will not strictly oversee Microsofts business moves? In my opinion, the Proposed Final Judgment does not provide sufficient and appropriate restrictions or penalties against Microsoft. What reassurance do we have against Microsofts illegal and illicit activities? I can assure you that the Proposed Final Judgment does not effectively address the question. I object to the Proposed Final Judgment.

Respectfully,
Janice Ortiz
1001 Vine St.
Paso Robles, CA 93446

MTC–00027975

From: earl g harper
To: Microsoft ATR
Date: 1/28/02 12:34pm
Subject: Microsoft Settlement

Gentlemen:

It is time to stop the harrasement of Microsoft by dragging out the legal battle.

This will not benefit them or us tax payers...only add bragging rights to some politcal hacks...and the special interest groups.. Enough is enough..let's get on with business and let Microsoft do the same.

Earl G. Harpor
1430 Regency Drive
Ft. Collins, CO
THE HOUSE OF HARPERS
INDJC
Numbers 6: 24–26 & Rev. 14:2

MTC–00027976

From: iBradley
To: Microsoft ATR
Date: 1/28/02 12:34pm
Subject: microsoft settlement

Dear Renata B. Hesse Antitrust Division U.S. Department of Justice and appointed Judge;

I'll get right to the point, microsoft is about as unamerican and anti-competitive and consumer as ever there was a corporation. They've lied under oath, they've lied to their customers and they've lied to corporate investors. Their total motivation for any and everything they do or will ever do is about GREED, cash flow and bill gates, at whatever the cost to the consumer and customer. They've proven that microsoft suppressed technology by using their power and influence to intimidate. USB technology developed by intel corporation for one. If Apple hadn't built USB into the iMac when it was first introduced and now has become a standard for add-ons, I believe it would still be suppressed today. microsoft has never been honest with those who've purchased their OS! window's has never run or operated as they've claimed. It's not nor has it ever been or ever will be secure or stable! xp their latest release has been heralded to be the most "Stable and Secure OS they've ever produced! It's better then previous, and that much is somewhat true. But it's far from stable or secure. It has failed to live up to it's claims. The in-store sales say it all to well, It's selling far below previous releases, this is a good sign that the consumer is finally seeing microsoft with "Eyes wide open instead of Eyes wide shut! But even so it's to late for those who've bought into the lies and are now victims of false marketing and advertising hype. The countless virus attacks and hacks to their online service and severs, prove their statements of "Stable and Secure are rendered mute.

I'm not nor have I, nor will I ever be an owner of anything with windows as an OS. I don't support anything wintel! (that's a PC running an intel processor with window's OS by microsoft) 95% of the computer market worldwide uses microsoft window's. 51% or above in my estimations would be considered a MONOPOLY! microsoft's .Net, licensing of software (taking away ownership and replacing with leasing) and Passport initiatives is a clear attempt at Corporate slavery and an invasion of our personal privacy! These initiatives are DRONE driven! USE microsoft TECHNOLOGY, AND ONLY microsoft! Where's the consumer's FREEDOM of CHOICE here? It's already been proven what bill gates said when he saw Apples Mac OS with GUI (Graphic User Interface). His words go something like this: bill, I want it! paul, That's stealing bill! bill, I don't care! I want it, this is what I WANT! window's is about 98% similar to the Mac OS. If you're familiar with the Mac OS and you saw window's or use it, you know all to well that the truth behind window's is Apple's Mac OS. To quote a friend of mine's son when he first saw window's 95, "It looks just like the Mac's we use at school! He turned said Huh! And walked away. If it's that clear to a child, what's wrong with the adults in public, political and corporate America?!

I never have nor will I ever like microsoft! I believe there is at the heart of this company, something very WRONG and DARK and definitely not GODLY! I believe their motives are based and rooted in pure corrupt business practices. The only shining light of Good within the Black on Black existence that is microsoft, is the Macintosh Design Department! There is a saying, "Sometimes you have to go through hell to get to Heaven." The only thing you'll find on the other side of microsoft is pure darkness. microsoft should be hit hard and deep, hit where it will hurt the most and that being in REAL CASH outlays in the amount of 33 billion dollars. This amount would be for all the States involved in the lawsuit, the consumers hurt by microsoft's Monopolistic practices, Corporate businesses, some should go to "Homeland Security Initiative and finally 7 billion dollars set aside through a Private Organization and distributed for use in Private and Public Schools who need it for use where they feel it is best used and on whatever OS or Computer (Apple) they deem appropriate for the benefit of their Teachers and Students! If microsoft isn't reprimanded severely for their illegal activities through REAL CASH outlays that are made payable within one year of settlement, and hits them where it hurts! They will never stop doing what they do! BREAK the LAW! NOBODY IS ABOVE THE LAW! (The Enron disaster is evidence enough for that!) microsoft will just keep pushing the envelope of illegal activity, simply because they think they can! This time they can't be ALLOWED to get off with a slap on the hand, even if those in power say "It could be damaging to the economy!" That argument doesn't hold any water anymore! Not after the events of September 11th and the resulting effects on the economy thus far. In closing; I don't hold any respect for bill gates or steve balmer, nor should anyone! They haven't earned it as individuals or a company, nor do they deserve it! They're not nor is microsoft a Good example of Good Business or Corporate ethics for the youth to look up to and learn from! microsoft has done everything wrong from a moral and ethical perspective. Thank you.

Take Care;
Bradley R Johnson

MTC–00027977

From: A. W. Dalgleish co.
To: Microsoft ATR
Date: 1/28/02 12:34pm
Subject: Microsoft settlement
East Aurora, NY 14052
11738 Liberia Road
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to inform you of my opinion in regards to the Microsoft settlement issue. I support the settlement that was reached in November, and I oppose any further action against Microsoft at the federal level.

This settlement is fair and will be sufficient to deal with the original issues of this lawsuit. Microsoft has agreed to all terms and conditions of this agreement. Under this agreement, Microsoft must share more information with other companies regarding certain internal interfaces included within Windows and any protocols implemented in Windows operating system products. Microsoft has also agreed to be monitored by a technical oversight committee for compliance.

Microsoft has done so much to contribute to our daily lives, in the office and at home. To stifle or restrict this company would be a huge injustice to consumers and will do nothing to stimulate our lagging economy. I urge you to support this settlement so Microsoft's resources and talent can be fully devoted to designing their innovative software, rather than litigation. Thank you for your time.

Sincerely,

James Jaremka (Microsoft shareholder and registered Republican)

MTC-00027978

From: Bob Blake
To: Microsoft ATR
Date: 1/28/02 12:37pm
Subject: MICROSOFT SETTLEMENT
13 Ethel Avenue
Peabody, MA 01960
January 27,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Three years ago, Microsoft was brought to trial for antitrust violations. I have been of the opinion from the start that this has been a false case. Federal antitrust laws are stifling in a global market. Microsoft has never presented a threat to the consumer by using its market dominance to raise prices or to offer a shoddy product. Microsoft would never have been so successful if the consumer had not been satisfied with its actions. Now Microsoft's competitors are upset because they are unable to pry consumers away from Microsoft. They instigated the case in the first place, and now they are seeking to overturn the settlement and bring additional litigation against Microsoft.

I do not believe it is necessary to bring additional litigation against Microsoft. By doing so, these states are essentially crippling America. Foreign competitors are not subject to the same laws that American businesses are, and all this infighting is making the American market vulnerable to foreign interests.

Putting reins on Microsoft's behavior is the same as encouraging foreign competitors to step in. The settlement should be finalized as soon as possible, for the good of the economy, the industry, and the consumer. The settlement allows Microsoft to remain intact, which is, I believe, wise. It also gives Microsoft's competitors a chance to work with Microsoft as well as compete directly. For example, Microsoft has agreed to provide its competitors with source code integral to the Windows operating system so that they will be able to operate within the Microsoft framework. Microsoft also plans to reformat upcoming versions of Windows so that the operating system will support non-Microsoft software.

Microsoft's competitors are not going to gain any greater advantage by continuing litigation. In fact, it is quite possible that they will end up doing America more harm than good. I ask you to support the finalization of the settlement.

Sincerely,

Robert Blake Jr

MTC-00027979

From: peter kloss (BITS)
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 12:34pm
Subject: Microsoft Settlement

The following is the personal opinion of Peter B Kloss and is not the opinion in any shape or form of his employers, the BBSRC (Biotechnology and Bioscience IT Services)

Dear Sir

I do not know whether non US nationals are allowed to comment on this case. however, what happens in this case will have an enormous influence on what happens elsewhere, so I hope I am permitted to comment.

I am concerned that the settlement will not do what it is intended to do, that is, restrict the predatory behaviour of Microsoft. The nature of the exception clauses in the current agreement makes it possible for MS to continue to do whatever they want without hindrance. I think this is a bad thing to do and a bad message to give.

It is important that while Microsoft have this overarching dominant postion that the interests of the public and consumer are properly protected. This is particularly in the area of choice—Microsoft have continually complained that restrictions on them will inhibit "innovation" and choice. however, history teaches us that Microsoft have hardly ever innovated and have acted in a way to restrict choice for OEMs, business customers and consumers like to their advantage.

Let us take innovation: It is true that most OS and application "innovations" have been either bought in or copied from third parties:

DOS—bought from a third party

Windows (the concept)—from Xerox and Apple

Excel—bought in from a third party

Windows 95 GUI details—copied from Apple in many places (eg the keyboard short cuts)

Explorer, Web Browsing—copied the concept from NCSA, Netscape etc

Additional features in windows XP such as CD burning, camera connection and video editing—a straight copy of advanced features in Apple's MacOS

As for choice: In most respects Microsoft's leveraging of their position has restricted choice by squeezing out competitors and competing products.

A loss strongly felt personally was that Aldus once made an excellent presentation package called Persuasion. It is now a discontinued product because Aldus could not justify continuing marketing and developing the product in the face of PowerPoint being given away free by Microsoft with MS Office. This is classic predatory pricing killing off a product which was superior in every respect.

A more recent case is the free bundling of Internet Explorer and Internet Information Server with desktop and Server OS to the detriment of competitors such as Netscape and many other smaller but genuinely innovative companies. a recent scandal was the attempt by Microsoft to block access to their Web sites by non—MS browsers on the grounds that they were not "standards" compliant. This was strongly contested by suppliers such as Opera Software and Microsoft had to grudgingly relent. but this attempt is only the tip of an iceberg in which MS try to persuade us that their browser is the standard by brute force. This must also be seen in the context that both browser and server are notorious security risks, in part due to the insecure architecture inherent in operating systems and applications supplied by Microsoft.

Furthermore it is also true that Microsoft devote more attention to adding features to their products in an attempt to crush competing products than they do to fixing long existing problems, for example, Excel still has a number of arithmetic bugs which have existed from before version 4 which have never been fixed.

Even now, Microsoft are attempting to extend their grip in other areas to the detriment of consumer and business choice: In the area of network validation of personal credentials with the proprietry "Passport" authentication system In the area of video streaming delivery with bundling of "Windows Media Player" to the detriment of Real Inc's Real Player and Apple computer's Quicktime (a genuine standard)

In the area of on-line music delivery by attempting to corner the market with windows specific server and delivery technologies In the area of home automation and device control with embedded OS products I have not even touched on Microsoft's attitude towards OEMS, competing OS suppliers etc ..

This kind of behaviour is structural in a provenly monopolistic company. Remedies must be strong to correct this behaviour and I urge the DOJ to rethink its compromises to ensure that restrictions and punishments are appropriate to yield better behaviour. To be truthful, with the current huge market penetration of MS products, restrictions will not hurt the company for a long time to come. When they do, it will becuase genuinely innovative and superior products have taken a hold.

The fact is that in many areas where Microsoft have obtained an almost complete grip of the market they exhibit genuine monopolistic behaviour— such as many price increases forced on business users through less favourable bulk licensing schemes recently introduced. It is only a matter of time before this is attempted in other areas.

Microsoft has been legally proved to be a monopoly and to have abused its position—please treat it as such with remedies that bite.

Thank you for listening to me
with kind regards, Peter Kloss

MTC-00027980

From: dbeausan@Mines.EDU@inetgw
To: Microsoft ATR
Date: 1/28/02 12:36pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–000
2002-01-28

Dear Renata B. Hesse:

I do not believe that the proposed Microsoft settlement is appropriate. I believe there are numerous problems, however, I will only comment on a couple of items here.

Without any requirement that Microsoft provide detailed data file documentation on its application files (for example, the internal format of a .DOC file) there is no hope for inter operability between Microsoft and other potential software suppliers.

The same applies to Microsoft's operating system interface. Without proper documentation of the interface, all the interface, and a constraint that Microsoft may not use undocumented interfaces, other software developers will never be able to produce software that is competitive and will not be independent of changes made, perhaps deliberately, to the os interface that are detrimental to the proper functioning of applications.

May thanks for your time.
Regards,
David Beausang

MTC-00027981

From: Joe Brady
To: Microsoft ATR
Date: 1/28/02 12:36pm
Subject: Microsoft Settlement
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530

Dear Mr. Ashcroft,

This lawsuit against Microsoft has proven to be more contentious than most would have anticipated. Its effects have been felt in a slowing down of consumer purchases of computer products due in part to an increased sense of anxiety on the part of the buying public.

It is for this reason that the settlement recently negotiated between Microsoft and the government is good. While I am not too familiar with the specific terms of the settlement, other than that it mandates changes in the way Microsoft licenses its software to OEMs, among other things, since both sides have agreed, then the public litigation is at long last at an end.

I am writing to express my support of this settlement, along with my hope that any further federal action will be unnecessary.

Sincerely,
Joseph Brady
President

MTC-00027982

From: Marty Leisner
To: Microsoft ATR
Date: 1/28/02 12:35pm
Subject: Microsoft Settlement

I wish to comment on the Proposed Microsoft Antitrust Settlement via the Tunney Act. I'm a professional software developer with Xerox Corporation. I have been developing software for over 20 years. I have seen the industry change over 20 years—while the hardware has improved by orders of magnitude, software is a mixed bag—some chores are harder to accomplish (and sometimes take longer) than 20 years ago. One thing that has changed is the growth of the computer industry and the PC on every desk. Almost every PC runs microsoft software. I've been following the Microsoft-DOJ debacle with interest for years. I develop free software. I try to use products which work and which I can customize—it turns out I try not to use microsoft products. I do not want to live in a world where I have to use microsoft products to interact with other people. I have no problem if microsoft defines file formats and networking standards, as long as they are public and correct. The proposed settlement does not appear to address this. As a free software developer software developer, am I entitled to rights as a third party? Software is a new and unique creation. I think its important to have a resolution of this case which actually encourages competiting products (both free and commercial). Dan Kegel's critque is well thought out. I endorse it and urge you to read it: http://www.kegel.com/remedy/remedy2.html

I also endorse Ralph Nader and James Love's views as: http://www.cptech.org/at/ms/rnjl2kollarkotellynov501.html

Thank you,
Martin Leisner
332 Shaftsbury Road
Rochester, New York 14610
Free Software Writer/User

MTC-00027983

From: IRSK1@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:39pm
Subject: Microsoft Settlement

I am forwarding this letter, since I strongly concur with it's premise.

thank you
Karl Heimberger [irskl@aol.com]
1 VAN DYKE PLACE
STONY BROOK, NEW YORK 11790
January 24, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

This letter is in support of the settlement with Microsoft. We must stop wasting money on unnecessary litigation and concentrate our resources on matters that actually need more action. Let's move forward, not backward.

This settlement allows us to go forward and end the waste. Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in Windows. Plus, Microsoft has agreed to design future versions of Windows so that computer makers and consumers can easily promote non-Microsoft software within Windows. Finally, Microsoft has agreed not to enter into agreements with other companies to promote any Windows technology exclusively. All these will be enforced by a new federal government commission.

The most impressive aspect of the settlement is that it even applies to Microsoft products that were not at issue in the lawsuit. This agreement is fair and reasonable, and it will clearly prevent future anticompetitive behavior. We must accept this settlement and allow the IT industry to concentrate on business as soon as possible.

Sincerely,
Karl Heimberger

MTC-00027984

From: mickeytwomouse@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:37pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Joseph Pemberton
609 Danbridge Drive
Hixson, TN 37343

MTC-00027985

From: John W. Manhollan
To: Microsoft ATR
Date: 1/28/02 12:46pm
Subject: Microsoft Settlement

To Whom It May Concern:

I believe that the proposed settlement is problematic for two reasons:

1. The settlement furthers Microsoft's strangle hold on the desktop platform by seeding into thousands of locations where impressionable youngsters will have access to only the Windows environment and thereby influence their future purchases.

2. The settlement only benefits a small number of the individuals who would have been harmed by Microsoft's blatant disregard of the results caused by its business strategy. America's school children of today were not the consumers affected by Microsoft's practices.

Thank you for your time and interest in my comments.

Sincerely,
John W. Manhollan, Technology Coordinator

West Middlesex Area School District
3591 Sharon Road
West Middlesex, PA 16159
v: 724.528.2002 x122
f: 724.528.0380

The directions said, "Requires Windows 98 or better." So I bought a Macintosh.

MTC-00027986

From: Fred Nugen
To: Microsoft ATR
Date: 1/28/02 12:42pm
Subject: Microsoft Settlement

As a United States citizen, I urge you to withdraw your consent to the revised proposed Final Judgment settlement in the United States v. Microsoft Corp. antitrust case. The limitations and punishments imposed upon Microsoft do not sufficiently restore the competitive conditions previailing prior to Microsoft's unlawful conduct. The Settlement only prevents Microsoft from future monopolistic practices; it does not punish Microsoft for previous unlawful behavior. The advantages of immediacy and certainty of the proposed Final Judgment are not sufficient cause for abandonment of pursuit of further litigation.

I urge you to pursue litigation of the issue of remedy, whether as set forth in the Final Judgement entered by the District Court on June 7, 2000, or as one of the other remedy proposals described in the Competitive Impact Statement, section (V) Alternatives to the Proposed Final Judgement.

Fred Nugen
407 W 18th #207
Austin, TX 78701
512.478.9617

MTC-00027987

From: Altes, James
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 12:44pm
Subject: Microsoft Settlement

It is my opinion that his is not a good idea, will only increase Monoply status of MicroSoft.

James Altes
Electronic Publishing Specialist
The American National Red Cross
202.639.3236
altesj@usa.redcross.org
Together, we can save a life

MTC-00027988

From: Thomas Allbee
To: Microsoft ATR
Date: 1/28/02 12:42pm
Subject: Microsoft Settlement

Thomas Allbee
16870 SW Camino Drive
Tigard, Oregon 97224
503-624-9431
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am sending you this brief letter in hopes of adding my sentiments to those millions who would like to see an end to the Microsoft case. This litigation has stymied an entire industry and contributed to our general economic malaise. There is no further reason to prolong the resolution of this case. I hope you will use your office and influence to see it settled soon. By the terms of the proposed settlement plan, Microsoft will endeavor to actively undermine its own predominance in the IT industry. It has agreed to surrender its past practice of demanding exclusive domain over software in its Windows platforms. It has even agreed to render its Windows platforms in configurations that invite the use of non-Microsoft software. It has agreed to open its technology to exploitation by its competitors. It has, in fact, agreed to facilitate competition.

These and other concessions validate Microsoft's claim to desire an open and fair playing field in the industry. Microsoft deserves this settlement and so does the country.

Sincerely,
Thomas Allbee

MTC-00027989

From: O M
To: Microsoft ATR
Date: 1/28/02 12:43pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I oppose the Proposed Final Judgment in relations to the Microsoft case. As one can plainly see, Microsoft continues to violate business practices. The Proposed Final Judgment does not punish Microsoft for its past violations to the anti-trust laws.

With out a doubt, Microsoft is guilty of breaking several anti-trust laws. Under the final settlement, Microsoft is permitted to retain most if not all profits gained through their illicit activities. Subsequently, the PFJ will not compensate parties injured or harmed through Microsofts egregious misdeeds.

In addition, the PFJ will not take into account all Microsoft gains made through its illegal maneuverings. With all due respect, the final settlement is basically acknowledging the acceptance of Microsofts anti-competitive behavior. What kind of message does this send out to the public? I can assure you that the message is clear and simple.

The PFJ encourages big corporations to engage in monopolistic and predatory conduct, which in turn is detrimental to the technology industry at large. With all due respect your honor, I am outraged at such a preposterous proposal that only helps Microsoft to remain intact and continue with its unethical practices. In conclusion I submit to you my objection to this Proposed Final Judgment.

Respectfully,
Dr. Marylin Ortiz
1001 Vine St.
Paso Robles, CA 93446

MTC-00027990

From: Laura Akers
To: Microsoft ATR
Date: 1/28/02 12:43pm
Subject: Microsoft Settlement

I oppose the current settlement with Microsoft as not acknowledging and supporting the ability of other organizations, such as those staffed by volunteers, to compete.

Laura Akers
Oregon Research Institute
lauraa@ori.org

MTC-00027991

From: Jeanette Gonzales
To: Microsoft ATR
Date: 1/28/02 12:45pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I'm writing to you as a Supporter the Free Market. Recently it was brought to my attention that over the past 3 years every federal court that has reviewed the Microsoft antitrust case has found that Microsoft repeatedly and aggressively violated U.S. antitrust laws and was liable for its illegal conduct. It was also surprising to know that the Justice Department had announced that it had cut a back-room deal (the Proposed Final Judgement) with Microsoft that granted Microsoft a government mandated monopoly that threatened to destroy any and all serious Microsoft competitors. How can this be allowed to happen? Why here, in a free capitalist country, is it permitted to allow a company like Microsoft infringe the rights of consumers and competitors everywhere. Men have gone before us, seen the issue, and have made a way so that the rights of consumers and other competitors were protected. So why now is there an exception to the rule to let Microsoft be allowed to abuse antitrust laws?

Sure the name Microsoft has prestige, and people trust in the company's quality, however no good can ever come of a monopoly. That is why the Tunney Act passed by Congress is so vital because it ensures that all antitrust settlements proposed by the Justice Department are not "contrary to the public interest."

Believe me, the public interest wants to see the Microsoft industry put to a stop before it completely wipes out all of its competitors—other defenders and leaders of the free world.

Sincerely,
Jeanette Gonzales
Jennyxgx@yahoo.com

MTC-00027992

From: patents@astreet.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:46pm
Subject: Microsoft comments

My inputs on the Microsoft matter.

I am a patent attorney, and I take my responsibilities very seriously, of course. I have seen several cases of hackers penetrating Microsoft systems, such as at a law firm I was associated with until recently. While most attacks seemed to be intent on corrupting files, there were some attacks that I am convinced could have and may have resulted in data being taken.

I am unwilling to expose my clients to such risks, especially since I believe the Microsoft XP OS has the capability of allowing ?someone?, such as at Microsoft, to copy data off your system with no indication to the owner. I am changing to Linux, and I find that most companies that offer software packages that run on Microsoft OS systems are discontinuing support for other than Microsoft systems (the exception is Apple, which depends on Microsoft investment and help for their existence). In fact, since Apple has a Linux-type system and IS supported, it appears that the decision by these companies not to support other Linux-type systems has no legitimate purpose. The companies I refer to that are moving to Microsoft-Apple support only are Adobe, the Acrobat product, and the various companies that make .TIFF readers. I need both .PDF (Adobe Acrobat) and .TIFF for my patent work, and I find that to have them I must use an OS from Microsoft. Even Mapquest, where I have been getting map data, gives very unsatisfactory results on other than Internet Explorer. By unsatisfactory, I mean the results on other than Internet Explorer are such as to indicate sabotage of the Microsoft competitors.

I feel I must not expose my clients to the hazards of a Microsoft system, but I find that Microsoft, directly or through companies that depend on Microsoft, is poisoning all competing systems. I hear even WordPerfect, a clearly superior word processor, is ?on the ropes? due to Microsoft's tactics.

I would like to sue Microsoft. Can you provide any help?

Marion E. Cavanaugh, patent attorney
720 Promontory Point Lane
Suite 2203
Foster City, CA 94404–4025
800.954.2277
650.578.0692
650.533.4363 (cell)
650.572.2370 (fax)
CC:patents@astreet.com@inetgw

MTC–00027993

From: Dolly Waters
To: Microsoft ATR
Date: 1/28/02 12:45pm
Subject: Microsoft settlement Please read.

THIS ELECTRONIC MAIL MESSAGE AND ANY ATTACHMENT IS CONFIDENTIAL AND MAY CONTAIN ATTORNEY PRIVILEGED INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR INDIVIDUALS NAMED ABOVE.

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Dolly Waters
43 Webster Avenue
Manhasset, NY 11030
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: I did not agree with the federal government's decision to sue Microsoft, and I am glad to see the two sides have reached a settlement. Microsoft is a strong and successful company because it develops the best products for the industry, and k is time to start spending the government's money on more important issues than trying to hinder this company's success. Microsoft has agreed to change its business operations so that competition will increase in the technology industry. The company will design future versions of its Windows operating system so that computer makers can promote non-Microsoft software within Windows. Microsoft has also agreed not to retaliate against computer makers that ship software that competes with anything in Windows. This settlement was reached after many long and costly hours of litigation, and extensive negotiations. It is fair and reasonable, and k should be finalized as soon as possible.

Settling now will benefit consumers and the industry, and this was what the government sought from the beginning. The American economy needs a boost right now, and stopping this litigation is a great step in the right direction.

Sincerely,
Dolly Waters

MTC–00027994

From: Henning Dalgaard Jeppesen TACDk
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 12:47pm
Subject: Microsoft Settlement I don't agree

MTC–00027995

From: c c
To: Microsoft ATR
Date: 1/28/02 12:49pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally-

I am stating my objection to the Proposed Final Judgment. Most honorable one, I implore you to see the true facts in the matter and judge accordingly. In the past week it has been brought to my attention an interesting development in the case involving the Department of Justice and Microsoft. A Final Settlement has been reached between the two parties, which will supposedly end the never-ending fiasco. Yet astoundingly enough based on my understanding and the information provided to me, the Proposed Final Judgment would overturn findings by the U.S. Court of Appeals indicts Microsoft on violating antitrust laws. After further review of the proposed settlement I find it hard to believe the Justice Department would withdraw their charges against Microsoft. In fact, based on the assessments made on the proposal, Microsoft will go scotch free from any charges of wrong doing in the matter. How can this be? There are several glaring flaws in the PFJ. However, non-so more apparent than allowing an absentee landlord to govern Microsoft. With all due respect, the final settlement provides no security to restrict MS from breaking any laws in the future. In my humble yet accurate opinion, the future governing body, implementing certain rules or regulations and forcing MS to adhere by them, will not be stringent nor forceful enough to make any dramatic changes. Similarly, I am not convinced that these stiff penalties applied to MS will ensure the security and future growth of other companies, A stiffer penalty and a whole new framework of laws must be established to justly punish MS. The Proposed Final Judgment abstains from such justification and order. Therefore I object to the stated Proposed Final Judgment.

Sincerely,
Dr. Romeo Ortiz
1001 Vine Street
Paso Robles, CA 93446

MTC–00027996

From: C. Scott Ananian
To: Microsoft ATR
Date: 1/28/02 12:50pm
Subject: Microsoft Settlement.

I am a graduate student at MIT, and author and maintainer of many commonly-used "open source" applications[*]. I have also contributed code to the Linux kernel that is used by millions of people every day. I wish to express my dissatisfaction with the terms of the DOJ/Microsoft settlement. It does not, in my opinion, serve the public interest and provide remedy for the anti-competitive actions of the monopolist. In particular, I urge a closer examination of how the terms of the proposed settlement impact *non-profit* competitive entities; as a case study you might want to examine the Apache foundation (www.apache.org), which produces the *only* web server which is a real competitive threat to Microsoft at this time. The terms of the agreement, by letting Microsoft decide what constitutes a "real business", threaten to exclude independent developers and non-profits like the Apache foundation from the disclosures (API and otherwise) which the settlement hopes will place a check on Microsoft. In this way, Microsoft may actually be able to edge out its last remaining competition from the marketplace — certainly not the result the DOJ intends, and certainly not in the public interest. As an independent developer who has written (for example) a competitive reimplementation of Microsoft's PPTP protocol *without benefit of any information from Microsoft* and who would almost certainly *not* qualify for API disclosure however Microsoft decides to define "viable business", I have a personal interest in seeing this settlement loophole closed. And on behalf of the many people who have used my software, I can state definitively that there is a public interest in allowing developers like myself to compete with Microsoft.

Thank you.
C. Scott Ananian
305 Memorial Drive
Cambridge, MA 02139

[*] More correctly called "free software", with the "free" referring to freedom, not to price. In fact you are allowed to charge whatever you like for "free software", provided you do not restrict the purchaser's ability to make use of it in various specified ways.

MTC–00027997

From: Tom Gardner
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 12:45pm
Subject: Microsoft Relief

To whom it may concern:

It appears to me that a great deal of Microsoft's market power comes from its policy of leasing its software and then using the copyright laws to enforce anticompetitive requirements. May I suggest that Microsoft be required to sell its software and thereby relinquish relevent copyright rights, much as a book seller relinquishes such rights upon sale of a book. Customers, such as PC manufacturers, would then be free to alter Micorosoft products to provide additional value to the end using consumer.

Microsoft will argue that any such alterations to the software will then make the product not maintainable and thereby void its warranty. While in the limit this is indeed possible, it practice most alterations would have little impact upon maintainability. Microsoft should therefore be also required to maintain any altered product unless and until it can show beyond reasonable doubt that such maintenance is an unreasonable commericial endeavor.

I have participated in the computer industry since 1968 and have at various companies been involved in the selling of hardware and software to PC manufacturers and PC end users. I testified for the people in US vs. IBM on software interface manipulation as an anti-competitive tactic.

The opinions expressed above are mine alone, and not necessarily those of any service provider enabling the transmission of this email.

Thomas E. Gardner
(650) 941–5324
t.gardner@computer.org

MTC–00027998

From: Cherry
To: Microsoft ATR
Date: 1/28/02 12:48pm
Subject: Microsoft

I would like to see this suit finalized as soon as possible.

Sincerely,
Cherry S. Garrison
Pendleton, South Carolina

MTC–00027999

From: Jonathan Doughty
To: Microsoft ATR
Date: 1/28/02 12:50pm
Subject: Microsoft Settlement
TO:
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
FROM:
Jonathan Doughty
9701 Rhapsody Drive
Vienna, VA, 22181

I urge you to reject the Proposed Final Judgement (PFJ) and replace it with one that is simpler to test Microsoft's adherence to, allows for the full range of competitors to Microsoft's practices including explicitly addressing open source alternatives, and better protects consumers from being the continuing victims of Microsoft's monopolistic practices.

The PFJ does not, as stated in the Competitive Impact Statement provide "prompt, certain and effective remedies for consumers." Nor will the PFJ "eliminate Microsoft's illegal practices, prevent recurrence of the same or similar practices, and restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings" as also stipulated in that statement.

Microsoft has shown by past and current monopolist behavior, by its tactics of embracing and extending technology in ways that force consumers to use and upgrade only its products (e.g., their extensions to the Kerberos security protocols), by selectively incorporating technology that in some cases it has appropriated from competitors into its operating system (e.g., Stac Electronics disk compression and Mosaic browser-based technology), and by adding code into their operating systems and middleware that unfairly targets competitors products (e.g, the DR/DOS code added to Windows 3.1 and the way in which consumers were steered away from Kodak applications for digital photography in the just released Windows XP) that they actively work against consumer choice.

The PFJ does not ensure "computer manufacturers have contractual and economic freedom to make decisions about distributing and supporting non-Microsoft middleware products without fear of coercion or retaliation by Microsoft" because it specifically allows Microsoft to enforce "any provision of any license with any OEM or any intellectual property right that is not inconsistent with" the PFJ. One can already find examples of a variety of Microsoft End User Licensing Agreements (EULA) in which Microsoft has forced consumers and OEMs to accept agreements that effectively tie use of Microsoft products to its middleware and operating systems and restrict the consumers right to substitute competitive technology.

The PFJ does not ensure "that computer manufacturers have the freedom to configure the personal computers they sell to feature and promote non-Microsoft middleware, and ensuring that developers of these alternatives to Microsoft products are able to feature those products on personal computers, by prohibiting Microsoft from restricting computer manufacturers" ability to install and feature non-Microsoft middleware and competing operating systems in a variety of ways on the desktop and elsewhere." Microsoft has already demonstrated they have no intent to adhere to this restriction by insisting, prior to the release of Windows XP, that their own products be given equal display on the desktop to competitive alternatives.

Finally, Microsoft has shown by its behavior of rushing products to market to further extend its monopolies, while continually delaying and extending the trials that might restrict that behavior, that it has no intention of modifying the past behaviors with which it has so successfully eliminated competition and restricted consumer choice. The PFJ is riddled with loopholes, more even than the 1994 consent decree that Microsoft flaunted the intent of, while at the same time providing cover for Microsoft to browbeat competitors with the very language that is supposed to protect those competitors. For example, the PFJ's wording explicitly excludes Microsoft from having to deal with the one consumer alternative that Microsoft has recently shown the most fear of, the open source movement, by explicitly allowing Microsoft to condition the release of documentation of its APIs and communications protocols based on Microsoft's own judgement that the third party "meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business."

The PFJ states "Microsoft shall begin complying with the revised proposed Final Judgment as it was in full force and effect starting on December 16, 2001." I believe a court interested in ensuring consumers" choice would agree that Microsoft's actions since the release of the PFJ on November 6, 2001 with respect to their .NET initiative, their attempts through orchestrated "grass roots" campaigns to influence the outcome of the court and legislative inquiries into their activities, the security of their existing products in maintaining consumers privacy and Microsoft's lack of ability to protect that trust, and their attempts to advance their monopolies into other markets (e.g., gaming devices and multimedia) demonstrate that Microsoft's is already flaunting the intent of the PFJ just as it has in the past flaunted the intent of other consent decrees.

Jonathan Doughty

MTC–00028000

From: Robert G. Prickett
To: Microsoft ATR
Date: 1/28/02 12:49pm
Subject: Microsoft Settlement

This vendetta by jealous competitors has got to be stopped. I have watched over the years and only commented to friends how Microsoft is being attacked by companies who want the U. S. Government to make their businesses flourish without working hard for it.

Call the dogs off. They have treed enough ghosts.

Robert G. Prickett

MTC–00028001

From: Douglas Lewan
To: Microsoft ATR
Date: 1/28/02 12:52pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
2002 January 28
Douglas Lewan
10 Fredwood Pl.
Matawan, NJ 07747

Please accept the following comments regarding the Revised Proposed Final Judgement published by the DOJ at http://www.usdoj.gov/atr/cases/f9400/9495.htm .

I agree with the obvious implied spirit of the Final Judgement. However, I believe it fails to truly attain that spirit in practice in several ways, the most important of which I discuss below.

Sections III.D and III.E regarding scheduling the publication of APIs and protocols:

These two sections fail to meet the spirit of the Final Judgement in two important ways.

First, the schedules based on delays of 9 and 12 months respectively would place publication of those APIs and protocols about halfway Microsoft's own development and deployment cycle. Vendors who could benefit from using those APIs and protocols would thus only be able to deploy products with them as Microsoft has new products looming on the horizon.

Second, the publication mechanisms specified in those two sections remain far too closed to foster competition outside of Microsoft controlled circles.

Publication of APIs as specified in III.D would be only to a select audience and only by the purchase of the MSDN (currently at a cost of between $1000 and $3000). That publication should be entirely public, possibly through a recognized standards body like ISO, ANSI or the IEEE.

Otherwise Microsoft will continue to wield essential absolute control over those APIs and their use.

Similar arguments apply to the publication of protocols.

With regard to protocols and "interoperating with a Windows Operating System Product" it should be recognized that all file formats used by Windows Operating System Products fall under the umbrella of "protocol". Interoperability must be explicitly recognized to cover any data produced by any program on any medium that might be used by any other program for a specific purpose. The current phrasing is far too weak and vague to allow interoperable alternatives to the likes of Word, Project, Visio, etc., all important Windows Operating System Products.

Section III.J further weakens sections III.D and III.E.

Section III.J has several flaws.

First, in it the Department of Justice and the nine plaintiff states sanction a policy of /security through obscurity/, an mechanism known to be flawed. It is far more secure to allow public scrutiny of security mechanisms to reveal the most egregious holes before commitment, implementation and use. Consider the work regarding DES, AES, Kerberos, etc.; even the theory behind RSA was published and widely discussed long before practical implementations were made. The possibilities and implications of vulnerabilities in the field under such policies are far worse that under published security mechanisms. Among other things, fixes become nearly impossible: (1) backward compatibility is necessary, difficult and counter-productive leading to a false of security and (2) deployments of such fixes can never be expected to be complete.

Second, by not publishing secure aspects of application protocols (authentication and authorization), third party software can never reach the point where it /can/ use the functional application protocols intended by section III.E.

All in all, sections III.D, III.E and III.J create at best a documentary opening of Microsoft products with (1) consequences for Microsoft and (2) no improved opportunities for the rest of the software industry.

Thank you for taking my comments under consideration.

Douglas Lewan

MTC-00028002

From: Kermit Holman
To: Microsoft ATR
Date: 1/28/02 12:51pm
Subject: Microsoft Settlement

During the past few years I have followed the DoJ case against Microsoft and the difficulty with getting an agreement for settlement of the case. In the technology arena this has been deleterious to business and the consumer. I believe it is time to get this item cleared and get on with the business of computing and technology.

Sincerely,
Kermit Holman
holman—ka@msn.com

MTC-00028003

From: Ralph Green, Jr.
To: Microsoft ATR
Date: 1/28/02 12:51pm
Subject: Microsoft Settlement

Introduction

As a software engineer with 25 years experience developing software, mostly for personal computers, I would like to comment on the Proposed Final Judgement in United Stated vs. Microsoft.

I believe that The Federal Government is attempting to achieve a remedy that infringes as little as possible on the market, while trying to stop illegal conduct. I applaud that attempt and think that was just what you should have been trying to do. I think, however, that the Proposed Final Judgement fails to stop the illegal conduct and should be rejected in its present form.

I am not looking for the federal government to pick winners and losers in the marketplace. I want my federal government only to ensure that fair competition will let the marketplace decide the winners. At the very least, any part of this agreement should be neutral in its effect on further entrenching Microsoft's monopoly. And since this agreement is supposed to be a remedy for illegal conduct, it should lean slightly to the effect of opening the market in order to remedy past wrongs. Then, and only then, the free and fair market can benefit the consumer.

As your own Competitive Impact statement says "The District Court held that Microsoft engaged in a series of illegal anticompetitive acts to protect and maintain its personal computer operating system monopoly, in violation of Section 2 of the Sherman Act and analogous state laws."

Failures of the Proposed Final Judgement

1) Section III.D states Microsoft shall disclose to ISVs, IHVs, IAPs, ICPs, and OEMs, for the sole purpose of interoperating with a Windows Operating System Product, via the Microsoft Developer Network ("MSDN") or similar mechanisms..."

The problem here is that Microsoft, as a monopolist, is setting standards for the industry. For a competitor to arise, interoperability must be possible. Restricting this API information for the sole purpose of interoperating with a Windows Operating System Product only entrenches the monopoly. There is no legitimate purpose served by restricting this interoperability to only Windows Operating Systems. For example, a competing middleware product may ask for these APIs so they can make their product compatible with both Microsoft Operating System Product and its competitors. Microsoft could refuse and thus their product tying would have succeeded in stifling competition. If Section III.D is to have the effect of fairly documenting these interfaces to stop the tying, the section quoted above should read:

"Microsoft shall disclose to ISVs, IHVs, IAPs, ICPs, and OEMs, via the Microsoft Developer Network ("MSDN") or similar mechanisms..."

2) Section III.E states "Microsoft shall make available for use by third parties, for the sole purpose of interoperating with a Windows Operating System Product, on reasonable and non-discriminatory terms (consistent with Section III.I), any Communications Protocol"

This is a similar failure to number 1, but more serious. These communications protocols need to be documented so that any competing operating system may use them. Microsoft's monopoly does not currently extend to the server market. If Microsoft were to gain a server monopoly by the quality of their product offering, that is fine. If they gain it by tying the server market to their current monopoly, that is the same kind of improper behavior that brought about this case. This judgement should not encourage that improper behavior and so this section I quote should be changed to read:

"Microsoft shall make available for use by third parties, on reasonable and non-discriminatory terms (consistent with Section III.I), any Communications Protocol"

3) Section III.G.2 states "on the condition that the IAP or ICP refrain from distributing, promoting or using any software that competes with Microsoft Middleware."

This is too narrowly drawn and to use a metaphor, confuses the cart with the horse. The illegal conduct was the attempt to preserve the monopoly on operating systems. Middleware was the tool used to preserve the monopoly. Microsoft should not discriminate against businesses that encourage the use of other Middleware, but they should not discriminate against businesses that encourage other operating systems, either. If the phrase "Microsoft Middleware" were replaced with "Microsoft Platform Software", this would have meaning. With the phrase "Microsoft Middleware" in place, an IAP encouraging the use of Linux, BSD or other competitive operating systems could be discriminated against.

4) Section III.H.2(second 2) states "(e.g., a requirement to be able to host a particular ActiveX control)" This is a terrible example and significantly lessens the likely intent of this paragraph. Hosting ActiveX controls is not a technical requirement. It is an implementation using a proprietary method. A reasonable technical requirement should not necessitate the use of Microsoft development tools. The only slightly reasonable point here is that ActiveX has been around long enough that there are a few alternative tools. I am not sure whether it is possible to build ActiveX controls withoutout the use of Microsoft development tools. If it is not, ActiveX should definitely go as an example.

5) Section IV.B.9 states "prohibiting disclosure of any information obtained in the course of performing his or her duties as a member of the TC or as a person assisting the TC to anyone other than Microsoft, the Plaintiffs, or the Court."

As worded, the TCs will not even be able to communicate important information to their staff or other TCs. There is also no reason to protect information about improper business practices by Microsoft. This should be amended to read "prohibiting disclosure of any proprietary information obtained in the course of performing his or her duties as a member of the TC or as a person assisting the TC to anyone other than other TC, the TC staff, Microsoft, the Plaintiffs, or the Court."

6) Section IV.B.10 states "No member of the TC shall make any public statements relating to the TC's activities."

This sentence should go. The purpose of the TC is to apply pressure to Microsoft to stay within the law. Secrecy does not serve that purpose. A better clause would read

"The TC shall make quarterly public reports. These shall be available on a web pages provided by Microsoft. Microsoft may fufill this requirement by hosting the web pages or paying for their hosting elsewhere, as long as the web pages are generally available."

7) Section IV.C.3.h states "maintaining a record of all complaints received and action taken by Microsoft with respect to each such complaint."

The purpose of this judgement is to end the illegal practices of the past. Light must be shed on questionable practices and credit should be given to improvements in behavior. These records should be easily accessible to all and the best way to do this is the change this sentence to read "maintaining and publishing on a public website at the expense of Microsoft a record of all complaints received and action taken by Microsoft with respect to each such complaint."

8) Section IV.D.3.c states "Microsoft shall have 30 days after receiving a complaint to attempt to resolve it or reject it, then promptly advise the TC of the nature of the complaint and its disposition." and will There is no feedback mechanism here to ensure that complaints are actually resolved. The complaintant should also be notified by Microsoft. If the resolution is unsatisfactory, then the complaintant would be prepared to take appropriate action. This should read "Microsoft shall have 30 days after receiving a complaint to attempt to resolve it or reject it, and will then promptly advise the TC and the complaintant of the nature of the complaint and its disposition.

9) Section IV.D.4.d states "No work product, findings or recommendations by the TC may be admitted in any enforcement proceeding before the Court for any purpose, and no member of the TC shall testify by deposition, in court or before any other tribunal regarding any matter related to this Final Judgment."

This is completely unreasonable if the issue is a further proceeding involving this matter. If the TC finds out about illegal behavior, they should have a duty to report it and stand behind their claims.

Conclusions

The final judgement as it now stands will only make things worse for the following reasons.

1. After this suit is ended, there will be tremendous pressure to leave Microsoft alone and see if the judgement leads to a free market. If the judgement is a reasonable one, I would join in protesting actions against Microsoft.

2. The failures of this judgement mean that the illegal and unsportmanlike conduct of Microsoft will likely continue. Because the people who may see the evidence, i.e. the TCs, must keep silent, we will have to wait until great harm is done before we will realize it.

3. That means real competition is less likely to get its foot in the door and offer real chice to the public. This is what really drives me. I think that if Microsoft wins a fair fight in the marketplace, then we are all better off. When they use their monopoly position to keep entrants out of the market, I think everyone but Microsoft loses. I wish Microsoft was prepared to fight a fair fight, but their history tells me they won't.

I really do think kudos are in order on this attempt at a Final Judgement. It is better than I expected in many ways. The breaking up of the company, as proposed at one time was too great a punishment and I am glad to see that solution is gone. In spite of my optimism at what I first heard about this agreement, a careful reading leads me to say that this proposed judgement is not good enough. Because of the significant failures I addressed above, this agreement will not serve to undo any past wrongs and I strongly believe it will only make things worse. With a few changes, it could serve the public interest and not unnecessarily impinge on the rights of a great American corporation. If the only choices are to take the Proposed Final Judgement as is, or reject it, I say you must reject it.

Respectfully submitted on January 28, 2002

Ralph Green, Jr.

MTC-00028003—0005

MTC-00028004

From: Mike Byrns
To: Microsoft ATR
Date: 1/28/02 12:54pm
Subject: Microsoft Settlement

Which of Microsoft's competitors has even expressed an interest in undertaking the gargantuan task that is writing a desktop operating system that could compete with Windows XP? I think we must discount the tiny startups like Be, Inc. since they are no more positioned to compete with Microsoft anymore than Tucker or Rosen Motors was positioned to compete with GM. Both had superior, innovative products but were just not realistically positioned to compete with GM. Face it, there is just as much barrier to entry into any major market as there is into desktop operating systems if you are not already a megacorp.

I think the whole scope of the "market" that Microsoft has been found to be monopolizing has been carefully crafted to make them the the only player. That scope makes Intel a monopolist in that market too and by the same token Apple a monopolist in the Motorola-based PC market. Look at some of the dirty tricks Intel has pulled vs. AMD and how Apple displayed undeniable market control in the Motorola-based PC market— it allowed Mac clone vendors to exist and then immediately when Jobs came on board, it canceled all their licenses and put them all out of business.

To me, the market is for "personal computing devices" not just Intel-based PCs. It should have included Apple and Palm as well. For this reason I think the case has been fundamentally flawed from the start and I think it's whole reason for being is too. I don't think there would be a case if it weren't for competitors in other markets (Oracle, AOL, SUN) where Microsoft cannot remotely be considered a monopoly (more like a struggling underdog!) playing protectionist politics. Not one of those companies has ever made even the slightest indication of intent to create a full-featured desktop operating system for Intel-based personal computers.

Their only intent in their friend of the court activity is to get back at Microsoft for competing with THEM in their near-monopoly franchises.

If you look at it from that perspective then they are even more anti-competitive than Microsoft and certainly more opportunistic.

The bottom line: Settle this. It was never in the public interest. You've already spent too much of my tax dollars playing marionette for billion dollar Microsoft competitors.

Mike Byrns

MTC-00028005

From: Paul Staudenmeier
To: Microsoft ATR
Date: 1/28/02 12:54pm
Subject: Microsoft settlement

692 Raven Road
Wayne, PA 19087–2329
January 25, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing in full support of the recent settlement between the US Department of Justice and Microsoft in the antitrust case. Firstly, I do not agree with a lawsuit being brought against Microsoft in the first place. Microsoft is not a monopoly, as they have never tried to deliver poor quality goods at inflated prices. They have at times employed tough marketing tactics, but that is by no means a crime in our capitalist society. In fact, I would say it is often the only way to be successful, let alone survive, in our free enterprise system. Microsoft spent huge amounts of time and money to develop excellent products and services. But rather than being allowed to enjoy the fruits of their labor, Microsoft is now forced in one term of the settlement to disclose interfaces that are internal to Windows" operating system products. This seems to violate their intellectual property rights. I hope the settlement goes through anyway because I think our IT sector and economy cannot afford further litigation. We need our strongest assets innovating and trying to grow. I know many others echo my opinion that I work and live with. I hope your office takes a firm stance against those who want to drag the suit on still longer, and instead strongly supports the implementation of the settlement.

Sincerely,

Paul Staudenmeier

cc: Senator Rick Santorum

MTC-00028006

From: bob becker
To: Microsoft ATR
Date: 1/28/02 12:54pm
Subject: Microsoft Settlement

To Whom it May Concern:

The proposed remedy for the Microsoft anti-trust case is a bad idea. It does nothing to ensure that Microsoft won't continue to force its standards and use of its products by every possible means.

Bob Becker
CC:becker@primate.wsic.edu@inetgw

MTC-00028007

From: James Houston
To: Microsoft ATR
Date: 1/28/02 12:55pm
Subject: Microsoft Settlement

I hope you can settle this suit ASAP. It has gone on to long and continued litigation is harmful to our economy, due to the disruptions in the software industry. Microsoft is guilty of only trying to put the best product on the market. I've been a software user for over 20 years now and have never felt I was forced to use only a Microsoft version of a program. I have tried several others over the years and have always returned to Microsoft versions, because they are better. Would you want to be forced to buy a KIA vs: a Toyota?. Netscape was a big thing. I tried it for two years and the switched back to MSN. I use earthlink as my browser and not MSN's browser. This was a conscious decision and executed in a free market. I did not fell forced to use MSN's browser. Did breaking up AT&T really help us? We don't know where we are getting our long distance service most of the time. And rates for LD phone service?? You could write another book about that. Why don't you devote your efforts to clarifying the up and down fluctuations of the oil and gas market? That would be something the consumer would really be interested in. These state attorney generals are just looking for political headlines so they can be considered for state governors jobs. What is the average consumer really going to get out of a settlement penalizing Microsoft? Look at the Ag'S track records. How many governors were previously AG's?

Please give us a break and end this Microsoft "witch hunt" now.

James M. Houston
jmhouston@earthlilnk.net
CC:Diane Feinstein,Barbara Boxer

MTC-00028008

From: v d
To: Microsoft ATR
Date: 1/28/02 12:55pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally, I oppose the proposed resolution in the MS case, better know as the Proposed Final Judgment. Over and above the usual economic risks presented by an unchecked monopolist—rising prices and monochromatic innovation the nations computer infrastructure will be increasingly vulnerable to attack if a single software system predominates.

Obviously I am referring to Microsoft.

Suppose that 80 or 90percent of the world's grain supply came from a single variety of corns. We would be faced with the unacceptable risk that some single disease, might wipe out an enormous portion of our food supply. Having only one kind of operating system or one kind of browser would make it terribly easier for saboteurs to bring the entire Internet to its knees.

For one entity, such as Microsoft, to control 80 to 90 percent of the market for PC operating systems, Internet browsers, e-mail readers, and office productivity software is clearly a significant security risk. To then allow that monopoly to actively attempt to drive out its remaining competition would hardly be in the public interest. Diversity is the key in producing economic prosperity and improving the society as a whole.

It's now up to you, Judge Kollar-Kotally, to decide whether the proposed settlement between Microsoft and the DoJ is a correct and just solution. However from where I sit, it contains too many loopholes to drastically effect Microsoft's behavior, much less bring about a certain kind of diversity which would enhance our security.

Kind Regards,
Eddie Ortiz
601 Kilpatrick Street
Vallejo, CA 94589

MTC-00028009

From: JLLIZANO@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:56pm
Subject: Microsoft Settlement

I agree with it because it is for the best interest of the American people who use Microsoft products.

Juanita L. Lizano
CC:fin@mobilizationoffice.com@inetgw

MTC-00028010

From: Richard Griest
To: Microsoft ATR
Date: 1/28/02 12:59pm
Subject: Microsoft Settlement
The Honorable Colleen Kollar Kotelly
U.S. District Judge
RE: U.S. DOJ /Microsoft Settlement

Your Honor:

The remedy proposed by the Department of Justice (DOJ) brings to mind the Oct. 22nd statement of the SEC chairman Harvey Pitt, "the SEC would henceforth be a kindler and gentler place for accountants. We all know what a disaster this attitude has resulted in, the Enron scandal. That DOJ would accept the settlement it has, shows that either they don't understand the impact software has in a modern economy or they don't understand the way that Microsoft exerts a negative influence as a monopolist. This settlement is definitely not in the public interest. I use software everyday on my job, as a controls engineer, in factory automation. Over the past two decades I have seen the software get more complex by an order of magnitude, requiring faster and faster computers just break even, with little increase in accomplishment. Increasingly you spend more time getting your operating systems and interfaces to work than you do actually writing the ladder logic that controls the motions and cycles of the factory equipment.

Personally, I feel the disclosure requirements required by Microsoft so that third parties can interface with Windows should be identical to that required by U.S. patent office. In the case of patents, if you don't publicly disclose enough information so that anyone skilled in the art can replicate your invention (interface with it in this case), your patent is invalidated.

Because it is a monopoly, a Microsoft copyright has the same effect as a patent, in preventing other people from entering the market. Forcing Microsoft to come up with a version of Office that would run on Linix as nine states who refused the DOJ settlement are requesting, still doesn't solve the problem. The real dollars are spent buying the Office product not in buying the Windows operating system. So you save $200-$300 by using Linix instead of Windows XP, you still have to fork over $500-$1000 to get Microso ft's Office for Linix.

In addition, there should be an anti-churning provision in the remedy. We are all familiar with churning in the stock market where your broker buys and sells stocks solely for the purpose of gaining commissions. This is exactly what Microsoft does when it brings out a new version of Windows and forces everyone to upgrade. To prevent this, the court should allow only two versions of Windows to be copywrighted at any one time, a business version and a consumer version. When a new version is brought out, all previous versions would revert to the public domain.

One of the benefits of allowing a monopoly is the standardization that it can bring. With Microsoft having so many different versions of Windows the standardization is gone. This is true both from an operator standpoint and from a software standpoint as many programs will only run on one version of Windows.

Finally let me detail two instances of fraud on Microsoft's part. The first envolves the removing of spelling check from the Internet Explorer 5 browser with Outlook Express.

When I downloaded I.E. 5 for free circa 4/28/99 it came with Outlook Express 5 version 5.00.2314.1300 for Windows 95. Under the tools menu the spelling check was a very useful feature for catching errors in you email. Recently I purchased a Dell Inspiron 3800 laptop that came with Windows 2000 and Outlook Express 5.00.2919.6700 which has the spelling check feature disabled.

In any other business this would be called bait and switch. Just to call up and ask the software support people at Dell about a Microsoft problem like this they want $29 for each question asked. Microsoft refers you to the OEM you bought the computer from. Now that they have browser dominance Microsoft wants you to fork over $500 for Office to get the spell checker you used to get for free. And with a Justice Department that "hears no evil", "sees no evil" and "speaks no evil" they get away with it.

The second instance of fraud involves the removal of QBasic from Windows 200 0. If a person goes to a car showroom and sees an engine listed on the sticker, buys the car and then subsequently finds out it has no engine, he would have little trouble in sending that dealer to jail. Yet when Microsoft does the same thing the DOJ just looks the other way.

The contents of the help file is the sofware equivalent to an automobile window sticker.

The help file for Windows 2000 clearly shows that QBasic is included as part of the product.

When you inquire the Microsoft knowldge base as to why QBasic isn't on your CD rom it suggests copying it from an NT CD rom. In as much as not all people with Windows 2000 have legally purchased Windows NT, Microsoft is clearly guilty of conspiracy to get people to violate the copyright act by making these suggestions.

In as much as DOJ's knowledge of computers seems limited, let me elaborate on the significance of leaving out QBasic. A computer operating system such as Windows 2000 can do nothing towards solving problems, which is the reason most computers are purchased. Without QBasic or some other additional software your computer is a $3000 piece of junk. Deleting QBasic is another example of Microsoft's bait and switch. QBasic was part of Windows NT, and it says right on the Windows 2000 boot up screen "based on Windows NT" Yet QBasic is gone. What Microsoft is doing here is described in the Wall Street Journal article "Technology Grows Up" by Walter S. Mossberg 10/25/01 pg B1 "On the software side a similar consolidation and drying up of innovation and competition has taken place ....There are two main reasons for the demise of boxed software. First, Microsoft has become a brutal monopolist in the key software categories squeezaing out competitors." (pardon the spelling mistakes, Microsoft took my spell checker away) So now you have to purchase Microsoft's Visual C boxed software if you want to write some code to solve even the simplest of problems, like you can on a programable calculator.

Let me close by saying that it took extraordinary effort to locate the address to send these comments to even though I have been looking for months. I contacted Sun, several attorney generals offices, and my local newspaper's office. I find it significant that neither www.pcmag.com now www.pcworld.com felt comfortable posting the address on their web sites.

This kind of fear only a monopolist commands. Something needs to be done.

Sincerely,
Richard M. Griest
Nashville, TN
CC:bob.clement@mail.house.gov@inetgw

MTC-00028011

From: donlstev@cs.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:56pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse: Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Don Stevens
5511 20th Street Lubbock, TX 79407-2005

MTC-00028012

From: LJ Sweet
To: Microsoft ATR
Date: 1/28/02 12:58pm
Subject: Law suit

Stop meddling in the competition between competitors. This is not for the government to decide this should be settled by the consumer let them use the soft wear that works the best and costs the least. Let AOL and netscape make a better product.

Stop whining.
Drop the law suits

MTC-00028013

From: E G
To: Microsoft ATR
Date: 1/28/02 12:59pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I object to the so-called Proposed Final Judgment in the Microsoft case.

As every one knows, Microsoft continues to violate anti-trust laws set in place many years ago. The Proposed Final Judgment goes against all logic. Previously the US Court, has found Microsoft guilty of breaking the anti-trust laws. However, under the proposed final settlement, MS is permitted to retain most of its profits gained through their illegal activities. Subsequently, the PFJ will not compensate parties injured by the Microsoft debacle.

Moving forward, the PFJ does not take into account all Microsoft gains made through its illegal maneuverings. The final settlement basically acknowledges the acceptance of Microsofts anti-competitive behavior. What kind of message does this send out to the public? Do you think the public will be in favor of such a move?

I can assure you that the message is clear and simple. The Proposed Final Judgment encourages big corporations to engage in monopolistic and predatory conduct, which in turn is detrimental to the technology industry at large. With all due respect your honor, I am outraged at such a preposterous proposal that only helps Microsoft to remain intact and continue with its unethical practices. I submit to you my objection to this Proposed Final Judgment.

Respectfully,
Gigi Ortiz
601 Kilpatrick Street
Vallejo, CA 94589

MTC-00028014

From: coonhnd@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:56pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001
Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Carol Morrell
1412 Glen Echo Drive
Huntingdon Valley, PA 19006

MTC-00028015

From: coonhnd@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:56pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001
Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you. Sincerely, Carol Morrell 1412 Glen Echo Drive Huntingdon Valley, PA 19006

MTC-00028016

From: Joseph Lin
To: Microsoft ATR
Date: 1/28/02 1:00pm
Subject: Microsoft Settlement

Judge Kollar-Kotally,

I feel the Microsoft settlement before you has serious flaws, and I urge you to reject it. Every court has agreed that Microsoft has used its monopoly powers to reap unjust profits, yet the company is now being allowed to retain those.

Furthermore, there is no provision to ensure that their anti-competitive won't continue.

Respectfully,
Joe Lin

MTC-00028017

From: Adrian M. Fitzpatrick
To: Microsoft ATR
Date: 1/28/02 1:01pm
Subject: Microsoft Settlement

I urge you to accept the Microsoft Settlement as it now is in the best interest of the public to do so. I think to drag this out longer will just cost more in litigation fees which will ultimately be paid for by the consumer. Thank You

MTC-00028018

From: biokemist@altavista.com@inetgw
To: Microsoft ATR
Date: 1/28/02 12:58pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Dr.Philip Sekar
Box 29729
Thornton, CO 80229-0729

MTC-00028019

From: Brian Gregory (EWU)
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 1:01pm
Subject: Microsoft settlement

I am an electrical engineer working at a telecom research division in Boulder, CO. I am in favor of ruling as strongly as possible —against— Microsoft in the current case. The only step I'd not advocate is breaking the company up. I find Microsoft's behavior in the matters being investigated if not illegal—which I'm not qualified to judge—reprehensible, immoral and absolutely un-American. They're every bit as manipulative and predatory while hiding behind a panoply of legalisms as the worst stories of turn-of-the-century rail barons ever boasted. Microsoft is clearly an abusive company and near-monopoly. If Microsoft is not reined in, it could continue to foster and force upon an unsuspecting public, mediocre products that have not been properly subjected to the scrutiny and competition of open markets. The result will be a country ill prepared to cope with the 21st-century information age; prone to computer virus infection and poor software reliability.

Punish Microsoft! Share with them some of our pain, please.

Sincerely,
Brian Gregory
Boulder, CO
303.664.1085
brian—gregory@netzero.net

P.S.: Some history

In this case, the DoJ was accepting public input until Jan 28th on the DoJ vs Microsoft case. The DoJ theoretically must weigh public opinion before making their final decision.

CC:'Tom Jones','Kevin Gregory','Home"

MTC-00028020

From: Don Parry
To: Microsoft ATR
Date: 1/28/02 1:02pm
Subject: Microsoft Settlement

To whom it may concern, my wife Carolyn and I wholeheartedly support the Microsoft settlement as presently constituted. Thank You,

Donald S. Parry
Carolyn S. Parry
1178 Wood Duck Hollow
Jacksonville, Fl., 32259-2932
904-287-7720
dsparry@prodigy.net

MTC-00028021

From: N B
To: Microsoft ATR
Date: 1/28/02 1:03pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I am object to the final settlement in the MS court case. Not only does this go against the findings by the U.S. Court of Appeals but, in facts allows MS to go unpunished for past wrong doings.

The Proposed Final Judgment allows MS to continue its predatory practices. My main argument entails the preservation of healthy competition. The way to accomplish such a task is by promoting diversity with in the business sector. For a single entity, such as MS, to control 80 to 90 percent of the market for PC operating systems, e-mail readers, and office productivity software (which undoubtedly can spread viruses) is clearly a significant risk to security. To then allow that monopoly to actively attempt to drive out its remaining competition would hardly be in the public interest.

Therefore, I submit to you that the Proposed Final Judgment will not solve the Microsoft issue.

ALL THE BEST,
Bernie Bonefacio
951 2nd Ave
San Mateo, CA 94401

MTC-00028022

From: Rhodes, Vaughn
To: Microsoft ATR
Date: 1/28/02 1:04pm
Subject: Microsoft Settlement

Dear DOJ,

I am the former product manager at Compaq Computer Corporation who was responsible for the Compaq/AOL deal in 1995. I worked for Rod Schrock at the time, who worked for John Rose. You used several of my email messages in your case against Microsoft. Name: Vaughn Rhodes.

I HIGHLY object to the proposed settlement with Microsoft. I'll go a step further: I have a hard time believing that it is even being proposed. It is a gross miscarriage of justice. I know because I was at the heart of the project at Compaq that resulted in Microsoft sending a letter of termination to Compaq.

Let me provide some background for you.

In 1995, I was placed in charge of defining Compaq's consumer online strategy. I proposed a relationship with America Online, one which was great for America Online, and even better for Compaq. It was worth HUNDREDS OF MILLIONS OF DOLLARS IN INCREMENTAL PROFIT to our business unit. The deal, in a nutshell, involved Compaq heavily promoting the AOL service, in exchance for AOL giving Compaq a large revenue share.

Microsoft heard about this forming relationship. They contacted us and asked that we work with them instead of AOL, to promote their new online service code-named Marvel (now known as MSN, the Microsoft Network). We responded the we would be happy to work with them, but we would expect them to pay us in a similar fashion to how AOL was to pay us.

Their response? I'll paraphrase: We are Microsoft. We own the customer, not you, Compaq. You Compaq have three choices:

1) Do the deal with Microsoft. We will pay you NOTHING, but we'll have a closer relationship, with various intangible benefits (wink wink lower price on the OS, etc.)

2) Cancel the deal and do it with nobody. We Microsoft are OK with that.

3) Do the deal with AOL. WARNING: IF YOU PURSUE THIS OPTION, WE WILL PUT YOU OUT OF BUSINESS.

Our team at Compaq reviewed the situation, and concluded that Microsoft must be bluffing. They couldn't do it, because it would be such a blatant violation of anti-trust laws.

We decided to proceed with the deal.

Shortly afterward, Microsoft sent us a letter telling us that we were in violation of their Windows Licence agreement, and we could no longer sell PCs with Windows installed. THEY WERE PUTTING US OUT OF BUSINESS!!!

Needless to say, we ended up having to redo the deal with AOL, dramatically watering it down and making it effectively into a nothing deal: no real benefit to AOL, no real benefit to Compaq.

If this kind of behavior is not a flagrant abuse of monopoly power, I don't know what is.

I would be glad to discuss this further with anyone from the DOJ.

Please contact me at your earliest convenience.

Thank you,
Vaughn Rhodes
Formerly Strategic Planning Manager (and Product Manger) at Compaq
Computer in Houston, TX
650-938-8587 (home)
650-279-6221 (cell)
vrhodes@archway.com (work email address)
vaughnrho@aol.com (home email address)

MTC-00028023

From: Michael McLay
To: Microsoft ATR
Date: 1/28/02 1:05pm
Subject: Microsoft Settlement

The comments on the Microsoft Settlement by Dan Kegel [1] highlight many reasons for handing down a swift and harsh punishment for Microsoft. There should be no negociating this settlement. They are at the mercy of the court and should suffer the conseqences of their actions. The following suggestion on the nature of the punishment has not been proposed in any discussions I have seen to date.

I am concerned that the settlement talks with Microsoft have ignored the assignment of a financial penalty. Antitrust law allows for treble damages so the court has ample power to punish violators. An effective settlement must include a stiff financial penalty that is proportionate to the profits that Microsoft gained through their violations of the law. The abuse of monopoly power has resulted in many billions of dollars in windfall profits to the company. A fine of $20–30 billion would send a message that Microsoft will understand. It isn't excessive (it would be less than a year's profits) and wouldn't do excessive harm to the company's financial health (they have the cash to pay the fine immediately). Anything less will be a simple slap on the hands which they will ignore.

Awarding this money directly to those who where damaged by the abuses of Microsoft is not practical. Not everyone registers the purchase of the products involved and even if the fine were distributed the resulting award would only be a few dollars per person. A straight distribution of the fine would have no lasting outcome.

The judgement could leverage the fine against Microsoft to strengthen the punishment and benefit those who were harmed. This can be done by using the money to set up a foundation to fund open source software projects. This would result in a just solution that helps those who were damaged directly by Microsoft. Open source software is freely available to everyone, so everyone benefits equally. Open source software is also the one potential "competitor" that Microsoft still fears. A $20B trust fund that assigns matching grants to those who are willing to work for the public good would benefit everyone equally and potentially help restore competition to the software world. There are many open source organizations set up to help fund open source developers. Organizations such as the Free Software Foundation [2] and the Python Software Foundations [3] would be able to make significant progress in projects that otherwise only make progress through the voluntary efforts of motivated and highly skilled software developers. Imagine the good that would be had by funding 20 such organizations with a $1B trust fund. This remedy will do much to help restore the market balance, but it will not be sufficient if Microsoft continues to control the definition of standards.

The punishment must also require Microsoft to participate in the development and use of open and well documented standards. The Kerberose abuse is evidence of their intentions to subvert competition. The punishment must prevent them from further harming the market though the abuse of standards and secret interface definitions.

[1] http://www.kegel.com/remedy/

[2] http://www.fsf.org/

[3] http://www.python.org/psf/

MTC-00028024

From: Bart Locanthi
To: Microsoft ATR
Date: 1/28/02 1:06pm
Subject: Microsoft Settlement

A Better Settlement Proposal

Microsoft was found guilty of violating antitrust law. Microsoft has never abided by any previous findings or judgements beyond the narrowest definition of the letter. During the various legal proceedings, Microsoft continuously demonstrated its contempt for the law and its process. The proposed settlement is, more than anything else, a license for Microsoft to continue and extend its abusive behavior at the expense of the consumer and the industry. Accepting the settlement as is would be an outrage. There must be punishment for previous crimes. There must be compensation for the vast quantity of parties injured by these crimes. There must be consequence for continued, renewed, and new anti-competitive behaviors. And, there must be a mechanism to deter Microsoft from dragging out process, as has been their habit and intent, to outlast competitors, judges, and public attention.

It is with these points in mind that I suggest the following:

1) Require that Microsoft make public all file formats and APIs, past, present, and future, without charge, to anyone who asks. There can be no squirm room here, no hiding behind a supposed need for Microsoft to safeguard internal secrets. Microsoft has always used file formats and APIs as weapons to injure customers and competitors, and any loss of business advantage from this requirement would be a minimal and fair compensation to the world at large.

2) Implement a penalty schedule to force compliance of Item 1. For each file format or API not already published, a clock would start at the first request for it, and a fine imposed for every week said item it not made publicly available. This fine would increase geometrically: a weekly fine would start at $100,000 and be doubled and collected each week. The total cost of delay for four weeks would thus be $1,500,000, and for eight weeks it would be $25,500,000. The fines and penalty schedules for information requests would be independent—by dragging its feet, Microsoft could wind up paying several fines at varying penalty levels at the same time.

This geometric increase is essential, as it addresses the important issue of time, which Microsoft has always used as an ally. Any notion of these fines being ruinous is easily dispelled by two points:

1) all fines can be avoided by immediately complying with information requests, and

2) this is punishment, after all—Microsoft has no business asking for mercy, having always acted with brutality and bad faith in their dealings.

Information may not be witheld for reasons of presentability. Or, rather, if Microsoft cares to polish its presentation, or disentangle it from, say, strategic business information, there would be a known cost for delaying its publication. Again, there can be no excuse for non-compliance. Penalties must be exacted with the extreme prejudice justified by judicial findings and Microsoft's historical refusal to comply with the law.

It is important that fines be collected as they are incurred. There should be no incentive for Microsoft to delay compliance, or hope that by running up a huge total fine they might gain public sympathy and again escape punishment. On the contrary, delay of payment should be met by freezing of their assets and forced collection. There can be no fear of enforcing the law—after all, there is nothing that Microsoft makes that is essential to the economy. To the contrary, the economy has suffered long enough at the hands of Microsoft, and Microsoft needs to learn how to become a proper citizen. The hard way, if necessary.

Bart Locanthi
bart@truedisk.com
Beaverton, OR

MTC-00028025

From: Jay Chell
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 1:05pm
Subject: Microsoft Monopoly Settlement

I disagree with the current settlement plan. It will leave the fox in charge of the hen house. This settlement will cause the DOJ to visit this issue again when things once again get out of hand.

jay chell
Manager, Delegated Financial Audits
phone: 562–989–4455
fax: 562–989–5192
e-mail: jayc@scanhealthplan.com

MTC-00028026

From: Kenneth Olafson
To: Microsoft ATR
Date: 1/28/02 1:06pm
Subject: Microsoft Lawsuit
January 28, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Since the filing of the Microsoft lawsuit by the Clinton Administration Department of Justice, I have tracked the case. I believe it was wrong to file the lawsuit and I am relieved that it is finally over. We do have the unfortunate situation with some renegade Attorney General's around the country, however. Please take the settlement and close the case We need to move forward with our technology investments and with new ideas and technology. We need this case behind us.

Sincerely,
F. Kenneth Olafson
Utah Coalition for Accountable Government

MTC-00028027

From: DJMaytag
To: Microsoft ATR
Date: 1/28/02 1:13pm
Subject: Microsoft Settlement

I have to take objection to this:

"59. The primary channel through which Microsoft distributes its operating systems is preinstallation on new PCs by OEMs. Because a PC can perform virtually no useful tasks without an operating system, OEMs consider it a commercial necessity to preinstall an operating system on nearly all of the PCs they sell. And because there is no viable competitive alternative to the Windows operating system for Intel-based computers, OEMs consider it a commercial necessity to preinstall Windows on nearly all of their PCs. Both OEMs and Microsoft recognize that OEMs have no commercially viable substitute for Windows, and that they cannot preinstall Windows on their PCs without a license from Microsoft. For example:"

Look at today's PCs and try to buy a PC from Dell, HP with both Windows and Linux factory installed. You can't. You can get Linux in some places, mostly WinMe, but not both. The reason is MS plays a clever game. To use a boot loader, if you're a Windows licensee, you must use the MS loader. Then, if you read the MS Boot Manager license, you can only use it to load MS OSs, DOS, WindowsXX, Windows 2000. Otherwise you lose your Windows license. This explains why you cannot buy a dual boot Windows and a competing OS loaded at the factory. If and when the DOJ wins their case for good and winning means Dell or Compaq can install competing OS at the factory, MS will have to compete on merits. Today, they abuse their monopoly. See http://www.befaqs.com/mirror/classic-be/developers/bmessage/issue01.html for the full article:

Manufacturing Consent

by Jean-Louis Gass,e

Perhaps I should call this column "Manufacturing Public Opinion," rather than "Manufacturing Consent." The idea for it occurred to me as I read the opinion "polls" taken right after last Friday's announcement of the DOJ's proposed remedies in the MS anti-trust trial. The pollsters found that the majority (more than 60%) of the American public is opposed to the remedies proposed by Joel Klein's team at the DOJ, working with the attorneys general of 19 states. With more than 20% undecided, that leaves relatively few people supporting the DOJ's position. Vox populi, vox dei? Is the DOJ, which is supposed to fight for the people, out of touch with the public good? That's what the pollster-geist behind the probe would like us to believe. Far from me to suggest that this poll is unscientific. Au contraire. It represents the real science of manufacturing opinion, preferably by creating an avalanche effect. If most people are against breaking up Microsoft, it must be bad; therefore, I must join them, and the next poll might show even stronger disagreement with the DOJ. What's bad for Microsoft is bad for America.

Let's go back to December 1982. You poll consumers for what they want in a personal computers. What do you hear? I want a better, faster, cheaper Apple II, or ///, or PC, or CPM system (yes, these were still around at that time). A month later, you give public demonstrations of the Lisa. The same people now tell you that's what they want. B-b-b-b-but, you stutter, that's not what you said last month. Yes, no, I didn't know this existed.

In other words, the consumer had no words, no concept, to deal with what was unthinkable at the time but which suddenly became describable-and attractive- once seen and touched: a mouse, overlapping windows, a bitmapped screen, pull -down menus. I can only think and discuss what I have reference points for and, in general, I tend to describe the future in today's vocabulary. In this case, most PC users have only been exposed to Microsoft's lineage of operating systems. As a result, there are few reference points for thinking of life with more than one breed of operating system and applications.

Microsoft made sure that an alternative OS such as Be's, Linux, or FreeBSD couldn't be loaded next to Windows by PC OEMs. As a result, people have no data other than the Microsoft experience. They're told that some of the remedies would make the Windows system riskier and that applications might not work as well. We have something that works, the jack-booted thugs at the Justice Department want to make it less than what it is today, so why should I be in favor of breaking up Microsoft? Setting aside the caricature, the point remains: Microsoft's monopoly practices are the very reason why we haven't experienced what a truly competitive situation might be like. This is why the poll is so revealing of a certain kind of science in manipulating the political situation around the suit.

A Crack in the Wall

By Jean-Louis Gass,e

You're the CEO of a PC OEM, delivering some great news to Wall Street: "In an effort to offer greater variety and performance to the customer, our factory now installs three operating systems on the hard disk—Windows, Linux, and the BeOS. The reaction has been spectacular. Customers love having a choice of OS, and the press—from John Dvorak in PC Magazine to John Markoff in the New York Times to Walt Mossberg in the Wall Street Journal—has heralded us for our bold move. This is a great step forward for the consumer and for the industry. Oh, and by the way, we lost $50 million since we no longer qualify for Windows rebates. But it's a sacrifice for the common good."

You're now the ex-CEO of a PC OEM.

We know that the Windows rebate scheme exists—but what *is* it, exactly? And why are so many OEMs afraid of losing it? Windows pricing practices are closely guarded secrets, so we don't know exactly how the rebate is structured, but we can assume that it works something like this: The total cost of a Windows license consists of a base price offset by a rebate. The base price is set; the rebate is flexible, and contingent on the "dedication" of the licensee. That is, the more you "advertise" the product—through prominent positioning, expanded shelf space, and so on—the greater your rebate. This quid pro quo rebate looks innocent enough, and can be a useful tool in a competitive market.

But when you're running a monopoly—and when it comes to out-of-the-box, consumer-grade PC clones, Microsoft *is* a monopoly—"prominent positioning" and "expanded shelf space" have little meaning. Microsoft has no interest in getting "more" footage on the OS shelf, because they've already got it all. What interests them—the only useful advantage they can "buy" (to be kind) with their rebate—is to ensure that no one else will get any. So how is "dedication" measured? A real-life example: We've been working with a PC OEM that graciously—and bravely—decided to load the BeOS on certain configurations in its product line. However, there's a twist in their definition of "loading." When the customer takes the machine home and starts it up for the first time, the Microsoft boot manager appears—but the BeOS is nowhere in sight. It seems the OEM interpreted Microsoft's licensing provisions to mean that the boot manager could not be modified to display non -Microsoft systems. Furthermore, the icon for the BeOS launcher—a program that lets the user shut down Windows and launch the BeOS—doesn't appear on the Windows desktop; again, the license agreement prohibits the display of "unapproved" icons. To boot the "loaded" BeOS, the customer must read the documentation, fish a floppy from the box and finish the installation. Clever.

One suspects that Linux suffers from the same fealty to Microsoft's licensing strictures. Linux is the culmination of 30 years of development by the Unix community. Surely an OEM can't complain about Linux's quality or its price: It's good, and it's free. If Microsoft licensees are as free to choose as Microsoft claims they are, why isn't Linux factory installed on *any* PC? If you randomly purchase 1,000 PC clones, how many have any OS other than Windows loaded at the factory? Zero. But what about all these announcements from companies such as IBM, Dell, and others? A few URLs are supplied here for your convenience:

<http://www.dell.com/products/workstat/ISV/linux.htm>

<http://www.compaq.com/isp/news—events/index.html>

<http://www.compaq.com/newsroom/pr/1998/wall1298a.html>

<http://www.hp.com/pressrel/jan99/27jan99.htm>

<http://www.hp.com/pressrel/jan99/27jan99b.htm>

<http://www.software.ibm.com/data/db2/linux/>

If you parse the statements, Linux is offered and supported on servers, not on PCs. Another IBM story is that installation is to be performed by the reseller on some PCs or laptops, not by IBM at the factory. As an industry insider gently explained to me, Microsoft abides by a very simple principle: No cracks in the wall. Otherwise, water will seep in and sooner or later the masonry will crumble.

Guarding against even the smallest crack is important to Microsoft, because it prevents a competitor from taking advantage of a phenomenon that economists call the "network effect." The "network effect" manifests itself as an exponential increase in the value of a product or service when more people use it. Applied to a computer operating system, the effect works like this: As more people install and use an OS, the demand for applications increases. Developers respond to the demand, which attracts the attention of OEMs and resellers, who promote the OS in order to sell the apps, which attracts more customers... The key to all this is distribution and visibility — in other words, "shelf space."

Bill Gates understands the network effect well—he once quoted it to me, chapter and verse. In the Fall of 1983, when I was still running Apple France, I met with Bill in Paris and we got into a conversation regarding the market share limitations of DOS. No problem, he said, with the wide distribution we enjoy, we'll get the attention of third parties, and the marketplace will fix these shortcomings.

This puts statements by senior Microsoft executive Paul Maritz in perspective. In reaction to my claim that Be wants to co-exist with Microsoft, Mr. Maritz said (as quoted by Joseph Nocera in Fortune Magazine): "[Gassee is] articulating his strategy for entry into the operating system marketplace. But on the other hand, I know that Be has built a full-featured operating system, so what I believe he's doing here is outlining his strategy about how he will initially co-exist with Windows and, over time, attract more applications to his platform."

Mr. Nocera interpreted Mr. Maritz's interpretation thus: "In other words, Gassee's spiel is little more than a trick intended to lull Microsoft. But Microsoft isn't so easily fooled! Microsoft will never ignore a potential threat to its Windows fortress, no matter how slight. The software giant may be in the middle of an antitrust trial, but—as Andy Grove says—only the paranoid survive..."

[The entire article, part of a court house diary, can be found at <http://www.pathfinder.com/fortune/1999/O3/O1/mic3.html>.]

Industry sages such as T.J. Rodgers, the CEO of Cypress Semiconductors, as well as venture capitalists aligned with Microsoft, criticize the Department of Justice's intervention in the new Pax Romana we're supposed to enjoy under Microsoft's tutelage. Don't compete in court, compete in the marketplace, they say. I'm a free marketer myself; I left a statist environment for the level playing field created by the rule of law in this, my adopted country. A free market is *exactly* what we want. One where a PC OEM isn't threatened by financial death for daring to offer operating systems that compete with the Windows monopoly.

We started with a thought experiment. We end with a real-life offer for any PC OEM that's willing to challenge the monopoly: Load the BeOS on the hard disk so the user can see it when the computer is first booted, and the license is free. Help us put a crack in the wall.

Is the Customer King?

By Jean-Louis Gass,e

One would hope to answer this question in the affirmative, but before I elaborate, some follow-up to last week's column, "A Crack In The Wall," along with our thanks.

Our offer of free copies of the BeOS to OEMs willing to load our OS "at the factory," on the hard disk of PCs they sell, got a tremendous response. We appreciate the interest in our product and we intend to do our best to honor the hospitality extended to us. Watch this space or, more generally, www.be.com, for more details. For a number of contractual reasons, this offer applies only in the US and Canada, not to other countries in the Americas or in Asia. For Europe, please contact our VP Europe, Jean Calmon, jcalmon@beeurope.com, for country-by-country details.

As we collect data from the flow of responses, an interesting but not unexpected picture emerges. The OEMs expressing interest are the ones who cannot realistically be "fined" by Microsoft—that is, lose their Windows rebate. If your pay the maximum OEM price for Windows, or close to it, you won't be afraid to load Linux or the BeOS on your customers" hard drives, especially if you don't have to account to Wall Street for your actions. If, on the other hand, your exposure is measured in millions of dollars per quarter, and you are the CEO of a publicly traded company, you'll load Windows and nothing but Windows on the PCs you sell. More precisely, you might load Linux as the OS engine on hardware other than PC servers. In any event, this represents only a preliminary look at the returns—it's too early to draw definite conclusions.

Now, let's turn to the customer in the title of this column. We hear that the Windows monopoly is good for customers—it's a standard, there's no confusion, users can rely on a trusted foundation for their work, and so on. But how can this be if there are so many obstacles placed in the way of a customer's even seeing that (s)he has some (limited) choices? I'll take one example of what I mean by choices. One overseas OEM announced with great fanfare that it would offer some configurations in its PC line with a dual-boot arrangement: Windows 98 for mainstream applications and the BeOS for its natural media uses. Great—exactly what we wanted—the specialized media OS peacefully coexisting with the mainstream platform. Well, not exactly. If you take the machine out of the box and boot it, the BeOS is nowhere to be seen—the computer boots only Windows 98. If you read the documentation carefully, you'll find out how to "unhide" the BeOS. Then, through a complicated sequence, you'll finally get to the dual-boot situation. Should the OEM be criticized for this state of affairs? Again, not MTC.00028027—0005 exactly. It appears that the fear of losing Windows rebates intervened to prevent the customer from being offered a genuine dual-boot system. In fact, as we verified for ourselves, the steps the customer must perform are so complicated that it's much easier just to do the simple partition and BeOS installation possible with our retail product, complete with a BeOS Launcher icon on the Windows desktop.

Wouldn't one think that Microsoft behaves, in effect, as if the PC belonged to it, rather than to the OEM or to the customer? It's is hard to see how the customer and, more generally, the industry, benefit if one company decides what's good for all, and what the customer should see or not see.

A Crack in the Wall: Part II

By Jean-Louis Gass,e

Some time ago, I wrote a semi-fictional column regarding the plight of the CEO of a PC clone company ("A Crack in the Wall" <http://www.be.com/aboutbe/thebenewsletter/volume—III/Issue8.html>). At a quarterly business review for Wall Street analysts, the CEO extolled his vision: Giving buyers more OS choices was A Good Thing. Everything went well—customers loved having Linux and the BeOS installed on their system at the factory, next to the classic Windows. The out-of-the-box experience was great, the options at boot time were easily understood and, since customers could delete the system(s) they didn't want to keep, this was the real thing, freedom of choice—without waste. The PC magazines loved the move, we reaped all the Best Of... awards and generated good will and oodles of free publicity.

Ah, another thing, the CEO continued. The company lost $50 million dollars this quarter because Microsoft fined us for offering other operating systems. Their contract with us gives them the right to increase the price we effectively pay for Windows if we offer other operating systems. Microsoft even invoked an obscure—and confidential—clause in their licensing agreement and grumbled that we had no right to use their boot manager, or any DOS code, to load other operating systems. It's OK for the customer to install a boot manager him/herself, but you, the PC OEM shouldn't. As a result, they claim we shouldn't offer the of out-of-the-box experience I mentioned earlier. Some customer assembly is required. At this stage, the CEO has lost his audience—and his job.

As I said at the beginning, this is a concoction. But testimony is sometimes tastier than what amateur columnists can dream up. What we have before us is a deposition by Garry Norris, an IBM executive and a government witness in the antitrust suit against Microsoft. In his testimony, Garry Norris describes how Microsoft quintupled the Windows royalties it demanded from IBM, to $220 million. There is some dispute about the exact numbers, but you get the idea.

How the media treated this is noteworthy. One title read "IBM breaks ranks..." This appears to reflect a commonly held belief: PC OEMs didn't want to break a code of silence for fear of some kind of retaliation. In private, PC OEMs "share their thoughts" quite freely. They appear to resent being treated as vassals by Microsoft in its use or abuse of its desktop OS monopoly. In public, they have to take care of business. Who can blame them? Business is competitive enough as it is. Why risk a falling out with Microsoft that will result in a competitive disadvantage? As far as we know, there is no Antitrust Witness Protection Program, so the tension between self -interest and the calculus of common good is understandable. This leads to another thought: Why IBM? Is this an example of the altruism of an enlightened corporation, or have they decided they no longer have anything to lose in the PC business, as various rumors have intimated in the past few months? There has been speculation—and denials—that IBM wanted out of the PC business, because it has become too commoditized and it's been impossible for them to make a profit. Some have even read something of that nature in their multi-year, multibillion dollar agreement with Dell. Whatever IBM's reason for breaking the code of silence, their testimony could make this phase of the trial as surprise-filled as the first Three things you need to remember about me:

1. Alright, alright... I'm a DJ.
2. I changed my mind, OK? (see http://www.djmaytag.com/name/),
3. In any case, I'm STILL not a washer and dryer repairman, either.

http://www.djmaytag.com/ <- Home page

http://www.djmaytag.com/303/ <- The TB-303 re-release page

Fortune cookie: Time is nature's way of making sure that everything doesn't happen at once.

MTC–00028028

From: Patterson
To: Microsoft ATR
Date: 1/28/02 1:08pm
Subject: Microsoft Settlement
VIA E-MAIL
The Honorable Colleen Kollar-Kotelly
United States District Court for the District of Washington, DC
c/o United States Department of Justice
Washington, DC

Dear Judge Kollar-Kotelly:

For the following reasons, I feel compelled to add my voice to those arguing AGAINST Your Honor approving of the Proposed Final Judgment (the "PFJ") entered into by the United States of America and several of the States as plaintiffs and the Microsoft Corp. as defendant (the "Defendant" or "Microsoft") in the antitrust case known as U.S. vs. Microsoft Corp. Judge Thomas Penfield Jackson found Microsoft guilty of being a monopoly and of abusing its monopoly powers, among other things, and he ordered that Microsoft be broken up into a number of separate companies, as well as other remedies. On appeal, the U.S. Court of Appeals for the DC Circuit, in a 7–0 decision, overturned several of Judge Jackson's rulings and vacated his proposed remedies, but the Court of Appeals let one of Judge Jackson's core rulings stand: Microsoft possesses monopoly power and unlawfully used that power to protect its monopoly. Both Microsoft's request to the Court of Appeals for a rehearing and its petition to the United States Supreme Court for certiorari have been denied, so nothing changes the fact that Microsoft is a monopoly and used its monopoly power unlawfully. Now the question arises: What are the proper remedies in the case in question? The quick answer is that the proper remedies are NOT those set forth in the PFJ. Notwithstanding The Honorable Attorney General's pre-nomination pledge not to go "too easy" on Microsoft, the U.S. (and some of the States) and the Defendant have entered into a "sweetheart deal" by entering into the PFJ. Numerous financial analysts and computer industry experts agree that, under the terms of the PFJ, the Defendant would conduct "business as usual" should Your Honor approve the PFJ. Too often, we forget the purpose of remedies. Sure, there should be a rehabilitative component— i.e., the remedies to be applied should mandate or at least encourage the wrong-doer to reform its wrongful ways. But that fails to see the forest for the trees. There should also be a punitive component—i.e., the remedies applied should also mete out a punishment for the injurious conduct that the wrong-doer engaged in, if only BECAUSE there was, in fact, wrongful conduct and concomitant harm.

In the situation before Your Honor, there is no doubt that Microsoft, the defendant, is in the wrong (it is a monopoly) and has engaged in wrongful conduct (it used its monopoly powers to harm the public). The PFJ's terms are simply too generous to the Defendant and provide few rehabilitative provisions and little if any punishment.

Right now, being the de facto monopoly in desktop operating systems, Microsoft simply has no competition. The same could be said of Microsoft's network operating system (at least for the Intel platform). Similarly, Microsoft is the de facto monopoly in desktop application software suites (i.e., its Office suite comprised of word processor, spreadsheet, presentations, database, personal information manager, etc., in various combinations and price levels). The situation will only get worse and Microsoft's monopoly become even greater if the powers that be allow Microsoft to implement its .Net and web services strategies. And that is what the PFJ allows: Microsoft will make some minor— mainly cosmetic concessions—to its desktop operating system, but the PFJ leaves Microsoft's monopolistic business practices virtually untouched. With all due respect, Your Honor should also review and take into consideration the Defendant's past conduct when the U.S. entered into a settlement with it and tried to rehabilitate positively its business practices: Microsoft flouted the spirit (if not the actual provisions) of previous formal or informal settlements with the U.S. and never really changed its wrongful business practices. Out of Microsoft's failures to rehabilitate its business practices arose the current antitrust litigation. Looking at the situation from another angle, Microsoft had its opportunity to "go straight" and consciously did not. (For some reason, analogies to the criminal side of jurisprudence keep coming unbidden to mind.) The Defendant was on probation, if you will, and then proceeded to openly violate probation. To add insult to injury, the Defendant as probationer is unrepentant about its continued wrongful behavior and violation of probation. Has the Defendant slowed its openly-stated monopolistic strategies? No! Microsoft rushed to market it's newest desktop operating system, Windows XP, and is rushing to market its software that implements its .Net strategy. In so doing, the Defendant apparently hopes that it can "beat the system" by relying upon and cynically utilizing the slow pace of our great system of justice.

Now is not the time to go easy on the Defendant, Your Honor. This is NOT a case of a first offender, Your Honor, where some leniency may be in order. Just as I am confident that Your Honor would NOT go easy on an unrepetenant repeat criminal offender, Your Honor should NOT go easy on the Defendant. In truth, however, the only competition Microsoft has is its own internal divisions. The network operating systems division vs. the desktop operating system division vs. the application suite division vs. the network operating system support software, etc., etc. A break-up of Microsoft is a perfect remedy in that regard. A break-up of Microsoft along product lines provides an appropriate remedy with both rehabilitative AND punitive components. I am sure that Your Honor is considering all possible options in fashioning an appropriate remedy. I am also sure that any remedy Your Honor ultimately imposes will be well-considered and carefully crafted. I cannot know what the exact terms of Your Honor's ultimate remedy will be, but I do know one thing: The PFJ comes nowhere near constituting an adequate remedy for Microsoft's sustained and egregious monopolistic conduct in the case at hand.

For the above reasons, as well as those voiced by others, I respectfully implore Your Honor NOT to approve the PFJ in the U.S. vs. Microsoft Corp. case.

Respectfully yours,
Bob Patterson

MTC–00028029

From: James VanAlstine
To: Microsoft ATR
Date: 1/28/02 1:08pm
Subject: Kill Microsoft

Throughout its existence, Microsoft has been stealing and bastardizing the best ideas of true information technology innovators. It repeatedly, and still, uses its size and aggressive nature to suppress competition ans stifle real innovation.

Only an aggressive break-up, heavy fines, and constant future watch-dogging of this monster monopoly will allow the best and brightest of technology innovators to thrive and keep the US at the top of the world's high-tech economy.

Shamefully, the Bush-era Justice Department has lost what little spine the Clinton era Justice Department had and is now offering Microsoft a sugar coated settlement.

It's a shame we will one day all be sorry for.

MTC–00028030

From: Tom Laming
To: Microsoft ATR
Date: 1/28/02 1:07pm
Subject: Microsoft Settlement

Please see the attached letter.

Thank you,
Tom Laming
P.O. Box 918
Shawnee Mission, KS 66201–0918
January 15, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing to voice my support for settling the Microsoft case. Like many people, I feel that the matter has run its course, and should be resolved as quickly as possible at this point. While I understand why people working in the information technology sector want different programs and operating systems to choose from, average consumers like myself are more interested in products that integrate seamlessly. Continued legal action against Microsoft inhibits their ability to develop products that integrate simply enough for consumers to use without hassle.

Please settle the antitrust case against Microsoft as soon as possible. As a consumer, I support their products and would them to be able to focus on developing their business again.

Sincerely,

Tom Laming

MTC-00028031

From: Steven White
To: Microsoft ATR
Date: 1/28/02 1:09pm
Subject: Microsoft Settlement

I was just reviewing a few things for any final comments I could make on the final comment day, and I came across the point that the proposed settlement does not restrict Microsoft's ability to modify, alter, or refuse to support computer industry standards.

I would like to add one thing to that.

You may have heard of the "Halloween Document" where a Microsoft staff person outlines ways to squash the open source movement (LINUX). One way suggested was to use standards slightly altered to Microsoft's advantage, which would, because of Microsoft's monopoly position, make them the de-facto standards. (Bill Gates wrote once in a Microsoft annual report that "the way to make money is to set de-facto standards.") This would drive the open source software out of existence because, for all practical purposes, competing software must work with Windows based software.

Now whenever the question of competition comes up, Microsoft likes to point to LINUX and say that they have competition. But the proposed settlement makes it legal for them to do just what they have outlined as a method for getting rid of one of their competitors. Does that make sense?

Remember that a lot of people are forced to use Windows. The common reply to this is that "no one is holding a gun to their heads." Of course not, but the effect is the same. Almost everyone buying a computer is going to want or need Windows because of the need to interact with other computers that use Windows. Thus no computer maker can be in business without selling Windows.

If standards are twisted so that Windows and a competing program are mutually exclusive choices, the choice will have to be Windows. That is unfair and anti-competitive.

We must look to the future. The computer industry should be based on an underlying foundation of public standards.

Thank you.
Steven White
City of Bloomington
2215 W Old Shakopee Rd
Bloomington MN 55431-3096
USA
952-563-4882 (voice)
952-563-4672 (fax)
swhite@ci.bloomington.mn.us

MTC-00028032

From: Tony Biz
To: Microsoft ATR
Date: 1/28/02 1:11pm
Subject: Microsoft Settlement

To whom it may concern,

I am an independent software developer. I develop software products based on the Microsoft platform. Microsoft's operating systems, web browser, and other products have become defacto standards in the computer industry. This allows us to target our products to one platform and reach a broad customer base, instead of having to develop duplicate solutions for many competing platforms. This reduced software cost and allows us provide additional features which are a great benefit to our customers.

I am outraged at the unjust prosecution of Microsoft. The complaint against Microsoft originated not with individual consumers, or with Microsoft's partners, but with Microsoft's unsuccessful competitors. Failed businesses must not be allowed to set the rules for the markets in which they failed. Microsoft is being punished, not because it did something evil, but because it was too good, too successful, produced too much value for its customers. This is a disgraceful inversion of the principal of justice. A successful business and its products are no threat to anyone.

The government is punishing Microsoft for producing better products at cheaper prices than its competitors. Instead of being persecuted for this, they should be congratulated, thanked, and honored. The only people who do not like this are Microsoft's envious unsuccessful competitors, who are not able to produce products as good and as useful as Microsoft.

This action against Microsoft is impeding progress in the high tech industry. Instead of focusing on producing the best products for the cheapest prices for consumers, Microsoft must use their resources to defend themselves and avoid destruction at the hands of our own government. In addition, software developers must waste effort developing duplicate solutions because of the uncertainty associated with this unjust action against Microsoft. Will the government, at a whim, decide that Microsoft does not have a right to exist? Will the government arbitrarily decide to stop Microsoft from adding features to its products, or discontinue products certain products? Unknown.

It is disgraceful that at a time when terrorists are trying to destroy our country from the outside that our own government is attempting to destroy our country from the inside but attacking and persecuting one of our greatest and most productive companies. Microsoft has a fundamental right to exist and control its own property. Our government's job is to protect these rights, not to take them away!

Tony Biz
6130 Buena Vista Avenue
Oakland, CA 94618
CC:Tony

MTC-00028033

From: Husker
To: Microsoft ATR
Date: 1/28/02 1:08pm
Subject: Microsoft Settlement.

DOJ,

The Microsoft witch-hunt has gone on long enough. This is nothing more than a scam in which states hope to obtain money without officially raising taxes. Microsoft has already agreed to hide its IEx icon from the desktop

The case against Microsoft is just ?welfare? for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

I urge you to end this debacle immediately
Mike Kasson
CC:aoctp@aoctp.org@inetgw

MTC-00028034

From: Donald C. Glegg
To: Microsoft ATR
Date: 1/28/02 1:11pm
Subject: Microsoft

I use the microsoft programs all the time and they are made so us older guys can understand and use them.

Please don't keep picking on them. I for one am for them 100%!!!!!!

Thanks!!!!
Donald C. Glegg
406 N. Coffman Street
Park Hills, Mo 63601

MTC-00028035

From: sleepinggiantknr@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:10pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001
Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Kathlyn Messina
6870 Manasota Key Road
Englewood, FL 34223

MTC-00028036

From: Chris Brown
To: Microsoft ATR
Date: 1/28/02 1:14pm
Subject: Microsoft Settlement

19414 46th Avenue Northeast
Lake Forest Park, WA 98155
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Dear Mr. Ashcroft:

I am writing to encourage the Department of Justice to accept the Microsoft antitrust settlement. This case has been stretched out over three years; it needs to be settled. Now that there is a settlement available and the terms are fair, I think that the government needs to accept it.

All of the major issues in the suit have been dealt with. Microsoft has agreed to give computer makers the flexibility to install and promote any software that they see fit. Microsoft has also agreed to release part of the Windows intellectual property to its competitors in order for them to develop software that is more compatible as well. To settle the suit, Microsoft has agreed to a long list of concessions. This list is fair and should be accepted.

Microsoft, the industry, and the government all need to move on. Please accept the Microsoft antitrust settlement.

Sincerely
Jesse C. Brown

MTC-00028037

From: sleepinggiantknr@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:10pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Kathlyn Messina
6870 Manasota Key Road
Englewood, FL 34223

MTC-00028038

From: William Stone
To: Microsoft ATR
Date: 1/28/02 1:14pm
Subject: Microsoft Antitrust case settlement

Please see attached letter.
William w. Stone
82 River Drive
Appleton, WI 54915
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing as a retired American who is in support of Microsoft. I feel the settlement reached between Microsoft and the Department of Justice was fair and reasonable. There is no reason to drag it out further.

I believe the terms of the Microsoft antitrust settlement of November 2nd were reasonable and weft thought out. They require significant changes in how Microsoft develops and markets its product. Certainly, other computer makers will now find it easier to work with other software companies" software that directly competes with Microsoft's Windows system. I'm sure you have looked at this matter thoroughly and will agree to end this case soon. I believe that revisiting the case is continuing to have a negative effect on our economy and slowing its recovery. For the benefit of Wisconsin and the country as a whole, I ask you to leave the settlement be and go on with the business of the country.

Sincerely,
William Stone
cc: Representative Mark Green

MTC-00028039

From: Thomas Canfield
To: Microsoft ATR
Date: 1/28/02 1:16pm
Subject: 718 Saco Court

718 Saco Court
Saint Augustine, FL 32086
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The IT industry and the economy have been affected enough by the suit brought against Microsoft by the Department of Justice. The litigations have wasted time and tax dollars and it is time this matter is resolved. I am of the opinion that Microsoft has done more than they should have in the first place with regards to the settlement. Microsoft has in part, been responsible for the stabilization of the economy in the 90's and I feel that they should be allowed to continue with their business.

Microsoft has agreed to conditions that will allow for more competition in the IT industry that will in turn benefit the economy and the consumer. In order to do this Microsoft will give competitors the ability to make software that is compatible with Windows, and they will not retaliate against them. Also, they will be monitored by a three person technical committee that will make sure Microsoft adheres to the terms of the settlement and it will also help settle disputes. Clearly Microsoft has done more than what they should have to settle this and so should the Department of Justice.

The country's economy and its citizens will benefit from ending this whole mess. Microsoft should be allowed to return to business as usual. Thank-you.

Sincerely,
Thomas Canfield

MTC-00028040

From: azdeal@csi.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:15pm
Subject: Microsoft Settlement

Your Honor,

I'm writing to voice my objections to the proposed settlement in the United States vs. Microsoft case. Microsoft has profited greatly from its anti-trust violations, and this settlement would allow the company to keep all of those ill-gotten benefits. Furthermore, the settlement doesn't prevent Microsoft from wielding its monopoly power again in the future. The proposed settlement only serves to expand Microsoft's monopoly by allowing them to increase their presence in perhaps the only market segment they don't already dominate—the education market. I ask you to reject the proposed final judgment.

Respectfully,
Connie Deal
19691 N. 66th Ave.
Glendale, AZ 85308
623–572–2622

MTC-00028041

From: Tejas Naik
To: Microsoft ATR
Date: 1/28/02 1:13pm
Subject: Comments

I believe Microsoft should be broken up. This will spur a wave of innovation in IT industry and offer consumers choice. It's in the interest of consumers/developers. While, there may be a proposal of settling a case without breaking up Microsoft, I'm highly skeptical that Microsoft which gave such a hard time to DOJ will execute the settlement right. The only way to be assured is to breakup.

Thanks
Tejas

MTC-00028042

From: Tony Christopher
To: Microsoft ATR
Date: 1/28/02 1:17pm
Subject: Microsoft Settlement

To DOJ reviewers;

I believe that the settlement the US government has made with Microsoft is a travesty that will allow MS to continue with its self benefiting, conquer-all strategies and tactics. And, over the near future, uncontrolled, Microsoft will create more injustice that it has in the Internet Browser situation. The data for my argument comes from looking at the emerging area of standards for personal identity on the Internet.

I work in the area of virtual community technologies and services—see bio link below. I believe that collaboration/connections among people, worldwide, is one of the most powerful, forthcoming benefits of computer-communications technologies. I have researched and learned a good deal about the importance of "identity" on the net. Microsoft's Passport system, distributed through their pervasive Windows OS, could become a major mal-influence in the emergence of holistic identity services. Here is the data:

Gartner Group has recently completed a study of 2100 users of online/web services; the study focuses on consumer web identity and privacy issues— http://techupdate.zdnet.com/techupdate/stories/main/0,14179,2830912,00.html Summary: "Despite consumers" apathy and distrust, identity services will succeed because they will be embedded into Windows XP and the Internet services that consumers will use. Accordingly, Gartner predicts that 40 million online U.S. consumers automatically enrolled in identity services will use them to access an average of three Web sites each month by the end of 2003. "

This data substantiates that consumers will lose in the future (versus the econometric models likely used in the trial to show how consumers have been harmed in the past) if Microsoft maintains as one business both the operating system and the application software & Services businesses. One of the conclusions that can be drawn from Gartner's study/data is that Microsoft's monopoly will result in consumers putting up with the weak privacy-control that will result with Passport—whereas the data shows that consumers want strong privacy-control. If Microsoft were to be two companies where the web services were split out from the WindowsOS business more competitive dynamics could prevail in the coming generation of net services i.e., Passport would have to compete with the Java authentication/identity offerings—consumers would have more choice and more privacy-control alternatives would likely be available.

I want to go on record as being strongly against the weak terms of the antitrust settlement with Microsoft. They will cause more injustice and harm in the future than they have in the past if we do not take the current judgment against them to mete out remedies that will protect the Internet industrial and consumer participants from the force of this conquering gorilla.

A.J. Christopher

These views reflect my own personal beliefs and do not represent those of my employer.

Anthony J. Christopher
Community Practice Manager
Mongoose Technologies, Inc.
www.MongooseTech.com
Bio: www.MongooseTech.com/RealCommunities/Tony.html
E-mail: Tony.Christopher@MongooseTech.com
Phone-Voice Mail: 650–224–4567
CC:Tony Christopher

MTC–00028043

From: Donna Rogers
To: Microsoft ATR
Date: 1/28/02 1:15pm
Subject: Microsoft Settlement

Judge Kollar-Kotally,

I urge you to reject the proposed final judgment in the U.S. vs. Microsoft case. Every court has found that Microsoft violated antitrust laws, making billions of dollars in the process. This proposed settlement would allow the company to keep virtually all of those illegal profits! There is also no provision that would prevent Microsoft from continuing its anti-competitive behavior. In fact, the monopoly is validated and furthered under the PFJ through the dissemination of Microsoft software to our schools. And Microsoft cannot be allowed to essentially police itself.

Please vote against the PFJ in the interest of the public.

Sincerely,
Donna Rogers
3522 Pine Ridge Way
San Jose, CA 95127
408.729.7468
CC:microsoftcomments@doj.ca.gov@inetgw

MTC–00028044

From: Robin (Roblimo) Miller
To: Microsoft ATR
Date: 1/28/02 1:14pm
Subject: Microsoft Settlement

A problem just starting to rear its head in regards to Microsoft's desktop monopoly is the company's curent attempt to extend it to all Internet transactions through its .NET initiative and the accompanying C# programming language that is designed to kill Java, JREE, and other non-Microsoft Web interaction tools.

If it is the DoJ's intent to help Microsoft kill off all competitors; to in effect become the sole controller of all Internet standards, then the current proposed settlement should be allowed to stand. If the DoJ wants to foster computer industry competition and innovation, the proposed settlement will be withdrawn, and Microsoft will be penalized harshly enough for its past lawbreaking that its management will not be tempted to break the law in the future. As a U.S. citizen who is employed in the IT industry, I would rather see competition than have one company control our entire computing infrastructure. I think you will find that my opinion is shared by almost all people in this business who do not work directly or indirectly for Microsoft. It is sad that the United States Department of Justice is not protecting citizens" interests, but has decided to "lay down" for a major corporate campaign contributor. Apparently the SEC did pretty much the same thing for Enron, though.

I wish I knew a way to root out this corruption, but it's hard when both the people who make the laws and the people who enforce them are for sale to the highest bidder. Poor America. I fear for our future.

Robin Miller
206 52nd Ave. W.
Bradenton FL 34207
phone 941–704–0779

MTC–00028045

From: Robert L. Butler
To: Microsoft ATR
Date: 1/28/02 1:16pm
Subject: Microsoft Settlement

Robert L. Butler
99 Woodland Avenue
Summit, NJ 07901–2001
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
BY E-MAIL

Dear Mr. Ashcroft:

I am writing to give my support to the agreement reached between Microsoft and the Department of Justice. I did not support the initial lawsuit. This suit was brought more out of political and professional enmity than any supposed damage to the consumer, the necessary basis for antitrust action. Bill Gates produced a better product, the standardization of computer software. Granted, Microsoft was aggressive, and at times heavy- handed.

Microsoft has been chastened though. Both parties agreed to a settlement that is, for the most part, fair. Microsoft has agreed to open the company up more to third party innovation, has agreed to a uniform price list, has agreed to a technical oversight committee, and has agreed to interface disclosure. Microsoft is obviously trying to meet the demands of the Department of Justice.

It is time to move forward. We have more important things to worry about. We need to put our economy back on track; allowing one of our major companies to get back to work is one way to do this. I urge you to give your support to this measure.

Sincerely,
Robert L. Butler

MTC–00028046

From: richard sonnier
To: Microsoft ATR
Date: 1/28/02 1:13pm
Subject: [Fwd: Microsoft kills Real World/Great Plains Classic]

Reaf World Classic is a "COBOL" accounting running on many platforms Unix/Ibm Aix / Dos and many others (i.e. any os which has Mico Focus Cobol).

Great Plains Bought Real World.

Micro soft bought Great Plains in 2001.

Microsoft scrapping Classic accounting package.

Microsoft only option to 20,000 customers is you must at extrem expense convert to windows based packages?

Richard L. Sonnier Jr.
Gulf Central Systems
800 Mire Street
Houma, La. 70364
985–851–6674
800–367–3094 (WORK)
RLS0938@AOL.COM

MTC–00028047

From: Nuovo1@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:19pm
Subject: Microsoft Settlement

Dear Atty Gen. Ashcroft:

My wife and I are extremely pleased that the settlement agreement which has been reached between Microsoft and the US Justice Department. It is my understanding that the agreement is currently undergoing a sixty day period in which the public is encouraged to provide input on the matter.

Let me say that we fully support this settlement because it is good for the country, the economy and technological innovation.

Microsoft has accomplished so much and has contributed greatly to the success of this great country of ours.

Please STOP the litigation, enough is enough. Our legal system is running rampant and is destroying our Free Enterprise System which has made our country great.

My wife and I plead with you to stop the litigation and settle the matter.

Thank you for your consideration,
Frank & Francesca Nuovo
730 Woodcrest Lane
Monterey, Ca 93940

MTC–00028049

From: Bernard Rogers
To: Microsoft ATR
Date: 1/28/02 1:20pm
Subject: Microsoft Settlement

Honorable Judge Kollar-Kotally,

I'm a concerned citizen requesting that you reject the proposed final judgment in the Microsoft antitrust case. The public would not be served by the slap on the wrist, as Microsoft would lack any deterrent from repeating its offenses.

The proposed final judgment also fails to address the issue of bolting software to its operating system that first led to this suit. It will thus be free to repeat the antitrust violations that have earned it billions of dollars a year.

Respectfully,
Mr. Bernard Rogers
3522 Pine Ridge Way
San Jose, CA 95127
(408) 729–7468
CC:microsoftcomments@doj.ca.gov@inetgw

MTC–00028050

From: Bill (038) Carol Roberts
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement

Thank you for considering the attached letter.

W. S. Roberts, Jr.
2113 Primrose Lane
Martinsville NJ 08836–2220
Home: 732–469–0824
Fax: 732–469–0639
Cell: 732–245–8049
E-mail: wsrcjr@optonline.net
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing because I am in support of ending the antitrust lawsuit against Microsoft. Microsoft's ability to operate under normal conditions remains compromised as long as the litigation continues, and settling the case according to the terms agreed upon in November would be the quickest and fairest way to move on.

The settlement is a reasonable conclusion to the case and will foster market growth for Microsoft's competitors, while still assuring the security of Windows. Easing restrictions on computer makers who license Windows will ultimately enable those companies to offer a broader selection of programs from competing developers. Given that, it seems as though the Department of Justice's goal would be achieved.

I am urging you to settle what has already been too long a case. The public and Microsoft are ready to put the matter behind them, and the government should be as well.

Sincerely,
William S. Roberts, Jr.
2113 Primrose Lane
Martinsville, NJ 08836

MTC–00028051

From: WPARK1220@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement
8 Ramblewood Drive
Longview, TX 75605
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
Wahington, DC 20530–0001

Dear Mr. Ashcroft:

Thanks for the effort and direction that you and your departments are taking. My family and I approve of the leadership and wisdom that the Bush administration is taking.

It is my understanding that Microsoft and the government have settled an antitrust lawsuit in which Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with with programs included within Windows. In my opinion, no more federal litigation against Microsoft is acceptaable beyond this agreement.

Sincerely,
William R. Park

MTC–00028052

From: Catherine Brett
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

Please let the present settlement stand.There has been more than enough debate on the subject.

MTC–00028053

From: Christine Rogers
To: Microsoft ATR
Date: 1/28/02 1:26pm
Subject: Microsoft Settlement

Your Honor,

Microsoft must be forced to play by the same rules as everyone else, and the proposed final judgment before your court fails to accomplish that. I ask you to reject it.

For years, strong-arm tactics on Microsoft's part have cut down promising high tech companies and hurt innovation here in Silicon Valley. The courts have ruled against Microsoft—now let's bring about a solution that actually causes them to cease their anti-competitive activities!

I am also concerned that Microsoft's monopoly would only be broadened by the giving of its software to schools. It costs the company virtually nothing to do so, yet the harm to competitors like Apple is enormous.

Please vote against the PFJ.

Christine Rogers
3522 Pine Ridge Way
San Jose, CA 95127
408.729.7468
CC:microsoftcomments@doj.ca.gov@inetgw

MTC–00028054

From: Kevin Clark
To: Microsoft ATR
Date: 1/28/02 1:26pm
Subject: Microsoft Settlement
From: Kevin D. Clark
191 Mitchell Road
Nottingham, N.H. 03290
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement.

I am a professional software engineer, with 10+ years of experience in industry. During these 10+ years, I have seen Microsoft grow to dominate the computer software market. Microsoft has achieved this dominance through anti-competitive practices, and I have seen many novel and innovative technologies crushed by Microsoft, all in the name of furthering Microsoft's iron grip over the software market. As someone who is both passionate about working in this field, and as someone who tries to innovate in this field as well, Microsoft's actions over the last few years are very distressing.

I have read the Proposed Final Judgement, and I want to say this: the Proposed Final Judgement will allow many exclusionary practices to persist. So, I don't support this judgement. (unfortunately, due to time constraints, I cannont enumerate all of the ways in which this judgement is flawed—if you are looking for more specific complaints, please refer to: http://www.kegel.com/remedy/remedy2.html

I consider the summary of the problems with the Proposed Final Judgement on this web-site to be excellent.)

Please work to fix this judgement. If you leave any loopholes in this judgement, there is much precedent to show that Microsoft *will* exploit these loopholes to maintain its illegal monololy.

Regards,
Kevin D. Clark
kevin—d—clark@yahoo.com

MTC–00028055

From: ivoryf@cut.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

Let Microsoft do what they do best and let s quit spending tax payer dollars to beat the subject over the head. Microsoft may have created a monopoly but was there anyone smart enough to come up with the better product.

MTC–00028056

From: Veritas123@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

Mocrosoft is largely responsible for the greatest technology advance the world has ever seen. MS produces good products at ever-lower prices. Competitions is alive and well in the industry—others need to just make their contribution and let the market buy it or not. The Department of Justice (under President Clinton) and the various states Attorneys General are after money and power—let them show what they can produce. So far I havn t seen what they contribute. They have not protected the public at all rather they inhibit industry advancement. And of course they want millions. (Is there any other thought for these guys?) Let them earn it in an honest way: hard work and imagination. End the suit immediately by taking the least intrusive road out. Microsoft should grow or fail by how it treats the American consumer and not by dictates by government employees. In fact the failed government employees should be forced to relinquish their own pay for all the harm they ve done to innovation and to the American public.

MTC–00028057

From: geheuler@verizon.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

Microsoft has done more to stimulate the economy has provided more jobs and contributed more to education than any other company or individual anywhere. To say nothing of what they have done for technology. This country was built on competition and he epitomizes competition.

MTC-00028058

From: tlerb@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:17pm
Subject: Microsoft Settlement

With the current state of the economy we need Microsoft concentrating on business without the distractions of this suit which should have been settled long ago.

MTC-00028059

From: Robert.ewald@worldnet.att.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:17pm
Subject: Microsoft Settlement

The lack of credibility of the Attorneys General opposing the Governments settlement is strictly a play for publicity and grubbing for money and should not be permitted to proceed farther. I believe the Government s acceptance of the existing settlement is imperative. Thank you for listening. R. H. Ewald

MTC-00028060

From: zman@c2on.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

please settle with mr. gates perposal so we the tax payer are not burdened any further

MTC-00028061

From: geojenner@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

I am writing to urge you to support the proposed Microsoft settlement and end this controversy's tenure in the federal arena. The United States Government has in past administrations provided its citizens with ample evidence of what results when overzealous and uninformed public representatives take regulation of successful private industry to extremes in the mistaken belief that action against private industry will always end in providing a public benefit. Past government actions against AT&T have broken a national treasure Bell Telephone Laboratories and increased prices while decreasing efficiency and customer service in the process. . Microsoft must still contend with several states lawsuits but I believe it s time and best for all parties to get beyond this ridiculous activity and allow everyone to return to the business at hand. The settlement will compel Microsoft to open its systems to competitors software and use. A committee has been provided in the settlement to monitor Microsoft s future business practices to assure compliance with the settlement s terms. I believe that for the sake of our national economy and the continued success of this vital industry this matter should be settled. As a citizen I feel my technological future will be enhanced by innovations which work and that is what Microsoft is all about.

MTC-00028062

From: hking24834@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

Microsoft has been has helped the US & other countries to emerge into world leading companies. Netscape & CEO James Barksdale was bundling features years ago & was upset with Microsoft turning the tables on them when Mr. Barksdale conceded engaging in in simular practices & stating He didn t recall. Soon after Netscape merged with another company. Who was calling the kettle black? During the 1940 s U.S. Steel went through similar litigation & settled with- out killing the company as Judge T.P. Jackson was trying to do to Microsoft. Who incidentally was not qualified to make this decision. I believe this company has suffered and paid more than their share through unreasonable and excessive charges. The US has encouraged innovation competition & development of technologies. This built our country and made us strong to prevent any Bleeding Hearts to damage and hurt us such as the Ben Laden's. If anyone was wielding a club in these negotations it was Apple not Microsoft. Will AOL be next? What about the merger between AOL and Time Warner? This changed the competition land-scape in one of the most competitive industry in the world. I think it is time to reflect and close the litigation against Microsoft before the Bleeding Hearts close one of our leading companies in our nation.

MTC-00028063

From: cyvalco@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

The settlement (proposed)is still canted toward the government. I believe that the millions of $$ spent on this investigation far surpasses the $$ value to the consumer. What Microsoft did/is doing is just plain good business sense and I don t think they should be codemned for that.

Thanks!!

MTC-00028064

From: t—odwyer@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

It is time to end this law suit. The people did not suffer from Microsoft integrating the browser or in essence offering it free. In fact the only suffering on the part of the people was the amount of tax payer money spent by the government on the case. The settlement that is there now is in the best interest of the American people and the technology industry.

MTC-00028065

From: rkbrooks@amaesd-net.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

I think the settlement reached with Microsoft on Nov. 3rd should be agreed to and bring this lengthy antitrust case to an end.

MTC-00028066

From: birdiebajc@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

Stop persecuting innovative firm

MTC-00028067

From: cdj@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

I believe the ruling was fair and serves the best interest of both Microsoft and the government.

MTC-00028068

From: batigerlily@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

I am very satisfied with the settlement and find no use in any continuing litigation. I feel that the litigation could have been handled in a much better way and that it was motivated by special interests. In any case litigation should end. thank you. Susan Bates

MTC-00028069

From: N M
To: Microsoft ATR
Date: 1/28/02 1:26pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I hereby submit my objection to the Proposed Final Judgement agreed upon between the Department of Justice and Microsoft. I understand that there are several underlying errors attributed to the Proposed Final Judgment.

One noticeable flaw encompasses an inept enforcement device implementing restrictions. The settlement in other words closely monitors and screens all of Microsofts business activities. This close scrutiny insures MS complies with all restrictions entailed in the agreement.

A three man compliance team will oversee and insure that Microsoft comply with the stated rules and regulations. Yet, this three-man oversight committee will be composed of the following: one appointee from the Justice Department, one appointee from Microsoft, and another appointee chosen by the two existing members. In turn, Microsoft will control half of the oversight team.

In the likelihood of any enforcement proceedings, all findings by the oversight committee will not be allowed into court. The sole purpose of the committee is to inform the Justice Department of all infractions by Microsoft. In addition the Justice Depart will launch its own investigation into the matter and commence litigation to halt all infractions. When all is said and done, the oversight committee is just window dressing, who will not strictly oversee Microsofts business moves?

In my opinion, the Proposed Final Judgment does not provide appropriate restrictions against Microsoft. What reassurance do we have against Microsofts illegal and illicit activities? I can assure you that the Proposed Final Judgment does not effectively nor sufficiently address the question. In conclusion, I submit your honor my objection to the Proposed Final Judgment in the Microsoft case.

Sincerely,
Adorabell Bonefacio
951 2nd Ave
San Mateo, CA 94401

MTC-00028070

From: rgbagwell@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

I am amazed by the statements that Microsoft (MS) has cost the consumer since I am convinced that I have saved at least 60% over what I would have paid without the their operating system. I remember the days that the people around me made fun of MS due to the fact that the included OS support was so rudimentary. MS has designed better built-in support over the years and now the same people say it is too good and is driving other people out of business. (Browsers have been in all operating systems for decades!!) True competitors are having a hard time coming up with something better to sell. This is hard on them but does not increase the cost to the consumer. If they have a better gidget I have the choice of using the built-in capability or buying theirs. A really good choice. I can go on and on but I will only say one more thing. Given a specific function it is always cheaper to have one designer selling to 10 million vs 10 designers selling to 1 million apiece. Since it takes the same number of people to design the function and each is sold to 1/10th the number of consumers the cost to the consumer is 10x the one designer scenario. We have the battle of lower cost to the consumer vs more jobs for designers!!

Sincerely
Roger Bagwell HW/SW Engineer

MTC-00028071

From: bobreist1@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

NetScape should spend less time complaining and a lot more time designing a program that will make them competitive in the market. There has been enough tax-payers Dollars wasted on this already and the Court has handed down a JUST ruling so lets get on with the more important things—Like Enron for instance.

Sincerely Robert J Reist

MTC-00028072

From: dericwise@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:17pm
Subject: Microsoft Settlement

the witch hunt has gone far enough. let microsoft serve the public and its shareholders and get out of its way.

MTC-00028073

From: Microsoft ATR
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

Consumer choices not government management of innovation are the best marketplace regulators. New regulations and unnecessary lawsuits against technology companies will stifle innovation and result in consumers paying higher prices.

MTC-00028074

From: rscully@bellsouth.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

Let freedom win out here and get this fiasco over with.

MTC-00028075

From: bgreer22@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

I feel that the proposed settlement between the Justice Department and Microsoft is fair. I see no reason to drag this settlement out any longer.

MTC-00028076

From: gibsonrj@nc.rr.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

A bunch of jealous idiots trying to destroy Microsoft will do wonders for China India etc. I m not from the US and you fools are going to really regret losing control of this industry. You can t attack the foundation to 25% of your economy without noticing an impact downturn layoffs recession mean anything to you.

MTC-00028077

From: elroberson@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

I strongly support the agreement reached with Microsoft. Let s roll em!

MTC-00028078

From: leigh—jr2@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

Microsoft is a wonderful example of American enterprise and achievement. They deserve the thanks of all Americans who care about our economy and global competitiveness. It makes no sense to try to take away through the legal system what Microsoft has assembled through their own hard work.

Please leave them alone and maybe thank them for doing such a good job!

MTC-00028079

From: valleybill@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:17pm
Subject: Microsoft Settlement

THE FEDS LET US DOWN MICROSOFT NEEDS TO BE SEVERELY RESTRICTED IN THE FUTURE AND PUNISHED FOR PREVIOUS ANTI-COMPETETIVE ACTIONS

MTC-00028080

From: brooktl@gte.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

There has been enough court cases. It s time to settle. This settlement sounds just fine. Don t keep beating a dead horse..

MTC-00028081

From: girls@citigraphics.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

I think it was pure BS to go after Microsoft and spend all of the taxpayer s money for what amounted to a political witch hunt. Why don t you people look into the health insurance companies who are not willing to provide coverage for people who need it. But they are glad to take the premiums!

MTC-00028082

From: barchas1@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

The settlement should be agreed to. The litigation has taken enough time and money. Now it is time to go after the gas and Oil companies.

MTC-00028083

From: ronlnels@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

It is time to put this case to bed. It is the job of the courts to protect the consumer not competators. From the start this case has been all about vicious compititors fighting with each other and then attempting to get the Federal and State courts to settle the fight for them. The consumer never was harmed by Micorosoft s actions but rather was aided by having interconnected working program with the operating program making the total computer operation more user friendly. If you want to take a shot at a company that has harmed and taken advantage of the consumer go after AOL Just change the payment method. I do not think that Microsoft should be allowed to give equipment and Micorosoft software to the schools because this would give Microsoft an advantage over Apple. If they have done wrong make them buy Apples computers and Apple compatable software. You might also give the schools the right to chose Apple or IBM compatable and make Mirosoft pay for it. If the court has been unable to prove a monopoly that has harmed the consumer than the case should be thrown out and AOL Oracle and the rest of the cry babys should have to pay the court costs. As a taxpayer I do not think that it is my responsiblity to pay it.

MTC-00028084

From: sandford moser
To: Microsoft ATR
Date: 1/28/02 1:27pm
Subject: Microsoft Settlement

Dear Ms. Hesse:

I would like to go on record as saying that the Microsoft settlement should be accepted right away. I feel that delaying it, only makes everything more costly to the public. Court costs increase. The cost to Microsoft increases. It becomes a lose, lose situation rather than a win, win situation.

Thank you for the opportunity to respond.

Sincerely yours,
Sanford Moser
21700 Greenfield Rd.
Suite 271
Oak Park, MI 48237
248-968-4700

MTC-00028085

From: zman@c2on.net@inetgw

To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement please settle with mr. gates perposal

so we the tax payer are not burdened any further

MTC-00028086

From: wolfen616@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

I clearly want the court to accept the settlement. It s fair and the litigation has gone on to long.

MTC-00028087

From: wingswren@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

When free enterprise and beaurocratic elements collide history reveals that the forces and energies of free enterprise and industry offers the only viable alternative for progress. The Microsoft senario is a storybook example of industrial leadership leading the way to beneficial development for enterprises both large and small in the scope of macroeconomics. HOORAY FOR THE SETTLEMENT!!

MTC-00028088

From: carolnbruce@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

Give it up quit beating a dead horse.Too much money has been spent already. Microsoft will just pass the cost to the purchaser to defend thier position of free interprise.

MTC-00028089

From: halstead6@earthlink.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

WHERE WOULD WE BE WITH OUT MICROSOFT. I CAN OTHER THINGS A LOT WORSE THAN MICROSOFT. MY VOTE FOR BILL GATES

MTC-00028090

From: cortath@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

I believe that the Federal Government and all other State governments should now leave Microsoft alone. The court has made it s decision and now we should move on to more important things. Just because the competition is jealous that they did not invent the same things as those working for Microsoft is no reason that they should have any right to capitalize on the hard work of another. I say move on there are more important problems to plague this country. Deal with them.

MTC-00028091

From: das474—2000@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:18pm
Subject: Microsoft Settlement

Leave well enough alone. this is only going to cost people that use computers more mony. Netcape & AOL can be downloaded on any computer free.

MTC-00028092

From: emelianoff.dimitri@mediaone.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:27pm
Subject: Microsoft Settlement

The "case" against Microsoft was, is and shall forever be a sham. The "problem" is that Gates and Microsoft got lucky and their competitors didn't. MS was in the right place at the right time and did the right things... the bozo's who are suing them didn't luck out. Let the market decide if Microsoft is a company that the public wants to do business with. Microsoft does not "own" the market any more than it owns the souls of it's dustomers. People choose Microsoft products becasue, despite MS's faults, the products are what it's customers want and need and are reasonably priced.

Let the government do what it does best—nothing!!

Dimitri Emelianoff
CC:emelianoff.dimitri@mediaone.net@inetgw

MTC-00028093

From: Chris Waterson
To: Microsoft ATR
Date: 1/28/02 1:28pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I work for Netscape Communications Corportation, on the Netscape browser product. And I am tired of reading uninformed columns in newspapers and answering uninformed questions from friends about 'how Microsoft won the browser war "fair and square"'. Let's not forget that this is not about the situation —as it is today—, it's about —what Microsoft did that was against the rule of law—. Microsoft has repeatedly flouted the law of the land, and for this, they deserve to be punished.

The settlement fails to terminate the Microsoft monopoly, which they have proven time and again to use aggressively and illegally to expand into other markets. What guarantee do we have that Microsoft will not continue to "bolt" new products on to their operating system in the name of "innovation", crushing other fledgeling businesses along the way? How will future innovators protect themselves from Microsoft's entry into a market?

Under this settlement, Microsoft will be only marginally penalized for its illegal behavior. Microsoft —broke the law——every court that has reviewed this case has agreed—but yet it will be allowed to retain the profit from its plunder!

I realize that my viewpoint in this matter is far from objective, but I hope that you'll realize that the fate of consumers, entrepreneurs, companies, and even industries rest in your hands right now. Microsoft has proven time and again that they have no regard for the law. They are a threat to innovation in an industry that has powered the economy for the last ten years, and is likely to be a significant economic force for the next fifty years.

Yours,

Chris Waterson
437 Hoffman Ave.
San Francisco, CA 94114
415–642–3522
CC:microsoftcomments@doj.ca.gov@inetgw

MTC-00028094

From: Robert A. Gerhardt, RFC
To: Microsoft ATR
Date: 1/28/02 1:28pm
Subject: Microsoft Settlement

Attorney General John Ashcroft
US Dept. of Justice
950 Pennsylvania Boulevard NW
Washington DC 20530
January 28, 2002

Dear Mr. Ashcroft,

I am writing as an investor and as one who helps other people invest in the American capitalistic system. I note the country has had extraordinary difficulties financing the high tech companies who are our hope in improving productivity. This all started about the time that the competitors to Microsoft goaded the government into starting a federal lawsuit. The investing public worried that the leading innovator in computer generated productivity improvements was going to be attacked and wounded by the government, why wouldn't the same happen to others in the industry? This was a major contributor to the failing confidence by the investing public.

I have read about a reasonable settlement that has been negotiated between Microsoft and the government. I understand that it is under public review at this time. Let me add my voice to the millions of shareholders that depend on the American capitalistic system to continue to improve productivity, profits and expand. I believe that the government has had its opportunity to make its point. Microsoft has made good faith adjustments in its operations and has agreed to share "secrets" with their competitors, something the competitors had sought from the outset. It is time to lift this cloud of intimidation from the technology community and allow our economy to expand once again. I would hope that the tragedy of Sept. 11th would help all of us including the government refocus on our nation's priorities. It is time to move ahead with improving our people's living conditions and maintaining our economic leadership of the world.

Most Sincerely,
Robert A. Gerhardt
RG/tes

MTC-00028095

From: Dirk Valcke
To: Microsoft ATR
Date: 1/28/02 1:28pm
Subject: Microsoft Settlement

Dear Sir or Madam:

As a consultant in the computer industry I come in contact with many people in many different organizations.

These organizations range from first class Financial Institutions to small enterprises with only a few employees. For all these organizations and especially for the thousands, even millions of small and mid-sized companies Microsoft* provided an easy to use, cheap, out-of-the-box usable computing environment.

As you probably know and experienced yourself, even a child can install and use the Windows* and Office* platforms. To find a platform that is as easy to use and that keeps the whole computing experience affordable we can only look at Apple*. The giants in the industry, especially SUN, could take some lessons in user-friendliness, ease of use and low-cost from both Apple* and Microsoft*. The initiative of the Linux* group seems to go in the right direction, but the product is not yet at the level we are used to (user interface, ease of use, support).

When I consider the enormous number of companies and people, who earn their living by building on an ever-evaluating platform, persons that study these new versions and implement ever more complex and at the same time ever easier to use software, I am amazed. When I try to imagine the number of people that use these inexpensive, easy obtainable systems, at work, at school and home, I am amazed. When trying to imagine even the very Internet that allowed me to send you this message, without the low-priced, easy to use computers, I wonder if it would have been possible!!

The inexpensive computers and software are a result of volume. The volume is the result of popularity. Popularity is the result of content and happy users! I hope you advice and ruling will allow current and future enterprises to work on even more mind blowing and fantastic applications and systems. That it will allow the customers/users to benefit from ever more features and possibilities.

With kind regards,
Dirk Valcke—Director.
Advanced Computer Technologies
Valcke bvba ? Kortrijk Office
Min. A. De Clercklaan, 35
8500 Kortrijk ? Belgium
Valcke bvba ? Brussels Office
Marktstraat, 46 BUS 8
1210 Brussels ? Belgium

MTC–00028096

From: arlen-betty@centurytel.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Microsoft should not have been charged in the first place. Our leaders tend to encourage less than the best from people.

MTC–00028097

From: drwhom@valleyalley.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Please leave Microsoft alone. Together we can fight political corruption in this country. Thank you a proud citizen

MTC–00028098

From: itremblay@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Please settle the suit and then leave Microsoft alone to offer new technology to the world markets.

MTC–00028099

From: tomas.palmer@i-codesmith.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

This attack on Microsoft was the cause of our current tech recession. If Microsoft competitors cannot not do better then Netscape and think Java is the key to the future they deserve to lose in the marketplace.

MTC–00028100

From: bob@purdue.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

I am not speaking on behalf of Purdue University. However as the IT manager for the Purdue University School of Education I have found Microsoft to be a friend of Education. Microsoft has been a friend to Education for many years even while other companies which have a reputation for being education friendly have taken advantage of Education over-priced their products and given Education little or nothing. Unlike other companies that have been hostile towards education and ignorant of our needs Microsoft has delivered quality products for cheap and in many cases for FREE! This long-term commitment demonstrates to me that Microsoft cares for students and educators. The fact that the vast majority of our students *prefer* Microsoft products to other products and operating systems demonstrates this. I urge you to allow the settlement and resolution of the Microsoft case. Please allow what I consider to be one of our countrys' National Treasures the freedom to continue supporting and inspiring the work of Education.

Thank you and best wishes.
—Robert Evans

MTC–00028101

From: NATHAN S MORRIS
To: Microsoft ATR
Date: 1/28/02 1:30pm
Subject: Microsoft Settlement

——major penalties,no breakup——
NATHAN

MTC–00028102

From: ben—dixon@email.msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Microsoft is the engine of our economy train. Leave them along and let them pull all of us forward.

MTC–00028103

From: chstudstill@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

I donot feel that Microsoft should be allowed to proceed with its products uninhibited by government or less successful competitors

MTC–00028104

From: mikesuda@gtw.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

I THINK THAT THEIR SHOULD BE NO MORE LITIGATION IN THE MICROSOFT CASE. THE STATES SHOULD APPROVE THE SETTLEMENT.

MTC–00028105

From: ggallas1@nycap.rr.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

I endorse the settlement between Microsoft and US Government. I am hoping for a Final Judgment.

MTC–00028106

From: kwshaeffer@att.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Please consider ending the legal activity against Microsoft. Microsoft has offered a very large settlement which should be approved in the interest of allowing technology to advance. Microsoft was never a monopoly (as is my garbage service & city sewer/garbage service). It is unfortunate that the Clinton Administration Justice Department originally started this unsupportable suit. Thank you for listening.

MTC–00028107

From: bobleibo@bellatlantic.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

This settlement is very fair. the only people that seem to be complaining are microsofts' competitors and people that think operating systems should be free and not be considered intellectual property. This company is one of the great success stories of the 20th century. don't punish them further for this success. nobody that I know complains about microsoft. they like their products and find them easy to use. stop wasting all this money on this court case. it's ridiculous.

MTC–00028108

From: holly—miller@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

While I disagreed with the government s antitrust case in the first place I am pleased with the settlement insofar as it brings the case to a close.

MTC–00028109

From: nirgal27@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

This entire Microsoft case has done more harm than good. Not only has it wasted time and money but it has also been run at the expense of pursuing various attacks by the Al-Qaeda organization.

MTC–00028110

From: alben4@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Windows XP came installed when I purchased my new computer. I'm very disappointed with this highly praised Operating system. I can't run my printer as I did with Windows 95 and it can't be fixed.

Microsoft should be made to remedy my situation.

MTC-00028111

From: will
To: Microsoft ATR
Date: 1/28/02 1:33pm
Subject: in regards to the microsoft anti-trust case

I used to be a consultant on Microsoft products right up until about 4 years ago when I switched from consulting on systems integration and started doing development work on a variety of other platforms. I've known a lot of the folks at Microsoft over the years and been a part of various Microsoft initiatives. As the years have passed, I've become increasingly concerned with the level of quality of Microsoft products and the direct effects they have on our world. Not just consumers, or businesses, or governments, or the Internet, but —everything—. The reason they have this affect on —everything— is because they outsell other operating system providers in a variety of business spaces. This ability they have comes less from radical product superiority, but mostly from their absolutely amazing business and marketing skills. I think these business and marketing moves that Microsoft has made have become increasingly Machiovellian—the ends absolutely justifies the means in the Microsoft juggernaut's mind (sorry for the personification here). Reading through the findings and my experiences in the Microsoft world and my friends'' lives, I believed as the courts did that Microsoft is guilty of abusing their monopoly.

Reading through the settlement recommendation, I'm appalled. I think it does nothing to curb Microsoft's business and marketing juggernaut which clearly lacks moral sense. I think it actually furthers Microsoft's monopoly in the future without instilling any moral and ethical guidelines.

I am absolutely against this settlement and I think it's ridiculous that it's even being considered by anyone. It's not an issues of good vs. evil, it's an issue of fixing the future so that consumers aren't continually hurt by the continual immoral practices of a behemoth company.

Thank you for your time,
/will

whatever it is, you can find it at http://www.bluesock.org/willg/ except Will—you can only see him in real life.

MTC-00028112

From: ewspak@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

I strongly support the settlement reached between Microsoft and the Federal Government. The few state attorneys general who have not signed on appear to be more interested in the political benefits of opposing big business than in the public welfare. Government must not penalize businesses merely because they are successful or large. Innovation should not be discouraged by reducing competitiveness. Competition is essential to developing the technology that our country s economy depends on.

The settlement protects the public while ensuring competition and innovation. The key features include an onsite committee to ensure Microsoft s compliance the ability for consumers to delete Microsoft programs from their operating systems the ability for computer manufacturers to add programs to PC s with Windows and forcing Microsoft to disclose the technical information necessary to competitors so their software will run smoothly on Windows.

Sincerely
Eric W. Spak

MTC-00028113

From: Clintwood456@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

I think this is a fair and just settlement. Don t think any changes should be made

MTC-00028114

From: Jumpj52@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

I believe the settlement as it stands now between the government and Microsoft is fair and just. I believe the government has been exemplary in it s conduct during the Microsoft case. The nine remaining states should end their suits in this case and join the Federal government in ending this long running case.

They are only wasting the tax payers money. For AOL to bring it s suit against Microsoft on behalf of Netscape is pure folly on AOL s part. The case has pretty much been decided on. They are only try to delay it. For what purpose? Who knows. In my personal opinion I don t believe Microsoft ever did anything wrong. But since it has already been ruled against that s OK. We should move on from there.

End this case now before it does more harm than good.

Thank you for listening.

MTC-00028115

From: ellieford@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

This case has gone on long enough and needs to be settled to get the economy going. Nine states settled and the nine states holding out should settle also. Netscape is a sore loser because people like Internet Explorer better. That's competition on which this country thrives. I have both in my computer but like Internet Explorer better. AOL also has no business bringing a new suit against Microsoft. It should be thrown out. I don't like AOL either. If anyone tries to monopolize the internet it s AOL.

MTC-00028116

From: willo@pillars.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Have you people ever read The Law by Frederic Bastiat? It is not the legitimate role of government to manipulate the free market.

MTC-00028117

From: zhou0628@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Quick and fast settlement is beneficial to the economy as a whole. The current settlement has already posed good restriction on Microsoft on anti-trust related issues.

MTC-00028118

From: fghewitt@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

The governments' actions are threatening the safety liberty and prosperity of the United States and its citizens.

MTC-00028119

From: afreespirit@email.msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Accept the Settlement The proposed settlement already helps the rivals of Microsoft by placing significant restrictions on Microsoft. Hopefully no more time or money will be spent on unnecessary objections by a few state governments that are holding out.

MTC-00028120

From: ctrizogl@cisco.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

In today's highly competitive environment most of Microsoft's practices should not be judged within a legal framework but rather should be seen as aggressive marketing practices. Such extreme cases confuse people and rather than spending time effort and resources to find ways to become more competitive the rely upon a legal system to get them out of the hook. In my opinion the end result of such extreme legal actions is that the consumer does not enjoy the best possible products at the best possible price that come out of competition in so many other markets.

MTC-00028121

From: liloc@att.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Microsoft where would we be with out you? You are the brain behind todays technologies and we are for you

MTC-00028122

From: sportsranch@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

I wish that I had the time to write a response that would reflect my complete disgust on the attack of Microsoft by our government's abusive use of power and influence. Simply I want this government's action against Microsoft only for the benefit of Microsoft's unsuccessful competitors to come to an end.

We need to get on with the economy and tremendous prosperity that we enjoyed before this government's overzealous bureaucrats and these cry baby spoiled brats from Sun Microystems Oracle and Netscape helped take this country into recession. Accept the settlement and get on with life!!! How stupid! Take the most productive and successful company in the world and try to destroy it! What a bunch of idiots!! I said this as nice as I could with this much anger!!! You should hear the way I really feel about it!!

MTC-00028123

From: bone@apex.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Please put a stop to the economically draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop the fact is this case against Microsoft is little more than welfare for Netscape and other Microsoft competitors with not a nickel going to those supposedly harmed by Microsoft the computer user. I do not feel I have been harmed. This is just another method for states to get free money and a terrible precedent for the future not only in terms of computer technology but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now.

Thank you

MTC-00028124

From: wtmizuto@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

I fully support the current settlement and believe that further litigations against Microsoft should be stopped. It is obvious that Microsoft's competitors Oracle and Sun System are doing everything they can to ruin the company. Our government should not be influenced by this. Enough already. A fair settlement was achieved. Federal government should discourage the remaining states from further litigation. Microsoft one of the most successful American companies should be allowed to continue its efforts in innovation. Our fragile economy needs this and consumers are benefiting from innovation.

MTC-00028125

From: rustynail@hci.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

It is time for the government to get out of the free enterprise systems way! Microsoft has made life easier for everyone. I could have any program that I chose. Noone has forced me to use Microsoft Products. I use them because they work and are economical. What's wrong with that? Since when did making money become against the law? They give more to charity than the U.S. Government.

Give me a break and do something worth while. We have become a nation of wannabes rather than a nation of doers. The justice system needs to mind its own business and it has plenty to mind! What if Microsoft said enough. You can have it and we quit and take our ball to the house. Would software still be as economical and work? I think not!

MTC-00028126

From: judimoore@pioneernet.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Please move forth on the Microsoft settlement. This case has slowed down the evolution of technology.

MTC-00028127

From: Adella@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

In my opinion the suit against Microsoft should never have been filed by the DOJ to begin with. It is time to stop it and the settlement should be approved and the Court should force all states and persons to abide by it. Let's stop allowing the incapable ones to enter a field about which they are not sufficiently informed and capable by screaming false accusations. End user consumers have been greatly harmed by the suit already and in fact will continue to be harmed by the suit and the limitations and regulations imposed by the settlement. However better that we at least stop further blood-letting and force the competitors to find their place in the market on the merit of their products and not on the basis of politics.

MTC-00028128

From: emory@iquest.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Keep the government out of Microsoft's business! This is as stupid as saying Henry Ford had an unfair advantage in selling cars. Microsoft built the better mouse trap and is being punished for it THIS IS UNAMERICAN

MTC-00028129

From: carol1335@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement

Bogus charge the company has done more for the consumer then could be expected of any company

MTC-00028130

From: nclac@att.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

I do not understand the whole problem or lack of. I have had three different computers in the past five years and Netscape and Compuserve were all loaded in them I presently use both Netscape and Microsoft Explorer. LEAVE MICROSOFT ALONE if it was not for them we would not have the ease of use that we enjoy today.

MTC-00028131

From: tom—talbot@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement

Further action against Microsoft is unwarranted and will stifle the development of technology that is critical to America maintaining its leadership role in computer applications.

MTC-00028132

From: Jim AA Wright
To: Microsoft ATR
Date: 1/28/02 1:31pm
Subject: Microsoft Settlement

I think it is time to settle this Microsoft thing and quit wasting Government money on it. I don't think anyone knows how many businesses have been started to carry on and supplement Microsoft. I think it is time they were allowed to continue without the threat of a law suit hanging over them. They have caused no real harm to anyone, but there are those that would like to line there pockets at Microsofts expense.

Jim A Wright
wa7hif@juno.com

MTC-00028133

From: williamandgwenfisk@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement

I believe it is in the best interest of America to accept the settlement and move on. The settlement despite it's prejudice toward Microsoft will help our economy. I don't think the competitors have suffered from Microsoft exclusion.I think they don't have the expertise to compete. If there was a system that was as user friendly as windows it would have been just as successful. At any rate Microsoft is willing to share their technology with competitors so accept it and move forward.

Sincerely
Gwen Fisk
Owner of Full House Exterminators

MTC-00028134

From: sprice@hyperaction.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

I believe this settlement is fair to everyone and allows for continued technology growth.

MTC-00028135

From: mccpb@bellsouth.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement

let consumers determine the demand and thus the supply for products. the govt should have a hands off policy in the free market place.

MTC-00028136

From: HMGuzzo@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:31pm
Subject: microsoft settlement

TO WHOM IT CONCERNS,

IT SEEMS TO ME THERE ARE MORE IMPORTANT THINGS TO BE DONE IN THIS COUNTRY, BESIDES RIDE MICROSOFT WITH EVERY WHIM OF THE PEOPLE WHO WANT TO SUE. I THINK THERE SHOULD BE A SETTLEMENT AND GET ON WITH WHAT NEEDS TO BE DONE IN THIS COUNTRY. THERE ARE PLENTY OF CROOKS OUT THERE TO GET IF THAT IS

WHAT YOU WANT.I THINK YOU ARE BARKING UP THE WRONG TREE. GO FIND THE REAL CROOKS

SINCERELY

HOPE GUZZO

MTC-00028137

From: exnun68@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Please allow the ruling on Microsoft to stand. We need strong companies to flourish in our economy without undue government interference. Free enterprise is one of the basic principles of liberty and we need the jobs and technology companies like Microsoft provide.

MTC-00028138

From: bobal251@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

This is a terrible miscarriage of justice. Microsoft should not be held to this ridicule. They are the creature of this soft ware and should be governed by the consumers and not by the government. Microsoft and their operating system are vary big and yes their is a reason for that. It's because they made a produce that was needed. They were is the right place at the right time and created a demand for their produce because people wanted it and it was a good product. Now that they are successful they are being penalized for it. Of course others are going to complain about it that's because others are trying to get a piece of the action and get it any way they can. The actions brought against Microsoft is also an action against the free enterprise of the United States of America.

MTC-00028139

From: jorjw@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

I think Microsoft is doing a fine job and should be exonerated. The competitors are envious and want the government to control the competition in their favor. They can't win people complain if they give their software away or price it too high. If there wasn't a market for it nobody would buy it. The only ones who seem to have a problem with them is their competitors. Leave them alone and let them keep innovating.

MTC-00028140

From: aerospectrum@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement

The currently negotiated settlement is sufficient. Any further action should be suspended.

MTC-00028141

From: byne@home.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Please! Please! Get OFF Microsoft's Back! Stop Your SILLY castigation this productive Company!

MTC-00028142

From: Michele Stouffer
To: Microsoft ATR
Date: 1/28/02 1:31pm
Subject: Microsoft Settlement

I do not believe the settlement offered by the Bush administration and other states is in the public interest. I believe more needs to be done to curb Microsoft's monopoly and invigorate competition and real innovation in the operating system and office product software markets.

I am a technical training course developer in Silicon Valley, and use Microsoft's products not because I believe that they are superior, but because there is no real choice. They have become an inferior defacto standard. One would think that with all Microsoft's resources and the number of years their products have been around, that the products would be robust and elegant. But the fact is, a week doesn't go by that either Word or PowerPoint or even the Windows operating system either freezes up or totally crashes. Over ten years of using their products has added up to countless hours of lost productivity.

I believe that consumers would greatly benefit if Microsoft were forced to spend some of their resources on improving their products (by having to compete) instead of protecting their monopoly.

Michele Stouffer

MTC-00028143

From: info@bayermedia.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Dear Antitrust Bureaucrats: First I regard DOJs intrusion into Microsoft's business to be an American Travesty. Now that DOJ has sucked millions of dollars out of the Microsoft pot who will be next? Can't you folks at DOJ understand that you have NOT done consumers a favor in that they [consumers] will ultimately pay for your meddling due to increased costs to produce the Microsoft products? Why can't you government (of by and for the people... yeah right) types understand that simple concept?

Furthermore I DO like many products produced by Microsoft. However if I want a choice of operating systems there are others out there and I DO use them. There are other browser products out there such as Opera which I am using right now.... It is better than the Microsoft browser so I use it. You folks at DOJ DID NOT DO ME ANY FAVORS by getting into Microsoft's business and sucking out millions of dollars THE COST OF WHICH MUST ULTIMATELY BE BORNE BY ME THE CONSUMER. You see... not everyone in America is dumb to what is going on here....

Sincerely

Jeff Bayer

BayerMedia

MTC-00028144

From: tbe@ingeroll.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

I request that the settlement that was agreed upon be allowed to be implemented so we can get on with technology advancement.

MTC-00028145

From: Lee Liaw
To: Microsoft ATR
Date: 1/28/02 1:31pm
Subject: Microsoft Settlement

Thank you for letting us ordinary citizens comment on this lawsuit. I am confused by many of the charges that have been made in this lawsuit. However, the one issue that seems to get a lot of attention, and affects the people, is the charge that Microsoft has hurt the end-user. As an ordinary citizen, I can categorically state that I have not been hurt one bit by Microsoft. My family uses their software products, along with a bunch of other companies'' software products, and I have not experienced any problems. In fact, I feel that the other companies are benefiting because I am buying their products. That is what is confusing. I don't see the ordinary citizen being hurt. In fact, I see them as benefiting from all this technology.

When I read the allegations; I am deeply bothered at the charges and statements made by the attorney generals of the 18 States. Then I read what Microsoft's competitor have to say, and that makes me outraged, because it clearly shows that these companies are bribing the States to do their dirty work. The way I interpret it, is that they are not very astute business people, and they need some help, so they pay-off their Congressmen to do their dirty work for them. This is what really outrages me.

Furthermore, I read the remaining 9 States are extending this lawsuit. In my opinion it sounds like greed! The companies that are in those 9 States are again bribing their attorney generals. My analysis, as an ordinary citizen, is that these companies are not very astute business people. If they can't make a good product that people will buy, then they don't deserve to be in business. If they are not astute business people, I don't want them representing my country when the go overseas and sell to foreign countries. I don't feel like a proud American when I read that these companies are bribing their Congressmen to do their dirty work. It reminds of the government corruption that I read about in other countries. I certainly hope that our government does not stoop that low that we allow our businessmen to corrupt us through bribery and collusion.

I may only be a common ordinary citizen with not much influence as these large businesses, but I wish to exercise my Constitutional right to freedom of expression and certainly hope that you will consider my comments.

Thank you.

Lee Liaw

MTC-00028147

From: pdp216@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Please bring the lengthy anti-trust case to an end. It would be in the best interest of the technology industry consumers and the economy. There was a settlement on Nov.3 2001 with the federal government an a number of state attorney generals please endorse this settlement.

Thank-you.
Sincerely
Pam & Phil Mehling

MTC-00028148

From: g.weess@worldnet.att.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

Do leave Microsoft alone they are the leaders in technology in the world. Without Microsofts ideas we would loose our edge.

MTC-00028150

From: immbfd@gwumc.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement

I believe the entire trial has been a mistake for America and the economy. I use windows-based computers my mother and sister use apples and my son uses Linux. MS is being punished for providing consumers with an easy to use and affordable operating system. Having said that I believe the settlement reached actually goes beyond the finding of the Court of Appeals. So I will be able to support them exactly as written.

MTC-00028151

From: pdp216@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:22pm
Subject: Microsoft Settlement

PLEASE END THE ANTI-TRUST CASE AGAINST MICROSOFT.

THANK-YOU
H&K MEHLING

MTC-00028152

From: gogadgetstubbs@netscape.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement

The Microsoft operating systems starting from Windows 98 to the current XP have filters & command lines written within that causes non Microsoft software programs to stall or crash. The error message in the Close Program box is usually Not Responding. No matter how much Ram is being used or what the processor speed is this message appears. My company builds computer systems installs hardware & software and troubleshoots many PC problems. It has been my experience that the bulk of my troubleshooting calls have been non Microsoft software problems. Usually on the new systems that someone has purchased will have Windows 98 NT ME 2000 & XP as the operating system. Common problems are the driver files located in these operating systems. To fix the problem a mass majority of the time I have to uninstall either the hardware or software and then reinstall it with the disk provided by the manufacturer. Ninety-nine percent of the time the first uninstallation/reinstallation works.

There have been times when I had to do this two or three times and keep rebooting the computer to get it to accept the files from the manufacturer instead of the files provided by the Windows operating system. I currently have Windows 98-Second Edition on my home PC and find that system actually helps troubleshoot problems with other Microsoft OSs. Windows 3.1 and 95 didn't carry the same command lines as the newer OSs thus they had less failures. No company should be allowed to dominate a market such as Microsoft. This is America and it should be an equal opportunity for all computer manufacturers. After all computers in this country run a mass majority of business both in the work place and now more so in the private homes of Americans. This should give all companies the opportunity to develop hardware & software that is compatible. For that reason alone companies like Gateway Compaq Packard-Bell & Apple/MacIntosh aren't very successful in the computer

MTC-00028153

From: LSUangel56@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement

I think this case should end immediately. All citizens have benefitted from Microsoft products. Bill Gates is brilliant and surrounds himself with brilliant people and has done nothing wrong. We only wish we were as smart. To force Microsoft to house a Tech Committee to enforce his compliance with the settlement and then demand he fund it is insane. In America we are suppose to be able to succeed without government punishment for doing well. The government should never have been involved in the first place. CEOs of competitors have thrown money in the right place to bring about this suit in the first place. That is obvious to everyone. To even entertain a forced breakup of Microsoft just simply isn't the American way. Someone somewhere forgot that theory. Maybe the competitors should do better work instead of trying to bring down those that are smarter than them. This is just the opinion of a simple public high school teacher who only wishes to have been so brilliant. Leave Microsoft alone.

MTC-00028154

From: kellythm@Hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement

I wish the government and states would just drop this nonsense and quit trying to hurt the free enterprise system and economy also control the freedom of companies to succeed and make better products in very competitive market. If they think for a minuet that the whole government finding was fair and just I think NOT! AOL and other companies point the accusing finger at Microsoft for being a monopoly its just a ploy to take a successful company down so they can eat up the whole market. Microsoft has never overcharged the consumer for innovative products. This kind of legal dog and pony show put on by the states and federal government wasting the tax payers money has got to stop.

MTC-00028155

From: Mbanks@sport.rr.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement

I AGREE WITH THE SETTLEMENT

MTC-00028156

From: rolfglerum@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement

As a long-time Microsoft user I find the company's settlement offer to be eminently fair and straightforward. Not only does it provide much-needed support to Microsoft users the world over it answers and pretty much solves the complaints that Microsoft competitors have been talking about since the beginning of this whole controversy. For the good of all it's time to move forward. Please accept this settlement offer.

MTC-00028157

From: rroland@dol.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement

I have been a fan of Microsoft and Bill Gates through all of this mess. We as Americans should be grateful for companies and men like Mr. Gates. If Microsoft hadn't developed the technology some other company in another nation would have. All these companies crying and complaining about Microsoft where were they in the early days? Thats right let someone else do the research and development and then cry like a baby that you got screwed. In my opinion Microsoft didn't do anything that someone else could have done if they had been willing to take the Bull By The Horns spend some money and take a risk. I have no ill feelings for Microsoft whatsoever and feel THEY if anyone has been treated unfairly and unjust.

MTC-00028158

From: brians@110.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement

Every section of this settlement which addresses practices which Microsoft has traditionally used to eliminate the possibility of competition seems to be dependent on definitions of terms such as Non-Microsoft Middleware Product and Windows Operating System Product which are still vague enough to be disputable when Microsoft next feels threatened. Enforcement is by a Technical Committee whose paychecks come from Microsoft who are employed in Microsoft arranged offices with Microsoft provided resources on Microsoft's corporate campus in Redmond Washington.

Even if these controls turn out to be sufficient to stop Microsoft's enforcement of it's desktop monopoly we'll be back in this discussion 5 years from now when they expire. This settlement insures that no other company can use the anti-competitive tactics that Microsoft has taught the industry the hard way against Microsoft themselves. To me this seems unfair as these other companies have already been affected by Microsofts past abuses even though most of these other companies have not proven as untrustworthy in this regard as Microsoft. This settlement does not actually have any effect whatsoever on Microsoft's existing monopoly. In my opinion this settlement is an insult to the DOJ and to computer users in general that we could so easily be fooled again. Microsoft will continue to buy all competition which can be bought and to find creative ways to kill all competition that they can't buy. Thank you for listening. :-)

MTC-00028159

From: acesinger@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft'settlement

I believe this settlement is not fair. Because I believe this suit should never have been brought in the first place. I have seen firsthand the problems deregulation brought in the telephone industry and I believe it is wrong and rather unAmerican to penalize companys for doing well such as microsoft is being penalized.

The message this sends to the citizens is that if you form a company and do very well the government will step in and force you to give up some of your assets and redistribute your wealth among some of the less wealthy companys. This is the tenents of Carl Marx. We all know what that is called. This has no place in a democracy. This message says Only do moderately well with your company if you make too much money we will step in and redistribute your wealth to others that are less wealthy. Our country needs to take another look at our undemocratic monopoly laws.

MTC-00028160

From: refraxx@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft'settlement

Is there a limit to the potential of capitalism? Is there a cap on the American success story? If Microsoft makes a product that is only compatible with other Microsoft products then so be it. Anyone that wishes to compete against Microsoft' should be able to do so without restriction. That is what free enterprise is all about. As long as the products that Microsoft creates is not a health hazard etc. they should be able to do as they please. If the public gets fed up they have the option to choose another brand. Don't get me wrong I don't like the idea of a giant corporation taking advantage of their position in the market to wield their unlimited capital and public appeal to take advantage of the consumer. However lets not put an end to freedom of enterprise and let's not put a cap on the potential of success in America.

MTC-00028161

From: T.J. Mather
To: Microsoft ATR
Date: 1/28/02 2:09pm
Subject: Microsoft' settlement

I am opposed to the proposed Microsoft'settlement. I agree with the problems identified in Dan Kegel's analysis on the Web at http://www.kegel.com/remedy/remedy2.html

Sincerely,
Thomas J Mather
155 West 15th Street, Apt #4C
New York, NY 10011

MTC-00028162

From: fwcourington@foxinternet.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft' settlement

The parties opposed to the settlement are beyond children having temper tantrums they are morally obscene. The settlement is more than generous and cessation of the conflict will benefit America at large individual citizens our economy and the well-being of people all around the globe. If I were an enemy of the United States I would be cheering the efforts of the opposition as there can be no greater harm done to our nation than to indulge in continuous unremitting illogical energy draining costly distractions from the productive and creative efforts of paradigm-shifting companies like Microsoft. The motives of those opposing the settlement are transparent they are clearly nothing more than cheap gold diggers.

MTC-00028163

From: dweick@ashland.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft' settlement

I agree with this settlement only to the extent that it ends a long and expensive litigation process. The entire suite was economically and Constitutionally unsound but it has now grown to the point that government money would be better spent on other perhaps less intrusive projects. The fact that the government is seeking to exert such obscene control over the high-tech industry is frightening but the prospect of millions of taxpayer dollars being used to subsidize a longer trial is even more frightening.

MTC-00028164

From: patinmur@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft' settlement

gentlemen: it is my belief that an equitable solution in the microsoft law suit has been reached and should be allowed to stand as is. further it does not appear in anyone's best interest to squander court time and resources on expensive lawyers.

sincerely
c.l.bass

MTC-00028165

From: bvarnam@atmc.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft' settlement

I'm not an expert in the technology field. I've followed the news reports involving Microsoft. I think that this is a case of envy. Microsoft was built by hardwork and genius. Competitors have built off of the work of Microsoft. I think the settlement is unfair to Microsoft. They are being penalized for being innovators. I only wish I had their talent genius & understanding of computers & technology.

MTC-00028166

From: nursejane@worldnet.att.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft' settlement

We are a global economy. We should allow Microsoft a leader in the worlds communication field and a strong American company to continue to operate without government interference. Let the cry babies that couldn't compete take their lumps and address their own business failures. Microsofts success will only enhance third world countries not only by their business endeavors but also in the area of its philanthropy.

MTC-00028167

From: dbyrd@mcomposites.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft' settlement

Although Microsoft Microsoft' stockholders and the American consumer are losers including the public school system. With attorneys politicians and special interest groups reaping personal gain at the expense of the consumer Let the settlement stand before the rest of the world assumes tech leader ship.

MTC-00028168

From: manuelwc@manuel-associates.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft' settlement

I strongly endorse the settlement. It is balanced in its approach and it achieves as much fairness as is possible given the complexity of the issues and variety of interests demanding to be served.

MTC-00028169

From: DTPatterson@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft' settlement

As a user of Microsoft products over the years I am very disappointed in DOJs actions against Microsoft and the $35 Million it spent to cripple the IT industry. Although I do not agree with some provisions of the settlement I find the fact of the settlement and resulting closure to be better for the economy than further harassment of MS and it's chilling effect on entrepreneurial spirit. Let's get on with the task of building a better world through information technology. DOJ owes Microsoft an apology that will never be issued but let's not drag them any further from doing what they do best....creating the best software/systems in the world.

MTC-00028170

From: goliver@kih.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft' settlement

the government needs to stay out of it all togethet. if microsoft wants to give the consumer something free this is their right.

MTC-00028171

From: kemmere@home.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:23pm
Subject: Microsoft' settlement

I have reviewed the JD/Microsoft' settlement and I am happy to see that both sides in this action have finally come to a satisfactory agreement. The forces of open competition are essential to build new technology. Also as technology advances the integration issues have to bring us all to a systems solution that is open standards based and therefore competitive in cost. Challenges to this agreement by competitors are obviously being done for one reason and that is to erode the Microsoft market position. These have to be evaluated for what they are and nothing more!

MTC-00028172

From: tmartsun@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

Henry Ford changed the world as far as automobiles are concerned. Bill Gates changed the world as far as computers are concerned. I think he should receive a Hero medal.

MTC-00028173

From: wmconveyarch@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

It would be beneficial to allow the settlement that forty one states agreed to accept be finalized so that the future of Microsoft isn t clouded by litigation for years to come both here and abroad.

MTC-00028174

From: jimthom78@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

I believe that the settlement agreed to by Microsoft and the Justice Dept. is quite fair and equitable to all parties involved. I do not believe there is anything to be ained by further litigation in fact it will do great harm to the American public.

MTC-00028175

From: jeronamo69@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

The Anti Trust case over Microsoft should have never even started. It is apparent the only reason why it started was because NetScape and AOL paid off people to bring the case because they knew they couldn t bet Microsoft in the marketplace. Who would really want to have to pay for an Internet Browser when they get one for free? This new case AOL has brought is because they are fuming that MSN is getting bigger and bigger pieces of the market. It is called capitalism live with it and stop trying to bring your rival down with cheap tricks or file for chapter 11 and close down. In capitalism whoever is selling the better product for a cheaper price wins and AOL and Netscape needs to realize that and stop complaining to the government. What President Bush is doing by trying to keep out of the private business sector is a smart descision. Business don t need more government control and this how recession we are going through shows what happens when the government does try to control.

MTC-00028176

From: drgruber@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

The government should have never entered in the suit. Microsoft is a great company. It employs many people and it provides great products. No one is tied to the company with a cord. If someone doesn t want to buy the product he/she doesn t have to buy it. The government should stay out of these things and not punish success. If the government officials are jealous of Bill Gates success they should learn to live with it! There is no crime and was no crime!

MTC-00028177

From: dpost@waypt.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

As an end-user comsumer I feel that this Final Judgement is as good as likely to be. I recommend acceptance of this judgement.

MTC-00028178

From: phy1@milwpc.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

I am very much in favor of Microsoft. This is a country of free enterprise. No more tax money on this case.

MTC-00028179

From: waldcwil@bellsouth.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

Although I do not always agree with the way Microsoft does business I also have to admit that they have done more than Sun Netscape AOL and others to advance the wide spread use of PCs. As far as using software from a company other than Microsoft I find it very easy to install the software. I have little or no problems with the installation or use of non-Microsoft software. I know that Netscape AOL and Sun seem to think that Microsoft has harmed their businesses but I have used Netscape in the past and let me say that Netscape hurt themselves. As far as Sun AOL Apple and others are concerned if they were so concerned about the general population I did not sense it in their products or their business practices.

In closing I will restate that I do not always agree with Microsoft but if not for them and the IBM compatable PC I would not be using a PC today. Before we go to far down the road of penalties against Microsoft we need to explore the true intent of the other companies. If their products and services are good then people will buy them if not—why force their products and services on us.

MTC-00028180

From: lu-su@clarityconnect.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

This law suit was none other than to intimidate a company that was making too much money and certain persons being envious. Also because they didn t give large political contributions had to be punished. Rediculous to have even instituted the law suit against Microsoft. People were and are able to purchase other products. Microsoft makes things easier. I am strickly against the suit. Clinton should be the one on trial these days not Microsoft.

MTC-00028181

From: archangel525252@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

gentlepersons

After careful and through review of the settlement details I wish to express my agreement that it represents a fair and equtible resolution of most of the issues involved. The intense global technological competition is enough for our U.S. companies to have to deal without further selfinflicting judicial wounds that can only hamper our countries continued leadership in these areas.

yours truly
Mr. J. Podesta

MTC-00028183

From: fsalzone@suffolk.lib.ny.us@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

If our Government spent as much $ and time going after Osama Bin Laden rather then Bill Gates we would not be mourning our loved ones.

MTC-00028184

From: rjm.rn1@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

I am appalled that AOL is trying to sue Microsoft after the settlement that has been reached which was too tough on Microsoft in my opinion. Where would the millions on AOL customers have come from without Microsoft??? We all owe a debt of gratitude to them rather than envy at a job well done that benefits us all AOL in particular! Please stop this injustice at once.

MTC-00028185

From: wallgren@flash.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

We've already wasted hundreds of millions of dollars of taxpayers money -the courts have ruled & the settlement was accepted by the justice department. Let s get on with the more important things in our life like the national and homeland security.

MTC-00028186

From: ftrax1@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

the cost of this case is too high. it has stopped technology advance and should be settled now

MTC-00028187

From:lstress@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

Settle this suit. Government should not have filed in the first place. Free markets are the best regulators and protectors of consumers!

MTC-00028188

From: pshoup@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

settlement is better than nothing I believe you should settle this as quick as possible ... I am not in favor of the Microsoft suit nor the expenditures of time money and talent...look at the experience with GM IBM etc. Microsoft will have a tough world in this changing environment and you folks are expressing its early demise raising our cost(s) and realy not benefiting anyone! Fine the hell out of them for their sophmoric tactics and get on with business.

MTC-00028189

From: p.luczka@ieee.org@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

Please don't allow onerous regulation and endless lawsuits to gum up private enterprise and customer choice. Thank you.

MTC-00028190

From: jhoward964@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

I think that we need to fullfill the settlement agreement and move on.

MTC-00028191

From: lhack@ubtanet.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

I feel that the microsoft settlement reached on November 3 2001 is fair and reasonable and no further legal action needs be taken.

MTC-00028192

From: polymorphic@geocities.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

The argument is clear. Was the consumer hurt by Microsoft bundling the browser with the operating system? The answer is no. The Netscape argument is it could not compete because the consumer did not have a choice. Netscapes claim is Microsoft circumvented the consumers decision to choose. Software is ubiquitous in that anyone can design develop and sell it. Microsoft did not prevent Netscape from designing developing and selling its browser. Netscape gave up trying to make a better browser and at that point the consumer did choose they choose to use Microsofts browser. The fact is Netscapes success depended on Microsoft selling more copies of Windows and therefore Netscape could have sold more copies of its browser.

MTC-00028193

From: rogowski@pacifier.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

Don't let Microsoft's competitors use the court system to manipulate the marketplace by pressuring the court to continue this case. The settlement proposed to date is fare and just.

MTC-00028194

From: mav802@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

I think we should leave Microsoft Corporation alone. Hooray to Bill Gates he is a very successful man.

My opinion is the government should leave that company alone...and let them get on with their business.

MTC-00028195

From: shors7@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

I support Microsoft in settling the law suit.

MTC-00028196

From: hunt4Him@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

Dear MS. Hesse: Please end the government s unjustified attack on Microsoft. This embarrassment is a hold over from the previous administration s abuse of the US Justice Dept. and the US justice system. I believe that it is in the best interest of the country to drop the case all together but in light of the unlikeliness of that to occur the current settlement should be allowed to stand.

Sincerely
Steve Hunt

MTC-00028197

From: RBSB@att.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

Enough is enough! Let s get off this subject and go on to More important things!! To persue this subject further would be a waste of tax payers money. Too much has already been spent! Let the settlement stand and let the free market system handle the future! I and millions of other Americans have had enough of this matter!

MTC-00028198

From: leegj@home.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

I concur with the action taken by the Federal Government. I do not like sole source suppliers of any product. It appears to me the Microsoft was well on its way to that end. If I could get other software to work on my computer I would do so. Lee

MTC-00028199

From: deane-o@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

Again I say I remember when Windows first came out I have a copy of that program. I am thankful for Microsoft other wise we would still be using DOS. Microsoft owns Windows and should not have to give away their codes to help other sofeware companys. They invented it and should have all the rights to it. Just like Henry Ford and Alexander G. Bell look at AT&T now since they were told to give away the store. We all are worse off than we were years ago. Let Microsoft do its thing and make it better without interference. I back Microsoft all the way leave them alone they have a vision of the future in using computers and let them proceed. Maybe the stock market will go up again it went down when they got sued remember.

Thank you
D. Atwood

MTC-00028200

From: azadoks@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

Implement the agreed upon settlement without any further delays.

MTC-00028201

From: Michael.Sypek@verizon.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

I have been a computer user since the days when every computer had its own operating system. Chaos ruled the field. Microsoft by being in a fortunate position and taking advatage of that position by making a superior product became the standard for personal computers throughout the world. To punish them for being the best in what they do would itself be a crime. Breaking them up would bring chaos out of order at a time when the country s economy needs order. To punish Microfsoft with more than a warning and some survaliance paid for by Microsoft would not be justified. The fact that AOL owns Netscape but uses Microsoft Internet Explorer as its Internet Browser says volumes about the quality of Microsofts products. And it isn t American to punish the succesful nor is it in the interest of the United States to overpunish Microsoft. Sure they did some wrong but they have done far more good.

Thank You
Michael F. Sypek

MTC-00028202

From: Littleangels1120@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

I am against the proposed settlement. Microsoft should never have been sued the Clinton Justice Dept. failed miserably and the economic downturn began when Microsoft came under attack and has not recovered since.

MTC-00028203

From: mlanders@triad.rr.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

I strongly support this settlement and an end to any further litigation against Microsoft Corporation as it pertains to the current charges. I have always felt that the charges were baseless and that Microsoft did not take advantage of the market any more than any other legal business would have been entitled to. I feel they are being punished considerably for actions that would not have affected the market or consumers. Please finalize this settlement and stop bleeding taxpayers and shareholders.

MTC-00028204

From: ALLENMMETZGER@PRODIGY.NET@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

I SUPPORT THE SETTLEMENT REACHED BY THE GOVERNMENT AND MICROSOFT. I DID NOT SUPPORT THE LITIGATION. LET S LET MICROSOFT GET BACK TO DOING WHAT IT DOES BEST PROVIDING US WITH THE WORLDS BEST COMPUTER PROGRAMS. STOP HARASSING THIS GREAT COMPANY.

SINCERELY
ALLEN M. METZGER

MTC-00028205

From: Vanny97@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:33pm
Subject: Microsoft Settlement.
Vanessa Castagliola
154 Aspinwall Street
Staten Island, NY 10307
January 26, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I have taken this opportunity to write and express my opinion of the settlement that has been reached in the Microsoft antitrust case. I believe that we need to concentrate on issues of greater importance . I am pleased that a settlement has finally been reached in this case and that Microsoft will be able to continue doing business as a whole entity. It is apparent to me that the people pursuing this litigation are not looking for a good judgment in this case but rather the perpetuation of their own personal agendas. When government becomes involved in business, socialism becomes the rule of the day. I feel that this case has been fueled by jealousy and that until we reach a conclusion to this litigation free enterprise is stymied. The terms of the settlement are fair: Microsoft has agreed to design all future versions of Windows to be compatible with the products of its competitors, and they will also cease any behavior that may be considered retaliatory. Please support this settlement. I trust that you will do all that is within your power to protect American businesses.

Sincerely,
Vanessa I. Castagliola, Leonard D. Castagliola Jr.

MTC-00028206

From: AFeldman@Symantec.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

While I think that this settlement goes too far in restricting Microsoft and that this whole anti-trust case shouldn't have even been brought in the first place I'd really like to see this case end already.

So I am in favor of this settlement agreement.

MTC-00028207

From: APALACHFLA@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement

Leave Microsoft alone. Let the free marketplace determine what is good for the free world. Get off their back!

MTC-00028208

From: 2mlech@effingham.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I agree with the proposed settlement. Let Microsoft continue to operate and excel at what it does well. If you want to go after a dangerous monopoly may I suggest Walmart. They have put more Mom and Pop Stores out of business and destoyed the competition than any other corporation in America.

MTC-00028209

From: TERRY C ANDERSON
To: Microsoft ATR
Date: 1/28/02 1:33pm
Subject: Microsoft Settlement

The following comments are submitted for the Court's consideration in the Microsoft case before it. Based on my recent experience in the transfer of my Internet service from Qwest to MSN, I am very disturbed about increasing Microsoft's influence and hegemony in the provision of Internet services. The changeover of services has not been managed well—several errors caused frustration, lost information, and took much time to execute. I was led to believe that these difficulties occured because I was not coming from Microsoft software but rather from Netscape. I have spent hours talking to the technical assistance people to straighten this out. Let me add that simply getting to a person (rather than being routed through the branches of call answering systems) is a feat!

While I was not required to switch to MSN, I was given no information on ways I could switch to another server. Nor could I locate such information from Qwest or MSN. In other words, I felt corraled (indeed compelled) to transfer to the Microsoft system, MSN.

Now I'm subjected to advertisements and "come ons" whenever I log on. I strongly feel that it is a step backward for the consumer to allow Microsoft more control over Internet services. I am not a sophisticated computer user, but rather a person who struggles with the technology and gets by through simple, direct choices and customer-oriented service rather than glitz and promises.

Please preserve my choice to obtain the best consumer services I can find, not force me into a gargantuan system that is removed, indifferent, and frequently inaccessible.

Thank you for your attention to my concerns.

Terry Anderson,
Portland, Oregon

MTC-00028210

From: raymarieramirez@prodigy.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:30pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Ramon P & Marie L Ramirez
3295 N 153rd Dr
Goodyear, AZ 85338-8530

MTC-00028211

From: harry—sharp@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

Lets please put politics and competitors interests aside and settle this case. Stop tormenting the greatest success story of a company in the history of the world. Let Microsoft Live! Leave Microsoft Alone!

MTC-00028212

From: Aisen, Alex M.
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 1:33pm
Subject: Microsoft Settlement
Attached please find my comments, as an individual, on the proposed Microsoft settlement.
Alex M. Aisen
<<comments on MS.rtf>>
CC: Aisen, Alex M.
Comments on Microsoft Settlement
Alex M. Aisen

I am writing these comments as a consumer, professional, and computer user. I am an academic physician, not an attorney, and readily admit I do not know the formal rules for a submission such as this. I believe the comments I am making are accurate, but much of what I write is based on what I have read and remember, but have not verified personally. I am writing as an individual only, and not as a representative of my employer.

My position is that Microsoft is a company that has produced, and continues to produce much excellent software. But they often behave in ways which seriously harm both consumers and competitors, and this behavior is likely to get substantially worse if the proposed settlement is approved without substantial modifications. Like many others, I believe the settlement is far too lenient. The best way to encourage Microsoft to continue to produce top quality software in a way which truly benefits consumers is to ensure that there is competition, and to demonstrate to the company that if they behave in an illegal manner, they will be punished in a meaningful way. The proposed settlement does neither, and should be substantially strengthened.

Here is my list of many of the harmful behaviors I believe Microsoft to be guilty of. Some of these practices may be illegal; most are likely within the law. But it is clear that the only reason Microsoft has been able to get away with things such as I will mention is that they are a monopoly; their customers, be they corporate or individual, often have no practical choice but to play by their rules, onerous as they often are. Anticompetitive Activities. The activities outlined in the lawsuit several years ago by Caldera Corporation over the computer operating system DR-DOS, wherein Microsoft was alleged to have (and probably did) incorporate well camouflaged code in a version of Windows released to software developers that deliberately "broke" a competitor's product (DR-DOS, which at the time competed with Microsoft's MS-DOS) is an excellent example. This lawsuit was settled by Microsoft for a substantial sum.

More recently, Microsoft has released a new version of Internet Explorer, version 6, which, unlike previous versions, is deliberately incompatible with plug-ins (third party accessory software) written in the so-called Netscape style. This deliberate incompatibility may be an attempt designed to further hurt their competitor, Netscape

They have also removed support for up-to-date versions of the Java Programming language from the latest version of Windows, Windows XP. Java is a programming language developed by Sun Microsystems, that has been widely adopted by many software developers; it has the important virtue of being cross-platform. That is, programs written in Java can usually run on computer platforms other than Windows, for example the Macintosh, Unix, and Linux. By removing full support that Microsoft provided in earlier versions of Windows, Microsoft is hurting both developers who choose to use Java, and consumers such as myself who bought Java based software from these developers.

Though I certainly cannot prove it, as a long time users of many Microsoft products, I think is possible or even likely that the company has sometimes introduced or permitted "glitches" in their software that interfere with competing products, but not with Microsoft's own. For example, in the past the Novell Corporation has produced a file sharing system that competed with Microsoft servers, allowing desktop PC's to store computer files and share printers via centralized server computers. I have found that there are numerous "glitches" when using Novell file servers, that seem not to be present when using Microsoft file servers. As a user, I have no real way of knowing whether these glitches are simply bugs or weaknesses in Novell's software code, or "deliberate" incompatibilities hidden in the desktop versions of Windows by Microsoft. And even if there is no overt action by Microsoft, the fact that Windows software is proprietary, and the source code generally secret, can make it hard for competitors to produce products that interoperate with Windows.

More recently, I personally found that I could no longer use a popular third party e-mail client, Eudora, with an enterprise Microsoft Exchange e-mail server. Microsoft had included, as an option, what I've read is a proprietary security feature called "secure password authentication." The enterprise had apparently started requiring that this protocol be supported by the client software. Since Eudora could not use this, I was forced to switch to a Microsoft program, Outlook Express. Now, Outlook Express, like Internet Explorer is presently a free program. And, I have insufficient technical information to determine what caused this particular incompatibility. However, I cannot help but wonder if this is part of a larger strategy to marginalize third party e-mail clients like Eudora, and whether ot not Outlook Express will remain free if and when the competition is gone.

Microsoft's treatment of potential competitors is important as well. An excellent example of the sort of thing they are capable of was recently described in the Wall Street Journal, concerning Eastman Kodak. Film-based photography is now being replaced by digital photography, and Kodak hoped to sell digital cameras and software, which consumers would install on their Windows-based computers. However, this was a market Microsoft wished to enter, either directly or through partners. So Microsoft reportedly designed new versions of Windows to steer consumers away from Kodak's offering, and to those supported by Microsoft. Ultimately, Microsoft backed down in this particular case. But one cannot help but wonder if, given a less powerful adversary than Kodak, or the absence of the ongoing legal activities, if the outcome might have been different.

One additional example: the default home page on standard installations of Internet Explorer (which is part of every copy of Windows and hence part of most PC's sold) is the Microsoft Network. Thus, every time most consumers starts Internet Explorer, the web site they first see is Microsoft's own Microsoft Network. Now, it is possible to change the default home page, but most users either will not know how, or will not bother. So, this simple strategy puts other vendors of web portals at an extraordinary disadvantage.

It has been widely reported that in pre-release versions of Windows XP, Microsoft incorporated a feature called "smart tags" which would allow them to direct users of the Internet Explorer web browser visiting just about any third party web sites to be "directed" at proprietary sites run by Microsoft or its corporate partners. When word of this feature was reported in the news (the Wall Street Journal), there was an outcry, and Microsoft disabled it. However, there is no reason why they could not activate it in the future, particularly if they feel their dominant position in the market place, and the lack of effective oversight, allows them to do so.

Onerous Licensing Terms: Terms in Microsoft software licenses are often onerous, and it seems self-evident that the only reason Microsoft gets away with including them is that they are a monopoly. These onerous terms affect both consumers and businesses.

Two recently publicized examples from consumer software are as follows. The EULA (end user license agreement) found in the download of Microsoft's very popular Windows Media Player, states "Digital Rights Management (Security). You agree that in order to protect the integrity of content and software protected by digital rights management ("Secure Content"), Microsoft may provide security related updates to the OS Components that will be automatically downloaded onto your computer. These security related updates may disable your ability to copy and/or play Secure Content and use other software on your computer. If we provide such a security update, we will use reasonable efforts to post notices on a web site explaining the update."

In other words, Microsoft reserves the right to automatically install software, without the users knowledge or permission, which may disable "r software" on the user's computer. Microsoft's newest operating system, Windows XP, incorporates an automatic update feature, which could easily be used in this manner. Though the putative purpose of disabling software is to enforce Microsoft's interpretation of digital copyright enforcement, t it is important to note that the language quoted above is very general; further, even properly intentioned disabling of software could have very adverse unintentional effects on an unsuspecting computer user, as has already been reported in the trade press concerned the automatic updates that occur with XP.

The second example on onerous licensing terms is this language, which speaks for itself, which has been widely reported to be present in the printed EULA included with shrink-wrapped boxes of Microsoft's popular website authoring program, FrontPage: "You may not use the Software in connection with any site that disparages Microsoft, MSN, MSNBC, Expedia, or their products or services, infringe any intellectual property or other rights of these parties, violate any state, federal or international law, or promote racism, hatred or pornography."

At the enterprise level, I have heard, and had limited experience with myself, licensing clauses that do such things as forbid companies from sharing performance test results performed on Microsoft software. Thus, companies can, and sometimes are, forbidden from sharing their experiences with Microsoft products with their corporate colleagues. Microsoft is even widely reported to have used such language to prevent the publication of comparative reviews of their products.

Cost is an important factor as well. As Microsoft's monopoly in both operating systems and office productivity software has become entrenched, Microsoft uses its licensing terms to effectively raise prices substantially. For example, years ago, when there were competitors to Microsoft Office, the licensing terms on Office allowed concurrent user licensing. This is no longer allowed. More recently, other changes in its licensing terms require users to pay substantially more, oftentimes several-fold more, for software licenses. The important point is, I think, that Microsoft has substantially increased the cost of its software to enterprise consumers over the years, and they often do this by changing the licensing terms, rather that "overtly" increasing the price. The effect is the same—the price goes up dramatically—but the approach used by Microsoft may allow them to masquerade this fact.

Finally, it is well known that Microsoft often include licensing terms and pricing strategies that pressure companies into making upgrades that they otherwise would not, thereby incurring substantial expenses in training, dealing with incompatibilities with other software, reduced efficiency from complex features that may not be needed, etc. Again, this is a practice that cannot practically be regulated; rather it is essential that there be viable competition to Microsoft to keep their licensing practices reasonable.

Privacy. It is clear that Microsoft often uses its monopoly power in ways that seriously compromise privacy. The major reason Microsoft is able to do this, is that they are an effective monopoly. Several examples of such privacy invasion follow.

Several years ago, it was discovered by a third party that all documents created by the then current version of Microsoft's ubiquitous Office software included a unique identifier that allowed the document to be tied to the system that first created it. Further, it appeared that Microsoft had a database of computer registrations that may have allowed this identifier to be tied to the actual individual who registered or purchased the computer. In other words, any letter created in Word could, with access to MS corporate databases, be tied to the computer, and perhaps even the individual who first wrote it. When this was publicized, Microsoft removed the "feature." But, had this occurred today, with their position even more entrenched, they may not have felt this necessary.

It is worth considering the privacy implications of Microsoft's latest operating system XP. XP incorporates functions that have serious privacy implications. Consider two features a user encounters when first installing or using Windows XP, Product Activation, and Passport. Product Activation is now required of the latest consumer versions of Windows and Office, and requires that users contact Microsoft after purchasing, but before they can use the software (to be precise, they are given a short time of use before product activation is necessary). During this contact, which will usually take place over the Internet, information about the users computer is transferred to Microsoft. The stated purpose of Product Activation is as an antipiracy measure, but the privacy implications are serious. Users have no choice but to send Microsoft information about their computer configuration; the nature of the information they send is not fully known, since the data sent is encrypted, and since Product Activation is a somewhat mysterious and proprietary process.

There are even more serious privacy implications in the MS Passport system. Use of Passport is not theoretically required, as is product activation, but in practical terms most individual users will have to sign on to it. When a newly purchased computer is first turned on, the user is asked multiple times to sign up for Passport. Further, participation in Password is required to obtain technical support from Microsoft; as everyone who has used modem software knows, the need for technical support is inevitable. Passport is designed as a system to electronic commerce, and requires that a user provide significant personal information. One cannot help but be concerned about the collection of such information by a corporation with the ambitions and dominance of Microsoft. Again, viable competition and a robust marketplace would be the best means of ensuring that Product Activation and Passport not be used in ways that violate reasonable user privacy.

Software Reliability: Software reliability, or, rather, the lack thereof, has become a major economic drain in this country. As computers become more ubiquitous, there are important safety concerns as well. It is important to note that the financial motivations for software vendors are not necessarily to produce a reliable product. Companies often charge fees for providing technical support, and indeed, this may be a substantial source of revenue. This revenue stream is enhanced the more complex and "buggy" software is. Microsoft's consumer products used to come with free technical support; as the company's dominance has increased, they have discontinued this practice; they now generally charge consumers for technical support after a limited number of incidents that are "free" (or, rather, included in the price of the software). Corporations are on the hook for far greater fees, with large annual support contracts and per incident fees. And, because Microsoft's software is proprietary, the company is usually the only feasible source of technical support. The way to ensure that commercially sold software is make as reliable as possible is by competition in the marketplace.

(It is noteworthy that, because software is licensed and not purchased, that the usual remedies in the civil courts for "buggy" products do not generally apply to software. This may grow even more true if the software industry, lead by Microsoft, is successful in persuading state legislatures to pass UCITA (Uniform Computer Information Transactions Act), which many feel will effectively eliminate any legal liability for bug ridden software.)

In summary, Microsoft is a great company that has produced many wonderful and useful products. However, there are many ways in which Microsoft's business practices harm consumers, both individual and corporate, as well as competitors. Were Microsoft not a monopoly, the marketplace would be the best policeman. But the company is a monopoly, and has been found by the court to become one through illegal means. It has demonstrated, and continues to demonstrate, a disdain for the legal system that should give us all pause. The solution must be to impose financial penalties, restrictions on conduct, and perhaps even structural changes on the firm that will restore competition and bring things back in to balance. The proposed settlement does not even come close to meeting this end; it is essential for the long-term health of the American economy that the court remedy this unfortunate situation.

MTC-00028213

From: clvanauken@mindspring.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

As a consumer who appreciates the advances in the world of technology, it is difficult to understand the necessity of the Justices Department's suit against Microsoft. I do not even pretend to understand how technology works. I do understand the marketplace and as a consumer it is important to have access to products that can improve communication make it easier to access the abundance of knowledge in the world and to be able to enjoy a different venue of entertainment. Consumers with little doubt indicated they were comfortable with the Microsoft product. It appears the Justice Department may have had too much time and money on hand and needed to make a case against some profitable company. One of the beauties of the US is the ability of the consumer to define the marketplace by what works with ease affordibility and accessibility. It appears the other companies needed to improve their product with more creativity and ingenuity rather than turning to the Justice Department. When the consumer is unhappy then the Justice Department should intervene.

MTC-00028214

From: billsanchez@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I fully support the conditions of the Microsoft settlement.

MTC-00028215

From: l.m.james@att.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:34pm
Subject: Microsoft settlement
Laurel James
14023 NE 8th St.
Bellevue, WA 98007
Office # 425-378-8309
Attorney General John Ashcroft
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing this letter today to voice my support of the settlement reached between the Justice Department and Microsoft. In offering superior, well priced products Microsoft has made my life and my business easier to operate, I have always been extremely happy with their products.

I believe that the enactment of the settlement agreement will spur innovation in the settlement process once more. The settlement agreement contains many stipulations that will benefit the technology industry. Microsoft has agreed under the terms of the settlement to disclose information about the internal interfaces of the Windows system. In addition to this, Microsoft has released contractual restrictions on developers who would wish to enter into multiple contracts.

This lawsuit is old and worn out, and should go away as soon as possible for the good of America and the economy, and for us, the happy Microsoft consumers.

Sincerely,
Laurel James

MTC–00028216

From: vdrlholl@westrelay01.boulder.ibm.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:33pm
Subject: Microsoft settlement

I am against the proposed settlement. I believe the only fair solution is to split MS into 2 companies. One company would be operating systems. The other would be applications. The operating systems company would be required to publish all API's (application programming interfaces) to everyone. This would also eliminate the case of breaking another company's application with an upgrade without breaking Microsoft products.

MTC–00028217

From: petitjim@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

Sirs

I am in support of Microsoft not only because I am a small shareholder but I believe in capitalism. Microsoft has grown through research and innovative thinking and has fielded some excellent products which has made them the leaders in their markets. To go against them because their competitors cry foul is an incrouchment of the government into the free market system.

MTC–00028218

From: Carl Keil
To: Microsoft ATR
Date: 1/28/02 1:34pm
Subject: Please Punish Microsoft

Please uphold the spirit of the Microsoft verdict. They were found guilty of breaking the law. Please, don't bend over for bill gates. Punish Microsoft for breaking the law.

Thanks,
Carl Keil
Portland, OR
503–231–0894

MTC–00028219

From: bilretz@webtv.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

get off microsofts back!!!

MTC–00028220

From: cheronad@bellsouth.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I think it is wrong of the United States to do what they are proposing to do to Microsoft. I think Microsoft is a upstanding honest company. They are prosperous because of this and because they have many intelligent people working there. Maybe the government should help fund other companies that aren't as fortunate as Microsoft to give them a chance to compete. I think their decision could hurt them in the future. They may need Microsoft to help them, then what will they do?

MTC–00028221

From: raygps@cs.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I believe that the Nov 3rd settlement with Microsoft is fair. Microsoft products have standardized the PC industry, enabled ease-of-use, improved efficiency, created value, and reduced cost.

MTC–00028222

From: lesterh@twave.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

It is my opinion that Microsoft is responsible for uplifting America to the Top in Technology. This Anti-Trust Prosecution by the Clinton Adminisration is nothing less than Corruption for monetary gain. Microsoft should receive support from us and not Prosecution. This is a Common Sense company paid for with honest earned money. If our Nations leaders were not corrupt at the conception of this Lawsuit Common Sense says it would have never happened. Microsofts donations to the people of this Nation are another thing. They have given much to the good causes of our good people. If anyone is guilty of anything it is the Clinton Administation being guilty of a conflict of interest and Microsoft being a victim of its unethical outcome. If the truth be known and when it is the people will side with Microsoft. This is an opinion based on fact.

Thank You
Lester Hopper
6294 Southlake Drive
Hickory NC 28601

MTC–00028223

From: edbar@starband.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

Dear Sirs:

This is to express support for final acceptance of the settlement between Microsoft the Department of Justice, and the nine states. We urge you not to reject this settlement as any delays will not serve the interests of the American people but serve to further the causes of Microsoft's competitors who continue to choose to compete in the courts instead of the marketplace. The American people are insulted by claims that we have been harmed by Microsoft. In truth, we have been harmed by their competitors who have stalled progress in technology and in the economy. These suits must not be allowed to continue. Before said suits our country experienced unparalleled growth and prosperity. Our country regained its dominance in technology due to the innovation and growth of Microsoft and the many companies supporting their operating systems. We respectfully urge you to help return our country towards prosperity by rejecting further lawsuits and further delays in acceptance of the anti-trust settlement.

Edward J. Barsano
CEO NeuralTick Inc.

MTC–00028224

From: stover8@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I feel it is time to drop the law suit against microsoft. This country is based on competition and microsoft has a better product. Why is this wrong? I am also tired with spending money on a law suit that is over with. I demand that you drop this suit now!!!

MTC–00028225

From: denrosep@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I have tried AOL & Netscape and don't like them as well as Internet Explorer

MTC–00028226

From: carollila@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

Enough already. The settlement is fair, stay with it.

MTC–00028227

From: alice-remcheck@webtv.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I believe that in the best interest of everyone the lengthy antitrust case with Microsoft should be brought to an end. The litigation should not continue.

MTC–00028228

From: champcom@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

Based on the issues that I have read, the only people who will gain from further harassment of Microsoft Co. will be the competitors and attorneys. No further penalty should be placed against MS.

MTC–00028229

From: vendor@techcollective.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I can't state it strongly enough. The case against Microsoft was a stupid waste of taxpayer money! The end result was millions of $$$ wasted. Because Microsoft was getting its foot in EVERY door and its products were EVERYWHERE the end result of this total waste of money is to FORCE Microsoft to be in even more places than it is now! By forcing Microsoft to donate software to schools the court is MAKING Microsoft do the very thing it got into trouble for doing! Just DROP the whole thing and go away now before you waste any more of MY money in another pointless chase after Microsoft.

I'll agree that there MIGHT be better things out there than what Microsoft produces, but I have seen NOTHING that forces me to use Microsoft. Did Microsoft FORCE Apple to charge too much for a MAC computer so that most people would choose to buy IBM? No. Did Microsoft FORCE IBM to hold Microchannel close to the vest and not let anyone else make Microchannel products? No. Both of these bone-headed decisions were made without Microsoft input. Did Microsoft benefit from Apple and IBM making stupid choices? You bet. So did I. The one GOOD thing about the case is that it kept a lot of lawyers busy and thinned out the crowds behind the ambulances.

MTC-00028230

From: TDill@rochester.rr.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

The Man (Microsoft) did business and some people felt they were cut out of the process. Since when is it the job of our justice system to make sure a business makes money. If you have all this time on your hands and want to spend our tax dollars, how about going after the electric and gas companies.

MTC-00028231

From: innthyme@twcny.rr.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

Microsystems is obviously a monoply even after this decision. Therefore, if other monopolies were either split up or negated why was this one treated differently? I believe that they should have been advised to cease and desist their monopolistic practices. It would have been a sound warning to other companies to not replicate those actions.

MTC-00028232

From: robertsw@mindspring.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I believe the Microsoft case should be settled in its entirety and all states should have to abide by the Federal decision. To do otherwise undermines the economic system which has allowed America to be the economic power that we are.

MTC-00028233

From: Nperricci@cox.rr.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I am very upset about the Microsoft Settlement. I did not really understand how upset until somebody from Americans for Technology Leadership called my home to harass me about how I needed to show support for the Microsoft Settlement. I have an unlisted number I don't even give it out to the credit card companies. Only my work and very few others (including Microsoft) have my number at all. I am possitive that my privacy has been invaded and I am not sure, but I think my civil liberties may have been violated by the disclosure of my personal information. The proposed settlement is stupid. It will give 3rd parties who did not purchase any software, were not affected by the lack of competition, and not forced to obtain certification from Microsoft, to profit. While on the otherhand, all those affected like customers, competitors, and professionals forced to certify and recertify will go uncompensated. Lastly it does not provide any measures for prevention of future violations. I think that any compensation should go to competitors, customers, and certified professionals who have suffered.

MTC-00028234

From: lrhino@dcwis.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I believe the settlement reached in the Microsoft Anti-trust case is fair and equitable. Stop persecuting Bill Gates and let him get on with his work

MTC-00028235

From: barney13@mindspring.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

Dear Sir: America has always been the land of the free; to grow, to live, to achieve, to invent and to prosper. On the contrary it seems to me that when someone succeeds in business to the point of making large amounts of money someone or something starts to say this is not right he has to be stopped or he will have a monopoly. Leave Mr. Gates alone. He has been benevolent with his profits, employed thousands and inspired thousands to go into the electronic field. I am not as computer friendly as I would like to be, but at my age, I am doing the best I can with the help of my son. Spend my taxpayer monies and go after the Health Insurance Companies who are dictating who will get the proper care and who won't. I have tried to buy my own health insurance and have been refused because of my age, varicose veins, etc., etc. They didn't care if I could pay; they just didn't want to take the risk. I am sorry I am rambling but my point is there are important issues to take care of. If the product is good, people will buy it. If not, they will buy something else. Frankly I am glad my computer came equipped with Microsoft. It has served me well. I firmly believe in free enterprise. I don't see anyone going after China. They seem to have a Monopoly on every item sold in the USA. When I find something made in the USA, I buy it for a souvenir. Please leave Microsoft and Mr. Gates alone and go catch the bad guys. Thank you.....

MTC-00028236

From: webmaster@seltenrich.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

The settlement should go through. Attempts by competitors of Microsoft to stop the settlement process amount to no more than using the American legal system for their own self-interested business needs.

MTC-00028237

From: edhandlender@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

They have an agreement arrived by compromise. Stop wasting T&M and proceed.
ED

MTC-00028238

From: Soko@kendaco.telebyte.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I have been watching the Microsoft case for a long time. It is time it was over. Please let the settlement stand.

MTC-00028239

From: dallasscowboys@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

government should stay out of microsoft business.. that company provides the economy with lots of jobs and taxes

MTC-00028240

From: wolfman@mwcsd.k12.ny.us@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

No-one complained when Apple gave away systems to schools to get schools to buy Apple. No-one complains about AOL blanket ads on Time-Warner Cable. No-one suffered because of Microsoft but millions benefitted. At least they are real—unlike Enron.

MTC-00028241

From: mutka—ron@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

Microsofts interests are compelling personal computer users to use their operating system. This operating system which is compelling me to act in ways that I would otherwise not choose exceeds healthy business. competition is neither fair nor just. Specifically I believe the physically and mentally disabled are marginally included in this revolution of communication, information and processing. Developers fear that the predators and reverse engineers await on the margins of one operating system (XP) at the ready to copy product(s) which are too young to defend themselves. In particular, I cannot use Government protection and resources in a capitalistic society to defend myself unless I can reasonably expect my most basic development assumptions are protected. These basic assumptions ought to have Microsoft preserve and create public Safe Haven operating system components that will promote software development which would not have to be redesigned because the Operating System has changed. Open Platform operating system proponents may find this a compromise. My example is my own product. I continue to struggle to design a product that is open platformed, meaning it should work on most operating systmens and within all browsers. My testing has found I must discover software bugs that seem to benefit the interests of the operating systems. I believe that these software bugs are not intentional but they are so numerous that a manager can work slowly on them and still be rewarded. This is unfair to the public. This Business market is NOT functioning normally! This is not a model of competition with room for a better business to succeed! This current business model is dysfunctional! I think this dysfunction works in the following way. Current Law allows the creation of conflict between software applications, hardware, and operating systems when a competting business begins to spend resource to point out the unfairness and fix the software bugs.

T

MTC-00028242

From: holgateg@montana.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

to whom it my concern...this whole matter has been nothing but a joke to me...a total waste of money and time...with the money and time spent on this whole debacle, all parties involved could have new technologies out there for everyone to have and us...but instead what we have is a company like AOL Time Warner looking for more money that they don t deserve(let them go out and do it instead of depending on another company to do it for them)...i think that Microsoft has done a good job and has worked hard to get where the're at...i will always buy and use their products...on the other hand i would never us or do anything with AOL Time Warner...sounds like to me they should be investigated for their aggressive business practices also...they are a legal monopoly by our own government...in closing its time to get back to work on newer technologies and get out of the court room... thank you very much...

Martin C. Holgate

MTC-00028243

From: iancoffer@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I bought a new computer in November 2001. The operating system was Windows XP but the web browser was AOL!! Ican't understand why the states which are still pursuing the antitrust suit are being backed by the competitors of Microsoft. Barksdale and Ellison have beene crying spilled milk for years. I think the case should be settled and put to rest so that the country can get back to business.

MTC-00028244

From: John Gallant
To: Microsoft ATR
Date: 1/28/02 1:35pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
RE: Microsoft Settlement

Dear Ms. Hesse,

I have, as a stockholder of Microsoft, watched the antitrust proceedings with interest. It seems that the Government has worked an agreement that was fair to all parties and now wants to change terms and conditions relating to the settlement. I do not feel it is proper or fair that at this late date this be allowed to happen.

I further feel that Microsoft is not responsible for individuals that create products that cannot compete in the marketplace because of their own shortcomings (e.g.. Netscape). I am further annoyed that my government sponsors what I consider a monopoly in the AOL / Time Warner merger. Now AOL is trying use Netscape as a platform to damage a perceived competitor, MSN. Try to visualize the PC software market before microsoft created and organized it. Our ability to communicate, organize and interface between businesses has been improved on a scale beyond anything we could have ever imagined prior to 1980. Why... Because Microsoft and its founders had a vision. This settlement represents the best opportunity for Microsoft and the industry to move forward, therefore I hope it will end the litigation.

MTC-00028245

From: feyrerstation@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I believe the U.S. government acted correctly to investigate Microsoft for anti-trust actions. I don't necessarily agree with every part of the decision handed down. I admit I haven't made time to read all the parts of the decision handed down. I am in favor of our society making market decisions for themselves in general. So the U.S. government should not restrict the free decisions of taxpayers to buy and sell what products they like.

MTC-00028246

From: pyetka@ptialaska.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

Microsoft is a leader in the technology field and needs to have the freedom to do what it does best. That is to improve the computer technology for everyones use. If there are a few who do not wish to use this technology from Microsoft they can choose to disregard what has and is being made available for the consumer. The consumer has the ability to decide what to use at home and at the workplace. Our government should not interfer with private enterprise and the the ideas of Microsoft or any company. The marketplace is where the decisions should be made aabout who wants to use what products. This lawsuit is frivolous.

Thank you.

MTC-00028247

From: dbnee@mc.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I am in agreement with the settlement that brings the lengthy anti-trust case to an end.

MTC-00028248

From: Phan, Anh
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 1:34pm
Subject: Microsoft Settlement

Dear Antitrust Department officer,

I have read through the settlement proposal between the Justice Department and Microsoft. It sounds like it is a fair, effective way to resolve the issues within the merit of the case. I do not understand why other non-settled states and critics want to include a lot of different things falling outside of the scope of the law suite and still claim they are acting on behalf of consumers!!! Like judge Postner stated in his recent book, individual states should be excluded from the antitrust suite since they are acting for the interests of their own states only, not for the entire American people. The purpose of the lawsuit is to restore the fair competition environment in the industry, not to punish the successful company, rewarding the failures, or helping the competitors. American is a free market environment. It will go against our principle if we force a company to include the product of a rival company. If a company chooses to do so, it must come from their own decision. The government should not dictate a particular company how it would run its business. It should be free to run itself in its own creative way as long as it follows the general rules set and honored by every one. Freedom is the strength of our economy, our spirit and our lifestyle.

Thank you very much for your time.

Regards.

anh.

MTC-00028249

From: LDeriau@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:35pm
Subject: Microsoft Settlement.
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

As an active member of my community and a firm believer in American ideals and constitutes, I needed to share my concern with you and the Department of Justice on how unnecessary and detrimental this ongoing lawsuit against Microsoft is for our people and our nation as a whole. How can our government leaders not see that this attack on the Microsoft corporation is an attack on the American principles on which this nation was created ? I believe that by accepting the proposed settlement is the only step we can take which will move us forward. This agreement will monitor Microsoft's future production procedures, allowing the technology industry will be allowed to concentrate on business by creating innovative, comprehensible software to keep our IT market evolving.

Your time and attention to this matter is appreciated and I look forward to seeing the end of this litigation once and for all.

Sincerely,

Lisa J Deriau
10215 21st Avenue SE
Everett, WA 98208

MTC-00028250

From: pasqualini@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

I am a registered active voter who supports the settlement in the Microsoft matter. It is time to put this to rest and get on with technological innovation. I hope that special interests and competitors will not derail this settlement for their own selfish and greedy motives.

David A. Pasqualini

MTC-00028251

From: John R. Callahan
To: Microsoft ATR
Date: 1/28/02 1:34pm
Subject: Microsoft Settlement

The proposed Microsoft-DOJ settlement is a judicial travesty. I hereby state that I strongly disagree with the proposed settlement and disapprove of the proposed settlement. I am a 20+ year computer professional (as a member of the Association for Computing Machinery), former (and tenured) academic, civil servant, and current executive in the private sector. Feel free to contact me with any questions or comments. I hereby place this comment in the public domain.

(signed)
John R. Callahan, Ph.D.
jcallahan@acm.org

MTC-00028252

From: wvcoal@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:25pm
Subject: Microsoft Settlement

It is time to end the government's encroachment on private industry. Microsoft has worked well to become a leader in the technology industry while providing an exceptional product. Please end the anti-trust lawsuit and allow Microsoft to continue business as usual.

MTC-00028253

From: Potteryfolk@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:36pm
Subject: microsoft should pay!

I strongly believe that microsoft broke the law and will continue to break the law unless strict rules with real consequences are brought to bear against the company. Microsoft is a monopoly that is using that monopoly to extend unfairly it's control over a huge portion of the US economy. Thank you for stopping this illegal company!

joseph briggs

MTC-00028254

From: David Nadle
To: Microsoft ATR
Date: 1/28/02 1:37pm
Subject: Microsoft Settlement

Dear Sir or Madam:

I am pleased to have the opportunity to add my voice in support of the proposed Final Judgement. In my opinion the proposed Final Judgement protects Microsoft's right to define their product while protecting the right of OEMs to define theirs, and this is good for consumers.

Sincerely,
David L. Nadle, Ph.D.

MTC-00028255

From: UPEA
To: Microsoft ATR
Date: 1/28/02 1:38pm
Subject: Microsoft
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

The Department of Justice has worked hard to find the compromise between the Microsoft Company and their competitors. I have followed this issue with interest because I believe that business should be allowed to find its own market. With this compromise now done, I hope the Department can approve the settlement and allow business to move forward.

Sincerely,
Audry Wood

MTC-00028256

From: Bob (038) Cathy
To: Microsoft ATR
Date: 1/28/02 1:40pm
Subject: Microsoft Settlement
ROBERT AND CATHY FRISBY
18523 Hottelet Circle
Point Charlotte, FL 33948

January 21, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC

Dear Mr. Ashcroft,

The Department of Justice has finally agreed to terms on a settlement that brings an end to the antitrust suit against Microsoft. We are writing this letter to express support for the settlement, and to ask that it is approved as soon as the public comment period is over.

The faster this settlement is approved, the faster the economy can get back on its feet. We can't stand to sit and watch the market fall over 200 points one day, then rebound to close out the next day with gains over 120. The settlement will encourage competition, which will lead to better technology at a lower price. This hopefully we will give us some of the stability our economy needs, and can kiss goodbye to this recession. Microsoft does have to forfeit a good deal of technology to their competitors, and they will be monitored by an oversight committee who makes sure they are abiding by the terms of that settlement, but this will certainly be worth it in the long run.

Everything is now in place for an exodus from this recession. We support this settlement, and hope it is implemented as soon as possible.

Sincerely,
Robert & Cathy Frisby

MTC-00028257

From: Chip
To: Microsoft ATR
Date: 1/28/02 1:41pm
Subject: Microsoft Settlement

I feel the remedy is fair and should end the case completely. I do not feel that Microsoft has hurt the public in any matter. Ten to fifteen years ago the computer industry was in a mess. There was no standard operating system. If you went to purchase a computer at Radio Shack you would get a computer running Deskmate. If you went to an Apple distributor you got the Apple operating system. If you went to IBM you got their OS operating system. And then of course you had Windows. Kids in school learned Apple but could not go into businesses and run their computers. The average person had to have an apple computer so their kids could do homework and an IBM computer so they could work at home. Since then and thanks to Microsoft the industry has been standardized, kids in school can go out in the world and run computers. Employees can go home and work on a computer with the same system they use at work. By becoming standardized, how does this hurt consumers? Microsoft has saved the average consumer thousands of dollars. By their continued innovation and development of the operating system they have added tools and recourses that would have cost the average consumer a lot of money. If Microsoft charged for each addition to its product, or forced the consumer to purchase such things as Internet explorer, word, notepad, a calculator, Paint, the basic TCP/IP protocols, the average person could not afford these add ons and would be shut out of the internet.

As for Internet Explorer, that was the best thing that Microsoft ever did. It made surfing the web enjoyable. Question, did you ever try to use Netscape Navigator before Internet Explorer came along, I have and it sucked. You had to pay around $50.00 for it, it took several hours to down load and would crash so often that trying to look up one item would take hours. Microsoft came and gave you Internet Explorer, which at first had its problems, but when they finally integrated into the operating system, it was fantastic, you could surf the net and really enjoy the experience. System hangs and lockups that occurred often before integrating disappeared. And by integrating the software it saved me money, how DID this hurt me? I know the argument it hurt competition, my argument is it did not hurt competition, it caused competition. It caused Netscape to wake up and make a better product. At a more reasonable price, this let the consumer save money by being able to buy a better product at a lower cost. Microsoft did nothing wrong. Those consumers that wanted Netscape still continue to use it, if Netscape wanted to keep customers, and gain customers, they should have developed a product that knocked the socks out of Internet Explorer, but did they no, they cried and sued. They gave up, because they would not take the time and resources to develop a better product. I know the argument, how could they when they did not have the money because Microsoft was giving the product away. Simple, build it and they will come. The consumer wants better products and if the consumer found an item better, those that can afford will buy it.

Is it wrong, to build your business, and to protect your business. NO, it is not wrong! Microsoft played hard ball, yes, but how is that different from any other company that wants to grow, expand, and make a difference. Netscape, AOL, Sun Microsystems and others are playing hard ball now, buy suing Microsoft, because of their jealousy over the dominance Microsoft has. If the companies really cared about the consumer, they would build better products that would blow Microsoft way. But do they no, the run and scream and sue Microsoft, because Microsoft does not play fair. If these companies would build better products on the same caliber as Microsoft, consumers will go there; they will buy what they want. But stripping down Windows will only hurt the consumer, because the costs associated with buying each piece of software will be more than the average consumer can afford. But those that can afford the software will buy the better software. How is this any different from the auto industry? Yes, I know that there are several companies competing equally, If I went to ford to buy car should they be required to give me a stripped down car. So that I can go to Chrysler to purchase the motor, to Bose for the stereo, to Goodyear for the tires, to Monroe Muffler for the Shocks, and Muffler. NO, they provide the basic systems and then you buy the additional or custom items that you want. Microsoft does that they provide the consumer with the basics and let the consumer buy what they want. The problem is the other companies are not making products that are better and more desirable.

End the lawsuit now and let Microsoft go back and build and innovate so that the envelope of information and knowledge becomes more reliable and available to the average consumer, and so that these other companies will be forced to push the envelope even further buy building better software. If these companies would just worry about building better software that pushes the limits, they would not have to worry about Microsoft.

Thank you

Gary E. Altman II

MTC-00028258

From: Stevens
To: Microsoft ATR
Date: 1/28/02 1:42pm
Subject: Microsoft settlement

Robert & Natalie Stevens
1717 Joshua Court
Palm Harbor, Florida 34683

January 28, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Regarding the recent Microsoft Antitrust settlement, the PC industry, the economy and the stock market have suffered enough from this misguided lawsuit which was instigated by Microsoft's competitors who elected to compete via lobbying and courtroom tactics rather than in the marketplace. I firmly believe that litigation should come to an end. At this point, it seems ridiculous to prolong this case any further.

Microsoft is much less of a problem than the Cable-Satellite-Broadcast Cartel which has conspired to restrict trade by controlling what consumers will and will not be able to watch by forcing viewing "packages". Cable and DBS satellite providers mandate that "packages" must be purchased if you want to watch even one of the channels in the package. This lack of a la carte offerings forces consumers to buy a multitude of unwanted channels in order to see a few desired channels.

Business Week (Jan 21, 2002 pg. 71) pointed out that AOL/Time Warner (and other cable and mini-dish satellite providers) are collecting $54 per month from its subscribers while Microsoft is lucky if it sells a home PC user a $90 operating-system upgrade every three or four years. If you are worried about monopoly power forcing consumers to pay more, Microsoft should NOT be your target, the Cable-Satellite-Broadcast Cartel should.

The settlement proposed in early November of last year contains several restrictions and commitments to which Microsoft has agreed. In these commitments, Microsoft permits computer makers to replace access to Microsoft features with access to the competitor's software. This will require that Microsoft change certain interfaces necessary to the Windows" operating system. However, the list doesn't end there. Microsoft has agreed not to retaliate against its competitors and to ensure this from happening, a three person technical committee will be formed to make sure that Microsoft sticks to the terms of settlement.

As you can plainly see, Microsoft has more than paid for its previous actions. As I believe Microsoft to be a respectable company, I assure you that this settlement will more than suffice.

Sincerely,

Robert Stevens &
Natalie Stevens

MTC-00028259

From: donlwilliams@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:40pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Don Williams
2068 US HWY 71
Clarinda, IA 51632

MTC-00028260

From: CDCIAO4@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:42pm
Subject: Microsoft Settlement

3575 Dutch Hollow Road
Strykersville, NY 14145-9558

Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

January 26, 2002

Dear Mr. Ashcroft:

I am writing in support of the recent settlement between Microsoft and the US department of Justice. I think that government should stay out of free enterprise and this is a classic case where the three years of litigation reflects intense lobbying on behalf of the competition rather than a genuine concern for the American public.

The terms of the settlement go beyond what was originally called for when the lawsuit began. Microsoft will be forced to increase relations with computer makers and software developers, disclose technological information to competitors, grant computer makers broad new rights to configure Windows, and form a three-person team to monitor compliance with the settlement.

While I think that Microsoft is giving away too much, I think there is no alternative since further litigation could be detrimental to Microsoft's and our IT sector's future. Please implement the settlement and look out for the best interests of the American public.

Sincerely,

William Streicher

MTC-00028261

From: Kent Compton
To: Microsoft ATR
Date: 1/28/02 1:43pm
Subject: Microsoft Settlement

Dear Department of Justice,

I think a quick settlement with Microsoft is in the best interest of all consumers. Throughout this trial I've gotten the feeling that a majority of the issues were in large part due to weaknesses in Microsoft's competitors. My favorite example is Netscape which originally paved the way to making browsing the World Wide Web easy. Unfortunately, they became slow and unresponsive to the new features I wanted so I switched to Internet Explorer. Before the third version of, IE Microsoft's product was inferior. Once it was superior I made the change. If someone wanted to use the Netscape browser it's certainly not hard to find. I saw a link to it on both Time and People magazines" web sites just last night.

Don't prop up bad businesses with legal proceedings. The strong companies will survive and the weak ones should be tasked with changing their business models or perishing.

Please settle this case so that I can focus on the important things like keeping my job. We all have more important things to focus on.

Sincerely,

Kent Compton
907 W. Brittany Dr
Arlington Heights, IL 60004

MTC-00028262

From: Paul Cantrell
To: Microsoft ATR
Date: 1/28/02 1:43pm
Subject: Microsoft Settlement

I am strongly opposed to the proposed final judgment of the Microsoft anti-trust case. It is weak, and unlikely to have any substantive effect on Microsoft's conduct.

The PFJ places far too much trust in Microsoft's willingness to follow the spirit as well as the letter of the settlement. When the PFJ says in section III.J.1, for example, that Microsoft is required to share certain technical details, except when those details would harm security—as determined by Microsoft itself!—it nullifies any real power the settlement has to force Microsoft to share the details the company most wants to hide.

General opinion in the software world is that obfuscation is the enemy of security. A system is only secure if everyone knows how it works, and agrees it can't be broken. As a software engineer, it is unclear to me how hiding any API, protocol, or documentation would protect or enhance the security of any conceivable "anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems". It is eminently clear to me, however, how Microsoft could cite unspecified "security reasons" to cripple execution of the judgment. Section III.J.1 is a loophole, and only a loophole. So why is it present in the PFJ? The judgment is rife with similar problems. Microsoft must not be able to "outsmart" any judgment in this case. The current settlement fails that test miserably.

Thank you for this opportunity for public comment.

Paul Cantrell
Software Engineer
St. Paul, Minnesota

MTC-00028263

From: AESOLVANG@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:44pm
Subject: Fwd: Attorney General John Ashcroft Letter
CC: fin@mobilization.com@inetgw

Attached is the letter we have drafted for you based on your comments. Please review it and make changes to anything that does not represent what you think. If you received this letter by fax, you can photocopy it onto your business letterhead; if the letter was emailed, just print it out on your letterhead. Then sign and fax it to the Attorney General. We believe that it is essential to let our Attorney General know how important this issue is to their constituents. The public comment period for this issue ends on January 28th. Please send in your letter as soon as is convenient.

When you send out the letter, please do one of the following:

* Fax a signed copy of your letter to us at 1-800-641-2255;

* Email us at fin@mobilizationoffice.com to confirm that you took action.

If you have any questions, please give us a call at 1-800-965-4376. Thank you for your help in this matter.

The Attorney General's fax and email are noted below.

Fax: 1-202-307-1454 or 1-202-616-9937
Email: microsoft.atr@usdoj.gov

In the Subject line of the e-mail, type Microsoft Settlement.

For more information, please visit these websites: www.microsoft.com/freedomtoinnovate/ www.usdoj.gov/atr/cases/ms-settle.htm

12724 35th Place NE
Lake Stevens, WA 98258

January 24, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. A settlement is available and the terms are fair, I would like to see the government accept the settlement and move on.

Many people think that Microsoft has gotten off easy, in fact this is not true. Microsoft has agreed to many concessions in order to reach the settlement. The biggest being that Microsoft agreed to release part of the Windows base code to its competitors. This is so Microsoft's competitors can develop more compatible software. Microsoft has spent years and millions of dollars developing their products, now they are required to hand out part of their work.

There is a big difference between companies that develop new products and companies that copy them. Unfortunately, the government has decided to harass the company that develops them. This issue has been drug out for over three year now; it is time to put an end to it. Microsoft and the technology industry need to move forward. It will be virtually impossible to move forward with this issue hanging over the industry's head, Please accept the settlement allow the industry to move on.

Sincerely,
Arnie Solvang

MTC-00028264

From: Terry Williams
To: Microsoft ATR
Date: 1/28/02 1:42pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

For the record, I was against the original lawsuit filed against Microsoft. As a consumer, I purchased my PC from Dell with Microsoft software installed. I made this decision based on past experience with their software. My PC came with Internet Explorer as my browser. I have experience in using Netscape and my personal preference is with Internet Explorer. As a consumer I could have made an easy change to my system and gone with Netscape. The original lawsuit was brought because someone felt that Microsoft had an unfair advantage by bundling all of their software together. In my opinion, this is a false premise and tends to lead us done a slippery slope. What will happen if Lotus 1-2-3 decides that Microsoft has an unfair advantage with bundling their Excel with other products. Price and quality were my major reasons for choosing Microsoft software. Because the best way for Netscape to compete is to create products that compete with Word, Excel, Power Point and Outlook Express. I have used Netscape email in the past and sincerely believe Outlook is a far better product.

I retired on 12/31/99 from CSX Transportation as Director of Interline Switching. I have a Masters Degree from Johns Hopkins with a concentration in Information Technology. I believe overturning the original lawsuit and sending it back to the lower court is the correct approach. I believe Microsoft should be held harmless because a settlement will be giving into those members of Congress that opposes big business. As I have stated, "There are market remedies for consumers who wish to use Netscape as their browser".

In closing, if someone spends their private capital and comes up with a automobile engine that runs on water, is the government going to step in and force the developer of this new engine to share it with everyone else? I hope your answer is NO, because when or if we adopt such a stand, all of the values and principles for which we stand will have been destroyed.

Sincerely;
Terry L. Williams, Retired
12489 Turnberry Dr.
Jacksonville, Fl. 32225-4602=

MTC-00028265

From: hbennion@es.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:46pm
Subject: Microsoft Settlement
To: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement

I am a software engineer employed in the computer graphics industry. I am not now, nor have I ever been affiliated with Microsoft or any of its competitors (except, of course, that I use products of both). The opinions and comments expressed are my own. I believe the settlement proposed by the Justice Department falls far short of what would be in the best interest of the industry and of the public. I am particularly concerned about the ability of Microsoft to effectively destroy certain popular and widely used standards such as OpenGL and Java.

For software developers, such as me, these standards are valuable tools that we use to produce our products. Once they are firmly established and widely used, we can count on them to be available and supported for a variety of platforms and devices over a relatively long period of time. I consider these to be a kind of public asset that help to ensure that different products can communicate and be compatible with each other in various ways.

Microsoft has the ability to erode or destroy these standards (and the motivation to do so) only because of the monopoly it holds on the operating system. In a competitive environment, no OS vendor would voluntarily drop support for widely used and still popular standards such as these, since that would give its competitors an important advantage in the marketplace.

Suppose that the nation's electrical power were largely provided by a single company that was also in the electrical appliance business. This company realizes that by changing the standards for power distribution, it can make it much more difficult for any other company to connect to the power grid, or to produce appliances that will work in the vast majority of homes. I believe that this is in effect what Microsoft would like to do and IS DOING in certain ways.

I fear that Microsoft next plans to target Internet standards, with the aim of making it more difficult for other software and platforms to effectively use the Internet and interact with Windows platforms. For most companies, competitive market pressures would prevent this kind of action, but I believe Microsoft has demonstrated that additional regulatory restrictions are required to restrain a monopoly from such practices.

Heber Bennion
Salt Lake City, Utah
hbennion@es.com

MTC-00028266

From: Melbourne Anderson
To: Microsoft ATR
Date: 1/28/02 1:46pm
3908 59th Street Court NW
Gig Harbor, WA 98335
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft antitrust dispute. I support Microsoft in this dispute and would like to see this litigation resolved. Microsoft is a good company that has contributed a great deal to our society. Restricting this company will not benefit anyone. I support the settlement reached in November as a means to end this dispute. This settlement is fair and reasonable. Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price. Microsoft has also agreed to design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows.

During these difficult times, one of our highest priorities should be to stimulate our lagging economy. Restricting Microsoft will not accomplish this end. Please support this settlement. Thank you for your time,

Sincerely,
Melbourne Anderson

MTC-00028267

From: William R. Kesting
To: Microsoft ATR
Date: 1/28/02 1:46pm
Subject: Microsoft Settlement

Dear Sirs,

I strongly believe that the terms-which have met or gone beyond the findings of the Court of Appeals ruling-are reasonable and fair to all parties involved. Please do what you can to bring this matter to a close.

Sincerely,
William R. Kesting
President
Kesting Ventures Corp.

MTC-00028268

From: Lisa Throneberry
To: Microsoft ATR
Date: 1/28/02 1:48pm
Subject: Microsoft Settlement
Lisa Throneberry
338 Knotts Circle Woodstock, GA 30188
770–928–8478 770–516–5059 fax
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in full support of the recent settlement between the US Department of Justice and Microsoft. The antirust case has dragged on far too long to date and should be ended as soon as possible. Microsoft is a leading innovator of technology over the last decade. Under British definition a monopoly delivers poor quality products at inflated rates. Microsoft has consistently innovated excellent products and sold them at fair prices. They have also not infringed upon my rights as a consumer. I am free to purchase any software I desire.

The terms of the settlement are not letting Microsoft off easy. They will have to document and disclose for use by competitors its internal interfaces and protocols. They will also be agreeing to not retaliate against computer makers and software developers who develop or promote software that competes with Windows" operating system products. These concessions give a huge advantage to competition and violate the principles of free market economics.

At any rate the settlement should be relied since the alternative of further litigation would be too much to bear for Microsoft, the IT sector, and our nation's economy. Please take the next step. Thank you.

Sincerely,
Lisa Throneberry

MTC-00028269

From: k l
To: Microsoft ATR
Date: 1/28/02 1:47pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I oppose such a preposterous resolution to the Microsoft case. In the last several years, the U. S. Court of Appeals has found Microsoft guilty of violating all rules of the anti-trust laws.

Yet in the framework of the PFJ, better know as the Proposed Final Judgment, the DoJ throws out these findings, indicting Microsoft on all charges of business wrongdoing. More profound and astonishing is how the PFJ permits Microsoft to continue with its monopolistic practices. I am completely convinced you will receive similar sentiments entailing the various loopholes apparent in the final settlement.

With the evidence presented, the PFJ does not even make an attempt to break up the software giant. What the PFJ permits is the following: permitting Microsoft to leverage its current monopoly positions and expand its business into several other technologies markets. In the past most monopolies were either broken up or carefully regulated. Why not Microsoft? Does AT&T ring a bell?

At the same time, severe reprimands by the DoJ only hinder instead of instigating change with Microsofts existing operation methodologies. Time and time again as history will show, Microsoft will abuse its monopoly position. Breaking up Microsofts business into several parts just might be the best antidote to prevent MS from even doing more damage to the industry. In closing your honor, I submit to you my disapproval of the Proposed Final Judgment.

Sincerely,

Mr. Amor Paraso
7230 Adams Road
Magna UT 84044

MTC-00028270

From: Shanti Kulkarni
To: Microsoft ATR
Date: 1/28/02 1:49pm
Subject: Microsoft Settlement

Regarding the Microsoft settlement, I hope the court will ensure that any settlement is strong enough to ensure a level of competition which provides value to the public and encourages innovation. As was shown by the 1995 ruling, Microsoft will simply weasel out of any agreement that does not include a strong enforcement mechanism. It will use any provided wiggle room to integrate any emerging PC or Internet technology into its all-consuming operating system. Given the monopoly that Windows enjoys, such integration has the effect stifiling innovation by unaffiliated vendors, and denying the public the value of potential competition. It is in the public interest that Microsoft be barred from doing so again, as it did with its Internet Explorer, and is currently doing again with Media Player. I urge the court to reject DOJ's proposed settlement, and any settlement that lacks strong enforcement and heavy penalties for failing to comply with its terms.

Shanti Kulkarni, CCNP, CNE, RHCE
Sr. Network Engineer, Deltek Systems
703–734–8606 x4590/shanti@deltek.com

MTC-00028271

From: Webb, D. Clinton
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 1:51pm
Subject: Comments on U.S. v. Microsoft Corporation settlement

To Whom it May Concern:

I am troubled by the terms of, and procedure for seeking the settlement of, the antitrust lawsuit between the U.S. Department of Justice and Microsoft Corporation.

First, I urge the court to confirm whether the parties have strictly adhered to the requirements of the Tunney Act. Second, I urge the court to investigate whether Microsoft Corporation has improperly discussed details of the settlement with Congress. Third, I urge the court and the parties to confirm that the proposed settlement will have the pro-competitive effects of opening the browser market to third parties, particularly in light of (i) the parameters of the Sherman/Clayton antitrust act; (ii) Netscape/AOL's recent lawsuit against Microsoft for alleged anticompetitive business practices in the web browser market; (iii) improper / unlawful bundling of Microsoft's web browser and operating system; (iv) anticompetitive original equipment manufacturer operating system licensing practices.

In addition, I would like to add the following to the public comment process, as it relates to the conclusion of the Microsoft antitrust proceedings:

As an attorney, a Windows operating system and Microsoft Internet Explorer equipped computer user, and more importantly, an American citizen, I am troubled by the fact that the following summation of anyone's chance at bringing Microsoft to justice receives this type of response from the popular press: Quoted from http://forum.fuckedcompany.com/fc/phparchives/search.php'search=microsoft

Netscape sued Microsoft. I predict:

1) It finally goes to court after a year

2) Microsoft appeals and tries to delay every court date

3) Microsoft is found guilty

4) They appeal

5) Two years have passed

6) More Microsoft products dominate the market

7) Microsoft settles with an arbitrator for $10 million

8) Netscape is pissed

9) Microsoft wins

(you may insert any company or product into the above places where Netscape is)

Thank you for your consideration of this (informal) comment.

Sincerely,

D. Clinton Webb
Palo Alto, California
dcwebb@mofo.comappeal

MTC-00028272

From: tom@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/28/02 1:52pm
Subject: Microsoft Settlement

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

My qualifications:

Bachelor of Science in Computer Science 1975

Over 20 years of computer programming, software installation, and computer repair experience

My overall complaints of the content of the "Proposed Final Judgement"

1) No attempt to remedy the past gains in market share and capital amassed by Microsoft through the unfair, illegal, and anti-competetive business practices employed in the intentional quest to dominate the PC market.

2) No attempt to remedy or control the proliferation of Microsoft Office, which is dominant at least in part due to Microsoft's API secrecy, bundling, tie-in, and interoperability tactics. Forcing complete disclosure of the file formats used would be a minimal attempt at restoring competition to this area.

3) No attempt to regulate Microsoft's behavior in non-desktop PC markets (wireless, handheld, internet services, etc.) where they have the leverage and funding amassed to date to overwhelm the competition in any emerging market that they choose to enter.

4) The PFJ contains enough loopholes and Microsoft-friendly definitions to let this company, famous for its past indiscretions, continue to flaunt the intent and purpose of this judgement.

Specific objections to the terms:

III Prohibited Conduct

J 2 "(c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, (d) agrees to submit, at its own expense, any computer program using such APIs, Documentation or Communication Protocols to third-party verification, approved by Microsoft, to test for and ensure verification and compliance with Microsoft specifications for use of the API or interface, which specifications shall be related to proper operation and integrity of the systems and mechanisms identified in this paragraph. THIS ALLOWS MICROSOFT THE LEEWAY TO REFUSE TO COOPERATE WITH OPEN SOURCE DEVEOPERS, WHOM THEY VIEW AS THE MOST SIGNIFICANT THREAT TO THEIR MONOPOLY.

The DOJ should not allow the criminal to define the terms, but rather specifiy that the API shall be available to developers at reasonable, fixed cost.

VI Definitions

N. "of which at least one million copies were distributed in the United States within the previous year."

THIS STIPULATION IS A BARRIER TO ANY STARTUP COMPANY, and is unnecessary.

R."Timely Manner means at the time Microsoft first releases a beta test version of a Windows Operating System Product that is distributed to 150,000 or more beta testers."

DOES THIS MEAN THAT MICROSOFT CAN HAVE 149,000 BETA TESTERS WITHOUT REVEALING API SPECIFATIONS TO OUTSIDE DEVELOPERS?

Please, substitute wording that promotes fairness.

U."Windows Operating System Product? means the software code (as opposed to source code) distributed commercially by Microsoft for use with Personal Computers as Windows 2000 Professional, Windows XP Home, Windows XP Professional, and successors to the foregoing, including the Personal Computer versions of the products currently code named ?Longhorn? and ?Blackcomb? and their successors, including upgrades, bug fixes, service packs, etc.

The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion. HERE WE GO AGAIN. LIMITING THE REMEDY TO ONLY ONE SEGMENT OF INFORMATION TECHNOLOGY, WHILE MICROSOFT USES ITS CLOUT IN ANY EMERGING MARKET THAT IT CHOOSES TO ENTER.

Please apply the restrictions more broadly.

Conclusions:

The Proposed Final Remedy is too little, too late. If fails to properly regulate Microsoft's business practices in the future, while wholly neglecting to apply any remedy for the misconduct of the past. The comsumers and software developers and even the hardware developers are NOT adequately served by this document.

If the Department of Justice will not enforce the anti-monopoly law of this country, then where can we, the citizens, look for remedy ?

Tom B. Younker
777 Riderwood Dr.
Decatur, GA 30033
404–248–8082
Ownere/Member of Dare Computer, LLC
404–248–0336

MTC-00028273

From: Ronald K Finn
To: Microsoft ATR
Date: 1/28/02 1:51pm
Subject: Microsoft Settlement

To whom it may concern:

It is my opinion that Microsoft has been hurt enough. We owe a lot to that company for what we have today. It will serve no purpose to the American public to penilize them further.

Sincerely,

Ronald K. Finn,
6507 Rob Road,
Black Hawk SD. 57718

MTC-00028274

From: Gary Shapiro
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 1:55pm
Subject: Microsoft Settlement
OLE—Obj
January 28, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington DC 20530–0001
Re: United States v. Microsoft Corp., Civil No. 98–1232

Dear Ms. Hesse:

Microsoft has been a valued exhibitor and partner in the International Consumer Electronics Show for several years. Bill Gates has also been a featured keynote speaker at the CES several times in the last ten years. In introducing Bill Gates to the audience the last two years I used a collection of concepts I summarize below. I hope that in approving the settlement you consider some of the sentiments expressed. Not only does litigation cost the business community and taxpayers billions of dollars every year, but additionally, long drawn-out court battles distract businesses from focusing on their core productive operations. With the U.S. now officially in recession and in the face of new concerns domestically, a settlement is needed to provide stability for the industry that has driven the new economy over the last decade.

Ultimately, Microsoft's story is our nation's story. It's about how ideas and a small scrappy upstart can become a world leader and change the face of history. Our country and Microsoft started with driven people pursuing a dream and providing a compelling benefit. Microsoft offered anyone access to freedom by providing a simple interface to conquer the complexities of a computer. Our founding fathers gave us freedoms embodied in the structure and the standard of the Constitution and the Bill of Rights. The American Bill of Rights are becoming accepted by the world and improving the world standard of living. So, too, are the Microsoft standards being accepted and improving the lives of millions around the world.

In the Information Age, Microsoft gave us access to information. Microsoft is to other corporations what our country is to the rest of the world. Both are the new kids that did well. Each started as an idea. Each became a world standard. These standards have changed the world for the better. For computer users, Microsoft made it simple to create, edit and send documents and presentations anywhere in the world. I had to edit presentations recently in Egypt, Germany and Switzerland and I was comfortable this year using others" computers in these countries as they all used Microsoft products.

Microsoft has improved the world's standard of living. Microsoft standards increase world productivity by making computers everywhere easy to use. Without the Microsoft standard it is doubtful so many people would be comfortably using computers. Microsoft has not only made many investors happy, it directly employs some 40,000 exceptional people in some 60 countries. More, many others are employed because of Microsoft products. Microsoft also exports more than it sells domestically. With this positive economic activity, terrific products, and reputation for charity, any other country would consider itself blessed to have Microsoft headquartered within its borders, adding to its tax rolls and employing its citizens.

There is a Yiddish word, "mensch". It means doer of good and applies to someone who you know well and does good things for people. I submit to you that when a company or individual does good things of such magnitude then they too can wear the "mensch" mantle. Not only has Microsoft improved the world's standard of living, but its founder Bill Gates along with his wife Melinda, have donated some $21 billion to the Bill and Melinda Gates Foundation for global education and healthcare. The magnitude of how Microsoft has changed the world and this generosity are so large, that I submit to you both Microsoft and Bill Gates deserve the appellation "mensch".

Sincerely,
Gary Shapiro
President and CEO
Consumer Electronics Association
www.ce.org

MTC-00028275

From: BDS4530@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:54pm
Subject: Microsoft Settlement

Dear Ms. Hesse:

I am a retired government employee who taught software courses for the Navy. My students included military as well as civilians. These were the teams, made up of both men and women, that produced training manuals and exams for the Navy.

After testing many different software programs Microsoft was chosen for a number of reasons; it was very computer friendly and the company offered help desk assistance when no other company did. At that time, because all of us were new to computers, these were most compelling reasons. I do not understand why our government, in this country of freedom and opportunity, insists on the continued harrassment of this young man. Who's next? What other country in recent times has produced such a creative mind? Has democracy actually come to this?

Sincerely,
Bettye D. Schmollinger
CC:fin@mobilizationoffice.com@inetgw

MTC-00028276

From: Anna Gallegos Brannon
To: Microsoft ATR
Date: 1/28/02 1:46pm
Subject: Microsoft Settlement

Thank you for your time and consideration.

Anna Gallegos-Brannon
President, LULAC Council #3027

January 28, 2002
Renata B. Hess
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
via email (microsoft.atr@usdoj.gov)
VIA FACSIMILE: 202/307–1454 (or 202/616–9937)
SUBJECT: Microsoft Settlement

Dear Ms. Hesse:

The League of Latin American Citizens—Long Beach Council believes that the proposed settlement of the Microsoft antitrust case amounts to a reward for misconduct. Indeed, the settlement is so good for Microsoft, that it is attempting to buy off those who oppose it with an offer to California and other states to pay their legal costs—if they will step aside and let the sweetheart deal go ahead unchallenged.

This astonishing offer merely confirms the notion that Microsoft believes that all of its errors can be wished away by money. And, it's not the first time that Bill Gates" company has reached into its treasury and come up with dollars for politicians. During the 2000 political campaign, the company spent more than $6 million on contributions to political campaigns, state parties and political action committees. One can only assume, it hoped to generate political pressure for a favorable settlement.

Whatever the reason, Microsoft has managed to negotiate a settlement, which to a remarkable degree would make it the arbiter of its own compliance—an astonishing turnabout for a company that has repeatedly skirted U.S. antitrust law and found guilty by several courts of abusing its monopoly power. California Attorney General Bill Lockyer is right to resist the settlement and to continue to press for a tough remedy that would limit Microsoft's ability to leverage its Windows monopoly and extend its market domination into more facets of our information age economy.

Nine state Attorneys General and the Corporation Counsel of the District of Columbia chose not to support the current Microsoft settlement and have offered proposals that will adequately address the agreement's loopholes. More specifically, these proposals require that Microsoft fulfill both technical and licensing obligations that will bring greater competition to the software market and greater choice to consumers. In addition, the proposals include more enforceable oversight provisions and stricter penalties in the event Microsoft does not comply with the settlement. The Long Beach Council of LULAC supports these proposals and urges the Court to adopt them.

Anna Gallegos Brannon President, LULAC Council #3027
Long Beach Council #3027
3824 East La Jara Street,
Long Beach Ca 90805
Phone 562 633 3853
Fax 562 590 6494

MTC-00028277

From: Thane Perkins
To: Microsoft ATR
Date: 1/28/02 1:47pm
Subject: Microsoft Settlement

It think the settlement is a step in the right direction. However, I do not think it is a big enought step. I am not one in favor of splitting Microsoft up or fining MS tens of billions of dollars. However, there are some marketing practices that Microsoft is still employing and will continue to employ because they are successful. Unless Microsoft is additionally shackled in some way so that they stop doing these things, Microsoft will use the power and money that they got from their previous illegal business practices to continue to stifle competition and ultimately hurt innovation:

1) Microsoft does innovate and will occasionally surprise me. However, they often eye a successful idea and decide to develop a similar application. This is not bad in an of itself. But, instead of trying to do compete with improved functionality, Microsoft uses their huge cash reserves to worm their way into the market. If they are way behind the competition, they GIVE the new software AWAY—either by integrating it into their operating system or doing special "deals" with OEMs so people get the software free or dirt cheap. So, even if the settlement stops Microsoft from making exclusionary deals with OEMs, Microsoft will out-price the competition.

2) Microsoft is a master of the VAPORWARE. They can really put a damper on the sales of a competing product simply by making a press announcement. I wish they would be restricted about the number of days prior to releasing a completely new product could Microsoft announce its development.

And finally, it is 2002—a long time since the original suit was brought and an eternity in terms of the High-Tech industry. Remember, this suit was brought because Microsoft had broken a previous agreement with the DOJ. So, what happens if Microsoft breaks this agreement? Will we have to wait nearly a decade for the next decision—allowing Microsoft to do business as usual in the mean time?

MTC-00028278

From: MD Dbeis
To: Microsoft ATR
Date: 1/28/02 1:57pm
Subject: Microsoft Settlement
M.D.
CS&S Computer Systems, Inc
1505 W. University Dr. Suite 103
Tempe, AZ 85281
www.css-computers.com
480–968–8585
480–968–9544 FAX

Tel (480) 968–8585
CS&S Fax (480)968–9544
Computer Systems
January 28, 2002
Attorney General John Ashcroft
DOJ, 950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

The way that this lawsuit against Microsoft has quickly degenerated into a vengeful exchange of threats of breaking the company up should give pause to any of us in the IT business. It should be acknowledged that Microsoft has not carried itself in the noblest fashion at times, but this alone should not be cause enough to drag the company through the federal courts. Furthermore, if this sort of action can be so easily brought against a company like Microsoft, then other IT companies may soon find themselves in a similar position.

For the sake of clarity, this settlement should be endorsed by all. At it stands, the terms of the settlement go beyond the scope of the original lawsuit. They address the notorious issue of Microsoft's relationship with OEMs, and now Microsoft will have to change the way it sets up contracts with other companies that distribute Windows as well. Of course, its greatest advantage is it will bring to an end this cycle of negative posturing between those on the government's side and those on Microsoft's. My business was noticeably pinched by the lawsuit, and I—and man), others-cannot afford to have the entire IT business in a wait-and-see attitude to see if Microsoft will be split up.

I support this settlement, and convey my hope that this kind of litigation against an American company will not happen again any time soon.

Sincerely,
Mountasir Dbeis
CEO
cc: Representative Jeff Flake
1505 West University Dr. Suite 103
Microsoft
CERTIFIED PROFESSIONAL
Tempe, AZ 85281
Product Specialist

MTC-00028279

From: armen@kazagur.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:56pm
Subject: Microsoft Settlement

Dear Goverment, please dont distry such a great and valueble company as Microsoft. All "nonefair-monopolist" accusations are result of their competitors and lobby.

Huge progress of the human civilization build by Microsoft. Millions worked place in the world.

CC:armen@kazagur.com@inetgw

MTC-00028280

From: AlSirkin@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 1:57pm
Subject: Microsoft case settlement

I hope the government will settle this case. I love the Microsoft products and own the stocks. It has been one of the best American companies of all time. It is time to stop beating up on them. Let the other companies that don't like Microsoft make products that are better and let them stop trying to use the Courts. Alan Sirkin

MTC-00028281

From: MOHINDER AGARWAL
To: Microsoft ATR
Date: 1/28/02 1:57pm
Subject: Microsoft

Dear Sir;

I believe the terms-which have met or gone beyond the findings of the Court of Appeals ruling-are reasonable and fair to all parties involved. This settlement represents the best opportunity for Microsoft and the industry to move forward.

So I support the settlement.

Mohinder Agarwal

MTC-00028282

From: Pamela Mann
To: Microsoft ATR
Date: 1/28/02 1:57pm
Subject: Microsoft

In short, I would like to see no action which tramples on the freedom to be innovative and resourceful in the business arena. There are always victims that feel their rights have been compromised when beaten at the finish line. The entrepreneurial spirit is what makes America great.

Thank you,
Pamela Mann
Sr. Sales Director
Mary Kay Cosmetics

MTC-00028283

From: Suzanne Lavine
To: Microsoft ATR
Date: 1/28/02 1:57pm
Subject: Microsoft Settlement

Please adopt the agreed on the terms of the settlement. Please stop wasting tax payer's money and everyone's efforts on something that should be done and over with.

MTC-00028284

From: Klain, Ronald
To: "microsoft.atr(a)usdoj.gov',Klain, Ronald
Date: 1/28/02 1:58pm
Subject: RE: Microsoft Settlement- Tunney Act Comments

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530
Re: Comments of AOL Time Warner

Dear Ms. Hesse:

In the attached "PDF" file, you will find the Comments of my client, AOL Time Warner, on the proposed final judgment in U.S. v. Microsoft. Please accept these for the Court's consideration under the Tunney Act, 15 U.S.C. 16.

We will also be submitting these in "hard copy" form as well. Please do not hesitate to call me at 202–383–5317 if you have any questions.

Sincerely,
Ronald A. Klain
O'Melveny & Myers
<<millerl.pdf>>

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, UNITED STATES OF AMERICA Plaintiff, v. MICROSOFT CORPORATION, Defendant
Civil Action No. 98–1232 (CKK)
STATE OF NEW YORK, et al., Plaintiffs, v. MICROSOFT CORPORATION, Defendant
Civil Action No. 98–1233 (CKK)

COMMENTS OF AOL TIME WARNER ON THE PROPOSED FINAL JUDGMENT

TABLE OF CONTENTS

Page

INTRODUCTION—1
THE COURT SHOULD USE THE REMEDIAL OBJECTIVES ESTABLISHED BY THE DC CIRCUIT IN THIS CASE AS THE STANDARD FOR ASSESSING WHETHER THE PFJ IS "IN THE PUBLIC INTEREST."—4
II.
AS MICROSOFT STARTS TO IMPLEMENT MOST OF THE DECREE'S PROVISIONS, THE COURT SHOULD CONSIDER HOW—IF AT ALL—OEMS ARE RESPONDING—9
There Is No Indication That Microsoft's Implementation Of Major Aspects Of The PFJ Is Even Beginning To Promote Competition Or Helping To Loosen Microsoft's Control Over The Desktop—10
B.
The Provisions Of The PFJ Implemented By Microsoft Since July 11th Are Not Showing Signs That They Will Work To Restore Competition In The Browser Market—14
III.
THE PFJ IS NOT IN THE PUBLIC INTEREST BECAUSE IT DOES NOT EVEN ATTEMPT TO HALT MICROSOFT'S MOST INSIDIOUS PRACTICE: ITS ILLEGAL BINDING AND BUNDLING OF MIDDLEWARE APPLICATIONS WITH THE WINDOWS OS—17
a.
The Court Of Appeals Explicitly Held That Code Commingling—A Form Of Tying Unaddressed By The PFJ— Violates Section 2 Of The Sherman Act—19
g.
Microsoft Uses A Variety Of Other Tying Practices To Maintain Its Operating System Monopoly; If The Monopoly Is To Be "Terminated," Such Contractual Tying Must Be Prohibited—24
By Allowing Microsoft To Continue To Tie Its Middleware Applications To Windows, Microsoft Retains One Of The Most Valuable "Fruits" Of Its Illegal Acts—31
THE PROPOSED FINAL JUDGMENT FURTHER FAILS THE PUBLIC INTEREST TEST, BECAUSE IT DOES NOT ACHIEVE EVEN THE LIMITED OBJECTIVES THAT IT HOLDS OUT AS ITS AIMS—33
A
Tile PFJ Allows Microsoft To Continue Engaging In Discriminatory And Restrictive Licensing Agreements To Curtail The Use Of Rival Middleware Products—34
B
The PFJ Requires Microsoft To Disclose APIs Only In Certain, Narrow Circumstances—39
C

The PFJ Does Not Ban Many Forms Of Retaliation By Microsoft Against OEMs—42

D

The PFJ Does Nothing To Remedy Microsoft's Illegal Campaign To Eliminate Java—45

E

The PFJ Includes A "Gerrymandered" Definition Of Middleware—47

F.

The PFJ Lacks A Meaningful Enforcement Mechanism—50
THE CIRCUMSTANCES OF THIS CASE STRONGLY MILITATE IN FAVOR OF GATHERING EVIDENCE AND TESTIMONY— EITHER IN A HEARING, OR THROUGH THE USE OF THE RECORD FROM THE REMEDIAL PROCEEDING—TO DETERMINE IF THE PFJ MEETS THE PUBLIC INTEREST TEST—53

A.

The Complexity And Significance Of This Case—And The Inadequacy Of The CIS—All Militate In Favor Of A Heating On The PFJ—53
The Court Should Conduct A Proceeding—Taking Evidence And Heating Testimony, If Necessary- To Determine How The PFJ's Provisions Have Functioned Since Some Were Put In Place In 2001—56
In Making Its "Public Interest" Determination, This Court Should Take Into Account The Evidence That Will Be Adduced In The Upcoming Remedial Proceeding—58
CONCLUSION—61

COMMENTS OF AOL TIME WARNER ON THE PROPOSED FINAL JUDGMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. §;16, AOL Time Warner respectfully submits the following comments on the Proposed Final Judgment ("PFJ") in the above-referenced matter.

INTRODUCTION

The Proposed Final Judgment sets forth a decree that is too limited in its objectives and too flawed in its execution to meet the Tunney Act's "public interest" test. It allows Microsoft to continue to bind and bundle its middleware applications with its Windows Operating System ("OS")—even though tile Court of Appeals found Microsoft's actions in this regard to be illegal. And its patchwork of constraints on Microsoft's conduct is so loophole-ridden and exception-laden as to render its provisions ineffective. As a result, the PFJ is inadequate to promote competition and protect consumers, and the Court should refuse to find that its entry would be "in the public interest." 15 U.S.C. * 16(e).

The PFJ comes before the Court in an unprecedented posture for a Tunney Act proceeding. This proposed settlement was reached—not as the case was being filed, nor as it was being tried, nor even as it was being appealed—but rather, after the Court of Appeals for the District of Columbia Circuit unanimously affirmed a finding of illegal monopoly maintenance by Microsoft. Such circumstances surely require a more rigorous application of the "public interest" standard than a case is settled before the first interrogatory is even served—the usual situation when a Tunney Act review is conducted. Helpfully, a readily available and judicially administrable measure of the "public interest" is available for use in this special circumstance: the four-part test for "a remedies decree" established by the DC Circuit in this very litigation. United States v. Microsoft, 253 F.3d 34, 103 (DC Cir. 2001). Applying this standard, we believe that the Court should find the PFJ to be in the "public interest" only if it (1) "unfetter[s] a market from anticompetitive conduct"; (2) "terminate[s] the illegal monopoly"; (3) "den[ies] to the defendant the fruits of its statutory violation"; and (4) "ensure[s] that there remain no practices likely to result in monopolization in the future." Id. (internal quotations omitted). We believe that there are at least three reasons why the Court should conclude that the PFJ does not meet this test.

First, since July 11,2001 (for the browser) and December 16, 2001 (for other middleware), Microsoft has been implementing many of the PFJ's remedial provisions. Thus, the Court need not speculate about the impact these provisions would have on the industry if they were put in place; rather, it can seek submissions and review evidence on whether these critical provisions are beginning to work as they are being implemented by Microsoft. We believe that any such inquiry will reveal that the original equipment manufacturers ("OEMs") are not exercising the flexibility that the PFJ ostensibly provides them, because the loophole-ridden PFJ gives too few rights to the OEMs and does too little to protect the OEMs in the exercise of those rights. As a result, there is little reason to believe that the PFJ will prove effective in restoring competition, terminating Microsoft's monopoly, or stripping Microsoft of the fruits of its illegal acts.

How wide a "gap" between a hypothetical litigated result and the proposed settlement is permissible in these circumstances is a question that need not be answered here because the PFJ falls so very short of meeting an), reasonable understanding of the "public interest," given its failure to address many of Microsolf's illegal acts and its loophole-ridden provisions in the areas that it does purport to cover.

Second, the PFJ fails to prohibit Microsoft's signature anticompetitive conduct: the binding of its middleware applications to its monopoly operating system, and its bundling of these products to further entrench its OS monopoly. The factual questions that surround these legal issues are quite complex, but here again, the Court has a powerful tool to employ: the extensive factual findings entered by the District Court. (1) These factual findings document Microsoft's purposeful commingling of middleware application code with the Windows OS to harm competition, as well as the contractual bundling of those applications with the OS, to force OEMs to distribute Microsoft's middleware, and to raise distribution hurdles for middleware rivals. Given the PFJ's failure to ban practices that the District Court and the Court of Appeals found to be at the center of Microsoft's illegal maintenance of its OS monopoly, the PFJ does not meet the "public interest" standard.

Third, even with regard to those limited objectives that the PFJ does attempt to achieve—i.e., the creation of "OEM flexibility" to promote desktop competition—the proposed decree is so ridden with loopholes, exceptions and carve-outs as to render it ineffective. These deficiencies are highlighted when the PFJ is compared to previous remedial plans considered in this case, including Judge Jackson's interim conduct remedies and the mediation proposal offered by Judge Richard Posner (which Microsoft apparently agreed to even before it had been found liable for antitrust violations).

Finally, we believe the Court will find the remedial proposal of the litigating state attorneys general ("Litigating States" Remedial Proposal" or "LSRP")—and the Court's consideration of that proposal—to be useful in its review of the PFJ. Most immediately, the LSRP provides a benchmark as to what one group of antitrust enforcers believes to be compelled by the "public interest" in order to achieve the case's remedial objectives. Moreover, the LSRP provides a helpful point of comparison for some specific aspects of the PFJ—i.e., a way to illustrate why particular PFJ provisions are ineffective, by comparison.

These factual findings were affirmed on appeal. See Microsoft, 253 F.3d at 51–78. In addition, the Court recently held that the factual findings of the District Court "in support of the liability findings" should be considered "undisputed" for the purpose of this proceeding. (See Transcript of January 7, 2002, at 31.) And third, the Court's consideration of the LSRP will adduce testimony and other evidence that should be weighed in determining whether the PFJ should be approved. Taken as a whole, a comparison of the PFJ with the Litigating States" Remedial Proposal shows why the latter, and not the former, faithfully meets the remedial objectives set forth by the DC Circuit and serves the "public interest" as expressed in the nation's antitrust laws.

I. THE COURT SHOULD USE THE REMEDIAL OBJECTIVES ESTABLISHED BY THE DC CIRCUIT IN THIS CASE AS THE STANDARD FOR ASSESSING WHETHER THE PFJ IS "IN THE PUBLIC INTEREST."

Passed by Congress in 1974, the Antitrust Procedures and Penalties Act, commonly known as the "Tunney Act," provides that a proposed consent decree may be entered in an antitrust case only if the district court determines that such entry is "in the public interest." See 15 U.S.C. *16(e). Given that the Court will receive numerous submissions on this point, we do not provide here a recitation of the Tunney Act's provisions, or an extensive analysis of the standard of review under the Act. Instead, we focus on just one, overriding "procedural" question: How should the Court measure "the public interest" in this unique case? For reasons we will explain below, we believe that the measure of the "public interest" to be applied in reviewing the PFJ can be found in the remedial objectives set forth by the DC Circuit in its consideration of this litigation. See Microsoft, 253 F.3d at 103.

First, while the Tunney Act itself does not define "public interest," the case law makes clear that the Court must begin its analysis "by defining the public interest" in accordance with the basic purpose of the antitrust laws, which is to" "preserv(e) free and unfettered competition as the rule of trade." United States v. American Tel. & Tel. Co., 552 F. Supp. 131,149 (D.DC 1982) (quoting Northern Pacific Ry. Co. v. United States, 356 U.S. 1 (1958)). As a general rule, a court has discretion to reject a proposed consent decree that is ineffective because it fails to address or resolve the core competitive problems identified in the Department of Justice's complaint. United States v. Microsoft Corp., 56 F.3d 1448, 1457–62 (DC Cir. 1995). As this Court stated in United States v. Thomson Corp., 949 F. Supp. 907, 913 (D.DC 1996), the court has a responsibility "to compare the complaint filed by the government with the proposed consent decree and determine whether the remedies negotiated between the parties and proposed by the Justice Department clearly and effectively address the anticompetitive harms initially identified." A court should "hesitate" in the face of specific objections from directly affected third parties before concluding that a proposed final judgment is in the public interest. United States v. Microsoft, 56 F.3d at 1462. And it "should pay "special attention" to the clarity of the proposed consent decree and to the adequacy of its compliance mechanisms in order to assure that the decree is sufficiently precise and the compliance mechanisms sufficiently effective to enable the court to manage the implementation of the consent decree and resolve any subsequent disputes." Thomson Corp., 949 F. Supp. at 914 (citing United States v. Microsoft, 56 F.3d at 1461–62).

In the context of this proceeding, tremendous guidance as to the content of the public interest test can come from the earlier decision of the Court of Appeals in this case. In that decision, the DC Circuit wrote:

> [A] remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct," to "terminate the illegal monopoly, deny to the defendant the fruits of its statufory violation, and ensure that there remain no practices likely to result in monopolization in the future."

Microsoft, 253 F.3d at 103 (quoting Ford Motor Co. v. United States, 405 U.S. 562, 577 (1972) and United States v. United Shoe Mach. Corp., 391 U.S. 244, 250 (1968)). These words, in our view, form the essence of the public interest test to be applied by the Court in this Tunney Act proceeding.

First, on its face, this passage speaks of the object of a "remedies decree in an antitrust case," without differentiating between a decree that is achieved through negotiation and one achieved through litigation. Thus, the Court of Appeals" ruling would appear to be directly controlling here, insofar as it states the measure of adequacy for any remedial decree, however achieved. There is no apparent reason why the "remedies decree" negotiated by the Department of Justice with Microsoft should not have to meet the standard of adequacy generally set forth by the Court of Appeals in its decision.-" This is particularly true given that the passage merely "defin(es) the public interest in accordance with the antitrust laws." Accord American Tel. & Tel. Co., 552 F. Supp. at 149.[3]

This is not to say that the Court should reject the PFJ if it finds only that it differs in some respects from the remedy that the Court would impose at the end of litigation. For while the public is entitled to a very robust remedy here, especially given the fact that this case has been litigated through trial and affirmed on appeal with judgments against Microsolf, a settlement clearly does not have to match precisely the outcome that would have been achieved in litigation to be deemed acceptable under the tunney Act's public interest test.

Second, the four-part test established by the DC Circuit here would give the Court a clear and manageable standard on which to evaluate the proposed decree's adequacy) Use of the DC Circuit's formulation thus avoids one of the principal bases of controversy and difficulty in Tunney Act reviews -i.e., the lack of a judicially manageable standard for assessing the public interest and the consequent risk that judges will inappropriately use standardless judgment to review an exercise of prosecutorial discretion.[5] Thus, unlike in other Tunney Act cases, where a court lacks an appropriate benchmark on which to measure the purported benefits of the settlement (and thus must be careful not to impose its judgment for that of the Justice Department), here, there is a clear benchmark for the Court to use: the standard set by the Court of Appeals with regard to a "remedies decree."

Moreover, to the extent that insisting that the PFJ meet the standard set by the Court of Appeals would result in a more exacting review than the review imposed in other Tunney Act proceedings, that would be appropriate in this circumstance. For while the overwhelming majority of decrees reviewed under the Tunney Act occur in a pre-trial where the court lacks a judicial finding of illegality against which to measure the efficacy of the proposed settlement—this proposed settlement was reached after an appellate affirmance of liability. Because the public has invested its resources and time, and taken the risk to win a judgment of liability and defend that judgment on appeal, it has a right to expect a more rigorous decree that meets a higher standard of review. Under these circumstances, the Court's review under the Tunney Act should not be deferential to the Justice Department; instead, the Court should apply the Court of Appeals" four-part test and determine if the PFJ meets that test.

As explained in more detail below, the PFJ fails to meet the DC Circuit's four-part test, because contrary to the claims of the Department of Justice, it will neither "provide a prompt, certain and effective remedy for consumers," nor "restore competitive conditions to the market." (See CIS at 2.) Specifically, it does not "unfetter [the] market from anticompetitive conduct," because it does not even try to stop Microsoft's illegal binding and bundling practices—or effectively limit Microsoft's ability to coerce OEM behavior to its liking. It does not "terminate the illegal monopoly" because it does not effectively promote rival middleware, and because its provisions are so laden with loopholes, exceptions and carve-outs. It does not "deny to the defendant the fruits of its statutory violation," because it allows Microsoft to continue to leverage its OS monopoly to gain market share in other markets.[6] And it does not "ensure that there remain no practices likely to result in monopolization in the future," because it leaves Microsoft free to exploit the OS monopoly to gain don-finance in critical new markets. Failing to address the core anticompetitive wrongs that were found at trial and upheld on appeal against Microsoft, and failing to meet the four-part remedial test established by the DC Circuit, the PFJ is manifestly contrary to the public interest and should be rejected.

II. AS MICROSOFT STARTS TO IMPLEMENT MOST OF THE DECREE'S PROVISIONS, THE COURT SHOULD CONSIDER HOW—IF AT ALL—OEMS ARE RESPONDING.

---

[3] This approach generally comports with other Tunney Act cases, which conclude that an antitrust remedy, including a consent decree, must" "effectively pry open to competition a market that has been closed by defendants" illegal restraints." Id. at 150 (quoting International Salt Co. v. United States, 332 U.S. 392, 401 (1947); see also 2 P. Areeda & D. Turner, Antitrust Laws * 327 (1978)). A decree "must "break up or render impotent the monopoly power found to be in violation of the Act," that is, it must leave the defendant without the ability to resume the actions which constituted the antitrust violation in the first place."

American Tel. & Tel., 552 F. Supp. at 150 (quoting United States v. Grinnell Corp., 384 U.S. 563,577 (1966)). "It must also effectively foreclose the possibility that antitrust violations will occur or recur." Id. As the Supreme Court noted in International Salt Co., 332 U.S. at 400:

> [I]t is not necessary that all of the untraveled roads to (anticompetitive conduct) be left open and that only the worn one be closed. The usual ways to the prohibited goals may be blocked against the proven transgressor.

Additionally, "antitrust violations should be remedied "with as little injury as possible to the interest of the general public" and to relevant private interests." /d. (quoting United States v. American Tobacco Co., 221 U.S. 106, I85 (191 I)).

While the Department of Justice urges the Court to adopt a much more lax review, even the government acknowledges that the Court's "review of the decree is informed not merely by the allegations contained in the Complaint, but also by the extensive factual and legal record resulting from the district and appellate court proceedings." (See Competitive Impact Statement ("CIS") at 68 (November 15, 2001).)

It was precisely the lack of a judicial finding of liability that caused Chief Justice Rehnquist to question the constitutionality of the Tunney Act. See Maryland v. United States, 460 U.S. 1001, 1004 (1982) (Rehnquist, J., dissenting). This argument does not apply in the present case where there has been both a judicial finding of liability (at trial and affirmed on appeal), and there is a standard for review established by an appellate court.

[6] Indeed, Microsoft has actually seen its share of the browser market grow since being found liable for illegal monopoly maintenance. For example, Microsoft's share of the work browser market increased from 69.3 percent in April 2000 (when Judge Jackson issued his finding of liability) to 79.5 percent in November 2001. Over the same period, Microsoft's share of the home browser market increased from 75.7 percent to 81.8 percent. See Browser Trended Reach Report, Jupiter Media Metrix, January 2002.

As noted above, the question before the Court is whether the PFJ is "in the public interest." 15 U.S.C. *sect; 16(e). In making that determination, the statute indicates that the Court may want to consider, inter alia: (1) "the competitive impact" of the PFJ, (2) whether it results in the "termination of alleged violations," and (3) "the impact of [the PFJ] upon the public generally and individuals alleging specific injury." Id.

Fortunately, contrary to most other courts conducting Tunney Act reviews, this Court need not struggle with evaluating the "competitive impact" of the PFJ in a factual vacuum because Microsoft has been, according to its own statements, implementing some provisions found in the PFJ since last Jul)", and the bulk of its provisions since December. That means the Court need not base its "public interest" judgment on abstract legal and economic analyses only; instead, the Court's analysis can (at least in part) be shaped by a consideration of how Microsoft is beginning to implement parts of the PFJ, and how the PFJ's provisions are starting to work in practice.[7] We believe that such a practical review will demonstrate that the portions of the PFJ in question show little prospect—if any-that they will "unfetter the market,", "terminate the monopoly," or "den)," to Microsoft "the fruits of its violation."

A. There Is No Indication That Microsoft's Implementation Of Major Aspects Of The PFJ Is Even Beginning To Promote Competition Or Helping To Loosen Microsoft's Control Over The Desktop. In the joint stipulation filed with the Court on November 6, 2001, Microsoft stated that it would "begin complying with the [PFJ] as [if] it was in full force and effect starting on December 16, 2001 ." (Stipulation and Revised Proposed Final Judgment at 2 (November 6,2001).) While provisions with specific timetables were exempted from this pledge—resulting in an excessive delay for some of the PFJ's competitive protections— many of the PFJ's remedial provisions were covered by it. Thus, with regard to many provisions of the PFJ, the proposed decree has been "in effect" since mid-December.[8]

Microsoft's stipulation offers the Court a unique opportunity to learn, not just how the PFJ would serve the public interest once implemented, but instead, whether the PFJ provisions already in effect are showing signs that they are likely to serve the public interest. These provisions have now effectively been in place for 43 days—and by the time of a likely hearing or other proceeding to consider this question (presumably, in March or April), will have been in effect for three to four months.

Microsoft may protest that a three- to four-month period in which parts of the PFJ will have been applied is inadequate to test those remedies. And that is doubtlessly true with regard to some measures of the PFJ's effectiveness, such as whether Microsoft's share of the OS market has shrunk from near absolute to anything less. But there are other measures of the PFJ's effectiveness that should be readily discernible even in this relatively short time.

Among the questions we believe that the court could determine, by the time of a hearing in March or April, would be:

Have the OEMs exercised (or even attempted to exercise)—in any way beyond the prevailing industry practice prior to December 16th—the flexibilities to remove/replace icons, start menu entries, and default settings for Microsoft middleware products, that are purportedly provided in Section III.C.1 of the PFJ? If not, why not?

Are non-Microsoft middleware products gaining .new distribution via the OEMs as a result of the provisions of Sections III.A. and III.C.2 of the PFJ, as implemented? If not, why not?

Are non-Microsoft middleware products, to a greater extent than before implementation of the PFJ, attaining the benefits of an "automatic launch," pursuant to the provisions of Section III.C.3 of the PFJ? If not, why not?

* Is any OEM offering a dual-boot computer, as authorized by Sections III.A.2 and III.C.4 of the PFJ? If not, why not?

* Are there new IAP offerings being made at the conclusion of PC boot sequences, pursuant to Section III.C.5 of the PFJ? If not, why not?

Has any ISV, IHV, LAP, ICP or OEM gained any additional Windows licensing rights that it did not have prior to the implementation of the PFJ, pursuant to Section III.I of the PFJ? If not, why not?

Has Microsoft terminated any payments to OEMs that were anticompetitively advantaging Microsoft's products, and that are now forbidden, pursuant to Sections III.A and III.B of the PFJ?

Based on our knowledge of industry developments, we believe that the answer to each of these questions is "no," with perhaps some very rare and isolated exceptions.[9] Thus, despite Microsoft's proclaimed implementation of large portions of the PFJ, there is scant evidence of OEMs even attempting, let alone succeeding, to offer consumers new choices with respect to middleware products. Even in a relatively short time frame of a few months, one would expect to find numerous OEMs reaching agreements to promote or carry multiple non-Microsoft products. But no such evidence exists. No doubt, that is why countless industry observers and analysts have concluded, after examining the PFJ, that "[t]he changes we will see are minute. Microsoft can control its own destiny. It can do whatever it wants."[10] Presumably, it cannot be in "the public interest" to settle a case after years and years of litigation—including a finding of liability for the government at trial, affirmed unanimously on appeal by the Court of Appeals (See Microsoft, 253 F.3d at 46)—for a remedial decree that effectuates only "minute" changes in the strategy the defendant was using to illegally maintain its monopoly. And yet, that is precisely what appears to be happening, as the effectiveness—or lack thereof- of parts of the PFJ are starting to be observed in application. While we certainly agree with the Department of Justice that it will only be "over time" that any remedy could "help lower the applications barrier to entry," (see CIS at 29), that objective will never be achieved if the PFJ does not lead OEMs to even begin to "offer rival middleware to consumers and.., feature that middleware in ways that increase the likelihood that consumers will choose to use it." (Id.) That is: the pro-competitive probative of nothing more than the compelling need for a hearing so the Court can explore how, if at all, the PFJ journey of a thousand miles can never be completed if—as it appears to be the case—the PFJ does not create a market in which OEMs feel free to take that all-important first step. To the extent that much of the CIS suggests that the goal of the remedy is to create OEM flexibility for its own sake—i.e., to make sure that OEMs have the right to choose non-Microsoft products, whether or not they exercise that right—it misses the mark. The goal of this litigation is not to protect OEMs" rights, but rather to protect consumers" rights to enjoy a free and competitive market. In such a market, OEMs can be important surrogates for consumers, but only if they actually offer competitive choices. Likewise, to the extent that the other goal of the remedial proceeding is to reduce the applications barrier to entry, that objective is only achieved to the extent that the OEMs actually distribute and promote non-Microsoft middleware—it is not advanced by the unexercised presence of theoretical OEM choice.

Thus, the determination of whet [illegible] the PFJ will be effective in promoting its purported ends—i.e., fostering OEMs in making those choices and creating opportunities for competition—need not be left for some subsequent proceeding or for antitrust scholars in future years. It can be ascertained now from the submissions that the Court is receiving, or, if those submissions are inadequate, it could be resolved by the Court in a proceeding where evidence is taken and testimony is heard. See Section V.B, infra. The manner in which Microsoft is already implementing portions of the PFJ is among the most probative considerations the Court can weigh in determining how—it at all—the proposed settlement will promote competition in the years to come.

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[7] If the Court finds that the submissions made to date are inadequate to assess this question, it can, of course, under the Tunney Act, take whatever testimony or evidence is needed to make such a determination. See 15 U.S.C. *sect; 16(f); Section V.B, infra.

[8] Some examples of PFJ provisions Microsoft has ostensibly been complying with since December 16, 2001, include: Section III.A (anti-retaliation); Section III.B (uniform licensing); Section III.C (OEM licenses); Section III.G (anticompetitive agreements); and Section III.I (licensing of intellectual properly).

[9] Although Compaq and RealNetworks reached an agreement in December 2001, whereby Compaq would place Real's player on its personal computers, see RealNetworks Sets Deal With Compaq, The Los Angeles Times, December 13, 2001, it is unclear, among other things, what the terms of the agreement are, what impact it will have on competition and consumer choice, and whether the agreement was motivated, in whole or in part, by the purported "flexibility" of the proposed settlement. While the Court should certainly give the Compaq agreement some consideration in its public interest review, the agreement's mere existence is already affecting the marketplace.

[10] See Jeff O'Heir, Analysis: MS & DOJ Reach Agreement, P.C. Dealer, November 12, 2001 (quoting Roland Pinto); see also Randy Barrett, MS-DOJ Pact Disappoints, Interactive Week, Nov. 8, 2001 (quoting Roger Frizzell, Compaq Spokesman, "Basically, we don't feel there's a big difference between where we're standing today and where we were last week."); Id. (quoting Mike Griffin, "We don't anticipate any changes at all."☐.

B. The Provisions Of The PFJ Implemented By Microsoft Since July 11th Are Not Showing Signs That They Will Work To Restore Competition In The Browser Market.

In addition to the general applicability of the PFJ's provisions, several of its provisions have been in place—as they relate to the Internet browser—since Microsoft took steps to implement them after the Court of Appeals" decision last June. As with the more general PFJ provisions discussed above, the Court should examine whether these browser- specific remedial provisions—which will have been in place for eight months by mid-March—have been effective to date. Again, we believe that the evidence to date shows that the provisions are showing no sign of effectuating change in the market; thus, the PFJ—which (with regard to browsers) does little more than codify these unilateral Microsoft actions— does not meet the "public interest" standard.

On July 11, 2001, in response to the decision of the Court of Appeals, Microsoft announced a program of "greater OEM flexibility for Windows." See Press Release, Microsoft Corporation, Microsoft Announces Greater OEM Flexibility For Windows, July 11, 2001. Specifically, Microsoft announced that it would amend its OEM license agreements to provide that:

> PC manufacturers will have the option to remove the Start menu entries and icons that provide end users with access to the Internet Explorer components of the operating system. Microsoft will include Internet Explorer in the Add/Remove programs feature in Windows XP.
>
> PC manufacturers will have the option to remove the Start menu entries and icons that provide end users with access to Internet Explorer from previous versions of Windows, including Windows 98, Windows 2000 and Windows Me .... Consumers will be able to use the Add-Remove Programs feature in Windows XP to remove end-user access to the Internet Explorer components of the operating system ....

d. These provisions mirror the browser-related provisions found in Sections III.C.1 and III.H.1 of the PFJ. Indeed, they comprise almost the entirety of all browser-related remedial provisions found in the PFJ.

Thus, the question of whether the PFJ fulfills the Department of Justice's promise of an effective remedy for "restor[ing] the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings," can easily be assessed—at least with regard to the browser threat, which was such an extensive part of the Court of Appeals" decision—by seeing how effective these unilateral Microsoft actions, taken in July of 2001, have been to date. And unlike the provisions discussed above, which were put in place only in December, it cannot be argued that these browser-related provisions have not yet been tested in the marketplace; rather, the□, were in place for the launch of Windows XP, which Bill Gates recently dubbed the "best-selling release of Windows ever, and one that is creating great opportunities for PC manufacturers and our other partners in the industry."[11] In the simplest terms, as we note above, these "remedies" will have been in place for eight months by mid-March of 2002.[12]

We believe that the initial evidence shows that these provisions are completely ineffective. We are unaware of a single OEM that has used the "flexibility" provided to it by Microsoft to remove Internet Explorer from the Start menu, or from any of its multiple promotional placements on the PC desktop. Nor are we aware of any OEM that has elected to use any competitor to Internet Explorer as a default browser, or to promote alternative browsers to Internet Explorer in any way.

Moreover, there is no indication—more than six months after Microsoft's July 11th announcement and four months after the first shipments of Windows XP—that Internet Explorer's commanding market share in the browser market has fallen in any measurable way. If the provisions of the PFJ are strong enough to "restore" competition to the marketplace, which DOJ claims they are (see CIS at 3 ("[t]he requirements and prohibitions [of the PFJ] will ... restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings")), one would expect to see that the market shares of Microsoft's browser competitors have increased during this time frame. There is simply no evidence of that. Not only is there a dearth of evidence suggesting that the PFJ's provisions are going to restore competition to the level enjoyed by Microsoft's rivals prior to its illegal conduct, but there is no evidence to suggest they are affecting the market at all.

A remedial provision that has no market impact cannot be said to be in the "public interest," especially in a case like this where the damage from Microsoft's illegal campaign to eliminate rival middleware has already been done. In other words, because Microsoft has illegally driven down the market shares of its rival middleware developers, restoring competition to the marketplace requires much more than simply eliminating the illegal practices: only if the status quo ante is restored would OEM freedom of choice be meaningful. And yet, the evidence suggests that the PFJ provisions that relate to the browser will have no market impact, given the practical experience with highly similar proposals put in place by Microsoft last July. This is important evidence for the Court to consider when reviewing the PFJ.

III. THE PFJ IS NOT IN THE PUBLIC INTEREST BECAUSE IT DOES NOT EVEN ATTEMPT TO HALT MICROSOFT'S MOST INSIDIOUS PRACTICE: ITS ILLEGAL BINDING AND BUNDLING OF MIDDLEWARE APPLICATIONS WITH THE WINDOWS OS.

In this submission—and doubtlessly in the many others the Court will receive - we identify a number of specific deficiencies in the PFJ. See Section IV, infra and Attachment B. But one omission stands out above all others: the failure of the PFJ to limit Microsoft's ongoing and insidious efforts to maintain its monopoly- and leverage and entrench that monopoly—by tying its middleware applications to the Windows OS. This conduct—found illegal by the District Court and upheld as illegal by the Court of Appeals (see Microsoft, 253 F.3d at 67)—is left unchecked by the PFJ. By contrast, a remedy to address this practice appeared in the interim conduct remedies offered by the District Court,[13] as well as the remedial proposal designed by Judge Richard Posner ("Posner Proposal").[14] The practice is also addressed extensively in the litigating states" proposed remedy. By failing to remedy one of Microsoft's "signature" anticompetitive acts, the PFJ—even before reaching its many other defects—falls far short of the four-part remedial standard set by the Court of Appeals, and by the same token, fails to meet the public interest test established by the Tunney Act.

In explaining why it did not seek to limit Microsoft's tying of middleware applications to Windows in the PFJ, the Justice Department has suggested that there was no basis for such a remedy because of the Court of Appeals" reversal of the District Court's finding of liability under Section 1 of the Sherman Act, and the appellate court's direction that the remedy here should "focus[] on the specific practices that the court had ruled unlawful."[15] This analysis fundamentally misapprehends the implications of the Court of Appeals" ruling: contrary to DOJ's view, the Court of Appeals did not suggest that an anti- tying remedy was inappropriate or unnecessary here; indeed, much of the Court of Appeals" decision is a strong declaration of how Microsoft's various forms of tying violated Section 2 of the Sherman Act. See, e.g., Microsoft 253 F.3d at 65–67. A remedy that truly "focused on the specific practices that the court had ruled unlawful" would have to address the tying practices that the Court of Appeals "ruled unlawful"; the PFJ does not.

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[11] See GM Plans White-Collar Cuts, Financial Briefs, The Washington Post, January 9, 2002, at E02.

[12] Given that the length of the PFJ is only 60 months, see Section V.A of the PFJ, an assessment of the effectiveness of a provision after eight months would be highly significant.

[13] We use the interim conduct remedies as a point of reference—notwithstanding the fact that they were vacated on appeal—because the Department of Justice stated publicly that it would "seek an order that is modeled after the interim conduct-related provisions of the Final Judgment previously ordered in the case." See Press Release, Department of Justice, Justice Department Informs Microsoft of Plans for Further Proceedings in the District Court, September 6, 2001; see also, John Hendren, New Judge Puts Heat on Feds, Microsoft: Quick Settlement Urged to Aid Ailing Economy, The Seattle Times, September 29, 2001 ("Government lawyers have said they intended to model their proposed remedy on an interim conduct order by the previous district judge who oversaw the case, Judge Thomas Penfield Jackson.").

[14] A draft of the mediation proposal, Mediator's Draft #18 (April 5, 2000) (referred to herein as the "Posner Proposal"), is available at www.ccianet.org/legal/ms/draft18.php3. At the time, several news reports indicated that Microsoft had agreed to the provisions in the Posner Proposal. See, e.g., Joe Wilcox, Hard to Gauge Extent. Effectiveness of Microsoft Concessions, CNET News.com, March 30, 2000 (the "software giant has tentatively agreed to sweeping restrictions on how it does business with its partners").

[15] See Testimony of Assistant Attorney General Charles James, Senate Judiciary Committee (December 12, 2001); see also Q&A." Charles James Defends The Deal, Business Week, Nov. 19, 2001 ("People who suggest that [the decree should have ordered Microsoft to sell a stripped-down version of Windows] are not recognizing that the tying claim was eliminated from the case by the appeals court.").

Because Microsoft's various forms of middleware applications tying are critical tactics that it uses to maintain its illegal monopoly, they must be ended if the remedy is to "terminate the monopoly."[16] (See Microsoft's Tying Strategies To Maintain Monopoly Power In Its Operating System ("Mathewson & Winter Report"), attached hereto as Attachment A.) Furthermore, the opportunity to gain market share as a result of such tying is one of the principal fruits of Microsoft's illegality, and should therefore be denied to it.[17] As a result, the failure of the PFJ to address Microsoft's tying is a fundamental flax,," that alone merits rejection of the proposed decree.

Importantly, we note that the legal and economic arguments presented below are reinforced by the empirical observations set forth in Section II, supra. That is, the legal and economic analysis below which suggests that a remedy without a ban on tying will be ineffective in theory, is supported by the fact that such a remedy—imposed in part since Jul□", and more substantially since December—is proving to be ineffective in practice.

A. The Court Of Appeals Explicitly Held That Code Commingling—A Form Of Tying Unaddressed By The PFJ—Violates Section 2 Of The Sherman Act.

In affirming the District Court's findings of fact concerning Microsoft's practice of commingling the code for its own middleware products with the code for the Windows OS, the Court of Appeals made clear that such commingling was an unlawful act in violation of Section 2 of the Sherman Act. See Microsoft, 253 F.3d at 65–67. Specifically, the Court of Appeals concluded that Microsoft's "commingling has an anticompetitive effect * . . [and] constitute[s] exclusionary conduct, in violation of $ 2." Microsoft, 253 F.3d at 66- 67 (emphasis added)*[18] According to the appeals court, Microsoft's "commingling deters OEMs from pre-installing rival browsers, thereby reducing the rivals" usage share and, hence, developers" interest in rivals" APIs as an alternative to the API set exposed by Microsoft's operating system." Id. at 66. Moreover, the Court of Appeals affirmed the District Court's finding that such commingling was done, deliberately and intentionally, to advance Microsoft's anticompetitive aims. Id.

Notwithstanding these clear declarations by the Court of Appeals, this practice is not prohibited by the PFJ. Such a prohibition was omitted despite the finding that it is illegal—and despite the Justice Department's recognition that the first remedial objective in a decree should be to "end the unlawful conduct." (See CIS at 24.) Thus, Microsoft remains free to bind its middleware applications, including the browser, to its Windows OS [19]—making it impossible for an OEM, or a consumer, to remove that application from a PC without doing damage to that PC's operating system.

Microsoft's suggestion that competition is adequately served by allowing OEMs to pre-install rival middleware and to remove end-user access to Microsoft middleware—instead of banning commingling—is incorrect for several reasons. First, as the District Court found and the Court of Appeals affirmed, commingling of code strongly deters - and may even prevent—OEMs and consumers from using middleware products offered by Microsoft's competitors (because the Microsoft product is inextricably intertwined with the OS and is thus both easier to use and harder to remove).[20] Why would an OEM include a competing middleware product that will cost money to install and use up valuable space on the hard drive when Microsoft's product is already there and has been so tightly knit with the OS that it cannot be removed without doing damage to the OS? As the Court of Appeals noted (citing the District Court's holding), Microsoft's commingling has both prevented OEMs from pre-installing other browsers and deterred consumers from using them. In particular, having the IE software code as an irremovable part of Windows meant that pre-installing a second browser would "increase an OEM's product testing costs," because an OEM must test and train its support staff to answer calls related to every software product preinstalled on the machine; moreover, pre-installing a browser in addition to IE would to many OEMs be "a questionable use of the scarce and valuable space on a PC's hard drive."
Microsoft, 253 F.3d at 64 (citations omitted).

As long as commingling is permitted, OEMs and other third party licensees will have no incentive to take advantage of the limited freedom provided by the PFJ and will continue to use Microsoft's middleware products at the expense of its competitors. As a result, commingling reduces Microsoft's distribution costs for its middleware applications to zero. It also raises the distribution costs of rival middleware application makers—who not only must pay for something that Microsoft gets for free (i.e., distribution via OEMs), but must also pay an added bounty to persuade OEMs to install their applications as the second such application on a PC. This, of course, assumes that such an added payment strategy for such middleware would even be plausible (which is highly doubtful, except in rare cases) and would not be defeated by Microsoft, a rival with roughly S39 billion in cash available to deter the prospect of being outbid by other middleware developers for PC access.

The other way in which code commingling illegally enhances the position of Microsoft middleware is by encouraging applications programmers to write their programs to Microsoft's products. (Mathewson & Winter Report at ¶¶ 14–16.) Third party developers decide how to write their applications based upon what APIs they believe will be available on the broadest number of computers and will enable their products to function most smoothly. See Microsoft, 253 F.3d at 55. Because the PFJ will allow Microsoft to continue commingling its middleware and OS code, it essentially guarantees that Microsoft's application programming interfaces ("APIs") are universally available in all Windows environments (in other words, on virtually all PCs)—and that software developers who write their applications to Microsoft's APIs can write directly to the OS. This is true regardless of whether or not end-user access to the middleware product is visible. As a result, third party software developers (whose business interests are to develop successful applications, not to challenge Microsoft's monopoly) will almost always write their programs to Microsoft middleware.[21] Thus, Microsoft's commingling practices only exacerbate the "applications barrier to entry" that already encourages developers to create software that runs on Microsoft's dominant OS and interoperates with Microsoft's middleware products. (See Mathewson & Winter Report at ¶ 16.)

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[16] See Microsoft, 253 F.3d at 46; 15 U.S.C. * 16(e) (in a Tunney Act proceeding, the court is authorized to consider whether the proposed settlement results in the "termination of alleged violations"); see also Grinnell Corp., 384 U.S. at 577 (a decree must "break up or render impotent the monopoly power found to be in violation of the Act").

[17] See Microsoft, 253 F.3d at 51, 103.

[18] In its Conclusions of Law, the District Court broadly condemned Microsoft's decision to bind "Internet Explorer to Windows with.., technological shackles." United States v. Microsoft, 87 F. Supp. 2d at 30, 39 (D.DC 2000) ("Conclusions of Law"). Specifically, the District Court denounced Microsoft's decision to bind Internet Explorer to the Windows OS "by placing code specific to Web browsing in the same files as code that provided operating system functions." United States v. Microsoft, 84 F. Supp. 2d at 50, ¶161 (D.DC 1999) ("Findings of Fact")*

[19] The danger of according Microsoft this power is exacerbated—and reinforced—by the PFJ's definition of the Windows Operating System Product ("Definition U"), which states that the software code that comprises the Windows Operating System Product "shall be determined by Microsoft in its sole discretion." Thus, Microsoft can, over time, render all the protections for middleware meaningless, by binding and commingling code, and redefining the OS to include the bound/commingled applications.

[20] 20 See, e.g.. Findings of Fact, 84 F. Supp. 2d at 49–50, ¶ 159 ("Microsoft knows that the inability to remove Internet Explorer made OEMs less disposed to pre-install Navigator .... Pre-installing more than one product in a given category..; can significantly increase an OEM's support costs, for the redundancy can lead to confusion among novice users. In addition, pre-installing a second product in a given software category can increase an OEM's product testing costs. Finally, many OEMs see pre-installing a second application in a given software category as a questionable use of the scarce and valuable space on a PC's hard drive.").

[21] For example, a developer that creates music search software is far more likely to develop a program that runs on Windows Media Player than RealPlayer, knowing that the new program would interoperate more readily with the OS if it runs on Microsoft's program and would have fewer glitches.

Thus, in the end, as both the Court of Appeals and the District Court concluded here, commingling itself deters OEMs from installing rival middleware. See Microsoft, 253 F.3d at 66; Findings of Fact, 84 F. Supp. 2d at 49–50, ¶ 159. No doubt this is why every other remedial plan contemplated in this litigation—from the Posner Proposal,[22] to Judge Jackson's interim remedial order,[23] to the proposal set forth by the Litigating States[24]—has prominently included a ban on code commingling (or, at the very least, a requirement that Microsoft make available a non-commingled version of Windows). Yet, despite that, despite the Court of Appeals'' holding, and despite the District Court's factual findings, the PFJ fails to prohibit or limit this practice in any manner whatsoever.

Microsoft has already demonstrated its willingness and ability to fend off threats from competing middleware products by illegally commingling code with the Windows OS.[25] As currently drafted, the PFJ gives the company a green light to continue this anticompetitive and illegal practice. The public interest requires that Microsoft's practice of tying its middleware and operating system, via code commingling, be prohibited.

Microsoft shall not, in any Windows Operating System Product (excluding Windows 98 and Windows 98 SE) it distributes beginning six months after the date of entry of this Final Judgment, Bind any Microsoft Middleware Products to the Windows Operating System unless Microsoft also has available to license, upon the written request of each Covered OEM licensee or Third-Party Licensee that so specifies, and Microsoft supports both directly and indirectly, an otherwise identical version of the Windows Operating System Product that omits any combination of Microsoft Middleware Products as indicated by the licensee.

(See Proposed Text ¶ 1 (hereinafter "States'' Proposed Text"), attached as Exhibit A to Litigating States'' Remedial Proposal (December 7, 2001).)

B. Microsoft Uses A Variety Of Other Tying Practices To Maintain Its Operating System Monopoly; If The Monopoly Is To Be "Terminated," Such Contractual Tying Must Be Prohibited.

The Justice Department's insistence that the remedy in this case should not include a general tying prohibition because the government abandoned its Section 1 tying claim is logically flawed. Contrary to DOJ's assertions, as discussed at length above, the ultimate remedy in this case must "terminate" Microsoft's illegally maintained monopoly- and that can only happen if the remedy addresses those behaviors that anticompetitively maintain the Windows monopoly.

The bundling, or contractual tying, of Microsoft's middleware products to its Windows OS is clearly such an anticompetitive behavior: it is the signature tactic used by Microsoft to maintain its monopoly and fend off competitive challenges, and it has been expressly found to be illegal by the Court of Appeals. See, e.g., Microsoft, 253 F.3d at 61 (the restriction in Microsoft's licensing agreements that prevents OEMs from removing or uninstalling IE "protects Microsoft's monopoly from the competition that middleware might otherwise present. Therefore, we conclude that the license restriction at issue is anticompetitive.") (emphasis added); see also Mathewson & Winter Report at ¶¶ 13–33. Put another way, various tying practices were found by the Court of Appeals to illegally reinforce Microsoft's OS monopoly and thus must be banned in order to realize the remedial mandate of the Court of Appeals and the public interest objectives of the Tunney Act.

The anticompetitive nature of tying is apparent on its face: it reduces competition and consumer choice, making it less likely for Windows consumers to acquire and use non-Microsoft middleware products for reasons unrelated to the merits of those products. See Microsoft, 253 F.3d at 60 (upholding District Court's conclusion that contractually restricting OEMs'' ability to remove IE "prevented many OEMs from distributing browsers other than IE"); see also Mathewson & Winter Report at * 23. Microsoft only makes Windows available for license to OEMs in a bundle that includes a number of its middleware applications (e.g., Internet Explorer, Windows Media Player, Windows Messenger, MSN). Microsoft also contractually prohibits OEMs from removing its applications from the bundled offering.

As explained in the attached economic report from Professors Frank Mathewson and Ralph Winter, such tying is anticompetitive and should fall under the purview of these remedy proceedings for four principal reasons: (1) it reinforces Microsoft's monopoly by increasing the applications barrier to entry against OS competitors; (2) it reinforces Microsoft's monopoly by deterring direct challenges to the OS itself as the platform of choice for software developers; (3) it weakens the greatest current competitor to Windows—prior versions of Windows; and (4) Microsoft's more recent practice of tying the Windows Media Player to the OS creates a new variant of the applications barrier to entry problem for potential OS rivals: a content-encoding barrier to entry. (See Mathewson & Winter Report, passim.)

First, tying anticompetitively strengthens Microsoft's OS monopoly by reinforcing the applications barrier to entry against OS competitors. (Id. at ¶¶ ;14–16.) The dominance of the Windows standard in a wide range of applications, including a few particularly important applications, hampers entry into the operating system market because an entrant has to offer both a new operating system and a full set of applications, or hope that applications will quickly develop once the new operating system becomes available. See Microsoft, 253 F.3d at 55 (applications barrier to entry stems, in part, from the fact that "most developers prefer to write for operating systems that already have a substantial consumer base"). This is referred to as the applications barrier to entry, and the District Court found that it served to protect Microsoft against an OS challenge from IBM in the 1990s. Id. (upholding District Court's finding that "IBM's difficulty in attracting a larger number of software developers to write for its platform seriously impeded OS/2's success").[26]

By engaging in tying to gain dominance in key applications markets, Microsoft can turn the already-daunting applications barrier to entry into a virtually insurmountable shield. As the Court of Appeals explained, "Microsoft's efforts to gain market share in one market (browsers) served to meet the threat to Microsoft's monopoly in another market (operating systems) by keeping rival browsers from gaining the critical mass of users necessary to attract developer attention away from Windows as the platform for software development." Microsoft, 253 F.3d at 60. If Microsoft controls the key applications, it can unilaterally decide not to make those applications available for even the most-promising rival operating systems. Microsoft's tying thus anticompetitively advantages its position in the middleware applications market and sustains its OS monopoly as well. (See Mathewson & Winter

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[22] See Posner Proposal * 3(9) (Microsoft is enjoined from "tying or combining any middleware product to or with a Windows operating system unless Microsoft offers a version of that operating system without such middleware product at a reduced price that reasonably reflects the relative costs of the operating system and the excluded middleware.").

[23] See United States v. Microsoft, 97 F. Supp. 2d 59, 68 (D.DC 2000) ("Microsoft shall not, in any Operating System Product distributed six or more months after the effective date of this Final Judgment, Bind any Middleware Product to a Windows Operating System .... ").

[24] The Litigating States'' Remedial Proposal would prevent Microsoft from unlawfully reducing the competitive threat from non-Microsoft middleware products by commingling middleware and operating system code. The Litigating States'' Remedial Proposal would prohibit the practice of commingling altogether or, alternatively, require Microsoft to offer, upon written request from OEMs or other third part)." licensees, its operating system on an unbundled basis:

[25] Note that Microsoft's options for exploiting technological means to advance its tying ends are not limited to code commingling. Code commingling, of course, is an extreme version of such tying, in that it prevents OEMs and consumers from removing applications without threatening the integrity of the OS. Other examples discussed during trial include deliberately harming the interoperability of Netscape's Navigator browser, see, e.g., Findings of Fact, 84 F. Supp. 2d at 31, ¶ 84 (finding that Microsoft executives explicitly offered preferred access to APIs to Netscape as an inducement to them to not expose their own APIs); id. at 33, ¶ 90–91 (finding that when Netscape refused this offer, Microsoft withheld necessary Windows APIs from I Netscape, delaying Netscape's Windows 95 browser launch until after the holiday selling season); id. at 50, ¶ 160 ("We will bind the shell to the Internet Explorer, so that running any other browser is a jolting experience."); and working aggressively to degrade the performance and desirability of Sun's Java software, id. at 109–110, ¶¶ 404–406 (finding that Microsoft harmed development of Java class libraries and cross-platform Java interfaces).

[26] See Findings of Fact, 84 F. Supp. 2d at 19–22, ¶¶ 36–44.

Report at ¶ 66.)[27] Consider, for example, Microsoft Office. At one point, companies such as Corel and Lotus provided the most popular versions of these applications. At that time, to compete with Microsoft's Windows, rival operating systems needed to persuade Corel and Lotus to port their applications to those rival systems. Now that Microsoft has successfully leveraged Windows to obtain dominance in the Office suite of applications, however, rival OS providers would have to persuade Microsoft to port Office to rival systems.

If Microsoft can gain dominance with key middleware applicatjons such as Office, MSN Messenger, and Windows Media Player, it can ensure that rival operating systems cannot meet customers" demands for the most popular applications. That is, when Microsoft's browser, Microsoft's media player, and Microsoft's instant messenger are dominant in those applications markets, Microsoft may choose not to write its applications to interoperate with a potential rival OS—making it much more difficult for nascent operating systems to compete with Windows.[28] Thus, Microsoft's tying, over time, takes today's very high "applications barrier to entry," and raises it immeasurably higher. (See Mathewson & Winter Report at ¶ 66.)

Second, bring reinforces Microsoft's monopoly by deterring direct challenges to the OS itself as the platform of choice for software developers. (Id. at ¶¶ 17–19.) A clear incentive for Microsoft to tie its Internet Explorer browser with Windows was the threat that Netscape—on its own, or combined with Java software—would eliminate Microsoft's network advantages in the operating system by providing middleware that would offer a competing platform for software developers. As the District Court and Court of Appeals found, Netscape and Java were particular threats to Microsoft's dominance in operating systems because they potentially represented a platform/programming environment in which software applications could be developed without regard to the underlying operating system. See Microsoft, 253 F.3d at 74. With middleware, the success of a new operating system no longer depended on the development of new code by every application developer. (See Mathewson & Winter Report at ¶ 19.)

If rivals develop valuable, widely distributed middleware, software vendors could very well begin to write most of their applications directly to that middleware, and the applications barrier to entry would disappear. By using anticompetitive tying to dominate each promising field of middleware, Microsoft ensures that software developers face a unified field of proprietary Microsoft OS and middleware interfaces. (Id.) Thus, Microsoft's tying practices serve, in this way too, to reinforce and entrench its illegal OS monopoly.

Third, tying weakens the greatest current competitor to Windows—prior versions of Windows. (Id. at ¶¶ 27–30.)[29] Existing versions of Windows provide competitive constraints on Microsoft for a simple reason: if new versions of Windows are insufficiently innovative or too expensive, consumers will choose to retain their older versions of the product. Through tying, however, Microsoft weakens this source of competition in two ways. First, new versions of Windows are marketed as much for new applications as for new OS features. Windows XP, for example, is being marketed in part for its inclusion of new applications, such as Windows Media Player 8.0—not just based on innovations and improvements to the OS itself. Second, middleware applications such as Internet Explorer, Windows Media Player (with the attendant Microsoft Digital Rights Management), and MSN allow Microsoft to track consumer usage. Microsoft's binding of these products to Windows "thus creates a total product that lends itself to usage and leasing fees. By gradually reducing the price of Windows and increasing the usage fees on its tied applications, Microsoft can shift to a usage or leasing revenue model, rather than a revenue model based on sales. This eliminates the competitive threat front previous versions of Windows[30]* (in addition to providing Microsoft with the fruits of its illegal behavior, as discussed in Section III.C, below). (See id. at ¶ 28.)

Fourth, in addition to these three general ways in which Microsoft's contractual tying reinforces the OS monopoly, Microsoft's more recent tying of its media player to the OS creates yet another special and highly significant reinforcement of the Windows monopoly. (See Mathewson & Winter Report at ¶ 36.) This problem results from the close connection between the media player and Microsoft's proprietary media encoding format, Windows Media Audio ("WMA"). Because Microsoft does not license the WMA format to some rival media players—including, most notably, the only other media player with substantial market presence, Real Player—Microsoft's media player is the only major player that can play content encoded in Microsoft's format. As Microsoft's format becomes more and more widespread—it is currently growing in use at a rate ten times that of its rivals - more and more content will become viewable and playable only via Microsoft's media player, which is only distributed via Microsoft's OS.

In such a market, then, a rival OS would have to overcome not only today's applications barrier to entry to compete with Windows—that is to say, it would have to persuade application writers to write their applications to interoperate with their OS—it would also have to overcome a new, even more daunting "content encoding barrier to entry" - i.e., it would have to persuade owners of thousands (or perhaps even millions) of pieces of multi-media content to re-encode their content in formats that the media player used by" the rival OS could read. (Id. at ¶¶ 37–38.) This barrier to entry applies not only to rival PC operating systems, but also to evolving operating systems for handheld and mobile communications devices, since consumers v, ill want to access the best streaming content using those devices. Thus, the currently daunting applications barrier to entry is raised many times higher by virtue of the tying of the Windows Media Player (and its related proprietary formats) to the Windows OS.[31]

All four of these anticompetitive effects are mutually reinforcing, because of the network effects operating between the applications sector and the operating system market. (Id. at ¶¶ 31–33.) Achieving dominance in applications (through tying) strengthens the dominance of the OS, because buyers in the OS market are more assured of available applications. The greater dominance in the OS market in turn feeds back into greater dominance in applications, since the tying strategies take the form of imposing an artificial advantage relative to applications of the dominant OS supplier. The greater Microsoft's share across all middleware applications markets, the greater the applications barrier to entry.

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[27] See Microsoft, 253 F.3d at 59–60 (citing District Court's finding that "Microsoft's imposition of [licensing] provisions (like man'," of Microsoft's other actions at issue in this case) serves to reduce usage share of Netscape's browser and, hence, protect Microsoft's operating system monopoly").

[28] This fear is not theoretical: the District Court found that Microsoft made just such a threat to Apple, with regard to Microsoft Office. See Findings of Fact, 84 F. Supp. 2d at 95–97, ¶¶ 345–356.

[29] The District Court's Findings of Fact, 84 F. Supp. 2d at 25, ¶ 57, maintain that the Windows leasing agreement prohibits the user from transferring the OS to another machine so that "there is no legal secondary market in Microsoft operating systems." The Findings of Fact then note at ¶ 58 that there is a thriving illegal market. To limit this, Microsoft charges a higher price for Windows to OEMs that do not limit the number of PCs the), sell without the OS pre-installed. One might argue that the durable-goods monopoly problem is eliminated by Microsoft's refusal to allow OEMs to install (without penalty) old versions of Windows. As explained in the attached Mathewson & Winter Report, this is incorrect for two reasons: "(i) increases in the price of the new version of Windows will reduce overall demand for new PCs, as users invoke the option to keep existing PCs with the old version, and (ii) there is a retail market for new versions of Windows software for installation on existing PCs. Both (i) and (ii) provide channels through which the existing stock of Windows software provides some competition for a new version of Windows (i.e., it increases the elasticity of demand for the new version). If the price of a new version is increased, the demand for the new version is reduced because fewer consumers will purchase new PCs as the price increase for Windows raises the price of the overall package of the PC and the (mandated by Microsoft) new version of Windows, and because some consumers who would have purchased Windows to install on their old PCs will now refuse to do so." (See Mathewson & Winter Report at 12 n. 10.)

[30] See Jeremy Bulow, "Durable-Goods Monopolists," Journal of Political Economy 90(2): 314–332 (explaining how leasing, rather than selling, solves the monopolists" "problem" of competition from previously existing stocks of goods); id. at 330 (a durable-goods monopolist may be able to achieve the leasing result through extending its monopoly to service contracts).

[31] This same theory applies to Microsoft's identity-authentication application, known as "Passport." If Microsoft can leverage its OS monopoly to make Passport ubiquitous, it can persuade e-commerce sites to adopt Passport as the sole identity-authentication standard. If that were to happen, a nascent OS competitor would not only have to develop its own identity-authentication application; it would also have to persuade thousands of e-commerce sites to adopt that application for use on their web sites. Thus, Microsoft's tying of Passport to the Windows OS could potentially create yet another barrier to entry in the OS market.

Thus, a remedy that does not forbid Microsoft's anticompetitive tying leaves in place one of Microsoft's most powerful tools to maintain its OS dominance—and as a result, does not "unfetter" the market or "terminate" the illegal monopoly. For this reason, the PFJ's failure to include a ban on bundling is not in the public interest.

C. By Allowing Microsoft To Continue To Tie Its Middleware Applications To Windows, Microsoft Retains One Of The Most Valuable "Fruits" Of Its Illegal Acts.

The Court of Appeals made clear that one necessary element of any remedy in this case was to "deny to [Microsoft] the fruits of its violation." See Microsoft, 253 F.3d at 103 (quoting United Shoe Mach. Corp., 391 U.S. at 250). This is in accord with the prevailing doctrine in this area. See Grinnell Corp., 384 U.S. at 577; 2 P. Areeda & H. Hovenkamp, Antitrust Laws ¶ 325(c) (2d ed. 2000).

The Court of Appeals found that Microsoft illegally maintained its OS monopoly by engaging in anticompetitive practices. See Microsoft, 253 F.3d at 51, 66. Here, because of the nature of its monopoly, one of the most lucrative fruits of Microsoft's illegal behavior is the ability to bundle its other software products with the OS and reap gains in those markets as well. In this way, the PFJ's failure to ban such tying clearly renders it deficient, because without such a prohibition it will fail to prevent future violations of Section 2, as discussed above—and also fail to prevent Microsoft from reaping the benefits of the OS monopoly that it illegally maintained. Without such a prohibition, Microsoft will be able to continue profiting from its anticompetitive behavior and will have evaded any real punishment for breaking the law.

For these reasons, as with the ban on code commingling discussed above, every other remedial proposal considered in this litigation included a ban on Microsoft's contractual tying via bundling. A formulation of such a ban was found in Judge Jackson's interim conduct remedies, which—in addition to the ban on binding middleware products to the OS—would also have prohibited Microsoft from "conditioning the granting of a Windows Operating System Product license ... on an OEM or other licensee agreeing to license, promote, or distribute any other Microsoft software product that Microsoft distributes separately from the Windows Operating System Product in the retail channel or through Internet access providers, Internet content providers, ISVs or OEMs." United States v. Microsoft, 97 F. Supp. 2d 59, 68 (D.DC 2000). Judge Posner's proposal would have prohibited tying any middleware product with the OS unless Microsoft offered a version of the OS without the middleware application, and did so at a reduced price. See Posner Proposal * 3(9). The litigating states also have proposed a very similar remedial approach. (See LSRP at 4–6.) Thus, it is only the PFJ, among the various proposals, that has failed to take this essential step to terminate Microsoft's OS monopoly, and deny Microsoft the fruit of its illegal acts. A remedy without such a provision cannot be in the public interest.[32]

IV. THE PROPOSED FINAL JUDGMENT FURTHER FAILS THE PUBLIC INTEREST TEST, BECAUSE IT DOES NOT ACHIEVE EVEN THE LIMITED OBJECTIVES THAT IT HOLDS OUT AS ITS AIMS.

As demonstrated above, the PFJ fails to address Microsoft's anticompetitive tying of middleware applications to the Windows OS, and consequently fails to fulfill the remedial mandate of the Court of Appeals. Yet, even for those anticompetitive acts that the PFJ does attempt to address, it does not provide an adequate remedy for Microsoft's illegal conduct. Indeed, the PFJ is so replete with carefully crafted carve-outs and exceptions that many of its provisions, though well intentioned, are rendered meaningless. The result is that the PFJ will do little, if anything, either to terminate Microsoft's monopoly or constrain its ability to fend off middleware threats in the future. And, as we argue above, the preliminary experience with these provisions—since the onset of their implementation by Microsoft— provides little reason to believe that the PFJ will be effective in practice. See Section II, supra.

While any conduct remedy will, of course, have limitations and the potential for evasion, none of the major defects in the PFJ are inherent in the nature of this sort of remedy. The Litigating States" Remedial Proposal provides a useful contrast on this point. Unlike the PFJ, the LSRP does not leave certain of Microsoft's anticompetitive acts unaddressed or leave Microsoft with the ability to perpetuate its operating system monopoly by illegally eliminating competitive threats from middleware developers. The Litigating States" Remedial Proposal prevents Microsoft from continuing its anticompetitive practices, is designed to restore the competitive balance in the marketplace, and seeks to ensure that competitive threats may emerge in the future unhindered by Microsoft's anticompetitive conduct. As such, it fully comports with the Court of Appeals" decision and provides this Court with a clear roadmap of what the public interest requires in this case.

To avoid undue length or repetition, we do not here provide a comprehensive list of all the numerous inconsistencies, loopholes, and shortcomings of the PFJ; we have included, in Attachment B, a more complete listing for the Court's benefit. (See A Detailed Critique of the Proposed Final Judgment in U.S. v. Microsoft, Attachment B.) In this Section, instead, we focus on six critical deficiencies in remedies that (unlike tying) are purportedly addressed in the PFJ: (1) the PFJ's failure to prevent Microsoft's discriminatory licensing practices; (2) its limited and slow-moving API disclosure provisions; (3) its inadequate protections for OEMs from retaliation; (4) its failure to promote distribution of Java; (5) its "gerrymandered" definition of middleware; and (6) its complete lack of an effective enforcement mechanism. Where helpful, we contrast the relevant provision in the litigating states" proposal for comparison's sake. By comparing the two proposals on a few central issues, it should be clear why the LSRP, and not the PFJ, addresses Microsoft illegal conduct in manner that both comports with the Court of Appeals" decision and serves the "public interest" under prevailing antitrust law.

A. The PFJ Allows Microsoft To Continue Engaging In Discriminatory And Restrictive Licensing Agreements To Curtail The Use Of Rival Middleware Products.

One of the ways in which the District Court found, and the Court of Appeals upheld, that Microsoft illegally protects its operating system monopoly from rival middleware is through discriminatory and restrictive licensing provisions. Specifically, the Court of Appeals found that Microsoft uses its licenses not only to reward OEMs that utilize and promote its products (and to discriminate against those OEMs that wish to promote non- Microsoft products), but also to restrict the manner in which OEMs can distribute rivals" products. See Microsoft, 253 F.3d at 61–67.

Despite these findings, the PFJ permits Microsoft to continue to employ discriminatory and restrictive licensing agreements to curtail the use of its competitors" products. As currently structured, the PFJ allows Microsoft to continue its use of discriminatory and restrictive licensing provisions to fend off nascent threats from middleware competitors in several ways. First, the PFJ explicitly allows Microsoft to provide market development allowances to favored OEMs; it likewise allows Microsoft to enter into "joint ventures" with OEMs, that, in practice, are little more than shells for arrangements by Microsoft to shower financial rewards on OEMs that are willing to refuse to deal with Microsoft's competitors. Given the intense competition and low margins in the OEM industry, these rewards would create a decisive competitive disadvantage for "disfavored" OEMs, forcing them to accede to Microsoft's restrictive terms.

The PFJ's mechanisms for enabling these anticompetitive tactics are surprisingly explicit. Under Section III.B.3 of the PFJ, Microsoft is allowed to pay OEMs "market development allowances" to promote Windows products. Thus, OEMs that promote Microsoft products apparently can receive de facto cash rebates on their Windows shipments, while OEMs that deal with Microsoft's rivals ".',,ill pay full list price. This preferential behavior in the browser market ,,,,,as found illegal by both the District Court and the Court of Appeals.

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[32] We have argued elsewhere that there could be alternatives to a ban on contractual tying that might, over time, also prove effective. For example, if a remedial plan included a strong provision to permit licensing of Windows, not just to OEMs, but to third parties as well, and such a regime became effective— so that there was active and effective retail competition for bundled OS applications offerings—then the necessity for banning Microsoft's contractual tying would be somewhat lessened. In such an instance, Microsoft's potential for abusive tying could be disciplined by competition from competing bundles. However, absent such competition—which the PFJ does not create—a ban on contractual tying is absolutely essential to achieve the remedial objectives of this case—and thus, the PFJ's failure to include such a provision is fatal.

See Microsoft, 253 F.3d at 60–61. Microsoft should be allowed to engage in leg/t/mate pricing decisions, but those decisions should be limited to volume-based discounts published in its price lists?[33]

Second, under Section III.G.2 of the PFJ, Microsoft may use "joint ventures" to escape any restrictions the proposed settlement would place on its licensing practices. For example, Microsoft may join an OEM in a joint venture for any "new product, technology or service" or improvement to any existing "product, technology or service," provided that the OEM contributes significant developer "or other resources." (See PFJ at Section III.G.2.) In such an arrangement, Microsoft can seek, and obtain, a pledge that its partner be "prohibit[ed] ... from competing with the object of the joint venture ... for a reasonable period of time." (Id. at III.G.) Thus, Microsoft could enter into a "joint development" project for the "new product" of "Windows X for Preferred OEM Y." The OEM's contribution could be entirely in marketing and distribution. Yet, under the language of the PFJ, it appears that Microsoft would have the ability to contractually prohibit OEMs in such joint ventures from offering products or services that compete with Microsoft. Given Microsoft's history of abusive and coercive behavior toward OEMs, it should not be allowed to enter into joint ventures with OEMs that result in exclusive agreements. Otherwise, in no time at all, Microsoft will use the opportunity to squelch competition.

Third, the PFJ purports to provide OEMs with the freedom and flexibility to configure the computers they sell in a way that does not discriminate against non-Microsoft products. Under Section III.C, the PFJ ostensibly prohibits Microsoft from entering into an agreement that would—among other things—restrict an OEM's ability to remove or install desktop icons, folders and Start menus, and modify the initial boot sequence for non-Microsoft middleware. However, the PFJ contains carve-out provisions that may render these prohibitions effectively meaningless. Under the express terms of Section III.C. 1 of the PFJ, Microsoft may retain control of desktop configuration by being able to prohibit OEMs from installing or displaying icons or other shortcuts to a non-Microsoft product or service, if Microsoft does not provide the same product or service. Thus, for example, if Microsoft does not include a media player shortcut inside its "My Music" folder, it can forbid an OEM from doing the same. This turns innovation—and the premise that OEMs be permitted to differentiate their products—on its head: under the PFJ, rivals can "compete" with Microsoft, but they are never allowed a chance to bring a product to market first, to offer a functionality before Microsoft does, or to benefit from their innovations before Microsoft determines that it is ready to meet (and if history is a guide, extinguish) these competitive challenges.

Additionally, under the PFJ, Microsoft can control the extent to which non- Microsoft middleware is promoted on the desktop by virtue of a limitation that OEMs may promote such software at the conclusion of a boot sequence or an Internet hook-up only if they display no user interface or a user interface that is "of similar size and shape to the user interface provided by the corresponding Microsoft middleware." (See PFJ at III.C.3.) And OEMs are allowed to offer Internet Access Provider ("IAP") promotions at the end of a boot sequence, but only for their own LAP offerings (whatever that ambiguous limitation means). (See id. at III.C.5.) Thus, under the PFJ, Microsoft maintains the ability to set the parameters for competition and user interface.

In order to promote competition from rival middleware, Microsoft must be prohibited from entering into restrictive and discriminator)" contractual agreements with its licensees. Although remedial proposals could have been crafted to address these anticompetitive practices, the PFJ falls short of this mark.

By contrast, the Litigating States'' Remedial Proposal would bring Microsoft's unlawful behavior to an end and thus provide competing middleware the opportunity to receive effective distribution through the important OEM channel. Under the LSRP, Microsoft would be required, at a minimum, to offer uniform and non-discriminatory license terms to OEMs and other third-party licensees. The LSRP would also require Microsoft to permit its licensees to customize Windows to include whatever Microsoft middleware or competing middleware the licensee wishes to sell to consumers. (See LSRP at 7–9.)

In addition, the LSRP specifically prohibits Microsoft from employing market development allowances, including special discounts based on joint development projects?[34] It also gives OEMs and other third-party licensees the flexibility to feature non-Microsoft products in ways that increase the likelihood that consumers will use them, without providing broad exceptions that enable Microsoft to avoid its obligations?[35] Thus, it is the LSRP—and not the PFJ—that meets the Tunney Act's "public interest" standard.

B. The PFJ Requires Microsoft To Disclose APIs Only In Certain. Narrow Circumstances. Another key element of the government's case against Microsoft was the company's withholding of the operating system's API information from rivals, so as to illegally decade the performance of rival applications. In any market where Microsoft is allowed to withhold APIs, rival software will perform imperfectly in the Windows environment, and Microsoft will illegally gain dominance. Accordingly, in order to promote competition from rival middleware developers, it is essential that Microsoft be required to provide timely access to all technical information required to permit non-Microsoft middleware to achieve interoperability with Microsoft software.

Section III.D of the PFJ imposes an obligation on Microsoft to disclose to Independent Software Vendors ("ISVs"), and others, the APIs that Microsoft middleware uses to interoperate with any Windows OS product. However, the PFJ's requirement for API disclosure is drawn much too narrowly to allow non-Microsoft middleware to compete fairly with Microsoft middleware. Here again, a comparison with the proposal of the litigating states is instructive.

First, the PFJ's disclosure requirement fails to prevent "future monopolization," because it fails to apply to critical technologies that Microsoft is likely to use to maintain the power of its OS monopoly in the future. Because nascent threats to Microsoft's monopoly operating system currently exist beyond the middleware platform resident on the same computer, any effective API disclosure requirement must apply to all technologies that could provide a competitive platform challenge to Windows, including wizard, desktop, preferences, favorites, start page, first screen, or other aspect of any Middleware in that product.").)

Second, the PFJ creates an apparent exception for Microsoft's API disclosure requirement in the emerging areas of identity authentication and digital rights management ("DRM")—critical applications that are also important to the prospects of Microsoft's "future monopolization." Section III.J.1.(a) appears to exempt Microsoft from disclosing any API or interface protocol "the disclosure of which would compromise the security of... digital rights management..., or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria." This exception is written much more broadly than any of the limits on Microsoft behavior, and could easily be used to protect Microsoft's APIs relating to DRM and identity authentication applications. The implication of this is that any rival DRM or authentication software will not function as well as Microsoft's DRM, Passport, and .Net

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[33] Less explicitly, but perhaps even more nefariously, the same provision that authorizes continuation of "market development allowances" (i.e., III.B.3) says that Microsoft may also maintain "programs ... in connection with Windows [OS] products." This appears to be a carefully veiled reference to Microsoft's use of "Marketing Development Funds"—highly discretionary, highly targeted payments to OEMs that can be yet another means of effectively rendering the list price of Windows economically irrelevant. While the PFJ ostensibly says that these "programs" must have "objective criteria," "neutral" criteria can be easily formulated that have the effect of rewarding favored players and punishing less cooperative OEMs, given the small number of major OEMs in existence.

[34] (See States'' Proposed Text * 2(a) ("Microsoft shall license, to Covered OEMs and Third-Party Licensees, Windows Operating System Products .... pursuant to uniform license agreements with uniform terms and conditions. Microsoft shall not employ Market Development Allowances or other discounts, including special discounts based on involvement or any joint development process... ").)

[35] (See States'' Proposed Text

2(c) ("Microsoft shall not restrict (by contract or otherwise, including but not limited to granting or withholding consideration) an OEM or Third-Party Licensee from modifying the BIOS, boot sequence, startup folder, smart folder (e.g., MyMusic or MyPhotos), links, internet connection network servers, web servers, and hand-held devices. The PFJ does not; by contrast, the Litigating States'' Remedial Proposal expressly provides that Microsoft must disclose all APIs, technical information, and other communications interfaces so that Microsoft software installed on one computer (including personal computers, servers, handheld computing devices and set-top boxes) can interoperate with Microsoft platform software installed on another computer. (See LSRP at 11.)

My Services (formerly known as Hailstorm). Thus, under the PFJ, Microsoft may be able to degrade the performance of any rivals to any of these services.

These markets, however, are just as important to the next stage of the industry's evolution as browsers were to the last stage. DRM solutions, for example, allow content vendors to sell audio and video content over the Internet on a "pay for play" basis. Since the most prevalent use of media players in the years ahead will be in playing content that is protected in this fashion, if non-Microsoft media players cannot interoperate with Windows" DRM solution, those media players will be virtually useless except for "freeware" content.[36] Thus, if DRM is exempt from API disclosures under the PFJ, Microsoft can destroy the competitive market for one of the most vital forms of middleware—media players.

The authentication exemption is potentially even more far-reaching. Most experts agree that the future of computing lies with server-based applications that consumers will access from a variety of devices. Indeed, Microsoft's ".Net" and ".Net My Services" (formerly known as Hailstorm) are evidence that Microsoft certainly holds this belief. These services, when linked with Microsoft's Passport, may allow Microsoft to participate in a substantial share of consumer e-commerce transactions over the Interact, irrespective of which device is used to access the Internet (cell phones, handheld computers, etc.). If Microsoft prevents competition with its Passport standard, it may be able to realize its stated goal of charging a fee for every single e-commerce transaction on the Internet.[37]

Under the guise of security, Microsoft has obtained a loophole in the PFJ that undercuts a critical disclosure requirement. Microsoft's legitimate security concerns— which, of course, are shared by all of its major business rivals—do not require this loophole. Section III.J.2 of the PFJ excludes from disclosure rights any company with a history of software counterfeiting or piracy or willful violation of intellectual property rights, or any company that does not demonstrate an authentic and viable business that requires the APIs. This means that Microsoft only has to disclose to bona fide software rivals whose interests in security and stability are as Meat as Microsoft's. As added protection, Section III.J.1.(b) of the PFJ allows Microsoft to refrain from any disclosure simply by persuading an impartial government body, on a case-by-case basis, that a specific disclosure would put system security at risk. Together, these provisions provide Microsoft with all the room it needs to take legitimate security precautions.

Once again, the litigating states" proposal provides a useful contrast. It contains no disclosure "carve out" to exempt DRM and identity-authentication from the general disclosure obligation imposed on Microsoft. (See LSRP at 11.) Instead, it creates a regime of timely, complete, and comprehensive API disclosure that will allow competitors an opportunity to challenge Microsoft's efforts to entrench its OS monopoly in a market where distributed computing is the dominant model—an opportunity that was sadly missed as the browser became critical to Internet-related applications, due to Microsoft's anticompetitive refusals to share technical information. Thus, once again, it is the LSRP, not the PFJ, that would meet the Court of Appeals" objectives and the public interest standard.

C. The PFJ Does Not Ban Many Forms Of Retaliation By Microsoft Against OEMs.

The District Court found, and the Court of Appeals upheld, that in order to create a competitive market structure in which non-Microsoft middleware products are able to compete effectively with Microsoft products, licensees, such as OEMs, must have the ability to distribute and promote non-Microsoft products without fear of coercion or interference from Microsoft. Recognizing the central role that OEMs play in the distribution and ultimate usage of non-Microsoft middleware products, the PFJ includes an anti- retaliation provision which is intended to protect those entities that support or promote non-Microsoft products. According to the Department of Justice, this anti-retaliation provision "broadly prohibits any sort of Microsoft retaliation against an OEM based on the OEM's contemplated or actual decision to support non-Microsoft software." (See CIS at 25.)

Unfortunately, the PFJ does not provide the broad protection from Microsoft's retaliation that the government claims it does. Indeed, the PFJ's anti-retaliation provision is so narrow that it will do little, if anything, to protect OEMs that wish to distribute or promote non-Microsoft products. The PFJ's anti-retaliation provision is deficient in numerous respects. First, it appears to create only a narrow range of procompetitive activities that OEMs can engage in without being subject to Microsoft retaliation. For example, the PFJ prohibits retaliation for OEMs that promote rival middleware, but does not appear to prohibit retaliation against OEMs that promote any other type of rival software (which, under the PFJ's language, probably includes rivals to Passport; MS Money, Windows Movie Maker, and MSN Messenger, just to name a few). Even if this glitch were unintentional, the ambiguity might still be sufficient to allow Microsoft to coerce OEMs into avoiding Microsoft rivals.

Second, even within the scope of protected OEM activities, the PFJ appears to bar only certain types of Microsoft retaliation. The PFJ prohibits Microsoft from withholding "newly introduced forms of non-monetary Consideration" from OEMs, but is less clear about whether Microsoft may use already-existing forms of consideration to retaliate against OEMs. (See PFJ at III.A.) More importantly, while the PFJ prohibits Microsoft retaliation via an alteration of commercial agreements, it does not appear to prohibit any other form of Microsoft retaliation (e.g., product disparagement) that Microsoft can imagine.[38]

In addition, under Section III.A of the PFJ, Microsoft may, sua sponte, terminate an OEM's Windows license after sending the OEM two notices stating that it believes the manufacturer is violating its license* There need not be any adjudication or determination by any independent tribunal that Microsoft's claims are correct. All that is required are two notices; after that, Microsoft may terminate an OEM's license. This provision means that the OEMs are, at an), time, just two registered letters away from unannounced economic calamity; after all, given Microsoft's monopoly on the operating system, termination of an OEM's Windows license is a death sentence for an OEM's business.

Again, such inadequate safeguards are not inherent in an effective non- retaliation protection. For instance, the Litigating States" Remedial Proposal prevents Microsoft from taking any action that directly or indirectly adversely affects OEMs or other third-party licensees that in any way develop, distribute, support or promote competing products, thereby providing the type of protection contemplated by the Court of Appeals. (See LSRP at 13–14.) Thus, the Litigating States" Remedial Proposal clearly prohibits Microsoft retaliation for any procompetitive OEM behavior and prohibits all forms of Microsoft retaliation. Importantly, the LSRP also prohibits Microsoft from retaliating against any individual or entity for participating in any capacity in any phase of this litigation. Again, it is the LSRP that meets the Court of Appeals" objectives for this case— not the PFJ.

D. The PFJ Does Nothing To Remedy Microsoft's Illegal Campaign To Eliminate Java.

Yet another aspect of the trial court's decision that was upheld on appeal by the DC Circuit was the District Court's finding that Microsoft's actions in eliminating the threat posed by Sun Microsystems" Java technology were unlawful under Section 2 of the Sherman Act. See Microsoft, 253 F.3d at 74–75. The PFJ, however, omits any remedy for this core abuse. Thus, unlike either the District Court's remedy or the remedy Judge Posner suggested, the PFJ does not protect those specific products, such as Java, that actually compete with Windows today and offer alternatives to Microsoft's dominance.

The Litigating States" Remedial Proposal addresses this deficiency by requiring that Microsoft distribute Java with its platform software for a period of ten years. (See LSRP at 17–18.) The LSRP recognizes, as did the District Court and Judge Posner, that in order to ensure that rival products such as Java can compete with Microsoft, they must receive the widespread distribution that they could have obtained absent Microsoft's unlawful behavior.

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[36] See Brad King, Microsoft Poised for Music Domination, Wired, June 14, 2001.

[37] As Nathan Myrhvold, Microsoft's former chief technology officer, put it, Microsoft's strategy is to "get a "vig," or "vigorish," on every transaction over the Internet that uses Microsoft's technology." David Bank, Microsoft Moves To Rule On-Line Sales, The Wall Street Journal, June 5, 1997, at B1. The term refers to a gambling house's "cut" on all bets placed in the establishment.

[38] For example, the PFJ does not appear to foreclose a Microsoft strategy whereby OEMs would be told that senior Microsoft executives and spokespeople will opine that the product of OEM X works better than the product of OEM Y, if OEM Y refuses to install only Microsoft applications.

The requirement that Microsoft distribute Java with its operating system and Internet Explorer browser takes on even greater importance in light of Microsoft's recent behavior. For example, although the Court of Appeals upheld the trial court's finding that Microsoft targeted and destroyed independent threats from the Java programming language, see Microsoft, 253 F.3d at 53–56, 60, Microsoft announced less than a month later that it was dropping any support for Java from Windows XP. As The Wall Street Journal reported at the time, "This favors Microsoft's new technologies, and will inconvenience consumers .... [I]f you want your Web page accessible to the largest number of people, you may want to drop Java" and switch to Microsoft's competing set of products, which is under development and is known as NET."[39] Thus, notwithstanding the Court of Appeals" holding that Microsoft illegally maintained its monopoly by requiring major independent software vendors to promote Microsoft's JVM exclusively (i.e., by requiring developers, as a practical matter, to make Microsoft's JVM the default in the software they developed), Microsoft is again acting illegally to maintain—and further entrench—its operating system monopoly against Java's middleware threat.

To remedy the specific and extensive anticompetitive tactics aimed at Java, as found by the District Court and affirmed by the Court of Appeals, Microsoft should be ordered—as outlined in the Litigating States" Remedial Proposal—to distribute with its platform software a current version of the Java middleware. This would ensure that Java receives widespread distribution, thus increasing the likelihood that it can serve as a viable competitive platform to Windows. Although rivals such as Java will likely remain small players compared to the dominant Windows OS, their existence on the competitive fringe is critical to provide some competitive discipline to Microsoft on pricing and coercion matters. Moreover, the existence of these rivals creates a base for future developments that might one day provide true alternatives to Windows.

E. The PFJ Includes A "Gerrymandered" Definition Of Middleware. Though not readily apparent, the effectiveness, or lack thereof, of the PFJ's restrictions on Microsoft's behavior heavily depends on the proposed agreement's definition of "middleware." Under the proposed settlement, OEMs are protected from retaliation and can promote competitive alternatives to Microsoft products only in the area of middleware. Thus, if rival software falls outside of the definition of middleware, Microsoft can essentially use its coercive might to prevent that software from being distributed via OEMs. Conversely, if a Microsoft product is not classified as middleware, Microsoft is permitted to use coercion to force its adoption and promotion.

The PFJ adopts a new, and greatly narrowed, definition of middleware, both in terms of "Microsoft Middleware Products" and "non-Microsoft Middleware." The result is significant because under the newly created definition, Microsoft may be able to subvert many of the PFJ's restrictions. The Litigating States" Remedial Proposal defines middleware in a manner consistent with the definition adopted by both the District Court and the Court of Appeals.[40] It thus prevents Microsoft from using a definitional shell game to avoid changing its unlawful behavior.

The District Court and the Court of Appeals adopted the same definition of middleware: software products that expose their own APIs; are written to interoperate with a variety of applications; and are written for Windows as well as multiple operating systems. See Microsoft, 253 F.3d at 53; see also Findings of Fact, 84 F. Supp. 2d at 17–18, ¶¶ 28–29. Thus, while the DC Circuit discussed browsers and the Java technologies as leading examples of middleware, Microsoft, 253 F.3d at 59–78, it never adopted an exclusive list limited to specific products (as the PFJ does).[41] Importantly, the Court of Appeals also agreed with the District Court that the appropriate category of "middleware" applications that merit protection against Microsoft's anticompetitive conduct includes .any application that could operate separately or together with other such applications to create even the "nascent" potential for alternative platforms that could compete with Microsoft's OS monopoly. Id. at 52–54, 59–60, 74.

These standard definitions of middleware were also endorsed in the Posner Proposal, which, as noted above, Microsoft was reportedly ready to accept last year. Section 2(3) of the Posner Proposal defined middleware broadly, to include any "software that operates between two or more types of software.., and could, if ported to multiple operating systems, enable software products written for that middleware to be run on multiple operating systems." Moreover, the substantive portion of the Posner Proposal, in Section 3(8)(c), explicitly included not just enumerated products, but also an)" "middleware distributed with such operating system installed on one personal computer to interoperate with any of the following software installed on a different personal computer or on a server: (i) Microsoft applications, (ii) Microsoft middleware, or (iii) Microsoft client or server operating systems."

The PFJ departs significantly from these established definitions of middleware and instead adopts wholly new definitions for both "Microsoft Middleware Products," and "non-Microsoft Middleware." These definitions include several flaws that Microsoft may be able to use to anticompetitively advantage its applications, continue to profit from the fruits of its illegally maintained monopoly, and evade the practical consequence of the PFJ for many product lines.

To start, the PFJ's definition of "Microsoft Middleware Products" appears to limit this category to five specifically-listed existing products and their direct successors? This makes no sense for two reasons. First, why define the most critical term in the proposed settlement narrowly when Microsoft has already demonstrated its skill at evading consent judgments?[42] And second, why does the list include certain Microsoft products, but arguably not their virtually indistinguishable cousins: i.e., Outlook Express, but not Outlook; Windows Messenger, but not MSN Messenger; the Microsoft JVM, but not MSN RunTime; Internet Explorer, but not MSN Explorer. Likewise, Microsoft middleware applications such as the MSN client software and Passport appear to be excluded. The significance of these omissions cannot be overstated. For example, although Microsoft must allow OEMs, under the PFJ, to remove end-user access to Internet Explorer, the decree's language appears to allow Microsoft to ban any effort to replace MSN Explorer with a competitor. This is a step backwards from the status quo.

Additionally, Section III.H.2 of the PFJ explicitly limits OEM flexibility to set non-Microsoft Middleware as a default so that it can be automatically invoked: the PFJ appears to allow OEMs to do so only with competitors of "Microsoft Middleware Products" that (1) appear in separate Top-Level Windows, with (2) separate end-user interfaces or trademarks. Thus, Microsoft might be able to avoid the PFJ's provisions simply by embedding Microsoft middleware with other middleware, or not branding it with a trademark. That means Microsoft—not the OEMs, and certainly not the market—would determine the scope of desktop competition and the pace of desktop innovation.

Conversely, the definition of the rivals to Microsoft Middleware Products— "non Microsoft Middleware Product"- is also jury-rigged to advantage Microsoft. Under Section IV.N of the PFJ, protected middleware products are limited to those applications "of which at least one million copies were distributed in the United States within the previous year." Thus, developers have no protection from Microsoft's well-honed predatory tactics until they can obtain substantial distribution.

The PFJ's middleware definition also does not explicitly include web-based services, the most important future platform challenge to the Windows monopoly. These web-based services represent an important and growing type of middleware, and the PFJ's failure to explicitly cover them may allow Microsoft to recreate and extend its desktop monopoly to new platforms.[43]

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[39] John R. Wilke and Don Clark, Microsoft Pulls Back Its Support for Java: New Windows XP System Won't Include Software Needed to Run Programs, The Wall Street Journal, July 18, 2001.

[40] (See States" Proposed Text ¶ 22(w).)

[41] See also Microsoft, 253 F.3d at 59 (referring to browsers as exemplary of "any middleware product, for that matter"); id. at 74 (Java is a set of technologies that "is another type of middleware posing a potential threat to Windows" position as the ubiquitous platform for software development").

[42] The PFJ does contain a generic middlewaredefinition, see Section VI.K.2, but this applies only to new products, and therefore does not capture an)" product now in existence.

[43] See Rebecca Buckman, Microsoft Says Its Future Lies in Subscriptions, The Wall Street Journal, May 31, 2001.

The newly created and narrowly crafted definitions of middleware in the PFJ pave the way for Microsoft to avoid many of the prohibitions on its conduct. The middleware definitions in the LSRP, on the other hand, are consistent with those endorsed by the District Court and Court of Appeals, and ensure that the protections from Microsoft's illegal conduct are extended to Microsoft's competitors in critical middleware markets.

F. The PFJ Lacks A Meaningful Enforcement Mechanism.

For any remedy against Microsoft to be effective, it must include a strong, timely, and meaningful enforcement mechanism. The PFJ creates an extraordinarily weak enforcement authority—one that likely will be overwhelmed and co-opted by Microsoft. More specifically, as currently drafted, there are two principal problems with the PFJ's enforcement mechanism.

First, the proposed decree leaves all enforcement to a single, three-person Technical Committee ("TC"). With no looming antitrust proceedings to put pressure on Microsoft to behave, Microsoft will have every incentive to hinder the efforts of the TC. Moreover, Microsoft will have substantial insights and influence over the TC—Microsoft will appoint at least one member of the TC (the first two members will appoint the third); the TC will be stationed full-time on Microsoft premises; and the TC will rely for many types of enforcement on a compliance officer hired and paid for by Microsoft. In light of all this, it would be easy to imagine a situation where the TC, during the entirety of its existence, never took a single action critical of or hostile to Microsoft, no matter what behaviors Microsoft engaged in.

Second, the enforcement authority has no power other than the authority to investigate. The TC cannot expedite claims, assess fines, or otherwise move quickly to redress Microsoft's illegal behavior. If the TC finds any abuse, its only recourse will be to the courts, through mini-retrials of United States v. Microsoft. Moreover, under Section IV.D.4.(d) of the PFJ, the TC is prohibited from using any of its work product, findings, or recommendations in any court proceedings. Thus, even if the TC eventually refers a matter to the courts, the proceedings will have to start from scratch. The history of the 1994 consent decree shows the futility of this type of approach.

By contrast, the Litigating States" Remedial Proposal recommends the creation of a Special Master who is empowered and equipped to investigate Microsoft's behavior in a manner that is prompt and resolute. The appointment of a Special Master with defined remedial powers is essential if Microsoft's unlawful behavior is to be curbed and competition restored to the marketplace. Thus, the creation of a Special Master provides for a mechanism that is much more effective in ensuring Microsoft's compliance with the settlement decree, and does not suffer from the defects identified above in the PFJ's TC proposal.

First, unlike the TC in the PFJ, a Special Master, as selected by the Court, would be independent. He or she would not be dependent on Microsoft for resources, appointment, or other needs.

Second, under the Litigating States" Remedial Proposal, the Special Master would have the authority to identify, investigate, and quickly resolve enforcement disputes. For example, under the States" proposal, the Special Master would have the power and authority to take any and all acts necessary to ensure Microsoft's compliance. (See States" Proposed Text ¶ 18(b).) The Special Master would have the benefit of both business and technical experts. (See id. ¶ 18(d).) Upon receipt of a complaint, it would be required to make an initial determination of whether an investigation is required within fourteen days. After notifying Microsoft and the complainant of its decision to investigate, Microsoft would then have fourteen days to respond. After Microsoft's response, the Special Master would be required to schedule a hearing within twenty-one days, and fifteen days after the hearing, would be required to file with the Court its factual findings and a proposed order. (See id. ¶ 18(f).)

Unlike the enforcement mechanism in the PFJ, the creation of a Special Master as outlined by the States would prevent disputes over Microsoft's compliance from becoming wars of attrition that would drain the system and guarantee Microsoft victory. The history of this case, and of antitrust regulation in general, suggest the need for an enforcement mechanism that can ensure the timely resolution of any disputes and minimize any demand on judicial resources. The enforcement provisions contained in the Litigating States" Remedial Proposal accomplish these objectives.

V. THE CIRCUMSTANCES OF THIS CASE STRONGLY MILITATE IN FAVOR OF GATHERING EVIDENCE AND TESTIMONY—EITHER IN A HEARING, OR THROUGH THE USE OF THE RECORD FROM THE REMEDIAL PROCEEDING—TO DETERMINE IF THE PFJ MEETS THE PUBLIC INTEREST TEST.

We believe, for the reasons presented above, that the PFJ fails the Tunney Act's "public interest" test and should be rejected. At the very least, however, there is ample basis for the Court to conclude that a rigorous hearing is needed to air the objections to the PFJ and resolve the doubts that the Court hopefully has about the proposed decree. While it need not be a lengthy proceeding, the Court may also want to consider accepting evidence and taking testimony- or alternatively, making use of record evidence it will receive in the upcoming proceeding concerning the LSRP. The question of what can be learned about the PFJ's prospects for effectiveness, since its partial implementation began in July (and, in other respects, December), is especially critical, and would benefit from additional fact-finding by the Court.

A. The Complexity And Significance Of This Case—And The Inadequacy Of The CIS -All Militate In Favor Of A Hearing On The PFJ. Of all the cases in which courts have reviewed proposed consent decrees to make a public interest determination under the Tunney Act, the case most similar to the present action is American Tel. & Tel. Co., 552 F. Supp. at 131, aff'd sub nom Maryland v. United States, 460 U.S. 1001 (1983), in which Judge Greene subjected the government's proposed consent decree with AT&T to intense judicial review.[44] In AT&T, the court recognized that the proposed settlement not only would dispose of "what is the largest and most complex antitrust action brought since the enactment of the Tunney Act, but [] itself raises what may well be an unprecedented number of public interest questions of concern to a very large number of interested persons and organizations." American Tel. & Tel. Co., 552 F. Supp. at 145.[45] In light of the size and the complexity of the case,[46] 46 as well as its "unfortunate history" and the interests of third parties, the court held an extensive hearing to address key issues raised by the consent decree and the comments of interested parties. Id. at 147, 152. The case for an extensive hearing on the PFJ in this proceeding is overwhelming for similar reasons.

First, this is an extremely complicated case, to say nothing of the profound consequences any settlement will ultimately have on the computer and Internet industries. The economic significance of the computer industry is unquestioned. In such an environment, expert economic analysis is critical to help the Court not only understand the incentives that will drive Microsoft's response to any proposed settlement, but also assess whether the PFJ will succeed in bringing the monopolist's unlawful behavior to an end and promoting competition in a market that has long been restricted. Given the complexity of this case, the Court should not approve the PFJ without an adequate hearing to consider the many- and often technical—objections to it that will doubtlessly be raised in the Tunney Act submissions.

Second, in temps of the impact that an□, proposed settlement in this case will have on the public, Judge Greene's depiction of the AT&T case is, once again, more than fitting here: "[t]his is not an ordinary antitrust case." Id. at 151. Microsoft is one of our nation's largest corporations. It plays a central role in one of the country's most critical and important industries, and thus in our country's economy. Any settlement that addresses Microsoft's illegal conduct in a manner that is consistent with the Court of Appeals" decision and prevailing antitrust law will have far-reaching consequences on numerous organizations, both public and private, as well as on Microsoft, its employees, shareholders, competitors, and most importantly, consumers. Thus, a hearing to consider the breadth and depth of these consequences is in order before the PFJ is approved.

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[44] Similar to the case at hand, Judge Greene in ,4 T& T had a well-developed factual record on which to base his public interest determination. In .4 T&T, the parties reached their settlement following a period of discovery, pretrial motions, and an eleven-month trial. Shortly before the evidence phase was to end, the Department of Justice and the defendant agreed upon, and submitted to the court, a proposed final judgment.

[45] Here, of course, the proposed consent decree was reached after a full trial on the merits, as well as an affirmance by the Court of Appeals, upholding the District Court's findings of liability against Microsoft. The court also acknowledged that if approved, the proposed decree "would have significant consequences for an unusually large number of ratepayers, shareholders, bondholders, creditors, employees and competitors," and would affect "a vast and crucial sector of the economy." /d. at 152.

[46] The Senate sponsor of the Tunney Act, Senator Tunney, specifically cited a case's complexity as a factor militating in favor of conducting a hearing on the adequacy of a decree. See 119 Cong. Rec. S3453 (daily ed. February 6, 1973) (statement of Sen. Tunney).

Third, a hearing should be held to require the Justice Department to answer the many questions surrounding the PFJ—raised here, and doubtlessly elsewhere—that the Competitive Impact Statement ignores or fails to adequately address. Why was a new, "gerrymandered" definition of middleware used in the PFJ—instead of the definition used by both the trial and appellate courts, and in every other remedial proposal? Why was a Java- related remedy omitted, when that was such a key part of the case? Why were only some forms of retaliation, for only some procompetitive acts, prohibited? And most importantly, why does the PFJ not address all of the anticompetitive wrongs that were found at trial, and upheld on appeal—including, most especially, Microsoft's unlawful tying? These questions are not answered by the CIS, as the Tunney Act directs and the public interest demands, and as the Court would surely desire. A full review of these questions, and many others, is needed by the Court before it can approve the PFJ (if it is inclined to approve the PFJ).

Thus, in light of the specific objections from third parties revealing the PFJ's numerous deficiencies—and the oddity of the differing remedial proposals now before the Court—the Court should hear oral argument and, if necessary, take additional testimony. Giving the government an opportunity to explain the omissions in its proposed settlement, and third parties the opportunity to demonstrate the efficacy of the litigating states" proposal, will afford the Court the necessary basis on which to make its public interest determination in this important and unprecedented case.

B. The Court Should Conduct A Proceeding—Taking Evidence And Hearing Testimony, If Necessary—To Determine How The PFJ's Provisions Have Functioned Since Some Were Put In Place In 2001.

A second rationale for a hearing is to develop a factual record concerning the point we make in Section II, supra: namely, that the Court can assess the prospects for the likely effectiveness of the PFJ by seeing how those provisions that have been implemented are starting to work—or not—in practice.

Above, we have suggested that the empirical record developed in the PC industry since Microsoft's July 11, 2001 announcement of "greater OEM flexibility for Windows," and since Microsoft began to implement many of the PFJ's remedial provisions on December 16, 2001, should be examined carefully by this Court as it determines whether the PFJ is in the "public interest." We also express the view that these provisions have, in fact, been ineffectual in promoting competition and are showing no signs that they will yield change in the competitive position of non-Microsoft middleware—and as a result, cannot be said to be in the public interest.

At the same time—while we doubt it, seriously—we recognize it is theoretically possible that there may be reasons why these provisions have not yet shown signs of effectiveness, but would be effective over time. At least, that is what Microsoft and the Justice Department are likely to assert. If the Court is inclined to give these assertions any credence, that is all the more reason for the Court to conduct a proceeding—taking evidence and hearing testimony, if necessary- to make a determination on such claims based on empirical evidence, rather than relying upon hypothetical contentions or abstract theories. Such a proceeding is authorized by the Tunney Act, see 15 U.S.C. * 16(f), and would be appropriate in this instance.

Evidence and testimony from the OEMs can make clear whether they are taking advantage of the "new flexibility" ostensibly being provided under the PFJ—and if not, why not. Given the OEMs" likely fears of retaliation from testifying in such a proceeding—as reflected by their apparent (and understandable) reluctance to testify in the remedial proceeding—the Court may want to consider appointing a Special Master to take evidence from the OEMs confidentially.[47] Likewise, evidence and testimony from non- Microsoft middleware companies can indicate how the provisions of the PFJ, after they have been in place for several months, are—or are not—enabling them to compete with Microsoft. The same can be said for OS rivals to Microsoft.

The point is that while we firmly believe that the publicly available information and reports all indicate that the PFJ's provisions, as implemented since December 16th (and the browser-related PFJ provisions, as implemented since July 11th), have done little or nothing to promote competition, the Court may wish to base such a conclusion upon a judicially developed record that would allow both proponents and opponents to offer explanations and evidence in support of their views. Such a proceeding could be of a more informal nature, i.e., the Court could solicit comments from the relevant parties and industry experts; or it could be conducted by a Special Master, as we suggest above; or it could be a more formal, trial-type undertaking. All of these approaches are authorized under the Tunney Act, which grants wide discretion to the court to adopt whatever form of proceeding it considers most effective. See 15 U.S.C. § 16, passim. But on one point, the Act, or at least its legislative history, is rather firm: "[T]he court must obtain the necessary information to make [a] determination that the proposed consent decree is in the public interest." 1974 U.S.C.C.A.N. 6535, 6538–39 (H.R. Rep. 93–1463, quoting S. Rep. 93–298, at 6–7 (1973)) (emphasis added). Some sort of proceeding to examine these questions is justified in these circumstances,[46] and could be helpful to the Court in its consideration of the practical effects of the PFJ.

C. In Making Its "Public Interest" Determination. This Court Should Take Into Account The Evidence That Will Be Adduced In The Upcoming Remedial Proceeding. Finally, the Court should take advantage of the Tunney Act's broad procedural flexibility to use the record evidence that will be amassed in the upcoming remedial proceeding as it make its "public interest" determination in this review. The Court's Tunney Act review of the PFJ in this proceeding can be substantially assisted by the record developed in the forthcoming proceeding on the LSRP. As we have argued, the Court's objectives in both proceedings are the same—namely, to terminate Microsoft's illegal conduct, prevent the recurrence of such conduct, and create a market structure in which competition does not simply exist in theory, but actually yields real alternatives to Microsoft's products. Moreover, the Court's analysis in both proceedings is guided by the[49] same legal principles. See Section I, supra.

Many of the questions the Court must answer in the course of reviewing the PFJ—e.g., What sort of anti-retaliation provisions are needed to empower OEMs and foster real competition? Must third parties be empowered to promote competition through offering alternatives to the "Windows bundle" for a remedy to be effective?—will be addressed, in whole or in part, in the remedial proceeding. To the extent that these questions can only be answered by hearing testimony from some of the same individuals and the same sources in the remedial proceeding, the Court's reliance on that evidence in this proceeding would result in a more comprehensively informed review, streamline the Court's resolution of the issues, and lead to a much more efficient use of judicial resources.

The Tunney Act itself grants the Court wide discretion to undertake any procedures it "may deem appropriate" in making its public interest determination. 1 5 U.S.C. * 1 6(0(5). This includes using evidence from another proceeding. See American Tel. & Tel. Co., 522 F. Supp. at 136. As the court noted in AT&T, "[i]n a Tunney Act proceeding the Court is not limited by the rules of evidence but may take into account facts and other considerations from many different sources." Id. at 136 n. 7 (emphasis added). In that case, the court relied on a report by the Antitrust Subcommittee of the House Committee on the Judiciary, which had conducted an investigation of the matter, to fill in gaps left in the court record. Id. at 136. Ira court can weigh an evidentiary record compiled by the Congress, it surely can weigh an evidentiary record of its own creation in a related proceeding.[50]

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[47] The Court is authorized to appoint a Special Master to conduct inquiries as part of this Tunney Act proceeding. See 15 U.S.C. * 16(f)(2). Making a determination as to why OEMs have failed to use their "new found freedoms"—and whether they are likely to do so in the future—would seem to be a task well suited to a Special Master.

[46] While Congress made clear, in enacting the Tunney Act, that such hearings were to be the exception, and not the rule, see 1974 U.S.C.C.A.N. 6535, 6539 (quoting S. Rep. 93–298, at 7 (1973)), this may well be one of those cases where an evidentiary inquiry is called for.

[49] This is not to say that the PFJ should be rejected merely because it is not identical to the remedy that the Court might impose in the remedial proceeding. See supra note 2. Conversely, acceptance of the PFJ would not preclude the Court from imposing a different remedy in the proceeding being pressed by the litigating states.

The Court is currently overseeing a wide range of discovery, both written and oral, in the remedial proceeding. Testimony will presumably be taken from a host of witnesses that will establish, among other things: how Microsoft deals with OEMs, including how various Microsoft practices limit OEM flexibility in configuring the desktop;[51] how Microsoft has used the commingling of code, and other forms of binding its middleware to the OS, to reinforce the applications barrier to entry; how Microsoft has used discriminatory and anticompetitive licensing agreements to limit the distribution and use of rival products; how Microsoft's illegal conduct has worked to destroy Java; how Microsoft's .Net initiative repeats the illegal monopoly leveraging tactics it successfully used to decimate Netscape; how Microsoft's concealment of APIs decades the performance of non-Microsoft products and services; and how Microsoft has manipulated industry standards and developed proprietary standards and formats that limit the interoperability of competing products.

This evidence, which will be presented during the Court's remedial hearing later this Spring, will form the basis on which the Court crafts its remedy in the ongoing litigation. It is our view that this evidence will affirmatively demonstrate why the LSRP, and not the PFJ, fulfills the mandate of the Court of Appeals and comports with well settled antitrust law. By the same token, it will also demonstrate why the PFJ fails to redress Microsoft's illegal behavior in a manner consistent with tile public interest.

Because many of the questions the Court faces in this proceeding mirror those in the remedial proceeding, the Court should take the record evidence from the remedial proceeding into account in conducting its Tunney Act review of the PFJ. Simply put, by utilizing this evidence, the Court will adduce the information it needs to make its "public interest" determination in a manner that encourages greater efficiency and avoids unnecessary delay or duplication.

CONCLUSION

The Court should refuse to find that entry of the PFJ is "in the public interest." The PFJ does not unfetter the market from Microsoft's dominance; it does not terminate the illegal monopoly; it does not deny to Microsoft the fruits of its statutory violations; and it does not end Microsoft's practices that are likely to result in monopolization in the future. More specifically, the PFJ does not even attempt to address, let alone end, Microsoft's illegal binding and bundling practices that have done so much to fortify its OS monopoly and to harm desktop competition. And its limited provisions are so filled with loopholes and exceptions that they are rendered ineffective. At the very least, the Court should refuse to approve the PFJ until after it has concluded an extensive review, including an inquiry into whether the PFJ's provisions—as implemented by Microsoft since last year—are showing signs of effectively restoring competition to the marketplace. The Court could conduct an evidentiary hearing, appoint a Special Master, and/or rely upon the record that will be adduced in the trial on the Litigating States" Remedial Proposal to meet its evidentiary needs.

In the end, it is the proposal of the litigating states—not the PFJ—that meets the public interest standard. The Court should reject the PFJ, and impose a strong, effective and forward-looking remedy that addresses Microsoft's proven anticompetitive conduct in a manner consistent with the mandate of the Court of Appeals and the nation's antitrust laws.

Dated: January 28, 2002
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ATTACHMENT A

MTC–00028284—0067

Microsoft's Tying Strategies To Maintain Monopoly Power !n Its Operating System (Civil Actions No. 98–1232 and 98–1233 CKK)

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TABLE OF CONTENTS

INTRODUCTION—1
MICROSOFT HAS MANY TECHNIQUES AT ITS DISPOSAL FOR TYING MIDDLEWARE TO WINDOWS—2
ECONOMIC ANALYSIS SHOWS THAT MICROSOFT HAS SUBSTANTIAL INCENTIVES TO USE TYING TO SUSTAIN ITS OPERATING SYSTEM MONOPOLY, HARMING CONSUMERS AND COMPETITION—4
A. As a general matter, absent legal constraints, Microsoft possesses substantial economic incentives to integrate its products in a manner that reinforces its OS monopoly—5
(1) Microsoft ties its applications to its operating system as a way of sustaining the applications barrier to entry—5
(2) Microsoft ties applications to its operating system as a way of deterring direct challenges to Windows" position as the dominant platform for software developers—7
(3) Microsoft has incentives to tie to achieve a monopoly in complementary applications as insurance against possible future erosion of its OS dominance—9
(4) Microsoft's operating system also has durable-goods qualities that create further anti-competitive incentives for tying—12
(5) Microsoft's anti-competitive tying incentives are mutually reinforcing and are manifest in strategies that lack any competitive justification—14
B. Microsoft's anti-competitive incentives are particularly powerful in the markets for browsers and streaming media, as well as the adjacent markets for content-encoding, digital rights management, e-commerce, and convergence—15
C. The theorized benefits of product integration that may exist in some cases do not apply to the markets at issue in this case—19
(1) The economics of software markets cast doubt on Microsoft's efficiency arguments for integration of its own browser and media player with the OS—20
(2) Contrary to Microsoft's claims, issues of pricing and innovation provide further evidence that Microsoft's tying harms the marketplace and consumers—22
GIVEN THE INCENTIVES, HISTORY, AND EVIDENCE IN THIS CASE, THE CONCLUSION IS THAT MICROSOFT HAS ENGAGED, AND IS ENGAGING, IN ANTI-COMPETITIVE TYING IN ORDER TO PROTECT AND STRENGTHEN ITS OPERATING SYSTEM MONOPOLY—24
A. Microsoft's options, incentives, and history create a strong presumption that Microsoft's tying harms OS competition and consumers—24
B. The evidence indicates that Microsoft is anti-competitively tying the browser and the media player with its operating system—25

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[50] Although the circumstances in which the AT&T court considered the subcommittee's report are different from those here, the Tunney Act clearly allows this Court to rely on evidence from a variety of sources. The legislative history of the Act makes clear that Congress did not intend to limit the techniques a court could use to make its public interest determination. See 1974 U.S.C.C.A.N. 6535, 6539 (quoting S. Rep. No. 93–298, at 6 (1973)) ("Section 2(f) sets forth some techniques which the court may utilize in its discretion in making its public interest determination. It is not the intent of the Committee to in any way limit the court to the techniques enumerated.")* Indeed, Congress anticipated that by giving trial courts wide discretion to collect evidence and conduct procedures in the way they saw fit, courts would be able to adduce the necessary information in the least complicated and most efficient manner possible* See id. ("The Committee recognizes that the court must have broad discretion to accommodate a balancing of interests... It is anticipated that the trial judge will adduce the necessary information through the least complicated and least time-consuming means possible.").

[51] As we note above, the OEMs appear understandably reluctant to testify in the remedial proceeding* This is all the more reason to use a Special Master (or other procedural device) to ascertain confidentially their views of the PFJ's provisions and the likely effectiveness of those provisions. See supra note 47 and accompanying text.

CONCLUSION—28
APPENDIX: CURRICULUM VITAE OF FRANK MATHEWSON—1
APPENDIX: CURRICULUM VITAE OF RALPH WINTER—1

INTRODUCTION

We have been engaged in this case as professional economists [1] to assess the economic incentives and effects of Microsoft's tying practices. Our specific charge is to determine whether Microsoft is tying middleware applications to its operating system ("OS") in a manner that protects and reinforces its monopoly power in the market for operating systems. Middleware is software that runs on the OS platform, i.e., that calls on the basic operating system through application programming interfaces ("APIs") of the OS in order to invoke functions of the OS, but which in turn contains its own published APIs that allow higher-level applications to run on the middleware itself.[2] To execute our mandate, we have reviewed the economic incentives at play in this market, conducted interviews with various software developers, and studied the key documents in this case, including the Proposed Final Judgment and the Competitive Impact Statement of the U.S. Department of Justice, the submissions made on behalf of Microsoft, and the Comments Of AOL Time Warner On The Proposed Final Judgment.

Based on our analysis, we conclude that Microsoft has tied its middleware applications to its Windows operating system in ways that preserve and reinforce its monopoly power in the market for operating systems on PCs, damaging competition and harming consumers. The anti-competitive use of tying strategies to maintain a monopoly in this manner is, in our understanding, a violation of Section 2 of the Sherman Act. We conclude that market forces alone do not discipline Microsoft to limit the integration of middleware code into its OS or the bundling of middleware products with its OS to efficiency-enhancing levels. Rather, Microsoft has the ability to tie in ways that lack pro-competitive justification, and in any event has incentives to use tying strategies to integrate applications into its OS more aggressively than justified by efficiency.

We begin in the next section with a brief description of the tying strategies at Microsoft's disposal. We then demonstrate through economic analysis that Microsoft has substantial incentives to tie its middleware products to its monopoly OS to reinforce and entrench that monopoly. Given these incentives, Microsoft's history, and the evidence in this case, we conclude that Microsoft has engaged, and is engaging, in anti-competitive tying, and is doing so in a way that maintains its OS monopoly, to the detriment of consumers and competition.

MICROSOFT HAS MANY TECHNIQUES AT ITS DISPOSAL FOR TYING MIDDLEWARE TO WINDOWS.

Microsoft has various means of binding its middleware products to the Windows operating system. Before describing these practices and the ways in which Microsoft uses them to reinforce its OS monopoly, we explain the general concept of middleware and why Microsoft's licensing of middleware with its OS in the Windows package constitutes tying.

Middleware is exemplified by products such as Internet browsers, including Microsoft's Internet Explorer ("IE") and Netscape's Navigator, media players, instant messaging, and middleware applications platforms such as Java. By a strategy of tying middleware to the OS, we mean any constraint that Microsoft's operating system be bought with (or bound to) Microsoft middleware products, or any contractual or financial inducement to this end. Microsoft has argued that various middleware applications, especially IE and Windows Media Player ("WMP"), are essential components of an integrated operating system rather than distinct products, and that tying or bundling these products with the core operating system therefore does not constitute tying. Microsoft's argument is incorrect.

Middleware products, such as browsers and media players, are sold in separate markets. Users can obtain Navigator or RealPlayer without purchasing an operating system in the same transaction. Users can also obtain IE or MSN Messenger without obtaining Windows. Until Microsoft bundled WMP into Windows, users could obtain these two products in separate transactions. Moreover, these products are clearly sold by different suppliers. The Court cannot give serious weight to Microsoft's argument that once WMP, for example, is integrated into Windows, the media player ceases to be a separate product: If this argument were accepted, then the mere fact that Microsoft integrates application code into the operating system would itself be a defense for its actions. In other words, tying, as a means of reinforcing a monopoly position, would constitute its own defense. The law, we suggest, cannot intend this.

Tying involves contractual arrangements whereby Microsoft puts pressure on original equipment manufacturers ("OEMs") or end-users to acquire Microsoft applications as a condition of acquiring Windows. It includes requirements that OEMs install Microsoft applications, rather than applications developed by Microsoft's rivals, and prohibitions on removing or uninstalling those applications. It also includes financial inducements to adopt Microsoft applications when Windows is purchased and installed. Each of these requirements is enforced through Microsoft's coercive power to harm non-adhering OEMs.

Tying also involves desiring the OS so that Microsoft's applications are integrated into the OS code, leaving rival applications unnecessary or even dysfunctional. This type of tying includes: (a) basic integration of code; (b) efforts by Microsoft to hinder disintegration; and (c) efforts to hamper the interoperability of rival applications. Basic integration involves providing, as part of the OS, services previously offered as stand-alone applications. This could be done in a purely modular fashion without the commingling of application code into the kernel of the operating system. If done in this manner, the products can be easily removed and replaced with competing products in a "plug and play" fashion. Technological efforts that hinder disintegration, however, have stronger anti-competitive overtones. These include: commingling code in a manner that hampers, and perhaps even bars, the replacement of the products or default options; designing the OS so that Microsoft's applications are chosen as default applications; making it difficult for OEMs or users to replace the icons or launch sequences; and creating utilities to "sweep" the Windows desktop and replace non-Microsoft icons. Note that some of these forms of tying, such as hampering rivals' performance, entirely lack pro-efficiency rationales, while all of them can be used in inefficient, anti- competitive manners. The remainder of this paper demonstrates that Microsoft has strong incentives to engage in such anti-competitive, inefficient bundling, and that it is doing so in a manner detrimental to competition with the goal of maintaining its extant monopoly in operating systems.

ECONOMIC ANALYSIS SHOWS THAT MICROSOFT HAS SUBSTANTIAL INCENTIVES TO USE TYING TO SUSTAIN ITS OPERATING SYSTEM MONOPOLY, HARMING CONSUMERS AND COMPETITION.

Microsoft has maintained that its tying is efficient and that it should be allowed to determine the level of integration of applications into its operating system. Microsoft argues that it should be free to tie its products together in any fashion it sees fit, as this type of product integration is efficient and promotes innovation with eventual consumer benefits. These arguments generally claim to defend Microsoft's intellectual property, and are expressed in terms of the general advantages of product integration, rather than defining specific benefits to users from Microsoft's practice of tying particular middleware products, such as IE or WMP, into the Windows package.

Microsoft's claim amounts to the belief that market forces alone achieve the optimal degree of product integration and separation without any further regulatory or legal constraints. As a matter of economic theory, this argument fails to take note of Microsoft's position as a dominant producer in a market with substantial barriers to entry. For this general market-forces argument to be valid, Microsoft would need to demonstrate that competitive vigor in the market will discipline Microsoft to engage only in tying that enhances efficiency. But such complete reliance on market forces to achieve efficiency, in turn, requires open entry, while the evidence in this case has shown that there are significant barriers to entry in the OS market. This leaves Microsoft in a position to exploit any strategic and anticompetitive motives to integrate. As a matter of market reality, as we shall explain, the evidence demonstrates that Microsoft has engaged in tying to an excessive degree, with the sole purpose of achieving anti-competitive aims in general and OS monopoly-preserving aims in particular.

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[1] Mathewson is a Professor of Economics and Director of the Institute for Policy Analysis at the University of Toronto and Winter is a Professor of Economics and Finance at the University of Toronto. Both are Senior Consultants to Charles River Associates. Our curriculum vitae are attached as appendices to this report.

[2] Middleware and operating systems, i.e., any software which exposes APIs so that higher level applications run on top of the software, are together referred to as platform software.

With respect to the practices of tying middleware, Microsoft's interests are not aligned with those of competition and consumers: Microsoft can benefit without improving its product by using tying strategies to reinforce and strengthen its existing OS dominance.

A. As a general matter, absent legal constraints, Microsoft possesses substantial economic incentives to integrate its products in a manner that reinforces its OS monopoly.

Below, we set forth four theories that explain why Microsoft's practice of integrating its applications with the Windows OS helps to maintain its OS monopoly, in a way that is detrimental to consumers and competition. First, tying helps to sustain the applications barrier to entry, and thus serves to enhance Microsoft's OS dominance. Second, tying deters direct challenges to Windows" position as the dominant platform and thereby maintains or enhances Microsoft's OS dominance. Third, tying involves dynamic leveraging that permits Microsoft to achieve a monopoly in complementary applications as insurance against any possible erosion of the OS monopoly. Put another way, a monopolist, such as Microsoft which produces a pair of perfectly complementary products, aims to protect its full monopoly power by ensuring its future monopoly in at least one of the complementary products. Fourth, tying permits Microsoft to mitigate the competitive constraints on its operating system monopoly provided by previous releases of the OS. These four theories are not mutually exclusive; each of them contributes to a full understanding of Microsoft's anti-competitive conduct. And, to make matters worse, each of these anti-competitive results is mutually reinforcing because of the network effects operating between the applications sector and the operating system market.

(]) Microsoft ties its applications to its operating system us a way of sustaining the applications harrier to entry. Microsoft has a general incentive to engage in anti-competitive tying to protect its dominance in operating systems against the possibility of competitive developments in applications markets. The first means by which it accomplishes this is through enhancing the applications barrier to entry[3] The dominance of the Windows standard in a wide range of applications, or in a few particularly important applications, makes entry into the operating system market more difficult because an entrant has to offer both a new operating system and a full set of applications, or somehow rely on the chance that applications ,,,,,ill quickly develop once the new operating system becomes available. In this way, an entrant faces a "chicken-and-egg" problem because of the indirect network effects in the operating system: the entrant could not succeed without a set of applications available to purchasers of its operating system; yet, few software developers would invest in the development of new applications based on an operating system without a large market share. This is referred to as the applications barrier to entry. The dominance of Windows as a standard for applications leads to the applications barrier to entry and growth in the operating system market.

Microsoft is able to sustain this barrier by exploiting a collective action problem among buyers. When Microsoft ties by supplying the OS with an application such as IE or WMP, users must incur a series of costs to replace the application. These costs include purchasing or downloading the substitute browser or media player, installing the application, and incurring any uncertainty associated with the possible compromise in the functional integrity of the system. In an application market, buyers would collectively be better off if each incurred the costs of purchasing from competing suppliers, because doing so would ensure greater competition in the future application market. However, Microsoft's tying practices preclude this result.

Buyers" purchase decisions with respect to either the operating system or applications collectively affect the future market structure because Microsoft will achieve dominance if most buyers choose Microsoft products. Once Microsoft achieves dominance, network externalities sustain this dominance so that the market structure becomes a monopoly as a result of buyers" previous purchase decisions. The impact of each buyer's purchase decision on the future market structure, however, is negligible. Moreover, buyers do not take into account the impact of their purchase decisions on other buyers. As a result, even a small disadvantage to purchasing a competing product in the operating system or applications markets is enough to make the individual buyer prefer Microsoft's product.

The result is that buyers" decisions make them collectively worse off. The future dominance of Microsoft and the higher prices faced by buyers are a result of their collective decision to purchase Microsoft's applications. Microsoft exploits this collective action problem and pursues dominance in the applications markets through its tying practices.[4]

(2) Microsoft ties applications to its operating system as a way of deterring direct challenges to Windows position as the dominant platform for software developers.

Microsoft's incentives for anti-competitive tying are particularly strong in the case of applications that might allow for the development of direct substitutes to the monopolized operating system. A clear incentive for Microsoft to tie its IE browser with Windows has been the threat that Netscape, either individually or combined with Java software, could eliminate Microsoft's network advantages in the operating system, by providing middleware (which serves potentially as universal translation support between any application and any operating system) that would provide a competing platform for software developers. This was a particular threat to Microsoft's dominance in operating systems because it potentially represented a platform/programming environment in which software applications Could be developed without regard to the underlying operating system. Middleware provides a layer of software between applications and the operating system and can accommodate a new operating system with a change in a single set of code. Without middleware, the success of a new operating system would depend on the development of new code by every application developer. This incentive also explains Microsoft's initiatives to develop a Microsoft version of Java in an attempt to undermine the universal-translator aspect of Java.

Some economists have argued that the backwards compatibility of Microsoft's version of Java, i.e., the ability of all general Java applications to run on Microsoft's version, rules out the hypothesis that Microsoft designed its version of Java for the purpose of stifling the potential threat to its dominance in operating systems.[5] This argument is wrong in its static assumption about compatibility. Given the history of the industry, the fact that Microsoft's initial version of Java was universally compatible with Java applications does not lead one to believe that if Microsoft dominated not just browsers but also Java in the future, it would continue to assure both compatibility of applications and free distribution of the pair of middleware products. Were Microsoft to establish dominance in the potential browser-Java bypass of its operating system dominance, why would it allow the bypass to be freely and effectively available? The concerns expressed by Microsoft's executives about the risks of "commoditization" of the operating system are well known.[6] Middleware generally has the potential to act to varying degrees as a universal translator between an operating system and specific applications, because (as the name suggests) middleware intermediates between the operating system and applications: it invokes calls through an operating system's APIs and in turn issues its own APIs to applications. To accommodate a new operating system, instead of each application requiring recoding for compatibility, only the "bottom half" of the middleware application must be reprogrammed. If twenty applications run on top of a particular middleware program, for example, compatibility with a new operating system could be achieved by reprogramming the middleware program instead of reprogramming each application. Middleware thus mitigates the indirect network effects of the operating system—and could potentially diminish the dominance of any operating system that these network effects support.

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[3] See U.S. v. Microsoft, 84 F. Supp. 2d 9 (D.DC 1999) ("U.S. Findings of Fact"), 36ndash;44.

[4] In the economics literature, modem theories of anti-competitive exclusion, including tying as exclusionary, are linked by the theme that exclusionary contracts have an impact on individuals outside an individual buyer-seller contract. See Dennis Carlton and Michael Waldman (2001) "The Strategic Use of Tying to Preserve and Create Market Power in Evolving Industries," unpublished working paper; Eric Rasmussen et al., (1991) "Naked Exclusion," American Economic Review 81 (5): 1137–1145; Michael Whinston (1990) "Tying, Foreclosure, and Exclusion," American Economic Review 80(4): 837–859; and Philippe Aghion and Patrick Boulton (1987) "Contracts as a Barrier to Entry," American Economic Review 77(3): 388–401.

[5] "Microsoft's Java virtual machine ... allowed for all programs written for the original ("pure") Java to be run on it. Thus it preserved backward compatibility with the original Java that ran on all operating systems. Because of that, Microsoft's actions were not anti-competitive." Nicholas Economides, "The Microsoft Antitrust Case," Journal of Industry, Competition and Trade." From Theory to Policy, March 2001, p. 20 of working paper version.

[6] In a 1995 memo to his "Executive Staff and direct reports," Microsoft CEO Bill Gates stated that Netscape was "pursuing a multi-platform strategy where they move the key API into the client to commoditize the underlying operating system." (5/26'95 "The Internet Tidal Wave," Pl. Ex.20, p. MS98 0112876.3.)

(3) Microsoft has incentives to tie to achieve a monopoly in complementary applications as insurance against possible future erosion Of its OS dominance.

A common response to the argument that monopolies can profit through leveraging into a second market is that monopoly profits can be collected only once: a tie into a complementary market with an increase in the price of the tied good by a dollar will reduce the demand price of the first good by a dollar. According to this response, there is no incentive to leverage. In the simplest, static world in which there are no industry dynamics, no uncertainty, and no variation in consumer demand, this "one-monopoly theory" is correct. This theory, however, fails when there is uncertainty about the preservation of monopoly. If the initial monopoly is at some risk, then an incentive for leverage arises as insurance against the loss of monopoly profits. In the event that the first monopoly fails and the second succeeds, the monopolist will have preserved a monopoly in at least one of the markets. [7] Consistent with the common response, having a monopoly in only one of the pair of markets is sufficient to collect the full monopoly profits. If either market's monopoly is uncertain, the monopolist has an incentive to create monopolies in both markets, and thus increase the likelihood of being able to obtain monopoly profits in at least one market.

If Microsoft fears for the longevity of its operating system monopoly, or believes that operating systems are in a mature market with limited prospects for growth, it will have strong incentives to make minor sacrifices to Windows functionality in order to obtain dominance in high-growth markets. This is particularly true if the sacrifices (such as damaging relationships with OEMs and consumers by forcing them to accept an inferior browser or media player) have negligible effects on demand for Windows. The greater the threat to its OS dominance in the future, the more incentive Microsoft has to establish a dominant supplier position in an application market, such as the browser or media player market. To take a hypothetical future contingency, if the development of middleware means that the future OS market turns out to be more competitive than the current market, then Microsoft's actions to achieve dominance in the application market will leave it with dominance in one product of a pair of complementary products, rather than dominance in neither. Microsoft's incentive to establish dominance in key applications is thus strengthened by the fact that Microsoft's monopoly in the operating system market is not guaranteed to always be airtight. [8]

The gains from leveraging are especially strong where network effects are present in applications markets or these markets otherwise promise large potential growth in revenues for any firm that establishes early dominance. [9] Network effects have three implications that make Microsoft's tying practices particularly effective in reinforcing its OS dominance. First, in the early stages of the market's development, purchasers will be on alert for signals of which standard will eventually become dominant, in order to reduce their exposure to later costs of converting to the dominant standard. Tying a new application with the dominant Windows operating system will send strong signals to purchasers that will help to "tip" the market toward Microsoft's favored products, particularly given Microsoft's history. Second, a feedback loop will cause both the tying and Microsoft's dominance to steadily accelerate. As Microsoft begins to gain a substantial share in an application market, it will be able to engage in more overt forms of tying, as customers grow to accept even inconvenient results from Microsoft's ant/- competitive behaviors (such as poor interoperability with rivals) because of the reinforcing network effects. This, in turn, will accelerate the tipping toward Microsoft dominance. Third, once Microsoft's dominance is established, proprietary standards and continued tying will lock in this dominance, not just on current production but on "future applications in the same functional space. While all of these effects promote Microsoft's dominance in applications, it is the feedback effect of this control over applications to reinforce the OS dominance that is relevant for the matter at hand. Network effects or network economies refer to the positive value that any single user derives from the number of other users adopting the same operating system. See U.S. Findings of Fact ¶¶ 39–42 and ¶¶ 65–66 for application to Microsoft. For a general description of networks and positive feedback, see Carl Shapiro and Hal Varian (1999) Information Rules Boston: Harvard Business School Press, pp. 173–225.

The standard "one-monopoly" theory, however, tells us that when there are two perfectly complementary products A and B, a monopoly over either, or a monopoly on both, allows the identical profits and results in the identical effects. (This theory holds in a static framework that sets aside the other three theories that we discuss.) With respect to an OS with a set of applications that are virtually universally adopted by all PC users, a monopoly over the OS alone is identical in its effect and in its incentives to a monopoly over the set of applications alone or a monopoly over both the OS and the set of applications. That is, there is only one monopoly: the economic role of tying under the monopoly-insurance theory is not creating a new monopoly, but rather preserving the monopoly (the monopoly being at least one monopoly position in the OS-applications pair). The monopoly-insurance theory thus explains the anti-competitive use of tying to preserve a monopoly in violation of Section 2 of the Sherman Act.

The monopoly-insurance theory of tying has the effect of reinforcing Microsoft's monopoly position even if the preservation-of-monopoly requirement of Section 2 of the Sherman Act is construed narrowly to apply only to Microsoft's existing monopoly on operating systems for PCs. The reason (discussed below) is that all of Microsoft's incentives for tying applications to Windows are mutually reinforcing. Even if Microsoft's incentive for tying were primarily to insure a monopoly in the event that the Windows OS monopoly failed in the future (the insurance theory), one effect of the tying is to reduce the chance that the Windows OS monopoly actually does fail, because of the strengthening of the applications barrier to entry. The impact is preservation, though imperfect, of Microsoft's monopoly in the operating system market.

Microsoft's operating system also has durable-goods qualities that create further anti-competitive incentives for tying.

Part of Microsoft's argument that it should be free to "innovate" rests on the notion that an important source of "competition" in selling new versions of Windows is the existing stock of old versions of Windows.[10]

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[7] This idea is developed formally in J.P. Choi and C. Stefandis (2001), "Tying, Investment and the Dynamic Leverage Theory," The RAND Journal of Economics 32(1): 52–74.

[8] See U.S. Findings of Fact ¶¶ 33–35, 60–64.

[9] It may appear that any preservation-of-monopoly theory must Be applied narrowly to Microsoft's monopoly power in operating systems. If this were the case, then the insurance theory of tying just described would not apply, since this theory explains why tying to establish dominance in a new market can be profitable because of the profits that can be captured in that new market, instead of why it is profitable to protect the monopoly in the operating systems market.

[10] The District Court's Findings of Fact maintain that the Windows leasing agreement prohibits the user from transferring the OS to another machine so that "there is no legal secondary market in Microsoft operating systems" (¶ 57). The Findings of Fact then note (° 58) that there is a thriving illegal market. To limit this, Microsoft advises OEMs that Microsoft will charge a higher price for Windows to OEMs that do not limit the number of PCs they sell without the OS pre-installed. One might argue that the durable goods monopoly problem is eliminated by Microsoft's refusal to allow OEMs to install (without penalty) old versions of Windows. This is incorrect for two reasons: (i) increases in the price of the new version of Windows will reduce overall demand for new PCs, as users invoke the option to keep existing PCs with the old version, and (ii) there is a retail market for new versions of Windows software for installation on existing PCs. Both (i) and (ii) provide channels through which the existing stock of Windows software provides some competition for a new version of Windows (i.e., it increases the elasticity of demand for the new version). If the price of a new version is increased, the demand for the new version is reduced because fewer

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While it is true that the durable-goods aspect of the OS market (i.e., the ability of consumers to retain their existing versions of the OS instead of buying a new version) disciplines Microsoft, it only does so in the sense that Microsoft earns fewer profits than it would in a hypothetical world in which it were to lease its OS. The claim that the OS market is, in fact, more competitive than this hypothetical market does not weaken the claim that Microsoft's position in the OS market is dominant and that its activities are illegal.

Moreover, this "durable good monopolist" feature of the market contains an incentive for Microsoft to engage in illegal bundling. The strategy of leasing as a means of escaping the durable monopolist's dilemma is well established and has been thoroughly analyzed by economists.[11] Rather than selling the product into the market in each period, if the monopolist seller of a durable good can lease the product on a period-by-period basis, it can retain complete control over the supply of the good into the market in each period. This allows the monopolist to set monopoly prices in each period instead of being constrained by the consumers" option to continue using the already-purchased stock (or version) of the product. The monopolist who leases for a period can lease both previous and current production together to achieve monopoly profits; doing so eliminates the competitive discipline that would otherwise occur as past sales re-enter current and future markets. If Microsoft could move to a business plan of leasing rather than selling software, it would completely eliminate competition from old versions of the software: as Microsoft leases new versions of software, it could retire leases on old versions. This would serve to protect the monopoly power that Microsoft enjoys from its OS. Tying can allow Microsoft to implement this leasing strategy so as to avoid the durable good discipline. Specifically, tying the use of the OS to some complementary transaction that can be leased, or priced on a per-use basis—rather than sold—provides Microsoft with the opportunity to collect a revenue stream that is immune to the competitive discipline imposed by previous versions of the OS.

The escape from the durable monopolist's dilemma via leasing thus creates another incentive for tying. Tying allows Microsoft to move closer to the leasing outcome by facilitating the collection of transaction fees based on current usage. [12] The set of middleware products that potentially puts Microsoft in the position of collecting a fee on Internet transactions serves this role. These products are IE, WMP, Microsoft's Digital Rights Management ("DRAM") software, as well as the Net My Services initiative. The Digital Rights Management software, with WMP, will initially support a market for music and video products. The combination of these middleware applications, enabling the Microsoft e-commerce network, will then support the transition to Internet sales transactions of a broad variety of products. As Microsoft begins to shift its revenue structure from Windows sales to Internet transaction fees, it will seek to control the key Internet access choke points such as browsers, media players, and digital rights management. Tying facilitates this control. Moreover, Microsoft can directly charge usage fees for its media player software that it cannot charge for the OS. While the durable-goods monopoly theory of Microsoft's tying incentives can be seen most directly as a theory of the incentive to dominate applications that facilitate a leasing business plan, one important impact of dominating these applications is to preserve Microsoft's dominance in the market for operating systems. The impact, in other words, is a preservation of Microsoft's OS monopoly.

As an empirical matter, versions of Windows are converging in their substitutability. This convergence of versions strengthens tile durable-good monopolist incentive to tie in two ways. First, it increases Microsoft's incentive to escape the durable-good monopolist discipline on prices, since the easier it is to substitute the current version of Windows with existing versions, the stronger this discipline is. Second, there are, in principle, two ways of leasing to escape tile durable-good monopoly discipline. Microsoft could rent the OS or tie it to an application and collect the corresponding stream of revenues each time the application is used. The converging substitutability of Windows" versions renders the former more difficult, increasing the incentive to escape the durable-good discipline by tying applications. Thus, the increasing substitutability among sequential versions of Windows, even if later versions are superior, reinforces Microsoft's incentives to extend its monopoly to dimensions, such as Internet sales, in which it can charge a rig [13] or rent the application.

(5) Microsoft's anti-competitive tying incentives are mutually reinforcing and are manifest in strategies that lack any competitive justification.

The incentives for anti-competitive tying that we discuss are mutually reinforcing because of the network effects operating between the applications sector and the operating system market. Achieving dominance in applications (through tying) strengthens the dominance of the OS, because buyers in the OS market are more assured of available applications; the greater dominance in the OS market in turn feeds back into greater dominance in applications, since the tying strategies take the form of imposing an artificial advantage relative to applications of the dominant OS supplier. The greater Microsoft's share across all applications markets, the greater the applications barrier to entry. Greater shares in applications markets create a feedback effect of even greater dominance in the OS market. The source of this feedback effect is an "indirect network effect": the greater the penetration of any operating system, the more applications will be written to it, and consequently, the more valuable the operating system will be "to any user. Since the OS monopoly is not perfect, Microsoft will therefore take advantage of anti-competitive opportunities to generally strengthen the applications barrier to entry. As a general principle, therefore, any extension of Microsoft's monopoly to a set of important applications reinforces its monopoly in operating systems.

Microsoft has a clear incentive to engage in tying in the form of hampering rival applications and coding its own applications to be defaults to the detriment of consumer choice. This type of tying has a negligible negative effect on the demand for Windows, and by tipping high-growth markets, could provide Microsoft with long-term profits. Given that the Windows source code is both complex and proprietary, Microsoft can engage in this type of tying surreptitiously. For example, Microsoft can alter the algorithms that set "favorites" in folders and task bars so that Microsoft-preferred applications and web sites are used more frequently. In addition, Microsoft can cause subtle performance problems for rival applications in Windows environments. This type of tying, however, is consistent only with anti-competitive behavior—no efficiency benefits result from ham-ting rivals or setting Microsoft options as defaults.

B. Microsoft's anti-competitive incentives are particularly powerful in the markets for browsers and streaming media, as well as the adjacent markets for content-encoding, digital rights management, e-commerce: and convergence.

In markets with network effects and perceived similarity in product functions, directional changes in market shares can "tip" the market toward a dominant outcome because consumer expectations as to which format will dominate are self-realizing. In other words, the expectation on the part of consumers that a particular format will dominate leads each consumer to choose that format because of the rational concern that other formats will not be supported—accelerating the dominance and confirming the expectations of consumers. Consider the browser and the media player as examples. In the browser market, Microsoft has achieved the dominance that it sought, and its monopoly power in the OS continues. These are related: browser dominance reinforces OS monopoly power.[14] The connection is that browser dominance

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consumers will purchase new PCs as the price increase for Windows raises the price of the overall package of the PC and the (mandated by Microsoft) new version of Windows, and because some consumers who would have purchased Windows to install on their old PCs will now refuse to do so.

[11] See Jeremy Bulow "Durable-Goods Monopolists," Journal of Political Economy 90(2): 314–332 or Jean Tirole (1988) The Theory of Industrial Organization, Cambridge: MIT Press, p. 81.

[12] See Jeremy Bulow (1982:330) who suggests that a durable-goods monopolist may be able to achieve the leasing result through extending its monopoly to service contracts; these are analogous in principle to the application restrictions in the matter at hand.

[13] The term "rig" or "vigorish," a term used by Microsoft, refers to a gambling house's "cut" on all bets placed in the establishment. See Allen Myerson, Rating The Bigshots: Gates vs. Rockefeller, The New York Times, May 24, 1998, at 4 ("The Gates crowd speaks ... of collecting a "vigorish" or "vig'.... Now Microsoft wants to collect a rig on Internet access too.").

[14] See U.S. Findings of Fact ¶¶ 68–72.

increases the applications barrier to entry and simultaneously removes the direct middleware threat posed by Netscape. Both of these effects in turn serve to increase the demand for the Windows OS through network effects as buyers anticipate continued dominance of Microsoft formats in both the operating system and applications markets; the two effects thus reinforce the dominance of Windows OS.

Now that Microsoft has effectively achieved dominance in browsers, and through this reinforced its dominance in operating systems, the stage is set for applying the same tactics to markets for other applications. The media player market represents an important current market in which Microsoft's anti-competitive strategies are at play. In the media player market, Microsoft's first incentive for tying is to protect its dominance in the market for operating systems by deterring the development of new middleware platforms. Streaming media players will be essential for Internet browsing in the future because of their ability to enhance Internet content rendering under bandwidth constraints. If Microsoft achieves dominance in the media player market (and as noted above, the "tipping point" argument suggests that a trend to dominance can quickly translate into a highly dominant market share), any entrant into the operating system market would also have to provide a media player compatible with the WMP format. For this reason, the applications barrier to entry incentive is especially powerful for streaming media players. Rival operating systems will be unable to provide a functional (i.e., Windows Media Audio-compatible) media player since the Windows Media Audio format is proprietary and Microsoft refuses to universally license it. [15] Because compatibility with streaming media is vital to future operating systems, Microsoft's dominance over operating systems will be ensured. The observation that Microsoft licenses the software for playing downloaded media, but not the software for streaming media, suggests that Microsoft is strategically aware of the profit-enhancing power of retaining exclusive property rights on media streaming software.

To elaborate: with respect to other applications, an entrant into the OS market could—at least in theory- provide an OS plus a set of applications. However, even this potential entry strategy is not available in the case of the media player application, because the use of a media player by a user depends not just on products that could be provided by the new entrant, but on the proprietary formats chosen by Internet sites using media player software. In this sense, the provider selection of Microsoft's proprietary format creates a content-encoding barrier to entry for streaming media players. Again, this reinforces Microsoft's monopoly power over the OS market.[16]

An additional anti-competitive incentive for dominating an application market is to secure a monopoly position in at least one product in the application/OS pair in order to achieve monopoly profits even in the event that the OS dominance is not sustained. This is discussed above in Section III.A.3. The possibility that the OS dominance is not sustained means that the joint monopolist could not necessarily collect the maximum profits through the OS price alone. Dominance of the application market would secure, or at least increase the likelihood of, monopoly profits.

This incentive is particularly relevant to streaming media markets. For example, the OS dominance could be at risk as consumers move to handheld devices for computing and accessing the Internet that do not require Windows OS. Presumably, however, these customers will still wish to play music and see videos on such devices. To the extent that WMP and its accompanying format achieve dominance for streaming media, Microsoft will maintain monopoly power in the pair of products consisting of the OS plus the media player. (Recall that the essential measure of monopoly in the markets for a pair of complementary products is dominance in at least one of the products.) Thus, streaming media players and formats hold the potential for Microsoft to maintain its original monopoly.

Additionally, significant gain accrues "to Microsoft if its DRM technology dominates the related market for audio and video files. Using encryption technology, DRM technology permits only users with licenses to play the packaged file. The license has a key to unlock the encryption. Should a user without a license attempt to play the file, the application initializes with an application that permits the user to acquire the license. Applications with DRM technology and Windows Media Device Manager enable the use of WMP on devices other than conventional desktop computers. Since market participants will tend to limit their investments to the likely dominant standard, Microsoft can easily become the sole provider of DRM solutions. Moreover, this will be a critical market for Microsoft, since users will require licenses for downloading, and content providers require certificates for encryption. The alternatives of mutual interoperability or even open standards are equally plausible conceptually, but not in Microsoft's interests. Microsoft thus has incentives to use tying to ensure that its DRM solution remains proprietary and becomes dominant. Microsoft can ensure this outcome by making its media player format the format of choice for both users and content providers, and tying WMP to Windows ensures this choice. Once again, this creates a content- encoding barrier to entry that permits Microsoft to maintain its monopoly power in the pair: OS plus WMP as an application. Because of the durable-goods nature of Microsoft's OS monopoly, as described in Section III.A.4 above, Microsoft has additional incentives to tie streaming media technologies to the OS. Indeed, the greatest value for locking in the dominant streaming media and DRM formats may be the rig that Microsoft hopes to collect from Internet transactions. [17]

Dominating the media player format so as to collect a vig on transactions would position Microsoft to collect transactions revenue that may well exceed revenues available from Windows software licenses alone—even if Microsoft's dominance of the OS market is secure. As we discussed in Section III.A.4, monopolists of durable goods recognize that past sales constitute future competition (here, older versions of Windows compete with current and future versions of Windows). The monopolists face a competitive constraint against increasing prices even in the absence of any significant rivals. Such monopolies naturally seek ways to circumvent the constraint. In the case of Windows, the constraint is potentially circumvented by the collection of the rig on transactions.

What is the link between dominance in operating systems, streaming media, digital rights management, e-commerce, and convergence? Microsoft ....'ill attempt to use its dominance in any of these markets to increase the use of Microsoft-favored products in all of these markets. In contrast to the potential situation where different players are strong in each market, Microsoft will leverage its dominance in any market to strengthen its position in all of them. Microsoft's incentive e to do this lies in the many revenue streams that it currently forgoes. For example, Microsoft does not currently charge web sites for the use of Windows media formats. If Microsoft establishes dominance in the media player market, as it translates to dominance in e-commerce hosting, Microsoft will no longer have any constraint on fully exploiting this revenue stream. Once again, this links back to the original dominance in Microsoft's OS. All of these applications are mutually reinforcing and serve to preserve the monopoly power that accrues from packaging Microsoft's OS with complementary applications.

C. The theorized benefits of product integration that may exist in some cases do not apply to the markets at issue in this case.

As a theoretical matter, of course, in many transactions, purchasers would prefer to buy bundles of products and services. Purchasers of glass prefer to have borates included, drivers prefer to have steering wheels with their cars, and purchasers of shoes typically prefer to have laces included. The relevant question here is whether computer applications are similar to those examples—i.e., whether browsers and other middleware such as streaming media players are "mere inputs" into the overall "Windows experience."

The economics of software markets cast doubt on Microsoft's efficiency" arguments for integration of its own browser and media player with the OS.

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[15] Note that licensing at a monopoly royalty would have a similar effect of foreclosing competition.

[16] Microsoft's action with respect to inducing media content providers to code exclusively with Microsoft's proprietary formatting (in Windows Media Audio) is analogous to Microsoft's attempt in the browser market to induce Interne/content and services providers to optimize their content for its Internet Explorer software instead of the competing browser of Netscape. See U.S. Findings of Fact ¶¶ 311,328, and 337.

[17] Microsoft has already established general strategies for obtaining control over e-commerce standards.

These connections are the Microsoft Passport, .Net, and .Net My Services initiatives.

As discussed above, many forms of tying have no efficiency justification. Contractual provisions limiting the acceptance of rival technologies, or efforts to redesign code to harm rivals'' performance, create economic loss. As further discussed above, Microsoft has these forms of tying at its disposal, incentives to use them, and a historical record of using them.

Microsoft's claims regarding the efficiencies of its contractual tying—i.e., that it reduces consumer time costs and confusion to have a set of default options provided with a personal computer "out of the box"—confuse the benefit to consumers of having a browser and its media player bundled along with the OS, with the benefit of having Microsoft's choice of applications bundled with the OS. The efficiencies that come with providing an integrated package of an OS and various applications are not specific to Microsoft's applications. In a market where OEMs were free to offer whichever packages of software consumers desired (e.g., Microsoft Windows with RealPlayer and IE, or Microsoft Windows with WMP and Netscape), the market would provide those varieties of packages preferred by consumers. The market would respond fully to the efficiencies associated with the purchase of a full package of hardware, OS, and software applications, and in addition, the market would be free to offer the variety that consumers demanded.

Our analysis supports the hypothesis that Microsoft's tying of IE and WMP and its efforts to gain DRM dominance are not driven by efficiency concerns. Although selection of some defaults is necessary on each PC, there appear to be no engineering efficiencies to the integration of the choice of default into the OS. To the contrary, choice and market competition (and consequently, efficiency) suffer when knowledgeable OEMs (who act as informed agents of consumers) face artificial barriers to playing that role, such as when Microsoft commingles code or makes Microsoft applications difficult to permanently remove as default settings. By designing system software to hamper the installation or operation of rival software suppliers, Microsoft reinforces the applications barrier to entry; the impact is a strategic reduction in competition and a reinforcement of Microsoft's OS monopoly.

Additionally, the usual arguments made to justify integration in other markets are largely inapplicable to software application markets. It is often argued that integration occurs (i) to reduce transaction, distribution or production costs, or (ii) to increase the value of the final product.

The argument that transaction and assembly costs justify integration does not apply to major software applications. For example, consumers want to purchase some integrated packages of complementary products such as functioning automobiles because separate purchases of steering wheels, engines, dashboards, seats, etc. would impose enormous transaction and assembly costs. By contrast, software markets allow assembly at low cost even without integration, provided that monopolists are legally prohibited from impairing interoperability. With OEMs acting as purchasing and assembly agents for end-users, it is no more efficient for Microsoft to create OS-and-application bundles than for multiple OEMs (or third-parties who can then license such bundles to OEMs) to create those OS-and-application bundles desired by end-users.

Forced integration of particular software brands does not increase value. Instead, it causes an efficiency cost to the extent that end-users value the product variety entailed in the variety of inputs. The value of variety is lost with integration. Steering wheels in cars are typically undifferentiated commodities that comprise a trivial portion of the value of the final product. Thus, even though a consumer could replace the steering wheel with limited effort, there is little reason to do so because a different steering wheel is unlikely to improve the performance of the overall product. By contrast, technological development in software applications markets means that different applications can differ substantially in what they deliver to consumers. Loss of product variety as a result of integration can be costly.

(2) Contrary to Microsoft's claims, issues of pricing and innovation provide further evidence that Microsoft's tying harms the marketplace and consumers.

Microsoft has argued that the extension of monopoly power across a set of complementary products may produce consumer benefits if the monopolist charges lower prices than would be charged if independent monopolists were to separately produce two or more complementary products. In the latter case, each independent monopolist would raise prices higher than the level that would maximize the combined profits of all the monopolists. Thus, according to this theory, consumers benefit from Microsoft's monopoly leveraging through lower prices.

This theory imagines a static world in which innovation and entry are non-existent, and firms simply set prices to maximize profits, given unchanging demand and unchanging technology. The practical implications of the theory for the real world of rapidly changing technology and potential dynamic competition (as opposed to monopoly positions that are airtight) are minimal. In an economic theory that incorporates industry dynamics, strategies taken by a dominant firm to eliminate a firm in a complementary market remove a potential rival or entrant in the primary market. In the reality of software markets, this anti-competitive effect clearly overwhelms any theoretical, static price effect: innovation and dynamic competition thus are, and should be, the focus of the Microsoft case. The driver of consumer benefit in these markets is innovation: over the past ten years, while prices of applications have fluctuated only moderately, the performance of applications has gown dramatically. New applications, such as browsers and media players, have become important sources of consumer benefit, while improvements in existing applications such as financial software have yielded strong consumer benefits. In any analysis on the impact of tying, the most important question is the impact on innovation, not price. Tying harms innovation by preserving Microsoft's monopoly position, protecting it against dynamic competition to the detriment of consumers.

Microsoft argues that a single monopolist over two products has greater incentives to innovate than two separate monopolists. If two complementary products are monopolized separately, the argument goes, each monopolist ignores the positive benefits that accrue to the other firm from an increase in its own pace of innovation. In the matter at hand, this theoretical efficiency would argue that if Microsoft had a monopoly in operating systems, while Novell had a monopoly in browsers, Novell would not innovate as much as possible because it would not take into consideration the positive effects of browser innovation on operating system demand. This reasoning also suggests that innovation in the industry would be enhanced if Microsoft's OS dominance were to be extended further into still more applications markets. The key point missed in this theory is that any extension of Microsoft's OS monopoly power would dampen innovation into substitutes for Microsoft's OS. Enhancing the applications barriers only reduces the incentive for any firm to engage in OS or applications innovation. If an application could be open to competition—i.e., if it could be characterized by some rivalry or competition, as an alternative to Microsoft's integration—then unrestrained competition would strengthen rather than weaken innovation. While Microsoft's dominance in the browser market today may be a fait accompli, untying the OS and media player will lead to such greater competition in media player innovation.

Significantly for this case, untying would also increase competition in the operating system market. As discussed earlier in Section III.A, tying protects Microsoft's operating system dominance by maintaining the applications barrier to entry and weakening or deterring direct platform challenges. If there are separate monopolists in adjacent markets, each will have the incentive to enter or sponsor entry into the other's market, leading to competitive pressure in both markets.[18]

GVIDENCE IN THIS CASE, THE CONCLUSION IS THAT MICROSOFT HAS ENGAGED, AND IS ENGAGING, IN ANTI-COMPETITIVE TYING IN ORDER TO PROTECT AND STRENGTHEN ITS OPERATING SYSTEM MONOPOLY.

A. Microsoft's options, incentives, and history create a strong presumption that Microsoft's tying harms OS competition and consumers.

The District Court's Findings of Fact confirm that it is Microsoft's "corporate practice to pressure other firms to halt software development that either shows the potential to weaken Microsoft's applications barrier to entry or competes directly with Microsoft's most cherished software products." [19] As a historical matter, Microsoft has clearly engaged in anti-competitive, inefficient tying with other applications. [20]For example, Microsoft has forbidden OEMs from changing system defaults so as to make non-Microsoft products the "default application" in "out of the box" packages.[21] While Microsoft allows the "installation icons" of competing applications to be installed on desktops "out of the box," installation icons disappear if they are not invoked. In an even more subtle form of contractual tying, Microsoft requires applications that run with Windows to obtain a certification from Microsoft. This permits Microsoft to monitor and perhaps discipline its applications rivals. [22] While some of these practices differ in form from strict tying (a certification requirement for software is not the same as a contractual requirement that OEMs use Microsoft products), the effect is similar in that Microsoft is signaling to all other market participants that applications may only run with Windows by Microsoft's permission.

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[18] Of course, that monopolist competition will only occur if the first monopolist is not permitted to use anti- competitive tactics to foreclose the market for unintegrated rivals.

Microsoft's profit incentives dictate that Microsoft would tie its products together much more aggressively than efficiency alone would suggest. With regard to the question of the nature of competition in the media player market, one of the current objects of Microsoft's tying, and, in particular its tying of WMP, is clear: as the District Court determined, the "multimedia stream [represents] strategic grounds that Microsoft [needs] to capture."[23] That—and not efficiency—is the driving force behind Microsoft's conduct.

B. The evidence indicates that Microsoft is anti-competitively tying the browser and the media player with its operating system.

In the absence of tying, Microsoft would provide an operating system and applications such as the browser and media player that were developed and offered in a modular, plug-replaceable fashion. The applications codes for the browser and the media player would not be commingled with the OS code, but would instead communicate with the OS through a set of well defined APIs. Publishing the APIs and interface protocols in this non-tying world would enhance the value of Microsoft's operating system by ncouraging competition in the innovation of the complementary good—the browser and the media player. Greater competition and functional value in the market for a complementary good always benefit a firm by increasing the demand for its product. In the absence of anti-competitive incentives to reinforce barriers to entry, this strategy would maximize the profits that Microsoft obtains from its operating system. The fact that Microsoft does not engage in such a business strategy demonstrates, in the absence of evidence that tying is efficient, that Microsoft is motivated by anti-competitive" incentives.

Microsoft openly engages in contractual tying and basic technological integration. By developing and marketing Windows XP as an integrated package of operating system and popular applications, Microsoft directly ignored the findings of fact and law by U.S. courts.[24] Microsoft's history makes it likely that Microsoft is also engaging in various forms of OEM coercion to raise rivals" distribution costs and encourage the distribution of its own middleware products. Consistent with our analysis, this tying generally serves the purpose of Microsoft profitability and reinforcement of its OS dominance, rather than consumer benefit. Microsoft directly engages in anti-competitive tying when it prevents OEMs and end-users from removing or uninstalling IE and WMP. Microsoft does this through code commingling between the media player and the operating system that renders substitution for WMP difficult, or even impossible.

MTC-00028284—0095

Another example of anti-competitive tying is that Microsoft renders its own DRM technology software non-interoperable with other media players because of DRM's interaction with Window XP's own "secure audio path" software. While this is not tying in the sense of designing the operating system to be incompatible with rival applications, it does involve designing an application—DRM—that limits the compatibility of rival applications in a closely related market, the market for media players.

More generally, Microsoft anti-competitively undermines the functionality and utility of rival streaming media players and formats. For example, Microsoft denies a license for playing files streamed in Windows content encoding formats to its principal competitor, RealNetworks, thereby reducing the utility to consumers of RealNetworks" products. Microsoft also disadvantages rival content-encoding formats by designing WMP to record only in Windows media formats. These actions have, in the past, served to reduce consumers" perceptions of rivals" performance—for example by deliberately making consumers" use of Netscape "a jolting experience" [25] or damaging MP3 quality and functionality.[26]

In general, OEMs perform a screening function, as agents of consumers, by ensuring that the software products provided out of the box are compatible with each other and with the operating system? Consumers are aware that OEMs perform this function. Consumers are also aware that OEMs" reputations are based partly on packaging high- quality software products, so that OEMs have the incentive to choose the best software products for the price. Consumers are in general not aware of the contractual restrictions imposed in various contractual arrangements that might explain the choice of media player, including, for example, any threat not to license the Windows OS to the OEM unless all Windows applications are included as defaults. Nor are consumers aware of any financial incentives offered to OEMs by Microsoft to include only Microsoft applications as default options. Contractual tying alone will thus cause consumers to infer, for reasons unrelated to merit, that Microsoft's applications are the optimal products for them.

As suggested above, the interaction of all these effects, combined with rational expectations, can easily lead to the rapid foreclosure of competition. The force of self-realizing expectations is especially strong when one firm or one format is a natural focal point for consumer expectations. In markets where any number of formats could be sustained as dominant because of self-realizing expectations (economists term this "the multiplicity of rational expectations equilibria"), a focal point property of any one equilibrium can be important in predicting which equilibrium will be sustained. There could hardly be a stronger focal point than the Microsoft/Windows format for predicting the likely dominant (and perhaps sole) format. The history of the PC software industry is one of the dominance of Microsoft standards[27] The prediction that the Microsoft standard will predominate in the media player market is natural, perhaps inescapable, for a consumer—uninformed about the media player market specifically—debating about which format to adopt. While it is arguable that strong network effects might yield dominance by a single firm in a good or service and its complements, it is uncertain whether a monopoly outcome is inevitable absent tying. In this context, tying assures OS dominance and is therefore anti-competitive.

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[19] See U.S. Findings of Fact ¶ 93.

[20] Microsoft has a track record of placing code for Microsoft applications in the same files as code providing functions for its OS in order to achieve its anti-competitive ends. This includes the illegal commingling of code for Microsoft's Internet Explorer with the operating code and the tying of with the OS. See U.S. Findings of Fact ¶¶ 161–229.

[21] See U.S. Findings of Fact ¶ 357, relating to Microsoft's attempts through tying and other means to induce users to select Microsoft's Internet Explorer as the preferred, perhaps only, path to the web. It is possible for consumers to incur the cost to change defaults, but the incentives to do this are very small.

[22] See Steven Vaughan Nichols, Resisting the Windows XP Message, ZDNet, May 9, 2001 ("I can't help but wonder if... independent software vendors will have trouble getting that all-important signature for [their] programs .... [W]hy do I feel certain that giving Microsoft absolute power over all XP apps probably doesn't spell good news for anyone in the tech business—except Microsoft?").

[23] —,3 See U.S. Findings of Fact i 112.

[24] "In June ... seven appeals judges ruled unanimously that Microsoft was a monopoly that had violated the antitrust laws by integrating its Web browser into its Windows operating system in an effort to freeze out other browsers. [The Court of Appeals ruled that] Microsoft shouldn't be allowed to design Windows in a way that limits consumer choice—the ability of users to discover and easily use other companies" products and services. [Despite this,] the company went on to launch a new version of Windows—Windows XP—that continued to integrate tightly into the operating system new features that are crucial to extending Microsoft's monopoly onto the next battleground: Internet-based services. And it added these features in a way that hinders consumer choice." Walter S. Mossberg, For Microsoft, 2001 Was a Good Year, But At Consumers" Expense, The Wall Street Journal, December 27, 2001.

[25] See U.S. Findings of Fact ¶ 160.

[26] See Ted Bridis, Technology Industry Aims to Render MP3 Obsolete, The Wall Street Journal, Apr. 12, 2001, at A3. ("Under Microsoft's new restrictions ... MP3 music "sounds like somebody in a phone booth underwater," says P.J. McNealy, an analyst who researches Internet audio issues for Gartner Inc .... early testers of beta versions of Windows XP already complain that the most popular MP3 recording applications—which compete with Microsoft's format—don't seem to function properly, apparently because of changes Microsoft made to how data are written on CD-ROMs under Windows XP. Microsoft says that while other software vendors" products may not be "optimized" to run with Windows XP, those products should run acceptably with the operating system.").

Thus, Microsoft's coercion of OEMs to select WMP for the "out-of-the-box" experience, and to obscure the differences in capabilities between WMP and rival products, could weaken consumer awareness of the various functionalities available in the open market.

This would increase expectations of a single dominant format, which in turn would accelerate that dominance. The dominance in the media player market, to emphasize the applications-OS interaction once more, reinforces Microsoft's dominance in operating systems.

CONCLUSION

We show in this report that Microsoft has substantial incentives to engage in ant/-competitive tying of its middleware products with Windows. It has incentives to use contractual inducements to OEMs to bundle Windows with its own middleware instead of rival products; commingle applications code into the kernel of the operating system; and hamper the interoperability of rival applications. We also show that Microsoft's tying—in all of its forms—reinforces Microsoft's monopoly in operating systems.

Microsoft's incentives to anti-competitively bundle fall into four mutually reinforcing categories. First, by tying its middleware applications to the Windows operating system, Microsoft can strengthen the applications barrier to entry against its OS competitors. This reinforces Microsoft's OS monopoly. In order for entrants in the operating system market to succeed, they must have a wide variety of applications available for consumers to purchase. But software developers will invest in the creation of new applications only for operating systems that have widespread distribution. If Microsoft attains dominance with both the operating system and key middleware applications, it can ensure that its OS rivals will be unable to meet consumer demands for the most popular applications. With a dominant position in applications markets, Microsoft may choose not to write those applications to interoperate with rival operating systems, thus enhancing the already significant applications barrier to entry.

Second, tying reinforces Microsoft's OS monopoly by deterring direct challenges to the OS position as the platform of choice for software developers. Since programmers can write calls to middleware products, Microsoft's dominance in these products reduces the possibility that a universal translator (middleware) between operating systems and applications would threaten the Windows monopoly. Just as with the browser, Microsoft weakens this competitive threat to operating systems by integrating the potential substitutes directly into the OS.

Third, tying can provide a method of dynamic leveraging to ensure a future monopoly. This involves a direct counterargument to the familiar "one-monopoly theory," which states that a monopolist cannot collect more profits through a monopoly on a pair of complementary products (an operating system and an application) than through a monopoly on either product alone. Where the future entry into each product is uncertain, establishing a monopoly on both products in the pair increases the chance that the monopolist will retain a monopoly on at least one product in the future and therefore is positioned to collect full monopoly profits. In our context, the fact that the Windows monopoly over operating systems is not airtight creates an incentive for Microsoft to leverage its dominance so as to increase the likelihood of future dominance in at least one class of products—the operating system or applications. Dominance in applications provides (partial) insurance against the loss of monopoly power in operating systems, but the key is the preservation of monopoly in at least one of the pair of products: the OS and one or more important middleware applications.

Finally, tying IE and WMP into the OS and locking in Microsoft's streaming media and DRM formats put Microsoft in a position to potentially collect a tax on e-commerce transactions. Tying thus facilitates the move by Microsoft to a business strategy of collecting revenues from per-transaction royalty of its software, rather than outright sale of its software. This business strategy lessens the competition that Microsoft, as a durable-good monopolist, faces from the sales of its own previous versions of Windows. In this sense, the strategy, and its facilitation through tying, reinforce Microsoft's dominance in operating systems.

Product integration can theoretically be beneficial in some markets. Purchasers prefer to purchase some bundles of inputs, such as steering wheels with cars or laces with shoes.

These efficiencies do not apply to the bundling of middleware with Windows. Purchasing a personal computer with a full set of applications and default options "out of the box" is valuable for many consumers. But the efficiencies that come with an integrated package of an OS and various applications are not specific to Microsoft's applications. In a market where OEMs were free to offer whichever packages of software consumers desired, without integration of applications into the operating system, and without Microsoft's tying constraints or inducements, the market would provide the variety of packages preferred by consumers. Moreover, the engineering efficiencies claimed for the integration of middleware code into the operating system appear to be negligible, and are therefore more than offset by the anti-competitive effects of tying. In fact, a software design organized around modular programming of the operating system and middleware applications would achieve the efficiencies associated with modular programming and would allow for plug-and-play replacement of the software.

In the absence of tying, Microsoft would offer an operating system and middleware applications that were distinct in the sense of modular programming. For example, neither browser nor media player code would be commingled with OS code: instead, both would communicate with the OS only through a set of published APIs. Microsoft would enhance the value of its operating system by encouraging competition in the innovation of the complementary good—i.e., the browser and the media player. This strategy would maximize value to consumers and the profits that Microsoft obtains from its operating system. The fact that Microsoft does not engage in such a business strategy demonstrates, in the absence of evidence that its tying is efficient, that Microsoft is motivated by anti-competitive incentives that maintain its OS monopoly.

MTC-00025284—0100

VI. APPENDIX: CURRICULUM VITAE OF FRANK MATHEWSON

G. FRANKLIN MATHEWSON—Professor of Economics, Director of the Institute for Policy Analysis, University of Toronto

Ph.D. Stanford University

B.Com. University of Toronto

ACADEMIC POSITIONS

1996-present Director, Institute for Policy Analysis, University of Toronto.

1969-present Professor of Economics, Department of Economics, University of Toronto.

1969-present Research Associate, Institute for Policy Analysis, University of Toronto.

1995–1996 Acting Chair, Department of Economics, University of Toronto.

1985 Visiting Professor, Center for the Study of the Economy and the State, University of Chicago, Spring Quarter.

1984 Visiting Scholar, Graduate School of Business, University of Chicago, Spring Quarter.

1978–1983 Associate Chairman and Director of Graduate Studies, Department of Economics, University of Toronto.

1970–1982 Professor of Economics, Faculty of Management Studies, University of Toronto.

1978–1979 Senior Research Associate, Ontario Economic Council.

1976–1977 Visiting Research Fellow, Department of Political Economy, University College, University of London.

HONORS AND FELLOWSHIPS

* Social Science and Humanities Research Council Research Fellowship: 1994, 1991, 1989, 1987, 1986, 1985

* Social Science and Humanities Research Council Leave Fellowship: 1983–1984

* Canadian Council Leave Fellowship: 1976—1977

* Canada Council Doctoral Fellowship: 1966–1969

* Woodrow Wilson Fellowship: 1965

PROFESSIONAL AFFILIATIONS

* Editorial Board, Journal of Economics of Business, 1992-present.

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[27] This is similar to the screening function that upscale department stores provide in selecting high-quality products. Intermediaries in retail markets invest in establishing brand names or trust on the part of consumers. :s See U.S. Findings of Fact 33—35, 53, 60, and 62–64.

* Editorial Board, Managerial and Decision Economics, 1994-present.

* Editorial Board, Economic Inquiry, 1987–1997.

* Editorial Board, Journal of Industrial Economics, 1990–1995.

* Associate Editor, International Journal of Industrial Organization, 1982–1988.

Co-editor with M. Trebilcock and M. Walker. The Law and Economics of Competition

Policy, Vancouver: The Fraser Institute, 1990.

Co-editor with J. Stiglitz. New Developments in the Analysis of Market Structures, Cambridge: MIT Press, 1985.

Program Committee, European Association for Research in Industrial Economics, 1983-1991.

Program Committee, Conference on Industrial Organization, International Economics Association, 1982.

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VII. APPENDIX: CURRICULUM VITAE OF RALPH WINTER

RALPH A. WINTER— Professor of Economics and Finance, University of Toronto

Ph.D. Economics, University of California at Berkeley

M.A. Statistics, University of California at Berkeley

B.Sc. Mathematics and Economics (with honors), University of British Columbia

ACADEMIC POSITIONS

1988-present Professor of Economics and Finance, University of Toronto

1985–1988 Associate Professor, Department of Economics and Faculty of Management Studies, University of Toronto

1979–1985 Assistant Professor, Department of Economics and Faculty of Management Studies, University of Toronto

HONORS AND FELLOWSHIPS

* Olin Senior Research Fellowship, Yale Law School, i 988

* National Fellowship, Hoover Institution, Stanford University, 1986–1987 Harry, Johnson Prize (with M. Peters), for best article in the Canadian Journal of Economics, 1983

* Canada Council Doctoral Fellowship, 1975–1979

* John H. Wheeler Scholarship, University of California at Berkeley, 1974–1975

* Dean's Honors List, University of British Columbia, 1974

RESEARCH GRANTS

* Social Sciences and Humanities Research Council Research Grant: 1983–1985, 1986-1987, 1988–1989, 1990, 1991–1993

Social Sciences and Humanities Research Council Post-Doctoral Research Fellowship: 1981–1982 and 1982–1983

PROFESSIONAL AFFILIATIONS

* International Editorial Board, Assurances

* Editorial Board, Journal of Industrial Economics

PROFESSIONAL APPEARANCES

* British Columbia Utilities Commission, regarding capital structure and equity risk premium for Pacific Northern Gas, 1998

Canadian Radio-Television and Telecommunications Commission, regarding price cap regulation for telephone companies, 1996

Alberta Energy and Utilities Board, regarding fair rate of return for TransAlta Utilities Corporation and Alberta Power Limited, 1996

* Expert witness, Nielsen case, before the Canadian Competition Tribunal, 1994

Ontario Energy Board (EBRO 483,484), regarding fair rate of return for Centra Gas, 1993 (written submission)

Ontario Energy Board (EBRO 4790), regarding fair rate of return for Consumers Gas, 1992

Expert witness, Chrysler case, before the Canadian Competition Tribunal, 1988

PUBLICATIONS

"Efficiency as a Goal of Competition Policy," in Canadian Competition Policy: Preparing for the Future, forthcoming, 2002.

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ATTACHMENT B

A DETAILED CRITIQUE OF THE PROPOSED FINAL JUDGMENT IN U.S. v. MICROSOFT

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INTRODUCTION—1
SECTION-BY-SECTION CRITIQUE OF THE PFJ—2
Section III of the PFJ: Prohibited Conduct —2
Section IV Of The PFJ: Compliance and Enforcement—11
Section V Of The PFJ: Termination—12
Section VI Of The PFJ: Definitions—12

INTRODUCTION

This Court may approve the parties" Proposed Final Judgment ("PFJ"), but only if it first determines that the proposed decree is "in the public interest." In reviewing the PFJ, we acknowledge that there are some beneficial and important restrictions put on Microsoft's unlawful conduct. In too many instances, however, these restraints are inevitably swallowed up by broad exceptions and grants of power to Microsoft. The result is that the proposed settlement will do little, if anything, to eliminate Microsoft's illegal practices, prevent recurrence of those acts, and promote competition in the marketplace. The public interest requires more, and the Court should thus reject the proposed settlement.

The purpose of this document is to expose—on a point-by-point, provision-by-provision basis—the many loopholes, "trap doors," and other critical deficiencies in the PFJ. We present the issues in an order that tracks the proposed decree itself so that they may be easily followed. We also provide "real world" examples where helpful. In general, the PFJ suffers from several global, overarching flaws. First, in critical places, the language used in the PFJ to define the protections for competition are not broad enough to cover behavior the Court of Appeals held to be unlawful. Rather, only specific rights are granted, only specific competitive products are protected, and only specific anticompetitive practices are banned. In many cases, the rights and limitations are further clawed-back through carefully crafted carve-outs that benefit Microsoft.

Second, the proposed decree relies too heavily on the personal computer ("PC") manufacturers (original equipment manufacturers or "OEMs") to implement design changes—particularly in the critical area of middleware—without sufficiently ensuring their independence from Microsoft's tight clasp. The PFJ also follows timelines that are too loose and too generous to a company with the engineering resources and product-. update capabilities of Microsoft.

Third, in too many places, the constraints on Microsoft (once the exceptions are taken into account) devolve into a mandate that Microsoft act "reasonably." Aside from the obvious concern about Microsoft's willingness to do so given its track record, this formulation is problematic for other reasons. It does little more than restate existing antitrust law (such provisions cannot be said to be "remedial" if they, in essence, are merely directives to refrain from future illegal acts). And, in terms of enforcement, alleged violations of such "be reasonable" provisions can only be arrested through proceedings that will become, in essence, mini-retrials of U.S. v. Microsoft itself.

In sum, a consent decree that causes little or no change in the defendant's behavior cannot be found to advance the public interest, especially when the defendant's conduct has been found by both the district and appellate courts to be in violation of the law. As such, based on the numerous shortcomings outlined below, the Court should disapprove the PFJ.

SECTION-BY-SECTION CRITIQUE OF THE PFJ

Section III of the PFJ: Prohibited Conduct

A. Retaliation

The Scope Of The Protection Is Narrow: Section III.A of the PFJ appears to be directed at preventing Microsoft from retaliating against OEMs that attempt to compete with Microsoft products, but Microsoft is constrained only from specified forms of retaliation. If it retaliates against an OEM for any non- specified reason, that retaliation is not prohibited. This formulation is particularly problematic because the protected OEM activities are narrowly and specifically defined. Retaliation against an OEM for installing a non-Microsoft application that does not meet the middleware definition is not prohibited; nor is retaliation against an OEM for removing a Microsoft application that does not meet the middleware definition.

For example:

MSN and MSN Messenger do not appear to be middleware under the PFJ's highly specific definition of a "Microsoft Middleware Product." Given this uncertainty, an OEM cannot know with confidence that it is protected from retaliation if it removes the icon and start menu promotion for MSN and/or MSN Messenger.

If client software to support Sun's Liberty Alliance (a competitor to Microsoft's Passport) were developed, it would probably not be middleware under the PFJ definition. Thus, Microsoft can retaliate if an OEM adds that software.

More generally, it is odd to have a formulation that de facto approves of Microsoft's retaliation against OEMs, except where that retaliation is forbidden. That is, given that competitors to Passport, .Net My Services (formerly "known as Hailstorm), Windows Movie Maker, Microsoft Money, gaming programs, and Microsoft Digital Photography programs—even when shipped through the OEM channel—may not be included in the scope of protected competition, Microsoft would be free to retaliate against OEMs that promote those competitors.

Finally, the provision is substantially weakened in that only certain types of retaliation (i.e., retaliation by changing contractual relations and retaliation by changing promotional arrangements) are forbidden, as opposed to prohibiting any form of retaliation whatsoever. In order to eliminate Microsoft's ability to unlawfully protect its OS monopoly, it is essential that Microsoft be prohibited from taking any action that directly or indirectly adversely affects OEMs or other licensees who in any way support or promote non-Microsoft products or services.

Non-Monetary Compensation Provision: Microsoft is free to retaliate against OEMs that promote competition by withholding any existing form of "non- monetary Compensation"- only "newly introduced forms of non-monetary Consideration" may not be withheld.

. OEM Termination Clause Will Intimidate OEMs: Microsoft can terminate, without notice, an OEM's Windows license, after sending the OEM two notices that it believes the licensee is violating its license. There need not be any adjudication or determination by any independent tribunal that Microsoft's two predicate claims are correct; after just two notices to any OEM of a putative violation, Microsoft may terminate without even giving notice. This provision means that the OEMs are, at any time, just two registered letters away from an unannounced economic calamity. Obviously, that danger will severely limit the willingness of the OEMs to promote products that compete with Microsoft.

Pricing Schemes Will Allow Microsoft to Avoid Effects of the Decree." Microsoft can price Windows at a high price, and then put economic pressure on the OEMs to use only Microsoft applications through the provision that Microsoft can provide unlimited consideration to OEMs for distributing or promoting Microsoft's services or products. The limitation that these payments must be "commensurate with the absolute level or amount of" OEM expenditures is hollow—given that it is not clear how an OEM's costs will be accounted for, for this purpose.

Pricing

Microsoft Can Use Rebates To Eviscerate Competition. Under Section III.B of the PFJ, Microsoft can provide unlimited "market development allowances, programs, or other discounts in connection with Windows Operating System Products." This provision severely weakens the protection for OEM choice, functioning the same way as the rebate provision discussed above, but without any tether or limiting principle whatsoever. Arguably, Microsoft can charge $150 per copy of Windows, but then provide a $99 "market development allowance" for OEMs that install WMP.

Presumably, this is intended to be circumscribed by Section III.B.3.c, which provides that "discounts or their award" shall not be "based on or impose any criterion or requirement that is other, vise inconsistent with.., this Final Judgment," but this circular and self-referential provision does not ensure that the practice identified above is prohibited. While Microsoft should be allowed to engage in legitimate pricing decisions, those decisions should be limited to volume-based discounts offered on a non-discriminatory basis.

C. OEM Licenses

Microsoft Retains Control Of Desktop Innovation: Under Section III.C of the PFJ, Microsoft would retain control of desktop innovation by being able to prohibit OEMs from installing or displaying icons or other shortcuts to non- Microsoft software/products/services, if Microsoft does not provide the same software/product/service. For example, if Microsoft does not include a media player shortcut inside its "My Music" folder, it can forbid the OEMs from doing the same. This turns the premise that OEMs be given flexibility to differentiate their products on its head.

For example:

Sony—as a PC OEM and a major force in the music and photography industries—would be uniquely positioned to differentiate the "My Music" and "My Photos" folder. And yet, Sony's ability to do so turns solely on the extent to which Microsoft chooses to unleash competition in these areas.

Microsoft Retains Control Of Desktop Promotion." Microsoft also, very oddly, can control the extent to which non-Microsoft middleware is promoted on the desktop, by virtue of a limitation that OEMs can promote such software at the conclusion of a boot sequence or an Internet hook-up, via a user interface that is "of similar size and shape to the user interface provided by the corresponding Microsoft middleware." Thus, Microsoft sets the parameters for competition and user interface.

Promotional Flexibility For IAPs Only, And Only For The OEM's "Own" IAP: OEMs are allowed to offer IAP promotions at the end of the boot sequence, but not promotions for other products. Also, OEMs are allowed to offer IAPs at the end of a boot sequence, but only their "own" IAP offers. Given that this phrase is ambiguous, Microsoft may attempt to read this provision as limiting an OEM's right to offer an IAP product to those IAPs marketed under the OEM's brand. Helpfully, the Competitive Impact Statement suggests otherwise, but whatever this phrase means, it is a needless restriction on an OEM's flexibility.

D. API Disclosure

APIs Defined Too Narrowly: Microsoft can evade the disclosure obligation provided under Section III.D of the PFJ by "hard-wiring" links to its applications, and through other predatory coding schemes. Additionally, the disclosure is limited to "APIs and related Documentation." This is too narrow and can be evaded. Moreover, the provision for the disclosure of "Technical Information" found in Judge Jackson's interim conduct remedies has been eliminated. These disclosures are necessary to provide effective interoperability.

G. Anticompetitive Agreements

Joint Development Agreements Can Subvert Protections Of The Settlement. The protection against anticompetitive agreements is substantially undermined by the exception in Section III.G of the PFJ that allows Microsoft to launch "joint development or joint services arrangements" with OEMs and others. Under this provision, Microsoft can "invite" OEMs, ISVs, and other industry players to enter into "joint development" agreements and then resort to an array of exclusionary practices.

For example:

Microsoft invites OEM X to form a "joint development" project to create "Windows for X," a "new product" to be installed on the OEM's PCs. As long as Microsoft's activities are cloaked under this rubric, it is exempt from the ban on requiting the OEM to ship a fixed percentage of its units loaded with Microsoft's applications, and other protections designed to promote competition.

H. Desktop Customization

Add/Remove Is For Icons Only, Not The Middleware Itself." The add/remove provisions in Section III.H in the PFJ only allow for removal of end-user access to Microsoft middleware—not removal of the middleware itself. This position is inconsistent with the language in the Court of Appeals" opinion on commingling or the "add/remove" issue.

If Microsoft's middleware remains on PCs (even with the end-user access masked), then applications developers will continue to write applications that run on that middleware—reinforcing the applications barrier to entry that was at the heart of this case. Allowing Microsoft to forbid the OEMs from removing its middleware, and allowing Microsoft to configure Windows to make it impossible for end-users to do the same, allows Microsoft to reinforce the applications barrier to entry, irremediably.

As we have seen with the implementation of this approach (i.e., icon removal only) with regard to Internet Explorer in Windows XP, Microsoft can use the presentation of this option in the utility to make it less desirable to end-users. Moreover, limiting the required "add/remove" provision to icons only is actually a step backward from the current state of affairs in Windows XP, where code is removable for several pieces of Microsoft middleware.

Why Are Non-MS Icons Subject To Add/Remove?: The PFJ gives Microsoft an added benefit: it can demand that OEMs include icons for non-MS middleware in the add/remove utility. Why this should be required, in the absence of any finding that assuring the permanence of non-Microsoft middleware on the desktop is anticompetitive, is bizarre. This essentially treats the victims of Microsoft's anticompetitive behavior as if they were equally guilty of wrongdoing.

Microsoft Can Embed Middleware And Evade Restrictions: Under Section III.H.2, end-users and OEMs are allowed to substitute the launch of a non- Microsoft Middleware product for the launch of Microsoft middleware only where that Microsoft middleware would be launched in a separate Top-Level Window and would display a complete end-user interface or a trademark. This, in essence, allows Microsoft to determine which middleware components will or will not be subject to effective competition. By embedding its middleware components in other middleware (and thereby not displaying it in a Top Level Window with all user interface elements), or by simply not branding the middleware with a trademark, Microsoft can essentially stop rivals from launching their products in lieu of the Microsoft products.

Harder For Consumers To Choose Non-Microsoft Products Than Microsoft Products: In the same provision (III.H.2), Microsoft may require an end-user to confirm his/her choice of a non-Microsoft product, but there is no similar "double consent" requirement for Microsoft Middleware. There is no reason why it should be harder for users to select non-Microsoft products than Microsoft products.

Microsoft Can "Sweep" The Desktop, Eliminating Rival Icons: Additionally, the OEM flexibility provisions are substantially undermined by a provision that allows Microsoft to exploit its "desktop sweeper" to eliminate OEM-installed icons by asking an end-user if he/she wants the OEM-installed configuration wiped out after 14 days. Thus, the OEM flexibility provisions will only last on the desktop with certainty for 14 days, and after that period, persistent automated queries from Microsoft can reverse the effect of the OEM's installations. The effect of this provision is to severely devalue the ability of OEMs to offer premier desktop space to ISVs—and to undermine the ability of OEMs to differentiate their products and provide consumers with real choices. Desktop "MFN" Requirements: Finally, nothing in the decree appears to forbid Microsoft from requiring—especially where non-middleware is concerned—so- called MFN agreements from the OEMs. These agreements tax OEM efforts to promote Microsoft rivals by requiring that equal promotion or placement be given to Microsoft products, often without compensation.

I. Licensing Provisions

Licenses Put In Hands Of OEMs Only—The), May Not Be Able To Use Them Without Help: The OEM licensing provision is limited in its effectiveness because the OEMs are prevented in Section III.I.3 from "assigning, transferring, or sublicensing" their rights. This may severely limit their ability to partner with software companies to develop innovative software packages to be pre-installed on PCs. This provision is especially harmful when contrasted with the broad partnering opportunities afforded to Microsoft under Section III.G. In addition, the OEMs" willingness to use these provisions—even if they have the financial and technical wherewithal to do so—may be limited by the weakness of the retaliation provisions discussed above.

Reciprocal License? "Equal Treatment" For Law Abiders And Law Breakers Is Not Equal: Under Section III.I.5, the PFJ requires ISVs, OEMs, and other licensees to license back to Microsoft any intellectual property they develop in the course of exercising their rights under the settlement. But that simply rewards Microsoft for having created the circumstances (i.e., having acted illegally) that necessitated the settlement in the first place. Microsoft should not be able to obtain the intellectual property rights of others simply because those law abiding entities have been required to work with a lawbreaker.

In addition, this provision may inadvertently work as a "poison pill" to discourage ISVs, et al., from taking advantage of the licensing rights ostensibly provided to them in Section III.I. The risk that an ISV would have to license its rights to Microsoft will be a substantial deterrent for that ISV from exercising its rights under Section III.I.

J. "Security and Anti-Piracy" Exception to API Disclosure

The Settlement Exempts The Software And Services That Are The Future Of Computing: One of the most seemingly innocuous provisions in the PFJ is, in fact, one of the biggest loopholes: the provision found in Section III.J.1 that allows Microsoft to withhold from API, documentation or communication protocol disclosure any information that would "compromise the security of .... digital rights management, encryption or authentication systems." This provision raises several critical concerns:

Digital Rights Management Exception "Swallows" Media Player Rule: Since the most prevalent use of media players in the years ahead will be in playing content that is protected by digital rights management ("DRM") (i.e., copyrighted content licensed to users on a "pay-for-play" "basis), allowing Microsoft to render its DRM solution non-interoperable with non-Microsoft Media Players and DRM solutions essentially means that non-Microsoft media players will be virtually useless when loaded on Windows computers.

Authentication Exception Allows Microsoft To Control Internet Gateways, Server- Based Services: Most experts agree that the future of computing lies with server-based applications that consumers ;.,,.ill access from a variety of devices. Indeed, Microsoft's ".Net" and ".Net My Services" (formerly known as Hailstorm) are evidence that Microsoft certainly holds this belief. These services, "...'hen linked with Microsoft's "Passport," are Microsoft's self-declared effort to migrate its franchise from the desktop to the Internet.

By exempting authentication APIs and protocols from the PFJ's disclosure/licensure requirement, the settlement exempts the most important applications and services that ,.','ill drive the computer industry over the next few years. If Microsoft can wall off Passport, .Net, and .Net My Services with impunity—and link these Internet/server-based applications and services to its desktop monopoly—then Microsoft will be in a commanding position to dominate the future of computing.

Additional Problems Raised By Numerous Provisions in Section III No Ban On Commingling Of Code." Nothing in the agreement prohibits Microsoft from commingling code or binding its middleware to the OS. This was a major issue in the case; the Court of Appeals specifically found Microsoft's commingling of browser and OS code to be anticompetitive; it rejected a petition for rehearing that centered on this issue. And yet, the PFJ would permit this activity to continue.

The danger of the absence of this provision is reinforced by what is found in the definition of the Windows Operating System Product ("Definition U"), which states that the software code that comprises the Windows Operating System Product "shall be determined by Microsoft in its sole discretion." Thus, Microsoft can, over time, render all the protections for middleware meaningless, by binding and commingling code, and redefining the OS to include the bound/commingled applications.

Too Many Of The Provisions Require A Mini-Retrial To Be Enforced: In numerous places throughout Section III, the limitations on Microsoft's conduct are basically rephrased versions of the Rule of Reason. For example, in Section III.F.2, Microsoft may enter into restrictive agreements with ISVs as long as those agreements are "reasonably necessary;" likewise, the Joint Venture provisions found in Section III.G also employ a rule-of-reason test. As such, they simply restate textbook antitrust law, and alleged violations of these provisions could only be resolved through mini-trials.

Server Interoperability Issues (Found in Sections III.E, III.H and III.J) Only Full Interoperability Can Reduce Microsoft's Barriers To Desktop Competition: The PFJ's proposed server remedy will fail to provide meaningful, competitive interoperability between Microsoft desktops and non-Microsoft servers because:

The applications barrier to entry is central to this case and to Microsoft's desktop monopoly. A remedy that provides true server interoperability can be a powerful tool to reduce the applications barrier to entry. The server has the same potential to provide an alternative platform as did the browser or Java. In that sense, it is directly analogous to middleware products.

Microsoft has plainly recognized the threat that non-Microsoft servers pose as an alternative applications platform and has acted to exclude those products from full interoperation with the desktop and to advantage its own server products. It is able to do so because it controls the means by which servers may interoperate with the functions and features of the Windows desktop. In order to succeed in establishing non-Microsoft servers as an effective alternative application platform, both consumers and application developers have to be convinced that such servers: (1) can overcome the interoperability barriers that Microsoft has erected, and (2) have become viable alternatives to Microsoft's own servers, insofar as they can fully interoperate with the desktop.

An incomplete interoperability remedy fails to meet this test. Neither consumers (professional IT managers) nor server application developers will be attracted to non-Microsoft servers that lack any important interoperability functionality. If important interoperability barriers are left in place, IT managers simply will not buy the product and the remedy will fail to achieve its intended purpose. This is an important guiding principle.

The proposed decree allows Microsoft to continue to exploit dependencies between its desktop applications or its desktop middleware and its servers or handheld devices to exclude server and handheld competition. Section III.I Excludes Competing Server Vendors From The Benefits Of Section III.E's Disclosures: Section III.I limits Microsoft's obligation to license its desktop-server Communications Protocols to ISVs, IHVs, IAP, ICPs, and OEMs; thus, server competitors are excluded from the group of companies that Microsoft must license information to under section III.E.

The Failure To Define "Interoperate" Is A Mistake: Neither Section III.E nor any other provision of the PFJ defines the meaning of "interoperate." The failure to define "interoperate" is tantamount to the Department of Justice's ("DOJ") prior failure to define "integrate" in the 1995 consent decree, and will form the basis for unending disputes over the scope of Microsoft's disclosure obligations. "Communications Protocol" Is Defined Too Narrowly And Too Ambiguously: The definition of "Communications Protocol," which determines the scope of server information to be disclosed by Microsoft, is highly ambiguous and potentially very narrow in scope:

It appears to be limited to the Windows 2000 server, and thus may exclude Microsoft's Advanced Windows 2000 server and Datacenter server.

It is unclear whether "rules for information exchange" that "govern the format, semantics, timing sequencing, and error control of messages exchanged over a network" mean the rules for transmitting information packets over a network, or the rules for formatting and interpreting information within such packets.

It appears to be limited to information exchanged via LANs and WANs, and therefore may exclude information exchanged over the Internet. In other words, having illegally seized dominance over browsers, Microsoft will be allowed to use that power to establish de facto proprietary protocols for Internet communication and keep them entirely to itself. Even in its broadest possible meaning, the term "Communications Protocols" is insufficiently broad or comprehensive to require disclosure of the information. needed to permit interoperability between non-Microsoft servers and the full features and functions of Windows desktops.

Section III.J's Carve-Out Eliminates the Most Important Disclosures: What little Section III.E provides, Section III.J takes away by permitting Microsoft to refuse to disclose the very protocols and technical dependencies it is currently using to prevent non-Microsoft servers from interoperating with Microsoft desktops and servers.

Section IV Of The PFJ: Compliance and Enforcement

A. Enforcement Authority

Enforcement Authority Is Too Difficult To Employ: Clearly, what is missing from the agreement is a quick, meaningful, and empowered mechanism for preventing and rectifying Microsoft's inevitable violations of the agreement. Thus, while the provision allowing Microsoft to cure any violations of Sections III.C, D, E, and H before an enforcement action may be brought is not itself objectionable, it is but one of a number of provisions that make enforcing the agreement cumbersome, expensive and time-consuming.

B. Technical Committee / D. Voluntary Dispute Resolution

Source Code Access Is Not Enough: While it is helpful that the Technical Committee ("TC") will have access to Microsoft's source code and can resolve disputes involving that issue, the TC is otherwise powerless to compel Microsoft's compliance with the agreement in any other respect. The prospects that Microsoft will accept the decisions of the TC in a voluntary dispute resolution process are near zero. And the entire mechanism seems designed to extend disputes indefinitely: no time limits or timelines are specified for dispute resolution.

As it stands now, a party injured by Microsoft's violation of the decree can complain to the TC, which will then conduct an investigation: Once the investigation is complete, the TC will presumably issue some decision; while the investigation is ongoing, the TC is supposed to consult with Microsoft's Compliance Officer, for an indefinite period;

If the TC concludes that Microsoft violated the agreement, and Microsoft does not agree to change its behavior or rectify the wrong, then the TC must decide whether to recommend the matter to the DOJ for further action;

Once recommended, the DOJ—after some review period—may decide to take action, and apply to the court for a remedy, or it may not; * And once the DOJ applies for action, the process in court to obtain relief or remedy may extend for an indefinite period.

This is obviously a lengthy and ineffective process for ensuring that Microsoft complies with its obligations under the decree. In an industry where time is of the essence and delays can be fatal, the built-in delays that allow Microsoft to drag its feet are wholly unacceptable.

Technical Committee's Investigation Has Only Limited Use: The work of the Technical Committee cannot "be admitted in any enforcement proceeding before the Court for any purpose," and the members of the TC are forbidden to appear.

Thus, under the terms of the decree, the substantial time, effort and expense that can go into a TC process may need to be duplicated in an enforcement action—adding to the complexity and expense that the process will pose for victims of Microsoft violations.

Section V Of The PFJ: Termination

A. Five-Year Limit

Five-Year Coverage Is Inadequate: Given the scope of Microsoft's violations, the time period required to restore effective competition, and the pattern of willful lawbreaking on Microsoft's part, a five-year consent decree is inadequate.

B. Two-Year Extension

Penalty For Knowing Violations Is Too Lenient: Amazingly, the PFJ provides that no matter how many knowing and willful violations Microsoft engages in, the restrictions found in the settlement may be extended only for a single two-year period. Thus, if Microsoft is adjudged to have engaged in such a pattern of violations, it essentially has a "free reign" to repeat those violations with impunity.

Section VI Of The PFJ: Definitions

A. APIs

API Definition Too Narrow: This is discussed above.

I. ISV

Definition Is Not Forward-Looking: The definition of ISV is drafted too narrowly and should more clearly encompass developers of software products designed to run on new versions of the Windows operating system and next generation computing devices.

K. Microsoft Middleware Product

Definition Exempts Too Much Middleware: Much of the decree is based on this definition—the OEMs" flexibility turns on what is included or excluded from this category of application. And yet the definition, which is different from the definition used by the District Court (affirmed and employed by the Court of Appeals) is fatally flawed.

First, there are only five existing products that can be known with certainty to be "Microsoft Middleware Products." That means that highly similar items, such as MSN, MSN Messenger, MSN Explorer, Passport, Outlook, and Office may be excluded from the definition of middleware. Why Windows Messenger would be covered by the PFJ, but MSN Messenger would be exempt; or why Internet Explorer would be covered, while MSN Explorer would be exempt—if this is, in fact, how the provision operates—is a mystery. Why ambiguity would be accepted in such a critical area is an even greater mystery.

Given the uncertainty, Microsoft may attempt to retaliate against OEMs that remove even the icons for its applications; it may also attempt to prohibit end-users from removing these applications (or even their icons). This is a step backward from the status quo (even in Windows XP); the ambiguity is a gaping hole.

Second, the generic middleware definition, which applies only to new products, and therefore does not capture any product now in existence, allows Microsoft to define which products are included or not, by virtue of Microsoft's trademark and branding choices. Thus, as long as Microsoft buries these products inside other applications, they are not independently considered middleware.

Third, as suggested in the points above, the definition misses the future platform challenges to Microsoft's Windows monopoly: web-based services. These services should be specifically defined and included in the class of protected middleware.

N. Non-Microsoft Middleware Product

Only Developers With Substantial Resources □Viii Be Protected: The competitive offerings protected by the decree are narrowly limited to offerings that fall within the definition of "Non-Microsoft Middleware Products." Again, as noted above, the guarantees of OEM flexibility, promotion, and end-user choice apply only to these specified products—not to any other software applications.

And yet, sadly, this narrow definition extends protection only to applications "of which at least one million copies were distributed in the United States within the previous year." Thus, "an innovator in his garage," creating a new form of middleware to revolutionize the computer industry, has no protection from Microsoft's rapacious ways until he can achieve the distribution of 1 million copies of his software.

Also, as noted above, "web-based services" are not captured in this definition, notwithstanding their importance to future competition to the Windows OS.

R. Timely Manner

Netscape, All Over Again: Microsoft's obligation to disclose APIs and other materials needed to make applications interoperable with Windows in a "timely manner" is keyed off the definition of that term in Section R. But Microsoft retains complete control over this timeline because the definition provides that Microsoft is under no obligation to engage in these disclosures until it distributes a version of the Windows OS to 150,000 beta testers. Thus, as long as Microsoft restricts its beta testing program to 149,999 individuals until very late in the development process, it can effectively eviscerate the disclosure requirements. Our review of the available documentation shows, for example, that Microsoft had no more than 20,000 beta testers 1 for Windows XP until very late in the release cycle; thus, had this provision been in place during the Windows XP release cycle, Microsoft would have been under no obligation to release APIs until the eve of product shipping.

Slow disclosure of APIs is precisely how Microsoft defeated Netscape's timely interoperability with Windows 95. Thus, in this way, not only is the decree inadequate to prevent future wrongdoing, it does not even redress proven illegal acts in the past.

U. Windows Operating System Product

The scope of Microsoft's disclosure obligations under the agreement are determined in large part by the meaning of "Windows Operating System Product." The definition of Windows Operating System Product leaves Microsoft free to determine in "its sole discretion" what software code comprises a "Windows Operating System Product." In other words, Microsoft's disclosure obligation is subject entirely to its discretion.

Note that the number of "beta testers" will be much smaller than the number of "beta-copies" of a product that is being prepared for release.

From: Philip Johnson
To: Microsoft ATR
Date: 1/28/02 1:57pm
Subject: Microsoft

I feel Microsoft has done no wrong and should be left alone to innovate and sell their products at whatever the market will bear. They are no more a monopoly than a lot of other companies, so if you are going to penalize them for that then you need to take action against say AOL also and companies like them.

From: Wildcat
To: Microsoft ATR
Date: 1/28/02 1:57pm
Subject: Microsoft Settlement

I certainly hope you take into account that the effects of Microsoft's business practices are *still* being felt, even today... A brand new computer with anything *other* than Windows on-board is still almost unheard of, many hardware manufacturers don't support Linux or offer drivers for it, and many corporate websites are designed almost exclusively for Internet Explorer in *spite* of the W3C standards that are meant to make the "World Wide Web" more accessible to *all* available browsers. I realize that these last two points (drivers and web design) are almost entirely due to the preferences of the manufacturers and designers respectively, but those people are basing those decisions on the atmosphere fostered by Microsoft that it is and shall be the only creator of operating system and web browser software.

Recently, I experienced this form of "browser discrimination" firsthand. My browser of choice is Netscape, and I was finding it difficult to access a major retailer's website and on-line shopping outlet — my browser kept choking out. I e-mailed a report of this technical glitch, and received a reply suggesting I use Internet Explorer. To me (to use an analogy), this is like being unable to get a clear picture of CNN from my cable company, only to be told that my RCA television is the problem, and that the CNN signal is designed specifically for a Sony. The bottom line is, I've never been a big fan of Microsoft, and would really rather not give them my money, but as long as they're allowed to operate as they have in the past decade, they're going to wind up with a share of the profit on almost anything I buy, whether I know it or not, whether I *like* it or not.

Thank you for allowing me to state my opinion.

Bart Smith
Independence, KS
wildcat@wildcatslair.com

MTC-00028287

From: Mildred/Jerry
To: Microsoft ATR
Date: 1/28/02 1:56pm
Subject: MICROSOFT SETTLEMENT

I/WE ARE IN 100% SUPPORT FOR MICROSOFT SETTLEMENT. WE NEED TIME AND MONEY SPENT ON THINGS LIKE ENRON INVESTIGATION. TOO MUCH ADO HAS BEEN DIRECTED AT MICROSOFT.

SPEND MY TAX MONEY ON GOING AFTER REAL CROOKS LIKE ENRON EXECUTIVES.

THANK YOU
JERRY & MILDRED ROBERTS

MTC-00028288

From: Matt Goun
To: Microsoft ATR
Date: 1/28/02 1:58pm
Subject: Microsoft Settlement

Matthew Goun
1230 Parkwood Drive
Merrick, NY 11566
mgoun@hotmail.com

I have sent a letter stating my thoughts as to settling Microsoft's ongoing court case and I am afraid I was a little slow in mailing it in.

My feelings are, enough already. Leave things as they are. Microsoft has gotten the right decission and enough tax payers money has been spent.

Sincerely,
Matthew goun
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

MTC-00028289

From: amchugh@speakeasy.net@inetgw
To: Microsoft ATR
Date: 1/28/02 1:46pm
Subject: Microsoft Settlement

To Whom it may Concern,

I would like to add my voice to those in adamant opposition to the proposed Microsoft Settlement. Please reject this proposal in favor of a much stronger remedy.

Please review the current proposed settlement and make sure that it adequately represents the interests of open-source advocates, and consumers of open-source products. Essentially, the question that needs to be addressed first and foremost is "Are the barriers to entry for competition with Microsoft reduced to a reasonable level for both commercial and volunteer competitive efforts?". Secondly, I would ask "Is the punitive element of this ruling sufficient to make executives reluctant to engage in similar anti-competitive behaviour, and stockholders reluctant to support executives who do?".

I trust that you'll come up with an equitable ruling that represents the current and future interests of consumers, even if the economy must suffer.

Sincerely,
Aaron McHugh
amchugh@speakeasy.net

MTC-00028290

From: Dave Jorgensen
To: Microsoft ATR
Date: 1/28/02 1:59pm
Subject: Microsoft Settlement

Dear Sirs,

As a citizen of the United States of America, and an employee in the High-Tech sector of our nations economy, I feel compelled to write and voice my disagreement with the proposed Microsoft anti-trust settlement. For the past two decades, I have watched again and again as Microsoft leverages its monopoly position to wipe out what were once healthy high-tech markets. Their actions have had a continued, chilling effect on the industry which will be felt long into the future. However one of the few remaining areas where Microsoft has not yet accomplished their monopolistic goals, is in the education market.

It's likely that Microsoft would leverage their monopoly to take the education market if they could, but they've likely hesitated in order to avoid undue attention while the current cases are being judged. However, if the proposed settlement (of product donation to the schools) is allowed to continue, our legal system will in effect be sanctioning, even demanding, that Microsoft flood this additional market with its product and drive out competitors from this area as well. In effect, the proposed settlement will simply reward Microsoft's monopolistic practices by providing them another monopoly in the education market.

I urge the Justice Department, The Court, The Judge, anyone else involved, to -reject- the proposed settlement and -insist- on a more fair remedy.

Microsoft is not like some poor farmer who has to hand over his old tractor to cover back taxes. The settlement amount is just a tiny percentage (3%) of the -huge- cash hoard they have accumulated through their monopolistic practices. Short of breaking up the company (which I still think is justified) certainly we should at the very least, insist that they pay their costs like the rest of us do, in cash. Anything less only reinforces their monopolistic position.

Thank you for your consideration in this matter,

David E. Jorgensen
350 Budd Ave. #E7
Campbell, California
95008, USA
e-mail: davej@ccnet.com

MTC-00028291

From: Chuck1040
To: Microsoft ATR
Date: 1/28/02 2:01pm
Subject: Settlement

I believe that this matter has dragged on too far and should be settled as soon as possible. Get an agreement and move on to other problems.

charles dennard,
1237 vintage place,
nashville, tn 37215

MTC-00028292

From: Patrick Purcell
To: 'Microsoft.atr(a)usdoj.gov'
Date: 1/28/02 1:57pm
Subject: Microsoft Settlement

Hello

My name is Patrick Purcell. As an Applications Developer and consumer of commercial software , I feel I must comment on the proposed Final Settlement.

I will make the following general comments and then move on to specific items in the documents .(Civil Action No 98–1232 and Civil Action No 98–1232 CKK).

It is my understanding that judgment against Microsoft stands. Microsoft was found in violation of the Sherman Act. I believe the original remedy should stand. In document Civil Action No 98–1232 CKK Section III H 3 Microsoft would be prohibited from modifying third party icons,menus, and shortcuts without asking for permission of the user.

The description does not prevent from Microsoft continually asking the user if changes should be made.

In effect the user could be nagged to making a change.

I believe the language should be strengthen to prevent Microsoft from nagging or making adjustments through a needed software upgrade (in the case of a software fix).

In document Civil Action No 98–1232 CKK Section III J Microsoft is not obligated to license or disclose its API to third parties.

The API allows a programmer to develop software and take advantage of services the operating system offers.

Having a closed API excludes developers from using the operating system to its full extent and does not provide a level playing field. An open API would level the playing field.

It is possible to have a public API and not compromise security and encryption.

The open source software Linux list all its API while providing a high level of security.

The encryption software Pretty Good Privacy (PGP) provides the API and an excellent level of encryption.

Both Linux and PGP clearly illustrate it is possible to provide your complete API to all and still provide levels of security.

An open API would not preclude making a profit. For example Stronghold is a commercial secure web server based on the Apache web server. Stronghold is a successful product using an open API from the Apache web server. Another example is the Apple product, Mac OS X which is based on FreeBSD Unix.

On December 13, 2001, the ECMA General Assembly ratified the C# and common language infrastructure (CLI) specifications into international standards. The ECMA standards will be known as ECMA-334 (C#) and ECMA-335 (the CLI). The C# is a programming language developed by Microsoft. By having ECMA (http://www.ecma.ch) ratify C# and CLI as international standards, Microsoft lost direct control of the future development of these technologies. However Microsoft opened the API to the public to strengthen the acceptance of these technologies. Microsoft recognizes that publishing the API has benefits. Microsoft would not be overall negatively affected from publishing its complete API for its operating system. The actual publishing of the API could be done through an agency such as ECMA.

The above statements are my sole opinions and do not represent the views of my employer.

I hope you will consider these statements in making a final decision.

Sincerely

Patrick Purcell

MTC–00028293

From: Burt Harris
To: Microsoft ATR
Date: 1/28/02 2:01pm
Subject: Microsoft Settlement .

I want to register my support for the proposed settlement of the Microsoft antitrust case. The proposed settlement takes reasonable steps to address the underlying issue without crossing the boundry into the punitive actions that its opponents seem to want inforced.

As a observer of the situation it strikes me that many of the proponents of harsher terms have lost site of the fact that the settlement is intended to be a remedy, not a punishment. This seems to be driven by the fact that many of the financial backers of these groups are in fact competitors of Microsoft.

I for one, want to make sure that the settlement primarily addresses remedying any wrongs suffered by consumers (which I think are actually relativily few) as opposed to benefiting Microsoft's competitors, especially those competitiors who operate outside the narrowly drafted "market" for Intel based operating systems.

Burt Harris
15302 182nd Place NE
Woodinville, WA 98072

MTC–00028294

From: Juanita Bergh
To: Microsoft ATR
Date: 1/28/02 2:02pm
Subject: Microsoft Settlement

I have been and still am rather disgusted at the lawsuit against Microsoft. At the time the lawsuit was filed, I was not an employee of Microsoft. Now I am, but my feelings have not changed. I worked for a software company for 10.5 years before joining Microsoft. We used Netscape as a browser for a short period, but then our company switched to Internet Explorer. I don't recall at what point that was. But at the time I was using Netscape, the browser was given away free as an incentive to get people to switch to using their browser. Does this sound familiar? Isn't this part of Netscape/AOL Time Warner's complaint against Microsoft? That by offering it free and making it available as part of the operating system, Microsoft is engaging in non-competative acts. Hmmm. I wonder why it wasn't illegal when Netscape was first trying to gain market share. That's the main reason we used Netscape, it was free and relatively easy to use. However, we found the Internet Explorer worked better for us. There are differences and distinctions between the two that I'm not terribly familiar with as I have no desire to see if Netscape has become more attractive. I have heard that Netscape offers an easy way of uploading data, which isn't available in IE. I also have heard that Mac users prefer Netscape. The browser that fills the need best is the browser that will be used.

The last couple of times we purchased a computer, it came preloaded with a several different internet connectivity options. We did not choose to use any of them because we wanted to use a different one.

The fact of the matter is, that if someone wants to use a software product, they will use it whether it comes preinstalled or not. It's not as though we're talking about a couple hundred dollars to purchase Netscape; I can download it today for free. I'm not sure if Netscape used to have a charge or what those charges are, but it's rather hypocritical to complain about someone else giving something away free when you're doing the same thing. As I said earlier, who cares if it's preloaded or not; many users today are sophisticated enough that they'll find and load what they want.

Another complaint that bugs me in the lawsuit states that OEM's cannot really add much to change the way windows loads; this really irks me because I don't want to get a different look and feel from windows based on the hardware that I purchase! Is that user-friendly? We had a Packard-Bell that loaded a bunch of junk from PB and it drove us crazy, we disabled it because we didn't want it. I want to be able to purchase hardware based on price, not how it interacts with the os that I choose!! There's also the issue of support and service packs; who's going to support those changes? The OEM? Microsoft? Do I get pushed back and forth because the OEM says it's not their problem and Microsoft says it's been changed so they can't help either? There is nothing worse than trying to support a product that has been modified; all your updates are delayed, because when Microsoft releases a fix, the OEM has to do the same thing. I know how this works; I worked for a software company in the support area for 5 years and you cannot support something once someone else has modified it. This is NOT in the consumer's best interests for any software company to allow that. I know that it happens and it has it's advantages, but it's also a miserable position for the consumer who needs an update or help.

I have worked in the computer industry for 11.5 years now and I am tickled that consumers have pretty much selected one OS that we can use as a basis for developing our own applications. The macintosh died in the business application market because Apple's focus appears to be the graphic / educational market. We used to support our applications on the macintosh for many years, but finally discontinued that because it just wasn't a good business proposition for us. Many, many software companies have thrived by developing on the Microsoft platforms because Microsoft is the company that bothers to find out what consumers want and strives to give it to us. That's why Microsoft thrived and Apple did not. Apple had great potential and is doing fine, but they could've been the Microsoft.

Netscape/ AOL Time Warner would be smarter to use their money to improve their products so they can compete based on the products" merit, not to try to cripple a successful rival.

One more comment on the "monopoly" issue. Microsoft is not a phone company or utility company where the customer has never had a choice; Microsoft has earned it's OS monopoly because no other OS has provided customers with what they want. We love to bash Microsoft (well, not since I've become an employee) for system bombs and crashes, but the fact remains that Microsoft has made it possible for millions of users to be able to use and afford a computer. My parents, in-laws, and grandparents, who never grew up using a computer are able to use email and word processing programs because it's easy, simple, and uniform. I can help them figure things out with a phone call because the OS behaves the same way no matter what type of computer they have! My grandparents would never have thought of using a computer in the pre-windows days.

Microsoft contributes a great deal of money, software and time for charitable issues; if anyone has the issues of the consumer at heart, it's Microsoft.

Thanks for listening,

Juanita Bergh

15705 28th St
Casselton, ND 58012

MTC-00028295

From: King, Steve
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 2:02pm
Subject: Microsoft Settlement
Renata Hesse
Department of Justice, Antitrust Department
601 D St NW
Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am a State Senator from Iowa and I also the owner of construction contracting business. In my capacity as a State Senator I am chairman of the state government committee and also serve on the commerce committee. I chose to serve on these committees because as a business owner I am acutely aware of negative impact over regulation can have on business.

It is from this unique perspective that I am writing you today to encourage you to settle the Microsoft anti-trust case

The suit against Microsoft was brought under anti-trust laws that were developed in at a time in our history when our nation was growing into the industrial and economic leader it is today. These laws were meant to protect American consumers from harm inflicted by monopoly companies. These laws have served their purpose in the past. However, in this case, I do not think they apply. The government and Microsoft's critics have yet to prove consumer harm as a result of Microsoft actions or practices.

As a businessman and strong supporter of our free-market system, it is apparent to me that Microsoft's only crime is giving the American public a superior product, and therefore has been able to build a loyal following of committed users. Assumedly, Microsoft worked very hard to develop its products and market. They should not be punished for this or for having the business savvy to take action to protect their market.

A closer look at this suit and the lobbying efforts that have fueled it will expose disturbing realities. Microsoft's competitors do not appreciate that technology consumers are overwhelmingly loyal to Microsoft products. However, instead of committing to production of new products that may allow them to more successfully compete in our free-market, they have banded together and found a way to use outdated anti-trust laws for their own purposes.

The settlement before you is truly a compromise for Microsoft. Certainly, Microsoft will be held to the severe provision of this settlement, not the least of which is the sharing of intellectual property. However, negotiating settlement is the best solution for the technology industry and our economy in general. When this settlement is approved it will send a signal to the technology industry that the threat of government interference has been lifted.

Sincerely,
Senator Steve King

MTC-00028296

From: Kevin Port
To: Microsoft ATR
Date: 1/28/02 2:03pm
Subject: Please See Attachment- Microsoft
Please See Attachment—Microsoft
Thank you,
K. Port
Kevin Port
250 Gorge Road # 29D
Cliffside Park, NJ 07010
January 28,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

After three years of seemingly endless litigation, I was frankly relieved to hear that Microsoft had reached a tentative settlement with the Justice Department in November. This settlement is good for consumers and therefore no further action is needed on the federal level.

The terms of the settlement cover many areas and will require numerous concessions from Microsoft. One area of concession is in relation to intellectual property rights. Microsoft has agreed that if a third party's exercise of any options provided for by the settlement would infringe any Microsoft intellectual property right, Microsoft will provide the third party with a license to the necessary intellectual property on reasonable and non-discriminatory terms. And to assure this provision and every other one is followed, Microsoft will be monitored by a three-member Technical Committee.

As a former worker in the tech industry, I understand the importance of Microsoft's products to our economy. Although I did not feel this suit had any merit to begin with, I realize at this point the best development is to move forward. I hope your support for this settlement continues and that the recent suit by AOL will also be terminated. It is not worth the time and money of the Justice Department to continue to pursue these actions against Microsoft, a successful, entrepreneurial company, that has contributed to the success of the U.S. economy and our technological breakthroughs. Without the efforts of Microsoft, the global computer industry would not have the standards and success we witness today.

Sincerely,
Kevin Port

MTC-00028297

From: N P
To: Microsoft ATR
Date: 1/28/02 2:03pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

In all honesty the Proposed Final Judgment stinks. I disapprove of the tactics uses to get what they want. As one can see, MS, with disregard to the rules put in place, will continue to violate all anti-trust laws. The Proposed Final Judgment is not a panacea to the Microsoft debacle but, in fact, avoids the whole issue altogether.

Undeniably true and accurate, Microsoft is guilty of breaking these laws. Under the final settlement, the DoJ allows MS to retain most of its profits gained through past illegal activities. Therefore, the PFJ will not compensate parties harmed through Microsofts egregious acts.

In addition, the PFJ will not take into account all Microsoft gains made through its illegal maneuverings. With all due respect, the final settlement is basically acknowledging the acceptance of Microsofts anti-competitive behavior. What kind of message does this send out to the public? I can assure you that the message is clear and simple.

The PFJ encourages big corporations to engage in monopolistic and predatory conduct, which in turn is detrimental to the technology industry at large. With all due respect your honor, I am outraged at such a preposterous proposal that only helps Microsoft to remain intact and continue with its unethical practices. Thus, I conclude by respectfully submitting my disapproval to this Proposed Final Judgment.

Respectfully,
Mrs. Nimfa Paraso
7230 Adams Rd.
Magna, Utah 84044

MTC-00028298

From: BROWNING, CONNIE (AIT)
To: 'microsoft.atr(a)usdoj.gov'
Date: 1/28/02 2:04pm
Subject: Microsoft Settlement

To Whom it May Concern:

Regarding the Microsoft Settlement, as a recent purchaser of a new computer preloaded with Microsoft XP, I believe that MS has gone too far in automating updates from my personal computer to their system. I see the XP software, attempting to contact MS every time that I am on the internet. I firmly believe that the software should have been designed to request my explicit permission before sending information regarding my personal machine.

Furthermore, I think that MS's exclusive and proprietary relationships are not in my best interest, and prevent the further innovation of many independent software developers. It was very clear to me when loading other software on my XP system, which vendors had not paid the price for MS's exclusive arrangements and were suffering from the dramatic negative messages that I received when trying to load "unapproved" software.

If I had known the nature of XP when purchasing my new computer, I would have insisted at the time that the manufacturer supply me with another operating system.

Connie Browning
468 Liberty Lane
Westerville, OH 43081

MTC-00028299

From: peter@goldthorp.com@inetgw
To: Microsoft ATR
Date: 1/26/02 3:38pm
Subject: Microsoft Settlement

Microsoft was found guilty in this case. They have a history of similar behavior (examples include DR-DOS and Stac Electronics). They are currently targeting Real Networks using similar tactics to the ones used against Netscape.

I do not believe that the proposed final judgement will restrain Microsoft's anticompetitive conduct. It does not appear to do anything to remedy the effects of their past unlawful conduct.

Their current .Net initiative attempts to leverage their desktop monopoly to gain a dominant position online services. They should not be allowed to do this.

Peter Goldthorp
Software Engineer
Hayward CA

MTC-00028300

From: Grissom, Marlene
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 2:03pm
Subject: microsoft settlement

I agree with Microsoft management in Hoping for a quick resolve and settlement

Marlene Grissom

MTC-00028301

From: Chris Arsenault
To: Microsoft ATR
Date: 1/28/02 2:05pm
Subject: Microsoft Settlement

To whom it may concern:

After having read the provided case documents, I have come to the following conclusion:

The proposed Final Judgement for United States v. Microsoft as currently written fails to provide a concise and enforceable order from the courts. It is inadequate to the task of addressing the needs of the People. Given Microsoft's past history of compliance with court orders, I feel that it's business practices would be difficult to enforce without consequences being written into the Final Judgement.

Such consequences should be related to the grant of monopoly for copyrights and patents. In effect, should Microsoft continue predatory business practices in a monopolistic fashion, then the United States should revoke the grant of copyright to the various versions of Windows software and Internet Explorer, as well as the foundation source code. This code would be then be placed in the public domain. This removes the need for monitoring for compliance and reminds Microsoft that it undertakes business at the discretion of the People of the United States.

Additionally, the issue which is at the heart of the case—what constitutes a computing platform, is clearly left unanswered by the proposed final judgement as written. Without delving into a lengthy argument here, at least recognize that support for open source and public standards by which the Internet emerged is clearly a wise and prudent action which encourages innovation and discourages format lock-in.

For these reasons and many others, I strongly recommend that the court reject this proposed Final Judgement.

Sincerely,
Chris Arsenault
67 Pole Bridge Rd.
N. Scituate, RI 02857

MTC-00028302

From: Phil Steele
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 2:03pm
Subject: Microsoft Settlement

To Whom It May Concern:

As US citizen, I am outraged at our government's prosecution of Microsoft, and I believe the whole antitrust case should be closed. I don't need a paternalistic government to tell me which software I should buy or to use my tax dollars prosecuting companies whose products I enjoy and find immensely valuable. This is not the proper role of government, and such antitrust actions must, by their nature, ultimately be destructive of consumer choice in the marketplace.

Please accept this letter as one citizen's plea for a government that protects me from force and fraud—not from valuable products successfully marketed by successful companies.

Philip Steele
691 Ora Avo Drive
Vista, CA 92084

MTC-00028303

From: jack gelin
To: Microsoft ATR
Date: 1/28/02 2:04pm
Subject: Microsoft Settlement
1662 E 24th Street
Brooklyn, NY 11229
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I understand the Courts will make their final decision next week on whether the proposed Microsoft settlement benefits the public. I'd like to express my feeling on this issue.

Microsoft did not get off easy. The settlement was arrived at after extensive negotiations with a court-appointed mediator. The Company agreed to terms that extend beyond what was expected in the suit.

They also agreed to design future versions of Windows, starting with an interim release of Windows XP, to provide a mechanism to make it easy for computer companies, consumers and software developers to promote non-Microsoft software within Windows. This mechanism will make it easy to add or remove access to features built in to Windows or to non-Microsoft software. Consumers will have the freedom to choose or change their configuration at any time.

Microsoft really needs to get back to business because they helped the economy far more than they could ever hurt the economy. Let's end the litigation!!

Sincerely,
Jack Gelin
cc: Representative Anthony David Weiner

MTC-00028304

From: Fred Murhammer
To: Microsoft ATR
Date: 1/28/02 2:07pm
Subject: Microsoft Settlement

I am opposed to the Department of Justice's settlement with Microsoft. I believe it is not in the public interest due to the many loop holes in the settlement agreement. I believe that the nine states which are opposing this settlement are acting in the public interest. I urge the D.O.J. to join forces with these nine states, who are seeking stiffer penalties and safeguards to be imposed on Microsoft. If the D.O.J. settlement with Microsoft is enacted it will allow Microsoft to return to business as usual, which is to abuse it Monopoly position to squash competition and innovation to the detriment of the general public.

Thank you,
Fred Murhammer

MTC-00028305

From: Bill Kirtley
To: Microsoft ATR
Date: 1/28/02 2:09pm
Subject: Microsoft Settlement

To Whom it may concern-

I am writing as a US taxpayer, voter, and citizen to protest the Proposed Final Judgment in the matter of the United States vs. Microsoft antitrust lawsuit.

I do not feel that the solution as proposed either punishes Microsoft for previous anticompetitive behavior, reduce the barriers to entry for vendors other than Microsoft innovating in the field, or inhibits Microsoft from engaging in monopolistic behavior in the future.

A number of well reasoned arguments have been written on the subject, and I won't revisit them here. One good one can be found at: http://www.kegel.com/remedy/remedy2.html I feel that the best way to protect the market without unduly punishing Microsoft shareholders would be to sever Microsoft into separate companies, and require that those companies interact with each other in an above-the-board way. They should use only each others published APIs. There should be clear delineation of the money being spent and earned on individual products. Furthermore I am shocked by the timing of this agreement. The Justice Department has abandoned all attempts to preserve the appearance of enforcing the law. A cynical observer might conclude that the defendant in this case was successful in purchasing influence during the last Presidential election season.

Thank you for your attention.
Bill Kirtley;
117 Newport Street;
Arlington MA 02476

MTC-00028306

From: The Young Family
To: Microsoft ATR
Date: 1/28/02 2:07pm
Subject: RE. Microsoft Settlement

Please accept the settlement as is. This has got to end. Thank You,

Sondra Young

MTC-00028307

From: pjmet@quixnet.net@inetgw
To: Microsoft ATR
Date: 1/28/02 2:05pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel

going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Mary Ellen Torres
121 Crest Haven Drive
Belleville, IL 62221–4387

MTC-00028308

From: james bohan
To: Microsoft ATR
Date: 1/28/02 2:08pm
Subject: RE: M.S. case

I think that at the very least they should be broken up. In addition, I would recommend that the us gov not spend any more money on their operating systems, when there are cheaper and better ones out there.

MTC-00028309

From: Hugh B. Brawford
To: Microsoft ATR
Date: 1/28/02 2:08pm
Subject: Microsoft anti- trust settlement

I support the settlement..it is time to encourage our hard working succesful USA businessmen.

Thank you
Hugh B. Brawford C.R.S.

MTC-00028310

From: bwood@providentmutual.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:08pm
Subject: Microsoft Settlement

Here is a letter I am trying to fax you. The fax lines are very busy so I'll give email a try.

(See attached file: BonnieMS.doc)
Bonnie F. Wood
Provident Mutual Life Insurance Company
B3S
Bonnie—Wood@providentmutual.com
610–407–1462
fax 302–452–7264

MTC-00028310—0001

Bonnie Wood
116 Timber Springs Lane
Exton, PA 19341
January 28, 2002
Attorney General John Ashcroft Fax 1–202–307–1454
US Department of Justice Page 1 of 1
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This letter is to give my support to the Microsoft and Department of Justice settlement. Microsoft is one of our greatest companies and I resent the government interference in what is basically competition between technology companies. I doubt whether Microsoft has done anything that the other firms have not. More likely, the other firms could not compete and have gone crying to the government. They just want a bigger piece of the pie.

You don't have to look any further than AT&T to see the havoc that can result from breaking up certain so-called monopolies. AT&T was deemed a monopoly while we had the best service in the world. Now, no one can understand the half-dozen phone bills received each month from strange sounding phone companies. Phone companies come and go with alarming frequency, and those that stay in business seem to be merging all back together. I often wonder if I would have been better off if AT&T had been left alone.

The same may be true for Microsoft. In any event, Microsoft and the Justice Department have reached an agreement. Microsoft has agreed to open the company up to third party innovation; has agreed to disclose internal source codes for Windows; and agreed to an oversight committee. This is more than fair.

I urge you to give your approval to this agreement.

Thank you for your consideration of my views.

Sincerely,
Bonnie Wood
cc: Senator Rick Santorum
202–228–0604

MTC-00028311

From: Nutton, Thomas G
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 2:07pm
Subject: aol

I believe this can not go forward and in this will be in the best interest of the USA. Tom N.

MTC-00028312

From: Adam C Powell IV
To: Microsoft ATR
Date: 1/28/02 2:10pm
Subject: Microsoft "settlement"

Greetings,

I am writing to strongly oppose the terms of the "settlement" offer in the Microsoft antitrust case. That Microsoft has violated the law is without question. But the proposed settlement in fact rewards that company for its misdeeds, rather than punishing them. I must remind you that the marginal cost of software is a tiny fraction of its retail price, and therefore the stated monetary value of the cost to Microsoft is far in excess of the actual cost to that company. Furthermore, this "punishment" allows Microsoft to expand its market share in education, which has long been one of their weakest markets. In other words, this does not punish Microsoft at all, and in fact rewards their lawbreaking activity, handing them more of a monopoly on a silver platter.

As an administration and political party which prides itself on being "tough on crime", I would urge you to not reward Microsoft for commiting a crime whose impact on society is unmeasurable. The nation awaits your decision, and hopes that you will bring about justice in this case.

Sincerely,
Adam Powell http://lyre.mit.edu/powell/ <http://lyre.mit.edu/%7Epowell/>
Thomas B. King Assistant Professor of Materials Engineering
77 Massachusetts Ave. Rm. 4–117 Phone (617) 452–2086
Cambridge, MA 02139 USA Fax (617) 253–5418

MTC-00028313

From: James Love
To: Microsoft ATR
Date: 1/28/02 2:10pm
Subject: Microsoft Settlement

MTC-00028313—0001

Subject: Microsoft Settlement
Date: January 28, 2002
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Email: microsoft.atr@usdoj.gov
(Note: In the Subject line of the e-mail, type Microsoft Settlement.)
Fax 1–202–307–1454 or 1–202–616–9937
From: Ralph Nader
P.O. Box 19312
Washington, DC 20036
James Love
Consumer Project on Technology
P.O. Box 19367
Washington, DC 20036
Introduction

Having examined the proposed consent final judgment for USA versus Microsoft, we offer the following comments. We note at the outset that the decision to push for a rapid negotiation appears to have placed the Department of Justice at a disadvantage, given Microsoft's apparently willingness to let this matter drag on for years, through different USDOJ antitrust chiefs, Presidents and judges. The proposal is obviously limited in terms of effectiveness by the desire to obtain a final order that is agreeable to Microsoft. We are disappointed of course to see a move away from a structural remedy, which we believe would require less dependence upon future enforcement efforts and good faith by Microsoft, and which would jump start a more competitive market for applications. Within the limits of a conduct- only remedy, we make the following observations.

On the positive side, we find the proposed final order addresses important areas where Microsoft has abused its monopoly power, particularly in terms of its OEM licensing practices and on the issue of using interoperability as a weapon against consumers of non-Microsoft products. There are, however, important areas where the interoperability remedies should be stronger. For example, there is a need to have broader disclosure of file formats for popular office productivity and multimedia applications. Moreover, where Microsoft appears be given broad discretion to deploy intellectual property claims to avoid opening up its monopoly operating system where it will be needed the most, in terms of new interfaces and technologies. Moreover, the agreement appears to give Microsoft too many opportunities to undermine the free software movement.

We also find the agreement wanting in several other areas. It is astonishing that the agreement fails to provide any penalty for Microsoft's past misdeeds, creating both the sense that Microsoft is escaping punishment because of its extraordinary political and economic power, and undermining the value of antitrust penalties as a deterrent. Second, the agreement does not adequately address the concerns about Microsoft's failure to abide by the spirit or the letter of previous agreements, offering a weak oversight regime that suffers in several specific areas. Indeed, the proposed alternative dispute resolution for compliance with the agreement embraces many of the worst features of such systems, operating in secrecy, lacking independence, and open to undue influence from Microsoft.

OEM Licensing Remedies

We were pleased that the proposed final order provides for non-discriminatory licensing of Windows to OEMs, and that these remedies include multiple boot PCs, substitution of non-Microsoft middleware, changes in the management of visible icons and other issues. These remedies would have been more effective if they would have been extended to Microsoft Office, the other key component of Microsoft's monopoly power in the PC client software market, and if they permitted the removal of Microsoft products. But nonetheless, they are pro-competitive, and do represent real benefits to consumers.

Interoperability Remedies

Microsoft regularly punishes consumers who buy non-Microsoft products, or who fail to upgrade and repurchase newer versions of Microsoft products, by designing Microsoft Windows or Office products to be incompatible or non- interoperable with competitor software, or even older versions of its own software. It is therefore good that the proposed final order would require Microsoft to address a wide range of interoperability remedies, including for example the disclosures of APIs for Windows and Microsoft middleware products, non-discriminatory access to communications protocols used for services, and non-discriminatory licensing of certain intellectual property rights for Microsoft middleware products. There are, however, many areas where these remedies may be limited by Microsoft, and as is indicated by the record in this case, Microsoft can and does take advantage of any loopholes in contracts to create barriers to competition and enhance and extend its monopoly power.

Special Concerns for Free Software Movement

The provisions in J.1 and J.2. appear to give Microsoft too much flexibility in withholding information on security grounds, and to provide Microsoft with the power to set unrealistic burdens on a rival's legitimate rights to obtain interoperability data. More generally, the provisions in D. regarding the sharing of technical information permit Microsoft to choose secrecy and limited disclosures over more openness. In particular, these clauses and others in the agreement do not reflect an appreciation for the importance of new software development models, including those "open source" or "free" software development models which are now widely recognized as providing an important safeguard against Microsoft monopoly power, and upon which the Internet depends.

The overall acceptance of Microsoft's limits on the sharing of technical information to the broader public is an important and in our view core flaw in the proposed agreement. The agreement should require that this information be as freely available as possible, with a high burden on Microsoft to justify secrecy. Indeed, there is ample evidence that Microsoft is focused on strategies to cripple the free software movement, which it publicly considers an important competitive threat. This is particularly true for software developed under the GNU Public License (GPL), which is used in GNU/Linux, the most important rival to Microsoft in the server market. Consider, for example, comments earlier this year by Microsoft executive Jim Allchin: http://news.cnet.com/news/0–1003–200–4833927.html "Microsoft exec calls open source a threat to innovation," Bloomberg News, February 15, 2001, 11:00 a.m. PT

One of Microsoft's high-level executives says that freely distributed software code such as Linux could stifle innovation and that legislators need to understand the threat.

The result will be the demise of both intellectual property rights and the incentive to spend on research and development, Microsoft Windows operating-system chief Jim Allchin said this week. Microsoft has told U.S. lawmakers of its concern while discussing protection of intellectual property rights . . .

"Open source is an intellectual-property destroyer," Allchin said. "I can't imagine something that could be worse than this for the software business and the intellectual-property business." . . .

In a June 1, 2001 interview with the Chicago Sun Times, Microsoft CEO Steve Ballmer: again complained about the GNU/Linux business model, saying "Linux is a cancer that attaches itself in an intellectual property sense to everything it touches. That's the way that the license works,"[1] leading to a round of new stories, including for example this account in CNET.Com: http://news.cnet.com/news/0–1003–200–6291224.html "Why Microsoft is wary of open source: Joe Wilcox and Stephen Shankland in CNET.com, June 18, 2001. There's more to Microsoft's recent attacks on the open-source movement than mere rhetoric: Linux's popularity could hinder the software giant in its quest to gain control of a server market that's crucial to its long-term goals.

Recent public statements by Microsoft executives have cast Linux and the open-source philosophy that underlies it as, at the minimum, bad for competition, and, at worst, a "cancer" to everything it touches.

Behind the war of words, analysts say, is evidence that Microsoft is increasingly concerned about Linux and its growing popularity. The Unix-like operating system "has clearly emerged as the spoiler that will prevent Microsoft from achieving a dominant position" in the worldwide server operating-system market, IDC analyst A1 Gillen concludes in a forthcoming report*

. . . While Linux hasn't displaced Windows, it has made serious inroads. . .] . . In attacking Linux and open source, Microsoft finds itself competing "not against another company, but against a grassroots movement," said Paul Dain, director of application development at Emeryville, Calif.- based Wirestone, a technology services company*

. . . Microsoft has also criticized the General Public License (GPL) that governs the heart of Linux. Under this license, changes to the Linux core, or kernel, must also be governed by the GPL. The license means that if a company changes the kernel, it must publish the changes and can't keep them proprietary if it plans to distribute the code externally. . .

Microsoft's open-source attacks come at a time when the company has been putting the pricing squeeze on customers. In early May, Microsoft revamped software licensing, raising upgrades between 33 percent and 107 percent, according to Gartner. A large percentage of Microsoft business customers could in fact be compelled to upgrade to Office XP before Oct. 1 or pay a heftier purchase price later on.

The action "will encourage—'force" may be a more accurate term—customers to upgrade much sooner than they had otherwise planned," Gillen noted in the IDC report* "Once the honeymoon period runs out in October 2001, the only way to "upgrade" from a product that is not considered to be current technology is to buy a brand-new full license."

This could make open-source Linux's GPL more attractive to some customers feeling trapped by the price hike, Gillen said. "Offering this form of "upgrade protection" may motivate some users to seriously consider alternatives to Microsoft technology." . . .

What is surprising is that the US Department of Justice allowed Microsoft to place so many provisions in the agreement that can be used to undermine the free software movement. Note for example that under J.1 and J.2 of the proposed final order, Microsoft can withhold technical information from third parties on the grounds that Microsoft does not certify the "authenticity and viability of its business," while at the same time it is describing the licensing system for Linux as a "cancer" that threatens the demise of both the intellectual property rights system and the future of research and development.

The agreement provides Microsoft with a rich set of strategies to undermine the development of free software, which depends upon the free sharing of technical information with the general public, taking advantage of the collective intelligence of users of software, who share ideas on improvements in the code. If Microsoft can tightly control access to technical information under a court approved plan, or charge fees, and use its monopoly power over the client space to migrate users to proprietary interfaces, it will harm the development of key alternatives, and lead to a less contestable and less competitive platform, with more consumer lock-in, and more consumer harm, as Microsoft continues to hike up its prices for its monopoly products.

Problems with the term and the enforcement mechanism Another core concern with the proposed final order concerns the term of the agreement and the enforcement mechanisms. We believe a five-to-seven year term is artificially brief, considering that this case has already been litigated in one form or another since 1994, and the fact that Microsoft's dominance in the client OS market is stronger today than it has ever been, and it has yet to face a significant competitive threat in the client OS market. An artificial end will give Microsoft yet another incentive to delay, meeting each new problem with an endless round of evasions and creative methods of circumventing the pro-competitive aspects of the agreement. Only if Microsoft believes it will have to come to terms with its obligations will it modify its strategy of anticompetitive abuses.

Even within the brief period of the term of the agreement, Microsoft has too much room to co-opt the enforcement effort. Microsoft, despite having been found to be a law breaker by the courts, is given the right to select one member of the three members of the Technical Committee, who in turn gets a voice in selecting the third member. The committee is gagged, and sworn to secrecy, denying the public any information on Microsoft's compliance with the agreement, and will be paid by Microsoft, working inside Microsoft's headquarters. The public won't know if this committee spends its time playing golf with Microsoft executives, or investigating Microsoft's anticompetitive activities. Its ability to interview Microsoft employees will be extremely limited by the provisions that give Microsoft the opportunity to insist on having its lawyers present. One would be hard pressed to imagine an enforcement mechanism that would do less to make Microsoft accountable, which is probably why Microsoft has accepted its terms of reference.

In its 1984 agreement with the European Commission, IBM was required to affirmatively resolve compatibility issues raised by its competitors, and the EC staff had annual meetings with IBM to review its progress in resolve disputes. The EC reserved the right to revisit its enforcement action on IBM if it was not satisfied with IBM's conduct.

The court could require that the Department of Justice itself or some truly independent parties appoint the members of the TC, and give the TC real investigative powers; take them off Microsoft's payroll, and give them staff and the authority to inform the public of progress in resolving compliance problems, including for example an annual report that could include information on past complaints, as well as suggestions for modifications of the order that may be warranted by Microsoft's conduct. The TC could be given real enforcement powers, such as the power to levy fines on Microsoft. The level of fines that would serve as a deterrent for cash rich Microsoft would be difficult to fathom, but one might make these fines deter more by directing the money to be paid into trust funds that would fund the development of free software, an endeavor that Microsoft has indicated it strongly opposes as a threat to its own monopoly. This would give Microsoft a much greater incentive to abide by the agreement.

Failure to address Ill Gotten Gains

Completely missing from the proposed final order is anything that would make Microsoft pay for its past misdeeds, and this is an omission that must be remedied. Microsoft is hardly a first time offender, and has never shown remorse for its conduct, choosing instead to repeatedly attack the motives and character of officers of the government and members of the judiciary.

Microsoft has profited richly from the maintenance of its monopoly. On September 30, 2001, Microsoft reported cash and short-term investments of $36.2 billion, up from $31.6 billion the previous quarter—an accumulation of more than $1.5 billion per month.

It is astounding that Microsoft would face only a "sin no more" edict from a court, after its long and tortured history of evasion of antitrust enforcement and its extraordinary embrace of anticompetitive practices—practices recognized as illegal by all members of the DC Circuit court. The court has a wide range of options that would address the most egregious of Microsoft's past misdeeds. For example, even if the court decided to forgo the break-up of the Windows and Office parts of the company, it could require more targeted divestitures, such as divestitures of its browser technology and media player technologies, denying Microsoft the fruits of its illegal conduct, and it could require affirmative support for rival middleware products that it illegally acted to sabotage.

Instead the proposed order permits Microsoft to consolidate the benefits from past misdeeds, while preparing for a weak oversight body tasked with monitoring future misdeeds only. What kind of a signal does this send to the public and to other large corporate law breakers? That economic crimes pay!

Please consider these and other criticisms of the settlement proposal, and avoid if possible yet another weak ending to a Microsoft antitrust case. Better to send this unchastened monopoly juggernaut a sterner message. 1 http://www.suntimes.com/output/tech/cst-fin-micro01.html "Microsoft CEO takes launch break with the Sun-Times," Chicago Sun Times, June 1, 2001.

James Love
Consumer Project on Technology
P.O. Box 19367, Washington, DC 20036
http://www.cptech.org, mailto:love@cptech.org
voice: 1.202.387.8030 fax 1.202.234.5176 mobile 1.202.361.3040

MTC-00028314

From: Drgesq2@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:10pm
Subject: Microsoft Settlement!!!!!—Tunney Act Period

Attn: DOJ and Judge: This note is to support the proposed settlement in the Microsoft case. It is about time this case be ended. In all the years of watching litigation, this case is the clearest example I have ever sceen of a competitor induced lawsuit. Clearly, the Clinton Adm raised millions and got the Calif. electoral votes in exchange for this case. Further, so called judge jackson, railroaded Microsoft in every aspect of the case. As a CONSUMER the prices paid by me and every one else is essentially nominal to the benefits realised by use of this software.

Each computer based ahrdware and software company seeks to use their innovation over the competition. These competitors just dont have the skill and talent to realize the kind of success that has come to Microsoft. Please put an end to this matter as clearly as can be done.

Thank You!!
David R. Gray, Esq.
(drgesq2@aol.com)

MTC-00028315

From: LETTIE POE
To: Microsoft ATR
Date: 1/28/02 2:11pm
Subject: "Microsoft Settlement"

Gentlemen:

URGENT REQUEST!!!

Three years ago, the U. S. Department of Justice charged Microsoft with having engaged in anti-competitive behavior based on allegations by its top competitors. I feel that Microsoft was singled out in this action taken, and now I realize that The Justice Department is in the final stages of deliberating on the proposed Microsoft settlement to decide whether to accept the settlement or to litigate it further.

Personally, I believe that the proposed settlement offers a reasonable compromise that will enhance the ability of seniors, like myself, and all Americans, as well, to access the internet and use innovative software products to make their computer experience easier and more enjoyable. I am e-mailing you at this time to request that you not allow Microsoft's competitors to undermine the settlement negotiated with the federal government and nine states; although, the settlement is tough on Microsoft as it is. I feel it is a fair outcome for all parfies concerned particularly senior consumers. I feel that it not only will benefit the seniors, but this settlement more importantly will have a very positive impact on the American economy and will help to pull the Country from the jaws of recession in which we have been experiencing over the past year.

I feel that consumer interests have been served well, and that now the time has come to end this costly and damaging litigation. Continuing with this legal battle further will only benefit the wealthy competitors, lawyers, and special interest groups.

Please do not litigate this matter further, and go ahead and accept the settlement for the betterment of the public interest; all the Country.

Sincerely,
Lettie Ann Poe
2214 Hemerick Place
Clearwater, FL 33765–2227
Telephone Number (727) 796–6992
E-mail lapoe5@msn.com
CC: Lettie Ann Poe

MTC-00028316

From: a p
To: Microsoft ATR
Date: 1/28/02 2:11pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally-

I implore you to reconsider the guidelines set forth in the Proposed Final Judgment. Most honorable one, please analyzes the true facts in the final settlement and judge accordingly. In the past week it has been brought to my attention a most astonishing development in the MS case. A Final Settlement has been reached between the two parties. However, based on the details provided to me, the PFJ overturns findings by the U.S. Court of Appeals indicts Microsoft on violating antitrust laws. After further review of the proposed settlement I find it hard to believe the Justice Department would withdraw their charges against Microsoft. In fact, based on the assessments made on the proposal, Microsoft will go scotch free from any charges of wrong doing in the matter. How can this be?

There are several glaring flaws in the PFJ. However, non-so more apparent than allowing an absentee landlord to govern Microsoft. With all due respect, the final settlement provides no security to restrict MS from breaking any laws in the future. In my humble yet accurate opinion, the future governing body, implementing certain rules or regulations and forcing MS to adhere by them, will not be stringent nor forceful enough to make any dramatic changes.

Similarly, I am not convinced that these stiff penalties applied to MS will ensure the security and future growth of other companies. A stiffer penalty and a whole new framework of laws must be established to justly punish MS. The Proposed Final Judgment abstains from such justification and order. I conclude therefore by objecting to the Proposed Final Judgment.

All the Best,
Ariel Paraso
3450 West 8539 South
West Jordon, UT 84088

MTC-00028317

From: Grant Young(b)
To: Microsoft ATR
Date: 1/28/02 2:11pm
Subject: Microsoft Settlement
January 28, 2002
Renata Hesse, Trial Attorney
Antitrust Division—US Department of Justice
601 D Street NW—Suite 1200
Washington, DC 20530
microsoft.atr@usdoj.gov
Attorney Hesse:

I am emailing to urge the approval of the settlement of the Microsoft antitrust case. The DOJ, Microsoft and the Attorney Generals that have signed onto this case deserve enormous credit for finding a way to settle this case.

Our economy is the envy of the rest of the world because we have created a successful free-market based competition. As with any competition there are winners and losers. Microsoft has been the leader of the software industry for so many years because they create good products at a decent price. The people who run this company have worked hard to achieve this and work even harder to protect the companies leading status.

While there are those who believe Microsoft has engaged in unfair practices and even harmed consumers, I fail to see where this has been proven over the last 4 years of this case. I believe that many of those involved in this case have come to see it is a losing battle. Microsoft will not be broken up.

Settleing this case is the right thing to do.

Respectfully,
Grant Young
3000 Grand Avenue, #910
Des Moines, Iowa 50312
grantyoung72@hotmail.com

MTC-00028318

From: richard sonnier
To: Microsoft ATR
Date: 1/28/02 2:06pm
Subject: [Fwd: Microsoft kills Real World/ Great Plains Classic]

direct quote from letter to customers dated january 22,2002.

"Your Microsoft Great Plains Classic accounting solution (peviously known as Real World Classic) has benn an important part f both your and our business success, Since it has been available many companyies have relied on Classic to accurately track and report financial information, we are proud to have played a role in your business in the past and we hope to play that role in the future."

"due to the flexibility of Windows-based products, sales of Classic have been dropping, with demand for technical support steadily declining.

TEREFORE WE ARE ANNOUNCING THAT TELEPHONE SUPPORT OF CLASSIC WILL END JANUARY 31,2003, AND ELECTRONIC SUPPORT WILL END MARCH31,2003. iN ADDITION SALES OF CLASSIC WILL END JUNE 30,2002, THIS NOTICE GIVES YOU ADEQUATE TIME TO WEIGH YOUR OPTIONS AND DETERMINE YOUR NEXT STEP"

1. CLASSIC RUNS ON MANY PLATFORMS (UNIX,DOS,IBM,SUN, HP) AND THE ONLY OPTIONS GIVEN TO CUSTOMERS IS CONVERT AT EXTREME EXPENSE TO "WINDOWS-BASED".

2. THE SALES AND SUPPORT ARE DECLINING BECUASE MICROSOFT HAS NOT FURNISHED ANY ENCHANCEMENTS!!!!

3. MICORSOFT PURCHASED GREAT PLAINS WHICH HAD PREVIOUSLY PURCHASED REAL WORLD LESS THEN 1 YEAR AGO.

AND ARE NOT ELIMINATEING 20,000+ USERS PF OTHER PLATFORMS. tHIS IS A CLEAR VIOLATIONS OF ANTITRUST.

BY THE WAY MICROSOFT DID THE EXACT SAME THING "FOX SOFTWARE" BOUGHT/CHANGED TO FOXPRO "WINDOWS-BASE:" AND ELIMINATED OTHER PLATFORMS.

RICHARD L. SONNIER
GULF CENTRAL SYSTEMS
800 MIRE STREET
HOUMA, LA 70364
985–851–6674
RLS0938@AOL.COM

MTC-00028319

From: James Hertzog
To: Microsoft ATR
Date: 1/28/02 2:12pm
Subject: microsoft

Dear Mr. Ashcroft:

Why are you not letting Microsoft get back to work? Please encourage research and development in our country instead of persecuting it.

Sue N. Hertzog
248 Hwy 289N
Ash Flat, AR 72513

MTC-00028320

From: Stephen Calandrino
To: Microsoft ATR
Date: 1/28/02 2:13pm
Subject: Microsoft Settlement
8 Domidion Court
Middletown, New Jersey 07748
January 3, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

I am writing you to express my belief that the time has come to end the Microsoft antitrust case. The Justice Department's proposed settlement plan should be implemented immediately.

I believe the plan is more than fair from the complainants'' standpoint. The procedures and policies Microsoft will adopt exceed the original demands of its competitors. Microsoft will have to share code, change marketing and licensing practices, and submit to government oversight. The company will open itself up to more than mere market competition; it will be required to aid its competitors. This is more than sufficient.

This company should be allowed to return to the business of developing and producing the world's most accessible computer systems. It's time to end this case.

Sincerely,
Stephen Calandrino

MTC-00028321

From: AmericoC@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:11pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Americo Cardillo
168 Lake Garden Dr.
Cranston, RI 02920

MTC-00028322

From: Bryce Carey
To: Microsoft ATR
Date: 1/28/02 2:11pm
Subject: Microsoft Settlement

Hello,

I understand you are collecting comments on the proposed Microsoft settlement under the provisions of the Tunney Act. Please count me as an interested party (consumer and citizen) who is OPPOSED to the settlement as it currently stands.

I would like to see the settlement re-negotiated with terms that are more carefully selected to protect competitors to Microsoft and especially to change the provisions that could potentially allow Microsoft to inhibit competition from non-commercial software projects such as the Open Source software available on the GNU/Linux platform. As a Monopoly, Microsoft must be actively restricted from tilting the proverbial "level playing field" by their legal and marketing influences. I do not think the current settlement proposal does enough to assure a fair competitive environment.

Thank you,
Ralph Bryce Carey
rbcarey@pima.edu
Instructional Specialist,
Aztec Middle College,
Tucson Unified School District
Tucson, Arizona

MTC-00028323

From: Jules Feldmann
To: Microsoft ATR
Date: 1/28/02 2:16pm
Subject: Microsoft Settlement

January 28, 2002
TO: Renata B. Hesse
U.S. Department of Justice

In 1976, I purchased a computer to use in my business. It was an IBM and I was forced to use their proprietary "operating system." Application programs for this computer were limited as to vendors because each vendor had to develop their software for use on a specific machine or operating system.

When Microsoft entered the scene, they utilized an "open architecture" approach allowing their "operating system" to utilize any brand of computer. Because their "operating system" was not specific to a particular hardware brand, the software application developers were able to write application programs that would work on any computer running the DOS operating system. Because of this "open architecture" we consumers were given the choice of many more computer hardware manufacturers, rather than being limited to the manufacture's computer that ran our intended application.

There are several operating systems available that offer an alternative to MS DOS or Windows. Microsoft has been a boon to the small business computer user and to the U.S economy as well.

The government's antitrust activities directed at Microsoft has damaged our economy to a much greater extent than leaving Microsoft to the forces of a free market.

I believe in free markets and I am convinced that a new competitor would have eventually developed a challange to Microsoft by offering a viable alternative.

It is time for the government to stop pursuing this destructive course of antitrust prosecution.

Accept the settlement and let the industry move forward.

Thank you for taking the time to listen to my concerns.

Jules Feldmann, CPA
cpand@minot.com

MTC-00028324

From: D P
To: Microsoft ATR
Date: 1/28/02 2:15pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I oppose the proposed resolution in the MS case, better know as the Proposed Final Judgment. Over and above the usual economic risks presented by an unchecked monopolist—rising prices and monochromatic innovation the nations computer infrastructure will be increasingly vulnerable to attack if a single software system predominates.

Obviously I am referring to Microsoft.

Suppose that 80 or 90percent of the world's grain supply came from a single variety of corns. We would be faced with the unacceptable risk that some single disease, might wipe out an enormous portion of our food supply. Having only one kind of operating system or one kind of browser would make it terribly easier for saboteurs to bring the entire Internet to its knees. For one entity, such as Microsoft, to control 80 to 90 percent of the market for PC operating systems, Internet browsers, e-mail readers, and office productivity software is clearly a significant security risk. To then allow that monopoly to actively attempt to drive out its remaining competition would hardly be in the public interest. Diversity is the key in producing economic prosperity and improving the society as a whole.

It's now up to you, Judge Kollar-Kotally, to decide whether the proposed settlement between Microsoft and the DoJ is a correct and just solution. However I believe it contains too many loopholes to create the desired effect, changing MSs behavior, let alone bring forth a certain types of diversity which would enhance our security.

Kind Regards,
Debbie Paraso
3450 West 8539 South
West Jordon, UT 84088

MTC-00028325

From: wad@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/28/02 2:17pm
Subject: Microsoft Settlement

As a professional developing both computer hardware and software, I feel that the proposed DOJ settlement with Microsoft will not prevent Microsoft from continuing to act contrary the the best interest of the public.

In particular, non-profit organizations are particularly harmed by allowing Microsoft to refuse cooperation. If non-profit organizations developing software for free distribution are not in the public interest, what is ? Microsoft became the unstoppable behemoth that it is today through unsavory and illegal commercial tactics. It must be held accountable and punished.

The proposed DOJ settlement appears to be written by Microsoft, for Microsoft.

Please strike down this proposal, and continue to pursue a solution which adequately addresses past Microsoft actions, and prevents future abuses.

Sincerely,
John A. Watlington
4 Pinewood Rd.
Acton, MA 01720

MTC-00028326

From: Philip I. Long
To: Microsoft ATR
Date: 1/28/02 2:15pm
Subject: Microsoft Settlement

As I'm sure many have pointed out, the current settlement is deficient for many reasons. I would like try to summarize the most important issues as I see them:

Microsoft was found to be a monopolist due to the applications barrier to entry. Microsoft has shown itself very adept at leveraging it's desktop monopoly to creating barriers to entry, as well as defending that desktop monopoly. Therefore an effective settlement must take into account that the monopolist is strong, smart, unrepentant, and resistant to any measures that diminish it's control.

The necessary and sufficient remedy to a monopolist is the possibility for competition in this case, several things would be helpful to allow this to occur:

1) Microsoft must lack the ability to use intellectual property protection (patents, trade secrets, etc.) to prevent —any— entity (company, open source coalition, etc.) to create and distribute (in any way they choose) their own implementation of Microsoft functionality in any of their products. In other words, they must not be allowed any means to stop another entity from creating and distributing their own implementation of anything they want.

2) Microsoft must expose the functional specifications of all of their products so that others could implement them. This includes protocols, file formats, APIs, etc. It should also include all information it's own developers have regarding future directions. I should emphasize that I believe that Microsoft has a right to keep secret their own implementation. Requiring the monopolist to publish the source code to all of their software (without granting the license to copy or compile it) would be effective, but would go too far in my opinion.

3) Microsoft should be prohibited from using their PC desktop monopoly to promote (in any way) other business initiatives. Eastman Kodak's experience with their photo software is telling cautionary tale on this point. As is AOL's/Real's struggles with the MS media player. In particular, the control Microsoft aims to obtain with passport is in need of very close scrutiny. Any effective settlement should prevent the monopolist from approaching these or other initiatives in this manner.

4) Any settlement should prohibit Microsoft from taking any action that discourages alternative desktop operating system adoption. A particularly egregious examples is the rumored OEM license agreement prohibiting the ability to boot to other operating systems if a Microsoft operating system is also present. This works

to prevent Dell, Gateway, etc. from giving the public an option to have a PC that would multiboot BE, Linux, etc. in addition to windows. Clearly this helps the monopolist maintain it's monopoly, but hurts consumers. Another example would be discontinuing existing support of on alternative platforms. Microsoft should be prohibited from, for example, releasing windows versions of MS Office without simultaneously releasing a Mac version. I would not go so far as to say that they should be forced to release a Linux version of Office, but that would be nice (and I'd buy it if they did even at full retail of $500 or whatever they are charging these days).

5) Because the harm they cause is hidden in secret agreements, Microsoft should be prohibited from keeping secret any contracts they enter into.

They should all be available for public review.

I believe that Microsoft would balk at any settlement that effectively addressed any of these points. That they object should not be of any concern to the public or justice because they benefit from intellectual property laws (cf their BSA campaign). As they have built their corporation on the benefit of these laws and have been found to have gone too far and become a monopoly, they must be subject to measures that could not be fairly applied to an entity that had not violated the law to the detriment of consumers. I do not expect them to take kindly to the notion that they must compete on price and quality alone, but it would be of great benefit to consumers, innovation, and the global economy if they had to.

I urge the Department of Justice to ensure that any settlement effectively address these concerns.

Thank You,
Philip Long
373 Daniels Rd.
Barboursville, VA 22923–2808
—
Phil Long
Lead Software Applications Development Engineer, The MITRE Corporation's
Center for Advanced Aviation System Development
Voice: (703) 883–5810 Fax: (703) 883–1367

MTC–00028327

From: Peter Olend
To: Microsoft ATR
Date: 1/28/02 2:16pm
Subject: Microsoft Settlement
4848 Carberry Creek Road
Jacksonville, OR 97530–9329
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I was pleased to hear that the Department of Justice and many of the states decided to settle the Microsoft antitrust case. I would like the judge handling the case to approve the settlement.

In my opinion, this case should never have been brought against Microsoft. Through hard work and innovation, Microsoft has changed our world for the better. Microsoft has broken the inter-operability barrier and operational obfuscation that the likes of IBM, Sperry-Rand, Digital Equipment Corporation, Varian, ATT and others carefully nurtured prior to the 1980's.

For this, Microsoft is being punished under the guise that they have engaged in anti-competitive behavior. Do you remember the way ATT handled the release of the original Kernigan and Ritchy UNIX into the public domain and the antics of the "UNIX Consortium"? That was anti-competitive behavior. Nothing breeds contempt like success. However, in the interest of wrapping up this suit, I support Microsoft's decision to be bound by the terms of the settlement agreement.

Microsoft has gone so far as agreeing to disclose to its competitors various interfaces internal to the Windows operating system. As a development systems engineer, I find nothing inhibiting about the public interfaces. They have also agreed not to take action against those who violate Microsoft's intellectual property rights. Similarly, they will not take action against computer manufacturers who ship computers containing the competition's software.

Settling this case is in the best interests of all involved. I urge the Court to approve this settlement agreement. Thank you.

Sincerely,
Peter Olend

MTC–00028328

From: Chauncey Orton
To: Microsoft ATR
Date: 1/28/02 2:18pm
Subject: Microsoft Settlement

Attached is our pro-opinion for the settlement of the Microsoft case.

CC: fin@mobilizationoffice.com@inetgw
29651 Wilhite Lane
Valley Center, CA 92082
January 27,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Approval of the Microsoft case settlement will be in the best interests of America. The case has gone on long enough for the parties to state their cases and present their evidence. Also, the settlement addresses all the issues in the litigation and goes beyond the scope of the litigation. The parties could agree to terms beyond the litigation, but the judge would be restricted to only the formal issues. So, the settlement is better than anything even the judge could do. What is more, the settlement means that there would be no time consuming and potentially derailing court proceedings. The economy does not have stability needed for growth when one of America's leading industries is in an unsettling wrangle.

The settlement will provide greater flexibility, cooperation and stability within the information technology industry. Microsoft will open up its business practices and software code. A committee of technically skilled and recognized software engineering expert parishioners will see that the terms are followed and hear and investigate any complaints.

Enriching our legal system further is counter productive to expanding businesses. A one time legal business charge this past year, of 2/3 of a billion dollars to defend itself from its own government, is outrageous. The U.S. government is very concerned about what Enron did to their employee's retirement funds and they should be. But on a much larger scale, the government should look at what their actions did to the Microsoft stockholders" retirement funds.

We look forward to your leadership of bringing the Gov. vs. Microsoft's legal case to an end and focus on the real threat against the U S.- the terrorist.

Thank you.

Sincerely,
Steve and Suzanne Orton
cc: Representative Darrell Issa

MTC–00028329

From: ROSEFR@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:21pm
Subject: I support the settlement
Rose Ryba Pomeranz
16 High Meadow Lane
Oyster Bay Cove, NY 11771

MTC–00028330

From: Lee Kenna
To: Microsoft ATR
Date: 1/28/02 2:20pm
Subject: Microsoft Settlement

I believe that the Proposed Final Judgement in the Microsoft case is flawed, principally because it allows continued "bolting" of non— integral software to the Windows operating system, in such a way as to minimize the opportunity for other (non -Microsoft) competing products in the market space for these types of non—integral software. Competitiveness and the American economy are not served by allowing Microsoft, in spite of the Judges" ruling that they had acted unlawfully, to continue these practices.

Respectfully,
Lee M. Kenna
CEO
SIMCO Electronics
1178 Bordeaux Drive
Sunnyvale, Ca. 94089
Tel 408–734–9750

MTC–00028331

From: G M
To: Microsoft ATR
Date: 1/28/02 2:20pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I am opposed to the back-room deal cut between Microsoft and the DoJ. Several close friends and relatives have informed of this matter entailing a proposed settlement, notoriously understood as the Proposed Final Judgment. Truthfully from where I sit, I dont like what I see.

I cant believe the Justice Dept. threw out all court findings indicting Microsoft for all illegal activities. First of all the Proposed Final Judgment grants MS a government mandated monopoly that threatens to destroy any and all serious Microsoft competitors. Im all for free enterprise and what it symbolizes. To strike a huge blow against the spirit of free enterprise, one need not look any further than to allow MS to monopolize every sector, whether it is the gaming industry or the software industry, by eradicating most if not all competitors. By all means diversity is one essential ingredient in maintaining a healthy industry and more importantly a thriving economy.

I submit my disapproval to the Proposed Final
Judgment.
Kind Regards,
Gladys Montefrio
6024 Palamino Court
Stockton, CA 95210

MTC-00028332

From: McGreal, Martin P.
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 2:40pm
Subject: Microsoft Settlement

This settlement proposal—agreed to by the DOJ and all but nine states— seems alarmingly lenient for a company that was proven not only to be an illegal monopoly, but to have repeatedly abused that monopoly.

I vehemently oppose this settlement, wishing for more austere punishment of the defendant, as well as provisions for the prevention of future monopolisic abuse by the defendant.

Sincerely,
Martin McGreal
St Louis, MO

MTC-00028333

From: Argo, Rich W.
To: Microsoft ATR
Date: 1/28/02 2:10pm
Subject: Microsoft Settlement

I believe that the proposed settlement is a bad idea.

First and foremost, the proposed settlement primarily deals with Microsoft's dealings with OEMs. While this is a start, it does not go nearly far enough.

It also does not appear to enable OEMs to ship a PC with no operating system on it at all. Many users wish to install Linux, FreeBSD or many other free and open source operating systems and should not be forced to pay for an operating system that they do not want to use.

Furthermore, additional provisions need to be implemented in the settlement that will force Microsoft to make versions of Microsoft Office available for the 3 most popular desktop operating systems Currently that would be Linux, Macintosh and Windows. Currently Microsoft only produces versions for Windows and Macintosh. Macs aren't used in the business world very much and are more expensive relative to Intel-based PCs—which is what Microsoft Windows runs on. If there was a version of Office available for Linux, there would then be a choice for consumers that use Intel processors. This would open up competition for operating systems on the Intel processing platform as many businesses are reluctant to switch to another OS since they may not be able to run Office applications. In order to help enforce the spirit of this proposal, provisions would have to be implemented to force Microsoft to release versions of Office concurrently on all platforms.

Additionaly, all Windows API's should be open so that competitors that wish to produce software for Windows would be allowed to compete fairly with Microsofts products. All Microsoft Office file formats should be standardized with an open API so that anyone wishing to compete with an Office-like package could do so fairly.

Microsoft should not under any circumstances be allowed to ship any additional Microsoft software product free of charge along with their Windows operating system. The only exceptions to this rule should be utilities such as Notepad, WordPad and the various command line utilities that currently ship with Windows. Internet Explorer should not ship as a free part of Microsoft Windows. Neither should Microsoft Money. No Microsoft software that competes with another software product should be included with the operating system. If other competing products are offered for download for free from competitor's sites, then Microsoft should be allowed to offer free downloads for those kinds of products, but should not be allowed to ship those with the operating system. If they are allowed to do so, they are unfairly extending their monopoly power. If Microsoft so wishes to ship a software product in with their operating system, they should have to submit that request to a third party committee that would vote on whether or not to allow said inclusion, but only after a 90 day period whereby anyone wishing to protest said inclusion is given the opportunity to do so before the committee in person, via email or paper mail.

If Microsoft is found to have violated any part of the settlement they should be fined a minimum of $1 billion. On the surface, this may sound like an exorbant amount. However, nothing short of this will likely prevent Microsoft from violating the settlement and adequately punish them if they do.

Thank you,
Richard W. Argo
Web Designer, McLeodUSA

MTC-00028334

From: Andrew Hagel
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 2:26pm
Subject: RE: United States v. Microsoft Settlement

Dear Sir or Madam:

After reviewing the documents concerning the case, it is my personal opinion that the remedies currently proposed by the Department of Justice are in the best interests of the consumer, and that the marketplace is the appropriate competitive venue, as opposed to the court system.

Yours truly,
Andrew Hagel
CC:'andrewhagel(a)mediaone.net"

MTC-00028335

From: jlewin@mail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:25pm
Subject: Microsoft Settlement

I would like it to be known that I fully support the settlement proposed by the Government and Microsoft. This decision will bring about stability and confidence to the technology sector and conclude a case that I strongly disagree with. Microsoft makes products that benefit the public. As a software developer who uses Internet Explorer in most of my projects, I've never understood the lawsuit. Why so much attention was directed at I.E. hurting consumers and competitors I will never know. No modern OS would be complete without a web browser. In addition, I.E. is a fantastic product that provides features and functionality that have always surpassed any other products on the market. Please accept this document into record as evidence of one consumer, developer and taxpayer who agrees with settlement hopes to see the case come to a close.

Sincerely,
John Warner Lewin
CC:jlewin@mail.com@inetgw

MTC-00028336

From: Ajay Ramachandran
To: Microsoft ATR
Date: 1/28/02 2:25pm
Subject: Microsoft Settlement.

Hello,

I wanted to write saying that the current settlement in the case seems to be a reasonable one. While I understand that some changes might be necessary I think it very important that the consumers be the ones who gain from any settlement or settlement modification. In this regard specifically it just does not make sense to entertain other competitor wishes, they really ought to work with their customers to provide better products for them instead of attacking Microsoft.

Sincerely,
Ajay S. Ramachandran,
Redmond, WA.

MTC-00028337

From: satteson@pclink.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:27pm
Subject: Microsoft Settlement

I'm writing to express my reservations about the proposed settlement of the anti-trust case between the United States (as represented by the Justice department) and Microsoft Corporation. I speak as a concerned citizen with broad and significant computing experience. I've used computers in various capacities for over twenty years and have worked with half a dozen different operating system families, including the complete Microsoft family of products from MS-DOS to XP. I also have wide experience with many computer applications from both Microsoft and other parties.

I have provided network and systems administration of Microsoft and Linux systems on a part-time basis and rely on secure and stable computing environments in my primary occupation as a research and development consultant to startup medical device companies.

The proposed settlement offers insufficient redress of Microsoft's previous wrongs and provides too little protection from this company's ongoing anti-competitive practices. While a just settlement should address Microsoft's past practices, I am more concerned that a settlement provide adequate protection to consumers, competitors, and indeed the economy as a whole, from

Microsoft's ongoing and likely future anti-competitive practices.

With the release of it's latest, highly-integrated operating system product, XP, Microsoft has demonstrated that it has no intention of voluntarily curbing the sorts of predatory anti-competitive practices that have enabled it prosper at the expense of competitors and consumers alike. In my experience, succeeding generations of Microsoft operating system products have integrated increasing numbers of middleware applications, and the configuration tools needed to replace these applications with third party products have become more obscure and less effective, locking many consumers into a monolithic, Microsoft-only environment.

The lack of choice implied by Microsoft's monolithic model of computing is contrary to the workings of free market enterprise and is ultimately harmful to consumers. It is apparent that this trend has the goal of maintaining and expanding Microsoft's dominant position in the desktop computing marketplace.

The unnecessarily tight integration of middleware applications into its operating system products is far from the only illegitimate tool that Microsoft has used to dominate the desktop market in the United States. Microsoft has plausibly been accused of: extorting exclusive installation of its products on computers by OEM manufacturers via differential pricing, of corrupting open software standards to gain exclusive access to important domains of computing, and waging so-called FUD (fear, uncertainty and doubt) campaigns against competitors and consumers. An appropriate settlement would address not only the particulars of continued forced, artificial integration of its products but as many of the other tools against free competition that Microsoft has been using as is possible. It is bad public policy and poor economics to allow a single entity to maintain its position in the marketplace via unfair and illegal practices. Among the particular adverse effects of Microsoft's continued anti-competitive behavior are: stifled innovation, corruption of the marketplace, deterioration of the United State's position in the world's information technology economy and unnecessary security vulnerabilities.

Though Microsoft claims to be a leader in innovation, the record suggests that it is instead a follower (or perhaps a gatekeeper) of innovation. The Netscape saga illustrates this point. Microsoft failed to take the internet and its potential seriously until web's usefulness and the great value of effective browser technology were demonstrated by Netscape. Once Netscape was too successful to ignore, Microsoft used all of the anti-competitive tools at its disposal to neutralize Netscape. If Microsoft is allowed to escape effective punishment for this infraction, it will continue its current practices and will be a brake on rather than an engine of innovation. This result would be a loss for everyone, except perhaps Microsoft.

The stifling of innovation is just one of many symptoms of the market distortion created by Microsoft's all too effective use of anti-competitive tactics. There are a number of other ills created by this induced market failure, the most obvious of which are increased prices and lower product quality. Indeed, Microsoft has managed to defy the trends toward lower price and higher quality that typify all other aspects of the computer industry. As hardware has become ever more capable and less expensive, the cost of the software provided by Microsoft has remained high and improvements in quality have been slow and "grudging" at best. An overall effect of these opposing trends has been that Microsoft has been able to garner an increasing, and I would say, excessive fraction of every dollar spent on computers. Microsoft is richly rewarded by the market distortions that it has been able to engineer. It is time for these distortions to come to an end, and for the market to freely assert itself. Then the winners will be not only the consumers, who will get better quality at a lower price, but other hardware and software producers who will be able to command a more equitable share of the revenues from their products.

In the long run, Microsoft's illegitimate domination of the domestic information technology (IT) market threatens the United States" preeminent position in the international IT marketplace. Though Microsoft has a global reach, it is clear that its market power is neither as pervasive nor as potent as it is domestically. Because these overseas markets are less burdened by Microsoft's stifling anti-competitive practices, they can be more efficient and innovative. If this disparity is allowed to persist, it is likely that the United states will suffer an erosion of its now strong position in the world IT economy. The best way for the United States to prevent this deterioration is to open the domestic market to free and fair competition by preventing Microsoft from exerting its anti-competitive tools to distort the domestic IT market.

Microsoft has a history of using its market dominance to gloss over security problems with its products. Rather than act quickly to patch and publicize its security vulnerabilities, Microsoft uses all means at its disposal to suppress news of and information about its security problems. This "security through obscurity" approach is well know to be one of the worst possible responses to computer security problems; it leaves the computing community open to security problems for much longer than is necessary. It is typical for weeks or even months to pass between the discovery of a Microsoft security flaw and the company's issuance of a proper security patch. This poor security behavior is completely unacceptable in the face of the heightened security concerns following the events of September 11. Though Microsoft has recently paid lip service to improving the security of its products, it has shown no inclination to replace its antiquated and dangerous security model with a more open, proactive and effective model. Indeed, its recently issued code of security ethics for Microsoft professionals calls for strict adherence to the security through obscurity model. This code dictates that these professionals" paying customers be kept in the dark regarding security vulnerabilities until such time as Microsft deems it appropriate to reveal the problem. Microsoft's bad citizenship in regard to security is dangerous and should not be tolerated. A properly formulated settlement of the current case should include measures to force Microsoft to follow a more appropriate security model.

Microsoft's anti-competitive practices are not merely illegitimate and contrary to the principles of market capitalism and free enterprise, they greatly harm the American people in a significant number of concrete ways. The proposed settlement fails to address these ills in any meaningful sense. It needs to be reformulated to provide appropriate and strong protection of the market and the people from Microsoft's rapacious and counterproductive practices. A strong and effective settlement would not only serve the cause of justice, it would preserve an important sector of the United States" economy from unnecessary harm.

It is imperative that the Justice department act in a wise and decisive manner and prevent Microsoft from continuing to isolate itself from market discipline via unfair and illegitimate means.

Michael Satteson,
St. Paul, MN
satteson@pclink.com

MTC-00028337—0004

MTC-00028338

From: Leonard Bernstein
To: Microsoft ATR
Date: 1/28/02 2:26pm
Subject: RE: Microsoft settlement

Please accept the Microsoft settlement and bring this matter to closure.

Thank you,
Leonard Bernstein

MTC-00028339

From: j rim
To: Microsoft ATR
Date: 1/28/02 2:29pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I object to the so-called Proposed Final Judgment in to Microsoft case.

As every one knows, Microsoft continues to violate anti-trust laws set in place many years ago. The Proposed Final Judgment goes against all logic. Previously the US Court, has found Microsoft guilty of breaking the anti-trust laws. However, under the proposed final settlement, MS is permitted to retain most of its profits gained through their illegal activities. The PFJ will not compensate parties injured by the Microsoft debacle.

The PFJ does not take into account all Microsoft gains made through its illegal maneuverings. The final settlement basically–acknowledges the acceptance of Microsofts anti-competitive behavior. What kind of message does this send out to the public? Do you think the public will be in favor of such a move?

The PFJ encourages big corporations to engage in monopolistic and predatory conduct, which in turn is detrimental to the technology industry at large. With all due respect your honor, I am outraged at such a preposterous proposal that only helps Microsoft to remain intact and continue with its unethical practices. Thus, I object to this

Proposed Final Judgment. It solves nothing in the matter.

Sincerely,
Simplicio, Tualla Jr.
8959 Tam OShanter Dr.
Stockton, CA 95210

MTC-00028340

From: jason.walker@flyingj.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:28pm
Subject: Microsoft Settlement
2185 W 6410 N
Brigham City, UT 84302
January 25,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

For nearly four years now, the Microsoft antitrust case has been mired in the federal courts. Finally, after six months of negotiation, Microsoft and the Department of Justice were able to reach an agreement, and in November, their settlement was proposed. That settlement is currently pending approval. Next week, the courts will reconvene and determine whether the settlement serves the best public interest. I ask you, Mr. Ashcroft to support the finalization of the settlement.

Microsoft and the Justice Department have agreed on a wide variety of terms and conditions, all of which are aimed at preventing monopolistic behavior and restoring a competitive balance within the technology market. For example, Microsoft has agreed not to enter into any contracts wherein a third party is compelled to distribute or endorse Microsoft software either exclusively or at a fixed percentage. Microsoft also plans to reformat future versions of Windows so that competitors will be able to introduce their own products directly into the Windows operating system. This will enable computer makers and software developers to use Microsoft as a springboard to launch their own software.

I do not believe that further action against Microsoft needs to be taken on the federal level. In fact, it is likely that extended litigation could be detrimental to an already damaged economy. I ask you to support the finalization of the settlement.

Sincerely,
Jason Walker

MTC-00028341

From: Rick Deno
To: "microsoft.atr(a)usdoj.gov."
Date: 1/28/02 2:28pm
Subject: Microsoft Settlement

Lets" do what is good for the Country and put this litigation behind us.

Time to MOVE ON! I know, AOL and other competitors of Microsoft would love to have Microsoft destroyed, broken up, have all there software coding made public, and all there money taken away. After all, there main crime was competing and being better and smarter than everyone else. Whatever crime thy did commit had nothing to do with them being successful. The Public chose them over Apple, and many other Operating Systems years age because the provided a great produce that worked with a lot of different hardware, which allowed the price of a PC to be affordable. They and there work has only benefited the public, the US economy, and most of Microsoft's competitors. After all, Where would AOL be today if no Microsoft? Do we want to distort the marketplace and get rid of Microsoft? What does this tell the next Microsoft? Don't be too successful or the government will get rid of you. Is this what the free enterprise system is all about? A monopoly is the result of good business moves against bad business moves. This is All about Microsoft's competitors wanting the Government (States and Federal) to do what they couldn't, which is compete.

Thanks,
Richard Deno

MTC-00028342

From: The Young Family
To: Microsoft ATR
Date: 1/28/02 2:28pm
Subject: Microsoft Settlement
—— Original Message ——
From: Microsoft's Freedom To Innovate Network <fin@MobilizationOffice.com>
To: <bsmyoung@adelphia.net>
Sent: Monday, January 28, 2002 2:03 PM
Subject: Attorney General John Ashcroft Letter

Attached is the letter we have drafted for you based on your comments. Please review it and make changes to anything that does not represent what you think. If you received this letter by fax, you can photocopy it onto your business letterhead; if the letter was emailed, just print it out on your letterhead. Then sign and fax it to the Attorney General. We believe that it is essential to let our Attorney General know how important this issue is to their constituents. The public comment period for this issue ends on January 28th. Please send in your letter as soon as is convenient.

When you send out the letter, please do one of the following: * Fax a signed copy of your letter to us at 1–800–641–2255; * Email us at fin@mobilizationoffice.com to confirm that you took action.

If you have any questions, please give us a call at 1–800–965–4376. Thank you for your help in this matter.

The Attorney General's fax and email are noted below.

Fax: 1–202–307–1454 or 1–202–616–9937
Email: microsoft.atr@usdoj.gov

In the Subject line of the e-mail, type Microsoft Settlement.

For more information, please visit these websites: www.microsoft.com/freedomtoinnovate/ www.usdoj.gov/atr/cases/ms-settle.htm

January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The Department of Justice and Microsoft have finally reached a decision ending the three-year-long antitrust suit against the company. I want to add my support to this settlement. It has gone on for far too long. We are trying very hard to come out of a economic downturn, which I think was precipitated by the lawsuit, and we need to focus on more important matters than nitpicking over what should be the final decision in the Microsoft lawsuit.

Microsoft has also been more than accommodating with the demands from the Justice Department. Microsoft has agreed to a technical committee to oversee future compliance (consisting of software engineers, not lawyers); Microsoft has agreed to a uniform price list; Microsoft has agreed to internal interface disclosure; Microsoft has agreed to open the company up to third party innovation. This is more than fair.

I urge you to give your support to this agreement.

Sincerely,
Melvin Young
22 Club Drive
illicothe, OH 45601

MTC-00028343

From: Cheryl Stearn
To: Microsoft ATR
Date: 1/28/02 2:29pm
Subject: Microsoft Settlement
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

Microsoft's behavior is such that due to their size and capitalization, they can and will dominate any market they choose. Recently, they decided to compete directly with their "Microsoft Partners", firms who integrate and install Microsoft networks by essentially offering the same technical services that firms such as ours do. It is only in the last couple of weeks that Microsoft has rescinded their push to compete with us, primarily, I belive, because they would like us to support them in their fight with the Department of Justice. If this letter is read by Microsoft, I am sure that our business involving their products is toast.

The settlement with Microsoft is a joke. If anything it will tighten Microsoft's hold on the computer market, increase prices and make the US less competitive in the world market.

Sincerely,
Cheryl Stearn
Partner
P.S. Signed pdf document attached
cheryl—stearn@digitalsunrise.com

MTC-00028344

From: Woody McLendon
To: Microsoft ATR
Date: 1/28/02 2:30pm
Subject: Microsoft Settlement comments
January 28, 2002

To Whom it May Concern,

I am writing to express my very strong concern about the nature of the settlement proposal in the DOJ case against Microsoft. I believe that the settlement has major flaws and will do nothing to limit Microsoft in its future attempts to quash competitors in the IT industry.

My work is in IT for a non-profit organization. I use computers daily, including Microsoft products. I do not think Microsoft is "evil" but I am greatly concerned that the company has shown an ongoing history of using its monopoly position to overtake and overwhelm competitors. Microsoft's "shadow" on the software and IT industry is huge. They have the ability to out-spend and out-last almost all of their competitors, and if they don't do that, they try to buy them out. With their new products such as Windows XP, Xbox game console, PocketPC handheld computers, they continue the same behavior.

I am not a person that usually writes letters such as this, but because of my involvement in the IT industry and the importance for the future, I felt compelled to write. The recent events with Enron only highlight more fully to me that the US Government has a definite oversight responsibility in industry. I do not believe that market forces alone will protect against abuse. Microsoft has been found to be a monopoly that misuses its position to protect and grow its markets. That behavior must be stopped. Please reconsider the decision and make strong, enforceable structural changes in Microsoft for the good of consumers and the industry. The US Government dealt with monopolistic issues with IBM and the industry did not disappear. Neither did IBM. I believe that the entire computer industry will be better off with a stronger penalty for Microsoft.

Sincerely yours,
William W. McLendon, Jr.
7905 Agape Lane
Waxhaw, NC 28173
woodym@mac.com

MTC-00028345

From: Robert Lancaster
To: Microsoft ATR
Date: 1/28/02 2:30pm
Subject: microsoft settlement

In regard to the settlement between Microsoft Corporation and the Department of Justice: On the findings of the District Court and the Court of Appeal, the settlement is no more than a gift from the DOJ to Microsoft, giving it the right and power to continue its monopolistic and predatory practices in spite of the above- mentioned legal judgements. In fact, its monopoly power would be effectively increased by the failure to require anything which would restrict the ability of XP, Hailstorm, and Microsoft's other current releases to control the user's access to the Internet and the World Wide Web and prevent any other competing innovative products from obtaining a foothold. A radical modification of what appears to be a shameful collusion to allow Microsoft to continue business as usual in defiance of the legal judgements of the courts is imperative for the continuance of free development, innovation, and entrepreneurship in this country (and even to some extent in the developed world).

Robert Lancaster
145 Fairview Lane, Paso Robles, CA

MTC-00028346

From: ROSIEMUS@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:31pm
Subject: microsoft settlement
To the Department of Justice:
1/28/02

I strongly believe that Microsoft and the American public deserve a fair, equitable, and timely settlement of the Microsoft dispute. Microsoft is the firm that "got their first" and through their innovative technologica and economic skills built the business that exists today. The entire technological industry is exploding now and growth has it's own momentum. Much of it is due to Microsoft that got the ball rolling. Now is the time to quit the haggling and let Microsoft get on with its business, unencumbered by repeated challenges.

I became a small stockholder in the 1980's because my intuition told me they were on track. They had the key that opened the door then, and I believe they still are a wonderful example of American ingenuity in an open market. Have me become a nation that punishes the successful? I hope not.

Sincerely,
Rose Musacchio
52 Bader Avenue
Gowanda,NY 14070

MTC-00028347

From: abelem@mcnet.marietta.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 2:31pm
Subject: Supporting microsoft

Dear Mr. Ashcroft:

I am writing to express to you my approval of the recent settlement in the antitrust dispute between Microsoft and the Department of Justice. The economy needed this settlement. The decline in the stock market began with the attacks on Microsoft.

I sincerely hope litigation on any level is terminated. Thank you for your time and please put me down in favor of the settlement.

Sincerely,
Mona Abele
Marietta, OH

MTC-00028348

From: Tom O'Toole
To: Microsoft ATR
Date: 1/28/02 2:33pm
Subject: To the District Court: Microsoft Antitrust case...
January 28, 2002
Honorable Court Officials,

I am writing today because I have been made aware of the Tunney Act permitting public comment on the proposed settlement between the U.S. Department of Justice and Microsoft Corp.

I strongly believe that the proposed settlement does little or nothing to curb the anticompetitive practices of which Microsoft has been found guilty. In particular, the settlement doesn't resolve the issue of software bundling, which is a fundamental part of the case against Microsoft. Under the terms of the settlement agreement, Microsoft will essentially be given carte blache to include whatever software components they desire into the Windows system which is pre-installed on approximately 90% of computer systems sold, and which has been shown to have a monopoly market. This permits them to continue to use their operating system monopoly to create monopolies in new markets, directly counter to antitrust law.

Microsoft has, in the face of legal action, monopolized the internet browser market, and is in the process of creating a monopoly in audio-visual software with Windows Media Player. The new Windows XP operating system requires users to register with Microsoft. This is just the first part of a plan to maintain a comprehensive database of almost all computer users. It will then be used to monopolize internet commerce using the .NET and Passport services being deployed by Microsoft. This is all being done with blithe disregard to the antitrust findings made by the U.S. court. This attitude (being above the law) was plainly evident in the demeanor of Bill Gates during the trial. Microsoft has preferred to spend vast quantities of money to make the case go away, mostly playing a game of delaying tactics. I feel this settlement gives them exactly what they want, and is antithetical to any concept of fairness.

Microsoft will probably try to "stuff the ballot box" with comments in favor of the settlement. It is a well known Microsoft tactic to use pseudo-'grassroots" marketing efforts on internet newsgroups and bulletin boards, and I expect them to do that in this instance. I urge the court to see through this underhanded scheme and make a decision based on logic, precedent and fairness.

I am a computer user who uses several different systems: Macintosh, Linux and Windows, and I am deeply concerned about the future and what choices we consumers will have. Thank you very much for your time. I'm confident you will do the right thing.

Tom O'Toole
5885 El Cajon Blvd. #317
San Diego, CA 92115 -
ereiamjh@pacbell.net

MTC-00028349

From: sturde@az.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:33pm
Subject: Re: MS Settlement

Dear Madam:

The communication below states far more ably than I the reason the proposed DOJ/MS settlement is so objectionable. It simpley will not break the monopoly. If there is anti-trust law, if anti-trust law applies to MS and since MS has violated anti-trust law, then how will the proposed settlement break MS monopoly. It simpley will not.

James Sturdevant
Subject: Microsoft Settlement
Date: January 28, 2002
To: Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
Email: microsoft.atr@usdoj.gov
(Note: In the Subject line of the e-mail, type Microsoft Settlement.) Fax 1-202-307-1454 or 1-202-616-9937
From: Ralph Nader
P.O. Box 19312
Washington, DC 20036
James Love
Consumer Project on Technology
P.O. Box 19367
Washington, DC 20036

Introduction

Having examined the proposed consent final judgment for USA versus Microsoft, we offer the following comments. We note at the outset that the decision to push for a rapid negotiation appears to have placed the Department of Justice at a disadvantage, given Microsoft's apparently willingness to let this matter drag on for years, through different USDOJ antitrust chiefs, Presidents and judges. The proposal is obviously limited in terms of effectiveness by the desire to obtain a final order that is agreeable to Microsoft.

We are disappointed of course to see a move away from a structural remedy, which we believe would require less dependence upon future enforcement efforts and good faith by Microsoft, and which would jump start a more competitive market for applications. Within the limits of a conduct-only remedy, we make the following observations.

On the positive side, we find the proposed final order addresses important areas where Microsoft has abused its monopoly power, particularly in terms of its OEM licensing practices and on the issue of using interoperability as a weapon against consumers of non-Microsoft products. There are, however, important areas where the interoperability remedies should be stronger. For example, there is a need to have broader disclosure of file formats for popular office productivity and multimedia applications. Moreover, where Microsoft appears be given broad discretion to deploy intellectual property claims to avoid opening up its monopoly operating system where it will be needed the most, in terms of new interfaces and technologies. Moreover, the agreement appears to give Microsoft too many opportunities to undermine the free software movement.

We also find the agreement wanting in several other areas. It is astonishing that the agreement fails to provide any penalty for Microsoft's past misdeeds, creating both the sense that Microsoft is escaping punishment because of its extraordinary political and economic power, and undermining the value of antitrust penalties as a deterrent. Second, the agreement does not adequately address the concerns about Microsoft's failure to abide by the spirit or the letter of previous agreements, offering a weak oversight regime that suffers in several specific areas. Indeed, the proposed alternative dispute resolution for compliance with the agreement embraces many of the worst features of such systems, operating in secrecy, lacking independence, and open to undue influence from Microsoft.

OEM Licensing Remedies

We were pleased that the proposed final order provides for non-discriminatory licensing of Windows to OEMs, and that these remedies include multiple boot PCs, substitution of non-Microsoft middleware, changes in the management of visible icons and other issues. These remedies would have been more effective if they would have been extended to Microsoft Office, the other key component of Microsoft's monopoly power in the PC client software market, and if they permitted the removal of Microsoft products. But nonetheless, they are pro-competitive, and do represent real benefits to consumers.

Interoperability Remedies

Microsoft regularly punishes consumers who buy non-Microsoft products, or who fail to upgrade and repurchase newer versions of Microsoft products, by designing Microsoft Windows or Office products to be incompatible or non- interoperable with competitor software, or even older versions of its own software. It is therefore good that the proposed final order would require Microsoft to address a wide range of interoperability remedies, including for example the disclosures of APIs for Windows and Microsoft middleware products, non-discriminatory access to communications protocols used for services, and non-discriminatory licensing of certain intellectual property rights for Microsoft middleware products. There are, however, many areas where these remedies may be limited by Microsoft, and as is indicated by the record in this case, Microsoft can and does take advantage of any loopholes in contracts to create barriers to competition and enhance and extend its monopoly power.

Special Concerns for Free Software Movement The provisions in J.1 and J.2. appear to give Microsoft too much flexibility in withholding information on security grounds, and to provide Microsoft with the power to set unrealistic burdens on a rival's legitimate rights to obtain interoperability data. More generally, the provisions in D. regarding the sharing of technical information permit Microsoft to choose secrecy and limited disclosures over more openness. In particular, these clauses and others in the agreement do not reflect an appreciation for the importance of new software development models, including those "open source" or "free" software development models which are now widely recognized as providing an important safeguard against Microsoft monopoly power, and upon which the Internet depends.

The overall acceptance of Microsoft's limits on the sharing of technical information to the broader public is an important and in our view core flaw in the proposed agreement. The agreement should require that this information be as freely available as possible, with a high burden on Microsoft to justify secrecy. Indeed, there is ample evidence that Microsoft is focused on strategies to cripple the free software movement, which it publicly considers an important competitive threat. This is particularly true for software developed under the GNU Public License (GPL), which is used in GNU/Linux, the most important rival to Microsoft in the server market.

Consider, for example, comments earlier this year by Microsoft executive Jim Allchin:

http://news.cnet.com/news/0–1003–200–4833927.html "Microsoft exec calls open source a threat to innovation," Bloomberg News, February 15, 2001, 11:00 a.m. PT

One of Microsoft's high-level executives says that freely distributed software code such as Linux could stifle innovation and that legislators need to understand the threat.

The result will be the demise of both intellectual property rights and the incentive to spend on research and development, Microsoft Windows operating-system chief Jim Allchin said this week. Microsoft has told U.S. lawmakers of its concern while discussing protection of intellectual property rights .

"Open source is an intellectual-property destroyer," Allchin said. ""I can't imagine something that could be worse than this for the software business and the intellectual-property business."

In a June 1, 2001 interview with the Chicago Sun Times, Microsoft CEO Steve Ballmer: again complained about the GNU/Linux business model, saying "Linux is a cancer that attaches itself in an intellectual property sense to everything it touches. That's the way that the license works,"1 leading to a round of new stories, including for example this account in CNET.Com:

http://news.cnet.com/news/0–1003–200–6291224.html "Why Microsoft is wary of open source: Joe Wilcox and Stephen Shankland in CNET.com, June 18, 2001. There's more to Microsoft's recent attacks on the open-source movement than mere rhetoric: Linux's popularity could hinder the software giant in its quest to gain control of a server market that's crucial to its long-term goals

Recent public statements by Microsoft executives have cast Linux and the open-source philosophy that underlies it as, at the minimum, bad for competition, and, at worst, a "cancer" to everything it touches.

Behind the war of words, analysts say, is evidence that Microsoft is increasingly concerned about Linux and its growing popularity. The Unix-like operating system "has clearly emerged as the spoiler that will prevent Microsoft from achieving a dominant position" in the worldwide server operating-system market, IDC analyst A1 Gillen concludes in a forthcoming report.

* While Linux hasn't displaced Windows, it has made serious inroads. . .]. . In attacking Linux and open source, Microsoft finds itself competing "not against another company, but against a grassroots movement," said Paul Dain, director of application development at Emeryville, Calif.- based Wirestone, a technology services company.

Microsoft has also criticized the General Public License (GPL) that governs the heart of Linux. Under this license, changes to the Linux core, or kernel, must also be governed by the GPL. The license means that if a company changes the kernel, it must publish the changes and can't keep them proprietary if it plans to distribute the code externally.

Microsoft's open-source attacks come at a time when the company has been putting the pricing squeeze on customers. In early May, Microsoft revamped software licensing, raising upgrades between 33 percent and 107 percent, according to Gartner. A large percentage of Microsoft business customers could in fact be compelled to upgrade to Office XP before Oct. 1 or pay a heftier purchase price later on.

The action "will encourage—'force" may be a more accurate term—customers to upgrade much sooner than they had otherwise planned," Gillen noted in the IDC report. "Once the honeymoon period runs out in October 2001, the only way to "upgrade" from a product that is not considered to be current technology is to buy a brand-new full license. """

This could make open-source Linux's GPL more attractive to some customers feeling trapped by the price hike, Gillen said. "Offering this form of "upgrade protection" may motivate some users to seriously consider alternatives to Microsoft technology."

What is surprising is that the US Department of Justice allowed Microsoft to place so many provisions in the agreement that can be used to undermine the free software movement. Note for example that under J.1 and J.2 of the proposed final order, Microsoft can withhold technical information from third parties on the grounds that Microsoft does not certify the "authenticity and viability of its business," while at the same time it is describing the licensing system for Linux as a "cancer" that threatens the demise of both the intellectual property rights system and the future of research and development.

The agreement provides Microsoft with a rich set of strategies to undermine the development of free software, which depends upon the free sharing of technical information with the general public, taking advantage of the collective intelligence of users of software, who share ideas on improvements in the code. If Microsoft can tightly control access to technical information under a court approved plan, or charge fees, and use its monopoly power over the client space to migrate users to proprietary interfaces, it will harm the development of key alternatives, and lead to a less contestable and less competitive platform, with more consumer lock-in, and more consumer harm, as Microsoft continues to hike up its prices for its monopoly products.

Problems with the term and the enforcement mechanism Another core concern with the proposed final order concerns the term of the agreement and the enforcement mechanisms. We believe a five-to-seven year term is artificially brief, considering that this case has already been litigated in one form or another since 1994, and the fact that Microsoft's dominance in the client OS market is stronger today than it has ever been, and it has yet to face a significant competitive threat in the client OS market. An artificial end will give Microsoft yet another incentive to delay, meeting each new problem with an endless round of evasions and creative methods of circumventing the pro-competitive aspects of the agreement. Only if Microsoft believes it will have to come to terms with its obligations will it modify its strategy of anticompetitive abuses.

Even within the brief period of the term of the agreement, Microsoft has too much room to co-opt the enforcement effort. Microsoft, despite having been found to be a law breaker by the courts, is given the right to select one member of the three members of the Technical Committee, who in turn gets a voice in selecting the third member. The committee is gagged, and sworn to secrecy, denying the public any information on Microsoft's compliance with the agreement, and will be paid by Microsoft, working inside Microsoft's headquarters. The public won't know if this committee spends its time playing golf with Microsoft executives, or investigating Microsoft's anticompetitive activities. Its ability to interview Microsoft employees will be extremely limited by the provisions that give Microsoft the opportunity to insist on having its lawyers present. One would be hard pressed to imagine an enforcement mechanism that would do less to make Microsoft accountable, which is probably why Microsoft has accepted its terms of reference.

In its 1984 agreement with the European Commission, IBM was required to affirmatively resolve compatibility issues raised by its competitors, and the EC staff had annual meetings with IBM to review its progress in resolve disputes. The EC reserved the right to revisit its enforcement action on IBM if it was not satisfied with IBM's conduct.

The court could require that the Department of Justice itself or some truly independent parties appoint the members of the TC, and give the TC real investigative powers, take them off Microsoft's payroll, and give them staff and the authority to inform the public of progress in resolving compliance problems, including for example an annual report that could include information on past complaints, as well as suggestions for modifications of the order that may be warranted by Microsoft's conduct. The TC could be given real enforcement powers, such as the power to levy fines on Microsoft. The level of fines that would serve as a deterrent for cash rich Microsoft would be difficult to fathom, but one might make these fines deter more by directing the money to be paid into trust funds that would fund the development of free software, an endeavor that Microsoft has indicated it strongly opposes as a threat to its own monopoly. This would give Microsoft a much greater incentive to abide by the agreement.

Failure to address Ill Gotten Gains

Completely missing from the proposed final order is anything that would make Microsoft pay for its past misdeeds, and this is an omission that must be remedied. Microsoft is hardly a first time offender, and has never shown remorse for its conduct, choosing instead to repeatedly attack the motives and character of officers of the government and members of the judiciary.

Microsoft has profited richly from the maintenance of its monopoly. On September 30, 2001, Microsoft reported cash and short-term investments of $36.2 billion, up from $31.6 billion the previous quarter—an accumulation of more than $1.5 billion per month.

It is astounding that Microsoft would face only a "sin no more" edict from a court, after its long and tortured history of evasion of antitrust enforcement and its extraordinary embrace of anticompetitive practices—practices recognized as illegal by all members of the DC Circuit court. The court has a wide range of options that would address the most egregious of Microsoft's past misdeeds. For example, even if the court decided to forgo the break-up of the Windows and Office parts of the company, it could require more targeted divestitures, such as divestitures of its browser technology and media player technologies, denying Microsoft the fruits of its illegal conduct, and it could require affirmative support for rival middleware products that it illegally acted to sabotage. Instead the proposed order permits Microsoft to consolidate the benefits from past misdeeds, while preparing for a weak oversight body tasked with monitoring future misdeeds only. What kind of a signal does this send to the public and to other large corporate law breakers? That economic crimes pay!

Please consider these and other criticisms of the settlement proposal, and avoid if possible yet another weak ending to a Microsoft antitrust case. Better to send this unchastened monopoly juggernaut a sterner message. sturde@az.com

MTC-00028349 0007

MTC-00028350

From: Scott Shriver
To: Microsoft ATR
Date: 1/28/02 2:33pm
Subject: Microsoft Settlement

To Whom It May Concern:

I hope it's not too late to voice my objection to any plan requiring Microsoft to provide computers to schools as part of a settlement in the

DOJ's antitrust suit against the corporation.

As the computer lab supervisor in an Ohio middle school, I never thought I'd see the day when I'd turn down the possibility of free computer equipment or software. We sure could use whatever assistance may be provided in our goal of increasing student access to computers and the Internet. The substantial costs of modern technology makes it difficult to provide quality technology instruction in any but the most affluent schools. I know the objective is to penalize Microsoft in a way that helps our nation succeed in reforming and invigorating our public school system, but as well-meaning and obvious as this solution may seem, to give such a "gift" of computers will create several potential difficulties.

I have used "Wintel" computers for many years and have only recently replaced worn-out machines with comparable Apple iMac computers. I have used identical software on both machines and find that the Macintosh is far easier to instruct with and keep running. Maintenance and troubleshooting time has been slashed. Networking, even between Macintosh and Windows machines has never been easier. Our school is now reaching the conclusion of a long process of migrating to the Mac platform.

Apple has worked hard, I am sure to maintain a niche in the education market and has rebounded from recent economic problems. They would have difficulty competing with a company that is literally giving away their products to schools. The proposed settlement will cost Microsoft some money, to be sure. But the gains made by the company as it seeks to make inroads into the education sector will, I believe, more than make up for the heartburn of giving away product. In fact, I would liken this settlement solution to Brer Rabbit's briar patch: they may complain about the cost, but they would relish the opportunity to get away with a forced increase in marketshare. It is my opinion that to provide any settlement to Microsoft which would erode Apple's ability to continue to provide great service and equipment to the education market does a disservice to the corporation as well as to schools.

Couldn't Microsoft be asked to provide either free technology OR a comparable amount of money that might be used to purchase technology of choice for the schools?

Thank you for your time and attention.

Very sincerely,
R. Scott Shriver
R. Scott Shriver
Talawanda Middle School voice: 513.523.1989
4030 Oxford-Reily Road fax: 513.523.5144
Oxford, OH 45056–8943 email: sshriver@po.tcs.k12.oh.us

MTC–00028351

From: E F
To: Microsoft ATR
Date: 1/28/02 2:33pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I honorably object to the Proposed Final Judgment in the Microsoft case. There are several flaws with in the final proposal. One noticeable error is keeping Microsoft intact and not severely admonishing them for violating anti-trust laws. Another apparent defect entails the ineptitude to establish an effective mechanism that implements restrictions or regulations on MS.

As stated in the proposed settlement, Microsoft must comply with restrictions encompassed in the agreement. A three man compliance team will oversee and insure that Microsoft comply with the stated rules and regulations. Taking a closer look however, this three-man oversight team will be composed of the following: one appointee from the Justice Department, one appointee from Microsoft, and another appointee chosen by the two existing members. In turn, Microsoft will control half of the oversight team.

Yet, in the likelihood of any enforcement proceeding, all findings by the oversight committee will not be allowed into court. The sole purpose of the committee is to inform the Justice Department of all infractions by Microsoft. Subsequently the Justice Depart will launch its own investigation into the matter and commence litigation to halt all infractions.

What does this all mean? Translation- the oversight committee purely is an absentee landlord, who will not scrutinize Microsofts business dealings. Therefore in all fairness, the Proposed Final Judgment does not sufficiently provide the appropriate restrictions or penalties placed on Microsoft. What reessurance do we have that Microsoft will not continue to abuse it monopoly position and break the anti-trust laws? I can assure you that the Proposed Final Judgment will not effectively address the question in this matter. Therefore I respectfully submit to the court my objection to this Proposed Final Judgment.

Sincerely,
Eric Fontanilla
1855 Baring Blvd Apt 2105
Sparks, NV 89434

MTC–00028352

From: Steve Bentley
To: Microsoft ATR
Date: 1/28/02 2:34pm
Subject: Microsoft Settlement

Dear Sirs:

I am writing this in regards to the proposed Microsoft settlement. I am against accepting the proposal as currently understood.

Perhaps it is only my naivety that I continue to imagine that one of the roles of government is to protect the little guy from those more powerful then himself. In that vein, Microsoft is the bully on the block that us little people need government to step in and protect us from. The "slap on the wrist" provided by the settlement as currently proposed does not, in my view, do any more than say to Microsoft that it is acceptable to continue to be the bully on the block. This proposed settlement would be akin to telling the bully at school to give back 1 cent of every dollar extorted from your classmates, hardly a just penalty.

Thank you for considering my arguments against accepting the proposal before you.

Sincerely,
Steve Bentley
187 W Randall Ave.
Norfolk, VA 23503
(757) 583–5919
NAstarchld@sybercom.net

MTC–00028353

From: Mildred/Jerry
To: Microsoft ATR
Date: 1/28/02 2:33pm
Subject: 910 Hester Drive
910 Hester Drive
Harrison, AR 72601
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support of the settlement reached between the Justice Department and Microsoft in the antitrust case in federal court.

I am glad that this case is in its final stages. Microsoft and its competition have spent far too much time competing in court rather than in the marketplace. The case has drained resources on both sides for far too long and should be brought to an end as soon as possible.

In order to foster greater competition and consumer choice, Microsoft has agreed to design future versions of Windows to provide a mechanism to make it easier for computer makers, consumers and software developers to promote non-Microsoft software within Windows. It is in the public's best interest to implement this agreement so that the industry and consumers can take advantage of the new opportunities for competition and choice.

Sincerely,
Jerry Roberts
cc: Representative Bob Stump

MTC–00028354

From: FELLNER, CLAYTON
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 2:37pm
Subject: Microsoft Settlement

To whom it may concern,

I have used Microsoft products for many years. I want you to know that I believe their products are superior in many ways to their competitors. I enjoy the fact that many of their products are integrated into their operating system. This is a feature that is very useful for people like me, with little computer savvy.

Even though I don't consider myself a technical wizard, I am by no means a hapless victim who cannot choose software that is useful to me. And I do not think that the government has any right to decide what can be in my computer. Also, I resent the idea that a successful business and its products are a threat to anyone, especially me.

This antitrust case was brought about by Microsoft's whiny competitors, not disgruntled customers. Failed businesses must not be allowed to set the rules for the markets in which they failed. Continued application of the antitrust laws against successful businessmen can only lead to corruption and economic disaster as shown in many other countries.

I want to see an America where success is not discouraged or punished, but embraced and held as a goal for others to reach for. I want a free America where anyone with enough intelligence and hard work can be a self-made man like Microsoft Chairman Bill Gates.

And lastly, and most importantly, Microsoft has a fundamental right to its property. It is the government's job to protect this right, not to take it away.

Regards,
Clayton Fellner
3813 Harrison Drive
Carrollton, TX 75010
CC:'activism(a)moraldefense.com"

MTC–00028355

From: Andrew Johnson
To: Microsoft ATR
Date: 1/28/02 2:35pm
Subject: Microsoft Settlement

It is my belief the current proposed settlement with Microsoft is insufficient to punish Microsoft for illegally attempting to extend its desktop operating systems monopoly and to prevent it from re-attempting illegal activities in the future. While I believe an oversight board is necessary to ensure Microsoft's compliance with the court's ruling, I do not believe an oversight board alone is enough.

In the past, Microsoft has used its control of proprietary protocols and application programming interfaces (APIs), and extensions to open protocols and APIs, to prevent third party software from interacting properly with Windows. This has forced users wanting to use these protocols with Windows to use other Microsoft software, rather than third party software. It is also clear Microsoft intends to use similar tactics to establish a lock on Internet traffic and e-commerce through its control of .NET/HailStorm, MSN, and its other online properties. By causing Windows to require use of Microsoft online properties such as Passport, and building hooks to other

Microsoft online properties into Windows, Microsoft hopes extend its desktop operating system monopoly to control the Web sites a user sees and uses on the Internet. Businesses trying to reach consumers via the Internet will have to do business with Microsoft or lose a vast majority of their audience.

I propose two additions to the settlement that will hopefully deny Microsoft the ability to illegally extend their current monopoly into new markets while allowing the company to retain its current monopoly and its ability to innovate:

(1) Require Microsoft to publish all of its proprietary application programming interfaces (APIs) and protocols, and require its software to comply with published protocols. By forcing Microsoft to publish all of its proprietary protocols and APIs, the settlement would ensure non-Windows software could interoperate freely with Windows desktop software. Microsoft would also be required to comply with public specifications from third parties, since it has "embraced and extended" public protocols in the past in such a way as to prevent users from using third party software with Windows. The oversight board, in addition to ensuring Microsoft publishes all of its protocols and APIs, would monitor Microsoft for compliance with its own standards and standards published by others. It would receive and investigate complaints from third parties questioning the corporation's compliance, and take appropriate action if Microsoft was found to be incorrectly implementing standards to lock users into using only Microsoft software.

(2) Require Microsoft to divest MSN and its other online properties, and bar it from owning online services in the future. This will prevent Microsoft from using its desktop monopoly to gain a monopoly on Internet traffic in general and Internet-based e-commerce in specific. Microsoft would be free to develop innovative new software solutions, but would be unable to use them to coerce users to use its online services only. Adding these provisions to the Microsoft anti-trust settlement will both tangibly punish Microsoft for attempting to illegally extend its monopoly and help prevent it from doing the same in the future. Microsoft's monopoly in desktop operating systems would remain intact, as well as Microsoft's freedom to innovate. These measures would force the corporation to be a good industry citizen by denying it the capability to take advantage of its desktop operating system monopoly to dominate other markets.

Thank you for your time and consideration.

Lawrence Andrew Johnson
andy@lightweapons.com

MTC-00028356

From: Cheeseater
To: Microsoft ATR
Date: 1/28/02 2:37pm
Subject: Microsoft Settlement

Dear Judge Kotelly,

I have been informed that you have the responsibility of reviewing the Microsoft antitrust case. I wanted to take a second of your time to express my opinion on this matter. As many know, the Microsoft Corporation has been trying to corner the computer market for nearly a decade. This latest move in attempting to get what is essentially a governmental exemption from antitrust laws. Please do all you can to stop this abuse of our justice system and to help us retain our free market system. Competition is vital to our survival as a nation. Please don't let Microsoft have their way with us and our government. Thank you for your time.

Sincerely,
Adam S. Hammill
1247 W. 30th St. #117
Los Angeles, CA 90007
(323) 733–5381
CC:microsoftcomments@doj.ca.gov@inetgw

MTC-00028357

From: Tom Ulrich
To: Microsoft ATR
Date: 1/28/02 2:36pm
Subject: Microsoft Case Concerns

Please see the attached letter with comments and concerns.

Thank you.
Tom Ulrich
Arthur N. Ulrich Company
tulrich@anu-co.com
800–848–2090
1≤ARTHUR N. ULRICH COMPANY FAX 740–927–6017
10340 PALMER RD. S.W. PATASKALA, OHIO 43062 740–927–8244 TOLL FREE 800–848–2090
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft

Why is there hesitation in Washington to finalize the settlement in the Microsoft case? The cost to the taxpayers of this nation for the government's attacks on one of our nation's most successful companies has been enormous. Not only have we funded what appears to be a vindictive attack via our tax dollars; we have watched billions or trillions of dollars in value evaporate from our personal investments, our profit sharing programs, and our retirement and mutual funds as the market values of Microsoft and other technology related firms fell precipitously as a direct result of the government's illogical efforts.

I'm just a middle class American and a small time investor, but the losses on just the 200 shares of Microsoft stock I owned was nearly equivalent to one-year s tuition and board for my daughter at Miami University. That is not an insignificant amount to me, and it is the Justice Department I have viewed though this process as the "enemy" of the consumer, not Microsoft! The posturing of the Department and that of many state attorney generals lining up for their "dibs" reminds me a bunch of blood sucking parasites.

My suspicion is that there must be BIG MONEY SPECIAL INTERESTS that prodded the original investigations and that must continue to do so, and that disturbs me. In a market economy, the government generally should not take "sides" in commercial and marketing issues Letting Microsoft get back to business would significantly help end the recession; spending tax money on more litigation certainly would not help the national recovery.

I run a small business and have been a Microsoft user since the mid-80s. I have been using Microsoft not because they were a monopoly holding a gun to my head, but because they have created decent and useful products. We don't use them for all our needs; and in fact use Novell and IBM/Lotus for our networking requirements because of their features and benefits. I don't like their latest activation" policies on XP products, but not once have I felt "trapped" or "manipulated" into having to buy, use or upgrade Microsoft products.

Please—can't we, for the public good, just get this case over with, and let Microsoft and others in the industry get back to the business of computers.

Sincerely,
Thomas Ulrich
cc: Senator Mike DeWine

MTC-00028358

From: thunderhawk
To: Microsoft ATR
Date: 1/28/02 2:37pm
Subject: Microsoft settelment
Dennis C. Daggett
363 Center Road
Lopez Island, WA 98261–8298
Jnauary 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settelment. The issue was brought about by the former administration that simply did not understand the technology industry. They ignored one of the things that makes our country the best in the world, our free enterprise system. Then to top it all off, they extended their socialistic philosophy to apply antiquated antitrust laws to a band new industry.

In the free market, Microsoft rose to the top because they had the best products. Their products are user friendly and Microsoft has made them very easy to integrate and at lower cost than the alternitives. It is no wonder that where people had a choice most choose Microsoft software. Under the terms of the settelment Microsoft has agreed to allow computer makers the flexibility to install and promote any software they see fit. Microsoft has also agreed not to enter into any agreement that would require a computer maker to use a fixed percentage of Microsoft software. I beleive that computer makers will continue to predominatly pre install Microsoftware because it is the best and most computer buyers will chose a Microsoft windows based computer when making a new perchase. This is not a monoply problem, Microsft simply is, supplying a better product and most people know it.

My experiance as supervisor of an electric power generation plant for over 15 years, offered me the oppertunity to try many brands of computer software products and computer equipment. What I found over time was that even when cost was not a consideration, products that were not Microsft based, did not perform satisfactorly. Microsoft products and windows based computers were simply the best. On top of that we experianced significant savings over other options. Sure Microsoft has made a lot of money, but can you imagine the cost to the people of our nation if Microsoft and all they have provided for us vanished or had never existed? This is my plea for justice in our mecanized and technological society. Microsoft has gotten to where they are by developing better products, not by crushing their competitors.

This suit and the fact it has gone on for over three years is simply mind-boggling. It is time to end it. DO NOT PUNISH MICROSOFT FOR BEING BETTER. Please acept the Microsoft antitrust settelment.

Sincerely,
Dennis C. Daggett

MTC-00028359

From: Jason Irwin
To: Microsoft ATR
Date: 1/28/02 2:35pm
Subject: Microsoft Settlement

I am a concerned citizen who does not think that Microsoft should have been granted the Proposed Final Judgment by the Justice Department. Please review these proceedings so that Microsoft will not have a monopoly. There are laws in place to ensure that there are not monopolies in business in the US and I think they should be abided by.

Jason Irwin
510 Irving Ave
San Jose, CA 95128
408–977–1512
CC:microsoftcomments@doj.ca.gov@inetgw

MTC-00028360

From: Helen Bauch
To: Microsoft ATR
Date: 1/28/02 2:36pm
Subject: Microsoft Settlement
Food Smarts
1119 S. Mission Rd.
Fallbrook, CA 92028
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

For over three years the Department of Justice and the Microsoft Corporation have been pouring millions of dollars down the drain due to court costs. The antitrust suit that was filed against Microsoft has not only cost these two entities millions, but look at what happened to the market after the suit was launched. The suit has cost more than millions, just look at the recession that it has partially caused.

Although the suit should have never been initiated to begin with, I am relieved to see that a settlement has been reached. The settlement is the best thing that could have happened to the antitrust case, and it will benefit the economy. Microsoft's competitors can now produce and ship software that competes with Microsoft's, and will not have to worry about Microsoft trying to prevent that. They have agreed not to retaliate against competitors, which is a move that will boost competition and result in an overall better product. This will encourage people to hit the stores, which will push up the economy. Everyone wins.

I support this settlement, and urge you to implement as soon as possible.

Sincerely,
Helen Bauch
cc: Representative Darrell Issa
Helen Bauch
Food Smarts
1119 S. Mission Rd. PMB317
Fallbrook, CA 92028–3225
(760) 731–9911 FAX (760) 731–9922

MTC-00028361

From: Paul Tait
To: Microsoft ATR
Date: 1/28/02 2:37pm
Subject: Microsoft Settlement
26484 Carrington Boulevard
Perrysburg, OH 43551
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am what you is usually called a "head hunter". I try to find qualified personnel for companies. I therefore have a good idea of how the business world is doing, or not doing. Unfortunately, it is not doing very well, and I put much of the blame for this on the antitrust suit brought against Microsoft. This case was totally unwarranted. All these firms started out on the same playing field.

Microsoft is a firm that created a product that people wanted. Bill Gates standardized computer software, allowing the average person to understand computers, and computer programs. There was no need to have five different programs to do a spreadsheet. Bill Gates simply was the best at giving the consumer what they wanted.

Microsoft has been more than accommodating to the Department of Justice's demands. Microsoft has agreed to a technical committee to oversee future adherence; Microsoft has agreed to grant computer makers broad new license to configure Windows as to promote non-Microsoft software; Microsoft has agreed to terms that extend far beyond the products and procedures that were actually at issue in the original suit.

Let's put this matter to rest. I urge you to give your support to this agreement. We need to help our country get beyond this pettiness.

Sincerely,
Paul M.Tait
Consulting and Recruiting
paulm—tait@yahoo.com
(419)874–1500
Perrysburg, Ohio 43551

MTC-00028362

From: Peter Schultz
To: Microsoft ATR
Date: 1/28/02 3:38pm
Subject: Microsoft Settlement

Hello,

The current status of the Microsoft anti-trust case scares me.

When I first got into computers it was 1995 and I thought Windows 95 would be the way to go. The price was better than Apple Macintosh and the whole platform seemed better for programmers. After a short time I became frustrated by the stability of Windows so I began searching for a better alternative.

Then fortune struck! It was late 1996 and I was looking through a Macintosh related magazine when I came across an article about the BeBox by Be, Incorporated. This brand new and highly innovative computer had dual processors and ran the Be operating system, all of which was engineered from the ground up to be modern, or as they called it, a system for the next millennium. I hopped on the Internet right away and looked into buying one of these BeBoxes and found to my surprise that I could get one for a very good price. This system made me happy because I never had any mysterious system problems that required me to waste my time reinstalling as I had done many times with Windows.

Soon thereafter BeOS was up and running on Intel compatible computers and being a total computer geek I had always wanted a laptop computer. So in 1998 I purchased a Dell Inspiron 3000, which I had figured would be able to run BeOS. I was right, Be had the resources to make this possible and I was able to stay current with their latest developments.

There is an alternate side to this Dell computer. It was purchased only weeks before Windows 98 was released yet I did not get any credit for the purchase and was given an ugly hacked version of Windows 95 that made it look like Windows 98. Here's another reason I'm very upset by Microsoft. To my absolute horror this unstable factory installation only lasted about a week before I had to do a clean install of Windows! You'll note that this is the one of the disputed factors in the antitrust case, the tying in of Internet Explorer to Windows 95 is not only a questionable business practice, but it made my brand new very expensive computer a pile of junk.

I called Dell about this and since it was a software problem they brushed it off. I then called Microsoft and before I even talked to an actual person I was informed that I would have to pay them money to even talk to anyone! I instantly hung up the phone and felt angry, sad, and helpless to this ugly situation. I thought to myself, "why after having spent over $3000 am I being treated this way?" It was at this time that I decided I did not agree with the Microsoft End User License Agreement and called Dell back to see about getting compensation for this. Dell told me it would not be possible.

I eventually brushed it off because I was primarily a BeOS user and had great hope that Be would be able to continue developing their amazing OS. Unfortunately, Microsoft's stranglehold made it nearly impossible for BeOS to be installed on factory systems and now the result is that for all anyone knows, BeOS will never be updated again! Palm, Inc. has recently purchased the technology and there may be a chance that the public will see another version, but there's just no way to tell.

Microsoft has steadily moved from shrewd business to leveraging everyone into doing what they want. As a computer science student and a part-time consultant I deal with Microsoft in some way everyday. This is not by choice! If I were to attempt to discontinue the use and/or support of Microsoft products I would be putting myself into obscurity. It might be a case where I won't be able to view important documents that are only readable by the latest version of Microsoft Office, or it might be that a web page is only designed to be viewed in Microsoft Internet Explorer. Ask any Macintosh user what would happen if these applications were not available for their platform.

Microsoft is a massive corporation that has gone beyond mere profit and has long been in the business of screwing people over. Even as they have been on trial for being a monopoly they have been making their position stronger. They recently purchased Great Plains Software here in Fargo, North Dakota, and I'm sure it won't take long before they're dominating the small business software market.

As a user who depends on computers for my livelihood I feel depressed about this, and I know that I'm not alone. This American company is making people across the entire planet feel as I do, please do something soon so that at the very least we can enjoy a good variety of platforms. My hope is that your decision will be such that Palm sees opportunity with BeOS and that other small truly innovative companies also see openings thereby giving users like me a choice. As for today the future of computing is gloomy, grayed over by the drab blanket that is Microsoft.

Without your intervention I see absolutely no hope for small truly innovative companies like Be.

Do not simply settle for handing power off to Apple; give it all back to the people. I want Microsoft to hurt as badly as they've hurt me.

Sincerely,
Peter Schultz
1105 13th Ave. N #2
Fargo, ND 58102

MTC-00028363

From: dave parsh
To: Microsoft ATR
Date: 1/28/02 2:37pm
Subject: Microsoft Settlement

I would like to give an opinion no the Microsoft case.

Microsoft is a powerful, innovative company. The sould be congratulated on their success, not punished. In the United States, if we allow people to be creative and innovative then our society will be a better place. By restricting and punishing people for being excellent at what they do, people will be less inclined to take risks and improve our lives. Microsoft's success is at the heart of a capitalistic society. They must continue to innovate and produce new products or else they will fail as a business.

They should not be punished for being successful.

Dave Parsh

MTC-00028364

From: Jamie Folsom
To: Microsoft ATR
Date: 1/28/02 2:38pm
Subject: Microsoft Settlement

I am a web developer for a public tv station, making web sites for kids, and in my professional work have seen much to be concerned about regarding Microsoft's business practices.

Microsoft, in its business and technical decisions, has shown deep-rooted disregard for the openness of the internet, an engine of economic possibility, and has coopted standards "for the benefit of competition/ consumers/<fill in the blank>", when it suits their purposes.

The Microsoft money machine, a bulldozer in the rain forest of software diversity, must be kept in check, and companies, technologies and individuals inclined to contribute to this great new medium must be clearly told that their freedom, in the form of open, commonly owned standards, will be defended.

Thanks
Jamie Folsom
jamie.folsom@post.harvard.edu

MTC-00028365

From: Mark Moran
To: Microsoft ATR
Date: 1/28/02 2:38pm
Subject: Microsoft Settlement
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I understand that Microsoft and the Department of Justice have decided to reach a settlement in the antitrust lawsuit that has been dragging on for the last three years. I never agreed with this case from the beginning, and I hope to see this settlement finalized in the near future.

Settling now will only have positive effects on the industry as well as the economy. Microsoft will share information with its competitors regarding Windows, and redesign the operating system to allow other companies" software to be placed within the system. Competition will increase and the consumers will see many more choices in the marketplace.

Thank you for stopping this litigation. We need to put this case to rest so that Microsoft can get back to creating great products, and the government can focus its energies on more important issues.

Sincerely,
Mark Moran
309 W. 109th St. #5F
New York, NY 10025

MTC-00028366

From: J F
To: Microsoft ATR
Date: 1/28/02 2:39pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I am filing my personal objection to the proposed final judgment on the Microsoft case. Supposedly, the Court has found Microsoft guilty of violating all rules of proper business ethics and practices. However with the PFJ, the Department of Justice throws out, if not abandons all previous court findings that indicts Microsoft. In fact, the PFJ permits Microsoft to continue with its monopolistic and predatory practices, which in my opinion is a detriment not only to the software sector but also to the technology industry as a whole. Without a doubt, I strongly believe you will receive thousands of similar appeals encompassing the many flaws that are apparent in the proposed final settlement. My main focus entails one fundamental flaw clearly noticeable in the proposed settlement: The PFJ does not effectively break up Microsoft, but in fact allows Microsoft to leverage its current market position, or should I say, Monopoly to expand its business into several other technology markets. Under the general rule, most monopolies in the past, such as AT&T and Standard Oil, are either broken up or carefully regulated. However, Microsoft is given a pardon or a waiver to this general rule of thumb altogether. The implementation of reprimands by the Justice Department is not a cure-all to the MS calamity. As history has proven over and over again, Microsoft will undoubtedly abuse its monopoly position at the expense of others. Unless something extraordinary is done such as breaking up Microsofts business into several parts or meting out severe punishment, Microsoft will persistently continue to implement illegal business practices. I submit to the Court my rejection to the Proposed Final Judgment.

All the Best,
Jennifer Fontanilla
Eric Fontanilla
1855 Baring Blvd Apt 2105
Sparks, NV 89434

MTC-00028367

From: Dave Walton
To: Microsoft ATR
Date: 1/28/02 2:50pm
Subject: Microsoft Settlement

I urge you to reject the negotiated settlement with Microsoft.

The only way I see that you can prevent monopolistic and anti-competitive practices that have continued to this day is to separate the Applications and Operating Systems divisions of Microsoft into different companies. It is essential that their Application programs be ported to work with operating systems other than Windows.

I am seriously concerned that representatives of our government could have negotiated a settlement with Microsoft that does nothing to punish them for the acts they have been found guilty of, and does nothing to prevent such acts in the future. I urge you to open all proceedings to public scrutiny so we can see just what transpired that allowed this to happen. I question the impartiality and motivations of those responsible.

Thank You
Dave Walton
2986 Warrington Road
Shaker Heights OH 44120
216–751–6646
Walton@Ameritech.Net

MTC-00028368

From: Gregg Williams

To: Microsoft ATR
Date: 1/28/02 2:41pm
Subject: Microsoft Settlement

Dear Department of Justice:

I am writing regarding the Microsoft settlement as someone with more-than-average credentials to have an opinion. From 1979 to 1988, I was Senior Editor of BYTE magazine, the personal computer industry's first major magazine. From 1988 to 1998, I worked for Apple Computer, where I wrote to third-party developers about the advantages of the Mac OS platform over the Microsoft Windows platform. In both jobs, it was my responsibility to be aware of Microsoft's acts and how they affected the computer industry.

With that introduction, let me add my voice to that of the many people and companies who believe that the Department of Justice's proposed settlement is not in the public interest. The final judgment after a trial should punish the guilty, discourage similar offenses in the future, and if possible, repair the damage done. The proposed settlement actually causes harm, in several ways: It does not provide the remedy that it was meant to; it implicitly encourages the reoccurrence of similar wrongdoing; and it does not address significant larger issues that need attention.

The final judgment for this case is important in more than just its immediate context; it also has important consequences in our increasingly digital world. Our country (and the world) has most of its eggs in one basket—Microsoft's—and this is dangerous. Just as any natural ecology is endangered when its diversity is lessened and one species dominates, so is our digital ecology endangered by Microsoft's overwhelming market share and its stifling of competition. As just one example, observe the devastating effects of the denial-of-service attacks against amazon.com and other online businesses a few years ago. They would not have been as effective if a significant fraction of the country's Internet users had not been using Microsoft's email programs. Also, all hacker attacks are tied to the vulnerability of a specific product; if there were, say, three email programs and three browser programs in common usage (instead of Microsoft's Outlook and Internet Explorer), such attacks would injure fewer users, spread more slowly, and consume less Internet bandwidth than is the case today. For the above reasons, this judgment is doubly important, and the currently proposed judgment is doubly dangerous. I believe that a good final judgment must both prevent further wrongdoing and counteract Microsoft's dominance in current and future markets. Any attempt to regulate Microsoft's conduct MUST be given the resources to succeed, and its workings MUST be visible to the public. Without these two provisions, Microsoft will evade lawful punishment again, just as it did in the mid-1990s.

Finally, Microsoft should be made aware that it has no say in selecting or refusing its punishment. Nor should the court be pressured into compromise for fear that punishing Microsoft will damage this nation's economy. In fact, it is Microsoft's actions that are causing long-term damage, and any judgment that leads to competition, innovation, and meaningful customer choice will help repair that damage our economy.

I support the efforts of the states that are pressing for a more comprehensive punishment for Microsoft's illegal acts. As an informed and active citizen, I expect nothing less.

I submit my opinion to the Department of Justice with great respect, out of a deep concern for this nation's long-term technological and economic health.

Gregg Williams, greggw@telocity.com

MTC-00028369

From: Karenlda@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:43pm
Subject: Microsoft

To The Department of Justice

I hope Judge Colleen Koller-Kotelly does not forget about all of us who use Microsoft products and are very satisfied with their performance. They produce a very good product that is easy to use. You get what you pay for! Unfortunately, I have a MAC Power Book and MSN does not have a compatible internet program. At present I have AOL (overpriced) but plan to buy a new laptop that is MSN compatible and cancel my AOL. Has anyone ever told us how many cancel AOL?.....or only brag about how many sign up. Fortunately, the world is full of choices and I am no longer interested in contributing to dissenting states with my AOL monthly fee. Netscape did themselves in and AOL was stupid to buy them. Everyone should read Erick Schonfeld's January 25, 2002 "A RIDDLE: WHY DOES NETSCAPE STILL EXIST?". He tells it like it is!

AOL stock is down 50% since I sold mine and a lawsuit against Microsoft is not going to bring it back up.

I am getting fed up with my tax dollars paying for goverment funded lawsuits and in the States vs Microsoft it needs to be settled in a reasonable manner. If Microsoft had beeen contributing to Clinton as the illegal Asian money he probably would have told the DOJ to back off and let Netscape finance their own lawsuit. As it should have been. The nine disssenting states are beginning to sound revengeful and stupid.

I guess they see success and money and their fangs go out. They seem to be blind to the fact that a reasonable settlement could also affect the business in their state in a positive manner. Microsoft is not asking them to divulge their secrets.

I shall be watching the outcome and look forward to my new laptop and cancelling AOL.

Karen Dahlgard Age 65

MTC-00028370

From: tcrech@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:42pm
Subject: microsoft settlement

Dear Mr Ashcroft,

Please do not increase the microsoft penalties over what was agreed to.

The settlement although severe seemed fair. Futher penalties would in my opinion be overkill and would result in slowing an already weak economy.

Thank you for considering this important matter.

MTC-00028371

From: Samira Lama
To: Microsoft ATR
Date: 1/28/02 2:42pm
Subject: Microsoft Settlement
5445 Elmview Drive
Bay City, MI 48706
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to express my support for the Microsoft settlement negotiated last November. I was against the lawsuit against Microsoft and felt a break-up of the company was totally unjustified; consequently, I think the compromise is a necessary move to allow us to move on.

The terms accepted in the agreement are very generous to the competition. Computer manufacturers will have greater flexibility in trading Microsoft software for non-Microsoft products on the Windows operating system without obligation, while software developers will gain access to Windows internal code and even be able to license Microsoft intellectual property.

The terms highlight the fairness of this proposal, which will be regularly monitored by an objective group of technical experts in order to confirm its implementation. I ask that you allow these measures to go through without further legal action. Thank you very much.

Sincerely,
Sam Lama

MTC-00028372

From: Mister Thorne
To: Microsoft ATR Date; 1/28/02 2:42pm
Subject: Microsoft Settlement

I am offering my comments on the Proposed Final Judgment (PFJ) that was submitted by the United States in Civil Action No. 98-1232. I am also sending you these comments via USPS.

I am encouraging the Court to not accept this settlement for these reasons:

1. The settlement is ineffective;
2. The settlement does not serve the public interest;

I encourage the Court to determine an effective remedy, one that (1) ends the unlawful conduct; (2) avoids a recurrence of the violation and others like it; and (3) undoes the anticompetitive consequences of that unlawful conduct.

Effect of Proposed Remedies

The PFJ is ineffective. It does not restore "competitive conditions in the personal computer operating system market" as the U.S. claims in its Competitive Impact Statement (CIS). In fact, the PFJ does nothing toward that end.

As the U.S. noted in its complaint, "PC manufacturers (often referred to as Original Equipment Manufacturers, or "OEMs") have no commercially reasonable alternative to Microsoft operating systems for the PCs that they distribute." The PFJ does nothing to alter that. Instead, it offers a series of restrictions and prohibitions aimed at opening the market for "middleware." It offers nothing to restore a competitive market for operating systems for personal computers.

The PFJ does not "obtain prompt, effective and certain relief for consumers." On the contrary; it's effect will be to leave consumers with no viable choice for personal computer operating systems, other than different versions of Windows, or for browsers, other than different versions of Internet Explorer. Consumers will not reap the benefits of competition among operating systems or browsers, as they have the benefits of competition among OEMs.

In the CIS, the U.S. claims that the PFJ ensures that "consumers will be able to choose to use" non-Microsoft products like Internet browsers. That assumes that such competing products will come to market, but this is unlikely given that Internet Explorer is given away at no cost. As Jon DeVaan, a Senior Vice President of Microsoft, would testify (see Microsoft's offer of proof in opposition to the entry of the government's proposed final judgment): "No sensible company devotes large resources to projects from which it sees no potential return on its investment." The PFJ does nothing to open the market for Internet browsers or other applications, and so it does nothing to give consumers more choice.

In the CIS, the U.S. says the PFJ "forbids Microsoft from stopping OEMs from offering dual-boot systems." Yet the Court has determined that there exists an "applications barrier" to entry to the market for personal computer operating systems. The PFJ does nothing to remove that barrier.

The District Court concluded that Microsoft violated the Sherman Act, and the Court of Appeals upheld the ruling, determining that Microsoft's "commingling of browser and operating system code constitute exclusionary conduct, in violation of s 2," of the Sherman Act. Yet the PFJ does not address the issue of commingling and leaves Microsoft free to integrate whatever it wishes with Windows, to continue to use its operating system monopoly to extend its reach into new, emerging markets.

The PFJ requires Microsoft to disclose to "ISVs, IHVs, IAPs, ICPs, and OEMs" the APIs used by Microsoft Middleware to interoperate with Windows. The provision requires the disclosure to occur in a "Timely Manner." But "Timely" means only after Microsoft has sent any new version of Windows to at least 150,000 beta testers. The result is that if Microsoft distributes a new version of Windows to 149,999 beta testers, they don't need to disclose the APIs to anyone.

The PFJ contains a provision that if Microsoft engages in "willful and systemic violations of the agreement," then the "requirements and prohibitions" in the PFJ may be extended for two years. What the U.S. is basically saying is this: "if the agreement proves ineffective, our plan is to extend it!"

Finally, things have changed since the U.S. filed its complaint. Microsoft's dominance in the market has continued to grow. It's share of the market for operating systems, browsers, and common applications like word processors, spreadsheets, and e-mail software has increased. And Microsoft is moving on, leveraging its monopoly for operating systems to extend its control of the market with its .NET initiative.

The .NET initiative is Microsoft's program to offer a new development platform, one that sits above the operating system. As Steve Ballmer, CEO of Microsoft, notes, this initiative is "the pillar on which we are building the next version of Microsoft." When the initiative was announced, Ballmer commented: "Starting this year, everything we do will revolve around Microsoft .NET." Having conquered the market for personal computer operating systems, Microsoft is poised to conquer new, emerging markets.

In the CIS, the U.S. says appropriate injunctive relief in an antitrust case should: (1) end the unlawful conduct; (2) avoid a recurrence of the violation and others like it; and (3) undo the anticompetitive consequences of the unlawful conduct. The PFJ achieves none of these objectives. Microsoft's unlawful conduct in the browser market is history, the PFJ does nothing to reopen that market, and it leaves Microsoft free to continue to violate the Sherman Act. And Microsoft's leaders have suggested that that is precisely what they plan to do.

As the U.S. stated in its complaint, "Microsoft has made clear that, unless restrained, it will continue to misuse its operating system monopoly to artificially exclude browser competition and deprive customers of a free choice between browsers," and "Microsoft's conduct with respect to browsers is a prominent and immediate example of the pattern of anticompetitive practices undertaken by Microsoft with the purpose and effect of maintaining its PC operating system monopoly and extending that monopoly to other related markets."

Microsoft's leaders continue to give us reason for concern. At the start of the trial, Steve Ballmer stated in an e-mail message sent to Microsoft employees: "Microsoft's business practices [are] entirely consistent with the way other companies throughout our industry compete." After the Court of Appeals upheld the District Court's finding that Microsoft violated the Sherman Act, Steve Ballmer made these statements:

"I do not think we broke the law in any way, shape, or form. I feel deeply that we behaved in every instance with super integrity."

"We were born a competitor, and we'll continue to compete as we have in the past: vigorously and responsibly."

These statements from the company's CEO do not portend a change in the way Microsoft conducts business.

Comments made by the leaders of Microsoft after the court determined it broke the law illustrate what many informed commentators have noted: "Microsoft just doesn't get it." While we can expect Microsoft to follow the restrictions in the PFJ, we cannot expect it to live up to the spirit of it. And why not? Thomas Friedman, a New York Times columnist put it well in a column he wrote after the District Court ordered a breakup of the company: "Microsoft isn't a threat because it's big. GE is big, Intel is big, Cisco is big. Microsoft is a threat because it is big and deaf to some of the bedrock values of the American system."

The PFJ is ineffective. It does not "eliminate Microsoft's illegal practices, prevent recurrence of the same or similar practices, and restore the competitive threat that (other software) products posed prior to Microsoft's unlawful undertakings" as the U.S. claims.

Rather, it cements Microsoft's position as the sole supplier of personal computer operating systems for the Plaintiffs, It allows Microsoft to continue to dump products on the market in order to maintain market dominance. It allows Microsoft to continue to tie its applications to its operating systems, effectively closing the market to would-be competitors. And it allows Microsoft to build upon its monopoly position to establish market reliance on its next-generation development platform (.NET).

The Public Interest

It is in the public interest for the U.S. to enforce antitrust law; it is not in the public interest for the Court to accept the PFJ. That's because the PFJ does not address the central issue in this matter: Microsoft's monopoly position, and its abuse thereof, in the market for operating systems for personal computers.

The public has benefited from competition among PC manufacturers. We've benefited from lower prices, increased functionality, and those innovations that naturally occur when firms compete fairly in a dynamic and open market. If the PFJ is entered as is, then Microsoft is left with its monopoly. And that means no increased competition for operating systems despite the U.S. claim in the CIS that the PFJ would restore "competitive conditions in the personal computer operating system market."

The U.S. offers no justification for its claim of increased competition for operating systems: none at all. While the PFJ might enhance competition for middleware, it leaves Microsoft in the same monopoly position it was in at the beginning of this action. In fact, since 1990, when the FTC first investigated Microsoft for antitrust, the company's position has only gotten stronger.

The lack of any effective corrective action in the PFJ lets others know that they can get away with similar tactics, that it will take so long for antitrust complaints to be resolved that they don't even matter. The courts are seen as so slow to act that—in a rapidly changing and advancing market—they can be ignored, and that is definitely not in the public interest.

The public interest would be better served by some remedy that ensures that Microsoft won't be back in court, yet again, for antitrust violations. But that is precisely what we can expect given that Microsoft's leaders have stated that they did nothing wrong, that they operated within the law and always have, that they plan on conducting their business as they have in the past, even after the Court of Appeals upheld the District Court's determination that Microsoft employed "anticompetitive means to maintain a monopoly in the operating system market."

The public interest is served by "the Government defining the contours of antitrust laws so that law-abiding firms will have a clear sense of what is permissible and what is not." Entry of the PFJ works against that. It says, in effect, that if a company has the resources, then it can violate antitrust law.

It can raise all sorts of ridiculous arguments to support its violations. It can use obfuscation to avoid answering questions. It can present the court with bogus exhibits that are not what they are claimed to be. It can protest that an antitrust action is simply a means for the U.S. to help the company's competitors, or that the U.S. doesn't know enough about computers or the computer industry to enforce antitrust laws there. The company can buy so much time that the courts and, hence, the laws become ineffective: by the time the courts act, the company has achieved its objectives, and after the courts act, the company keeps its ill-gotten gains. How is that in the public interest?

An Effective Remedy

I encourage the Court to accept nothing less than an effective remedy, one that serves the public interest, that restores competition in the market for personal computer operating systems and applications, and which discourages Microsoft from continuing to function with limited regard for antitrust law.

But this is problematic. The new administration seems to have little interest in pursuing this matter, even though it is charged with enforcing the law and the court has determined that Microsoft broke the law.

One effective way to open the market could be done by executive order, rather than court order. If the Plaintiffs can require that all their personal computers run Microsoft Windows, then they can just as well require that all their computers run some other operating system, such as UNIX. And there are good arguments in favor of such a change.

Just about every personal computer on just about every desk in just about every government office is equipped with Microsoft Office and Internet Explorer. That application suite includes the most common applications, comprising something like 95% of the applications that 95% of computer users use 95% of the time. That same application suite is available (from Microsoft) for the Macintosh operating system, which is a UNIX-based operating system.

So, if the Plaintiffs adopted a program to use UNIX instead of Windows with their personal computers, the "applications barrier" would be fairly low. (The "applications barrier" is a fallacy; Windows isn't more popular than Macintosh because there are so many more applications avaiable for Windows; the reason there are so many more applications for Windows is because Windows is more popular, the Plaintiffs and Corporate America long ago having decided that desktop computers must be IBM compatible.)

Of course, the Plaintiffs also make use of specialized applications. Public agencies of all sorts use specialized applications to manage more and more of their operations; a wide variety of government workers use specialized applications on a regular basis. So, there is a real barrier to adopting an operating system other than Windows: specialized applications that were written for Windows need to be rewritten for UNIX. But there is also an opportunity to eliminate that barrier now.

With its .NET initiative, Microsoft claims it is reinventing its business. Steve Ballmer claims that as .NET versions of its products are released, they will make non-.NET versions of products obsolete in four to six years. And that means that the Plaintiffs, unless they intend to use obsolete products in the future, have these two choices: either they can remain dependent on Microsoft and adopt .NET, or they can start to become independent now; they can switch from Windows to UNIX.

While the DOJ claims (without support) that the PFJ is good for the economy, what would be a boost for the economy is for the Plaintiffs to adopt UNIX. The plaintiffs are a sizeable market for software developers. If the Plaintiffs adopt UNIX, ISVs will develop software for UNIX. And, in a marketplace not controlled by Microsoft, one in which market forces are allowed to operate freely, we'll have open competition, and the benefits of it.

And we won't have to worry about a single firm having sole control of an important component of our modern economy. In two decades, the personal computer has gone from being as popular as ham radio, to being an essential tool, and fundamental to our way of life. We could not enjoy our modern way of life were it not for the development of the personal computer and the software that makes it so useful in so many ways.

The public isn't served when there is only one source of oil, or one bank. or one TV station. And the public is not served by having just one supplier of the most basic software for personal computers. The public is served by free and open competition, and the Plaintiffs have a responsibility to enforce the laws that apply.

I don't think the settlement contained in PFJ is good for the public or the economy. I would like to see the Court require a settlement that accomplishes what the U.S. claims this settlement accomplishes.

Sincerely,
Mister Thorne

MTC-00028373

From: Cynthia Roy
To: Microsoft ATR
Date: 1/28/02 2:45pm
Subject: microsoft settlement

Your Honor:

As you know, there was a time in America when Roosevelt had to launch an aggressive campaign against corruption in the corporate world. History has already shown us what happens when industries, because they are monopolies, have too much power. The question is not supposed to be considered on a situation basis, the antitrust laws were made so that, among other reasons, the general public would not and COULD NOT be taken advantage of. Therefore, with all due respect,I don't think that Microsoft should be allowed to abuse antitrust laws.

Thank you sincerely for your time,
Cynthia Roy
e-mail: sequin101@

MTC-00028374

From: M Y
To: Microsoft ATR
Date: 1/28/02 2:45pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I wanted to let you know that I am against the Proposed Final Judgment. For the most part, the goals that were to be accomplished such ridding out MSs illegal monopoly will be overturned with this proposed settlement. I oppose such a deal. MS must be dealt with. I submit to you my objection to the Proposed Final Judgment.

Sincerely,
Marilyn Yu,
310 S. Orange Ave Apt. 19
Lodi, CA 95240

MTC-00028375

From: John Transue
To: Microsoft ATR
Date: 1/28/02 2:46pm
Subject: Microsoft Settlement

Microsoft is clearly a monopolist and stifles competition. A deeper punishment is vital to the industry and also to retain the authority of the government in anti-trust matters.

Microsoft is predatory and parasitic. They are incredibly arrogant about this case. The DOJ has to demonstrate that the US is a country of laws not of men. They have been found to be monopolists. Do the right thing and punish them. Don't let their wealth, power, and treachery get them off the hook.

They frequently make changes to their OS and applications for no reason other than to diminish competition.

Please do the right thing and punish Microsoft.

Sincerely,
John Transue
Assistant Professor
Department of Political Science
Duke University
transue@duke.edu
(919) 660-4336

MTC-00028376

From: John R. Morris
To: Microsoft ATR
Date: 1/28/02 2:45pm
Subject: The Microsoft Anti-trust Case

Dear To whom it may concern,

I am a user of the OS/2 (operating system from IBM). I have found this to be a technologically superior product over any of the operating systems offered by Microsoft, especially their latest version, Windows XP. I Believe that their further bundling of an instant messager (The MSN Instant Messanger), the 3 year limitation on usage, Cd burning software and other included multimedia software makes it clear and obvious that Microsoft is trying to extend and/or maintain their monopoly. Unfortunately, OS/2 has been in decline for a number of years from what I believe to be unfair monopolistic marketing tactics of Microsoft. As a result, vendors of OS/2 related products have also diminished over the years. Contrary to arguments by Microsoft that their products encourage competition, I believe the opposite is true; that Microsoft's marketing practices actually discourages competition and stunts technological growth.

Consequently, I do not believe that the Department of Justice's proposed settlement with Microsoft, in its current form, is anywhere near adequate and that stricter measures need to be imposed on the company to prohibit such tactics from being used in the future.

In addition, I am appalled that after all the effort, my tax dollars, and other resources that the Department of Justice has used and this is the best settlement that they can come up with. Futhermore, I am greatly troubled that the other Attorney Generals have fought so hard over the past years and have spent enormous amounts of their money, and then settle for this unrealistic package.

Sincerely,
John R. Morris
Morr109@yahoo.com
Corvallis, OR
United States of America

MTC-00028377

From: wvdavid@access.mountain.net@inetgw
To: Microsoft ATR
Date: 1/28/02 2:58pm
Subject: Comment on Microsoft Settlement

Hello,

Attached (better) and below are my comments on the microsoft settlement.

David McMahon
DAVID B. McMAHON / ATTORNEY AT LAW
1624 Kenwood Road, Charleston, West Virginia 25314
Phone 344–3620 / Day 415–4288 / Fax 344–3145
e-mail wvdavid@access.mountain.net
January 28, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
microsoft.atr@usdoj.gov
Re: Microsoft Settlement.

Dear Ms Hesse,

I am a lawyer for low income people. I am also a ?Consumer Fellow? to the Business Law Section of the American Bar Association. I was an Official Observer on behalf of consumers on the drafting committee of the National Conference of Commissioners on Uniform State Laws that revised Article 9 of the Uniform Commercial Code. I am on the Board of an organization opposing the Uniform Computer Information Transaction Act in the states.

Thank you for the opportunity to comment on the Microsoft settlement. I share generally the opinion of Hon. Darrell McGraw, the Attorney General of my state, the State of West Virginia.

It is my personal position that the settlement between Microsoft and the U.S. Department of Justice is not in the public interest. The settlement does not offer remedies that sufficiently address Microsoft's illegal, anticompetitive behavior as a monopoly that puts grabbing market share above the quality of the software it produces. The settlement fails to include critical provisions that will counter Microsoft's monopolistic tactics, and does not contain appropriate and enforceable penalties for non-compliance. Changes to the settlement must be made to address these issues, in order to bring the benefits of competition, choice and innovation to consumers.

Sincerely,
/s/
[Intended as a signature.]
David B. McMahon
DBM/dbm
David McMahon
E-Mail: wvdavid@access.mountain.net
Phone/Voice Mail: 304–415–4288
Fax: 810–958–6143
Work Address: 922 Quarrier Street, Charleston, WV 25301
Home Address: 1624 Kenwood Rd., Charleston, WV 25314

MTC-00028378

From: Gfound@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:47pm
Subject: Microsoft Settlement
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20560–0001
26 January 2002

Dear Mr. Ashcroft:

As a former Federal Government employee who was forced to retire on 2 October 1998 due to a major reduction in force (RIF) in the Defense Department (I was over 55 years of age and I had more than 5 years of service), I have been following the Microsoft antitrust case. Personally, I feel that Microsoft should be left alone. Microsoft has been very good for the economy and the technological advancement of our country. Because of its innovative software, they have brought about increased computer literacy. Can any other software company say the same? Microsoft has also been very flexible in agreeing to the terms of the settlement beyond what is required in any antitrust case.

Microsoft agreed to not enter into any agreements that would obligate a third party to distribute or promote any Windows technology exclusively or for a percentage of sales. I am sure competitors will like that. They have also agreed to allow access to their operating systems protocols that are used to operate within their server to the competition for use with their software. That sounds generous to me.

Now that Microsoft has gone out of their way to cooperate, shouldn't we? Let us end this litigation and move on to more pressing issues. Thank you.

Sincerely,
Georgia Foundotos
4 Damin Circle
St. James, New York 11780 -1604

MTC-00028379

From: dhurst@KsuMail.Kennesaw.Edu@inetgw
To: Microsoft ATR
Date: 1/28/02 2:51pm
Subject: Microsoft Settlement

I do not agree with the current proposed settlement as it stands. I have signed Dan Kegel's petition being submitted to you. Also, I ask you to reconsider your position and read Dan's website. http://www.kegel.com/remedy

Without fixing this problem now we, as a nation, are consigning ourselves and future generations to facing a severe monopoly in the software market in America. Competition in this market in a fair and equitable basis lowers prices for vital research and business functions of public and private markets. Most significantly, from my point of view, research funded by the government cannot afford a Microsoft dominated market. Linux and open source free software is just now setting research programs free of huge licensing overheads. American business needs a cost reduction in software licensing, especially in desperate economic times in the IT market. .

All the horror stories of excited young companies with fresh new ideas and new technology being eaten and destroyed by Microsoft should fuel your drive to tame this monster! If Microsoft had decent ethics and treated people right, I wouldn't feel this way or be writing this letter. In fact, you would not have the case you have. I respect the work and time Dan Kegel has put into his review of the proposed settlement. Please give it your consideration. Thank you,

Dow
Dow Hurst
Office: 770–499–3428
Systems Support Specialist Fax: 770–423–6744
1000 Chastain Rd.
Chemistry Department SC428
Email:dhurst@kennesaw.edu
Kennesaw State University
Dow.Hurst@mindspring.com
Kennesaw, GA 30144

MTC-00028380

From: Edwin van Beuzekom
To: Microsoft ATR
Date: 1/28/02 2:51pm
Subject: 1/28/02 3 PM
1/28/02 3 PM

Gentlemen,

This letter is to emphasise my opinion that it would help busines to settle the microsoft anti trust case. Please expedite your decision and help business to grow again.

Sincelery,
Edwin van Beuzekom
email: vanbeuzekom@yahoo.com

MTC-00028381

From: CTMCCUNE@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:51pm
Subject: Microsoft settlement

I am extremely disappointed in the government's proposed settlement of the Microsoft case. The judge found that Microsoft had abused its monopoly power to crush the competition and rig the retail environment to ensure that consumers would have virtually no choice but Microsoft. The proposed settlement barely gives Microsoft a slap on the wrist and does nothing to make the market work as intended: in a free and fair competition.

However, with a Republican administration in charge, I am not surprised that the DOJ chose to "wimp out" and let Microsoft off the hook. The Microsoft settlement, like the Enron debacle, demonstrates that those with big money don't have to play by the same rules as the rest of us. If they contribute enough to the right campaign coffers, and use buzzwords like "free market" and "competition" to cover their dirty deeds, they can usually get government officials to either gut existing regulations and rewrite tax laws to their specifications, or at least look the other way when they break the rules. And this means that big corporations like Microsoft and Enron can get away with almost anything.

I'd like to have faith in the U.S. system of justice, but I doubt the DOJ will redeem itself on this case. My only hope is Microsoft does not yet own the EC, and Europe will refuse to be bought out or bullied. That might at least slow down the Microsoft juggernaut.

Sincerely,
Cynthia A. McCune
3177 Greenoak Court
San Mateo, CA 94403

MTC-00028382

From: Chuck Broms
To: Microsoft ATR
Date: 1/28/02 2:53pm
Subject: Microsoft Settlement

I support the purposed DOJ settlement with Microsoft.

Charles Broms

MTC-00028383

From: Douglas W. Lantz
To: Microsoft ATR
Date: 1/28/02 2:53pm
Subject: Microsoft Settlement
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to express my views surrounding the Microsoft settlement. I believe that the agreement is fair and reasonable, and would like to see the issue put behind us. Not only does the settlement address the concerns that brought about the case in the first place, but it also sets up guidelines of how to deal with possible future problems. Microsoft has made unprecedented concessions in an effort to end this debacle, and I will outline just a few of them for you.

Under the settlement, Microsoft has agreed to grant computer makers new rights to configure Windows so as to promote non-Microsoft software in direct competition with programs included within Windows. Microsoft will document and disclose for use by its competitors various interfaces that are internal to Windows operating system products. Also, Microsoft has agreed to license Windows to the twenty largest computer manufacturers, which make up a vast majority of PC sales.

There will always be those that try to pull down whoever is on top, just as there will always be those that support it. I feel that if this case is judged by the value of its merits, rather than the depth of the lobbyists'' pockets, it is apparent that the original problems have been solved. I believe that the suit has been pushed by competitors rather than consumers. It has negatively affected our entire industry. In short, three years has been long enough. It is time to allow Microsoft and the IT industry as a whole to return their focus to innovation, rather than litigation. We must ensure our country's place in the world technology market, and the best way to do it is by moving on. I thank you for your time and consideration of my thoughts.

Sincerely,
Douglas W. Lantz, President
Advantage Technology Group, Inc.
dlantz@advtechgroup.com
513.563.3560

MTC-00028384

From: E L
To: Microsoft ATR
Date: 1/28/02 2:53pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

Id like to make my position known that I am against the Proposed Final Judgment. MS has been given all the breaks in the case. The Proposed Final Judgment pretty much seals the deal with Microsoft walking away unscathed. Justice must be served and MS should be dealt with accordingly. I again concur with my previous statement by saying I oppose this Proposed
Final Judgment.

Sincerely,
Edith Landero,
310 S. Orange Ave Apt. 19
Lodi, CA 95240

MTC-00028386

From: Karina Montgomery
To: ''microsoft.atr(a)usdoj.gov''
Date: 1/28/02 2:55pm
Subject: Microsoft Settlement

Dear Renata Hesse:

As a United States citizen, I urge you to withdraw your consent to the revised proposed Final Judgment settlement in the United States v. Microsoft Corp. antitrust case. The limitations and punishments imposed upon Microsoft do not sufficiently restore the competitive conditions prevailing prior to Microsoft's unlawful conduct.

The Settlement only prevents Microsoft from future monopolistic practices; it does not punish Microsoft for previous unlawful behavior. The advantages of immediacy and certainty of the proposed Final Judgment are not sufficient cause for abandonment of pursuit of further litigation.

The damage done to individuals and businesses by design of Microsoft and its engineers and practices requires more punitive measures than a slap on the wrist and a promise to never get caught at doing it again.

I urge you to pursue litigation of the issue of remedy, whether as set forth in the Final Judgement entered by the District Court on June 7, 2000, or as one of the other remedy proposals described in the Competitive Impact Statement, section (V) Alternatives to the Proposed Final Judgement.

Thank you for your time and consideration,

Karina J. Montgomery DOB 1/13/70
4556 Park Blvd #1
San Diego CA 92116

Please refer to my voter registration or passport registration which you as a government agency surely have access to in order to verify my US Citizenship.

CC:Karina Montgomery

MTC-00028388

From: Odysseynorth@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:55pm
Subject: Microsoft Settlement

Attached please find a letter voicing my thoughts and questions.

Charlene Howe
(907) 333-7207
Charlene Howe
8050 Resurrection Drive
Anchorage, AK 99504-4731
Phone: (907) 333-7207
E Mail: OdysseyNorth@aol.com
January 25, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I tried to fax this to you on my personal letterhead but your fax lines were constantly busy. There must be a lot of people like me wanting to express our concerns.

As a businesswoman and a veterinarian's wife who has been following the Microsoft antitrust case, I believe the settlement is pretty fair. I have a lot of respect for Microsoft; they've contributed to the prosperity of the ''90's, produced well-paying jobs, and provided great software at reasonable prices. Since the technology sector accounts for a third of economic growth, I am afraid what might happen to the industry if litigation continues.

Microsoft has been very cooperative throughout this ordeal. Not only have they agreed to document and disclose various Windows'' internal interfaces to competitors. They also agreed to the establishment of technical team to monitor Microsoft's compliance to the settlement. What other company would risk such great exposure to competitors?

Unfortunately, the technology industry faces numerous challenges in protecting the entrepreneurial spirit we depend on. Some special interests are lobbying for increased litigation, regulation, and legislation that could impact entire industries and threaten this country's economic vitality. Should we allow this to happen?

Sincerely,
Charlene Howe

MTC-00028389

From: Gregory Gerard
To: Microsoft ATR
Date: 1/28/02 2:56pm
Subject: Microsoft Settlement

The proposed settlement does not redress the wrongs Microsoft has been found guilty of.

Gregory Gerard
255 Manzanita Avenue
Palo Alto, CA 94306

MTC-00028390

From: Tracyalindgren@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 2:56pm
Subject: Microsoft Settlement
January 28, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW

Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotally:

As a long time political activist I am concerned about the leniency regarding the proposed settlement between the Department of Justice and Microsoft in U.S. v. Microsoft. It is my belief that this will not put an end to Microsoft's monopolistic practices.

The settlement abandons the principle that fueled consumer criticism and which gave rise to this antitrust case in 1998: Microsoft's decision to bind—or "bolt"—Internet Explorer to the Windows operating system in order to crush its browser competitor Netscape. This settlement gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a "Windows Operating System product." This creates a new exemption from parts of antitrust law for Microsoft and would leave Microsoft free to bolt financial services, cable television, or the Internet itself into Windows.

The settlement does nothing to deal with the effects on consumers and businesses of technologies such as Microsoft's Passport. Passport has been the subject of numerous privacy and security complaints by national consumer organizations. However, corporations and governments that place a high value on system security will be unable to benefit from competitive security technologies, even if those technologies are superior to Microsoft's. Why? Microsoft controls their choices through its monopolies and dominant market share, and still is able to dictate what technologies it will include.

The weak enforcement provisions in this proposed deal leave Microsoft free to do practically whatever it wants.

A three-person technical committee will be appointed, which Microsoft appointing one member, the Department of Justice appointing another, and the two sides agreeing on the third. This means that Microsoft gets to appoint half of the members of the group watching over its actions.

The committee is supposed to identify violations of the agreement. But even if the committee finds violations, the work of that committee cannot be admitted into court in any enforcement proceeding. This is like allowing a football referee to throw as many penalty flags as he likes for flagrant violations on the field, but prohibiting him from marching off any penalties.

Finally, Microsoft must comply with the lenient restrictions in the agreement for only five years. This is not long enough for a company found guilty of violating antitrust law. The end result is that this proposed settlement allows Microsoft to preserve and reinforce its monopoly, while also freeing Microsoft to use anticompetitive tactics to spread its dominance into other markets.

After more than 11 years of litigation and investigation against Microsoft, surely we can— and we must—do much better than this flawed proposed settlement between the company and the Department of Justice.

Sincerely,

Tracy Lindgren
2825 Grand Avenue, Apt. 206
Des Moines, IA 50312

MTC–00028391

From: Chris Metzler
To: Microsoft ATR
Date: 1/28/02 2:56pm
Subject: Microsoft Settlement

Enclosed please find my personal comment on the proposed settlement in the U.S. vs. Microsoft antitrust action. The comment comes in the form of four attachments.

The first attachment is a text copy of a letter containing my main comment.

The second attachment contains a text copy of an appendix to that letter, going through the proposed settlement in detail and providing a point-by point critique.

The third and fourth attachments contain the letter and appendix above again, but in .PDF format rather than text, making for more attractive viewing and printing.

Thank you for the opportunity to provide a comment.

Dr. Christopher A. Metzler

CC: cmetzler@speakeasy.net@inetgw

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001

To the United States Department of Justice, and to the United States District Court for the District of Columbia:

I am writing to take advantage of the public comment period regarding the proposed settlement in the antitrust action United States v. Microsoft Corporation, provided under the Tunney Act. I thank you for the time you will take to consider my opinions. Many of the letters you will receive as public comments on the settlement will come from computer industry professionals—persons in the pay of either Microsoft or their competitors. I am neither. Nor, for that matter, do I have informal connections to the software development industry. My profession has been that of a research astrophysicist at prestigious research institutions. I mention this to indicate both that I believe I have the competence to critically examine the settlement and the opinions for and against, and that I have no direct or indirect material stake in the outcome of this settlement.

Despite my independence from the computer industry, as an citizen and a computer user I have strong feelings about this settlement. I believe that this settlement is not only contrary to the public interest, but would damage it instead.

As I understand, it is not illegal for Microsoft to hold an effective monopoly in personal computer operating system software. What is illegal is for Microsoft to maintain that monopoly, and attempt to extend their monopoly into other domains, using predatory or anti-competitive practices. The District Court has found that Microsoft has done this; the Court of Appeals has confirmed this judgment, and the Supreme Court has effectively confirmed it again by choosing not to hear a further appeal by Microsoft. Therefore,

Microsoft has once and for all been declared guilty of such illegal conduct. Numerous Supreme Court decisions in anti-trust cases have indicated that any remedy arising out of a successful anti-trust action should deny the offending corporation the fruits of its violations. And yet, despite the fact that Microsoft was judged guilty by the court of damaging several companies illegally by its actions, there are *no* penalties aimed at making amends for Microsoft's past actions contained in this settlement. In fact, while there are numerous terms clarifying how future operations by Microsoft can be considered legal, there is *nothing*, anywhere in the settlement, that penalizes Microsoft for its past actions. In light of those past Supreme Court decisions, and in light of the flagrant nature of Microsoft's violations of the law (given that this is the second Federal anti-trust action against them, and their violation of the previous consent agreement), a settlement that entirely fails to penalize Microsoft for their past actions and denies them the fruits of their illegal conduct cannot possibly be considered to be "in the public interest."

Instead, the focus of the agreement appears to be simply to prevent future anti-trust violations. This approach is tantamount to saying "it's OK that you violated anti-trust law and illegally damaged other companies a second time, but you should stop it now." Perhaps a better way to describe it is as saying "Stop, or I shall say "stop" again!" It fails to penalize Microsoft for the wrongs already done, and only tries to instruct Microsoft to obey a law that (being a law) they're supposed to obey anyway! This alone would be unacceptable; but in addition, the settlement as written does very little new to hinder Microsoft from continuing to maintain its monopoly, or extend it into other areas, using anti-competitive tactics. Indeed, analysts within the computer industry press have typically described the settlement as demanding almost nothing new from Microsoft. Legal specialists in technology antitrust issues not employed by Microsoft or their competitors have described the settlement as "business as usual for Microsoft . . .no significant change in the way it develops its products or sells to the marketplace."

It is true that the agreement outlines constraints on Microsoft's business practices, with the apparent intent of preventing Microsoft from using its influence as a monopoly holder either to force unfair agreements on other hardware or software vendors or to retaliate against them for actions involving non-Microsoft software. However, these constraints are extremely limited in scope, are defined in terms of subjective descriptions which are not easily enforceable, and are laden with loopholes. An appendix to this letter covers several specific flaws in the agreement in more detail; meanwhile, I wish to make several general points.

My appendix below notes how, because of subjective descriptions and loopholes, the agreement fails to set viable restrictions on Microsoft regarding the topics it actually considers. Such subjective descriptions and loopholes matter, because Microsoft has a history of using such flaws to violate agreements coming out of legal actions. For example, the consent decree originating from the earlier anti-trust action was meant to prevent such actions as the bundling of Windows 98 and Internet Explorer, but this current anti-trust action had to be started because of subjective terms Microsoft successfully entered into the previous agreement that allowed them to ignore its constraints. In the time this action has taken, Microsoft's monopolies have become even more firmly entrenched. To the extent that the requirements of Microsoft in the agreement are concrete, they are comparable to what Microsoft has been doing up to this point. And it is patently absurd to constrain a company guilty of the sorts of actions demonstrated in this court case simply be requiring them to act "in good faith." In other words, not only does the agreement fail to punish Microsoft for its past illegal actions—actions which have damaged or even destroyed other companies attempting to compete—but the agreement also fails in the considerably less ambitious task of clearly defining illegal actions or procedures that Microsoft must avoid.

Finally, there are many topics not addressed by the agreement at all, such as Microsoft's use of proprietary standards in file formats, and how those standards combined with Microsoft's monopoly status effectively block competing products from the marketplace. Microsoft has an effective monopoly on certain types of productivity software, such as word processors and spreadsheets (Microsoft Word and Excel, now bundled together as part of Microsoft Office). Because these monopolies are so entrenched, competitors cannot produce competing software of these types unless their software can read and write Microsoft file formats. Rather than attempting to beat such competitors in the open market, Microsoft has repeatedly acted to prevent competition from taking place at all by keeping the internal file formats for these software packages secret, and by periodically changing those file formats to block potential competitors" attempts at reverse-engineering them. That this topic is not addressed at all is yet another major failure of the agreement.

What are the consequences of these failures? Dreadful, if Microsoft's past actions predict their future ones. There has been a long history of companies profoundly damaged, or even completely destroyed, by Microsoft's anti-competitive business practices. Digital Research and Stac are two examples of companies whose products were essentially run off the market in a flood of fraud and misinformation and, in the latter case, simple copying of their technology (for which Microsoft lost in court). This case has centered on the damage to Netscape, Sun and Apple by Microsoft's actions; there are many other such companies. we are left with a situation where an environment of innovation and competition is stymied—stymied by fear of even bothering to enter the market, given the expectation that Microsoft will do anything to destroy your enterprise.

In the courtroom, it has been demonstrated that Microsoft has falsified and even destroyed evidence. Despite these events, accepted as fact in a court of law, no criminal penalties have been forthcoming. In recent months, we have seen news stories covering attempts by Microsoft to manipulate public opinion in unethical fashion, ranging from organized efforts to get employees to stuff online ballot boxes/polls about Microsoft and their products, to writing letters to officials on Microsoft's behalf using the names of people who are deceased.

Given this past history, that the Department of Justice would arrive at such an empty settlement with Microsoft is bizarre. After all, the verdict from the District Court was strongly in the Federal Government's favor. While the Court of Appeals subsequently rejected the breakup order, they clearly affirmed Microsoft's guilt. The position of the Federal Government was strong, and Microsoft's announcements of what penalties or restrictions they would not accept in a judgment should have carried no more weight than the assertions of a convicted felon that he "would not accept" jail time. It has been noted by Rep. John Conyers Jr., the ranking member of the House Judiciary Committee, that this settlement in fact is less onerous for Microsoft than the terms that Microsoft was willing to concede in settlement talks *before* it lost the case in the Court of Appeals.

Conyers went on to describe the settlement as "like losing a game by forfeit when your team was ahead with the bases loaded and your best batter on deck." (Washington Post, 2 November 2001) Or, as an acquaintance wrote, "Can someone explain to me how you can win the trial, win the appeal, have the Supremes deny cert to the defendant, and then let the perps walk?"

So why "forfeit"? Why this settlement? The most commonly-encountered explanation is that the settlement springs purely from politics: the executives of Microsoft were major campaign contributors to the current administration. For example, Robert Lande, a professor of antitrust law who has followed the case closely, has commented that "Microsoft broke open the champagne when Bush was elected." This may or may not be an accurate assessment of the source of this agreement; but it is a difficult suspicion to dismiss; and if this suspicion is true, the claim that the agreement is in the public interest seems even more preposterous. Another explanation offered for this settlement has come from Microsoft and its employees, who have argued that the settlement is indeed in the public interest simply because it halts the continuing hindrance of the operations of the leading computer software company, and therefore is good for the high-tech industry and the economy. These statements are the modern-day equivalent of "what's good for General Motors is good for America," and they are false. It is true that our modern economic engine depends strongly upon the continuing innovation of the computer industry. However, that innovation depends in turn upon the ability of many different sources to imagine and create new software, and for those creations to be able to compete for public attention. It is indeed a bad thing to stifle the ability of the nation's largest software company to produce new products; but it is not an acceptable alternative to stifle the ability of everyone *but* that company to innovate instead.

In short, this settlement is a disaster for the citizens of the United States. It is the polar opposite of an action in the public interest.

It neither penalizes Microsoft for its past illegal, destructive acts, nor does it force the kind of change in Microsoft's current business practices necessary to prevent further predatory, anti-competitive behavior. This despite a contempt for the public and the law displayed in Microsoft's behavior in the courtroom and up to this very moment. If this settlement is upheld, I can guarantee that over its five year course, the problem with Microsoft will only worsen. This may result in yet another court challenge against Microsoft; but we have seen in this case alone how Microsoft attempts to slow the pace of court action as long as possible, the better to create a "fait accompli", as they successfully have here. If history, and this and the previous agreements in particular, are any guide, Microsoft will yet again be able to hang on to their ill-gotten gains, and be faced with a set of "restrictions" that effect no change and allow them to continue to reinforce their monopolies. The resulting damage to the prospects for innovation and competition in the high-tech sphere will be incalculable, and to the public interest even more so. If Microsoft's hegemony in the computer industry is allowed to solidify further, as this agreement would guarantee, then we will bequeath to our children the kind of future that the early anti-trust actions against Standard Oil or Jay Gould were intended to prevent: where one entity controls the dominant new industry in our economy. We can be better ancestors than that. I therefore urge you, as strongly as I can, not to accept this settlement.

Thank you for your consideration.

Sincerely,

Dr. Christopher A. Metzler
2702 Hemlock Avenue
Alexandria, VA 22305

APPENDIX: SOME DETAILED COMMENTS ON THE TERMS OF THE AGREEMENT

The most significant complaint about this agreement is a general one. Microsoft has been found to be a monopoly by a court of law; that verdict has been affirmed by the Court of Appeals, and the Supreme Court has chosen not to review that affirmation. Therefore, under existing antitrust laws, Microsoft is required to conduct its business practices in a non-predatory/non-anti-competitive fashion. This is a standing requirement of law upon Microsoft. As noted in my letter, the agreement as written holds no penalties for past action, only "restrictions" upon future behavior. In my letter, I noted how these "restrictions" are ineffective; below, I go into more detail on some of these. But most important of all is the fact that such restrictions should be unnecessary; they attempt to restrict Microsoft from doing things that are illegal in the first place, since as a monopoly Microsoft is bound not to conduct its business in a predatory fashion. For example, requiring Microsoft in the agreement not to retaliate against companies that sell competing products with their computers is no great accomplishment; that was already illegal! In fact, enumerating such restrictions, and then providing exceptions shortly afterward, gives the impression that there are certain terms under which Microsoft is actually *allowed* to violate the law. This cannot be considered acceptable.

Below are specific comments on parts of the agreement.

—Section III, Part A—

Section III, Part A. has several problems. First, it only restricts what Microsoft can do against OEMs, which means makers of "Personal Computers" according to the definition given later in the settlement.

The definition of "Personal Computers" used in the agreement excludes a wide class of technologies which should not be. For example, a maker of machines which are intended to be used as servers does not fall under this definition—odd given that the distinction between machines intended as desktop PCs and machines intended as servers is often blurry. The phrasing in this Part indicates that Microsoft is perfectly free to retaliate however they choose for whatever they choose against manufacturers/vendors of server hardware.

Second, it says that Microsoft cannot retaliate by altering commercial relations with OEMs. But they can certainly retaliate by doing nice things for everyone *but* the target OEM. That might seem to be forbidden from the next clause in that sentence (including the parenthetical remark), but it isn't; that only forbids withholding *non-monetary* Consideration that others get. They can withhold new *monetary* Consideration that others get without running afoul of the agreement.

Furthermore, this Part restricts retaliation, but it doesn't restrict Microsoft from entering into really predatory licenses with companies with whom they hadn't previously been doing business. In other words, Microsoft could act so that if you were not previously licensing Windows, and wanted to be, you'd better not do anything that upsets them (such as described in Subparts 1, 2 and 3 of this Part, III A.) or you'll only get a bad license from them. You might think this is prevented by Part B immediately following; but that only applies to "Covered OEMs", not new ones.

Next, Section III, Part A restricts Microsoft from retaliating against OEMs that ship Personal Computers that include Windows and another OS or will boot more than one OS; but it doesn't restrict them from retaliating against companies that ship or are contemplating shipping machines which do not include a Windows OS at all. Against OEMs that ship some of their Personal Computers with only a competing operating system installed, or with no operating system installed, Microsoft is perfectly free to retaliate however they like.

Next, OEMs which are not Covered OEMs can have their Windows licenses terminated without the notice and opportunity to cure described here as to be provided to Covered OEMs. What is the purpose of this distinction? Why do only the bigger OEMs get this protection? The obvious reason is "to lock them into selling Windows." In other words, a clause assisting Microsoft in further solidifying its monopoly is contained within the agreement itself!

Finally, the last paragraph says that Microsoft is not prohibited from providing Consideration if it's commensurate with the OEM's effort/expenses related to Microsoft products. But since Microsoft is not required to provide this Consideration, this means that they can use this provision of Consideration as a carrot for the kind of behavior they want OEMs to follow. The first part of this restriction might seem to forbid that, since it talks about withholding Compensation—but that's non-monetary compensation only. They could certainly give monetary compensation (i.e. kickbacks) under this "restriction." One might think this is prevented by the restrictions in Part B immediately below—but again, that only applies to Covered OEMs, not new ones.

—Section III, Part B—

Similar to the guarantees of license termination warnings/ opportunities to cure described in the previous Part, the presence of such volume discounts, and different volume discount schedules for 1–10 vs. 11–20 Covered OEMs, strongly discourages those OEMs from selling any other OS. This is another clause which *helps* Microsoft maintain its monopoly.

—Section III, Part C—

Since the constraints of this part only apply to Microsoft's interactions with OEMs—makers of "Personal Computers"—other hardware manufacturers, such as people making machines which are intended to be used as servers, *can* be restricted by Microsoft from exercising the options listed here.

—Section III, Part D—

Under these terms, in order to obtain information about the Windows APIs etc., one has to join MSDN or "similar mechanisms." What are the terms of so joining? Presently, MSDN subscriptions cost a lot of money. This constraint seems to be saying that to get Microsoft to play fair, everyone has to pay them! Furthermore, what's to prevent Microsoft from making joining this mechanism difficult for entities they wish to punish or abuse?

Also, this section requires Microsoft to begin providing access to APIs in a "Timely Manner," which is defined as "the time Microsoft first releases a beta test version of a Windows Operating System Product that is distributed to 150,000 or more beta testers." So if they only release it to 149,999 beta testers, this time never arrives (and so the restrictions which are to occur at that point don't)?

Clearly, this "Timely Manner" demand is easily circumvented. And, for the purposes of this agreement and definition, what's a beta tester?

If the software is sent to a company, such as a member of MSDN, to be tested, does that company count as one beta tester? Or are there as many as the company has employees that *ever* sit down in front of a machine. This is not clear, and is full of possibilities for exploitation.

—Section III, Part F—

This section hinges on the ban against "retaliating"; it is not clearly defined what would constitute "retaliation."

Furthermore, the entities used in this Part are defined in terms of the term "Personal Computer," which again is defined in a very restrictive fashion. Again, Microsoft is allowed under this Part to retaliate against manufacturers of machines which are intended to be used as servers, for example.

—Section III, Part G—

Once again, Microsoft is permitted under this Part to retaliate against a wide class of hardware manufacturers and vendors because of the bizarre definition of "Personal Computer" used in this agreement.

Furthermore, an exception is provided where Microsoft "obtains a representation that it is commercially practicable" for the other party to do equal or bigger business with competing software. Nowhere does the agreement indicate from where such a representation of feasibility must come—it could come from inside Microsoft itself!

The agreement does say that the representation should be obtained "in good faith"; but that's subjective, and absurdly generous to a company that has been found guilty of repeated abusing past agreements.

—Section III, Part H—

In Subpart 1, allowing MS to present the options for MS or non-MS software to people as "one group" or "the other group" virtually guarantees no one will use the non-MS stuff.

Regarding the exceptions 1. and 2. to the rest of Part H, both listed near the end of the part, 2. is an enormous loophole! It allows Microsoft, and their Windows OS, to shun some non-Microsoft software simply because Microsoft or some capability of Windows itself claims that software is not up to snuff. It could be a ridiculous claim; but in the time it takes to sort it out, the practical damage to the company providing that software is done, and Microsoft's monopoly position is that much stronger. And, of course, "reasonably prompt" is a subjective term, and based on their past behavior, Microsoft can be counted upon to interpret it to their advantage.

—Section III, Part I—

Again, this section is hobbled both by the use of subjective terms ("reasonable") and the bizarre definition of "Personal Computer" used throughout this agreement.

Subpart 5 seems to be saying that in any agreement Microsoft signs to give people APIs or documentation or similar information, like they're supposed to provide under the agreement, Microsoft can in turn require the software makers to license to Microsoft any intellectual property rights they might have associated with anything the software companies might do that's described in this Judgment, even if those properties are unrelated to the project for which the APIs/ etc. are used. This effectively authorizes one of Microsoft's more strongly anti-competitive tactics!

—Section III, Part J—

This is perhaps the most flawed Part of the entire agreement. Regarding Subpart 1 . .who decides whether disclosure of a particular piece of information compromises the security of anti-piracy etc. systems? Microsoft? They can just say that it does, without substantiation, and thus avoid terms of this agreement. Any disagreement with Microsoft's claim, and they just drag it out forever in court while the other company dies. This sequence of events could not be more predictable. It will happen. Count on it.

Furthermore, it is important to note that effectively all communications protocols of interest include some sort of authentication process, that Microsoft's future plans involve license subscription with online verification, etc. The claim can be made that none of their APIs, relevant documentation, or Communications Protocols are completely empty of information on security protocols, software licensing, encryption, authentication, digital rights management, etc. This clause basically means that Microsoft can withhold pretty much everything. It is a loophole through which a supertanker could be sailed.

Regarding Subpart 2, how is it determined whether a licensee has a history of willful violation of intellectual property rights? Is it from past legal convictions, or findings against them in civil courts?

Or is it just that Microsoft says so? And who decides whether he licensee has "a reasonable business need for the API, Documentation, or Communications Protocol"? Microsoft? And who gets to decide whether the standards Microsoft gets to establish for certifying the authenticity and viability of the business are in fact "reasonable" or "objective"? Microsoft has stated that they do not consider Open Source to be a viable model; does this mean that no one writing Open Source software would be allowed to look at the APIs or Communications Protocols? Apparently, according to the terms in this agreement.

In particular, this is an effective lock-out for designers wishing to create free software relating to anything which contains "security"-type subsystems (of the types listed in the Subpart). And regarding 2d), since the third party, that gets to test/ensure verification and compliance with Microsoft specifications, has to be approved by Microsoft, what's to stop Microsoft from using this third party evaluation as a barrier to other companies" bringing their products to market? Nothing in this judgment.

This Part is a disaster.

—Section IV, Part A—

The presence of subjective terms such as "reasonable opportunity" seems like a recipe for further delays while court actions proceed.

—Section IV, Part B

Three people is not a sufficiently large group to vigorously pursue everything the Technical Committee is tasked to oversee. Furthermore, the small size of the committee makes it strongly susceptible to politics: a pro-Microsoft administration means two pro-Microsoft members on the Committee voting in the third member. To a great many people, this committee appears to be an empty gesture.

And the constraint on public comments by the TC has enormous ramifications. It prevents whistle-blowing, for example. If the system breaks, and two members of the Committee are protecting Microsoft, the third can't say anything about it.

—Section IV, Part D

Subpart 4c) indicates that "If the TC concludes that a complaint is meritorious, it shall advise Microsoft and the United States of its conclusion and its proposal for cure." No provision is made for what happens next. What if Microsoft disagrees with the Committee? What mechanism exists to decide what the appropriate response to the complaint will be? How long can Microsoft drag out the proceedings?

Subpart 4d) is, to be blunt, appalling. Under this agreement, if the TC finds that Microsoft has been brazenly violating this agreement, that fact can't be used in any court proceeding? And the Committee members can't talk about it in any legal proceeding? This is simply absurd; it seems intended to make sure that the Committee cannot actually accomplish anything.

—Section V, Part A—

This Part defines the length of the agreement as five years. This is too short for any penalty agreement, of course; anyone following this case knows that Microsoft can drag out a court action for three years at a minimum.

—Section VI—

"Consideration" is poorly-defined. It is not sufficiently general; there are many other forms of compensation than are listed here. Under the definition of "Microsoft Middleware Product," existing technologies which are not listed there—such as IIS, SQL software, etc.—are not Microsoft Middleware Products, and so Microsoft can go ahead and continue to exploit secret capabilities of the kernel/APIs in their design, and thus maintain an unfair advantage over competing software.

As noted above several times, the definition of "Personal Computer" is far too narrow. In particular, there is often no practical distinction between desktop, "intended-for-single-user" machines, and machines intended to be used as servers. Excluding servers from the definition (and thus from the constraints of any agreement) makes no practical sense.

Also as noted above, "Timely Manner" is defined in an easily-circumvented fashion.

The definition of "Windows Operating System Product" notes that Microsoft alone gets to decide what is part of the Windows OS and what is not. If this restriction had been in place in the past, many of the claims Microsoft made in this case, later disproven, would simply have been accepted as fact. This is a bad definition.

MTC-00028392

From: Wayne Smith
To: Microsoft ATR
Date: 1/28/02 2:57pm
Subject: Microsoft Settlement

The currently proposed settlement with Microsoft seems bad in that it does not appear to penalize or restrain Microsoft enough.

Wayne L Smith
669 Los Ninos Way
Los Altos CA 94022
WayneLSmith@hotmail.com

MTC-00028393

From: A L
To: Microsoft ATR
Date: 1/28/02 2:58pm
Subject: Microsoft Settlement

Dear Judge,

I want to let you know that I am against the Proposed Final Judgment. Microsoft should not go unpunished for leveraging their illegal monopoly and utilizing anti-competitive behavior. MSs fruits of their illegalities must be dealt with in a proper manner. The PFJ does non-of this. Thus I submit my stance opposing the Proposed Final Judgment. Thank you for your time in the matter.

Respectfully,
Aubrey Landero
310 S. Orange Ave. Apt. 19
Lodi, CA 95240

MTC-00028394

From: joeikel
To: Microsoft ATR
Date: 1/28/02 2:57pm
Subject: Pubic Comment

I desired to get a signed copy of my comments to you concerning the Microsoft case and requested Mail-Etc to send a FAX to you but they have reported difficulties in establishing a connection.

To assure that my comments will arrive in a timely manner I am sending them as an attachment to this e-mail. Mail-Etc will continue to send a FAX and if they succeed there will be a duplication of documents in your files.

Thank you!
Joe G. Ike

MTC-00028394—0001

3410 76th Avenue, SE
Mercer Island, WA 98040-3439
January 25,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you today to encourage you to bring the litigation against Microsoft to an immediate and decisive closure. I must state that I have been unequivocally and strongly against this case from its very inception. It appears evident to me that it is very unfair to punish a company for excelling in their industry. I am a volunteer instructor with a non-profit organization teaching senior citizens how to enrich their lives by becoming computer literate. This is no easy task but at the close of every session I thank God that Microsoft has been so innovative and far sighted as to integrate their basic Operating System with applications to provide the User with a basis of commonality that makes the learning process infinitely easier. This applies not only to senior citizens but also to those individuals learning the use of new software to increase their knowledge and consequently leading to industrial efficiency. Prior to my retirement I vividly remember the days when it was a nightmare when attempting to home-brew our own integrated system. I have experienced the fact that Microsoft has expended every effort to provide us with the features that we sorely needed.

As I dwell upon the past three years I conclude that it must have been very taxing on the IT industry, the economy, Microsoft and its employees. I understand that Microsoft has spent millions of dollars in their defense—money that could have been put into the development of new products resulting in further advancement of technology and industrial efficiency. The employees of Microsoft have had to endure an air of uncertainty during this entire situation. As a citizen I am extremely concerned with the possible flight of talent that is the backbone of Microsoft's awesome capability.

It is difficult for me to understand the problems related to the proposed, but rejected, settlement. Judging from what the media has reported, Microsoft has agreed to the terms included in the settlement as well as to the terms brought forth on issues that were not considered to be unlawful. To name two concessions, Microsoft has agreed to avoid agreements that would obligate any third party to exclusively distribute Windows technology. Additionally, Microsoft will not obligate software developers to refrain from developing competing software. Frankly, I personally cannot understand why Microsoft should have to divulge the code that makes up their Operating System. I would certainly include that in the realm of being proprietary and intellectual property. To put it more strongly, to me it smacks of being a case of sour grapes by certain other organizations that have not been as successful.

MTC-00028394 0002

Chairman Greenspan commented, with words to the effect, that the Guide-On that is going to lead the economy of our nation out of the doldrums is technology. It is our future. There is absolutely no doubt in my mind that Microsoft has been a major contributor to technology. As a result, and to reiterate, I personally would like to see this matter closed as soon as possible and I am sure that I am among many who share this same point of view. Thank you for your time and giving me this opportunity to voice my opinion.

Sincerely,
Joe G. Ike
Engineer(retired)
e-mail joeikel@attbi.com
tel: (206) 232–5643

MTC-00028395

From: dave@ipgroup.org@inetgw
To: Microsoft ATR
Date: 1/28/02 3:04pm
Subject: Microsoft Settlement

Sir:

The Intellectual Property Group strongly urges the government to conclude that the proposed settlement with Microsoft is wholly inadequate to encourage Microsoft to comply with applicable legal and ethical practices.

Microsoft has often played the game that simply because an action is not specifically illegal, then it is acceptable to take the action, even if such action is contradictory to common business ethics. In many cases, Microsoft has taken this concept a step further and unilaterally decided that certain laws are extremely limited, as in the case of failing to identify communications with Congressional representatives because, as Microsoft alleges, they are not part of the government (referring specifically to Microsoft's interpretation of the Tunney Act). In fact, Senator Tunney recently declared, with respect to Microsoft's interpretation of the law, ?I do have some pride in my legislative record and my history of service in the Senate, and I don\'t like to have my words and my intention being misinterpreted,? reported at http://www.siliconvalley.com/docs/news/depth/tunney012602.htm. ?The disclosure provisions were designed to help ensure that no defendant can ever achieve ! through political activities what it cannot obtain through the legal process.? Id. ?Failure to comply with these provisions raises an inference or, at a minimum, an appearance of impropriety.? Id. Microsoft has a long record of disregarding the law and intellectual property rights of others in favor of its determination to sustain its monopoly. Microsoft executives have often criticized competition without factual basis, and have launched smear campaigns against people who take positions contrary to their immediate business interests. Moreover, Microsoft has a long record of campaigning against fair competition by other technologies, including open source technologies. Microsoft has attempted numerous times to quash and tarnish the goals of the open source movement. Such tactics are not only fundamentally unfair and unethical, but also against the interest of consumers, especially in view of Microsoft's dismal software security record.

The Intellectual Property Group urges the government to insist on a settlement or verdict that serves to benefit consumers. Such a settlement would not only require Microsoft to timely share relevant portions of its software code with the business community, but would also require that it agree to offer reasonable royalties to intellectual properties in which it holds a controlling interest. Without this second aspect to the settlement, smaller companies could be subject to intimidation and lawsuits by Microsoft. Such actions would stifle competition and result in fewer choices for consumers.

Sincerely,
Dave Ashby
The Intellectual Property Group
http://www.ipgroup.org

MTC-00028396

From: Todd Symionow
To: Microsoft ATR
Date: 1/28/02 2:58pm
Subject: Microsoft Settlement

The settlement that the DOJ and Microsoft came up with is ineffectual and is bad for the people of the United States. After reading the agreement, it appears to me that Microsoft dictated the document to the DOJ, who typed it up for them. Microsoft has received a judgement of being a Monopoly by the courts.

Microsoft should have received a fine of several billion dollars, plus stiff oversight into its practices (like IBM had to go through). The settlement does not punish Microsoft for its illegal and monopolistic activities and doesn't prevent it from continuing to operate in illegal and monopolistic ways. The most important part of the case was ignored by the DOJ—Microsoft's tying of software to its operating system. The largest harm that Microsoft has done to the citizens of the United States is the integration of more and more software into its operating system (Microsoft calls it middleware). Every time Microsoft integrates another program into the operating system, it harms the marketplace by killing competition, forcing us to use Microsoft's proprietary technology (such as activeX, rather than Java), and preventing us from uninstalling unwanted features/software. Microsoft keeps talking about innovating. When it talks about innovation it's really talking about monopolization.

The agreement talks about removing shortcuts and icons. The real answer is for the web browser (and other middleware) to be separate from the operating system so that the consumer can choose which browser (middleware) to use. This wasn't in Microsoft's monopolistic interest, because having the browser (middleware) separate from the operating system prevented Microsoft from locking consumers into using Microsoft's proprietary technologies. I am extremely concerned about Microsoft's .net technology. Not only is Microsoft tying all of their products into .net, but they are beginning to require consumers to use it. An example includes the messaging and multimedia features built into Windows XP. To take advantage of these features, you have to sign up for a Passport (.net) account. This is another form of Microsoft's illegal and monopolistic behavior.

Microsoft has continuously broken previous consent decrees. I have no confidence that Microsoft will abide by this decree either. Besides, this decree is just a slap on the wrist. The world's largest monopoly in history must be fenced-in and controlled so that it doesn't continue to harm consumers. I truly feel that the current DOJ, under the current Pro-business Bush administration is doing a disservice to the American people by not dealing with Microsoft more harshly. This is a turning point. Our government has the opportunity to change Microsoft's behavior now and to restore competition in the computer software marketplace. The Microsoft settlement will not restore competition and it does not punish Microsoft for its illegal, monopolistic actions.

I do not support the current Microsoft Settlement. The opinions expressed in this email are my own.

Todd Symionow
CC:Todd Symionow

MTC-00028397

From: david.anderson@jpl.nasa.gov@inetgw
To: Microsoft ATR
Date: 1/28/02 2:59pm
Subject: Microsoft Settlement

To whom it may concern

I don't feel that the current Settlement will curtail or discourage Microsoft from continuing the same illegal practices. Something has to be done to truly level the playing field. There are many talented and creative people who do not further our current technology because they know that Microsoft would use their money to crush it no mater how good it is. Almost all of my co-workers feel the same way. And many of them feel that Microsoft has the DOJ in it's pocket and will be able to get away with what ever it wants to. If people could commit a crime that would make them $50,000,000,000 and all they had to do was give back $1,000,000,000 most people would do it as many time as they were allowed. And with the current settlement, Microsoft WOULD NOT be giving up a billion dollars and WOULD be furthering their Monopoly! I read an editorial in Barrons, December 10th, metro section in which a Dr. Jeffrey Smith gave a very good analysis and solution to the problem. I would highly recommend a read of the article and especially his solution.

Thank You,
David Anderson

This is my opinion and I am not speaking for JPL or NASA.

MTC-00028398

From: WILLIAM ROSSI
To: Microsoft ATR
Date: 1/28/02 3:00pm
Subject: Microsoft Settlement

20 Bea Avenue East Northport, NY 11731
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: I am supportive of the Department of Justice's efforts to settle the antitrust case against Microsoft. I prefer the remedies provided by the settlement agreement, as opposed to breaking up Microsoft. Anticompetitive business practices will be curtailed by Microsoft's agreement; for example, it will become easier for consumers to remove features of Windows from their computers and replace them with other software programs. Additionally, Microsoft has agreed not to retaliate against software developers who promote software that competes with Windows. The settlement agreement provides the appropriate remedies to the complaints made by the plaintiffs. No further action should be taken against Microsoft at the federal level.

Sincerely,
William Rossi r

MTC-00028399

From: Richard Murchy
To: Microsoft ATR
Date: 1/28/02 3:06pm
Subject: Microsoft Anti-trust case.

Attorney General John Ashcoft
U S Department of Justice
950 Pennsylvania Ave.NW
Washington D C 20530

Dear Mr Ashcroft,

This letter is to show my support for the pending settlement of the Microsoft Amti-trust case. The compromise represents a fair resolution to this legal dispute.It has gone on long enough.

Microsoft has made the Computer easy to use and the breakup of this great company is a poor decision to make. The proposed settlement provides flexibility for computer makers with uniform licensing, rights to re-configure Windows with other programs, abilities to license Microsoft technologies and to have access to the Windows internal code. With these conditions in place Microsofts rivals will have ample opportunity to carry on their own operations and will allow Microsoft to operate without further disruption, which of course, will be an asset to the computer consumer and the current struggling economy.Don't breakup this fine company that has put the world at our fingertips.

Sincerely,
Richard S. Murchy
W.188 Lake Forest Lane W.
Shelton, WA 98584
CC:fin@mobilizationoffice.com@inetgw

MTC-00028400

From: Mueone@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 3:01pm
Subject: Fwd: Attorney General John Ashcroft Letter

THEY MADE SOME BRUTAL BUSINESS DECISION, BUT TO BREAKUP A TECHNOLOGY COMPANY WHO STARTED FROM SCRATCH IS DISASTEROUS AGAINST ALL BUSINESS GROWTH PRINCIPLE. hOWEVER i BELIEVE THE SHOULD PAY A CONSIDERABLE FINE WHICH SHOULD BE to PROVIDE INTERNET SERVICE TO SMALL COMMUNITY FARMS REALLY UNDERPRIVELEGED AND THEY SHOULD BE ABLE TO CHOOSE THWE INTERNETSERVICE FOR THEIR OWN CHOICE AND msft SHOULD PAY FOR 3 YEARS.

I AM A VERU SMALL FRY INTERESTED IN BUSINESS AND TECHNOLOGY. PLEASE get ENRON and these crooks Thanks I hope yopu give my thought some time.

Respectfully
Josef Brunner

MTC-00028401

From: mofish
To: Microsoft ATR
Date: 1/28/02 3:03pm
Subject: Microsoft Settlement

Dear Mr. Ashcroft: Thank you for finally ending the antitrust lawsuit against Microsoft with a settlement that is more than fair. I personally feel that enough is enough. We have expended millions of dollars on this suit already, and I believe our tax dollars could be more prudently allocated.This is a strong agreement. It grants computer manufacturers new rights to configure systems with access to various Windows features. In addition, it creates a governmental technical oversight committee to review Microsoft software codes and books, and to test Microsoft compliance to ensure that Microsoft abides by the agreement. The only term of the settlement I believe is inappropriate is the internal interface disclosure. I do not believe that Microsoft should have to divulge any information to its competitors relating to how it designs or secures its product. This particular term defies the very foundation upon which this nation was built: free enterprise. Your decision demonstrates insightful leadership on your part. I am glad that our Attorney General is a friend of American business. In my opinion, no more action should be taken at the federal level in this case.

Thank you.

Sincerely,
Chris Johnson
20821 Hillcrest Pl. Edmonds, WA 98026

MTC-00028402

From: FBROKER@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 3:03pm
Subject: Microsoft Settlement

I believe the settlement by the mediator was fair and beneficial to consumers and the United States economy. It is time to move beyond this litigation.

Joyce & John Hammill

MTC-00028403

From: Mark G. Munsell
To: Microsoft ATR
Date: 1/28/02 2:59pm
Subject: Microsoft Settlement

MTC-00028404

From: t t
To: Microsoft ATR
Date: 1/28/02 3:04pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

Your honor I submit my objection to the Proposed Final Judgment. Apparently, there are several loopholes encompassed in the framework of the final proposal, which favors Microsoft. The proposed final settlement does not dish out any due justice or punishment on the side of Microsoft. At the same time no devices are in place to ensure MS compliance to the stated rules enclosed in the settlement.Although being closely monitored, Microsoft will not have any direct supervision to reassure the company complies with the stated agreement. A three-man compliance team overseeing Microsoft remain in alignment to the stated rules and regulations. This three-man oversight team will be composed of the following: one appointee from the Justice Department, one appointee from Microsoft, and another appointee chosen by the two existing members. In turn, Microsoft will control half of the oversight team. All findings by this committee will not be allowed into court. The sole purpose for such a committee is to inform the Justice Department of all infractions committed by Microsoft. Subsequently the Justice Depart will launch its own investigation into the matter and commence litigation to halt all infractions. When all is said and done, the oversight committee is just window dressing. In turn, who will not strictly oversee Microsofts business moves? In my opinion, the Proposed Final Judgment does not provide sufficient and appropriate restrictions or penalties against Microsoft. What reassurance do we have against Microsofts illegal and illicit activities? I can assure you that the Proposed Final Judgment does not effectively address the question. I am against the Proposed Final Judgment. It in fact pardons MS of all wrongdoing.

Respectfully,
Travis Thurman
311 Estes Ct.
Travis Airforce Base 94535

MTC-00028405

From: Hugh Queen
To: Microsoft ATR

Date: 1/28/02 3:03pm
Subject: Microsoft Settlement
301 Bobby Jones Road
Sarasota, FL 34232
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I hope that this settlement will mean the end of any further action at the federal level and put an end to any more attacks on Microsoft. Microsoft has never been a monopoly and the government certainly has no place telling people how to run their businesses.

Microsoft is willing to put this behind them; they are sacrificing potentially millions of dollars in profits in order to get a settlement agreed upon. They are giving up access to their source code without retaliating when it is used to compete with Microsoft products. This alone will cover any complaints against Microsoft by allowing a greater number of products to be used in what were predominantly Microsoft areas.

I hope that his will satisfy everyone, as it well should. Microsoft is going above and beyond what was expected of them and it should be appreciated.

Sincerely,
Hugh Queen
CC:fin@mobilizationoffice.com@inetgw

MTC-00028406

From: Betty Brennan
To: Microsoft ATR
Date: 1/28/02 3:04pm
Subject: Microsoft Settlement

Please settle the Microsoft case with the current findings. We feel the prosecution of Microsoft has been and is detrimental to the entire economy. The public has been penalized by actions of the federal government in this unreasonable prosecution by the government, Microsoft competitors, various states where the competitors reside and a prejudiced judge. We feel Microsoft has a better product and should not be prosecuted for making the best successful economy in history and its prosecution led to the recession. It appears the other giants, i.e. Exxon and Mobil, merging banks, merging lumber companies, etc. manage to merge and be monopolistic to the detriment of the regular citizen causing increased prices and the federal government does not interfere. While Microsoft gets punished for going it alone (without political aid) and the other giants lobby Congress, we (everyday citizens) have to pay the higher prices.

Please settle this matter with the current decisions and do not carry it out any longer. Forcing Microsoft to help their competitors is unAmerican.

Joe and Betty Brennan
FAX206–878–1681

MTC-00028407

From: Edward Votypka
To: Microsoft ATR
Date: 1/28/02 3:04pm
Subject: Microsoft Settlement See attached, please.

MTC-00028407—0001

@??d;7??——R*EDWARD A. VOTYPKA
16611 Mohican Trail
Chagrin Falls, OH 44023
January 25, 2002
Attorney General Mr. John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This is to voice my support for the settlement recently reached between the Department of Justice and Microsoft. In my opinion, this lawsuit should never have happened. The basis of antitrust laws is damage to the consumer and monopolization of the market. There was no damage to the consumer. Bill Gates, through Microsoft, has helped consumers enormously. He standardized computer software. You do not need five different programs to do something. Nor is the price exorbitant; in fact, prices for software have gone down. Microsoft put out a better product at a better price. His competitors had every chance, and still do, to put out a better product and they have not. Instead, they have gone crying to the federal government citing lack of competition. While it is true that Microsoft plays to win, so does every other firm in the IT business ?? indeed, in any business. Microsoft has tried to be fair in meeting the Department of Justice demands. Microsoft has agreed to open the company up to more competition, agreeing to allow other developers more of its copyrighted code to aid in the development of third party programs; Microsoft has agreed to a uniform price list; Microsoft has agreed to disclose interfaces that are internal to Windows" operating system. This is more than most companies would do.

I urge you to support this agreement and allow us to put this matter to rest.

IF MERGEFIELD PARA4 1/2 PARA4+<>
......

Sincerely,
Edward Votypka

MTC-00028408

From:
macrist@netscape.net@inetgw
To: Microsoft ATR
Date: 1/28/02 3:04pm
Subject: Microsoft Settlement

Good Day:

Short and simple, I am a consumer. A consumer who has been harmed by Microsoft's monopoly in the form of inflated prices, lack of software choice and shoddy software produced by Microsoft. I join with the top Consumer ogranizations in America (Ralph Nader's Consumer Project on Technology, The Consumer Federation of America and Consumer's Union) in asking you to reject the proposed settlement as it does little to preserve real competition going forward and does nothing to punish Microsoft for their illegal past behaviors. Thank you for your consideration.

Respectfully,
Michael A. Crist
5416 Palos Verdes Blvd.
Torrance, CA 90505
macrist@netscape.net

MTC-00028409

From: Lauren Kosty
To: Microsoft ATR
Date: 1/28/02 3:06pm
Subject: Microsoftsettlement

To Whom it May Concern,

I think that Microsoft should not be allowed to abuse the antitrust laws or force consumers to use their own internet browser because there must be competition in the market, otherwise Micosoft will not be motivated to produce a product that is of good quality. It is unfair to take away the consumers right to choose the product they prefer and it is not beneficial to our countries economy to lose its competative edge by permitting monopolistic companies to exist.

sincerely,
Lauren Kosty
huesofgreen@yahoo.com

MTC-00028410

From: Paul Svitenko
To: Microsoft ATR
Date: 1/28/02 3:06pm
Subject: Microsoft Settlement

Dear DOJ,

From time to time, I hate Microsoft and its product.

At all times I hate this antitrust effort. It is unnecessary. Costly. Hypocritical. History is replete with antitrust prosecutions that have wreaked nothing but havok. Doing something to end a government-granted monopoly is one thing. Attacking the most successful company of our day is another. They got to the top by offering what the public wanted. We paid them all the way.

Let those who have the skills and honest desire punish Mr. Gates and company in the market place. There are many out there. If Microsoft lets down even for a minute, they will suffer ? alternatives abound, as the Apple, Linux, and AOL-Netscape-Lindows possibilities show.

In the end, it is not Microsoft that beat AOL, Sun, Apple and the rest of them ? it was I and other consumers who chose a cheap, relatively reliable, available standard in computing. The rest remind me of Carl Marx ? riding on the coattails of their betters and trying to bite the hand that has enabled them to feed themselves. It's disgusting, and you should find something more constructive to do with my tax dollars.

Best regards,
Paul L. Svitenko, Esq.

MTC-00028411

From: Don Carlson
To: Microsoft ATR
Date: 1/28/02 3:07pm
Subject: Microsoft Settlement

Please get this settled and move on with life. Don't cave in to the demands of inferior companies and their whining senators etc. Show me a better product at a better price and I will buy it. Until then, leave Microsoft alone and let's get on with serious business. Thank you for your consideration.

Sincerely, Don Carlson
PO Box 867
Winthrop, WA 98862
509–996–3631

MTC-00028412

From: K T
To: Microsoft ATR
Date: 1/28/02 3:09pm

Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I am in opposition to the Proposed Final Judgment in the Microsoft case. Undoubtedly, MS continues to violate business practices. The Proposed Final Judgment does not punish Microsoft for its past violations to the anti-trust laws. Microsoft is guilty of breaking several anti-trust laws. Under the final settlement, Microsoft is permitted to retain most if not all profits gained through their illicit activities. Subsequently, the PFJ will not compensate parties injured or harmed through Microsofts egregious misdeeds.

In addition, the PFJ will not take into account all Microsoft gains made through its illegal maneuverings. With all due respect, the final settlement is basically acknowledging the acceptance of Microsofts anti-competitive behavior. What kind of message does this send out to the public? I can assure you that the message is clear and simple.

The PFJ encourages big corporations to engage in monopolistic and predatory conduct, which in turn is detrimental to the technology industry at large. With all due respect your honor, I am outraged at such a preposterous proposal that only helps Microsoft to remain intact and continue with its unethical practices. In conclusion I submit to you my objection to this Proposed Final Judgment.

Respectfully,
Karen Thurman
311 Estes Ct.
Travis Airforce Base 94535

MTC-00028413

From: Mark Sutherland
To: Microsoft ATR,nolandpeebles@attbi.com @inetgw
Date: 1/28/02 3:10pm
Subject: Microsoft anti-trust

Please don't let Microsoft get away with it. Microsoft would have been just fine if not for their cut throat business practices. Releasing a OS that compeats fairly on the market would mean that microsft would have about 50–60% market share. But when a hardware manufacturer has to sign an agreement to only sell computers with only the one type of operating system it hurts all of us. Competition is what makes our capitalist economy go round and when the OS manufacturer stops that from happening we become little more than a communist commune. Their control of the market has been unmeasurable and this control has damaged the way we live, the way we learn, and the way we work. Microsofts Monopoly has cost businesses in the US alone Billions in dollars that could have been paid back to stock holders or be used to pay off loans and help the economy instead of hurting it. Don't let Microsoft screw us all again make them work with binders on for awhile and see if they can deal with some of their own medicine.

Mark Sutherland
548–59–5236

MTC-00028414

From: Jeryl
To: Microsoft ATR
Date: 1/28/02 3:12pm
Subject: Microsoft Settlement

Don't let Microsoft get away with their tactics any longer! I do not want to see a world dominated by a company that seeks to control all flows of information, whether in the office, school, home or on the net.

A concerned citizen
J Barnett
Norfolk VA

MTC-00028415

From: Tom Stevenson
To: Microsoft ATR
Date: 1/28/02 3:13pm
Subject: Microsoft Settlement

MTC-00028416

From: Gordon Ruby
To: Microsoft ATR
Date: 1/28/02 3:12pm
Subject: Microsoft Settlement

I don?t believe that the proposed settlement in the Microsoft anti trust case is fair in any way. I am a computer technician that has been working with Microsoft software for more that 12 years. I have repeatedly seen Microsoft use its monopolistic advantage to destroy the competition. The proposed settlement only helps Microsoft conquer one of the last areas that it doesn?t have a monopoly: the education system. I find this to be absurd. Also there are so many loop holes in the proposed settlement that the punishment will be less than a slap on the wrist.

Gordon Ruby
River City Technical Services
10534 NE Beech St.
Portland, or 97220
503–262–1930

MTC-00028417

From: Rob Ellis
To: Microsoft ATR
Date: 1/28/02 3:12pm
Subject: Microsoft Settlement
Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
A. Robert Ellis
88 College Road W
Princeton, NJ 08544

To the Court:

As a citizen, a student, a programmer, and a consumer, I would like to comment on the anti-trust case against Microsoft, as allowed by the Tunney Act.

I feel that the proposed settlement with Microsoft does not do enough to punish the company for past anti-competitive actions, nor is it specific enough to ensure that future incidents will not occur. For details, please see the statement made by Dan Kegel and others, which has been, or will be submitted. I agree entirely with their comments.

I hope that a stronger, more detailed agreement can be reached that will resolve current complaints, and protect businesses, programmers, and consumers in the future. Thank you for your time.

Sincerely,
Arthur Robert Ellis

MTC-00028418

From: McDaniel-Neff, Clifton
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 3:12pm
Subject: Microsoft Settlement

I am thoroughly opposed to the settlement that has been reached between the Justice Department and Microsoft in the Antitrust case. Microsoft is, without a doubt, a monopoly that has abused its power and will continue to do so unless it is reigned in by the government. Microsoft corp. does not compete on the merit or value of its software, but by using unfair tactics to get where it wants.

Any settlement, etc. in this case should set very clear rules that Microsoft must adhere to. It should also set forth punishments for past and/or future abusive action. Please do not allow this settlement.

Clifton McDaniel-Neff
Visual Information Specialist
For Your Information, Inc.
Phone: (202) 267–2818
Email: cmcdanielneff@comdt.uscg.mil

MTC-00028419

From: E T
To: Microsoft ATR
Date: 1/28/02 3:14pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally-

Please consider my disapproval at the Proposed Final Judgment. Consider the true facts in the matter and judge accordingly.

From my understanding a Final Settlement has been reached between the two parties. However the Proposed Final Judgment will overturn the evidence found by the U.S. Court of Appeals indicting Microsoft in violation of antitrust laws.

The proposed settlement has the Justice Department withdrawing their charges against MS. In fact, based on the assessments made on the proposal, Microsoft will be cleared of all wrongdoing in the matter. How can this be?

There are several glaring flaws in the PFJ. However, non-so more apparent than allowing an absentee landlord to govern Microsoft. With all due respect, the final settlement provides no security to restrict MS from breaking any laws in the future. In my humble yet accurate opinion, the future governing body, implementing certain rules or regulations and forcing MS to adhere by them, will not be stringent nor forceful enough to make any dramatic changes. Similarly, I am not convinced that these stiff penalties applied to MS will ensure the security and future growth of other companies,

A whole new framework of laws must be established to justly punish MS. The Proposed Final Judgment abstains from such justification and order. Again I submit my objection to the stated Proposed Final Judgment.

Sincerely,
Eduardo Tualla
Sacramento, CA

MTC-00028420

From: Marty Irwin
To: Microsoft ATR
Date: 1/28/02 3:14pm

Subject: Microsoft Settlement

Please accept my attached letter of response regarding the Microsoft Settlement with the Department of Justice. Thank You ! Marty Irwin Send and receive Hotmail on your mobile device: http://mobile.msn.com

1116 NW 52nd Street
Vancouver, WA 98663
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today regarding the settlement that was reached between the Department of Justice and the Microsoft Corporation in their three year long antitrust battle. I believe that this case has been propagated for far too long and the money and resources expended on both sides of this dispute could have been put to better use elsewhere.

The terms of this settlement are fair. Microsoft has agreed to design all future versions of its Windows operating system to work in conjunction with the products of its competitors. The company will also cease any action that may be considered retaliatory. Adherence to this settlement will also be ensured by a government appointed oversight committee which will monitor Microsoft. It is clear to me that this settlement addresses the issues that were brought in this suit and then some. The reluctance of some people to accept these terms is proof that they are more concerned with perpetuating their own political agendas than they are with finding a suitable solution to this problem.

Thank you for supporting this settlement and for allowing me to voice my opinion on this issue.

Sincerely,
Marty Irwin

MTC-00028421

From: Matthew Stoecker
To: Microsoft ATR
Date: 1/28/02 3:15pm
Subject: I urge acceptance of the proposed settlement (EOM)

MTC-00028422

From: carmar
To: Microsoft ATR
Date: 1/28/02 3:15pm
Subject: Support settlement of Microsoft case

Dear Atty. General Ashcroft:

I am writing to request your support of the settlement Microsoft has offered and the Department of Justice has agreed to. There will always be rivals and special interests who object. It is time to put closure and I trust you will support the settlement of this case.

Sincerely,
Carolyn Palmquist
Havana, Florida

MTC-00028424

From: Dave
To: Microsoft ATR
Date: 1/28/02 3:14pm
Subject: Microsoft Settlement

I am writing in the hope that my thoughts and concerns may be heard by the court of Judge Colleen Kotar-Kelley. I'll be brief. The settlement, as proposed by the DOJ, the accepting states and Microsoft is fair to all concerned and the general in public. This case has only minimally been about consumer protection from a monopoly and has largely been about protecting the interests of a very few, large corporate and government interests to make sure that their brand of technology isn't usurped by vendors like Microsoft who work to find unique technologies and incorporate them into a coherent, useable form for large numbers of people to benefit from the technologies use. In regard to this competition, the proposed settlement is very fair, for two of it's primary stipulations, in my mind. The first is that OEM's are assured that Microsoft can not take retribution on the OEM's if the OEM's decide they find one technology more compelling than a Microsoft technology. It also provides the means for Microsoft's competitors to find out about underlying interfaces into it's applications and operating systems, by allowing the sharing of specific technology information, ;

but which does so, in a controlled atmosphere that protects Microsoft's rights to it's intellectual property.

This is the most important reason to accept this proposal. It DOES protect the intellectual capital of this company without the wholesale rape and plunder of it's most important technological secrets. In a communist/socialist system, one would expect that the details of how a successful business is operated would be viewed in extreme detail without any regard for the rights of those individuals who have worked so hard to make that company a success. But this is America. Organizations and individuals in our society have the right to protect and keep private the fruits of their hard work and share those fruits with others in a way that rewards those who worked to create those fruits. Microsoft's competitors, including the states who are objecting to this settlement (these states also have compelling interests on the behalf of Microsoft's competitors in my humble opinion) care not about competition, but how to get as much intellectual property as possible and eliminate Microsoft as a threat to their very profitable franchises which are far from affordable for the average consumer (which is what they keep telling us this is all about, that this is for Jane and Joe consumer).

Finally, I am not surprised, even in the light of all the stuff that has gone on at ENRON, that the loss of billions of dollars from investor funds (holding Microsoft stock) is not a big deal to our government leaders because of all the money that state and federal representatives hope to acquire from a major shake up of Microsoft, and because their corporate benefactors (IBM, SUN, AOL/TimeWarner, et. al) will benefit from a coup in obtaining Microsoft's intellectual property. ENRON is a big deal, because so many government leaders had there hands involved in that organization in so many ways. Microsoft is, on the other hand, not a big deal to the government and needs to be done away with, because rather than spend a lot of time throwing money at congressional leaders and lobbying congress, Microsoft went about it's business. Microsoft did do and still does an excellent job of finding the best and the brightest talent to become one of the best marketing and technology companies in the world. If you really want to find out about competition, then why don't you go out and compare a Microsoft solution, to that of one of it's competitors (IBM, SUN, AOL/TimeWarner, Linux or other OS/Application variants) and evaluate on all facets (up front costs, consulting needs, ongoing support, etc), and you will see that if more draconian remedies are pushed upon Microsoft that the high prices already charged by these Microsoft competitors will do everything except become more competitive.

Thank you for your time and consideration!

David J. Renner

MTC-00028425

From: W. Curtiss Priest
To: Microsoft ATR
Date: 1/28/02 3:17pm
Subject: Proposed Microsoft settlement: woefully insufficient

Dear Justice Department,

As a software innovator and holder of several software patents, I have first hand knowledge of how extremely brutal, unfair and bullying Microsoft is to others in the industry. I was involved for five years in negotiation, arbitration and potential legal action against Microsoft which only caused Microsoft to spend incredible resources to deny me and Humanic Systems any just and due compensation for our innovative work.

In my opinion, as President of Humanic Systems, a company that was (above) abused by Microsoft regarding our intellectual property for significant components of Microsoft Outlook, the proposed remedy is extremely inadequate:

1. It does not provide substantial redress for the prior losses caused by MS on others

2. Secrecy provisions undermind the ability to obtain API information and will systematically be used by MS, in my opinion, to continue its monopoly stranglehold

3. There are no structural remedies, and, without those, the "fascist" mindset of Ballmer and Gates will continue to dominate the thinking of each and every employee

4. Microsoft's stated opinions about various forms of open software, being a "cancer" undermines the ability for consumers to get the maximum benefit for the least cost This position, alone, demonstrates that they want "all the marbles" and it is a "winner take all" game Consider, for example, a PBS documentary about extreme competition as taught within the Gates family as Mr. Gates grew up This person does not know the word cooperation, and, without extremely directive measures, will never show cooperation to the rest of the software industry that is slowly dying under his ruthless hand.

Very truly yours,
Dr. W. Curtiss Priest
President, Humanic Systems
Director, Center for Information, Technology & Society
Member, American Economics Association
Prior, Principal Research Associate, MIT
Author, —Technological Innovation for a Dynamic Economy—, 1980 (Pergamon Press)
—Risks, Concerns and Social Legislation—, 1988 (Westview Press)

—W. Curtiss Priest, Director, CITS
Center for Information, Technology & Society
466 Pleasant St., Melrose, MA 02176
Voice: 781-662-4044 BMSLIB@MIT.EDU
Fax: 781-662-6882 WWW: http://Cybertrails.org

MTC-00028426

From: Rick Balian
To: Microsoft ATR
Date: 1/28/02 2:18pm
Subject: Microsoft settlement

To Whom It May Concern,

I hope Microsoft does not get off with a warning or a fine. Warnings have been disregarded in the past. And a fine will only be earned back by higher prices on its products. I think for Microsoft to curtail its illegal domination there have to be specific, strict instructions as to what it may and may not do. Windows XP is even more bundled with Microsoft products than previous versions. How did that happen; why was that product allowed to be shipped? Microsoft does not play well with others and must be severely restricted in its drive to curtail and bully competition, ignore industry standards and push through its own proprietary standards and hamper innovation.

Sincerely,
Rick Balian —

MTC-00028427

From: Evelyn Kessler
To: Microsoft ATR
Date: 1/28/02 3:18pm
Subject: Microsoft Settlement

In my opinion, Microsoft's proposed settlement to the law suit is a fair solution to ending this long, ongoing fight by competitors to try to bring Microsoft its knees. The willingness of nine states to accept the settlement clearly demonstrates that it is fair and reasonable. But nothing will ever be enough "punishment" for those states who want to damage Microsoft.

I urge the DOJ to recommend acceptance of the settlement proposal. Allow Microsoft, along with its new awareness of business practices, to continue building great software and services for users around the world.

Evelyn Kessler

MTC-00028428

From: Leon A Wilson
To: Microsoft ATR
Date: 1/28/02 3:18pm
Subject: DOJ: AOL vs. MSFT

MTC-00028429

From: Anatoly Hiller
To: Microsoft ATR
Date: 1/28/02 3:15pm
Subject: Microsoft Settlement

The PFJ should terminate Microsoft's illegal monopoly. The PFJ should deny to Microsoft the profits of its past behavior and penalize them.

The PFJ should prevent any future anticompetitive activity. Anatoly Hiller (650) 473-3617

MTC-00028430

From: Adams, Michele
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 3:19pm
Subject: Microsoft Settlement

Attached please find letter in support of the Microsoft settlement.

Michele M. Adams
GTECH Corporation
55 Technology Way
West Greenwich, RI 02817
email: madams@gtech.com
Ph: 401-392-5556
Fx: 401-392-4808

MTC-00028430—0001

20 Pepin Street, Unit 4
West Warwick, RI 02893
January 28, 2002
VIA FACSIMILE (202-307-1454) & E-MAIL (microsoft.atr@usdoj.gov)
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
RE: Microsoft Settlement

Dear Attorney General Ashcroft:

I am sending this public comment via email to record my support for settlement of the court case against Microsoft Corporation. I seek your continuing support in the effort to persuade the judge that the settlement will be in the better public interest of the United States than the alternative of costly and unfocused, continued litigation.

The settlement, whatever its effects on Microsoft Corporation, will be quite beneficial to the community that uses personal computers, PC makers will be able to re-configure the desktop package of programs that come with Microsoft?? Windows, or even to combine making PCs with operating systems from Microsoft and other software makers, with the ending of exclusive distribution and promotion terms in contracts, These and other changes will bring greater flexibility and opportunity for experimentation to the PC world, If Microsoft wants to continue to lead the industry it will have to come up with new and better innovations faster than it has in the past.

Please continue to support the settlement. Thank you.

Respectfully yours,
Michele Adams Pizzitola

MTC-00028431

From: Rose, David
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 3:22pm
Subject: personal opinion of MS settlement

To whom it may concern.

I am very concerned regarding a quick and non-remedying settlement against Microsoft. I feel as thought I am a pet of this particular corporation ... I am only allowed to have what they will allow me to have. Not only are my software choices very limited, but even some of those competing choices are taken away from me because of the reasons which found Microsoft guilty of being an illegal monopoly.

One thing I do not understand is why Microsoft has not been sued by corporations using their software. There are many software "bugs" in their past software—Office 95, 97 2000, etc. Windows 95, 98, 98 second edition, millennium, etc. If I am buying a license to use software, and not the software itself, it stands to reason that I would expect the licensor to keep fixing the "bugs" in software for a specified amount of time; and that new releases are just software with new features.

However, there are many unresolved software "bugs" which are never fixed. With no competing software, my only recourse is to buy a new license for a different version of software. This may be an expensive remedy which I should not have to afford.

Also, I have heard that major resellers MUST sell Microsoft software on their computers. From Dell, Gateway, etc I can not get a computer only. I must purchase an operating system. But, on a previous computer that will no longer be used, I already paid for an operating system. If that computer is no longer to be used, or to be used with Linux, Unix, FreeBSD, Be, or some other "ground roots" operating system, why must I pay again for a software license when one is already freely available for use?

I believe I have been wronged. I have been duped out of my hard-earned money. I insist that this will not happen again! I want the party found guilty by a jury to be considered guilty by the judicial system!

S. David Rose
Stamford, CT, US
mailto:david.rose@us.wmmercer.com

This e-mail and any attachments may be confidential or legally privileged. If you received this message in error or are not the intended recipient, you should destroy the e-mail message and any attachments or copies, and you are prohibited from retaining, distributing, disclosing or using any information contained herein. Please inform us of the erroneous delivery by return e-mail.

Thank you for your cooperation.

MTC-00028432

From: Linda Charlie Puls
To: Microsoft ATR
Date: 1/28/02 3:21pm
Subject: Microsof Settlement

PO Box 639
Shoreham, NY 11786
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support the settlement between your office and Microsoft in the ongoing antitrust trial. I believe that Microsoft has the right to free enterprise, and the terms it will comply with to end the case are fair to its competitors. Microsoft's concessions in the settlement will ensure that their rivals have more opportunities to gain market share. Making new program removal features available in Windows XP and giving computer makers new freedoms to integrate non-Microsoft programs into Windows will ensure that other companies who make good products will have a greater chance of distributing them to the public.

Please settle the Microsoft case, and be mindful of their right to innovate and reach as many people as possible with their products.

Sincerely,
Linda J. O'Neill -Puls
Linda Puls

MTC-00028433

From: Gary Robson
To: Microsoft ATR
Date: 1/28/02 3:22pm
Subject: Microsoft Settlement

I believe that the findings in the Microsoft antitrust case were accurate and reasonably stated, but that the remedies do not go far enough to prevent recurrence or to compensate consumers and competitors for the damage done by Microsoft.

When I first began using computers with Microsoft operating systems, the OS represented around 1% of the total cost of the computer (an IBM PC with MS-DOS). Now, I can buy a computer for under $1,000 and a copy of MS Windows will cost over $100. They've gone from 1% to 10%. The vast amounts of profit Microsoft is raking in from their operating systems monopoly is funding advertising, price cutting, and other methods of invading other profit centers, including not only middleware, but video games, the ISP/ASP market (through MSN), and many less visible incursions through acquisitions and partnerships.

Breaking up Microsoft is the only realistic solution. &mdash;&mdash;&mdash;

Gary D. Robson
1284 Highway 72 North
P.O. Box 9
Belfry, MT 59008-0009
406/664-3067 (home)
406/446-2742 (work)
gary@robson.org http://www.robson.org/gary/

MTC-00028434

From: David Martin
To: Microsoft ATR
Date: 1/28/02 3:22pm
Subject: Microsoft Settlement
To: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200 Washington, DC 20530-0001

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. In my opinion, the Proposed Final Judgement (PFJ) does not protect the interests of the American public, and does not address the anti-competitive practices Microsoft was found guilty of. In particular, I would like to make the following points:

The PFJ doesn't take into account Windows-compatible competing operating systems The PFJ Contains Misleading and Overly Narrow Definitions and Provisions The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs The PFJ as currently written appears to lack an effective enforcement mechanism As a professional working in the Computer Software industry, I have personally observed the effect Microsofts monopoly power has had. It has stifled innovation, blocked investment in promising competitive technologies, and severely distorted the efficiency of the software marketplace. Today, no one knows what the economic value of a PC operating system is, or a web browser, or an email client. Microsofts monopoly has blocked the free flow of information and capital that is essential to a healthy market. The decision by the Justice Department to capitulate to Microsoft is a gross injustice to the average consumer of computer software.

In summary, the Proposed Final Judgment, as written, allows and encourages significant anticompetitive practices to continue, would delay the emergence of competing Windows-compatible operating systems, and is therefore not in the public interest. It should not be adopted without substantial revision to address these problems.

Sincerely,
David M. Martin
74 Shelters Rd.
Groton, Massachusetts
Dmartin82@yahoo.com

MTC-00028435

From: bboam@infowest.com@inetgw
To: Microsoft ATR
Date: 1/28/02 3:22pm
Subject: Mircosoft settlement

MTC-00028436

From: Tom Hayes
To: Microsoft ATR
Date: 1/28/02 3:25pm
Subject: Microsoft Settlement

My Opinion/Vote: Settlement needs to be completed and minimal penalties, if any, need to assessed and allow Microsoft freedom to be innovative, creative and competitive and survive in the world competitive economy and free market. At the rate the legal proceeding are going, throwing this case is completely an option.

I am pro-settlement with Microsoft, DoJ and the nine states. The issues, who and why's are not reflective of the general populating and I am convinced this is being driven by Sun, IBM and AOL/Netscape and several other competitors who lack product creativity and success. After all the legal battles and information about harming consumers, at the end, you ask the general population and consumers thru the Tunney Act. If this was really truly driven by the consumers, I am pretty sure we would be hearing from them more then Sun, IBM, and AOL/Netscape funded legal battles.

Settlement: Microsoft, economy, consumers and innovative productivity has suffered enough. There should minimal penalties against Microsoft and many of the practices in question are no longer in place or even applicable. Companies need to be innovative, creative and competitive to survive in the world economy and free market.

Issues:

*These legal fees are costing the US and Microsoft many dollars. I see where Microsoft took a finical cost, $660 Million dollars battling these legal issues, but where/what are the funds fueling the DoJ and nine states and the other previous other nine states? My income, state and local tax dollars and maybe some selective corporate sponsorship? I would challenge opposing corporate sponsorship in the court of law on a case slated on behalf of the people.

*Other legal issues related to suing Microsoft i.e. the Class-Action Suit http://www.microsoft.com/presspass/Press/2002/Jan02/01-11ClassActionDe cisionPR.asp and the resent AOL/Netscape suit http://www.microsoft.com/freedomtoinnovate/info/news—01—22—02.asp *Where has the end consumer been harmed by Microsoft IE browser, in the scope of this case? For that matter Microsoft's technology harming consumers? And one should look back in history and see where technology has come from and improved consumers, productivity and world wide economy.

Other 100 Class-Act Suite, and suggested settlement:

"Under the proposed settlement, Microsoft had agreed to provide more than $1 billion in cash, training, support and software to help make computer technology more accessible to public schools serving nearly 7 million of America's most economically disadvantaged children." Would have helped those schools and prepared those students for the current real world computing skills. But no, Apple/Mac's has the loin-share of that market and go figure they are training students on non-Microsoft technology in preparation their profitable careers.

AOL/Netscape Suit:

Who killed Netscape? Well, AOL purchased Netscape for $10 billion dollars in the midst of the DoJ trial, even after hearing concrete evidence that IE's success in the market was based on merit, not market share. And in the middle of a so called browser war, sound like a poor business decision gone bad and now want the sue.

Regards,
Tom Hayes
425-442-8322

MTC-00028437

From: Tim Pawlenty
To: Microsoft ATR
Date: 1/28/02 3:25pm
Subject: RE: Microsoft lawsuit settlement

January 28, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Ms. Heese:

I applaud the leadership displayed by the Department of Justice and the nine Attorneys General for developing the proposed Microsoft settlement agreement that balances the protection of consumer interests and the competitive process. I believe that this settlement will preserve Microsoft's ability to innovate and engage in normal procompetitive activities, critical during our nation's current economic recession. At the same time, the settlement is a win for consumers, with its broad scope of prohibitions and obligations imposed on Microsoft. It will certainly require substantial changes in the way that Microsoft does business. It imposes significant costs on the company and entails an unprecedented degree of oversight. Furthermore, the agreement strikes an appropriate balance within the technology industry, providing opportunities and protections for firms seeking to compete while allowing Microsoft to continue to innovate and bring new technologies to market.

This reasonable settlement will help consumers, the industry, and the economy to move forward.

Very truly yours,
Tim Pawlenty
Majority Leader
Minnesota House of Representatives

MTC-00028438

From: legwatch@reliableanswers.com@inetgw
To: Microsoft ATR
Date: 1/28/02 3:21pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. T

his is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Annette Hall
5409 Highview Lane
Citrus Heights, CA 95610-7405

MTC-00028439

From: Miles C
To: Microsoft ATR
Date: 1/28/02 3:26pm
Subject: opposed to settlement

From what I have read in the majority of trade publications is that the consensus is that this is not a settlement that will significantly benefit anyone other than Microsoft.

I hope that 9 states pursuing a separate path is enough to at least give whomever might be in charge of this case that it this case is strongly questionable. I would put forth the suggestion that attorney generals in 9 states are also experts in the matters of law, so even though 9 states have gone along with it the matter has some serious issues. As near as I can tell, Microsoft is and will remain a monopoly. They make the rules for their OS. They will also use unfairly their considerable resources to enter in and dominate any aspect of the software industry because there does not exist another corporation who can print money like they can. The idea of leveraging a monopoly is something that I don't think was adequately explored.

I think that they have adopted the old Royal philosophy of don't explain and don't apologize as much as possible. It works, most people will go away if you deny anything long enough. They have added to it with significant amounts of money in contributions making the party line that much more difficult to dispute.

At this juncture, they seem to be trying to make new inroads into people's lives such that they will control large portions of commerce with the Internet by holding much of the information used for marketing and purchasing. If the Department of Justice can have its case split so cleanly at this juncture how much less of a chance will there be an answer in the future when no doubt the political pressure will likely be even greater because of greater profit?

I truly doubt that they are significantly changed from their earlier tactics simply because those tactics worked and now no longer are necessary rather than they are facing any punitive measures. There will remain the fact that no one can develop for their platform as easily as they can. They have the source code and expertise in developing it that automatically gives them an advantage in experience.

I honestly feel as though I was sold out as a consumer. I don't doubt that any company that is developing in a field that MS looks at as potentially profitable feels even worse knowing that they will be acquired or destroyed as a force in that market through no special ability of MS other than not having that market niche fund its development. Office will help pay for Money, which will help pay for Age of Empires, for instance. Please reconsider this settlement. I truly believe that a diversified software industry will be much better for us than a gigantic corporation kept healthy through government intervention on its behalf.

Sincerely,
Miles Cannon

MTC-00028440

From: rglenn@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/28/02 3:28pm
Subject: Microsoft Settlement

I wish to comment on the proposed Microsoft settlement. I agree with the problems outlined in Dan Kegel's analysis posted on the web at http://www.kegel.com/remedy/remedy2.html It is my opinion that the current proposed settlement will NOT do enough to prevent further anti-competitive practices by Microsoft, and to restore consumer choice to the software market.

Robert A. Glenn
360 W 22nd St #11K
New York, NY 10011

MTC-00028442

From: Bill Keough
To: Microsoft ATR
Date: 1/28/02 3:28pm
Subject: Microsoft Settlement

The recent history of antitrust has been a jihad by the Department of Justice against a pantheon of American industry. Antitrust cases against IBM, Intel and Microsoft seemed to have been designed to wreck the high tech industry. Al-Qaida could not have designed a more devious program to destroy the U.S. economy. Hyperbole? The current recession was started or at least given a boost by the tepped up legal action against Microsoft and the consequent fall of it's stock. Hundreds of billions of dollars have been lost.

This suit has unleashed a mob of whining moochers angling for a chunk of cash or control of Microsoft. If this lawsuit is upheld it will result in the virtual destruction of the company, maybe not at once, but surely in a drawn out death by fragmentation and bankruptcy. No more operating systems, no more Web browsers, no more games, no more office software, no more jobs, no more nothing. Contrast the way Microsoft does business with the way the Post Office, a real monopoly, does business. Can Microsoft prevent the entry of competitors into its realm of business? No it can't, but the Post Office routinely does this the only way possible: by the use of force or the threat of force. There is no other way to bar competition than to resort to force. Entry in a field of business however does not ensure success. Your competitors do not have to make allowances for your weaknesses by tailoring their business practices so you can survive. Everything is permitted except force or fraud. As Bill Gates has said many times, no one has been forced to do business with them. If their partners do not like the terms Microsoft sets they are always free to leave. Microsoft should not be compelled to open up its products to competitors. Windows and Internet Explorer are their property to dispose of as they see fit.

This is the essence of the case, or lack of a case, against Microsoft. Envious competitors complain about Microsoft's business practices, which they themselves routinely use. On a personal level, I started with the Prodigy browser and then switched to AOL. Finally when I bought a new computer I ended up with Internet Explorer. I never had any trouble switching browsers and from a business point of view it would not make sense to impede the installation of new software. After all what would be the point of an operating system that sabotaged certain programs? That Microsoft includes an internet browser with windows does not mean you have to use it. Competing browsers on CDs are so numerous they are regarded as junk mail. The Department of Justice case against Microsoft is not just senseless but in a recession and a time of war it is doubly destructive. Reason and justice dictate that this case should be dismissed.

William B. Keough
Seattle, Washington

MTC-00028443

From: Bill Young
To: Microsoft ATR
Date: 1/28/02 3:28pm
Subject: Microsoft Settlement

To Whom It May Concern:

Many others have eloquently voiced their opposition to the proposed settlement. I cannot hope to express the same concerns as well in a brief email.

I am against the proposed settlement because I do not feel it goes far enough in restricting the anti-competitive practices that currently allow Microsoft to maintain a monopoly position in the desktop operating systems market. Further examples of these practices are evident in software releases subsequent to the court findings, further justifying the need for strong measures that cannot be circumvented by Microsoft's interpretations of loose wording.

- signed—
William J. Young
Ph.D., Computer Science
26069 Highway 72
Golden, CO 80403
CC:byoung@pcisys.net@inetgw

MTC-00028444

From: gigi.burton@us.cgeyc.com@inetgw
To: Microsoft ATR
Date: 1/28/02 3:32pm
Subject: FW: Microsoft Settlement [CGEY Virus checked]

Thanks,
Gigi Burton
Critical Technologies Recruiter
425.990.6932 (Direct)
425.802.1232 (Cell)
425.990.6801 (Fax)
CapCom 9976898
http://www.usa.capgemini.com
Send to: microsoft.atr@usdoj.gov

My Opinion/Vote: Settlement needs to be completed and minimal penalties, if any, need to assessed and allow Microsoft freedom to be innovative, creative and competitive and survive in the world competitive economy and free market. At the rate the legal proceeding are going, throwing this case is completely an option.

I am pro-settlement with Microsoft, DoJ and the nine states. The issues, who and why's are not reflective of the general populating and I am convinced this is being driven by Sun, IBM and AOL/Netscape and several other competitors who lack product creativity and success. After all the legal battles and information about harming consumers, at the end, you ask the general population and consumers thru the Tunney Act. If this was really truly driven by the consumers, I am pretty sure we would be hearing from them more then Sun, IBM, and AOL/Netscape funded legal battles.

MTC-00028445

From: Susan Greenbach
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 3:41pm
Subject: Microsoft Settlement

Dear District Court Judge:

I am writing to you to as I am frustrated with the prosecution of Microsoft. I am the Information Systems manager for our office and deal with Computers and Servers daily. Streamlining computer software and hardware can be the most difficult, time consuming and costly expense for our company.

Compatibility and support are key. I appreciate that Microsoft has helped immensely with this task. We don't need this process mucked up by government intervention. I resent that the government does not believe that I can decide for myself which software/hardware is useful to me. I can't believe our government views Microsoft as a threat, when after all it is Microsoft that has brought the industry to where it is....on real earnings, not "puffed-up" .com hype. Don't forget the bubble bursting for the .communists and all of their venture capital. Those bringing suit are not individual consumers, but Microsoft's unsuccessful competitors. Failed businesses must not be allowed to set the rules for the markets in which they failed.

Protecting some businesses from others is a dangerous policy. I want to see an America where success is embraced, not punished and throttled! Bill Gates is a self-made man who has brought America, the world, to new levels of progress. Microsoft has a fundamental right to its property, and it is the governments job to protect this right, not to take it away. Microsoft, should be lauded and left alone to continue to develop and prosper so that, we the people, can too.

Susan Greenbach
CC: 'activism(a)moraldefense.com'

MTC-00028446

From: Dave Jorgensen
To: Microsoft ATR
Date: 1/28/02 3:36pm
Subject: Microsoft Settlement

Dear Sirs,

This is a follow-up to my e-mail from 11am this morning. My earlier letter was intended for those handling the civil anti-trust suit against Microsoft. This additional letter is in regards to the federal anti-trust case. As a citizen of the United States of America, and an employee in the High-Tech sector of our nations economy, I feel compelled to write and voice my disagreement with the proposed federal anti-trust settlement with Microsoft.

For the past two decades, I have watched again and again as Microsoft leverages its monopoly position to wipe out what were once healthy high-tech markets. While only a few of these cases have seen a courtroom, and while some would disagree about whether Microsoft's dominance in these instances has provided more pluses or minuses for the end customer, one thing is painfully clear: Microsoft has now been caught red-handed, showing the very worst of intentions, as they abused their monopoly position to destroy competition and seize control of the web browser market. What's more, Microsoft has shown in court, in the press, and in the marketplace, that they do not recognize their mistakes in this area. They are simply not capable of the kind of introspection, conscience and respect required to regulate themselves as a result of the findings of this case. As we have seen throughout this long ordeal, Microsoft shows an arrogant disrespect for the letter and spirit of the law; sometimes manipulating technical evidence, other times violating the temporary restrictions placed against them, all showing a clear pattern that they are truly unrepentant in their actions. The currently proposed settlement, which is basically that "we won't do it again" is laughable under the existing circumstances. I urge the Justice Department, The Court, The Judge, anyone else involved, to reject the currently proposed federal case settlement, which is merely a slap on the wrist (like so many slaps Microsoft has ignored before) and insist on pursuing truly punitive, active remedies against this company which is so wreckless in the marketplace and so disrespectful of the courts and of the American people.

Short of breaking up the company (which I still think is justified) certainly there should be, at the very least, some hefty fines applied against Microsoft, and perhaps even a loss of property rights (creating an open source library for) the various technology pieces Microsoft has used for monopolistic anti-competitive leverage, such as Microsoft Office, Microsoft Internet Explorer, Windows 95/98/NT, and so on. For us to hesitate on doing this because Microsoft is a "flagship" for the industry, or because their products are now such established, fundamental tools in our marketplace, really shows how entrenched and uncontrollable Microsoft truly is.

Again, despite arguments of past or future behavior, at least in this case the findings are clear. Microsoft has been caught abusing its monopoly position in the worst of ways, to the intentional detriment of the browser market. Microsoft has shown that it cannot self-regulate, and that it usurps the court and the will of the people at every opportunity. There has to be a more severe consequence for such destructive actions and intent.

Thank you for your consideration in this matter,

David E. Jorgensen
350 Budd Ave. #E7
Campbell, California
95008, USA
e-mail: davej@ccnet.com

MTC-00028447

From: Wynn (038) Gail Williams
To: Microsoft ATR
Date: 1/28/02 3:43pm
Subject: Gail Williams
Gail Williams
P.O. Box 1693
Tahlequah, OK 74465-1693
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am a proponent of free enterprise and believe that the government's interference with Microsoft hover the last three years has been appalling. How can our nation and economy grow if politicians and lawmakers keep attacking business?

The antitrust lawsuit has been ridiculous and now that a settlement has occurred I see that Microsoft is being forced to grant broad new rights to computer makers to configure Windows so that competitors can more easily promote their own products. They are also forcing Microsoft to disclose for use by competitors interfaces that are internal to Windows operating system products.

The terms of the settlement seem aimed at nothing more than to give competition an edge it did not have before. Nevertheless, your office has to finalize the settlement. Our economy cannot afford further litigation against Microsoft. I hope your office does what it can to deter the states still eager to sue.

Sincerely,
Gail Williams
cc: Senator Don Nickles

MTC-00028448

From: D T
To: Microsoft ATR

Date: 1/28/02 3:38pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

In relation to my objection to the final settlement in the MS case, I want to point out several loopholes attributed to the Proposed Final Judgment.

I am not in agreement to the oversight committee proposed by the PFJ. With in the confines of the settlement this committee must closely monitor and screen all activities by MS. This close scrutiny insures MS complies with all restrictions entailed in the agreement.

A three man compliance team will oversee and insure that Microsoft comply with the stated rules and regulations. Yet, this three-man oversight committee will be composed of the following: one appointee from the Justice Department, one appointee from Microsoft, and another appointee chosen by the two existing members. In turn, Microsoft will control half of the oversight team.

Also, in the likelihood of any enforcement proceeding, all findings by the oversight committee will not be allowed into court. The sole purpose of the committee is to inform the Justice Department of all infractions by Microsoft. Subsequently the Justice Depart will launch its own investigation into the matter and commence litigation to halt all infractions. When all is said and done, the oversight committee is just window dressing, who will not strictly oversee Microsofts business moves?

In my opinion, the Proposed Final Judgment does not provide appropriate restrictions against Microsoft. What reassurance do we have against Microsofts illegal and illicit activities? I can assure you that the Proposed Final Judgment does not effectively nor sufficiently address the question. Subsequently, I again submit my objection to the final settlement in the Microsoft case.

Sincerely,
Doray Tualla
Sacramento, CA

MTC-00028449

From: Mark Bohannon
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 3:25pm
Subject: Microsoft Settlement

Please find attached a copy of comments from the Software & Information Industry Association (SIIA) on the proposed PFJ in the case U.S. v Microsoft. Please do not hesitate to contact us if there is an error in the transmission or if you are unable to open the document. <<SIIA 28 Jan 2002 Tunney Act.doc>>

A Message from:
Mark Bohannon
General Counsel and Vice President for Government Affairs
Software & Information Industry Association (SIIA)
1090 Vermont Avenue, NW 6th Floor
Washington, DC 20005
Direct Dial: (202) 789-4471
Switchboard: (202) 289-SIIA (7442) x 1325
Fax: (202) 289-7097
Internet: MBohannon@siia.net
SIIA 2002 Annual Conference: Trends Shaping the Digital Economy
April 13-16, 2002 San Diego, CA Hotel Del Coronado
http://www.siia.net/spring2002
CC:Ken Wasch,'Hilleboe Douglas"

MTC-00028450

From: David Grant
To: Microsoft ATR
Date: 1/28/02 3:40pm
Subject: Microsoft Settlement

I am writing to you today, giving official notice of my objection to the current DOJ anti trust settlement with Microsoft.

As a small business owner and software developer I strongly urge you to reconsider your settlement. Microsoft is a successful company not because their products are superior in quality, but because Mr. Gates and his associates are excellent salesman.

These salesman are selling the United States government into a shitty deal. For years, Microsoft's operating system alone grew to monopolistic power because of exclusive agreements with hardware vendors that eliminated any chance other competitors in that market had. The emergence of the Internet and the browser led to a weak but understandable argument that Microsoft intended to use "brute force" in the business world to eliminate its competitor.

While I am all for the American way, and all for free trade and freedom of commerce, I believe along with many intelligent, educated professionals that the American way is now threatened by this settlement. This settlement will bind the United States government to a monopoly that should not exist, a monopoly that already hinders free trade and creativity. Being Microsoft Certified myself, I will leave you with this thought; Microsoft builds software for the lazy IT employee. While many people may be employed as IT professionals, these IT people are short minded and lacking pertinent knowledge. The arrogance this combination breeds; stupid people making good money, establishes security risks.

At this point in time, the last thing the United States government needs is arrogant uneducated individuals at the helm of all the critical data in this country.

David M Grant
President
Busy Data LLC

MTC-00028451

From: Tom Groman
To: Microsoft ATR
Date: 1/28/02 3:37pm
Subject: Microsoft Settlement

Dear Sirs:

Please end the litigation against Micro Soft. What has been agreed to is a fair settlement for all concerned.

Thank You,
Rev. & Mrs. Tom Groman

MTC-00028452

From: Sunshine
To: Microsoft ATR
Date: 1/28/02 3:35pm
Subject: Microsoft Settlement
7199 Bahne Road
Fairview, TN 37062
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We wanted to write to you today to express our dismay over the Microsoft antitrust dispute. As Americans, we feel that this suit is contrary to the very ideals of free trade and capitalism that we treasure in this nation. It is our opinion that punishing a company or an individual for demonstrating the very cleverness and ingenuity upon which we have built this nation is un-American.

Americans are unlike any other people in the world. It is our goal to become a success; to become something more than our fathers and grandfathers were; to start with nothing more than a good idea and a diligent work ethic and end up a success. This is the American dream, and it is this dream that is under attack in this suit.

This litigation is not a question of whether or not Microsoft violated antitrust laws. It is a question of whether or not we, as Americans, have the right to become successful without the interference of the government. We are pleased that this heinous suit has finally reached a conclusion that is satisfactory to all of the parties involved. However, it is our fondest wish that none of this unpleasant litigation had begun in the first place. Please keep the government out of the private sector.

Thank you.
Sincerely,
Don Crohan
Gayle Crohan

MTC-00028453

From: MFBartley@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 3:41pm
Subject: Microsoft Settlement

Good Afternoon,

I certainly hope that you finally reach a settlement in this case and let one of the finest entities in America get on with business. Throughout my school years and all my years in busines, I have never received greater value and more productive tools than Microsoft software. MS Word and MS Excel are the envy of the software world as is the MS Windows operating system in all its versions. I am sure that all Microsoft's competitors are jealous; however, they should not be allowed to use the courts t achieve that which they cannot achieve through innovation. Sam Walton never resorted to the courts to beat out Sears, J.C Penny, K-Mart and the now defunct Ward's. He used innovation and fair pricing and we all get better value for that. WalMart is now the largest corporation in the world.

Judge Penfield Jackson was so biased in his handling of this case that he should be removed from the bench. I thought that the federal courts operated at a much higher standard but am sorry to say they all don't.

Michael F. Bartley
3616 N. Knoxville Avenue
Peoria, IL 61603-1017

MTC-00028454

From: R M
To: Microsoft ATR
Date: 1/28/02 3:41pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally, .

I oppose the proposed resolution in the MS case, better know as the Proposed Final Judgment. Over and above the usual economic risks presented by an unchecked monopolist—rising prices and monochromatic innovation the nations computer infrastructure will be increasingly vulnerable to attack if a single software system predominates.

Obviously I am referring to Microsoft. Suppose that 80 or 90percent of the world's grain supply came from a single variety of corns. We would be faced with the unacceptable risk that some single disease might wipe out an enormous portion of our food supply. In the same respects translate that example over to the Microsoft issue. Having only one kind of operating system or one kind of browser would make it terribly easier for saboteurs to bring the entire Internet to its knees. For one entity, such as Microsoft, to control 80 to 90 percent of the market for PC operating systems, Internet browsers, e-mail readers, and office productivity software is clearly a significant security risk. To then allow that monopoly to actively attempt to drive out its remaining competition would hardly be in the public interest. Diversity is the key in producing economic prosperity and improving the society as a whole. The PFJ goes against allowing diversity to flourish. Therefore I object to the Propose Final Judgment.

Sincerely,

Reynold Mamon
179 River Pines Way
Vallejo, CA 94589 CC: microsoftcomments @doj.ca.gov@inetgw

MTC-00028455

From: Randolph S. Kahle
To: Microsoft ATR
Date: 1/28/02 3:45pm
Subject: Microsoft Settlement

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Randolph S. Kahle
6161 N Canon del Pajaro
Tucson, AZ 85750

28-January-2002

Dear Ms. Hesse:

I have worked in the computer industry for over 25 years. During that time I have worked as a developer, a marketing/business strategist, and as a consultant to large and small companies. I have a degree from Rice University in software and hardware design and an MBA from the Amos Tuck School of Business Administration at Dartmouth College.

My work experience includes Hewlett-Packard as well as six years as a marketing and business strategist at Microsoft working on database and developer products. I have seen Microsoft from both the inside and now, for the last ten years, from the outside.

As I am not an attorney, I cannot speak to the legal specifics of the Proposed Final Settlement, however, I am qualified to speak to the practical implications of the terms in the computer industry as well as other industries and markets into which Microsoft may enter.

COMMENTS IN GENERAL

As the computer industry moves towards a future, fully-distributed, computing environment, it is vital to have an environment which fosters and rewards innovation. While it may seem a mature industry, we are still only at the early stages. To date, there have been several waves of general innovation and consolidation. Each wave brings cost reductions, creative ideas, whole new companies and new technologies. After a wave, there has been consolidation around standards and then the next wave appears. These waves could be named the "mainframe era", the "minicomputer era", and the "personal computer era". We are now leaving the "personal computer era" and entering a new one centered on distributed computing and information, the "distributed computing era". As each era transitioned to the next, the companies and products of each successive wave accommodated the past, while providing new innovations. IBM anchored the mainframe era, Digital and Hewlett-Packard emerged during the minicomputer era, and Microsoft, Dell, Gateway, and others emerged during the personal computer era.

What is different about the current transition, is that a single company, Microsoft, is attempting to leverage their monopolistic power created in the personal computer era and their position in the industry to define and control the next era.

COMMENTS ON CULTURE

I worked at Microsoft before Windows was a monopoly. What I observed was a culture fixated on domination at all costs. While Microsoft was growing, these actions and activities were not illegal. After becoming a monopoly, they clearly are (and were found to be so by the courts). What is important to note is that these illegal behaviors stem from the culture of the company.

Because of this strong culture, I do not believe that any external monitoring of internal operations would ever be successful (e.g. the "TC" as proposed). Microsoft managers are simply too smart, experienced, and aggressive to ever agree to submitting to external pressures. This comes from the top, Bill Gates himself. In my experience, I have never encountered a discussion in which anyone at Microsoft ever thought that they were in the wrong. This would never occur to anyone. This is a cultural factor, an arrogance of doing no wrong. With this culture, it seems extremely unlikely that Microsoft would be able to self-monitor or even work with an external auditing agency.

REMEDIES

My first choice for a remedy is to break Microsoft up into smaller competing entities. The reason for this is to attempt to reshuffle the organization so that there could be cultural and behavioral change. I petition the court to explore this remedy as the best way to combat future violations by Microsoft.

If the court does not pursue a break-up of Microsoft, then I strongly agree with many others, that there must be changes to and additional provisions added to the Proposal Final Settlement. For example, I fully support, and have sign Dan Kegel's open letter (http://www.kegel.com/remedy/letter.html).

OPENNESS AND TRANSPARENCY

My second choice for a remedy is to force openness and transparency in Microsoft's technology. Distributed computing systems are very complex and can be very subtle. To help the court, many other petitioners have listed specific technology disclosures that will help create openness. I will add that, in a general way, if Microsoft's technologies can be viewed by the industry and the market as *components* rather than as a *whole*, then a good balance may be struck between Microsoft's ability to innovate, and the industry's ability to compete and develop both complementary technology as well as competing technology. The tricky question is this: "Where are the boundaries between the components?"

A simple answer can be found by focusing on and leveraging the up- coming pressures that will be felt as the distributed computing era arrives. The answer I propose is simple, easily monitored and enforced:

* Force Microsoft to fully disclose all wire-level (binary) protocols used between independent computing devices. (This include .Net protocols, SMB/NBT protocols for file sharing, and others)

* Force Microsoft to disclose the APIs which they expect other components to use as they access the wire-level protocols.

* Force Microsoft to fully disclose all file-formats used to store persistent information.

The reason these are good remedies relies on the following:

* The future direction of computing is toward small, distributed computing devices. The economic and technological pressures will force the definition of boundaries between distributed components. This will be a constant pressure to

* increase* disclosure over time.

* It is easier to monitor and audit compliance at these boundaries compared to other more abstract and more easily re-defined boundaries. (Microsoft is a master at redefining boundaries for their own benefit).

* These disclosures provide significant value to competitors and innovators.

However, I must also point out that this is only a first step. This describes the technological boundaries and requirements. The Settlement must also address the legal issues such as Microsoft's attempt to prevent open-source software from running on Windows, and other licensing and cross-tie issues. I will leave these issues to the legal experts.

Violation of the Settlement must bring with it a powerful and costly punishment. I propose that if Microsoft violates the provisions of the Settlement that they be forced to place any software or system found to be in violation or associated with a violation into the general domain through an open-source license. This, more than any financial penalty, would be a real deterrent.

Regards,

Randolph S. Kahle
Tucson, AZ

MTC-00028456

From: Judy Quandt

To: Microsoft ATR
Date: 1/28/02 3:43pm
Subject: Microsoft Settlement

MTC-00028456—0001

70 Konci Terrace
Lake George, NY 12845–4101
January 24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

The settlement with Microsoft is in the best interests of the public and the economy. It not only will restore fair competition but also prevent future antitrust violations. But most importantly, the agreement will allow the technology industry to move forward with developing new products, rather than further burdening it with government lawsuits. The settlement has imposed many restrictions on Microsoft. For example, Microsoft has agreed not to enter into any agreements with any third party to promote any Windows technology exclusively. Additionally, Microsoft has agreed to a technical committee that will monitor the company's compliance with the settlement. Furthermore, Microsoft has agreed to design future versions of Windows to make it easier for computer makers and consumers to promote non-Microsoft software within Windows. Clearly, these changes will benefit both consumers and the economy.

The most impressive part of this settlement is that it includes matters that were not even at issue in the lawsuit. Enough is enough. Let's stop wasting money and time on unnecessary litigation.

Sincerely,
Judith Quandt

MTC-00028457

From: M M
To: Microsoft ATR
Date: 1/28/02 3:44pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I oppose the Proposed Final Judgment in relations to the Microsoft case. As one can plainly see, Microsoft continues to violate business practices. The Proposed Final Judgment does not punish Microsoft for its past violations to the anti-trust laws. Based on supporting evidence found by the Court of Appeals, Microsoft is guilty of breaking several anti-trust laws. Under the final settlement, Microsoft is permitted to retain most if not all profits gained through their illicit activities. Subsequently, the PFJ will not compensate parties injured or harmed through Microsofts egregious misdeeds. In addition, the PFJ will not take into account all Microsoft gains made through its illegal maneuverings. With all due respect, the final settlement is basically acknowledging the acceptance of Microsofts anti-competitive behavior. What kind of message does this send out to the public? I can assure you that the message is clear and simple. The PFJ encourages big corporations to engage in monopolistic and predatory conduct, which in turn is detrimental to the technology industry at large. With all due respect your honor, I am outraged at such a preposterous proposal that only helps Microsoft to remain intact and continue with its unethical practices. In conclusion I submit to you my objection to this Proposed Final Judgment.

Best Regards,
Mylene Mamon
179 River Pines Way
Vallejo, CA 94589
CC: microsoftcomments@doj.ca.gov@inetgw

MTC-00028458

From: Norwood Catron
To: Microsoft ATR
Date: 1/28/02 3:45pm
Subject: Microsoft Settlement

I am an IT professional, specializing in providing Microsoft solutions for small to mid-size businesses. I've worked in the field for four years now, and have used Microsoft operating systems and applications for fifteen years. I've invested considerable time and financial resources in becoming an expert with Microsoft products and have obtained several Microsoft specific certifications. My continued livelihood will continue to depend on Microsoft's dominance in the market.

Having said that, I feel strongly that the currently negotiated settlement does not do enough to punish Microsoft for past anticompetitive behavior or to prevent such behavior in the future. I don't believe that a break up of the company is a solution. The lines between application and operating system are quickly disappearing. Future technologies will continue to blur those lines. But I feel that Microsoft has used strict contracts with OEM's as well as unnecessary integration of applications into the OS (Internet Explorer in Windows 95/98/ME/2000 and XP, and now Windows Media Player in XP) to hinder consumer choice and competition.

In addition to the solutions already proposed, Microsoft should be forced to open the source code to ALL operating system API's, and quite possibly the entire OS. This would allow competing application developers to successfully create applications that work correctly with Microsoft operating systems. I feel strongly that the inaccessibility of the API information was one of the reasons Netscape, Corel, Novell and other application providers have had such a difficult time distributing bug free software.

Microsoft should also be strictly monitored in terms of its contracts with OEM's and other providers. Currently, if a consumer purchases a new PC from a manufacturer, it is quite literally impossible for the consumer to get one without a Microsoft OS. And if a consumer is successful at such an endeavor, that consumer can not be properly reimbursed from the OEM or Microsoft for the Microsoft software costs that are automatically incorporated into the cost of the PC. It is imperative that the federal government return the operating system and application market to a more stable playing field. As well it is important that Microsoft make reparations for past wrongs. Please reconsider the current settlement, and come up with more appropriate and harsher consequences. Microsoft must not get off with just a slap of the wrist.

Sincerely,
Norwood Catron
Independent IT consultant and concerned consumer
ncatron@earthlink.net
23747 Vassar
Hazel Park, MI 48030

MTC-00028459

From: aschan@att.net@inetgw
To: Microsoft ATR
Date: 1/28/02 3:44pm
Subject: microsoft settlement

It is time to end the persecution of Microsoft. This persecution could set a precedent that can ultimately have dire consequenses to our American system of free markets. Should the D of J pursue legal action against McDonalds for the benefit of Burger King and Wendy's? Or Intel, or General Motors, etc?

The government should not be a tool of one group of businesses'' attempts to gain ground on their competition. I am not an employee of Microsoft, nor do I own, nor have I ever owned any Microsoft stock. I purchase their products solely because they are the best on the market.

Andre Schan
41 Horseneck Road
Montville, NJ 07045

MTC-00028460

From: R M
To: Microsoft ATR
Date: 1/28/02 3:47pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I object to the Proposed Final Judgment in the Microsoft case. There are several apparent flaws with in the final proposal that I just dont like. One the PFJ does not terminate the MS illegal monopoly. 2nd MS will be able to continue with its ant-competitive activities. 3rd MS will be allowed to partake in the fruits of its past violations. I dont see how such a settlement punishes Microsoft for breaking the anti-trust laws. Therefore I oppose a settlement- The Proposed Final Judgment.

Sincerely,
Rose Mamon
179 River Pines Way
Vallejo, CA 94589
CC: microsoftcomments@doj.ca.gov@inetgw

MTC-00028461

From: DEDLYDON@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 3:47pm
Subject: Microsoft
January 25,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am frustrated that, despite all efforts to serve justice, problems continue to arise in the Microsoft antitrust case. Now, even as a settlement is pending in the federal courts, Microsoft's opponents are seeking to overturn the settlement and bring additional litigation against Microsoft. This is highly inappropriate. Microsoft has done nothing to warrant such vicious persecution except be successful. The litigants who seek to overturn the settlement have no altruistic aims—they only want to squeeze all the profit they can out of Microsoft.

After six months of supervised negotiations, Microsoft and the Department of Justice were able to reach a settlement in the antitrust case. Microsoft's opponents claim the settlement is too lenient and that Microsoft has merely received a slap on the wrist, but such is not the case. Some of the terms agreed to in the settlement extend to products and policies that were not found to be unlawful by the Court of Appeals; Microsoft has agreed to these terms in the interest of wrapping up the case. I agree that it is time to settle and move on, and I do not think the settlement is in any way unfair. For example, Microsoft has agreed to license the Windows operating system to twenty of the largest computer makers on identical terms and conditions, including price. Additionally, Microsoft will refrain in future from retaliating against anyone who produces software that directly competes with Microsoft technology.

I do not believe that additional action is necessary on the federal level. Microsoft has paid its debt to society, and it is time to let this go. I ask you to support the settlement in its entirety.

Sincerely,
Donald Decker
183 San Remo Road
Carmel, CA 93923

MTC–00028462

From: Andy Oliver
To: Microsoft ATR
Date: 1/28/02 3:48pm
Subject: Microsoft must be strongly punished for illegal behavior

Microsoft must be strongly punished for its anticompetitive behavior. As a software developer for the past 10 years, I have witnessed first hand the detrimental effect of the Microsoft monopoly on innovation and pricing. Punishments must be far stronger than the proposed settlements in order for them to have any effect on Microsoft's behavior.

Please break up Microsoft and force the separate groups to publicly document all programming interfaces (APIs) and file formats, with strong, regular oversight.

Thank you.
Andy Oliver
Professional Software Developer
andy—o—netcom@yahoo.com

MTC–00028463

From: Jcc1@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 3:48pm
Subject: Microsoft Settlement

I think it is unfair for the government to punish companies for being successful and that is what is happening here.

MTC–00028464

From: Essfor@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 3:48pm
Subject: Microsoft Settlement

Dear Sir or Madam—

Regarding the settlement of the antitrust case with Microsoft— Microsoft's unethical and anticompetitive business practices must be stopped. There must be an injunction or other legal device, or Microsoft must be split into separate business entities in order to restore competition. Microsoft's operating system must be unbundled from its internet browser and other software so that the consumer and free market will determine the best products and foster healthy competition.

I have purchased several software packages such as spreadsheet, word processing, project scheduling that I greatly preferred over the Microsoft products; however, they are no longer available for update due to the unfair competition from Microsoft. I have been personally hurt by Microsoft in that I am forced to use inferior, crash prone software.

Thank you for your consideration.
Sincerely,
KR Schroepfer
310 Rider RIdge
Santa Cruz, CA 95065
1–831–809–1561
essfor@aol.com

MTC–00028465

From: Bob Peterson
To: Microsoft ATR
Date: 1/28/02 3:48pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice

I'm writing this to you because I'm gravely concerned over the settlement between our DOJ and Microsoft. There is no teeth to the settlement. It places too much trust in a company that is not trustworthy and has proven as such over its entire history. All that it will do is enhance Microsoft's grip on the desktop market and allow it to expand and also destroy other areas. Already the signs are everywhere that with every step in Microsoft's control and destruction of our computing industry, innovation has crawled to a near stop. When I say innovation, I am referring to the true meaning of the word and not another mad-twist meaning from Microsoft when they use "innovate" as part of their questionable ad campaign.

I am a user of Linux. Lately, I've noticed that Microsoft has increasingly tried to squeeze out non-windows platforms by their usual dirty tactics. It used to be that I could access my hotmail account. Now I'm forced to have a Passport account. Passport is a Microsoft product and Microsoft refuses to support a Linux version of Passport. Remember the debacle with MSN.com not allowing any non Internet Explorer browsers to visit their site? While on the subject of Internet Explorer, who on earth wants to view their file directory as a webpage (like in the Windows operating system)? This is the result of you allowing Microsoft to tie-in their browser and falsely claim that it's an integral part of Windows. It is not necessary and anyone with a slight understanding of computers should know that... except for some reason the DOJ.

As part of the settlement you Microsoft must be forced to sell a version of Windows without all the predatory tie-ins. And they must be forced to port all their applications to other operating systems. Those ported applications must be of equal quality and functionality. Typically, when Microsoft ports their software to another platform (Mac), that software is usually a crippled version of the windows original. They can claim that Windows is superior and thus providing more features but any software engineer would say otherwise. Then Microsoft must provide all the necessary specifications for 3rd party software vendors so as not to give Microsoft another area of unfair advantage.

Another point to bring up is the myth that Microsoft is good for our economy. Is it? I don't think so. How can Microsoft justify charging hundreds of dollars for an operating system that is no better than its previous version? The cost of manufacturing is nearly zero. But yet, everyone PC owner including businesses are strong-armed into buying this poor excuse for an upgrade. Those businesses are then forced to pass on that cost to the consumer. The cost amounts to a heavy burden on our national economy. Then Microsoft uses this money not to truly innovate and create more secure software, but to use their legal monetary might to crush the competition. Thus putting more people out of jobs. This is bad for our economy.

So please do not let Microsoft escape unscathed with yet another blatant violation of the law. Just look around you. The software landscape is nearly bare in the Windows market as far as "genetic" diversity. Without strong restrictions on their business tactics, we will be left with a very weakened engineering base as the world will continue to truly innovate. Having our schools teach Microsoft products instead of real software engineering will amount to suicide of the knowledge base. Then we'll have to answer to our children and grandchildren when they ask why we have to import quality software from Asia and Europe. And, why we had such a lead in that field and chose to allow one company (Microsoft) to sabotage everything we've worked for. Do the right thing now before it's too late and we lose everything.

Sincerely,
Bob Peterson
1007 NE 126th
Seattle, WA 98125

MTC–00028466

From: clcorea@sierratel.com@inetgw
To: Microsoft ATR
Date: 1/28/02 3:46pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Christine Corea
38777 Road 600
Raymond, CA 93653–9504

MTC–00028467

From: Julie Rocheville
To: Microsoft ATR
Date: 1/28/02 3:50pm
Subject: Microsoft Settlement

Please settle this ugly dispute with Microsoft NOW! MS has created more jobs and has done more positive things for the US economy than any other employer in history. Do us ALL a favor and keep Windows together. It truely is time for you say "enough is enough" and get back to some more pressing issues. J

on & Julie Rocheville

MTC–00028468

From: N T
To: Microsoft ATR
Date: 1/28/02 3:50pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I do not approve of the Proposed Final Judgment in the MS case. First of all every one know the U.S. Court of Appeals ruled unanimously that Microsoft had clearly violated anti-trust laws. It was understood as well as established that the government was in the process of developing a plan the accomplished the following: abolish the illegal monopoly implemented by Microsoft, deny MS the fruits of its past violations, and last but not least prevent further anti-competitive activity or behavior by MS. To my bewilderment, I cannot yet fathom how it is possible the Department of Justice would agree to such an egregious settlement that for the most part goes against all objectives stated previously in the MS case. Logically this proposal does not accomplish what the U.S Court of Appeals set forth. Therefore I am submitting my disapproval of the Proposed Final Judgment in the Microsoft Case.

Sincerely,
Nils Trulssen
1742 Edgewood Dr.
Lodi, CA 95240

MTC–00028469

From: Charlotte Muse
To: Microsoft ATR
Date: 1/28/02 3:50pm
Subject: <no subject>

I am writing to let you know that in my opinion the proposed settlement between Microsoft and the Department of Justice is a travesty. Microsoft's predatory behavior represents a profound threat to the health not only of the technology sector, in which I work, but of US industry as a whole, and of the United States itself.

If Microsoft can dictate its terms to the US government, who is it that really governs?

I urge you to reinstate the eminently fitting decision of Justice Jackson, and break the company up so as to separate the ownership of the operating system from that of the desktop applications.

Charlotte Muse
1020 Louise Street
Menlo Park, CA 94025

MTC–00028470

From: Andy Warner
To: Microsoft ATR
Date: 1/28/02 3:49pm
Subject: Microsoft Settlement

Dear Person,

I have been employed by Netscape Communications for nearly five years as a software developer and I've been in the Information Technology field for over 20 years. Microsoft should not be allowed to destroy companies at their will, whenever they feel threatened by new technologies or decide to expand into a new market. Obviously, they can put any company into near bankruptcy, by using the revenue from the monopoly OS business to fund development and give away competing products. Allowing that behavior to continue will dramatically slow the growth rate of new technologies by giving the perception that the profits from those very difficult efforts can easily be taken away by the likes of Microsoft. Anything short of severe punishment will just signal that its ok to steal market share and destroy businesses as a tactic of growing your business. If that were allowed, then any business that has more money than another business can destroy it by simply building a competing product and giving it away until you've put them out of business. Is that the kind of business environment that we are trying to promote in this country? This is a great opportunity to show all businesses that integrity and fairness is a requirement to do business in the United States. That the people of the United States will not allow unfair market take-overs by giving away products to destroy companies. We could now show investors that their investments in new technologies will be protected from the predatory practices of companies like Microsoft.

This is not the time to allow "politics as usual" and hinder the investment in new technologies by showing that once you begin selling your new idea, any larger company can develop a similar product and give it away until your bankrupt. If you wonder where all the investment is in Silicon Valley startups, just think about the signal that we've given investors through the Microsoft trial. Who would want to invest in building new products knowing that if your successful your business will be stolen from you by any wealthy company that has the inclination.

Thanks,
Andy Warner

MTC–00028471

From: Laurie Wieder
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 4:10pm
Subject: Microsoft Settlement

I am e-mailing to you a copy of the letter we are attempting to fax to you at 202–616–9937 in support of the Microsoft settlement. We will keep trying to fax the letter to you, and we are placing the original of the letter in the mail.

Laurie Wieder
President
Prince William Regional Chamber of Commerce
"The Region's Leading Voice for Business"
4320 Ridgewood Center Drive
Prince William, VA 22191
(703) 590–5000 (703) 590–9815 fax
www.RegionalChamber.org
<<Microsoft Settlement.doc>>

PRINCE WILLIAM REGIONAL CHAMBER OF COMMERCE
4320 Ridgewood Center Drive
Prince William, VA 22192
703–590–5000

January 28, 2002

Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, Suite 1200
Washington, DC 20530

RE: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

The Prince William Regional Chamber of Commerce is writing this letter to express its support for the settlement reached by the U.S. Department of Justice, nine state attorneys general and Microsoft in the long-running antitrust lawsuit initiated by the federal government.

The Region's Chamber is critically aware of how important it is to our national economy that all businesses be able to "get back to business." There were many knowledgeable people guided by an internationally recognized mediator to reach the Microsoft settlement. We believe that additional litigation, following on the heels of many years of costly legal proceedings and on the subsequent work of those in mediation would serve only to prolong the negative impact on our economy of the Microsoft litigation.

Therefore, the Prince William Regional Chamber of Commerce, an organization of more than 800 businesses in the Prince William area, respectfully encourages the U.S. Department of Justice to urge the Courts to adopt the agreement with all due speed so that business and our national—and even international—economy can move forward again with certainty.

Sincerely,
Carol A. Kalbfleisch
Chairman of the Baord
Laurie C. Wieder
President

MTC–00028472

From: Emily L Hughes
To: Microsoft ATR
Date: 1/28/02 3:49pm
Subject: Microsoft settlement

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue NW
Washington DC 20530–0001

John

I am writing you today to encourage you to accept the Microsoft antitrust settlement. This issue has been drug out much more than necessary.

Microsoft has agreed to design future versions of Windows to be more effective for other companies software. They've also agreed to all other terms of the settlement.

Why is our court system punishing Microsoft? What are they afraid of?

Please accept this antitrust settlement, so our court system and Microsoft can get on with other more productive issues.

Thank you.

Emily Hughes
Bellingham, Washington
CC:fin@mobilizationoffice.com@inetgw

MTC-00028473

From: rshwake@mailhub-4.net.treas.gov@inetgw
To: Microsoft ATR
Date: 1/28/02 2:41pm
Subject: Microsoft Settlement

Though I am not an attorney, I have followed this case from the beginning and am appalled that Justice could consider accepting such a settlement. It does not address the criminal wrongdoing described in the Finding of Fact, nor the Findings of Law, almost all of which were upheld by the Appeals Court. More critically, there is neither punishment nor adequate means in place to prevent Microsoft's current market dominance from being leveraged into new ventures. The control mechanisms ("three person team") is a joke, and the "exceptions" provide, as some have described it, "loopholes on loopholes". I can only hope that Judge Kottelly has the sense to reject this proposal for failing the test of "public interest".

Raymond Shwake
rshwake@rsxtech.atww.org

MTC-00028474

From: Arthur Vardy
To: Microsoft ATR
Date: 1/28/02 3:54pm
Subject: Microsoft

Dear Sirs:

Get off a Microsoft and do something worthwhile like take on Enron.

Sincerely
Beverly Vardy

MTC-00028475

From: C T
To: Microsoft ATR
Date: 1/28/02 3:53pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I wanted to make my opinion count. In turn, I object to the Proposed Final Judgment in the MS case. As history will prove, Microsoft continues to violate business practices. The Proposed Final Judgment in a sense, does not deny Microsoft its past violations and illegal acts. As one can see, every court, which has been involved with the case, has found Microsoft guilty of breaking the anti-trust laws. However, under the proposed final settlement, Microsoft, surprisingly enough, will be permitted to retain most if not all profits gained through their illicit activities.

Subsequently, the PFJ will not compensate parties injured or harmed through Microsofts egregious misdeeds. In addition, the PFJ will not take into account all Microsoft gains made through its illegal maneuverings. With all due respect, the final settlement is basically acknowledging the acceptance of Microsofts anti-competitive behavior. What kind of message does this send out to the public? I can assure you that the message is clear and simple. The Proposed Final Judgment encourages big corporations to engage in monopolistic and predatory conduct, which in turn is detrimental to the technology industry at large. I am angered at a proposal that only helps Microsoft to remain intact. Therefore I submit my objection to this Proposed Final Judgment.

Kind Regards,
Cookie Trulssen
1742 Edgewood Dr.
Lodi, CA 95240
CC:microsoftcomments@doj.ca.gov@inetgw

MTC-00028476

From: donb@gasullivan.com@inetgw
To: Microsoft ATR
Date: 1/28/02 3:54pm
Subject: Microsoft Settlement

With all that has been said, I will be brief and to the point:

(1) Microsoft has been a great partner to our firm, G. A. Sullivan, and has been instrumental in helping us grow dramatically during the last decade. Among the honors we have received, Greg Sullivan, our founder, was named the 1999 U.S. Small Business Administration National Small Business Person of the Year. The success we have enjoyed has often been due to our strong partnership with Microsoft.

(2) Competition is alive and well in our industry. In the operating system marketplace, for example, IBM has thrown its considerable clout behind Linux and is aggressively advertising this fact. During the recent National Football League NFC Championship, they ran advertisements using basketball players as a metaphor for computer industry products and forces. For example, the ?opposing team? included players named ?Hacker?, ?Virus?, and ?Downtime?. ?Linux? was characterized as an incredibly talented player who would play for ?almost nothing? because ?he loves the game?. It remains to be seen how effective this ad campaign will be, but IDC predicts that Linux's market share will increase to 41% by 2005.

(3) While Microsoft does have some advantages in its daily business operations, advantages that we believe they have earned through hard work, it also still faces formidable obstacles and some important disadvantages. For example, as Microsoft attempts to sell its operating systems and platforms to corporate America, in the largest corporations (sometimes called the Enterprise marketplace) they are often viewed with condescension as a ?desktop? vendor selling personal productivity tools, computer mice, and games. They continue to build a channel of partners to help provide the necessary services to install, configure, and support their offerings in large corporations, but face stiff competition from IBM Global Services, often an entrenched competitor of huge proportions. Other large service organizations are also most often working against, rather than for, Microsoft.

(4) In many key areas of new research and growth (e.g. Personal Digital Assistants (PDAs), instant messaging, and highly scalable clustering for scientific purposes), Microsoft is a distant second or third place competitor to other firms and technologies (e.g. Palm, AOL, and Beowulf). To summarize our opinion?in almost every case Microsoft has been a tough but fair competitor in the marketplace. In the areas their practices were found anti-competitive, the remedies that have already been recommended are sufficient.

Microsoft has been a great partner to our firm, and we do our best every day to help ensure their success. Contrary to what many of Microsoft's competitors state, we find the marketplace to be a VERY competitive place, and hope that a more comprehensive ?remedy? is not enacted.

CC:donb@gasullivan.com@inetgw

MTC-00028477

From: bking@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/28/02 3:50pm
Subject: Microsoft Settlement

I'm against the propsed settlement. It is way too easy on Microsoft.

I think Microsoft should be broken up into 1) operatings systems and 2) applications.

MTC-00028478

From: Jeff Fabijanic
To: Microsoft ATR
Date: 1/28/02 3:55pm
Subject: Microsoft Settlement.

To whom it may concern:

I am writing you today to express my concern and oppostition to the Proposed Final Judgement in the United States v. Microsoft antitrust case. I believe this settlement is counter to the best interests of the American people, harmful to our economy, and clearly inadequate given the findings of fact in the trial.

As a professional computer user and technology developer for the past 15 years (over twenty five if you consider my student years in high school and then MIT), I have watched as Microsoft has used any number of unethical and anti-competitive strategies to attain and maintain dominance at the expense of other companies, competing software platforms and consumers such as myself. In this respect, I am satisfied with the findings of fact in the case, as they confirm this viewpoint.

However, as upset as I am with Microsoft's past behaviours, I am extremely concerned that these same types of behavior are prevented in the future. Given the findings of fact, any judgement should demand strict measures which address not only the practices the company has engaged in previously, but which should also prevent them from engaging in other monopolistic practices in the future. I do not think that the Proposed Judgement is strong enough to serve this function.

As I read the Proposed Judgement, many—perhaps most—of the remedies will be ineffective against a company such as Microsoft which is determined to circumvent them. That Microsoft will work to bypass the original intent of the Judgement is clear for both technical and business practices—even during the course of the trial and settlement negotiations it has continued to use tactics that should be blocked by a solid agreement.

In fact just this month Bill Gates declared "security" to be the future direction of Microsoft's focus. Of course, under the

Proposed Judgement anything related to security need not be disclosed even if such would otherwise be mandatory. Under a strict reading, if Microsoft adds even basic security interfaces to its APIs then *none* of those APIs would need to be disclosed and there would be no penalty for not disclosing them. And to add insult to injury, the settlement as written actually seems to codify some of Microsoft's predatory practices. For example, although the settlement forces Microsoft to share its APIs with certain competitors, it also would force those who use these APIs to share all their finished code with Microsoft. As a result, Microsoft would see these companies'' code trade secrets and have the oportunity to replicate or circumvent them.

Another example—a requirement for receiving documentation for those APIs is that any organization needing it must meet *Microsoft-developed* standards of business viability; "non-businesses" (eg small or non-profit companies, and individual developers) probably won't qualify and so access to those APIs will simply not be available to them. Similarly, the clause requiring that Microsoft's competitors be allowed to place their own icons on the PC desktops only applies to companies which have already sold more than a million copies of their software in the U.S. So the very companies who most need a competitive advantage can not, in this case, receive it.

There are numerous other problems or oversights in the Proposed Judgement. However, for the sake of brevity, I will limit my comments to this last statement—I feel that the Proposed Final Judgement is deeply flawed and needs to be substantially revised to remove these flaws. Microsoft deserves more than a wrist-slap for the destructive abuse of its monopoly power, and all of us, including Microsoft and its investors, need to be protected against future abuses.

Sincerely Yours,
Jeff Fabijanic
Boston, MA.
Jeffrey Fabijanic
MIT Media Lab Liaison
Panasonic Information and Networking Technologies Laboratory
jeff@research.panasonic.com (617) 577-1280 x115

MTC-00028479

From: Stapleton, Mark
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 3:55pm
Subject: Microsoft Settlement

Department of Justice:

I am writing to comment on the proposed settlement with Microsoft. I believe that the settlement is fair for both Microsoft and consumers. Microsoft deserved a penalty for their behavior and the penalty is harsh enough for Microsoft to learn their lesson.

Microsoft's competitors continue to fund lobbying efforts to overturn the settlement and inflict harsher penalties. The settlement is for the consumers, not competitors who find their best way to compete is fund lawsuits against Microsoft. An antitrust remedy should be designed to protect consumers rather than advance the interests of competitors.

The Department of Justice must stand-by the settlement, and not allow competitor-funded lobbying efforts to sway them. In no way do the competitors (i.e. AOL, Sun Microsystems, Oracle) have the consumer rights in mind when they continue to pour money into lobbying efforts. They want to create harsher penalties on Microsoft so they may be better equipped to compete. If they did have the consumers in mind they would be pouring money into research and development to compete with Microsoft in the marketplace.

It's time to end this with the proposed settlement and all these companies should get back to what they do best...create innovative products for consumers.

MTC-00028480

From: hjordan@csonline.net@inetgw
To: Microsoft ATR
Date: 1/28/02 3:54pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Gaynelle Jordan
110 Breed St.
Titusville, PA 16354-2122

MTC-00028481

From: Xana Kim
To: Microsoft ATR
Date: 1/28/02 3:57pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice

I must say that I am appalled at the proposed final judgment in United States v. Microsoft.

Briefly, I do not feel that the settlement will in any way punish Microsoft for it's past violation of the law, nor will it prevent future violation.

Xana Kim

MTC-00028482

From: Tommy Ward
To: Microsoft ATR
Date: 1/28/02 11:44pm
Subject: Fwd: Microsoft Antitrust Comments
Date: Mon, 28 Jan 2002 11:46:45 -0800
To: microsoft.atr@us-doj.gov
From: Tommy Ward <tommy@msbit.com>
Subject: Microsoft Antitrust Comments

>Dear Staff,

>As a 20 year veteran in the network industry, I would like to take this >opportunity to provide my comments on the settlement of the Microsoft >anti-trust case. My opinions are based on both my professional experience >as well as my experiences as a consumer.

>First, the currently proposed settlement terms reached by Microsoft and >Justice Department negotiators is completely inadequate to protect >consumers. It should be dismissed out of hand.

>Second, controls must be put in place to guard against Microsoft's ability >to leverage their current desktop monopoly into effective control of the >public Internet. If they are able to dictate the terms and conditions by >which meaningful business can be conducted over the Internet, this >dynamic forum of social and business intercourse will be extremely >stifled. What would constitute such effective controls? Rather than >focusing on contracts with computer vendors (which might be a >reasonable choice if we were concerned about the maintenance of the >desktop monopoly), the controls should be aimed squarely at the >integration of all Microsoft software—both client and server, with >no distinction between operating system and application—with any >Internet services provided by Microsoft. If Microsoft chooses to >build support for authentication, payment, name resolution, routing, >search, or any other useful functionality into their software they >should be allowed to do so, as long as they do not also provide >such service which is accessed by that software.

>An example of such integration which already exists is >the Passport system, whereby multiple Microsoft application >software products use common procedures to make use of an authentication >service provided by Microsoft over the Internet. An effective >curb on potential Microsoft abuse would be to disallow the company >to provide the Internet service portion of that function. If such a curb >is not implemented, Microsoft may be able to leverage their monopoly >on Internet client software into a very effective control over Internet >commerce. I suggest that the most effective method of implementing

>such a control would be to force the company to divest all Internet >lines of business other than those which are used to market and >support it's software business.

>If effective controls are not placed on Microsoft's business conduct, >this company will be able to leverage undue influence in practically >every area of public life in the United States, including commerce, >entertainment, news, personal correspondence, and government. Not >only would such a situation be bad for business, it would be detrimental >to democracy. We can not allow one company to threaten our >future in the way that Microsoft will if allowed free reign.

>Regards,
>Tommy Ward
>Saratoga, CA
>tommy@msbit.com

MTC-00028483

From: Phyllida@aol.com@inetgw

To: Microsoft ATR
Date: 1/28/02 3:59pm
Subject: Microsoft settlement

Dear DOJ,

Due to the various continuing suits against Microsoft, I am forced to exit Microsoft Explorer (the company's browser and entrance to the internet) and bring up AmericaOnLine to read and send email. My other choice would have been, again, to close Microsoft Explorer and to bring up Microsoft Outlook Express which, as you well know, is split off from Microsoft Explorer. But isn't it ironic; AOL is suing Microsoft over its overweening powers, yet I can use AOL for both purposes: to receive and send email AND TO USE THE INTERNET but I CANNOT use Microsoft Explorer to use both services. Just who IS the monopolist here?

And last I looked on the tv screen, AOL, which also has a pretty good control of the NYC cable market, is spending zillions on advertising its AOL Time Warner direct cable hookup. And doesn't AOL have control of some magazines? and some TV stations? and some books? and some records? Excuse me, while I fall down the rabbit hole, said Alice. As a stockholder of Microsoft, Sun Micro and others and fortunate seller of AOL (at breakeven) and as user of Apple, Microsft Word etc and AOL since 1985, AND attempted user of Netscape which has been largely defunct since being taken over by AOL, I would find the not so sly tactics of the AOL/Sun etc gang who use stockholder monies to launch extensive and expensive litigation (which then becomes their raison d'Atre) laughable if it weren't so harmful to consumers, stockholders and profitably run businesses. It isn't just off balance sheet limited partnership that drain assets.

My support for Microsoft is based on many years of using their products and services which have always worked smoothly, reliably and efficiently which is, after all, what I pay for. As a stockholder I find Microsoft reports earnings in a conservative manner and maintains a strong balance sheet both of which indicate the company tends to its business and is not wasting stockholder assets. Everytime the market sneezes I don't feel as though I am going to lose my entire investment in Microsoft as I might with others. If the interest is the consumer and the stockholder, Microsoft will win hands down. If not, we'll see just how fair the US markets really are.

Ruth Sumners
January 28, 2002

MTC-00028485

From: Bruce Wynn
To: Microsoft ATR
Date: 1/28/02 4:00pm
Subject: Microsoft settlement

The govenment, my government should make sure they understand that the consumer is not harmed by Microsoft it's products are cheaper than and better ever. Is Microsoft not allowed to compete, it should be allowed to compete and those cry babies Sun, Oracle and AOL will just have to make better products rather than lobby with governments about a competior—Microsoft. They are trying the exact same thing in Europe and I hope our legislators see through this smoke screen and see the facts Microsoft has superior products and the market proves that.

I feel the government should not pursure any further actions against Microsoft. I believe the terms-which have met or gone beyond the findings of the Court of Appeals ruling-are reasonable and fair to all parties involved. This settlement represents the best opportunity for Microsoft and the industry to move forward. However, the settlement is not guaranteed until after the review ends and the District Court determines whether the terms are indeed in the public interest.

Bruce Wynn

MTC-00028486

From: Lawrence A. Husick
To: Microsoft ATR
Date: 1/28/02 4:00pm
Subject: Microsoft Settlement

Appropriate injunctive relief in an antitrust case should: (1) end the unlawful conduct; (2) "avoid a recurrence of the violation" and others like it; and (3) undo its anticompetitive consequences. See Nat'l Soc'y of Prof'l Eng'rs v. United States, 435 U.S. 679, 697 (1978); United States v. E.I. du Pont de Nemours & Co., 366 U.S. 316, 326 (1961); Int'l Salt Co. v. United States, 332 U.S. 392, 401 (1947); United States v. Microsoft Corp., 253 F.3d 34, 103, 107 (DC Cir. 2001) The proposed settlment fails utterly to achieve these goals. Rather, it is another opportunity for Microsoft to litigate the definitions of the settlement, rather than participate fairly in the market. A settlement which leaves Microsoft free to hide features and functions of its operating system behind license restrictions and nondisclosure agreements, and then to use these functions to advantage its own applications development process and products is inadequate. The source code of Microsoft's operating system must be published and made available at nondiscriminatory rates to all users in order to prevent future misuse of this substantial advantage by Microsoft. The source code to Microsoft's Office products must be auctioned to vendors wishing to compete with Microsoft, whether on the Windows platform or elsewhere in order to redress the violations that use of these hidden functions by Microsoft has created. Microsoft must create an independent, not-for-profit entity, transfer title to its Internet Explorer code to that entity, and pay royalties for each copy of IE to that entity, which should then use the proceeds to fund development of software products which function across multiple platforms in order to open up the application development arena to non-Microsoft products.

Lawrence A. Husick
LIPTON, WEINBERGER & HUSICK
Intellectual Property and Technology Law
Lawrence@LawHusick.com
http://www.LawHusick.com
P.O. Box 587
Southeastern, PA 19399–0587
610/296–8259 Voice 610/296–5816 Fax
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"It is, in fact, nothing short of a miracle that the modern methods of instruction have not yet entirely strangled the holy curiosity of inquiry."

—Albert Einstein (1879–1955)—Autobiographical Notes

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(Official-Looking Notice V1.5fc3)

MTC-00028487

From: Frank Zepf
To: Microsoft ATR
Date: 1/28/02 4:01pm
Subject: Microsoft settlement
52 Pennsylvania Avenue
Massapequa, NY 11758
January 27, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft: The antitrust suit against Microsoft has gone on for long enough. I believe that this suit is just trying to gore the fat cat just because it is fat. If Time Warner packages Netscape with AOL, then what is the harm with Microsoft packaging Explorer with Windows? This suit's contradicting demands are having a detrimental consequence on the nation's financial situation.

The settlement that was reached between Microsoft and the Justice Department will be beneficial in reviving consumer confidence. Microsoft has agreed to license its Windows operating system to 20 of the largest computer makers on identical terms and conditions. The settlement instructs Microsoft to also make all future versions of its Windows to be compatible with non-Microsoft software.

The settlement may seem to challenge the free-market, but it is vital to settle the case to help provide assistance in revitalizing the economy.

Sincerely,
Frank Zepf
Frank V. Zepf
52 Pennsylvania Ave.
Massapequa, NY 11758–4838
Phone 516–798 0353

MTC-00028488

From: SHOCK4952@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:01pm
Subject: Microsoft Settlement

Your Honor,

After reading and listening to the mass of information being presented to the general consumer regarding a potential miscarriage of justice, it would appear to me that I may have a rather unpopular opinion. I'd like explain my thoughts, but before I do...I need to clarify that I do NOT work for, recieve monys from, nor do I get any special benefits from either party in doing so.

We've seen what Apple computer tried to do in the past, by making everything they make propriatory. The average working person can't afford the equipment, let alone the software that works ONLY on their system. Tandy corporation (Radio Shack) tried to do the same thing, and nearly sunk them financially......because of Microsoft. Seems to me that if a competitor can't come up with a competitive system, ad a competivitve cost...they cry monopoly. If any legal decision favors these flag carrying towncriers of "healthy competition'.....the ONLY ones that will benefit from it, will be them!

I don't know if I'm adequately articulating my position, but I just feel if 10,000 people can easily afford to buy a computer, and use software that's readily available, it's better for those 10,000 people than if say only 1,500 could afford to pay the EXTREMELY high prices of a system made by Apple or Sun technologies. It's true the profit to Apple and/or Sun is considerably higher from these 1,500 than the 10,000 working class like myself, but in my opinion...through all the smoke and mirrors...that's what this is REALLY all about. $$$$$$ Yes...monopoly CAN be a bad thing, but the only thing Microsoft is guilty of is providing an easy to use product at a low cost. Something the others just can't seem to do.

Go with your instincts, and stick with "Of the People, By the People.....and FOR the people". It's an old system...but it still works.

Thanks for your time,
Steve Shockley
PO BOX 237
West Creek NJ 08092

PS: It would interest me greatly to know if you ever recieve this letter.

MTC-00028489

From: Donald E. Barlow
To: Microsoft ATR
Date: 1/28/02 4:01pm
Subject: Microsoft Settlement
Forwarded by Donald E. Barlow/PSG/ Prudential on
01/28/2002 04:00 PM
"Microsoft's Freedom To Innovate Network" <fin@MobilizationOffice.com>
Monday January 28, 2002 03:55 PM
To: "donald—barlow@prusec.com" <donald—barlow@prusec.com>
cc:
Subject: Attorney General John Ashcroft Letter

Attached is the letter we have drafted for you based on your comments. Please review it and make changes to anything that does not represent what you think. If you received this letter by fax, you can photocopy it onto your business letterhead; if the letter was emailed, just print it out on your letterhead. Then sign and fax it to the Attorney General. We believe that it is essential to let our Attorney General know how important this issue is to their constituents. The public comment period for this issue ends on January 28th. Please send in your letter as soon as is convenient.

When you send out the letter, please do one of the following:

- Fax a signed copy of your letter to us at 1–800–641–2255;
- Email us at fin@mobilizationoffice.com to confirm that you took action.

If you have any questions, please give us a call at 1–800–965–4376. Thank you for your help in this matter.

The Attorney General's fax and email are noted below.

Fax: 1–202–307–1454 or 1–202–616–9937
Email: microsoft.atr@usdoj.gov

In the Subject line of the e-mail, type Microsoft Settlement.

For more information, please visit these websites:
www.microsoft.com/freedomtoinnovate/
www.usdoj.gov/atr/cases/ms-settle.htm
(See attached file: USAGBarlow—Donald—1044—0124.doc)

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610 Old York Road Suite 400
Jenkintown, PA 19046

January 28,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am sending you this brief message to simply say I favor a swift settlement of the Microsoft anti-trust case. This case has gone on long enough. After four years of litigation, appellate hearings and constant clamor the parties have a fair and workable settlement proposal, endorsed by the court, your department, Microsoft and the majority of state complainants. The proposal should be ratified and the case closed.

The settlement requires Microsoft to radically alter its business practices and its philosophy. Microsoft will now be required to configure its Windows platforms in a manner that readily accept non-Windows software. The company will be required to license its Windows systems to major computer Manufacturers on uniform terms. Microsoft has agreed not to use retaliatory practices against manufacturers whose products compete against its product. It has promised generally to abjure any predatory or anti-competitive market practices. It has agreed, as I said above, to adopt a whole new market philosophy that encourages not just competition, but its competitors. Surely such concessions are sufficient consideration for an end to this lawsuit.

Please support this agreement and help bring this case to a close.

Sincerely,
Donald Barlow
cc: Senator Rick Santorum

MTC-00028490

From: Alan Q. Thompson
To: Microsoft ATR
Date: 1/28/02 4:02pm
Subject: Microsoft Settlement

My name is Alan K. Thompson. I live in Riverdale, MD, am a US citizen, and am 37 years old. I feel that the proposed DOJ settlement with Microsoft is a travesty of justice. The Sherman anti-trust act was created to prevent the sort of illegal extension and protection of monopoly for which Microsoft has been found guilty. Microsoft has demonstrated in the past that it will use every arguably legal means to avoid restrictions on its actions, and the proposed settlement will allow it too much room. A much more structurally enforced remedy, such as that proposed by Judge Jackson in the original conviction or proposed by the "dissenting states" in early December 2001, is necessary to restore competition to this vital segment of the economy.

Thank you.
Alan K. Thompson
4711 Sheridan Street Suite 316351
Riverdale Park, MD 20737

MTC-00028491

From: WILLIAM YOCUM
To: Microsoft ATR
Date: 1/28/02 4:02pm
Subject: MICROSOFT SETTLEMENT

WHAT DESIRE WOULD ANY COMPANY HAVE TO DEVELOP PRODUCTS, IF THEY WERE NOT PROTECTED BY PATENTS??? NONE. THIS IS WHAT THE GOVERMENT IS TRYING TO TAKE FROM MICROSOFT. GET OFF THEIR BACKS.

MTC-00028492

From: Rolejoele2@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:03pm
Subject: Microsoft Settlement Please see attached> Sincerely Earl R. Ramsey
3705 Arctic Boulevard #1451
Anchorage, AK 99503–5774
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

As a retiree who has been following this Microsoft antitrust case, I must admit I was disappointed that this case was even brought to court. There are so many other companies with a high market share like Cisco and Oracle. No one pursued those companies. Microsoft has been great for the economy, for the shareholders, and for technology. What are the ramifications for this country, if litigation were to continue another four years? Would Microsoft be able to survive? They are already vulnerable, now that they've agreed to disclose portions of their source codes in their operating system to the competition.

Microsoft has been more than cooperative in resolving this matter and agreed to terms well beyond what is expected in any antitrust case. That ought to be enough.

Let's stop the litigation so the government can focus on more pertinent issues. Not only is it good for the company, but for the economy as well. Thanks for your consideration in this matter.

Sincerely,
Earl Ramsey

MTC-00028493

From: EON
To: Microsoft ATR
Date: 1/28/02 4:03pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse,

I am very concerned that the proposed Microsoft settlement is not in the public interest. My fear as a computer user is that the all important freedom of choice which distinguishes our democracy will be further eroded. I appreciate your attention and hope you will include the following in your considerations.

My objections include the following points: 1) The settlement leaves the Microsoft monopoly intact. It is vague and unenforceable. It leaves Microsoft with numerous opportunities to exempt itself from crucial provisions.

2) The proposed settlement ignores the all-important applications barrier to entry which must be reduced or eliminated. Any settlement or order needs to provide ways for consumers to run any of the 70,000 existing Windows applications on any other operating system.

3) Consumers need a la carte competition and choice so they, not Microsoft, decide what products are on their computers. The settlement must provide ways for any combination of non-Microsoft operating systems, applications, and software components to run properly with Microsoft products.

4) The remedies proposed by the Plaintiff Litigating States are in the public interest and absolutely necessary, but they are not sufficient without the remedies mentioned above.

5. The court must hold public proceedings under the Tunney Act, and these proceedings must give citizens and consumer groups an equal opportunity to participate, along with Microsoft's competitors and customers.

Respectfully,
Mary Beth Brangan
117 Terrace Avenue
Bolinas, CA 94924
415-868-1901

MTC-00028494

From: Dave McGinley
To: Microsoft ATR
Date: 1/28/02 4:04pm
Subject: Microsoft Settlement

Respectfully submitted:

I oppose any settlement with Microsoft. I consider Microsoft's tactics to be monopolistic, unfair to competition, and predatory. Consider,

I was an Apple computer user from the late "70s. Apple computer is no longer a viable option do primarily to Microsoft. The original MS Office came out on the Macintosh. When Apple begin to compete with Microsoft (late 80's), the Office programs suddenly were no longer supported on the Apple Platform and then when again supported MS Word was interpeted causing painfully slow execution (early 90's). Finally, when Apple capitulated to MS, a new fully functional release was made late 90's. I was a Netscape Navigator user. After running in to so many e-sites that would not support Netscape I was forced to change to Internet Explorer. I was a Eudora e-mail user. Again I was forced to change to Outlook Express for compatibility.

Lastly, when using an Apple Postscript printer, mysteriously, MS Office products would encounter errors printing. Research by my programmer showed MS had "added" a Postscript command of their own, thus preventing and Apple Standard Postscript command from executing without errors. The bottom line, if MS wants the market they have the financial and technical capability to drive any competitor from the market. Watch what happens with XBox vs Playstation and Ninetendo.

HELP.

Dave McGinley
Pericle Communications Company
1910 Vindicator Drive, Suite 100
Colorado Springs, CO 80919
mcginley@pericle.com 719-548-5014 Vx
719-548-1211 Fx

MTC-00028495

From: Thomas Saeda
To: Microsoft ATR
Date: 1/28/02 4:04pm
Subject: Microsoft settlement
2308 Delina Drive
Las Vegas, NV 89134
January 27, 2002
Attorney General John Ashcroft
U.S. Justice Department
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am in support of the Microsoft antitrust settlement. It is clearly a compromise for both parties involved.

This is, out of the possible options, one of the more reasonable choices. Restrictions have been set upon Microsoft by the government under the terms of this settlement. These include contractual restrictions on the promotion of Windows technology, relationship with software developers and design obligations.

Please support this settlement. It is important that the technology industry concentrates on business now. The terms will mean a new wave of innovation, promoted by increased competition. I would appreciate it if the folks in Washington spent the taxpayers" money in more efficient ways.

Sincerely,
Thomas Saeda
CC: Senator Harry Reid
CC:fin@mobilizationoffice.com@inetgw

MTC-00028496

From: bruce guenard
To: Microsoft ATR
Date: 1/28/02 4:04pm
Subject: microsoft settlement

Dear Judge,

I am(just) a personal user of computers and software since 1982. I have not read all the legal docs, but have followed the rise of the personal compuger industry for about two decades. Microsoft has produced good products and bad products. The culture of Microsoft,(like the culture of Enron) is unhealthy: Before the death of Lotus 123, the Microsoft mantra was"DOS isn't done "til Lotus won't run." The "winner take all, damn the ethics" attitude of MS might be tolerable if there were real competition in the operating system(OS) market. But there is no competition. No admission of guilt, no repentance. "Innovation" to Microsft is finding new ways to squeeze dollars out if the public. Microsoft will *always* use its OS and browser monopoly to maintain and extend it's illegal monopolies.

If it's a monopoly, it must be regulated. But when has Microsft ever followed a judges" order or an anti-trust law it doesn't like? Better, separate the OS/Browser business from the rest of Microsoft. THEN use a couple billion of MS illegal profits to fund at least two open source OS alternatives, like Lindows. (using all MS internal tech data) IF there is real competition in the OS market, the public can choose to use or not to use MS products on their merits, not because the OS/ Browser demands it.*

We don't want the Chinese Communists creating a Linux future for the Intel/AMD* PC do we?

Bruce Guenard
san jose ca

* There are no good analogies to the power the OS has over the consumer. What if GM were the only car maker in earth and it sold a car, but licensed the key? The key controlled the gas and brake and would only work properly if the car contained GM manufactured products. The car crashes a lot, but really crashes if not using GM tires, gas, oil, batteries etc. And the key quits working after 5 years. Break a key, out of luck. Just buy a new car and license the key

Car costs $19,999.00. Key licences for $1,990.00 for driving in the city, $2,990.00 to go to the suburbs or out of state. (relative pricing of home vs prof versions.) If your spouse or kids want a key, they must buy a license, too.

** With AMD battling Intel in the CPU market, hardware prices drop, with real choice. With the Microsoft OS Monopoly, forced upgrade prices rise. Let there be the end of software monopolies!! (pardon my spelling)

MTC-00028497

From: mike k
To: Microsoft ATR
Date: 1/28/02 4:05pm
Subject: Microsoft Settlement

Dear Sirs,

I believe that Microsoft has proven that they can and will find a way to sidestep the intent of the judgement against them. They will likely muddy the waters in such a way that the details of the settlement will become largely irrelevant. I believe that the current judgement is not enforceable against such a slippery company.

thank you,
Mike Kirita

MTC-00028498

From: Des Owens
To: Microsoft ATR
Date: 1/28/02 4:05pm
Subject: Microsoft Settlement

I find the DOJ proposed settlement with Microsoft to be a disgrace! Microsoft after snookering the original preparer of PC DOS was handed a monopoly by IBM. They have exploited that monopoly in a number of illegal ways. After being found guilty, they are now being rewarded by the DOJ with such weak "punishment" and unenforceable behavior restrictions, that Microsoft can now declare victory and continue on their merry way. Considering the relationship between Microsoft and the Bush administration, the money and the Ballmer visit to VP Cheney, one might have expected the DOJ to recuse itself.

This is an "honorable" administration—value is given for value received!

Yours truly,
Desmond H. Owens
1839 Kirkmont Drive
San Jose, CA 95124

MTC-00028499

From: Benjamin Curtis
To: Microsoft ATR
Date: 1/28/02 4:05pm
Subject: Microsoft Settlement

Please consider this email a vote for not allowing the proposed settlement to stand. Microsoft has previously ignored and/or violated previous decrees, and have continued to exhibit predatory business practices to both establish and maintain their monopoly in the technology sector. The current proposed settlement does not go far enough to ensure that competition will be restored to the marketplace, and is not in the consumer's interest.

Microsoft has used various means to eliminate any and all threats of competition, including hiring away critical employees of competing companies (Borland), eliminating a profitable market for a software segment (Netscape), and integration of new products with current market-dominating products (Microsoft Word vs. Word Perfect). An oversight committee trying to enforce disputable sections of the settlement will simply be no match against both the entrenched competition-killing culture of Microsoft and the cadre of attorneys used to support that culture's goals. Instead, more drastic measures, such as those proposed by the nine dissenting states, should be put in place to help restore the competition that Microsoft has so effectively eliminated.

There are certain details of the proposed settlement that would seriously weaken the settlement if it were to be implemented as it currently drafted. For example, very little consideration is given to competition that may come from non-profit-oriented organizations such as the developers of the SAMBA project. This project's main goal is to provide software to allow users of other operating systems to provide file-sharing services in a network including Microsoft Windows clients. SAMBA's developers have had to continually adapt to Microsoft's changing of APIs and protocols to achieve this goal. The provisions in the current settlement proposal for releasing of API information simply are not stringent enough to be effective, as they don't address in enough either sharing APIs with non-profit groups or the timeliness of those transfers of information. SAMBA has been the only effective competition to Microsoft when it comes to file-sharing in dominantly Microsoft Windows environments, and this settlement does little to encourage that competition. Granted, this is only one case of a weakness in the proposal, and the settlement is not intended to benefit any one specific entity, but this is an example of how there are significant weaknesses in the settlement's ability to help restore competition and to be in the public interest.

In summary, this proposed settlement is not in the public interest for many reasons—many of which have been well documented elsewhere. Please do not allow the best interests of consumers to be forgotten. Please do not endorse this settlement. Thank you.

Sincerely,
Benjamin Curtis
15 Lake Bellevue Drive, Suite 202
Bellevue, WA 98005
425-454-0088

MTC-00028500

From: Mary
To: Microsoft ATR
Date: 1/28/02 4:04pm
Subject: Microsoft Settlement

To the Justice Department:

I am deeply disturbed by the prosecution of the Microsoft Company and Microsoft Chair Bill Gates. With Microsoft products, I have had the option of using other manufacturer's software and was often supplied at hardware purchase with software like Lotus and Claris and browsers from Mosaic to Netscape. I have received immeasurable benefit from the features of Microsoft products and they continue to be my preference. The reason I say this is that I very much resent the prosecution's contention that I am some kind of helpless consumer that can't even pick which software suits my purpose. And I don't believe the Justice department has the right to tell me what kind of deals I can make with my supplier. The court's job is not to protect one business from another, but to arbitrate contracts and protect individual and property rights (businesses are owned by individuals). Microsoft products are not a threat to anyone. As I remember, this case didn't start with consumers like me feeling ripped-off, or even with a violation of any contract between Microsoft business partners. It started with Microsoft's unsuccessful competitors! Since when do competition's losers get to sue? I want to live in a country where anyone with enough on the ball, putting in sufficient effort, can be a self-made-man like Bill Gates. That is the American Dream. It is a fundamental right! I want to know that my country is there to protect my right to my property, not to worry that if I succeed that my own country will take it away from me and turn it over to my competitors.

Sincerely,
Mary Bachmann
136 Galleon Loop N.E.
Ocean Shores, Washington 98569

P.S. If I (the consumer) have been wronged, shouldn't I be the one getting the settlement?

MTC-00028501

From: Troy Harkey
To: Microsoft ATR
Date: 1/28/02 4:05pm
Subject: Microsoft Settlement
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you to express my support for the settlement reached between Microsoft and the Department of Justice. Consumer confidence in tech stocks has dwindled as the federal case has dragged on. Since the US District Court entered its judgement against Microsoft on April 3, 2000, we have witnessed a historic decline in investor confidence in the technology industry. The technology-heavy Nasdaq Composite stock index, which managed to get as high as 4504 that day, now rests comfortably below 2000 representing a loss of 56%.

Now we are in a recession. Massive layoffs are announced every week. Once mighty companies are folding. I believe it is time to put this issue to rest and enact the settlement.

Microsoft has made many concessions throughout this process. They have agreed to disclose the protocols of their windows system. This means that Microsoft will be required to make its proprietary information available to competitors. I wonder if those companies will have to share their proprietary data with Microsoft? It seems to me we should be rewarding innovative companies not penalizing them, or slicing them up, and feeding them to the competition.

I can remember when DOJ disassembled AT&T. As a result, my local telephone service is now far less reliable and much more expensive. I can?t even get anyone to answer the phone at the phone company to address a problem with my bill!

Finally, I would like to state that the enactment of the settlement will benefit the technology industries. Microsoft has done its share to resolve the issue. Please enact the settlement reached in November.

Sincerely,

Troy Harkey

MTC-00028502

From: Frank M. Kepics
To: Microsoft ATR
Date: 1/28/02 3:45pm
Subject: Microsoft Settlement

I'm writing to voice my opinion regarding the proposed Microsoft settlement. I believe that the proposed settlement is woefully inadequate as a deterrent to the anti-competitive and monopolistic business practices employed by Microsoft currently or in the future. Enactment of this agreement as currently proposed will be ineffective in establishing a competitive business environment in the software industry.

I am strongly opposed to the terms and conditions imposed by this agreement and would like to see a re-negotiated settlement that provides more safeguards to competition and effective enforcement than that offered by the currently proposed "slap-on-the-wrist" agreement.

Respectfully,
Frank M. Kepics
Frank M. Kepics
School of Biomedical Engineering,
Science and Health Systems
MS 7–709
Drexel University
3141 Chestnut St.
Philadelphia, Pa. 19104 **
(215) 895–2221 (voice)
(215) 895–4983 (fax)

MTC-00028503

From: Carl Kipp
To: Microsoft ATR
Date: 1/28/02 4:06pm
Subject: Microsoft Settlement

WHAT.

This is the penalty in the main DoJ suit after MS lost the appeal. The supression of Netscape's browser is the primary issue, but loss of BeOS is as bad.

HARM.

The MS IE bowser has been a main entry point for viruses, and its extensions have harmed the www. Tim Berners-Lee (who DID invent the Web) dislikes the damage propietary MS extensions has done. His goal was equality of operation across platforms.

MS has harmed Opera, Netscape by GIVING IE away. MS has harmed Carl Kipp by corrupting sites and starving the publisher of my preferred browser: NetScape Communicator! This is written on NetScape's e-mail program!

REMEDY?

I request forcing MS to be split (the original penalty) or source code opened without the "security" exemption. MS's recent "$1 Billion" settlement proposal for another suit is typically self-serving. They account their $10 MS Office package cost as "$600" retail AND hook students in the education market.

This is like letting the tobacco companies pay their fines in cartons of cigarettes!

US Judge Judge Colleen Kollar-Kotelly is going to look at OUR public comment on the remedy/penalty now that Microscoff has been confirmed GUILTY!

Letting Microsoft off easily leads to:

World "Dumb-in-Nation"!

Carl Kipp
Columbus, OH, 43202

In Unauthorized Windos 95, Andrew Schulman (wizard & editor) has many quotes from the DoJ vs MS ["settled" out of court, 1994!] including his own congressional testimony. One was from a MS VP who said "...my job is to see that Microsoft gets a fair share of the application market. I define that as 100%." Perfidy.

This case is an outgrowth of that one. MS agreed to not bundle the browser, did it anyway and claimed it was built-in. A lie, as testimony showed. I own 98Lite a program which merely uninstalls the IE browser.

Drug on the market.

MS's recent "$1 Billion" settlement proposal for another suit is typically self-serving. They account their $10 MS Office package cost as "$600" retail AND hook students in the education market. This is like letting the tobacco companies pay their fines in cartons of cigarettes!

Or the Carlos Lehder, of Medellin cartel pay fines in cocaine packets!

Judge T.P. Jackson did compare MS to a dealership.

Damage to Society.

Microscoff is bad for innovation. [See Caldera's suit for damage to DR-DOS. See Borland.].

Microsloth is bad for programmers. [You don't program, you use MFC objects. Dumb.]

Microstuff is bad for IT. [No one understands their proprietary stuff. Even MS! See IIS buffer over run. See the FBI warns MS about security. See Universal P'nP holes] Microscruff is bad for ZDNet, a media company. [Users have given up understanding. ZD loses readers looking for enlightenment.

They are since under new management.] ZDNet editor Kingman said "No single company, not even Microsoft, is the enemy." WRONG. MS=Dumbination The GATES to Dumb-in-Nation!

Carl Kipp
Columbus OH, 43202

MTC-00028504

From: Rolejoe1e2@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:06pm
Subject: Microsoft Settlement

Please see attached document, explaining my feeling about the treatment of Microsoft. Thank You Ellen M Ramsey

3705 Arctic Boulevard #1451
Anchorage, AK 99503–5774
January 26,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

As a retiree who has been following this Microsoft antitrust case, I must admit I was disappointed that this case was even brought to court. There are so many other companies with a high market share like Cisco and Oracle. No one pursued those companies. Microsoft has been great for the economy, for the shareholders, and for technology. What are the ramifications for this country, if litigation were to continue another four years? Would Microsoft be able to survive? They are already vulnerable, now that they've agreed to disclose portions of their source codes in their operating system to the competition. Microsoft has been more than cooperative in resolving this matter and agreed to terms well beyond what is expected in any antitrust case. That ought to be enough.

IF MERGEFIELD PARA2 But clever people like me who talk loudly in restaurants, see this as a deliberate ambiguity. A plea for justice in a mechanized society.

Let's stop the litigation so the government can focus on more pertinent issues. Not only is it good for the company, but for the economy as well. Thanks for your consideration in this matter.

IF MERGEFIELD PARA5 But is suspense, as Hitchcock states, in the box. No, there isn't room, the ambiguity's put on weight.

Sincerely,

Ellen M. Ramsey

MTC-00028505

From: PlattDJ@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:07pm
Subject: Mirosoft Settlement.

I feel that the provisions of the agreement are reasonable and fair to all of the parties involved. This would be the best opportunity for MSFT and the industry to move forward. Please accept the agreement. Donna Platt

MTC-00028506

From: S P Arif Sahari Wibowo
To: Microsoft ATR
Date: 1/28/02 4:07pm
Subject: Microsoft Settlement

I think the settlement proposal is NOT good enough:

The technical comittee should give written report to the public, and answer questions from the public as much as they can.

The time of remedy should allow growing of competition, therefore 5 years are not enough, it should be a least 10 years.

Thanks you.

MTC-00028507

From: Wesley Williams
To: Microsoft ATR,Microsoft ATR
Date: 1/28/02 4:10pm
Subject: microsoft settlement

I am a stockholder in microsoft and i believe the settlement should be completed as soon as posible. Approval of the settlement would be in the best interests of all concerned, in my opinion. Please consider approving the settlement. Thank you for your consideration.

Sincerely,

Wesley Williams

MTC-00028508

From: Richard A Martin (DTG)
To: Microsoft ATR
Date: 1/28/02 4:06pm
Subject: Microsoft Settlement

Dear Mr. Ashcroft,

Please read my attached letter...

Richard Martin, Senior System Architect/ President

Dominion Technology Group, Inc.

mailto:rmartin@dominiontechnology.com
(614) 529–1284 Home
(614) 216–7197 Cell
Richard Martin
Assistant Professor
DeVRY Institute of Technology
(614) 253–7291 x2551
mailto:rmartin@devrycols.edu
January 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am a professor at a technical college, and work as an IT consultant. I acknowledge that there are legitimate reasons that brought about this case three years ago, but Microsoft become powerful not by being a predatory attackers, but by making excellent products. This case should not punish Microsoft for being the industry leader, but should rule that exclusionary practices should be changed. The concerns that give merit to the case have been addressed with the introduction of new Microsoft software, and that provisions are in place under the agreement that will ensure competition in the market.

The concerns of independent vendors, computer makers, and software engineers all have been taken into account to produce licensing and development changes within Microsoft software. Protocol has been set up to ensure that Microsoft remains a responsible industry leader by forming oversight committees and reevaluating future lawsuit guidelines. I do not understand what more can be done at the federal level. This case has already had an impact on the industry and the economy, and the effects of Microsoft being broken up would be devastating. The loss of standardization and operability would halt innovation, and might jeopardize our country's position as the world leader in technology development. We must resolve this case, and the sooner, the better. The necessary steps have been taken to foster competition, and would like to see the settlement given a chance to prove itself.

Sincerely,
Richard Martin
CEO

MTC–00028509

From: BRogoff@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:09pm
Subject: Microsoft Settlement

Dear Renata B.Hesse,

On behalf of the computer dummies please settle this case for the ordinary computer user, because we prefer Microsoft to be allowed to continue to innovate simple software.

Thank you.
Sicerely,
Myrna Rogoff

MTC–00028510

From: Fred Savalli
To: Microsoft ATR
Date: 1/28/02 4:10pm
Subject: Please Settle Microsoft Suit
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am very adamant the lawsuit against Microsoft is unwarranted and should never have started in the first place.

I believe it was politically motivated by significant contributions of Netscape to the Democratic party. Further the suit, I believe has contributed to the down turn in the economy.

I fully suport for settlement that the DOJ has proposed. If Microsoft deems this settlement fair then I will support Microsoft's decision to comply. If you ask me, the lawsuit has only helped to strengthen Microsoft as a company rather than fulfill the intentions of the opposition—to tear the company apart.

Microsoft's willingness to comply should be some indication of the caliber company we are dealing with—a company that possesses true leadership. One of the signs of a great company is the willingness to concede when it is evident that alternative choices are limited. I don't the think the concessions on Microsoft's part where as much an admission of guilt as it is Microsoft sincere desire to get back to what they do best—innovate!

If the remaining opposition were to truly look closely at this case they would see that Microsoft has not gotten of easily as they have implied in the past. Microsoft will have to basically strip themselves of their competitiveness by allowing significant access to their internal interfaces and intellectual property.

Microsoft's efforts to comply, the disastrous effects on the economy, the vast of amounts of tax payer dollars spent should be plenty of reason to bring a speedy end to this case. I hope you hear the plea of the public and wrap up this matter.

Sincerely,
Frederick Savalli
1523 Tangerine Street
Clearwater, Florida 33756

MTC–00028511

From: Justin Lower
To: Microsoft ATR
Date: 1/28/02 4:08pm
Subject: Microsoft Settlement

To Whom It May Concern:

As a long time BeOS (Be Inc. Operating System) user I cannot say how disappointed I am in what remedy's have been discussed to deal with Microsoft's monopoly. These remedies are for me, the consumer, yet I have no doubt that when all is said and done that Microsoft will still be a monopoly, that I will remain to have a very, very limited choice of operating systems to use. (I don't consider Linux, BSD, etc to be valid choices—few companies have been able to provide a easy, usable operating system that does not require a degree in Computer Science to feel one is in control.) Apple and Be Inc. are the only choices I had apart from Windows in the last 5 years or more. Now, with the BeOS "dead", largely due to Microsoft's illegal bootloader license forcing system vendors to ignore Be Inc. or ,worse, to force a dual boot system to ignore the BeOS partition unless "activated" (see what Hitachi had to do to ship a system with BeOS preinstalled) I have little choice but to move to the Macintosh platform.

Remedy? There are plenty of methods where Microsoft could be forced to pay for illegal activities and possibly save the BeOS platform. They could be forced (with Palm's understanding) to purchase the BeOS/BeIA source code— forced to pay community developers to remove all third party code and release it to the public as open source. I sure that other options are available—ones that might be more realistic, but the fact remains—if the settlement does not result in the renewed development of the BeOS then I will have considered it a failure.

Justin Lower
746 E 19th Ave #4
Eugene, OR 97401
(541)484–2353 <- Home #
(541) 554–7250 <- Cell #

MTC–00028512

From: Susan Chatman
To: Microsoft ATR
Date: 1/28/02 4:11pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
January 28, 2002.

Dear Ms Hesse,

I have been trying to understand the intricacies of the proposed settlement. I am very concerned that the final outcome does not promote a free market, and therefore allows Microsoft to continue monopolistic activities. It is best for the American consumers that viable alternatives to Microsoft have the opportunity to compete freely.

I have a friend that has published several detailed and well-argued points about the basic unfairness of the proposed settlement. Please do not let the free market be hijacked by Microsoft's lawyers. We must have access to code, alternative to both operating systems and application interfaces must be allowed to exist, and we should not let this proposed settlement go through the way it is currently written.

Please reference http://www.kegel.com/remedy/letter.html for more details on the specific changes that will help make this a much better settlement.

Thank you very much for your time.
Sincerely,
Susan Chatman
6665 Green Valley Circle, #322, Culver City, CA 90230–8111

MTC–00028513

From: Frances B. Smith
To: Microsoft ATR
Date: 1/28/02 4:11pm
Subject: Microsoft Settlement
January 28, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, NW
Suite 1200
Washington, DC 20530–0001

Subject: Microsoft Settlement

Dear Ms. Hesse,

I would like to express Consumer Alert's support for acceptance of the Proposed Final Judgment to resolve the antitrust case against Microsoft. Consumer Alert, founded in 1977, is a non-profit, non-partisan consumer group with individual members in all 50 states. In addition, Consumer Alert is the founder and coordinator of the National Consumer Coalition (NCC). The NCC is an on-going coalition made up of 23 non-profit organizations, with those groups" members numbering over 3 million.

In today's uncertain economic climate, it is in the best interests of consumers to have the issues settled and to bring to an end litigation that could further stymie our economic recovery. The agreement is needed to "provide a prompt, certain and effective remedy for consumers." The technology sector and its resurgence could be vital to renewed economic growth, not only in the U.S. but in the world economy.

The remedies provided in the settlement are far-reaching and address the business practices that the court found to be anti-competitive. Offered by the U.S. Department of Justice, the proposed settlement was endorsed by nine State Attorneys General. The settlement could bring an end to litigation that has created an uncertain and disruptive climate.

With this settlement, consumers likely will continue to benefit from the products and services offered by firms that operate in dynamic and rapidly changing markets and are innovative in their distribution systems. Those who would seek further redress would try to shape the markets of today into a narrow and static mold of competition—one that would threaten consumer welfare. Satisfying the demands of competitors, at the expense of consumers, should not be the principal factor governing the resolution of this antitrust suit.

Throughout the three-year litigation process, no evidence of consumer harm was offered. Instead, it appeared that competitors wanted the legal system to help them with their business plans. Some of those who are pressing for further restrictions may claim that those are needed to protect consumers from anti-competitive practices. Yet consumers are the ones who benefit from creative institutional and technological change and are far more likely to be injured by political restrictions on such change, especially when such restrictions favor competitors.

Obstructing the agreement is likely to have widespread unintended consequences that could disrupt the continuation of these consumer benefits.

Consumers are benefiting from intense competition that has ?democratized? access to technology in the past decade. Not least of these are dramatically lower prices, ease of use for even the untutored, and the continuous unveiling of innovative products and services. Even during the past three years while this case was being litigated, technological advances continued unabated, many offered by Microsoft, but others portending new possibilities in information technology and new alignments.

Consumers are the ones who benefit from the vibrant competition that exists. They are the ones who would suffer from further antitrust action or draconian remedies that attempt to delineate how competition should evolve. The nature and speed of institutional and technological change is misunderstood. Today, no one can predict the future of IT—who the players will be and who are the likely winners and losers. Those who would use antitrust policy to mold their view of the future are likely to create impediments to innovation. Predicting where systems will go in the future is a task for markets and ultimately the customers in those markets—consumers.

Sincerely,

Frances B. Smith
Executive Director
Consumer Alert
1001 Connecticut Ave., NW, Suite 1128
Washington, DC 20036
Phone: 202–467–5809
Fax::202–467–5814
www.consumeralert.org

MTC–00028514

From: John Ilgen
To: Microsoft ATR
Date: 1/28/02 4:14pm
Subject: Public Comment on Microsoft Anti Trust Settlement

January 25, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I believe that the Department of Justice was justified in filing this lawsuit against Microsoft. I support the settlement that the Justice Department has proposed and think that any other action, is just Microsoft's competitors looking for judicial remedies for what they can't obtain the free market!

As far as the nine remaining states action, there has been no loss to consumers as a part of Microsoft's actions. Microsoft sells in volume and at non monopolist prices. Just look at what its competitors charge for an operating system, Sun and Apple. In fact, it is Microsoft's products that have been the biggest contributor to productivity gains in the US economy in the last five years.

I hope that the settlement will be sustained during this public comment period, and that there will be no further federal action against Microsoft, or any other American company.

Sincerely,

John Ilgen
CEO
CitationSoft Corp
CC:John Ilgen

MTC–00028515

From: Tony Niesz
To: Microsoft ATR
Date: 1/28/02 4:17pm
Subject: Microsoft Settlement

I think the proposed Microsoft settlement is a gross miscarriage of justice. Microsoft is a convicted monopolist, and such a heinous one that the only possible competition is the decentralized, guerilla Linux movement that arose at the grassroots level in the face of Microsoft's anticompetitive tactics. In other words, Microsoft is such an abusive monopoly, that many of the world's most technically proficient volunteered their time and effort to provide an alternative, because any for-profit organization that tried would be run into the ground.

People care about this case. This won't be swept under the rug; it will be remembered in future elections.

Sincerely,

Anthony D. Niesz

MTC–00028516

From: cole
To: Microsoft ATR
Date: 1/28/02 4:13pm
Subject: Microsoft Settlement

I oppose the proposed "Microsoft Settlement" that is now before Judge Kollar-Kotelly for consideration. MicroSoft represents how an inferior operating system can achieve and maintain predatory market monopoly through dishonest, unethical and illegal business practices. Break this monstrous company up!

Audrey Cole
270 West Cornwall Rd.
West Cornwall, CT 06796
28 January 2002

MTC–00028517

From: ROTH David R
To: Microsoft ATR
Date: 1/28/02 4:13pm
Subject: Microsoft Settlement

I have been following the most recent case against Microsoft with considerable interest. Whatever objections may have been raised about the objectivity of the original judge, his conclusions about Microsoft's anti-competitive conduct were based on such persuasive evidence that no one outside Redmond has bothered to question it.

He found that Microsoft's conduct was so consistently and pervasively corrupt in it's anti-competitive conduct, that there was no hope of reform without the most dramatic intervention. I agree with him that the company should be broken up, so that the operating system and the applications are developed and sold by separate companies. Short of that, it is obvious that the only effective way for the Government to prevent renewal of the abuses would be to establish a very comprehensive set of guidelines and strictures, with oversight sufficient to enforce them in the rapid and far-flung operation of the business.

I recently signed the petition on this matter which has been circulated by Dan Kegel. I endorsed that petition because it does such a thorough job of identifying ways in which the proposed settlement misses the target. Please heed those warnings.

The defenders of Microsoft originally argued that the Government could not hope to understand and supervise such a dynamic technology. Then the Government prosecutors successfully demonstrated impressive mastery of the issues, sweeping the defense aside in one master stroke after another. Wouldn't it be ironic if the new Administration threw away what the previous Administration had accomplished by formulating a settlement which was based on such a naive and simplistic approach to the problem. Now that Enron is hanging around the new Administration's neck, does it want to add a sweetheart deal with Microsoft?

MTC-00028518

From: Don Carrington
To: Microsoft ATR
Date: 1/28/02 4:13pm
Subject: Microsoft
Date: January 28, 2002
To: The United States Department of Justice
From: Don Carrington
Vice President, John Locke Foundation
Raleigh, NC
RE: Microsoft Settlement

The Microsoft trial was a waste of taxpayers" money and a significant disincentive to investors. While both Microsoft and the plaintiffs may be happy with the settlement, the truth is that the plaintiffs should never have filed this action to begin with.

We have seen government sponsored lawsuits against the tobacco industry, against Microsoft, and now fully expect to see lawsuits against the fast food industry. While private parties should always have the freedom to use our courts, the rise in government sponsored lawsuits is a danger to our great country.

This case should be ended as soon as possible, so I am in support of this settlement only to expedite the process.

I have attached the following opinion piece from one of my associates.

Please consider it a part of my official comment.

Cooper Gets It Right on Microsoft

By Dom Armentano and ROY CORDATO

"I have concluded that this settlement with Microsoft is in the best interest of North Carolina consumers." With this statement Atty. Gen. Roy Cooper announced that North Carolina, along with eight other states, has joined the U.S. Department of Justice in reaching a settlement in its antitrust lawsuit against Microsoft. Cooper should be commended for deciding to scrap this ill-conceived and ultimately anticonsumer lawsuit brought by his predecessor, now Gov. Mike Easley.

The Microsoft antitrust case, as brought by both the Reno and Easley Justice Departments, was a mistake from the start. The fatal flaw was that the Reno-Easley argument against Microsoft was essentially a legal brief for Microsoft1s disgruntled competitors who simply could not compete. Antitrust laws prohibit restraints of trade and higher prices, yet Microsoft was prosecuted for the opposite behavior?for rapid innovation, increasing production, and lowering prices. Indeed, Microsoft was being prosecuted not because of its monopolist behavior but because it was being too competitive.

Like most antitrust suits since passage of the Sherman Act in 1890, the Microsoft case was not about protecting competition but protecting competitors.

Postsettlement complaints by some of Microsoft1s competition bear this out. In urging the states to continue their war on Microsoft, Real Network1s Kelly Jo MacArthur said the settlement was a "reward, not a remedy." Scott McNealy, CEO of Sun Microsystems, quipped that "I can1t retire now?I can1t leave the world to anarchy." From McNealy1s perspective the world of falling software prices and innovative new products stimulated by Microsoft1s presence in the market is anarchy. Apparently "order" is the pre-Microsoft world where consumers paid up to $1,000 for word processing and spreadsheet programs and internet users had to fork over about $100 to use Netscape.

True competition always looks anarchic to those who can1t compete. Microsoft should be praised for refusing to cave in to ludicrous demands from self-styled "trustbusters" like Janet Reno and Mike Easley that it unbundle its web browser from its Windows operating system (appeasing Netscape) or that the company be split into three separate pieces. Instead, it courageously fought the government for years to arrive at what amounts to a legal draw and a victory for consumers.

Ultimately the government got almost nothing, and consumers are better off for it. Under the consent decree, Microsoft is prohibited from engaging in exclusive dealing arrangements with original equipment manufacturers (OEMs), access providers, and suppliers, a practice it had all but abandoned anyway. Further, Microsoft is required to share its applications program interface code and allow all OEMs that license its Windows operating system more freedom to display non-Microsoft software applications. Again, Microsoft was already moving in the direction of what they call "shared sources." Finally, Microsoft must charge OEMs published rates and offer them uniform discounts.

But Microsoft is left entirely free to determine its own prices and discounts and change them at any time. This is crucial because it is Microsoft1s aggressive pricing strategies that have made the consumer software market as competitive as it is.

Finally, Microsoft is a clear winner on the issue that first sparked the lawsuit: the tying of its Web browser to its operating system. Not only is that bit of efficient bundling now perfectly legal but more importantly, there are no specific restrictions on any future bundling of applications with operating systems going forward. This is the most important innovational development to come out of the settlement and it1s strongly pro-Microsoft and proconsumer.

It was never in the interest of North Carolina consumers to be part of this witch-hunt. Nearly all antitrust suits are brought or instigated by competitors and are blatantly anticonsumer. Antitrust has a long history of prosecuting aggressively competitive companies that have innovated rapidly and lowered prices to consumers; this includes such famous cases as Standard Oil and IBM. Consumers and businessmen need free, open markets and they need protection from force and fraud, but they don1t need antitrust laws that hamper innovation and harm society. Three cheers for Cooper in his decision to settle the state1s suit against Microsoft, and solid brickbats to Easley for bringing it in the first place.

Dom Armentano is professor emeritus in economics at the University of Hartford and author of "Antitrust and Monopoly (Independent Institute, 1998) and Antitrust: The Case for Repeal (Mises Institute, 1999)". Roy Cordato is vice president for research and resident scholar at the John Locke Foundation in Raleigh.

MTC-00028519

From: Jim Abell
To: Microsoft ATR
Date: 1/28/02 4:16pm
Subject: Microsoft Settlement

Dear District Court Judge:

I am writing to you to as I am frustrated with the prosecution of Microsoft.

I am the Information Systems manager for our office and deal with Computers and Servers daily. Streamlining computer software and hardware can be the most difficult, time consuming and costly expense for our company.

Compatibility and support are key. I appreciate that Microsoft has helped immensely with this task. We don't need this process mucked up by government intervention. I resent that the government does not believe that I can decide for myself which software/hardware is useful to me. I can't believe our government views Microsoft as a threat, when after all it is Microsoft that has brought the industry to where it is....on real earnings, not "puffed-up" .com hype. Don't forget the bubble bursting for the .communists and all of their venture capital. Those bringing suit are not individual consumers, but Microsoft's unsuccessful competitors.

Failed businesses must not be allowed to set the rules for the markets in which they failed. Protecting some businesses from others is a dangerous policy. I want to see an America where success is embraced, not punished and throttled! Bill Gates is a self-made man who has brought America, the world, to new levels of progress. Microsoft has a fundamental right to its property, and it is the governments job to protect this right, not to take it away. Microsoft, should be lauded and left alone to continue to develop and prosper so that, we the people, can too.

Jim Abell

MTC-00028520

From: Steve Love
To: Microsoft ATR
Date: 1/28/02 4:11pm
Subject: Microsoft Settlement

I haven't seen any improvement in Microsoft antitrust situation. I think the current settlement that lets the Microsoft corportation to not be divided is misguided and shortsighted.

Steve Love steve43@starpower.net
CC:steve43@starpower.net@inetgw

MTC-00028521

From: MCFLOYD01@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:16pm
Subject: Settlement

Dear Renata Hesse:

I wanted to send you a brief e-mail expressing my hopes that "our" government will settle the Microsoft case as soon as possible.

I hate that because a man builds and mutibillion dollar business from the ground up that the government has to attack him.

I believe given that the economy is now in recession the last thing we need is more litigation and regulation of the high-tech industry. This litigation is cost us millions of dollars that we could be using for Homeland Security. Also, there has been no consumer harm as a result of any actions taken by Microsoft. They have only helped us.

Settlement of this case is in everyone's best interests ??? the technology industry, the economy and consumers.

Thank you for your time.

Sincerely,

Monty C. Floyd

MTC–00028522

From: WILLIAM YOCUM
To: Microsoft ATR
Date: 1/28/02 4:18pm
Subject: microsoft settlement

WHAT DESIRE WOULD A COMPANY HAVE TO DEVELOP PRODUCTS IF IT WERE NOT FOR PATENTS???. NONE. THIS IS JUST WHAT THE GOVERNMENT IS TRYING TO TAKE FROM MICROSOFT.

MTC–00028523

From: Daniel L Christie
To: Microsoft ATR
Date: 1/28/02 4:13pm
Subject: microsoft settlement

We strongly urge settlement of the microsoft suits as soon as possible why penalize micorsoft for being successful?We need microsoft to help lead the market ahead. dan christie and o.b.v. inc.

MTC–00028524

From: jhunt@seniorexplorer.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:20pm
Subject: I believe consumer interests have been well served.

I believe consumer interests have been well served.

John R. Hunt

MTC–00028525

From: Frank Keenan
To: Microsoft ATR
Date: 1/28/02 4:22pm
Subject: Microsoft has continued to thumb their nose at the Dept. of Justice. For the approximately two yea Microsoft has continued to thumb their nose at the Dept. of Justice. For the approximately two years, every PC sold has included software giving one year FREE internet service via their MSN. In the meantime small internet providers across the country are going out of business. Typical Microsoft operation!

Frank Keenan
38 Gail Dr.
Littleton, NC 27850

MTC–00028526

From: paul.ilgen@highmark.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:13pm
Subject: public comment on microsoft
January 28, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I believe that the Department of Justice was justified in filing this lawsuit against Microsoft. I support the settlement that the Justice Department has proposed and think that any other action, is just Microsoft's competitors looking for judicial remedies for what they can't obtain the free market! As far as the nine remaining states action, there has been no loss to consumers as a part of Microsoft's actions. Microsoft sells in volume and at non monopolist prices. Just look at what its competitors charge for an operating system, Sun and Apple. In fact, it is Microsoft's products that have been the biggest contributor to productivity gains in the US economy in the last five years.

I hope that the settlement will be sustained during this public comment period, and that there will be no further federal action against Microsoft, or any other American company.

Sincerely,

Paul Ilgen

Northeastern Executive Group

MTC–00028527

From: Ken Wingert
To: Microsoft ATR
Date: 1/28/02 4:21pm
Subject: Fw: Microsoft Settlement
Ken Wingert
3000 Grand Ave, #910
Des Moines, IA 50312
Renata Hesse
Trial Attorney
Anti-trust Division
US Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Attorney Hesse:

Please accept the proposed settlement of the Microsoft antitrust suit.

It has been four years since this case was first brought and I fail to see what we have gained. I strongly believe our government must consider the financial impact this case has had and the benefits our economy will gain if it is settled quickly.

This lawsuit has had a very damaging effect on the technology markets. It was not that long ago that we all looked forward to the continued growth of the "New Economy" that revolved around the computer industry. Unfortunately, the DOJ's antitrust suit can be closely associated with the downfall of the NASDAQ. We can never forget that when the courts announced that breaking up Microsoft was the correct path to take, all technology stocks dropped.

We have finally reached a point in this case that all parties have come together to negotiate a settlement. There can be no doubt that real compromises were made by Microsoft to put this case behind it. The best example of this is that Microsoft agreed to the establishment of an independent committee to monitor its actions.

Please accept this fair settlement.

Sincerely,

Ken Wingert

MTC–00028528

From: Donald Bauer
To: Microsoft ATR
Date: 1/28/02 4:21pm
Subject: Please Enforce Antitrust Laws, Anticompetitive Practices

Greetings:

I am saddened and angered at the soft and non-punative nature of the proposed Microsoft settlement. You people owe it to your constituency of hard-working American men and women who feel you coziness with Microsoft is an outrageous affront to common decency and moral decency. Shame on you if you allow them to come out of this case with anything resembling the cozy, soft "penalties" described in the brief of the proposed settlement. My friends, colleagues and myself feel this settlement has the appearance of undue influence with respect to Microsoft's business practices and the Federal Government's willingness to make them tow the line. Shame!

Microsoft will continue to be an unfairly dominant player in the software market SOLELY BECAUSE of their ability to buy off or otherwise influence legislators and others within our Federal Government because their products are of such mediocre-to-poor quality that they would have trouble competing on a level playing field. Shame!

Please do the right thing; please do the moral thing; please do your job and punish Microsoft in a manner that pleases average American consumers and taxpayers like me and dozens of my colleagues with whom I've spoken of this horrendously-handled issue. PUNISH MICROSOFT—DON'T SUBSIDIZE THEM!!!

Donald Bauer,

California, USA

MTC–00028529

From: tom zukowski
To: Microsoft ATR
Date: 1/28/02 4:21pm
Subject: Microsoft
Tom Zukowski
5746 Oak Hill Road
Gibsonia, Pennsylvania 15044
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I feel bittersweet pleasure at the fact that Microsoft settled with the Department of Justice. Litigation should have ended long ago. As a user I feel that my rights have never been infringed upon my Microsoft.

In fact, their products have made it easier for me to operate efficiently with computers, more so now than ever before. I realize their market dominance precludes competitors from gaining any edge. But, their products are far superior to any other vendors.

I am glad to see that Microsoft has agreed on particular concessions with the US department of Justice, but I am not happy with nine states holding out. I support the settlement, and look forward to the end of this case.

Sincerely,

Tom Zukowski

cc: Senator Rick Santorum

MTC–00028530

From: John P. Kopp

To: Microsoft ATR
Date: 1/28/02 4:21pm
Subject: Microsoft Settlement
John Kopp
342 Wellington Rd
Mineola, N.Y. 11501
January 10,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

When the federal government decided to pursue Microsoft in an antitrust suit three years ago, the intention was to determine if Microsoft exercised unfair market advantage in the software industry. The result that the plaintiffs (including the government) in the suit did not consider was the harm to other businesses in the technology industry created by the lawsuit.

Unlike other software companies, Microsoft has an open platform that allows many manufacturers of computer software and hardware to be profitable due in part to the enormous investment Microsoft placed in creating the Windows operating system. Being involved in the video industry, I do a great deal of work with computers. The truth is, creating the highly complex codes that are needed to support the programs used in business these days can only be done by a company that has vast economic resources and technical expertise. By harming Microsoft, the lawsuit is harming companies that are dependent on its software for their livelihoods.

Thanks to the extremely low price of the Windows operating system, computers and technology have found the widespread use that benefits all of us. For this and many other reasons, I am in support of this settlement.

Sincerely,
John Kopp

MTC-00028531

From: Kuo, Benjamin P
To: Microsoft ATR
Date: 1/28/02 4:22pm
Subject: Microsoft Settlement

Dear Sir or Madam:

I am writing to express my disapproval over the proposed Microsoft Settlement.

I believe this deal is a sellout to Microsoft. Consumers get no real benefits and Microsoft goes unpunished for their antitrust behavior. We have no reason to spend millions of taxpayer dollars pursuing this case, only to hand out such lenient penalties when the facts are on the government's side. Microsoft is and continues to be a monopoly.

I urge you to reconsider the terms of the deal so that real progress can be made to restore competition in the marketplace.

Sincerely,
Benjamin Kuo

MTC-00028532

From: Florence Fredrichs
To: Microsoft ATR
Date: 1/28/02 4:23pm
Subject: I hope the Department of Justice considers well before punishing I hope the Department of Justice considers well before punishing innovative enterprises in our country. Microsoft has improved much of our systems of communication and i stongly feel that the case against their company is more or less moot. There is always competition in any field and the best systems will succeed.

I urge your department to let market forces reward or punish public ventures and spare the court system for more serious injustices.

Thank you for your attention, Florence A. Friedrichs-7045 HWY 135
Pilot Grove,MO

MTC-00028533

From: jdettre
To: Microsoft ATR
Date: 1/28/02 4:22pm
Subject: Microsoft Settlement
Antitrust Division
Department of Justice
Attached is a letter concerning the Microsoft Settlement.
John W. Dettre
3038 Harbour Drive
Palmyra, NJ 08065–2206
(856) 829–0704
jdettre@home.com
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing in support of Microsoft's antitrust settlement with your Department of Justice. I think it is very reasonable. You should do your utmost to have it approved by the Court.

It is unfortunate that Microsoft's competitors had to resort to exploiting our legal system as their only way of staying in business. In the settlement Microsoft agrees to license its Windows operating system products to the 20 largest computer makers (who collectively account for the great majority of PC sales) on identical terms and conditions, including price (subject to reasonable volume discounts for computer makers who ship large volumes of Windows). Microsoft will make available to its competitors, on reasonable and non-discriminatory terms, any protocols implemented in Windows" operating system products that are used to interoperate with any Microsoft server operating system. Microsoft will not to enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively or in a fixed percentage.

In addition to the above, it appears that some of our "REPRESENTATIVES—?" in Washington are being "Politically Correct" and favor those companies that support them There are also" State Officials" trying to enhance their position and will do what they can to disrupt Microsoft. Microsoft has given its competitors the opportunity to stay afloat. American consumers have always benefited form Microsoft's innovations.

Sincerely,
John W. Dettre

MTC-00028534

From: Paul D. Shervey
To: Microsoft ATR
Date: 1/28/02 4:22pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse,

In my following of the Justice Departments antitrust action against Microsoft I am compelled to write this letter in of support of Microsoft and what I feel is an unjust prosecution of a company.

First—is bigness a crime? If it is you should take action against the Federal Government and several Sate Governments.

Second—is offering a software package at a lower price than any one else can produce a comparable product a crime?

Third—Microsoft has brought utility and time savings to small business and computer users that is unprecedented in its impact on our nations economy. Microsoft Software's contribution to productivity of individuals and business in the 17 years since they opened their doors has to be one of the major contributions of the 20th Century.

If our economy has produced the greatest standard of living in history it is because of the free enterprise system. This was made possible by the laws and the thinking of our Founding Fathers laid down in the Constitution and Bill of Rights. Our Country cannot maintain it's world leadership in freedom and free enterprise with a twisting of justice such as this case against Microsoft.

Yours truly,
Paul D. Shervey, President
Faber Shervey Advertising
8101 Lea Road
Bloomington, Minnesota 55438–1259
Phone 952–944–5111

MTC-00028535

From: James E. Willems
To: Microsoft ATR
Date: 1/28/02 4:23pm
Subject: Microsoft Case

Usdoj,

When I retired I made microsoft stock the heart of our joint retirement because I believed that this company represents the future america where service rather than production will be our world wide contribution. The government through there failure to settle this case has and continues impact the lives of us retired citizens. Please settle this case so that our lives arenot impacted in such a negative way. Microsoft has done more to make life better for all american citizens, then any other company that I can recall. The settlement as I understand is fair and should be finalized.

Thank you,
James E Willems, Age 75

MTC-00028536

From: David Richard Larochelle
To: Microsoft ATR
Date: 1/28/02 4:24pm
Subject: Microsoft Settlement

I am writing to inform you of my opposition to the proposed settlement in the Microsoft case. As a researcher and a member of the security community I am extremely dismayed by the provisions of the settlement which allow Microsoft not to disclose details of their software which they deem to be security related.

For over 20 years it has been a widely accepted in the security community that "security through obscurity" does not work. Keeping the details of software secret does not make it more secure. Time and again it has been shown that malicious users are still able to find and exploit security holes in software even if the details of the software are not disclosed.

I am extremely distressed that these prevision of the settlement disregard the accepted views of the security community. They will do little or nothing to increase security and provide Microsoft with a giant loop hole to avoid releasing software.

David Larochelle

MTC-00028537

From: Bloom, Larry
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 4:22pm
Subject: Microsoft Settlement

"Microsoft and its critics both worked to ensure their views were reflected in the comments. Americans for Technology Leadership, made up of Microsoft and several others friendly to the software giant, offered letter writers extra chances to win a handheld computer."

The above quote is a perfect example of why Microsoft must be reigned in. Microsoft will always stoop to any level to be sure that their products remain the only platform offered to consumers...in this case, by trying to bribe letters of comment for their own support.

Please add my name to the ranks of those who believe that Microsoft must be controlled by an order with more effective enforcement and with more strict controls of their anti-competitive practices.

Larry Bloom
Director, Internet Design & Development
HealthPlanServices
lbloom@healthplan.com
(813) 289–1000 x4904

MTC-00028538

From: Justin Meredith
To: Microsoft ATR
Date: 1/28/02 4:24pm
Subject: Microsoft Settlement

I wholeheartedly disagree with the pending settlement between the DOJ and Microsoft. I see the settlement as further stifling competition. Furthermore, it appears to give Microsoft little more than a "slap-on-the-wrist" and send them on their way.

I understand this is not a democratic issue. I'm not casting a vote;

I'm only making a public opinion known.

Justin Meredith
2189 W 480 N
Provo, UT 84601

MTC-00028539

From: Leon H. Carrington
To: Microsoft ATR
Date: 1/28/02 4:27pm
Subject: resend faxed comments

I am resending my comments for your convenience as an attachment. Was concerned that I can not sign them because I am sending from computer and have no scanner to include my signature. Am advised it does not matter. Attachment is to allow you to double space my comments, or manage electronically for your convenience. Attachment is in form of MS Word97.

Sincerely,
Leon H. Carrington
From Leon H. Carrington
22022 Gloucester Court 3–B
Lexington Park, Md. 20653

January 28, 2002
To: Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW Suite 1200
Washington DC 20530

My name is Leon H. Carrington, I am a citizen of the United States and I am herewith submitting my comments regarding the Proposed Final Judgement in Civil Action No. 98–1232, United States of America v. Microsoft Corporation.

The government has breached its duty to the public by offering the Revised Proposed Final Judgement (Final Judgement) as a Final Judgement and settlement in the case United States v. Microsoft Corporation. The remedy proposed is not effective for correcting or eliminating the violations alleged in the Complaint (Civil Action No. 98–1232 (CKK)). The remedy proposed would create more harm to the public than the damage alleged due to the fact that the proposed remedy would ignore serious allegations and behavior found by the United States District Court for the District of Columbia and the United States Court of Appeals for the District of Columbia, to be in violation of the Sherman Act; and it would confer upon Microsoft powers and authority the market does not allow it to possess currently. Thus, the proposed remedy would not be in the public interest and would be disastrous for many third parties, while greatly benefitting Microsoft.. If the remedy proposed includes both the Final Judgement and the Competitive Impact Statement, the proposal is wholly inconsistent with the Complaint and its allegations due to the fact that the Competitive Impact Statement is not even consistent with the Final Judgement which in turn is not responsive to the Complaint.

Specifically, the most glaring and perverse inconsistency is the base of nearly all damage rendering the Final Judgement inadequate and insulting. That inconsistency is the fact that the Complaint is substantially built on the definition of an operating system. The Competitive Impact Statement defines an operating system in a manner wholly consistent with the Complaint. The Competitive Impact Statement definition is in Section III "Description Of The Practices Giving Rise To The Alleged Violations", subsection B "Factual Background", subsection 1 "Microsoft's Operating System Monopoly". The Complaint definition is in Section IV "The Relevant Markets", subsection A "The PC Operating System Market". Astonishingly, in this very subsection the Complaint states truthfully, that "No other product duplicates or fully substitutes for the operating system." Yet the Complaint incorrectly states in Section IV "The Relevant Markets", that "There are two relevant markets. The market for personal computer operating systems, and the market for Internet browsers." This is foolish, indeed. There are two relevant markets. The market for personal computer operating systems, and the market for applications which includes Internet browsers. Note also that the District Court found and the Appeals Court agreed, that Microsoft illegally tied its Explorer browser into Windows in a nonremovable way while excluding rivals, in 1 violation of section 2 of the Sherman Act. The illegal tie-in also injured certain other application developers developing under Windows, who may not have been involved with browsers..

Notwithstanding, the Complaint makes reference to "Microsoft's Windows operating system" in section III subsection C. The Complaint refers often to "Microsoft's Windows operating system monopoly". That an operating system enables virtual software unification of the hardware computer components and resources, exposing them, and thus facilitates use of those resources and comnponents by users (consumers) and applications, is a perfectly acceptable and commonly understood definition of an operating system. However the Final Judgement creates a new class of product called a Microsoft Operating System Product (my emphasis) This new class, according to the Final Judgement, includes Windows 2000 Profession, Windows XP Home and Professional, and their successors. The Final Judgement further states in the definition of the term "Microsoft Operating System Product", that the code comprising the same "shall be determined by Microsoft in its sole discretion." (Section VI—Definitions) We are lost. In spite of the fact that the Competitive Impact Statement recognizes what an operating system is, it confers upon the above listed Microsoft operating systems the designation "Microsoft Operating System Product". The new class and the reliance on Middleware by the Final Judgement and the Competitive Impact Statement, permits Microsoft to evade due penalties for established violations and further abuse their operating system monopoly by expanding their "tie-in" policy and rendering harmed ISV's among others, to the status of market irrelevance. This is a position Microsoft does not currrently enjoy. Allowing Microsoft to define what an operating system is (through their monopoly control and now U.S. Justice Department assistance) eliminates the threat of Middleware and applications which may compete with Microsoft applications. Indeed, applications not yet conceived can be preempted until Microsoft "discovers" them and adds them to their monopoly.

For such cause, many people recognize that breaking up Microsoft is the best first step in correction of alleged and established abuse. Recognizing and enforcing the legitimate (in this case) separation of operating system and applications is the best way to eliminate the basis by which Microsoft's abuse of its monopoly operating system caused damage and continues to do so. Separating the operating system would encourage its owner to make public all features provided by the underlying hardware manufacturers. It would further encourage competion between hardware component manufacturers which manufacturers are as much victimized by Microsoft's abuse of its monopoly operating system as consumers and ISVs by virtue of the fact that hardware components" interfaces must suit the Microsoft vision or be excluded. This why so many computer software game manufacturers continued to develop for DOS well into the late 1990%: the Windows interface denied them full access to the functionality that enabled them to distinguish themselves and satisfy their customers. No other vertical software market had a customer base that would allow it or the underlying hardware verticle market to "rebel". We are missing many new innovations.

Evading the operating system definition eliminates or surely deteriorates the possibility of illegal tie-ins. All potential beneficiaries of just and reasonable corrections that would have been established by faithfully addressing the allegations of the also semi-adequate Complaint, are instead further damaged or untreated (left damaged) by the Final Judgement. In the Complaint Section I subsection 5 it is stated that"Microsoft's conduct includes agreements tying other Microsoft software products to Microsoft's Windows operating system;..." The effects of these tie-ins are well known but not part of the allegations of the Complaint. A Microsoft application with hidden interfaces (tie- ins) to the operating system has a chilling effect on the development of competitive products and prevents those few who may discover this interface from remaining competitive because of course, the hidden interface may be changed upon upgrade of Microsoft's application or operating system, 2 and the former interface removed, thus "breaking" the competitors application and causing consumers to spend more money unnecessarily. This situation also allows Microsoft to occasionally appear to be competing on the merits of their offering when such is not the case. Promoting middleware as is done in the Complaint, the Final Judgement, and the Competitive Impact Statement, does nothing to alleviate this problem. As stated in the Complaint and noted above, "No other product duplicates or fully substitutes for the operating system." Indeed, middleware is just another application, however useful. Denying ISVs and consumers the benefits afforded them by a legitimately marketed bona-fide operating system as opposed to an "Operating System Product" can not be in the public interest, and is not responsive to the Complaint, including prior court judgements.

When the "Nimda" computer virus appeared last year, I was amazed at how it performed its activities. I was more astonished when it occurred to me that I was reading about functionality only a person familiar with Microsoft applications programming would understand. What astonished me was the fact that this and many other common viruses could not occur if Microsoft applications were not tied in to the operating system. Operating system vulnerabilities are policed, as it were, by the entire computing community. Application vulnerabilities are not so well noted, because applications other than middleware do not generally offer much exposure to the programming consumer, and competition keeps them distributed, not concentrated through the entire PC universe. This is not the case with Microsoft applications. Commonly used Microsoft applications are part of the "programmers toolkit" for Windows developers. If they were not, the anticompetitive position they occupy would be more blatant as only Microsoft could interoperate with them, using the exposed underlying functionality. On the other hand, having these products so fully integrated into the operating system and each other while exposed and enjoying the proliferation obtained from Microsoft's illegal use of its monopoly operating system, facilitates more and more clever exploits by hackers. The most common viruses affecting consumers have used the victims own Microsoft applications. It is not so easy to wreak havoc in other operating system environments where there are no externally programmable, ubiquitous applications which applications are fully integrated into the operating system via hidden APIs or interfaces. Strangely enough, in the Linux community, where essentially nothing is hidden, applications of this power could exist and remain secure because the open source community polices its environment jointly and severally. Interesting... someone can break Microsoft products but only Microsoft can fix them. Who pays? Thus we have another nasty by-product of the "tie-in" problem. It would be eliminated or greatly reduced with a return to application development competition based on an operating system exposed on a non- discriminatory basis.

It would thus be disastrous for ISVs and consumers alike if Microsoft had authority to regulate security issues for operating system and applications alike. That power is also effectively granted by the Final Judgement where security APIs and documentation are to regulated directly or indirectly by Microsoft, the antithesis of security in consumer and commercial computing.

That the Final Judgement creates a new class called Microsoft Operating System Product, is reprehensible, clearly evading the issues addressed by the complaint. That ISVs who know how to use computing facilities as well as and better than Microsoft should be relegated to the use of middleware for protection from abuse and for development is not contemplated by the Complaint or Court findings; is unjustly discriminatory, and not in the public interest; denying the public the expected benefits of many new applications which may or may not use, or be middleware; yet must have the access to the same APIs and documentation as any other entity in the computing arena. Indeed, many of the best among us study hardware documentation for software development, 3 and vice versa. Shall the United States Justice Department and Microsoft alter this historic landscape of a market in the interest of anyone other than Microsoft?

The Competitive Impact Statement seeks to limit the competition that competes against Microsoft and others in selected markets, by requiring that ISVs must be of a certain size in the market and have had that position over a particular period of time in order to obtain API disclosure relief under Section III.D of the Final Judgement; further enabling Microsoft to evade Complaint allegations and even Sherman Act violations it has been found guilty of. This is the case because again, some small mind has not yet learned that computing facilities are continually reused by bright agile minds. Interfaces used for middleware in one mind are perfect and necessary for another application in the mind of another party. This reuseability is the inherent nature of computer software and even the smallest computer hardware components. The various underlying markets must not be constrained by this taking on behalf of Microsoft. The limited vision of Bill Gates" nightmares and appetites are not the proper perspective to use to correct the abuses of Microsoft's monopoly operating system.

The Competitive Impact Statement states in defining a Non-Microsoft Middleware Product, that such a product must have "at least one million copies distributed in the U.S. within the previous year" (my emphasis) .It further states that this requirement "is intended to avoid Microsoft's affirmative obligations—including the API disclosure required by Section III.D .... being triggered by minor or even nonexistent products that have not established a competitive potential in the market and that might even be unknown to Microsoft development personnel." (my emphasis) This is preposterous! This constitutes unjust and unlawful restraint of trade and unjust discrimination. The Final Judgement does not restrict ISVs to a size or type insofar as their right to obtain the benefit of relief under Section III.D is concerned. If such were the case, the U.S. and Microsoft have decided who has the fight to compete where in the computing market which as stated above, consists of many integrated and simultaneously distinct and competing markets. This carving of the competing development community, to the benefit of Microsoft, is ironically, the exact opposite of what should be carved. Neither the U.S. nor Microsoft has the fight to determine what merely new, useful, and innovative products may be created using any functionality of a legitimate operating system. Is this why the evasion technique deployed is to call an operating system an operating system product instead of an operating system?

How dare this decree suggest that Microsoft development personnel should be aware of what all or any others are doing in development. Microsoft development personnel can not provide consumers a finished product after any number of beta tests, nor can they secure the products they make. The Revised Proposed Final Judgement and related Competitive Impact Statement are a stench in the nostrils of intelligent, informed consumers. Unless a settlement can resolve the issues raised herein, Microsoft should be broken into at least two separate pieces: operating systems and applications.

Respectfully Submitted,
Leon H. Carrington,
STB Practitioner
(301) 862–1604

MTC-00028541

From: Ann smith
To: Microsoft ATR
Date: 1/28/02 4:27pm
Subject: microsoft settlement

states sueing microsoft as well as aol using netscape to get money from microsoft thru the courts is wrong. microsoft is being bullied by the goverment and stockholders have lost money because of this court action. it also does not let microsoft give all the attention it needs to fight the hackers and make the internet safe for all users including aol.

The reason we are so interested in Microsoft Programs is that children all over the world are benefiting by Microsoft products,games and all sorts of programs as an educational tool. I'm so pleased when I see my 4year old granddaughter open the computer and do what she wants to do. She spends hours doing games and playing her videos, instead of watching T.V all the time.

We have eight babies we encourage to learn all they can by buying programs for them at Birthdays and just for fun.

We the elderly have fun also and we invest money into the future of Microsoft and other companies for the future.

MTC-00028542

From: Ron
To: Microsoft ATR
Date: 1/28/02 4:27pm
Subject: Microsoft settlement- further evidence

I have further indication that Microsoft continues to exercise monopolistic behavior such that the only solution is to break it into separate companies.

I recently purchased a subscription to MSDN (a service of Microsoft that includes their software on CD or DVD).

I went to install Win/XP. They had not supplied me with a product code for XP, and such a code is required in order to be able to install the product I had paid for.

It turns out that in order to get a product code, I must register an Email address with Microsoft[1]. Further, I must use Microsoft Passport[2] in order to get a product code. The product I'm installing has no relation to Email or Passport.

[1] I should not need an Email address to install something that is not an Email application. Last time Microsoft got my Email address, it took me nearly a year plus a letter to the gripe line at Infoworld to get them to stop spamming me.

[2] Microsoft Passport requires that:

1. You trust them to hold the required information about you.

2. You accept cookies, which has privacy implications

3. You use an approved browser. Microsoft rejected the browser I tried to use. —
Ronald Tansky

MTC-00028543

From: Karl J. Smith
To: Microsoft ATR,karl@karl.com@inetgw
Date: 1/28/02 4:29pm
Subject: Microsoft Settlement

The following is my comment about the proposed Microsoft Settlement under the Tunney Act:

First, let me state that I agree completely with Dan Kegel's comments abot the issues at http://www.kegel.com/remedy/remedy2.html. He has done a great job summarizing the many problems with the proposed settlement. In particular, however, I feel that the public will be harmed most by the fact that the proposed settlement doesn't account for any potential Open-Source competition. It allows Microsoft to decide which entities it's required to share documentation with, and has too many exceptions for Microsoft to use as reasons for not documenting their protocols and API's. Given that Microsoft has a documented history of refusing to cooperate, this portion of the settlement is not very helpful at all in restoring competition, and interoperability of protocols and data is absolutely required for any real competition to exist.

The settlement is not in the public interest, for the many many reasons listed above.

Sincerely,
Karl J. Smith
12525 SW Foothill Dr.
Portland, OR 97225
karl@karl.com

MTC-00028544

From: Dean (038) Danielle Fulcer
To: Microsoft ATR
Date: 1/28/02 4:27pm
Subject: Microsoft Settlement

I am in favor of this settlement. Microsoft has already changed many of its business practices that were shown to be in violation of the antitrust laws. These antitrust laws were meant from the beggining to protect consumers, not simply allow competitors who refuse to innovate and meet customer needs stay in business. Microsoft has taken incredible risks by investing in technology R&D when many other businesses would rather just keep the status quo.

It's time to move on. Accept this settlement. Protect innovation while monitoring Microsoft for compliance. Do not stifle Microsoft's sucees. THAT would hurt consumers, not Microsoft coming out with major new versions of their software that itegrate key features every couple of years. Could you imagine buying a computer from a manufacturer that was not allowed to integrate a CD-RW drive, or a DVD, or for that matter a laptop without a monitor? This is analagous to what Microsoft has done, integrate key user needs into a single product. Please do not force me as a cosumer to shop for each of my operating system needs individually. That would hurt me in terms of time and money.

Sincerely,
Dean Fulcer
428 SW 347th ST
Federal Way, WA 98023

MTC-00028545

From: Beverly Offutt
To: Microsoft ATR
Date: 1/28/02 4:28pm
Subject: USAGOffutt—Beverly—1007—0122
5873 Warnke Road
Michigan City, IN 46360
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my approval of the settlement reached between the Justice Department and Microsoft.

As I understand the settlement, Microsoft has agreed to modify its Windows operating systems to allow for the use of non-Microsoft programs and services within Windows. The amount of additional consumer choice brought about by this concession could be very significant.

In addition, Microsoft has agreed to eliminate many of its more restrictive covenants from its agreements with licensees and distributors. I believe that this agreement will also provide additional consumer choice after a period of time.

I know that you will agree that you have more pressing problems on your agenda right now. Please take advantage of this opportunity, settle the case, and move on. Thank you for your attention.

Sincerely,
Beverly Offutt

MTC-00028546

From: JJ Gifford
To: Microsoft ATR
Date: 1/28/02 4:29pm
Subject: Microsoft Settlement

To Whom It May Concern:

Attached are my comments re. United States et al. v. Microsoft, pursuant to the Tunney Act.

I have attached two copies of the same document, one in Microsoft Word format; the other in Rich-Text Format. Either document should be readable on any modern PC using up-to-date software.

Thanks in advance,
JJ Gifford
212 226 3462
Jonathan Gifford
117 Sullivan St., 5A
New York, NY 10012
doj.ms@jjgifford.com
January 28, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
microsoft.atr@usdoj.gov
re. Deficiencies in Microsoft settlement.

Pursuant to the Tunney Act, I am filing these comments on the proposed resolution of United States, et al. v. Microsoft.

My Perspective, Experience, and Interest

I believe this case is tremendously important. As personal computers and the Internet have become increasingly important to our everyday lives, so too has the landscape of the technology markets become increasingly important. Not only will the outcome of this case impact the fortunes of a host of technology companies, but it will also affect how I and millions of others communicate with our friends and family, what choices we have for online services such as digital photography, and of course how much we and businesses spend on technology infrastructure.

Once the government decided not to seek a structural remedy, it necessarily embarked on a course of regulation. Regulation only works when the conduct prohibitions truly restrain anti-competitive behavior, and create a genuine opportunity for innovators to enter the market and compete in it based on their merits. Unfortunately, the Proposed Final Judgement (PFJ) presented by the Department of Justice and several states fails on all counts.

Its results will be only a mild, temporary modification to Microsoft's well-documented behavior, with no lasting or significant effect on competition. Microsoft will retain its monopoly and every incentive to maintain it through any means not specifically prohibited by the PFJ. Consumers will continue to be deprived of the innovations and other benefits of a truly competitive market, in part because innovators will be deprived of the opportunity and incentive to challenge Microsoft's monopoly as it expands and evolves. Most importantly, America's technology industry will stagnate, as ever fewer competitors see any value in entering markets dominated by Microsoft.

While I believe that many if not most Americans will be affected by the disposition of this case, I have a particular interest in it as a long-time technology consumer, entrepreneur, and enthusiast. Since 1980, I have used personal computers nearly every day, first as a hobby, then for school, and later for my career in the technology industry. In the early 1990s, I managed a small but pioneering desktop publishing department for a large advertising agency. Later, I joined a groundbreaking multimedia company that produced CD-ROMs for both Macintosh and Windows-based computers.

Most recently, I was a partner in a successful Internet development firm, which designs and produces web sites and other interactive media for corporate clients. Having sold my share of that business, I currently consult for other companies in the technology industry.

Definitions Are Critical: the Devil Is in the Details

1. Most provisions of the PFJ depend on the definition of "Microsoft Middleware." Accordingly, we should expect this term to be well-defined, with clear boundaries and unquestionable meaning. Unfortunately, the reality is that it is vaguely defined, in language that grants Microsoft itself much control over what software it, and therefore the PFJ, governs.

1.1.

Definition: According to the PFJ (PFJ VI.J), "Microsoft Middleware" is any software which:

.* is distributed separately from the operating system,

.* controls the user interface of the Microsoft Middleware,

.* provides substantially similar functionality as a Microsoft Middleware Product, and

. is trademarked.

1.2.

Definition gives Microsoft control. So Microsoft, which has long stated its goal of incorporating browsing and other middleware functions into its operating system products, can exclude code from the Microsoft Middleware definition simply by not distributing it separately from the operating system, or even just by not trademarking it. Microsoft therefore will have enormous latitude in determining which new operating system features will be governed by the PFJ.

Clarity Is Essential to Compliance and Public Confidence.

The PFJ consists largely of vague prohibitions hobbled by numerous qualifiers and exemptions.

For instance:

Limited replacement of Microsoft Middleware.

2.1. The PFJ requires Microsoft to enable users and OEMs to specify that Non-Microsoft Middleware be used in place of Microsoft Middleware (PFJ, III.H.2). This is a welcome change because it had previously been difficult to replace Microsoft's Internet Explorer (IE) without facing "considerable uncertainty and confusion" when IE would nonetheless unexpectedly be invoked under certain circumstances (Findings,] 171).

2.1.1. Exemption for Microsoft servers. Unfortunately, Microsoft is exempt from this requirement when the Middleware Product would be invoked "solely for use in interoperating with a server maintained by Microsoft" (PFJ III.H). This may exempt Microsoft's current move into network services (".NET") from the judgement, inasmuch as such services communicate with Microsoft-owned servers. Microsoft considers .NET to be the next phase of the Internet, at last offering 'real" applications and services. The first .NET service, Microsoft Passport, aims at becoming a cornerstone of Internet shopping and authentication transactions, and stores its data exclusively on Microsoft-owned servers.

2.1.2. Exemption for proprietary technologies. Another exemption allows Microsoft to launch its own middleware when the Non-Microsoft Middleware "fails to implement a reasonable technical requirement" (PFJ III H 3). Microsoft will be able to capitalize on this loophole simply by emphasizing proprietary technologies not supported by Non- Microsoft Middleware. To the extent that Microsoft can implement features using proprietary technologies, it will better be able to exclude Non-Microsoft Middleware. A truly pro-competitive PFJ would encourage Microsoft to use open industry standards.

OEM Distribution Channel Opened, But For Whom?

2.2. The PFJ requires Microsoft to allow OEMs to customize the user's desktop by installing icons for Non-Microsoft Middleware and other products (PFJ, III.C.1). This is important to the PFJ because Microsoft has in the past excluded Netscape and other competitors from the valuable OEM distribution channel, often by contractually limiting an OEM's ability to customize the desktop. In addition, Microsoft has used its control over the valuable desktop real-estate as an incentive to get IAPs such as AOL to support Microsoft Middleware instead of competing products.

2.2.1. OEMs lack incentive. Unfortunately, because Microsoft's Internet Explorer is now the market leader, there is today little consumer demand for alternatives to Microsoft Middleware. This makes it unlikely that an OEM would see much gain, if any, in installing Non-Microsoft Middleware. Such distribution may benefit the middleware developers, but would not greatly benefit the OEM.

2.2.2. Customizations will be short-lived. This prohibition remains in effect only for a 14-day window starting after the end user first turns on his or her PC. Thereafter, Microsoft is free to re-arrange the desktop as it sees fit, including automatic removal of any non-Microsoft icons, e.g. by operating system features such as the "Clean Desktop Wizard" built-in to Windows XP (PFJ, III.H.3). So, any Non-Microsoft Middleware developers who do manage to secure OEM distribution could well see their products wiped off the desktop after a short two weeks.

2.2.3. Likely results. These limitations beg the question: will any OEMs risk irritating Microsoft for such minor benefits? If they do, will the results truly be increased competition in the middleware market?

General Rule on Sharing APIs.

2.3. The PFJ requires Microsoft to share APIs used by Microsoft Middleware with ISVs, et al. (PFJ III.D). In its Findings of Fact, the District Court found that Microsoft had repeatedly withheld such information from ISVs, or used its disclosure as an incentive for 'friendlier" behavior, in an effort to preserve the applications barrier to entry (Findings,] 84, 90, 91). Because ISVs depend on such information to develop software for a given platform, withholding APIs can limit or destroy an ISV's ability to create competitive products. Therefore full API disclosure should be considered a basic condition for any kind of effective competition.

2.3.1. Only APIs necessary to mimic Microsoft's products will be disclosed. Unfortunately, the PFJ requires Microsoft to share only those operating system APIs used by Microsoft Middleware. This is a limited set of APIs, of use only to those ISVs who want to develop middleware products similar to Microsoft's. It does little to help ISVs offer features or innovations not already offered by Microsoft's products. Since ISVs typically must provide innovations to gain market share against an entrenched market leader, this requirement is unlikely to promote competition in the middleware market.

2.3.2. Many APIs may be withheld on dubious 'security" grounds. The PFJ allows Microsoft to exclude any APIs the disclosure of which "would compromise the security of a particular installation or group of installations of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems" (PFJ III.I. 1).

. This is a surprising exemption because few security professionals believe API disclosure could weaken any well-designed security system. Indeed, the complete source code (a level of disclosure far greater than simple APIs) is publicly available for several operating systems and security-related products that are widely considered to be more secure than Windows (e.g. the Linux operating system).

. Yet the inclusion of this exemption implies that there in fact are such APIs whose disclosure could compromise security, and thereby opens the door for Microsoft to make claims about which ones they are. There is no basis for the Competitive Impact Statement's ("CIS") optimism that security-related exemptions will be limited to "keys and tokens" (CIS, IV.B.5) of particular installations. Nothing in the PFJ's language so limits the exemptable APIs, and such entities aren't generally visible at the API level, anyhow.

. With Microsoft's current push into network services (under the .NET moniker), we can expect privacy and security features to be suffused throughout the code, increasing the number of APIs Microsoft will try to exempt from disclosure. Indeed, Microsoft has just this month announced that privacy and security will henceforth be its main priorities. 1

1 Associated Press, "Microsoft Announces Strategy Shift", D. Ian Hopper and Ted Bridis, January 17, 2002.

Inadequate Enforcement

3. The task of detecting whether Microsoft has violated these and other provisions falls to a three- person "Technical Compliance" committee (the "TC"). This committee will have access to the source code and tools used to create Microsoft's products, as well as access to the relevant Microsoft staff (PFJ IV.B.8). In theory, the TC's oversight will prevent Microsoft from using technical strategies to camouflage non-compliance, for instance by wrongly claiming that some important API should not be disclosed for security reasons. While such oversight may in fact be helpful, the TC is an inadequate, inefficient and non-transparent attempt to ensure enforcement of a Judgement that otherwise relies on voluntary compliance and enforces few penalties for transgressions.

3.1. Severe employment restrictions threaten the TC's performance. The PFJ includes employment restrictions which will dramatically narrow the pool of TC candidates—first, to those experts not currently working for Microsoft or a competitor, and then to those remaining candidates willing to forego any such employment for two years after serving on the TC. In so doing, it excludes nearly all of those experts in operating systems design and programming whom the TC most needs, since it will be very difficult to find any such experts not currently working for, and with no intention of working for, Microsoft or a competitor. As a professional in this field, I cannot imagine why a highly competent independent minded computer scientist would wish to serve on the TC under these circumstances.

3.2- The TC will be buried under a mountain of technical data. Even if well staffed, the committee will have all enormously difficult task from a technical standpoint. Inasmuch as deciphering computer source code can be difficult even for the code's author, much less a new reader, and inasmuch as Windows XP alone consists of some 45 million lines of code 2, this committee will have an enormously difficult task. Even with a large support staff, it is hard to imagine this committee effectively analyzing Microsoft's source code and fully investigating allegations of non-compliance.

3.3. The TC cannot ensure timely remedies. Further, because the committee is prohibited from public comment (PFJ, IV.B.10), it will be unable to confirm any ISV's suspicions about Microsoft's compliance, nor could it force a timely remedy. Its only recourse will instead be to notify Microsoft and the Plaintiffs and to suggest a possible remedy. Therefore, an ISV suspecting Microsoft of non-compliance will not receive an immediate remedy, but must instead rely on a bureaucracy whose natural tendency will be not to pursue minor infractions. While such infractions may indeed be minor in the scope of the overall judgement, they would assuredly be of great importance to the ISV.

3.4. The TC's findings may not be presented to the Court or the public. Under the PFJ, the TC may not testify in any matter relating to the Final Judgement, nor may its work product and recommendations be submitted to the Court (PFJ, IV.D.4.d). Similarly, the TC is prohibited from public comment (PFJ, IV.B.10). Thus, even if the TC's exclusive access to source code should produce evidence of deception and non-compliance by Microsoft, this evidence will not be presented to the Court. 2 BusinessWeek, "Windows XP: a Firewall for All", Alex Salkever, June 12, 2001.

. In theory, the TC will report to the Plaintiffs, who may in turn report such non-compliance to the Court, and produce evidence of it via other means. This may well happen in the case of massive or severe non-compliance. However, what happens to the small ISV who suspects Microsoft of non-compliance, e.g. by not disclosing some necessary API? Such an injured party may report its concerns to the TC, and then hope that the TC is able to verify its claims, and further is able to convince the Plaintiffs to go to court on their behalf. During this bureaucratic pursuit, the ISV's business may suffer irreparable harm, or even vanish altogether (as has very nearly happened to Netscape). Were such ISVs to have access to Microsoft's source code, perhaps in a secure facility, they could investigate such concerns themselves, directly and immediately. Indeed, API disclosure would not be an issue in the first place.

. The point here is that the nature of the TC is as the first step in a bureaucracy whose natural instinct will be to pursue only the most serious transgressions. In the context of a rapidly changing technology industry, this is a serious weakness in the PFJ.

3.5. PFJ places enormous weight on third TC member. The PFJ proposes that the Plaintiffs appoint one member of the TC, Microsoft appoint a second, and then these two members themselves choose a third (PFJ IV.B.3). This structure places enormous responsibility on the third member, who can be expected to decide any disagreement between Microsoft's representative and the Plaintiffs", especially in the context of the Voluntary Dispute Resolution process in IV.D. It is unclear whether the TC reports to the Plaintiffs only as a single unit, or whether a dissenter's view also gets submitted to the Plaintiffs. A better structure would at the very least make it crystal clear that any single member of the TC may report, to the Plaintiffs.

Also, creating such a fulcrum position in the TC makes this third seat much less attractive and harder to fill, and injects an element of politics into the TC that will distract from its technical mission and smooth functioning. Because the TC is not a decisional body, but simply a means to keep a watchful eye on Microsoft's compliance, it is unclear why Microsoft should have representation here at all. All of the TC's members should be appointed by the Plaintiffs, perhaps with the DOJ appointing one member, the States appointing a second member, and the Plaintiffs collectively appointing the third.

3.6. Catch-22. Given the enormity of the TC's tasks, the limits on its powers and enforcement abilities, and the severe employment restrictions surrounding service in the TC (IV.B.2), it is clear that any candidate for the TC willing to accept the job is almost certainly too inexperienced to be legitimately qualified for it. In Today's Market, More is Needed.

4. In perhaps its broadest weakness, the PFJ fails to recognize that the circumstances of the original case were unique, and that circumstances today are very different. The Internet's rapid public acceptance around 1994–1995 took many established computer-industry firms by surprise, and radically changed the personal computer market. The basic reasons users wanted to own personal computers changed dramatically within less than two years. Two companies in particular, Netscape and Sun Microsystems, were able to aggressively exploit the new technologies and to take advantage of Microsoft's slow response to the burgeoning consumer demand. As a result, they were able to present a serious threat to the applications barrier to entry that has long protected Microsoft's monopoly in Intel-compatible operating systems.

4.1. No longer any consumer demand for non-Microsoft Middleware. But that window of opportunity is long closed. The Internet is an established part of the personal computer market. Microsoft's Internet Explorer is the dominant browser. There no longer is any great consumer demand for alternative browsers. Netscape no longer exists as an independent company, and development of the Netscape browser occurs at a fraction of its former pace. Even the CIS acknowledges that Microsoft has "perhaps extinguished altogether the process by which these two middleware technologies [Java and the Netscape browser] could have facilitated the introduction of competition into the market for Intel-compatible personal computer operating systems" (CIS, III.B.3).

4.2. Cannot resuscitate existing middleware competitors. Nothing in the PFJ can or will restore these competitors to their former strength. There is no way to rekindle the massive consumer demand, then left unserviced by Microsoft, that gave these companies their initial momentum.

4.3. Hoping for another thousand-year flood. Still, the CIS claims the PFJ will "restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings" (CIS, II). Given that Microsoft now dominates the browser market and retains its operating systems monopoly, and given that the PFJ allows Microsoft to support its browser market share by tying the browser to the operating system, this claim seems to rest on the optimistic hope that some new disruptive technology will appear, will be ignored by Microsoft, and will create massive consumer demand for some non-Microsoft Middleware. Without such an event, the PFJ merely establishes rules for a game that has no players.

Unconditional Surrender

5. Finally, in a bizarre and extreme limitation, the PFJ will expire in only five years—regardless of whether or not Microsoft retains its operating systems monopoly (PFJ, V.A). The DOJ must believe that not only is the PFJ an effective remedy, but that it will be so effective that Microsoft will be reduced to a shadow of its former self and must be unshackled in just five years (seven, if the Plaintiffs seek and receive the maximum extension permitted by the PFJ). Unfortunately, this clause is so careless that it will release Microsoft no matter the circumstances—that is, even if Microsoft retains or even strengthens its monopoly power. The message that the PFJ sends is "we'll try this for five years, and then we're giving up." Any judgement should remain in effect until the Court finds that Microsoft no longer holds a monopoly in Intel-compatible operating systems. It makes little sense to release Microsoft until competition has re-entered the market and Microsoft may no longer commit the illegal acts described by the Court's Findings of Fact.

Alternatives

This PFJ illustrates the difficulty in devising effective conduct remedies for complex software cases such as this, especially where the defendant retains its monopoly power and the incentive to expand and maintain it by any method not prohibited by the PFJ. Vague technical definitions and even apparently narrow exemptions can be exploited by the monopolist to maintain its ill-gotten gains. It would be vastly preferable to create the proper structural conditions for competition by decoupling parts of the monopolist enterprise. Without a structural remedy, it is imperative that the definitions and prohibitions in the Final Judgement be as clear and comprehensive as possible, so as to fully restrict the anti-competitive behavior that has been denying consumers choice, innovation and fair market pricing. There are a number of specific changes that ought to be made to the PFJ:

. Any judgement should remain in effect until Microsoft no longer holds a monopoly in Intel- compatible operating systems. Starting in 5 years, the Court should annually review

Microsoft's position in the Intel-compatible operating systems market. Should it find that Microsoft no longer exercises monopoly power in that market, and therefore cannot commit the illegal acts described in the Court's Findings of Fact, it could release Microsoft from the terms of the judgement.

.* The TC should be appointed entirely by the Plaintiffs, perhaps with the DOJ appointing one member, the States appointing a second member, and the Plaintiffs collectively appointing the third.

.* Definitions such as that of "Microsoft Middleware" should be tightened considerably, and the PFJ reworked to minimize its reliance on such narrow categories.

. Microsoft should be required to make the full source-code for its Intel-compatible operating systems available for viewing by ISVs et al.. This will allow ISVs to better develop competitive products, and will allow the ISVs themselves to monitor Microsoft's compliance with the judgement's other technical requirements, instead of relying on an inefficient, overworked TC.

.* If the Court decides against requiring source-code sharing, it should at a minimum require the disclosure of all operating system APIs used by any Microsoft products (i.e. not just those APIs used by Microsoft Middleware). A blanket disclosure requirement such as this will close those existing loopholes whereby Microsoft might withhold critical information from ISVs whose products threaten its operating system monopoly.

.* Exemptions permitting various proscribed behaviors under certain circumstances should, as a whole, be stricken.

.* Finally, the judgment should include real consequences for non-compliance, such as further conduct prohibitions, financial penalties, or further disclosure requirements. The PFJ currently provides only a possible Court-imposed two-year extension of its rather toothless provisions.

Conclusion I hope that the PFJ is modified by the DOJ or the Court, and that what seems to be a great opportunity for antitrust law to make a difference for tomorrow's entrepreneurs and consumers is not lost in a fog of complexity. The technology may be complex and changing, but the underlying competitive issues are fundamental. I take both comfort and concern from the fact that I am clearly not alone in expressing these concerns. As the Financial Times editorialized:

...It would be wrong for the states, or the judge, to reject this settlement merely because it is not sufficiently punitive. The test is whether the proposal provides enough protection for the public and for Microsoft's competitors. As it stands, it does not meet this test. Though a continued trial would be expensive and distracting, it would be better than an unsatisfactory settlement. This proposal should be rejected..

(Financial Times, "Micro-too-soft", November 5, 2001)

I believe that the PFJ, if accepted by the Court in its current form, will lead to clear and irreparable harm to consumers and to the United States" technology industry. So pervasive has technology become that the technology industry is an obviously critical component of the American economy.

Even BusinessWeek, itself no anti-capitalist Microsoft critic, recognized the broad implications of the resolution of this case:

... [T]he Justice Dept.'s weak censure of Microsoft for its serious monopolistic practices could cost the U.S. mightily in the years ahead. The great strengths of the American economy are its openness, its competitiveness, and its innovativeness. Monopoly is the enemy of all three.

(BusinessWeek, "Slapping Microsoft's Wrist", November 19, 200!) Based on my experience, I do not find the PFJ to be in the "public interest", which is the standard that the DOJ and the Court are subject to under the Tunney Act.

Respectfully submitted,
Jonathan Gifford
January 28, 2002

MTC-00028547

From: Lorenzo Thurman
To: Microsoft ATR
Date: 1/28/02 4:27pm
Subject: Microsoft anit-trust settlement

I feel the settlement does not punish Microsoft for their wrong doings. Note that I did not say "punish enough", because I do not feel they are being punished at all. The agreement calls for oversight, not puninishment, and a large donation to schools. Neither of these will force Microsoft into changing its behaviour nor will they help create a more competitve environment. I, as a software developer, feel that any business I start would be threatened if I develop technology like Java that threatens their Monopoly.

I've heard some of Secretary Ashcroft's comments about the settlement and at least part of his reasoning is that it would be good for the economy. In the short term, this may be true, but the downturn in the economy and the war on terrorism will pass, and we will be left with a very non-competitive environment with one company dominating both the operating system and the applications area. This potentially has global ramifications. As you may be aware, some European countries and China are looking elsewhere for their technology. They are concerned about their own security and having only one company to provide the bulk of their productivity, security etc. This will only serve to create markets outside of the US. The Justice Department's current settlement may solve short term problems, but will only serve to isolate the American software vendors, unless you act now to reduce and/or restrict the Microsoft monopoly.

Thank you

MTC-00028548

From: Gordon Fox
To: Microsoft ATR
Date: 1/28/02 4:28pm
Subject: Microsoft Settlement

As an individual and user of the Microsoft Operating System and bundled software I have appreciated the ease of having it all in one package. I believe that most individual consumers would agree. The government broke up Ma Bell and now there are many larger businesses. All it did was to make prices rise. A business should be allowed to produce their product without governmental restraint unless it in some way will do physical harm to a person.

To those of us who are retired and hold stock in these companies such as Microsoft, the ongoing dispute over who is right has only served to hurt the stockholders. Let's get this suit over with once and for all and let

Microsoft get back to doing what they do best ? innovate!

Thank you for your time,
Gordon Fox

MTC-00028549

From: ldlininger@attbi.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:29pm
Subject: Microsoft Settlement

The U.S. government, via the USAF, trained me to use and repair computers over 30 years ago. One of the first things I learned was that there are two kinds of software: operating system software and application software.

The operating system software, such as Windows, controls how the computer functions, whether it be one with an Intel Pentium or another manufacturer's CPU chip. Application software consists of programs that use the computer to perform tasks, such as word processing, money management, or browsing the internet. By Microsoft controlling the operating system market for PCs, they have unfairly competed in the marketplace for years.

By allowing Microsoft to continue to modify its operating system and add application software to it, you are allowing Microsoft to retain their monopoly and unfair advantage.

Microsoft will continue to stifle competition by using its unfair advantage. Consider that Netscape, who developed the network browser, has had to practically give its software away. In 2–3 years, why will anyone want to buy RealPlayer software when Microsoft will have imbedded their media player software in the operating system?

The only way to settle this issue fairly for all concerned is to split Microsoft into two companies. By requiring Microsoft to form a company that produces only operating systems, you will not only make the marketplace more fair for all application software companies, you will force Microsoft to make the best operating system they can.

And, yes, the world needs a better operating system, not just the operating system Microsoft allows consumers to buy. I want an operating system that will efficiently use the software I want to install, not an operating system that is loaded with applications I might not want. By requiring Microsoft to form a company that produces only application software, you will place Microsoft into a position where the quality of their software determines whether they succeed, not because they can use their operating system to an unfair advantage. Splitting Microsoft into two companies would give application software companies a fair chance to succeed. Real and fair competition will return and innovation will drive the market.

In the last 20 years, Microsoft has earned billions of dollars in profits, often at the expense of other companies. Consider Netscape who has had to give away their product. Consider Novell who had the best networking software available, but fell because Microsoft put networking software in their NT operating system. There are dozens, if not hundreds, more.

The settlement that has been negotiated is laughable. It does not change anything. Microsoft will continue with their current way of doing business. And innovation and competition will continue to be stifled.

Respectfully,
Larry Lininger
3130 Hancock Place
Fremont, California

MTC-00028550

From: Brian Showalter
To: Microsoft ATR
Date: 1/28/02 4:30pm
Subject: Microsoft Settlement

As a United States citizen and experienced computer professional who has at times been compelled to work with Microsoft products,I would like to express my opposition to the settlement that has been proposed for the USDOJ's antitrust lawsuit against Microsoft. I feel that the terms of the settlement as currently specified are weighted far too heavily in favor of Microsoft, and that they will do nothing to prevent Microsoft from continuing abuse its monopoly position to stifle competition and lock customers into its products. The terms also significantly underestimate the lengths to which Microsoft has shown it swilling to go to root out loopholes in any agreements it enters into and exploit them in such a way that any intended restrictions on its behavior are effectively neutralized. I also feel that the terms will do literally nothing to ease the market barrier to entry for new products, particularly open-source products such as the Linux operating system, which may happen directly compete with Microsoft's offerings.

There are a number of problems with the settlement which other shave outlined and on which I will not go into further details.However, I am dismayed by the extent to which the proposed settlement focuses almost completely on attempting to restrict Microsoft's behavior on the Windows desktop and middleware platforms, to the virtual exclusion of server platforms and other operating system products that are offered or soon to be offered Microsoft. In particular, the name "Windows" is mentioned 56times in the document, yet no mention is made of the embedded operating system market or of Microsoft's explicitly stated intention to replace the Windows desktop and server platform with the .NET initiative. Furthermore, the definitions of "operating system," "personal computer," "Microsoft Platform Software," and"Windows Operating System Product" refer entirely to desktop operating systems intended for use by a single user at a time.

This loophole would have the effect of rendering Section III.A moot in its entirety should Microsoft attempt to retaliate against an OEM that is attempting to market a competing Server Platform on its products. Additionally, the proposed settlement does nothing to preclude Microsoft from dropping the Windows Brand name altogether and continuing their customer lock-in,competition-stifling and monopoly-extending behavior on a similar but differently named platform.

Dan Kegel has done an excellent analysis which may be found online at (http://www.kegel.com/remedy/remedy2.html). Mr.Kegel's site also contains links to several other very compelling analyses. Due to the flaws which I and others have pointed out,the settlement as it is currently written does not serve the public interest and should not be accepted without considerable revisions to ensure that the market is not tilted unfairly inMicrosoft's favor.

Thank you for your time and for considering my point of view.

Sincerely,
Brian Showalter, Programmer/Analyst
14713 W. 149th Court
Olathe, KS 66062

MTC-00028551

From: Dave Janne
To: Microsoft ATR
Date: 1/28/02 4:31pm
Subject: Microsoft case

Gentlemen- I'll make this short. It's time to settle this case. I think the settlement is more than fair, and any more delay in this is ongoing to hurt the economy more than it already has.

Thank you
L. David Janne- Pres.
Steuben Electronics Inc.
CC:fin@mobilizationoffice.com@inetgw

MTC-00028552

From: Larry Boler
To: Microsoft ATR
Date: 1/28/02 4:31pm
Subject: Microsoft Settlement

Enough is enough. Let's end the legal assaults on Microsoft.

Microsoft has done more for the consumer than anybody else in the industry.

Without Microsoft's excellent leadership and ongoing product improvements we would not be where we are today. Are we about to go back in time?

Let the Free Enterprise System function the way it should and give Microsoft a chance to once again put 100% of it's efforts to making better products for the benefit of consumers.

Larry Boler

MTC-00028553

From: John Jackson
To: Microsoft ATR
Date: 1/28/02 4:30pm
Subject: Microsoft Settlement
13223 46th Place W
Mukilteo, WA 98275
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the settlement that was reached in November between Microsoft and the government. I support this settlement and believe it is a fair and sufficient agreement to end the three-year antitrust dispute.

This settlement contains provisions that will foster competition. Microsoft has agreed to share more information with other companies and is willing to follow procedures to make it easier for companies to compete. Under this agreement, Microsoft must design future versions of Windows to make it easier to install non-Microsoft software. Microsoft has also agreed to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price. Microsoft will be monitored for compliance by a technical committee established by order of the settlement.

This settlement will serve in the best public interest. Microsoft has contributed so much to our society that stifling this company will only serve to negatively impact the public. Please support this settlement. Thank you for your time.

Sincerely,

John Jackson

MTC-00028554

From: Arman.Oruc@CliffordChance.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:28pm
Subject: Microsoft Settlement

Attached please find comments by Palm, Inc. to the Revised Proposed Final Judgment in United States v. Microsoft Corporation, No. 98-1232, State of New York, et al. v. Microsoft Corporation, No. 98-1233, submitted pursuant to the Tunney Act, 15 U.S.C. 16.

The attached is a .pdf file. We are also delivering hardcopies for your convenience.

Please contact Craig Waldman at (212) 878 8458 with any questions or comments.

<<Palm's Tunney Act Submission.pdf>>

For further information about Clifford Chance please see our website at http://www.cliffordchance.com or refer to any Clifford Chance office.

MTC-00028556

From: Henry Keultjes
To: Microsoft ATR
Date: 1/28/02 4:32pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
Re.: Microsoft Settlement

Dear Ms. Hesse:

In response to the request for comments in USDOJ vs Microsoft in accordance with the Tunney Act I ask that such settlement be rejected. Having read the Revised Proposed Final Judgment between USDOJ and Microsoft, and having read the alternate proposed settlement by the nine states and DC, and having understood that the purpose of the Tunney Act to solicit feedback from US citizens affected by the outcome of a final judgment is to make sure that any such final judgment is in the best interest of the consumer, let me start by asking three questions:

1. Now that Microsoft has been at the center of antitrust controversy forever, starting when Novell sued Microsoft culminating in a consent decree in 1994, is it not in the best interest of the consumer and our country as a whole to find a solution that will keep Microsoft out of the courts, at least for a while?

2. Can the USDOJ vs Microsoft settlement proposal be in the best interest of the consumer if the agreement cannot be clearly understood even by the fairly educated person with a fairly good understanding of law that I am?

3. Can the USDOJ vs Microsoft settlement proposal be in the best interest of the consumer if the agreement ignores that, because Microsoft's marginal cost is effectively zero, remedies, that might have been effective for a predatory competitor that *does* have real marginal costs, are totally ineffective here?

What I, as the president of a company and as a consumer seek is simply an environment in which I can buy at a fair price what has become as ubiquitous a product as typewriters once were. In this case, however, this ubiquitous product is without the traditional competitive market place price pressures that go with ubiquitous products. Therefore prices for those Microsoft products that have replaced our typewriters are about four times higher then a competitive market would allow.

The solution, the remedy, that USDOJ and Microsoft offer to solve the issue of Microsoft having been found guilty of anti-trust violations gives me very little comfort, if any, that such a competitively priced market will develop as a result of that agreement. As a matter of fact, if the agreement is allowed to become final, Microsoft will be emboldened to eliminate some of the loopholes that have allowed sophisticated buyers to avoid the so-called Microsoft tax, the fact that the consumer pays for Microsoft products when s(he) buys a PC, whether s(he) needs those Microsoft products or not.

On the other hand, the alternative settlement agreement proposed by the nine states and DC appears to offer a solution that *does* create a competitive environment where it now counts most, the desktop.

Rather than addressing the various aspects of the USDOJ vs Microsoft proposal further, I will just address one issue, the clause in the alternate proposal that Microsoft establish three competitors for its MS-Office product through an auctioning process.

The real sticky problem in trying to find a good solution to *this* anti-trust case lies in the fact that, although an individual or a company may want to switch to a competitor's OS, the huge investment in training and learning MS-Office products, such as MS-Word and and MS-Excel, effectively discourages or even prevents such a switch.

If one draws an analogy between the oft cited Standard Oil anti-trust case, Microsoft has managed to bring about a situation where 90% (including Apple's 5%) of the desktop software can only run on MS-Windows gasoline. Forcing Microsoft to sell off gas stations under those circumstances is obviously not a remedy. However, by forcing Microsoft to auction off three copies of MS-Office, complete with formulas and technical assistance for ten years, competitors can develop desktops that people already know and like but which desktops run on the gasoline of those competitors.

Forcing Microsoft to just share the formula for the gas is an inadequate remedy, not only because, in the eyes of its competitors and a significant segment of the hightech industry, the quality of Microsoft gas is not very good, but also because of the time delay to build a refinery capable of producing that special gasoline.

The solution that the nine states and DC are proposing is therefore an analogy to a Standard Oil case that is even more threatening to the consumer because, in this case, Microsoft also owns the factory that makes the special cars that more than 90% of the people are using now and which cars only run on Microsoft's own special gasoline. Forcing Microsoft to become the non-exclusive manufacturer of those proprietary MS-Office cars is therefore a brilliant remedy on the part of the nine states and DC as well as a meaningful punishment for Microsoft because it is neither a cash punishment not a punishment that will hobble the company.

Competition for the dollars that consumers will spend to buy MS-Office is not only a desirable end to this anti-trust case, by having an MS-Office version that effective runs on OSes like Linux and Unix, this solution will also lead to a more lasting end to this energy sapping Microsoft antitrust hassle. By punishing Microsoft fairly for its proven illegal behavior, the government in effect discourages other illegal behavior, such as cracking, by large groups of people who feel justified to take the law into their own hands if their government fails to afford its consumers protection from a monopolist under the law.

Unless our government punishes Microsoft fairly for its illegal behavior, our government in effect creates an atmosphere in which lawlessness can blossom.

Restated in simple terms, it is my belief that it is in the best interest of the consumers and our country that the court reject the proposed USDOJ vs Microsoft final judgment and instead adopt the remedies in the proposed final judgment of the nine states and DC as the final judgment.

Sincerely,

Henry B. Keultjes
President
Microdyne Company
POB 1056
Mansfield OH 44901-1056
Voice 419-525-1111
HBK/s 27 January 2002

MTC-00028557

From: Bruce Morgan
To: Microsoft ATR
Date: 1/28/02 4:33pm
Subject: Microsoft Settlement

I fully support the proposed settlement between Microsoft and the DOJ. Despite months of testimony and years of legal wrangling, no one has ever given any significant evidence of any consumer harm as a result of Microsoft's actions and behaviors.

Microsoft's Windows operating system including the Internet Explorer browser is far and away the most user friendly, functional, and highest value operating system available. By building the browser functionality into the operating system (both as a user-level feature like IE and as the MSHTML components for ISVs to use), Microsoft has provided a level of functionality far beyond anything any other vendor has delivered.

I think settling this case is the best way for the software industry to move forward.

competing in the market instead of in the courts.

Sincerely,
Bruce Morgan
Bellevue, WA

MTC-00028559

From: Fred Rone
To: Microsoft ATR
Date: 1/28/02 4:32pm
Subject: Microsoft Settlement

Dear DOJ:

Please impose penalties on Microsoft that will encourage new competition in operating systems. The current de facto monopoly results in the price gouging that is apparent in Microsoft's extremely high profit margins.

Sincerely yours,
Fred Rone
frone@prodigy.net

MTC-00028560

From: Bob Ray
To: Microsoft ATR
Date: 1/28/02 4:33pm
Subject: Microsoft Settlement

I can't believe that the government's response to Microsoft's criminal behavior is a mere slap on the wrist. Not only will Microsoft continue to engage in anti-competitive and probably illegal behavior but other large companies will be encouraged to do so as well.

Bob Ray

MTC-00028561

From: Chris Waterson
To: Microsoft ATR
Date: 1/28/02 4:35pm
Subject: Microsoft Settlement

One rememdy that I would find particularly satisfactory would be for Microsoft to have to ship a copy of Netscape's product with every copy of their operating system. :-)

Chris Waterson
437 Hoffman Ave.
San Francisco, CA 94114
415–642–3522
CC:microsoftcomments@doj.ca.gov@inetgw

MTC-00028562

From: Robert Randall
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject" Microsoft Settlement

Attached, in WordPerfect format are a cover letter and comments regarding whether the Microsoft settlement is in the public interest. Let me know if you have difficulty opening the attached WordPerfect files.

Robert L. Randall
RainForest ReGeneration
1727 Massachusetts Ave NW
Washington, DC 20036
Tel: (202) 205–3366
Fax: (202) 483–5175

RAINFOREST REGENERATION
THE RAINFOREST REGENERATION INSTITUTE
?27 MASSACHUSETTS AVENUE NW
WASHINGTON, DC 20036

26 January 2002

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

Accompanying are public comments regarding the proposed Microsoft settlement submitted for consideration pursuant to the Tunney Act proceedings before the District Court for the District of Columbia.

I am not a lawyer, computer professional, or Microsoft competitor. I use personal computers to perform business "office" functions and am concerned by how unwieldy and unreliable Windows has become as new "features" I do not want or use are incorporated. I also use Linux and find it better than Windows for my needs. However, few of the specialized applications programs I need for my work (in addition to general purpose "office" applications) are available for that platform without custom programming or adaptation so using Windows is a practical necessity. Microsoft products are priced considerably higher than their functional equivalents by other publishers, a phenomenon I attribute to Microsoft's monopoly pricing power that the instant Tunney Act proceedings are intended to curb in the public interest while not losing the benefits of vigorous innovation in computer and communications technology.

You have my permission to publish these comments and to make whatever use of them in the Tunney Act proceedings you see fit. I hope these comments will be helpful to the Court.

Respectfully submitted,

Is the Microsoft Settlement in the Public Interest?

The settlement negotiated between Microsoft and the Justice Department and several of the plaintiff States appears to rest on the dubious proposition that the public interest is synonymous with the summation of private interests. Secondly, while the settlement arguably addresses the "middleware" problem that was the focus of much attention in the trial, it is weak, if not completely ineffectual, with respect to the equally important prevention of Microsoft's apparent extension of its operating system monopoly to the most widely used business applications software programs. These observations are amplified below.

While the Sherman Act provides for a private right of action seeking trebling of private damages suffered from monopolization, its strong feature was declaring monopoly and monopolization to be detrimental to the general public interest beyond the summation of losses to identifiable private parties who might sue. These days, in a case such as this, the loss to the general public interest might be seen as a stifling and channeling of innovation into forms approved by the monopolist, a hard-to-predict and quantify loss to an undefined and disparate "public." This is the putative loss the Sherman Act is intended to mitigate through the Tunney Act proceedings. The Justice Department observed in its Competitive Impact Statement that the Court does not have the authority to write a different settlement that it might prefer and that what might emerge from further proceedings, and when, in the event the Court rejects the settlement as not in the public interest is indeterminate. It is also the case that several plaintiff States have not agreed to the instant settlement, though they could yet do so, suggesting that any final resolution with respect to their continuing action would need to be integrated, or made compatible, with this negotiated settlement in the event this settlement is accepted by the Court, if the public interest is not to be undermined by a patchwork of remedies applied to one monopolist by various parties. Moreover, it must also be observed that if this settlement is approved for all the practical reasons noted by the Justice Department, it is also nearly a foregone conclusion that another, more far-reaching governmental antitrust action against Microsoft is practically precluded during the five years duration of this consent decree, even if the consent decree were manifestly not working adequately. In the fast moving field of computers, software, communications, entertainment, and their conjunction—of possibly great value to at least some members of the public—five years is a long time. Lastly, it must be noted that Microsoft is likely to be the landmark case in applying antitrust law and principles to fast moving, high-technology businesses so it is important to get a sound foundation in place for future reference and consideration.

The Court found at trial, and the Court of Appeals affirmed, that Microsoft has a monopoly in its Windows operating system for Intel-compatible personal computers (without any finding that its Windows monopoly is either per se unlawful or unlawfully obtained) and that Microsoft had reinforced and extended its monopoly by a variety of business practices that the instant remedy is intended to rectify. Indeed, the trial Court asserted at some length that computer operating systems may be a natural monopoly in that: (a) the customer generally is buying the computer for the functionality provided by their chosen application programs, (b) OEMS have an over-riding need to sell a machine that works with their hardware and the unknown customer's application programs, (c) software publishers find it easier and more economical to write for only one operating system rather than for several platforms, and (d) most customers want the operating system that works with the most readily available standard software so as to be protected with respect to future needs not fully foreseeable now.

The Court's Findings of Fact noted that while most consumers might have no objection to a "free" internet browser bolted into their Windows operating system, many business customers might prefer not to make it easy for their employees to browse the Internet if their duties do not require it. More generally, there may be a broader divergence of what features, capabilities, and level of "pre-integration" is wanted and valued by household consumers and by business (office) customers for personal computers, and possibly by other significant identifiable market segments for personal computers. Whether or not the new features may be in some sense "free" of extra charge, they manifestly take up more memory, disk space, and other computer resources, none of which are free, and may be more prone to "bugs", security holes, and incompatibilities unrelated to the features a particular user actually wants, needs, values, and in purchasing a personal computer system.

Much of the trial was taken up with "middleware", in particular internet browsers and the Java programming language, as both were seen as actually—or at least potentially—offering a new standard set of applications programming interfaces ("hooks") for other, unrelated application programs of possibly less market penetration potential, while the "middleware" itself is more susceptible of being made compatible with non-Windows operating systems (or even native code interfaces) on the machine hardware side. Others can comment more perceptively on how effectively the settlement addresses that problem through its proposed Technical Committee. Though not as thoroughly addressed at trial, Microsoft appears to have extended its Windows monopoly into the large business applications software market (e.g., word processing, spread-sheets, small databases) through the same kinds of business practices as were found unlawful with respect to "middleware." That is, when word processing, spreadsheets, and databases were observed to be applications that were inducing businesses (including government, non-profit, etc., "office" environments) to buy computers to put on nearly every employee's desk, Microsoft first tried to program such applications themselves, then if unsuccessful, buy up a third-rate contender in the field, threaten the first-rate contender that if they didn't sell out Microsoft would not make new API "hook" information available to them on a competitively timely basis, and apparently design special, undisclosed "hooks" into Windows that would make Microsoft's own applications software run better, faster, and/or more reliably than competitors" products, such compatibility providing great marketing advantage (and commanding higher market prices) over rival applications program publishers whose products might be functional superior to Microsoft's offerings in consumers" perceptions. Microsoft thereby eventually established a monopoly for these widely used, and lucrative, "business" application programs. Whether the Technical Committee approach proposed works for "middleware", where there are likely to be only a few, very sophisticated "middleware" developers, it is likely to be much less successful in providing relief to general software and applications developers and publishers, who are less likely to have the depth of programming expertise of a middleware developer, or to be able to make a good case for requesting new API "hooks" of Microsoft's Windows that might be helpful to their new application, yet that might have the potential to become the new "next big thing." (That adaptability for new or special needs is one of the great virtues of open-source operating systems like Linux as one can add new API hooks as needed and push them into the operating system when the application program loads. Microsoft, of course, is unalterably opposed to open-source software as an expropriation of their intellectual property. While that may be their legitimately chosen business strategy, it leaves them open to antitrust charges if they exercise monopoly power in pursuing such a strategy.)

In summary, the Court should carefully consider whether the negotiated settlement decree will fully and reasonably protect the public from stifling and channeling of innovation in personal computers, aside from its direct effects on competitive private parties. In particular, the Court should inquire carefully into whether the Technical Committee approach underlying the proposed consent decree, particularly with respect to general applications developers/ publishers as distinguished from "middleware" developers is sufficient to protect the public interest in this fast moving field.

Respectfully submitted,
Robert L. Randall
The RainForest ReGeneration Institute
1727 Massachusetts Avenue NW
Washington, DC 20036
Telephone: (202) 205–3366

From: BigStrains@aol.com @inetgw
To: Microsoft ATR
Date: 1/28/02 4:38pm
Subject: Microsoft Settlement

Renata B. Hesse:

I beleive the Proposed Settlement with Microsoft is fair.It is time for the Government to move forward, lets get the economy back on its feet. This should be a good stimulus to the stock market and us individual investors.

The DOJ should spend more time going after the Enron's who have been robbing the small investors of their pensions.

John J. Strain
16 Corte Almaden
San Rafael, CA> 94903
415–492–3310
CC: fin@mobilizationoffice.com@inetgw

MTC–00028564

From: Katz, Diane S.
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 4:39pm
Subject: Microsoft
28 January 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse,

Pursuant to the Tunney Act, please accept these comments in support of the proposed settlement in the case of U.S. v. Microsoft. The Mackinac Center for Public Policy is an independent, non-profit research and educational institute dedicated to consumer choice and economic growth. Having closely followed the Microsoft case, we have concluded that consumers have largely benefited from the company's innovative products and services. In particular, the bundling of software applications has greatly enhanced consumer capability and convenience. In the absence of evidence of harm to consumers, it is in the public interest to end this protracted litigation. A settlement of the matter would allow Microsoft to focus its attention once again on producing useful products while also halting the enormous waste of taxpayers" dollars on punishing private-sector success.

There is no question that Microsoft has proved to be an aggressive competitor. But there is no evidence of either a shortage of software products or rising prices. Indeed, the software market has grown tremendously in recent years while product prices have fallen dramatically. It thus appears that this case was largely provoked by rivals intent on gaining a competitive advantage through government force. The unjustified nature of the antitrust complaint does not warrant further punishment.

Thank you for the opportunity for comment.

Diane Katz
Director of Science Environment and Technology Policy
Mackinac Center for Public Policy
140 West Main Street
P.O. Box 568
Midland, MI 48640

MTC–00028565

From: Mark Cooper
To: Microsoft ATR
Date: 1/28/02 4:38pm
Subject" Microsoft Settlement

Please accept the attached comments on behalf of a variety of consumer groups.

Dr. Mark N. Cooper
Director of Research
Consumer Federation of America
(www.consumerfed.org)
mailto: markcooper@aol.com
tel: 301/384–2204

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA, Plaintiff, VS. MICROSOFT CORPORATION, Defendant
STATES OF NEW YORK ex rel. Attorney General ELIOT SPITZER, et al., Plaintiff, VS. MICROSOFT CORPORATION, Defendant
Civil Action No. 98–1232 (CKK)
Civil Action No. 98–1233 (CKK)

Tunney Act Comments of
Consumer Federation of AmericaCalPIRG
Connecticut Citizen Action Group
ConnPIRG
Consumer Federation of California
Consumers Union
Florida Consumer Action Network
Florida PIRG
Iowa PIRG
Massachusetts Consumers" Coalition
MassPIRG
Media Access Project
U.S. PIRG
Submitted January 25, 2002

A FINAL JUDGMENT MUST CORRECT THE VIOLATION OF THE LAW

THE MICROSOFT-DOJ PROPOSED FINAL JUDGMENT IS NOT IN THE PUBLIC INTEREST

We find the Microsoft-Department of Justice final judgment proposal to be fundamentally flawed. It is as an entirely inadequate remedy to the sustained, egregious, illegal conduct engaged in by Microsoft to thwart competition in the software industry and protect and enhance its own monopolies. Because it fails to protect consumers, it fails to serve the public interest. It should be rejected by the District Court.

FEDERAL LAW REQUIRES PUBLIC COMMENT. THE COURT SHOULD REVIEW ALL COMMENTS

Federal antitrust law (Tunney Act, 15 U.S.C. § 16) requires the Department of Justice to "receive and consider" comments related to the proposed Microsoft-DOJ resolution currently under review by Judge Colleen Kollar-Kotelly of the U.S. District Court for the District of Columbia. Judge Kollar-Kotelly has ordered the Justice Department to provide to her by February 27 its response to comments received. The Tunney Act requires Judge Kollar-Kotelly, in turn, to determine whether the Microsoft-DOJ proposal is in the "public interest" To make that determination, she may —to our mind must— consider the competitive impact of the proposal, including:

* termination of alleged violations and prevention of future monopolization,
* provisions for enforcement and modification,
* duration or relief sought,
* anticipated effects of alternative remedies actually considered, and
* any other considerations bearing upon the adequacy of such judgment.

Under the Tunney Act, Judge Kollar-Kotelly is also given the option of reviewing the original comments provided to the Department of Justice, rather than just the DOJ's response to them. We believe that Judge Kollar-Kotelly should endeavor to read all comments submitted in this highly contentious and landmark case. We believe that the Department of Justice is institutionally disposed to give inadequate consideration to comments such as these critical to a resolution that it, along with Microsoft, has proposed.

Our comments demonstrate that determining whether the DO J-Microsoft proposal is in the public interest should be a fairly straight forward exercise. The proposal fails to terminate the antitrust violations of which Microsoft has been found guilty (at trial and on appeal). Its enforcement provisions are weak at best. It restricts Microsoft behavior for a much-too-short period of time. Myriad other problems, discussed below as well as in detailed analysis attached to these comments prepared by the Consumer Federation of America and Consumers, encumber and eviscerate an otherwise vague and loophole-fiddled settlement proposal. Finally, a strong, workable alternative remedy, advanced by the state attorneys general who continue to aggressively pursue the case, already has been submitted to the Court for review. Unlike the Microsoft-DOJ proposal, that alternative would protect consumers and the public interest. With such numerous and obvious shortcomings, the District Court should reject the Microsoft-DOJ proposal in short order.

THE PUBLIC INTEREST TEST REQUIRES THAT FINAL JUDGMENT PROTECTS CONSUMERS

We insist on such an outcome on behalf of our constituencies, who are America's average consumers. Our groups have worked on basic consumer pocketbook issues across the nation for decades, and our membership numbers in the tens of millions. We believe that the public interest in this case is properly understood to include the harms that average consumers have experienced due to Microsoft's illegally anti-competitive activities. Individual consumers ultimately paid the price of Microsoft's past abuses of monopoly power, directly and indirectly, and they will pay for a continuation of the Microsoft monopoly. Any remedy endorsed by the Court needs to benefit consumers by restoring competition in those segments of the software industry that Microsoft has monopolized or is in danger of monopolizing. We acknowledge that, considering Microsoft's long-standing unfair business practices and deeply entrenched monopoly, such a task will not be easy. It is because of these same factors, however, that it is necessary.

THE SOFTWARE INDUSTRY IS RIPE FOR COMPETITION AND DOES NOT LEND ITSELF NATURALLY TO MONOPOLY

We begin by rejecting claims that the software industry is prone to natural monopoly.

Were that the case, Microsoft would not have had to engage in its systematically anti-competitive practices to maintain and extend its monopolies. The trial record and reams of trade press accounts bear testimony to the unnatural acts embraced by Microsoft to create and protect its monopoly power over the years. These include leveraging the Windows operating system, slowing or stopping its own deployment cycle, denying access to application interfaces, threatening to deny access to its operating system, threatening to stop developing software for competing platforms, bloating the operating system with unnecessary functionality, hiding prices in whole computer configurations, compelling computer manufacturers (original equipment manufacturers, or OEMs) to use its browser, reaching pacts with other companies to deny the use of alternative browsers, and on and on. Though the Department of Justice at least appears to agree in principle that monopoly in the software industry is neither natural nor desirable, in practice its proposal—prepared jointly with Microsoft allows for the continuation, if not exacerbation, of Microsoft market power.

In our view, the software industry is ripe for competition. Competition would yield an explosion of innovation and consumer convenience. Consumers care about applications, not about operating systems. Furthermore, most consumers are inclined to invest time and money in functional applications that they reasonably feel will endure, be supported, and work compatibility with other programs and their hardware. Independent vendors are interested, therefore, in creating products that match consumer expectations.

With the entrenched Microsoft monopoly, independent developers confront an applications barrier—Microsoft has such a significant lock on the computer platform and on applications used, that many developers are dissuaded from producing new products. Should the Microsoft monopoly be broken down, developers would look to create compatible, consumer-friendly products. In fact, that is what Netscape and Sun attempted to do with Navigator and Java—create software, known as "middleware" because they insert themselves between the operating system and applications running on top of the middleware. Because Netscape/Java was compatible across systems, it threatened Microsoft. Microsoft's reaction was to launch an illegal campaign to crush Netscape and undermine Java.

Because Microsoft illegally undertook to prevent competition, consumers were left with products that did not honestly earn their place in the marketplace. Microsoft products have not been disciplined for price and quality by competitors because of the company's anti-competitive practices. Remove the monopoly, and an avalanche of competition —aiming towards operable standards, innovative products, and better pricing— will be unleashed. Such developments would provide undeniable benefit to consumers. The software market will support, and therefore the public interest demands, actual competition within and between markets.

THE CHALLENGE BEFORE THE COURT

MICROSOFT'S DEEP-ROOTED ANTI-COMPETITIVE BUSINESS MODEL

Detailing Microsoft's anti-competitive business model is a nearly interminable task, though it was accomplished well by the District Court in its Findings of Fact, virtually all of which were upheld on appeal. The analysis attached by Consumer Federation of America and Consumers Union describe at length the depths to which Microsoft would sink to prop up its operating system monopoly, and to conquer other markets, such as for the browser and business productivity suites. The list of corporate victims is long, and includes not just Netscape and Sun, but also IBM, Intel, and Apple. Figure 1, below, summarizes in simple terms the barriers to competition that Microsoft has repeatedly erected. We reiterate that the Department of Justice and the Court should not lose sight of the fact that such practices ultimately negatively impact individual consumers, in the forms of higher prices, reduced choice, and inferior products and service.

CONSUMERS ARE HARMED BY MICROSOFT'S ABUSE OF MARKET POWER

Microsoft's widespread, unlawful practices, which the Microsoft-DOJ proposal fails to correct, harm consumers both qualitatively and monetarily. The harms are sufficiently great to require that the Court avoid a "quick fix." It is much more important to devote a reasonable amount of time to get the final judgment right and protect consumers.

Microsoft's anticompetitive practices deny consumers choice. Microsoft strictly forces computer manufacturers to buy one bundle with all of its programs preloaded and biases the screen location, start sequences and default options. As a result, it becomes substantially difficult to choose non-Microsoft products. Products tailored to meet individual consumer needs (consumer friendly configurations, small bundles) are unavailable and eventually competing products disappear from the market. Further, by foreclosing the primary channels of distribution with exclusive contracts and other deals, Microsoft forces consumers of non-Microsoft products to acquire them in time-consuming and inconvenient ways.

FIGURE 1: HOW MICROSOFT STOPS COMPETITION AND HARMS CONSUMERS CONSUMER

DENY CUSTOMER CHOICE Force bundles so OEMs won't install competing software Control the boot screen and desktop Restrict icons and add/remove buttons

CLOSE DOWN DISTRIBUTION<5>Exclusionary deals with Internet Access Providers. Prevent computer manufacturers from preinstalling non-Microsoft products Commingling code to make it hard to preinstall non-Microsoft products

UNDERMINE FUNCTIONALITY DEVELOPMENT AND PRODUCT SUPPORT Restrict functionality Prevent developers from focusing on non-Microsoft products Deceive developers into supporting proprietary products Undermine compatibility Prevent support for competing products

SOFTWARE DEVELOPER

In addition, Microsoft's practices impair quality and innovation. Because of Microsoft's leveraging of the operating system, superior products are delayed or driven from the marketplace. The District Court noted at least six instances in which Microsoft sought to delay the development of competing products. It noted as well several instances in which it delayed the delivery of its own products to accomplish an anti-competitive purpose. Resources are denied to and investment is chilled in competing products, slowing advances in technology and rendering some libraries of content obsolete. In addition, in several instances the Court found that Microsoft had undermined the ability of software applications or middleware to function properly with the Windows operating system. Thus, Microsoft has been quite willing to undermine the quality of its own and of competing products to preserve its market dominance.

In addition to qualitative harm, consumers have suffered monetary harm. The historical behavior of prices makes it possible to draw a direct line between competition and lower prices. Eliminating competition, as Microsoft has, results in higher prices. The fact that the excess price results from a failure to pass cost reductions through to consumers does not change the fact that consumers are overcharged. Nor does the fact that consumers do not pay for the software directly. In fact, there was a substantial increase in the price of Microsoft products in the 1990s that consumers paid in the price of the PCs they purchased. Of course, consumers do pay directly in the case of upgrades and for applications.

The centerpiece of Microsoft's pricing strategy has been to increase operating system prices while other components of the delivered PC bundle have fallen. Evidence at trial gave explicit estimates of the price of operating systems. The average preinstalled price is given as $19 in 1990 and over $49 in 1996. During that time span the average Microsoft revenue for preinstalled software rose from $25 to $62. Microsoft recognizes that it has been the beneficiary of volume growth created by the falling price of the PC, which masks its increasing prices. Thus, one of the key elements in Microsoft's business model is to bury its products in bundles. This hides the price from the public and allows Microsoft to hide behind the declining price of the total package.

The Consumer Federation of America has estimated that in the five years between the start of the anticompetitive attack on the browser in 1995 and the District Court finding of liability, Microsoft overcharged consumers by about $20 billion. The economic analysis of other experts suggests overcharges of as much as $30 billion.

In addition to direct monetary costs, indirect monetary costs of the Microsoft monopoly also present themselves. Though difficult to calculate, they are no less significant, and demand to be considered. Consumers, individual and corporate, have undoubtedly lost hundreds of millions of dollars due to such issues as training, rapid upgrade cycles, software crashes, bloated bundles, debugging, service, and hardware upgrades.

WINDOWS XP/.NET, LEFT UNCHECKED, ENHANCES AND EXPANDS THE MICROSOFT MONOPOLY

Microsoft's brazen disrespect for the antitrust laws is nowhere more readily apparent than in the design of its newest bundle of products ("Windows XP," and the ".NET" initiative, hereafter referred to as "Windows XP/.NET"). The product is so blatantly at odds with the Court's ruling Microsoft must have designed it on the mistaken assumption that Microsoft would prevail in its appeal.

The extreme reliance of "Windows XP/.NET" on a huge bundle of entire applications and the continued reliance on contractual and technological bundling fly in the face of the Court's cautionary words. Windows XP and the .NET initiative are a bundle of services bolted together by technological links (code embedded in the operating system), contractual requirements, and marketing leverage.

The software, applications, and services that Microsoft has bundled cover all of the functionalities that are converging on the Internet, including communications, commerce, applications, and service. Today these Internet activities are vigorously competitive, just as the browser was before Microsoft launched its victorious attack against Netscape. In other words, the anticompetitive and illegal business practices Microsoft used to win the browser war are being extended to virtually every other application that consumers use. The bundle is built on commingled code, proprietary languages, and exclusive functionalities that are promoted by restrictive licenses, refusal to support competing applications, embedded links, and deceptive messages. A strong remedy, unlike the weak one proposed by Microsoft and the Justice Department, is needed before Microsoft becomes the monopolist of virtually all computer and Internet applications.

THE PROPOSED FINAL JUDGMENT FAILS TO PROTECT INDEPENDENT SOFTWARE DEVELOPERS, COMPUTER MANUFACTURERS, AND CONSUMERS

The history of the case and our analysis of the software industry show that in order for new software to have a fair chance to compete, the remedy must:

ù create an environment in which independent software vendors and alternative platform developers are free to develop products that compete with Windows and with other Microsoft products,

* free computer manufacturers to install these products without fear of retaliation, and

* enable consumers to choose among them with equal ease as with Microsoft products.

The Microsoft-Department of Justice settlement is an abysmal failure at all three levels. Under the proposed Microsoft-Department of Justice settlement, Microsoft will be undeterred from continuing its anticompetitive business practices.

INDEPENDENT SOFTWARE VENDORS GET LITTLE RELIEF UNDER THE MICROSOFT-DOJ PROPOSAL

Independent software vendors and competing platform developers will get little relief from Microsoft's continual practice of hiding and manipulating interfaces. Microsoft has the unreviewable ability under the proposed settlement to define Windows itself. It therefore controls whether and how independent software developers will be able to write programs that run on top of the operating system. The definitions of software products and functionalities and the decisions about how to configure applications programming interfaces (APIs) are left in the hands of Microsoft to an extreme extent. As a consequence, the company will be encouraged to embed critical technical specifications deeply into the operating system and thereby prevent independent software developers from seeing them. To the extent that Microsoft would actually be required to reveal anything, it would be so late in the product development cycle that independent software developers would never be able to catch up to Microsoft's favored developers.

Furthermore, the Court of Appeals recognized that the Microsoft monopoly is protected by a large barrier to entry, as many crucial applications are available only for Windows. The proposed settlement does nothing to eliminate this "applications barrier to entry," such as by requiring the porting of Microsoft Office to other PC platforms. Rather than restore competition, the Microsoft-DOJ proposal all but legalizes Microsoft's previous anticompetitive strategy and institutionalizes the Windows monopoly.

COMPUTER MANUFACTURERS HAVE LITTLE ABILITY OR INCENTIVE TO INSTALL NON-MICROSOFT PRODUCTS UNDER THE PROPOSED FINAL JUDGMENT

The Microsoft-DOJ proposal does not shield computer manufacturers from Microsoft retaliation. The restriction on retaliation against computer manufacturers leaves so many loopholes that any OEM who actually offended Microsoft's wishes would be committing commercial suicide. Microsoft is given free reign to favor some, at the expense of others, through incentives and joint ventures. It is free to withhold access to its other two monopolies (the browser and

Microsoft Office) as an inducement to favor the applications that Microsoft is targeting at new markets, inviting a repeat of the fiasco in the browser wars. Retaliation in any way, shape, fit, form, or fashion should be illegal. Any adequate remedy, unlike the Microsoft-DOJ proposal, must include a prohibition on retaliation that specifically identifies price and non- price discrimination as well as applying to all monopoly products.

CONSUMER SOVEREIGNTY IS NOT RESTORED BY THE SETTLEMENT.

Because the proposed settlement requires no removal of applications, only the hiding of icons, Microsoft preserves the ability to neuter consumer choice. The boot screen and desktop remain entirely tilted against competition. Microsoft retains the ability to be the pervasive default option and is allowed to harass consumers who switch to non-Microsoft applications. Furthermore, it still gets to sweep third party applications off the desktop, forcing consumers to choose them over and over.

GIVEN MICROSOFT'S PAST BEHAVIOR, ENFORCEMENT MUST BE SWIFT WITH SUBSTANTIAL SANCTIONS FOR NON-COMPLIANCE, BUT THE PFJ PROVIDES NO SUCH MECHANISMS

After the District Court identifies remedies that can address these problems, it must enforce them swiftly and aggressively. Microsoft has shown —through a decade of investigations, consent decrees and litigation— that it will not easily be deterred from defending and extending its monopoly. Microsoft behaves as though it believes it has the right to do anything to eradicate competition. Every one of the illegal acts that led to the District Court findings of liability, unanimously upheld on appeal, took place after Microsoft signed its last consent decree.

With three monopolies to use against its potential competitors (the Windows operating system, the Internet Explorer browser, and Office in desktop applications), enforcement must be swift and sure, or competition will never have a chance to take root. The proposed settlement offers virtually nothing in this regard. The technical committee set up to (maybe) hear complaints can be easily tied up in knots by Microsoft because of the vague language that creates it. Because of the delay in its implementation, the crucial element of API disclosure will be in place for only four years. If Microsoft violates the settlement, nothing happens to the company, except that it must "endure" the annoyance of this weak settlement for an additional two years. Moreover, Virtually every specific measure of the proposed settlement is either fiddled with ambiguities or put under the sole discretion of Microsoft. In other words, Microsoft defines its own sanctions. The Department of Justice and the Court must not forget that independent software vendors were the targets of Microsoft's campaign and that the competitive process in the software market was its victim. When we review the question of whether the proposed settlement will lift the yoke of anticompetitive practices from this market, we find that it will not (see Figure 2). Under the proposed settlement, Microsoft preserves immense market power and discretion. The settlement cannot work to restore competition because independent software developers will not be freed to produce software products in a competitively neutral environment. As a result, consumers will continue to suffer at the hands of the Microsoft monopolies. The proposed settlement does not serve the public interest and must be rejected.

FIGURE 2: SOFTWARE COMPETITION WILL NOT BE RESTORED BECAUSE THE SETTLEMENT DOES NOT CREATE A LEVEL PLAYING FIELD FOR INDEPENDENT SOFTWARE VENDORS

DO I HAVE A FAIR CHANCE TO HAVE CONSUMERS USE MY PRODUCT?

Consumers have to choose my software twice to get my icon on the screen.

Consumers never have to choose Microsoft's; it's still the default.

Microsoft can sweep my icon off the system every 14 days.

WILL OEMs PUT MY PRODUCT ON THE PC?

Microsoft's code is guaranteed to be in every PC, only its icons are removed.

My code gets into only those PCs that I convince OEMs to install.

Microsoft can still give OEMs "considerations" to promote its product.

Microsoft can engage in Joint Ventures and prevent OEMs from using mine.

Microsoft can leverage its monopoly applications to keep my products out.

WHAT APIs DO I GET TO SEE?

Only APIs for products Microsoft has already developed.

Only APIs that Microsoft has decided not to move into the operating system.

Only APIs that Microsoft decides do not compromise its piracy, virus, licensing, digital rights management, encryption or authentication systems.

WHEN DO I GET TO SEE THE APIs?

Very late in the process, after Microsoft has had a huge head start in developing its products.

MTC-00028566

From: Michael Leibowitz
To: Microsoft ATR
Date: 1/28/02 4:32pm
Subject: Microsoft Settlement

I think the proposed settlement stinks. What public good does it serve?! The enforcement provisions are a farce!

Michael Leibowitz [michael.leibowitz@cirrus.com]

Applications Engineer, Embedded Processors

Cirrus Logic, Inc.
4210 S. Industrial Dr.
Austin, TX 78744
(512)912-6592

MTC-00028567

From: Michael Shaw
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 4:38pm
Subject: Microsoft Settlement
Michael Shaw
Systems Administrator
Johnson & Wales University
8 Abbott Park Place
Providence, Rhode Island 02903
P: 401-598-4357 F 401-598-1511
Michael Shaw
Johnson & Wales University
8 Abbott Park Place
Providence, RI 02903
January 27, 2002
John Ashcroft, Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Based on my background and experience in the technology industry, I think that the Microsoft antitrust case should be settled on the terms that are on the table now. Obviously, the terms could be tinkered with endlessly. Still, after three months of negotiate with the mediator appointed by the new federal judge on the case, the parties should have had ample opportunity to make the agreement as good as they could get it. The terms of the agreement will make it easier to work with Microsoft, which has been a stickler for holding to its legal fight from copyright and patent infringement, to driving a hard bargain in contract negotiations. For example, Microsoft has been insisting on exclusive marketing agreements, under which a personal computer, PC, building company must put Microsoft's Windows operating system on all of its computers or not receive the legal fight to use Windows at all. The other terms reflect the same opening up of Microsoft to enable its partners, rival and competitors an even greater participation in its overwhelming, and hard earned, success. This settlement will be good from computing, and good for America.

Thank you for your leadership on this issue.

Sincerely,
Michael Shaw

MTC-00028568

From: Hamid Tabassian
To: Microsoft ATR
Date: 1/28/02 4:40pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
Fax: 1-202-307-1454 or
1-202-616-9937
Email: microsoft.atr@usdoj.gov

I believe the terms that Microsoft has met or gone beyond the findings of the Court of Appeals ruling are reasonable and fair to all parties involved. Furthermore, I believe this settlement represents the best opportunity for Microsoft and the industry to move forward.

Thank you.
Hamid Tabassian
128 Sawmill Lakes Blvd
Ponte Vedra, FL 32082

MTC-00028569

From: Brian Greenwood
To: Microsoft ATR
Date: 1/28/02 4:40pm
Subject: Microsoft Settlement

Greetings,

As an executive,engineer and inventor (20+ patents) I would like to provide the following comments as the final decisions are made concerning the Microsoft Settlement.

I have been a user of Microsoft Products since buying my first personal computer in about 1983. I have also been responsible for the coordination of information technology within my employer's organization. In submitting these comments, I am not claiming to represent the official position of my current employer, but only my personal views.

The standardization in file formats and software interfaces over the years has greatly improved the ability of people to communicate with each other both within organizations and between organizations. Much of this standardization has come because people selected Microsoft's Products instead of those of other vendors. Taken as a whole, Microsoft's solutions have been superior to those offered by other vendors. The network effect of many users using a common tool has driven the level of deployment of Microsoft's products.

Do not go beyond the current settlement and impair the ability of Microsoft's engineers and programmers to create new and improve their existing software. It should not be the the role of Government to be in the middle of a company's design efforts.

The current settlement takes sufficient steps to correct the commercial missteps which were made by the Microsoft team.

Sincerely,
Brian F. Greenwood
6007 Castleton Manor
Cumming, Georgia 30041
email: bfgx@yahoo.com

MTC-00028570

From: Ernest W.
To: Microsoft ATR
Date: 1/28/02 4:40pm
Subject: Microsoft Settlement
US Department Of Justice,

I'm writing to offer support for Microsoft's position in the current Antitrust scenario against them. I feel that the government should NOT take adverse action against Microsoft. The marketplace will do that if the company deserves it. Other parties against Microsoft in the business realm stand to gain financially against Microsoft if the software giant gets penalized. They would therefore offer tons of reasons why Microsoft should be penalized—of course.

Please leave business matters of this sort to the marketplace and consumers instead of lawyers eager for their fees and jealous business rivals holding daggers behind them.

Thank you.
Ernest Wiatrek
19203 CR 341
Abilene, TX 79601
Ph: 915-676-4178

MTC-00028571

From: dank@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/28/02 4:39pm
Subject: Microsoft Settlement
To: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
28 January 2002

Ms. Hesse, As a software engineer with 20 years" experience developing software for Unix, Windows, Macintosh, and Linux, I'd like to comment on the Proposed Final Judgment in United States v. Microsoft. Please find my comments below. A copy of my comments is also posted on the Web at http://kegel.com/remedy/remedy2.html.

Sincerely,
Dan Kegel
901 S. Sycamore
Los Angeles, CA 90036

On the Proposed Final Judgment in United States v. Microsoft

Contents

* Introduction
* Understanding the Proposed Final Judgment
    How should terms like "API", "Middleware", and "Windows OS" be defined?
    How should the Final Judgment erode the Applications Barrier to Entry?
    How should the Final Judgment be enforced?
    What information needs to be released to ISVs to encourage competition, and under what terms?
    Which practices towards OEMs should be prohibited?
    Which practices towards ISVs should be prohibited?
    Which practices towards large users should be prohibited?
    Which practices towards end users should be prohibited?
    Is the Proposed Final Judgment in the public interest?
*Strengthening the PFJ
    Correcting the PFJ's definitions
    Release of Information
    Prohibition of More Practices Toward OEMs
*Summary

Introduction

As a software engineer with 20 years" experience developing software for Unix, Windows, Macintosh, and Linux, I'd like to comment on the Proposed Final Judgment in United States v. Microsoft.

According to the Court of Appeals ruling, "a remedies decree in an antitrust case must seek to 'unfetter a market from anticompetitive conduct', to terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future" (section V.D., p. 99).

Attorney General John Ashcroft seems to agree; he called the proposed settlement "strong and historic", said that it would end "Microsoft's unlawful conduct," and said "With the proposed settlement being announced today, the Department of Justice has fully and completely addressed the anti-competitive conduct outlined by the Court of Appeals against Microsoft."

Yet the Proposed Final Judgment allows many exclusionary practices to continue, and does not take any direct measures to reduce the Applications Barrier to Entry faced by new entrants to the market.

The Court of Appeals affirmed that Microsoft has a monopoly on Intel-compatible PC operating systems, and that the company's market position is protected by a substantial barrier to entry (p. 15). Furthermore, the Court of Appeals affirmed that Microsoft is liable under Sherman Act .7 2 for illegally maintaining its monopoly by imposing licensing restrictions on OEMs, IAPs (Internet Access Providers), ISVs (Independent Software Vendors), and Apple Computer, by requiring ISVs to switch to Microsoft's JVM (Java Virtual Machine), by deceiving Java developers, and by forcing Intel to drop support for cross-platform Java tools.

The fruits of Microsoft's statutory violation include a strengthened Applications Barrier to Entry and weakened competition in the Intel-compatible operating system market; thus the Final Judgment must find a direct way of reducing the Applications Barrier to Entry, and of increasing such competition.

In the following sections I outline the basic intent of the proposed final judgment, point out areas where the intent and the implementation appear to fall short, and propose amendments to the Proposed Final Judgment (or PFJ) to address these concerns.

Please note that this document is still evolving. Feedback is welcome; to comment on this document, please join the mailing list at groups.yahoo.com/group/ms-remedy, or email me directly at dank-ms@kegel.com.

Understanding the Proposed Final Judgment

In crafting the Final Judgment, the judge will face the following questions:

* How should terms like "API", "Middleware", and "Windows OS" be defined?
* How should the Final Judgment erode the Applications Barrier to Entry?
* How should the Final Judgment be enforced?
* What information needs to be released to ISVs to encourage competition, and under what terms?
* Which practices towards OEMs should be prohibited?
* Which practices towards ISVs should be prohibited?
* Which practices towards large users should be prohibited?
* Which practices towards end users should be prohibited?

Here is a very rough summary which paraphrases provisions III.A through III.J and VI. of the Proposed Final Judgment to give some idea of how the PFJ proposes to answer those questions:

PFJ Section III: Prohibited Conduct

A. Microsoft will not retaliate against OEMs who support competitors to Windows, Internet Explorer (IE), Microsoft Java (MJ), Windows Media Player (WMP), Windows Messenger (WM), or Outlook Express (OE).

B. Microsoft will publish the wholesale prices it charges the top 20 OEMs (Original Equipment Manufacturers) for Windows.

C. Microsoft will allow OEMs to customize the Windows menus, desktop, and boot sequence, and will allow the use of non-Microsoft bootloaders.

D. Microsoft will publish on MSDN (the Microsoft Developer Network) the APIs used by IE, MJ, WMP, WM, and OE, so that competing web browsers, media players, and email clients can plug in properly to Windows.

E. Microsoft will license on reasonable terms the network protocols needed for non-Microsoft applications or operating systems to connect to Windows servers.

F. Microsoft will not force business partners to refrain from supporting competitors to Windows, IE, M J, WMP, WM, or OE.

G. (Roughly same as F above.)

H. Microsoft will let users and OEMs remove icons for IE, MJ, WMP, WM, and OE, and let them designate competing products to be used instead.

I. Microsoft will license on reasonable terms any intellectual property rights needed for other companies to take advantage of the terms of this settlement.

J. This agreement lets Microsoft keep secret anything having to do with security or copy protection.

PFJ Section VI: Definitions

A. "API" (Application Programming Interface) is defined as only the interfaces between Microsoft Middleware and Microsoft Windows, excluding Windows APIs used by other application programs.

K. "Microsoft Middleware Product" is defined as Internet Explorer (IE), Microsoft lava (MJ), Windows Media Player (WMP), Windows Messenger (WM), and Outlook Express (OE).

U. "Windows Operating System Product" is defined as Windows 2000 Professional, Windows XP Home, and Windows XP Professional.

The agreement can be summed up in one breath as follows: Microsoft agrees to compete somewhat less vigorously, and to let competitors interoperate with Windows in exchange for royalty payments.

Considering all of the above, one should read the detailed terms of the Proposed Final Judgment, and ask one final question:

* Is the Proposed Final Judgment in the public interest?

In the sections below, I'll look in more detail at how the PFJ deals with the above questions. How should terms like "API", "Middleware, and "Windows OS" be defined?

The definitions of various terms in Part VI of the PFJ differ from the definitions in the Findings of Fact and in common usage, apparently to Microsoft's benefit. Here are some examples:

Definition A: "API"

The Findings of Fact (? 2) define "API" to mean the interfaces between application programs and the operating system. However, the PFJ's Definition A defines it to mean only the interfaces between Microsoft Middleware and Microsoft Windows, excluding Windows APIs used by other application programs. For instance, the PFJ's definition of API might omit important APIs such as the Microsoft Installer APIs which are used by installer programs to install software on Windows.

Definition J: "Microsoft Middleware"

The Findings of Fact (? 28) define "middleware" to mean application software that itself presents a set of APIs which allow users to write new applications without reference to the underlying operating system. Definition J defines it in a much more restrictive way, and allows Microsoft to exclude any software from being covered by the definition in two ways:

1. By changing product version numbers. For example, if the next version of Internet Explorer were named "7.0.0" instead of "7" or "7.0", it would not be deemed Microsoft Middleware by the PFJ.

2. By changing how Microsoft distributes Windows or its middleware. For example, if Microsoft introduced a version of Windows which was only available via the Windows Update service, then nothing in that version of Windows would be considered Microsoft Middleware, regardless of whether Microsoft added it initially or in a later update. This is analogous to the loophole in the 1995 consent decree that allowed Microsoft to bundle its browser by integrating it into the operating system.

Definition K: "Microsoft Middleware Product"

Definition K defines "Microsoft Middleware Product" to mean essentially Internet Explorer (IE), Microsoft Java (MJ), Windows Media Player (WMP), Windows Messenger (WM), and Outlook Express (OE).

The inclusion of Microsoft Java and not Microsoft. NET is questionable; Microsoft has essentially designated Microsoft. NET and C# as the successors to Java, so on that basis one would expect Microsoft. NET to be included in the definition.

The inclusion of Outlook Express and not Outlook is questionable, as Outlook (different and more powerful than Outlook Express) is a more important product in business, and fits the definition of middleware better than Outlook Express.

The exclusion of Microsoft Office is questionable, as many components of Microsoft Office fit the Finding of Fact's definition of middleware. For instance, there is an active market in software written to run on top of Microsoft Outlook and Microsoft Word, and many applications are developed for Microsoft Access by people who have no knowledge of Windows APIs.

Definition U: "Windows Operating System Product" Microsoft's monopoly is on Intel-compatible operating systems. Yet the PFJ in definition U defines a "Windows Operating System Product" to mean only Windows 2000 Professional, Windows XP Home, Windows XP Professional, and their successors. This purposely excludes the Intel-compatible operating systems Windows XP Tablet PC Edition and Windows CE; many applications written to the Win32 APIs can run unchanged on Windows 2000, Windows XP Tablet PC Edition, and Windows CE, and with minor recompilation, can also be run on Pocket PC. Microsoft even proclaims at www.microsoft.com/windowsxp/tabletpc/tabletpcqanda.asp:

"The Tablet PC is the next-generation mobile business PC, and it will be available from leading computer makers in the second half of 2002. The Tablet PC runs the Microsoft Windows XP Tablet PC Edition, and features the capabilities of current business laptops, including attached or detachable keyboards and the ability to run Windows-based applications."

and

Pocket PC: Powered by Windows Microsoft is clearly pushing Windows XP Tablet PC Edition and Pocket PC in places (e.g. portable computers used by businessmen) currently served by Windows XP Home Edition, and thus appears to be trying to evade the Final Judgment's provisions. This is but one example of how Microsoft can evade the provisions of the Final Judgment by shifting its efforts away from the Operating Systems listed in Definition U and towards Windows XP Tablet Edition, Windows CE, Pocket PC, X-Box, or some other Microsoft Operating System that can run Windows applications.

How should the Final Judgment erode the Applications Barrier to Entry?

The PFJ tries to erode the Applications Barrier to Entry in two ways:

1. By forbidding retaliation against OEMs, ISVs, and IHVs who support or develop alternatives to Windows.

2. By taking various measures to ensure that Windows allows the use of non-Microsoft middleware. A third option not provided by the PFJ would be to make sure that Microsoft raises no artificial barriers against non-Microsoft operating systems which implement the APIs needed to run application programs written for Windows. The Findings of Fact (?52) considered the possibility that competing operating systems could implement the Windows APIs and thereby directly run software written for Windows as a way of circumventing the Applications Barrier to Entry. This is in fact the route being taken by the Linux operating system, which includes middleware (named WINE) that can run many Windows programs.

By not providing some aid for ISVs engaged in making Windows-compatible operating systems, the PFJ is missing a key opportunity to encourage competition in the Intel-compatible operating system market. Worse yet, the PFJ itself, in sections III.D. and III.E., restricts information released by those sections to be used "for the sole purpose of interoperating with a Windows Operating System Product". This prohibits ISVs from using the information for the purpose of writing operating systems that interoperate with Windows programs. How should the Final Judgment be enforced?

The PFJ as currently written appears to lack an effective enforcement mechanism. It does provide for the creation of a Technical Committee with investigative powers, but appears to leave all actual enforcement to the legal system.

What information needs to be released to ISVs to encourage competition, and under what terms? The PFJ provides for increased disclosure of technical information to ISVs, but these provisions are flawed in several ways:

1. The PFJ fails to require advance notice of technical requirements

Section III.H.3. of the PFJ requires vendors of competing middleware to meet "reasonable technical requirements" seven months before new releases of Windows, yet it does not require Microsoft to disclose those requirements in advance. This allows Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

2. API documentation is released too late to help ISVs Section III.D. of the PFJ requires

Microsoft to release via MSDN or similar means the documentation for the APIs used by Microsoft Middleware Products to interoperate with Windows; release would be required at the time of the final beta test of the covered middleware, and whenever a new version of Windows is sent to 150,000 beta testers. But this information would almost certainly not be released in time for competing middleware vendors to adapt their products to meet the requirements of section III.H.3, which states that competing middleware can be locked out if it fails to meet unspecified technical requirements seven months before the final beta test of a new version of Windows.

3. Many important APIs would remain undocumented

The PFJ's overly narrow definitions of "Microsoft Middleware Product" and "API" means that Section III.D.'s requirement to release information about Windows interfaces would not cover many important interfaces.

4. Unreasonable Restrictions are Placed on the Use of the Released Documentation

ISVs writing competing operating systems as outlined in Findings of Fact (?52) sometimes have difficulty understanding various undocumented Windows APIs. The information released under section III.D. of the PFJ would aid those ISVs—except that the PFJ disallows this use of the information. Worse yet, to avoid running afoul of the PFJ, ISVs might need to divide up their engineers into two groups: those who refer to MSDN and work on Windows-only applications; and those who cannot refer to MSDN because they work on applications which also run on non-Microsoft operating systems. This would constitute retaliation against ISVs who support competing operating systems.

5. File Formats Remain Undocumented

No part of the PFJ obligates Microsoft to release any information about file formats, even though undocumented Microsoft file formats form part of the Applications Barrier to Entry (see "Findings of Fact" ?20 and ?39).

6. Patents covering the Windows APIs remain undisclosed

Section III.I of the PFJ requires Microsoft to offer to license certain intellectual property rights, but it does nothing to require Microsoft to clearly announce which of its many software patents protect the Windows APIs (cf. current practice at the World Wide Web Consortium, http://www.w3.org/TR/patent-practice). This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users, as illustrated by this report from Codeweavers, Inc.:

When selecting a method of porting a major application to Linux, one prospect of mine was comparing Wine [a competing implementation of some of the Windows APIs] and a toolkit called 'MainWin'. MainWin is made by Mainsoft, and Mainsoft licenses its software from Microsoft. However, this customer elected to go with the Mainsoft option instead. I was told that one of the key decision making factors was that Mainsoft representatives had stated that Microsoft had certain critical patents that Wine was violating. My customer could not risk crossing Microsoft, and declined to use Wine. I didn't even have a chance to determine which patents were supposedly violated; nor to disprove the validity of this claim.

The PFJ, by allowing this unclear legal situation to continue, is inhibiting the market acceptance of competing operating systems.

Which practices towards OEMs should be prohibited?

The PFJ prohibits certain behaviors by Microsoft towards OEMs, but curiously allows the following exclusionary practices:

Section III.A.2. allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

Section III.B. requires Microsoft to license Windows on uniform terms and at published prices to the top 20 OEMs, but says nothing about smaller OEMs. This leaves Microsoft free to retaliate against smaller OEMs, including important regional 'white box" OEMs, if they offer competing products.

Section III.B. also allows Microsoft to offer unspecified Market Development Allowances—in effect, discounts—to OEMs. For instance, Microsoft could offer discounts on Windows to OEMs based on the number of copies of Microsoft Office or Pocket PC systems sold by that OEM. In effect, this allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas, such as office software or ARM-compatible operating systems.

By allowing these practices, the PFJ is encouraging Microsoft to extend its monopoly in Intel-compatible operating systems, and to leverage it into new areas.

Which practices towards ISVs should be prohibited?

Sections III.F. and III.G. of the PFJ prohibit certain exclusionary licensing practices by Microsoft towards ISVs.

However, Microsoft uses other exclusionary licensing practices, none of which are mentioned in the PFJ.

Several of Microsoft's products" licenses prohibit the products" use with popular non-Microsoft middleware and operating systems. Two examples are given below.

1. Microsoft discriminates against ISVs who ship Open Source or Free Software applications

The Microsoft Windows Media Encoder 7.1 SDK EULA states ... you shall not distribute the REDISTRIBUTABLE COMPONENT in conjunction with any Publicly Available Software. "Publicly Available Software" means each of (i) any software that contains, or is derived in any manner (in whole or in part) from, any software that is distributed as free software, open source software (e.g. Linux) or similar licensing or distribution models ... Publicly Available Software includes, without limitation, software licensed or distributed under any of the following licenses or distribution models, or licenses or distribution models similar to any of the following: GNU's General Public License (GPL) or Lesser/Library GPL (LGPL); The Artistic License (e.g., PERL); the Mozilla Public License; the Netscape Public License; the Sun Community Source License (SCSL); ...

Many Windows APIs, including Media Encoder, are shipped by Microsoft as add-on SDKs with associated redistributable components. Applications that wish to use them must include the add-ons, even though they might later become a standard part of Windows.

Microsoft often provides those SDKs under End User License Agreements (EULAs) prohibiting their use with Open Source or Free Software applications. This harms ISVs who choose to distribute their applications under Open Source or Free Software licenses; they must hope that the enduser has a sufficiently up-to-date version of the addon API installed, which is often not the case.

Applications potentially harmed by this kind of EULA include the competing middleware product Netscape 6 and the competing office suite StarOffice; these EULAs thus can cause support problems for, and discourage the use of, competing middleware and office suites.

Additionally, since Open Source or Free Software applications tend to also run on non-Microsoft operating systems, any resulting loss of market share by Open Source or Free Software applications indirectly harms competing operating systems.

2. Microsoft discriminates against ISVs who target Windows-compatible competing Operating Systems The Microsoft Platform SDK, together with Microsoft Visual C++, is the primary toolkit used by ISVs to create Windows-compatible applications. The Microsoft Platform SDK EULA says:

"Distribution Terms. You may reproduce and distribute ... the Redistributable Components... provided that (a) you distribute the Redistributable Components only in conjunction with and as a part of your Application solely for use with a Microsoft Operating System Product..." This makes it illegal to run many programs built with Visual C++ on Windows-compatible competing operating systems.

By allowing these exclusionary behaviors, the PFJ is contributing to the Applications Barrier to Entry faced by competing operating systems.

Which practices towards large users should be prohibited?

The PFJ places restrictions on how Microsoft licenses its products to OEMs, but not on how it licenses products to large users such as corporations, universities, or state and local governments, collectively referred to as 'enterprises'. Yet enterprise license agreements often resemble the per-processor licenses which were prohibited by the 1994 consent decree in the earlier US v. Microsoft antitrust case, in that a fee is charged for each desktop or portable computer which could run a Microsoft operating system, regardless of whether any Microsoft software is actually installed on the affected computer. These agreements are anticompetitive because they remove any financial incentive for individuals or departments to run non-Microsoft software.

Which practices towards end users should be prohibited?

Microsoft has used both restrictive licenses and intentional incompatibilities to discourage users from running Windows applications on Windows-compatible competing operating systems. Two examples are given below.

1. Microsoft uses license terms which prohibit the use of Windows-compatible competing operating systems MSNBC (a subsidiary of Microsoft) offers software called NewsAlert. Its EULA states "MSNBC Interactive grants you the right to install and use copies of the SOFTWARE PRODUCT on your computers running validly licensed copies of the operating system for which the SOFTWARE PRODUCT was designed [e.g., Microsoft Windows(r) 95; Microsoft Windows NT(r), Microsoft Windows 3.x, Macintosh, etc.] .... "

Only the Windows version appears to be available for download. Users who run competing operating systems (such as Linux) which can run some Windows programs might wish to run the Windows version of NewsAlert, but the EULA prohibits this. MSNBC has a valid interest in prohibiting use of pirated copies of operating systems, but much narrower language could achieve the same protective effect with less anticompetitive impact. For instance, "MSNBC Interactive grants you the fight to install and use copies of the SOFTWARE PRODUCT on your computers running validly licensed copies of Microsoft Windows or compatible operating system."

2. Microsoft created intentional incompatibilities in Windows 3.1 to discourage the use of non-Microsoft operating systems

· An episode from the 1996 Caldera v. Microsoft antitrust lawsuit illustrates how Microsoft has used technical means anticompetitively.

Microsoft's original operating system was called MS-DOS. Programs used the DOS API to call up the services of the operating system. Digital Research offered a competing operating system, DR–DOS, that also implemented the DOS API, and could run programs written for MS–DOS. Windows 3.1 and earlier were not operating systems per se, but rather middleware that used the DOS API to interoperate with the operating system.

Microsoft was concerned with the competitive threat posed by DR-DOS, and added code to beta copies of Windows 3. I so it would display spurious and misleading error messages when run on DR-DOS. Digital Research's successor company, Caldera, brought a private antitrust suit against Microsoft in 1996. (See the original complaint, and Caldera's consolidated response to Microsoft's motions for partial summary judgment.) The judge in the case ruled that "Caldera has presented sufficient evidence that the incompatibilities alleged were part of an anticompetitive scheme by Microsoft."

That case was settled out of court in 1999, and no court has fully explored the alleged conduct. The concern here is that, as competing operating systems emerge which are able to run Windows applications, Microsoft might try to sabotage Windows applications, middleware, and development tools so that they cannot run on non-Microsoft operating systems, just as they did earlier with Windows 3.1.

The PFJ as currently written does nothing to prohibit these kinds of restrictive licenses and intentional incompatibilities, and thus encourages Microsoft to use these techniques to enhance the Applications Barrier to Entry, and harming those consumers who use non-Microsoft operating systems and wish to use Microsoft applications software.

Is the Proposed Final Judgment in the public interest?

The problems identified above with the Proposed Final Judgment can be summarized as follows:

* The PFJ doesn't take into account Windows-compatible competing operating systems

o Microsoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry.

* The PFJ Contains Misleading and Overly Narrow Definitions and Provisions

?? The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered.

?? The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all.

?? The PFJ allows users to replace Microsoft Java with a competitor's product—but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft. NET with competing middleware.

?? The PFJ supposedly applies to "Windows", but it defines that term so narrowly that it doesn't cover Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box—operating systems that all use the Win32 API and are advertised as being "Windows Powered".

?? The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

?? The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware—but only after the deadline for the ISVs to demonstrate that their middleware is compatible.

?? The PFJ requires Microsoft to release API documentation—but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.

?? The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents.

?? The PFJ does not require Microsoft to list which software patents protect the Windows APIs. This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users.

* The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft

?? Microsoft currently uses restrictive licensing terms to keep Open Source or Free Software apps from running on Windows.

?? Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems.

?? Microsoft's enterprise license agreements (used by large companies, state governments, and universities) charge by the number of computers which could run a Microsoft operating system—even for computers running Linux. (Similar licenses to OEMs were once banned by the 1994 consent decree.)

* The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft

?? Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems.

* The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs

?? The PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

?? The PFJ allows Microsoft to discriminate against small OEMs—including regional 'white box" OEMs which are historically the most willing to install competing operating systems—who ship competing software.

?? The PFJ allows Microsoft to offer discounts on Windows (MDAs) to OEMs based on criteria like sales of Microsoft Office or Pocket PC systems. This allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas.

* The PFJ as currently written appears to lack an effective enforcement mechanism.

Considering these problems, one must conclude that the Proposed Final Judgment as written allows and encourages significant anticompetitive practices to continue, and would delay the emergence of competing Windows-compatible operating systems.

Therefore, the Proposed Final Judgment is not in the public interest, and should not be adopted without addressing these issues.

Strengthening the PFJ

The above discussion shows that the PFJ does not satisfy the Court of Appeals" mandate. Some of the plaintiff States have proposed an alternate settlement which fixes many of the problems identified above. The States" proposal is quite different from the PFJ as a whole, but it contains many elements which are similar to elements of the PFJ, with small yet crucial changes.

In the sections below, I suggest amendments to the PFJ that attempt to resolve some of the demonstrated problems (time pressure has prevented anything like a complete list of amendments). When discussing amendments, PFJ text is shown indented; removed text in shown in [bracketed strikeout], and new text in bold italics.

Correcting the PFJ's definitions

Time constraints do not permit a complete list of needed changes. As an example, Definition U should be amended to read U. "Windows Operating System Product" means [the software code (as opposed to source code) distributed commercially by Microsoft for use with Personal Computers as Windows 2000 Professional, Windows XP Home, Windows XP Professional, and successors to the foregoing, including the Personal Computer versions of the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc. The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion.] any software or firmware code distributed commercially by Microsoft that is capable of executing any nontrivial subset of the Win32 APIs, including without exclusion Windows 2000 Professional, Windows XP Home, Windows XP Professional, Windows XP Tablet PC Edition, Windows CE, PocketPC 2002, and successors to the foregoing, including the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc.

Release of Information

Because any new competitor in the Intel-compatible operating system market must be able to run Windows applications to have a chance in the market, and because Microsoft has traditionally used undocumented Windows APIs as part of the Applications Barrier to Entry, the Final Judgment should provide explicitly for a clear definition of what APIs a competing operating system must provide to run Windows applications.

The best way to do this is by submitting the API definitions to a standards body. This was done in 1994 for the Windows 3.1 APIs (see Sun's 1994 press release about WABI 2.0 and the Public Windows Initiative).

The result is Standard ECMA–234: Application Programming Interface for Windows (APIW), which provides standard definitions for an essential subset (four hundred and forty-four out of the roughly one thousand) of the Windows 3.1 APIs; it was rendered mostly obsolete by the switch to Windows 95. The Final Judgment should provide for the creation of something like ECMA–234 for the various modem versions of Windows.

Because Microsoft currently claims that it has intellectual property rights that protect the Windows APIs, but has never spelled out exactly which patents cover which APIs, the Final Judgment should force this to be spelled out.

To achieve the above goals, the PFJ should be modified as follows:

First, Sections III.D and III.E should be amended to remove the restriction on the use of the disclosed information:

... Microsoft shall disclose ... [for the sole purpose of interoperating with a Windows Operating System Product,] for the purpose of interoperating with a Windows Operating System Product or interoperating with application software written for Windows,

Second, a new section IV.E should be created as follows:

E. Establishment of a Windows API Standards Expert Group

1. Within 60 days of entry of this Final Judgment, the parties shall create and recommend to the Court for its appointment a six person Windows API Standards Expert Group ("WASEG") to manage the creation, publication, and maintenance of a Windows APIs Standards Definition ("WASD") and associated Windows APIs Standard Compliance Test Suite ("WASCTS"), and to guide the WASD through the process of being adopted by a standards body such as ECMA or the IEEE.

The WASD shall be a document, suitable for approval by a standards body such as ECMA or IEEE, which accurately defines the inputs, outputs, and behavior of each Windows API, and enumerates any Essential Claims.

The WASCTS shall be software source code which, when compiled and run, automatically tests an operating system for compliance with the WASD, and produces a list of APIs which fail to comply with the WASD. The test suite should run unattended; that is, it should be capable of running without human interaction or supervision.

2. Three of the WASEG members shall be experts in software design and programming, and three of the WASEG members shall be experts in intellectual property law. No WASEG member shall have a conflict of interest that could prevent him or her from performing his or her duties under this Final Judgment in a fair and unbiased manner. No WASEG member shall have entered into any non-disclosure agreement that is still in force with Microsoft or any competitor to Microsoft, nor shall she or he enter into such an agreement during her or his term on the WASEG. Without limitation to the foregoing, no WASEG member shall have been employed in any capacity by Microsoft or any competitor to Microsoft within the past year, nor shall he or she be so employed during his or her term on the WASEG.

3. Within seven days of entry of this Final Judgment, the Plaintiffs as a group shall select two software experts and two intellectual property law experts to be members of the WASEG, and Microsoft shall select one software expert and one intellectual property law expert to be members of the WASEG; the Plaintiffs shall then apply to the Court for appointment of the persons selected by the Plaintiffs and Microsoft pursuant to this section.

4. Each WASEG member shall serve for an initial term of 30 months. At the end of a WASEG member's initial 30-month term, the party that originally selected him or her may, in its sole discretion, either request re-appointment by the Court to a second 30-month term or replace the WASEG member in the same manner as provided for above.

5. If the United States or a majority of the Plaintiffs determine that a member of the WASEG has failed to act diligently and consistently with the purposes of this Final Judgment, or if a member of the WASEG resigns, or for any other reason ceases to serve in his or her capacity as a member of the WASEG, the person or persons that originally selected the WASEG member shall select a replacement member in the same manner as provided for above.

6. Promptly after appointment of the WASEG by the Court, the United States shall enter into a Windows API Expert Group services agreement ("WASEG Services Agreement") with each WASEG member that grants the rights, powers and authorities necessary to permit the WASEG to perform its duties under this Final Judgment. Microsoft shall indemnify each WASEG member and hold him or her harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the WASEG's duties, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the WASEG member. The WASEG Services Agreements shall include the following:

a. The WASEG members shall serve, without bond or other security, at the cost and expense of Microsoft on such terms and conditions as the Plaintiffs approve, including the payment of reasonable fees and expenses.

b. The WASEG Services Agreement shall provide that each member of the WASEG shall comply with the limitations provided for in section IV.E.2. above.

7. Microsoft shall provide the WASEG with funds needed to procure office space, telephone, other office support facilities, consultants, or contractors required by the WASEG.

8. The WASEG shall not have direct access to any part of Microsoft's computer software source code that is not normally available to all ISVs. The WASEG shall not enter into any non-disclosure agreements with Microsoft or third parties. No implementations of any Windows APIs shall be written or published by the WASEG.

9. The WASEG shall have the following powers and duties:

a. The WASEG may require Microsoft to provide comprehensive answers to questions about Microsoft intellectual property claims.

b. The WASEG may require Microsoft to provide comprehensive answers to questions about the inputs, outputs, and functionality of any Windows API; in particular, the WASEG may compel Microsoft to provide complete documentation for Windows APIs, including hitherto undocumented or poorly-documented Windows APIs.

c. The WASEG may engage, at the cost and expense of Microsoft, the services of outside consultants and contractors as required to fulfill the duties of the WASEG.

d. The WASEG shall establish a publicly available web she not owned or otherwise controlled by Microsoft, and will publish status reports and other information there at least as often as once per month. Documentation on the web site shall be made available subject to the terms of the GNU Free Documentation License; test suite source code made available on the web site shall be made available subject to the terms of the GNU General Public License.

e. The WASEG shall compile to the best of their ability a complete list of Windows APIs, including for each API the DLL name, entry point name, entry point ordinal number, return value type, and parameter types, as well as which versions of Windows it is supported by and an estimate of what percentage of Popular Windows Applications use it. The WASEG shall publish this list on the WASEG web site subject to the GNU Free Documentation License, according to the following schedule: Within 90 days after the WASEG is convened, the WASEG shall publish this information for at least five hundred Windows APIs. On the 1st of each month thereafter, the WASEG shall publish this information for another five hundred Windows APIs. This shall continue until a complete list of Windows APIs is available on the web site. The WASEG shall update the list periodically to add previously unlisted Windows APIs. The WASEG shall periodically check the list for completeness by installing and running a representative sample of Popular Windows Applications and Microsoft Middleware while using tools such as Apius from Sarion Systems Research to watch the Windows APIs actually invoked by the product or its installer. The WASEG shall also set up a way for third parties to report Windows APIs which should be listed, and shall update its list of Windows APIs accordingly as appropriate.

f. The WASEG shall compile a complete list of Essential Claims, and an evaluation of which Windows APIs each Essential Claim covers. The WASEG shall publish this information on the WASEG web site subject to the GNU Free Documentation License, according to the following schedule:

Within 90 days after the WASEG publishes a portion of the list of Windows APIs on its web site, Microsoft shall deliver to the WASEG a list of the Essential Claims that cover the published Windows APIs. Within 90 days after the WASEG receives the list of Essential Claims, the WASEG shall publish its evaluation of which APIs those Essential Claims cover. This shall continue until such evaluations for all Essential Claims have been published on the WASEG web site.

g. The WASEG shall compile documentation for the list of Windows APIs defined above in section IV.E.9.e, including a complete description of the meanings of the return values and parameters, and the effects of the API. The documentation should be composed in a style similar to that used for the Single Unix Specification documentation (http://www.UNIX-systems.org/go/unix). Within 180 days after the WASEG is convened, and on the 1st of every month thereafter until complete, the WASEG will make available the currently completed portion of this documentation via its web site.

h. When the three documents described above—the list of Windows APIs, the list of Essential Claims and which Windows APIs they cover, and the documentation for the listed Windows APIs—is complete, the WASEG shall undertake to submit them to a standards body such as ECMA or the IEEE as a Draft WASD Document, and to make such enhancements and revisions as needed to gain the acceptance of that document as a standard.

i. The WASEG shall create a WASCTS, and publish it on the WASEG web site subject to the GNU General Public License, according to the following schedule: Within 180 days after the WASEG is convened, the WASEG shall publish test cases for at least one hundred Windows APIs. On the 1st of each month thereafter, the WASEG shall publish test cases for at least another one hundred Windows APIs. This shall continue until a complete WASCTS is available on the web site.

j. In the event that a planned update to Windows or any other Microsoft product is expected to result in the creation of new Windows APIs or Essential Claims, or WASEG's list of Windows APIs is updated, the WASEG shall create addenda to the WASD and WASCTS covering the new Windows APIs or Essential Claims, make them available via its web site, and undertake to submit them to the same standards body as above as an addendum to the standard.

Third, in section VI, Definition A should be amended to read

A. "Application Programming Interfaces (APIs)" means the interfaces, including any associated callback interfaces, that [Microsoft Middleware running on a Windows Operating System Product uses to call upon that Windows Operating System Product in order to obtain any services from that Windows Operating System Product.] Microsoft Middleware or Popular Windows Applications running or being installed on a Windows Operating System Product use to call upon that Windows Operating System Product or Microsoft Middleware in order to obtain any services from that Windows Operating System Product or Microsoft Middleware.

and two new definitions should be added:

V. "Popular Windows Applications" means the top 10 selling applications as reported by NPD Intelect Market Tracking in each of the categories

Business, Education, Finance, Games, Personal Productivity, and Reference, plus all Microsoft Middleware Products.

W. "Essential Claims" shall mean all claims in any patent or patent application, in any jurisdiction in the world, that Microsoft owns, or under which Microsoft has the right to grant licenses without obligation of payment or other consideration to an unrelated third party, that would necessarily be infringed by implementation of the Windows APIs Standard Definition by a competing Operating System. A claim is necessarily infringed hereunder only when it is not possible to avoid infringing it because there is no non-infringing alternative for implementing the required portion of the Windows APIs Standard Definition.

The following are expressly excluded from and shall not be deemed to constitute Essential Claims:

1. any claims other than as set forth above even if contained in the same patent as Essential Claims; and

2. claims which would be infringed only by portions of an implementation that are not required by the Windows APIs Standard Definition, or enabling technologies that may be necessary to make or use any product or portion thereof that complies with the Windows APIs Standard Definition but are not themselves expressly set forth in the Windows APIs Standard Definition (e.g., compiler technology, object-oriented technology, etc.) or the implementation of technology developed elsewhere and merely incorporated by reference in the body of the Windows APIs Standard Definition.

Prohibition of More Practices Toward OEMs

? III. A. 2. of the Proposed Final Judgment should be amended to read

2. shipping a Personal Computer that (a) includes both a Windows Operating System Product and a non-Microsoft Operating System, or (b) will boot with more than one Operating System, or (c) includes a non-Microsoft Operating System but no Windows Operating System Product; or...

Summary

This document demonstrates that there are so many problems with the PFJ that it is not in the public interest. It also illustrates how one might try to fix some of these problems.

Dan Kegel

28 January 2002

To: microsoft.atr@usdoj.gov

Subject: Microsoft Settlement

To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

28 January 2002

Ms. Hesse,

As a software engineer with 20 years" experience developing software for Unix, Windows, Macintosh, and Linux, I'd like to comment on the Proposed Final Judgment in United States v. Microsoft.

Please find my comments below. A copy of my comments is also posted on the Web at http://kegel.com/remedy/remedy2.html.

Sincerely,

Dan Kegel
901 S. Sycamore
Los Angeles, CA 90036

On the Proposed Final Judgment in United States

v. Microsoft

Contents

- . Introduction
- . Understanding the Proposed Final Judgment
  - ?? How should terms like "API", "Middleware", and "Windows OS" be defined?
  - ?? How should the Final Judgment erode the Applications Barrier to Entry?
  - ?? How should the Final Judgment be enforced?
  - ?? What information needs to be released to ISVs to encourage competition, and under what terms?
  - ?? Which practices towards OEMs should be prohibited?
  - ?? Which practices towards ISVs should be prohibited?
  - ?? Which practices towards large users should be prohibited?
  - ?? Which practices towards end users should be prohibited?
  - ?? Is the Proposed Final Judgment in the public interest?
- . Strengthening the PFJ
  - ?? Correcting the PFJ's definitions
  - ?? Release of Information
  - ?? Prohibition of More Practices Toward OEMs
- . Summary—

Introduction

As a software engineer with 20 years" experience developing software for Unix, Windows, Macintosh, and

Linux, I'd like to comment on the Proposed Final Judgment in United States v. Microsoft.

According to the Court of Appeals ruling, "a remedies decree in an antitrust case must seek to unfetter a market from anticompetitive conduct", to terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future" (section V.D., p. 99).

Attorney General John Ashcroft seems to agree; he called the proposed settlement "strong and historic", said that it would end "Microsoft's unlawful conduct," and said "With the proposed settlement being announced today, the Department of Justice has fully and completely addressed the anti-competitive conduct outlined by the Court of Appeals against Microsoft."

Yet the Proposed Final Judgment allows many exclusionary practices to continue, and does not take any direct measures to reduce the Applications Barrier to Entry faced by new entrants to the market.

The Court of Appeals affirmed that Microsoft has a monopoly on Intel-compatible PC operating systems, and that the company's market position is protected by a substantial barrier to entry (p. 15). Furthermore, the Court of Appeals affirmed that Microsoft is liable under Sherman Act * 2 for illegally maintaining its monopoly by imposing licensing restrictions on OEMs, IAPs (Internet Access Providers), ISVs (Independent Software Vendors), and Apple Computer, by requiring ISVs to switch to Microsoft's JVM (Java Virtual Machine), by deceiving Java developers, and by forcing Intel to drop support for cross-platform Java tools.

The fruits of Microsoft's statutory violation include a strengthened Applications Barrier to Entry and weakened competition in the Intel-compatible operating system market; thus the Final Judgment must find a direct way of reducing the Applications Barrier to Entry, and of increasing such competition.

In the following sections I outline the basic intent of the proposed final judgment, point out areas where the intent and the implementation appear to fall short, and propose amendments to the Proposed Final Judgment (or PFJ) to address these concerns.

Please note that this document is still evolving. Feedback is welcome; to comment on this document, please join the mailing list at groups.yahoo.com/group/ms-remedy, or email me directly at dank-ms@kegel.com.

Understanding the Proposed Final Judgment

In crafting the Final Judgment, the judge will face the following questions:

* ù How should terms like "API", "Middleware", and "Windows OS" be defined?

* ù How should the Final Judgment erode the Applications Barrier to Entry?

* ù How should the Final Judgment be enforced?

* ù What information needs to be released to ISVs to encourage competition, and under what terms?

* ù Which practices towards OEMs should be prohibited?

* Which practices towards ISVs should be prohibited?

* Which practices towards large users should be prohibited?

* ù Which practices towards end users should be prohibited?

Here is a very rough summary which paraphrases provisions III.A through III.J and VI. of the Proposed Final Judgment to give some idea of how the PFJ proposes to answer those questions:

PFJ Section III: Prohibited Conduct

A. Microsoft will not retaliate against OEMs who support competitors to Windows, Internet Explorer (IE), Microsoft Java (MJ), Windows Media Player (WMP), Windows Messenger (WM), or Outlook Express (OE).

B. Microsoft will publish the wholesale prices it charges the top 20 OEMs (Original Equipment Manufacturers) for Windows.

C. Microsoft will allow OEMs to customize the Windows menus, desktop, and boot sequence, and will allow the use of non-Microsoft bootloaders.

D. Microsoft will publish on MSDN (the Microsoft Developer Network) the APIs used by IE, MJ, WMP, WM, and OE, so that competing web browsers, media players, and email clients can plug in properly to Windows.

E. Microsoft will license on reasonable terms the network protocols needed for non-Microsoft applications or operating systems to connect to Windows servers.

F. Microsoft will not force business partners to refrain from supporting competitors to Windows, IE, MJ, WMP, WM, or OE.

G. (Roughly same as F above.)

H. Microsoft will let users and OEMs remove icons for IE, MJ, WMP, WM, and OE, and let them designate competing products to be used instead.

I. Microsoft will license on reasonable terms any intellectual property rights needed for other companies to take advantage of the terms of this settlement.

J. This agreement lets Microsoft keep secret anything having to do with security or copy protection.

PFJ Section VI: Definitions

A. "API" (Application Programming Interface) is defined as only the interfaces between Microsoft Middleware and Microsoft Windows, excluding Windows APIs used by other application programs.

K. "Microsoft Middleware Product" is defined as Internet Explorer (IE), Microsoft Java (MJ), Windows Media Player (WMP), Windows Messenger (WM), and Outlook Express (OE).

U. "Windows Operating System Product" is defined as Windows 2000 Professional, Windows XP Home, and Windows XP Professional.

The agreement can be summed up in one breath as follows: Microsoft agrees to compete somewhat less vigorously, and to let competitors interoperate with Windows in exchange for royalty payments.

Considering all of the above, one should read the detailed terms of the Proposed Final Judgment, and ask one final question:

* ù Is the Proposed Final Judgment in the public interest?

In the sections below, I'll look in more detail at how the PFJ deals with the above questions. How should terms like "API", "Middleware, and "Windows OS" be defined?

The definitions of various terms in Part VI of the PFJ differ from the definitions in the Findings of Fact and in common usage, apparently to Microsoft's benefit. Here are some examples:

Definition A: "API"

The Findings of Fact (* 2) define "API" to mean the interfaces between application programs and the operating system. However, the PFJ's Definition A defines it to mean only the interfaces between Microsoft Middleware and Microsoft Windows, excluding Windows APIs used by otherapplication programs. For instance, the PFJ's definition of API might omit important APIs such as the Microsoft Installer APIs which are used by installer programs to install software on Windows.

Definition J: "Microsoft Middleware"

The Findings of Fact (¶28) define "middleware" to mean application software that itself presents a set of APIs which allow users to write new applications without reference to the underlying operating system. Definition J defines it in a much more restrictive way, and allows Microsoft to exclude any software from being covered by the definition in two ways:

1. By changing product version numbers. For example, if the next version of Internet Explorer were named "7.0.0" instead of "7" or "7.0", it would not be deemed Microsoft Middleware by the PFJ.

2. By changing how Microsoft distributes Windows or its middleware. For example, if Microsoft introduced a version of Windows which was only available via the Windows Update service, then nothing in that version of Windows would be considered Microsoft Middleware, regardless of whether Microsoft added it initially or in a later update. This is analogous to the loophole in the 1995 consent decree that allowed Microsoft to bundle its browser by integrating it into the operating system.

Definition K: "Microsoft Middleware Product"

Definition K defines "Microsoft Middleware Product" to mean essentially Internet Explorer (IE), Microsoft Java (MJ), Windows Media Player (WMP), Windows Messenger (WM), and Outlook Express (OE).

The inclusion of Microsoft Java and not Microsoft. NET is questionable; Microsoft has essentially designated Microsoft. NET and C# as the successors to Java, so on that basis one would expect Microsoft.NET to be included in the definition.

The inclusion of Outlook Express and not Outlook is questionable, as Outlook (different and more powerful than Outlook Express) is a more important product in business, and fits the definition of middleware better than Outlook Express. The exclusion of Microsoft Office is questionable, as many components of Microsoft Office fit the Finding of Fact's definition of middleware. For instance, there is an active market in software written to run on top of Microsoft Outlook and Microsoft Word, and many applications are developed for Microsoft Access by people who have no knowledge of Windows APIs.

Definition U: "Windows Operating System Product"

Microsoft's monopoly is on Intel-compatible operating systems. Yet the PFJ in definition U defines a "Windows Operating System Product" to mean only Windows 2000 Professional, Windows XP Home, Windows XP Professional, and their successors. This purposely excludes the Intel-compatible operating systems Windows XP Tablet PC Edition and Windows CE; many applications written to the Win32 APIs can run unchanged on Windows 2000, Windows XP Tablet PC Edition, and Windows CE, and with minor recompilation, can also be run on Pocket PC. Microsoft even proclaims at www.microsoft.com/windowsxp/tabletpc/tabletpcqanda.asp:

"The Tablet PC is the next-generation mobile business PC, and it will be available from leading computer makers in the second half of 2002. The Tablet PC runs the Microsoft Windows XP Tablet PC Edition and features the capabilities of current business laptops, including attached or detachable keyboards and the ability to run Windows-based applications." and

Pocket PC: Powered by Windows

Microsoft is clearly pushing Windows XP Tablet PC Edition and Pocket PC in places (e.g. portable computers used by businessmen) currently served by Windows XP Home Edition, and thus appears to be trying to evade the Final Judgment's provisions. This is but one example of how Microsoft can evade the provisions of the Final Judgment by shifting its efforts away from the Operating Systems listed in Definition U and towards Windows XP Tablet Edition, Windows CE, Pocket PC, X-Box, or some other Microsoft Operating System that can run Windows applications.

How should the Final Judgment erode the Applications Barrier to Entry?

The PFJ tries to erode the Applications Barrier to Entry in two ways:

1. By forbidding retaliation against OEMs, ISVs, and IHVs who support or develop alternatives to Windows.

2. By taking various measures to ensure that Windows allows the use of non-Microsoft middleware.

A third option not provided by the PFJ would be to make sure that Microsoft raises no artificial barriers against non-Microsoft operating systems which implement the APIs needed to run application programs written for Windows. The Findings of Fact (¶ 52) considered the possibility that competing operating systems could implement the Windows APIs and thereby directly run software written for Windows as a way of circumventing the Applications Barrier to Entry. This is in fact the route being taken by the Linux operating system, which includes middleware (named WINE) that can run many Windows programs.

By not providing some aid for ISVs engaged in making Windows-compatible operating systems, the PFJ is missing a key opportunity to encourage competition in the Intel-compatible operating system market. Worse yet, the PFJ itself, in sections III.D. and III.E., restricts information released by those sections to be used "for the sole purpose of interoperating with a Windows Operating System Product". This prohibits ISVs from using the information for the purpose of writing operating systems that interoperate with Windows programs.

How should the Final Judgment be enforced?

The PFJ as currently written appears to lack an effective enforcement mechanism. It does provide for the creation of a Technical Committee with investigative powers, but appears to leave all actual enforcement to the legal system.

What information needs to be released to ISVs to encourage competition, and under what terms?

The PFJ provides for increased disclosure of technical information to ISVs, but these provisions are flawed in several ways:

1. The PFJ fails to require advance notice of technical requirements Section III.H.3. of the PFJ requires vendors of competing middleware to meet "reasonable technical requirements" seven months before new releases of Windows, yet it does not require Microsoft to disclose those requirements in advance. This allows Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

2. API documentation is released too late to help ISVs Section III.D. of the PFJ requires Microsoft to release via MSDN or similar means the documentation for the APIs used by Microsoft Middleware Products to interoperate with Windows; release would be required at the time of the final beta test of the covered middleware, and whenever a new version of Windows is sent to 150,000 beta testers. But this information would almost certainly not be released in time for competing middleware vendors to adapt their products to meet the requirements of section III.H.3, which states that competing middleware can be locked out if it fails to meet unspecified technical requirements seven months before the final beta test of a new version of Windows.

3. Many important APIs would remain undocumented The PFJ's overly narrow definitions of "Microsoft Middleware Product" and "API" means that Section III.D.'s requirement to release information about Windows interfaces would not cover many important interfaces.

4. Unreasonable Restrictions are Placed on the Use of the Released Documentation ISVs writing competing operating systems as outlined in Findings of Fact (¶ 52) sometimes have difficulty understanding various undocumented Windows APIs. The information released under section III.D. of the PFJ would aid those ISVs—except that the PFJ disallows this use of the information. Worse yet, to avoid running afoul of the PFJ, ISVs might need to divide up their engineers into two groups: those who refer to MSDN and work on Windows-only applications; and those who cannot refer to MSDN because they work on applications which also run on non-Microsoft operating systems. This would constitute retaliation against ISVs who support competing operating systems.

5. File Formats Remain Undocumented

No part of the PFJ obligates Microsoft to release any information about file formats, even though undocumented Microsoft file formats form part of the Applications Barrier to Entry (see "Findings of Fact" * 20 and * 39).

6. Patents covering the Windows APIs remain undisclosed Section III.I of the PFJ requires Microsoft to offer to license certain intellectual property rights, but it does nothing to require Microsoft to clearly announce which of its many software patents protect the Windows APIs (cf. current practice at the World Wide Web Consortium, http://www.w3.org/TR/patent-practice). This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users, as illustrated by this report from Codeweavers, Inc.:

When selecting a method of porting a major application to Linux, one prospect of mine was comparing Wine (a competing implementation of some of the Windows APIs) and a toolkit called 'MainWin'. MainWin is made by Mainsoft, and Mainsoft licenses its software from Microsoft. However, this customer elected to go with the Mainsoft option instead. I was told that one of the key decision making factors was that Mainsoft representatives had stated that Microsoft had certain critical patents that Wine was violating. My customer could not risk crossing Microsoft, and declined to use Wine. I didn't even have a chance to determine which patents were supposedly violated; nor to disprove the validity of this claim.

The PFJ, by allowing this unclear legal situation to continue, is inhibiting the market acceptance of competing operating systems.

Which practices towards OEMs should be prohibited?

The PFJ prohibits certain behaviors by Microsoft towards OEMs, but curiously allows the following exclusionary practices:

Section III.A.2. allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

Section III.B. requires Microsoft to license Windows on uniform terms and at published prices to the top 20 OEMs, but says nothing about smaller OEMs. This leaves Microsoft free to retaliate against smaller OEMs, including important regional 'white box" OEMs, if they offer competing products.

Section III.B. also allows Microsoft to offer unspecified Market Development Allowances— in effect, discounts—to OEMs. For instance, Microsoft could offer discounts on Windows to OEMs based on the number of copies of Microsoft Office or Pocket PC systems sold by that OEM. In effect, this allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas, such as office software or ARM-compatible operating systems.

By allowing these practices, the PFJ is encouraging Microsoft to extend its monopoly in Intel-compatible operating systems, and to leverage it into new areas.

Which practices towards ISVs should be prohibited?

Sections III.F. and III.G. of the PFJ prohibit certain exclusionary licensing practices by Microsoft towards ISVs.

However, Microsoft uses other exclusionary licensing practices, none of which are mentioned in the PFJ.

Several of Microsoft's products" licenses prohibit the products" use with popular non-Microsoft middleware and operating systems. Two examples are given below.

1. Microsoft discriminates against ISVs who ship Open Source or Free Software applications

The Microsoft Windows Media Encoder 7.1 SDK EULA states

... you shall not distribute the REDISTRIBUTABLE COMPONENT in conjunction with any Publicly Available Software. "Publicly Available Software" means each of (i) any software that contains, or is derived in any manner (in whole or in part) from, any software that is distributed as free software, open source software (e.g. Linux) or similar licensing or distribution models ... Publicly Available Software includes, without limitation, software licensed or distributed under any of the following licenses or distribution models, or licenses or distribution models similar to any of the following: GNU's General Public License (GPL) or Lesser/Library GPL (LGPL); The Artistic License (e.g., PERL); the Mozilla Public License; the Netscape Public License; the Sun Community Source License (SCSL); ...

Many Windows APIs, including Media Encoder, are shipped by Microsoft as add-on SDKs with associated redistributable components. Applications that wish to use them must include the add-ons, even though they might later become a standard part of Windows. Microsoft often provides those SDKs under End User License Agreements (EULAs) prohibiting their use with Open Source or Free Software applications. This harms ISVs who choose to distribute their applications under Open Source or Free Software licenses; they must hope that the enduser has a sufficiently up-to-date version. of the addon API installed, which is often not the case.

Applications potentially harmed by this kind of EULA include the competing middleware product Netscape 6 and the competing office suite StarOffice; these EULAs thus can cause support problems for, and discourage the use of, competing middleware and office suites. Additionally, since Open Source or Free Software applications tend to also run on non-Microsoft operating systems, any resulting loss of market share by Open Source or Free Software applications indirectly harms competing operating systems.

2. Microsoft discriminates against ISVs who target Windows-compatible competing Operating Systems

The Microsoft Platform SDK, together with Microsoft Visual C++, is the primary toolkit used by ISVs to create Windows-compatible applications. The Microsoft Platform SDK EULA says:

"Distribution Terms. You may reproduce and distribute ... the Redistributable Components... provided that (a) you distribute the Redistributable Components only in conjunction with and as a part of your Application solely for use with a Microsoft Operating System Product..."

This makes it illegal to run many programs built with Visual C++ on Windows-compatible competing operating systems.

By allowing these exclusionary behaviors, the PFJ is contributing to the Applications Barrier to Entry faced by competing operating systems.

Which practices towards large users should be prohibited?

The PFJ places restrictions on how Microsoft licenses its products to OEMs, but not on how it licenses products to large users such as corporations, universities, or state and local governments, collectively referred to as "enterprises". Yet enterprise license agreements often resemble the per-processor licenses which were prohibited by the 1994 consent decree in the earlier US v. Microsoft antitrust case, in that a fee is charged for each desktop or portable computer which could run a Microsoft operating system, regardless of whether any Microsoft software is actually installed on the affected computer. These agreements are anticompetitive because they remove any financial incentive for individuals or departments to run non-Microsoft software.

Which practices towards end users should be prohibited?

Microsoft has used both restrictive licenses and intentional incompatibilities to discourage users from running

Windows applications on Windows-compatible competing operating systems. Two examples are given below.

1. Microsoft uses license terms which prohibit the use of Windows-compatible competing operating systems

MSNBC (a subsidiary of Microsoft) offers software called NewsAlert. Its EULA states "MSNBC Interactive grants you the right to install and use copies of the SOFTWARE PRODUCT on your computers running validly licensed copies of the operating system for which the SOFTWARE PRODUCT was designed [e.g., Microsoft Windows(r) 95; Microsoft Windows NT(r), Microsoft Windows 3.x, Macintosh, etc.] .... "

Only the Windows version appears to be available for download. Users who run competing operating systems (such as Linux) which can run some Windows programs might wish to run the Windows version of NewsAlert, but the EULA prohibits this.

MSNBC has a valid interest in prohibiting use of pirated copies of operating systems, but much narrower language could achieve the same protective effect with less anticompetitive impact. For instance, "MSNBC Interactive grants you the right to install and use copies of the SOFTWARE PRODUCT on your computers running validly licensed copies of Microsoft Windows or compatible operating system."

2. Microsoft created intentional incompatibilities in Windows 3.1 to discourage the use of non-Microsoft operating systems

An episode from the 1996 Caldera v. Microsoft antitrust lawsuit illustrates how Microsoft has used technical means anticompetitively.

Microsoft's original operating system was called MS-DOS. Programs used the DOS API to call up the services of the operating system. Digital Research offered a competing operating system, DR-DOS, that also implemented the DOS API, and could run programs written for MS-DOS. Windows 3.1 and earlier were not operating systems per se, but rather middleware that used the DOS API to interoperate with the operating system. Microsoft was concerned with the competitive threat posed by DR-DOS, and added code to beta copies of Windows 3.1 so it would display spurious and misleading error messages when run on DR-DOS.

Digital Research's successor company, Caldera, brought a private antitrust suit against Microsoft in 1996. (See the original complaint, and Caldera's consolidated response to Microsoft's motions for partial summary— judgment.) The judge in the case ruled that

"Caldera has presented sufficient evidence that the incompatibilities alleged were part of an anticompetitive scheme by Microsoft."

That case was settled out of court in 1999, and no court has fully explored the alleged conduct.

The concern here is that, as competing operating systems emerge which are able to run Windows applications, Microsoft might try to sabotage Windows applications, middleware, and development tools so that they cannot run on non-Microsoft operating systems, just as they did earlier with Windows 3.1.

The PFJ as currently written does nothing to prohibit these kinds of restrictive licenses and intentional incompatibilities, and thus encourages Microsoft to use those techniques to enhance the Applications Barrier to Entry, and harming those consumers who use non-Microsoft operating systems and wish to use Microsoft applications software.

Is the Proposed Final Judgment in the public interest?

The problems identified above with the Proposed Final Judgment can be summarized as follows:

* ù The PFJ doesn't take into account Windows-compatible competing operating systems

?? Microsoft increases the Applications Barrier to Entry— by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry.

ù The PFJ Contains Misleading and Overly Narrow Definitions and Provisions

?? The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered.

?? The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all.

?? The PFJ allows users to replace Microsoft Java with a competitor's product— but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft. NET with competing middleware.

?? The PFJ supposedly applies to "Windows", but it defines that term so narrowly that it doesn't cover Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box— operating systems that all use the Win32 API and are advertised as being "Windows Powered".

?? The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

?? The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware—but only after the deadline for the ISVs to demonstrate that their middleware is compatible.

?? The PFJ requires Microsoft to release API documentation—but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.

?? The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents.

?? The PFJ does not require Microsoft to list which software patents protect the Windows APIs.

This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users.

* The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft

?? Microsoft currently uses restrictive licensing terms to keep Open Source or Free Software apps from running on Windows.

?? Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems.

?? Microsoft's enterprise license agreements (used by large companies, state governments, and universities) charge by the number of computers which could run a Microsoft operating system— even for computers running Linux. (Similar licenses to OEMs were once banned by the 1994 consent decree.)

* The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft

?? Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems,

* ù The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs

?? The PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

?? The PFJ allows Microsoft to discriminate against small OEMs—including regional 'white box" OEMs which are historically the most willing to install competing operating systems— who ship competing software.

?? The PFJ allows Microsoft to offer discounts on Windows (MDAs) to OEMs based on criteria like sales of Microsoft Office or Pocket PC systems. This allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas.

* . The PFJ as currently written appears to lack an effective enforcement mechanism. Considering these problems, one must conclude that the Proposed Final Judgment as written allows and encourages significant anticompetitive practices to continue, and would delay the emergence of competing Windows-compatible operating systems. Therefore, the Proposed Final Judgment is not in the public interest, and should not be adopted without addressing these issues.

Strengthening the PFJ

The above discussion shows that the PFJ does not satisfy the Court of Appeals" mandate. Some of the plaintiff States have proposed an alternate settlement which fixes many of the problems identified above. The States" proposal is quite different from the PFJ as a whole, but it contains many elements which are similar to elements of the PFJ, with small yet crucial changes.

In the sections below, I suggest amendments to the PFJ that attempt to resolve some of the demonstrated problems (time pressure has prevented anything like a complete list of amendments). When discussing amendments, PFJ text is shown indented; removed text in [], and new text in bold italics.

Correcting the PFJ's definitions

Time constraints do not permit a complete list of needed changes. As an example, Definition U should be amended to read

U. "Windows Operating System Product" means [] any software or firmware code distributed commercially by Microsoft that is capable of executing any nontrivial subset of the Win32 APIs, including without exclusion Windows 2000 Professional, Windows XP Home, Windows XP Professional, Windows XP Tablet PC Edition, Windows CE, PocketPC 2002, and successors to the foregoing, including the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc.

Release of Information

Because any new competitor in the Intel-compatible operating system market must be able to run Windows applications to have a chance in the market, and because Microsoft has traditionally used undocumented Windows APIs as part of the Applications Barrier to Entry, the Final Judgment should provide explicitly for a clear definition of what APIs a competing operating system must provide to run Windows applications. The best way to do this is by submitting the API definitions to a standards body. This was done in 1994 for the Windows 3.1 APIs (see Sun's 1994 press release about WABI 2.0 and the Public Windows Initiative). The result is Standard ECMA-234: Application Programming Interface for Windows (APIW), which provides standard definitions for an essential subset (four hundred and fourty-four out of the roughly one thousand) of the Windows 3.1 APIs; it was rendered mostly obsolete by the switch to Windows 95. The Final Judgment should provide for the creation of something like ECMA-234 for the various modem versions of Windows.

Because Microsoft currently claims that it has intellectual property rights that protect the Windows APIs, but has never spelled out exactly which patents cover which APIs, the Final Judgment should force this to be spelled out.

To achieve the above goals, the PFJ should be modified as follows:

First, Sections III.D and III.E should be amended to remove the restriction on the use of the disclosed information:

... Microsoft shall disclose ... [], for the purpose of interoperating with a Windows Operating System Product or interoperating with application software written for Windows,

Second, a new section IV.E should be created as follows:

E. Establishment of a Windows API Standards Expert Group

1. Within 60 days of entry of this Final Judgment, the parties shall create and recommend to the Court for its appointment a six person Windows API Standards Expert Group ("WASEG") to manage the creation, publication, and maintenance of a Windows APIs Standards Definition ("WASD") and associated Windows APIs Standard Compliance Test Suite ("WASCTS"), and to guide the WASD through the process of being adopted by a standards body such as ECMA or the IEEE.

The WASD shall be a document, suitable for approval by a standards body such as ECMA or IEEE, which accurately defines the inputs, outputs, and behavior of each Windows API, and enumerates any Essential Claims. The WASCTS shah be software source code which, when compiled and run, automatically tests an operating system for compliance with the WASD, and produces a list of APIs which fail to comply with the WASD. The test suite should run unattended; that is, it should be capable of running without human interaction or supervision.

2. Three of the WASEG members shah be experts in software design and programming, and three of the WASEG members shall be experts in intellectual property law. No WASEG member shah have a conflict of interest that could prevent him or her from performing his or her duties under this Final Judgment in a fair and unbiased manner.

No WASEG member shah have entered into any non-disclosure agreement that is still in force with Microsoft or any competitor to Microsoft, nor shah she or he enter into such an agreement during her or his term on the WASEG. Without limitation to the foregoing, no WASEG member shah have been employed in any capacity by Microsoft or any competitor to Microsoft within the past year, nor shall he or she be so employed during his or her term on the WASEG.

3. Within seven days of entry of this Final Judgment, the Plaintiffs as a group shall select two software experts and two intellectual property law experts to be members of the WASEG, and Microsoft shall select one software expert and one intellectual property law expert to be members of the WASEG; the Plaintiffs shall then apply to the Court for appointment of the persons selected by the Plaintiffs and Microsoft pursuant to this section.

4. Each WASEG member shall serve for an initial term of 30 months. At the end of a WASEG member's initial 30-month term, the party that originally selected him or her may, in its sole discretion, either request re-appointment by the Court to a second 30-month term or replace the WASEG member in the same manner as provided for above.

5. If the United States or a majority of the Plaintiffs determine that a member of the WASEG has failed to act diligently and consistently with the purposes of this Final Judgment, or if a member of the WASEG resigns, or for any other reason ceases to serve in his or her capacity as a member of the WASEG, the person or persons that originally selected the WASEG member shall select a replacement member in the same manner as provided for above.

6. Promptly after appointment of the WASEG by the Court, the United States shall

enter into a Windows API Expert Group services agreement ("WASEG Services Agreement") with each WASEG member that grants the rights, powers and authorities necessary to permit the WASEG to perform its duties under this Final Judgment. Microsoft shall indemnify each WASEG member and hold him or her harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the WASEG's duties, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the WASEG member. The WASEG Services Agreements shall include the following:

a. The WASEG members shall serve, without bond or other security, at the cost and expense of Microsoft on such terms and conditions as the Plaintiffs approve, including the payment of reasonable fees and expenses.

b. The WASEG Services Agreement shall provide that each member of the WASEG shall comply with the limitations provided for in section IV.E.2. above.

7. Microsoft shall provide the WASEG with funds needed to procure office space, telephone, other office support facilities, consultants, or contractors required by the WASEG.

8. The WASEG shall not have direct access to any part of Microsoft's computer software source code that is not normally available to all ISVs. The WASEG shall not enter into any non-disclosure agreements with Microsoft or third parties. No implementations of any Windows APIs shall be written or published by the WASEG.

9. The WASEG shall have the following powers and duties:

a. The WASEG may require Microsoft to provide comprehensive answers to questions about Microsoft intellectual property claims.

b. The WASEG may require Microsoft to provide comprehensive answers to questions about the inputs, outputs, and functionality of any Windows API; in particular, the WASEG may compel Microsoft to provide complete documentation for Windows APIs, including hitherto undocumented or poorly-documented Windows APIs.

c. The WASEG may engage, at the cost and expense of Microsoft, the services of outside consultants and contractors as required to fulfill the duties of the WASEG.

d. The WASEG shall establish a publicly available web site not owned or otherwise controlled by Microsoft, and will publish status reports and other information there at least as often as once per month. Documentation on the web site shall be made available subject to the terms of the GNU Free Documentation License; test suite source code made available on the web site shall be made available subject to the terms of the GNU General Public License.

e. The WASEG shall compile to the best of their ability a complete list of Windows APIs, including for each API the DLL name, entry point name, entry point ordinal number, return value type, and parameter types, as well as which versions of Windows it is supported by and an estimate of what percentage of Popular Windows Applications use it. The WASEG shall publish this list on the WASEG web site subject to the GNU Free Documentation License, according to the following schedule: Within 90 days after the WASEG is convened, the WASEG shall publish this information for at least five hundred Windows APIs. On the 1st of each month thereafter, the WASEG shall publish this information for another five hundred Windows APIs. This shall continue until a complete list of Windows APIs is available on the web site. The WASEG shall update the list periodically to add previously unlisted Windows APIs. The WASEG shall periodically check the list for completeness by installing and running a representative sample of Popular Windows Applications and Microsoft Middleware while using tools such as Apius from Sarion Systems Research to watch the Windows APIs actually invoked by the product or its installer. The WASEG shall also set up a way for third parties to report Windows APIs which should be listed, and shall update its list of Windows APIs accordingly as appropriate.

f. The WASEG shall compile a complete list of Essential Claims, and an evaluation of which Windows APIs each Essential Claim covers. The WASEG shall publish this information on the WASEG web site subject to the GNU Free Documentation License, according to the following schedule: Within 90 days after the WASEG publishes a portion of the list of Windows APIs on its web site, Microsoft shall deliver to the WASEG a list of the Essential Claims that cover the published Windows APIs. Within 90 days after the WASEG receives the list of Essential Claims, the WASEG shall publish its evaluation of which APIs those Essential Claims cover. This shall continue until such evaluations for all Essential Claims have been published on the WASEG web site.

g. The WASEG shall compile documentation for the list of Windows APIs defined above in section IV.E.9.e, including a complete description of the meanings of the return values and parameters, and the effects of the API. The documentation should be composed in a style similar to that used for the Single Unix Specification documentation (http://www.UNIX-systems.org/unix). Within 180 days after the WASEG is convened, and on the 1st of every month thereafter until complete, the WASEG will make available the currently completed portion of this documentation via its web site.

h. When the three documents described above—the list of Windows APIs, the list of Essential Claims and which Windows APIs they cover, and the documentation for the listed Windows APIs—is complete, the WASEG shall undertake to submit them to a standards body such as ECMA or the IEEE as a Draft WASD Document, and to make such enhancements and revisions as needed to gain the acceptance of that document as a standard.

i. The WASEG shall create a WASCTS, and publish it on the WASEG web site subject to the GNU General Public License, according to the following schedule: Within 180 days after the WASEG is convened, the WASEG shall publish test cases for at least one hundred Windows APIs. On the 1st of each month thereafter, the WASEG shall publish test cases for at least another one hundred Windows APIs. This shall continue until a complete WASCTS is available on the web site.

j. In the event that a planned update to Windows or any other Microsoft product is expected to result in the creation of new Windows APIs or Essential Claims, or WASEG's list of Windows APIs is updated, the WASEG shall create addenda to the WASD and WASCTS covering the new Windows APIs or Essential Claims, make them available via its web site, and undertake to submit them to the same standards body as above as an addendum to the standard.

Third, in section VI, Definition A should be amended to read

A. "Application Programming Interfaces (APIs)" means the interfaces, including any associated callback interfaces, that Microsoft Middleware or Popular Windows Applications running or being installed on a Windows Operating System Product use to call upon that Windows Operating System Product or Microsoft Middleware in order to obtain any services from that Windows Operating System Product or Microsoft Middleware. and two new definitions should be added:

V. "Popular Windows Applications" means the top 10 selling applications as reported by NPD Intelect Market Tracking in each of the categories Business, Education, Finance, Games, Personal Productivity, and Reference, plus all Microsoft Middleware Products.

W. "Essential Claims" shall mean all claims in any patent or patent application, in any jurisdiction in the world, that Microsoft owns, or under which Microsoft has the right to grant licenses without obligation of payment or other consideration to an unrelated third party, that would necessarily be infringed by implementation of the Windows APIs Standard Definition by a competing Operating System. A claim is necessarily infringed hereunder only when it is not possible to avoid infringing it because there is no non-infringing alternative for implementing the required portion of the Windows APIs Standard Definition.

The following are expressly excluded from and shall not be deemed to constitute Essential Claims:

1. any claims other than as set forth above even if contained in the same patent as Essential Claims; and

2. claims which would be infringed only by portions of an implementation that are not required by the Windows APIs Standard Definition, or enabling technologies that may be necessary to make or use any product or portion thereof that complies with the Windows APIs Standard Definition but are not themselves expressly set forth in the Windows APIs Standard Definition (e.g., compiler technology, object-oriented technology, etc.) or the implementation of technology developed elsewhere and merely incorporated by reference in the body of the Windows APIs Standard Definition.

Prohibition of More Practices Toward OEMs

§ III. A. 2. of the Proposed Final Judgment should be amended to read

2. shipping a Personal Computer that (a) includes both a Windows Operating System Product and a non-Microsoft Operating System, or (b) will boot with more than one Operating System, or (c) includes a non-Microsoft Operating System but no Windows Operating System Product; or ...

Summary

This document demonstrates that there are so many problems with the PFJ that it is not in the public interest.

It also illustrates how one might try to fix some of these problems.

Dan Kegel

28 January 2002

MTC-00028572

From: Riddle, Doug
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 4:39pm
Subject: Micrsoft Settlement

To Whom It May Concern:

Whatever steps necessary to bring Microsoft onto a level playing field where they are accountable to the users of their software and their competitors should be used. Their software is a National Security risk and their corporate policies toward competitors only serve to increase that risk. Do not settle out of court.

Regards,
Doug Riddle
EMCO / Addis MIS Dept.
Mobile (225) 806–9715
Pager: (225) 339–8275
Office: (225) 267–3225
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MTC-00028573

From: dank@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/28/02 4:40pm
Subject: Micrsoft Settlement
(corrected date)
Open Letter to DOJ Re: Microsoft Settlement
To: microsoft.atr@usdoj.gov
Subject: Micrsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
28 January 2002

Ms. Hesse,

Please find below a joint open letter signed by 2366 people from across the United States. I composed the open letter and offered to collect signatures by email as a simple way for people to express their views on the Proposed Final Judgment.

I certify that the following list of names was compiled from email sent to petition@kegel.com; that return email was used to provide some small degree of assurance that each submission came from a valid email address; and that I have verified to the best of my ability that all co-signers are US residents or citizens.

I am sending the document (http://www.kegel.com/remedy/remedy2.html) referenced in the joint open letter under separate cover as my personal Tunney Act comment.

Sincerely,
Dan Kegel
901 S. Sycamore
Los Angeles, CA 90036

To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Ms. Hesse,

Under the Tunney Act, we wish to comment on the proposed Microsoft settlement. We agree with the problems identified in Dan Kegel's analysis (on the Web at http://www.kegel.com/remedy/remedy2.html), namely:

* The PFJ doesn't take into account Windows-compatible competing operating systems

o Microsoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry.

* The PFJ Contains Misleading and Overly Narrow Definitions and Provisions

o The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered.

. The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all.

. The PFJ allows users to replace Microsoft Java with a competitor's product —but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft.NET with competing middleware.

. The PFJ supposedly applies to "Windows", but it defines that term so narrowly that it doesn't cover

Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box—operating systems that all use the Win32 API and are advertised as being "Windows Powered".

. The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

. The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware—but only after the deadline for the ISVs to demonstrate that their middleware is compatible.

. The PFJ requires Microsoft to release API documentation—but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.

. The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents.

. The PFJ does not require Microsoft to list which software patents protect the Windows APIs. This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users.

* The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft

. Microsoft currently uses restrictive licensing terms to keep Open Source and Free Software apps from running on Windows.

. Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems.

. Microsoft's enterprise license agreements (used by large companies, state governments, and universities) charge by the number of computers which could run a Microsoft operating system—even for computers running competing operating systems such as Linux! (Similar licenses to OEMs were once banned by the 1994 consent decree.)

* The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft

. Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems.

* The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs

. The PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

. The PFJ allows Microsoft to discriminate against small OEMs—including regional "white box" OEMs which are historically the most willing to install competing operating systems—who ship competing software.

. The PFJ allows Microsoft to offer discounts on Windows (MDAs) to OEMs based on criteria like sales of Microsoft office or Pocket PC systems. This allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas.

* The PFJ as currently written appears to lack an effective enforcement mechanism.

We also agree with the conclusion reached by that document, namely that the Proposed Final Judgment, as written, allows and encourages significant anticompetitive practices to continue, would delay the emergence of competing Windows-compatible operating systems, and is therefore not in the public interest.

It should not be adopted without substantial revision to address these problems.

Sincerely,

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Will Symonds, Houston, TX; IT Consultant, thincpc.com

Will Wainwright, University City, Missouri; System Administrator, Washington University in St. Louis

Wilson Jones, Vinita, OK; Independent Programmer, n/a

Winfield Hill, Stoneham, MA; Dir of E.E., Rowland Institute

Wolfgang Rupprecht, Fremont, CA; Software Engineer, wsrcc.com

W. Wood Harter, Orange, CA; Owner/President, Side-Eight Software (www.side8.com)

Wyatt Bode, Lebanon, Pennsylvania; Manufacturing Information Systems Coordinator, Curwood Specialty Films

Wynette Richards, Albuquerque, NM; Software Engineer, Los Alamos National Laboratory

Young Hyun, San Diego, CA; Software Developer, San Diego Supercomputer Center

Zac Feuerborn, Boise, ID; Consultant, n/a

Zachary Erbaugh, Richmond, Indiana; Computing Support Specialist, Bethany Theological Seminary and Earlham School of Religion

Zachary Weinberg, Berkeley, CA; Consultant, CodeSourcery LLC

Zach Dennis, Columbus, OH; Resource Specialist, EPRI

Zach Johnson, Minneapolis, MN; Student, University of Minnesota—Twin Cities

Zephaniah Hull, Atlanta, GA; Developer, Debian

Please note: we are signing this letter as individuals, not as official representatives of the companies we work for or organizations we belong to.

MTC-00028574

From: Brian Bender
To: Microsoft ATR
Date: 1/28/02 4:41pm
Subject: Microsoft Settlement

To Whom It May Concern,

As I understand the proposed settlement regarding the anti-trust trial against Microsoft, little if anything is done to correct the actions that have been found anti-competitive. The agreement simply prevents them from continuing. This hardly seems sufficient to deter a corporation from cheating its way into a dominant position. There should be, in my opinion, actual peanalties paid for past actions, so that there is a real disincentive to engaging in these practices in the future.

Consider this a "no" vote on the proposed settlement.

Thanks for your attention.
Sincerely,
Brian Bender
Pittsburgh, PA, USA

MTC-00028575

From: Lissa Levy
To: Microsoft ATR
Date: 1/28/02 4:41pm
Subject: Microsoft Settlement

I believe that the proposed settlement is a bad idea. It gives too much control to Microsoft without concern for the consumer.

Thanks,
Lissa Levy
Chapel Hill, NC

MTC-00028576

From: Ford, Jim
To: Microsoft ATR
Date: 1/28/02 4:41pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am writing this last minute email to state my support for the Microsoft Settlement. I believe that this battle the DOJ has waged against Microsoft has been, at the least, misguided, and has threatened competition more than anything Microsoft itself has been accused of. I would also point out that most of the key players in this battle on the corporate side stand to gain greatly not because DOJ will eliminate a threat to their well-being, but because DOJ is beating down a competitor who has the pulse of the marketplace (which they often do not).

Let's get this travesty of litigation out of the way and move on to something important!

Jim Ford
Network Consulting
jford@ncmidwest.com
(888) 969–6699

MTC-00028577

From: TSULLV@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:42pm
Subject: Microsoft settlement

Sir:

I am but a lowly consumer and cannot afford 10,000 dollar an hour lawyers.

I have no way to file any briefs with any judges and would not even know how. I can tell you one thing. On my computer I cant even remove one small icon that has to do with the MSN network. I would not even begin to be able to come close to removing or using any other soft ware on my home PC. Now I know little of the law and have no way of sending this letter to the judge.

I can tell you one thing micro soft has monopolized my system and that's a fact.

Thank You
Thomas F. Sullivan
little guy consumer

MTC-00028578

From: Susan Kaltenbach
To: Microsoft ATR
Date: 1/28/02 4:43pm
Subject: Microsoft Settlement

To the Department of Justice (DOJ):

I would like to submit my comment on the issue of the Microsoft settlement.

I understand that complainants against the settlement state that it (a) Does not correct Microsoft's "anti-competition" errors, and (b) Having Microsoft donate $1B of hardware, software and training is wrong because it perpetuates Microsoft's domination of the operating system marketplace.

I cannot comment on topic (a) because I am not well educated on the complaints and resolutions of this large and complex case. But I can comment on topic (b).

I am an individual who cares deeply about getting more underrepresented school kids interested in the sciences, and I have expended effort and mentorship to try to facilitate this. (In Washington state, "underrepresented" means racial minorities and "first generation" college students—students who are the first in their family history to attend college. I personally am a "first generation" college student.) I've heard comments from those opposed to the $1B donation that these kids should receive Linux software, since it is "free" and "open code," and would help loosen Microsoft's grip on the operating system's marketplace.

I want to make my message perfectly clear: These kids would be further ghettoized if the Linux proponents get their way. The Microsoft Windows software and applications model is used throughout the business world and is the dominant international software. To donate a fringe operating system like Linux would make these non-employable.

Not only is Linux useless in developing work skills for these kids, it is also extremely difficult to learn. Thus, only those who are supremely motivated—such as young boys already pursuing the maths and sciences—would make the effort to learn. The other, majority of students would avoid computing. And they would lack computer skills needed for them to succeed academically and professionally.

The present paradigm is to introduce kids to Windows or Macintosh operating systems. Then, the kids move to more specialized operating systems as the need arises. Unix and Linux are often used by academics— not by the rest of the world.

I therefore respectfully submit that the settlement agreement is, on topic (b), completely fair and valuable to the nation as a whole.

Thank you for the opportunity to comment.
Susan Kaltenbach
Mercer Island, Washington

MTC-00028579

From: JJ Gifford
To: Microsoft ATR
Date: 1/28/02 4:43pm
Subjec: Microsoft Settlement

To Whom It May Concern:

Attached are my comments re. United States et al. v. Microsoft, pursuant to the Tunney Act.

I have attached two copies of the same document, one in Microsoft Word format; the other in Rich-Text Format. Either document should be readable on any modern PC using up-to-date software.

Thanks in advance,
JJ Gifford
212 226 3462
Jonathan Gifford
117 Sullivan St., 5A
New York, NY 10012
doj.ms@jjgifford.com

January 28, 2002

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
microsoft. atr@usdoj.gov

re. Deficiencies in Microsoft settlement.

Pursuant to the Tunney Act, I am filing these comments on the proposed resolution of United States, et al. v. Microsoft.

My Perspective, Experience, and Interest

I believe this case is tremendously important. As personal computers and the Internet have become increasingly important to our everyday lives, so too has the landscape of the technology markets become increasingly important. Not only will the outcome of this case impact the fortunes of a host of technology companies, but it will also affect how I and millions of others communicate with our friends and family, what choices we have for online services such as digital photography, and of course how much we and businesses spend on technology infrastructure. Once the government decided not to seek a structural remedy, it necessarily embarked on a course of regulation. Regulation only works when the conduct prohibitions truly restrain anti-competitive behavior, and create a genuine opportunity for innovators to enter the market and compete in it based on their merits. Unfortunately, the Proposed Final Judgement (PFJ) presented by the Department of Justice and several states fails on all counts.

Its results will be only a mild, temporary modification to Microsoft's well-documented behavior, with no lasting or significant effect on competition. Microsoft will retain its monopoly and every incentive to maintain it through any means not specifically prohibited by the PFJ. Consumers will continue to be deprived of the innovations and other benefits of a truly competitive market, in part because innovators will be deprived of the opportunity and incentive to challenge Microsoft's monopoly as it expands and evolves. Most importantly, America's technology industry will stagnate, as ever fewer competitors see any value in entering markets dominated by Microsoft.

While I believe that many if not most Americans will be affected by the disposition of this case, I have a particular interest in it as a long-time technology consumer, entrepreneur, and enthusiast. Since 1980, I have used personal computers nearly every day, first as a hobby, then for school, and later for my career in the technology industry. In the early 1990s, I managed a small but pioneering desktop publishing department for a large advertising agency. Later, I joined a groundbreaking multimedia company that produced CD-ROMs for both Macintosh and Windows-based computers.

Most recently, I was a partner in a successful Internet development firm, which designs and produces web sites and other interactive media for corporate clients. Having sold my share of that business, I currently consult for other companies in the technology industry.

Definitions Are Critical: the Devil Is in the Details

1. Most provisions of the PFJ depend on the definition of "Microsoft Middleware." Accordingly, we should expect this term to be well-defined, with clear boundaries and unquestionable meaning. Unfortunately, the reality is that it is vaguely defined, in language that grants Microsoft itself much control over what software it, and therefore the PFJ, governs.

1.1. Definition: According to the PFJ (PFJ VI.J), "Microsoft Middleware" is any software which:

. is distributed separately from the operating system,

. controls the user interface of the Microsoft Middleware,

. provides substantially similar functionality as a Microsoft Middleware Product, and

. is trademarked.

1.2.

Definition gives Microsoft control. So Microsoft, which has long stated its goal of incorporating browsing and other middleware functions into its operating system products, can exclude code from the Microsoft Middleware definition simply by not distributing it separately from the operating system, or even just by not trademarking it. Microsoft therefore will have enormous latitude in determining which new operating system features will be governed by the PFJ.

Clarity Is Essential to Compliance and Public Confidence.

2. The PFJ consists largely of vague prohibitions hobbled by numerous qualifiers and exemptions.

For instance:

Limited replacement of Microsoft Middleware.

2.1. The PFJ requires Microsoft to enable users and OEMs to specify that Non-Microsoft Middleware be used in place of Microsoft Middleware (PFJ, III.H.2). This is a welcome change because it had previously been difficult to replace Microsoft's Internet Explorer (IE) without facing "considerable uncertainty and confusion" when IE would nonetheless unexpectedly be invoked under certain circumstances (Findings ¶ 171).

2.1.1. Exemption for Microsoft servers. Unfortunately, Microsoft is exempt from this requirement when the Middleware Product would be invoked "solely for use in interoperating with a server maintained by Microsoft" (PFJ III.H). This may exempt Microsoft's current move into network services (".NET") from the judgement, inasmuch as such services communicate with Microsoft-owned servers. Microsoft considers .NET to be the next phase of the Internet, at last offering "real" applications and services. The first .NET service, Microsoft Passport, aims at becoming a cornerstone of Internet shopping and authentication transactions, and stores its data exclusively on Microsoft-owned servers.

2.1.2. Exemption for proprietary technologies. Another exemption allows Microsoft to launch its own middleware when the Non-Microsoft Middleware "fails to implement a reasonable technical requirement" (PFJ III H 3). Microsoft will be able to capitalize on this loophole simply by emphasizing proprietary technologies not supported by Non- Microsoft Middleware. To the extent that Microsoft can implement features using proprietary technologies, it will better be able to exclude Non-Microsoft Middleware. A truly pro-competitive PFJ would encourage Microsoft to use open industry standards.

OEM Distribution Channel Opened, But For Whom?

2.2. The PFJ requires Microsoft to allow OEMs to customize the user's desktop by installing icons for Non-Microsoft Middleware and other products (PFJ, III.C.1). This is important to the PFJ because Microsoft has in the past excluded Netscape and other competitors from the valuable OEM distribution channel, often by contractually limiting an OEM's ability to customize the desktop. In addition, Microsoft has used its control over the valuable desktop real-estate as an incentive to get IAPs such as AOL to support Microsoft Middleware instead of competing products.

2.2.1. OEMs lack incentive. Unfortunately, because Microsoft's Internet Explorer is now the market leader, there is today little consumer demand for alternatives to Microsoft Middleware. This makes it unlikely that an OEM would see much gain, if any, in installing Non-Microsoft Middleware. Such distribution may benefit the middleware developers, but would not greatly benefit the OEM.

2.2.2. Customizations will be short-lived. This prohibition remains in effect only for a 14-day window starting after the end user first turns on his or her PC. Thereafter, Microsoft is free to re-arrange the desktop as it sees fit, including automatic removal of any non-Microsoft icons, e.g. by operating system features such as the "Clean Desktop Wizard" built-in to Windows XP (PFJ, III.H.3). So, any Non-Microsoft Middleware developers who do manage to secure OEM distribution could well see their products wiped off the desktop after a short two weeks.

2.2.3. Likely results. These limitations beg the question: will any OEMs risk irritating Microsoft for such minor benefits? If they do, will the results truly be increased competition in the middleware market?

General Rule on Sharing APIs.

2.3. The PFJ requires Microsoft to share APIs used by Microsoft Middleware with ISVs, et al. (PFJ III.D). In its Findings of Fact, the District Court found that Microsoft had repeatedly withheld such information from ISVs, or used its disclosure as an incentive for "friendlier" behavior, in an effort to preserve the applications barrier to entry (Findings, ¶ 84, 90, 91). Because ISVs depend on such information to develop software for a given platform, withholding APIs can limit or destroy an ISV's ability to create competitive products. Therefore full API disclosure should be considered a basic condition for any kind of effective competition.

2.3.1. Only APIs necessary to mimic Microsoft's products will be disclosed. Unfortunately, the PFJ requires Microsoft to share only those operating system APIs used by Microsoft Middleware. This is a limited set of APIs, of use only to those ISVs who want to develop middleware products similar to Microsoft's. It does little to help ISVs offer features or innovations not already offered by Microsoft's products. Since ISVs typically must provide innovations to gain market share against an entrenched market leader, this requirement is unlikely to promote competition in the middleware market.

2.3.2. Many APIs may be withheld on dubious "security" grounds. The PFJ allows Microsoft to exclude any APIs the disclosure of which "would compromise the security of a particular installation or group of installations of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems" (PFJ III.J.1).

. This is a surprising exemption because few security professionals believe API disclosure could weaken any well-designed security system. Indeed, the complete source code (a level of disclosure far greater than simple APIs) is publicly available for several operating systems and security-related products that are widely considered to be more secure than Windows (e.g. the Linux operating system).

. Yet the inclusion of this exemption implies that there in fact are such APIs whose disclosure could compromise security, and thereby opens the door for Microsoft to make claims about which ones they are. There is no basis for the Competitive Impact Statement's ("CIS") optimism that security-related exemptions will be limited to "keys and tokens" (CIS, IV.B.5) of particular installations. Nothing in the PFJ's language so limits the exemptable APIs, and such entities aren't generally visible at the API level, anyhow.

. With Microsoft's current push into network services (under the .NET moniker), we can expect privacy and security features to be suffused throughout the code, increasing the number of APIs Microsoft will try to exempt from disclosure. Indeed, Microsoft has just this month announced that privacy and security will henceforth be its main priorities.1 Associated Press, "Microsoft Announces Strategy Shift", D. Ian Hopper and Ted Bridis, January 17, 2002.

Inadequate Enforcement

3. The task of detecting whether Microsoft has violated these and other provisions falls to a three- person "Technical Compliance" committee (the "TC"). This committee will have access to the source code and tools used to create Microsoft's products, as well as access to the relevant Microsoft staff (PFJ IV.B.8). In theory, the TC's oversight will prevent Microsoft from using technical strategies to camouflage non-compliance, for instance by wrongly claiming that some important API should not be disclosed for security reasons. While such oversight may in fact be helpful, the TC is an inadequate, inefficient and non-transparent attempt to ensure enforcement of a Judgement that otherwise relies on voluntary compliance and enforces few penalties for transgressions.

3.1. Severe employment restrictions threaten the TC's performance. The PFJ includes employment restrictions which will dramatically narrow the pool of TC candidates—first, to those experts not currently working for Microsoft or a competitor, and then to those remaining candidates willing to forego any such employment for two years after serving on the TC. In so doing, it excludes nearly all of those experts in operating systems design and programming whom the TC most needs, since it will be very difficult to find any such experts not currently working for, and with no intention of working for, Microsoft or a competitor. As a professional in this field, I cannot imagine why a highly competent independent minded computer scientist would wish to serve on the TC under these circumstances.

3.2. The TC will be buried under a mountain of technical data. Even if well staffed, the committee will have an enormously difficult task from a technical standpoint. Inasmuch as deciphering computer source code can be difficult even for the code's author, much less a new reader, and inasmuch as Windows XP alone consists of some 45 million lines of code2, this committee will have an enormously difficult task. Even with a large support staff, it is hard to imagine this committee effectively analyzing Microsoft's source code and fully investigating allegations of non-compliance.

3.3. The TC cannot ensure timely remedies. Further, because the committee is prohibited from public comment (PFJ, IV.B.10), it will be unable to confirm any ISV's suspicions about Microsoft's compliance, nor could it force a timely remedy. Its only recourse will instead be to notify Microsoft and the Plaintiffs and to suggest a possible remedy. Therefore, an ISV suspecting Microsoft of non-compliance will not receive an immediate remedy, but must instead rely on a bureaucracy whose natural tendency will be not to pursue minor infractions. While such infractions may indeed be minor in the scope of the overall judgement, they would assuredly be of great importance to the ISV. 3.4.

The TC's findings may not be presented to the Court or the public. Under the PFJ, the TC may not testify in any matter relating to the Final Judgement, nor may its work product and recommendations be submitted to the Court (PFJ, IV.D.4.d). Similarly, the TC is prohibited from public comment (PFJ, IV.B. 10). Thus, even if the TC's exclusive access to source code should produce evidence of deception and non-compliance by Microsoft, this evidence will not be presented to the Court. 2 BusinessWeek, "Windows XP: a Firewall for All", Alex Salkever, June 12, 2001.

. In theory, the TC will report to the Plaintiffs, who may in turn report such non-compliance to the Court, and produce evidence of it via other means. This may well happen in the case of massive or severe non-compliance. However, what happens to the small ISV who suspects Microsoft of non-compliance, e.g. by not disclosing some necessary API? Such an injured party may report its concerns to the TC, and then hope that the TC is able to verify its claims, and further is able to convince the Plaintiffs to go to court on their behalf. During this bureaucratic pursuit, the ISV's business may suffer irreparable harm, or even vanish altogether (as has very nearly happened to Netscape). Were such ISVs to have access to Microsoft's source code, perhaps in a secure facility, they could investigate such concerns themselves, directly and immediately. Indeed, API disclosure would not be an issue in the first place.

. The point here is that the nature of the TC is as the first step in a bureaucracy whose natural instinct will be to pursue only the most serious transgressions. In the context of a rapidly changing technology industry, this is a serious weakness in the PFJ. 3.5. PFJ places enormous weight on third TC member. The PFJ proposes that the Plaintiffs appoint one member of the TC, Microsoft appoint a second, and then these two members themselves choose a third (PFJ IV.B.3). This structure places enormous responsibility on the third member, who can be expected to decide any disagreement between Microsoft's representative and the Plaintiffs", especially in the context of the Voluntary Dispute Resolution process in IV.D. It is unclear whether the TC reports to the Plaintiffs only as a single unit, or whether a dissenter's view also gets submitted to the Plaintiffs. A better structure would at the very least make it crystal clear that any single member of the TC may report to the Plaintiffs.

Also, creating such a fulcrum position in the TC makes this third seat much less attractive and harder to fill, and injects an element of politics into the TC that will distract from its technical mission and smooth functioning. Because the TC is not a decisional body, but simply a means to keep a watchful eye on Microsoft's compliance, it is unclear why Microsoft should have representation here at all. All of the TC's members should be appointed by the Plaintiffs, perhaps with the DOJ appointing one member, the States appointing a second member, and the Plaintiffs collectively appointing the third. 3.6. Catch-22. Given the enormity of the TC's tasks, the limits on its powers and enforcement abilities, and the severe employment restrictions surrounding service in the TC (IV.B.2), it is clear that any candidate for the TC willing to accept the job is almost certainly too inexperienced to be legitimately qualified for it.

In Today's Market, More is Needed.

4. In perhaps its broadest weakness, the PFJ fails to recognize that the circumstances of the original case were unique, and that circumstances today are very different. The Internet's rapid public acceptance around 1994–1995 took many established computer-industry firms by surprise, and radically changed the personal computer market. The basic reasons users wanted to own personal computers changed dramatically within less than two years. Two companies in particular, Netscape and Sun Microsystems, were able to aggressively exploit the new technologies and to take advantage of Microsoft's slow response to the burgeoning consumer demand. As a result, they were able to present a serious threat to the applications barrier to entry that has long protected Microsoft's monopoly in Intel-compatible operating systems.

4.1. No longer any consumer demand for non-Microsoft Middleware. But that window of opportunity is long closed. The Internet is an established part of the personal computer market. Microsoft's Internet Explorer is the dominant browser. There no longer is any great consumer demand for alternative browsers. Netscape no longer exists as an independent company, and development of the Netscape browser occurs at a fraction of its former pace. Even the CIS acknowledges that Microsoft has "perhaps extinguished altogether the process by which these two middleware technologies [Java and the Netscape browser] could have facilitated the introduction of competition into the market for Intel-compatible personal computer operating systems" (CIS, III.B.3).

4.2. Cannot resuscitate existing middleware competitors. Nothing in the PFJ can or will restore these competitors to their former strength. There is no way to rekindle the massive consumer demand, then left unserviced by Microsoft, that gave these companies their initial momentum.

4.3. Hoping for another thousand-year flood. Still, the CIS claims the PFJ will "restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings" (CIS, II). Given that Microsoft now dominates the browser market and retains its operating systems monopoly, and given that the PFJ allows Microsoft to support its browser market share by tying the browser to the operating system, this claim seems to rest on the optimistic hope that some new disruptive technology will appear, will be ignored by Microsoft, and will create massive consumer demand for some non-Microsoft Middleware. Without such an event, the PFJ merely establishes rules for a game that has no players.

Unconditional Surrender

Finally, in a bizarre and extreme limitation, the PFJ will expire in only five years—regardless of whether or not Microsoft retains its operating systems monopoly (PFJ, V.A). The DOJ must believe that not only is the PFJ an effective remedy, but that it will be so effective that Microsoft will be reduced to a shadow of its former self and must be unshackled in just five years (seven, if the Plaintiffs seek and receive the maximum extension permitted by the PFJ). Unfortunately, this clause is so careless that it will release Microsoft no matter the circumstances—that is, even if Microsoft retains or even strengthens its monopoly power. The message that the PFJ sends is "we'll try this for five years, and then we're giving up."

Any judgement should remain in effect until the Court finds that Microsoft no longer holds a monopoly in Intel-compatible operating systems. It makes little sense to release Microsoft until competition has re-entered the market and Microsoft may no longer commit the illegal acts described by the Court" s Findings of Fact.

Alternatives

This PFJ illustrates the difficulty in devising effective conduct remedies for complex software cases such as this, especially where the defendant retains its monopoly power and the incentive to expand and maintain it by any method not prohibited by the PFJ. Vague technical definitions and even apparently narrow exemptions can be exploited by the monopolist to maintain its ill-gotten gains. It would be vastly preferable to create the proper structural conditions for competition by decoupling parts of the monopolist enterprise. Without a structural remedy, it is imperative that the definitions and prohibitions in the Final Judgement be as clear and comprehensive as possible, so as to fully restrict the anti-competitive behavior that has been denying consumers choice, innovation and fair market pricing. There are a number of specific changes that ought to be made to the PFJ:

. Any judgement should remain in effect until Microsoft no longer holds a monopoly in Intel- compatible operating systems. Starting in 5 years, the Court should annually review Microsoft's position in the Intel-compatible operating systems market. Should it find that Microsoft no longer exercises monopoly power in that market, and therefore cannot commit the illegal acts described in the Court's Findings of Fact, it could release Microsoft from the terms of the judgement.

. The TC should be appointed entirely by the Plaintiffs, perhaps with the DOJ appointing one member, the States appointing a second member, and the Plaintiffs collectively appointing the third.

. Definitions such as that of "Microsoft Middleware" should be tightened considerably, and the PFJ reworked to minimize its reliance on such narrow categories.

. Microsoft should be required to make the full source-code for its Intel-compatible operating systems available for viewing by ISVs et al.. This will allow ISVs to better develop competitive products, and will allow the ISVs themselves to monitor Microsoft's compliance with the judgement's other technical requirements, instead of relying on an inefficient, overworked TC.

. If the Court decides against requiring source-code sharing, it should at a minimum require the disclosure of all operating system APIs used by any Microsoft products (i.e. not just those APIs used by Microsoft Middleware). A blanket disclosure requirement such as this will close those existing loopholes whereby Microsoft might withhold critical information from ISVs whose products threaten its operating system monopoly.

. Exemptions permitting various proscribed behaviors under certain circumstances should, as a whole, be stricken. Finally, the judgment should include real consequences for non-compliance, such as further conduct prohibitions, financial penalties, or further disclosure requirements. The PFJ currently provides only a possible Court-imposed two-year extension of its rather toothless provisions.

Conclusion

I hope that the PFJ is modified by the DOJ or the Court, and that what seems to be a great opportunity for antitrust law to make a difference for tomorrow's entrepreneurs and consumers is not lost in a fog of complexity. The technology may be complex and changing, but the underlying competitive issues are fundamental. I take both comfort and concern from the fact that I am clearly not alone in expressing these concerns. As the Financial Times editorialized: ". . .It would be wrong for the states, or the judge, to reject this settlement merely because it is not sufficiently punitive. The test is whether the proposal provides enough protection for the public and for Microsoft's competitors. As it stands, it does not meet this test. Though a continued trial would be expensive and distracting, it would be better than an unsatisfactory settlement. This proposal should be rejected.." (Financial Times, "Micro-too-soft", November 5, 2001)

I believe that the PFJ, if accepted by the Court in its current form, will lead to clear and irreparable harm to consumers and to the United States" technology industry. So pervasive has technology become that the technology industry is an obviously critical component of the American economy.

Even Business Week, itself no anti-capitalist Microsoft critic, recognized the broad implications of the resolution of this case: ". . . [T]he Justice Dept.'s weak censure of Microsoft for its serious monopolistic practices could cost the U.S. mightily in the years ahead. The great strengths of the American economy are its openness, its competitiveness, and its innovativeness. Monopoly is the enemy of all three." (BusinessWeek, "Slapping Microsoft's Wrist", November 19, 2001)

Based on my experience, I do not find the PFJ to be in the "public interest", which is the standard that the DOJ and the Court are subject to under the Tunney Act.

Respectfully submitted,

Jonathan Gifford

January 28, 2002

MTC-00028580

From: noreen.willig@verizon.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:40pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200 Washington; DC 20530–0001 Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Noreen Willig 7394 E. Brisa Drive
Scottsdale, AZ 85262

MTC-00028581

From: Peter Anderson
To: Microsoft ATR
Date: 1/28/02 4:44pm
Subject: MICROSOFT SETTLEMENT
Please find attached my comments in the Microsoft Settlement.
Peter Anderson
5749 Bittersweet Place
Madison, WI 53705
(608) 233–6167
Daytime: (608) 231–1100

MTC-00028581—0001

5749 Bittersweet Place
Madison, Wisconsin 53705
(608) 233–6167
January 28, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530–0001
Re: MICROSOFT SETTLEMENT COMMENTS

Ms. Hesse:

I would like, if I may, to forgo adding any further efforts to muddy the law and, instead, just comment on the proposed settlement as a consumer who uses a PC computer. With all the drang and sturm already surrounding this case, the interests of the consumer can sometimes get lost in the legal crossfire.

Separate from the arcana of the law, there are two competing views that have been expressed to determine the consumer's interest, as regards the benevolence of the monopoly that Microsoft maintains over desktop operating systems, and against which the proposed settlement ought to be judged.

The first, and most easy to understand, is the view ably championed by Microsoft. That points to the great advantages in convenience from having a single seller that, alone, can erect a seamless intra and inter connectivity among the various applications on one's own desktop and in electronic communications with different computer users using different platforms. Certainly the convenience factor has some merit and, I must confess, some of my computer-using colleagues with whom I discuss these issues second Mr. Gates'' feelings.

On the other hand, and less readily understood but eminently as vital, is the essential creative energy for dynamic change and future progress that only emanates from disorganization and chaos, both of which are, too often, swallowed in the maw of a monopoly, especially one, like here, that has been found to wantonly abuse its monopoly power. That is why I believe this excerpt from the Pulitzer Prize winning book, Guns, Germs and Steel, is so instructive for how to structure a remedy in this case, if you will indulge me in this short detour to an explanation of why civilizations expand and fall-

''Why did China lose its [technological] lead [over Europe]? Its falling behind is initially surprising because China enjoyed undoubted advantages . . .

''These advantages and head start enabled medieval China to lead the world in technology. The long list of its major technological firsts . . . In the early 15th century it sent treasure fleets, each consisting of hundreds of ships up to 400 feet long and with total crews of up to 28,000, across the Indian Ocean as far as the coast of Africa, decades before Columbus's three puny ships crossed the narrow Atlantic Ocean to the Americas'' east coast. Why didn't Chinese ships proceed around Africa's southern cape westward and colonize Europe, before Vasco da Gama's own three puny ships rounded the Cape of Good Hope eastward and launched Europe's colonization of East Asia? Why didn't Chinese ships cross the Pacific to colonize the America's west coast? Why, in brief, did China lose its technological lead to the formally so backwards Europe?

''The end of China's treasure fleets gives us a clue. Seven of those fleets sailed from China between A.D. 1405 and 1433. They were then suspended as a result of a typical aberration of local politics that could happen anywhere in the world: a power struggle between two factions at the Chinese court (the eunuchs and their opponents). The former faction had been identified with sending and captaining the fleets. Hence when the latter faction gained the upper hand in a power struggle, it stopped sending fleets, eventually dismantling the shipyards, and forbade oceangoing shipping . . . But in China . . . because the entire region was politically unified . . . [o]ne decision stopped fleets over the whole of China.

''Now contrast those events in China with what happened when fleets of exploration began to sail from politically fragmented Europe. Christopher Columbus, an Italian by birth, switched his allegiance to the duke of Anjou in France, then to the king of Portugal. When the latter refused his request for ships in which to explore westward, Columbus turned to the duke of Medina-Sedonia, who also refused, then to the count of Medina-Celf, who did likewise, and finally to the king and queen of Spain, who denied Columbus's first request but eventually granted his renewed appeal. Had Europe been united under one of the first three rulers, its colonization of the Americas might have been stillborn.'' Jared Diamond, Guns, Germs and Steel: the Fates of Human Societies, W.W.Norton & Co. (1999), at pp. 411–413 (emphasis added).

The same motivating forces that animate a civilization described by Mr. Diamond similarly infect those of companies, technologies and markets. Microsoft certainly has much to be proud of in prevailing over so many of its competitors. But innovation does not number high on that list.

Whether we think back to the first ''killer app,'' the spreadsheet, or the word processor, not to mention the mouse, the user-friendly WYSIWYG interface, the world wide web, media streaming, music sharing or almost anything else that has caught fire in the market, it was someone other than Microsoft who conceived and gave life to these ideas so critical to the realization of the full potential of computing. Furthermore, the fact that Microsoft exercised its monopoly power over the desktop to destroy so many of these inventors, depriving them of their just reward for their labors, is of great concern for an economy whose lifeblood literally depends upon the nourishment of innovation.

What Microsoft has added to the equation apart from technical refinements is, essentially, marketing—marketing with the unique power that arises not because it has developed the newest or best product for the consumer, but rather the dominance that derives from the illegal extension of its desktop operating system monopoly.

This is not a contentious statement. The company's executives openly acknowledge the fact, as in the Wall Street Journal profile that ran following Mr. Gates handing day-to-day control over to Mr. Ballmer two years ago at the height of this litigation. ''Mr. Ballmer's ascension signals— ''the shift in power at Microsoft from those with purely technical minds to those who can fuse technology with business sense and customer concerns. For example, Microsoft's consumer chief Rick Belluzzo, a longtime Hewlett-Packard Co. executive whom Mr. Ballmer recruited, says the success of Microsoft's Web efforts depend more on marketing than technology.'' David Bank, ''How Steve Ballmer Is Already Remaking Microsoft,'' Wall Street Journal (Jan. 17 ''00) (emphasis added).

Nor ought that statement to be surprising. It is in the essential nature of organization that, once primacy in some endeavor is achieved, every sinew in its corporeal body is marshaled toward the defense of the product at the source of its power, to be free of the unpleasantness of brutish competition, and to enjoy the quiet life of the monopolist.

Understandable though that may be for any monopoly, including Microsoft, this condition does not demarcate the consumer interest. Rather it is antithetical to it. Messy but vibrant competition is the only proven engine to maintain the pressure to constantly strive and to provide rewards for those who succeed.

Absent clear and enforceable constraints on the extension of Microsoft's desktop monopoly to the web and beyond, the future will be the worse for the dead weight of their monopoly. If the trial court's original structural remedy breaking up the operating system monopoly from applications and the web is off the table, then it is absolutely essential that the final judgment erect an impenetrable wall preventing Microsoft's conduct from extending its monopoly into the new frontiers that advanced computation have opened.

This includes a ban on bundling or otherwise tying the sale of its Windows operating system with any other software product whose essential purpose is to communicate to or from the world wide web or manipulate digitized sights and sounds, all of which are outside the OS market and none of which is mission critical for a desktop computer to operate. At the same time, Microsoft must also open all its evolving source code with complete documentation to competing developers so that they are given a fair opportunity to be the First to market for mid-ware with product that is seamlessly integrated into the operating system. Lastly, the defaults built into the operating system cannot steer the passive user to Microsoft's products, such as the Word folder that Outlook Explorer continues to steer me to when attaching fries such as this to email, impervious to my best efforts to change that default setting.

Mind you, none of this means that Microsoft ought to be stopped from marketing any product that they chose, so long as it is unbundled in its own shrink wrap to insure that they are forced to compete on a level playing field. Even if they had acquired their monopoly power on the desktop legally—and the trial court found otherwise—that tragedy would be inexcusably compounded in a black mark on the legal system were they now permitted to leverage that illegal monopoly into new markets and, in the process, slow the development of future opportunities on which America's leadership depends.

For all his accomplishments, Mr. Gates ought not to be heard to complain about the intervention of the anti-trust laws in his path to market power inasmuch as Microsoft only exists by virtue of the fact that the Justice Department had previously sued IBM for anti-trust violations, which at the time had a near monopoly in mainframe computers. The reason IBM visited young Mr. Gates that fateful day in 1979 in search of an outside party to provide an operating system for IBM's first personal computer was, by moving that product extension in someone else's hands, to throw the antitrust wolves off their traces, not because they had any capacity or desire to develop their own product in-house.

Now it is time for him to recognize that the sun which has shined on him is setting. For the immediate future, Microsoft can continue to enjoy monopoly rents on a mature business so long as it refrains from those acts found unlawful that illegally sustain its monopoly, but it must leave future markets to be conquered only by those who fairly prevail on the field of competition.

It is in its dynamic economy that America has defined its greatness. In that achievement, however, lay the seeds of our own decline if we let ourselves become prey, as so many civilizations have before us, to subside into complacency, lured by the siren call of convenience and its hand maiden, the status quo.

With the future of economic growth so tied to the ability to multiply human productivity through advances in computation, it would be a tragedy of the first order to let that happen. This case creates the opportunity to seize a far better future than the convenient but far more limited one promised by Microsoft.

Sincerely,
Peter Anderson

MTC-00028582

From: JLennox@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:45pm
Subject: Anti Trust settlement

Mr. Ashcroft,

Please read the attached letter regarding Microsoft. Thank you.

Regards,
James J Lennox

MTC-00028582—0001

James Lennox
19 Dellwood Drive
Florham Park, NJ 07932
January 28, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

The purpose of this letter is to go on record as a supporter of the settlement that Microsoft and the Department of Justice has reached. The antitrust suit against Microsoft has drained state and federal government funds, as well as Microsoft's; am relieved to see that it has ended.

A inordinate amount of money has been spent pursuing Microsoft, and this settlement finally allows an end to the litigation. The settlement was actually harder on Microsoft than I would have liked, but I am relieved to see an end to the dispute. In fact, Microsoft will be required under the agreement to supply its competitors with its intellectual property in the form of source code and design data, which makes up the internal structure of the Windows operating system. This does not seem fair to me, but if it ends the suit against Microsoft, I support it.

This settlement is fair enough, and I just hope that there will be no further litigation against Microsoft.

Sincerely,
James Lennox

MTC-00028583

From: paul—knutson@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

I urge the Federal Government and those states involved in the settlement of the anti-trust case with Microsoft in November 2001 to continue with the process of settlement and see it through to its completion. I have read the terms of the settlement and the punishment of Microsoft is stern but fair for all involved. I and the other consumers who ultimately drive the economy will benefit from this settlement and that is of utmost importance today. It is time for the Federal Government the participating States and all those who seek to further delay this settlement to move on to other issues by allowing the completion of this settlement and ending the Microsoft anti-trust case once and for all.

MTC-00028584

From: nanandkitty@bigplanet.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

Please honor this settlemnt and free time money and resources to pursue solutions to the truly outrageous abuses perpetrated by ENRON and ANDERSEN!!!

MTC-00028585

From: trasharp@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

The government has no business determining software/hardware combinations how technology can be improved how technology companies can form partnerships and how companies can manage their intellectual property. The market and consumers have already made that decision and make it every day in their purchasing choices. This settlement should be approved so that we can all move on to the business of innovation.

MTC-00028586

From: smodan@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

Because I am old (68) I remember the growth of computer technology and it has been great. Microsoft has led the way. But along the way there has been a lot complaining about the leadership. As I remember it would come from people who were experts. It seemed they had control of their world and didnt want it to change. But technology is about change and therefore what ever Microsoft did it made the present better and pushed us into the future. From my point of view we should stop all law suites aginst Microsoft and get on with business.

MTC-00028587

From: cdydr@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

The settlement proposal appears to be more than fair and with all the protection features necessary.

MTC-00028588

From: febetz@toad.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

Throughout this process Microsoft and Bill Gates have shown no remorse or even signs that they have infringed on the rights of others in the marketplace. The current settlement is a sellout to Microsoft.

They concede nothing and give nothing. The day after this settlement concludes Microsoft will continue to bully and coerce smaller competitors protect their programs and deny what everyone thought that they were supposed to yield. Their lawyers will find protection in the samll print. Microsoft gained leadership through shrewd buisness alignments initially and afterward by borrowing technology from others. Did Microsoft introduce the mouse or pull down screens? No! If it wern t for other competition Microsoft would still have us using DOS. Microsoft has continuously introduced mediocre software and mediocre upgrades that crash and crash again. If they were building automobiles no one would buy a second one. Microsoft has dominated the personal computer software field with poor products soley because they have muscled every competitor into submission. The proposed settlment does nothing to stop this still arrogant corporation from continuing as it has in the past. Break up Microsoft!

Give the Nation an honest and fair playing field for all. Thanks !

MTC-00028589

From: robinpur@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

I am shocked that the government has brought this case against Microsoft. Microsoft is an innovative company that does a lot for it s consumers. It s amazing that a small business can be successful with the tools Microsoft has developed. This case against Microsoft needs to be dropped. It s harming consumers and our economy to continue such a fight against a company that has done so much for the consumers and America! Please drop this case and move on. Settlement is needed to help the economy to move forward. I am so disappointed in the 9 states that are continuing the fight against Microsoft. They are obviously not listening to the American people since most of us do not want this to continue since Microsoft has done so much to help improve our lives. It s so obvious that the 9 states are being pushed to continue to fight Microsoft just for money and their power-hungry competitors that have not been able to develop products as well as Microsoft. As a consumer I choose which products I want to use. It s not forced upon me! Therefore I m not sure how I m being harmed. I choose what I want to use and I will continue to choose Microsoft. Please move forward and let things continue the way they are.

MTC-00028590

From: twotoads@webtv.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

It is time this case is settled as determined in November and stop any futher costs

MTC-00028591

From: eeldon@juno.com@inetgw

To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

Leave Microsoft alone. They have simplified the use of computers. What happened to free enterprise?

they came up with a better mouse trap and other companies want to capitalize on their expertise.

MTC-00028592

From: frankcaicedo@holmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

Leave Microsoft alone. This is the first company in the history of the United States to be number one in the world at what they do. I think that Mocrosoft has done a wonderful service to this country and I do not want any damage to the company that has managed to keep the foreigners away from the leadership in this technology. Microsoft deserves all of our support so that they will be able to concentrate on bringing to us the newest advances in computer software and related technology. Sincerely Frank

Caycedo
M.D.

MTC-00028593

From: rogowski@pacifier.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

It seems the loudest voice against the settlement is Microsoft competitors. That should indicate to the court that they intend to use the justice system to their benifit. The settlement is just and fair and should be granted.

MTC-00028594

From: dchadwell@executive.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

Dear Sirs I encourage you to complete and settle the Microsoft case as soon as possible in a manner that is the least intrusive of Microsoft. It is my opinion that this entire case is based not upon what is best for consumers as we enjoy the greatest technological advantage in the world here in the USA largely due to the contributions from Microsoft but based upon the desire of others as Larry Elison and Scott McNealey (Oracle & Sun Corporations) to themselves be # 1 in place of Microsoft. Both have openly and repeatedly said as much on many venues. It is time to close this case and move on. Best

Regards
Danny Chadwell

MTC-00028595

From: jana30@ameritech.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

The origin of Microsoft is the story of America.Competition and innovation should be encouraged cultivated and applauded.Tempered with some rules and regulations but not punished for triumph.Every contest has a winner and a loser.Does not the vanquished perpetually cry foul upon defeat?Technology today is a profusion of opportunities let's not support regulatory suffocation!

MTC-00028597

From: gillesdebordeaux@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

Microsoft is among the few companies who allowed the USA to become the number one software exporter in the world. Don t break or harm a company that brings so much money to the USA and that employs (directly and indirectly) so many people. Microsoft keeps bringing a lot of inovations at a very low cost for the customer.

MTC-00028599

From: wearent@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

i disagree with the gov. interfering with microsoft s effort to increase the use of technolgy. i wish to support the settlement that has been worked out between microsoft and the gov! please alow us the opportunity to determine what we want—now get off their back so they can provide us with new technolgy sincerely wesley and lois arent.

MTC-00028601

From: sbcascade@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

Please settle the case against Microsoft. Pursuing the case against Microsoft is harming consumers. Microsoft has done a lot for me as a small business owner. I do not support the actions of fighting Microsoft since their programs and tools have helped my business be successful. Please settle and let us consumers decide which products we want to use.

MTC-00028602

From: monette@freeway.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

Why tear down one of your biggest corporations just to destroy them? (EX> K-Mart). You have much bigger fish to fry. Go after the real problems—the stock market. The manipulations of the anaylasts have done major damage to the ecomony. Go after those people who are one of your biggest problems instead of wrecking another major industry who has done so much to advance technology in the country and the world.

MTC-00028603

From: monette@freeway.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

Microsoft brought the computer to this country for the common people. They have done what the government could not do. Actually Microsoft brought the computer to the World. You should be thankful for this. Shame on you for being so selfish. Marcia

MTC-00028604

From: ahowens@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

It s a shame when corporations suing Microsoft can t stand competition. It also appears our legal system is willing to continue trying to destroy Microsoft. Why don t we just let the market system work? Let the people buy the product they want instead of forcing Microsoft to give incentives to it s competitors.

MTC-00028605

From: dcmcder@swbell.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

The involvement of the government in this matter disturbs me a great deal. The tax dollars used to fund the prosecution of Microsoft far outweigh the consumer benefit (if any) a judgment would provide. As I see it the only people who are being assisted by this would be AOL SUN Oracle and others. So as a consumer I would like to once again thank you for all you ve done to help big business in my name.

MTC-00028606

From: joec504@earthlink.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

Get on with the settlement! As long as all parties aggree let s get back to good competitive business.

MTC-00028607

From: maxrice@charter.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

I think the proposed settlement is in the public interest and should be accepted.

MTC-00028608

From: ilsawing@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

It is my belief that government has gone too far in it s pursuit/vendetta against Microsoft. When the public buys more goods from a certain company it is usually because that company had the foresight to see the needs of the public. Also the public has in essence cast it s vote by buying goods and services from Microsoft thereby showing it s trust and it s wish to continue a consumer/producer relationship with that company. It makes me wonder what is next on the government s agenda to attack and break up. This divide and conquer strategy taken by our government can next attack anything American. The people should beware and vote accordingly to be assured that those who intend to use big government against the public are not in a position to do so.

MTC-00028609

From: gip4all@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

I do not support the settlement/s as written with Microsoft. Microsoft retains a monopoly on my PC. I can not remove MS Explorer from my PC. I favor Netscape. MS has been let off much to lightly. MS should be split up ASAP.

MTC–00028610

From: ERUTHDUBUISSON@prodigy.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

Settle this problem now! This suit was not necessary to begin with. Taking up to much precious time and money of the tax payers.

MTC–00028611

From: lmiller@dragonbbs.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

Yes I agree hope it is settled and finished let Microsoft continue with the creative course that made it famous and helped it bring about so many new products and ideas!! Feel Bill Gates is a deservering man — let him go on and on and on ....

MTC–00028612

From: colvinnl@muohio.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

It seems clear that the settlement reached in the Microsoft case is a good one. The most important goal should be to end the use of the taxpayers money on such an unworthy cause. Let s end the waste!

MTC–00028613

From: patandal@asapnet.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

THE ATTEMPTED RUINATION OF AN INOVATIVE COMPANY BY VINDICTIVE COMPETITORS SHOULD NOT FIND AN ALLY IN THE U.S. JUSTICE DEPT.. SETTLE THIS CASE AND LET S GET BACK TO BUSINESS.

MTC–00028614

From: Matt.Allen@unitedstates.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

I am concerned that this process has draged on long enough and $35 Million taxpayer dollers was too much to spend already.

MTC–00028615

From: mrdubridge@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

It seems to me to be more a matter of extortion than justice.The complaints were brought by competitors rather than consumers. The anti trust and monopoly laws were intended to protect consumers yet consumers are not for the most part the ones complaining.If Microsoft is a monopoly then how can there be competitors to bring about these complaints? It seems to be another case like that of the tobacco co.s of the government seeing a huge pile of cash that it can extort from a legal corporation operating in a legal manner producing a legal product being used in a legal manner.

MTC–00028616

From: gelliott@bigskytel.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

Although it is obvious that Gates is a communist I can t see any lawful authority for the government to tell him how to run his business. And just as the government asked Howard Hughes to finance World War II who do you think the government is going to ask to finance World War III?

MTC–00028617

From: lillian.bensley@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:36pm
Subject: Microsoft Settlement

This is to register my support of Microsoft s position. I think we should support a company that is contributing to the US and world economy by providing a good product. It frustrates me that the government goes after Microsoft... why weren t they on Enron instead? Not enough contributions?

MTC–00028618

From: ajimenez@milesgr.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

We as Americans need to quit spending our time and valuable economic resources and focus on the real problems. Corporations like Microsoft keep America s economy running the war is not against Microsoft who provides job to thousands of Americans and helps to the financial health of our nation. Microsoft as a leading technology improvement corporation should be an example to follow restraining it will cause a regression of the high tech industry. I as a consumer and concerned citizen would like to see a little bit of wisdom in my elected representatives if they could do a better job by focusing on real problems and keep America rolling.

MTC–00028619

From: jblack000@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

Companies against Microsoft should go to work each day to innovate rather than collude with the state AG s to litigate! It seems that the only way to satisfy Microsoft s competitors is to legislate and litigate the Microsoft Corp. completely into oblivion!

MTC–00028620

From: paulbarker—1@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

I think that the speedy resolution of the settlement is in the best interest of everyone—the technology industry the economy and especially consumers. The nation has spent enough money on this case and should move on to other cases more important. Besides the lengthly negotiated settlement have been endorsed across the business spectrum. Let s just move on.

MTC–00028621

From: sueamark@msn.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

This a fair and reasonable settlement time to let the agreement move forward and gauge the results speak for themselves!! Not only have i not benn overcharged for software but have received technical support free of charge whenever it was needed usually because of a problem on my end....I own a lot of software and by far Microsoft has been the most deserving of it s price....features combined with excellent customer service far exceedes almost all other competitors software I have used....other operating systems that i have seen are of no interest regardless if you give it to me for free! price vs. results is of the utmost importance....and free or cheap has it s costs....let free compition be thy guide not lawyers andspecial interests....i stand firmly behind a company that stands behind their products!!!! a satisfied Microsoft customer......

MTC–00028622

From: joe—213@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

My Opinion is that the government should stay out of technology and the web. They are currupting freedom of speech with every attack on the Internet & Microsoft. People shouldn t be prosocuted for doing good business and making good products. there hasn t been a company that is better at doing business OR making good software for consumers and business to use. Most Commerce on the internet is backed by microsoft servers and a technology that microsoft has made. That awesome advance (known as ACTIVE SERVER PAGES) in the internet is downplayed by one or more tiny little losers in the consumer market. Most people know and love windows its on something like 90% of consumers PCs.

Your alternatives are Macintosh or Linux. Both of these options are either too technical or too expensive. Windows is easy enough for most Non-Technical people to use and learn. Macintosh says they are the easiest but with most people they dont want a Macintosh because they look dumb or they are too expensive you choose why. Plus $1000 for a low end computer isn t desireable for me how about you!?

Your other option are linux and OS2 (all flavors) do you program C? I dont and im a database administrator enough said. Another person (or the government) might take the opposite view. Well they are soo good they are tring to take over all the companies that make technology. I don t believe they are tring to take over anything. I think that the consumers are making them. they are making products that are far better than any others.I don t work for microsoft nor do I believe in thier mission statements. But as a consumer in the technology field I believe in their products. So be it is I will continue to buy

Microsoft products reguardless of any government regulations%

MTC-00028623

From: emoss@agloan.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

I feel that the US Gov t cannot keep their mitts off of anything. I feel bad for the U.S. that we should target the entrepreneurial spirit of this country and lambaste the winners of the contest to see who can come out on top. It is to our shame that an outfit like Microsoft (being the biggest boy on the block by far) is hounded by the U.S. s own legal offices. My feelings about this whole incident lean towards the abstinence of the corporate entity in the marketplace from today on. In other words MS would close their doors from this point on retire those people that they can furlough those people that can t be retired and shut the doors. If the U.S. infrastructure begins to fail so be it. The justice dept. caused the whole thing. If the entire economic structure of the U.S. is placed in jeopardy because of this incident maybe the DOJ will put noses up their own a** instead of into other peoples businesses.

MTC-00028624

From: rdo@community.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

Microsoft has done more for this country than any other ten companies put together. Stop the action that seems to be planned to go on forever. Finalize the settlement and stop further action.

MTC-00028625

From: pss@comcast.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

I am encouring a swift and fair conclusion to the Microsoft case. They should be allowed to innovate and offer the consumer their best product. They should be fair. The consumers will ultimately determine the software choices best suited for their needs.

MTC-00028626

From: jmurphy@rsmeans.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

I do not believe that taxpayer interests are served by government continuing to hear competitor-driven antitrust lawsuits against Microsoft. It is regrettable that the original lawsuit was heard.

Sincerely
Jeannene Murphy

MTC-00028627

From: john@inetplus.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

I think that Microsoft has been unjustly treated. They happen to make the best internet browser and operating software in the industry. Microsoft has made is easy for first time computer users to access the Internet and I herald them for thier efforts... Now get off of them and let them do business.

MTC-00028628

From: ACrawford@phillynews.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

Microsoft should be prevented from its longstanding and ongoing deceptive and predatory business practices. If this requires breaking the company into two or more smaller companies so be it.

MTC-00028629

From: lisagludwig@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

Attention: I am writing to tell you that I believe that there has been no consumer harm whatsoever as a result of any actions taken by Microsoft. In fact Microsofts products and services have led to tremendous benefits for consumers such as my myself and my family such as better products and lower prices. Antitrust law is supposed to be about consumer harm and on that one key issue alone the government has failed to show any harm whatsoever. So lets back off now and leave Microsoft alone and this will also help our economy tremendously! Given that the economy is now in recession the last thing we need is more litigation and regulation of the high-tech industry. Settlement of this case is in everyones best interests the technology industry the economy and consumers. I hope you heed this advice! Thank you! Sincerely Lisa Ludwig

MTC-00028630

From: melendy@bellsouth.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

In my humble opinion it is long past time to cease this ridiculous persecution of the most innovative corporation in the nation. The benefit that has accrued to the nation from Microsoft s standardization of software and the continued increase in the productivity thereof are vitually beyond calculation. And what do they get as their reward? Persecution by the government because a passel of would-be competitors simply are not sufficiently creative to keep up with them. Can it.

MTC-00028631

From: kkidder778@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

The Dept. Of Justice should drop it s lawsuit against Microsoft. Do not penalize a company for success. I feel that the lawsuit against Microsoft in early 2000 was one of the prime reasons the stock market started it s slide in 2000. Big Business drives the economy of this country do not stand in the way of the economy lets get the economy rolling again.

MTC-00028632

From: dp@ontariodesign.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

Please let the settlement stand. Do not pursue further action against Microsoft.

MTC-00028633

From: fghill@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

you have tried to strangle the goose that laid that golden egg and spent too much $$$ onit.

MTC-00028634

From: tefzel@earthlink.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

I buy Microsoft products because I like them and I want them. The thought that Netscape or any other company is losing market share due to a monopoly is ridiculous. If I thought other products had merit I would buy them. The only reason Microsoft seems to have a monopoly is because their products are many times better than the competition! In my opinion the plaintiffs in this case are wasting my tax dollars.

MTC-00028635

From: kconover@ilcc.cc.ia.us@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

I believe that the Microsoft settlement is fair and equitable for the technology industry. Further litigation would be counter-productive to the technology industry and to the general business climate. It is time to end this protracted court action.

MTC-00028636

From: PatrickPlock@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

I believe this settlement proposal unfair to Microsoft and prohibits Microsoft to conduct their normal course of business not unlike any other corporation. Microsoft has been unfairly targeted as an industry monster and this settlement sends the wrong message to other businesses and consumers alike.

MTC-00028637

From: ballweber@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

I have been a consumer of Microsoft products since 1991. I have never felt disadvantaged by their pricing of their products. In fact my personal productivity has increased significantly every year as their products improved through innovations they incorporated into their software and services. I think the settlement is fair and it is time to end this costly legal battle. Our government has better battles to fight. I would urge the judge to pressure the remaining State s Attorney s to also settle the case and let s move on to more serious offenders than Microsoft which has helped make America the World leader in technology and software.

Sincerely

Rober J. Ballweber Jr.
President

MTC-00028638

From: dflex@worldbank.org@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

I do not agree that MicroSoft has violated any antitrust laws. If it weren t for the intellect of Bill Gates where would we be today? He has made a difference!!!

MTC-00028639

From: lscott@dollar.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

I would strongly encourage the resolution of this suit by agreeing to the terms of the proposed settlement.

MTC-00028640

From: bryanrogowski@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

Renata Hesse: Please find in favor of the Microsoft Corporation and direct the DOJ attention at more important matters such as corporate welfare and Enron.

thank you
Bryan Rogowski

MTC-00028641

From: maweber@execpc.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

Our anti-trust laws should be modified to reflect the contemporary marketplace. Microsoft's competitors took advantage of antiquated laws to hurt the company that has provided unprecedented benefit to our society economy productivity as a nation and ability to comunicate globally. Free enterprise has prevailed. It is indeed the very size of Microsoft that enabled continuous reinvestment into improving it's products. The state of our present computing systems is now well ahead of where it might have been were Micrsoft restricted. Re-do the laws. Leave Microsoft alone. Tell the competitors to take their case to the market and not the courts.

MTC-00028642

From: ew—ross@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

To whom it may concern

I believe as a citizen of this free country the government does not have right to intervene with any company. The companies of the United States are like the citizens of the United States. They both have the freedom to excel. This is what makes America what it is. In the case regarding Microsoft I believe they have their right to excel. They company has brought us new technology has helped out the economy and had begin a new market. The comapny should not be punished. I believe the majority of the citizens of the United States are grateful for what Microsoft has done and what they will continue to do. Its a shame that my tax money is being used against a company that wanted to excel.

Thank you for this opportunity and your time.

Take Care
Eric W. Ross

MTC-00028643

From: Rick Moore
To: Microsoft ATR
Date: 1/28/02 4:42pm
Subject: Microsoft Settlement

Dear Sir or Madam,

The proposed settlement does not go nearly far enough in stopping microsoft's egregious behavior. The company should be dealt with decisively. How many anti-trust suits do my tax dollars have to fund. You have a mandate to protect the consumer and competition. Microsoft has repeatedly shown contempt for our government and our people. If we are to fight terrorism around the world we should begin at home. This monopoly only inhibits the growth of our economy, It does not represent it. As a business manager I am forced into disadvantageous purchasing decisions as a direct result of microsoft breaking compliance with technologies before their life cycles are realized. We are forced to spend capital to replace equipment that is not broken just to remain on a platform that they support. You let the best remedy escape when you opposed the break up now you don't even have an enforceable doctrine. Please for all our sakes take stronger action. I just don't want to continue to buy lesser products because I have no choice.

Thank You
Richard Moore

MTC-00028644

From: kcsimon@acm.org@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

I am computer professional who for 20 years has worked for large companies small startups and my own business. I urge the court to accept the proposed settlement. Further litigation will severely disrupt our industry and only serve those companies that directly compete with Microsoft. This case has never been about the interests of consumers or software developers. We have voted overwhelmingly in the marketplace for Microsoft products. They have been the underpinning of the great productivity and economic gains which we experienced in the past decade. The courts should not be used by corporations with inferior products as a mechanism for overturning the will of the free market. I resent the use of my hard earned taxpayer dollars to reverse my well thought out choices. I urge the court to settle this case now.

Sincerely
Casey Simon

MTC-00028645

From: clevno@realexcellence.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

Best would have been for the government to halt the lawsuit. But this is acceptable

MTC-00028646

From: steckd@sandersoncmi.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:37pm
Subject: Microsoft Settlement

Judge Kollar Kotelly RE: U.S. vs. Microsoft Your Honor The U.S. Government has no business going after Microsoft in the first place—Bill Gates started in a garage and made it work—his whining competitors should get over it. Please let Microsoft get back to business. One thing about Microsoft is that it is a U.S. company—please free it from U.S. and state lawsuits. We need good products to compete in the world market. Thank you Sir. Sincerely H. David Young 7165 E. St. Rte. 41 Troy OH 45373–9020 937–335–6422

MTC-00028647

From: croy0001@umn.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 4:38pm
Subject: Microsoft Settlement

My thoughts concerning the settlement are few and simple. I believe that the government should have little to do with obstructing the free actions of the marketplace. To my knowledge Microsoft has not used force to compel anyone to purchase their products.

MTC-00028648

From: ohiotax@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:38pm
Subject: Microsoft Settlement

On behalf of the Ohio Taxpayers Association and our over 5,000 Ohio members I am writing in support of the proposed settlement between the Justice Department and the State of Ohio. No further legal action is necessary or welcomed. The settlement provides a fair and reasonable settlement that benefits technology consumers and brings to end this lengthy case. Thousands of Ohioans are employed in well paying jobs because of the work of Microsoft in addition many more Ohioans are shareholders in the company. Settlement allows Microsoft and the rest of the technology industry in Ohio get back to work. The only thing this lawsuit has succeeded in doing is driving down the share prices of technology companies and wasted taxpayers dollars The positive benefits are numerous to this agreed upon settlement. Implementation of the settlement is a positive step for the American and Ohio taxpayer.

Sincerely
Scott A. Pullins
Ohio Taxpayers Association
www.ohiotaxpayers.com

MTC-00028649

From: jcowsert@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:38pm
Subject: Microsoft Settlement

This settlement is for the COMPETITORs NOT the consumer !!! I always thought a free market system would let the market decide. We are not a free market system when the government dictates the market especially when it has been obvious over the last 4 years of this lawsuit that the competitors are using our own government to gain their own advantages. Not many consumers in the US today believe this lawsuit has anything to do with them. We all know it has to do with jealously and posturing by the competitition.

Please stop this nonsense and let consumers decide what is best for them. Our dollar speaks loudly in a free market system.

MTC–00028650

From: joshthunt@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:38pm
Subject: Microsoft Settlement

The settlement action recently undertaken between the Justice Department and Microsoft Corp. represents a fair and unbiased end to the legal battles that have gone on for these several years. To allow Microsoft s competitors to block this just settlement to aid their own deficient products would be a travesty and not at all in line with the fair competitive nature which benefits both consumers and producers.

MTC–00028651

From: ddd153@psu.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 4:38pm
Subject: Microsoft Settlement

Though I do not believe that justice should be swayed by the majority's opinion for majority'ssake I provide my opinion here because the Microsoft case has been made open for public comment. The American government has taken Microsoft to task for being a productive innovative and successful company. The purpose of the government is to defend its peoples' individual rights these rights are impinged upon when force is used to undermine another's ability to think live or produce through free choice. Controls on legitimate spending contracts and productivity undermine civilized human behavior and only cause more controls. Microsoft has settled rather than fight the court system with its energy money and time. But the justice system is wrong. These laws should never have existed in America. There should be a complete separation between economy and state only cases of national security fraud and broken contract should be business matters of the court domain. To punish Microsoft for being so successful is the equivalent of punishing an individual for being good at living. I can only hope that the precedent set by the outcome of this case does not seek to completely undermine all that America stands for.

MTC–00028652

From: christopher.shaffer@gbbragg.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:38pm
Subject: Microsoft Settlement

I think that the settlement between Microsoft and the state attorneys general is fair and reasonable. I think it is time that this lengthy process is over. The parites that are upset about the settlement obviously want to see Microsoft crushed at the hands of the federal government. If these parties were genuinley interested is fairness which is what they claim then they should endorse the settlement as well. The settlement is in the best interest of the nations economy and the technology industry.

MTC–00028653

From: Doug Riddle
To: Microsoft ATR
Date: 1/28/02 4:47pm
Subject: Microsoft Settlement

To Whom It May Concern:

I think the increasing frequency of computer viruses and denial of service attacks only serve to underscore how important competition is in the market place, and how poor quality and service can get in the face of a monopoly. Microsoft is knowingly producing shoddy products because they can force suppliers to comply with their demands. They use their size, market share and media assets to avoid competition, while their lawyers tie up what competition and complaints there are. I do not want to see them shut down, but I want real accountability to the public built into the remedy. Please help see to it that any proposed settlement has teeth, or do not settle.

Warmest Regards,
Doug Riddle
http://www.dougriddle.com

MTC–00028654

From: smyczpe@auburn.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 4:38pm
Subject: Microsoft Settlement

This ruling against Microsoft is unjust. Settlements like these will scare any company into becoming too successful. The evidence against Microsoft failed to prove that Microsoft is a monopoly. This was just an action by the business-hating Clinton Administration. Don t Hang Microsoft out to dry.

MTC–00028655

From: Griffin, Joanne
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 4:45pm
Subject: I support Microsoft settlement
Please see my attached memo. THx.JSG
CC: "fin(a)mobilizationoffice.com"
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you to express my support for the settlement of the anti-trust lawsuit against Microsoft. The agreement that has been reached will not only help the economy, but it will ensure that in the future, anticompetitive corporate action will not be tolerated. Microsoft has not been let off lightly and the government has proven its point.

The biggest provision of the settlement is the fact that Microsoft will not attack other computer manufacturers who produce rival products. This will definitely open up the market to fair competition without fear of reprisal. I support Microsoft's position and also think that it is necessary for small business to flourish in partnership with larger companies. This settlement allows this to happen.

Three years is long enough for a case to continue. Microsoft has agreed to this settlement and now it is time for the government to respond in kind. Anticompetitive laws have benefited greatly from the result of this case and so have all sides concerned. Let Microsoft continue to develop software that benefits us all without the threat of further litigation hanging over the company. I urge you to accept this settlement. Thank you.

Sincerely,
Joanne Griffin
1152 Center Drive
Saint Louis, MO 63117

MTC–00028656

From: Bruce Nazarian
To: Microsoft ATR
Date: 1/28/02 4:49pm
Subject: Microsoft Settlement.

Dear DOJ

The fact that this government has backed down from properly seeking a strong settlement from Microsoft, in view of the finding that it has promulgated monopolistic behavior is distressing. In my view, and that of MANY literate computer professionals, what Microsoft has wrought on the Country, World, and the Computer business at large is nothing more than a thinly -veiled attempt to create a monopolistic stranglehold on how we compute, and what we compute with.

If there needs be any further evidence about how ineffective Microsoft is at innovation, and how little they care about anything other than Market share, it would be this: Their Latest "state of the art" operating SYstem Windows XP, is so full of security breaches and bugs that it makes matters WORSE rather than better. And they KNOW it! In addition, they are patching these flaws so quickly and so often that it is virtually impossible for IT professional to maintain a stable computing environment in their businesses.

I, for one, CATEGORICALLY REFUSE to operate their software, and avoid using the Windows operating system completely. Many IT professional are now switching to UNIX, Mac OS X and LINUX as a stable alternative.

I wish that DOJ would SERIOUSLY REVIEW their proposed settlement (which has been watered down significantly since, coincidentally, a REPUBLICAN administratin took power) as it DOES NOT provide protection for the American Computing Public, and, in fact, lays the way clear for Microsoft to continue to promulgate Monopolistic control of the way we work—Iff you need more proof, look seriously as the .NET Strategy, and their abusive software upgrade "purchase" policies.

I am disappointed with DOJ being prepared to THROW AWAY the ONLY opportunity we have to remedy Microsoft's egregious business practices, and to properly punish them. Please do the right thing—since you won't break them up, at least LEVEL THE PLAYING FIELD so they can no longer usurp INNOVATION from third parties and call it WINDOWS. LOOK AT WHAT THEY DID TO NETSCAPE!!!!! Mad, you're damn right I'm mad—I pay your salaries! Now please do the will of the people, NOT the will of the politicians. WE WANT THIS ABUSER PUNISHED!

Bruce C. Nazarian
Common Citizen, and NON-Mircrosoft user

MTC-00028657

From: WALSHARPE7A@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:49pm
Subject: Microsoft settlement

My wife and I enjoy the quality and reliability of Microsoft products. We have used competitors products in the past and have found them to be inferior time and time again.

We think it would be in everyone's best interest to resolve the case. We may just be two individuals in the population but our opinion is that this drama has gone on too long as it is. The company that provides a superior product at a reasonable price should not be "bashed" just because it is preferred by the user.

Approximately fifteen years ago a competition issue arose with telephone companies and I have not experienced the same degree of satisfaction in telephone service since the breakup of AT&T. I would hate to see history repeat itself.

Maybe the time and monies used to prosecute Microsoft could be better used investigating the pricing and merger activities within the cable industry. At the consumer level these appear to be unfair, monopolistic, and not in the best interest of the public.

Wesley & Lynn Sharpe

MTC-00028658

From: Orrinstromswold@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:49pm
Subject: Microsoft Settlement

Dear Mr Ashcroft:

The settlement between Microsoft and the Department of Justice in regards to the antitrust suit is a very fair settlemant for all sides involved. I feel that there is no need to continue litigation. It is a wast of time and money. the only people who profit from this are the lawyers and the companies whose product are less popular with consumers.

I feel that the settlement is a good thing and that it should be finalized.

Regards Orrin O. Stromswold 2706 169th Ave N.E. Bellevue, Wa. 98008

MTC-00028659

From: Reid Flickinger
To: Microsoft ATR
Date: 1/28/02 4:49pm
Subject: Microsoft Settlement

Good Afternoon,

As a professional with 20 plus years of computer technical experience and a decade-long owner of several successful computer service companies I feel that I have a relevant perspective on this case that should not be ignored. Important background to consider first is that I initially gained experience with Microsoft's competitor Apple, followed by various other competitor's systems. I was slow to move to Microsoft's products but eventually found that they offered superior products and support. As a developer in the computer business, they were far more responsive to my needs than Apple and delivered more cost effective solutions. Since then on countless projects, this has been the case and it is for no other reason then Microsoft's ability to offer better products and support with lower total-cost-of-ownership that they have my business.

This case was never created for or even by consumers but for the benefit of failed market competitors to Microsoft. It was presided over by a judge with a personal axe to grind who was incapable of understanding anything technical. The prosecution of Microsoft was an insult and the behavior of the court was worse. Microsoft's proposed settlement is more than fair and should be accepted.

Thank you for your time,
Sincerely,
Reid Flickinger
Reid Flickinger
Chief Technical Officer
MFC Inc, SaleView Systems & Contact24
Continuous Web Monitoring and Notification
Reid@SaleView.Com
925.831.8942 Ext. 11
www.saleview.com & www.contact24.com
Danville, California U.S.A
CC:activism@moraldefense.com@inetgw,letters@capitalis...

MTC-00028660

From: Minoofar(a)cox.net
To: Microsoft ATR
Date: 1/28/02 4:48pm
Subject: Microsoft

44 Blue Horizon
Laguna Niguel, CA 92677
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I was recently informed that the DOJ has asked for the public's opinion on the antitrust lawsuit against Microsoft. As I feel very strongly about this issue, I decided to take full advantage of this opportunity. I am an avid support of Microsoft and if this settlement brings closure to this three-year battle against them, then I support the settlement as well. In my opinion, this lawsuit as done nothing but attempt to tear down the IT industry leader. In the process, major damage has been done to this industry and the economy. It is time to bring closure to this case and I hope that you will make the necessary decision to ensure this.

I have a hard time understanding the reasons behind the States" dissatisfaction with the settlement. The settlement seems fair and serves to ensure that future antitrust violations will not occur. Microsoft has even agreed to alter business practices that were not found to be unlawful, just so that this matter will close quickly. As for Microsoft competitors, they should be more than pleased that Microsoft has agreed to grant them much easier access to their company codes and interfaces. This is the first time that this has happened in an antitrust case. Additionally Microsoft will adhere to findings by a Technical Committee as it relates to compliance disputes.

I am confident that I am one of many people who feel the same way about this matter and hope that my comments and those of others will play heavily on your decision to wrap this matter up quickly. Thank you for taking the time to consider my thoughts on this matter.

Sincerely,
Albert Minoofar
cc: Representative Darrell Issa
CC:fin@mobilizationoffice.com@inetgw

MTC-00028661

From: Liz Bradley
To: Microsoft ATR
Date: 1/28/02 4:51pm
Subject: Microsoft anti-trust settlement

Greetings—

I am a professor of computer science at the University of Colorado at Boulder. I am a lifelong Unix user, but my professional life has been significantly affected by the Microsoft monopoly, and I would like to make a few points about the settlement.

Microsoft has a long history of business practices that intentionally and effectively tie its users" hands—in ways that benefit Microsoft, and that perpetuate and extend its monopoly. Their business practices are predatory, and their design choices have made it difficult for anyone to use any kind of competing software or format. This is true from the system level (e.g., the netscape lockout) to the social/practice level—for example, how hard it is to get a Microsoft email program to send email messages in anything but Microsoft-proprietary format.

This last example, which hits me many times every day, may seem petty, but it is really pernicious—in the way that my history classes taught me that the anti-trust act is intended to fix. I get email from a non-computer-scientist colleague, complete with a Word attachment. I email back, asking for a lingua franca format like pdf or ascii. My correspondent can't figure out how to do the translation, eventually gets frustrated, and castigates me for not "getting with the program" and using Microsoft. Since I use computers professionally, doing so is not an option; moreover, I know enough to not succumb to that kind of pressure. Neither of those things is true for most people, and the pressure propagates the Microsoft monopoly.

Encouraging an entire community of users to use a single set of proprietary software is not only a matter of monopoly. It is also a matter of security. Microsoft's email programs, for example, not only force their naive users to send Microsoft-format attachments, but also make those users vulnerable, because the defaults are set up so incoming attachments are automatically ingested. Moreover, those programs are full of security holes. This combination causes dozens of virus attacks to propagate around the world every year. My colleagues" computers are routinely paralyzed during these events, but I have never—NEVER—been affected by a virus in my 20 years at MIT and Colorado.

It is well known in ecology that a diverse population is far more robust. The goal of Microsoft's direct and indirect pressure is a homogeneous population of computer users running Windows. A single smart hacker would be able to take down this entire country if they succeed.

File formats should be open, just like the design of a car interface — the steering wheel/accelerator layout, etc.—is open. Competitors should not be smothered using heavy handedness. (This is EXACTLY what catalyzed the suit that ended up in Sherman!) The open-source community, in particular, should be allowed to thrive, not squelched. Manufacturers should be able to install any OS that they can sell, without fear of retaliation. That kind of force is the very antithesis of the free and open market.

Sincerely,
Elizabeth Bradley
Boulder CO
CC:lizb@sogol.cs.colorado.edu@inetgw

MTC-00028662

From: Oliver Harris
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 4:47pm
Subject: Settlement

Our government or any part thereof, should never be used as some sort of wrecking ball used against those entities which through superior strategy and innovation realize the maximum benefits of our capitalistic system. It is through such practices that the consumer realizes the greatest benefits of innovations at competitive market costs.

Therefore, it is a credit to our system of justice and fairness that the anti-trust case against Microsoft, encouraged and driven by those entities that choose to whine rather than compete, be concluded in this settlement rather than some heavy handed judgement by the DOJ against the Microsoft Corporation.

Thank You.
Oliver Harris
Loan Officer
CWCapital, Mid-Atlantic
6395 Dobbin Road
Suite 206
Columbia, MD 21045
410.772.2260 x4
410.772.0503
oharris@cwcapital.com

MTC-00028664

From: Jan Chesne
To: Microsoft ATR
Date: 1/28/02 4:50pm
Subject: Microsoft Settlement

The purpose of the settlement, I hope, is to restrain Microsoft's monopolistic tactics in the future. Allowing them to donate their software and compatible hardware to schools would be a step in the wrong direction, only furthering their monopoly. Anything to equalize the playing field would be helpful, e.g., let them purchase competitors" products for the schools.

I believe MS should be required to make most of its products and Web services compatible with all other systems. Windows should be provided separately from other MS products (Outlook Express, etc.) so that hardware makers could include competing products and users could make easier choices.

Good luck.
Janet Chesne
61 Village Park Way
Santa Monica, CA 90405

MTC-00028665

From: astrong@privo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:51pm
Subject: Microsoft Settlement

We strongly support the settlement and want to see this put behind us. Microsoft is one of America's great companies and has been punished enough. Let's move on.

Albert Strong
Privo.com
CC:astrong@privo.com@inetgw

MTC-00028666

From: Danny O. Bielby
To: Microsoft ATR
Date: 1/28/02 4:52pm
Subject: Microsoft Settlement

Freedom to inovate.

If this was a drug, wouldn't you have a patent on it. You can't, what's new today is old tomorrow invclving the internet. In some cases there having law suits today and making the rules tomorrow. I have a little company,so should I automaticaly sue a bigger company with not much of a cause. Who knows, I might win, if not it will be a tax deduction.

Thank you, Danny O. Bielby

MTC-00028667

From: philippa jeffery
To: Microsoft ATR
Date: 1/28/02 4:56pm
Subject: Microsoft Settlement

Dear Sir/Madam,

Please find attached the Tunney Act Comments for Citizens Against Government Waste.

Philippa Jeffery
Media Associate
Citizens Against Government Waste
1301 Connecticut Ave., Suite 400
Washington, DC 20036
202–467–5318- Direct Line
202–467–4253- Fax Number
pj@cagw.org

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA,
Plaintiff
Civil Action No. 98–1232 (CKK)
V.
MICROSOFT CORP.,
Defendant

COMMENTS ON THE PROPOSED SETTLEMENT BY:
Citizens Against Government Waste
Thomas A. Schatz
President
1301 Connecticut Ave., NW—Suite 400
Washington, DC 20036
(202) 467–5300 FAX: (202) 467–4253

On behalf of the one million members and supporters of Citizens Against Government Waste (CAGW), I am providing comments on U.S. v. Microsoft pursuant to the Tunney Act. CAGW supports the settlement as being in the public interest and opposes further litigation in this case. Further expenditure of tax dollars and government resources on this case, which has stifled technology, innovation, and investment at a time when the economy is in recession and the nation is at war, would not benefit the American people.

CAGW is a nonprofit, nonpartisan organization founded in 1984 by J. Peter Grace and Jack Anderson following the report of President Reagan's Private Sector Survey on Cost Control, better known as the Grace Commission. Since its founding, CAGW has been researching, publicizing, and working to eliminate wasteful government spending. In particular, CAGW has exposed mismanagement of governmental resources in the technology sector, such as incompatible computer and accounting systems, as well as billions of dollars spent on hardware and software that simply did not work. On the basis of our 18 years of nationally recognized expertise representing the interests of American taxpayers, we are submitting our comments to you today.

On November 6, 2001, Microsoft, the Department of Justice (DOJ) and nine states agreed to a Proposed Final Judgment (PFJ) in the lawsuit against the company. As the overriding element of the Tunney Act is whether an antitrust settlement is in the public interest, CAGW submits that the PFJ clearly meets this standard.

CAGW estimates that to date the Microsoft lawsuit has cost taxpayers more than $35 million. It has also hobbled one of America's premier high-tech engines of growth at a time when we need to jump-start our economy. The PFJ is fair to all sides in the case, including:

Microsoft, which will continue to be able to provide new software that integrates new products;

Competitors, who will have more access to the Windows platform to incorporate their products or make them compatible;

Software manufacturers, who will get back to the business of creating innovative products;

Consumers, who will have more choices among software products; and,

Investors, who will have stability in the marketplace.

Perhaps of greatest benefit to the American people, the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater significance. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. Furthermore, Microsoft, DOJ and the nine states have accepted the settlement as better than continued proceedings.

Specifically, Microsoft will not be broken up and will be able to continue to immolate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a technical committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

The settlement is compatible with the findings of the U.S. Court of Appeals for the District of Columbia, which substantially narrowed the scope of legal liability and instructed the U.S. District Court to created remedies that fit the "drastically altered" findings. As Assistant Attorney General for Antitrust Charles James said in testimony before the Senate in December:

Of the twenty anticompetitive acts the court of appeals reviewed, it reserved with respect to eight of the acts that the district court had sustained as elements of the monopoly maintenance claim. Additionally, the DC Circuit reversed the lower court's findings that Microsoft's "course of conduct" separately violated Section 2 of the Sherman Act. It reserved the district court's rulings on the attempted monopolization and tying claims, remanding the tying claim for further proceedings under a much more difficult rule of reason standard. And, or course, it vacated the district court's final judgment that set forth the break-up remedy and interim conduct remedies.

Acceptance of the PFJ would send a clear signal to the nine remaining states and the District of Columbia opposed to the settlement that their remedy is not appropriate given the findings of the court of appeals. The alternative proposed by the remaining plaintiffs appears to be based on the original district court decision, which is no longer relevant. Dragging the proceedings out further, with a new remedy hearing, a new district court decision, another appeal to the DC Circuit, an appeal to the Supreme Court, and remand back to the court of appeals and district may be in the interests of Microsoft's competitors, but it is not in the public interest.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors" products after purchase as well. The PFJ even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

Public opinion is squarely in favor of settlement. Voter Consumer Research conducted polls of 1,000 eligible voters in Utah and Kansas in November, 2001, and opposed further action by their state attorneys general following the settlement by a 6 to 1 margin. This is an even greater percentage than previous polls concluding, by a 2 to 1 margin, that the lawsuit brought by DOJ and the 19 states was a waste of tax dollars.

The Microsoft case was supposedly brought on behalf of American consumers, who have paid the price of litigation through their taxes. Investment portfolios have been substantially devalued during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and should be accepted without change.

Respectfully Submitted,

Thomas A. Schatz

President, Citizens Against Government Waste

MTC-00028668

From: sybill@2fords.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:51pm
Subject: Microsoft Settlement
Attn: Renata B. Hesse
Antitrust Division
U.S. Dept of Justice

In my opinion, the terms of the findings of the Court of Appeals ruling has been met by Microsoft who has not only met but gone beyond said findings. Microsoft has agreed that the terms are reasonable and fair to all parties involved. It's time to drop the matter and allow Microsoft, as well as the industry, to move forward. Please NEVER forget what MICROSOFT has done for the INDUSTRY.

Thank you for your attention to the foregoing.

Sylvia Earnst

MTC-00028669

From: Billy SG McCarthy
To: Microsoft ATR
Date: 1/28/02 4:50pm
Subject: Lack of Punishment

To whom it may concern,

I'm writing as a concerned citizen, and as a computer science major to express my feelings about the settlement reached between the United States Department of Justice and Microsoft. Like many others out there, I do not think that the settlement reached goes nearly far enough to punish Microsoft for it's illegal actions. Also, the settlement does not give anyone any real power to prevent any further antitrust issues from arising.

Microsoft was found guilty of numerous violations of antitrust law, and they are walking away pretty much unscathed. It feels like the US DOJ doesn't have the stamina to fight against a huge corporation, and therefore took the easy way out. This is not right. It is the government's job to find a remedy that is in the best interest of the citizens of the United States of America. We are the ones who were injured by Microsoft's anticompetive actions, and we want to make sure that will never happen again.

Thank you for your time, and I hope that this joke of a settlement is never agreed upon.

William SG McCarthy
18 Allston St.
Allston, MA
USA

MTC-00028670

From: Christina Jordan
To: Microsoft ATR
Date: 1/28/02 4:52pm
Subject: Microsoftsettlement

The anti-trust lawsuit the government filed against Microsoft was the beginning of the recession. Let it go so we can get our economy going again!

Christina Jordan

MTC-00028671

From: John Roth
To: Microsoft ATR
Date: 1/28/02 4:52pm
Subject: Microsoft Settlement

Dear Ladies and Gentlemen:

I would like to register my deep dissatisfaction with the settlement terms offered by the Justice Department to Microsoft. These terms are not in the public interest; rather, they seem to serve only the interest, not even of the shareholders, but of the executives of a few powerful corporations, including Microsoft.

I will not bother to repeat the observations of, for example, Consumers Union, but rather focus on one specific failure of the settlement: namely, to address the concerns of open-source software development.

Many the most important tools that I use in my work as a software developer are "open-source" software, including the GNU/Linux operating system. These are non-commercial products with many qualities that Microsoft products have never achieved, such freedom from crashes, support for networking with standard security protocols, compatibility between versions, and adaptability which make them ideally suited to software development. These products are developed largely on the volunteer work of thousands of developers; their quality stems directly from the openness and liberality of the copyright. Their low dollar cost does not reflect their value.

One of the greatest challenges in open-source software development is to implement interfaces to obfuscated, proprietary protocols that companies such as Microsoft develop to lock-out competitors. This point that was not lost on the Department of Justice only a year or two ago. Unfortunately, the terms of the settlement enable Microsoft to continue to use its monopoly power against open-source products, since many of the remedies that are supposed to prevent Microsoft from dominating by implementing proprietary protocols are conditioned on there being an economically viable corporation, rather than a more reasonable definition, perhaps in terms of the number of users represented.

This is a slap in the face to open-source developers, absolutely contrary to the public interest, which it is the Governments" special responsibility to protect, and a failure to enforce the spirit of anti-trust law, which is to prevent mere market domination from stifling competition. There is no real wealth created by Microsoft's use of proprietary protocols; only a guarantee of its ability to stifle alternative platforms in the future.

Your Truly,

John Charles Roth

MTC-00028672

From: u7c28@raytheon.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:52pm
Subject: Microsoft Settlement

Greetings...

As a long time computer user (since "82) and software developer (since "85), I have been extremely bothered and dismayed at the methods that Microsoft has utilized in its business practices. However, because of the combination of Microsoft's massive pocketbook and their ability to intimidate others within the industry, it seemed the the only relief from Microsoft's tactics lay with the anti-trust efforts of the US Govt and the various states. When Microsoft was found guilty of predatory monoplistic behavior, Judge Jackson's orginal solution was right on target for what was deserved and needed to remedy the actions of Microsoft.

After this valid punishment was overturned on a technicality, an settlement was proposed which does nothing but provide Microsoft with a slap on the wrist and a promise to "go forth and sin no more". This is the same "punishment" that Microsoft received in "94.. after which they went out and obliterated Netscape from the Internet, held PC makers hostage to their demands for the desktop and threatened Apple Computer with actions that would have destroyed Apple unless Apple played the game the Microsoft way.

Microsoft has truly proven itself to be a company that cannot be trusted, despite all of Bill Gates" "aw-shucks" mannerisms and speeches. This is a company that choses to not play by the rules or behave like a responsible corporate citizen. Just like with any other individual who continually operates outside the rules, the Federal and State governments MUST PUNISH Microsoft in a way that is comenserate with their crimes.

The proposed settlement does not in any way begin to match what the court documents clearly show that Microsoft deserves. It should be thrown out and a new plan devised that exacts from Microsoft the punishment it deserves.

Thank you.

Dean Gillispie david__d__gillispie@raytheon.com (281) 280–2883 (voice)

SSTF-Vehicle Sys Raytheon Technical Services Co. Houston, Texas, USA

MTC–00028673

From: Anthony Correia
To: Microsoft ATR
Date: 1/28/02 4:52pm
Subject: Government Persecution of Big Business

Stop "killing" Big Business! Get on with the job you all are getting paid for with our tax dollars— constitutionally—to provide for the common defense of the "several states"! Fight TERRORISM not American companies that hire citizens who pay the very taxes you people frivolously fritter away on "unjust" causes".

If we find crooks in our American industries, there are many legal and local authorities to chase them and prosecute to the "fullest extent of the law".

I pray to God that this message is CLEAR enough for the least of you and your limited understanding of the Constitution!

An angry Korean "Conflict" veteran...

MTC–00028674

From: VaughnRho@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:54pm
Subject: Microsoft Settlement

Dear DOJ,

I strongly object to the proposed settlement with Microsoft. It is a gross and negligent miscarriage of justice.

I have some unique first-hand knowledge of the kind of financial damage that Microsoft has inflicted upon other companies. I know this because I was at the heart of the project at Compaq that resulted in Microsoft terminating Compaq's license to Windows.

Let me provide some background for you. I am the former product manager at Compaq Computer Corporation who was responsible for the Compaq/AOL deal in 1995. I worked for Rod Schrock, who was Vice President of the consumer division. You used several of my email messages in your case against Microsoft.

In 1995, I was placed in charge of defining Compaq's consumer online strategy. I proposed a relationship with America Online, one which was great for America Online, and even better for Compaq. It was worth HUNDREDS OF MILLIONS OF DOLLARS IN INCREMENTAL PROFIT to our business unit. The deal, in a nutshell, involved Compaq heavily promoting the AOL service, in exchange for AOL giving Compaq a significant ongoing revenue share.

Microsoft heard about this forming relationship. They contacted us and asked that we work with them instead of AOL, to promote their new online service code-named Marvel (now known as MSN, the Microsoft Network). We responded that we would be happy to work with them, but we would expect them to pay us in a similar fashion to how AOL was to pay us.

Their response? I'll paraphrase: We are Microsoft. We own the customer, not you, Compaq. You Compaq have three choices:

1) Do the deal with Microsoft. We will pay you NOTHING, but we'll have a closer relationship, with various intangible benefits (wink wink lower price on the OS, etc.)

2) Cancel the deal and do it with nobody. We are OK with that.

3) Do the deal with America Online. WARNING: IF YOU PURSUE THIS OPTION, WE WILL PUT YOU OUT OF BUSINESS.

Our team at Compaq reviewed the situation, and concluded that Microsoft must be bluffing. They couldn't do it, because it would be a blatant violation of anti-trust laws. We decided to proceed with the deal.

Shortly afterward, Microsoft sent us a letter telling us that we were in violation of their Windows License agreement, and we could no longer sell PCs with Windows installed. Our license to Windows was terminated. Since Microsoft Windows is the only viable operating system on the market, we were effectively shut down as a company. As Microsoft had threatened, THEY WERE PUTTING US OUT OF BUSINESS!!!

Needless to say, we ended up having to quickly appease Microsoft and redo the deal with AOL, dramatically watering it down and making it effectively into a nothing deal: no substantive benefit to AOL, no substantive benefit to Compaq.

If this kind of behavior is not a flagrant abuse of monopoly power, I don't know what is. Microsoft regularly wields this kind of abusive power. They have it, and they use it most aggressively. Speak with any of the myriad companies that have fallen victim to Microsoft's stranglehold. Their corpses litter the high-tech industry.

Just how powerful is Microsoft? Powerful enough to put just about any company out of business in short order if they were determined, including other huge powerful companies such as Intel. How would they accomplish such an impossible-sounding feat? Simply by making the following announcement: "Microsoft today announces a strategic relationship with Advanced Micro Devices. Beginning with the next version of Windows, which will ship in six months, only new co-branded AMD/Microsoft processors will run Windows optimally. Legacy Intel processors will still run Windows, but only at 1/4 speed, and only for a limited time. Microsoft strongly encourages its customers to begin migrating to the AMD/Microsoft platform immediately, in preparation for the release of the exciting new Windows system."

The proposed settlement does little or nothing to prevent this kind of behavior in the future. The absurd thing is, it actually gives Microsoft a government-sponsored leg-up to claim an additional monopoly in one of the rare markets that they don't currently own: the education market.

Microsoft (and some supporters) say that "Microsoft is good for the U.S. economy... they are a brilliant high-tech success story for America ... don't punish successful companies." There is a half-truth in what they say, but their logic is flawed. By that line of thinking, Standard Oil would never have been broken up. In truth, Microsoft has not been a strong force for innovation. To the contrary, they have systematically stifled innovation. Their policy seems to be "crush anything that Microsoft doesn't own and control".

We will never know how much innovation and economic growth might have emerged from companies that fell victim to Microsoft's control ploys. However, we can guess by looking at one rare example where they failed. We know that Microsoft did not want the open Internet to happen, that instead they had a vision of a Microsoft-owned-and-controlled worldwide network (see early presentations on Microsoft's Marvel Project). In this case, for once, they did not move quickly enough to stop this emerging threat, and by the time they began their attack, they met a force so powerful that even they could not stop it. We now know just how much benefit the U.S. and the world have realized from the advent of the Internet. How many other promising technologies and markets has Microsoft successfully stopped? How much economic growth has been stunted by the Robber Baron of high-tech? The time has come to force Microsoft to play fair.

I would be glad to discuss this further with anyone from the DOJ. Please contact me at your earliest convenience.

Thank you,

Vaughn Rhodes

Formerly Strategic Planning Manager (and Product Manger) at Compaq Computer in Houston, TX

650–938–8587 (home)

650–279–6221 (cell)

vrhodes@archway.com (work email address)

vaughnrho@aol.com (home email address)
CC:vrhodes@archway.com@inetgw

MTC-00028675

From: Richard Ballard
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 4:53pm
Subject: Microsoft Settlement

I find it interesting that now, after you made your decision, you permit comments on your to little to late actions.

While following this case not once did I see where it was mentioned all the third party software stolen by Microsoft and "added" to their Operating System. ICQ (now MS Message), MP3 (Winamp, MuchMusic, etc. and here they decided to lower the standard 128BPS), Java (They usurped the whole idea of java, making programs usable on ALL OSs, by changing the code so it wouldn't work on their own system). Internet Connection Sharing wasn't an MS idea, I bought that programming back in Win 95s day. Now its a feature? Another company product down the drain.

These are a few of many examples of Microsoft's brazen theft that seemed to be ignored, while they cry "foul".

And for punishment you are trying to give them a foothold in the Education market they ignored until Apple started showing it as a viable market? What about the businesses and programmers they put under?

Your punishment couldn't have been any better for Microsoft. Do you own stock?

Richard Ballard
8812 Spring Lake RD.
Pine Bluff, AR

MTC-00028676

From: redebeets@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:51pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Rita Carder
4 Brooks Road
none
Bel Air, MD 21014

MTC-00028677

From: Michael Myers
To: Microsoft ATR
Date: 1/28/02 4:53pm
Subject: Microsoft Settlement

I would like to take a moment to voice my objection to the propsed settlement in the Microsoft Anti-Trust case. I believe that the proposal is far too weak to have any meaningful effect on the marketplace.

In the past, Microsoft has demonstrated it's willingness to do whatever it sees fit in spite of the law, and to use it's billions to fend off any legal action until it is far too late to rectify the damage. I expect that if this settlement is accepted, it will be less than a year until Microsoft breaks the agreement in the pursuit of some competitor and creates another prolonged legal battle that will not be resolved until the competitor is long dead. And I expect that every last word in the agreement will be endlessly debated in court case after court case, as Microsoft forestalls any enforcement for years. Microsoft has shown little respect for the law to date (in terms of previous broken agreements, falsifying testimony related to IE and Windows, forging letters of support, etc). There is no reason to expect them to behave differently in the future.

Such outrages are funded by a public that has little choice but to pay Microsoft for it's products. I am writing this letter on a Linux machine that I bought with Windows 98. Despite the fact that I do not use MS products, I find that I am forced to buy them whenever I buy hardware. So long as MS can "tax" us this way, they can afford unlimited legal bills. I feel that any settlement that does not split up the company or prevent it from using Windows to enter new markets is doomed to fail.

Finally, I find it absurd that the DOJ won the first case, and essentially "won" the appeal (in that all the findings were upheld and only the remedy was vacated), and then suddenly turned about and proposed the weakest remedy imaginable (filled with all the legal loopholes MS could dream of). This smells heavily of politics. It seems very much as if the new DOJ lead by Mr Ashcroft is not interested in enforcing antitrust law or achieving justice for consumers, but is instead catering to the worst elements of the Republican party. Hopefully, the court will not accept this.

Sincerely,
Michael J Myers
Manchester, PA 17345
mjm306@yahoo.com

MTC-00028678

From: Bruce McDiffett
To: Microsoft ATR
Date: 1/28/02 4:53pm
Subject: Microsoft Settlement

Greetings,

I'd like to express my extreme personal and professional disappointment at what I deeply believe will be the almost total ineffectiveness of the proposed Microsoft antitrust settlement agreement.

You might just as well sentence a serial killer to probation, with the stern warning to not kill the victims again.

As a computer designer, I've had the opportunity to work with Microsoft since the late 1970's. I've watched them stifle technical innovation for almost a quarter century now. For nearly 25 years, regardless of their corporate size, they have consistently shown their only interest is maximizing their corporate profit by any means, legal or illegal.

Microsoft has indeed made a bunch of money for some people. So does dumping toxic waste into the environment. Why should Microsoft be treated differently than anyone else, simply because they've made a lot of money?

As a revealing exercise, consider how much human effort is wasted by Microsoft software each year. Assuming 100,000,000 PC's running MS software, and also assuming a week of unnecessary downtime each year (a conservative estimate), every year we have almost 2 million man-years of human life squandered—simply thrown away. This is technical innovation? This is business leadership? No, this is an appalling disregard for human life. And this tyrannical contempt for the lives of the people is made possible by Microsoft's monopoly. Our country was founded to defend the people from tyrants. And though the founding fathers of our country believed in market freedoms, they believed more in the power of our government to protect the public interest. That's why we have a federal government, and not a federal marketplace. Please, have the courage to create a settlement agreement that will actually protect the American people.

Millions of us are depending on you.

Sincerely,
Bruce McDiffett

MTC-00028679

From: marklavigne@pacificcoastinc.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:53pm
Subject: microsoft settlement-influence peddling

Dear US District judge Colleen Kollar-Kotelly,

The fact that Microsoft has blatantly failed to comply with any honest behavior including the Tunney Act, as evidenced by the interpretation of the acts creator, via his affadavit filed with the court, comes as no surprise to anyone.

Surely any company which doesn't disclose that their top monopoly monger, StevieBoy Balmer met with his kin, (Dickie to drunk to disclose his three drunken driving convictions Cheney,) can't be counted on to comply with a little ole paperwork disclosing the millions spent lobbying the rest of congress and their staff's.

We all know Steve and Dick didn't talk technology shop. They talked about the EnronBushCheney energy monopoly policy! But hey, by golly, thats priviledged information according to Dick. Or maybe they had a concensual sexual relationship. But hey a concenting sexual relationship isn't covered under executive priviledge !!!! So forget antitrust,enrongate,insider trading influence peddling and the rest! Lets be good Republicans and spend 60 million and see if those secret meetings were were about Steve bobbing

Dick!

MTC-00028680

From: Akers117@aol.com@inetgw

To: Microsoft ATR
Date: 1/28/02 4:53pm
Subject: Microsoft Settlement
117 James Garland Road
Hot Springs, AR 71913
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am glad to see that the Microsoft case is coming to a close. I believe that you should settle the case pursuant to the terms of the agreement you reached with Microsoft in November 2001.

This settlement agreement provides you not only with the chance to bring a close to the federal government's case, but also to help the economy in the process.

Microsoft's agreement to discontinue a number of its more restrictive business practices should have a positive impact on the computer and software sector of the economy. The agreement to allow competition from non-Microsoft software within Windows is of particular importance because it could provide immediate opportunities for designers and developers of non-Microsoft software products.

I hope you approve the settlement and close this case as soon as the law allows. Thank you for your time.

Sincerely,
Suzanne C. Akers
Robert C. Akers
E-mail—Akers117@aol.com

MTC-00028681

From: Franziska Raedeker
To: Microsoft ATR
Date: 1/28/02 4:55pm
Subject: Microsoft Settlement

I want a fair choice of several options in computer applications.

1. The proposed settlement is not in the public interest. The settlement leaves the Microsoft monopoly intact. It is vague and unenforceable. It leaves Microsoft with numerous opportunities to exempt itself from crucial provisions.

2. The proposed settlement ignores the all-important applications barrier to entry which must be reduced or eliminated. Any settlement or order needs to provide ways for consumers to run any of the 70,000 existing Windows applications on any other operating system.

3. Consumers need a la carte competition and choice so they, not Microsoft, decide what products are on their computers. The settlement must provide ways for any combination of non-Microsoft operating systems, applications, and software components to run properly with Microsoft products.

4. The remedies proposed by the Plaintiff Litigating States are in the public interest and absolutely necessary, but they are not sufficient without the remedies mentioned above.

5. The court must hold public proceedings under the Tunney Act, and these proceedings must give citizens and consumer groups an equal opportunity to participate, along with Microsoft's competitors and customers.

Sincerely,
Franziska Raedeker
925 Spruce Street
Berkeley, CA 94707
fraedeker@alumni.haas.org

MTC-00028682

From: PDonoso@amanet.org@inetgw
To: Microsoft ATR
Date: 1/28/02 4:55pm
Subject: Microsoft Settlement

Any company that dominates the vehicles by which companies achieve daily tasks and goals (while maintaining the illusion of open market participation, owns and controls the very same roads that facilitate those vital components of commerce AND maintains mafia-esque enforcement practices to insure as few vehicles from any and all rival competitors are equipped with the necessary technology and mechanisms to use those purported "public" roads constitutes the key issue in assessing the true injustice of monopolistic practices.

To my mind the appropriate analogy would be if Ford or GM suddenly decides to buy up all the major highways in the US and then equip those highways with exclusive features and benefits that can be only realized if you own their car. As a matter of fact, if your vehicle is not made by that dominant manufacturer, it just doesn't drive as well when it accesses those highways...it seems to go slower, has trouble with maneuvering and steering and the radio signal is weak or generates nothing but static. As a daily consumer of those highways, one becomes quickly convinced to buy a vehicle manufactured by the same company that is optimized for those highways by virtue of their exclusive ownership and that can also take exclusive advantage of any and all the extras and amenities that are not accessible to any other manufacturers" vehicles.

Microsoft must be disavowed of their monopoly in being made to relinquish ownership either the Windows operating system or the right to develop and market the primary applications which are optimized to run within the Windows OS environment. Individually, each currently dominates their respective markets (solely by virtue of their combined ownership) and jointly present a total supremacy of the marketplace in both areas.

MTC-00028684

From: Gossett, David M.
To: Microsoft ATR
Date: 1/28/02 4:5 1pm
Subject: Microsoft Settlement

Attached please find:
(1) Cover letter;
(2) Comments of Computer & Communications Industry Association on the Revised Proposed Final Judgment;
(3) Declaration of Joseph E. Stiglitz and Jason Furman; and
(4) Declaration of Edward Roeder.

Please confirm receipt of this message. Thank you. Note that we are having a copy of these documents delivered by messenger as well.

Regards,
David Gossett
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January 28, 2002
VIA E-MAIL AND MESSENGER
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Re: Microsoft Settlement: United States v. Microsoft Corp., No. 98–1232 Tunney Act proceedings

Dear Renata:

Enclosed please find the following comments on the settlement:
(1) Comments of Computer & Communications Industry Association on the Revised Proposed Final Judgment;
(2) Declaration of Joseph E. Stiglitz and Jason Furman; and
(3) Declaration of Edward Roeder.

Thank you for your assistance. Please feel free to call my Washington colleague, David Gossett (202–263–3384) or me if you have any questions.

Hope all is well with you. It's a long way from the ELQ days.

Sincerely,
Donald M. Falk
Enclosures

CHARLOTTE CHICAGO COLOGNE FRANKFURT HOUSTON LONDON LOS ANGELES NEW YORK PALO ALTO PARIS WASHINGTON INDEPENDENT MEXICO CITY CORRESPONDENT: JAUREGUI, NAVARRETE, NADER Y ROJAS

BEFORE THE UNITED STATES DEPARTMENT OF JUSTICE UNITED STATES OF AMERICA Plaintiff, v. MICROSOFT CORPORATION, Defendant. Civil Action No. 98–1232 (CKK) United States District Court for the District of Columbia

STATE OF NEW YORK ex rel. Attorney General ELIOT SPITZER, et al., Plaintiffs, v. MICROSOFT CORPORATION, Defendant. Civil Action No. 98–1233 (CKK) United States District Court for the District of Columbia

COMMENTS OF COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION ON THE REVISED PROPOSED FINAL JUDGMENT

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TABLE OF CONTENT§

INTRODUCTION
A. Liability Rests On Microsoft's Suppression Of Middleware Threats That Threatened To Erode The Applications Barrier To Entry—6
B. The RPFJ Does Not Prevent Microsoft From Abusing Its Position And Does Not Meet Basic Standards For An Antitrust Remedy—9
C. The Obligations That Supposedly Restore Competitive Conditions In Fact Make Microsoft Do Virtually Nothing Against Its Will—11
D. The Public Interest Requires An Effective Remedy That The RPFJ Does Not Provide—15
I. The Tunney Act Requires Close Scrutiny Under The Present Circumstances—18
A. The Government's Victory On Liability Removes Litigation Risk And Therefore Limits Deference—19
1. The Imposition And Affirmance Of Liability Remove Any Constitutional Concerns About Searching Review And Require The Court To Perform Its Constitutional Duty—19
2. The Extensive Record And Judicial Opinions Provide Clear, Manageable Standards For Substantive Review Of The RPFJ—23
B. Broad Deference Is Particularly Inappropriate Because The Circumstances Are Suspicious—26
1. Microsoft's Manifestly Inadequate Disclosure Under The Tunney Act's Sunshine Provisions Weighs Strongly Against Judicial Deference To The Terms Of The RPFJ—26
2. The RPFJ Represents A Swift And Significant Retreat By DOJ—32
3. The CIS Overstates The Terms Of The RPFJ, Reflecting The Indefensibility of the RPFJ Itself—33
II. the rpfj must meet the legal standards normally applicable to antitrust remedies—34
A. The Relief Should "Terminate The Illegal Monopoly".—35
B. The Relief Should Prevent "Practices Likely To Result In Monopolization In The Future"—36
C. The Relief Should "Deny To The Defendant The Fruits Of Its Statutory Violation"—37
D. Broader Principles Applicable To Injunctive Relief Also Should Inform The Analysis Of The RPFJ—37
III. The RPFJ falls far short of providing a remedy for proven offenses upheld on appeal—39
A. DOJ's Effort To Minimize The Scope Of The DC Circuit's Affirmance Cannot Obscure The Failure Of The RPFJ To Remediate Clear, Proven Violations—39
B. The RPFJ Simply Restates The Antitrust Laws At Critical Points And Thus Forfeits The Clarity And Efficiency Of The Contempt Process—41
C. The RPFJ Provides No Remedy For Microsoft's Suppression Of The Browser And Java—42
IV. The Icon-focused Oem flexibility Provisions Are Ineffective—44
A. The PFJ Permits Microsoft's To Continue Illegally Commingling Middleware Code With The Code For The Monopoly Operating System—45
1. The DC Circuit Specifically Condemned Commingling Twice—46
2. The Failure To Limit Commingling Is Critical Because Ubiquity Trumps Technology In Platform Software Markets—49
3. The RPFJ Retreats From The 1995 Consent Decree—52
4. The RPFJ Encourages Illegal Commingling By Placing The Critical Definition of Windows Under Microsoft's Exclusive Control—53
B. Empirical Evidence Shows That The Icon Flexibility Provisions Will Not Be Used—54
C. The Icon Flexibility Provisions Require—And Accomplish—Little—55
D. The 14-Day Sweep Provision Effectively Nullifies RPFJ § III(H)—57
E. By Placing The Burden To Restore Competition On OEMs, The PFJ Leads To No Remedy At All For Much Of The Misconduct At Issue—58
F. The RPFJ Permits Microsoft To Control Consumers" Access To Innovation To Suit Its Monopolistic Aims—59
V. The API and Communications protocol Disclosure Provisions Are ineffective—60
A. The API Provisions Require Little, If Anything, Beyond Current Disclosure Practices In Microsoft's Self-Interest—60
B. The RPFJ Does Not Require Disclosure of Windows APIs, But Rather Lets Microsoft Determine The Scope of Disclosure Through The Design and Labeling of Its Operating System And Middleware—61
C. The Definition of "Microsoft Middleware" Gives Microsoft Further Leeway to Limit Its Disclosure Obligation—63
1. The RPFJ Requires Microsoft To Disclose Only The APIs Used By The "User Interface" Or Shell Of Microsoft Middleware—64
2. The RPFJ Requires Microsoft To Disclose APIs Only For "Microsoft Middleware" That Is Distributed Separately From Windows, Yet Is Distributed To Update Windows—65
3. The Limitation Of Microsoft Middleware To "Trademarked" Products Further Eviscerates The API Disclosure Provision—65
D. The Disclosure Provisions—Particularly Those Concerning "Communications Protocols"—Depend On An Undefined And Thus Unenforceable Concept of "Interoperability"—69
E. The Narrow Scope Of The Disclosure Provisions Contrasts Sharply With The Broader Definitions In DOJ's Earlier Remedy Proposals—70
F. The "Security" Exceptions in Section III(J) Permit Microsoft To Avoid Its Disclosure Obligations—72
1. The Exclusions for Security-Related APIs and Protocols in RPFJ(J)(1) Permit Microsoft To Hobble Disclosures That Are Critical in Internet Computing—73
2. RPFJ III(J)(2) Permits Microsoft To Refuse Effective Disclosure To A Range Of Potentially Effective Competitors—77
G. RPFJ § III(I) Would Place A Judicial Imprimatur On Microsoft's Use Of Technical Information As A Lever To Extract Competitors" Intellectual Property
VI. built-in delays exacerbate the decree's unjustifiably brief duration—82
VII. Additional weaknesses undercut the rpfj
A. The Anti-Retaliation Provisions Are Deeply Flawed
B. Microsoft Can Evade The Price Discrimination Restrictions
C. Microsoft Can Enforce De Facto Exclusivity
VIII. THE RPFJ'S ENFORCEMENT MECHANISMS ARE FUNDAMENTALLY INADEQUATE
CONCLUSION

INTEREST OF THE COMMENTER

The Computer & Communications Industry Association ("CCIA") is an association of computer, communications, Internet and technology companies that range from small entrepreneurial firms to some of the largest members of the industry. CCIA's members include equipment manufacturers, software developers, providers of electronic commerce, networking, telecommunications and on-line services, resellers, systems integrators, and third-party vendors. Its member companies employ nearly one million persons and generate annual revenues exceeding $300 billion. CCIA's mission is to further the interests of its members, their customers, and the industry at large by serving as the leading industry advocate in promoting open, barrier-free competition in the offering of computer and communications products and services worldwide. CCIA's motto is "Open Markets, Open Systems, Open Networks, and Full, Fair and Open Competition," and its website is at www.ccianet.org.

For nearly 30 years, CCIA has supported antitrust policy that ensures competition and a level playing field in the computer and communications industries. That involvement antedates the founding of Microsoft, much less its acquisition of its first monopoly and its refinement of anticompetitive techniques. CCIA supported the Tunney Act in the 1973 congressional hearings preceding the enactment of that legislation, and played active roles on the side of competition in other significant antitrust cases, including those against AT&T and IBM. Before participating as amicus curiae at the trial and appellate stages of the current Microsoft case, CCIA participated as a leading amicus curiae in the proceedings examining the last Microsoft consent decree in 1994-1995, both in the district court and in the court of appeals. As a consequence, CCIA and its members are intimately familiar with the shortcomings of that decree, and its failure to prevent or deter Microsoft from continuing on an anticompetitive course. Microsoft's conduct in the intervening years, including the period while this case has been litigated, has only sharpened CCIA's awareness of Microsoft's dedication to driving out competition from as many aspects of the computer-software and related industries as possible. Microsoft may repeat its attempts to mischaracterize CCIA as a mere voice for competitors, but that innuendo cannot withstand scrutiny in light of the diversity of CCIA's membership now and over the years, combined with CCIA's 30 years of vigorous commitment to supporting openness and competition in the computer technology and communications industries. In hopes that a meaningful remedy in this case will prevent Microsoft from further expanding the scope of its monopoly, and with the certainty that the current Revised Proposed Final Judgment ("RPFJ") falls far short of that task, CCIA submits this analysis of the RPFJ in conjunction with the economic analysis of Nobel laureate Joseph Stiglitz and his colleague Jason Furman, and the Declaration of Edward Roeder.

INTRODUCTION

The Tunney Act was designed to constrain the Department of Justice ("DOJ") from entering into settlements that provided DOJ with an exit from an antitrust case but did not provide the public with a remedy commensurate with the defendant's antitrust violations. The Revised Proposed Final Judgment (RPFJ) in this case does not provide adequate relief for the extensive and thoroughly proven antitrust violations it purports to remedy.

Review of the RPFJ in this case should be especially searching because there can be no doubt about Microsoft's liability. For the first time in the history of the Tunney Act, the Court will review a proposed settlement reached after liability has been not only imposed, but unanimously affirmed on the government's most sweeping and economically significant theory. That clear-cut liability, and the voluminous Findings of Fact and trial record, place the Court in this case in a different position from courts reviewing pre-trial settlements.

Because there is no litigation risk on liability, the Court is uniquely situated to evaluate any asserted litigation risk as to remedy. Established principles of antitrust relief provide the Court in this case with concrete, recognized standards to ensure that the settlement serves the public interest in a way that courts reviewing pre-trial settlements cannot. Magnifying the need for close measurement of the RPFJ by objective principles is Microsoft's silence, in its filing under 15 U.S.C. § 16(g), about its effort to truncate this case by a lobbying campaign of unprecedented scope directed at the Executive and Legislative Branches alike—despite extensive public reports of that lobbying. Microsoft's effort to deny the obvious gives rise to an inference that it has something to hide.

The terms of the RPFJ provide the strongest reason for close scrutiny, because they cannot withstand analysis. The RPFJ would not provide a meaningful remedy for Microsoft's extensive campaign of exclusionary acts. That campaign suppressed the most serious threat to Microsoft's monopoly in the past decade, and not only prevented the erosion of the applications barrier to entry that insulates the monopoly, but increased the bar to new competition. The RPFJ ignores some of the most significant holdings of the court of appeals, however, including its separate imposition of liability for Microsoft's commingling of middleware code with the code for the Windows operating system.

More fundamentally, the RPFJ misses the point of Microsoft's illegal conduct, which was to prevent erosion of the applications barrier to entry by preventing middleware from attracting software developers to the middleware application programming interfaces ("APIs"). The RPFJ's basic premises, moreover, ignore the current economic and technical realities of the computer and software markets. In the seven years since Microsoft began the illegal conduct at issue in this case, Microsoft has strengthened its operating systems monopoly. The Internet browser, formerly a threat to that monopoly, has become an adjunct to it, with Microsoft's 91% share of that product adding further insulation to the operating systems monopoly. Microsoft's unadjudicated monopoly over personal productivity applications—a key to the applications barrier to entry in the operating systems market—likewise has grown in market share and market power.

But the RPFJ does not try to deprive Microsoft of any of the benefits of its illegal activity directed at the browser and other middleware. DOJ's remedial theory rests entirely on unidentified future middleware threats. In fact, there are no technologies today presenting a threat as intense as that presented by the Netscape browser and Java, and the duration of the RPFJ is so short that it almost certainly will expire before any significant new threats materialize.

Aside from some restrictions on commercial retaliation that at best might keep matters from getting worse, the RPFJ relies on two sets of putative obligations to achieve a more competitive market. But neither the provisions aimed at original equipment manufacturer ("OEM") flexibility nor those addressing information disclosure requirements in fact require anything competitively meaningful. In large part, these provisions replicate Microsoft's current business practices respecting the disclosure of technical information and the configuration of end-user access to middleware products.

The OEM flexibility sections in RPFJ §§ III(C) and III(H) are literally superficial, principally addressing desktop icons rather than the middleware code itself, which contains the APIs relied on by software applications developers. Even if successful, the flexibility provisions would not affect the applications barrier to entry. Moreover, these provisions largely restate current business practices or provide OEMs with flexibility that both Microsoft and DOJ understand from experience will never be exercised. OEMs have little or no incentive to exercise their options; if they decline to do so, then the flexibility provisions will have no competitive consequences for the industry.

The RPFJ's information disclosure sections (§§ III(D) and III(E)) are so transparently insubstantial as to cast doubt on the entire proposal. The purported disclosure requirements trace back to definitions that are committed to Microsoft's control, are circular, or simply do not exist. Neither DOJ nor any other objective observer could have any idea precisely which APIs or protocols must be disclosed.

The RPFJ's provisions and definitions are so vague that only two practical results are possible. Either everyone will simply ignore the decree, which plainly would not be in the public interest for an antitrust remedy, or the Court will have to take primary responsibility for defining its terms during enforcement proceedings. DOJ's answer seems to be to let Microsoft set the terms of its obligations: the RPFJ gives the defendant "sole discretion" to define the decree's most important term, "Windows Operating System Product," which appears 46 times to delimit the RPFJ's 10 substantive provisions.

Indeed, much of DOJ's Competitive Impact Statement ("CIS") seems to reflect an understanding that the RPFJ is inadequate in several critical respects. The CIS defines terms not defined in the RPFJ, exaggerates the scope of certain RPFJ provisions, and redefines other terms in order to minimize the impact of some of the broad exemptions in the RPFJ. It is the RPFJ that the Court would have to enforce, however, as the CIS is not part of the contract between DOJ and Microsoft.

In sum, although the RPFJ's provisions superficially seem to restrict Microsoft's practices, there is no substance behind them. The provisions accomplish little beyond laying down criteria for Microsoft to follow in order to avoid any interference with its continuing campaign of illegal monopolization.

The terms of the RPFJ, as much as the circumstances of the settlement, strongly suggest that Microsoft and the Department of Justice shared a desire to end this case, rather than to provide an effective remedy for Microsoft's substantial antitrust violations. The 1995 consent decree with Microsoft produced uninterrupted illegal monopolization, prompting the filing of this case in 1998. The Court can expect the same with this decree. The RPFJ, if approved, might temporarily end DOJ's involvement, but would not provide the type of remedy that the public interest and the Tunney Act demand. To the contrary, because the harm to the competitive process caused by Microsoft's adjudicated illegal conduct is certain, a remedy that masks but does not cure that harm affirmatively injures the public interest, and therefore should be rejected.

A. Liability Rests On Microsoft's Suppression Of Middleware Threats That Threatened To Erode The Applications Barrier To Entry

This case is about Microsoft's devastatingly thorough suppression of threats to its Windows operating system ("OS") monopoly by "middleware." That monopoly was insulated from competition by the applications barrier to entry described by the court of appeals and the CIS. See United States v. Microsoft Corp., 253 F.3d 34, 55–56 (DC Cir. 2001) ("Microsoft III"); CIS 10–11, 66 Fed. Reg. 59,452, 59,462 (2001). See also Declaration of Joseph E. Stiglitz & Jason Furman 7–9 ("Stiglitz/Furman Dec.") (attached). The middleware at issue in this case exposed APIs that could be used by software applications developers to write programs that did not rely on the underlying Windows operating system. As Microsoft recognized, if developers embraced non- Microsoft middleware APIs and designed their products to run on that middleware rather than directly on an operating system, "middleware" of this kind "would erode the applications barrier to entry," as "applications * * * could run on any operating system on which the middleware product was present with little, if any, porting." Microsoft III, 253 F.3d at 55. The threat that "middleware could usurp the operating system's platform function," id. at 53, prompted Microsoft's anticompetitive conduct.

But non-Microsoft middleware can become a competing platform only if developers write software that calls on the non-Microsoft middleware APIs. Most developers will create software only to run on platforms that are distributed widely enough for the developers to be reasonably certain that the APIs (on which their programs rely) will be present on most, if not all PCs. Likewise, if developers can be certain that Microsoft's middleware APIs are present on all PCs, this will strongly influence their initial decision as to whether it is worth the effort to write applications to alternative, non-Microsoft middleware APIs.

The successful theory of the case—proved and accepted by two courts—is that Microsoft engaged in an "extensive campaign of exclusionary acts" that were designed "to maintain its monopoly" by suppressing middleware threats posed by the Netscape Navigator Internet browser and the cross-platform Java technologies. CIS 9, 66 Fed. Reg. 59,462; Microsoft III, 253 F.3d at 53–56, 60–62, 74–78. Microsoft's response to this threat guaranteed that developers would not use the APIs of competing middleware, destroying the platform threat.

Because Microsoft has a monopoly over the OS, it can ensure that its own versions of a middleware product have universal distribution, so that Microsoft's middle- ware APIs will be present on all PCs. For example, because Windows is both an operating system and a distribution channel for Microsoft's technologies, Microsoft could and did ensure that the code for its Internet Explorer ("IE") browser was distributed to every PC.

Ensuring that the code for Microsoft middleware was on every PC accomplished two related goals. First, it guaranteed instant and unassailable ubiquity for the Microsoft version of the middleware and the middleware APIs on which developers rely. Second, the forced ubiquity of Microsoft middleware prevents competing middleware from achieving ubiquity, or anything like it, because few distribution channels will incur the support and other costs of distributing two versions of the same functionality. A key theory of the case is that the applications barrier to entry could have been eroded only if developers chose and used alternative middleware platforms on which to write software. End-user access to middleware was significant only to the extent it influenced developers" choices to write to the APIs of that middleware.

Thus, ensuring that the code for the Microsoft version of middleware is on every PC destroys the competitive threat presented by the competing middleware's APIs, since few developers will them in preference to Microsoft middleware APIS that are certain to be ubiquitous. This fact provides the essential context for any meaningful analysis of the information disclosure and OEM flexibility provisions of the RPFJ.

B. The RPFJ Does Not Prevent Microsoft From Abusing Its Position And Does Not Meet Basic Standards For An Antitrust Remedy

The DC Circuit set out a simple standard for measuring the legal sufficiency of any remedy selected in the Microsoft litigation: the remedy must "seek to unfetter [the] market from anticompetitive conduct," * * * to 'terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future.'" Microsoft HI, 253 F.3d at 103 (quoting Ford Motor Co. v. United States, 405 U.S. 562, 577 (1972), and United States v. United Shoe Machinery Corp., 391 U.S. 244, 250 (1968)). As the District Court recognized in beginning remedy proceedings on remand (9/28/01 Tr. 6–7), not one word in the DC Circuit's opinion suggests the slightest antipathy toward any conduct remedy related to the illegal monopolization that the Court of Appeals exhaustively condemned.[1] The District Court warned the plaintiffs to be "cautiously attentive to the efficacy of every element of the proposed relief." 9/28/01 Tr. 8. That is, the plaintiffs must make sure that the proposed remedy works.

That admonition appears to have fallen on deaf ears. Because liability has been established and affirmed in great detail, the scope of the District Court's appropriate deference to DOJ is extremely limited because the range of permissible action by DOJ is closely confined. There is no litigation risk other than the risk that the District Court would not approve a particular remedy, or that the District Court's exercise of discretion in approving a remedy might be reversed on appeal. A remedy, even one imposed by agreement, must provide adequate relief for the violations that have been proved, however. DOJ is entitled to deference only for choices that fall within the range of adequate relief.

The RPFJ misses the point of the central theory of liability. The RPFJ does not impose certain, enforceable, or competitively significant obligations on Microsoft to restore competition or to avoid suppressing future threats. The RPFJ allows Microsoft to keep every anticompetitive gain that resulted from its illegal conduct, simply requiring Microsoft to find new and slightly different ways to accomplish its anticompetitive goals. DOJ seems to recognize that the case focused on two specific products—Netscape Navigator and Java—that embodied the broader threat of middleware and the Internet to the stability and significance of Microsoft's monopoly. The RPFJ does nothing to restore the specific competitive threat posed by an independent Internet browser. It does nothing to restore the threat of cross-platform Java. And it does nothing to protect any other middleware threat—in the unlikely event that another such threat might arise within the short duration of the RPFJ—from much similar exclusionary conduct, or indeed from the identical commingling of code that sealed Netscape's fate. Rather, the RPFJ appears to assume that it is still 1995, and that the threat of the Internet browser can begin anew without confronting a more thoroughly entrenched Microsoft. The RPFJ does not take account of the impact on participants at different levels of the computer and software industries of an additional seven years of Microsoft's anticompetitive abuses. That view does not accord with reality, and the provisions intended to permit open competition in that counterfactual world cannot achieve their goal.

C. The Obligations That Supposedly Restore Competitive Conditions In Fact Make Microsoft Do Virtually Nothing Against Its Will

The RPFJ purports to give current and future middleware the ability to present the same threats to the Microsoft monopoly that Netscape and Java presented before the onset of Microsoft's illegal conduct. DOJ describes the obligations in the RPFJ as if they would have stopped Microsoft's suppression of Netscape, and as if they would allow rival middleware vendors to obtain the technical information that they need to "emulate Microsoft's integrated functions" (Testimony of Charles James before Senate Judiciary Committee 7 (Dec. 12, 2001)) and to step into the shoes of Microsoft middleware in relation to Windows and the Windows monopoly. The RPFJ does not achieve those goals.

Most of the RPFJ reduces to two sets of obligations, along with some prohibitions on exclusive deals and on retaliation against those who take advantage of Microsoft's obligations. One set of obligations appears to restrain Microsoft from taking particular actions to interfere with OEMs" placement of the icons of Non-Microsoft Middleware on their machines, or with end-users" use of those products. These OEM flexibility provisions principally rely on the OEMs to provide a remedy for Microsoft's misconduct. The other set of obligations requires a certain degree of disclosure of APIs and Communications Protocols to allow competing software products can "interoperate"— an undefined term—with the monopoly OS.

For the most part, the obligations placed on Microsoft by the RPFJ simply replicate current options voluntarily provided by Microsoft. For example, Microsoft must continue to disclose the APIs it currently discloses in the Microsoft Developers" Network (MSDN), a program Microsoft developed to further its self-interest in making the Windows platform popular with software developers. And Microsoft must continue to allow end-users to delete icons from the desktop and start menu. Such provisions at most simply prohibit Microsoft from making matters worse than they are after Microsoft's years-long anticompetitive campaign. Indeed, the RPFJ in some instances specifically approves potential misuse of Microsoft's current voluntary implementations of the flexibility and disclosure provisions.

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[1] Indeed, in denying rehearing, the DC Circuit made crystal clear that "[n]othing in the Court's opinion is intended to preclude the District Court's consideration of remedy issues." Order, at 1 (DC Cir. Aug. 2, 2001) (per curiam).

To begin with the flexibility provisions, their chief flaw is their focus on icons rather than on middleware functionality. This is literally a superficial approach. Microsoft can include its own middleware and middleware APIs on every PC. Developers will know those APIs are there and consequently will write to them in preference to the APIs of a competing product that may or may not be on a particular machine. No provision of the RPFJ restricts Microsoft's insertion and commingling of middleware code into the "Windows Operating System Product" bundle that Microsoft receives the right to define for decree purposes "in its sole discretion." RPFJ § VI(U). From the point of view of developers—and thus of the ability of middleware to erode the applications barrier to entry—these "flexibility" provisions are meaningless.

Even to the extent that competing middleware vendors might obtain favorable placement for their products" icons in preference to the icons for Microsoft products, that achievement would be both superficial and temporary. The functionality of the Microsoft product would remain on the machine, and Microsoft could insist on its invocation for a variety of functions. And, 14 days after a PC first boots up, Microsoft would be free to nag users to click a "Clean Desktop Wizard" which would organize icons in the way that suited Microsoft. There is nothing in the RPFJ to stop that "Wizard" from resetting default applications to coincide with Microsoft's preferences as well, or even from enhancing the product so that it becomes a Clean File Wizard to remove code of competing middleware with a single click.

These provisions place responsibility for restoring competition on innocent OEMs and ISVs rather than on Microsoft. And many provisions give end-users what they have now: the ability to remove an icon from the desktop or a program menu by right-clicking it and selecting "Delete," or by dragging it to the Recycle Bin. The provisions do change the status quo in one way. The "Add/Remove" function, which now removes some underlying code for applications, will only remove a few icons when the removed application is Microsoft middleware.

The disclosure provisions are no better. The RPFJ requires Microsoft to disclose APIs between "Microsoft Middleware" and a "Windows Operating System Product," but the definitions of those terms are so completely within Microsoft's control that it is impossible to tell whether Microsoft ever would have to disclose an API that might have competitive significance. As noted above, a "Windows Operating System Product" is whatever Microsoft says it is. "Microsoft Middleware" must be distributed separately from the OS (unlike, e.g., the current version of Windows Media Player). "Microsoft Middleware" must be "Trademarked" in a way that would exclude Windows Messenger, may exclude Windows Media Player, and certainly would exclude any products that followed Microsoft's practice of simply combining the Microsoft(r) or Windows(r) marks with a generic or descriptive term.

Indeed, because "Microsoft Middleware" need not mean any more than the user interface of a middleware functionality that meets the other definitional requirements, see RPFJ § VI(J)(4), the only APIs that must be disclosed are those between the middleware user interface and "Windows," which Microsoft in its discretion can define to include all of any given middleware functionality. See id. § VI(U). Microsoft need not disclose how the middleware actually invokes Windows to work, except for the way that the OS displays the middleware's shell.

The disclosure provisions applying to Communications Protocols are similarly weakened by non-existent definitions. The disclosable Protocols are those required to "interoperate"—whatever that may mean—with equally undefined "Microsoft server operating products." RPFJ § III(E). In addition, the Communications Protocol disclosure provisions are limited by sweeping exceptions applying to security protocols that are intertwined with all significant computer-to-computer communication. See id. § III(J)(I). Microsoft can withhold parts of those Protocols (and, indeed, parts of APIs) on the basis that disclosure would compromise security of an installation.

If this exemption were limited to the customer-specific data like encryption keys or authorization tokens, it would be necessary, not objectionable. But the exemption explicitly permits Microsoft to withhold portions of the Protocols and APIs themselves, which necessarily makes "interoperation" (as that term normally is used) incomplete. Interoperation, however, is an all-or-nothing state. Software that can use only parts of APIs and Communications Protocols simply cannot "intemperate" with the software on the other side of the API or Protocol.

But that is not all, RPFJ § III(J)(2) permits Microsoft to refuse to (disclose security-related Protocols or APIs to any company that does not meet Microsoft's standards of business viability or its standards for a business need. Again, little if anything is left of this disclosure requirement if Microsoft chooses to resist disclosure when that serves its anticompetitive goals.

One thing is certain. Unless Microsoft and DOJ alike render the RPFJ irrelevant by simply ignoring it, the District Court will be faced again and again with the task of interpreting the RPFJ's indistinct provisions. Microsoft has demonstrated its incentive and ability to contest even the most seemingly obvious points of any court order.

D. The Public Interest Requires An Effective Remedy That The RPFJ Does Not Provide

Despite the belated efforts of DOJ to minimize the scope of this case, it remains the largest, most successful prosecution for monopolization liability since at least the Second World War. The DC Circuit affirmed "the District Court's holding that Microsoft violated ? 2 of the Sherman Act in a variety of ways." 253 F.3d at 59. The breadth of that holding is clear from the 20 Federal Reporter pages consumed by the court's detailed discussion of Microsoft's array of exclusionary behavior. The competitive significance of the conduct condemned by that holding is explained both in the opinion, in the Declaration of Joseph E. Stiglitz and Jason Furman ("Stiglitz/Furman Dec.") 10-20, and in the Comment of Robert E. Litan, Roger G. Noll, and William D. Nordhaus ("Litan/Noll/Nordhaus Comment") 12-31, among other submissions for this Tunney Act proceeding. The difficulties encountered by peripheral claims are irrelevant, particularly because all of the challenged conduct supported monopolization liability in addition to one or more of the since-abandoned theories. The supposed "narrowing" left a huge monopolization case with a stark judgment affirming the government's theory. e RPFJ does not provide a remedy commensurate with that liability.

The RPFJ is insufficient for another overarching reason. The passage of time has only exacerbated the problem of Microsoft's successful abuse of its operating systems monopoly to extend that monopoly to embrace other sectors of computing and to forestall threats to the monopoly from those sectors. Microsoft's monopoly over Internet browsing is complete, as its current 91% market share indicates. Julia Angwin, et al., AOL Sues Microsoft Over Netscape in Case That Could Seek Billions, WALL ST. J., Jan. 23, 2002, at B 1. Even the RPFJ recognizes, albeit through toothless provisions, that Microsoft is using its desktop OS monopoly to force greater use of its server operating systems. And Microsoft's efforts to use the inclusion of its Passport authentication software on every Windows machine as a means of directing through a Microsoft server all authentication and identification transactions—gaining a literal chokehold over the communications aspect of Internet computing—is so significant that Microsoft sought and obtained an exemption in the RPFJ specifically designed to excuse that known monopolistic strategy. See RPFJ § III(H)(1)[second] [2] see also id. § III(J).

Microsoft has made ample use of the seven years since the beginning of the conduct at issue in this case. The RPFJ is wholly inadequate even on its own terms, which assume that the world has returned to 1995. But the RPFJ does not begin to address what has happened since then. The public interest in a remedy that achieves what antitrust law says it must cannot be obscured by focusing either on the preference of the technology industry for standards, or on the never-litigated assumption that Microsoft obtained its original operating systems monopoly legally in the 1980s. The last premise, after all, still suggests that the last ten years or so of Microsoft's hegemony have resulted from the illegal acts that prompted two government antitrust lawsuits. If DOJ's enforcement history is to be credited, Microsoft has at least doubled the life of its monopoly through illegal conduct.

In addition, even if the nature of software platforms generally, or computer operating systems in particular, results in transitory single-firm dominance, that does not mean that competition has no place, or that entrenched monopoly is somehow without social costs. See Stiglitz/Furman Dec. 13–16. Innovation results in the periodic replacement or "leapfrogging" of one standard by another. This is not some meaningless replacement of one monopoly with another, as some would have it. To the contrary, as economists—including those of the Chicago school—have recognized, "competition * * * 'for the field'" provides consumers with substantial benefits. See Microsoft III, 253 F.3d at 49 and sources cited therein. But if competition in a market is limited in scope to serial competition for transitory dominance, predatory conduct is especially harmful. See generally Stiglitz/Furman Dec. 13–16. The monopolist may need to eliminate only a few incipient but significant threats in the course of a decade in order to transform transitory dominance into a durable, even impregnable monopoly.

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[2] RPFJ § III(H) contains two subsections (1) and (2). We distinguish between the two sets of subsections with the bracketed terms "first" and "second."

That is what happened here. Although Netscape Navigator had not developed into a competing applications platform when Microsoft cut off its revenue sources, Netscape contemplated just such a development—and Microsoft both contemplated and deeply feared it. The outcome of the competition that Microsoft thwarted is unknowable. But there will be no further competition—much less competitive outcomes—if Microsoft is allowed to repeat the course of conduct it undertook here.

But the RPFJ permits Microsoft to continue to fortify and expand its monopoly. Indeed, the RPFJ provides an imprimatur for Microsoft to continue and expand a whole range of additional, related anticompetitive practices. As a consequence, the RPFJ is an instrument of monopolization, not a remedy for it. The Court should not add judicial endorsement to DOJ's agreement to give up the case. The "public interest," within the meaning of the Tunney Act, 15 U.S.C. § 16(e), requires far more effective relief.

I. THE TUNNEY ACT REQUIRES CLOSE SCRUTINY UNDER THE PRESENT CIRCUMSTANCES

The Tunney Act exists "to prevent 'judicial rubber stamping'" of proposed antitrust consent decrees. United States v. Microsoft Corp., 56 F.3d 1448, 1458 (DC Cir. 1995) (quoting H.R. Rep. No. 1463, 93d Cong. 2d sess. 8, reprinted in 1974 U.S.C.C.A.N. 6535, 6538) ("Microsoft/"); United States v. BNS, Inc., 858 F.2d 456, 459 (9th Cir. 1988); In re IBM, 687 F.2d 591,600 (2d Cir. 1982). Upon enactment it was immediately clear that "Congress did not intend the court's" review of a proposed settlement "to be merely pro forma, or to be limited to what appears on the surface." United States v. Gillette Co., 406 F. Supp. 713,715 (D. Mass. 1975) (Aldrich, J.).

The Tunney Act requires particularly close scrutiny of the RPFJ in this case. The government seeks to remedy a proven, well-defined, serious violation of the antitrust laws. Microsoft's heavy lobbying of the executive and legislative branches in order to bring political pressure for a lenient settlement heightens the need for scrutiny, and in addition makes necessary the Court's active investigation into Microsoft's failure to disclose the bulk of that lobbying despite the command of 15 U.S.C. 16(g). The lenient terms of the RPFJ itself further underscore the need for close judicial scrutiny. Never in the history of the Tunney Act has a Court been confronted with this combination of an impregnable judgment of liability, pervasive lobbying, and apparent surrender by the federal government. The circumstances here indicate exactly the sort of "failure of the government to discharge its duty"—whether or not actually "corrupt"—that even DOJ concedes warrants close judicial scrutiny of a settlement. CIS 66, 66 Fed. Reg. 59,476 (quoting United States v. Mid-America Dairymen, Inc., 1997–1 Trade Cas. * 61,508, at 71,980, 1977 WL 4352 at * 8 (W.D. Mo. 1977)).

A. The Government's Victory On Liability Removes Litigation Risk And Therefore Limits Deference

The CIS suggests (at 65–68, 66 Fed. Reg. at 59,475–476) that the Court owes nearly absolute deference to DOJ's decision to retreat from its appellate victory. That is not true. The affirmance of liability on appeal removes any speculation that "remedies which appear less than vigorous" simply "reflect an underlying weakness in the government's case." Microsoft I, 56 F.3d at 1461. There is no "underlying weakness"; liability is a given, and provides a clear benchmark for measuring whether the proposed relief is sufficiently effective to come "within the reaches of the public interest." Id. at 1460. Those "reaches" are narrower when liability is proved and affirmed than when it is merely alleged, as it was in Microsoft I.

1. The Imposition And Affirmance Of Liability Remove Any Constitutional Concerns About Searching Review And Require The Court To Perform Its Constitutional Duty

Most important, the current posture of this case places it beyond the scope of the prudential and constitutional concerns expressed by some courts (and dissenting Justices) about judicial scrutiny of DOJ's charging decisions, or of its settlement of unproven claims. It may be that when "the government is challenged for not bringing as extensive an action as it might, a district judge must be careful not to exceed his or her constitutional role." Microsoft I, 56 F.3d at 1462. Such concerns did not persuade the majority of the Supreme Court, however, which over a dissent rejected similar arguments in summarily affirming the modifications imposed by the district court in the AT&T consent decree. See Maryland v. United States, 460 U.S. 1001 (1983).

In any event, when the action has been brought, tried, and won, and the only question is whether the proposed relief is adequate, the constitutional concerns dissipate. Because DOJ already made the discretionary decision to bring the case, and successfully proved liability to the satisfaction of two courts, the Court in reviewing this settlement runs no risk that by exercising its normal remedial discretion under established legal principles it somehow might be said "to assume the role of Attorney General." Microsoft I, 56 F.3d at 1462. It was precisely the absence of a "judicial finding of illegality" that might impede the Tunney Act from "supply[ing] a judicially manageable standard for review." Id. at 1459. Here, two courts have provided the "findings that the defendant has actually engaged in illegal practices" that were missing in both Microsoft I and AT&T (like other cases settled before trial). Id. at 1460–1461 (emphasis added). In addition, the appellate affirmance imposed monopolization liability for all of the significant conduct that had been alleged to support the additional, largely supererogatory legal theories that were rejected as ground for additional liability.

It is accordingly entirely appropriate, and indeed necessary, for the Court in this case "to measure the remedies in the decree as if they were fashioned after trial," Microsoft I, 56 F.3d at 1461, because they were "fashioned after trial" and appellate affirmance. The Court need not "assume that the allegations in the complaint have been formally made out" (id.), but rather knows beyond doubt exactly which allegations were proved. There is a "judicial finding of relevant markets, closed or otherwise, to be opened" and "of anticompetitive activity to be prevented." Maryland v. United States, 460 U.S. at 1004 (Rehnquist, J., dissenting). "[T]hat there was an antitrust violation," and "the scope and effects of the violation," were not assumed, as they must be in a pretrial settlement, but proved to the satisfaction of two courts. Id.

Very limited prosecutorial discretion remains in this situation. The amorphous, policy-laden choices whether to bring a case and how much to allege, are behind us. The predictive judgment as to the chances of success on liability likewise is beyond serious dispute in light of the unanimous affirmance of monopolization liability by the en banc court of appeals. DOJ has some leeway in choosing a remedy, but its chosen remedy must be "adequate to remedy the antitrust violations alleged in the complaint," United States v. Bechtel Corp., 648 F.2d 660, 665 (9th Cir. 1981), under the well-established legal standards for antitrust relief. See Microsoft III, 253 F.3d at 103. Those standards inform the "public interest" determination under the Tunney Act, and, by contrast with the "public interest" standing alone, are judicially manageable without a doubt.

The DC Circuit has made crystal clear that a consent decree "even entered as a pretrial settlement, is a judicial act," so that "the district judge is not obliged to accept one that, on its face and even after government explanation, appears to make a mockery of judicial power." Microsoft I, 56 F.3d at 1462. Judicial approval of the settlement in this case is far more of a classic "judicial act" than the typical settlement without proof of liability. As in the context of post-conviction criminal sentencing, the Court must act as more than a passive recipient of arrangements made between the parties.

There is no serious question that a federal court may reject a plea bargain in its sound discretion, Fed. R. Crim. P. 11, Santobello v. New York, 454 U.S. 257, 262 (1971), for reasons that may include the "court's belief that the defendant would receive too light a sentence under the circumstances." United States v. Adams, 634 F.2d 830, 835 (5th Cir. 1981).[3] Granted, plea bargains in the criminal context generally involve admissions of liability. But the case here, if anything, is stronger here, where liability has been, not admitted, but established after extensive litigation and affirmed by an en banc court of appeals over the vigorous objection of the defendant.

At this stage, "the discrepancy between the remedy and undisputed facts of antitrust violations" can "be such as to render the decree 'a mockery of judicial power.'" Massachusetts School of Law, Inc. v. United States, 118 F.3d 776, 782 (DC Cir. 1997) (quoting Microsoft I, 56 F.3d at 1462). By contrast with the concerns expressed in the pretrial settlement context about the intrusion of Tunney Act courts on functions that are constitutionally allocated to the executive branch, the situation after liability is established presents opposite concerns under our system of separated powers, and of checks and balances between the branches of government. Constitutional concerns in this case would arise only if the Court failed to apply the legal standards governing antitrust relief to the adjudicated liability here. DOJ asks the Court not only to abandon its traditional power over the relief to be imposed in an adjudicated case, but also to ignore the clear command of Congress to provide a check on the irresponsible exercise of power by a suddenly and inexplicably compliant prosecütor. The Court should refuse that suggestion.

2. The Extensive Record And Judicial Opinions Provide Clear, Manageable Standards For Substantive Review Of The RPFJ

None of the authorities on which DOJ relies involved a full trial in which liability was proved, much less one in which liability was affirmed on appeal. Indeed, the statements quoted in the CIS draw heavily on that fact—that in each case there had been no finding of liability, and that review of the settlement at issue necessarily involved second-guessing DOJ's prosecutorial discretion in making two rather standardless assessments: (1) whether to bring a case at all, and thus place the matter in a judicial forum, see Microsoft I, 56 F.3d at 1459–1460, and (2) the chances for success. See, e.g., Mid-America Dairymen, 1977 WL 4352, at *8 (Tunney Act "did not give this Court authority to substitute its judgment about the advisability of settlement by consent judgment in lieu of trial") (emphasis added).

Here, neither of these fundamentally discretionary prosecutorial judgments is at issue. The decision to bring the case was made years ago, and the case was litigated and won, establishing liability to a known extent.

It is telling that in asking for broad deference DOJ places heavy reliance on language from the Ninth Circuit's decision in United States v. Bechtel Corp., 648 F.2d 660 (9th Cir. 1981). See CIS 66–67 & n.4; 66 Fed. Reg. 59,476. One could hardly find a setting more distant from this one. Not only did Bechtel not involve a finding of liability after full litigation and affirmance on appeal; and not only did the setting there—alleged complicity in the "Arab boycott" of Israel in the mid-1970s—implicate the foreign policy powers of the executive branch; but the issue before the curt in Bechtel was the defendant's effort to avoid its own settlement by arguing that the settlement to which it had agreed was "not in the public interest." Bechtel, 648 F.2d at 665.[4]

As it happens, however, the court of appeals in Bechtel enunciated the legal standard that should be applied here: "whether the relief provided for in the proposed judgment was adequate to remedy the antitrust violations alleged in the complaint." Bechtel, 648 F.2d at 665 (emphasis added). That is precisely the standard that DOJ wishes to avoid. Where liability is a given, as it is here, the Court must ensure that the "remedies negotiated between the parties and proposed by the Justice Department clearly and effectively address the anticompetitive harms" that have been proved. United States v. Thomson Corp., 949 F. Supp. 907, 913 (D.DC 1996). When the "anticompetitive harms" and their illegality have been proved, the fit between those harms and the proposed remedies must be closer than when those harms merely have been "initially identified," id., as is usually the case in Tunney Act proceedings.

Even if there were no finding a liability, the Court would not be compelled "unquestionably [to] accept a consent decree as long as it somehow, and, however inadequately, deals with the antitrust problems implicated in the lawsuit." United States v. Alcan Aluminum, Ltd., 605 F. Supp. 619, 622 (W.D. Ky. 1985) (citing United States v. AT&T, 552 F. Supp. 131,151 (D.DC 1982), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983). With liability in place, however, the Court need not proceed "on the assumption that the government would have won." Gillette, 406 F. Supp. at 716 n.2.

The government did win. The Court in this case need not "speculate in regard to the probability of what facts may or may not have been established at trial." United States v. Mid-America Dairymen, Inc., 1977 WL 4352, at *1. Those facts are a matter of record.

Whatever narrow deference may be afforded here amounts only to the tested rule that "[i]t is not the court's duty to determine whether this is the best possible settlement that could have been obtained." Gillette, 406 F. Supp. at 716 (emphasis added). Although the Court may not be able to insist on the "best possible" decree, the proof and affirmance of liability require the Court to ensure that the RPFJ is at least adequate on that record under well-established remedial principles. Bechtel, 648 F.2d at 665.

The differences are real, but not dramatic, between the Court's role in deciding whether to accept this settlement in Track I, and in deciding in Track II what relief to impose at the request of those plaintiffs who have not abandoned the pursuit of a full and effective remedy in this case. In each track, the Court must measure proposed remedies against the legal standards set out by the DC Circuit and by the Supreme Court. In each track, the Court should not approve a remedy that is inadequate to meet those standards. In evaluating the RPFJ, the Court is not at liberty to substitute its view of equally effective, or marginally more effective relief, if the terms of the RPFJ are fully adequate to the task as the law defines it. That is, the DOJ's choices among adequate alternatives warrant deference, but its determination of what is adequate warrants none. In the other track, the Court does have the liberty, not merely to go beyond any decree that might be entered in this track, but also to insist that the final decree address the competitive issues in a way that satisfies the Court's view as to the best and most effective means of opening the operating systems market to competition, depriving Microsoft of the fruits of its illegal conduct, and preventing similar monopolistic abuses in the future. That is, while in this track of the proceeding the Court cannot insist on the "best possible settlement," Gillette, 406 F. Supp. at 716, so long as the proposed relief meets the remedial standards anchored in antitrust law, in Track II the Court has not only the power but the duty to impose the "best possible" decree.

B. Broad Deference Is Particularly Circumstances Are Suspicious

1. Inappropriate Because The Microsoft's Manifestly Inadequate Disclosure Under The Tunney Act's Sunshine Provisions Weighs Strongly Against Judicial Deference To The Terms Of The RPFJ

Section 2(g) of the Tunney Act requires Microsoft to file a "true and complete description" of "any and all written or oral communications" by it or on its behalf "with any officer or employee of the United States concerning or relevant to" the proposed settlement. 15 U.S.C. § 16(g) (emphasis added). The only exception from this requirement is for settlement negotiations between "counsel of record alone" and "employees of the Department of Justice alone."/d. (emphasis added).

When Senator Tunney first introduced his bill, he focused on the significance of the disclosure provision. "Sunlight is the best of disinfectants," he explained (quoting Justice Brandeis), and thus "sunlight * * * is required in the case of lobbying activities attempting to influence the enforcement of the antitrust laws." 119 Cong. Rec. 3449, 3453 (1973). Minor amendments to Section 2(g) were designed "to insure that no loopholes exist in the obligation to disclose all lobbying contacts made by defendants in antitrust cases culminating in a proposal for a consent decree." H.R. Rep. No. 1463, at 12 (emphasis added).

The breadth of Microsoft's effort to use political pressure to curtail this case has no parallel in the history of the antitrust laws.

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[3] See also, e.g., United States v. Robertson, 250 F.3d 500, 509 (6th Cir. 2001); United States v. Greener, 979 F.2d 517, 521 (7th Cir. 1992); United States v. McGovern, 822 F.2d 739, 742 n.4 (8th Cir. 1987); United States v. Randahl, 712 F.2d 1274, 1275 (8th Cir. 1983).

[4] 4 Decided in an equally remote context was United States v. BNS, Inc., 858 F.2d 456 (9th Cir. 1988), in which the Ninth Circuit approved a preliminary injunction, entered over DOJ's objection, against a tender offer for an acquisition that a proposed consent decree would have permitted.

The ITT episode that prompted the Tunney Act pales in comparison. It has been widely known that since 1998 Microsoft has comprehensively lobbied both the legislative and executive branches of the federal government in an effort to create political pressure to end this case.[5] But Microsoft did not disclose any of these contacts, much less all of them, as the Tunney Act requires.

Rather, Microsoft disclosed only meetings that occurred during the last round of settlement negotiations ordered by the Court. Microsoft's insupportable interpretation of its statutory disclosure duty effectively nullifies the sunshine provisions of the Act, which are crucial to the Act's protection of the public interest.

a. Contacts With All Branches Must Be Disclosed.

All contacts with "any officer or employee of the United States" must be disclosed. As Senator Tunney explained,

Included under [section 16(g)] are contacts on behalf of a defendant by any of its officers, directors, employees, or agents or any other person acting on behalf of the defendant, with any Federal official or employee. Thus, * * * the provision would include contacts with Members of Congress or staff, Cabinet officials, staff members of executive departments and White House staff 119 Cong. Rec. at 3453 (emphasis added). In other words, the disclosure applies equally to contact with any branch of Government, including the Congress. * * * [T]here is a great deal to be gained by having a corporate official who seeks to influence a pending antitrust case through congressional pressure, know that this activity is subject to public view.

Id. Indeed, it is firmly established in other areas of the law that "officer" of the United States includes Members of Congress and their employees.[6]

But Microsoft did not disclose its extensive and heavily reported lobbying of Congress. Indeed, upon the remand to the District Court, Microsoft's lobbying of Congress produced a letter signed by more than 100 Members urging a swift settlement. But Microsoft did not disclose even that lobbying, aimed at pressuring a swift capitulation by the government despite its victory on appeal, directly before the last round of settlement negotiations.

b. The "Counsel of Record" Exception Is Very Narrow.

Section 16(g) provides a narrow exception from disclosure for contacts between "counsel of record alone" (emphasis added)—that is, without any other corporate officers or employees also involved—and "the Attorney General or the employees of the Department of Justice alone." As Senator Tunney explained, this "limited exception" for attorneys of record "is designed to avoid interference with legitimate settlement negotiations between attorneys representing a defendant and Justice Department attorneys handling the litigation. * * * [T]he provision is not intended as loophole for extensive lobbying activities by a horde of 'counsel of record." 119 Cong. Rec. at 3453. The House Report further clarifies that this "limited exception" distinguishes "'lawyering" contacts of defendants from their 'lobbying contacts'." H.R. REP. No. 1463, supra, at 9.

Microsoft did not disclose the well-publicized participation in the last round of settlement negotiations of its lobbyist-lawyer, Charles F. "Rick" Rule. It appears that the critical "negotiations" leading to the RPFJ took place, not in the offices of Microsoft's counsel of record, but "in Justice's offices and those of Microsoft legal consultant Rick Rule." Paul Davidson, Some States Fear Microsoft Deal Has Big Loopholes, USA TODAY, Nov. 5, 2001. Rule has been a registered lobbyist for Microsoft for some years, but was not named as counsel of record until November 15, 2001, after the settlement negotiations were complete. See Notice of Appearance (D.DC filed Nov. 15, 2001). That designation—long after the settlement deal had been struck cannot retroactively shield his extensive prior contacts with Mr. James or other executive or legislative officials from disclosure. Contacts by "[a]ttorneys not counsel of record" must be disclosed. Id. Of course, Microsoft's many other lobbyists do not conceivably come within this exception. But Microsoft concealed all of those lobbying contacts.

c. All Communications Urging The Government To Abandon Or Settle The Case Were "Relevant To" The Proposed Settlement

Section 16(g) requires the disclosure of all contacts "concerning or relevant to" a proposed settlement. This statutory definition is intentionally broad. Microsoft's disclosure interprets the word "concerning" very narrowly, so that the provision covers only actual settlement discussions—and only the last round of them. In Microsoft's view, the Tunney Act would require disclosure only of the very meetings that must precede any settlement. Microsoft reads the words "relevant to" right out of the statute. That this statutory provision is broad is obvious by its very terms; in order for the phrase "relevant to" not to be mere surplusage, it must encompass contacts less directly focused on the settlement than those that "concern[]" that agreement.

Senator Tunney an example: "the provision would require disclosure * * * of a meeting between a corporate official and a Cabinet officer discussing 'antitrust policy" during the pendency of antitrust litigation against that corporation." 119 Cong. Rec. at 3453. The Act borrows from evidentiary concepts, including the privilege for settlement discussions, which prompted the narrow exception for counsel of record. The evidentiary concept of relevance is very broad. See Fed. R. Evid. 401. "Relevance of evidence is established by any showing, however slight, that the evidence" makes a legally important factor "more or less likely." United States v. Mora, 81 F.3d 781,783 (8th Cir. 1996) (emphasis added) (citation omitted). Plainly "relevant" to the question whether a defendant's lobbying activities influenced the existence and terms of a consent decree are contacts with the administration, and with members of Congress, that touch on the desirability of the government's agreeing to end the case. It is startling, for example, that Microsoft would omit reference to its efforts to enlist support for congressional proposals that would have cut DOJ's funding for the pursuit of this case, and for antitrust enforcement in high technology industries in general.[7]

Disclosure under Section 2(g) is not usually burdensome; most defendants do not try to win their case politically rather than in the courtroom. Microsoft's massive and unprecedented effort to distort the judicial process through political pressure makes its compliance burdensome, but all the more necessary. It is exactly this sort of manipulation that the Tunney Act was designed to discourage by bringing it to light.

d. Microsoft's Flouting Of Its Statutory Duty Counsels Painstaking Judicial Scrutiny Of The RPFJ

Microsoft's cunning "interpretation" of the statutory disclosure requirements—so that disclosures reach only the very settlement discussions that the Tunney Act was not concerned about—sheds considerable light on Microsoft's likely "interpretations" of any remedy imposed on it, especially one like the RPFJ of which it can claim to be an equal drafter, if not the principal author. Microsoft's disclosure is so inadequate as to raise questions about Microsoft's good faith. The filing includes no disclosure of any lobbying contacts between Microsoft and the administration; it includes no disclosure of any contacts between Microsoft and members of Congress; it includes no disclosure of any contacts whatsoever before September 27, 2001, although it is well known that Microsoft and the government have tried to settle the government's antitrust action since before it was filed, and that Microsoft lobbied Congress to bring pressure on DOJ to settle or simply abandon the case.

Microsoft should face contempt sanctions for its certification "that the requirements of [Section 16(g)] have been complied with and that such filing is a true and complete description of such communications known to the defendant or which the defendant reasonably should have known." DOJ should refuse to acquiesce in Microsoft's deception. Although DOJ cannot be expected to be aware of all of Microsoft's lobbying of Congress in an effort to create pressure for a favorable settlement, DOJ should reveal the end-product of that pressure in the form of communications from Members and their staffs. And there is no excuse for DOJ to be complicit with Microsoft when it comes to contacts with DOJ itself. In particular, DOJ certainly is aware of Mr. Rule's lobbying contacts with before he belatedly appeared as counsel after the settlement had been concluded. The proper resolution of this issue is the appointment of a special master with the ability to examine the relevant participants under oath. In view of its responsibility to enforce 15 U.S.C. § 16(g) along with the rest of the antitrust laws, DOJ should request (and support) the implementation of such a procedure by the Court.

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[5] See generally Declaration of Edward Roeder (attached). See also, e.g., Ian Hopper, Microsoft Lobbied Congress Over Case, SAN JOSE MERCURY NEWS, Jan. 11, 2002, at C3; Heather Fleming Phillips, Washington Politicians Chime In On Microsoft, SAN JOSE MERCURY NEWS, June 30, 2001, at A1; Rajiv Chandrasekaran & John Mintz, Microsoft's Window of Influence," Intensive Lobbying Aims to Neutralize Antitrust Efforts, WASH. POST, May 7, 1999, at A 1; James Grimaldi & Jay Greene, Microsoft Hard At Work Outside Courtroom, SEATTLE TIMES, Feb. 17, 1999, at A1. See also Microsoft's Political Donation In Question; South Carolina GOP Says Decision To Quit Lawsuit Coincidental, CHI. TRIB., Dec. 25, 1998, at 3.

[6] ee, e.g., Williams v. Brooks, 945 F.2d 1322, 1325 n.2 (5th Cir. 1991) ("a congressman is an "officer of the United States" within the meaning of [28 U.S.C. 1442(a)(1)]"); Nebraska v. Finch, 339 F. Supp. 528, 531 (D. Neb. 1972) ("It is * * * clear that a representative to the Congress of the United States is an officer of the United States, not an officer of the district in which he was elected."); United States v. Meyers, 75 F. Supp. 486, 487 (D.DC 1948) ("Obviously, a Senator of the United States is an officer of the United States.").

[7] See Chandrasekaran & Mintz, supra, WASH. POST, May 7, 1999, at A 1; Grimaldi & Greene, supra, SEATTLE TIMES, Feb. 17, 1999, at A1.

2. The RPFJ Represents A Swift And Significant Retreat By DOJ

Another factor counseling against deference here is the DOJ's striking capitulation to Microsoft's view of an appropriate remedy, despite the unanimous affirmance of the core of DOJ's case. The insubstantial provisions of the RPFJ provide ample "reason to infer a sell-out by the Department," Massachusetts School of Law, 118 F.3d at 784.

After prevailing on liability in the district court, DOJ sought and obtained not only structural relief—as is "common" in broad monopolization cases, see Microsoft III, 253 F.3d at 105—but also "interim" conduct restrictions that clearly could not stand alone as a monopolization remedy. DOJ earlier recognized that the interim conduct remedies were stopgaps to keep the competitive situation from continuing to decline in the year or so before divestiture jumpstarted competition. See Plaintiffs'' Memorandum in Support of Proposed Final Judgment 30–31 (corrected version) (filed May 2, 2000). On remand, DOJ abandoned the structural relief that it formerly found necessary, even though liability on the monopolization claim—which alone could support structural relief in the first place—was affirmed with minor modifications. DOJ stated that it would pursue relief "modeled upon" the interim "conduct-related provisions," along "with such additional provisions as Plaintiffs may conclude are necessary to ensure that the relief is effective, given their decision not to seek a structural reorganization of the company." Joint Status Report 2 (filed Sept. 20, 2001).

Instead of fortifying the proposed decree to compensate for the abandonment of structural relief, however, DOJ moved considerably backward from the interim remedies, narrowing Microsoft's duties and providing broad exceptions. Indeed, the RPFJ is weaker than the final proposal in the settlement negotiations that took place during Spring 2000, before any judgment of antitrust liability, much less appellate affirmance.[8] Then, there was litigation risk as to liability. Now there is none. Nonetheless, the definitions and obligations in the current RPFJ fall short of those in the pre-judgment offer.

"[T]he government's virtual abandonment of the relief originally requested" is "a sufficient showing that the public interest was not * * * adequately represented" in the RPFJ. United States v. Associated Milk Producers, Inc., 534 F.2d 113, 117 (8th Cir. 1976). It is precisely when DOJ appears to have "abruptly "knuckled under," id. at 118, as here, that judicial scrutiny under the Tunney Act should be most substantive and searching.

3. The CIS Overstates The Terms Of The RPFJ, Reflecting The Indefensibility of the RPFJ Itself

The CIS underscores the need for close scrutiny of the actual terms of the RPFJ and their effectiveness. The CIS seeks to convey an image of stringency by adding terms to provisions of the RPFJ that are absent from the RPFJ itself. But it is the RPFJ, not the CIS, that defines the enforceable bargain between the parties. As the Supreme Court has recognized, "any command of a consent decree * * * must be found within its four comers, and not by reference to any purposes of the parties." United States v. ITT Continental Baking Co., 420 U.S. 223,233 (1975) (citations and internal quotation marks omitted). While the CIS may be useful in interpreting ambiguous terms in the REFJ, the wording of the CIS is not independently enforceable. Only the RPFJ would be entered as a judgment, and "[t]he government cannot unilaterally change the meaning of a judgment." Bechtel, 648 F.2d at 665. It would be different, of course, if the CIS or its relevant refinements were "expressly incorporated in the decree." ITT Continental, 420 U.S. at 238. In particular, the CIS goes beyond the text of the RPFJ to paint a far stricter picture of Microsoft's disclosure obligations than the RPFJ supports. It is no wonder that DOJ seeks to defend a document—the CIS—to which Microsoft would not be bound, rather than the far weaker RPFJ that alone would be judicially enforceable. The CIS cannot transform the RPFJ into a better deal for competition and consumers than it is.

II. THE RPFJ MUST MEET THE LEGAL STANDARDS NORMALLY APPLICABLE TO ANTITRUST REMEDIES

The "public interest" standard in the Tunney Act is not without content. Rather, those "words take meaning from the purposes of the regulatory legislation," NAACP v. Federal Power Comm'n, 425 U.S. 662, 669 (1976). The well-developed jurisprudence of antitrust remedies provides sound guidance for the public interest determination.

Although a district court should not "engage in an unrestricted evaluation of what relief would best serve the public," Microsoft I, 56 F.3d at 1458 (quoting Bechtel, 648 F.2d at 666) (emphasis added), principled restrictions for that evaluation in this case arise from the extensive, unvacated Findings of Fact, the comprehensive opinion affirming monopolization liability on appeal, and the long-standing remedial principles of antitrust law, principles that the DC Circuit instructed the District Court to apply to any proposed relief on remand. See Microsoft III, 253 F.3d at 103. The "appropriate" inquiry (Bechtel, 648 F.2d at 666) is "whether the relief provided for in the proposed judgment [i]s adequate to remedy the antitrust violations" that were proved at trial and affirmed on appeal. Id. at 665.

The DC Circuit provided benchmarks rooted in Supreme Court jurisprudence to guide the evaluation whether a remedy is "adequate." A remedy in this case must serve "the objectives that the Supreme Court deems relevant," Microsoft III, 253 F.3d at 103. That is, a remedy must "seek to * * * [1] 'terminate the illegal monopoly, [2] deny to the defendant the fruits of its statutory violation, and [3] ensure that there remain no practices likely to result in monopolization in the future.'" Id. at 103 (quoting Ford, 405 U.S. at 577, and United Shoe, 391 U.S. at 250).[9]

A. The Relief Should "Terminate The Illegal Monopoly"

In a monopolization case, the problem to be remedied is the monopoly itself. Because the RPFJ would leave the illegally maintained monopoly in place without making the market structure more competitive, to satisfy this criterion relief must exclude the possibility that Microsoft again will prolong its monopoly power by abusing it. At a minimum, however, a monopolist should emerge from a remedy facing competitive threats of similar scope and significance to those it illegally stamped out. The DC 35

Circuit recognized that the illegal conduct in this case was aimed at increasing and hardening the applications barrier to entry that insulates Microsoft's OS monopoly. See id. at 55–56, 79. The CIS similarly recognized that "[c]ompetition was injured in this case principally because Microsoft's illegal conduct maintained the applications barrier to entry * * * by thwarting the success of middleware." CIS 24, 66 Fed. Reg. 59,465. A remedy that does not literally terminate the monopoly accordingly must undermine the applications barrier to entry that was strengthened by the illegal conduct.

B. The Relief Should Prevent "Practices Likely To Result In Monopolization In The Future"

To satisfy this criterion, any remedy must both (1) prevent the monopolist from engaging in the same sorts of conduct that underlie the current finding of liability, and (2) prevent other types of conduct that could preserve the monopoly. The "monopolization in the future" that must be prevented includes both the simple maintenance of the current monopoly and the expansion of that monopoly's scope. Relief should make it impossible for the monopolist to continue its pattern of using current market power to foreclose imminent or contemplated competitive threats. Because Microsoft has been "caught violating the [Sherman] Act," it "must expect some fencing in." Otter Tail Power Co. v. United States, 410 U.S. 366, 381 (1973).

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[8] 8 That final proposal, known as Draft 18, was formerly posted on a now-defunct website, www.contentville.com, in connection with a review of a book that detailed the progress of this case. The text of Draft 18 may now be viewed at www.ccianet.org/legal/ms/draft 18.php3.

[9] 9 It is telling that the CIS ignores the remedial standard that the DC Circuit set out. See CIS 24, 66 Fed. Reg. 59,465. The CIS submerges the need to craft relief that tends to "terminate" the illegally maintained monopoly, despite the court of appeals'' contrary instructions. See 253 F.3d at 103. Rather, the CIS endorses a watered-down standard in order to set a lower bar for the RPFJ to clear, in tacit recognition that the RPFJ cannot satisfy the DC Circuit's standard. The CIS would require relief only to "[e]nd the unlawful conduct," to prevent recurrence of the violation "and others like it," and to "undo its anticompetitive effects." CIS 24, 66 Fed. Reg. 59,465. The RPFJ falls short even of these modified, more modest objectives, however, particularly when measured by its failure to prevent future violations that work slight variations on the conduct condemned by two courts, and its failure to "undo" any of the "anticompetitive effects" of Microsoft's sweeping, coordinated, and successful anticompetitive campaign.

A monopolist that has been litigating for years no doubt has developed anticompetitive techniques that achieve the same goals through slightly different means. Microsoft embarrassed DOJ by obtaining language in the 1995 consent decree that was tailored to exclude, at least arguably, the company's next planned anticompetitive initiative. Exemptions, provisos, and narrow definitions should be scrutinized on the assumption that Microsoft again has tried to ensure that the RPFJ will not impede currently planned anticompetitive acts.

C. The Relief Should "Deny To The Defendant The Fruits Of Its Statutory Violation"

Relief in an antitrust case not only must prevent "recurrence of the violation," but also must "eliminate its consequences." National Society of Professional Engineers v. United States, 435 U.S. 679, 697 (1978). Thus, a remedy should prevent a monopolist from retaining the accrued competitive benefits of its illegal conduct. These advantages may permit a monopolist to maintain its monopoly without additional antitrust violations. Relief that allows a wrongdoer the full benefit of its illegal activity fails the most basic test of any remedy under any branch of the law.

In this case, the "fruits" of Microsoft's illegal conduct may be the most important target of a responsible remedy. One of the chief advantages that Microsoft gained by incorporating the Internet browser into the Windows monopoly was the ability to control not only the browser for its own sake, suppressing the possibility that the Internet browser would provide a source of alternate, OS-neutral APIs, but also the browser as the gateway to all Internet computing. As the Litan/Noll/Nordhaus Comment explains (at 58–60), one of the most important fruits of monopolistic conduct is the suppressed development of competitive threats. That is why a forward-looking remedy must be rooted in current market conditions, and must seek to restore competition to where it likely would have been in the absence of the anticompetitive conduct. Litan/Noll/Nordhaus Comment 35–36, 40–42, 58–59.

D. Broader Principles Applicable To Injunctive Relief Also Should Inform The Analysis Of The RPFJ

The remedial analysis here resembles other remedial undertakings. Although civil antitrust relief is not punitive, effective antitrust relief shares with criminal sentencing the broad goals of incapacitation and deterrence. As much as possible, an illegal monopolist should be flatly prevented from engaging in the same or similar suppression of competition in the future. In addition, the remedy should be enforceable with sufficient speed and certainty to make stiff contempt sanctions likely if the monopolist nonetheless manages to engage in anticompetitive conduct again.

The point of antitrust relief after a finding of liability is to learn from history, not to permit the offender to repeat it. This consideration is particularly acute here, where the purposes of the expiring 1995 consent decree clearly have not been realized, but rather have been evaded or neutralized.

Because antitrust relief necessarily is forward-looking, a remedy's effectiveness should be judged with respect to where the market is going, not where it has been. Microsoft has directed its efforts to destroy the competitive threat of Internet computing. The more functionality that is performed on the Web, the less significant the operating system on a particular client device connected to the Web. Thus, Internet computing represents the maturation of the competitive threat posed by the Internet browser and squelched by Microsoft's illegal conduct. The current industry-wide focus on Web-based services reflects the realization that a competitive market still survives in this sector. The Court will have to consider whether the RPFJ in fact is "all about the past, not the future battle in Internet services[, and] doesn't touch the company's ability to use Windows XP to extend its monopoly to these new areas." Walter Mossberg, For Microsoft, 2001 Was A Good Year, WALL ST. J., Dec. 27, 2001, at B1. See Stiglitz/Furman Dec. 38–39.

III. THE RPFJ FALLS FAR SHORT OF PROVIDING A REMEDY FOR PROVEN OFFENSES UPHELD ON APPEAL

The RPFJ lights upon narrowly defined practices and prohibits narrowly defined versions of them, in ways that might have mitigated, but would not have ended, the very conduct at issue in this case. The RPFJ does not measure up to the sweeping monopolization violations found by two courts. The RPFJ's provisions do not address Microsoft's ability and incentives to strengthen the applications barrier to entry, which was the underlying issue at the core of the case, instead focusing on techniques of monopolization that have been defined so narrowly that Microsoft's actual behavior need not change. And when addressing a precise technique that directly implicated the reinforcement of the applications barrier to entry—Microsoft's ability to stop porting its Office productivity suite to the Apple Macintosh platform—the RPFJ permits Microsoft to retain the ability to repeat that threat in slightly altered contexts.

A. DOJ's Effort To Minimize The Scope Of The DC Circuit's Affirmance Cannot Obscure The Failure Of The RPFJ To Remediate Clear, Proven Violations

DOJ has tried to lower the bar for approval of its proposal by minimizing the most significant appellate imposition of monopolization liability in the past half-century, and adopting Microsoft's crabbed view of its own liability. In Senate testimony, Assistant Attorney General James made the remarkable assertion that the DC Circuit, despite affirming "the District Court's holding that Microsoft violated ¶ 2 of the Sherman Act in a variety of ways," 253 F.3d at 59, somehow precluded any consideration, for remedial purposes of Microsoft's astonishing anticompetitive campaign as a whole. See James Testimony 5. To the contrary, the court of appeals never rejected the common-sense notion that "Microsoft's specific practices could be viewed as parts of a broader, more general monopolistic scheme"; much less did the court of appeals insist (or even hint) that "Microsoft's practices must be viewed individually" for all purposes. Id. Rather, the court of appeals clearly considered some illegal acts in the context of others. Thus, the court held that Microsoft's exclusive contracts with ISVs, though affecting only "a relatively small channel for browser distribution," had "greater significance because * * * Microsoft had largely foreclosed the two primary channels to its rivals." 253 F.3d at 72.

The DC Circuit's examination of the divestiture remedy is telling. If the many separately illegal monopolistic acts could not be viewed as cumulatively contributing to the illegal maintenance of Microsoft's monopoly, divestiture would have been an unthinkable remedy, since no specific act held illegal on appeal changed the structure of the company or of the market. But the court of appeals recognized that divestiture could be justified if the many separate illegal acts, taken together, were shown to have had a sufficiently certain causal connection to justify using structural relief to undermine, if not end, the monopoly. See 253 F.3d at 80, 106–107.

The court of appeals did "reverse [the] conclusion that Microsoft's course of conduct separately violates 2 of the Sherman Act." 253 F.3d at 78 (emphasis added). But the reversal occurred because the district court purported to find that a series of acts that did not constitute separate, free-standing antitrust violations had a "cumulative effect * * * significant enough to form an independent basis for liability"—but never specified acts other than those that separately violated Section 2 that might be aggregated into such a violation. Id.

It is a remarkable leap from this unremarkable holding to the absurd notion that Microsoft's extraordinary series of separate adjudicated antitrust violations cannot be considered together for any purpose. Even the CIS recognizes that those violations are part of one coordinated and "extensive pattern of conduct designed to eliminate the threat posed by middleware." CIS 11, 66 Fed. Reg. 59,462. They should be remedied as such.

B. The RPFJ Simply Restates The Antitrust Laws At Critical Points And Thus Forfeits The Clarity And Efficiency Of The Contempt Process

Another striking feature of the RPFJ is its repeated reliance on a reasonableness standard of conduct that simply imports full rule-of-reason analysis under the antitrust laws. Antitrust remedies, like other injunctive decrees, are supposed to be amenable to swift and sure enforcement, according to standards that give warning of what is forbidden and what is permitted both to the wrongdoer and to its potential victims. But the RPFJ would regularly require the decree Court to determine whether Microsoft's conduct was "reasonable." For example, the Court would have to determine

* whether volume discounts were "reasonable" or exclusionary (RPFJ § III(B)(2));
* whether technical requirements for the bootup sequence that Microsoft imposed on OEMs were "reasonable" (id. § III(C)(5));
* whether the terms on which Microsoft makes Communications Protocols available are "reasonable" (id. § III(E));
* whether exclusivity requirements imposed on ISVs were "reasonable" in "scope and duration" (id. § III(F)(2)); see also id. § (III(G)(2));
* whether technical requirements designed to force the invocation of Microsoft Middleware despite contrary consumer or OEM preferences are "reasonable" (id. § III(H)(2)[second]);
* whether the licensing terms accompanying required disclosures, and terms of mandatory cross-licenses required for access to the disclosures, are "reasonable" (id. ???* and whether Microsoft's bases for excluding ISVs from access to security-related protocols are "reasonable" (id. § III(J)(2)(b)–(c)).

It is telling that the RPFJ states so many of its provisions in terms that simply duplicate the antitrust rule of reason. Rule of reason disputes are notoriously difficult to litigate, see Arizona v. Maricopa County Medical Soc., 457 U.S. 332, 343 (1982) (noting "extensive and complex litigation" involving "elaborate inquiry" at "significant costs"), — and difficult for plaintiffs to win. These provisions add nothing to the antitrust laws themselves, either in clarity of obligation or in efficiency of enforcement. That is no remedy at all.

C. The RPFJ Provides No Remedy For Microsoft's Suppression Of The Browser And Java.

As noted above, perhaps the most glaring deficiency of the RPFJ is that it does nothing to restore the competitive threats to Windows posed by the Internet browser and cross-platform Java. That cannot be an oversight. The bulk of the evidence, and much of the opinion of the court of appeals affirming liability, focused on Microsoft's successful efforts to suppress these threats to the applications barrier to entry. See Microsoft III, 253 F.3d at 58–78. Even the CIS recognizes the primacy of these products in the case. See CIS 10–17, 66 Fed. Reg. 59,462–463.

Yet the RPFJ does not change the competitive picture for either product in the least. The RPFJ does not deprive Microsoft of these "fruits" of its illegal conduct, but instead takes that illegal conduct, and the advantages derived from it, as a tacit baseline for future competition. The RPFJ leaves Microsoft with the full benefit not only of the years of insulation from the competitive threats posed by those products, but also of the expanded power it has accumulated by incorporating Internet Explorer into the Windows monopoly. Microsoft thus has more, and stronger, weapons to suppress any middleware threats that it identifies in the future, since its monopoly control over the browser—now labeled part of the Windows monopoly product—provides Microsoft with complete control over the universal client for Internet computing. The RPFJ's approach is like sentencing a bank robber to probation, but letting him keep his weapons and the loot.

But the RPFJ's failure to provide relief that restores the specific competitive threats that Microsoft illegally suppressed is worse than that. In a platform technology market like that for PC operating systems, single standards tend to prevail, so that only sweeping changes can dislodge the incumbent. Platform threats are very rare. It could easily be another five or ten years or more before a comparable threat arises again; certainly no threat of similar strength to the Internet browser or Java has surfaced in the nearly seven years since Microsoft began the course of illegal conduct condemned by the court of appeals. See Stiglitz/Furman Dec. 35–36. That is what makes anticompetitive conduct directed at them so potentially profitable. The RPFJ makes that conduct profitable beyond any rational actor's wildest dreams, and greatly increases the incentives for its repetition. Having been caught illegally suppressing two related platform threats, Microsoft retains all the benefits that it sought through its illegal acts.

By eliminating Navigator, Microsoft has not only eliminated consumer choice in browsers, but it also seized the power to control the interfaces and protocols through which an enormously valuable set of Internet applications—ranging from instant messaging and e-mail to streaming video and e-commerce—are delivered to desktop computers and other digital devices. Microsoft's Internet Explorer is now the bottleneck through which all Internet-related middleware must pass. Instant messaging and media player technology are equally dependent on browser software. Microsoft has also seized the power to decide whether that browser functionality will be ported to any competing operating system, and, if so, to which ones. Finally, in destroying Navigator, Microsoft has also destroyed an important alternative distribution channel, one free of Microsoft's control or influence, through which Microsoft's competitors could formerly distribute middleware runtimes and products to desktop consumers and application developers.

Although Navigator has practically disappeared from the competitive scene, Java has not. But Java's importance has been limited to servers, where Microsoft has a leading share but not yet an operating systems monopoly. Microsoft's conduct appears to have assured that Java will not function as cross-platform middleware for client computers. Java thus poses no threat to the desktop OS monopoly. But the RPFJ lets Microsoft keep that anticompetitive benefit of its conduct.

IV. THE ICON-FOCUSED OEM FLEXIBILITY PROVISIONS ARE INEFFECTIVE

RPFJ §§ III(H)(1)–(2)[first] superficially allow OEMs and end users to rearrange icons and menu entries relating to middleware.[10] These provisions are hollow, however. Section III(H)(1) duplicates only what Microsoft unilaterally agreed to permit OEMs to do back on July 11, 2001. And the end-user provisions simply restate and preserve end-users" longstanding options to delete icons and menu entries if they right-click and delete or drag the icon or menu entry to the Recycle bin. The default provisions in Section III(H)(2) are so limited, and so fully subject to Microsoft's architectural control, as to be competitively meaningless as well.

The icon provisions do not adequately address the competitive harms of Microsoft's adjudicated misconduct because Microsoft remains able to ensure that the Microsoft versions of middleware will appear, ready to be invoked by applications, on every PC. Even if the icon provisions had greater competitive significance in theory, they are unlikely to have any significance in fact, because few if any OEMs are likely to take advantage of the options provided. DOJ cannot claim to be unaware of this market reality. These provisions are mere window-dressing. See Stiglitz/Furman Dec. 35.

A. The PFJ Permits Microsoft's To Continue Illegally Commingling Middleware Code With The Code For The Monopoly Operating System

The RPFJ capitulates on DOJ's most hard-fought and significant substantive victory: the finding that Microsoft illegally preserved its monopoly by commingling the middleware code with the operating system, foreclosing the competitive threat to Windows while effectively expanding the scope of the monopoly to encompass middleware. DOJ's inability to enforce the 1995 consent decree against the binding of IE to Windows, see United States v. Microsoft, 147 F.3d 935 (DC Cir. 1998) ("Microsoft II"), was widely viewed as prompting this action. The conduct itself was viewed as the most successful in furthering Microsoft's anticompetitive goals.

Rather than repeat and strengthen the prohibition in the 1995 decree that failed to achieve its goals, the RPFJ does not even impose the type of superficial prohibition applied to other conduct condemned at trial and on appeal. To the contrary, under the RPFJ, the operating system is whatever Microsoft says it is, and Microsoft can commingle any new product to the monopoly product—foreclosing competition for the OS and the new product alike. See Stiglitz/Furman Dec. 34–37. Not only does Microsoft preserve its anticompetitive gains, but it obtains a green light to repeat the same conduct to destroy any new middleware threats. In a market characterized by serial dominance, an incumbent monopolist may need only to suppress one threat every few years in order to make its monopoly virtually permanent. Cf. id. at 35–36. A continued ability to commingle middleware gives Microsoft limitless tenure over the OS market. If Microsoft emerges from this case free to bind middleware to the OS, this action will be an exercise in futility.

1. The DC Circuit Specifically Condemned Commingling Twice

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[10] 10 See n.2, supra.

DOJ's victory on the commingling point was crystal clear, and repeatedly underscored by the court of appeals. The court of appeals recognized that "Microsoft's executives believed" that "contractual restrictions placed on OEMs would not be sufficient in themselves" and therefore "set out to bind" IE "more tightly to Windows 95 as a technical matter." Microsoft III, 253 F.3d at 64 (quoting Findings, 84 F. Supp.2d at 50 (¶ 160)). In the CIS (and in Assistant Attorney General James" Senate testimony), DOJ appears to assume that icon-based relief that subjects some Microsoft Middleware Products to the Add/Remove utility equates with relief for commingling code. Thus, the CIS blends the two offenses in stating that Microsoft violated Section 2 when it "integrated Internet Explorer into Windows in a non-removable way while excluding rivals." CIS 7, 66 Fed. Reg. 59,461. In affirming liability for both courses of conduct, however, the court of appeals clearly distinguished between Microsoft's "excluding IE from the 'Add/Remove Programs" utility". and its "commingling code related to browsing and other code in the same files." 253 F.3d at 64–65, 67. The court of appeals found no justification for commingling code or, indeed, more broadly, for "integrating the browser and the operating system." Id. at 66. One could hardly ask for a clearer statement.

Microsoft argued bitterly against liability for commingling, and for a declaration that its product design decisions were beyond the reach of the antitrust laws. Instead, the DC Circuit pointedly rejected Microsoft's argument that it "should vacate Finding of Fact 159 as it relates to the commingling of code." Microsoft III, 253 F.3d at 66; see Findings, 84 F. Supp.2d at 49–50 (¶ 159). And the court of appeals "conclude[d] that such commingling has an anticompetitive effect," because it "deters OEMs from pre-installing rival browsers, thereby reducing the rivals" usage share and, hence, developers" interest in rivals" APIs as an alternative to the API set exposed by Microsoft's operating system." 253 F.3d at 66 (emphasis added). See generally id. at 64–67. That is, commingling helps reinforce the applications barrier to entry that shields the Windows monopoly.

The DC Circuit's holding reflected a principle of critical importance to the enforcement of the antitrust laws in the software industry, where the complementarity of different programs makes product design a potentially devastating weapon to foreclose competition: a "monopolist's product design decisions" can violate the antitrust laws just as any other economic conduct can. 253 F.3d at 65. Product design decisions may be grossly anticompetitive, particularly in the software industry where lines of code can be packaged (and marketed) in many different ways without affecting the operation of programs once they are installed. As Microsoft's James Allchin recently acknowledged, software "code is malleable," so that "[y]ou can make it do anything you want." Microsoft Net Profit Fell 13% in Recent Quarter, Wall St. J. Europe, Jan. 18, 2002, 2002 WL–WSJE 3352885 (quoting Allchin).

Lest there be any doubt on the matter, the court of appeals flatly rejected Microsoft's reheating petition aimed squarely at the remedial issue. Microsoft specifically sought to preclude relief that addressed the commingling violation, and instead to treat the commingling and the lack of add/remove functionality as the same. Microsoft's reheating petition made clear that the "ruling with regard to 'commingling" of software code is important because it might be read to suggest that OEMs should be given the option of removing the software code in Windows 98 (if any) that is specific to Web browsing [as opposed to] removing end-user access to Internet Explorer." Appellant's Petition for Reheating, at 1–2 (July 18, 2001). Microsoft argued that affirmance only on the ground of the add/remove issue would ensure that the remedy was tightly confined, because the "problem will be fully addressed by including Internet Explorer in the Add/Remove Programs utility, which Microsoft has already announced it will do in response to the Court's decision." Id. at 2.

The court of appeals rejected this argument out of hand, adding this remarkable sentence in a terse per curiam order denying reheating: "Nothing in the Court's opinion is intended to preclude the District Court's consideration of remedy issues." Order at 1 (DC Cir. Aug. 2, 2001) (per curiam). Nonetheless, the RPFJ would settle this case as if rehearing had been granted, requiring Microsoft only to allow OEMs and end users to "add/remove" the icons for middleware. This is insufficient to remedy technological binding—commingling [] since it does nothing to remove the underlying middleware code on which developers will continue to rely. If only the Internet Explorer icon is removed from the desktop, the IE middleware remains, and with it the same applications barrier issues that Microsoft preserved by stifling competition by Netscape and Java.

It is true that the interim conduct relief in the vacated Final Judgment required only that Microsoft offer an operating system where OEMs and end-users were permitted to remove end-user access to the middleware components, United States v. Microsoft Corp., 97 F. Supp.2d 59, 68 (D.DC 2000), vacated, 253 F.3d 34 (DC Cir. 2001), a provision similar to that in RPFJ § III(H)(1)[first]. That transitional provision of course assumed the existence of structural relief that would remove Microsoft's economic incentive to bind middleware to the OS unless the binding was independently justifiable. Without a structurally more competitive market, those modest provisions would be meaningless, and would permit Microsoft to follow much the same course that triggered the lawsuit.

There is no excuse for DOJ's failure to do anything about one of the principal, and most easily replicable, violations in the case. Even one of Microsoft's vocal, libertarian defenders, University of Chicago law professor Richard Epstein, recognized that the minimum plausible remedy after the DC Circuit decision would involve "undoing a few product-design decisions." Richard Epstein, Phew/, Wall. St. J., June 29, 2001, at A10. But DOJ did not even insist on that. Instead, the RPFJ's omission of any relief for this violation gives Microsoft something the DC Circuit twice refused: a victory on the hardest-fought legal issue in the case. Given the central importance of middleware to the theory of the case, failing to address the principal means by which Microsoft bundled browser middleware to Windows would be plainly inadequate.

2. The Failure To Limit Commingling Is Critical Because Ubiquity Trumps Technology In Platform Software Markets

The failure to prohibit commingling of middleware deprives the RPFJ of any significant procompetitive effect on the emergence and adoption of competing platform software. The critical competitive phenomenon in this case was not middleware in itself, but rather the potential, and deeply feared, development of particular middleware into a competing platform for software applications. Middleware can develop into a competing applications platform by attracting software developers to use its Application Programming Interfaces (APIs) in preference to, or at least in addition, to the APIs offered by Microsoft in Windows. Developers will write their applications to invoke particular APIs—i.e., to run on a particular platform—based on how widely available the APIs will be.

Although potential platform software not distributed by Microsoft must attract users in order to achieve the widespread availability of their APIs that will attract developers, it is the expected presence of the APIs that matters, not how much consumers directly use the application exposing the APIs. Non-Microsoft middleware depends on the availability of the application in order to gain the critical mass of users that, in turn, may attract developers.

The availability and prominence of the application's icon may be significant for the purpose of attracting end-users. In platform competition, however, the availability of the application is only a means to the desired end. Developers don't write to icons; they write to APIs. The inclusion of Microsoft Middleware functionality in every copy of Windows is determinative, regardless of how or whether the icons are featured, and regardless even of the presence of the user interface or shell? [11] If developers know that the plumbing for a Microsoft version of middleware will be on every PC because it is commingled with Windows, then developers will write to the Microsoft version's APIs. Because the RPFJ permits Microsoft to include the APIs accompanying the software functionality that mimics middleware that is a potential platform threat, Microsoft will be able to defeat any middleware threat in exactly the same way it destroyed the threat of Netscape and Java on the PC desktop. See Stiglitz/Furman Dec. 36.

Under the RPFJ, developers will continue to assume that Windows Media Player, for example, is present on every computer. This will be true regardless of whether "end user access" is removed, because the remedy does not require Microsoft to remove the middleware. The result is that software developers will write applications to, for example, the Windows Media Player APIs, rather than to the APIs supplied by rival platforms. That is an advantage that no competitor can overcome.

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[11] The user interface is especially insignificant because the browser window already can serve as the user interface for many products, and could easily be adapted to serve as the user interface for many more.

It is no answer to say that OEMs can offer rival middleware even if the code for a Microsoft version of the same product is commingled with Windows, so that the Microsoft version of middleware appears on every desktop PC. If Microsoft's version of a product is everywhere, few OEMs will go to the effort of providing another product that does largely the same thing. The district court and court of appeals alike recognized that OEMs faced strong disincentives to install two competing products with similar middleware functionality, disincentives arising largely from support costs and disk space. See 84 F.Supp.2d at 49–50, 60–61 (¶¶ 159, 210); 253 F.3d at 61. If the Microsoft Middleware is there, the OEM will have to support it, even if—perhaps especially if—the end-user does not know that it is there.

Thus, rival middleware cannot undermine Microsoft's monopoly unless (1) the rival middleware is ubiquitous, or (2) the Microsoft version is not ubiquitous. If developers do not feel compelled to write to the rival middleware as well as the Microsoft middleware, the rival middleware will not undermine the monopoly. And if Microsoft's version of particular middleware can be ubiquitous by virtue of its inclusion in the monopoly operating system, as the RPFJ plainly allows, there is virtually no likelihood that rival middleware will ever achieve the ubiquity needed to present a platform challenge. See Stiglitz/Furman Dec. 36–37; see generally Litan/Noll/Nordhaus Comment 44–47.

3. The RPFJ Retreats From The 1995 Consent Decree

Microsoft uses Windows as an instant, universal distribution channel for Microsoft software that represents a response to a threat to the dominance of Windows as a program development platform. As a consequence, "Windows" has become whatever bundle Microsoft needs it to be to forestall competition. The 1995 Consent Decree contained a prohibition on contractual tying of applications to the operating system in order to prevent anticipated conduct that would maintain the operating systems monopoly by anticompetitive means. That the earlier provision failed in its purpose suggests that the provision should be broader, not that it should be abandoned, particularly since this case began as a way to stop conduct that had escaped summary condemnation under the earlier decree. It would be senseless as a matter of enforcement policy to bring and win an action prompted by an evasion (if not a violation) of a monopolization consent decree, win the case on the monopolization theory most closely related to the object of the earlier consent decree, and then reward the violator by removing the relevant restriction upon the expiration of the earlier decree rather than broadening it as proposed here.

Microsoft's monopoly gives it the power to make all systems integration and software bundle decisions, a power that Microsoft is exercising more broadly, as the breadth of the Windows XP bundles clearly illustrates. The RPFJ should not step back from the 1995 Consent Decree.

4. The RPFJ Encourages Illegal Commingling By Placing The Critical Definition of Windows Under Microsoft's Exclusive Control

But the RPFJ does step back from the 1995 Decree, and makes matters still worse. Not only does the RPFJ completely fail to prevent future illegal commingling, but it effectively approves that conduct by permitting Microsoft "in its sole discretion" to "determine[]" exactly which "software code comprises [sic] a Windows Operating System Product." RPFJ § VI(U). That provision permits Microsoft an unearned advantage in repelling any future challenges to illegal commingling of applications code with Windows. Were the Court to enter this provision as part of its judgment, Microsoft could point to DOJ's capitulation on this issue—and the Court's approval—as extraordinarily persuasive evidence that its monopoly product was as broad as it says it is, and that, despite the contrary holding of the DC Circuit, any commingling of an application with the operating system is per se legal.

The Court can and should disapprove provisions that appear to endorse practices of apparent anticompetitive effect and dubious legality. Thomson Corp., 949 F. Supp. at 927–930 (refusing to approve fee schedule for mandatory license for legally dubious copyright). The Court should not approve this provision, which defangs many of the other obligations in the RPFJ.

Rather than learning from the difficulties with the "integration proviso" in that Decree, DOJ has ceded the issue to Microsoft, permitting Microsoft to decide for purposes of the decree obligations where the OS stops and where middleware begins. Much of the RPFJ rests on the relationship between the Windows OS and middleware. But the RPFJ places Microsoft firmly in control of every technical aspect of the proposed decree by permitting Microsoft absolute control over the definition of "Windows Operating System Product." That subjects many of Microsoft's purported obligations to Microsoft's own discretion.

No term is more important in the RPFJ than "Windows Operating System Product," which appears fully 46 times in the RPFJ: 26 times in the descriptions of substantive obligations, and 20 times in the definitions that circumscribe those obligations. The definition of Application Programming Interfaces (APIs) is the starkest example. "Windows Operating System Product" appears three times among the 41 words of the API definition. See RPFJ § VI(A.). Thus, Microsoft can determine "in its sole discretion" what an API is, and thus what must be disclosed.

One would think that DOJ would do everything possible to ensure that a new decree did not contain an analogue to the "integration proviso" that nullified much of the anti-tying provision of the 1995 decree. See generally Microsoft II, 147 F.3d 935. Instead, Section VI(U) ensures that few, if any, of the technical provisions of the RPFJ will mean anything except what Microsoft wants them to mean, and that none can be enforced without lengthy litigation that will further shrink the tightly limited duration of the proposed relief.

B. Empirical Evidence Shows That The Icon Flexibility Provisions Will Not Be Used

Not only do the icon flexibility provisions address the wrong problem, but the market already has tested their consequences. On July 11, 2001, Microsoft announced that OEMs and end users would be permitted to remove access to Microsoft's Internet Explorer browser, just as RPFJ § III(H)(1) permits. As of this writing, not one OEM has availed itself of this new liberalized policy. Windows XP is shipping with Internet Explorer on every single personal computer shipped by every single OEM. This real-world experience speaks volumes about the practical significance of this relief.

C. The Icon Flexibility Provisions Require—And Accomplish—Little

1. The icon flexibility provisions do not permit OEMs to swap out Microsoft Middleware Products and replace them with other products. Rather, the OEMs at most can hide the Microsoft icon, but need to be prepared to support the underlying Microsoft software when another software application invokes it. That means that these provisions do not address the added "product testing and support costs" that discourage OEMs from including more than one version of particular functionality. Microsoft III, 253 F.3d at 66.

This is a step backward from DOJ's settlement posture before liability was established. At that time, DOJ insisted that OEMs be allowed to alter or modify Windows, and that Microsoft provide OS development tools for that purpose. See Draft 18, §§ 4(1)(d), 4(g). The RPFJ provisions, by contrast, only permit OEMs to display icons, shortcuts, and menu entries for Non-Microsoft Middleware. The RPFJ does not require Microsoft to permit OEMs to remove any Microsoft Middleware Products, although even current Microsoft practice permits this. The RPFJ requires Microsoft only to allow the removal of "icons, shortcuts, or menu entries." RPFJ § III(H)(1)[first].

2. Section III(H)(2)[first] seems to permit OEMs and end-users to choose default middleware for particular functions. Microsoft's obligations are far less than they appear.

The provision applies only where a Microsoft Middleware Product would launch into a top-level display window (rather than operating within another interface) and would either display "a// of the user interface elements" or the "Trademark of the Microsoft Middleware Product." RPFJ § III(H)(2)(i)–(ii) (emphasis added). Thus, the provision does not apply if Microsoft designs the slightest variation on the interface elements that launch from within another application, so long as the trademark also is not displayed in the top-level window. These do not present serious programming challenges. Microsoft's ability to preclude OEM installation of desktop shortcuts that "impair the functionality of the [Windows] user interface" (RPFJ § III(C)(2)) provides another, largely unreviewable set of opportunities to impede the use of innovative shortcuts to innovative software. Microsoft asserted similar reasons to defend some of the conduct condemned by the DC Circuit. See Microsoft III, 253 F.3d at 63–64. The DC Circuit rejected Microsoft's approach, but the RPFJ adopts it.

3. As explained above, the code beneath the surface is critically important to the success of middleware in undermining the applications barrier to entry in the OS market. The RPFJ contains exceptions that ensure that, however icons may be displayed on the surface, Microsoft Middleware will be firmly (and unchallengeably) established in the plumbing of each PC.

Sections III(H)(1)–(2)[second], undo what might be left of the obligations earlier in Section III(H). Section III(H)(1)[second] permits Microsoft to ensure that Microsoft Middleware Products are invoked whenever an end-user is prompted to use Microsoft Passport or the group of Microsoft web services now known as Hailstorm. Section III(H)(2)[second] ensures that Microsoft need only program in functions that invoke Active X or other similar Microsoft-proprietary implementations of common functions, in order to ensure that Microsoft Middleware Products constantly appear regardless of an end-user's stated preferences. And none of the provisions in Section III(H) would apply unless the corresponding Microsoft Middleware Products existed seven months before the last beta version of a new Windows release. As with other provisions, Microsoft would be constrained by these requirements only if it paid no attention to them when it decided when and how to release its products.

D. The 14-Day Sweep Provision Effectively Nullifies RPFJ § III(H)

Even if these provisions otherwise might mean something, the RPFJ ensures that they will be competitively meaningless by permitting Microsoft to nag users to give permission for Microsoft to override any array of non-Microsoft icons and menu entries 14 days after the initial boot-up of a PC. See RPFJ § III(H)(3). Thus, Microsoft only needs to prompt users with a dialog box inviting them to "optimize the Windows user interface" every time they boot up, or when they download the inevitable bug fixes and security patches among Windows updates, in order to undo any OEM's or end-user's customization of icons. Microsoft apparently provided DOJ with the name for this feature, which DOJ uses in the CIS: "Clean Desktop Wizard." CIS 46, 66 Fed. Reg. 59,471. What user would not agree to have a cleaner desktop? No ISV is likely to pay an OEM a fee sufficient to cover the trouble of rearranging icons, and supporting additional software, for the privilege of having non-Microsoft software icons displayed advantageously for as little as two weeks.

The CIS suggests that the ability of Microsoft to sweep away icons of competing middleware and other products 14 days after a computer first boots up (RPFJ § III(H)(3)) applies only to "unused icons" (CIS 48, 66 Fed. Reg. 59,471), but the decree terms contain no such limitation. Once its "Clean Desktop Wizard" (id.) secures a click of user consent, Microsoft can hide any icons that offend it. Indeed, there is nothing in the RPFJ that would stop Microsoft from including similar "wizards" that would prompt users to reset middleware defaults, or even to remove Non-Microsoft Middleware," in order to "optimize performance" or to "take full advantage of powerful new Windows features."

E. By Placing The Burden To Restore Competition On OEMs, The PFJ Leads To No Remedy At All For Much Of The Misconduct At Issue

One of the most misguided elements of the RPFJ is its allocation to OEMs, ISVs and end-users of the primary responsibility for injecting competition into the OS market. The icon and default flexibility provisions of the RPFJ allocate to the OEMs almost all of the financial risk and responsibility for remediating Microsoft's antitrust violation, while the monopolist has no obligations except to allow others to make changes to hide (or add to) Microsoft's middleware. That approach ignores the fact that OEMs are motivated by their own fiduciary and economic considerations, not by the drive to remedy a monopolization offense. OEMs are risk-averse, as they operate in a low-margin, highly competitive environment in what has become a commodity-product market. In that environment OEMs are highly dependent on the good graces of Microsoft, not only for favorable pricing on Microsoft's monopoly software products [] Office as well as Windows [] but also for timely technical assistance, and access to technical information.

The Stiglitz/Furman Declaration confirms (at 32–34) that the economics of the OEM industry—a commodity industry captive to a bottleneck monopolist—discourage expenditures of this kind. It is bizarre and counterproductive to place the burden to restore competition on the innocent, low-margin OEMs rather than the monopolist. The "hapless makers of PCs" still "aren't in any position to defy Microsoft," Walter Mossberg, For Microsoft, 2001 Was A Good Year, But At Consumers'' Expense, Wall. St. J., Dec. 27, 2001, at B1, any more than they were when the illegal conduct in this case first occurred. See, e.g., Findings, 84 F. Supp.2d at 62 (¶ 14) (Hewlett-Packard observation to Microsoft that "[I]f we had a choice of another supplier, * * * I assure you [that you] would not be our supplier of choice"). But if OEMs choose not to exercise their new "flexibility" under the middleware provision %62 a choice that seems likely in view of the demonstrated lack of a response to Microsoft's offer of July 11, 2001 [5 the government is left with no antitrust remedy for much of its case.[12]

Nor can ISVs be expected to pay OEMs to take advantage of the limited flexibility provided by RPFJ §§ III(C) and III(H). The RPFJ gives ISVs very slight incentives to subsidize OEM alterations of Microsoft's preferred desktop display, since the ISVs who sell middleware that competes against a Microsoft offering cannot buy exclusivity on the desktop of any computer. Rather, at best an ISV can obtain parity in the availability to developers of its middleware's code. No matter what ISVs and OEMs do, Microsoft Middleware will be ubiquitous. And ISVs could buy only 14 days of advantageous icon display before a Microsoft "Clean Desktop Wizard" (CIS 48, 66 Fed. Reg. 59,471) would begin prompting users to undo the OEM's arrangement of icons and reinstate the arrangement favored by Microsoft. No ISV would pay more than a pittance for such a shallow and short-lived advantage on the desktop.

F. The RPFJ Permits Microsoft To Control Consumers'' Access To Innovation To Suit Its Monopolistic Aims

The RPFJ allows Microsoft to exercise full control over the pace of innovation in middleware because Microsoft can ensure that consumers are denied access—or have only severely impeded access—to competitively threatening middleware products to which Microsoft has no analogue. Section III(C)(3) allows Microsoft to prohibit OEMs from configuring PCs to launch non-Microsoft middleware from any point unless Microsoft already has a competing product that launches from that point. Microsoft can prohibit OEMs from configuring non-Microsoft middleware from launching automatically at the end of the boot sequence or upon the opening or closing of an Internet connection unless a Microsoft Middleware Product with similar functionality would launch automatically. RPFJ §III(C)(3).

Even after this catch-up provision serves its delaying purpose, Microsoft can control how competing middleware products reach and serve consumers, so that products launch only in the way that best suits Microsoft. This provision appears designed to protect Microsoft from competition, and to give the monopolist a clear imprimatur to control the pace of innovation. See Stiglitz/Furman Dec. 28.

V. THE API AND COMMUNICATIONS PROTOCOL DISCLOSURE PROVISIONS ARE INEFFECTIVE

A. The API Provisions Require Little, If Anything, Beyond Current Disclosure Practices In Microsoft's Self-Interest

The API and Communications Protocol disclosure provisions (§§ III(D)–(E)) contain little in the way of hard, fast, enforceable obligations, and do not appear to add anything significant to Microsoft's current disclosure practices. As the CIS recognizes:

> Through its MSDN [Microsoft Developer's Network] service, Microsoft presently makes widely available on the Internet an extensive and detailed catalog of technical information that includes, among other things, information about most Windows APIs for use by developers to create various Windows applications. MSDN access is presently broadly available to developers and other interested third parties.

CIS 34, 66 Fed. Reg. 59,468.

Microsoft already discloses literally thousands of APIs to software developers through MSDN for the good reason that it is in Microsoft's self-interest to promote the Microsoft Windows platform to software developers. The extent of information disclosure required by the RPFJ must be understood in the context of Microsoft's current information disclosure practices. A "requirement" that Microsoft disclose APIs for the most part simply "requires" that Microsoft do what it does voluntarily.

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[12] Similarly, the RPFJ places no limits on Microsoft's conduct toward one of its largest current groups of licensees—direct corporate licensors of bulk Windows licenses. The corporate market has always been Microsoft's point of leverage, and those buyers now often buy direct. Microsoft has made clear its intention to make Windows and other software a renewable "service." Microsoft can undo all of the provisions applying to OEMs upon the first license renewal with an end-user.

Microsoft has a business incentive not only to disseminate Windows APIs but to assist ISVs in understanding and implementing Windows APIs in their products. Microsoft and other platform software vendors compete to attract developers by disclosing technical information, creating easy-to-use development tools, and "evangelizing" their development platforms. Attracting developers helps Microsoft perpetuate the substantial network effects that produce the applications barrier to entry protecting the Windows monopoly. Because the strength of the Windows monopoly and the power of the applications barrier to entry are directly related to the number of developers writing applications for Windows, it is in Microsoft's interest to provide a robust information disclosure program.

By widely disclosing APIs, Microsoft ensures that applications will continue to be written for its platform software rather than for rival platforms. Properly understood, Section III(D) does not actually require Microsoft to provide any new disclosure of APIs and technical information to promote interoperability; Microsoft already engages in these disclosures. Rather, the incremental effect of the API disclosure provisions of the RPFJ is at most to prevent Microsoft from selectively withholding certain APIs from certain vendors. As explained below, however, the disclosure "requirements" in the RPFJ are too insubstantial and too easily manipulated to accomplish even that limited goal.

B. The RPFJ Does Not Require Disclosure of Windows APIs, But Rather Lets Microsoft Determine The Scope of Disclosure Through The Design and Labeling of Its Operating System And Middleware

To begin with, the API disclosure requirements aim at the wrong thing. The RPFJ defines APIs as the interfaces used by Microsoft Middleware to invoke resources from a Windows Operating System Product. RPFJ § VI(A). But innovative rival software vendors do not need APIs between Microsoft Middleware and Windows. The really threatening innovators are threatening precisely because their products perform functions that Microsoft's do not. In those cases, by definition, there will not be any fully analogous Microsoft middleware—just as Microsoft did not have an Internet browser when Netscape Navigator first appeared. Those developers need full access to Windows APIs—APIs for all functionalities enabled by the Windows platform, whether Microsoft calls them "internal" calls within Windows or external APIs that may be distributed to ISVs—not to the limited subset used by a Microsoft version of similar middleware.

That is what Netscape needed in 1995; there was no Internet Explorer to speak of at that time, and certainly Microsoft's rudimentary browser did not perform anywhere near the range of functions performed by Netscape Navigator. See Findings, 84 F. Supp.2d at 31–32 (§ 82–84), 33–34 (§ 91–92). The RPFJ provisions would not have helped Netscape then. See Letter from James L. Barksdale, former CEO of Netscape, to Chmn. Leahy & Sen. Hatch, Senate Comm. on the Judiciary, Attachment, Question 1 (Dec. 11, 2001). 13 And they will not help any software developer whose products exceed the functionality of existing Microsoft middleware. The API disclosure provisions in the RPFJ thus ensure that Microsoft can control the pace of middleware innovation, providing another level of assurance that non-Microsoft products will not gain the type of head start that might result in ubiquity before a similar Microsoft product can be included

Mr. Barksdale's letter in lieu of hearing testimony is available at http://java.sun.com/features/2002.01.barksdale-letter.html, and the attachment is available at http://java.sun.com/features/2002.01.barksdale-attach.htm in the bundle of products sold with every Windows operating system.

That limitation on API disclosure is severe enough. But it is just a beginning. The disclosure obligation is further limited by the definition of APIs at RPFJ § VI(A): "Application Programming Interfaces (APIs)" means the interfaces, including any associated callback interfaces, that Microsoft Middleware running on a Windows Operating System Product uses to call upon that Windows Operating System Product in order to obtain any services from that Windows Operating System Product.

Setting aside the circularity, the malleability of the two principal defined terms renders this definition (and the corresponding obligations) a practical nullity. The API definition depends on the relationship between two "products," each of which is defined solely by Microsoft. As noted above, Microsoft has "sole discretion" to identify software code as part of a "Windows Operating System Product." RPFJ § VI(U). Many APIs can disappear from view simply as a result of Microsoft's unreviewable decision to relabel certain interfaces as internal to Windows. If Microsoft says that an operation takes place entirely within Windows, rather than requiring the interaction of a middleware and Windows, then there is no API to disclose.[14]

C. The Definition of "Microsoft Middleware" Gives Microsoft Further Leeway to Limit Its Disclosure Obligation

The only APIs that need be disclosed are those used by "Microsoft Middleware." But "Microsoft Middleware," too, is defined in a way that gives Microsoft fight control over the scope of its own obligations. Remarkably, Assistant Attorney General James testified that this definition would have been difficult for DOJ to achieve in a litigated proceeding. Statement of Charles James to Senate Judiciary Committee 8 (Dec. 12, 2001). But it is difficult to imagine what Microsoft would have contested. Just as in the dispute whether Internet Explorer is part of Windows, Microsoft can simply relabel software as part of one product rather than another. The label does not affect the commands and operations in the software.

1. The RPFJ Requires Microsoft To Disclose Only The APIs Used By The "User Interface" Or Shell Of Microsoft Middleware

The APIs that must be disclosed are those that "Microsoft Middleware * * * uses to call upon [a] Windows Operating System Product." RPFJ § VI(A); see id. § III(D). But Microsoft determines how much code performing a Microsoft Middleware function is part of the Middleware, and how much is part of the Windows Operating System Product, since the latter definition is within Microsoft's "sole discretion." Id. § VI(U). The only code in Microsoft Middleware that Microsoft must consider separate for the purposes of API disclosure is the user interface, or shell, of the Middleware—or, rather, "most" of the shell. Id. § VI(J)(4). The only limit is that "Microsoft Middleware" must "[i]nclude at least the software code that controls most or all of the user interface elements of that Microsoft Middleware." Id. Thus, the terms of the RPFJ permit Microsoft to provide only the APIs that go between 51% of the user interface elements of Microsoft Middleware and the rest of the Windows bundle of products. None of the APIs used by the Middleware's functionality—the APIs that permit the Middleware perform its functions while running on Windows—need be disclosed, so long as the shell APIs are disclosed. This definition appears to be designed to have nothing to do with developer preferences, or with the applications barrier to entry.

2. The RPFJ Requires Microsoft To Disclose APIs Only For "Microsoft Middleware" That Is Distributed Separately From Windows, Yet Is Distributed To Update Windows

To come within the disclosure obligation, Microsoft Middleware must be "distributed separately from a Windows Operating System Product." That restriction alone is enough to take Windows Media Player 8 outside the definition, as that product is available only as part of the Windows XP bundle. But not all separate distributions prompt the API obligations; Microsoft must characterize the distribution as one that "update[s] th[e] Windows Operating System Product." See RPFJ § VI(J)(1). Thus, the scope of the obligation depends entirely on the labeling of the product, which Microsoft can easily manipulate.

3. The Limitation Of Microsoft Middleware To "Trademarked" Products Further Eviscerates The API Disclosure Provision

But that is not all. At least equally significant is the restriction of the Microsoft Middleware definition, and thus the API disclosure obligation, to Middleware that is "Trademarked." RPFJ § VI(J)(2). The definition of "Trademarked" allows Microsoft to exclude current middleware from the API disclosure obligation, and to prevent future middleware from becoming subject to the API disclosure obligation.

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[14] Moreover, the term "interfaces" is not defined in the RPFJ. The CIS explains that "'[i]nterfaces" includes, broadly, any interface, protocol or other method of information exchange between Microsoft Middleware and a Windows Operating System Product." CIS 33–34, 66 Fed. Reg. 59,468. But that definition would not be part of the judgment.

simply by manipulating its use of trademarks.

a. Microsoft Easily Can Ensure That Middleware Is Not "Trademarked" By Using A Generic Or Descriptive Name Combined With Microsoft(r) or Windows(r)

The definition of "Trademarked" does not include "[a]ny product distributed under * * * a name compris[ing] the Microsoft(r) or Windows(r) trademarks together with descriptive or generic terms." Id. § VI(T). That is how Microsoft has chosen to name some of its newest and most important products: the combination of a monopoly brand with a simple descriptive mark that helps identify an entire software function with the Microsoft implementation of it. Windows(r) Messenger instant messaging software is one example.

Moreover, by the terms of the RPFJ Microsoft disclaims any rights in the use of such combinations of the Microsoft(r) or Windows(r) marks with generic or descriptive terms, and abandons any rights that may be acquired in the future. RPFJ § VI(T). These provisions suggest that Microsoft can change the scope of the definition of Middleware, and thus of the API. disclosure obligation, by abandoning some marks it has registered as combinations of Microsoft(r) or Windows(r) with generic or descriptive terms—if the RPFJ does not accomplish that in itself. Windows Media Player is an example. Although Microsoft has registered the combination of Windows(r) and the generic term "Media" as Windows Media(r), at bottom the name Windows Media Player is a combination of the Windows(r) mark with the generic term "media player."

Indeed, Microsoft could plausibly argue that the Windows Media(r) mark does not come within the "Trademarked" definition as it is, since even that mark consists of no more than the Windows(r) mark in combination with the generic term "media." 15 RPFJ § VI(T) may therefore embody Microsoft's "disclaim[er of] any trademark rights in such descriptive or generic terms apart from the Microsoft(r) or Windows(r) trademarks." But even if Section VI(T) does not go so far, Microsoft could easily get Windows Media(r) Player outside of the "Trademarked" definition—and thus outside the scope of the In this discussion we set aside the non-trivial question whether "Windows" itself is a generic, or at best descriptive, mark for the type of "windowing" graphical user interfaces invented at the Xerox Palo Alto Research Center in the 1970s, popularized by the Apple Lisa and Macintosh in the 1980s, and since used by Microsoft and many other software vendors. disclosure obligations that apply only to "Microsoft Middleware"—simply by abandoning the registration mark and moving the registration symbol to the left. Thus, Microsoft can transform "Windows Media(r) Player," which might be subject to API disclosure requirements, into "Windows(r) Media Player," which clearly is exempt.

b. The "Microsoft Middleware" Definition Governing Disclosure Obligations Is Far Narrower Than The "Microsoft Middleware Product" Definition Governing OEM Flexibility

That this highly restrictive definition is no accident is clear from comparison with the "Microsoft Middleware Product" definition which governs the icon-display obligations. To provisions paralleling the "Microsoft Middleware" definition, the "Microsoft Middleware Product" definition adds several named current products, including "Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express and their successors," RPFJ § VI(K)(1), although only to the extent that Microsoft "in its sole discretion" (id. § VI(U)) decides that those products are "in a Windows Operating System Product." Id. § VI(K)(1). Thus, Microsoft's icon display/removal obligations for those named products would not change merely because of a strategic product renaming or abandonment of a trademark that combines the Microsoft(r) or Windows(r) name with generic or descriptive terms. But none of those current products is named in the "Microsoft Middleware" definition that governs the disclosure obligations. That enables Microsoft to manipulate whether those products, although surely middleware, also satisfy the four subparts of RPFJ § VI(J).

c. The CIS Broadens The "Trademarked" Definition Beyond Its Terms

The CIS overstates the breadth of the "Trademarked" definition, contending that it "covers products distributed * * * under distinctive names or logos other than by the Microsoft(r) or Windows(r) names by themselves." CIS 22, 66 Fed. Reg. 59,465. The CIS further claims that the exception for products known by combinations of generic terms with Microsoft(r) or Windows(r) does not cover marks that "are presented as a part of a distinctive logo or another stylized presentation because the mark itself would not be either generic or descriptive." CIS 23, 66 Fed. Reg. 59,465 (emphasis added). To the contrary, the terms of the RPFJ definition of "Trademarked" focus entirely on "names," not "logos" or "marks" as a whole. RPFJ § VI(T). The distinction is striking: the word "name" appears five times in the definition, and "descriptive or generic terms" appears three times. Neither "logo" nor "mark" appears at all.

Microsoft clearly appreciates the distinction. Although Microsoft apparently has not yet formally abandoned the mark "Internet Explorer" (U.S. Trademark Reg. No. 2277122), it does not assert that mark when it lists its trademarks as a warning to the public. See http://www.microsoft.com/misc/info/cpyright.htm. Microsoft does list its trademark for the Microsoft Internet Explorer logo, however. Id.; see U.S. Trademark Reg. No. 2470273.

d. Microsoft Can Easily Manipulate Which Middleware Releases Are "New Major Versions"

Indeed, even a "Microsoft Middleware Product" satisfying that four-part test may not be "Microsoft Middleware" subject to the disclosure obligation unless it is a "new major version" of the product, that is, if the release is "identified by a whole number or by a number with just a single digit to the right of the decimal point." RPFJ § VI(J). That has two implications. First, Microsoft can simply adopt a different method of naming new releases. Second, even under current practice a version with two digits to the right of the decimal point may fix significant errors, so that disclosure only of the prior version of the APIs might leave developers without the ability to invoke some needed functionality with the disclosed APIs.

D. The Disclosure Provisions—Particularly Those Concerning "Communications Protocols"—Depend On An Undefined And Thus Unenforceable Concept of "Interoperability"

Both the API and Communications Protocol disclosure provisions define the scope of the data to be disclosed as that necessary to permit non-Microsoft products to "interoperate" with the Windows client OS and to "interoperate natively" with Microsoft server operating system products. See RPFJ § III(D), (E). The disclosure obligations are limited to "the sole purpose of interoperating with a Windows Operating System Product." Id.

The obligations depend on the meaning of "interoperate," but the RPFJ never defines that term, and there is no non-discrimination provision attached to this obligation. That is critical because interoperability is not something that can be achieved half way. Either two software products interoperate for all functions that they must perform together, or they do not. Any impediment in any aspect of the interoperation nullifies the interoperability. The CIS seems to equate "interoperate" with "fully take advantage of," see CIS 36, 66 Fed. Reg. 59,468, but there is no such language in the RPFJ itself.

The Communications Protocol disclosure provision (RPFJ § III(E))outlines a seeming "obligation" that is entirely undefined. Section III(E) seems to require disclosure of Communications Protocols on Windows clients that are "used to interoperate natively * * * with a Microsoft server operating system product." But just as "interoperate" is not defined, neither does the RPFJ define "Microsoft server operating system product."

One of the most important aspects of the Windows 2000 Server product bundle is Microsoft's web server, IIS. In the absence of a definition of "Microsoft server operating system product," however, it is unclear whether the disclosure obligation encompasses protocols used to interoperate with this and other aspects of the current server product. Cf. RPFJ § VI(U) (defining "Windows Operating System Product" as all software code "distributed commercially * * * as Windows 2000 Professional" and other named products, and "Personal Computer versions" of their successors).

Again, the CIS attempts to provide assurances that go beyond the terms of the proposed judgment. The CIS states (at 37, 66 Fed. Reg. 59469):

> The term "server operating system product" includes, but is not limited to, the entire Windows 2000 Server product families and any successors. All software code that is identified as being incorporated within a Microsoft server operating system and/or is distributed with the server operating system (whether or not its installation is optional or is subject to supplemental license agreements) is encompassed by the term. For example, a number of server software

products and functionality, including Internet Information Services (a "web server") and Active Directory (a "directory server"), are included in the commercial distribution of most versions of Windows 2000 Server and fall within the ambit of "server operating system product."

That definition would be appropriate. But no corresponding language—no enforceable definition—appears in the RPFJ.

E. The Narrow Scope Of The Disclosure Provisions Contrasts Sharply With The Broader Definitions In DOJ's Earlier Remedy Proposals

Before liability had been confirmed on appeal, DOJ took a far broader view of what should be disclosed. The interim remedies in the vacated judgment required disclosure of APIs, Communications Interfaces, and "technical information" needed to enable competing products "to interoperate effectively with Microsoft Platform Software." 97 F. Supp.2d at 67 (3(b)). That disclosure requirement was backed up by a requirement, absent from the RPFJ, that Microsoft create a secure facility so that developers could work with Windows source code to ensure that their applications worked properly on the Microsoft platform, see id.

The definition of "technical information," moreover, helped ensure that disclosure would be complete and not subject to many different methods of manipulative narrowing. The "technical information" definition encompassed the following items: all information regarding the identification and means of using APIs and Communications Interfaces that competent software developers require to make their products running on any computer interoperate effectively with Microsoft Platform Software running on a Personal Computer. Technical information includes but is not limited to reference implementations, communications protocols, file formats, data formats, syntaxes and grammars, data structure definitions and layouts, error codes, memory allocation and deallocation conventions, threading and synchronization conventions, functional specifications and descriptions, algorithms for data translation or reformatting (including compression/decompression algorithms and encryption/decryption algorithms), registry settings, and field contents.

97 F. Supp.2d at 73 (7(dd)).

Indeed, DOJ's position was stronger even before liability had been imposed at all.

Draft 18 from the Posner mediation imposed a disclosure obligation using this definition Of "technical information":

all information, regarding the identification and means of using APIs (or communications interfaces), that competent software developers require to make their products running on a personal computer, server, or other device interoperate satisfactorily with Windows platform software running on a personal computer. Technical information includes reference implementa- tions, communications protocols, file formats, data formats, data structure definitions and layouts, error codes, memory allocation and deallocation conversions, threading and synchronization conventions, algorithms for data translation or reformatting (including compression/decompression algorithms and encryption/decryption algorithms), registry settings, and field contents. The RPFJ, by contrast, contains no analogue to these precise and inclusive definitions. Instead, the RPFJ relies solely on the circular (and completely manipulable) definition of API (RPFJ § VI(A)), a similarly narrow definition of "Communications Protocol" (id. § VI(B)), and a definition of "Documentation" that is wholly dependent on the API definition (id. § VI(E)).

F. The "Security" Exceptions in Section III(J) Permit Microsoft To Avoid Its Disclosure Obligations

RPFJ § III(J) provides Microsoft with two additional lines of defense in the event that any competitively sensitive APIs nonetheless fall within the malleable definition of API. Section III(J)(1) severely undercuts the disclosure requirements to the extent they apply in the modem world where security protocols are critical to any communication between networked computers, particularly over the Internet. And Section III(J)(2) provides Microsoft with seemingly unfettered discretion to decide who is worthy to receive technical information necessary to make middleware function on the Internet.

Microsoft can plausibly rely on Section III(J) to decline to comply with disclosure requests based on concerns with authentication and security that it will be able to assert with respect to any program that involves communication between a PC and a server on the Internet (or even within many private networks). Authentication, security, and similar protection mechanisms are and will continue to be integral parts of the functioning of those products. See, e.g., Comment, William A. Hodkowski, The Future of Internet Security: How New Technologies Will Shape the Internet and Affect the Law, 13 SANTA CLARA COMPUTER & HIGH TECH. L.J. 217 (1997). Indeed, security and rights-protection are particularly critical to Internet-based economic activity, which encompasses much of the computing on the Internet. As a consequence, the security mechanisms are critically important to any Internet-based middleware threat to the Windows OS monopoly.

For example, digital rights management ("DRM") has become a principal part of Windows Media Player. Allowing Microsoft to withhold data needed to permit rivals to interoperate with the DRM specifications in Windows Media Player—specifications that Microsoft is making universal by including Windows Media Player on every PC— may well end effective competition for media players within the next upgrade cycle for Windows. Similarly, any distant remaining possibility of Internet browser (or even e-mail client) competition should be squelched by the RPFJ's approval for Microsoft to withhold parts of encryption-related protocols (again, as distinct from the customer-specific keys that make use of those protocols). For another example, Secure Socket Layer (SSL) is an open standard that has been critical to the open development of a relatively secure Internet. As Microsoft implements a proprietary version of SSL—one that others will have to follow given the ubiquity of the Microsoft browser as a result of the misconduct at issue in this case—it will be able to conceal critical layers of that altered protocol from rivals, essentially ending the possibility of competition for client software for Internet computing. And by giving Microsoft a basis to conceal authentication protocols (not merely data), the RPFJ frees Microsoft Passport from scrutiny and permits Microsoft to bind a proprietary universal password and identity utility to its monopoly operating system without hope of Interoperation.

By permitting Microsoft to withhold key parts of encryption, digital rights management, authentication, and other security protocols, the RPFJ effectively allocates Web-based computing to the monopolist of the desktop. A decree could hardly try to place a clearer stamp of approval on an expansion of the scope of an illegally maintained monopoly.

1. The Exclusions for Security-Related APIs and Protocols in RPFJ(J)(1) Permit Microsoft To Hobble Disclosures That Are Critical in Internet Computing

It is no coincidence that Bill Gates has now emphasized the centrality of security concerns in Microsoft's future software offerings. See, e.g., John Markoff, Stung by Security Flaws, Microsoft Makes Software Safety a Top Goal, N.Y. TIMES, Jan. 17, 2002, at C1. That is no more than an acknowledgment of market and technical realities that have been widely known throughout the industry for years as Internet computing has taken hold. That market reality should have been sufficient to make clear that an indistinct exception of the type in RPFJ § III(J)(1) would allow Microsoft to disclose "crippled" versions of APIs and Communications Protocols. Microsoft's sudden dedication to security leaves no doubt that it will inject security aspects into its proprietary APIs and its proprietary, extended implementations of Communication Protocols. Under the terms of Section III(J)(1), Microsoft can easily argue that disclosure of those aspects—necessary for one machine to communicate with another—will compromise the security from any installation or group of installations. See also Stiglitz/Furman Dec. 30.

The CIS maintains that Section III(J)(1) simply protects Microsoft and its customers from disclosure of customer-specific "keys, authorization tokens, or enforcement criteria," and states that the exception "does not permit [Microsoft] to withhold any capabilities that are inherent in the Kerberos and Secure Audio Path features as they are implemented in a Windows Operating System Product." CIS 52, 66 Fed. Reg. 59,472. But that reading does not square with the text of the exemption. The quoted examples are specifically presented "without limitation." RPFJ § III(J)(1). The RPFJ language easily permits Microsoft to contend that any release of the way its proprietary security protocols work "would compromise the security of a particular installation.'"

Most important, Section III(J)(1) clearly permits Microsoft to withhold portions of APIs or Communications Protocols, but the examples given of keys and authorization codes are not parts of APIs or Communications Protocols. They may be part of customer- specific Documentation, rather than the Documentation used by customers, consultants, and developers to create or identify and implement particular keys, tokens, or enforcement criteria.) The APIs and Communications Protocols for security-related applications are not customer-specific, nor does their disclosure compromise security. To the contrary, the most powerful encryption and other security-related software is openly disclosed, as is the Kerberos standard, or even open source, as is the federal government's new encryption standard. See, e.g., Watch your AES: A new encryption standard is emerging, Red Herring (Dec. 1, 1999) (open source government standard).

Unless RPFJ § III(J)(1) refers to a null set, however, Microsoft will have a basis to withhold some parts of Communications Protocols and APIs. The CIS states that Communications Protocols "must be made available for third parties to license at all layers of the communications stack," (CIS 36–37, 66 Fed. Reg. 59,468 (emphasis added)) but the RPFJ to which Microsoft agreed—and which alone is potentially enforceable— says no such thing. To the contrary, Section III(J)(1) explicitly relieves Microsoft from the obligation to license some "portions or layers of Communications Protocols" (and some "[p]ortions of APIs")—not just client-specific data. If part of a Communications Protocol is withheld, not "all layers of the communications stack" are "available * * * to license." And if part of a Communications Protocol is unavailable, interoperation is impossible; at certain points, the interaction between two computers will break down.

Limited withholding of APIs or Communications Protocols (rather than merely withholding customer-specific data) will render middleware non-functional, since software cannot interoperate with other software partially. Carving off some aspects of interoperability means that there is no interoperability, thwarting the premise of the disclosure provisions altogether.

The CIS also describes other limits that do not exist in the text of the RPFJ. The CIS claims that the RPFJ requires disclosure of the Communications Protocols used for the Microsoft-proprietary implementation of the Kerberos security standard a "polluted" Kerberos that is the strict analogue to the "pollute[d]" Java that figured prominently at trial. See Microsoft III, 253 F.3d at 76–77 (quoting 22 J.A. 14,514). But Section III(J) explicitly relieves Microsoft of the obligation to disclose "portions" of APIs or Communications Protocols that would "compromise the security of a particular installation or group of installations of security software. That is an open invitation to withhold some part of the Microsoft-proprietary variation of Kerberos.

The type of customer-specific information that the CIS claims is all that can be withheld could and should be described much more accurately and specifically in the RPFJ, not as [p]ortions of APIs or * * * portions or layers of Communications Protocols," but rather as "customer-specific or installation-specific data the disclosure of which would compromise the security of a particular installation or group of installations of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation keys, authorization tokens or enforcement criteria." But that is not the approach the RPFJ takes. Rather, the RPFJ makes clear that Microsoft is entitled to withhold, not merely customer- or installation-specific data, but some "portions" of APIs and some "portions or layers" of Communications Protocols. All communication of substance between desktops (or other client computers) and server computers over the Internet increasingly involves layers of security protocols, anti-virus routines, and the like. And one of Microsoft's principal current efforts is to foist its own version of digital rights management (DRM) upon providers of copyrighted content over the Internet.

When Microsoft asserts a right to withhold information, it will be difficult indeed for the Technical Committee, DO J, or the Court to exclude the possibility that particular "portions or layers of Communications Protocols," or "[p]ortions" of the APIs that permit middleware programs to operate atop Microsoft operating systems, in fact "compromise the security of a particular installation or group of installations." RPFJ § III(J)(1). Any such determination is likely to be time-consuming, and related enforcement therefore would be slow. It should be a simple matter for Microsoft to delay disclosures of this type long enough to disadvantage competitors.

2. RPFJ III(J)(2) Permits Microsoft To Refuse Effective Disclosure To A Range Of Potentially Effective Competitors

While RPFJ § III(J)(1) allows Microsoft to refuse to disclose portions of APIs, RPFJ § III(J)(2) permits Microsoft to withhold all of any "API, Documentation, or Communications Protocol" having to do with "anti-piracy systems, anti-virus technologies, license enforcement mechanisms, authentication/authorization security, or third party intellectual property protection mechanisms of any Microsoft product." The RPFJ allows Microsoft to select to whom it will disclose this information by imposing several tests that may be based on standards apparently committed to Microsoft's sole discretion as much as is the definition of Windows Operating System Product.

Thug, RPFJ § III(J)(2)(b) permits Microsoft to evaluate whether a competitor has a "reasonable business need" for the desired information. What Microsoft is likely to consider a "reasonable" business need by a competitor may be narrow indeed. As the DC Circuit observed, Microsoft viewed its desire "to preserve its" monopoly "power in the operating system market" as a procompetitive justification for exclusionary conduct. Microsoft III, 253 F.3d at 71. No doubt Microsoft will view direct or indirect efforts to undermine its hammerlock on the OS market as unreasonable efforts to confuse consumers or impair the "Windows experience."

Even bona fide attempts by a monopolist to objectively evaluate a potential competitor's "reasonable business need" can scarcely be expected to produce consistent or foreseeable results. Rather, that amorphous standard is likely to produce a flood of disputes—each of which will delay the competitor's receipt of technical information while Microsoft gains more time to respond (by legal or illegal means) to the competitive threat. Moreover, the "reasonable business need" must be for a "planned or shipping product." If the product is already "shipping," it may be too late for disclosure to be helpful in the market. How fully "planned" a product must be raises further questions that Microsoft will be able to resolve to its own disadvantage.

In addition, Microsoft need not provide security-related APIs, protocols, or documentation to any vendor that does not "meet[] reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business." RPFJ § III(J)(2)(c) (emphasis added). That provides Microsoft with a basis for excluding almost all nascent competitors except for those associated with established, profitable companies. It would not be difficult to craft "reasonable, objective standards" for "viability of [a] business" that would exclude any Internet-focused startup, including Netscape in 1995. Indeed, the history of the software industry both before and after the dot-com bubble shows that very few software companies have had "viable" businesses. Certainly Section III(J)(2)(c) would give Microsoft at least a debatable basis for withholding the APIs and Communications Protocols needed to interoperate with Microsoft software over the Internet from all open source ISVs—who are more interested in constantly improving the quality of software than in obtaining licensing profits. Although open source software is widely recognized as a major threat to Microsoft's monopoly power, the business models even of the leading Linux providers might fail any number of "reasonable, objective standards" for "viability." Indeed, Microsoft's CEO Steve Ballmer describes open source software as a "cancer" that threatens the viability of any software business. See Mark Boslet, Open Source." Microsoft Takes Heat, INDUSTRY STANDARD, July 30, 2001; Dave Newbart, Microsoft CEO Takes Launch Break with the Sun-Times, CHI. SUN-TIMES, June 1, 2001, at 57. For that matter, it is not entirely unreasonable to regard head-to-head competition with Microsoft in platform software as a less than viable business plan; certainly most venture capitalist and other investors hold that view. It would not be difficult for Microsoft to craft "objective" standards of business viability that would exclude Corel and Novell, to name two examples. Microsoft should be able to exclude many sources of potential cross-platform middleware threats through RPFJ § III(J)(2)(c) alone.

Yet RPFJ § III(J)(2) contains yet another method for screening competitors from access to technical information needed by Internet-centric middleware applications. Any ISV that clears the hurdles and receives the information nonetheless must submit its implementation of the APIs, Documentation or Communications Protocols for review by a Microsoft-approved third party (likely a captive commercial ally) "to test for and ensure verification and compliance with

Microsoft specifications for use of the API or interface, which specifications shall be related to proper operation and integrity of the systems and mechanisms identified in this paragraph." RPFJ § III(J)(2)(d). "[P]roper" no doubt will mean "the way Microsoft does it," making this provision into yet another way in which Microsoft can control the pace of innovation to ensure that the market has no or limited access to products that improve upon Microsoft's offerings. This mechanism means that vendors who tried to adapt APIs to function as bridges to other platforms would have to give Microsoft the ammunition to defeat that function—if not simply disapprove it and await the slow operation, if any, of the RPFJ enforcement mechanism.

The CIS suggests that there are strict limits on Microsoft's discretionary ability to deny access to security-related aspects of Communications Protocols and APIs, CIS 53, 66 Fed. Reg. 59,473, but those limits are absent from the decree language. The CIS contends that these exceptions "are limited to the narrowest scope of what is necessary and reasonable, and are focused on screening out individuals or firms that * * * have a history of engaging in unlawful conduct related to computer software * * *, do not have any legitimate basis for needing the information, or are using the information in a way that threatens the proper operation and integrity of the systems and mechanisms to which they relate." Id. Setting aside the opportunity for Microsoft to argue, as it has in other contexts, that the injection of competing software "threatens the proper operation and integrity" of its products, see Microsoft III, 253 F.3d at 63–64, the CIS simply does not address the broadest basis for withholding APIs and Communications Protocols under Section 111(1)(2): Microsoft's ability to decide, based on criteria within its own discretion, that an ISV is not "authentic[]" and "viab[le]." RPFJ § III(J)(2). That provision could provide a basis for excluding all but a handful of other software companies.

G. RPFJ § III(I) Would Place A Judicial Imprimatur On Microsoft's Use Of Technical Information As A Lever To Extract Competitors" Intellectual Property

The RPFJ would actually increase Microsoft's bargaining power by explicitly placing a judicial imprimatur on demands by Microsoft that recipients of APIs cross-license any intellectual property developed using the APIs. Section III(I) of the RPFJ permits Microsoft to use intellectual property licensing terms to impede whatever competitive benefits otherwise might have arisen from its disclosure obligations. Microsoft's licenses "need be no broader than is necessary to ensure" the licensee's ability to "exercise the options or alternatives expressly provided" by the RPFJ. RPFJ III(I)(2). A welter of litigation over the breadth that is "necessary"—and the collateral restrictions that are permissible—is certain to continue through the life of the decree.

Similarly, Microsoft should have no difficulty delaying the use of any option for which it is entitled to charge a royalty, simply by setting a "reasonable" royalty (RPFJ § III(I)(1)) beyond what any OEM could afford to pay in that competitive, low-margin business. If OEMs have to pay Microsoft to exercise any of their icon-shuffling options — a state of affairs clearly envisioned in RPFJ § III(I)—the slim likelihood that any OEM will take advantage of those provisions will be lessened still further. Microsoft need not permit transfers or sublicenses of API rights, imposing yet another barrier to entry. Id. § III(I)(3). And Microsoft could ensure, through licenses, that end-users could not make competitively significant alterations to the Microsoft-approved package.

Most important, however, the RPFJ specifically permits Microsoft to use its monopoly as a means to force access to others" intellectual property. Microsoft can assert a right to license "any intellectual property rights" a competitor "may have relating to the exercise of their options or alternatives provided by" the RPFJ. RPFJ § III(J)(5). Thus, to take advantage of a competitive option, an ISV will need to license its product to Microsoft, and hope that Microsoft does not use that license as a means to produce a copycat program and bundle it into Windows. Many companies long since departed the software industry after entering into what they thought were limited exchanges of intellectual property with Microsoft. 16

Although the CIS states that Microsoft could demand only any IP rights it would need to comply with its own disclosure obligations under the RPFJ, CIS 50–51, 66 Fed. Reg. 59,472, the broad "relating to" language does not compel that narrow reading, and may not support it at all. The vague limitations in Section III(I)(5) are unlikely to reassure ISVs that Microsoft will not use its license to analyze the ISV's IP rights well enough to design around it and bundle a copycat program into Windows or Office, as has happened many times before. This weapon should give Microsoft additional ability to prevent industry participants from taking advantage of the superficially appealing provisions of the RPFJ.

VI. BUILT-IN DELAYS EXACERBATE THE DECREE'S UNJUSTIFIABLY BRIEF DURATION

It is remarkable that the RPFJ would reward Microsoft for litigating and losing broadly on liability with a consent decree that is shorter than other such decrees, and may 16 See, e.g., Testimony of Mitchell Kertzman before the Sen. Jud. Comm., July 23, 1998 (detailing Sybase's difficulties in this regard); Statement of Michael Jeffress before the Sen. Jud. Comm., July 23, 1998 (after TVHost revealed its intellectual property to Microsoft in failed negotiations to sell the company, Microsoft imitated the product). be the shortest ever. DOJ antitrust consent decrees now routinely last ten years. 17 Section V of the RPFJ provides for a term of only five years, however, less time even than Microsoft has engaged in the illegal conduct that was the subject of this litigation. The decree plainly should be longer than the period between the initiation of the misconduct and the imposition of relief, and at least as long as the typical relief. 18 Microsoft has enjoyed the benefits of its misconduct for at least seven years. The RPFJ not only would allow Microsoft to retain those benefits, but would subject Microsoft to its light and uncertain obligations for no more than five years, and scarcely four and one-half years for the many obligations that are delayed.

The RPFJ further abbreviates its already brief duration, and undermines its already insubstantial requirements, by building in long delays before Microsoft must comply with its limited duties. Thus, Microsoft need not comply with the icon-related requirements until November 2002, see RPFJ § III(H)(1), although Microsoft needed only two weeks after the DC Circuit decision to offer OEMs roughly the same flexibility with icon display as the RPFJ requires, and needed no more than three additional months to implement that flexibility on Windows XP. See Microsoft Announces Greater OEM Flexibility for Windows (Microsoft press release July 11, 2001). Similarly, Microsoft need not comply with its API disclosure requirements or the OEM flexibility provisions until November 2002, RPFJ §§ III(D), (H), and need not comply with the Communica-

As of 1998 it was the policy of the Antitrust Division that consent decrees last for at least 10 years. See ANTITRUST DIVISION MANUAL, at IV:54 (3d ed. Feb. 1998); see also V VON KALINOWSKI ET AL., ANTITRUST LAWS AND TRADE REGULATION §§ 96.01[2], at 96–4; 96.02[1] at 96–10 (2d ed. 2000).

If Microsoft actually and convincingly lost its monopoly before the expiration of a decree of appropriate length, it could, of course, move for modification or termination of the decree under Rufo v. Inmates of Suffolk County Jail, 502 U.S. 367 (1992).

Protocol disclosure requirement until August 2002. Id. § III(E). See also Stiglitz/Furman Dec. 30. These built-in delays cut far into the unusually brief term of the decree.

The "Timely Manner" governing Microsoft's disclosure obligations in RPFJ §§ III(D)-(E)—after the initial delay—permits Microsoft to withhold that disclosure until a product version has been distributed to 150,000 beta testers. See RPFJ § VI(R). "Beta testers" in undefined. Until recently, Microsoft, like other vendors, distinguished between "beta testers" who agreed to provide substantial feedback to the software manufacturer, and "beta copies" of a program that might be distributed without such obligations or expectations. Few, if any, beta testing programs involved 150,000 beta testers under that usage. A return to the former terminology could postpone the "Timely Manner" until commercial release. And in any event, it should be a simple matter for Microsoft to delay distribution of any beta version to 150,000 testers, however defined.

Here again, the contrast with the interim remedies of the original decree is striking. The "Timely Manner" definition in that judgment required Microsoft to disclose "APIs, Technical Information and Communications Interfaces * * * at the earliest of the time that" those items were

(1) disclosed to Microsoft's applications developers, (2) used by Microsoft's own

Platform Software developers in software released by Microsoft in alpha, beta, release candidate, final or other form, (3) disclosed to any third party, or (4) within 90 days of a final release of a Windows Operating System Product, no less than 5 days after a material change is made between the most recent beta or release candidate version and the final release.

97 F. Supp.2d at 73–74 (§ 7(ff)) (emphasis added). While the vacated judgment made a strong effort to place outside developers on the same footing as Microsoft's applications developers throughout the development process, the RPFJ permits Microsoft to delay disclosure until the last minute, without any analogue to the requirement that Microsoft promptly update changes made in the final pre-release stage.

Another significant built-in delay results from the definition of "Non-Microsoft Middleware Product" to include only products that have one million users. RPFJ § VI(N) (ii). That definition governs the extent of the anti-retaliation provisions in RPFJ §§ III(A)(1), III(C), and III(H). Moreover, the icon flexibility and information disclosure provisions apply only to Microsoft Middleware and Microsoft Middleware Products, each of which must have functionality similar to a Non-Microsoft Middleware Product. See RPFJ §§ VI(J)(3), VI(K)(2)(b)(ii). By restricting all of these protections to middleware products that have distributed more than one million copies, the RPFJ encourages Microsoft to crush new middleware threats at the earliest stages. That is, the RPFJ puts a premium—indeed, a judicial imprimatur—on the monopolistic exclusion of nascent threats before the innovations in those products reach a sizable mass of consumers. That flies in the face of the concerns behind the judgments of liability in this case. See Microsoft III, 253 F.3d at 54, 79.

VII. ADDITIONAL WEAKNESSES UNDERCUT THE RPFJ

A. The Anti-Retaliation Provisions Are Deeply Flawed

Although anti-retaliation provisions are clearly necessary, the provisions in the RPFJ proceed from a misguided premise that retaliation by the monopolist—abuse of monopoly power—is permitted unless squarely forbidden. The well-meaning restrictions in the RPFJ leave Microsoft with ample recourse to use its monopoly power to retaliate against those who aid competitive threats. See Stiglitz/Furman Dec. 31–32.

Most important, the anti-retaliation provisions permit Microsoft to withdraw the Windows license of any OEM (or other licensee) that does not serve Microsoft's anticompetitive bidding. The CIS (at 27, 66 Fed. Reg. 59,466) suggests that the provision of RPFJ § III(A) requiring notice and opportunity to cure a violation provides some kind of protection to OEMs. But the protection is evanescent, disappearing entirely after two notices within a license term. See RPFJ § III(A). See also Stiglitz/Furman Dec. 31–32.

Such notices will become routine, quickly and completely nullifying this provision. In the rough-and-tumble of everyday business, parties frequently diverge in minor respects from the terms of their agreements. The CIS admits that "Windows license royalties and terms are inherently complex." CIS 28, 66 Fed. Reg. 59,466. Given that complexity, it would be surprising if most OEMs did not transgress some term of their Windows licensing agreements every year or so, if not more often. Such transgressions would provide ample basis for Microsoft to retaliate without fear of interference from the RPFJ.

There is no limit on what Microsoft can invoke as a reason for termination, that is, there is no requirement that terminations be for cause, much less for a material breach of the license agreement. Indeed, the sudden termination that Microsoft may impose after two notices—even notices of purported violations that were promptly and completely cured—need not even be based on something the OEM could cure.

The anti-retaliation provisions for software and hardware vendors contain another weakness. Section III(F)(1)(a) forbids retaliation against hardware and software vendors who support software that competes with Microsoft Platform Software or that runs on other platforms. But that provision therefore permits Microsoft to use its Windows monopoly to crush middleware vendors if Microsoft does not yet have competing middleware (see RPFJ §§ VI(K)-(L)) and whose middleware applications are used on the Windows platform—where any middleware would have to start in order to be a practical bridge to another platform.

Moreover, when prohibiting a specific type of retaliation would also help undermine the applications barrier to entry, the RPFJ hews to a general approach rather than focusing on precise adjudicated conduct. For example, Microsoft threatened to discontinue its port of Microsoft Office for the Macintosh unless Apple ceased supporting Netscape Navigator. See Microsoft III, 253 F.3d at 73–74. Yet the RPFJ does not require Microsoft to continue to offer Mac Office (much less to keep the port current)—an expedient that would take away Microsoft's weapon rather than merely admonishing it to behave well, and would tend to undermine the applications barrier to entry as well.

B. Microsoft Can Evade The Price Discrimination Restrictions

The uniform pricing provisions in RPFJ § III(B) have too narrow a reach to provide significant limits on Microsoft's ability to engage in price discrimination in order to force OEMs to eschew non-Microsoft products that may threaten Microsoft's OS monopoly. Microsoft's well-known market position in other products permits easy evasion of these limits. For example, nothing prevents Microsoft from discriminating in the pricing of its monopoly suite of desktop productivity applications, Microsoft Office, to which every OEM of any size needs access. Moreover, the leading PC OEMs all build server computers using Intel-based hardware, and increasingly rely on revenue from servers to make up for the exceptionally low margins on desktop PCs. To continue in the Intel-based server business, PC OEMs must license Microsoft's server operating systems, which are dominant on the Intel-based platform. The RPFJ places no limits on Microsoft's pricing of server operating systems, providing another outlet for the nullification of RPFJ § III(B).

Even on their own terms, however, the RPFJ pricing provisions contain a substantial loophole. Microsoft can reward an OEM for an "absolute level * * * of promotion" of Microsoft products. RPFJ § III(A). That provides a means for Microsoft to distinguish between OEMs who make sure that Microsoft software dominates their offerings, and OEMs who either promote competing software or simply do not interfere with consumers" choices.

C. Microsoft Can Enforce De Facto Exclusivity

Despite a superficial prohibition, Sections III(F)(2) and III(G) permit Microsoft to impose practical, effective exclusivity obligations on ISVs and others who need access to Windows to develop their products. Microsoft need do no more than recast its agreements with ISVs as contracts to "use, distribute, or promote * * * Microsoft software" or "to develop software for, or in conjunction with, Microsoft," RPFJ § III(F)(2), or as a "joint venture," joint development * * * arrangement" or "joint services arrangement." Id. § III(G). New "joint development agreements" or "joint services arrangements" likely will supersede the current licenses for use by ISVs of Microsoft software developments tools and perhaps also the current arrangements for preferential access under MSDN. At best, a decree court would have to undertake a full antitrust analysis of whether the joint venture was "bona fide." Id. § III(G). To nullify RPFJ § III(F)(2), Microsoft could simply change its development tools agreements to require use of Microsoft software— which literally would be "a bona fide contractual obligation * * * to use * * * Microsoft software." Since any ISV that wants its software to run on Windows almost certainly would need to use Microsoft's development tools, the anti-exclusivity provision, like so many others in the RPFJ, would have no practical effect.

DOJ has defended this provision as necessary to permit legitimate "procompetitive collaborations." CIS 44, 66 Fed. Reg. 59,470. But the broad terms of the RPFJ itself provide little basis for hope that the objects of joint ventures permitting exclusivity will not include a variety of "new" products that amount to little more than routine alterations to Windows and other Microsoft products in conjunction with requests from other industry participants. It is not uncommon for an ISV to ask for a new API, or for an IHV to ask for some other specification in Windows. These exercises soon may become objects of "joint ventures" or "joint development agreements" under RPFJ § III(G).

RPFJ § III(G)(1) undercuts its superficial prohibition on contracts that would require participants at different levels of the market to install or promote Microsoft Platform Software to a "fixed percentage" of those participants" own customers. Section III(G)(1) permits Microsoft to impose such contracts so long as it "in good faith obtains a representation that it is commercially practicable for the entity to provide equal or greater distribution, promotion, use or support for software that competes with

Microsoft Platform Software." Such representations should be easy to come by, so long as Microsoft pays enough. There is nothing to require a single party making such a representation actually to carry out the parallel distribution that it told Microsoft was "commercially practicable." And it should be easy enough for Microsoft, through a wink and a nod, to ensure that any such representations were not accompanied by efforts to prove that commercial practicability to Microsoft's detriment.

VIII. THE RPFJ'S ENFORCEMENT MECHANISMS ARE FUNDAMENTALLY INADEQUATE.

As we have shown above, the RPFJ fails adequately to prevent Microsoft from engaging in illegal and anticompetitive practices, and allows it to continue the patterns of behavior that led to this litigation in the first place. The RPFJ suffers from an important secondary flaw, however: the enforcement mechanisms contained in Section IV are fundamentally inadequate. The RPFJ commits much of the practical enforcement responsibility to a "Technical Committee," RPFJ § IV(B), that would monitor "enforcement of and compliance with" the RPFJ. Id. § IV(B)(1). The Technical Committee is likely to impede enforcement rather than aid it.

First, Microsoft—the antitrust violator—could exert inappropriate control over the membership of the Technical Committee. Rather than creating a special master or an independent review committee to monitor compliance with the consent decree, the RPFJ allows Microsoft to have an equal voice with the plaintiffs in choosing the members of the Technical Committee; indeed, Microsoft may choose one of the three members outright. Id. § IV(B)(3). Although appointing a special master with real (though reviewable) power might make sense as a matter of judicial administration, allowing Microsoft to choose its own monitor makes no sense at all.

The composition of the Technical Committee suffers from a second defect. The RPFJ provides that "[t]he Technical Committee members shall be experts in software design and programming." RPFJ § IV(B)(2) (emphasis added). The interpretation of the RPFJ is largely a legal matter, however, dependent on adequate knowledge of the antitrust Section after section of the RPFJ is extraordinarily vague. 19 Experts in software design simply will not have any basis adequately to review complaints that Microsoft's behavior fails to comply with the RPFJ. However, that is the entire purpose of the Technical Committee. Not only is the selection and composition of the Technical Committee problematic; the RPFJ's restrictions on how the Technical Committee can go about its business are equally inadequate. For example, it is likely that all third-party allegations of misconduct by Microsoft will be reviewed by the Technical Committee. 20 But the Technical Committee lacks any real power, and operates almost entirely in secrecy. Even if the Technical Committee finds Microsoft to be violating the RPFJ, its sole recourse is to "advise Microsoft and the Plaintiffs of its conclusion and its proposal for cure." Id. IV(D)(4)(c). If DOJ or the settling State plaintiffs proceed with a complaint, none of the "work product, findings or recommendations by the Technical Committee may be admitted in any enforcement proceeding before the Court for any purpose, and no member of the Technical Committee shall testify by deposition, in court or before any other tribunal regarding any matter related to [the RPFJ]." Id. § IV(D)(4)(d). Enforcement would have to start over from scratch. In effect, the Technical Committee's investigation is simply a waste of time. Even were the plaintiffs to decide, based on a Technical Committee report, that Microsoft had violated the RPFJ, the plaintiffs would need independently to investigate that violation under Section IV(A)(2). Indeed, the Technical Committee's reports to the plaintiffs will be secret. See RPFJ § IV(B)(8)(e), (9). Ultimately, the Technical Committee simply injects delay into the process. But delay is indisputably in Microsoft's interest; Microsoft's monopolies bring it $1 billion each month in free cash flow, see Rebecca Buckman, Microsoft Has the Cash, and Holders Suggest a Dividend, WALL ST. J., Jan 18, 2002, at A3. Microsoft not only can afford to contest enforcement vigorously, but would not have to postpone enforcement for long before the RPFJ expires.

Finally, the "crown jewel" provision in the RPFJ is grossly inadequate. If at any point the court were to find that Microsoft had "engaged in a pattern of willful and systematic violations," RPFJ § V(B) (emphasis added), the RPFJ provides only one remedy for plaintiffs or the court: to extend the inadequate, and already overly-short, consent decree by "up to two years." But that is no deterrent. Willful and systematic violations should result in divestiture that terminates the illegally maintained monopoly once and for all. See Microsoft III, 253 F.3d at 103; United Shoe, 391 U.S. at 250. Slightly prolonging a failed decree makes no sense at all.

CONCLUSION

The Revised Proposed Final Judgment should be rejected as contrary to the public interest.

Respectfully submitted.

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BEFORE THE UNITED STATES DEPARTMENT OF JUSTICE UNITED STATES OF AMERICA, Plaintiff, V. MICROSOFT CORPORATION, Defendant.

Civil Action No. 98-1232 (CKK)

STATE OF NEW YORK ex rel. Attorney General Eliot Spitzer, et al., Plaintiffs, v. MICROSOFT CORPORATION, Defendant.

Civil Action No. 98-1233 (CKK)

DECLARATION OF JOSEPH E. STIGLITZ AND JASON FURMAN

TABLE OF CONTENTS

I. QUALIFICATIONS—1
II. PURPOSE—2
III. INTRODUCTION—2
IV. THE MODERN ECONOMIC THEORY OF COMPETITION AND MONOPOLY.—6
A. Acquisition of a monopoly—7
B. Potential for competition—10
C. Consequences of monopoly—12
D. Monopolies and innovation—14
V. FACTS AND LEGAL CONCLUSIONS RELATING TO MICROSOFT—16
A. Monopoly power—16
B. Anticompetitive behavior—17
C. Effectiveness of anticompetitive behavior in maintaining the monopoly—19
VI. OUTLINE OF AN EFFECTIVE CONDUCT REMEDY—20
A. Creating more choices for consumers—22
B. Reducing the applications barrier to entry—23
C. Preventing Microsoft from strengthening its operating system monopoly by bringing new products within its scope—23
VII. ANALYSIS OF THE PROPOSED FINAL JUDGMENT—24
A. Creating more choices for consumers—26
1. Ensuring that OEMs and potentially ISVs have the right to modify fundamental aspects of the computer experience in any way they choose—27
2. Ensuring that OEMs and ISVs have adequate information and technical access to develop applications for, or even modifications to, Windows—29
3. Ensuring that OEMs and ISVs are protected from retaliation by Microsoft for providing alternatives to consumers—31
4. Ensuring that OEMs have financial incentives to make changes that benefit consumers—32
B. Reducing the applications barrier to entry—34

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19 For example, as we discussed above the RPFJ relies heavily on a "reasonableness" standard of conduct that simply reproduces a full analysis under the antitrust laws. Antitrust remedies, like other injunctive decrees, are supposed to be amenable to swift and sure enforcement, according to standards that give warning of what is forbidden and what is permitted both to the wrongdoer and to its potential victims. But again and again, the RPFJ would require both the Technical Committee and eventually the decree court to determine whether Microsoft's conduct was "reasonable."

20 While third parties have the right to raise complaints with the Internal Compliance Officer, see RPFJ § IV(C)(3)(g), the RPFJ gives them no incentive to do so; such complaints would merely allow a proven antitrust violator itself to determine whether it has violated the RPFJ or again violated the antitrust laws. Although the RPFJ also allows third parties to submit complaints directly to the plaintiffs, see id. § IV(D)(1), the plaintiffs can thereafter at their sole discretion refer any such complaints to the Technical Committee, id. § IV(D)(4)(a), or to the Internal Compliance Officer, id. § IV(D)(3)(a).

1. Middleware and the applications barrier to entry—34
2. Microsoft Office and the applications barrier to entry—37
C. Preventing Microsoft from strengthening its operating system monopoly by extending it to encompass additional products—38
VIII. STEPS TO IMPROVE THE PROPOSED FINAL JUDGMENT: THE LITIGATING STATES" ALTERNATIVE—39
A. Fostering competition through OEMs and reducing the applications barrier to entry—40
B. Internet Explorer browser open source and Java distribution—41
C. Cross-platform porting of Office—42
D. Mandatory disclosure to ensure interoperability—42
IX. CONCLUSION—43

I. QUALIFICATIONS

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Dr. Stiglitz previously served as the World Bank's Chief Economist and Senior Vice President for Development Economics. Before joining the Bank, he was the Chairman of the President's Council of Economic Advisers. Dr. Stiglitz has also served as a professor of economics at Stanford, Princeton, Yale, and All Souls College, Oxford.

As an academic, Dr. Stiglitz helped create a new branch of economics—"The Economics of Information"—which has received widespread application throughout economics. In the late 1970s and early 1980s, Dr. Stiglitz helped revive interest in the economics of technical change and other factors that contribute to long-run increases in productivity and living standards. Dr. Stiglitz is also a leading scholar of competition policy.

In 1979, the American Economic Association awarded Dr. Stiglitz its biennial John Bates Clark Award, given to the economist under 40 who has made the most significant contributions to economics. His work has also been recognized through his election as a fellow to the National Academy of Sciences, the American Academy of Arts and Sciences, and the American Philosophical Society, as well as his election as a corresponding fellow of the British Academy. He has also been awarded several honorary doctorates.

Jason Furman is a Lecturer in economics at Yale University. In addition, Mr. Furman is a Director at Sebago Associates. Mr. Furman previously served as Special Assistant to the President for Economic Policy at the White House, where his responsibilities included tax policy, the Federal budget, Social Security, anti-poverty programs, and other economic policy issues.

II. PURPOSE

This Declaration was commissioned by the Computer & Communications Industry Association (CCIA) as an independent analysis of the competitive effects of the Proposed Final Judgment. The views and opinions expressed in this Declaration are solely those of the authors based on their own detailed study of the relevant economic theory and court documents; they do not necessarily reflect the views and opinions of CCIA. In addition, the views and opinion expressed in this Declaration should not be attributed to any of the organizations with which the authors are or have previously been associated.

III. INTRODUCTION

Competition is the defining characteristic of a market economy. It provides the incentive to produce new products that consumers want, to improve efficiency and lower the costs of production, and to pass on these innovations in the form of lower prices for consumers. In a competitive market, a firm that does not act in the best interests of consumers will be punished and, ultimately, will fail. But when competition is imperfect—or when it is nonexistent as in the limiting case of monopoly—the incentives to undertake these beneficial actions may be attenuated. In fact, a firm may even face incentives to behave in ways which do not serve the interests of consumers or the economy more generally. Monopoly power may lead a firm to underinvest in innovation, misdirect its investments, or undertake other activities in order to stifle competition rather than to improve products. Costs of production may be excessive because the monopolist has insufficient incentives for efficiency, has incentives to undertake costly measures to deter competition, or undertakes measures to raise rivals" costs. And consumers will face higher prices and fewer choices in the short run; in the long run, the losses to consumers may be even more severe.

In a unanimous decision, the full Court of Appeals for the DC Circuit upheld the District Court finding that Microsoft was guilty of violating 2 of the Sherman Act through its illegal maintenance of a monopoly in the market for Intel-compatible personal computer (PC) operating systems.[1] The Court of Appeals also affirmed numerous findings of fact concerning the consequences of this illegal monopolization for misdirecting innovation, raising rivals" costs, and limiting consumer choice.

The desire to maintain this monopoly, even against potentially superior products, creates a powerful incentive for Microsoft to eliminate or weaken competition that could erode or even eliminate its monopoly. In the mid-1990s, the principal threat to Microsoft's Windows operating system came from the development of the Netscape browser and Java technologies,[2] which allowed programmers to write applications to Netscape and Java, meaning that such programs would then work on any operating system that would run Netscape or Java. By reducing or even eliminating the cost of producing applications for different operating systems, these technological rivals reduced the barriers to entry for a new operating system and threatened, over the longer run, to erode Microsoft's monopoly in Intel-compatible PC operating systems by allowing competitors to provide superior products at a lower cost.

Microsoft's conduct has effectively eliminated the threat posed by Netscape and Java. Given ongoing rapid technological progress, it is impossible to predict with certainty where the next challenge to Microsoft Windows will come from. The experience in this area, however, suggests that it is likely to come from rivalry at the borders of operating systems, in particular from "middleware" that makes it possible for programmers to write to the "middleware" rather than to the underlying operating system. One such example comes from the increasingly important area of multimedia: streaming media players. Whether the next challenge to Microsoft's operating systems monopoly comes from a multimedia package or another technology, Microsoft will continue to have the same incentives and ability to stifle competition as it displayed against Netscape and Java in the mid- 1990s.

The principal goal of any remedy for Microsoft's illegal behavior in this case should be to foster competition and expand choices for consumers. The key to achieving this goal is changing Microsoft's incentives and taking steps to increase competition. A structural remedy, such as splitting up the company, would most directly alter incentives. Where such structural changes are not possible, the remedy should prohibit and regulate the conduct that Microsoft has used in the past and will have an incentive to use in the future to eliminate threats from "middleware" products that threaten to limit its monopoly power by usurping some, and perhaps eventually all, of the important functions of the Windows operating system.

The Revised Proposed Final Judgment (PFJ) of November 6, 2001 does not change Microsoft's incentives to undertake anticompetitive acts to stifle consumer choice by thwarting potentially superior products[3]) Furthermore, the PFJ provides few effective prohibitions against future anticompetitive conduct: It alternatively ratifies Microsoft's existing conduct, contains sufficient loopholes to allow Microsoft to circumvent the legislation, and suffers from toothless enforcement procedures that would allow Microsoft to reap the fruits of its monopoly for a significant, and potentially even indefinite, period. In our view, the PFJ would leave intact Microsoft's ability to maintain, and benefit from, its Windows operating system monopoly, while allowing it to continue to limit choices for consumers and stifle innovation.

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[1] United States v. Microsoft Corp., 253 F.3d 34 (DC Cir. 2001).

[2] "The Java technologies include: (1) a programming language; (2) a set of programs written in that language, called the 'Java class libraries," which expose APIs; (3) a compiler, which translates code written by a developer into 'bytecode'; and (4) a Java Virtual Machine ('JVM'), which translates bytecode into instructions to the operating system."

See 253 F.3d at 74, citing Findings of Fact ¶ 73, United States v. Microsoft Corp., 84 F. Supp. 2d 9, 29 (D.DC 1999).

[3] United States v. Microsoft Corp., Revised Proposed Final Judgment, in the U.S. District Court for D.C, November 6, 2001.

The PFJ does not even accomplish the limited remedial goals articulated in the U.S. Department of Justice's Competitive Impact Statement (CIS).[4] Specifically, in addition to its loopholes and its inadequate enforcement mechanism, the PFJ is entirely silent on several key findings of the Court of Appeals, including the commingling of applications and operating systems code, the pollution of Java, and the applications barrier to entry more broadly.

The PFJ should be rejected and replaced with a remedy that changes Microsoft's incentives to unfetter the market for competition. At a minimum, a remedy in this case needs to restrain Microsoft's conduct, by restricting the means through which Microsoft can illegally maintain and benefit from its monopoly.

The goal of this Declaration is to analyze the PFJ. It does not propose a detailed alternative remedy. It is important to note, however, that the proposal by the litigating States, while imperfect, is clearly superior to the PFJ in all of these regards. We do not address more aggressive remedies—such as structural changes to break up Microsoft or impose more extensive limitations on its intellectual property rights—but we note that such broader measures may well be necessary and desirable in order to alter Microsoft's incentives for anti-competitive behavior.[5] We are convinced, however, that the PFJ fails to meet the minimum requirement of an acceptable remedy—that is, it is unlikely to substantially increase competition in the relevant market.

The remainder of this Declaration contains five sections. First, it presents a brief discussion of the modem theory of competition, focusing on its relation to innovation. Second, it summarizes the relevant facts and legal conclusions relating to Microsoft. Third, it outlines what an effective remedy in this case should entail. Fourth, it examines the PFJ and highlights its deficiencies in comparison to this effective remedy. Finally, the paper concludes with a brief discussion of practical measures that could provide a more effective remedy.

IV. THE MODERN ECONOMIC THEORY OF COMPETITION AND MONOPOLY

This section presents a brief overview of the modem economic theory of competition and monopoly. The theory of competition has evolved rapidly in the last few decades, due in part to the natural evolution of economic thought and in part to the issues raised by the "new economy" (such as the importance of network effects and rapid innovation). Given the vast literature on the topic, this discussion is necessarily selective and focuses on the most relevant issues for Microsoft's monopoly of the market for operating systems for Intel-compatible PCs. This theoretical background motivates the conclusions about the PFJ.

A. Acquisition of a monopoly

The traditional view of monopoly is that in specific industries, like public utilities, increasing returns to scale create a situation in which luck or initial success will eventually lead to one firm that can maintain its monopoly by controlling an entire market and thus benefiting from the lower average costs of production that result from the larger scale of production. This aspect of the traditional view is still salient in the software market. Producing a software program has high fixed costs in the form of investments in research and development but, once this investment has been made, virtually no marginal cost from producing additional units. As a result, the larger the scale of production, the lower the average cost. By itself, these increasing returns to scale will provide a powerful force for consolidation.

The modem view of monopoly has added an additional effect that can strengthen the advantages enjoyed by the lucky or initially successful firm: network effects.[6] 6 Network effects arise when the desirability of a product depends not just on the characteristics of the product itself but also on how many other people are using it.

Network externalities may be direct: as a user of Microsoft Word, I benefit when many other people also use the program because it is easier to share Word files. Network externalities may also be indirect: I am more likely to purchase a computer and operating system if I know that more software choices are currently available (and will be available in the future) for this system. An operating system with a larger set of existing (and expected) compatible applications will be more desirable. This indirect network effect has been called the "applications barrier to entry."[7] The main reason that consumers demand a particular operating system is its ability to run the applications that they want. In developing applications, Independent Software Vendors (ISVs) incur substantial sunk costs and thus face increasing returns to scale. This motivates ISVs to first write to the operating system with the largest installed base. Because "porting" an application to a different operating system will result in substantial additional fixed costs, a firm will have less incentive to produce the application for operating systems with a smaller installed base, and may do so with a delay or forgo porting completely.

The applications barrier to entry can skew competition for an extended period of time and ensure that any monopoly power, once established, will tend to persist. In choosing a PC and an operating system, consumers make a large fixed investment. In addition, because a considerable amount of learning is associated with the use of operating systems and associated applications, and because files created under one applications software program may not be easily or perfectly transferable to others, there are large costs associated with switching. As a result, consumers will evaluate, among other factors, the current existence of compatible applications and the likely number of future compatible applications.[8] 8 The current number of compatible applications is likely to depend directly on the past and current market share of the operating system. A consumer's reasonable evaluation of the prospects for the continued support of his or her favorite applications and the development of new applications is also likely to be based on current market share. As a result, increased market share indirectly increases the desirability of an operating system.

Empirically, this applications barrier to entry is dramatic. At its peak in the mid-1990s, IBM's operating system, OS/2 Warp, had 10 percent of the market for operating systems for Intel-compatible PCs and ran approximately 2,500 applications. In contrast, Windows supported over 70,000 applications.[9] Establishing a new operating system that effectively competes head-to-head with Windows would require the hugely expensive task of attracting ISVs to port thousands or even tens of thousands of programs to the new operating system, a process with a substantial fixed cost and, in the absence of a large guaranteed market, little scope to benefit from economies of scale. Particularly important to the applications barrier to entry is the availability of applications providing key functionalities, such as office productivity. Microsoft's dominance in this area, and its choice about whether or not to port its Microsoft Office program to alternative operating systems, can add a new and even higher level to the applications barrier to entry.

With this barrier to entry, a monopoly once established may be hard to dislodge. Anticompetitive practices early in the competitive struggle can lead to a market dominance that can persist, even if the anticompetitive practices which gave rise to the monopoly position are subsequently prohibited. These hysteresis effects are reinforced by switching costs. Learning a language or a program interface may involve significant costs. Users must therefore be convinced that an alternative program is substantially superior if they are to be induced to incur the learning and other costs associated with switching to an alternative product. These "lock in" effects make it more difficult to dislodge a firm that has established a dominant position, even when it is technically inferior to rivals.

This perspective has two important policy implications. First, it is imperative to address anticompetitive practices as quickly as possible. Delay is not only costly, but it impedes the restoration of competition even in the longer run. Second, prohibiting the practices that gave rise to the monopoly may not suffice to restore competition. Stronger conduct, and possibly structural, remedies may be required.

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[4] U.S. Department of Justice (November 15, 2001), Competitive Impact Statement in United States vs. Microsoft Corp.

[5] Restrictions on intellectual property rights have been used as a remedy in past antitrust cases, for example IBM's 1956 tabulating machines case, in a manner that is both effective and largely without adverse effects.

[6] For an overall survey, see Michael Katz and Carl Shapiro (1994), "Systems Competition and Network Effects," Journal of Economic Perspectives, 8:2, 93–115. For a specific application to Microsoft, see Timothy Bresnahan (2001), "The Economics of the Microsoft Case." Mimeo available at http://www.stanford.edu/tbres/Microsoft/The Economics of The Microsoft Case.pdf.

[7] Franklin Fisher, "Direct Testimony of Franklin Fisher" in United States v. Microsoft Corp.

[8] Nicholas Economides (1996), "The Economics of Networks," International Journal of Industrial Organization, 14:2.

[9] Findings of Fact, ¶40 and ¶46, 84 F. Supp. 3d at 20, 22.

B. Potential for competition

In the most simplistic view, a monopoly once attained is permanent. Increasing returns to scale and network externalities make the monopolist impregnable—any new entrant can be priced out of business by the monopolist—which can then go back to charging the monopoly price for the product.

In contrast to this simplistic static view, the economist Joseph Schumpeter presented a dynamic vision of technological change giving rise to a series of temporary monopolies. In his vision, the most successful firm in a winner-take-all contest would become a temporary monopolist, benefiting from the rents that this monopoly confers—a process necessary to justify incurring the sunk costs in research and development required to obtain the monopoly in the first place. But, in the Schumpeterian vision, this monopoly would eventually be toppled by entry as a newly innovative entrant displaced the monopolist with a superior product, thus reaping the benefits of increasing returns to scale and network externalities.[10]

The real world likely lies somewhere between these two views. A monopoly is not a fixed part of the economic landscape. But the downfall of a monopoly is not inevitable. In fact, more recent economic research strongly indicates that Schumpeter's conclusion was wrong; when restraints on anticompetitive conduct are absent, a monopoly can take steps to ensure that it is likely to be perpetuated.[11] These steps can suppress the overall level of innovation and have other high social costs.[12] Significant network effects combined with switching costs, as discussed above, represent one way in which a firm can perpetuate its market power.

Understanding this point is central to understanding what motivated the actions of Microsoft in promoting Internet Explorer and restraining Netscape and Java, and also to understanding the motivations of a conduct remedy to improve competition. Network externalities are not a "d factor" in the economic landscape. They depend, at least in part, on decisions by the monopolist. A monopolist has substantial resources at its disposal to strengthen barriers to entry and thus to maintain and strengthen its monopoly power. Exclusionary conduct by the monopoly can be used to prevent a reduction in the barriers to entry or even affirmatively to raise them even higher. Java and Netscape would have reduced the monopoly power of Windows by allowing a greater variety of programs to function on a greater variety of operating systems. The social benefits from such innovation were likely significant, but Microsoft would have experienced significant losses from the innovation through the erosion of its monopoly power.

Similarly, this same point can provide the rationale for structural or conduct remedies that can potentially reduce barriers to entry and thus increase competition in part, or all, of the market. The fundamental idea is that Microsoft acted as it did because it was afraid that Netscape and Java would reduce the applications barrier to entry and thus undermine its operating systems monopoly. By preventing this anticompetitive behavior, and indeed promoting competition, a conduct remedy could have precisely the opposite effect, creating the conditions for the dynamic, innovative Schumpeterian competition that would otherwise be absent in this market.

In understanding the monopoly in the operating systems market, and how it fits into the overall PC platform, it is useful to introduce some issues specific to this area. Timothy Bresnahan, a Professor of Economics at Stanford University and a former Deputy Assistant Attorney General and Chief Economist at the U.S. Department of Justice Antitrust Division, formulated the concept of "Divided Technical Leadership."[13] The concept is that although each aspect of the platform is dominated by a single company, different companies dominate different "layers" of the platform: "At one stage, all of IBM and Compaq (computer), Microsoft (OS), Intel (CPU), Netware (networking OS), WordPerfect and Lotus (near-universal applications) participated in technological leadership of the PC platform."[14] In a situation of divided technical leadership, according to Bresnahan, competition comes from two sources: "(1) firms in one layer encouraging entry and epochal change in another layer and (2) rivalry at layer boundaries."[15] To the degree that divided technical leadership is absent, because for example Microsoft controls many of the layers (operating system, office applications, networking, browsers, etc.), competition will be restricted. Any measures to facilitate divided technical leadership, even if they leave the monopoly at any given layer intact, will facilitate competition and thereby benefit consumers in the form of greater innovation, more choices, and lower prices.

C. Consequences of monopoly

Traditional economic theory suggests that the principal consequence of a monopoly is to raise prices and restrict production. This combination has two consequences. First, higher prices allow the monopolist to capture some of the surplus previously enjoyed by consumers. Second, restricted production results in a deadweight loss for society, the so-called "Harberger triangle," to the extent that the value placed on the forgone consumption by consumers exceeds its cost to producers.[16]

Over the last few decades, economists have substantially enhanced this traditional theory and explored other ways in which market power imposes social costs. The modem view is that when competition is imperfect, firms try to maintain and extend their market power by taking actions to restrict competition. firms is producing innovations In the world of perfect competition, the source of success for that benefit consumers and reduce prices. In the world of imperfect competition, an additional—and perhaps paramount—source of success is the effort to reap monopoly profits, capture rents, deter entry into the market, restrict competition, and raise rivals" costs.[17]

Under the new view, the social costs of monopolies go well beyond the "Harberger triangles" that result from higher prices and restricted output. In fact, even if the monopolist is not currently restricting output, the steps taken to maintain the monopoly will result in substantial economic inefficiencies and costs to society. These costs may be far larger than the monopoly profits and far larger than the Harberger triangles. These social losses reflect higher costs of production (both for the firm and its rival), limited or distorted investment in innovation, a restricted set of potentially inferior choices for consumers, and, in the long run, higher prices.

D. Monopolies and innovation

The information technology industry is characterized by a rapid rate of technological change. As the modem theory of competition and monopoly underscores, it is important to focus not just on the static issues that affect consumers today, but also on how the mixture of monopoly, competition, and the intellectual property regime affects the pace and direction of innovation.

Schumpeter emphasized that monopolies would provide both the incentives and the means for innovation. According to Schumpeter, the fear of losing monopoly rents would drive a monopolist to continue innovating and these monopoly rents—or the promise of further monopoly rents in the future—would provide the financing for these innovations. Schumpeter's vision contains elements of truth: the threat of competition may induce monopolists to invest more in innovation than it otherwise might. But the pace of innovation may be even higher if the incumbent's monopoly power were curtailed. Monopoly power could lower the pace of innovation for four reasons.

First, previous innovations are inputs into any subsequent innovation. Monopoly power can be thought of as increasing the cost of one of the central inputs into follow-on innovations. Standard economic theory predicts that as the cost of inputs into any activity increases, the level of that activity falls.

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[10] Joseph Schumpeter (1942 / 1984), Capitalism, Socialism and Democracy. Harper Collins, New York.

[11] See, among other references, Richard Gilbert and David Newbery (1980), "Preemptive Patenting and the Persistence of Monopoly." American Economic Review 72(3), pp. 514–526 and Partha Dasgupta and Joseph Stiglitz (1980), "Uncertainty, Market Structure and the Speed of R&D," Bell Journal of Economics, 11 (1), pp. 1–28.

[12] Joseph Stiglitz (1987). "Technological Change, Sunk Costs, and Competition." Brookings Papers on Economic Activity, 3, pp. 883–937.

[13] Timothy Bresnahan and Shane Greenstein (1999), "Technological Competition and the Structure of the Computer Industry." Journal of Industrial Economics, 47(1): pp. 140 and Bresnahan (2001).

[14] Bresnahan (2001), p. 5.

[15] Bresnahan (2001), p. 6.

[16] Arnold Harberger (1954), "Monopoly and Resource Allocation," AEA Papers and Proceedings, 44: 77–87.

[17] Partha Dasgupta and Joseph Stiglitz (1998), "Potential Competition, Actual Competition and Economic Welfare." European Economic Review, 32: 569–577. For an extended discussion and additional references see Joseph Stiglitz (1994), Whither Socialism, MIT Press, Cambridge.

Second, with more substantial barriers to entry, the threat of Schumpeterian competition and therefore the incentives to innovate are diminished. In the extreme case, if a monopoly could ensure that there were no threat of competition, it would no longer have to innovate. A monopolist's anticompetitive actions to raise barriers to entry will reduce its future incentives to innovate, similarly measures that increase competition will increase the Schumpeterian incentive.

Third, innovation itself may be misdirected in order to secure a monopoly by deterring entry and raising rivals'' costs. In operating systems, for example, the development of alternative proprietary standards and the construction of non-interoperable middleware are examples of innovations that could potentially strengthen monopoly power.

Fourth, the incentives of a monopoly to innovate are limited.[18] Since a monopolist produces less than the socially optimal output, the savings from a reduction in the cost of production are less than in a competitive market. Also, a monopolist's incentives to undertake research will not lead it to the socially efficient level. Rather, its concern is only how fast it must innovate in order to stave off the competition—a level of innovation that may be markedly lower than socially optimal. Consider, for example, a simple patent race in which a monopoly incumbent can observe the position (at least partially) of potential rivals. The monopolist's incentive is to move out in front of the potential rivals by just enough to convince them that they cannot beat the monopolist. Given those beliefs, the rivals do not engage in research, and the monopolist can then slow down its research to a lower level (since it no longer faces a viable threat).

In short, monopolization not only harms consumers by raising prices and reducing output in the short run, but may reduce innovation in the long run. These long-run harms, which are especially important in innovative industries, may substantially exceed the short-run costs to consumers.

v. FACTS AND LEGAL CONCLUSION RELATING TO MICROSOFT

In its decision, the Court of Appeals affirmed the District Court's overall judgment, albeit on a narrowed factual and legal basis. The Court of Appeals concluded that "Microsoft violated § 2 of the Sherman Act by employing anticompetitive means to maintain a monopoly in the operating system market." 19 In addition, the Court of Appeals overturned the lower court's judgment that Microsoft violated § 2 of the Sherman Act by attempting to monopolize the web browser market. The Court of Appeals remanded the decision on whether the tying of Internet Explorer to Windows violated § 1 of the Sherman Act and indicated that tying should be evaluated under the rule of reason, rather than under a per se rule; the U.S. Department of Justice chose not pursue this issue further. The Court of Appeals also vacated the District Court's Final Judgment, in part because of the narrowed scope of the judgment on the conclusions of law.

The current task in this case is to develop a remedy that addresses the central finding of the Court of Appeals: the monopolization of the operating systems market. This judgment was based on findings of fact and conclusions of law in three areas: Microsoft has monopoly power in the relevant market, Microsoft behaved anticompetitively, and Microsoft's anticompetitive behavior contributed to the maintenance of its monopoly. These are briefly discussed in turn.

A. Monopoly power

Monopoly power is the power to set prices without regard to competition. It can be inferred by the combination of market share in the relevant market and significant barriers to entry. The District Court found that Microsoft's share of the worldwide market for Intel- compatible PC operating systems exceeded 90 percent in every year of the 1990s and has risen to 19 253 F.3d at 46.

more than 95 percent in recent years. Microsoft did not dispute these facts, but instead argued that the relevant market was broader and should include all platform software (e.g., servers, handheld devices, Macintosh computers, etc.). The Court of Appeals, however, rejected Microsoft's attempt to broaden the definition of the market, agreeing with the District Court that these other platforms were not '''reasonably interchangeable by consumers for the same purposes.''' [20]

In addition, the Court of Appeals affirmed the finding that Microsoft's dominant market share was likely to persist. This conclusion was based on the substantial barriers to entry, including increasing returns to scale and the applications barrier to entry discussed above. As a result, according to the Court of Appeals, "Because the applications barrier to entry protects a dominant operating system irrespective of quality, it gives Microsoft the power to stave off even superior new rivals. The barrier is thus a characteristic of the operating systems market, not of Microsoft's popularity." [21]

B. Anticompetitive behavior

The Court of Appeals found numerous instances where Microsoft behaved anticompetitively through exclusionary conduct that harmed consumers, had an anticompetitive effect, and had either no "procompetitive justification" or an insufficient "procompetitive justification" to outweigh the harm. These actions, according to the Court of Appeals, had the intention and effect of preserving or increasing the applications barrier to entry. The Court of Appeals upheld most of the general categories of anticompetitive behavior originally found by 20 253 F.3d at 52, quoting United States v. E.I. du Pont de Nemours & Co., 351 U.S. 377, 395 (1956).

the District Court, but overturned some of the District Court's specific findings in these areas. The key instances of this anticompetitive behavior found by the Court of Appeals include: Restrictive Licenses to Original Equipment Manufacturers (OEMs).[22] Microsoft's Windows license placed restrictions on OEMs that limited their ability to change the look of the Windows desktop, the placement or removal of icons for browsers, or the initial boot sequence. The result was to increase the user share of Internet Explorer, not because of its merits, but because Microsoft limited the crucial OEM channel of distribution for Explorer's chief rival, Netscape. ú Integration of Internet Explorer into Windows.[23] Microsoft discouraged OEMs from installing other browsers and deterred consumers from using them by not including Internet Explorer in the Add/Remove programs list for Windows 98 and commingling the operating system and browser code.

úAgreements with Internet Access Providers (IAPs).[24] Microsoft engaged in exclusionary conduct to restrict the second main distribution channel for Netscape by offering IAPs, including America Online, the opportunity to be prominently featured in Windows in exchange for using the Internet Explorer browser exclusively. Dealings with ISVs and Apple.[25] Microsoft further restricted additional outlets for Netscape by providing ISVs with preferential access to information about forthcoming releases of Windows 98 in exchange for their writing to Internet Explorer rather than Netscape. In addition, Microsoft negotiated with Apple to restrict the ability of Macintosh consumers to use Netscape in exchange for continuing to develop and support Microsoft Office for the Macintosh operating system. ú Polluting Java. The Court of Appeals also found that much of Microsoft's behavior vis- a-vis Java was an attempt to limit a threat to its operating system monopoly rather than benefit consumers. These illegal actions included entering into contracts requiring ISVs to write exclusively to Microsoft's Java Virtual Machine, misleading ISVs into thinking that Microsoft's Java tools were cross-platform compatible, and forcing Intel to terminate its work with Sun Microsystems on Java.[26]

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[18] Kenneth Arrow (1962), "Economic Welfare and the Allocation of Resources for Invention." In The Rate and Direction of Inventive Activity, Princeton University Press, Princeton: pp. 609–625.

[20] 253 F.3d at 52, quoting United States v. E.I. du Pont de Nemours & Co., 351 U.S. 377, 395 (1956).

[21] 253 F.3d at 56.

[22] The Court of Appeals narrowed the scope of this anticompetitive behavior slightly, rejecting the District Court's finding that Microsoft's restrictions on alternative interfaces was anticompetitive, arguing that the "marginal anticompetitive effect" of Microsoft's license restrictions was outweighed by the alternative, the "drastic alteration of Microsoft's copyrighted work." See 253 F.3d at 63.

[23] The Court of Appeals, however, overruled the District Court in one instance, finding a sufficient justification for the fact that in certain situations Internet Explorer will override user defaults and launch, for example when alternative browsers do not provide the functionality required by Windows Update. See 253 F.3d at 67.

[24] The Court of Appeals found that several inducements offered by Microsoft to encourage IAPs to use Internet Explorer were not anticompetitive. See 253 F.3d at 68.

[25] The Court of Appeals overturned the finding that Microsoft's deals with Internet Content Providers were anticompetitive. See 253 F.3d at 71.

[26] See 253 F.3d at 74–78. The Court of Appeals, however, found a sufficient procompetitive justification for Micrsoft's development of its own version of a Java virtual machine. See id. at 74–75.

C. Effectiveness of anticompetitive behavior in maintaining the monopoly

Finally, the Court of Appeals found that Microsoft's anticompetitive efforts to increase usage of Internet Explorer and Microsoft's Java Virtual Machine at the expense of Netscape and Sun's Java had the effect of increasing the applications barrier to entry and thus helping to maintain Microsoft's monopoly of the market for operating systems for Intel-compatible PCs. This finding is the crucial link to the economics of the case; a monopoly is neither automatically permanent nor automatically transient. Rather, its persistence depends, in part, on the barriers to entry which, in turn, depend on the actions of the monopolist and the regulation of the government. This finding is also crucial to the development of proposed remedies.

Specifically, the Court of Appeals found that although neither Netscape nor Java posed an imminent threat of completely replacing all the functions of the operating system (and thus should be excluded from the definition of the relevant market for the test of monopoly power), they did pose a nascent threat to Microsoft's future dominance of the operating system market. Though not part of the "operating systems market," they clearly affected the nature of competition in this market. Both Netscape and Java established Applications Programming Interfaces (APIs) that allowed developers to write some programs to Netscape and Java. These programs would then be able to run on any operating system that runs Netscape or Java. The result would be, at least in one segment of applications, a dramatic reduction in the applications barrier to entry. No longer would software developers have to incur additional costs to run on additional operating systems. As a result, Netscape and Java had the potential to act as a crucial level of "middleware" between the operating system and the programs, and eventually could "commoditize the underlying operating system," to use the memorable words of then-Microsoft Chairman and CEO Bill Gates in an internal memo.[27]

The Court of Appeals wrote:

> We may infer causation when exclusionary conduct is aimed at producers of nascent competitive technologies as well as when it is aimed at producers of established substitutes... the question in this case is not whether Java or Navigator would actually have developed into viable platform substitutes, but (1) whether as a general matter the exclusion of nascent threats is the type of conduct that is reasonably capable of contributing significantly to a defendant's continued monopoly power and (2) whether Java and Navigator reasonably constituted nascent threats at the time Microsoft engaged in the anticompetitive conduct at issue."[28]

The court answered in the affirmative on both issues.

VI. OUTLINE OF AN EFFECTIVE CONDUCT REMEDY

The Court of Appeals was clear that the District Court has "broad discretion" to fashion a remedy that is "tailored to fit the wrong creating the occasion for the remedy."[29] In the CIS, the Department of Justice appears to take a minimal view of the goals of a remedy, writing that it should "eliminate Microsoft's illegal practices, prevent recurrence of the same or similar practices, and restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings."[30] We believe that the PFJ fails even within the narrow terms that the Department of Justice set for itself.

The Court of Appeals appears to provide guidance for a broader remedy, quoting the Supreme Court in saying that the role of a remedies decree in an antitrust case is to "unfetter a market from anticompetitive conduct" and "terminate the illegal monopoly, deny the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future."[31]

One type of potential remedy, imposed by the District Court but vacated by the Court of Appeals, is structural. Such a structural remedy would involve breaking Microsoft into two or more companies with the goal of establishing a new set of incentives that foster competition. Although potentially disruptive in the short run, the goal of a structural remedy is to terminate the monopoly and create the structural conditions to prevent it from re-emerging, without requiring ongoing regulation or supervision by the court or the government. Such structural remedies are particularly suitable when there have been a wide variety of anticompetitive practices in the past and when changing market conditions (such as innovation) provide opportunities for new types of anticompetitive conduct in the future. Structural remedies have the further advantage of fundamentally altering incentives.

A second type of potential remedy relates to conduct or licensing, seeking to prevent anticompetitive conduct and foster competition. A conduct remedy has the advantage of avoiding the dramatic and potentially deleterious changes associated with a structural remedy, but suffers from the defect that it is necessarily complicated and requires at least some involvement of the court and the government in regulating private enterprise. Ideally, a conduct remedy would also be structured to affect incentives: in particular, such a remedy should raise the costs of acting in an exclusionary manner.

The remainder of this section discusses an outline of the elements of an effective conduct remedy that seeks to achieve three goals: creating more choices for consumers, reducing the applications barrier to entry, and preventing Microsoft from strengthening its operating systems monopoly by bringing new products within its scope. A. Creating more choices for consumers

A conduct remedy should empower rival computer companies to modify their own versions of the computer experience to appeal to consumers. Not only will consumers benefit from the greater product choice, but entry and competition may be enhanced as consumers learn how to interact with a variety of interfaces. At a minimum, empowering OEMs and possibly ISVs to create more choices for consumers would involve: (1) the right to modify the desktop, the start menu, or other fundamental aspects of the computer experience so that OEMs can market PCs with alternative overall "looks", different software packages (including supplementing, replacing, or removing Microsoft middleware), and to offer lower-priced options with reduced features; (2) adequate information and technical access to develop applications for, and even modifications to, functionalities included with Windows, which would allow ISVs to develop their own bundle of the Windows operating system plus applications (and/or minus Microsoft middleware) that could be marketed either to OEMs or directly to end users; (3) protection from retaliation by Microsoft for engaging in this conduct; and (4) financial incentives to make changes that benefit consumers.

B. Reducing the applications barrier to entry

The central goal of Microsoft's illegal conduct was to preserve and strengthen the applications barrier to entry so that the Windows operating system continued to be essential to desktop computing. An effective conduct remedy in this case should take steps to reduce the applications barrier to entry, by creating conditions conducive to more competition and by requiring Microsoft to undertake actions that would lower that barrier. Reducing the applications barrier to entry is consistent with the findings of the Court of Appeals and is central to an effective remedy in this case. Although the Court of Appeals rejected or remanded the District Court's findings of liability for tying and for monopolization of the browser market, both of these actions were central to the Court's finding of liability on the § 2 Sherman Act violation for monopolizing the market for operating systems. The Court found that Microsoft used commingling of code and other exclusionary measures to increase the market share for Internet Explorer and reduce the distribution of Netscape and Java in order to strengthen the Windows monopoly.

There are two specific aspects to reducing the applications barrier to entry:

(1) encouraging competition in middleware in a manner that makes it easier for developers to write programs that run on a variety of operating systems, and (2) requiring Microsoft to port its dominant applications to alternative operating systems.

C. Preventing Microsoft from strengthening its operating system monopoly by bringing new products within its scope

Microsoft's ability to leverage its Windows monopoly to control other aspects of computing that then reinforce the Windows monopoly is a key part of its strategy of 23 anticompetitive conduct that formed the foundation for the Court of Appeals ruling. To deal with the anticompetitive practices that are "likely to result in monopolization in the future" requires a remedy that addresses not just areas of past misconduct, but emerging areas as well.

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[27] United States v. Microsoft Corp., Government Exhibit 20.

[28] 253 F.3d at 79.

[29] 253 F.3d at 105, 107.

[30] CIS, p. 3.

[31] 253 F.3d at 103, quoting Ford Motor Co. v. United States, 405 U.S. 562, 577 (1972).

The next section compares the actual agreement to these elements.

VII. ANALYSIS OF THE PROPOSED FINAL JUDGMENT

The PFJ fails to fulfill even the minimal goals set by the CIS. It does not address many of the proven illegal practices, including commingling, polluting Java, and strengthening the applications barrier to entry more broadly. Furthermore, in our judgment the PFJ would not "restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings."[32] Nothing in the PFJ would be likely to resuscitate the conditions of greater "divided technical leadership" that prevailed in the mid-1990s when Netscape and Java both presented a serious threat to Microsoft, which Microsoft suppressed through anticompetitive actions.

The PFJ also falls dramatically short of all three elements of the guidelines that appear to have been endorsed by the Court of Appeals for the DC Circuit: it allows Microsoft's illegal monopoly in operating systems to continue and perhaps even be strengthened, it allows Microsoft to keep the fruits of its statutory violation, and it leaves intact all of the incentives— and many of the means—for Microsoft to maintain and extend its monopoly in the future, especially in the important emerging areas of web services, multimedia, and hand-held computing.

The main impact of the PFJ is to codify much of Microsoft's existing conduct. Where the agreement limits Microsoft's conduct, there are often sufficient exceptions, loopholes, or alternative actions that Microsoft could undertake to make the initial conduct limits meaningless. Even where the limits are binding, Microsoft could still flout the conduct restrictions without fear of a timely enforcement mechanism. Because the Technical Committee[33] is essentially advisory and only has expertise in software design, not law and marketing, the only enforcement of the PFJ is through a full legal proceeding—which would provide enough time for Microsoft to inflict irreversible harm on competition. The time issues are especially important because in a market characterized by increasing returns to scale and network externalities, once a dominant position is established it will be hard to reverse, even if the original abusive practices are subsequently circumscribed.

The fundamental problem with the agreement is that it does not change the incentives that Microsoft faces. All of the illegal anticompetitive actions identified by the District Court and affirmed by the Court of Appeals were the result of rational decisions by Microsoft about how best to enhance its value by maintaining and expanding its monopoly. These same incentives will persist under the PFJ; given these incentives, it impossible to foresee—let alone effectively prohibit—the wide variety of potentially anticompetitive conduct that may result. Indeed, the reason that many economists have argued for the more drastic structural settlement (such splitting up Microsoft) is that such structural changes would alter incentives.[34] Though the Court of Appeals has determined that such a remedy might be too drastic, the imperative in evaluating any remedy is to ascertain its impact on incentives.

The following analyzes the details of the PFJ by comparing it to the principles outlined in the previous section. Our discussion does not aim to be comprehensive, but instead to focus on areas, that illustrate or represent important economic aspects of the PFJ. Although the enforcement aspects of the PFJ, in particular the powers of the Technical Committee, are essential to understanding the limitations of the agreement, we only briefly discuss these issues.

A. Creating more choices for consumers

In developing a remedy, the court is well aware of its technical shortcomings in deciding exactly what should or should not be included as part of an operating system today—or in the future. Neither should these determinations be made solely by a monopolist. These choices should be made by consumers through the choices they have between different OEMs and ISVs. Stanford Law Professor Lawrence Lessig described this strategy as follows: "To use the market to police Microsoft's monopoly... by assuring that computer manufacturers and software vendors remain free to bundle and support non-Microsoft software without fear of punishment by Microsoft."[35] We agree with Professor Lessig that this should be among the goals of a final judgment and that the current agreement is woefully inadequate in meeting this objective. In our view, this is in fact a minimal objective that mitigates some of the harms to consumers from Microsoft's monopoly position but, by itself, would do little to reduce the applications barrier to entry or facilitate competition in the operating systems market itself. applications would be designed and marketed to maximize their own profits, with no regard to how this might affect the profitability of the operating system.

As noted above, a remedy that turns this overall strategy into a reality requires four different elements: (1)ensuring that OEMs and potentially ISVs have the right to modify the desktop, the start menu, or other fundamental aspects of the computer experience in any way they choose; (2) ensuring that OEMs and ISVs have adequate information and technical access to develop applications for, and even modifications to, Windows; (3) ensuring that they are protected from retaliation by Microsoft for providing alternatives to consumers; and (4) ensuring that they have financial incentives to make changes that benefit consumers. The PFJ is deficient in all four.

1. Ensuring that OEMs and potentially ISVs have the right to modify fundamental aspects of the computer experience in any way they choose

The PFJ codifies several new rights for OEMs to modify the desktop or the computer experience, some of which were already voluntarily announced by Microsoft on July 11,2001 and implemented with the release of Windows XP on October 25, 2001. Specifically, Section III.C of the PFJ prohibits Microsoft from restricting OEMs from "Installing or displaying icons, shortcuts, or menu entries for, any Non-Microsoft Middleware... distributing or promoting Non-Microsoft Middleware by installing and displaying on the desktop shortcuts of any size or shape..." among other actions.

This new required latitude, however, is unduly limited in several respects: New flexibility is quite narrow. OEMs can only modify the initial boot screen to market IAPs to users, but cannot modify it to uninstall Microsoft middleware or to market middleware that competes with Microsoft middleware (Section III.C.5). Nothing in the PFJ would allow ISVs to acquire licenses to create their own bundles of Windows plus applications to market to consumers or OEMs, a measure that could enhance competition by bringing additional participants with substantial experience in software development into the market. While the benefits to consumers and competition of allowing ISVs to acquire such licenses are evident, Microsoft Would only be harmed to the extent that it reduces its monopoly power. There is no other convincing explanation for these restrictive trade practices.

u It contains several limitations that limit the overall look of Non-Microsoft Middleware and pace of innovation. For example, the PFJ requires that the user interface on automatically launched Non-Microsoft Middleware[36] must be "of similar size and shape to the user interface displayed by the corresponding Microsoft Middleware Product", can only be launched when a similar Microsoft product would have been launched, and Microsoft can impose non-discriminatory bans on icons (Section III.C.3). In addition to the fact that these limitation are frivolous, asymmetric, and would seem to serve no purpose other than restricting competitive threats—no such limitations apply to Microsoft—they could also have a severe impact in limiting competition. Specifically, it allows Microsoft to control the pace of innovation in the computer experience, letting Microsoft delay the effective launch of a new type of product until it is ready to compete in that area. Thus both competition and innovation may be impeded.

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[32] CIS, p. 3.

[33] The Technical Committee consists of three experts in "software design and programming"— one appointed by Microsoft, one by the plaintiffs, and the third by these previous two. The Committee would have broad access to internal Microsoft documents, source code, etc. It would be responsible for reporting any violations of the PFJ to the plaintiffs. They would not, however, be able to rely on the work of the Technical Committee in Court proceedings. See PFJ, Section IV.B.

[34] See, for example, Robert Litan-Roger Noll, and William Nordhaus (2002), "Comment of Robert E. Litan, Roger D. Noll, and William D. Nordhaus on the Revised Proposed Final Judgment." United States v. Microsoft Corp., Before the Department of Justice. The point is simple: now strategy with respect both to applications and the operating system is designed to maximize total profits, including the monopoly profits. With structural separation.

[35] Lawrence Lessig (December 12, 2001). "Testimony before the Senate Committee on the Judiciary."

[36] 36 AS defined in Section VI.M.

u It is unnecessatily delayed. Specifically, Section III.H gives Microsoft up to 12 months or the release of Service Pack 1 for Windows XP, whichever is sooner, to provide end users and OEMs a straightforward mechanism to remove icons, shortcuts, or menu entries for Microsoft Middleware Products or to allow OEMs or end users to designate alternative Non-Microsoft Middleware Products[37] to be invoked by the Windows operating system in place of Microsoft Middleware Products.[38] There is certainly no economic or legal justification for this delay and our understanding is that it is technically feasible to carry out these changes in a few weeks time, as demonstrated by Microsoft's July 11, 2001 voluntary agreement to implement elements of this provision. As we have emphasized, there can be significant long-run consequences for competition from even short delays.

u Microsoft could encourage users to undo changes after 14 days. The value of the new contractual freedoms is limited by Microsoft's ability to encourage the user to undo all OEM changes after 14 days by allowing a user-initiated "alteration of the OEM's configuration... 14 clays after the initial boot up of a new Personal Computer." (Section III.H.3) This provision, in effect, would allow Microsoft to present a message to end users (e.g., "Press 'yes" to optimize your computer for multimedia") that could bias choices toward Microsoft products, regardless of what the OEM had chosen. This provision could therefore greatly reduce the scope and value of the changes that OEMs make.[39]

2.Ensuring that OEMs ISVs have adequate information and technical access to develop applications for, or even modifications to, Windows

The right to make modifications to Windows will only work effectively if OEMs and ISVs have the knowledge to exercise this right. Microsoft currently releases an enormous quantity of information on the Windows operating system and its APIs, through the Microsoft Developer Network (MSDN) and other means. Indeed, the indirect network externalities supporting the Windows monopoly provide a strong incentive for Microsoft to ensure that as many applications as possible run well on its system. But Microsoft also has an incentive to bolster its operating system monopoly by selectively withholding timely information to impede or delay the development of products that threaten to reduce the applications barrier to entry.[40] In addition, Microsoft has also required anticompetitive actions in exchange for information, as in the "first wave" agreements found illegal by the Court of Appeals.[41]

The PFJ requires disclosure of "the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product" (Section III.D) and specified Communications Protocols (Section III.E).

These requirements, however, are deficient in several ways:

u Windows APIs are not covered. In particular, the PFJ does not require the disclosure of the APIs used by Windows. Although Microsoft already has an incentive to disclose Windows APIs, there are circumstances where delay could be more profitable. The consequences of this omission are aggravated by the definition in Section VI.U: "the software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion." Thus, as middleware gets blended in the operating system, the scope of disclosures could be narrowed.

u Internet Explorer and other middleware APIs are not covered. Furthermore, the agreement does not require the disclosure of the APIs used by Internet Explorer. Although the government did not prove that Microsoft was guilty of monopolizing the browser market, dominating this market played a key role in shoring up its monopoly in the operating systems market. As a result, requiring disclosure of the APIs for Internet Explorer and other middleware could play a role both in denying the fruits of that monopoly and reducing this barrier to entry in its operating systems market. . Definitions could limit disclosure even further. The scope of APIs required to be disclosed under the agreement could be potentially limited even further by the control Microsoft has over what is "Microsoft Middleware" and what is the "Windows Operating System Product."

. Additional loopholes further limit disclosure and ability of non-Microsoft middleware to fully interoperate with Windows. Section III.J.1 provides a substantial loophole that exempts from the disclosure requirements anything that "would compromise the security of a particular installation,... digital rights management, encryption or authorization systems..." These are all very important technologies for Windows Media Player, Passport, the Internet Explorer browser, and any of the many programs that rely increasingly on security and encryption. In addition to giving Microsoft substantial discretion and blurring the disclosure requirements further, these exceptions would make it impossible for competitors to design middleware that fully interoperated with the Windows operating system, leaving certain features only accessible to Microsoft middleware.

. Disclosures are not timely. The disclosures are not very timely, allowing Microsoft enough time to ensure that its products—and products by favored OEMs and ISVs— enjoy a substantial "first to market" benefit in taking advantage of the functionality of the operating system. Microsoft has up to 9–12 months to disclose the APIs and communications protocols. In the case of a new version of the Windows Operating System Product, the PFJ bases the timing of the disclosure on the number of beta testers, effectively giving Microsoft substantial discretion over the timing of the required disclosures through its definition of the term "beta tester" and its control over their number. (Sections III.D and VI.R)

. Microsoft could cripple rival products. The PFJ does nothing to prevent Microsoft from deliberately making changes in Windows with the sole or primary purpose of disabling or crippling competitors" software products. 30

3. Ensuring that OEMs and ISVs are protected from retaliation by Microsoft for providing alternatives to consumers The right to make alterations to the Windows desktop will only be effective if companies are protected from retaliation for exercising it. The PFJ provides some protection against retaliation (Section III.A) and requirements for uniform licensing and pricing for Microsoft Windows (Section III.B). The protections, however, are only partial, in that they omit several important behaviors, still leave substantial scope for Microsoft to retaliate, and contain a very large loophole.

First, the prevention against retaliation only applies to a very specific set of actions that are specified in the PFJ, such as altering the icons on the desktop or promoting an IAP in the initial boot sequence. This rule does not apply to other actions by OEMs, such as the inclusion of third party software that does not fall under the definition of Non-Microsoft Middleware.

Second, there may still be some scope for discrimination and retaliation. Section III.B.3 of the PFJ explicitly gives Microsoft the right to use "market development allowances," for example to provide a pre-license rebate to selected OEMs on the basis of potentially ambiguous joint ventures. Although these incentives would have to be offered uniformly, there still could be some scope for defining them in an exclusionary manner. Furthermore, the relationships between Microsoft and computer companies are very complex and multifaceted, leaving substantial scope for retaliation in aspects not covered by the PFJ, including potentially the pricing of Microsoft Office and the server business.

Finally, Section III.A allows Microsoft to terminate the relationship with an OEM without cause and within a brief span of time simply by delivering two notices of termination. With no ready substitutes for Windows available, this power would give Microsoft substantial leverage in its relationships with OEMs. Although the OEM would have the option of litigating Microsoft's denial of a Windows license, the text of Section III.A and the lack of "bright line" rules in the PFJ would make this litigation costly and uncertain—and thus an imperfect means of protection against this threat. 4. Ensuring that OEMs have financial incentives to make changes that benefit consumers

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[37] As defined in Section VI.N.

[38] As defined in Section VI.K.

[39] This provision would allow Microsoft to run the "Desktop Cleanup Wizard" that removes unused shortcuts from the desktop in a non-discriminatory manner. Nothing in our reading of the language of Section III.H.3, however, would limit the power of Microsoft to remove all user access to non-Microsoft middleware or restore access to Microsoft middleware.

[40] 40 For example, the District Court found that Microsoft withheld the "Remote Network Access" API from Netscape for more than three crucial months in mid-1995. Findings of Fact, • 90–91, 84 F. Supp. 2d at 33.

[41] These agreements, which were entered into between the Fall of 1997 and Spring of 1998 between Microsoft and several ISVs, provided preferential early access to Windows 98 and Windows NT betas and other technical information in exchange for using Internet Explorer as the default browser. See See 253 F.3d at 71–72.

Even if the three previous conditions were met, they would be economically irrelevant if OEMs did not have financial incentives to take advantage of the new licensing freedoms. The production of PCs is a highly competitive industry with very low profit margins.[42] PCs are virtually a commodity that can be priced based on a limited set of characteristics like processor speed and hard drive size. All of the steps allowed by the PFJ—including installing non- Microsoft middleware or removing user access to Microsoft middleware—entail higher costs for the OEMs both in the costs associated with the initial configuration of the system and in the added costs of end user support.[43] In addition, OEMs may perceive that Microsoft would take additional steps to raise their costs through forms of retaliation either permitted by the PFJ or imperfectly banned. These costs may explain why, to our knowledge, no major computer manufacturer has yet taken Microsoft up on its July 11, 2001 offer to remove access to Microsoft middleware and replace it with non-Microsoft middleware.[44]

As a result, the key source of greater competition and consumer choice in the computer experience—OEMs—would have limited economic basis for promoting such choice. In part this is because the value of some of the new freedoms obtained by the OEMs in the PFJ are limited by loopholes. For example, by allowing Microsoft to bar OEMs from marketing non-Microsoft middleware in the initial boot sequence, the PFJ removes one source of revenue and choice. In addition, allowing Microsoft to encourage users to "voluntarily" revert to the Microsoft-preferred configuration of icons, the Desktop, and the Start Menu after 14 days may reduce substantially the value of this screen "real estate." As a result, the PFJ precludes some of the principal means by which OEMs could be remunerated for providing additional or alternative functionality desirable to consumers.

The more fundamental problem is that OEMs continue to be required to license a version of Windows that includes middleware like Internet Explorer, Windows Media Player, and Windows Messenger. By not requiring Microsoft to sell a cheaper, stripped-down version of the operating system—excluding many of these added features—the PFJ in effect would require OEMs to pay twice—once for Microsoft's version of the product (as bundled into the price of Windows) and once for the alternative. Such bundling is a particularly invidious way of undermining competition. In effect, it implies that the marginal cost of any item in the bundle is zero, making competitive entry, even for a superior product, impossible. The fact that such entry has occurred is testimony to the superiority of the rival products—consumers are willing to pay substantial amounts for the alternatives. In addition, forced bundling can have adverse effects on consumers, because it uses up memory and storage space, and there is always the possibility that the commingled code will interfere with the performance of other applications.

In summary, under the PFJ, OEMs are not provided the rights, means, protections, or incentives to create alternative choices for consumers. As a result, the lynchpin of the PFJ's strategy for promoting competition would be greatly attenuated.

B. Reducing the applications barrier to entry

The applications barrier to entry was central to the Court of Appeals" understanding of this case. It is the principal barrier to entry that protects Microsoft's overwhelming dominance of the market for operating systems for Intel-compatible PCs. Furthermore, the court found that Microsoft engaged in illegal acts to increase the applications barrier to entry, principally by suppressing Netscape and Java at the expense of Internet Explorer and Microsoft's version of Java. Thus, any remedy that is "tailored to fit the wrong creating the occasion for the remedy" must necessarily take affirmative steps to reduce the applications barrier to entry and also prevent Microsoft from engaging in anticompetitive actions to increase this barrier. Unfortunately, the PFJ barely addresses this central issue.

The following discusses two key aspects of the applications barrier to entry: the use of anticompetitive means to reduce the market share of rival middleware (and thus its potential to reduce the cost of porting applications to different operating systems) and the use of decisions about Microsoft Office to influence the prospects of rival operating systems. 1. Middleware and the applications barrier to entry

The CIS states that under the PFJ, "OEMs have the contractual and economic freedom to make decisions about distributing and supporting non-Microsoft software products that have the potential to weaken Microsoft's personal computer operating system monopoly without fear of coercion or retaliation by Microsoft."[45] Even if the PFJ did give OEMs this contractual and economic freedom without fear of retaliation, and the previous subsection expressed severe doubts on this point, it still would do little if anything to weaken Microsoft's operating system monopoly.

Enhancing competition by allowing OEMs and ISVs to provide consumers with a greater variety of choices, the subject of the previous subsection, is in some sense literally superficial. It involves the ability of firms in the computer industry to change the outer appearance of a computer and the way it is perceived and used by users, including the ability and ease of accessing programs that are included with the Windows operating system or added by the OEM or end user. The issues raised by the applications barrier to entry go deeper, to the underlying code in Windows. In particular, although the PFJ allows end users or OEMs to remove user access to Microsoft Middleware, it also allows Microsoft to leave in place all of the programming underlying this middleware. This code could still be accessed by other programs that write to the APIs exposed by the middleware.

The Court of Appeals explicitly rejected Microsoft's explanation for commmingling the code of Windows 98 and Internet Explorer, concluding that it deterred users from installing Netscape, had no substantive purpose, and thus that "such commingling has an anticompetitive effect."[46] Despite this strong finding, no provision in the PFJ addresses this issue.[47]

Netscape and Java represented a very rare challenge to Windows—they offered the opportunity to develop middleware that would allow a wide range of applications to be costlessly transferred between different systems. It is difficult to imagine when, if ever, there will be a challenge of this magnitude again. Nonetheless, some existing middleware—and future middleware that we may not even be able to forecast today—will continue to present challenges to Windows. For example, there is still substantial competition in the market today for multimedia players, with Windows Media Player, RealNetworks RealOne player, and Apple's QuickTime, among others, all offering different versions of similar functionality.

The treatment of middleware is crucial because the market for middleware, like the market for operating systems, is subject to substantial network externalities. These externalities mean that the desirability of a middleware package increases as the installed user base increases. As with operating systems, such externalities arise for direct reasons (e.g., users can share files in a particular media format) and indirect reasons (writing a program to different middleware, so the dominant middleware will have the most programs associated with it). With regard to indirect network effects, the key point is that the installed base is not the number of computers with shortcuts to the given middleware, but the number of computers with the underlying code permitting the middleware to be invoked by a call from another program. A programmer that wanted to develop, for example, an interactive TV program could still use Windows Media Player regardless of whether or not an OEM or end user had removed the icons or shortcuts that allow easy user access to this program.

By providing no means for OEMs or end users to undo the commingling of code that ties

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[42] For example, the Washington Post recently noted that profit margins are in "single digits." See Rob Pegoraro and Dina E1 Boghdady (January 20, 2002), "Building Creativity Into the Box" Washington Post.

[43] In the Microsoft trial numerous industry witnesses testified to the user confusion and added support costs associated with having alternative browsers pre-installed on a computer. See 253 F.3d at 71–72.

[44] Microsoft Press Release (July 11, 2001), "Microsoft Announces Greater OEM Flexibility for Windows."

[45] CIS, p. 25.

[46] See 253 F.3d at 66.

[47] The Court of Appeals rejected, per curiam, Microsoft's petition for a reheating on this point. Order (DC Cir. Aug. 2, 2001).

Microsoft middleware to the operating system, the PFJ ensures that Microsoft middleware will have an installed base, in the relevant sense, of nearly the entire PC market. As a result, programmers will find it cheaper to write to Microsoft middleware rather than to rival programs. In this case, ubiquity could trump quality—because the size of a middleware's installed base could be more important than the quality of the middleware program. Microsoft middleware thus increases the applications barrier to entry in the same manner that promoting Internet Explorer and restricting the distribution of Netscape do. By allowing Microsoft to continue to commingle the code for middleware and its operating system, and preventing OEMs or end users from making real choices, the PFJ contributes to Microsoft's ability to restrict the market share of its rivals in neighboring "layers" to the operating system, reducing the main form of potential future competition at "layer boundaries."

2. Microsoft Office and the applications barrier to entry

As noted above, in the mid-1990s, Microsoft Windows was compatible with more than twenty times as many programs as IBM's OS/2 Warp. This offers a dramatic example of the applications barrier to entry. One crucial feature of Microsoft is that in addition to producing the Windows operating system, it is also a leader in many other applications. Network externalities work here to help create and maintain market dominance. Thus, for a rival operating system to succeed it would need not only to persuade "neutral" software companies to write to it, but also persuade Microsoft itself to port some of its leading applications to the operating system. To the degree that Microsoft produces leading or essential applications, they can use their refusal to port these applications to reinforce their Windows monopoly.

One application, in particular, is especially important to users: Microsoft Office and its associated programs, including Word (for word processing), Outlook (for e-mail and scheduling), Excel (for spreadsheets), and PowerPoint (for presentations). Indeed, Microsoft Office has about 95 percent of the market for business productivity suites. 48

The Court of Appeals affirmed the District Court's finding that the desire by Apple to ensure that Microsoft continued to maintain and update Mac Office was central to its motivation to enter into an illegal, anticompetitive deal with Microsoft to suppress Netscape and promote Internet Explorer. In addition, Microsoft does not currently have a version of Office that operates on Linux, the primary alternative to Windows in the PC operating system market. Withholding or simply threatening to withhold Microsoft Office from other operating systems is 48 Richard Poynder (October 1, 2001). "The Open Source Movement." Information Today, 9:18. a powerful way in which Microsoft can use anticompetitive means to reduce the desirability of rivals while also extracting concessions or exchanges that help support the Windows monopoly of PC operating systems.

The PFJ, however, does not address any issues relating to the pricing, distribution, or porting of Microsoft Office. This considerable loophole has been used by Microsoft in the past. In the future, Microsoft will have the same incentives to use this loophole again. In addition, it may be necessary to examine additional Microsoft applications that can be used to reinforce the Windows monopoly. Given the difficulty of undoing a monopoly of this sort, once established, it is particularly appropriate to reach beyond remedies that are narrowly circumscribed.

C. Preventing Microsoft from strengthening its operating system monopoly by extending it to encompass additional products

The Court is charged with fashioning a remedy that "ensure[s] that there remain no practices likely to result in monopolization in the future." Some of the most important newly emerging areas are multimedia, networking, web services, and hand-held computing. Microsoft is already making substantial investments in these areas with its .NET strategy, Microsoft Passport, MSN, Windows Messenger, Windows Media Player, and the Pocket PC operating system.

The recently released Windows XP is characterized by substantial integration between all of these features; indeed the seamless integration is one of Microsoft's chief selling points for Windows XP. Microsoft has marketed Windows XP (standing for "experience") on the basis of its seamless integration between the Internet, multimedia, and the computer. For example, on the day it was released, a Microsoft press release announced, "Windows XP Home Edition is designed for individuals or families and includes experiences for digital photos, music and video, home networking, and communications."[49]

Like Internet Explorer, these new areas present new opportunities for Microsoft to leverage its monopoly in the operating system to dominate other markets. In addition, Microsoft could use its strong or dominant position in these new markets to erect new barriers to entry that prevent potential competitors from offering products and services with part or all of the functionality provided by Windows. For example, if Passport is successful then a rival operating system would not just need to persuade other developers to write for it, but would also need to develop its own version of Passport and convince numerous e-commerce sites to use it. If the rival operating system failed in any of these steps, its attempts to establish itself could be seriously curtailed. The PFJ, however, does not address any aspects of these important emerging barriers to entry.

VIII. STEPS TO IMPROVE THE PROPOSED FINAL JUDGMENT: THE LITIGATING STATES" ALTERNATIVE

The goal of this Declaration is to explain why we believe that the PFJ is deficient and why the Court should exercise its discretion to fashion a remedy in this case that would promote competition and benefit consumers. We do not propose an alternative remedy or provide an exhaustive analysis of any other proposals. Our analysis of the shortcomings of the PFJ, however, can be illustrated and strengthened by a selective comparison of some of the provisions in the PFJ with the proposal transmitted to the court by the nine litigating States and the District of Columbia on December 7, 2001.[50]

Many of the issues in the "Plaintiff Litigating States" Remedial Proposals" are technical and involve loopholes, some of which were discussed above including stronger anti-retaliation provisions and a broader definition of middleware that could not be manipulated by Microsoft. In addition, this proposed remedy makes an important change in enforcement: it proposes a Special Master, rather than requiring new legal proceedings to enforce the judgment. None of these important issues are discussed here. Instead, we focus on selected areas in which the litigating States" proposal illustrates some of the principal economic points identified in the preceding analysis.

A. Fostering competition through OEMs and reducing the applications barrier to entry

The litigating States proposal would require Microsoft to license a cheaper version of Windows that does not include commingled code from added middleware.[51] In addition, the proposal would require Microsoft to continue to license older versions of its operating system without raising its prices. This would have two effects. First, it would more effectively promote competition and consumer choice by allowing OEMs to ship computers with a wide range of alternative middleware, thereby allowing consumers to choose between different versions or

Moreover, such a provision would provide Microsoft with better incentives; only if it produced an operating system which performed substantially better would it be able to sell its new releases. It would at least attenuate its ability to use new releases as a way of extending its market power. Some have advocated even stronger measures to ensure Microsoft faces pro- consumer, pro-competition incentives, including requiring Microsoft to release all of its Windows source code and requiring the free distribution of its operating system after 3 to 5 years. Second, this provision would directly address the Court of Appeals finding that Microsoft's commingling of code was anticompetitive. By disentangling the middleware from the operating system, this proposal would allow greater competition in middleware—and thus ultimately in operating systems—by reducing the network externalities that benefit Microsoft middleware at the expense of potentially superior products.

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[49] Microsoft Press Release, "Windows XP is Here!" 10/15/01.

[50] United States v. Microsoft Corp., "Plaintiff Litigating States" Remedial Proposals," in the U.S. District Court for D.C, December 7, 2001.

[51] The Court of Appeals overturned the District Court, finding that Microsoft could not be held liable for the fact that in certain situations, like updating Windows or accessing help files, Internet Explorer overrides the user's default browser settings and opens automatically. This implies that the complete removal of HTML-reading software is impossible. But Windows could be shipped with, for example, a stripped-down browser that performs essential system functions. Most of the functionality of Internet Explorer, however, is not necessary for the examples Microsoft invoked. This is analogous to the way in which Windows is shipped with a stripped-down text editor, Notepad, but not with a full-fledged word processor.

combinations. The lack of financial incentives for OEMs to take advantage of the more liberalized licensing rules is one of the principal deficiencies in the PFJ.

B. Internet Explorer browser open source and Java distribution

Two of the fruits of Microsoft's monopolization of the operating systems market are the dominance of the Internet Explorer browser and the destruction of Java as a viable competitor.

The anticompetitive measures that helped achieve these goals protected a crucial "chink in the armor" of the Windows operating system. The PFJ does nothing to "deny the defendant the fruits of its statutory violation."[52] Furthermore, it does not enhance the ability of competitors to interoperate with Internet Explorer because it includes no disclosure requirement for the Internet Explorer APIs.

The litigating States propose to remedy these deficiencies by requiring Microsoft to publish the source code and APIs for Internet Explorer and freely license them to competitors. In addition, their proposal would require Microsoft to distribute a Sun-compatible version of Java Virtual Machine with all future operating systems. The result would be to decrease the applications barrier to entry and promote competition.

C. Cross-platform porting of Office

As discussed in the previous section, Microsoft Office is one of the most crucial applications for many users. The existence of this application for a particular operating system is one key factor in the demand for the operating system. The litigating States'' proposal would remove the ability of Microsoft to either threaten to withhold Office or actually withhold Office by requiring Microsoft to continue to port Office to Macintosh. In addition, the proposal would require Microsoft to auction off licenses to ISVs that would provide them with the entire source code and documentation for Office in order for them to port the product to alternative operating systems. Although we draw no conclusions about the particular rules proposed by the litigating States, this proposal would clearly reduce Microsoft's ability to deliberately raise the applications barrier to entry.

D. Mandatory disclosure to ensure interoperability

The PFJ requires some disclosure to ensure that Microsoft is not able to withhold certain information to illegally benefit Microsoft Middleware at the expense of Non-Microsoft Middleware. The disclosures are limited in scope and timing. The litigating States'' proposal is substantially broader.

Of particular importance, the litigating States'' proposal recognizes that "nascent threats to Microsoft's monopoly operating system currently exist beyond the middleware platform resident on the same computer" and thus the States'' proposal requires timely disclosure of technical information to facilitate "interoperability with respect to other technologies that could provide a significant competitive platform, including network servers, web servers, and hand- held devices."[53] In doing this, the proposal would reduce the ability of Microsoft to use its dominant position in operating systems to eliminate emerging threats at the boundary of this "layer" of computing.

IX. CONCLUSION

The Revised Proposed Final Judgment agreed to by the U.S. Department of Justice, the Attorneys General of nine States, and Microsoft Corporation is critically deficient. The overall aims of the PFJ are laudable—to increase competition and reduce Microsoft's ability to maintain its monopoly at the expense of consumers. But the PFJ will not succeed in achieving these goals. It does not change any of the incentives faced by Microsoft to undertake anticompetitive actions. It restrains these anticompetitive actions only with highly specific and exception-ridden conduct requirements. And it has an insufficient enforcement mechanism.

The interest of consumers in a greater range of choices, lower prices, and greater innovation would be served by rejecting the PFJ and replacing it with a more effective conduct remedy. A remedy for this case should recognize that the monopoly power created by Microsoft's past anticompetitive, illegal practices is likely to persist, and that it will therefore be likely to continue to enjoy the fruits of its illegal behavior, unless there are far stronger remedies than those in the PFJ. The new remedy should change Microsoft's incentives. It should restrict Microsoft's ability to repeat its past, or develop new, anticompetitive practices. It should provide OEMs and ISVs with the means and incentives to stimulate genuine competition in the provision of platforms. And it should take whatever steps are possible to reduce the applications barrier to entry so that there is greater scope for genuine competition in the market for PC operating systems.

I, Joseph E. Stiglitz, declare under penalty of perjury that the foregoing declaration is true and correct. Executed on January 28, 2002.

E. Stiglitz

I, Jason Furman, declare under penalty of perjury that the foregoing declaration is true and correct. Executed on January 28, 2002.

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, UNITED STATES OF AMERICA, Plaintiff, v. Civil Action No. 98–1232 (CKK) MICROSOFT CORPORATION, Defendant.))
)

STATE OF NEW YORK, et al.,)) Plaintiffs, v. Civil Action No. 98–1233 (CKK) MICROSOFT CORPORATION,) Defendant.)
)

DECLARATION OF EDWARD ROEDER

Edward Roeder declares under penalty of perjury as follows:

I. INTRODUCTION

1. I am a Washington journalist, author, lecturer, and editor, expert on the U.S. Congress, elections and efforts to influence the U.S. government. My byline has appeared in most major U.S. newspapers, many top magazines, and on all major wires and networks. I have written, edited, produced and reported on money in politics, Congressional ethics and the American political economy for more than three decades. My experience includes work as a Senate subcommittee counsel, House select committee chief investigator, United Press International editor, publisher, White House speechwriter, government aide at level GS-15, freelance reporter and publisher. I founded Sunshine Press Services, Inc., a Washington news service and publishing house specializing in "Casting Light on Money and Politics." Sunshine has developed References to Use,

Not Just Peruse TM, computer-based reference works on U.S. politics. As National Political/Finance

Editor for United Press International, I produced the nation's first weekly state-by-state computer- generated reports on federal election financing. In 1974, I became the first freelance correspondent fully accredited to U.S. House & Senate Press Galleries. As a freelance print and broadcast reporter, I specialized in covering elections and election financing. In Roeder v. FEC, I successfully sued Federal Election Commission under the federal Freedom of Information Act, forcing a reduction in fees for records and release of computerized data.

My experience includes lecturing about covering influences on government at the graduate schools of journalism at Columbia, Northwestern (Medill), American, Maryland and other universities, and at the Hastings Center, the Heritage Foundation, and many other forums, and testifying before U.S. House and Senate committees. I also taught a public affairs course, Shadow Government in the Sunshine State, for three terms at Florida State University. I have appeared on ABC's Nightline, the CBS Evening News, World News Tonight (ABC), NBC Nightly News, All Things Considered (NPR), John McLaughlin, and many other broadcast outlets.

My reference publications include PACs Americana, the 1,150-page authoritative reference on political action committees and their interests, Congress On Disk TM, the pioneer diskette publication on politics, PAC-Track TM, covering all transactions by political action committees and party committees, FatCat-Track TM, covering "soft money" and all contributions of $200-and-up from individuals to any federal party, campaign or PAC, and Ready Money Reports TM, comparing relative financial standings of each federal campaign. A partial list of news clients is attached as Appendix B.

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[52] 253 F.3d at 103, quoting United States v. United Shoe Mach. Corp., 391 U.S. 244, 250 (1968).

[53] Litigating States, pp. 10–11.

2. I was commissioned by the Computer & Communications Industry Association to conduct a review of publicly available documents, news reports, and commentary regarding Microsoft's lobbying and political contributions since the United States Department of Justice and 19 States filed suit against Microsoft in 1998.[1]

3. My review of the available documents has led me to conclude that over the past five years Microsoft has engaged in a "pattern and practice" of political influence peddling in many ways unprecedented in modem political history.[2] What makes Microsoft's lobbying efforts so unique is not necessarily the size (i.e. level of political contributions) but the scope of its efforts and the speed at which Microsoft went from having almost no political presence in Washington DC to having one of the largest and most sophisticated political operations in history.

4. By "scope" I am referring to the breadth of Microsoft's efforts. Microsoft has not merely established one of the largest Political Action Committees, or leapt to the top of the corporate contributor list in "soft money," unregulated corporate contributions. Over the past five years Microsoft has also assembled a large lobbying office and retained dozens of high-powered consultants; Microsoft has created numerous "front" groups and has contributed heavily to a variety of think tanks and other organizations willing to espouse Microsoft's view of antitrust policy and this case; and Microsoft has created a variety of grassroots capabilities that appear to be directed at state-level government.

5. Two key factors indicate that Microsoft's lobbying efforts were designed and directed to try to minimize the impact of its lawsuit and try to achieve a result in the political process that it is Wall Street Journal October 15, 1999. "Microsoft Paid For Ads Against DoJ Case." Madeleine Acey. TechWeb September 20, 1999. "Microsoft Paid For Ads Backing Its Trial Position." David Bank. The Wall Street Journal September 20, 1999. "Microsoft Paid For Ads Backing It In Trial."

Seattle Times September 19, 1999. "Pro-Microsoft Ads Were Funded by Software Giant." Greg Miller. Los Angeles Times September 18, 1999. "Microsoft Paid for Ads About Trial."

Associated Press September 18, 1999. "Microsoft Covered Cost of Ads Backing It in Antitrust Suit." Joel Brinkley. New York Times September 18, 1999. "Rivals fear Microsoft will cut a deal." John Hendren. The Seattle Times June 21, 2001. "Bush's Warning: Don't Assume Favors Are Due." Gerald F. Seib The Wall Street Journal January 17, 2001. "Bounty Payments are offered for pro- Microsoft letters and calls." The Wall Street Journal October 20, 2000. "Microsoft is Source of 'Soft Money" Funds Behind Ads in Michigan's Senate Race." John R. Wilke. The Wall Street Journal October 16, 2000. "Microsoft leans creatively on levers of political power as breakup decision looms, 'stealth" lobbying efforts aim for survival." Jim Drinkard and Owen Ulmann.

USA Today May 30, 2000. "Microsoft's All-Out Counterattack." Dan Carney, Amy Borrus and Jay Greene. BusinessWeek May 15, 2000. "Aggressiveness: It's Part of Their DNA." Jay Greene, Peter Burrows and Jim Kerstetter. BusinessWeek May 15, 2000. "The Unseemly Campaign of Microsoft." Mike France. Business Week April 24, 2000. "Microsoft's Lobbying Abuses." Editorial. New York Times November 1, 1999 "Awaiting Verdict, Microsoft Starts Lobbying Campaign." Joel Brinkley. New York Times November 1, 1999. "Microsoft Seeks Help Of Holders." John R. Wilke. The Wall Street Journal November 1, 1999. "Microsoft's Bad Lobbying."

Editorial. Washington Post October 24, 1999. "Microsoft Attempt To Cut Justice Funding Draws Fire." David Lawsky. Reuters October 17, 1999. "Microsoft Targets Funding for Antitrust Office." Dan Morgan and Juliet Eilperin. Washington Post October 15, 1999. "Pro-Microsoft lobbying to limit antitrust funding irks top lawmakers." The Wall Street Journal October 15, 1999.

"Microsoft Paid For Ads Against DoJ Case." Madeleine Acey. TechWeb September 20, 1999. "Microsoft Paid For Ads Backing Its Trial Position." David Bank. The Wall Street Journal September 20, 1999. "Microsoft Paid For Ads Backing It In Trial." Seattle Times September 19, 1999. "Pro-Microsoft Ads Were Funded by Software Giant." Greg Miller. Los Angeles Times September 18, 1999. "Microsoft Paid for Ads About Trial." Associated Press September 18, 1999. "Microsoft Covered Cost of Ads Backing It in Antitrust Suit." Joel Brinkley. New York Times September 18, 1999. apparent it could not achieve in the legal process. First, Microsoft's efforts are new. Their onset coincides with the time the government sued Microsoft and they have continued and escalated ever since. Second, Microsoft's efforts are completely out of proportion to the rest of the high- technology industry. There is not one other example of a software, computer hardware, or Internet firm that comes anywhere near Microsoft's level of campaign contributions.

6. I am not a lawyer, an expert on antitrust or an expert on the Tunney Act. My substantive views of of the Proposed Final Judgment are based primarily on the analysis of Nobel economist Joseph Stiglitz, whose declaration also supports the CCIA submission.

7. The Tunney Act was enacted after the ITT scandal during the Watergate affair. As the court is aware, Watergate spurred a number of political reforms requiring "sunshine" on the political activities of special interests, in particular. But the Tunney Act was also enacted during a different political era, when political influence peddling was far less sophisticated than it has become after a quarter-century of efforts to circumvent the "reforms" of the 1970s. By necessity, political influence peddling is no longer necessarily marked by a single "transaction" or a single "meeting," or even an overt "quid pro quo." In fact, one of the effects of the modem reforms has been to legalize many activities—especially the transfer of funds from corporate to political coffers—that had long been illegal under laws in effect since 1907 or 1934. Lobbying today is marked by incrementalism, where there may not be any single meeting, or any single contribution, or any single agreement. Rather, over time, what may develop is an "understanding" of the respective parties" interests, objectives, and desired outcomes. Instead of corruptly influencing politicians to buy a discreet government decision, the money exerts far broader influence over appointments, policy frameworks or positions, and ultimately, decisions. Much of it may be legal, but it's far more corrupting than simple bribery.

The simple matter of paying off a corrupt politician to obtain a favorable government decision is certainly offensive and unfair to the voters and those who are disadvantaged by the decision. Yet such petty or grand corruption, if isolated, does not seriously threaten the American system. What Microsoft has accomplished over the past half decade, however, presents a far darker prospect.

By pouring money into America's institutions of political pluralism, rewarding those organizations and individuals that do its bidding and denying or limiting funding to its opponents, Microsoft has in some ways corrupted American political discourse itself. Newspapers that have run an editorial or opinion article sympathetic to a Microsoft position, reporters who have interviewed a professor, politician, or pundit about this antitrust action, and anyone who has hosted or observed public discourse on the subject must now wonder: Were the views expressed independent and sincere, or were they purchased by an unseen hand, smothering the American marketplace of ideas? As is detailed below, Microsoft's efforts to subvert democratic institutions such as political campaigns and debates, party organizations, news outlets, think tanks and government offices have been so vast as to be a new phenomenon, unenvisioned and unaddressed by existing political mechanisms intended to check the influence of special interests. Limited campaign contributions can serve the purpose of encouraging, facilitating, extending and opening political discussion.

But political money in such vast amounts is a substitute for politics, not a means of undertaking political action.

While the modern-day political pressure brought to bear by Microsoft in the last decade may not be precisely the same as that undertaken by ITT in the 70's, it is no less objectionable to the Court's charge of acting on behalf of the "public interest."

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[1] I am aware that Microsoft has undertaken an effort to use the Court discovery process to build a political case against its competitors. The relevancy of Microsoft's strategy will have to be determined by the Court since Microsoft—and not its competitors—have been found to be liable under the antitrust laws. I took input and advice from a broad range of sources in conducting this research, including CCIA and its members. This research is nonetheless based on the extraordinary public record of Microsoft's political activities during the timeframe of this case. I have also undertaken extensive original review of the records of the Federal Election Commission regarding election finance. These records covering all election cycles since 1970–80 have been available in computerized format since the court-ordered settlement of Roeder v. FEC, a Freedom of Information lawsuit I filed in this very courthouse two decades ago.

[2] "Microsoft Targets Funding for Antitrust Office." Dan Morgan and Juliet Eilperin. Washington Post October 15, 1999. "Pro-Microsoft lobbying to limit antitrust funding irks top lawmakers."

8. Based on my review of the public record and the declaration provided by Dr. Stiglitz, it is apparent that the Department of Justice undertook a major "change in policy" at a critical moment this past fall. My belief—again based largely on Dr. Stiglitz" analysis and substantiated by a wide array of antitrust experts and scholars—is that the Proposed Final Judgment cannot be reconciled with the government's extensive court victory. The public record suggests a Microsoft strategy that appears to defeats in the legal process, but which focuses on winning an acceptable outcome through the political process. It appears to be working. Indeed, if it weren't working, such vast expenditures might give rise to a shareholder suit for breach of fiduciary duty. If Microsoft's money has had the desired effect of inducing the U.S. government to throw in the towel on the biggest antitrust suit in history, such a suit could be easily defended. But to argue that Microsoft had no such intent is tantamount to suggesting that its corporate spending it in the control of squandering fools.

9. I have also reviewed Microsoft's lobbying disclosures filed before the court as part of the Tunney Act. Again, while I am not a lawyer, my review of public documents, press reports and the plain language of the statute leads me to believe that disclosures made to the court can not possibly be reconciled with Microsoft's lobbying activities surrounding both this case and this settlement.

10. Various press reports indicate that Microsoft is trying to convince the court and the public that the litigating states have been "put up to this" (i.e. continuing to litigate through the remedy phase) by Microsoft's competitors, and therefore cannot be acting in the public interest. My review of public documents suggests this theory is backwards and should be particularly alarming to the Court. The far more likely scenario, into which the Court must inquire, is whether the Department of Justice has executed Administration policy in response to the unprecedented campaign to influence the new Administration's antitrust policy generally, and as antitrust policy applies to the high-technology sector and Microsoft, in particular.

11. In fact, with the benefit of hindsight, various Justice Department actions make perfect sense in the context of my research. The Department went to great lengths to create the appearance they were going to be "tough" with Microsoft, beginning with enlisting President Bush's renowned litigator, Phillip Beck. What actually occurred, however, is they systematically appear to have given away their hard-fought court victory. First, the Department unilaterally abandoned its pursuit of structural relief, and informed the court it would not seek a review of the Sherman Act Section tying claim on remand. Then the Department suggested it would base its remedy on the interim conduct remedies ordered by Judge Jackson. Then the Department began speaking of the extensive litigation risk involved in pursuing a remedy based on the need for immediate relief. Finally, the Department—outside of public scrutiny—emerges with the Proposed Final Judgment, which based on Dr. Stiglitz" analysis appears to be woefully inadequate.

12. I declare to the court that where "there is smoke there is typically fire." Even if the "fire" in the context of modem day political influence peddling is very subtle, it nonetheless does not serve the public interest. My view is that Microsoft's political campaign has been so extensive the court should take immediate notice. In modem political influence-peddling and purchasing, Microsoft has set a new bar. South Korea's spreading cash throughout Washington in the 1970s Tongsun Park scandal paled in comparison.

13. During the course of my research I was struck by the similarities between Microsoft and the current scandal involving Enron Corporation. While Enron, of course, is in an entirely different business, it seems the core issue—from a public disclosure perspective—is its campaign contributions and its ability to influence the nation's energy policy. Microsoft's campaign contributions significantly surpassed those of Enron; Microsoft was a defendant in a major governmental lawsuit; and it appears Microsoft may have successfully influenced the Administration's antitrust policy, with major implications for legal antitrust precedent.

14. My recommendation to the court is to undertake an immediate review of Microsoft's lobbying activities surrounding this settlement, with particular attention to meetings with the Justice Department or the White House by Microsoft or its agents. Included in this review should also be contacts made on Microsoft's behalf to the Justice Department or the White House by Members of Congress, their official staff, and campaign staff. The court should also interview Department of Justice staff who do not operate within the sphere of political appointees. And the court should interview the political appointees of the Attorney General and their staff. Moreover, the court should review any contacts or communications between the Republican National Committee, the National Republican Senatorial Committee, the Republican Congressional Campaign Committee, and the White House or the Justice Department. Lastly, the court should review any contacts or communications between Microsoft and the settling states. Anything less would clearly not vindicate the public interest.

II. REVIEW OF PUBLIC RECORD

15. Since May 1998, Microsoft has fought strenuously in the courtroom to defend its "freedom to innovate" and to continue with business as usual. In fact, plugging in "Microsoft + trial" into the Google search engine produces more than 697,000 article hits. When "Microsoft + politics" is entered into the search engine, Google produced nearly 448,000 articles and links. But as hard as it fought inside the courtroom, Microsoft fought far harder—often secretly—outside the courtroom to influence the outcome of the trial. In a campaign unprecedented in its size, scope, and cost, Microsoft used campaign contributions, phony front groups, intensive lobbying, biased polling, and other creative, if not possibly unethical, pressure and public relations tactics to escape from the trial with its monopoly intact. According to media accounts, experts, and my own research, Microsoft spent tens of millions of dollars to attempt to create an aura outside the courtroom of what it could not prove inside—innocence. According to Business Week Magazine: "Even seasoned Washington hands say they have never seen anything quite as flamboyant as the Microsoft effort."[3]

16. In late 2001, when the Department of Justice and a group of state Attorneys General agreed to the currently proposed settlement, it appeared as if Microsoft's efforts were successful. Fortunately, two obstacles stand in the way of Microsoft and the continued monopolization of the software industry: the remaining state Attorneys General who are continuing to litigate for a more effective remedy and the Tunney Act, which—among other things—requires Microsoft to divulge all of its dealings with the Administration and Congress in conjunction with the antitrust trial. A. Campaign Contributions

17. In 1995, before the United States Department of Justice and state Attorneys General from 19 states and the District of Columbia brought an antitrust case against it, Microsoft had virtually no presence in Washington, DC The company had only one lobbyist working out of a Chevy Chase, Maryland sales office and had contributed less than $50,000 in the previous election cycle.[4] Its lobbyist, Jack Krumholtz, had no secretary and its PAC was financed by only $16,000. In those days, the Microsoft lobbying operation was affectionately referred to in press reports as "Jack and his Jeep."

18. However, since the beginning of the antitrust case against Microsoft, the company has become a major political contributor and was the fifth largest during the 2000 election cycle[5], alongside the giants of the tobacco, telecommunications, pharmaceuticals and insurance industries. Microsoft's political contributions to elected leaders in a position to help the software giant in this election cycle when the trial was at its peak, was greater than all previous, cumulative campaign contributions. In the history of American PACs, only three companies that have raised at least $50K in one election cycle have increased receipts by 500% in the next. In 1984–86, Drexel Burnham Lambert, the corrupt and now-defunct securities brokerage, increased its receipts from just under $67,000 to more than $446,000, a 567% jump. In that same cycle, AT&T, facing antitrust divestiture, increased its PAC receipts by 745%, from $215,000 to $1.8 million. In the history of corporate PACs, only 68 have increased their spending by half in one election cycle after reaching a level of a quarter of a million dollars. Only 15 have doubled their spending in one election cycle after reaching that level. Only one—Microsoft—has approached tripling its spending after reaching that threshold. Microsoft increased its spending almost fivefold, from $267,000 to more than $1.2 million, between the 1997–98 and 1999–2000 election cycles. (Table 5.)

20. Every year, Microsoft tops itself. The company's political giving in the 2000

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[3] BusinessWeek, May 15, 2000, Carney

[4] "The Microsoft Playbook" Common Cause

[5] San Francisco Chronicle, July 1, 2001, Wildermuth

cycle—the time leading up to its day of judgment in federal court—was again more than it contributed in all previous cycles combined. Campaign money to candidates and political parties in just one state was greater than Microsoft's contributions from 1990 through 1996 to every state and federal candidate combined. (Note that the government first levied antitrust charges against Microsoft in 1995.)

Except for Microsoft, no corporate PAC sponsor in American history has increased its PAC receipts by an order of magnitude, starting from a base of $50,000 or more. Since 1986, the only such firm that has increased its PAC receipts by as much as 500% in one election cycle is Microsoft. Receipts for Microsoft's PAC rose a record-setting 903%, froth $59,790 in 1995–96 to just under $600,000 in 1997–98. (Table 1.) Microsoft followed this by another jump of 165% in 1999–2000, to $1.59 million. (Table 2.) In the history of corporate PACs, only 15 have had as much as a 300% rise in receipts after achieving a base of $50,000. (That requires rising from at least $50,000 to at least $200,000.) None has ever followed such a rise with another three-digit percentage increase in receipts, except Microsoft. (That would require a subsequent rise to at least $400,000.) 21. Between 1995 and 2000, Microsoft donated more than $3.5 million to federal candidates and to the national parties, about two-thirds of which was contributed during the 2000 election cycle alone.[6] Including company and employee donations to political parties, candidates and PACs in the 2000 election cycle, Microsoft's giving (that of the company, its PAC and its employees) amounted to more than $6.1 million, far more than has been previously reported.[7] Nearly $1 million came in the 40 days immediately before the November 7th election. As most political operatives know, these late contributions often are made by donors who don't want their participation known until after the election, when financial reports for the final days of a campaign are due, and public and news media attention are no longer focused upon the election. The effect of delaying contributions until very near the election is to thwart efforts by the news media and the political opposition to make disclosures meaningful to voters before they vote.

i. Federal Contributions

(a) "Soft" Money

22. Comprising the majority of Microsoft's campaign contributions was soft money.[8] Like their overall presence in Washington, Microsoft's soft money donations grew substantially since the beginning of the antitrust trial. In fact, in the seven days preceding Judge Thomas Penfield Jackson's ruling against Microsoft, the company donated more in soft money to the national political parties than it gave to federal candidates and political parties between 1989 and 1996. 23. During the 1999–2000 election cycle, Microsoft and its executives accounted for some $2,298,551 in "soft money" contributions, according to FEC records. For context, consider that this was two-thirds more than the $1,546,055 in soft money contributed by the now-bankrupt Enron and its executives during the same period. candidates and political parties and PACs federally and in all 50 states.

As one business commentator put it: "...there's something quite disturbing about watching the world's richest man trying to buy his way out of trouble with Uncle Sam... Gates's actions undermine the legal system itself."[9]

(b) Political Action Committee (PAC) Money

24. Microsoft's PAC donations also grew substantially in the years since the beginning of the antitrust trial. In 1998, the company made a concerted effort to increase the size of its PAC.

Within a matter of days, the company grew its PAC from $31,000 to $326,000.[10] Employees contributed $1.6 million to Microsoft's PAC for the 2000 election cycle which allowed the PAC to contribute more than $1.2 million. The PAC began the 2002 election cycle with an impressive $772,000 cash-on-hand—more than any other American corporate PAC.

Microsoft's unprecedented rise as a political player took its PAC from just under $60,000 in 1995- 96 receipts to just under $1.6 million in 1999–2000. In the history of corporate PACs, only two have had a rise of more than 1,000% in receipts over four years (two election cycles), after attaining $50,000. Only one, Microsoft, has had an increase of more than 2,000%. From 1995–96 through 1999–2000, Microsoft's PAC increased in size by more than 2,500%. (Table 4.)

(c) Party Breakdown

25. While Microsoft has donated to both national political parties, the company has tended to favor Republicans, who have been more vocal in their defense of the company. Between 1995 and 1998, 72% of Microsoft's contributions went to Republicans, while the GOP received only 55% of the company's donations during the 2000 election cycle.[11] Republicans received a total of $3.2 million, about half of which—$1.69 million—went to the national Republican Party. 26. Yet, when analyzing Microsoft's campaign contributions by donating entity, some stark disparities emerge. Virtually all of the money donated by individual Microsoft employees ($222,750) benefited Democratic 527s, groups that raise and spend money independent of political campaigns During this same period Microsoft employees gave $15,000 to Republican affiliated 527s. Democratic PACs also benefited from Microsoft's employees largesse, receiving $222,100 compared to just $42,875 for Republican PACs.

27. But Republicans enjoyed an edge in every other category; the majority of donations to leadership PACs, state parties and candidates went to the Republican Party. The following table illustrates the disparity.

	Republican	Democrat
Leadership PACs	$162,000	$41,500
State Parties	$255,025	$38,887
Candidates	$1,053,792	$818,951

(ii) State Contributions

28. Along with the Department of Justice, 19 states and the District of Columbia initially prosecuted Microsoft. Naturally, then, Microsoft concentrated a good deal of its campaign contributions on state races.

29. Candidates and political parties in all 50 states received contributions from Microsoft, but none more so than the company's home state of Washington, which received $830,478. Republicans received $359,000 while $458,000 went to Democrats. Nearly all of the $100,000 edge for the Democrats came from contributions to the State Democratic Party, which totaled $85,387. 30. One of the original states participating in the suit was South Carolina, whose attorney general, Charles Condon, was facing re-election in 1998. Shortly before the election, Microsoft contributed $25,000 to the South Carolina Republican Party. According to the Chairman of the South Carolina Republican Party this was the largest unsolicited donation ever received. Three weeks after he won, Attorney General Condon withdrew from the antitrust case. Two years ago, Condon solicited and received a $3,500 donation from Microsoft.[12]

31. In California, a state represented by Attorney General Bill Lockyer, Microsoft contributed $25,000 to the 1998 election campaign for challenger Dave Stirling, a Republican; a contribution made nine days before election day. The company contributed an additional $10,000 to gubernatorial democratic candidate Gray Davis, whose opponent was among the original 19 state attorneys general to bring the antitrust suit against Microsoft.

32. Within weeks of the 2000 election, Microsoft CEO Steve Ballmer made late contributions of $50,000 each to two state Republican Parties, Michigan and Washington, where Microsoft found its defenders under fire. Then U.S. Senator Spencer Abraham, a Michigan Republican who is now Secretary of Energy, had been an outspoken supporter of Microsoft. Former U.S. Senator Slade Gorton, a Washington state Republican, who proudly called himself "the Senator from Microsoft" had even sought to cut the funding of the Justice Department's Antitrust Division while the court case was ongoing.

33. Microsoft used back channels to direct even more undisclosed soft money into the 2000 Michigan Senate race. According to The Wall Street Journal, Microsoft "funneled" soft money into the race by secretly making undisclosed contributions to the Michigan Chamber of Commerce to fund negative ads aimed at Abraham's opponent, now U.S. Senator Deborah Stabenow. Some close to the Chamber have estimated that the contributions, while legal and not requiring reporting, may have amounted to more than $250,000.[13] Such contributions are usually made to organizations to support the organization's activities, not political ads—which is why there is no disclosure

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[6] Common Cause

[7] Independent analysis of giving to elective office

[8] "Soft" money is the term generally applied to unregulated, unlimited corporate and individual contributions that can not go to candidates but typically goes to political parties in support of party "efforts."

[9] BusinessWeek, April 24, 2000, France

[10] ibid.

[11] ibid.

[12] USA Today, 5–30–00, Ullman, Drinkard

[13] Wall Street Journal, Oct. 16, 2000, Wilke

requirement. Microsoft knew this and took advantage of the loophole in Michigan. Political operatives throughout the country reported similar occurrences in other political races considered "top targets" by both national parties, but efforts to gain access to contributor lists from some of the "independent" groups believed to be accepting the contributions have unsuccessful.

34. Significant contributions were also made in Missouri by Microsoft to help re-elect Senator John Ashcroft, the current U.S. Attorney General. Missouri was another state where independent groups without significant resources of their own suddenly were flush with money to run ads defending Ashcroft and attacking his opponent. Ashcroft, whose campaign benefited greatly from Microsoft's disclosed campaign contributions—$19,000 in reported donations—lost his election bid. He now runs the federal executive department responsible for proposing the settlement offer, and his office is now staffed with political operatives who played a role in raising the $19,000 from Microsoft, coordinating his campaign efforts with those of Microsoft in Missouri, and in one case, directing the entire Republican National Committee fundraising and political campaign operation in the 2000 election cycle.

35. Deborah Senn, the Democratic primary opponent of Washington State Senator Cantwell, received $15,000 more from Microsoft than did Cantwell who received $30,150. This total, however, dwarfs the money poured into now-former Senator Gorton's campaign—$131,160. Only Democratic Congressman Jay Inslee's total of $126,850 comes close to that of former Senator Gorton. Congressman Inslee represents Microsoft's home district, and defends the company vigorously in Washington, D.C.

36. In addition to those in Washington State, candidates or parties in three other states received contributions totaling six figures. California was second at $174,900 with virtually the entire amount going to Leadership PACs—Members" PACs that contribute money to other allied candidates—and directly to Members of Congress. Texas was third at $107,250 although this amount does not include contributions to the Bush/Cheney campaign. This was an unusually large amount for the state when compared to previous giving patterns.

37. While Microsoft contributed $100,000 to the Bush/Cheney Inaugural Committee in January 2001, virtually all contributions to presidential campaigns were made prior to July 31st, with the exception of contributions to Libertarian Party candidate Harry Browne's campaign. (This is presumably because, to be eligible for federal matching funds for the primaries and federal funding for the general election, major party candidates receiving are not allowed to solicit or receive campaign contributions after they are nominated at their conventions.) Only four primary presidential candidates received contributions greater than $10,000: Bill Bradley, $33,400; George Bush, $57,300; Al Gore, $28,000, John McCain $39,448.

Table 1. Candidates & Organizations Receiving $10,000 or more from Microsoft Following is a breakdown of Microsoft's contributions of more than $10,000 to candidates and organizations during the 2000 election cycle.

Abraham for Senate $24,650.00 Kerrey for US Senate $10,000.00

Adam Smith for Congress $31,750.00 Leadership PAC 2000 (Oxley) $10,000.00

American Success PAC(Drier) $11,750.00 Majority Leader's Fund (Armey) $11,000.00

Ashcroft (combined) $19,250.00 McCain 2000 $39,448.00

Bill Bradley for President $33,400.00 McIntosh for Governor $25,000.00

Brian Baird for Congress $38,400.00 Michigan Republican State Ctte. $50,000.00

Bush for President $57,300.00 Montana Republican State Ctte. $10,000.00

Bush/Cheney Inaugural $100,000.00 NDN $38,750.00

California FriendsLatino PAC $10,000.00 New Majority Project $15,000.00

California Women Vote $10,000.00 New York Senate 2000 $40,000.00

Cantwell 2000 $30,150.00 NWLeadership PAC (Gorton) $17,000.00

Citizens for Rick Larsen $35,600.00 Republican Party $1,691,090.50

DASHPAC $10,000.00 Republican Campaign Committee of New Mexico $33,492.48

Democratic Party $1,300,892.00 Republican Majority Fund (Don Nickles) $15,000.00

Democratic Party of Georgia $20,000.00 Republican Party of Virginia $12,000.00

Dooley for Congress $10,500.00 Republican Senate Council $15,000.00

EMILY's List $176,600.00 Santorum 2000 $11,000.00

Ensign for Senate $10,000.00 Senn 2000 $45,651.00

Feinstein 2000 $12,000.00 Snowe for Senate $10,000.00

Friends for Slade Gorton $131,160.00 TechNet $10,000.00

Friends of Conrad Bums $15,250.00 Utah Republican Party $29,383.00

Friends of Heidi $16,300.00 Washington State Democratic Central Committee $30,387.00

Friends of Jennifer Dunn $14,700.00 Washington State Republican Party $104,150.00

Gore for President $28,000.00 Washington Victory Committee 1999 $35,500.00

Inslee for Congress $126,850.00 Washington Victory Fund $55,000.00

Jim Davis for Congress $17,250.00 Washington Women Vote $11,000.00

Jon Kyl for Senate $11,000.00 Western Republican PAC $10,000.00

Kennedy for Senate $12,000.00 Women Vote 2000 $100,000.00

B. "Strategic" Philanthropy

38. Microsoft has also contributed money to the causes of politicians as yet another method to use donations, political in nature, to gamer support and ultimately influence the outcome of the trial.

39. According to USA Today, Microsoft and the philanthropic arm of its founder and chairman, the Bill and Melinda Gates Foundation, "donate millions of dollars to causes and projects that are dear to the hearts of government policymakers, such as a $50,000 gift to the Congressional Black Caucus Foundation." [14] Shortly after the donation to the CBC, according to Business Week, Microsoft gained an unlikely ally in the Caucus chairman, Representative James E. Clyburn (D- SC), "who represents one of the least technology-rich districts in the country." [15] In addition, a timely $10 million gift to the U.S. Capitol Visitor's Center further endeared Microsoft to many Members of Congress.

40. Yet the strategic philanthropy began long before the 2000 election cycle. According to the Gates Foundation web site, there was a three-year hiatus in philanthropic giving between 1995 and 1998. Curiously, the last donation in 1995 occurred just prior to the signing of the 1995 consent decree and the first donation in 1998 occurred the day prior to the Department of Justice filing its antitrust suit against Microsoft.

c. Lobbying

41. In addition to the millions Microsoft spent on campaign contributions, the company spent millions more lobbying Congress, the Administration and state officials to influence the outcome of the antitrust trial. Much like its campaign contributions, the company's lobbying presence in Washington has grown significantly in the last few years, its growth accelerating rapidly at the outset of the antitrust trial. Once just Jack Krumholtz, the company's lobbying group now employs 40 people in Redmond and Washington. The company has hired a dozen lobbying firms and counts among its consultants and lobbyists some of the most prominent figures in politics. A company with 30,000 employees, Microsoft has more lobbyists on retainer than the handful of U.S. companies with more than 300,000 employees. According to USA Today, "in 1996, the company spent $1.2 million on its Washington lobbying operations. [In 1999], that figure topped $4.6 million." According to Business Week in reference to the company's political spending, "These days, Microsoft money flows like champagne at a wedding." [16] Some of the biggest names in Washington going back 30 years represent Microsoft—many are former bosses of the people they lobby. There are more than a half-dozen former Members of Congress, four former White House Chief Counsels, countless dozens of former senior aides from the Congress, Justice Department and elsewhere throughout the highest levels of government.

i. Lobbying the Administration

42. Since the inauguration of George W. Bush in January 2001, Microsoft has made a concerted effort to strengthen its ties to the Administration. The Administration's decision to agree to a settlement widely accepted to be ineffective calls into question the nature of such ties.

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[14] USA Today, May 30, 2000, Drinkard, Ullman

[15] BusinessWeek, May 15, 2000, Carney, Borrus, Greene

[16] 16 ibid.

43. Prior to the announcement of the settlement, for example, it has been reported there was an inappropriate, if not illegal, discussion between a senior aide to Attorney General John Ashcroft and a lobbyist for AOL-Time Warner.

44. According to the account in the New York Times, the senior aide to General Ashcroft is David Israelite. Israelite was the political director of the Republican National Committee which received more than a million dollars from Microsoft during the 2000 presidential campaign.

In that role, Mr. Israelite directed fundraising operations and coordinated campaign activities between entities like Microsoft and the national party apparatus. Now General Ashcroft's deputy chief of staff in the Office of the Attorney General, Mr. Israelite recused himself from the case as a result of his ownership of 100 shares of Microsoft stock.

45. The Times wrote, "According to the notes of a person briefed about the conversation on Oct. 9, the day it is said to have occurred, Mr. Israelite called [AOL lobbyist] Mr. [Wayne] Berman. "Are you guys behind this business of the states hiring their own lawyers in the Microsoft case?" Mr. Israelite asked Mr. Berman in the predawn conversation, according to the notes. 'Tell your clients we wouldn't be too happy about that."

46. Israelite allegedly said on that call that the Supreme Court was soon to deny Microsoft's appeal, which would prompt the Department of Justice to seek a settlement. He was reported to have complained that AOL was "radicalizing" the states. [17] While the conversation was confirmed, the participants denied the content of the conversation. Still, it was enough to provoke angry responses from the technology industry and an accusation of "inappropriate and possibly illegal" conduct from a key House Democrat, Congressman John Conyers, Ranking Democratic Member of the House Judiciary Committee. In a letter to Attorney General Ashcroft, Rep. Conyers asked for more information about Israelite's alleged contacts with Berman, specifically asking for a list of contacts between Israelite and AOL officials. "If the allegations reported by the media are true, such active involvement by a recused public official could violate federal conflict of interest laws," Conyers wrote. [18]

ii. Lobbying on the Campaign Trail

47. Mirroring its political giving strategy, Microsoft's lobbying strategy has focused mainly on Republicans, while hedging its bets and simultaneously courting Democrats to a slightly lesser extent. 48. During the campaign, Microsoft Chairman Bill Gates was asked if a Republican administration would be a positive development for the company. It would "help," he said. [19] After all, before Judge Jackson ruled against Microsoft, then Governor Bush was quoted as saying that he stood "on the side of innovation, not litigation."

49. In fact, according to Newsweek Magazine, Bill Gates's visit to then Governor Bush in Austin was "part of a delicate political dance between the software giant and the Republican Party .... Dollar signs in their eyes, GOP leaders covet big political contributions from Microsoft's coffers. In turn, Microsoft executives, plagued by the Clinton Justice Department's lawsuit, hope that a Republican president and Congress might shut down the efforts to punish the company." 50. A number of other Microsoft executives, lobbyists and other paid counsel lead back to the Bush camp. The company's Chief Operating Officer, Steve Ballmer, served then Governor Bush as a technology adviser. Tony Feather, former Bush political director, is a partner with a Republican consulting firm Microsoft hired to manage grassroots lobbying efforts. And Microsoft has paid lobbyist and former head of the Republican Party Haley Barbour hundreds of thousands of dollars to assist the company in Washington. The company has also hired Vin Weber, a former Republican Congressman, and Michael Deaver, the former White House chief of staff and trusted adviser credited with crafting President Ronald Reagan's image and campaign advertisements in the 1980s. 51. In addition, Microsoft retained the services of Ralph Reed's Century Strategies "for the stated purpose of improving the company's public image." [20] Reed's firm—a paid consultant to the Bush campaign—aimed itself at mobilizing Bush supporters to express to the candidate their dissatisfaction with the antitrust trial. Once it was reported in the New York Times, the firm issued an apology. The Wall Street Journal later reported more on Ralph Reed's lobbying efforts on Microsoft's behalf:

"BOUNTY PAYMENTS are offered for pro-Microsoft letters and calls. Republican Ralph Reed's lobbying firm coordinates a network of public-relations and lobbying partners that generates grass-roots comments for cash. Payments are for letters, calls and visits to lawmakers and policy makers. An e-mail offers sample letters opposing a Microsoft breakup. A letter to a member of Congress from a mayor or local Republican Party official is worth $200, the guidelines say. A "premier" letter or visit by a fund-raiser known to the lawmaker or a family member can be worth up to $450 apiece. An op-ed piece in local papers fetches $500." [21]

52. Microsoft was lobbying the Democratic side as well. Like its team of Republican all-stars, Microsoft's team of Democrats had very close ties to its party as well. The team included "super lobbyist" Tommy Boggs, a top Washington insider with deep Democratic ties, Tom Downey, a former Democratic Congressman with close ties to former Vice President Al Gore, and Craig Smith, former campaign manager for Gore and board member of the Microsoft front group, Americans for Technology Leadership. As a board member of the ATL, Smith wrote to the Democratic National Committee urging his fellow party members to abandon support for the antitrust case, citing that support "would make us vulnerable to attack in the general election." [22]

53. The company also hired Ginny Terzano, former Gore press secretary, and tobacco industry ad man Carter Eskew, a former Gore adviser-cum-Microsoft image consultant who helped craft the company's 1999 advertising campaign aimed at bolstering its reputation as a "good corporate citizen." Also retained by Microsoft was super-lobbyist Jack Quinn, former Chief of Staff to Vice President Al Gore and White House Counsel.

iii. Lobbying Capitol Hill

54. But Microsoft did not focus solely on lobbying those who would soon be in control of the Department of Justice. Microsoft also waged a massive lobbying campaign aimed at Congress.

55. Alongside its Administration-oriented team, Microsoft recruited more lobbyists and consultants with ties to Members of Congress on both sides of the aisle. Republican hires included Allison McSlarrow, former deputy chief of staff to Senate Majority Leader Trent Lott, Ed Kutler, former assistant to then Speaker of the House Newt Gingrich, Mitch Bainwol, former chief of staff to the Senate Republican Caucus and the Republcian National Committee, Kerry Knott, former chief of staff to House Majority Leader Richard Armey, Ed Gillespie, former Armey and Republican National Committee communications director, and Mimi Simoneaux, former legislative director to House Commerce Committee Chairman Billy Tauzin, who was then-chairman of the House subcommittee with jurisdiction over the technology industry.

56. Among the Democrats lobbying on behalf of Microsoft were Jamie Houton, former associate director of the Senate Democratic Steering Committee, former Democratic Representative Vic Fazio, the third-highest ranking House Democrat, and his former top staffer Tom Jurkovich.

57. Despite Microsoft's assertion in its mere three-page Tunney Act disclosure filing, the company has incessantly used its tremendous resources to contact and influence Members of Congress. Over the course of a 16-month period beginning in 1999, Microsoft flew at least 130 Members of Congress or their staff to the company's headquarters in Redmond, Washington to lobby on a number of issues, including the antitrust case.

58. Perhaps the most egregious example of its heavy-handed largesse came in late 1999, when Microsoft lobbied Congress to cut $9 million from the budget for the Department of Justice's Antitrust Division, the very body that was leading the prosecution against Microsoft. Pilloried industries like the gun and tobacco had considered and rejected the strategy as overly bold.

59. According to the Washington Post, "Nonprofit organizations that receive financial support from [Microsoft] have also urged key congressional appropriators to limit spending for the division .... The non profits made their request in a letter last month after an all-expenses-paid trip to Microsoft headquarters in Redmond, Washington, where they were entertained and briefed on an array of issues facing the company." Further discussion follows in the next section entitled "Front Groups."

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[17] 17 New York Times, Nov. 2, 2001

[18] The Kansas City Star, Nov. 8, 2000, Kraske

[19] Common Cause, "The Microsoft Playbook"

[20] 20 ibid.

[21] WSJ, Oct. 20, 2000

[22] Common Cause, "The Microsoft Playbook"

60. After the previously secret letters from these non-profit groups were exposed, news of the attempts received widespread bipartisan criticism from media and politicians alike. House Judiciary Committee Chairman Henry Hyde (R-IL), called the division "one of the best-run departments in the government." Senator Herb Kohl, a Democrat on the Senate Judiciary Committee's antitrust subcommittee, said "it would set [a] terrible precedent to alter the division's budget based on one case alone." "It's like the Mafia trying to defund the FBI," said a prominent member of the Washington antitrust bar. [23] According to Jan McDavid, a lawyer with the Washington firm of Hogan & Hartson and chairperson of the American Bar Association's antitrust section, the section's policy states that it "opposes the use of the congressional budget and appropriations process to intervene in or influence ongoing antitrust enforcement matters." [24]One congressional GOP staffer went as far as to say that Microsoft's lobbying had "the odor of obstruction." [25]

61. Not surprisingly, Senator Slade Gorton, a Republican from Microsoft's home state of Washington, was adamantly supportive of the idea. Between 1997 and 1999, he received more than $50,000 from Microsoft and its employees. During the 2000 election cycle, Gorton's PAC received $17,000 while the Washington State Republican Party received more than $100,000.

iv. Lobbying the States

62. Because 19 state attorneys general initiated the antitrust case alongside the Department of Justice, Microsoft initiated a state lobbying campaign aimed at influencing those attorneys general to back away from the case. Microsoft even hired former Iowa House Speaker Donald Avenson to lobby the state's Attorney General, who was leading the group of states prosecuting the company. While Microsoft has retained professional "grassroots consultants" and others in many states, according to published reports, it is their efforts in the 19 states with Attorneys General who brought suit against them where the real pressure has occurred. In those states they have retained former lawmakers, law partners of the Attorneys General, their predecessors in that same office, business associates, and their own trusted political consultants. Microsoft has also hired those on whom the AGs are often most politically dependent, such as union leaders and activists in states with Democratic Attorneys General, and fiscally conservative activists in state with Republican AGs.

63. Perhaps the company's most successful effort to influence the state attorneys general came in 1998, when, three days after a $25,000 contribution to the South Carolina Republican Party, the state's Attorney General, Charles Condon, announced that he would withdraw from the case.

64. Yet, a few of its grassroots efforts targeted at the states have done more harm than good. Because of the unprecedented size, scope and cost of Microsoft's campaign, a number of high profile gaffes have exhibited the true nature of Microsoft's "public support" and the depths to which the company will go to influence the outcome of the trial.

65. In August 2001, the Los Angeles Times reported that two letters received by the Utah Attorney General's office, one of the prosecuting states, were sent by dead men. The campaign was funded by Craig Smith's Americans for Technology Leadership. Despite its claims to represent "thousands of small and mid-sized technology companies," news reports have repeatedly characterized ATL and its counterpart, the Association for Competitive Technology (ACT) as essentially wholly- owned subsidiaries of Microsoft Corp., whose funding launched and sustains both groups. [26] Other characteristics of the letter writing campaign to the Attorneys General included similar phrases popping up again and again, invalid return addresses, and even masses of identical letters with different signatories.

66. In one news story, Jim Prendergast, director of ATL, initially admitted only to providing letter writers with "message points." "We gave them a few bullet points, but that's about the extent of it," he said. When asked why identical phrases were popping up again and again, he confessed that sometimes ATL did indeed provide whole letters for the citizens to sign and send. "We'd write the letter and then send it to them," he admitted.

67. According to the same article, other states, like Minnesota and Iowa, were subjected to Microsoft's full-press grassroots lobbying campaign. Both states are participants in the antitrust case. In the case of Iowa, Attorney General Tom Miller received more than 50 letters in a month's time calling on him to drop the case. While none of the letters were identical, several phrases were similar. In four of the letters, for example, the following sentence appeared: "Strong competition and innovation have been the twin hallmarks of the technology industry." Three others contained this sentence: "If the future is going to be as successful as the recent past, the technology sector must remain free from excess regulation." [27]

68. Minnesota Attorney General Michael Hatch, who received 300 identical letters, characterized the campaign as "sleazy." Many of the letter writers were misled by Microsoft and one even wrote by hand to Attorney General Hatch to say so and to apologize for his previous letter. "I sure was misled," he wrote. "It's time for you to get out there and kick butt." [28]

vi. Tying Up the Lobbyists and Lawyers

69. A frequently employed tactic of Microsoft is to retain all major lobbying firms in key states so that its opposition cannot. Similarly, the company has hired many Washington, DC-based law firms with antitrust expertise to work on issues not related to the antitrust case. "They've got the whole town conflicted out," said one attorney. "They've sucked out all the oxygen." [29]

D. Front Groups 70. Supporting its political contributions and lobbying campaign, Microsoft undertook an aggressive public relations campaign aimed at "creating the appearance of a groundswell of public support for the company." [30]

71. In April 1998, a reporter for the Los Angeles Times received a package of confidential materials created by Edelman Public Relations for its client, Microsoft. Among the documents was a media relations strategy for a "multi-million dollar" campaign aimed at stemming the rash of antitrust investigations being undertaken by a number of states in conjunction with the federal government's investigation. According to the reporters, Greg Miller and Leslie Helm, "the elaborate plan ... hinges on a number of unusual—and some say unethical—tactics, including the planting of articles, letters to the editor and opinion pieces to be commissioned by Microsoft's top media handlers but presented by local firms as spontaneous testimonials." [31] While Microsoft contends that this strategy was never implemented, a number of the company's activities since the outset of the trial clearly indicate that most of the elements have been employed, at times repeatedly.

72. Throughout the antitrust trial, Microsoft relied heavily on many "independent" groups to support the company and to oppose the suit publicly. Some groups they created themselves out of whole cloth during the trial. Others sullied their long, distinguished backgrounds by trading hard cash for the use of their good names. Many denied any involvement with Microsoft, claiming that their passion came from concern for the economy or "innovation"—only to later be unmasked by the news media when evidence of their financial dealings with Microsoft came to light. One account suggests Microsoft has harnessed at least 15 advocacy groups and think tanks that use Microsoft donations to spread the company's message through polls, news conferences, Web sites, letters to the editor, research papers, opinion pieces and letter-writing campaigns aimed at lawmakers. [32]

73. Groups with names like Americans for Technology Leadership and the Association for Competitive Technology had the veneer of genuine independence, but were actually founded by Microsoft, launched with Microsoft dollars, and work on few other issues than the defense of Microsoft in its antitrust trial.

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[23] 23 Reuters, Oct. 17, 1999, Lawsky

[24] ibid.

[25] WS J. Oct. 15, 1999

[26] "Microsoft's All-Out Counterattack." Dan Carney, with Amy Borrus. BusinessWeek May 15, 2000; "Microsoft's Lobbying Largess Pays Off; Back-Channel Effort Wins Support for Case." James V. Grimaldi. Washington Post May 17, 2000: "Microsoft leans creatively on levers of political power as breakup decision looms, 'stealth" lobbying efforts aim for survival." Jim Drinkard and Owen Ullmann. USA Today May 30, 2000

[27] Los Angeles Times, August 23,2001

[28] 28 Los Angeles Times, August 23, 2001

[29] Business Week, May 15, 2000, Borrus, Carney, Greene

[30] "Trust Us, We're Experts" Sheldon Rampton and John Stauber, p. 8

[31] ibid.

[32] 32 USA TODAY, "Microsoft loans creatively on levers of political power as breakup decision looms, 'stealth" lobbying efforts aim for survival" by Jim Drinkard and Owen Ullmann, May 30, 2000

74. Even well known Washington, DC organizations with strong ties to the Administration and to Congress were well funded by Microsoft—respected fiscally conservative groups like Grover Norquist's Americans for Tax Reform, former White House Counsel C. Boyden Grey's Citizens for a Sound Economy, the National Taxpayers Union and Citizens Against Government Waste. But upon closer scrutiny, the true ties of these groups to Microsoft became apparent. By paying for pro-Microsoft advertisements, by sponsoring publications, by donating money outright, Microsoft both ensured and devalued their support.

75. According to Business Week, Microsoft "secretly funds those that do its public-relations work and pulls funding from those that dare question its positions." [33] On one such occasion, Microsoft pulled funding from the American Enterprise Institute once one of its fellows, Robert Bork, came out in favor of the antitrust trial even though the institute itself has no position on the trial and many of its technical and antitrust experts have expressed their opposition to the case. In another case, they quit a technology industry trade group, the Software and Information Industry Association, because a majority of its members supported the antitrust case.

i. Independent Institute

76. In one instance, Microsoft paid for the placement of newspaper advertisements by the California-based Independent Institute. Published in June 1999 in the New York Times and the Washington Post, the full-page ads featured a pro-Microsoft letter signed by 240 academics. Nothing in the ad's copy indicated to readers who—other than the Institute itself- was paying for the ads. Apparently, no one at the Independent Institute indicated to the letter's 240 signatories who was paying for the ad either. One signatory, Professor Simon Hakim of Temple University, stated that he would not have signed on to the advertisement had he known who was behind it. [34]

77. At a Washington, DC press conference unveiling the ads, Independent Institute president David Theroux answered a reporter's specific question about whether Microsoft had anything to do with the ads, including paying for them, with a resounding "no." When questioned months later by the New York Times, Theroux again denied that Microsoft paid for the ads. He said, instead, that the ads "were paid for out of our general funds." He also said the "implication that Microsoft had any influence is ridiculous." [35] But, according to a front-page article later written in the New York Times, "among the institute's internal documents is a bill from Mr. Theroux sent to John A. C. Kelly of Microsoft for the full costs of the ads, plus his travel expenses from San Francisco to Washington for the news conference, totaling $153,868.67. Included was a $5,966 bill for airline tickets for himself (Theroux) and a colleague. Unfortunately, he wrote Mr. Kelly, 'the airlines were heavily booked'' and 'we had to fly first class to DC and business class on the return.'" Furthermore, despite additional statements from its president that it "adheres to the highest standards of independent scholarly inquiry," internal institute documents have shown that, having contributed more than $200,000, or 20% of the institute's total outside contributions, Microsoft "secretly served as the institute's largest outside benefactor [in 1999]." [36] It wasn't until September that the institute finally admitted the extent of Microsoft's support.

78. In these instances, as in others, Microsoft's behavior outside the courtroom had a direct impact on the proceedings inside the courtroom. According to the New York Times, the ads prompted not only more news stories but also courtroom discussion. [37] Microsoft also covered the costs of the publication of the institute's book, "Winners, Losers and Microsoft: Competition and Antitrust in High Technology," which Microsoft's economic witness in the trial then used to support his own testimony.

ii. Biased Polling

79. According to Business Week, Microsoft has also commissioned polls to help foster an image of great public support for the company. At the outset of the 2000 presidential campaign, around the time of the Iowa caucus and the New Hampshire primary, Microsoft funded polls aimed at demonstrating the public's opposition to the antitrust case. Once the results were in, Microsoft distributed the results to the media in order to compel the candidates to incorporate their opposition to the case into their platform.

80. In addition, while the state Attorneys General were working through the spring on formulating a remedy, Microsoft front group Americans for Technology Leadership conducted and issued the results of a poll, which concluded that the public wanted the Attorneys General to focus their time and energy on other issues. In this case, Microsoft failed to disclose the nature of its relationship with ATL and the source of funding for the poll.

iii. Targeting the Antitrust Division of the Department of Justice

81. As stated above, one of Microsoft's most egregious attempts to use lobbying to influence the outcome of the antitrust trial came when the company lobbied to cut funding for the Antitrust Division of the Department of Justice. Microsoft funded a host of third parties to push forth its agenda.

82. In September 1999, the company flew representatives from about 15 major Washington, DC- based think tanks to Microsoft's Redmond, Washington headquarters "for three days of briefings that included tickets to a Seattle Mariners game and dinner and entertainment at Seattle's Teatro ZinZani, according to an itinerary." [38] Among the groups were Citizens for a Sound Economy, the National Taxpayers Union and Americans for Tax Reform, whose president, Grover Norquist, received $40,000 in lobbying payments from Microsoft during the second half of 1998.

83. Two days after returning from the trip, those three groups and three others secretly sent a letter to House appropriators urging that the Antitrust Division receive the lowest amount of funding proposed. In a coordinated effort, on the same day one of Microsoft's own lobbyists, Kerry Knott, met with Rep. Dan Miller of Florida to urge him to grant the Antitrust Division the lower amount of funds. That meeting prompted Rep. Miller to write to the chairman of the House Appropriations Commerce, Justice, State and Judiciary Subcommittee that "it would be a devastating blow to the high-tech industry and to our overall economy if the federal government succeeds in its efforts to regulate this industry through litigation." According to the Washington Post, "Miller said that while he objects to the funding on fiscal grounds, he had not focused on it until Knott and Citizens for a Sound Economy spokeswoman Christin Tinsworth, a former Miller staffer, made their pitch just off the House floor." [39]

84. A Washington Post editorial summarized the propriety of the incident this way: "[T]he fact that Microsoft has the right to lobby ... doesn't make the lobbying any less unseemly. If Microsoft has a gripe, it should make its complaint to the court hearing its case." [40]

III. CONCLUSIONS

85. The end result of Microsoft's unprecedented political campaign seems to have been rewarded by the weak settlement presented by the Department of Justice.

Respectfully Submitted,

Edward Roeder

January 28, 2002

APPENDIX A: Selected Tables

Table 1. Rapid Rises in Corporate PAC Fundraising, 1979–2002

(After Raising More than $50,000)

Microsoft Corporation. Formed: 1987–88, Total Raised, 1995–96: $59,750, Total Raised, 1997–98: $599,568, Difference: $539,818 = 903.46% Rank: 1

American Telephone & Telegraph Co., Formed: 1983–84, Total Raised, 1983–84: $215,423, Total Raised, 1985–86: $1,820,621, Difference: $1,605,198 = 745.14% Rank: 2

Drexel Burnham Lambert Group, Inc. Formed: 1981–82, Total Raised, 1983–84: $66,844, Total Raised, 1985–86: $446,279, Difference: $379,435 = 567.64% Rank: 3

Safari Club International Formed: 1979–80, Total Raised, 1993=94: $94,149, Total Raised, 1995–96: $545,915, Difference: $451,766 = 479.84% Rank: 4

Fluor Corporation Formed: 1979–80, Total Raised, 1987–88: $87,236, Total Raised,

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[13] Business Week, May 15, 2000, Carney, Borrus, Greene

[14]

I am aware there have been allegations that material relating to the Independent Institute was uncovered by Investigative Group International (IGI), allegedly retained by Oracle Corporation. My understanding of the circumstances indicates that employees of IGI's were terminated as a result of their actions. I have not reviewed those allegations' specifically, since the subject of my review was defendant, Microsoft Corporation. Regardless, neither the Independent Institute nor Microsoft ever denied the validity of the claims after they were exposed.

[35] Associated Press, September 18, 1999

[36] New York Times, Sept. 19, 1999

[37] New York Times, Sept. 19, 1999

[38] The Washington Post, Oct. 15, 1999, Morgan, Eilperin

[39] ibid.

[40] Washington Post, Oct. 24, 1999

1989–90: $494,417, Difference: $407,181 = 466.76% Rank: 5

Dow Chemical, USA—HQ Formed: 1979–80, Total Raised, 1995–96: $60,290, Total Raised, 1997–98: $331,286, Difference: $270,996 = 449.49% Rank: 6

Lucent Technologies, Inc. Formed: 1995–96, Total Raised, 1995–96: $87,568, Total Raised, 1997–98: $464,592, Difference: $377,024 = 430.55% Rank: 7

Nat'l Star Route Mail Contractors Ass'n Formed: 1981–82, Total Raised, 1995–96: $63,512, Total Raised, 1983–84: $313,609, Difference: $250,097 = 393.78% Rank: 8

Eastern Airlines, Inc. Formed: 1979–80, Total Raised, 1985–86: $53,309, Total Raised, 1987–88: $243,529, Difference: $190,220 = 356.83% Rank: 9

Pacific Telesis Group Formed: 1979–80, Total Raised, 1981–82: $65,538, Total Raised, 1983–84: $280,183, Difference: $214,645 = 327.51% Rank: 10

Henley Group/Wheelabrator Technologies, Inc. Formed: 1979–80, Total Raised, 1985–86: $89,255, Total Raised, 1987–88: $380,102, Difference: $290,847 = 325.86% Rank: 11

Firstar (First Wisconsin) Corp. Formed: 1979–80, Total Raised, 1997–98: $113,743, Total Raised, 1999–00: $480,239, Difference: $366,496 = 322.21% Rank: 12

U.S. West, Inc. Formed: 1983–84, Total Raised, 1987–88: $123,767, Total Raised, 1989–90: $521,886, Difference: $398,119 = 321.67% Rank: 13

CSX Corp.—Jeffboat Formed: 1981–82, Total Raised, 1997–98: $74,125, Total Raised, 1999–00: $303,763, Difference: $229,638 = 309.80% Rank: 14

J. P. Morgan & Company, Inc. Formed: 1979–80, Total Raised, 1983–84: $68,569, Total Raised, 1985–86: $274,515, Difference: $205,946 = 300.35% Rank: 15

Source: Computer analysis by Sunshine Press Services of Federal

Election Commission data, Jan. 1, 1979 through Dec. 31, 2000.

Table 2. Continued Rises in Corporate PAC Fundraising, 1979–2002

Following Rapid Rise of More than 300% from a base of $50,000+ (Ranked by Percentage Rise in Next Election Cycle)

Microsoft Corporation Formed: 1987–88, Total Raised, 1995–96: $59,750, Total Raised, 1997–98: $599,568, Difference: $539,818 = 903.46% Next Cycle: 1999–00, Total Raised: $1,589,684, Difference: $990,116 = 165.14% Rank: 1

J. P. Morgan & Company, Inc. Formed: 1979–80, Total Raised, 1983–84: $68,569, Total Raised, 1985–86: $274,515, Difference: $205,946 = 300.35% Next Cycle: 1987–88, Total Raised: $514,285, Difference: $239,770 = 87.34% Rank: 2

American Telephone & Telegraph Co. Formed: 1983–84, Total Raised, 1983–84: $215,423, Total Raised, 1985–86: $1,820,621, Difference: $1,605,198 = 745.14% Next Cycle: 1987–88, Total Raised: $3,043,510, Difference: $1,222,889 = 67.17% Rank: 3

U.S. West, Inc. Formed: 1983–84, Total Raised, 1987–88: $123,767, Total Raised, 1989–90: $521,886, Difference: $398,119 = 321.67% Next Cycle: 1991–92, Total Raised: $734,130, Difference: $212,244 = 40.67% Rank: 4

Pacific Telesis Group Formed: 1979–80, Total Raised, 1981–82: $65,538, Total Raised, 1983–84: $280,183, Difference: $214,645 = 327.51% Next Cycle: 1985–86, Total Raised: $364,113, Difference: $83,930 = 29.96% Rank: 5

Fluor Corporation Formed: 1979–80, Total Raised, 1987–88: $87,236, Total Raised, 1989–90: $494,417, Difference: $407,181 = 466.76% Next Cycle: 1991–92, Total Raised: $610,142, Difference: $115,725 = 23.41% Rank: 6

Nat'l Star Route Mail Contractors Ass'n Formed: 1981–82, Total Raised, 1995–96: $63,512, Total Raised, 1983–84: $313,609, Difference: $250,097 = 393.78% Next Cycle: 1985–86, Total Raised: $43,468, Difference: $2,269 = 5.51% Rank: 7

Firstar (First Wisconsin) Corp. Formed: 1979–80, Total Raised, 1997–98: $113,743, Total Raised, 1999–00: $480,239, Difference: $366,496 = 322.21% Next Cycle: (data incomplete, cycle now in progress)

CSX Corp.—Jeffboat Formed: 1981–82, Total Raised, 1997–98: $74,125, Total Raised, 1999–00: $303,763, Difference: $229,638 = 309.80% Next Cycle: (data incomplete, cycle now in progress)

Dow Chemical, USA—HQ Formed: 1979–80, Total Raised, 1995–96: $60,290, Total Raised, 1997–98: $331,286, Difference: $270,996 = 449.49% Next Cycle: 1999–00, Total Raised: $279,618, Difference: $-51,668 = -15.60% Rank: 10

Lucent Technologies, Inc. Formed: 1995–96, Total Raised, 1995–96: $87,568, Total Raised, 1997–98: $464,592, Difference: $377,024 = 430.55% Next Cycle: 1999–00, Total Raised: $343,462, Difference: $-121,130 = -26.07% Rank: 11

Drexel Burnham Lámbert Group, Inc. Formed: 1981–82, Total Raised, 1983–84: $66,844, Total Raised, 1985–86: $446,279, 27

MTC-00028684—0173 Difference: $379,435 = 567.64% Next Cycle: 1987–88, Total Raised: $310,188, Difference: $-136,091 = -30.49% Rank: 12

Safari Club International Formed: 1979–80, Total Raised, 1993=94: $94,149, Total Raised, 1995–96: $545,915, Difference: $451,766 = 479.84% Next Cycle: 1997–98, Total Raised: $378,078, Difference: $-167,837 = -30.74% Rank: 13

Eastern Airlines, Inc. Formed: 1979–80, Total Raised, 1985–86: $53,309, Total Raised, 1987–88: $243,529, Difference: $190,220 = 356.83% Next Cycle: 1989–90, Total Raised: $105,734, Difference: $-137,795 = -56.58% Rank: 14

Henley Group/Wheelabrator Technologies, Formed: 1979–80, Total Raised, 1985–86: $89,255, Total Raised, 1987–88: $380,102, Difference: $290,847 = 325.86% Next Cycle: 1989–90, Total Raised: $141,072, Difference: $-239,030 = -62.89% Rank: 15

Source: Computer analysis by Sunshine Press Services of Federal

Election Commission data, Jan. 1, 1979 through Dec. 31, 2000.

TABLE 3.—LARGEST CASH BALANCES AT END OF 1999–2000 ELECTION CYCLE

American Corporate PACs

Rank	PAC Sponsor	Cash on Hand
1	Microsoft Corporation.	$712,874
2	Southern Bell Telephone & Telegraph Co..	617,922
3	Crawford Group / Enterprise Leasing.	611,442
4	Southwestern Bell Corporation.	550,841
5	Chrysler / Gulfstream Aerospace Corp..	481,068
6	Federal Express Corporation.	424,739
7	NationsBank	413,663
8	First Union Corporation.	410,242
9	First Bank System, Inc..	405,187
10	Stone Container Corporation.	366,973
11	General Electric Company.	359,469
12	National Health Corporation.	340,205
13	Exxon Corporation	328,559
14	Outback Steakhouse, Inc..	325,977
15	Columbia / HCA Healthcare.	284,827
16	American Family Corporation.	283,963
17	Cooper Industries, Inc..	281,054
18	Suntrust Banks, Inc.	275,779
19	Winn-Dixie Stores, Inc..	273,232
20	Jacobs Engineering Group, Inc..	272,982
21	Ford Motor Company	264,914
22	U.S. West, Inc.	261,289
23	Compass Bancshares, Inc..	253,625

Source: Computer analysis by Sunshine Press Services of Federal Election Commission data.

Table 4. Largest Percentage Increases in Receipts Over Two

Election Cycles

American Corporate PACs With More Than $50,000

Microsoft Corporation Formed:1987–88, Total Raised, 1995–96: $59,750, Total Raised, 1999–00: $1,589,684, Difference: $1,529,934 = 2,560.56% Rank: 1

American Telephone & Telegraph Co. Formed:1983–84, Total Raised, 1983–84: $215,423, Total Raised, 1987–88: $3,043,510, Difference: $2,828,087 = 1,312.81% Rank: 2

Firstar (First Wisconsin) Corp. Formed:1979–80, Total Raised, 1995–96: $59,437, Total Raised, 1999–00: $480,239, Difference: $420,802 = 707.98% Rank: 3

J. P. Morgan & Company, Inc. Formed:1979–80, Total Raised, 1983–84: $68,569, Total Raised, 1987–88: $514,285, Difference: $445,716 = 650.03% Rank: 4

U.S. West, Inc. Formed:1983–84, Total Raised, 1985–86: $69,588, Total Raised, 1989–90: $521,886, Difference: $452,298 = 649.97% Rank: 5

Bell Atlantic Corp. Formed:1983–84, Total Raised, 1993=94: $146,949, Total Raised, 1997–98: $1,046,617, Difference: $899, 668 = 612.23% Rank: 6

Fluor Corporation Formed:1979–80, Total Raised, 1987–88: $87,236, Total Raised, 1991–92: $610,142, Difference: $522,906 = 599.42% Rank: 7

Dow Chemical, USA—HQ Formed:1979–80, Total Raised, 1993=94: $53,297, Total Raised, 1997–98: $331,286, Difference: $277,989 = 521.58% Rank: 8

GA Technologies, Inc. Formed:1987–88, Total Raised, 1987–88: $51,702, Total Raised, 1991–92: $320,081, Difference: $268,379 = 519.09% Rank: 9

U.S. West, Inc. Formed:1983–84, Total Raised, 1987–88: $123,767, Total Raised, 1991–92: $734,130, Difference: $610,363 = 493.15% Rank: 10

American Information Technologies Corp. Formed:1983–84, Total Raised, 1989–90: $233,266, Total Raised, 1993=94: $1,370,945, Difference: $1,137,679 = 487.72% Rank: 11

Allied-Signal, Inc. Formed:1979–80, Total Raised, 1981–82: $65,703, Total Raised, 1985–86: $384,530, Difference: $318,827 = 485.25% Rank: 12

Glaxo, Inc. Formed:1985–86, Total Raised, 1989–90: $106,192, Total Raised, 1993=94: $607,224, Difference: $501,032 = 471.82% Rank: 13

Nynex Corporation Formed:1983–84, Total Raised, 1991–92: $62,304, Total Raised, 1995–96: $346,809, Difference: $284,505 = 456.64% Rank: 14

Pacific Telesis Group Formed:1979–80, Total Raised, 1981–82: $65,538, Total Raised, 1985–86: $364,113; Difference: $298,575 = 455.58% Rank: 15

Philip Morris, Inc: Formed:1979–80, Total Raised, 1979–80: $93,291, Total Raised, 1983–84: $499,938, Difference: $406,647 = 435.89% Rank: 16

American Electric Power Company, Inc. Formed:1979–80, Total Raised, 1995–96: $106,155, Total Raised, 1999–00: $545,295, Difference: $439,140 = 413.68% Rank: 17

Waste Management, Inc. Formed:1979–80, Total Raised, 1981–82: $76,738, Total Raised, 1985–86: $391,637, Difference: $314,899 = 410.36% Rank: 18

Cigna Corporation Formed:1979–80, Total Raised, 1979–80: $56,174, Total Raised, 1985–86: $286,319, Difference: $230,145 = 409.70% Rank: 19

LDDS Communications, Inc. Formed:1987–88, Total Raised, 1993=94: $63,542, Total Raised, 1997–98: $323,680, Difference: $260,138 = 409.40% Rank: 20

Safari Club International Formed:1979–80, Total Raised, 1991–92: $107,314, Total Raised, 1995–96: $545,915, Difference: $438,601 = 408.71% Rank: 21

Michigan Bell Telephone Company Formed:1979–80, Total Raised, 1983–84: $53,326, Total Raised, 1987–88: $266,944, Difference: $213,618 = 400.59% Rank: 22

E1 Paso Company Formed:1979–80, Total Raised, 1995–96: $75,920, Total Raised, 1999–00: $379,370, Difference: $303,450 = 399.70% Rank: 23

Merrill Lynch & Company, Inc. Formed:1979–80, Total Raised, 1979–80: $56,895, Total Raised, 1983–84: $282,297, Difference: $225,402 = 396.17% Rank: 24

Federal Express Corporation Formed:1983–84, Total Raised, 1983–84: $230,478, Total Raised, 1987–88: $1,139,978, Difference: $909,500 = 394.61% Rank: 25

MBNA Corporation Formed:1991–92, Total Raised, 1991–92: $184,764, Total Raised, 1995–96: $903,599, Difference: $718,835 = 389.06% Rank: 26

MCI Telecommunications Corporation Formed:1983–84, Total Raised, 1993=94: $104,688, Total Raised, 1997–98: $510,195, Difference: $405,507 = 387.35% Rank: 27

Smith Barney & Company Formed:1979–80, Total Raised, 1995–96: $128,843, Total Raised, 1999–00: $627,332, Difference: $498,489 = 386.90% Rank: 28

Chrysler / Gulfstream Aerospace Corp. Formed:1979–80, Total Raised, 1981–82: $77,152, Total Raised, 1985–86: $373,792, Difference: $296,640 = 384.49% Rank: 29

American Information Technologies Corp. Formed:1983–84, Total Raised, 1987–88: $105,465, Total Raised, 1991–92: $501,210, Difference: $395,745 = 375.24% Rank: 30

Waste Management, Inc. Formed:1979–80, Total Raised, 1983–84: $138,076, Total Raised, 1987–88: $653,361, Difference: $515,285 = 373.19% Rank: 31

Texas Air Corp. Formed:1979–80, Total Raised, 1981–82: $53,560, Total Raised, 1985–86: $252,847, Difference: $199,287 = 372.08% Rank: 32

Federal Express Corporation Formed:1983–84, Total Raised, 1985–86: $334,334, Total Raised, 1989–90: $1,561,744, Difference: $1,227,410 = 367.12% Rank: 33

Drexel Burnham Lambert Group, Inc. Formed:1981–82, Total Raised, 1983–84: $66,844, Total Raised, 1987–88: $310,188, Difference: $243,344 = 364.05% Rank: 34

Dow Chemical, USA—HQ Formed:1979–80, Total Raised, 1995–96: $60,290, Total Raised, 1999–00: $279,618, Difference: $219,328 = 363.79% Rank: 35

General Telephone & Electronics Corp. Formed:1979–80, Total Raised, 1987–88: $169,871, Total Raised, 1991–92: $779,782, Difference: $609,911 = 359.04% Rank: 36

NationsBank Formed:1979–80, Total Raised, 1987–88: $238,405, Total Raised, 1991–92: $1,094,012, Difference: $855,607 = 358.89% Rank: 37

CSX Corp.—Jeffboat Formed:1981–82, Total Raised, 1995–96: $66,789, Total Raised, 1999–00: $303,763, Difference: $236,974 = 354.81% Rank: 38

Sears Roebuck & Co. (Allstate) Formed:1979–80, Total Raised, 1981–82: $50,277, Total Raised, 1985–86: $223,313, Difference: $173,036 = 344.17% Rank: 39

First Union Corporation Formed:1983–84, Total Raised, 1995–96: $119,980, Total Raised, 1999–00: $525,262, Difference: $405,282 = 337.79% Rank: 40

Brown & Williamson Tobacco Corp. Formed:1979–80, Total Raised, 1991–92: $117,271, Total Raised, 1995–96: $512,562, Difference: $395,291 = 337.07% Rank: 41

Coca-Cola Enterprises, Inc. Formed:1991–92, Total Raised, 1993=94: $54,312, Total Raised, 1997–98: $232,861, Difference: $178,549 = 328.75% Rank: 42

Mutual of Omaha Insurance Company Formed:1979–80, Total Raised, 1989–90: $74,612, Total Raised, 1993=94: $319,846, Difference: $245,234 = 328.68% Rank: 43

Chase Manhattan Bank Formed:1979–80, Total Raised, 1983–84: $64,813, Total Raised, 1987–88: $274,828, Difference: $210,015 = 324.03% Rank: 44

Raytheon Company Formed:1979–80, Total Raised, 1979–80: $54,158, Total Raised, 1983–84: $228,899, Difference: $174,741 = 322 65% Rank: 45

Manufacturers Hanover Corporation Formed:1979–80, Total Raised, 1979–80: $69,178, Total Raised, 1983–84: $291,068, Difference: $221,890 = 320.75% Rank: 46

Tenneco, Inc. Formed:1979–80, Total Raised, 1991–92: $208,019, Total Raised, 1995–96: $866,590, Difference: $658,571 = 316.59% Rank: 47

Loral Systems Group Formed:1985–86, Total Raised, 1989–90: $86,215, Total Raised, 1993=94: $358,895, Difference: $272,680 = 316.28% Rank: 48

Koch Industries, Inc. Formed:1989–90, Total Raised, 1993=94: $202,392, Total Raised, 1997–98: $831,184, Difference: $628,792 = 310.68% Rank: 49

Koch Industries, Inc. Formed:1989–90, Total Raised, 1991–92: $104,401, Total Raised, 1995–96: $428,074, Difference: $323,673 = 310.03% Rank: 50

Bellsouth Corporation Formed:1983–84, Total Raised, 1985–86: $70,383, Total Raised, 1989–90: $287,836, Difference: $217,453 = 308.96% Rank: 51

Rockwell International Corporation Formed:1979–80, Total Raised, 1979–80: $123,700, Total Raised, 1983–84: $497,473, Difference: $373,773 = 302.16% Rank: 52

Safari Club International Formed:1979–80, Total Raised, 1993=94: $94,149, Total Raised, 1997–98: $378,078, Difference: $283,929 = 301.57% Rank: 53

RJR Nabisco, Inc. Formed:1979–80, Total Raised, 1981–82: $64,199, Total Raised, 1985–86: $256,498, Difference: $192,299 = 299.54% Rank: 54

American Information Technologies Corp. Formed:1983–84, Total Raised, 1985–86: $58,487, Total Raised, 1989–90: $233,266, Difference: $174,779 = 298.83% Rank: 55

Southern Company Formed:1981–82, Total Raised, 1995–96: $125,656, Total Raised, 1999–00: $497,118, Difference: $371,462 = 295.62% Rank: 56

Lucent Technologies, Inc. Formed:1995–96, Total Raised, 1995–96: $87,568, Total Raised, 1999–00: $343,462, Difference: $255,894 = 292.22% Rank: 57

Fluor Corporation Formed:1979–80, Total Raised, 1985–86: $126,081, Total Raised, 1989–90: $494,417, Difference: $368,336 = 292.14% Rank: 58

Central & South West Services, Inc. Formed:1979–80, Total Raised, 1993=94: $57,841, Total Raised, 1997–98: $226,201, Difference: $168,360 = 291.07% Rank: 59

HSBC Americas / Marine Midland Banks Formed:1981–82, Total Raised, 1983–84: $52,071, Total Raised, 1987–88: $200,106, Difference: $148,035 = 284.29% Rank: 60

Jacobs Engineering Group, Inc. Formed:1981–82, Total Raised, 1995–96: $127,472, Total Raised, 1999–00: $488,875, Difference: $361,403 = 283.52% Rank: 61

Banc One Corporation Formed:1979–80, Total Raised, 1989–90: $270,704, Total Raised, 1993=94: $1,037,361, Difference: $766,657 = 283.21% Rank: 62

Archer-Daniels-Midland Company Formed:1979–80, Total Raised, 1979–80: $50,369, Total Raised, 1983–84: $192,426, Difference: $142,057 = 282.03% Rank: 63

Aetna Life and Casualty Company Formed:1983–84, Total Raised, 1983–84: $88,329, Total Raised, 1987–88: $333,008, Difference: $244,679 = 277.01% Rank: 64

Outback Steakhouse, Inc. Formed:1991–92, Total Raised, 1993=94: $230,022, Total Raised, 1997–98: $865,042, Difference: $635,020 = 276.07% Rank: 65

Lockheed Corporation Formed:1979–80, Total Raised, 1979–80: $136,127, Total Raised, 1983–84: $511,131, Difference: $375,004 = 275.48% Rank: 66

Duke Power Company Formed:1979–80, Total Raised, 1995–96: $69,970, Total Raised, 1999–00: $261,562, Difference: $191,592 = 273.82% Rank: 67

TRW, Inc. Formed:1979–80, Total Raised, 1979–80: $69,121,
Total Raised, 1983–84: $256,296
Difference: $187,175 = 270.79% Rank: 68

United Telecommunications, Inc. Formed:1979–80
Total Raised, 1983–84: $66,922
Total Raised, 1987–88: $247,495
Difference: $180,573 = 269.83% Rank: 69

Loral Systems Group Formed:1985–86
Total Raised, 1987–88: $55,311
Total Raised, 1991–92: $202,887
Difference: $147,576 = 266.81% Rank: 70

American General Corporation Formed:1979–80
Total Raised, 1995–96: $182,254
Total Raised, 1999–00: $668,062
Difference: $485,808 = 266.56% Rank: 71

Phillips Petroleum Company Formed:1979–80
Total Raised, 1983–84: $99,365
Total Raised, 1987–88: $364,141
Difference: $264,776 = 266.47% Rank: 72

Entergy Operations, Inc. Formed:1989–90
Total Raised, 1993=94: $64,650
Total Raised, 1997–98: $236,109
Difference: $171,459 = 265.21% Rank: 73

American Information Technologies Corporation Formed:1979–80
Total Raised, 1983–84: $68,916
Total Raised, 1987–88: $249,574
Difference: $180,658 = 262.14% Rank: 74

Sea-Land Corporation Formed:1979–80
Total Raised, 1987–88: $52,291
Total Raised, 1991–92: $189,284
Difference: $136,993 = 261.98% Rank: 75

First City Bancorporation of Texas, Inc. Formed:1979–80
Total Raised, 1979–80: $85,372
Total Raised, 1983–84: $307,649
Difference: $222,277 = 260.36% Rank: 76

Banc One Corporation Formed:1979–80
Total Raised, 1987–88: $173,949
Total Raised, 1991–92: $622,458
Difference: $448,509 = 257,84% Rank: 77

E1 Paso Company Formed:1979–80
Total Raised, 1993=94: $74,169
Total Raised, 1997–98: $264,338
Difference: $190,169 = 256.40% Rank: 78

Dow Chemical, USA Formed:1979–80
Total Raised, 1985–86: $77,017
Total Raised, 1989–90: $274,424
Difference: $197,407 = 256.32% Rank: 79

Timken Company Formed:1995–96
Total Raised, 1995–96: $79,717
Total Raised, 1999–00: $277,044
Difference: $197,327 = 247.53% Rank: 80

Southern Bell Telephone & Telegraph Co. Formed:1979–80
Total Raised, 1981–82: $54,650
Total Raised, 1985–86: $189,822
Difference: $135,172 = 247.34% Rank: 81

National City Corporation Formed:1981–82
Total Raised, 1983–84: $59,921
Total Raised, 1987–88: $207,361
Difference: $147,440 = 246.06% Rank: 82

Wal-Mart Stores, Inc. Formed:1979–80
Total Raised, 1989–90: $56,535
Total Raised, 1993=94: $195,579
Difference: $139,044 = 245.94% Rank: 83

Eastern Airlines, Inc. Formed:1979–80
Total Raised, 1983–84: $70,676
Total Raised, 1987–88: $243,529
Difference: $172,853 = 244.57% Rank: 84

Heublein, Inc. Formed:1979–80
Total Raised, 1985–86: $52,292
Total Raised, 1989–90: $178,944
Difference: $126,652 = 242.20% Rank: 85

Salomon Brothers, Inc. Formed:1981–82
Total Raised, 1981–82: $106,250
Total Raised, 1985–86: $363,500
Difference: $257,250 = 242.12% Rank: 86

First Bank System, Inc. Formed:1979–80
Total Raised, 1995–96: $85,349
Total Raised, 1999–00: $290,311
Difference: $204,962 = 240.15% Rank: 87

Goodyear Tire & Rubber Company Formed:1979–80
Total Raised, 1993=94: $54,504
Total Raised, 1997–98: $185,093
Difference: $130,589 = 239.60% Rank: 88

North Carolina National Bank Corp. Formed:1979–80
Total Raised, 1979–80: $79,627
Total Raised, 1983–84: $269,718
Difference: $190,091 = 238.73% Rank: 89

Caterpillar Tractor Company Formed:1981–82
Total Raised, 1985–86: $65,232
Total Raised, 1989–90: $219,844
Difference: $154,612 = 237.02% Rank: 90

Lehman Brothers Kuhn Loec, Inc. Formed:1979–80
Total Raised, 1979–80: $51,400
Total Raised, 1983–84: $171,973
Difference: $120,573 = 234.58% Rank: 91

Northrop Corporation Formed:1979–80
Total Raised, 1979–80: $86,250
Total-Raised, 1983–84: $288,361
Difference: $202,111 = 234.33% Rank: 92

GMC Electronic Data Systems Corporation Formed:1979–80
Total Raised, 1987–88: $116,315
Total Raised, 1991–92: $388,257
Difference: $271,942 = 233.80% Rank: 93

Textron, Inc. Formed:1979–80
Total Raised, 1981–82: $116,552
Total Raised, 1985–86: $388,852
Difference: $272,300 = 233.63% Rank: 94

Southern Bell Telephone & Telegraph Co. Formed:1979–80
Total Raised, 1987–88: $203,554
Total Raised, 1991–92: $678,024
Difference: $474,470 = 233.09% Rank: 95

United Parcel Service of America, Inc. Formed:1979–80
Total Raised, 1983–84: $272,659
Total Raised, 1987–88: $905,482
Difference: $632,823 = 232.09% Rank: 96

Gun Owners of America (gun control foes) Formed:1991–92
Total Raised, 1995–96: $93,086
Total Raised, 1999–00: $309,050
Difference: $215,964 = 232.00% Rank: 97

Dun & Bradstreet Corporation Formed:1979–80
Total Raised, 1981–82: $51,577
Total Raised, 1985–86: $169,954
Difference: $118,377 = 229.52% Rank: 98

J. C. Penney Company, Inc. Formed:1979–80
Total Raised, 1981–82: $91,484
Total Raised, 1985–86: $301,185
Difference: $209,701 = 229.22% Rank: 99

United Parcel Service of America, Inc. Formed:1979–80
Total Raised, 1985–86: $567,328
Total Raised, 1989–90: $1,865,785
Difference: $1,298,457 = 228.87% Rank: 100

Source: Computer analysis by Sunshine Press Services of Federal Election Commission data, Jan. 1, 1979 through Dec. 31, 2000.

Table 5. Rapid Rises in Corporate PAC Spending, 1979–2002
(After Spending More than $250,000)

Microsoft Corporation Formed: 1987–88
Total Spent, 1997–98: $267,500
Total Spent, 1999–00: $1,221,730
Difference: $954,230 = 356.72% Rank: 1

Federal Express Corporation Formed: 1983–84
Total Spent, 1985–86: $392,441
Total Spent, 1987–88: $1,093,998
Difference: $701,557 = 178.77% Rank: 2

Compass Bancshares, Inc. Formed: 1983–84
Total Spent, 1991–92: $363,617
Total Spent, 1993=94: $974,893
Difference: $611,276 = 168.11% Rank: 3

Metropolitan Life Insurance Company Formed: 1979–80
Total Spent, 1997–98: $310,633
Total Spent, 1999–00: $815,624
Difference: $504,991 = 162.57% Rank: 4

Bell Atlantic Corp. Formed: 1983–84
Total Spent, 1995–96: $388,073
Total Spent, 1997–98: $1,006,783
Difference: $618,710 = 159.43% Rank: 5

Planned Parenthood Action Fund, Inc. Formed: 1995–96
Total Spent, 1997–98: $359,408
Total Spent, 1999–00: $914,501
Difference: $555,093 = 154.45% Rank: 6

RJR Nabisco, Inc. Formed: 1979–80
Total Spent, 1987–88: $348,897
Total Spent, 1989–90: $872,626
Difference: $523,729 = 150.11% Rank: 7

Southern Bell Telephone & Telegraph Co. Formed: 1979–80
Total Spent, 1989–90: $265,096
Total Spent, 1991–92: $650,905
Difference: $385,809 = 145.54% Rank: 8

American Information Technologies Corp. Formed: 1983–84
Total Spent, 1991–92: $518,442
Total Spent, 1993=94: $1,207,881
Difference: $689,439 = 132.98% Rank: 9

Tenneco, Inc. Formed: 1979–80
Total Spent, 1993=94: $380,688
Total Spent, 1995–96: $860,515
Difference: $479,827 = 126.04% Rank: 10

Banc One Corporation Formed: 1979–80

Total Spent, 1991–92: $421,467
Total Spent, 1993=94: $934,434
Difference: $512,967 = 121.71% Rank: 11
American General Corporation Formed: 1979–80
Total Spent, 1997–98: $291,488
Total Spent, 1999–00: $634,510
Difference: $343,022 = 117.68% Rank: 12
Boeing Company Formed: 1981–82
Total Spent, 1995–96: $370,105
Total Spent, 1997–98: $759,495
Difference: $389,390 = 105.21% Rank: 13
MBNA Corporation Formed: 1991–92
Total Spent, 1993=94: $403,796
Total Spent, 1995–96: $825,974
Difference: $422,178 = 104.55% Rank: 14
Compass Bancshares, Inc. Formed: 1983–84
Total Spent, 1995–96: $729,612
Total Spent, 1997–98: $1,468,094
Difference: $738,482 = 101.22% Rank: 15
Southtrust Corporation Formed: 1979–80
Total Spent, 1995–96: $266,593
Total Spent, 1997–98: $530,794
Difference: $264,201 = 99.10% Rank: 16
FirstEnergy Corp. (Ohio Edison) Formed: 1981–82
Total Spent, 1997–98: $253,675
Total Spent, 1999–00: $502,890
Difference: $249,215 = 98.24% Rank: 17
Koch Industries, Inc. Formed: 1989–90
Total Spent, 1995–96: $428,664
Total Spent, 1997–98: $807,318
Difference: $378,654 = 88.33% Rank: 18
Northrop Corporation Formed: 1979–80
Total Spent, 1993=94: $422,969
Total Spent, 1995–96: $794,880
Difference: $371,911 = 87.93% Rank: 19
J.P. Morgan & Company, Inc. Formed: 1979–80
Total Spent, 1985–86: $262,250
Total Spent, 1987–88: $492,681
Difference: $230,431 = 87.87% Rank: 20
Philip Morris, Inc. Formed: 1979–80
Total Spent, 1983–84: $403,699
Total Spent, 1985–86: $754,949
Difference: $351,250 = 87.01% Rank: 21
Eli Lilly & Company Formed: 1979–80
Total Spent, 1995–96: $375,583
Total Spent, 1997–98: $700,580
Difference: $324,997 = 86.53% Rank: 22
Southwestern Bell Corporation Formed: 1979–80
Total Spent, 1993=94: $365,700
Total Spent, 1995–96: $674,857
Difference: $309,157 = 84.54% Rank: 23
Rockwell International Corporation Formed: 1979–80
Total Spent, 1981–82: $266,688
Total Spent, 1983–84: $490,541
Difference: $223,853 = 83.94% Rank: 24
United Parcel Service of America, Inc. Formed: 1979–80
Total Spent, 1991–92: $1,835,231
Total Spent, 1993=94: $3,350,884
Difference: $1,515,653 = 82.59% Rank: 25
General Telephone & Electronics Corp. Formed: 1979–80
Total Spent, 1989–90: $420,131
Total Spent, 1991–92: $765,805
Difference: $345,674 = 82.28% Rank: 26
United Parcel Service of America, Inc. Formed: 1979–80
Total Spent, 1985–86: $522,514
Total Spent, 1987–88: $943,815
Difference: $421,301 = 80.63% Rank: 27
Waste Management, Inc. Formed: 1979–80
Total Spent, 1985–86: $341,975
Total Spent, 1987–88: $615,059
Difference: $273,084 = 79.85% Rank: 28
Houston Industries, Inc. Formed: 1979–80
Total Spent, 1983–84: $256,353
Total Spent, 1985–86: $460,684
Difference: $204,331 = 79.71% Rank: 29
Cigna Corporation Formed: 1979–80
Total Spent, 1997–98: $352,512
Total Spent, 1999–00: $624,736
Difference: $272,224 = 77.22% Rank: 30
United Parcel Service of America, Inc. Formed: 1979–80
Total Spent, 1987–88: $943,815
Total Spent, 1989–90: $1,658,366
Difference: $714,551 = 75.71% Rank: 31
Black America's PAC Formed: 1995–96
Total Spent, 1995–96: $1,899,486
Total Spent, 1997–98: $3,337,602
Difference: $1,438,116 = 75.71% Rank: 32
Chase Manhattan Corporation Formed: 1979–80
Total Spent, 1989–90: $274,760
Total Spent, 1991–92: $481,894
Difference: $207,134 = 75.39% Rank: 33
Barnett Banks of Florida, Inc. Formed: 1979–80
Total Spent, 1985–86: $304,230
Total Spent, 1987–88: $532,509
Difference: $228,279 = 75.04% Rank: 34
Bankamerica Corporation Formed: 1981–82
Total Spent, 1993=94: $311,633
Total Spent, 1995–96: $535,516
Difference: $223,883 = 71.84% Rank: 35
NationsBank Formed: 1979–80
Total Spent, 1997–98: $607,578
Total Spent, 1999–00: $1,041,837
Difference: $434,259 = 71.47% Rank: 36
United Technologies Corporation Formed: 1979–80
Total Spent, 1993=94: $263,300
Total Spent, 1995–96: $450,078
Difference: $186,778 = 70.94% Rank: 37
Southwestern Bell Corporation Formed: 1979–80
Total Spent, 1997–98: $961,990
Total Spent, 1999–00: $1,642,657
Difference: $680,667 = 70.76% Rank: 38
Lockheed Corporation Formed: 1979–80
Total Spent, 1991–92: $422,512
Total Spent, 1993=94: $708,346
Difference: $285,834 = 67.65% Rank: 39
Union Pacific Corporation Formed: 1979–80
Total Spent, 1985–86: $296,938
Total Spent, 1987–88: $495,482
Difference: $198,544 = 66.86% Rank: 40
Household Finance Corporation Formed: 1979–80
Total Spent, 1989–90: $270,795
Total Spent, 1991–92: $444,889
Difference: $174,094 = 64.29% Rank: 41
Sierra Club (environmentalist) Formed: 1979–80
Total Spent, 1997–98: $441,208
Total Spent, 1999–00: $721,429
Difference: $280,221 = 63.51% Rank: 42
Westinghouse Electric Corp. Formed: 1979–80
Total Spent, 1987–88: $264,890
Total Spent, 1989–90: $431,697
Difference: $166,807 = 62.97% Rank: 43
American Telephone & Telegraph Co. Formed: 1983–84
Total Spent, 1985–86: $1,744,301
Total Spent, 1987–88: $2,841,464
Difference: $1,097,163 = 62.90% Rank: 44
General Motors Corporation Formed: 1979–80
Total Spent, 1993=94: $477,782
Total Spent, 1995–96: $777,521
Difference: $299,739 = 62.74% Rank: 45
Keycorp Formed: 1979–80
Total Spent, 1995–96: $376,200
Total Spent, 1997–98: $611,975
Difference: $235,775 = 62.67% Rank: 46
Union Pacific Corporation Formed: 1979–80
Total Spent, 1989–90: $731,974
Total Spent, 1991–92: $1,188,407
Difference: $456,433 = 62.36% Rank: 47
Sierra Club (environmentalist) Formed: 1979–80
Total Spent, 1987–88: $299,891
Total Spent, 1989–90: $486,795
Difference: $186,904 = 62.32% Rank: 48
Chrysler / Gulfstream Aerospace Corp. Formed: 1979–80
Total Spent, 1993=94: $417,015
Total Spent, 1995–96: $659,369
Difference: $242,354 = 58.12% Rank: 49
Pfizer, Inc. Formed: 1979–80
Total Spent, 1997–98: $536,471
Total Spent, 1999–00: $844,132
Difference: $307,661 = 57.35% Rank: 50
Chase Manhattan Bank Formed: 1979–80
Total Spent, 1989–90: $269,299
Total Spent, 1991–92: $423,632
Difference: $154,333 = 57.31% Rank: 51
Sierra Club (environmentalist) Formed: 1979–80
Total Spent, 1993=94: $431,725
Total Spent, 1995–96: $677,883
Difference: $246,158 = 57.02% Rank: 52
Banc One Corporation Formed: 1979–80
Total Spent, 1989–90: $269,833
Total Spent, 1991–92: $421,467
Difference: $151,634 = 56.20% Rank: 53
Raytheon Company Formed: 1979–80
Total Spent, 1995–96: $385,863
Total Spent, 1997–98: $601,994
Difference: $216,131 = 56.01% Rank: 54
Eli Lilly & Company Formed: 1979–80
Total Spent, 1997–98: $700,580
Total Spent, 1999–00: $1,089,599
Difference: $389,019 = 55.53% Rank: 55
Chrysler / Gulfstream Aerospace Corp. Formed: 1979–80
Total Spent, 1995–96: $659,369
Total Spent, 1997–98: $1,021,714
Difference: $362,345 = 54.95% Rank: 56
Amsouth Bancorporation Formed: 1983–84
Total Spent, 1997–98: $304,524
Total Spent, 1999–00: $470,782
Difference: $166,258 = 54.60% Rank: 57
Glaxo, Inc. Formed: 1985–86
Total Spent, 1997–98: $716,634
Total Spent, 1999–00: $1,104,801
Difference: $388,167 = 54.17% Rank: 58
Crawford Group / Enterprise Leasing Formed: 1987–88
Total Spent, 1993=94: $253,769
Total Spent, 1995–96: $391,094
Difference: $137,325 = 54.11% Rank: 59
Associates Corp. (Ford Motor Co.) Formed: 1989–90
Total Spent, 1995–96: $342,269
Total Spent, 1997–98: $526,937
Difference: $184,668 = 53.95% Rank: 60
Morgan Stanley & Company, Inc. Formed: 1979–80

Total Spent, 1985–86: $303,919
Total Spent, 1987–88: $465,992
Difference: $162,073 = 53.33% Rank: 61
Houston Industries, Inc. Formed: 1979–80
Total Spent, 1995–96: $470,646
Total Spent, 1997–98: $720,544
Difference: $249,898 = 53.10% Rank: 62
Outback Steakhouse, Inc. Formed: 1991–92
Total Spent, 1997–98: $636,741
Total Spent, 1999–00: $974,275 Difference: $337,534 = 53.01% Rank: 63
Household Finance Corporation Formed: 1979–80
Total Spent, 1997–98: $512,016
Total Spent, 1999–00: $782,819
Difference: $270,803 = 52.89% Rank: 64
General Motors Corp. / Hughes Aircraft Formed: 1979–80
Total Spent, 1985–86: $271,290
Total Spent, 1987–88: $412,181
Difference: $140,891 = 51.93% Rank: 65
American Airlines Formed: 1979–80
Total Spent, 1991–92: $282,647
Total Spent, 1993=94: $426,852
Difference: $144,205 = 51.02% Rank: 66
Cooper Industries, Inc. Formed: 1979–80
Total Spent, 1989–90: $264,213
Total Spent, 1991–92: $397,960
Difference: $133,747 = 50.62% Rank: 67
Flowers Industries, Inc. Formed: 1979–80
Total Spent, 1993=94: $254,819
Total Spent, 1995–96: $383,269
Difference: $128,450 = 50.41% Rank: 68

Source: Computer analysis by Sunshine Press Services of Federal Election Commission data, Jan. 1, 1979 through Dec. 31,2000.

APPENDIX B: Publication List

The news organizations listed below have published news reports or commentary by Edward Roeder

Daily Newspapers
Albuquerque Journal
Arizona Republic
Arkansas Gazette-Democrat
Atlanta Constitution *
Austin American-Statesman
Baltimore Sun *
Boston Globe *
Chicago Sun-Times *
Chicago Tribune *
Cleveland Plain Dealer
Dallas Morning News
Denver Post
Deseret News
Detroit Free Press*
Detroit News *
Florida Today
Fort Lauderdale News & Sun-Sentinel *
Greensboro News & Record *
Kansas City Star
Los Angeles Times
Louisville Courier-Journal *
Miami Herald *
Nashville Tennessean
New Orleans Times-Picayune
New York Daily News
New York Newsday
New York Times *
Orlando Sentinel *
Philadelphia Inquirer *
Portland Oregonian
Providence Journal
Richmond Times-Dispatch
Sacramento Bee *
San Jose Mercury News
Seattle Post-Intelligencer
Seattle Times *
St. Louis Post-Dispatch *
St. Petersburg Times *
Tampa Tribune
USA Today
Washington Post *
Washington Times
Articles ran on page 1 or led Sunday section

Periodicals
American Banker *
Capital Style
Conservative Digest *
Free Inquiry *
Monthly Business Review *
MS. *
New Republic *
New Times *
Newsweek
Playboy *
Politics Today *
Rolling Stone *
Saturday Review *
Sierra *
Space Business International *
The Nation *
Time
Village Voice *
Washington Monthly *
Washingtonian *
Bylined feature magazine articles

Broadcast
ABC News (TV) *
CBS News (TV) *
CNN *
Canadian Broadcast'g Co. (Radio) *
KABC-TV (Hollywood, CA) *
National Public Radio *
Nightline (ABC News- TV) *
NBC News (TV & Radio)
20–20 (ABC News- TV)
WBAL-TV (Baltimore, MD)
WDIV-TV (Detroit, Mich.) *
WJLA-TV (Washington, DC) *
WJXT-TV (Jacksonville, Fla.) *
WJZ-TV (Baltimore, MD)
WPLG-TV (Miami, Fla.) *
WRC-TV (Washington, DC)
WTVT-TV (Tampa, Fla.) *
WUSA-TV (Washington, DC) *
* Paid on-air appearanc(s)

MTC-00028685

From: David Robinson
To: Microsoft ATR
Date: 1/28/02 4:55pm
Subject: Microsoft Settlement

I disagree with the PFJ because it does not end Microsoft's monopoly but may allow MS to extend and expand its monopoly! Enforcement of the PFJ appears nearly impossible to enforce.

Thank you for considering my opinions.

Dave Robinson
407–843–3294, ext 227

MTC-00028686

From: Brooke Emmerick
To: 'microsoft.atr(a)usdoj.gov"
Date: 1/28/02 4'58pm
Subject: Microsoft Settlement

BEFORE THE UNITED STATES DEPARTMENT OF JUSTICE

UNITED STATES OF AMERICA, Plaintiff,
v.
Civil Action No. 98–1232 (CKK)
MICROSOFT CORPORATION, Defendant.
STATE OF NEW YORK ex rel.
Attorney General Eliot Spitzer, et al., Plaintiffs,
v
Civil Action No. 98–1233 (CKK)
MICROSOFT CORPORATION Defendant.

Comments of The Progress & Freedom Foundation on the Revised Proposed Final Judgment and the Competitive Impact Statement

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Table of Contents

I. Introduction 1
A. Authors 1
B. Summary of Contents 2
II. Background: The Facts, the Law and the Remedy 5
A. The Illegal Conduct and Its Effects 5
B. The Appropriate Criteria for a Remedial Action 7
III. The CIS and the PFJ: Flawed Analysis of a Flawed Remedy 9
A. Major Provisions of the PFJ 9
B. The Competitive Impact Statement 10
C. The PFJ Will Not Have Its Claimed Effect, Nor Any Pro-Competitive Effect 18
IV. The Remedies Alternatives 23
A. Alternative Structural Remedies 24
B. The Litigating States Proposal 29
V. Conclusion 31

I. Introduction

These comments on the Proposed Final Judgment[1] ("PFJ") and the Competitive Impact Statement[2] ("CIS") in the Microsoft case are submitted to provide the Department of Justice ("DOJ") and the Court with information and analysis based on nearly five years of research by the authors on the legal, policy and economic implications of this landmark proceeding. Based on that research, it is our assessment that (a) the PFJ fails to address meaningfully the violations of law found by this court and upheld by the U.S. Court of Appeals and its entry by the court manifestly is not in the public interest; (b) the CIS fails to meet the standard of analysis demanded by the law and occasioned by the magnitude of the issues involved; and (c) the public interest will best be served through imposition of a "hybrid" structural remedy or, if the court chooses not to impose a structural remedy, a conduct remedy modeled after the proposals of the remaining litigating states.

A. The Authors

Dr. Eisenach is President and Senior Fellow at The Progress & Freedom

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[1] United States v. Microsoft Corp., Stipulation and Revised Proposed Final Judgement (November 6, 2001) (hereafter "PFJ").

[2] United States v. Microsoft Corp., Competitive Impact Statement (November 15, 2001) (hereafter "CIS").

Foundation,[3] a non-profit research and educational institution dedicated to analyzing the impact of the digital revolution and its implications for public policy, and an Adjunct Professor at George Mason University Law School. As a professional economist, he has been actively engaged in the analysis of competition and regulatory policy issues for more than 20 years, and has served in senior positions at the Office of Management and Budget and the U.S. Federal Trade Commission and as a consultant to the U.S. Sentencing Commission on criminal sentencing guidelines for corporations. He has also served on the faculties of Harvard University's Kennedy School of Government, the University of Virginia and Virginia Polytechnic Institute and State University.

Dr. Lenard is Vice President and Senior Fellow at The Progress & Freedom Foundation and a professional economist with 30 years of experience in academia, government, private consulting and the non-profit sector. He has worked on a wide range of regulatory and antitrust issues covering a broad span of industries, and has consulted on antitrust cases for both private firms and the Federal Trade Commission. In government, he has held senior economic positions at the Council on Wage and Price Stability, the Office of Management and Budget and the Federal Trade Commission. A principal focus of his research has been the benefits and costs of regulatory interventions into the economy and the analytical underpinnings needed to make informed decisions about government interventions. Both Drs. Eisenach and Lenard have done extensive work on the economics of high-tech markets in general, and the Microsoft case in particular. They are co-authors of the annual Digital Economy Fact Book,[4] co-editors of Competition, Innovation and the Microsoft Monopoly: Antitrust in the Digital Marketplace and authors of numerous other papers on these and related topics.[5]

B. Summary of Comments

The PFJ is intended to settle the government's antitrust case against Microsoft and was agreed to by the United States, 9 of the 18 states that were also party to suit, and by Microsoft. The nine remaining states and the District of Columbia (the "Litigating States") have not agreed to the PFJ and are pursuing more stringent relief through a remedy hearing at the District Court.[6] The DOJ is required by the Antitrust Procedures and Penalty Act ("APPA")[7] to prepare a CIS, which is intended to analyze the competitive implications of the PFJ and any alternatives to it.

The PFJ does not serve the public interest and will not achieve the government's objective that it "halt continuance and prevent recurrence of the violations of the Sherman Act by Microsoft that were upheld by the Court of Appeals and restore competitive conditions to the market."[8] Indeed, much of the behavior found by the Court of Appeals to be anticompetitive would be permitted under the PFJ. Further, even if the PFJ did preclude such behavior it would fail to restore competitive conditions because it fails to affect the behavior of participants in the marketplace.

The CIS does not satisfy the government's obligation to provide the District Court with an analytical basis for determining whether the PFJ is in the public interest. The APPA clearly requires, and good public policy demands, an "evaluation" of the proposed remedy and major alternatives to it. The CIS does not present such an evaluation. It does not explain why the PFJ will achieve the intended results, but merely asserts that it will do so. It also does not explain why the DOJ concluded that the PFJ will better serve the public interest than major alternatives, but merely states that "[t]he United States ultimately concluded that the requirements and prohibitions set forth in the Proposed Final Judgment provided the most effective and certain relief in the most timely manner."[9] The DOJ has produced no real analysis of the relative merits for Operating Systems: Alternative Structural Remedies in the Microsoft Case," George Mason Law Review, Vol., 9, Spring 2001, 803–841. of alternative forms of relief to guide the District Court in deciding whether to approve the PFJ. Indeed, the CIS fails by a wide margin to meet the standards required of analyses of regulatory proposals routinely promulgated by government agencies.

Accordingly, the District Court should not accept the PFJ, but should, instead, expand its hearing on the Litigating States Proposal ("LS Proposal") to include the full range of major alternatives. This would permit the District Court to gather the information needed to make an informed judgment concerning which of the remedy proposals will best serve the public interest. The alternatives that should be considered include:

u The PFJ.

u The proposals of the Litigating States.

u Major structural remedies, including the vertical-divestiture remedy initially adopted by the District Court and the "hybrid" remedy proposed by Dr. Lenard and others.

Among these remedies, the "hybrid" structural approach would best serve the public interest and maximize net economic benefits to consumers.

In the sections that follow, we provide, first, a brief restatement of the facts and legal background in this case, including a brief discussion of what we believe to be the appropriate standards by which remedial action should be judged. Next we discuss the shortcomings in the PFJ and the CIS, explaining why the PFJ will not achieve the government's objectives or serve the public interest and demonstrating that the CIS falls far short of the analytical standard that should be demanded by the court. Finally, we turn to an evaluation of the remedial alternatives and explain why we believe that (a) a "hybrid" structural remedy would best serve consumers and competition and (b) that if the court chooses not to impose a structural remedy, the LS Proposal is superior to the PFJ.

II. Background: The Facts, the Law and the Remedy

The U.S. District Court[10] found, and the U.S. Court of Appeals[11] affirmed, a pattern of Sherman Act violations by Microsoft that had the effect of foreclosing competition in the market for personal computer operating systems. The District Court ordered a structural remedy, which was overturned by the Appeals Court, which remanded the remedy issue back to this court. The Appeals Court did not prescribe or prohibit adoption of any particular remedial actions by this court.

A. The Illegal Conduct and Its Effects

The Appeals Court unanimously affirmed the core of the government's case against Microsoft, finding that the company had undertaken a broad array of anticompetitive practices to maintain its monopoly in personal computer operating systems, in violation of Section 2 of the Sherman Act.[12] Microsoft's strategy was to use its monopoly power to prevent the emergence of any new technology that might compete with Windows. Microsoft's anticompetitive activities were particularly directed against two products—the Netscape browser and Sun's Java programming language—that could support operating-system-neutral computing and thereby erode Microsoft's market position. In summary, the District Court found, and the Appeals Court affirmed, that:

Microsoft has monopoly power in the market for Intel-compatible PC operating systems, with a market share of greater than 95 percent. Microsoft's market is protected by a substantial barber to entry—the "applications barrier to entry"—that discourages software developers from writing applications for operating systems that do not already have an established base of users.

u Microsoft effectively excluded rival browsers from the two most efficient means of distribution—pre-installation by Original Equipment Manufacturers (OEMs) and distribution by Internet Access Providers (IAPs).

u Microsoft imposed restrictions on its Windows licenses that effectively prevented OEMs from pre-installing any browser other than Internet Explorer (IE).

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[3] These comments reflect the views of the authors and do not represent the views of The Progress & Freedom Foundation, its officers or board of directors.

[4] See Jeffrey A. Eisenach, Thomas M. Lenard and Stephen McGonegal, The Digital Economy Fact Book 2001 (Washington: The Progress & Freedom Foundation, 2001).

[5] See Jeffrey A. Eisenach and Thomas M. Lenard, eds., Competition, Innovation and the Microsoft Monopoly: Antitrust in the Digital Marketplace, Kluwer Academic Publishers, 1999; Thomas M. Lenard, Creating Competition in the Market for Operating Systems: A Structural Remedy for Microsoft, (Washington: The Progress & Freedom Foundation, 2000), http://www.pff.org/remedies/htm; and Thomas M. Lenard, "Creating Competition in the Market

[6] United States v. Microsoft Corp., Plaintiff Litigating States" Remedial Proposals, (December 7, 2001) (hereafter "LS Proposal").

[7] 15 USCS 16 (b-h).

[8] CIS at 2.

[9] 9 CIS at 63.

[10] United States v. Microsoft Corp., 84 F. Supp. 2d 9 (DCCirc 1999) ("Findings of Fact");United States v. Microsoft Corp., 87 F. Supp. 2d 30 (DC Circ. 2000) ("Conclusions of Law").

[11] United States v. Microsoft Corp., 253 F 3d, at 6 (DC Circ. 2001).

[12]

u Microsoft's technological binding of IE to Windows deterred OEMs from pre-installing rival browsers and consumers from using them.

u Microsoft's contracts with IAPs—for example, agreeing to give AOL preferential placement on the Windows desktop in exchange for AOL's agreement not to distribute any non-Microsoft browser to more than 15 percent of its subscribers and to do so only at the customer's explicit request—blocked the distribution of a rival browser.

u Microsoft's deals with Independent Software Vendors (ISVs)—for example, giving preferential support to ISVs that used IE as the default browser in software they develop—and Apple—prohibiting Apple from pre-installing any non-Microsoft browser—were similarly exclusionary.

u Microsoft's agreements with ISVs that made receipt of Windows technical information conditional on the ISVs'' agreement to use Microsoft's version of the Java Virtual Machine (JVM) exclusively were anticompetitive. Microsoft also deceived Java developers into believing that its tools were not Windows-specific and were consistent with Sun's objective of developing cross-platform applications.

u Microsoft's pressuring of Intel to stop supporting cross-platform Java—by threatening to support an Intel competitor's development efforts—was exclusionary.

Microsoft was clearly successful in its efforts to eliminate threats to its desktop monopoly. Through its anticompetitive activities, Microsoft achieved dominance in the browser market and forestalled the development of such cross-platform technologies as the Netscape browser and Java that could have eroded the applications barrier to entry. The promise of operating-system-neutral computing was that it would inject competition into the market for operating systems, which would foster innovation throughout the industry. By preventing the development of competition, Microsoft's illegal conduct thwarted innovation and harmed consumers.

B. Appropriate Criteria for a Remedial Action

The Supreme Court has stated that the purpose of remedial action in an antitrust case is to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation and ensure that there remain no practices likely to result in monopolization."[13] In other words, a remedy must be effective in the present (terminating the monopoly), the past (expropriating ill-gotten gains), and the future (preventing similar conduct going forward).

As professional economists, we suggest it is especially important to look to the future, where economic actors will make decisions based on the incentives inherent in whatever remedy the court imposes. The remedy should not only address the illegal practices Microsoft already has employed to maintain its operating system monopoly, it should also as the Supreme Court has said—address practices that Microsoft might employ in the future to erect barriers to operating system competition or to use anticompetitive practices to leverage its monopoly beyond the desktop into new phases of computing. In a business that moves as rapidly as the software marketplace (and other information technology and communications markets Microsoft is now entering or is likely to enter soon) it is particularly important that the remedy be forward looking.

The DOJ claims that the PFJ meets these standards, and "will eliminate Microsoft's illegal practices, prevent recurrence of the same or similar practices, and restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings." [14] For masons discussed at length below, we disagree. Here, we address two issues relating to the standard by which any remedy should be judged.

First, it is noteworthy that the DOJ does not claim the PFJ achieves the goal of denying Microsoft the fruits of its violations, and clearly it will not. Such restitution is important not only to "make whole" the victims of Microsoft's illegal activity (e.g., the United States), but also to establish appropriate incentives on a going forward basis. In general, allowing violators to retain the fruits of their illegal conduct deprives the antitrust laws of much of their force, because it sends a signal to violators that the returns to their behavior are positive—even when they are caught. With $42 billion in the bank, one wonders how Microsoft's senior management could read the proposed PFJ any other way.

Second, and relatedly, DOJ's stated goal of restoring "the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings" is not the appropriate objective, and certainly is not equivalent to the Supreme Court's standard of "terminat[ing] the illegal monopoly." The competitive threat posed by the Netscape browser and Java was quantitatively relatively small at the time that Microsoft's illegal campaign against them was undertaken. But it was clear, certainly to Microsoft, that their competitive potential in the dynamic software marketplace was very significant. Had Microsoft not engaged in illegal activities, the competitive significance of these products would be much greater today than it was at the time.

There is a useful analogy here to simple commercial damage cases. If, for example, an individual or a company incurs monetary damages from actions in the past, compensation is generally based on the present value of those damages, typically calculated by bringing the damage amount forward (from the time of the damage to the present) at a normal rate of return. That would be the only way for the damaged party to be made whole. Similarly, society has been damaged by Microsoft's actions. For society to be made whole, competition should, to the extent possible, be restored to what it would be today in the absence of Microsoft's illegal conduct,[15] Equally important on a going forward basis, however, Microsoft should not be permitted to earn continuing returns based upon its illegally enhanced monopoly position. To do so would be to allow the company not only to retain the fruits of its illegal conduct in the past but to continue harvesting those fruits indefinitely.

III. The CIS and the PFJ: Flawed Analysis of a Flawed Remedy

DOJ and Microsoft prefer a PFJ which contains a number of restrictions on Microsoft's conduct on a going forward basis. The questions before the court are whether entry of the PFJ is consistent with the purpose and intent of the Sherman Act and, in addition, whether, under the APPA, it is consistent with the public interest. To facilitate the court's deliberations on the latter issue, the APPA requires the DOJ to submit a CIS.[16] However, the CIS submitted in this proceeding contains virtually no analysis of either the PFJ or alternative remedies. It represents nothing more than a set of unsupported assertions, and accordingly should be given little deference by the court.

In this section, we briefly describe the main provisions of the PFJ. Next, we explain why the CIS fails to meet a reasonable standard of substantive analysis. Third, we provide some examples of shortcomings in the PFJ which would have been obvious had DOJ performed a more complete analysis in the CIS.

A. Major Provisions of the PFJ

As described in the CIS, the proposed PFJ contains seven major provisions. In brief summary, they are:

. OEMs would have the freedom to support and distribute non-Microsoft middleware products or operating systems without fear of retaliation by Microsoft.

. To help ensure against retaliation, Microsoft would be required to provide uniform licensing terms to the 20 largest computer manufacturers.

. Computer manufacturers would have the freedom to feature and promote non-Microsoft middleware and customize their computers to use non-Microsoft middleware as the default.

. Microsoft would be required to disclose the interfaces and technical information that its own middleware uses, so that ISVs can develop competitive middleware products.

. Microsoft would be required to disclose communications protocols necessary for server and Windows desktop operating system software to interoperate with each other.

. Microsoft would be prohibited from retaliating against ISVs or IHVs that develop or distribute software that competes with Microsoft middleware or operating system software.

. Microsoft would be prohibited from entering into exclusive contracts concerning its middleware or operating system products.

The CIS claims that these provisions, and the supporting provisions pertaining to enforcement, "will eliminate Microsoft's illegal practices, prevent recurrence of the same or similar practices, and restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings." But the CIS presents virtually no analysis to support this claim.

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[13] 253 F 3d at 99–100, quoting (United States v. United Shoe Mach. Corp), 391 U.S. 244, 250 (1968).

[14] CIS at 3.

[15] To truly be made whole in addition need to be compensated for the benefits it lost due to the absence of competition in the itnervening years, which is proably not possible.

[16] CIS at 3–4.

B. The Competitive Impact Statement

The CIS does not meet the standards established by the APPA and does not provide sufficient analysis for this court to make an informed decision on whether the PFJ is in the public interest.

Section 16(b)(3) of the APPA requires that the CIS include "an explanation of the proposal ... and the anticipated effects on competition of such relief." (Emphasis added.) Section 16(b)(6) further requires "a description and evaluation of alternatives to such proposal actually considered by the United States." (Emphasis added). Under Section 16(e), the District Court is required to determine that the consent judgment is in the public interest and in making that determination "may consider...anticipated effects of alternative remedies ...." Taken together, these provisions make clear that the CIS was intended by Congress to serve as a guide to the court in evaluating the proposed relief relative to other alternatives which might better serve the public interest, not simply as a pro forma set of claims and assertions. Yet the CIS in this case fails even to fully "explain," and certainly cannot be said to "evaluate," either the likely effects of either the PFJ or the available alternatives. Such an analysis would seem especially important in a fully-litigated Tunney Act case such as this one, where a prior finding of liability suggests a lower degree of deference to the PFJ than would otherwise be appropriate, and thus a higher burden on the court to evaluate alternatives.

How should the court evaluate the adequacy of the CIS? Three sets of criteria present themselves. First, does the CIS satisfy the plain language of the statute? Second, how does it compare with previous CIS's in similarly significant cases? Third, how does it compare with the standards of analysis that are required to be performed in similar situations, such as agency rulemakings? This CIS fails all three standards.

First, does the CIS satisfy the plain language of the statute? It depends on how the words "explain," and "evaluate" are defined. To defend successfully the plain-language adequacy of the CIS, the DOJ would have to adopt a very narrow interpretation of both words.

Granted, the CIS devotes 43 pages [17] to reciting and, DOJ presumably would argue, "explaining" the provisions of the PFJ. What the CIS does not do at any point, however, is explain "the anticipated effects [of the PFJ] on competition."

The semantic sleight of hand upon which DOJ relies to avoid this obligation is found on page 24 of the CIS. There, DOJ reminds us that "Restoring competition is the 'key to the whole question of an antitrust remedy,' du Pont, 366 U.S. at 326." Then it continues with a clever subterfuge: "Competition was injured in this case principally because Microsoft's illegal conduct maintained the applications barrier to entry ..... Thus, the key to the proper remedy in this case is to end Microsoft's restrictions on potentially threatening middleware...." [18] (Emphasis added.)

There, in the word "thus," lies the sum and the entirety of the CIS's explanation of the connection between the PFJ and its anticipated effects on competition. For as explained in more detail below, it is hardly obvious, indeed, it is highly unlikely, that simply ending Microsoft's illegal restrictions on middleware would have any significant effect on competition on a going forward basis. Even in these semantically troubled times, we submit, the word "thus" cannot be taken as the "explanation" the law requires.

But the CIS's discussion of the PFJ must be counted an analytical masterpiece when compared with its treatment of alternative remedies. In contrast to the lengthy, if failed, treatment accorded the PFJ, the CIS attempts its "evaluation of alternatives" in three pages. Not surprisingly, given its brevity, the analysis is limited in how much light it can shed on the DOJ's decisionmaking process or the relative merits of the alternatives before the court. With respect to structural remedies, for example, the evaluation consists of 49 words: "After remand to the District Court, the United States informed the court and Microsoft that it had decided, in light of the Court of Appeals opinion and the need to obtain prompt, certain and effective relief, that it would not further seek a breakup of Microsoft into two businesses." [19] Receiving even less attention are six other remedy alternatives, which are summarily dismissed in a single paragraph, and an unknown number of "others received or conceived" which, in apparent direct violation of the APPA, are not even described.[20] There simply is no semantic standard by which this treatment of the alternative remedies can possibly be considered "an evaluation."

In summary, the CIS submitted by the DOJ in this case fails the first test the court should apply: It does not fulfill the plain language requirements of either Section 16(b)(3) or Section 16(b)(6) of the APPA.

Any effort the DOJ may make to defend the CIS would be on firmer ground if it could argue it is simply following past practice. While we believe, as suggested above, that the CIS in this case should be held to a higher standard than in cases where the issues have not been fully litigated and a finding of liability has not been entered, at least the DOJ could claim it was adhering to precedent. Even by the standards of past cases, however, this CIS falls far short.

Of course, Tunney Act cases vary in significance and complexity. The best standard for comparison for this case would appear to be the CIS filed in the AT&T case in 1982.[21] In that case as in this one, DOJ was tasked with explaining and evaluating a Proposed Final Judgment aimed at resolving a continuing series of complex antitrust actions affecting one of the most important sectors, and companies, in the U.S. economy.

The AT&T CIS differs markedly from the CIS in this proceeding both in its explanation of the competitive effects and in its evaluation of alternative remedies. Section III of the AT&T CIS [22] presents a comprehensive explanation of the proposed remedy and its anticipated effects on competition. Indeed, in stark contrast to the CIS in this case, the AT&T CIS contains, in Section III.E, an extensive discussion specifically detailing "The Competitive Impact of the Proposed Modification." The section is a lengthy one, explaining in detail how each provision of the proposed remedy is expected to affect competition on a going forward basis, beginning as follows:

> Put in simplest terms, the functional divestiture contemplated by the proposed modification will remove from AT&T the power to employ local exchange services in ways that impede competition in interdependent markets, and will remove from the Bell Operating Companies ("BOCs"), which will retain such power, any incentive to exercise it. The United States believes, therefore, that the modification's divestiture requirement, and its complementary injunctive provisions, will substantially accelerate the development of competitive markets for interexchange services, customer premises equipment, and telecommunications equipment generally.[23]

The ensuing pages present a careful analysis of why the government believes this to be the case and what the precise impacts on competition are likely to be. The proposed remedy will "accelerate the emergence of competition in interexchange services," [24] "prevent the reemergence of the ... incentive and ability to leverage regulated monopoly power into the customer premises equipment market," [25] make AT&T "subject to competition in all of its services," [26] "remove the source of AT&T's monopoly power and its ability to leverage monopoly power into related markets," [27] and "prevent the creation anew of incentives and abilities in the BOCs to use their monopoly power to undercut rivals in competitive markets."[28] "There is every reason to believe that, divested of the BOCs, AT&T will be a procompetitive force in the markets that it enters. As a result of the modification, it is likely that AT&T will expand not only its product lines, but also the areas in which it sells telecommunications equipment."[29]

The authors have searched in vain, as will the court, for any similar explanation in the Microsoft CIS. As a procedural matter, the absence of such explanations flies in the face of the APPA. As a substantive one, it strongly suggests such statements are lacking for the simple reason that they are not justified by the remedy Microsoft and the DOJ are asking the court to adopt.

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[17] CIS, 17–60.

[18] CIS at 24.

[19] CIS at 61.

[20] CIS at 63.

[21] United States v. Western Electric Company, Inc. and American Telephone & Telegraph Company, Competitive Impact Statement (February 17, 1982), 47 FR 7170–01. [Hereafter AT&T CIS]. Of course, unlike this case, the PFJ in the AT&T case was entered prior to any finding of liability.

[22] AT&T CIS at 7173–7180.

[23] 23 AT&T CIS at 7178.

[24] AT&T CIS at 7178.

[24] AT&T CIS at 7179.

[24] AT&T CIS at 7179.

[24] AT&T CIS at 7179.

[24] AT&T CIS at 7179.

[24] AT&T CIS at 7179.

The AT&T CIS also differs from the one in this case in its treatment of alternative remedies.[30] The AT&T CIS appears to meet the requirements of the APPA by describing in some detail the alternative remedies considered and evaluating their likely impacts on competition relative to those expected from the one proposed. "The United States believes," it concludes, "that the [main alternative] did not approach even remotely the effectiveness of the proposed modification in achieving conditions that would assure full competition in the telecommunications industry."[31] Again, such evaluative language is simply absent from the CIS in this case. And again, one cannot help but conclude that, had today's DOJ conducted the same careful analysis as that conducted 20 years ago, it might well have reached different conclusions in the current case.

In summary, then, the CIS not only fails the satisfy the plain language of the APPA, but also fails to meet the standard established by DOJ for a CIS in the most directly analogous case.

The third criteria by which the court should evaluate the sufficiency of the CIS is whether it meets the standards of analysis that are required to be performed in similar situations, the most obvious of which is agency rulemakings.

For at least the last 20 years, agencies have been required to undertake a detailed regulatory impact analysis when they propose major regulatory actions. Under E.O. 12291 (in effect during the Reagan and Bush Administrations), and E.O. 12866 (issued by President Clinton and still in effect), government-agencies have been expected to prepare a detailed analysis of the expected benefits and costs of major regulatory proposals and alternatives to them.[32] While the PFJ is technically not a regulation that would fall under E.O. 12866, the magnitude of its impact far exceeds the $100 million threshold that defines a "major rule" and thus triggers the requirement for a detailed analysis.

The analysis of regulatory interventions in the economy, which is what the PFJ in this case is, is not a black art. Increasingly, and on the basis of more than two decades of performing such analyses of all major rules, regulatory analysis has become a scientific process comprised of distinct steps and containing specific elements. E.O. 12866, for example, lays out specific criteria such analyses should meet, including: "(i) An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets ....) together with, to the extent feasible, a quantification of those benefits; (ii) An assessment, including the underlying analysis, of costs anticipated from the regulatory action ... together with, to the extent feasible, a quantification of those costs; and (iii) An assessment, including the underlying analysis, of the costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation ...."

The specific analytical techniques to be used in such evaluations are further described in guidance from the Office of Management and Budget issued January 11, 1996,[33] and reiterated most recently by OMB on June 19, 2001.[34] These guidelines require agencies, before issuing any major regulation, to take into account such issues as whether more "performance oriented" approaches are possible, the impact of alternative levels of stringency and effective dates, and alternative methods of ensuring compliance, and to perform evaluations that take into account "discounting," "risk and uncertainty," and "non-monetized benefits and costs." Each analysis, the guidance demands, must "provide information allowing decisionmakers to determine that: There is adequate information indicating the need for and consequences of the proposed action; The potential benefits to society justify the potential costs ...; The proposed action will maximize the net benefits to society...; [and] .... Agency decisions are based on the best reasonably available scientific, technical, economic, and other information."

To repeat what we asserted at the outset of this section, the court might evaluate the CIS in this case by three standards: First, does the CIS satisfy the plain language of the statute? Second, how does it compare with previous CIS's in similarly significant cases? Third, how does it compare with the standards of analysis that are required to be performed in similar situations, such as agency rulemakings? This CIS fails all three standards.

C. The PFJ Will Not Have Its Claimed Effect, Nor Any Pro-Competitive Effect

In fact, a close reading of the language of the PFJ indicates that it will not do what the DOJ claims. Moreover, even if DOJ's claims are taken at face value, the PFJ will not have its intended effect because of the realities of the marketplace. Indeed, this is the only conclusion that can be reached based upon a real analysis of the "competitive impact" of the PFJ, which is to say an analysis of how, if at all, the provisions of the PFJ will change the behavior of participants in the marketplace.

Other commentators will undoubtedly thoroughly catalogue the loopholes in the PFJ, of which there are many, and it is not our intention to do so here. It is, however, illustrative of the defects of the PFJ to analyze it through the lens of the Netscape browser experience, since so much of Microsoft's liability concerns its actions toward the Netscape browser. Accordingly, much of the PFJ is directed at precluding the type of anticompetitive acts that Microsoft undertook against Netscape (even though the browser war is over and the industry has now moved on to a different stage). But, the PFJ does not even succeed in this minimal goal—of creating the conditions under which the Netscape browser could have competed without being subject to Microsoft's exclusionary practices. Indeed, the PFJ specifically permits many of the exclusionary practices in which Microsoft engaged:

. Section III.A of the PFJ is supposed to protect OEMs from retaliation by Microsoft if they distribute non-Microsoft products. However, the language of Section III.A prohibits Microsoft from retaliating against an OEM for "developing, distributing, promoting, using, selling, or licensing any software that competes with Microsoft Platform Software or any product or service that distributes or promotes any Non-Microsoft Middleware." (Emphasis added). (Microsoft Platform Software is defined as including (i) a Windows Operating System Product and/or (ii) a Microsoft Middleware Product.) While the Netscape browser was a potential competitor for the Microsoft operating system, it never became an actual competitor. Moreover, at the time Netscape introduced its browser, Microsoft did not have a comparable Middleware Product. Thus, the language of III.A would have permitted Microsoft to retaliate against OEMs for distributing the Netscape browser at the time it was introduced.

. Similarly, Section III.F. 1 prohibits Microsoft from retaliating against any ISV or IHV for "developing, using, distributing, promoting or supporting any software that competes with Microsoft Platform Software or any software that runs on any software that competes with Microsoft Platform Software ...."(Emphasis added). The prohibitions in Section III.F.2 on Microsoft's relations with ISVs are also triggered by software that "competes with Microsoft Platform Software", which the Netscape browser did not initially do.

. Section III.G.2 is intended to prevent similar exclusionary behavior with respect to IAPs and ICPs, by prohibiting Microsoft from entering into any agreement with "any IAP or ICP that grants placement on the desktop or elsewhere ... on the condition that the IAP or ICP refrain from distributing, promoting or using any software that competes with Microsoft Middleware." (Emphasis added). Again, Netscape's browser was a new product that did not compete with any Microsoft product at the time it was introduced.

. Section III.C is intended to prevent restrictive agreements with OEMs by, for example, preventing Microsoft from restricting the ability of its OEM licensees from "[l]aunching automatically ...any Non-Microsoft Middleware if a Microsoft Middleware Product that provides similar functionality would otherwise be launched ...." (See Section III.C.3, emphasis added). Under this language, Microsoft can preclude its OEM licensees from permitting the automatic launch of a new product if Microsoft does not have a similar product or if the Microsoft product does not have "similar functionality" (obviously, a term open to interpretation). Again, when the Netscape browser was launched, Microsoft did not have a similar product.

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[30] 30 AT&T CIS at 7181.

[31] AT&T CIS at 7181.

[32] 32 See E.O. 12291 (February 17, 1981) and E.O. 12866 (September 30, 1993).

[33] Office of Management and Budget, Economic Analysis of Federal Regulations Under Executive Order 12866 (January 11, 1996)(available at www.whitehouse.gov/omb/inforeg/riaguide.html).

[34] Office of Management and Budget, Memorandum for the Heads of Executive Departments and Agencies: Improving Regulatory Impact Analyses (June 19, 2001)(available at www.whitehouse.gov.omb/memoranda/m01-23.html)

respect to Competitive Impact Statements are, of course, far less specific than those listed above. But the purpose of the APPA in requiring a CIS is presumably similar to the purpose of regulatory analyses: To allow decisionmakers, in this case the court, to understand the ramifications of their actions relative to alternative choices. By the standards of modem policy analysis, DOJ's CIS fails to perform this function at the level the court should expect, especially in a case of this magnitude. Office of Management and Budget, Memorandum for the Heads of Executive Departments and Agencies: Improving Regulatory Impact Analyses (June 19, 2001)(available at www.whitehouse.gov.omb/memoranda/m01-23.html)

. Section III.D is intended to preclude Microsoft from excluding rival products by denying them the technical information they need to interoperate with the Windows operating systems. It requires Microsoft to "disclose to ISVs, IHVs, IAPs, ICPs, and OEMs, for the sole purpose of interoperating with a Windows Operating System Product ... the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product." (Emphasis added). If, however, Microsoft does not produce an analogous product, it might not use the APIs needed for a new application, such as the Netscape browser, to get started.

. Section III.H contains a variety of provisions designed to enable choice of Non-Microsoft Middleware Products on the part of users and OEMs. The PFJ explicitly states, however, that "Microsoft's obligations under this Section III.H as to any new Windows Operating System Product shall be determined based on the Microsoft Middleware Products which exist seven months prior to the last beta test version (i.e., the one immediately preceding the first release candidate) of that Windows Operating System Product." At the time the Netscape browser was introduced, there was no comparable Microsoft Middleware Product.

. Finally, Non-Microsoft Middleware Products are defined to include products "of which at least one million copies were distributed in the United States within the previous year." (Section VI.N). Thus, regardless of any of the other provisions, the PFJ permits exclusionary behavior against new products that are trying to get established.

In sum, under the provisions of the PFJ Microsoft would have been permitted to engage in anticompetitive practices against the Netscape browser because the browser did not compete against the Windows operating system and because Microsoft did not at the outset have a comparable product. Moreover, at least in the early stages, the Netscape browser would not have been covered because a million copies had not been distributed in a single year. The DOJ obviously feels that the fabled entrepreneurs of Silicon Valley, working in their garages, are not worthy of protection against Microsoft under the PFJ. It is especially ironic that Microsoft, which has dedicated so much rhetoric to persuading the courts and the public that its monopoly could be overturned at any moment by the proverbial entrepreneur working out of her garage, should seek to preserve the right to squash precisely such competitive threats. More broadly, the requirement that Microsoft have a comparable product in order to trigger some of the PFJ's provisions creates perverse incentives. It may discourage Microsoft from introducing its own product, because to do so triggers provisions restricting its ability to exclude a potential competitor. The result could be that consumers would be deprived entirely of a useful middleware product that might potentially compete with the Windows operating system, because Microsoft is able to engage in exclusionary practices against another firm and does not find it in its interest to introduce its own product.

But the PFJ is flawed at an even deeper level: Even if it did what DOJ and Microsoft say it would, its effect on firms that operate in Microsoft's markets and its ability to restore competition in those markets would be minimal at most. Most of the PFJ is intended to prevent Microsoft from retaliating against OEMs, ISVs, IAPs and others that distribute, develop or otherwise support software that competes with Microsoft middleware. Under the terms of the PFJ, however, these entities would have little incentive to promote competitive middleware.

This is principally because, despite the Appeals Court ruling that Microsoft's integration of the browser and the operating system was anticompetitive, the PFJ would allow Microsoft to continue to bundle its middleware (and other) products with its operating system. Indeed, Microsoft's new XP software incorporates new functionality into the Windows operating system as never before. It includes, among other things, the IE browser, Microsoft's instant messaging and email software, Windows Media Player and the Microsoft Passport digital authentication software. All of these functions are bundled together and the combined package is sold at a fixed price.

Thus, OEMs have virtually no incentive to customize their offerings with non-Microsoft software. To do so involves an additional cost for the non-Microsoft software when compariable functionality is provided by Microsoft at no additional cost. An OEM that did this would have to pass these added costs on to its customers and would likely lose sales to other OEMs. Obviously, if OEMs don't have the incentive to install non-Microsoft software, ISVs won't have the incentive to develop it and IAPs won't have the incentive to distribute it.

As a result, the PFJ will not have any significant pro-competitive impact in the markets for either middleware or PC operating systems. Nor, for the same reasons, is it likely to have any significant pro-competitive impact on newly emerging markets, such as voice-over-IP instant messaging, game boxes, e-commerce technologies (e.g., "Passport") or digital rights management technologies. Indeed, the inability to make any plausible claims for such pro- competitive effects is the most likely explanation for the fact that, in contrast to the AT&T CIS, the CIS in this case doesn't make any.

IV. The Remedy Alternatives

There are two general classes of remedies that can be employed to remedy Microsoft's antitrust violations—conduct remedies and structural remedies. Conduct remedies leave Microsoft intact and attempt to constrain its anticompetitive behavior by imposing a set of behavioral requirements—essentially, a regulatory regime tailor-made for one firm. Microsoft's structure—and, importantly, its incentives—remain largely the same.[35] The challenge is to develop rules that effectively deter anticompetitive behavior, given that such behavior might continue to be in Microsoft's interest. The PFJ, which relies on conduct remedies, will not be effective in deterring anticompetitive behavior on the part of Microsoft.

Structural relief takes a different approach. Structural relief, as the name implies, involves restructuring the firm so as to change its incentives and ability to act anticompetitively. As DOJ explained eloquently in the AT&T CIS, if a restructuring is successful in achieving those goals, behavioral restrictions are largely unnecessary. The Appeals Court noted that structural relief is a common form of relief in antitrust cases and is "the most important of antitrust remedies."[36]

In this section, we describe the alternative structural remedies available to the court. Then we offer an evaluation of the proposals offered by the remaining litigating states.

A. Alternative Structural Remedies

At the government's urging, the District Court initially adopted a structural remedy, supplemented by interim conduct relief.[37] The Appeals Court vacated the District Court's remedy, partly because it modified the District Court's liability finding and partly because the District Court had failed to hold an evidentiary hearing.[38] The Appeals Court did not, however, rule out a structural solution to this case. The Court directed that "the District Court also should consider whether plaintiffs have established a sufficient causal connection between Microsoft's anticompetitive conduct and its dominant position in the OS market."[39] It continued, "[i]f the court on remand is unconvinced of the causal connection between Microsoft's exclusionary conduct and the company's position in the OS market, it may well conclude that divestiture is not an appropriate remedy."[40]* This is an issue that should be explored in an evidentiary hearing.

While it is difficult to predict exactly how the industry would have developed in the absence of Microsoft's anticompetitive behavior, it is likely that an alternative to Microsoft's operating- system platform would have emerged and it is a virtual certainty that Microsoft's position would be far less dominant than it is today. Clearly, Microsoft thought that was a distinct possibility.

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[35] 35 Microsoft's incentives would be modified to the extent it faces legal penalties, but those penalties would have to be very large to have a significant effect on Microsoft's incentives.

[36] 253 F 3d at 103, quoting United States v. E.I. du Pont de Nemours & Co., 366 U.S. 316, 331 (1961).

[37] United States v. Microsoft Corp., 97 F Supp-2d. (DCCirc. 2000) "Final Judgement".

[38] 253 F 3d at 6.

[39] 253 F 3d at 105.

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The causation between Microsoft's anticompetitive practices and its operating system monopoly runs both ways. Without its monopoly, Microsoft would have been unable to engage in the exclusionary practices documented by the District Court and affirmed by the Appeals Court. Moreover, because of the wide array of business practices at issue and the complexity of the industry, it is very difficult to fashion a conduct relief regime that will be effective if Microsoft retains its dominant market position. This is why the Department of Justice (initially) and others (including ourselves) favor a structural solution. Two different forms of structural solution have been proposed, which we review in turn.

The DOJ initially proposed, and the District Court initially ordered, a vertical divestiture, which would divide Microsoft along product lines, into an operating systems company and an applications company.[41] The DOJ argued that this remedy would create two powerful companies that would have the incentive to compete with each other, diminishing the market power of both. According to Timothy Bresnahan, Chief Economist at the Antitrust Division at the time, "divestiture of the company into an applications and an operating system company restores competitive conditions very like those destroyed by the anticompetitive acts. Absent the anticompetitive acts, Microsoft would have lost the browser war, and other finns would have commercialized useful technologies now controlled by Microsoft. Divided technical leadership, which could be accomplished by having an independent browser company in the late 1990s or an applications company now, lowers barriers to entry and competition in many markets. It was exactly this route to an increase in competition that Microsoft avoided by its anticompetitive acts. Second, ending Microsoft's unique position in the industry offers innovative new technologies the choice of two mass-market distribution partners, either Appsco [the applications company] or OSCo [the operating system company]. The divestiture will do much to reduce the motive to violate and also to reduce the effectiveness of future anticompetitive acts. It restores conditions for competitive innovation at a moment in technology history [i.e., when the Internet is starting to be commercialized] when having a single firm set the direction of innovation in PC and end-user oriented internet markets is most unwise."[42]

Similarly, the Department of Justice, in initially proposing this remedy, argued that separating the operating system from the applications company would "reduce the entry barriers that Microsoft's illegal conduct erected and make it less likely that Microsoft [would] have the incentive or ability to increase them in the future."[43] An independent applications company would have every incentive to support competitors to Windows rather than make decisions based on the level of threat those competitors pose to Microsoft.[44] A separate applications company would have appropriate incentives to port its products to competing operating systems, such as Linux, thereby lowering the applications barrier to entry that potential competitors face. Currently, Microsoft has an incentive to strategically withhold applications from actual or potential competitors, even if providing them would otherwise be economically justified. In addition, the applications company would have the incentive to make its tools available to Independent Software Vendors (ISVs) that cooperate with competing operating system providers.

Separate operating system and applications companies would make it possible for middleware technologies in the applications company to be competitive with Windows. When applications are written to middleware technologies, like the Netscape browser, which operate between the applications software and the operating system, they become operating system neutral,[45] reducing the applications barrier to entry and facilitating competition with Windows. There are several desktop applications, including Microsoft Office, that expose APIs and could become important middleware technologies.

Of course, a vertical divesture now would have a somewhat different effect than when it was first adopted by the District Court, because Microsoft has bundled many more applications into its new XP operating system. If the District Court again decided to adopt this remedy, it would also have to decide whether to require Microsoft to remove some applications functionality from its XP operating system or permit it to remain as is. If the XP operating system were allowed to remain as is, applications that would previously have been part of the applications company would be part of the operating system company. However, significant applications—principally, Microsoft Office—still remain separate from the operating system.

The alternative to a vertical approach is what we term a "hybrid" structural remedy, which combines both vertical and horizontal elements. A purely horizontal divestiture would divide Microsoft into several vertically integrated companies, each with full rights to Microsoft's intellectual property, creating several sellers of Windows as well as Microsoft's other software products. This remedy arguably goes beyond what is necessary or could be justified as matter of law, since it divides up products that were not the subject of the case.

A number of commentators, including Dr. Lenard, have proposed a "hybrid" remedy, which has elements of both vertical and horizontal divestiture.[46] It goes a step beyond the vertical divestiture remedy that the District Court adopted by first separating the operating systems company from the applications company and then creating three equivalent operating system companies.

Microsoft's bundling of more applications functionality into the new XP operating system strengthens the arguments for the hybrid remedy relative to other remedies. The PFJ (as discussed above) does not contain any restrictions on bundling, which will hinder its effectiveness dramatically. In addition, as more applications are moved into the operating system, the vertical divestiture becomes less able to restore the competitive balance, because the newly formed applications company would be a less powerful competitor.

By creating competing Windows companies, the hybrid remedy directly addresses the monopoly problem, which is the source of Microsoft's anticompetitive behavior. As indicated above, without the monopoly, Microsoft would never have been able to exclude the Netscape browser from the most effective means of distribution—OEMs and IAPs. It would not, for example, have been able to get the OEMs to refrain from pre-installing the Netscape browser as a condition for receiving a Windows license. Similarly, Microsoft would not have been able to extinguish the market for a competing browser by bundling the Windows operating system with IE. Microsoft would not have been able to do these things—which are at the core of the Appeals Court's liability finding—because the OEMs and the IAPs would have had competitive alternatives to which they could turn.

The hybrid remedy would eliminate the applications barrier to entry for the new Windows companies and deprive Microsoft of its ability to leverage its desktop monopoly into new markets. Because it really does restore competition, extensive behavioral restrictions are not required, making this the least regulatory of the available alternatives.

The hybrid remedy is to a significant extent an "intellectual property" remedy, requiring Microsoft to grant full intellectual property rights to its Windows Operating System to two new companies. This type of remedy is particularly suited to "new-economy" companies like Microsoft, whose assets consist primarily of informational capital, which can easily be replicated.[47] The rationale for going further and dividing up employees is that much of the intellectual property is embodied in the employees.[48] In contrast to traditional "old-economy" companies, however, there is very little physical capital to be divided up.

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[41] 41 Final Judgement at 2.

[42] Timonthy F. Bresnahan, "The Right Remedy," at 1, (available at www.stanford.edu/tbres/microsoft/The Right Remedy.pdf).

[43] Plantiffs" Memorandom in support of Proposed Final Judgement at 30–43, Microsoft (No. 98–1232), available at http://www.usdoj.gov/atr/cases/f4600/4640.htm.

[44] United States v. Microsoft Corp., 147 F 3d 935 (DCCirc. 1998) Romer Declaration # 4, (hereafter Romer).

[45] 45 Romer at 13.

[46] See Thomas M. Lenard, Creating Competition in the Market for Operating Systems: A Structural Remedy for Microsoft, (Washington: Progress & Freedom Foundation, 2000) http://www.pff. org/remedies/htm; Remedies Brief of Amici Curiae Robert E. Litan et al., 2000; Thomas M. Lenard, "Creating Competition in the Market for Operating Systems: Alternative Structural Remedies in the Microsoft Case," George Mason Law Review, Vol. 9., Spring 2001.

[47] Remedies Brief of Amici Curiae Robert E. Litan et al., 2000.

[48] Thomas M. Lenard, Creating Competition in the Market for Operating Systems: A Structural Remedy for Microsoft,(Washington,: Progress & Freedom Foundation, 2000) http://www.pff.org/remedies/htm.

This factor should alleviate some of the concerns expressed in the Appeals Court opinion about the use of a structural remedy in the case of a "unitary company"—i.e., a company not formed by mergers and acquisitions.[49] Such concerns have more validity in the case of old- economy companies, because of the difficulty of dividing up physical capital. What is being proposed in the hybrid remedy is much closer to a reproduction than it is to a division of the company's assets. When those assets consist primarily of information, they can be reproduced at very low cost.

B. The Litigating States Proposal

We believe a structural remedy continues to offer the best hope of deterring Microsoft's anticompetitive behavior in a way that is not overly regulatory. If, however, a structural remedy is off the table, the conduct remedy proposed by the Litigating States (LS) is far better than the PFJ. The LS Proposal does not contain the obvious loopholes and exceptions that are pervasive in the PFJ. Moreover, the LS Proposal includes a number of provisions that can partially restore competition to what it might have been absent the anticompetitive behavior. Because it will change the behavior of the participants in the market, the LS Proposal provides a serious remedy to Microsoft's offenses. Some of the attractive features of the LS proposal are as follows:

ù In contrast to the PFJ, the LS Proposal contains prohibitions on exclusionary and retaliatory behavior that are clear and unambiguous and mean what they purport to mean. In general, they provide meaningful protection against retaliation for the development and distribution of non-Microsoft software.

The LS Proposal would require Microsoft to license an unbundled version of its software. As discussed above, the bundling of applications together with the monopoly operating system makes it uneconomic in most cases to develop and distribute software that competes with Microsoft. This requirement would address that problem and create an environment in which rival software can be developed.

ù The LS Proposal would require Microsoft to license its software to third parties (not just OEMs) who could produce a customized product that would enlarge the range of consumer choice and provide competition for Microsoft.

ù The proposal also would require Microsoft to continue to license predecessor versions of Windows. This would permit OEMs to expand the range of consumer choice by providing a lower-priced operating-system product that might be perfectly satisfactory for a large number of users. In addition, it would permit OEMs and third parties to continue to develop a differentiated product that might be competitive with Microsoft.

ùThe LS Proposal would require Microsoft to make IE available on an open-source basis, and would require Microsoft to distribute Java, thereby partially reversing some of the effects of Microsoft's illegal activities

ù Finally, the LS Proposal would require Microsoft "to auction to a third party the right to port Microsoft Office to competing operating systems." This would reduce the applications barrier to entry for a competing operating system, such as Linux. All of these aspects of the LS Proposal would add significantly to the probability that the remedy in this case would actually have the desired effect of increasing competition in one or more of the relevant product markets.

V. Conclusion

The PFJ is not an adequate remedy and its adoption is not in the public interest. It will not deter Microsoft from engaging in anticompetitive activities and it will not restore competition in this extremely important sector of the economy. Moreover, the CIS that the government has prepared does not provide the information necessary for the District Court to determine that the PFJ is in the public interest.

In order to generate the necessary information for such a determination, the District Court should hold an evidentiary hearing in which the competitive impacts, benefits and costs of all the available remedies are closely evaluated. In addition to the PFJ, the Court should consider structural remedies—which appear to be justified under the criteria established by the Court of Appeals—as well as the LS Proposal. We believe that at the end of this process, the court will agree that the PFJ is not in the public interest and that the "hybrid" structural remedy we recommend best meets all the of the criteria governing the court's deliberations in this matter.

MTC-00028687

From: Albert Delgado
To: Microsoft ATR
Date: 1/28/02 5:01pm
Subject: Microsoft Settlement

Microsoft should be punished to the fullest extent of the law. The government should understand that Microsoft has been found guilty and should make restitution and change its predatory practices. Microsoft does not innovate, but makes shoddy software that many hackers attack at will. At Chicago public schools, the network administrators now prefer Linux and OSX from Apple since they are stable platforms.

Albert Delgado
Chicago Public Schools.

MTC-00028688

From: Ron Ohlander
To: 'microsoft.atr(a)usdoj.gov'
Date: 1/28/02 4:57pm
Subject: FW: Microsoft Settlement

To whom it may concern:

I am a computer scientist (Ph.D Carnegie-Mellon University) who has worked in the field for over 25 years. I have been a close observer of Microsoft's behavior since its inception. I believe that the proposed Microsoft settlement is a farce.

Microsoft has exhibited rapacious behavior since its start. The courts have found them to be a monopoly and guilty of monopolistic practices, which only attests to what most professionals in the field have known for a long time. Even as the case has been progressing through the courts, Microsoft has continued its aggressive tactics. The recent allegation that they lobbied congressional members in defiance of the Tunney act once again bears out my belief that they think they are above the law.

The government has a duty to pursue a course of action that will effectively remedy the situation. This has not been achieved. The proposed settlement terms are extremely weak. They will have virtually no effect in curbing Microsoft's behavior. On the contrary, they seem to be an endorsement of Microsoft's tactics. How can anyone who has any knowledge of the matter imagine that the playing field has been leveled, or that Microsoft will modify its monopolistic practices on the basis of said terms? In addition, where is the penalty for their past actions? The government is about to fail very badly in its duty to protect the American public.

If Microsoft continues to dominate through monopolistic practices, it will significantly affect the technology available to consumers, and what they pay for it. Microsoft has always rushed to market with shoddy software, expecting users to exercise and test it. Large numbers of bug fixes are generally required to any given product, but the products themselves never stabilize because Microsoft releases the next version with more bells and whistles and even more bugs. This process explains why their operating systems are so vulnerable to security attacks, i.e., as the systems have become larger and more complex, adequate security, which has never been very good in any of their products, becomes more tenuous. A lack of real competition exacerbates this kind of result. Businesses and individuals who use Microsoft products and suffer the consequences of viruses, worms, etc. pay an enormous cost. In a competitive market, consumers could make other choices unless the problems were fixed.

Finally, I don't understand how anyone can support Microsoft's argument that the consumer has benefited in the form of low-cost software. One doesn't buy such a product and have done with further expense. Rather, it is a case of buying on the installment plan, as one pays again and again for each new release that is made, along with the need to pay separately for user manuals. If the average person were to calculate the outlay for software over a reasonable time period, it would be shown that the cost is far from the bargain Microsoft portrays.

In conclusion, the government must find a way to curb Microsoft's behavior. The currently proposed settlement signally fails to do that.

Sincerely,
Ronald B. Ohlander

MTC-00028689

From: bugbee
To: Microsoft ATR
Date: 1/28/02 4:59pm
Subject: Comments on MS / DoJ Settlement

Your Honor,

To be especially brief, I'll be politically incorrect. (You have a lot to read.)

It sucks.

Why? For all intents and purposes, there is 1) no penalty for past illegal acts, and 2) no teeth in the agreement to insure it won't happen again.

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[49] 49 253 F 3d at 103.

A structural change in the way Microsoft does business is what's needed. Promising to be good has not worked before, and future monitoring is both ineffectual and pointless. I could elaborate, but I'd be taking your valuable time and I'm sure you've heard it all before.

Please do what you can to SOLVE this problem. ...a structural change.

Thanks for listening,

Larry Bugbee

Kent, Washington

MTC-00028690

From: Russell Pavlicek
To: Microsoft ATR
Date: 1/28/02 4:56pm
Subject: Microsoft Settlement

To whom it may concern,

This settlement is an extremely bad idea. It will not adequately curtail Microsoft's abuse of monopoly power.

Sincerely,

Russell Pavlicek

MTC-00028691

From: Robert McConnell
To: Microsoft ATR
Date: 1/28/02 4:58pm
Subject: Microsoft Settlement.

In response to the government's request for comments on the proposed Microsoft Settlement:

As a computer professional with over three decades of experience writing software for a variety of operating systems including Windows, and as one-time fan of Microsoft, I would like to make two points. The first is to suggest one route which in the absence of a breakup I expect Microsoft to continue to exploit to maintain it's monopoly. The second point is to call attention to a related danger from Microsoft's monopoly which I believe is accelerating the flight of manufacturing from the US to foreign countries.

First the monopoly preservation strategy:

Most competent computer programmers can, if they wish, write and document functioning code which is virtually incomprehensible to any other competent programmer (including the author him/herself). Moreover said author can almost certainly (disingenuously but successfully) argue in a court comprised of non-experts that the code is straightforward, well-documented and easy to understand.

What does this have to do with Microsoft maintaining and extending their monopoly? Everything. Whether hardware or software, it is in the interests of the creator of any product to facilitate use by the consumer while hiding as much of the internal workings as possible to discourage competition. Microsoft's strategy has been to continuously expand the boundaries of it's "operating system" (more properly now an operating environment) enveloping or attempting to envelope entire classes of applications, office, networking, on-line shopping, manufacturing etc... within the boundaries of the "operating system". This can be done explicitly as in the case of Internet Explorer, or implicitly by simply making it difficult and or prohibitively expensive for outsiders, to access, or even know about operating system, or hardware features which may be important for fields Microsoft dominates, or wishes to dominate. The "browser wars" were about exposing the inner workings of Microsoft's operating system so others might use them.

Because of the ease of writing and defending impenetrable code Microsoft already has an almost unlimited ability to restrict access to the core of the operating system and to the hardware beyond, whether or not a court orders it to provide access. Microsoft sells just enough tools to access selected parts its operating environment to be able to provide lip-service to openness. Generally speaking the products are scaled in such a way that only those who have made a large commitment, financial or "sweat equity" which will tend to lock in their allegiance to Microsoft are allowed access to the more powerful tools.

Because of the high barrier created by the impenetrability of the Microsoft code, it is hard to imagine any remedy short of a breakup will be able to curtail Microsoft's illegal monopolistic practices. The second comment, related to manufacturing flight, is contained in a letter I sent to the Attorney General general of Massachusetts several months ago. The text follows:

Dear Mr. Attorney General,

I must congratulate you and your staff on the stand you have taken against the proposed Microsoft settlement.

I am a software developer who has long been appalled by the relentless manner in which the American public interest continues to be steamrolled by the Microsoft juggernaut. Therefore I was shocked by the decision by the Justice Department to take the breakup option off the table. It is my opinion that this option offered the only chance to restore competition to the software marketplace. Needless to say, I was further dismayed by the terms of the proposed settlement.

As you are obviously well aware, under the guise of "innovation" Microsoft has succeeded in stifling true innovation in many ways. Much of the damage done by Microsoft is not as a result of overt actions towards the "victim" whether an individual or a company. Rather it is in creating an environment in which the fate of others who have tried to innovate in the face of Microsoft serves as a deterrent to further innovation. Of course this type of deterrence by example does not carry the connotation of physical danger as might be expected from similar threats by organized crime or terrorists. Nevertheless it is quite effective. This is an environment in which:

1. Intelligent software developers know that they have little chance of being successful unless they join the Microsoft camp. Once in that camp more of a developer's time will be likely spent keeping up with Microsoft's complexity-increasing-whims than improving their product.

2. Intelligent funding institutions know from history that there is no point in developing a product in a market in which Microsoft is known or believed to have interest. The best one can hope for in the case of a very successful product is the opportunity to sell the product to Microsoft at a price determined only by the latter.

3. The required "operating system" (now more properly an operating environment) is so complex as to create a huge barrier between the creative idea of a researcher, developer, or engineer and its implementation into a useful product.

I'm reminded of a university researcher's website I saw several years ago. The researcher noted that he was using older, and by then outdated, analysis software for his research. Although he had written the original software himself, he believed that the new requirement of interfacing with Windows had introduced such complexities that he could not afford either the time to update the software himself, or the money to to hire a Windows specialist to update it for him. Whether or not the researcher's assumption was actually true, Microsoft literature and promotions (the so-called FUD factor) would certainly lead him to this conclusion. Hence his further research in this field was stymied.

4. Similarly the Microsoft "one size fits all" operating system and tools, interposed between America's manufacturing engineers and the computer, hamper their creative efforts. Modern Windows software effectively prevents these engineers from writing high speed one-of-a-kind applications necessary for the most efficient manufacturing. Ten years ago the same engineer would have had no trouble writing this type of software. As a Senior Member and member of the Peer Review Committee of the Machine Vision Association of the Society of Manufacturing Engineers I became personally concerned about this issue several years ago. I was particularly worried that is resulting in substantial advantages for manufacturing facilities in foreign countries and earlier this year prepared the attached document.

I'm not sure any of this will be of any help in the successful resolution of the Microsoft situation. However I thought it might be helpful in explaining why at least one of us is behind you.

Again, congratulations and good luck on your stand!

Sincerely,

Robert McConnell

MTC-00028692

From: Stephen Hopkins
To: Microsoft ATR
Date: 1/28/02 7:04pm Subject" Microsoft Settlement

Conceptual Computing, Incorporated
I
9315 Locarno Drive, Dallas, TX 75243-7217

January 28, 2002

Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

Most individuals and companies affiliated with computer software products are very excited about the recent antitrust settlement between Microsoft Corp. and the U.S. Justice Department. The lawsuit has significantly dampened technological innovation as well as investment. Continuing the lawsuit would only make matters worse; therefore, the settlement should be accepted and finalized as soon as possible as it is fair and reasonable.

For example, it has agreed to disclose its internal interfaces for Windows to its competitors. It also agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system. Last, and perhaps most important, Microsoft has to design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows.

I sincerely hope the settlement is allowed to take hold as soon as the public comment period concludes and that those who may attempt to derail it are not successful in their attempts.

Sincerely,
Stephen Hopkins
President
CC: Representative Richard Armey

MTC-00028693

From: wt.catch1
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Yvonne Keenoy
46225 Verba Santa
#11
Palm Desert, CA 92260

MTC-00028694

From: Neil Kohl
To: Microsoft ATR
Date: 1/28/02 5:05pm
Subject: Microsoft Settlement

To whom it may concern:

I am writing in opposition to the Proposed Final Judgment (PFJ) in the case of United States v. Microsoft.

I am a programmer with over 20 years experience, and I currently work as a web site administrator for a large medical association.

I agree wholeheartedly with the Open Letter created by Dan Kegel and signed by over 2000 people (http://www.kegel.com/remedy/letter.html). I would like to single out two points which deserve special attention.

As stated in the Findings of Fact, Microsoft enjoys a monopoly in the operating systems market (section 33–44). According to the Court of Appeals ruling, "a remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct", to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to resulf in monopolization in the future" (section V.D., p. 99).

First, to meet these standards the Windows API—almost all of them, not just "Microsoft Middleware" as narrowly defined in the PFJ—must be completely open and documented in such a manner that third-party developers can create an environment that can run Windows applications. An example of such an environment is the WINE (WINdows Emulator) middleware that is available for the Linux operating system.

Second, the enforcement mechanism must be nimble. The original suit which led to the PFJ was filed in 1995. Since then, Microsoft has released three new versions of the operating system (Windows 98, ME, XP) and is positioning itself to be the middleman in Internet transactions via the .Net initiative. If the courts are used as an enforcement mechanism then Microsoft is guaranteed several more years without serious competition in the operating systems market.

Best regards,
Neil Kohl
Manager, ACP-ASIM Online
American College of Physicians—American Society of Internal Medicine nkohl @mail.acponline.org 215.351.2638, 800.523.1546 x2638

MTC-00028695

From: Sara Yurman
To: Microsoft ATR
Date: 1/28/02 4:59pm
Subject: Please reject this settlement.

Thank you for the opportunity to comment on this ruling. I am sure than many people have offered excellent technical reasons for rejecting this extraordinarily weak settlement. I have two reasons that I hope the court will consider:

1) I am a small business person. At the moment I can operate on Linux, and not be hampered by some of the Microsoft-specific formats that I receive. This, however, is tenuous and getting more so. As Microsoft extends its reach into the internet, and continues to keep its formats closed my ability to communicate without Microsoft is somewhat serendipitous. Operating with Microsoft products is not an option for us. We are a distributed company and cannot afford the expense and security problems inherent in those products. A virus could be fatal to our small firm.

2) It appears that Microsoft's monopoly power is having a corrosive affect on our political system. I wrote my U.S. Senators (Zell Miller and Max Cleland), urging them to support Senator Schumer's call to block the distribution of the XP operating system. Senator Miller never answered. The following was included in Senator Cleland's response:

>Despite Judge Jackson's ruling last June, Microsoft remains the single most >dominant technology firm in the world. Microsoft's core businesses, its Windows >operating system and Office software, are certainly under legal challenges on >several fronts, but at the moment they are still generating tremendous revenues >and profits for the company. In addition, Microsoft plans to jump-start its >Internet access operation, MSN, which is also unlikely to be affected by Judge >Jackson's verdict. >

Why is it more important to the Senator from Georgia that Microsoft generate profits than have conditions favorable to small businesses in his district? I never got a response, despite phone calls and emails to the Senator's office. This is the ultimate aim of monopoly power, and Microsoft has achieved it. Please stop them. I'd like to have my government back.

Respectfully submitted,
Sara Yurman

MTC-00028696

From: Jerry
To: Microsoft ATR
Date: 1/28/02 4:59pm Subject" Comments regarding Proposed Settlement

Attached is a PDF document with my comments regarding the Proposed Settlement of US v. Microsoft

Thank you for your attention in this matter.

January 25,2002
To:
Renata B. Hesse
Antiturst Division
U.S Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–001
Subject: Microsoft Settlement

The following are my comments regarding the proposed settlement of the United States vs. Microsoft antitrust case.

Personal Background

I am Information Technology specialist who works primarily in Systems architecture, design, and development. Over the past ten years I have specialized in Information Security. I have been a user of Microsoft products (for both consumers and developers) since the early 1980s.

United States v. Microsoft Background

The District Court and the Court of Appeals concluded that Microsoft had "unlawfully maintained its monopoly power by suppressing emerging technologies that threatened to undermine its monopoly control of the personal computer operating system market."

The Court of Appeals held "a remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct," to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future."

Comments

Scope of Protection is Too Limited

Microsoft's competition in the Operating system area varies greatly in type and size. This competion includes:

. direct competitors, organizations creating different Operating systems (e.g. Linux)

. organizations that build applications and middleware that run "on top" of an operating system (e.g. Java and Netscape Communicator)

.* organizations that customize operating systems for their clients (hardware OEMs)

.* organizations that provide software equivalence of the services of one operating system on a different system or environment.

The proposed restrictions on Microsoft business conduct will provide protection to a subset of these Microsoft competitors. The majority of the Proposed Settlement focuses on providing relief for

1) organizations that provide middleware that run exclusively on Microsoft Windows products, and hardware OEM vendors. There are only minimal changes in the Microsoft conduct to protect vendors of competing operating systems.

Only Large Competitors Are Protected

The size of organizations that develop software varies greatly. Even Microsoft started as a small number of people. Unlike many other businesses, there is not a requirement for a large capital investment to start developing software.

The restrictions on Microsoft conduct apply only to large organizations (both OEM and software developers). Not only does this not work to terminate the monopoly it creates new exclusionary and discriminatory practices which did not previously exist.

Scope of Interfaces to be Disclosed is too Narrow

The Proposed Settlement requires that Microsoft disclose the APIs for its middleware. However, in the Proposed Settlement the definition of Middleware is so limited that it excludes many of the interfaces required by competitors. The Interfaces to be disclosed need to include not just Application Programming Interfaces (APIs) but all other data structures and protocols externalized by Microsoft software components. The Department of Justice chose not to pursue issues related to the comigling of software and yet the Proposed Settlement assumes to have sufficient knowledge of the separate pieces (middleware vs. operating system) to provide a working definition in the Proposed Settlement.

As long as the definition of the Windows Operating Systems is outside the scope of the Proposed Settlement Microsoft will maintain the control over which interfaces must be disclosed. It would be more appropriate to require Microsoft to disclose ALL interfaces between all components of their products.

Not All Middleware Components are Identified.

Given that some of the Microsoft Middleware components that are subject to this settlement are mentioned in the Proposed Settlement, the ".net" interfaces, as the Microsoft followon to Java should be included. Given the complexity of the definition of Middleware provided in the Proposed Settlement, it would be desireable to include the complete list of all Microsoft Middleware. This list should be publicly available for the time period that the Settlement is enforced.

Not All Current Versions of Windows are Covered in the Settlement

All current versions of Windows that are based on Win-32 should be covered by the Settlement. This should at least include Windows CE and Windows XP Tablet Edition. Too Many Restrictions on Disclosure of Security Interfaces The Proposed Settlement places restrictions on the disclosure of Microsoft security interfaces in the name of National Security. I would suggest that the reverse is true. In the current environment it is important to nurture the development of security functionality. All Microsoft security programmable interfaces, protocols, and data structures should be fully disclosed. The only restriction should be that the content of some specific data elements may not be disclosed (private keys, etc.)

Limits on Which Organizations can Seek Disclosure of Interfaces

The proposed Settlement places restrictions on which competitors Microsoft must disclose their APIs. The competitors must be of sufficient size and have a valid business case. This allows Microsoft to chose which organizations they wish to compete. Even Microsoft in its earliest years would have failed these requirements. Given that in the current environment one of Microsoft's strongest competitors is primarily a volunteer organization (Lunix) it seems likely that Microsoft would not disclose any APIs to "Free" Software development organizations.

Poor Enforcement Mechanisms

A good settlement should include enforcement that is easily understood, quantifiable, and verifiable. There should be metrics that can be used over a period of time to evaluate the success of the Settlement. A good enforcement needs to provide quick resolution of issues related the Settlement for the business needs of both any plaintiff as well as Microsoft. Finally, there needs to be a sufficient motivation to insure Microsoft will not violate the Settlement.

The Proposed Settlement provides almost none of the above. There is technical review by a three person team but all of their work will be confidential and not subject to review. There is no public or judicial review of the progress of the Settlement. The only option for handling misconduct, outside of the technical team, is to go back to court—one of the slowest ways to resolve any violations. Finally, given that there is no financial incentive required in this Settlement and that Microsoft earns billions of dollars using their current business conduct it is hard to see why Microsoft will be motivated to make any changes in their conduct.

Conclusion

The Proposed Settlement does not provide adequate changes in business conduct of Microsoft to provide a remedy that meet the requirements of the Court of Appeals mandate. In some cases the Proposed Settlement adds new barriers to the competition to Microsoft Operating Systems and Middleware. Thus, the Proposed Settlement does not serve in the public interest. I recommend that the Proposed Settlement be rejected.

Sincerely,
Jerry L. Hadsell
2800 Wood??ey Road NW
Washington DC, 20008

MTC-00028697

From: Ken Brown
To: Microsoft ATR
Date: 1/28/02 4:59pm Subject" Tunney Act Comments

Thanks for reviewing our comments.

Ken Brown
January 28,2002
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW Suite 1200
Washington, DC 20530
e-mail: microsoft.atr @ usdoij.gov
Re: AdTI Tunney Act Comments

The Alexis de Tocqueville Institution submits these comments under the Tunney Act.

The Alexis de Tocqueville Institution is an independent non-profit education and research organization described in detail at www.adti.net. The mission of AdTI is to provide helpful policy analysis to advance the ideas of democracy and freedom around the world.

Sincerely,
Kenneth Brown
President
Telephone Number(s)- office 202-548-0006, cell 703-608-4222

ALEXIS de TOCQUEVILLE
Why the Microsoft Case Should Be Settled
Alexis de Tocqueville Institution
Washington, DC
January 22, 2002

The Hard Truth About Invention in the U.S. Marketplace

Two courts have reaffirmed that Netscape nor its browser were shut out of the marketplace. The browser wars produced a winner and a loser; and Netscape was the loser. However, within thousands of briefs and legal arguments criticizing the U.S. vs. Microsoft settlement is the repeated concern about the future of new Netscape's in the technology sector. Almost every other issue is tangential, and we must differentiate the arguments properly.

We see an interchanging of terms being used, specifically, "....the settlement should make the marketplace safe for firms to compete with Microsoft..." vs. "...the settlement should be safe for firms to introduce new products...ie, like Netscape Navigator..." The Department of Justice has proposed a settlement that properly speaks to its duty—to introduce a remedy which allows firms to safely introduce new products. Microsoft has agreed to the rules; which include a mandate that Microsoft disclose any information necessary for rival firms to produce fully interoperable products with Windows for competing software and servers.

The reason why critics want a settlement which goes further is because they want Microsoft completely out of the way. The case is merely obfuscation. With billions of dollars in resources, Microsoft's competitors want every advantage because 1) the marketplace for new technology is overwhelming and having a chief competitor eliminated makes things a little easier and 2) the competitors lobbying for a far-reaching settlement are among the most aggressive and fierce technologists in the world.

The reality is that the marketplace, particularly the marketplace for new technology has never been safe from a competitor. What Microsoft's competitors want is an oxymoron because no technology product is ever "competition-free" or guaranteed success in the marketplace. This benefits consumers, the country and ironically inventors themselves, which makes it relevant to observe the reality of the marketplace (beyond the courtroom) for a moment.

Great Inventors Must Be Fierce Strategists

Every inventor and innovator small and large must face the formidable odds to succeed in the marketplace for new technology. Since the day the first idea was registered in the U.S. patent office, countless inventions and innovations have become cinders in the furnace of competition. Relentless markets in America only sustain the fiercest competitors, without exception. Technologists rewarded with fabulous wealth and fame did so at the expense of employing hard-hitting, merciless strategies. Regardless of ingenuity, technologists without the ability to navigate in the marketplace were failures; and lucky to even receive credit as creators of their own inventions.

The marketplace for food, furniture and other goods each have their challenges. But, the technology marketplace is unique because it demands both inventive genius and keen business savvy. The combination of the two is rare in individuals and corporations, and particularly scarce among pure inventors such as physicists, mathematicians or engineers. From the light bulb to the PC operating system, every innovator that history has been kind to, had the indomitable capability to merge intellectual power with commercial insight. In the end, technologists with these qualities became far more successful than their counterparts with better inventions or greater talent.

Competitive Inventors Preserve U.S. Leadership

However, America's owes its technological leadership in the world to its competitive battleground. Although education, vigorous intellectual property rights and democracy are also credit to American invention, its ability to surface inventors with commercial savvy, make it a source of the most competitive innovations in the world.

In the end, the U.S. is a leader in world-changing innovations, at the expense of sustaining a "bare-knuckled" marketplace.

After an excruciating and lengthy examination by the court system, the federal government and 9 states (actually 41 when you consider the states that never filed suit) agree on the U.S. vs. Microsoft settlement. Regardless of the differences among the parties, we can't expect any ruling to settle the differences between Microsoft and its competitors. However, this dissatisfaction is in the best interest of our country and will only spawn better ideas and products that will propel the U.S. to new heights. U.S. technological leadership depends on the undying will of its innovators to be no. 1.

The "Electric" War Between Edison and Tesla The debate over Windows is similar to many stories about wars between rival innovators throughout history, particularly aspects of the Thomas Edison story. Although the Edison-Tesla rivalry did not involve anti-trust law, the contest details the reality of the "invention business" in the most competitive capitalist society in the world.

Contrary to popular belief, the idea of electric lighting was not Edison's. A number of individuals had developed forms of electric lighting, but none had developed a system that was practical for home use. Using lower current, a small carbonized filament, and an improved vacuum inside the bulb, Edison was able to produce a reliable, long-lasting source of light. Thomas Edison didn't "invent" the light bulb, but became a legend for making a 50-year-old idea a fantastic commercial success.

Edison's fiercest rival, was an ex-employee named Nikola Tesla from Smijlan, Croatia. Tesla was a genius who invented the fluorescent bulb in his lab forty years before industry "invented" them. At World's Fairs and similar exhibitions, he demonstrated the world's first neon signs. Perhaps Tesla's greatest invention was the AC (alternating current) system we use in our homes today. DC (direct current), an inferior system, ironically, was designed by Thomas Edison. After years of fierce wars and debate between the Tesla and Edison teams, AC became the accepted system of transporting electricity. In fact, Edison later admitted that AC was the better system.

While both men were geniuses ahead of their time, the biggest difference between Edison and Tesla was their perspective and approach to invention. Edison had a keen understanding of capital markets and the strategies necessary to finance, promote and commercialize his inventions. Tesla was a great theoretician who worked perpetually to finance experiments.

Edison held a world record 1,093 patents and died a wealthy, famous man. Tesla received over 800 patents, died penniless and was literally erased from the history books. In fact, Tesla was poor the last thirty years of his life and arguably would have eclipsed Edison's patent record if he had the capital. Remembered for many things, Edison was known for saying, "I have more respect for the fellow with a single idea who gets there than for the fellow with a thousand ideas who does nothing." Edison's vision reflects the view of anti-trust law, that the greater value is in a stable marketplace, not the resurrection of competing ideas.

The Other Truth about Netscape

The Appeals Court ruling reflects another hard truth—Netscape fell, because it did. The DC Circuit rejected the course-of-conduct theory, under which Microsoft's specific practices could be viewed as part of a "broad monopolistic scheme." This obviously has made anyone that viewed Microsoft as an evil-doer exponentially dissatisfied with DOJ's settlement. But again, is the responsibility of the DOJ to make the world safe from Microsoft?

Netscape maintained its Internet dominance until 1997, when Internet Explorer's fourth version was able to lap Netscape. Netscape Navigator never regained its prominence. In addition, by that time, the Netscape product was slow, outdated, and unstable, falling to a swifter surging Internet Explorer.

But perhaps the most unmentioned reality regarding Netscape's fall was their announcement to all (Microsoft included) that their strategy was to be the middleware that would be the "new" Windows, removing Microsoft's flagship product from dominance. Hindsight is 20/20 but when you consider how far ahead Netscape was in front of Microsoft, there are infinite what if's" to consider if it had been mum about its strategy to take on Redmond. Microsoft had all but ignored the Internet and it is very questionable if they would have been able to play catch-up to a well-funded and branded Netscape team. The outcome of this possibility almost completely counters any damage claims in their civil suit recently announced. After all, Netscape's grand plan was never realized, thus the future is incalculable especially when taking into consideration the hubris of Netscape.

Innovators are the Lifeblood of U.S.

Today, new technology firms use every means available to compete including spending billions of dollars on research and development. Sun Microsystems, IBM and AOL and Microsoft combine to spend over $100 billion annually just on research and development. Firms spend exorbitant amounts of money to create and protect to new products. But again, this competition is to the benefit of inventors and the U.S. marketplace. 1Recently, the United States Patent Office released its annual list of the top ten private sector patent recipients. It reported that for the ninth consecutive year, IBM received more patents than any other organization in the world. "I am proud that American corporations are leaders among U.S. patent holders," said James E. Rogan, Undersecretary of Commerce for Intellectual Property. "Patents promote technological progress and are a potent source for competitive free enterprise."

USPTO's comments echo the importance of preserving the status quo of the U.S. marketplace.

In the end, it is in the interest of innovation that we close the chapter on U.S. vs. Microsoft. The judicial process has sorted through the facts and come to judgment. Those dissatisfied with the settlement should be reminded by W. M. Deming's famous quip, "Learning is not essential, survival is not mandatory." Deming's point speaks not only to the Microsoft case; but the hard truth about invention and success in the technology business. The court system has done its job, and enough precious time has been dedicated to legal jurisprudence. It is now the time for Microsoft and its opponents to tuck in their chin, learn from their mistakes and return to the marketplace.

*U.S. PATENT AND TRADEMARK OFFICE (USPTO) LIST OF TOP 10 PATENT RECIPIENTS

Preliminary Rank In 2001	Preliminary # of Patents in 2001	Organization	Final Rank in 2000	Final Number of Patents in 2000
1	3,411	International Business Machines (IBM)	1	2,886
2	1,953	NEC Corporation	2	2,021
3	1,877	Canon Kabushiki Kaisha	3	1,890
4	1,6543	Micron Technology	7	1,304
5	1,450	Samsung Electronics Co., Ltd.	4	1,441
6	1,440	Matsushita Electrical Industrial Co., Ltd.	11	1,137
7	1,363	Sony Corporation	6	1,385
8	1,271	Hitachi, Ltd	13	1,036
9	1,184	Mitsbushi, Denki Kabushiki Kaisha	14	1,010
10	1,166	Fujitsu Limited	10	1,147

*Source: USPTO, January 10, 2002. The listed patent counts are preliminary counts, which are subject to correction. The final listing of patent counts for the top patent organizations in 2001 should be available by early April 2002. Patent information reflects patent ownership at patent grant and does not include any changes That occur after the

MTC-00028688

From: Helen Gamsey
To: Microsoft ATR
Date: 1/28/02 5:02pm
Subject" Microsoft settlement

Helen B. Gamsey
6006 S River Road
Norfolk, VA 23505–4711January 27, 2002
Attorney General John Ashcroft
US Department of Justice, 950
Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing you today to voice my opinion in regards to the Microsoft settlement issue. I feel that this debate has gone on long enough and that it is time to end this litigation. After three years of litigation, it is time to focus on more pressing issues. In my opinion, this lawsuit should never have occurred in the first place. Nonetheless, this settlement is the perfect means to end this dispute. Microsoft will remain together and continue designing and marketing their innovative software, while fostering competition and making it easier for other companies to compete. Microsoft has pledged to share more information about Windows operating system products and has agreed to be monitored for compliance. During these difficult times, it is vital to do all we can to boost our economy. Restricting Microsoft will not accomplish this. This country is at war with a world wide network of Islamic extremists intent on destroying us. The Department of Justice needs to focus on "fixing" the FBI and improving the security of our nation and protecting American citizens against more terrorist attacks. Has this short passage of time since September 11 dulled memories so quickly that we are back to the old games of using lawyers and politicians and the Department of Justice to squash competitors? Are things really back to normal? I don't think so...until the next terrorist attack... Antitrust laws are not meant to protect competitors against their inability to compete in the marketplace due to their own incompetence...Look who is suing? AOL, Sun Microsystems, Oracle, IBM are multibillion corporations.., not mom and pop outfits threatened by a bully...The antitrust laws were meant to protect consumers and to allow fair competition.

Consumers are not complaining. However antitrust laws are now being used to protect competitors, and to make trial lawyers even richer,.,at the expense of consumers and the economy. How many companies have been forced into bankruptcy now by trial lawyers over asbestos? 20? 30? 50?

AOL, Time Warner, IBM, Sun Microsystems, Oracle, etc have contributed heavily to politicians for years...long before Microsoft was forced to play this game, as a result of their persistent efforts to prosecute and persecute Microsoft.

Should the DOJ continue to "work" on behalf of Attorney Generals who are receiving large contributions and specific instructions from Microsoft's competitors via ProComp and other such organizations? After all, it was Sun Microsystems" financing of "Project Sherman" which assembled of panel of so called antitrust experts to testify before the DOJ. This panel had worked secretly for months, to "produce" antitrust charges which would appear credible to the DOJ. Unknowing to the DOJ, these "experts" were being paid $600 to $700 an hour by Microsoft's competitors. Reputable antitrust experts like Carlson produced novel antitrust theories of harm from incomplete foreclosure of market share that even bamboozled the Appeals Court judges; their decision relied on this "novel" theory...and most of their findings of antitrust violations were based on Carlson's novel" theories. Project Sherman, which cost Sun $3 million, initially convinced the Department of Justice to take this case..

I would think that the Enron scandal would make politicians and regulators more wary of the dangers involved from large contributors... I was surprised to learn the extent of Enron's contributions. They gave $50,000 to Paul Krugman, from the New York Times, who writes about economic matters, and not too surprisingly, Krugman apparently wrote positive articles in the past about Enron ....

I think it was American competitors of GE and Honeywell who gave secret testimony to the EU commission that lead the EU to disallow the GE-Honeywell merger, ge with Honeywell... It was a complaint from Sun Microsystems that lead the European Union to launch an antitrust case against Microsoft by the EU. There is something about certain American companies that borders on treason, in my opinion...when they resort to getting the European Union to crush their competition ..if they can't get the DOJ or FTC to do it... It is telling that Sun Microsystems has 200 lawyers in their legal department, more than many large firms, even in Washington. I think their shareholders might prefer they spent more on improving their products and competing...as their stock continues to decline. It's the old familiar story as Glassman says. "Pick an unsympathetic target with deep pockets. Generate lots of publicity.

Change the laws, if need be." "Then get the company to capitulate." Gee, Jesse Jackson is so good at these tactics of file:///C√/win/temp/tmp. getting large corporations to donate to his "charities; it is not surprising he was involved with the class action lawsuits in California claiming Microsoft discriminated against blacks and then women too. Microsoft was consistently been rated one of the top corporations "to work for and one of the most admired companies by Fortune until the trial lawyers and AG and MSFT's competitors started their hatchet jobs and made Microsoft into an "unsympathetic target." http://www.techcentralstation.com/1051/techwrapper.jsp?PID=1051–250&CID=1051–012901A The Appeals Court judges in Microsoft's appeal were astonished to learn that 160 million copies of Netscape browsers were distributed overall, and that their user base doubled to 33 million ...... in 1998 ..... when Microsoft's competitors were accusing Microsoft of foreclosing competion. They claimed that Microsoft "threatened to cut off Netscapes air supply," a statement MSFT never made.

Microsoft's competitors lobbied politicians for years before Microsoft was finally forced to join their game and forced to pay this" protection money. " For about 20 years Gates and his colleagues just sat out there in "the other Washington," creating and selling. As the company got bigger, Washington, DC, politicians and journalists began sneering at Microsoft's political innocence. A congressional aide told the press, "They don't want to play the DC game, that's clear, and they've gotten away with it so far. The problem is, in the long run they won't be able to." Politicians told Bill Gates, "Nice little company ya got there. Shame if anything happened to it." And Microsoft got the message: If you want to produce something in America, you'd better play the game. In 1995, after repeated assaults by the Federal Trade Commission and the Justice Department, Microsoft broke down and started playing the Washington game. It hired lobbyists and Washington PR firms. Its executives made political contributions. And every other high-tech company is getting the message, too, which is great news for lobbyists and fundraisers." (but not for consumers or innovators or successful companies..) From "The Theft of Microsoft" by David Boaz. http://www.cato.org/dailys/07–27–00.html

"What lesson should they draw? The antitrust laws are fatally flawed. When our antitrust laws are used by competitors to harm successful companies, when our most innovative companies are under assault from the federal government, when lawyers and politicians decide to restructure the software, credit-card and airline industries, it's time to repeal the antitrust laws and let firms compete in a free marketplace."

"Our tobacco, gun and antitrust laws have essentially been rewritten by state AGs and their trial-lawyer allies. The result, as former Labor Secretary Robert Reich wrote in USA Today, has been "regulation by litigation" - a sorry state of affairs that has cut elected representatives out of the system."

"Political science quiz: Today's category is decision making at the Federal Trade Commission and the Department of Justice."

"Which is more important in the merger approval process?

1) a sophisticated economic study prepared by staff economists, complete with extensive industry data, statistical analysis, and tight reasoning.

2) a scratchy, three-minute cell-phone call from the secretary of commerce?" ANSWER: 2) a scratchy, three-minute cell-phone call from the secretary of commerce?" "In 1991, the Time Warner buyout of Turner Broadcasting zipped past the FTC, despite a staff report branding the merger as anti-competitive. After Ted Turner and Gerald Levin, the two CEOs involved, visited top officials in Washington, the commissioners tossed the staff work out the window." From: "Texas Swing:

The not-so-shocking reason the Lone Star state chose not to sue Microsoft." By Thomas W. Hazlett REASON August/September 1998 http://reason.com/9808/col.hazlett.html

"Did they disagree with the competitive analysis? Was it a difference of opinion as to the cross-elasticity of demand? Or were the politically appointed regulators moved by a higher voice? It would be nice if the pundits who explained our politics to us could see where the politics goes. "That's what "access," and the campaign contributions used to purchase it, are all about." Somehow this case reminds me of what terrorists living in the US are doing so well.

There are many front groups for violent terrorist groups like Hamas and Islamic Jihad residing in the US, claiming to be think tanks or charitable groups. Organizations like C.A.I.R. or the Council on"American Islamic Relations, masquerade as mainstream public affairs organizations. CAIR has taken the lead in trying to mislead the public about the terrorist underpinnings of militant Islamic movements, in particular Hamas. "http://www.geocities.com/CollegePark/6453/emerson.html

CAIR and other such organizations have lobbied to change our US laws, like the use of secret evidence, to make it harder to deport them or to prosecute them; under the guise of protecting our freedom of speech.

These terrorists posing as phony charitable groups or think tanks also contribute to politicians and lobbyists and use the media to advance "their cause. CAIR has routinely exaggerated or fabricated "hate crimes" against Muslims. Just one example:

"CAIR's 1997 report on "hate crimes" labeled the death of Ahmed Abdel Hameed Hamida as a "hate crime." Hamida drove his car into a crowd of Israelis at a Jerusalem bus stop on February 26, 1996, killing one woman and injuring twenty-three other Israelis. He attempted to escape on foot but was shot to death by Israeli civilians. He shouted "Allahu Akbar," (God is Great!) as his car struck the crowd. He had made statements previously affirming his intent to kill Jews.

Hamida was a terroris, yet CAIR classified his death as a "hate crime."

Why is this relevant to Microsoft's antitrust case? Microsoft's competitors and these phony front groups are using their influence over the media, and their power from contributions to politicians to give the appearance that they are concerned with civil rights or consumers, when they are only advancing their own agenda, which is harmful to most of us. Microsoft's competitors claim to have the interest of consumers at heart, when in reality their own incompetence lead to their loss of market share. AOL 5 was such a terrible product that even computer experts could not deal with the changes it made to the computer. It changed your default settings and took over. Mossberg from the Wall Street Journal, who has never been a fan of Microsoft, acknowledged this at the time and there were lawsuits over this which somehow failed to make the news.. Anyone who has ever used AOL knows about their inferior products and their poor customer service.

"In 1975 Microsoft had 3 employees and revenues of $16,000. Over the next 25 years they grew to 36,000 employees and revenues of $20 billion by obsessively figuring out what computer users needed and delivering it to them." "Over the years Gates and his colleagues made a lot of people mad, especially their competitors. Some of those competitors delivered a 222-page white paper in 1996 to Joel Klein, head of the Justice Department's antitrust division, and urged him to do to Microsoft in court what they couldn't do in the marketplace. (Susan Creighton wrote that White Paper).

Justice worked closely with the competitors for four years, often showing them sentences or paragraphs in drafts of the department's plans and soliciting their approval. The politics of the case is a far cry from the Platonic ideal of rigorous economists devising the best possible antitrust rules and wise, disinterested judges carefully weighing the evidence."

Microsoft's competitors have used the Department of Justice to try to take not just their money but their intellectual property as well.

From "The Theft of Microsoft" by David Boaz. http://www.cato.org/dailys/07–27–00.html "In antitrust circles, Creighton is a card-carrying anti-Microsoft agitator. Creighton is now the deputy director for the FTC.

I hope she has recused herself from any involvement in this case." Five years ago—while her then-partner Gary Reback played a more public role—Creighton penned the infamous white paper commissioned by Netscape." Susan Creighton, and her partner Gary Reback, from Silicon Valley's Wilson Sonsini Goodrich & Rosati. Creighton "helped ignite the government's landmark case against the monopolist from Redmond, Wash.

"Microsoft's Captain Ahab" by Krysten Crawford, from The American Lawyer August 22, 2001from http://www.law.com "Bill Gates draws praise from the cultural elite when he gives away his money—and he has given away more than $20 billion; the Bill and Melissa Gates foundation has given more than any other philanthropist foundation. Yet those contributions pale when compared to the g Microsoft's great contributions to the technological and economic advances of the last decade. It would be a shame to see Microsoft's assets and intellectual property distributed to greedy conniving corporations and lawyers and publicity seeking Attorney Generals trying to further their careers.

Mr. Tunney is now complaining about the way Microsoft has reported their political contribution. I doubt he is really impartial. Robert Bork was a prominent foe of antitrust law in the 1970's, and a colleague of Judge Posner. Bork though as "changed" sides and became very "pro-antitrust" when hired by Microsoft's competitors.

I sincerely hope the Department of Justice accepts this settlement and puts an end to this mess and turns their attention to real threats to the Nation- the terrorists who want to destroy the West. Caving into Microsoft's major competitors who are behind the Attorney Generals hurt consumers and the economy further. Let them innovate like Microsoft does, rather than litigate.

Thank you for your attention.

Sincerely,
Helen B. Gamsey
757–440–5910
Sincerely,
Helen Gamsey

MTC–00028699

From: Bartucz, Tanya Y.
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 5:02pm
Subject: Tunney Act comments

Attached please find the Tunney Act comments on the Microsoft settlement of Griffin B. Bell, Edwin Meese III, and C. Boyden Gray. A paper copy will be submitted by fax.

Tanya Bartucz
Sidley Austin Brown & Wood LLP
1501 K Street, NW
Washington, DC 20005

(202) 736–8067
Fax (202) 736–8711

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MTC–00028700

From: John D. Mitchell
To: Microsoft ATR
Date: 1/28/02 5'03pm
Subject: Microsoft Settlement

John D. Mitchell
2129 Ascot Drive q
Moraga, CA 94556
2002.01.28
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
microsoft.atrusdoj.gov
Subject: Microsoft Settlement

SUMMARY

The currently proposed settlement with Microsoft woefully fails to address the critically important need of restoring hope to all of the parties afflicted by the Microsoft's abuse of monopolistic power.

Restoring of hope is a critical criteria by which any and all proposed solutions to the Microsoft monopoly problem must be judged. Moving forward, a just and fair solution to the Microsoft monopoly can only be created through a combination of structural and behavioral remedies.

AXIOMS

(Rule of) Law

At the surface, (the rule of) law is the complex, accretive, disjointly semi-hierarchical, codification of the conglomeration of (the processes of) (dealing with) (quasi-) behaviors.

At the heart, (the rule of) law is a simple belief system.

Fundamentally, (the rule of) law is about hope.

Anti-Trust Law

At the surface, anti-trust laws are primarily about dealing with things like the (private sector) abuse of monopoly power to harm consumers. At the heart, anti-trust laws are about dealing with entities which unduly restrict free-market competition.

Fundamentally, anti-trust laws are about dealing with entities which eliminate hope.

MICROSOFT ANTI-TRUST CASE

Background

The facts are simple and clear:

* Microsoft has systematically and aggressively pursued monopolistic goals since its formation.

* Microsoft's behavioral outrageousness stems directly from the corporate, "Cult of Bill" culture [ala "Cult of Personality] that has been created and fostered by all of the senior management of the company including Bill Gates himself.

* Microsoft has been very successful at gaining monopolistic power in many critical areas of the computer (software) business.

* Microsoft has repeatedly, aggressively, and unapologetically abused its monopolistic power to the detriment of the marketplace.

* Microsoft has clearly shown its obstinate incapability to adhere to behavioral restraints.

Lack of Hope

The settlement and (behavioral) remedies proposed by the US DoJ vs Microsoft anti-trust action are not only worthless to the marketplace but are outright detrimental. Why is that so clearly the case? Simple... The proposed settlement does absolutely nothing to address the fundamental abuse of Microsoft: the severe curtailing and, often, outright elimination of hope: For example:

* The hope of major (software) competitors has been mostly devastated over the years by e.g., Microsoft's abuse of its monopolistic power to exclude the competition from pre-built computers containing Microsoft operating systems (which increasingly forcing the "up selling", if not outright inclusion of more and more Microsoft products and services).

* The hope of computer vendors to sell whatever (software) it is that they want and are able to with their computers to satisfy their customers.

* The hope of upstart, would-be (software) competitors. It's a well known truism that a great many startup companies work so as to *not* attract the notice of Microsoft for as long as possible. It's incalculable how many companies (and projects within existing companies) have been canceled due to fear of Microsoft's (re)action.

* The hope of consumers for a fair price based on a fair, open market.

* The hope of (ignorant, inexperienced, etc.) consumers for computer systems that actually work (reliably, robustly, inexpensively, securely, etc.).

* The hope of (informed, experienced) consumers for computers and software that can (reliably, effectively, inexpensively, securely, etc.) inter-operate between all consumers (that don't explicitly choose to isolate themselves) without being, a priori, forced into using Microsoft products (due to such forces as the so called "network externalities" effects which reinforce monopolistic power).

* The hope of investors for a market which is unskewed by the insidious abuses of monopolistic power.

* The hope of citizens that the rule of law (still) has meaning and that breaking the law has serious, effective, and efficient consequences upon the violators, inhibitive effects upon would be violators, and some restitution for the violated. By neglecting dealing with hope, the proposed settlement precludes the reconstitution of a fair and open market, allows a vicious predator to continue their predations, and weakens the rule of law.

Therefore, any proposed settlement remedies must be judged in their effectiveness and efficiency at restoring hope.

Side-note on Consumer Pricing

I have heard many arguments, both pro and con, from various people using ("guesstimates") of the effects of Microsoft's monopolistic abuses on the prices that consumers have paid for various products. I have found all of those such arguments that I have heard to be severely lacking directly in proportion to their failure to address the fundamental hopes and expectations of consumers.

For example, of what import is the fact that Microsoft may or may not have "over-charged" some customers for some of their products if there was no hope of having a fair and open market to determine the true pricing? The very fact that there was not (any hope of) a fair and open market meant that there was absolutely no possibility whatsoever that anyone could have paid a fair price for any product or service from Microsoft nor for any product or service impacted by the monopolistic effects of the so skewed marketplace.

Behavioral Remedies are Insufficient Given the facts of the case, it is crystal clear that the current proposed settlement's reliance upon strictly behavioral remedies is insufficient to effectively and efficiently restore any hope.

My analogy is that of modifying the behavior of children... It is clear that while an appropriate corrective action (e.g., a slap on the wrist) by a reasonable, supervising guardian may well affect a change of behavior (for the better) in an otherwise normal, well-behaved child; such a remedy does, at best, nothing to positively change the behavior of a willfully recalcitrant teenager (and, at worst, merely incenses and incents them to be more clever in their abuses). At least, Microsoft must be treated as such a willful violator.

Many others have gone through and picked apart each and every one of the behavioral remedies in the proposed settlement. I won't go further into analyzing them here due to my contention that those remedies are, by themselves, so clearly insufficient. That said, I have co-signed Dan Kegel's open letter—http://www.kegel.com/remedy/letter.html.

Structural Remedies are Necessary

Structural remedies are necessary to any proposed resolution to the Microsoft monopoly. Only by incontrovertibly dispersing and otherwise separating each of the major constituents can there be any hope of significantly and effectively modifying the behavior of Microsoft and its monopolistic effects.

Structural remedies are necessary so that each of the resulting entities can be effectively constrained from (attempting to) reconstitute the original company. In addition, the resulting entities must be sufficiently isolated in terms of its market power by having to stand and compete in a fair and open market without being able to rely on the direct and synergistic power effects that Microsoft currently abuses.

Structural and Behavioral Remedies are Necessary and Sufficient I hope that it's clear from the preceding that the only ways to curtail the continued devastation of all of our collective hopes by Microsoft is to imposed significant structural remedies along with broad behavioral remedies.

I will leave it to another missive to go into details and rationale of my proposed remedies but the broad strokes are:

* Divest the current assets of Microsoft into three (4) new entities. One entity for creating operating systems for devices (PCs, handhelds, etc.). One entity for the end-user applications such as Microsoft Office suite of

applications. One entity for the development tools and libraries. And finally, one for end-user services such as MSN. Appropriate, suitably related portions of each of the general facets such as customer service & support and Microsoft Research would be dispersed to each of the new entities.

* Require that the (major) shareholders, the board members, and at least top three levels of executive management can only have anything whatsoever to do with at most one of the created entities. Also, inhibit their ability to switch between the created entities.

* Enjoin the resulting entities from colluding with any of the entities on any products or services to the exclusion of any other companies in any respective market. In conclusion:

* The currently proposed settlement fails completely to provide any hope for anyone, except those who gain by Microsoft continuing to abuse its monopoly, that anything will change for the better.

* Judging any proposed solution to Microsoft's monopoly must incorporate and account for the effects hope.

* Based on my experience and analysis, the only possible solutions necessarily must be based a combination of both structural and behavioral remedies.

Sincerely,
John D. Mitchell
Moraga, CA
2002.01.28

MTC-00028701

From: Devin (038) Marilee
To: Microsoft ATR
Date: 1/28/02 5:04pm
Subject: Microsoft Settlement

ATTN: U.S. Department of Justice Antitrust Division

In my opinion, the terms of the Microsoft Settlement are reasonable and fair to all parties involved. It is time to move Microsoft and the industry forward. The terms of this agreement are in the public interest and should be accepted.

Thank You—
Marilee Sauer
8618 Henrietta Avenue
St. Louis, MO 63144

MTC-00028702

From: Bill Whitlock
To: Microsoft ATR
Date: 1/28/02 5:04pm
Subject: Microsoft antitrust case —

I would like to say get this case over with and let Microsoft get on with business. Do not let the states do separate settlements. Because it will just turn into a money grab. How dose consumer protection benefit from fifty one separate legal cases? The only people that profit are the lawyers and state attorneys looking to make a name for themselves.

Making the source codes available will give new products an ability to integrate with microsoft. Will you require apple to do the same? The U.S. economy is in the toilet. Tens of thousands of jobs have been lost. Excess beating up on Microsoft will not help this situation. Dragging this issue out any longer will not help U.S. consumers.

I am writing this on a Mac G4. I have both Apple and Microsoft operating systems. I also have Netscape and Internet explorer on my home PC.

P.S. The U.S. lost a unfair trade case in the world court. Is this one of those cases where we are suppose to do what you say not as you do?

MTC-00028703

From: Alex Lazutin
To: Microsoft ATR
Date: 1/28/02 4:53pm
Subject: Microsoft Rulings

To whom it may concern:

In my opinion, the Microsoft settlement was just and fair to all parties.

I believe Microsoft should be exempt from any future litigation.

Taking into consideration all the wonderful things Microsoft does for children and its employees, why should the company be put though any future expense.

Sincerely,
Paula Lazutin

MTC-00028704

From: cplp31@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

I find it amazing that the Federal Govt would go through such extrodianry lengths to prosecute Bill GAtes and Microsoft. I cant speak on the legal technacalities of the lawsuit but the Microsoft s impact on the United States is clear. Over the past 10 years computers the internet and technology have been made more available to households and schools across the country. I find it odd that this can be considered some sort of monoply that is harming our nation. Microsoft has done wonders for our scociety making computers cheaper easier to use and more avialable. Thank You for your time.

Marc T Povondra
MIDN USN

MTC-00028705

From: reg@elvis.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

I think that Microsoft should be taken to task for their illegal and bullying ways to crush any competition in the O/S and browser market. They (M$) develop lousy software and through their business methods keep competitors from delivering better software.

REG

MTC-00028706

From: marske@ec.rr.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

I think the government should not continue a lawsuit again Microsoft. I think there should be a settlement so Microsoft can get on with its business. There was no good reason to sue Microsoft in the first place. Just government at its worst going after someone just because it was successful.

MTC-00028707

From: marske@ec.rr.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

I think that the suit against Microsoft was a waste of taxpayers money. They were being sued simply because they were successful.

MTC-00028708

From: bobguth@fidnet.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

The Department of Justice Settlement is a total non-settlement which deserves investigation in it own right. I feel that the anti-competitive practices are being actively encouraged by the Bush Administration settlement allowing Microsoft to increase its stranglehold on operating systems. Please do not sell out the intrests to future generations allowing greed collusion to dictate to future generations what our public officials do not have the courage to do. Do not accept the Department of Justice Settlement.

Maintain the future health of competitors such as Apple and the open systems such as Linux. We as consumers deserve a choice. Have the courage to stop the arrogance of Microsoft please rule against the proposed settlement.

MTC-00028709

From: spirit@hevanet.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

I believe the settelment is in the best intrest of all concerned. lets stop the antics of aol and other companys and individuals who have a hidden agenda what have there contributions been to all compared to microsoft.

MTC-00028710

From: 78455@attbi.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

As I can see that the U.S.Attorney for the Department of justice is looking out for the right of the Computer would and that no one should be ably to hold the computer world down and that mead Mictosoft

MTC-00028711

From: HatfieldCC@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

At a meeting of the Executive Board of The Hatfield Chamber of Commerce today the Board voted unanimously to voice their support of the Proposed Microsoft/Department of Justice Antitrust Settlement.

It is our belief that this settlement is a tough fair and reasonable compromise that is in the best interest of everyone—the technology industry the economy and especially consumers. Thank you.

Hatfield
Chamber of Commerce P.O. Box 445
Hatfield PA 19440

MTC-00028712

From: jreece@northstate.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

If there has ever been any doubt that AOL does not want a fair and expedient solution to it s legal challenge to Microsoft then it s latest legal action should remove a all doubt. The irony of all their actions is that there has never been a ground swell of consumer complaints stating that the consumer has been hurt by Microsoft business practices. It is obvious that AOL Time Warner is trying to use the courts for it s own competitive purposes. It is also time to challenge whether AOL is monopolistic in it s own business as the largest internet provider. If AOL should in fact buy the Linux operating system I suppose we will see yet another challenge to Microsoft in the courts. For the sake of the technology industry the nation s economy and America s consumers let s get these issues out of the courts and into the competetive marketplace where they should be.

Jack D. Reece
419 Chesterwoods Court
High Point
NC 27262 336–841–7810

MTC–00028714

From: noone@nowhere.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

Microsoft is making a mockery of the DOJ. Who is getting paid off? All your excuses are lame this is an embarrassment.

MTC–00028715

From: ess777@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

I believe that the proposed DOJ settlement offer is fair. I hope that this matter can be resolved and that this great company can get on by the business of innovation. Thank you

Eva Stubits

MTC–00028716

From: bobguth@fidnet.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

The Department of Justice Settlement is a total non-settlement which deserves investigation in it own right. I feel that the anti-competitive practices are being actively encouraged by the Bush Administration settlement allowing Microsoft to increase its stranglehold on operating systems. Please do not sell out the intrests to future generations allowing greed collusion to dictate to future generations what our public officials do not have the courage to do. Do not accept the Department of Justice Settlement.

Maintain the future health of competitors such as Apple and the open systems such as Linux. We as consumers deserve a choice. Have the courage to stop the arrogance of Microsoft please rule against the proposed settlement.

MTC–00028717

From: mikeoc@digitalexp.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

I can not see where Microsoft has hurt anyone except for their feelings. The Government settlement is more than fair.It is time for the cry babies to go home!

MTC–00028718

From: Chris Carman
To: Microsoft ATR
Date: 1/28/02 5:06pm
Subject: reasons against the settlement

I know I might be sending this a bit late, but I just found out about the open comment period and I'd like to say a couple things from an educator's point of view.

I teach two computer classes—one in web site design and programming, the other in computer & network support (aimed at CompTIA's A+ and Network+ tests). Our high school uses Windows PC's almost exclusively because of a directive from our school board that has more or less banned Macs due to their lack of presence in most businesses. I primarily use Macs at home, but I also have 3 PC's and am very comfortable with the Windows and Linux operating systems (I'm A+, Network+ and Linux+ certified).

The settlement is bad for consumers, educators, students and the country as a whole for two major reasons.

The first reason is that educators and students would have very little say in what products are chosen to be placed in their classrooms. Deep discounts from Microsoft and used PC heardware not only limits choices, but also increases tech support costs for the school. I did an observation at an inner-city high school in Cincinnati when I was in college, and five brand-new PC's sat in a corner because kids had stolen the balls from inside the mice and they were rendered useless. Of course, a $2 mouse ball would have fixed this, but with very little tech support in that district, the technology is wasted. If you want to do anything with schools, give them some money for equipment but give a lot more money for tech support training and increased salaries for tech coordinators to attract more qualified individuals.

The second, and most important reason, is that the settlement does absolutely nothing to curb Microsoft's future domineering behavior. In fact, they come out looking like the good guys by donating to impoverished schools while increasing their installed user base! This sort of thing cannot be allowed to happen.

The Windows APIs that allow programs to run inside the Windows Operating System should be opened up for everyone to download, use, interpret, and include in another OS. For example, if Mac OS X could run Windows programs natively, it would be a dramatic improvement for the computer industry as a whole because it would provide some serious competition for Microsoft. If you look back to the beginning of the computer industry, IBM was very slow to improve its original 8086 and 80286 computers until competition (in the form of Compaq clones) came along. The same thing happened with Intel, which rested on its laurels until AMD released a chip (the Athlon) that was faster and cheaper than their Pentium 3.

Competition is good for the industry. Please don't allow Microsoft to get away with this sort of bribery.

Chris Carman
Hamilton, Ohio

MTC–00028719

From: guilmette@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

On belief of the Tech World further delays of the D. of J. in the decision re: MICROSOFT are simply causing greater expenditures of the tax payers money. Furthermore the remedy that was proposed by Microsoft was ideal because it would make available for the most under-priveledged children a technology that now is almost uniform in our country. Further delays will simply compound the problem in teaching.

MTC–00028720

From: gdfox@foxinternet.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

As a user of the Microsoft Operating System and bundled software I have appreciated the ease of having it all in one package. I believe that most individual consumers would agree. The government broke up Ma Bell and now there are many larger businesses. All it did was to make prices rise. To those of us who are retired and hold stock in these companies such as Microsoft the ongoing dispute over who is right has only served to hurt the stockholders.

Gordon Fox

MTC–00028721

From: monkeyjr@purdue.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

I use Microsoft products and they are pretty average. I believe they would be better if there was improved and fair competition in the market place. I strongly believe this site is a pawn in Microsofts plans to monopolize information technology. To improve all of out futures rethink your policies and realize that what Microsoft is doing is wrong.

MTC–00028722

From: baan@starpower.net@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

Please bring an end to the Microsft suit. The economy has suffered long enough.

Wes Vernon

MTC–00028723

From: cbearden@mail.state.mo.us@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm
Subject: Microsoft Settlement

The settlement terms are fair to all concerned and should be implemented without delay. Carl Bearden

State Representative District 16

MTC–00028724

From: Everett—Langford@huntsman.com@inetgw
To: Microsoft ATR
Date: 1/28/02 4:57pm

Subject: Microsoft Settlement

Microsoft creates software they do it better than anybody else. If there is a better operating system possible the developers can become the next Microsoft. It is time to stop punishing success in this country. Microsoft should be praised not hounded. Just leave them alone. The settlement should just say: Microsoft did it better. They did nothing wrong. All charges dropped!

MTC-00028725

From: Ken Brown
To: Microsoft ATR
Date: 1/28/02 5:05pm
Subject: Tunney Act Comments

Just to make sure you received our fax, we are sending it one more time. If there are any problems with the submission you can call me 703-608-4222.

Ken Brown

MTC-00028726

From: LLiebeler@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:08pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D. Street, NW
Suite 1200
Washington, DC 20530-0001
RE: Microsoft Settlement

Dear Ms. Hesse:

Please find attached the Tunney Act comments of the Computing Technology Industry Association (CompTIA) relating to Microsoft settlement.

The attached file is formated in Word Perfect 9. Please let me know if you have any difficulties downloading and/or formatting this file and I will be happy to provide it to you in a different format.

Thank you for the opportunity to submit these comments. I would appreciate your acknowledgment of receipt of these comments. Thank you.

Lars H. Liebeler
Thaler Liebeler LLP
1919 Pennsylvania Avenue, NW
Suite 200
Washington, DC 20006
Direct: (202) 828-9867
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publicpolicy@comptia.org
QQQ
CompTIA

Comments of the Computing Technology Industry Association on the Revised Proposed Final Judgment in United States v. Microsoft

Submitted to the United States Department of Justice pursuant to the Tunney Act, 15 U.S.C. u 16

January 28, 2002

I. EXECUTIVE SUMMARY

CompTIA supports the Revised Proposed Final Judgment (RPFJ) entered into between the United States Department of Justice, nine states, and Microsoft on November 6, 2001. The RPFJ represents a reasonable compromise of the parties' respective positions in this case. The benchmark under which the settlement must be judged is whether it is consistent with the United States Court of Appeals June 28, 2001 opinion. The Court of Appeals found that Microsoft took actions to unlawfully maintain its monopoly in the operating system market, but also ruled that Microsoft had not attempted to unlawfully monopolize the Internet browser market nor did it unlawfully tie its Internet Explorer to the Windows operating system. The RPFJ represents a reasonable balance of the Court of Appeals split decision by imposing obligations upon Microsoft in the areas where it was found liable, and avoiding obligations in areas where Microsoft's conduct was not found to be unlawful. As such, the RPFJ is narrowly tailored to fit the violations and will likely avoid collateral damages to the marketplace. After the November 6, 2001 Proposed Final Judgment was announced many of Microsoft's competitors complained that the settlement was too lenient. The antitrust laws, however, make clear that the settlement should not be designed as a wish list for Microsoft's competitors. The settlement should fairly address the areas of liability found by the Court of Appeals. Anything less would encourage Microsoft and other companies to engage in anti-competitive conduct in the future; anything more would inappropriately imperil the technology marketplace and cause harm to consumers.

The terms of the RPFJ insure that the technology sector will continue to expand and innovate. The settlement places strong and appropriate checks on Microsoft in areas where such checks are needed, but is designed in such a way that Microsoft will be able to compete fairly and aggressively in all markets. CompTIA urges the United States District Court to approve the settlement and reject the non-settling states more extensive remedy proposal as that would erode intellectual property protection, harm competition, and stall growth in the industry.

The only significant reservation regarding the RPFJ that CompTIA holds is that the settlement obligates Microsoft to disclose an abundance of intellectual property to the Plaintiffs and the Technical Committee. While this technical information is to be used for the purpose of achieving the interoperability goals specifically identified in the RPFJ, CompTIA is concerned that the precedent established by these disclosure provisions will be harmful to the technology sector in the long run. Innovation and growth in the IT industry are fostered by strong protection of intellectual property rights. If every antitrust violation is remedied by a wholesale forfeiture of valuable proprietary information by the defendant, intellectual property rights will suffer a significant blow. And, justifying the forced disclosure of a company's valuable technical information on the ground that it will be used for interoperability purposes only is not a sufficient protection. Because there is no bright line as to what constitutes interoperability information and what does not, the chance of valuable intellectual property being compromised is high.

CompTIA's reservation notwithstanding, we believe the settlement will benefit the industry as a whole and we respectfully urge the District Court to approve the RPFJ.

II.COMPTIA'S INTEREST IN THIS MATTER

The Computing Technology Industry Association (CompTIA) is the world's largest trade association in the information technology and communications sector. CompTIA represents over 8,000 hardware and software manufacturers, distributors, retailers, Internet, telecommunications, IT training and other service companies in over 50 countries. The overwhelming majority of CompTIA members are resellers companies that resell software and hardware to consumers, businesses, or other resellers. These resellers are vendor-neutral and their objective is to be able to sell whatever products their customers wish to buy. In that sense they believe that antitrust laws should focus primarily on consumer impact rather than competitor impact. Microsoft is a member of CompTIA as are many of Microsoft's competitors. In 1998, CompTIA's Board of Directors adopted a formal policy statement on antitrust.

That statement supports sensible antitrust enforcement that is based on demonstrable economic effects in the marketplace. CompTIA believes that market forces typically correct any temporary market imperfections and that government regulators should only intervene in the technology marketplace when there is overwhelming evidence of a substantial and pervasive market failure. Pursuant to its policy statement, CompTIA has written and spoken frequently on antitrust issues of relevance to the technology sector. In June 1998, CompTIA filed an amicus brief in the Intel v. Intergraph litigation in the U.S. Court of Appeals for the Federal Circuit. In that case

CompTIA urged the court to reject a lower court's finding that antitrust allegations could be a basis for ordering a company to disclose its valuable intellectual property. CompTIA co-authored an amicus brief in the United States Court of Appeals for the District of Columbia Circuit in the United States v. Microsoft case in November 2000. The amicus brief urged the Court of Appeals to reverse the District Court's order breaking Microsoft into two separate companies and further discussed the negative industry-wide ramifications of the District Court's liability findings were they all permitted to stand. The basis for CompTIA's participation as amicus and submission of these Comments is its interest in the overall health and prosperity of the technology sector.

III. THE CONSENT JUDGMENT IS IN THE PUBLIC INTEREST AND SHOULD BE APPROVED BY THE COURT

A. Standards Under Which the RPFJ Should Be Judged

Under the Tunney Act, 15 U.S.C. u 16, the consent judgment should be approved if it is in the "public interest." The public interest analysis must be measured by the objectives of the antitrust laws; public interest concerns that are not within the purview of the antitrust laws are irrelevant. U.S. v. AT&T, 552 F. Supp 131 (D.DC 1982), affirmed, 103 S.Ct. 1240 (1983).

Nor is their a requirement that the settlement be, in the eyes of the District Court, "the best possible settlement that could have been obtained;" the settlement must simply be within the reaches of the public interest. U.S. v. Agri-Mark, Inc., 512 F. Supp 737 (D. Vt. 1981). In short the District Court should not reject the consent judgment
merely because [s]he believe[s] other remedies [are] preferable. United States v. Microsoft, 56 F.3d 1448, 1460 (DC Cir. 1995).

The language of the Tunney Act sets forth specific areas of inquiry relating to the public interest:

For the purpose of such determination, the court may consider—(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment; (2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. u 16(e). Focusing on selected areas identified within the Tunney Act, CompTIA sets forth its analysis of the RPFJ below.

B. The Competitive Impact of Such Judgment

1. Termination of Violations

The RPFJ closely tracks the liability findings from the Court of Appeals opinion. First, the settlement prohibits Microsoft from retaliating against any OEM (original equipment manufacturer) because of an OEM's participation in promoting or developing non-Microsoft middleware or a non-Microsoft operating system. This provision takes the club out of Microsoft's hand and prevents the company from using anticompetitive means to discourage OEM's from promoting or preventing rival software from being developed or installed on the Windows desktop.

The anti-retaliation provisions of the RPFJ even go so far as to prohibit Microsoft from altering its license with an OEM even if the OEM offers users the option of launching other Operating Systems from the Basic Input/Output System or a non-Microsoft boot-loader or similar program that launches prior to the start of the Windows Operating System Product.

RPFJ at u III.C.4 (emphasis added). Thus, an OEM has the full ability to make decisions based on price, features and performance with respect to whether an alternative operating system will be loaded on its computers; and that operating system product may appear to the user before Windows does. This flexibility will insure that operating systems that compete with Windows will have a full opportunity to reach the consumer. Once there, the decision about whether they succeed or fail is in the hands of consumers. These anti-retaliation provisions deal head on with the bulk of the conduct the Court of Appeals found to be illegal in the monopoly maintenance section of its June 28, 2001 opinion.

Second, Microsoft is obligated to adhere to one uniform license agreement for Windows with the top twenty OEM's and the royalty for the license shall be made publically available on a web site accessible by all OEM's. The price schedule may vary for volume discounts and for those OEM's who are eligible for market development allowances in connection with Windows products. This allows Microsoft to continue to compete in all software markets with other software manufacturers and this competition will continue to benefit consumers.

Third, OEM's are permitted to alter the appearance of the Windows desktop to add icons, shortcuts and menu items for non-Microsoft middleware, and they may establish non- Microsoft programs as default programs in Windows. Consumers also have the option of removing the interface with any Microsoft middleware product.

Fourth, Microsoft must reveal the API's used by Microsoft middleware to interoperate with the Windows operating system. Microsoft must also offer to license its intellectual property rights to any entity who has need for the intellectual property to insure that their products will interoperate with the Windows operating system.

These central features of the settlement insure that other companies have the ability to challenge Microsoft products, both in the operating system and middleware/ applications markets, and are not unfairly shut out of those markets as a result of Microsoft's operating system monopoly. Consumers and OEM's have far greater freedom to install and use non- Microsoft products, Microsoft is prohibited from retaliating against any entity who promotes non-Microsoft programs, and all companies have equal access to Microsoft API's and technical information so that non-Microsoft middleware has the same opportunity to perform as well as Microsoft middleware. At the same time the RPFJ does not prevent Microsoft from integrating new technology into the Windows operating system and does not prohibit Microsoft from competing in any market that it chooses to enter. Such restrictions would have harmed consumers and been antithetical to the goals of the antitrust laws.

Because the RPFJ adheres closely and effectively addresses the liability findings of the Court of Appeals, it is a reasonable settlement and therefore in the public interest. Finally, the Court of Appeals directed the District Court to consider whether there is a causal connection between Microsoft's anticompetitive conduct and its dominant position in the OS market. United States v. Microsoft, 253 F.3d 34, 106 (DC Cir.), cert. denied, 122 S.Ct. 350 (2001). And while this direction was made in the context of whether structural relief is appropriate, it is logical to conclude that the foundation of that inquiry remains highly relevant even though structural relief is no longer at issue in this case. In the absence of evidence that the marketplace would have looked any differently absent Microsoft's anticompetitive behavior, the RPFJ provisions that enjoin the conduct found unlawful by the Court of Appeals are appropriate and in the public interest. Any remedy that extends beyond the monopoly maintenance findings by the Court of Appeals would not be in the public interest absent a finding of causal connection showing actual harm in the marketplace, and clear evidence of how the remedy would obviate the harm, while avoiding collateral damage to the marketplace.

2. Commingling of Software Code

Bundling can also capitalize on certain economies of scope. A possible example is the "shared" library [1] files that perform OS and browser functions with the very same lines of code and thus may save drive space from the clutter of redundant routines and memory when consumers use both the OS and browser simultaneously.

Some may criticize the settlement because the RPFJ does not address the issue of Microsoft's commingling of operating system code and Internet Explorer code which was found to be unlawful. See United States v. Microsoft, 253 F.3d 34, 66 (DC Cir. 2001). The Court of Appeals concluded that Microsoft's commingling of code deters OEMs [original equipment manufacturers] from pre-installing rival browsers, thereby reducing the rivals'' usage share and, hence, developers'' interest in rivals'' APIs as an alternative to the API set exposed by Microsoft's operating system. Id.

While Microsoft vigorously contested this finding of fact, and the Court of Appeals elsewhere acknowledged potential efficiencies from commingling of code, the Court denied1 Microsoft's petition for rehearing on this issue. In denying Microsoft's petition, however, the Court of Appeals expressly noted that [n]othing in the Court's opinion is intended to preclude the District Court's consideration of remedy issues. Order, August 2, 2001. Thus, the Court of Appeals signaled that its finding that Microsoft unlawfully commingled code does not necessarily mandate a remedial order requiring Microsoft to separate the code. Given the variety of other provisions in the RPFJ that encourage OEMs to place non-Microsoft middleware on the desktop, the consent judgment does not fail for the fact that it does not require Microsoft to separate the code. In the overall totality of circumstances, it is reasonable to conclude that the public interest would be better served by avoiding an order that would require Microsoft to engage in a fundamental redesign of its operating system. The object of such a remedy is effectively addressed through other provisions that do not harm consumers.

3. There are no Loopholes in the RPFJ

Some critics of the settlement have opined that the RPFJ contains loopholes in the language that requires Microsoft to disclose APIs (application programming interfaces) to software developers. See Washington Post, Wording of Microsoft Deal Too Loose, Analyses Say, January 18, 2002, E01. The settlement requires Microsoft to make such disclosures with respect to its browser, Internet Explorer, and other software such as Windows Media Player so that software developers may create competing software that interoperates with the Windows operating system. The allegation that the settlement has loopholes in this regard, however, is based on a faulty interpretation of the plain language of the settlement agreement. Section III.D of the RPFJ requires Microsoft to make available the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product. The term Microsoft Middleware is defined as software code that is contained within the operating system, but for which updates are distributed separately. The definition also requires, inter alia, that the software code be trademarked. The two programs cited by critics of the settlement as possibly excluded from disclosure requirements, Internet Explorer and Windows Media Player, are, however, clearly within the definition. Both are included within the Windows operating system as an initial matter and updates to both are distributed

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[1] Id. at 87.

A comprehensive list of downloadable updates to software that is contained within the Microsoft operating system is located at the following url: Updates to Internet Explorer and Windows Media Player are distributed on this site.

Publically available trademark information indicates that Internet Explorer is trademarked under serial Nos. 75663324 and 75340051 (assigned from Synet Inc.) and Windows Media, including descriptions of Windows Media Player are trademarked under serial Nos. 75663200, 75517785, and 75517786. separately. Moreover, both the logos and the words covering Internet Explorer and Windows[2] Media Player are trademarked.[3]

A natural reading of the RPFJ demonstrates that there are no loopholes that would frustrate the overall intent of the document. The definitions are constructed in such a way to give meaning to certain terms, including middleware, that otherwise would be susceptible to a wide variance of interpretation. While some who are critical of the settlement may prefer broader definitions of certain terms, the danger in over-expansive definitions is that they exclude nothing and thus become unworkably vague.

4. Provisions for Enforcement and Modification CompTIA has carefully analyzed the enforcement provisions of the RPFJ and concludes that the enforcement provisions are stringent, thorough, comprehensive, and are carefully designed to insure that Microsoft comply with the substantive terms of the settlement agreement.

In addition, the terms are creative in that they include provisions that are likely to speed the resolution of consumer and competitor disputes, rather than result in additional lengthy litigation over the terms of the settlement. In sum, CompTIA finds little support for the characterization of the enforcement provisions as weak, and instead believes that the enforcement mechanisms are strong, effective, and will likely provide quick and effective resolution of any disputes under the agreement.

Plaintiff's Powers to Enforce: The RPFJ specifically provides that the United States or any of the individual states involved in the case have responsibility for enforcing the Final Judgment. To facilitate this enforcement, the Plaintiffs have the right to:

! inspect all books, records, ledgers, or any document within the control of Microsoft;

! inspect all source code for any Microsoft program;

! interview any Microsoft employee, and record such interview;

! order Microsoft to prepare any report under oath regarding any matter in the Final Judgment.

These access provisions give the Plaintiffs essentially unfettered ability to obtain any piece of information that they seek with respect to Microsoft's compliance with the Final Judgment. There is no loophole or exception that would prevent the Plaintiffs from acquiring information relating to Microsoft's compliance with the settlement. Further, any information obtained by the Plaintiff's may be presented directly to the Court in order to secure Microsoft's compliance.

The Technical Committee: In addition to the wide latitude given to the Plaintiffs to inspect Microsoft documents, code, and personnel, the settlement agreement also establishes an independent three person Technical Committee (TC). This TC will be made up of experts in software design and programming and shall establish permanent offices at Microsoft's Redmond campus. The expense of the TC shall be paid by Microsoft and the TC shall have the power to hire any consultants necessary to assist them in their duties.

The TC's sole function is to monitor Microsoft's compliance with its obligations under the Final Judgment. Thus, the TC has complete access to all Microsoft documents, computer programs, personnel, equipment, and physical facilities. The TC members may direct Microsoft to prepare reports of any information and in any format the TC desires.

Most significantly, the TC will have complete access to the confidential source code of Microsoft's programs. The TC may study the code, interrogate the code, and interact with the code in order to insure that Microsoft is complying fully with the Final Judgment. The TC may interview any Microsoft employee regarding the source code and its operation. Again, there is no loophole or exclusion that would prevent the TC from obtaining any piece of information in any way related to Microsoft's compliance with the agreement.

And, any information obtained by the TC may be shared with the Plaintiffs and the Court. Indeed, the TC has an obligation to report its activities to the Plaintiff at regular six- month intervals. If, however, the TC has reason to believe that a violation of the agreement has occurred, it is obligated to report that fact immediately to the Plaintiffs and provide a written summary of the nature of the violation. The Plaintiffs may then immediately initiate a contempt proceeding against Microsoft in the U.S. District Court as that Court has ongoing jurisdiction to enforce the terms of the Final Judgment.

Microsoft's Internal Compliance Officer: Another important aspect of the RPFJ is a provision requiring Microsoft to appoint an internal compliance officer. This person has the responsibility to administer the company's compliance with the settlement agreement. The officer must circulate a copy of the Final Judgment to all officers and directors of the company and brief those people on the meaning of the Final Judgment and the requirements of the U.S. antitrust laws. The compliance officer is responsible for securing the written certification from each and every officer and director in the company that they understand the terms of the Final Judgment, agree to comply with its terms, and that they understand that failure to comply may result in a finding of contempt of court.

Dispute Resolution: Any person may submit complaints concerning Microsoft's compliance with the Final Judgment to either the Justice Department, the States, the Technical Committee, or the Compliance Officer. Upon receipt of a complaint from any person the Plaintiffs may initiate an enforcement proceeding with the Court and seek to hold Microsoft in criminal or civil contempt. The Court has wide latitude to interpret the agreement, order compliance with the agreement, and/or impose fines or other sanctions upon the company.

Notwithstanding the Plaintiffs' ability to immediately seek Court intervention to resolve compliance issues, other dispute resolution mechanisms are available under the agreement. These less formal procedures allow complainants to quickly resolve compliance issues with the assistance of the independent Technical Committees's extensive knowledge of the Company's activities. Any person may submit a compliance issue to the Technical Committee for investigation. The TC shall investigate complaints, bring them to the attention of the Microsoft Compliance Officer and advise Microsoft of its conclusions and proposal for cure. The identity of any complainant may be kept from Microsoft to insure that no retaliation could possibly occur.

The only limitation placed on the TC's work is that its findings or recommendations in a informal dispute proceeding may not be admitted as evidence in Court, nor may the TC members be called to testify. This restriction does not interfere with the TC's responsibility to inform the Plaintiffs of any violation, explain the details of that violation, and provide supporting evidence to the Plaintiffs. Similarly, the restriction does not impede the Plaintiffs' ability to obtain and present all information obtained from Microsoft to the Court in support of the alleged violation. Instead, it permits the TC to actively and aggressively use every method possible to quickly negotiate the resolution of disputes between complainants and Microsoft without having the work-product of that negotiation process made public. Protecting the TC members from having to testify is consistent with the rules of every mediation session undertaken within the U.S. legal system. It encourages the parties to be fully candid and forthcoming before the TC in attempting to resolve disputes under the settlement agreement.

In sum, the extensive power and access that the TC has under the settlement agreement insures that the informal complaint procedure will not be a dead letter. Because the TC has full access to every book, record, person, and program at Microsoft, and has the ability to order

Microsoft to prepare any report it wishes, the TC can make life very difficult for Microsoft. Indeed, Microsoft has great incentive to satisfy the TC and avoid compliance issues altogether. The TC will provide an effective procedure for quick resolution of complaints against Microsoft typically far quicker than if a contempt proceeding were initiated.

The enforcement provisions of the RPFJ grant extremely broad powers of access to both the Plaintiffs and to the independent Technical Committee. Both entities have the power to present the information they obtain from Microsoft to the Court to insure Microsoft's compliance with the settlement agreement. The Court has wide discretion in punishing Microsoft for violations of the Final Judgment and the RPFJ specifically provides that the terms of the agreement may be extended for an additional two years if Microsoft has engaged in a pattern of willful violation. The RPFJ also includes a wide array of formal and informal dispute resolution mechanisms that give a complainant maximum ability to resolve disputes quickly and fairly. Charles James, head of the DOJ's Antitrust Division, testified that [t]he proposed decree contains some of the most stringent enforcement provisions ever contained in any modern consent decree. CompTIA's review of the enforcement procedures supports Mr. James' conclusions. The establishment of an exceptionally powerful Technical Committee as a permanent fixture on Microsoft's campus is unprecedented. The Technical Committee's investigatory duties and duties to report directly to the Plaintiffs insures that the enforcement provisions have the power necessary to force Microsoft to comply with the substantive terms of the Revised Proposed Final Judgment.

C. Anticipated Effects of Alternative Remedies Actually Considered

While the November 6, 2001 Revised Proposed Final Judgment goes beyond the liability found by the Court of Appeals in some areas (i.e., by requiring Microsoft to disclose its confidential technical information relating to servers), the non-settling States' proposal filed on December 7, 2001 goes so far beyond the judgment as to bear little relationship to the Court of Appeals decision.

The centerpiece of the states'' remedy demand is that Microsoft be compelled to create and market a stripped down version of its Windows operating system that would not include many of the features that current versions of Windows do include. Since consumers can now easily remove Microsoft features from their desktop and OEM's are free to place non-Microsoft programs on the desktop, it is difficult to see how this requirement would benefit consumers.

Instead of giving consumers more choices of software products, this unwarranted intrusion into marketing and design decision by the non-settling States would cause further delays in the development of software created to run on XP, with developers waiting to see which version would become the standard. Such delays would further postpone the salutary effects of XP on the computer market. It would also hamper programmers'' ability to take full advantage of technological improvements in Windows, creating a marketplace in which the same software applications would not necessarily have the same functionality. This remedy would balkanize the computing industry and would undermine the benefits consumers obtain from a standardized operating platform.

In addition to the stripped down version of Windows, the December 7, 2001 proposal would also require Microsoft to continue licensing and supporting prior versions of Windows for five years after the introduction of a new version of Windows. The primary effect of this requirement is to impose unnecessary costs upon Microsoft (that would likely be passed on to consumers) and reduce the incentives for Microsoft to improve the operating system. This disincentive to Microsoft to make technological advances would ripple throughout the software industry as applications developers would not have an advancing platform to write software to.

The non-settling States remedy proposal also includes a variety of restrictions that will have little if any quantifiable benefit to consumers but which will simply advance the interests of Microsoft competitors. Consumers and OEM's currently have full ability and freedom to include Java software on their computers; the States' requirement that Microsoft carry Java on all copies of Windows does not provide consumers or OEM's with any more choice than they already have. Similarly, the requirement that Microsoft continue to produce an Office Suite for Macintosh interferes with natural market forces that direct resources to the best use and may actually preclude the success of competing applications software. Directing Microsoft to produce and support any software without regard for market forces is likely to harm consumers, not help them. Moreover, the November 6 Proposed Judgment fully addresses and prevents Microsoft from retaliating or taking any anticompetitive actions against Apple.

Advances in technology are frequently made as a result of joint ventures between competitors. The Department of Justice and the Federal Trade Commission have recently released guidelines for the formation of such joint ventures. Notwithstanding the recognition by these enforcement agencies that most joint ventures are pro-competitive, the non-settling States seek to restrict Microsoft from entering into joint ventures whereby the parties to the joint venture agree not to compete with the product that is the subject of the joint venture. This restriction will chill innovation and prohibit countless consumer welfare enhancing arrangements.

Further, this proposal flatly ignores the fact that the Court of Appeals found in Microsoft's favor on the issue of the alleged illegality of its joint venture proposal to Netscape. The most harmful of the remaining remedy proposals include those that require the extensive and mandatory sharing of Microsoft's source code, without compensation to Microsoft.

The non-settling States proposals in this regard go well beyond those in the November 6 Proposed Final Judgment and appear to be aimed at benefitting Microsoft's competitors rather than insuring a level playing field for all participants in the software industry. In the absence of compelling justification for wholesale and forced disclosure of a company's intellectual property, the harm caused by such disclosure is unwarranted and harmful to the entire technology marketplace. The vigorous protection of intellectual property has fueled the rapid and dynamic growth of the technology industry. Actions that erode protections for intellectual property should be viewed with great trepidation.

The long term effects of the conduct restrictions proposed by the non-settling States encourage continued litigation, rather than competition in the marketplace.

IV. CONCLUSION

The RPFJ will never be and cannot be all things to all people. But, in the end, it is a reasonable result given the respective positions of the both sides in this litigation. In assessing the effectiveness of the current settlement, the Court should recognize that the marketplace is far different than it was at the time the case was originally brought in May 1998. The Court of Appeals spoke to this very issue:

> [J]ust over six years have passed since Microsoft engaged in the first conduct plaintiffs allege to be anticompetitive. As the record in this case indicates, six years seems like an eternity in the computer industry. By the time a court can assess liability, firms, products, and the marketplace are likely to have changed dramatically. This, in turn, threatens enormous practical difficulties for courts considering the appropriate measure of relief in equitable enforcement actions, both in crafting injunctive remedies in the first instance and reviewing those remedies in the second. Conduct remedies may be unavailing in such cases, because innovation to a large degree has already rendered the anticompetitive conduct obsolete (although by no means harmless). United States v. Microsoft, 253 F.3d 34, 49 (DC Cir. 2001).

CompTIA does not interpret the Court of Appeals' language to support the proposition that minimal or no remedies should be imposed upon Microsoft because advancing technology has made the browser wars or other issues in the 1998 lawsuit irrelevant at this point in time. However, it appears that those who now seek to impose more far-reaching remedies against Microsoft are excessively focused on the marketplace as it was in 1998, ignoring its state in 2002. The advances in server technology, wireless and handheld devices, and web based applications all diminish the overall competitive significance of the Windows desktop. Thus, for example, the goal of attempting to inject more competition into the browser market at this time has little competitive significance to the overall technology marketplace.

The goal of the settlement in this case should not be to penalize Microsoft for past behavior, nor should it be to benefit Microsoft's competitors by forcing Microsoft to license its source code against its will. The settlement should insure that Microsoft does not engage in the actions found unlawful by the Court of Appeals. This consent judgment does just that and therefore it should be approved.

Respectfully Submitted,
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CompTIA Antitrust Counsel
(202) 828–9867

MTC–00028727

From: retredmed@cchat.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:07pm
Subject: Microsoft

To Whom It May Concern:

I would like to express my opinion on the Microsoft settlement:

1- There should never have been a need. If microsoft competetors can't handle the competition, then its time for them to get out of the business (just as anyone else in business would).

2- Since there seems to be a need for a settlement, I think microsoft has offered one that is more than adequate.

3- Get the government out of the way of progress.

Thanks for this opportunity.

R.E. Lee

MTC–00028728

From: bruce.granger@verizon.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:08pm
Subject: Microsoft Settlement

I think the facts, as well as the opinions, are in and it is time for the Department of Justice to act firmly against Microsoft. It has long been know that Microsoft has used it position to squelch competition and stifle creativity. Microsoft has used its position to deliver products that were full of flaws and demand premium prices. This, in light of their predatory practices, should not be tolerated.

Please take this opportunity to open up this monopoly to other players and get the economy back on track.

Verizon Communications
Bruce T. Granger, M.I.S.
Enterprise Solutions Group
Manager—Network Integration
Senior Network Integration Engineer—CCNA, CCNP
Work—972.718.3174
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MTC–00028729

From: Robert McConnell
To: Microsoft ATR
Date: 1/28/02 5:08pm
Subject: Microsoft Settlement

In response to the government's request for comments on the proposed Microsoft Settlement:

As a computer professional with over three decades of experience writing software for a variety of operating systems including Windows, and as one-time fan of Microsoft, I would like to make two points. The first is to suggest one route which in the absence of a breakup I expect Microsoft to continue to exploit to maintain it's monopoly. The second point is to call attention to a related danger from Microsoft's monopoly which I believe is accelerating the flight of manufacturing from the US to foreign countries.

First the monopoly preservation strategy:

Most competent computer programmers can, if they wish, write and document functioning code which is virtually incomprehensible to any other competent programmer (including the author him/herself). Moreover said author can almost certainly (disingenuously but successfully) argue in a court comprised of non-experts that the code is straightforward, well-documented and easy to understand.

What does this have to do with Microsoft maintaining and extending their monopoly? Everything. Whether hardware or software, it is in the interests of the creator of any product to facilitate use by the consumer while hiding as much of the internal workings as possible to discourage competition. Microsoft's strategy has been to continuously expand the boundaries of it's "operating system" (more properly now an operating environment) enveloping or attempting to envelope entire classes of applications, office, networking, on-line shopping, manufacturing etc... within the boundaries of the "operating system". This can be done explicitly as in the case of Internet Explorer, or implicitly by simply making it difficult and or prohibitively expensive for outsiders to access, or even know about, operating system or hardware features which may be important for fields Microsoft dominates, or wishes to dominate. The "browser wars" were about exposing the inner workings of Microsoft's operating system so others might use them.

Because of the ease of writing and defending impenetrable code Microsoft already has an almost unlimited ability to restrict access to the core of the operating system and to the hardware beyond, whether or not a court orders it to provide access. Microsoft sells just enough tools to access selected parts its operating environment to be able to provide lip-service to openness. Generally speaking the products are scaled in such a way that only those who have made a large commitment, financial or "sweat equity" which will tend to lock in their allegiance to Microsoft are allowed access to the more powerful tools.

Because of the high barrier created by the impenetrability of the Microsoft code, it is hard to imagine any remedy short of a breakup will be able to curtail Microsoft's illegal monopolistic practices.

The second comment, related to manufacturing flight, is contained in a letter I sent to the Attorney General general of Massachusetts several months ago. The text follows:

Dear Mr. Attorney General,

I must congratulate you and your staff on the stand you have taken against the proposed Microsoft settlement.

I am a software developer who has long been appalled by the relentless manner in which the American public interest continues to be steamrolled by the Microsoft juggernaut. Therefore I was shocked by the decision by the Justice Department to take the breakup option off the table. It is my opinion that this option offered the only chance to restore competition to the software marketplace. Needless to say, I was further dismayed by the terms of the proposed settlement.

As you are obviously well aware, under the guise of "innovation" Microsoft has succeeded in stifling true innovation in many ways. Much of the damage done by Microsoft is not as a result of overt actions towards the "victim" whether an individual or a company. Rather it is in creating an environment in which the fate of others who have tried to innovate in the face of Microsoft serves as a deterrent to further innovation. Of course this type of deterrence by example does not carry the connotation of physical danger as might be expected from similar threats by organized crime or terrorists.

Nevertheless it is quite effective. This is an environment in which:

1. Intelligent software developers know that they have little chance of being successful unless they join the Microsoft camp. Once in that camp more of a developer's time will be likely spent keeping up with Microsoft's complexity-increasing-whims than improving their product.

2. Intelligent funding institutions know from history that there is no point in developing a product in a market in which Microsoft is known or believed to have interest. The best one can hope for in the case of a very successful product is the opportunity to sell the product to Microsoft at a price determined only by the latter.

3. The required "operating system" (now more properly an operating environment) is so complex as to create a huge barrier between the creative idea of a researcher, developer, or engineer and its implementation into a useful product.

I'm reminded of a university researcher's website I saw several years ago. The researcher noted that he was using older, and by then outdated, analysis software for his research. Although he had written the original software himself, he believed that the new requirement of interfacing with Windows had introduced such complexities that he could not afford either the time to update the software himself, or the money to to hire a Windows specialist to update it for him. Whether or not the researcher's assumption was actually true, Microsoft literature and promotions (the so-called FUD factor) would certainly lead him to this conclusion. Hence his further research in this field was stymied.

4. Similarly the Microsoft "one size fits all" operating system and tools, interposed between America's manufacturing engineers and the computer, hamper their creative efforts. Modern Windows software effectively prevents these engineers from writing high speed one-of-a-kind applications necessary for the most efficient manufacturing. Ten years ago the same engineer would have had no trouble writing this type of software.

As a Senior Member and member of the Peer Review Committee of the Machine Vision Association of the Society of Manufacturing Engineers I became personally concerned about this issue several years ago. I was particularly worried that is resulting in substantial advantages for manufacturing facilities in foreign countries and earlier this year prepared the attached document.

I'm not sure any of this will be of any help in the successful resolution of the Microsoft situation. However I thought it might be helpful in explaining why at least one of us is behind you.

Again, congratulations and good luck on your stand!

Sincerely,
Robert McConnell
CC:Attorney General Tom Reilly

MTC-00028730

From: Jim D. Kirby
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 5:09pm
Subject: Microsoft Settlement

They say hindsight is 20–20. Sometimes we get the benefit of hindsight prior to the fact. In this case, the emerging Enron scandal shows us exactly what the Bush administration was attempting in their settlement with Microsoft: corporate capitulation.

The proposed settlement between Microsoft and the Federal government reeks of nepotism, favoritism and backroom shenanigans. Enron has shown us how our executive branch operates; please do not let similar actions favoring Microsoft provide yet more fodder for our growing recession.

Jim Kirby
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MTC-00028731

From: adam@tameware.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:01pm
Subject: Microsoft Settlement

I am dismayed by the DOJ action against Microsoft. It makes me ashamed to be an American. I urge the court to dismiss the suit entirely, or, failing that, to impose the mildest sanctions possible.

I use Microsoft's software on a regular basis—it's certainly improved my life. While I prefer using Macintosh computers to PCs running Windows, I have nothing but admiration for Microsoft's accomplishments. Claiming there are no alternatives to Microsoft products is laughable. Not only are there a host of alternatives, but if Microsoft were ever to attempt to charge exorbitant rates for its wares I and a host of others would rush in to compete.

To say that Microsoft has a monopoly for PC operating systems is meaningless. What makes an "industry standard" PC standard is precisely the fact that it runs Windows. Microsoft has a monopoly in the same sense that Tom Clancy has a monopoly on "The Hunt for Red October". This monopoly is the right of a producer to his product— it is guaranteed by Section 8 of the U.S. Constitution.

Microsoft has never harmed me, nor do I ever expect it to. How could it? My transactions with Microsoft are voluntary. This court, however, can harm me and every American. By restricting Microsoft's freedom everyone's freedom is restricted. This would be too big a price even if there were a public interest to be served by such a restriction. In fact there is none. It is Microsoft who has been serving the public, as evidenced daily by those who voluntarily purchase Microsoft's products. Whether or not they realize it, even Microsoft's competitors benefit from Microsoft's presence, which spurs them to added effort and ever-higher levels of quality. Were it not for Microsoft many of them would not exist! Without Microsoft most computers might still be running CP/M—that would be a sad state of affairs.

Adam Wildavsky
President
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MTC-00028732

From: Chris Carman
To: Microsoft ATR
Date: 1/28/02 5:10pm
Subject: one more comment

I wrote an earlier comment against the settlement, but I wanted to add one last thing—Microsoft should not be allowed to engage in any "exclusive contracts" (ie, a computer that is shippsed booting Windows is only allowed to boot Windows and cannot boot or include another operating system like Linux or BeOS—this is why Dell, IBM, etc. won't sell PC's that have both Windows and Linux) for at least the next ten years. This would be roughly in line with how long Windows has been around. Just a thought. Thanks!

Chris Carman
Hamilton, Ohio

MTC-00028733

From: George Van Treeck
To: Microsoft ATR
Date: 1/28/02 5:10pm
Subject: Microsoft Settlement

I would like to comment on section III.J.1 and III.J.2 of the proposed settlement. I worked at company last year that asked for information on a network communication protocol so that we could make our product work their products. Microsoft didnt refuse, they repeatedly failed to respond to the requests in any way. And sections III.J.1 and III.J.2 are so ambiguous in interpretation that there they could use it as an excuse to provide information, effectively squashing small companies who cant afford the legal warfare to compel a disclosure.

An example of how section III.J.1 and 2 could be used a smoke screen by Microsoft to deny access to communication protocols and APIs for security reasons: Virtually all security systems software is designed in such a way that even if you do know how the software works, it is virtually impossible to break it. For example, the software for the PGP encryption algorithm is public knowledge and used by a large number of people, because knowledge of how the encryption works does not help in breaking the code. In fact, public knowledge helps people identify potential problems early before the there is wide adoption. Microsoft can claim a large portion of their product falls under section III.J.1 and 2, when in fact, knowing the details does not lessen security in any measurable way. Small companies would not have the resources to contest this.

As a software engineer, I found most of Microsofts arguments about the need to inextricably bind their browser to the operating system very odd.

Fact #1: Microsofts Internet Explorer browser runs on Apples operating system and a UNIX version also existed. Further, their first versions of Microsoft IE ran without tight integration into its own operating system. So, the claim about it needing to be inextricably bound to the operating system to "provide a better experience" is without any merit.

Fact #2: Every competent software engineer will tell you that reliable and maintainable software is designed in pieces with very clearly defined interfaces that encapsulate and hide internal details of each piece. This makes it possible to keep defects in one piece from breaking things inside other pieces. Further, this encapsulation with well-defined interfaces makes it easy to pull out one piece and replace it with a better piece in the future, without breaking all the other pieces (makes future enhancements easier). This is analogous to replacing the incandescent light bulb in your lamp with a more energy efficient light bulb both bulbs use the same screw-in interface to your lamp).

Are we really to believe that all those top talent engineers at Microsoft are NOT using basic design principals of encapsulation and well-defined APIs, that would allow them to easily pull out a current version of their Internet Explorer and with a future enhanced version (and therefore also allow a third party browser to also use that same well defined interface to plug their browser in)?

Microsoft cant have it both ways: They're a competent software company who can speak with authority in court (design code that encapsulates internals with well-defined APIs) or the browser is so inextricably tied that another browser can not easily replace it (and thus can't believe what they say because they're incompetent).

I know Microsoft has some of the sharpest software engineers around. I know they write some pretty good software. So, this means their executive's excuses for Microsoft's behavior are not credible.

So, what does this indicate about Microsoft executives attitude and how they are likely to interpret an ambiguous settlement agreement? Will appointing a review committee that is not highly technical in specialized areas of software (e.g., specialied security) interpret this agreement in the public interest?

MTC-00028734

From: Sean Ryan
To: Microsoft ATR
Date: 1/28/02 5:11pm
Subject: Microsoft Settlement

Your Honor,

I am writing to voice my displeasure with the Proposed Final Judgment in the Microsoft Anti-Trust Case. The PFJ has three major flaws.

1. It does not terminate Microsoft's illegal monopoly

2. The penalty for past illegal behavior is not a disincentive and will actually give Microsoft an advantage in another market segment.

3. The Department of Justice must pledge to prevent any future anti-competitive activity by Microsoft by maintaining a close watch of the companies activities.

Illegal monopolies hurt the consumer, inhibit innovation, and encourage future illegal activity if they are not handled in a manner far more aggressive than that in the Proposed Final Judgment. I urge you to reject the PFJ.

Thank You,
Sean Ryan
(707) 438–7326

MTC–00028735

From: Othniel Graichen
To: Microsoft ATR
Date: 1/28/02 5'10pm
Subject: Microsoft Settlement

In the western system of capitalism, consumers do not usually buy directly from producers. In our economy, multiple levels of middlemen exist to satisfy the demand for finished goods. This results in healthy competition, reasonable profits and an increased tax base. The established Microsoft monopoly on technology (like AT&T's monopoly on communications before it) has not been used toward the public's good and the company's business practices illegally extend this monopoly by tying inferior products to its established ones slowing the rate of technology advancement. This substantially reduces the opportunities for competing technology producers and has resulted in decreased tax revenues which can be collected from the offending multinational corporation. Furthermore by refusing to support the Linux platform, Microsoft management reduces its value to shareholders. My explanation follows:

Microsoft does not just have a monopoly on PC operating systems. In the minds of middle management in the Western world, a new technology is not ready for deployment until a Microsoft product includes it. The successful managers have witnessed where business needs existed for a given technology, early adopters (using non-Microsoft tools) were burned by incompatibilities with key Microsoft software components or unavailability of updates to products such as Excel, Word, DOS, Windows, Internet Explorer and Media Player to name a few.

After slaying Goliath, Microsoft now holds hostage an even larger customer base than IBM did before it changed it business practices to remedy an earlier DOJ suit. Microsoft has not cooperated with the will of the people as pursued by the USDOJ and attorneys general of the 19 states. Unlike IBM, Microsoft cannot see the error of its ways. Its no longer just about profits ? instead it's about the power to be above the law. The "software tax" that it collects on all PCs sold planet-wide by leveraging US political and military influence makes Microsoft (and by extension the US) a target of foreign nationalistic pride/prejudice. Wars in the coming centuries will be fought over control of Information. Microsoft's way has not produced the technologically superior or secure operating system platform needed by the marketplace because they have not had to innovate as they hold a monopoly and successfully prevent competition into that space. The computer scientists that have built Linux allow for commercial proprietary software to run on this more reliable platform. They only want the operating system not the applications which run on it to be free/open and beyond subversion. They have produced a system which is more secure and reliable than Microsoft's operating systems. Businesses that have seen how often the Microsoft sands shift have chosen not build on the Microsoft choices of foundation.

The free operating system Linux was given as an example to the court as a serious threat to Microsoft's monopoly, but that argument should be discounted as that Operating System is totally free ? meaning no license cost per machine. So it does not compete with Microsoft. There is no company called Linux. No one company controls the direction Linux will take. The reason Linux? open source API can compete with Microsoft's Monopoly OS is because the companies that use it are guaranteed of a truly level operating system playing field. Linux is to operating system technology what free markets are to economic systems. Requiring Microsoft to support the Linux platform as a tier 1 operating system for all their application software is not taking money out of Microsoft's hand and putting it in the hand of some other company. If Microsoft's management doesn't respond to the viability of Linux, Microsoft's shareholders will be hurt on the order of what happened to Enron. That is not in the interest of middle America. What is in America's best interests is not a powerful Microsoft, but a software platform where no company has control over hardware or processor, but one where all businesses (and governments) can compete based on innovation, quality and their ability to meet customer requirements. Microsoft needs to become a technology producer instead of controlling technology deployment. Microsoft unfairly changes the operating system platform whenever a competitor has found a niche which Microsoft wants to occupy. Only when Microsoft agrees to support the Linux Operating system with their application software will competition in the business and office technology sector flourish to the benefit of all.

Microsoft is a grand marketing organization but they do not stimulate our economy to build (and profit from building) new technological advances. Business plans that would go head-to-head with Microsoft are rejected. Instead of hiring and training more computer scientists, software developers and programmers, our country has changed immigration laws to allow 500 thousand more H1-B Visas thereby increasing the unemployment of working class Americans. Furthermore, Microsoft is not pushing the envelope of technology. It recoups its investment on technology many fold more than necessary before developing new products. This is not good for consumers and has transformed

Microsoft into more of a marketing company than a purveyor of technology. It specifically breaks the law regarding the tying of a new product to a monopoly product by combining bug fixes (a warranty service) into product upgrades (for a fee) and by not making them available separately but combining fixes with new code (and a new set of bugs). While the argument has been made regarding Microsoft's Internet Explorer browser being part of the Microsoft Operating System instead of application software, two facts belie that claim. One, Internet Explorer is available for the Macintosh, Solaris and HP-Unix—platforms that are obviously not Microsoft operating systems. So tying Internet Explorer to the correct operation of the Windows Operating System was a deliberate attempt to sabotage competition in the browser space resulting in the demise and purchase of Netscape instead of more competition. Second, Microsoft's claim that Internet Explorer is free—just like Netscape Communicator is bogus. IE is only free to Microsoft customers. Internet Explorer is specifically not available on Linux (proving that it is not free) and because the API (operating system interface) which it uses is purposely obfuscated. Netscape Navigator and Communicator are free and are available on Linux along with the next generation Mozilla open source browser.

Artificially high operating system prices combined with fewer OS technological advances cause fewer computers to be sold by market forces due to customers learning to be disappointed in what their computers can do. More competition would increase the value of the computing infrastructure and motivate companies to invest in more computers. This was the expectation 20 years ago. All that money went to Microsoft. What do we have to show for all that investment? Some improvement but a lot of broken promises. Open Source Software delivers on that promise and the Linux operating system is the standards based vendor neutral mechanism to remedy the difficult situation the court finds itself needing to resolve.

I look to the court to render a decision which will increase employment of software developers in this country, increase the diversity of IT sector businesses, and punish the company which brazenly ignored anti-trust law, threat, and actual suit. Do not forget how the courts were unmistakably lied to. Now that Microsoft has been found guilty of being a monopolist, do not take the teeth out of enforcement by accepting the weak Proposed Final Judgement. Microsoft has injured the Information Technology sector and with remedies you can drive a truck through and will continue to do so for the next 5 to 7 years. The DOJ position has changed since the beginning of this trial with Joel Klein. Despite all the pressure to join the US DOJ, many of the state attorneys general could not in good conscience join the Revised Proposed Final Judgement. Do your job to ensure that America begins the 21st century by accelerating the deployment of technology rather than allowing business as usual at Microsoft to continue.

Nor is breaking up Microsoft the only solution! That is a simpleton's way to elicit the desired behavior, which won?t work because there will be uncontrollable collusion between the two subentities.

Releasing the source code for Internet Explorer would be in line with Microsoft's claim that Internet Explorer is free. Its? interconnection with Outlook (the Email client) is responsible for most of the virus vulnerabilities. The inevitable improvements in security once the source code is released would benefit the public. Getting Microsoft to drop the suit against Lindows.com ? a potential operating system competitor ? would also be proof that they will permit competition. The most important goal is to convince Microsoft that selling its Office Suite on Linux is good for Microsoft. The RPFJ does not accomplish that. That is one reason why all the state's attorneys general did not support it.

Microsoft writes good application software, but they have made operating systems which are not secure from viruses. Actually Java was designed from the start to be a more secure middleware platform, yet Microsoft quickly pushed its own alternative technology which has since been successfully targeted by virus writers. Why? Not to support the public good, but to retain control of their market.

There is no money in selling operating systems, yet the foundation of all applications is operating system support. Since the beginning, OSes have always been given away with the computer. The Microsoft licensing agreement must be changed to not require that Microsoft application software be used only with or on a Microsoft Operating System license. What Microsoft has done is that they have sold all the computer manufacturers on the idea of paying them to preload computers with their operating system. Thus the price of the operating system is inseparable from the hardware. Microsoft gets their "tax" whether you use their software or not. This lack of consumer choice in operating system middleware must end. As long as Microsoft products are only licensed for Microsoft operating systems, consumers will be tied to that platform and technology sector businesses will be unable to innovate and compete with Microsoft.

Lastly, market (business) and government (military) forces are finally responding to the fact that only open source software systems are secure. Your judgement should promote this trend without being legislative. Microsoft should be prevented by decree from developing a version of their operating systems which are incompatible with VMware or preventing their application software from running under WINE in Linux. Such measures are simply exclusionary. Only at this point in history will you be able to extract such willingness to compete from an avowed monopolist. They need to be taught that limits exist on acceptable business practices.

Othniel Graichen
Senior Software Engineer
107 Nobhill
San Antonio, TX 78228

MTC-00028736

From: bfindley@brigham.net@inetgw
To: Microsoft ATR
Date: 1/28/02 5" 12pm
Subject: Letter
437 Highland Boulevard
Brigham City, UT 84302
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am very much in favor of the right of consumers to choose the configuration of the system they work in. I am, therefore, in favor of the settlement reached between Microsoft and the Department of Justice. There is no doubt in my mind that Microsoft was behaving monopolistically, but the corporation produces good software, and I do not believe that so much fuss should have been made about actions that were not, in effect, harming the public.

The settlement allows for a return of fair competition in the technology industry. Microsoft has, for example, agreed to reformat future versions of Windows so that computer makers as well as users will be free to reconfigure Windows using both Microsoft and non-Microsoft software to suit their specific needs. The settlement also requires that Microsoft's actions be monitored by a three-person technical committee consisting of software engineers who will resolve disputes and make sure Microsoft complies with the settlement. I think Microsoft deserves a chance to prove its ability to adhere to the settlement. It will cost more in the long run to continue litigation against Microsoft. The technology industry, the economy, and the American people have all felt the repercussions of this case. It is time to settle. I urge you to support the agreement and move on.

Sincerely,
Barbara Findley

MTC-00028737

From:retredmed@cchat.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:12pm
Subject: Copy of my letter

To Whom It May Concern:

I would like to express my opinion on the Microsoft settlement:

1- There should never have been a need. If microsoft competetors can't handle the competition, then its time for them to get out of the business (just as anyone else in business would).

2- Since there seems to be a need for a settlement, I think microsoft has offered one that is more than adequate.

3- Get the government out of the way of progress.

Thanks for this opportunity.
R.E. Lee

MTC-00028738

From: Eddie Schwartz
To: Microsoft ATR
Date: 1/28/02 5:14pm
Subject: Microsoft Settlement
Eddie Schwartz
4625 Tara Drive
Nashville, TN 37215
Fax:
January 22, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

The Department of Justice and Microsoft have finally reached a settlement to the three-year antitrust dispute, and I am writing to champion that settlement and ask that it be approved as soon as possible. I am in favor of any agreement that will end litigation against Microsoft and that will help America.

Microsoft has agreed not to enter into any contractual obligations with third-party companies that mandate that they strictly use or promote Microsoft products. They have also agreed not to retaliate against computer companies that make or promote software that competes with Windows.

Believe it nor not, they will share source code and other data that is critical to the design and implementation of Windows. This allows the competition to make products that are compatible with Windows. This will improve the IT industry and the economy.

I fully support this settlement, and hope it is approves with haste. Thank you.

Sincerely,
Eddie Schwartz

MTC-00028739

From: Bernard R Buchta
To: Microsoft ATR
Date: 1/28/02 5:15pm
Subject: Microsoft Settlement
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a six-year teacher of PCs and the Windows operating system, I would like to voice my strong support for settling the pending Microsoft case. My experience as a PC instructor and my 26-year's as a military logistics officer has taught me the great value of standardization. Standardization buys everyone a lot. And, after standardization is achieved, "the payback is forever." Witness: When we go to war, we want our bullets to fit into our allies" guns and rifles, and want theirs to fit into ours. We want to be able to share, substitute and interchange their artillery rounds, fuel, and rations, etc., with ours. It's called being "Interoperable." It's a great force-multiplier and keeps costs down.

Standardization, by definition, creates efficiency. It also makes for convenience and ease of use. Now, today, we need standardization and efficiency more then ever. Therefore, the proposed solution seems like a fair compromise that will provide the most effective long-term results for consumers. As seen with the International Standards Organization, the uniformity of Windows(R) and its supporting products is an asset to all computer users. This includes business and industry, schools, home users, . . . just everyone!

Technology is complicated enough for the average person, so the advantages Microsoft provides with the scope of their software presence is immeasurable in the form of America's almost seamless transition into the information age with young and old alike. Though I did not respect the government's case, the restrictions imposed with this deal are far more favorable than the possibility of a corporate break up and chaos within the computer world. Based on the new, more even-handed approach of Microsoft toward competitors, and those who do business with competitors, plus the implementation of an objective technical committee of experts to ensure compliance, it seem to me it would be in the best interest of all parties involved to proceed with this agreement. This will save the consumer a great deal of heartache. It will also permit continued interoperability in future systems and software programs.

Thank you very much for your consideration.

Sincerely,
Bernard R. Buchta
Bernard R Buchta, in Troy, MI
LTC, OrdC, US Army (Retired)
P.S.

You're doing a great job in the War on Terror.

Don't let them grind you down!

MTC-00028740

From: Daniel Sells
To: Microsoft ATR
Date: 1/28/02 5:15pm
Subject: No winners, just more wasted money.

How many new schools could we build with the money that is being wasted on this case? Better yet, how many people could be feed? What's more important, People or what kind OS/browser they use to access the internet?

Stop Wasting MY Tax Money!!!!!

This lawsuit is a huge waste of tax payer money. The federal government should use MY tax money to provide valued services to me and all Americans. WHAT DOES ANYONE STAND TO GAIN BY SUEING MICROSOFT? Know one is forced to buy the Windows operating system, browser or any other Microsoft product. Apple Macintosh has been around for years and is a very viable alternative to the Windows platform for all who chose such. Linux is growing in popularity as another choice. I don't understand why your DOJ is pursuing this. If other companies want to sue Microsoft, they have the courts to do so. Let AOL, IBM or whoever sue them WITHOUT USING MY TAX DOLLARS! The DOJ should step down and let the other companies battle this out as long as their willing to pay.

D.M. Sells

MTC-00028741

From: Lynn Walker
To: Microsoft ATR
Date: 1/28/02 5'09pm
Subject: MICROSOFT SETTLEMENT
967 Artman-Gibson Road Colville, WA 99114
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Thank you for your efforts to settle the Microsoft antitrust case. Concluding this litigation will be beneficial for the tech industry, as well as the economy.

The settlement agreement adequately addresses concerns about any predatory business practices on Microsoft's part. Upon approval of the agreement, Microsoft will refrain from taking retaliatory action against those who sell, promote, or develop software that competes with Windows. Another step Microsoft is taking is making it easier for consumers to remove features of Windows so they may replace these features with Microsoft's competitor's software programs. In my view, Microsoft has made adequate concessions to resolve this case. No further action should be taken by the Department of Justice against Microsoft.

Thank you for your consideration of my comments on this issue.

Sincerely,
Lynn Walker

MTC-00028742

From: LM14056@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:15pm
Subject: Microsoft Settlement
203 Hazelton Court
Mullica Hill, NJ 08062–9350
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

The Microsoft antitrust case settlement agreement should be approved as soon as possible. We will all be better off. This lawsuit demonstrates that Microsoft's competitors, like Sun, are merely envious of Microsoft's success. Their failure to develop products of the same caliber, as Windows does not mean Microsoft engaged in anticompetitive behavior.

The terms of the settlement agreement are fair. There should be no hesitation in the settlement's approval. The agreement provides for such things as a technical oversight committee, which will monitor Microsoft's business, practices. Additionally, Microsoft has agreed to disclose to its competitors proprietary information, like interfaces that are internal to the Windows operating system. Given these types of concessions, no further action should be taken against Microsoft.

Thank you for your intelligent attention.

Sincere regards,
Linda Maher

MTC-00028743

From: Tom Daly
To: Microsoft ATR
Date: 1/28/02 5:15pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse,

I have been following the Microsoft case for many months and I believe that the proposed resolution of the case is clearly not in the interest of the American consumer and not good for the economy.

Microsoft will still be a monopoly for all intents and purposes and will continue to use their power to limit competition. The new regulations have far too many loop holes and with Microsoft's record there is no reason to believe they will change the way they do business. Microsoft must be held accountable and forced to allow applications that run on their system to be used anywhere. And they must be required to make their products compatible with competitive products.

To make this process fair to all, we need to hear from public consumer groups and from state governments not just Microsoft and their competitors. This is a right given by the Tunney act and must be preserved. It is my sincere hope that you will consider these points before going forward. The American people deserve and have a right to choose the products that serve them best, the proposed settlement is unfair and unjust. Please allow the people a voice.

Thank you,
Thomas B. Daly, Ph.D.
303–530–3337
PO Box 17341
Boulder, CO 80301

MTC-00028744

From: Vicinanza, Gregg
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 5:16pm
Subject: Microsoft Settlement

Please accept this comment regarding the Microsoft settlement on behalf of Sony.

Gregg H. Vicinanza
O'Melveny & Myers LLP
555 13th Street, NW
Washington, DC 20004
voice (202)383–5235
fax (202)383–5414
e-mail gvicinanza@omm.com
internet www.omm.com

MTC-00028745

From: William Wallace
To: Microsoft ATR
Date: 1/28/02 5:16pm
Subject: Microsoft settlement

Shame! Microsoft is being rewarded, not penalized for illegal monopoly practices and restraint of trade. Is this administration merely pro-business, or really for a FREE market system?

William Wallace

MTC-00028746

From: Michael T Vilas
To: Microsoft ATR
Date: 1/28/02 5:16pm
Subject: Microsoft Settlement

Dear Sir:

It is time to end the costly litigation against Microsoft. I urge you to stop all that is continuing the delays is the settlement.

Thank You:
M Vilas

MTC-00028747

From: Thomas Treder
To: Microsoft ATR
Date: 1/28/02 5:16pm
Subject: I oppose the Department of Justice's proposed

I oppose the Department of Justice's proposed settlement with Microsoft. None of the proposed actions appear adequate to prevent Microsoft from entering any new market it chooses, then utilizing a combination of exclusionary licensing, predatory pricing, and all but unlimited marketing capital to force the incumbents into extinction.

Microsoft continues to employ the tactics with which it decimated Netscape. Against RealPlayer, Microsoft has integrated Windows Media Player. To drive a wedge into the game console market, XBox is sold below cost.

While the short-term benefit to the consumer is reduced cost of the individual commodity, the overall cost to the consumer and to society is huge; Operating System (Windows) and Applications (Office) priced far higher than any hopeful rival of equal or greater quality (Linux/StarOffice); reluctance of new players to enter the market; laughable security (ILoveYou, Nimda, Code Red), and ultimately a hegemony imposed with Microsoft the gatekeeper of all society's information flow and transactions (pending success of ".Net").

Even Judge Jackson's rememdies seemed no guarantee that Microsoft couldn't find a circumvention; however, that the current Department of Justice has volunteered a remedy weaker than one to which Microsoft had already acquiesed is at best difficult to understand, and at worst smells of malfeasance. Judge Jackson's remedies should be imposed upon Microsoft without delay.

MTC–00028748

From: Larry Blunk
To: Microsoft ATR
Date: 1/28/02 5:16pm
Subject: Microsoft Settlement

I wish to stress my opposition to current United States vs. Microsoft proposed Settlement Agreement. The numerous loopholes and lack of consequences for violation of the agreement will result in little or no change in Microsoft's anti-competitive behaviour.

Perhaps most unsettling is the area of DRM and authentication systems, and audio/video codecs. Microsoft is attempting and dominate these fields through it's .Net and Windows Media services initiatives. There is no mention at all of compulsory licensing of audio/video codecs in the settlement. If Microsoft is able to monopolize these standards, they will extend their control beyond just PC hardware OEM's to all manner of audio/video playback devices. These include pocket audio players, personal video recorders, component audio receivers, DVD players, and handheld organizer (such as the Palm Organizer). All these device makers and will need to license the audio/video codecs on Microsoft's terms. These terms will likely forbid the use of competitive operating systems such as Palm OS and Linux on these devices. It will also require the use of Windows backend server operating systems rather than competing operating systems such as Unix.

Closely related to the audio/video codecs are Microsoft DRM systems which are used to wrap and "secure" the codecs. DRM services are specifically excluded from compulsory licensing. The rationale is that licsensing them would somehow undermine their effectiveness. However, there is no reason these systems could not be licensed under a standard non-disclosure agreement (NDA). The same type of agreement could be used for authentication systems. I also note that there is a major flaw in the Department's understanding of authentication and cryptographic systems. A basic tenet in cryptography is that in order to be trusted, a cryptographic system should be subjected to extensive public peer review. Rather than relying on secrecy for security, authentication systems rely on the strength of their cryptographic algorithms. Even though the algorithms are widely published, they remain secure because of the mathematical complexities in defeating them. It should be noted that the standard for securing transactions on the Web today (such as credit card purchases) is the openly specified SSL standard. SSL employs only publicly documented and reviewed cryptographic mechanisms. There is even an open source implementation known as OpenSSL which is used extensively to secure transactions on the Internet. This is a difficult concept for the layman to understand, but it is critical to an open and competetive environment on the Internet.

-Larry J. Blunk
Saline, Michigan USA

MTC–00028749

From: Sawley
To: Microsoft ATR
Date: 1/28/02 5:25pm
Subject: AOL Suit

The AOL lawsuit against Microsoft is a pathetic attempt to try to gain public sympathy in court against a competitor that they can't compete against in the public market......

Lewis W. Sawley

MTC–00028750

From: BANKSMKT@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:18pm
Subject: Microsoft settlement

It is my opinion as a citizen of the United States that the creation of a product using the gifts of intelligence and foresight should not be punished. We have encouraged within our nation the free enterprise system. Microsoft, through superior development and insight into consumer needs, has produced a superior product. This in no way deserves punishment, due to the jealousy of competitors. I believe that this company deserves the freedom to continue producing products that benefit the consumers who purchase them.

Thank you for considering my opinion.

Sincerely,
Debra L. Banks
2035 Oneida Valley Rd.
Karns City, PA 16041

MTC–00028751

From: Stephanie Jayne Sailor
To: Microsoft ATR
Date: 1/28/02 5:20pm
Subject: Public comment—Microsoft

Department of Justice:

The lawsuit against Microsoft is supposed to be for the good of the people. Instead, it's for the good of Netscape, who failed to compete. Microsoft didn't hurt consumers. They helped consumers. If you truly want to put an end to a monopoly, why don't you start with The U.S. Postal Service? That's a Government-created monopoly, which has thrived since the 1840s. It has been against the law for anyone to compete with the U.S. Postal Service by carrying first-class mail. That's a monopoly that you should stop.

I beg of you, Department of Justice, end the Microsoft case now. Do not stifle innovation. Do not require Government permission for companies to improve their products. Such intervention only benefits companies who are lethargic to compete. In the end, that hurts taxpayers, consumers, the economy, and future of technology.

Do not meddle with Microsoft—or any other company's—future product design decisions. Leave that to software executives, not judges and bureaucrats. Keep America free, allowing Microsoft to continue to develop affordable products, create jobs, and please customers. This isn't about Microsoft. It's about the freedom of every American company to improve their products. Most importantly, it's about allowing consumers the freedom to pass judgment with their pocketbooks, by personal choice.

=Stephanie Sailor=
118 Mendham Rd.
Bernardsville, NJ 07924
[redacted]
Steph@StephanieSailor.com
http://www.StephanieSailor.com
CC:msfin@microsoft.com@inetgw

MTC–00028753

From: Spencer Black
To: Microsoft ATR
Date: 1/28/02 5'19pm
Subject: Microsoft Settlement
Spencer Black
Artist
Microsoft Games Studios
801–275–6393
Scblack@microsoft.com
<mailto:Scblack@microsoft.com>
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Three years ago, Microsoft was found to be in violation of established antitrust laws and was brought to trial in the federal courts. The Department of Justice and Microsoft, after six months of negotiations last year, managed in November to reach an agreement with which both parties are satisfied. Now, we find out that it will be determined whether it is in the best public interest to settle. The alternative is to reopen the case, and spend an indeterminate amount of time trying to reach a better settlement. Meanwhile, Microsoft's competitors and those who wish to gain from further litigation, including nine plaintiff states, are attempting to undermine the settlement during its review period. I do not believe that continued litigation would serve the public at all. The economy and the technology industry have suffered while this case has dragged on, and no good can come of extended suit. The settlement is fair, and, if finalized it will allow things to finally return to normal.

Microsoft has agreed to a variety of restrictions and obligations under the settlement, all of which would restore a fair competitive atmosphere within the technology market. For example, Microsoft has agreed not to take retaliatory action against any software producer or computer maker that introduces software into the market that competes with Microsoft.

I do not believe that it is in the best public interest to continue litigation. I urge you to support the settlement as it now stands.

Sincerely,

Spencer Black

MTC-00028754

From: Little Hen
To: Microsoft ATR
Date: 1/28/02 5:22pm
Subject: Microsoft Settlement
Becky Garrett
11050 North Highway 59
Gravette, AR 72736
January 28, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: My name is Becky Garrett. I am a resident of Gravette, Arkansas writing in support of the settlement recently reached between the federal government and Microsoft. The public interest will not be served by reopening litigation against Microsoft. Given all of the changes in direction the case has taken to date, the outcome of additional litigation is far from certain. You have a settlement agreement on the table at this time that not only provides certainty in the outcome of the case, but also provides increased opportunities for competition in the industry.

Microsoft has agreed to either modify or eliminate allegedly anticompetitive business practices in the areas of pricing, distribution contracts, relations with software developers, and systems configuration. If the agreement is implemented, these concessions will lead to great growth in the software and computer industries. I hope you decide to go forward with the settlement. It is in the best interests of all involved.

Yours truly,

Becky Garrett

cc: Representative Bob Stump

MTC-00028755

From: Bhanu Patel
To: Microsoft ATR
Date: 1/28/02 5:22pm
Subject: microsoft settlement
5201 Meadowview Avenue
North Bergen, NJ 07047
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my interest on the recent antitrust settlement between Microsoft and the US department of Justice. The lawsuit has gone on long enough and should be finalized. All that is happening now is taxpayer dollars are being wasted and other companies are being given the chance to tack on their own lawsuits. Microsoft has done wonderful things for our country including creating jobs, wealth, and making technological breakthroughs.

They shouldn't be forced to disclose interfaces that are internal to Windows operating system products. They have spent huge amounts of money and resources developing these secrets. They should also not be prohibited from entering into agreements that obligate third parties to exclusively distribute Microsoft products. This inhibits their ability to gain market share.

Nevertheless, the settlement should be implemented so that our IT sector can rebound. Our nation needs to pull out of recession and cannot afford to have the government interfering with the most successful businesses. Make the right choice and do what is best for the public. End the dispute.

Sincerely,

MTC-00028756

From: Derik Stenerson
To: Microsoft ATR
Date: 1/28/02 5:23pm
Subject: Microsoft Settlement
January 28, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I would like to voice my position of support for concluding the litigation against Microsoft by approving the proposed settlement with the Justice Department. This case has proved not to be the best use of the government's resources, as the break-up attempt has only led to protracted dispute with no resolution. Consequently, it seems that accepting this current plan would be the best course of action for both sides at this point. The terms will be very favorable to Microsoft's opponents without causing severe disruption to its business model. Computer makers will have more flexibility to choose software programs for the Windows operating system, and even to manage specific features, like the supposedly controversial bundling options. Software developers will have unprecedented access to Windows internal interfaces and server protocols, as well as the ability to license its intellectual property. A non-partisan group of software experts will then monitor the process to ensure ongoing compliance. Based on these actions and measures, it seems that Microsoft is reaching out to the software community in a significant way to allow more competition in the marketplace. It should be in the best interest of all parties to take this opportunity and run with it, rather than delay further the possibility of a mutual solution. I look forward to your finalization of this agreement at your earliest convenience.

Thank you very much.

Sincerely,

Derik Stenerson
7845 235th PL NE
Redmond, WA 98053Get more from the Web. FREE MSN Explorer download : http://explorer.msn.com

MTC-00028758

From: john w orlandella
To: Microsoft ATR
Date: 1/28/02 5:24pm
Subject: Microsoft settlement

I see no reason for the government to continue the case against Microsoft. The only ones who can possibly gain are the attorneys. Please go with the current settlement and lets get this economy going again.

John and Jacqueline Orlandella

Redington Shores, Fl 33708 registered independents

MTC-00028759

From: Dean Royalty
To: Microsoft ATR
Date: 1/28/02 5:25pm
Subject: settlement

To whom it my concern:

It is my opinion that the proposed Microsoft settlement should be finalized as written. We, the public, need this enacted to help our economy to move forward, and help all who access the internet. As a senior,

I say it is now time to settle this matter in this fair and equitable way.

Respectfully, Dean Royalty

CC:Winnie R. Hanna,Shirley M. Trigg,sandra murphy,PAT...

MTC-00028760

From: Linda Jo Hamlin
To: Microsoft ATR
Date: 1/28/02 5:25pm
Subject: Microsoft Settlement

Dear Antitrust Division,

I cannot even guess at what is fair or correct according to the law's eyes to levy upon Microsoft, but I do want to comment regarding this issue. I have always used an apple computer (for many reasons) but I have to use some Microsoft software (Word) to process documents into booklets and layouts. This software often causes crashes as it tries to install over my operating system. The entire screen will freeze and go into a loop. When I reboot my computer, it alerts me that something has tried to rewrite my software. That is just a wrong thing to have happen. It is installed, I bought it, paid Microsoft for it and that should be enough for Microsoft. The rest is nefarious intervention by software written with a company's agenda. Please reprimand this company fittingly. Today the world of competition and deregulation is being swallowed up by profiteering. How can the little guy protect himself from huge, powerful and rich entities if there is no substantial result from proven misdeeds? It must have consequence when actions are done that are not for the good of the economic system we have here in the United States and the consequences should be a deterrent in the future to dissuade others from the same type of actions.

Thank you for your time reading this. I appreciate it.

Sincerely,

Linda Jo Hamlin, one of the little guys.

MTC-00028761

From: Harlan Wilkerson
To: Microsoft ATR
Date: 1/28/02 5:25pm
Subject: Proposed Settlement

I feel that adoption of the proposed settlement is not in the public interest.

The Appeals Court ordered the District Court to craft a remedy that would "unfetter [the] market from anticompetitive conduct," to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future."

Windows has gained it's market position not by consumer demand, but by Microsoft's almost total control of production. In the past, Microsoft has used exclusive OEM licensing and —marketing incentives to pass along the so-called "Microsoft tax" to every PC consumer. Most of the top 20 OEMs simply don't offer PC systems without the Windows operating system pre-installed. Microsoft has urged (and rewarded) the 0EMs to "just say no" to buyers who request a so called "naked PC" (a PC with no pre-installed software). This is ironic since the OEM's associated support costs should actually be reduced. The OEMs that do offer alternatives to Microsoft's Windows charge essentially the same price for non-Windows models. This is true even for those with pre-installied versions of absolutely free operating systems e.g. Linux, or the BSDs. These operating systems can be freely downloaded and installed on all of a consumers PCs without any licensing fee whatsoever. Consumers who have opted to install these free operating systems (on their own) are usually frustrated in any attempt to obtain refunds from the OEMs for their unused Windows licenses. This despite provisions for a refund from the OEM that are contained in the Microsoft Windows EULA. It's no accident that consumers can't determine the fair price of a PC under these circumstances. This was highlighted during the trial by a grass roots movement that culminated in a "Windows Refund Day". Consumers who purchase Microsoft Windows through an OEM usually have no standing in class action suits brought against Microsoft.

Nothing in the proposed settlement prohibits Microsoft from continuing to offer OEMs existing forms of advertising or marketing incentives (on an equitable basis) to include Windows on every machine, or to decline to sell "naked PCs". We currently are in the worst economic recession in at least a decade. It's doubtful that some of todays OEMs will even survive. Nonetheless, many of these same "equipment manufacturers" won't sell their equipment at any price without pre-installed software from Microsoft. This is hardly the behavior of an unfettered market.

Microsoft should be required to post the costs of it's OEM products on a public web site, and they should be precluded from offerring any incentives to OEMs to curtail the sales of "naked PCs"

To paraphrase the Appeals Court by the time this case is resolved the facts will be ancient history, but the effects of the illegal acts will have caused harm nonetheless. The proposed remedy does nothing to "deny to the defendant the fruits of its statutory violation". Microsoft staunchly denies any wrong doing in it's public statements, retains billions in capital, and isn't even held liable for the people's costs in prosecuting the case.

In crafting a remedy that terminates the illegal monopoly or eliminates practices likely to result in monopolization in the future it is important that hearings be held to investigate how we got here in the first place. The Federal Trade Commision and DOJ took up Microsoft's trade practices involving OEM per-machine-licensing of MSDOS. During this case a private antitrust suit was brought against Microsoft by Caldera. That suit was settled but provided no relief for the millions of consumers who purchased Digital Research's Disk Operating System. Digital publicly complained that they had sufferred from Microsoft's anticompetitive per-machine-licensing scheme and were wrongly excluded from the Windows 3.1 beta testing program—even though they were participants in beta testing earlier versions of Windows. Digital's Operating system didn't compete with Windows, but did compete with MSDOS. At the time these were seperate Microsoft retail products. The respected magazine and online publication Dr Dobbs Journal revealed that the Windows 3.1 beta contained code that was only useful for detecting Digital Research DOS. This code gave the user error messages or simply halted a users machine whenever Digital Research DOS was detected. Windows version 4 and MSDOS version 7 were eventually bundled into Windows 95 which carried exclusive OEM license agreements that didn't permit OEMs to use or dual boot other operating systems like Digital's DOS. For example, some Hitachi PCs had a hidden copy of the BeOS that consumers could only discover and activate using instructions on Hitachi's web site. Digital, Hitachi and BeOS have since exited the PC OEM and PC Operating system business. For it's part the DOJ has complained publicly that Microsoft violated the first consent agreement. The practice of monopolies denying companies that compete in any software catagory timely access to APIs, and the practice of bundling seperate retail products for anticompetitive reasons, and/or using exclusive licensing agreements to harm competitors is a common and recurring theme. The judge was correct in denying Microsoft's request to limit the scope of the remedies without an evidentiary hearing, and the DOJ was premature in dropping their case in-main on product bundling. Microsoft is engaged in world-wide trade and the DOJ and European antitrust regulators seem uncoordinated and out of step. The European regulators have taken up complaints that Microsoft has withheld access to Windows server software API's that are necessary for interoperability with other network operating systems, and the bundling of Windows Media Player in Windows XP. Microsoft is not so quietly announcing it's plans for a single Internet logon authentication service it's calling ".NET".

The stated objective of this initiative is to leverage the Windows monoply in order to create a new (Internet) monopoly. While these practices may or may not be lawful, it's doubtful that all of the practices likely to result in monopolization in the future have been eliminated without a single hearing on the issues here in our courts. Most non-Microsoft operating systems provide a boot manager that allows consumers to use several operating systems. In fact, Microsoft includes a boot manager that allows consumers to use multiple (older) versions of Windows e.g. Windows 2000 and Windows 98. The act of installing a Microsoft operating system doesn't invalidate a consumers licences for a competitors products. Yet installing (or reinstalling) Microsoft Windows will always result in a consumers other operating systems becoming inaccessable. This is anticompetitive behavior. Microsoft should be required to automatically add other operating systems to it's boot manager in the same manner that it adds it's own products.

The DOJ and Microsoft appear to have forgotten that this case is about—Personal Computers— if a consumer shops for a PC, and makes a purchase based on the software selection, it makes no sense to provide Microsoft the arbitrary right within fourteen days to delete icons or programs and substitute their own because they have judged the competitors product lacking in some quality or state they deem essential.

Microsoft has stated that their power to innovate or bundle applications into Windows XP is essential to the economic recovery of the PC industry. The PC OEMs have testified that there is no viable alternative to Windows. In the past year alone private business LANs and Internet companies have suffered billions of dollars in damages caused by trojan or virus programs that specifically targeted Windows PCs. The Executive and Legislative branches of the Federal Government have recognized the Internet as a vital piece of our national and international infrastructure. They have established agencies tasked with it's protection. Indeed one reason for pursuing the proposed settlement after September 11 was "the national interest". It's hard to understand why much of Microsoft's ill gotten monopoly shouldn't be considered an essential public facility. Certainly consumers have a right to migrate their own IP out of proprietary Microsoft file formats. Microsoft should be required to publish the file format information needed for other applications to interoperate with files created by MS Office. This is certainly the case with regard to Apple Computer users who have already been threatened with the cancellation of the Apple version of MS Office.

In conclusion, the court combined the individual State and DOJ cases. A settlement that doesn't include half the plantiffs is at best not a settlement.

Sincerely,
Harlan L. Wilkerson
Hutchinson, KS. 67501

MTC-00028752

From: Kevin McCoy
To: Microsoft ATR
Date: 1/28/02 5:25pm
Subject: Microsoft Settlement

I strongly disagree with the proposed settlement. It does not go nearly far enough to restore competition and deny Microsoft the fruits of their illegally obtained market advantage. In particular the Office suite monopoly is devastating to competitors and consumers through lack of choice. I think the nine states that are still pursuing litigation are much closer to purposing a remedy that is in agreement with the appeals courts findings.

Sincerely,
Kevin D. McCoy
Orem, Utah

MTC-00028763

From: W. Curtiss Priest
To: Microsoft ATR
Date: 1/28/02 5:26pm
Subject: Proposed Microsoft settlement: woefully insufficient

Dear Justice Department,

As a software innovator and holder of several software patents, I have first hand knowledge of how extremely brutal, unfair and bullying Microsoft is to others in the industry. I was involved for five years in negotiation, arbitration and potential legal action against Microsoft which only caused Microsoft to spend incredible resources to deny me and Humanic Systems any just and due compensation for our innovative work.

In my opinion, as President of Humanic Systems, a company that was (above) abused by Microsoft regarding our intellectual property for significant components of Microsoft Outlook, the proposed remedy is extremely inadequate:

1. It does not provide substantial redress for the prior losses caused by MS on others
2. Secrecy provisions undermind the ability to obtain API information and will systematically be used by MS, in my opinion, to continue its monopoly stranglehold
3. There are no structural remedies, and, without those, the "fascist" mindset of Ballmer and Gates will continue to dominate the thinking of each and every employee
4. Microsoft's stated opinions about various forms of open software, being a "cancer" undermines the ability for consumers to get the maximum benefit for the least cost

This position, alone, demonstrates that they want "all the marbles" and it is a "winner take all" game

Consider, for example, a PBS documentary about extreme competition as taught within the Gates family as Mr. Gates grew up

This person does not know the word cooperation, and, without extremely directive measures, will never show cooperation to the rest of the software industry that is slowly dying under his ruthless hand.

Very truly yours,
Dr. W. Curtiss Priest
President, Humanic Systems
Director, Center for Information, Technology & Society
Member, American Economics Association
Prior, Principal Research Associate, MIT
Author,—Technological Innovation for a Dynamic Economy—, 1980 (Pergamon Press)
—Risks, Concerns and Social Legislation—, 1988 (Westview Press)
W. Curtiss Priest, Director, CITS
Center for Information, Technology & Society
466 Pleasant St., Melrose, MA 02176
Voice: 781-662-4044 BMSLIB@MIT.EDU
Fax: 781-662-6882 WWW: http://Cybertrails.org

MTC-00028764

From: koufos@pacbell.net@inetgw
To: Microsoft ATR
Date: 1/28/02 5:25pm
Subject: Microsoft Settlement
To: Department of Justice
Re: Microsoft Settlement

Incredibly, the foremost innovative and economy enhancing company of the past fifty years has faced and continues to face an onslaught of legal challenges because of its superior and highly successful business model. This is happening through the combined conspiratorial actions of past federal and present state governments allied with certain business companies, i.e., Sun Microsytems, Oracle, AOL, et al. What these companies could not achieve in the ultimate test—the marketplace—they seek to gain via the use of Machiavellian chicanery and political cronyism; particularly a number of State Attorneys General and the foul, disgraced Clinton Justice Department.

There is no harm here to the American or Foreign consumer. To the contrary, Microsoft has made sense of the Internet and has provided commonality and standardization and thus ease of use to the consumer, not obscurantism and confusion such as that which existed prior to the advent of Microsoft's operating systems.

If there is any illegality being practiced relative to the issues at hand concerning Microsoft, it is the conspiracy of Government operating hand in hand with some of the slimiest, slipperiest billionaire business operatives, and their surrogates, in existence in the world today.

The Government must reward business excellence and innovativeness; Government must recognize and commend those enterprises that enhance economic activity; the Government and the Courts must not penalize achievement and success to satisfy the politically connected obstructionist losers.

MTC-00028765

From: Sam Axton
To: Microsoft ATR
Date: 1/28/02 5:24pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division, U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001
or to whom it may concern,

I am opposed, in principle, to any penalty meted to Microsoft for anti-trust reasons. I use Microsoft products voluntarily which is the only way one can use their products. Any claim to the contrary is simply wrong.

The free market will punish anyone who mistreats their customers. Microsoft has been nothing short of wonderful to the success of my business and personal life. They deserve their success and must be left unhindered to continue their efforts for my best interests. I do not want you to presume to tell me what software configuration I want in my computer nor what any company can bundle to meet my needs. I will decide whether Microsoft or any other company is a success for me or not.

The idea that another company cannot compete with Microsoft is every indication that it does not have what I nor others want. I and every person and/or company must be free to create and sell their property to any other willing person and it is your job to protect that most fundamental right not to undermine and punish it.

Sincerely,
Sam Axton
Reward is commensurate with effort.

MTC-00028766

From: David Rahrer
To: Microsoft ATR
Date: 1/28/02 6:25pm
Subject: Microsoft Settlement
To Whom It May Concern:

It would be difficult in the time I have available to describe the transparent and political nature this case has taken. I will, however, do my best to summarize some of my thoughts for the record, as I believe I represent the majority of working America who simply don't have the time to make their opinions formally known. It is these people who some parties continue to claim have been so desparately harmed by Microsoft. I don't think this is so.

It is clear that MS was extremely aggressive and, in some instances, outside the law in its persuit of the browser market. In the media at the time were boastings by Netscape that they would destroy windows, creating their own desktop environment. They were quite serious and I think MS realized that. I would also like you to recognize that NS browsers were freely downloadable at the time and find it hard to believe that sales to average consumers were a significant source of revenue. It was the corporate sales that drove their engine so please keep in perspective that the majority of consumers were not paying for the endless revisions of the NS Browser, they simply downloaded and installed it.

When MS came out with IE, it was not very good and most people continued using NS, even though IE came with Windows 95. What difference does it make which "comes with" the OS. Do the complaintants believe the public is so stupid that they just take what is put before them? It was because IE became so much better than NS that NS failed. They had geared themselves toward owning the market—their own "monopoly"—and then beyond to the desktop. It didn't happen, in large part because MS created a much better browser and, forseeing that the Internet would be an extension of the desktop environment, included it as standard equipment with Windows. To this day one can install any browser one chooses—even pay for Opera. Or, one has the choice of using what comes with the Windows OS. Those 12% of users who purchase Apple systems, also have a built-in browser but can install any they like. For those of us that have been using computers for a long time, it is quite obvious that MS has done the unimaginable—converted a world of fragmented systems and hardware to the interchangable, useful, indespensible marvels of today. It had to happen that someone would do this, and I think it is the picture of an American success story that they did. We should not be continually beating on a company that is in reality the crown jewel of

American enterprise. What better example can you offer? And all this because it's fashionable to hate the big guy, and also that some people would rather blame their own business model failures on MS instead of finding ways to innovate.

To be perfectly blunt, as a middleclass, average American, I have been quite disgusted during most of this process. MS doesn't produce tobacco , they aren't the enemy. They deserve to be fined and put on notice about the laws they did in fact violate—not to have a state by state feeding frenzy on the most viable corporation in our country—all fueled by none other than. . . Competitors. It's not moral, should not be legal and the rest of the world is laughing the hidious way we have allowed it to happen.

It is unfortunate, but I believe much of the correspondance you receive will be from those with an axe to grind or who followed the directions on a form letter with hopes of collecting an offered prize. You probably won't hear from the majority, those who are simply working and enjoying the bright, boundless world open to them through the Internet and their computer. Not only would they not be enjoying this as easily or as cheaply if MS had not been sucessful, but they might not be enjoying it at all. These are the people who are collectively thrown around in discussions by politicians and sour CEO's hoping to score points or money by attacking MS while it's fashionable.

I emplore you to settle this trial as swiftly and as close to the current framework as possible. It has run on far too long as it is and we have far, far, more important things to work on. Thank you for your time.

David Rahrer

MTC-00028767

From: bobalexander
To: Microsoft ATR
Date: 1/28/02 5:26pm
Subject: microsoft settlement

please approve settlement as is. it is both fair and reasonable.

MTC-00028768

From: welter@lanset.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:26pm
Subject: Microsoft action
To: DOJ <microsoft.atr@usdoj.gov>
From: Lee Welter <welter@computer.org>
Subject: Microsoft action
Date: 28 January 2002

Greetings:

Please give the DOJ settlement with Microsoft a chance to work in its current form.

I believe in free-market competition on a level playing field: however, weakening a strong competitor is not a substitute.

Cordially,
Lee

MTC-00028769

From: Alex Lazutin
To: Microsoft ATR
Date: 1/28/02 5:14pm
Subject: USAGLazutin—Paula—1011—0122 . (1).doc

25814 S Greencastle Drive
Sun Lakes, AZ 85248–6816
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing in full support of the recent settlement between Microsoft and the US Department of Justice.

Although the lawsuit was lengthy and costly for taxpayers, I am happy that Microsoft will not be broken up. The terms of the settlement seem fair.

Under the terms of the settlement Microsoft has agreed to improve its relations with computer makers and software developers. It has also agreed to design future Windows versions so that competitors can more easily promote their own products. These concessions and more make up the basis for a settlement that is aimed at protecting consumer rights.

While it is not perfect, it is the best thing that could happen. Our nation needs Microsoft back in action and innovating like they have been for over 10 years. Hopefully, your office can overcome any opposition there may be in the federal government to the settlement, and bring a swift end to this already tiresome case. Thank you.

Sincerely,
Paula Lazutin
President of Alco Marketing and Sales
Microsoft shareholder

MTC-00028770

From: Andrew Neely
To: Microsoft ATR
Date: 1/28/02 5:22pm
Subject: Microsoft Settlement

As a longtime computer user, and recent professional who uses both Windows and Macintosh both at work and at home, I feel that without a doubt, Microsoft is a predatory monopoly. I have used many different software products, and it has only been in the last three years or so, during the intense pressure that the DOJ initially brought to bear with it's antitrust lawsuit that I've even seen anything in the way of alternate OS offerings making their way onto store shelves and into OEM computers.

Microsoft has not only dominated the OS market to the detriment of its competition, but to that of its end users as well. That blackhat hackers have been able to repeatedly exploit the same set of vulnerabilities in the close relationship between recent versions of Windows and their mail clients, Outlook and Outlook Express, is inexplicable. Simply changing either piece of software, or both, would close a major security opening in it's products. However, not only has Microsoft failed to address this in a meaningful way, it has managed to avoid all liability to what for all intents and may be thought of as a design flaw. Had a car company's mistakes cost the same amount of lost man hours and money as Microsoft's oversights have, year after year, I doubt that they would even continue to operate as a company, much less as the most powerful one in its industry.

As a United States citizen I ask that my opinion be firmly registered that Microsoft can only be brought to heel as a good corporate citizen by direct oversight and measures designed to cripple the leverage that its Windows brand of operating systems software gives it over competitors. Simply allowing this company to give away so many billion dollars worth of retail software is ineffective. This will not only not cost the company anything like the sticker price of the donations, but in fact allow it to more firmly entrench itself into area it already has inroads into. Monetary damages should be settled in CASH, and the company should be subjected to direct oversight of its activities for at least five years. This seems to be the outside amount of time for it to develop a generation of products all the way across the board, and tying its hands for this length of time will help other companies to get a foothold they badly need to compete.

Sincerely,
Andrew Neely

MTC-00028771

From: RGP9134@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:27pm
Subject: (no subject)
Renata B. Hesse
Antitrust Division
U.S.Department of Justice
Washington DC 20530–0001

I'm writing to you in the hope that you will move forward in settling the complaints against Microsoft as the agreement that your office has recommended.

As a faithful taxpayer and retirees, my wife and I rely on the economy being strong. Microsoft is a present and future major player to that end.

Thankyou.
Sincerely,
Ron and MaryLou Pettengill
84 Westover Drive
Webster, NY 14580
CC:fin@mobilizationoffice.com@inetgw

MTC-00028772

From: Gil Friend
To: Microsoft ATR
Date: 1/28/02 5:27pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse,

I am writing to comment on the proposed Microsoft/DOJ anti-trust settlement. As a business executive at a company both highly dependent on computing technology and specifically involved in software development, I've come to the conclusion that this settlement is not in the public interest, and fails to remedies the problems that provoked the action in the first place.

The settlement leaves the Microsoft monopoly intact, with numerous opportunities to the company to effectively exempt itself from crucial provisions. The recently proposed "donation" to schools is just one example of how Microsoft can turn matters to their own advantage (in this case by decimating Apple's position in the education market).

In addition, the proposed settlement fails to address the critical "barrier to entry" problem, enabling Microsoft to maintain an effective "lock" on the applications market.

In addition, the proposed settlement fails to address the critical "applications barrier to entry" associated with the installed base of 70,000 Windows applications, enabling Microsoft to maintain an effective "lock" on the operating systems market by denying competitors with other operating systems the information needed to run these other applications on other operating systems. Any settlement must make it easier—not harder—for competitors to run the Windows applications.

Consumers, not Microsoft, should decide what products are on their computers. The settlement must eliminate Microsoft's various barriers—business and technical—to allowing combinations of non-Microsoft operating systems, applications, and software components to run properly with Microsoft products.

The remedies proposed by the Plaintiff Litigating States are in the public interest and absolutely necessary, but they are not sufficient without these remedies.

The Tunney Act provides for the Court to hold public proceedings, with citizens and consumer groups afforded an equal opportunity to participate, along with Microsoft's competitors and customers. I hope you will encourage those proceedings, and consider carefully how to proceed in this matter. Your decisions have great significance for the health of the US economy's most vital industries, by eliminating Microsoft's ability to illegal constrain markets and innovation.

Thank you for the opportunity to comment on this important matter.

Sincerely yours,
Gil Friend
President & CEO
Natural Logic, Inc.
PO Box 119
Berkeley CA 94701
Natural Logic, Inc.
More value. Less stuff.[tm]
Tel: 1–877–NatLogic
http://www.NatLogic.com

MTC–00028773

From: Bill Foerster
To: Microsoft ATR
Date: 1/28/02 5:31 pm
Subject: Microsoft Settlement

US DOJ:

Attached is a letter expressing my support for the proposed settlement with Microsoft.

Regards,
Bill
William M. Foerster
Foerster Bhupathi International, LLC
8111 Preston Road, Suite 600
Dallas, Texas 75225
1.214.369.3242 (business)
1.214.369.5363 (fax)
1.214.244.9400 (cell)
bill.foerster@fbillc.com
www.fbillc.com

William Foerster
8111 Preston Road
Suite 610
Dallas, TX 75218
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to take a moment to express my support for the settlement reached in November between Microsoft and the Department of Justice. I believe the settlement is fair to both sides and represents an opportunity for everyone to move forward.

The terms of the settlement are very strict and mandate a number of concessions from Microsoft. Among the terms of the settlement, Microsoft has agreed to license its Windows operating system products to the twenty largest computer makers on identical terms and conditions, including price.

There should be no question as to Microsoft's compliance with the terms of the settlement. It calls for a technical committee to monitor Microsoft's business practices in the future.

I hope that your continued support for finalizing the settlement will convince those states who are moving forward in their litigation to amend their positions.

It is well past the point for the federal and state governments to focus their resources on more urgent matters, like stimulating our economy.

Sincerely,
William Foerster

MTC–00028774

From: Ernest Kahn
To: Microsoft ATR
Date: 1/28/02 5:29pm
Subject: Microsoft Settlement

BlankTo whom it may concern

In my experience Microsoft has turned out good products a fair prices, It seems that their products where simply better than others and they facilitated communications.

Ernest J. Kahn
Sharon, MA

MTC–00028775

From: Jim
To: Microsoft ATR
Date: 1/28/02 5:29pm
Subject: anti trust

I think America has forgotten that Bill Gates has brought this country to where it is. Any attack against him is from greed and jelousy. He has created more jobs than any one else in the area of free interprise. I personally am ashamed my country would do this to him.

James Payne

MTC–00028776

From: Carola291@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:30pm
Subject: Microsoft Settlement

Please see attachment

28 Suncrest Terrace
Oneonta, NY 13820
January 28, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Today is the last day that I can contact you regarding the finalization of the Microsoft antitrust settlement. I would like to share my view that as the settlement is written, it appears fair to all parties. Apparently, Microsoft has made numerous changes to satisfy this agreement, including agreeing to work with a Technical Committee that will serve as a watchdog of its activities and practices. It seems to me that Microsoft and the government, possibly no lover of the company, have hammered out an agreement that each party can live with. Since this is the case, there should be no reason to alter the agreement...I have become increasingly cynical, believing that additional requirements are wanted by competitors to satisfy their interests, certainly NOT the "public's".

My life, and my business" life, have been improved and made easier by Microsoft. The adage "crying over sprit milk" has been a tactic for decades. It is time for competitors to step up their efforts to compete: to innovate, improve and participate in the technology revolution that just won't quit. I also support the philanthropic works of the Gates family and feel certain they will continue to lead the US in discovering and pursuing worthwhile projects, some that the United States has ignored or underfunded for decades. Let Microsoft's competitors follow in its footsteps and show the world that the corporate world can think beyond the "bottom line" and lead with generosity. Thank you for calling for comments, and for your attention.

Sincerely,
Carola Lewis

MTC–00028777

From: Edward Becerra
To: Microsoft ATR
Date: 1/28/02 5:40pm
Subject: Microsoft Settlement

I am opposed to tentative settlement of the United States vs. Microsoft antitrust lawsuit.

Edward Becerra
Haxtun, Colorado 80731

MTC–00028778

From: DSchen2835@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:31pm
Subject: Microsoft Settlement

Dear Attorney General John Ashcroft;

Now is the time to drop the charges against Microsoft and get on with the real business at hand, the Enron mess!! Microsoft has not caused thousands of people to loose their jobs, caused millions of people to loose much of their life savings, and to be so closely tied to the Bush administration, that it causes concern among voters. Microsoft is just doing a better job than the rest and should be allowed to continue it's leadership role. We all benefit from their expertice.

Dale Schendel,
Bloomington, Mn

MTC–00028779

From: WWPEARL@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:32pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
US Dept. of Justice (Legal)

The settlement is more then generous. I do not, and did not agree with the government action. It is not the justice departments job to aid and abet competitors who cannot make it on their own.

As an example, I cannot buy a Chrysler auto frame, and a General Motors Body and a Ford Transmission, yet that is what you have asked Microsoft to do with it's software. To force a company to design product so that others made add on to it is nut justice. It maybe legal, but not justice. Were we the public to start to buy all Fords, would you take action against Ford to force them to redesign there product so that Chrysler can put its motor in? I think not.

ACCEPT THE SETTLEMENT AND GET OUT OF THE CASE NOW.

CC:fin@mobilizationoffice.com@inetgw

MTC-00028780

From: Trstuelp@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:32pm
Subject: Microsoft settlement

I am responding to the U.S. goverment's challenge to Microsoft regarding their conduct in the competitive marketplace. I am speaking from the position of a retired CEO for one of Howard Hughes" companies.

I see a great parallel between the Microsoft case and the lawsuit against Hughes by TWA. After years of legal actions it finally reached the Supreme Court. In short order it was thrown out. Hughes won. The reason was logic. Hughes owned 70 percent of the TWA stock when he was challenged with mismanagement! The Supreme Court recognized the obvious. He had the legal right to make the decisions involved.

The Microsoft case is different in detail, but identical in concept. The actions each were (are) are charged with represent normal, legal and proper competitive practice. Both Hughes and Microsoft had the right to optimize their hard won positions just as every other company does in the worldwide marketplace. A point missed by the Monday morning, arm-chair critics is that competition is based on survival. The professional football team doesn't let up on the opposing team because it might lose the game in the process. The competitors in the Microsoft case know this is the way competition works. They operate this way too! In fact their present legal action is just another weapon they chose to use. And the state attourney generals who are fighting Microsoft see profit for their state or political advantage.

My plea is not to let them get away with it!! There is no end to this sort of challenge to the healthy capitalist system where innovation is the engine. My suggestion is to review the TWA versus Hughes Tool Company decision by the

U.S. Supreme Court as a reference.
Tom Stuelpnagel
Stuelp@AOL.com
(805) 595 2771

MTC-00028781

From: Stan Smith
To: Microsoft ATR
Date: 1/28/02 5:30pm
Subject: Microsoft Settlement
To: Department of Justice
From: Stanford L. Smith (User of Windows)

Please do whatever you can to bring this whole Microsoft action to a close. It appears that the only thing keeping it going is the strong "Litigation and Lobby" being financed by Microsoft competitors who are able to keep the pressure on the nine states that won't buy in to your settlement. At least the DOJ settlement seems to have us (consumers) in mind rather than the welfare of the Microsoft competitors.

The sooner we can get back to letting these companies spend their money on R & D rather than lawyers, the better off we will all be.

Thanks for listening.

MTC-00028782

From: Timothy Buckley
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 5:32pm
Subject: Microsoft Settlement

I believe this case is a deliberate attempt by companies such as Netscape to use legal methods to help level the playing field instead of innovating and creating a better product. I urge the court to accept the proposed remedies, and let this case be done and over with. Any further remedies will only serve to help Microsoft's competitors, not Microsoft's consumers.

Thank you,
Tim Buckley
Lead Credit Coordinator
(425) 889-3930

MTC-00028783

From: Allan Engle/wellness/stusvc/Okstate
To: Microsoft ATR
Date: 1/28/02 5:34pm
Subject: Microsoft Settlement

To whom it may concern:

In regard to Microsoft's long history of noncompliance, and their more recent delay and defer strategies, I would strongly urge that you scrap the proposed settlement in favor of a penalty that is more self-enforcing. Breakup of the company would meet this criteria. If you give them the leeway contained in the proposed settlement, they will attempt to circumvent it at every opportunity.

Sincerely,
Allan Engle
Allan Engle, Ph.D.
Certified Novell Administrator
Oklahoma State University
Seretean Wellness Center
405-744-6838

MTC-00028784

From: Ruffin Bailey
To: Microsoft ATR
Date: 1/28/02 5:34pm
Subject: Microsoft Settlement

Under the Tunney Act, I would like to comment on the proposed Microsoft settlement.

I find the punishments levied for a company that ?engaged in a variety of exclusionary acts designed to protect its operating system monopoly? are wholly inadequate, amounting to little more than a slap on the wrist. I would like the settlement to have more teeth that would serve to officially level the playing field in the personal computer operating system market without hurting the people at Microsoft that have put in countless hours to create what is a useful product. Splitting Microsoft into a number of companies that all have rights to sell and develop newly forked versions of the operating system would be a great first step. But if this cannot be accomplished, there are still several things that the Department of Justice can do to help with the state of Microsoft's monopoly.

There should be no monetary penalties from Microsoft for original equipment manufacturers (OEMs) that sell computers bundled with Microsoft's operating systems for the inclusion of any software, whether Sun's Java Virtual Machine, Netscape/AOL's Netscape browser, free alternatives to Microsoft Office, or the ability to ?dual-boot? into other alternative operating systems preinstalled on the machine, like Linux or FreeBSD. For every pre-packaged solution offered by Microsoft, whether its Internet Explorer, MediaPlayer, or what-have-you, there should be another, out of the box alternative for computer users ready for use like Mozilla or Real's

RealPlayer or Apple's QuickTime. These should not be secondary products, but true alternatives that users can choose upon first booting their new computers, and should also be alternatives that can be accessed at a future date.

Simply put, not enough has been done to level the playing field. Microsoft's aggressive tendencies can be counterbalanced by providing a level playing field for OEM's to sell their hardware of choice with software of choice without punishing those who have put in hard work at Microsoft unduly as well.

Please reconsider your original, relatively light sentencing.

Wm. Ruffin Bailey
Turben Place
Mount Pleasant, SC 29466

MTC-00028785

From: Michael Crozier
To: Microsoft ATR
Date: 1/28/02 5:33pm
Subject: Comments on the PFJ for USA vs MS

I am fully in agreement to the criticisms of the PFJ that Dan Kegal has collected at http://www.kegel.com/remedy/remedy2.html.

In particular, I am concerned with the licencing practices that Microsoft uses with OEM's and end user software.

Michael Crozier
834 NE Shaver ST
Portland OR 97212

MTC-00028786

From: Vicky Francis
To: Microsoft ATR
Date: 1/28/02 5:37pm
Subject: Microsoft Settlement
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in favor of the settlement of the Microsoft antitrust case. In a perfect world, I would like to see the case dropped in its entirety.

However, I recognize that the likelihood of this happening is slim, so I support the steps Microsoft is taking to bring this case to a conclusion. The terms of the settlement agreement are more than fair. In fact, I think they are entirely too harsh. For example, Microsoft has agreed to the creation of a technical oversight committee that will monitor the way they conduct their business. In our free enterprise system, this seems especially restrictive. They have also agreed to not retaliate against those who compete against them, or those who promote Microsoft's competitors. Our free market does not appear to be so free after all.

While I think the agreement really goes much farther than it should, I fully support Microsoft's decision to do what is best for consumers, the economy, and the IT industry as a whole—and that is to move on.

Thank you.

Sincerely,

Vicky Francis

MTC-00028787

From: Morton M Vogel
To: Microsoft ATR
Date: 1/28/02 5:37pm
Subject: microsoft settlement

It is time to bring the above matter to finalization. The time, effort and money being expended on this extended litagation is wrong. At this time we should be expending our efforts to enhance and develope the best in the computer world, both hardware and sfotware and not be bogged down in non productive situations. Reach a settlement now, so that we can all move forward. Litigation does not produce progress- only additional income for the legal profession.

Morton M. Vogel
e-mail Mortlee@ Juno.com
CC:fin@mobilizationoffice.com@inetgw

MTC-00028788

From: pour@mieterra.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:37pm
Subject: Microsoft Settlement

Please find attached the objections to the settlement proposal. The original format is .sxw (OpenOffice), and I apologize in advance for any problems in converting it to MS Word, RTF and HTML formats, which I also attach. I will fax a copy in short order so you may see the original.

Unfortunately some time commitments have prevented me from fully addressing all the issues. Within the next week or two a more complete draft will be available. I pray you will still consider it that time- given the utmost importance of this settlement on the future of our society and the freedoms which we enjoy.

Best regards,
Andreas Pour
Chairman
KDE League, Inc.

Antitrust Division U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530-0001
The Honorable Colleen Kollar-Kotelly
United States District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001

Re: US v. Microsoft, Civil Action No. 98-1232: Revised Proposed Final Judgment

The Honorable Judge Kollar-Kotelly and the US Department of Justice: Please find attached the firm objections of the KDE League, Inc. to the above- referenced proposed final judgment (the "Proposal"). The KDE League is a group of industry leaders and KDE developers focused on facilitating the promotion, distribution, and development of KDE. KDE is a contemporary, free "Open Source" desktop environment.

In many ways, KDE is the functional equivalent of Windows. It consists of a modern, elegant, intuitive desktop environment, including a modern browser, accompanied by a host of easy-to-use and easy-to-learn applications, including the productivity/office suite KOffice. In addition, KDE provides a broad array of intuitive graphical configuration tools. In fact, APPS.KDE.com (a KDE/Qt application website) lists over 1,250 publicly-available KDE applications (it should be noted that someone using KDE can also run a number of non-KDE applications, such as GNOME, Motif, wxWindows, X, etc. applications).

The comprehensive set of tools available to KDE users combine to make system administration substantially easier than the standard command-line-driven UNIX/Linux administration, and hence make Linux and other UNIXes more competitive with Microsoft not only in the desktop markets but also in the server operating system markets.

While KDE is most commonly used in conjunction with Linux, it is extremely portable and versatile, and does not depend on any particular operating system. For example, it also runs successfully on many other systems (such as Sun's Solaris, Compaq's Tru64, IBM's AIX, HP's HP-UX, and other UNIXes).

Moreover, since KDE is based on an outstanding graphical toolkit called Qt, and since Qt is also available for Windows, the new Mac OS X, as well as embedded devices (such as Sharp's new Zaurus), KDE has the potential to become a familiar environment deployed in a broad array of heterogeneous environments.

As you are undoubtedly aware, Microsoft has often been noted, during the trial and particularly in recent months, as viewing Open Source as the only significant challenge to its reign. So far, Open Source—particularly Linux—has been largely limited to server systems. But in recent months the defendant has been paying increasing attention to KDE, and at this juncture KDE is the major direct competitor with Microsoft Windows desktop operating system products and Microsoft middleware and productivity applications and, through its capacity to simplify installation, usage and administration, a major indirect competitor with the defendant in the server operating system market.

In recognition of the strength and power of KDE as a desktop environment, an ever-growing body of companies and governments have started the switch to KDE, including the Korean government, which is migrating 120,000 office workers to KDE from Windows, and other companies and governments are seriously contemplating the switch, including the government of Germany. Due to its maturity, low cost, features and active developer community, as well as due to the freedoms KDE grants its users, KDE constitutes the most viable competitor to Microsoft Windows in the desktop operating system market and the strongest factor in the expansion of UNIX-based operating systems in the server market.

The defendant has now clearly observed that in fact KDE is ready and able to expand the role of Open Source as well as proprietary UNIXes on the office, school and home desktop, as well as on TV settop boxes, webpads, handheld- devices and other computing platforms.

The KDE League strongly feels that the proposed settlement does not adequately protect KDE from the defendant's monopoly power, and hence leaves the defendant free to attempt to crush its strongest potential competitor in an anticompetitive manner. In fact, we anticipate that if the Proposal is approved, the defendant may feel even less tethered than it has during the course of this seven-plus-year proceeding to use unlawful practices to attempt to derail KDE from widespread acceptance. The fact that the government has refused my requests for meetings to discuss how the Proposal might be reworded to provide some comfort that the defendant will be unable to use unlawful practices to crushing its strongest competitor adds little solace to a weakly-worded document.

At this juncture I would like to disclose that, from the time of commencement of this case until approximately June 1999, I was employed as an attorney by counsel for the defendant in this matter. However, I was exclusively involved in representing other clients in unrelated matters. I never performed any legal services for the defendant, nor was ! ever exposed to any non-public information about the defendant, whether relating to this litigation or otherwise.

I would also like to point out that the views and opinions in this memorandum express the views of the KDE League, and may not necessarily express the views of its members.

Best regards,
Andreas Pour
Chairman
KDE League, Inc.

Introduction

The KDE League opposes the above-referenced proposed final judgment (the "Proposal"). Specifically, the Proposal lacks adequate enforcement provisions, is too limited in scope, and fails to address issues of restitution. Our objections will focus on the specific problems faced by an Open Source project such as KDE/Linux, though many will apply more broadly as well.

In conducting its review, the Court should bear in mind the applicable provisions of 15 U.S.C. Sec. 16(e):

(e) Public interest determination

Before entering any consent judgment proposed by the United States under this section, the court shall determine that the entry of such judgment is in the public interest. For the purpose of such determination, the court may consider—

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies

actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

As the Supreme Court wrote in U.S. v. Grinnell Corp., 384 U.S. 563 (1966): We start from the premise that adequate relief in a monopolization case should put an end to the combination and deprive the defendants of any of the benefits of the illegal conduct, and break up or render impotent the monopoly power found to be in violation of the Act. That is the teaching of our cases, notably Schine Theatres v. United States, 334 U.S. 110, 128 -129.

As a result of its limited, if not negligible, scope, the absence of any enforcement provisions for private litigants who have shouldered the expense of the trial already and who have been financially injured by the defendant, and the absence of any restitution to the victims of the defendants" unlawful conduct, the Proposal is at best palpably without, if not directly against, the public interest. As has been said by industry analyst Robert X. Cringely, "If this deal goes through as it is written, Microsoft will emerge from the case not just unscathed, but stronger than before".

Unenforceable.

The Proposal makes enforcement of its minimal restrictions by parties actually harmed by the defendant's violation of its provisions practically impossible. In particular, should the defendant use unlawful and anti-competitive practices against KDE, neither the KDE developers nor the KDE League will be likely to obtain redress for such violations. This failure may ultimately deny consumers the choice to forgo the use of some or all of defendants" products.

To ensure private litigants, who, as the courts so far have agreed, have been financially injured by the defendant, have a remedy for the defendant's unlawful conduct, and so that the defendant's competitors, such as KDE, can have the hope to obtain justice should the defendant continues its pattern of unlawful practices, the Government should require that Microsoft admit to its standing as a monopolist and the violations of the Sherman Act affirmed by the court of appeals, together with any additional violations this Court may find upon remand of, and consistent with, the appellate court's order.

[pour[1]]

The proposed remedies are inadequate for private litigants for the following reasons. First, the Final Judgment provides that it "does not constitute any admission by any party regarding any issue of fact or law".[2] The clearest implication of this provision is that the defendant is not legally determined to be a "monopoly" in this case for purposes of res judicata or collateral estoppel. Microsoft has proven in this case that, for all practical resources, it has infinite resources, time, tenacity and patience to fight any potential litigants. In fact, recent SEC filings indicate that the defendant is sitting on a $36 billion cash horde. Even the government, with all its resource, has fought for almost seven- and-a-half years, only to end up with a Proposal which only the defendant's stockholders could cheer about. How is a free, open project like KDE to obtain redress against such a tenacious and resourceful opponent?

Though the conclusion was obvious to all judges engaged in this matter, both at trial and on appeal, the fact is that virtually no private plaintiff will be able to afford to prove that Microsoft is a monopoly, a necessary first step in obtaining relief against the defendant should it continue to abuse its monopoly position

Second, the enforcement provisions of the Proposal are weak enough to amount to nothing but a ruse. For example, the "Technical Committee" which is charged with the duty to "assist in enforcement of and compliance with th[e] Final" Judgment, are (1) picked by MS (though one is picked by MS and one by Justice and the third by the first two, in light of how this Proposal signals the government" practical abandonment of prosecution of this matter, and in light of the defendant's tenacity, it is likely in our opinion that the third person will favor the defendant); (2) sworn to secrecy; (3) paid by MS; (4) required to work on MS's "campus"; and (5) unable to speak with any MS employee without an MS lawyer present. See Proposal, Section IV.B. The Proposal reads in relevant part:

B. Appointment of a Technical Committee

1. Within 30 days of entry of this Final Judgment, the parties shall create and recommend to the Court for its appointment a three-person Technical Committee ("TC") to assist in enforcement of and compliance with this Final Judgment.

2. The TC members shall be experts in software design and programming. No TC member shall have a conflict of interest that could prevent him or her from performing his or her duties under this Final Judgment in a fair and unbiased manner. Without limitation to the foregoing, no TC member (absent the agreement of both parties):

a. shall have been employed in any capacity by Microsoft or any competitor to Microsoft within the past year, nor shall she or he be so employed during his or her term on the TC;

b. shall have been retained as a consulting or testifying expert by any person in this action or in any other action adverse to or on behalf of Microsoft; or

c. shall perform any other work for Microsoft or any competitor of Microsoft for two years after the expiration of the term of his or her service on the TC.

3. Within 7 days of entry of this Final Judgment, the Plaintiffs as a group and Microsoft shall each select one member of the TC, and those two members shall then select the third member. The selection and approval process shall proceed as follows.

a. As soon as practicable after submission of this Final Judgment to the Court, the Plaintiffs as a group and Microsoft shall each identify to the other the individual it proposes to select as its designee to the TC. The Plaintiffs and Microsoft shall not object to each other's selection on any ground other than failure to satisfy the requirements of Section IV.B.2 above. Any such objection shall be made within ten business days of the receipt of notification of selection.

b. The Plaintiffs shall apply to the Court for appointment of the persons selected by the Plaintiffs and Microsoft pursuant to Section IV.B.3.a above. Any objections to the eligibility of a selected person that the parties have failed to resolve between themselves shall be decided by the Court based solely on the requirements stated in Section IV.B.2 above.

c. As soon as practical after their appointment by the Court, the two members of the TC selected by the Plaintiffs and Microsoft (the "Standing Committee Members") shall identify to the Plaintiffs and Microsoft the person that they in turn propose to select as the third member of the TC. The Plaintiffs and Microsoft shall not object to this selection on any grounds other than failure to satisfy the requirements of Section IV.B.2 above. Any such objection shall be made within ten business days of the receipt of notification of the selection and shall be served on the other party as well as on the Standing Committee Members.

d. The Plaintiffs shall apply to the Court for appointment of the person selected by the Standing Committee Members. If the Standing Committee Members cannot agree on a third member of the TC, the third member shall be appointed by the Court. Any objection by Microsoft or the Plaintiffs to the eligibility of the person selected by the Standing Committee Members which the parties have failed to resolve among themselves shall also be decided by the Court based on the requirements stated in Section W.B.2 above.

4. Each TC member shall serve for an initial term of 30 months. At the end of a TC member's initial 30-month term, the party that originally selected him or her may, in its sole discretion, either request re-appointment by the Court to a second 30-month term or replace the TC member in the same manner as provided for in Section IV.B.3.a above. In the case of the third member of the TC, that member shall be re-appointed or replaced in the manner provided in Section W.B.3.c above.

5. If the United States determines that a member of the TC has failed to act diligently and consistently with the purposes of this Final Judgment, or if a member of the TC resigns, or for any other reason ceases to serve in his or her capacity as a member of the TC, the person or persons that originally selected the TC member shall select a

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[1] See Robert X. Cringely, He's Not in It for the Profit (Dec. 6, 2001, PBS Presents).

[2] See Proposal, Preamble. The Proposal reads in relevant part: AND WHEREAS, this Final Judgment does not constitute any admission by any party regarding any issue of fact or law; and thwart competition in its markets. The Government, having fought its battle in what in technological terms is a generation, cannot really take seriously its reference to remedies under Section 4 of the Clayton Act in Article VI of its Competitive Impact Statement (doc. 9549).

replacement member in the same manner as provided for in Section IV.B.3.

6. Promptly after appointment of the TC by the Court, the United States shall enter into a Technical Committee services agreement ("TC Services Agreement") with each TC member that grants the rights, powers and authorities necessary to permit the TC to perform its duties under this Final Judgment. Microsoft shall indemnify each TC member and hold him or her harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the TC's duties, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the TC member. The TC Services Agreements shall include the following.

a. The TC members shall serve, without bond or other security, at the cost and expense of Microsoft on such terms and conditions as the Plaintiffs approve, including the payment of reasonable fees and expenses.

b. The TC Services Agreement shall provide that each member of the TC shall comply with the limitations provided for in Section IV.B.2 above.

7. Microsoft shall provide the TC with a permanent office, telephone, and other office support facilities at Microsoft's corporate campus in Redmond, Washington. Microsoft shall also, upon reasonable advance notice from the TC, provide the TC with reasonable access to available office space, telephone, and other office support facilities at any other Microsoft facility identified by the TC.

8. The TC shall have the following powers and duties:

a. The TC shall have the power and authority to monitor Microsoft's compliance with its obligations under this final judgment.

b. The TC may, on reasonable notice to Microsoft:

i. interview, either informally or on the record, any Microsoft personnel, who may have counsel present; any such interview to be subject to the reasonable convenience of such personnel and without restraint or interference by Microsoft;

ii. inspect and copy any document in the possession, custody or control of Microsoft personnel;

iii.. obtain reasonable access to any systems or equipment to which Microsoft personnel have access;

iv. obtain access to, and inspect, any physical facility, building or other premises to which Microsoft personnel have access; and

v. require Microsoft personnel to provide compilations of documents, data and other information, and to submit reports to the TC containing such material, in such form as the TC may reasonably direct.

c. The TC shall have access to Microsoft's source code, subject to the terms of Microsoft's standard source code Confidentiality Agreement, as approved by the Plaintiffs and to be agreed to by the TC members pursuant to Section IV.B.9 below, and by any staff or consultants who may have access to the source code. The TC may study, interrogate and interact with the source code in order to perform its functions and duties, including the handling of complaints and other inquiries from non-parties.

d. The TC shall receive complaints from the Compliance Officer, third parties or the Plaintiffs and handle them in the manner specified in Section IV.D below.

e. The TC shall report in writing to the Plaintiffs every six months until expiration of this Final Judgment the actions it has undertaken in performing its duties pursuant to this Final Judgment, including the identification of each business practice reviewed and any recommendations made by the TC.

f. Regardless of when reports are due, when the TC has reason to believe that there may have been a failure by Microsoft to comply with any term of this Final Judgment, the TC shall immediately notify the Plaintiffs in writing setting forth the relevant details.

g. TC members may communicate with non-parties about how their complaints or inquiries might be resolved with Microsoft, so long as the confidentiality of information obtained from Microsoft is maintained.

h. The TC may hire at the cost and expense of Microsoft, with prior notice to Microsoft and subject to approval by the Plaintiffs, such staff or consultants (all of whom must meet the qualifications of Section IV.B.2) as are reasonably necessary for the TC to carry out its duties and responsibilities under this Final Judgment. The compensation of any person retained by the TC shall be based on reasonable and customary terms commensurate with the individual's experience and responsibilities.

i. The TC shall account for all reasonable expenses incurred, including agreed upon fees for the TC members" services, subject to the approval of the Plaintiffs. Microsoft may, on application to the Court, object to the reasonableness of any such fees or other expenses. On any such application: a) the burden shall be on Microsoft to demonstrate unreasonableness; and (b) the TC member(s) shall be entitled to recover all costs incurred on such application (including reasonable attorneys" fees and costs), regardless of the Court's disposition of such application, unless the Court shall expressly find that the TC's opposition to the application was without substantial justification.

9. Each TC member, and any consultants or staff hired by the TC, shall sign a confidentiality agreement prohibiting disclosure of any information obtained in the course of performing his or her duties as a member of the TC or as a person assisting the TC to anyone other than Microsoft, the Plaintiffs, or the Court. All information gathered by the TC in connection with this Final Judgment and any report and recommendations prepared by the TC shall be treated as Highly Confidential under the Protective Order in this case, and shall not be disclosed to any person other than Microsoft and the Plaintiffs except as allowed by the Protective Order entered in the Action or by further order of this Court.

10. No member of the TC shall make any public statements relating to the TC's activities.

Appointment of a Microsoft Internal Compliance Officer

1. Microsoft shall designate, within 30 days of entry of this Final Judgment, an internal Compliance Officer who shall be an employee of Microsoft with responsibility for administering Microsoft's antitrust compliance program and helping to ensure compliance with this Final Judgment.

2. The Compliance Officer shall supervise the review of Microsoft's activities to ensure that they comply with this Final Judgment. He or she may be assisted by other employees of Microsoft.

3. The Compliance Officer shall be responsible for performing the following activities:

a. within 30 days after entry of this Final Judgment, distributing a copy of the Final Judgment to all officers and directors of Microsoft;

b. promptly distributing a copy of this Final Judgment to any person who succeeds to a position described in Section IV.C.3.a above;

c. ensuring that those persons designated in Section IV.C.3.a above are annually briefed on the meaning and requirements of this Final Judgment and the U.S. antitrust laws and advising them that Microsoft's legal advisors are available to confer with them regarding any question concerning compliance with this Final Judgment or under the U.S. antitrust laws;

d. obtaining from each person designated in Section IV.C.3.a above an annual written certification that he or she: (i) has read and agrees to abide by the terms of this Final Judgment; and (ii) has been advised and understands that his or her failure to comply with this Final Judgment may result in a finding of contempt of court;

e. maintaining a record of all persons to whom a copy of this Final Judgment has been distributed and from whom the certification described in Section IV.C.3.d above has been obtained;

f. establishing and maintaining the website provided for in Section IV.D.3.b below.

g. receiving complaints from third parties, the TC and the Plaintiffs concerning Microsoft's compliance with this Final Judgment and following the appropriate procedures set forth in Section IV.D below; and

h. maintaining a record of all complaints received and action taken by Microsoft with respect to each such complaint.

Voluntary Dispute Resolution

1. Third parties may submit complaints concerning Microsoft's compliance with this Final Judgment to the Plaintiffs, the TC or the Compliance Officer.

2. In order to enhance the ability of the Plaintiffs to enforce compliance with this Final Judgment, and to advance the parties" joint interest and the public interest in prompt resolution of issues and disputes, the parties have agreed that the TC and the Compliance Officer shall have the following additional responsibilities.

3. Submissions to the Compliance Officer.

a. Third parties, the TC, or the Plaintiffs in their discretion may

Third, making matters worse are the Proposal's "No Third Party Rights" provisions.[4] The absence of third party rights is, in fact, explicitly stated twice in the Proposal: first in Section III.I (last paragraph) and again in Section VIII). Thus if a private party has been harmed by the defendant's violation of the Final Judgment, that person's sole recourse is to approach the Justice Department or a State to request enforcement of the Proposal. Given the fact that the Justice Department has not even responded to the KDE League's request for a hearing regarding the settlement, it seems that the likelihood that the Justice Department acting on behalf of any Open Source project or other small company is marginal at best. In addition, many Open Source developers live in other countries, making it extremely difficult for them to obtain any redress through the courts. (Here it is important to bear in mind that while these developers live in other countries, their software is freely available to American consumers, and hence submit to the Compliance Officer any complaints concerning Microsoft's compliance with this Final Judgment. Without in any way limiting its authority to take any other action to enforce this Final Judgment, the Plaintiffs may submit complaints related to Sections III.C, III.D, III.E and III.H to the Compliance Officer whenever doing so would be consistent with the public interest.

b. To facilitate the communication of complaints and inquiries by third parties, the Compliance Officer shall place on Microsoft's Internet website, in a manner acceptable to the Plaintiffs, the procedures for submitting complaints. To encourage whenever possible the informal resolution of complaints and inquiries, the website shall provide a mechanism for communicating complaints and inquiries to the Compliance Officer.

c. Microsoft shall have 30 days after receiving a complaint to attempt to resolve it or reject it, and will then promptly advise the TC of the nature of the complaint and its disposition.

4. Submissions to the TC.

a. The Compliance Officer, third parties or the Plaintiffs in their discretion may submit to the TC any complaints concerning Microsoft's compliance with this Final Judgment.

b. The TC shall investigate complaints received and will consult with the Plaintiffs regarding its investigation. At least once during its investigation, and more often when it may help resolve complaints informally, the TC shall meet with the Compliance Officer to allow Microsoft to respond to the substance of the complaint and to determine whether the complaint can be resolved without further proceedings.

c. If the TC concludes that a complaint is meritorious, it shall advise Microsoft and the Plaintiffs of its conclusion and its proposal for cure.

d. No work product, findings or recommendations by the TC may be admitted in any enforcement proceeding before the Court for any purpose, and no member of the TC shall testify by deposition, in court or before any other tribunal regarding any matter related to this Final Judgment.

e. The TC may preserve the anonymity of any third party complainant where it deems it appropriate to do so upon the request of the Plaintiffs or the third party, or in its discretion. any harm visited upon these international developers results in direct harm to the American consumers which the Antitrust Laws are designed to protect.) This limitation should be particularly borne in mind when reading the entire Proposal, such as the supposed "abandonment" of certain trademark rights in Section VI.T.

Fourth, the term of the agreement is extremely short—only five years.[5] Even if the government proves to the court "a pattern of willful and systematic violations", the Proposal may only be extended once for a maximum of two years.[6] Thus, given the defendant's dilatory legal maneuverings, it is easily possible that the defendant can blatantly violate the Proposal from the get-go and have the Proposal expire before proceedings can adjudge it guilty of any violations.

Of course there is also a "Voluntary Dispute Resolution" provision, where essentially a victim of the defendant's monopoly abuses would have the opportunity to submit a grievance through a web form[7] Insofar as the defendant adamantly denies any wrongdoing in the face of a lawsuit by the federal government and numerous States, and in the face of every judge to have reviewed the matter and disagreed with them, it strikes us as extremely unlikely that any aggrieved party would obtain resolution using this method. Under the Proposal, the defendant then has 30 days to decide, in effect, to ignore the request (it is possible the defendant might redress a grievance, of course, but since the defendant continues to assert it is not a monopoly and not guilty of any wrongdoing, it is totally unreasonable for the government to rely on this in its evaluation of the Proposal).[8]

Alternatively, a complaint may be submitted to the Technical Committee, which in turn may review a complaint (it is notable in this regard that though the Proposal speaks of "shall investigate", as there are no third party rights under the Proposal, a third party has no remedy in the event the Technical Committee fails to take such action).[9] In the event the Technical Committee agrees with the person filing a grievance, that person is barred from every presenting any evidence in court about the findings of the Technical Committee.[10] In the final analysis this situation probably does not have a great practical effect, as the person filing the grievance does not have any rights under the Proposal anyway.

However, it does highlight in how many ways the defendant has been able to insulate itself from any responsibility for actual wrongdoing it engages in, and how the Technical Committee is a veritable mirage with respect to any party having a legitimate grievance against the defendant. OS Only The restrictions imposed on the defendant in the Proposal are inadequate to prevent the defendant from further engaging in reasonably predictable unlawful behavior. Moreover, the restrictions are inadequate to protect our democracy from the overconcentration of power left in the defendant's hands. The restrictions of the Proposal have the following principal shortcomings:

First, Microsoft's office, multimedia, Internet and other products, although many of which from all appearances each constitutes a monopoly onto themselves, are not even addressed by the Proposal. Instead, only the "OS" is covered. Viewed in light of the defendant's .NET strategy for the future, this limitation all but renders the Proposal's prohibitions vacuous.

Although it is a fact proven in this case that the defendant used its OS as a basis to abuse its monopoly position and compete unfairly, the essence of the violations related to the incorporation by the defendant of additional technologies into its "OS". This inclusion repeatedly encompassed items, such as a browser or multimedia player that, in reality, do not form part of the OS but rather are separate applications as they do not have any responsibility for allocating limited resources, such as memory, disk space, screen space, etc., among competing applications, but rather themselves are applications competing for these limited resources).

Under the Proposal, the OS is, at least to some minimal extent (presumably far less than the defendant could have hoped when it formulated its current NET strategy), subject to restrictions. Accordingly, one can reasonably anticipate that the defendant's new strategy will be to extract functionality from the OS. Instead, these applications could be provided separately, either as "free" downloads from the Internet (of course if, as may be expected, they won't work without the defendant's OS they are not "free") or as network services provided over the Internet or a local network, providing a credible justification for reclassifying as an application what was before (at least according to the defendant) part of the OS.

Specifically, the defendant has "bet the company" on its .NET platform. The .NET strategy means any device which has one application (for simplicity, something equivalent to Java) can access a great multitude of services, whether provided by MS or its allies. The OS itself can be restored to what traditionally has been considered an OS, to wit, a system for allocating shared resources (such as access to memory, disk space, the screen, etc.) amongst competing applications, such as multimedia players, browsers, etc., rather that artificially defined to include those applications itself. Such an approach can be seen with some of the defendant's recent home products.

In other words, the last decade has witnessed MS simply "integrating" applications into the OS to ensure control over more applications and expand its OS monopoly (for example, when MS integrated its Internet browser into the OS, Netscape's Navigator was doomed). With the OS under attack and possibly subject to regulation, the defendant has begun taking the direct opposite tack, undermining the importance of the OS and extracting and separating the core functionality provided by its applications. Of course, from the user's perspective, nothing will have visibly changed.

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[4] See Proposal, Section III.I (last paragraph) and Section VIII.

[5] See Proposal, Section V.A.

[6] See Proposal, Section V.B.

[7] See Proposal, Section IV.D.

[8] See Proposal, Section W.D(3).

[9] See Proposal, Section W.D(4).

[10] See Proposal, Section IV.D(4)(d).

Second, by reserving to the defendant the right to determine "in its sole discretion" the software code which comprises a "Windows Operating System Product", the Proposal grants the defendant the uncurtailed freedom to redefine the term "OS".[11] Notably, the definition of "Microsoft Middleware Product" is limited to products which are "in a Windows Operating System Product")[12] Hence, if the OS is reduced in significance, and the Middleware Products are either bundled separately (as a group of add-ons, similar to how currently MS Office is an add-on, possibly available for free download or use to anyone with a registered MS Operating System) or provided as a service via the Internet or some other computer network, such products (though essentially the same) would not be covered by the Proposal either.

Thus, the minimal restrictions included in the Proposal relate to something about which the defendant may reasonably foreseeably no longer care. Having abused its monopoly in the desktop to gain a monopoly in applications (including certain middleware), the defendant can/likely will simply switch to abusing its monopoly in applications, and nothing in the Proposal places any restrictions on that foreseeable tactic.

Third, another extremely important inadequacy of the Proposal is the complete omission of the defendant's office/productivity applications ("Productivity Products"). It seems clear that the defendant enjoys a monopoly in at least the office productivity market (Word, Excel, Powerpoint, FrontPage, etc.) commensurate with (or perhaps even more so) its OS monopoly.

Thus, for example, the provisions of Section II.E of the Proposal, which (to some very limited extent) require the defendant to share "Communication Protocols" with third parties to enable them to interoperate with Windows Operating System Products, do not extent to Productivity Products. In particular, the definition of "Communications Protocol" is limited to tasks involving a "Windows Operating Systems Product", which as noted does not include Productivity Products)[13]

In addition, the principal way in which the defendant maintains its monopoly in Productivity Applications is through the use of file formats which are extremely - if not unnaturally—difficult for competitors to decipher. Without access to the details of such file formats (the standards published on the defendant's website are totally inadequate), competing developers cannot create adequate filters so that their projects can interoperate with the defendant's Productivity Products. As the vast majority of the human knowledge base has been "locked" into these decidedly proprietary formats, the absence of an open standard limits consumer choice and may even prevents consumers from switching to another operating system.

One obvious manner in which the lack of attention to Productivy Products comes into play is in the "restrictions" of Section III.A. These do not prevent the defendant from retaliating against an OEM for the "protected" conduct in the pricing of such additional software, as well as other popular software distributed by the defendant (such as its web server or database products). Similarly, the provisions of the Proposal which to some limited if not negligible extent require the defendant to permit others to learn the defendant's secret protocols do not even pretend to extend to the format of its information encryption, encoding and other obfuscation. Volumous Exceptions

What few requirements are imposed on the defendant are largely undone by the breadth of the qualifications in III.J of the Proposal, particularly subsection 2. Provision (a) thereof essentially disqualified all corporations (including the defendant itself), as it is impossible not to have a "history" of violation of intellectual property rights presumably even making an unpermitted backup copy would satisfy this broad provision). Provision (b) requires demonstration of a "reasonable business" need (as opposed to reasonable technical need) for a "planned or shipping product". The provision would essentially require a competitor to disclose to the defendant its non-public, planned products, without any confidentiality, non-competition or other assurance that the defendant will not use this information to benefit itself or harm the supplier. Provision (c) entitles the defendant to establish "reasonable, objective standards ... for certifying the authenticity and viability of its business", which standards for some unknown reason the defendant is not now able to articulate, leading to a very low expectation as to the reasonableness and objectiveness of the eventual standards.

Undoubtedly provisions (b) and (c) are intended to prevent Open Source projects, which to date form the sole serious competitor to the defendant over its range of products, from claiming any rights specified in the Proposal. Generally Open Source developers program for the challenge and joy of expression, rather than as part of a "viable business". As Open Source software is free, the defendant could quite rightfully argue that the developers do not have a "viable business". Yet from the perspective of a software user, it hardly matters what the developers" motivation is; in fact a user might prefer software that is developed under the Open Source model rather than for profit.

Finally, provision (d) permits the defendant to deny any request unless the party making the request in essence submits all its trade secrets and intellectual property to a "third party". Since this "third party" (not to be confused with "independent party") is selected in the defendant's sole discretion, and since there is no provision assuring the confidentiality of any data submitted or that any party reviewing the information—including this "third party"—itself satisfies the criteria of Section III.J, any requester will have to assume that all the submitted information will be carefully reviewed by the defendant.

No Protection to Consumers

The Proposal also does not provide any protection to consumers. While some indirect protection is provided via the limited protections afforded to OEMs, large consumers (such as Fortune 1000 companies) receive no protection. For example, nothing in the Proposal appears to prevent the defendant from raising prices on software to, for example, General Electric if General Electric elects to deploy KDE in its offices. In effect, the defendant is free to retaliate freely against large companies, governments, universities, and other institutions which elect to employ competing products in some but not all of their computer systems. No Protection for ISVs/Developers on other Platforms As recognized by the trial court, both by the defendant and the plaintiff, Open Source clearly represents the most viable competitive threat to defendant's monopoly. Nevertheless, the Proposal does not provide any means for this competition to compete fairly with the defendant.

For example, the defendant's obligation to release Documentation and APIs under Section III.D does not extend to document formats (such as MS Office formats or video/audio "codecs" used in multimedia applications) or network protocols used by the defendant to maintain its monopoly, nor does it prevent the defendant from pursuing patents or other exclusive legal rights on such formats and protocols solely or substantially for the purpose of preventing competition from software vendors/developers on other platforms. In addition, as noted above, it is far from clear that any of the limited and unenforceable restrictions in the Proposal apply to Open Source businesses and developers at all.

Proposal Language

Much of the language of the Proposal appears to be drafted to permit easy circumvention. This point will be made with a handful of examples, although many more can be identified in the Proposal. For example, Section III.A uses the term "known to Microsoft", as opposed to something less stringent (knowledge being very difficult to prove), such as leaving out the language "It is known to Microsoft that" altogether or by using the substitute phrase "it is or should be known to or suspected by Microsoft that". In addition, provision III.A.2 does not provide protection to OEMs who ship Personal Computers that boots only into a competing operating system. As another example, Section III.C.4 prohibits the defendant from entering into any agreement with an OEM which restricts the ability of the user to launch another operating system from the boot prompt. However, the provision does not restrict the defendant from causing its operating system to delete any boot loader which might provide the user a choice of which operating system to launch. In fact, the defendant's operating systems are well known to so interfere with the operation of other operating systems. In addition, the provision fails to provide that the defendant is barred from requiring OEMs to install a Windows Operating System on all its products, which has been the case in the past and which forces consumers to pay for a product they either do not want or need and makes alternative operating systems unable to compete with the defendant on the basis of price.

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[11] See Proposal, Section VI.U.

[12] See Proposal, Section VI.K.

[13] See Proposal, Section VI.B.

The provisions of Section III.E similarly fall short of the goal of permitting competition with the defendant. In particular, the disclosure of Communication Protocols is limited by Section III.J.1, which broadly exempts any information "which would compromise the security of a particular installation or group of installations". While superficially this sounds reasonable, the gaping hole is created by reference to "any portion[] or layer[] of Communication Protocols". Of course, it would be difficult to imagine that knowledge of a communication protocol layer could compromise security, and hence the addition of such language by the defendant would strongly indicate its intention to create such layers in order to prevent competitors from interoperating with its products. It is worth noting at this juncture that all the major authentication, security and encryption schemes rely on completely open protocols and that security is afforded solely through an unknown key, token or similar access control mechanism rather than through any portion of the protocol itself. This is true because it is generally considered insecure to rely on aspects of a protocol for security or authentication as they are quite easy to reverse engineer, i.e. defeat, by anyone not concerned with compliance with the law.

Section III.J.2 requires the defendant to permit competition only when a "Windows Operating System Product" (which, as noted more below, is a definition entirely within the control of the defendant) launches a "Microsoft Middleware Product" (essentially a browser, Java, a media player, a chat client, a mail client or a calendar client), but only if (a) the product is opened in a "Top- Level Window", and b) either (i) all of the user interface elements are displayed, or ii) the Trademark of the Microsoft Middleware Product is displayed. Thus, if the product is not opened in a "Top-Level Window", the defendant can prevent the consumer from using a competitor's product. Why, might one reasonably ask, would whether or not a media player has a separate "move" and "resize" button affect whether or not the user should have a choice over the media player? In fact, the definition of "Top-Level Window" is entirely obtuse. Technically, any "window" can contain "sub-windows"—even a simple dialog box is composed of many sub-windows (e.g., each text item, each checkbox, each text edit box, etc. is a "window"). Since this is a requirement, one must assume it means something more. Hence the requirement leaves a tremendous amount of wiggle room for the defendant.

Similarly, clause (c) of the definition of "Top-Level Window" permits ample room for manipulation. The defendant can simply ensure that at least the "user interface elements", as opposed to the actual functioning of the program, is not under the control of an "independent process". It is important to note here that use of the term "separate process" would have been much broader; by specifying "independent process", the defendant has made it trivially easy to make any top- level window not fall within the definition of "Top-Level Window" simply by starting the middleware product as a "child" process.

The second requirement also leaves huge amounts of room for avoidance of any requirement to permit users access to competitor products. One easy way to circumvent the requirement is to add a single user interface element which is available when the product is launched from the Start menu, but not when it is launched from the Microsoft Middleware Product. This element could be an element entirely inconsequential to the operation of the Microsoft Middleware Product, such as a trivial status bar, an extra line of text somewhere, an extra menu element, an extra toolbar or toolbar icon, etc.; in fact it could be a single user interface element added solely to the version launched from the "Start" menu for the purpose of making it different than the one launched from the Microsoft Middleware Product (and of course this element could be added after the functional and user interface design of the product has otherwise been totally completed).

Of course, it is also trivially easy for the defendant to avoid being caught in subsection (ii) of Section III.J.2. In particular, the definition of the term "Trademarked" specifies that:

We start from the premise that adequate relief in a monopolization case should put an end to the combination and deprive the defendants of any of the benefits of the illegal conduct, and break up or render impotent the monopoly power found to be in violation of the Act. That is the teaching of our cases, notably Schine Theatres v. United States, 334 U.S. 110, 128–129.

Any product distributed under descriptive or generic terms or a name comprised of the Microsoft?? or Windows?? trademarks together with descriptive or generic terms shall not be Trademarked as that term is used in this Final Judgment. Accordingly, the defendant could describe its media player as the "Microsoft Media Player", or its messenger as the "Microsoft Messenger", or its calendar as the "Microsoft Calendar", without being caught in subsection (ii). Obviously, no competitor can similarly name its product, so to say such names are not Trademarked defies all reason. In any event, the essence of the argument is that, if the defendant expends just a little bit of effort and (possibly) imagination, Section III.J.2 will not curtail the defendant from eliminating user choice as to the Middleware Product launched by any Microsoft Operating System Product. Similarly, Section III.J.3 does not specify that the user's consent be voluntary (e.g., the consent may be provided as part of a larger question), that the presentation of the request for the consent be non-discriminatory and fair to all products, or that the defendant may only request a switch once, so that it cannot prevail over its competitors by virtue of sheer harassment (such as popping up a dialog every time a Middleware Product is launched or even every time a feature of a Middleware Product is used). Even the time language in provision b) of that Section is a huge loophole, as it is commonplace for OEMs to do the "initial boot up" before shipping a PC and hence the 14-day period could have largely or completely expired by the time a user boots up the PC for the first time.

Another example of loophole language from the definitions relates to the term "ISV". The term is defined in terms of an "entity", rather than the traditional "person" or "person or entity", thereby preventing Open Source developers from falling within the protections afforded to ISVs. From a competitive standpoint, there is no reason for the government to favor an incorporeal entity over a human developer, and accordingly this definition is unreasonable and against the public interest. No Restitution or Penalties The evidence, upon which the defendant was adjudged guilty of essentially felonious conduct, was mainly based on events of the mid-late 1990%. Since the commencement of this litigation, the defendant's behavior has in the KDE League's opinion become substantially more unlawful and egregious, the whole time right under the government's nose.

Under the Proposal, the punishment for conduct which all judges to hear evidence have uniformly ruled is unlawful appears to be absolutely nothing; even the most generous read of the Proposal would have to conclude that at most it aims to prevent the defendant from engaging in (some) further unlawful conduct.

In fact, no restitution or compensation to the corporate, developer or consumer victims of its legion abuses is contemplated. Not even an injunction against the defendant's recent announcement that it will stop providing security patches for older versions of its product line (which would be similar to a car manufacturer not fixing a serious safety violation and an act which a non-monopolist could hardly get away with), forcing everybody to "upgrade" to the much-more-expensive but in many cases much-less-desirable Windows XP/2000 series. Apparently, the government is quite content that the defendant keep the billions in profit it unlawfully bilked from American consumers and businesses.

Moreover, the government's failure to address the defendant's ever-more- egregious conduct provides the public with no confidence that the government would act to enforce the "slap-on-the-wrist" restrictions contained in the Proposal. Accordingly, it is imperative for the public interest that any settlement provide remedies for private litigants to enforce their rights under the federal antitrust laws without having to mount a full attack and prevail over the defendant on the core issues of monopolization and abuse of monopoly power.

Patent Abuse

The threat of the defendant using patents to destroy Open Source interoperability with the defendant's technologies is a major obstacle to consumer choice and a competitive marketplace. The defendant is building up a large reservoir of patents, assisted by the USPTO's abysmal software patent review strategy. Even a patent which might be obviously invalid, for lack of novelty or otherwise, would be extremely difficult for an Open Source project to overcome, as the defendant has a huge hoard of resources to throw at Open Source developers who would in almost all cases lack the resources to respond, let alone prevail.

Just to pick one example of an absurdly broad patent which the defendant could use as a sword to maintain its monopoly was recently issued. See United States Patent 6,330,670 (Dec. 11, 2001). Claim 1 of this patent is for: A computerized method for a digital rights management operating system comprising: assuming a trusted identity; executing a trusted application; loading rights-managed data into memory for access by the trusted application; and protecting the rights-managed data from access by an untrusted program while the trusted application is executing.

This really is something that must be extremely obvious to even a non-computer scientist. It's the equivalent to getting a patent on the following "process", employed by a security guard at a top-secret facility: A method for workplace security comprising: assuming a trusted employer; relying on trusted equipment; permitting the protected employee onto the premises; and protecting the premises from access by an untrusted person while the trusted person is working.

While this sounds like a joke, it is actually more sophisticated than this most obvious "patent" the defendant has obtained. Unfortunately, an Open Source project like KDE would find it veritably impossible to have such a patent overturned in court should the defendant elect to try to enforce it. Even more unfortunately, the Proposal does not place any restrictions or circumstances on the defendant—such as its status as an abusive monopolist— which might assist its competitors fight such an attack in a legal forum.

Conclusion

In conclusion, the KDE League would like to reiterate its firm opposition to the Proposal. The Proposal does nothing to assist a great many competitors in competing with the defendant, even in markets which the defendant has demonstrably conquered using unlawful methods. And it does nothing to prevent the defendant from unlawfully abusing its most viable competitors, not even a small leg up in pursuing justice in a court of law.

MTC-00028789

From: Brian Gault
To: Microsoft ATR
Date: 1/28/02 5:43pm
Subject: Microsoft Settlement

Judge Kollar-Kotally:

Not that I am aware of all the issues of law involved here, but it seems to me that Microsoft is in violation of our country's anti-trust laws. As a citizen of this country, I urge you to find against Microsoft in this case.

Brian C. Gault
507 Lindale Drive
Clinton, MS 39056
601-925-0212

MTC-00028790

From: Michael Foley
To: Microsoft ATR
Date: 1/28/02 5:44pm
Subject: Microsoft Settlement

Dear Sir or Madam:

It is my belief that the antitrust suit against Microsoft Corporation is the height of government abuse of a great company. It is the direct result of requests by Microsoft's competitors and their political connections (i.e. Novell and Senator Orin Hatch) to level the playing field.

Microsoft is a great company. I have been using their products since the late seventies and I have always received value for my money. Sure, some of their software has a few bugs, but it's still the best available. Microsoft will work on a product until it is the very best available. They created the microcomputer revolution when they introduced Windows 3.0 in the early 90?s. The interface was easy to use and understand, and helped computers to become common fixtures in American homes and small businesses.

Microsoft increased the size of the American economic pie for all of us. Bill Clinton didn't create the robust economy of the 1990's, Microsoft, Intel, Cisco, and other aggressive and innovative companies did. How does the American judicial system repay the genius and hard work provided by Microsoft over the last 25 or so years. It attempts to break-up one of the most successful companies in American history.

Who was damaged other than Microsoft? Did any consumers complain about the products they purchased? Why were the states allowed to join the suite—— just how were the states damaged. It all appears to be one big illegal feeding frenzy similar to the tobacco suits. It is shameful.

I strongly believe that this suite against Microsoft ignited the collapse of tech markets in late 1999 and 2000 which sucked billions of dollars of wealth out of the American economy. I think the Clinton Justice Department and Judge P. Jackson should be fined and/or jailed over this extreme abuse of judicial power.

This judgment was bought and paid for by Microsoft's competitors!

Very truly yours,
Michael E. Foley
2320 State Route 73 West
Wilmington, Ohio 45177

MTC-00028791

From: sharonhr@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:38pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Sharon Rondeau
388 Spring Street
Manchester, CT 06040-6738

MTC-00028792

From: moore@cs.utk.edu@inetgw
To: Microsoft ATR
Date: 1/28/02 5:41pm
Subject: Microsoft Settlement
CC: moore@cs.utk.edu@inetgw

This letter is intended as public comment, as provided for by the Tunney Act, on the proposed settlement in United States vs. Microsoft. The proposed settlement should not be accepted for the following reasons:

—The proposed settlement does not provide an adequate remedy for Microsoft's abuses of its monopoly position.

—Rather than increasing competition, the proposed settlement appears to be specifically tailored to discourage certain kinds of competition against Microsoft

—The proposed settlement fails to redress the harm done by Microsoft's illegal abuses of its monopoly position.

—The proposed settlement is likely to strengthen Microsoft's position in the marketplace, thereby worsening the situation for consumers caused by a lack of competition.

—The proposed settlement encourages Microsoft to use its monopoly position in the desktop market to obtain monopolies or drastically increase its market share in other markets.

1. The proposed settlement does not provide an adequate remedy for Microsoft's abuses of its monopoly position.

The proposed settlement specifies several prohibitions and limitations on Microsoft's future behavior. However for the most part these limitations are narrowly tailored to provide remedies for specific features of the Government's complaint of May 1998. Market conditions have changed drastically since that time, due in large part to illegal anticompetitive practices by Microsoft.. There are no longer any credible competitors to Microsoft in the market for desktop operating systems for Intel-compatible personal computers. Microsoft's Internet Explorer has largely succeeded in displacing Netscape's web browser and other web browsers. And while Java has proven to be a very useful programming language in many respects, Java's run-time environment has not become a "virtual operating system" which could support the same applications on a variety of computing platforms, and which could thereby threaten its monopoly on the desktop. These developments were significantly furthered by Microsoft's anticompetitive actions both before and after the government's complaint was filed.

Conditions in these markets change so quickly that the problems caused by Microsoft's monopoly simply cannot be addressed after-the-fact, or by specific prohibitions on Microsoft's future behavior that are narrowly tailored to constrain its previous behavior. Furthermore, previous settlements of this type have proven to be ineffective at curbing Microsoft's abusive practices.

2. Rather than increasing competition, the proposed settlement appears to be specifically tailored to discourage certain kinds of competition against Microsoft

The proposed settlement is also inadequate because it appears to be specifically tailored to discourage certain kinds of competition—in particular, efforts by both commercial and noncommercial parties to make alternatives to Microsoft's products freely available to the public. For instance:

—The settlement prohibits Microsoft from retaliating against OEMs for shipping a personal computer which includes both a Microsoft operating system and a non-Microsoft operating system, but it does not prohibit retaliating against an OEM for shipping a personal computer which does not include an operating system, or which includes only a competing operating system.

Computer purchasers who intend to use alternative operating systems (which are often superior to Microsoft's products for certain purposes as well as being available at no cost) are often forced to purchase a copy of a Microsoft operating system, which they never use, with each new computer purchase. Microsoft has effectively managed to impose a "tax" on the sale of most new personal computer systems (particularly "laptop" computer systems). The proposed settlement does nothing to redress that problem.

—The provision of the settlement requiring Microsoft to disclose APIs and related documentation, presumably via the Microsoft Developer Network (MSDN), allows Microsoft to impose nearly arbitrary conditions on the use of that information, to prevent potential competitors from using that information to produce products that compete with Microsoft operating systems and middleware.

In addition, in the past such documentation as has been provided by Microsoft via MSDN has often proven insufficiently detailed to allow other parties to write equivalent interfaces.

Finally, nothing in this proposed settlement prevents Microsoft from shipping APIs which provide undocumented features, and documenting and using those features at a later time. This would make its competitors" deployed operating system and middleware products incompatible with programs written to the latter API specification.

Because of these flaws, this provision is unlikely to be effective at furthering competition.

The provision which requires Microsoft to document communications protocols applies to "client computer[s]" only. Presumably this requires only that Microsoft document the "client" side of such protocols, allowing Microsoft to hold more closely the documentation of the "server" side of a protocol, and allowing Microsoft a competitive advantage over providers of servers which communicate with those clients—particularly those using "open source" server platforms such as Linux which have provided significant competition to Microsoft products in the server market.

The provision which allows Microsoft to use Microsoft middleware in preference to a competitor's middleware when the competitor's middleware "fails to implement a reasonable technical requirement (e.g. the requirement to be able to host a particular ActiveX control)" effectively gives Microsoft license to bypass competitors" middleware at will, by declaring as part of the settlement that addition of any ActiveX control to a middleware interface is inherently a reasonable technical requirement. For the settlement to be effective, Microsoft cannot be allowed to change its programming interfaces at will.

The requirement to Microsoft to license intellectual property rights "on reasonable and nondiscriminatory terms" that are needed to exercise options under the agreement, because of presumptions on what is "reasonable", effectively allows Microsoft to set the bar on access to such information high enough to exclude "open source" and noncommercial competitors.

—Similarly, the provision which allows Microsoft to require that the licensee of any of its intellectual property have a "reasonable business need" would likely allow Microsoft to exclude noncommercial competitors. The fact that the only significant competition to Microsoft in many markets comes from noncommercial parties makes a presumed requirement of "reasonable business need" for access to such information inherently favorable to Microsoft and unreasonable as part of a remedy.

2. The proposed settlement fails to redress the harm done by Microsoft's illegal abuses of its monopoly position.

Due in large part to Microsoft's illegal anticompetitive practices, Microsoft has obtained a monopoly in several markets, including desktop operating systems, web browsers, and office productivity software. The harm done is a considerably more than to limit consumer choice, stifle innovation, and artificially inflate prices.

Microsoft's monopoly has also forced consumers to accept operating system and networking software which are dangerously insecure and have been compromised on numerous occasions by computer viruses. Many of these vulnerabilities are a direct result of Microsoft decisions to:

Disregard Internet standards for the labeling of content transmitted over the network, thereby bypassing the requirement for security review that was designed into that mechanism. This was done in order to allow arbitrary content to be interpreted by applications on Microsoft operating systems, and to provide Microsoft with an advantage over competitors" operating systems that used other means to label content.

Provide a means for their document formats to contain executable content with the ability to perform any function available to any application on the host computer—including the ability to delete and alter arbitrary files and the ability to send network traffic impersonating the computer's owner—in order to give Microsoft applications an advantage over competitors" products.

—Impose weak means of authenticating users over a network, for the sake of backward compatibility with Microsoft products.

Even if a settlement provided an effective curb on Microsoft's future behavior, to be acceptable it would also need to redress the considerable harm done by past abuses. Injured parties include not only purchasers of Microsoft software (and computers which were supplied with Microsoft software) but also the numerous institutions who have suffered damage due to such vulnerabilities, and operators of public and private Internet networks whose operations have been harmed by the traffic generated by viruses transmitted by Microsoft software.

To be effective, a remedy would need to redress these injuries without further strengthening Microsoft's position in the market.

3. The proposed settlement is likely to strengthen Microsoft's position in the marketplace, thereby worsening the situation for consumers caused by a lack of competition.

By imposing essentially no penalties on Microsoft and few limitations on its behavior, the proposed settlement would signal to Microsoft and its competitors that anticompetitive behavior is largely "safe". The proposed settlement would also provide Microsoft with the means to discourage certain kinds of competition, particularly "open source" or noncommercial products, allowing it to further limit consumer choice.

4. The proposed settlement encourages Microsoft to use its monopoly position in the desktop market to obtain monopolies or drastically increase its market share in other markets.

By focusing largely on the desktop or client market, the settlement ignores Microsoft's ongoing efforts to leverage its existing monopolies to obtain monopolies in other markets. Furthermore, because different kinds of computers communicate with one another over a network, Microsoft's monopoly on desktop operating system software can be a powerful coercive force over other markets—for instance, media players and mechanisms for protecting intellectual property transmitted over a network.

There is no significant difference between the tactics that Microsoft used to take over the operating system, web browser, and office productivity software markets, and the tactics that Microsoft is currently using to attempt to establish control over other markets.

Any remedy which allows Microsoft to use its control over the desktop to favor its own solutions in any way cannot be considered adequate. For the reasons stated above, I recommend that the Court reject the proposed settlement.

An effective remedy would require

—Microsoft to be pro-actively prevented from future abuse,

Competition to be re-introduced in the markets in which Microsoft has a monopoly and which it has shown abusive behavior,

—Compensation for injuries caused by Microsoft's anticompetitive behavior It is difficult to understand how such a remedy could be effected without either:

—Active government regulation of Microsoft's behavior, and in particular affirmative prior approval of all new and revised Microsoft products prior to release, and approval of contracts between Microsoft and other parties before they become effective, or

—Structural reorganization of Microsoft into two or more competing entities and without significant financial compensation to injured parties.

Keith Moore

MTC-00028793

From: Steve Bonfoey
To: Microsoft ATR
Date: 1/28/02 6:09pm
Subject: Microsoft Settlement

Gentlemen:

Microsoft has done nothing but benefit consumers. State attorney generals pursuing politics-as-usual and Microsoft's competitors have used the law to punish a good competitor. Microsoft deserves to win this case. If their competitors and the politicians win it will forever damage the economy of the United States.

Steve Bonfoey
4620 W. Hetherwood
Peoria, Illinois 61615
309–692–6272

MTC-00028794

From: Dave
To: Microsoft ATR
Date: 1/28/02 5:37pm
Subject: Settlement

If Microsoft get off with a slap on the wrist as it look like they will it proves that money talks and B—S—Walks.

MTC-00028795

From: Angela McQuillen
To: Microsoft ATR
Date: 1/28/02 5:42pm
file:///C√/win/temp/tmp.l.
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: I have always been proud to be an American, not just because this is the place of my birth, but because I have always known that this nation was unlike any other in the world. We are blessed to be citizens of a country where we have the privilege to live life the way we choose. This is the legacy that was left to us by our forefathers, and this is what we should pass on to our children. I believe the antitrust suit against Microsoft, and other cases like it, compromises the very foundation upon which this nation was built. If litigation like this is continued, this nation will become a shell of its former self, and the glory that is America will be nothing but a memory.

This suit was nothing more than an attempt by the Clinton administration to socialize American business. Our forefathers did not build a nation on the ideals of Socialism. This nation did not become the sole world superpower in a mere 200 years of existence because we allowed socialism to thrive in America; rather we are a nation built upon and made strong by our capitalist roots and our belief in free enterprise. It is the dream of every American to exceed the success of their father and grandfather, to go from rags to riches with nothing more than hard work, perseverance, and an unshakeable belief in America. This suit flies in the face of this dream.

Microsoft is the very embodiment of the American dream. This company started in a garage and twenty years later it is one of America's greatest corporate assets. This litigation sends the message to all future American entrepreneurs that it is okay to become successful, but only to a point, because too much success is forbidden. I am in favor of the settlement that was reached in this case in early November, not because it is a fair settlement, but because it will finally bring an end to this protracted litigation.

The issue in this case is no longer whether Microsoft committed antitrust violations. I personally believe that it did. If that were the issue, they would have been reprimanded and sent on their way a better, more responsible business leader. The issue of this case is whether or not we, as Americans, have the right to engage in free trade, and whether or not capitalism has a place in the twenty-first century. I say that without this right the future of America is bleak. This is probably one of the most important decisions that has ever faced this nation, and it rests on your shoulders, so you had better choose wisely. Thank you for your time and consideration of this issue. I trust you will make the right choice.

Sincerely,

Angie McQuillen MSN Photos is the easiest way to share and print your photos: Click Here

Angie McQuillen

MTC-00028796

From: Tom Wolf
To: Microsoft ATR
Date: 1/28/02 5:43pm
Subject: Microsoft Settlement

To whom it may concern,

I want to voice my objections to the announced settlement between the US and Microsoft. It seems to be lost on those involved on the US side that Microsoft broke a consent decree on browsers to get in this mess in the first place. This company has demonstrated contempt for honesty and for the American business community, not to mention the legal process. In short they cannot be trusted to hold up their end of this extremely weak and ineffectual settlement. This settlement is bad for consumers and US business in general. The settlement is transparently politically motivated and completely undermines any credibility the Bush administration had. I urge you to reject the settlement and vigorously pursue the just prosecution of the case to save countless US businesses and preserve innovation in the market.

Regards, Tom Wolf, President,
Ascend Public Relations
206–903–1730
206–903–1732 fax
206–850–3095 cell
866–903–1730 toll free
twolf@ascendpr.com

MTC-00028797

From: Brian Seguin
To: Microsoft ATR
Date: 1/28/02 5:43pm
Subject: Microsoft Lawsuit
Renata B. Hesse
Antitrust Division
U.S. Department of Justice

I believe that the lawsuit against Microsoft by Joel Klein and the Clinton Administration has been a complete waste of time and taxpayers money. Microsoft made computing possible for the individual and small businesses at a reasonable cost. The consumer has benefited from Microsoft products. Attached is my letter to Mr. Ashcroft requesting that this lawsuit be settled under the terms agreed on between the Department of Justice and Microsoft.

Brian P. Seguin, P.E., P.L.S.
Project Engineer
Reid Middleton Inc.
Phone: (425) 741–3800
Fax: (425) 741–3900
bseguin@reidmidd.com
3622 99th Street Southeast
Everett, WA 98208
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The antitrust lawsuit brought against Microsoft was unjustified and flawed. The dispute in my opinion arose due to competitors" envy for their own lack of innovation and creativity. Microsoft has been the leading innovator of technology for over a decade. In the 80's when we lagged behind Japan in many industries, Microsoft developed a product that streamlined and made more effective many of our businesses. The company I worked for is a perfect example as it was able to use Microsoft software for its businesses.

The terms of the settlement are harsh and seem to reflect the intense lobbying of Microsoft's competitors. Forcing Microsoft to give up internal interfaces and protocols, making them agree not to retaliate against other vendors, stipulating that they must grant computer makers broad new rights to configure Windows so as to make it easier for non-Microsoft products to be prompted, the settlement also reflects lawmakers and politicians lack of concern for the public. This settlement only aims at giving competition an edge they did not have and could not attain on their own.

Even though I think the settlement is unfair, I must support it because the alternative of further litigation would be too much for our weak economy. I urge your office to take a firm stance against the opposition and stop any further disputes.

Thank you.

Sincerely,

Brian P. Seguin
Professional Land Surveyor
Professional Engineer

MTC-00028798

From: Ernest Paul Webber

To: Microsoft ATR
Date: 1/28/02 5:43pm
Subject: Microsoft Settlement

Dear Sirs:

As I see it, you have established as a finding of fact that Microsoft has broken the law. Microsoft is quite apparently lacking in repentance and assured that it can evade justice. Your responsibility is to insure that Microsoft —cannot— continue to break the law. Microsoft has made it clear that it does not understand the crimes it is guilty of, nor does it intend to learn how or why it should change its own behavior, other than as a response to your judgment, and its desire to avoid substantial pain suffered as a result. Please do whatever it takes to stop these guys!

Sincerely,
Ernest Paul Webber
1808 Anacortes Ave NE
Renton, WA 98059

MTC-00028799

From: jjoseph
To: Microsoft ATR
Date: 1/28/02 5:45pm
Subject: Microsoft Agreement

Dear Attorney General Ashcroft:

Attached please find my letter in favor of the Microsoft Antitrust Agreement.

Thank you.

Sincerely,
John E. Joseph
6618 Manila Road
Goshen, OH 45122–9403
513–625–1745
CC: fin@mobilizationoffice.com@inetgw
6618 Manila Road
Goshen, OH 45122–9403
(513) 625–1745
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 26, 2002

Dear Mr. Ashcroft:

The Tunney Act mandates that there be a 60-day public comment period that follows a settlement to an antitrust case when the Department of Justice is involved. The final decision on the proposed settlement is made after this period of review. I would like to go on record as supporting the settlement that was made between Microsoft and the Department of Justice.

I feel that Microsoft is actually being punished for being good at what they do. There is no reason why the federal government had to get involved in this issue in the first place, but since they did, I am glad to see that the dispute has finally been resolved. Microsoft actually has to concede more than they would have liked, but since the lawsuit is over and the economy needs all the help it can get, they agreed to the terms. One of the terms, which seem ridiculous, is the disclosure of Windows" internal interfaces and other operating technology that Microsoft worked long and hard to develop.

This seems to violate intellectual property rights.

I enjoy the fact that my opinion will go on record, and again, I support the settlement reached between Microsoft and the Department of Justice.

Sincerely,
John Joseph

MTC-00028800

From: The Babcock Design Studios
To: Microsoft ATR
Date: 1/28/02 5:45pm
Subject: Microsoft Settlement

Honorable Judge Coleen Kollar-Kotelly, In December of 2001 I have purchased new computer with Microsoft XP, Home Edition program installed. I wanted to upgrade the program to Microsoft XP Professional version. There was no upgrade available. I had to purchase new Microsoft XP Professional version at full price ($300). In above mentioned case I do not consider Microsoft policy either competative or fair.

Sincerely,
Dushan D. Hrovat —

MTC-00028801

From: Dr. W. Curtiss Priest
To: Microsoft ATR,W. Curtiss Priest
Date: 1/28/02 5:44pm
Subject: Proposed Microsoft settlement: woefully insufficient

Dear Justice Department,

As a software innovator and holder of several software patents, I have first hand knowledge of how extremely brutal, unfair and bullying Microsoft is to others in the industry. I was involved for five years in negotiation, arbitration and potential legal action against Microsoft which only caused Microsoft to spend incredible resources to deny me and Humanic Systems any just and due compensation for our innovative work.

In my opinion, as President of Humanic Systems, a company that was (above) abused by Microsoft regarding our intellectual property for significant components of Microsoft Outlook, the proposed remedy is extremely inadequate:

1. It does not provide substantial redress for the prior losses caused by MS on others
2. Secrecy provisions undermind the ability to obtain API information and will systematically be used by MS, in my opinion, to continue its monopoly stranglehold
3. There are no structural remedies, and, without those, the "fascist" mindset of Ballmer and Gates will continue to dominate the thinking of each and every employee
4. Microsoft's stated opinions about various forms of open software, being a "cancer" undermines the ability for consumers to get the maximum benefit for the least cost This position, alone, demonstrates that they want "all the marbles" and it is a "winner take all" game Consider, for example, a PBS documentary about extreme competition as taught within the Gates family as Mr. Gates grew up This person does not know the word cooperation, and, without extremely directive measures, will never show cooperation to the rest of the software industry that is slowly dying under his ruthless hand.

Very truly yours,
Dr. W. Curtiss Priest
President, Humanic Systems
Director, Center for Information, Technology & Society
Member, American Economics Association
Prior, Principal Research Associate, MIT
Author,_Technological Innovation for a Dynamic Economy_,1980 (Pergamon Press)
Risks, Concerns and Social Legislation,1988 (Westview Press)
W. Curtiss Priest, Director, CITS
Center for Information, Technology & Society
466 Pleasant St., Melrose, MA 02176
Voice: 617–662–4044
BMSLIB@MITVMA.MIT.EDU
Fax: 617–662–6882 WWW: http://www.eff.org/pub/Groups/CITS

MTC-00028802

From: Chuck Peper
To: Microsoft ATR
Date: 1/28/02 5:45pm
Subject: Microsoft Settlement

As a professional software developer, I find the governments proposed settlement with MS a joke. MS was clearly found to be a monopoly and anti competitive but the government has essentially taken no punitive action. What is even more disquieting is MS continues its illegal activity on a daily basis. It's new products and development languages (.Net) are anti competitive to other database manufacturers. They are using the same tactics over and over.

Splitting MS into OS and application companies is the only solution.

MTC-00028803

From: Michael Sharp
To: Microsoft ATR
Date: 1/28/02 5:47pm
Subject: Microsoft Settlement

Please find attached my comments with regards to the Microsoft Settlement

<<USAGSharp—Michael—1028—0124.doc>>

Regards
Michael Sharp
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

The purpose of this letter is to express my support of the Microsoft settlement in the federal antitrust case. As a Microsoft supporter, I have followed the case against Microsoft with much interest. I do not believe that the federal case is justified in the first place, yet I welcome any resolution that the enactment of this settlement will bring. Thus, I urge the Department of Justice to enact the settlement at the end of January.

In addition, the concessions made by Microsoft through this mediation process are extensive. Microsoft will now license Windows at the same rate to all computer makers, disclose the internal protocols of Windows to competitors, and redesign Windows XP to provide for easy replacement of parts of it by competing software. Enough is enough. I do not believe that Microsoft could do much more in this dispute, and has been punished enough through the concessions it has already made.

Please enact the settlement reached in November and end this issue once and for all.

Sincerely,
Michael Sharp

MTC-00028803_0002

MTC-00028804

From: BRice10273@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:49pm
Subject: Microsoft Settlement

I feel the Court should approve the proposed settllement in the Microsoft antitrust case. I think the complaints against Microsoft have been more than adequately addressed by the proposed settlement agreement and I support the recent efforts to bring this case to a rapid conclusion. Thank you for your attention to this important matter. Larry Neustadt

MTC-00028806

From: Damon Miller
To: Microsoft ATR
Date: 1/28/02 5:49pm
Subject: Microsoft Settlement

http://www.kegel.com/remedy/remedy2.html

This sums it up quite nicely. Please release humanity from the stifling monarchy that Microsoft has created. "Freedom to Innovate"? Not quite, Bill; "Freedom to desecrate" is closer to the truth, but still not quite there.

The effect Microsoft has had on the computer industry is disgusting. Bill Gates and his money have systematically destroyed everything the industry stood for, and all of the individuals on whose shoulders it stands. Bush sold millions of peoples" ideals right down the river on this one, and something needs to be done. Please be strong enough to stand up to Microsoft, finally ending their blatant laughter in the face of human liberties everywhere. Too dramatic, you say? Think again. Take a look at what this company has truly done TO humanity, and ask yourself if that statement is untrue.

Sincerely,
Damon Miller
(An individual trying to breathe under Microsoft's despotic tyranny)

MTC-00028807

From: Bill Humke
To: Microsoft ATR
Date: 1/28/02 5:53pm
Subject: Microsoft Settlement

I urge you to settle this case on what is now before the Court. Too much time and money have been spent upon this case to date. Let's get it behind us so this Company can get onto productive activates, and thus produce profits and positive cash flows so that additional technical developments and innovations can be advanced. This will then aid all of us in increasing our productivity, thus producing additional profits upon which we will have to pay additional taxes—again help all.

Respectfully,
Bill Humke
bhumke@ksni.net

MTC-00028808

From: Ann smith
To: Microsoft ATR
Date: 1/28/02 5:49pm
Subject: Fw: microsoft settlement

——— Forwarded message ———

From: Ann smith <panna3@juno.com>
To: microsoft.atr@usdoj.gov
Cc: u.s.atty.generaljohnashcroft@usdoj.gov
Date: Mon, 28 Jan 2002 16:29:19 -0500
Subject: microsoft settlement

Message-ID: <20020128.162921.-217919.0.panna3@juno.com> states sueing microsoft as well as aol using netscape to get money from microsoft thru the courts is wrong. microsoft is being bullied by the goverment and stockholders have lost money because of this court action. it also does not let microsoft give all the attention it needs to fight the hackers and make the internet safe for all users including aol.

The reason we are so interested in Microsoft Programs is that children all over the world are benefiting by Microsoft products,games and all sorts of programs as an educational tool. I'm so pleased when I see my 4 year old granddaughter open the computer and do what she wants to do. She spends hours doing games and playing her videos, instead of watching T.V all the time. We have eight babies we encourage to learn all they can by buying programs for them at Birthdays and just for fun.

We the elderly have fun also and we invest money into the future of Microsoft and other companies for the future.

CC:microsoft.atr@usdoj.gov/renatahesse@inetgw

MTC-00028809

From: Robert Smith
To: Microsoft ATR
Date: 1/28/02 5:50pm
Subject: Microsoft

Please see the attached letter.
Thank you!
Robert R. Smith
Smith-Krenning Enterprises, LLC
smithrr@smith-krenning.com
CC:gephardt@mail.house.gov@inetgw

MTC-00028810

From: madak@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:51pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Fax: 1–202–307–1454 or 1–202–616–9937
Email: microsoft.atr@usdoj.gov

It is time to close the doors on the Microsoft antitrust case. We (USA) must think of the globe market place. Microsoft produces products that all sold worldwide. We should let Microsoft get back 100% to their real business. I think we should allow the company to go back and work 100% of their time and money on producing new and improved products.

Mary Ann Dieckman
P.O. Box 210113
Auke Bay, AK 99821
Occupation Transportation Planner,

MTC-00028811

From: mitch@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/28/02 5:51pm
Subject: Microsoft Settlement

I oppose the Microsoft settlement. It is bad for the computing profession and bad for long term economic development. I have been a software professional since 1973, and in my personal experience the dominance of Microsoft has had a negative impact on quality and innovation in the software industry. The settlement does not address the practices that have kept Microsoft in power. A continuation of the Microsoft monopoly will only reduce the growth and future utility of the software industry, and keep the general public from reaping the rewards of continued innovation in this relatively young field.

Mitch Wade

MTC-00028812

From: Alyne
To: Microsoft ATR
Date: 1/28/02 5:52pm
Subject: Microsoft Settlement
CC:
January 28,2002
Attorney General John Ashcroft US Department of Justice
950 Pennsylvania A venue, NW Washington, DC 20530

Dear Mr. Ashcroft:

Over the past three years I have watched the Department of Justices" aggressive attack on Microsoft. I am so pleased to see that this unwarranted and unsubstantiated antitrust assault on Microsoft coming to close, provided that the government has the foresight to see the beneficial impact from Microsoft's settlement.

The settlement allows for new Windows configurations, giving computer makes and developers greater flexibility in offering non-Microsoft software programs. This will provide consumers with the option to remove and/or reconfigure any part of Windows. This gives the consumer the decision of what they like to use, and don't want to keep. Consumers drive the markets; they decide what it is that makes a company fail or succeed.

Microsoft has successfully proven, time after time, by creating and updating their innovative products, where nothing else compares. This settlement is the right thing to do, for Microsoft, the public interest, the tech industry, the economy, and all of which is vested in consumer purchasing. Keeping Microsoft out of more entangled legal matters, will definitively promote more responsible business decisions from Microsoft right down the line to the customer. Please don't continue this absurd mess of litigious behavior with Microsoft. It is a waste of time and does not serve the best interest of the public good.

MTC-00028813

From: harry emlet
To: Microsoft ATR
Date: 1/28/02 5:52pm
Subject: Microsoft Settlement.

The Department of Justice should hold to the revised proposed Final Judgment to which Microsoft has tentatively agreed and reject the requests for other and further remedies requested by the states continuing to oppose the judgment.

I am dismayed at the persistence intemperate misrepresentations by those several key industry leaders who so ardently seek to diminish the dominant role of Microsoft and if possible replace it. They piously attribute their efforts to their interest in the welfare of the consumer, when in fact it is the average consumer, individual and corporate, who would suffer most should Microsoft be greatly diminished or (in the inevitably lengthy interim) should Microsoft be eventually replaced. They also claim that Microsoft makes it more difficult for entrepreneurs to develop and market innovative products when in fact the opposite is true and their real problem is that they seek the dominance that Microsoft now has and cannot keep up with the innovative pace of Microsoft's continuing evolution of its products. The challengers make these representations directly and through the Attorney Generals of selected states.

The claim of harm to Netscape, for example, is particularly false. Netscape deliberately configured its browser so that when it was used within Windows as part of non-Microsoft application software it would immediately take over all web browser functions. (I personally was so irritated by repeatedly having to counter this latter tactic that I finally gave up in disgust and removed Netscape from my system along with the application that required it.) The position of those pretending that Microsoft was the culprit in the demise of Netscape blissfully ignores both the technological character of the industry, the needs of the average individual and corporate user, and the specific technical issues that are relevant to the case and the remedy.

If the continued challenges to Microsoft prevail it will seriously harm the consumer, will undermine the lead role which the United States now holds throughout the world as a result of the proliferation of Microsoft products worldwide, and will thereby decrease the present ease of communication internationally made possible by the software commonality that is a direct result of the widespread proliferation of Microsoft products. The mantra that increased competition at any cost is always better in the long run is a na<ve article of faith that simply does not apply in this particular case where what the challengers are in effect demanding is to cripple Microsoft's ability to innovate in order that they, the challengers, can gain entrepreneurial advantage. They are opposing rather than advocating a level playing field. While I am fully convinced that, in general, greater competition is by far the lesser of two evils, there are clear exceptions and this is one of them. The average individual and corporate user does not want to have to deal with multiple incompatible operating systems and wishes to have basic applications integrated as fully as possible with that operating system. Nor do most of the application developers want to have to deal with the increased costs and complexities introduced by a multiple operating system environment. There is nothing now that prevents a truly innovative developer from designing and marketing an alternative operating system and supporting applications. However, in order for to be successful in the market place the design must be one that will make switching by the consumer cost effective. For that to happen the alternative offered will have to stand out head and shoulders above Microsoft's product so that the considerable costs of the conversion will be justified. So far the alternatives offered have had only modest advantages coupled with distinct disadvantages. This is likely to continue to be the case as long as Microsoft continues to advance at the same rapid pace the technological and functional character of its product. Unable to outrun Microsoft, its would-be competitors seek to hamstring Microsoft in ways that will slow its progress to where it can be overtaken. Microsoft has provided in its operating system a continually evolving, backward compatible, software standard that has been a crucial factor in facilitating the adoption by both businesses and individuals of computing that permits near universal and highly efficient interaction among all participants at steadily reducing costs in user time and money.

I began my career in 1955 as a programmer on the very first of the large electronic computers introduced by IBM. I have worked with computers in one capacity or another (as an analyst, manager, and corporate executive) ever since in the areas of both national defense systems in support of the Air Force and other Department of Defense agencies and in health systems in support of the Centers for Disease Control, the National Institutes of Health, and other health agencies. As a retired professional I work with five desktop computers in my home. What I and many others, whether independent or corporate users, want in our computers is commonality of software among our own computers and those with whom we correspond electronically. We greatly prefer integrated systems from a single source that keeps to a minimum the investment of our time in resolving conflicts between operating systems and applications. Microsoft through constant innovation has done a superb job of meeting that need. It is obviously not perfect but it demonstrated a wiliness to respond to the needs of its users.

The innovative pace that Microsoft has maintained in the incredibly rapidly evolving technological environment could be achieved by another organization only if that organization could displace Microsoft and then become as dominant as Microsoft is now. That dominance is essential if the ordinary user and the average business user are not to be subject to great losses in productivity and efficiency in dealing with multiple operating systems none of which achieves dominance. And even if in time another organization was eventually to succeed in achieving a dominant position, the transition burden and costs, both real and opportunity costs, to users would be enormous.

The loss of compatibility between computer systems, the heart of which is the operating system, is devastating for the small operator and can be incredibly expensive for the average large corporate operator. The idea that seriously shackling Microsoft is going to make things easier and less costly for the consumer is na<ve in the extreme. It will inevitably do the opposite. There are enormous opportunities for innovative software designers to develop programs that work within the dominant Microsoft operating system as is well demonstrated by the proliferation of such ad hoc software. The very fact that the Microsoft operating system is dominant greatly facilitates continuation of such proliferation.

The Department of Justice needs to continue to keep clearly in focus what is in the best short and long term interests of the consumer rather than what will promote the private agendas of the industry warlords,. present or aspiring, in their relentless search for greater power and fortune.

Let stand the revised proposed Final Judgment. Terminate these endless challenges, promptly implement the remedies, let the developers and entrepreneurs move on with their evolution of better and better systems within the Microsoft environment, and let us users continue to move ahead with confidence in the continued forward and backward compatibility of what we produce within the present and future computing environment.

Very much needed as a follow-up, is a thorough reassessment of the antitrust laws in the light of the present very different and rapidly evolving technological environment, the critically related pace of innovation, and the character of the related industries and its users

Harry Emlet
3302 Clearwood Court
Falls Church, VA 22042
righhtnow@msn.com

MTC-00028614

From: Ronnie n/a
To: Microsoft ATR
Date: 1/28/02 5:54pm
Subject: microsoft settlement

This letter boasts my personal opinion in every way and I appreciate microsoft for having contacted me with this letter.

5000 SE 83rd Place
Oklahoma City, OK 73135
January25,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinion of the recent settlement between the US department of Justice and Microsoft. I think the lawsuit has gone on too long and has been a waste of taxpayer dollars. Our government should stay clear of free enterprise and allow companies like Microsoft to innovate.

The terms of the settlement violate Microsoft's intellectual property rights, as they will be forced to disclose interfaces that are internal to Windows operating system products. They also have to grant computer makes broad new rights to configure Windows so that competitors can more easily promote their own products. Microsoft spends vast resources developing their products and services and competitors should not be rewarded for being second place.

I urge your office to uphold American principles and finalize the settlement because that is in the best interests of the

American public. It might be flawed, but further litigation would be far worse. I hope you take the right direction and side with American people.

Sincerely,
cc: Senator Don Nickles
Ronnie Higgins

MTC–00028815

From: Gunnar G Pedersen
To: Microsoft ATR
Date: 1/28/02 5:54pm
Subject: Microsoft Settlement

As it has been pointed out by senior citizens groups, the Microsoft settlement seems to be a fair and equitable action and should not be allowed to drag on any longer. I wish to add my voice to this cause. Gunnar Pedersen, Clifton Park, NY

MTC–00028817

From: GGillette@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 5:55pm
Subject: Letter to Hon. Colleen Kollar-Kotelly

Please see attached.
Thanks,
Graham Gillette
515–244–1900
GILLETTE
STRATEGIC
RESOURCES

Wednesday, January 23, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotelly:

The proposed settlement between the Department of Justice and Microsoft in U.S. v. Microsoft is not good enough.

I am a member of the Des Moines School Board, a small businessman and a political activist. In each of these roles, I am concerned about protecting competition in the marketplace. This agreement does not adequately protect the free market and innovation, and does not go far enough to address consumer choice.

The settlement does nothing to deal with the effects on consumers and businesses of technologies such as Microsoft's Passport. Passport has been the subject of numerous privacy and security complaints by national consumer organizations. However, corporations and governments that place a high value on system security will be unable to benefit from competitive security technologies, even if those technologies are superior to Microsoft's. Why? Microsoft controls their choices through its monopolies and dominant market share, and still is able to dictate what technologies it will include.

Enforcing federal antitrust laws against monopolies is not new or novel. Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action necessary to insure vigorous competition in all sectors of today's economy.

The proposed settlement allows Microsoft to preserve and reinforce its monopoly, while also freeing Microsoft to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, surely we can—and we must— do much better than this flawed proposed settlement between the company and the Department of Justice.

Thank you for your time.
President
CC: Iowa Attorney General Tom Miller
505 Fifth Avenue, Suite 920 ?Des Moines, Iowa 50309 * (515) 244–1900 * (515) 2444425 Fax www.gillettestrategies.com .info @gillettestrategies.com

MTC–00028818

From: Neele Johnston
To: Microsoft ATR
Date: 1/28/02 5:57pm
Subject: Re: U.S. v. Microsoft: Settlement Information

Date: January 28, 2002
From: Neele T. Johnston, President
Intelligenesis, Inc.
25 Froude Circle
Cabin John, MD 20818
(301) 263–0248
email: NeeleJohnston@usa.net
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
email: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement

To whom it may concern,

I am writing to encourage you, in the strongest terms, to reject the settlement of United States v. Microsoft, that has been proposed by the Department of Justice and Microsoft Corporation. The proposed settlement is not in the public interest and will only serve to give Microsoft Corporation the green light to inflict further harm on consumers, businesses, and the competitive landscape of the Information Technology industry.

Now is the time for our federal government to step up it's efforts to rein in Microsoft and control it's abusive practices. Having rightly found Microsoft guilty of illegally extending their monopoly in personal computer operating systems to other areas of the software industry, the judicial system has an obligation to impose a penalty on Microsoft that is commensurate with the harm they have caused and that will serve to partially restore competition where the defendant's predatory business practices have destroyed it. This is not the time to go easy on them. This is not the time to tire of the fight for increased competition in the software industry.

In spite of what the government and Microsoft now contend, resolution of this case has nothing whatsoever to do with patriotism, "freedom to innovate," or maintaining America's leadership in a flagship industry. On the contrary, leaving Microsoft intact and unshackled will leave a very serious threat to our national security unresolved. The proposed settlement does far too little to restore competition in the key areas of the software industry where Microsoft has eliminated it. In particular, the settlement seems to validate Microsoft's present monopoly in personal computer operating systems. It is this monopoly, which Microsoft maintains by anti-competitive business practices, which has severely compromised the security of the nation's computing infrastructure, which is the very foundation of modern commerce.

Some argue that the personal computer operating system is an example of a "natural" monopoly and that the software industry benefits from Microsoft's role in setting de-facto standards. First of all, this argument ignores the observation that the Internet, which throughout most of its formative phase grew up outside Microsoft's sphere of influence and in spite of Microsoft's determined attempts to undermine it, has been the single greatest source of innovation in technology for a generation. Some might say the only source. More importantly, the argument ignores the significant national security and business risks that we are now subjected to as a result of Microsoft's monopoly in operating systems that are used in defense, government and business. Operating systems are the most critical piece of infrastructure which either keep commercial transactions and command and control functions safe and secure, or leave them vulnerable to malicious disruption, theft, and falsification. These vulnerabilities become increasingly clear with each passing week; one need only make a cursory examination of IT industry news to be keenly aware of the risks and costs associated with them.

If we are inclined to be kind to Microsoft we could argue that the risks are inherent in a monopolized market segment, due to the issue of homogeneity. The differences that exist in naturally varying systems mean that only a minority of the population tends to be susceptible to any particular threat. This is borne out by observing the Apple Macintosh community, which is less than five percent of the personal computer population and enjoys essentially all the same capabilities as Microsoft Windows users. While the ninety-five percent of personal computer users with Microsoft Windows have been subjected to over a dozen well-publicized attacks in the form of Internet email worms, Macintosh users (as well as Linux users, who make up an even smaller percentage), have been invulnerable to virtually all these attacks. This proves, on the face of it, that no one besides Microsoft benefits from Microsoft's monopoly.

Furthermore, if we are inclined to be more realistic and less kind to Microsoft, it is easy to establish that Microsoft's chronic lack of emphasis on quality, reliability or security in the Windows operating system has greatly exacerbated the vulnerability that we are now faced with. Microsoft has now, belatedly, admitted this is an issue and pledged to make security their main focus in the future. This is just marketing hype designed to distract us from the magnitude of the risk we are living under. Only the advent of true competition in the operating systems market segment will ever cure this vulnerability.

Microsoft's performance in reference to the Y2K bug proved that they cannot be trusted to act in the best interests of their customers. Throughout the course of this trial many of Microsoft's defenders have argued that consumers were never harmed in the browser war. This is patently false. Microsoft openly and publicly committed all of their attention and resources to defeating Netscape and embracing (belatedly) the Internet. One need only note the timing of these events to realize that Microsoft was busy fighting the browser war at the precise time that their customers were demanding Y2K fixes, and not getting them. This lack of responsiveness to customer requirements cost American businesses and consumers many billions of dollars, if not more.

During the time of the browser war, I was a director of Information Technology at Fannie Mae, a Fortune 50 company with an IT budget well over $50 million. I had first-hand knowledge of what Y2K abatement cost my company and it was clear that a considerable portion of it, easily several million dollars, was due solely to Microsoft's tardiness in addressing the Y2K issues in their software, many of which were not solved until well past the eleventh hour, well after the date we had targeted to be fully compliant. I am sure that nearly every other American business faced similar issues and the resulting, unnecessary costs they bore are truly staggering. Anyone who believes this was inevitable or even excusable need only note the fact that the Apple Macintosh operating system was never susceptible to any of the Y2K problems that businesses waited until after the eleventh hour for solutions for from Microsoft. Could this possibly be because Apple has never had the luxury of a monopoly position for its products, but has had to compete on their merits? Had Microsoft targeted reliability and quality as major product goals and had they made a reasonable effort at Y2K abatement at the time they began the browser war, I firmly believe (based on first-hand experience in my company) that the price tag that consumers and businesses would have paid for Y2K compliance would have been 30% to 50% less than it was.

I have over twenty years of professional experience in systems integration and IT management. I have carefully observed Microsoft's rise from the start. My seven years at Fannie Mae convinced me that Microsoft's heavy-handed control over my industry is very harmful to corporate IT and to the industry in general. I could go on for many pages to explain to you, with hard evidence, why this is so. However, I believe that has already been established in court. What this industry desperately needs is competition in the segments Microsoft controls, such as desktop operating systems.

Any settlement of this case must not only be fair to Microsoft and to the industry they have harmed, it must be seen to be fair by the public and must be seen as a punishment, if a light one, for the misdeeds that have already been established. This proposed settlement is widely viewed as a stunning victory for Microsoft, witness the majority of reports in the press over the past two months, and that alone is reason enough not to proceed with it. It is not a punishment. It neither guarantees competition nor significantly penalizes Microsoft. The current environment in which Microsoft is seen by most as getting away with murder as a result of their own might and cleverness, and often being lionized for it, is not healthy for the Judicial System or for America, to say nothing of industry.

Microsoft claims that they have a right to compete as vigorously as possible and that they are simply better at it than other companies. However, Microsoft has no awareness of what honorable or gentlemanly competition is all about. In most arenas we do not allow competitors to openly cheat, especially if they are prodigious and unrepentant about it. If we will not allow such behavior in the Olympics, how can we feel comfortable allowing it to continue in Information Technology? The winner must bear a special burden of scrutiny. In addition to numerous abuses that they have not yet been tried for, or are perhaps not technically criminal, Microsoft has been tried and found guilty, upheld on appeal, of severe criminal misconduct. Over the course of this trial, their entire executive staff engaged in numerous, obvious acts of perjury, demonstrating that it is their usual way of doing business. No one seriously believes that they can be trusted to honor the terms of a consent decree.

Given the remarkably high profile of the company, the citizens of this country cannot allow this state of affairs to continue. I want to urge my government, in the strongest terms, to withdraw it's support for the settlement that is on the table. It does not go nearly far enough to serve the public's interests. It is riddled with loopholes, which Microsoft has proven for nearly a decade that they will exploit to the fullest. It sends the wrong messages to the public, to Microsoft, and to whatever would-be innovators may be thinking of trying to compete against Microsoft. It sends a signal to terrorists that we are sanguine about the fact that they have only a single target to concentrate on to take out the infrastructure of America's economy. It gives Microsoft the government's implicit blessing in their continued effort to undermine the free software and open source movements, which represent the only real hope for competition in operating systems and infrastructure technologies.

Please give some consideration to adopting the proposal of remedies put forth by the nine dissenting states. Their proposal, while still inadequate to fully address the threat, is at least a significant improvement over the settlement proposed by the Justice Department.

Yours very truly,

Neele T. Johnston
Intelligenesis, Inc.
25 Froude Circle
Cabin John, MD 20818
301-263-0248
neelejohnston@usa.net

MTC-00028819

From: Smith, Bob
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 5:57pm
Subject: Microsoft

Please see the attached message concerning the litigation against Microsoft.

Robert R. Smith
MPIC-MGTS
(314) 827-3584
Robert. Smith@Maritz.com

MTC-00028819 0001

Robert R. Smith
Smith-Krenning Enterprises, LLC
10784 Stroup Road
Festus, MO 63028
January 28, 2002
Department of Justice
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

While I believe that the recently negotiated settlement between Microsoft and the Department of Justice has gone too far, I also think that this suit is better settled. It is important for the IT community to move forward again. It is equally important for the IT community to trust that the government would allow the owners their right to enjoy the benefits that our wonderful country was built on, allowing each of us to exercise our skills and make money.

However, some of the terms of the settlement are a bit troublesome. Microsoft should not be forced to release some of its source code to third-party software developers. Doing so is no guarantee that this source code will not be used to develop some sort of Windows-type clone. My company writes applications that work on the Microsoft Windows platform, and we do so without any code from Microsoft that isn't already published. I don't need Microsoft's insight to their operating systems any more than the next developer. If we start demanding code from Microsoft, then Microsoft should be able to demand code from us, and I'm not willing to share mine either.

While innovation is the hallmark of the IT community, simply cloning software that does not carry with it the full expertise that the original software has is dangerous. There are issues like product confusion, reliability and support that may end up causing more confusion in the consumer's mind than did this lawsuit.

The very least that can be said, however, is that the litigation is apparently over, and this is a good thing. I am hoping that there will be no further federal action against Microsoft or any other IT company.

Sincerely,

cc: Representative Richard A. Gephardt
Robert Smith
Co-Owner

MTC-00028820

From: cparrish1
To: Microsoft ATR
Date: 1/28/02 5:59pm
Subject: microsoft settlement

I strongly believe you should back off and let entrepreneurship alone.

Sincerely,

Charles M. Parrish

MTC-00028821

From: Fil Alleva
To: Microsoft ATR
Date: 1/28/02 5:59pm
Subject: Microsoft Settlement

MTC-00028821—0001

??e:///c√/win/temp/tmp.

To US Federal District Court and US DO J,

I am writing to express my support of the settlement reached by Microsoft and the DOJ. I believe that the settlement will allow all of the parties involved to move on to more productive endeavors. Microsoft has been incredibly successful because it has created products that consumers and businesses find useful. Arguably many Microsoft's competitors that decry its behavior would not even exist today had it not been for Microsoft's tireless efforts on behalf of the personal computing industry.

Fil Alleva
Stockholder and Employee of Microsoft
Redmond, Washington.

MTC-00028822

From: kayandmitch
To: Microsoft ATR
Date: 1/28/02 5:59pm
Subject: Microsoft settlement

As a retired citizen of Washington state, I encourage you to accept the proposed settlement in the anti-trust case involving Microsoft. I am neither an employee nor a stockholder in this firm.

This settlement is appropriate and reflects a triumph of the rule of law. Many critics, all with an axe to grind, i.e. competitors and state attorneys-general, call for extreme, stringent restrictions that are totally inappropriate.

These objections ignore the decision of the Appeals Court that reversed much of Judge Jackson's original findings. Objectors not only misstate facts, but deliberately misinterpret the Appeals Courts" key findings.

In my view there can be no valid objection to this settlement since every major finding of the Appeals Court is stringently addressed with a targeted remedy that specifically prohibits and prevents the conduct in question.

Acceptance of the proposed settlement will send a signal to American industry managements and all thinking citizens that the rule of law is still being enforced appropriately. Any- -thing beyond this settlement would be a victory for those who seek damage and destruction rather than a remedy;. for competitors, litigation rather than innovative, honest competition.

Every person with the most rudimentary understanding of free markets wants the law to protect the markets" smooth functioning. Can we depend on the fair application of the laws that all participants in the U.S. economy rely on ? I hope your answer is a resounding "yes".

Thank you for your consideration.

Harold G. Mitchell
1800 Skyline Way
Anacortes, WA 98221

MTC-00028823

From: Walden3ALR@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:00pm
Subject: Microsoft
325 North Broadway
Wind Gap, PA 18091–1214
January 28, 2002

Attorney General John Ashcroft
United States Department of Justice
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing you let you know that I am a staunch supporter of Microsoft and I believe that the current lawsuit against the company instigated by the federal government is wrong and perhaps even counter-productive. Nevertheless, after three long, long years of legal wrestling, the settlement reached in November should provide the opportunity to put an end to this issue once and for all. For that reason I urge that you work towards implementing this settlement as soon as possible.

Under this settlement, Microsoft has agreed to design future versions of the Windows operating system to provide a mechanism for users, computer manufacturers and software developers to promote non-Microsoft software applications. Additionally source codes and interfaces internal to the Windows operating system and its products will be freely available to Microsoft's competitors. This is only the tip of the iceberg. As such, this settlement should more than satisfy the Department of Justice, as well as competing companies.

It is time that we concentrate on more important matters facing America. I ask that you work towards putting the November settlement into action as soon as possible and without any more litigation. Thank you.

Sincerely,

Dennis Cassidy

cc: Senator Rick Santorum

MTC-00028824

From: Mick McQuaid
To: Microsoft ATR
Date: 1/28/02 6:00pm
Subject: Public Comment on Microsoft Settlement

I am a university-based research scientist developing software to reduce information overload. My sponsors include the US Army Research Lab, which hopes my software will reduce information overload for tactical commanders in battle, and the Ford Foundation's Community Development Program, which hopes my software will do the same for overworked, underpaid community development workers.

In my research, I am a consumer of computer hardware and software, as are my sponsors, their customers, and the students who work in my lab. In my view, we are all harmed by Microsoft's monopoly, and this harm is not addressed by the proposed settlement.

As a public university, and with government agencies and charitable community foundations as our sponsors, we are acutely aware of the need to save money. One way we believe we could accomplish this is by using free operating systems such as Linux or FreeBSD instead of Windows. We have been stymied in our efforts to purchase computers with free operating systems or no operating systems.

We found that purchasing a computer from a vendor, Gateway, with no operating system cost just as much as to purchase it with Windows and also led to a warranty problem where the computer was not warranted to operate with any particular operating system. We were warned by our vendor, Gateway, that we should have purchased our computer with Windows, then installed a free operating system to coexist with it. For any remedy to be effective, Windows should be an extra-cost add-on to a basic Gateway computer that we purchase or recommend to the military commanders and community development workers who'll use our software.

A second source of harm to me as a consumer comes from Microsoft's secret file formats. The only way my software can reduce information overload for military commanders and community development workers is if my software can read and write the file formats for information with which these workers are inundated. Other vendors and researchers publish their file formats. Microsoft does not. I can not avoid using Microsoft file formats and must spend extra money to try to keep up with changes to them. Through a model called "embrace and extend," Microsoft is able to use its monopoly position to change file formats such as Rich Text Format over time to reduce interoperability among customers and competitors. Only a remedy that forces Microsoft to publish file formats so that they cease to be a monopoly-strengthening tool can provide effective relief for me as a consumer.

A third source of harm to me as a consumer concerns my ability to use the World Wide Web without the requirement that I use Microsoft products. I can not browse certain web pages nor conduct transactions on certain websites because the authors of a free operating system running on my computer do not have access to Microsoft networking protocols. Fortunately, not every web site is forbidden because I have chosen a free operating system, but more sites are denied me every day. Two years ago, I believed that free operating systems like Linux were the wave of the future. In the past year, I have come to realize that Microsoft is working actively to shut down free operating systems by making access to the Internet more difficult for those who fail to access using current Microsoft products. Only a remedy that forces Microsoft to publicly reveal networking protocols such that users of free operating systems have a chance to rewrite their software to visit websites and conduct transactions.

To summarize, I have been harmed as a consumer by Microsoft's monopoly. The proposed settlement does not offer me any relief from that harm and I suggest in this message three requirements that would have to be met to provide that relief: (1) make Microsoft operating systems an extra-cost add-on to computers, (2) compell Microsoft to publish file formats it uses to maintain and extend its monopoly to the desktop, and (3) compell Microsoft to publish networking standards it uses to maintain and extend its monopoly to the Internet.

I have never written to comment on any such settlement before, in part because I never been persuaded of the gravity of such a situation. The proposed settlement shocks me as a consumer and I can only explain it by taking into account the profound effect that recent events have had on the DOJ mindset about what constitutes the national interest. Possibly DOJ has become less aggressive toward violators during a period of national mourning. Now it is time for cooler heads to prevail and to demonstrate to the public that our government considers the national interest to include what is best for consumers, not merely what is best for corporations. —

Mick McQuaid, mcquaid@u.arizona.edu
2721 East Fort Lowell Road
Tucson, AZ 85716
520–975–5157

MTC-00028825

From: Tommy Goddard
To: Microsoft ATR
Date: 1/28/02 5:56pm
Subject: Microsoft Settlement

Do you plan on dropping the millions of customers? What do plan on doing about the fact that 99% of the government's computers are run by MS? Now that AT&T is a government controlled company their service sucks. I can see how making MS a government entity would create so many issues for consumers and hurt our economy worse.. Anything federally regulated and funded sucks. Have you ever had a speeding ticket or tried to get a different phone company? MS actually provides good support.

Tommy
Internet √ Developer
Sportwave, Inc. & Championship Tennistours, Inc.
"It's Tennis on the Net!"
EMail: <mailto:tommy@sportwave.com> tommy@sportwave.com

MTC-00028826

From: Keith Kemp
To: Microsoft ATR
Date: 1/28/02 6:01pm
Subject: Microsoft Settlement.

I think the deal that MS has offered is more than fair. Just get off their back so that they can continue to be innovators instead of being regulated allowing someone else to take their position as the leader.

Keith

MTC-00028827

From: LRogers67@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:02pm
Subject: Settlement
17311 87th Avenue Court E
Puyallup, WA 98375
January 28, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am submitting the following comments for your review as regards the Microsoft antitrust lawsuit. I am in favor of seeing this case settled. From the lawsuit's inception, I have been frustrated by the fact that Microsoft is being punished merely because it has produced an outstanding operating system.

Despite my disagreement with the wisdom behind filing this suit, in my opinion, the terms of the settlement agreement are fair. In response to the allegation that Microsoft has engaged in unfair business practices, Microsoft has agreed to give up many things. Microsoft has agreed to disclose portions of its code to their competitors. They have also submitted to making it easier for consumers to change the configuration of Windows. This will allow consumers to run programs made by Microsoft's competitors, while using Windows. Additionally, Microsoft has agreed not to take retaliatory actions against those who distribute or promote software that competes with Windows. Fair competition will be restored as a result of the concessions Microsoft has made. Nothing else should be required of Microsoft beyond the terms of the settlement agreement.

Thank you.
Sincerely,
Linda Rogers
CC:fin@mobilizationoffice.com@inetgw

MTC-00028828

From: kwhite
To: Microsoft ATR
Date: 1/28/02 6:02pm
Subject: Microsoft Settlement

The courts are punishing Microsoft, a winner and rewarding the losers who have inferior products in my estimation. What is wrong with winning? I don't see Be on every desktop and Oracle is so expensive and cumbersome that only foolish bureaucracies run this software. There are no gains for the general population which this lawsuit pretends to "protect". Very clearly the courts are protecting a very few major corporations and their interests, not us little guys. And guess what ? should anyone be surprised— There are several technical references about computer systems and software that are grievously incorrect in the court documents.

Since when does any company have to get approval from the courts to bring a product to market? Courts have to get out of the market place. Let winners win, and losers lose. Get Bin Laden and others like him. Get bad guys not a company like Microsoft whom we all should be proud of. We should put a statue of Bill Gates right next to the Abe Lincoln monument.

Our future is in our children. Any court settlement (not), if there has to be one should benefit our kids.

Ken White
kwwhite@erols.com
CC:kwwhite@erols.com@inetgw

MTC-00028829

From: Jack Burlingame
To: Microsoft ATR
Date: 1/28/02 6:03pm
Subject: Microsoft Settlement

To Whom It May Concern:

Please register my opposition to the proposed government settlement with Microsoft. Despite the fact that I am a Microsoft shareholder, I believe the company needs to be restrained in its anti-competitive practices.

The case, in my opinion, goes well beyond the so-called "browser wars." The list of companies that Microsoft has harmed as it incorporates additional functions into its operating system software is lengthy. To name just a few: Eudora—email program Adobe—imaging program Symantec—utilities programs Ipswitch—FTP program Real Networks—multimedia programs It is reasonable to ask what the ability to edit photographs, for example, has to do with a computer operating system. The only purpose for including such programs in Windows at no charge is to drive competitors out of business. This represents classic anti-competitive behavior that must be curtailed.

Sincerely,
Jack Burlingame
28–B Old County Road
Hingham MA 02043

MTC-00028830

From: Leonard Shackelford
To: Microsoft ATR
Date: 1/28/02 6:02pm
Subject: Microsoft Settlement

I support any decision which will allow Microsoft to continue business without any government intervention. Please leave Microsoft alone!

Sincerely,
Leonard Shackelford
Leonard@tmgcorp.net

MTC-00028831

From: Gordie (038) Barbara Rydberg
To: Microsoft ATR
Date: 1/28/02 6:03pm
Subject: Microsoft Settlment

Attorney General John Ashcroft I encourage the United States Justice Department to accept the recent anti-trust settlement it reached with Microsoft. I'm for anything that will get the matter behind us so Microsoft can get back to the business of making good software. To open up the market and make it more competitive, Microsoft has agreed to grant computer makers the right to change Windows so that Microsoft product can be removed and competing, non-Microsoft produts can be installed. This will allow small developing software companies to get their feet in the door and compete on an even level. This will also create a competitive environment that will encourage all parties to improve their produts and services. Microsoft has further agreed to not take any action that could be perceived as retaliatory against those computer makers who choose to do this, nor will Microsoft retaliate against computer makers who develop or ship operating systems that compete with Windows. A Technical Coommittee made up of three software experts will be overseeing compliance and assisting in any dispute resolution. Based on these facts, I encourage you to support this good settlement that will benefit Microsoft, competitors, and most iimportantly, consumers who buy these products.

Gordon Rydberg
318 Nelson Lane
Lopez Island, Washington 98261.

MTC-00028832

From: Carl Hekkert
To: Microsoft ATR
Date: 1/28/02 6:05pm
Subject: Microsoft

Your Honor,

As a Silicon Valley resident, I must voice my objection to the proposed settlement in the Microsoft case. As a beneficiary of years of anti-trust violations, Microsoft is now being allowed to retain many billions of dollars of illegal profits. Furthermore, this proposed settlement does nothing to limit Microsoft's power and ability to continue its anti-competitive behavior. I feel we are being sold short by this proposed final judgment, and Microsoft emerges as the winner.

Respectfully,
Carl Hekkert
408–245–7266

MTC-00028833

From: Nicholas P. Provenzo
To: Microsoft ATR
Date: 1/28/02 6:02pm
Subject: Microsoft Settlement
Please see the attached document for the Center's comments on the proposed Microsoft Settlement.
The Center for the Moral Defense of Capitalism
<http://www.moraldefense.com/> http://www.moraldefense.com
VOX: (703) 625–3296
FAX: (815) 327–8852
THE CENTER FOR THE MORAL DEFENSE OF CAPITALISM
January 28,2002
From: Nicholas Provenzo
Chairman
Center for the Moral Defense of Capitalism
To: Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, the Center for the Moral Defense of Capitalism respectfully submits its evaluation of the proposed Final Judgment resolving U.S. v. Microsoft Corporation (Civil Action No. 98–1232) and State of New York ex. rel Attorney General Eliot Spitzer, et al., v. Microsoft Corporation (Civil Action No. 98–1233).

The mission of the Center for the Moral Defense of Capitalism is to promote the social welfare of the nation by presenting to the public a moral foundation for individualism and economic freedom based on a philosophical analysis of humanity and human nature. Specifically, we seek to apply Ayn Rand's philosophy of Objectivism to the understanding of human action and human relationships.

As the cornerstone of a free, capitalist system, we argue that human life requires thought and effort and that the free market springs from the trade of one's thoughts and efforts with others. We make the argument that human minds and bodies must be left free of coercion, that all human interaction must be voluntary and that the initiation of physical force must be banished from human relationships. We see a proper government as the agent of its citizens, charged with one mission: the use of retaliatory physical force in defense against the initiation of physical force.

Our organization has followed the Microsoft antitrust case from its initial filing—we have opposed the case from the outset, seeing it as an abridgement of the freedom of production and trade and an interference with the right to acquire and possess property. We disagree with the essential factual component of this case that Microsoft's integration of its Internet Explorer Web browser with its Windows operating system was a coercive act against Microsoft's competitors and customers. Instead, we see a company that according it its evaluation of the marketplace saw the commercial value of product integration and acted accordingly. In exercise of Microsoft's right to control its property, the firm set terms for the sale of that property that it believed was in its own self-interest. Microsoft's subsequent commercial success after this integration affirms the wisdom of Microsoft's actions—Microsoft's customers themselves chose to reward the firm with increased sales and increased market share. Rather than serve an impediment to the free market, Microsoft's actions personified them.

The Center for the Moral Defense of Capitalism
4901 Seminary Rd. Ste. 1320
Alexandria, VA 22311–1830
Office: (703) 625–3296 Fax: (815) 327–8852
E-mail: info@moraldefense.com

Yet, obviously, Microsoft's success has made it into the target of the government's wrath via the current antitrust case. Our organization closely followed the District Court case, writing several published evaluations of the case and its subsequent rulings (see Appendix 1 & 2). Our organization also participated in the US Court of Appeals for the District of Columbia Circuit appeals proceedings as an amicus curie. Our amicus brief relied on two major arguments in opposing the government's case: 1.) that the antitrust laws are unconstitutional laws that fail to provide with clear and concise guidance necessary to avoid sanctions under the law; and 2.) that the antitrust laws are unconstitutional laws because they require the government to initiate force against innocent citizens.

Today, our view of the Microsoft antitrust case and its proposed settlement is as follows: While we respect the desire of the parties to seek a resolution to this case, particularly that of Microsoft, which has had to endure a 3 1/2 year crusade against its property rights and its right to conduct its business in a profitable manner, we are wary of any settlement that legitimizes any aspect of this unjust assault against a successful, innovative business. We consider the case against Microsoft to have been defective at every level, from the fundamental claim that the entrepreneurial actions of a successful business are a threat against others, to the claim that a monopoly can exist where there is no legal barrier to entering a market, to the claim that the citizens of the United States are too ignorant or incompetent to exercise their individual power of choice when in the marketplace and therefore require the government to make their personal choices for them. We consider it a failure that the court saw no distinction between the earned success of a business in the free market and the coercive power of a government favorite and we consider it a failure that the court did not ultimately throw out the case against Microsoft.

Considering that this case was initial brought not at the insistence of individual consumers or with Microsoft's business partners, but at the insistence of Microsoft's unsuccessful competitors, this entire case reeks of business failures asking the government to step in and give them the commercial success they could not achieve in the marketplace. Failed businesses must not be allowed to set the rules for the markets in which they failed. In evaluating the proposed settlement, we find that it specifically threatens the right to private property. A key component of the proposed remedy is a requirement that Microsoft make its source codes available to a government-sanctioned oversight committee, which in turn is supposed to ensure these same source codes are made available to non-Microsoft "middleware" producers, so that these companies can create products to compete with Microsoft. Since under the proposed judgment, the United States would retain the right to determine and enforce the scope to which these source codes are to be made available, the final judgment constitutes a de facto seizure of private property—the source codes—and its subsequent conversion to a public good. Such a taking is wholly incompatible with the Constitution of the United States. Accordingly, we reject the notion that this settlement serves the public interest, or that any punishment of Microsoft for its business practices will be of benefit to any consumer. Eroding Microsoft's property rights serves no one. We hold that no antitrust case, including the Microsoft case can withstand rational scrutiny, and we ask that no sanction be placed on Microsoft as a result of its antitrust conviction.

Appendix 1:
Judge Jackson's Findings of Fiction
By Dr. Edwin A. Locke, Ph.D.
Senior Policy Analyst
The Center for the Moral Defense of Capitalism

Judge Thomas Penfield Jackson has released his "findings of fact" in the Microsoft antitrust case. While his report did contain some correct information—such as the truism that a successful company tries to defeat its rivals—the central claims of his report are blatant falsehoods. Let us examine five of these fictions.

Fiction #1: Microsoft is a "monopoly." There is no such thing as a private monopoly. Only the government can forcibly prevent competitors from entering a market. Microsoft has attained dominance in the software industry, but dominance is not monopoly. Market dominance has to be earned through a long struggle, by providing better products and better prices than anyone else. Dominant companies who falter (as did Xerox, IBM, General Motors and Kodak) will find their market share eroded, sometimes very quickly. There is no threat from these dominant players so long as their competitors are legally permitted to enter the field, invent new products, and combine with each other to gain the needed market power.

In a free market, a dominant position can only be sustained by continually providing new products and services that are better than other firms" products. Paradoxically, Judge Jackson recognizes this fact but condemns it. Microsoft's innovation, its continual product upgrades, its millions spent on research and development, are cited by Jackson, not as evidence that Microsoft has earned its position, but only as evidence of a conspiracy to "stifle" its competitors.

Fiction #2: Microsoft's "monopoly power" allows it to "coerce" its customers. A private company has no power to force consumers to do anything. Did Judge Jackson find that Microsoft threatened to beat people up or throw their bodies into the East River if they bought the wrong Web browser? Of course not. The only "leverage" Microsoft has is the leverage it has earned by producing a product that people want to buy.

This economic power, the power of voluntary trade, is fundamentally different from political power, the power of the gun. Yet Judge Jackson is eager to erase this distinction. Thus, such actions as upgrading a product to match the features offered by a competitor, distributing a product for free, or negotiating favorable terms with business partners—all of them normal and beneficial business practices—are presented by Judge Jackson as if they are a nefarious, mafia- like conspiracy to oppress the public.

Fiction #3: Microsoft harmed consumers. This is certainly news to the millions of people worldwide who value Microsoft products enough to make the company and its founders rich.

Most bizarre is Judge Jackson's claim that Microsoft harmed consumers by giving away its Web browser, making it unprofitable for other firms to sell their browsers. Any sane consumer would be delighted to get a product for free rather than paying money for it. To speak of receiving free software as a "harm" is Orwellian doublespeak.

Fiction #4: Microsoft is a threat to consumers because it "could" raise its prices. Under this criterion, anyone could be prosecuted for anything. Do you own a kitchen knife? Then you might stab somebody—so should the government put you in jail?

Microsoft has the right to sell its product for any price it chooses—but anyone familiar with the history of business and with Economics 101 knows that market leaders have a selfish interest in keeping their prices low. Why? Because they make a lot more money by creating a mass market than by creating a product only the rich can buy. Henry Ford understood this. So did Bill Gates. Clearly, Judge Jackson does not.

The only basis for his conclusion is the caricature of the successful corporation as a vicious "Robber Baron" which, even if it is not "exploiting" consumer now, is merely waiting for the opportunity to do so. Fiction #5: Blocking Microsoft's ability to compete will foster greater industry innovation. A private company, with no power over consumers but the power conferred by offering a useful product, is branded by Judge Jackson as dangerous. But far-reaching government intervention in the software industry, including the massive use of force to shatter Microsoft and control its business practices, is presented as an attempt to spur innovation. Only those who believe Al Gore invented the Internet could take this argument seriously.

What Judge Jackson really objects to is the fact that Microsoft defeated its competitors, i.e., that it was successful. The real meaning of his "findings of fact" is that the best brains must be crippled, so that lesser brains will not have such a hard time succeeding. He and the government prosecutors whose arguments he is echoing do not want to foster innovation; they want to sacrifice the best and the brightest in the name of egalitarianism. They want the playing field leveled by coercion so that no one can rise to the top.

What consumers need is an antidote to the fictions peddled by Judge Jackson: the recognition that businessmen have a right to succeed by trading their products in a free market. Dr. Edwin A. Locke is Dean's Professor of Motivation and Leadership at the Robert H. Smith School of Business at the University of Maryland and is affiliated with UMD's Department of Psychology. An internationally renowned behavioral scientist, Locke's work is included in leading textbooks and acknowledged in books on the history of management.

THE CENTER FOR THE MORAL DEFENSE OF CAPITALISM

Appendix 2:

Altruism in Action: An Analysis of Judge Jackson's Finding of Fact and the Antitrust Assault on Microsoft

by Adam Mossoff

Policy Analyst

The Center for the Moral Defense of Capitalism

United States District Court Judge Thomas P. Jackson is crystal clear in his recent "findings of fact": Microsoft is marked for destruction. But why does Judge Jackson want to punish one of the most successful corporations in American history? Because Bill Gates proclaimed that he wanted "to prove that a successful company can renew itself and stay in the forefront" [i]—and he proceeded to do just that.

By the early 90s, Microsoft had gained a dominant position in the software industry by creating Windows, the first commercially viable graphical operating system that could be used on PCs. But in the mid-90s, Gates realized that the Internet represented the next step in the ongoing computer revolution; thus, he created a business plan to "stay in the forefront" of this revolution. In so doing, he set into motion the same technological and commercial innovation that had led to Microsoft's leading market position in the first place.

Microsoft began by investing a staggering $100 million each year in Internet research and development, and in four years the company expanded its Internet division from only six people to more than one thousand. These investments, in the words of Judge Jackson, paid "technological dividends." [ii] (Paragraph 135) Microsoft developed a Web browser called Internet Explorer, and "after the arrival of Internet Explorer 4.0 in late 1997, the number of reviewers who regarded it as the superior product was roughly equal to those who preferred [Netscape's] Navigator." (Paragraph 135)

But Gates took Microsoft even farther. He integrated Internet Explorer into Microsoft's Windows operating system so that it would be easier to incorporate the fast-growing Internet into all aspects of personal computing. In fact, Judge Jackson partly acknowledges the groundbreaking work performed by Microsoft in this regard:

The inclusion of Internet Explorer with Windows at no separate charge increased general familiarity with the Internet and reduced the cost to the public of gaining access to it, at least in part because it compelled Netscape to stop charging for Navigator. These actions thus contributed to improving the quality of Web browsing software, lowering its cost, and increasing its availability, thereby benefiting consumers. (Paragraph 408) Concurrent with its technological innovation, Microsoft put into practice novel business services and licensing arrangements. Just one of many examples addressed by Judge Jackson is the Internet Explorer Access Kit (IEAK), a service that permits an Internet access provider (IAP), such as America Online or Earthlink, to accept a license agreement on the Web and then download and customize Microsoft's Internet software. When Microsoft began offering this service in September, 1996, it was the first time an Internet access provider could create a distinctive identity for its service in as little as a few hours by customizing the title bar, icon, start and search pages, and "favorites" in Internet Explorer. The IEAK also made the installation process easy for IAPs. With the IEAK, IAPs could avoid piecemeal installation of various programs and instead create an automated, comprehensive installation package in which all settings and options were pre-configured. (Paragraph 249)

More than 2,500 access providers—representing more than 95% of the Internet subscriber market in the US—used Microsoft's IEAK service. (Paragraph 251) Notably, Netscape did not create a similar service until nine months after Microsoft introduced IEAK, and Netscape charged almost $2,000 for something Microsoft offered for free. (Paragraph 250)

Microsoft blended technological innovation with business acumen and thus offered its business partners an integrated package of new technology and new business opportunities. In exploiting these opportunities, Microsoft often offered "valuable consideration"—such as special discounts— to companies like Compaq, IBM, and Intel as an incentive to adopt its Internet Explorer and other Microsoft technology. In fact, Judge Jackson uses the term "valuable consideration" eight times to describe Microsoft's business agreements with other companies—leaving the honest reader to conclude that Microsoft's dealings were not some form of coercion but rather value-for-value trades.

For instance, Microsoft beat Netscape in developing a special type of browser that America Online (AOL) required for its Internet service. As a result, the two companies entered into several agreements in 1996. In exchange for AOL's commitment to use Microsoft's Internet software, Microsoft promised to provide AOL with unprecedented access to Internet Explorer source code, extensive technical assistance, "free world-wide distribution rights to

Internet Explorer," an assurance "that future versions of its Web browsing software would possess the latest available Internet-related technology features, capabilities, and standards," and the placement of an AOL icon in a special folder on the Windows desktop. (Paragraph 288)

This relationship has been advantageous to both parties. Overall usage of Internet Explorer has risen dramatically, and as a result of this agreement AOL registered almost one million new users in a single year—11% of its total membership—through its icon on the Windows desktop. This fact alone prompted AOL to state in 1998 that its business arrangement with Microsoft was an "important, valued source of new customers for us." (Paragraph 302) Microsoft's achievements should be held up as a model of how to create and maintain a highly productive, innovative company. Yet Judge Jackson is unable to view any of these facts in a positive light. While Judge Jackson recognizes many of the concrete facts that demonstrate Microsoft's productive achievement, he is incapable of praising the innovation and business acumen that led to Microsoft's success.

Instead, his descriptions are clouded by slanted, inflammatory terms that attribute vicious motives to Gates and his company. When Microsoft created new technology to compete with its rivals, Judge Jackson describes the company's motivation as "fear" and "alarm." When Microsoft offered incentives to its business partners, Judge Jackson decries this as the "quashing" and "stifling" of rivals. When Microsoft licensed its products only under conditions favorable to its long-term success, Judge Jackson describes these actions as "threats" and "force." (Judge Jackson uses variations of "threat" no fewer than twenty times and of "force" no fewer than sixteen times to describe Microsoft's actions.) When Microsoft refused to support its competition, Judge Jackson calls this "punishment." When Microsoft ingeniously melded technological and business strategies to convince consumers that its products were the best, Judge Jackson sees the company as "seizing control" and trying to "capture" the market.

Even worse than his slanted terminology are his substantive arguments, in which he sets up impossible standards according to which no successful business could escape prosecution. For example, Judge Jackson writes early in his ruling that:

> It is not possible with the available data to determine with any level of confidence whether the price that a profit-maximizing firm with monopoly power would charge for Windows 98 comports with the price that Microsoft actually charges. Even if it could be determined that Microsoft charges less than the profit-maximizing monopoly price, though, that would not be probative of a lack of monopoly power, for Microsoft could be charging what seems like a low short-term price in order to maximize its profits in the future for reasons unrelated to underselling any incipient competitors. (Paragraph 65) (Emphasis added.)

Judge Jackson admits that it is not possible to tell whether Microsoft is in fact charging a monopoly price. Yet he dismisses this lack of evidence as irrelevant because Microsoft could simply be using low prices today in order to "capture" the market and charge exorbitant prices at some future date. In other words, Microsoft is a monopolist if it charges prices that are deemed "too high"—but it is also a monopolist if it charges prices that are too low. By virtue of its dominant position in the industry—that is, by virtue of its success—Microsoft is damned if it does and damned if it doesn't.

Judge Jackson's visceral antagonism to business is also revealed by his condemnation of Microsoft for winning the browser battle against Netscape when "superior quality was not responsible for the dramatic rise [in] Internet Explorer's usage share." (Paragraph 375) Note the implicit premise in this condemnation: If Microsoft hasn't produced a product that is technologically superior, then only commerce can explain its success. Jackson is repulsed by the notion that successful computer companies require both technological savvy and business skills; in his ideal world, Silicon Valley would be populated solely by computer scientists with nary an "alarming" venture capitalist or "threatening" businessman in sight. Judge Jackson's praise for innovation, however, might seem to contradict his overall attack on successful businesses. Technological innovation is a source of business success, is it not? Although Judge Jackson recognizes that technological innovation causes businesses to succeed, he believes that this innovation has another, more legitimate, function. He writes:

> In many cases, one of the early entrants into a new software category quickly captures a lion's share of the sales .... What eventually displaces the leader is often not competition from another product within the same software category, but rather a technological advance that renders the boundaries defining the category obsolete. These events, in which categories are redefined and leaders are superseded in the process, are spoken of as "inflection points." (Paragraph 59) (Emphasis added.)

Innovation appeals to Judge Jackson not because it leads to the creation of wealth, but rather because it tends to tear down the market leader. He argues that the emergence of the Internet in the mid-90s was one such "inflection point." (Paragraph 60) Thus, the nature of his support for innovation explains his disgust with Microsoft's defeat of Netscape: By introducing its browser product sooner, Netscape should have replaced Microsoft—if only Microsoft had not engaged in the "vicious" commercial competition that ensured its continued leadership in the computer industry.

These beliefs ultimately lead Judge Jackson to conclude that Microsoft's "monopoly power" has "harmed consumers in ways that are immediate and easily discernible." (Paragraph 409) What are these alleged harms? Judge Jackson claims (wrongly) that the integration of Windows 98 and Internet Explorer does not allow employers to block employees from surfing the Web. He asserts that vast "confusion" reigns among consumers—but beyond one or two offhand references throughout the ruling, he never explains this vague allegation. Moreover, he claims, the integration of Windows and Internet Explorer has created slower computers with more bugs—as if computers are slower and less dependable than they were two years ago! One might regard such mythical "harms" as the laughable allegations of a Luddite—if they did not come from a judge who wields the coercive power of the federal government.

Regardless of how trivial these alleged harms may be, Judge Jackson seems sincerely to believe that Microsoft is acting as a vicious monopolist. Why? He answers this question in the last few sentences of his ruling: "Microsoft's past success in hurting such companies and stifling innovation ... occur for the sole reason that [other companies and their innovations] do not coincide with Microsoft's self-interest." (Paragraph 412) (Emphasis added.)

It takes Judge Jackson more than 200 pages, but in the end he names the essence of his disgust for Microsoft—and the essence of the antitrust laws. In so doing, Judge Jackson exposes the fundamental moral premise dictating his factual distortions, his fallacy-ridden arguments, and his illogical conclusions: a hatred for any form of self-interest.

The morality of altruism or self-sacrifice is often presented as a form of benevolence, as if it simply means being nice to other people. But the actual meaning of this philosophy is a hatred of success. Under this morality, anyone who achieves some extraordinary wealth or distinction owes it to his fellow men to sacrifice what he has earned—including giving away his whole fortune, as and when it is demanded by others. (This is essentially what has been demanded of Bill Gates.) But what about those who have not achieved anything? They are entitled to welfare programs, private charities, protective legislation, and a host of other unearned benefits to be paid for by those who have succeeded. In this system, anyone who earns success through his own effort is to be punished, while anyone who hasn't exerted any effort and hasn't attained any success is to be rewarded.

Far from standing for benevolence or good will, such a moral outlook stands for destruction. This code of sacrifice demands an assault on a Microsoft or a Bill Gates. By amassing so much money and achieving so much success, they must be shirking their duty to sacrifice to others. But it does not demand the destruction of the Netscapes of the world because, by* virtue of having faltered, they are the "have-nots" who are entitled to benefit from the sacrifice of their more-successful competitors.

Note that the ultimate standard of this moral outlook is not the well-being of the poor, the weak, the downtrodden; has the welfare state ever achieved these aims? Instead, the goal is the sacrifice of the rich, the strong, and the powerful—not to achieve any positive aim, but simply to punish them because they are rich, strong, and powerful.

The altruist connection to antitrust is evident in the mere fact that Judge Jackson could have applied the antitrust laws against Microsoft without finding any harm at all. Although the ostensible purpose of antitrust is to "protect consumers" from alleged "monopolists," court decisions consistently belie this fiction. In one of the first cases defining the doctrine of antitrust, a large railroad trust defended itself against prosecution by arguing that its price-fixing plan resulted in lower prices for consumers. ' Since the stated purpose of the 1890 Sherman Antitrust Act was to protect consumers, and since consumers actually benefited in this case, the defendant logically concluded that the antitrust laws should not apply to its practices. The Supreme Court rejected this argument and ruled that the railroad trust was guilty. In an illuminating statement, Justice Peckham declared: "In this light it is not material that the price of an article may be lowered. It is in the power of the [monopolist] to raise it." iii

(Interestingly, Justice Peckham was an ardent conservative who was one of the principal advocates of "freedom of contract" in the 19th century—just as Judge Jackson was a Reagan appointee. This proves once again that conservatives are not reliable friends of freedom.) Continuing to apply the underlying anti-success principle of antitrust, the Supreme Court ruled in 1968 that a newspaper company violated the Sherman Antitrust Act when it fired a distributor for charging rates above an allowable maximum price. The Court found that the newspaper "would not tolerate over-charging" of its customers, and that it even agreed to rehire the distributor if he "discontinued his pricing practice"—that is, if he charged lower prices. Nonetheless, the Court held that the benefit to consumers was irrelevant in finding that the newspaper company acted in "conspiracy" with its other distributors to set prices—thus its actions were "an illegal restraint of trade under Section 1 of the Sherman Act?

Harm to consumers has nothing to do with the purpose of antitrust. The antitrust laws are intended only to punish "power"—but since economic power is earned on the free market, this means that the purpose of antitrust is to punish successful business practices. Antitrust case law is replete with examples of companies being punished, not for any alleged harm, but simply for having the acumen to remain successful in their industries. A ski resort in Aspen, Colorado, was not only found guilty in 1985 of violating the antitrust laws because it successfully competed against its only rival; it was also held to a "duty under antitrust law to help a competitor." v In the famous case against ALCOA in 1945, Judge Hand declared that "the successful competitor, having been urged to compete, must not be turned upon when he wins."

But he contradicted himself in the very next paragraph, concluding that ALCOA insists that it never excluded competitors; but we can think of no more effective exclusion than progressively to embrace each new opportunity as it opened, and to face every newcomer with new capacity already geared into a great organization, having the advantage of experience, trade connections, and the elite of personnel. vi

ALCOA's ability and success, by Hand's reasoning, was the deciding factor for finding it guilty of violating the antitrust laws.

Given this legal context, Microsoft was doomed before it even set foot in the courtroom. The media, in an anti-Microsoft feeding frenzy, often highlighted mistakes made by Microsoft's counsel during the lengthy (and ongoing) trial. Yet Microsoft's attorneys could have performed flawlessly, and Judge Jackson would still have produced the same ruling.

The reason is that Microsoft is an extremely successful company; Gates is a unique combination of technological genius and businessman, reminiscent of earlier American giants like Thomas Edison. Thus, it was irrelevant how hard Microsoft's attorneys worked, or how much intellectual vigor they brought to their legal briefs and courtroom arguments. These things were irrelevant because no army of lawyers could hide a single, essential fact—the only fact necessary for applying the antitrust laws: Microsoft succeeds at what it does.

The punishment doled out for success is paralysis. Judge Jackson makes it clear that Microsoft must not be permitted to capitalize upon its well-earned success. Because it has created values, it must now relinquish them. Does it matter that Microsoft has earned its success by producing a better product, by offering better incentives to its business partners, and by providing better service to software developers and Internet access providers? No.

Such facts do not matter to a man who believes that a successful company has a moral duty to sacrifice to its lesser rivals—-especially when that man has the legal power to coerce the company to obey its alleged duty. With every slanted term and with every absurd conclusion, Judge Jackson practically screams his unstated moral premise: Since Microsoft is a leader in the computer industry, it must sacrifice the values it has created because it has created them.

In his ruling, Judge Jackson claims to set out the objective facts underlying his impending application of the antitrust laws to Microsoft. But the only thing he manages to establish is his own animosity towards commercial success. What drives this animosity is the underlying moral justification for antitrust: altruism's hatred of success.

The basis for Judge Jackson's ruling is not any "monopoly" allegedly controlled by Microsoft; it is the monopoly commanded by the morality of altruism over our culture. That monopoly can be seen, unfortunately, in Bill Gates's sanction of his own destruction in a comment immediately after the ruling, in which he declares that "because of our success, we understand that Microsoft is held to a higher standard, and we accept that responsibility." vii As long as this moral monopoly remains unchallenged, legal doctrines such as antitrust will continue to punish successful businesses.

i Bill Gates, The Road Ahead 64 (1995)

ii US v. Microsoft, No. 98–1233 (TPJ) (D.DC Nov. 5, 1999) (findings of fact). All references to the findings of fact hereafter will refer only to the paragraph number.

iii United States v. Trans-Missouri Freight Association, 166 US 290, 324 (1897), emphasis added.

iv Albrecht v. Herald Co., 390 US 145, 153 (1968).

v Olympia Equipment Leasing Co. v. Western Union Telegraph Co., 797 F.2d 370, 377 (7th Cir. 1986), citing Aspen Skiing Co. v. Aspen Highlands Skiing Corp., 472 US 585 (1985) (holding that a monopolist has a duty to help a competitor).

vi US v. Aluminum Co. of America, 148 F.2d 416, 431 (2d Cir. 1945).

vii "Statement by Bill Gates on the Findings of Fact," www.microsoft.com/presspass/ofnote/11- 09wsj.asp, visited Nov. 11,1999.

MTC-00028834

From: kayandmitch
To: Microsoft ATR,info@effwa.org@inetgw
Date: 1/28/02 6:06pm
Subject: Microsoft settlement

As a retired citizen of Washington state, I encourage you to accept the proposed settlement in the anti-trust case involving Microsoft. I am neither an employee nor a stockholder in this firm.

This settlement is appropriate and reflects a triumph of the rule of law. Many critics, all with an axe to grind, i.e. compeitors and state attorneys-general, call for extreme, stringent restrictions that are totally inappropriate.

These objections ignore the decision of the Appeals Court that reversed much of Judge Jackson's original findings. Objectors not only misstate facts, but deliberately misinterpret the Appeals Courts" key findings.

In my view there can be no valid objection to this settlement since every major finding of the Appeals Court is stringently addressed with a targeted remedy that specifically prohibits and prevents the conduct in question.

Acceptance of the proposed settlement will send a signal to American industry managements and all thinking citizens that the rule of law is still being enforced appropriately. Anything beyond this settlement would be a victory for those who seek damage and destruction rather than a remedy;. for competitors, litigation rather than innovative, honest competition.

Every person with the most rudimentary understanding of free markets wants the law to protect the markets" smooth functioning. Can we depend on the fair application of the laws that all participants in the U.S. economy rely on? I hope your answer is a resounding "yes".

Thank you for your consideration.

Harold G. Mitchell
1800 Skyline Way
Anacortes, WA 98221

MTC-00028835

From: Lisa Kianoff
To: Microsoft ATR
Date: 1/28/02 6:06pm
Subject: Microsoft Settlement

Dear Attorney General Ashcroft.

Please see the attached word document regarding my support for the Microsoft settlement. Please contact me if you have any problem reading the document.

cc: Spencer Bauchus

Regards,
Lisa Kianoff, CITP.CPA

Top Ten Birmingham Business Women For 2000

L. Kianoff & Associates, Inc.

"Computerized Accounting Solutions"
1128 22nd Street South Birmingham, AL 35205 205–592–9990 205–592–9991 fax lisa @kianoff.com www.kianoff.com

MTC–00028835—0001

L. Kianoff
Associates, Inc.
Computerized Accounting Solutions
January 28, 2002
1128 22nd Street South
Birmingham, AL 35205
205–592–9990 * FAX 205–592–9991
e-mail: lisa@kianoff.com
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I cannot help but think that this settlement recently reached between the Department of Justice and Microsoft is a good thing. Since the court case was as contentious as it was, there was very little progress being made.

The terms of this settlement, however, accomplishes a great deal without all the controversy. Most consumers will immediately benefit by being able to choose different software combinations without fear of compromising their installed operating systems, and most computer makers will benefit by being able to offer a wider variety of options to their customers.

All in all, this settlement is a great benefit to all and I am writing to express my support for it. Thank you for the hard work you put in to reach this settlement, and your continued support.

Sincerely,
Lisa Kianoff
President
Cc: Representative Spencer Bachus
L. Kianoff
Associates, Inc.
Computerized Accounting Solutions
1128 22nd Street South
Birmingham, AL 35205
205–592–9990 * FAX 205–592–9991
e-mail: lisa@kianoff.com

MTC–00028836

From: Maureen Baskin
To: Microsoft ATR
Date: 1/28/02 6:07pm
Subject: Microsoft Settlement

I apologize for sending this via email, I've tried several times to FAX this to you today from a local office store, but the line has been busy each time.

Respectfully,
Maureen J. Baskin
January 24, 2002

Dear Attorney General John Ashcroft,

Please consider my request for an immediate approval of the pending settlement between Microsoft, the Department of Justice and nine states. I worked for Microsoft from 1989 to 1996 in sales. Prior to Microsoft I worked for small and large corporations, including Bank of America and Dun and Bradstreet. I have never worked for a company where the employees were so bright, motivated, and empowered. There are so many strengths I would like to share, but in the interest of brevity I will highlight Microsoft's generosity to employees, customers, community and charities.

There were less than 5,000 employees working at Microsoft when I began work there. Excel had less than 11% of the spreadsheet marketplace and Windows was not yet graphical. Through the careful design by management, programmers, marketing, usability testing and sales people, Microsoft went from a company I had rarely heard mentioned from "84 to "89 (while teaching PC classes on the East Coast) to a household name today.

I encourage you to settle this case and commend Microsoft for going beyond the requirements stated by the Court of Appeals ruling. The products Microsoft offers have enriched the lives of so many.

I remember reading an article about Bill Gates" Mother one time and I've never forgotten it. She was calling for him (perhaps it was to dinner), over and over again, but there was no response. Finally when she asked what he was doing, he said, "I'm thinking!" I'm glad he couldn't see the negative in the future, for he may have stopped in his tracks before starting Microsoft.

Let us highlight bright companies and businesses that stretch their imaginations and build superior products. Microsoft was not always such a big company, thousands have worked very hard to bring about it's success. They have worked consistently for developers, resellers, consumers and corporate customers, to build products needed in their world. Please do not allow jealous competitors to side track the industry, government and the economy on this matter any longer. Thank you for your time and consideration,

Respectfully,
Maureen J. Baskin
502 8th Ave. West, Kirkland, WA 98033
CC: Maureen Baskin

MTC–00028837

From: Benjamin B. Thomas
To: Microsoft ATR
Date: 1/28/02 6:08pm
Subject: Microsoft Settlement
Benjamin B. Thomas
1975 Cahaba Valley Road
Indian Springs, AL 35124
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

United States Department of Justice:

I am writing to oppose the proposed settlement with Microsoft. I have read the original complaint of United States and the several States, the proposed settlement, the Competitive Impact Statement at, in addition to many other sources including the findings of fact. I feel that the proposed settlement falls far short of rectifying the damage which has been done to myself and other consumer by Microsoft through years of abuse of their monopoly, and that the enforcement provisions do little to dissuade Microsoft from continuing such practices in the future.

While some of the settlement provisions are a good start, there are many loop holes, and several places where it falls short. The trial should be allowed to proceed, so that a stronger remedy without loop holes, and with stricter enforcement and actual punishment for past wrongs can be enacted. I will leave some of the other problem topics to others, but wish to address a limited set here.

The stipulated parties who are protected from anti-competitive acts are ISVs, IHVs, IAPs, ICPs, and OEMs. This list is much too exclusive. The general public and especially Open Source software developers must also be protected. In the recent past, one of the only viable responses to Microsoft's hegemony has been Open Source software developers. These people have *donated* millions of hours of their time to produce a software platform—a feat which would not have been possible if they were a strictly commercial entity in competition with Microsoft. These people must have the same access to information as commercial entities, or one of the few viable responses to the Microsoft monopoly will be stymied by the settlement.

All of the API, format, and protocol standards which Microsoft uses to propagate its monopoly should be opened. Microsoft has repeatedly leveraged its monopoly position along with rapidly changing or secret formats to lock competitors out of their market. Due to the substantial network effects involved in computer software, it is very hard to function when using alternative software since users will be unable to interact with others as soon as Microsoft releases the next revision of a product.

The central reason that Microsoft has maintained and extended its monopoly is not due to the superiority of its product, but through "lock-in." Once one's data and software on secreted away within the Microsoft platform, it is extremely painful to switch to a superior platform. This not only directly hurts consumers, but stifles innovation in the computer industry. The provisions in the settlement do not do enough to make Microsoft open these standards to all parties interested in being compatible and do little to dissuade foot-dragging on Microsoft's part. Microsoft's APIs, file formats, and protocols should be fully standardized, documented, publicly published, and an accessible compatibility laboratory formed. This allow other software vendors to compete on a more fair playing field. This would be a start, but as others will surely describe in other comments, a fair distribution channel, free from punishing bundling agreements must be enforced.

I ask the DOJ to reconsider the decision to settle and to continue with the matter at trial. Microsoft has repeatedly show a willingness to flout the law. The remedies do not go far enough in punishing past illegal behavior or dissuading similar new behavior. The proposed mechanism of enforcement does not seem to have teeth, and Microsoft will likely attempt to break it soon after enactment. There is little deterrent to their doing so.

Sincerely,
Benjamin Thomas, Voter

MTC-00028838

From: John Spear
To: Microsoft ATR
Date: 1/28/02 6:09pm
Subject: For the proposed settlement

Hi!

While you may discount this, I would like to state my opinion that the proposed settlement in the Microsoft Anti-trust case is both a valuable and useful resolution to this court battle that continues unwarrantedly.

While it is unfathomable to me how the United States government, along with several State governments can conceive of punishing a successful company for being successful, I can see how some of the stated actions attributed to Microsoft could be considered inappropriate for an open marketplace. I do agree that many of the settlement terms implement procedures that Microsoft should have (and sometimes did) put into place many years ago. As such, I believe this settlement should go through substantially as proposed.

I also would like to see our court system spend time and money on anti-trust issues that have actual, demonstrated customer harm at their core, rather than the supposed harm to competitors that tripped up in the course of their own business and have failed to produce products that customers would continue to use over the course of years.

TTFN
John Spear

MTC-00028839

From: Cbethre@ao1.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:08pm
Subject: Letter for Microsoft

Dear Sir or Madam,

This a copy of my letter to support the efforts of the MA Attorney general, Tom Reilly regarding the Microsoft settlement. I will be following up with a signed copy via fax.

Thank you very much,
Colleen Reilly, MA

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
via email: microsoft.atr@usdoj.gov

Re: The Microsoft Settlement

I am writing to you about the proposed Microsoft settlement as both a private consumer as well as a human resources professional. I am very concerned as a consumer that I continue to have a choice in the software I purchase without having to be concerned with interoperability issues.

As a human resources professional and personal user of Microsoft, I want to maintain open computer systems that will facilitate communication and training materials.

Openness is paramount to maintaining competition, but openness is not what Microsoft wants. And it is not what this settlement, as it is currently written will guarantee.

I support including additional remedies as proposed by the dissenting Attorneys General, including the AG form my own state, Tom Reilly (no relation). Those remedies would ensure consumer choice, competition and interoperability of software. Specifically, I support the following: .

Microsoft should offer an alternative, basic version of Windows to personal computer manufacturers. This alternative version would have no Microsoft "add-ons", such as Internet access software, media players, or email applications, included.

2. Microsoft should provide the software code for Internet Explorer to competing software developers so that Microsoft cannot monopolize the Internet access or browser markets.

3. Microsoft should develop some mechanism to allow competitors to produce non-Windows based versions of the Office software suite.

Sincerely,
Colleen Reilly

MTC-00028840

From: Jmcjimmy@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:09pm
Subject: Microsoft Settlement

Microsoft believes the terms-which have met or gone beyond the findings of the Court of Appeals ruling-are reasonable and fair to all parties involved. This settlement represents the best opportunity for Microsoft and the industry to move forward.

I ALSO AGREE WITH MICROSOFT

(This ruling will unnecessarily keep Microsoft from reaching the public with improvements for the computer industry)

Jimmy McCoy
<A HREF="http://youens.com/mccoy/">http://youens.com/mccoy/</A>

MTC-00028841

From: Elliott Mitchell
To: Microsoft ATR
Date: 1/28/02 6:10pm
Subject: Microsoft Settlement

The settlement is flawed. It will not foster competition in any way. In fact by requiring Microsoft to donate their software to schools will have very much the opposite effect, helping the Microsoft monopoly to weaken Apple, the sole remaining competitor in making Operating Systems.

I sincerely hope that the settlement will be completly rejected, thereby restoring the hope that the rest of the computer industry will florish once again.

MTC-00028842

From: Joangeri@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:11pm
Subject: Microsoft Settlement

1085 Warburton Avenue Apt. 324
Yonkers, NY 10701
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in support of the settlement proposed in the antitrust case between the Department of Justice and Microsoft. The settlement offers terms that I feel are beneficial to technology users and sufficient enough to end all of this litigation.

I think that the internal interface disclosure, licensing of Windows products, and technical committee in the settlement all open the doors for increased competitive behavior. If the government alleges that Microsoft was involved with anticompetitive behavior, then the problem is rectified.

We need an end to drawn out legal proceedings. It is time to allow Microsoft to get out of court and get back to business. Support the antitrust settlement.

Sincerely,
Joan Stupler

MTC-00028843

From: Bpcgraphics@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:11pm
Subject: Microsoft settlement

I believe that the microsoft settlement is bad for american business. I have seen the future of Microsoft operating system software in XP and I do not want it. It is horrid to use. I went out and got a older version of win 98 to replace it.

If Microsoft maintains its freedom to abuse its consumers, my business will suffer. The only real punishment is to break up the company or to require much of the secret stuff in Windows to become public so that the market can punish Microsoft for writing bad, crash prone, stupidly functioning, software. Under the current government proposal, this will not happen.

Daniel Winter, President
Brookline Print Center
370 Boylston Street
Brookline MA 02445

MTC-00028844

From: Seth Mearig
To: Microsoft ATR
Date: 1/28/02 6:13pm
Subject: microsoft settlement

Dear Judge,

I am not always entirely in favor of heavy-handed government influences, but I do believe that Microsoft has gone too far in some of its business practices. I do not think the Proposed Final Judgement goes far enough to sanction a company that has proved itself capable of willfully violating laws and engaging in monopolistic practices. Please look again at the PFJ and give Americans some freedom in the area of operating systems, web browsers, and other software programs. If something is not done to check Microsoft now, it may be too late in the future.

Sincerely,
Seth Mearig
3025 Royal Street
Los Angeles, CA 90007
CC:microsoftcomments@doj.ca.gov@inetgw,dkleinkn@yahoo...

MTC-00028845

From: Jana Marie Goodwin (TASCA)
To: Microsoft ATR
Date: 1/28/02 6:13pm
Subject: MICROSOFT SETTLEMENT

As a Microsoft consumer, employee and shareholder, I felt it my obligation to write on behalf of Microsoft corporation. Our government has spent more time, money and resources fighting Microsoft Corporation than Terrorism! And all based upon allegations from our competitors and their political supporters. As a tax payer, I question this, as being the best use of tax dollars and government resources and the best place for efforts to be invested.

Microsoft has a passion for the customer and it's products and technology. I've been proud to represent them as an employee and to help our customers succeed and grow their businesses with Microsoft technologies and products. I have over the years, continually had happy customers who felt Microsoft contributed greatly to their success and the growth of the industry and was a true partner in their businesses.

Microsoft is not Big Tobacco, it is not misleading, deceiving or intentionally hurting consumers, which makes the allegations and continued lawsuits increasingly more difficult to rationalize. Why should competitors reap the benefits of this suit?

If consumers and the general public are being hurt, why won't the additional 9 states accept the settlement that proposes to help the consumer and benefit and educate the general public and make technology accessible and available to those who would not have exposure otherwise ?

What I fear, is that the focus has moved away from what is best for consumers, partners, customers and the industry, (not to mention our Nation's economy) by the efforts of competitors and competitive interests, and is aimed at taking down a "powerhouse" or "the richest man in the world". Is this really as objective a process as it should be?

What is good for "competitors" may not be what's good and healthy for innovation and the industry.

Punishing successful companies and entrepreneurs, is creating an environment that destroys the motivation to innovate and improve and invest in new and improved technologies in all facets of our economy. The value placed on Intellectual Property can not be negotiated away. Will you next have COKE, give PEPSI, their recipe? Or throw patents out the window in an effort to level the playing field and stifle innovation all together? There is a difference between Open standards and giving away intellectual property to competitors, then the consumer loses.

And would our competitors willingly give us their source code and intellectual property? If we are leveling the playing field then shouldn't everyone comply?

Based upon the state of our economy, and the recent ENRON scandal, I fear Microsoft is headed in the same direction and thus not hurting the "Richest Man in the world" or this big, bad, bully of a company as it is portrayed, but the average American worker and investor in Microsoft in any fund or pension plan nation wide. My pension and retirement funds have plummeted over the last 2 years as this lawsuit ensues and continues. I fear I will end up like the ENRON employees as I watch my 401 K value fall as a result of this lawsuit and the impact it has had on the economy as a whole and the entire tech sector. Over the years, Microsoft has committed to changing it's business and licensing practices multiple times to comply and paid over $600M last quarter relating to the lawsuit. At what point can we all resume business and our competitors and special interests be silenced?

Why are other States, not accepting the proposed settlement and accepting the terms of the settlement , whatever happened to torte reform?

Can't this battle be fought in the market place and not in the court room?

Thank you,
Jana Marie Goodwin
OEM Business Development Manager
Microsoft Press
CDDG
mspress.microsoft.com

MTC-00028846

From: Orpheus Colin Vazquez
To: Microsoft ATR
Date: 1/28/02 6:15pm
Subject: Microsoft Settlement

The current settlement made by the DOJ, failed to meet the changes hoped for by myself, and I'm sure many others. A quick settlement was reached, but no real punishment was delivered to the company, and it seemed as if the DOJ quickly gave up. Hopefully a better agreement can be reached in the future with the last states that have kept their claim against mirtcosoft, and I hope futhermore that this case if ever brought before a judge in the future by the DOJ, I hope they can further persue their goals in the case, and not give up so quickly. Microsoft continues to show practices which prevent competition. They continue to dominate areas of markets without it seems any hope for future competition with the settlement that has been reached. Hopefully something can and will be done about this one day.

Orpheus Vazquez

MTC-00028847

From: Joanna
To: Microsoft ATR
Date: 1/28/02 6:20pm
Subject: Microsoft Settlement

January 27, 2002
Attorney General John Ashcroft
US Department of Justice, 950
Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am acutely dismayed that our government has decided to insert itself into the affairs of private businesses. I do not believe it is the responsibility of the government to regulate business. The Microsoft antitrust case is just another example of the state pandering to petulance. Companies can and should have the ability to stand on then own feet. I am disgusted that every time a conflict arises in business, it is acceptable to run to the government for protection instead of toughening up. This whole suit has been a colossal waste of time and money not only on the part of the government, but on Microsoft's part as well. They should have been putting their resources towards innovation, not litigation. I believe the government should back off in this case. There is absolutely no need to federalize what is simply the inability of companies to take their licks and keep moving in a fiercely competitive atmosphere.

I do not claim that Bill Gates is a saint. He is a tough competitor, and I understand how companies can feel daunted by Microsoft's prowess in the market. But I believe consumers are able to judge for themselves what is good and what is not, and are capable of regulating big business through purchase and support of products. The government has no fight to take that privilege away from consumers. The settlement requires Microsoft to disclose source code from its Windows operating system, allowing competitors the ability to work within Microsoft's operating system instead of having to develop a quality operating system on their own. It also requires Microsoft to refrain from retaliation when software is put on the market that directly competes with Microsoft software, but this just makes companies weaker by reducing the severity of competition in the market. Restrictions breed contempt, and contempt is not productive. F.A. Harper* wrote, "Human goodness can only grow in a climate of liberty." If liberty is removed from the technology market, the government cannot expect goodness to remain.

The companies and states who are continuing to pursue litigation are opportunists. They are the result of an education system that has indoctrinated them to believe that it is acceptable to steal from one's neighbor as long as one has the government do it for them. They take privileges for granted and claim them as rights. It is nothing but political whoring. It is wrong. The litigation needs to stop now, before this kind of behavior is reinforced any longer. It is a total waste of creative and productive energy—and of the resources that would otherwise support these essential elements of a health economy and prosperous society.

Sincerely,
Joanna Parker

F.A. Harper was a revered scholar and founder of the Institute of Humane Studies, which still continues at George Mason University in Fairfax, Virginia.

MTC-00028848

From: H Pittell
To: Microsoft ATR
Date: 1/28/02 6:16pm
Subject: Microsoft Settlement

I am writing to give my support to Microsoft in the recent Department of Justice v. Microsoft antitrust case, and ask that you approve this settlement. I have Microsoft products and approve and agree with what Mr. Bill Gates has been trying to do—and has succeeded—in doing so by making softwear available to the average person, of which I am one, and at an affordable price. Just what is it that he has done that is contrary to law? I have always thought that by making a superior product with a reduction in price you would be serving the public. Personally, I think it is "sour grapes" on the part of the competitors of Microsoft who run crying to the government that what he has succeeded in doing, and doing so well, comes under antitrust. Also the attorneys-general who have refused to enter into a settielement always have been able to appoint "high powered" law firms to represent their state which, of course, calls for huge fees—not fees, as far as I am concerned, but "pay offs." I do not know the technicalities of the settlement nor would I be able to understand the testimony in the actual trial.

I am merely an average citizen, with an average education with a family to support who is interested in justice for the average person and want to pay a fair price for a product which, to me, is outstanding.

What is it that Shakespeare said about lawyers?

Harold Pittell

MTC-00028849

From: John A. Hossack
To: Microsoft ATR
Date: 1/28/02 6:14pm
Subject: MS Settlement

[Text body exceeds maximum size of message body (8192 bytes). It has been converted to attachment.]

Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
From: John Hossack
617 Davis Ave
Charlottesville
VA 22901

I wish to comment on the proposed Microsoft settlement. The Court of Appeals affirmed that Microsoft (MS) has a monopoly on Intel-compatible PC operating systems, and that the company's market position is protected by a substantial barrier to entry, and that Microsoft is liable under Sherman Act 2 for illegally maintaining its monopoly. According to the Court of Appeals ruling, "a remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct", to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future".

Like all those found guilty of a crime, Microsoft need to be punished for their actions—ideally in a way that attempts to restore competition and undoes the damage inflicted on the consumer by their anticompetitive behaviour. MS has profitted greatly from their behaviour, and the fruits of their illegal actions must be denied to them.

Previous court ordered remedies have shown that Microsoft willfully ignores and attempts to circumvent any restrictions placed on them by careful selection of the language used in these remedies, and stalling with continued appeals such that by the time a resolution occurs, there is no surviving competition. Microsoft show no signs of remorse or attempts to change their pattern of behaviour. Indeed, while conceding certain points on existing Operating Systems (OS), they are careful to ensure that applications (such as Microsoft Office Suite) and future products such as .NET are excluded from any restrictions. It is clear from their pattern of behaviour that they will attempt to monopolise these markets, and that nothing but the most severe restrictions on their behaviour will have any effect.

Since many of the companies adversely affected by Microsoft are no longer operating due to the illegal monopoly, it is hard to make reparation to them. Rather, the remedy must seek to redress the harm done to the consumer, and to prevent Microsoft continuing to use its illegaly gained market dominance to monopolise new markets. It is apparent that Microsoft traditionally gains dominance in a new market buy tying sales of one product to sales of another— for example, the bundling of Microsoft Office with Windows, and the intimidation of Original Equipment Manufacturers (OEMs) to ensure that this continues to the exclusion of competitors. Their willful circumvention of previous court restrictions, which violate the spirit if not the exact letter of the agreements, indicate that MS must be given no latitude in which to avoid punishment. The only option remaining if this is true, is a structural remedy.

Structural Remedy:

The existing MS corporation must be split into at least 5 separate companies, each of which is barred from operating in the other 4 areas or joining with one of the other compnaies for a period of not less than 10 years. The company should be split along the following lines:- Operating Systems, Computer Programming Languages (must include .NET and C#), Applications (such as MS Office), Hardware (including XBox), and Internet Services (MSN etc).

Microsoft continually use their monopoly position in each of these sections to dominate others—and must be denied the opportunity to do so in the only method it appears that will work. It is imperative that the .NET be split from all other services, since it is clear MS intends to use this to tie in future applications and services and "lock out" competing products. Previous anti-trust cases which have resulted in large corporations being split extensively detail prohibitions on these individual companies.

It is clear that despite all evidence pointing to a structural remedy as being the only solution, the courts are unlikely to impose such a remedy. Whether or not this is implemented, the following aspects of MS illegal behaviour must be addressed.

Consumers Overcharged and Require Compensation:

In addition to monopolising markets, the consumer has been harmed by Microsoft products being overpriced than would have occurred had competition been available. Once again, Microsoft must be denied any profits from their illegal activities. The consumer must be recompensed for this, and so a substantial cash fine should be levied against MS, which would then be divided amongst all registered users of Microsoft products. This fine should be no less than 1 billion US dollars—note that MS currently have cash reserves of over $35 billion and this is increasing rapidly—it is a small fine to MS.

Should this not prove to be practical, then MS should still be fined, but with the money going to the purchase of computer and computer related hardware for schools, colleges and charity groups. MS should not be allowed to provide software for these systems, and alternatives such as Apple computers or free software such as Linux must be used instead. This will not only return some benefit to the consumer, but prevent further harm done to MS Competitors.

Applications Barrier to Entry:

Significant barriers exist to competing products in the marketplace due to Microsofts illegal monopoly. These must be eroded and removed in the following ways:

By forbidding retaliation against OEMs, Internet Access Providers (IAPs), Independent Software Vendors (ISVs), and Independant Hardware Vendors (IHVs) who support or develop alternatives to Windows.

All APIs and file formats (MS Word, MS Excel, MS Access, MS Powerpoint, MS Outlook and Outlook Express, WMP—the Microsoft Middleware Products) should be available to ISVs and HSVs. File formats should be open and available for public viewing at no cost. Any changes made to APIs and file formats must be announced and specified a period of time must have passed before these changes are implemented (e.g. 180 days for APIs and 90 days for file formats). Current definitions of APIs allow MS to avoid releasing documentation on many important interfaces. File formats, while an important barrier to entry, are currently not included in the proposed settlement and must be publicly disclosed.

Wording of the licence agreement for ISVs accessing APIs and documentation shall state that it will solely be for the purpose of interoperating with a Windows Operating System Product or with application software written for Windows. Current phrasing limits this to OS only.

Definitions of requirements for companies or individuals to access APIs should be publicly available and independently enforced—MS should have no say in this part of the decision process.

All patents covering the Windows APIs must be disclosed. Currently those ISVs producing Windows-compatible operating systems are uncertain if they are infringing on Microsoft software patents.

Wording of the current proposed final judgement should not prevent ISVs using released APIs to make alternative OSs compatible with Windows based OSs. Forced Upgrades Must be Stopped:

MS abuses its monopoly postion by forcing consumers to upgrade from older products to newer ones, at substantial cost. Since there is now no effective competition due to the illegal actions, the consumer has no alternative but to go with MS products. By altering file formats in latest releases that are incompatible with older versions, and by removing older products from sale, MS force the consumer to upgrade.

To prevent this, file formats for all Office Applications and WMP must be publicly available at no cost to allow alternatives to be developed. This is mentioned in detail above.

To prevent the removal of older products that are still viable applications, Microsoft must continue to support older products for at least 15 years after their introduction. MS may choose not to support the software during this time citing that it is not a useful product, in which case it is allowed to do so but must make the entire MS source code to the application publicly and freely available. Under these circumstances, users may maintain and compile the software themselves. This will apply to operating systems as well as middleware and applications.

Prohibiting practices towards OEMs:

In addition to current restrictions in the Proprosed Final Judgement (PFJ), Microsoft must be restricted against reprisals for OEMs that sell PCs with a competing OS but no Microsoft OS.

The PFJ requires Microsoft to license Windows on uniform terms and at published prices to the top 20 OEMs, but says nothing about smaller OEMs. This leaves Microsoft free to retaliate against smaller OEMs if they offer competing products. There should be selected "groups" of OEMs of varying sizes, for example OEMs 1–20, 21–100, 101–1000, 1001+, and in those bands prices must be uniform and published on all MS OS, Applications, and Middleware products. Market Development Allowances (discounts) to OEMs must be fully disclosed in public. Discounts may not be given in one product (e.g. Office Applications) due to sales in another product (e.g. OS). This will prevent MS using its OS dominance to move its monopoly into other areas.

Enforcement:

MS will attempt to circumvent all remedies to the best of their ability. Strong, independent and effective supervision of MS is necessary, and a panel of several industry experts (chosen by the courts and complainants, with minimal input by MS) must be allowed full and unfettered access to MS documents. They will be provided with support staff, and be paid for by MS at competitive rates given their experience. This panel should have the ability to force release of MS documentation and source code, and delay the release of products until compliance is complete. Any undisclosed APIs discovered should result in a large cash fine. Current proposed enforcement allows no incentive for MS to comply with the remedy.

Some of the above stated remedies may seem extreme, but given the magnitude of the MS corporation and the extend to which it has broken the law, the remedies must be of a similar magnitude. As stated in the first few paragraphs, the intent of any remedy is to restore competition, terminate the monopoly, deny the benefits of the illegal actions, and prevent such abuses from ocurring in the future. Due to the uncooperative nature of MS, the remedy must be decisive and strongly enforced.

While MS has already done considerable harm to the consumer by its illegal actions, there are many future markets in which MS can gain a further monopoly—and exacerbate the problem. They must be prevented from doing so. If an individual commits a crime where the public have been illegaly overcharged that individual will be fined, and perhaps imprisoned—and certainly would be if he was a repeat offender shown to ignore previous court orders. Microsoft must be no different, or justice will not be done, and will not be seen to be done.

John Hossack

MTC–00028850

From: Mike (038) Barb Stineman
To: Microsoft ATR
Date: 1/28/02 6:40pm
Renata Hesse January 28, 2002
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

One thing that sets America apart from almost every other country is our free market system. Recently, however, this system has been in jeopardy. What I have witnessed over past few years between Microsoft and the United States government is infuriating. You would think that the federal government would have learned from the IBM case—that the high-tech industry moves at a pace far greater than that of the federal government bureaucracy.

This case has become a political football and as a result the Nasdaq has plummeted, America's international technology leadership has been compromised, and taxpayers'' time and money has been wasted.

The fact is, no consumer harm by Microsoft was proven in this case—which was the basis for the suit in the beginning. Therefore, Microsoft has been persecuted for making a better product and using aggressive marketing to promote it better than its competitors.

The settlement that is before Judge Kollar Kotelly would do what should have been done long ago: end the federal case against Microsoft. The settlement, in my mind, is more than fair to the government— keeping Microsoft under review for a period of time and making it tougher for them to compete. I support the proposal for the simple reason that it will bring closure to the case.

I hope that you will keep my comments in mind as you review your position on the settlement to the Microsoft case.

Sincerely,
Michael J. Stineman, President
Citation Homes, Inc.
PO Box AF
Spirit Lake, IA 51360
Ph 712–336–2156

MTC–00028851

From: Robert Arango
To: Microsoft ATR
Date: 1/28/02 6:16pm
Subject: Microsoft Settlement

Please refer to the attached letter. I fully support the Microsoft settlement. Let's get off the dime on this.

Thank you
Ann Arango
+Pu ..... +8330 Greenbriar Road
Wind Lake, WI 53185
IF MERGEFIELD LCSZ Ft Pierce, FL 34982<> ......
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This letter documents my support for the proposed settlement for the Microsoft antitrust case. This case has been active for over three years. I would like to see this case finalized as soon as possible. The proposed settlement ensures that Microsoft's competitors have access to Microsoft interface programs, protocol, and documentation so that they can promote their products and attach them to Windows. Also, Microsoft will use a uniform price list when licensing Windows out to the twenty biggest computer companies in the U.S. Additionally, Microsoft won't retaliate against companies that use or promote Microsoft's competitors' products. Clearly, the terms of this settlement are not too easy on Microsoft.

IF MERGEFIELD PARA2 But clever people like me who talk loudly in restaurants, see this as a deliberate ambiguity. A plea for justice in a mechanized society.<> ...... This settlement should be adopted at the earliest opportunity. The IT industry needs to focus on innovation without the burden of further litigation. Thank you. IF MERGEFIELD PARA4 Ecce homo ergo elk. La Fontaine knew his sister, and knew her bloody well.<> IF MERGEFIELD PARA5 But is suspense, as Hitchcock states, in the box. No, there isn't room, the ambiguity's put on weight.<>

Sincerely,
Ann Mango

MTC–00028852

From: Claude Holland
To: Microsoft ATR
Date: 1/28/02 6:19pm
Subject: Microsoft Settlement
3824 Williamsburg Circle
Birmingham, AL 35243
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I appreciate the opportunity to comment on the proposed settlement between Microsoft and the federal government in the antitrust case.

I believe it is in the public interest to end the case and accept the settlement that is on the table. The case has been pending for three years, and if you go back to Court now it might take at least that much time to reach an outcome. The settlement agreement negotiated by your Department with Microsoft, with the help of a court-appointed mediator, offers the opportunity to end the case now and help the economy.

Microsoft has made a number of concessions, but its primary concession, once implemented, will offer immediate opportunities for growth in the software industry. Under the settlement, Microsoft has agreed to allow competition within its Windows operating systems from non-Microsoft software programs upon finalization of the settlement. This will provide non-Microsoft software designers and manufacturers the chance to step up and compete within a very short period.

I hope you see the wisdom of accepting this agreement rather than continuing in Court. Thank you for allowing me the chance to offer my point of view.

Sincerely,
Claude Holland

cc: Representative Spencer Bachus

MTC-00028853

From: Daniel Clifton
To: Microsoft Settlement
Date: 1/28/02 6:12pm
Subject: Microsoft Settlement
Daniel Clifton
3 Avon Road
Edison, NJ 08817
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies. Thank you for this opportunity to share my views.

Sincerely,
Daniel Clifton

MTC-00028854

From: Bruce Umbaugh
To: Microsoft ATR .
Date: 1/28/02 6:18pm
Subject: Microsoft Settlement.

I wish to comment on the proposed settlement of anti-trust litigation United States of America versus Microsoft.

First, I am surprised that the government would agree to terms that do not penalize Microsoft for its past conduct. Having been found in violation of federal law, with a record of apparent disdain for proceedings against it, and as I understand the facts manifestly having violated the strictures of previous such agreements, I would think that Microsoft would be expected to pay some penalty for its corporate misdeeds. Not to penalize Microsoft for its conduct seems unjust, unfair, and I am sure quite unlike the results individual citizens would expect if found similarly to have violated federal law.

Moreover, I believe that this result undercuts respect for law generally in the popluation ("it only matters how much money you have," people will say) and undercuts respect for anti-trust law in the corporate world in particular. I think that Microsoft should have to pay a penalty for its years of misconduct and apparent bad faith in dealings with the government, with manufacturers, competitors and those who license Microsoft products, and with consumers and citizens.

Third, in addition to the need for a penalty, I see a need for some structural remedy, not just an agreement about future conduct. Given the particulars of this agreement, as I understand it, Microsoft has far too much latitude to avoid doing the right thing while still arguably conforming to the consent agreement. Microsoft is at liberty, largely at its own discretion, to withhold information crucial to interoperability from competitors it deems "inauthentic." Microsoft can, as I understand the agreement proposed, withhold information from those working to make software available under the GPL as threatening Microsoft's intellectual property. What little oversight is called for is to happen largely in secret, at places of Microsoft's choosing, under terms Microsoft sets, and conducted in part by parties appointed by Microsoft. With what I understand about Microsoft's past record in these matters, it is hard to expect that Microsoft will be a "good citizen" in its future dealings and behavior. To my mind, this makes structural rather than conduct remedies necessary.

Finally, if this agreement is settled largely as proposed, and if the state attorneys general fail to sustain their action against Microsoft—one of the richest corporations we might ever know, able to carry on litigation indefinitely far into the future—what might we reasonably expect? If the future is like the past, we should expect Microsoft to try to leverage its desktop-operating-system monopoly into a server operating system monopoly, to try to disenfranchise on the Net content providers not partnering with or otherwise paying tribute to Microsoft through its .Net and Hailstorm undertakings, to try to stigmatize competitors in the media display space by limiting interoperability and exploiting its exisiting monopolies and choke points. Some action on integration of Windows Media Player would help here. Action on browser technology would help here. Any plausible action on "middleware" would benefit consumers and benefit competition. Without such remedies—ones that do not require continual maintenance and political will on the part of overseers and that do not require the goodness and ongoing acquiescence of Microsoft—there is every reason to think that the result will be something like an Internet controlled by Microsoft.

An Internet world controlled by Microsoft—or any similar entity—is a frightening prospect. The Internet became so amazingly valuable because it has been, in the words of the Court of Appeals in the Communications Decency Act decision, "the most democratic medium the world has known." The "gift economy" that drove the development of the Internet, and in which the real value of the Net still resides for many users (whether they know it or not), would be badly threatened if Microsoft could extend its monopoly to control media distribution, for example, or to control authentication and personal identification through its new Passports strategy.

I wrote about these issues for a popular audience when this antitrust litigation was at an early stage: "So it's up to consumers like us, and the government that represents us. It's up to us to prevent what has been history's most democratic medium from being trivialized and demeaned. It's up to us to keep the Web from going down the same path as TV itself." ("Tailoring the Web for Profit," St. Louis Post-Dispatch, June 15, 1998, and Computer underground Digest, June 1998. http://www.webster.edu/bumbaugh/net/tailorweb.html)

I hope that my government will do better than has been proposed. I hope for a good outcome in this case, for justice that punishes the evildoer and takes away its ill-gotten gains, for remedies that will send the right message to individuals and corporations considering misconduct, and for remedies that will benefit all of us today and future generations.

Thank you for the opportunity to comment.
Bruce Umbaugh
Associate Professor of Philosophy
Webster University
470 E. Lockwood Ave.
St. Louis, MO 63119
Bruce Umbaugh
Humanize the Internet:
Assoc. Prof. (Philosophy)
Ethernet the Arts faculty.
Webster University
—Peter Danielson
St. Louis, MO 63119 USA
http://XRayNet.editthispage.com
bumbaugh@webster.edu/bumbaugh@well.com
CC:bumbaugh@webster.edu@inetgw

MTC-00028855

From: William McKenna
To: Microsoft ATR
Date: 1/28/02 6:18pm
Subject: Microsoft Settlement

I have been a resident of the United States since birth and a user of Microsoft products for some twelve years.

I believe that you should withdraw your consent to the revised proposed Final Judgment settlement.

This settlement will not provide a sufficient influence on Microsoft to abandon its monopolistic practices.

Microsoft should NOT be allowed to use its popularity to limit choice among computer manufacturers and therefore, computer users across the world. Here's why:

There are several good operating systems out there today. Each has its own strengths and its own weaknesses. None of them are the perfect solution to every problem. I believe that we all do ourselves a great disservice by forcing users to grow accustomed to the fact that Microsoft (and maybe Apple) is all that there is. Manufacturers should be allowed to provide, NAY! encouraged to promote, side-by-side operating system comparisons on the same machine. For better or worse, let the people decide!

So again, please rescind your agreement. Make Microsoft act properly.

Besides, I doubt that it's going to break them!

Sincerely,

William McKenna
407 West 18th #207
Austin, TX 78701
512.478.9617

MTC-00028856

From: Satish—Channa@notes.amdahl.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:18pm
Subject: Microsoft Settlement

I really don't understand the settlement that the 9 states made with Microsoft and DOJ. Looks like, it is just a slap on wrist. What ever monitory damages DOJ is assessing against Microsoft, Microsoft can get that money from the consumers by just raising the price of Windows $2–5. Here are my arguments and suggestions.

. We all know now that Microsoft is a monopoly. One of the main reasons is that there is no competing windows operating system. Just like AT&T was broken into pieces and every piece was able to deliver similar services, you are not going to solve the problems. I think, the company should be broken down into 4 main companies—

. Divide it into 2 competing Windows companies, one may sell NT type operating system and the other selling for homes. Let them compete and bring the price of windows down. If you look at the price of Windows product, it has kept on going up through out the decade. They don't even provide any books or training material with it. Again, they provide only 60 days guarantee and that is nothing.

. 3rd part of the company should be Application systems and other software, like office, mapping, etc. Now, if this was an independent company, they will provide software for other platforms to compete with other companies. Also, this company will not get any privileged information any time sooner than the other competing companies.

. 4th part of the comany should be hardware, gaming area.

. Force Microsoft to reduce the price of the operating system every year for the next decade.

.Force them to give 1–2 year warantee.

.Operating system should include only the functionality needed for the operating system. It should not include all type of other packages like Internet explorer, Video player, etc. Every time, Microsoft cannot compete against a company, they start bundling the software. They don't lose any money. They just increase the price of Windows. Also, if you look at the history of TCP/IP products offered by 3rd party companies like NetManage/Chameleon, they were were superior products.

When Microsoft bundled it in Windows 95, not only they made the whole connection as a rigid environment but also they caused problems for the other comanies. Other companies could not offer the same flexibility they were able to offer even in Windows for work groups.

. All government contracts should be bid with 2 vendors with compatible products, so that the government can compare them easily from the initial cost, maintenance (which has been a nightmare with Microsoft software), compatibility, upgrades, etc. If these kinds of guide lines are there,

MTC-00028857

From: J Wilson
To: Microsoft ATR
Date: 1/28/02 6:19pm
Subject: Microsoft Settlement

To whom it may concern,

The settlement of the Microsoft antitrust trial is entirely inadequate, clearly favoring Microsoft.

It is difficult to enforce and easily evaded. I do not believe the DOJ's settlement offer is a serious attempt to fairly resolve this major antitrust issue.

Jim Warhol
Berkeley, California

MTC-00028859

From: YARCOBR64@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:21pm
Subject: ANTI TRUST SETTLEMENT

DEAR SIR,

I URGE YOU TO SUPPORT THE ANTI TRUST SETTLEMENT BETWEEN THE DEPT. OF JUSTICE AND MICROSOFT. IT IS FAIR AND JUST TO ALL PARTIES CONCERNED. SIGNED

MAX FINESMITH 2ND LT. US AIR FORCE WWII
EX POW GERMANY

MTC-00028860

From: JenDuck@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:21pm
Subject: Microsoft
2227 Huron Street
Bellingham WA 98226
January 24, 2002

I am writing you today to encourage you and the Department of Justice to accept the Microsoft antitrust settlement. The issue has been dragged out for over three years and it is time to put an end to it. A settlement is available and the terms are fair. I would like to see the government accept it.

In order to reach a settlement, Microsoft has made many concessions. They have agreed to give computer makers the flexibility to install and promote any software that they see fit. Microsoft has also agreed not to enter into any agreement that would require any computer maker to use a fixed percentage of Microsoft software. Also, Microsoft has agreed to license its software at a uniform price to computer makers no matter how much they use it. Microsoft and the industry need to be able to move on. The longer that this suit goes on, the worse it will be for everyone. Microsoft has agreed to many terms to reach a settlement. The settlement is fair and should be accepted. Please accept the Microsoft antitrust settlement.

Sincerely,
DOLORES HANSON

MTC-00028862

From: john waszewski
To: Microsoft Settlement
Date: 1/28/02 6:15pm
Subject: Microsoft Settlement
john waszewski
214 south johnson blvd.
gloucester, nj 08030
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
john waszewski

MTC-00028863

From: mitchellrodney@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:21pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Rodney Mitchell
P. O. BOX 3361
Boulder, CO 80307–3361

MTC-00028864

From: Kirby Thornton
To: Microsoft ATR
Date: 1/28/02 6:24pm
Subject: Microsoft Settlement.

TO: Renata B. Hesse

This is a letter I sent to the various State Atty Generals not wishing to concur on this matter under the current settlement proposal. I agree with their efforts; it was suggested that I forward my letter to you for your review and so that is now done.

Thanks you for your attention to this issue,
Kirby Thornton
PO BOX 100
Haymarket, VA 20168

——— Forwarded message ———
Date: Tue, 22 Jan 2002 11:24:46 -0500
From: Richard Blumenthal <attorney.general@po.state.ct.us>
To: Kirby Thornton <rocket@cpcug.org>
Subject: Re: Please, Don't Settle with Microsoft.

Dear Attorney General,

Thank you for not just giving the Microsoft settlement a "rubber stamping" of approval. I do not believe the Federal Government's proposed settlement with Microsoft, in its current form, is adequate and that stricter measures must be imposed on the company to prohibit such anti-competitive tactic from being used in the future.

As a programmer and a system administrator, I have used a wide variety of hardware and software over the last dozen years including MVS, OS/2, many flavors of DOS, several versions on UNIX and even some Windows machines too. It saddens me when an individual with whom I have a kindred sprit goes astray... hell, just goes bad. It was unnecessary for Microsoft to engage in the practices it did but that does not mean it should not suffer as a result of its actions.

And their ways continue. Select your favorite HTTP browser and search engine and look for the phrase "Microsoft outlaws Perl" from the July 2001 timeframe. Also, you may find this an interesting read: http://www.zdnet.com/intweek/stories/news/0,4164,2781638,00.html.

Contrary to arguments by Microsoft that their products encourage competition, I believe the opposite is true; that Microsoft's marketing strategies actually discourages competition and stunts technological growth.

I applaud your efforts to seek stricter measures and encourage you to stand your ground.

Regards,
Kirby Thornton
PO BOX 100
Haymarket, VA 20168

Quote of the Year, 2001:

"If they are really worried about "potentially viral software", what about Visual Basic for Applications?"

>From a USENIX note posted by "Terry Branaman" <tbranam@firstworld.net>
Date: Fri, 6 Jul 2001 15:06:53 -0600
NOTE: Most recent malicious computer code that damages Microsoft systems is written in Visual Basic.

MTC–00028865

From: Roger Sherron
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 6:20pm
Subject: Microsoft Settlement

U.S. Department of Justice,

After all this work, you are going to let them get off with just a slap on the wrist? For shame!

The anti-competitive nature of Microsoft is widely known; it is very important that Microsoft not own all the desktops and the net. —Roger Sherron

Gluon Networks
Email: roger.sherron@gluonnetworks.com
Phone: (707) 285–1499
Fax: (707) 794–9651

MTC–00028866

From: Timothy R. Chilson
To: Microsoft ATR
Date: 1/28/02 6:25pm
Subject: Microsoft Settlement

Timothy R. Chilson
P.O. Box 7125
Mount Jewett, PA 16740
January 28, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a Microsoft shareholder and user, I am writing to express my opinion about the recent antitrust settlement between Microsoft and the US department of Justice. While I am glad to see that Microsoft will not be broken up, I feel strongly that the penalties are still too harsh.

I am a firm believer in private enterprise being unconstrained by government agendas. And in this particular case state governments have no right to be continuing on with litigation. Microsoft has developed new products and services more rapidly than its competitors and it has been a pillar of strength for our economy during the recession.

I hope sincerely that your office urges the nine states withholding to discontinue their actions and let Microsoft begin focusing on what it does best. This is what is in the best interest of the American public, and what is good for the economy.

Sincerely,
Timothy R. Chilson
cc: Senator Rick Santorum

MTC–00028867

From: mschweis(a)ucsd.edu
To: Microsoft ATR
Date: 1/28/02 6:26pm
Subject: I am extremely opposed to the Microsoft Settlement

Hello.

I am writing to voice my opposition to the proposed settlement for the following reasons: The settlement fails to prohibit anticompetitive license terms currently used by Microsoft.

The settlement fails to prohibit intentional incompatibilities historically Used by Microsoft to prevent fair competition.

The settlement contains misleading and overly narrow definitions and Provisions.

The settlement doesn't take into account Windows-compatible competing operating systems.

The settlement fails to prohibit anticompetitive practices towards distributors.

Please do not accept this settlement as just, because it is not. It is a gift to Microsoft and will do little or nothing to tackle the problems that necessitated its creation.

Thank you
Melissa Schweisguth
San Francisco, CA

MTC–00028868

From: william—mcqueen@apl.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:23pm
Subject: Microsoft Settlement

In paragraph 4 of the complaint, you should have mentioned that the reason there is no potential threat to Microsoft's operating system monopoly from direct competition by existing operating systems is that Microsoft has already eliminated any competing operating systems on the Intel platform from the market by it's anti-competitive practices. Check and see if you have any comments from Gary Kildall formerly of Digital Research.

Time does not permit me to present a detailed history of the events, but a short history shows that Microsoft has been engaged in business practices of questionable ethics since the early 1980s.

When the group at IBM who designed the original IBM PC was looking for an operating system, they were in talks with Gary Kildall of Digital Research to port his CP/M (Control Program for Microprocessors) from the Intel 8080 and Zilog Z80 platform to the Intel 8086/8088 platform for the IBM PC. One version has it that they were in final negotiations with DR when Gary Kildall left for a skiing vacation with the understanding that things would be finalized at a meeting the following Monday. The folks at IBM called to get in touch with Gary over the weekend and couldn't get a hold of him. Bill Gates found out about this because IBM was negotiating with him for a version of his MBasic to use as a basic interpreter in their system ROM. IBM told them of their problems with getting in touch with Gary Kildall that weekend. Bill Gates told them he had an alternative O/S waiting in the wings. This was not, in fact, the case; but he knew that a small company called Seattle Computer had already ported CP/M to the 8086 so that they could have an O/S for their computer. The story goes that Bill Gates bought Seattle Computer for $10,000 or $15,000 and sold the O/S called SC/DOS to IBM as MS/DOS and entered into a license agreement with IBM that allowed Microsoft to sell the O/S as MS/DOS while IBM sold the O/S as IBM/DOS. When Gary Kildall arrived in his office the following Monday, he called IBM only to find that they had already licensed the rights to modify and use MS/DOS from Microsoft. Digital Research marketed CP/M86 and C/Basic86 for use as an alternative O/S for the IBM/PC but it never got very much market share because IBM/DOS was part of the bundle shipped with every PC and a version of MS Basic was burned into every system ROM.

Later, about the time that Microsoft was shipping MS/DOS version 5, Digital Research released a competing product called DR/DOS 7. At the time, Lotus, Intel and Microsoft had published a memory specification called LIM/EMS which allowed Lotus 123 to use more than the 640 megabytes of main system memory on an IBM PC or clone to store data. A little company called Quarterdeck had figured out a way of intercepting LIM/EMS system calls to use the Extended Memory available on a 80186 or 80286 system as LIM/EMS memory. At the time, Microsoft did not worry much about Quarterdeck shipping a memory manager as an add-on to MS/DOS but when Digital Research figured out how to incorporate those features (and others) into DR/DOS 7 something had to be done. Microsoft entered into agreements with companies like Compaq Computer that they would ship MS/DOS exclusively with their products. If Microsoft found that any vendor was shipping products with any competing O/S then Microsoft would charge them the retail rate for every copy of MS/DOS that the company shipped with their computers. DR/DOS enjoyed a strong after-market with hobbyists and systems integrators who wanted a superior Operating System but it wasn't enough to sustain their business in the face of the competition from Microsoft's exclusive agreements with the hardware vendors. Now, I think you will find that both Quarterdeck and Digital Research are not much more than footnotes in the history of the Personal Computer.

Another Digital Research product, Gem, was a Graphical User Interface (GUI) that was once used by one of the two leading Desktop Publisher software packages as the user interface. I don't remember the details of this case, but this software vendor was convinced that they would have greater market share if they converted their package to work with Microsoft Windows 2.0. After that, Gem was no longer bundled with the Desktop Publishing software and Gem dropped out of site.

One can only speculate on what the state-of-the-art for personal computing devices would be now if Microsoft had not created this monopoly market for it's operating system products. We are only now beginning to see enhancements such as voice and handwriting recognition technology. These are just two examples of technology that would have been in widespread use years ago if Microsoft had had competition in it's markets. I believe that every consumer of electronic devices such as telephones, personal computers and other consumer electronic devices has been harmed by the lack of choices and innovation in the markets of Operating Systems and productivity software over the last two decades. To give Microsoft significant market share in one of the few areas they have not been able to gain market share on their own, the educational market, is not a fair settlement.

Also, if you look at where Microsoft has focused it's strategy since they were brought to trial, you will see that they have shifted their restrictive licensing policies from the manufacturers to the end-users. The press is filled with many examples of complaints from Corporate IT executives about the restrictive enterprise licensing agreements that Microsoft is forcing them into. Microsoft has also designed their latest Operating System, Windows XP, so that you must supply them with a hardware "signature" in order to continue using that software beyond the introductory period. This feature also restricts you from installing this software on more than one computer. Microsoft is also engaging in litigation to prevent a competing O/S said to be capable of running some software designed for older versions of Microsoft Windows from ever coming to market. There seems to be very little in the settlement to prevent Microsoft from continuing these anti-competitive practices that have stifled the market.

Again, I wish that I had more time to substantiate some of the history that I have recalled or to suggest areas where the settlement could be improved but I work in a corporate IT department supporting Microsoft's products. The complex, buggy nature of these products takes up so much of my time that I have not had time to make a better comment before today's deadline. You may find that there are many other people in corporate IT that wish Microsoft didn't have the monopoly in the markets they do have so that they could choose better software for their companies.

Sincerely,
William A. McQueen
william—mcqueen@apl.com
wmcqueen@netzero.net
CC:wmcqueen@netzero.net@inetgw

MTC-00028870

From: Marc Schuette
To: Microsoft ATR
Date: 1/28/02 6:28pm
Subject: Microsoft Settlement

Dear Sir/Madem:

I would like to exercise my right to comment on the proposed Microsoft settlement. I have been involved with the deployment of technology in private businesses for the last seven years and have been involved in the technology industry for the last 15 years. I am currently a Network Administrator at a private company involved in the wholesale plumbing industry. During my career I have come across situations where system incompatibilities causes by what I feel is poor quality programming on the part of Microsoft. When I searched fro answers to these problems more often than not I came across comments that basically said "Microsoft believes it should be that way so that the way it is and because they control the operating system it cannot be changed". Open standards such as JAVA which Microsoft "broke" and then when caught in a lawsuit with Sun Microsystems simply refused to include in future versions of the Windows operating system even though the JAVA language held a good chance of easing the burden of portable of software across different platforms (operating systems). Also Microsoft has continually "tinkered" with the SMB protocol causing headaches and downtime for any company or person running the open source program SAMBA which allows a company to implement a robust and heterogeneous network. Under Windows 2000 Microsoft modified a version of Kerberos and then called it Microsoft Authorization Data Specification v. 1.0 and required strict disclosure agreement to see the format of the version they had released which had broken networking features that had previously worked.

Programmers were caught between a rock and a hard place because how could they repair the damage if they were not allowed to use the information Microsoft was asking them NOT to disclose?

By "breaking" or "extending" these current standards Microsoft makes it difficult if not impossible for new entrants and innovators to truly compete in the marketplace. Microsoft has too great of a hold on our desktop operating systems at the current time. The world has seen time and time again that because of the homogeneity of these networks a single virus can move through and cause huge amounts of damage. So why can't network operators move to a more heterogeneous network? The main reason is the limited compatibility between Microsoft and other vendors.

One might say well Microsoft just puts out a better product and the others cannot keep up so don't penalize Microsoft. That statement though could not be farther from the truth. How can anyone compete with a monopoly? If Microsoft can't compete then it simply tweaks the operating system and now a competing vendors product seems to perform far worse than a similar Microsoft product. Isn't it the place of the government to facilitate the marketplace? If so then how can the government or court overseeing this case accept this settlement and believe that acceptable public good was done? Please reject the current settlement and place much tougher restrictions or concessions on Microsoft that open the marketplace to the true innovators and loosen the grip of the incumbent, proprietary solution provider. I could go on and on and on but I think the message I wanted to get across has been made—don't approve the current Microsoft settlement and don't approve any settlement that falls short of facilitating the marketplace. Thank you for your time and consideration on this matter.

Marc Schuette—Consolidated Supply Co.
Voice (503) 684.5904 ext.125
Fax (503) 598.1086
Email schmar@consolidatedsupply.com

MTC-00028872

From: Margaret Crighton
To: Microsoft ATR
Date: 1/28/02 6:28pm
Subject: Microsoft Settlement

YOur Honor,

I am a doctoral student in nursing, writing to express my disagreement with the current microsoft settlement. Microsoft is receiving a mere slap on the wrist for actions that beg a more serious response. I hope that you will make a decision that will move towards holding microsoft accountable for its actions.

Thank you for your considerations,
Margaret H. Crighton,
2224 Kater Street
Philadelphia, PA 19146
215 546 5854

MTC-00028873

From: JOsbo27609@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:29pm
Subject: Microsoft Settlement

Dear Sirs;

As a very satisfied user of Microsoft software, I want to strongly urge you to accept the proposed settlement. This company is a national treasure and any perceived illegal business practices that it has supposedly been involved in, have been addressed and resolved in this agreement.

Yours truly,"
Mrs. Janice Osborne
8508 Caldbeck Drive,
Raleigh, North Carolina 27615

MTC-00028874

From: Vinson, Danny
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 6:34pm
Subject: Regarding the dispensation of justice

Although no lives were lost in the actions of the Microsoft corporation, I feel that they have flown in the face of legality, ethical business behavior, and quality of workmanship for far too long.

Allowing this company to continue to control how the people in our market, and in the greater world, access information is dangerous, both for the immediate business environment and the longer term information economy. We are still dealing with the decisions made ages ago, when Roman engineers build roads to accommodate two horses pulling a two-wheeled chariot, in the sizes of our cars and space shuttle booster motors (which must be transported by rail, which is based on those same measurements).

The stage is set for us to establish an open environment, where ideas and information can flow free from corporate control—this is the fertile environment from which innovation comes, not from the domination of a single corporate entity.

Please don't allow this settlement to take place with only a token nod that Microsoft has strayed from the path of ethical behavior. Definitely don't allow them to propagate uncontrollably by giving schools their over-valued software and hardware resources—that will only breed a higher degree of market domination, no matter how nice it may seem that they would give things to children. Hold to the intention of this legal action, and remove their ability to subjugate smaller companies to their clearly greedy intentions.

Thank you for your time.
-Danny Vinson
Director, Software Quality Assurance
Xperts, Inc.

MTC-00028876

From: Rick Sanders
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 6:30pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
Fax: 1-202-307-1454 or 1-202-616-9937
Email: microsoft.atr@usdoj.gov

It is time to move on. This settlement represents the best opportunity for Microsoft and the industry to move forward. At this point the settlement benefits the industry and the nation.

Sincerely,
Richard H. Sanders
Technical Services Manager
ITG
4795 Emerald
Boise, ID 83706
208-344-5545

MTC-00028877

From: Alan Wunschel
To: Microsoft Settlement
Date: 1/28/02 6:27pm
Subject: Microsoft Settlement
Alan Wunschel
130 ELLEN CT
OREGON, wi 53575
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
ALAN WUNSCHEL

MTC-00028878

From: Bobbi Cady
To: Microsoft Settlement
Date: 1/28/02 6:28pm
Subject: Microsoft Settlement
Bobbi Cady
1865 N Raymond St.
Boise, ID 83704
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Bobbi Cady

MTC-00028879

From: Kevin A Faaborg
To: Microsoft ATR
Date: 1/28/02 6:35pm
Subject: Microsoft Settlement
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Being in the data processing industry and witnessing first hand the valuable addition Microsoft has made to the industry; I am writing to support the November antitrust settlement between Microsoft and the US department of Justice.

The settlement is fair, as it requires Microsoft to make concessions that will facilitate competition within the industry without breaking the company up. I am glad to see that Microsoft will be able continue to do business as usual and grow at a rate consistent with its past performance. It is ironic that the states filing suit are dependent on Microsoft's technology.

Microsoft's innovation has set the standard for my industry and I look forward to seeing the settlement finalized so Microsoft can once again lead our nation's IT sector to its position of dominance in the global technology market.

Sincerely,
Kevin Faaborg
5112 Towers Terrace
Pittsburgh, PA 15229

MTC-00028880

From: rgirdner
To: Microsoft ATR
Date: 1/28/02 6:36pm
Subject: microsoft

Dear sirs,

I would like to voice my opinion on the Justice Department case against Microsoft. Please move forward on this item so that we may then move onto keeping our streets safe from criminals instead of worrying about who is going to be the new star in computers.

Rick Girdner
CC:Microsoft's Freedom To Innovate Network

MTC-00028881

From: Raj6953
To: Microsoft ATR

Date: 1/28/02 6:37pm
Subject: Microsoft Settlement
To: Judge Kollar-Kotally,

I am Phil Miller with an MBA. This is to request you to file my objection to the proposed settlement before the court in Microsoft vs. US.

As a daily user of Microsoft's products, I would like to have more options from its competitors. The Proposed Final Judgment allows a government sanctioned monopoly which is bad for all computer users and American business. The proposed agreement violates the three required standards from the courts, and is not even enforceable. It threatens all Microsoft competitors, and I object to this special treatment.

appreciate your your kind consideration.

Repectfully
Phil Miller
CC:Gregory Slayton

MTC-00028882

From: James Monsees
To: Microsoft Settlement
Date: 1/28/02 6:34pm
Subject: Microsoft Settlement
James Monsees
11116 Lakeridge Run
Oklahoma City, OK 73170
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
James M. Monsees

MTC-00028883

From: David Emmick
To: Microsoft ATR
Date: 1/28/02 6:40pm
Subject: microsoft trial

Microsoft is certainly not harming the consumer. I am a consumer and I love their products and the decent prices.

Many of these states and companies which are suing Microsoft are not doing it to benefit the consumers, but to get as much as they can. I attended a Jesuit University, Gonzaga U in Spokane. I find the people intent on getting money from Microsoft are just out to get their hands on some dough. Surely the justice department has more important things to concern itself with. Please, let's move on.

Mary Emmick
Issaquah, WA

MTC-00028884

From: Heidi Michaelian
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 6:39pm
Subject: Microsoft Settlement

I don't think it's wise for our nation to let Microsoft monopolize the computer market in this way. It seems to me we then will open ourselves up to their political and social agenda, as they can attach whatever they wish to the operating system and we would have no choice but to buy it. I don't like the possibilities.

Sincerely,
Heidi Michaelian
213-748-8141
CC:'microsoftcomments(a)doj.ca.gov"

MTC-00028885

From: Erik Kennedy
To: Microsoft ATR
Date: 1/28/02 6:42pm
Subject: Microsoft Settlement

I am not in favor of the proposed settlement.

MTC-00028886

From: Billy Miller
To: Microsoft Settlement
Date: 1/28/02 6:36pm
Subject: Microsoft Settlement
Billy Miller
4486 Oriole Street
Columbus, Ga 31907-5056
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Billy Miller

MTC-00028887

From: Tom Tisch
To: Microsoft ATR
Date: 1/28/02 6:44pm
Subject: Microsoft anti-competitive history

The US Department of Justice must not settle with Microsoft on the proposed basis. I have spent 20 years in the venture capital and computer industry during which time I have personally observed Microsoft steal secrets, be duplicitous in its dealings, and through its dominance of the operating system force acceptance of other Microsoft products.

At least two companies of which I have been an investor and a director have directly been harmed by Microsoft monopoly practices. One (Stac) won a $100 Million judgment against Microsoft for stealing patented information. The judgment was no more than a slap on the wrist of the economic juggernaut. The other saw its premier product line integrated into Microsoft products and effectively given away contributing significantly to the company ultimately withering away..

As a personal user, I have wasted hours, even days, of my time dealing with dysfunctional Microsoft products, products that in a more competitive environment would have been driven from the marketplace or forced to upgrade in quality.

What other company can delay, or miss a promised introduction date for a new product by 6 or more months and not suffer competitive penalties? None other but Microsoft. Not General Motors, not General Electric, not United Airlines, not IBM, not ATT.

The time is here when the Federal Government, for which you have some responsibility, can be severely crippled by Microsoft business decisions and for which the Federal Government—along with the rest of us—can find no relief in competitive products or services.

The proposed remedies for the Microsoft antitrust case are a sham and sellout on behalf of the American people and hundreds of thousands of workers in the computer industry. Core ethical values are at stake in this matter.

Thank you.
Tom Tisch
15040 Encina Court
Saratoga, CA 95070
ttisch@mindspring.com
Tel. 415.990.0102

MTC-00028888

From: Michael May
To: Microsoft ATR
Date: 1/28/02 6:37pm
Subject: Public comment
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW

Suite 1200
Washington, DC 20530–0001

It is my opinion that the November 6 revised proposed Final Judgment is an insufficient remedy and does not adequately serve the public interest.

Sincerely,
Michael May
1718 Hillcrest Road
San Pablo, CA 94806

MTC–00028889

From: Blblikken@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:43pm
Subject: Microsoft

Microsoft's problems with the nine states still holding out for a settlement are not justified. As a Microsoft shareholder and a tax payer I want this case settled. This case is no longer a matter of what is good for the consumer but only what effects the competition. Free enterprise is what America is all about.

Lee & Betty West
2119 SW 306th Place
Federal Way, WA 98023

MTC–00028890

From: jrs@gte.net@inetgw
To: Microsoft ATR
Date: 1/28/02 6:45pm
Subject: Microsoft Settlement

The settlement terms as they are now do nothing of substance *except* to give Federal approval for MicroSoft's illegal behavior by stipulation! Microsoft ends up with a "Get Out of Jail Free card".

The pressure to cave in from the White House, Microsoft and Microsoft's friends must have been tremendous. It is the belief of the people that if any branch of the Federal government will stand fast against backroom dealing, it is the Justice department.

The same belief must have been held at DoJ, and perhaps still is, but has been and is being crushed by the sheer weight of Microsoft. Microsoft's contempt for the law and the judiciary is public knowledge, but it is as much or more the sheer size of it that threatens the very economy of which it is an important component.

This size will stifle innovation and cheat the American people out of the best that they might have in the future. But most important is that Microsoft's success in the settlement marks the end of the government's ability to create and maintain a true free marketplace. Other corporations will follow the precedent. And that will be the end of our economy as we know it. Please, please, do what you can to resist this behemoth.

jrs

MTC–00028891

From: Marc Bizer
To: Microsoft ATR
Date: 1/28/02 6:45pm
Subject: Microsoft Settlement

To whom it may concern: I feel that the settlement failed to improve competition and will not deter Microsoft from future illegal acts.

Sincerely,
Marc Bizer
Associate Professor of French Literature
Department of French and Italian
University of Texas at Austin
Austin, TX 78712–1197
office (512) 471–5531
fax (209) 821–9058
<http://xerxes.frit.utexas.edu>

MTC–00028892

From: Rodney Petersen
To: Microsoft ATR
Date: 1/28/02 6:47pm
Subject: Microsoft Settlement

I feel that any judgment against Microsoft is unfair and bias. I have been using Microsoft products for the past twelve years. I have tried other computer products such as Netscape and Wordperfect. These products do not even match the quality of Microsoft Internet Explorer or Word. The CEO's of Netscape and Wordperfect enticed the government to try and destroy the best Computer Program Company and destroy the quality of Computer Programming. Microsoft has raised the level of Computer Programs and their technical service that other companies do not want to raise their companies to that level. Other companies want to send out products that do not meet the expectations of the buyer and user.

If the government wants to penalize Microsoft for excellence in the field of Computer Programming than they should do the same to IBM, which has been fighting Microsoft for their Operating System for decades. The other companies that should be penalized is Ford, GM, and any other Car Manufacturer and electronics company.

When something that works so well the government wants to destroy it, why? Or, limit or lower the quality of the products that Microsoft produces that the rest of the industry does not want to rise to.

Sincerely,
Rodney J. Petersen
ps I have never worked for Microsoft

MTC–00028893

From: Dirck
To: Microsoft ATR
Date: 1/28/02 6:54pm
Subject: Microsoft Settlement

Please accept the attached public comments in the case of United States of America vs. Microsoft Corporation.

Dirck A. Hargraves, Esq.
Counsel
TRAC
P.O. Box 27279
Washington, DC 20005
202.263.2950(v) 202.263.2962(fax)
email:dirck@trac.org
internet: http://www.trac.org

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA,
Plaintiff, MICROSOFT CORPORATION,
Defendant.
Civil Action No. 98–1232 (CKK)
MICROSOFT SETTLEMENT COMMENTS SUBMITTED BY
The Telecommunications Research & Action Center
National Black Chamber of Commerce
National Native American Chamber of Commerce
January 28, 2002

TABLE OF CONTENTS

I. INTRODUCTION—3
II. STATEMENTS OF INTEREST—3
III. SUMMARY OF THE ARGUMENT—4
IV. ARGUMENT—4
  A. MICROS OFF AS MONOPOLY—4
  THE DAMAGE TO CONSUMERS—5
  B. AN INADEQUATE SETTLEMENT—6
  C. ADDITIONAL REMEDIES NEEDED—8
  V. CONCLUSION—9

I. INTRODUCTION

The Tunney Act (Antitrust Procedures and Penalties Act, 15 U.S.C. * 16) requires the United States District Court for the District of Columbia (Court) to hear comments to determine whether or not an antitrust settlement was reached in the public interest. In the case of the United States of America v. Microsoft Corporation (Microsoft), the undersigned individuals and organizations all agree that without significant modification, the Microsoft-U.S. Department of Justice settlement (proposed Final Judgement, November 6, 2001) is far too weak to restore competition to the software industry and, thereby, bring the benefits of such competition to consumers. Therefore, without additional provisions, such as those proposed by the nine state Attorneys'' General and Corporation Counsel who are pursuing further litigation, the settlement is decidedly not in the public interest.

II. STATEMENTS OF INTEREST

The Telecommunications Research & Action Center, is a non-profit, tax-exempt, membership organization based in Washington, DC Its primary goal is to promote the interests of residential telecommunications customers by helping them make informed decisions regarding telephone services. However, given the recent convergence of telecommunications, Internet, and other high technology products and services, TRAC is also concerned with consumers'' welfare as it is affected by applications, including computer software, which will shape communications in the 21st Century. TRAC is governed by a Board of Directors. Its funding is primarily (95%) from member contributions and the sales of its publications. TRAC is not affiliated with any corporation and does not accept revenues, other than from the sale of its publications, from industry sources.

A nonprofit, nonpartisan, nonsectarian organization, the National Black Chamber of Commerce (NBCC) is dedicated to economically empowering and sustaining African American communities through entrepreneurship and capitalistic activity within the United States and via interaction with the Black Diaspora. The NBCC represents 64,000 Black owned businesses and provides an advocacy that reaches all 640,000 Black owned businesses. The businesses that the NBCC represents are both consumers of computer software and competitors in a market that has been shaped and dominated by the Microsoft Corporation. The NBCC joins these comments today in an effort to restore competition to this vital economic sector.

The National Native American Chamber of Commerce (NNACC) is organized to provide a coordinating forum to service Native American business, government, and civic organizations for community development. The efforts of the Chamber are also to provide services and benefits to Native Americans to assist them in competing in business and in government. The nationwide businesses that are members of the NNACC already face enormous challenges in competing in the New Economy. Monopolistic players such as Microsoft, who also engage in illegal business practices, make these efforts at competition nearly impossible. Accordingly, we join in offering these comments to the Court.

III. SUMMARY OF ARGUMENT

The proposed U.S. Department of Justice settlement contains inadequate enforcement provisions to protect consumers from Microsoft's monopolistic overpricing in the software market. Accordingly, the Court should adopt the more stringent settlements as proposed by the nine states Attorneys'' General and Corporation Counsel from the District of Columbia.

A. Microsoft as Monopoly

As a monopoly in the software market, Microsoft produces more than 90% of all of the software operating systems in personal computers (PCs) and approximately 90% of all of the software suites (including Internet browsers, word processing, spreadsheet, and presentation programs) used with those operating systems. From the beginning of this case, the Court has rejected Microsoft's defense that the nature of the software market in which it competes naturally leads to the dominance of one player. As one consumer advocate has noted, "If a monopoly were really the natural state of affairs in this market, then Microsoft would not have had to engage in so many unnatural acts to preserve it." 1

The unanimous decision of the United States Court of Appeals for the District of Columbia affirmed that Microsoft has used its leverage to repeatedly engage in anticompetitive behavior and, in the process, has committed numerous violations of antitrust law. According to the Competitive Impact Statement issued by the U.S. Department of Justice, the Court of Appeals found that Microsoft:

(1) undertook a variety of restrictions on personal computer Original Equipment Manufacturers "OEMs"); (2) integrated its Web browser into Windows in a non-removable way while excluding rivals; (3) engaged in restrictive and exclusionary dealings with Internet Access Providers, Independent Software Vendors and Apple Computer; and (4) attempted to mislead and threaten software developers in order to contain and subvert Java middleware technologies that threatened Microsoft's operating system monopoly.

As a result of Microsoft's actions, not only have consumers suffered from the immediate effects of higher prices for the company's software products and the continuous cycle of upgrades i Statement of Dr. Mark N. Cooper on "The Microsoft Settlement: A Look to the Future," Before the Committee on the Judiciary, United States Senate, December 12, 2001.

required for their systems to function properly, they have also been adversely affected by the decline of choice, quality and innovation in the marketplace.

1. The Damage to Consumers

An amicus brief filed with the Court in 1999 estimated that monopoly overpricing by Microsoft has cost consumers an estimated $25 to $30 billion. 2 Other estimates put this figure at $10 to $20 billion. 3 In either case, the high and steadily increasing prices of Microsoft's products stand in stark contrast to those of personal computer systems and hardware, which as a result of fierce competition have plummeted in recent years. To some extent, Microsoft's strategy of bundling its products and the overall reduction in new computer system prices have also hidden these high prices from consumers.

The full cost of Microsoft's anti-competitive actions in squeezing out competing operating systems, Internet browsers, word processing, spreadsheet, and presentation applications from the marketplace is difficult to quantify. It is impossible to calculate how, without Microsoft's illegal business practices, competing products might have forced down software prices or brought new innovations to consumers. Such applications might have offered consumers additional choice on how they wished to equip and configure their computers. This de facto homogenization of the PC by Microsoft has led to other problems such as the acceleration of the spreading of viruses. For example, if one computer becomes infected, many become infected, as they share the same programming code with identical loopholes. 2 Remedies Brief of Amici Curiae, United States v. Microsoft, 84 F. Supp. 2d 9 (D.DC 1999)

(Nos. CIV. A. 98–1232, 98–1233). 3 Mark Cooper, "Antitrust as Consumer Protection in the New Economy: Lessons from the Microsoft Case," pp. 847–851, Cooper Hastings Law Review, 200106, November 27, 2001.

Microsoft is now pursuing online applications in banking, news, travel, advertising and other areas. Of paramount concern is the fear that Microsoft will use its Internet browser and these applications to dominate the online business world in the same manner as it leveraged its operating system to control the PC desktop. This cannot be allowed to happen. The success of the Internet and those who do business on it depends largely upon freedom of access through a multitude of competitive applications. Such a vision would not likely be realized were Microsoft to become the Internet's sole gatekeeper.

B. An Inadequate Settlement

In their Proposed Final Judgement, the Court of Appeals recognized Microsoft's culpability and rightly called for "prompt, certain and effective" remedies for consumers. The Court is specific in describing these provisions. Among them are requirements that computer manufacturers have the freedom to make "middleware" decisions regarding what software they choose to offer to consumers as standard on their machines. Manufacturers are to be able to sell and promote Microsoft and non-Microsoft products equally, and customize their systems and software as they choose, with licensing agreements to reflect this and without fear of retaliation. The Proposed Final Judgement also frees other software and hardware developers to work on applications for the Windows platform, and requires Microsoft to disclose the technical information needed for them to do so.

Consumers would no doubt benefit from the decrease in price and increase in choice in the software market if the U.S. Department of Justice settlement with Microsoft supported, and made enforceable, all of the Judgement's provisions. Unfortunately, the settlement falls short of this goal, as it contains many loopholes. For example, while Microsoft is required to share technical information to ensure compatibility with other companies'' software, it has no obligation to do so if Microsoft determines that the disclosure would compromise security or damage licensing agreements. Microsoft, alone, should not be given the right to make this determination.

The Court of Appeals found Microsoft's "commingling of code," the process by which Microsoft inextricably links the programming of its other applications to Windows and effectively "locks out" competitors, to be illegal. Yet, the proposed settlement conspicuously omits mention of an enforceable remedy. The settlement also gives Microsoft the power to unilaterally determine what is defined as a "Window Operating System product." Based on its previous behavior, Microsoft is likely to have an inclusive definition. The company now dominates the Internet browser market, as its Internet Explorer application has become an integral part of the Microsoft operating system.

In yet another example of how consumers gain little from the settlement, Microsoft is also granted a loophole through which it can continue to pay other vendors when "reasonably necessary" not to develop or distribute competing products. As a result, innovation will continue to be stifled and consumers will not see or be able to choose products that Microsoft has paid to keep off of store shelves. Rather than fostering an environment that encourages entrepreneurship, growth and healthy business competition, the settlement will reinforce Microsoft's dominant role in the industry.

C. Additional Remedies Needed

In an attempt to address the settlement's shortcomings, nine states and the District of Columbia have offered remedial proposals. These proposals are now consumers'' last chance at true reform in this case. Unlike those included in the settlement, the proposals will, if enacted, contribute to reduced software prices and ensure that consumers are at minimum given the option of making choices when equipping their computers. Specific proposed remedies would require Microsoft to:

Offer a stripped-down, unbundled version of Windows. Without built-in software such as the Internet browser, media player, or email applications, consumers will be able to better custom order PCs with only the installed applications which they choose to purchase. Share its code for its Internet browser with other software developers, thereby allowing for new products with new innovations and ensuring that consumers do not rely on Microsoft as the predominant way to the Internet.

Auction the right to create different versions of its Office software suite for use on other operating systems, such as Linux. Again, this provision eliminates Microsoft's application barrier to entry and gives more choice to consumers.

Include "middleware" software in Microsoft's latest operation system, Windows XP. This will enable software applications to universally, across non-Microsoft platforms, expanding interoperability of products and consumer options.

Consumers also support the nine Attorneys" General and Corporation Counsel's efforts to advocate for a court-appointed master with real enforcement abilities. The U.S. Department of Justice settlement proposed a three-person technical committee to oversee Microsoft's compliance with the settlement. The findings of this committee would neither be made public nor revealed to the Court. In contrast, a court-appointed master would be able to more effectively respond if Microsoft violates the terms of the settlement.

Finally, the settlement offers no effective punishment to deter Microsoft from acting in bad faith. As it stands, the penalty for non-compliance with the agreement is only an extension of the monitoring period. The litigating states have proposed an alternative punishment with far greater consequences: the revealing of Windows" source code.

Together, these steps are needed to effectively oversee and enforce any agreement with Microsoft, a company that has leveraged its dominance in the market to get what it wants at the expense of its competitors and consumers.

V. CONCLUSION

The proposed U.S. Department of Justice settlement alone does not remedy or address the finding of the Court of Appeals. It is not complete in its breadth, nor does it contain adequate enforcement provisions. For millions of consumers who rely upon a personal computer in so many facets of their lives, this agreement, as it stands, is decidedly not in the public interest. It will not make Microsoft's products more affordable or reliable. It will not give consumers greater choice of what software they wish to run or flexibility as to how they wish to configure it. It will not encourage innovation and competition in the software industry and allow consumers to reap the benefits.

Many on both sides of this case have complained about the length of the trial and the settlement process. An effective solution now appears to be within reach. We urge the Court not to allow a settlement that does not live up to the Judgment of the Court of Appeals and settle for settlement's sake. We urge that the Court consider and adopt the proposals put forth by the litigating states and the District of Columbia as a much more thorough and enforceable solution, one that will bring all of the above benefits to consumers who represent the public interest.

Respectfully Submitted,

Dirck A. Hargraves
Counsel
Telecommunications Research and Action Center
Post Office Box 27279
Washington, DC 20005
Harry C. Alford
President & CEO
The National Black Chamber of Commerce
1350 Connecticut Ave. NW Suite 825
Washington, DC 20036
Joe Byrd
President
The National Native American Chamber of Commerce
Post Office Box 663
Okmulgee, OK 74447

MTC-00028894

From: Ray Whitmer
To: Microsoft ATR
Date: 1/28/02 6:49pm
Subject: Microsoft Settlement

To whom it may concern, regarding the proposed settlement of the microsoft case.

I am not a lawyer, and have no sound legal advise to offer, and the time has past for that. I have been an employee of a number of companies who have found it impossible to compete with Microsoft because competing with them had little to do with quality of product and everything to do with control.

You do not have to look far at all for many overt acts that I think any reasonable person would call criminal. This is because of the high- pressure eminating from the top of the company, to win at any costs.

In my 20 years developing products across many operating systems and corporate structures, I have worked for WordPerfect corporation, Novell, and Corel, among others, and it has become increasingly obvious that quality has nothing to do with winning in the marketplace.

It is all about who controls the information patterns of the masses, whether it be Movies, Software, News, or Advertising.

This is not a new phenomenon. Once the Catholic Church controlled these things quite effectively with systems that greatly resembled the ever-expanding copyrights and patents on things today. Today, Martin Luther, sneaking out of the Vatican with his biblical transcripts would be hunted down as the latest Napster-ite, who thinks that works which interweave themselves so deeply into the roots of a population should not be controlled by a power-hungry entity such as a Church or a Mega-corporation. This does not mean that those who produce them do not deserve profit, but see what the billions paid for Windows every year buys us: In significant cases, less than what the remaining competition now gives away for free, because Microsoft has such a lock on the market. The profits are squandered every year on power.

There are dozens of competing products that could have easily taken that position had they controlled the power they had in their times as unscrupulously as Microsoft does. Corporate survival and hunger for power and profits are the reason we have antitrust laws. In this case, the public shame is greater, because it is the Copyright laws—an artificially- granted government monopoly—that establishes the Microsoft Monopoly.

If it were possible to still compete in this market against that Corporation, you would clearly be seeing much lower prices—the Microsoft take increases, but somehow the economies of scale in software production never lowers the price of the software, and there is never even consideration that you paid for dozens of versions you can no longer use because Microsoft has made them incompatible.

Microsoft is not an indispensible part of the market. If they vanished, within 5 years, there would be no trace left, and there would be competition for a little while until another corporation showed that it was the most vicious of those remaining and consolidated power.

I and thousands of people like me have started writing new software that is not susceptible to this overbearing corporate eternal ownership—which I have to believe is extremely different from what the framers of the Constitution thought they were doing in granting limited copyright and patents.

We have the technology to design around the original intent of these laws, and it is time that you look at seriously reigning in the moster that has evolved. Law of the mega-corporation, by the mega-corporation, and for the mega-corporation is not in anyone's best interest long-term, even if the mega-corporate advertising of today has the same persuasive power as the mega-Churches of old over the masses, tribunals, and courts of law.

The case against Microsoft was poorly made, and hardly justified, not that there wasn't a huge case to be made. But your remedies are worse than ineffective. They will do more harm than good. You have overturned the breakup, which might have had some effect, but likewise didn't get at the root of the problems, which I have tried to describe here. It is not Microsoft that is wrong but <insert any company> which succeeded by such viciousness would be just as bad, and I would be just as sorry to see Sun, Oracle, or even my own company AOL Time Warner be in such an abusive position.

I think that when a company abuses the public trust of its granted monopolies as badly as Microsoft has, the appropriate and natural action is to revoke their monopoly, which in this case is their copyright. With that arrow in your quiver, it would not be difficult to convince companies in the future to act more in the public interest. Short of that, please abandon your current pursuits and admit honestly that the corporation has won and the country has lost. It is really rubbing salt in our wounds to offer something that hurts more than it helps and claim you have acted in our behalf.

Human rights are more important than copyrights or corporate rights. Many technology companies go under every year. It would be better, though if there was a better connection between profits and service. If you do not, the next revolution is on the horizon. You cannot lock up everyone for violations of intellectual "property" any more than the Church could, however much the corporations want to control everything. And corporations do not need an absolute eternal copyright as much as they might claim.

And America will become the "old world" while other countries such as Russia have their patriots thrown in prison in America for crimes of conscience by the dozens of new FBI/DOJ departments created for this new opression — certainly not for any overt act depriving a corporation of it's profit in the recent Sklyarov case. Do you really want to be the "Department of Justice" which presided over such a debacle? Where is justice for we, the people?

Ray Whitmer
ray@xmission.com

MTC-00028895

From: Gene Merritt
To: Microsoft ATR
Date: 1/28/02 6:49pm
Subject: Microsoft settlement

Spending any amount of time on an computer one cane encounter MANY areas of UNDUE influence by Microsoft.

This now even extends to websites such as STARBUCKS. I had an account with them until they formed a partnership with Microsoft and redesigned their (Starbucks') website based on Microsoft Passport! My old account is no longer valid.

And, even more, one cannot even approach or get onto or even contact the Starbucks site unless one accepts Microsoft Passport cookies! Not even being allowed on the site without Microsoft's surveillance! I consider this WAY TOO MUCH POWER AND INFLUENCE! And this is only one example!

I've sent several emails to Starbucks * * * finally got to them through Planetfeedback* * * and still no getting near the site.

Microsoft is extending it's web of power and influence AND CONTROL into so many areas of public and private communication. MSNBC. Newsweek. Just to name a few. This may, now, look rather harmless, but* * * they what about the future. One company should not have so much control over so many facets of our daily lives. And the government, in this matter, doesn't look to clean in this case, either. I remember seeing news footage of Gates in Washington set to meet with government officials WHILE MICROSOFT'S CASE WAS BEING HANDLED BY THE GOVERNMENT! I the, immediately, thought about CONFLICT OF INTEREST! Talk about impropriety!!!

Microsoft seems to have no qualms whatsoever about tossing around their incredible weight and thumbing their nose in the air at us regular Americans* * * and for that matter, the laws of this great country!

There's no remorse. No head bowed seeking the government's forgiveness. Does this tell you anything!

It's in your court now! Don't shame the rest of us HONEST Americans by holding Microsoft and it's bullying practices up to a different standard of law than the rest of us!

Thanx for listening!
Gene E. Merritt
Brimfield, Ma.

MTC-00028896

From: Vicky Stables
To: Microsoft ATR
Date: 1/28/02 1:58pm
Subject: Microsoft Settlement

I think the settlement proposal is a bad idea. Please find a better solution that provides better protection to consumers and the software industry.

Vicky
Vicky Stables, CPA
Anacortes, Washington, USA

MTC-00028897

From: Lydia G. Rich
To: Microsoft ATR
Date: 1/28/02 6:50pm
Subject: USAGRich—Lydia—1068—0108 (1)
35 Hyatt Drive
Warren, PA 16365–3527
January 10, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Dear Mr. Ashcroft:

I am writing to express my support in the recent settlement between Microsoft and the federal government. It is with sincere hope that this is the end of any litigation on the federal level. Considering the terms of the agreement, Microsoft did not get off easy at all. In fact, due to this agreement, Microsoft has to make several important changes to the way that they handle their business.

For example, Microsoft has agreed to disclose and document for use by its competitors various interfaces that are internal to Windows" operating system products. This alone is a first in an antitrust settlement.

Microsoft has also agreed to make available to its competitors, any protocols implemented in Windows" operating system products that are used to interoperate natively with any Microsoft server operating system.

With the many terms of the agreement, I see no reason for the government to pursue further litigation on any level against Microsoft. Not only would it be a waste of time, but a waste of money as well. I fully trust that you would agree. Thank you.

Sincerely,
Lydia Rich
cc: Senator Rick Santorum

MTC-00028898

From: Viki Williams
To: Microsoft Settlement
Date: 1/28/02 6:46pm
Subject: Microsoft Settlement
Viki Williams
11522 Small Dr.
Mesquite, TX 75180
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies. Thank you for this opportunity to share my views.

Sincerely,
Viki L. Williams

MTC-00028899

From: Andrew
To: Microsoft ATR
Date: 1/28/02 2:10pm
Subject: Microsoft Settlement

To the Department of Justice:

I am writing to express to you my horror (and I use that word deliberately) at the proposed settlement to the current Microsoft antitrust case. I believe the proposed remedies are in no way commensurate with the crimes of which Microsoft has been found guilty.

Almost all of the subsections under the Prohibited Conduct section contain gaping loopholes. For instance, one subsection provides for the removal of references (on the Desktop and in menus) to Microsoft applications, but in no way provides for the removal of the application itself. Such an application could still be activated by other means, and, by its presence on the system, could interfere with the proper operation of non-Microsoft applications. Microsoft has already proven itself to be very adept at exploiting such loopholes and a truly fair and effective Final Judgement must seek to close them.

At —best—, the remedies in the PFJ will help to slow the growth of Microsoft's monopoly, but will do nothing to diminish it. At worst, such a Final Judgement would actually help to protect Microsoft from further legal action if they continue their anticompetitive practices. And it would be foolish to believe that they would not do so.

In our society, criminals theoretically are supposed to serve jail time and/or compensate their victims for their suffering. This settlement requires neither of Microsoft.

Microsoft has over the years repeatedly raped OEMs, ISVs, consumers, and others, all the while thumbing its nose at America's laws and system of justice. Now it is time for Microsoft and its corporate officers to pay the price. I am counting on the Department of Justice to see to it that the American people are properly protected and compensated.

Andrew T. Smith
Computer Science major
1127 Humboldt St., Apt. C
Santa Rosa, CA 95404
Phone: 707–546–6120

MTC–00028900

From: Steinsaz@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:51pm
Subject: Microsoft Settlement

I believe that the AOL suit against Microsoft is not warranted and is doing Microsoft an injustice by prolonging this litigation. I could very well use Netscape as my browser, but prefer Internet Explorer which is an excellent product. AOL and the other companies that are seeking this suit know that Microsoft has cash and are just trying to get some of it into their own pockets. It would be better if they stopped this nonsense. They should get down to the business of running their own companies better and using innovations of their own to produce better software and not trying to blame Microsoft for their own mistakes and problems

Judy Stein

MTC–00028901

From: Mary—Paul—Stewart@berlex.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:52pm

Your Honor,

I know there is a deadline for comments and I am not the most eloquent arguer on short notice, but here are some of the reasons I feel Microsoft must be severely punished.

Microsoft is not a company we can trust with our technological future. They have a history of "thumbing their nose" at the legal system through an expert legal team of "loophole finders."

Netscape was only one in a long line of Microsoft casualties. Remember when Lotus 1–2–3 and Word Perfect were king?

What Microsoft is good, perhaps even "innovative" at: bundling their products for competitive advantage, giving them away, either for free or a ridiculously low price, then once the competition is gone, and/or their stranglehold on the market is secure, they charge customers hideous prices for marginal upgrades. (Mostly over-rated "bug fixes".) Several years back, Microsoft shrewdly invited everyone with pirated copies of their various office product to become "legal" though a free registration. The amnesty plan worked, and the now legal owners, feeling they had "one up on Microsoft" happily paid for the never-ending upgrades.

In general however, Microsoft is most definitely NOT a technologically innovative company. With few exceptions, (the "talking paper clip" for one) their announced "innovations" are directly copied from others. For specific examples, see http://www.vcnet.com/bms/departments/innovation.shtml . Bill Gates, often cited as some "genius" rather than the megalomaniac that he is, did not even see the relevance of the internet until he saw Netscape's market penetration.

I personally recall purchasing a Netscape browser upgrade several years ago. (My first copy was in my starter kit when I joined Earthlink—and I assume Earthlink paid a license for the privilege of distributing the browser, as it was not free at the time.) Once Microsoft "woke up and smelled the internet" they began giving Internet Explorer away to eat away at Netscape's market share. The effect was immediate, and Netscape had no choice but to follow suit. I would also add that at the time Microsoft began giving away their browser, Netscape had the technologically superior product, which had already incorporated the ability to handle javascripts. At the time Microsoft made their infamous deal with AOL, Internet Explorer still did not handle javascripts, which is one of the reasons people used to hate browsing through AOL. I also recall how I complained to AOL about their tactics—they would "nag" me at log-on and log-off to download the IE browser—obviously part of the contract.

But that wasn't enough for Microsoft. Their version of innovation was to force Netscape and every other browser into obsolescence by "welding" Internet Explorer into the Windows operating system so that it cannot be deleted. While I'm sure that there are many in the pro-Microsoft camp that will give very impressive reasons for why this is necessary and innovative—I don't believe a single one. I consider myself to be a fairly savvy computer-user, versed in both PC and Mac platforms, but I have yet to find a single benefit to the consumer that was created by tying these two products together. To be specific, I cannot see any difference in functionality between the bundled Internet Explorer on the Windows computer I use at work versus running Internet Explorer on the Mac I use at work for graphic development. Both programs work as they are supposed to, opening HTML pages and connecting me to the internet. There is only one reason that Microsoft bundled these products* * * to wipe out Netscape and dominate the internet.

And what will Microsoft gain? Well, look at where they are focusing their energy today. Now they are forcing anyone who buys their recent upgrade packages to apply for their internet "Passport" account. $400 Rebates/incentives are driving consumers to sign up for MSN as Microsoft takes aim at AOL's market domination. Microsoft has one aim, to control every exchange of personal, consumer, and financial information. Since I have watched a never-ending stream of examples of unethical and anticompetitive behavior from this company, I can say this without reservation: This is not the company I want peeking into my wallet and tracking my visits on the internet. This company is Big Brother incarnate.

Respectfully yours,
Mary L. Paul Stewart

MTC–00028902

From: David Medin
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 6:52pm
Subject: Microsoft Settlement

I, as a member of the computing and electronics industries for more than 20 years, am completely opposed to the proposed Microsoft settlement, which will do nothing, in my opinion, to open the marketplace to competition nor innovation.

My definition to a satisfactory settlement will be the lowering of market prices for Microsoft operating systems and associated applications to "reasonable" levels for businesses and consumers. $450 for a word processing package, per computer, which a consumer has to buy to maintain interoperability with professional standards? $350 for an Operating System?

This pricing level is ridiculous, and Microsoft's margins reflect this! They can only command this price because of monopoly. Microsoft's margins are not a reflection of their innovation—Microsoft software quality and security is known to be among the worst ever in the marketplace and they've only "innovated" when forced—but of their sheer market saturation and the need for people to have compatible products in order to exchange information successfully.

The dynamic of the software marketplace is much different from, let's say, automobiles, as the key for marketability is interoperability. If you cannot exchange information in standard formats, such as between word processors of different authors, the application is useless. Microsoft has obtained a monopoly on many aspects of operating systems and applications through brute force and interoperability with Windows features, which they control.

The settlement does not address two key areas neccessary for success—splitting of the Microsoft OS and Applications divisions, and complete opening of internal OS APIs such that compatible and interoperable applications AND operating systems can be easily built. The dynamics of launching a competitor to Microsoft applications like Office would be formidable without drastic measures to equalize the marketplace, so unless those measures are taken, we will continue to be held hostage to Microsoft's monopoly. All the other measures of the settlement, such as educational software donation, are completely self-serving to Microsoft, which wants to overcome Apple's penetration in education anyway. Someone in Redmond will be congratulating themselves if this settlement is adopted. The rest of us lose* * *

Sincerely,
Dave Medin
1305 Brockman Ave.
Marion, Iowa 52302

MTC–00028903

From: Mark Pruner
To: Microsoft ATR
Date: 1/28/02 6:52pm
Subject: Web Counsel comments

Ms. Hesse"

Attached as a WordPerfect file is our comments on the proposed DOJ/Microsoft settlement. Please confirm receipt at your earliest convenience.

Mark Pruner

MTC-00028903—0001

IN THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA,
Plaintiff,
VS.
MICROSOFT CORPORATION,
Defendant.
STATE OF NEW YORK ex rel.
Attorney General ELIOT SPITZER, et al.,
Plaintiffs,
VS.
MICROSOFT CORPORATION,
Defendant.
Civil Action No. 98–1232
Civil Action No. 98–1233
WEB COUNSEL, LLC'S
COMMENTS ON DOJ'S REVISED
PROPOSED FINAL JUDGMENT

Web Counsel, LLC is an interactive marketing company that will be harmed if the Proposed Final Judgement agreed to by the Department of Justice and Microsoft Corporation is approved. We believe that the proposed judgement is not in the public interest, and while not perfect, the dissenting states proposal is much closer to the remedy that the U.S. Supreme Court has required to "unfetter a market from anticompetitive conduct," to terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future."

We fully support the remedies proposed by California, Connecticut and the other dissenting. Their comments are incorporated herein by reference and the material set forth below is meant to complement and extend the remedies proposed by the dissenting states. WE THEREFORE, submit these comments as allowed by the Tunney Act.

Microsoft will push the limits of any judgement and will not be cooperative with any voluntary enforcement mechanism.

Microsoft has shown a history of not living up to the spirit of their prior settlements and agreements. As examples:

1. Microsoft's first settlement with the Justice Department included a two word phrase that Microsoft used as a loophole to totally gut the settlement's effect in the marketplace. The proposed DOJ/Microsoft settlement is replete with phrases such as "provided that", "except that", "so long as" etc. Microsoft will certainly use these phrases to thwart the few significant restrictions in the proposed settlement.

2. The Tunney Act provides that Microsoft is to report all cȏntacts with government officials. Microsoft as usual has taken a very narrow reading of this requirement and not reported many contacts, particularly with legislative branch official.

3. Bill Gates" was very uncooperative in his deposition. What should have taken a day stretched to 3 days. He did his best to avoid answering questions, by arguing such things as the definition of the word "is".

4. Microsoft fabricated or was grossly negligent in presenting their evidence. At several times in the trial, they had to retract testimony after DOJ's counsel was able to show that the facts did not comport with the Microsoft witness" testimony.

5. Microsoft's first browser was not created by Microsoft, but rather licensed from Spyglass, a small innovative software company. The license required Microsoft to make licensing payments to Spyglass, but Microsoft held up these payments, which were vital to Spyglass to continue developing its browser. Only when Spyglass made it clear that it would no longer actively develop its browser did Microsoft make the payment it was contractually required to make.

II. Web innovation has stalled since Microsoft got a monopoly in web browsers

Prior to Microsoft entering the market for web browsers Netscape and many other companies, such as Spyglass, were developing innovate new features and services in their browsers. The first casualty of the Microsoft monopolist entering the browser battle was not Netscape, but the many smaller innovators, that had been pushing Netscape to make its product better.

Microsoft created a concept called "embrace and extend", which should be more properly called "copy and crush". Microsoft at its option will copy another company's software, buy the company or license the software. It then adds a few features and uses its monopoly profits and tie-ins with its other monopoly products to crush the competitor. The result of this process is that the monopolist dives the small innovators out of the market. As a result innovation is stifled.

The Microsoft browser illustrates the monopolist's lack of innovation. Anyone who uses Microsoft's Internet Explorer software will find dozens of things that need improvement or that would normally motivate a user to switch to a competitor, but there are no viable alternatives. To illustrate some of the many areas in which Microsoft has failed to innovate set forth below are only some of the problems with the Microsoft browser. IE is unreliable and insecure. IE crashes more often than any other software on our computer. The lost work and wasted time costs the U.S. billions of dollars. IE is unreliable, because Microsoft as a monopolist does not have abide by industry standards. It creates its own standards and changes them, regardless of the costs imposed on third parties. The browser is also very insecure and is constantly having to be patched. Were Microsoft not a monopolist of the OS, the browser and the office suite, many organizations would have rejected it for these reasons. This lack of security has now risen to the level of a national security issue. Hackers, terrorists and foreign governments can exploit this insecure product to the detriment of the U.S. government, its economy and its citizens.

Micropayments—Micropayments are crucial for websites that sell information, both text and images. People will pay from 10 cents to $2.00 to read an article or look at an image or chart, but there is no widespread payment system to make these small payments. The Microsoft payment systems is clunky and invades a user's privacy, as a result, few people use it and even fewer buy articles. Because, Microsoft has kept third parties from accessing the necessary APIs and other parts of the system, the Microsoft monopoly has a has put thousands of web content providers out of business. These content providers can not sell their valuable material, because Microsoft wants to control any micropayment system. As a result web content providers could only rely on advertising revenue, even though they could sell millions of articles and graphic images with a proper micropayment system. The necessary APIs have to be made public and barriers to the use of non-Microsoft payment systems with Microsoft software have to be removed at both the browser level and the O/S level.

Page editing is difficult—Billions of additional dollars are wasted every month, because web pages are so difficult to create. The difficulty of creating pages for the IE browser increases sales of Microsoft's page editing program, Frontpage. Typical of Microsoft's efforts to exclude competitors, Frontpage is designed to write proprietary codes that can't be read by other browsers or that causes these browsers to crash.

Bookmarks work poorly—The IE browser bookmark feature (called "Favorites" by Microsoft) is cumbersome, requiring a multistep process. Bookmarks can only be to a file, not a spot in a file, so finding information in very long files can be very time consuming. Others have better bookmark systems, but MS has no incentive to incorporate them or improve its bookmarks. While a minor point, this functionality, like other cumbersome features in IF.. is used billions of times each day world-wide, so even a small improvement would huge amounts of time when added together.

Integration of the browser with other functions & with XML—Microsoft has discouraged efforts to easily move information, between web pages and other applications, except where Microsoft products are involved. Extensible Mark-Up Language (XML) has been around for several years, but since Microsoft has a monopoly in browsers they need not worry about a competitor developing this technology, due to the barriers to the entry found by the trial court. At the present time, browsers can display text and graphics, but humans have to organize the information displayed. XML is like the West Key System organizing information into categories for easy retrieval and use. MS is trying to monopolize this standard also and with their three monopolies is likely to succeed.

Browsers on non-PCs—Microsoft has tried to force variations of IF. browser onto personal digital assistants (e.g. Palms) and cell phones, even though they are not suited for these devices. As a monopolist Microsoft has no incentive to develop a different type of browser for non-personal computers. If a company does develop such a non-PC system, Microsoft can move quickly to stop them, as they did with Web TV. Because of its huge monopoly profits, Microsoft was able to pay an extremely high price for this system that displayed website on TV. Once it controlled this potential competitor, Microsoft efforts to further develop this system fell short of the level expected when a non-monopolist invests that amount of money.

Printing sophisticated pages—Printed web pages and web pages on computer screens do not look the same. This causes tremendous difficulties for Web Counsel and other web developers. Web developers are restricted to basic layouts, even when there would be significant advantages to a more sophisticated layout. The primary solution in this area is a non-Microsoft solution, Adobe Acrobat .pdf files. Microsoft does not see this system as a threat, because .pdf files are very difficult to create and use. Microsoft efforts to make printing web pages is minimal.

Customizing feature—Microsoft makes adjusting and customizing the Internet Explorer browser very difficult. If a company creates a browser based service that needs a customized browser, they must hire expensive programs and even then, customization is very limited. MS restricts API information, uses restrictive licensing and insists on maintaining IE's appearance.

From the individual's user perspective, finding the places and understanding obscured references such as "Use TLS 1.0" or "Show Friendly URLs" means that most people will have to use their browsers the way Microsoft wants them to use it.

Microsoft, like all monopolists, does not innovate, because they have no economic incentive to do so. Microsoft used to add innovative features to its browsers, albeit mostly copied from other companies, principally Netscape. Microsoft stopped making significant improvements once Netscape stopped innovating. Netscape stopped innovating, because Microsoft had used its monopoly to make sure that there was no money to be made in browsers.

Microsoft already owns the browser market, why should they try to do something innovative, when their market share is much more likely to go down, than up.

III. Microsoft's monopolies prevent fair competition and must controlled

Microsoft has monopolies in not only the OS and the browser, but also in the Office Suite software. (This claim was originally made in the state's complaint, but later dropped to harmonize its complaint with the DOJ complaint.) These inter-locking monopolies give Microsoft even greater power than a normal monopolist.

Microsoft's confidence in the power of their monopoly can be seen from their bail-outs of their competitors. Microsoft invested millions of dollars in Apple, the only significant operating system alternative, (although Apple's OS won't run on Intel processors.) Microsoft claimed it was an investment to support Apple, whose users bought Microsoft Office suite software for their Apple Macintoshes. While unlikely, Microsoft's true motivation became evident when they tried to prop-up Corel's WordPerfect office suite. Microsoft's effort to co-opt this competitor was so blatant, that regulators opposed Microsoft's investment and Microsoft withdrew there offer.

Microsoft's competitors know that the Microsoft's monopolies have created a $36 billion treasure chest of monopoly profits. They also know that Microsoft will use these funds and the unlawful tactics outlined by the trial court to oppose anyone that should try to compete with them in their monopoly areas. These funds and Microsoft's hardball tactics scare away potential competitors and innovators. If the DOJ/Microsoft proposed settlement is accepted the perverse result will be that potential competitors will be even more discouraged, because they will see that Microsoft got no monetary penalty and was rewarded with a monopoly for using unlawful tactics. Even now venture capitalists reject out of hand any business plan that Microsoft might see as competing against their core monopolies.

Since Microsoft has 3 inter-locking monopolies, the remedies must be more comprehensive and certain, particularly, since Microsoft has shown that they will not live up to the spirit of the settlement language and are likely to violate the actual letter of the settlement. While I support all of the relief requested by the nine dissenting states, I believe that Microsoft should also be subject to a substantial fine so that they do not benefit from, nor use their ill- gotten gains to unlawfully further their monopolies.

IV. Enforcement

The proposed Microsoft/DOJ enforcement procedure will do little to prevent improper actions by Microsoft. The voluntary dispute resolution procedure will not work. Microsoft will either not volunteer to be punished or more likely they will drag out such procedures and Microsoft will win because of the delay.

Microsoft traditionally comes out with a major new OS about every three years (e.g. Windows 95, Windows 98, Windows XP [2001]). The success of these systems are determined in the first year, so as we have seen Microsoft has tried to constantly delay the present litigation and it has succeeded. The original complaint was filed by DOJ in May of 1998. In the meantime, Microsoft has come out with the minor OS upgrades Windows ME and Windows 2000 and the major new OS, Windows XP. None of these OS's have been restricted, by the DOJ and during this time Microsoft has continued to make extraordinary profits even during the recent down economy.

The new Windows XP has several features that continue to unlawfully leverage Microsoft monopolies, e.g. the Passport system. While it is theoretically possible to run Windows XP without the Passport system, the average user will not be able to figure this out and the software repeatedly demands that the user sign-up for the Passport system and provide their private information to be put under Microsoft's control.

If the court wants to do justice now, the final settlement must have a quick and certain arbitration procedure. Failure to include such a provision will result in Microsoft complying with the orders, but only after they are irrelevant. A clear example of this is the "concessions" that Microsoft has made as to the web browser in the proposed DOJ/Microsoft settlement. Microsoft made the concessions because, its unlawful acts have won the browser battle. Microsoft is happy to concede, here and in other areas of the proposed settlement, points that don't restrict what it actually wants to do or that are irrelevant in the marketplace.

Not only is speed essential, but the enforcement procedures must provide a way to expose Microsoft's efforts to intimidate third parties. Microsoft is notorious for threatening not only its competitors, but its customers, something that only a monopolist can do (e.g. threat to Compaq to cut off sales of Microsoft operating systems, see trial courts finding of facts.) Enforcement must include an anonymous reporting feature and substantial penalties swiftly enforced, otherwise Microsoft will continue its intimidation and accept its conduct penalty, if any, many years later after it is irrelevant.

V. The DOJ/Microsoft proposal will only lead to more litigation

Microsoft and its abuse of its monopoly have injured many parties, and regardless of how you rule, there will be substantial litigation as evidenced by the recent action brought by AOL/Time Warner against Microsoft. The AOL suit, however, also illustrates what will happen if the court adopts the proposed DOJ/Microsoft proposed settlement. Litigants, as has AOL, will move to further restrict the monopolist's actions; litigants will bring actions in the courts instead of through arbitration and Microsoft will delay this litigation for years. The resulting uncertainty will hurt the United States leadership in software at all levels.

The software industry is not prone to litigation, but companies will be left with no options to protect themselves, if this court does not provide an adequate enforcement mechanism and fair settlement, that is perceived to be fair.

VI. Java should be required

The public interest and competitive fairness require that Microsoft provide a quality Java interpreter with every copy of their web browser. Much of the functionality, that we and other web developers have built into their websites is based on the Java language. If Microsoft gets away with not providing Java support in their browser, as they have already done with Windows XP, the results with not be in the public interest: tens of billions of dollars that have gone into programming sites in Java will be wasted tens of thousands of website will lose some or all of their functionality, and Microsoft will have another monopoly, this time in web languages. If nothing else, the DOJ/Microsoft proposed settlement, must be amended to require Java support.

WE, THEREFORE request that you reject the revised proposed final judgment by the U.S. Department of Justice and Microsoft Corporation, and that you adopt the proposed judgement by California, Connecticut and the other dissenting states, that you impose a substantial monetary penalty on Microsoft for their unlawful acts, and that you grant such other relief as is requested herein and you may determine to be in the public interest.

DATED this 28th day of January, 2002

Mark Pruner
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MTC-00028904

From: rclay773281
To: Microsoft ATR
Date: 1/28/02 6:52pm
Subject: microsoft settlement
Robert Clayton
14085 Olympic View Road
Silverdale WA 98383
1/28/02
To Attorney General John Ashcroft
US Dept. of Justice
950 Pennsylvania Ave. NW
Washington D.C. 20530

Dear Mr. Ashcroft

I am writing you today to express my opinion in regards to the microsoft antitrust dispute.l am a microsoft supporter ,an d l would like to see this costly litigation ended against Microsoft.It will serve in the best public interest to permanently resolve this issue.This settlement was reached after extensive negotiations with a court appointed mediator.Microsoft has agreed to all terms and conditions of this agreement .Under this agreement ,microsoft m,ust document its envied interfaces so other companies can use them to develop more sophisticated soft ware. Microsoft has also agreed to grant computer makers broad new rights to configure windows so that other companies can promote their products while windows boots up. Microsoft is more than willing to follow these procedures so they can get back to work.This settlement will serve in the best public interest.Our resources and time should be devoted to more pressing issues

Thank you for your support.l might add that l have much more confidence in your ability than your predecessor

Sincerely
Robert Clayton
rclay773281@msn.com

MTC-00028905

From: Mike Searcy
To: Microsoft ATR
Date: 1/28/02 6:54pm
Subject: Microsoft Settlement

Microsoft has lost focus on the best interests of consumers. The company now places its own ends above those of the consumer. With some companies, this is often understandable and acceptable. However, Microsoft, as ruled by the court, monopolizes an integral component of the computing industry, an industry that has become a primary driving force in the national economy. Consequently, until Microsoft's monopoly is either no longer in place or is no longer viable, the interests of the consumer public must take precedent, and it is up to the government, as representatives of the people, to ensure that the best interests of consumers are pursued. And, while the current settlement agreement between the Department of Justice, nine state Attorneys General, and the Microsoft Corporation, does take some significant strides, it contains multiple loopholes that would cause little to no adjustment in the tactics of Microsoft, a company that has been proven to abuse the monopoly it holds and has been seen to exploit such ambiguities often with brazen disregard for the intent of the agreement in which they reside. One significant loophole, the failure to adequately define what is and what is not an operating system, is the focus of this letter.

Computing and Commodities

Commodities. They are the foundation of the computing industry. However, based on context, they can often go by other names such as objects, standards, and libraries. Simply put, commodoties create an environment in which something can be reused multiple times and interchanged easily. They are the cornerstone of the success of the IBM PC, the World Wide Web, object-oriented programming, and grid computing. They enable competition and promote innovation, often at amazing speed. They form the basis for the goal of permitting any device to work with any data at any time at any location and the hope of writing a program one time and have it run anywhere and on any device.

When an individual goes out to purchase a personal computer, that person can choose from multiple PC vendors including Dell, Compaq, IBM, Hewlett-Packard, and Sony, to name a representative few. More often than not, he or she does not have to worry about whether or not the printer they purchased or the scanner they already own will work with the new PC in which they are investing. That is because the PCs from all of these manufacturers are based on a common, open architecture. The open architecture of these machines "commodotizes" the machine itself, allowing them to be interchanged easily. This allows for a large degree of competition between the vendors, lowered prices for consumers, and expedited innovation. In fact, according to the Department of Commercel, PC prices fell 26 percent per year between 1995 and 1999 due to this rampant competition. When that individual is examining those PCs, they can choose between processors from both Intel and AMD. Generally speaking, he or she does not have to worry about whether or not the spreadsheet program they purchased or the service provider they are using to access the Internet supports the processor they are examining, as long as the Windows operating system supports it. In this case, the Windows operating system "commodotizes" the processor. Once again, the consumer benefits from intense competition between the processor companies yielding lower prices and greater innovation. Processors run faster and cheaper now than ever before, and the bar seems to be raised by this competition on almost a weekly basis.

When most people think of the Internet, they are actually thinking about only one component of the Internet, the World Wide Web. The success of the web is based on universal standards for the delivery and access of information. These standards "commodotize" the sender and receiver of that information. If the standards are followed, the end user, the consumer, does not have to worry if the server he or she is accessing is running Microsoft Internet Information Server (IIS), Netscape Enterprise Server, Lotus Domino, IBM WebSphere, or Apache. The standards "commodotize" the web server. This enables significant competition in the web server space, allowing the buyer, the presenter of the data, to choose from any number of servers. And, thanks to this "commodotization", the growth of the Internet, in terms of individuals accessing it since the inception of the web, has increased faster than any other medium preceding it, truly yielding immense consumer benefit.

The PC Operating System Commodity

Following the same logic, there is no reason that consumers cannot realize the same degree of consumer benefit and innovation from competition in the PC operating system market. The PC OS can be "commodotized" in the same way as the open PC hardware architecture, the PC processors, and the web servers mentioned above, yielding the same benefit to consumers and accelerating innovation. The methodology for sending data to and from a PC OS can be standardized following the same patterns as those detailed in the examples. When a consumer wants to run an application such as a word processor, speadsheet, or personal finance manager, he or she should not need to be concerned about the underlying operating system any more than he or she is concerned about the brand of the underlying PC or processor. It is an unnecessary level of complexity. This approach does not preclude competition in the PC OS space any more than it does in the PC, processor, and web server markets mentioned in the examples. In fact, it promotes it.

However, while such "commodotization" of the PC OS yields the greatest consumer benefit in lowered prices, increased competition, and accelerated innovation, it does not allow Microsoft to retain the monopoly grasp on that market that it currently holds and the resultant high profit margins. Consequently, rather than working in pursuit of this goal on behalf of consumers, Microsoft continually works in opposition of it actually working to undermine it, leveraging its monopoly and using tactics such as "application integration" to thwart this goal resulting in reduced consumer benefit, slowed innovation, and maintainence of artificially high prices.

Achieving PC OS "commodization" is pursued in two different ways: (1) the development of middleware and (2) the restriction of what is and what is not a component of the operating system. Middleware is software that sits between the application and the operting system. Software developers write their applications to the middleware rather than to a particular OS. This allows an application to be written a single time and run on any operating system supported by the middleware. However, as the advantage of middleware is to allow portability of applications across operating systems, it is imperative that the middleware be separate from the OS. Examples of middleware are Java and the Internet browser. Applications written in Java or to the browser, should be accessible on multiple operating systems without needing rewrites. However, as mentioned, such an approach, while benefiting consumers and application developers, does not benefit Microsoft. Consequently, Microsoft has strived to undermine the former and control the latter. Bill Gates, himself, realizes the benefits of middleware and articulates the intent of Microsoft to undermine it when he states in an email in January 1997, the following in regards to Java support in Windows. "To avoid middleware taking over an operating system you have to make sure the integrated services are different from the middleware—otherwise the middleware approach has no disadvantages and it wins. I think the path we were going down of building on [Java's Abstract Window Toolkit (AWT)] was a sure disaster—it was creating a situation where pure 100% Java applications would look just as good as pure Windows applications which we have to avoid." So, while pure Java applications looking as good as pure Windows applications would be a boon to consumers, it was undermined by Microsoft to protect its monopoly. An internet browser that could run on any operating system would present a universal platform for application development and a universal "client" for the consumer. However, such a universal client would undermine the Windows monopoly. Whereas Microsoft could have adjusted the OS to utilize the universal client, maintaining a separate browser client that could be ported to multiple operating systems, Microsoft chose instead to modify the browser client to accomodate the OS, thus eliminating the universal promise of the browser and destroying the resultant consumer benefit it would bring. These tactics could only be successful in an environment where there is no competition for the OS. Otherwise, consumers would flock to the OS that benefits them the most. In today's environment, Microsoft decides what is and what is not beneficial to the consumer. The consumer has no choice.

Inter Alia, Among Other Things

The current settlement agreement concentrates on addressing the middleware issue. However, it avoids addressing the second requirement of reaching the "commoditized" OS, a situation that is exploited by Microsoft in an increasingly frequent manner showing no indication of abating. To reach the goal of the "commoditized" 0S, a strict definition is needed of what is and what is not part of the operating system. Without such a definition, with its monopoly in place, Microsoft can continually "integrate" what is generally deemed as application software into the operating system in the same manner they have done with the browser. Two words in the text of the settlement agreement permit this tactic of Microsoft to continue unabated to the detriment of consumers. "Inter Alia". They are found in the definitions section of the agreement within the definition of an "Operating System" (Section VI, Paragraph P.). With these two words in place, Microsoft can "integrate" anything and everything it sees fit into the operating system. This is easily seen in the latest iteration of its Windows operating system, Windows XP, where Microsoft has "integrated" its version of media "application" software into the OS. While there are benefits of integration, they are shortsighted and self-serving and do not present the greatest benefit to consumers. For instance, a manufacturer could produce a part that works specifically on a 2002 Ford Thunderbird. The benefit is that the part works wonderfully on that one car, as it is custom-made for that vehicle. However, how much better off is the consumer if the part is made to work on 50 different vehicles as opposed to the one? Immensely. Integrating application code into the OS is no different and yields the same results. Consumers benefit only in the short term and only as long as they continue to use the one OS to which the application code has been welded. Is the integration necessary? Not at all. Is it self-serving to the OS owner? Most definitely. Is it in the best interests of consumers? Not a chance.

Not only is the integration unwise from a usability perspective, it also leads to higher prices. How much cheaper can a single part be mass-produced for 50 different vehicles as opposed to a custom part for each one? The custom, integrated part is always more expensive. However, in this case, the consumer is blissfully ignorant of these unnecessarily higher prices for no other reason than we are all driving Thunderbirds, and the excessively high price of the part is "integrated" in the cost of the overall car. To date, the measuring stick for allowing Microsoft to integrate code into its OS is whether or not the integration benefits consumers. This is the wrong approach. As we have seen, there will always be an argument for how the integration benefits the consumer. However, the question should be, "Of all of the options available, does the integration option present the best option for consumers?" Using this question as a guide, forced integration into an OS will rarely, if ever, be the best option for consumers.

With the above in mind, a specific definition of a PC operating system is necessary. I am not presumptuous enough to believe that I am capable of providing such a definition. However, I would envision that a group of experts taken from multiple areas of the industry could generate such a definition given the task. Undoubtedly, such a definition would require modifications to Microsoft's existing operating systems or could be enforced for all future versions. However, having such a definition in place, along with the allowance of middleware, could open the door wide for true competition in the PC OS space while setting the foundation for immense, long-term consumer benefit, benefits that will easily fall by the wayside without it.

Regards,
Michael P. Searcy
Tampa, FL

MTC-00028906

From: Harry Yamamoto
To: Microsoft ATR
Date: 1/28/02 6:47pm
Subject: Microsoft Settlement

To Whom It May Concern,

The remedies for the Microsoft Settlement must be fair but not so disruptive that competitive innovations would have no platform to work from. If the government kills off Microsoft the cost will be tremendous for everyone to switch to ????? The "unfair competition" seems inherently a part of the nature of these relatively new technologies. If there were not basic uniform operating systems the information technology business would not exist. If Microsoft was more aggressive and kept a "closed system" similar to Apple Computer where would competition be? Apple has a significant share of the PC market. Where are the others? If Microsoft were not innovative and added features we could still using Visacalc and be playing Pong.

Many of the software companies calling foul should have approached this business problem with a different tact. Their efforts to tag along behind the leaders will always be a disadvantage. The government must not punish the leaders of an industry just to help the weak companies that are just along for the ride. In the beginning I was a very strong Apple supporter, but I needed integrated products that could be used economically so I switched to PCs and Microsoft software. The need for uniformity and connectiveness breeds the necessity to be able to work across different platforms. Users need products that work and are also convenient. (To save time and expense.)

Harry Yamamoto
5573 Road U SE
Warden, WA 98857
Phone (509) 349–2435

MTC-00028907

From: Neal Stobaugh
To: Microsoft ATR
Date: 1/28/02 6:55pm
Subject: Microsoft Settlement
4030 148th Avenue NE
Redmond, WA 98052
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my full support of the recent settlement between Microsoft and the US Department of Justice. I am glad to see they had reached a settlement and that Microsoft will be allowed to start focusing on business, not politics.

I do believe that the terms of the settlement are fair and will ultimately have a positive effect on the consumer and small businessperson. Microsoft's concessions, such as agreeing not to retaliate against computer makers and software developers who develop or promote products that compete with Microsoft, or granting computer makers broad new rights to configure Windows so that non-Microsoft products can be promoted more easily, should appease all the competitors.

I urge your office to do what is right for the American public. Implement the settlement. Thank you.

Sincerely,
Neal Stobaugh

MTC-00028908

From: Lynnie D. Velarde
To: Microsoft ATR
Date: 1/28/02 6:55pm
Subject: Microsoft Settlement

Dear Attorney General: Attached is my letter of opinion for the settlement between the Department of Justice and Microsoft.

Sincerely,
Manuel B. Velarde

Manuel B. Velarde
8902 Leemore Court
Louisville, KY 40241
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to show my support for the settlement in the Microsoft antitrust case. Your efforts in supporting the settlement I gratefully welcome. Microsoft has basically agreed to what was asked of it, as well as agreed to some terms that were not even addresses in the original complaints. Now is the time to move on toward renewed innovation and improvement in the American computer technology industry.

The settlement will lead to Microsoft working more closely with its partners in the software industry than it already does. Microsoft will document and disclose the internal code for the interfaces of its Windows programs some other industry companies can make their programs work more efficiently with Windows. Microsoft will provide computer makers a list of established, uniform terms and prices so everyone will know what the deal is, rather than negotiate privately. A technical committee of software experts will monitor Microsoft to ensure that the terms of the settlement are met. These are big concessions and compromises of Microsoft's legal rights to cooperate with its industry and resolve the court case.

I appreciate, and thank you for, your efforts to see that this beneficial settlement is approved. Your leadership is appreciated.

Sincerely,
Dr. Manuel B. Velarde

MTC-00028909

From: John A. Beatson III
To: Microsoft ATR
Date: 1/28/02 6:55pm
Subject: Microsoft Settlement

Thank you for this opprotunity to voice my opinion.

The Microsoft settlement solution offered by the Justice Department is a sham, window dressing to cover a decision to back out of the whole enterprise. The settlement is so weak as to be meaningless. Remeadiation to those who were harmed virtualy non-existant. Enforcement mechanizms are flimsey and will be ineffectual.

The Justice Department tried to enforce an agreement with Microsoft with a weak settlement in the past. They failed because the enforcement mechanizms relied on good faith by Microsoft instead of effective rules and procedures. The result was a further solidification of the Microsoft monopoly, companies and products driven from the market place, and an outrage from the government that was embarassing given that a blind man could have seen it coming.

Don't repeat history. The only effective settlement is one where the remedy fixes the problem and the required remedial actions can be enforced. Enforcement can not rely on good faith by Microsoft, not then, not now, not ever.

MTC-00028910

From: KFred87529@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:56pm
Subject: Microsoft Settlement

I urge you to accept this settlement.

MTC-00028911

From: thowe@mmcable.com@inetgw
To: Microsoft ATR
Date: 1/28/02 6:55pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Tom Howe
1033 NW 9th
Moore, OK 73160–1811

MTC-00028912

From: Frank Murphree
To: Microsoft ATR
Date: 1/28/02 6:55pm
Subject: Microsoft Settlement
828 Cooke Street
West Helena, AR 72390–1409
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am happy to hear the Microsoft case has settled. I urge the Judge reviewing the case to approve the settlement so all parties may focus on more important matters.

While I do not agree with the government's taking action against Microsoft in the first place, I am in favor of the settlement. Its terms are reasonable, and are in the public interest. Consumers will benefit from the settlement, as Microsoft will be free to go about its business producing quality software. Microsoft's competitors will clearly benefit from the agreement. They will be made privy to Microsoft's otherwise confidential operating information. They will also benefit from Microsoft's agreement to make it easier for computer manufacturers to install other company's software on their computers.

The settlement will also provide much needed certainty to the tech industry. This can only help our American economy, especially in a time of recession. I am hopeful this matter will come to a speedy resolution. Thank you.

Sincerely,
Frank Murphree

MTC-00028913

From: John Brugger
To: Microsoft ATR
Date: 1/28/02 6:59pm
Subject: microsoft settlement

it is my opinion that the settlement proposed by the company is ultimately the best solution for all concerned.

MTC-00028914

From: Lydia G. Rich
To: Microsoft ATR
Date: 1/28/02 7:01pm
Subject: Microsoft Settlement
35 Hyatt Drive
Warren, PA 16365–3527
January 10, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to express my support in the recent settlement between Microsoft and the federal government. It is with sincere hope that this is the end of any litigation on the federal level. Considering the terms of the agreement, Microsoft did not get off easy at all. In fact, due to this agreement, Microsoft has to make several important changes to the way that they handle their business.

For example, Microsoft has agreed to disclose and document for use by its competitors various interfaces that are internal to Windows" operating system products. This alone is a first in an antitrust settlement. Microsoft has also agreed to make available to its competitors, any protocols implemented in Windows" operating system products that are used to interoperate natively with any Microsoft server operating system.

With the many terms of the agreement, I see no reason for the government to pursue further litigation on any level against Microsoft. Not only would it be a waste of time, but a waste of money as well. I fully trust that you would agree. Thank you.

Sincerely,
Lydia Rich
cc: Senator Rick Santorum

MTC-00028915

From: Jmcjimmy@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:00pm
Subject: MICROSOFT SETTLEMENT
James W. McCoy
RR 3 Box 3412
Naples, TX 75568
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I write to you today to express my support of the recent settlement reached between the Department of Justice and Microsoft. It is my understanding that at the end of January the Attorney General will decide whether or not to enact the terms of the settlement. This is a very important decision. I believe that enacting the settlement would be the most beneficial course for our country, economy, and technology industry.

The terms of the settlement call for the creation of a technical review committee. This committee will have the job of overseeing Microsoft's action. They will ensure that Microsoft complies with the terms of the settlement agreement. This should ease those who fear Microsoft's compliance.

I hope that the Department of Justice enacts this settlement quickly.

Sincerely
James McCoy

MTC-00028916

From: Harlan Wilkerson
To: Microsoft ATR, dennispowell@earthlink.net@inetgw
Date: 1/28/02 7:02pm
Subject: Proposed Settlement (with corrections)

I feel that adoption of the proposed settlement is not in the public interest.

The Appeals Court ordered the District Court to craft a remedy that would "unfetter [the] market from anticompetitive conduct," to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future."

Windows has gained it's market position not by consumer demand, but by Microsoft's almost total control of production. In the past, Microsoft has used exclusive OEM licensing and marketing incentives to pass along the so-called "Microsoft tax" to every PC consumer. Most of the top 20 OEMs simply don't offer PC systems without the Windows operating system pre-installed. Microsoft has urged (and rewarded) the OEMs to "just say no" to buyers who request a so called "naked PC" (a PC with no pre-installed software). This is ironic since the OEM's associated support costs should actually be reduced. The OEMs that do offer alternatives to Microsoft's Windows charge essentially the same price for non-Windows models. This is true even for those with pre-installied versions of absolutely free operating systems e.g. Linux, or the BSDs. These operating systems can be freely downloaded and installed on all of a consumers PCs without any licensing fee whatsoever. Consumers who have opted to install these free operating systems (on their own) are usually frustrated in any attempt to obtain refunds from the OEMs for their unused Windows licenses. This despite provisions for a refund from the OEM that are contained in the Microsoft Windows EULA. It's no accident that consumers can't determine the fair price of a PC under these circumstances. This was highlighted during the trial by a grass roots movement that culminated in a "Windows Refund Day". Consumers who purchase Microsoft Windows through an OEM usually have no standing in class action suits brought against Microsoft.

Nothing in the proposed settlement prohibits Microsoft from continuing to offer OEMs existing forms of advertising or marketing incentives (on an equitable basis) to include Windows on every machine, or to decline to sell "naked PCs". We currently are in the worst economic recession in at least a decade. It's doubtful that some of todays OEMs will even survive. Nonetheless, many of these same "equipment manufacturers" won't sell their equipment at any price without pre-installed software from Microsoft. This is hardly the behavior of an unfettered market. Microsoft should be required to post the costs of it's OEM products on a public web site, and they should be precluded from offerring any incentives to OEMs to curtail the sales of "naked PCs".

To paraphrase the Appeals Court by the time this case is resolved the facts will be ancient history, but the effects of the illegal acts will have caused harm nonetheless. The proposed remedy does nothing to "deny to the defendant the fruits of its statutory violation". Microsoft staunchly denies any wrong doing in it's public statements, retains billions in capital, and isn't even held liable for the people's costs in prosecuting the case.

In crafting a remedy that terminates the illegal monopoly or eliminates practices likely to result in monopolization in the future it is important that hearings be held to investigate how we got here in the first place. The Federal Trade Commission and DOJ took up Microsoft's trade practices involving OEM per-machine-licensing of MSDOS. During this case a private antitrust suit was brought against Microsoft by Caldera. That suit was settled but provided no relief for the millions of consumers who purchased Digital Research's Disk Operating System. Digital publicly complained that they had sufferred from Microsqft's anticompetitive per-machine-licensing scheme and were wrongly excluded from the Windows 3.1 beta testing program—even though they were participants in beta testing earlier versions of Windows. Digitat's Operating system didn't compete with Windows, but did compete with MSDOS. At the time these were separate Microsoft retail products. The respected magazine and online publication Dr Dobbs Journal revealed that the Windows 3.1 beta contained code that was only useful for detecting Digital Research DOS. This code gave the user error messages or simply halted a users machine whenever Digital Research DOS was detected. Windows version 4 and MSDOS version 7 were eventually bundled into Windows 95 which carried exclusive OEM license agreements that didn't permit OEMs to use or dual boot other operating systems like Digital's DOS. For example, some Hitachi PCs had a hidden copy of the BeOS that consumers could only discover and activate using instructions on Hitachi's web site. Digital, Hitachi and BeOS have since exited the PC OEM and PC Operating system business. For it's part the DOJ has complained publicly that Microsoft violated the first consent agreement. The practice of monopolies denying companies that compete in any software category timely access to APIs, and the practice of bundling separate retail products for anticompetitive reasons, and/or using exclusive licensing agreements to harm competitors is a common and recurring theme. The judge was correct in denying Microsoft's request to limit the scope of the remedies without an evidentiary hearing, and the DOJ was premature in dropping their case in-main on product bundling. Microsoft is engaged in world-wide trade and the DOJ and European antitrust regulators seem uncoordinated and out of step. The European regulators have taken up complaints that Microsoft has withheld access to Windows server software API's that are necessary for interoperability with other network operating systems, and the bundling of Windows Media Player in Windows XP. Microsoft is not so quietly announcing it's plans for a single Internet logon authentication service it's calling ".NET". The stated objective of this initiative is to leverage the Windows monoply in order to create a new (Internet) monopoly. While these practices may or may not be lawful, it's doubtful that all of the practices likely to result in monopolization in the future have been eliminated without a single hearing on the issues here in our courts. Most non-Microsoft operating systems provide a boot manager that allows consumers to use several operating systems. In fact, Microsoft includes a boot manager that allows consumers to use multiple (older) versions of Windows e.g. Windows 2000 and Windows 98. The act of installing a Microsoft operating system doesn't invalidate a consumers licenses for a competitors products. Yet installing (or reinstalling) Microsoft Windows will always result in a consumers other operating systems becoming inaccessible. This is anticompetitive behavior. Microsoft should be required to automatically add other operating systems to it's boot manager in the same manner that it adds it's own products.

The DOJ and Microsoft appear to have forgotten that this case is about Personal Computers if a consumer shops for a PC, and makes a purchase based on the software selection, it makes no sense to provide Microsoft the arbitrary right within fourteen days (or some other later date) to delete icons or programs and substitute their own because they have judged the competitors product lacking in some quality or state they deem essential.

Microsoft has stated that their power to innovate or bundle applications into Windows XP is essential to the economic recovery of the PC industry. The PC OEMs have testified that there is no viable alternative to Windows. In the past year alone private business LANs and Internet companies have suffered billions of dollars in damages caused by trojan or virus programs that specifically targeted Windows PCs. The Executive and Legislative branches of the Federal Government have recognized the Internet as a vital piece of our national and international infrastructure. They have established agencies tasked with it's protection. Indeed one reason for pursuing the proposed settlement after September 11 was "the national interest" It's hard to understand why much of Microsoft's ill gotten monopoly shouldn't be considered an essential public facility. Certainly consumers have a right to migrate their own itellectual property out of proprietary Microsoft file formats. Microsoft should be required to publish the file format information needed for other applications to interoperate with files created by MS Office. This is certainly the case with regard to Apple Computer users who have already been threatened with the cancellation of the Apple version of MS Office. In conclusion, the court combined the individual State and DOJ cases. A settlement that doesn't include half the plaintiffs is at best not a settlement.

Sincerely,
Harlan L. Wilkerson
Hutchinson, KS. 67501

MTC-00028917

From: Peggy Broyles
To: Microsoft ATR
Date: 1/28/02 7:00pm
Subject: MICROSOFT SETTLEMENT

Dear Mr. ASHCROFT;

It is good to see the Justice Department has ended its long and very costly antitrust lawsuit against Microsoft. Microsoft has produced wonderful software for the world. They should be allowed to continue.

No more action should be taken at the federal level against Miicrosoft.

Thank you ,
Arthur & Peggy Broyles

MTC-00028918

From: Howard Griffen
To: Microsoft Settlement
Date: 1/28/02 6:55pm
Subject: Microsoft Settlement
Howard Griffen
1436 Baytowne Circle E
Destin, FL 32550
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft-Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Howard Griffen

MTC-00028919

From: mbreivik@att.net@inetgw
To: Microsoft ATR
Date: 1/28/02 7:03pm
Subject: Microsoft Settlement
Mary Breivik
25010-38th Avenue South
Kent, WA 98032
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in favor of Microsoft and the Department of Justice settling in the case. The settlement agreement the two sides reached in November adequately addresses the concerns raised by the case's plaintiffs. There is really no need to spend any more money on litigating this case.

I really appreciate the way Microsoft has handled itself throughout the case. It has answered the allegations of unfair business tactics by making fundamental changes to key aspects of its operations. It will license Windows to the 20 largest computer-manufacturing companies at the same price and on the same terms. Additionally, Microsoft agreed to grant computer manufacturers the right to change the configuration of Windows. This will allow the manufacturers to replace features of Windows with software programs designed by Microsoft's competitors, which will give consumers a greater choice of products.

The settlement agreement is the appropriate remedy to the complaints lodged against Microsoft, and, in fact, it goes beyond the scope of the original suit. Microsoft has demonstrated good faith in agreeing to the settlement terms. Nothing more will be gained by dragging this case back to the courts.

Thank you for your attention.

Sincerely,
Mary Breivik

MTC-00028920

From: Spacey@attbi.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:03pm
Subject: Microsoft Settlement

Dear Sirs:

As an IT (Information Technology) professional for 35 years, I offer the following opinion.

Microsoft has never been an innovator, but always an imitator who targets successful technologies developed by others and then competes with them on the heavily skewed playing field of Microsoft's monopoly control of the PC operating system.

Because of the explosive rate of change in IT hardware so far, there has always been room for innovation by outsiders despite attempts by any entity to control or monopolize any technology. This has created an unprecedented climate of innovation and competition in most IT areas, empowering users with the tools to maximize their output.

However, in the specific field of PC operating systems, this has not happened. Most users have been hobbled with operating systems from Microsoft which are far behind other systems available in ease of use, ease of maintenance, portability, stability, transparency, security, efficiency, etc. This has been possible because of the abuse of the monopoly position that Microsoft has in the PC operating system arena.

If very strong corrective measures are not implemented in the very near future, Microsoft will have achieved a monopoly position over all software used by most PC, Internet, and Communications Device users with the result that competition and thus innovation will be extremely limited, and costs and capabilities will be determined solely by Microsoft instead of the free market.

The current settlement proposal by the USDOJ is not adequate, and should be enhanced to include the original demands made by the prosecutors of this suit.

MTC-00028921

From: hap
To: Microsoft ATR
Date: 1/28/02 7:03pm
Subject: Microsoft settlement
109 Hosmer Street
Hudson, MA 01749-3246
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am wish to express my support for the settlement reached in the government's case against Microsoft. It's time to end this this. I want the government to stop hounding Microsoft so they can continue to innovate, create more jobs, provide more innovative products, and otherwise help our economy recover just like President Bush wants us to.

Before Microsoft created the Windows product only the technically adept were able to use a computer not to mention the internet. Lets be fair but let's not overly punish a company for being aggressive and competitive. I urge that the government accept the settlement as it has been drafted. Let's get on with business we certainly have many other important challenges to tackle. Let's work together to improve our economy and keep the United States free of terrorism.

Please help us

Sincerely,
Richard Lefebvre
email copy: Representative Marty Meehan

MTC-00028922

From: Mumsy37@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:04pm
Subject: Microsoft Settlement

Dear Department of Justice:

Please accept the settlement of the Microsoft case. This country has been through enough distractions. Let's see if Microsoft can use their engery to create software to help in this war on terrorism. I bet they will be on the cutting edge of this fight on terrorism and military deployment logistics, etc.

They do not need any more time and money spent in court to defend their company.

Thank you and God Bless America.
Carl Munson,
CEO Bay Coffee Service,
Corpus Christi, Texas

MTC-00028923

From: Carl Schnurr
To: Microsoft ATR
Date: 1/28/02 , 7:04pm
Subject: Microsoft Settlement

Enclosed please find my comments on the ongoing MS litigation.

Carl

Carl Schnurr
Group Program Manager, Microsoft
Salt Lake Games
8071 S 865 E
Sandy, UT 84094–0697
January 24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I find it hard to believe that the state of Utah has the time or the money to pursue litigation against Microsoft. Our projected deficit for this year is nearly two hundred million dollars, and no good can come of further time in the federal courts. My state, along with eight more of the eighteen plaintiff states in the Microsoft antitrust case, are currently seeking to overturn a perfectly reasonable settlement in the hopes of making more of a profit for themselves. I am writing to express my dismay, not only that the suit has gone on this long, but also that there is the possibility that it may drag out even longer. Microsoft, the Justice Department, and the plaintiff states are not the only parties that have felt the negative effects of this suit—the economy has declined even further, the consumer has suffered, and progress within certain aspects of the technology industry has lagged. I do not believe that the pursuit of further litigation is in anyone's best interest.

The settlement that Microsoft and the Justice Department have managed to reach is fair and reasonable. Microsoft has agreed, for example, to reformat future versions of Windows so that non-Microsoft software will be supported within the Windows operating system. Moreover, Microsoft plans to document and disclose various source code, interfaces, and protocols integral and native to the Windows operating system to facilitate customizability within Windows and to allow non-Microsoft servers to interoperate natively with Microsoft servers. Microsoft's competitors will be able not only to use Windows as a platform to market their own software, they will also have the opportunity to reconfigure Windows so as to promote their own programs. I believe the settlement is just. I see no need to pursue additional litigation on the federal level. This has gone on far too long already. I urge you to support the settlement and finalize it as soon as possible.

Sincerely,
Carl Schnurr

MTC-00028924

From: Donald Delahaut
To: Microsoft ATR
Date: 1/28/02 7:04pm
Subject: Microsoft Settlement

The attachment was faxed to Mr. Ashcroft on 1/27/02 about 9:30pm.

Donald Delahaut
260 Fernledge Drive
New Kensington, PA 15068–4614
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settler member of the technology industry, I warn to see Microsoft and the industry to move on The suit on for over three years and has caused great damage [o the. entire industry. Some say that Microsoft is being treated leniently In fact the agreement is quite tough Microsoft document and disclose, for use by its competitors, various interfaces flint are internal to Windows'' system products. Microsoft is virtually handing over their company secrets to their competitors, getting off easy in order to move forward Microsoft b giving in to a lot The terms of the settlement are fair and t. accepted.

CC Senator Rick Santorum, Representative Melissa A. Hart

MTC-00028925

From: John Heine
To: Microsoft ATR
Date: 1/28/02 7:04pm
Subject: Microsoft Settlement
John J. Heine
751 Emerald Drive
Lancaster, PA 17603
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am e-mailing to you today to express my support of the recent settlement between Microsoft and the Department of Justice. After three long years, the settlement is long overdue. As a corporation, Microsoft made concessions above and beyond what was necessary. Although litigation was unnecessary in the first place, it is best to let the issue rest with this settlement.

Again, the settlement sets terms that are beyond the scope of the original litigation. The disclosure of internal interfaces is an example of the generous nature of this settlement on behalf of Microsoft. Under this provision, Microsoft is documenting all of the internal interfaces on the Windows'' operating system products. These documents are being forwarded to competitors of Microsoft for their review. This is unprecedented in any type of antitrust legislation. Further, it is proof of Microsoft's desire to settle the issue. This haste is imperative.

Letting the settlement stand will enable Microsoft, the technology industry, and our economy to recover. In this time of economic unrest, this should be the focus of our government's efforts. I trust that no more action against Microsoft should be taken at the federal level.

Sincerely,
John J Heine
cc: Senator Rick Santorum

MTC-00028926

From: Robert Habas
To: Microsoft ATR
Date: 1/28/02 7:04pm
Subject: Antitrust Settlement with Microsoft

The government antitrust settlement with Microsoft lacks effective enforcement and it fails to prohibit a number of anticompetitive licensing practices. It's taking away the chance for real competition in the operating system market.

MTC-00028927

From: saeed bhatti
To: Microsoft ATR
Date: 1/28/02 7:05pm
Subject: Microsoft settlement

Judge Kollar-Kotally,

My name is Saeed Bhatti and am resident of New Jersey. I came to know through a very close friend about some of the aspects of the Proposed Settlement made by the Justice Department with Microsoft, and I am very unhappy. Firstly, how could the Justice Department grant Microsoft a government-mandated monopoly of the software industry and even worse—other technology markets? Definitely such decision would seriously jeopardize all serious competitors—both now and in the future. We're living in a free and open market society, and one of the advantages of having such a system is that people have the right to choose from among several brands of one single item, and in this case, software. I would want to see a healthy competition of several software companies, in order to make prices competitive as well. Secondly, how could the Justice Department condone Microsoft for violating the antitrust law and even for its illegal conduct e.g. bribing other competitors in order to stop their operation. What is the Justice Department's motive behind this action?

Your Honor, I would want Microsoft be brought to justice upholding to democratic values. Sadly to say that monoplies are the trade mark of monarchs and communist governments.

Very Truly,
Saeed Bhatti

MTC-00028928

From: ruthweeb
To: Microsoft ATR
Date: 1/28/02 7:05pm
Subject: Microsoft Settlement
January 27, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington DC 20530–0001

Dear Mr. Ashcroft:

I am writing in full support of the recent settlement between the US Department of Justice and Microsoft in the antitrust case. I feel this case has gone far too long and I can hardly believe what we as taxpayers have paid to have this continued. I believe the terms of the settlement is very fair and certainly does not let Micro- soft off easy. They stipulate that Microsoft will have to disclose interfaces and protocols that are internal to Windows operating system products. They also will be granting computer makers broad new rights to configure Windows so that non- Microsoft products can be promoted more easily.

The nine states that want to continue litigation should be reprimanded and the settlement should be implemented as soon as possible. Please do what is best for the American public by ending this dispute. Thank you.

Sincerely,
Ruth I. Weeber
3557 Sunridge Drive South
Salem, Oregon 97302
ruthweeb@msn.com

MTC-00028929

From: Renate Wilford
To: Microsoft Settlement
Date: 1/28/02 7:01pm
Subject: Microsoft Settlement
Renate Wilford
3548 Florian Terrace
Palm Harbor, FL 34685-2663
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Renate Wilford

MTC-00028930

From: ALINEAZ@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:05pm
Subject: Microsoft Settlement

I feel the provisions of the agreement are fair. The case should be settled and let Microsoft go about their business—which is one of the most successful businesses in the United States. Get off their back.

Aline Gregory
6451 E. Sugarloaf St.
Mesa, AZ 85215

MTC-00028931

From: RRingg2161@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:06pm
Subject: Microsoft antitrust deal
To: Renata Hese

I'm writitng this letter in response to the microsoft anti trust case that is still pending. I have to say as a consumer there's no question that Microsoft still has a monopoly on the personal computer and the verdict's established by the DOJ did little to stop microsoft from controlling the OS system market. I really think the DOJ should of done more to protect the consumer from falling into the hands of microsoft's control. My solution to this problem is that law's should be set on how pc computers are sold and what applications can be preloaded so that consumers can have more choice. If you go into a store to buy a pc obviously you going to have to buy MS windows O/S whether you like it or not. Because Microsoft control's the operating system they control the software market. Laws should be set that computers have to be sold with out the Windows system installed so that consumers can purchase the windows software they wan't not what comes on the computer. In the software market if you don't get your product's pre-installed on computers you can't compete in a fair open market. This to me is the solution to the problem and everybody want's to compete in a fair market. I hope this brings some closure to this case and everybody can win from it.

Thank You for your time.
Roy Ringgenberg

MTC-00028932

From: Charles Dorian
To: Microsoft ATR
Date: 1/28/02 7:06pm
Subject: Microsoft Settlement
Charles Dorian
3521 255th Lane SE #19
Issaquah, WA 98029
January 28, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support the Department of Justice's recent efforts to settle the Microsoft antitrust lawsuit. Continued litigation of this case is not in anyone's best interest. I urge you to take steps to ensure an expedient resolution of this lawsuit.

The terms of the settlement agreement are fair and reasonable. Microsoft has agreed to a wide range of restrictions on the way it conducts business. They have agreed not to retaliate against those who promote software that competes with Windows. They have also agreed to implement a uniform price list for the licensing of Windows and to be monitored by a technical review committee that will ensure Microsoft's compliance with the settlement agreement. The settlement agreement accomplishes the goal of increasing competition. Pursuing this case through more trial will not produce a better result. Accordingly, it is strongly recommended that the Department of Justice approve the settlement agreement.

I am a computer owner for more than twenty years who has used many companies programs in my business and personal activities. I am knowledgeable of the issues involved in this case.

Thank you for considering my comments on this matter.

Sincerely,
Charles Dorian

MTC-00028933

From: JACK MILLS
To: Microsoft ATR
Date: 1/28/02 7:08pm
Subject: Microsoft Settlement

PLEASE ACCEPT THE ATTACHMENT IN SUPPORT OF THE MICROSOFT SETTLEMENT.

REGARDS,
JACK MILLS

MTC-00028934

From: C. Dean Larsen
To: Microsoft ATR
Date: 1/28/02 7:06pm
Subject: Microsoft Settlement

I don't think the federal government and some of the other states which are included should settle with Microsoft under the current proposed terms. Microsoft has been a market predator! It has and continues to use its vastly superior position to unfairly dominate and illegally disadvantage small software companies. Microsoft will continue to do so after the current proposed settlement just as the tobacco industry has done. Fortunately, there are still many states unwilling to settle under the current proposed terms.

Sincerely yours,
Dean Larsen

MTC-00028935

From: Floyd, Terry (DHS)
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 7:07pm
Subject: Microsoft Settlement

I am a Microsoft Certified Systems Engineer whose livelihood depends on the continuing success of the company. As such, you'd think I'd be one of the people cheering most loudly for Microsoft to prevail in this long and difficult antitrust case. My own self-interest aside, however, I truly believe that Microsoft has done a great deal of harm to their competitors and the information technology industry as a whole through their insidious behavior. Beyond that, the more I learn about Microsoft's products, the less impressed I am with the quality of their technology. Just because they are the most successful software company in the world does not mean they make the best products. In many cases, their competitors have superior products, but they have so little power in the marketplace that they are struggling to survive in the current economic climate.

It has been proven beyond doubt that Microsoft violated the law with many of their business practices. Many other questionable practices that I have seen them implement over the past five to ten years were not even addressed during the antitrust trial. Microsoft is even now trying to prevent a competing product named Lindows from ever coming to market. Lindows is a new distribution of the open source Linux operating system that will have embedded WINE capabilty, allowing it to run Windows applications in a Linux environment. This is a truly innovative product with the potential to be quite successful. But Microsoft has filed a lawsuit against the small company that is developing Lindows, claiming that the very name of the product infringes upon their trademarked Windows operating system. Personally, I can see no way this suit can succeed, and I hope the judge who hears the case throws it out as being without merit, but Microsoft has the power and the resources to crush any and all of their competitors. Lindows is a small start-up company with a great idea, but few resources. Microsoft could use its legal warchest consisting of almost limitless money and attorneys to keep the product from ever being available to customers. So much for our freedom of choice.

Moreover, I believe Microsoft has violated other provisions of the Tunney act to lobby the government on its behalf. Last week, I received in the mail a brochure from a group named "Americans for Technology Leadership" which urged me to send an email to microsoft.atr@usdoj.gov to support Microsoft against attacks by their competitors. I normally throw these kinds of junk mail brochures in the garbage, but later that same day, I received a telephone call from someone at Americans for Technology Leadership who also urged me to send an email to voice my support for Microsoft and its struggle to "innovate." Now, being a curious fellow, I decided to visit the website of Americans for Technology Leadership at http://www.techleadership.org. I guess I shouldn't have been surprised that the site was cluttered with Microsoft advertisements. This group, a supposedly "independent" organization of companies and individuals dedicated to limiting government regulation of technology, is actually funded primarily by Microsoft. I have a feeling that ATL had access to the names, addresses and phone numbers of all Microsoft Certified Professionals and was calling us to rally our support behind the company.

I don't really know whether or not this activity violates any laws, but I resent being used as a pawn in this legal circus. I urge you to take strong action against Microsoft to prevent them from using their monopoly power to prevent other companies from developing and marketing products and services that compete with their offerings. I believe in free minds and free markets and in the long run, I do believe the best products will prevail. If these products happen to come from Microsoft, then they deserve to succeed. But if such products come from Novell, or Red Hat, Caldera, or Sun, or Oracle or even Lindows, then these products at least deserve an equal chance to succeed.

I for one, will be one of the first in line to purchase Lindows if Microsoft will ever allow it to reach the marketplace.

Terry Floyd, MCSE, MCDBA, CNA
Associate Information Systems Analyst
California Department of Health Services
Division of Communicable Disease Control
Information Technology Unit
Phone: (510) 540–2866
Pager: (510) 382–4814

MTC-00028936

From: dunmu ji
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 7:12pm
Subject: Microsoft Settlement

Microsoft is a company who is doing business and has people's trust. Making Microsoft uglier and pay to competitor will not save the economy that has been not good for two years. Should dotcoms or any "bubble" company sue Microsoft for their lose since anybody was/is using computer software? Many bad news from big companies have already been damaged people's confident about the economy. Get the Microsoft case to be settled as soon as possible.

We need go on.
Xiaoping Ji

MTC-00028937

From: Chris Maynard
To: Microsoft ATR
Date: 1/28/02 7:09pm
Subject: Microsoft Settlement

Good Evening,

I am writing to comment on the Microsoft trial. While I had planned to send my own comments, I found them already written at the website below. http://www.kegel.com/remedy/remedy2.html In short, I do not believe that the proposed settlement will be successful in stopping Microsoft from enjoying and profiting from their monopoly.

Thank you,
Chris Maynard
Systems Admin Flippin,
Densmore, Morse, & Jessee
maynard@flippindensmore.com

MTC-00028938

From: Robert Habas
To: Microsoft ATR
Date: 1/28/02 7:08pm
Subject: Antitrust Settlement with Microsoft

The government antitrust settlement with Microsoft lacks effective enforcement and it fails to prohibit a number of anticompetitive licensing practices. It's taking away the chance for real competition in the operating system market.

Robert Habas
Computer Connections
St. Helens, Oregon
(503) 397–6726 habas@columbiapc.com
http://www.columbiapc.com

MTC-00028939

From: Rodney Snow
To: Microsoft Settlement
Date: 1/28/02 7:04pm
Subject: Microsoft Settlement
Rodney Snow
81 Lemon Grove
Irvine, Ca 92618–4510
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Rodney Snow

MTC-00028940

From: "SSISA" Daniel Garber
To: Microsoft ATR
Date: 1/28/02 7:09pm
Subject: Microsoft Settlement

In my judgment, free choice of the best software product has been hindered.

I have not had the benefit of free choice of all of the alternatives in the market.

I want to be able to choose a product other than Microsoft, if I should decide to do so.

Daniel Garber
Surgical Services Information Systems Administrator (SSISA)
Harborview Medical Center Operating Room
325 9th Avenue, Box #359890
Seattle, WA 98104 USA
206–731–4520 voice
206–731–6577 fax
206–986–7505 pager

MTC-00028941

From: Donald Loptien
To: Microsoft Settlement
Date: 1/28/02 7:03pm
Subject: Microsoft Settlement
Donald Loptien
7450 Deerfield Rd
Longmont, CO 80503–8788
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Donald Loptien

MTC-00028942

From: Spencer, Pamela S
To: 'microsoft.atr(a)usdoj.gov'
Date: 1/28/02 7:11pm
Subject: Microsoft Settlement
January 28, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a fellow Republican in Rep. Tom Delay's district I wish to express my support of the settlement reached last November between the Department of Justice and the Microsoft Corporation. It has now been 3 years since the Justice Department began the litigation process against Microsoft. During this time countless dollars have gone to court mediators who endlessly debated the merits of this case. In times where budgetary resources are becoming increasingly scarce this action is increasingly appalling. Three years has been too long. I cannot imagine there is anything more to discuss.

Once more, the settlement that was reached contains many concessions on behalf of Microsoft. in an attempt to settle the dispute Microsoft has been willing to agree to these terms despite their lack of guilt in the case. Microsoft has agreed to design Windows XP with a particular mechanism that will allow users to add competing software into the system. This will revolutionize the way our operating systems are configured.

I believe that if Microsoft is willing to make these changes, the settlement should be enacted. I strongly support the settlement and look forward to the end of this case.

Sincerely,
Pamela Spencer
3006 Oakland Dr.
Sugar Land , TX 77479–2451
cc: Representative Tom DeLay

MTC-00028943

From: Greg Brockway
To: Microsoft ATR
Date: 1/28/02 7:12pm
Subject: Microsoft Settlement

Leave Microsoft alone. We are a lot better off with them than without them. Maybe they should move to Canada and give them the taxes.

Greg A. Brockway

MTC-00028944

From: Harry Dullys
To: Microsoft ATR
Date: 1/28/02 7:13pm
Subject: MICROSOFT Settlement
Harry Dullys
722 Valley Street
Orange, NJ 07050
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Microsoft has been involved for more than three years in the resolution of its antitrust case. I believe that the time has come to put this matter behind us. I also believe that the current terms serve the best interests of the public. As the settlement agreement stands, the company will be more competitive in the marketplace, and as a result, consumers worldwide will benefit.

It is my understanding that Microsoft has consented to design future versions of Windows that make it easier for software developers to install non-Microsoft programs in the operating system—among many other concessions. Surely this indicates the corporation's commitment to comply with the law and the general needs of consumers and those in the IT field.

I hope that the Department of Justice will see fit to ensure that the agreement remains in its current form, lest three additional years of negotiations become necessary. Thank you for your attention.

Sincerely,
Harry Dullys

MTC-00028945

From: Bob (038) Adie Santore
To: Microsoft ATR
Date: 1/28/02 7:13pm
Subject: Microsoft Settlement
TO : Renata B. Hesse,
Antitrust Division,
US Department of Justice
FROM : Robert Santore, Concerned Citizen

I believe America needs closure on this matter once and for all. How long has it been, how much money will it take...and how long will it continue to be?

The Federal Government must state it's case, derive it's penalties, seek resolution, and end it's relentless efforts to drag this matter on any further—perhaps into the next administration. They need to set a time limit. The longer the Justice Department takes to administer it's justice, the public will be thoroughly disgusted, and America once again will receive her enormous share of worldwide ridicule.

This action is a waiste of precious taxpayer resources, and most of us believe the action by the previous administration was politically motivated, fueled by Microsoft's competiton. No one has yet to prove that the American citizen or the software industry has been hurt by the alligations of anti-competive behavior. Is it worth the cost? And, while the Government continues it's aggressive pursuits, we have real serious problems to contend with...such as the Enron case, where thousands of employees and investors were sucker-punched, collapse of a major corporation, lost employment and retirements. That's the real crime. And that's precisely where the Justice Department should be spending it's efforts. The continuous and incessent attacks against Microsoft

MTC-00028946

From: Jr. Christopher Horton
To: Microsoft ATR
Date: 1/28/02 7:15pm
Subject: Microsoft Settlement

I am a Win98 user who is "fed up" with Microsoft's bullying behavior. Linux and other operating systems wouldn't be so popular if Microsoft actully "listened" to their customers for once. I am all in favor of restoring consumer choice to the computer market. Customers should be allowed to choose what operating system they want on their PCs, not the "big box" computer stores, and certainly "not" Microsoft!

Jr. Christopher Horton
bigcatman@mindspring.com

MTC-00028947

From: deanwal@bellsouth.net@inetgw
To: Microsoft ATR
Date: 1/28/02 7:17pm
Subject: Microsoft Settlement

I strongly urge the Department of Justice to accept the proposed settlement as outlined by the appeals court. This litigation should never have been brought in the first place. I use Microsoft products daily and in no way do I feel they have taken unfair advantage in their business practices. I also use Netscape as my internet browser so I know there is a choice. Please accept the agreement so the country and Microsoft can move on.

Dean Waldenberger

MTC-00028948

From: Hathai Sangsupan
To: Microsoft ATR
Date: 1/28/02 7:16pm
Subject: Microsoft Settlement

I just wanted you to know that I feel strongly that the proposed Microsoft Settlement is a TERRIBLE IDEA!

MTC-00028949

From: Joe R. Wood, Jr
To: Microsoft Settlement
Date: 1/28/02 7:08pm
Subject: Microsoft Settlement
Joe R. Wood, Jr
607 Ridgeview Cir
Rocklin, CA 95677
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers&#8217; dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

Joe R. Wood, Jr.

MTC-00028950

From: brian215@netscape.net@inetgw
To: Microsoft ATR
Date: 1/28/02 7:18pm
Subject: Microsoft Settlement

The proposed settlement, while appearing to address the anticompetitive behaviour identified in the 1998 complaint, is deficient in several ways.

First and foremost, the complaint itself was, it may be inferred, limited in scope, for the purposes of greater probability of gaining a conviction or settlement, and for the purposes of shortening the proceedings.

As such, there is much, reasonably well documented and widely known in the industry, past behavior of an anticompetitive nature on Microsofts part, which was not included in the complaint. This behavior continues, and should be addressed in any settlement or imposed finding by the court.

Specific activity, which is ongoing, was not identified, and which must be stopped, includes the purchasing of software companies dominant in their specific niche markets and providing multi-platform software; purchasing the companies or "poaching" critical assets (eg employees) of companies making development software (eg the Borland, past developers of "C" compiler which competed with Microsoft's product, whose entire development staff was hired by MS, effectively crushing Borland); and the contractual tying of distribution rights for Explorer, to the use of Microsoft Software on portal internet sites (among ISPs who operate servers and also supply browser software to customers, effectively falsely boosting server market share as well as extortionary pricing).

Another impact, not addressed, is the potential employment market for software developers. By establishing, through its predatory practices, an unnatural market with uncompetitive salaries, Microsoft effectively established a salary cap in the software industry, which has directly affected every single software developer, as well as limiting the potential market for developers, by establishing a closed market in many software solution areas, as well as "closed shop" sectors in further areas and placing high barriers to entry to competitors who might have opened these sectors with enabling software (OS's, languages, middleware, and open standards in the Open Source Software areas).

In addition to its bad corporate practices, Microsoft has: established its own bad development practices (via its Certification programs); broken the pre-existing "mentor" practice for software development (by hiring, exclusively, college graduates or college students) thus circumventing "best practices" indoctrination in the industry; demolished pre-existing "competitive but cooperative" market practice among competing products (eg ability to import/export among differing word processing packages); and established "anti-marketing", the practice now coined "Fear Uncertainty and Doubt" (FUD), synonomous with Microsoft but used in other business sectors. Additionally, the failure to adequately address many aspects of what an operating system is itself designed to handle, such as networking, security, file names, memory protection, etc, have been dismal failures or ignored completely—things which in a truly competitive market would have spelled the end of a company failing at such a basic level. All of these behaviors are anti-competitive. All are harmful to consumers. All have had the effect of reducing competition, raising prices, and limiting or eliminating development of new features. All of these need to be addressed, effectively, in any settlement or consent decree, or other court action against Microsoft.

If the court were to see fit to also impose minimum standards on any software deemed an effective monopoly, be it the operating system, browser, complier, network stack, or similar, the protection of consumer interests and businesses alike would be well serverd.

I hope these comments are useful in the settlement process.

Sincerely,

Brian Dickson
Arlington, VA
703-564-7246

MTC-00028951

From: DanLucky(a)MediaOne
To: Microsoft ATR
Date: 1/28/02 7:16pm
Subject: Microsoft
Dan Lucky
2455 S Ponte Vedra Boulevard
Ponte Vedra Beach, FL 32082
904-827-0096
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing on the occasion of the Justice Department's public comment period on the Microsoft settlement. As an objective member of the technology industry with 35 years of experience, working with a competitive platform vendor (IBM) to the Windows operating system, it seems that this case developed as a naive attempt of politicians to placate the complaints of businesses (Sun, Oracle, Apple, etc.) in their districts that have failed to gain their desired market share in the software industry. The ensuing attempt at a break-up was a punch in the face to free enterprise by a government interfering where it doesn't belong, so I believe accepting this compromise would be a major step forward for getting this economy back on track and moving on from this horrible legal charade instigated by envious "losers". I have seen this "looser" attitude over and over in this industry. Microsoft has set a standard that most competitors don't like to compete against. Though their rivals have mostly been victims of bad marketing strategies and/or mediocre products, Microsoft is planning to take several steps to level the playing field further. I believe they will offer the top 20 computer manufacturers with equal pricing for licenses of the Windows operating system without adding any restrictions on the distribution or promotion of competitive products, while allowing broad capabilities to arrange its platform with a custom combination of Microsoft and non-Microsoft software. They will also provide disclosure of their internal interfaces and server protocols to assist software developers in the design process. As you can see with the above examples, Microsoft is making serious efforts to appease the rest of the marketplace. This is a company that has helped move our economy forward by helping hundreds of millions of consumers join the information age, and that should be respected with a measured judgment. Any further action would be unwarranted and more costly and difficult to implement, so please proceed with this very fair solution. Thank you.

Sincerely,

Dan Lucky

CC:Microsoft's Freedom To Innovate Network

MTC-00028952

From: Campbellcou@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:21pm
Subject: Microsoft Settlement

Dear Judge,

I am a student at the University of Southern California, and use computers as one of the primary tools for education and learning. I do not feel that allowing microsoft to abuse the anti trust laws is allowing me to gain all of the possible learning tools for my major. If they have a monopoly over software, I am limited to make my own decisions in applications. PFJ is not enough. Thank you for taking the time to read this.

God Bless,

Campbell Coulter
1247 W 30th St. #110
Los Angeles, CA. 90007
CC:microsoftcomments@doj.ca.gov @inetgw,dkleinkn@yahoo.

MTC-00028953

From: Rosemary Motisi
To: Microsoft ATR
Date: 1/28/02 7:20pm
Subject: Microsoft Settlement

To Whom It May Concern:

I came across today's deadline to comment on the Microsoft settlement quite by accident. I have not been following the case closely and consider myself no expert in these affairs. However, when I did work in the software industry some years ago, Microsoft was well-known for taking the spirit of competition too far. Amusing pranks—such as programmers on loan to competing software developers—purposely embedding errors into software to cause distruption in the competing product's release. If true, and these stories were widespread, Microsoft has lacked a measure of integrity for a long time. The fact that the company is offering chances at a "prize" for writing letters in support of Microsoft and not seeing that in any fashion as a "bribe" is typical.

I hope in our efforts to "promote business" we do not overlook integrity and honesty and fair dealing.

What's good for Microsoft is not necessarily what's best for America.

Thank you—

Rosemary Motisi

MTC-00028954

From: The Okumuras
To: Microsoft ATR
Date: 1/28/02 7:23pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I am a concerned citizen writing to you about the Microsoft settlement. I ask that you ensure that the punishment is commensurate with the criminal offenses of which Microsoft has been convicted. Consider the amount of money they made in dealing unfairly and brutally with other industry members in the pursuit of profit. Does the current settlement penalize them to the degree of the profit they reaped? I do not think so.

The current penalty does not seem to have any way of changing the way this company operates. Any corporation that has used unfair sales practices to gain an advantage cannot be trusted to police itself. They have lost the right to be self-regulating by the gross offenses of which a court has found them guilty. Any penalty that does not change the way they do business is nothing more than a 21st century version of jury nullification. Doesn't our pledge of allegiance end with "liberty and justice for ALL?" Justice should be executed upon all lawbreakers regardless of how much money they have or even the impact it might have on the economy—as bizarre as that may sound. My fear is that when such crimes go relatively unpunished, it sends the message that there is no justice. Our economy will recover but our values and morals—the bedrock of society—will not recover if the courts refuse to uphold the law. In fact, without commensurate penalty, you are creating the very environment that allows companies like Microsoft to continue breaking the law.

As a judge, you have an obligation to uphold the law. I urge you to do so. Do not nullify the judgment of guilt by meaningless penalties that neither right past wrongs nor ensure future wrongs will not be committed.

Sincerely,
Kirk Okumura
130 Ashbrooke Ln
Aston, PA 19014-1003
610.358.3337

MTC-00028955

From: Angnemesis@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:24pm
Subject: Is it fair?
Judge Kollar-Kotally

My name is Asmat Khan and I live in New Jersey. I heard about the some aspect of the Proposed settlement made by Justice Department in Microsoft case and I am not satisfied with this proposed settlement. It is not fair to give one company the rights of software monopoly. We are living in a free country and I think same rules applies to the software companies. I believe in the free market where I can choose the product I want offered by different and a competitive price. And it is fair with the software industry.

Your honor, I would want Microsoft be brought to justice upholding to democratic values. Sadly to say that monopolies are the trade mark of monarchs and communist governments.

Asmat Khan.
CC:raj6953@hotmail.com@inetgw

MTC-00028956

From: khudson@mail3.centurytel.net@inetgw
To: Microsoft.atr(a)usdoj.gov
Date: 1/28/02 7:24pm
Subject: Microsoft Settlement

To whom it may concern.

As a Certified IT professional with 19 years experience in Unix Systems administration, I would offer my comments on the Proposed Final Judgment in the case of the US vs. Microsoft.

First I would like to applaud the DOJ on it's finding Microsoft as a monopoly who has used illegal and unethical practices in order to maintain and increase it's monopoly power. If Microsoft is allow to continue it's current criminal behavior, it will extend it's monopoly into yet other markets. Broadcast communications, Internet broad band services and Personal game consoles are already on the Microsoft monopoly radar. I have read the proposal. I will say it is a good start with a couple of glaring exceptions.

As a Unix systems administrator, I have frequently used an "Open Source" application called SAMBA to provide file system sharing services between Unix and Windows machine. This software is written in large by volunteers around the world. Submissions are excepted by a central committee on merit of the submitted code alone. The code is checked for any obvious malicious code. But the backgrounds of the individuals submitting the code is never investigated to see if they have a "history of software counterfeiting or piracy or willful violations of intellectual property rights."

A volunteer group of coders does not have the resources to provide such a guaranty. But Microsoft, with a legendary legal department of at least 600 lawyers does. Microsoft would use this as a reason to keep this vital documentation from the only real competition remaining in the Windows File and print services space. And, since the SAMBA group is have to figure out much of the undocumented SMB API's (Much of it is documented, but many key aspects are undocumented), Microsoft could declare that the SAMBA team as a whole are, "counterfeiting, ...intellectual property"

Another group to which these exceptions apply is the "WINE" group. These volunteers are trying to port the Windows win32 API to the Linux and other Unix platforms to enable application written for Windows to run on Linux and other Unix computers. Also, there is nothing in the proposal to hinder Microsoft from extending their monopoly into other areas, for instance Personal Gaming Consoles (X-Box), Set top video digital recorders (Ultimate TV) and Broad band access (see http://news.com.com/2100-1033-277203.html?legacy=cnet)

To this end, I would like to add the following commentary to my own: http://www.kegel.com/remedy/remedy2.html In conclusion, while the DOJ proposal is what I would deem a good first rough draft, there are some issues with it as it stands. It keeps key technologies from the only group of programmers who can currently and readily benefit from them, then return these benefits back to the consumer in the shortest amount of time. And it does go far enough to curtail Microsoft's incursion into other markets. With a $35 billion "War Chest" whatever technology they can not Co-opt by anti competitive practices, they will simply buy. As last example I would like to offer the following piece. This has just happened within the last several weeks. This is after the DOJ had made the current proposal. http://www.theregister.co.uk/content/54/23708.html

Very Sincerely,
Kevin Hudson
706 Oakley Dr. Lake
Dallas, TX 75065
Ph. (940) 498-0284
E-Mail: mailto:klhudson@bigfoot.com

PS. To the Bush administration: For whom I did vote. If you are really serious about eliminating terrorism where ever it occurs, here is you chance to prove to the world that this isn't just just words to justify revenge against under armed third world countries. Exact judgement against a well known corporate terroirst bred right here on American soil. Bring these terroirst AKA Microsoft to justice. Real justice not just a petty slap on the rest.

MTC-00028957

From: Kathryn Irene Capps
To: Microsoft ATR
Date: 1/28/02 7:26pm
Subject: Conerns about Microsoft monopoly

I am a software engineer working in Silicon Valley. Over the last 10 years I have worked for 4 start up companies. I'm writing to express my concern about Microsoft and the monopoly it holds in the OS market. In particular, I'm very concerned about the chill Microsoft's monopoly has placed on PC application development. I believe that this market has been stagnant for some time, because investors will not put money into a venture that might compete with Microsoft. Microsoft has squashed competitors to Word, Excel, Powerpoint, etc. Microsoft's products have been sometimes better, sometimes worse, and sometimes equivalent. The point is that they did not win the market and kill all competition in these categories because they were better, they won the market because they bundled the applications with the OS that has a monopoly over the market. I see this as a clear abuse of that monopoly. Why try to create an improved spreadsheet if you can't charge a reasonable price? Why create a new application at all if you know that Microsoft can and will enter the market and undercut your price, forcing users to purchase their product when they purchase the OS? I've seen folks pitch ideas to venture capitalists and be cut down because they might compete with Microsoft. Please consider this issue carefully! Please think through the long term costs of letting Microsoft be the *only* company developing PC applications.

Katie Capps
Software Engineer
January 28, 2002

MTC-00028958

From: Jean Lauver
To: Microsoft Settlement
Date: 1/28/02 7:22pm
Subject: Microsoft Settlement
Jean Lauver
1061 Stonehenge Drive
Hanahan, SC 29406–2416
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Jean Lauver

MTC-00028959

From: Perman, Tim
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/28/02 7:25pm
Subject: Free markets—pretty simple concept
Resource allocation set by producers and buyers

The letter writer who argued for government action as the only method of preserving capitalism by regulating Microsoft sounds like Joel Klein and Judge Thomas Penfield Jackson—misinformed. The Austrian school of economics points out that the allocation of resources in a market economy is determined by the actions of millions of producers and buyers. For any judge or attorney to question this is ludicrous.

Understanding the above, you will also be able to understand that the only monopolies that can possibly exist are government-granted monopolies. The U.S. Postal Service may be the most anti-consumer company in America. Rising costs, slower delivery—that is a monopoly. In this state you need only visit a liquor store (with perhaps inconvenient hours and most likely out-of-the-way locations) to understand how a monopoly can treat consumers. Klein says that he "will debate any Libertarian, anywhere, anytime" on the subject of monopolies. As a member of the Libertarian Party, I am proud to say that I share Klein's disdain for monopolies. As the person who is forced to pay both Klein and Jackson, I am outraged that they do not understand simple free-market economics. As a Microsoft shareholder, I hope that the company defends capitalistic freedom with the determination that the Founding Fathers of this country did.

Thomas Hobbes wrote, "There are few so foolish that they had not rather govern themselves than be governed by others." True capitalism can exist only without fools in power. If Klein wants to debate this, bring the fool on.

Tim Perman
Redmond

MTC-00028960

From: Jason Bishop
To: Microsoft ATR
Date: 1/28/02 12:35pm
Subject: Microsoft Settlement

I would like to relate a story that a friend told me a year or so ago. I believe that the setting for this story was "97 +/- 1 year. At the time, he was working for Intel in a fledgling group for intel's first foray into consumer 3D graphics. At the time, there was really only one 3D graphics standard, SGI's OpenGL.

This story became especially fascinating, because at this same time, SGI independently was interested in extending the reach of OpenGL to the consumer PC. They contributed the software source code for the rendering engine and all library routines that make up OpenGL to Microsoft in the hopes that there might be a place for OpenGL in the desktop operating system.

At this same time, it appears that Microsoft was starting to notice that 3D graphics was becoming an "interesting market". I'm not going to second-guess Microsoft thinking, but I will relate the results. OpenGL source code was modified (40 lines) and renamed to Direct3D and then DirectX. Microsoft now had an API for the 3D gaming market, which of course, was incompatible with any other API, including OpenGL. This would not normally be a wise business decision, but this is Microsoft. Since they had a monopoly on the desktop, having a 3D gaming API which was incompatible with any other would turn out to be beneficial. Read on for gory details...

By this time, Intel's 3D chipset for the consumer market was almost ready. All that separated them from a shippable product was Microsoft certification. So Intel takes the new hardware to microsoft, where they learned that it failed certification. Upon inquiry, it was learned that Microsoft had changed the rules for hardware certification, namely that DirectX must be supported and not OpenGL. What makes this especially diabolical is one of the changes made to turn OpenGL into DirectX was a change to the algorithm which determines if a pixel is turned on. This routine is implemented in hardware. The result is that it is impossible to pass the hardware certification with hardware designed for OpenGL. Intel would have to redo their hardware, including producing the chips all over again. Intel would also have to support the new microsoft DirectX API if they wanted to be granted hardware compatability status. So why does Intel care if they receive hardware compatibility status? Easy, because microsoft requires all PC manufactures to only include microsoft certified hardware in PC's they sell. In this way, Microsoft can control hardware companies. Of course, the reverse is true.

Normal rules don't seem to apply to microsoft, and the settlement should reflect this in my opinion.

Jason Bishop
Union City, CA

MTC-00028961

From: Sawley
To: Microsoft ATR
Date: 1/28/02 7:30pm
Subject: Microsoft Settlement

The AOL lawsuit against Microsoft is a pathetic attempt to try to gain public sympathy in court against a competitor that they can't compete against in the public market

Lewis W. Sawley
(my previous email may have been addressed improperly)

MTC-00028962

From: Ray Whitmer
To: Microsoft ATR
Date: 1/28/02 7:31pm
Subject: Microsoft Settlement.

I am adding my full address and other info, which I forgot when I first sent this message:

Ray Whitmer
ray@xmission.com
575 E. Center Street
Orem, Utah 840975603
801–225–3488

Forwarded message
Date: Mon, 28 Jan 2002 16:49:39 -0700 (MST)
From: Ray Whitmer <ray@xmission.xmission.com>
To: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement. To whom it may concern, regarding the proposed settlement of the microsoft case.

I am not a lawyer, and have no sound legal advise to offer, and the time has past for that. I have been an employee of a number of companies who have found it impossible to compete with Microsoft because competing with them had little to do with quality of product and everything to do with control. You do not have to look far at all for many overt acts that I think any reasonable person would call criminal. This is because of the high-pressure eminating from the top of the company, to win at any costs. In my 20 years developing products across many operating systems and corporate structures, I have worked for WordPerfect corporation, Novell, and Corel, among others, and it has become increasingly obvious that quality has nothing to do with winning in the marketplace. It is all about who controls the information patterns of the masses, whether it be Movies, Software, News, or Advertising. This is not a new phenomenon. Once the Catholic Church controlled these things quite effectively with systems that greatly resembled the ever-expanding copyrights and patents on things today. Today, Martin Luther, sneaking out of the Vatican with his biblical transcripts would be hunted down as the latest Napster-ite, who thinks that works which interweave themselves so deeply into the roots of a population should not be controlled by a power-hungry entity such as a Church or a Mega-corporation. This does not mean that those who produce them do not deserve profit, but see what the billions paid for Windows every year buys us: In significant cases, less than what the remaining competition now gives away for free, because Microsoft has such a lock on the market. The profits are squandered every year on power. There are dozens of competing products that could have easily taken that position had they controlled the power they had in their times as unscrupulously as Microsoft does. Corporate survival and hunger for power and profits are the reason we have antitrust laws. In this case, the public shame is greater, because it is the Copyright laws—an artificially- granted government monopoly—that establishes the Microsoft Monopoly. If it were possible to still compete in this market against that Corporation, you would clearly be seeing much lower prices—the Microsoft take increases, but somehow the economies of scale in software production never lowers the price of the software, and there is never even consideration that you paid for dozens of versions you can no longer use because Microsoft has made them incompatible.

Microsoft is not an indispensible part of the market. If they vanished, within 5 years, there would be no trace left, and there would be competition for a little while until another corporation showed that it was the most vicious of those remaining and consolidated power.

I and thousands of people like me have started writing new software that is not susceptible to this overbearing corporate eternal ownership—which I have to believe is extremely different from what the framers of the Constitution thought they were doing in granting limited copyright and patents. We have the technology to design around the original intent of these laws, and it is time that you look at seriously reigning in the moster that has evolved. Law of the mega-corporation, by the mega-corporation, and for the mega-corporation is not in anyone's best interest long-term, even if the mega-corporate advertising of today has the same persuasive power as the mega-Churches of old over the masses, tribunals, and courts of law. The case against Microsoft was poorly made, and hardly justified, not that there wasn't a huge case to be made. But your remedies are worse than ineffective. They will do more harm than good. You have overturned the breakup, which might have had some effect, but likewise didn't get at the root of the problems, which I have tried to describe here. It is not Microsoft that is wrong but <insert any company> which succeeded by such viciousness would be just as bad, and I would be just as sorry to see Sun, Oracle, or even my own company AOL Time Warner be in such an abusive position.

I think that when a company abuses the public trust of its granted monopolies as badly as Microsoft has, the appropriate and natural action is to revoke their monopoly, which in this case is their copyright. With that arrow in your quiver, it would not be difficult to convince companies in the future to act more in the public interest. Short of that, please abandon your current pursuits and admit honestly that the corporation has won and the country has lost. It is really rubbing salt in our wounds to offer something that hurts more than it helps and claim you have acted in our behalf. Human rights are more important than copyrights or corporate rights. Many technology companies go under every year. It would be better, though if there was a better connection between profits and service. If you do not, the next revolution is on the horizon. You cannot lock up everyone for violations of intellectual "property" any more than the Church could, however much the corporations want to control everything. And corporations do not need an absolute eternal copyright as much as they might claim. And America will become the "old world" while other countries such as Russia have their patriots thrown in prison in America for crimes of conscience by the dozens of new FBI/DOJ departments created for this new opression — certainly not for any overt act depriving a corporation of it's profit in the recent Sklyarov case. Do you really want to be the "Department of Justice" which presided over such a debacle? Where is justice for we, the people?

Ray Whitmer
ray@xmission.com

MTC–00028963

From: Ray Leach
To: Microsoft Settlement
Date: 1/28/02 7:25pm
Subject: Microsoft Settlement
Ray Leach
1913 Bay Oaks Court
Fort Worth, TX 76112–4503
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Ray D. Leach, Colonel USAF (Ret)

MTC–00028964

From: ANDREW SHINER
To: Microsoft ATR
Date: 1/28/02 7:32pm
Subject: MICROSOFT

PLEASE BE ADVISED THAT I AM A MICROSOFT USER AND HAVE BEEN SINCE 1982. I THINK MICROSOFT HAS REDUCED THE COST OF INFORMATION OVER THAT PERIOD. PLEASE LET MICROSOFT DO WHAT IS DOES WELL . LETS KEEP GOVERNMENT OUT OF BUSINESS. THE LAST TIME THE GOVERNMENT HELPED ME WAS THE AT&T SPLIT UP. LETS LEARN FROM THE PAST. THANK YOU ANDREW SHINER P. O. BOX 187 FREELAND, PA 18224

MTC–00028965

From: Donna Fox
To: Microsoft Settlement
Date: 1/28/02 7:27pm
Subject: Microsoft Settlement
Donna Fox
8123 Cesperdes Ave.
Jacksonville, FL 32217–4068
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Donna J. Fox

MTC-00028966

From: Bettye Bailey
To: Microsoft ATR
Date: 1/28/02 7:33pm
Subject: microsoft settlement

It is time to leave Microsoft alone. There are many things more important than bedeviling a company so important to our economy. Please allow them to get back to work. I have a M.A. in Economics from Stanford and do know I speak from experience.

Get to the things that really need doing.
Bettye Bailey

MTC-00028967

From: Stanley' Curtis
To: Microsoft Settlement
Date: 1/28/02 7:26pm
Subject: Microsoft Settlement
Stanley' Curtis
207 Falcon Crest
Warner Robins, Ga 31088
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Stanley T. Curtis

MTC-00028968

From: Marylynne Kirkland
To: Microsoft Settlement
Date: 1/28/02 7:27pm
Subject: Microsoft Settlement
Marylynne Kirkland
P.O. Box 755
Panguitch, UT 84759–0755
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Marylynne Wagner Kirkland

MTC-00028969

From: ccoulter
To: Microsoft ATR
Date: 1/28/02 7:32pm
Subject: Microsoft Settlement

Dear Judge,

If we want to preserve the right to have a free choice on products, goods, and a freedom to makre our own choices, the the Proposed Final Judgement is not enough. I hope that you will see that Microsoft has been controlling us and has controlled the technology world. Please consider a harsher punishment to stop thier control over a free market.

Sincerely,
Coulter Campbell
Coulter Campbell
910 Knob Hill Ave
Redondo Beach, CA. 90277

MTC-00028970

From: PolPrncsVel@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:32pm
Subject: Microsoft Settlement
2859 Hearthstone Way
Rockford, Illinois 61114
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I think the lawsuits against Microsoft have gone on way too long. I am glad to see that Microsoft is not being broken up, but I thoroughly believe that this suit has been a personal vendetta from the first place and has been extremely unfair to Bill Gates.

The terms of the settlement do not let Microsoft off easy. Microsoft has to disclose internal interfaces, design future version of Windows so that competitors can promote their own products, and improve their relations with computer makers and software developers regardless of their competitors'' practices, efficiencies, or strategies. These restrictions go against free market economy principles to choose your partners, vendors, and consumers.

At any rate, I think it is in the best interest of the American public to end this lawsuit and finalize the settlement as soon as possible. Our tech sector needs to the brilliant innovation of Microsoft and their workers to jumpstart the industry and help out our ailing economy.

Sincerely,
Velora Upstone

MTC-00028971

From: John Wilson
To: Microsoft ATR
Date: 1/28/02 7:33pm
Subject: Microsoft Settlement

I do not agree with the settlement terms as they exist at this point. I appreciate with Microsoft's contention that they should be free to innovate, but they should be forced to compete with the rest of the industry on a level playing field through the quality of their products, rather than by flexing their monopolistic muscles. Windows XP is a clear indication that they have no intentions of playing by the rules, even after all they have been through. Windows XP is just as unstable as Win2K (both are far more stable than the Win95/98 series), and they have once again bundled their "cornerstone" software in such a way that it becomes impossible to separate. You cannot shut down Messenger when MS Office is running, for example. The error message states that "There are other applications currently using features provided by Windows Messenger.These applications may include Outlook, Outlook Express, MSN Explorer and Internet Explorer". This is precisely the same thing they did when making IE part of the OS. Clearly they haven't learned their lesson, which means the current settlement terms do not go nearly far enough.

Please make them play fair. That is your job. You are not helping the industry by making it easy on Microsoft, you are hurting it.

MTC-00028972

From: brian215@netscape.net@inetgw
To: Microsoft ATR
Date: 1/28/02 7:35pm
Subject: Microsoft Settlement

An important understanding of *modern* economic models would help in crafting a suitable remedy.

The best lay-persons explanation of what kind of competitive behavior should be encouraged, can be seen in the current movie "A Beautiful Mind".

In a bar, John Nash explains to his fellow students the impact of Adam Smith style economics, versus his new model, where it concerns competing for limited resources.

Watch the movie, and apply the concept to any proposed remedy. If there is not more than one happy party, the result is bad for everyone. If both sides (and all parties with a direct interest, including AOL Time Warner, Sun, Oracle, etc. as well as Microsoft) do not praise the result, it is practically by definition, bad for consumers, bad for business, and bad for America and the entire western world.

The current proposed settlement, by this reasoning, is *very* *very* bad.

Sincerely,
Brian Dickson
Arlington, VA

MTC-00028973

From: Debra J. McDonald
To: Microsoft ATR
Date: 1/28/02 7:34pm
Subject: Microsoft Settlement

Although I firmly believe that the microsoft anti-trust suit was a misuse of our hard earned tax dollars, I believe the proposed settlement (under the circumstances) is reasonable and we should move in a more positive direction. Finish the deal and gag all other parties who have personal separate agenda.

MTC-00028974

From: joe chensky
To: Microsoft ATR
Date: 1/28/02 7:35pm
Subject: microsoft settlement

Sirs; bring this to closure. the states are not interested in finality, they are concerned about power and notoriety. it is time to go on with business and free enterprise. Sincerly Joseph L Chensky. a concerned citizen

MTC-00028975

From: maxineatrobydr@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:33pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
maxine pollard
132 No. Roby Dr.
Anderson, IN 46012

MTC-00028977

From: Melissa
To: Microsoft ATR
Date: 1/28/02 7:36pm
Subject: Microsoft Settlement
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to give my thoughts on the settlement between the US Department of Justice and Microsoft Corporation. I want you to know that I support the settlement that was reached back in November. It is in the best interests of the government to accept the settlement, and move onto more pressing matters. I believe we have wasted far too much taxpayer money and government time as it is, to pursue an issue that never was in the consumers best interest.

The terms of this settlement are reasonable, and were reached after a great deal of effort with the help of a court appointed mediator. Microsoft is not getting off easy like it's opponents might lead you to believe. The company has agreed to make a number of specific changes to its business practices that will prevent future antitrust violations. For example, Microsoft has agreed to document and disclose various interfaces that are internal to Windows" operating system products for use by its competitors.

Also, a technical committee comprised of three software engineering experts will monitor Microsoft's compliance with the settlement, and assist with dispute resolution.

Sincerely,
Melissa Melvin
11001 Dogleg Trace
Tega Cay, SC 29708
cc: Senator Strom Thurmond
CC:senator@thurmond.senate.gov@inetgw

MTC-00028978

From: Tim Schulteis
To: Microsoft ATR
Date: 1/28/02 7:37pm
Subject: Microsoft Settlement

Judge Kollar-Kotally,

The U.S. is giving away the store in the proposed U.S. vs. Microsoft final judgment, and the settlement should be rejected. The proposed settlement has serious flaws. The courts have convicted Microsoft of many anti-trust violations resulting in many billions of dollars of profits, yet the proposed solution would allow the company to keep almost all of that money and would provide no protection against future abuse of Microsoft's power.

Forcing Microsoft to give away software (and even hardware) to schools is barely a punishment, either, as it allows Microsoft to further expand its dominance into perhaps the one market it doesn't yet fully control-the education market. And setting up a structure whereby Microsoft would essentially police itself is entirely the wrong approach to protecting us.

I ask you to reject the proposed final judgment on these grounds.

Sincerely,
Tim Schulteis
3229 Azalea Circle
Lynn Haven, FL 32444
850–747–0336

MTC-00028979

From: Feathersandink@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:39pm
Subject: Microsoft Settlement
406 Winston Avenue
Baltimore, MD 21212
January 25, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

It is sad that Microsoft has had to spend three years in court in the antitrust case. This is a great American company that contributed so much to our recent economic growth, and could help us get out of this current recession.

That is why I was very happy to learn that a settlement was reached in this case. Microsoft has paid its dues and agreed to a good settlement. The settlement will give non-Microsoft firms access to Microsoft code. With this information, non-Microsoft firms will be able to build better software.

Unfortunately, some with animosity toward Microsoft opposes this settlement, and they should be ignored. It is time Microsoft is released from federal court.

Sincerely,
Merle Sturm
CC:Feathersandink@aol.com@inetgw

MTC-00028980

From: Walter & Janice Schneider
To: Microsoft Settlement
Date: 1/28/02 7:34pm
Subject: Microsoft Settlement
Walter & Janice Schneider
1603 Riverdale Ave
Sheboygan, WI 53081
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Janice and Walter Schneider

MTC-00028981

From: David Mott
To: Microsoft ATR
Date: 1/28/02 7:40pm
Subject: Microsoft Settlement

The proposed DOJ settlement with Microsoft IS A BAD IDEA! In order to have a chance of restoring competition in the Operating System market for PCs, the restrictions must be much stronger.

Restrictions proposed by the 9 "rogue" states are more reasonable.

MTC-00028982

From: Ardy Forouhar
To: Microsoft ATR
Date: 1/28/02 7:42pm
Subject: Microsoft Settlement

Dear Judge Kollar-Kotally,

I am a concerned citizen and software industry employee. I wanted to take this opportunity to let you know that as a silicon valley professional, I don't think the judgement goes far enough in addressing Microsoft's past wrong doings.

I realize that I'm a small voice among large companies and powerful representatives. I am a staffing professional hired full-time by companies to help assist in staffing their organizations on a short and long term basis. As someone working closely with start-ups, I've come to learn that bullying tactics from the industry leader in software technology is not healthy for the diversity of skill set among industry professionals on a domestic and global basis.

Also, the proposed settlement would allow the company to retain almost all of the profits earned from dominant tactics.

There are no guarantees that Microsoft won't continue to break anti-trust laws by bullying competitors as it always has.

Microsoft is left to police itself under the proposed final judgment (conflict of interest by definition).

The proposed settlement would amount to a government endorsement of Microsoft's monopoly. They could carry on as before.

Please do your very best to ensure that future jobs of entrepeneurs within the area are not further affected through industry monopolization and that the high tech industry can be revived and not crushed when the economy makes an eventual turn around.

Regards,
Ardy Forouhar
143 Monte Villa Ct.
Campbell, Ca 95008
Tel: 408-626-9517

MTC-00028983

From: Peter Liesenfelt
To: Microsoft ATR
Date: 1/28/02 7:42pm
Subject: Microsoft Settlment

The proposed settlement between the DOJ and Microsoft is grossly insufficient in either penalizing Microsoft for the antitrust issues they have been found guilty of or to provide sufficient protection against further actions by Microsoft. As I understand it (not being an expert in anti-trust litigation) precedents have been established that have identified the standards for monopoly remedies to be of the nature of denying the defendant gains from their illegal acts, protecting against abuses in the future or eliminate the monopoly. The proposed settlement by the DOJ does none of these three things.

As a citizen of the United States I have seen the following occur to my "practical freedom of choice': My options for a personal computer operating systems has been reduced to one, Microsoft Windows. My options for application software (word processing and spreadsheets) have been reduced to Microsoft Word and Microsoft Excel. My option for Internet browsing is practically eliminated to one, Microsoft Explorer. I DO NOT want to have my choices of Internet hosts to be reduced to one, an Internet connection to one, an Internet media provider to one or an Internet news service to one. This is the path that Microsoft is going toward, to monopolize computing. See Microsoft for what it is, based on their previous actions as to where they are going.

Recently, when Microsoft was planning the release of the Windows XP operating system decided to leave out a function to Explorer that was called "smart tags". This function would have allowed Microsoft to essentially "override" the content of internet pages and supplement the content with content that Microsoft desired, essentially censoring internet content. Do we want a company that has demonstrated that it abuses its monopoly position in personal computer operating systems to have this amount of power? Do we trust that they will not abuse this type of power? I think not, I hope not, I hope the United States aggressive sees to it that it will not occur. Recently I had a problem with my Windows 2000 Professional system and had to use a backup (much older) pc to try to access Microsoft's Internet site to help determine the problem. But I found out that since it was a machine that had Netscape as a browser that Microsoft prevented me from viewing the information. This is only one example of where Microsoft dictates terms to its customers something that you would expect it would want to serve. Any justifications to such actions is only to further their goals to maintain or increase their monopoly, not to serve their users, not to serve the public's best interest. As an extremely knowledgeable computer user I find Microsoft's tactics to not be in the user's interest, only in their corporate interest. I am not against corporate America, in fact I am a strong proponent of it, but monopolies that abuse their power must be held accountable.

I could, if need be, help architect a remedy to this case. Do I think Microsoft has to be broken up? No. I believe that Microsoft will never agree to a remedy that addresses the precedents that have been established for antitrust remedies. I strongly urge Judge Kollar-Kotelly to not accept the proposed settlement. I fear that the DOJ under the Bush administration will not seek remedies that are sufficient in depth or breath to prevent future abuses by Microsoft and that Judge Kollar-Kotelly will need to independently determine a course of remedies that will.

Peter Liesenfelt
119 Gladys Avenue
Mountain View, CA 94043

MTC-00028984

From: Michael Jaehrling
To: Microsoft ATR
Date: 1/28/02 7:42pm
Subject: Microsoft Settlement

To whom it may concern:

Yesterday I sent you a brief message stating my opinion regarding the Microsoft case. Today I would like to give you more reasons to leave Microsoft in peace: I use Microsoft products, and appreciate them enormously. I resent the government's stance on the basis that it presumes I am not fit to make decisions about which software I buy, and why. If Microsoft is punished, that means they have been found a threat—how can a succssful company's products be a threat to anyone other than it's competitors. And if the latter is the problem, then the USA cannot claim to be a free market or a free country.

Please bear in mind that consumers did not complain about microsoft, nor any community groups. Its competitors (unsuccssful ones), rather than competing fairly, resorted to seeking government favor to help them. You cannot allow failed companies to set terms that will throttle a competitor just because the former was unable to match up.

Governments should not protect some business at the expense of others. As someone once said—"when politicians determine what gets bought and sold, the first thing to get bought and sold is politicians". Success, self-made and honest entrepreneurship such as that displayed by Bill Gates, should not be punished, but embraced and ecouraged. Imagine how successful America would be if we had more men like him.... If all of the above is not enough, then look to your constitution. A company, like an individual, has the right to its property. This right is inviolable. Please, for all our sakes, uphold Microsoft's right to compete freely and as it sees fit—do not penalize the good for being good.

Sincerely,
Michael Jaehrling
General Manager
Hyatt Regency Cheju
3039-1 Saekdal-dong
Seogwipo-si
Cheju-do
Korea
Tel: 82 64 733-1234
Fax: 82 64 738-0900
www.hyatt.com

MTC-00028985

From: James R Bain
To: Microsoft ATR
Date: 1/28/02 7:42pm
Subject: Microsoft Settlement

I think it is time to end this costly and damaging litigation against Microsoft. Dragging out this legal battle, in which only the lawyers will benefit serves no useful purpose. The proposed settlement is equitable and should end this legal battle as soon as possible.

James R Bain

MTC-00028986

From: Bruce Miller

To: microsoft.atr(a)usdoj.gov
Date: 1/28/02 7:43pm
Subject: JUDGE KOLLAR-KOTELLY: AVOID THE CURRENT MICROSOFT SETTLEMENT PROPOSAL
Bruce Miller
Box 31134
Seattle, WA 98103
28 January 2002
U.S. District Judge Colleen Kollar- Kotelly
Renata Hesse, trial attorney,
Antitrust Division,
U.S. Department of Justice

Dear Honorable Judge Kollar-Kotelly:

I have comments about the proposed settlement terms with Microsoft. I think the proposed settlement is very flawed and must be re-written to ensure the public and other companies are not harmed further by the Microsoft's monopoly. The proposed settlement only serves the interests of Microsoft.

Microsoft's unfair business practices must be addressed to protect all Americans and all computer users.

1. Microsoft must be prohibited from giving unfair preference and position for its own products when bundled with its operating system products, especially in deals with PC companies.

2. Microsoft must be prohibited from being able to bundle whatever they want to include as part of their operating system, because current separately sold software products could be bundled with Windows in the future and thus, undercut and eliminate many other technology companies.

3. Because Microsoft is a monopoly, Microsoft must publicly disclose their Windows source code in order to level the playfield for all American consumers and businesses.

Please adopt these 3 proposed terms into the currently proposed settlement terms with Microsoft. My proposed terms are fair, unburdensome to Microsoft and the U.S. Federal and State governments and American public, and will be very effective to correct and reverse the wrongs Microsoft has committed.

Sincerely,
Bruce Miller

MTC-00028987

From: sam perelli
To: Microsoft Settlement
Date: 1/28/02 7:35pm
Subject: Microsoft Settlement
sam perelli
po 103
cedar grove, nj 07009
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
sam perelli

MTC-00028988

From: Cynthia Haven
To: Microsoft ATR
Date: 1/28/02 7:43pm
Subject: Microsoft settlement
28 January 2002
Subject: Microsoft Settlement

To whom it may concern,

I cannot let the opportunity to pass for comment on the settlement with the Microsoft company pass without taking my opportunity to make some public comment. There are many out there who think this suit against Microsoft (aka Microshaft) is simply the vendetta of some bitter competitors. But the immoral, illegal, and greedy acts of Microsoft over the years have come at the cost to consumers of choice, innovation, and affordable software. They decided long ago that if they can't beat their competitors with better quality they would cheat them or beat them into submission.

There should not be an expiration date to this settlement, unless it is more than 30 years. Microsoft management has proven that they don't care about the rules and would be anxiously waiting in the wings for the next attack. They need to be punished for the wrong they have done to the American consumer. If they claim they have not stifled competition, why does Microsoft Office cost $500 dollars. That is NOT a competitive price. I can buy the same functions in "Apple Works" for $80. And why is it still so hard to get rid of Internet Explorer as your default browser? At work, I have to get technical assistance to change it. And why, as I just found out, that the default search engine for IE is MSN (as in Microsoft Network). Try seeing how intuitive it is is to pick another search engine, like Google, which is much better. Fortunately, at home, I have chosen to use non-Microsoft products, even if it costs me money. This is, however, something Microsoft presumes most people won't do, and they are usually right.

Microsoft is not a group of school boys to be slapped on the hand with a promise not to misbehave again. They are corrupt, greedy, selfish jerks with nobody's interest but their own here. The public is not passive about this situation. We want fair play and true competition based on market rules and true innovation. Not marketing gimmicks and coercion. I applaud the Justice Department in their efforts to resolve this situation, but Microsoft should have no mechanisms to revive their evil ways. The settlement should be strict and long lasting, not 5 years, or we will be in this same situation again.

Sincerely,
Cynthia P. Haven
Houston, TX
cphaven@earthlink.net

MTC-00028989

From: Garthbob@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:43pm
Subject: Microsoft Settlement
Attorney General John Ashcroft
US Department of Justice

Dear Mr. Ashcroft:

I am writing to express my opinion about the recent settlement between Microsoft and the US Department of Justice. I think the lawsuit has dragged on long enough and should have by this time covered all the bases necessary. Our government needs to be facing other more pertinent issues than trying to break up a company that creates jobs and wealth.

The terms of the settlement are more than fair and should appease all competition since they stipulate that competitors will be given interfaces and protocols that are internal to Windows operating system products. They also will be given broad new rights to configure Windows so that non-Microsoft products can be promoted more easily.

I urge your office to do what is best for the American public, IT sector, and national economy and implement the settlement. I would also request that no further state or federal action is taken unless there is a major violation on Microsoft's behalf.

Thank you for your time.

Sincerely,
Bob Strong

MTC-00028990

From: Kim Coker
To: Microsoft Settlement
Date: 1/28/02 7:35pm
Subject: Microsoft Settlement
Kim Coker
2251 Leon Road
Jacksonville, FL 32246
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

I have to agree with and concur with the following: The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Kim Coker

MTC-00028991

From: Terry Frost
To: Microsoft ATR
Date: 1/28/02 7:48pm
Subject: Microsoft Settlement

Dear Mr. Ashcroft:

I am writing you to express my concern over the extended delay in the settlement of the Microsoft antitrust case. I see no justifiable reason to prolong this case. The major parties have reached an agreement on both the nature of the matters at issue and the future remedial steps Microsoft will take to remedy past perceptions of wrongs and alter its present monopolistic-like advantages. I see no reason to prolong this litigation. The computer field has new innovations occurring frequently and rapidly.

Microsoft has agreed not only to forego any future anti-competitive practices but also to actively work to reduce its dominance in its field. For example, Microsoft will now configure its Windows systems in a manner that will allow its competitors to readily use and even exploit its platforms. Microsoft will alter its licensing practices with computer manufacturers so as to encourage the use of non-Microsoft software. Microsoft will submit now to an ongoing review of its practices by a new federal oversight committee. The company has agreed to embrace competition for the benefit of the entire industry.

Please work toward an acceptance of this plan and a cessation of this litigation.

Sincerely,
Terrance J Frost

MTC-00028992

From: Susan Gilvary
To: Microsoft ATR
Date: 1/28/02 7:43pm
Subject: Microsoft Settlement

The proposed settlement with Microsoft does the citizens of the United States a grave disservice by failing to protect our rights as consumers. Microsoft has accumulated and abused monopoly power, stifling competition and reducing our choices. The Justice Department should withdraw this proposed settlement. The citizens and businesses of this country deserve an open market, not a market dominated by an unresponsive, self protecting monopoly.

Susan Gilvary

MTC-00028993

From: L. E. JOHNSON, JR.
To: Microsoft Settlement
Date: 1/28/02 7:38pm
Subject: Microsoft Settlement

L. E. JOHNSON, JR.
401 Green T Lake Blvd W
Hernando, MS 38632
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
L. E. JOHNSON, JR.

MTC-00028994

From: Joel Hodgell
To: Microsoft ATR
Date: 1/28/02 7:46pm
Subject: COMMENTS ABOUT THE CURRENT MICROSOFT SETTLEMENT PROPOSAL; MY PROPOSED CHANGES TO IT

Joel Hodgell
12712 Lake City Way NE 3
Seattle, WA 98125
28 January 2002
U.S. District Judge Colleen Kollar- Kotelly
Renata Hesse, trial attorney,
Antitrust Division,
U.S. Department of Justice

Dear Honorable Judge Kollar-Kotelly:

I am writing to you to comment on the proposed settlement terms with Microsoft.

As is, I think the proposed settlement is very fatally flawed and must be written to ensure the public and other companies are not further harmed by the monopolistic practices of Microsoft. The current proposed settlement terms only serve the interests of Microsoft and related special interest groups that gave substantial campaign contributions to the Bush campaign and the GOP party.

Even though I live in Seattle, I believe the unfair monopolistic business practices of Microsoft must be punished and adequately addressed in order to protect all Americans and the U.S. and world economy.

1. Microsoft must be prohibited from giving unfair preference and position for its own products when bundled with its operating system products, especially in deals with PC companies.

2. Microsoft must be prohibited from being able to bundle whatever they want to include as part of their operating system, because current separately sold software products could be bundled with Windows in the future and thus, undercut and eliminate many other technology companies.

3. Since Microsoft is a monopoly, Microsoft must publicly disclose their Windows source code in order to level the playing field for all American consumers and businesses.

Please adopt these 3 proposed terms into the currently proposed settlement terms with Microsoft. My proposed terms are fair, un-burdensome to Microsoft and the U.S. Federal and State governments and American public, and will be very effective to correct and reverse the wrongs Microsoft has committed.

Sincerely,
Joel Hodgell

MTC-00028995

From: Paul Speranza
To: Microsoft ATR
Date: 1/28/02 7:45pm
Subject: Microsoft Settlement

January 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing in response to the public comment period for the Microsoft antitrust trial. I would like to urge you to please end this lawsuit as soon as possible

The settlement will definitely promote competition in the technology industry, if not hindering Microsoft's own competitive abilities. Microsoft will divulge their interfaces and protocols, and will share it with competitors., and consumers will be given more choices when using the Windows operating system.

This witch-hunt needs to be ended, and our computer industry needs to be restored. Please uphold this settlement.

Attached please find an email that I originally sent to my state attorney general, Mr. Richard Blumenthal, who never even saw to it that I at least received an acknowledgment.

Sincerely,
Paul Speranza
Vice President
All Systems Go, Inc.
CC:fin@mobilizationoffice.com@inetgw

Mr. Blumenthal,

I would like to comment on some of the proposed remedies that you and the other eight states have suggested in the Microsoft anti-trust case. Please bear in mind that I am referring to an Infoworld.com article for the points that I am addressing.

1) Allowing other companies to port Office to other platforms. This is no small feat. That is probably why Microsoft has a separate

Macintosh team that develops Office for the Mac. They have to do this because code running on Windows will not run on the Macintosh or any other platform. Did you know that the Mac version is always months behind the newest Windows version? Since the Mac is a completely different operating system that means that the developers get no help from the core Windows developers (The Chinese Wall?). Here Microsoft has succeeded only because they have the best product of its type on the Mac. There is no way to stop anyone from cloning Office. Good luck to anyone that tries. The product is so massive you would need a small army of developers to do it. There is a clone of Outlook for the Linux operating system from Ximian (http://www.ximian.com). Microsoft has not stopped them from doing so. By the way, this company is cloning Microsoft's new .Net Framework for Linux, and as far as I know Microsoft is somehow lending support.

Why would you want to allow someone to clone software from other companies? Where is there innovation in that? Sun Microsystems offers Star Office for free, developed by open source developers. It is compatible with the Office file formats which Microsoft publishes. Why aren?t companies dumping Office for Star Office in droves when Microsoft charges several hundred dollars? It's because over the years programs like Word have evolved to be much more than a word processor. The programs in Office work together to build entire applications based on all of the pieces. You can open up a Word document and in it could be an Excel spreadsheet that you can update without ever knowing you were using Excel. This has evolved over the years and is by no means trivial to do.

As far as the logic that it is too expensive for companies to change to a free product because of training costs, I?m not buying that. Is that supposed to be Microsoft's fault? In a recent interview, Scott McNealy from Sun Microsystems said that large corporations aren?t using Star Office mainly because it is free and the customers didn?t think Sun would be committed to supporting a free product. So now Sun is contemplating charging for it.

2) Allow for a stripped down version of Windows at a cheaper price. What for? Microsoft spends a lot of R&D time and money developing the extras that they give you for free. So if you got a version without the freebies does this mean Microsoft has to pay for not putting in programs that they are giving away? Here is the problem with including only products from other companies? Microsoft's updates to IE, Media Player, etc. are always free for the downloading. RealPlayer, for example, offers a functional yet hobbled version of their software and then gets you to pay for upgrades and newer versions. So does Opera with their web browser. So where is the consumer winning here? With MS I get the feature complete versions of a browser and Media Player for free, with the competitors what initially is free may not be over time if I want versions with more features.

I think what Microsoft did with the PC manufacturers was a great idea: Include all of their products but put whatever competitor's products you want in also.

3) Make IE an open source product. Why? That browser is still the best browser out there. Mozilla is open source and is free. Why aren't people downloading that in droves?

Here is a little software history for you.

Wordstar was the leading word processor. They got fat and happy with their product and did not update it. Along comes Word Perfect with many new features. Bye, bye Wordstar.

Microsoft releases Windows 3.1. Word Perfect does not create a windows version. Microsoft releases Word for Windows and it is a hit. Word Perfect releases a Windows version 2 years later full of bugs. Bye, bye Word Perfect. Corel owns Word Perfect now. They tried to create a Java version of it so it would run on any computer. You know what they found? Although Java is great for backroom systems, the front end interface that a user sees is way to slow to be usable. Sun Microsystems? Star Office, which works on any computer, still needs to have direct ties to the platform it is running on to be usable. Shame on Microsoft for writing great software that runs on Windows.

Microsoft releases Windows 3.1. Lotus, after being begged by Microsoft to do a Windows version to prove the value of Windows, does not. Microsoft releases Excel for Windows, which was already on the Macintosh for years, and it is a hit. Lotus releases a Windows version 2 years later full of bugs. Bye, bye Lotus 123. Ashton Tare had a program called dbase III Plus. They got fat and happy with their product and did not update it. Along comes Foxpro from Fox software and Clipper from Nantucket software. Bye, bye dbase. Microsoft did buy Fox many years later. Computer Associates bought Clipper. Borland bought dbase, released a lousy version 4, tried to release version 5.

See the pattern yet? Stay with me now.

Netscape releases Navigator, a web browser and sells millions at 50 bucks a pop, gets fat and happy with their product and did not update it. Microsoft releases a better browser called IE 4. Netscape, still fat and happy with their product, does not update it. AOL builds their client software around IE. Microsoft releases IE 5 with excellent functionality and great hooks for developers trying to build browser applications. Netscape, still fat and happy with their product, does not update it but decides to give it away. Netscape gets bought by AOL. Microsoft releases IE 5.5 with even better features and developer hooks. AOL releases another version of their client using IE, not their own. Netscape/AOL releases version 6. Full of bugs and slow as hell. A year later Netscape/AOL releases 6.1, slightly better. AOL client 7.0 released, still using IE I think. Netscape/AOL releases 6.2, finally acceptable.

Oh, and before I forget. Because Netscape 4.x was such a lousy browser, companies waste millions in development costs trying to keep websites and web applications compatible with it and the newer browsers. As for the innovative features and improvements that Microsoft put into their browser, most have been adapted by the W3C standards body. All of the newest browsers support those features. As a matter of fact, the new Netscape boasts that they are 100% standards compliant, but they have implemented a few non standard Microsoft features that they feel are very useful.

Why should they release an open source version of it? Did you know that under Windows developers can build IE right into their applications? That means a developer can use Microsoft's product to enhance their own. Not one of the other browsers does that! You see, where Netscape targeted the consumer, Microsoft targeted the consumer as well as the developer that has to create the applications the consumer uses.

So what has Microsoft done wrong here? Oh, yeah, they gave us a free browser with Windows.

So in closing I would like to say that I think the nine states are really going radical here, and I now think it is a witch hunt. I almost want to compare it to what happened with the tobacco companies. Microsoft is sitting there with 30 billion dollars in the bank and people want some of it. To me the feds have gotten about all that is worth getting. I could go on and on but I won?t. I hope that you will at least consider my comments. In case you didn?t notice, I am a software developer. My experience is mostly with Microsoft products, but I have done development using Sun and Netscape products also. I would appreciate a confirmation that you have received this email. If you would like to contact me please feel free to do so.

Paul Speranza
Vice President
All Systems Go, Inc
(203)469–2315

MTC–00028996

From: Randy Pipal
To: Microsoft ATR
Date: 1/28/02 7:45pm
Subject: Microsoft
Randall M. Pipal
2350 E. Apricot Dr.
Meridian, ID 83642
January 27, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

As a businessman, I don't understand why the government needed to interfere with the business practices of Microsoft. After all, Microsoft is a solid company that puts out a good product, is vital to the economy, and is vital to the tech industry. If Microsoft is not allowed to stand strong, I am afraid for what effect it could have on the economy.

Microsoft has been more than willing to come to an agreement in order to facilitate this suit. It seems their efforts are futile since no one seems to want to end this case. Not only did Microsoft agree to the establishment of a technical committee that will monitor Microsoft's compliance with the settlement and assist with any disputes, they also agreed that if a third party's exercise of any options in the settlement would infringe on any of Microsoft's intellectual property rights, Microsoft would provide them with a license to the necessary intellectual property on non-discriminatory terms. That seems more than fair to me.

Let's move on. The economy needs it.

Thanks.

cc: Senator Larry Craig

Sincerely,

Randall Pipal

CC:senator@craig.senate.gov@inetgw

MTC-00028997

From: Sightsaver@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:47pm
Subject: microsoft settlement

This case should be settled immediately before any further damage is done to the economy.

MTC-00028998

From: Jeff Beitzel
To: Microsoft ATR
Date: 1/28/02 7:47pm
Subject: Microsoft Settlement

As a programmer and system administrator, the Microsoft judgement will impact me greatly. I have been working with both Microsoft and non-Microsoft products for over 5 years, and in that time I have seen a trend in the software being used. As a system administrator, the integration that Microsoft offers makes my administrative tasks easier. Setup, as well as maintenance, is easier in Microsoft products than in some of competitors, like Oracle, Sun, Netscape, and Linux. The time savings I gain make me more productive. As a programmer, Microsoft products show a tremendous amount of innovation not seen elsewhere. Microsoft has often been accused of breaking standards, but it should be noted that they typically embrace and extend. They take off where standards fall short, they allow the products I write to be better. To me, that innovation they provide is of utmost importance. Also, when doing web-development, Netscape is a horrendous product to work with. Microsoft didn't kill Netscape, Netscape committed suicide by refusing to improve its product and listen to its customers. On a more personal side, I am often recruited to help out non-computer literate friends and family, they need the ease of use, and pricing of Micorosft. Without Microsoft PCs would not be commonplace, but relegated to the hobbists and professionals. Microsoft has made this a connected world because they have given us what we want.

This whole anti-trust situation that has me greatly troubled, as a consumer, person, and somone who creates. It is that the government has abandoned its duty to protect successful people and their property, and chosen to persecute them. The fact is Microsoft, by its own blood, sweat, and tears created its products, and by right has sole ability to decide what to do with its property. The government has proceeded on a witch hunt led by Microsoft's failed competitors under the guise of "protecting the consumer", the only people trying to be protected are lacking competitors who would rather pull success down than actually work for success. I resent the implication made by those arguing against Microsoft that I am a helpless victim incapable of making decisions for myself. I use Microsoft products because they are the best available to me. If Netscape, Oracle, or Linux met my needs I'd use them; but they don't. Microsoft is a company that should be commended for its success and supported by the government, not beaten down by it.

It is because of the above I say, "Leave Microsoft Alone." and do not place regulations or restrictions upon them. They are a company that has made my life better, not worse. The likes of Oracle, Sun, Netscape, Linux, and the other whiners would do well to take a lesson from Microsoft's playbook: Innovate, the consumer appreciates that. America needs that.

Sincerly,

Jeff Beitzel (Concerned American and Consumer)

CC:activism@moraldefense.com@inetgw

MTC-00028999

From: Anthony Mangan
To: Microsoft Settlement
Date: 1/28/02 7:43pm
Subject: Microsoft Settlement

Anthony Mangan
155 Quail Hollow Drive
San Jose, Ca 95128-4544
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

Anthony Mangan

MTC-00029000

From: Charles Buzbee
To: Microsoft Settlement
Date: 1/28/02 7:43pm
Subject: Microsoft Settlement

Charles Buzbee
2188 SW 55th. St.
Redmond, OR 97756
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,

Charles L. Buzbee

MTC-00029001

From: Nancy Ward
To: Microsoft ATR
Date: 1/28/02 7:50pm
Subject: Microsoft Settlement

Dear Ms. Hesse:

I write, as a private citizen, to oppose the Justice Department's proposed Microsoft Settlement, currently under review.. I believe that Microsoft has a history of stifling innovation in computer technology, thus harming individual consumers and the national economy. An atmospher in which witnesses of Microsoft's violations are afraid to inform law enforcement officials of their knowledge, which has existed in this country, is harmful to the computer tecchnological industry, as well as law enforcement and belief in the efficacy of the justice system in our country.

Since the settlement does virtually nothing to protect computer manufacturers and others from Microsoft's retaliation, those who defy Microsoft's behavior and views of the technological world are left to become martyrs to what the legislation prohibiting monopolies was designed to prevent.

Remedies proposed by the nine state attorney generals who are still plaintiffs would genuinely constrain Microsoft from its unfair business practices and liberate the technological industry from Microsoft's shadow of fear. Left unchecked that shadow will grow and expand into other areas—why wouldn't it, if there's nothing to stop it, nothing to challenge the unfair and illegal behavior? The existence of such a monopolistic entity is a threat to the well-being of all who challenge it in the future, and all who would strive for a different and better industry.

Send a message, that justice in the USA is not dead, a commodity sold to the highest bidder, or a kickback to the highest political contributor. Help us be free of this monstrous, harmful entity. Let innovation flourish in this once dynamic field. By freeing the development and exchange of ideas in the technological field, you will help us all to flourish.

Thank you for the opportunity to present my comments.

Nancy Ward
9802 SE Dundee Drive
Portland, OR 97266
email: themerryheart@attbi.com

From: J Surlow
To: Microsoft ATR
Date: 1/28/02 7:50pm
Subject: Microsoft Settlement
Jan 28, 2002

To Whom It May Concern,

The Microsoft settlement does nothing to end the monopoly that they are. If nothing is done about that now, will anything ever be done? Can anything stop the predatory practices of this monopoly?

James D. Surlow
Broomfield, CO 80020

MTC-00029003

From: Joseph W Pfahnl
To: Microsoft Settlement
Date: 1/28/02 7:44pm
Subject: Microsoft Settlement
Joseph W Pfahnl
2197 Glenkirk Dr
San Jose, CA 95124
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Joseph W Pfahnl

MTC-00029004

From: Brian Trotter
To: Microsoft Settlement
Date: 1/28/02 7:46pm
Subject: Microsoft Settlement
Brian Trotter
304 Chambers Rd.
Arab, AL 35016
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Brian Trotter

MTC-00029005

From: Don Alvarez
To: Microsoft Settlement
Date: 1/28/02 7:46pm
Subject: Microsoft Settlement
Don Alvarez
7640 N. Quail Ridge Dr.
Tucson, AZ 85743
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

A Very Concerned American!!
Don Alvarez

MTC-00029006

From: Allen L Plitt
To: Microsoft ATR
Date: 1/28/02 7:53pm
Subject: microsoft settlement

Dear Sirs:

Please end all litigation quickly. The longer this goes on, the more rediculous it gets. We are now asking a company's competitors what punishment they desire levied because they cannot produce a better product. What good is that?

MTC-00029007

FROM: Richard Duncan
TO: MS ATR
DATE: 1/28/02 7:53pm
SUBJECT: Microsoft Settlement
Richard J. Duncan
9302 red-Wood Road, A-304
Redmond, WA 98052
425-830-2202
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in favor of the Microsoft antitrust settlement agreement. the terms of the settlement agreement are reasonable, and will appropriately address the concerns raised about anticompetitive business practices. Continued litigation will not produce a better result. Addressing the allegation that they have acted in a predatory manner, Microsoft has agreed not to enter into contracts that will obligate third parties to exclusively distribute Windows. They have also agreed not to take retaliatory action against those who promote software that competes with Windows. The net result of the settlement agreement will be a more level playing field for Microsoft's competitirs. additionally, a technical committee will be established to monitor Microsoft's compliance wit the settlement agreement. any party who believes Microsoft has violated the terms of the settlement agreement may lodge a complaint with the technical committee. These types of safety mechanisms will ensure no further violations of antitrust laws occur.

Given the vast array of concessions that have been made by Microsoft, no further litigation is warranted. I am hopeful the Department of Justice will remain committed to settling this case.

Thank you for your time and attention.

Sincerely,
Richard Duncan

MTC-00029008

From: David Horrocks
To: Microsoft ATR
Date: 1/28/02 7:54pm
Subject: Microsoft Settlement
To: Judge Kollar-Kotally
Re:Microsoft remedy

As an IT professional I am writing to express my concern about the proposed Microsoft settlement. I work extensively with Microsoft at the local level in Philadelphia, and have given considerable thought to their market position. We depend on their products, and to some extent their good graces, for consulting revenue.

I offer these thoughts:

As an MBA student, I have analyzed Microsoft's channel strategy (document attached). It is clear that market dominance (i.e. monopoly) has led to changes in Microsoft's approach to the channel. The changes are generally not good for those of us on the receiving end. I don?t suggest that this is illegal, but offer it as evidence of the effects of monopoly.

I believe an OS is a natural monopoly ? and product with a decreasing marginal cost of production would be expected to be, and software's marginal cost of production is pennies per copy. So Microsoft's current monopoly position is not necessarily the result of illegal activity. In fact, I would argue that their product positioning, marketing decisions, and coding talent have been the primary source of their success. Those are all admirable traits.

Because the OS is a monopoly I would disagree strongly with Microsoft's critics would argue for a breakup. That would not serve the market or the consumers, and would only postpone the natural monopolistic state. One of the split up firms would win eventually.

But, other natural monopolies are more heavily regulated, such as power delivery. Microsoft should be thoughtfully regulated.

The proposed settlement is very minimal regulation, and not enough to protect the legitimate competitors Microsoft can, by virtue of its OS position, crush at will.

I would hope that regulatory oversight would focus on protecting competitors from bundling that leverages the OS position. Force them to sell products rather than bundle them. Clearly bundling is just a means to defending market power.

Examples of products that could be integrated but ought to be regulated include: terminal services (Citrix), media services (Real Player), offline storage, virus protection, systems management, and others.

Thank you for your consideration of these issues,

David Horrocks
1010 Windsor Ave
Dresher, PA 19025
Mobile: (215)–353–1531

MTC-00029009

From: David Bowman
To: Microsoft ATR
Date: 1/28/02 7:55pm
Subject: Microsoft Settlement

Dear Mr. Ashcroft:

I am writing during the public comment period in support of the settlement reached in the Microsoft antitrust case.

The options for you are, as I understand them, to accept the settlement agreement reached or to return to Court for further litigation. In light of the state of our economy, continued litigation makes little sense. We cannot afford to keep Microsoft on the sidelines.

Microsoft has agreed to make changes in the way it conducts business, which will be conducive to increased competition within the software industry and to economic growth. Microsoft's agreeing to allow computer makers the right to reconfigure Windows operating systems so as to promote non-Microsoft software should prove to be of immediate benefit to the economy.

Please go forward with the settlement as soon as possible. It is in the public's best interest.

Sincerely,
David Bowman

MTC-00029010

From: russell a cox
To: Microsoft ATR
Date: 1/28/02 7:55pm
Subject: Microsoft settlement

Please accept the settlement offer that has been presented. It is time to move forward, not backwords.

Thankyou
MJCox

MTC-00029012

From: Ron Wike
To: Microsoft ATR
Date: 1/28/02 7:56pm
Subject: Just a few comments about the Microsoft situation

1. If you remove the deterrent from a crime, you might as well declare open-season on that same crime.

2. It is a sad day for the United States of America when, on the day after a Christmas when almost every PC given as a present, is running software that has essentially been declared "broken" by the Federal Bureau of Investigation of the United States of America.

3. Let us not forget who ultimately picks up the tab every time one of our major corporations, including the Pentagon of the United States of America and Microsoft itself, is at the mercy of anyone who is willing to take the time to read a book.

4. Isn't it time to do something about this problem when the worldwide monetary damages caused by the vulnerabilities of Microsoft's software exceeds the total population of the world by several billion?

5. Do we really want the future leaders of our country, who are currently coming up through the grades of our educational system, to be using software that has been declared a threat to the infrastructure of our own country by the National Infrastructure Protection Center of the United States of America?

6. Microsoft marketed their latest "innovated" product known as Windows XP as the most secure operating system ever. It should be quite evident to you by this time that this is not the case. In fact, this situation is much the same as the proverbial used car salesman who insists that the speedometer has not been turned back. However, the final liability of Microsoft's behavior is yet to be known.

URL's to substantiate the above points provided upon request. Since this is a matter of justice, and the "J" in DOJ stands for justice, I find it necessary to remind you that Abraham Lincoln declared that "All men are created equal" and that we have a pledge of allegiance to our flag which, although altered a few times over the past several decades, still ends with the phrase "With liberty and justice for ALL"! Therefore, I encourage you to do your job and enforce the laws of the United States of America with equality and due justice. (Long overdue justice in my opinion). And, unlikely as it might be, it would sure be nice to require the company responsible for all the damage to pay for it (retroactive). If Mr. Gates/Microsoft think they are stimulating a faltering economy, then perhaps their vision is only short-term. In any case, isn't it a great way to erode consumer confidence? What difference is there between capitalism and communism when you are down to only one product and that product is not only seriously flawed, but also a threat to your own national security?

Regards,
Ronald E. Wike

MTC-00029013

From: Forest, Carl
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 7:56pm
Subject: Microsoft Settlement

Dear Sirs and Madams:

I used WordPerfect from 1987 through 2001 because it was by far the best word processing software available. Beginning sometime in the early to mid-90's, each time I bought a new computer, it came with Microsoft Word. Each time I bought a new computer, I asked if the vendor would send me the computer without Word and give me a small decrease in price. The sales people always said they could not do this. So, I got a computer with Word, and bought WordPerfect to put on it. Even though I tried Microsoft Word each time I bought a new computer, since the computer always had Word installed, I never used it because it was obviously inferior to WordPerfect. However, most other people, particularly corporations who watched their budgets, use the "free" Word program. Eventually, because it was "free", Word became the dominant word processing software. Then Microsoft began charging for it.

Last year my company was purchased by a company that insisted that everyone use the same word processing software. As a result, I now accomplish about 20% less on the average when using word processing because Word is not capable of easily doing what WordPerfect can do seamlessly. Examples: 1. When you copy something from one Word document in say,`Arial font, into another Word document with Arial Font, Word will change the font on you. You then have to highlight and change the font back to what it should be. 2. Paragraph numbering and bullets are so erratic in Word, that no one uses these functions—with word, we regress back to the 80's for automatic paragraph numbering. For example, when you insert a section in front of a newly numbered paragraph with nothing next to it, Word will attach it to the previous paragraph. When you save a document and reopen it, Word will often renumber the paragraphs in some bizarre way. 3. Word has many automatic functions that change things in the text, without your asking, and these are nearly impossible to turn off. 4. Word has inferior lists of symbols.

The above are just a few of the problems with Word. Yet it is the dominant Word processor, not because it is better, but because of clear anti-trust activity.

I believe that if the Government would do something so WordPerfect or some other word processor could really compete fairly against Microsoft, the productivity of this country would increase about 10%.

Carl A. Forest
Partner and Regional Manager, Boulder Office
Patton Boggs LLP
867 Coal Creek Circle, Suite 200
Louisville, CO 80027
Tel: (303) 379–1114
Fax: (303) 379–1155

MTC–00029014

From: Bill & Sue Morgan
To: Microsoft Settlement
Date: 1/28/02 7:47pm
Subject: Microsoft Settlement
Bill & Sue Morgan
4391 Nelson Siding Road
Cle Elum, WA 98922
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Sue & Bill Morgan

MTC–00029015

From: William Lang
To: Microsoft Settlement
Date: 1/28/02 7:51pm
Subject: Microsoft Settlement
William Lang
976 Ferngate Drive
Franklin Square, NY 11010–1804
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
William E.Lang

MTC–00029016

From: Larry See
To: Microsoft Settlement
Date: 1/28/02 7:50pm
Subject: Microsoft Settlement
Larry See
3770 Presidential Corridor West
Caldwell, Tx 77836
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

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Thank you for this opportunity to share my views.

Sincerely,
Larry See

MTC–00029017

From: Morton Abramson
To: Microsoft ATR
Date: 1/28/02 8:01pm
Subject: MICROSOFT SETTLEMENT

My wife and I feel that it was a disgraceful waste of taxpayer money to initiate an antitrust suit against Microsoft three years ago.

However, since a settlement exists that will finally end this case, we ask that you continue to support this settlement after the Tunney comment period.

Some competitors and a few in the government are trying to have this settlement withdrawn and Microsoft brought back to court until a finish to this case that satisfies them is reached. Those opposed to the settlement contend the settlement is not harsh enough against Microsoft. However, this settlement will cause Microsoft to disclose more formerly secret design code information than any computer company has ever disclosed to others.

Why, other than for selfish reasons, do opponents of the settlement think that this is inadequate? Why do they want to harm Microsoft? Punishment of success is not the American way! We urge you to ignore the anti-settlement argument.

Three years and millions of dollars later, this case should end now at the federal level.

America has suffered enough embarrassment over this politically-motivated case.

Sincerely,
Morton & Marlene Abramson
426 Green T Lake Blvd. West
Hernando, MS 38632
Phone 662–429–9488

MTC–00029018

From: Mark Mindenhall
To: Microsoft ATR
Date: 1/28/02 7:58pm
Subject: Microsoft Settlement

I urge the court to reject the proposed settlement reached between Microsoft and the DOJ, and instead proceed with the settlement proposed by the nine states which did not join the DOJ settlement.

I believe the nine states'' proposal constitutes a most reasonable remedy which will dramatically reduce Microsoft's monopoly power and dramatically enhance competition. Personally, I am more concerned about Microsoft's desktop monopoly (Win95, Win98, WinME, Win2000 Prof, WinXP Prof, WinXP Home, etc.) and office productivity monopoly (Microsoft

Office) than the strength of their server operating systems. These two monopolies are tightly coupled, and each helps to preserve the other. Office is so strong that its file formats (.doc, .xls, .ppt primarily) have become de facto standards for exchange of complex information between individuals and businesses. Any company wanting to compete with Office needs to fully support reading, editing, and writing documents using these file formats. However, Microsoft provides little documentation of these file formats, which results in competitors having to "reverse engineer" the files to understand how the information is stored.

By simultaneously forcing Microsoft to reveal the details of their file formats, while also making Office available on competing platforms such as Linux and varieties of Unix, I think the states" proposal would dramatically increase competition in the desktop OS market. Also, other applications would be able to ensure 100% compatibility with Office documents, which would create viable alternatives for creating and exchanging documents using the de facto standard Microsoft file formats.

Mark Mindenhall

MTC-00029019

From: Merton Singer
To: Microsoft ATR
Date: 1/28/02 7:51pm
Subject: Microsoft Settlement
TO: Department of Justice
RE: Microsoft Settlement

In my opinion, the settlement proposed for Microsoft is sufficient. In fact, it is already overkill. It must be kept in mind that the changes in our legal system have not, and cannot keep pace with the rapidly evolving changes in high technology. Microsoft might have somehow been in technical violation of our "traditional" anti-trust laws. I'll admit that.

However, had Microsoft been forced throughout its history to restrain itself in a literal sense to these laws, it undoubtedly would have never created all the outstanding computer systems and concepts, which most homes, businesses, medical facilities, schools, etc., in America can now afford.

To punish Microsoft more severally than outlined in the present settlement proposal is analogous to rewarding other companies for their lack of vision, mediocrity, and/or lack of means or desire to compete in an extremely intangible, and risky market. Microsoft is too important an entity to be shackled because others cannot, for whatever reason, keep pace.

Sincerely,
Steve Singer
105 Biltmore Drive #203
San Antonio, TX 78213

MTC-00029020

From: Gilbert Andreen
To: Microsoft Settlement
Date: 1/28/02 7:55pm
Subject: Microsoft Settlement
Gilbert Andreen
235 Rockhill Drive
San Antonio, TX 78209
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
G. M. Andreen

MTC-00029021

From: Greg Piper
To: Microsoft ATR
Date: 1/28/02 8:00pm
Subject: Microsoft Settlement

To the Honorable Judge Kollar-Kotelly:

The Discovery Institute would like to affirm to the court its support for the proposed Microsoft antitrust settlement. Our mission is to "make a positive vision of the future practical," and we believe that while any settlement is far from perfect, this particular settlement is very practical and will contribute positively to economic stabilization and growth in America as well as to technological innovation in the public interest—causes we have advocated from the Institute1s debut 12 years ago.

Microsoft is the leading player in the software industry, and its actions as well as actions against the company will have a substantial ripple effect throughout the technology sector and economy at large. Its success has led the way in a growing and stable market for software products that has carried through the collapse of most dot-com enterprises and contributed to record government surpluses until now. Microsoft1s competitors have the right to challenge its market supremacy with their own products and innovations, but in recent years the nature of their competition has largely revolved around government intervention initiated and prodded on by the competitors. AOL Time Warner lately has invested at least as much time and energy in lobbying Washington as in developing attractive and useful products. It purchased Microsoft1s rival Netscape, which makes a browser that is more expensive than and inarguably inferior to Microsoft1s. It didn1t bother to promote the acquisition to its massive AOL audience, preferring to blame its ineptitude on a rival. This reflects a strategy used by the fallen Enron Corp., which extolled the virtues of a deregulated energy market while lobbying government for legal restrictions on its market rivals. Enron1s demise has yet to show serious economic damage. But the assault against Microsoft, in our judgment, has contributed to the current technology sector depression and to recession in the economy as a whole. It is time to call it off.

Economic success rests not only on prudential government regulation, but on a company1s motivation to continually improve its products and make innovations that will attract more consumers. Software users, whether individuals or business, have gradually been leaving the tech market for the past few years because a lack of innovation has decreased any incentive to upgrade their equipment. Massive discounts on computers and accessories can stem the technology exodus for only so long.

The proposed settlement has been careful to limit the damage to Microsoft while redressing its legal breaches in software design and marketing, and any further litigation is likely to devolve into jockeying for advantage between rival corporations, absent of any public interest. For the sake of both the tech sector and the economy that responds so sensitively to its sways, this practical and evenhanded settlement should be enacted expeditiously.

Bruce Chapman, President
Greg Piper, Director of Communications

MTC-00029022

From: Robert L. Brown
To: Microsoft ATR,Ford James F.
Date: 1/28/02 8:01pm
Subject: Microsoft Settlement

The settlement is, in itself, a reward for Microsoft's anti competitive activities. I hope the court holds Microsoft to a trial to hear the evidence of Damages. The company is unbelievable, as the evidence showed during the trial. If the company can not be broken up it should be punished so severely, based upon it's assets, that no other company will consider doing the same as Microsoft in its aggressive anti competitive actions.

This is just my opinion based upon the many pages of material I read about the trial and my own thoughts as to why some programs like WordPerfect were caused problems by the Operating System while "Word" was not.

Robert L. Brown
attybrown@missourilaw.net
P. O. Box 358
Arnold, MO 63010
636-296-8260
FAX 636-296-0925

MTC-00029023

From: yurczyks@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 7:58pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Roger Yurczyk
23033 164th SE
Kent, WA 98042

MTC-00029024

From: SBaldlyn@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:02pm
Subject: Microsoft Settlement
Marilyn Baldwin
19 Seaview Avenue
Cranston, RI 02905
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW Washington, DC 20530

Dear Mr. Ashcroft:

The case against Microsoft has been controversial. As a concerned citizen, I have followed the case against Microsoft with much interest. While I use Microsoft products, I do believe that at its pinnacle Microsoft may have engaged in anticompetitive practices. The settlement agreement reached last November is equitable indeed, and if enacted, will have many benefits for the technology sector. Thus, I urge the Justice Department to enact the settlement at the end of January.

To expand, the terms of the settlement will benefit consumers, developers, and manufacturers in the technology industries. With the interim release of Windows XP, users of the operating system will be able to reconfigure their desktop according to their own needs. Thus, users will be able to delete Microsoft software from Windows and add competing software at their own discretion. In addition, developers will benefit from the information disclosure of the protocols and interfaces internal to Windows. This information enables developers to produce software that is more compatible with the Windows operating system. Further, PC manufacturers will be given broad new rights to market competing software without fear of Microsoft retaliation.

Much, then, will change with the implementation of the settlement. Given the decline in the technology markets in recent years, I believe that this settlement will encourage confidence in the markets once more. Again, I urge the Justice Department to enact the settlement. Thank you for your time regarding this issue.

Sincerely,

Marilyn Baldwin

MTC-00029025

From: Rody P. Cox
To: Microsoft Settlement
Date: 1/28/02 7:56pm
Subject: Microsoft Settlement
Rody P. Cox
#5 Connaught Ct.
Dallas, Tx 75225
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

Dr. and Mrs. Rody P. Cox

MTC-00029026

From: DiMaioWood@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:07pm
Subject: microsft settlement

I do not believe there is anything wrong with Micrsofts approach to the market, infact I think Microsoft's is extremely customer oriented & offers valuble products to all of us that use computers & the internet.

MTC-00029027

From: dcfisherod@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:03pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Dr. David Fisher
12921 Dale St #82
Garden Grove, CA 92841–5034

MTC-00029028

From: jws1mcp@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:06pm
Subject: Microsoft Settlement

Why does a Microsoft Certified Professional oppose the proposed Microsoft-DOJ settlement?

[1] Because Microsoft is an unabashed monopolist that squelches competition—and innovation—in a field that I chose to enter back in the "DOS Days"; when I (still) aspired to be affiliated with a company that "demystified" personal computers, and helped to bring them into small companies and people's homes at an affordable price. Sadly, those days are long gone...

[2] I could write a LONG list of the companies and products that died in the Microsoft stranglehold, but I believe DOJ already has that information in hand from the legal proceedings.

[3] I urge DOJ to force Microsoft to make all of it's API and related code information for Windows 98 / Me / 2000 / XP open to developers; or, those code and "hidden" API's in the Office 2000 / XP suite that prevent seamless integration with other suites (Corel, Lotus, Star, etc.).

(As an aside, I am so outraged by Microsoft's behavior that I have become a very vocal advocate for open source operating systems and office automation applications, and I run these on every machine that I can. But even the Linux zealots can't overcome the Microsoft "machine"!)

Jeffrey W. Stewart, MCP (#2110349)
jws1mcp@juno.com
Montgomery, AL
[BBsPC/PII266]

MTC-00029029

From: Shiven Malhotra
To: Microsoft ATR
Date: 1/28/02 8:08pm
Subject: Microsoft's Monopoly

To Whom It May Concern:

I have been a Microsoft user since I was ten years old. For th longest time I believed that computers were meant to be used only by those who can understand, or know how to use them. But as I grew older I realised that technology has no place in our world unless it can be applied to our everyday lives and to do that technology has to be accessable to those who don't want to understand how the technology achieves the outcome.

I switched to the Macintosh Operating System once I reached college. I realised that Microsoft has never been an innovator in computer technology but it has always known how to market its products well. But marketing an inferior product is not illelage PREVENTING COMPETITION IS!!

Innovation comes form those how feel that the status quo is not meeting the needs of the common man. Innovators give us a brand new way at looking at ideas and concepts. When a company comes uo with an idea that threatenes the status quo, the status quo tries to prevent the spread of the idea. Microsoft achieves this by crushing the competition, or just making the competitive product incompatible with the Microsoft Operating System.

In Saudi Arabia a years ago WordPerfect was going to release an arabic version of its word processor that was far superior to Microsoft Word. Microsoft decided to preempt WordPerfect by releasing its version of Word in Arabic first. The only problem was that though the box of the software was in arabic, inside THE VERSION WAS IN ENGLISH. Microsoft provided a slip for a free version of the arabic software once it had completed it. BUT it took nearly 3 years for the Arabic version to come out!!! People bought the software believing that the software inside was in their native language but were deceived!!

In Bill Gates book, "The Road Ahead", in the original version he believed that the Internet was insignificant!! Yet when Netscape posed a real challange to Microsoft, Mr. Gates went on the offensive by making the Netscape browser less compatible with the Microsoft Operating System, while its browser was brought to the market.

Mr. Gates says that WindowsXP is the "most secure Operating System" that Microsoft has ever built, yet hackers have proven him wrong at every turn. Hackers even hacked into Microsoft's ow website. The FBI issued a statement that the Microsoft Operating System was not to be used, because of security concerns.

Competition breeds quality in products deliverd and services rendered. I am originally from India. I have been witness to the changes in the quality of products and services in my country. The lack of competition had made our companies compalicent. The level of services the monopoly companies provided was the only level of service the consumer experienced. There is no surprise that the consumer believed that the level of service was good. After all SOME SERVICE IS BETTER THAN NO SERVICE!!!

Today competition is starting to flourish in India. This has woken up these sleeping giants. They now have to compete with the innovators and new entrants into the market, or become part of history. The consumer, once given a choice will go to the supplier he or she feels best meets their needs. But they will not have this option if they cannot see past the one supplier market!!

Microsoft's main aim is to sheild the consumers from ever seeing any other possibilities in the market, and from preventing these possibilities from ever materialising.

This brings to mind a picture of a dragon protecting a bridge. One one side are the innovators and the competition and the other side are the consumers. To get to the consumers the innovators and competitors have to survive the dragon's displeasure. Even if they manage to get past the dragon, the state in which they get past no longer makes them viable competitors who can make a material difference in the the market.

Microsoft is an innovator is an OXYMORON!!

Throughout history people in power have been scared by new ideas. They have tried to discredit the idea or discredit the person with the idea. Gallalio discovered that the Earth goes around the Sun. He was burned at the stake for sticking to the truth.

PLEASE DON'T LET MICROSOFT PREVENT REAL CHANGE FROM COMING THE INDUSTRY!! THEY HAVE FINANCIAL POWER, DON'T BACK THEM UP WITH LEGAL FREEDOM!!

"Nothing in this world is so powerful as an idea whose time has come"—Victor Hugo

It's time we let Microsoft know that their Monopolistic Strategies will not be tolerated by the United States!!

Thank You,

Shiven Malhotra

MTC-00029030

From: Paul Holwadel
To: Microsoft Settlement
Date: 1/28/02 8:01pm
Subject: Microsoft Settlement
Paul Holwadel
1391 S.O. Blvd.
Pompano Bch. , Fl 33062
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

Dr. Paul Holwadel

MTC-00029031

From: Louie Swalby
To: Microsoft ATR
Date: 1/28/02 8:08pm
Subject: Comment on MS Antitrust case

The Honorable US District Judge Colleen Kollar-Kotelly,

I wish to express my concern over Microsoft's initial proposal to satisfy its antitrust penalty by providing second hand computer hardware in schools and then its own operating system and associated software applications.

This is pathetic of them to believe that the judicial system as well as the public would believe that this is fair. Rather, it only furthers their monopoly both in the schools and the future job market, where these "Microsoft schooled" students will know of no other choices.

Let Microsoft provide hardware (either PCs, or MACs), and let them provide the hardware for providing networking to the schools. Let the schools choose the operating system (MAC, Linux, or Microsoft). I encourage you to seriously consider the offer by Red Hat's president to provide the free Linux OS to all schools.

The United States is synonymous with the idea of choices, a democracy provides for choices.

Microsoft has one choice: theirs. I urge you to reject the proposal put forward by Microsoft in this antitrust settlement.

Respectfully,

MTC-00029032

From: W R Jackson, Jr.
To: Microsoft Settlement
Date: 1/28/02 8:03pm
Subject: Microsoft Settlement
W R Jackson, Jr.
55 Burbank Lane
Yarmouth, ME 04096
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
W R Jackson Jr

MTC-00029033

From: James Wyatt
To: Microsoft Settlement
Date: 1/28/02 8:03pm
Subject: Microsoft Settlement
James Wyatt
7563 Wesselman Road
Cleves, Oh 45002-8604
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

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Thank you for this opportunity to share my views.

Sincerely,
James A Wyatt

MTC-00029034

From: Michael Robertson
To: Microsoft ATR
Date: 1/28/02 8:08pm
Subject: Microsoft Settlement
Statement of Michael Robertson, CEO, Lindows.com, Inc.

1. I am the Chairman and Chief Executive Officer of Lindows.com, Inc. ("Lindows.com") and have been employed in that capacity since the company's inception in 2001. I have previously served as founder, CEO and Chairman of MP3.com, an Internet-based digital music storage, management, delivery and promotion company MP3.com, since March of 1998. MP3.com was sold to Viviendi/Universal on August 29, 2001. I have personal knowledge of the facts set forth herein and, if called as witness, I could and would competently testify thereto.

2. Lindows.com, Inc. is a software company currently developing a new personal computer operating system ("OS"), called LindowsOS, that has the ability to run applications written for both the Linux and Microsoft Windows operating systems. Before LindowsOS, a Linux application would run only on a Linux-based operating system, and a Microsoft Windows-based application would run only on a Microsoft Windows operating system.

3. In cooperation with the many open source community programmers, Lindows.com's software engineers have developed a Linux-based operating system with over ten million lines of code, which will incorporate the performance, stability, and secuirty of Linux while being able to run popular Microsoft Windows-compatible applications, as well as all Linux applications. LindowsOS is the commercial culmination of years of computer science research by Lindows.com and other software companies, seeking to harmonize use of the two most common, but incompatible, computer operating systems.

4. Computer and electronics hardware and software cannot function as standalone products. They are integral pieces of a complex environment that businesses and consumers use to be productive, connected, or entertained. Each piece is required to interoperate with the other to be useful to a computer user. Microsoft's software dominance over the last ten years has taken what was once a rich ecosystem of software and hardware innovation and homogenized it as competitors have been legally and illegally put out of business. This "ethnic cleansing" of computer software has left Microsoft and its Win-32 based language, the universal operating system to which any company hoping to penetrate computing OS markets must conform. In other words, for a software company to compete they must speak "Microsoft" If steps are not put into place now to allow others to obtain a dictionary of the language AND be able to speak it without suffering repercussions, there will be no competition to Microsoft for the foreseeable future. If companies other than Microsoft are allowed to speak this language, there will be a resurgence of competition and innovation in computer and electronic software and hardware.

5. This "dictionary" which Microsoft maintains is not the source code to its operating system or middleware, but rather the blueprint for communicating with those products—the APIs. Microsoft's knowledge and control unpublished APIs has allowed it to exert enormous control over how well applications running on a Windows-based platform work. For instance, Microsoft's "Word" word processing program now dominates the word processor market simply because Microsoft itself had nearly exclusive access to its own APIs for years, giving it an advantage in designing its products to perform well with its operating system. It has exercised this same "API control" strategey with many other applications, dominating, for instance, the spreadsheet (Excel) Internet browser (Explorer), presentations (PowerPoint), and media player (Media Player) applications.

6. Even though Microsoft today publishes a tiny number of APIs, it continues to maintain an advantage over competing operating system manufacturers such as Lindows.com and software developers because it fails to disclose information sufficient to allow competitors to design software which fully supports the APIs of the application software, disk formats and file formats. As a result, competing operating system software manufacturers are forced to engage in an expensive process of blindly attempting to decipher Microsoft's APIs through trial and error. Most companies abandon the process after costly investments and the few that have produced products are very limited in their functionality.

7. Microsoft also exerts enormous anti-competitive influence over OEM hardware manufacturers" configurations of their own hard drives which are controlled by Microsoft's operating system. Since the vast majority of computers shipped over the last 10 years have Microsoft Windows operating system preinstalled, the accompanying hard disks are configured with either vfat or NTFS configurations. The specifications for NTFS and vfat are not published and known only by Microsoft. As with the APIs, because only Microsoft has access to and dictates the specifications for controlling the hard drives installed in these computers, competing operating systems are effectively blocked from information critical to designing effective and stable systems.

8. To restore competition, the "Microsoft dictionary" should be made public. If the language is secret, potential competitors will not be able to speak the common language used by computer hardware and software, and Microsoft alone will continue to exert enormous influence by selecting who can (and can't) know this language. Microsoft must not be able to gain advantage by delaying publication of the common language, so that competitors will have fair opportunity to meet Microsoft to market with products. Full disclosure of all current and future proposed file formats (including VBA scripting language for full PowerPoint compatibility), as well as future updates in advance of commercial releases are necessary to restore balance.

9. Requiring Microsoft to share the language its interfaces use does not dilute the value of what Microsoft creates, as Microsoft is allowed to maintain the proprietary nature of the code for its various programs. Requiring Microsoft to disclose the common language its programs use to interact with other programs and with computer hardware permits independent companies to use this common language to create innovative applications which can fairly compete with Microsoft in the open marketplace, avoiding excessive government monitoring and entanglement.

10. While Microsoft argues that it is continuing to innovate, the fact is that all operating systems vendors are innovating, but because Microsoft controls 95% of the market already, and has been held to have consistently abused that market power to maintain its monopoly, Microsoft is the de facto standard regardless of the comparative benefits of its product. Indeed, recent lapses in the security of Microsoft's XP products have spotlighted just one of the many

comparative deficiencies of Microsoft's operating system. Yet, despite the fact that Linux-based operating systems are more secure, more stable, and more affordable for many applications, Microsoft's system continues to dominate. This can only be due to the absence of fair market conditions.

11. Ultimately consumers will benefit as they see enjoy more product choices, which will control pricing through natural market forces. The open source community developing applications for the Linux operating system is a prime example of the myriad of programs and applications which interface sharing can inspire. Thousands of programs currently exist in this environment, created by individuals and major corporations alike, all of which are designed to enhance the functionality of computing.

12. I strongly urge that Microsoft required to publish the specifications for file formats, hard disk formats and programming APIs. With advance and complete disclosure of the Microsoft programming APIs, file formats and disk formats, and with the requisite protection to implement them in the course of building a business, it is possible to restore competition to the computing environment.

I declare under penalty of perjury that the foregoing is true and correct. Executed in San Diego, California, this 28th day of January, 2002.

MTC-00029035

From: Steve Riddle
To: Microsoft Settlement
Date: 1/28/02 8:04pm
Subject: Microsoft Settlement
Steve Riddle
8608 Twilight Drive West
Ft. Worth, TX 76116-7661
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Steve Riddle

MTC-00029036

From: Harry Alford
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 8:03pm
Subject: Microsoft filing Kansas from National Black Chamber of Commerce
1350 Connecticut Ave NW Suite 825
Washington, DC 20036
202-466-6888 202-466-4918 fax
January 28, 2002
Email Address: <mailto:Microsoft.atr@usdoj.gov> microsoft.atr@usdoj.gov
Subject: Microsoft Settlement

The National Black Chamber of Commerce (NBCC) promotes the interests of the more than 64,000 Black-owned businesses in the United States. We have 201 affiliated chapters located in 40 states, including Kansas, and eight countries.

Although NBCC generally supports allowing the market to sort out competitive issues between corporations, we believe that in this case it is simply too late for self-regulation. Microsoft has stifled competition at every turn in its history. It is time for a change. Unfortunately, the proposed settlement between Microsoft and the Department of Justice will not effect this change. It is far too weak ? its requirements are not expansive enough and its enforcement mechanism is not strict enough.

We agree with Attorney General Carla J. Stovall's position that more must be done to rein in Microsoft's anti-competitive behavior. Specifically, to promote competition and innovation, and provide alternatives to consumers, Microsoft should be required to:

- Offer competing developers a stand-alone, unbundled version of Windows without built-in software
- Share the code for its Internet browser, Internet Explorer, with other software developers.
- Auction to potential competitors the right to create the Office software suite to operate on different operating system platforms.
- Include Sun Microsystems? version of Java software in its latest operation system, Windows XP.

Finally, we believe that the court should implement an effective means of imposing punishment in the event of noncompliance and that empower a court-appointed master to oversee the settlement. As it stands now, there is not only no effective punishment mechanism, there is no one even there to enforce the settlement!

In closing, I would just like to reiterate our support for these additional measures to be included in the final settlement.

Sincerely,
Harry C. Alford
Harry C. Alford
President & CEO

MTC-00029037

From: Ken Demark
To: Microsoft ATR
Date: 1/28/02 8:09pm
Subject: Microsoft

Stop harrassing Microsoft, let the current judgment stand.

Ken Demark
CEO
BOLD Technologies, Inc.

MTC-00029038

From: bjohnson11@austin.rr.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:13pm
Subject: Microsoft Settlement

To Judge Kollar-Kotelly and whom it may concern,

I have been Microsoft Certified Professional since 1993. I've used many Microsoft products in that time. I will continue to do so; either by personal choice or corporate mandate. I'm finding that my non-Microsoft choices are less and less each year.

I work for a Fortune 500 company, using Microsoft's Outlook email client, the number one propagator of modern computer worms, viral or not. I am forced to use the very product that causes myself and my company's resources so much energy to clean up after, time and time again. Although Outlook Express is included on my personal system, I have no such worries about email worms at home as I choose to use a non-Microsoft mail package outside of work.

The proposed settlement does nothing to curb Microsoft's future actions, certainly does nothing to reprimand past actions, and the proof of both is that even in light of Judge Jackson's findings, and the proposed settlement, it hasn't changed any of it's illegal monopolistic leveraging. That alone should be proof that the proposed settlement is entirely un-enforceable, and in-effectual. Without stronger measures Microsoft will continue down the course they've successfully navigated in the past, namely; Embrace, Extend, and Extinguish. Another concern I have with the PFJ is language which addresses competing "commercial" vendors. The fear of many is that this language fails to protect not-for-profit software projects from anti-competitive behavior. As not-for-profit computing has been equally harmed by Microsoft's anti-competitive practices, the PFS must explicitly grant not-for-profits equal remedy and protection.

Regards,
Robert Johnson
RJohnson@webside.com

MTC-00029039

From: Dale Snelling
To: Microsoft ATR
Date: 1/28/02 8:05pm
Subject: Microsoft Settlement

FOR—you're killing the economy.

MTC-00029040

From: William Aldridge
To: Microsoft Settlement
Date: 1/28/02 8:05pm
Subject: Microsoft Settlement
William Aldridge
6424 Brookshire St.
Fayetteville, NC 28314
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
William Aldridge

MTC-00029041

From: Robert Mellor
To: Microsoft ATR
Date: 1/28/02 8:10pm
Subject: Microsoft Settlement

Your Honor,

As a computer fanatic, student, and professional, I have watched Microsoft's practices with interest over the years. In 1995, Netscape was the superior browser and held the lion's share of the browser market. I feel that it is still the superior browser, but do to some shady tricks and arm-twisting by Microsoft, the market share has been reversed. As the complaint states, this is because Netscape and its support for applications that are not OS (operating system) dependant could threaten Microsoft's monopoly hold on the operating systems market. Operating systems like Linux Red Hat and Apple could actually gain a respectable share of the market, if not an even one.

I actually like a lot of the products that Microsoft puts out. But I have watched other products that I like as well become victims of (what I believe to be) illegal contractual arm-twisting to prevent manufacturers of hardware from offering any "rival" software. I hope that you will be able to do something about this injustice, as this country became great on the concept of competition. The industry as a whole would progress at a substantially increased rate, and consumers would also benefit from competitive pricing and an increased number of choices. I hope that you can reach a decision that will strengthen this country's historical commitment to fair and open market competition, something that this proposed settlement does not accomplish.

Thank you for this opportunity to express my opinion,

Robert H. Mellor, II
Information System Support Coordinator
CHEP
Computer Network Systems Technology
Student at ITT Technical Institute
Graduating June, 2002

MTC-00029042

From: CAHT99@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:12pm
Subject: Microsoft settlement

As chairman of Citizens Against Higher Taxes, a Pennsylvania public-interest group, I'd like to offer a brief comment on the proposed Microsoft settlement. I am a long-time user of Word Perfect and despise Microsoft Word; it really gripes me that Word has run rings around Word Perfect in the marketplace. I'm sure millions of other users of non-Microsoft products feel as I do. But we lost, fair and square, in the marketplace of consumer choice. Just because Microsoft is a successful company and produces an operating system and software that most people want to buy, is no reason to punish that success and hurt consumers.

I have looked over the proposed settlement terms and it certainly seems to me that they clearly meet any reasonable standard of curbing potential anti-competitive actions while still preserving relatively free consumer choice.

I would hope that the settlement is upheld, so an innovative and successful company can go about the business of providing ever-newer and better products that appeal to many people (though not especially to me).

James H. Broussard, Chairman
Citizens Against Higher Taxes

MTC-00029043

From: FrancisAClark@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:13pm
Subject: Microsoft Settlement
10 Red Oak Court
Voorhees, NJ 08043
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft antitrust dispute. I support Microsoft in this dispute, and I feel that the litigation that has gone on for three years is expensive and will negatively impact consumers. I support the settlement that was reached in November as a means to end this dispute.

This settlement will serve in the best public interest. Microsoft has agreed to all terms of this agreement, including: sharing information with competitors regarding certain internal interfaces included within Windows and any protocols implemented in Windows. Microsoft has also agreed to design future versions of Windows to make it easier to install non-Microsoft software. This settlement will benefit the entire technology industry.

During these difficult times, one of our highest priorities should be to boost our lagging economy. Restricting Microsoft will not accomplish this end. Please support this settlement so we can focus on more important issues. Thank you for your time.

Sincerely,
Francis Clark

MTC-00029044

From: Joan Eslinger
To: Microsoft ATR
Date: 1/28/02 8:13pm
Subject: Microsoft Settlement

I am writing to express my opposition to the proposed settlement to the ongoing antitrust case between Microsoft and the U.S. Government. I obtained a B.S. in engineering from the University of Illinois in 1981. I've worked in the computer industry in Illinois and California for most of the time since then, with experience in operating systems, networking, security, applications, and standards compliance. I'm currently employed by Silicon Graphics (SGI) as a software engineer. I have also followed this antitrust case with great interest, reading the various documents made available to the public including the findings of fact and findings of law, because I have observed Microsoft's effect on the computing landscape for the past several years.

I believe the proposed settlement will do nothing to deter Microsoft from any of its business practices which have already been proven to be predatory and to maintain and extend their monopoly. I can't imagine what possessed the USDOJ to agree to such a thing.

The settlement does not address the most important point for the survival of other operating systems: interoperability. One key way Microsoft maintains and extends their monopoly is related to the file formats produced by Microsoft's Word and Excel applications. Almost every business in this country has found itself forced to use these applications (and others) to interact with other businesses. (I understand there are also government agencies contributing to the monopoly by requiring documents be submitted in these formats, and by disseminating information in these formats). And Microsoft makes deliberate changes to the applications and their file formats periodically, often disabling backward compatibility "accidentally", to drive widespread upgrades. The best way to defeat this monopoly-maintenance mechanism would be to require Microsoft to publish these file formats so that other companies can write applications that will correctly read and write Microsoft Office documents. This does not mean Microsoft has to expose any of their source code. I know many people have called out to require Microsoft to make their source code available. I don't believe that is a useful remedy, and Microsoft has made clear they would never agree to such a thing. Publishing file formats is nothing like opening up source code. The TCP/IP protocols that the Internet is built on are described in plain English (with some specialized jargon), and many companies have used that English description to write networking code that works with everyone else's networking code. I believe the government could make a big difference in the world of document exchange merely by specifying that all correspondence be done in openly-documented file formats. I believe this is one of the most important requirements the goverment could insist on in this case.

The second most important problem is the secret and not-so-secret deals Microsoft makes with hardware manufacturers to ensure Microsoft products (and only Microsoft products) are available to consumers by default. One way this comes about is that almost every contract Microsoft signs with another company contains a non-disclosure clause. Microsoft uses Operating System pricing as the key in such contracts. If a company agrees to lock-out Microsoft competitors, Microsoft will lower their cost to purchase Windows. The uniform licensing terms of the proposed final judgement are a good start, but do not go far enough. There is nothing to prohibit Microsoft from making other deals that lead to a vendor receiving cash or goods or services from Microsoft if it just happens that the vendor does not offer any products from Microsoft's competitors. I'm not an accountant, but I expect it would require analysis of not just Microsoft's accounting records, but also those of the vendor's to detect such a scheme. Frankly, I don't think anything will ensure uniform pricing other than having the hardware vendors publish the cost of Microsoft's software as a line item visible to the consumer, in addition to giving the consumer the right to request a machine with no Microsoft software for the cost of the machine without that line item. Vendors will be less likely to lie about the cost of Microsoft software if they know a consumer can knock that full amount off the price when buying a machine with no OS.

There are many, many loopholes in the agreement that I'm sure other people are writing in about, so I won't go into them in detail. The DOJ should know, however, that Microsoft is famous in the industry for writing contracts they can wriggle out of.

One such loophole I haven't seen discussed concerns the three-person Technical Committee. The committee members are required to be "experts in software design and programming." They are not required to know anything about accounting, business practices, contract law, or criminal investigation. They are permitted to hire staff members, but they also must be software experts. Several sections of the final judgement have nothing to do with software but with contracts and business relationships. Why are there no lawyers or accountants on this committee?

Here's just a short list of some of the problems I've seen in the settlement:

Microsoft is allowed to retaliate against vendors who ship a Personal Computer with no Microsoft software.

Microsoft is allowed to make extra payments to vendors who comply with any unofficial rules they may have (III.A.), as long as it takes the form of a payment for positive action (promotion) rather than a negative action (withholding marketing funds). Intel and Microsoft have both used the marketing funds budget over the years to promote their monopolies. The current form of the Technical Committee is unlikely to be able to police this effectively.

Why are vendors not allowed to advertise non-Microsoft Middleware more prominently than Microsoft Middleware (III.C.3.)? Vendors should be free to configure the systems they sell any way they wish. III.F.2. is worthless. Most companies that work with Microsoft are at a severe competitve disadvantage if they don't sign up for co-marketing agreements. The co-marketing agreements will effectively cancel this provision.

Microsoft should not be permitted to poison existing and future standards. Microsoft is currently investing a lot of money in network protocol design. The obvious inference is that they plan to replace the open protocols of the Internet with their own proprietary ones.

III.H. gives Microsoft permission to pre-empt non-Microsoft middleware if there is a feature missing. Microsoft can always arrange for Microsoft Middleware to have new features not available in competitor's products (and some features, like ActiveX, deliberately avoided by other products due to security problems). By the time an ISV could add support for the new feature, the damage would already be done. This clause will not change anything. Microsoft can always refuse to document an API by claiming it is security-related. By the time a Technical Committee member is able to view the related code, Microsoft can change the API so that it actually does implement some security function. The free operating systems Linux and BSD, currently Microsoft's competition, will not be able to license such code.

The definitions of "Microsoft Middleware" and "Microsoft Middleware Product" are such that Microsoft can easily work around any restrictions on them. In three years the problems will not center around "Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express and their successors" or "Internet browsers, email client software, networked audio/video client software, instant messaging software"; they will center around elements of .Net and new applications.

With the new subscription software model, the definitions of OS revisions, upgrades, alpha and beta periods, and distribution will change radically, to the extent that parts of the proposed final judgement will not make any sense (and will no longer apply to anything).

I hope you will take these comments under consideration when evaluating the appropriateness of the proposed settlement. I do not believe this settlement to be in the best interests of consumers or the future of computing.

Joan Eslinger
wombat@sgi.com

MTC-00029045

From: cubsandy2@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:12pm
Subject: "Microsoft Settlement." Fax: 1-202-307-1454 or 1-202-616-9937

The Seniors strongly believes that the proposed settlement offers a reasonable compromise that will enhance the ability of seniors and all Americans to access the internet and use innovative software products to make their computer experience easier and more enjoyable. The settlement itself is tough on Microsoft, but is a fair outcome for all parties—particularly senior consumers. Most important, this settlement will have a very positive impact on the American economy and will help pull us from the recession we have experienced over the past year.

Sincerely Forrest C. Milligan

MTC-00029046

From: Bob (038) Adie Santoro
To: Microsoft ATR
Date: 1/28/02 8:13pm
Subject: Microsoft Settlement
TO : Renata B. Hesse, Antitrust Division, US Department of Justice
FROM : Robert Santoro, Concerned Citizen

Please disregard my previous letter, as that was a draft and not ready to be sent. I accidentally pressed the wrong button. So here are my thoughts: I believe the Justice Department and America needs closure on this (Microsoft) matter once and for all. How long has it been, how much money will it take...and how long will it continue on?

The Federal Government must state it's case, derive it's penalties, seek resolution, and end it's relentless efforts to drag this matter any further, perhaps into the next administration. The Government needs to set a time limit. The longer the Justice Department takes to administer it's justice, the public will be thoroughly disgusted, and America once again will receive her enormous share of worldwide ridicule.

This action is a waste of precious taxpayer resources, and most of us believe the action by the previous administration was politically motivated, fueled by Microsoft's competitors. No one has yet to prove that the American citizen, or the software industry has been hurt by the allegations of anti-competitive behavior. Is it worth the cost? And, while the Government continues it's aggressive pursuits, we have real serious problems to contend with, such as the Enron case, where thousands of employees and investors were sucker-punched....collapse of a major corporation, lost employment and retirements. That's the real crime. And that's precisely where the Justice Department should be spending it's efforts. The contentious and incessant attacks against Microsoft must stop.

Remember that old saying, "It's the economy......"? I believe the actions of President Clinton and his administration, the Democratic Congress, the raising of interest rates by the Federal Reserve, the Justice Department versus Microsoft, the collapse of Enron (and other big business), the lack of security in the airlines and the attacks of 9/11 are the result of America being diverted from really serious issues. "It's the Government.....!!!"

It's the Government which is creating an unhealthy economic environment. It's the Government that knew our airlines and airports were vulnerable. And it's the Government which will ultimately drag the country into a deepening recession. Let's end this obsession with Microsoft, let the Government fuel the market and get this economy going again. Let's rock......

Sincerely;
Robert J. Santore

MTC-00029047

From: Richard H Carlson
To: Microsoft ATR
Date: 1/28/02 8:13pm
Subject: Microsoft Settlement

I believe that you should accept the settlement and cease the litigation.

Sincerely,
Richard Carlson

MTC-00029049

From: LESTER (038) PAM TAYLOR
To: Microsoft ATR
Date: 1/28/02 8:14pm
Subject: Microsoft Settlement
Ir–A YJ OR AWGUS R–AWCH .Lester andTam Tayfor HC 89,BOX 225
Nt. Pteasant, AR 72561
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
RE: Microsoft Settlement

Dear Mr. Ashcroft:

We understand that the public comment period on the proposed settlement agreement between the Department of Justice and Microsoft closes today, January 28, 2002. We are writing to cast our votes in favor of settlement. Given the record of accomplishment so far in this case, it makes no sense to continue litigation when you have the chance to conclude the case in a manner beneficial to the economy. The primary complaint against Microsoft was that consumers who chose to use Windows operating systems for their computers were precluded from utilizing non- Microsoft software programs for such services as Internet browsers and messaging services within Windows. Microsoft has agreed to end this practice, and open its Windows systems to such competition. With the major complaint answered, there is no need to further litigate. Please end this case, and put Microsoft back to work. The country needs to heal. Thank you for your kind consideration in this matter.

Sincerely,
114-&A 0. Lester A. Taylor Cpa"@
a. Pamela 3. Taylor

MTC-00029050

From: Joe De Fazio
To: Microsoft Settlement
Date: 1/28/02 8:09pm
Subject: Microsoft Settlement
Joe De Fazio
6805 Douglas Blvd. #43
Granite Bay, Ca 95746
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Joe De Fazio

MTC-00029051

From: Ernesto Starri
To: Microsoft Settlement
Date: 1/28/02 8:09pm
Subject: Microsoft Settlement
Ernesto Starri
P.O. Box 1934
Corona, CA 92878
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Ernesto Starri

MTC-00029052

From: Brandon Wright
To: Microsoft ATR
Date: 1/28/02 8:15pm
Subject: Microsoft Settlement
√√5012 West Little Water
Peak Drive
Riverton, Utah 84065
January 17,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I think the anti-trust lawsuit filed against Microsoft Corporation should finally be closed and satisfied. The suit charged Microsoft with unfair business practices that limit competition, but really the issues were new ground. The technology industry is continually producing new products and procedures that challenge the rest of the world to keep up, including legislation.

Moving forward, Microsoft has agreed to change their policies and procedures to conform to the agreed terms of the settlement of the lawsuit. They have actually agreed to more conditions than were at issue in the lawsuit, and they did so to get the lawsuit behind them and to resume business.

I think Microsoft has shown their intent to conform to the ruling and the terms of the settlement. No further court action should be taken against Microsoft Corporation.

Sincerely,
Brandon Wright

MTC-00029053

From: Tweetsy
To: Microsoft ATR
Date: 1/28/02 8:17pm
Subject: Microsoft Settlement

Dear Attorney General Ashcroft and his Colleagues,

How do you do? My name is Carina Flores*, and I would like to present MY Views on the Microsoft Settlement:

1. Microsoft has SIGNIFICANTLY contributed to the Gross National Product of this Country and to the direct and indirect Livelihood of MILLIONS of people even beyond these patriotic shores;

2. Microsoft has GENEROUSLY contributed to MANY Charitable and Educational Agencies dedicated to uplifting the lives of MILLIONS of people in this country AND in this planet;

3. Microsoft has dramatically ALTERED the landscape of Democracy by making it possible for information technology to be more accessible to a greater number of people and helping us make MORE informed Decisions in the process;

4. Microsoft KNOWS how to keep its Employees happy, productive and instrumental in FUELLING the Economy of this Society, and Microsoft, don't you ever doubt, is in it FOR THE LONG HAUL;

5. Mr Bill Gates of Microsoft IS one of the most ADMIRED people in this Country and in the World, and he and his Colleagues HAVE set NUMEROUS, fine examples of Ingenuity, Wealth-building AND Wealth-Creation for the Youths of Today, and the MANY more Generations to come;

6. This beloved country of ours is admittedly FOUNDED on upholding the Law and discouraging unethical AND illegal behaviour, but NOT — repeat — NOT on

punishing Success, which is what Microsoft's Detractors WOULD like to happen because they are counting on you NOT to make that Distinction.

7. This Country and the World IS, by far, BETTER OFF, because Microsoft exists today. Thank you, and may right be done.

Sincerely
Carina F Flores
Box 19780
Stanford, California
94309

* I'm a FORMER Microsoft Contractor who left Microsoft with a great deal of respect AND Admiration.

It is not enough to conquer, one must know how to seduce.— Voltaire

MTC-00029054

From: John Dunn
To: Microsoft ATR
Date: 1/28/02 8:17pm
Subject: MICROSOFT.SETTLEMENT

MS has done complied with everything that the DoJ has asked. AOL is just looking for a free ride.

Finalize the decree and let's MS spend their dollars on productive efforts.

John Dunn

MTC-00029055

From: Hisflyingtune@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:15pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Stephen Bogdan
307 Ashmead Rd.
Cheltenham, PA 19012–1506

MTC-00029056

From: Pease
To: Microsoft ATR
Date: 1/28/02 8:19pm
Subject: MicroSoft Settlement

Dear Sirs:

I fully support the proposed settlement of the Microsoft antitrust action. Microsoft, for all its faults, continues to be the one standardizing force in a market that easily fragments into many special segments serving only cognoscenti of that segment. Microsoft is aggressive and competitive and deserves the restraints imposed by the settlement, e.g., I should be able to by a computer from anyone without an operating system if I want it.

Please bring an end to the hectoring of one of two or three great U.S. companies providing inexpensive computing to virtually anyone with a job.

Sincerely,
George and Valerie Pease

MTC-00029057

From: William Tedrow
To: Microsoft Settlement
Date: 1/28/02 8:12pm
Subject: Microsoft Settlement
William Tedrow
hcr 32 box 399
moyie springs, idaho, ID 83845
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
WilliamA. Tedrow

MTC-00029058

From: Robert Stafford
To: Microsoft Settlement
Date: 1/28/02 8:12pm
Subject: Microsoft Settlement
Robert Stafford
5062–B Foothills Dr.
Lake Oswego, Or 97034
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Robert Stafford

MTC-00029059

From: Albert Briggs
To: Microsoft ATR
Date: 1/28/02 8:18pm
Subject: Microsoft Settlement
P≤Albert Briggs
7571 Links Court
Sarasota, FL 34243
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It is unfortunate that some states wish to push for further litigation against Microsoft. In my estimation, the states'' representatives on this case are spending more time listening to money-hungry Microsoft opponents than looking closely at the factors in the case. I have never supported Microsoft to the exclusion of competition. They have in no way done anything that has negatively affected me professionally or personally. I have worked in the computer industry for over thirty years, and Microsoft is a true leader. I currently am a satisfied user of AOL/ Time Warner's ?Roadrunner? cable service to the exclusion of MSN. I did choose Microsoft's ?Internet Explorer? product after a disappointing experience with ?Netscape?. Microsoft's support and development programs get my vote. However, one does not need to be an expert in the computer field to see all that Microsoft has done for the computer industry. Another factor that proves Microsoft's high caliber has been their willingness to cooperate throughout this lawsuit and to comply with the terms of the proposed settlement. They have agreed to give their competitors access to Microsoft codes and protocols in order to facilitate competitiveness. In addition, Microsoft has agreed to have their compliance to terms of the settlement monitored by a technical committee. Any person who has a dispute with Microsoft may make their complaints known to this committee.

I am truly hopeful that your office will remain determined to resolve this matter. I thank you for all the work you have done thus far and for keeping the public's interest at heart.

Sincerely,
Albert Briggs

MTC-00029060

From: David Beck
To: Microsoft ATR
Date: 1/28/02 8:19pm
Subject: pro comp and the trial

I think when all is said and done the boys of procomp and the companies whose product they represent will go down in history as the equal of enron and Anderson. I hope you suffer as big a loss as the rest of us trying to just get by.

MTC-00029061

From: Sheevaun O'Connor
To: Microsoft ATR
Date: 1/28/02 8:20pm
Subject: Microsoft settlement

Dear DOJ Group

Thank you for this opportunity to share some thoughts about this settlement. It is not often that we are asked or have opportunities such as this.

As far as the details of the settlement I cannot be specific but in summary I would say that this particular solution is allowing one conglomerate to sidestep the law. Not only sidestep the law but to impinge on fair trade for other systems. If a company has a superior product that product should not be sabbotoged just because the larger more well funded company wants that market share.

Let's be realistic for a moment in a fair trade arrangement, meaning all companies have equal opprotunities, there would be a better competitive market. Just look at what the IBM suit brought about, PC's on every desk and much more.

I've began my teen life as a programmer at the age of 14 and though that is not my vocation today I have always felt that there were better systems out there. Allowing one company to monopolize one or more markets is certainly not giving the public the tech growth opportunities that are truly out there.

Think for a moment how the FDA handles products that are ingested by humans. Why is it so difficult to see that we are stunting the growth of other products by allowing MicroSoft such an easy out.

Sincerely,
Sheevaun Moran

MTC-00029062

From: Seann Maxwell
To: Microsoft Settlement
Date: 1/28/02 8:15pm
Subject: Microsoft Settlement
Seann Maxwell
4324 Ridgemoor Drive N.
Palm Harbor, FL 34685-3171
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Seann Maxwell

MTC-00029063

From: Robert Smith
To: Microsoft Settlement
Date: 1/28/02 8:14pm
Subject: Microsoft Settlement
Robert Smith
1715 Chip n Dale
Arlington, TX 76012
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Robert W Smith

MTC-00029064

From: Lois Amacher
To: Microsoft Settlement
Date: 1/28/02 8:16pm
Subject: Microsoft Settlement
Lois Amacher
4800 Marconi Avenue #128
Carmichael, CA 95608
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Lois Amacher

MTC-00029065

From: Nick Parlante
To: Microsoft ATR
Date: 1/28/02 8:22pm
Subject: need for competition

I'm writing to express my concern that Microsoft's current position is a frightful drag on innovation and investment in computer science, and that the proposed remedy falls far short of fixing the situation. The obvious concern is that Microsoft can use the market power of its monopoly operating system to achieve dominance in other domains—such as with the Netscape browser, or the Real and Quicktime media formats. Obviously, we want microsoft to compete on price and features in those new domains, rather than leveraging its existing dominance.

Rather than repeat those arguments, I would like to come at the point from a new direction.

What is the most exciting and valuable technology to come about in computer science in the last 10 years? The Internet! At the time the Internet burst on the scene, roughly 90% of the world's computers were using Microsoft operating systems to run Microsoft applications to produce and exchange microsoft formatted files. If Microsoft controlled the operating systems and the applications and the document formats, why did the Internet not develop as a Microsoft feature? Why did the measly other 10% come up with the best technology of the last decade? There are two answers to this question:

1. Microsoft position has created, inevitably, an atmosphere of complacency. The result has been a series of overpriced, insecure, and just generally crummy products with high prices. It always stuns me how breathless the marketing prose is for these things when they are patently so lame. Or rather, how low our standards have become for the price/performance of software. We have become accustomed to lack of competition. Look at PowerPoint today vs. 5 years ago. Compare that to a domain where there is competition, such as hard drives, or databases.

The rest of computer science proceeds through ruthless competition, and the contrast to the Microsoft products without competition is stunning. With competition, PowerPoint would be far cheaper now than it was 5 or 10 years ago. The atmosphere of complacency inhibits something as useful as the Internet from being developed inside of Microsoft—it threatens the status quo.

2. Microsoft develops products to strengthen its monopoly—each product tries to tie in to the other Microsoft products. Using such ties, both technical and marketing, the Microsoft products lock into each other to protect the franchise from a product that might compete in a single domain. From a technical point of view, the practice enables some neat features, but also a series of disastrous security holes. From a marketing point of view, it has been entirely effective. For example, PowerPoint could never stand on its own in the market with its price/performance ($314 street price, Jan 2002), however bundled with Word and Excel it does ok.

Besides all that, the habit of linking products together exactly prevented Microsoft from developing the Internet. The Internet is all about any-any connections. This works by having a freely available standard, such as TCP/IP or HTTP, and having all systems implement the standard in a non-discriminatory way. So A PC can make a web (HTTP) connection to a Unix machine, or a Macintosh, or whatever. In the early 90's, Microsoft created technology for PC-to-PC networking, but it goes against the Microsoft linking strategy to create good PC-Unix, PC-Mac etc. versions.

The Internet is the philosophical opposite of Microsoft's "linkage" strategy. Because Internet connections are based on standards, they lead to —competition—. If you don't like the brand X HTTP server, you can swap in the brand Y HTTP server and it still works since the two are following the HTTP standard. Looking back at the development of the Internet, one of the key technical themes is: standards promote competition which leads to continuous improvement in price/performance. The emergence of the Internet is exactly a peek at what the world would look like without Microsoft domination. The Microsoft domain is so leaden, so stationary, that the tiny, non-profit driven standards projects, such as TCP/IP or HTTP or HTML, created whole new domains while Microsoft stood still. This reflects both the great dynamism that competition creates as well as the sodden rule of a monopolist. (That Microsoft would like to bring these new domains under its control is, of course, the topic of the trial.) The point I would like to emphasize, is how vibrant, how amazingly innovative and valuable computer science can be when prompted with a competition. We are so accustomed to the Microsoft hegemony, that we think of it as high tech and innovative, whereas the Internet showed us that the Microsoft domain is stationary compared to a real competitive domain. Computer science has so much potential to create value when pressed with competition. I fear that Microsoft's monopoly will weight down that potential to look more like the pathetic history of PowerPoint.

I would recommend that Microsoft be divided into three parts: Operating systems, applications, and internet applications. Each part should have to compete in its domain on its merits, without technical, financial, or marketing ties to influence the competition in the other two domains. Disclaimer: I own Microsoft stock. I think if forced to compete, they would do fine on their merits.

Regards,
Nick Parlante
Lecturer in Computer Science
Stanford University
(650) 725–4727
CC:nick@cs.Stanford.EDU@inetgw

MTC–00029066

From: BLUSTM@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:23pm
Subject: Microsoft Settlement

I have reviewed the provisions of the agreement between the Justice Department and Microsoft Corp. I believe the provisions are reasonably fair and that Microsoft is giving adequate accommodations to their competitors. It is my opinion this case has been carried on long enough and should be settled, in order that all parties involved can move on with their respective programs. It is also my opinion that a final settlement would be and is in the absolute best interest of the entire country.

Thank you for the opportunity to comment on the settlement of this case.

Sincerely,
Louis L. Studer
CC:fin@mobilizationoffice.com@inetgw

MTC–00029067

From: Stephen McDaniel
To: Microsoft ATR
Date: 1/28/02 8:22pm
Subject: Microsoft Settlement

The settlement is a joke.

Microsoft is bad for business (except for MS business) and , most importantly, they are bad for a world gone wired. They write bloated buggy software and force you into their upgrade scheme in much the same fashion that they screwed computer makers with their fascistic licensing practices. Everything they do runs counter to the ethics of good coders.

Split em up. And let real programmers have a shot at the title.

Thank you.
Stephen G. McDaniel
angstboy@grandecom.net

MTC–00029068

From: Bethany Hanson
To: Microsoft ATR
Date: 1/28/02 8:24pm
Subject: Microsoft Settlement

Microsoft has had a stranglehold on our operating system market for too long. The settlement proposed goes way too easy on them.

Please reconsider.
bjh

MTC–00029069

From: Tmjmslaw@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:25pm
Subject: Microsoft Settlement
January 28, 2002
Ms. Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

As a consumer advocate and consumer, myself, of computer products, I am compelled to file my comments concerning the proposed settlement agreement in the Microsoft case. This case, which as taken years of government resources and much of the public's attention, is at its most important juncture. It is in the public interest for the Department of Justice, Antitrust Division, to uphold the spirit of competition by requiring changes in Microsoft's business conduct. These requirements should be swift and specific, ensuring free competition in the computer sector, not creating further outlets for Microsoft's anti-competitive behavior. I believe that sustaining a company like Microsoft in the current economic climate is useful for empowering the American economy and foreign economies to which the company is attached. However, there must be a reasonable approach to the problem of its monopolistic behavior.

The proposed settlement appears to ignore the barriers to entry issue that was at the heart of the entire investigation and resulting lawsuit. To eliminate or minimize the barriers to market which Microsoft is guilty of would provide more freedom of choice for consumers and would open competition for other manufacturers to provide ways to run existing Windows applications on different operating systems. Creating a way to allow other manufacturers to develop new products will have a profound and lasting effect on the US economy, as they compete to produce better products with the consumer in mind, and then in turn, distribute them through the chain of distribution of their choosing. This will further affect the economy as new businesses spring up to handle the increase and variety of new products.

Furthermore, requiring that Microsoft share its technology with industry participants will give the power of choice to consumers and remove Microsoft from single-handedly dictating use of information technologies. The handling of Microsoft can have implications in many areas of our way of life, such as allowing for the expansion of markets and promoting consumer choice, two things that consumers like me look to the Department of Justice to ensure.

Sincerely,
Jaylene Sarracino
Attorney (DC & MD)
11160 Veirs Mill Rd. L–15, Suite 201
Wheaton, MD 20902

MTC–00029070

From: Billie Staib
To: Microsoft ATR
Date: 1/28/02 8:26pm
Subject: microsoft
86 Waterdale Road
Williamsport, Pennsylvania 17702
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Let me start off by saying that the government had no business bringing a case against Microsoft in the first place. That having been said, I appreciate everything that has been done to end this case quickly and get on with business as usual. The settlement is fair; Microsoft will take steps to increase competition in the marketplace by allowing its competitors to place their own programs on the Windows operating system.

Now, more than ever, we need companies like Microsoft back at full strength, helping the economy. Stop punishing them and let them help get us out of this recession. I'm sure that there are more important things for the Justice Department to be worrying about right now as well.

Thank you for taking the time to listen to my opinion on this and I hope it will have some effect.

Sincerely,
Billie Staib
cc: Senator Rick Santorum
CC:mailto:fin@mobilizationoffice.com@inetgw

MTC–00029071

From: karen.pd@home.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:24pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Karen Duffy
194 Carnavon Pky
Nashville, TN 37205

MTC–00029072

From: Joyce Kelly
To: Microsoft Settlement
Date: 1/28/02 8:21pm
Subject: Microsoft Settlement
Joyce Kelly
216 Tom Bell Rd. 153
Murphys, CA 95247
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Joyce M. Kelly

MTC–00029073

From: Scott Brennan
To: Microsoft ATR
Date: 1/28/02 8:28pm
Subject: MicroSoft Settlement
Scott Brennan
2473 Tonquin Street
East Meadow, NY 11554–5331
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Microsoft and the Department of Justice have come to an agreement ending the three-year-long antitrust case against Microsoft. This came after round-the-clock negotiations ordered by a U.S. District Judge. I feel this agreement should be honored. The two parties agreed to this settlement, the federal judge accepted this decision, so why should there be any further discussion? I do not think it is in the best interests of our country to endlessly review these decisions. Why do we have courts, after all?

Further, Microsoft has been more than fair in its settlement. Microsoft has agreed to design future versions of Windows with a mechanism to make it easier for computer makers to promote non-Microsoft software; Microsoft has agreed to release important internal information about Windows so that developers can more easily write competing products. Enough is enough.

I ask that you approve this settlement and let our country get back to business.

Sincerely,
Scott Brennan

MTC–00029074

From: David Goldschmidt
To: Microsoft ATR
Date: 1/28/02 8:29pm
Subject: Microsoft Settlement

Gentlemen:

I strongly object to the proposed settlement with Microsoft. It's less than a rap on the knuckles to the company which has been completely stifling competition in user software for over a decade.

Microsoft's anti-competitive approach to its business is most clearly shown by it's abhorence of internet standards. The company line is that they are "improving the standard and making the products better for consumers." This is total nonsense. They know that open standards promote competition and make for a more level playing field. This is anathema, of course. What they want, and have so far been able to achieve for the most part, is to make all common data formats Microsoft proprietary. The way to do this is to make their internal data formats as complicated and difficult to understand as possible. This makes it more difficult for potential competitors to make their products compatible with Microsoft products.

One technique in particular which they use to obfuscate very effectively is executable content. Like all their other so-called "innovations", this is yet another attempt to prevent other software developers from marketing compatible products. It has also turned out to be a security nightmare for the internet. This detestable policy of purposefully over-complicating data formats by including executable code is by far the single most significant security problem on the internet. It has enabled worms and viruses to proliferate ad nauseum. It has cost business and industry billions of dollars.

The latest strategy is to try to dominate the web by inducing developers to use Microsoft web development tools which, of course, generate web pages which only work with Internet Explorer. This simultaneously puts the other browsers out of business and forces the remaining developers to pay big bucks for the Microsoft development tools.

There is zero benefit to consumers in all of this, Microsoft's pious claims to the contrary notwithstanding. The company must be broken up and its monopoly power eliminated once and for all.

Very truly yours,
David M. Goldschmidt

MTC–00029075

From: Larry Seel
To: Microsoft ATR
Date: 1/28/02 8:30pm
Subject: Microsoft Settlement
Larry M. Seel
1444 North High Street

Apartment B9
Columbus, Ohio 43201
January 5, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As someone who works in and is extremely familiar with the computer industry, I am writing you to express my opinion on the Microsoft settlement issue. I believe that this settlement is long overdue, and I am relieved to see this dispute resolved.

With the economy faltering and the IT industry in retreat on many fields, I feel it is best to allow Microsoft to devote its resources to designing innovative software. This settlement allows all of us in the industry to get on with the business designing and providing IT services. Even with the heavy sanctions this settlement places on Microsoft, sharing of technical information, government review committee, etc., Microsoft will still be able to be the leading force in the technology sector.

Thank you for settling with Microsoft. I believe we should devote our time and energy to more pressing issues at hand.

Sincerely,
Larry Seel

MTC-00029077

From: Scott Brennan
To: Microsoft ATR
Date: 1/28/02 8:30pm
Subject: MicroSoft Settlement

fyi: i just e-mailed my letter...hope it helps, & wasn't to late.

sb

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, NW
Suite 1200
Washington, DC 20530–0001

To Whom It May Concern:

It is my hope that the Department of Justice will reconsider the decision to settle the Microsoft antitrust lawsuit and follow the lead of the nine state attorneys general who have rejected the decision to let Microsoft off with a slap on the wrist. I am proud that my state's Attorney General, Tom Miller, rejected this Microsoft agreement. I believe that he and the other eight state attorneys general recognize the many problems with this agreement.

The decision to prematurely end litigation against Microsoft is a real error in judgment. A real opportunity exists for the Department of Justice to take a stand and protect our free market society and its consumers. Further litigation could effect real change. Please continue to pursue Microsoft.

Sincerely,
Scott Brennan
#813940

MTC-00029078

From: Ted Fronefield
To: Microsoft ATR
Date: 1/28/02 8:32pm
Subject: Microsoft Settlement

I oppose the currently proposed Microsoft settlement as being one that does not further the ordinary citizen's future interest in having the best computer software available at the best price. If the Microsoft settlement allows the installation of used and refurbished computers with Microsoft operating systems into schools it will provide Microsoft with an otherwise unavailable market destination for disposing of old PC equipment and a monopoly for Microsoft to provide technical support and operating system software.

Further it will enhance Microsoft's ability to require the use of computers using the Microsoft operating system by children at an early age based on a forced environment rather than based on a selection of systems having the best overall value.

Ted

MTC-00029079

From: Bruce Bernott
To: Microsoft ATR
Date: 1/28/02 8:33pm
Subject: help consumers, stop persecuting a productive US company

Dear Sirs:

I am writing in support of the Microsoft positions in the Justice Department lawsuits.

I have been a professional programmer for 37 years. Microsoft has done the most of any software provider to lower the costs of useful software for consumers. There is just no honest refutation of this fact.

I have personally seen $12,000 price tags on developer's toolsets for Sun Microsystems Solaris operating systems, at the same time as Microsoft charged less than $2,000 for a toolset that included not only a comparable developer's tool, but also a complete database system.

I urge the Justice Department to settle or drop its suits against Microsoft as soon as possible, for the benefit of us consumers. Antitrust laws written to stop abuse of fixed land-based distribution of commodities like power, telephone service, and fuel just do not make sense for software which is easily distributed.

Regards,
Bruce A. Bernott
CC:Faye Bourret

MTC-00029080

From: DFisc@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:33pm
Subject: Microsoft Settlement
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

As a small business owner, I strive everyday to accomplish what Microsoft has in the past fifteen years. I have never agreed with the government's pursuit of Microsoft for its successes. I am satisfied that this settlement will bring the lawsuit to an end.

This settlement, and its several provisions satisfy Microsoft's, the American IT industry's, the government's and most importantly, the American public's interest in this matter. The agreement creates a non-hostile competitive environment for other companies besides Microsoft and fosters innovation by requiring Microsoft to make available its intellectual property and source code on reasonable, non-discriminatory terms.

This agreement is the product of three years and three months of a judicial debacle and this should be the end of it. I strongly urge your office to accept this settlement and take no further federal action.

Thank you.

Sincerely,
Danny Fischer
608 Barrington Place
Matthews, NC 28105

MTC-00029081

From: Don G. Primeau
To: Microsoft Settlement
Date: 1/28/02 8:26pm
Subject: Microsoft Settlement
Don G. Primeau
8200 Greeley Blvd
Springfield, VA 22152–3043
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Don G. Primeau

MTC-00029082

From: gfda ghgf
To: Microsoft ATR
Date: 1/28/02 8:35pm
Subject: Microsoft settlement

Dear DOJ,

I am a retired accountant that has consulted with over a hundred companies in my carrier. I have set up computer systems for a majority of these companies working with all the different platforms of their day. To make this brief I believe that Microsoft has its market share not by a monopoly but because they are the best. ANY restrictions on them would only be used by the competition to make our computer world move to mediocrity. I would encourage you for the sake of this Great Nation to end this nonsense as soon as possible.

Keith Vrede

MTC-00029083

From: Dr. Andrew E. Mossberg
To: Microsoft ATR
Date: 1/28/02 9:36pm
Subject: Microsoft Settlement
Reply requested by 9/24/01
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Ms. Hesse,

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. I agree with the problems identified in Dan Kegel's analysis (on the Web at http://www.kegel.com/remedy/remedy2.html), namely:

1. The PFJ doesn't take into account Windows-compatible competing operating systems
2. The PFJ Contains Misleading and Overly Narrow Definitions and Provisions
3. The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft
4. The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft
5. The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs system.
6. The PFJ as currently written appears to lack an effective enforcement mechanism.

I also agree with the conclusion reached by that document, namely that the Proposed Final Judgment, as written, allows and encourages significant anticompetitive practices to continue, would delay the emergence of competing Windows-compatible operating systems, and is therefore not in the public interest. It should not be adopted without substantial revision to address these problems.

Sincerely,
Dr. Andrew E. Mossberg,
President, Inicom, Inc.
CTO, Asoki Corporation
CIO, CruisExcursions.Com, Inc
Director, Institute of Maya Studies, Inc.
Dr. Andrew Mossberg
Inicom, Inc.—www.inicom.com
cell: (305) 724–5675

MTC-00029084

From: Helen Lydic
To: Microsoft Settlement
Date: 1/28/02 8:31pm
Subject: Microsoft Settlement
Helen Lydic
264 Haskell Rd.
Coudersport, PA 16915–7945
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Helen F. Lydic

MTC-00029085

From: Mfcnice@cs.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:35pm
Subject: Microsoft Settlement

Please settle Microsoft suit.

Robert A Childs at mfcnice@cs.com
CC:fin@mobilizationoffice.com@inetgw

MTC-00029087

From: Maynard Sipe
To: Microsoft ATR
Date: 1/28/02 8:37pm
Subject: Microsoft Settlement

The Microsoft settlement proposed by the Dept. of Justice is totally unacceptable and should be rejected by the court. It does not go far enough in any of its provisions. It allows Microsoft too much room for self-determination over whether it is meeting terms of the agreement, it fails to sever the link between pre-market loading of Microsoft's OS and it's Internet Explorer web-browser, and it does not take any affirmative-action type steps to reestablish some competitiveness in the marketplace which is essential.

It is clear that innovative companies with products far superior to Microsoft's have been driven out of business or had their share of the market reduced significantly by Microsoft's uncompetitive practices. The obvious example is Netscape. Because Microsoft could spend almost limitless funds developing Internet Explorer and then induce PC manufacturers to carry Internet Explorer, they were able to practically destroy Netscapes market share. This would not have been possible without the use of unfair and anti-competitive business practices.

Another example is Be. The BeOS was superior in almost every way to Windows, but Microsoft used their market strength to effectively prohibit PC manufacturers from even offering BeOS as an option.

Worse yet, Microsoft is continually attempting to further its monopolistic position by asserting dominance over the internet by using standards in its software not compatible with open standards (HTML, SHTML, Java, etc. Web sites must support the Microsoft applications. Since other companies do not presently have the means to compete with Microsoft, allowing Microsoft to continue to do this threatens to give undue control over the internet to Microsoft. This is extremely serious for the nation's welfare and that of almost all private businesses and industries.

The fact that Microsoft acts in violation of anti-monopoly laws has been established. The proposed settlement etween the Dept. of Justice and Microsoft is patently against the public interest and should not be accepted by the court. No settlement will be effective unless it completely severs any link whatsoever between packaging and distribution of Windows OS and Internet Browser; requires dual-boot OS on ALL pcs marketed with Microsoft OS; and applies affirmative obligations on Microsoft to remedy its past actions. (Such as requiring Microsoft to make the necessary proprietary codes fully available to competitors such as Netscape).

The best remedy would be a break-up of Microsoft into three separate companies. Failing that, any remedy should have proactive measures to restore competitive balance in software markets, particularly for web-browsers (such as requiring dual-boot on all pcs marketing with Microsoft OS); bar Microsoft from packaging its web-browser with its OS; and provide for continued oversight by the Dept. of Justice or better yet, the court.

Thank you for considering my comments,
- Maynard Sipe

MTC-00029088

From: arosenbach@inter-linc.net@inetgw
To: Microsoft ATR
Date: 1/28/02 8:36pm
Subject: Microsoft Settlement
January 24,2002
Attorney General John Ashcroft
US Dept of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am writing to you in support of Microsoft and the settlement recently reached in the anti-trust case.

With microsoft agreeing to allow competition from both computer makers and software developers, there is no further reason to pursue legal action against them.

If the lawsuit is allowed to continue, despite the concessions granted by Microsoft, then it shall prove that the lawsuit had more to do with jealousy than justice.

I support Microsoft and do not wish to see the company divided into separate companies (Baby Softs?)

Sincerely,
Carole Rosenbach

MTC-00029089

From: Lee Berger

To: Microsoft ATR
Date: 1/28/02 8:39pm
Subject: Microsoft Settlement

I wish to express my support for Microsoft and my disgust and disappointment in a government that seeks to punish a successful business for its very success.

Microsoft undertook to make the benefits of the computer and internet available to the average citizen. This was good for the buyer, who 10 years before could not have afforded to own such a system, and it was good for Microsoft, who generated a larger customer base. Historically, this is the way the world has benefited from new inventions and novel applications (the Model T Ford, for example). Someone finds a way to make the new invention inexpensive enough for the average man, who snaps it up eagerly.

The excitement when Windows 95 was launched demonstrated this eagerness to enhances one's life. Windows has streamlined and enriched my own life immeasurably. I freely made this choice and will continue to control what I put on my computer. Microsoft (or any other company) has the right to offer its wares and the rest of us, to purchase them or not.

There has been no damage to consumers. We have received a boon! We each freely chose to buy these products for our own reasons. In a free society, the sight of one person's success should inspire a redoubling of effort on the part of every other worker, not envy and a wish to destroy the innovator. Our Constitution guarantees protection of our property rights. Where is the protection for Microsoft? Can any of us feel confidence in our government in the face of such a blatant misuse of power? I do not wish to live in a country that penalizes our best minds. It is time for us to wake up and recognize the uniqueness of our Constitution and the superb moral mechanism of the free market system.

Leora K. Berger
2014 Browning Avenue South
Salem, Oregon 97302

MTC-00029090

From: ebryan@lumenet.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:40pm
Subject: Microsoft Settlement

I only wanted to add one wee voice to the heavyweight voices already writing you. Please work to have the Windows Operating System separated from the applications side. I don't need Office ported to Linux or any such silliness but having the operating system so strongly biased toward in-house applications seems to be the root of the many problems. It is unfathomable to me that I had to give up using Netscape (which I was more familiar with and preferred) because the owner of the OS wants me to use Internet Explorer. I am only an average PC user but I can remove most programs from my computer without mishap except Outlook Express or Internet Explorer. Removing either of these causes the machine to develop serious operating problems. This is wrong. Where will it end? By having Windows will I eventually be required to discard other programs when Microsoft decides to enter a new market?

I personally really like the idea of separating into two companies—OS and applications. It seems there is enough demand to keep two companies healthy and thriving. I believe that we would even see real advances in OS rather than the superficial changes brought about by many "new" versions of Windows. If the OS company were truly separated we wouldn't see programs like Outlook having freedom to couple so closely; hence, some of the horrendous security problems would be overcome. Applications like IE, Outlook and Office should need to work with the operating system through the same interface as non-Microsoft programs.

I know you must get tons of email so let me boil it down to "No favoritism for in-house products".

Thank you for your time.

Earlene Bryan

MTC-00029091

From: Jerry D. Snead
To: Microsoft ATR
Date: 1/28/02 8:39pm
Subject: Microsoft Settlement

Sirs:

Please allow the proposed settlement reached by the Justice Department and Microsoft to be the final act of this farcical suit. The Attorneys General of these states that wish to continue the harassment of Microsoft for their small groups of constituents should not be afforded any more time or monies. Stop these proceedings NOW!

Microsoft has brought a tolerable environment to personal computing, one that did not exist until there was a market force as large as Microsoft to enforce de facto standards. Without these standards, personal computing would be only a small fraction of the pervasiveness it enjoys today. Get off Microsoft's back, and let the consumers reap the benefits of stable, standardized computing environments. Perhaps then the technical sectors of our economy will return to their previous stature.

Thank you for considering this opinion.

Jerry Snead

MTC-00029092

From: Billy Parker
To: Microsoft Settlement
Date: 1/28/02 8:37pm
Subject: Microsoft Settlement
Billy Parker
39542 Chappellet Cir.
Murrieta, CA 92563-4853
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

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Thank you for this opportunity to share my views.

Sincerely,

Billy M. Parker

MTC-00029093

From: schinnell1 password
To: Microsoft ATR
Date: 1/28/02 8:43pm
Subject: USAGSchinnell—Debbie—1048—0108
Debbie Schinnell
117 Northridge Drive
Centralia, WA 98531
January 11, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing you today to voice my opinion in regards to the Microsoft settlement that was reached in November. This issue has worn out its welcome, and it is time to resolve this issue permanently. The settlement is a decent and realistic alternative to another three years of litigation, and it provides the benefits that Microsoft's competitors feel they need to compete. That is why I support this settlement, and I sincerely hope there will be no further action against Microsoft at the federal level.

Among other things, the settlement gives software companies like Sun the protocols and interfaces to redesign their products to run more efficiently on the Windows operating system. Microsoft is literally giving away the sorts of codes that made them known all over the world. Moreover, hardware companies will be able to reconfigure Windows after they receive their licensing agreements, and Microsoft cannot prevent them from changing the "desktop" software or cannot take any retaliatory action, so consumers will ultimately dictate what sort of software they will want on their computers before the computer is sent. This settlement does something for everybody interested.

Microsoft is a company that has done so much to impact our society and the technology industry. Microsoft has made it easier for the average consumer to afford and use software, which in turn has made it easier to conduct business. This company should not be stifled or restricted for following the American Dream. Please support this settlement and work in the best interest of the public.

Sincerely,
Debbie Schinnell

MTC-00029094

From: Fr. Ray Ryland
To: Microsoft ATR
Date: 1/28/02 8:43pm
Subject: Microsoft Settlement

I urge the Department of Justice to proceed with its projected settlement with Microsoft in the anti-trust action brought agaisnt Microsoft. It's high time to let Microsoft get back to its business of serving the world with its outstanding products.

Ray Ryland
900 Granard Parkway
Steubenville, OH 43952
(740) 282–3009

MTC-00029095

From: Marcia Jones
To: Microsoft Settlement
Date: 1/28/02 8:36pm
Subject: Microsoft Settlement
Marcia Jones
125 Hildreth Rd
Hot Springs, AR 71913
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayer's dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Marcia Jones

MTC-00029096

From: L. A.
To: Microsoft ATR
Date: 1/28/02 8:42pm
Subject: Microsoft Trials
Renata Hesse, Trial Attorney
1/28/02
Suite 1200, Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530

Dear Renata Hesse,

Fearing my letter might not reach you in time I decided it might be wise to send an email.

I appreciate this opportunity to speak out, regarding Microsoft. For me, the domination of Microsoft in the software industry has been a disaster. I consider myself an above average computer user, and yet I could not sufficiently combat the tide of instability caused by the poorly written software developed by Microsoft. I have lost countless hours to troubleshooting crashes caused by the companys products. Worst of this breed of overwrought catastrophes is Internet Explorer. Not a day would go by without this application bringing my entire system to a screeching halt. I often wonder what the face of the industry would be had the company not been able to use their monopoly power on the OEMs to muscle Netscape and other competitors out of the picture. A bully is still a bully, at any age. I shudder to think of the consequences of raising a new generations of kids to rely on inferior tools in their own schools, thanks to the marketshare being handed to Microsoft by their own proposed Seattlement. There is just too much complacency, too much power, and too little brains going into the products at Microsoft for the company to justify the monopoly its established by its frequent use of political leverage and scare tactics. But beyond my own animosity for the company, there is a genuine and immediate need for changes in the balance of power in the technology industry. In my opinion, the answerthe only answeris intervention on the part of a higher authority to remove the advantage that has trapped the computing populous in a seemingly endless cycle of unintended brand loyalty.

Thank you for taking the time to read this.

Sincerely,
Laura A. Caigoy
6439 Valmont Street
Tujunga, CA 91042
email: macunochi@yahoo.com

MTC-00029097

From: Bill Seward
To: Microsoft ATR
Date: 1/28/02 8:44pm
Subject: proposed Microsoft settlement

Dear Sir or Madame:

I would like to request that you revisit your proposed settlement with Micrsoft on the question of penalties for their behavior. Recent actions by Microsoft (their new licensing "agreement" and their Product Activation) seem to be more of the "same old, same old".

While I do not think a breakup of the corporation is called for, I do beleive that it will require far more stringent measures to reform Microsoft. Their well-document corportate culture is one of "win at all costs", and part of the cost has been a marketplace with true alternatives to their products. While there are Unix, the Apple Macintosh and the Open Source movement groups, the fact is that Microsoft operating systems are on over 50% of the servers and over 90% of the desktops in the US. Their browser and various office automation products control similarly extreme shares. While I am a free market supporter to the point of Libertarianism, this is not the sign of a healthy market. It is the sign of a market that has been skewed by the power and money that Microsoft controls. From my point of view as a network administrator and IT manager, Microsoft is the embodiment of the old "800 pound gorilla" joke.

Please come up with a settlement with some teeth, or we will be doomed to travel this same road again in the future.

Bill Seward

MTC-00029098

From: Joyce Smith
To: Microsoft ATR
Date: 1/28/02 8:45pm
Subject: Microsoft settlement

Dear Mr. Ashcroft:

With a potential settlement in the Microsoft case, I wanted to voice my position of support on ending further litigation by completing the deal. The antitrust lawsuit was misguided from the start,caused by rivals who only have themselves to blame for their lack of headway in the industry. The growing pattern of government intervention in the business community was evident with the tobacco lawsuit, where states joined a giant money-grab because they dont like the results of people's individual choices. This time, people have made the choice of Microsoft as their preferred software maker and delivered them with a dominant market share, so the government sees an opportunity to make money by punishing a company in the name of competition. The deal offers computer makers oopen access to selecting the software providers of their choice and will be constantly monitored by a group of experts, so Microsoft's rivals should declare this a victory and start creating products that consumers want.

I ask that you go ahead with this proposal and let Microsoft continue to be a strong advocate for innovation in the PC industry, as our economy and financial markets coujld definitely use the boost. It is time to leave government on the sideline and let the litigation be ended. Thank you for hearing my feedback.

Sincerely,
Joyce Smith

MTC-00029099

From: gerry162002@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:45pm
Subject: ZMM: Fwd: Attorney General John Ashcroft Letter

MTC-00029100

From: Raymond Best
To: Microsoft Settlement
Date: 1/28/02 8:40pm
Subject: Microsoft Settlement
Raymond Best
2364 W. Charteroak Dr.
Prescott, AZ 86305
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Raymond Best

MTC–00029101

From: Kim (038) Jay
To: Microsoft ATR
Date: 1/28/02 8:45pm
Subject: Microsoft Settlement
Kim Ogden
12884 Hamilton Place Drive
Fort Mill, South Carolina 29708
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you in support of Microsoft's antitrust settlement with the federal government. They have spared us the taxpayer of a lengthy and costly legal battle.

This settlement is very reasonable. Microsoft agreed that if any third party's exercise of any options provided for by the settlement would infringe any Microsoft intellectual property right, Microsoft will provide the third party with a license to the necessary intellectual property on reasonable terms. Also, the settlement establishes an oversight committee to monitor its compliance with the settlement and assist with dispute resolution. Additionally, Microsoft has agreed not to retaliate against software and hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows.

Microsoft has and will continue to be a good corporate citizen. I think this settlement shows that the consumer interest has been addressed. I urge you to approve this settlement, so Microsoft can get back to work.

Sincerely,
Kim E. Ogden

cc: Senator Strom Thurmond CC:senator@thurmond.senate.gov@inetgw

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MTC–00029102

From: Austin Gonyou
To: Microsoft ATR
Date: 1/28/02 8:47pm
Subject: Please be more stringent on Microsoft.

Please be more stringent on Microsoft. They need to inter-operate with the rest of the world, not vice versa. Any judgement which is passed that, in any way, allows Microsoft to expand it's grasp of the desktop, server, embedded, or other markets, I would consider a mis-carriage of the law.

The main reason I'd feel that way is because Microsoft has been anti-competitive for far too long. They have stifled the creativity of individuals, development communities, and other corporations. That in itself, since they have been found guilty of in fact being anti-competitive —and— being a monopoly, warrants harsh punishment that should reflect in the following ways:

1. Monetarily—Micorosft Corp.'s bottom line.

2. Opened Sources without fear of:

a. forced compensation to MS under penalty of law.

b. lack of future products not being inter-operable with older products, from MS, after sources have been opened.

3. Shame—MS has no shame, and they should. Imagine the following:

a. If your car broke down as often as windows, you'd be upset.

b. If an airplane ran on "Windows(tm)" alone.

c. If you woke up and everything you owned was in fact owned, operated, and distributed by a single company.

4. Not only Opened Sources, but licensing which accepts liability, and possibly damages, for the company's lack of integrity due to it's poorly designed software and practices.

Thank you for your time.
Austin Gonyou
Systems Architect, CCNA
Coremetrics, Inc.
Phone: 512–698–7250
email: austin@coremetrics.com

MTC–00029103

From: marcia cooperman
To: Microsoft Settlement
Date: 1/28/02 8:43pm
Subject: Microsoft Settlement
marcia cooperman
1563 se bidwell
portland, or 97202
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Marcia A. Cooperman

MTC–00029104

From: Carol Olyer
To: Microsoft Settlement
Date: 1/28/02 8:42pm
Subject: Microsoft Settlement
Carol Olyer
2814 Brookwood Rd.
Orange Park, Fl 32073
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Carol W Olyer

MTC–00029105

From: Ed Smith
To: Microsoft Settlement
Date: 1/28/02 8:43pm
Subject: Microsoft Settlement
Ed Smith
130 Somerset Drive
Brooklyn, MI 49230

January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Ed Smith

MTC-00029106

From: Floura, Ranvir
To: Microsoft ATR
Date: 1/28/02 4:35pm
Subject: Microsoft Settlement
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to voice my opinion on the settlement between Microsoft and the Department of Justice. I don't see how this case has benefited anyone. Microsoft has run a successful business and contributed a great deal to our society. Why is the government wasting our money punishing a company for fulfilling the American dream?

I am a Network Engineer and use a variety of software products in my job. I obviously use Microsoft, but I also use their competitors" products and have never had any problems in doing so. It is not Microsoft's fault that their competitors couldn't create products that were equal or better. There is a reason that consumers have repeatedly chosen Microsoft's products over other companies".

Nonetheless, the proposed settlement is a very reasonable agreement that could end this pointless lawsuit. Although Microsoft is giving up way more than should be expected, the settlement would certainly bring on stronger competition in the computer industry. Microsoft is giving away their source codes and server protocols that are integral to the technology they've taken years to create. This will make it easier for competition server systems to interoperate with the Windows operating systems and Microsoft server systems.

Please accept this settlement for the benefit of our struggling economy. The computer industry contributes so much to the economy. Upholding this settlement will strengthen the entire computer industry and will be a benefit to consumers.

Sincerely,
Ranvir Floura

MTC-00029107

From: fremontsmith
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 8:51pm
Subject: Microsoft Settlement

I believe the settlement proposed by the DOJ has more the feel of a Microsoft promotional document than a serious attempt to prevent Microsoft from further abusing its monopoly. I feel it is completely inadequate to protect other markets from the same abuse that Microsoft placed upon the web browsers. I feel it does little or nothing to keep Microsoft from continuing to enjoy the benefits of past abuses. I cannot believe that the very limited enforcement possibilities included in this agreement will have any hope of materially changing the behavior of Microsoft. Microsoft has ignored or broken many agreements in the past. I would fully expect Microsoft to interpret this agreement as allowing them to do practically anything they wanted to do. I am particularly dismayed by the inclusion of clauses that would allow Microsoft to use security as a pretext to withhold API information, or to prevent OEM's from unbundling Microsoft middleware. I certainly do not feel accepting this agreement would be in the best interest of the general public.

Sincerely,
Fremont Smith
Software Engineer

MTC-00029108

From: Christina Weiss
To: Microsoft Settlement
Date: 1/28/02 8:48pm
Subject: Microsoft Settlement
Christina Weiss
1648 Brentwood CT
Plainfield, IN 46168
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Christina Weiss

MTC-00029109

From: Dora Ratliff
To: Microsoft Settlement
Date: 1/28/02 8:48pm
Subject: Microsoft Settlement
Dora Ratliff
663 N Cherry St
Germantown, OH 45327
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Dora Ratliff

MTC-00029110

From: Cecil THREADGILL
To: Microsoft Settlement
Date: 1/28/02 8:49pm
Subject: Microsoft Settlement
Cecil THREADGILL
P. O. BoX 1236, 308 E. Main
Pilot Point, TX 76258
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division

950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Cecil R. THREADGILL

MTC-00029111

From: Arnold Mead
To: Microsoft Settlement
Date: 1/28/02 8:49pm
Subject: Microsoft Settlement
Arnold Mead
R. R. # 5 Box 5449—C
Moscow, PA 18444
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Arnold Mead

MTC-00029112

From: Joy Hiner
To: Microsoft Settlement
Date: 1/28/02 8:47pm
Subject: Microsoft Settlement
Joy Hiner
365 Roxbury Park
Goshen, IN 46526
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Joy Hiner

MTC-00029113

From: Warren Smith
To: Microsoft Settlement
Date: 1/28/02 8:47pm
Subject: Microsoft Settlement
Warren Smith
164 Harvard Rd
Watervliet, NY 12189
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Warren L. Smith

MTC-00029114

From: John Spilker
To: Microsoft ATR
Date: 1/28/02 8:56pm
Subject: Microsoft Settlement
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

Now that the economy is in a recession, with massive layoffs all over the US, and the NASDAQ is way down with no relief in sight, why pursue additional litigation with Microsoft? Let the settlement stand the way it is. It is more than fair for the competition.

Microsoft went out of its way to reach an agreement, beyond what would be expected in any antitrust case. They agreed to everything from disclosing various internal interfaces to making it easier for computer companies, consumers and software developers to promote their software within Windows. I do not know a lot of software companies that would risk their proprietary information and their business, unless they really wanted to settle their antitrust court cases.

Let's get our economy back in shape and quit running after Microsoft.

Thanks for your attention to this matter.

Sincerely,
John Spilker

MTC-00029115

From: Jim/Marcia Bennett
To: Microsoft ATR
Date: 1/28/02 8:57pm
Subject: Microsoft Settlement

I am writing to express my opposition to the proposed settlement between the U.S. Department of Justice and Microsoft. This arrangement would, I firmly believe, let Microsoft off much too easy. The seriousness of the violations of law, and the clear anti-competitive effect of Microsoft's practices warrant a correspondingly severe set of penalties. If the Department of Justice lacks the will to perservere in reaching a truly just solution, then I look to the judge who has jurisdiction to make a properly effective ruling.

I am writing as a concerned citizen and consumer, who looks forward to a future where competing technologies can have a chance to contend on a level playing field, which has not been the case in some of the markets dominated by or targeted by Microsoft.

Thank you for your consideration.

Sincerely,
James A. Bennett
608 Barret Ave.
Louisville, KY 40204
CC:President@whitehouse.gov@inetgw

MTC-00029116

From: Richard Brandon
To: Microsoft Settlement
Date: 1/28/02 8:51pm
Subject: Microsoft Settlement
Richard Brandon
8393 W Cloverleaf
Hayden, ID 83835-7200
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Richard P. Brandon

MTC-00029117

From: Robert Hepburn II
To: Microsoft Settlement
Date: 1/28/02 8:52pm
Subject: Microsoft Settlement
Robert Hepburn II
305 Brookmeade Dr.
Gretna, La 70056
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Robert J. Hepburn II

MTC-00029118

From: DAVID FEARIS III
To: Microsoft Settlement
Date: 1/28/02 8:51pm
Subject: Microsoft Settlement
DAVID FEARIS III
401 CLARK LANE
WAXAHACHIE, TX 75165
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
DAVID P. FEARIS III, M.D.

MTC-00029119

From: Clif / Helen Shumate
To: Microsoft ATR
Date: 1/28/02 8:58pm
Subject: Microsoft Settlement
2201 Ventnor Court
Arlington, TX 76011
January 14, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

It is with great pleasure that I write to you today regarding the Microsoft antitrust settlement. After three years of litigation, the case is finally closed against Microsoft. I believe that the case was unwarranted to begin with, yet I am pleased to see its end.

Microsoft has made many concessions throughout the process. Microsoft has agreed to disclose the internal interface designs of Windows. It has also agreed to license Microsoft at a uniform price to computer manufacturers. These developments come at great cost to the Microsoft Corporation. Why is Microsoft willing to do so? Because it is in everyone's best interest that this matter be resolved.

Sincerely,

MTC-00029120

From: Shannon Casteel
To: Microsoft Settlement
Date: 1/28/02 8:54pm
Subject: Microsoft Settlement
Shannon Casteel
1902 E.Calle De Arcos
Tempe, Az 85284-3474
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Shannon Casteel

MTC-00029121

From: Jay

To: Microsoft ATR
Date: 1/28/02 9:00pm
Subject: Microsoft Settlement

It is time for this to end. I am not a politician, lawyer, lobbyist, employee of Microsoft, etc. I am just a computer user and systems engineer who has been involved with the computer industry for over 30 years and the micro-computer phase since its beginning. In all those years I have used many varieties of software products, both Microsoft and non-Microsoft. I was never met by armed Microsoft police preventing me from purchasing ANY and ALL pieces of software that I wanted at the time. Through the years, Microsoft has tamed the wild west that micro-computer systems had become and gave us a STANDARD that made a significant increase in the productivity of computer users world wide in general and the United States in particular. The nine states (plus AOL, ORACLE, SUN, and other envious competitors of Microsoft) that reject the DOJ—Microsoft proposed settlement are creating an unnecessary burden on computer users and the economy. In my opinion, bring this to an end.

Jay Zittle

MTC-00029122

From: GildaOMoore@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:01pm
Subject: microsoft settlement

The Microsoft settlement should remain in place. One of the most successful and prosperous businesses in the US should now be permitted to continue to prosper and innovate for the millions of consumers that owe their new knowledge and way of living to this great American corporation.The settlement is faair for all parties. It is not the consumer who is instigating further litigation. Look to the lawyers and conpeting corporaitions wanting to increase their own fortunes with less effort or innovation.

Hope you take this small voice into consideration.

MTC-00029123

From: David Thum
To: Microsoft ATR
Date: 1/28/02 9:02pm
Subject: Microsoft

I am writing to express my utter feelings of shame at the way our government has gone after Microsoft. In times where it seems capitalism are under attack, it is imperative that it is understood that the very freedoms we enjoy in this country are what are responsible for the success companies like Microsoft, J&J, the big three, Pfizer, McDonald's, and even Flowers.com. I mention varying types of companies because all had the freedom to dream, to plan for the dream and to follow through.

Microsoft was the victim of a government body gone mad over the American dream. Microsoft has no monopoly. If they had a monopoly, there would be no other way to run a computer than with Microsoft software. Any body else can develop their own software and market it. If they succeed, great as that is the American way. If they fail, it is either through poor design, marketing or product support, which, in a way, is also the American way. From a government that has gone mad over tobacco, it is clear that what speaks is the almighty dollar. If tobacco were so bad, make it illegal. The government will not do that because there is too much money in it. Microsoft is being penalized for being successful. Period.

I am ashamed of the Reno DOJ and the Clinton administration for their shameful attacks of Microsoft and the way it continues. If somebody can build a better mousetrap than Microsoft let them. Where is the incentive to try to build a product people want only to have it all destroyed because of success? That is NOT the American way.

I implore this entire mess to be dropped, not only for the continued success of Microsoft (in which I have NO financial interest, other than possibly a mutual fund which I've not checked), but also for the future Microsofts of America on the horizon.

David Thum
Avon Lake, OH

MTC-00029124

From: Carol Enright
To: Microsoft Settlement
Date: 1/28/02 8:57pm
Subject: Microsoft Settlement
Carol Enright
837 12th ave
Port Arthur, Tx 77642
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Carol Enright

MTC-00029125

From: Lance Robertson
To: Microsoft Settlement
Date: 1/28/02 8:58pm
Subject: Microsoft Settlement
Lance Robertson
626 Springfield Circle
Roseville, CA 95678
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief. Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Lance Robertson

MTC-00029126

From: Neal Dalton
To: Microsoft ATR
Date: 1/28/02 9:05pm
Subject: Microsoft Settlement

I do not feel the settlement UNITED STATES OF AMERICA vs. MICROSOFT CORPORATION is a fair one. Over the year Microsoft has settle their disputes only to begin encroaching on the same area there agreed not to do. Even now Microsoft is eating up parts of the market, muscling out the competition by the market power they have as the provider of the OS. Other parts allow for access to Microsoft internal, but only for those who won't disclose them. The open source world (their primary competitor) would not benefit from this agreement. They would have no access to the internal, because the writing of their application to interoperate with Microsoft code would be a violation. So to would people who derive their income from supporting open source be crippled by this ruling.

I would like to see Microsoft force to publish the APIs/internal, so that they can not restrict their competition. I believe also that Microsoft's power as a OS and application leader (which they gained illegally) is too great a power for a company that has a history and continues to use strong arm tactics to crush their completion. Thus putting small businesses and other completion at risk.

Neal

MTC-00029127

From: SaraConrad
To: Microsoft ATR
Date: 1/28/02 9:04pm
Subject: Attn: Renata Hesse—Trial Attorney

ATTENTION—THE FOLLOWING EMAIL IS FROM A SOCCER MOM WHO VOTES!!! microSoft is a monopoly—plain and simple. When you go to buy a computer you have no choice what operating system you get on your computer even though there are others (that work better) Linux, Solaris.

You have no choice but to use microsoft products, internet exploder, they have pretty much wiped netscape out. And the scary, scary thing is the future. People who are as technically savvy as I are going to be registering with microsoft and their "passport" program. This will track everything this unsuspecting people do on the web. And as far as microsoft saying they will donate stuff to schools, that is just another way for them to hook kids! My children use Apples, Unix and windows.. Unix is not platform specific. They use shared code. All games, all software should be able to be used on any computer regardless of the operating system. Micro$oft doesn't allow this. They say—use us or don't use the others. This is wrong, wrong, wrong. You people have a very important decision in front of you. Do the research, don't rely on what microsoft tells you (even if they offer to pay you), find out what it is like with Solaris, Apple X, Red hat... don't let microsoft own everything. Let the people have a choice, even if they don't know the difference between a keyboard and a mouse...This country is about choice and right now, we don't have one as far as Operating Systems are concerned. Check into the claims that microsoft is tracking peoples" usage. It is a well known fact in the IT business that they keep tabs on who is running their software, what they do online and where they go. Can you say, "invasion of privacy"???

Don't take my word for it...and don't roll over for them. Thank you for doing the right thing.

Sincerely,
Sara D. Conrad
2310 Glenwood Drive
Boulder, CO 80304
303–444–5357
saraconrd@pcisys.net
Technical support engineer/girrrl geek

MTC-00029128

From: Don Wegeng
To: Microsoft ATR
Date: 1/28/02 9:05pm
Subject: Microsoft Settlement Comment

I appreciate the opportunity to comment on the proposed settlement. I oppose the proposed settlement for two reasons:

1) It provides no controls that will prevent Microsoft from engaging in illegal business practices in areas that are beyond the original charges. The computer software and Internet industries have changes quite a bit since the original antitrust case was filed, and Microsoft is clearly changing it's business plans to engage these new business opportunities. Will the proposed settlement provide any means to control Microsoft's business practices in these new areas? No. This is a major flaw in the proposed settlement.

2) The proposed settlement assumes a business model where all of Microsoft's "competition" comes from for-profit businesses. However, in reality Microsoft is being threatened by the developers of the Linux operating system and other open source programs. The proposed settlement does not recognize these open source projects as competitors, and provides no requirement for Microsoft to disclose technical information to the developers of these open source projects. This, again, is a major flaw in the proposed settlement.

I appreciate your consideration of these comments.

Donald L. Wegeng
Fairport, NY

MTC-00029129

From: bjidzik@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/28/02 9:05pm
Subject: Microsoft Settlement

I would like to go on record as stating that I believe Microsoft should be severely punished for its anti-competitive activities. A break up of the company into separate groups seemed most appropriate. The remedy worked out between MS & DOJ is totally inadequate, and in fact rewards MS by allowing them to write off hardware & software "donated" to schools as a remedy. Most elementary schools use Apples or Macintosh products. Rather than eliminating monopolistic behavior, it will literally put Apple out of business in favor of "free" PCs & Microsoft software.

Further, schools that receive this "gift" will end up paying exorbitant amounts on subscription and maintenance fees after the "remedy" period is over. This is a travesty. The company has not changed. It's licensing costs are sky-rocketing, and customers have lost any ability to retrieve any damages due to defective software released by MS. I have used their products for almost 20 years now. In my opinion, they are out of control, and only the strongest of remedies, i.e. breakup of the firm, will stop their deceitful, predatory business practices.

MTC-00029130

From: Irene DeMpss
To: Microsoft Settlement
Date: 1/28/02 8:59pm
Subject: Microsoft Settlement
Irene DeMpss
3320 Parksie Drive
San Bernardino, Ca 92404–2408
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Irene DeMpss

MTC-00029131

From: Americo A. Fusco
To: Microsoft Settlement
Date: 1/28/02 8:59pm
Subject: Microsoft Settlement
Americo A. Fusco
39535 Hood Street
Sandy, OR 97055–8403
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Mr. & Mrs. Americo A. Fusco

MTC-00029132

From: Bruce Radebaugh
To: Microsoft Settlement
Date: 1/28/02 9:00pm
Subject: Microsoft Settlement
Bruce Radebaugh

178 Fern Avenue
Collingswood, NJ 08108–1938
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Bruce R. Radebaugh

MTC–00029133

From: Roy Simmons
To: Microsoft Settlement
Date: 1/28/02 8:59pm
Subject: Microsoft Settlement
Roy Simmons
17647 Inwood Lane
Neosho , Mo 64850
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Roy Simmons

MTC–00029135

From: MSJC
To: Microsoft ATR
Date: 1/28/02 9:08pm
Subject: Microsoft Settlement

Renata B. Hesse,

The Microsoft settlement should be completed. The government had no business in trying to break up Microsoft in the first place. Our entire capitalistic system is supposed to reward those that come up with a better mouse trap, and if they do, they should reap the rewards for their hard work and creative ideas.

Regards,
Mark E. Sitterle

MTC–00029136

From: bfriedman(a)excite. co m
To: Microsoft ATR
Date: 1/28/02 9:07pm
Subject: MICROSOFT SETTLEMENT

I am a computer programmer and instructor at a community college.

I resent the way that Microsoft has conducted itself with regard to the antitrust settlement. This company continues to disregard this country's laws, and should receive appropriate penalties.

Their "settlement proposal" to donate software to schools is ludicrous. A piece of software with a retail price of $600 or more costs about $10 in packaging and materials. Microsoft proposes to spend a few million dollars (in real cost), donate this to schools, and then not support the hardware or software in the future. (Thus creating future licensing fees for itself in the future from the same schools.)

The computer industry in general has shown much more good will to the US than many others. In the past, many computer scientists shared information, algorithms, etc., in the hope of advancing the art and technology. Microsoft has dominated an industry, and uses that position as a bully pulpit. They are destroying the previous trends of goodwill within the computing industry.

I do not think that the people in Redmond should be let off with a slap on the wrist. As a corporation, Microsoft should be penalized for their monopolistic and illegal practices. And personally, I do not feel that their proposed gift to schools comes close to being an appropriate punishment for misconduct.

Sincerely,
Brent A. Friedman
P O Box 13145
Minneapolis, MN 55414
of I
01/30/2002 2:38 I
7

MTC–00029137

From: Joseph Minnie
To: Microsoft ATR
Date: 1/28/02 9:07pm
Subject: Microsoft Settlement
Joseph S. Minnie
P.O. Box 642
Brooksville, Fl. 34605
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am greatly pleased to hear that a proposed settlement has been reached in the Microsoft antitrust case.

This case has endured for over three years and should be brought to quick finalization. Microsoft has agreed to all terms of this proposed settlement and they have agreed to design future versions of Windows to allow competitors to easily attach their software products. Additionally, Microsoft will use a uniform pricing list when licensing Windows out to the twenty largest computer companies in the United States. Microsoft has also agreed to allow their progress toward compliance with all provisions to be monitored.

As the terms of this agreement far exceed the issues originally raised in the suit over three years ago, I feel the case should be closed soon. Thank you.

Sincerely,
Joseph S. Minnie
Joseph Minnie

MTC–00029138

From: Donald Cross
To: Microsoft Settlement
Date: 1/28/02 9:04pm
Subject: Microsoft Settlement
Donald Cross
1239 San Pedro St.
Pittsburgh, PA 15212–1564
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief. Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies. Thank you for this opportunity to share my views.

Sincerely,
Don Cross

MTC-00029139

From: Robert McArtor
To: Microsoft Settlement
Date: 1/28/02 9:04pm
Subject: Microsoft Settlement
Robert McArtor
6430 Princeton Drive
Alexandria, VA 22307-1347
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

Please allow the Microsoft settlement to stand so we may return to those days when we truly encouraged enterprise. We have squandered enough time and money discoraging free enterprise. Thank you

Sincerely,
Robert C. McArtor

MTC-00029140

From: Shams Kairys
To: Microsoft ATR
Date: 1/28/02 9:11pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
US Dept of Justice
601 D St NW
Suite 1200
Washington, D. C. 20530-0001

Dear Ms. Hesse,

I am quite concerned that the Department of Justice (DOJ) has moved to settle with Microsoft (MS) in a manner that leaves consumers inadequately protected. I have found MS information technology (IT) stifles outside innovation and inter-operability, and hope you will provide a resolution of the MS case that maximizes competition and consumer in the best public interest.

Minimally, I believe that Windows applications should run on other operating systems without modification; should be transparent to other software, so that it would be able to exchange files, data, and services with any MS product; should be able to run properly on computers with different microprocessors. Otherwise, consumers will continue to face unnecessary costs, limited choices, operational complexity, and reliability problems. Enforcement provisions in the proposed settlement are also inadequate and could very well allow MS to continue to stifle competition, creativity, and cost-effectiveness. I urge the DOJ to announce public proceedings at the earliest opportunity as provided by the Tunney Act so that concerned consumers can speak to these issues.

Sincerely,
Shams Kairys
Executive Director, Berkeley EcoHouse
507 Cornell Ave.
Albany, CA 94706
510-525-1465

MTC-00029141

From: DRhoads
To: Microsoft ATR
Date: 1/28/02 9:11pm
Subject: Microsoft Settlement

Final Judgment for a variety of reasons. I shall briefly expound on but a few of them:

1) The potential breakup of Microsoft should be maintained as a future remedy to insure Microsoft's compliance.

2) Lack of punitive damages. Lacking provisions for an evolving industry, the Proposal seems focused on limited measures for a future that is only a simple extrapolation of yesterday's market. There are no penalties for Microsoft's outrageous conduct in the marketplace and before the Court. This sends the wrong message to anyone considering similar behaviour.

3) The Termination of the Decree should NOT occur before ten (10) years from date of entry. Further, the length of any extension should be five (5) years, rather than two. Given that the present proceedings before the Court have consumed almost four (4) years with no action, it is not inconceivable that Microsoft could similarly delay and obstruct a three person panel for the proposed five (5) years.

4) The construction of the Technical Committee (hereafter, TC) is faulty. Potentially, two of the three members of the TC will be answerable only to Microsoft and not to the Plaintiffs. This provides a majority which could veto any action or decision of the TC. The TC should consist of a minimum of five (5) persons, none of whom is appointed by Microsoft. The Defendant's interests could be represented by a non-voting, non-directing liaison to the TC. Also, the TC should be composed of persons with significant experience as auditors or inspectors general, who will be assisted by software experts.

5) MOST IMPORTANT. According to Section IV.D.4.d of the Stipulation, no member of the TC may direct any findings to any other tribunal. This is UNACCEPTABLE! The Congress, other Courts and other States cannot be constrained by this Proposal in any of their future proceedings. In particular, this Section would disallow a member of the TC from informing authorities of a violation of law, including, but not limited to, the Sherman Act.

The Proposed Final Judgment is seriously flawed and should be withdrawn from consideration. DOJ should rejoin with Utah, et al and use their proposals as a starting point for further negotiations.

Sincerely,
David Rhoads
Fort Washington, Maryland

MTC-00029142

From: dmose2@netscape.net@inetgw
To: Microsoft ATR
Date: 1/28/02 9:11pm
Subject: proposed monopoly settlement inadequate

The current proposed Microsoft monopoly settle does a completely inadequate job of protecting consumers from future abuses by Microsoft. In particular,

* Open source and free software concerns are ignored; which will allow MS to tighten its software monopoly by licensing it to public institutions.

* Microsoft is not required to open up the details of its file formats, which harms interoperability with other software and thus prevents competitors from getting a toehold into markets that Microsoft already monopolizes.

* Nothing prevents Microsoft from retaliating against OEMs that ship PCs with a competing OS (but not Windows). Please do not accept the existing settlement proposal.

Thanks,
Dan Mosedale

MTC-00029143

From: Stephen Patterson
To: Microsoft Settlement
Date: 1/28/02 9:05pm
Subject: Microsoft Settlement
Stephen Patterson
21959 C. R. 254
West Lafayette, Oh 43845
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Stephen L. Patterson

MTC-00029144

From: cyberkristie
To: Microsoft ATR
Date: 1/28/02 9:13pm
Subject: Microsoft Settlement

Ok, enough is enough, let's move on and accept the settlement with Microsoft. Then go after someone that is really in total control and unfairly taking advantage of the consumers. The Cable companies! It's just plain usury what the cable companies charge for what they provide and now they are doing the same with the cable internet access. If it weren't for Bill Gates and Microsoft we wouldn't be communicating by email because most of us couldn't afford to own a computer much less have the software to use it to it's full advantage. I've been around since mainframes were the only thing and pc's weren't even in the realm of home use. Gates made it all affordable and even today his software is affordable and the best to be had. Dragging this thing on just hurts our economy more that it is already hurting. So put it to rest and look into why the money from the tobacco companies settlements isn't going to where it was meant to go. Get involved with issues that really effect the population.

Kristie Ghioni
3012 W Viewmont Way W
Seattle, WA 98199
206–283–3504

MTC–00029145

From: Ludwik Kozlowski SR., M.D.
To: Microsoft Settlement
Date: 1/28/02 9:09pm
Subject: Microsoft Settlement
Ludwik Kozlowski SR., M.D.
7608 Geronimo Circle
N. Little Rock, Arkansas 72116
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Ludwik J. Kozlowski SR., M.D.

MTC–00029146

From: Billy Long
To: Microsoft Settlement
Date: 1/28/02 9:10pm
Subject: Microsoft Settlement
Billy Long
1021 Wales Dr
La Plata, MD 20646
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Billy J. Long

MTC–00029147

From: Charles and Barbara Martin
To: Microsoft Settlement
Date: 1/28/02 9:10pm
Subject: Microsoft Settlement
Charles and Barbara Martin
503 51 Ave W
Bradenton, Fl 34207
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Charles and Barbara Martin

MTC–00029148

From: Don Young
To: Microsoft Settlement
Date: 1/28/02 9:10pm
Subject: Microsoft Settlement
Don Young
Rt. 1 Box 282 A-10
Scroggins, TX 75480
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Don E. Young

MTC–00029149

From: John Russell
To: Microsoft ATR
Date: 1/28/02 9:14pm
Subject: Microsoft Settlement
John Russell
14763 West Trevino Drive
Goodyear, AZ 85338
January 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am writing to express my opposition to the antitrust lawsuit against Microsoft. Although I realize that the lawsuit is no longer an issue, what is before your department is the court mediated settlement that can end this debacle. Millions of taxpayer dollars have been used in what essentially is a needless persecution of a competitive company. What is before your department is an exhaustive settlement that has terms that extend well beyond the products and procedures that were originally at issue in the litigation. Microsoft has agreed to these terms in the interest of servicing the public good and allowing for a fair, agreeable end to this process.

This settlement, which has been reached by the Department of Justice, and approved by nine of the participating states, contains several provisions that extend significant restrictions and changes to how Microsoft does business. The settlement requires Microsoft to improve its relationship with computer and software manufacturers, by ensuring that Microsoft will not retaliate against manufacturers who ship non-Microsoft products and to create uniform pricing, allowing consumers to get the best price for the product. Additionally, the agreement allows any of Microsoft's competitors to file a claim against Microsoft in federal court if they believe that any part of the settlement has been violated, thereby forcing Microsoft to be in contempt of court.

I strongly urge the Department of Justice to view this settlement as having served the public interest and to end this litigation. Nine states have approved this, and with the federal government's leadership, this process may finally be over. In the overall public interest, please cease any further action at the federal level on this matter.

Sincerely,
John Russell

MTC-00029150

From: Tyson Murray
To: Microsoft ATR
Date: 1/28/02 9:15pm
Subject: Microsoft Settlement
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The three-year lawsuit against Microsoft has been continuing for too long. I am amazed and appalled that the Government would attempt to bring litigation against its strongest asset in the tech sector. Microsoft creates jobs and wealth for our nation and does not deserve to be a victim of federal and state litigation.

The terms of the settlement do little to protect consumer rights. In fact, they just give Microsoft's competitors an edge that they could not attain through innovation. Of particular interest to me are the terms by which Microsoft has agreed to disclose interfaces that are internal to Windows operating system products. This is a first in an antitrust settlement and a violation of Microsoft's intellectual property rights. Although flawed and unjustified, I urge your office to finalize the settlement because it is in the best interest of our economy and technology industry to end this dispute.

Sincerely,
Tyson Murray

MTC-00029151

From: Lovella S Richardson
To: Microsoft ATR
Date: 1/28/02 9:15pm
Subject: Re: Microsoft Settlement

The judge's recent decision settling the Microsoft lawsuti seems fair to all to me. I appreciate having a good browser that I don't have to pay extra for. I feel that Microsoft has been a great benefactor to the U. S. economy and technology in general.

Please let this settlement rest!

Lovella Richardson,
7706 Hodges Ferry Road, Knoxville, TN 37920

MTC-00029152

From: Lucas Rockwell
To: Microsoft ATR
Date: 1/28/02 9:17pm
Subject: Renata B. Hesse
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Renata B. Hesse,

I am writing to register my opposition to the proposed Microsoft Settlement with the Department of Justice. My reasons for this are many, but I will list just one for the purposes of this letter. Microsoft is a convicted monopolist and allowing them to donate $1 billion worth of software to schools is "not" a punishment. First, $1 billion to Micrsoft is not a lot of money. Recently, Microsoft had $30 billion in cash on hand. Second, Microsoft will experience years of benefits in sales from this deal as schools will seek to upgrade their aging "free" MS products. Also, when children learn software in school, parents have a compelling reason to purchase the same software at home. This settlement is a dream come true for Microsoft.

Please, reject this settlement offer.

I thank you very much in advance for your time.

-lucas
Lucas Rockwell
UAS Systems Group
510.642.6465
lr@socrates.berkeley.edu

MTC-00029153

From: The—Neumanns
To: Microsoft ATR
Date: 1/28/02 9:17pm
Subject: Microsoft Settlement

To whomever it may concern,

I am aware of the settlement agreement for Microsoft and agree that the settlement is fair for all parties involved. To assume that all end users are so uneducated that can not make an educated decision for themselves is disturbing in the first place. Even a teenager knows that if he purchases a car and does not like the speaker system that comes preinstalled on the vehicle that they can purchase a new speaker system from a variety of vendors. But then perhaps the older you get the less aware you are... This settlement has more than enough covenants in it. Let's not go overboard on the restrictions.

We live in an age where the computer industry is a thriving industry. More people than ever are using computers on a daily basis. People know that Netscape is out there. I have IE and Netscape on my PC and use them interchangeably. So, where have my choices been limited? Nowhere! This topic really makes me mad.

Microsoft is a good company. I do not understand why people feel like they should go after a company that is turning around and contributing so much to our society. Mr. Gates distributes his wealth to a multitude of charities. People like that are very hard to find. Thank God for someone who is doing something to help people that truly need it in our troubled society.

Sincerely,
Erika Neumann
CC:fin@mobilizationoffice.com@inetgw

MTC-00029154

From: Gregg Bair
To: Microsoft ATR
Date: 1/28/02 9:15pm
Subject: Microsoft

Please leave the decesion whether Microsoft illegally snuffed the COMPETITION where it belongs. With the consumer/ we will decide who has the better product. I have been screwed by Microsoft's competition many times. I would not buy anything else. They have made the computer age affordable , away from the monopolies of Apple and IBM.

In my opinion the legal system in this country should be investigated for the damage it has caused the consumer. The attorneys have raped this country and conned many people into believing they are victims. I ask you this question, how many times does your apple lock-up or what does it cost to fix the Apple? I applauded Microsoft and Bill Gates.

Gregg Bair

I HOPE MY VOTE COUNTS. BECAUSE IT WILL CERTAINLY COUNT IN THE NEXT POLITICAL ELECTION

MTC-00029156

From: MarieHolla@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:17pm
Subject: Microsoft Settlement
164 Chesapeake Estate #64
Thomasville, PA 17364-9661
January 10, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to you today to express my support of the recent settlement reached between the Department of Justice and Microsoft. After three years of litigation, the settlement marks an overdue end to the litigation battle.

While the antitrust dispute was unnecessary in the first place, it is great to see this period come to an end. It is time for Microsoft, the IT industry, and the American economy to focus on productivity again.

The settlement reached is more than equitable for Microsoft competitors. Microsoft has been more than generous throughout this process.

Most important among these concessions is Microsoft allowing for the establishment of a regulatory committee. The technical oversight committee, which will be run by three people, assures that the stipulations mandated in the settlement are carried out. This shows Microsoft's willingness to appease its competitors in their commitment to put this issue at bay.

Thus, it is important that this settlement stands. It is time for Microsoft and the larger IT industry to return to business as usual.

Sincerely,
Marie Hollabaugh
CC:fin@mobilizationoffice.com@inetgw

MTC-00029157

From: JFedor3703@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:18pm
Subject: Microsoft Settlement
14202 W Via Manana
Sun City West, AZ 85375
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I think the antitrust case filed against Microsoft should finally be settled.

I wonder why this case is being dragged on. Not only has Microsoft made bold concessions in order to get back to business, they have also promoted a more unified IT sector along the way. This settlement clearly promotes a technology industry that works together which will allow the US to maintain our position in the global market.

Microsoft has made many concessions within the settlement that include changes in product design, licensing and marketing. The terms are meant to open competition to non-Microsoft software while still allowing Microsoft to prosper. The settlement promotes a teamwork environment in the technology industry and allows all to prosper in the process. Microsoft's efforts to end the litigation should be applauded.

I strongly urge that you close this case. The longer we wait for a settlement; the longer we stray from focusing on innovation.

Sincerely,
Joan Fedor
CC:fin@mobilizationoffice.com@inetgw

MTC-00029158

From: Juan E. Ramirez
To: Microsoft ATR
Date: 1/28/02 9:19pm
Subject: Microsoft Settlement

Microsoft is the 800 lb. Gorilla. They control OS software on 95% of all PCs sold in this country. If this is not a "monopoly" then the following companies were not:

US Steel
AT&T

Thanks,
Juan E. Ramirez
jr7138@swbell.net

MTC-00029159

From: Shirley R Mundinger
To: Microsoft ATR
Date: 1/28/02 9:18pm
Subject: Microsoft settlement

I hope you will close this long period of bickering among some of the Microsoft competitors and allegations against Microsoft. They, Microsoft, have offered much to the public to make computer use faster and more useable. Please let those fighting them, know that nothing more can be accomplished by dragging this on through the courts. Let them get on with their work and those that are complaining get busy developing their own products to better serve our nation.

This long battle is consuming to much money and time and is unproductive and to our economy and our reputation as a nation. We need to develop more integrity in the business world.

Yours truly,
Shirley Mundinger

MTC-00029160

From: Bob Essman
To: Microsoft ATR
Date: 1/28/02 9:18pm
Subject: Microsoft
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Renata B. Hesse,

I do not believe that the so called "Antitrust" laws are constitutional except, perhaps under the constitution of the now defunct U.S.S.R. or The Talibans of Afghanistan.

Although I do not believe that Microsoft is clean of all possible charges, the process followed under this law is and should be unproductive and futile. I've niether seen nor heard of any real evidence. I've only heard accusations.

If Microsoft has broken a law, it should be charged with fruad or theft or some real crime and not for persuing it1s inalienable right to persue commerce and make money. Doing business better than your competetors is a pure American ideal and should be encouraged instead of picked at like a bunch of spoiled children fighting over candy.

Get on with the real work that the taxpayers pay you to do and get to Enron and/or Anderson where the evidence of wrongdoing is apparent.

Sincerely,
Bob Essman

MTC-00029161

From: BARGONN@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:20pm
Subject: Microsoft Settlement

As a consumer and individual investor who owns stock in many Tech. companies, including Microsoft, AOL Time Warner, Sun microsystems, etc., I have followed the developments of the government's case against Microsoft, and the complaints filed by individual States and Microsoft's competitors. I continue to believe the settlement already reached between Microsoft, the Justice Dept., and several States Should be the final judgement on the matter. No one, especially Microsoft's competitors, has yet demonstrated any injury to consumers by Microsoft's business practices. Although Microsoft successfully won away customers from AOL's Netscape by giving their Web Browser away for free, one can hardly say this "injured" consumers. Getting a superior product for free is not what I would call being abused, nor is this an example of being deprived of choice. There was a choice, and consumers took the superior choice. Most savvy computer professionals agree that Internet Explorer is far better than the Netscape browser, and the Netscape browser cost money, it was not offered free. Also, Microsoft has always striven to establish standards in its software which would ensure its interoperability with many different applications and prevailing programs. Netscape's product could not boast the same attributes.

Also, today, as in the past, there is ample competition for Microsoft, in operating systems such as Unix, Linux, Java, etc., and in internet applications and access providers such as AOL time Warner, Earthlink, and many others. Microsoft is not a monopoly in my view, it is instead a great American success story which has driven the local and national economy, provided thousands of high-paying jobs, and has given much back to the community in raised living standards and charitible donations.

Please bring this legal challenge to a close, as it is not helping to protect consumers, it is not helping our economy to rebound, and it is not justified by the sour grapes failures of Microsoft's inadequate competitorswho seek the government's aid in doing what they were unable to do in fair business competition.

Sincerely,
Baron Borrelli
Bellevue, WA.

MTC-00029162

From: Zoe Alvarez
To: Microsoft Settlement
Date: 1/28/02 9:14pm
Subject: Microsoft Settlement
Zoe Alvarez
1432 NW 26 Avenue
Miami, FL 33125-2130
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies. Thank you for this opportunity to share my views.

Sincerely,
Zoe Alvarez

MTC–00029163

From: Brad Chapman
To: Microsoft Settlement
Date: 1/28/02 9:14pm
Subject: Microsoft Settlement
Brad Chapman
4963 S 4055 W
SLC, UT 84118–4044
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Brad Chapman

MTC–00029164

From: Sallie Landry
To: Microsoft Settlement
Date: 1/28/02 9:14pm
Subject: Microsoft Settlement
Sallie Landry
7414 Tanager
Houston, TX 77074
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Sallie Landry

MTC–00029165

From: Dona Sheets
To: Microsoft Settlement
Date: 1/28/02 9:14pm
Subject: Microsoft Settlement
Dona Sheets
3 Pichini Trace
Cherokee Village, AR 72529
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

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Thank you for this opportunity to share my views.

Sincerely,
Dona Sheets

MTC–00029166

From: Ellen Green
To: Microsoft Settlement
Date: 1/28/02 9:17pm
Subject: Microsoft Settlement
Ellen Green PO
Box 747 York, AL 36925
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Get off of Microsoft's back. Settle this case!

Sincerely,
Ellen Green

MTC–00029167

From: TomasHol@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:24pm
Subject: (no subject)
164 ChesapeakeEstate #64
Thomasville,PA 17364–9661
January 10, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to you today to express my support of the recent settlement reached between the Department of Justice and Microsoft. After three years of litigation, the settlement marks an overdue end to the litigation battle. While the antitrust dispute was unnecessary in the first place, it is great to see this period come to an end. It is time for Microsoft, the IT industry, and the American economy to focus on productivity again. The settlement reached is more than equitable for Microsoft competitors. Microsoft has been more than generous throughout this process. Most important among these concessions is Microsoft allowing for the establishment of a regulatory committee. The technical oversight committee, which will be run by three people, assures that the stipulations mandated in the settlement are carried out. This shows Microsoft's willingness to appease its competitors in their commitment to put this issue at bay. Thus, it is important that this settlement stands. It is time for Microsoft and the larger IT industry to return to business as usual.

Sincerely,
Thomas A. Hollabaugh
CC:fin@mobilizationoffice.com@inetgw

MTC-00029168

From: Zerbin Belles
To: Microsoft Settlement
Date: 1/28/02 9:18pm
Subject: Microsoft Settlement
Zerbin Belles
106 Brown Lane
Lexington, SC 29073-8302
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Zerbin D. Belles

MTC-00029169

From: Austin Gonyou
To: Microsoft ATR
Date: 1/28/02 9:24pm
Subject: One last thing.
http://linuxtoday.com/news—
story.php3?ltsn=2002-01-29-008-20-NW-MS —
Austin Gonyou
Systems Architect, CCNA
Coremetrics, Inc.
Phone: 512-698-7250
email: austin;@coremetrics.com

"It is the part of a good shepherd to shear his flock, not to skin it."

Latin Proverb

MTC-00029170

From: TranD97@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:25pm
Subject: Microsoft Settlement
January 28, 2002
Attn: Renata B. Hesse
Antitrust Division
U. S. Department of Justice
601 D. Street NW, Suite 1200
Washington, DC 20530-0001

To Whom It May Concern:

I would like to make known to the Attorney General my comments concerning the Microsoft settlement. I believe that the Court of Appeals ruling is reasonable and fair to all parties involved. I would like my voice to be heard and that is why I am writing this letter. I think that it would be very unfair to Microsoft if this settlement is rejected.

Yours truly,
Debra K. Trantham

MTC-00029171

From: Gary Oja
To: Microsoft ATR
Date: 1/28/02 9:24pm
Subject: Microsoft Settlement

Dear DOJ,

With billions of dollars at its disposal, a fine would be insignificant to Microsoft (although highly recommended). Any settlement which includes the distribution of Microsoft products would just worsen their monopoly. Please open up the arena to allow other vendors software programs (applications and operating system utilities, including Web browsers) to be substituted for Microsoft products and force Microsoft to unbundle their software to permit equal access. This would allow fair competition in the marketplace and benefit all consumers.

Thank you.
Gary Oja
Principal Software Engineer
Worcester MA
goja@ultranet.com

MTC-00029172

From: Mark Donohoe
To: Microsoft ATR
Date: 1/28/02 9:25pm
Subject: Microsoft Settlement

To whom it may concern,

I am writting this e-mail to let you know that as a consumer I feel frustrated, boxed in and limited by Microsofts monopoly. I have little or no choices when it comes to operating systems or applications to use on my home PC. This lack of choices limits my use of the PC and causes daily productivity loss.

In the application area, there are few if any choices in word processors, speadsheets or other applications. This is simply not right in our competitive and free society we claim to have in the U.S.A. I was hoping the goverment would do something but feel less so in light of the recent actions by the goverment. The doj could help by imposing the following on Microsoft.

1. Force them to publish and keep current the api's to their applications and file formats for those applications. With the published API's, others could write competing applications that could convert existing microsoft files into the format used by the competing application. Today this is not possible or is twarted by MS.

2. Stop microsoft from further integrating features like browsers, media players and the like into the operating system. I use windows 98 now, and don't use IE, except when I have to. BUT, I can't really remove it from my system without permantly damaging the operating system.

3. Stop Microsoft from pointing me to microsoft companies. When I got my pc, it insisted on bootup, that I either cancel the window or login to the microsoft network. This was not only annoying, but unless I sat and watched the machine boot and closed the window, the machine would not complete booting. It took my quite a while, and with some risk, to get this feature disabled.

4. All of the above would not be so bad, if it all worked, but it doesn't! I must reboot my home machine very often, and must reboot my system at work at least once a week to keep things functioning. This is not to mention all the e-mail viruses and the like that plague MS software.

Thank you for your time. Please help us consumers get this monopolist out of our hair and allow real innovation in the computing world.

Mark Donohoe
1012 Hewitt Dr.
San Carlos, Ca. 94070
(4donohoes@attbi.com)
CC:4donohoes@attbi.hp.com@inetgw

MTC-00029173

From: Sandra Bottorff
To: Microsoft Settlement
Date: 1/28/02 9:18pm
Subject: Microsoft Settlement
Sandra Bottorff
12750 170th Avenue
LeRoy, MI 49655
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Sandra J. Bottorff

MTC-00029174

From: Dave Garman
To: Microsoft ATR
Date: 1/28/02 9:26pm
Subject: microsoft settlement

Judge Kollar-Kotally-

I am a scientist at a small biotechnology company involved in developing therapeutics to help people. I am writing this letter in protest of the proposed Microsoft settlement. We use Microsoft products because we are forced to. For the research we do, computer applications are often only generated for the Windows platform because no other operating system has enough market share to justify development. In itself, this is not a significant problem. However, there are so many problems and issues with the Windows operating system and Microsoft Office that we have been forced to hire a full time Information Technology employee for a staff of only 15 people. This expense, in conjunction with software and hardware costs forced by Microsoft compatability issues, costs us more than $200,000 dollars a year. This is a huge expense for a small business.

The proposed settlement seems like a government endorsement of the Microsoft monoplay. This will only make our situation worse, with no competition to control inflation of prices. I hope you will reconsider and take a tougher stance against Microsoft.

Sincerely,
Dave Garman, Ph.D.
Scientist
5084 McCoy Ave
San Jose, CA 95130
(408) 364-1984

MTC-00029175

From: Galvin, Rob
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 9:25pm
Subject: Microsoft Settlement

Renata B. Hesse
Antitrust Division U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530-0001

Ms. Hesse,

Attached are the Comments to the Revised Proposed Final Judgment in United States v. Microsoft Corporation, No. 98-1232, submitted on behalf of Sun Microsystems, Inc. Copies of the comments are submitted in both Word and .pdf formats. In addition, we have sent a copy via facsimile. Please call if you have any difficulties opening or processing these attachments.

Robert Galvin
Day Casebeer Madrid & Batchelder LLP
20300 Stevens Creek Blvd., Suite 400
Cupertino, CA 95014
(408) 342-4578

Comments to the Revised Proposed Final Judgment in United States v. Microsoft Corporation, No. 98-1232

State of New York, et al. v. Microsoft Corporation, No. 98-1233

Submitted By
Sun Microsystems, Inc.
Pursuant to the Tunney Act, 15 U.S.C. § 16
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Introduction

Microsoft illegally maintained its monopoly over Intel-compatible personal computer "PC") operating systems by acting to undermine the distribution and commercial appeal of alternative computing platforms like Netscape Corporation's Navigator browser and Sun Microsystems, Inc.'s JavaTM technology.[1] By eliminating the ability of alternative platforms to compete with Windows, Microsoft has not only maintained its monopoly over PC operating systems, it also has dramatically increased the economic power that it derives from that monopoly, such that Microsoft now has the power to control competition in a number of adjacent and downstream markets as well. In the emerging world of networked devices and services, the commercial appeal and success of adjacent or downstream devices and services such as servers, personal digital assistants ("PDAs"), telephones, video game systems, television set-top boxes, and web-based services are in very large measure dependent on their ability to interoperate with PCs via the Internet or other networks. Microsoft's expanded monopoly power over PC operating systems and web browsers affords it the power to deny competing devices and services the same ability to interoperate fully and completely with PCs as Microsoft's networked devices and services enjoy. Microsoft is in fact exercising the power it derives from its PC monopoly in just this way to exclude competition in each of these adjacent markets. Unless and until that power is effectively checked and ultimately eliminated, Microsoft's past practices and insatiable ambition demonstrate that it will continue to destroy competition in each of these enormously important markets.

Unfortunately, the Revised Proposed Final Judgment ("RPFJ") does little or nothing to eliminate the unlawful monopoly maintained by Microsoft over PC operating systems. Nor does it redress the harm that Microsoft's illegal acts have caused to competition in that market. And while the RPFJ apparently recognizes the threat to competition posed by Microsoft's exclusionary behavior in adjacent and downstream markets, the remedies it proposes to redress this threat are plagued with so many loopholes and ambiguities that there can be no assurance that Microsoft's anticompetitive conduct will stop. A. Competition in the market for PC operating systems must be restored

The adjudicated facts establish that Microsoft illegally maintained a monopoly over the market for PC operating systems by undermining the ability of rival software platforms to compete in that or closely related markets. By offering consumers the ability to run compelling applications on operating systems other than Microsoft's Windows operating system, the Navigator browser and Java platform threatened to reduce or eliminate the applications barrier to competition that sustains Microsoft's monopoly.[2] Microsoft fully recognized the threat these middleware platforms posed to its continued monopoly over PC operating systems and contrived to maintain that monopoly by restricting consumer access to these and any other non-Microsoft middleware platforms.

The commercial appeal of any computing platform is dependent in very large measure on the numbers of consumers who own or use the platform. The greater the number of users, the greater the demand for applications capable of running on that platform. The greater the demand for applications, the greater the number and variety of applications developed for the platform.

And the greater the number and variety of applications developed for a platform, the greater the consumer demand for a given computing platform.[3] Once started, this "feedback" effect can and will sustain the adoption and commercial success of platform software, such as Microsoft's Windows operating system, Netscape's Navigator browser or Sun's Java platform. The key to successful competition in platform software is thus distribution.[4] Unless a platform enjoys widespread and sustained distribution, such that large numbers of computer users have the platform installed and available for use on their computer systems, the feedback cycle of application development and platform adoption will not take effect.

As the District Court found, and the Court of Appeals affirmed, Microsoft engaged in a series of illegal acts to choke off the distribution channels for the Navigator and Java platforms.[5] By restricting and disrupting the distribution of the Navigator browser and the Java platform, Microsoft sought to limit the numbers of computer users with access to these alternative platforms and thereby also limit the demand for, and economic incentives supporting, application development on the Navigator and Java platforms. By decreasing the distribution of non- Microsoft platforms, such as the

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[1] United States v. Microsoft Corp., 253 F.3d 34, 46 (DC Cir. 2001) ("Microsoft III").

[2] United States v. Microsoft Corp., 84 F. Supp. 2d 9, § 68 (D.DC 2000) ("Findings of Fact") (explaining how middleware technologies such as the Navigator browser and the Java platform have the ability to weaken the applications barrier to entry).

[3] See Findings of Fact, 84F. Supp. 2d. at §§ 39-40.

[4] See Microsoft III, 253 F.3d at 55-60, 60-61, 70-71; findings of fact, 84 F. Supp. 2d at §§ 36-52, 143-144.

[5] See Microsft III, 253 F.3d at 61, 72, 75-76; Findings of Facts, 84F. supp. 2d at §§ 357, 395-402.

Navigator browser and the Java platform, Microsoft knew that it could also decrease the number and variety of applications developed for such platforms, and thus their relative commercial appeal to consumers.

But for Microsoft's unlawful attack on the distribution of the Navigator and Java platforms, the installed base of these alternative platforms would have been very different today. So too would the economic incentives and choices of consumers and software developers.

Consumers would have had the opportunity to choose among a variety of competing platforms— not just Microsoft's Windows platform—based upon performance, cost or personal preference.

Developers too would have had the opportunity to choose among a variety of competing platforms on which to develop applications with the features, performance and cost that consumers demand.

Indeed, because the Navigator and Java platforms were "cross-platform"—that is, ran on top of a variety of operating systems, not just Microsoft's Windows operating system—consumers would have had the ability to run applications written for the Navigator browser and Java platform on anyoperating system, not just Microsoft's Windows operating system. By dramatically lowering the cost to switch applications from one operating system to another, the Navigator and Java platforms directly attacked the applications barrier to competition that protects Microsoft's monopoly over PC operating systems, and greatly reduced the cost to consumers and developers alike of switching away from Microsoft's monopoly platform. In short, but for Microsoft's anticompetitive conduct, consumers today would have enjoyed far greater freedom, at far less cost, to choose among competing operating systems based on their comparative features, performance, and price, rather than simply the number of applications they support. B. Microsoft's unlawful power to exclude competition in adjacent and downstream markets must be stopped and eventually dissipated

By disrupting and eliminating the distribution of competing platforms, Microsoft has not only maintained its monopoly over PC operating systems, it also has increased the economic power that it derives from that monopoly. By secretly manipulating the interfaces and protocols needed to interoperate with Windows, Microsoft can control which products and services in adjacent or downstream markets are capable of interoperating with PCs. Not only does this permit Microsoft to enhance the relative appeal and functionality of its products and services at the expense of its competitors, it denies consumers the benefits of competition. Instead of choosing a server, telephone, application, or web service based solely on its competitive merits, Microsoft is increasingly forcing consumers to purchase such products and services based upon their ability to interoperate with its unlawfully monopolized platforms.

Microsoft is now abusing the power it has over PC operating systems and web browsers by seeking to extend its control to embrace any device, application, or web service that seeks to interoperate with Microsoft's monopolized PC operating systems or browsers. Microsoft's unbridled monopoly over a critical node on the digital network—PCs—provides it the power to allow only such servers, PDAs, telephones, television set-top boxes, videogame systems, or web services that implement Microsoft's proprietary interfaces and protocols to interoperate effectively with Microsoft's monopoly products. By illegally exploiting its PC operating system monopoly to acquire and utilize a chokehold over networked connections to PCs, Microsoft is dramatically expanding its power to deny consumers the benefits of choice and competition in adjacent and downstream markets as well.

C. The RPFJ fails to remedy the monopoly illegally maintained by Microsoft

In the face of this record, the law requires that any remedial decree "terminate" the monopoly, "unfetter" the market from anticompetitive conduct, "deny to the defendant the fruits" of its illegal acts, and "ensure" no repetition of such abuse in the future.[6] Measured against this standard, the proposed settlement between the United States and Microsoft reflected in the RPFJ falls far short.

Rather than act directly to restore competition to the market for PC operating systems, and redress the harm to competition inflicted by Microsoft's past misconduct in that and adjacent markets, the RPFJ actually accedes to Microsoft's monopoly, and does little or nothing to eliminate or check the enormous power it provides. Incredibly, the RPFJ barely proscribes behavior already held to be unlawful without remedying the far-reaching and continuing anticompetitive effects that have been caused by that behavior.[7] Even though Microsoft effectively destroyed competition for web browsers and blocked the distribution of upgraded, compatible versions of the Java platform for the PC, the RPFJ fails to remedy directly these anticompetitive acts or disgorge Microsoft of the power it now enjoys as a result of those acts.

Instead, the RPFJ relies on Microsoft's partners—PC manufacturers—to indirectly undermine Microsoft's monopoly by distributing non-Microsoft middleware. Relying on Microsoft's distributors to achieve the Department's goals is fundamentally flawed, since the PC manufacturers have little or no economic incentive or ability to work with Microsoft's competitors, absent fundamental changes to the competitive landscape in the PC operating system market, which the RPFJ fails to seek.[8] At best, the RPFJ will marginally increase the opportunity, but not the ability, of competitors to compete at some future date with Microsoft's middleware products. It does nothing directly to dislodge Microsoft's PC operating system monopoly or to restore the market for PC operating systems to the competitive dynamics the market would have possessed "but for" Microsoft's illegal conduct.

While promising in principle, the disclosure remedies in the RPFJ (Sections III.D. and III.E) are likely to fail in practice to achieve the procompetitive objectives identified by the United States Justice Department (the "Department") in its Competitive Impact Statement. Key provisions in the RPFJ contain critical loopholes and glaring ambiguities. Given Microsoft's past disdain for compliance with the strictures of its prior antitrust consent decree with the Department, these ambiguities will likely lead to future litigation, particularly since Microsoft has repeatedly refused to answer any questions regarding whether it agrees or disagrees with the interpretations of the RPFJ proposed by the Department in the Competitive Impact Statement. Instead, it is clear that Microsoft's strategy is to say as little as possible about the meaning or application of the RPFJ prior to entry of judgment, hoping that any ambiguities in the language will ultimately be interpreted in its favor. In order to protect the public and ensure that the Department has actually secured a settlement that is consistent with its representations to the Court, the Department must force Microsoft to identify any disagreements that it has with the Department's interpretations prior to entry of the judgment. Unless such minimal steps are taken, the RPFJ will certainly fail to secure even the modest objectives it seeks to attain.

The RPFJ is further flawed because it allows Microsoft to profit from its illegal acts by exacting royalties as a condition for making interoperability disclosures. Moreover, it gives Microsoft far too much discretion about how it will "comply" with the RPFJ. Given its past record of anticompetitive conduct, a remedial scheme which relies on Microsoft acting "reasonably" is doomed to fail. After having successfully prosecuted its case against Microsoft, that there exists no commercially viable alternative to which they could switch in response to a substantial and sustained price increase or its equivalent by Microsoft.").It would be tragic for the Department to shirk its duty under the law, and through entry of the RPFJ, allow Microsoft to maintain and expand its monopoly power. II. Sun Microsystems" Interest Regarding the Terms of the RPFJ"

Since its founding in 1982, Sun has been propelled by an innovative vision—"The Network Is The Computer." TM Sun is a leader in the design, manufacture, and sale of computer hardware, software, and services. Sun directly competes with Microsoft across a wide variety of markets including operating systems, "middleware" platforms, software development tools, office productivity suites, directory services, and enterprise software.

Sun's experience and expertise place it in a unique position to assess the true competitive impact of the RPFJ. As one of Microsoft's leading competitors and as the creator and licensor of the Java platform, Sun was a prime target of the anticompetitive conduct at issue in United States v. Microsoft. In addition, because Sun designs, manufactures, and sells a wide variety of products and services that must interoperate with Microsoft's products and services, Sun's real- world experience regarding the difficulties and barriers to effective interoperability with Microsoft's products affords Sun unique insights into whether the various technical disclosures and licensing practices mandated under the RPFJ will actually achieve the results intended by the Department.

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[6] 6 Microsoft III, 253 F.3d at 103.

[7] See Schine Chain Theatres, Inc. v. United States, 334 U.S. 110, 128 (1948) (concluding that injunctive relief which merely "forbid[s] a repetition of the illegal conduct" is legally insufficient because defendants would "retain the full dividends of their monopolistic practices and profit from the unlawful restraints of trade which they inflicted on competitors").

[8] Findings of Fact, 84 F. Supp. 2d at § 54 (stating that "[w]ithout significant exception, all OEMs pre-install Windows on the vast majority of PCs that they sell, and they uniformly are of a mind. loopholes in the RPFJ must be eliminated and its important ambiguities clarified

Sun's comments on the RPFJ are not intended to be exhaustive. Instead, the comments focus on key shortcomings or problems with the RPFJ, which most directly impact Sun, its distributors, developers, and customers. Others, including trade organizations of which Sun is a member, are likely to raise additional problems with the RPFJ, which should be addressed prior to entry of the judgment. By omitting such subjects from its submission, Sun does not wish to convey to the Department the impression that it believes the remainder of the RPFJ is satisfactory to Sun. Rather, Sun has merely focused its comments to highlight particular areas of concern.

III. The RPFJ Fails To Remedy the Continuing Harm to Competition Caused By Microsoft's Illegal Acts

A. The RPFJ fails to dissipate Microsoft's monopoly power in the market for PC operating systems

A remedies decree in an antitrust case "must seek to unfetter a market from anticompetitive conduct, to terminate the illegal monopoly, deny the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future."[9] The market over which Microsoft has unlawfully maintained its monopoly power is the market for PC operating systems. It is that market—the market for PC operating systems— that must be restored to competition, and in which Microsoft's power must be eliminated.

The RPFJ, however, fails to serve this fundamental objective. The first and most important flaw in the RPFJ lies in its failure to do anything to restore competition in the market for PC operating systems. But for Microsoft's anticompetitive conduct, the market would today provide consumers and software developers with the benefits of competitive choice among at least three alternative computing platforms for desktop computers: the Windows operating system, the Navigator browser, and the Java platform. As a direct result of Microsoft's anticompetitive conduct, consumers and developers today effectively enjoy no such choice. Rather than restore the market to the state it would have enjoyed but for Microsoft's illegal conduct, or even attempt to dissipate Microsoft's illegally maintained power over that market,the RPFJ accedes to and accepts Microsoft's monopoly over PC operating systems, and does nothing to directly and immediately restore that market to competition.

Indeed, the RPFJ does not even focus its principal remedies on the relevant market: the market for PC operating systems. Instead, it focuses its principal remedies on entirely different markets: the market for distribution of Microsoft operating systems and the market for middleware. In light of the record established and affirmed in this case, the Department's reliance on Microsoft's own distributors -entities whose commercial viability is dependent on and inextricably tied to Microsoft's success—to promote non-Microsoft middleware products capable of threatening Microsoft's monopoly position is misplaced at best, and foolhardy at worst.

1. The Department previously acknowledged that an effective remedy had to eliminate the applications barrier protecting Microsoft's monopoly

In recognition of the Department's obligations under the law and the extent of Microsoft's misconduct, the Department originally set its remedial objectives much higher than those proposed in the RPFJ. In fact, both the Department and the District Court concluded that a combination of structural relief and conduct remedies was necessary to lower the applications barrier to entry and to restore competition in the market for PC operating systems.[10] As the Department itself acknowledged, conduct remedies, by themselves, are likely to be insufficient in this case to remedy the past harm to competition:

[C]onduct remedies can do little to rectify the harm done to competition by Microsoft's illegal conduct in the past. For example, the evidence shows and the Court found that Microsoft's illegal conduct prevented Navigator and Java from eroding the applications barrier to entry "for several years, and perhaps permanently" because they could not facilitate entry unless they became almost ubiquitous and thus became attractive platforms for ISVs. A conduct remedy cannot undo the demise of Navigator and the concomitant rise of Internet Explorer, nor can it ensure that there will be other middleware threats comparable to Navigator in the future.[11] According to the Department, "[c]ompetition was injured in this case principally because Microsoft's illegal conduct raised entry barriers to the PC operating system market by destroying developments that would have made it more likely that competing operating systems would gain access to applications and other needed complements." [12] Thus, "the key to a remedy in this case is to reduce Microsoft's ability to erect or maintain entry barriers." [13] To achieve this objective, the Department originally sought to divide Microsoft into an Applications Business and an Operating Systems Business in order to "create incentives for Microsoft's Office and its other uniquely valuable applications to be made available to competing operating systems when that is efficient and profitable—in other words, in response to ordinary market forces—instead of being withheld strategically, at the sacrifice of profits and to the detriment of consumers—in order to protect the Windows operating system monopoly." [14]

But now that the Department has reversed its prior position and seeks to rely solely on conduct remedies, the remedies it has proposed are even less likely to rectify the harm done to competition than the interim conduct remedies previously adopted by the District Court. The conduct remedies of the RPFJ are simply not tailored to rectify the continuing harm or lower the barriers to competition for competing operating system vendors. For example, the RPFJ does not even attempt to redress the competitive harm caused by Microsoft's interference and disruption of the distribution channels for the Navigator browser or the Java platform, even though Microsoft correctly perceived that widespread distribution of these platforms would lower the barriers to competition protecting its monopoly. Nor does the RPFJ take any direct steps to loosen Microsoft's chokehold on the PC operating system market and facilitate the development of applications from both Microsoft and others that could run on competing operating systems. If, as the Department previously contended, the "key to a remedy" in this case is to reduce or eliminate Microsoft's ability to create and maintain barriers to competition, the RPFJ does not attempt to serve, much less achieve, that remedial objective.

Although the Court of Appeals vacated and remanded the District Court's divestiture order, it affirmed the central liability findings against Microsoft. Rejecting Microsoft's numerous challenges, the Court of Appeals concluded that Microsoft had monopoly power over the PC operating system market, that Microsoft's monopoly was protected by an applications barrier to entry, and that Microsoft engaged in a panoply of illegal acts to maintain that monopoly in light of the competitive threat posed by the Navigator browser and the Java platform? Furthermore, it set forth the legal standard against which any remedy for such violations should be measured.[15]

While the Department certainly had discretion to choose not to pursue a divestiture remedy on remand, the Court of Appeals' affirmance of the core liability findings against Microsoft provided no excuse for seeking watered-down conduct remedies that are likely to be even less effective than the interim conduct remedies previously ordered by the Court. This is not a case where the Department entered into a settlement with a defendant in lieu of trial. Here, the District Court held, and the Court of Appeals affirmed, that Microsoft violated the antirust laws. By failing to remedy the effects of Microsoft's illegal acts, disgorge Microsoft's ill-gotten gains, and attack the barriers to competition protecting Microsoft's monopoly, the Department has shirked its duty under the law.

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[9] Microsoft III, 253 F.3d at 103 (internal quotations and citations omitted). Although the Department acknowledges the required remedial objectives under the law, it fails to achieve them in practice. See Competitive Impact Statement ("CIS") at 24 ("Appropriate injunctive relief in an antitrust case should: (1) end the unlawful conduct; (2) "avoid a recurrence of the violation" and others like it; and (3) undo its anticompetitive consequences.").

[10] United States v. Microsoft Corp., 97 F. Supp. 2d 59 (D.DC 2000), aff'd in part, rev'd in part, and remanded, 253 F.3d 34 (DC Cir. 2001).

[11] 11 4/28/00 Plaintiffs" Memo. in Support of Proposed Final Judgment at 7–8 (citations omitted).

[12] id. at 30.

[13] Id.

[14] Id.

[15] Id. at 103.

2. The RPFJ fails to address the effects of Microsoft's distribution power

Any remedy designed to restore competition in the PC operating system market must account for the economic realities of software platform development. Distribution is the key to competitive viability in the market for PC platform software? The applications barrier to entry which forms a "positive feedback loop" for Microsoft and a "vicious cycle" for Microsoft's competitors was a centerpiece of the Department's case: the number of installed units of a platform determines its commercial appeal to applications developers; the number and variety of applications available for a platform determines its commercial appeal to consumers; and the commercial appeal of the platform to consumers in turn drives its installed base and market share.[18] As the Court of Appeals concluded, "[b]ecause the applications barrier to entry protects a dominant operating system irrespective of quality, it gives Microsoft power to stave off even superior new rivals."[19] In large measure, the Navigator browser and the Java platform threatened Microsoft's monopoly because they had achieved widespread distribution on both Windows and non-Windows platforms, thereby becoming a potentially more attractive platform for application development than Windows. If developers increasingly chose to develop their applications to the Navigator and Java platforms, rather than the Windows platform, consumers would have greater freedom to switch away from the Windows operating system because they would still be able to run the applications that they desire using competing operating systems.

To restore competition in the PC operating system market, an appropriate remedy should attempt to place the market back in the position it would have been "but for" Microsoft's illegal conduct. In other words, an appropriate remedy would ensure, to the extent possible, that alternative platforms achieve the distribution that they would have received "but for" Microsoft's illegal conduct. Moreover, an appropriate remedy also would seek to open up Microsoft's distribution channels to expand consumer choice by ensuring that alternative platforms could compete on the merits with Microsoft's products, rather than having Microsoft's illegally maintained distribution powers effectively foreclose such choices.

To evaluate the potential efficacy of the RPFJ, one must compare the competitive landscape before and after Microsoft's illegal acts. Prior to Microsoft's acts, the marketplace was undergoing dramatic changes as a result of the nearly simultaneous emergence of both the Navigator browser and the Java platform. By easily connecting consumers to resources across the Internet and providing a new platform for software development, these new, widely- distributed platforms threatened Microsoft's monopoly power because they afforded consumers the ability to run applications on many different operating systems, not just Windows. Customers could chose between different browsers as well as different implementations of the Java platform. They were not reliant on a single vendor for their platform software. At this inflection point in the market, the barriers to competition protecting Microsoft's monopoly looked increasingly precarious.

Microsoft's internal documents demonstrate how serious that threat really was. Despite its dominant market position, Microsoft believed it was necessary to engage in a campaign of illegal conduct to crush this competition. As a result of that conduct, consumers no longer have any real competitive choices for browsers for PCs, other than Microsoft's Internet Explorer. As a practical matter, PC consumers also have been denied access to the latest, compatible versions of the Java platform as a result of Microsoft's conduct. Instead, Microsoft first offered an incompatible version of the Java platform, and now seeks to roll-out their "knock-off" middleware runtime, the .NET Framework/Common Language Runtime, that copies many of the features of the Java platform with one critical difference—it runs only on Windows.

The question that should be asked regarding the RPFJ is whether it will disgorge from Microsoft the fruits of its illegal acts and restore a competitive marketplace where consumers will have the ability to choose their platform software from an array of competitive choices. A critical review of the RPFJ makes plain it does not. 3. The RPFJ does little more than attempt to enjoin Microsoft from continuing to engage in the conduct already found to be unlawful

Rather than attempting to undo the damage to competition resulting from Microsoft's actions and pry open the PC operating system market to competition, the RPFJ is purely forward- looking, focusing primarily on the precise Microsoft conduct already found to be unlawful.

Injunctive relief which simply "forbid[s] a repetition of the illegal conduct" is insufficient under Section 2 because it would allow Microsoft to "retain the full dividends of [its] monopolistic practices and profit from the unlawful restraint of trade which [it] had inflicted on competitors."[20] As the Supreme Court has made plain, an antitrust remedy "does not end with enjoining continuance of the unlawful restraints" but must also seek to undo the effects of the illegal acts and ensure that they do not reoccur.[21]

Most of the RPFJ is oriented towards prohibiting a narrow set of future illegal conduct by Microsoft. For example, the RPFJ contains provisions which would prohibit Microsoft from:

* retaliating against distributors of or developers for Non-Microsoft Operating Systems and Non-Microsoft Middleware (Sections III.A and III.F);
* entering into certain restrictive agreements relating to the distribution of or development for Non-Microsoft Operating Systems and Non-Microsoft Middleware (Sections III.C, III.F.2, III.G); or
* preventing end-users and OEMs from enabling non-Microsoft Middleware Products over Microsoft Middleware Products (Section III.H). Although such provisions are certainly appropriate in light of Microsoft's past conduct, they merely enjoin Microsoft from continuing to break the law in the future, and do nothing to repair the damage to competition caused by Microsoft's past acts.

4. The RPFJ assumes that Microsoft's Windows distributors will promote competitive middleware products

Sun questions whether the Department's reliance upon Microsoft's primary distributors, PC manufacturers, to re-start competition in the PC operating system market is fundamentally misplaced. In its Competitive Impact Statement, the Department contends that the RPFJ will "restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings."[22] The Department's assumption seems to be that by giving PC manufacturers greater contractual freedom to distribute non-Microsoft Middleware Products, a rich market of competing middleware products will arise that could eventually give rise to alternative computing platforms capable of undermining Microsoft's application barrier to entry.

The RPFJ, however, does nothing to ensure that such alternative platforms are actually distributed to consumers. If PC manufacturers choose not to distribute such software, consumers will never have the choice that they had, prior to Microsoft's illegal acts, when alternative platforms like the Navigator browser or the Java platform were ubiquitously distributed. The key question then is whether PC manufacturers will aggressively distribute non-Microsoft platforms. Unfortunately, the Department's Competitive Impact Statement offers no explanation or empirical evidence to support this critical assumption.

Given the limited nature of the relief proposed in the RPFJ, Sun is not as sanguine as the Department about such prospects.

First, despite the retaliation restrictions contained in the RPFJ, because Microsoft's market power is left largely untouched and PC manufacturers remain dependent solely on Microsoft for a critical component for their products, it is very likely that, in practice, many PC manufacturers will remain reluctant to risk incurring Microsoft's wrath by supporting competing platforms. Microsoft simply retains too many formal and informal tactics to reward its "friends," and punish its "enemies." One need only look at PC manufacturers" treatment of Microsoft's Internet Explorer for guidance on how the terms of the RPFJ are likely to be applied in practice. In July 2001, Microsoft announced that PC manufacturers, for the first time, would be free to remove access to Internet Explorer. Since that time, not one PC manufacturer has removed the Internet Explorer icon from retail PCs.

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[18] Findings of Fact, 84 F. Supp. 2d at §§ 39–40.

[19] Microsoft III, 253 F.3d at 55–56.

[20] Schine, 334 U.S. at 128.

[21] See United States v. Paramount Pictures, 334 U.S. 131,171 (1948).

[22] CIS at 3.

Second, under the terms of the RPFJ, competing middleware vendors are at such a competitive disadvantage to Microsoft that it will remain extremely difficult to secure distribution of these competing products through PC manufacturers. Under the RPFJ, Microsoft's ability to bundle middleware products into its Windows operating system would remain essentially unfettered. PC manufacturers would have the legal right to remove or disable certain Microsoft middleware products, but what commercial incentive will the PC manufacturers have to remove or disable the Microsoft products if they have already paid for such products in order to license the Windows operating system? Moreover, while Microsoft retains the ability to bundle its middleware product (e.g., a browser, media player, etc.) into every copy of Windows (absent an affirmative act by a PC manufacturer to exclude such product), a competitor would have to individually approach scores, if not hundreds, of different PC manufacturers around the world and negotiate a separate agreement with each to achieve a comparable degree of distribution. In addition, because the marginal cost to the PC manufacturer for the bundled Microsoft middleware product is effectively zero, PC manufacturers may be reluctant to pay non-Microsoft middleware vendors a sufficient price to recoup the costs such middleware vendors would incur to make and sell competing products.

Finally, since the vast majority of PC manufacturers are in the business of selling Windows PCs, some manufacturers might believe it is against their own commercial interests to support alternative middleware platforms. For example, if a middleware platform (e.g., the Java platform) truly lowers barriers to entry and allows consumers to run applications on any operating system (e.g., Apple Mac operating system, etc.) that supports that middleware platform, consumers eventually might chose to purchase their computers from vendors other than Windows PC vendors. Thus, the RPFJ fails to account for the fact that many PC manufacturers may derive substantial benefit from maintaining the applications barrier to entry protecting Microsoft's Windows monopoly. B. The RPFJ does not remedy the continuing competitive harm to web browsers

Prior to Microsoft's illegal campaign, Netscape's Navigator browser was the market leading web browser by a wide margin.[23] Today, Microsoft's Internet Explorer browser dominates the market, accounting for over 87% of all users. [24]To achieve this dramatic turn of events, the District Court found, and the Court of Appeals affirmed, that Microsoft engaged in a series of unlawful, anticompetitive acts:

* Exclusionary contracts with OEMs,[25] IAPs,[26] and ISVs;[27]
* Commingling of software code to make it technologically difficult to remove, Internet Explorer from Windows;[28]
* Anticompetitive deals with Apple Computer.[29]

Not only did Microsoft effectively destroy Navigator as a viable alternative platform, by seizing control over the web browser, Microsoft greatly expanded its market power. By dominating web browsers and effectively excluding all competitors, Microsoft secured the power to set and control the protocols and interfaces used for connecting with and communicating over the Internet.

Imagine, for example, that a single company monopolized the manufacture and supply of telephones, such that it supplied 95% of the world's telephones. If that company were permitted to change the dial tone on its phones, or the keypad, in ways that permitted only phones made by it to call and interact with its installed base of telephones, the telephones made and sold by its competitors would have very little or no value, since they could no longer interoperate effectively with 95% of all telephones. And if that company also altered the telephones it made so that they worked best—or indeed only—with the telephone switches and answering machines that the monopoly telephone company also made, then that company would quickly obtain a monopoly over the telephone switch and answering machine markets as well.

Microsoft's control over the browser and PC operating system provides Microsoft with just such unbridled power to dictate unilaterally the interfaces and protocols by which other devices and applications can interoperate with Microsoft's products and services over the Internet. The role played by the browser in communicating with devices, applications, and web services over the Internet is directly analogous to the role played by the consumer telephone in the telephone network.

As a result of Microsoft's illegal acts, Microsoft can now exclude competing products and services from being able to communicate over the Internet with Microsoft's browser, or Microsoft can mandate interfaces and protocols which favor its products over competitors'' products. Thus, by virtue of its anticompetitive conduct, Microsoft has secured the power to potentially appropriate a public asset of immeasurable value—the Internet—through use of proprietary interfaces and protocols.

Control of the browser also was essential to protecting Microsoft's PC operating system monopoly. By controlling this "killer application," Microsoft can determine which competing operating systems, if any, will be able to run Internet Explorer. Without first-rate browser support capable of communicating with the content available across the Internet, competing PC operating systems simply will not be able to attract consumers away from Microsoft's monopoly operating system.

Finally, control of the browser was important in order for Microsoft to be able to control a key distribution channel for middleware that potentially threatened Microsoft's monopoly. Browsers have been a vital distribution channel for a variety of middleware products, including the Java platform, media players, instant messaging products, etc. If Microsoft did not control this distribution channel, competitors could have continued to use competing browsers as a vehicle for distributing non-Microsoft middleware.

Consequently, the continuing competitive harm flowing from Microsoft's unlawful conduct is substantial. The RPFJ, however, does nothing directly to address it. Instead, it leaves Microsoft to enjoy the spoils of its illegal conduct. At best, the RPFJ attempts to make it easier for PC manufacturers to now distribute competing browsers. But given the dominant position that Internet Explorer has now achieved, who will develop and market a competing browser? Because Microsoft bundles Internet Explorer with its monopoly operating system, a competitor would have to compete against a product with a marginal cost to PC manufacturers and consumers of essentially zero, since Microsoft can recoup its costs from its monopoly products. Even if the competing browser were technically superior, Microsoft can regularly introduce new interfaces and protocols to interfere with the competing browser's ability to compete, forcing the competitor to chase each new proprietary standard Microsoft announces.

Unless Microsoft is first stripped of the fruits of its illegal conduct, real competition in the browser market is unlikely to occur. Absent such remedial relief, it is akin to holding a 100-yard dash in which Microsoft has an 87-yard lead after jumping the gun and intentionally tripping all of its competitors. Consumers are directly harmed as a result. Instead of a marketplace offering many different browser choices, consumers are increasingly faced with only one choice -Microsoft's browser. C. The RPFJ does not remedy the substantial harm to competition caused by Microsoft's illegal acts against the Java platform

The District Court found, and the Court of Appeals affirmed, that Microsoft engaged in numerous anticompetitive acts directed against the Java platform:

* Exclusionary ISV deals;[30]
* Anticompetitive threats to Intel to stop Java platform development;[31]
* Deceiving developers into using Microsoft's incompatible implementation of the Java platform;[32] [33] [34]
* Blocking distribution of Netscape Navigator—a prime distribution channel for the Java platform to PCs?

Prior to Microsoft's anticompetitive acts, Sun had secured two major distribution channels for delivering the Java platform to PCs—Netscape's Navigator browser and Microsoft's Internet Explorer browser and

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[23] See Findings of Fact, 84 F. Supp. 2d at § 360.

[24] 2/21/01 StatMarket Report Regarding Global Browser Usage Share.

[25] See Microsoft III, 253 F.3d at 64.

[26] See id. at 71.

[27] See id. at 72.

[30] See id. at 76.

[31] See id. at 78.

[32] See id. at 77.

[33] See Findings of Fact, 84 F. Supp. 2d at § 397 (explaining how Microsoft used some of its "surplus monopoly power" to suppress distribution of Netscape Navigator and inflict further competitive damage on the distribution of the Java platform).

[34] See United States v. Microsoft Corp., 980 F. Supp. 537, 539 (D.DC 1997).

Windows operating system. By its illegal acts, Microsoft effectively blocked the distribution of compatible, upgraded versions of the Java platform through both channels, and substantially slowed the development of desktop applications written to the Java platform.

First, by blocking distribution of Netscape Navigator and dramatically reducing its market share, Microsoft effectively closed this alternative channel for distributing compatible versions of the Java platform to PCs. Second, by developing and distributing its own incompatible version of the Java platform which was tied to Windows, Microsoft fragmented the Java platform in order to re-create its applications barrier to entry, ensuring that PC consumers only had Microsoft's version of the Java platform. By refusing to distribute compatible upgrades of the Java platform, Microsoft effectively froze desktop development for the Java platform by continuing to distribute an "old" version of the technology, which did not have the richer set of functionality available in later versions. Finally, by means of exclusionary deals, threats, and incompatible developer tools, Microsoft attempted to either deceive or coerce developers away from developing compatible applications written to the Java platform that could run on operating systems other than Windows.

Since the trial, Microsoft has continued to attack the Java platform to the detriment of consumers. In its most recent version of Windows, Windows XP, Microsoft no longer included even the old version of the Java platform which it previously had been shipping as part of Windows in accordance with the terms of a settlement agreement with Sun. As a result, millions of consumers purchasing Windows XP will no longer be able to access web pages that contain applications written to the Java platform unless they engage in a time-consuming download of the entire Java platform.

In addition, Microsoft recently unveiled its own competing middleware runtime—the .NET Framework—as part of its .NET initiative. During the time that Microsoft effectively halted the development and distribution of the Java platform for the PC for several years, it simultaneously was busy developing its own middleware runtime that copied the design and architecture of the Java platform with one glaring difference—the .NET Framework runs only on Windows. Thus, not only did Microsoft's illegal conduct allow it to blunt the competitive threat which the Java platform posed to Microsoft's Windows monopoly, it also allowed Microsoft the time to try and catch up with many of the compelling features that, at the time, only the Java platform offered.

The RPFJ, however, does not seek to remedy the continuing competitive harm caused by Microsoft's actions. For example, the RPFJ does nothing to attempt to put the marketplace in the position it would have been "but for" Microsoft's conduct—ubiquitous distribution of an upgraded, compatible Java platform on top of every Windows operating system as an available, alternative platform for software applications. Nor does it account for the time-to-market advantage that the Java platform lost as a result of Microsoft's conduct, particularly now that Microsoft will attempt to compete against the Java platform with its .NET Framework.

Instead of attempting to undo this damage to competition, the RPFJ would allow Microsoft to bundle its competing .NET Framework with Windows, while forcing Sun and its licensees to try and re-create the distribution channels that Microsoft unlawfully destroyed.

Absent real remedial relief, Microsoft will continue to reap the benefits of its unlawful conduct, and consumers will have no meaningful alternative computing platform available on PCs that is not controlled by Microsoft. IV. Critical Terms In The RPFJ Are Undefined or Ambiguous A. Significant ambiguities in the RPFJ must be cured to avoid further litigation

The dispute between Microsoft and the Department regarding the prior consent decree demonstrates the need to carefully define technical terms to avoid future litigation and ensure the parties agree with respect to Microsoft's obligations. As the Department is well aware, the 1995 consent decree with Microsoft prevented Microsoft from requiring PC manufacturers to license other products as a condition of licensing the Windows operating system? However, the consent decree specified that this obligation did not "prohibit Microsoft from developing integrated products," though the term "integrated products" was left undefined?

In 1997, the Department asked the District Court to find Microsoft in contempt for requiring PC manufacturers who licensed the Windows operating system to also license Internet Explorer. Although the District Court found that the Department's proposed definition was probably correct, the court declined to find Microsoft in contempt because Microsoft offered a "plausible interpretation," and any ambiguities had to be resolved in Microsoft's favor?

Given that any ambiguities are likely to be resolved in Microsoft's favor in any future enforcement proceeding, Sun believes it is essential that any and all material ambiguities be clarified prior to the entry of the RPFJ.

Although the Department offers its own interpretation of some of the RPFJ's ambiguous terms in the Competitive Impact Statement, Microsoft has repeatedly refused to reveal whether it disagrees with those interpretations. For example, following recent testimony by Microsoft's counsel, Charles Rule, before the Senate Judiciary Committee, members of the Committee posed a series of questions to Mr. Rule regarding whether Microsoft agreed with the Department's interpretation of the RPFJ as set forth in the Competitive Impact Statement. Mr. Rule's responses were telling. When asked a series of questions directed to whether "Microsoft disagree[d] with anything stated in the Department's Competitive Impact Statement concerning the meaning and scope of the proposed Final Judgment," Mr. Rule refused to answer the questions directly, instead repeatedly referring to the same "non-answer":

Microsoft did not participate in the preparation of the Competitive Impact Statement. The language of the Revised Proposed Final Judgment was carefully negotiated and means what it says. The Department's Competitive Impact Statement has the same legal force and effect in this case as in any other. Beyond that I cannot go in light of the facts that the Tunney Act proceeding is currently under way before Judge Kollar-Kotelly and that the non-settling states are attempting to raise various issues concerning the Competitive Impact Statement as part of the ongoing "remedies" litigation also before Judge Kollar-Kotelly. Once that litigation is completed, I may be in a better position to discuss these issues with the Committee.

Microsoft's clear strategy is to refuse to reveal anything about its interpretations of the RPFJ prior to the Court's entry of the judgment, lest it become clear to both the Department and the public that Microsoft's understanding of its potential obligations under the RPFJ is substantially different from the Department's. Then, when disputes with the Department about the scope of its obligations arise, as they inevitably will, Microsoft will be free to argue that the RPFJ is ambiguous, and therefore must be construed, as a matter of law, in Microsoft's favor?

While it certainly is in Microsoft's interest to pursue such a strategy, the Department should not risk being complicit in a scheme that would effectively mislead the Court and the public about the true nature and impact of the RPFJ. The Department should insist that Microsoft identify any and all disagreements that it has with the interpretations offered by the Department in the Competitive Impact Statement prior to entry of the RPFJ. Absent such an inquiry and a record of Microsoft's position, the District Court, Sun, and the public at large have no assurances that the terms of the RPFJ will actually be construed in the manner proposed by the Department in its Competitive Impact Statement. B. "Interoperate" and "interoperating" must be defined

The key disclosure provisions contained in the RPFJ rely on the terms "interoperate" and "interoperating" to define the scope of Microsoft's obligations, but these critical terms are not expressly defined.

Section III.D of the RPFJ would require Microsoft to disclose "for the sole purpose of interoperating with a Windows Operating System Product... the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product." (emphasis added).

Section III.E would require Microsoft to: make available for use by third parties, for the sole purpose of interoperating with a Windows Operating System Product, on reasonable and non-discriminatory terms .... any Communication Protocol that is... (i) implemented in a Windows Operating System Product installed on a client computer, and (ii) used to interoperate natively (i.e., without the addition of software code to the client operating system product) with a Microsoft server operating system product. (emphasis added).[35] [36] [37] [38] [39]

Depending on the definition of these terms, the scope of Microsoft's obligations under these provisions could vary dramatically. Therefore, in order to avoid a reprise of the litigation surrounding the 1995 consent decree with Microsoft, the Department should clarify the meaning of these terms in the text of the RPFJ, particularly since any ambiguity is likely to be construed in Microsoft's favor in any enforcement action brought by the Department.

An explicit definition of these terms is essential because Sun believes the Department and Microsoft likely attach very different meaning to these terms.

For example, in the Competitive Impact Statement, the Department offers a number of broad characterizations regarding the scope of these interoperability disclosures:

- "[I]f a Windows Operating System Product is using all the Communications Protocols that it contains to communicate with two servers, one of which is a Microsoft server and one of which is a competing server that has licensed and fully implemented all the Communications Protocols, the Windows Operating System Product should behave identically in its interaction with both the Microsoft and non-Microsoft servers."[40]
- "Section III.E. will permit seamless interoperability between Windows Operating System Products and non-Microsoft servers on a network. For example, the provision requires the licensing of all Communications Protocols necessary for non-Microsoft servers to interoperate with the Windows Operating System Products" implementation of the Kerberos security standard in the same manner as do Microsoft servers, including the exchange of Privilege Access Certificates. Microsoft must license for use by non-Microsoft server operating system products the Communications Protocols that Windows Operating System Products use to enable network services through mechanisms such as Windows server message block protocol/ common Internet file system protocol communications, as well as Microsoft remote procedure calls between the client and server operating systems."[41]
- "Section III.D of the proposed Final Judgment requires Microsoft to disclose to ISVs, IHVs, IAPs, ICPs and OEMs all of the interfaces and related technical information that Microsoft Middleware uses to interoperate with any Windows Operating System Product .... Microsoft will not be able to hamper the development or operation of potentially threatening software by withholding interface information or permitting its own products to use hidden or undisclosed interfaces."[42]

In light of these comments, the Department appears to be interpreting "interoperate" to mean the ability of two different products to access, utilize, and support the full features and functionality of one another. Under the Department's interpretation, the disclosures would be of sufficient detail to allow a non-Microsoft server operating system to implement the Microsoft Communication Protocols in a manner such that the non-Microsoft server operating system could be substituted for a Microsoft server operating system without any disruption, degradation, or impairment of all the features, functionality, and services of any Microsoft PC operating system connected to such non-Microsoft server operating system.

By contrast, in proceedings before the European Commission, Microsoft has asserted a much narrower interpretation of "interoperate" than the Department's interpretation. In that forum, Microsoft has maintained it already discloses all information necessary to achieve interoperability between Microsoft's PC operating system and non-Microsoft server operating systems. Since Microsoft contends that they already disclose all of the information necessary to satisfy this narrow definition of "interoperate," if this definition were to prevail, Microsoft will disclose nothing new. Its conduct will remain unchanged.

Under Microsoft's narrow definition, interoperability is a one-way street that is satisfied if all of the functionality of a non-Microsoft server operating system can be accessed from a Windows PC operating system. In contrast to the Department's position, Microsoft has repeatedly taken the position that interoperability does not require a disclosure sufficient to allow a Windows PC operating system to behave identically when connected to both Microsoft and non-Microsoft server operating systems. Moreover, Microsoft has previously claimed that "interoperability" relates only to those protocols and interfaces which Microsoft has chosen to document and make available to third parties, and should not include protocols and interfaces that Microsoft reserves for itself to use to connect its PC and server operating system products. Absent an explicit definition of this critical term in the RPFJ, Sun believes the disclosure provisions of the RPFJ are doomed to fail. To avoid future disputes over the meaning of this term and to ensure that the public actually receives a remedy that is consistent with the Department's representations in the Competitive Impact Statement, Sun proposes that the RPFJ should be amended to include the following definition:

"Interoperate" or "Interoperating" means the ability of two different products to access, utilize and/or support the full features and functionality of one another in all of the ways they are intended to function. For example, a non- Microsoft operating system installed on a server computer "Interoperates" with a Windows Operating System Product installed on a Personal Computer if such non-Microsoft server operating system can (a) be substituted for a Microsoft operating system running on a server computer connected to a Personal Computer running a Windows Operating System Product, and (b) provide the user of the non-Microsoft server operating system the ability to access, utilize and/or support the full services, features and functionality of the Windows Operating System Product that are accessed, utilized and/or supported by such Microsoft server operating system without any disruption, degradation or impairment in such services, features and functions. C. The scope of Microsoft's "Communication Protocols" disclosure should be clarified and exemplified

As a vendor of server operating systems that must connect and communicate with Microsoft's monopoly PC operating system, the disclosure and licensing provisions in Section III.E relating to Microsoft's Communications Protocols are especially important to Sun's business. Although the term Communications Protocols is expressly defined, the RPFJ lacks any explicit examples regarding which Microsoft technologies would currently be required to be disclosed or what the extent of such disclosure would be in practice. While the terms of the RPFJ must be written to anticipate Microsoft's future conduct, there is no excuse for misunderstandings regarding Microsoft's obligations with respect to known, existing interoperability barriers. Because the technical terms surrounding this provision are potentially subject to varying interpretations, the RPFJ would be substantially improved if it gave better guidance on how these provisions would actually be applied in practice.

For example, in its Competitive Impact Statement, the Department identifies some of the specific protocols it believes Microsoft will be required to disclose under Section III.E to the extent such protocols are implemented in Microsoft's PC operating system products, including: protocols relating to Microsoft's Internet Information Services ("IIS") web server and Active Directory, Microsoft's implementation of the Kerberos security standard (including the exchange of Privilege Access Certificates), the Windows server message block protocol, the Windows common Internet file system protocol, Microsoft remote procedure calls between the client and server operating systems, and protocols that permit a runtime environment (e.g., the Common Language Runtime) to receive and execute code from a server.[43]

Microsoft, however, has refused to say whether it agrees with the Department's interpretation. To avoid future disputes and ensure that the parties agree on the kinds of protocols that will fall within the scope of the term "Communications Protocols," the RPFJ should be amended to identify particular examples of protocols that Microsoft would be required to disclose. Furthermore, in advance of entry of the RPFJ, Microsoft should be required to fully detail what it will disclose with regard to existing Communications Protocols that pose a barrier to interoperability. At a minimum, the Department should require Microsoft to identify any disagreements Microsoft has with the Department's interpretation of this provision prior to entry of the RPFJ. Unless the Department and Microsoft go through the exercise of attempting to apply this provision in practice, the public cannot be assured that there truly has been a "meeting of the minds" regarding the scope and meaning of this important provision.

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[35] Id. at 539–40 (emphasis added).

[36] Id. at 541–42.

[37] Responses of Charles F. Rule to Judiciary Committee Questions at 13.

[38] See Microsoft, 980 F. Supp. at 541 ("The Court must resolve any ambiguities in the terms of the Final Judgment in favor of Microsoft, the party charged with contempt."); see also Cause v. Nuclear Regulatory Comm'n, 674 F.2d 921,927–28 (DC Cir. 1982).

[39] See also Section III.H (providing that a Windows Operating System Product may invoke a Microsoft Middleware Product in any instance in which "that Microsoft Middleware Product would be invoked solely for use in interoperating with a server maintained by Microsoft (outside the context of general Web browsing)").

[40] CIS at 38.

[41] CIS at 38–39.

[42] CIS at 33.

[43] CIS at 37–39.

Not only should the Department clarify the RPFJ with examples of particular protocols that Microsoft currently would be required to disclose, the Department also should clarify the kinds of information Microsoft will be required to disclose regarding its Communications Protocols. Although the term Communications Protocols appears to be defined broadly in Section VI.B of the RPFJ, in practice, the actual application of these provisions is likely to give rise to many potential questions and disputes. For example,

* Is everything that is shipped with Microsoft Windows server operating system products (e.g., Windows 2000 Server, Windows 2000 Advanced Server, etc.), including Microsoft's Active Directory or IIS, part of the "server operating system," and therefore potentially the subject of disclosure to the extent it comprises a "Communications Protocol"?

* Are Active Directory, Kerberos security protocol, COM+, Dfs, DLT, CIFS extensions, RPC, the Win 32 APIs, or Passport examples of "Communications Protocols" that must be disclosed and licensed pursuant to Section III.E of the RPFJ?

* Where Microsoft has extended an industry standard like Kerberos, will Microsoft be required to disclose both the standard portion of its implementation and its proprietary extensions?

* Will Microsoft be required to disclose the details regarding its proprietary implementation of the Kerberos security protocol in Windows 2000 and Windows XP Professional, including the information necessary for a non-Microsoft server to be able to generate, exchange, and process the authentication and authorization data in Privilege Access Certificates?

* What does "make available for use by third parties" mean in practice in the context of Section III.E? Will Microsoft be required to just disclose fields, formats, etc., or will it be required to disclose sufficient information to allow a competitor to create its own implementation of the Communications Protocol that will allow a competitor's server operating system to seamlessly interoperate with the Windows PC operating system in the same manner as a Microsoft server operating system?

Unless such questions are resolved and clarified in advance of entry of the RPFJ, the disclosure and licensing obligations of Section III.E will not provide any meaningful relief. D. The scope of the "carve-out" provisions of Section III.J should be clarified Particularly troubling to Sun is the possibility that the "carve-out" provisions of Section III.J might be broadly construed by Microsoft to exclude many of the kinds of disclosures that would otherwise fall within the scope of Sections III.D and III.E. Section III. J. 1 provides that no provision of the Final Judgment shall: [r]equire Microsoft to document, disclose or license to third parties: (a) portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of which would compromise the security of a particular installation or group of installations of anti-piracy, anti-virus, software licensing, digital fights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria .... (emphasis added).

In the Competitive Impact Statement, the Department characterizes this exception as a "narrow one, limited to specific end-user implementations of security items such as actual keys, authorization tokens or enforcement criteria, the disclosure of which would compromise the security of "a particular installation or group of installations" of the listed security features."[44] But nowhere in the RPFJ is the term "compromise the security of a particular installation or group of installations" defined. What will this provision mean in practice? With respect to known interoperability problems relating to Active Directory, Microsoft's Kerberos security model, Windows Media Player, or the Passport authentication/authorization service, what portions of those protocols and interfaces can Microsoft refuse to disclose pursuant to this provision? If Microsoft refuses to disclose such information, will competitors be able to fully interoperate with all of the features and functionality of the Windows operating system, or will the value of the disclosure provisions be effectively eviscerated? What steps has the Department taken to ensure that, in practice, this exception will not swallow the intended effect of the disclosure provisions?

Again, unless such questions are clarified in advance of entry of the RPFJ, Microsoft is likely to use this purportedly narrow exception to eviscerate its disclosure and licensing obligations under the RPFJ. E. The definition of "Microsoft Middleware Product" should be amended

The definition of "Microsoft Middleware Product"[45] in the RPFJ is fundamentally flawed because it grants Microsoft discretion to limit its obligations merely based on the way it chooses to trademark its products. For middleware functionality that is distributed after entry of the Final Judgment, except for a small, specified class of middleware applications (e.g., Internet browsers, email client software, etc.), Microsoft's obligations under the RPFJ are not triggered unless it chooses to distribute the middleware product under a trademark other than "Microsoft??" or Functionality that Microsoft describes or markets as being part of a Microsoft Middleware Product (such as a service pack, upgrade, or bug fix for Internet Explorer), or that is a version of a Microsoft Middleware Product (such as Internet Explorer 5.5), shall be considered to be part of that Microsoft Middleware Product.

"Windows??."[46]In other words, after entry of the RPFJ, if Microsoft bundles its new middleware runtime alternative to the Java platform, the .NET Framework (also known as the Common Language Runtime) with Windows, it only would have to make disclosures about the APIs used by the .NET Framework or allow OEMs and consumers to remove access to it, if it chose to distribute the .NET Framework under the trademarked name ".NET Framework." If it simply distributed the product under the name "Microsoft* .NET Framework," its activities would appear to be unconstrained by the RPFJ. To allow Microsoft to evade its obligations under the RPFJ based on arbitrary trademarking practices is absurd.

To avoid this result, the definition of "Microsoft Middleware Product" should be amended as follows: the "Trademarked" requirement of Section VI.K.2.b.iii should be stricken; the terms ".NET Framework" and "Common Language Runtime" should be added to Section VI.K.1; and the term "middleware runtime environment" should be added to Section VI.K.2.a.

V. Section III.I's Licensing Provisions Allow Microsoft to Profit from Its Unlawful Acts

A. Microsoft should not be allowed to demand royalties as a condition for making interoperability disclosures

The licensing provisions of the RPFJ are fundamentally flawed because they would require the public to pay royalties to Microsoft in order to interoperate with Microsoft's illegally maintained monopoly products. If Microsoft had not engaged in its pattern of illegal conduct, its monopoly would have begun to dissipate, and it would have been unable to collect this "interoperability" tax. As the Department itself previously recognized, "[i]f Microsoft were in a competitive market, it would disclose its confidential interface information to other server software developers so that their complementary software would work optimally with, and thereby enhance the value of, Microsoft's PC operating systems."[47]It is only because Microsoft has illegally maintained its PC operating system monopoly and wishes to expand its monopoly to server operating systems that Microsoft has an incentive to withhold information from competitors regarding complementary software. Thus, the RPFJ, in effect, authorizes Microsoft to collect a portion of its monopoly rents through this licensing regime.

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[44] CIS at 39.

[45] The RPFJ defines "Microsoft Middleware Product" as follows: 1. the functionality provided by Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express and their successors in a Windows Operating System Product, and 2. for any functionality that is first licensed, distributed or sold by Microsoft after the entry of this Final Judgment and that is part of any Windows Operating System Product a. Internet browsers, email client software, networked audio/video client software, instant messaging software or b. functionality provided by Microsoft software that—i is, or in the year preceding the commercial release of any new Windows Operating System Product was, distributed separately by Microsoft (or by an entity acquired by Microsoft) from a Windows Operating System Product; ii. is similar to the functionality provided by a Non-Microsoft Middleware Product; and iii. is Trademarked.

[46] See RPFJ, Sections VI.K and VI.T.

[47] 4/28/00 Plaintiffs'' Memo. in Support of Proposed Final Judgment at 28.

Furthermore, not only is Microsoft authorized to collect royalties for the "privilege" of interoperating with its illegal monopoly, the RPFJ places no limits on how high a royalty Microsoft can demand, other than the royalty must be reasonable. However, since competitors" products must be able to interoperate with Microsoft's monopoly PC operating systems, they may be constrained to essentially pay whatever Microsoft demands.

To ensure Microsoft does not continue to enjoy the fruits of its illegal conduct, Section III.I of the RPFJ should be amended to require Microsoft to grant any licenses required under the RPFJ on a royalty-free basis.

B. Microsoft has too much discretion over licensing terms under the RPFJ

Although Section III.I of the RPFJ places some limitations on the terms under which Microsoft must license its technology to facilitate the disclosure obligations of the RPFJ, Microsoft retains broad discretion, which it is likely to exploit.

For example, Section III.I. 1 requires that all license terms be "reasonable."

A reasonableness standard, however, provides little practical guidance, and is a particularly poor choice in the case of a monopolist like Microsoft who has repeatedly broken the law to secure commercial advantages over its competitors. Similarly, the fact that licenses must be "non- discriminatory" could actually be exploited by Microsoft to ensure that its strongest competitors are denied access to Microsoft's disclosures. For instance, a small start-up company with no revenues and no existing intellectual property rights might be willing to agree to terms that would be commercially unacceptable to significant Microsoft competitors like Sun, IBM, or Novell.

The terms of the RPFJ also allow Microsoft the ability to substantially delay making any interoperability disclosures. Under Section III.E, Microsoft does not even need to make its Communications Protocols available until nine months after submission of the RPFJ. But since Microsoft can insist that third parties enter into a license agreement before they receive any disclosures, Microsoft can continue to delay making disclosures to key competitors by dragging out negotiations and insisting on commercially unacceptable terms.

Does the Department intend to review ongoing negotiations to ensure Microsoft is taking reasonable positions in the negotiations? How will the Department ensure that Microsoft does not exploit the negotiating process to facilitate delay and disadvantage key competitors? Will Microsoft's competitors be forced to sign license agreements before they know the scope of information that Microsoft will or will not disclose? Does the Department expect that the proposed Technical Committee will be involved in resolving such disputes? If so, will Technical Committee members have the requisite licensing and legal experience to assess whether Microsoft is insisting upon commercially unreasonable terms?

To ensure Microsoft cannot circumvent the intent of the RPFJ, Sun proposes that the RPFJ be amended to include a publicly available template identifying the terms under which Microsoft will license its technology pursuant to the RPFJ. In principle, this approach is analogous to Section III.B which requires Microsoft to have uniform license agreements with OEMs in accordance with published, uniform royalty rates. Requiring Microsoft to identify this license template in advance would serve two important objectives. First, it would help limit Microsoft's ability to evade the intent of the RPFJ through negotiation tactics. Second, it would allow the public to understand the true costs and conditions of licensing under the RPFJ in advance of entry of the RPFJ. Unless the material licensing terms are specified in advance, neither the Department nor the public can accurately assess the actual commercial significance of the proposed disclosure obligations.

C. Microsoft should not be allowed to force third parties to forfeit their intellectual property claims against Microsoft

Section 111.1.5 provides that third parties "may be required to grant to Microsoft on reasonable and nondiscriminatory terms a license to any intellectual property rights it may have relating to the exercise of their options or alternatives provided by this Final Judgment." In other words, Microsoft would be free to infringe a third party's patents or copyrights, or steal its trade secrets, and then by virtue of its monopoly position, force such third party to grant Microsoft a license to do so as the price that third party must pay in order to interoperate with Microsoft's monopoly product. If Microsoft wished to obtain rights to practice or use a competitor's intellectual property, it could do so simply by incorporating that technology into Windows, then insisting on both a royalty and a grant-back license as the consideration that competitor must provide in order to enable its products to interoperate with Microsoft's monopolized PCs.

Indeed, Microsoft's competitors would have to license Microsoft the right to whatever intellectual property Microsoft may have incorporated into Windows even before they know what intellectual property Microsoft has stolen or infringed. No other company has such power, let alone governmental blessing and endorsement, to extort such concessions.

Sun therefore proposes that the RPFJ be amended to strike Section 111.I.5 in its entirety.

VI. Conclusion

The RPFJ fails to remedy the continuing competitive harm resulting from Microsoft's actions, and instead improperly accedes to Microsoft's illegally maintained and expanded monopoly power. The Department should withdraw its support for the RPFJ, and instead pursue remedies that will restore competition to the PC operating system market, prevent Microsoft from expanding its monopoly in that market into adjacent and downstream markets, and redress the harm to competition caused by Microsoft's illegal acts. At a minimum, the Department should seek to remedy directly the specific harm to competition caused by Microsoft's illegal acts against the Navigator browser and the Java platform, which formed the very heart of the Department's case against Microsoft.

Because critical terms in the RPFJ are undefined or ambiguous, the Department also should assure the public that Microsoft is bound by the interpretation of the RPFJ set forth in the Department's Competitive Impact Statement.

Finally, the Department should delay seeking entry of the RPFJ until the completion of trial on the remedies sought by the Department's co-plaintiffs, the Litigating States. Sun believes that the evidentiary record from that trial is likely to demonstrate the substantial flaws and inadequacies of the RPFJ and cause the Department to seriously re-consider whether its support for the RPFJ is in the public interest.

TABLE OF CONTENTS

Page No.
I. Introduction 1
  A Competition in the market for PC operating systems must be restored 2
  B. Microsoft's unlawful power to exclude competition in adjacent and downstream markets must be stopped and eventually dissipated 4
  C. The RPFJ fails to remedy the monopoly illegally maintained by Microsoft 5
  D. The loopholes in the RPFJ must be eliminated and its important ambiguities clarified 7
II. Sun Microsystems" Interest Regarding the Terms of the RPFJ 8
III. The RPFJ Fails To Remedy the Continuing Harm to Competition Caused By Microsoft's Illegal Acts 9
  A. The RPFJ fails to dissipate Microsoft's monopoly power in the market for PC operating systems 9
    1. The Department previously acknowledged that an effective remedy had to eliminate the applications barrier protecting Microsoft's monopoly 10

TABLE OF CONTENTS—Continued

	Page No.
2. The RPFJ fails to address the effects of Microsoft's distribution power	13
3. The RPFJ does little more than attempt to enjoin Microsoft from continuing to engage in the conduct already found to be unlawful	15
4. The RPFJ assumes that Microsoft's Windows distributors will promote competitive middleware products	16
B. The RPFJ does not remedy the continuing competitive harm to web browsers	19
C. The RPFJ does not remedy the substantial harm to competition caused by Microsoft's illegal acts against the Java platform	22
IV Critical Terms In The RPFJ Are Undefined or Ambiguous	24
A. Significant ambiguities in the RPFJ must be cured to avoid further litigation	24
B. "Interoperate" and "interoperating" must be defined	27
C. The scope of Microsoft's "Communication Protocols" disclosure should be clarified and exemplified	30
D. The scope of the "carve-out" provisions of Section III J should be clarified	32
E. The definition of "Microsoft Middleware Product" should be amended	34
V. Section III I's Licensing Provisions Allow Microsoft to Profit from Its Unlawful Acts	35
A. Microsoft should not be allowed to demand royalties as a condition for making interoperability disclosures	35
B. Microsoft has too much discretion over licensing terms under the RPFJ	36
C. Microsoft should not be allowed to force third parties to forfeit their intellectual property claims against Microsoft	38
VI. Conclusion	39

MTC-00029176

From: Eric Harden
To: Microsoft Settlement
Date: 1/28/02 9:21pm
Subject: Microsoft Settlement

Eric Harden
105 LaFavers Road
Russell Springs, KY 42642
January 28, 2002

Microsoft Settlement
U S Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry

It is high time for this trial, and the wasteful spending accompanying it, to be over Consumers will indeed see competition in the marketplace, rather than the courtroom And the investors who propel our economy can finally breathe a sigh of relief

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation

Competition means creating better goods and offering superior services to consumers With government out of the business of stifling progress and tying the hands of corporations, consumers—rather then bureaucrats and judges—will once again pick the winners and losers on Wall Street With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies

Thank you for this opportunity to share my views

Sincerely,
Eric Harden

MTC-00029177

From: Tom Burke
To: Microsoft ATR
Date: 1/28/02 9:28pm
Subject: Microsoft Settlement

I have been associated with the computer revolution since the early 1960's I have seen the growth and witnessed through my work on the Space Program the tremendous things that can be done with the computer Attached is a letter expressing my sincere thoughts that the current Microsoft Settlement is fir and should be implemented without futher delay

Please feel free to contact me if needed
Thomas A Burke
Phone: 321–259–2284
E-Mail: tburk6@cfl rr com
Melbourne, Florida 32935

28 January 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr Ashcroft:

I have been associated with the computer revolution since the early 196's I have seen the growth and witnessed through my work on the Space Program the tremendous things that can be done with the computer My graduate work dealt with many papers, which visualized the many possibilities that computers offered to civilization Re-reading these notes today I see that I did not come close to understanding what the computer revolution held for our society Thank God for visionaries associated with Microsoft who have taken conceptual ideas not dreamed of in the early days of computers and made them into today/Es standards Looking ahead for the next forty years I firmly believe that we will see that we have only begun to scratch the surface of what technology and social development driven by computers can achieve Most of the growth of this revolution has occurred during the past 10 years when Microsoft released the power of the computer and the Internet through the introduction of the Windows operating System pIt would be a crime of the greatest magnitude to stymie this innovation because competitors lack the vision to move with the concepts being developed for our future The government rather than holding back these ideas should recognize that this technology has reached this pinnacle without major government intervention Why start now?

Microsoft is a good company and I was very glad when the antitrust lawsuit filed against them was finally settled There is no need for further litigation in this issue I truly believe that the resolution is both fair and in the interest of the people of this country

The provisions of this settlement are unique to this type of lawsuit This is the first lawsuit ever that requires a company to disclose internal information about its interfacing new software with its current systems The Microsoft settlement also includes provisions that restrict Microsoft from entering into any kind of agreements that would limit competition among software companies This settlement truly addresses all the concerns of the people, and keeps competition viable within this market

But clever people like me who talk loudly in restaurants, see this as a deliberate ambiguity A plea for justice in a mechanized society.

I see no need for further litigation Vast amounts time and resources have already been spent on pursuing Microsoft and I think it's time that no more be used The resolution now on the table is a fine one I urge you to support it and let it stand as is I thank you for your time and I am sure that you will do what you feel is best for people and economy of this country

But is suspense, as Hitchcock states, in the box No, there isn't room, the ambiguity's put on weight.

Sincerely,
Thomas Burke

MTC-00029178

From: Joyce Greer
To: Microsoft Settlement
Date: 1/28/02 9:21pm
Subject: Microsoft Settlement

Joyce Greer
45 Northridge Dr.
Cody, Wy 82414
January 28, 2002

Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

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Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Joyce Greer

MTC-00029180

From: James B. Rassi
To: Microsoft Settlement
Date: 1/28/02 9:22pm
Subject: Microsoft Settlement

James B. Rassi
111 Schramm Drive
Pekin, IL 61554–2539
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
James B. Rassi

MTC-00029181

From: BALZERIII@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:29pm
Subject: Microsoft settlement

Let them off the hook. They and their stock holders have suffered enough. Let the lawyers seek new bait.

Ed Brant

MTC-00029182

From: Gil Friend
To: Microsoft ATR
Date: 1/28/02 9:27pm
Subject: Microsoft Settlement

Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse,

I am writing to comment on the proposed Microsoft/DOJ anti-trust settlement. As a business executive at a company both highly dependent on computing technology and specifically involved in software development, I've come to the conclusion that this settlement is not in the public interest, and fails to remedies the problems that provoked the action in the first place.

The settlement leaves the Microsoft monopoly intact, with numerous opportunities to the company to effectively exempt itself from crucial provisions. The recently proposed "donation" to schools is just one example of how Microsoft can turn matters to their own advantage (in this case by decimating Apple's position in the education market).

In addition, the proposed settlement fails to address the critical "applications barrier to entry" associated with the installed base of 70,000 Windows applications, enabling Microsoft to maintain an effective "lock" on the operating systems market by denying competitors with other operating systems the information needed to run these other applications on other operating systems. Any settlement must make it easier—not harder—for competitors to run the Windows applications.

Consumers, not Microsoft, should decide what products are on their computers. The settlement must eliminate Microsoft's various barriers—business and technical—to allowing combinations of non-Microsoft operating systems, applications, and software components to run properly with Microsoft products.

The remedies proposed by the Plaintiff Litigating States are in the public interest and absolutely necessary, but they are not sufficient without these remedies.

The Tunney Act provides for the Court to hold public proceedings, with citizens and consumer groups afforded an equal opportunity to participate, along with Microsoft's competitors and customers. I hope you will encourage those proceedings, and consider carefully how to proceed in this matter. Your decisions have great significance for the health of the US economy's most vital industries, by eliminating Microsoft's ability to illegal constrain markets and innovation.

Thank you for the opportunity to comment on this important matter.

Sincerely yours,
Gil Friend
President & CEO
Natural Logic, Inc.
PO Box 119
Berkeley CA 94701

MTC-00029183

From: Steve Mueller
To: Microsoft ATR
Date: 1/28/02 9:28pm
Subject: Microsoft Settlement

Hi:

I'm writing about the proposed settlement between Microsoft and the U.S. government (and some of the states). I am a professional software developer with BS and MS degrees in Computer Science from the University of Michigan, Ann Arbor. My last four jobs over six years have been writing programs for Microsoft's Windows operating system. I am not affiliated with Microsoft or any companies lobbying for responses. I hope it isn't too late to consider my comments; it is still Monday here on the West Coast.

I feel the settlement is inadequate. Microsoft's anti-competitive behavior has been proven in court and upheld on appeal. Microsoft had previously entered into a consent decree with the government in the mid-90s (I believe), and still was found to be anti-competitive. Clearly, this is a company that doesn't learn and doesn't care.

As a professional software developer, I know what an operating system is supposed to do. It is supposed to manage low-level computer resources (memory, files, peripherals, networking, etc.), and it is to provide a platform on which applications can be written. It does *not* contain applications itself, although I have no problems with the inclusion of simple applications to allow the operating system to be useful (such as Notepad, Write, Calculator and Solitaire in Windows).

Microsoft contends, for example, that the Internet Explorer Web browser is a basic part of the operating system. If it is, that is *only* because Microsoft forced it to be. There is no intrinsic reason for the browser to be included as part of the operating system. As a software developer, though, I could easily combine any two functions that are normally not related into one file and then claim that I could not remove one piece without damaging the other, and so Microsoft's protestations to that effect seem disingenuous at best.

In fact, when Windows 95 was first released, Internet Explorer was not part of the operating system, but was included in the Windows 95 Plus Pack, so at one time the separation was possible. If it is not now possible, it is only because the program was intentionally written to make it difficult to remove.

Microsoft could include the low-level functions (the API) to support Web browsing in the operating system without including the Internet Explorer browser itself as an application. Microsoft is shading the truth if they claim the API and low-level support and the browser application and user interface are one and the same.

Furthermore, not only does Microsoft have a proven monopoly in the operating system area, but they also have a de facto monopoly in office software. Note that even though office software is just as important as Web browsing, Microsoft does not include its Office suite of products in Windows 9x/ME/XP. Why not? Because Office already has a clear market lead and is extremely profitable, so there's no need to bundle it with Windows.

Internet Explorer was a distant second to Netscape at one time, so Microsoft started including it in the operating system, not even in a Plus Pack. This resulted in Netscape losing market share as Internet Explorer was a browser that was good enough for most people.

Also note that Microsoft's Office suite had an example of bundling. At one point, Microsoft PowerPoint was not the leading presentation package (Lotus and Harvard Graphics had superior solutions), so Microsoft bundled it into Office. While you can buy the Office applications separately, it is not economical to do so.

Finally, let me focus on one more anti-competitive move Microsoft— the removal of Java from Windows XP. Java had been included in previous versions of Windows, but has been removed from Windows XP. Doesn't it seem odd that Microsoft can so easily remove Java from Windows XP, but claims that Internet Explorer can't be removed?

This removal has little to do with Java not being useful—many Web sites use Java. It is more likely a combination of Microsoft trying to get back at Sun for losing when Sun sued Microsoft for incorporating non-standard Java features in Microsoft's implementation of Java (contrary to their agreement), and a way to promote using Microsoft technologies for improved browser experiences (ActiveX controls or C#, for example).

Microsoft's Passport and .NET services will rely on C# (and, in fact, I've read that Passport is now bundled in Windows XP, providing yet another source of monopolistic concerns for identity validation on the Internet).

Therefore, given that Microsoft has engaged in anti-competitive practices in the past, continued to do so after a consent decree, and (in my opinion) is still doing so, I believe that Microsoft needs to be punished severely and quickly. I suggest breaking Microsoft into two or three companies—one dealing with the Windows operating system; one dealing with applications, including Office; and possibly one dealing with Internet software and technologies, like Internet Explorer, Passport, WebTV and MSN.

If such a break up is not considered appropriate, the dissenting states'' plan sounds like a reasonable second alternative, although I would add the requirement that the Internet Explorer browser (the application and user interface parts, not the low-level networking and browsing APIs) be removed from all base versions of Windows (Microsoft would be free to sell a ''premium'' version that included Internet Explorer, much like they have Windows XP Home and Professional editions).

Thank you for taking the time to read these comments,

Steve Mueller

Monday, 1/28/2002, 6:09 PM PST

MTC-00029184

From: Rick Zahn
To: Microsoft ATR
Date: 1/28/02 9:28pm
Subject: Opinion

I believe the only real ''crime'' Microsoft has committed is producing a product that it is at the same time superior and cheaper than the products offered by their competitors. By punishing Microsoft, we are, in essence, sending the message that it is better to produce an inferior product and then hire a lawyer to force people to buy.

Frederick Zahn

MTC-00029185

From: Robert Wigger
To: Microsoft ATR
Date: 1/28/02 9:28pm
Subject: Microsoft Settlement

I am writing this note to ask that you would support the Microsoft Settlement.

Thank you,

Robert Wigger

MTC-00029186

From: gegco
To: Microsoft ATR
Date: 1/28/02 9:29pm
Subject: In Support of Microsoft
5217 Starwind Point
Hermitage, TN 37076
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this letter is to voice my support of the Microsoft settlement. As a concerned citizen, I watched the case against Microsoft with great interest. Three years have now passed since the inception of this case. During this time, I have been increasingly annoyed by the amount of money wasted in disputing this issue. The court mediated settlement agreement reached last November is very equitable. I would hope that the Justice Department recognizes this and enacts the settlement at the end of January. Further, I believe that the terms of the settlement will provide for great change in the tech industry. Under the stipulations of the agreement, Microsoft will disclose the protocols and interfaces of the Windows system. The result of this action will be to enable software and hardware developers to design new software that assimilates into the Windows operating system. This should increase productivity in the sector.

Finally, I would hope that the federal government decides to enact the settlement reached in November.

Thank you.

Sincerely,

Gayle E. Gotshall

Gayle Gotshall

MTC-00029187

From: Grace Fortuna
To: Microsoft Settlement
Date: 1/28/02 9:23pm
Subject: Microsoft Settlement
Grace Fortuna
20820 Persimmon Place
Estero, FL 33928
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

Grace Fortuna

MTC-00029188

From: Dave Zapple
To: Microsoft ATR
Date: 1/28/02 9:30pm
Subject: Microsoft Settlement
Date: January 28, 2002
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

To Whom it may concern,

I have worked in the information technology industry for 18+ years. Currently, I'm a senior systems analyst with Georgetown University. I disagree with the settlement that the Department of Justice has brokered with microsoft and feel that it does NOT addresscompletely/ restrict the anti competitive practices that microsoft has made extensive use in the past or today.

The fact that the settlement does not remove ANY of the monies or competitive edges that microsoft gained by using anti competitive/illegal practices should be enough to not allow this settlement to happen in its current form.

I believe in free enterprise and competition dearly, which is why I can not agree with this settlement. Where was the freedom to compete when microsoft used illegal practices to crush young company's that did in fact have innovative products? Where is/was the justice for these former companies and technologies?

There are a number of very serious issues involved with microsofts illegal practices that can not be allowed to continue if America is going to continue to be a/the technology leader in the future.

Please do allow this settlement to stand in the form it is in currently, it will prove devastating to the computing industry in this country in the future I am sure. If you would like more information from me, or if I need to be more specific please let me know and I will be more than happy to.

Sincerely,
Dave Zapple
David Zapple
214 Manassas Drive
Manassas Park, VA. 20111
zappled@georgetown.edu
H 703–369–0358
W 202–687–2958
C 703–898–1958
Dave Zapple
Senior Systems Analyst
Advanced Research Computing (ARC)
Office of Information Services
Georgetown University
PreClinical Science Bulding, LB-1
3900 Reservoir Road, NW
Washington, DC. 20007
Voice : 202–687–2958
FAX : 202–687–2585
E-Mail: zappled@georgetown.edu

MTC–00029189

From: Faye Bourret
To: Microsoft ATR
Date: 1/28/02 9:32pm
Subject: Microsoft Settlement
Tunney Act review

Please accept the following comments in your review:

As a consumer of computer products, I ask that the Court accept the settlement terms as currently presented by the Department of Justice, the states Attorneys General, and Microsoft. Microsoft has provided me, the consumer, with software products that are integrated. This is what I want as a consumer because the alternative, a number of products upon which I would need to do the integration, is not a product I want to buy.

Microsoft has led the drop in prices of consumer software products over the past 10 years. It's competitors have been compelled to follow. This leadership by Microsoft has been an advantage to the consumers. An example most recently is the action which Sun took to drop the prices of its servers to a price point that would allow it to compete with comparable Microsoft products. The consumer is and has been the winner when Microsoft has competed vigorously.

Sincerely,
Faye Bourret

MTC–00029190

From: Dan Eisenberg
To: Microsoft Settlement
Date: 1/28/02 9:28pm
Subject: Microsoft Settlement
Dan Eisenberg
1465 Morning Crescent St
Henderson, NV 89052–4040
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Dan Eisenberg MD

MTC–00029191

From: Doug Needham
To: Microsoft ATR
Date: 1/28/02 10:44pm
Subject: Microsoft Settlement

To Whom it May Concern

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. My Background is in software development. I have been a software developer since I ended my enlistment in the Marine Corps. One of the things that disturbs me about the proposed settlement is that it does very little to actually stop Microsoft from continuing to do the things that they have done. I remember a time when it was possible for a person with a good Idea and some programming ability to create something new and begin to package and sell a unique software product . It is still possible to do this so long as you pledge allegiance to Microsoft and pay them exporbitant fees as the price of entry into the professional development communtiy. The productst they make are not the best, they are the only thing out there because so many businesses refuse to build any software product on a non-Microsoft solution. Where are the compilers for Windows applications? They do not exist because software projects that attempted to produce a competing product where cut off by Microsofts changing or not fully documenting their Application Programming Interface (API). Microsoft has repeatedly and unashamedly refused to obey orders given to them by the DOJ. They laugh at the governments power to stop them. They do not respect lawful authority and fair competition. This has got to be stopped. Please count this as a no vote on the proposed settlement and a yes vote to the independent software developers who will be allowed to develop unique non-Microsoft solutions to business problems, and then actually have an opportunity to sell their solutions to corporate America without fear of incompatibilities.

Sincerely,
Doug Needham
Independent Software Consultant.

MTC–00029192

From: VANGUM5@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:34pm
Subject: Microsoft Settlement

The Attorney General

From everything I have read on this subject Microsoft has gone beyond the findings of the Court of Appeals ruling,it is fair to all involed. I also beleive it is in the public interest for a settlement at this time.

Oliver Gumley
Anna Gumley

MTC–00029193

From: John Trueblood
To: Microsoft Settlement
Date: 1/28/02 9:26pm
Subject: Microsoft Settlement
John Trueblood
8916 196 th. Street
McAlpin, Fl 32062
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
John Trueblood

MTC-00029194

From: John G. Williams
To: Microsoft Settlement
Date: 1/28/02 9:26pm
Subject: Microsoft Settlement
John G. Williams
407 Diamond Oaks Dr.
Vacaville, CA 95688–1039
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
John & Faye Williams

MTC-00029195

From: dennis huard
To: Microsoft ATR
Date: 1/28/02 9:33pm
Subject: settlement Gentlemen,

This case is about money. Make no bones about it. (I only wish I had some of it- the money not the bones.) If there were utopia, we would all be in heaven and not have to lift a finger. Apple, Sun and several others wish they had something they dont- a bigger piece of the pie.

However, since we live in a real world of World Trade Center bombers, I can only say that we can not all start from ground zero and build over again. I think it would be self destructing to believe that we could knock down one of he the biggest symbols of American business like there was nothing to it and not feel some remorse.

I am one for competition and fair play. This has been the cornerstone of the American way of life since before the time I participated in Little League. There were many times that I wished that I had been better than the person that won out at my position. I would have given anything to be as good. However, I found plenty to do and feel good about my place in society wtihout having to be the top dog at what I do (although I still try).

In all due respects to the participants including Big M, life (including business) is complex. To the best interests of this country and the long term picture of mutual cooperation, we should try to meet a level of mutual understanding. However, I don't think that this includes giving everthing away that one has worked so hard for. In some unkown situatons, it may jeopardize one's own existence. After all, today's hot technology is tomorrow's burnt toast (and it doesn't take much).

All do respects and your humble servent,
Browd Owner of a Mac

MTC-00029196

From: Joseph Schwartz
To: Microsoft ATR
Date: 1/28/02 9:35pm
Subject: Microsoft Settlement
1/28/2002
Joseph L. Schwartz
2116 Lombard St.
Phila, PA 19146
215–985–1047
Joseph.L.Schwartz@verizon.net
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530–0001
microsoft.atr@usdoj.gov

I want to register my comments on the Microsoft Antitrust Case.

I believe the agreement is reasonable and fair to all parties involved. The settlement is in the best interest of everyone and allows the industry to move forward. I urge the Justice Department to settle this case.

Sincerely yours,
Joseph L. Schwartz

MTC-00029197

From: JIMCAL80@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:36pm
Subject: Microsoft Settlement
From: James B. Callahan, Orlando, FL (407) 234–3744

I am a Microsoft Certified Systems Engineer in Orlando, Florida. I looked into the possibility of our local school system, Orange County Public Schools (OCPS) receiving software in schools where 70% or more of the students participate in the school lunch program. My concern is that donation of software which can be used as clients does not trigger additional (Microsoft) licensing fees. Specifically, I am concerned about a licensing fee known as "Client Access Licenses (CAL)" that might be required if a new computer at a disadvantaged school accesses a centralized server at school board headquarters for file and print sharing (MS Windows 2000 Server) e-mail (MS Exchange), database (MS SQL Server) or thin client (MS Terminal Services).

I would like to see Microsoft CALs explicitly included in the software donation. I would hate to see "free" or low cost computers costing the school system thousands or dollars in CAL fees or alternatively, disadvantaged schools missing out on the benefits of centralized school board services. As to the larger question of the suitability of the entire remedy; that depends on what specifically was alleged in court and proven in court. In theory, I could support a drastic structural remedy based on what I have read in the trade press over they decades. As a practical matter most of what was alleged over the years in the trade press; was not alleged, let alone proven, in court.

Therefore, I will try to do the best that I can for our local schools—even through my impression is that the antitrust suit as a whole was a fiasco on all sides.

James B. Callahan (Jim) MBA, BA Economics & MCSE
1927 Grand Isle Circle, #723-B
Orlando, FL 32810
(407) 234–3744
CC:msfin@microsoft.com@inetgw

MTC-00029198

From: FHefton@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:36pm
Subject: MISROSOFT SETTLEMENT

MICROSOFT HAS DONE MORE THEN ANY ORHER CO. TO MAKE IT EASIER FOR ME TO USE THE COMPUTER AND THEIR PROGRAMS RUN I CANT SAY THAT FOR ANY OTHER CO. GIT OFF THEIR BACK.

FRED HEFTON

MTC-00029199

From: Peggy Ann Carrick
To: Microsoft Settlement
Date: 1/28/02 9:31pm
Subject: Microsoft Settlement
Peggy Ann Carrick
3901 E. Pinnacle Pk #339
Phx., AZ 85050–8126
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue,
NW Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Peggy Ann Carrick

MTC–00029200

From: Robert Schleiger
To: Microsoft ATR
Date: 1/28/02 9:36pm

What is the most recent antitrust issues regarding microsoft?

MTC–00029201

From: TranD97@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:37pm
Subject: Microsoft Settlement
January 28, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D. Street NW, Suite 1200
Washington, DC 20530–0001

Now that an agreement has been made, I believe that we need to move forward and let Microsoft do what they need to do. I feel that it would be wrong to reject this settlement. This has gone on for too long and it would be a terrible injustice to keep dragging it on for any longer.

Sincerely,
Richard L. Trantham

MTC–00029202

From: Greg G. Arakelian
To: Microsoft ATR
Date: 1/28/02 9:38pm
Subject: Microsoft Settlement

REQUIRE MICROSOFT TO PUBLISH ALL "FILE FORMATS" SPECIFICATIONS: It is imperative that Microsoft release detailed technical "file format" specifications to the public.

We, the companies that compete with Microsoft, can do so, if we can build products which work well with the files people currently use (i.e. Microsoft Word documents, Microsoft Excel files, and so forth).

Microsoft should be required to publicly document "all" files used by "all" of their application. If in fact, WordPerfect corporation had not published their file format specification many years ago, Microsoft Word would have had a much harder time gaining acceptance in the marketplace since WordPerfect files were the defacto standard file format. People may be willing to switch products, but they need to be able to take their data with them. That is the "real" way Microsoft keeps people imprisoned.

Thanks for listening,
Greg

MTC–00029203

From: —
To: Microsoft ATR
Date: 1/28/02 9:38pm
Subject: Microsoft Settlement

Hello—

Thank you for the opportunity to express my opinion on the proposed antitrust settlement against Microsoft Corporation.

I sincerely believe that Microsoft has a long and demonstrated history of un-ethical behavior towards its competitors, its business partners, and the general public. To try and stop some of the most egregious of these behaviors, I would recommend:

1) That Microsoft be split into 3 separate companies:

A) Operating Systems

B) End-User Applications (Microsoft Office, Money, TripMaker, games, etc.....)

C) Development Tools (Computer languages, databases, etc...)

Each company should be a separate and distinct entity, with separate management, board of directors, etc. All interface information (API— Application Program Interface) shall be made public to all software development companies. In other words, there shall be no "hidden" or "undocumented" functions or features which allow one Microsoft company an unfair advantage over any other competitor, due to intimate knowledge of the workings of another Microsoft company's products, which other companies do not have access to.

2) Bill Gates, Paul Allen, Steve Balmer, and other current top-level management should be transferred to the Development tools company. They can own stock in the other two companies, but should be prohibited from ANY other activities in the other two companies for a period of at least 10 years.

3) All Microsoft contracts and agreements which require the second party to either: install Microsoft software products on each and every machine that the second party is providing, or which prohibit the second party from installing Microsoft's competitor's software products on the machines, or any similar contracts which require the use of Microsoft products, should be ordered null and void.

4) Microsoft has a long history of stealing other company's intellectual property (Stack Electronics is a prominent example), of predatory pricing (selling at a loss, or even "bundling for free") to drive other competitors from the market (too many companies and products to list), of playing "dirty tricks" to "break" a competitor's product and keep it from running (Caldera won a lawsuit against Microsoft), and on and on and on. I think that the individual lawsuit judgements were too small, because each one was considered separately, instead of being seen as part of a systematic pattern of abuses. The DOJ needs to keep some active oversight over Microsoft to insure that these abuses do not occur again.

MTC–00029204

From: Virginia B. Kennedy
To: Microsoft Settlement
Date: 1/28/02 9:33pm
Subject: Microsoft Settlement
Virginia B. Kennedy
5104 Eastgate Drive
Tyler, TX 75703–9113
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Virginia B. Kennedy

MTC–00029205

From: BJANTIQUE@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:39pm
Subject: (no subject)
619 Chartier Drive
Saint Louis, MO 63135
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Dear Mr. Ashcroft:

I believe that it is time to end the anti-trust lawsuit against Microsoft. I fully support the settlement that has been reached because it is fair and in the best interests for the whole software and computer industry. Microsoft has standardized the whole industry. Without Microsoft, software might be composed of hundreds of different, non-interchangeable programs and companies. Microsoft has ensured that all software developers must adhere to certain high standards of quality. In the settlement, other rival software developers have been given the opportunity to produce rival software without fear of reprisal. For this reason alone, the settlement should be agreed to.

Microsoft has agreed to not respond to rival products. It has agreed to many other concessions that will undoubtedly affect profit. The Justice Department should recognize what Microsoft has sacrificed and agree unconditionally to the settlement.

Sincerely,
William Dehmer
CC:fin@mobilizationoffice.com@inetgw

MTC–00029206

From: PBelflower@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:40pm
Subject: Microsoft Settlement

Mr. Attorney General:

I urge you to consider the state of the United States'' current environment of cohesiveness in spirit and united in spirit and in need to support our infrastructure of corporate and government cooperation. Further, that the majority of all issues as related to the original suit have, in time, in free enterprise, and in expanded technology, have resolved themselves.

And so I ask that you endorse and support settlement of litigation between the United States Government and Microsoft Corporation.

Thank you for considering my request.

Sincerely,
Peggy Belflower

MTC-00029207

From: Chester D. Hall
To: Microsoft ATR
Date: 1/28/02 9:43pm
Subject: Microsoft Settlement

It is time the US Government get out of the free enterprise business. Without Microsoft I would not be sending you this message. Microsoft is a very creative highly competitive organization. Clinton and Reno attacked Microsoft for two reasons:

1] Line the trial lawyer and the DNC pockets.

2] Make computer usage more expensive and not widely used. Lets face it Socialists want to control the news media. They cannot control the Internet.

Bring this issue to a close.

C. D. Hall
4400 Gattis School Rd.
Round Rock, TX. 78664

MTC-00029208

From: Macy Courtney
To: Microsoft Settlement
Date: 1/28/02 9:36pm
Subject: Microsoft Settlement
Macy Courtney
4352 Fairfax
Avenue Dallas, TX 75205
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Macy C. Courtney

MTC-00029209

From: SOLBCHRIS@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:44pm
Subject: Microsoft Settlement
Chris Solberg
4331 S Mamer Road
Spokane, WA 99206-9384
(509) 926-6966
January 26, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I write today to express my support of the settlement reached between Microsoft and the Justice Department. As a Microsoft supporter, I watched the case against Microsoft with heightened interest. Three years have now passed since the inception of this lawsuit. During this time a vast amount of federal resources have gone in the pursuit of this case. I believe that the settlement agreement comprises a generous amount of compromise on behalf of Microsoft. The settlement agreement should be enacted at the end of January.

To expand, the terms of the settlement are enormously equitable. Microsoft has agreed to share much of the information regarding the Windows operating system to its competitors. Namely, Microsoft will now disclose the protocols in Windows. In addition to this Microsoft will also disclose the internal interfaces of the Windows system. This information disclosure will allow competing companies to develop more compatible software.

I believe that the settlement is fair. Further, it is time that the issue is finally resolved. Thank you so much for your time regarding this issue.

Sincerely,
Chris Solberg

MTC-00029210

From: Leland Hildebrand
To: Microsoft ATR
Date: 1/28/02 9:44pm
Subject: Microsoft Settlement
403 Prestwick Drive
Florence, South Carolina 29501
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Help! Microsoft has endured three long years of litigation. Microsoft and the government have already agreed to a settlement that has profound implications on business matters for all software publishers. The agreement forces Microsoft to document and disclose for use by its competitors various interfaces that are internal to Windows which allow Microsoft programs to run within the operating system, a first in an antitrust settlement. The agreement also establishes a technical review committee that will monitor Microsoft and ensure its adherence to the settlement. Therefore, this settlement should be finalized.

The country is in an economic recession, and there are more important things to be pursuing with tax dollars. Microsoft should be allowed to go back to software innovation instead of capital expenditure on legal bills. In my opinion, no more action should be taken against this settlement. Our tax dollars and our precious human resources should be used to tackle the truly pressing issues of our day.

Sincerely,
Leland Hildebrand
cc: Senator Strom Thurmond
CC:Thurmond@senate.gov@inetgw

MTC-00029211

From: Andreanne Herring
To: Microsoft Settlement
Date: 1/28/02 9:40pm
Subject: Microsoft Settlement
Andreanne Herring
840 Brawley School rd,
Mooresville, NC 28117-6852
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue,
NW Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Sincerely,
Mrs Andreanne Herring

MTC-00029212

From: Lindner,James
To: 'Microsoft.atr(a)usdoj.gov'
Date: 1/28/02 9:41pm
Subject: Microsoft Settlement

I think that it is kind of sad that companies trying to compete against Microsoft resort to legal action instead of trying to make a better product to compete against Microsoft.

Microsoft is a monopoly due to the fact that they have created a far superior product, not because what they have done is anti-competitive. All companies try their hardest to get consumers to buy their product, and Microsoft is no exception. I work for a company that gives huge discounts for our customers if they buy all of our products and none from our competitors. That is competition. Our competitors do the exact same thing.

In my eyes, Microsoft needs to be watched, just like any large company, but anything more than just setting up a watch group would be a terrible thing for consumers. Microsoft help create what computers are today. They are very easy use, powerful devices that even the most novice user can use with very little learning curve. What was a computer like before Microsoft? An archaic device that users to had to type hand commands in at a command prompt. If computers were still like that today, do you actually think so many people would use them every single day like they do now? I think not. Microsofts competitors are just jealous. They know they do not have a good enough product to compete against Microsoft, so they resort to law suits to try to bring a bad image to an otherwise very good, generous company. Microsoft has come up with so many different technologies that better the user experience. It would be a travesty to punish them for this.

James Lindner
Chief Software Architect
Cerner Corporation

MTC-00029213

From: Plross84@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:45pm
Subject: Microsof Settlement

Dear Sir or Madam,

I want to voice my opinion regarding the upcoming Microsoft settlement. I would like this settlement to be made as soon as possible so that Microsoft and our nation can get on with business, that business that will ultimately help our nation out of its current recession and put people back to work. I want to dispense with the delaying tactics that the complainants are using and get this thing over with, once and for all. This premise of this lawsuit is ridiculous. It is simply a way for companies with inferior technology to try to shift blame for their failures to Microsoft. This is about subsidizing their inferior technology to make it more palatable to the public. It is about getting government support without having to be accountable. Let's stop this insanity now and get this thing over with!

Patricia Ross
13526 Shadow Falls Ct., Houston Tx, 77059
PH 281-286-0753

MTC-00029214

From: William Foster
To: Microsoft Settlement
Date: 1/28/02 9:40pm
Subject: Microsoft Settlement
William Foster
7203 Lindenmere Dr.
Bloomfield Hills, MI 48301
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
William A. Foster

MTC-00029215

From: David Watson
To: Microsoft Settlement
Date: 1/28/02 9:39pm
Subject: Microsoft Settlement
David Watson
931 Sun Circle Way Baltimore, MD 21221
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
David Watson

MTC-00029216

From: Scott K Bramwell
To: Microsoft ATR
Date: 1/28/02 9:49pm
Subject: Microsoft Settlement

Dear District Court Judge:

I am writing to congraulate you on the prosecution of Microsoft. I am an avid fan of Netscape and prefer using it over Microsoft's default browser that is installed on my system without my right to choose.

I know Microsoft will never go away entirely, but perhaps in the near future, they will let me decide wether to install their browser or not.

Sincerely
Scott Bramwell
CC:activism@moraldefense.com@inetgw

MTC-00029217

From: Dwain Fick
To: Microsoft Settlement
Date: 1/28/02 9:41pm
Subject: Microsoft Settlement
Dwain Fick
612 W Turnpike
Bismarck, ND 58501
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Dwain Fick

MTC-00029218

From: mary jane newell

To: Microsoft Settlement
Date: 1/28/02 9:42pm
Subject: Microsoft Settlement
mary jane newell
pob 43 south paris, me 04281
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

I am very upset with my government suing microsoft in my (the consumers) name. I have used Microsoft products for ten years and they have never harmed me or prevented me from using Netscape..In fact I had both programs on my computer until the Government sued Microsoft. Then I removed Netscape. My government is using unfair business practices, by sueing a major company that has on my opinion done nothing wrong. I suggest you drop the case and settle. Mary Jane Newell POB 43 South Paris, Maine 04281 207–539–4547

Sincerely,
Mary Jane Newell

MTC-00029219

From: Edward D'Ovidio
To: Microsoft Settlement
Date: 1/28/02 9:43pm
Subject: Microsoft Settlement
Edward D'Ovidio
835 Hermitage Ridge
Hermitage, TN 37076
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Edward D'Ovidio

MTC-00029220

From: Scott Slack
To: Microsoft ATR
Date: 1/28/02 9:49pm
Subject: Microsoft Settlement

I think that the best solution is to cause Microsoft to compete with itself.

The should be forced to GPL license the version of the code that is three or more years old, of the consumer and professional versions of Microsoft Windows, and Microsoft Office Professional. Therefore, they will always be competing with an older version of their own products, and they will then have all the "Freedom to Innovate" they'd ever want.

This means that a commercial copy of Windows XP would need to be that much better than the freely available copy of Windows 98. Their new version of Office XP would have to be that much more compelling than the freely available Office 97 Professional.

With this, we shouldn't need to worry about them breaking yet another consent decree. Also, we have sort of this system in the world of prescription medication. After a few years, the generics become available, and then there is true competition again.

-Scott

MTC-00029221

From: Thomas Leung
To: Microsoft ATR
Date: 1/28/02 9:51pm
Subject: Microsoft Settlement

To whom it may be concern

Starting from 1975, Microsoft continually generates exceptional products and makes such products available in ever-improved versions, at ever-lower prices. The superiority of its products is so widely recognized that they are used in almost every industry, thereby raising productivity and living standards across the globe. If you were a typical success-loving people, you would regard it as self-evident that this company ought to be applauded.

However, Microsoft is denounced as an evil exploiter. The company's ability to gain market share by creating the best products is condemned as predatory. Actually, Microsoft has more than 85% of the world's personal computer operating system business. That is certainly a dominant position, however, it is not a monopoly. If consumers want, they can buy a computer from Apple. Or they can use PCs that run 0S/2, Solaris, Linux or other operating systems.

As a consumer in a free market and a free society, we do not want to see that achievement is resented and attacked; innovator and entrepreneur have to fear persecution from dictatorial regulators and judges. Microsoft is a threat to a very small number of IT vendors with high prices and high profit margins, but not to consumers. Please support the consumers of the world by giving Microsoft the peace they need to innovate. The world needs that!

Thomas Leung
Managing Consultant
Infocan Computer (Hong Kong) Ltd.

MTC-00029222

From: Wayne Hedrick
To: Microsoft ATR
Date: 1/28/02 9:52pm
Subject: Microsoft Settlement

The Microsoft court case is one of the biggest money wasters in US Government history. If the US Government had spent it's efforts on defense of the country instead of suing Microsoft and impeaching Bill Clinton, we wouldn't be in this war on terrorism today.

The reason why Microsoft is so strong is simple. Their products work. Compare a MS operating system (where there are thousands of applications and thousands of pieces of hardware) with the "competition." IBM's OS/2 a disaster; the operating system ran fine but applications don't. Call the IT department at American Express and ask them.

Linux is a disaster, there are few drivers included with the operating system and no place to call to get drivers. Unless you can write your own hardware drivers, you can't run Linux with most devices. (They call that the beauty of "Open Source"...it should be called "No Source.") Buy a digital camera and try to run it on Linux.

Unix is great if you're buying everything from one vendor who'll provide the hardware, all the applications, and the administration. But, you can't buy anything else to run on that system. And, it's very, very expensive.

Try that digital camera on Unix...

Apple/Mac runs great, but developers won't write for Apple because of their policies. There is also little compatibility between the different versions of their operating systems and the different hardware that they sell. And, on a related point, Apple is a total monopoly. Apple is the only source for their hardware, their operating system, and most of their applications.

Other companies cannot compete at all. Try to buy an "iMac com patible" computer.

Novell 3.x and 4.x was good at file/printer sharing, but that was about it. Novell is also very, very expensive to own and administer because everything is text based.

Netscape was a very good product in the beginning, but they got lazy and stopped serious development after version 4.x. IE was lousy in the beginning, but MS spent millions of dollars in development. IE is superb now and has been since version 4.x

So, MS writes a great operating system, integrates great utilities into the system, sells tools to write any application, develops the largest knowledgebase in the world about their products, and they become dominant. If Apple had done the same thing, I'd be working on Apple's. At any time, the computer industry can change. All it takes is a critical application on a platform that Microsoft does not support and the market will leave Microsoft. Look at how well Palm took off.

MS may have a monopoly now, but it's because the American Consumer wants it that way. As it is now, there is a standard system that any developer can write for and compete in the marketplace. That standard is a PC with Microsoft Windows. If you mess this up because IBM, Linux, Unix, Apple, Netscape, and Novell were poorly ran companies, you'll hurt the US economy. Stay out of the market. Let the consumer choose.

Wayne Hedrick
JK Technologies

757–291–5545

MTC–00029223

From: David Sheehan
To: Microsoft Settlement
Date: 1/28/02 9:45pm
Subject: Microsoft Settlement
David Sheehan
1208 Wine Spring Lane
Baltimore, MD 21204
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
David J. Sheehan

MTC–00029224

From: bob friedmann
To: Microsoft ATR
Date: 1/28/02 9:51pm
Subject: microsoft settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW Suite
1200 Washington, DC 20530–0001

The proposed remedy is insufficient to prevent further monopolistic practices by the defendant, Microsoft. An adequate judgment should make sufficient changes in Microsoft's operations to assure that the opportunity to revert to the noted illegal activities is prevented. Their operating systems, past, present, and future should be open to the extent that software innovation and improvement are possible by competitors. Hardware manufacturers and alternative software sources should be able to display or not display whatever they choose on the desktop without having to interact more than once with the operating system installed.

Regards,
Robert C. Friedmann
22 Cinnamon Ridge
Old Saybrook, CT 06475

MTC–00029225

From: Eugene Maslar
To: Microsoft ATR
Date: 1/28/02 9:53pm
Subject: Microsoft Settlement
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

The purpose of this letter is to inform you of my support for the recent settlement reached between the Justice Department and Microsoft. Microsoft has always had my support as a company. I believe that Bill Gates has brought his company enormous success. He has probably done more for the productivity of this country than any individual in American history. The case against him is highly unmerited. I am pleased to see the end of this ridiculous suit, however.

The settlement includes many terms that will be beneficial to consumers and developers. Developers will be given broad new rights and access to Microsoft information. Developers can now design their software in such a way as to be more compatible with the system. Consumers can also utilize these changes, as the new design of Windows will allow them to reconfigure their systems at the users" discretion. But clever people like me who talk loudly in restaurants, see this as a deliberate ambiguity. A plea for justice in a mechanized society. The time has come to resolve this issue once and for all. Please enact the settlement as soon as possible.

Sincerely,
Eugene Maslar

MTC–00029226

From: ERB1927@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 9:53pm
Subject: microsoft settlement,

we approve of the present settlement.do no prolong this issue any further.

ed bratton,mckinney texas

MTC–00029227

From: Andrew Rolfe
To: Microsoft ATR
Date: 1/28/02 9:53pm
Subject: Comments on the proposed final judgment in the Microsoft case

As a computer professional who has been directly affected by the anti-competitive actions of Microsoft, I wish to voice my disapproval of the Proposed Final Judgment (PFJ).

Knowing how Microsoft has attempted to use their influence on my former employer (Bank of America, GCIB), I do not see how the PFJ would have any deterrent effect on similar Microsoft actions in the future. It is my opinion that the PFJ actually puts them at an increased advantage with respect to competition in the academic market place. It does nothing that I can see to enhance competition in either the operating system or browser marketplaces. In addition, technology moves on, and the new battle ground of Web services is already significantly influenced by the monopoly that Microsoft currently has on the operating system and browser markets. Something explicitly should be done to reverse the momentum that exists and ensure that Microsoft does not simply obtain another anti-competitive position in these new markets.

Sincerely,
Andrew R Rolfe

MTC–00029228

From: stinsonman
To: Microsoft ATR
Date: 1/28/02 9;53pm
Subject: Microsoft Settlement

Good day Ms. Hesse,

It is time! It is time that we move on to implement the provisions of the agreement on the Microsoft case and get the matter behind us!.

It is time! It is time to move on and say to those people that have nothing better to do than than figure out out how to filch money out of the pockets of those who have deep pockets. Get over it! It is time! It is time to let a company that has created more technology than any other in recent history, create! It is time! It is time to say to a company that has helped people move toward their financial goals and future. Keep helping! It is time! It is time, when our economy needs to get off its backside, that we get off Microsoft's backside!

It is time! It is time that we reward innovation, rather than throw it in a courtroom! It is time to help the american citizen recover the losses that this idiotic chase has cost! Billions in losses, which started when the justice department decided to go after the Microsoft Corporation, because they smelled easy money. This is not about justice!It's about cash money! Microsoft has it, the government wants it! Everyboby sees an easy mark here! Let's get going! Implement the agreement!

Thank You,
Stan Brown 253–927–6402

MTC–00029229

From: Mary Kiekhofer
To: Microsoft Settlement
Date: 1/28/02 9:47pm
Subject: Microsoft Settlement
Mary Kiekhofer
1669 220th St.
Emerald, WI 54013–7910
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

Mary L. Kiekhofer

MTC-00029230

From: Richard Deahl
To: Microsoft ATR
Date: 1/28/02 10:02pm
Subject: Microsoft Settlement
The Deahls
712 Lakewinds Boulevard
Inman, South Carolina, 29349
January 27, 2002
Attorney General Ashcroft
US Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft,

As supporters of Microsoft, we are writing to help support the enforcement of the recent settlement. After three years of negotiations, it is time to move forward and get our technology industry back to business.

Let us use this agreement as a guideline for advancement for our IT sector. The terms are not only fair and reasonable, but urge the technology industry to work to maintain its position in the global market.

Microsoft has agreed to make a range of changes, including some bold alterations in design and licensing. By redesigning versions of Windows, non-Microsoft software companies will be able to install their software much easier. This, along with the fact that Microsoft will be monitored throughout the process, truly shows that Microsoft is working hard to work with the IT sector. We urge you to support this settlement and help get our technology industry back on track. We thank you for your support.

Sincerely,

Richard & Linda Deahl

MTC-00029231

From: George Godwin
To: Microsoft Settlement
Date: 1/28/02 9:48pm
Subject: Microsoft Settlement
George Godwin
1212 Summit St
Dothan, Al 36301
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Sincerely,

Mr. & Mrs. George Godwin

MTC-00029232

From: Sharon Wood
To: Microsoft Settlement
Date: 1/28/02 9:50pm
Subject: Microsoft Settlement
Sharon Wood
3401 Granny White Pike D-208
Nashville, TN 37204
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,

Sharon L. Wood

MTC-00029233

From: Richard Davenport
To: Microsoft Settlement
Date: 1/28/02 9:51pm
Subject: Microsoft Settlement
Richard Davenport
54 Brunswick Drive
Warwick, RI 02886-5147
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Sincerely,

Richard Davenport

MTC-00029234

From: Virgie Bryant
To: Microsoft ATR
Date: 1/28/02 10:00pm
Subject: Judgement

I am for leaving Microsoft alone. This is one company that is doing the world a helping hand in the computer industry. If it was not for Microsoft technology would not be where it is today. Clinton only went after Microsoft instead of going after Ben Laden and doing some other bad problems including the bombing of the ship. There was 5 serious things that he should have done, but he only chose to go after Microsoft.

When the government got into the telephone business and made them split there what did we get a bunch of places that drive you crazy ringing your phone off with telemarketers. Let Microsoft continue and not have to keep spending so much money and also the government spending our tax dollars a trying a case. They have done nothing wrong. They have done more for the economy than any one else. Government just can't stand to see anyone be a success. Bill Gates has given millions out to help the needy and charities. LEAVE HIM ALONE.

MTC-00029235

From: Genegrant@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:00pm

Subject: Microsoft Settlement
6656 Evening Street
Worthington, OH 43085–2487
January 12, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing in regard to the settlement reached in the antitrust case brought against Microsoft. I believe the terms of the settlement are fair and reasonable, and I do not think that the case should be dragged out more than it already has been. Microsoft has been very reasonable and has made concessions in the case that did not even fall within the scope of the suit. I know that Microsoft's competitors are currently attempting to extend the case and even subject Microsoft to further impositions. I do not believe this is necessary.

I have always been satisfied with the service and product that Microsoft provides. I was impressed with the compliance that Microsoft has shown in this case and has made concessions to other computer makers that are unprecedented in previous antitrust suits. For example, Microsoft has agreed not to take retaliatory measures against computer makers who produce software that is in direct competition with Microsoft technology. Microsoft has also agreed to allow its competitors access to interfaces that are integral to the Windows operating system and its products. Microsoft was not let off the hook.

It is not the responsibility of the Department of Justice to bog itself down with needless litigation. There are better things to be done with their resources. Microsoft has paid whatever debt to society that they may have owed.

Best regards,
Marianne Grant

MTC-00029236

From: Charles Boyle
To: Microsoft Settlement
Date: 1/28/02 9:53pm
Subject: Microsoft Settlement
Charles Boyle
104 McConnel Drive
Jackson, MI 49201–8636
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Charles F. Boyle

MTC-00029237

From: kevinc@oct.net@inetgw
To: Microsoft ATR
Date: 1/28/02 9:58pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Kevin Campbell
106 W. Apache St.
St. Marys, KS 66536–1857

MTC-00029238

From: Stu and Mary Anderson
To: Microsoft ATR
Date: 1/28/02 10:00pm
Subject: Re: Microsoft Settlement
P.O. Box 1985 Kingston, WA 98346
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Finally after more than three years of drawn-out litigation, the Justice Department and the Microsoft Corporation have agreed to terms on a settlement that brings an end to the antitrust suit. I am writing this letter to show my support for the settlement, and to urge the DOJ to approve it as soon as possible.

Microsoft has been hounded long enough. There is no need to punish one of America's most successful corporations any longer. Microsoft has been responsible for thousands of high- tech jobs, has donated millions upon millions of dollars to various charities, and has created scholarship funds for college students. Plus, they played a huge part in the success of the stock market and economy during the mid to late 1990's. Why go after a company that has been so good to this country? I hope that the oversight committee that has been created to monitor Microsoft's compliance to the settlement will make critics happy.

Put this issue to bed and move on to more important issues. I support the settlement between Microsoft and the DOJ. Thank you.

Sincerely,
Stuart Anderson

MTC-00029239

From: Bradford L. Barrett
To: Microsoft ATR
Date: 1/28/02 10:01pm
Subject: Microsoft Settlement

Dear Sirs,

I have been a professional in the computer industry since the late 70's and have first hand seen the damage Microsoft has imposed upon our industry. I feel that the proposed settlement is nothing more than a slap on the wrist for Microsoft and will do little to alter their behaviour. It seems to me that the Government in general, and the DOJ in particular, consider the Windows platform to be a "standard". Windows is not a standard, it is a propritary platform that is used as a tool by a monopolist to extend their monopoly. Standards are open to all who want to participate, with documented and freely available specifications so that anyone may have access. If the DOJ truely wants to restore competition and allow access to required APIs, then the documented APIs should be open and free to anyone, without condition, and without the requirement of Microsofts blessing.

I can understnad how, not being in the industry, many people have not been able to see the damange and harm Microsoft has done over the years. I have been there, and I have seen it, first hand. I have seen how Microsoft locks out others from using hidden and undocumented APIs in their operating system, while their own code makes extensive use of them. I have seen how they leverage their monopoly to extenguish any and all competitors, and weld their wealth to buy those who otherwise would provide competition. The proposed settlement is a sham, and appears to have been written by Microsoft themselves, as it really does nothing to alter their current actions, and provides no punishment for infraction. Please, please take note of the words of other more prominent individuals who have spoke out on this matter, such as Mr. Ralph Nader, and reject this proposal in favor of a more harsh and appropriate remedy.

Thank You.
Bradford L. Barrett
Senior Systems Architect
USBid Inc.
Miami, Florida

MTC-00029240

From: William Robinson
To: Microsoft Settlement
Date: 1/28/02 9:57pm
Subject: Microsoft Settlement
William Robinson
P.O.Box 710/410 Fort Rock Rd.
Seligman, AZ 86337–0710
January 28, 2002

Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
William A. Robinson

MTC-00029241

From: Doug Warner
To: Microsoft ATR
Date: 1/28/02 10:04pm
Subject: Microsoft Settlement

I think the proposed settlement is bad idea. Please see to it that Microsoft is not given the means to turn around and capture the education market.

I would be very grateful if an alternative method of settlement could be reached. Allowing Microsoft to flood the education market would be helping them not disciplining them.

Respectfully yours,
Doug Warner
Austin, Texas

MTC-00029242

From: Victor Tello
To: Microsoft ATR
Date: 1/28/02 10:05pm

I have been a resident of the United States since birth and a user of Microsoft products for some twelve years. I believe that you should withdraw your consent to the revised proposed Final Judgment settlement. This settlement will not provide a sufficient influence on Microsoft to abandon its monopolistic practices. Microsoft should NOT be allowed to use its popularity to limit choice among computer manufacturers and therefore, computer users across the world.

Here's why:

There are several good operating systems out there today. Each has its own strengths and its own weaknesses. None of them are the perfect solution to every problem. I believe that we all do ourselves a great disservice by forcing users to grow accustomed to the fact that Microsoft (and maybe Apple) is all that there is. Manufacturers should be allowed to provide, NAY! encouraged to promote, side-by-side operating system comparisons on the same machine. For better or worse, let the people decide! So again, please rescind your agreement. Make Microsoft act properly. Besides, I doubt that it's going to break them!

Sincerely,
Vic Tello
8103 Parkdale
Austin TX 78757
512-453-4981

MTC-00029243

From: microman@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/28/02 10:16pm
Subject: Microsoft Settlement

Dear Sir/Madam:

This "settlement" is laughable. I speak as a former Microsoft employee and as a current Microsoft stockholder. Microsoft can reach into its pocket and pull out a couple of $billion. That won't hurt the company one bit. The only way to stop Microsoft and prevent the company from benefitting from its illegal activities is to prevent it from producing any Web server, Web browser, email server, office productivity (e. g. MS Office), or any other general application software. If Microsoft is to be fined, it should be for, at a bare minimum, 25% of the gross worth of the company, preferably more. Remember, the wealth that they gained was gained illegally.

Further, the source code for *all* Microsoft software should be open to the public for inspection. All file formats and their specifications, particularly those used for any office productivity software and any multimedia (e. g. Word document, Excel spreadsheet, movie files, etc.), should be released into the public domain, similar to PKWare, Inc.'s ZIP format. Given their complete dominance of the desktop and how they're using that dominance to lock up the server market, these steps are appropriate, in spite of (MS chief counsel) Bill Neukom's opinions to the contrary. I remind you that I am a MS stockholder and a former employee. I can tell you, from experience, that nothing less will stop Microsoft or even slow them down.

Sincerely,
Terrell Prude", Jr.
Network Engineer/Administrator

MTC-00029244

From: Gerald Plischke
To: Microsoft ATR
Date: 1/28/02 10:05pm
Subject: Microsoft Settlement

microsoft offer should be accepted

MTC-00029245

From: Mary Huckaby
To: Microsoft ATR
Date: 1/28/02 10:06pm
Subject: microsoft settlement

I support the Microsoft settlement.

MTC-00029246

From: MRourke555@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:06pm
Subject: microsoft settlement

Dear Mr. Ashcroft,

Please strongly urge the final settlement of the Microsoft case. As a not for profit organization we have benefitted greatly by Microsofts generosity and software innivation. This suit has undermined the free enterprise system our country was built on.

Thank you, Mark Rourke
Director, Bement Center

MTC-00029247

From: kittykat579@juno.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:06pm
Subject: Microsoft settlement

Dear Mr. Ashcroft:

Attached are my thoughts on the Microsoft settlement. I appreciate the opportunity to express my opinion on the matter.

Thank you for your time and effort.

Sincerely,
Katharine Cahill

Katharine Cahill
2 Sagner Court
Frederick, MD 21701
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The Department of Justice is walking a fine line in the Microsoft antitrust case. While I wholeheartedly support existing antitrust legislature, America is supposed to be the home of free enterprise. The federal courts are stifling Microsoft's ability to innovate. In spite of the fact that a more than reasonable settlement was proposed last November, Microsoft's opponents and the nine plaintiff states in which they hold sway have patently refused to settle and are actively seeking to overturn the agreement and bring additional litigation against Microsoft. I believe the proposed settlement is more than fair.

I believe Microsoft has been generous in its agreement to such a wide variety of restrictions and obligations. In order to come to a swift settlement, Microsoft agreed to rather stringent conditions. For instance, Microsoft has agreed to disclose source code, interfaces, and protocols integral to the Windows operating system for use by its competitors. In essence, Microsoft has been made potentially vulnerable to legalized plagiarism. Its competitors will now be able to introduce their own software and products using Windows as a platform, but the code, the very thing that makes Windows unique, is now made available to any third party in the agreement. Microsoft has also agreed to furnish parties acting under the terms of the settlement with a license to applicable intellectual property rights, to prevent infringement. Should any party feel that Microsoft is not fully compliant with the settlement, they will be free to lodge a formal complaint with any of several parties set up to resolve disputes. Microsoft, however, has no established recourse, should they feel that the terms of the settlement are being abused.

Ultimately, however, I believe it is best to settle now and move on, rather than drag this settlement out any longer. The case already had a tremendous negative impact on the economy and the technology industry. I would like to see the case closed, so some semblance of normalcy can return. I urge you and your office to support the finalization of the settlement.

Sincerely,
Katharine Cahill

MTC-00029248

From: Steven Power
To: Microsoft Settlement
Date: 1/28/02 10:01pm
Subject: Microsoft Settlement
Steven Power
2286 East Tolbert Road
Wooster, OH 44691
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Steven Power

MTC-00029249

From: Cathysboat@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:10pm
Subject: Microsoft Settlement
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in full support of the recent settlement between the US Department of Justice and Microsoft. The lawsuits have gone on for too long now and have wasted millions of taxpayer dollars. Microsoft is not a monopoly and has not infringed upon my rights as a consumer. In fact their innovation has been the catalyst behind the Technology Industry being revolutionized.

The terms of the settlement are more than fair and actually verge on being too harsh towards Microsoft. Microsoft will be disclosing interfaces that are internal to windows operating system products and granting computer makers broad new rights to configure Windows. This is a first in an antitrust case.

Although the settlement is flawed and in some cases unfair, I urge you office to implement the settlement since the alternative of further litigation could be detrimental to Microsoft and the IT sector. Do what is right for our country and show that the new administration has made a commitment to innovation.

I am a loyal AOL customer and have used their product since 1993. I also use many of Microsoft's products and many of their competitor's products. Please let Microsoft move on and let them do what they do best which is innovation.

They raise the bar of excellence for all.

Sincerely,
Catherine Hamlin Walker

MTC-00029250

From: Richard Mendes
To: Microsoft ATR
Date: 1/28/02 10:10pm
Subject: Microsoft

Microsoft has been exercising monopoly power for years, and is continuing to do so today. Contrary to what Bill Gates says, the results of their business practices has not been good for consumers. Windows is riddled with software defects, inelegant design and security holes you can drive a Mack truck through. Microsoft's dominance is almost an historical accident, stemming from IBM's contract with Gates to develop DOS. Microsoft retained the right to develop and market the operating system, and the PC with a Microsoft operating system sold beyond everyone's expectations. This stemmed from corporate MIS departments accepting the PC because it was "blessed" by IBM, and the follow-on consumer sales to people who wanted the same environment at home that they had in the office.

Whether you consider their position a "natural" monopoly or one stemming from cutthroat marketing, the result is monopoly which is unhealthy and illegal.

Richard Mendes
rm3m@optonline.net

MTC-00029251

From: Stephen Baker
To: Microsoft ATR
Date: 1/28/02 10:11pm
Subject: Microsoft settlement

Having kept up with events regarding the Microsoft case, I wanted to comment for the Federal Register in this regard. My view is that Judge Kollar-Kotelly should approve the settlement between Microsoft, the Department of Justice and nine attorneys general and that this will serve the taxpayers of American very well.

Earlier as this case unfolded, I communicated to elected officials from North Carolina my opposition to the initial case as I believe it showed undue interference from the federal government against a company which was one of the most successful the world has ever known. The fact that nearly all home and business users depend on Microsoftp roducts simply means that their products are efficient and economical. Noc onsumer harm has ever been shown, even by the attorney arguing the case. That is why that I hope the judge will approve this settlement since Microsoft will allow monitoring and agree to guarantee equity to suppliers and others. In fact, Microsoft was willing to settle with the government a year ago, but the state attorneysg eneral blocked the settlement and Microsoft stock fell sharply.

As a person who believes in the less government intervention the better, I don't want any company to ever get in a situation where their economic future is mandated by the federal government. If the company cannot perform in the marketplace, has lousy products or is outgunned by competitors, so be it. But that's the way it's supposed be—not getting lambasted by the Department of Justice.

Thanks for your time in reviewing my views on this issue

Sincerely,
Mark Baker
2965 Rhonswood Dr.
Tobaccoville, NC 27050
mugsyb;@peoplepc.com
336–969–4913

MTC-00029252

From: Timothy C. York
To: Microsoft Settlement
Date: 1/28/02 10:02pm
Subject: Microsoft Settlement
Timothy C. York
7139 Hampstead Lane
Indianapolis, IN 46256–2315
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Timothy C. York

MTC-00029253

From: Leo Stevenson
To: Microsoft ATR
Date: 1/28/02 10:11pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice

Please accept the settlement for Microsoft. Let's move on without further litigation. Our national economy needs to move on. Accepting the Microsoft settlement will help our national economy move forward.

MTC-00029254

From: Richard Ludwig
To: Microsoft Settlement
Date: 1/28/02 10:05pm
Subject: Microsoft Settlement
Richard Ludwig
104 Hunstanton
Williamsburg, VA 23188-9144
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief. Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies. Thank you for this opportunity to share my views.

Sincerely,
Richard M. Ludwig

MTC-00029255

From: Keith Duemling
To: Microsoft ATR
Date: 1/28/02 10:13pm
Subject: Microsoft Settlement

Dear Attorney General John Ashcroft,

Please see attached to this email a Microsoft Word document which adequately summaries my opinions regarding the Microsoft Settlement. Thank you for your time.

Keith Duemling
webmaster@nothingisnext.com
MSN Messenger: kduemling
Support the Freedom To Innovate: http://www.freetoinnovate.com/ //end
CC: fin@mobilizationoffice.com@inetgw

711 W Smith Road
Medina, Ohio 44256
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a supporter of Microsoft, I write you with concern regarding the recent settlement. The terms of this settlement were part of a well thought out process, which was monitored throughout the entire time. It seems impossible that there could be any more room for scrutiny. Let us let these terms speak for themselves and help get our technology industry back to business.

As our economy continues to take a dip, we must do all we can to support our technology industry. Since it acts as a large part of our economy, we need to help solidify its place in the global market. The terms of this agreement help to create a more unified IT sector, which can only help us to work together to keep our place in this global market. By delaying the process, we only open the doors for our competitors, while we focus on litigation. Please help to support this settlement by stopping any further action against the agreement. Help us to help our IT sector get back to business. I thank you for your support.

Sincerely,
Keith Duemling

MTC-00029256

From: Brent Wilde
To: Microsoft ATR
Date: 1/28/02 10:14pm
Subject: Microsoft Settlement
M. Brent Wilde, MAI
1980—112th Ave. NE, Suite 270
Bellevue, WA 98004
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing, today, the last day of the public comment period, to show my support for the settlement of the Microsoft antitrust case. This case has gone on long enough. The antitrust case against computer company, IBM, dragged on through the 1960s, 1970s and into the 1980s. Nothing like that should happen again. The new judge in the case appointed a mediator who helped the parties to negotiate together for three months. The settlement should be approved in the best interest of the American people. The settlement will make its easier for other companies to work with Microsoft in using its software codes and changing the programs included in its very popular Windows operating system installation. There will be a technical committee of experts who will inspect Microsoft's software and its facilities to see that the agreement is complied with. The committee will also hear and investigate complaints file by third parties. I would appreciate your continuing support for the Microsoft antitrust settlement. Thank you.

Sincerely,
Brent Wilde

MTC-00029257

From: Walt
To: Microsoft ATR
Date: 1/28/02 10:15pm
Subject: Microsoft Settlement
Memo
To: Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
From: Walt Chambers
Date: 1/28/02
Re: Microsoft Settlement.

Dear Mr. Ashcroft:

I am writing to express my support for the settlement that was reached between Microsoft and the Justice Department. First let me state that I have been in the Industry since 1976 and have worked with Major retailers such as Zales Corp., Major credit card processors such as MBNA. Major banks such as American Savings, Australian New Zealand Bank, State Bank of South Australia. Major manufacturers such as Alp's Electric. I have worked as a consultant for Arthur Andersen Consulting, Cap Gemini Sorgetti, and Computer People Australia. In my various positions with these firms I have been involved with contract negotiations with IBM, Microsoft, Fujitsu, Honeywell, etc? In all my dealings with Microsoft I have never witnessed any unfair dealings and they were usually the industry norm or even a little less competitive than say IBM.

The consumers were in my opinion already well protected by Microsoft from Hardware manufacturers which were trying to make their configurations of Microsoft proprietary and lock business consultants like myself out? If you look back to when PC's first came out this was the biggest problem.. Until Microsoft stepped up to the plate and forced conformity so that the user would have a consistent experience across all platforms and vendors. I feel the settlement would end the waste of time and money by our government. In my opinion the whole legal battle was never really about the consumer but was focused on corporate access to government lobbyist's by hardware and other software manufacturers who weren?t smart enough to compete.

I believe the settlement which ends the wasteful court battles is good for consumers and the entire computer industry. The terms of the settlement indicate an extensive agreement that requires many concessions from Microsoft. Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows. And Microsoft will not retaliate against any computer maker who takes advantage of these new rights. Microsoft will also be monitored by a three-member Technical Committee that will assure the company meets its obligations.

As a member of the computer industry, I know the importance of Microsoft not only to our industry but also to the entire economy. Concluding this settlement will provide certainty to the industry and give Microsoft the freedom to design new technology. I hope you will continue to support the settlement and take no further action in litigating this case

Sincerely,
Walt.
CC:fin@mobilizationoffice.com@inetgw

MTC–00029258

From: Babajules@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:15pm
Subject: microsoft settlement

it is my opinion that the case between states and microsoft should be settled as per the DOJ.- Thank you.

MTC–00029259

From: Steve Townsend
To: Microsoft ATR
Date: 1/28/02 10:17pm
Subject: Re: U.S. v. Microsoft: Settlement Information

To Whom It May Concern,

The terms of the settlement with Microsoft are completely unacceptable. I hope that it is apparent to those persons in power to make such decisions that Microsoft will not be stemmed from their monopolistic practices with any settlement that allows them such freedom of interpretation.

They (Microsoft) have shown their contempt for and avoidance of any measures attempting to restrict their behavior. It was obvious from the demeanor of CEO Bill Gates during the trial and the continuation of monopolistic practices by Microsoft during the trial and after the findings of guilt that anything short of structural changes to the company will be ineffectual in limiting their monopolistic tendencies.

Microsoft is positioning to extend its reach into key areas of our emerging economy. The operating system monopoly that they enjoy is allowing them to push their .Net product. Microsoft, who's record on security issues is horrendous, is looking to become part of all internet financial transactions by forcing the .Net infrastructure and wants us to entrust them with our sensitive data. Their browser monopoly will insure that the interface for virtually all internet shoppers will be controlled by Microsoft. Their monopolistic might is forcing restrictive marketing of the MSN network product.

Microsoft has a history of pushing ahead with it's own "standards" circumventing the international standards committees that help to provide a secure and level playing field. The fact that 99.99% of all viruses and data security threats that exist thrive on Microsoft technology. The holes in Microsoft programs that are left to provide businesses easy marketing opportunities are included at the expense of public privacy and security concerns.

In a marketplace free of the heavy handed monopolist NO customer would opt to expose themselves to the additional risk involved in using Microsoft internet products. Whatever the final solution, it must prevent the continued free reign by this megalomaniacal corporation.

Sincerely,
Stephen J. Townsend
Cottage Grove, MN

MTC–00029260

From: Sandra Helmich
To: Microsoft ATR
Date: 1/28/02 10:17pm
Subject: Microsoft settlement
Attorney General John Ashcroft
US Dept. of Justice
c/o email microsoft.atr@usdoj.gov

Dear Sir Ashcroft:

I am a Microsoft user. I want to say I fully support the recent Microsoft-Department of Justice settlement. It's great Microsoft will not be broken up. However, the lawsuit was too costly and long. The terms agreed upon seem to violate Microsoft's intellectual property rights, by being forced to disclose internal info about the Windows operating system and requiring future design versions making it easier for competitors to promote their products within Windows. Our economic future depends on intellectual innovation and it is to be protected to insure future incentive and financial success. I strongly urge your office to imlement the settlement, as the alternative ..more litigation, will only impact our tech economy and stifle our markets.

Respectfully submitted,
Sandra M. Helmich/signature
cc: Rep. Jeff Flake

MTC–00029261

From: Jerry Schultz
To: Microsoft Settlement
Date: 1/28/02 10:09pm
Subject: Microsoft Settlement
Jerry Schultz
7007 L.5 Lane
Escanaba, MI 49829
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Jerry L. Schultz

MTC–00029262

From: Ryan Bender
To: Microsoft Settlement
Date: 1/28/02 10:10pm
Subject: Microsoft Settlement
Ryan Bender
P.O. box 774
Topeka, IN 46571
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Ryan Bender

MTC–00029263

From: Sarah Carroll
To: Microsoft Settlement
Date: 1/28/02 10:09pm
Subject: Microsoft Settlement
Sarah Carroll
P.O. Box 490
Valders, WI 54245
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Sarah L. Carroll

MTC-00029264

From: Mark MacNeil
To: Microsoft ATR
Date: 1/28/02 10:11pm
Subject: Microsoft Case Comment

DOJ,

I think your case against Microsoft Corp. was a disgrace to the American Legal System. It seems you allowed a group of businessmen from the likes of Sun Microsystems and AOL, who couldn't compete with Microsoft on the field of software design and customer service, and allowed them a chance in a courtroom to do what they could never have done through any work of their own. I use all Microsoft products because of their good design and customer service. I think you should point your legal gun somewhere else...and perhaps you should read Greenspan's work entitled: AntiTrust. Found in Ayn Rands collection of works "For the New Intellectual".

Mark MacNeil

MTC-00029265

From: RWB
To: Microsoft ATR
Date: 1/28/02 10:15pm
Subject: Microsoft Settlement

The proposed settlement does not begin to address the market arrogance and bullying behavior which characterized Microsoft's marketing over the past decade. The public destruction of Netscape by giving away it's browser for free and then simply including it in the operating system are just one of many acts which the company has taken to reduce or destroy competition. The beginnings of a sufficient remedy would include requiring Microsoft to cease to offer a browser at all and to agree to never sell a product at less then a competitive product even if they have a minority market share. The agreement not to sell must be adjusted for the effects of "bundling" which Microsoft has used not only against Netscape but also WordPerfect and many others.

Rodger Barkus
(formerly Software Association of Oregon board member and the COO of a software company.)

MTC-00029266

From: Diane Collins
To: Microsoft Settlement
Date: 1/28/02 10:09pm
Subject: Microsoft Settlement

Diane Collins
944 Ark 175
Hardy, Ar 72542
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Diane Collins

MTC-00029267

From: Bernard Katz
To: Microsoft Settlement
Date: 1/28/02 10:08pm
Subject: Microsoft Settlement

Bernard Katz
17 Riesling Ct.
Commack, NY 11725–1735
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Bernard Katz

MTC-00029268

From: George Lawrence Storm
To: Microsoft ATR
Date: 1/28/02 10:20pm
Subject: Microsoft Settlement

I am opposed to the Microsoft settlement. If accepted it would penalize those schools involved, greatly reward the monopolistic practices of Microsoft and highly penalize the only creative computer developer left in the US.

As the current settlement stands Microsoft will pay virtually nothing by donating obsolete equipment which has already been written off and donating software that they never would have sold. This settlement places a significant financial penalty on those schools that would be foolish enough to accept this farce. It is a fact that support costs for the windows platform are on the order of ten to one. If we were to accept the notion that this "donation" was one billion dollars the schools involved would need to raise ten billion dollars to support the hardware, software and training needed to support it during the very short life remaining in it.

If however a cash fine of one billion was made with that cash going to the purchase of new Macintosh hardware and software those same schools would only need to raise three billion, six hundred million, a bit more than a third the support cost. Additionally the life of the equipment would offer more than twice the longevity of Microsoft's proposed donation. This would further reduce the strain on school budgets by extending the support costs over a five year verses a two-year period of time.

(The factors of 10 and 3.6 are a few years old and need to be researched to see if they have changed recently.) If we are to teach our children the values of honesty and integrity it should be that these values are important. Letting the proposed settlement stand only teaches them that success is based on lies and theft.

If you want to teach justice the only way is to impose the severest of penalties which must include significant jail time for all those involved. Anything less is to reward the criminals involved.

Sincerely,
George Lawrence Storm
George Lawrence Storm
1916 Pike Place / Suite 12 / #441
Seattle, Washington 98101
Telephone: (206) 334—7236
E-mail: keencoyote@earthlink.net

MTC-00029269

From: Wayne Borean
To: Microsoft ATR
Date: 1/28/02 10:20pm
Subject: Microsoft Settlement

The Proposed settlement will have virtually no effect on Microsoft. The settlement is deeply flawed, and needs to be totally recast to have any real and lasting effect on the monopolistic practises of Microsoft Corporation.

Wayne Borean
President
forkliftguy.com

MTC-00029270

From: Sirena Lau
To: Microsoft ATR
Date: 1/28/02 10:22pm
Subject: microsoft settlement
Stella L. Lau
1139 Bacon Street
San Francisco, CA 94134
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this letter is for me to go on record as favoring the settlement agreed to by Microsoft and the Justice Department. It is about time that the two sides came to an agreement, and I only hope that this settlement is approved without any delay. Competition in the computer industry is going to benefit greatly from this decision. Microsoft will be producing future versions of Windows that will allow other computer makers and software developers to add their own versions of software that compete with programs included within Windows. They will also be able to remove easily Windows" software. Companies will now be free to compete with one another, and the quality of software will rise as a result.

This settlement is just what is needed, and I stand behind it 100%.

Sincerely,
Stella Lau

MTC-00029271

From: Patricia Deibler
To: Microsoft Settlement
Date: 1/28/02 10:15pm
Subject: Microsoft Settlement
Patricia Deibler
25742 Cervantes
Mission Viejo, CA 92691-5604
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Patricia Deibler

MTC-00029272

From: Jeff Clearwater
To: Microsoft ATR
Date: 1/28/02 10:22pm
Subject: Microsoft Settlement

Your Honor, Colleen Kollar-Kotelly,

Please do what you can to stop this juggernaut from doing more damage to an already over monopolized industry!

I agree totally with the filing by ProComp regarding the Microsoft "settlement". This is a travesty of justice. Microsoft clearly has grossly violated antitrust legislation and has monopolized the market in ways that clearly suppresses innovation and competition in the operating system, browser, and scripting software industries. The filing by Procom says it the best. I reproduce an article with the specifics below.

"This proposed decree is so ineffective that it would not have prevented Microsoft from destroying Netscape and Java, the very acts that gave rise to this lawsuit," said Judge Robert H. Bork. "It is so ineffective in controlling Microsoft that it might as well have been written by Microsoft itself."

The ProComp filing explained that Judge Kollar-Kotelly must make a truly independent determination of whether the proposed settlement is in the public interest, with the public interest standard defined by the Court of Appeals ruling in this case.

Sincerely,
Jeff Clearwater

Reference Article:

Judge Bork and Judge Kenneth W. Starr were among those signing a Tunney Act filing on the settlement submitted today by the Project to Promote Competition and Innovation in the Digital Age (ProComp), a leading opponent of the settlement.

The ProComp filing also included an affidavit critical of the proposed settlement from Nobel Prize-winning economist Kenneth J. Arrow, a professor at Stanford University, who had supported the 1995 consent decree between the federal government and Microsoft.

The ProComp filing explained that Judge Kollar-Kotelly must make a truly independent determination of whether the proposed settlement is in the public interest, with the public interest standard defined by the Court of Appeals ruling in this case.

"Because this proposed settlement does not follow the mandates of the Court of Appeals judgment, it must be rejected. Neither the Department of Justice or the District Court have the constitutional authority that does not satisfy the Court of Appeals ruling," Starr explained. "This proposed settlement not only fails to meet the Court of Appeals standard, it doesn't even purport to do so. It is simply based on an inappropriate legal standard, and we don't believe it satisfies even this modest standard."

In his affidavit, Professor Arrow said the new proposed settlement between Microsoft and the Department of Justice fails to eliminate the benefits to Microsoft of its illegal conduct, fails to restore competition in the market, and fails to strengthen the possibilities of competition and deter the exercise of monopoly power now and in the future.

Arrow noted that the Court of Appeals ruled that Microsoft violated federal antitrust law by impermissibly maintaining its monopoly through anticompetitive actions against Netscape and Java. "Given that finding, the remedies in this case should eliminate the benefits to Microsoft of its illegal conduct; should restore, if possible, the possibility of competition in operating systems; and should not allow Microsoft to protect its illegally maintained monopoly from current and future competition in related markets, such as server operating systems and Web services," Arrow said in his affidavit. "In my opinion, the PFJ (proposed final judgment) fails to accomplish these objectives."

Arrow said the market position that Microsoft has today—with 92 percent of the PC operating systems market and 91 percent of the browser market—"makes it difficult for any set of conduct remedies to lead to significant middleware competition. Neither the PFJ nor any other set of conduct remedies can re-create the technological disruption or competitive head start that existed before Microsoft acted illegally."

ProComp's Tunney Act filing also notes that the proposed settlement fails to adequately deal with competitive issues that will determine the future of the software industry, and does not contain the safeguards needed to prevent Microsoft from extending its monopoly into more markets.

"The proposed decree hardly deals at all with Microsoft's likely future anticompetitive conduct. Microsoft's prodigious market power is now directed at the next threat to the Windows platform— applications and services provided via the Internet and other networks—not the Netscape/Java threat of 1995-99," according to the ProComp filing, which was signed by Bork, Starr, ProComp President Mike Pettit and others. "Microsoft has destroyed those revolutionary technologies that are a source of operating systems competition and has moved on to other areas that the proposed decree all but ignores."

The ProComp Tunney Act filing notes that the proposed settlement's strong-sounding provisions are often undercut by other sections that give Microsoft broad discretion in interpreting the agreement. For example, the proposed settlement permits Microsoft to design and bundle its products in different ways to evade the disclosure requirements by giving Microsoft "sole discretion" to decide what software is part of a "Windows Operating System Product."

"The API disclosure provisions are riddled with numerous deficiencies that render them ineffective in promoting competition," the ProComp filing said. "These are not loopholes, but triumphal arches that allow Microsoft to proceed uninhibited by the antitrust laws." Judges Bork and Starr and the others supporting the ProComp filing urged Judge Kollar-Kotelly to defer a decision on the proposed decree until after the hearing on the stronger remedies proposed by the nine states which have objected to the proposed settlement.

"The proposed decree supported by Microsoft and the Department of Justice is hopelessly vague and inherently unenforceable," Starr said. "We believe that divestiture remains the preferable and most effective remedy for Microsoft's antitrust violations."

Jeff Clearwater
Ecovillage Design Associates
2525 Arapahoe Ave, Suite E4, #280
Boulder, CO 80302
303-546-0460,
clrwater@earthlink.net
jeffc@ic.org

MTC-00029273

From: Marilyn Laurie
To: Microsoft Settlement
Date: 1/28/02 10:15pm
Subject: Microsoft Settlement

Marilyn Laurie
6520 Walden Pond Ln. SE
Southport, NC 28461
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Marilyn K. Laurie

MTC-00029274

From: John G. Ata
To: Microsoft ATR
Date: 1/28/02 10:24pm
Subject: Microsoft Settlement

This letter is written to urge the acceptance and adoption of the proposed settlement between the Department of Justice, Microsoft and nine states. This agreement addresses perceived concerns of "monopolistic practices" while allowing Microsoft to continue to developing software that is useful. The fact that the Department of Justice and 9 states have signed on shows that it has merit. No alternative has been shown to be better in the long run. Those pushing for such alternatives are those who truly wish to put Microsoft out of business which is not the best course of action for either the industry or our country in the long run. Hopefully, cool heads will prevail and the rhetoric of those who wish for harsher sanctions can be seen for what they are.

Sincerely,
John G. Ata

MTC-00029275

From: rbput.co@netzero.net@inetgw
To: Microsoft ATR
Date: 1/28/02 10:21pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Raymond L. Put
10845 Link Rd.
Fountain, CO 80817-3380

MTC-00029276

From: CHRISTOPHER A PETERS
To: Microsoft ATR
Date: 1/28/02 10:24pm
Subject: Microsoft Settlement

Dear Sirs,

I am writing to express my belief that the proposed settlement of the Microsoft anti-trust case is too weak and should be rejected by the Court. The remedies proposed would not, in my opinion, go nearly far enough to restrain the company from it's proven monopolistic behaviour. I write this as an IT professional with over 10 years of experience in the field.

I am also a conservative who believes in limited government regulation. However, in this case, I believe that it is in the best interest of the U.S. taxpayers that harsher penalties be handed down to Microsoft. By leveraging its" near-monopoly on desktop operating systems, Microsoft has damaged competition and reduced consumer choice.

In my opinion, the settlement announced in October by the nine states and the Dept. of Justice with Microsoft would be nothing more than a slap on the wrist. A proper remedy would begin with requiring that Microsoft "unbundle" its" Web browser from the underlying operating system and force the company to release the source code for versions of its" popular Office suite of programs to the general public. Such a remedy would begin to allow more competition in the marketplace.

I do not, however, believe that the company should be broken up.

Sincerely,
Christopher A. Peters
(Microsoft Certified System Engineer)

MTC-00029277

From: Shannon Littlefield
To: Microsoft Settlement
Date: 1/28/02 10:21pm
Subject: Microsoft Settlement

Shannon Littlefield
202 W Lockesburg Street
Nashville, AR 71852
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Shannon Littlefield

MTC-00029278

From: David Rose
To: Microsoft Settlement
Date: 1/28/02 10:17pm
Subject: Microsoft Settlement

David Rose
2721 NW Cascade
East Wenatchee, Wa 98802
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
David M. Rose

MTC-00029279

From: Jeffrey Horn
To: Microsoft ATR
Date: 1/28/02 10:26pm
Subject: Microsoft Settlement

United States Justice Department:

As an assistant professor of Computer Science, with a Ph.D. in Computer Science and four years of industry experience as a computer networking consultant, it is my opinion that the currently proposed settlement between Microsoft and the US Justice Department is fundamentally flawed. As a researcher and developer in the field of computers, I have seen first hand, time and again, how Microsoft has used its monopoly status to stifle competition and innovation. It is clear to me that Microsoft, in its corporate philosophy, is not interested in innovating, but rather it seeks power and control (and profit). I won't bother with the details of examples, as they have been well-documented, but I will simply list some examples: the elimination of the browser as an alternative desktop, the attempt to eliminate the platform-independent programming language Java (which supports OS independent processing), the attack on the open-source model of software development, etc.

It is my considered opinion that without Microsoft, or at least without its monopolistic influence, the computer industry, the user-computer interface, and indeed our entire understanding of the how computers can help people, would have progressed much further than we actually have so far. I strongly recommend a restructuring of the corporation, and not simply punitive measures. Microsoft has demonstrated repeatedly that it cannot change its corporate culture. Instead, the operating system itself must be made open to support of third-party products, to include new paradigms of computation. Microsoft must not be allowed to keep the entire software "pie" to itself, as it cannot be trusted to do anything beneficial with it.

Thank you for your attention.
Jeffrey Horn, Ph.D.
Assistant Professor of Computer Science
Department of Mathematics and Computer Science
Northern Michigan University
Marquette, Michigan 49855
CC:jhorn@nmu.edu@inetgw

MTC-00029280

From: Alix Barstow
To: Microsoft ATR
Date: 1/28/02 10:24pm
Subject: Microsoft Settlement

1) Thank you for bringing this suit on my behalf as an American!

2) I am very concerned that the final settlement be effective, not just in punishing Microsoft for past wrongs, but in creating an environment that hinders future wrongdoing by truly enabling vigorous competition in the middleware as well as operating systems markets. Microsoft has a near monopoly with its Microsoft Office suite and I would like to see stronger competition for these programs in particular.

MTC-00029281

From: Matt Gainer
To: Microsoft ATR
Date: 1/28/02 10:26pm
Subject: Microsoft Settlement

To whom it may concern,

First, even as I type this e-mail in Microsoft Entourage I want to thank you for pursuing an aggressive action against the Microsoft corporation. There is no disputing the quality of Microsoft's products, and the extent that we have come to depend on them; but how Microsoft positioned itself as a leader is definitely worthy of debate, and hopefully critical action as well.

Thank you for the opportunity to share the following brief story with you: In 1997 I finished Graduate school in Los Angeles and accepted my first part time teaching job at a small, private two-year catholic college located in Palos Verdes, California.

I was the first lecturer hired to teach Digital Imaging in the school's new computer lab. From what I understand, the main computer lab, along with the college's central server were at least partially (perhaps completely) funded by Microsoft...with the agreement that non-microsoft software was not allowed on any of the machines if a microsoft brand software existed for a particular task. For instance, I was not allowed to install netscape on any of the machines since Internet Explorer could perform the same tasks.

Other teachers complained that they were also forced to use microsoft products when there were better alternatives available. The issue was not money...since some of the software, like netscape, were available as free downloads. The reason that we were not allowed to use non microsoft product to teach with was because microsoft had defined the parameters of what could be done in the lab when they donated the equipment.

I'm not sure if the agreement with microsoft was legal or not, but it made for an extremely frustrating teaching experience, and severely limited the ways in which we could use the computers in our lab.

Thanks for listening,
Matt
Matt Gainer
(323)660-2846

MTC-00029282

From: hmastran@neo.rr.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:27pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Henry Mastran
400 Mark Drive
Tallmadge, OH 44278

MTC-00029283

From: Susan Dillard
To: Microsoft ATR
Date: 1/28/02 10:30pm
Subject: Microsoft Settlement
11720 81st Avenue NE
Marysville, WA 98271
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 205301

Dear Mr. Ashcroft:

Although not a member of technology industry, I would like to voice my thoughts on finalizing the Microsoft anti-trust case. To claim that Microsoft is operating as a monopoly, with apparently so many competitors available that they can bring on this lawsuit, comes off as an overblown attack on a company that has succeeded through consumer support, not monopolistic practices.

As I've seen in the telephone industry, there are many more monopolies causing much more harm to the consumer than Microsoft has ever done. Now that a settlement has been reached, the conditions seem highly favorable to the Justice Department, even surpassing some of the initial complaints. So, with so many other distractions of greater importance on the government's plate, it would seem time to finally end this process.

With regular oversight of a technical committee to ensure compliance, Microsoft will provide ample opportunities for their rivals to succeed with this deal, including more flexible configuration of the Windows platform, access to its internal source code and licensing of its intellectual property.

Please move forward with this process and allow these companies to go compete in this new environment without further intervention.

Sincerely,
Susan Dillard
CC:fin@mobilizationoffice.com@inetgw

MTC-00029284

From: CHARLES DELANEY
To: Microsoft Settlement
Date: 1/28/02 10:20pm
Subject: Microsoft Settlement
CHARLES DELANEY
1219 GLENRIDGE LANE
ELKHORN, WI 53121
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
CHARLES R. DELANEY

MTC-00029285

From: Tanuj T
To: Microsoft ATR
Date: 1/28/02 10:30pm
Subject: Microsft Settlement

This is too easy a way out for Microsoft, predominantly because Microsoft has so much money, the charges Microsoft need to pay to settle its monopoly won't even scratch the company. This is meaningless because large companies will continue to get monopolies and pay them off without any problems. The settlement needs to go farther than that, to prevent large companies from getting away with monopolies easily. Just like Carnegie's vertical monopoly on steel, he had made so much money, he still had his monopoly on steel.

What should be done is Microsoft should break up into two competing companies. Thus they will not be able to form trusts more overtly than what they're doing now. Another solution would be to force Microsoft to have two versions of Windows available; one with all the features and software it has now, and one with just the operating system itself. However, I believe this aspect is not an issue because Microsoft just has a better product. The Operating System doesn't prevent one from installing Netscape or anything of that nature, it's equal opportunity for all ventures.

In addition to it being too easy for large companies to get away with monopolies, other companies also bundle up their software, such as Apple. So in reality they are also cutting off the market because Apple requires you to purchase their software and hardware because it won't work any other way.

For example, the Mac Operating System obliges you to also buy a Mac printer, Mac compatible word processors, Mac games, Mac compatible browsers, etc.. They are cutting off the market from Microsoft and other companies, who can't put too much software on it because it's not compatible or else pay Apple to get it on. Because Microsoft doesn't want to waste their money, they just place it on their own OS. It's exactly the same idea: Microsoft bundles up Office and IE, just the same way Apple bundles up their software. However, if Apple receives the lawsuit, they will suffer a lot more than Microsoft, who won't get affected by the lawsuit because they have so much money.

MTC-00029286

From: ALEXANDER R KOBIEC
To: Microsoft ATR
Date: 1/28/02 10:20pm
Subject: microsoft settlement

REQUEST THAT MICROSOFT SUIT BE SETTLED IN A TIMELY AND FAVORABLE OUTCOME IN MICROSOFT'S FAVOR.

I AM A MICROSOFT USER AND FEEL THAT THEIR PRODUCTS ARE FAIR AND REASONABLE. TO RULE AGAINST THEM WOULD STIFLE INNOVATION. I FEEL VERY STRONGLY IN MICROSOFT'S FAVOR.

SINCERELY,
ALEXANDER R. KOBIEC

MTC-00029287

From: Donald Kochanek
To: Microsoft Settlement
Date: 1/28/02 10:25pm
Subject: Microsoft Settlement
Donald Kochanek
757 W. 406 S.
Marion, IN 46953
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Donald R. Kochanek

MTC-00029288

From: Janet Gillette
To: Microsoft Settlement
Date: 1/28/02 10:24pm
Subject: Microsoft Settlement
Janet Gillette
3419 El Serrito Dr
Salt Lake City, UT 84109
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Janet W. Gillette

MTC-00029289

From: Dora Cividino
To: Microsoft Settlement
Date: 1/28/02 10:24pm
Subject: Microsoft Settlement
Dora Cividino
14457 Indian Springs Road
Penn Valley, CA 95946
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Dora Cividino

MTC-00029290

From: Aleks Totic
To: Microsoft ATR
Date: 1/28/02 10:32pm
Subject: Microsoft Settlement
To: The Antitrust Division

My name is Aleksandar Totic. I am writing to comment on the proposed Microsoft settlement, and document anti-competitive MS behavior that occurred in October 2001. I believe that the behavior I've documented clearly demonstrates that MS will inconveniences the consumer if it helps to protect its monopoly.

In "Competitive Impact Statement", you claim that the settlement will "restore the competitive threat that middleware products posed". I do not believe that the settlement will achieve this goal. This is because:

A)

There are many exceptions in the settlement that Microsoft can use to hinder competition:

Section III.D

Why make interoperating with Windows the sole purpose of the disclosure? MS could use this to deny Linux developers access to the APIs. The APIs should be public, without any strings attached. Section III.H.2 (Windows may invoke MS Middleware) I bet that the line "designated Non-Microsoft Middleware Product fails to implement a reasonable technical requirement" can be used to disqualify any middleware MS disagrees with.

B)

The only real threat to MS was that the web would make OS irrelevant. This can only happen if there is browser competition. With IE, MS will make sure that surfing the web on Windows is the only good web experience.

That's all as far as my complaint about the settlement goes. Now here is my documentation of Microsoft continuing to clean up any remaining competition in browser wars in October 2001.

DOCUMENTATION OF ANTI-COMPETITIVE BEHAVIOR, OCTOBER 2001

I was one of the founding engineers of Netscape, employee #11, followed Marc from Illinois. I was one of the authors of the Plugin API for Netscape, back in 95.

Microsoft cloned our API right away in IE, and then removed in October of 2001 as a part of Service Pack 2 for IE5.5/IE6. This caused all Plugin API plugins to stop working, including QuickTime. Some of the Apple's engineers spent a few sleepless nights, frantically rewriting the Quicktime plugin to support ActiveX.

To understand how sinister this move was, you need to know a bit about the Plugin API. It is a standard by which 3rd party developers can extend browser functionality, allowing movies, complex animations to be played in web pages. Flash, RealPlayer, and Quicktime are examples of plugins. The Plugin API was cross-platform, and was widely used, implemented in other browsers, such as Opera.

Microsoft cloned Netscape's Plugin API under competitive pressure in IE 2, and also created a competing standard called ActiveX. ActiveX of course was available only on Windows, and no other browsers ever supported it.

ActiveX and Plugin API were competing standards. Despite MS much more extensive support for ActiveX, Plugin API was widely used, because it was simpler to use, and cross-platform.

When MS removed it, movies stopped playing for millions of movie watching consumers that relied on Quicktime. In one stroke, MS killed PluginAPI, and hurt Quicktime, a competitor of Movie Player. The move inconvenienced the consumers, who had to go to Quicktime site to upgrade or start using Microsoft movie, developers. The only benefit was to Microsoft, to lock people into using IE. And this occurred in October 2001, after they were found guilty.

Microsoft statement about removing the API can be found at: "Netscape-Style Plug-ins Do Not Work After Upgrading Internet Explorer" http://support.microsoft.com/support/kb/articles/q303/4/01.asp The list of plugins supporting the Plugin API: http://browserwatch.internet.com/plug-in/plug-in-big-ah.html

Later, they also decided not to ship Java, further destroying the cross-platform promise of the web.

As one of the original visionaries of the web that transcends Operating Systems, this makes me very mad. I applaud Microsoft winning through quality and innovation, but they keep pursuing API lock-in and monopoly as their favorite means of competition.

If you need any further help, I'd be happy to fly out to Washington, testify, do more competitive analysis, code review, etc.

Thank you for your time,
Aleksandar Totic
2023 Pacific Avenue
San Francisco, CA 94109

MTC-00029291

From: Susancrawford@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:33pm
Subject: Microsoft Settlement

As a user of Microsoft's products, I object to the company being punished for its success. The suit was brought by Microsoft's competitors, who were not able to produce a product as good as Microsoft's. Business must be allowed to function in a free society, and to function competitively.

The consumer always has the choice to buy from Microsoft, or not. Noone is being cooerced. I stand for Microsoft's right to produce the best product it can. And it's right to own that which it produces.

Susan Crawford
Silver Spring, Md.

MTC-00029292

From: Ronald Hall
To: Microsoft Settlement
Date: 1/28/02 10:29pm
Subject: Microsoft Settlement
Ronald Hall
PO Box 2020
Hew Hartford, NY 13413
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Ronald D. Hall

MTC-00029293

From: Lester Hixson
To: Microsoft Settlement
Date: 1/28/02 10:27pm
Subject: Microsoft Settlement
Lester Hixson
173 San Marcos Dr
Lodi, CA 95240
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Lester N Hixson

MTC-00029294

From: Frank West
To: Microsoft ATR
Date: 1/28/02 10:37pm
Subject: Microsoft Settlement

Just a short comment.

Why pick on Microsoft when the real "monopolies" consist of Big Government's overstuffed "Bureaucracies"! Of course, all the shysters in congress need something to turn the attention away from themselves since "statesmanship" is so lacking in this modern age.

F T West
Elyria, OH

MTC-00029296

From: brad
To: Microsoft ATR
Date: 1/28/02 10:35pm
Subject: Microsoft Settlement
Brad Smith
5011 Dixie Highway NE, Suite A-308
Palm Bay, Florida 32905
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to take a moment to express my support for the settlement reached between Microsoft and the Department of Justice in November. I believe the settlement is reasonable and fair to all sides involved in this case.

The agreement requires significant changes in Microsoft's practices. For example, Microsoft will have to design future versions of Windows that provides a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. This will give consumers who do not like Microsoft products the freedom to change their configuration at any time.

And to assure compliance with the agreement, Microsoft has agreed to be monitored by a Technical Committee formed by the Justice Department.

As a frequent user of Microsoft products, I know firsthand of the innovation Microsoft has brought to consumers over the years. This settlement allows Microsoft to shift their focus back to innovation and away from litigation. This alone makes the settlement definitely in the public interest.

Thank you for the opportunity to give my public comment on this matter. Hopefully with your office's continued support of this settlement, a final conclusion can be reached in the near future.

Sincerely,
Brad Smith

MTC-00029297

From: warren (038) florence schreiner
To: Microsoft ATR
Date: 1/28/02 10:37pm
Subject: Microsoft settlement

I am a relatively newcomer to the PC scene (about five years) and have followed the judicial proceedings re the charges involving monopolistic practices on the part of Microsoft. As a user of windows 95, 98 and soon XP Home Edition I have only the highest admiration for the products Microsoft has put out and cannot believe the country would benefit from the Draconian measures some have called for. The settlement now proposed between the US government and Microsoft seems to me to be entirely reasonable from my standing as a consumer. When I had some dissatisfaction with the browser and email programs bundled with W 95 I switched to the Navigator software. Anyone was and is free to do the same. The sane was true of the McAfee virus protection software from which I switched to Symantec's. Since then Microsoft has improved its products and in XP I'll rely on Explorer and Contact Express. Microsoft maintains an upgrading system and is responsive to complaints about bugs in its product by providing free patches. I urge you to proceed and finalize the settlement along the lines as I understand them from media reports.

Respectfully yours,
Warren C. Schreiner
2351 Stag Run Blvd
Clearwater, FL 33765
727 791 1179

MTC-00029299

From: Vincent Papa
To: Microsoft Settlement
Date: 1/28/02 10:32pm
Subject: Microsoft Settlement
Vincent Papa
1313 Mockingbird Ln.
Mineola, ny 11501
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Vincent Papa

MTC-00029300

From: Huland B. Gardner
To: Microsoft Settlement
Date: 1/28/02 10:33pm
Subject: Microsoft Settlement
Huland B. Gardner
4300 Tartt "s Mill Rd
Wilson, NC 27893-7927
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views. Let this stand!!! Enough is ENOUGH !!!

Sincerely,

Huland B Gardner

MTC-00029301

From: Larry Young
To: Microsoft ATR
Date: 1/28/02 10:40pm
Subject: Microsoft Settlement

Please settle the Microsoft case based on the terms agreed between the Justice Department and Microsoft.

I believe this case has always been about Oracle, Sun and AOL not wanting to compete in the marketplace. These companies would rather stifle competition by wasting court time. For sure there are some actions on Microsoft's part that can be altered, such as publishing all of the API's to the development community. Making sure Microsoft treats all companies the same and not withholding information to competitors, another issue that should be addressed and is addressed in the Government agreement with Microsoft. However many of the same policies and procedures are practiced by the companies that initially brought attention to Microsoft. Oracle is now bundling their software and is attempting to prevent the Oracle user from installing products not sold by Oracle. Sun wants to tie all of its products to Java. AOL refuses to open their Instant Messenger software to other companies. How can AOL accuse Microsoft an antitrust violator when AOL may also be an antitrust violator? Now AOL wants all of its users to stay on servers owned and maintained by AOL instead of having them surf the Internet.

While Microsoft is attempting to promote sites that have a relationship with Microsoft they are also big defenders and promoters of the Internet. If AOL has its way the Net will die on the vine the way Main Street withers when a Wal-Mart comes to town. Please allow Microsoft to remain strong to prevent AOL from destroying the open commerce that is thriving today on the Net. Oracle, Sun and AOL are laughing while the courts enhance their self interest by at best stifling and at worse destroying a competitor they wish not to compete with in the open market place.

Palm

Palm believes Microsoft is destroying their business. Consider that initially 3Com refused to create a separate company thereby forcing the hand of the original developers to leave the company. After the original developers left and started Handspring, 3Com created the separate company. Now with the loss of prime talent, Palm has languished. By all accounts it has been the misdirection and lack of creativity of the Palm management that has allowed Microsoft to take some market share and create a viable product. Why should Palm be allowed to be the only product in the market? If this economy can support more than one automobile company, it can have the Pocket PC alongside the Palm.

Netscape

Netscape lost the browser war because they did not have the better product. It doesn't get any simpler than that and now AOL wants treble damages for making a product that could not compete and was allowed to languish for years without any effort directed at fixing the product. Where is the justice?

FTP Software

If any company should have brought Microsoft to court it is this one. When Microsoft bundled TCP/IP software in the operating system this company could not survive. Today it is unthinkable to consider that an operating system can exist with out TCP/IP services. In fact the UNIX operating systems had this before Microsoft, suggesting that this was indeed a service that belonged in the operating system. In the early years Microsoft didn't even have memory management. That also was provided by a third party. In this case Norton, now owned by Symantec, has been able to morph into other areas. Symantec is a company that knows how to create software the market needs without running to the courts. The point I am trying to make is that government and the courts should not micromanage the bundling of products in the operating system. If it was done years ago then memory management and TCP/IP services would not have become a part of the operating system. This would have been an incredible injustice to Microsoft and the consumer. If we cannot see into the future or look at the present to determine if the customer is damaged then we should look at the past. Companies like Symantec would not have become a strong competitor. The operating system capable of supporting consumers and the business community would not exist. The computer would still be behind glass walls, out of reach of the consumer. I only suggest that Microsoft be required to either sell a feature as a standalone product or be aloud to include the feature in the operating system.

The number of software companies that have formed and flourished because of Microsoft is probably greater than any other company. The number of Microsoft managers and developers that have left to form their own companies is greater than any other company. Microsoft has not only brought computing to the masses but enabled an industry to become world class. These actions have enabled consumers to realize a marketplace rich in products and services that would not have happened if Microsoft did not exist. All Sun and Oracle want to do is sell expensive products that only companies can afford. Sun, Oracle and AOL do not want to compete fairly in the marketplace. AOL won't open their messenger product. Oracle bundles and is creating an operating system under their products. How can Oracle justify that type of bundling? All these companies want to do is overcharge the consumer and create products that have no competition. How does wounding Microsoft help the customer under these circumstances?

I am not an Attorney and therefore I can not even consider the possibility of forming my thoughts into a cohesive legal brief. I therefore appreciate the chance to express my feelings about the case rather than crafting a legal argument.

Thank you.

Larry Young

MTC-00029302

From: Myron Schreiner
To: Microsoft Settlement
Date: 1/28/02 10:36pm
Subject: Microsoft Settlement

Myron Schreiner
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,

Myron M Schreiner

MTC-00029304

From: Ron Peterson
To: Microsoft ATR
Date: 1/28/02 10:42pm
Subject: Microsoft Settlement

As Microsoft has already been found guilty of abusing it's monopoly power, I shall confine my comments to the remedy phase of the trial. At minimum, I hope the court can restore competition to those markets where Microsoft's abuse of their operating system monopoly has given them unfair advantage. This would be a minimal remedy, in the sense that it restores things to the way they should be, without imposing any punitive damages for Microsoft's illegal conduct. Speaking as a career systems manager, I live by a commonplace aphorism: "Buy computers for the applications". Not for the packaging. Not for the fancy hardware. No, not for the operating system. For the ways they extend people's capabilities. For the applications.

These days, that doesn't leave me much choice. Like Microsoft, I value the "freedom to innovate". I also believe this freedom should extend to everyone, not just Microsoft. I don't have that freedom. Microsoft's competitors don't have that freedom either.

I buy computers that will most cost effectively run Microsoft operating systems and Microsoft applications, because I must. If I do not, the people I serve will not be able to effectively communicate with collegues, clients, patrons, vendors, friends, and family. Microsoft's dominance in the applications arena hinges on its proprietary data formats. I cannot reasonably ask my patrons to run applications that cannot faithfully, reliably, and consistently both read and write Microsoft documents. However, applications that meet these criteria do not exist, because Microsoft controls the format, but does not divulge the operational details. If a competitor comprehends the format, Microsoft changes it. Microsoft gets an upgrade fee; the competitor starts over.

There is only one way to restore competition to the market for computer applications. Microsoft *must* be compelled to divulge its applications" file formats. Without this restriction, Microsoft will continue to monopolize the market for computer applications indefinitely. Considering that these applications intrude into almost all aspects of our daily lives—even, as I'm sure you are aware, into the very operation of government—this situation *must* end.

Additionally, Microsoft must be compelled to divulge the format of its network protocols. Microsoft understands full well that compatibility is the key to the kingdom. If they control proprietary de-facto standards for file formats and networking protocols, they control everything. Please don't be mislead by so-called "compromise" positions advanced by Microsoft that would open their "API's" or Application Programming Interfaces. This position is simply a ruse to promote further adoption of Microsoft applications.

If you compell Microsoft to open their file formats and their networking protocols, you will invigorate the marketplace. You will compell competition on the merits, rather than binary compatibility. You will restore the market to where it should have always been. And you will establish a worthy precedent for how to deal with similar future abuses of monopoly power in the software marketplace.

Best wishes
Ron Peterson
Network & Systems Manager
Mount Holyoke College
http://www.mtholyoke.edu/rpeterso

MTC-00029305

From: Dave Stewart
To: Microsoft ATR
Date: 1/28/02 10:43pm
Subject: Microsoft Settlement

Attached please find the comments of RealNetworks, Inc. addressing the Revised Proposed Final Judgment filed by Microsoft, the Department of Justice and certain plaintiff states.

In the event you have any questions or problems relating to the transmission of this document, please call Dave Stewart at (206) 892–6122.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA,
Plaintiff, v. Civil Action No. 98–1232 (CKK)
MICROSOFT CORPORATION,
Defendant.
STATE OF NEW YORK, et al.,)
Plaintiffs, v. Civil Action No. 98–1233 (CKK)
MICROSOFT CORPORATION,
Defendant.

COMMENTS OF REALNETWORKS, INC. ON THE REVISED, PROPOSED FINAL JUDGMENT SUBMITTED BY MICROSOFT CORP., THE U.S. DEPARTMENT OF JUSTICE AND CERTAIN PLAINTIFF STATES DATED: JANUARY 28, 2002

I. INTRODUCTION

The United States Court of Appeals for the District of Columbia Circuit has held that, over the last seven years, Microsoft has engaged in a broad range of anticompetitive conduct seeking to stifle the development and distribution of innovative middleware technologies. Microsoft's actions have been directed at entrepreneurial competitors that have, through innovation and ground-breaking competition, invented new products, such as internet browsers, electronic mail, instant messaging, digital imaging, digital media and voice recognition, that have given rise to entirely new industries and new sources of consumer welfare. By imposing an effective remedy to curb Microsoft's anticompetitive abuses, this Court can help ensure that the varied markets for innovative middleware products remain fertile ground for competition and innovation.

Driven by a desire to maintain the dominance of its operating system monopoly, Microsoft has, as the trial court's factual findings and the Court of Appeals' opinion demonstrate, consistently used its monopoly power in a manner that harms consumers and competition. By manipulating the design of its operating system and its own middleware products, Microsoft has effectively denied personal computer manufacturers ("OEMs") the ability to choose whether or not they want to include Microsoft middleware products on the computers they sell and similarly denied consumers the ability to remove such software from the computers they buy. By imposing broad, exclusionary licensing restrictions by fiat, Microsoft has denied OEMs the opportunity to configure their personal computers in the way they choose, being required instead to favor Microsoft's middleware products over those offered by competitors. By entering into exclusive contracts with a broad range of parties, such as Internet Access Providers (DIAPsÑ), Internet Content Providers (DICPsÑ), Independent Software Vendors (DISVsÑ) and Independent Hardware Vendors (DIHVsÑ), Microsoft has to a significant extent foreclosed the distribution of competing middleware products. At every step of this process, Microsoft has wielded its monopoly power to threaten, coerce and retaliate against parties that resist its demands.

As a result, Microsoft has effectively denied consumers the choice of buying a personal computer that is not laden with Microsoft middleware products. This harms not only today's computer users, but tomorrow's purchasers of personal computers, cellular telephones, personal digital assistants, digital home entertainment centers, set-top boxes, and game consoles, all of whom may have their choices substantially limited if Microsoft's anticompetitive curbs on innovation are not constrained today. It is long settled that such broad findings of liability demand even broader, forward-looking remedies designed to prohibit Microsoft from continuing its anticompetitive acts and finding new ways to hinder the growth of other innovative middleware products. The failure of the last consent decree agreed to between Microsoft and the Department of Justice (DDOJÑ) in 1995 serves as a stark reminder of the waste of judicial resources and harm to competition that results from a narrow, backward-looking remedy. Neither consumers nor competition will be served through imposition of yet another flawed, ineffective remedy that will make the next antitrust suit a foregone conclusion.

Unfortunately, the Revised Proposed Final Judgment offered by Microsoft, the DOJ and certain states ("RPFJ") fails to heed the all-too-recent lessons of history. As discussed herein, the contours of the RPFJ reflect the concessions required to gain Microsoft's agreement rather than the safeguards required to constrain Microsoft's anticompetitive conduct. The loophole-laden RPFJ is full of exceptions and ambiguities that will not only fail to terminate Microsoft's anticompetitive conduct, but will ensure that extended judicial proceedings will be required to clarify, if not enforce, its provisions.

For the reasons set forth below, RealNetworks respectfully submits that entry of the RPFJ would not be in the public interest.

II. REALNETWORKS AND THE DIGITAL MEDIA MARKET

RealNetworks, which was founded in Seattle, Washington in 1994,[1] is a pioneer in the development of digital media technology and services that enable people to create, deliver, discover, and play digital audio and video content over the Internet and other networks, both through downloading and through a method RealNetworks developed called "streaming." Streaming allows digital media files to be compressed and broken into packets, then delivered and decompressed seriatim, so that consumers can enjoy uninterrupted, real-time broadcasts over the Internet. For example, following the events of September 11, 2001, CNN streamed its newscast via the Internet 24 hours a day to provide people with immediate access to the breaking news from their desktops. Innovation in the market for media players has consistently been driven, not through integration of functionality into operating systems, but by independent developers creating a new market for sophisticated digital media technologies with robust and integrated features and functions. RealNetworks developed the first streaming media player and the first streaming media server in 1995. Since then, RealNetworks has continued to lead innovation in the digital media delivery market, consistently bringing industry-leading innovations—such as a built-in radio tuner, delivery of stereo audio at 28.8 kbps modem speeds, bookmarking of favorite streams, links to media programming, support for animation, and automatic updating and just-in-time installation of codecs—to consumers ahead of Microsoft. Rather than being a source of innovation, Microsoft's commingling of its media player into its operating system has constituted a means by which it has sought to suppress, rather than spur, innovation and competition. RealNetworks' technology falls squarely within the Court of Appeals' definition of middleware as "software products that expose their own APIs," or Application Programming Interfaces.[2]

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[1] RealNetworks was originally named Progressive Networks. It changed its name to RealNetworks in September 1997.

RealNetworks makes available software development kits to enable software developers to build applications and extensions using RealNetworks' technologies to create, deliver and playback digital media. Over 500 ISVs are developing applications using RealNetworks SDKs and websites that provide access to content in RealNetworks' RealAudio and RealVideo formats utilize RealNetworks' middleware. Microsoft competes with RealNetworks in seeking to convince software developers and content providers to build applications using their respective technologies. Applications created using RealNetworks' technology include news broadcasts, distance learning, financial reporting, security for streamed and downloaded content, radio broadcast services, music subscription services, video-on-demand services, web conferencing, e-commerce services and more. One need only look as far as the extensive use of RealNetworks' technology in the pervasive Internet coverage of the events of September 11th to see how important and pervasive such technologies are becoming.

alNetworks offers a universal platform designed to provide the highest quality digital media creation, delivery, playback and security experience across multiple operating systems, transport technologies, media formats and digital devices. This RealSystem technology works on over 20 different operating systems (e.g., Unix, Linux, Windows, Solaris, AIX, HP/UX, Symbian), delivers and plays over 50 different formats or datatypes (e.g., MP3, MPEG-1, MPEG-2, MPEG-4, Quicktime, Macromedia Flash, RealAudio, RealVideo), and works with a wide variety of digital devices (e.g., personal computers, Sony PlayStation2, Hewlett Packard's Digital Entertainment Center, Nokia cell phones, portable music players and personal digital assistants). Applications built using RealNetworks' technology are operating system independent, so that consumers, content providers, businesses, network operators, and others using such applications do not need to install Windows operating systems on either their personal computers or on the servers that deliver media.

The opportunities for digital media are enormous. The current U.S. market for audio and visual media amounts to over $200 billion per year.[3]

Current estimates for spending in the streaming digital media sector alone exceed $10 billion by 2010.[4]

The pace of innovation and adoption of digital media is rapidly increasing as more content is digitized, more consumer electronics equipment supports digital formats and broadband growth continues to accelerate. By 2007, there will be an estimated 120 million streaming media users in the U.S. alone.[5]

There are over 10 million broadband customers in the U.S., a number expected to grow to over 35 million by 2006.[6]

Broadband use is important because it greatly improves and facilitates streaming media resulting in significantly higher streaming media usage rates.[7]

III. THE COURT HAS BROAD AUTHORITY TO ENSURE THAT THE REMEDY IMPOSED PROHIBITS MICROSOFT FROM AGAIN LIMITING THE DEVELOPMENT OF MIDDLEWARE IN AN ILLEGAL MANNER.

In affirming the trial court's holding that Microsoft illegally maintained its operating system monopoly, the Court of Appeals broadly condemned a wide range of actions through which Microsoft attempted to reduce usage of competing middleware products.[8]

Under the reasoning of the Court of Appeals' decision, actions taken by Microsoft that have the effect of hindering competing middleware developers from gaining the critical mass of users necessary to attract developer attention away from Windows as the platform for software development—other than Microsoft's efforts to improve the quality of its own products violate Section 2 of the Sherman Act.[9]

Among other things, the court condemned Microsoft's conduct that falls within the following four broad categories: (1) licensing restrictions limiting the ability of personal computer original equipment manufacturers (OEMs) to configure their personal computers in the manner they determine to be appropriate;[10]

(2) Microsoft's design of the Windows operating systems and Microsoft Middleware in a manner that limits the ability of OEMs and consumers to remove Middleware code from the operating system;[11]

(3) Microsoft's entry into exclusive contracts designed to limit usage of competing middleware products[12] and (4) Microsoft's threats and intimidation designed to limit the development and distribution of middleware.[13]

In condemning Microsoft's actions, the Court of Appeals rejected Microsoft's assertions that integrating Middleware into the operating system or otherwise attempting to keep developers focused upon its APIs somehow provides any procompetitive justification for Microsoft's actions.[14]

A. The Breadth Of The Court Of Appeals' Liability Holding Demands Imposition Of Broad Remedies

The guiding principles underlying our antitrust laws make clear that the broad grounds of liability affirmed by the Court of Appeals demand imposition of an even broader range of remedies. The Supreme Court has repeatedly held that, in enacting the Sherman Act, Congress sought to "preserv[e] free and unfettered competition as the rule of trade."[15]

This need to safeguard free competition is a direct result of the fundamental premise of our economic system that unrestrained interaction of competitive forces will yield the best allocation of our economic resources, the lowest prices, the highest quality and the greatest material progress, while at the same time providing an environment conducive to the preservation of our democratic political and social institutions.[16]

This policy is embodied in two types of legal standards—those applied to the liability phase of antitrust cases and those governing the relief phase. As the Supreme Court has observed, the formulation of adequate remedies is the most significant phase of the case.[17] Courts have broad discretion during the relief phase to ensure that the antitrust remedies imposed "effectively pry open to competition a market that has been closed by defendants" illegal restraints."[18]

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[2] United States v. Microsoft Corp., 253 F.3d 34, 53 (DC Cir. 2001), cert. denied, 151 L. Ed. 2d 264, 122 S. Ct. 350, 70 U.S.L.W. 3267 (2001). APIs are interfaces exposed by operating systems and middleware that support the functions of software programs, called "applications," that perform specific user-oriented tasks. APIs "are synapses at which the developer of an application can connect to invoke pre-fabricated blocks of code in the operating system. These block of code in turn blocks of code in the operating system. These blocks of code in turn perform crucial tasks, such as displaying text on the computer screen." United States v. Microsoft Corp., 84 F. Supp. 2d 9, N 2 (D.DC 1999), aff'd, 253 F.3d 34 (DC Cir. 2001), cert. denied, 151 L. Ed. 2d 264, 122 S. Ct. 350, 70 U.S.L.W. 3267 (2001).

[3] See "Market Opportunity" Adapted from source: Kagan World Media estimates 2001.

[4] See "Streaming Media Market Growth," Source: Paul Kagan Associates Streaming Media Investor.

[5] See "Total Active Streaming Media Users," Source: Kagan World Media, June 2001.

[6] See "Consumer Broadband Adoption Blooms over the Next Five Years," Source: Jupiter MMXI.

[7] See "Percent of U.S. home Internet users accessing streaming media," Source: Nielsen/NetRatings, July 2001.

[8] See Microsoft, 253 F.3d at 60. Assistant Attorney General Charles A. James acknowledged that this was a middleware case, a middleware case, a middleware case. Mark Wigfield, Antitrust Chief Defends Government's Settlement with Microsoft, DOW JONES NEWSWIRES, Nov. 16, 2001.

[9] Id. at 60, 62.

[10] Id. at 59–64.

[11] Id. at 64–67.

[12] Id. at 70–73, 75–76.

[13] Id. at 77–78.

[14] See id. at 71.

[15] Northern Pacific Railway Co. v. United States, 356 U.S. 1, 4 (1958). See also National Society of Professional Engineers v. United States, 435 U.S. 679, 692 (1978); United States v. Crescent Amusement Co., 323 U.S. 173, 187 (1944).

[16] Northern Pacific Railway, 356 U.S. at 4. See also National Society of Professional Engineers, 435 U.S. at 695.

An antitrust decree must "break up or render impotent the monopoly power found to be in violation of the Act."[19]

In other words, the decree must leave the defendant without the ability to resume the actions which constituted the antitrust violation in the first place.[20]

For these reasons, the decree should not be limited to past violations; it must also effectively foreclose the possibility that similar antitrust violations will occur or recur. As the Court noted in International Salt, it is not necessary that all of the untraveled roads to [anticompetitive conduct] be left open and that only the worn one be closed. The usual ways to the prohibited goals may be blocked against the proven transgressor.[21]

In evaluating the adequacy of an antitrust remedy, the court's inquiry necessarily looks forward, considering evidence that was not necessarily placed in the trial record and, indeed, may not have even been in existence at the time of trial.[22]

It is long settled that the Court may at the relief stage prohibit practices that have not been found unlawful if such a prohibition is necessary to avoid the recurrence of monopolization.[23]

In addition, restraints may be imposed upon the defendant that are designed to allow the development of nascent competition within the relevant market.[24]

Such a remedy is critical here, given the Court of Appeals' explicit conclusions regarding the nascent potential of middleware to erode the applications barrier to entry that protects Microsoft's operating system monopoly.[25]

B.The Antitrust Procedures And Penalties Act Authorizes The Court To Engage In A Broad Inquiry To Determine The Adequacy Of The Proposed Decree

Congress has directed the Court here to determine whether entry of the RPFJ is in the public interest. In making that determination, the Antitrust Procedures and Penalties Act authorizes the Court to undertake a wide-ranging inquiry into two broad areas of evaluation. First, the Court is to consider the competitive impact of the proposed consent decree, including whether the proposed decree would actually terminate the defendant's violations and whether the proposed decree's enforcement provisions are adequate. In making this determination, the statute expressly authorizes the court to consider the anticipated effectiveness of alternative remedies, as well as any other considerations bearing upon the adequacy of such judgment.[26]

Second, the statute authorizes the court to consider the impact of the proposed decree on the public generally and on those individuals harmed by Microsoft's violations of the Sherman Act.[27] Highly relevant to both of these areas of inquiry is the clarity ofthe proposed decree. As the Court of Appeals has recognized, the district judge who must preside over the implementation of the decree is certainly entitled to insist on that degree of precision concerning the resolution of known issues as to make [her] task, in resolving subsequent disputes, reasonably manageable.[28]

In this way, Congress intends the courts to be an "independent force" in reviewing the adequacy of proposed consent decrees.[29] As broad as this language is, it is clear that the statute which references alleged violations rather than violations proven at trial, as well as benefits to be derived from a determination of the issues at trial[30]

—primarily contemplates review of consent decrees settling claims that have not yet been adjudicated. Where, as here, federal and state antitrust enforcers have actually proven during the course of a 76-day bench trial that Microsoft illegally maintained its operating system monopoly in violation of the Sherman Act, and that holding has been affirmed on appeal, the court's powers of review are at their maximum level. Unlike Judge Sporkin's review of the DOJ's previous, ill-fated consent decree with Microsoft, which settled claims that had not been proven, this is not a case in which the court's review will implicate the DOJ's prosecutorial discretion in framing the complaint and in appraising whether to pursue its claims through trial, nor does it raise the constitutional concerns of impinging upon the prosecutorial discretion of the executive branch.[31]

Because the Court's determination here is concerned solely with the proper extent of the remedies to be imposed to redress proven violations of the Sherman Act, the Court's evaluation of this proposed decree should be guided by the well-settled principles governing the adequacy of antitrust remedies. As set forth below, careful review of the proposed consent decree demonstrates that it falls woefully short of meeting these standards, which were reflected in the Court of Appeals' admonition that the remedy for Microsoft's illegal acts must seek to unfetter [the] market from anti-competitive conduct, to terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation,[32]

IV. THE RPFJ NEITHER FREES THE MARKET FROM MICROSOFT'S ANTICOMPETTITIVE CONDUCT NOR DENIES MICROSOFT THE FRUITS OF ITS ILLEGAL CONDUCT.

The RPFJ fails to satisfy the Court's clear and simple standard. The RPFJ neither terminates Microsoft's illegal monopoly nor denies it the fruits of its statutory violations. It fails to ensure that no practices remain that are likely to result in future monopolization. Certainly, Microsoft's current dominance in the browser market for personal computers is a fruit of its illegal conduct. The RPFJ reads like a tacit approval of Microsoft's newly imposed browser monopoly; indeed, it is not even mentioned in the DOJ's Competitive Impact Statement (CIS). Nor does the CIS address how the RPFJ is designed to terminate the illegal monopoly or restore JAVA to the position it would have held absent the illegal conduct. The CIS is silent regarding the market conditions that would currently exist were it not for Microsoft's anticompetitive acts market conditions that should be restored as part of any adequate remedy. The RPFJ fails to understand and address the long-term impact of Microsoft's conduct.

Moreover, the RPFJ's provisions are vague, internally inconsistent and replete with exceptions and loopholes that will allow a determined and proven illegal monopolist to delay and even avoid the remedies. Indeed, the many instances in which the CIS reads into the RPFJ substantial additional terms/ restrictions necessary to create a reasonable interpretation of the provisions foreshadows the difficulty of enforcing the RPFJ. Disagreements at this stage between the parties to the RPFJ will pale in comparison to the disagreements that will arise between Microsoft on the one hand and antitrust regulators and impacted parties on the other hand as the Court seeks to enforce the RPFJ. Because it provides insufficient remedies relating to middleware, OEM/ISV flexibility, information disclosure and enforcement, it is likely that Microsoft will be able to continue with many of its current anticompetitive practices virtually unchanged. In addition, it in effect imposes upon Microsoft's competitors several restrictions and conditions on doing business and innovating that do not exist today. This following discussion outlines only some of the deficiencies in the RPFJ. It is not intended to be an exhaustive review of the deficiencies and implications of the proposed settlement.

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[17] United States v. Glaxo Group, Ltd., 410 U.S. 52, 64 (1973).

[18] *International Salt Co.* v. *United States*, 332 U.S. 392, 401 (1947). See also 2 P.A REEDA & H. H OVENKAMP, A NTITRUST LAW 325 (2000) [hereinafter A REEDA.

[19] *United States* v. *Grinnell Corp.*, 384 U.S. 563, 577 (1966). See also *United States* v. *United Shoe Machinery Corp.*, 391 U.S. 244, 251 (1968); *Schine Chain Theatres, Inc.* v. *United States*, 334 U.S. 110, 128–29 (1948).

[20] United States v. AT&T, 552 F. Supp. 131, 151 (D.DC 1982), aff'd sub nom., Maryland v. United States, 460 U.S. 1001 (1983).

[21] International Salt, 332 U.S. at 400. See also National Society of Professional Engineers, 435 U.S. at 697–98; United States v. United States Gypsum Co., 340 U.S. 76, 88 (1950); Associated Press v. United States, 326 U.S. 1, 22 (1945); Crescent Amusement, 323 U.S. at 188; United States v. United Shoe Machinery Corp., 110 F. Supp. at 346–47.

[22] 2 A REEDA at 325c.

[23] United States v. United Shoe Machinery Corp., 110 F. Supp. 295, 346–47 (D. Mass. 1953), aff'd, 347 U.S. 521 (1954). See also Hartford-Empire Co. v. United States, 323 U.S. 386, 409 (1945).

[24] Ford Motor Co. v. United States, 405 U.S. 562, 575, 578 (1972).

[25] 253 F.3d at 53–55.

[26] 15 U.S.C. 16(e)(1).

[27] Id. at 16(e)(2).

[28] United States v. Microsoft Corp., 56 F.3d 1448, 1461–62 (DC Cir. 1995).

[29] Antitrust Procedures and Penalties Act: Hearings on S. 782 and S.1088 Before the Subcomm. on Antitrust and Monopoly of the Senate Comm. On the Judiciary, 93rd Cong., 1st Sess. 1 (1973) (statement of Sen. Tunney).

[30] See id. at 16(e)(1–2).

[31] See United States v. Microsoft Corp., 56 F.3d at 1455, 1457–59. and ensure that there remain no practices likely to result in monopolization in the future.

[32] 253 F.3d at 103 (quoting Ford Motor, 405 U.S. at 577, and United Shoe Machinery, 391 U.S. at 250).

A. The RPFJ's Definitions Are Confusing, Inadequate And Create

Loopholes And Exceptions To The Actual Remedial Provisions.

Unfortunately, the definitions set forth in the RPFJ severely undermine the RPFJ's proposed remedies by offering a number of significant loopholes and exceptions to the application of the remedial provisions. By contrast, the Litigating States have proposed a set of definitions that do not allow Microsoft to avoid application of the remedial provisions and that are designed to create a more certain and fair remedial framework. A sample of some of the more obvious definitional problems are addressed below.

1. Incredibly, the definition of "Windows Operating System Product" states that: The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion. This provision appears to allow Microsoft to avoid any future claim for illegally tying applications to the operating system, which clearly could not have been the DOJ's intent nor would this be consistent with established legal doctrine concerning illegal tying. However, as written, Microsoft could declare that Microsoft Office, including Word and Excel, is part of the operating system with apparent impunity. This provision also allows Microsoft to gerrymander whether a given set of functions will be placed in the operating system, middleware or an application depending on whether Microsoft is attempting to avoid the requirements of the remedies. For example, because Microsoft need only disclose APIs relating to Microsoft Middleware, Microsoft could declare that applications that would otherwise qualify as Microsoft Middleware are instead part of the operating system. This provision creates a serious loophole in the RPFJ and also conflicts with the definitions for middleware contained in the RPFJ.

There is no indication in the CIS as to how these issues would be addressed under the RPFJ. 2. The definition of Timely Manner leaves it to Microsoft to decide when it will disclose APIs. Because it is triggered by the date Microsoft first releases a beta version of its operating system to more than 150,000 testers, Microsoft can simply limit the number of testers to 149,999 and thereby avoid disclosing APIs until it is too late for competing ISVs to make effective use of the information. This is strikingly easy to manipulate. By contrast, the Litigating States have proposed a reasonable solution that generally requires Microsoft to disclose information to third parties at the same time it makes the information available to its own developers or to any third party, reflecting the importance of early access to APIs to foster fair competition.

3. The definition of Microsoft Middleware, upon which the application of Sections III.D (Information Disclosure) and III.G.2 (Exclusive Dealing) depend, is designed to exclude a large body of Microsoft middleware. Moreover, there is a confusingly similar, though subtly different, definition for Microsoft Middleware Product. Incredibly, under the definition of Microsoft Middleware, Microsoft may even argue that the Windows Media Player 8.0 does not constitute Microsoft Middleware, despite the trial court's recognition that media players are middleware,[33] because it is no longer distributed separately from the operating system.[34]

The consequence of this provision is that Microsoft would not have to disclose any APIs relating to any middleware that is not Microsoft Middleware. Moreover, Microsoft could freely engage in exclusive dealing with IAPs and ICPs with respect to such middleware under Section III.G.2 because that provision relates only to Microsoft Middleware. Microsoft should be required to clearly state its position in this regard before the efficacy of the remedy can be judged.

4. The definition of Microsoft Middleware Product, which is pivotal to a number of provisions relating to middleware relief (e.g., III.C, III.G., III.H, definition of Microsoft Platform Software), contains substantial loopholes and exceptions. For example, Microsoft Middleware Products must be Trademarked or they are free of the RPFJs remedial provisions. The definition of Trademarked is itself problematic, as described below. Any product using a generic or descriptive word with the trademarks Microsoft and/or Windows would not be a Microsoft Middleware Product. There is no valid, pro-competitive reason to apply a remedy according to how Microsoft chooses to name its middleware. In addition, the Microsoft Middleware Product is limited to Microsoft middleware that was distributed separately in the past year and is similar in functionality to other middleware on the market. Thus, if Microsoft's middleware is first to market, it could be argued that it is not a Microsoft Middleware Product. This creates unnecessary ambiguity, and the rationale for this loophole is unclear. It is also unclear why the definition of Microsoft Middleware Product is limited to functionality provided by certain products, rather than the products themselves. Microsoft can use this subtlety to further limit the application of the RPFJ's remedial provisions.

5. The definition for Non-Microsoft Middleware Product is unreasonably limited to products of which more than one million copies were distributed in the prior year. This is a huge number of copies (and affected consumers) that will take a great deal of time, money and resources for most middleware companies to reach. This will allow Microsoft to engage in its anticompetitive acts against small middleware providers during their most vulnerable beginnings. Moreover, if a middleware distributor delivered 900,000 copies year after year to new customers, they would never be protected under the settlement despite the fact that they may have millions of customers. This provision is distinctly anti-innovation, because it allows Microsoft to deny technology access to small, entrepreneurial companies with innovative new technologies—just the type of company Microsoft was in its earliest days. Finally, the RPFJ does not 14 address how new versions of existing middleware products will be counted. Must they accumulate one million distributions of each new version before they are protected? This type of unanswered question creates substantial ambiguity and room for disagreement going forward.

6. The definition of Top-Level Window is limited to windows that have their own window controls, like move and resize, enable sub-windows, and contain user interface elements under the control of at least one independent process. This definition is critical because it determines whether middleware is entitled to certain remedial provisions pursuant to Section III.H of the RPFJ. This loophole allows Microsoft substantial control over whether competing middleware will get the benefit of the remedies. Microsoft could engineer its middleware to launch without using all of the Top-Level Window components and argue that competing middleware cannot avail itself of the remedy. Whether or not Microsoft's middleware enables sub-windows certainly should not be the determining factor as to whether competing middleware is entitled to a remedy.

7. The definition of Trademarked does not include [a]ny product distributed under descriptive or generic terms or a name comprised of the Microsoft and/or Windows trademarks together with descriptive or generic terms. This definition is critically important because whether any Microsoft product can be Microsoft Middleware or a Microsoft Middleware Product inexplicably depends upon whether the product is Trademarked. Under the definition, products named Microsoft Windows Radio, Microsoft Windows TV, Microsoft Windows Theater, Microsoft Windows Music, etc. arguably could not be either Microsoft Middleware or Microsoft Middleware Products, regardless of functionality because they would not be Trademarked. The inclusion of the requirement that any Microsoft Middleware or Microsoft Middleware Product be Trademarked before it is included in the definition provides Microsoft a handy loophole to avoid the RPFJ's remedial provisions. The Litigating States have not allowed this type of loophole in their remedy proposal.

8. The definition of API is unduly narrow and limited to Microsoft Middleware rather than including Microsoft Middleware Products and other Microsoft applications that call on functionality included in, or bundled with, the operating system. The definition is circular in that, rather than requiring Microsoft to disclose to competing middleware developers the same interfaces and related information that it discloses to its own application developers, it allows Microsoft to manipulate the interfaces that it will define in an API and thereby limit all related information. In addition, the related term, Documentation, is also unduly limited to only the documentation that Microsoft currently makes available on its Microsoft Developer Network (MSDN) network.

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[33] 84 F. Supp. 2d at 78, 104–114.

[34] Although previous versions of the Windows Media Player are distributed separately from the Windows operating systems, Microsoft now requires consumers to purchase Windows XP to acquire Windows Media Player 8.0.

Competing middleware providers should be entitled to all of the documentation and information available to Microsoft's application developers and in no event less than that typically made available on MSDN.

B.The RPFJ Does Not Effectively Prevent Microsoft From Using Anticompetitive Tactics Against Competing Middleware. The Court of Appeals held that Microsoft's restrictions limiting the ability of OEMs to configure their personal computers in a manner that promotes the use of non-Microsoft middleware violates the Sherman Act.[35]

In any effective remedy, OEMs, ISVs and others must be free to bundle, distribute and promote non-Microsoft middleware applications with their products and completely remove Microsoft middleware. They, and end users, must be free to automatically launch competing middleware at any time and must be free to set that middleware as the default applications under any circumstances, irrespective of what Microsoft's middleware does or does not do. Microsoft should not be able to use its operating system monopoly to override the considered decisions of consumers, OEMs and ISVs without explicit consumer consent, or to automatically prompt consumers override such choices. Whether Microsoft has competing middleware is utterly irrelevant to the threat posed to Microsoft's monopoly operating system by middleware and should not form the basis for the many exclusions provided in the proposed Settlement. The Litigating States have in fact suggested remedies that accomplish these goals without providing Microsoft a litany of loopholes. Section III.H purports to provide some limited additional freedom to allow OEMs and third parties to use competing middleware. Unfortunately, the provision is undermined by exceptions and limitations that fail to comply with the Court of Appeals' admonitions regarding OEM freedom and protection for competing middleware. Section III.H.3 limits Microsoft's ability to use its Windows Operating System Product to override the freedoms granted to OEMs, but that limitation only lasts for fourteen days, after which Microsoft is completely free to use its commingled and bundled middleware to override the OEM configurations. Microsoft can use this gaping loophole to override OEM/consumer choice instantly, automatically, and without notice to consumers to OEMs as long as Microsoft does so through its commingled middleware, rather than through its operating system. Furthermore, a mere fourteen days after an end user starts using his or her personal computer, Microsoft can use its monopoly operating system to recommend that the user change his or her default settings to favor Microsoft middleware to the exclusion of competing middleware. Thus, on day fifteen we can expect Windows to start a daily process of exhorting the user to reject competing middleware. Windows XP currently uses similar behaviors to consistently attempt to reclaim default status for its favored Microsoft middleware. For example, even after a user has selected competing middleware to play back CDs, Windows XP prompts the user to change to Windows Media Player when a CD is inserted. The prompt includes Windows Media Player as the preselected application at the top of the list.

The exception provided in the last paragraph of Section III.H. limits application of that section to Microsoft Middleware Products that exist more than seven months prior to the last beta test version of the operating system. This loophole allows Microsoft to engineer its releases of new middleware to be less than seven months from the final beta in order to completely avoid the remedial provisions in Section III.H. For instance, because Windows Media Player 8 was released within 7 months of the final beta for Windows XP, Microsoft can be expected to argue that competing middleware would not be entitled to the protections of Section III.H. Certainly, this could not be the intended result of the language and the Court must ensure that the parties to the RPFJ clarify the interpretation of the exception to avoid such unintended results. Oddly, the RPFJ's limitations protect Microsoft's middleware from innovative competitors. For instance, Section III.H.2 allows OEMs to set competing middleware as the default only if Microsoft has a Microsoft Middleware Product that would otherwise launch in its own separate Top-Level Window. There is no legal or procompetitive justification for so limiting OEMs, ISVs or end users based on the existence or performance of Microsoft middleware products. As the Court of Appeals recognized, middleware is important because it has the potential to erode Microsoft's operating system monopoly and the applications barrier to entry that protects it.[36]

Conditioning middleware protections on actions within Microsoft's control obviously presents Microsoft with the ability to manipulate its software design, as it has in the past, in a manner that will further impede the development and distribution of competing middleware products. Whether Microsoft has competing middleware and by extension the performance characteristics of that middleware is irrelevant to the nascent threat that middleware poses to Microsoft's operating system monopoly and ignores its past anticompetitive efforts to harm competing middleware. Third party innovators should not be excluded from the application of the RPFJ until and Microsoft first develops its own competing product. In the CIS, the DOJ states that Microsoft Middleware is the concept that triggers Microsoft's obligations, including those relating to Microsoft's licensing and disclosure obligations without providing any rationale.[37]

The applicability of the remedies set forth in Sections III.C.3, H.1 and H.2 should not depend upon the presence or performance of Microsoft's middleware in any way, nor should any other provision.

Section III.H.1 of the RPFJ allows Microsoft to override OEM configurations and consumer choice for default middleware as long as Microsoft uses one of its own servers to communicate with its own competing middleware. This allows Microsoft to use its Passport, MSN, Dot.net, Hotmail and other servers to avoid and override the explicit choices made by OEMs/ISVs and consumers. Section III.H.1 has no procompetitive justification and once again places competing middleware at an unfair disadvantage. The RPFJ would grant Microsoft the right to require consumers who expressly choose to use Non-Microsoft Middleware to subsequently confirm their choices to Microsoft. Some Non-Microsoft middleware products provide consumers with an opportunity to choose whether to establish the middleware product as the default for certain functions and, if so, to authorize the middleware product to protect against attempts by Microsoft to override the consumer's choice. Rather than requiring Microsoft to honor such consumer choices, Section III.H.2 would allow Microsoft to require the consumer to confirm his or her choice every time Microsoft attacks it.

C. The RPFJ Does Not Provide OEMs With Appropriate Freedom To Choose Competing Middleware, Remove Microsoft Middleware, And Customize The User Interfaces, Menus, Desktop And Other Windows Elements.

The need for an effective remedy that prevents Microsoft from illegally abusing its operating system monopoly to harm competitors is beyond dispute. The undisputed facts, as found by the trial court and affirmed by the Court of Appeals, establish in detail the broad power that Microsoft possesses over OEMs and the broad manner in which it has abused that power to maintain its monopoly in violation of the Sherman Act. As the DOJ and the plaintiff States proved in this litigation, Microsoft's operating system monopoly grants it tremendous sway over OEMs. For example, in June 1996 Compaq executives opined that their firm could not continue in business for long without a license for Windows.[38]

This is consistent with Hewlett Packard's lament to Microsoft in March 1997 that [i]f we had a choice of another supplier, based on your actions in this area, I assure you [that you] would not be our supplier of choice.[39].

Based on such statements, the trial court found that OEMs had no commercially viable alternative to pre-installing the Windows operating system on their personal computers.[40]

Moreover, Microsoft's power has actually increased since the trial court made its findings in 1999: according to the International Data Corporation, from 1999 to 2000 Microsoft's share of the client operating system market, including Apple's Mac OS, increased by 10.6% to 95.4% (when measured by shipment and upgrade revenue) and by 11.1% to 92.6% (when measured by new license shipments).[41] As the trial court

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[35] Id. at 59–64.

[36] Id. at 53–55.

[37] Pl. DOJ's Competitive Impact Statement at 17–18 (Nov. 15, 2001) [hereinafter CIS].

[38] 38 84 F. Supp. 2d at 206

[39] Id. at 214 (bracketed text in original).

[40] Id. at 158.

[41] INTERNATIONAL DATA CORPORATION, WORLDWIDE CLIENT AND SERVER OPERATING ENVIRONMENTS MARKET FORECAST AND

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found, Microsoft has used its monopoly power to impose its will on OEMs.[42]

First, Microsoft has used its monopoly power to force OEMs to take its middleware applications with its operating system and, by forbidding them to remove or obscure Microsoft middleware, has ensured ubiquity for its middleware while increasing the costs of competing middleware developers.[43]

Second, Microsoft has used its power to impose restrictions on OEMs that have had the effect of restricting consumer access to competing middleware and increasing the costs that competing middleware developers must incur to promote their products.[44]

Third, Microsoft has used its power to threaten and retaliate against OEMs that did not accede to its wishes.[45]

Finally, Microsoft has offered OEMs valuable consideration, which OEMs must accept in order to remain competitive with other OEMs, as a means of coercion in connection with these efforts.[46]

As the trial court found, the OEMs obeyed [Microsoft's] restrictions because they perceived no alternative to licensing Windows for pre-installation on their PCs.[47]

As a result, the trial court concluded that Microsoft's actions have stifled innovation by OEMs that might have made Windows PC systems easier to use and more attractive to consumers,[48] which is diametrically opposed to Microsoft's legitimate interests as an operating system developer.

Plainly, any effective remedy for Microsoft's anticompetitive conduct must put an end to such practices. The RPFJ, however, falls woefully short of either unfettering OEMs from Microsoft's control or ensuring that Microsoft will not continue to impose restrictions on OEMs that harm the development of competing middleware.

1. The RPFJ does not require Microsoft to allow OEMs to remove its middleware from Windows

The RPFJ does not even allow OEMs and end users to completely uninstall and remove Microsoft's middleware once they have acquired the bundled products. In affirming the trial court's conclusion that Microsoft illegally maintained its operating system monopoly in violation of the Sherman Act, the Court of Appeals twice held that Microsoft's design of Windows in a manner that denied OEMs the ability to remove middleware specifically, Internet Explorer from Windows operating systems is anticompetitive because it deters OEMs from pre-installing rival browsers, thereby reducing the rivals' usage share and, hence, developers' interest in rivals APIs as an alternative to the API set exposed by Microsoft's operating system.[49]

Moreover, the Court explicitly rejected Microsoft's assertions that such integration is highly efficient and provides substantial benefits to customers and developers, concluding instead that See also Order (DC Cir. Aug, 2, 2001)(per curiam)(denying Microsoft's petition for rehearing on the commingling issue). Indeed, in denying Microsoft's petition for rehearing on this issue in the clearest possible terms, the Court pointedly advised the parties that [n]othing in the Court's opinion is intended to preclude the District Court's consideration of remedy issues. Id. Microsoft was simply protect[ing] its operating system monopoly from a middleware threat in violation of Section 2 of the Sherman Act.[50]

Notwithstanding the clarity of the Court's ruling on this issue, the RPFJ would essentially endorse Microsoft's anticompetitive commingling of its own middleware into Windows in a manner that prevents OEMs from removing it from the operating system. This is not an idle concern because Microsoft still prevents OEMs from removing middleware, such as Internet Explorer and the Windows Media Player, from the Windows operating systems. Nor would the deceptively named add/remove remedy enable OEMs or consumers to actually remove Microsoft middleware functionality or even disable the middleware, as it simply hides icons without actually removing the middleware code from the operating system. With the middleware code intact, there are many ways in which Microsoft's middleware can still be launched and take default status for all middleware functions. Without appropriate remedies like those proposed by the Litigating States, Microsoft will leverage its ability to bundle and bind its middleware with every copy of the operating system to attempt to convince developers to write to the Microsoft's middleware APIs rather than competing middleware APIs. Allowing Microsoft to commingle its middleware and refusing to allow OEMs to remove Microsoft middleware flies directly in the face of the Court of Appeals decision. 2. The RPFJ enshrines, rather than prohibits, Microsoft's ability to require OEMs to provide access to Microsoft Middleware while restricting the end-user access that OEMs can provide for Non-Microsoft Middleware The findings of fact in this litigation establish beyond dispute that Microsoft has required OEMs to include certain icons, Start Menu entries and other forms of end-user access for Microsoft middleware products while it has at the same time restricted the ability of OEMs to promote competing middleware products during the Windows operating system boot sequence.[51] Specifically, the trial court found that, in the spring of 1996, Microsoft imposed a series of new operating system licensing restrictions on OEMs explicitly intended to restrict the ability of OEMs to reconfigure the Windows operating system desktop and boot sequence in a manner that would improve usage of non-Microsoft middleware. These restrictions included the following:

First, Microsoft formalized the prohibition against removing any icons, folders, or "Start" menu entries that Microsoft itself had placed on the Windows desktop. Second, Microsoft prohibited OEMs from modifying the initial Windows boot sequence. Third, Microsoft prohibited OEMs from installing programs, including alternatives to the Windows desktop user interface, which would launch automatically upon completion of the initial Windows boot sequence. Fourth, Microsoft prohibited OEMs from adding icons or folders to the Windows desktop that were not similar in size and shape to icons supplied by Microsoft.[52]

Indeed, Microsoft went so far as to threaten to terminate Compaq's operating system license based on its removal of such icons for Microsoft's Internet-related middleware products.[53]

The Court of Appeals broadly condemned such actions, which reduce usage of competing middleware products, not by improving [Microsoft's] own product but, rather, by preventing OEMs from taking actions that could increase rivals' share of usage.[54]

Notwithstanding these clear legal findings and conclusions, Section III.C of the RPFJ allows Microsoft to continue to retain considerable control over how and whether OEMs can make competing middleware accessible to consumers of its personal computers through display of icons, menu entries and shortcuts. Section III.C.1 allows Microsoft to set rules restricting the manner in which OEMs display icons, menu entries and shortcuts for non-Microsoft middleware. The discretion afforded to Microsoft provides it with yet another method of limiting the prominence that OEMs can assign to competing middleware on personal computers running Windows operating systems. Section III.C.1 allows Microsoft to dictate which Non-Microsoft middleware can be accessible in which places in the Windows operating systems, without justifying its functionality-based distinctions. There is no valid, pro-competitive reason to take this control away from OEMs. As the trial court found, [s]ince OEMs share Microsoft's interest in ensuring that consumers can easily find the features they want on their Windows PC systems, Microsoft would not have prohibited OEMs from removing icons, folders, or Start' menu entries if its only concern had been consumer satisfaction.[55] Nor does the RPFJ protect the ability of OEMs to choose which middleware products to establish as the default on its personal computers. In light of the trial court's finding that Microsoft reduced the Windows royalty price for certain OEMs, including Gateway, that set Internet Explorer

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ANALYSIS SUMMARY 2001–2005 at 11–12 (Aug. 2001).

[42] For example, Microsoft delayed release of Windows 98 so as to miss the holiday shopping season in 1996 contrary to the OEMs' economic interests, as well as Microsoft's own economically rational interests solely to ensure that Internet Explorer 4.0 could be commingled into the operating system, regardless of the economic suffering imposed on OEMs in terms of lost sales. 84 F. Supp. 2d at 167 (Maritz agreed with Allchin's point that synchronizing the release of Windows 98 with Internet Explorer was the only thing that makes sense even if OEMs suffer.")

[43] Id. at 203–08, 213, 241.

[44] Id. at 241, 240.

[45] Id. at 230, 235–38, 241.

[46] Id. at 213–15, 230–31, 236–37, 241.

[47] 47 Id. at 215.

[48] 48 Id. at 241.

[49] 253 F.3d at 64–66.

[50] 253 F.3d at 66–67.

[51] 84 F. Supp. 2d at 203.

[52] 52 Id. at 213.

[53] Id. at 204–08.

[54] 253 F.3d at 60–64.

[55] 84 F. Supp. 2d at N 222.

as the default browser on their personal computers,[56] such protection is required. The proposed decree, however, safeguards the ability of OEMs to designate competing middleware as the default only in those situations where the Windows operating system would otherwise launch Microsoft's application in a Top-level Window that displays all of the user interface elements.[57] For instance, this significant loophole would allow Microsoft to continue to prevent OEMs from launching competing middleware in a variety of instances in which the middleware is invoked as an embedded component in another application, like Internet Explorer. Similarly, by allowing Microsoft to prevent OEMs from launching any non-Microsoft middleware product that does not display a user interface or that displays a user interface that is similar to or smaller than the user interface of Microsoft's middleware product, Section C.3 of the proposed settlement would hand Microsoft the ability to exercise significant control over the design of middleware products and other software applications. This loophole is particularly unjustifiable given the trial court's finding that Microsoft had previously prohibited OEMs from adding icons or folders to the Windows desktop that were not similar in size and shape to icons supplied by Microsoft.[58]

A proposed remedy that endorses, rather than condemns, anticompetitive conduct is not in the public interest. More generally, there is no procompetitive justification for allowing Microsoft, which maintained its operating system monopoly in violation of U.S. antitrust law, to have a substantial impact on the design decisions of competitors that have been disadvantaged by Microsoft's anticompetitive practices. Because these conditions would restrict the ability of OEMs to increase the usage of middleware products that compete with Microsoft, it is apparent that, were they imposed by Microsoft independently, they would be found to violate the Sherman Act under the reasoning of the Court of Appeals decision.[59]

3. The RPFJ does not prohibit Microsoft from continuing to threaten and retaliate against OEMs that have resisted doing Microsoft's bidding The trial court's findings of fact amply document Microsoft's repeated and brazen efforts to threaten and retaliate against OEMs when they have resisted doing Microsoft's bidding.[60]

For example, the trial court concluded that, as part of its efforts to ostracize Navigator from the vital OEM distribution channel, Microsoft threatened to terminate the Windows license of any OEM that removed Microsoft's chosen icons and program entries from the Windows desktop or the Start' menu. It threatened similar punishment for OEMs who added programs that promoted third-party software to the Windows boot' sequence.[61] Such retaliatory efforts extended so far as threatening to terminate Compaq's license for Windows 95, demonstrating that Microsoft was prepared to go to the brink of losing all Windows sales through its highest-volume OEM partner in pursuit of its anticompetitive ends.[62] Microsoft's operating system monopoly enabled it to take such actions with impunity, indifferent to the fact that such threats soured Microsoft's relations with OEMs and stymied innovation that might have made Windows PC systems more satisfying to users.[63]

In light of this sustained practice of intimidation, the DOJ correctly points out that it is critical that the OEMs, through whom the large majority of copies of Microsoft's Windows Operating System Products reach consumers, are free to choose to distribute and promote middleware without interference from Microsoft.[64]

The RPFJ, however, fails to place any restriction on Microsoft's ability to inflict financial retaliation on OEMs. Indeed, Section III.A. of the proposed decree explicitly limits application of its anti-retaliation provisions to newly introduced forms of non- monetary Consideration. Neither Microsoft nor the DOJ offers any justification for failing to restrict Microsoft from employing financial penalties to threaten or retaliate against recalcitrant OEMs.[65]

Moreover, in the face of the extensive record in this litigation of Microsoft's past course of threats and retaliation, Section III.A does not even prohibit Microsoft from withholding existing forms of non-monetary consideration from OEMs that seek to develop, distribute or use non-Microsoft middleware, distribute competing operating systems, or otherwise seek to exercise their purported rights under the RPFJ. Instead, Section III.A applies only to newly introduced forms of non- monetary consideration. Such gaping loopholes simply cannot be reconciled with the DOJ's assertion that Section III.A ensures that OEMs have the contractual and economic freedom to make decisions about distributing and supporting non-Microsoft software products that have the potential to weaken Microsoft's personal computer operating system monopoly without fear of coercion or retaliation by Microsoft.[66]

4. Similarly, the RPFJ does not prohibit Microsoft from continuing to employ discounts and other financial inducements to accomplish its anticompetitive ends The undisputed factual record in this case similarly documents Microsoft's extensive use of discounts and other financial inducements as a critical component of its anticompetitive conduct. For example, it is no longer disputed that Microsoft offered IBM substantial benefits, including soft dollars and marketing assistance, in return for shipping its systems without any software that competed with Microsoft.[67]

The trial court also found that Microsoft grant[ed] Hewlett-Packard and other OEMs discounts off the royalty price of Windows as compensation for the work required to bring their respective alternative user interfaces into compliance with Microsoft's requirements restricting their ability to reconfigure the desktop and boot sequence in Windows 95 and Windows 98.[68]

Similarly, Microsoft used incentives and threats in an effort to secure the cooperation of individual OEMs to promote the Internet Explorer to the exclusion of Navigator.[69]

Indeed, the court found that Microsoft agreed to give OEMs millions of dollars in co-marketing funds, as well as costly in-kind assistance, in exchange for their carrying out other promotional activities for Internet Explorer.[70]

Consistent with this, Microsoft reduced the Windows royalty price for certain OEMs, including Gateway, that set Internet Explorer as the default browser on their personal computers and that displayed Internet Explorer's logo and links to Microsoft's Internet Explorer update page on their own home pages, and offered to compensate Gateway if it would replace Navigator with Internet Explorer.[71]

The RPFJ, however, would not prevent Microsoft from continuing to use discounts, market development allowances and other such programs as part of its efforts to coerce OEMs into favoring Microsoft's middleware over competing software. Given the loopholes that pervade the proposed decree, Section III.B.3 simply requires that Microsoft identify the criteria on which discounts are based and make them available to all OEMs covered by the decree. While this may somewhat limit Microsoft's ability to discriminate among OEMs, it does not prevent Microsoft from using such inducements to coerce OEMs into discriminating against competing middleware products.

For example, the RPFJ would not prevent Microsoft granting discounts or other financial benefits to all OEMs that ship Microsoft middleware products as the default on their personal computers. This would place any OEM that wanted to establish middleware as the default at a potentially serious disadvantage compared to any competing OEMs that take the Microsoft payoff. Moreover, because Microsoft controls pricing of its monopoly operating system, it could establish the price of versions of Windows without its middleware set as the default at some artificially high price and use the difference between the artificially high price and the actual price Microsoft wanted to receive as a cash incentive to pay OEMs to carry Microsoft's middleware as the default application. This does not correct the present judicially condemned situation.

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[56] Id. at 231.

[57] See RPFJ at Section III.H.2.

[58] 84 F. Supp. 2d at 213.

[59] See 253 F.3d. at 61–62.

[60] 84 F. Supp. 2d at 230 (Microsoft used incentives and threats in an effort to secure the cooperation of individual OEMs in its efforts to ensure that personal computer users would have ready access to Internet Explorer). See also id. at 235–38 (describing pressure exerted on Gateway and IBM).

[61] Id. at 203.

[62] Id. at 206, 208.

[63] Id. at 203.

[64] 64 CIS at 11.

[65] Indeed, the Competitive Impact Statement is notably bereft of any attempt to justify Section III.A's failure to prohibit financially based threats and retaliation. See id. at 11–12.

[66] Id. at 11.

[67] 84 F. Supp. 2d at 237.

[68] Id. at 215. See also id. at 213–14.

[69] Id. at 230.

[70] Id. at 231.

[71] Id. at 231, 236.

D.The RPFJ Contains Insufficient Provisions To Ensure Adequate And Timely Information Disclosure

Microsoft has a history of refusing to disclose APIs, delaying disclosure of APIs, and selectively disclosing APIs to favored ISVs at the expense of disfavored ISVs.[72]

For example, Microsoft has refused to disclose APIs relating to Secure Audio Path (SAP)[73] and has actively used its exclusive access to this technology to market against its competitors beginning at least as far back as October 2000. The RPFJ does not end this type of head start and exclusive access. Microsoft uses its control over Windows interfaces to thwart competition from better, more compelling middleware applications. For instance, Microsoft has refused to disclose critical interface and other technical information used by it in Windows XP relating to a number of functions, including direct access to SAP and to the Play all and Burn CD features in the My Music folder. Access to all of the APIs and technical interfaces available in the monopoly Windows OS is critical to ISVs and should be in Microsoft's best interest given its stated top goal of providing a platform upon which all ISVs can build. Because of Microsoft's past anticompetitive behavior, it is important to have a clear and broad remedy provision requiring full disclosure of any technical interfaces, appropriately defined, between Microsoft's operating system, bundled middleware and any other Microsoft applications. The RPFJ contains several major exceptions and loopholes that allow Microsoft to delay and avoid disclosing the technical information necessary to allow competing middleware providers to fully interoperate with Microsoft's software. Section III.D of the RPFJ only requires Microsoft to disclose APIs relating to Microsoft Middleware a very narrowly defined term that does not include any middleware bundled with the operating system (unless separately distributed as an update). This subtlety in the RPFJ allows Microsoft to easily avoid the information disclosure requirements. As long as Microsoft bundles its middleware with its operating system, rather than distributing it separately, it will no doubt argue that there is no information disclosure requirement, although that would seem contrary to the intent of the RPFJ.

Limiting Section III.D to Microsoft Middleware makes it easy for Microsoft to avoid disclosing APIs for a host of features and functions made available to Microsoft's application developers. This is especially true given the fact that the RPFJ allows Microsoft, in its sole discretion, to decide what is in the operating system and what is not. This provides virtually unlimited opportunity for gerrymandering. There is certainly no procompetitive justification for this restriction. The Litigating States' proposed remedy, on the other hand, requires Microsoft to provide all APIs that are used by Microsoft's own application developers to interoperate with either the operating system or middleware. It does not provide a complex web of limitations and restrictions that are bound to create further unnecessary litigation. The provision regarding server interoperability excludes communications between Microsoft Middleware Products even those that are commingled and bound with the Windows operating system—and Microsoft servers. This is an enormous loophole. As written, Microsoft is likely to argue that the provision does not allow ISVs to obtain any access to Microsoft's communications protocols between Microsoft servers and applications such as Internet Explorer, Windows Media Player and instant messaging. Again, this does not seem consistent with the intent of the RPFJ.

In an amazing reversal of fortune, the RPFJ would actually require law-abiding ISVs to license their technology to Microsoft an illegal monopoly if they want to take advantage of Microsoft's APIs. The fact that an ISV might license and use technology from Microsoft, as allowed under the proposed settlement, should not entitle Microsoft to get a license to the ISV's technology relating to the exercise of their options or alternatives. By ensuring that Microsoft will obtain contractual rights to technologies that it deems to be strategic, the RPFJ provides assistance to Microsoft's continuing anticompetitive efforts to restrict the development and distribution of competing middleware by bundling its own versions of those technologies with its operating system in an attempt to dominate the market to the detriment of its more innovative competitors. Because Microsoft is not doing any development on behalf of the ISVs as part of the RPFJ, it does not need licenses to ISV technology to perform its obligations. This provision in effect operates as a poison pill that presents substantial disincentives for competing middleware developers to qualify for the protection of the very provisions of the RPFJ that are designed to foster competition in these nascent markets.

Microsoft Can Continue Its Anticompetitive Practices For Up To One Year And Intends To Do So.

The RPFJ's time periods for Microsoft's compliance with a variety of provisions, including those related to information disclosure, place competing application developers at a serious disadvantage. Middleware ISVs should have as much time as Microsoft's own application developers to use the APIs and other technical information necessary to access, utilize and support the full features and functionality offered by the Windows operating systems. Indeed, the extended time provided to Microsoft to comply with the RPJF is in direct contradiction of one of the DOJ's stated reasons for entering into the settlement: prompt relief. For example, Microsoft has a full year to comply with the bulk of the information disclosure provisions and other provisions related to middleware in Sections III.D and H. Microsoft essentially has been blessed to continue wield its monopoly power for long periods of time to the detriment of consumers and competition. Instead, relief should be immediately available. If Microsoft does not have the technology ready, it should nevertheless be required to allow others to implement the provisions on their own while Microsoft delays disclosing the APIs. There is no competitive justification for giving Microsoft nine or twelve months to disclose and license interfaces that are readily available to, and now in use by, Microsoft's own application developers. In fact, Microsoft is already relying on the 12 month delay provision to avoid disclosing APIs to SAP. Despite repeated requests, Microsoft has not provided RealNetworks with any information or even confirmation that it would provide access to SAP. In a January 2002 communication to RealNetworks, Microsoft simply pointed to the twelve-month time frame and claimed it was in compliance.

F. The RPFJ Does Not Materially Affect Microsoft's Ability To Engage In Anticompetitive Exclusive Dealing

The RPFJ does not effectively prohibit Microsoft from using deals with an IAP, ICP, ISV, an independent hardware vendor ("IHV"), or OEM to limit competition. Microsoft has long relied on such deals in an attempt to limit the development of competing middleware solutions. For example, Microsoft has entered into agreements specifically limiting or forbidding use of middleware that threatens its operating system monopoly. Microsoft has entered into agreements requiring independent content providers to use technology designed to detect whether the end user has Microsoft middleware installed on his or her computer and then using that technology to the exclusion of competing middleware, even when the consumer had chosen the competing middleware as their default. Such conduct flies in the face of Microsoft's own statements that it is trying to create a platform for ISVs; Microsoft's actions are damaging to any ISV who build competing middleware on Microsoft's platform. Section III.G allows Microsoft to demand parity with any third party product that Microsoft considers to be a competitor to its Platform Software in any deal with an IAP, ICP, ISV, IHV, or OEM that distributes, promotes, uses, or supports the third party product. This provision seems designed to prevent competitors from getting ahead of Microsoft.

In addition, Microsoft is sure to continue to use its investments as a vehicle to demand exclusivity or preference for its products to the detriment of competing middleware. Microsoft can enter into any agreement with an ISV, IHV, IAP, ICP, or OEM provided that each contributes either significant developer or other resources prohibiting the entity from competing with the object of the agreement for a reasonable (undefined) period of time. This would bless and legitimize Microsoft's current anti- competitive behavior through which Microsoft leverages other assets to maintain its illegal monopoly. Moreover, Microsoft can apparently avoid even these requirements simply by licensing intellectual property as part of the deal (see Section III.G.2). Section G appears to allow Microsoft to license third party intellectual property under whatever scenario it desires. This presents a gaping loophole to the entire section, as does the exception for any joint development or joint services' arrangement. Virtually any technology deal could be styled as such.

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[72] Id. at 90–92.

[73] Secure Audio Path is a technology designed to maintain the security of a file as it moves through the operating system for eventual playback by a sound card. It is designed to prevent interception of secure content along the route to the sound card. Microsoft has been exhorting content providers to use its Windows Media middleware in part because of its exclusive access to Secure Audio Path.

The prohibitions of Section III.G.2 are strangely applicable only to contracts with IAPs and ICPs (not IHVs, ISV or OEMs) to obtain placement in Windows. In fact, it should simply prohibit Microsoft from entering any contract conditioned on any third party's agreement to refrain from or limit distribution, promotion or use of competing middleware. As written, the provision would allow Microsoft to require any ISV or IHV to refrain from distributing or promoting competing middleware as a condition for placement in Windows, or for placement on MSN, or for access to Dot.Net or for anything else. Surely, this could not have been the intent of the DOJ, yet it is the result of the language in the RPFJ.

G. The Enforcement Provisions Are Weak And Ineffective

The Court of Appeals conclusively established that Microsoft is an illegal monopolist. Yet, remarkably, Microsoft has not modified its anticompetitive behavior in any meaningful way despite the Court's clear conclusions, just as previously the consent decree entered by the DOJ failed to end Microsoft's anticompetitive conduct. The necessary enforcement mechanisms must reflect the harsh reality that Microsoft has repeatedly shown its complete disrespect for the judicial process and directives of the courts. Unfortunately, the enforcement mechanisms in the RPFJ are completely ineffectual and are destined to fail. Any conduct-based remedies in this complex environment will be effective only to the extent they are capable of prompt, rigorous enforcement.

For instance, the proposed settlement fails to put in place a meaningful mechanism for preventing, identifying and resolving violations of the proposed agreement in an expedited manner. The voluntary dispute resolution mechanism is designed for delay rather than deterrence. It is essential that any decree establish clearly defined procedures, with prompt, prescribed time deadlines, to enable the government and the court to address violations of the decree in a full and expeditious manner. By contrast, the "voluntary dispute resolution" provisions of the proposed settlement are as inadequate as the name suggests. The only "penalty" for willful and systemic violations of the proposed settlement is a one-time, two-year extension on the already truncated five-year term, much of which does not even become effective for an entire year. The time frames for investigating complaints are loose or non-existent, with no clear or prompt recourse to the court for resolution. Moreover, the "Technical Committee" is housed at Microsoft, cannot independently go to the court for redress and cannot present any of its findings or information to the court, which ensures that the substantial time, effort, and expense devoted to the Committee's processes would need to be duplicated in future compliance efforts. Inexplicably, Microsoft is allowed to appoint a member of the Technical Committee, a sort of permanent seat on the security council to oversee its overseers. Rather, the proposed decree needs to establish a Special Master, that can make prompt recommendations directly to the Court. This litigation has been going on for over three years. Microsoft has reaped the rewards of its illegal conduct during that time, and continues to do so. The RPFJ would provide Microsoft with an additional 12 months to comply with several provisions that should require immediate compliance. The proposed time frames greatly overstate the difficulty of providing ISVs with technical information that Microsoft has been using itself to develop Middleware and other applications. Any purported hardship imposed by more appropriate deadlines would certainly by justified by Microsoft's history of illegal conduct. Consumers deserve swift and certain relief.

V.CONCLUSION

As set forth above, entry of the ambiguous and loophole-laden RPFJ would engender significant uncertainty as to its terms and actual effect and would, in many respects, potentially assist Microsoft in its anticompetitive efforts to restrict the development and distribution of competing, innovative middleware. The full anticompetitive harm that would result from a failure to effectively redress the anticompetitive conduct identified by the Court of Appeals cannot, however, be fully understood simply by examining Microsoft's anticompetitive conduct to date, as substantial as that is. As the trial court found in this litigation, the full effects of Microsoft's anticompetitive conduct extend well beyond today's consumers of personal computers to chill tomorrow's innovations and the new products and markets that such innovations will make possible:

Most harmful of all is the message that Microsoft's actions have conveyed to every enterprise with the potential to innovate in the computer industry. . . Microsoft has demonstrated that it will use its prodigious market power and immense profits to harm any firm that insists on pursuing initiatives that could intensify competition against one of Microsoft's core products. Microsoft's past success in hurting such companies and stifling innovation deters investment in technologies and businesses that exhibit the potential to threaten Microsoft. The ultimate result is that some innovations that would truly benefit consumers never occur for the sole reason that they do not coincide with Microsoft's self-interest.[74]

By contrast, the Court has before it an eminently superior remedy proposed by the Litigating States. Bereft of the ambiguity and loopholes that benefit the monopolist they are ostensibly intended to restrain, the States' proposed remedy highlights the extent to which the RPFJ fails to effectively end Microsoft's anticompetitive conduct. Forward- looking in scope and straightforward in application, the States' proposed remedy is appropriately tailored to redress the anticompetitive conduct identified by the Court of Appeals, while preserving Microsoft's ability to compete with other operating systems and other middleware products on the merits.

For the reasons set forth herein, RealNetworks respectfully submits that entry of the RPFJ would not be in the public interest.

MTC-00028306

From: Jessica Hollings
To: Microsoft ATR
Date: 1/28/02 10:44pm
Subject: Microsoft settlement

The proposed settlement is not in my interest.

Signed,
Jessica Hollings
Athens, Ohio

MTC-00028307

From: CHARLES A. CRAWFORD
To: Microsoft ATR
Date: 1/28/02 10:44pm
Subject: microsoft settlement

I ask that the current settlement be followed , and that the dissenters be silenced by the court.

Charles A. Crawford
crwfca@juno.com

MTC-00028308

From: Maggie Hayes
To: Microsoft ATR
Date: 1/28/02 10:49pm
Subject: Microsoft Settlement

Maggie Hayes
13759 Morningbluff Lane
San Antonio, TX 78216
January 26, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Thank you for the exceptional service you have provided our country. In the interest of furthering the cause of private enterprise, the foundation upon which our country has been built, I am compelled to speak out on the Microsoft settlement. As both a customer and a stockholder, I hold strong opinions on the outcome of this case.

Microsoft has long been a leader in the technology industry. They have earned their place of leadership in the technology industry through their focus on excellence. Due to this commitment Microsoft has consistently outperformed the competition by providing consumers with user-friendly products. As a believer in free enterprise I was outraged by the case against Microsoft. Nonetheless the resolution of this case is the most important matter at this time.

Enacting the settlement will allow Microsoft to get back to business. In addition the stipulations of the settlement will benefit users as well. With the release of Windows XP, Microsoft will be putting in a new mechanism that will allow users to add and delete programs into the system with greater ease. The settlement goes above and beyond the original scope of the case. The Justice

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[74] 84 F. Supp. 2d at V 412.

Department must enact the settlement at the end of
January.
Sincerely,
Maggie Hayes

MTC-00029309

From: J. Daniel Moss
To: Microsoft ATR
Date: 1/28/02 10:46pm
Subject: Microsoft Agreement

To Whom It May Concern,

As a citizen, taxpayer, and shareholder concerned with the element of fairness, I want you to know that I support the settlement agreement worked out between the U.S. Department of Justice and Microsoft. I want to add my name to the support enlisted for the agreement.

Joseph Daniel Moss
500 Fisher Avenue
Catawissa, PA 17820
1–570–356–2138

MTC-00029310

From: Hhall27610@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:46pm
Subject: Microft Settlement

In a message dated 1/28/02 6:45:37 PM Central Standard Time, fin@ MobilizationOffice.com writes: << microsoft.atr@usdoj.gov >>

Below is the letter we have drafted for you based on your comments. Please review it and make changes to anything that does not represent what you think. If you received this letter by fax, you can photocopy it onto your business letterhead; if the letter was emailed, just print it out on your letterhead. Then sign and fax it to the Attorney General. We believe that it is essential to let our Attorney General know how important this issue is to their constituents. The public comment period for this issue ends on January 28th. Please send in your letter as soon as is convenient.

When you send out the letter, please do one of the following:

Fax a signed copy of your letter to us at 1–800–641–2255;

Email us at fin@mobilizationoffice.com to confirm that you took action.

If you have any questions, please give us a call at 1–800–965–4376. Thank you for your help in this matter.

The Attorney General's fax and email are noted below. Fax: 1–202–307–1454 or 1–202–616–9937 Email: microsoft.atr@usdoj.gov

In the Subject line of the e-mail, type Microsoft Settlement.

For more information, please visit these websites: www.microsoft.com/freedomtoinnovate/ www.usdoj.gov/atr/cases/ms-settle.htm

8850 McClellan Boulevard
Anniston, AL 36206–7548
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I appreciate the Justice Department finally coming to a settlement over the Microsoft issue. The three year long dispute has brought up many issues regarding antitrust laws and the tech industry. The settlement that was reached represents a good compromise. I believe that it should be acceptable to everyone involved.

Now that the Windows" operating system will be made available to producers at a uniform price, computer makers will not have to gain favor with Microsoft in order to receive discounted prices. This evens the playing field among computer makers. Further the review committee that is to be created will guarantee that everyone plays fair too.

The settlement comes at a good time. It represents both sides of the issue. The government needs to move on to more important matters. Thanks for listening.

Sincerely yours,
Harold Hall

MTC-00029311

From: daRcmaTTeR
To: Microsoft ATR
Date: 1/28/02 11:00pm
Subject: Microsoft Settlement

To whom it may concern,

Please do this country a big favor and split them up, take them apart...do what ever you have to do to make them play by the same rules everyone else has to if you can't put them out of business. We're all so tired of watching and being able to do nothing while MS gets rich over the dead bodies of smaller companies that are just trying to make a living at what they do. MS stinks, their products stink and the way in which they treat the end users by marketing and selling inferior products stinks! Please give this country and the world the Technological enema that it so desperately deserves and needs and stick it to Microsoft. Though it won't even begin to make up for the way they have stuck it to countless others at least it's better then letting them get away with it unpunished.

Mark Weaver

Written from A Microsoft FREE environment

MTC-00029312

From: Allan G. Osborne
To: Microsoft ATR
Date: 1/28/02 10:47pm
Subject: Microsoft Settlement
5829 NE 198th Place
Kenmore, WA 98028
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I encourage you to support the recent antitrust settlement Microsoft has reached with the DOJ. I can only imagine how much this lawsuit has cost the little people in this country—not Bill Gates, but the people throughout the country, especially those who are in pension funds.

Furthermore, I feel this attack on success is forcing Microsoft to agree to terms that go far beyond the original scope of the lawsuit so it can continue to develop software undisturbed by the government.

As an example, Microsoft has agreed to provide the code so competitors can alter Windows to remove Microsoft products and to install competing products. Furthermore, Microsoft has agreed to disclose various interfaces to its competitors—a first in an anti-trust settlement.

Further, Microsoft has agreed to not force third parties to distribute or promote Windows exclusively or as a fixed percentage; nor will Microsoft prevent computer makers or software developers from developing competing operating systems or software that runs on competing operating system.

For these reasons, I encourage you to support this settlement as good for the consumer, and so that Microsoft can return to the business of developing good software.

Sincerely,
Allan Osborne

MTC-00029313

From: Dolores Dembus
To: Microsoft Settlement
Date: 1/28/02 10:41pm
Subject: Microsoft Settlement
Dolores Dembus
3133 Connecticut Ave NW
Washington, DC 20008
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Dolores Dembus

MTC-00029314

From: Thomas Leszczynski
To: Microsoft Settlement
Date: 1/28/02 10:41pm
Subject: Microsoft Settlement
Thomas Leszczynski
4539 Greystone Dr
Richfield, WI 53076–9405
January 28, 2002
Microsoft Settlement

U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom: And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Thomas Leszczynski

MTC-00029315

From: Loyd D. Jacobs
To: Microsoft ATR
Date: 1/28/02 10:48pm
Subject: Micrsoft Antitrust Settlement

I believe the subject settlement is more than fair. Microsoft was largely responsible for the tremendous economic gains of the 1990's. Yet the goose that laid the golden egg is severly attacked. By whom? By a gang of competitors who could not compete in a free market. By a gang of competitors who met together to costruct a case against Microsoft and ask the federal goverment to prosecute it. Collusion?

Yes Microsoft is agressive. In business you do not go far without being agressive. Agressive action and words can stir up emotional responses, but that does not make them illegal?

The general public has not been harmed by Microsoft. To the contrary. Microsoft has made it easy for the novice to use computer systems. They have provided a much needed standard. Compare that to the incompatable wireless telephone systems. My wireless telephone will not work in Europe. Old time computer users complain about Microsoft. They know how to work around computer problems and do for themself. The general public does not. Microsoft provides a standard, a tool the general public can easily use.

Bunding. I want blundling. I do not want to buy my operating software system a piece at a time. Only special applications do I want to buy one piece at a time. I also do not want to make the piece by piece selection of what goes in my basic operating system. I am not smart enough. Microsoft lets me easily buy a complete system that works great.

Cost. Per line of code, there is no maintaied software package that is cheaper.

Do we really want to put overzealious tethers on the company that had a large part in creating the golden egg economic era of the 1990's. I would think twice about that.

Thanks for the opportunity to comment.
Loyd D. Jacobs
P.S. I am a Boeing retiree.

MTC-00029316

From: RAJESH SATPUTE
To: Microsoft ATR
Date: 1/28/02 10:49pm
Subject: Microsoft Settlement

Dear Sir/Madam,

This settlement is in favour of the public. This settlement is good for the industry, economy and above all the nation. As a US Citizen I do agree this steelement.

Regards,
Raj Satpute

MTC-00029317

From: Hugh Inness-Brown
To: Microsoft Settlement
Date: 1/28/02 10:45pm
Subject: Microsoft Settlement
Hugh Inness-Brown
5351 State Hwy 37
Ogdensburg, NY 13669
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Hugh Inness-Brown

MTC-00029318

From: Swapan Gupta
To: Microsoft ATR
Date: 1/28/02 10:52pm
Subject: Microsoft Settlement

We the undersigned would like to submit our comments on the Microsoft Settlement before the Antitrust Division. We are displeased to note that much effort has been expended by the government to listen to envious competitors, who unable to compete in the open market, attack a productive company so that its innovative ways can be hindered. We have been using Microsoft products for over a decade and have never had any complaints about their performance. Over the years their products have kept improving. We are therefore opposed to any settlement, in which the company which has become successful by dint of innovation, is penalized for being too successful. We would also like to state for the record that as free individuals, participating in the marketplace, we have chosen Microsoft products without coercion. Therefore we think that it is not the duty of the Government do decide or restrict the marketing of Microsoft's products at what ever price the market will bear. Also we think that as free individuals we have an inalienable right to purchase and keep on our computers software of our choice without government interference. In other words, the government should not violate our personal liberties in the realm of what we can buy and keep in our computer. Since the business of Microsoft is producing software, we fail to see how it is a threat to anyone. A free market, in essence requires that a company be productive and offer a better product at the lowest price. Microsoft has been able to do this— a testament to it's success.

One important point to note here is that Microsoft has been brought to court by its competitors, who when unsuccessful in the open market, sought to use government force to not only shackle but also to set the terms by which businesses in future must compete in the market place. Failed businesses must not be allowed to set the terms of the operation of the market place. Penalizing successful businesses can only have a chilling effect on future iconoclastic businessmen and industrialists from trying to be innovative if they conclude that the price of success is the breakup of a company and suffering long drawn out court battles and fines and unreasonable penalties. The government should foster an environment whereby any American entrepreneur with a new idea can start a business by upsetting (if required, just as Henry Ford upset the horse and buggy industry, or what Edison's invention of the light bulb did to the candle makers) current businesses and starting a new field of production just as the computer industry replaced and automated many labor intensive functions of U. S. industry. After all a business has a right to its own property and it is the constitutional duty of the government is to secure and protect those rights.

CC:activism@moraldefense.com@inetgw

MTC-00029319

From: KISSELL814@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:51pm
Subject: Microsoft Settlement

Dear Mr. Ashcroft:

The free enterprise system in the United States has been the catalyst for making the

United States the greatest country in the world. Within the system, there will be winners and losers. Microsoft is perhaps the biggest winner of all time; they have created and marketed a product that satisfies the needs of an expanding market all over the globe.

The government has no business meddling into the affairs of Microsoft, or any other business. Microsoft used its own ingenuity and market know-how to achieve the level of success it has. The entire lawsuit between Microsoft and the US government has become a forum for Microsoft's competitors to tear a piece of Microsoft's success away.

Microsoft has agreed to permanent government oversight in the form of the three-person "Technical Committee." This in and of itself should silence most any critic of Microsoft, but the settlement also agrees to make trade secrets such as operating system protocols and interfaces available to its competition as well.

I have strong reservations about this settlement, but if this is what Microsoft wants, than I will support the company. Microsoft performed as any company would in the open market, and has been duly rewarded. The federal government needs to end the litigation and let free enterprise and the market determine the final outcome for Microsoft and its competitors.

Sincerely,
Richard Kissell
3903 23rd Ave. W.
Bradenton, FL 34205

MTC-00029320

From: Howard Hall
To: Microsoft Settlement
Date: 1/28/02 10:49pm
Subject: Microsoft Settlement
Howard Hall
9 Josefa Place
Moraga, CA 94556
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Howard G. Hall

MTC-00029321

From: barbara ward
To: Microsoft Settlement
Date: 1/28/02 10:49pm
Subject: Microsoft Settlement
barbara ward
box 404
carrizozo, NM 88301
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
barbara ward

MTC-00029322

From: NANCY LONG
To: Microsoft Settlement
Date: 1/28/02 10:52pm
Subject: Microsoft Settlement
NANCY LONG
3601 CHADSWORTH WAY
SACRAMNETO, CA 95821
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
NANCY LONG

MTC-00029323

From: Jerome Isham
To: Microsoft ATR
Date: 1/28/02 10:57pm
Subject: USAGIsham—Jerome—1002—0125
10047 Main Street Apt #213
Bellevue, WA 98004
January 26, 2002
Attorney General John Ashcroft, DOJ
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Today I take the time to encourage the Department of Justice to accept the Microsoft antitrust settlement. The DOJ and Microsoft have slugged this battle out for over three years. It is time to put an end to it. A settlement is available and the terms are fair. It is rally about time that the government accepted it. In order to put this issue behind them, Microsoft has agreed to many terms. They have consented to design future versions of Windows to be more compatible with non-Microsoft software, making it so that features like Explorer and Windows Messaging can be replaced by Netscape and IM. They have also agreed to change several aspects in the way they do business with computer makers. Microsoft has given up a lot in order to settle the issue. It is time for the government—and the courts—to accept the settlement and move on. Microsoft and the technology industry need to move forward, and the only way to move forward is to put this issue in the past. Please accept the Microsoft antitrust settlement.

Sincerely,
Jerome Isham

MTC-00029324

From: Dale Boe
To: Microsoft ATR
Date: 1/28/02 10:59pm
Subject: 280 Yew Street Road
280 Yew Street Road
Belingham, WA 98226
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW

Washington, DC 20530

Dear Mr. Ashcroft,

I wanted to take this moment to write you, during the 60-day public comment period, to express my concern on this tedious lawsuit plaguing the Microsoft corporation. For the past three years (in its most recent version, anyway) Microsoft has concentrated its time, energy and money under public and federal scrutiny and it has been the unfair and unjustified bullying of an enterprise that built itself on American ideals, the dreams that all Americans are made of. The current proposed settlement, although harsh on Microsoft, needs to be the ending of this lawsuit once and for all. If the case goes back to the federal court, not only does the fundamental principle of freedom of enterprise fly out this nation's window, but our nation's economy will suffer further from the loss of potential capital. How can our country criminalize a business that brought this world out of the technological "stone age?" It is beyond me how people that have prospered from Microsoft's success are also the ones trying to put them out of business. Is this the message we are instilling in our own people that too much success is a crime and can legally be taken away from you?

By accepting the proposed settlement, Microsoft and the American consumer can put this behind them, get back to business as usual, and keep Microsoft as an investment this country needs to stay at the top of the global market.

Your time and consideration in this matter is greatly appreciated and I hope your actions will speak for the American people and not the jealous competitors trying to take ingenuity away from the Microsoft corporation.

Sincerely,

Dale Boe

MTC-00029326

From: BRTSTAR1@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:59pm
Subject: Microsoft Settlement

Greetings.

I believe in the free enterprise society. Let the inventors invent. I want Microsoft to give me the best of the best. I want all the components in one pack of software.

Please let Mr. Gates advance our technology. Stop all the legal action against Microsoft.

Regards,

Valerie Rogers
3428 Hillvale Rd
Louisville, Ky 40241
502-423-STAR

MTC-00029327

From: Carol Wray
To: Microsoft Settlement
Date: 1/28/02 10:55pm
Subject: Microsoft Settlement
Carol Wray
10133 Ga.Hwy.42 South
Fort Valley, GA 31030-9313
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,

Carol Wray

MTC-00029328

From: Dave La Bounty
To: Microsoft ATR
Date: 1/28/02 10:59pm
Subject: Microsoft Settlement

To whom it may concern:

I am very much against the proposed Microsoft Antitrust Settlement ... it doesn't go far enough to level the playing field against Microsoft or in punishing Microsoft. In it's present form, it appears that the DOJ proposed settlement (once again) lets Microsoft off the hook, and lets them continue their rampant / unabaited, unethical, predatory / monopolistic practices ... it's ALL in the details and crafting of the words ... by highly paid Microsoft lawyers ... once again, there is no "meat" to it. "Nothing" surprises me anymore ... but America and the world deserves better. There IS an alternative ... ALL you have to do is read the incisive, brilliantly presented descriptions of the problems ... and solutions at the following web sites ... to realize how woefully inadequate the DOJ settlement proposals truely are.

http://www.kegel.com/remedy/letter.html,

http://www.kegel.com/remedy/remedy2.html

http://www.codeweavers.com/jwhite/tunney.html

The solutions proposed at these sites have some "meat" to them, and should just be a starting point of "minimum necessary requirements". These proposed solutions, would finally, at least, force Microsoft to be more forthright and honest. Hire these guys as consultants!!! IF there is "any justice", the DOJ verdict and settlement ought to "punish" Microsoft "severely", with more than just a weak slap on the wrist ... Microsoft should not continue to be "rewarded" by the Justice Dept. for their continued "best business practices" ... business practices at their worst.

I have been supporting Computer hardware / software for 40 years from mainframes to PCs, including Microsoft products. There is "no room" in a democratic society ... for software code (and a company) that wants to "imbed" itself "everywhere" ... to the "exclusion" of ALL others. This fact is even intuitively obvious to the most casual observer ... and also ought to be obvious to a "US Justice Dept" as well.

There is no dispute that Microsoft has stifled innovation, creativity and competition ... and in the process "sucked" the life out of an Entire industry / culture. For years, Microsoft has "rushed to market" buggy / inept, bloated software code / APIs, applications ... Operating systems (OS) ... in order to circumvent previous, WEAK Justice Dept settlements.

Just look at the security flaws in their "latest & greatest" XP OS ... rushed to market to "procreate" and "imbed" itself ... before it works ... and before the "law" can catch up with it ... yet one more time. In Windows 9X, Internet Explorer (IE) was blatently imbedded into the Windows OS, with requirements that IE be the "default" browser in order for OTHER Microsoft) applications (such as Outlook) to work properly ... to the exclusion of other applications, including Netscape. Microsoft "is" the ultimate blood-sucking virus. It's time to get out the RAID ... and a BIG flyswatter ... or gavel!!!

Surprise me ... do something right ... for a change,

Dave La Bounty,

San Jose, Ca,

Computer Engineer / Technologist (40 years)

MTC-00029330

From: lward@infi.net@inetgw
To: Microsoft ATR
Date: 1/28/02 11:01pm
Subject: Microsoft Settlement
Lester Ward
5604 Newman Davis Road
Greensboro, NC 27406
January 27, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I have been using computers since 1976. That is about adecade before even the first PCs. (even before DOS). I could use computers even without Microsoft. The question is would I want to do so. Imagine the millions of Americans today that use computers and the Internet without even a clue as to how difficult things once were.

I am writing this letter in hopes of restoring some sense to the current course of affairs. I sold my Microsoft stock shortly after Judge Jackson began to try to write himself into the history books. The reason Microsoft is so successful is because we the consumers want it to be. I do not want to purchase a menagerie of software operating systems and user applications that very likely will not work together. I know this started during the Clinton Administration. I feel that it is time to put a halt to this auto-immune attack

Microsoft is an important part of the U.S. economy. Please let Microsoft get back to software production. In these difficult economic times, we need to move forward. I would find it difficult to do my job without the innovations that Microsoft has provided. I will continue to depend on Microsoft. Microsoft has agreed to a settlement that should provide any necessary compliance to regulations and prevent any further perceived need for anti-trust actions.

I hope that my opinion makes a difference. Thank you for your attention in this matter.

cc: Representative Howard Coble

Sincerely,

Lester Ward

MTC-00029331

From: Kiyoshi Yu
To: Microsoft ATR
Date: 1/28/02 11:01pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, NW
Suite 1200
Washington, DC 20530–0001
Via email: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement

Dear Ms. Hesse:

As a consumer whose activities both at work and at home rely heavily upon the use of personal computer software, I welcome the chance to comment on the proposed settlement between Microsoft and the Department of Justice.

I feel that this agreement, as is, will leave Microsoft to continue in its anticompetitive ways. It will not prevent the monopoly from using strong-arm tactics in licensing deals with computer makers, nor will it stop Microsoft from keeping competitive products from coming to market. As a result, consumers like myself will be forced to continue to pay for Microsoft's expensive operating systems and software suite and the upgrades required to keep them functional. In addition, our choice of software products will continue to be limited and for those of us who do use non-Microsoft operating systems or Internet browsers, compatibility with other Microsoft products will continue to suffer.

The additional proposal put forth by Massachusetts Attorney General Tom Reilly along with eight other states and the District of Columbia is a far better remedy than one proposed by the Department of Justice. This proposal includes key provisions that will put an end to Microsoft's illegal business dealings, help ensure compatibility of software products and bring consumers like myself the benefits of greater choice and lower prices. Moreover, unlike the Department of Justice's settlement, this proposal will provide an enforceable solution with real penalties to guarantee compliance.

Therefore, it is my hope that the Court will find the Department of Justice's settlement with Microsoft not to be in the public interest and rather adopt the proposal of Tom Reilly and the other State Attorney Generals.

Sincerely,

Kiyoshi Yu
388 Ocean Ave.
Revere Beach, MA 02151

MTC-00029333

From: Robert Boyer
To: Microsoft ATR
Date: 1/28/02 11:03pm
Subject: Microsoft Settlement
Attorney General John Ashcroft
Us Dept of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have been following the Microsoft antitrust case in the papers and media and I think it is time to come to a settlement. Microsoft has met all , and more, of the competitors demands. We should meet the simple request of Microsoft to have the settlement approved, so Microsoft can go back to the business of innovating.

I appreciate your efforts to have the Microsoft approved by the Court as in the best interest of the American public.

Thank you for your attention to this matter.

Billie Jo and Robert Boyer
2126 New Bedford Dr.
Sun City Center, Fl 33573
Phone- 813–634–1181

MTC-00029334

From: Kedar Soman
To: Microsoft ATR
Date: 1/28/02 10:57pm
Subject: Microsoft Settlement

Dear Madam / Sir,

This is in regard to Microsoft antitrust settlement case. I sincerely feel if Microsoft continues to follow the current practices, it will pose a grave challenge to the principle on which the capitalism is based, free and healthy competition.

Simply put, if not curbed right now, following thing will happen. Your children will wake up listening microsoft radio station on microsoft radio. They will wear clothes made by microsoft, travel in microsoft made car to office, where they work on windows and MS OFfice. Later in evening, they will come back and watch Microsoft televison. Before sleeping, they will read microsoft printed Bible. And when they will open microsoft printed dictionery to read the meanings of words freedom and customer choice, they will hate you with their whole heart.

Thanking you,

Kedar Soman

MTC-00029335

From: linda rasband
To: Microsoft Settlement
Date: 1/28/02 10:57pm
Subject: Microsoft Settlement
linda rasband
670 west 91st ave.
anchorage, AK 99515
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers'? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,

linda rasband

MTC-00029336

From: Gretchen Huizinga
To: Microsoft ATR
Date: 1/28/02 10:57pm

Please see attached letter regarding the Microsoft Settlement.

Gretchen Huizinga
Millennium Arts Inc.
18404 148th Avenue NE
Woodinville, WA 98072
January 23, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I would like to take this time to voice my opinion on the Microsoft case. The government had no right to intervene with private business, but now that the case has been allowed to drag on for three years, the American public needs to see that the case is finally ended. Microsoft is a good company; they've provided consumers with superior products and have changed our lives, contributing so much to our nation's economy. I run a production company and use Microsoft's products in my office. I am not forced to do so; I use their products because I prefer to.

The proposed settlement will be more than favorable to Microsoft's competitors and will consequently foster competition. Microsoft has agreed to tone down its supposedly aggressive marketing techniques and will allow their competitors to create and promote non-Microsoft software in Windows. They are also going to give away a lot of their technical secrets to their competitors.

This settlement is more than reasonable and is the right thing to do. Our economy is struggling and our technology industry needs to be restored. Ending this case is a perfect way to do that. Thank you for your time.

Sincerely,

Gretchen Huizinga

MTC-00029337

From: Johannes Garcia

To: Microsoft ATR
Date: 1/28/02 11:04pm
Subject: Microsoft Settlement

Ladies & Gentlemen:

We must continue to promote the best technology and give the opportunity to those who wants the freedom to innovate in all area of business and industries. Lets keep the courts and the politicians out of technology especially in this critical time "The New World Economic". If AOL wants to continue to played this role in promoting policy (and politics) over technology especially as they have done in the last three years and contributing in the impeding of new technology. Let us remember man is the maker of his destiny and we are all guilty if allowed it to happen. Why should the American people be punished to pay for the legal cost of this platform?

As we all know AOL has promised to open up their instant messenger as Microsoft has done, so that we all can have a platform to build services for it, but has AOL complied? NO. They say one thing and do another.

Microsoft has done bad things in the past but is not the evil some people make it out to be. If you had studied them in some depth, you'd understand that.

Microsoft has done great things for the United States Economic and World Economic and their contribution to ordinary people is the real story. Let's keep our head over water and we should continue to review all the facts and put every things on the balanced (World Economic) before we make the biggest mistake in this new World Economic.

Johannes Garcia

MTC-00029339

From: Bertram Rogers
To: Microsoft ATR
Date: 1/28/02 10:56pm
Subject: Microsoft settlement

Dear Renata Hesse,

I would like to see the Microsoft litigation settled amicably ASAP. Microsoft is one of only a few US companies that can compete in the world market. I would not like to see it so cripple that it can no longer compete.

Best wishes,
B. H. G. Rogers

MTC-00029340

From: jack eich
To: Microsoft Settlement
Date: 1/28/02 10:59pm
Subject: Microsoft Settlement
jack eich
18763 felton
morrison, IL 61270
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
jack l. eich

MTC-00029341

From: tylerb@mac.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:05pm
Subject: Microsoft Settlement

It is a common misperception that Microsoft built it's monopoly upon the proprietary nature of its Windows operating system. In truth, Microsoft built its monopoly upon the proprietary and secret nature of its communication protocols. One historically important example of a proprietary communication protocol is the secret file format utilized by Microsoft application programs such as Microsoft Word and Microsoft Excel.

Because Microsoft wholly controls its secret communication protocols it has the ability to modify a specific protocol with each upgrade to an application program that uses said protocol. For example, when Microsoft issues an update for an application program such as Microsoft Word it has the ability to modify the file format used to encode Microsoft Word documents. Because Microsoft holds a monopoly within the application space that Microsoft Word competes the change in file format triggers a chain reaction of events. Once a critical mass of users adopts the new application program using the modified communication protocol (in this case the Microsoft word file format) other users are compelled to purchase the new version of the application program because the older version cannot understand and use the new protocol. People who wish to communicate within this particular space but who do not own Microsoft Word are compelled to purchase it, not because because the program offers innovative new features, but simply because the application program uses a proprietary protocol. Microsoft possesses both a monopoly and a secret proprietary protocol in many application spaces. This fact compels users to purchase Microsoft products instead of potentially superior competing products, and it allows Microsoft to set the price for these products at artificially high levels.

This situation amounts to a de facto arbitrary tax on communication imposed by a private entity.

The simplest and fairest solution with the best opportunity for success is to compel Microsoft to publicly document all of its communication protocols, including, but not limited to, all of its file formats. This solution is the fairest because it allows all competitors, including Microsoft, to innovate with respect to application features and performance, letting the market determine the price. It also frees users who wish to communicate within a particular space from the compulsion of purchasing Microsoft products.

The simplest and best method for enforcing this behavior is to require the government to confiscate any and all revenue derived from each and every Microsoft product that directly utilizes, or contains any sub component which utilizes, any communication protocol that is not completely documented, including, but not limited to, file formats.

MTC-00029342

From: James W Duffett
To: Microsoft Settlement
Date: 1/28/02 11:04pm
Subject: Microsoft Settlement
James W Duffett
11690 County Farm Road
Lexington, Mo 64067-7101
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Wayne Duffett

MTC-00029343

From: Janice Johnson
To: Microsoft ATR
Date: 1/28/02 11:10pm
Subject: Microsoft Settlement

I wrote to Attorney General Ashcroft about my feelings about the settlement. Now, I would like to tell you how I feel.

I hope so much that there will soon be a settlement to this long drawn out affair. The settlement that was outlined in the newspaper a few weeks ago seems fair and just to me. As a retired educator, I was particularly pleased to see that it involved gifts of materials and software to schools. It seems like a wonderful way to help children who are the consumers of the future. As an "older" consumer, I have grave doubts about the fact that this continued bickering has anything to do with the consumer at all. It appears to me to be an unjust form of competition by some rival companies i.e. Sun Microsystems, AOL, Oracle etc. and they are using to court system which I fund as a taxpayer to further their own ends.

Please, make a fair and equitable end to the squabble. Microsoft is a good company who really has done a wonderful job of focusing on the consumer.

Sincerely,
Janice Johnson
9308 190th ST SW
Edmonds, WA 98020

MTC-00029344

From: Scott Dallmeyer
To: Microsoft ATR
Date: 1/28/02 11:10pm
Subject: Microsoft Settlement

The proposed settlement should not be approved as is. I do not believe that the proposed settlement does anything to rectify the situation created by the found criminal antitrust activities of Microsoft Corporation. The reason for antitrust laws is to maintain healthy competition and markets to promote more and better products. The settlement as proposed only legitimizes the anticompetitive behavior that has killed off so many potential innovators in the software industry.

The proposed settlement is not in the best interests of the consumers of software, in spite of the posturing of Microsoft. Nothing they do or propose can be taken as being in the interests of the consumers. They make so-called "standards" and patent them (their message block structure for Windows XP to kill off Samba) and poison emerging standards such as Java all in the interest of Microsoft, not the consumer.

I am totally opposed to this settlement as now structured.

Thank you for the opportunity to comment,
Scott Dallmeyer
Winnetka, IL

MTC-00029345

From: Bob Bezona
To: Microsoft ATR
Date: 1/28/02 11:10pm
Subject: microsoft settlement
2219 Lummi Shore Road
Bellingham, WA 98226
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I encourage you to accept the recent anti-trust settlement between Microsoft and the United States Justice Department because it's good for Microsoft's competitors and good for those who purchase software.

Microsoft has agreed to make the software market more competitive by providing the necessary information for computer makers to remove Microsoft products from Windows and to install competing products in their places. Further, Microsoft has agreed to not take actions against computer makers who decide to take this route, nor will Microsoft prevent computer makers or software developers from shipping or promoting competing operating systems or software that runs on competing operating systems.

For these reasons, I encourage you to support the recent settlement as good for Microsoft, good for its competitors, and good for the consumers.

Sincerely,
Robert Bezona

MTC-00029346

From: Mike Mammarella
To: Microsoft ATR
Date: 1/28/02 11:10pm
Subject: Microsoft Settlement

I believe that the terms of the revised proposed final judgement are too ambiguous; there is ample room for loopholes depending on the way Microsoft chooses to define, for instance, "digital rights management." Microsoft has recently received a patent for digital rights management operating systems, which means that it would be not unreasonable to claim that the entire operating system (of some future version of Windows) is a digital rights management system and therefore exempt from API disclosure.

The terms must be more well-defined, but also not so narrowly as to be specific to the technology of today. Microsoft will soon be boasting a new platform called ".NET", which could escape the terms of a too-narrowly defined "operating system" and therefore also be exempt from many of the terms of the judgement. Furthermore, I believe that simply limiting Microsoft's illegal monopoly abuse is insufficient. Microsoft has been accused of the same practices before, and reprimanded as a result. However, this does not seem to have stopped Microsoft from continuing the abuse of its operating system monopoly. A more drastic measure could be in order; however this measure must be carefully considered. I'd personally love to see Microsoft dissolved entirely for its support of proprietary PC hardware interfaces (see P.S.), but I realize that this is both unrealistic and uncalled for. However, a split between the operating system division and the software (and middleware) divisions would help to prevent future monopoly abuse; both companies would also be well placed in their respective markets from the beginning. There would need to be restrictions on their interaction, in order to prevent what happened to the AT&T fragments (they eventually joined together again) after that famous split.

This is not the only possible solution. Others include requiring the disclosure of some or all of Windows" source code, or that of Internet Explorer. These solutions could even be combined in full or partial strength.

I am certainly no legal expert, however as a software engineer and system administrator I feel I am qualified to make the statements I have put forth here. I hope that they will be of use and that the eventual decision will be beneficial to all involved, with the possible exception of Microsoft which can only stand to be in some way restrained from previous illegal activity.

Sincerely,
Mike Mammarella

P.S. A note about proprietary hardware interfaces—in the days of DOS, when a hardware manufacturer made a perhipheral device, whether an adaptor card or a printer, they disclosed information needed in order for the operating system or individual programs to communicate and use that device. With the advent of Windows and its driver interfaces, hardware manufacturers stopped releasing this information, claiming its proprietary nature. Technically, this was the decision of hardware vendors, but Microsoft was in the position to encourage them to continue to disclose their protocols and it instead encouraged the opposite. The effect of all this is that other operating systems cannot support these devices unless the manufacturer writes a driver for that operating system as well, which due to Microsoft's monopoly is much less likely. This further increases the barriers for entry into the operating system market.

MTC-00029347

From: Missy Nielsen
To: Microsoft ATR
Date: 1/28/02 11:10pm
Subject: Microsoft Settlement

I support the Microsoft/DOJ settlement.

I do not agree with the nine holdout states. I believe their uncompetitive constituents are manipulating their AG... I remember how difficult it was to access the internet. I remember how difficult it was to use multiple software applications because none would work with the others.

Microsoft has made my life as a consumer much, much easier and productive. Yes, Microsoft is a monopoly, but they are a monopoly that uses their position to benefit consumers.

Please tell Sun, AOL, Oracle, etc. to spend their money on becoming competitive instead of fighting Microsoft.

Melissa Nielsen

MTC-00029348

From: Myers130@cs.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:10pm
Subject: MICROSOFT SETTLEMENT

ATTORNEY GENERAL , SIR

Please be advised as a Microsoft share holder and also user of the products, I am urging the settlement of the law suit. I vote to settle this suit knowing the provisions are tough, reasonable, fair to all parties involved and goes beyond the findings of the Court of Appeals ruling. It is prudent in my opinion to settle this suit now.

Sincerely a shareholder.
Mary Ann Myers
4310 N. Camino de Carrillo
Tucson, Arizona 85750—6305

MTC-00029350

From: Barbara Sanders
To: Microsoft Settlement
Date: 1/28/02 11:06pm
Subject: Microsoft Settlement
Barbara Sanders

RR 1, Box 50A-1
Terra Alta, WV 26764
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,

Barbara A. Sanders

MTC-00029351

From: Johannes Garcia
To: Microsoft ATR
Date: 1/28/02 11:12pm
Subject: Microsoft Settlement

Ladies & Gentlemen:

We must continue to promote the best technology and give the opportunity to those who wants the freedom to innovate in all area of business and industries. Lets keep the courts and the politicians out of technology especially in this critical time "The New World Economic". If AOL wants to continue to played this role in promoting policy (and politics) over technology especially as they have done in the last three years and contributing in the impeding of new technology. Let us remember man is the maker of his destiny and we are all guilty if allowed it to happen. Why should the American people be punished to pay for the legal cost of this platform?

As we all know AOL has promised to open up their instant messenger as Microsoft has done, so that we all can have a platform to build services for it, but has AOL complied? NO. They say one thing and do another.

Microsoft has done bad things in the past but is not the evil some people make it out to be. If you had studied them in some depth, you'd understand that.

Microsoft has done great things for the United States Economic and World Economic and their contribution to ordinary people is the real story. Let's keep our head over water and we should continue to review all the facts and put every things on the balanced (World Economic) before we make the biggest mistake in this new World Economic.

Johannes Garcia

MTC-00029352

From: Carl C. Lochen
To: Microsoft ATR
Date: 1/28/02 11:12pm
Subject: Microsoft Settlement
Carl Lochen
30010 Rancho California Road
Apartment 124
Temecula, CA 92591–2952
January 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

As an independent developer and supporter of Microsoft, I write you in regard to the recent Microsoft Settlement. After three years of negotiations, it seems strange that there may even be more delays in the implementation of this plan. The process was extremely well thought out and well monitored throughout. Because of this, the terms that were reached benefit all involved.

As we go through these economically stressful times, it is crucial that we support our technology at all levels. By holding up this settlement, we take a backseat in the global market. Our entire technology industry needs to get back to business, and because of the agreement, we are ready to do so. Let us support our IT sector and allow the terms to speak for themselves, including anti-retribution and retaliation acts, and the sharing of selected intellectual property.

Splitting up Microsoft

Specifically the non-Windows platform community has attacked Microsoft for adding to much functionality to its OS, and therefore stifling competition. They argue splitting up Microsoft, would make it easier to compete with Microsoft. This ignores the large amount of developers and companies that have made available more than 100 000 programs available on the Windows platform. Splitting up Microsoft, will for them mean disrupting the dynamics of developing cutting edge technology for Windows.

Windows Building blocks

Splitting up Microsoft into pieces, will create smaller companies developing solutions/libraries that will not be included in Windows and therefore be keeping secrets from other independent developers who will have to develop their own incompatible solutions. Splitting up Microsoft, destroys Windows's ability to offer solutions for connecting together building blocks with the latest technology. Solutions that are now incorporated in Windows and documented for everyone, will end up as proprietary solutions outside Windows. Making it less feasible for smaller developers to keep up with the latest in technology.

Microsoft is giving us pre-tested building blocks guaranteed to be interchangeable and compatible with each other. Developers using these building blocks for their own designs, know that their programs will be compatible with combinations of future designs trying to link up with or work together with their designs. Think of the many millions of errors windows is getting rid of for current and future developers of software...

Whenever building blocks are rewritten with new interfaces, previous interface(s) are still available to let older designs work as building blocks change. This is true of COM+ and any of the API's that come with Windows. It beats trying to design applications to hook up to zillions of applications not using support from the OS.

The Internet building blocks Internet technology built into Windows, assists applications using various Windows technologies in communicating and sharing data with each other over the Internet. This degree of integration between applications/components is only possible by having these technologies built into the platform they are running on. Internet Explorer built into Windows facilitates in building web browsers. Any developer can build their own Web Browser with their own customized controls. In less than a day they can design their own Web Browser that is equal in power to Internet Explorer. Just download the MFCIE project from Microsoft Developer Network (has been available a couple of years). In less than a day you implement remaining Internet Explorer Functions through the OLE/COM+ interface. In a matter of days any organization can design their own Internet portals that access primarily sites of their own choosing.

Documentation for developing software Microsoft develops the functionality and the building blocks needed for applications and distributed components to interect with each other on the Windows platform. Microsoft also provides Documentation and Developer information for all developers to take advantage of these features. Preventing Microsoft from freely expanding these features to provide the latest technologies, will damage the industry's ability to develop comprehensive integrated software solutions for the Windows platform. Instead you will end up with incompatible proprietary solutions and a less versatile Windows platform.

I urge you to support our economy at this time, and help this settlement go through as it stands. I thank you for your support.

Sincerely,

Carl Lochen

cc: Representative Darrell Issa

MTC-00029353

From: John Cowhig
To: Microsoft ATR
Date: 1/28/02 11:12pm
Subject: Please be fair and don't reward Microsoft for breaking the law.

I believe the proposed settlement is not punitive enough for past behavior nor will it be very effective to deter future strong arm tactics by Microsoft. At this point, the company has assured itself a comfortable distance ahead of all major competitors. However, as the linux and Macintosh OS community continue to try to gain market share, Microsoft has moved onto conquer new frontiers.

It is important for the DOJ to focus on the future. The past damage is done, but Microsoft continues to use tactics which act against the spirit of the law. The masses will continue to take the route Microsoft and AOL plan for them. However, there are many innovative small companies and grass roots type programmers who would like to continue to innovate. Please don't allow Microsoft to continue to place barriers in their way.

Thank you,
John Cowhig

MTC-00029354

From: Mayer Etkin
To: Microsoft ATR
Date; 1/28/02 11:14pm
Subject: RE: My comments on the settlement.
Please see attached 01-02-062 SEA
Clear Day
Capital Solutions, Inc.
Offices & Affiliates Worldwide
Email capsol@attbi.com
Seattle Office:
6719 Seward Park Avenue South
Seattle, WA. 98118
Tel 206-723-9353
Fax 206-723-9354
January 28th 2002
WPI # CSI APT 001
01-02-062 SEA
Confidential email of 2 pages to Microsoft.atr @usdoj.gov
Ms. Renata Hesse
Trial Attorney
Antitrust Division
US Department of Justice
RE: Comments on the Microsoft Settlement

Dear Ms. Hesse,

I am writing this email to you in my support of brining an end to this travesty of justice. The United States Department of Justice was suckered into persecuting Microsoft under the guise of an antitrust action.

If I were the Judge and it were up to me, I would make the following ruling.

* The court fines Microsoft the sum of $1.00

* The court specifically precludes any plaintiff from using the case record in support of their civil motions or claims against Microsoft if any.

The purpose of antitrust jurisprudence is not to enable a competitor to gain what they what they otherwise fait to gain in an open and competitive marketplace nor is the purpose to enable the plaintiffs bar to file a bogus class action law suit and legally extort $100 million dollars from a defendant because it's cheaper to settle then to litigate.

* If it were up to me to rescind the conclusions of law and findings of fact in this case, I would do so and dismiss the case.

Finally, I accept and approve of the settlement that the Federal Government and Microsoft have agreed to and I order the states that have not joined in it to accept it and to drop all further litigation against Microsoft.

My reasons for making the above rulings are simple, go into any computer store and there are choices to be made. A consumer has the opportunity to decided for themselves exactly what their choice should be. If Microsoft had not taken the actions that they had, they would have run the risk of becoming an also ran in the software business and their operating system would have become obsolete. What one perceives as product improvement and natural migration in an evolving market may be perceived by a competitor in a different manner. It is up to the consumer to decide which is which and not for the government to interfere and make that determination for them. We are advocates of the law, not software engineers, designers nor marketers. In a dynamic and fluid market as this case has shown, what is being argued about is history not current events nor the current state of the software business.

Let's hope the Judge has the courage to rule as suggested and let companies do their battle with each other in the marketplace free of government and judicial impediments.

Have a great day.
Sincerely yours,
Capital Solutions,Inc.
Mayer Etkin, President

MTC-00029355

From: Dearallie
To: Microsoft ATR
Date: 1/28/02 11:14pm
Subject: Microsoft Settlement
PHYLLIS CONANT
65 Kirkland Avenue Apt. 202
Kirkland, WA 98033-6442 USA
Ph/FAX 425 828-9474
January 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Now that the Department of Justice and Microsoft have reached an agreement, why can't we just move on? It doesn't make sense that all of these states and companies are jumping on the bandwagon. I think that they are all liberal opportunists that are looking for a quick buck. What benefit does all of this have on the economy? Zero.

Microsoft has gone out of its way to settle this case, beyond what was required in the suit. They agreed to make available to the competition, protocols implemented from parts of its operating system that are used to operate with their server. Microsoft also agreed to the creation of a technical committee that will monitor Microsoft's compliance with the settlement and assist with any disputes.

Now that Microsoft has agreed to such generous terms, shouldn't we agree to let the settlement stand. Our Government has more pressing issues that they need to focus their attention on. I trust that you will do the right thing.

Thanks for your support in these efforts.
Sincerely,
Phyllis Conant

MTC-00029356

From: Rosemary Brubaker
To: Microsoft ATR
Date: 1/28/02 11:16pm
Subject: Microsoft Settlement

Judge Kollar-Kotally,

As a concerned citizen, I urge you to reject the proposed final judgment in the U.S. vs. Microsoft antitrust case. Microsoft is getting off easy, with most of its many billions in illegal profits going untouched. I'm also worried that Microsoft will continue to harm the high tech industry and the American consumer by using anti-competitive bullying tactics. This convicted monopolist must be dealt stronger punishment for the good of the public.

Sincerely,
Rosemary Brubaker
1502 Esbenshade Road
Lancaster, PA 17601
(408) 295-7374

MTC-00029357

From: glassguy@chouteautel.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:15pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Bruce Davis
R. R. 2, Box 769-2
Locust Grove, OK 74352-9626

MTC-00029358

From: Robert L. Jenkel
To: Microsoft Settlement
Date: 1/28/02 11:14pm
Subject: Microsoft Settlement
Robert L. Jenkel
587 E. Conestoga Circle
Grand Junction, CO 81504-7004
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Robert L. and Joyce Jenkel

MTC–00029359

From: Chetan Prabhudesai
To: Microsoft ATR
Date: 1/28/02 11:19pm
Subject: Microsoft Settlement

Dear Mr. Ashcroft,

As a user of both Microsoft and Apple computer products, I have to say that I feel Apple Computer has the edge in technology. The fact that Microsoft has a commanding lead over Apple can be attributed to Microsoft's superior marketing. Promoting one's product has never been illegal before, and definitely should not be now.

However, as I write this, I sit surrounded by Microsoft products: Windows, Internet Explorer, MSN Messenger, etc. I am typing this message on MSN Hotmail. Microsoft does have competitors in all of its business segments, but by packaging its inferior products together, it can make its software bundles seem superior to these competitors.

My father owns stock in Microsoft, yet I still do not fully support the company. It may not have committed a physical crime like murder, but it has damaged America's economy by not allowing free trade.

But perhaps economic crimes are not as bad as we think. Most companies recover from recessions, wars, etc.

In my opinion, the only solution to the Microsoft case is to stop it from bundling software. We cannot let Microsoft off too easily, but we should not punish it too hard. Terrorism is a far more important topic for the Supreme Court right now than a company that supposedly stifled innovation.

Sincerely,
Chetan Prabhudesai, 15

MTC–00029360

From: Mamusia@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:21pm
Subject: Microsoft Settlement.

I think the settlement with Microsoft is full and fair. At no time in history have consumers had access to such full-featured software at such low cost. I have reviewed the settlement and it seems to protect the public interest, while limiting Microsoft's actions in the future. It also seems to go beyond the original case, evidencing Microsoft's good faith in the matter.

Rebecca Ward

MTC–00029361

From: Sharon Rutland
To: Microsoft Settlement
Date: 1/28/02 11:17pm
Subject: Microsoft Settlement
Sharon Rutland
1088 Badger Road
North Pole, AK 99705
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Sharon I. Rutland

MTC–00029362

From: Norman Lasko
To: Microsoft Settlement
Date: 1/28/02 11:17pm
Subject: Microsoft Settlement
Norman Lasko
13400 Lakeview Dr. N
Omaha, AR 72662
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Norman E. Lasko

MTC–00029363

From: Leland Younkin
To: Microsoft ATR
Date: 1/28/02 11:22pm
Subject: Microsoft Settlement

Microsoft has developed their products for several years. It has produced programs and systems that has greatly benefited millions of consumers, businesses and governments.Without Microsoft's innovations and market savvy we would still be in the dark ages of the computer world Now comes a horde of lawyers (like vultures) seeking to gain large settlements for their benefit. I am convinced that they are not acting to benefit consumers. Just for their own greed Let us put this whole case to rest and let Microsoft continue to be innovative and produce their superior products for all consumers.

Sincerely;
Leland A. Younkin
335 Glendora Circle
Danville, CA 04526–3912
Email address BEONESEVEN@
worldnet.att.net

MTC–00029364

From: DSchum2147@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:23pm
Subject: MICROSOFT JUDGEMENT
SEE ATTACHED
MTC–00029364_0001
2010 Crestwood Drive
Richmond, Texas 77469
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am happy to hear that the Department of Justice is ending its three-year antitrust lawsuit against Microsoft with a strong and binding agreement. This costly affair should have been ended a long time before this.

Microsoft did not get off easy. The settlement was arrived at after extensive negotiations with a court-appointed mediator. The company agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit- for the sake of wrapping up the suit.

The agreement requires Microsoft to document and disclose, for use by its competitors, various interfaces that are internal to Windows" operating system products that are used to communicate directly with the basic Windows system. Microsoft has also agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows.

Microsoft has been distracted for long enough. This agreement will very much benefit its competitors. I do not believe any more litigation beyond this settlement is necessary.

Sincerely,
Janey Schumacher
cc: Representative Tom DeLay

MTC-00029365

From: Douglas Schmutz
To: Microsoft Settlement
Date: 1/28/02 11:19pm
Subject: Microsoft Settlement
Douglas Schmutz
9404 Oakland AVe NE
Albuquerque, NM 87122-3806
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

This is just a note to say that I feel the currently contemplated settlement with Microsoft is a miscarriage of justice. The company has been and continues to be guilty of monopolistic business practices and is largely responsible for a great amount of the insecurity of the WEB. The only reason they have a fairly productive office suite is because they had to compete with WordPerfect. They did not innovate, it was WordPerfect that was the innovator, but because Microsoft controlled the operating system and could do it. they kept secrets that allowed them to make their product appear to perform better and made WordPerfect have incompatibility problems. They finally practically ruined WordPerfect by dropping prices and forcing computers to bundle their products instead of WordPerfect. The result is that now, they can (and do) raise the prices and of their products since the competition is almost nonexistent and they ship buggy software, full of security holes. I think it is in the interest of the consumer and the industry to place huge monetary penalties on the company and that money be distributed to software companies that used to compete so they can get back in business. Also they should be banned from producing software applications that run under Windows, so that they would have no interest in undermining the performance of thirdparty vendors.

Sincerely,
Doug Schmutz

MTC-00029366

From: robert shenk
To: Microsoft ATR
Date: 1/28/02 11:23pm
Subject: Microsoft Settlement

Not only does the agreement lack effective enforcement, but it seriously fails to address past, present, and future anticompetetive practices. We should also not reward companies that embrace standards for the purpose of perverting them. The end result is that the settlement preserves Microsoft's status quo. As a Senior Software Engineer I find this rather frightening.

Robert Shenk

MTC-00029367

From: Bill
To: Microsoft ATR
Date: 1/28/02 10:51pm
Subject: Microsoft Settlement

It was unclear whether the deadline for submission was midnight on 27 January or midnight on January 28, so please accept this submission. The following is my opinion and understanding of Microsoft based upon over 20 years of experience with computers and electronics. I am not affiliated with any Microsoft competitor or free competition group. Microsoft has significantly impacted my choices and capabilities in a TREMENDOUSLY negative way. The impact includes monetary, quality of life, and purchasing freedom. Due to their anti-competitive practices, I have been forced into using an inferior, OVERLY EXPENSIVE, and VERY COMPLEX product in my workplace and where unavoidable, at home.

Microsoft via either restrictive licensing and/or their initially "free" products coerces enough people using their product that they can later drive the market. People then must either use the Microsoft product or get left out of significant capabilities which Microsoft did not initially create, but which they have since taken over via either driving the real innovator out of business, purchasing the real innovator (or a competitor), or restrictive licensing. They have the money to do any of the three and have clearly done all of them more times than any other company in history. With only a few exceptions, MICROSOFT IS NOT AN INNOVATOR AND NEVER HAS BEEN. n

Here are some (not exhaustive) examples of Microsoft's successes or at least attempts to own or control nearly all aspects of the computer/electronics industry (percentages or rankings are my guess and better numbers should be easily obtained and will likely be large or increasing):

Operating System (have nearly killed Apple) 60%
Word Processing (have nearly killed Wordperfect, killed Wordstar and others) 80%
Spreadsheets (killed Lotus, I7...) 80%
Presentation 80%
Project Management (hurt FastTrack) 80%
DB (measurable impact to Oracle, Sybase) 40%
Browser (have nearly killed Netscape, killed Mosaic) 79%
Audio Player (will hurt RealPlayer, Quicktime) ??%
Movie Editor (intent to hurt iMovie and Final Cut Pro) ??%
Network-MSN (hurt AOL, others) 30%
Information—.NET, Passport ??%
Servers (significant impact to Solaris, IBM, and HP Unix Servers) ??%
PDA Pocket PC OS (significant impact to PalmOS vendors) 45%
Gaming—XBOX (targets are Playstation, Nintendo, others) ??%
Satellite TV—Ultimate TV (target TiVo) ??%
SW Development.—VisualBasic, C++, Classes (one area which they helped originate)??%
Web Development.—Frontpage ??%
PIMs—Entourage (target Now-Up-To-Date and others) ??%
Encyclopedia—Expedia (target Groliers, others) ??%
E-Mail SW—Outlook (killed Quickmail, hurt Lotus) ??%
Design—bought Visio ??%
Java (attempted hijack of the Sun standard) ??%
News—MSNBC (CNN, Fox, others) #3
eGreeting Cards MSN#4
Expedia Travel #2
Webmail Hotmail Tied #1.
Finance MSMoney#5
Housing MSN Home Advisor #4
PC Games AgeOfEmpires #2

As one can see, Microsoft has way too much control of too much of our computing/electronics-related way of life. There are also numerous other areas in which Microsoft has a least some interest and which we are not yet even aware of. EVERYONE knows that once Microsoft decides they want to dominate an area, there are few companies IN THE WORLD which will be able to compete with them. This is due to NOT JUST THEIR PRACTICES, but is also due to their ABILITY and willingness to unethically (and illegally) leverage areas which they already have control.

Please break Microsoft's applications development from their operating system development. I believe this is the ONLY thing that can prevent Microsoft from continued restriction of competition. I strongly look forward to purchasing freedom and use of alternate operating systems and applications, both at home and at work.

Thanks,
Bill Eller
Greenville, TX

MTC-00029368

From: DEBORAHBAHARA@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:24pm
Subject: Microsoft Settlement
My comments are attached.
Deborah Gouge
MTC-00029368—0001
522 Woodland Road
Sewickley, Pennsylvania 15143
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This is in regard to the settlement that has been reached in the government's three- year antitrust case against Microsoft. I want to let you know that I support the settlement that has been reached by the parties involved. The continued pursuit of this case would be a waste of time, money, and human resources. Microsoft will be making a number of specific changes due to the settlement. For instance, Microsoft has agreed to allow computer makers to remove the means by which consumers access various features of Windows, Windows Messenger, Microsoft's Internet Explorer, and Windows Media Player.

Also, the company has agreed to document and disclose various interfaces that are internal to Windows" operating system products for use by its competitors. I ask that the government accept the settlement, and stop continued litigation against Microsoft.

Sincerely,
Deborah Gouge
cc: Senator Rick Santorum

MTC-00029369

From: Hamachek,Don
To: "microsoft.atr(a)usdoj.gov"
Date: 1/28/02 11:20pm
Subject: MicroSoft Settlement
12360 Edenwilde Drive
Roswell, GA 30075
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to see the Microsoft settlement agreement finalized. The litigation has dragged on for long enough, to the detriment of the entire technology industry.

I work in the tech industry as a consultant for Cerner Company. I have witnessed firsthand how this case has negatively affected the technology world. Settling the case is in the best interest of everyone.

The terms of the settlement agreement are reasonable. Microsoft has agreed to license Windows to the 20 largest computer companies at the same price. They have also agreed not to retaliate against those who promote or develop software that competes with Windows. These types of concessions will help allay fears of anticompetitive business practices.

I appreciate your efforts at concluding this litigation. Thank you for your consideration of my comments regarding this issue.

Sincerely,
Electronically signed
Donald Hamachek

MTC-00029370

From: Kattner
To: Microsoft ATR
Date: 1/28/02 11:24pm
Subject: Microsoft Settlement

Please accept settlement upon which you have requested public input.

MTC-00029371

From: Abe Lum
To: Microsoft ATR
Date: 1/28/02 11:25pm
Subject: Microsoft Settlement

I was pleased to hear that the Department of Justice and a number of states have made efforts at settlingthe Microsoft antitrust case. I am writing today to urge the court to approve the settlement agreement. Nothing can be gained by continuing litigation in this case. Microsoft has been more than fair in agreeing with changing some of their practices. I hope to see the agreements finalzed in the near future. I thank you for your time and attention.

Abe Lum
5004–29th So.
Seattle Wash 98108

MTC-00029372

From: Thomas Keplar
To: Microsoft Settlement
Date: 1/28/02 11:21pm
Subject: Microsoft Settlement
Thomas Keplar
2710 Emmet Dr.
Logansport, IN 46947
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Thomas Keplar

MTC-00029373

From: Karen Martin
To: Microsoft Settlement
Date: 1/28/02 11:22pm
Subject: Microsoft Settlement
Karen Martin
897 S. Washington PMB 227
Holland, MI 49423
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Karen E. Martin

MTC-00029374

From: Joseph Wojtowicz
To: Microsoft Settlement
Date: 1/28/02 11:22pm
Subject: Microsoft Settlement
Joseph Wojtowicz
1390 Northfield Drive
Mineral Ridge, OH 44440–9420
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Joseph T. Wojtowicz

MTC-00029375

From: Harry Chandler
To: Microsoft Settlement
Date: 1/28/02 11:22pm
Subject: Microsoft Settlement
Harry Chandler
1109 Dixon Dr.
Chula Vista, CA 91911–3304
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Harry C. Chandler Jr.

MTC-00029376

From: Albert Bryson
To: Microsoft Settlement
Date: 1/28/02 11:23pm
Subject: Microsoft Settlement
Albert Bryson
P.O. Box 365
Cochranville, PA 19330–0365
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
AlbertvBryson

MTC-00029377

From: ACalapai@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:27pm
Subject: Fwd: Attorney General John Ashcroft Letter
349 Gardiners Avenue
Levittown, NY 11756–3701
January 26, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

As a retired accountant who has been following the Microsoft antitrust case, I'm still trying to come to terms with the fact that it was determined that Microsoft was acting as a monopoly. How has the public been hurt by the practices of Microsoft? I remember when the price of computers and software was prohibitive for the consumer. Because of Bill Gates'' technical and business acumen, DOS standardized and unified computer systems, and Windows popularized the graphical user interface, dramatically increasing user-friendliness and computer literacy. Thanks in large part to these developments; computers are now commonplace and cheap, reliable and easy to use, and versatile and useful in all kinds of ways.

Now that a settlement has been reached, there is now the threat of more litigation? It's a desperation move on the part of Microsoft's competition. Since they lack the knowledge and the fortitude to compete in the market, they're suing instead. And the attorney generals of the nine states that want increased litigation are only trying to further their careers by getting more money for their respective states. This is grossly unfair.

Microsoft has gone out of its way to cooperate even beyond what was expected. What other company has agreed to license its operating system to the 20 largest computer companies on identical terms, conditions and price?

Microsoft did. How many companies have agreed to disclose various internal interfaces of their operating system to the competition? Microsoft did. I guess that's not enough?! This lawsuit has got to stop. It has dragged on for over three years and may take another three years to resolve. I'm afraid for what this could do to the economy if it is allowed to continue. More poor people have moved up the ranks toward middle and upper middle class because of Bill Gates. have full faith in Microsoft's ability to come back on top if this litigation ends quickly. Otherwise, if the company is allowed to be destroyed, it will have devastating effects on this already fragile economy.

Sincerely,
Andrew Calapai

MTC-00029378

From: Walt Birdsall
To: Microsoft ATR
Date: 1/28/02 11:29pm
Subject: Microsoft Settlement

From 1979 to 1982, the Federal government squandered millions of taxpayer money trying to destroy one of the finest companies the American industrial genius has ever produced: International Business Machines, commonly known as IBM. With its reputation for boat-anchor reliable hardware and its legendary and meticulous obsession with customer service, IBM was the standard by which all other computer companies were measured.

At the last minute, the Feds broke up the phone company. Today, our computers are world-class and our patchwork quilt phone system is on par with Afghanistan.

The Federal government is now trying to destroy Microsoft, probably using the same legal blunderbusses, the same hapless but deep-pocketed taxpayers, and for the same misguided reasons: it's too big, it's a monopoly, they make too much money, stifle competition... et cetera, et cetera.

Do you folks not learn from past screw-ups?

As a professional software engineer, let me explain Windows to you. Windows is typing. Nothing else is involved. No natural resources were consumed, no wildlife was endangered, no wetlands were compromised, and no child labor laws were violated (although I've known some pretty immature teckkies in my day!) A bunch of ill clad, anti-social, frequently unwashed engineers of dubious morals and execrable personal habits, gather in consort... and they type.

And the public buys it. If you don't like it, don't buy it. Are you with me?

A few years ago, some twit at the Department of Justice crowed about having created a "level playing field" with respect to Microsoft. (Sports metaphors are very much in vogue at the DOJ.)

The next day there was great rejoicing in the streets of Bonn, New Delhi, Tokyo, Taipei, and London. They just *love* level playing fields!

It is the nature of the computer business that one company must dominate and set the standards that define the industry. Previously, that company was IBM; today, it is Microsoft. If you damage Microsoft, you will foment an unimaginable Tower of Babel chaos. Do you have any idea of the trillions of dollars of American wealth that have been created and leveraged by Microsoft's craftsmanship? Where would Mike Dell be? Intel? Seagate, Maxtor, and Western Digital, if there were no Windows? How many printers do you think HP would sell if there were no PCs to plug into? The Internet would revert to what it once was: an academic play-toy.

Someday, the natural evolutionary forces of technology will cause Microsoft to be set aside into an honored, hallowed place in industrial fossil history, and to a well-deserved rest. My teckkie brethren and I will then create a new enterprise.

Sadly, no one in government has any understanding in this arena except to meddle and create unimaginable mischief.

Please do us all a favor and just go away.

Walt Birdsall
Retired software engineer

MTC-00029379

From: ALBERT M. JACHENS
To: Microsoft Settlement
Date: 1/28/02 11:25pm
Subject: Microsoft Settlement
ALBERT M. JACHENS
4492 W. SIERRA
FRRESNO, CA 93722–2916
January 28, 2002
Microsoft Settlement

U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

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Thank you for this opportunity to share my views.

Sincerely,
ALBERT M. JACHENS

MTC-00029380

From: VMo1830Q@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:29pm
Subject: Microsoft DOJ Settlement
8426 Academy Street
Houston, Texas 77025
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to say that I am pleased that the Justice Department and Microsoft have finally agreed upon a settlement.

Microsoft's philosophy of a computer in every home with everyone having access to the Internet at a reasonable price has made this country the most computer literate in the world. I understand this settlement will force Microsoft to make a number of specific changes to its products and business practices.

I only hope that this "government" control will not stifle Microsoft from continuing to develop new products at reasonable prices and advancing computer communication and usage.

Sincerely,
Rex Morris
8426 Academy St.
Houston, Tx 77025
713-592-6549
vmo1830q@aol.com

MTC-00029381

From: Gail Hemmerich
To: Microsoft Settlement
Date: 1/28/02 11:24pm
Subject: Microsoft Settlement
Gail Hemmerich
4464 Mosquito Lake Road
Deming, Wa 98244
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Gail Hemmerich

MTC-00029382

From: Jeff Jarrard
To: Microsoft Settlement
Date: 1/28/02 11:25pm
Subject: Microsoft Settlement
Jeff Jarrard
601 S Washington St. Apt. 407
Seattle, WA 98104
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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It should also be noted that the explosive growth in the host count on the Internet, the boom in new technology and innovative new business models (such as the one from which I am sending this message) were made possible by Microsoft's Internet Explorer, not Netscape. The Internet was a fledgling, hard-to-use network closed to the "average American" before Microsoft included I.E. in Windows 95. It was nothing more than a hobbyists pastime until then.

Thank you for this opportunity to share my views.

Sincerely,
Jeff Jarrard

MTC-00029383

From: George Gribben
To: Microsoft Settlement
Date: 1/28/02 11:27pm
Subject: Microsoft Settlement
George Gribben
580 Highland Hills Dr.
Howard, OH 43028
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

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Thank you for this opportunity to share my views.

Sincerely,
George A. Gribben, Jr.

MTC-00029384

From: Gayle Drake
To: Microsoft Settlement
Date: 1/28/02 11:26pm
Subject: Microsoft Settlement
Gayle Drake
10211 Old Fort Rd.
Klamath Falls, OR 97601
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
Pennsylvania Avenue, NW
Washington, DC 20530

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Thank you for this opportunity to share my views.

Sincerely,
Gayle Drake

MTC-00029385

From: John Hughes
To: Microsoft ATR
Date: 1/28/02 11:32pm
Subject: Microsoft Settlement

I am against the current settlement between the justice department and the nine states with Microsoft. As a consumer of computer products I feel that Microsoft has abused it's monopoly power and will continue to do so. As a consumer I feel that I should be allowed choices of the features that my operating system on my computer should have.

Sincerely,
John Hughes
johnhug@iglou.com

MTC-00029387

From: Wayne Quinton
To: Microsoft ATR
Date: 1/28/02 11:32pm
Subject: Microsoft Settlment
January 23, 2002
Attorney General John Ashcroft
US Department of Justice,
Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to tell you what I think of the Microsoft Case. This case is certainly not serving the public interest; it wasn't even brought on by the public. It was brought on because of their competitors'' influence and is now being paid for with tax money. This case is a ridiculous waste of tax money. People are suing Microsoft because they can't compete. I think there is something wrong when the law allows that.

Microsoft is passing on their technology secrets to their competitors and has even promised not to retaliate when competitors create products from that technology that would compete with Microsoft. If that's not fair, then I don't see what would be. Breaking up the company would be disastrous to our country's economy.

This settlement is long past due and needs to be accepted immediately.

Accepting this settlement is the right way to end this mess.

Thank you for your time.

Sincerely,
Wayne Quinton
The Highlands
Seattle, WA 98177

MTC-00029389

From: Karen Horovitz
To: Microsoft ATR,06karenh@students.harker.org@inetgw,...
Date: 1/28/02 11:35pm
Karen Horovitz
Period 2
1/28/01

To Whoever it may concern-

I think that the government should accept the settlement from Microsoft. Although Microsoft is a monopoly, in our history there have been many other monopolies. One of them, Rockafeller's oil monopoly, had given him huge profits. Rockafeller had gotten rich on a trust fund. Now the new issue is Netscape vs Internet Explorer.

AOL Time Warner is suing Microsoft because they claim that they have been bundling their software with Internet Explorer browser and that this has reduced the internet market share for Netscape.

Well I don?t think Netscape should be blaming Microsoft when they are actually the ones who are bundling.

They bundle their product with both the hardware and software, making the buyer actually get two things in one.

Not only this, but AOL Time Warner is a huge company. They own many sub-companies. These companies include Warner Bros., AOL, and many other entertainment companies. Because of this, they probably are just suing Microsoft because they want to be the biggest company. Microsoft spokesperson Jim Desler says, ?AOL Time Warner has been using the political and legal systems to compete against Microsoft for years?? This just shows that they sued Microsoft to compete against Microsoft. Microsoft may not be the only ones violating the antitrust act.

MTC-00029390

From: Joseph Beyer
To: Microsoft Settlement
Date: 1/28/02 11:29pm
Subject: Microsoft Settlement
Joseph Beyer
1527 S.E. Schiller St.
Poreland, Or 97202
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
Pennsylvania Avenue, NW
Washington, DC 20530

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Thank you for this opportunity to share my views.

Sincerely,
Joe Beyer

MTC-00029391

From: HARRYR63@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:34pm
Subject: Microsoft Settlement
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The intention of this letter is so that I may express my feelings about the antitrust suit against Microsoft, and the settlement that was reached last November that ended that suit. The Department of Justice and Microsoft agreed to terms on a proposed settlement, and I support that proposition.

I do believe however, that Microsoft should have been left alone in the first place. There are many other corporations that should have received the attention from the government that Microsoft did. There are terms in the settlement that go a little far, especially the ones that force Microsoft to turn over their intellectual property to competitors. They will be documenting various interfaces and source code that is internal to the Windows'' operating system, and giving that to their competitors. This is a travesty of justice.

The antitrust suit against Microsoft was uncalled for, but I guess that the settlement is the best thing that could have happened. It could have been much worse. I support the settlement because I do not wish to see any further legal action taken against Microsoft.

This entire law suit was brought about because of sour grapes on the part of a few people, namely Sunmicro system's CEO. With his connections with a few Senators, namely Warren Hatch from Utah. He was able to get a senate hearing, and the rest is history.

Gosh darn it, the Federal Government can do us a great deal more good by going after such corporations as big oil. Look at what they are doing with the price of oil, at this very moment, with market control of prices almost varying by zip code. And they talk of Bill gouging the public for his Windows programs and getting by with it due to a lack of competition— please, give me a break.

Sincerely,
Harry Riddle
P.O. Box 86
No. Lakewood, WA 98259
CC:fin@mobilizationoffice.com@inetgw

MTC-00029392

From: David Little
To: microsoft.atr
Date: 1/28/02 11:34pm
Subject: Microsoft Settlement Comment
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
28 January 2002

Ms. Hesse,

This letter presents my comments to the Proposed Final Judgment in the Microsoft Settlement. I object to the PFJ on the following grounds:

-It fails to require the release of the Office file formats. As I IT professional I've seen the lack of alternative Offices packages as a key source of the Microsoft's hold on the desktop since the ability in exchange documents in binary form is a key to collaboration both inside and outside the organization.

-It fails to address Enterprise License Agreements. Microsoft's licensing of both the OS's and Office require payment for all computers. As computers are scrapped due to age the licenses can't be moved the newer machines since OEM's require an OS to be installed.

-It fails to provide an effective enforcement mechanism. Microsoft has shown its willingness to circumvent agreements in the past. Without a strong enforcement mechanism I believe they will do so again.

There have been several lists of issues publish but these are the ones I consider the most important.

Thank you for the opportunity to comment.
David H. Little, Jr.
PO Box 90111
Raleigh, NC 27675
dhlittle@mindpring.com

MTC-00029393

From: Virginiastone527@cs.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:34pm
Subject: microsoft
Virginia Stone
215 Shope Creek Road
Asheville, NC 28805–9796
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft: After three long years, the Department of Justice and Microsoft have reached an agreement ending the antitrust suit brought against Microsoft. I want to give my support to this settlement and ask that you do also.

Microsoft has been more than fair in dealing with this issue. Microsoft has agreed to work with companies to achieve a greater degree of reliability with regard to their networking software; Microsoft has agreed to grant computer makers license to configure Windows so as to promote non-Microsoft software.

The list goes on and on. Microsoft and the Department of Justice obviously want to put this case behind us. Further litigation will only be counterproductive.

Give your support to this agreement. Thank you.

Sincerely,
Virginia Stone

MTC-00029394

From: Sandy Graham
To: Microsoft ATR
Date: 1/28/02 11:36pm
Subject: Microsoft Settlement
January 28, 2002

Dear Mr. Ashcroft:

I am writing to express my support in the recent settlement between Microsoft and the federal government. I sincerely hope that no further litigation is being pursued at the federal level.

It is my opinion that any further action would be completely unnecessary. Saundra Graham grahamws@attbi.com

MTC-00029395

From: female1@iwon.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:34pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Terese Marks
3122 Heritage
Troy, MI 48083–5784

MTC-00029396

From: F. John Leonard
To: Microsoft Settlement
Date: 1/28/02 11:33pm
Subject: Microsoft Settlement
F. John Leonard
69 Farr Lane
Elmira,, NY 14903–7907
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

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Thank you for this opportunity to share my views.

Sincerely,
Mr. F. John Leonard

MTC-00029397

From: John Moon
To: Microsoft ATR
Date: 1/28/02 11:38pm
Subject: Microsoft Settlement
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I recently learned the federal government and Microsoft settled their antitrust lawsuit. As the CTO of a custom software applications firm utilizing Microsoft technology, I would like to express my satisfaction with the settlement of this matter out of court.

Continued litigation on this matter would not be productive and would only serve to make the lawyers rich at the expense of innovation, among other things. That is why Microsoft wants to settle—not to mention it has been forced to spend untold millions on defending itself for the past three years.

Settling this lawsuit will lift the cloud of apprehension and nervousness that has plagued many tech firms since its inception.

The positive affects of settling this matter are quite clear. It will enable my company to continue designing custom applications without the headache of triple-sourcing which is what a Microsoft breakup would have caused. This may sound like a minor thing, however, it is not. It would be an inefficient administrative nightmare that would affect the performance of the company.

It is my hope that the settlement is finalized at the conclusion of the public comment period. It is in everyone's best interest.

—John Moon
moon@digitalbuilders.com
310/300–1701
digital builders, inc.
310/DIGITAL
310/300–1600 fax
www.digitalbuilders.com

MTC-00029398

From: Rolland Brengle Jr
To: Microsoft ATR
Date: 1/28/02 11:38pm
Subject: MICROSOFT SETTLEMENT

I believe the settlement Microsoft offered should be accepted by the DOJ. Consumers are the ones that will benefit from using Microsoft products.

R. M. Brengle, Jr.
3325 Center
Highland MI 48357

MTC-00029399

From: Leland Younkin
To: Microsoft ATR
Date: 1/28/02 11:40pm
Subject: Microsoft Settlement

Microsoft has developed their products for several years. It has produced programs and systems that has greatly benefited millions of consumers, businesses and governments.Without Microsoft's innovations and market savvy we would still be in the dark ages of the computer world

Now comes a horde of lawyers (like vultures) seeking to gain large settlements for their benefit. I am convinced that they are not acting to benefit consumers. Just for their own greed Let us put this whole case to rest and let Microsoft continue to be innovative and produce their superior products for all consumers.

Sincerely;
Leland A. Younkin
335 Glendora Circle
Danville, CA 04526–3912
Email address BEONESEVEN@ worldnet.att.net

MTC-00029400

From: RICHARD SMITH
To: Microsoft ATR
Date: 1/28/02 11:40pm
Subject: Microsoft Settlement
11531 Reltas Ct.
Cincinnati, OH 45249–1707
January 28,2002
The Hon. John Ashcroft;
Attorney General;
U.S. Department of Justice;
950 Pennsylvania Avenue, NW;
Washington, DC 20530–0001

Dear Mr. Attorney General:

The Department of Justice made a good pitch to Americans at the start of the "U.S. vs. Microsoft" lawsuit. We were told that the consumer needed government intervention to avoid being injured by Microsoft's unethical business practices. However, three years of litigation have proven enormously expensive for Microsoft and for the federal government. The inevitable result will be that any substantive benefit the settlement brings to the consumer will be balanced or outweighed by the great burden that the suit has been for the IT industry as a whole. Microsoft will have to reveal portions of Windows code to competitors and by being subject to the permanent scrutiny of a three person committee formed to review Microsoft's actions for years to come. This should be considered a fair resolution.

PLEASE—let's stick to the agreement!! Anymore time and resources spent in persuing Microsoft at the federal level can only serve to raise the price of the lawsuit to customers and taxpayers. It is high time to see this matter put behind us. The Department of Justice must end this lawsuit as soon as this period of public comment is concluded.

Very sincerely,
Richard Smith

MTC-00029401

From: James Brubaker
To: Microsoft ATR
Date: 1/28/02 11:41pm
Subject: Concern re the Microsoft Settlement

Honorable Judge,

I'm writing to ask you to reject the proposed final judgment in the U.S. vs. Microsoft case. Microsoft has been found to have violated our nation's antitrust laws, reaping many billions of dollars of profits in the process.

This proposed settlement would allow the company to retain almost all of that. I am also concerned that there are no provisions to protect us from Microsoft's continuing anticompetitive behavior. There is no indication Microsoft will cease its antitrust violations, and the company is left to police itself!

Actually, the proposed final settlement would amount to a government validation of the monopoly. I urge you to reject the proposed final judgment as it is not in the best interest of the public.

Respectfully,
James Brubaker
1502 Esbenshade Rd.
Lancaster, PA 17601–4450
717–295–7374

MTC-00029402

From: Pat Iler
To: Microsoft Settlement
Date: 1/28/02 11:37pm
Subject: Microsoft Settlement
Pat Iler
3510 W. Shady Side Road
Angola, IN 46703
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Pat Ier

MTC-00029403

From: James T Pulaski
To: Microsoft ATR
Date: 1/28/02 11:42pm
Subject: My comments on the MS antitrust settlement

My view is that no one operating system should entirely dominate the market.

Not Windows, Mac OS, OS 2 Warp, Linux, Unix, nor Be OS.

So I think Windows needs to be around, but Microsoft has just gotten to big!

I only want to make a few quick suggestions. These comments should be in addition to other remedies already decided.

Microsoft (MS) should be forced to make a choice between the software business and the operating system (OS) business.

If they want to be in the software business, Windows should be made open source. This would prevent MS from taking over the market by virtue of being first to the OS table. It would foster innovation by making the playing field even.

If they want to be in the operating system business, then all other software divisions should be spun off into separate entities (or one big software entity). This again would take away the incentive for MS tying software inexorably to their operating system.

In addition, I like the idea of giving something to education. I think they should donate $800 million cash to the nations schools to be used for computer training and equipment. The schools would be free to choose what-ever brand of computer and operating system they prefer.

That is my two cents! Good luck!
Jim Pulaski

MTC-00029404

From: Todd Buckley

To: Microsoft ATR
Date: 1/28/02 11:43pm
Subject: Microsoft Settlement

I am writing this letter to voice my concern over the monopoly power that Microsoft Corporation has used in order to retard innovation in the computer industry. I have been a computer user for almost 20 years and I have seen many technologies come and go, but never have I witnessed a company with such zeal and destructive power. I am sure Microsoft truly believes that it is innovating and improving the quality of life for the general computer user, but I find it interesting that the patents held by Microsoft are significantly smaller than patents held by other companies, such as Apple Computers, Inc.

Where has the innovation come from? Microsoft is excellent at copying and mass marketing technology, but they do not innovate for the good of humanity. Quotes like this sum it up, "Through its conduct toward Netscape, IBM, Compaq, Intel, and others, Microsoft has demonstrated that it will use its prodigious market power and immense profits to harm any firm that insists on pursuing initiatives that could intensify competition against one of Microsoft's core products," Jackson wrote in his findings of fact in November 1999.

This is completely true. I have first-hand experience working with Microsoft and it isn1t pleasant. I have watched companies such as Apple Computer, Real Networks, and BE, Inc. create new, beneficial products for the market, but to only get strong armed by Microsoft. And another quote that demonstrates Microsoft1s behavior. "Many of the tactics Microsoft employed have also harmed consumers indirectly by unjustifiably distorting competition."

There are numerous things that Microsoft has introduced that have badly hurt the consumer such as Security. Look at how many viruses have been spread. This directly equates to reduced productivity. Where is the innovation? Think about Digital Video. Apple1s Quicktime was the first computer program to use moving images and sound on a broad level for computer users. That was 1990. This lead to Real Networks, or Progressive Networks at the time, which created the "streaming" audio and video market over the Internet. It wasn1t until much later that Microsoft finally realized this would be an important part of an end-users experience. Microsoft did not innovate. They used their desktop OS volume to force feed consumers with a second rate technology. After many, seven, development cycles Microsoft has managed to release a good product, but there were good products available before. This behavior does not benefit the end-user.

Apple contracted with a 3rd party to help develop QuickTime for Windows. Unable to countenance Apple's success with a Windows add-on and incapable of developing an equivalent technology within, the Microsoft camp hired the same company to bail out Video for Windows. Lo and behold, Apple programmers discovered amazing similarities in Microsoft's code. Apple filed an injunction and forced Microsoft to rework their code. As part of the recent deal, Microsoft paid Apple 100 million dollars and Apple has agreed to drop such contentious issues and cross license core technologies. Potentially, of course, the market for QuickTime or a Windows equivalent is enormous.

Another example of Microsoft abuse is the user interface. Apple filed patent 5,959,624, in January 1997 which enabled many innovations in the user interface for the desktop computer. Microsoft copied many of these things. Microsoft did not innovate.

There is no justification for Microsoft1s behavior. The massive power and influence of Microsoft has hurt the consumer by limiting innovation. There are numerous more examples I could site, but I want to keep this letter to the point. Microsoft is a monopoly. Microsoft has harmed the consumer directly through its actions. Microsoft has not innovated on the consumers1 behalf. As this settlement continues please, keep these things in mind. Microsoft should not be allowed to continue with "business as usual", but they should be punished accordingly. The punishment should not be a simple solution, but a complete solution that will enable an industry to grow and thrive like a balanced eco-system.

Thank you,
Todd Buckley

CC: microsoftcomments@doj.ca.gov@inetgw,attorney.gener...

MTC-00029405

From: Philip Brazil
To: Microsoft Settlement
Date: 1/28/02 11:39pm
Subject: Microsoft Settlement

Philip Brazil
5205 Sabin Ave
Fremont, CA 94536
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Philip E Brazil

MTC-00029406

From: Kevin Schumacher
To: Microsoft ATR
Date: 1/28/02 11:44pm
Subject: Microsoft Settlement

I am a private citizen, not employed by any computer-industry company, organization, or group, writing about my concern the effects of Microsoft's business practices have had on the "free market". I have not been asked to write on behalf of anyone, or any company.

Microsoft is a moving target, a company who the courts have recently agreed, has "won" by cheating, a company who has a history of using dirty tricks, intimidation, and taking advantage of every possible loophole. They also made a mockery of their last "agreement" with the DOJ by violating it at every opportunity, and what has the government learned from these experiences? —Not enough, apparently.

If you will indulge me for a moment, my "prediction" for the future is that Microsoft will be spending more & more of their time in courts all over the world, not just in the US. Have you seen Microsoft's FY2001 last quarter's charge of $600,000,000.00 for "legal expenses"? This trend will be growing —exponentially, and "rightly" so. The Chinese, UK, and French governments have realized how firmly they are in Microsoft's grip, and how much of their national wealth is being paid to this (American) gorilla...so much so that the Chinese government's policy is to move to Linux. Others will follow.

I'm quite sure that Sun will continue to develop Star Office. I also think that Apple's Mac OS X will be adopted in more business environments, but only because it does work well in a WinTel-dominated networking world. Apple must improve OS X's interoperability with Windows networking environments to have any real hope of growing their market share. This assumes that Microsoft's moving target strategy, combined with their -embrace, -extend, -extinguish, tactic ("because our customers demand it!"), or the ever-present FUD (Fear, Uncertainty, and Doubt) factor effect, or finally their last big gun, the $36,000,000,000,000 in their savings account, —doesn't slow Apple down so much that it's impossible for them to succeed...a BIG assumption. In the end, even if a few other companies produce a great new product, Microsoft will simply BUY THEM, —if the DOJ allows...just like they bought SGI's intellectual property, i.e. OpenGL...which, by the way, Apple's OS X uses (what a coincidence!), or simply develop a clone and then pollute the original. —Java, anyone? Here's a quote from a very recent article published on the web:

"The second most common critique had to do with my comments about Apple being a niche player. Many readers brought up examples of strong companies that themselves enjoy no more—and sometimes less—than 4.5 percent overall market share. But that reaction is (pardon the expression) like comparing Apples to oranges. BMW and Ben & Jerry's are viable companies with relatively small market share. But neither of them is competing in a market dominated by one proprietary technology platform. There is no 95 percent gorilla in the jungle of the automobile or ice cream market. But there is one in the personal computer world, and it's called Wintel." No, no, no! It's called "Microsoft", not "WinTel"! AMD is a major alternative/competitor, to be fair, and there are several minor players as well, but, —there's only ONE Microsoft. This point is critically important! Microsoft is the world-dominating, company-killing machine; it's Microsoft steering the boat...Intel is a very grateful passenger, trying very hard not to rock the boat (too much). Remember when Intel tried to "do their own thing" by developing their own multimedia software, and how Microsoft responded? Nothing happens without Bill's approval, combined with "plausible deniability". Sound familiar? Requisite knowledge for CEO's, these days.

Apple has suffered through a decade of negative press, who constantly produce headlines asking the same question, "Can Apple Survive Another Year? ...why not ask the other, more relevant question, —"How Does Microsoft Constantly Defeat All Other Companies?"...and then ask why consumers, and the US Government, don't seem to care one iota until they find bloody corpses littering corporate America? Netscape, DR-DOS, VisiCalc, Apple (and the innovator, -QuickTime!). Microsoft copies everyone, adds it to their OS, which kills the innovators. ...RealNetworks, and Java, next?

Or, Microsoft "competes" with Sony's Playstation by buying up the gaming developers to ensure Xbox-only titles. Sounds a lot like one of the tactics used to ensure the "success" of Windows. If Microsoft can't/isn't allowed (anti-trust issues) to buy them up, Intel steps in for the assist; look to the audio & video companies for some recent examples (Terran & Avid). Is this the way companies win? Is this "competing" in America?

I have two questions, and I hope you will think about them before coming to a decision regarding an appropriate settlement with Microsoft:

1. (If) I have a great new idea for a piece of software, an idea so good that it is certain to change the way computers are used by everyone...business, consumers, schools, etc... How Likely Is It, That I Could Ever Hope To Bring It To Market Where The 900 Pound Gorilla Rules?

2. Why do the real innovators in today's computing world fare so poorly? How is it possible to have great ideas/products/management/funding, etc...and still fail completely? So completely, that there's room enough only for Microsoft?

Consider that Apple's very future relies on Microsoft continuing to publish MS Office Suite for Macintosh, and that, should Microsoft ever want to put Apple out of business overnight, they could by discontinuing this one product. Think I'm exaggerating?

How is it possible to arrive at a just remedy, without first addressing these issues? As you search for a remedy, consider making —file formats— a "government & ISO-mandated World Standard"...so that at the very least, Microsoft won't be able to constantly use their embrace/extend/extinguish tactics —"because our customers demand it!"

Consider splitting the company into an Applications Group, and an Operating Systems Group. This is NOT as radical a solution as some have made it out to be.

Consider forcing Microsoft to make Apple (or some other third party company) a licensee of MS Office Suite for Macintosh, to remove the doubt & worry from the marketplace put there by Microsoft, that maybe, one day, we'll stop publishing it for the Mac...then where will all of you poor Mac-users be?

Sincerely,
Kevin Schumacher
771 13 th St
San Diego, CA 92101–7303

MTC-00029407

From: John Thurlow
To: Microsoft ATR
Date: 1/28/02 11:46pm
Subject: Microsoft Settlement

Dear Sirs,

I truly hope this settlement will be accepted so that this whole matter can be put behind us and we can move on. As a consumer I have often felt that some of the more extreme remedies proposed by some of the Attorney's General and Microsoft's opponents amounted to something of a sword hanging over my head a punishment for all those years ago having abandoned the Apple II in favour of a Gateway PC because I could not afford to buy into Apple's Macintosh "monopoly". I could see in Microsoft a company which had offered me a way forward when I was stuck on an aging architecture (the Apple II) being carved and quartered in a way that meant the products I currently use and depend on would be negatively impacted. Suffice to say that whilst I believe Microsoft is not totally blameless, I have never bought into the notion that they are a purely malevolent force and the scourge of the industry, the fact is that Microsoft was never handed a "monopoly" it had to earn that position of dominance from scratch and the sad truth is that attaining that position had as much to do with their competitors ineptitude and greed as it did with Microsoft's innovation and savvy. I will not dwell on my differences with the monopoly ruling and all that stemmed from that and some of the crass opportunism on the part of Microsoft competitors and lawyers that continues to flow from that decision, but will focus on my two cents worth regarding this settlement.

The proposed settlement offers not only a way to bring this protracted process to a close, but also addresses the concern of choice and flexibility in the market by giving OEM manufacturers a greater choice in how they configure their PC's without the fear of retaliation from Microsoft. Further the agreement promises to bring a level of openness and transparency to Microsoft's dealing with OEM's by having a published schedule which lays down equal terms for them within defined bands based on the volume of licenses they move and not on their software bundling strategies. Indeed OEM's will have much flexibility in what they can do and will only need be mindful of whether these things are actually what consumers want instead of casting eyes warily toward Redmond. The proposed settlement offers similar flexibility to Internet Service Providers.

The proposed settlement also promises something for application developers by mandating full disclosure by Microsoft of the API's in their so called "middleware" products whilst at the same time protecting Microsoft's intellectual property rights, after all Microsoft is going to be an important player in the competitive ecosystem, offering the only credible competition to the likes of AOL, Sony and Palm whilst the likes of these companies keep Microsoft on its toes and the only change in play should come from new players rising on their merits and not the stifling of any player through litigation. This proposed settlement also offers to consumers the real prospect of being able to chose if they wish to remove certain components from Windows which are currently mandatory, it also offers protection for Non-Microsoft "middleware" and requires the consumers consent before any Microsoft "middleware" can remove any Non-Microsoft icons or alter any default associations to Non-Microsoft "middleware".

To oversee this proposed settlement it is proposed there be Technical Committee of three persons to keep a vigilante eye and ensure the spirit and the letter of the agreement are being enforced, I think the nature of its composition should also ensure that it does not overly favour one party or another, something the appointment of a special master may run the risk of. It is also good to see that either party can have a recourse should they feel that any of the TC members is not performing as they should and that they are clear procedures defined for their replacement. The proposed settlement also makes provision for a Microsoft Internal Compliance Officer, someone within Microsoft who would have the responsibility for overseeing Microsoft's compliance with the proposed settlement, giving the buck somewhere to stop; we also see where they would be responsible for a web site that would clearly state how third parties can issue complaints to the TC and it also lays out how the TC would deal with and process these complaints. Five years seems like adequate time for this proposed agreement to run its course but should time prove otherwise a two year extension is readily available, during which time any new remedies could be explored if necessary.

Though I support this agreement over continued litigation, I fear the later may prevail as many powerful interests now seem to have a lot vested in the course of litigation and I fear it is us consumers who will end up paying for this tiresome business through having Microsoft continually drawn away from innovation and toward the court and eventually through it having to recover the expenses off this exercise and its penalties through its products and quite possibly our wallets.

On a whole I must say that whilst I view antitrust as well intentioned I feel it is time we started to put our minds to more creative and dynamic alternatives, I myself intended to post something for discussion on my website once I purchase it and get the software to put it up. On a whole I feel the antitrust process takes far too long and lacks the dynamism of the market and runs the risk of losing its objectivity to political ambition and commercial intrigue, I think we could do much to make the market more self regulating, competitive and innovative if we could address the monopoly created by patent without robbing the inventor of the rewards that often drive his innovation. Such new thinking could address not only cases in the Computer Industry but also Pharmaceuticals and other controversial industries and also allow truly brilliant ideas and concepts to become universal and broadly applied to the benefit of the consumer and the inventor. Unfortunately that is not for this forum at this time, thank you for taking my submission, I hope my support will help put this issue to rest.

Sincerely,
John Thurlow.

MTC-00029408

From: Raul Cayado
To: Microsoft ATR
Date: 1/28/02 11:48pm
Subject: Microsoft Settlement

Dear Sir,

I feel that this matter should be laid to rest. For the good of our Nation and our economy. How long will they maliciously try to extort money from a company that has done so much for our economy. In my opinion Microsoft has already paid and settled.

Sincerely,
Raul A Cayado

MTC-00029409

From: Harold A Harvey
To: Microsoft Settlement
Date: 1/28/02 11:42pm
Subject: Microsoft Settlement

Harold A Harvey
2019 Sage Valley Drive
Richardson, TX 75080–2359
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers, dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Harold A Harvey

MTC-00029410

From: Thomas Dell
To: Microsoft Settlement
Date: 1/28/02 11:44pm
Subject: Microsoft Settlement

Thomas Dell
4902 W 24 Th. Pl.
Kennewick, WA 99338
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers, dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Thomas R. Dell

From: David Barrett
To: Microsoft ATR
Date: 1/28/02 11:49pm
Subject: Comments of SBC Communications Inc. on the Proposed Final Judgment

January 28, 2002
Renata Hesse, Esq.
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530
Re: United States v. Microsoft Corp.

Dear Ms. Hesse:

Pursuant to the instructions in the Competitive Impact Statement in United States v. Microsoft Corp., we are submitting to the Department of Justice as an attachment to this e-mail the Comments of SBC Communications Inc. on the Proposed Final Judgment. We would appreciate your sending a reply to this email at your earliest convenience to confirm your receipt of SBC's submission.

In addition, to guard against the risk of a faulty email transmission, we are tonight sending a hard copy of SBC's Comments to you via U.S. Postal Service Express Mail.

Thank you for your consideration.

Very truly yours,
David A. Barrett

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
X
UNITED STATES OF AMERICA, Plaintiff, v. Civil Action No. 98–1232 (CKK)
MICROSOFT CORPORATION, Defendant.
STATE OF NEW YORK ex. rel.
Attorney General ELIOT SPITZER, et al., Plaintiffs, Civil Action No. 98–1233 v. (CKK)
MICROSOFT CORPORATION, Defendant.
X

COMMENTS OF SBC COMMUNICATIONS INC. ON THE PROPOSED FINAL JUDGMENT

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Washington, DC 20015
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January 28, 2002

TABLE OF CONTENTS

Page No.
Table of Authorities viii
Index of Abbreviations Used to Refer to Court Decisions and Pleadings In This Case xi
Index of Abbreviated Terms Used In These Comments xiii

TABLE OF CONTENTS—Continued

Page No.

I. INTRODUCTION 1
II. A MONOPOLIZATION REMEDY MUST BE TAILORED TO THE NATURE AND SCOPE OF THE OFFENSE, THE DURABILITY OF THE UNLAWFUL MONOPOLY, THE IMPORTANCE OF RESTORING COMPETITION TO THE AFFECTED MARKET AND THE LIKELIHOOD OF RECURRING ACTS OF MONOPOLIZATION 12
  A. The Court Of Appeals Sustained A Finding Of Successful And Longstanding Monopolization In A Crucial Technology Industry 12
    1. Microsoft Has Monopolized A Critical Industry 12
    2. Microsoft's Monopoly Has Endured For More Than A Decade 12
    3. Microsoft's Increasing Monopoly Power Is Protected By Significant Barriers To Entry 14
    4. Microsoft's Monopoly Has Self-Perpetuating Incentives 14
    5. Microsoft Has Shown Itself Able And Willing To Extinguish Competitive Threats As Fast As They Emerge In A Rapidly Changing Technological Environment, And Willing To Harm Consumers And Degrade Its Own Products In Order To Exclude Competitors From The Market 15
      a. License Restrictions 16
      b. Commingling Source Code 16
      c. Exclusionary Agreements 17
      d. Actual And Attempted Coercion And Retaliation To Exclude Competitors 18
      e. Efforts To Subvert Sun-compliant Java Technologies 19
  B. The Remedy In This Section 2 Case Must Be Broad And Prophylactic, To Prevent Microsoft From Denying Consumers The Benefit Of Competition By Retaining Illegally-Maintained Monopoly Power 21
    1. Purpose Of Relief 21
      a. End Anticompetitive Practices And Prevent Their Recurrence 21
      b. Restore Competition (Deny The Fruits Of Wrongdoing) 23
    2. The Law Requires Effective Measures To Accomplish These Results 24
      a. Relief Must Neutralize Monopoly Power At Its Source And Eliminate The Monopolist's Incentive To Exclude Competitors From The Market 24
      b. Relief Must Anticipate New Forms Of Exclusion, Commensurate With The Evidence Of Microsoft's Incentive To Exclude And Its Willingness To Do So At The Expense Of Consumers And Its Own Product Quality 24
      c. Relief Must Prevent Regulatory (Decree) Evasion 25
      d. Relief Must Be Of Sufficient Duration To "Pry Open" The Monopolized Market By Allowing Competitive Products To Take Root 26
        i. It Takes Years For Competitive Alternatives—Web Portals, Servers And Middleware—To Develop, Even Assuming Lack Of Obstruction 26
        ii. Software Developers And Other "Investors" Need Confidence That The Decree Will Provide Protection Long Enough To Give Their Investments A Fair Chance To Be Viable 27
  C. The Tunney Act Requires Courts To Reject Seriously Deficient Decrees 28
III. THE PROPOSED SETTLEMENT FAILS IN EVERY MATERIAL RESPECT TO ACHIEVE THE OBJECTIVES OF RELIEF REQUIRED BY THIS CASE AND AFFIRMATIVELY PROVDES A "GREEN LIGHT" AND AN INCENTIVE TO ENGAGE IN EXCLUSIONARY CONDUCT 32
  A. The Government Has Abandoned Its Prior Effort To Use Injunctive Relief To "Pry Open" The Monopolized Market, Conceding That Its Purpose Is Now Merely To Protect "Nascent" Threats To The Windows Monopoly 32
  B. The Proposed Settlement Is Riddled With Loopholes That Invite Evasion, Does Not Anticipate And Prohibit New Forms Of Exclusionary Conduct To Protect The Windows Monopoly, And Discourages The Development Of Competition To Windows 35
    1. The Proposed Settlement Provisions To Protect Middleware Do Not Adequately Address Microsoft's Past Illegal Conduct, Much Less Prevent Its Recurrence In The Future 35
      a. The Definitions In The Decree Effectively Leave Compliance At Microsoft's Discretion 36
        i. The Definitions Of "Microsoft Middleware" And "Microsoft Middleware Product" Encourage Microsoft To Continue Binding Middleware To Its Monopoly Windows Operating System 36
        ii. The Definition Of "Non-Microsoft Middleware Product" Is Too Narrow To Protect The Ability Of Products And Competitors To Gain Equal Access To The OEM Distribution Channel 40
        iii. The Definition Of "Windows Operating System Product" Grants Microsoft Unfettered Discretion To Decide What Is And What Is Not Part Of Its Operating System 42
      b. The Settlement Fails To Prohibit Tactics Used By Microsoft To Foreclose OEM Distribution Of Competing Products And Allows That Unlawful Behavior To Continue 43
        i. A Prohibition Against Commingling Of Code Is Necessary To Prevent Microsoft From Continuing To Exclude Competition That Threatens The Windows Monopoly 44
        ii. The Proposed Settlement Omits Any Requirement That Microsoft Offer A Stripped-Down Version Of Windows At A Price That Reflects The Value Of The Removed Middleware Products 48
        iii. The Provisions In The Proposed Settlement That Putport To Foster OEM Flexibility In Product Configuration And Middleware Choices Contain Fatal Ambiguities And Loopholes 50
      c. Provisions That Putport To Allow End-Users And OEMS To Enable Or Remove Middleware Products Are Severely Flawed 54
        i. Inability To Actually Remove Microsoft Products From The Operating System Cripples The Effectiveness Of The Decree .. 54
        iii. The Exceptions And Limitations Contained In The End User/OEM Control Provisions Swallow The Relief Provided And Permit Microsoft To Override OEM Or End-User Selections Of Preferred Middleware Products 55
          (a) Microsoft Can Alter End-User/OEM Choices 56
          (b) Microsoft Can Override End-User/OEM Middleware Default Choices 57
        iii. The Timing Of Implementation Of Section III.H Allows Microsoft To Reap The Fruits Of Its Past Illegal Conduct Without Adequately Limiting Its Conduct Today Or In The Future 60
    2. Provisions Designed To Protect Interoperability Between Microsoft Products And Non-Microsoft Products Are Seriously Flawed 62
      a. The Government's Original Remedy Required Broad And Meaningful Interoperability Disclosure By Microsoft 63
      b. The Proposed Settlement's Interoperability Disclosure Requirements Are Wholly Inadequate 69

TABLE OF CONTENTS—Continued

Page No.

i. Important Areas Of Potential Competition In The Monopolized Market Are Not Included In The Interoperability Disclosure Provision 69
(a) The Proposed Settlement Will Not Achieve Server Interoperability 70
(b) The Settlement Fails To Require Disclosure To Enable Interoperability Between Internet Explorer And Non-Microsoft Servers 72
(c) The Proposed Settlement Does Not Contain An Interoperability Disclosure Provision To Cover Server-To-Server Communications 76
(d) The Proposed Settlement Does Not Contain Interoperability Disclosure Provisions To Cover "Embedded Devices" 77
(e) The Technical Information That Is Required To Be Disclosed Under The Proposed Settlement Is Insufficient To Achieve Interoperability 78
(f) The Timing Of The Required Disclosure Under The Proposed Settlement Will Impede, Not Promote, Competition 80
(g) Important Terms In The Proposed Settlement Are So Loosely Defined That They Enable Microsoft To Avoid Disclosure 84
ii. The Mandatory Licensing Provisions Are Illusory 85
iii. The Limitation Upon Disclosure Based On Alleged Security Concerns Is A Massive Loophole 88
3. The Proposed Settlement Fails To Remedy The Proven Pattern Of Unlawful Retaliation, Inducements, And Exclusive Dealing Arrangements Used By Microsoft To Maintain Its Monopoly 91
a. The Government's Settlement Substitutes Weak And Narrow Protections Of Third Parties For The Strong And Broad Provisions Justified By Microsoft's Conduct 93
i. The Range Of Parties Protected From "Retaliation" Is Too Limited 95
ii. "Retaliation" Is Not Defined 96
iii. The Party Injured By Retaliation Must Prove Causation 97
iv. Retaliation Not Involving Windows Or Middleware Is Allowed 97
v. Loopholes Vitiate Even The Existing Limitations 97
vi. Unnecessary And Ambiguous Savings Clauses Undermine The Decree 98
vii. There Is No Prohibition On Agreements Limiting Competition 98
viii. There Is No Protection Against Retaliation For Participating In This Lawsuit 99
b. The Proposed Uniform Licensing To OEMs Is Insufficient 99
i. Allowing "Market Development Allowances" Invites Evasion 101
ii. Microsoft Is Allowed To Keep License Terms Secret 101
iii. There Is No Independent Verification Of "Volume" Discounts 102
iv. License Terminations Without Cause Are Allowed 102
c. The Proposed Settlement Fails To Address Exclusive Dealing Adequately 103
i. The Exclusive Dealing Prohibition Is Limited To Identified Parties Only 105
ii. Paying Third Parties To Refrain From Using Non-Microsoft Products Is Allowed 105
iii. Microsoft Can Pay Others To Distribute Its Monopoly Software 106
iv. The Exclusive Dealing Provision Is Riddled With Loopholes 107
4. The Term of the Settlement Is Too Short—Even If Its Deficiencies Were Corrected 107
5. The Proposed Settlement Nullifies Effective Enforcement 111
a. The Technical Committee Proposal Is Misguided 111
b. All Relevant Employees Should Be Required To Be Trained In The Decree, But Are Not 113
c. The Proposed "Dispute Resolution" Mechanism Encourages Delay 114
IV. DEFICIENCIES IN THE PROPOSED SETTLEMENT CREATE SIGNIFICANT RISKS FOR SBC'S COMMUNICATIONS AND DATA BUSINESSES, INCLUDING SBC'S INTERNET-RELATED BUSINESSES, WHICH DEPEND UPON OPEN ARCHITECTURE AND COMPETITIVE ALTERNATIVES 115
A. How SBC Competes, Or Will Compete, With Microsoft 116
1. Telephone, Cellular And Internet Service—5 116
2. Unified Messaging 118
B. UMS Is An Integral Part Of The Movement To A Server-Based Computing Model That Will Erode The Applications Barrier To Entry That Currently Shields Microsoft's Monopoly Power 120
C. The Proposed Settlement Would Allow Microsoft To Render SBC's Internet-Based Businesses Significantly Less Competitive 122
1. The Proposed Settlement Will Allow Microsoft To Block Consumers' Access To Competing Products And To Impede Their Functionality 122
i. Blocking Access to UMS 122
ii. Degrading the Performance of UMS 123
iii. Denying UMS Access to the Windows Desktop 123
2. Microsoft Can Foreclose Competition By Using Its Ability To Raise Its Rivals' Costs 124
3. Consumers Who Want To Access The Internet Will Have To Have A Windows Operating System, Which Will Increase The Cost To The Consumer For UMS 125
4. The Proposed Settlement Will Stifle Innovation And Force Competitors To Sacrifice Quality In Certain Critical Markets 126
5. Delayed Disclosure Will Harm Competition 129
V——: WITHOUT SIGNIFICANT CHANGES, THE PROPOSED SETTLEMENT CANNOT SATISFY THE PUBLIC INTEREST STANDARD 131
A. Changes Must Be Made to RPFJ § III.A (OEM and Other Licensee Retaliation) 132
B. A Provision Prohibiting Retaliation By Microsoft Against Any Party Who Participates In The Litigation Must Be Added 135
C. A Provision Requiring Microsoft To Port "Office" To Apple's Operating System Must Be Added 135
D. Changes Must Be Made To RPFJ § III.B (Uniform Licensing) 136
E. A Provision Requiring Equal Access to Microsoft Licensing Terms And Conditions Must Be Added 136
F. A Provision Prohibiting Microsoft From Enforcing Agreements That Are Inconsistent With The RPFJ Must Be Added 137
G. Changes Must Be Made to RPFJ § III.C (Restrictions on OEM Configuration of PCs) 137
H. A Provision That Prohibits Microsoft From Commingling Must Be Added 141

TABLE OF CONTENTS—Continued

	Page No.
I. A Provision Determining The Relative Prices Of Unbundled Versions of Windows Must Be Added	142
J. A Provision Requiring That Microsoft Continue To Offer Predecessor Versions Of Windows Must Be Added	143
K. Changes Must Be Made To RPFJ §§ III.D And III.E (Interoperability Disclosure)	144
L. A Provision That Requires Mandatory Distribution of Java Must Be Added	145
M. A Provision Prohibiting Interference With Or Degradation Of Non-Microsoft Middleware Must Be Added	145
N. A Provision Requiring Microsoft to Comply With Industry Standards Must Be Added	146
O. A Provision Requiring Open-Source Licensing for Internet Explorer Must Be Added	148
P. Changes Must Be Made To RPFJ § III.F (Retaliation Against Any Third Party)	149
Q. A Provision Prohibiting Microsoft From Entering Agreements That Limit Competition Must Be Added	151
R. Changes Must Be Made To RPFJ § III.G (Ban on Exclusive Dealing)	151
S. Changes Must Be Made To RPFJ § III.H (OEM/End User Control of the Desktop)	154
T. Changes Must Be Made To RPFJ § III.I (Mandatory Licensing)	156
U. Changes Must Be Made To RPFJ § III.J (Limitations on Mandatory Licensing)	156
V. Changes Must Be Made To RPFJ §§ IV And V (Compliance And Enforcement)	157
W. Changes Must Be Made To RPFJ § VI (Definitions)	158
VI. CONCLUSION	160

TABLE OF AUTHORITIES

Cases	Page No.
Ford Motor Co. v. United States, 405 U.S. 562 (1972)	7, 21, 24, 26
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N. Pac. Ry. v. United States, 365 U.S. 1 (1958)	29
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Schine Chain Theaters, Inc. v. United States, 334 U.S. 110 (1948)	10, 23, 28
United States v. Am. Tel. & Tel. Co., 552 F. Supp. 131 (D.D.C. 1982), aff'd sub nom Maryland v. United States, 460 US 1001 (1983)	6, 11, 24–32, 116–117
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United States v. E.I. du Pont de Nemours & Co., 366 U.S. 316 (1961)	21, 23, 25
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United States v. Glaxo Group Ltd., 410 U.S. 52 (1973)	26, 28
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42 U.S.C. §§ 251–59, 271	125
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TABLE OF AUTHORITIES—Continued

Cases — Page No.

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INDEX OF ABBREVIATED TERMS USED IN THESE COMMENTS

API Application Programming Interface
HTML Hypertext Markup Language
IAP Internet Access Provider
ICP Internet Content Provider
IE Internet Explorer
ISP Internet Service Provider
ISV Independent Software Vendor
JVM Java Virtual Machine
OEM Original Equipment Manufacturer
OLS Online Service Provider
PC Personal computer
PDA Personal Digital Assistant

SBC Communications Inc. ("SBC") respectfully submits the following comments pursuant to Sections 2(b) and 2(d) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), relating to the revised proposed Final Judgment that was agreed to on November 6, 2001, by the United States and certain state plaintiffs in these actions on the one hand, and defendant Microsoft Corporation ("Microsoft") on the other (the "proposed settlement").

1. INTRODUCTION

The history of Sherman Act enforcement has witnessed few unlawful monopolies as durable, resilient and exclusionary as Microsoft's. This much is clear from the trial record, the District Court's monopoly maintenance findings and the Court of Appeals' affirmance. Far from providing reassurance that changes in technology will end Microsoft's stranglehold over operating system and middleware competition, or that the company's monopoly will be subject to serious competitive pressures when the proposed settlement's five-year term expires, the record demonstrates the exact opposite. Microsoft's continuing ability to commingle its browser and operating system, which the settlement ignores, leaves Microsoft with the incentive and ability not only to destroy traditional middleware threats to its operating system monopoly, but also to exercise anticompetitive control over the Internet, where server networks currently not dependent on Windows pose the greatest threat to the Microsoft monopoly. The consequences of failing to restrain an ever-expanding Microsoft operating system monopoly—now at over 95% market share—do not, however, fall solely upon software producers whose competitive assaults might erode that overwhelming market domination. Nothing in the proposed settlement would stop the threat that Microsoft's adjudicated and unlawfully-maintained monopoly poses to the very heart of consumer choice in the American economy. The settlement ignores Microsoft's ability to effectively destroy free consumer choice among the far greater array of businesses that use electronic means of communication—such as telecommunications services (local, long distance and cellular), Internet access, voice messaging, instant messaging, video and music services, e-commerce, interactive games, to name a few. The settlement would allow Microsoft to abuse its illegally-maintained control of operating systems by becoming the ultimate "gatekeeper," controlling the bottleneck that both gives businesses in these critical related markets (whether established or still emerging) access to potential customers, and gives consumers the means to reach the providers that they choose to deal with.

Just as Microsoft has for years successfully imposed on consumers its own products and services, irrespective of the comparative merits of competing products it has excluded from the market, Microsoft will—without the kind of strong relief required to break its operating system monopoly—be in a position to repeat its anticompetitive strategy in other markets. Unchecked, Microsoft will favor its own and its partners' services, exclude competitors' products and services from access to consumers, and degrade its rivals' services and raise their costs (by charging a toll, imposing a fee for listing as an available service or creating an interoperability obstacle). Because potential customers will have to pass through a Microsoft operating system (whether embedded in a PC, a cellular phone, a set-top box or a PDA), Microsoft will retain the ability to exclude or marginalize all manner of telephone services, messaging products, video or music offerings, Internet services, and other "utilities" of modem life. In this way, the Microsoft monopoly threatens to destroy the vast panoply of consumer choice among the myriad sources that create and distribute communications and entertainment products and services. The proposed settlement does virtually nothing to lessen Microsoft's ability to maintain its operating system monopoly and to prevent its enhancement by Microsoft's impeding effective competition for all the products and services that will have to be accessed through Microsoft's monopoly platform.

SBC is one of the businesses that will be significantly impacted. Through its affiliates, SBC provides voice and data communications services throughout the United States and internationally. Some of these services are Internet-based; others are not. Some of SBC's services (such as its unified messaging service, discussed below) would erode Microsoft's operating system monopoly; others will not. All, however, are at risk if Microsoft is not prevented from maintaining and expanding its operating system monopoly. Thus, while SBC devotes a significant portion of its comments to explaining why curing the palpable deficiencies in the proposed settlement is essential to protect Internet-based services that could erode the Microsoft monopoly, including SBC's own ventures, those deficiencies are of equal importance to SBC's core communications businesses.

The reason why the effects of the Microsoft monopoly reach so far can be summed up in a single word—"convergence." Convergence refers to the development, for home or office use, of devices or platforms that will provide consumers with multiple communications, computing and entertainment products and services. In order to perform these functions, all such devices or platforms—including personal computers, PDAs, wireless phones and set-top boxes—need to utilize operating systems, whether installed in the device itself or residing on Internet servers. By maintaining and expanding its operating system monopoly across platforms, Microsoft can establish its position as "gatekeeper" to all such forms of communications, computing and entertainment services. And as gatekeeper, Microsoft will be in a position to direct customers using these platforms toward its services, to degrade or block access to competitors' services, and to impose costs on those competitors it cannot completely eliminate. By controlling all of these communications gateways, Microsoft will not only preserve its operating system monopoly against all serious threats, it will substantially lessen competition in the provision of innovative new "convergent" services.

For example, competition is now growing to reach consumers, through "gateway" devices such as PCs or television set-top boxes, with broadband communications signals that can carry everything from TV programming to Internet content to telephone conversations. An estimated 10 million American homes may use such devices next year and 25 million by 2006. See Byron Acohido, Challenging Microsoft? It Could Take Moxi, USA Today, Jan. 16, 2002, at B–3. Microsoft has already announced that it is developing an extension to Windows XP that will allow PCs to function in this manner. Id.; Microsoft Unveils New Home PC Experiences with "Freestyle" and "Mira" (Jan. 7, 2002), at www.Microsoft.com/presspass/Press/2002/Jan02/01. Unfettered by the proposed settlement, Microsoft can thus use its illegal operating system monopoly to become the literal communications gateway into and out of the American home or office. It then will have enormous power over the products and services consumers use to communicate with each other, to do their work and to entertain themselves.

In this memorandum, SBC addresses the numerous ways in which the proposed settlement fails to meet a paramount goal of relief in this case: To "pry open to competition" in the PC operating system market that Microsoft has dominated for over a decade by using blatantly exclusionary tactics.

The following facts are now beyond dispute in this proceeding'.

First, Microsoft's monopoly has been extraordinarily durable, having prospered for over a decade (D.Ct. at ¶35), having increased steadily to over a 95% share even during the litigation (CA at 54; D.Ct. at ¶35), and having enjoyed the continuing protection of significant barriers to entry. See CA at 54–56 ("Because the applications barrier to entry protects a dominant operating system irrespective of quality, it gives Microsoft power to stave off even superior new rivals"); D.Ct. at ¶¶36–44, 61 ("Microsoft could significantly restrict its investment in innovation and still not face a viable alternative to Windows for several years . . . . ").

Second, Microsoft's monopoly has created not only the power, but also the incentive, to exclude competition: every technological innovation that emerged to challenge Microsoft's dominance was met with a successful strategy of anticompetitive exclusion. Microsoft was able to "extinguish," perhaps permanently, the two greatest innovative threats to its dominance that arose in the 1990's—Netscape and Java. CIS at 16–17; see also CA at 76–80 ("Microsoft's ultimate objective was to thwart Java's [and Netscape's] threat to Microsoft's monopoly;" it adopted as strategic goals to "kill cross-platform Java" and interfere with the ability of Netscape's browser to interoperate with Microsoft products); D.Ct. at ¶¶68–77. So long as Microsoft retains the power and incentive to exclude the competitive threats of the 21st century, economic theory predicts, and history demonstrates, that it will seek to evade any regulatory barriers placed in its path. Thus, the prospect of innovation offers no solace to restoring competition, only a sure target for Microsoft's exclusionary conduct.

Third, Microsoft's incentive to engage in calculated predation is so strong that it readily harms consumers and degrades its own products to achieve anticompetitive exclusion. D.Ct. at ¶174 (finding that by commingling "Microsoft has unjustifiably jeopardized the stability and security of the operating system"), ¶¶408–12 (highlighting harm inflicted upon consumers); CA at 62, 65 (affirming district court findings of consumer harm). It is also revealed in a "take no prisoners" approach in which deception, threats, attempts to conspire and degradation of middleware connections were used to stifle competition. CA at 73, 75–77. Nothing in the foreseeable future, much less in the monopoly maintenance record, suggests that marketplace or technological developments alone will suffice to curb Microsoft's market power, its incentive to exclude and its proven ability and willingness to do so ruthlessly.

Finally, Microsoft's monopoly affects the country's most powerful engine of national economic prosperity and productivity—the processing and communication of information. Where monopolization has injured industries of comparable importance, the future of competition has never before been entrusted to illusory promises by the offending firm or to uncertain marketplace developments, unprotected by judicial supervision from recurrent acts of exclusion. See United States v. Am. Tel. & Tel. Co., 552 F. Supp. 131,215–17 (D.DC 1982), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983) ("AT&T") (rejecting proposed consent decree and ordering its modification based, in part, on the "complexity and magnitude" of the decree and the decree's effect "on the largest corporation in the world ... the entire telecommunications industry, the computer industry... and thus the interests of literally millions of individuals").

That is why in monopolization cases the law demands that relief must decisively end the anticompetitive practices, prevent their recurrence and extension into new markets, and restore competition. "Antitrust relief should unfetter a market from anticompetitive conduct and 'pry open to competition a market that has been closed by defendants' illegal restraints.'" Ford Motor Co. v. United States, 405 U.S. 562, 577–78 (1972) (citation omitted). If a decree does not effectively pry a market open to competition, "the Government has won a lawsuit and lost a cause." Int'l Salt Co. v. United States, 332 U.S. 392, 401 (1947). To restore competition, therefore, the relief must take account of all the factors relevant to the offense, including in particular the likely duration of the monopoly power, which, of course, is the wellspring of the incentive as well as the ability to exclude. See Ford Motor Co., 405 U.S. at 575 (affirming ten-year ban on Ford's manufacture of spark plugs; prohibition was a "necessary step toward the restoration of the status quo ante" in the market). The government has repeatedly embraced the foregoing standards in this case (see, .c.g., Govt. D.Ct. Memo. at 24; CIS at 3), but its proposed settlement fails their purposes. The government has abandoned, without explanation, injunctive relief that it urged upon the District Court as essential to curb Microsoft's appetite for anticompetitive conduct and has agreed to a decree filled with loopholes. For example, although the

Court of Appeals found commingling of browser and operating system code to be unlawful acts of monopoly maintenance, and the government advocated that such commingling be prohibited as "an especially potent competitive weapon for Microsoft... to target competing middleware threats," Gov't D.Ct. Reply Memo at 61, the proposed settlement does not prohibit such conduct. Similarly, although the Department of Justice Antitrust Division Manual provides that the government "should not negotiate any decree of less than ten years' duration" and the government in this case objected to Microsoft's initial proposal for a four-year decree because "there is no sound justification for entering a decree of shorter duration," the remedies in the proposed settlement are to last only five years.

The government's retreat from established antitrust policy and from its prior opposition to Microsoft's remedial proposals has grave implications for a competitive economy and for SBC. Not only is Microsoft allowed to repeat conduct, previously found anticompetitive, to protect its operating system monopoly from middleware sources of competition, but it is free to do so where the courts have already recognized an even more powerful threat exists, namely from the Internet. D.Ct. at ¶¶56, 59–60 (cited with approval in CA at 79). Since Internet servers can perform computing functions formerly accomplished only by PCs, networks of servers and PCs that freely interoperate (or "talk" to each other)—regardless of the type of operating system software that they use—are a platform for applications not dependent on Windows. This means that the combination of inexpensive computers or handheld devices (like a "dumb" PC, a cellphone, or a PDA) and smart server networks connected to the Internet can break the monopoly power of Microsoft's PC operating system by offering a server network alternative that will work with any operating system and provide more and better application choices at less cost. D.Ct. at ¶¶22–27 (cited with approval in CA at 52), ¶¶56, 59–60 ("[T]he rise of the Internet... has fueled the growth of server-based computing, middleware, and open-source software development. Working together, these nascent paradigms could oust the PC operating system from its position as the primary platform for applications development and the main interface between users and their computers.").

Yet nothing in the government's settlement prevents Microsoft from turning an open Internet into a closed Microsoft environment simply by doing two things: (1) commingling its browser, Internet Explorer ("IE"), with its Windows operating system; and (2) changing the protocol its browser uses to "talk" to Internet servers to an undisclosed proprietary standard that will only work effectively with Microsoft servers. Because of the dominance of Microsoft's browser (currently 91% of all browser usage), all web servers would then be forced to have a Microsoft server operating system in order for the servers, and the web sites they host, to be accessible to the vast majority of users. In turn, all consumers and businesses that wish to access the Internet will be forced to purchase a Windows operating system in order to utilize Microsoft's browser. Nothing in the decree prevents this scenario, because Microsoft is free to use its illegally maintained monopoly power to force servers to interoperate only with Windows, such that Microsoft becomes the Internet gatekeeper of a once open and competitive system. Microsoft's operating system monopoly would thereby become still more powerful and durable, as another threat to its dominance is destroyed. In this way, the applications barrier to entry that protects the Windows monopoly will extend to the Internet.

The reality of this threat for the future competitiveness of Internet-based businesses has a direct bearing on a wide range of Microsoft's potential and actual competitors, including SBC. Through its affiliates, SBC provides Internet access and Internet services to customers. SBC is currently developing several new Internet-based businesses, most importantly its Unified Messaging Service ("UMS"), which will compete directly with specific Microsoft products and services. UMS will allow retrieval of voice, e-mail and fax messages from anywhere in the world, using any computer or device running on any operating system. The proposed settlement, however, allows Microsoft to make SBC's UMS product significantly less competitive by taking the two simple steps outlined above. In these circumstances, only Microsoft server operating systems would be interoperable with the vast majority of other devices that access the Internet, and Microsoft would be able to use its server control to discriminate against its competitors.

As this example shows, the omissions and loopholes in the proposed settlement are of no small importance; they have drastic consequences for a competitive economy. So too does the decision to limit the settlement to only five years. The trial court recognized in findings sustained by the Court of Appeals that competitive alternatives to the Microsoft operating system, such as web portals, servers and middleware, take years to develop as viable threats, yet the proposed decree ends almost as soon as it starts—in only five years overall, with some provisions in effect for only four years. No sensible competitor would invest in technology improvements to the maximum extent necessary to challenge Microsoft—innovations that require years to succeed absent predation—when the decree is neither strong enough, nor long enough, to protect them. Yet the government breaks with its own policy of requiring decrees with ten-year terms, despite the fact that Microsoft's monopoly has existed for more than a decade and its unlawful conduct has spanned a period nearly as long.

Equally important, there is nothing in the decree to jump start competition, much less to "pry open" the monopolized market to give consumers the benefit of competition that would have existed from the likes of Netscape and Java had Microsoft's exclusionary conduct not "extinguished" them. See Schine Chain Theaters, Inc. v. United States, 334 U.S. 110, 128 (1948) (an injunction against future violations is inadequate when it allows the monopolist to retain its "unlawfully built empires"). Under the Tunney Act, the "public interest," see 15 U.S.C. § 16(e), is not served by a settlement that allows a monopolist to pursue conduct already adjudicated illegal, that leaves open easy escape routes from the proposed decree's proscriptions, and that utterly fails to restore competition to the monopolized market.

When, as here, there is an adjudicated record of serious competitive harm (monopolization) and wrongdoing (anticompetitive exclusion), the responsibility to protect the public from an inadequate settlement is high, and a reviewing court has broad power to do so. AT&T, 552 F. Supp. at 151–53. As the District Court has said, "The Supreme Court has vested this court with large discretion to fashion appropriate restraints both to avoid a recurrence of the violation and to eliminate its consequences." United States v. Microsoft Corp., Civ. Nos. 98–1232, 98–1233 (CKK), Transcript of Proceedings at 9 (Sept. 28, 2001).

For the reasons set forth below, approval of the proposed decree cannot be squared with ten years of government litigation that culminated in resounding appellate holdings of major antitrust offenses. The fact that adverse antitrust consequences will result is clear from the face of the proposed settlement, as well as by comparison to the injunctive provisions defended by the government in its earlier proposed litigated judgment. In fact, adoption of this proposed settlement would be worse than no decree at all, for its negotiated omissions and concessions allow conduct found illegal in the past to continue—such as commingling of code—and thus would appear to prevent even the government from attacking such decree-sanctioned behavior during its term. Such ambiguity surrounding the government's enforcement intentions is in itself affirmatively harmful to the public interest.

II. A MONOPOLIZATION REMEDY MUST RE TAILORED TO THE NATURE AND SCOPE OF THE OFFENSE, THE DURABILITY OF THE UNLAWFUL MONOPOLY, THE IMPORTANCE OF RESTORING COMPETITION TO THE AFFECTED MARKET AND THE LIKELIHOOD OF RECURRING ACTS OF MONOPOLIZATION

A. The Court Of Appeals Sustained A Finding Of Successful And Longstanding Monopolization In A Crucial Technology Industry

The proposed settlement in this case must be evaluated in light of the Court of Appeals' affirmance of the District Court's conclusion, supported by an overwhelming factual record, that Microsoft is guilty of a panoply of illegal activities to maintain and extend its monopoly in the market for Intel-compatible PC operating systems. Microsoft's conduct inflicted significant harm on consumers and competition in violation of Section 2 of the Sherman Act. CA at 50–80.

1. Microsoft Has Monopolized A Critical Industry

Microsoft is the world's largest supplier of computer software for PCs and, in particular, dominates the market for Intel-compatible PC operating systems software world-wide. Although it has the second-largest market capitalization among American companies, Microsoft's importance extends beyond its financial success, because it is a linchpin of the computer industry (including hardware, peripherals, software and data services), and the computer industry is critical to the functioning of a competitive American economy. See, e.g., Henderson Decl. ¶¶87–98; Romer Decl. ¶17.

2. Microsoft's Monopoly Has Endured For More Than A Decade

Microsoft's operating systems monopoly is an enduring one, persisting for over a decade despite what the Court of Appeals has described as a "technologically dynamic market." CA at 49. Over that same period, the government has been forced to spend resources on a continuous basis to investigate, and then to prosecute, Microsoft for its illegal conduct. The FTC began investigating Microsoft's acquisition and maintenance of monopoly power in the operating systems market in 1990, although it did not bring charges against the company. United States v. Microsoft Corp., 56 F.3d at 1448, 1458 (DC Cir. 1995). Using the FTC's extensive investigation file as a starting point, the Antitrust Division of the Justice Department initiated its own investigation, and in July 1994 filed a civil complaint under Sections 1 and 2 of the Sherman Act, charging, inter alia, that Microsoft unlawfully maintained a monopoly of operating systems for Intel-compatible PCs. Id. That case was settled by a consent decree, thereby avoiding trial on the merits.

Three years later, the Justice Department filed a civil contempt action against Microsoft on the ground that it had violated the decree. On appeal from the grant of a preliminary injunction, the Court of Appeals ruled that Microsoft had not violated the relevant provision of the consent decree, but reserved the question of whether the company's bundling of Internet Explorer with the Windows operating system violated the antitrust laws. United States v. Microsoft Corp., 147 F.3d 935,950 n.14 (DC Cir. 1998). The complaint that gives rise to the instant proceeding was filed in May 1998 by the Justice Department and a group of State plaintiffs, again alleging, inter alia, unlawful maintenance of a monopoly in the PC operating system market in violation of Sherman Act ¶2. CA at 47.

The Court of Appeals affirmed the District Court's finding that Microsoft's Windows operating system accounts for over 95% of the Intel-compatible PC operating system market. CA at 54. As the District Court found:

> Microsoft possesses a dominant, persistent, and increasing share of the worldwide market for Intel-compatible PC operating systems. Every year for the last decade, Microsoft's share of the market ... has stood above 90 percent. For the last couple of years, the figure has been at least 95 percent, and analysts predict that the share will climb even higher over the next few years. Even if Apple's Mac OS were included in the relevant market, Microsoft's share would still stand well above 80 percent.

D.Ct. at ¶35.[1]

3. Microsoft's Increasing Monopoly Power Is Protected By Significant Barriers To Entry

The Court of Appeals held that not only was Microsoft's operating system monopoly virtually complete as measured by market share, but also that the monopoly's increasing power and scope derives from a structural barrier—the "applications barrier to entry"—that protects the company's future monopoly position even as against superior rivals. The Court held that this barrier to entry

> stems from two characteristics of the software market: (1) most consumers prefer operating systems for which a large number of applications have already been written; and (2) most developers prefer to write for operating systems that already have a substantial consumer base. This "chicken-and-egg" situation ensures that applications will continue to be written for the already dominant Windows, which in turn ensures that consumers will continue to prefer it over other operating systems.

CA at 55 (citations omitted). The Court of Appeals went on to hold that even if Windows may have gained its initial dominance through superior foresight or quality, Microsoft had maintained its position through means other than competition on the merits. "Because the applications barrier to entry protects a dominant operating system irrespective of quality, it gives Microsoft power to stave off even superior new rivals." CA at 56.

4. Microsoft's Monopoly Has Self-Perpetuating Incentives

The Court of Appeals affirmed the District Court's findings regarding a variety of anticompetitive acts by Microsoft that were designed to maintain its monopoly by preventing the effective distribution and use of middleware products—including Netscape's "Navigator" browser and the Java cross-platform technologies—that might threaten the Windows operating system monopoly. The Court of Appeals noted with approval the District Court's conclusion that Microsoft's monopoly gives the firm incentives to perpetuate the monopoly by a pattern of exclusionary conduct. CA at 58. As the District Court concluded, "over the past several years, Microsoft has comported itself in a way that could only be consistent with rational behavior for a profit-maximizing firm if the firm knew that it possessed monopoly power, and if it was motivated by a desire to preserve the barrier to entry protecting that power." D.Ct. CL at 37.

5. Microsoft Has Shown Itself Able And Willing To Extinguish Competitive Threats As Fast As They Emerge In A Rapidly Changing Technological Environment, And Willing To Harm Consumers And Degrade Its Own Products In Order To Exclude Competitors From The Market

In its successful efforts to thwart Netscape and Java, Microsoft demonstrated its ability to extinguish competitive threats to its monopoly as fast as they emerged in a rapidly changing technological environment. Microsoft's conduct also evidenced a remarkable willingness to hurt consumers and degrade its own products where necessary to accomplish the exclusion of competitive threats to its dominance.

Both Netscape and Java threatened to facilitate competition in operating systems by permitting software applications developers to write programs for the application programming interfaces (APIs) exposed by these middleware products, which in turn were capable of running not only on Windows, but on other operating systems. If such middleware were permitted to thrive, such "cross-platform" applications would have the potential to overcome the applications barrier to entry upon which Microsoft's operating system monopoly rests. CA at 53, 60.

The Court of Appeals upheld the District Court's findings and conclusions that Microsoft engaged in the following unlawful conduct in violation of Section 2 of the Sherman Act for the purpose of maintaining its PC operating system monopoly:

a. License Restrictions

Microsoft prevented OEMs from removing visible means of user access to Microsoft's browser, IE, which thwarted the distribution of rival browsers, primarily Netscape Navigator. CA at 59–61.

Microsoft prohibited OEMs from modifying the initial boot sequence, from adding icons or folders different in size or shape from those supplied by Microsoft, and from using the desktop to promote rival products, thereby preventing OEMs from promoting either browsers or Internet access providers that competed with Microsoft's own Internet access service and that often used Navigator rather than IE. Microsoft's anticompetitive conduct reduced consumer choice for the sole purpose of thwarting a middleware threat to Microsoft's monopoly. CA at 61–64.

b. Commingling Source Code

By placing computer code specific to the web browsing function in the same computer program "files" as code supplying operating system functions (i.e., by "commingling" the computer code), Microsoft ensured that the deletion of files containing browsing-specific routines would also delete vital operating system routines and cripple Windows' performance. By preventing OEMs from deleting IE, Microsoft deterred OEMs from pre-installing a second browser because doing so would increase the OEM's product and support costs. Had removal of IE been an option, OEMs could have decided to pre-install Navigator. CA at 66. This technological binding of IE to Windows not only reduced consumer choice in the browser market, but also forced consumers to buy a "loaded" and arguably slower operating system. The Court of Appeals found that this had no purpose other than to maintain Microsoft's monopoly.

When Microsoft modified Windows 95 to produce the Windows 98 operating system, it took IE out of the Add/Remove Programs utility, which prevented the removal of IE from the operating system. This had the effect of further curtailing end-user control over the desktop, and reducing usage of rival browser products for the protection of its operating system monopoly. CA at 65.

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[1] As recently as January 2002, Microsoft controlled over 96% of the entire PC operating system market, and Apple's Macintosh operating system had only a 2% share. Is Apple Out of the Running in the Operating Systems War? (Jan. 8, 2002), at http://www.websidestory.com/cgi-binwss.cgi? corporate &news&press_1_163.

c. Exclusionary Agreements

To extinguish the competitive threat posed to Microsoft's monopoly by Internet, Access Providers (IAPs) and online services—the other major channel through which browsers could be distributed to consumers—Microsoft entered into agreements with 14 of the 15 largest IAPs in North America under which the IAPs offered their subscribers IE as either the default browser or the only browser. CA at 68.

Microsoft agreed with AOL (the largest IAP) to place the AOL icon in the online service folder on the Windows desktop, in return for which AOL was forced to agree not to promote any non-IE browser, or software using a non-IE browser, except at the customer's request, and even then not to supply more than 15% of its subscribers with a browser other than IE. Because AOL accounted for a substantial portion of all existing Internet access subscriptions, these provisions were highly exclusionary. CA at 70–71.

During the period 199%9, Microsoft made dozens of "First Wave" agreements with Internet Software Vendors ("ISVs"), giving them free licenses to bundle IE with their software and preferential support in the form of access to technical information and the right to use Microsoft seals of approval. In exchange, the ISVs agreed to use IE as the default browsing software for any software that they developed with a hypertext-based user interface and to use Microsoft's "HTML Help," accessible only with IE, to implement their applications' help systems. The effect of those deals was to ensure that many of the most popular Internet applications relied on browsing technologies found only in Windows, which increased the likelihood that millions of consumers using applications designed by those ISVs would use IE instead of Navigator. The agreements with ISVs further foreclosed rival browser distribution and curtailed the middleware threat to the Windows monopoly. CA at 71–72.

d. Actual And Attempted Coercion And Retaliation To Exclude Competitors

Microsoft coerced Apple to drop Navigator as the standard browser installed on its PCs, and to substitute IE as the default browser on its Macintosh operating system. Microsoft threatened to cut off production of its "Office" business productivity software for Apple PCs (90% of Apple Office suite users relied on the Microsoft version of Office designed for the Macintosh operating system), an action that had no purpose but to maintain Microsoft's operating system monopoly while hurting consumers. Apple was forced to agree to bundle the most current version of IE to the Macintosh operating system for as long as Microsoft continued to support Mac Office, and promised not to promote Navigator on its desktop. CA at 72–74.

Microsoft retaliated against Netscape when Netscape refused to capitulate to Microsoft's demands that it forgo development of Navigator technology as a middleware platform. Microsoft sought to convince Netscape to enter into an illegal market division agreement whereby Microsoft would treat Netscape as a "preferred ISV" in exchange for Netscape developing Navigator to rely on Microsoft's platform-level Internet technologies. (At the time of Microsoft's proposal, Navigator was the only browser product with a significant share of the market and the potential to weaken the applications barrier to entry.) When Netscape refused this unlawful arrangement, Microsoft punished Netscape by delaying disclosure of the technical information needed to make Navigator interoperable with Windows, which forced Netscape to postpone release of its new browser. As a result, Netscape was excluded from most of the 1995 holiday selling season. D.Ct. at ¶¶79–91.

e. Efforts To Subvert Sun-compliant Java Technologies

Sun Microsystems created Java,[2] a type of middleware that would support all applications regardless of the operating system they were written for. CA at 74. Programs calling upon Java's APIs will run on any computer that itself is configured for Java; thus, Java enabled software developers to write applications programs that could be run on different operating systems with relative ease. In May 1995, Netscape agreed with Sun to distribute Java with every copy of Navigator, which at that time was the dominant browser. Microsoft violated § 2 in three separate ways in a successful effort to extinguish Java as a competing middleware platform:

"First Wave" Agreements: The First Wave Agreements were contracts between Microsoft and ISVs for the distribution of Microsoft's proprietary version of the Java Virtual Machine ("JVM"). The agreements required developers to make Microsoft's JVM the default in the programs they developed, in exchange for Microsoft's technical support and other inducements. CA at 75–76.

Deception of Java Developers: Microsoft offered software developers various development tools that purportedly would assist ISVs in designing Java applications, but concealed the fact that aspects of the code generated by the design tools could only be executed properly by Microsoft's JVM. The result was that many developers, relying on Microsoft's public commitment to cooperate with Sun, unwittingly used the programming tools to write Java applications that ran only on Windows, and not other platforms. Microsoft maintained this deception in order to "kill cross-platform Java by grow[ing] the polluted Java market." CA at 76–77. This conduct injured consumers by fraudulently inducing development of corrupted versions of otherwise successful cross-platform middleware, for the sole purpose of protecting the Microsoft monopoly. Id.

Microsoft's Threat to Intel: Intel and Sun had entered into an agreement to create a high-performance, Windows-compatible JVM, and by 1996, Intel had developed a JVM that complied with Sun's cross-platform standards. Starting in 1995, Microsoft's senior management repeatedly requested that Intel stop its cooperation with Sun, and ultimately threatened Intel that if it did not abandon its support of Sun- compliant Java, Microsoft would begin supporting Intel competitors and refuse to distribute Intel technologies bundled with Windows. Intel finally capitulated in 1997. CA at 77–78.

B. The Remedy In This Section 2 Case Must Be Broad And Prophylactic, To Prevent Microsoft From Denying Consumers The Benefit Of Competition By Retaining Illegally-Maintained Monopoly Power

1. Purpose Of Relief

As the government acknowledges in the Competitive Impact Statement, appropriate injunctive relief here must accomplish three things: "(1) end the unlawful conduct; (2) avoid a recurrence of the violation' and others like it; and (3) undo its anticompetitive consequences." CIS at 24 (citing Nat'l Soc'y of Prof'l Eng'rs v. United States, 435 U.S. 679, 697 (1978); United States v. E.I. du Pont de Nemours & Co., 366 U.S. 316, 326 (1961); Int'l Salt Co., 332 U.S. at 401); CA at 107. See also Gov't D.Ct. Memo at 24 ("Permanent injunctive relief ordered in a Sherman Act case must be both forward-looking and remedial. The decree must (i) end the violation, (ii) 'avoid a recurrence of the violation' and others like it and (iii) restore competition to the market."). Any remedy must be broad in scope and prophylactic in nature so that competition is restored and Microsoft is effectively precluded from further exercise of its monopoly power, even as new products are developed and circumstances in the market change.

a. End Anticompetitive Practices And Prevent Their Recurrence

Any settlement here must be structured to end anticompetitive practices and not merely to prevent repetition of the same illegal conduct. As the Court of Appeals pointedly instructed:

> [A] remedies decree... must seek to "unfetter a market from anti- competitive conduct :... terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future."

CA at 103 (citations omitted) (quoting Ford Motor Co., 405 U.S. 562; United States v. United Shoe Mach. Corp., 391 U.S. 244 (1968)). In the proceedings on remand, the District Court has already recognized that any remedy, in order to be adequate, must go beyond merely prohibiting the conduct in which Microsoft has previously engaged:

> The Supreme Court long ago stated that it's entirely appropriate for a district court to order a remedy which goes beyond a simple prescription against the precise conduct previously pursued .... [T]he remedy may range broadly through the practices connected with the acts actually found to be illegal. The Supreme Court has vested this court with large discretion to fashion appropriate restraints both to avoid a recurrence of the violation and to eliminate its consequences.

Microsoft, Transcript of Proceedings at 9 (paraphrasing Nat'l Soc'y of Prof'l Eng'rs, 435 U.S. at 697; and United States v. U.S. Gypsum Co., 340 U.S. 76, 88–89 (1950)).

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[2] When this document refers to "Java" without any adjectives or other modifiers, it refers to Sun Microsystems' product.

The public interest is not served merely by eliminating past anticompetitive practices; the remedy must eliminate the future recurrence of illegal conduct:

> [T]he end to be served is not punishment of past transgression, nor is it merely to end specific illegal practices. A public interest served by such civil suits is that they effectively pry open to competition a market that has been closed by defendants' illegal restraints. If [the] decree accomplishes less than that, the Government has won a lawsuit and lost a cause.

Int'l Salt Co., 332 U.S. at 401 (emphasis added).

> A trial court upon a finding of... a monopoly has the duty to compel action... that will, so far as practicable, cure the ill effects of the illegal conduct, and assure the public freedom from its continuance ....

Acts entirely proper when viewed alone may be prohibited. U.S. Gypsum Co., 340 U.S. at 90 (citations omitted); see also United Shoe Mach. Corp., 391 U.S. at 252 (relief should "render impotent the monopoly"); Nat'l Soc'y of Prof'l Engn'rs, 435 U.S. at 697 ("the District Court was empowered to fashion appropriate restraints on the Society's future activities to avoid a recurrence of the violation and eliminate its consequences").

In this case, the government has recognized the need to go beyond enjoining current violations to assure that Microsoft's violations do not recur. See Gov't D.Ct. Memo at 24 ("Forbidding the continuance of the violation—here, for example, the anticompetitive bundling of Internet Explorer with the Windows operating system—is necessary but not sufficient to rectify the harm caused and threatened by Microsoft's illegal conduct.").

b. Restore Competition (Deny The Fruits Of Wrongdoing)

As the government has acknowledged, "[r]estoring competition is the 'key to the whole question of an antitrust remedy.'" CIS at 24 (quoting E.I. du Pont de Nemours & Co., 366 U.S. at 697); see also U.S. Gypsum, 340 U.S. at 90 ("The conspirators should, so far as practicable, be denied future benefits from their forbidden conduct."); United States v. Grinnell Corp., 384 U.S. 563,577 (1966) ("We start from the premise that adequate relief in a monopolization case should... deprive the defendants of any of the benefits of the illegal conduct, and break up or render impotent the monopoly power found to be in violation of the Act."); CA at 103 (a remedies decree must "deny to the defendant the fruits of its statutory violation") (citations omitted). As the Supreme Court put it in a holding that is particularly cogent here:

> [A]n injunction against future violations is not adequate to protect the public interest. If all that was done was to forbid a repetition of the illegal conduct, those who had unlawfully built their empires could preserve them intact. They could retain the full dividends of their monopolistic practices and profit from the unlawful restraint of trade which they had inflicted on competitors. Such a course would make enforcement of the Act a futile thing unless, perchance, the United States moved in at the incipient stages of the unlawful project.

Schine Chain Theaters, Inc., 334 U.S. at 128.

2. The Law Requires Effective Measures To Accomplish These Results

a. Relief Must Neutralize Monopoly Power At Its Source And Eliminate The Monopolist's Incentive To Exclude Competitors From The Market

A decree must "break up or render impotent the monopoly power found to be in violation of the Act." Grinnell Corp., 384 U.S. at 577. It must "leave the defendant without the ability to resume the actions which constituted the antitrust violations in the first place." AT&T, 552 F. Supp. at 150.

b. Relief Must Anticipate New Forms Of Exclusion, Commensurate With The Evidence Of Microsoft's Incentive To Exclude And Its Willingness To Do So At The Expense Of Consumers And Its Own Product Quality

Because an antitrust remedy, in order to be adequate, must neutralize the monopolist's power to resume the action constituting the adjudicated violation, any remedy "must effectively foreclose the possibility that antitrust violations will occur or recur." Id. at 150. Again, the Supreme Court has given instruction that is directly relevant here:

> When the purpose to restrain trade appears from a clear violation of law, it is not necessary that all of the untraveled roads to that end be left open and that only the worn one be closed. The usual ways to the prohibited goal may be blocked against the proven transgressor and the burden put upon him to bring any proper claims for relief to the court's attention.

Int'l Salt Co., 332 U.S. at 400. As the District Court has recognized, even practices not found to be unlawful should be prohibited where necessary to avoid recurrence of monopolization. AT&T, 552 F. Supp. at 150 n.80 (citing United States v. United Shoe Mach. Corp., 110 F. Supp. 295,346–47 (D. Mass. 1953), aff'd, 347 U.S. 521 (1954)). Similarly, the court must impose additional restraints to allow development of new competition in the relevant market. Id. (citing Ford Motor Co., 405 U.S. at 575).

Given the record in this case, the remedy must anticipate new forms of exclusion such that, in view of Microsoft's incentive to exclude and demonstrated willingness to do so, the company may not further restrain trade illegally and is prevented from repeating its past unlawful practices in new contexts.

c. Relief Must Prevent Regulatory (Decree) Evasion

Where the monopoly in question is as powerful and persistent as that maintained over the last decade by Microsoft, there is a real danger that the monopolist will evade the particular provisions of any consent decree that is entered. In order to cope with the threat of regulatory evasion, antitrust judgments must contain broad proscriptions of anticompetitive conduct that will, by their generality, cover new forms of exclusion. See, E.I. du Pont, 366, U.S. at 1254 (An "injunction can hardly be detailed enough to cover in advance all the many fashions in which improper influence may manifest itself."); AT&T, 552 F. Supp. at 167 (approving consent decree ordering divestiture, preclusion from specific markets, and compulsory, royalty-free licensing) ("it is unlikely that, realistically, an injunction could be drafted that would be both sufficiently detailed to bar specific anticompetitive conduct yet sufficiently broad to prevent the various conceivable kinds of behavior that AT&T might employ in the future"); Zenith Radio Corp. v. Hazeltine Research, Inc. 395 U.S. 100, 132 (1969) (court may exercise its "broad power to restrain acts which are of the same type or class as the unlawful acts which the court has found to be committed or whose commission in the future, unless enjoined, may fairly be anticipated from the defendant's conduct in the past"); CA at 103 (court must "ensure that there remain no practices likely to result in monopolization in the future"). The "broad power" the Court has to fashion an effective remedy includes the authority to prohibit exploitation of monopoly power in any manner and to order provisions designed to create and foster new competition, including the disclosure of proprietary information, mandatory licensing, exclusive dealing bans and many other remedies. Gov't. D.Ct. Memo at 26 (citing United States v. Crescent Amusement Co., 323 U.S. 173 (1944); Hartford-Empire Co. v. United States, 323 U.S. 386 (1945); United States v. Glaxo Group Ltd., 410 U.S. 52 (1973); Int'l Salt Co., 332 U.S. 392; Ford Motor Co., 405 U.S. at 572).

In order to prevent evasion of antitrust proscriptions put in place by a consent decree, courts routinely retain jurisdiction in order to modify decrees, resolve disputes, and ensure there is a forum for timely adjudicating whether defendants are in compliance. See, e.g., Int'l Salt Co., 332 U.S. at 401–02; Otter Tail Power Co. v. United States, 410 U.S. 366, 381–82 (1973); United Shoe Mach. Corp., 391 U.S. at 251–52; AT&T, 552 F. Supp. at 215–17 (ordering modification of proposed consent decree to include provisions relating to Court's continuing ability to enforce decree).

d. Relief Must Be Of Sufficient Duration To "Pry Open" The Monopolized Market By Allowing Competitive Products To Take Root

i. It Takes Years For Competitive Alternatives—Web Portals, Servers And Middleware—To Develop, Even Assuming Lack Of Obstruction

The applications barrier to entry that Microsoft enjoys through its operating system monopoly will, as the District Court found (and the Court of Appeals agreed), make it extraordinarily difficult for a new operating system to attract enough developers and consumers to be a viable alternative to Windows in any reasonable time frame. D.Ct. at ¶¶30–31; D.Ct. CL at 36; CA at 54–56. The overwhelming majority of consumers will only use Windows because there are already a large variety of applications written for that operating system. Given that it is expensive to port applications from one operating system to another, software developers will generally write applications only for the operating system that is used by the dominant share of PC users.

Software developers and ISPs are now forced, given the economics of the industry, to use Windows, an operating system that they would not necessarily choose, but that is virtually the sole conduit available to deliver their product to the end-user. Given these circumstances, "it remains to be seen whether server or middleware-based development will flourish at all." D.Ct. at ¶32.

In order to allow alternative operating systems to develop, the public interest demands a decree that will "pry open to competition a market that [is] closed" by the enormous applications barrier to entry and by Microsoft's continuous course of illegal conduct. See Int'l Salt Co., 332 U.S. at 401. Given the time necessary for a competitive operating system or middleware product to overcome the applications barrier to entry (if it is possible at all), any sustainable decree must assure consumers, programmers and potential competitors of a lengthy time frame in which to develop new products that can compete with Windows. Without an adequate time frame for competing products to take hold, consumers will be unwilling to scrap the investment in applications, training, and hardware that they have already made in Windows.

ii. Software Developers And Other "Investors" Need Confidence That The Decree Will Provide Protection Long Enough To Give Their Investments A Fair Chance To Be Viable

Without a decree that is broad enough to ensure that Microsoft does not continue to benefit from its past practices and erect new barriers to market entry, the very purpose of antitrust relief in monopolization cases will be thwarted. Without a strong and long-lasting decree, Microsoft's entrenched dominance and the threat of further exclusionary conduct will preclude entrepreneurs and other innovators from improving products and services. As the government has acknowledged, "an injunction which simply bars the precise illegal conduct proven at trial would leave the defendant with the full dividends of [its] monopolistic practices and profit from the unlawful restraints of trade which [it] has inflicted on competitors." Gov't D.Ct. Reply Memo at 10 (quoting Schine Chain Theaters, 334 U.S. at 128 (internal quotation marks omitted)).

If the decree leaves any room for doubt whether Microsoft will retain its freedom and power to exclude competitors, then software developers will, in their economic self-interest, continue what they have been doing for years—writing applications that operate solely on Microsoft's platform—thereby perpetuating the very monopoly that this case has found to be illegal. Such a result violates the fundamental tenet that an antitrust remedy must effectively "restore future freedom of trade." See U.S. Gypsum, 340 U.S. at 90 (reversing an injunction limited to sale of gypsum board in Eastern United States and directing entry of injunction covering all gypsum products throughout the country because the "relief, to be effective, must go beyond the narrow limits of the violation"); see also Glaxo Group Ltd., 410 U.S. at 64 (ordering compulsory patent licensing on appeal where necessary to assure "the public freedom from... continuance of the illegal conduct").

Rather than being narrowly drawn, the remedy in this case must be broad, prophylactic, flexible and forward-looking in order to provide competition a safe harbor from Microsoft's exclusionary power.

C. The Tunney Act Requires Courts To Reject Seriously Deficient Decrees

Pursuant to the Tunney Act, 15 U.S.C. § 16, in evaluating an antitrust settlement, a court may not "rubber stamp" a proposed consent decree, but must instead "make an independent determination as to whether or not entry of a proposed consent decree [is] in the public interest." Microsoft Corp., 56 F.3d at 1458 (quoting S. Rep. No. 298, 93d Cong., 1st Sess. 5 (1973)); accord AT&T, 552 F. Supp. at 149 & n.74.[3]

In determining whether the consent decree is in the public interest, the Court must begin by defining the public interest in accordance with the antitrust laws, AT&T, 552 F. Supp. at 149 (citing S.Rep. No. 93–298 at 3; H.R. Rep. No. 93–1463 11–12), and ensure that the provisions of the decree will "preserve free and unfettered competition as the rule of trade." Id. (citing N. Pac. Ry. v. United States, 365 U.S. 1 (1958)). The consent decree's provisions must "break up or render impotent the monopoly power found to be in violation of the Act." Id. at 150 (quoting Grinnell Corp., 384 U.S. at 577) and "must leave the defendant without the ability to resume the actions which constituted the antitrust violation in the first place," id. Not only must the decree remedy past violations, "it must also effectively foreclose the possibility that antitrust violations will occur or recur." Id.; see also id. at 151 ("[I]t does not follow that courts must unquestionably accept a proffered decree as long as it somehow, and however inadequately, deals with the antitrust and other public policy problems implicated in the lawsuit.").

In its first decision involving Microsoft, the Court of Appeals recognized that a more deferential review standard is appropriate under the Tunney Act in cases where there has been no trial and hence "there are no findings that the defendant has actually engaged in illegal practices." Microsoft Corp., 56 F.3d at 1460–61. It follows, therefore, that where there are express findings based on a full trial record "that the defendant has actually engaged in illegal practices," id., a more intensive Tunney Act review is required. Accord AT&T, 552 F. Supp. at 152. In the instant case, there have been both a lengthy trial on the merits and exhaustive findings of illegal monopoly maintenance by Microsoft—findings that the Court of Appeals expressly affirmed. Thus, unlike in more routine Tunney Act proceedings involving settlements without adjudicated findings of liability, the proposed consent decree in this case is subject to a more searching standard of review by the trial court. See also U.S. Gypsum Co., 340 U.S. at 89 ("[C]ourts should give weight to the fact of conviction as well as the circumstances under which the illegal acts occur. Acts in disregard of law call for repression by sterner measures than where the steps could reasonably have been thought permissible.").

The AT&T case provides strong support for applying a higher degree of scrutiny in this case than in the typical Tunney Act proceeding. In AT&T, while noting that ordinarily a degree of deference to the Department of Justice's view that a settlement is in the public interest is appropriate, the District Court held that such deference was not warranted where the court had heard "what probably amounts to well over ninety percent of the parties' evidence both quantitatively and qualitatively, as well as all of [the parties'] legal arguments." 552 F. Supp. at 152. The District Court thus concluded that it was "in a far better position than are the courts in the usual consent decree cases to evaluate the specific details of the settlement." Id. The Court of Appeals, in its first Microsoft opinion, embraced this distinction and specifically contrasted the AT&T consent decree proceeding with the first Microsoft decree, which was presented before any evidence had been taken. See Microsoft Corp., 56 F.3d at 1461.

The circumstances now justify a searching and demanding review of whether the decree is in the public interest. The settlement here is not before the Court "in the first instance," or even with "ninety percent of the parties' evidence" presented (as in AT&T,) but rather after a full trial on the merits and multiple findings that Microsoft violated the Sherman Act. The District Court now has before it all of the trial evidence, as well as Findings of Fact and Conclusions of Law, affirmed by the Court of Appeals, regarding the relevant market and Microsoft's illegal, anticompetitive conduct. The Court may therefore make a fully informed and independent determination concerning whether the settlement is truly in the public interest.

As in AT&T, close scrutiny of the settlement is also necessary because of its importance to the national economy. In refusing to narrow the scrutiny given the consent decree, the District Court in AT&T noted that given the "potential impact of the proposed decree on a vast and crucial sector of the economy and on such general public interest as the cost and availability of local telephone service, the technological development of a vital part of the national economy, national defense, and foreign trade, the Court would be derelict in its duty if it adopted a narrow approach to its public interest review responsibilities." AT&T, 552 F. Supp. at 152.

The proposed settlement here is of no less importance. This settlement has broad ramifications for the national economy, especially in technology development, and impacts millions of American consumers—ramifications with little precedent in the history of antitrust jurisprudence. In such circumstances, the Court's careful, independent review is essential to ensure the decree serves the public interest.

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[3] The provisions of the Tunney Act allow the Court to consider a wide variety of factors in determining whether a consent decree is in the public interest, including: (1) the competitive impact of such judgment, including termination of alleged violations, provisions of enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment; (2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial. 15 U.S.C. § 16(e)(1)–(2).

Finally, the proposed settlement also requires heightened scrutiny because half of the States that joined in prosecuting the case do not agree that the settlement would protect the interests of their citizens. The government is now expressing views substantially inconsistent with its expressed positions at earlier stages of the case. Where elected representatives of the public are sharply divided on whether the settlement actually serves the public interest, any questions concerning whether the settlement is fair to the public must be subject to exacting scrutiny. "None of this means, of course, that the Court would be justified in simply substituting its views for those of the parties. But it does mean that the decree [should] receive closer scrutiny than that which might be appropriate to a decree proposed in a more routine antitrust case." AT&T, 522 F. Supp. at 153.

THE PROPOSED SETTLEMENT FAILS IN EVERY MATERIAL RESPECT TO ACHIEVE THE OBJECTIVES OF RELIEF REQUIRED BY THIS CASE AND AFFIRMATIVELY PROVIDES A "GREEN LIGHT" AND AN INCENTIVE TO ENGAGE IN EXCLUSIONARY CONDUCT

A. The Government Has Abandoned Its Prior Effort To Use Injunctive Relief To "Pry Open" The Monopolized Market, Conceding That Its Purpose Is Now Merely To Protect "Nascent" Threats To The Windows Monopoly

The Court of Appeals affirmed findings that Microsoft extinguished all tangible threats to its operating systems monopoly. CA at 79; D.Ct. at ¶¶68–77. The findings also support the conclusion that if Microsoft had pursued competition on the merits rather than anticompetitive conduct, significant erosion of its monopoly would have occurred. See generally CA at 58–79. Certainly, that is what Microsoft's CEO believed when he envisioned the Windows operating system being "commoditized" by Netscape. D.Ct. at ¶72. The proposed settlement does nothing to deprive Microsoft of either the "fruits" or the source of its successful strategy of extinguishing competition, nor does it restore to consumers the benefits of the choices that they would have had if Microsoft's illegal conduct had never occurred.

At this stage of the proceedings, the government states that its goal is merely to "restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings." CIS at 3. These were, as the government admits, merely "nascent threats," id. at 24, 25, not the fully-developed alternatives that would have existed today but for Microsoft's conduct. The competitive threats to the Microsoft monopoly were stillborn, not as a result of fair competition but, as the government acknowledges, because of Microsoft's predation:

> Through its actions against Navigator and Java, Microsoft retarded, and perhaps extinguished altogether, the process by which these two middleware technologies could have facilitated the introduction of competition into the market for Intel-compatible personal computer operating systems.

CIS at 16–17. Although the CIS acknowledges that merely prohibiting future instances of Microsoft's past exclusionary, monopolistic conduct is not sufficient to restore competition, in reality that is all the proposed settlement attempts to do, and even those minimal efforts are unavailing.

Indeed, in the earlier remedy proceedings, the government characterized Microsoft's view of appropriate relief (which the government has now largely adopted) as a "crabbed view of antitrust remedies:"

> [E]specially in an industry like the software industry, which as Microsoft has repeatedly emphasized is rapidly changing, a remedy limited to barring repetition of the precise acts in the precise contexts that were at issue in the trial could not possibly serve the required purposes of preventing recurrence of the violations and restoring competition.

Gov't D.Ct. Reply Memo at 49. It is therefore ironic that the government now embraces in the proposed settlement many of the same substantive decree provisions it earlier dismissed as woefully inadequate.

Presaging the current dispute over remedies, the government stated in a pleading before the District Court almost two years ago:

> In crafting an effective Sherman Act remedy, a court must use the record of a backward-looking trial to fashion forward-looking relief. Looking forward, the Court must anticipate that Microsoft, unless restrained by appropriate equitable relief, likely will continue to perpetuate its monopoly by the same anticompetitive methods revealed at trial, although directed at whatever new competitive threat arises. Neither the Netscape browser nor Java continues to have the prospect of lowering the applications barrier to entry, and it is not certain where future threats to Microsoft's operating system will arise.

Gov't D.Ct. Memo at 27–28. The government then went on to describe as potential middleware or platform threats to Microsoft's operating system monopoly such products and technologies as Microsoft's own Office suite; applications such as voice recognition software, media streaming technology and email programs; server operating systems (and the need for interoperability between PCs and servers); and non-PC devices such as PDAs and hand-held computers. See id. at 28–29.

A settlement such as this one, which limits itself to protecting the next generation of emerging threats instead of "prying open" the monopolized market (thereby effectively blessing the extinction of the first generation and the preservation of Microsoft's monopoly), cannot claim to serve even this minimal goal without anticipating and prohibiting, with both specificity and generality, the many ways in which Microsoft can thwart new forms of competition from novel or different technologies, such as those listed by the government. In this regard, it is noteworthy that the Court of Appeals, like the District Court, found that Microsoft's commingling of its browser and operating system codes constituted illegal monopoly maintenance. CA at 64–67. Yet the settlement would allow such conduct to continue. And as long as such commingling is allowed, Microsoft has the power to prevent the next generation of computing on web and network servers, nascent or otherwise, from overcoming its operating system monopoly. Thus, the decree does not even bar "repetition of the precise acts in the precise contexts that were at issue in the trial." Gov't D.Ct. Reply Memo at 49.

B. The Proposed Settlement Is Riddled With Loopholes That Invite Evasion, Does Not Anticipate And Prohibit New Forms Of Exclusionary Conduct To Protect The Windows Monopoly, And Discourages The Development Of Competition To Windows

1. The Proposed Settlement Provisions To Protect Middleware Do Not Adequately Address Microsoft's Past Illegal Conduct, Much Less Prevent Its Recurrence In The Future

One of the principal threats to the dominance of Microsoft's operating system monopoly was middleware, which refers to "software products that expose their own APIs." CA at 53; D.Ct. ¶¶28, 68. Since middleware exposes APIs for which software developers can write programs, it can provide a less time-consuming and cheaper means of writing applications that can run on various operating systems. Id. Anything that reduces the need to adapt, or "port," an application to competing operating systems threatens to overcome Microsoft's monopoly in the PC operating systems market by eliminating the applications barrier to entry. CA at 54–56; D.Ct. at ¶¶68–78.

Unfortunately, the provisions that address middleware are so limited and rife with exceptions as to be virtually meaningless. Sections III.C and III.H of the proposed settlement are inadequate in at least the following respects: (a) the definitions of key terms invite easy evasion and make Microsoft's compliance virtually discretionary; (b) while the settlement is fairly specific in limiting Microsoft's ability to restrict OEMs from promoting competing software, it is silent on a crucial tactic—technological binding[4]—that Microsoft was proven to have used to the same exclusionary ends; and (c) the settlement undermines its own purported goals by including exceptions to each prohibition that largely negate the relief ordered. In its narrowness, the settlement also ignores new products, the potential for future innovation, and novel methods by which similar anticompetitive results may be achieved. As such, the decree fails either to remedy past effects or prevent future anticompetitive acts from occurring.

a. The Definitions In The Decree Effectively Leave Compliance At Microsoft's Discretion

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[4] The terms "binding" or "commingling of code" refer to including software or a link to web-based software in an operating system product in such a way that either an OEM or end-user cannot readily remove or uninstall the code without degrading the performance or impairing the functionality of the operating system. "Bundling" refers to the sale or marketing of different software products in a single package, but without commingling of their codes.

i. The Definitions Of "Microsoft Middleware" And "Microsoft Middleware Product" Encourage Microsoft To Continue Binding Middleware To Its Monopoly Windows Operating System

The definition of "Microsoft Middleware" is of crucial importance because, if a program constitutes "Microsoft Middleware," Microsoft is then subject to requirements that it disclose the programming interfaces and communications protocols by which the middleware interoperates with the Windows operating system. The definition also triggers Microsoft's obligation to allow OEMs to reconfigure the PC desktop to give purportedly equal access to competing middleware. See CIS at 17–18; RPFJ §§ III.C, III.D, III.E. As shown below, these disclosures and obligations are not adequate to accomplish their avowed purpose. The government's stated goal is to ensure the viability of the OEM distribution channel for competing middleware products and the ability of those products to achieve "seamless interoperability" with the Windows operating system. CIS at 38.

The proposed settlement defines "Microsoft Middleware" as software code that: (1) is distributed separately from the Windows Operating System Product; (2) is trademarked; (3) provides functionality similar to a Microsoft Middleware Product; and (4) has the code necessary to be considered a self-contained product. See RPFJ § VI.J. Because each element of this definition is too narrow or too easily evaded by Microsoft, the obligations that are triggered by the definition are largely illusory.

The first part of this definition bears directly upon Microsoft's practice of initially distributing a middleware product separately, then bundling it for sale with Windows, and finally binding it to the operating system. See D.Ct. at ¶¶155–74 (discussing employment of these tactics with IE). Binding, or commingling of source code was held by the Court of Appeals to be illegal conduct used by Microsoft to eliminate the browser threat. See CA at 64–67; D.Ct. at ¶¶159, 170–74. It is unnecessary technically and has no procompetitive justification. Id.

The practical effect of the settlement's definition, however, is to allow Microsoft to achieve the same anticompetitive results merely by omitting the first of the three steps mentioned above. Simply by bundling middleware applications with the operating system from the outset (so that they would not be "distributed separately"), Microsoft may render any provision regulating its use of "Middleware" a nullity. Because the settlement contains no limitations on bundling or commingling of Microsoft middleware with the monopoly operating system, the definition actually encourages Microsoft to engage in anticompetitive practices—i.e., commingling of code—in order to avoid application of the decree.

Second, the definition of "Microsoft Middleware" requires that the product must be trademarked. Simply by not seeking a trademark, Microsoft can ensure that its middleware will not be covered by the settlement's provisions.[5] This means that Microsoft can distribute any product that may have other intellectual property protections, such as copyright or patent protection, but that is not trademarked, without the product being considered "Middleware." Of course, if Microsoft chooses to bind a product to the operating system and not distribute it separately, there would be no need to trademark the product.

The third requirement, which refers to the functionality of a "Microsoft Middleware Product," further limits the scope of the "Microsoft Middleware" definition. This is because the definition of "Microsoft Middleware Product" lists by name several products traditionally considered middleware, including Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express, and their successors in the Windows operating system. See RPFJ § VI.K. But limiting the definition of Microsoft "Middleware" only to those products which in the past were distributed as middleware fails to account for future development of new products. In addition, the definition omits important existing products, such as Microsoft Office [6]6 and Internet telephony products, that perform functions analogous to the listed "middleware" products.[7]

The fourth requirement is that the code must be "self-contained." This too encourages commingling of Microsoft middleware with the operating system, because it allows Microsoft to create cross-dependent products solely to avoid complying with the provisions applicable to "Middleware." If Microsoft is allowed to commingle the code for the products in such a way as to create cross-dependencies between the operating system and middleware (as it did illegally for IE), it can avoid compliance with many of the substantive provisions in the decree.[8]

In the CIS, the government explains that the definitions of "Microsoft Middleware" and "Microsoft Middleware Product" include the "functionality" of a number of existing Microsoft middleware products, including IE, Windows Media Player, and Outlook Express. See C1S at 17–20. What is not mentioned, however, is that the government previously advocated a definition of middleware that was truly based on the function of middleware and, as such, there was no need to distinguish between "Microsoft Middleware" and "Non-Microsoft Middleware." See Final Judgment § 7(q).[9] Nor does the CIS discuss the fact that in the event that a particular item of software code fails to meet any one of the four definitional requirements in the settlement, it will not be regulated at all by sections III.C, III.D, and III.E of the decree. This is significant, because the definition as it stands now neither comports with the traditional definitions of middleware, nor with the way the courts in this case have used the term. See, e.g., CA at 53.

ii. The Definition Of "Non-Microsoft Middleware Product" Is Too Narrow To Protect The Ability Of Products And Competitors To Gain Equal Access To The OEM Distribution Channel

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[5] Even the settlement's definition of "trademark" is so broad as to further limit the scope of the decree: "Trademarked" means distributed in commerce and identified as distributed by a name other than Microsoft(r) or Windows(r) that Microsoft has claimed as a trademark or service mark by (i) marking the name with trademark notices, such as ?? or TM, in connection with a product distributed in the United States; (ii) filing an application for trademark protection for the name in the United States Patent and Trademark Office; or (iii) asserting the name as a trademark in the United States in a demand letter or lawsuit. Any product distributed under descriptive or generic terms or a name comprised of the Microsoft(r) or Windows(r) trademarks together with descriptive or generic terms shall not be Trademarked as that term is used in this Final Judgment. Microsoft hereby disclaims any trademark rights in such descriptive or generic terms apart from the Microsoft(r) or Windows(r) trademarks, and hereby abandons any such rights that it may acquire in the future." RPFJ § VI.T. Thus, Microsoft may release a new middleware product entitled WindowsTM Telephone, for example, and because the name is descriptive rather than trademarked, it would not be considered "Microsoft Middleware" under the terms of the decree.

[6] Significantly, by omitting Microsoft Office from the list of middleware products, the government has eliminated from the proposed settlement a middleware product that provides Microsoft with a de facto monopoly in the middleware market. As of March 1997, Office's market share had reached 90%, a figure that has likely grown since that point. See Jesse Berst, Office Suites for Free ZDNet AnchorDesk (March 7, 1997), at http://www.zdnet.com/anchordesk/story/story—743.html; see also, Benjamin Woodhead, Microsoft's Australian Monopoly? Let the U.S. Handle It, ITNews (Nov. 17, 1999), at http://www.itnews,com.au/story.cfm?ID=507 (referring to the lack of recent statistics on Office Suite's market share, "We don't bother to measure that market anymore because Lotus and Corel have been squeezed out of it ... No one will pay for that sort of research because everyone knows what the answer is.").

[7] Describing the functionality of a product in terms of the categories of applications, rather than the operation of the product, also limits the effectiveness of section III.H of the proposed settlement, which relies heavily upon the definition of "Microsoft Middleware Product" to set the parameters of non-Microsoft middleware access to the OEM distribution channel.

[8] An example of cross-dependency is the link between IE and Microsoft Word in the Windows Operating System Product. Even if an end-user has selected Navigator as her default browser, IE may automatically launch if the user clicks on a URL, (i.e., an Internet address) that is contained in a Word document.

[9] The Final Judgment contained the following definition for Middleware, which it applied to both Microsoft and Non-Microsoft Middleware: "Middleware" means software that operates, directly or through other software, between an Operating System and another type of software (such as an application, a server Operating System, or a database management system) by offering services via APIs or Communications Interfaces to such other software, and could, if ported to or interoperable with multiple Operating Systems, enable software products written for that Middleware to be run on multiple Operating System Products.

Examples of Middleware within the meaning of this Final Judgment include Internet browsers, e-mail client software, multimedia viewing software, Office, and the Java Virtual Machine. Examples of software that are not Middleware within the meaning of this Final Judgment are disk compression and memory management.

From the outset, the government has supported injunctive relief designed both to give OEMs control over how to configure the PCs they sell and to provide end-users with the ability to remove Microsoft middleware from their computers. See Gov't D.Ct. Reply Memo at 45–47, 60–64. Sections III.C and III.H rely on the definition of "Non-Microsoft Middleware" to identify the competing software products that Microsoft must allow OEMs to include on the Windows desktop if they so choose and to distribute to consumers. The intention was to open the OEM channel to distribution of competing software and thereby remove one of the barriers Microsoft had erected to protect its Windows monopoly. Indeed, the definition of "Non-Microsoft Middleware Product" encompasses those technologies that Microsoft "extinguished" (such as the Netscape browser) as it defines the products entitled to protection. Before a new program receives this protection, however, the settlement's definition of "Non-Microsoft Middleware Product" requires that at least one million copies of the product must have been distributed in the previous year. RPFJ § VI.N. This onerous requirement defeats the government's express purpose of giving new products an adequate chance at the OEM distribution channel.

The CIS asserts that this level of distribution is "minimal" and "necessary" so that Microsoft's affirmative obligations will not be triggered by "minor" or "non-existent" products. CIS at 20–21. There is no support in the record, however, or in antitrust law generally for the notion that only large competitors deserve protection. "Minor" new products, i.e., the nascent competition that the CIS claims will be restored, deserve protection no less than older, more significant ones. One thing that the history of the software industry proves is that some of the most popular products and services were created by the ingenuity of small firms working alone without means of distributing their products. Most, even with the OEM distribution channel opened to them, failed to distribute one million copies the first year on the market, and the CIS cites no evidentiary support for setting the distribution trigger at the extraordinary level of one million copies.

Through this definition, the settlement creates a major obstacle to new products or competitors being able to obtain wide release and distribution of innovative products. Moreover, it has the additional pernicious effect of allowing Microsoft ample time to develop and promote or announce a preemptive offering before the non-Microsoft product reaches the one million distribution mark. Final Judgment § 7(q).

iii. The Definition Of "Windows Operating System Product" Grants Microsoft Unfettered Discretion To Decide What Is And What Is Not Part Of Its Operating System

The settlement defines "Windows Operating System Product" as a closed universe of past operating system products that is comprised of the software code of Microsoft's currently-distributed versions of its PC operating system, including Windows 2000 Professional and Windows XP Home and Professional, and their successors. RPFJ § VI.U. The definition also leaves in Microsoft's "sole discretion" the determination of what software code constitutes future versions of the Windows Operating System Product. Id. The CIS fails to explain why the definition in the proposed settlement does not establish an objective standard, but instead entrusts such determinations to Microsoft's "sole discretion." Additionally, rather than explaining how the definition impacts upon the objectives of the decree and why it was drafted in this way, the CIS merely states that the definition leaves "packaging" (read: bundling or binding) decisions in Microsoft's hands. CIS at 23–24.

The government fails to reconcile this definition with the Court of Appeals' finding that Microsoft utilized commingling of code to maintain its monopoly. Nor does it explain how the definition meets the government's avowed goal that the settlement put an end to Microsoft's past monopolistic conduct. The definition gives Microsoft incentives to integrate middleware into its operating system to avoid having middleware products classified as such.

Of particular importance for the future, the definition fails to take into account that Microsoft manufactures non-PC and non-desktop PC operating systems, such as an operating system for personal digital assistants (PDAs) and other handheld devices. These systems include Windows CE 3.0, Windows NT ?? Embedded 4.0, Windows CE for Automotive, Windows 2000 with the Server Appliance Kit, Windows for Smart Cards, Windows CE .NET and Windows XP Embedded. Any settlement that serves the public interest must cover new products that Microsoft can and will use to protect its PC operating system monopoly. There is an extensive set of devices which are the target for these systems beyond PDAs and pocket PCs, including smart phones, smart TVs, gaming devices, web pads, Internet appliances, media appliances, digital cameras, printers, scanners, retail point of sale devices, Windows based thin-client terminals, set-top boxes, residential gateways, automobile computing systems, home servers, industrial control devices and smart cards. In short, the proposed settlement's definition ignores both past and future operating system products. A proper definition of "Windows Operating System Product" would both recognize Microsoft's past product releases and include all Microsoft operating systems for any hardware device, including PCs, servers and handheld computing devices.[10]

b. The Settlement Fails To Prohibit Tactics Used By Microsoft To Foreclose OEM Distribution Of Competing Products And Allows That Unlawful Behavior To Continue

The proposed settlement effectively endorses, through its silence, tactics previously employed by Microsoft to prevent OEMs from becoming an effective distribution channel for competing middleware products. Among the deficiencies in section III.C of the settlement are: (i) its failure to prevent Microsoft from binding middleware to its operating system; (ii) its failure to require Microsoft to set meaningful price differentials between "fully loaded" and "stripped down" (without Microsoft Middleware) versions of the Windows operating system that could "pry open the market" for competing bundles of software and middleware offered by OEMs and third-party customizers; and (iii) the inclusion of limitations and loopholes that undermine the purpose of the decree provisions.

i. A Prohibition Against Commingling Of Code Is Necessary To Prevent Microsoft From Continuing To Exclude Competition That Threatens The Windows Monopoly

The Court of Appeals affirmed the District Court's findings that Microsoft's commingling of the code for IE with the code for Windows and its refusal to allow end-users to remove the IE browser from the Windows desktop constituted exclusionary acts in violation of Section 2. See CA at 66–67. Binding the IE middleware product to the Windows operating system injured both Netscape and consumers by degrading the ability of Netscape to effectively interoperate with Windows, thus reducing consumer options in browser choice, and by ensuring that deletion of files containing browser-specific functions would also delete vital operating system routines, thus crippling Windows. CA at 65–66 (citing D.Ct. at ¶164). Microsoft's anticompetitive purpose so dominated its business decisions that it degraded its own products by binding, since commingling of code decreased the security and reliability of Windows. CA at 62, 65; D.Ct. ¶174.[11]

In response to these acts, the government initially advocated a prohibition against the binding of software to the operating system, in order to prevent Microsoft from repeating the illegal conduct that the Court found it undertook with respect to the browser. See, e.g., Findings ¶¶164, 166–74, 176; see also Zenith, 395 U.S. at 132 (a remedy should prevent defendant from repeating the "same type or class" of unlawful conduct). Forced bundling injures consumers directly and injures competition by increasing the costs rival software vendors must incur to get their products distributed effectively. It is an especially potent competitive weapon for Microsoft because Microsoft is able to target competing middleware threats—like the browser—by bundling its own version with its operating system monopoly, thereby protecting that monopoly.

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[10] The definitions of "Windows Operating System Product" and "Personal Computer," read together, also create an ambiguity that places in doubt whether future versions of Microsoft's operating system will even qualify as a "Windows Operating System Product" under the proposed settlement. Windows XP is Microsoft's first PC operating system designed for shared or multiple person use. Microsoft has promoted XP's ability to facilitate home networks where many people can share devices and Internet connections.

See Experience the Connected Home: Share One or Many Computers (May 9, 2001), at http://www.microsoft.com/windowsxp/home/evaluation/experiences/connectedhome.asp. Because Windows Operating System Product is defined as software "distributed commercially by Microsoft for use with Personal Computers," RPFJ § VI.U, and the definition of "Personal Computer" means "any computer configured so that its primary purpose is for use by one person at a time," RPFJ § VI.Q, if XP or its successors are distributed primarily for multiple users or employed for construction of mini-networks or servers, successor products could fail to meet the definitional requirements to be covered under the decree. See RPFJ § VI.Q (expressly excluding servers and other computing devices from the definition of Personal Computer).

[11] "Binding harmed consumers who did not want Internet Explorer, by causing 'performance degradation, increased risks of incompatibilities, and the introduction of bugs.'" Felton Decl. ¶84 (citing D.Ct. at 173).

Gov't D.Ct. Reply Memo at 60–61 (emphasis added). Indeed, the government's chosen remedy on this issue in the Final Judgment not only required abolition of commingling, but required the price of Windows to be reduced in proportion to the amount of unbundled programming that was removed by an OEM:

g. Restriction on Binding Middleware Products to Operating System Products. Microsoft shall not, in any Operating System Product distributed six or more months after the effective date of this Final Judgment, Bind any Middleware Product to a Windows Operating System unless:

Microsoft also offers an otherwise identical version of that Operating System Product in which all means of End-User Access to that Middleware Product can readily be removed (a) by OEMs as part of standard OEM preinstallation kits and (b) by end-users using add-remove utilities readily accessible in the initial boot process and from the Windows desktop; and ii. when an OEM removes End-User Access to a Middleware Product from any Personal Computer on which Windows is preinstalled, the royalty paid by that OEM for that copy of Windows is reduced in an amount not less than the product of the otherwise applicable royalty and the ratio of the number of amount in bytes of binary code of (a) the Middleware Product as distributed separately from a Windows Operating System Product to (b) the applicable version of Windows. See Final Judgment § 3(g). In the CIS, the government acknowledges that the Court of Appeals found that Microsoft unlawfully "integrated its web browser into Windows in a non-removable way while excluding rivals," CIS at 3, but then makes no further mention of the commingling issue.

Notwithstanding the government's stated conviction (backed by the Court of Appeals" holding) that binding violates Section 2, the proposed settlement gives a green light to Microsoft's continuing to bind middleware products to its operating system. This gap in the settlement's coverage, coupled with the definitions of Microsoft Middleware and Microsoft Middleware Product, not only allows Microsoft to continue its past anticompetitive conduct, but also provides Microsoft with an incentive to use the same techniques to extend its monopoly into other areas.[12]

The settlement's failure in this respect is underscored by Microsoft's recent introduction of Windows XP, which plainly demonstrates its intent to continue defending the Windows monopoly by binding even more applications and services to its new operating systems, notwithstanding the determination that doing so is illegal. Windows XP has more Microsoft middleware products and services bound to or included with the operating system than any previous version of Windows. One of the services integrated into XP is Passport, a web authentication, security and credit card verification service that allows consumers, using a single log-in, to shop on thousands (and ultimately, Microsoft hopes, millions) of websites that accept Passport. Because Microsoft's past unlawful conduct allowed it to maintain a PC operating system monopoly and acquire a de facto monopoly in the browser market (IE is used to access the Internet by approximately 91% of consumers),[13] Microsoft is in a uniquely advantaged position to encourage subscription to Passport whenever a user connects to the Internet from her XP desktop. This is so because XP comes fully loaded with prominently displayed prompts for Passport throughout the program, starting with the initial boot sequence and continuing each time the user logs on to her computer.

As Microsoft succeeds in generating Passport subscriptions through its monopoly distribution of Windows XP, retailers with web portals selling products and services on the Internet will be forced to accept Passport as their authentication system. In this way, Microsoft will be able to nullify threats to the Windows monopoly by precluding other web-based alternatives to Passport. Furthermore, by defending its PC monopoly with Passport, Microsoft will also insert itself on both sides of a web transaction. Because of the "network effect," the final outcome—absent strong and effective injunctive relief—is likely to be that most e-commerce will be conducted with either the consumer or vendor, or both, paying a fee to Microsoft for the use of Passport.

To the extent Passport gains a foothold as an authentication gateway to Internet commerce, this will erect a new barrier to entry for competing operating systems. Consumers will be reluctant to switch to a non-Windows PC operating system, because the personal information stored on Passport is readable only by Microsoft web servers, which in turn can be designed to interact most effectively with the Windows operating system and its embedded middleware, such as IE. At the same time, by erecting a fence (Passport) between PC users and the Internet generally, Microsoft will make it far less likely that a competing middleware platform, such as Netscape's Navigator, will displace user dependence on Windows, because without Passport, Navigator may end up being of little utility for e-commerce.

Nothing in the proposed settlement would prevent this chilling repetition of Microsoft's monopolizing conduct. By failing to adequately address the old tactics used (binding middleware to the operating system) and limiting the scope of the remedy in a manner which excludes new products and services, the proposed settlement fails in a critical way to end Microsoft's monopolizing conduct, let alone to deny Microsoft the fruits of its PC monopoly.[14]

ii. The Proposed Settlement Omits Any Requirement That Microsoft Offer A Stripped-Down Version Of Windows At A Price That Reflects The Value Of The Removed Middleware Products

As the Court of Appeals held, there is an economic disincentive for OEMs to offer, install and service a second middleware product such as a browser. CA at 66. However, nothing in the proposed settlement provides OEMs with an economic incentive to become a viable and effective means of distribution for alternative middleware products. Only by requiring Microsoft to provide OEMs with an economically-viable "stripped-down" version of Windows—including the ability to completely remove Microsoft middleware from the operating system, see Final Judgment § 3(g)(i)—will OEMs ever have an incentive to offer users products containing Non-Microsoft middleware alternatives.

Even if Microsoft were required to provide OEMs with an unbundled operating system, it would only be possible for OEMs to offer consumers a choice of an alternative middleware/software package for the PC if Microsoft's price to the OEM were reduced to reflect the lower value of a software package that does not include Microsoft middleware that the OEM wishes to replace with competing products. Put another way, a market for alternative middleware configurations will only arise if such alternatives can be priced competitively with the "fully loaded" version of Windows. If the cost of alternative middleware bundles is always higher than that of the Microsoft Windows bundle, the market for non-Microsoft middleware will be limited or nonexistent.

OEMs must have more than the Hobson's choice of either buying Windows XP fully bundled at $200, for example, or paying $199 for a stripped down version of Windows and then incurring the additional capital and labor costs of replacing a Microsoft middleware product with a competing product bought at an additional, separate cost.

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[12] In addition to the settlement's failure to prohibit commingling of code, the settlement also condones Microsoft's bundling of products with its operating system. Section III.C presents OEMs with a laundry list of options they may adopt in installing, displaying, and distributing Non-Microsoft Middleware, but nothing in the proposed settlement prevents Microsoft from forcing OEMs to accept additional products as part of the Windows Operating System Product that are included with the operating system. As a result, under the proposed settlement, OEMs can be forced to accept a complete package of Microsoft products with each license of the Windows operating system.

[13] Don Clark, AOL Sues Microsoft Over Netscape in Case That Could Seek Billions, Wall Street Journal, Jan. 23, 2002, at B4 (citing Browser Market Shares StatMarket (2002), at www.websidestory.com).

[14] It is noteworthy that the binding of applications is not limited to browsers and internet-related services, but also includes common applications such as word processing. For example, Microsoft has used its operating system monopoly to motivate consumers to use Microsoft Word instead of Corel's Word Perfect. Regardless of the quality or perceived attributes of Word Perfect versus Word, many businesses and individual consumers use Word simply to avoid incurring the additional trouble and expense of licensing a second word processing application when the PC operating system already comes equipped with such a function.

Consequently, any remedial proposal that seeks to open the OEM distribution channel to competing middleware must address the pricing of the Windows operating system. The Final Judgment recognized the need for such a pricing mechanism. It required that the price of versions of Windows from which Microsoft middleware functions had been disabled or removed be reduced in proportion to the relative amounts of computer code bytes found in the operating system and middleware products in question. See Final Judgment § 3(g)(ii). Alternative formulations based on the relative product development costs are also available. See Litigating States' § 1.

Connected to the pricing issue is the failure of the proposed settlement to allow any party that is not an OEM (§ III.C) or end-user (§ III.H) to alter the configuration of the Windows platform. This omission has the effect of preventing third parties, who might fill a niche as customizers, to directly offer OEMs or end-users specific software/middleware packages that could be added to a stripped-down Windows operating system. For example, it is likely that absent Microsoft's illegal binding of its middleware to the Windows operating system, an industry of independent bundlers specializing in the sale of customized software packages would have developed. Using the operating system as a platform, these vendors could create customized software/middleware packages based on the need of particular consumer market segments, such as stock market buffs, antiques dealers or mathematicians.[15]

As it stands now, the proposed settlement creates no incentive for OEMs to pursue any of the objectives of section III.C. Yet, if the OEM distribution channel is not reopened, the decree will have no chance to succeed in its most important goal—to restore competition in the monopolized market—as no ISV will have equal access to consumers.

iii. The Provisions In The Proposed Settlement That Purport To Foster OEM Flexibility In Product Configuration And Middleware Choices Contain Fatal Ambiguities And Loopholes

Although the government originally supported straightforward remedy provisions governing OEM flexibility as to what products could be offered with a PC operating system, it now retreats to complicated provisions whose limiting language undercuts the purported relief. Compare Final Judgment § 3(a)(iii) with RPFJ § III.C. When the government initially proposed provisions that would allow OEMs to reconfigure the products they offered to meet consumer demand free from Microsoft's restrictions, it stated:

> Microsoft ... refused to permit OEMs to remove the Internet Explorer icon, even when their customers wanted them to do so. This provision of the Final Judgment thus prohibits Microsoft from preventing OEMs from undertaking competitively valuable alterations to the first screen, bootup sequence, and icon display and will help the OEM channel for distribution of non-Microsoft software, thereby giving consumers greater choices not only in how their computers look, but in what innovative software OEMs can offer them (Shapiro pp. 17–20, 24).

Gov't D.Ct. Memo at 39. In response to Microsoft's objections, the government reiterated that the purpose of the provisions was to prevent Microsoft from restricting OEMs'

> ability to customize their PCs in certain ways to promote non-Microsoft software. [It] will simply enable them to configure their systems so that non- Microsoft software can launch automatically, OEMs can offer their own internet access provider or other start-up sequence, and non- Microsoft Middleware can be made the default.

Gov't D.Ct. Reply Memo at 45–46.

Notwithstanding the logic of the government's past proposals, the proposed settlement replaces clarity with ambiguity and loopholes. Section III.C.1 states that "Microsoft may restrict an OEM from displaying icons, shortcuts and menu entries for any product ... to products that provide particular types of functionality," but nowhere defines "functionality." Without such definitions, Microsoft is free to decide what categories of middleware "functionality" qualify for display. Thus, nothing prevents Microsoft from excluding non-Microsoft middleware products for which no Microsoft counterpart exists—an obvious deterrent to competing middleware products that are more innovative than Microsoft's own products.

Section III.C.2 ostensibly allows OEMs to distribute and promote non-Microsoft middleware through the display of shortcuts on the Windows desktop, but provides that the provision will apply only "so long as such shortcuts do not impair the functionality of the user interface." However, by never stating who determines when the "functionality" of Microsoft's operating system is impaired, the provision gives Microsoft free reign to decide which non-Microsoft products may be promoted by an OEM.

Section III.C.3 permits OEMs to configure competing middleware products to launch automatically at the conclusion of the initial boot sequence or upon connection or disconnection from the Internet. CIS at 31. It also appears to prohibit ISVs and OEMs from palming-off competing products by imitating Microsoft's trade dress. Nonetheless, the ambiguous wording of the provision would let Microsoft decide, in the first instance, which competing products may be displayed and what form the user interfaces (e.g., icons) may take. Moreover, as in § III.C.1, the provision's benefits are tied to a "functionality" determination made by Microsoft. The automatic launch of competing Middleware is only assured "if a Microsoft Middleware Product that provides similar functionality would otherwise be launched automatically at that time," which would again limit the settlement's reach to products with which Microsoft already competes.[16]

Subsection 5 allows OEMs to configure the Windows desktop to promote a non-Microsoft Internet access provider ("IAP") in the initial boot sequence. The provision is problematic for two reasons. First, it permits Microsoft to require that such offers meet "reasonable technical specifications established by Microsoft," which are never defined.

Second, because it refers only to IAP offers, the proposed settlement prevents OEMs from offering any other type of product or service in the initial boot sequence. In striking contrast, the initial boot sequence for Windows XP offers a wide range of Microsoft products and services, including Passport, Hotmail, Instant Messenger and Internet telephony. Competition cannot be restored unless all competing middleware products, not just IAPs, are put on equal footing with Microsoft products. Because the proposed settlement allows Microsoft to retain the advantages of its operating system monopoly in the boot sequence by having an exclusive chance to promote its products and services, it fails to serve the public interest.

Finally, nothing in the proposed settlement discusses OEMs' ability to offer an alternative desktop. Prior to Microsoft's prohibiting the practice, OEMs would change the appearance of the desktop in ways they found beneficial. D.Ct. at ¶214. Some OEMs replaced the Windows desktop with a user interface of their own design or one that conformed with that of the OEM's selected browser. CA at 62–64. The government previously advocated a provision in the Final Judgment that assured OEMs the ability to offer an alternative to the Windows desktop, subject to the proviso that an OEM may not completely block access to the Windows desktop. See Final Judgment § 3(a)(iii)(3) (OEMs may "display any user interfaces, provided that an icon is also displayed that allows the user to access the Windows user interface").[17] In the CIS, however, there is no explanation for the omission in the proposed settlement of this and other OEM configuration options that the government strongly advocated before the District Court and on appeal.

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[15] The proposed settlement contains one exception to its blanket prohibition on third party alterations: it would permit a Non-Microsoft Middleware producer to designate that its product be invoked automatically in place of a Microsoft Middleware Product. However, the mechanism by which the producer may accomplish this is at Microsoft's discretion, and Microsoft may require confirmation from the end-user that he or she would like to accept this option. See RPFJ § III.H.2.

[16] Section III.C.4 allows OEMs to offer alternative operating systems. While seemingly procompetitive, the government fails to acknowledge that there currently is no market for alternative operating systems. See CIS at 32. As the Court of Appeals explained, due in large part to network effects, there is no incentive for consumers to use or for ISVs to write programs for PC operating systems other than Windows. See CA at 49–50, 55. Moreover, it is unclear that it is technologically feasible to include multiple operating systems on the same PC without sacrificing significant amounts of storage capacity or speed. No similar provision appeared in the Final Judgment, a fact which suggests that it is mere window-dressing (no pun intended) and does nothing to eliminate the barriers to competition erected by Microsoft.

[17] The Court of Appeals found no justification for the restrictions on OEM configuration generally, but did hold that "a shell that automatically prevents the Windows desktop from ever being seen by the user is a drastic alteration of Microsoft's copyrighted work, and outweighs the marginal anticompetitive effect of prohibiting the OEMs from substituting a different interface automatically upon completion of the boot process." CA at 63.

c. Provisions That Purport To Allow End-Users And OEMS To Enable Or Remove Middleware Products Are Severely Flawed

Section III.H of the proposed settlement purports to allow end-users the freedom to add and remove middleware as they see fit. In actuality, the provision fails to do so because: (i) Microsoft is never required to permit an end-user or OEM to remove a Microsoft Middleware product from the PC's memory, only to "disable" the functionality and "remove" the icon or other visual means of access; (ii) Microsoft continues to have full control over whether and when its products may override or launch in place of competing products; and (iii) the timetable for implementation renders the provision almost useless as a means of restoring competition.

i. Inability To Actually Remove Microsoft Products From The Operating System Cripples The Effectiveness Of The Decree

The Court of emsp: Appeals held that Microsoft's removal of IE from the add/remove utility Windows had the effect of reducing usage of rival browser products and violated Section 2. CA at 65. Loading the operating system with Microsoft middleware that cannot be removed imposes greater burdens on OEMs that choose to install competing middleware products? It also prevents consumers from receiving full access to the products and services of their choice. CA at 62, 65; D.Ct. at ¶¶174. Binding middleware products to the operating system also has a significant effect on the ability to remove Microsoft middleware, as it is difficult or impossible to remove the products without degrading Windows. CA at 66–67; D.Ct. at ¶159.

The government recognized that not being able to remove Microsoft middleware had the effect of "foreclosing customer choice and excluding competition," Gov't D.Ct. Memo at 6, and that Microsoft used this as a means of increasing the barriers to entry for middleware. Id. at 42; Shapiro Decl. at 25–26. Consequently, the relief initially requested by the government required that any Microsoft middleware product that was technologically bound to the operating system must be removable to create a "stripped down" version of Windows via the add/remove utility. See Final Judgment ¶3(g)(i). No such requirement exists in the current settlement, however. Although the CIS states that section III.H "ensures that OEMs will be able to choose to offer and promote, and consumers will be able to choose to use, Non-Microsoft Middleware Products," CIS at 45, the government now discusses the provision in terms of "removing access" to the middleware product without explaining that "removing access" does not mean removing the product itself. Id.

Because section III.H of the proposed settlement fails to require Microsoft to enable OEMs and end-users to remove unwanted Microsoft middleware from Windows, it facilitates commingling of code, raises rivals' costs, and renders product substitution illusory.

ii. The Exceptions And Limitations Contained In The End User/OEM Control Provisions Swallow The Relief Provided And Permit Microsoft To Override OEM Or End-User Selections Of Preferred Middleware Products

On the subject of OEM/end-user control, the proposed settlement replaces a provision of less than fifty words in the Final Judgment with a series of interlocking provisions that run over six hundred words. Compare Final Judgment § 3(g)(i) with RPFJ ¶III.H(1–3). None of these limitations and exceptions were present in the interim relief the government advocated before the District Court previously, and the CIS is silent regarding the rationale for the avalanche of restrictions that it now proposes. Nor does the government suggest that the changes are needed in response to any holdings by the Court of Appeals.

What the proposed provisions do is create so many exceptions, limitations, and loopholes as to vitiate the broad pronouncements in the CIS. Two aspects of section III.H exemplify the manner in which the proposed settlement undermines its own efficacy: (a) permitting Windows to automatically ask an end-user if he or she wants to alter the computer's desktop configuration to restore Microsoft middleware that was previously removed by an OEM; and (b) permitting Microsoft virtually unbridled discretion as to when to override an end-user's selection of a default web browser or other middleware.

(a) Microsoft Can Alter End-User/OEM Choices

As discussed above, the proposed settlement does not allow OEMs or end-users to actually remove Microsoft middleware from their computers, instead limiting them to merely deleting icons and menu entries; the middleware itself remains physically in the computer, or in many cases, technologically bound to the Windows operating system. Even a conscious decision by an OEM or end-user to remove Microsoft icons and menu items is subject to interference by Microsoft under the proposed settlement. Section III.H.3(a) allows Microsoft to include in the Windows operating system a prompt that would ask the end-user, fourteen days after the initial boot up of the computer, for permission to automatically erase the OEM's or end-user's configuration of the system and reinstate the Microsoft middleware that was previously deleted. RPFJ ¶III.H.3(b).

This provision is troublesome for a variety of reasons, not least its Orwellian reminder of Microsoft's omnipresence. Most importantly, it allows Microsoft to undermine the configuration choices made by OEMs that may include significant promotion of competing middleware. It allows Microsoft to do this fourteen days after an end-user first boots up the computer, at a time when the end-user may not yet have gained a great deal of familiarity with the computer. Depending on how the question is asked and the user's level of sophistication, the user may not understand that he or she is removing the programs installed by the computer's manufacturer and replacing them with Microsoft products that may not work as well. Furthermore, the prompt is unnecessary, because if a user wanted a different configuration, she would be free to buy the computer from another OEM or purchase additional software on her own.

Nor is any limitation placed on the number of times Microsoft may "suggest" that the user alter the configuration. But regardless of how often Microsoft asks—every day, every fourteen days, once a year, or only once—the fact that it can raise the question at all not only undermines the OEM configuration, but also the goal of providing end-users with "a separate and unbiased choice with regard to each Microsoft Middleware Product or Non-Microsoft Middleware Product." RPFJ ¶III.H.1(b) (emphasis added); see also CIS at 48 (purpose of section III.H.3 is to prevent automatic alteration of OEM configuration, such as "sweeping the unused icons that the OEM has chosen to place on the Windows desktop"). There is no justification for permitting Microsoft to undercut this aspect of relief. Microsoft should be prohibited from ever prompting users to scuttle their OEM selections or desktop choices.

(b) Microsoft Can Override End-User/OEM Middleware Default Choices

Although section III.H.2 of the proposed settlement ostensibly enables end-users and OEMs (and middleware producers themselves) to designate non-Microsoft middleware products (including web browsers) to be invoked automatically in lieu of a Microsoft product, loopholes and conditions destroy this provision's utility as a remedial device.

As an initial matter, the default election procedure is made reciprocal—requiring that identical removal options be afforded Microsoft with respect to non-Microsoft middleware that would otherwise be the default. The government does not explain why such parity is being offered to an antitrust violator at the expense of those who have not violated the law.[19]

More troubling are the "Notwithstanding" clauses that follow subsection 3, which directly limit the benefits extended by section III.H.2. Part 1 of the first clause allows Microsoft to invoke a Microsoft Middleware Product if it is necessary for the computer to interoperate with a server maintained by Microsoft. RPFJ § III.H. Because so much middleware—be it a web browser or a Java formulation—now interacts with commercial web servers, which are to a large extent Microsoft web servers, the loophole created by this provision is

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[18] OEMs incur increased costs as a result of customer "hotline" calls to the OEM. CA at 61. The additional program code also reduces the storage capacity of the computer and the speed of the processor. This is yet another way that Microsoft is able to erode OEM and consumer incentives to use competing middleware products.

[19] Although the Court of Appeals did not affirm the District Court's blanket conclusion that IE's override of competing default browsers was illegal in all circumstances (for example, when accessing Windows "Help" resources and updates on the Internet), CA at 65–67, the proposed settlement swings much further in the other direction in permitting Microsoft to write the rules of when such an override of a user's designated default middleware product will be permitted.

enormous. As computing moves off the desktop onto Internet servers, communication with servers is becoming the norm. Moreover, because IE has captured over 90% of the market as a result of Microsoft's illegal conduct, Microsoft is now positioned to dominate the server operating system market by changing the protocols its browser uses to communicate with servers, from the current industry standard to its own proprietary protocols. This will leave those who host web servers with little choice but to use a Windows server operating system. See pp. 70–76 infra. Should this occur, the first "notwithstanding" clause of the proposed settlement's section III.H will allow Microsoft to override users' default browser selections in the vast majority of situations. The ultimate outcome will be that the illegal Windows monopoly will again be protected from the threat to its dominance posed by non-Microsoft web-based computing.

The second "Notwithstanding" clause in § III.H allows a Microsoft Middleware Product to launch if the designated Non-Microsoft Middleware Product fails to implement a "reasonable technical requirement (e.g., a requirement to be able to host a particular ActiveX control)." RPFJ § III.H. Because the proposed settlement leaves it to Microsoft to determine what a "reasonable technical requirement" would be, the loophole created by this provision is also enormous. To the extent the clause provides an example of such a failure to meet a technical requirement, the exception is overly broad. ActiveX is a programming environment that allows programs provided by servers to run locally on a PC inside the web browser. Its use replaces in part the cross-platform capabilities of Java and the open standard communication protocols used by most servers. Thus, by determining that the hosting of ActiveX is a "reasonable technical requirement," the proposed settlement ensures that anytime a Microsoft web product or service is launched or any product or service that relies on a Microsoft server is downloaded, Microsoft will be able to override a user's choice of browser. This provision grants Microsoft license to automatically override an end-user's browser choice when that user accesses a program or service that requires interaction with a Microsoft server. Far from restoring competition, this pernicious provision protects Microsoft's ill-gotten operating system monopoly from web-based competition.[20]

iii. The Timing Of Implementation Of Section III.H Allows Microsoft To Reap The Fruits Of Its Past Illegal Conduct Without Adequately Limiting Its Conduct Today Or In The Future

In addition to the foregoing serious deficiencies, the timetable in section III.H for implementation of the substantive provisions by itself renders the provision meaningless as a vehicle for restoring competition. Under the terms of the proposed settlement, section III.H will not be implemented until twelve months after submission of the settlement to the Court or at the release of the first service pack for Windows XP, whichever comes earlier. Because Microsoft is not bound by any of the provisions until that time, it has no incentive to release the first service pack prior to December 2002. The provision is thus rendered meaningless for a fifth of the lifespan of the decree.

Microsoft has no grounds to complain about burdens caused by making section III.H immediately effective. To the contrary, the year delay in implementation would reward Microsoft for its bad faith release of Windows XP, before a settlement was in place, with full knowledge that (notwithstanding the monopoly maintenance holding by the Court of Appeals) XP contains more bundled middleware, more commingled code, and more prompts for Microsoft-related products and services than any prior version of Windows. At the very least, the release of XP violates the spirit of the settlement by which Microsoft claims it is already abiding. No minimally adequate settlement would fail to provide relief to the marketplace as soon as practicable.

The proposed settlement also contains another glaring temporal loophole. The last paragraph of section III.H states that only the Microsoft Middleware Products that existed seven months prior to the last beta test on a new version of Windows will be subject to the requirements of the provision. This means that any new Microsoft product or service, developed six months or less prior to the date of the last beta test[21] of a new Windows operating system release or major upgrade, would not be subject to the requirements that its icon or menu entry be removable from the operating system desktop or the requirement that the automatic launching of the product be disabled in favor of a competing middleware product.

The government offers no justification for a proposed settlement that guts the section III.H "removal" provision with myriad and, in some cases themselves anticompetitive, limitations and loopholes, and then delays their implementation for significant portions of settlement's proposed five-year duration.

In contrast to the current settlement's abundant accommodations to Microsoft, two years ago, the government categorically rejected Microsoft's complaints that it would be enable to comply with the "unbinding" provisions the government then advocated (i.e., requiring that OEMs and end-users have the ability to engage the Add/Remove utility to delete IE):

> Microsoft's assertion that offering an "unbinding" option for OEMs and end-users for the few covered middleware products in existing operating systems would take "far longer than six months, would cost hundreds of millions of dollars," and would result in a "far inferior" OS cannot be reconciled with the record in this case and the district court's findings.

Gov't CA Brief at 132; Gov't D.Ct. Reply Memo at 63–64 (referring to its expert witness's ability to create a removal program that did not damage or degrade the operating system in a relatively short amount of time and the fact that Microsoft already provided a ready means of removing at least 80 components, many of which it considered "integrated" features of Windows). There is no reason, technical or otherwise, why the government should not insist upon timely and effective measures to prevent Microsoft from continuing to commingle its middleware with its operating system in blatant disregard of the Court of Appeals ruling.

2. Provisions Designed To Protect Interoperability Between Microsoft Products And Non-Microsoft Products Are Seriously Flawed

In the earlier remedy proceedings, the government explained the indispensable competitive importance of "interoperability":[22]

> Microsoft's Operating System monopoly gives it the ability to favor Microsoft products in other markets, by refusing to disclose some of the Interfaces supported by Windows. Such a refusal would allow Microsoft to prevent some products from interoperating fully with Windows. Permitting all products to interoperate fully with Windows is necessary to ensure that that those products realize their full potential in terms of performance and functionality.

Felton Decl. ¶¶51–52 (emphasis added). Indeed, full interoperability has long been recognized by Microsoft, quite correctly, to be a primary threat to its monopoly position in the PC operating system market because it would allow multiple, competing operating system platforms to perform essentially all the functions of a Windows PC. CA at 52–54; D.Ct. ¶¶68–93; Henderson Decl. ¶¶12–18, 29–40; Shapiro Deck at 20–21. Middleware, such as Netscape and Java, posed the initial competitive threat in using interoperability to shift computing away from the Windows PC (the "middleware threat").

But, as recognized in District Court findings cited with approval or undisturbed by the Court of Appeals, server-based computing, which would shift many computing tasks from the Windows PC to a server on the Internet, also poses a significant threat to the Microsoft operating system monopoly. D.Ct. at ¶¶24–27 (see CA at 52). By preventing full interoperability, however, Microsoft can neutralize the server threat.

Despite the government's claim that the proposed settlement achieved "seamless interoperability between Windows Operating System Products and non-Microsoft servers on a network" (CIS at 38), the proposed settlement would, in reality, enable Microsoft to withhold the disclosures necessary to achieve interoperability and thus defeat this goal. The proposed settlement would do nothing to achieve interoperability between a non-Microsoft server operating system and Windows or IE. Instead, the only disclosure requirements are both ineffectual and too narrow: They apply only to PC middleware and certain client protocols, disclosures which are insufficient, on their own, to create interoperability between a PC and a server or among servers. Thus, instead of preserving threats to the Microsoft monopoly from all sources, the settlement gives Microsoft a free shot at disabling server competition.

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[20] The last part of the "technical requirements" clause, moreover, puts the onus on ISVs to request the reason for the technical failure. Because ISVs are unlikely to be immediately aware that there is a technical failure on the part of their middleware, the burden must be placed on Microsoft to explain such overrides.

[21] "Beta test" refers to the last round of testing for a new software product that is typically performed by sending the software product out to consumers and industry insiders both as a means of ironing out the kinks in the product and obtaining publicity for the impending release. There is no set date within the industry of when these "tests" are performed. They can occur months before or immediately proceeding a pending product release date.

[22] As a general matter, interoperability is the ability of different computers, servers or other devices, regardless of whether they use the same software and hardware, to freely transmit and receive information to and from each other.

a. The Government's Original Remedy Required Broad And Meaningful Interoperability Disclosure By Microsoft

During the initial remedy proceedings before the District Court, the government recognized that new threats were emerging to Microsoft's monopoly in the PC operating system market. Gov't D.Ct. Memo at 29. The government recognized the likelihood that, in the future, most computing will be done through networks and on servers housed at remote locations, with personal computer use diminishing. The government acknowledged that, as a result, software for communicating with servers, operating systems for servers, and middleware designed to function on servers, had become a principal competitive threat to the Microsoft PC operating system monopoly. Id.; see also Henderson Decl. ¶¶13–16; Shapiro Decl. at 20–21.

The "server threat" arises from the following circumstances, as the government recognizes. Instead of using an expensive, "intelligent PC", which contains a Windows operating system, a substantial hard drive and a powerful microprocessor, consumers increasingly use simpler or smaller, more convenient devices, such as cell phones, PDAs (such as "Palm" or "Blackberry" devices), TV-set-top boxes, or "dumb PCs," all of which are typically equipped only with more basic (and often non-Microsoft) operating systems, a browser, smaller (if any) hard drives, and a microprocessor. D.Ct. at ¶¶22–27; Henderson Decl. ¶¶13–16, 91–92; Shapiro Decl. at 3–4. The consumer will then use this device's browser to connect to the network of servers on the Internet.

By accessing servers on the Internet, the consumer can perform most of the same computing functions (access/browse the Internet; word processing; e-mail; instant messaging, etc.) that are provided by a Windows PC, but at lower cost and much greater convenience. For example, under the PC computing model, to compose and spell-check a document, the PC's processor is used to process the relevant software program to perform the functions. Under the server-network computing model, however, the same function (compose and spell-check a document) is accomplished through the server, which processes the relevant software program and then transmits the document back to the PC. The PC operating system under this scenario does little more than transmit and receive the data. The actual computing functions are largely performed by the server's operating system and hardware. Similarly, far more complex applications can be offered on the Internet through high-powered servers effectively shared by thousands or millions of consumers.

The government recognized the overriding importance of server software and communications protocols in supporting the original Final Judgment:

> As computing continues to move off the desktop and into the internet, middleware threats could develop on servers, in either server operating systems or server applications. Microsoft cannot defeat these threats by bundling its own version of such software into its PC operating systems, but it could use its operating system monopoly in other ways to crush any such middleware threats. For example, Microsoft's new Windows 2000 operating system, to which Microsoft intends to migrate its existing Windows users, is designed with proprietary features and interfaces that enable Microsoft's server operating systems to interoperate with PCs more effectively than other server operating systems. If Microsoft were in a competitive market, it would disclose its confidential interface information to other server software developers so that their complementary software would work optimally with, and thereby enhance the value of, Microsoft's PC operating systems. But, if faced with a middleware threat on the servers, Microsoft is likely to continue to withhold that information from competitors in order to protect its operating system monopoly. Gov't D.Ct. Memo at 29 (emphasis added).

The government's expert in the remedy proceedings underlined the importance of the server-based computing model as a critical emerging threat to Microsoft's PC operating system monopoly. Rebecca Henderson, a professor from MIT with a doctorate in Business Economics from Harvard University, testified:

> Server-based computing could reduce the applications barrier to entry in the PC operating system market. If server-based applications are supported in a way that permits end-user access to full-featured application functionality on a truly cross-platform basis, users will be able to access them through any PC operating system they choose. Indeed, server software already acts as cross-platform middleware for a few network-centric applications. Web-based e-mail programs, for example, can be hosted on almost any server operating system and used to send e-mail to and from a wide range of clients, including Windows PCs, handheld computers and wireless phones. As the bandwidth available to PC consumers expands, server software could become an increasingly attractive platform for developers interested in writing full-featured applications for PC owners. For example, an accounting package could be "hosted" on a web server. If it were designed to be sufficiently cross-platform, and if technology permits, consumers could access its functionality using either a Windows PC or an alternative device.

Henderson Decl. ¶¶14–15.

Microsoft recognizes the server threat to its PC operating system monopoly. D.Ct. at 60. Its strategy has been to use its monopoly control over the PC's operating system and IE to force websites on the Internet to use Microsoft server operating systems, even if they are otherwise not the most desirable choices. To do this, Microsoft can withhold disclosure of communications interfaces and protocols for IE, at the same time as it changes them from previously disclosed interoperable formulations. The objective is to make IE fully interoperable only with a Microsoft server operating system, and to restrict server-to-server communication only to Microsoft server operating systems. In addition, Microsoft can fail to disclose to competitors the server protocols that facilitate full interoperability between a Windows PC and a Microsoft server operating system, or between servers. As a result, Microsoft's server operating system will always interoperate better with a Windows PC operating system or Microsoft server operating system than any competitors' operating systems. These two actions, taken together, will enable Microsoft server operating systems to dominate the Internet, because website owners will need a server that interoperates with the more than 90% of all Internet users that use IE, while consumers will continue to buy the Windows PC operating system because of the applications barrier to entry. In this manner, Microsoft will easily defeat the threat that web-based computing poses to the PC operating systems monopoly by dominating server operating systems and server applications software. Any "dumb PC," cell phone or handheld device, which relies on a server on the Internet to perform the actual computing functions, will either have to use Microsoft operating system software or face elimination from the marketplace.

During the original remedy proceedings, the government's expert economist, Carl Shapiro, explained the importance of a powerful conduct remedy that would require Microsoft to provide timely disclosure of all APIs, protocols and other technical information necessary to allow all server operating systems to fully interoperate with a Windows PC operating system and Microsoft middleware, particularly IE:

> Mandatory disclosure of interface information also will prevent Microsoft from using its Windows monopoly power to gain control of complementary applications and middleware... Two especially important software products today that are complementary to the Windows operating system on personal computers are operating systems on handheld devices and operating systems on servers... Indeed, a good case can be made that the most significant threat to Windows in the next several years will come from client/server architectures. Making sure that Microsoft cannot subvert this threat using undisclosed proprietary interfaces is thus central to an effective remedy in this case.

Shapiro Decl. at 20–21 (emphasis added).

For this reason, the government proposed, and the District Court granted a remedy, requiring disclosure of "all APIs, technical information and Communications Interfaces" that enabled:

> any Microsoft software installed on one computer (including but not limited to server operating systems and operating system for

> handheld devices) to interoperate with a Windows operating system (or middleware distributed with such operating system) installed on a Personal Computer.

Final Judgment § 3(b)(iii).

The effect of this provision was to promote competition in the PC operating system market by using interoperability disclosure to support the server and middleware threats to Microsoft's monopoly. These crucial interoperability disclosure provisions required full disclosure of:

(1) all technical information, including both client protocols and server protocols which allow a Windows PC and a Microsoft server operating system to fully interoperate with each other; and

(2) all technical information that enables Microsoft Middleware, such as IE, to fully interoperate with a Microsoft server operating system.

Microsoft's claim that remedies which affect the PC/server and server/server relationships are outside of the Sherman Act § 2 monopolization claims before the Court is insupportable. Defendant Microsoft Corporation's Remedial Proposal at 6–7 (Dec. 12, 2002) (brief filed in response to the Plaintiff Litigating States'' Remedial Proposals). To the contrary, both sides presented evidence on this issue in the prior proceedings, and both this Court and the Court of Appeals were particularly concerned to ensure that the nascent middleware threats to Microsoft's PC operating system monopoly be protected from further anticompetitive conduct. See, e.g., CA at 79 (''it would be inimical to the purpose of the Sherman Act to allow monopolists free reign to squash nascent, albeit unproven, competitors at will—particularly in industries marked by rapid technological advance and frequent paradigm shifts''); D.Ct. at ¶¶24–27, 56, 60.

Indeed, when Microsoft made the same argument during the original remedy proceedings, the government tersely exposed its fallacy:

> Microsoft can hardly argue that client/server interoperability issues are unrelated to the trial. In the first place, its own expert, Dean Schmalensee, testified that control over the browser could enable a firm to ''severely'' affect the functionality of server applications... Second, having argued during the trial that Microsoft lacked monopoly power in the operating-systems market because of the future potential of server-based applications, Microsoft can hardly contend now that it should be free to frustrate the threat to the Windows monopoly posed by such server-based applications by withholding critical information needed for those applications to interoperate with Windows.

Gov't D.Ct. Reply Memo at 49 (internal citations omitted).

b. The Proposed Settlement's Interoperability Disclosure Requirements Are Wholly Inadequate

The interoperability disclosure provision in the proposed settlement is seriously deficient in the following ways: (1) no interoperability disclosure protection is afforded to important competitive threats to Microsoft's PC operating system monopoly, including non-Microsoft operating systems for servers and embedded devices (i.e., cell phones, PDAs, set-top boxes)[23]23; (2) the technical information that is required to be disclosed is too limited to be effective; (3) the timing of required disclosures is either too late or too vague; and (4) the definitions of major terms (API, operating system, middleware) would enable Microsoft to avoid disclosure to competitors, by claiming certain middleware or application products are part of the operating system.

i. Important Areas Of Potential Competition In The Monopolized Market Are Not Included In The Interoperability Disclosure Provision

The proposed settlement fails to provide essential disclosure of technical information necessary to ensure interoperability in at least four critical areas: (a) between Windows PC operating systems and non-Microsoft server operating systems; (b) between Microsoft middleware, particularly IE, and non-Microsoft server operating systems; (c) between Microsoft and non-Microsoft server operating systems; and (d) between Microsoft PC or server operating systems and non-Microsoft embedded devices. The absence of such protection effectively encourages Microsoft to dominate server operating systems and software in order to protect its PC operating system monopoly.

(a) The Proposed Settlement Will Not Achieve Server Interoperability

Although the government continues to espouse the public interest goal of ''seamless interoperability'' for servers, CIS at 38, the proposed settlement does not if fact achieve that result. The failure to ensure this essential remedial goal contrasts sharply with the District Court's findings of fact and conclusion of law, which were entirely affirmed or undisturbed by the Court of Appeals, establishing that Microsoft's conduct, in selectively disclosing or entirely withholding such technical information, plainly violated Sherman Act § 2. CA at 71–73; D.Ct. at ¶¶90–92, 338–40.

As late as November 2, 2001—four days before it reached the present settlement agreement with Microsoft—the government still insisted that server interoperability was essential to any settlement. The government's settlement proposal on that date expressly required server interoperability disclosure:

> Microsoft shall make available for use by third parties, for the sole purpose of interoperating with a Windows operating system product ... any communications protocol that is... (i) implemented in the Windows operating system product installed on a client computer, and (ii) used to interoperate natively (i.e., without the addition of software code to the client or server operating system products) with Windows 2000 server products or products marketed as its successors installed on a server computer.

Department of Justice, Proposed Final Judgment, Draft of November 2, 2001 at § III.E. (emphasis supplied)' Pursuant to this provision, Microsoft would have been required to disclose both its client protocols and the server protocols which enable a PC and a server operating system to accept and transmit data to each other?[24]

The proposed settlement, however, deleted the requirement that server protocols be disclosed. This was accomplished by removing the words ''or server'' from the provision quoted above. RPFJ § III (E), November 6, 2001. This directly contradicts the view of the government's technical expert, who testified that if Microsoft were able to withhold from disclosure the server protocols:

> [it] would give Microsoft the power to choose which server operating system products could interoperate with Windows .... A customer who felt compelled to buy client Windows Operating System Products would therefore additionally be compelled, due to his desire for interoperability, to buy his server Operating System Products from Microsoft or another vendor to whom Microsoft chose to disclose the new protocol. Microsoft's refusal to disclose the [server protocol] would prevent some competing server Operating System Products from interoperating fully with Windows, and thus would put them at a significant disadvantage.

Felton Decl. 53–57.

By removing the server protocol disclosure requirement, the proposed settlement virtually ensures that non-Microsoft server operating systems will never be viable, competitive alternatives to the Windows PC operating system monopoly. The client protocols that Microsoft is required to disclose will only allow the server to receive data or services from the PC. The other half of the transaction, whereby the server responds and sends data to the PC, cannot be accomplished without the server protocols. As a result, ISVs will not be able, on their own, to develop server operating systems that can fully interoperate with Windows PC. The government's expert has admitted that this eliminates the possibility that non-Microsoft servers would ever become a competitive threat to Microsoft's PC operating system monopoly:

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[23] With regard to server interoperability, the proposed settlement only requires ''client protocols'' to be disclosed. As is fully explained below, to achieve full interoperability between a PC (''client'') and a server, there must be disclosure of both client and server protocols, so that the server can accept and transmit data and services to the PC. By disclosing only the client protocol, only one-half of the transaction (PC to server) is achieved, thus defeating the server's ability to fully interoperate with the PC. See pp. 70–72 infra.

[24] A protocol is a piece of an operating system's software code that allows the operating system to translate, and thus understand, the language of another computer or server that is attempting to transmit data. When a PC (''client'') and a server are transmitting and accepting information or services between each other over the internet, server protocols allow the server operating system to accept and understand the information or services being transmitted from the client. In other words, the server protocols allow the server to transmit information to the PC by converting the information from the server's computer language to the PC's computer language. The client protocols perform the opposite task, allowing the PC to fully interoperate with the server. In order to process information from PC to server, and from server to PC, it is essential that both server and client protocols be provided. Without knowledge of the appropriate server protocols necessary to interoperate with a Windows PC, an ISV cannot design an operating system for a server which will properly interoperate with the Windows PC operating system.

> [T]he two provisions relating to the disclosure of APIs, interfaces and technical information ... are exceptionally urgent ... [a]s long as Microsoft retains its monopoly power, the ability to withhold information and to deny interoperability in this way will be a fearsome threat. The development of server-based full-featured PC applications, for example, would be completely crippled if these applications could not be accessed from a Windows PC, or could only be accessed in a disadvantaged way, since no one would be willing to invest in building them. Requiring Microsoft to disclose its interface information... provides a necessary check on Microsoft's ability to exploit its illegally obtained position to exclude competitors.

Henderson Decl. ¶¶115–121 (emphasis added).

Quite simply, because Microsoft will not have to disclose any server protocols, this disclosure provision will not achieve "seamless interoperability" between a Windows PC and a non-Microsoft server operating system or aid in restoring even a vestige of competition to the PC operating system market.

(b) The Settlement Fails To Require Disclosure To Enable Interoperability Between Internet Explorer And Non-Microsoft Servers

During the original remedy proceedings the government acknowledged the crucial importance of requiring full disclosure of all technical information relevant to the interoperability between Microsoft's middleware products, particularly IE, and server operating systems.

As explained by a government expert, if Microsoft maintains control over the browser-server interaction (as it would under the proposed settlement), it can maintain its PC operating system monopoly by foreclosing the ability of a web server to interoperate with IE:

> Owning the dominant browser gives Microsoft great influence over the evolution of important Internet interfaces. As Paul Maritz recognized, "By controlling the client, you also control the servers." GX 498, at MS980168614. See also GX279 (discussing the role of standards in establishing Internet platform, Maritz explained, "The key is to win the client (patch up the server later)"). This set of interfaces goes beyond the browser APIs to which developers can directly write applications, to include the set of interfaces that constitute the communications protocols between the browser and the network. For information to be received and viewed in Internet Explorer, the developer has to follow these interfaces.
>
> The ability to influence development of web-based applications is a highly valuable tool for future anticompetitive campaigns should Microsoft choose to mount them. As web-based applications grow in importance, so does Microsoft's ability to steer them towards being IE-centric, and, given its control over the browser-to-operating system interface, Windows-centric as well.

Henderson Decl. 81–86 (internal citations to trial record). The proposed settlement, however, completely abandons the disclosure provision necessary to prevent Microsoft from using its control of IE to eliminate demand for non-Microsoft server operating systems as a competitive alternative to Microsoft's PC operating system monopoly.

Under the proposed settlement, Microsoft has no obligation whatever to disclose any technical information—APIs, communications interfaces or otherwise—that would permit a non-Microsoft server operating system to interoperate with Microsoft's Middleware, including IE. The only disclosure obligation under the proposed settlement involving Microsoft Middleware requires disclosure of APIs relevant to interoperability with a "Windows Operating System Product," a term which is defined to include only "the software code...distributed commercially by Microsoft for use with a personal computer." RPFJ §§ III.D, VI.U (emphasis added). For example, this provision would not require any disclosure for the purpose of allowing competing server operating systems to interoperate with IE, the very product that the Court of Appeals held was used by Microsoft to illegally maintain its monopoly power. CA at 64–68.

As a result, under the proposed settlement, only Microsoft server operating systems will be guaranteed access to the proprietary APIs and communications interfaces necessary for a server to interoperate with IE. If a website owner purchases a non-Microsoft server operating system, the more than 90% of consumers who use IE on their Windows PC would be unable to access that website unless Microsoft had agreed to separately license the technical information required for interoperability.

Of equal significance is Microsoft's recent decision not to distribute Java as part of Windows XP. Java had been included in prior versions of Windows. Java is a software program that is an open industry standard; it allows websites both to operate on numerous non-Microsoft operating systems and to display rich colors and graphics to enhance the website's appearance. CA at 74–75; D.Ct. at ¶¶386–405. Approximately 50% of all websites currently on the Internet, including SBC's website, are Java-compatible. Microsoft dropped distribution of Java in favor of promoting ActiveX, which is Microsoft's proprietary software that competes with Java by allowing a web server to process an Internet-based application in a fashion similar to Java. ActiveX is a proprietary browser interface that is installed as part of the software code for IE. As a result, the only way a non-Microsoft server operating system can obtain the proprietary interfaces for ActiveX (or for Internet Explorer generally) is through a license from Microsoft. If Microsoft chooses to make IE's protocols a completely undisclosed, proprietary standard, which it is free to do under the proposed settlement, Microsoft's PC operating system monopoly will be perpetuated, because the already formidable applications barrier to entry will be increased, and the server threat will be further diminished. This will occur as a result of two interrelated effects. First, website owners will be forced to purchase Microsoft server operating systems to ensure that their website remains fully accessible by the more than 90% of consumers who use IE. Second, for this reason among others, the vast majority of applications that are already written exclusively to interoperate with Windows will be increased, as ISVs' commercial need to write their Internet-based applications to be compatible with IE and ActiveX will increase. As time goes on, the number of servers which interoperate with Java and other browsers will continue to fall. Moreover, consumers who want to browse the Internet, that is, to access what will become the overwhelming majority of websites run on a Microsoft server operating system, will have to use IE and to get it, they will need a Windows PC operating system or another device that runs on Microsoft software. In the end, the prospect of "dumb PCs," cell phones and handheld devices equipped with non-Microsoft operating systems and browsers also will be eliminated.

SBC's own website provides an example of the exclusionary effect this lack of disclosure will have on non-Microsoft server operating system. SBC uses non-Microsoft operating systems on its website servers, and the website is designed to be compatible with Java. Because Windows XP (unlike earlier Windows versions) does not contain Java, when Windows XP users attempt to access SBC's website, they receive a message that "to display this page correctly, you need to download and install the following components: Java Virtual Machine." However, to make this (free) download on a normal dial-up connection will take the consumer over 30 minutes in normal conditions (i.e., low network congestion and latency), and an hour or more during times of peak usage. Thus, by dropping Java from Windows XP and failing to disclose its browser interfaces (which would enable SBC to obtain programs that could achieve "seamless interoperability" with Windows XP), Microsoft has compelled the consumer to undertake a confusing and lengthy download process. This creates an anticompetitive barrier to consumers' use of SBC's website and entrenches the Windows monopoly.[25]

(c) The Proposed Settlement Does Not Contain An Interoperability Disclosure Provision To Cover Server-To-Server Communications

Another corollary to the potential transition from the PC to a server-based computing environment is the need for a vastly increased volume of server-to-server communication transmissions. The proposed settlement contains no provision requiring disclosure of any technical information whatever to facilitate such communications—"interoperability"—between Microsoft and non-Microsoft server operating systems. The government offers no explanation for its absence, which will have the predictable effect of further diminishing the server threat to Microsoft's PC operating system monopoly, while also restraining competition in the server operating system market itself. All of the same deficiencies in interoperability discussed above with respect to PCs and servers also apply to server-to-server communications as well. For this reason, the same outcome is certain to occur: an overwhelming percentage of servers on the Internet will be forced to use a Microsoft operating system. If Microsoft is not required to disclose any of the technical information necessary interoperate with Microsoft's server operating system, the demand for non-Microsoft server operating systems will be significantly reduced. As a result, the Internet-based threat to Microsoft's PC operating system monopoly will be neutralized.[26]

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[25] In October 2001, Microsoft dispelled any doubt whatever that it would use its control of Internet Explorer and Microsoft server operating systems to exclude competing browsers, when it blocked access to its MSN.com server for Netscape's and Opera's competing browsers. See p. 80 infra.

(d) The Proposed Settlement Does Not Contain Interoperability Disclosure Provisions To Cover "Embedded Devices"

Like a "dumb PC," an "embedded device" (such as a cell phone, PDA or set-top box) also can provide a viable, competitive alternative to a Windows PC. The government once again admitted this in prior remedy proceedings when it included embedded devices in the interoperability disclosure provisions:

> It is also possible that some of the middleware now being developed for alternative client devices—such as the handheld computer, the Personal Digital Assistant (PDA), the so-called "Internet Appliance," or the wireless telephone—might one day attract developers in large numbers. If ported to the PC, this middleware could then begin to erode the applications barrier to entry to the PC operating system market.

Henderson Decl. 16. See Final Judgment § (3)(b)(iii) (requiting full disclosure of all technical information relevant to interoperability between operating systems of handheld devices and Windows PCs).

The government's position at the time rested squarely on District Court findings that such devices could present an alternative to a Windows PC in the future. D.Ct. ¶¶at 22–23. Those findings were not disturbed on appeal and remain binding today. CA at 52 (handheld devices could, but do not yet, perform enough functions to be an alternative to a Windows PC.)

In the proposed settlement, this essential salutary provision has been removed without explanation by the government. The result is to eliminate another potential threat to Microsoft's PC operating system monopoly, while also giving Microsoft a significant advantage in the closely connected market for operating systems for such embedded devices.[27]

(e) The Technical Information That Is Required To Be Disclosed Under The Proposed Settlement Is Insufficient To Achieve Interoperability

Even in those situations where the proposed settlement does require Microsoft to disclose certain technical information (interoperability between Microsoft middleware and Windows PC operating system; client protocols), the type and extent of the disclosure is inadequate to promote competition, because it fails to achieve the "seamless interoperability" that the government admits is essential to provide an effective remedy for Microsoft's antitrust violations.

While the government now claims to have achieved equal access to the "same interfaces and related information" for non-Microsoft and Microsoft middleware developers (CIS at 33), this is not correct. Specifically, the proposed settlement only requires disclosure of "the APIs and related documentation" used by Microsoft Middleware to interoperate with a "Windows Operating System Product." RPFJ <§ III.D. This limited disclosure is in stark contrast to the disclosure the government sought, and obtained, in the Final Judgment. Final Judgment § 3(b). At that time, the government required disclosure of "all APIs, technical information and communications interfaces" to achieve interoperability. Id. (emphasis added).

For example, by limiting disclosure to APIs, the government has left out important additional technical information that is indispensable for a middleware product to achieve "seamless interoperability" with a Windows PC operating system. In addition, the definition of what constitutes an "API" is drawn too narrowly in the proposed settlement; it does not include items like registry keys, file formats, communications protocols and other necessary technical information that is critical for an ISV to develop a middleware product that is fully interoperable. See RPFJ § VI.A. This stands in sharp contrast, once again, to what the government advocated in the Final Judgment, when its own expert explained that disclosure of all APIs, communications interfaces and other related technical information was essential to promote full interoperability. Felton Decl. ¶¶15–28. The government offers no explanation for its change of position. See Final Judgment § 7(b); Litigating States' § 22(c).

The same deficient definitions apply to the type of technical information that Microsoft must disclose to promote interoperability between a non-Microsoft server operating system and a Windows PC operating system. RPFJ § III.E. Such disclosure is now limited only to "client protocols," while the Final Judgment required disclosure of "all APIs, Technical Information and Communications Interfaces" necessary to achieve full interoperability. Final Judgment § 3(b); Litigating States' § 4. The proposed settlement's limited disclosure obligation has grave negative ramifications for ISVs seeking to achieve full interoperability. First, as stated above, both the client and server protocols are necessary to achieve interoperability between a PC operating system and a server operating system. Moreover, there is substantial additional technical information that far exceeds a "communications protocol." Such additional information includes APIs, software tools, file formats and other technical information without which a non-Microsoft server operating system will never achieve "seamless interoperability" with a Windows PC, let alone operate as well as a Microsoft server operating system.

The possibility that Microsoft will maintain its PC monopoly in this manner is not hypothetical. In fact, in the absence of strong remedial provisions, not only is Microsoft certain to use disclosure, or the lack thereof, to create and maintain an advantage over its competitors, but it has already used the very same control over communications protocols and the like to disrupt competing browsers' ability to communicate with its own servers over the Internet. At the time of the release of Windows XP just last October, Microsoft secretly changed the MSN web server program codes to specifically prevent the competing browsers Netscape Navigator and Opera from interoperating with the MSN web server.[28] Browser Bruiser, Chicago Sun Times, October 27, 2001, at 36 ("Microsoft's premiere web portal, MSN.com, denied entry to millions of people who use alternative browser software such as Opera and told them to get Microsoft's products instead."); MSN Shuts Out Other Browsers, Associated Press, October 28, 2001 ("Microsoft's premiere web portal, MSN.com, denied entry to millions of people who use alternative browser software such as Opera...The blockage coincided with Microsoft's showcase launch of its Windows XP operating system. Instead of getting MSN's news, games and shopping features, Opera users were given links to download Microsoft's browsers.").

(f) The Timing Of The Required Disclosure Under The Proposed Settlement Will Impede, Not Promote, Competition

To restore competition in the PC operating system market, proper timing is no less important than the substance of the required disclosures. The District Court made multiple findings of fact, affirmed by the Court of Appeals, which established that delayed disclosure of technical information to achieve interoperability effectively nullifies its value. D.Ct. at 338–40; CA at 71–73. The "time to market" in developing software is of the utmost importance. Id. The ability of an ISV even to attempt to compete with Microsoft is "highly dependent" on Microsoft's release of its technical information relevant to interoperability. Id. Netscape learned this lesson in 1995 when Microsoft, in the face of repeated demands from Netscape for technical information regarding interoperability with Windows 95, withheld this technical information from

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[26] The Litigating States' proposal properly requires full disclosure of all technical information necessary to design a non-Microsoft server operating system that would be fully interoperable with a Microsoft server operating system. Litigating States" § 4.

[27] The Litigating States' proposal justifiably requires full disclosure of all technical information relevant to the interoperability between a Microsoft PC or server operating system and any embedded device. Litigating States" § 4.

[28] When browsers connect to a web server, they send information identifying specifically which browser it is and the capabilities of that browser. Programmers often code their web servers to be aware of browser differences so that the web server can provide a richer end-user experience. It is unusual, to say the least, to use browser and web server capabilities in this way to deny access.

Netscape for approximately three months. D.Ct. at ¶¶90–92. While Netscape was waiting for this information, Microsoft brought to market its competing product—Internet Explorer. Id. The result of this delay was to destroy any fair competitive challenge Netscape might mount against Internet Explorer. Id.

The government has previously acknowledged that the proper timing of disclosure of technical information related to interoperability is critical to restore competition to the PC operating system market. Gov't D.Ct. Reply Memo at 21–23. As a result, the government sought provisions in the Final Judgment that required the timing of all disclosures to be made when Microsoft disclosed the information to its own developers, and well in advance of when any new Windows product is brought to market. Final Judgment § 3(b).

Having manipulated for its own competitive advantage the timing of interoperability disclosures in the past, it is not surprising that Microsoft demanded very liberal and vague timing in the proposed settlement. The government, however, having litigated and prevailed on the timing issue, now largely gives up. The proposed settlement does not require the disclosure of technical information related to interoperability of Microsoft Middleware products to begin until the "earlier of the release of Service Pack I for Windows XP or twelve months after the submission of this Final Judgment." RPFJ § III.D. If Microsoft intends to introduce a new Middleware Product, it does not have to disclose any technical information related to interoperability until the product's "last major beta test." Id. All other disclosures must be made in a "Timely Manner," which is defined as the "time Microsoft first releases a beta test ... that is distributed to 150,000 or more beta testers." Id. § VI.R.

Similarly, the disclosure of client protocols contained in the Windows PC operating system are not required to begin until nine months after the submission of the final judgment, and all subsequent disclosures are not regulated as to time, and thus left solely within the discretion of Microsoft. RPFJ § III.E.

The inadequacy of these timing requirements is patent. There is no conceivable justification, and none has been offered, for delaying disclosure with respect to Microsoft's current products for nine to twelve months from the date of the settlement. By definition, Microsoft knows, and its programmers have access to, current product information today. The delay built into the settlement simply allows Microsoft time to exploit its proven monopoly for another year so that Microsoft's products will have an even greater advantage when disclosure finally begins.

With respect to new middleware products and others, the timing of disclosure also fails to serve the public interest. Disclosure for a new middleware product is not required until the new product's "last major beta test", which is also an undefined term. RPFJ § III.D. As to all other middleware disclosures, Microsoft is free to decide when to conduct the required beta test to 150,000 or more beta testers. RPFJ § III.D. With respect to the disclosure of client protocols, Microsoft is not subject to any time limit whatever. RPFJ § III.E. These provisions effectively immunize continued anticompetitive conduct. Microsoft is essentially given free rein to choose when it will be most advantageous in terms of marketing its products to make the required disclosures; and prior to disclosure it is free to develop and position its products for maximum competitive advantage.

Once again, the CIS provides no explanation why Microsoft's disclosure obligations should not commence immediately, and why at all times thereafter, should not be made as soon as information is available to Microsoft's own programmers. CIS at 34–35. For example, the "beta test" standard in the proposed settlement is far too late to be competitively meaningful. A beta test is one of the last steps taken by a software developer before placing a new product on the market. It is often viewed as more of a marketing tool (to create a "buzz" among technology writers and other cognoscenti), rather than a true development step. Thus, if Microsoft is allowed to wait until this point, it will be able to do to other software developers exactly what it did to Netscape in 1995—ensure that a competing product is so late to market that it faces an insurmountable barrier to overtake Microsoft's lead. D.Ct. at ¶¶90–92.

The Final Judgment and Litigating States' proposal are much more rational, and likely to lead to meaningful disclosure that would promote interoperability and competition. All disclosures under the Final Judgment and Litigating States' proposal are required to be made in a "timely manner," which is precisely defined as, at a minimum, the earliest of the following times:

(i) When the information is disclosed to Microsoft's own application developers;

(ii) When the information is used by Microsoft's "own platform software developers in software released by Microsoft in alpha, beta release candidate, final or other form";

(iii) When the information is disclosed to any third party; or

(iv) Within ninety days of the final release of the Windows operating system product, but "no less than five days after a material change is made between the most recent beta for release candidate version and the final release."

Final Judgment § 7(ee); Litigating States' § 22(pp).

(g) Important Terms In The Proposed Settlement Are So Loosely Defined That They Enable Microsoft To Avoid Disclosure

The definitions of important terms relevant to interoperability are so vague that Microsoft can largely avoid its disclosure obligations. Among other things, the proposed settlement's definitions of "Microsoft Middleware" and "Windows Operating System Product" give Microsoft the ability to completely circumvent even the otherwise paltry disclosure requirements. See pp. 36–40, 42–43 supra. Just as important, the critical term "interoperability" is not defined in the proposed settlement. It should be defined as the ability of a system or product to work with other systems or products in such a way as to effectively access, utilize and support the full features and functions of one another. See Litigating States' § 22(q).

In addition, the definition of "Windows Operating System Product" provides that "[t]he software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion." RPFJ § VI.U (emphasis supplied). Essentially, this provision grants Microsoft the ability to avoid disclosure to competitors of technical information—even that necessary to achieve the government's promised "seamless interoperability"—merely by embedding a middleware product in the Windows PC operating system code. Microsoft can then argue that the product at issue is not middleware, but rather part of Windows, and thus outside all disclosure obligations.

The definition of "Microsoft Middleware" demonstrates the intentional nature of the government's concession on this point and serves no function other than to dilute the effectiveness of the proposed settlement. That definition, which is essentially the flip-side of the "Operating System" coin, also allows Microsoft the flexibility to define whatever it wants to as middleware, by either not obtaining a trademark for the product or by simply bundling it with the Windows PC operating system. RPFJ § VI.J. In either instance, the effect is the same: Notwithstanding the conclusion of the District Court and the Court of Appeals that Microsoft bound middleware to its operating system for the purpose of defending its operating system monopoly in violation of § 2, the company will remain free to continue the same conduct.

ii. The Mandatory Licensing Provisions Are Illusory

The proposed settlement provides that Microsoft must license to its competitors the intellectual property fights for any technical information it is required to disclose. The CIS explains that "[t]he overarching goal of this section is to ensure that Microsoft cannot use its intellectual property fights in such a way that undermines the competitive value of its disclosure obligations." CIS at 49. Limitations on Microsoft's licensing obligations, however, make the provision's impact largely illusory. Indeed, they may well benefit Microsoft to the exclusion of its competitors and competition generally in the PC operating system market.

First, Microsoft is permitted to charge a "reasonable royalty" to any competitor who requests disclosure related to interoperability. RPFJ § III.I.1. This provision is anticompetitive. On its face, it allows Microsoft to enjoy the fruits (i.e., licensing royalties) of its proven illegal monopoly. Moreover, it gives Microsoft the opportunity to use a "royalty" charge to control crucial technical information in a way that restrains its competitors—a practice Microsoft has already shown a willingness to undertake.[29] The government earlier acknowledged that these dangers can be avoided only by requiring any license to be royalty-free:

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[29] Under the proposed settlement, there is no practical way for competitors who must pay the fee to challenge its reasonableness.

> The disclosure of APIs, Communications Interfaces and Technical Information required by the Final Judgment will enable third parties to make their products interoperate effectively with Windows, thereby increasing the value of Windows as a platform ..... There is thus no need or justification to charge a royalty for access to the same information about interoperation with Microsoft Platform Software on a Personal Computer that Microsoft's own developers receive.

Gov't D.Ct. Sum. Resp. at 14.

The relevant case law also supports the position that royalty-free licenses are necessary to prospectively remedy Microsoft's illegal monopolization of the PC operating system market. See United States v. General" Elec. Co., 115 F. Supp. 835,844 (D.N.J. 1953) (royalty-free licenses an essential remedy to prevent a continuance of monopoly). The government made this same legal point when it recognized that the instant case is analogous to United States v. Western Elec. Co., 569 F. Supp. 1057, 1082–1091 (D.DC 1983), aff'd sub nom. California v. United States, 464 U.S. 1013 (1983), where compulsory, royalty-free, sublicensable licenses were required to remedy past anti-competitive conduct. Gov't D.Ct. Reply Memo at 27–29. As the government pointed out, this provision was one of several that insured that "telecommunications [would] continue to operate in an engineering sense as one national network." Id. at 29 (internal quotation marks omitted). The same functional interoperability is necessary to ensure maximum innovation and competition in all aspects of the computer industry.

Moreover, as in the AT&T case, whether royalty-free licenses are necessary is not an issue of remedying a monopolist's past anticompetitive use of its intellectual property per se, but rather a matter of making sure that the relief granted (in this case, disclosure of certain APIs and communications protocols) is not impeded by onerous license terms. Thus, requiring royalty-free licensing is merely in aid of a remedy for antitrust violations that are not directly related to Microsoft's licensing of its intellectual property.

The public interest also is not served by giving Microsoft the tight to condition the grant of any license of its own software upon the licensee's "cross-licensing" any intellectual property rights it may have "that are related to the licensee's exercise of its tights" under the settlement. RPFJ § III.I.5. It was established long ago that cross-license requirements are inconsistent with restoring competition to a monopolized market:

> [A] provision for reciprocal licensing would tend to perpetuate the situation of industry dominance by General Electric which the decree is designed to end... Were General Electric granted the right of reciprocity, since it would be the overwhelmingly largest source from which to demand licenses, once again it would be in a position of being able to channel all development through itself. Therefore the proposal of General Electric for reciprocal licensing will be declined.

General Elec. Co., 115 F. Supp at 847.

The government's present justification, that this provision is necessary to ensure that Microsoft would not be exposed to "infringement liability" as a result of the interoperability disclosures, is difficult to understand. CIS at 50. No competitor should be forced to disclose its own proprietary information in order to exercise rights put in place to restore competition in a monopolized market. Again, the government does not explain why it was wrong when it earlier concluded that such a provision has no pro-competitive benefit:

> There is no justification for requiting third parties to disclose to Microsoft the APIs' and Communications Interfaces in their products that interoperate with Windows. Microsoft has monopoly power in the market for PC operating systems, and third-party developers of middleware that might challenge that monopoly are thus dependent on access to Windows APIs, Communications Interfaces and Technical Information. Microsoft has previously withheld access to APIs and interfaces to defeat such threats in the past, and the restoration of competition requires that it not be permitted to do so in the future. No comparable concern has been raised in this case about access to information regarding third parties' products. In any event, third parties that get access to APIs, Communications Interfaces, and Technical Information are doing so to create complements to Microsoft's operating system.

Gov't D.Ct. Sum. Resp. at 14–15.

In addition, the disclosures required by cross-licensing would enable Microsoft to get a jump on developing its own product to compete with that which the licensee was forced to disclose. The settlement would thereby further increase Microsoft's timing advantage over its licensee in selling a new product. Nothing requires giving a proven monopolist such a benefit.

iii. The Limitation Upon Disclosure Based On Alleged Security Concerns Is A Massive Loophole

The provision in the proposed settlement that limits Microsoft's interoperability disclosure obligations based on security considerations is another loophole that Microsoft can use to justify withholding crucial technical information. Under this provision, if technical information would "compromise the security of a particular installation or group of installations of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria," it is exempt from disclosure. RPFJ § III.J.1. In addition, Microsoft is also given the right to require that the following conditions be met prior to licensing APIs or communications protocols related to the foregoing subjects:

(i) that any licensee never have participated in software counterfeiting or piracy, and never have willfully violated intellectual property rights;

(ii) that the licensee have a "reasonable business need" for the technical information, and the need must be related to a product that is currently being planned or shipped;

(iii) that the licensee meet "reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business"; and

(iv) that the licensee agree to submit any program using the disclosed technical information to a third party, approved by Microsoft, to "ensure verification and compliance with Microsoft specifications." RPFJ § III.J.2.

The government did not permit any such "security" exception in its proposals for the Final Judgment. The government now attempts to justify this provision as a "narrow exception" that is necessary to maintain the integrity of the security-related features of Windows. CIS at 10. To the contrary, the broad language and significant discretion given to Microsoft create loopholes for Microsoft to withhold information essential to interoperability from disclosure generally or from specific rivals it wishes to prejudice.

First, virtually all APIs, communications interfaces or other technical information that are relevant to interoperability, on some level will perform "authentication" or "encryption" functions related to the security of an operating system. Accordingly, the allegedly "narrow" security exception in reality gives Microsoft a virtual carte blanche to withhold information necessary for interoperability, simply by citing this section and claiming the code at issue provides "authentication" or "encryption" functions.

The language requiring that a person seeking disclosure must meet "reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business" invites abuse by Microsoft. RPFJ § III.J.2.c (emphasis added). For example, Microsoft could exercise its veto power over a disclosure request from an open source developer, on the ground that Microsoft does not consider "its business" to be "authentic" or "viable". The open source community typically operates on a not-for-profit basis, and has long been a competitive adversary of Microsoft. Rebecca Buckman, Microsoft is Suing Linux Start-up Over Lindows Name, Wall Street Journal, December 24, 2001 (Microsoft brings trademark action against open source operating system developer); Lee Gomes, Linux Campaign Is An Uphill Battle For Microsoft, Wall Street Journal, June 14, 2001 ("A Microsoft Corp. effort to vilify Linux and other open-source software appears to be backfiring ... Microsoft Chief Executive Steve Ballmer ... [called] Linux "a cancer that attaches itself in an intellectual property sense to everything it touches."); Byron Acohido, Microsoft Memo to Staff: Clobber Linux, USA Today, Jan. 4, 2002 ("Microsoft is escalating its war against Linux.").

Similarly, the requirement that the prospective licensee have a "reasonable business need" for the information also gives Microsoft anticompetitive powers. Microsoft could dispute the asserted "need" or use to its own competitive advantage the information that licensees would presumably submit to it to demonstrate their "need," since the provision effectively gives

Microsoft advance notice of its competitors' new products. For this reason, the provision will discourage competitors from even exercising disclosure rights. Finally, Microsoft is given the gratuitous fight to require all competitors' programs that use Microsoft's APIs to be verified by a third party, who is "approved by Microsoft," to ensure compliance with "Microsoft's specifications for use of the API or interface." RPFJ § III.J.2.d.

Microsoft's alleged concern for security is a pretext to create a loophole, as well as to allow Microsoft to obtain an unwarranted advantage by having early access to its competitors' trade secrets, The fact that certain code may provide a security function is not a legitimate reason to withhold disclosure. Although Microsoft has not been required to license this information in the past, its software security record is arguably one of the worst in the industry. See, e.g., Wayne Epperson, NT Insurance at a Premium, HostingTech (August 2001), at www.hostingtech.com/security/01_08_nt. (reporting that insurer J.S. Wurzler Underwriting Managers had discovered "that clients who used Microsoft Windows NT software in their Internet operations were at a greater risk of loss to computer hackers than were the insured Unix or Linux users .... After 5 months of analysis, Wurzler Underwriting Managers made the decision to charge its NT clients an extra premium for insurance coverage."). On the other hand, several of the most effective security programs, such as Kerberos and "Pretty Good Privacy," are available on an open-source basis and freely accessible by the public. These examples prove that even full public disclosure is not inimical to security. What disclosure does prevent, however, is the exercise of monopoly power. For purposes of this proceeding, therefore, the "security" loopholes are not in the public interest.

3. The Proposed Settlement Fails To Remedy The Proven Pattern Of Unlawful Retaliation, Inducements, And Exclusive Dealing Arrangements Used By Microsoft To Maintain Its Monopoly

As determined by the District Court in findings upheld by the Court of Appeals, Microsoft threatened to and did withhold critical technical information from software developers; Microsoft provided or withheld financial benefits depending on a party's willingness to aid in its anticompetitive campaign; and Microsoft contractually prohibited third parties from distributing competing software. CA at 71–73, 76–77. Yet, the proposed settlement fails in many respects to protect third parties from new versions of such past conduct which may be used by Microsoft to protect its operating system monopoly.

In earlier proceedings, the government recognized that any remedy must be "directed towards future competition and innovation," and that while the remedy was based on historical experience, the analysis was "done on a forward-looking basis." See Shapiro Decl. at 2. The government further acknowledged that in this fast-moving industry, any remedial conduct provisions must "be broad enough to prevent Microsoft from engaging in a number of categories of anticompetitive tactics in the future, precisely because the specific tactics that Microsoft might employ in the future are hard to predict today in the face of changing products and technology." Id. (emphasis in original)

Having recognized these elements as essential to any remedy that would serve the public interest, the government now proposes to settle on terms that do virtually nothing to anticipate and prohibit new forms of exclusion. Indeed, in many instances, the government has given up or severely limited provisions in the original Final Judgment that were fully justified by the Court of Appeals' affirmance. On a number of such issues, the proposed settlement accepts positions that Microsoft sought to include in the Final Judgment, but the government then specifically rejected. The government rejected Microsoft's proposals precisely because they "consist[ed] largely of changes that would create loopholes and permit Microsoft to continue to engage in anticompetitive practices like those found by the Court or otherwise to frustrate or undermine the purposes of the Final Judgment." Gov't D.Ct. Sum. Resp. at 6. However, the recent CIS does not attempt to justify the government's acquiescence in what were once viewed as "loopholes" and a license to resume "anticompetitive practices."

a. The Government's Settlement Substitutes Weak And Narrow Protections Of Third Parties For The Strong And Broad Provisions Justified By Microsoft's Conduct s

The Court of Appeals held that Microsoft had engaged in exclusionary acts and threats of retaliation in violation of § 2. CA at 73, 77–78. In its efforts to promote IE and restrict the distribution of Navigator, Microsoft successfully made threats against Apple. To halt the development of cross-platform interfaces for Java, Microsoft threatened to retaliate against Intel. Microsoft also made threats and retaliated against others who posed potential threats to its monopoly. D.Ct. at ¶¶83–84, 91, 101, 102.

The government has recognized the established and urgent need to prevent Microsoft from engaging in acts or threats of retaliation. The original Final Judgment prohibited Microsoft from "tak[ing] or threaten[ing] any action [that] adversely affect[s] any OEM... based directly or indirectly, in whole or in part, on any actual or contemplated action by that OEM to use, distribute, promote, license, develop, produce or sell any product or service that competes with any Microsoft product or service." Final Judgment § 3(a)(i). The Final Judgment further prohibited Microsoft from "tak[ing] or threaten[ing] any action affecting any ISV or IHV... based directly or indirectly, in whole or in part, on any actual or contemplated action by the ISV or IHV to use, distribute, promote or support any Microsoft product or service, or develop, use, distribute, promote, or support any software that runs on non-Microsoft Middleware or a non-Microsoft Operating System or that competes with any Microsoft product or service." Final Judgment 21§ 3(d)(i) and 3(d)(ii).

With respect to OEMs, the government recognized that Microsoft's retaliatory actions "highlight[] the potential for misuse of monopoly power that must be prevented if potential rivals to Windows and new innovations in software can be expected to emerge." Gov't D.Ct. Memo at 38. The government specifically admitted that the broad anti-retaliation provision was needed "both to prevent subtle or varied forms of coercion and to avoid difficulties in determining the scope of the restriction in an enforcement proceeding." Id. at 38–39.

With respect to banning retaliation against ISVs and IHVs, the government said it was necessary to "ensure that Microsoft does not use its operating system monopoly to nip new competitive threats in the bud." Gov't D.Ct. Memo at 41. The provision was a "safeguard to prevent Microsoft's continued use of the wide array of opportunities presented by its monopoly position to bribe and coerce third parties to favor its own products and exclude others." Gov't D.Ct. Reply Memo at 55.

Moreover, because Microsoft repeatedly sought anticompetitive agreements, such as its attempted market allocation agreements with Netscape and Intel, the Final Judgment included a provision that flatly prohibited agreements that limit competition (Final Judgment § 3(h)) "to ensure that the defendant will be unable to repeat its unlawful conduct." Gov't D.Ct. Sum. Resp. at 17. "Prohibiting anticompetitive activity that could stifle the emergence of other forms of middleware as potential platforms is necessary both to prevent recurrence of past misconduct and to restore competitive conditions." Gov't D.Ct. Reply Memo at 65.

Even today, the government recognizes the need to prohibit retaliation based on the specific findings of illegal conduct upheld by the Court of Appeals. In its attempts "to protect the applications barrier to entry, Microsoft embarked on a multifaceted campaign to maximize [IE]'s share of usage and to minimize Navigator's." CIS at 13. Not content to merely develop its own browser, "Microsoft decided to constrict Netscape's access to the two distribution channels that led most efficiently to browser usage; installation by OEMs on new personal computers and distribution by [IAPs]." Id. "To ensure that developers would not Comments of SBC Communications Inc. view Navigator as truly cross-platform middleware," Microsoft also pressured Apple "to make Navigator less readily accessible on Apple personal computers." CIS at 14.

Additionally, as part of "its effort to hamper distribution of Navigator and to discourage the development of software that used non-Microsoft technology, Microsoft also targeted [ISVs] by contractually requiring ISVs to use [IE]-specific technologies in return for timely and commercially necessary technical information about Windows, and precluded important ISVs from distributing Navigator with their products." CIS at 14–15. Ultimately, "Microsoft's actions succeeded in eliminating the threat that the Navigator browser posed to Microsoft's operating system monopoly... Navigator lost its ability to become the standard software for browsing the Web because Microsoft had successfully—and illegally—excluded Navigator from that status." CIS at 15.

The proposed settlement (RPFJ §§ III.A,F) fails to implement the procompetitive goals that the government has repeatedly expressed, and substitutes weak and narrow protections for broad prohibitions to interdict new forms of exclusionary conduct adopted by Microsoft in response to new forms of competition.

i. The Range Of Parties Protected From "Retaliation" Is Too Limited

The settlement would only protect OEMs, ISVs and IHVs against "retaliation." Microsoft's record of retaliatory conduct, however, demonstrates that the ban against retaliation must apply to all third parties.[30] Microsoft has demonstrated that it will take any action necessary against any entity that poses a threat to its monopoly, by making threats, offering inducements, coercing or contractually restricting others. The government offers no justification whatever, let alone any persuasive reason, to limit the types of third-parties against which Microsoft cannot engage in unlawful retaliation. The settlement's failure to ban retaliation broadly is all the more troubling because this provision does not impose any affirmative duties on Microsoft. The only "burden" is that Microsoft must refrain from punishing those who might challenge Microsoft's illegal monopoly.

ii. "Retaliation" Is Not Defined

The proposed settlement states that Microsoft "shall not retaliate," but never defines "retaliation." Although the government stated that its intention was to "prevent subtle or varied forms of coercion and to avoid difficulties in determining the scope of the restriction in an enforcement proceeding" (Gov't D.Ct. Memo at 38–39), the vague language of the settlement fails to meet that goal. Without a definition of "retaliate," such as a prohibition against "taking or threatening adverse actions" (see Final Judgment §§ 3(a)(i), 3(d)), Microsoft will be free to argue that no violation has been established on a particular set of facts. Given the extraordinary record of Microsoft's ingenuity in abusing its monopoly power, any definitional doubt must be resolved against the wrongdoer by imposing a broad definition of "retaliate."

Moreover, with respect to OEMs, Microsoft is only prohibited from "retaliating against an OEM by altering Microsoft's commercial relations with that OEM or by withholding newly introduced forms of non-monetary Consideration." See RPFJ § III.A (emphasis added). The use of the words "newly introduced" is ambiguous in that it suggests that Microsoft is permitted to withhold existing forms of non-monetary compensation. The CIS offers no explanation for this ambiguity concerning whether Microsoft may continue to engage in conduct previously adjudged illegal. CIS at 25–26.

iii. The Party Injured By Retaliation Must Prove Causation

The proposed settlement too narrowly limits the type of conduct by third parties for which Microsoft may not "retaliate." It only prohibits "retaliation" that occurs "because" of conduct by the OEM, ISV or IHV. By imposing a causation requirement on the injured party, the government again gives a proven wrongdoer the benefit of a doubt to which it is not entitled. The prior Final Judgment struck the correct balance by prohibiting any adverse action by Microsoft based directly or indirectly on any actual or contemplated action by the protected party. Final Judgment §§ 3(a)(i), 3(d); see also Litigating States' § 8.

iv. Retaliation Not Involving Windows Or Middleware Is Allowed

The proposed settlement's ban on "retaliation" currently only applies to a protected party where it is developing, distributing, promoting or using products that compete with Microsoft Platform Software or middleware.[31] Given the multitude of ways in which new threats can (and did) develop to contest the Windows operating system, the ban on retaliation will not be truly effective unless it protects any action or contemplated action involving products or services that compete with any Microsoft products or services.

v. Loopholes Vitiate Even The Existing Limitations

The settlement contains broad savings clauses and exceptions that give Microsoft loopholes for abuse and are not justified by the Court of Appeals' findings. The OEM retaliation provision permits Microsoft to provide "Consideration" to any OEM with respect to any Microsoft product or service if the "Consideration is commensurate with the absolute level or amount of that OEM's development, distribution, promotion, or licensing of that Microsoft product or service." RPFJ § III.A. Similarly, Microsoft may enter agreements with ISVs limiting their ability to develop, promote or distribute competing software, if the limitations are "reasonably necessary to and of reasonable scope and duration in relation to a bona fide contractual obligation of the ISV to use, distribute or promote any Microsoft software or develop software for, or in conjunction with, Microsoft." RPFJ § III F.2.

These vague provisions are an invitation for abuse. Microsoft has repeatedly used these very practices to maintain an illegal monopoly for over a decade. Under these circumstances, a broad prohibition that puts the burden entirely on Microsoft to prove the bona fides of any "consideration" or exclusivity is not only appropriate, but essential to revive competition.

vi. Unnecessary And Ambiguous Savings Clauses Undermine The Decree

The retaliation provisions also include broad savings clauses that provide that nothing in the provisions "prohibit Microsoft from enforcing any provision of any agreement with any [OEM, ISV or IHV] or any intellectual property right, that is not inconsistent" with the settlement. RPFJ §§ III. A and III. F. 3. Given the ambiguities in the settlement, this loophole, too, will invite aggressive interpretation by Microsoft, and further litigation.

vii. There Is No Prohibition On Agreements Limiting Competition

The provision in the Final Judgment banning agreements to limit competition (Section 3(h)) has been completely eliminated, leaving Microsoft free to seek to enter market allocation agreements such as the ones it proposed to enter with Netscape and Intel. D.Ct. at ¶¶83–84, 97, 101. The proposed settlement (§ III.G) only prohibits Microsoft from entering into agreements with certain entities to use or distribute Microsoft Platform Software exclusively or in fixed percentages. There is no provision that limits Microsoft's ability to enter into agreements with competitors providing that they refrain from developing or distributing products that compete with the Windows operating system or a Microsoft middleware product. This CIS does not explain this glaring omission.

viii. There Is No Protection Against Retaliation For Participating In This Lawsuit

Nothing in the proposed settlement protects individuals or entities from retaliation by Microsoft for participating or cooperating in this litigation. In a letter to the Senate Judiciary Committee, former Solicitor General Robert H. Bork expressed the realistic concern that "any potential witness with knowledge of anticompetitive conduct in a monopolized market has to weigh the potential benefit of his or her testimony against the likely response of the defendant monopolist. The [government's] proposed meaningless remedy would insure that no witness would ever testify against Microsoft in any future enforcement action." See Letter from Robert H. Bork to Senate Judiciary Committee of 12/11/01, at 4. Again, the CIS does not address this issue of obvious concern, given Microsoft's track record of anticompetitive abuse.

b. The Proposed Uniform Licensing To OEMs Is Insufficient

The District Court made findings of fact, which were not questioned by the Court of Appeals, that provide examples of incentives and threats used by Microsoft to induce OEMs to promote IE and not pre-install or promote Navigator. Thus, Microsoft gave reductions in price to OEMs who set IE as the default browser on their PC systems; Microsoft gave further reductions to OEMs who displayed IE logos and links on their home page; and Microsoft gave OEMs millions of dollars in co-marketing funds in exchange for carrying out other promotional activities for IE. D.Ct. at ¶231.

The original Final Judgment contained a strong ban on discriminatory license terms. It compelled Microsoft to license Windows to all covered OEMs on uniform terms and prohibited Microsoft from offering market development allowances or discounts. Final Judgment § 3(a)(ii). Microsoft was further required to give OEMs equal access to, inter alia, licensing terms, discounts, technical and marketing support and product and technical information; and to give written notice and an opportunity to cure before terminating an OEM's license. Id.

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[30] The listing of categories of protected parties, instead of applying the ban to all third parties, also presents a significant risk of omitting some competitors (e.g., SBC and Sun Microsystems) from the decree's protection because their businesses do not fit neatly into any standard category.

[31] Microsoft Platform Software is defined as Microsoft Middleware and the Windows Operating System. The limitations of those defined terms which, among other things, exclude applications (including applications on Internet-based servers that would threaten the Windows monopoly), render the "retaliation" ban far too narrow. See pp. 36–40, 42–43 infra.

The government recognized the necessity for this provision requiring "transparent and uniform pricing to the largest OEMs... so that Microsoft cannot retaliate against an OEM for supporting non-Microsoft software." Gov't D.Ct. Memo at 39. Uniform terms and pricing were also seen as necessary to "terminate[] Microsoft's practice of charging substantially different prices for Windows licenses to reward cooperative OEMs, effected in part by its market development allowances, and will thus make it easier for OEMs to promote non-Microsoft products in response to consumer demand." Id. The government found that this uniformity was "necessary to prevent Microsoft from employing the myriad forms of coercion and reward that" have been held to injure competition. Gov't D.Ct. Reply Memo at 43–44. "Such coercion is difficult to detect, and the mere threat of its use may be sufficient to accomplish the desired, anticompetitive result." Id. at 44.

In the context of the present settlement, the government continues to define as a "critical" objective ensuring that OEMs are truly "free to choose to distribute and promote middleware without interference from Microsoft." CIS at 25. It recognizes that Windows" license royalties and terms are "inherently complex and easy for Microsoft to use to affect OEMs" behavior, including what software the OEMs will offer to their customers." CIS at 28. By purportedly requiring uniform licensing, the govemment says that the proposed settlement eliminates "any opportunity for Microsoft to set a particular OEM's royalty or license terms as a way of inducing that OEM to decline to promote non-Microsoft software or retaliating against that OEM for its choices to promote non-Microsoft software." CIS at 28. The government's stated goal is ensuring "that OEMs can make their own independent choices." CIS at 28.

Here, as in many other respects, the proposed settlement fails to fulfill the government's stated objectives.

i. Allowing "Market Development Allowances" Invites Evasion

Unlike the Final Judgment (§ 3(a)(ii)), which prohibited market development allowances ("MDAs") outright, the proposed settlement would permit MDAs (RPFJ § III.3.B3), if certain restrictions are met, despite the fact that MDAs have been repeatedly used by Microsoft to induce OEMs to take actions that protect Microsoft's monopoly. As the government earlier acknowledged, making any MDAs permissible creates a loophole that will allow the very discrimination against OEMs that the provision is intended to prevent. See Gov't D.Ct. Sum. Resp. at 10 (the use of undefined and unbounded "objective" pricing criteria will permit Microsoft to reward or punish OEMs by charging them different prices).

ii. Microsoft Is Allowed To Keep License Terms Secret

The proposed settlement does not require that Microsoft provide equal access to licensing terms, discounts, technical support, etc. Without this information, OEMs cannot fairly negotiate license terms. In the current market, Microsoft offers significant discounts to OEMs that take the entire Windows package; those discounts enable the OEMs to be competitive with other PC manufacturers. However, if an OEM tries to negotiate anything out of the package, Microsoft significantly increases the price, making the OEM non-competitive. OEMs do not know what terms are negotiable and are afraid to negotiate aggressively out of fear they will be punished by Microsoft.

For this reason, when Microsoft previously requested deletion of the equal access provision, the government rejected the idea because it "would allow [Microsoft] to reward or punish Covered OEMs with different Windows prices and non-price licensing terms and conditions and thus to evade the purpose of the Final Judgment." See Gov't D.Ct. Sum. Resp. at 10. Moreover, the government's view then was that "the burden should not be on OEMs to know of and affirmatively seek out equal treatment; Microsoft could take advantage of a Covered OEM's ignorance of what has been provided to other Covered OEMs to reward or punish that OEM and thus to evade the purposes of the Final Judgment." Id. at 10–11. The government provides no satisfactory rationale for changing that view.

iii. There Is No Independent Verification Of "Volume" Discounts

The proposed settlement allows Microsoft to provide reasonable volume discounts based upon the actual volume of licenses. (RPFJ § III.B.2) Unless the provision requires that the volume discounts be based on the independently determined actual number of shipments, however, Microsoft will continue to have the power that it exercised in the past to manipulate discounts.

iv. License Terminations Without Cause Are Allowed

The proposed settlement creates an unnecessary exception to the written notice requirement for termination of OEM licenses. It provides that Microsoft need not provide notice or opportunity to cure if Microsoft has given two prior written notices. This exception invites Microsoft to abuse the notice provision and then arbitrarily revoke an OEM's license. Moreover, Microsoft is not even required to show "good cause" for termination. Again, the government provides no rationale why a proven monopolist should be given any such advantages.

c. The Proposed Settlement Fails To Address Exclusive Dealing Adequately

The Court of Appeals held that Microsoft's exclusive contracts with IAPs are exclusionary devices in violation of § 2. CA at 71. By ensuring that the vast majority of IAP subscribers were offered IE as their default browser or as the only browser, Microsoft's deals with IAPs had a significant effect in maintaining its monopoly by keeping usage of Navigator below the critical level necessary for it or any other rival to threaten Microsoft's monopoly. CA at 71.

In addition to the evidence specifically relied on by the Court of Appeals, the District Court made findings, not reversed, of other unlawful exclusive agreements. For example, in exchange for an agreement by IAPs to promote and distribute IE preferentially over Navigator and to convert existing subscribers from Navigator to IE, Microsoft gave fourteen IAPs placement in its Windows Referral Server. D.Ct. at ¶255,256. Microsoft also entered into agreements with AT&T, WorldNet, Prodigy and CompuServe limiting their ability to promote non-Microsoft browsers. D.Ct. at ¶305.

The Court of Appeals also held that Microsoft's illegal agreements with ISVs further foreclosed rival browsers from the market. CA at 72, 76. Microsoft entered dozens of "First Wave" agreements with ISVs, promising to give them preferential support in using Windows in exchange for ISVs agreeing to use IE as the default browser in any software they developed. The "First Wave" agreements with ISVs also required the ISVs to use Microsoft's JVM rather than Sun's JVM. This directly protected Microsoft's monopoly from the middleware threat. CA at 76.

To redress these exclusionary agreements, the government, earlier in this case, advocated a general and broad prohibition against any and all manner of exclusive dealing by Microsoft. In the Final Judgment, Microsoft was generally prohibited from offering a third party any consideration in exchange for that party's agreement to restrict development, production, distribution, promotion or use of, or payment for, any non-Microsoft Platform Software; distributing, promoting or using any Microsoft Platform Software exclusively; degrading the performance of any non-Microsoft Platform Software; and with respect to IAPs or ICPs, distributing, promoting or using Microsoft software in exchange for placement with respect to any aspect of a Windows Operating System. Final Judgment § 3(e).

The government recognized that such a ban was necessary because Microsoft had "coerced and bribed" third parties into becoming, willingly or unwillingly, participants in strengthening the applications barrier to entry. Gov't D.Ct. Memo at 41. The government stated that to prevent recurrence, Microsoft had to be barred from any exclusive dealing or percentage contracts that require a third party to limit its dealings in, or to degrade the performance of, non-Microsoft products, to deal solely in Microsoft software, or, in the case of IAPs or ICPs, to exchange promotion of Microsoft products for placement in the Windows operating system. Id. Significantly, the government advocated a general ban because Microsoft had dealings with a wide range of companies and because "it is difficult to predict precisely which trading partners Microsoft might otherwise seek to tie up under exclusive arrangements in the next several years." Shapiro Decl. at 19. Only a general ban on exclusionary contracts would "serve to lower entry barriers more effectively than would more limited provisions directed at specific categories of trading partners." Id.

In the CIS, the government continues to recognize the necessity of preventing "Microsoft from using either money or the wide range of commercial blandishments at its disposal.., to hinder the development and adoption of products that, over time, could emerge as potential platform threats to the Windows monopoly." CIS at 42. However, the exclusive dealing provision in the proposed settlement (RPFJ § III. G) fails to meet the goals that the government recognizes are essential. Nor will it prevent Microsoft from engaging in the same types of conduct that were found to be unlawful.

i. The Exclusive Dealing Prohibition Is Limited To Identified Parties Only

The provision is limited to the listed entities (IAP, ICP, ISV, IHV or OEM), but should be extended to all third parties. The government has specifically acknowledged that a "general ban" is necessary precisely because it is too difficult to predict which entities Microsoft might seek to tie up under exclusive arrangements in the next several years. Only a general ban may effectively lower entry barriers, as compared to "more limited provisions directed at specific categories of trading partners." Shapiro Decl. at 19.

ii. Paying Third Parties To Refrain From Using Non-Microsoft Products Is Allowed

The proposed settlement only prohibits Microsoft from entering into agreements with certain third parties that grant consideration on the condition that the entity "distributes, promotes, uses, or supports, exclusively or in a fixed percentage, any Microsoft Platform Software." RPFJ § III.G.1. The Final Judgment prohibited Microsoft from entering into an agreement with any third party that grants consideration to "distribute, promote or use any Microsoft Platform Software exclusively" (Final Judgment § 3(e)(ii) and "to restrict its development, production, distribution, promotion or use of, or payment for, any non-Microsoft Platform Software" (Final Judgment § 3(e)(i)). Microsoft attempted to delete the provision that prohibited agreements with a third party to restrict the development, production, distribution, promotion or use of non-Microsoft Platform software, but the government rejected the proposal. See Microsoft D.Ct. Com. at 12.

The proposed settlement does not prohibit Microsoft from granting consideration to a party that agrees to refrain from using or distributing products or services that compete with Microsoft.[32] RPFJ § III.G.1. Microsoft would thus be allowed to grant consideration (in the form of money, technical information or support, or otherwise) in exchange for the party's agreement not to use or distribute a competing product. Such an agreement would be the functional equivalent of the "First Wave" agreements with ISVs found to be illegally exclusionary by the Court of Appeals. The CIS does not articulate a satisfactory basis for omitting from the settlement a prohibition on the types of actions that were adjudged illegal.

iii. Microsoft Can Pay Others To Distribute Its Monopoly Software

Under the proposed settlement, Microsoft is permitted to enter into agreements with IAPs and ICPs that condition their placement in Windows on their agreement to distribute or promote Microsoft Platform Software. RPFJ § III.G.2. When Microsoft argued against this provision in the original Final Judgment, the government rejected its proposal because phrasing it the way Microsoft proposed (and as it is now phrased in the proposed settlement) would allow Microsoft to achieve the same anticompetitive purpose, by simply amending its agreements to require distribution of MicrOsOft's browser instead of limiting distrution of competing browsers. See Gov't D.Ct. Sum. Resp. at 16; Microsoft D.Ct. Com. at 12. The government has not explained why it has now completely reversed its position.

iv. The Exclusive Dealing Provision Is Riddled With Loopholes

The various exceptions built into the exclusive dealing ban render it potentially meaningless. While purportedly prohibiting exclusive or fixed percentage arrangements, such agreements are actually permitted when Microsoft: obtains a representation that it is "commercially practicable" for the entity to provide equal or greater distribution of a competing product; if Microsoft enters into any type of loosely defined "joint venture" agreement; or if Microsoft licenses in intellectual property from a third party. (RPFJ § III.G). When Microsoft proposed to include a similar joint venture exception in a related provision of the Final Judgment (Final Judgment § 3(h), Ban on Agreements Limiting Competition), the government rejected the proposal as "unnecessary" and because it "would enable Microsoft to enter into anticompetitive market division agreements regarding such products by labeling them, as it attempted to label at trial the June 1995 Netscape meeting, "joint development agreements" or "agreements ancillary to lawful joint ventures." Gov't D.Ct. Sum. Resp. at 18. Once again, the government has agreed to a loophole that can only benefit Microsoft by inviting abuse and further litigation.

4. The Term of the Settlement Is Too Short, Even If Its Deficiencies Were Corrected

As demonstrated above, without correction of numerous deficiencies, the proposed settlement will not restore competitive conditions because it largely permits Microsoft to conduct business as usual and it effectively rubberstamps further anticompetitive conduct. Even if all of the other deficiencies were corrected, however, the term of the proposed settlement is too short to restore meaningful competition with the Windows monopoly. Although this Court's finding that Microsoft illegally maintained its decade-long monopoly has now been affirmed by the Court of Appeals, Microsoft has availed itself—up to and including the present—of every opportunity to maintain and extend its monopoly through anticompetitive actions. For example, Windows XP, designed during the height of Microsoft's litigation with the government and released just before the settlement was announced, commingles code in the exact manner found unlawful by the Court of Appeals.

The government now claims that a five-year decree will be sufficient to restore competition. CIS at 60. This assertion is inconsistent with the Department of Justice's own Antitrust Manual, which states that "the Division's standard decree language requires that the consent decree expire on the tenth anniversary of its entry by the court. [T]he staff should not negotiate any decree of less than 10 years' duration, although decrees of longer than 10 years may be appropriate in certain circumstances." Department of Justice, Antitrust Division Manual, ch. IV at 54 (3d ed. 1998) (emphasis added). As the government argued in earlier urging entry of a ten-year decree:

> Ten years is customary in antitrust cases and in any event four years is too short a time for the Final Judgment to remain in effect. Despite [Microsoft's] assertion that "[t]en years is an extraordinarily long time in the software industry," Microsoft has had the dominant position in the operating-systems business for at least a decade (see Findings (¶35), and under the circumstances there is no sound justification for entering a decree of shorter duration.

Gov't D.Ct. Sum. Resp. at 20 (emphasis added).

The government offers no "sound justification" for its acceptance of a settlement that would last only five years. RPFJ § V.A. The CIS only states that five years "provides sufficient time for the conduct remedies contained in the Proposed Final Judgment to take effect in this evolving market and to restore competitive conditions to the greatest extent possible." CIS at 60. There is no factual support cited for the ipse dixit that this is "sufficient time," while it is certain that the standard ten-year decree would restore competition to a greater extent. The government's present position also conflicts with other assertions that it previously made in this case. See Gov't D.Ct. Memo at 27 ("Looking forward, the Court must anticipate that Microsoft, unless restrained by appropriate equitable relief, likely will continue to perpetuate its monopoly by the same anticompetitive methods revealed at trial, although directed at whatever new competitive threat arises.").

Moreover, the government's only recourse under the proposed settlement—the possibility that the proposed decree could be extended "one time" for a "maximum of two years"—is so short as to be virtually meaningless. RPFJ § V.B. And, even to obtain the "one-time" two year extension, the government would first have to demonstrate through a complex, lengthy and burdensome enforcement procedure, that Microsoft engaged in "a pattern of willful and systematic violations" of the decree. Id. The government should be seeking—as it originally sought—more than just conduct remedies "tak[ing] effect." CIS at 60. It should instead be trying to ensure that, once the remedies "take effect," they remain in effect for a period sufficient to restore competition to the greatest extent possible. As the government told the District Court, "[t]en years is customary in antitrust cases and in any event fore' years is too short." Gov't D.Ct. Sum. Resp. at 20. There is nothing in the Court of Appeals' decision that justifies the government's decision to depart from its own formal policy.

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[32] The proposed settlement does purport to limit Microsoft's ability to enter into agreements with ISVs which require the ISV to refrain from "developing, using, distributing, or promoting any software that competes with Microsoft Platform Software." RPFJ § III.F.2. However, as discussed supra at pp. 97–98, that same section creates an exception that permits such agreements with ISVs if they are in relation "to a bona fide contractual obligation of the ISV." Therefore, even as to ISVs, the restriction is rendered potentially meaningless.

As a matter of law, the government's previously stated position was correct. The case law demonstrates that in cases where a monopolist has committed a Section 2 violation, it has been "customary" for courts to impose remedial decrees lasting ten years. In over 70 cases since the Department of Justice's Antitrust Manual was adopted in 1978 to change the prior policy of seeking decrees of unlimited length, the government has required consent decrees having a minimum ten year duration. See e.g., United States v. Greyhound, Civ. No. 95–1852 (RCL), 1996 WL 179570 (D.DC Feb. 27, 1996) (bus companies); United States v. Playmobil USA, Inc., Civ. No. 95–0214, 1995 WL 366524 (D.DC May 22, 1995) (toy companies); United States v. Republic Services, Inc., Civ No. 00–2311, 2001 WL 77103 (D.DC Jan. 18, 2001) (waste collection companies). [33] The government also imposed restrictions on broadcasters'' purchase of television program rights for a period of 15 years. See United States v. American Broadcasting Co., Inc., Civ. No. 74–3600 (RJK), 1980 WL 2013 (C.D. Cal. Nov. 14 1980).

In contrast to these settlements, the proposed decree here is to last only five years, although this case has significantly more importance to the national economy. In addition, Microsoft's prior conduct, the importance of this case to the national economy, and the explicit findings, upheld on appeal, of Microsoft's illegal monopolization activities mandate, if anything, that Microsoft's conduct be supervised for a period longer than the standard ten-year term.

At bottom, a five-year injunction is too short to allow meaningful competition to develop in the operating system market. It has been over ten years since the government first began to investigate Microsoft's practices, and it took six years from Microsoft's first anticompetitive act cited by the District Court for this case to reach the appellate level. The effects of Microsoft's past and present anticompetitive actions, which have already continued for over a decade, will likely last much longer. The government itself concedes that Netscape and Java are likely dead and no longer pose credible threats to Microsoft's operating system monopoly. CIS as 16–17. Even if the proposed decree's numerous loopholes were plugged, it will take considerably longer than five years for strong new competitors to emerge. Most important, the ability of those competitors to become viable depends upon the existence of judicial protection. See United States v. GTE Corp., 603 F. Supp. 730, 742–43 (D.DC 1984) (rejecting as too short five-year expiration date for decree provisions in section 2 case).

5. The Proposed Settlement Nullifies Effective Enforcement

The government claims that the various obligations imposed upon Microsoft in the proposed settlement are supported by "strong enforcement provisions," "including the power to seek criminal and civil contempt sanctions and other relief in the event of a violation." CIS at 5. It also states that Plaintiffs' right, under certain circumstances, to request a one-time extension of the final judgment of an additional two years "is designed to supplement the government's traditional authority to bring contempt actions." CIS at 60.

The reality, however, is to the contrary. The compliance and enforcement provisions in the proposed settlement are entirely inadequate to prevent Microsoft from engaging in future anticompetitive conduct. The provisions in the proposed settlement will result in time delays, inefficient administration of the decree, and ultimately give Microsoft the opportunity to continue its anticompetitive acts unabated. The most critical deficiencies include:

a. The Technical Committee Proposal Is Misguided

By agreeing that a "Technical Committee" comprised of computer programming and software experts should perform a monitoring role (RPFJ §§ IV.B.1 and IV.B.2), the government seemingly recognizes the difficulty of monitoring and enforcing Microsoft's compliance with the decree. The government also appears to recognize the obvious—that "Internal Antitrust Compliance" by Microsoft, though necessary, is insufficient. Unfortunately, the government fails to recognize that its own concessions make the compliance task vastly more difficult.

The Technical Committee contemplated by the settlement is simply not an adequate answer, much less a substitute for self-enforcing prohibitions. The person charged with responsibility for monitoring and enforcing Microsoft's compliance must be an experienced antitrust lawyer or former federal judge. He or she can then hire software and programming experts to render assistance, but the responsibility for determining whether the specific provisions of a complex court order have been violated must be made by an individual with impeccable legal credentials and long experience in antitrust law and decree interpretation. No novel device such as a "Technical Committee" is required. The mechanism of a special master under Rule 53, Fed. R.Civ.P., is readily available and entirely appropriate. See United States v. Microsoft Corp., 147 F.3d 935,954 (DC Cir. 1998) (recognizing "well-established tradition allowing use of special masters to oversee compliance").

Aside from its dual, repetitive investigative and reporting procedures (Technical Committee to the government, then the government to the Court, see pp. 114–115 infra.) (RFFJ § III.D.4), the proposed settlement is flawed because it imposes substantial constraints upon how the Technical Committee's findings may be used to assure compliance. The settlement prohibits the admission into evidence of the Technical Committee's findings "in any enforcement proceeding before the Court for any purpose;" and prohibits any technical committee member from testifying in any proceeding or before any tribunal regarding any matter relating to the Final Judgment. RPFJ § IV.D.4.d. Each of those prohibitions denies the Court information from the independent technical personnel who are uniquely knowledgeable about the nature of the violation. Indeed, although the decree proposal allows Microsoft to offer any evidence it wants, it shuts off from the Court the evidence in the possession of the technical committee members who rejected Microsoft's explanations.

b. All Relevant Employees Should Be Required To Be Trained In The Decree, But Are Not

The proposed settlement only requires that the officers and directors of Microsoft receive copies of the decree and be "annually briefed on [its] meaning." RPFJ § IV.C.3. In order to be effective, however, all managers (not just corporate "officers") and all employees who have positions that enable them to initiate or implement anticompetitive conduct must be required to read, understand and comply with the decree. Of the published consent decrees that require employees of the company to certify that they have read, understood, and will comply with the decree, most extend compliance certification beyond officers and directors of the company, to also include other managers and employees who have responsibility for overseeing the business activities of the antitrust violator. See, e.g., United States v. Western Elec., Civ. No. 82–0192 (HHG), 1991 WL 33559, at *5 (D.DC Feb. 15, 1991) (requiring certification of compliance from each officer and management employee); United States v. Delta Dental of R.I., Civ. No. Civ. A. 96–113P, 1997 WL 527669, at *2 (D.R.I. July 2, 1997) (requiring certification of compliance from all officers, directors, and employees who had responsibility for approving, disapproving, monitoring, recommending, or implementing any provisions in agreements with participating dentists); United States v. Business Inv. & Dev. Corp., No. MO-81-CA-20, 1982 WL 1866, at *2 (W.D. Tx. July 16, 1982) (requiring certification of compliance from all officers, directors, employees and franchisees).

Moreover, the Chairman, CEO or other responsible senior officer of Microsoft should be required to certify periodically to the Court that Microsoft is in compliance with its obligations. The record evidence that Microsoft's highest officials were not only aware of, but actively encouraged, initiated or directed Microsoft's anticompetitive practices, see, e.g., CA at 73, 77; D.Ct. at ¶¶80–87, 100, 108, 112–13,124–29, 340–349, 396, 406–07, makes it all the more necessary to include such certification provisions to ensure that Microsoft takes seriously its responsibilities under any decree to abide by the antitrust laws.

c. The Proposed "Dispute Resolution" Mechanism Encourages Delay

Because of the extraordinarily rapid pace of technological and business developments in the computer industry, avoiding delays in compliance is a critical element in effectively eliminating Microsoft's unlawful behavior and restoring competition. Whether the monitoring function is performed by a Technical Committee or Special Master, the monitor should simultaneously report to both the Court and the Plaintiffs. In defending its decisions to make numerous substantive concessions to Microsoft during the settlement process, the government has cited the substantial time it might take to litigate this case to conclusion if it held out for stronger relief than Microsoft would accept. CIS at 61. Those same time considerations militate against the time-consuming enforcement process contained in the proposed settlement.

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[33] Based on a review of the published cases, every consent decree that the government has entered in a Section 2 case since 1978 has been ten years or longer in duration, with the exception of the first Microsoft decree. That decree was not entered after a full trial on the merits and a finding of unlawful monopoly maintenance.

The proposed decree contemplates an elaborate procedure whereby the Technical Committee, after receiving a complaint about Microsoft's conduct, would be required to meet with Microsoft's internal compliance officer, and allow Microsoft to respond to the complaint, before it determines whether the complaint can be resolved informally. RPFJ § III.D.4.b. There are no time limits on most of these procedures. If, after completing that procedure, the Technical Committee believes the dispute cannot be resolved and that Microsoft's conduct violated the decree, the Technical Committee would then report the violation to the government in the first instance. RPFJ § III.D.4.c. It then would be up to the government, in turn, to evaluate Microsoft's conduct and determine whether the violation should be reported to the Court.

This process guarantees that considerable time will lapse between a violation of the decree by Microsoft and the Court's eventual review of the problem. First, the process for "Voluntary Dispute Resolution" contemplated by the proposed decree will substantially delay, and, in some circumstances, entirely eliminate, the reporting of violations to the Court. However, effective enforcement requires that any violation of the decree should be reported by the Technical Committee or Special Master immediately and directly to the Court. Action by Microsoft to "voluntarily" cease the unlawful conduct may then, along with other factors, be considered by the Court in determining the severity of any sanction imposed.

in sum, for any remedy to be effective in this case, it must be imposed quickly—not after months or years of further "dispute resolution." Under the enforcement scheme contemplated by the proposed settlement, however, that simply cannot happen.

IV. DEFICIENCIES IN THE PROPOSED SETTLEMENT CREATE SIGNIFICANT RISKS FOR SBC'S COMMUNICATIONS AND DATA BUSINESSES, INCLUDING SBC'S INTERNET-RELATED BUSINESSES, WHICH DEPEND UPON OPEN ARCHITECTURE AND COMPETITIVE ALTERNATIVES

SBC is one of the world's leading businesses in the provision of data and voice communications and Internet access. SBC's affiliates serve nearly 60 million telephone access lines nationwide and 21 million wireless customers. SBC and its affiliates are major providers of DSL high-speed and dial-up Internet service, voice messaging services, and if directory advertising and publishing products. SBC, through its affiliates, has committed substantial resources to the development of a host of computer- and Internet-related businesses. These businesses are designed to provide consumers with flexibility, convenience and, most importantly, more choice.

With these initiatives, together with its expanding telephone, wireless and Internet operations, SBC is prepared to compete vigorously during the coming decade as the "convergence" of communications and computing technologies continues to accelerate. That highly competitive environment, however, is threatened by Microsoft's ability—unless restrained by a strong and effective decree in this case—to use its Windows operating system monopoly to control the electronic "gateways" that link the Internet and its myriad service and content providers to consumers' homes and offices. That control of the gateways, in turn, will enable Microsoft to entrench the Windows monopoly even more firmly.

A. How SBC Competes, Or Will Compete, With Microsoft

SBC currently has, or is developing, several businesses in competition with Microsoft, which, together with other similar businesses, directly or indirectly, threaten or are threatened by the Windows operating system monopoly.

1. Telephone, Cellular And Internet Services

SBC affiliates Southwestern Bell, Ameritech, Pacific Bell, Nevada Bell, and SNET are the Incumbent Local Exchange Carriers that provide telephone service in thirteen states.[34] In addition, SBC owns a sixty percent interest in Cingular Wireless, which provides nationwide cellular telephone and Internet-related services.

Various SBC affiliates, including Prodigy, provide ISP services, as well as dial-up and broadband (via DSL) Internet access services nationwide. SBC recently finalized a joint venture with Yahoo, whereby Yahoo will provide SBC's Internet portal (home page). In addition, SBC owns an "Internet Data Center" which rents server usage to businesses and e-commerce clients.

Microsoft is an actual competitor of SBC in all of these businesses, including voice telephony. Microsoft is actively developing its Voice over Internet Protocol ("VoIP") through its "Net2Phone" business. This service is being embedded in Windows XP, with the aim of convincing customers to use the Internet for long distance and local calls. Microsoft also provides an Internet access service, MSN, which takes advantage of Microsoft's operating system monopoly by virtue of its being bundled with Windows. By bundling additional products and services such as its ".NET" initiative and its Passport service with Windows XP, Microsoft is also using its monopoly power to give itself an unfair advantage in new markets for Internet and e-commerce business solutions.

Even in businesses in which Microsoft is not now a direct competitor of SBC, however, such as local, long distance and cellular telephone service, Microsoft's operating system monopoly poses grave risks to the competitive marketplace that Congress sought to ensure in the Telecommunications Act of 1996. If Microsoft is permitted by the proposed settlement to maintain and expand its PC operating system monopoly, it will become the gatekeeper for competitors to offer and for consumers to access key communications and entertainment products and services, including telephone, Internet access, voice messaging, instant messaging, music, video services, e-commerce, and interactive games. Without strong remedial measures designed to break its operating system monopoly (which the proposed settlement does not contain), Microsoft will be in a position to favor its own and its partners' communications, entertainment and related services, to exclude competitors" services from access to consumers, to impose costs on rivals and to degrade their services (whether through a toll, a charge for being listed as an available service or an interoperability obstacle), all with the effect of squelching competition and harming consumers. No provisions in the proposed settlement even address, let alone bar, such anticompetitive conduct.

Just as Microsoft has for years successfully imposed on consumers its own software products and other services, irrespective of the comparative merits of competing products it excluded from the market, Microsoft will be able to repeat its anticompetitive strategy in collateral markets including the key communications and entertainment markets described above. This is not speculation; Microsoft has already announced that it is developing an extension to Windows XP, named Freestyle, that will make its Windows PC the communications gateway to the home. See Byron Acohido, Challenge Microsoft? It Could Take Moxi, USA Today, Jan. 16, 2002, at B-3; Microsoft Unveils New Home PC Experiences with "Freestyle" and "Mira" (Jan. 7, 2002), at www.Microsoft.com/presspass/Press/2002/Jan02/01.

2. Unified Messaging

SBC's Unified Messaging Service ("UMS") is a good example of a new business placed at serious risk because of the anticompetitive actions that the proposed settlement Would allow UMS is currently in the final development stages, with a projected market introduction in late 2002. UMS will allow customers to retrieve their voice, e-mail and

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[34] Prior to 1996, SBC was subject to line of business restrictions imposed by the AT&T Consent Decree or Modified Final Judgment ("MFJ"). These prevented SBC's entry into markets such as long distance telephone and imposed numerous affirmative obligations to assist actual and potential competitors. See U.S.v. AT&T, 522 F. Supp. at 186–95 (setting forth line of business restructions); United States v. Western Electric Co., 673 F. Supp. 525 (D.DC 1987) (upholding "core" line of business restrictions on local telephone companies), aff'd in part, rev'd on other grounds, 900 F.2d 283 (DC Cir. 1990). These provisions, which were of indefinite duration, were ultimately superseded by the Telecommunications Act of 1996, which replaced the MFJ with detailed regulatory obligations to preserve non-discriminatory access to the local telephone network, to require SBC to share its network elements at regulated prices, and to take affirmative actions to open its local network to competition as the price for entry into the long distance market. See Telecommunications Act of 1996, 42 U.S.C. §§ 251–59, and § 271 et seq. The duration, detail and substantial scope of those affirmative requirements and prohibitions, even when they were embodied in the MFJ, stand in marked contrast to the trivial and temporary prohibitions applied to the Microsoft monopoly.

fax messages from a single "mailbox" that will be accessible by phone (wire or wireless) or via the Internet. In the future, SBC plans to add other services to UMS, including instant messaging and video messaging.

UMS is the first in a new generation of services that will create a convergence of all voice, video and data services into one application. Central to UMS is the principle of "any device,,anywhere." SBC has designed UMS to be fully accessible through any type of telephone, personal computer, or handheld device. UMS will operate on any software operating system and with any combination of other software applications and services. UMS is also "agnostic as to provider," meaning that it will function regardless of the provider of Internet access, phone or wireless service. For example, consumers can access UMS as easily and effectively through an inexpensive cellular phone that makes no use of Microsoft technology as they call through an expensive Windows PC using Internet Explorer as its browser.

UMS and similar services offered by other companies will compete by giving consumers the ultimate in choice and convenience, enabling them to access all UMS services from virtually any phone or computing device anywhere in the world. UMS will be a direct competitor of Microsoft's e-mail service (Hotmail), and with MS Messenger, a video and instant messaging service, both of which are promoted through integration with Windows.

B. UMS Is An Integral Part Of Movement To Server-Based Computing Model That Will Erode The Applications Barrier To Entry That Currently Shields Microsoft's Monopoly Power

Because UMS will function with any operating system or Internet browser, and will provide a number of the same functions (voice/data messaging, e-mail, instant messaging) that are or will be provided by a Windows PC, UMS presents a significant competitive threat to Microsoft's PC operating system monopoly. UMS is part of the "movement off the desktop" taking place in the computer industry, which offers increased flexibility and choice to the consumer.

Central to this innovation is that the vast majority of actual computing functions will be performed away from the consumer's computing devices, on servers connected through the Internet. A consumer will no longer need a Windows PC, containing a large hard drive and powerful microprocessor. Instead a simpler, inexpensive device, such as a cell phone or PDA, with a very basic operating system and an Internet browser, when coupled with products like UMS, will allow the consumer to perform many of the functions of a Windows PC at a significantly reduced price and with much greater flexibility and convenience. D.Ct. at ¶¶22–27, 56, 59–60 (cited with approval in CA at 52, 79).

In order for UMS to function, however, and to present a competitive alternative to the Windows PC operating system monopoly, SBC must have the ability to effectively process voice and data transmissions through a complex network of different servers, each of which performs separate functions and employs different technologies. At a minimum, when a UMS customer seeks to retrieve a message, either by phone or through the Internet, the voice or data transmission will travel between and through several separate SBC servers (gate, mail, LDAP (lightweight directory access protocol), directory and web server). Each of these servers performs independent functions. As a result, it is critical to UMS that any type of PC, Internet browser, cell phone or handheld device be fully interoperable with all of SBC's servers. UMS also has the potential to be used in a home network, thus requiring full interoperability to extend to set-top boxes.

In short, for SBC and other companies to deliver Internet-based services like UMS, they absolutely must have a "protected chain of interoperability" extending throughout all computers, servers, and other devices which participate on the Internet—including the Internet browser and PC. If only one link on the chain is not fully interoperable with the entire network, UMS will not be able to process its voice and data transmissions, and thus the convenience and vast array of choices UMS could bring to consumers as an alternative to the Windows PC operating system monopoly will be eliminated.

There is little doubt that Microsoft will continue to recognize the danger that server-based computing, and multi-platform, multi-device products like UMS, pose to the applications barrier to entry. D.Ct. at ¶60 (cited with approval in CA at 79). Such alternative server-based computing pathways on the Internet, which rely on open operation and architecture, like Java, will attract applications used for Internet communications. In the past when such threats to the applications barrier to entry that protects the Microsoft monopoly have emerged, Microsoft has responded with anticompetitive conduct. Indeed, the actions taken by Microsoft to eliminate Netscape and Java, found to be illegally exclusionary by the District Court and the Court of Appeals, had the sole purpose of protecting the applications barrier to entry. As shown below, however, the deficiencies in the proposed settlement are so pervasive that SBC's competitive, Internet-based offering and similar products from other companies are threatened with the same fate as Netscape and Java.

C. The Proposed Settlement Would Allow Microsoft To Render SBC's Internet-Based Businesses Significantly Less Competitive

1. The Proposed Settlement Will Allow Microsoft To Block Consumers' Access To Competing Products And To Impede Their Functionality

Under the proposed settlement, Microsoft could use its monopoly power to (i) prevent UMS and related products from being accessed by anyone using a Windows PC and IE; (ii) degrade or impede the ability of UMS to function on a Windows PC; and/or (iii) deny UMS access to the Windows desktop. Moreover, Microsoft could avoid the requirements of the proposed settlement by simply claiming UMS was a "service." See pp. 46–48 supra. Because the proposed settlement does not require Microsoft to ensure that UMS will function smoothly on Windows, or even have proper access to the Windows desktop, it could significantly harm the ability of UMS to compete with Microsoft products providing similar services. The danger, of course, is not limited just to UMS, but applies equally to related communications and entertainment products and services that are being developed and offered by other companies.

i. Blocking Access to UMS

The inadequate interoperability/disclosure provisions in the proposed settlement would allow Microsoft to completely block all access to a competing product, like UMS, for all users of a Windows PC and IE. Because the proposed settlement does not require any disclosure to ensure interoperability between IE and a non-Microsoft server operating system, Microsoft is able, and indeed encouraged, to change, and then withhold disclosure of, IE's protocols in order to prevent interoperability with those SBC servers that run on non-Microsoft operating systems. In that case, all UMS customers would be unable to access their UMS account from a Windows PC operating system equipped with IE.

Should SBC decide to convert the entire UMS network of servers to Microsoft operating systems, Microsoft would still, under the proposed settlement, be able to block access to UMS for some users. In this event, Microsoft could merely program its server operating system so that it could not interoperate with a non-Microsoft browser. In fact, Microsoft employed this very strategy recently, when it reprogrammed its web servers for the MSN website to block all access by consumers using the competing Netscape and Opera browsers. See p. 80 supra.

ii. Degrading the Performance of UMS

Should Microsoft choose not to completely block access to UMS, the proposed settlement permits Microsoft to substantially degrade UMS' functionality on a Windows PC operating system. The degradation can be accomplished by programming Microsoft's PC operating system in such a way that UMS' functions are purposefully disadvantaged. For instance, by altering the program codes for IE or Microsoft's version of Java, Microsoft can hinder the performance of UMS on a Windows PC operating system, including the speed at which UMS processes requests, its efficiency and the graphical presentation the user sees.

iii. Denying UMS Access to the Windows Desktop

SBC's strategy for UMS is largely dependent on having access to and visibility on the desktop, as well as on OEMs and end-users being able to change default settings in the Windows operating system to select the SBC home page or set the pre-login screen to allow for message notification. Without provisions in the settlement guaranteeing these rights, Microsoft can prevent UMS from having its own icon on the Windows desktop, or being on the Windows start menu. Furthermore, the proposed settlement would allow Microsoft to prevent UMS customers from choosing to set the SBC-Yahoo homepage as their default homepage on IE. Likewise, nothing in the proposed settlement would stop Microsoft from denying SBC equal access to the pre-login indicators on the desktop for message notification. Only through such notification could UMS compete with Microsoft's Hotmail or Messenger, which have such indicators on both the desktop and the pre-login screen for the purpose of notifying the subscriber that messages are waiting.

2. Microsoft Can Foreclose Competition By Using Its Ability To Raise Its Rivals' Costs

By not requiring "seamless interoperability," the proposed settlement would allow Microsoft to raise substantially the fixed costs associated with a competing product or service, as well as the ultimate cost to the consumer, to the point that such products are unable to compete. The anticompetitive initiatives Microsoft can pursue under the proposed settlement will force Internet-based businesses to move toward using Microsoft server operating systems and software exclusively. At the same time, the settlement will channel consumer access to the Internet through Windows PC operating systems, which consumers will have to purchase in order to obtain IE.

For example, SBC currently uses Microsoft server operating systems for less than 5% of its UMS server network, and anticipates this percentage will approach zero within the next few years—provided there is full interoperability among servers, PCs, PDAs, phones and all other computing devices. If the proposed settlement is approved, however, SBC will probably have no choice but to replace its entire UMS server network at considerable cost with Microsoft server operating systems and software.

Microsoft's server operating systems are currently significantly more expensive than those of its competitors, and this price differential is likely to grow as Microsoft solidifies its position in the server market. Even at current prices, replacing the UMS server network with Microsoft server operating systems would significantly increase SBC's overall costs for UMS (including the cost of hardware, software, maintenance of hardware and software, staff, network management, and disaster recovery). In addition, if SBC were required to replace the hardware in its entire current server network within the next few years, this would dramatically increase costs for UMS during its critical first years on the market. Taken together, these cost increases will make UMS a much less appealing alternative to the Windows PC, as the consumer's cost savings will be much smaller.

UMS is not the only SBC network service to be negatively impacted. SBC's telephone network also utilizes many servers for various functions. For instance, SBC has servers that perform "operation support systems," as well as "operations administration maintenance and provisioning." Like UMS, under the proposed settlement these network support systems would be at risk, and the cost to convert them all to Microsoft server operating systems would be significant.

3. Consumers Who Want To Access The Internet Will Have To Have A Windows Operating System, Which Will Increase The Cost To The Consumer For UMS

UMS is designed to save consumers money, because they can access the service through a "dumb PC" or handheld computing device, equipped only with a few features, like UMS, that will allow the consumer to use the Internet to perform essentially all major computing functions currently offered by a Windows PC at a fraction of the cost.

Assuming full interoperability, a "dumb PC" with a browser would be able to access and browse the Internet as well as a Windows PC. Moreover, by purchasing a product like UMS to accompany the "dumb PC," even more of the functions of a Windows PC (voice/data messaging, instant messaging, e-mail), would be available and the total price would remain substantially below a Windows PC. The cost savings to the consumer, when coupled with the other positive attributes of UMS, would make it a very attractive alternative to the comparable Microsoft products the consumer can only obtain by purchasing a Microsoft operating system.

By preventing full interoperability throughout the network of servers (including the browser), however, Microsoft can destroy any cost savings provided by UMS, because the consumer will have to buy a Windows PC or another device with a Microsoft operating system in order to obtain IE. That operating system already will have integrated or bundled Microsoft products that compete with UMS (MS Messenger; Outlook Express, Hotmail) which are included in the cost of the operating system. Thus, to use UMS, the consumer will have to pay an "add-on" or double cost in addition to the cost of the Microsoft operating system. The competitive disadvantage, for both SBC and the consumer, is plain.

4. The Proposed Settlement Will Stifle Innovation And Force Competitors To Sacrifice Quality In Certain Critical Markets

SBC, or any Internet-based business, is highly dependent on the quality and speed of technological innovation in markets that supply the hardware and software used in new ventures, such as UMS, or established services. This is particularly true for UMS, which will rely on an extensive network of servers, computers and related devices and technologies to deliver its range of services. SBC's policy is to use a wide variety of suppliers for different products, including software, throughout the UMS networks and its other computer systems. To take full advantage of technological innovation, SBC chooses the "best in class." This term reflects SBC's philosophy to choose the provider for each particular product or service that best performs the specific functions needed by SBC. In this way, SBC can obtain maximum benefit from the speed and diversity of innovation to create the most competitive products possible.

In certain crucial markets, the proposed settlement will convert this world of choice into a world of one choice—Microsoft. In the process, SBC's ability to employ its "best in class" strategy would be severely reduced. Indeed, technological innovation itself will be gravely hindered, particularly for server operating systems and server software—two critical product areas for any network. This change will be driven by the proposed settlement's failure to ensure interoperability. As a result, consumers and businesses will be forced to purchase the Windows PC operating system, IE, and Microsoft server operating systems, or at least license Microsoft intellectual property, in order to guarantee full interoperability. The fact that Microsoft server products, especially in relation to the particular needs and functions of SBC, are more costly but by no means superior in quality or functionality, will no longer be determinative.

In the longer term, as competitive choices in these markets are diminished, Microsoft will be able to unilaterally control the pace of innovation. Currently, many different companies are working to innovate and develop different product functions and niche uses. SBC can take advantage of specialized innovations that are essential to supporting or improving its operations. In the world created by the proposed settlement, however, Microsoft will be the sole arbiter of what areas, products or uses should or should not be explored for technological advancement. Microsoft would be free to stifle innovation in a particular area that may be crucial to developing a product or service which competes with Microsoft.

The government made this very point to the District Court through the testimony of one of its expert economists, who stated that Microsoft's exclusionary practices had

> interfered with the process of innovation in three distinct ways. First, consumers did not get the innovative products that the technology being developed by Netscape and Sun might have delivered. Second, Microsoft's predatory acts had a chilling effect on innovative efforts by all people who might have developed other software technologies that Microsoft found threatening. Third, Microsoft harmed the innovative process because it limited competition, and competitive markets are, on balance, the best mechanism for guiding technology down a path that benefits consumers.

Romer Decl. ¶5.

The effect of the proposed settlement on UMS is illustrative. SBC currently uses between 15 and 20 different providers for different products, including software, throughout the UMS network. In the "Microsoft world" that would be created by the proposed settlement, SBC expects that it would be limited to a total of 5 to 10 providers. Each of the lost providers will have to be replaced by Microsoft products because of interoperability obstacles created by Microsoft commingling and nondisclosure.

SBC currently uses three separate server operating systems in its UMS operations, based on the particular needs and functions of different servers throughout the network. The three products are a UNIX operating system which is run on servers produced by several companies; Linux operating systems which run on a variety of servers; and, for certain limited functions, Microsoft server operating systems (which are run on less than five percent of the UMS network). In SBC's view, the Microsoft server operating systems are substantially less effective than competitors'' systems in performing the functions needed by the UMS network. Among other things, Microsoft products have a poor security performance history, see pp. 90–91 supra, and thus it is SBC's policy that no server that faces the Internet is based on a Microsoft server operating system. As a result of the need for interoperability, however, under the proposed settlement, SBC could be forced to use Microsoft server operating systems throughout the UMS network.

SBC's choices will be similarly circumscribed for server software. For its mail server and directory server, SBC currently uses a range of non-Microsoft software products. For the functions needed by the UMS network, these products better meet SBC's requirements, and are less costly than, comparable Microsoft products. For SBC's web server, which is the critical primary link to the Internet and the Internet browsers, SBC uses server software from Apache. The Apache software is also preferable to comparable offerings from Microsoft for this purpose.

Similarly, in the areas of network management and voice over Internet protocol (''VoIP''), SBC could well be forced to switch to Microsoft products under the proposed settlement. Network management products essentially ensure that SBC's telephone network runs effectively and reliably, by monitoring the system for failures, analyzing configuration, and developing utilization statistics. The network management software currently used by SBC is more efficient and less costly than comparable Microsoft products. In the VoIP area, SBC's ''gateway,'' which translates voice conversations into VoIP, uses a non-Microsoft, ITU (''International Telecommunications Union'') H.323-compliant gateway, or translator. If the proposed settlement were approved, nothing would prevent Microsoft, by changing its server or browser programs to a non-compliant format, from forcing SBC to replace this translator with a Microsoft product or a product that incorporates Microsoft-licensed intellectual property to ensure the interoperability required for SBC's telephone network to function.

5. Delayed Disclosure Will Harm Competition

The flexibility provided to Microsoft to delay the disclosure of technical information could also significantly harm the competitive prospects of UMS and related products. As explained above, Microsoft can delay the release of technical information related to interoperability with a new Windows product or a change in an existing Windows product until very close to the time when the new or altered product is placed on the market. See pp. 80–85 supra. SBC, and other competitors, thus face the very real possibility that there will be insufficient time to ensure that a competing product, like UMS, will be fully interoperable when a new or altered Windows product is introduced. If UMS is not fully interoperable, the result would be that certain UMS customers who attempted to access their mailbox from a Windows PC would be ''dropped''—meaning their request for data or voice information would not be processed. Since SBC plans that UMS will have over 5 million customers by 2007, if UMS is not fully interoperable with Windows PCs for even one day, many UMS customers would be ''dropped.'' The negative consequences should customers be unable to access their UMS mailboxes for any period of time are obvious.

By making it impossible for server operating systems which run websites on the Internet to interoperate with non-Windows operating systems, Microsoft will be able to force all businesses and all consumers to conform to the Windows world. With over 90% of the operating system and browser markets, for example, Microsoft can make its Passport product the dominant intermediary between consumers and e-commerce web sites, and can effectively impose a tax or toll on all transactions. If it wishes to, Microsoft will be able to use its browser dominance to ensure that any web portal in which it has a stake receives preferential display. And if it chooses to, Microsoft will be able to use its browser dominance to control the flow of information or content on the Internet by using its Internet gate-keeper position to prefer one type of message over another, for example, blocking access to sites that are critical of Microsoft. In all of these ways, Microsoft can use the developing world of Internet technology to protect and strengthen its PC operating system monopoly.

V. WITHOUT SIGNIFICANT CHANGES, THE PROPOSED SETTLEMENT CANNOT SATISFY THE PUBLIC INTEREST STANDARD

As shown, the proposed settlement allows Microsoft to continue exclusionary practices, like commingling, to easily evade virtually all of the proposed settlement's proscriptions and affirmative obligations, and, by simply doing what the settlement allows, or fails to enjoin, ensuring that the next generation of threats to the operating system monopoly in the form of Internet servers and web-based computing never leaves its crib. By the time the proposed settlement expires, Microsoft middleware will be the firmly entrenched medium of Internet communication, displacing open architecture with a closed proprietary system; all competition will be forced to use Microsoft's proprietary standards instead of the open architecture currently thriving as the medium for program development and communication; and OEMs will be even more beholden to Microsoft's demands. This is the teaching of an exhaustive trial record and a careful appellate review that affirmed the lower court's findings of a decade-long scheme of monopoly maintenance in violation of Section 2 of the Sherman Act.

Under the law of the District of Columbia Circuit, the proposed settlement falls far short of providing any meaningful remedy for this most serious of antitrust violations and for that reason alone does not satisfy the public interest standard. United States v. Microsoft, 56 F.3d 1448, 1458 (DC Cir. 1995) (The Court must ''make an independent determination whether the proposed consent decree [is] in the public interest.''). Worse still, because the proposed settlement operates to perpetuate this unlawful monopoly by permitting the continuation without sanction of conduct previously found to be exclusionary, the proposed settlement in fact injures the public interest. For these reasons, the District Court must reject it.

Indeed, the proposed settlement fails to meet the public interest standard on all of the bases set out in the 1995 Microsoft decision. As discussed above, and in further detail below in the context of recommended changes and additions to the proposed consent decree, the settlement now advanced by the government (1) is ''ambiguous'' in many respects and fiddled with loopholes and exceptions to key provisions; (2) presents numerous ''difficulties in implementation'' that arise because so many provisions leave compliance in Microsoft's sole discretion; (3) has been subject to widespread condemnation by ''third parties [who] contend that they would be positively injured by the decree,'' including SBC; and (4) in view of the remedies the government said were absolutely essential only two years ago—after the District Court's detailed findings as to monopolization were upheld on appeal—but which have now been omitted from the proposed decree, ''on its face and even after government explanation, appears to make a mockery of judicial power.'' Microsoft Corp., 56 F.3d at 1462.

For these reasons, SBC submits that the proposed decree should not be entered. The proposal made by the Litigating States would, if adopted in its entirety, adequately serve the public interest in SBC's view. Alternatively, SBC respectfully offers the following detailed revisions that, if fully incorporated into the proposed settlement, would provide an appropriate remedy for Microsoft's adjudicated wrongdoing:

A. Changes Must Be Made to RPFJ § III.A (OEM and Other Licensee Retaliation)

Sections 8 and 9 of the Litigating States' proposal provide an adequate remedy prohibiting retaliation by Microsoft against others. Alternatively, the following revisions should be made to the proposed settlement:

§ III.A The retaliation provision should not be limited to OEMs, but should also prohibit retaliation against any third party that is a licensee or potential licensee of Microsoft products or services. Given Microsoft's proven propensity to root out and extinguish competition wherever it develops, the risk of retaliation could affect many sources of competitive pressure on Microsoft besides OEMs. One example would be third-party software system integrators, who pull together products from numerous different vendors to give customers a software or total computing package that is tailored to their specific needs.

The term ''retaliation,'' which is not defined in the proposed settlement, must be defined broadly to include ''any threats or any actions that directly or indirectly have an adverse effect'' on OEMs or other licensees. The phrase ''by altering Microsoft's commercial relations, or by withholding newly introduced forms of non-monetary Consideration'' should be eliminated, because it unnecessarily limits the scope of the term retaliation. Microsoft's proven ability to devise new forms of anticompetitive restraints to meet new competitive threats amply justifies this broad definition.

The scope of the conduct by OEMs and other licensees which cannot be subject to retaliation by Microsoft must be broadened. The provision should prohibit adverse action by Microsoft based on the OEM or other licensee undertaking or contemplating "any business activity that promotes or distributes software, products or services that may be competitive with Microsoft products or services." See Final Judgment § 3(a)(i)(1). Again the record of Microsoft's constantly evolving panoply of anticompetitive actions justifies the broad prohibition to "pry open" the market to competition. The burden should be on Microsoft, as the convicted lawbreaker, to seek an exception to the decree's prohibitions if it believes there is a reasonable, procompetitive justification for a particular adverse action.

§§ III.A.1, III.A.2 and III.A.3 Each of these subsections should be deleted because they limit the scope of the conduct by OEMs for which Microsoft is prohibited from retaliating.

The provision in the second half of § III.A addressing license termination should require that Microsoft show good cause before terminating the license of an OEM or other licensee, in addition to giving written notice and an opportunity to cure. See Litigating States' § 2(a). The provision should also be changed to give the licensee 60 days' opportunity to cure. Id. The exception allowing Microsoft to terminate an OEM's license if it has previously given two or more written notices should be deleted because it is too easily subject to abuse. All of these changes are necessary to ensure that Microsoft, given its sorry history of abuse, deals fairly with licensees.

The exception in § III.A that permits Microsoft to provide "consideration to any OEM with respect to any Microsoft product or service where that consideration is commensurate with the absolute level or amount of that OEM's development, distribution, promotion or licensing of the Microsoft product or service" should be deleted. It provides Microsoft the opportunity to provide unlawful incentives to licensees based on undefined criteria ("absolute level or amount") that Microsoft alone determines.

Proposed Additions to Follow RPFJ § III.A

B. A Provision Prohibiting Retaliation By Microsoft Against Any Party Who Participates In The Litigation Must Be Added

A provision, such as Litigating States' proposal 9, should be added following § III.A to specifically prohibit Microsoft from retaliating against any individual or entity who participates or cooperates in any way in any aspect or phase of antitrust litigation involving Microsoft. Such a provision will ensure that Microsoft does not retaliate against any individual or entity that has participated thus far, and will afford protection to any individual or entity that wishes to come forward with complaints against Microsoft based on the consent decree that is ultimately entered. In view of Microsoft's continuing dominant position, its history of retaliation, and the fear it has engendered throughout the marketplace, such a provision is both necessary and reasonable.

C. A Provision Requiring Microsoft To Port "Office" To Apple's Operating System Must Be Added

Litigating States' proposal § 14 should be included in the decree to require Microsoft to continue making and updating a version of its "Office" business productivity suite that can be ported to the Apple operating system, and to require Microsoft to auction licenses to third parties to facilitate the creation of versions of Office that port to operating systems other than Windows. Such a provision is necessary because the Apple Macintosh operating system at present is the only viable alternative to Windows as an Office platform, but if others develop, they should have access to this widely-used application software. Such a provision is justified by the specific findings, affirmed on appeal, that Microsoft used the threat of dropping support for the Apple version of Office to coerce Apple into using IE as its default browser.

D. Changes Must Be Made To RPFJ § III.B (Uniform Licensing)

The subject of uniform licensing is adequately addressed in ¶2(a) and ¶2(b) of the Litigating States' proposal. Alternatively, the RPFJ should be revised as follows:

§ III.B

For the reasons discussed in connection with RPFJ § III.A., the provision must apply not only to Microsoft's licensing to OEMs, but to all third party licensees. § III.B.2

The proposed decree should allow Microsoft to provide reasonable volume discounts only if they are based upon an independent determination of the actual volume of shipments. See p. 102 supra; Litigating States' § 2(a)(ii). § III.B.3

This provision and its three subsections should be eliminated. Instead, the provision should include an outright prohibition, such as that included in Final Judgment § 3(a)(ii) or Litigating States' § 2(a), against Microsoft's offering market development allowances ("MDAs") or discounts to OEMs or third party licensees. This loophole allowing MDAs makes it possible, as a practical matter, for Microsoft to engage in the very discrimination that the provision is intended to prevent.

Proposed Additions to Follow RPFJ § III.B

A provision should be added to the proposed decree that would require that Microsoft provide OEMs and other licensees with equal access to "licensing terms, discounts, technical, marketing and sales support, product and technical information, information about future plans, developer tools or support, hardware certification and permission to display trademarks or logos." gee Litigating grates' § 2(b); Final Judgment § 3(a5(ii5. Without this provision, Microsoft will be able to keep such information secret, which will allow Microsoft to continue to take advantage of licensees' ignorance about what terms are available.

F. A Provision Prohibiting Microsoft From Enforcing Agreements That Are Inconsistent With The RPFJ Must Be Added

A provision should be added that prohibits Microsoft from enforcing any contract terms or agreements that are inconsistent with the decree. See Litigating States' 2(a); Final Judgment § 3(a)(ii). This prophylactic measure is justified by Microsoft's proven history of evasion of antitrust regulation and anticompetitive conduct.

G. Changes Must Be Made to RPFJ § III.C (Restrictions on OEM Configuration of PCs)

Section III.C attempts to address Microsoft's past illegal imposition of restrictions on OEM configuration of the desktop. These restfictions closed the OEM distribution channel to non-Microsoft middleware. Because the provision fails to address Microsoft's commingling of code, contains no affirmative requirement to offer a stripped-down version of Windows with a corresponding price reduction, and is fiddled with loopholes and ambiguities that allow Microsoft to override both OEM and end-user choices regarding competing middleware products, section III.C fails to accomplish its goal. To effectively close these loopholes and reopen the OEM distribution channel in an effort to revive middleware competition, SBC recommends the following:

The Litigating States' proposal is adequate to satisfy SBC's concerns regarding the effectiveness of OEM configuration options. SBC recommends that the Litigating States' proposals addressing restrictions on OEM options be adopted to replace section III.C of the proposed settlement. See Litigating States' §§ 1, 2(c), 3, 8, 10. In the alternative, SBC recommends the following modifications to the proposed decree:

§ III.C

Following the words "OEM licensee", the phrase "or Third Parties" should be added. "Third Parties" should be defined as "any persons offering to purchase from Microsoft at least 10,000 licenses of a product or products offered and licensed to OEMs, including without limitation ISVs, systems integrators, and value-added resellers." See Litigating States" § 22(oo). As described in these comments, this would allow third party software customizers to develop as a competitive force in the industry, as they may well have absent Microsoft's illegal conduct.

Add after the word "alternatives" in the first sentence of the provision "..., which are set forth below, by way of example and not limitation: .... "This prevents the list of items that follows from becoming an exclusive list of the restrictions Microsoft cannot impose on OEMs. Broad language is necessary so that the remedy can be adapted to technological changes.

Added to the list should be an option that states OEMs are free to display alternative non-Microsoft desktops, provided that an icon or other means of user access is provided to the Microsoft desktop. This allows OEMs the freedom to offer consumers completely separate non-Microsoft interfaces without interfering with, changing the appearance of, or precluding access to, the Microsoft desktop.

§ III.C.1

This subsection is meant to ensure that OEMs are free to install competing middleware products and services and to place icons and shortcuts to those products on the desktop. CIS at 30. To fulfill that purpose:

Eliminate everything after the words "generally displayed." The exception that follows those words may be misconstrued as providing Microsoft discretion to prohibit OEMs from featuring middleware products as to which Microsoft may not offer a competing product or a product with the same "functionality." The deletion of the language prevents any misunderstanding.

Section III.C. 1 should also make clear that Microsoft may not restrict OEMs from offering an alternative desktop, provided that an icon linking the user to the Windows desktop is also displayed. This would expand options for consumers, while at the same time reducing the burden on OEMs of attempting to conform to Microsoft's desktop requirements.

§ III.C.2

Related to section III.C.1 is subsection 2, which prevents Microsoft from restricting an OEM's ability to distribute and promote non-Microsoft Middleware by displaying shortcuts on the desktop. However, the provision limits this ability to those middleware products that do not impair the "functionality" of Windows. At the end of the provision, the following language should be added: "Whether the functionality is impaired shall be determined by the Technical Committee upon Microsoft's written submission to the Committee as to how the OEM modification impairs the functionality of the Windows Operating System." Nowhere in the decree is the term "functionality" defined. So as not to leave the determination as to whether a change impairs the "functionality" of Windows in Microsoft's discretion, either the term should be defined in the definitions section of the decree, or the aforementioned language should be added.

§ III.C.3

Subsection III.C.3 requires Microsoft to permit OEMs to configure the desktop in a manner that allows non-Microsoft products to launch automatically at the conclusion of the tint or subsequent boot sequences or upon connection or disconnection from the Internet. To accomplish this:

Eliminate everything after "a user interface" and replace it with "that may be seen as attempting to imitate the trade dress of or otherwise appear identical to the corresponding Microsoft Middleware Product." While subsection 3 attempts to prevent ISVs from palming-off their products as Microsoft products, as currently written, the provision appears to give Microsoft discretion to decide, in the first instance, which competitors" icons and interfaces, and in what form, may be displayed. The change clarifies the intent.

As in Section III.C.1 above, this provision contains imprecise language describing when and whether a Non-Microsoft Middleware Product can launch automatically ("if a Microsoft Middleware Product that provides similar functionality would otherwise be launched automatically at that time") that can be interpreted as allowing Microsoft to stop OEMs from launching innovative middleware products as to which Microsoft has not developed a competing product. This language should be deleted both to avoid any possibility of such an interpretation and also because Microsoft's business choices should not determine or in any way limit OEMs' decision to launch a non-Microsoft product or service.

The provision should include the phrase "..., application or service (including any security/authentication service)" after the first appearance of the term "Non-Microsoft Middleware". This would allow ISVs to compete with Microsoft's new products and services such as NET and Passport to which Windows XP contains embedded prompts in the initial boot sequence and on the MSN default homepage.

As now drafted, the provision can be read as limiting competition only to the categories of middleware product that existed when the litigation began, i.e., browsers and media players.

The settlement should require that, as part of ensuring that a Non-Microsoft Middleware Product can launch automatically in place of a Microsoft Middleware Product, the non-Microsoft product will replace the Microsoft product in such cross-dependent scenarios as when clicking on a URL in Microsoft Word. In the past, regardless of a user's selection of default browser, IE would launch in its place when the user attempted to reach the Internet in this fashion. Microsoft should not be permitted to automatically invoke its middleware products despite a contrary choice by a consumer or OEM.

§ III.C.5

In this section concerning an OEM's freedom to promote a competing IAP, the settlement must either identify what a "reasonable technical specification" is or otherwise remove that determination from Microsoft's sole discretion. Otherwise, Microsoft will be able to block OEMs from featuring competing IAPs for virtually any reason, or else impose anticompetitive requirements, such as the use of Microsoft's proprietary protocols, before a competing IAP is allowed on the desktop. Proposed Additions to Follow RPFJ

§ III.C

H. A Provision That Prohibits Microsoft From Commingling Must Be Added

A provision that reads similarly to the Litigating States' proposed ¶1 should be adopted to prevent Microsoft from repeating the illegal conduct that the Court of Appeals found it engaged in by commingling the code of its IE browser with the code for its Windows operating system. A restriction on the practice of binding middleware to the operating system is essential to restoring competition by making the OEM distribution channel a viable option once again for software vendors. See Litigating States' 1. Such a provision will have the salutary collateral effect of preventing the exceptions contained in RPFJ § III.H from rendering the substance of sections III.C and III.H meaningless, as well as supporting innovation. See Shapiro Decl. at 23 (stating that an anti-binding provision in the Final Judgment, similar to the one proposed here, "strikes an excellent balance between the consumer benefits that can arise when Microsoft adds functionality to its operating system and the benefits that consumers enjoy when new and improved software is developed independently of Microsoft, especially if that software may serve a role in eroding Microsoft's monopoly position. By allowing OEMs to choose whether to make Microsoft's Middleware Products or rival software directly available to end-users, OEMs will have the incentive to experiment to best serve consumers' interest.").

I. A Provision Determining The Relative Prices Of Unbundled Versions of Windows Must Be Added

Either as part of the provision dealing with the binding of middleware or elsewhere in the decree, there must be a provision requiring Microsoft to differentiate its product prices based on an OEM's selection of the Microsoft middleware products, if any, that it chooses to bundle with the Windows operating system. Such a mechanism must ensure that "stripped-down" versions of Windows cost less than the fully loaded version in a proportion that properly reflects the value of middleware products not included. Failure to provide a pricing mechanism, such as those contained in States' proposal ¶¶1 and 3(b), removes any incentive OEMs have to create software packages composed of competing middleware products.

Several such mechanisms are possible. The Final Judgment provided that pricing be guided based on bytes of code. See Final Judgment § 3(g)(ii). SBC believes it would be preferable to allocate costs between the operating system and the removed middleware based on measurements of "function point code." The International Function Point Users Group Counting Practices Manual is a generally accepted, objective industry standard for measuring non-multimedia software (which excludes games and training software) and estimating software costs using an existing code base. See T. Capers Jones, Estimating Software Costs Function Point Analysis: Measurement Practices for Successful Software Projects (1998); David Garmus and David Herron, Function Point Analysis: Measurement Practices for Successful Software Projects, 34–61 (2000). Alternatively, SBC supports the use of a pricing mechanism based on the fully allocated product development costs for the operating system product and middleware products in question. See Litigating States' ° 1.

J. A Provision Requiring That Microsoft Continue To Offer Predecessor Versions Of Windows Must Be Added

SBC recommends adoption of Litigating States' proposed ¶3. Section 3 mandates that Microsoft continue to license for 5 years its immediate predecessor version of Windows, at a price no higher than the last price at which the predecessor version was offered. This is a further means of preventing Microsoft from commingling its middleware products with Windows without offering OEMs, end-users and third parties the chance to buy a version of the operating system that is both cheaper and without Microsoft products bound to it. Prior versions of Windows typically have less Microsoft middleware product bundled with or bound to the operating system, and rely more heavily on accepted industry standards. As a result, predecessor versions may be more easily configured to include non-Microsoft middleware products.

K. Changes Must Be Made To RPFJ §§ III.D and III.E (Interoperability Disclosure)

Full interoperability is necessary to prevent Microsoft from perpetuating its monopoly of the PC operating system market by exercising control over server operating systems and software, and Internet browsers, and using that control to eliminate the nascent competitive threats posed by non-Microsoft server operating systems and embedded devices.

Section 4 of the Litigating States' proposal achieves full interoperability between (i) a Windows PC operating system and non-Microsoft Middleware; (ii) a Windows PC operating system and a non-Microsoft server operating system; (iii) Microsoft Middleware, including Internet Explorer, and a non-Microsoft server operating system; and (iv) Microsoft and non-Microsoft server operating systems. Litigating States' § 4.

To achieve full interoperability, the disclosure must include "all APIs, communications interfaces and other technical information related to interoperability." Litigating States' § 4. Only in this way can the "seamless interoperability," recognized by the government in the CIS as the operative goal, be achieved. CIS at 38.

The timing of required disclosure under the proposed settlement is equally deficient, because it provides Microsoft sufficient flexibility to use the timing of a disclosure to gain a competitive advantage for its own software. Microsoft should be required to disclose the technical information related to interoperability in a "timely manner," which should be defined as the earliest of the following: (i) when it is disclosed to Microsoft's applications developers; (ii) when it is used by Microsoft's Platform Software developers; (iii) when it is disclosed to any third party; or (iv) within 90 days of a final release of a new version of Windows, and no less than 5 days after a material change is made by Microsoft after the most recent beta or release candidate version. This is the timing provision employed by both the District Court's Final Judgment and the Litigating States' proposal. Final Judgment ¶3(b); Litigating States' § 22 (pp).

Proposed Additions To Follow RPFJ § III.E

L. A Provision That Requires Mandatory Distribution of Java Must Be Added

The Litigating States' proposal properly requires Microsoft to distribute Java, free of charge, for ten years. Litigating States' § 13. The copy of Java that is distributed must be "a competitively performing Windows-compatible version of the Java runtime environment (including the Java virtual machine and class libraries) compliant with the latest Sun Microsystems Technology Compatibility Kit." Id. The proposed settlement does not require Microsoft to distribute a version of Java that is compliant with the latest technology from Sun Microsystems, and that is fully compatible with the most recent version of Windows. This requirement is critical to ensure full interoperability between IE and all non-Microsoft server operating systems, and will also help to erode the applications barrier to entry that shields Microsoft's monopoly power.

M. A Provision Prohibiting Interference With Or Degradation Of Non-Microsoft Middleware Must Be Added

The government's own expert explained the need for an affirmative prohibition against such interference by Microsoft as necessary to prevent one of the more insidious methods of monopoly maintenance:

> Microsoft has demonstrated its ability and incentive to hinder the adoption of rival middleware through a variety of exclusionary tactics such as it employed against Netscape's browser. Once Microsoft is enjoined from employing the tactics it has already used, Microsoft will have an incentive to switch to new, substitute tactics having the same effect. One such tactic is to intentionally degrade the performance of rival middleware interoperating with Windows.

Shapiro Decl. at 22. The Final Judgment and Litigating States' proposal explicitly prohibit Microsoft from knowingly impeding or degrading the performance of non-Microsoft Middleware on a Windows PC. Final Judgment § 3(c); Litigating States' § 5.

The Litigating States' proposal also properly requires that if Microsoft takes any action that would "interfere with or degrade the performance of non-Microsoft Middleware," it must give 60 days advance notice to the affected ISV. Litigating States' 8 5. The proposed settlement does not contain a knowing interference provision. Since the Court of Appeals specifically affirmed the findings upon which this remedy was based, the decision to delete it is difficult to understand. CA at 65–66. To the contrary, the proposed settlement actually gives Microsoft the incentive to make slight changes to its operating system product, as part of a "minor upgrade," that would have the effect of impeding the interoperability of non-Microsoft middleware with a Windows PC operating system. See RPFJ §§ III(D), VI(J). If the change is a part of a "minor upgrade," Microsoft is not required to disclose the APIs and other technical information required to ensure full interoperability. Id.

N. A Provision Requiring Microsoft to Comply With Industry Standards Must Be Added

To create a level playing field and foster competition, a provision must be added to ensure that open or industry standards continue to be promoted and used by Microsoft as part of the Windows PC operating system environment. An industry standard is any technical standard that has been approved by (or has been submitted to and is under consideration by) any independent, publicly recognized organization or group that sets standards. If Microsoft can replace an open industry standard with its own proprietary codes, it will prevent full interoperability and thus reinforce the applications barrier to entry.

As a result of Microsoft's monopoly power in the PC operating system market, it is able now, and in the foreseeable future, to depart from industry-recognized standards for its own competitive advantage. This is accomplished in two ways. First, Microsoft has in the past made subtle, undisclosed changes to a number of recognized industry standards that are used to execute functions by the Windows operating system. Even a small modification can severely impede the ability of a competing operating system or middleware product from interoperating with a Windows operating system product.[35] Second, any new or modified standards implemented by Microsoft become, as a practical matter, an industry standard within a very short period of time because of the high percentage of Windows users.

Microsoft's Brad Silverberg explained this Microsoft strategy in the context of a previous standards battle with Novell's Netware:

> It seems very clear to me that if you are currently on the losing end of a standard battle, your strategy needs to be: (a) adopt the standard so you don't force customers to choose between you and the standard, (b) bootstrap that so you have a reasonable installed base, (c) begin to change the standard on top of it to get people dependent on "you." Once people are dependent on you ..:. you "start to turn the crank."

Henderson Decl. ¶35 (internal citations omitted).

To ensure that Microsoft's practices are changed and to ensure full interoperability, the settlement must include a provision that requires:

(i) that Microsoft continue to use and promote all open or industry-recognized standards;

(ii) that Microsoft not alter or modify an industry standard in any way, except to the extent that such modification is compliant with, and approved by, an independent, internationally recognized industry standards organization;

(iii) that Microsoft disclose any change it implements to an open or industry-recognized standard, in a "timely manner," as that phrase is defined in the Litigating States' Proposal § 22 (pp);

(iv) that Microsoft assist any other software provider to achieve interoperability with any protocol Microsoft uses in any such situation in which Microsoft is the holder of the reference protocol implementation; and

(v) that Microsoft work with all other holders of reference protocols to achieve and ensure interoperability with any protocol Microsoft uses, in any situation in which Microsoft is not the holder of the reference protocol implementation.

There are over 300 separate standards used by any PC operating system to function within a local area network or on the internet. The following protocol families are among those that are particularly important to Internet-based computing: (1) the TCP/IP protocol family, which is universally used to transmit data and services on the Internet; (2)

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[35] For example, if Microsoft made subtle changes to the industry-recognized audio Codec standard, applications that used audio features, such as Real Player, would not be able to interoperate with a Windows PC operating system. If Real Player continued to employ the industry-standard Codec in its program, Windows PC users would be able to download that Codec to their Windows operating system, but would face the very real possibility that the program would not function with their Windows PC operating system as well as the competing Microsoft product, Media Player, which would, of course, be designed to run with Microsoft's modified Codec.

the H.323 protocol family as defined by the ITU, which supports video and voice communications and is often referred to as a Voice over IP (VoIP) protocol; (3) the SIP protocol family, which supports video and voice communications, as well as instant messaging; and (4) the HTML/HTTP protocol family, as defined by the World Wide Web Consortium (W3C), which supports web browser and server protocols.

A Provision Requiring Open-Source Licensing for Internet Explorer Must Be Added

Microsoft's control of IE is an integral part of the anticompetitive conduct that has maintained Microsoft's monopoly over the PC operating system market. As the Litigating States propose, to remedy these anticompetitive acts and prevent recurrence, the source code for IE must be disclosed on a royalty-free and non-discriminatory basis. See Litigating States' § 12.

P. Changes Must Be Made To RPFJ § III.F (Retaliation Against Any Third Party)

Sections 8 and 9 of the Litigating States' proposal adequately address retaliation issues. Alternatively, the following revisions should be made in the RPFJ:

§ III.F.1

The retaliation provision must be revised to prohibit retaliation not only against the limited category of ISVs and IHVs, but against any third party. For the reasons discussed in connection with Section III.A above, the continually evolving nature of computer and software technology and business practices means that, as a practical matter, new threats to Microsoft's operating system monopoly could come from as-yet unidentified entities. In light of Microsoft's record of past retaliatory conduct, and the durability of its monopoly power, such "nascent" threats must be protected wherever and however they emerge.

The term "retaliation" must to be defined broadly to include "any threats or any actions that directly or indirectly have an adverse effect" on third parties. See discussion of RPFJ § III.A supra.

The scope of conduct by third parties for which Microsoft may not retaliate must be broadened. The provision should prohibit adverse action by Microsoft based "directly or indirectly on any actual or contemplated action" by the protected party. See discussion of RPFJ III.A supra.

The ban on retaliation should be based on any action or contemplated action by a third party "to develop, use, distribute, promote, or support any non-Microsoft product or service." See Litigating States' § 8. The proposed settlement prohibits retaliation based on a party's "developing, using, distributing, promoting or supporting any software that competes with Microsoft Platform Software or any software that runs on any software that competes with Microsoft Platform Software." Based on the inherent problems with the definition of Microsoft Platform Software, this limitation narrows the types of products within its scope. For example, it would be permissible for Microsoft to retaliate for a party's distribution or use of an application that competes with Office, because Office is not "Microsoft Platform Software."

§ III.F.2

At a minimum, the exception in this provision must be deleted. It would allow Microsoft to enter agreements that limit an ISV's ability to develop, promote or distribute competing software, "if those limitations are reasonably necessary and of reasonable scope and duration in relation to a bona fide contractual obligation of the ISV to use, distribute or promote any Microsoft software." RPFJ § III.F.2. This creates a loophole for Microsoft to restrict an ISV's ability to develop products that compete with Microsoft products. Given its proven history of anticompetitive conduct, Microsoft should not be entitled to an automatic opportunity to use its market power to obtain even "reasonable" exclusive dealing agreements. If Microsoft and an ISV believe a particular agreement has procompetitive justification, they can seek prior approval from the government. In the alternative, this entire provision may be deleted if a provision as discussed in ¶V.Q below is added. See also Litigating States' § 11; Final Judgment § 3(h).

§ III.F.3

This broad savings clause, which provides that Microsoft is not prohibited from enforcing agreements with any ISV or IHV, or any intellectual property right, that is not inconsistent with the proposed settlement, should be removed. It is unnecessary and vague, and invites further litigation. Given the overwhelming record of Microsoft's anticompetitive conduct, the burden should not be placed on the government or a third party to prove that Microsoft did something "inconsistent" with the decree.

Proposed Additions to Follow RPFJ § III.F

Q. A Provision Prohibiting Microsoft From Entering Agreements That Limit Competition Must Be Added

A provision should be added, such as Litigating States' proposal 11, prohibiting Microsoft from offering consideration to any competitor in exchange for the competitor's agreeing to refrain from developing or distributing any product or service that competes with any Windows Operating System or Middleware Product. See also Final Judgment 3(h). Such a provision is necessary to prevent Microsoft from seeking anticompetitive contracts that divide markets or otherwise limit competition, regardless of whether the "terms" are reasonable. See discussion of RPFJ § III.F.2 supra.

R. Changes Must Be Made To RPFJ § III.G (Ban on Exclusive Dealing)

SBC believes that Section 6 of the Litigating States' proposal is consistent with the public interest on the issue of exclusive dealing. Alternatively, the following changes should be made in the RPFJ:

§ III.G.1

The provision governing exclusive dealing must be extended to third parties. See Litigating States' § 6; Final Judgment § 3(e). The government previously acknowledged that a general ban is necessary because it is too difficult to predict which entities Microsoft might seek to tie up in exclusive arrangements over the next several years. See Shapiro Decl. at 19.

Microsoft should be prohibited from granting consideration to any third party that agrees to "restrict its development, production, distribution, promotion or use of, or payment for, any non-Microsoft product or service; distribute, promote or use any Microsoft product or service exclusively or in a minimum percentage; or interfere or degrade the performance of any non-Microsoft product or service." See Litigating States' § 6; Final Judgment § 3(e). The proposed settlement would prohibit only agreements that grant consideration for the entity to agree to distribute, promote or use Microsoft Platform Software exclusively or in a fixed percentage. The settlement terms do not prohibit restricting the development or use of non-Microsoft products or services and interfering or degrading the performance of non-Microsoft products or services. Yet such conduct is blatantly anticompetitive and entirely consistent with Microsoft's record of proven illegal conduct.

The exception allowing exclusive or fixed percentage arrangements if Microsoft obtains a representation that it is "commercially practicable" for the entity to provide equal or greater distribution of a competing product, should be eliminated. This loophole permits Microsoft to demand parity with any product that it considers a competitor in an agreement with a third party that promotes or distributes a competing product. As a proven monopolist, Microsoft should not be given what is effectively an affirmative right to demand that others carry its products. The opportunities for coercion are far too great.

§ III.G.2

The proposed settlement must be changed to prohibit Microsoft from entering into agreements with IAPs and ICPs that condition their placement on the Windows desktop on their agreement "to distribute, promote or use any Microsoft product or service." See Litigating States' § 6(e); Final Judgment § 3(e)(iv). The proposed settlement only prohibits agreements that condition placement of the IAP or ICP on the Windows desktop upon the IAP or ICP's refraining from promoting or using software that competes with Microsoft Middleware. This creates a loophole permitting Microsoft to condition desktop placement on the IAP or ICP agreeing to distribute, promote or use other Microsoft products or services exclusively. Given Microsoft's proven history of anticompetitive exclusionary conduct, it should be barred from any kind of exclusive dealing arrangement.

The provision that permits exclusive dealing arrangements for joint ventures, joint developments or joint services arrangements should be deleted. It would permit Microsoft to avoid the general prohibitions on exclusive dealing, which are essential to restoring competition, merely by restructuring prohibited agreements as "joint ventures." Once again, if Microsoft believes it has a legitimate, procompetitive basis to enter into a true joint venture agreement, it can seek authorization to do so.

The provision that excludes licensed-in intellectual property should be deleted. Like the "joint venture" loophole, it would allow Microsoft to evade the exclusive dealing ban by including in an agreement, licensed-in intellectual property of nominal value.

g. ChanGes Must Math To RPFJ § III.H (OEM/End User Control the Desktop)

Section III.H focuses on OEMs' ability to offer and promote and end-users' ability to choose competing middleware products. Yet the provision undermines this purpose in several ways, including: (1) preventing either OEMs or end-users from removing Microsoft products from the operating system; (2) permitting Microsoft to override or alter OEM and end-user choices of competing middleware products; and (3) delaying the implementation of the provision to such an extent as to render it meaningless for a fifth of the lifespan of the decree. To remedy these flaws, the following changes are suggested:

§ III.H

The first sentence, which delays the applicability of the section for the earlier of 12 months after submission of the settlement to the Court or the release of the first service pack for Windows XP, should be revised to delete the introductory phrase. Microsoft should be required immediately to implement the changes necessary to comply with the OEM/end-user control provisions. This would also maximize the amount of time the provision is in force before the relief expires.

The last sentence of this section, which follows the "Notwithstanding" clause, should also be eliminated. All Microsoft Middleware Products should be required to comply with the substantive provisions of sections III.C and III.H. There is no justification for a temporal cut-off point of any kind (such as seven months prior to the last beta test of an operating system release, contained here) for new products, which should be developed with a focus on meeting, not evading, the requirements of the relief.

§ III.H.1

Subsection 1 allows OEMs and end-users to enable or disable the automatic invocation of a Microsoft middleware product or to remove the icon for that product. A subsection (c) should be added that allows end-users and OEMs to add or remove any Microsoft Middleware Product from the operating system, not just the icon for that product. The additional language will eliminate the problem of automatic invocation of Microsoft middleware under certain circumstances and open up hard drive space to add additional programs. This provision will only be effective, however, if there is a prohibition against the binding of middleware to the operating system.

§ III.H.3

The CIS states that section III.H.3 prevents automatic alteration of an OEM configuration (CIS at 48), but subsection III.H.3(b) undercuts this commitment. It would permit Microsoft to prompt an end-user to "sweep the desktop" of all selected icons and middleware choices 14 days after the initial boot-up of the computer and thereafter. Because of the possibility of consumer confusion, this has the potential to undo the very OEM and end-user control Section III.H is intended to allow. Subsection (b) therefore should be eliminated. There is no need for Microsoft ever to seek end-user confirmation that he or she wants to reverse an OEM configuration that includes competing products, or ever to prompt the end-user to "sweep away" all previous non-Microsoft product choices.

The "Notwithstanding" Clauses In This Provision Must Be Deleted

The "Notwithstanding" clauses at the end of section III.H allow Microsoft to disregard OEM and consumer choice whenever Microsoft decides that its products must be invoked to operate with its servers or when the Non-Microsoft Middleware Product fails to implement a "reasonable technical specification" (a term that is left to Microsoft to define). The clauses should be eliminated in their entirety. The exceptions contained in these clauses are so broad that they threaten to render the substance of section III.H meaningless by permitting Microsoft to override an OEM's or end-user's middleware default choice at will.

T. Changes Must Be Made To RPFJ § III.I (Mandatory Licensing)

The proposed settlement allows Microsoft to charge a royalty for the required license of technical information concerning interoperability, and to obtain a cross-license to the licensee's technical information used to interoperate with a Windows PC operating system or Microsoft Middleware. As the government recognized in the earlier remedy proceedings, royalty and cross-licensing requirements are anticompetitive. Final Judgment § 3(i); see also Gov't D.Ct. Sum. Resp. at 14. As the Litigating States have proposed, Microsoft should be required to license the necessary technical information on a royalty-free basis, and without the tight to a cross-license from the licensee. Litigating States' ¶15.

U. Changes Must Be Made To RPFJ § III.J (Limitations on Mandatory Licensing)

Section III.J of the proposed settlement is a loophole and must be deleted. All APIs, communications interfaces and technical information that must be disclosed to ensure interoperability serve, at least in part, an authentication or encryption function related to the security of the operating system. Microsoft should not be given an excuse to withhold disclosure of crucial technical information for potentially anticompetitive purposes. Neither the Final Judgment nor the Litigating States' proposal contains a similar provision.

V. Changes Must Be Made To RPFJ §§ IV And V (Compliance And Enforcement)

In contrast to the proposed settlement, certain aspects of the Litigating States' proposal would be far more effective in ensuring that the intent and spirit of the final relief entered in this action be effectively enforced:

As mandated by the Antitrust Division Manual and conceded by the government as being "customary in antitrust actions" (Gov't D.Ct. Sum. Resp. at 20), the final decree should remain in effect for ten years, not five, as prescribed by RPFJ § V. See Litigating States' § 21 (b); Final Judgment § 6(c).

Pursuant to Rule 53 of the Federal Rules of Civil Procedure, the Court should appoint a Special Master, who would be in a position to immediately report violations directly to the Court and also periodically report to the Court regarding Microsoft's compliance with its obligations, instead of the Technical Committee prescribed by the proposed decree. See Litigating States' § 18.

Any decree should set forth specific sanctions for different levels of violations and impose a strict, rapid, no-nonsense timetable for the formal resolution of all complaints about Microsoft's conduct. See Litigating States' ¶18(f).

A critical deficiency in the proposed settlement is the lack of a requirement that anyone at Microsoft, including its designated Internal Compliance Officer, certify periodically to the Court that Microsoft is in compliance with its obligations. Indeed, no one is in a better position than Microsoft to know whether it is in compliance. For these reasons, the Court should require that any decree include a self-reporting requirement, providing that a senior executive of Microsoft certify periodically under oath to the Court that Microsoft is in compliance with its obligations. Such a provision would further ensure that Microsoft takes its obligations seriously.

Instead of limiting training in the decree to officers and directors (RPFJ § IV.C.3.a), the provision must require officers, directors and all other employees that are in positions that enable them to initiate or implement anticompetitive conduct to read, understand and comply with the decree, as is customary in antitrust consent decrees. See Litigating States' § 17(c); Final Judgment § 4(e).

W. Changes Must Be Made To RPFJ § VI (Definitions)

The way the proposed settlement defines key terms significantly restricts, and in many instances eliminates, the effect of the proposed settlement's substantive provisions. SBC generally recommends the adoption of the definitions contained in the Litigating States' proposal § 22. Some of the problems posed by the proposed settlement's definitions relating to middleware are as follows:

The definition of "Microsoft Middleware" in section VI.J must be eliminated. The term is defined in so restrictive a way that it would exclude, among other things, any middleware which is bound to the operating system or as to which Microsoft has not sought trademark protection. It should be replaced with a straightforward definition that applies to middleware irrespective of whether it is Microsoft or non-Microsoft middleware, such as the definition of Middleware contained in the Final Judgment § 7(q). See also Litigating States' § 22(w).

The proposed settlement's definition in section VI.K of "Microsoft Middleware Product" limits what are considered Microsoft middleware products to specific categories of products. It should be replaced by Litigating States' proposal § 22(x), which is both a broader and more accurate description of a Microsoft Middleware Product, as it accounts for both middleware products currently in existence and products that will be developed in the future.

Subsection (ii) of the definition of "Non-Microsoft Middleware Product" requires that one million copies of the product be distributed in the previous year for the product to be considered a competing middleware product. See RPFJ § VI.N. This definitional limitation excludes new competing products from a number of the proposed settlement's protections, including those relating to the important OEM distribution channel.

The last sentence of the definition of "Windows Operating System Product" grants Microsoft "sole discretion" to determine what constitutes a Windows Operating System Product, and should be deleted. See RPFJ § VI.U. The definition should be objective and should roughly correspond to the definition of "Operating System Product" in the Final Judgment § 7(v). The definition of "Windows Operating System Product" should also include prior versions of Windows, including Windows 95 and Windows 98, as well as versions of Microsoft's operating system developed for non-PC products, such as Windows CE. See Litigating States' § 22(rr).

VI. CONCLUSION

For the reasons stated herein, the proposed settlement with Microsoft is contrary to the public interest and should be substantially modified or rejected entirely.

January 28, 2002

Respectfully submitted,

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From: Jwoodswce@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:49pm
Subject: Microsoft settlement

To whom it may concern,

As part of the public comment on the proposed Microsoft settlement, I am objecting to the prosecution of Microsoft by the Department of Justice and the various Attorney Generals' offices. I understand that with a gun to its head Microsoft wants this settlement. However, the settlement is unjust. As a consumer, Microsoft has benefited me. Sometimes I buy Microsoft, but not always. I use operating systems and browsers produced by other companies. However, Microsoft's leadership in creating software that has been selected by the marketplace as the dominant products created a computing revolution that has changed my life through higher income. In contrast, the government's prosecution of Microsoft has harmed me.

The club-fisted actions by the government in this matter have adversely affected the development of products that would have benefited me. First, the government's attack on Microsoft distracted their expansion in the enterprise server software market which is dominated by companies that have supported the government's efforts. Resources Microsoft could have been used to enhance products that would have benefited me professionally were diverted to pay for attorneys instead of programmers. Second, the government's attack on Microsoft caused the high tech meltdown in the economy by depressing the equity markets. Consequently, jobs were lost and innovative products never made it to market.

Because of the coercion used by the government, I have several objections to the proposed settlement.

First, the settlement imposes restrictions on Microsoft's ability to make contracts. This infringement on Microsoft's right to enter contracts on its own terms is akin to the "badges of slavery" prohibited by the 13th Amendment. Consequently, while Microsoft retains title to its property, the government is specifying the terms under which it may exercise its own property. Thus, our government is pursuing fascist economic policies that obliterate the rights of private property.

Second, the settlement mandates the disclosure of proprietary information by Microsoft. This attack on intellectual property rights undermines our economy. Further, it contradicts the foreign policy of our government that seeks to protect the intellectual property rights of Americans abroad. Although there is some recourse to prevent the dissemination of information affecting security, the settlement makes no adequate provisions for resolving disputes between Microsoft and the government on these security claims to protect consumers. Therefore, this settlement puts the property and privacy of Microsoft customers in jeopardy.

Third, this settlement infringes constitutional protections Microsoft, and all Americans, have from unreasonable searches. The presence of government agents in the Microsoft facility at the company's expense with unlimited access to confidential Microsoft information is an affront to our sense of ordered liberties. If this settlement were instead a warrant, the court would deny it as overly broad and unreasonable. In addition, the settlement does not specify sanctions against the government for potential violations of the confidentiality agreements.

Finally, if the government was serious about the danger Microsoft pose to consumers, the Justice Department and the state Attorney Generals' offices should have promised to not use Microsoft products during the term of the settlement. That would let the government work in an environment of incompatible software products that the market has freely chosen to avoid. In summary, the government's prosecution of Microsoft and this settlement is a threat to our individual liberty because it permits the government to destroy the wealth created by our citizens arbitrarily.

Jim Woods
21560 Iredell Terr.
Ashburn, VA 20148

From: ram@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 1/28/02 11:49pm
Subject: Microsoft Settlement

January 28, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse:

Please register my emphatic opposition to the subject Proposed Final Judgement (PFJ) [in re the conjoined Civil Actions No. 98-1232 (CKK) and 98-1233 (CKK), collectively termed the Microsoft Antitrust Case]. My reasons for opposing this PFJ are based upon review and thoughtful consideration of the following:

a) Microsoft's extensive and consistent record of gross anticompetitive abuses in the software industry that gravely harmed competitors, eliminated consumer freedom of choice, and erected illegal barriers to innovation by competitors—abuses for which Microsoft has been adjudicated to be guilty of violations of the Sherman Antitrust Act in this Case—which Microsoft will gladly continue;

b) the provisions of the PFJ, which appear on the surface to offer substantive remedies but in fact, upon careful reading, provide no effective or enforcable restrictions to prevent Microsoft from continuing its anticompetive practices to extend its monopoly illegally - precisely the offense that requires remedy;

c) the glaring omissions of the PFJ, which is blind to current conditions in the software industry and Microsoft's continuing predatory tactics there and in contiguous markets such as Internet enabled ecommerce, mass media delivery and digital rights management, and definition of worldwide network standards, and which further offers no forward looking constraints to prevent Microsoft from proliferating such oppressions of suppliers, customers, competitors, and ultimately consumers and fair markets both within the US and internationally. Microsoft has proven that it is willing to use any means or pretense to avoid or circumvent restrictions on its practices (see the earlier Consent Decree). Microsoft is like a twice-convicted burgler proposing to bargain for parole by promising not to commit burglary again—except if (i) the front door is open, (ii) a window is unlocked, or (iii) the back door can be jimmied open easily. Microsoft can't be trusted to abide by any restrictions on its business acts in good faith. The Judgement of the Court should therefore be in imperative terms without any loopholes Microsoft can use to subvert the Court's intent. Unfortunately, the PFJ is as far from such a clear standard as Microsoft might wish. No wonder Microsoft agreed to this. Far from offering even minimally adequate remedies, the PFJ is a perverse gift to Microsoft in that it would enshrine in a legal settlement the permission to continue, extend, and expand Microsoft's predatory actions and anticompetitive behaviors. For every declaration of prohibited future conduct or requirements to treat other market players and consumers fairly there are entire paragraphs and clauses, definitions and exclusions, which Microsoft can and predictably will employ to subvert both the letter and intent of these supposed remedies.

Furthermore, the face-to-face contact between Steve Ballmer (he is Microsoft's CEO and President) and Dick Cheney (Vice President of the US) as negotiations were ongoing to draft the PFJ but not reported by either party in violation of the Tunney Act, deserve censure of both sides by the Court, if not appointment of a Special Prosecutor to investigate political and adminstrative corruption.

Don't sell the software industry down the river, allow a monomaniacal company to unfairly wield its monopoly to take over several additional sectors of the economy, destabilize international standards for interoperability in ecommerce and communications, and continue to prey upon businesses, marketplaces, and consumers worldwide. Reject this PFJ. Write a fitting Judgement, with teeth!

Respectfully submitted,
Robert A. Munro
U.S. Citizen

From: Rick Hornbeck
To: Microsoft ATR
Date: 1/28/02 11:50pm
Subject: Microsoft Settlement

To Whom It May Concern:

I have attached three documents that explain my position on the Microsoft Antitrust Case, along with a proposed solution. I also attached a copy of my resume to establish my credibility and to assist you in determining the value that you should place on my recommendations. I do not believe that the Technical Committee will have the necessary access to key Microsoft personnel or the enforcement authority, either directly or indirectly, to make a difference.

Although the Proposed Settlement contains several good measures for curtailing some of Microsoft's anti-competitive actions, it does not go far enough.

I believe that the solution I propose in the first attached document will level the playing field to the degree needed to make a long-term positive impact.

Regards,
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January 28, 2002

U.S. Department of Justice
Anti-trust Division
Microsoft.atr@usdoj.gov

To Whom It May Concern:

I am writing to convey my proposed solution to the Microsoft anti-trust case. The dilemma is how to prevent Microsoft from using its monopolistic power in the future, to weaken competition, consumer choice, and innovation. Breakup along product lines is problematic due to Microsoft's successful public relations disinformation campaign Microsoft has astutely intertwined its various products so tightly that any breakup of the corporation is unrealistic, if it occurs along product lines, requiring each new organization to become its own, independent profit center. At least that is what Microsoft would have us believe.

Although such a restructuring is possible, Microsoft's argument would be that it would reduce the value of each product by approximately 30% because it would eliminate the benefits derived from their capability to "interconnect," and exchange data 'seamlessly." In my opinion, this interconnectivity argument is flawed, as virtually the same quantity and quality of interconnectivity has existed amongst Microsoft's products for many years. Microsoft is notorious for inflating the value of its product's features in the media, in advertising, and in supposedly objective articles written by shills in technical journals. However, it has failed to introduce significant new interconnectivity feature enhancements over the past few years, and it is unlikely that any new advancements or features in this area are forthcoming.

In addition, the other major vendors in the desktop software market already offer the same level of interconnectivity between their own products and Microsoft's products, in the only area that really matters—cutting-and-pasting between applications. Nevertheless, any government or court-ordered solution must confront Microsoft's strong public relations and marketing machine, which means that the product line-based breakup model is at best a steep, uphill battle.

Proposed alternative solution—impose structural changes to Microsoft's business processes, not its organization.

My recommended solution requires looking at the situation from a different perspective—instead of imposing structural changes on the organization, impose structural changes to Microsoft's business processes.

My recommended solution is as follows:

1. Require Microsoft to develop and support versions of its major office products that are fully functional on other popular, current and future operating systems, such as Linux, Java, and Mac OS;

2. Until item (1) is achieved, impose a moratorium on the development and release of the following:

a. New Microsoft operating systems or significant upgrades to existing operating systems (except for security-related enhancements or upgrades);

b. Internet Explorer browser (except for security-related enhancements or upgrades);

c. Office suite product upgrades (except for security-related enhancements or upgrades).

3. Obviously this approach will impose a significant burden on the court or its designated representative to develop and rigorously apply a method for monitoring Microsoft's development activities, both at its own facilities, and at its subcontractor's facilities. Nevertheless, I believe this approach, although not without its challenges, is reasonable and realistic, and, if properly enforced, through a process or mandatory quarterly reporting to the court, is likely to achieve the desired objective.

Some amount of financial profit from the licensing of its products on alternative operating systems is appropriate, as further encouragement for Microsoft's enthusiastic cooperation.

This letter represents a rough outline of my proposal. If you would like to discuss it further, please feel free to contact me. You are free to use my ideas that I have enclosed in this letter in your prosecution of Microsoft's anti-competitive behavior, or in a related matter.

Regards,
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THE TROUBLING TRUTH ABOUT "TRUST" ON THE INTERNET

An objective survey of the security risks associated with ActiveX and its impact on Microsoft's share of the Web browser market.

(by Rick Hornbeck, M.S., J.D. 1997)*

BACKGROUND

Where did ActiveX Come From and Why Doesn't It Go Away?

By now it is generally accepted that Microsoft and Netscape are engaged in a great World-Wide-Web (WWW) browser war. It is also generally understood that Microsoft's almost limitless revenue from its Windows operating system software and related products will allow it to keep giving it's Internet Explorer browser away free for the next 20 years, while Netscape has to charge customers for it's products. What is less well understood is why ActiveX and the Authenticode securitymodel represent the other two prongs of Microsoft's Internet marketing strategy.

As recently as early 1995 Microsoft was still unsure of the Internet's significance and the role it would play in the PC desktop market. Microsoft believed it could continue its phenomenal year-on-year profit growth relying solely on new sales and paid for upgrades of its existing products. However, these sales must in turn rely on its ability to maintain its grip and influence on the distribution channel, on the corporate purchasers, the original equipment manufacturers (OEMs) and on the standards process. (For example, according to the Microsoft 1996 Annual Report, OEM channel revenues were $1.18 billion in 1994, $1.65 billion in 1995, and $2.50 billion in 1996.)The primary source of OEM revenues is the licensing of desktop operating systems. As such, Microsoft's OEM channel revenues are highly dependent on Windows-compatible PC shipment volume. During 1995 armies of software developers and consumers launched a blitzkrieg against Microsoft's PC desktop dominion, penetrating the Windows defenses everywhere with dynamically distributed Java applets and gaining over 70% of the market for Internet browsers.

Microsoft quickly realized that the confluence of Java with Netscape's browsers had the makings of a platform-independent de-facto industry standard, which would empower users to buy more non-"Wintel" (Windows operating system on an Intel processor) desktop PCs. The Internet gave Microsoft a vision of it's impending mortality. In response, on Pearl Harbor Day, December 7, 1995, Bill Gates declared war, announcing that "[t]oday, the Internet is the primary driver of the new work we're doing across our entire product line."

The Microsoft Web servers took 8,000,000 hits on the first day of their campaign. After his two-hour public presentation Gates told National Public Radio in an interview, "Well, we've got to make sure that we're leading the way on the opportunities the Internet represents." "Netscape has two great strengths," Gates admitted. "They've got very high browser market share, and they've got the attention of the world .... It's very important to increase the popularity of our browser."

Microsoft executive vice president Steve Ballmer put it bluntly when he said, "[h]ave no confusion in your head: Job one for us right now is the Internet and defeating Netscape." Of his Mountain View, Calif., rival in Internet software, Ballmer says, "They're simply our smartest competitor."

It was against this backdrop that Microsoft launched its triumvirate Internet marketing strategy, using the parasitic relationship between Authenticode and ActiveX to increase the popularity of Internet Explorer.

INTRODUCTION

ActiveX and Java are "mini-programs" that can be downloaded from a Web site and executed directly on a user's PC. Unfortunately ActiveX mini-programs, or "components" or "controls" can reformat a user's hard drive, or copy personal files to a remote server on the Internet, or do any number of harmful things to a user's PC without the user's authorization or knowledge. A malicious hacker or terrorist could write one of these downloadable and executable programs and the user-victim has no reasonable way of either stopping it's attack once the control has gained access to their PC or reliably preventing it from gaining access in the first place.

The user has several "unreasonable" means of minimizing her risk: she can permanently disconnect her PC from the Internet, depriving herself of its benefits. She could browse only those Web sites that she "knows" do not contain harmful or malicious controls ("safe zones"), although the possibility of a hacker either spoofing a Web site, or covertly placing harmful controls into a "known" Web site exists. She could configure her Internet Explorer browser to prevent all ActiveX controls from downloading to her PC, and hope she does not encounter one that is able to bypass her browser's security configuration, which has been demonstrated in practice. Finally, she could take her chances using Microsoft's "Authenticode," or Netscape's or Sun Microsystems' "code-signing", trust-based security models that use public-key digital signatures and independent third-party Certification Authorities (CAs). Each of these unreasonable alternatives represents a different point on the risk/benefit scale which each user should consider before exploring the WWW.

However, this analysis is only necessary because Microsoft created a previously non-existent security risk by introducing ActiveX. As will be explained below, other software tools exist to provide software developers with the same capabilities as ActiveX, with virtually no security risk. Still, Microsoft has successfully obfuscated the seriousness of these self-created security issues and successfully redirected consumers attention' away from Netscape and Java. In doing so Microsoft has also successfully achieved its goal of creating the perception, in a very short period of time, that it is a player in the Internet game.

Because ActiveX does not contain its own internal security mechanism to restrict the actions of the program, Microsoft was able to introduce the Authenticode trust model as a viable protection solution. Because Authenticode uses public-key digital signatures in combination with trusted third-party Certification Authorities, and only runs on Internet Explorer, Microsoft sought to "increase the popularity of its browser" by touting its use of this "cutting-edge" technology as evidence of its leadership in the Internet software industry. At the same time it actively castigated Netscape and other browser vendors for allegedly leaving their users vulnerable to the hazards of ActiveX. Unfortunately, the people that suffer from this Machiavellian marketing strategy the most are the innocent netizens who "reasonably" allow unproved and potentially dangerous controls to be downloaded to their PCs leaving themselves vulnerable to the vagaries of malicious programmers.

It would be too harsh to accuse Bill Gates of raising Microsoft to is position of dominance through villainy or malice against his customers, given the trends of modern business practices. However, his continued promotion of Authenticode without acknowledging its serious security defects would seem to indicate that its effectiveness in mitigating security risks is subordinated to creating the impression that Microsoft is a leader in the Internet/Electronic Commerce industry. According to Eric Schmidt, Novell CEO, "if Bill Gates continues with his strategies he could become the most powerful person in the world, and that's not necessarily a good thing." Simson Garfinkel wrote recently, "Microsoft's ActiveX technology is the single greatest technological threat to the future of the World Wide Web. Microsoft's ActiveX promoters are either so blinded by their own rhetoric that they don't see the danger of this new technology, or else they are so cynical that they would destroy the very essence of the Internet rather than compromise their market dominance."

In a different industry, Microsoft's actions could be analogous to a pharmaceutical/bio-engineering company releasing a virus or disease into the general population so it could profit from the sale of its potential cure. At the same time the pharmaceutical company could also enhance its reputation by advertising that it's anti-virus was created through the use of cutting-edge genetic engineering techniques thereby establishing itself as a leader in this field. However, for this analogy to be consistent the anti-virus must only be effective for a small percentage of the population. The rest of those exposed to the virus would remain susceptible to its deadly effects at any time.

This article will explore the very real damage that can be caused by harmful ActiveX controls, it will explain how Authenticode is supposed to mitigate these security risks, and why it does not. It will also explain why digital signature technology as currently applied under the Authenticode model cannot assist most users in adequately reducing their risk of injury from ActiveX because it does not provide the user with the necessary means of assessing whether or not the software they are considering downloading is "safe." Bill Gates' vision of the future is a seamless integration of the Internet, the World-Wide-Web and the Windows operating system. According to Gates, when someone wants to e-mail a spreadsheet or other file to someone else over the Internet, they are not interested in going out and buying 14 different products to make sure the file will be compatible with the recipient's software. Instead what they want is a desktop environment that can provide spreadsheet and any other kind of robust functionality, without concern for the software or hardware on which it operates.

Most Internet software developers' share this vision however they don't share Gates' vision for implementing it. Microsoft believes this seamless integration should be based on Windows and Microsoft's Internet Explorer (IE) browser whereas the rest of the software industry favors Java because of its true platform-independence. Today Java can run on virtually any hardware or software platform in existence, including such varied platforms as IBM mainframes and Personal Digital Assistants (PDA's).

Yet Microsoft continues increasing the popularity of its proprietary browser by:

Marketing the benefits of ActiveX while simultaneously cross-marketing Internet Explorer (IE) because IE is the only platform capable of directly running ActiveX controls;

Continuing to give its IE browser away for free;

. Failing to live up to its promises made in the fall of 1996, to disclose ActiveX's specifications to an independent standards body, thereby preventing other browser manufacturer's from supporting it in their products;

. Marketing IE as the only means available for user's to purportedly protect themselves from the potential damage threatened by its own hazard, ActiveX, and

. Cross-marketing Authenticode as a general-purpose Internet security solution, thereby further reinforcing the perceived need for IE, because it is the only browser capable of supporting Authenticode.

A BRIEF COMPARISON AND CONTRAST BETWEEN ActiveX, JAVA AND PLUGINS.

(1) Origin of ActiveX

ActiveX adds to the user's Internet Explorer-based Web browsing experience by "jump-starting" Web site content, providing a variety of multimedia effects, enhanced page layouts, and executable applications, all of which are downloaded and run in real-time over the Internet. According to Microsoft, over 1,000 ActiveX controls already have been written in C, C++ and other languages for applications such as audio, video and live chat, all of which complement the core technologies of today's Web environment such as HTML, plugins, Java, cgi scripts and more.

According to Fred Langa, writing in Windows Magazine, ActiveX is "... the fifth and most recent step in a long-developing evolution [by Microsoft Laboratories] of data-sharing and interoperability among applications." Essentially it is a trimmed down version of Microsoft's OLE (Object Linking and Embedding) system which a Windows "power" user will recall enables several applications to collaborate on a single "compound document." For example, OLE provides the "glue" that allows data to be copied from a WORD document and pasted into a PowerPoint document. The PowerPoint document can then be inserted into an Excel document and later opened as a PowerPoint document from within the Excel document. ActiveX is the next step in the development of this seamless interaction amongst applications. However, where "Distributed OLE" only lets the user share data, links and control over a local or wide-are network, ActiveX has taken the technological "leap" into Cyberspace by enabling the user to share data, application links and control between a Web page on the Internet and the user's Internet Explorer browser running on his PC. Java has taken the same leap but with much less risk to the user.

ActiveX controls automatically download and install themselves, and they persist (remain available) on a user's system. This feature provides two advantages over other programs: the user doesn't have to download and install software manually, and she only has to download the control once. This is good news to those who don't like waiting for controls to download every time they visit a certain site. However, these controls can be downloaded without user awareness or consent which means the user doesn't know what she is downloading.

(2) JAVA

Java applets can be thought of in the same way but with some important differences. Java applets run either inside the Java Virtual Machine (JVM), a software application that is built into newer browsers, or they can be run separately using the Java Development Kit (JDK). The JDK is a sort of software interpreter that converts Java code into code that is recognizable by the particular platform on which it is running. JDKs are now available for virtually all software and hardware platforms in existence. However, because JDK is another layer of software between Java and the actual operating system, Java tends to run more slowly. "The major fear is that Java is not going to have the performance it promises, and its going to fade away like a bad TV show." Built into both the JVM and the JDK is a set of security controls colloquially called the "sandbox." Java's security model automatically prevents any code from accessing portions of the operating system or the PC hardware that is outside the parameters of the "sandbox." In other words if a Java applet wants to "play" on your PC it has to keep its toys inside the sandbox. In contrast, ActiveX controls are not restricted, which means they have direct access to the PC hardware, software and operating system. As a result, ActiveX controls run faster and do more, but at a substantial price in security. Also, because ActiveX controls are distributed in native binary code, separate controls have to be written for each operating system. Java applets, on the other hand are distributed in a one-size-fits-all or "write once, run anywhere" fashion meaning that developers only have to produce one version to run on any platform.

(3) Plug-ins

A third means of "activating" a Web site is through the use of Netscape "plugins." Both Netscape and Internet Explorer browsers are packaged from the factory with a built-in set of "standard" features such as graphics viewers, which a Web site developer can then take advantage by including graphics in his Web site. However, in order for a Netscape browser to take advantage of any non-standard features which the Web site developer has programmed into his Web site, the "plugin" version of the entire application that is used to run it must first be downloaded to the user's PC from the developer's Web site and then executed. This is because the application is not embedded with the program, as in the case of ActiveX.

For example, assume that both an ActiveX control and a non-ActiveX program using plugin technology are created to enable users to download and view a short animation sequence from a commercial Web site. The ActiveX developer will include both the animation sequence and the "viewer" program in the same control. However, the developer using plugin technology must create a built-in hyperlink in the code to the viewer developer's Web site. When the user clicks on the link on the Web site to view the animation sequence, the code will automatically notify the user that she must go to the vendor's Web site and manually download the entire "viewer" software application before she can see the animation. ActiveX components are inherently much smaller because they contain only a limited subset of the entire application needed to perform the function at hand, and therefore can be downloaded more quickly. Once the ActiveX component is resident on the user's PC it can be reused, on-demand precluding future downloads.

According to Microsoft, the excessive amount of time needed by a user to download the actual application "plugin" file (.exe) poses a significant deterrent to the use of Netscape's browsers. However, as described in an article in the May 27, 1997 issue of Fortune magazine, Netscape's new Communicator browsers will also automatically install "plugins."

ACTIVEX's SECURITY DEFECTS ARE "GENETICALLY INHERITED"

Because ActiveX is the product of many years of ongoing research and development at Microsoft laboratories it represents the latest in a long line of remarkable software technologies. However its predecessors, OLE and COM, have burdened ActiveX with their "genetic blueprint," legacy code written for earlier generations of software and hardware platforms. In other words this latest progeny is constrained by its "gene pool" consisting of thousands of lines of code which have accumulated over the course of years of development and evolution and over which ActiveX is unable to break free. The most significant constraint imposed on ActiveX by this genetic blueprint is a deficient security model. According to Microsoft:

We are doing everything possible to create the technical safeguards that will make software safe. However, in order to remove trust from the equation, we would have to rip away significant amounts of functionality [read: code that could actually be rewritten to more closely fit the needs of the modern Internet environment] that users rely on today. Since the purpose of our industry is to provide more value and power to users, rather than limiting functionality, Microsoft and most other major software manufacturers are advocating a trust-based security model. [read: we could rewrite it if we wanted to but because it doesn't suit our interests we won't]

This "genetic" deficiency allows ActiveX controls to interact without constraint with both the operating system and the PC hardware. In a sense, it is as if ActiveX was born without an auto-immune system, making it incapable of combating viruses or malicious programming written by evil programmers that might invade the control and use it to enter and harm an innocent, unsuspecting host.

ActiveX's predecessors did not have to be concerned with such an auto-immune system because they were virtually guaranteed of living out their lives in a "sterile" environment. In other words, prior to the advent of the Internet the operating environment in which PC software was executed was always under the complete and exclusive control of the PC user. Each user was able to decide whether they wanted to load a particular program on to their PC, and once loaded whether and when to execute it. This environment remained "sterile" regardless of whether or not the PC was a standalone or networked because no external source, including a network operating system could place something onto the users PC without his or his network administrator's permission.

Today, however, through the wonders of downloadable and executable software technologies, a program can automatically download to a user's PC from a Web site or a network server and execute without the user's awareness or consent. Thus, the operating environment in which Microsoft's next generation software tool is living is completely different than the environment of its forefathers. Yet Microsoft has chosen not to take this congenital auto-immune deficiency seriously and has failed to reengineer ActiveX's "DNA" to create a reasonable security model thus leaving users vulnerable to exposure to the dangerous code. Such an unprotected and infected control acts like a cyber "Typhoid Mary" as it infects everyone it meets with the virus of harmful code. By way of explanation, suppose Mr. And Mrs. Jones owned and lived in a house during the same time the Microsoft software engineers were developing the ancestors of ActiveX. Mr. Jones worked diligently on his house, making improvements and refinements so it would be more comfortable for he and his wife. Now suppose Mr. And Mrs. Jones decide they want to start a family and Mr. Jones asks a contractor for a cost estimate to build a second-story bedroom. The contractor tells the Jones" that because their house was built using an "A frame" design a second story cannot be added. Thus, the Jones" are constrained from meeting their needs for another bedroom by the limitations of their house's original design, which did not take into consideration the future need for a second story. Similarly, ActiveX is constrained from incorporating a security model by the limitations imposed on it by the software designs of its predecessors.

However, if Bill Gates were the owner of this "A frame" and he wanted to add a second story because he and his wife wanted to start a family, he could easily afford to tear down the existing structure and build whatever design fits his current needs. Similarly, Mr. Gates and Microsoft have the resources to re-write ActiveX or develop a replacement. Indeed, one can only speculate why he has chosen not to develop an Internet software product that fits the current needs of his customers, given that the environment in which his software executes (the Internet) has changed, and is now "open" and "insecure." Without providing an answer to this rhetorical question, Jesse Berst also observes in PC Week, "ActiveX is.. the key to its future. Microsoft will be damned before it acknowledges that ActiveX has a security problem." Berst goes on to explain that "[r]ather than help users understand and minimize the risks [associated with ActiveX], Microsoft contented itself with pointing out that similar problems were theoretically possible with Netscape products." Quoting PC Week Editorial Director and former director of PC Week Labs, David Berlind, Berst writes, "Frankly, I want to puke." Microsoft will not give up ActiveX because it is the key to "Increas(ing) the popularity of its browser." Without ActiveX there would be no need for Authenticode, and without Authenticode and ActiveX there would be no way of significantly distinguishing IE from a Netscape browser, except that it is given away at no immediate up-front cost.

THE AUTHENTICODE SOLUTION—Myth and Reality

(1) The Myth

In his article Jesse Berst explains that Authenticode is "... like requiring people who send mail bombs to put their names on the package." Were that approach effective, even the alleged "Unabomber" would have been apprehended many years earlier, because according to news reports many of his mail bombs had postmarks from the small town where he lived. Obviously this approach is ineffective because the names would be blown up, just as any evidence of an Authenticode digital certificate could also be destroyed by a malicious ActiveX program after causing other damage to a user's PC. And yet on August 7, 1996 a Verisign Press Release quoted Verisign president and CEO Stratton Sclavos as stating, "With this service, users can feel confident that the quotes Sclavos as stating that, "Under the Authenticode program, developers must go through an application and verification process to ensure that certificates are issued only to the appropriate party. This eliminates any worry that developers could be falsely represented by an impostor."

Microsoft's Authenticode security model requires that all software developers (commercial and independent) must register their ActiveX components with a Certification Authority such as Verisign, before Internet Explorer browsers will allow them to be downloaded to a user's PC from a Web site, if the browser's security setting is on "High." The software developer must "legally" affirm that to the best of his knowledge the control is incapable of causing damage to a user's PC. Verisign issues the developer either an electronic "individual Software Publisher's Certificate" or an electronic "Commercial Software Publisher's Certificate" depending on whether they are registering as an individual or corporate software developer. Different identity verification criteria are used to establish the developer's identity depending on the type of certificate requested.

One way Microsoft successfully propagates the Authenticode myth is through contradictory and vague announcements and bulletins. The following excerpts demonstrate the range of conflicting statements about Authenticode that come from both Verisign and Microsoft management.

The following excerpt from Verisign's Web site explains the service it provides to its customers:

When customers buy software in a store, the source of that software is obvious.

Customers can tell who published the software, and they can see whether the package has been opened. These factors, along with others, enable customers to make judgments about what software to purchase and use, and how much to "trust" those products and the companies and individuals who publish them. When customers download software from the Internet, all they see (at most) is a message warning them about the dangers of using the software. The Internet lacks the subtle information provided by packaging, shelf space, shrink wrap, and the like. Without an assurance of the software's integrity, and without knowing who published the software, it's difficult for customers to know how much to trust software. It's difficult to make the choice of downloading the software from the Internet.

Verisign Digital IDs in conjunction with Authenticode (software validation) technology provide customers with the information and assurance they need when downloading software from the Internet. Authenticode communicates to customers the real identity of the publisher and assures them that the product has not been altered or damaged. (emphasis added) Contrast this language with the statement of Cornelius Willis, Microsoft's group product manager-Internet developer marketing, "Authenticode does not guarantee that users will never download malicious code to their PC .... We don't claim ActiveX is a (a) The Problems of Establishing Identity in Cyberspace The advantage of knowing the publisher's true identity is that if provides the relying party with recourse in the event the software turns out to be "harmful." In the physical world this is generally not a problem, as a purchaser can usually assume that the store's physical location will not change. The benefit of having a physical location to return to serves several purposes. First, the store owner's physical assets can be attached; second, the unsatisfied consumer can create a scene inside the store, or in the community, creating bad publicity for the owner and an incentive for prompt resolution; third, the physical location will be an indicator of the laws that will apply in the particular jurisdiction. Transacting in a physical location has advantages for the seller as well. The merchant can demand physical identification which can usually be verified through on-line databases combined with visual scrutiny of a photo ID, the purchaser's demeanor and dress and other non-verbal cues which can be stored by a video camera for future retrieval and proof of the transaction should the purchaser later attempt to repudiate. Telephone-based sales represents a hybrid marketplace with portions of the physical world and Cyberspace. From the consumer's standpoint, if she dialed an 800 or 888 number she has little assurance of who she was actually calling, where they are located what laws apply, and whether the "order taker" works for the company she is purchasing the product from, or an outsourced telemarketing firm. The risks to the consumer are only that she may be giving her credit card number to someone other than a legitimate merchant who will use it fraudulently. However, her exposure is minimal because most credit card companies limit the consumer's liability to $50, assuming timely, good faith reporting efforts.

The merchant suffers greater risks through telephone-based sales, although the tradeoff is less overhead than a storefront. If the consumer dials an 800 or 888 number, 'caller id" will notify the merchant of the phone number used by the purchaser to make the call which can be used in connection with reverse phone directories and address cross-checking databases to provide additional identity verification. However, the merchant is unable to demand visual identification, and is legally protected only by on-line credit card clearing services, which can only benefit the merchant after the credit card theft has been discovered and reported. The majority of credit card thieves use the card as quickly as possible after the theft to take advantage of delays in reporting. Because of the limitations on identify verification, and the delays in theft reporting, the likelihood of fraudulent telephone-based transactions increases significantly.

Internet-based sales represent the greatest opportunity for fraud to both parties. The merchant is unable to establish the caller's telephone number and related identifying information. Telephone records cannot provide evidence that the phone call took place because access will be through an independent Internet Service Provider dial-up service. Although Web servers can gather user information through cookies this is not always reliable. The opportunity for using stolen credit cards is at least the same as with telephone sales. (See "The Essential Role of Trusted Third Parties in Electronic Commerce," Michael Froomkin)

Also, it is possible for a Web site to be "spoofed" or misrepresented by a hacker, causing the unsuspecting user to enter their credit card and other relevant identifying information on-line. Although a technical discussion of "Web spoofing" is beyond the scope of this article, a "spoofed" Web site can look exactly like the original to anyone but the most cautious of users. The unsuspecting consumer personal data would be turned over to the thief who would quickly use it.

Because of these and similar identity authentication problems consumers and merchants cannot know with certainty, even with Digital Ids, the actual identity of someone on the Internet. Greater security measures are needed before consumers can reasonably trust the Internet as a medium for safe commerce.

AUTHENTICODE—THE REALITY WHAT IS THE ROLE OF THE CERTIFICATION AUTHORITY?

The purpose of a Certificate Authority is to bind a public key to the common name of the certificate, and thus assure third parties that some measure of care was taken to ensure that this binding is valid. A measure of a Certificate Authority is their "Policy Statement" which states what measures they take for each class of certificate they offer to ensure that this binding of identity with public key is valid.

2. WHAT IS THE ROLE OF A DIGITAL ID (PUBLIC KEY CERTIFICATE)?

Although the actual digital signature process will not be covered in detail, the following brief explanation will highlight some of the important points. Traditional encryption for confidentiality uses only a single, "secret" key and is called symmetric cryptography. Digital signatures use a mathematically related key pair, (a "public" key and a "private" key) and employ a technology called asymmetrical cryptography. A mathematical formula or algorithm is used in conjunction with a "random-number" generator to create the public and private keys. The design of the encryption algorithm relates the two keys in such a way as to allow either key to decrypt a message encrypted by the other. However, it is "computationally infeasible" to determine the value of the private key based on the public key and the digitally signed message. Additional information on digital signature is available at www.rsa.com and www.abanet.org/scitech/ec/isc.

The utility of a digital signature as an authenticating tool is limited by the ability of the recipient to ensure the authenticity of the key used to verify the signature. The following explanation will demonstrate this truth. The traditional labels used to represent the different parties in this sort of discussion are Bob, the sender, and Alice, the recipient. For purposes of this discussion a third party, Mallet, will play the role of evil hacker. If Bob digitally signs a message using his private key and sends it to Alice the only way she has to verify that Bob really sent it is if she knows Bob's public key. However, Alice must be able to retrieve Bob's public key from a source other than Bob's message because if Mallet is forging Bob's message he will send his own public key, claiming that it actually belongs to Bob.

Mallet has the private key corresponding to the public key sent to Alice, her attempt to authenticate the message will result in a positive confirmation even though it was not really from Bob. However, if Alice has access to Bob's real public key from an outside trusted third-party source, and uses it to verify the message signed with Mallet's private key, the verification will fail, revealing the forgery. In short, the Certification Authority (CA) fills the role of an outside source and Bob's public key is transmitted from the CA to Alice in the form of a Digital ID or public-key certificate. In order to ensure the authenticity of the certificate, Bob's Digital ID will be digitally signed by the CA. In order for Alice to establish a "trusted" relationship with the CA she must have access to the CA's public-key from another trusted third-party:

In practice, most if not all CAs have chosen to provide their public-key certificates to Netscape or other browser developers, who embed them into their browsers for easy access. In the event Bob has registered his public-key with a new, or unregistered CA, the browser software will notify the user and give him the opportunity to accept the CAs public-key 'on the spot." This presents the user with a predicament, and also presents CAs with a strong incentive to pre-register with the Netscape, IE and other browsers.

The fundamental problem comes down to how good a job the CA did in authenticating the subscriber identity. The CA's response will be that it made a good-faith effort consistent with the terms of the agreement or CPS to which both parties are bound. However, close scrutiny of the agreement will reveal that (1) very little detail is provided about the authentication methods used or the reliability of its sources of information, (2) the level of effort invested in the identity verification process is a function of the Level or Class of Digital Id. In other words, a subscriber's Digital Id that costs $20 will not receive as much identify authentication effort as will the subscriber to a $400 Digital Id. The following examples are cited by Verisign as representative of the sorts of transactions that could reasonably be performed using the various Levels of Certificate:

These examples, as well as any attempt to standardize on a generalized template of reasonable reliance is of marginal utility. It quickly breaks down when faced with simple counter-examples such as the following. According to the Verisign Digital Id Certificate model, a Class 1 Digital Id is acceptable for use in confirming the identify of e-mail correspondents and transactions of very low value. Assuming an organization chose to use the Class 1 Id for transactions that are limited to a value of $.01, but the number of these transactions exceeds one million per day. Under these facts the company

3. HOW DOES THE INTERNET EXPLORER BROWSER PROCESS THE DIGITAL ID?

The following step-by-step explanation of what happens when an Internet Explorer browser visits a Web site containing an ActiveX component will provide an overview of the basic steps involved in the public-key digital signature process, as applied in Microsoft's Authenticode model. Additional introductory material on the subject is widely available on the WWW, including the Verisign, RSA, and American Bar Association, Information Security Committee sites.

When the IE browser arrives at a Web site that contains an ActiveX control the browser will first check to see if the component has been digitally signed.

If not, the browser will display a warning message to the user, stating that the component is of unknown origin and may present a security risk, and then allow the user to make the choice whether to allow the component to be downloaded to their PC or not.

If the component has been digitally signed the browser will determine which Certification Authority (CA) authenticated the certificate, and if it doesn't already have a stored copy, it will automatically obtain the software publisher's public key from that CA via the Internet.

The browser will then use the public key to decrypt the "message digest" portion of the certificate. The browser will then run the same digital signature "hashing algorithm" on the component again and match the resulting message digest against the one in the certificate.

If the component has not been modified, either intentionally or inadvertently since it was signed, the new digest should match the old one. If they don't match, either the code was modified or the public and private keys aren't a matched pair. Either way, the component becomes suspect and the browser notifies the user that it should be discarded.

4. PROCESS WHEREBY SUBSCRIBER CONTRACTS WITH A CERTIFICATION AUTHORITY FOR A DIGITAL ID.

The subscriber must provide the Certification Authority with enough identifying information to satisfy the CA's authentication requirements, depending on the Certificate Class. For example, the following information must be provided to Verisign during the enrollment process, either through their on-line enrollment forms or through regular mail.

Individual Software Publishers (Class 2):

. Individual Publisher's name, address, and e-mail address

. Date of birth

. Social Security Number

. Previous address (if you have moved in the past 2 years)

. Credit card information for billing

Commercial Software Publishers (Class 3):

. Company name, address, e-mail, phone, and fax

. information for a technical contact and an

. organizational contact.

. company's DUNS number, if any.

. Billing information (credit card, P.O. or check), and billing contact information, if any. As of June 1997, pricing for Software Publisher Digital IDs are as follows. Digital Ids for different purposes are also available, at different prices.

Class 2 Digital ID for Validating Software: $20 annually [for Individual Software Publishers]

Class 3 Digital ID for Validating Software: $400 annually [for Commercial Software Publishers, i.e. companies]

The following excerpt from the Verisign Web site explains their procedure for verifying a company or individual identity.

Based on Microsoft code signing program criteria, VeriSign will attempt to verify that your company meets a minimum financial stability level using ratings from Dun & Bradstreet Financial Services, or attempt to verify your personal information through a credit reporting agency such as Equifax for individual software publishers. Your certificate will indicate if you have met this level. Some software, such as the Microsoft Internet Explorer 3.0, offers end users an option to bypass making an explicit choice to trust code from each new software publisher. If an end user checks an option to trust all software signed by vendors who have met the financial criteria, code signed by these vendors will be run without any user intervention.

5. THE UTILITY OF AN AUTHENTICODE DIGIIAL ID

All properly authenticated digital signatures can demonstrate to a high degree of certainty the following three attributes:

Integrity—The component has not be modified since it was signed, either intentionally or inadvertently.

Authentication—The purported identity of the party who registered as the component's author, based on the certificate's level of assurance and Verisign's corresponding identity verification criteria.

Non-repudiation—The component's registered author cannot later repudiate his identify as the component's registered author should it cause damage to a user's PC or other computer-related product (assuming the author registered the component using his own identity).

However, because Authenticode will only work on Microsoft's Internet Explorer, users of any other browser will be unable to gain whatever benefit might be provided by this information. For example, if the ActiveX plugin from NCompass Labs, Inc. is used with a Netscape browser, any ActiveX component encountered on a Web site by the browser will be downloaded without Authenticode's intervention. Netscape's generic software download alarm will probably display a warning, giving the user an option to proceed or quit, but the existence of a Digital ID will not be a factor in the user's decision.

Digital Certificates can only attempt to vouch for the authenticity of someone's identity, not for their good intentions. Neither the digital signature technology nor the Certification Authority (CA) make any warranties as to the safety of the ActiveX component. The Authenticode system merely relies on the assurances made by the component's developer to the CA when they initially apply for a Digital ID subscription. In the patois of logic this appears to be circular reasoning. The party whose trustworthiness is in question is providing the means for assuring the user of his trustworthiness. Furthermore, CA's have neither the mandate, resources, nor the incentive to actively monitor the behavior of millions of its certificate holders. Although they do have a duty to suspend or revoke a subscriber's Digital ID based on reported breaches of a specific set of criteria, they are not obligated to perform an independent monitoring function.

The possibility of undiscovered fraud is significant due to the ubiquity of stolen credit cards and access to personal information on the Internet combined with the limited authentication of the user's identifying information. Authenticode is supposed to provide the means for a user or corporation to "trust" the ActiveX components they download from the Internet by ensuring "accountability."

> The approach here is accountability—to cease having publication of software on the Internet be an anonymous activity. If an organization or individual wants to use the public Internet to publish software, they should be willing to take public responsibility for the code they author and publish. If the code proves to have errors or even malicious faults, these organizations and individuals should be willing to answer for them just as they would take credit for good code. This approach is founded on the idea that accountability is an effective deterrent to the distribution of harmful code. (emphasis added)

The same argument can be made that license plates should act as deterrents to either prevent or curtail the use of cars in the commission of crimes. Because the license plate establishes the owner's identity (with possibly more certainty than a software publisher's certificate) it makes him accountable for his acts using the car and therefore cars will not be used in the commission of crimes. Still, stolen cars are used every day, to smuggle drugs, transport criminals to and from crime scenes, and perform other illegal acts.

Obviously accountability is not an effective deterrent to the use of cars to commit crimes. Likewise, accountability is not an effective deterrent against the malicious use of ActiveX, because stolen credit cards are readily available. What is the solution to this problem? There is probably no single solution short of eliminating ActiveX entirely. However, a number of individual solutions are appearing which, when used in aggregate have the potential to reduce the threat of injury to an acceptable level. Several of these potential solutions are discussed below.

6. DIGITAL AUTHENTICATION FOR WEB SERVERS

Verisign, Xcert, GTE and other companies are also in the business of selling Digital Ids for Servers. According to Verisign, their product would enable the server owner to establish his authenticity to Web browsers visiting his site. in the marketing literature describing Digital Ids for Servers on its Web site, Verisign explains:

> In the virtual world of the Internet, however, the web-site of an unscrupulous con-artist might look just as professional as that of a legitimate business. The low cost-of-entry and the ease with which graphics and text can be copied make it possible for almost anyone to create sites that appear to represent established businesses or organizations. To protect your organization and your customers from such impostors, you need a way to establish you site's authenticity.

Interestingly, in one context Microsoft and Verisign guarantee that users will be able to garner enough information by visiting the developer's Web site to make an informed judgment of both the developer's and his program's trustworthiness. However, in this context Verisign is saying that because almost anyone can create Web sites that appear to represent established businesses or organization that Web site owners should use Digital Id for Servers to establish their site's authenticity to visitors. Later in this same Microsoft document mentioned above, under "Qualifying for the Individual Software Publishing Certificate" Microsoft rhetorically asks the question, "What is the value of the Individual Software Publishing Certificate?" The document responds:

> it would seem that users aren't going to trust individuals they don't know, and businesses aren't going to let code signed by students at a local university into their corporate domain. While this may indeed be the case, the value of this type of certificate is in the information it provides to the user so that he/she can make the decision on how to run the code. Knowing who authored the code, and that the bits have not been altered from the time the code was signed to the present is indeed comforting information. Additionally, the implementation provides links from the user interface (UI) to Web pages so the user can obtain detailed information about the signed code, the author, and the certificate authority. After learning about this code and the author, the user may decide to run the code, and/or all future code signed by this certified individual. (emphasis added).

Leaving aside the remarkable statement that corporations would inevitably not allow software developed by local university students into their domain, Authenticode fails to provide an objective means for users to evaluate this supposedly detailed information about the signed code and its author that is being made available to them. One is left with the gnawing suspicion that Microsoft intends for there to be a direct relationship between a software developer's advertising budget, the purported "trustworthiness" of his software, and the frequency with which users will download it over the Internet. In other words the more a developer can achieve brand name and product name recognition amongst Internet users the more frequently his products will be downloaded. Not surprisingly, Microsoft has one of the biggest advertising budgets in the world.

7. PULLING IT ALL TOGETHER WITH SSL. ... ALMOST.

We have seen that browsers can authenticate software publisher Digital Ids and that Web servers can authenticate client browser Digital ??ds, assuming the subscriber's identity is established with reasonable certainty. However, this authentication is only performed once, at the beginning of the transaction. After the initial "handshaking" takes place and the browser software is convinced that the other party is who she claims to be, no further checking is performed. This would leave either or both parties vulnerable to eavesdropping, replay and spoofing attacks during the remainder of the communication, if not for SSL.

Secure Sockets Layer (SSL) is an industry standard communications protocol that attempts to remedy these problems by creating unique signature keys that are exchanged throughout the entire communication "session." In other words, after the client is certain the server is not spoofing its identity, the server and client exchange "session-keys" that will be used to sign the data during the data exchange. With SSL 2.0, the same signature keys must also be used for encryption, if confidentiality is needed, however with SSL 3.0 signatures can use different keys than the encryption engine. SSL's main function is to protect users from attack by eavesdroppers or message interceptors. Both the client and the server provide part of the random data used to generate the keys for each connection and that same random data is also used to generate the master secret key associated with that session.

(a) Caching data during secure connections. One important drawback to this SSL scheme is the fact that the Netscape browser can store in local cache on the user's hard disk any data that has been sent by it during the secure connection. Navigator 3.0 has an option to allow caching of data fetched over SSL connections, however the default setting is to not cache data. in Navigator 2.0, documents fetched using SSL were cached in the same way as non-SSL documents. However, the command “Pragma: no-cache” in the HTTP header can be used to disable caching for a particular page. Interestingly, in Navigator 1.0 documents fetched with SSL were not cached.

Most importantly the cached data is not encrypted and is available to “prying eyes” in cleartext form. As long as the cache remains on the user's hard disk, any information such as credit card numbers or private keys that were sent over the secured SSL connection are ripe for the picking by anyone either physically accessing the PC or using an intermediate agent such as an ActiveX control.

(b) Handling previously unknown certification authorities while Web browsing Whenever a previously unknown CA is encountered by a browser their Root keys for Certificate Authority certificates are loaded through an automatic process using an SSL connection. This means that conceivably a “rogue” CA can load its certificate into browsers and begin authenticating harmful ActiveX controls without any restrictions. Netscape states that presumably in the future loading a root certificate through a local process, such as from disk, LDAP, or other out-of-band mechanism, will be a supported addition or in place of the present method of connecting to a trusted server and downloading the certificate chain. This presumption is an acknowledgment of the severe security risks associated with the current approach, and also an acknowledgment of the technological complexity of the more secure approach.

(c) Vendor Incompatibles The successful application of these SSL keying standards is also completely dependent on the capabilities of both the client browser and the Web server. However because different software vendor's products support different implementations and versions of SSL, fundamental barriers still exist to prevent a universally “secure” Web browsing experience. Other obstacles to trustworthy applications include the inability for Web servers to automatically check every certificate for currency, either by checking its expiration date, or checking an on-line “certificate revocation list” (CRL) to determine whether the certificate has been suspended or revoked for fraudulent or criminal abuse. As this technology evolves, these barriers will be eliminated, bringing us closer to the goal of authenticated, safe communication on the Internet. The problem in the near term however, is that most users are not made aware of the risks associated with these technological shortfalls.

8. CERTIFICATION REVOCATION LISTS (CRLs)

A certificate revocation list (CRL) is a repository of information that presents the current state of any public-key certificate to anyone who accesses it. The CRL can be implemented in different ways but the approach Verisign uses for the Authenticode Digital Ids is to only include those certificates that have a current unrevoked status. In other words, it is possible for a certificate to either be in an active, suspended or revoked state. If the certificate has been revoked it should not be relied on under any circumstances. However, if the certificate is temporarily suspended it is possible that removal of that status is imminent and the potential relying party should contact the Certification Authority directly for further details. Regardless of the unique circumstances it is essential the potential relying party have access to the certificate status or he will be making an uninformed decision regarding reliance. Implementation of the CRL is another contentious subject that again trades off between the development costs to provide customer ease-of-use and informed decision making. Unless the potential relying party knows how to access and use the CRL they are unable to benefit from its contents. However, instructions on its location and use are not conspicuously displayed when the potential relying party is presented with the publisher's Authenticode-based Digital Id. This is generally because this option has only recently been made available to HTML programmers and so a significant retrofitting of all certificates is needed to implement it. When implemented properly a button will appear on the Document Info page for servers whose certificate supports the appropriate extensions or commands. When the button is pressed the CA will be queried via HTTP GET, and will display a dialog to indicate to the user if the certificate is good or not. This button does not appear in the Authenticode Digital Id but instead must be “manually” selected from the “View” pull-down menu on the browser. If a user attempts to use a client certificate that has expired, a dialog will be displayed warning them that their certificate has expired, and if this extension exists, a button will be on the dialog that will bring up a window displaying the URL. There is no automatic revocation check. As mentioned above, a button allowing manual checks is displayed on the Document Info page. According to Netscape this feature was added because some people needed revocation, but they did not have time to support full CRLs. However, in a future release they will support CRLs, and possibly other forms of revocation technology.

Client authentication as implemented by Microsoft Internet Explorer 3.0 is interoperable with popular Web servers that support secure sockets layer (SSL) 3.0 client authentication. Microsoft is working to extend the complete set of technology components necessary for webmasters to incorporate client authentication in their Web applications. This includes extending Windows NT(r) Server operating system support for challenge and response and the SSL 2.0 protocol used by Microsoft Internet information Server to also “include support for client authentication through the SSL 3.0 protocol.

7. RELYING PARTY AGREEMENT

The greatest potential victim of any defects in the Authenticode model is arguably the relying party who attempts to verify the Digital ID and make the decision to download. A detailed discussion of the many legal uncertainties surrounding CAs and certificates is beyond the scope of this article. Suffice it to say that a legal outcome will in part depend on the jurisdiction hearing the claim and the “reasonableness” of the reliance. Verisign has attempted to address many of these issues in its “Relying Party Agreement” which, according to its language, is binding as soon as the third party “relies,” either intentionally or otherwise. This reliance is supposed to be triggered automatically when the party inspects a Verisign Certificate Revocation List or accepts a Verisign Digital ID. This agreement also attempts to remove the “choice of law” or jurisdiction question by specifying that all parties are bound by California laws. However, a more fundamental question must first be addressed. Under California's Uniform Commercial Code (UCC) statutes however, if a certificate is considered a good rather than a service, any disclaimer of warranties must consist of a conspicuous writing attached to the good being sold. It is difficult to envision how this should be accomplished, yet Verisign's incorporation by reference may not meet the California standard for conspicuousness. Furthermore, the relying party is expected to read this agreement before “us(ing) or rely(ing) upon any information or services provided by VeriSign's Repository or website ” or “search(ing) for a certificate, or ( ) verify(ing) a digital signature” in Verisign's repository and that by doing the verification the user is agreeing to the terms of the agreement, including acknowledging that she has “access to sufficient information to ensure that [she] can make an informed decision as to the extent to which [she] will chose [sic] to rely on the information in a certificate.”

The relying party is supposedly bound by the agreement which affirms that she has enough information to decide to what extent she will rely on the information in a certificate, and also that she is solely responsible for deciding whether or not to rely on the information in the certificate. In other words Verisign is making no statements about what the information in the certificate represents and instead shifts the burden to the relying party to make the download decision without providing them with the necessary tools and resources.

There are at least two flaws with this approach: (1) It presupposes the relying party can agree that sufficient information will be on the certificate to make the determination as to whether she will rely on it or not, without having seen the publisher's Web site, and (2) The relying party must be able to receive authentication of a subscriber's public-key from a trusted-third-party (TTP) or the entire model is useless.

8. FACTUAL EXAMPLE OF FLAWS IN THE AUTHENTICODE SOLUTION

(a) Unforeseen Interactions

Consider two ActiveX controls. One provides a control similar to the Win95 "Start" button with all the commands on the user's computer presented in a list to choose from. Suppose it keeps these command names in a preferences file such as C:\windows\commands. The file may contain a list such as: Word, Excel, format c:, IE3, etc.

Consider a second ActiveX control that performs certain "housekeeping" functions on the PC at regular intervals. It automatically wakes up at a specified time and executes a list of commands such as backup, defrag, etc. Suppose it keeps its list of commands in, for instance C:\windows\commands. At the next scheduled interval the second control dutifully finds the file written by the first one and fires up Word, Excel, and then formats the C drive. Commands after this one are of diminishing consequence. The user's hard disk is wiped clean and so are the "fingerprints" for Authenticode. Even if they are somehow located, who should the user point the law enforcement people towards? Both controls did exactly what they were designed to do, exactly what they advertised to do. Who is the user going to sue? Obviously neither "misbehaved." What happened was an unforeseen interaction between the two, and was only possible because ActiveX is given unrestricted access to those system-level tasks. With only a bit of planning it would be possible to come up with a cooperating gang of ActiveX controls to do deliberate theft via collusion where each program is only doing what it's "supposed" to, yet the total of their activity is much greater than the sum of the parts. Current methods of tracking events through logfiles are unable to accurately reflect the non-linearity that is clearly at work here in the interaction of the components, the only way to avoid this would be to strictly de-couple the controls, by not allowing any to share information with the other, such as giving each its own private file-space to write in. Although this is the approach used by Java's sandbox, alas it is not possible in the "security-free" world of ActiveX.

(b) Proving the Origin of the Malicious Code Can be Almost Impossible

In the event the malicious code does not either reformat the user's hard disk or destroy its digital certificate outright there is still a great deal of uncertainty as to how the particular malicious code at fault can be identified as the cause of any particular harm. Certainly it would be easy if the damage occurred immediately after the ActiveX control was downloaded. But if it does something indirect; or waits until executed the 100th time; or modifies some other program so that it later does something nasty; then tracking down the source of the original corruption will be extremely difficult.

Assume for example that a component is signed by the real author, who was certified by a competent CA to be a reputable software developer. The user reviews the certificate at install time, and accepts it on the basis of the reputation of the developer. The user then forgets about the code for some weeks to come. Later on, he or she visits a page of a hacker, or a page of a web site that has been broken into by a hacker, and the IE browser invokes the code with arguments supplied by the hacker. The code may appear to do what it's supposed to, or appear to do nothing at all while it's erasing the web browser's history file. The user may not even be aware that code is executing. The user goes on to about 50 other Web pages that night, and shuts off their machine with no evidence of a problem. When they reboot they may have a huge problem, depending on what the code was reprogrammed to do. The Authenticode scenario suggests that the user can now call their lawyer to sue someone, but who do they sue? The hacker that the FBI can't track? The well intentioned but pressured software developer who wrote the harmless control that was manipulated by the hacker to cause the damage? The certification authorities like Verisign that have forty page disclaimers of liability? And even if someone could be sued, is this an acceptable remedy for being without their computer system?

(c) No Consideration is Given to the Author's Competence as a Programmer

In cases where a program such as ActiveX has the ability to act on untrusted data, it isn't valid to make a judgment of its security simply on the basis of trusting that the writer of the program is not malicious. Consideration of how competent they are at writing "safe programs" is also important. Users of ActiveX are being encouraged to accept or reject controls based on whether they think the signer is trustworthy or not. No consideration is given to the stronger, and more relevant criterion of the author's competence as a programmer.

Because third parties can provide potentially hostile input to Active X controls—at least for those classified as "safe for initialization"—the "appropriate diligence" for such a control is much greater than that required for an ordinary application. Even though a well intentioned author creates a "safe" program, unless it has been written using the appropriate security safeguards it can be made to cause damage through the actions of another ActiveX control.

(d) Microsoft Justifies the Inherent Security Risks of ActiveX by Arguing that Users Want and Demand a Rich Computing Experience.

It has been argued that the Java sandbox approach is too restrictive, and that users want and demand a rich computing experience. This may be true, but these same users would prefer to use the name of their favorite movie star or basketball player as a password. It is up to the computer professionals to maintain a balance between adequate security protection and ease of use. Users should be encouraged to take informed risks, but they must be given the guidance and tools to accurately perform the risk/benefit analysis. Authenticode deters users from taking informed risks because it fails to provide them with the information needed to make an informed decision while at the same time assuring them that it is at their disposal.

(e) The Myth That Commercial Software Publishers and Others Will Be Deterred From Writing and Distributing Malicious Software Because of the Potential Risks of Economic Loss and Legal Liability

Historically hefty financial barriers to entry into the software development market using traditional distribution channels have restricted the number of market entrants. However the Internet provides a very low entry-cost distribution mechanism that is not without an increase in associated risks. Lowering the entry cost increases the potential for abuse. Furthermore, automating the process increases the chance that the abuse may go unnoticed. No longer can it be assumed that software developers will not risk loss of their potentially small financial investment by loading malicious controls onto the Web that, if undetected, would serve their ends.

(f) Average User Lacks the Training and Resources Necessary to Make Appropriate Downloading Decision Based on Information Provided by Developer's Web Site

The average user is probably only able to recognize a handful of big name Internet-related software development companies and even fewer companies that develop ActiveX components. And yet users are being asked to decide whether or not they should download a particular company's ActiveX component based on whether they are "known" (which, according to Microsoft's definition means "trustworthy"). Assuming the developer is "unknown" to them, the user has no idea what information on the developer's Web site is needed to making this critical decision and yet Microsoft clearly states that the user "can make the decision on how to run the code" based on the information provided in the certificate.

Furthermore, the average user will probably be reluctant to spend much time seriously evaluating the trustworthiness of a software developer and will instead base their decision on the site's professional appearance or some other intangible and possibly irrelevant factor. According to Michael Sullivan-Trainor, director of International Data Corp.'s Internet program, "The problem with the Web is that the sleaziest company in the world can put up a site as slick as the most respected corporation. Shopping [and downloading software] on the Web requires a little more investigation." Because a professional appearance can easily be created by the most criminal of software developer's it cannot be used as a measure of the developer's trustworthiness and yet Microsoft provides no guidelines to assist the user in making this analysis. Nevertheless they continue to assert, as stated above, that "the value of this type of certificate is in the information it provides to the user so that he/she can make the decision on how to run the code" and that this should be "comforting information."

(g) Contrary to Microsoft's Claim, Downloading Software From "Known" Software Vendors Does Not Necessarily Eliminate Risk

Implicit in the Authenticode trust model is the belief that all ActiveX components created by "known" software developers will be harmless and can therefore be trusted and downloaded without reservation. The recent track records of several software developers including Microsoft, seriously undermine this notion. According to an article called "Microsoft Security Flaws Run Deep," in the March 6, 1997 issue of CNET's NEWS.COM authors Nick Wingfield and Alex Lash state that "ActiveX is not the only security headache Microsoft is suffering. There are problems with its Internet Explorer browser." The article goes on to explain how earlier that week a group of students (does not specify whether they were students from the local university) found that by planting "Shortcuts" on a Web site they could trigger resident Windows 95 and NT programs to delete and manipulate files on a user's computer when browsing the Web site. According to the article Microsoft developers worked around the clock to fix the security hole.

In response to this IE "Shortcuts" security hole Stephen Cobb, director of special projects at the National Computer Security Association (NCSA) states, "1 would say that you have to seriously question the integrity of Internet Explorer at this point because this was such a big hole." Cobb goes on to comment that "Microsoft's statement that they did a lot of testing [on Internet Explorer] is worrying, because if they did a lot of testing and didn't find this problem, their testing is very flawed." In all fairness, it must be pointed out that security holes are being found in other software developer's products as well, however the significance of Microsoft's track record in this particular case is that they are the ones that are making the argument that if the software developer is "known" then their ActiveX components must be trustworthy, and that the only criteria that is important is whether or not the user recognizes the software developer.

The same CNET article also points out that even if no one's computer is actually damaged by a security hole that is subsequently discovered after the user has downloaded software, individuals and companies still have to spend time and money to install the security patches on their systems. Stephen Cobb concludes that "[I]t's difficult for Microsoft to weasel its way out with the "it does no damage" excuse, because [in the case of the "Shortcuts" bug] systems administrators are already looking at a big cost hit," There is no empirical evidence to support Microsoft's assertion that downloading software from "known" origins is less risky than from "unknown" sites. Nor does this assertion take into consideration the possibility of a hacker placing a malicious control on a "known" Web site, or the possibility of a hacker "spoofing" a "known " Web site. Either of these can be done without detection either by the user or by the Authenticode system.

Joel McNamara explores this same issue in the June 1997 issue of Infosecurity News. In an article titled, "Security-Market Dynamics" he writes, "As security professionals, we like to think that security ranks right up there on everyone's most-important list. But when security isn't the primary purpose of the product, security features all too often take a back seat. " McNamara lists some of the security holes that have been discovered recently in many of Microsoft's products ranging from Windows NT, Windows 95, WORD macro viruses, to Internet Explorer, Authenticode and ActiveX. Joel observes that "Microsoft's testing methodology appears to be more oriented toward discovering classic, show-stopping bugs rather than searching for more subtle, exploitable security holes." He concludes that, "[i]f people continue to buy products with marginal security, why spend the extra time and money implementing high-end security .... Unfortunately, the marketplace usually needs to yell, scream and ??reaten to walk away before it gets what it wants. So, until then, expect to see security as little more than just another check on a marketing features list." A user can be exposed to significant security risks even when downloading software from a "known" developer such as Microsoft.

(h) Relevance of Authenticode "Trust-Model" for users outside the United States

Software developers located outside the United States but who wish to allow their components to be downloaded in the U.S.

According to the Verisign Web page, "Digital Ids for Servers: High-level Security at a Low Cost:"

If your company has a Dun & Bradstreet (DUNS) number, you can complete your Digital ID request online. If you do not wish to use a DUNS number, or your company is not in the US, you can complete the enrollment form electronically and fax or mail Verisign any of the following pieces of documentation to establish your company's identity:

. * Articles of Incorporation
. * Partnership Papers
. * Business license
. * Fictitious Business License
. * Federal Tax ID Confirmation

Even assuming, for the sake of discussion, that Verisign's document authenticator's are familiar with the Articles of Incorporation or foreign equivalent for every country, and is able to make a reasonable effort to detect a faxed fraudulent document, how will the user who relies on the Digital ID know whether that foreign country even has any laws that will allow him some measure of recourse in the event that he suffers injury caused by the developer's software?

Software developers located outside the United States but who wish to allow their components to be downloaded both in the U.S. and overseas. Verisign has begun "franchising" overseas Certification Authorities who wish to base their practice statements on the Verisign "Certification Practice Statement" (CPS). Although several are under development, BelSign (www.belsign.be) is the first franchisee to go productional, , and their stated territory is limited to Belgium and Luxembourg. So far little details are available about identity authentication procedures and other practical considerations and responses to e-mail inquiries have not been forthcoming.

(i) Web sites Can Be Spoofed or Hacked

In December, 1996 the Secure Internet Programming team at Princeton University published a technical report describing an Internet security attack called "Web spoofing." In this scenario, an attacker:

. * Creates a shadow copy of a web page;
. * Then, funnels all access to the web page through the attackers machine;
. * And finally, tricks the unwary consumer into revealing sensitive or private data, such as PIN numbers, credit card numbers or bank account numbers

Web spoofing requires that the attacker be able to interject his machine between the server and client, in a man-in-the-middle attack. Although under some situations certain visual cues may be used to detect the presence of a spoofed Web page, these can be eliminated by the skilled programmer. The only real solution is to check the "View Source " option and read the html source code for the Web page the user is currently browsing to know for certain whether their browser is connected to the correct site. Even a server and client using SSL can be spoofed if the hacker is able to intercept the client's initial request for authentication to the server and before a secure link is established. Once the unsuspecting user is connected to the attacker's bogus Web page, all transactions between the user and the certification authority can be intercepted and fraudulently manipulated. Thus, a harmful ActiveX program could easily be made to look as though it came from a "known" and trustworthy developer. After the program has downloaded to the user's PC and done its damage there is no way for the user to identify the developer because the program never had a Digital ID in the first place. Furthermore, the knowledgeable hacker will delete or modify the browser's history file so no record would remain of the user's visit to the spoofed Web site. According to Ed Felten, co-founder of the Princeton Internet Programming research team, there have been reports of the FBI investigating false sites and forcing them to shut

(j) Obtaining a Digital ID Through Fraudulent Means

Fred Mclain, software developer, consultant, and author of the now infamous ActiveX "Exploder" control (see below), provides the following perspective on the Authenticode "code signing" process, from a FAQ on his personal Web site located at www.halcyon.com/mclain/.

Code Signing simply attempts to identify who signed the control. Anyone can go out and get a code signature. It's a pretty much automatic process. You go to a web site, give them a name, address, credit card number and some other stuff (none of which have to be yours), click "1 Agree" on a page full of legal jargon, and pretty soon you get an e-mail with the information you need to sign the control in it. Once you have your Digital ID, you can sign any unsigned ActiveX control. Nobody reviews these controls! In other words, a signature doesn't tell you who wrote the control and it doesn't tell you if the control is safe or not. Heck, with the number of hot credit card numbers out on the net, it doesn't even tell you for sure who signed it. A danger is that seeing that a control is signed will give folks a warm fuzzy feeling about the control, and encourage them to run it, even though it does not guarantee their safety!

A recent Associated Press news item from San Francisco dated May 22, 1997 demonstrates the prevalence of credit card theft on the Internet and the accessibility to those stolen numbers. The article reports that according to Bureau spokesman George Grotz, the FBI recently arrested a hacker who used a "sniffer" program to eavesdrop on electronic transactions between customers and a dozen companies selling products through a major Internet provider. The sniffer software gathered 100,000 credit card numbers along with enough information to use them. The hacker was arrested for allegedly attempting to sell the information to an undercover FBI agent who saw the hacker's advertisement on a computer bulletin board.

FBI statistics indicate that the majority of computer crimes go undetected, and, until recently, most of the ones that are detected are never reported. Therefore it is safe to assume that there are many other sources of fraudulent credit card information gathered from the Internet that are available to persons registering ActiveX controls. Frequently the credit card owner will not realize their number has been stolen for several weeks or months, depending on the thief's spending patterns. As a result, if a stolen credit card is used to acquire a Digital ID using fake identification, the fraudulent charges will go through undetected and because there is no retroactive follow-up on the part of Verisign or Microsoft, the certificate will remain valid even after the card theft has been discovered and the card invalidated, unless the defrauded consumer makes the effort to contact them which is unlikely.

FACTUAL EXAMPLES OF ACTIVEX-RELATED SECURITY RISKS

(1) InfoSpace Program Compromises Authenticode Security

On September 23, 1996 CNET-Online and other publications reported that Lycos, a WWW Search engine company posted a program on its Web site that would allow downloadable programs with InfoSpace Digital Ids to bypass the Authenticode security controls in Internet Explorer.

Nick Wingfield's article "Program compromises IE security" explains that because the program which was created for Lycos by InfoSpace, a startup Internet company, circumvents IE's security warning window, InfoSpace could sneak programs onto a user's personal computer without warning.

InfoSpace executives denied that there was any malice intended in its program, adding that it has provided Lycos with an updated version of the code. Lycos planned to post the new program later that evening, according to InfoSpace. "It was a bug that got incorporated into the production code," InfoSpace CEO Naveen Jain said. Although the InfoSpace program apparently was not created with malicious intent, according to Wingfield "it underscores the fragility of Internet Explorer's security defenses, as well as broader security issues related to downloading over the Internet." "Code signing is not a guarantee of code quality," Charles Fitzgerald, a product manager at Microsoft said. "It's on accountability trail."

The InfoSpace "bug" modified the Windows 95 Registry configuration setting by simply registering InfoSpace as a "Trusted Publisher" thereby allowing all code from InfoSpace to be downloaded automatically without requesting the user's consent. The operation is akin to inviting a guest over to your house for dinner before you leave town for a month-long vacation and having them copy the key to your front door without permission. If the guest enters your house while you're gone and a neighbor questions him about it, the guest only has to show the neighbor the copy of the key as confirmation he has your permission to enter. Whenever the user's browser detects an InfoSpace program it will automatically be downloaded without the user's awareness or consent, because Authenticode has been told to automatically trust all InfoSpace developed programs. "Clearly their software is doing something a tad aggressive," said Rob Price, a group program manager for Internet security at Microsoft." (With Authenticode), users are making a one-time trust decision, this is a persistent trust decision."

(2) Symantec Corporation's Norton Utilities Victimized by Malicious ActiveX Control

According to information posted on their Web site (www.symantec.com), on April 7, 1997, Symantec was notified that a malicious Web site had been created that uses an ActiveX control to gain access to a user's PC if they use Norton Utilities 2.0 for Windows95 and get on the World Wide Web. Because a specific component (TUNEOCX.OCX) of the Norton Utilities System Genie is marked as a script file, ActiveX-aware WWW scripts can make use of it as an ActiveX control. The result is that a malicious user could use the script to run any command, such as delete, format or ftp, on the local host. Symantec responded to the news quickly and responsibly, posting a fix for the problem within 24 hours.

(3) "Exploder" Control

Software developer and consultant Fred Mclain created a live demonstration of ActiveX's capabilities in late summer of 1996. Mclain created an ActiveX control which he called "Exploder" and which he placed on his Web site with the explanation that it would perform an automatic "graceful" shutdown of any user's PC running Windows95 who chose to voluntarily click on the control link and automatically download it to their PC. Because the control caused a "graceful" shutdown no damage was caused to the user's PC, but the damage to Microsoft's image was immediate and irreversible. As recently as April 1997, Sun Microsystems CEO Scott McNealy was still demonstrating MClain's Exploder control to crowds of Java enthusiasts.

(4) Germany's Chaos Computer Club Live Demonstration To Make Bogus Money Transfers From Intuit's Quicken Online Banking Customers

The Chaos Computer Club (CCC), a German hackers group from Hamburg, demonstrated on national TV in February 1997 that they can use an ActiveX control to steal money from one account and put it into another without the use of a Personal Identification Number (PIN) during an online banking transaction.

CCC showed that once the ActiveX control is downloaded by a user browsing their Web site who uses Intuit's Quicken for electronic banking, the control will add an extra electronic fund transfer command to the pending transfer list. The next time the user does his or her banking online, the bogus transaction will get executed along with the rest without alerting the user.

The Computer Club's stated purpose in holding this public demonstration was to alert people about the risks associated with doing business on the Internet and specifically with ActiveX.

Intuit, the company that develops Quicken, responded by recommending that users disable the ActiveX controls in their Internet Explorer browsers or switch to the Netscape Navigator if they are concerned about the safety of ActiveX controls. The company also stated that of the 9 million copies of Quicken currently in use worldwide, the present U.S. version of Quicken can only be used to transfer money from "pre-authorized" accounts as approved by the user. A future German version of the software will have encryption features to prevent hackers from breaking in. To its credit, Intuit did an excellent job of public relations "damage control" and used wide, the Web, because it is the the situation as an opportunity to educate consumers on how to take proper safeguards to protect themselves on the Internet in general and from similar situations in the future.

RECENT MICROSOFT SECURITY ENHANCEMENTS

(1) Microsoft's Authenticode 2.0—Band-Aid for a severed artery

Microsoft recently announced Authenticode 2.0, a significant upgrade to the initial version which was first released less than one year ago. On the plus side the new upgrade includes a number of features Microsoft says will make downloading code safer, including time-stamping support to ensure that code was signed with a valid digital certificate. Various Microsoft bulletins and announcements inconsistently report that it also supports access to certificate revocation lists (CRLs), a feature that checks in with an online list of revoked certificates before downloading code.

However, on the negative side the logistics of the upgrade are cumbersome, time-consuming and will potentially result in delays while unsuspecting users are forced at the last minute to download either the upgrade. Software publishers who have signed their code prior to June 1997 must re-sign their code by June 30, or before their current Digital ID expires. According to Microsoft, because Authenticode 2.0 checks the revocation list to determine whether the Digital ID is still valid, it will notify a user who wants to download an control that has not been re-signed as either unsafe to download (if their security is set to High), or out-of-date (if their security is set to Medium). Only code that has been re-signed will appear in the revocation list as safe to download.

This upgrade is significant as a validation of Microsoft's willingness to obfuscate the facts and fabricate its own reality, in its single-minded pursuit of market share. Prior to this upgrade a user was expected to navigate the maze of menus and options on the Verisign Web site to locate CRL information. No explanation or instructions were presented to the user when the subscriber's certificate appeared on their screen, informing him that he must inquire of this proprietary database to find out whether the Id used to sign the certificate he was viewing and potentially relying on was still valid or whether it was suspended or revoked. Also, without the time stamping capability, it was impossible for the user to tell whether the certificate appearing on his screen was signed using an expired Digital Id or not. Although Microsoft and Verisign engineered this upgrade prior to the time most Digital Ids and certificates would have expired, there was no advance acknowledgment of this limitation. One can only hope that other essential attributes of this ostensibly trustworthy Authenticode security model are not still on the drawing board to released later as enhancements.

(2) "Security Zones"

This new feature will let users or their network administrators arbitrarily divide the Web sites into four predefined zones: intranet, trusted extranet, general Internet and untrusted. Web sites can then be assigned to a particular zone, and be subject to the corresponding level of security protection. For example, ActiveX controls and Java applets coming from the Internet might be assigned to untrusted zones, and the administrator could prevent them from being downloaded by configuring that zones security protection accordingly.

In a sense this is just a "macro" version of Java's "sandbox" security model. The sandbox prevents Java applets from gaining access to sensitive system functions that are outside its boundaries. IE's security zones can also prevent Java and ActiveX programs from gaining access to sensitive system functions, depending on the way the security protections are configured. However, the user or administrator is Unable to override or misconfigure Java's default sandbox protection, whereas the IE security zone protection can be turned off or improperly configured, leaving the user completely vulnerable.

THE FUTURE OF ACTIVEX AND DOWNLOADABLE AND EXECUTABLE CONTENT—Will it ever be safe to "trust" again?

If Microsoft is unwilling, users must organize and develop alternative means of protecting themselves from ActiveX. Some examples of proposed alternatives include:

(1) Web of Distrust

One author is calling for an online, independent watchdog organization that "provides users with timely alerts on hazardous or questionable software." This group would act as a clearinghouse for reports of all harmful or suspicious downloadable and executable content. The information could be distributed by newsletters to subscribers, or available to any user by hyperlink access before they make the "fateful" decision to download. Kobielus writes, "Our best defense against malignant controls is to pool our experiences, expose the offending code-mongers to the entire online ".... Net community and thereby burn them out of existence."

Although certain legal issues and standards must be addressed before "burning" anyone out of existence, this approach could serve as a model for a more effective means of keeping Cyberspace free from harmful code.

(2) Better-Business-Bureau OnLine (BBBOnLine)

The Council of Better Business Bureaus, best know for their certification of local businesses in the physical world, have developed a new U.S. online service, "dedicated to helping consumers identify ethical marketers on the Internet and thereby make the Internet a safer, more reliable place to get information and conduct business." According to information on their Web site, companies that display an encrypted BBBOnLine CARE seal on their Web pages have demonstrated their commitment to a series of strict business standards for customer service and marketplace ethics. Consumers can hyperlink from the seal to the BBBOnLine home page to get a reliability report on the member company, including their management, time in business, relevant aspects of its goods and services, complaint experience and other evidence of responsible marketplace behavior. Several large corporations involved in Internet-related markets are co-sponsoring this service including, Hewlett-Packard, Xerox, Netscape, AT&T, and GTE....

Some examples of their rigorous Participant Standards include: Provide the BBB with inform ation regarding company location, background, etc. which will be verified by the BBB in a visit to the company's physical premises;

Be in business a minimum of one year (with limited exceptions); Respond promptly to all consumer complaints; Agree to binding arbitration, at the consumer's request, for unresolved disputes involving consumer products or services advertised or promoted online.

(3) PC-based Browser Add-on Security Products

Several vendors including Finjan Inc., and Safe Technologies have recently released products that promise to provide protection against all Internet threats, whether they are hostile ActiveX controls or Java applets, eSafe Protect not only recognizes a set of known security holes and rogue controls, but it also has the ability to run in a learning mode. This allows the program to see where the user's browser and e-mail clients usually read or write data or execute other applications and develop a pattern of acceptable behavior (similar to an "intelligent" sandbox model). After the learning period is completed (usually about one day), any activity outside of the normal range will generate an alarm, and require user intervention to proceed. As a result it also provides protection against yet-to-be-discovered security holes in popular Web browsers or other unknown hazards.

Independent Software Accrediter is Necessary to Determine Software "Harmlessness" Digital signatures can measure the authenticity of a person, but not their intentions or competence. Until software developers see it is in their best interest to invest more resources into writing secure software a separate entity is needed to gather concrete evidence of the software developer's intention and competence in advance. By testing their software against industry benchmarks and providing guidance to the uninformed user interested in ascertaining the safety of the software they want to download this entity will bridge the gap between identity verification and a software publisher's intentions and competence.

The "Software Accrediter" will validate that an ActiveX component is both harmless and "safe" to operate in an "open" environment by testing it against a set of industry-wide programming and Internet security standards. For a control to be "harmless", it must be unable to cause damage by itself. For it to be "safe" the control must be designed and written with a level of programmer competence that prevents other controls from being able to advantage of programming flaws and force it to cause harm.

The Software Accrediter will take on significance in the use of downloadable and executable content to authenticate its conformity to the norms of programming and Internet security practice. For instance, where a Software Publisher Digital ID is executed and digitally signed by a Certification Authority, the "Software Accrediter" will issue a message of accreditation attached to the Digital ID which validates the harmlessness and safety of the program within certain parameters. The validation will identify the level of risk associated with the control and the user can make an informed decision whether or not to download the control, based on the potential injury he could suffer. Neither the mere application of a digital signature, or the restriction to "safe zones" satisfies accreditation requirements for these types of dangerous programs. The "Software Accrediter" will combine the benefits of digital signatures with industry-accepted software accreditation to provide high quality international control authentication in a measure far exceeding current practices.

Public key cryptography, or digital signatures, can be used to sign application software and certify it as "safe" as judged by some certifier, only if the software is held up against a set of industry standards—where one of the "safety" properties would be that the application cannot be corrupted by malicious external programs or data. Microsoft offers Authenticode as a way of empowering the user to determine whether individual downloadable executable Web content is safe to use. It purports to provide the user with information which will be "comforting" to them in their analysis. Unfortunately, Authenticode simply moves the burden of assurance on to the user, without making the analysis any more tractable. It places an unreasonable burden on users, who must decide which developers are trustworthy based on insufficient data and inadequate tools. Because even major mass market application software (e.g., Quicken) appears susceptible to attacks by malicious controls, it is not clear what this type of certification technique could add.

Netscape's Hybrid "Code-Signing" Solution

Netscape has recently released its own implementation of an Authenticode-like Product that has much more robust security protection against harmful downloadable and executable programs. In addition to the generic characteristics of a digital signature; authentication, integrity and non-repudiation, "code-signing" also determines what an ActiveX control or Java applet wants to do on the user's machine, Netscape's Communicator checks to see if the software is signed and attempts to verity the signature. If the applet is unsigned or if the signature is unverified the applet is automatically restricted to running inside the "sandbox."

When the downloaded program wants to get access to a PCs system resources a dialog box is displayed that shows the user what kind of access it wants, the identity of the signer, and the associated risks. With this information the user then decides to allow or deny the access that the Java applet has requested.

ActiveX controls can be packaged in such a way as to fulfill the Java specifications necessary to allow code-signing. This process is accomplished using the JAR Packager tool which creates an envelope around the control that results in a cross-platform JAR file. The JAR Packager is a tool that allows developers to sign, envelope and compress Java applets, plugins, and any other type of file. The JAR file format was a joint effort between JavaSoft and Netscape.

In the future, an evolving combination of these and other approaches will be used to provide protection. Security guru Gary McGraw believes the long-term solution combines "code-signing authentication and some sort of security model, like a [Java] Sandbox." He believes it will be "much easier to [add code-signing] to extend Java .... than it will be reverse engineer Sandbox into ActiveX."

SUMMARY

The general outlook for ActiveX as a computer security problem is unclear. The potential vulnerabilities are legion. Bearing in mind the FBI's computer crime statistics indicate that over 80% of all detected computer crimes go unreported, and many more of them go undetected, during its initial 18 months in existence exploitation of ActiveX has been virtually non-existent. Unfortunately, as the economic incentive for creating malicious ActiveX controls increases, it seems likely that attackers will attempt to exploit its security vulnerabilities.

Given the obvious security risks presented by ActiveX, combined with the absence of broad-based support for Authenticode, the only possible explanation for Microsoft's continued pursuit of this folly is a last-ditch effort to keep its hand in the Internet game and maintain its share of the desktop computing software market. Microsoft is Committed to maintaining its monopolistic hold on the PC and Internet software industry by marketing its auto-immune deficient ActiveX software product, and its parasitic partner Authenticode. Even with the intellectual horsepower at its disposal it appears to be unwilling to develop a secure alternative because then there would be little incentive for users to purchase its internet Explorer Web browser, and there would be little hope for Bill Gates" vision of a single, seamless Windows-based PC desktop and Internet interface.

CONCLUSION

This article has presented some good points and bad points about ActiveX and Authenticode both of which have only been in existence for less than two years. It is inevitable that both security protection for downloadable and executable programs and Certification Authority policies and practices will evolve gradually. Nevertheless, in the interest of minimizing the risk exposure to the user, it would be prudent for software developers to acknowledge these risks up front and allow users to understand them and begin making informed decisions based on accurate information, or paying customers must demand something better. Risks associated with downloading any software from the Internet are unavoidable, but Microsoft chooses not to explain those risks to users or give them the tools to properly manage those risks. Instead what Microsoft does provide is confusing, contradictory FAQs, bulletins and marketing announcements that even go so far as to state, "Because Microsoft must respond to changing market conditions, this document should not be interpreted to be a commitment on the part of Microsoft, and Microsoft cannot guarantee the accuracy of any information presented after the date of publication."

Microsoft understandably wants to be the first to market with each of its latest Internet software products so it can gain whatever advantage it can over its competitors. But they are cutting corners at the customer's expense by leaving necessary security features out and the customer needs to be informed to decide whether it is an acceptable expense. In the wake of Love Canal, Three-Mile Island, Hanford Nuclear Reactor, Rocky Flats and other life-threatening breaches of the public trust we have matured as a nation to the point where even the courts support our right to receive advance notice before toxic chemicals are pumped into our back yards and personal spaces. Yet Microsoft is allowing toxic ActiveX components to be downloaded into our PCs without reasonable notice and disclosure of all the risks by pretending that it's fake security system Authenticode can provide reasonable detection and defense.

The most effective long-term technical solutions appear to require systemic changes in the way computer software is built and the way software standards are developed and enforced. The safest near-term alternatives for the majority of users all involve giving up many of the "bells and whistles" that make Web browsing so entertaining by configuring Internet Explorer browsers to restrict all ActiveX controls from being downloaded to the desktop.

* Copyright Rick Hornbeck, 1997.

Microsoft recently announced on TechNet that, as of the release of XP, the only way that consumers and businesses can make on-line purchases, or submit private data (e.g., on-line banking) through a "secure" (SSL-enabled) Web site, is by using new features that are available exclusively on Windows XP, via the Windows Update Web site. Users of Microsoft NT, ME, and WZK may install an "upgrade patch" that will allow them to manually download new root certs, and to use a limited subset of the XP-based capability.

To better protect Microsoft customers from security issues related to the use of public key infrastructure (PKI) certificates and enhance the experience for Windows users, Microsoft is moving to standardize and clarify the criteria for root certification authorities in Windows XP. This standard also applies to root certification authorities in Internet Explorer and any other Microsoft product.

(http://www.microsoft.com/technet/security/news/rootcert.asp)

Let me repeat, as of the release of XP next week, the ability for consumers using non-Microsoft operating systems to perform "secure" transactions via Internet Explorer (IE) will be severely curtailed, and over the coming months, entirely eliminated.

When a user visits a secure Web site (that is, by using HTTPS), reads a secure e-mail (that is, S/MIME), or downloads an ActiveX control that uses a new root certificate, the Windows XP certificate chain verification software checks the appropriate Windows Update location and downloads the necessary root certificate. To the user, the experience is seamless. The user does not see any security dialog boxes or warnings. The download happens automatically, behind the scenes.

Microsoft has no plans to provide an "upgrade patch" for the non-Microsoft versions of IE that it currently supports (e.g., Solaris, Linux, HP-UX, and Mac.). Microsoft properly considers Auto Root Update and Windows Update to be Windows technologies for conveniently keeping users up to date with certificates in the Microsoft Root Program (the user doesn't have to take many steps to install the roots). However, it has no plans to provide these convenience mechanisms for non-Windows platforms at this time.

The result is that the only way that CAs or on-line merchants can get their certificates into the IE browsers of non-Microsoft consumers is by forcing the consumer to manually download and install the certificate directly from a Web site. This eliminates any level of trust assurance that may have resulted from IE's existing root certificate accreditation process.

Under this new regime, when a consumer using IE on a non-Microsoft platform enters a secure Web site to make a secure on-line purchase, he is prompted to download and trust the CA root certificate of any merchant whose root is not already in that browser. The same is true if a Web site wants to download an ActiveX control, which is signed by an unknown and hence "un-trusted" Publisher. Eliminating future access to new root certificates in its IE browser will deprive consumers using non-Microsoft platforms from the ability to conveniently and "securely" make purchases at a secure Web site (HTTPS), read secure e-mail (S/MIME), or download signed ActiveX controls with the same level of trust assurance that he experienced prior to this new regime.

This change will adversely affect the consumer, the on-line merchant, and the CA.

as each of them has a stake in making the on-line experience as smooth, secure, and convenient as possible. This latest manipulation of the Internet software market by Microsoft will provide consumers with a strong incentive to migrate to a Windows platform, so they can continue to use the Web with the same degree of ease, and sense of security as before.

In addition, some commercial PKI applications and products are designed around consumer access to their root certificates in Microsoft's IE. Eliminating consumer access to their root certificates from IE will force them to restructure their applications, and in some cases their whole product strategy. Of course, Microsoft will argue that these vendors were receiving a "free ride," while it developed the technology to tighten up its PKI solution. However, Microsoft's PKI solution is anything but "tight," and in fact, it is still quite immature. In addition, it will remain so for several years, to the detriment of the consumer, and the industry.

This tactic is virtually identical to the one that Microsoft used to eliminate competition in the browser market. It offered features similar to Netscape's, but at no charge, because it could afford to use its income from OS sales to offset the loss it took on its browser product. Initially, Microsoft's browser was inferior to Netscape. However, over time, as the marketing power of the Windows desktop gradually surmounted Netscape's marketing channels, and as Microsoft commandeered many of the existing Internet browser standards, IE achieved a superior market position. This time Microsoft provided consumers and the industry with "free" access to CA root certificates embedded in IE. However, now that it believes it has eliminated any competition for this service, Microsoft intends to force consumers to purchase XP or another Windows platform, so they can continue to enjoy the same convenience and benefits from digital certificates as before.

Although Microsoft will certainly claim otherwise, I believe it is well within its power to continue to support the storage of new root certificates in non-Microsoft versions of IE. However, Microsoft representatives have indicated that they have no plans to do so at this time. As are result, consumer trust in on-line commerce, and the viability of many PKI solution vendors will both suffer in Microsoft's latest grab for another piece of the Internet software market, PKI. Microsoft's PKI solution is inferior to current alternatives, and it will not achieve its promised capabilities for many years, after using the public as its testing ground.

Is Microsoft trying to corner another piece of the Internet software market by illegally leveraging its market powers, as the court agreed that it has done in the past? The pattern is virtually identical.

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(323) 363–2151

PROFESSIONAL EXPERIENCE:

HORNBECK CONSULTING—Pasadena, California 2000—Present.

* Security Policy, Certificate Policy, and Certification Practice Statement consulting and development; Internet and network security policy consulting; PKI legal issue spotting and consulting. Representative topics include privacy; identity authentication; "qualified" certificates, security services, jurisdiction, and digital and electronic signatures; and local, national, and international regulations and case law in both civil and common law jurisdictions.

Customers include:

* ENSURELINK CERTIFICATION AUTHORITY—San Diego, California 2000—Present. PKI Consultant—Certificate Policy, Certification Practice Statement, and PKI-related consulting.

* ALPHATRUST CERTIFICATION AUTHORITY-Dallas, Texas 2000. PKI Legal Consultant-Certificate Policy, Certification Practice Statement, and PKI-delated legal consulting.

* EXPERIAN—Orange, California 2000. PKI Legal Consultant—Consulted with in-house legal counsel, defining and documenting application-specific, PKI-related legal issues.

ENTRUST TECHNOLOGIES—Plano, Texas 1999—2000. Senior Security Consultant-Developed Security Policies, Certificate Policies, and Certification Practice Statements for large national, multi-national, and international organizations. Worked directly with senior client management to determine 1heir PKI requirements. Worked with sales force on national opportunities. Worked with consulting partners to out source PKI consulting work during peak periods and on joint projects. Provided on-site classroom training programs lasting 3–4 days for consulting partners and customers on Entrust-specific security and PKI consulting methodology and concepts.

Customers include: Experian, Bell Atlantic, MCI WorldCom, Hoffman-LaRoche, State Farm Insurance, First American Real Estate Information Services (FAREIS), Ernst & Young, Price Waterhouse Coopers, People's Bank of China, Capital One, US Department of Agriculture, Fidelity Investments, Illinois Secretary of State, First Data Corporation ....

OFFICE OF COURT ADMINISTRATION, STATE OF TEXAS—Austin, Texas 1997—1998. Strategic Technology Planner-Responsible for the implementation of a statewide computer and communication network linking all state courts. Developed supporting rules, policies, guidelines, and statutes relating to the electronic filing of court documents. Prepared cost analysis and preliminary design for the Texas Judicial Committee on Information Technology, based on planned technology.

ELECTRONIC COMMERCE SYSTEMS—Los Angeles, CA (1995—96); Austin, TX 1997–1998. Principal-Consulting company provided electronic commerce consulting services with an emphasis on Internet and Web-based security, public-key infrastructure (PKI), digital signatures, electronic filing of court records, and electronic payments.

Customers included:

Wells Fargo Bank—Los Angeles, California, 1996.

Database Developer-Designed and developed MS-ACCESS database integrating First Interstate Bank commercial loan database with Wells Fargo data following bank merger.

Orange County Superior Court ('intern, part-time)—Santa Ana, California, 1996.

—Court Technology Department—Drafted new court rules for electronic filing of pleadings via the Internet for pilot family law electronic filing project.

—Law and Motion Research Department—Reviewed, researched, and summarized legal motions for judge's Law and Motion hearings.

LAX SHUTTLE TRANSPORTATION CONSORTIUM, El Segundo, California 1996. Arbitralion Hearing Officer ('part-time)—Arbitrated appeals from personnel disciplinary actions.

ATTORNEY GENERAL'S OFFICE, DEPARTMENT OF JUSTICE, STATE OF CALIFORNIA—Los Angeles, California 1995–96. Legal Intern (part-time)—Wrote briefs, motions, and memos; performed legal research in support of Deputy Attorneys General; assisted in trial preparation.

COMPUTER SCIENCES CORPORATION—El Segundo, California 1993—95. Senior Management Consultant—Developed Information Systems Strategic Plan and Architecture for United States Air Force, Materiel Systems Command, Los Angeles Air Force Base (LAAFB). Delivered an integrated, base-wide strategic plan encompassing reengineered business processes, network operating systems, e-mail, and network security for over 25 unique, on-base Air Force organizations with disparate computer and network platforms.

TRW SPACE & DEFENSE (ELECTRONIC SYSTEMS GROUP), Redondo Beach, CA. 1988–93. Network Systems Engineer-Led team in design, development, and implementation of a reengineered purchase order processing system using state-of-the-art client-server technology linked with the corporate network. Implemented software upgrade for Procurement EDI application and integrated with batch FTP transfer from mainframe. Responsible for implementation, administration, and security of multiple, inter-connected local area network servers running SCO UNIX, AT&T System V.4, and SUN OS over TCP/IP, and DOS/Windows clients.

PRICE WATERHOUSE, OFFICE OF GOVERNMENT SERVICES, Los Angeles, California 1987. Senior Consultant Created functional model for reengineered application in support of "Los Angeles Employees Retirement Association" (LACERA) software development project team.

XEROX CORPORATION, PRINTING SYSTEMS DIVISION, El Segundo, California 1985–87. Senior Analyst/Programmer-Supervised two analyst/programmers and coordinated design, development and implementation of purchase order entry system for Printing Systems Division.

TRANSAMERICA CORPORATION, Los Angeles, California 1983–85. Analyst/Programmer-Assisted in design, development, and implementation of a nation-wide information system enabling insurance agents to submit customer applications for insurance coverage directly into the mainframe computer in the home office from field offices across the country.

TEACHING EXPERIENCE:

* UNIVERSITY OF PHOENIXON-LINE, 2001

Part-time instructor-Risk Management in a CIS Environment (Computer Security); Contracts, Ethics, and Intellectual Property;

* SANTA MONICA COLLEGE, 2001.

Part-time instructor-introduction to Computer Systems;

* CALIFORNIA STATE UNIVERSITY, LOS ANGELES, 2001.

Part-time insfrucfor-Internet security.

LOYOLA LAW SCHOOL, Los Angeles, California.

Juris Doctor—December 1996.

Dean's List Honors, 1995.

California State Bar Foundation—Public Service Grant 1996.

UNIVERSITY OF SOUTHERN CALIFORNIA, Los Angeles, California.

Master of Science, Information Systems Management—May 1990.

CALIFORNIA STATE UNIVERSITY, LOS ANGELES, California.

Bachelor of Science in Business, Minor in Business Information Systems—June 1983.

Dean's List Honors, 1982.

ADMITTED TO PRACTICE

State Bar of Utah—May 2000, Active Member.

ARTICLES, STANDARDS ACTIVITY, PRESENTATIONS, AND COURSES TAUGHT:

PUBLISHED ARTICLES:

* Electronic Filing of Court Records: Standards and Open Systems (West Group 1998);

* Electronic Court Filings for Attorneys: What, Where, When, Why and How (West Group 1998);

* Into the Breach." Understanding Security Issues Involved in Commerce on the Internet—Parts I and II, The DataLaw Report, (Clark, Boardman, and Callaghan 1997);

* The Troubling Truth About "Trust" on the Internet, Journal of Electronic Commerce, (EDI Group, Ltd. 1997);

COMPUTER SECURITY, PKI STANDARDS, AND RELATED ACTIVITY:

* Internet Engineering Task Force (IETF) "RFC 2527," Internet X. 509 Public Key Infrastructure Certificate Policy and Certification Practices Framework, attributed contributor (March 1999);

* GUIDES—Guidelines, Methodologies and Standards to set up a CA for Digital Signatures, European

Commission, attributed contributor (June 2000); * American Bar Association (ABA), Information Security Committee, Digital Signature Guidelines, drafter (August 1996).

* High-Technology Crime Investigation Association—Southern California Chapter, Member.

* Internet Corporation for Assigned Names and Numbers (ICANN)—Member At Large.

PRESENTATIONS AND COURSES TAUGHT:

* Risk Management in a CIS Environment, University of Phoenix On-line, July-August 2001.

* Certificate Policies and Certification Practice Statements in a Network Trust Model, The Internet Security Conference (TISC), October 1999 Boston, MA;

* Electronic Filing of Court Records: Standards and Open Systems, American Bar Association Annual Meeting, Presidential CLE 1998.

* Electronic Filing of Court Records: A Conceptual Framework, 1998 ABA TechShow;

* Introduction and Intermediate Public-key Infrastructure (PKI); Digital Signature, and Related Standards at the State, Federal, and International Levels; Certificate Policies and Certification Practice Statements (Entrust) 1999;

* Introduction to UNIX Operating System, San Jacinto Community College, Clear Lake Texas, (NASA) 1997.

FOREIGN LANGUAGES:

French (Fluent), Spanish (Proficient).

MTC-00029415

From: Robert Heath
To: Microsoft ATR
Date: 1/28/02 11:51pm
Subject: Microsoft Settlement

Hello,

I just wanted to share my opinion on the Microsoft Settlement. As it stands, I don1t see how the current proposal of basically flooding the market with Windows-based PCs would create or foster a competitive environment. I truly hope those making the decisions think things through and see this as what seems to be an underhanded and sneaky way to comply with a demand without really complying at all.

Robert P Heath
Panama City, FL

MTC-00029416

From: HGoeppele@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:51pm
Subject: Microsoft Settlement
Mary Ann Goeppele
15943 NE 139th Place
Woodinville, Washington 98072
January 28, 2002
Attorney General
John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today on behalf of my husband and myself in regards to Microsoft. We both support this company wholeheartedly, and we believe this litigation should be ended. During a time when we are facing many pressing national and economic issues, we should not continue to spend precious time and resources concentrating on Microsoft.

In our opinion, the proposed settlement is more than adequate to deal with the issues in this case. Microsoft has pledged to share more information with other companies and be monitored by a technical oversight committee for compliance. Microsoft has also agreed to design future versions of Windows to make it easier to install non-Microsoft software. This settlement is complete and thorough.

We are also concerned about the negative effect the continuation of this litigation will have on the Seattle area economy. As a result of major Boeing lay-offs, Washington State now has one of the highest unemployment rates in the country. Dragging out this issue further will have an even more detrimental effect on the local economy. It is time to end this litigation and focus our energies on more pertinent issues. Thank you for your support.

Sincerely,
MaryAnn Goeppele

MTC-00029417

From: Susan Handy
To: Microsoft Settlement
Date: 1/28/02 11:47pm
Subject: Microsoft Settlement
Susan Handy
4560 Kings Crossing Drive
Kennesaw, GA 30144
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Susan J. Handy

MTC-00029418

From: Michael Hemond
To: Microsoft ATR
Date: 1/28/02 11:52pm
Subject: Microsoft Settlement

To whom it may concern,

I am writing to express my concern with the proposed settlement of United States v. Microsoft Corp., Civil No. 98-1232.

I am a regular user of both Microsoft Windows and a distribution of the operating system known as Linux. I am not a professional software developer, but I have at times written software for both platforms. In essence, my concern is that the proposed remedy for Microsoft's anticompetitive behavior will not restore competition even if its intent is enforced and it is effective in curbing illegal actions.

In my view, a key feature of a competitive operating system market is that users have the option not to purchase or use any given any given operating system (OS). Specifically, competition in the OS market will be restored only when it is feasible for most users to elect not to purchase Microsoft Windows for a given application.

Unfortunately, a consequence of Microsoft's dominance in many markets is that its "file formats" have become de facto standards. (By "file formats," I am referring to the methods used by applications such as Microsoft Word to encode data such as text, document layout, images, etc.) These formats are not publicly available. Attempts at deciphering certain formats have been made by (for example) Sun Microsystems" StarOffice; however, reverse engineering complete functionality is extremely difficult and has not yet been accomplished successfully for many important formats. Furthermore, changes to such formats are not difficult for Microsoft relative to the burden placed on attempted competitors in deciphering any new changes.

The result of this "standardization" of proprietary formats, combined with Microsoft's policy of releasing the applications using these formats only for Windows (although there are exceptions, e.g. Microsoft Word for MacOS), is that potentially competing OS'es cannot run applications that interoperate reliably with these "standards." Thus, anyone wishing to use these "standard" formats, even for purposes of e.g. backwards compatibility with existing documents, must purchase not only the relevant Microsoft application but also Microsoft Windows. Such a user may also use other OS'es but is effectively required to purchase Windows. Please note that I do not believe that Microsoft's conduct regarding file formats is illegal, and to my knowledge it has not been found to be so in any court of law. However, I do believe that it will be impossible to restore competition to the OS market unless the issue of file formats is addressed, given the dominant position held by Microsoft. If the fruits of Microsoft's illegal behavior are to be negated successfully, the final remedy must address this issue. An obvious solution would be to require from Microsoft full disclosure of information necessary to flawlessly read and produce files of any Microsoft application. Such a remedy could be similar in spirit to, but more broad than, part III.E of the revised proposed Final Judgement (requiring disclosure of any communications protocols necessary for interoperating with a Microsoft OS).

Thank you for giving me the opportunity for comment. I look forward to a settlement addressing these issues and a more competitive operating system market.

Sincerely,
Michael Hemond

MTC-00029419

From: Michael Greisman
To: Microsoft ATR
Date: 1/28/02 11:55pm
Subject: Microsoft Settlement

To whom it may concern,

My observations of Microsoft's outrageous behaviors in court and in business lead me to believe that nothing short of dismemberment of the corporation will control its behavior.

I disapprove of this settlement, and hope that the Justice Department presses its case once more for a splitting of Microsoft into several completely separate companies.

Nothing I observed over the years of this case indicates that Microsoft ever intends to comply with the intent of a judicial ruling. Even if this settlement succeeded in controlling Microsoft's behavior for a number of years, I am convinced that Microsoft would immediately reknew its anticompetitive actions as soon as its restrictions ended.

Instead, I hope to see Microsoft split into three, four, or more separate and unrelated companies: operating systems (e.g. Windows), software (e.g. Office), hardware (e.g. XBox), and ISP (MSN). Since Microsoft sees fit to attempt to dominate in every popular technology-related market, there may be other divisions to split off, as well. Only then can we hope for Microsoft to cease using its near-monopoly on PC operating systems to leverage its position in every other market.

Thank you for your attention.

Sincerely,
Michael Greisman
Webmaster
Scanalytics, Inc.
703-208-2230
mgreisman@scanalytics.com
Michael Greisman
Applications Scientist Scanalytics, Inc.
mgreisman@scanalytics.com

MTC-00029420

From: Landon Derentz
To: Microsoft ATR
Date: 1/28/02 11:53pm
Subject: Microsoft Setlment

Dear judge,

Microsoft is in my opinion, has broken in the past and will continue to break many anti-trust laws with this back-room deal. The PFJ will not only allow Microsoft to have an unfair advantage on the market, but will also hinder other companies such as Netscape in having a fair chance at this thing called capitalism. Please do not allow this deal to go through. Thank you.

Sincerely,
Landon Derentz
907 West 28th St.
Los Angeles, CA 9007
CC:dkleinkn@yahoo.com@inetgw

MTC-00029421

From: juan alejandro urquizo-Soriano
To: Microsoft ATR
Date: 1/28/02 11:54pm
Subject: Microsoft settlement

Dear Sir:

Microsoft is a real threat,They are the biggest monopoly I have ever seen. Please help the people of the world.

Juan

MTC-00029422

From: David Gallardo
To: Microsoft ATR
Date: 1/28/02 11:54pm
Subject: Microsoft Settlement

I am strongly opposed to the settlement. It is too little, too late.

In the time between the rulings finding Microsoft guilty of violating antitrust laws, Microsoft has increased its dominance of the market even further, by continuing to use the same type of anticompetive business practices.

Punishing Microsoft for its business practices will not quash innovation as they and their supporters claim. On the contrary, by allowing healthy competition to thrive, it will encourage innovation.

Best regards—
David Gallardo

MTC-00029423

From: Bruce C. Pippin
To: Microsoft ATR
Date: 1/28/02 11:55pm
Subject: I am backing Microsoft

Well, I don't know what comment I could make that isn't obvious to at least a large part of the population. I'm not an historian nor am I an attorney. I am but a simple consumer.

There is little doubt in my mind that every man, woman and child on the planet is aware of the case against Microsoft. In at least a general sense, we all know the jest of the case. I think consumers have already responded to the case brought forward by a small handful of attorney's.

Yes, I think we responded well to the needs of a few attorney generals that need to "protect us" from "evil". Oh yes ... We all know about the righteous.

Before, during, and after this case the general public will continue to appreciate Microsoft innovations. We will continue to purchase their products. I have, over time, used some of Microsoft's competitors products (Netscape for example). I have no doubt that these competitors did not fail due to practices by Microsoft, but by their own hands. Even when given the choice (which we have always had) we have made the choice to pick Microsoft products.

It is sad that only after millions of dollars and several years will we all have the opportunity to reflect on current events and realize what nincompoops these attorney's are for pursuing a case against Microsoft. I back dropping this case against Microsoft without any reservations. One citizen ... And there's my one vote.

No, among other things, I am not an eloquent writer, but I did feel compelled to voice an opinion.

Regards
Bruce C. Pippin

MTC-00029424

From: Brian Fristensky
To: Microsoft ATR
Date: 1/28/02 11:53pm
Subject: Comments on Microsoft Antitrust case

Please see attached HTML file.

Brian Fristensky ... now Microsoft has a new version Department of Plant Science I out, Windows XP, which according to University of Manitoba I everybody is the "most reliable Winnipeg, MB R3T 2N2 CANADA I Windows ever". To me, this is frist@cc.umanitoba.ca I like saying that asparagus is Office phone: 204-474-6085 I "the most articulate vegetable ever." FAX: 204-474-7528 http://home.cc.umanitoba.ca/frist—Dave Barry

Comments on Civil Action No. 98–1233 (CKK) United States of America vs. Microsoft Corporation State of New York et al. vs. Microsoft Corporation by

Brian Fristensky
Associate Professor
Department of Plant Science
University of Manitoba
Winnipeg, MB, Canada R3T 2N2
Phone: 204–474–6085 FAX: 204–474–7528
frist@cc.umanitoba.ca
http://home.cc.umanitoba.ca/frist
Judge Colleen Kollar-Kelly
microsoft.atr@usdoj.gov

Dear Judge Kollar-Kelly,

I wish to comment on the Microsoft Antitrust case awaiting judgment in your court. To keep things brief, I shall focus on points that I think have not been adequately brought out in the proceedings of which I am aware.

Point of information:

I am an Associate Professor in the Department of Plant Science at the University of Manitoba in Winnipeg, Canada. I have been doing research in molecular biology for over 20 years. I was also instrumental in the original development of software for DNA sequence analysis, beginning in 1979. I am an active contributor to the field of Bioinformatics, which has gained recognition recently in its role in sequencing the human genome.

Finally, I am an American citizen.

A. The effects of Microsoft's practices; and the indirect effects of its "de facto standard"

1. The Microsoft culture

It has been well established in court proceedings that Microsoft has a long history of premeditated anti competitive practices. The main point I want to make is that the decision making process at Microsoft is centered around leveraging the existing monopoly to maintain the monopoly. When you have the monopoly advantage, you choose different strategies than a company that uses different premises for decision making, such as "we need to be competitive" or "let's make the best product possible, and then figure out how to best market it." Microsoft's decision making, as shown in documents already presented to the court, has become entrenched in the practice of monopoly.

It is this type of mindset that allows Microsoft to treat its customers with contempt. The most glaring example is the Mail and News program, Outlook Express (OE). OE, through its feature of allowing the user to directly click on any icon in an email or news message, resulting in the haunch of an application, is fundamentally insecure. Even after repeated spread of viruses such as the "Melissa" virus, each time on a world-wide scale, Microsoft has refused to eliminate this feature from OE. Similarly, the integration of Visual Basic into applications such as MS Word makes it possible for viruses to propagate via text documents. In both cases, Microsoft has completely ignored security experts who advise that these strategies are fundamentally insecure, and remain invitations to an endless stream of viruses. Only a company with an arrogant certainty of market domination could afford to ignore such obvious flaws in its software.

2. The fact of monopoly results in de facto anti competitive effects

a) "No one was ever fired for buying Microsoft". In fact, this quote is based on an earlier generation quote "No one was ever fired for buying IBM". People make decisions not based upon whether a product is better, but they buy the MS product because it is a safe, defensible decision for which they can't be criticized.

Examples:

i) Long after NCSA Mosaic, and its successor, Netscape were introduced, Microsoft created Internet Explorer (IE). Even though IE was clearly an inferior product for several years, it quickly gained market share. Further leveraging of the Windows platform resulted in the ultimate domination of the browser market, at the expense of Netscape.

ii) RealPlayer and other products from www.real.com virtually created the market for browser-based multimedia. Yet, with the bundling of Windows Media Player (WMP), this established platform is losing ground. Why develop for RealPlayer when you can count on everybody having WMP?

iii) At one time there was a competitive market among word processors, spreadsheets, and drawing/presentation programs. Corel Word Perfect, Quattro Pro, and CorelDraw/CorelPresents were viable competitors to MS Word, MS Excell, and Powerpoint. Today, the MS products are overwhelmingly the only products in widespread use.

In each case, the Microsoft product took over an already existing market, not by being better, but simply, because it was made by Microsoft. These examples illustrate the point that the de facto aspects of the Microsoft monopoly are far more pernicious than the deliberate anti competitive practices. Put another way, everybody buys Microsoft because everybody has Microsoft. This phenomenon ensures the continuation of the Microsoft monopoly. One might call this the "market share cycle".

b) Why develop for other platforms when Windows is the only one that anyone uses. Just about any software developer will tell you that they develop for Windows because it is the dominant desktop platform. Although virtually all computer science professors will teach their students that software development should aim to be platform-independent (for very good reasons), the reality of the marketplace is such that this advice is ignored. Developers, not surprisingly, develop for platforms with a large market share. For most software developers, even developing for the Macintosh platform is not worth their while, because it is such a small percentage of the market share. The net result is that no one chooses which platform to develop for, based on criteria such as quality of the platform, or ease of development. There is no choice at all. They develop for Windows.

Put another way, everybody develops for Windows because everybody develops for Windows. The process is self-perpetuating.

c) The self-perpetuating Microsoft monopoly impedes the evolution of computing There are alternatives to the desktop computing model of MS-Windows. While Macintosh is the most visible competitor, Linux is also a credible contender. As well, server-based solutions such as Sun Microsystem's iPlanet platform (http://www.sun.com/software/sunone/overview/platform/), make it possible for both novice users and high-tech users to replace the desktop computer entirely with a user-friendly graphic terminal, or to run applications remotely through a browser.

The latter is a viable model as high-speed Internet connections proliferate, especially because they eliminate the need for the user to do any system administration, and insulate the user from the hardware obsolescence, and allow the user to access their computer files and applications from anywhere in the world. Such alternative solutions are in fact used by a very small number of users. They are only slowly gaining ground due to the Microsoft monopoly. The users of these alternative platforms would all argue that they do so because these platforms are superior to the Windows platform. Whether any or all of these alternatives is actually superior is moot. A putatively-superior computing platform simply can not compete with the de facto Microsoft standard.

d) The Microsoft monopoly has a negative effect on the quality of alternative systems. Even those of us who have chosen to use systems other than Microsoft Windows feel the negative impact of the monopoly. In my own case, I have operated my research laboratory, and performed all my teaching duties, almost exclusively on the Sun Unix system. Detailed examples can be found at http://home.cc.umanitoba.ca/psgendb/nc/. At home, my family and I exclusively use Linux.

While the members of my lab group, myself, and my students have often been ahead of the curve in utilizing networked computing resources, there have been a number of stumbling blocks resulting from the Microsoft monopoly. Probably the greatest problem is the fact that the choice of applications available on the Sun Unix system or Linux is much smaller than on Windows, due to the much smaller desktop market share of these systems. Again, developers won't write for those systems because the market share is small, and the market share stays small because the applications aren't available. When new hardware devices are marketed (eg. CD–ROM drives, printers, video cards etc.) the manufacturers seldom write drivers for non-Microsoft platforms. At the same time, they often refuse to make their specifications public, forcing the Linux community to reverse engineer new models in order to write device drivers.

The market share cycle also influences such fundamental things as the ability to purchase alternative systems. All computer stores sell computers with MS Windows preloaded. Only a small number of vendors will sell Linux pre-loaded, even though Linux is freely available. In many cases, a person wishing to run Linux might actually have to buy a Windows machine, thus paying for Windows, and then erase the hard drive and replace it with Linux. This phenomenon is sometimes referred to as the "Microsoft Tax". As well, because the user has to take the extra step of installing Linux, Linux is falsely perceived as being less user friendly. This would not be the case if the consumer had a choice of buying a pre-installed Linux system.

The self-perpetuating Microsoft monopoly therefore results in an arguably flawed operating system maintaining control of the direction of computing, even when better alternatives exist.

B. A behavioral remedy is inadequate because:

* It does not break the market share cycle. As long as Microsoft remains the "1 stop shopping" choice for all software needs, no alternative platform, whatever its merits, can compete. Even worse, as the Windows platform continues to scale to midrange servers, that vertical integration will make the Windows platform even harder for IT decision makers to avoid.

* It guarantees endless litigation. MS has managed to make a career out of doing what it wants anyway, while tying up cases in courts for years while competitors flounder.

* It still leaves the MS anti competitive culture intact. The Microsoft corporate culture, as the company is now structured, is oriented toward perpetuating the monopoly. As long as Microsoft remains intact, the culture and attitudes of its employees will be perpetuated.

* One of the recommendations of the joint DO J/Microsoft settlement released in September is that Microsoft should be required to make its software available on other operating systems besides Windows. This might actually result in a further domination of the desktop market, because, due to the "No one ever got fired for buying Microsoft" phenomenon. Software that is currently common on non-Windows systems might be pushed out of the market by the perceived "industry standard" application. The goal should not be to encourage MS to grab an even larger market share.

Rather, it should be to eliminate the self-propagating domination of the market share that prevents competitors from vying for some of that market share.

C. Microsoft should be broken into several smaller companies

It is my contention that behavioral remedies will not correct the fundamental problems caused by Microsoft's domination of desktop computing. My basic point is that if the settlement is to be truly fair, then Microsoft should be put onto the same level playing field as other companies. It must be forced to make its decisions based on a competitive model, not a domination model.

The structural remedy should be based on the breakup of Microsoft into several companies. There may be many possibilities, and it must be recognized that the breakup should not make it impossible to do business, and should not be structured such that its implementation would be disruptive to the world of computer users, most of whom currently use Windows and MS Office. One such structural remedy would see Microsoft broken into different companies specializing in specific product areas:

1. Operating system
2. Office (current MS-Office: WORD, Powerpoint etc.)
3. Internet and Enterprise services (IIS, Internet Explorer, Outlook Express)
4..NET—API development tools
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I believe that breakup into even 2 companies does not adequately curb the monopoly effect. It is too easy for two companies to coordinate efforts. It is more difficult for a larger number to coordinate. It also requires a greater effort on the customer's part to end up buying everything from an MS company, rather than buying some from MS, some from IBM, some from Sun, and others from another party.

Other stipulations:

* None of these companies may use the name "Microsoft" or "Windows". Each company will independently choose new names (eg. Gatesware, Redmond OS, IIS Systems, .NET inc.) This makes it a little more difficult for the "Microsoft" product to be automatically recognized and chosen solely for its name. It should be pointed out that MS really can't argue that it will be hurt one bit by a name change. Name changes in very large corporations happen all the time, especially in cases of mergers and acquisitions (eg. Esso to Exxon, AgrEvo to Aventis, Allegheny Airlines to USAir)

The resultant companies are not permitted free access to resources of other former MS companies. They must license use of software, or access to source code, on the same terms as any other OEM, developer, or other partner. That is, if a former MS company licenses something from another former MS company, the same licensing terms must be made available to all interested OEMs or developers.

MS companies are not allowed to dictate terms of inclusion or exclusion of other 3rd party software to any OEM or developer wishing to license products of former MS companies.

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One might argue that a structural remedy is somehow "unfair" or overly punitive. However, Microsoft holds no sacrosanct position of privilege. There is no imperative that Microsoft must remain as a pillar of the American way. It is not entrenched in our constitution. It is simply a company that was successful at a certain business strategy, at the expense of the ruin of many other companies.

D. Benefits of a structural remedy

1) It works automatically, and requires less monitoring.

2) It lets smaller companies compete piece by piece with MS, rather than having to compete with the full bundled MS array of products.

Today, an OEM or an IT department really makes few decisions about what to put on their new computers. The choice of OS is a "no-brainer", because everybody uses Windows, and most software is developed for Windows. MS-Office is usually bundled with Windows, so there's no choice there. With WindowsXP, a full multimedia package is bundled—again no decision is made. If bundling were eliminated, OEMs and IT departments might return to making decisions about what kind of components best meet their needs, rather than just "voting the straight ticket" for Microsoft.

3) Business and home computer users will not be harmed by a Microsoft breakup.

As non-Windows users like myself have demonstrated, one can work just as easily on non-Windows platforms. Especially in the Open Software sector, there are alternatives for most of the main types of applications available on the Windows platform, including applications for office tasks (word processors, spreadsheets, drawing and presentation, calendars), multimedia (MIDI, MP3, video etc.), Internet (web browsers, mailers, FTP, telnet etc.) At the enterprise level, server-oriented tasks such as database management, web serving, application serving and such are strongly represented on alternative platforms such as Unix or IBM's AS400. As well, a Microsoft breakup doesn't mean that Microsoft will go away. It simply means that the consumer will have to explicitly choose Microsoft, rather than having no choice at all.

4) The evolution of computing will not be driven by a single computing platform.

Regardless of whether or not one believes that the Windows platform is good or inferior, the fact remains that it is a monolithic platform. For the average desktop user, Windows is synonymous with computing. The more deeply intertwined the different parts of Windows are allowed to become, the less chance there will be for evolution of ANY part in a way other than that decreed by Microsoft. Microsoft's current strategy is to continue evolving its desktop model of computing to higher levels of computing, such as enterprise file:///C√/win/temp/tristens. computing or supercomputing, where it is a very poor model. Yet, the sheer inertia of Microsoft's market share will drive this system even into places in which it is not an appropriate solution. A set of smaller companies derived from Microsoft would not have the same power over the development of computing, allowing for greater diversity, which is key to any evolutionary process.

E. Closing remarks

Perhaps as good an argument as any from breaking up Microsoft is because computing has become central to almost every aspect of life in the modem world. Computing is unlike, say the oil industry, or the food industry. No car runs on just one brand of gasoline, and people buy a variety of foods because they like variety. When you couple our great dependence on computers in all walks of life, with the monolithic structure nature of desktop computing as controlled by a single company, the result is that the company that dominates that computing infrastructure has some degree of control on most aspects of our modem life. The level of power wielded by Microsoft is frightening. The fact that they had sufficient clout to cause the US Justice Department to reverse its position on a breakup is a chilling example of that power. The fact that Microsoft has maintained its arrogant domination of the computer market, and been allowed to do so with impunity, should be cause for alarm.

It is not unAmerican for any branch of government, executive, legislative or judicial, to limit the power of a private corporation, if that corporation is usurping powers that should rightly be exercised by the government or by the free market. Bill Gates was not elected by voters. The management of Microsoft is not accountable to the public. The antitrust laws were wisely enacted in recognition of the fact that non-elected entities such as corporations could sometimes wield too much power. It is the job of the judiciary to ensure that they are not allowed to do so.

Comments on Civil Action No. 98–1233 (CKK) United States of America vs. Microsoft Corporation State of New York et al. vs. Microsoft Corporation by Brian Fristensky

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Judge Colleen Kollar-Kelly
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It is this type of mindset that allows Microsoft to treat its customers with contempt. The most glaring example is the Mail and News program, Outlook Express (OE). OE, through its feature of allowing the user to directly click on any icon in an email or news message, resulting in the launch of an application, is fundamentally insecure. Even after repeated spread of viruses such as the "Melissa" virus, each time on a world-wide scale, Microsoft has refused to eliminate this feature from OE. Similarly, the integration of Visual Basic into applications such as MS Word makes it possible for viruses to propagate via text documents. In both cases, Microsoft has completely ignored security experts who advise that these strategies are fundamentally insecure, and remain invitations to an endless stream of viruses. Only a company with an arrogant certainty of market domination could afford to ignore such obvious flaws in its software.

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c) The self-perpetuating Microsoft monopoly impedes the evolution of computing There are alternatives to the desktop computing model of MS-Windows. While Macintosh is the most visible competitor, Linux is also a credible contender. As well, server-based solutions such as Sun Microsystem's iPlanet platform (http://www.sun.com/software/sunone/overview/platform/), make it possible for both novice users and high-tech users to replace the desktop computer entirely with a user-friendly graphic terminal, or to run applications remotely through a browser.

The latter is a viable model as high-speed Internet connections proliferate, especially because they eliminate the need for the user to do any system administration, and insulate the user from the hardware obsolescence, and allow the user to access their computer files and applications from anywhere in the world. Such alternative solutions are in fact used by a very small number of users. They are only slowly gaining ground due to the Microsoft monopoly. The users of these alternative platforms would all argue that they do so because these platforms are superior to the Windows platform. Whether any or all of these alternatives is actually superior is moot. A putatively-superior computing platform simply can not compete with the de facto Microsoft standard.

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Today, an OEM or an IT department really makes few decisions about what to put on their new computers. The choice of OS is a "no-brainer", because everybody uses Windows, and most software is developed for Windows. MS-Office is usually bundled with Windows, so there's no choice there. With WindowsXP, a full multimedia package is bundled—again no decision is made. If bundling were eliminated, OEMs and IT departments might return to making decisions about what kind of components best meet their needs, rather than just "voting the straight ticket" for Microsoft.

3) Business and home computer users will not be harmed by a Microsoft breakup.

As non-Windows users like myself have demonstrated, one can work just as easily on non-Windows platforms. Especially in the Open Software sector, there are alternatives for most of the main types of applications available on the Windows platform, including applications for office tasks (word processors, spreadsheets, drawing and presentation, calendars), multimedia (MIDI, MP3, video etc.), Internet (web browsers, mailers, FTP, telnet etc.) At the enterprise level, server-oriented tasks such as database management, web serving, application serving and such are strongly represented on alternative platforms such as Unix or IBM's AS400. As well, a Microsoft breakup doesn't mean that Microsoft will go away. It simply means that the consumer will have to explicitly choose Microsoft, rather than having no choice at all.

4) The evolution of computing will not be driven by a single computing platform.

Regardless of whether or not one believes that the Windows platform is good or inferior, the fact remains that it is a monolithic platform. For the average desktop user, Windows is synonymous with computing. The more deeply intertwined the different parts of Windows are allowed to become, the less chance there will be for evolution of ANY part in a way other than that decreed by Microsoft. Microsoft's current strategy is to continue evolving its desktop model of computing to higher levels of computing, such as enterprise computing or supercomputing, where it is a very poor model. Yet, the sheer inertia of Microsoft's market share will drive this system even into places in which it is not an appropriate solution. A set of smaller companies derived from Microsoft would not have the same power over the development of computing, allowing for greater diversity, which is key to any evolutionary process.

E. Closing remarks

Perhaps as good an argument as any from breaking up Microsoft is because computing has become central to almost every aspect of life in the modern world. Computing is unlike, say the oil industry, or the food industry. No car runs on just one brand of gasoline, and people buy a variety of foods because they like variety. When you couple our great dependence on computers in all walks of life, with the monolithic structure nature of desktop computing as controlled by a single company, the result is that the company that dominates that computing infrastructure has some degree of control on most aspects of our modern life. The level of power wielded by Microsoft is frightening. The fact that they had sufficient clout to cause the US Justice Department to reverse its position on a breakup is a chilling example of that power. The fact that Microsoft has maintained its arrogant domination of the computer market, and been allowed to do so with impunity, should be cause for alarm.

It is not unAmerican for any branch of government, executive, legislative or judicial, to limit the power of a private corporation, if that corporation is usurping powers that should rightly be exercised by the government or by the free market. Bill Gates was not elected by voters. The management of Microsoft is not accountable to the public. The antitrust laws were wisely enacted in recognition of the fact that non-elected entities such as corporations could sometimes wield too much power. It is the job of the judiciary to ensure that they are not allowed to do so.

MTC-00029426

From: James R. Bergman
To: Microsoft ATR
Date: 1/28/02 11:54pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse:

This is to advise you that I strongly believe that the terms of the proposed settlement—which have met or gone beyond the findings of the Court of Appeals ruling—are reasonable and fair to all parties involved. This settlement represents the best opportunity for Microsoft and the industry to move forward.

I say this with a 30-year successful business career behind me and, hopefully, even greater success ahead. But should this settlement not be finalized and a harsher penalty imposed on Microsoft, I know, not believe, that it will affect my business and most all general, old-economy businesses in a severely negative and expensive way. Similarly, the so-called new economy industries will not benefit though those that are envious of Microsoft's success and those who cannot keep up with Microsoft's efficient execution of its business plan may feel differently.

I strongly request that you support this settlement to the greatest degree possible and do all things available to you to assure its being finalized. As both a business owner and home user who has and does use many software programs as well as spends quite a few hours a week on the Internet, I am grateful for all the many wonderful things that Microsoft has accomplished and have always made available to me at reasonable and fair prices that have aided me in my business and family life. Please feel free to contact me if you wish. Should you be speaking to Joel Klein, please say "Hi" from an old fraternity brother (we were in Alpha Epsilon Pi, Class of 1967, Columbia College of Columbia University, NYC).

Sincerely,
James R. Bergman
910 S. Delhi Street
Philadelphia, PA 19147-3810
Phone:(215) 922-9145
Fax:(215) 922-4803
Mobile:(215) 284-1676
E-mail:jrb@strikerltd.com

MTC-00029427

From: JVMiller23
To: Microsoft ATR
Date: 1/28/02 11:53pm
Subject: Microsoft Settlement
James V. Miller
P.O.Box 12369
Mill Creek, Wa 98082
January 26, 2002
Attorney General John Ashcroft
Us Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing you today to inform you of my position regarding the Microsoft antitrust dispute. I support Microsoft in this dispute and feel that the litigation that has gone on is costly and a waste of resources. I support the Microsoft settlement reached in November, and I sincerely hope there will be no further action against Microsoft at the federal level.

This settlement was reached after extensive negotiations. Microsoft has agreed to all terms of this agreement, including terms that extend well beyond the original issues of this lawsuit, all for the sake of wrapping it up. Under this agreement, Microsoft has agreed to grant computer makers broad new rights to configure Windows to promote non-Microsoft software programs that compete with programs included within Windows. Microsoft has also agreed to license its Window operating system products to the 20 largest computer makers. This settlement will benefit companies attempting to compete.

Most importantly, this settlement will help boost our lagging economy and will benefit consumers. Microsoft should be allowed to devote its resources and talent to designing innovative products, rather than litigation. Thank you for your support.

Sincerely,

MTC-00029428

From: JSHIPPO@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 11:54pm
Subject: MIcrosoft Case
Jasper Shau
Eighth Grade

I think that Microsoft should be allowed to settle. Because Microsoft used itswindows system to distribute Internet explorer, it would a kind of monopoly. However, Microsoft does not make any money off the Internet explorer browser. Netscape is being destroyed because they make their money off their browser. If Microsoft pays enough money, and if the money goes to Netscape, it should be allowed to settle.Microsoft had already made several concessions ???We kept making concessions, and the government kept coming back with unreasonable demands, wanting us toinstall Netscape for them,??? Gates said. ???It was like hearing ???Netscape this, Netscape that,??? all the time.??? Obviously the federal government is pushing Microsoft too hard. Though if Microsoft monopolizes the browser they may charge very high fees for using it,the government would not allow them then. Even so, Microsoft says that theyhave no intention of doing so: "" Gates says. "In no way are we eliminating choice." He also bristles at the notion that Microsoft wants to turn theInternet into its personal toll road. "We'll get our revenue from selling great software.".In the Pac-bell incident, Pac-bell was split because it had amonopoly of basically the entire market. That is one extreme past example.

CC:ASKDOJ

MTC-00029429

From: Mike Edwards
To: Microsoft ATR
Date: 1/28/02 11:55pm
Subject: Microsoft Settlement

Microsoft is a monopoly. That is the only way I can find to describe a company who, for years, has concentrated on squashing competitors rather than improving their shoddy products.

I have used Microsoft products in various capacities for many years—starting with MS-DOS 2.10 on a home PC to Windows NT 4 / Windows 2000 in a work environment (as a system administrator, no less). All versions of Microsoft Windows I have used, starting with 3.0, have experienced severe reliability problems—and these problems have grown over time. The rest of their software seems to follow this model.

In stark contrast, there have been quite a few companies over the years who have tried to improve upon the deficencies in Microsoft's products, only to be bought out or forced out of the market by unsavory business practices (bundling, etc.), thereby leaving the market barren of competetors. Netscape is only the most recent example of predatory practices that Microsoft has been using to boost their position for years.

Microsoft is fond of claiming they "innovate". I don't think Microsoft has innovated a single thing in their entire existence, instead choosing to buy or steal technology belonging to others. So much for innovation.

Please, don't let this settlement go through. It will just validate Microsoft's position of providing the worst products possible. Given their history of unreliable software with an amazing number of security holes, I would think that this is the last thing you'd want to do.

Mike Edwards

MTC-00029430

From: Joe Bustamante
To: Microsoft ATR
Date: 1/28/02 11:56pm
Subject: Microsoft Settlement

As I understand the meaning and nature of the Tunney Act statutory process, its principle goal is to ensure that the people who are invariably the principle victims of all antitrust violations, that is to say the general public, have a voice in determining what is and is not in their own best interests. It seems self evident that when deciding how to remedy violations of law which harm the general public, the first principle of guarding the public interest should be to minimize the recurrence of violations by making certain the consequences to the violator always outweigh the rewards. It is unavailing to resolve the case if the violator is allowed to profit from his misdeeds in any fashion, since this only encourages others to show even greater contempt for the law. It is similarly fruitless to go to great expense proving in court the facts of eight such violations and then allow the violator to keep the rewards of them all, and even continue committing one or more. Such seems to be the case in this matter, the United States v. Microsoft, Civil Action No. 98–1232 (CKK).

After carefully reading and researching the findings of fact and conclusions of law of the District Court, as well as the unanimous opinion of the Circuit Court of Appeals, it is apparent that the United States Department of Justice, assisted by the attorneys general of several of the States, made a very compelling and conclusive case to establish that Microsoft Corporation had engaged in an illegal campaign of antitrust violations in order to strengthen and defend their monopoly in PC operating system software.

The District Court ruled firmly that Microsoft had committed a large number of violations, and the Court of Appeals unanimously upheld eight of those. In order to analyze the effectiveness of the remedy, the first thing we must do is ensure that Microsoft is not allowed to continue or profit from any of the eight distinct violations identified by the appellate court. I will begin this analysis with a list of the nine violations as they were expressed in X sections of the appeals court's opinion, along with a brief quote of the appeals court opinion regarding each distinct violation (I preserve the heading numbers used by the court, omitting those which were overturned or remanded).

1. Licenses Issued to Original Equipment Manufacturers—"In sum, we hold that with the exception of the one restriction prohibiting automatically launched alternative interfaces, all the OEM license restrictions at issue represent uses of Microsoft's market power to protect its monopoly, unredeemed by any legitimate justification. The restrictions therefore violate s 2 of the Sherman Act.

2. Integration of IE and Windows—"Accordingly, we hold that Microsoft's exclusion of IE from the Add/Remove Programs utility and its commingling of browser and operating system code constitute exclusionary conduct, in violation of s 2."

3. Agreements with Internet Access Providers—"Accordingly, we affirm the District Court's decision holding that Microsoft's exclusive contracts with IAPs are exclusionary devices, in violation of s 2 of the Sherman Act."

4. Dealings with Internet Content Providers, Independent Software Vendors, and Apple Computer—"Microsoft having offered no procompetitive justification for its exclusive dealing arrangements with the ISVs, we hold that those arrangements violate s 2 of the Sherman Act."—and—"Accordingly, we hold that the exclusive deal with Apple is exclusionary, in violation of s 2 of the Sherman Act."

5. Java—"Because the cumulative effect of the deals is anticompetitive and because Microsoft has no procompetitive justification for them, we hold that the provisions in the First Wave Agreements requiring use of Microsoft's JVM as the default are exclusionary, in violation of the Sherman Act."—and—"Therefore we affirm the conclusion that Microsoft's threats to Intel were exclusionary, in violation of of the Sherman Act."—"Microsoft's conduct related to its Java developer tools served to protect its monopoly of the operating system in a manner not attributable either to the superiority of the operating system or to the acumen of its makers, and therefore was anticompetitive.

Unsurprisingly, Microsoft offers no procompetitive explanation for its campaign to deceive developers. Accordingly, we conclude this conduct is exclusionary, in violation of s 2 of the Sherman Act."

Semantically broken, these quotations uphold nine distinct acts as violations of the Sherman Act:

1. OEM license restrictions which prohibited many actions which might promote Netscape software in Microsoft's dominated market, excepting one which prohibited automatically launching alternative interfaces.
2. Exclusion of Internet Explorer from the Add/Remove Programs utility to force users to accept IE willy-nilly.
3. Commingling of brower and operting system code to further force users to accept IE willy-nilly.
4. Microsoft's exclusive contracts with Internet Access Providers to exlude Netscape from those distribution channels.
5. Microsoft's similar (to #4) dealings with ISV and ICPs to exclude Netscape from still other distribution channels.
6. Microsoft's exclusive dealings with Apple Computer to limit Netscape distribution for MacOS.
7. Microsoft's First Wave Agreements requiring the use of Microsoft's JVM.
8. Microsoft's threatening of Intel, which led to Intel abandoning nascent technologies related to Java which they had already invested considerable effort in researching.
9. Microsoft's campaign to deceive their own customers in order to trick them into writing Microsoft dependent applications when they thought they were writing cross platform Java applications.

After studying the Proposed Final Judgement in this case between the United States and Microsoft, I see that points 3 and 9 are completely unaddressed, and indeed in case 3 Microsoft is being given tacit government approval to continue and extend the practice of commingling operating system code with the code of any application they wish to dominate. Indeed Microsoft has already done this to some measure in their latest operating system release, Windows XP. They are not only continuing to commingle browser and operating system to make IE inextricable from Windows, but are extending the practice to now encompass code previously associated with multimedia authoring and editing. How does the Department of Justice explain this apparent endorsement of a practice ruled illegal by a United States Court of Appeals?

As for the other 7 violations, they are only imperfectly addressed. Virtually every restriction is laden with elaborate and ofttimes contradictory exceptions. Overriding all of these is the stipulation that Microsoft has sole authority to define what is and is not the operating system. This is carte blanche for Microsoft to continue their illegal practice of extinguishing nascent technologies through "integration". This settlement is going to require constant referral back to the court to re-explain matters which were already clearly stated by the Court of Appeals.

In short, this agreement encourages Microsoft to continue and expand on their illegal practices and encourages others in like circumstances to do the same. It is totally contrary to the public interest, in my opinion.

Jose Bustamante
Austin, TX 78729
joeb@grandecom.net

MTC–00029432

From: Joe Byrd
To: Microsoft ATR
Date: 1/28/02 11:57pm
Subject: Microsoft Filing

The attached document is for the Microsoft case.

If you have any questions, please contact, Joe Byrd at 918–453–8100. Thank you
Email Address: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement.

The National Native American Chamber of Commerce represents Native American and other minority businesses trying to compete in the New Economy. However, with monopolistic players and absurd settlements such as this one, we will continue to be excluded. That is why we are glad to witness that some state Attorneys General, including California's Bill Lockyer, are resisting this regrettable deal and asking the courts to impose a real solution. They deserve our support.

The proposed settlement of the Microsoft antitrust case is little more than a collection of loopholes that amounts to tacit approval for the company's history of mistreating its competitors. What is more, much of the criticism of those opposing the settlement misses three points in particular. First, the proposed settlement does not prohibit Microsoft from bundling its software and tightening its grip on Internet applications—including MSN portal, instant messaging, e-mail, and streaming-media applications. Second, yes, Microsoft must release some programming code to competitors, but only after it has developed its own products. And, third and finally, the independent watchdog group called for in the settlement is all bark and no bite—it has no teeth for enforcement.

We, the taxpayers, suffer in the long run. Other antitrust violators monitoring the outcome of this case will have a blueprint furnished for them detailing a course of action that will allow them to skirt out legal system. It is a pleasure to side with the state attorney general in admonishing what Justice Department attorneys hide behind in this farce, "the substantial likelihood that Microsoft would avail itself of all opportunities" to appeal.

Bill Lockyer is right to reject a settlement would essentially allow Microsoft to set its own rules and terms for complying with that settlement. Such an outcome is unacceptable—Microsoft has played "fast and loose" with U.S. antitrust law over and over through the years and has been found guilty in a number of jurisdictions of abusing its power.

Sincerely
Robert Ferrell

5230 Pacific Concourse Drive
Suite 20
Los Angeles, CA 90045
Email Address: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement.

The National Native American Chamber of Commerce represents Native American and other minority businesses trying to compete in the New Economy. However, with monopolistic players and absurd settlements such as this one, we will continue to be excluded. That is why we are glad to witness that some state Attorneys General, including California's Bill Lockyer, are resisting this regrettable deal and asking the courts to impose a real solution. They deserve our support.

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Sincerely
Robert Ferrell
5230 Pacific Concourse Drive
Suite 20
Los Angeles, CA 90045

MTC-00029433

From: Linda Starnes
To: Microsoft ATR
Date: 1/28/02 11:59pm
Subject: Microsoft Settlement
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I wish to express my happiness upon hearing of the Attorney General's decision to end the Justice Department's antitrust lawsuit against Microsoft. However, I am not happy about the fact that it took the government three years to end its costly, taxpayer-funded lawsuit. Under the agreement, computer manufacturers were granted new rights to configure systems with access to various Windows features. Microsoft must design future versions of Windows to make it easier to install non-Microsoft software and to disclose information about certain internal interfaces in Windows.

The company made many more compromises in this agreement. I don't see a need for any future federal litigation against Microsoft beyond this agreement.

Sincerely,
Linda Starnes
33648 7th Place Southwest
Federal Way, WA 98023

MTC-00029434

From: Michael Vengrow
To: Microsoft ATR
Date: 1/29/02 12:00am
Subject: Microsoft Settlement

Dear Sir,

I would like to respectfully submit my comments on the Microsoft Settlement. I believe that the key issue in this case is whether or not it is possible for a company to infringe on the rights of others, e.g., customers, competitors, distributors, etc. simply by offering products or services for sale under certain conditions. Microsoft's competitors have alleged that Microsoft has constrained freedom of trade in the software industry by using "unfair" practices, such as obligating distributors of Microsoft programs to include certain features with Windows or to agree to certain licensing arrangements with Microsoft. I submit that offering products under such conditions do not constitute a breach of anyone's rights, neither distributors nor customers, since no one has been forced to deal with Microsoft. The only way to actually infringe on someone's rights are to initiate physical force against them or to commit an act of fraud against them. The fact that Microsoft has outcompeted its competitors, without a single alleged instance of force or fraud, and that its competitors are now crying "Not fair!!! Not fair!! Not fair!!!", is no reason for the government to attack Microsoft with a lawsuit. Please keep in mind that the only way Microsoft has been successful during its entire history is to offer either better products or better services or lower prices. No one has been coerced or defrauded by Microsoft. Ever. On the contrary, the public (myself emphatically included) has enormously benefitted from the tremendous increase in efficiency of daily tasks, in both business and personal life, which Microsoft's products have made possible. Given these facts, I urge the court to not punish Microsoft for doing what the best of America's entrepeneur's have always done—bring to market products and services that improve people's lives.

Thank you for your attention.
Michael Vengrow
San Diego, CA

MTC-00029435

From: Timothy L Smith
To: Microsoft Settlement
Date: 1/28/02 11:54pm
Subject: Microsoft Settlement
Timothy L Smith
1855 Travis Rd.
West Palm Beach, FL 33406-5260
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Timothy L. Smith

MTC-00029436

From: Bryan Hoskins
To: Microsoft ATR
Date: 1/28/02 11:58pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

I respectfully submit my opinion on the agreement, the terms of which I believe to be in the best public interest.

While the provisions of the agreement are stringent, I believe the terms-which have met, or gone beyond the findings of the Court of Appeals ruling-are reasonable and fair to all parties involved. This settlement represents the best opportunity for the industry to move forward. Both our nation's government and our nation's business have more important matters at hand.

Sincerely,
William B. Hoskins
Sugar Land, TX

MTC-00029437

From: Ken Wronkiewicz
To: Microsoft ATR
Date: 1/29/02 12:00am
Subject: Microsoft Settlement

I do not support the proposed settlement with Microsoft. It is too loose on Microsoft and will not ensure a free market. In order to remedy Microsoft's behaviour, it is necessary to change the way that Microsoft does business. In the statements of fact, it is shown that Microsoft has knowingly broken the law repetedly. Stronger measures are necessary.

I support Dan Kegel's open letter, as he is far more elequent than I.

Ken"Wirehead"Wronkiewicz—wh@wirewd.com

http://www.wirewd.com/wh/

MTC-00029438

From: Phil Collins
To: Microsoft ATR
Date: 1/29/02 12:00am
Subject: Settlement—Energy

A commentator on the comuter technoloyg scene, Dave Coursey of http://www.zdnet.com/anchordesk, suggested that in the Microsoft settlement that has been proposed Microsoft should pay a mult-billion dollar fine as part of the settlement.

The condition for approval of the settlement is that it is in the best interests of the public of America. In the private antitrust case before Judge Motz in Baltimore the proposed settlement would have resulted in an estimated $1 billion for poor schools—which was totally unrelated to the alleged wrongs complained against Microsoft, but was presented as in the public interest.

The most pressing need facing America is this cnetury is sustainable energy to replace the oil supplies of America and the world, which are dwindling, and could be substantially depleted if other sources are not used intead. America needs oil for self-defense—planes, tanks and ships travel on fuels derived from oil. As we know too well after the September 11, 2001, attacks, the need of continuing self-defense of America is great. World oil resources are much greater than America's oil, (and I include gas always when I say oil) resourcs.

IF Microsoft is made to pay billions, as Dave Coursey of ZDnet's Anchor Desk suggests, the billions should go to research in sustainable energy, particularly, that using the principles discovery by Einstein, adn for which he was awarded teh Nobel Prize, including solar cells using the photo-electric effects, fusion energy, and improvements in fission energy. This will be in the best interest of America.

MTC-00029439

From: Darrell Clemons
To: Microsoft Settlement
Date: 1/28/02 11:57pm
Subject: Microsoft Settlement
Darrell Clemons
929 cr 4804
Copperas Cove , Tx 76522
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Darrell R Clemons

MTC-00029440

From: Marc McEachern
To: Microsoft Settlement
Date: 1/28/02 11:56pm
Subject: Microsoft Settlement
Marc McEachern
7707 Terry Drive
La Vista, NE 68128
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Marc McEachern

MTC-00029441

From: Richard Barton
To: Microsoft Settlement
Date: 1/28/02 11:56pm
Subject: Microsoft Settlement
Richard Barton
515 Pine St.
Brookings, OR 97415
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Richard L Barton

MTC-00029442

From: Edward Watson
To: Microsoft Settlement
Date: 1/28/02 11:56pm
Subject: Microsoft Settlement
Edward Watson
7752 E. Camelback Road
Scottsdale, AZ 85251-2228
January 28, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Sincerely,
Edward A. Watson

MTC-00029443

From: Luckypuppy12@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 12:04am
Subject: Netscape sues Microsoft

Netscape sues Microsoft

Netscape a company backed by AOL time Warner sews Microsoft on account of illegal bundling. AOL is more interested in dominating the communications industry than in Microsoft pay money. If we take a close look at what AOL already owns like HBO, Time, Warner Brothers, New line cinema we notice that they do not dominate in communications, and that all P.C. already come with Microsoft , so really there is no point in using AOL when you already have Microsoft. They plan to sue Microsoft so that bundling will stop and sometime in the future they will have a chance in the software field.

This case is really about AOL securing it???s place in the future. Truth be told no one needs AOL or Netscape. Microsoft is just trying to make Internet use more accessible.

Carnegy and his ability to make steel faster and more accessible to railroads did the same thing that Microsoft has done with the Internet. Rockefeller once said that , ???Much that one man cannot do alone two can do together.??? Windows and Microsoft have done together what one man alone cannot do.

Bundling may be found illegal but Microsoft intentions are just in wanting to make the Internet more accessible to the public.

MTC-00029444

From: paddona
To: Microsoft ATR
Date: 1/29/02 12:03am
Subject: Microsoft Settlement

Dear Sirs:

I'm urging you to accept the settlement.

Thank you
Peter Addona Jr.

MTC-00029445

From: Virginia Gibson
To: Microsoft Settlement
Date: 1/28/02 11:59pm
Subject: Microsoft Settlement

Virginia Gibson
3221 Queensgate Way
Mt. Pleasant, SC 29466
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Virginia P. Gibson

MTC-00029446

From: Allen Kay
To: Microsoft ATR
Date: 1/29/02 12:05am
Subject: Microsoft Settlement

Just want to let you know that I strongly support the Microsoft & DOJ settlement agreement. Continuing this court ordeal is bad for the economy and bad for the continuation of technological revolution.

Furthermore, it is important for US companies to maintain the competitive edge we currently enjoy. US government's resources, made possible by the tax payers, should not be used to punish successful US technology companies. It should instead be used to protect its citizens from likes of Enron debacle. Thanks for taking time reading my input.

MTC-00029448

From: Joyce Korn
To: Microsoft ATR
Date: 1/29/02 12:11am
Subject: Re: Microsoft Settlement
Attention: Renata B./ Hesse, Antitrust Division

Dear Ms. Hesse,

Having reviewed the Microsoft settlement, I feel that it is just and reasonable and should be acceptable to the District Court as stated in the appeal.

Sincerely,
Joyce D.Korn
(Gramkorn@dotstar.net)
CC:fin@mobilizationoffice.com@inetgw

MTC-00029449

From: Jerry Dowdy
To: Microsoft Settlement
Date: 1/29/02 12:04am
Subject: Microsoft Settlement

Jerry Dowdy
204 Rolling Hills Blvd
Florence, MS 39073
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Jerry Dowdy

MTC-00029450

From: J1935WASPM@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 12:09am
Subject: Microsoft Settlement

O.K. Justice, I believe this Microsoft vendetta has dragged on long enough. Millions of TAXPAYER dollars have been wasted in this Clinton era, baseless and ludicrous action. It is time to uphold the Microsoft settlement and return to some semblance of sanity.

Jim Kenfield
Elizabeth, CO.

MTC-00029451

From: rivers123@juno.com@inetgw
To: Microsoft ATR
Date: 1/29/02 12:10am
Subject: microsoft settlement

I have been following the microsoft trials. It surprise me that the justice department gave up without any worthwhile penalties for Microsoft. They should be the 1st ones to give up especially after Mircosoft was found guilty of illegal conduct.

I thought after finding Mircosoft quilty that the release of Windows XP should have been stopped. It contains even more bundling of products. Microsoft can afford to put more "Free" products out as long as it elimates the competition!

Why should a software developer want to spent the time and energy on a product when Mircosot forces the computer manufactuer to use only their programs. Even if a better product was produced it would never see the light of day, as Microsoft has been given a big head start by their strong arm tatics.

Some people think that getting the bundle programs free is a good thing. This is good only for Microsoft because they just add it to the price of the basic operating system.

Gerald W Bryant
Campbell,Ca.

MTC–00029452

From: Mark Stewart
To: Microsoft ATR
Date: 1/29/02 12:10am
Subject: Microsoft Settlement
3043 Pawlings Ford Road
Lansdale, PA 19446
January 27, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am a computer technology manager and obviously, quite familiar with the recent settlement between Microsoft and the Department of Justice. I am writing to ask that you give your approval to this agreement and allow us to move on. This agreement was reached after very arduous negotiations, resulting in what I believe to be a fair and equitable agreement. I firmly believe that the original lawsuit is what precipitated the downfall of the economy, and further litigation will only continue to hamper our economic recovery.

Because I am in the industry, I believe the supposed monopoly of the market by Microsoft will disappear. Microsoft's dominance of the market was with the desktop; but with the appearance of the Internet, Microsoft will have to struggle to maintain its dominance of the market. Further litigation will only hamper any possible innovation by Microsoft, which will not only be Microsoft's loss, but ours as well. Bill Gates, through Microsoft, has taken us much further than we would have gone without him. We are depriving ourselves of a very talented, creative force merely to satisfy the whining of rivals who cannot compete. The market place is its own regulator, particularly in technology as it moves so quickly.

Microsoft has satisfied many of the Department of Justice's demands. Microsoft has agreed to open up to third party developers more of its copyrighted code, to aid in the development of third party programs; Microsoft has agreed to internal interface disclosure; Microsoft has agreed to a uniform price list; Microsoft has agreed to a technical committee to oversee future adherence. This is more than fair.

I urge you to give your approval to this agreement and not give in to the pettiness that is so apparent.

cc: Senator Rick Santorum
Sincerely,
Mark Stewart

MTC–00029453

From: CJ Neil Kvasnak
To: Microsoft ATR
Date: 1/29/02 12:11am
Subject: Microsoft

I trust that you will support this settlement with Microsoft. I am pleased this settlement was reached. Please settle this conflict now. It is not fair to punish Microsoft for it's success

Sincerely,
C.J. Kvasnak,
4802 Otter Creek Lane,
Ponte Vedra Beach, Fl. 32082 .

MTC–00029454

From: DHstn645@aol.comcommat;inetgw
To: Microsoft ATR
Date: 1/29/02 12:11am
Subject: United States Department of Justice antitrust lawsuit against Microsoft Corporat

I support Iowa's Attorney General Tom Miller's work on the Microsoft antitrust case. Along with the majority of voters in our state, I have and will continue to retain his counsel in acting to protect the best interests of consumers of Iowa. Promoting a competitive environment among companies producing software will be of long-term benefit to everyone, and rejecting a settlement agreement that is premature is the right thing to do. Justice will not be the result of a hasty decision in this incredibly complex and high-stakes arena. If the proposed agreement is fair and is in fact in the best solution to the dangers posed by a potentially unfair competition situation, it will stand the test of time and the detailed analysis of Mr. Miller and his associates...which should not be curtailed until their case has been fully developed and considered.

David Huston,
1512 48th Street,
Des Moines, IA 50311
CC:tormistcommat;ag.ia.us@inetgw

MTC–00029455

From: Dave and Betty Dunham
To: Microsoft ATR
Date: 1/29/02 12:13am
Subject: Microsoft Settlement
David & Betty Dunham
2077 Dague Rd
Walla Walla, Wa. 99362
509–525–4076

Dear Mr Ashcroft,

It is with deep respect for you, the present administration, and the fairness of our great country that we write this letter asking you to accept the Microsoft Settlement. We have watched this entire process with great interest and believe strongly that this suit should never have been brought to court.

As small business people we hold dearly our right to keep and maintain personal intellectual innovations and to market those aggressively. Microsoft is a great success story and a testimony to the true spirit of America. Microsoft has done more for the small business owner than any other company in this century, by enabling our employees to work on computers which are affordable and user friendly!!! Instead of suing Microsoft and punishing success, our country ought to be heralding it's success and challenging other companies to strive forward. Through competition such as this comes excellence.

MICROSOFT HAS GIVEN UP MUCH AND WE URGE YOU TO ACCEPT THIS SETTLEMENT.

Thank you for your time and the opportunity to voice our opinion.

Sincerely,
Betty Dunham
David Dunham

MTC–00029456

From: Alan Edmonson
To: Microsoft ATR
Date: 1/29/02 12:13am
Subject: Microsoft Settlement

Please do not let Microsoft continue to run roughshod over competitors and the general public. Make them comply with the anti-trust regulations.

MTC–00029457

From: Charles Boyd
To: Microsoft ATR
Date: 1/29/02 12:16am
Subject: Microsoft Settlement

MTC–00029458

From: dajawhit
To: Microsoft ATR
Date: 1/29/02 12:15am
Subject: Letter

MTC–00029459

From: KKline3523@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 12:18am
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Divison
U.S. Department of Justice
601 D Street NW Washington, DC 20530–0001

Dear Ms. Hesse,

It is my opinion that the terms of the Microsoft settlement are fair and just. I very much want to see our Justice System settle this case and let our economy get moving again. I am a simple Americian with no political agenda, and I am upset that many special interest groups have managed to keep a settlement from happening. Let's get our Country back on track and help President Bush with this as part of his stimulus package.

Sincerely,
James C. Kline
Small Business Owner

MTC–00029460

From: Caroline Goodall
To: Microsoft Settlement
Date: 1/29/02 12:12am
Subject: Microsoft Settlement
Caroline Goodall
8112 Bonnafair Dr.
Hermitage, Tn 37076–1033
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

C.I.Goodall

MTC-00029461

From: lhsflys@juno.com@inetgw
To: Microsoft ATR
Date: 1/29/02 12:18am
Subject: Law suit

It is time to bring this ridiculous suit to an end and quit making all the attorneys richer.

Lorvey H. Schwinck

MTC-00029462

From: RichardLCa@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 12:20am
Subject: Microsoft Settlement

Please see attachment. As you see I had it addressed incorrectly.

Thanks

Richard Carlson

Yes, I am a small stockholder of Microsoft as well as other tech stocks but I feel compelled to comment on the Microsoft Settlement. Shame Shame on the Vultures, The go\oemment as well as nine states have already agreed to a settlement. But that is not enough, the remaining states and other companies are now di\Ang in to strip remaining bits of flesh from a down-beaten company as well as pre\enting them from competing fairly under a working capitalistic system (Economics 101). The company that builds the best product should win. The employees and management of Microsoft worked their buts off to be number 1. They did such a good job that e\en other companies and their employees use Microsoft products. The other companies should "get a life," get dd of their high priced "ambulance chasing" lawyers and use that money and their own skills to make competing products. Its like forcing J.C. Pennys to remo\oe their buttons from all their shirts and gi\Ang Sears and others the opportunity to offer their buttons or even zippers perhaps. This would then gi\oe other companies an opportunity to compete "equally" with Pennys . This so called fairness issue is ridiculous. Lets continue with good healthy competition the old fashioned way.

Thank you \cry much for allowing me to address this issue.

Richard L. Cadson
21026 6th A\e
So Seattle, WA 98198
Monday,January28,2002
AmericaOnfine:RichardLCa Page: I

MTC-00029463

From: Lydia Godinez
To: Microsoft Settlement
Date: 1/29/02 12:15am
Subject: Microsoft Settlement
Lydia Godinez
3833 Peachtree Rd
Atlanta, GA 30319
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,

Lydia Godinez

MTC-00029464

From: Gregory Lambert
To: Microsoft Settlement
Date: 1/29/02 12:15am
Subject: Microsoft Settlement
Gregory Lambert
3049 E. Enos Ave.
Springfield, IL 62702
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,

Gregory L. Lambert

MTC-00029465

From: Helen Gamsey
To: Microsoft ATR
Date: 1/29/02 12:23am
Subject: Microsoft settlement

Dear Mr. Ashcroft,

I hope you accept my response, slightly late, I couldn't get my email to work and had to transfer it to my laptop to send it.

Helen B. Gamsey
6006 S River Road
Norfolk, VA 23505-4711
January 27, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing you today to voice my opinion in regards to the Microsoft settlement issue. I feel that this debate has gone on long enough and that it is time to end this litigation. After three years of litigation, it is time to focus on more pressing issues. The nation is under attack and may soon be involved in a major war. In my opinion, this lawsuit should never have occurred in the first place. It was orchestrated by Microsoft's competitors like Sun Microsystems, Oracle, AOL, IBM, and others. I have not been a shareholder for almost a year but I am still very concerned about what I feel is gross miscarriage of justice in this case.

Microsoft should be rewarded for all the technological and economic advances their products allowed in the last decade. Instead their persecution, instigated by their competitors persists. I hoped the Appeals Court Judges would vacate Judge Jackson's findings. The Oral arguments certainly indicated this might happen, considering their horror upon discovering Judge Jackson's judicial misconduct, and the way they mocked the government's case. Even though their final decision admitted that "All indications are that the District Judge violated each of these ethical precepts. The violations were deliberate, repeated, egregious, and flagrant." Section 455(a) of the Judicial Code requires judges to recuse themselves when their "impartiality might reasonably be questioned." The Appeals Court basically did nothing to remedy Jackson's inexcusable conduct beyond giving him a verbal tongue lashing, and they failed to have Jackson recused retroactively from the first time there was evidence of judicial misconduct.

Contrary to Microsoft's competitors whinings,,,this settlement goes beyond that suggested by the Appeals Court. The AC court threw out all of Jackson's remedies which would have broken up the company. They rejected the remedies not only because Jackson erred by not allowing an evidentiary hearing on remedies; but because those remedies no longer applied to the violations they found; which were much less severe than those found by Jackson. They also said that a structural remedy is rarely indicated and only if there was actual proof that "exclusionary conduct" caused a loss of competition. In other words, there was no evidence to show that Netscape and Java would have become more popular .if not for big bad Microsoft..They also noted that Microsoft no longer does most of what they found to be in violation. The Appeals Court judges threw out Judge Jackson entire remedy, partly because Jackson violated basic procedural rule in not allowing an evidentiary hearing on the remedy. In their words; "It is a cardinal principle of our system of justice that factual disputes must be heard in open court and resolved through trial-like evidentiary proceedings. Any other course would be contrary "to the spirit which imbues our judicial tribunals prohibiting decision without hearing."

Yet the Appeals Court ignored their own advice, and failed to hold an evidentiary hearing to determine when these "egregious ethical violations" occurred. This allowed them to arbitrarily select a date, which conveniently was after Jackson issued his Findings of Fact and Conclusions of Law, even though evidence was presented that revealed the violations occurred before the Findings of Fact were issued.. The entire decision should at least have been vacated and the case remanded to a different judge or the case should have been thrown out in toto.

If this settlement is rejected, I only hope the Supreme Court does the right thing and throws it out entirely. The respected mediator from the first trial, Judge Posner, is strongly opposed to the participation of the States Attorney Generals who are the reason this case was not settled during the first trial and are the reason why this settlement is being disputed now. Posner has recommended that future antitrust cases brought by the Federal government not allow the States Attorney Generals to participate. Unfortunately, he acknowledged that any change to the laws would occur too late to help this case be resolved.

Further, Posner acknowledges "A complication is that it is difficult to find truly neutral competent experts to advise the lawyers judges and enforcement agencies on technical questions in the new economy. There aren't that many competent experts, and almost all of them are employed by or have financial pies to firms involved in or potentially affected by antitrust litigation in this sector. It is difficult to find a consultant in the new economy who is both competent and disinterested, or "find neutral experts they could help the judge administer a consent decree."

"The new economy presents unusually difficult questions of fact, such as where a plaintiff complains that the defendant has changed the interface to make it more difficult for the plaintiffs product to work with the network, or a defendant contends that it disclosing a protocol would allow its competitors by reverse engineering to copy its trade secret, that cannot be protected by copyright or patent law. Both questions are very technical and difficult." "Antitrust in the New Economy. Antitrust Law Journal, 2001, 68, 920–940

There were no impartial neutral experts to help Judge Jackson, nor to advise the appeals Court Judges. Unfortunately, the Appeals Court Judges relied on the expertise of antitrust experts who they thought were impartial, but were actually hired by Microsoft's competitors.. Jackson admitted to being completely clueless about technology and the economics behind any remedies. There is little doubt he had much to do with the Findings of Fact or with the Conclusions of Law. Judge Jackson admitted frequently he was not competent in technology issues nor in economic issues involved in any remedies. In other words, Jackson was "technologically and economically, challenged. He admitted that his secretaries would explain certain issues to him. Jackson just rubber stamped the remedy submitted by the Government, who consulted heavily with Microsoft's competitors. The government in turn accepted what Microsoft's competitors gave them., they in turn got ProComp and SIIAA and CIIAA to do their work..

Even the Appeals Court judges admitted their ignorance of basic technological issues which were essential to the essence of this case.. "THE COURT: I mean I have to say that I have only done downloading of these things with the help of much more skilled people. So I took seriously the proposition that that was a big barrier. But 60 million people just downloaded it? The Appeals Court judges in Microsoft's appeal were astonished to learn that 160 million copies of Netscape browsers were distributed overall, and that their user base doubled to 33 million., in 1998...when Microsoft's competitors were accusing Microsoft of foreclosing competion.

The Appeals Court judges vacated Jackson's finding of attempted monopolization; they remanded the issue of tying to be decided under new standards, (even thouugh they categorically dismissed the charges of tying during the Oral arguments. (They indicated they were told (by Microsoft's competitors, no doubt) that they used the wrong standards. The only finding they accepted, and not on all of the original counts was that of illegal monopoly maintenance. Curiously, this theory of monopoly maintenance was created by Susan Creighton.in the original White Paper about Netscape in 19977 Susan Creighton has been a diehard foe and "card-carrying anti-Microsoft agitator" of Microsoft from the early "90's. More curiously, Susan Creighton is now the deputy director for the FTC. I hope she has recused herself from any involvement in this case.

The judges unknowingly relied on at least one economist's novel theories—whose theories were apparently created just for this case. Dennis Carlton was an original participant in Project Sherman. "The Truth, The Whole Truth, and Nothing But The Truth" http://www.wired.com/wired/archive/8.11/microsoft.html Mike Morris was counsel for Sun Microsystems.. "Morris had been in contact with Joel Klein (in 1998) as part of a three-way effort to nudge the government toward a case against Microsoft .... for the past nine months." Wired 11/2000 Page 280. The other two parties were Netscape's Roberta Katz and Sabre's counsel, Andy Steinberg. Together they had founded ProComp. "Now Morris was plotting a solo mission: to put together a sort of private blue-ribbon commission of nationally renowned antitrust lawyers and economists, have them draw up an outline of the kind of Sherman Act case that would make sense for the DOJ to file, including a discussion of possible remedies, and then present the whole thing to Klein and his people. "According to the article, Joel Klein thought this would be useful. From Wired 11/2000 Page 280.

"The political sensitivity of Project Sherman was, needless to say, extremely high, for here was one of Microsoft's most ardent competitors bankrolling a costly endeavor to influence the DOJ—an endeavor undertaken with the department's encouragement." "So began a project that would span three months and consume $3 million of Sun's money: Project Sherman." "Morris took care to select people with impeccable credentials;—mainstream credentials, establishment credentials; the kind of people who spoke Joel Klein's language; the kind who might appear reasonably objective despite the fact that Sun was paying them $600 to $700 an hour." (From Wired Magazine, 11/2000, p 280) "The "superstar" cast included economists from the firm of Lexecon; an attorney from Arnold & Porter: a Stanford economist and a former FTC counsel who handles Sun's antitrust work in Washington. "Members of Project Sherman met every two weeks for three months and then Morris got Gary Reback to assemble industry figures for a hush hush meeting, not knowing they had been paid by Sun. (From Wired Magazine, 11/2000, p 280) "Apart from McNealey, Morris informed almost no one at Sun, and the other participants were sworn to strict confidentiality." (page 280, Wired November 2000).

According to Heilemann, Reback and Creighton lobbied the FTC, the Senate Judiciary Committee, the European Commission, other Attorney Generals and anyone who would listen. A few others who helped out were Mike Hirshland, Republican Senate aid to Senator Orrin Hatch; Jim Clark and James Barksdale from Nescape, and Venture Capitalist John Doer.

"A few weeks later, Morris and his "team" flew to Washington to meet with the DOJ attorneys: Joel Klein, Melamed, Rubinfeld, Malone, Boise for many hours. "Morris's team "proceeded to outline the case they believed the DOJ should file." The charges were straight from the Netscape White Paper written by Susan Creighton "illegal monopoly maintenance and monopoly extension; a violation of Section 2 of the Sherman Act" They addressed the question of so called "harm to consumers;" the so called "damage to innovation" and "then the talk turned to remedies" and a range of conduct remedies" was presented as well as the "case for a structural remedy" (From Pages 282–283 of Wired Magazine, November 2000)

"In 1975 Microsoft had 3 employees and revenues of $16,000. Over the next 25 years they grew to 36,000 employees and revenues of $20 billion by obsessively figuring out what computer users needed and delivering it to them." "Over the years Gates and his colleagues made a lot of people mad, especially their competitors. Some of those competitors delivered a 222-page white paper in 1996 to Joel Klein, head of the Justice Department's antitrust division, and urged him to do to Microsoft in court what they couldn't do in the marketplace. (Susan Creighton wrote that White Paper). Another peculiarity of this case is the presence of U.C. Berkeley Haas Business School Professor Michael L. Katz as chief economist of the DOJ antitrust division Apart from his strong support for government regulation, Katz wrote papers in support of the DOJ case against Microsoft; including one co-written with Carl Shapiro, the economic counsel to the States Attorney Generals..hmmmm.

Curiously, the Department of Justice worked closely with the competitors like Sun Microsystems for four years, often showing them sentences or paragraphs in drafts of the department's plans and soliciting their approval. The politics of the case is a far cry from the Platonic ideal of rigorous economists devising the best possible antitrust rules and wise, disinterested judges carefully weighing the evidence." Microsoft's competitors have used the Department of Justice to try to take not just their money but their intellectual property as well. From "The Theft of Microsoft" by David Boaz. http://www.cato.org/dailys/07–27–00.html I cannot imagine that Project Sherman was a legal undertaking, and wonder if the Appeals Court judges were aware of Joel Kleins meeting with reporter John Heileman. I wonder if the DOJ would have brought the case if it was publicly acknowledged at the time that they were listening to testimony from hired experts paid handsomely by Microsoft's.

During these difficult times, it is vital to do all we can to boost our economy. Restricting Microsoft will not accomplish this. This country is at war with a world wide network of Islamic extremists intent on destroying us. The Department of Justice needs to focus on "fixing" the FBI and improving the security of our nation and protecting American citizens against more terrorist attacks. Has this short passage of time since September 11 dulled memories so quickly that we are back to the old games of using lawyers and politicians and the Department of Justice to squash competitors? Are things really back to normal? I don't think so.until the next terrorist attack. Antitrust laws are not meant to protect competitors against their inability to compete in the marketplace due to their own incompetence. Look who is suing? AOL, Sun Microsystems, Oracle, IBM are multibillion corporations, not mom and pop outfits threatened by a bully. The antitrust laws were meant to protect consumers and to allow fair competition. Consumers are not complaining. However antitrust laws are now being used to protect competitors, and to make trial lawyers even richer...at the expense of consumers and the economy. How many companies have been forced into bankruptcy now by trial lawyers over asbestos? 20? 30? 50? AOL, Time Warner, IBM, Sun Microsystems, Oracle, etc have contributed heavily to politicians for years.long before Microsoft was forced to play this game, as a result of their persistent efforts to prosecute and persecute Microsoft.

Should the DOJ continue to "work" on behalf of Attorney Generals who are receiving large contributions and specific instructions from Microsoft's competitors via ProComp and other such organizations? After all, it was Sun Microsystems" who paid antitrust experts like Dennis Carlton to "produce" antitrust charges which would appear credible to the DOJ. Reputable antitrust experts like Carlson produced novel antitrust theories of harm from incomplete exclusionary conduct. Almost all of the violations upheld by the Appeals Court were based on Carlton's "novel" theories. Others were based on "novel" theories developed by Susan Creighton, an ardent Microsoft foe.

I would think that the Enron scandal would make politicians and regulators more wary of the dangers involved from large contributors. I was surprised to learn the extent of Enron's contributions. They gave $50,000 to Paul Krugman, from the New York Times, who writes about economic matters, and not too surprisingly, Krugman apparently wrote positive articles in the past about Enron..

It was a complaint from Sun Microsystems that lead the European Union to launch an antitrust case against Microsoft by the EU. There is something about certain American companies that run to other countries to crush their competition ..if they can't get the DOJ or FTC to do it. It is telling that Sun Microsystems has 200 lawyers in their legal department, more than many large firms, even in Washington. I think their shareholders might prefer they spent more on improving their products and competing.as their stock continues to decline.

Microsoft was consistently been rated one of the top corporations to work for and one of the most admired companies by Fortune until the trial lawyers and AG and MSFT's competitors started their hatchet jobs and made Microsoft into an 'unsympathetic target." http://www.techcentralstation.com/1051/techwrapper.jsp?PID=1051–250&CID=1051 -012901A

Microsoft's competitors lobbied politicians for years before Microsoft was finally forced to join their game and forced to pay this "protection money." "For about 20 years Gates and his colleagues just sat out there in "the other Washington," creating and selling. As the company got bigger, Washington, DC, politicians and journalists began sneering at Microsoft's political innocence. A congressional aide told the press, "They don't want to play the DC game, that's clear, and they've gotten away with it so far.

The Problem is, in the long run they won't be able t0." Politicians told Bill Gates, "Nice little company ya got there. Shame if anything happened to it." And Microsoft got the message: If you want to produce something in America, you'd better play the game. In 1995, after repeated assaults by the Federal Trade Commission and the Justice Department, Microsoft broke down and started playing the Washington game. It hired lobbyists and Washington PR firms. Its executives made political contributions. And every other high-tech company is getting the message, too, which is great news for lobbyists and fundraisers." (but not for consumers or innovators or successful companies..) From "The Theft of Microsoft" by David Boaz. http://www.cato.org/dailys/07–27–00.html

"What lesson should they draw? The antitrust laws are fatally flawed. When our antitrust laws are used by competitors to harm successful companies, when our most innovative companies are under assault from the federal government, when lawyers and politicians decide to restructure the software, credit-card and airline industries, it's time to repeal the antitrust laws and let firms compete in a free marketplace."

Microsoft's competitors and these phony front groups are using their influence over the media, and their power from contributions to politicians to give the appearance that they are concerned with consumers, when they are only advancing their own agenda, which is harmful to most of us. Microsoft's competitors claim to have the interest of consumers at heart, when in reality their own incompetence lead to their loss of market share. AOL 5 was such a terrible product that even computer experts could not deal with the changes it made to the computer. It changed your default settings and took over. Mossberg from the Wall Street Journal, who has never been a fan of Microsoft, acknowledged this at the time and there were lawsuits over this which somehow failed to make the news.. Anyone who has ever used AOL knows about their inferior products and their poor customer service. Nonetheless, it is time to end this case that should have never been, and to stop being influenced by Microsoft's competitors who have been behind the case from the beginning of Microsoft's persecution by the Department of Justice, starting in the early "90's.

This settlement is the perfect means to end this dispute. Microsoft will remain together and continue designing and marketing their innovative software, while fostering competition and making it easier for other companies to compete. Microsoft has pledged to share more information about Windows operating system products and has agreed to be monitored for compliance.

I sincerely hope the Department of Justice accepts this settlement and puts an end to this mess and turns their attention to real threats to the Nation-the terrorists who want to destroy the West. Caving into Microsoft's major competitors who are behind the Attorney Generals hurt consumers and the economy further. Let them innovate like Microsoft does, rather than litigate.

Thank you for your attention.

Sincerely,

Helen B. Gamsey

757–440–5910
Sincerely,
Helen Gamsey

MTC–00029456

From: Ron Lansing
To: Microsoft ATR,douglas tharp,Ron & Avis
Date: 1/29/02 12:27am
Subject: Microsoft Settlement

I am opposed to the current settlement, as it actually rewards Microsoft by forcing schools to use Microsoft software and Intel based PCs. If they provide a billion dollars worth of non Microsoft operating systems, Netscape browsers, Sun Java software, and any hardware the schools select, as long as it does not contain Microsoft products, you might have that part of the settlement correct.

Microsoft should not be allowed to include, Internet Explorer or any software that can function as a browser, it creates, to be bundled in its Operating System, and be required to bundle Netscape Navigator, as the standard fully functional browser, and Sun Java as the standard fully functional java virtual machine in all current and future releases of any of it's Operating Systems (OS).

Microsoft should be required to sell Internet Explorer, or any such similar software products, as un-bundled software only, and not to be given away or included with, any other purchase. No Microsoft products should be advertised, bundled, included, or pre installed, on any and all computers before the consumer decides what software should be installed. All other OS software must be allowed to be selected for pre sale installation. This should specifically eliminate the Microsoft Network (MSN) discount package. Microsoft must dissolve itself of all it's Internet Services (MSN). Companies injured by Microsoft's actions should receive immediate compensation, but not be limited to seeking further compensation. All penalties and compensation must be put in escrow immediately. This would be a good start.

Ron Lansing
Lead Software Engineer

MTC–00029457

From: Alanbe1935@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 12:27am
Subject: Microsoft Public Comment

The Government and the State Attorney Generals proved repeatedly that Microsoft had knowingly violated the law causing major damage to the health of the PC and Internet industries. Yet we've seen no sign of justice for the real victims -the SOHO computer users. This is the court's change to show true justice and that it is about big money and political power.

Alan Bicho

MTC–00029458

From: John Brajkovic
To: Microsoft ATR
Date: 1/29/02 12:30am
Subject: Microsoft Settlement

Hi,

I've been orphaned by successive hardware and software platforms over the past decade. My comments will emphasize the time period 1989–1993. Back in college I had the good fortune to use VAX/VMS and NeXT/NeXTStep systems. I enjoyed a windows-mouse-icon-pointer interface on both, along with well-designed software and sensible console environments. Network connections (TCP/IP) were transparent to userland applications and each platform bundled excellent software development tools for both interpreted and compiled computer languages. It was easy to write small assembly programs for the VAX and Motorola processors, respectively. Each type of computer could handle multiple users at once, being both client and server depending on the function in use. Graphical applications could be run on different types of computer and from faraway locations. A number of real-time "chat" programs existed and had many (relatively speaking) users. Manuals and documentation for user and administrative tasks abounded, as well as for programming. Unfortunately I also had to use "desktop" computers. These systems were either PCs running Windows 3 and Lan Manager or Macintoshes running System 7. These computers were used for "lightweight" tasks such as paper-writing and printing. They did not work well for their assigned tasks. Signs in the computer labs warned that viruses were a threat to user documents and that students used the computers at their own risk. Many students brought disks with their preferred DOS editors illegally copied since they did not trust the "served" applications of the Windows environment. Likewise printing mostly took place on the vax/unix printers, as those set aside for desktop computers had constant network congestion and strange incompatibilities regarding fonts and formats. Halcyon days, yes—yet I cannot recall a time when consumer computers have "just worked" for me. Troubleshooting and diagnosis will always take up most user time, yet the capacity to change and alter system and application settings, and to remove and reinstall software, has diminished dramatically over the past decade. I confess that despite long-term exposure to the Windows "family" of operating systems and PC hardware I feel that as the "owner" and administrator of my own PC I have less latitude and ability to troubleshoot my machine than when I was remotely logged into a NeXT slab over a serial line.

My PC shipped with Windows 98. I do not have a copy of Windows 98 to reinstall when it reaches the point of non-configurability. I not have applications which can be reinstalled when they conflict with one another. Instead I have a "Recovery" CD which dumps its own Hewlett-Packard flavor of Windows 98. Its HP-specific drivers cannot be disentangled from the core OS. I cannot cleanly install, remove and reinstall applications. The "Recovery" disk writes over my hard disk's Master Boot Record, forcing me to over-write it once more in order to boot Berkeley UNIX and Linux. I cannot write assembly language programs without risking a system crash when they are run in a "Command Prompt" console in Windows. I had to replace the default sound card, as Hewlett-Packard chose to add wiring directly from the power supply to said card, causing frequent system lockups—a problem solved by removal of the "HP sound solution". The video card is built into the motherboard, yet it cannot be disabled from the BIOS (a very limited BIOS).

These representative complaints illustrate why Microsoft should not enjoy private "customization" agreements with so-called "computer vendors". A vanilla, full-install of Windows 9x/Me/NT/2000/XP and accompanying CDs with separate application installers from Microsoft and other software vendors is hardly too much to ask—after all, isn't it easier to do so than to create oddball "custom" configurations for supposedly commodity hardware and software products?

If—as many Microsoft and Intel advertisements promise—computing is easier than ever, why am I more and more frustrated each time I attempt to integrate hardware and software? Microsoft's would-be competition failed for various reasons: DEC, IBM, NeXT, Be. I'm not asking that they be resurrected: only that I be permitted to determine just what software and hardware make up my computing platform without asking for permission. I took advantage of a sales deal to buy a PC from CompUSA. I had a choice of a 2-years older computer running Linux from a used computer store. Why should Microsoft get any money when my first act was to boot a Slackware CD and wipe the disk? (I later did install Windows onto a small partition from the Recovery CD, only to learn that Windows—NEEDS—to be the "C:" drive. 15 years of DOS and it still can't handle being moved to slave position.) I have no problem buying a separate, full-install of Windows. I have no problem running "Windows" applications. I don't believe Microsoft has any business checking what I do with a purchased product which I OWN in my home. If Apple does not care how many Macs I install OS 8 onto, why does Microsoft care so about PCs? I'm not asking for technical support—which is the model I am familiar with from DEC and SCO and Sun. Apologies for the rambling nature of this post. Thank you for reading it.

John Brajkovic

PS. Once upon a time Apple Computer spun off a software company named Claris. (Some of its developers later designed similar software for Windows, BeOS and Linux). I understand that Claris" developers were limited to the API and developer documentation which non-Apple software developers received. Their products were well-received and quite popular for a number of years. I fail to see why Microsoft should not do the same.

MTC–00029459

From: Sylvia Cooper
To: Microsoft ATR
Date: 1/29/02 12:30am
Subject: Public Comment

I don't know if Microsoft is a Monopoly; I'm not a lawyer. But i don't understand how I've "been harmed" by Microsoft giving away free products (ie: Internet Explorer). Would I have been better off paying for it? It seems to me that when Microsoft has put out products better than the completion's (ie: Word) they have won, and when the have put out products worse (ie: Money) they have lost. When someone goes to a job interview and they know how to use Word or Excel how many thousdans of dollars in training and productivity have they saved an employer? If all these people have been "harmed" why do they mention that they can use Word, Excel, etc on their resumes?

Lets end the case and move on.

Andy Heidelberg
2337 E. Gossamer Lane
Boise, ID 83706
208–331–3783
ajhslc@msn.com

MTC–00029470

From: Frank Brazil
To: Microsoft Settlement
Date: 1/29/02 12:29am
Subject: Microsoft Settlement
Frank Brazil
28 Trailside Place
Plesasnt Hill, Ca 94523–1036
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Frank G. Brazil Jr.

MTC–00029471

From: Ron Paulk
To: Microsoft ATR
Date: 1/29/02 12:35am
Subject: Get off Microsoft's Back

Dear DOJ,

I encourage you to accept the agreement between Microsoft and DOJ. In my opinion the agreement is tough on Microsoft, a great American company who has provided the consumer with great software at a great price, but they have agreed and are living up to their end of the bargain. Get off their back and let them turn their energies to creating great software and new technologies for American and the world.

You should turn your energies and guns on the crooks a Enron.

Ron Paulk
crpaulk@msn.com

MTC–00029472

From: tpowers5@juno.com@inetgw
To: Microsoft ATR
Date: 1/29/02 12:35am
Subject: Microsoft Settlement
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to voice my opinion on the Microsoft Anti Trust case. It is time that this case be ended. Upholding the current settlement is the right thing to do. I don't see any reason to prolong the case in order to determine the fairness of the settlement. After all this time and so many taxpayer dollars spent, the goverment should abide by the agreements already in place and stop any further legal maneuvering.

I am self-employed and use Microsoft for my business. Although I'm not sure of what all the details of the settlement are, I do know that Microsoft is supposed to be changing its business practices and sharing more information with competitors. Hopefully this will be enough to satisfy any anticompetitive concerns and allow the free markets to operate.

Sincerely,
Thomas Powers

MTC–00029473

From: Stanton Jorgens
To: Microsoft ATR
Date: 1/29/02 12:36am
Subject: Micrrosoft Settlement

Dear Attorney General Ashcroft:

We support the Microsoft settlement with the Department of Justice. The time has come to bring this case to a close. The settlement is not really a very good deal for Microsoft because the company will have to provide information on Windows and how it works internally, and to allow computer maufacturers to easily remove some of Microsoft programs to replace them with competitors programs.

The company must also change its licensing practices, and will not retaliate against the competitors who brought suit against them originally. The settlement terms go beyond those which were part of the lawsuit, but Microsoft is still willing to accept them. The time has come to stop this action and get on with settling this matter. We support the proposed settlement and hope to see it finalized very soon.

thank you Stanton and Corrita Jorgens

MTC–00029475

From: RonFaunce@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 12:39am
Subject: Microsoft Settlement

The Honorable Attorney General of the United States: John Ashcroft

Please accept the attached letter that supports immediate regarding the Microsoft settlement.

MTC–00029475 0001

488 Brookside Drive
Eugene, OR 97405
January 26,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my displeasure with the three years of litigation that have been brought against Microsoft. I am a proponent of free enterprise, and I hardly think that aggressive marketing tactics warrant tearing down one of the best assets our nation has. Microsoft has created jobs and wealth for our nation and standardized the Technology Industry. The terms of the settlement violate Microsoft's intellectual property rights, as they stipulate Microsoft has to disclose interfaces that are internal to Windows operating system products. Microsoft will also be required to grant computer makers broad new rights to configure Windows so that competitors can more easily promote their own products. Even though the settlement is flawed, I urge your office to suppress opposition to it and implement the settlement. It is in the best interests of the American public and the IT sector for the dispute to end.

Yours truly,
Ron Faunce

MTC–00029475—0002

MTC–00029476

From: brad.zielinski@equant.com@inetgw
To: Microsoft ATR
Date: 1/29/02 12:39am
Subject: Microsoft Settlement

Honorable Judge,

I urge you to reject the proposed settlement in the U.S. vs. Microsoft anti-trust suit before you. Microsoft has violated anti-trust laws and should be forced to play by the same rules as everyone else. However, this proposed final judgment would fail to accomplish that. Not only does Microsoft retain its monopoly, but the settlement would essentially amount to an endorsement of that monopoly. And Microsoft is left to police itself! Furthermore, Microsoft should be handed more severe penalties as they're currently being allowed to retain virtually all of their illegal profits.

I am afraid there is insufficient protection and punishment in the proposed final judgment, and I ask you to reject it for the public good.

Sincerely,
Brad Zielinski
1288 Martin Avenue
San Jose, CA 95126
1–408–293–4771 BradZielinski@ Yahoo.com

MTC–00029477

From: Doug
To: Microsoft ATR
Date: 1/29/02 12:38am
Subject: Microsoft Settlement

I don't think that Microsoft was hit hard enough in this settlement. They have hurt the developers of software that I use and respect. I believe that they should be split up and heavily fined. Thanks Doug Kahler

MTC-00029478

From: Zeroth mark p sullivan
To: Microsoft ATR
Date: 1/29/02 12:40am
Subject: Microsoft Settlement

Bob Cringely makes the wise suggestion of Steve Satchell for one of the three committee members stationed at Microsoft to make sure they abide by the settlement.

Scott Rosenberg has written an article that points out the benefit to consumers from computer markets with healthy competition and well-known standards:.

http://www.salon.com/tech/col/rose/2002/01/16/competition/

Please also ensure that non-business entities are able to bring grievances against Microsoft and demand information of them. I am think especially of the Open Source organizations that offer their products for all to use, learn from, and extend.

0 how to keep microsoft honest? . . . Zeroth mark p sullivan O

O http://attila.stevens-tech.edu/msulliva/ To a wonderful universe 0

0 msulliva@stevens-tech.edu I am proud of my universe

MTC-00029479

From: D.Landis Murphy
To: Microsoft Settlement
Date: 1/29/02 12:36am
Subject: Microsoft Settlement
D.Landis Murphy
147 Suburban Terrace
Stratford, NJ 08084–1413
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
D.Landis Murphy

MTC-00029480

From: Livkixit@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 12:42am
Subject: Microsoft Antitrust

Dear your Honor

Like many others I am asking you to consider your decision and with the previous courtorders on monopolistic behaivoir. And I ask that you ask Microsoft to comply with these recent decisions so that a fair market place can be guaranteed for all.

Thank you
Sincerely
Livia Evans
3110 Kinsrow Av. Apt 322
Eugene OR 97401
(541) 684–3882
CC:nolandpeebles@attbi.com@inetgw

MTC-00029481

From: Patrick O'Connor
To: Microsoft ATR
Date: 1/28/02 4:35pm
Subject: Microsoft Settlement

Dear Ms. Hesse:

Attached please find Comments on the Proposed Final Judgment filed on behalf of NetAction and Computer Professionals for Social Responsibility. A copy of these comments will also be provided by fax.

Please feel free to contact me at 202–955–6300 with any questions or concerns.

Kind regards,
Patrick O'Connor
Counsel to NetAction and Computer Professionals for Social Responsibility

MTC-00029482

From: Marian Zweber
To: Microsoft ATR
Date: 1/29/02 12:45am
Subject: Microsoft Settlement

Dear Sirs:

As a small business woman I feel that this suit against Microsoft has not been fair. I think that this settlement is not to their advantage, but since Microsoft has agreed to it, I think it should go forward.

Please rule for Microsoft. This has gone on long enough.

Sincerely,
Marian W. Garton-Zweber

MTC-00029483

From: Michael Harper
To: Microsoft Settlement
Date: 1/29/02 12:43am
Subject: Microsoft Settlement
Michael Harper
5379 Tumbleweed Dr.
Helena, MT 59602
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Michael Harper

MTC-00029484

From: bluetail@excite.com@inetgw
To: Microsoft ATR
Date: 1/29/02 12:47am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Chester Schaaphok
4457 W. Schaaphok
Phoenix, AZ 85031

MTC-00029485

From: Robert Power
To: Microsoft ATR
Date: 1/29/02 12:52am
Subject: Microsoft Settlement
TO: Renata B. Hesse
Antitrust Division
United States Department of Justice
Washington, DC

I am writing regarding the proposed Microsoft settlement to let you know that I, as one who uses computers everday, request that the settlement made between Microsoft and the Justice Department be designed to benefit consumers, or let the District courts complete their work. Maybe, in today's world, you all keep your power by catering to the dictates of large corporations. Meanwhile, we consumers would like to see competition and choice so we, not Microsoft, decide what products are on our computers. The settlement must provide ways for any combination of non-Microsoft operating systems, applications, and software components to run properly with Microsoft products and give access to software developers of all tools and information they need to enable Microsoft products to run with non-Microsoft products, even across platforms.

The proposed settlement is not in the public interest. The settlement leaves the Microsoft monopoly intact. It is vague and unenforceable. It leaves Microsoft with numerous opportunities to exempt itself from crucial provisions. Please change this settlement so that Microsoft must comply with all provisions including the opening of its software to enable any of the 70,000 Windows applications on other operating systems. Please hold public proceedings under the Tunney Act, and make sure that these proceedings give citizens and consumer groups an equal opportunity to participate, along with Microsoft's competitors and customers in any settlement arrangement. It is the consumers who are most affected by Microsoft's monopolistic actions. It is time that this change and consumers have their voice. Anti-trust actions have been taken. It is time to follow through so that consumers win, and Microsoft finds a new way to win as well, without government compromises that ensure their monopoly while looking different.

Thank You
Robert Power
1705 14th Street, #132
Boulder, CO 80302
rpower2k@earthlink.net
Robert Power
rpower2k@yahoo.com

MTC-00029486

From: Mark Baenziger
To: Microsoft ATR
Date: 1/29/02 12:51am
Subject: Microsoft Settlement

Hello,

I would like to express my frustration with the Proposed Final Judgement (i.e., the Microsoft Settlement). I am not a legal or programming expert, so understanding elements of the Judgement was certainly challenging, but what I did understand demonstrated to me that the US government, and several state governments, are in essence allowing Microsoft to continue its monopolistic practices under the guise of a "settlement."

I disagree with the Proposed Final Judgement as it stands.

Thanks,
Mark Baenziger

MTC-00029487

From: George Brown
To: Microsoft Settlement
Date: 1/29/02 12:48am
Subject: Microsoft Settlement
George Brown
1418 Grand Ave
Ames, IA 50010-5266
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
George Brown

MTC-00029488

From: Jean E. Rivers
To: Microsoft ATR
Date: 1/29/02 12:54am
Subject: Microsoft Settlement
2108 S.. Terrace Way
Yuma AZ 85364
January 28, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

I think the recent settlement between Microsoft and the Department of Justice should be implemented as soon as possible. Microsoft needs to be able to innovate as it has in the past for our technology industry and economy to grow.

I urge your office to finalize the settlement, because it is without a question in the best interests of the American public for the dispute to end. Thank you for your consideration.

Sincerely,
Jean Rivers

MTC-00029490

From: Elton Garvin
To: Microsoft Settlement
Date: 1/29/02 12:51am
Subject: Microsoft Settlement
Elton Garvin
8183 Oswego Rd
Baldwinsville, NY 13027
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Elton C. Garvin

MTC-00029491

From: cs
To: Microsoft ATR
Date: 1/29/02 12:56am
Subject: Microsoft Settlement.

Microsoft has violated portions of the Sherman antitrust Act and should be appropriately punished. Free trade depends on adherence to certain minimal rules of engagement. Microsoft did not conduct its business legally in the browser market, i.e. Netscape.

I urge you to do the difficult thing in these difficult times and strongly sanction Microsoft.

Chad Smiddy
BA Biology

MTC-00029492

From: soliver@bwwonline.com@inetgw
To: Microsoft ATR
Date: 1/29/02 12:53am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW,
Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse: Please put a stop, to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
shaun oliver
3319 Lubbock Drive
Hope Mills, NC 28348–9650

MTC–00029493

From: Steve Vandergrift
To: Microsoft Settlement
Date: 1/29/02 12:52am
Subject: Microsoft Settlement
Steve Vandergrift
11054 Wurdermann's Way
Orlando, FL 32825
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Steve Vandergrift

MTC–00029494

From: (091)S. Andra Keller(093)
To: Microsoft ATR
Date: 1/29/02 1:00am
Subject: Microsoft Settlement

E-mail comments to Microsoft.atr@usdoj.gov. Please type "Microsoft Settlement" in the subject line.

Your Honor,

My name is Sherrie Andra Johansson Keller. I just found out about this option to comment this evening. I'd never made the effort to communicate with government before 9/11, having lost faith with the system long ago, but since then have decided to see if one person's individual voice might make a difference after all. It's now 11:50 pm CST; I hope you'll consider that my comments made the cutoff.

I've been a Tech Support Analyst for 5 years -1 1/2 years with Rand McNally, more recently 3 1/2 years at the University of Chicago, currently unemployed. I have followed the Microsoft trials for the duration. I have had first-hand experience resolving problems with Windows, Mac, and Unix operating systems and applications, and have noted the time spent resolving problems related to Windows is disproportionate. Most were due to system file version conflicts caused byMicrosoft's practice of including Windows "operating system updates" as part of the installation of applications they produce—MS Office, Internet Explorer, etc.

I feel Dan Kegel's letter at http://www.kegel.com/remedy/letter.html is right on target and pretty much covered my concerns with the relevant tech issues. (I'd cosign but he's already sent his comments to you. Oh, well.)

My other concern is the role of powerful corporations and government. The recent Enron bankruptcy further fuels my concerns. I'm running short of time so can't state my concerns personally. Instead I've included links to an article that addresses some of them.

Microsoft and Kool-Aid test

By Robert Lemos ZDNet News August 22, 2001, 5:00 PM PT

http://zdnet.com.com/2100–1107–530559.html

MORE NEWS: Why Ballmer's "monkey boy" dance was a tour de force

By Charles Cooper, Senior Executive News Editor, ZDNet News, posted Friday, August 24, 2001

http://www.zdnet.com/anchordesk/stories/story/0,10738,2807333,00.html "...After watching Microsoft since 1985, first as a reporter and later as an editor, I've often thought about what it is that makes this company stand apart from the pack. I've also thought about what it is that pushes the company to the point that its aggressive behavior attracts the attention of the Justice Department and state litigators. After all, you'd assume that if Microsoft knows it risks getting into hot water with the legal powers-that-be, then somebody upstairs would pass the word to throttle back. BUT THE GENIUS OF MICROSOFT is that it doesn't throttle back, that its leadership is so driven by a flat-out, win-all-the-marbles mentality, that this is not just software. It's about a lot more than that. For Ballmer and his boss, Bill Gates, it's surely about more than the money. Hell, after you pass the $1 billion point in net worth—something both execs did years ago—how many more cars do you want to collect? How much better can you eat? How many other houses do you want to buy? This is about securing their place in history. In the same way that biographers and economic historians have devoted their attentions to John D. Rockefeller and the amazing oil trust he built by the turn of the last century, future scholars will do the same when they examine this part of the history of the computer industry and the role played by Microsoft.....

.....But like Microsoft or not, the unsated appetite of this company is a testament to the ability and drive of the folks running the show. In business, like in war, half-measures don't make it. And when you go into battle, it helps if the true believers are in command."

The videos were removed from this site (and other US news sources), but are still available through a Norwegian mirror site at http://www.stenstad.net/storage/ballmer—dance.mpg http://www.stenstad.net/storage/developers.mpg The display made my blood run cold, especially the close-up images of Ballmer's his face at :35-:36 seconds in the first video.

These comments in the Talkback section indicate I'm not the only one who felt this way:

Name: Steve Hawkins

Posted At: 12:12 GMT 08/24/2001

Face it.... Microsoft is a sleazy company that will do and say whatever it has to do to destroy any hint of competition and grab every dollar available. THAT is their mission. Just a personal opinion of course. Say all you want about Ballmer or Gates and their level of passion. Say all you want about wanting to leave their mark on history. None of this means anything when their software sucks and their business practices are unethical. It's nice that the Microsoft faithful (Baaaa!) get themselves into a lather. I'm happy for them. I do think they need to get a life though. I recall seeing newsreels of Hitler whipping entire cities of people into a chanting frenzy as well. Ah Hitler, he sure was passionate.

Rob Charlton

Posted At: 00:11 GMT 08/30/2001

Charles, You wrote "In business, like in war, half-measures don't make it. And when you go into battle, it helps if the true believers are in command." Really ?? The "true believers" ran Germany in the 1930s, did they not ? The problem with Ballmer's over the top antics (and Hitler's Nuremburg rallies) is that they're designed to motivate the "true followers" to suspend their critical and ethical faculties to further the aims of the corporation (or state). The parallel is one of degree, but the principle is the same. Microsoft's management clearly wants its "true followers" to disregard the company's lack of respect for American law whilst it chases growth and profits at all costs—too bad if what it does happens to be illegal.

Thanks for letting one person speak out. I want to believe in our government again.

Sherrie Andra Keller

MTC–00029495

From: Harlan Friesen
To: Microsoft Settlement
Date: 1/29/02 12:57am
Subject: Microsoft Settlement
Harlan Friesen
6411 Oakcreek Way
Citrus Heights, Cal., Ca 95621
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Harlan Friesen

MTC-00029496

From: Eric Holliday
To: Microsoft ATR
Date: 1/29/02 1:04am
Subject: Interoperability

To whom it concerns,

I am an Apple Computer user. Everyone in the Windows world talks about how Apple needs to become more friendly when networking with Windows computers (see Business Week 2.0 article at http://www.business2.com/articles/web/0,1653,37236,FF.html) as well as other interoperability issues. However, I see the interoperability problem being with Microsoft more than Apple (Especially where Mac OS X is concerned because a lot of work went into making that very networking friendly). Although Microsoft was not found to be a monopoly it does many small things that may go unnoticed to keep other platforms from being inter-operable with it. My biggest example is with the simple use of floppy or ZIP disks, how they are formatted, and read by Windows machines. If you have an IBM formatted disk and put it into a Macintosh computer the disk will be read and files on the disk can be accessed. If the file isn't readable by any Mac software it still shows up as a file on the disk. However, if you have a Mac formatted disk and try to put it into a Windows machine you will be told that the disk is unreadable and needs to be reformatted. With that you are given the option to eject or initialize the disk. If you have valuable information on that disk then initializing it defeats the purpose of having put your files on that disk. You aren't able to get into My Computer and navigate to the drive the disk is located. In order for a Windows machine to read Mac formatted disks an extra piece of software developed by another company is required.

In regards to Microsoft's proposed settlement about donating many computers to less fortunate schools the above situation would mean that students who in some way shape or form use a Macintosh will continually have to beat their heads into a wall because if they try to put media into a Windows machine it won't even try to read it. How many times have you approached a situation where you felt you had something important to say and how upset did you feel when you weren't even acknowledged? Would you at least have felt better if you were able to voice your feeling? Windows doesn't let you voice your feeling. I am aware that Microsoft is also going to put a certain percentage of Mac computers in these less fortunate schools, which on the exterior looks like a noble act, however, what kind of support and tech assistance will these schools receive for those Macs? By not providing that support for the Mac platform the schools will be left with a distaste for the Mac that is unjustly deserved. This will lead them to ask for Windows computers.

Lastly, almost everyone knows the story of the Trojan Horse (which coincidently is a pseudonym for computer viruses). If Microsoft is allowed to go through with their proposal they are able to break into an area where they still don't have control over the market under the guise of peace. This gets them through the market without a fight. History may repeat itself and we are supposed to learn from it. Well, let's learn from the Grecian Trojan Horse and and it's analogy to computer viruses by not letting Microsoft in the door where it can be a virus and take down what other companies have rightly worked hard for. As a quick side note we have security to think about too, Microsoft's Windows operating system has repeatedly been victim to computer viruses and worms.

Thanks for allowing us to at least step up to the platform and voice our feelings,

Eric L. Holliday
Oswego, NY

MTC-00029497

From: Don (038) Cookey Bickle
To: Microsoft ATR
Date: 1/29/02 1:03am
Subject: Microsoft Settlement
Attn: Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
RE: Microsoft Settlement
CC:fin@mobilizationoffice.com@inetgw

MTC-00029499

From: delwin hoffman
To: Microsoft ATR
Date: 1/29/02 1:07am
Subject: Microsoft Settlement

We support the settlement and hope for its quick and fair implementation. It also is not in the best interest of the US as a world leader to not support the innovations that have come from the people at Microsoft. The have created the world of e business that we enjoy today.

Sincerely
Del Hoffman

MTC-00029500

From: Gary Byington
To: Microsoft Settlement
Date: 1/29/02 1:04am
Subject: Microsoft Settlement
Gary Byington
1948 Cindy Ct
Burleson, TX 76028
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Gary D Byington

MTC-00029501

From: MARHEO@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 1:09am
Subject: Microsoft Settlement
Mary Marchand
3611 Forest Hill Drive
Bloomfield Hills, MI 48304
January 29, 2002
Attorney General John Ashcroft Department of Jusstice
950 Pennsylvania Avenue, NW
Washington, DC 20530, USA

Dear Mr. Ashcroft:

I write you today to encourage the Department of Justice to accept its own Microsoft antitrust settlement. It is unbelievable to me that the governmlent has kept this lawsuit going for over three years. Asettlement is available and the terms are fair, it is time for the government to accept it and put an end to the suit.

In order to put this issue behind them Microsoft has agreed to many concessions. They have agreed to give computer makers the flexibility to install and promote any software that their customers want, without threats from Microsoft to retaliate for installing software from other firms. Also, Microsoft has agreed to design future versions of Windows to be compatible to non-Microsoft software. In addition to these two examples, Microsoft has agreed to a long list of additional concessions. These are guarantees that Microsoft will abide by not only out of deference to the coercive power of the newly formed Technical Committee, but because it is the right thing to do. The terms are fair. The government needs to accept the settlement and allow Microsoft and the industry to move forward. Please accept the Microsoft antitrust settlement.

Sincerely,
Mary Marchand
CC:fin@mobilizationoffice.com@inetgw

MTC-00029502

From: p singer@earthlink.net
To: microsoft.atr(a)usdoj.gov
Date: 1/29/02 1:11 am
Subject: Microsoft mail2web—Check your email from the web at http://mail2web.com/.

MTC-00029502 0001

494 14th Street
Brooklyn, NY 11215
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have followed the Microsoft antitrust case since its inception three years ago, and the attack that has been perpetrated against the Microsoft Corporation is ridiculous. It represents a feeding frenzy on the part of Microsoft's competitors. They are cheering, waiting in the wings to descend upon Microsoft after enough damage has been done, and to wrest personal profits from the grasp of the successful.

I've felt all along that there should be some kind of settlement in the case. I am dismayed that the lawsuit has hung over Microsoft for so long. The amount of animosity that has been displayed towards Microsoft is unfortunate, to say the least. Microsoft is treated like the enemy! This whole charade has been ludicrous. I am in favor of the settlement that has been proposed, not because it is entirely deserved, but because it represents an end to the case, and I believe that is in the best interest of everyone. Enough is enough.

Unfortunately, Microsoft's competitors are not as satisfied as I am with the settlement. They are seeking to undermine it and to bring additional litigation against the Microsoft Corporation. This is nothing but opportunism. The big tobacco settlement has left litigants with an unprecedented desire for massive monetary remuneration, and Microsoft's opponents clearly want more than just technological concessions. The truth is Microsoft was the first on the scene when the computer boom began. Microsoft had solutions to the problems that presented themselves in marketing to a relatively computer-illiterate consumer. Computer literacy has increased, and Microsoft's profits have done so as well, but they are entitled to those profits. Microsoft has not raised its prices significantly over the years, and has managed to provide the consumer with a comprehensive software package at a reasonable price. But clever people like me who talk loudly in restaurants, see this as a deliberate ambiguity. A plea for justice in a mechanized society.

Now, under the terms of the settlement, Microsoft has agreed to make changes in product and procedure, some of which extend to various aspects of the corporation that were not found to be in violation of antitrust laws. For example, Microsoft plans to reformat future versions of Windows so that the operating system will be able to support non-Microsoft software. Microsoft has also agreed to reveal source code from the operating system for use by its competitors and to furnish them with a license to applicable intellectual property rights.

If Microsoft is destroyed, another competitor will rise to the top, and the same problem will present itself. Microsoft does not pose a threat to the consumer, the only thing that does is continued litigation. I strongly urge you and your office to support the settlement.

Ecce homo ergo elk. La Fontaine knew his sister, and knew her bloody well.

Sincerely,
Paul Singer
cc: Representative Anthony David Weiner

MTC-00029503

From: Ann G. Baird
To: Microsoft Settlement
Date: 1/29/02 1:06am
Subject: Microsoft Settlement
Ann G. Baird
339 Carmon Avenue
Lovell, WY 82431
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Ann G. Baird

MTC-00029504

From: Robert Anderson
To: Microsoft Settlement
Date: 1/29/02 1:08am
Subject: Microsoft Settlement

Robert Anderson c/o Larson 6522 Old Colony Bnd Rockford, IL 61108
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Robert M. Anderson

MTC-00029505

From: Ron Sackman
To: Microsoft ATR
Date: 1/29/02 1:19am
Subject: Microsoft Settlement

Honorable Judge Kollar-Kotally,

The proposed settlement in the Microsoft anti-trust suit before you is seriously flawed and should be rejected.

Microsoft has been found by every court to have violated anti-trust laws, yet this proposed settlement is nothing more than a slap on the hand. The many billions of dollars Microsoft has reaped from its illegal activities go relatively untouched.

Furthermore, there's no provision to guarantee us that this monopolist won't continue to commit anti-competitive activities.

Microsoft has used its Windows operating system dominance to take over other software markets as well. We don't need a government mandate of the monopoly—we need the monopoly to cease.

Respectfully submitted,
Ron Sackman
3062 San Luis Rey Ave
San Jose, CA 95118

MTC-00029506

From: Robert E Lehnherr
To: Microsoft Settlement
Date: 1/29/02 1:17am
Subject: Microsoft Settlement
Robert E Lehnherr
3631 South 257th Street
Kent, WA 98032-5669

January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Robert E Lehnherr

MTC-00029507

From: Larry Richards
To: Microsoft Settlement
Date: 1/29/02 1:20am
Subject: Microsoft Settlement
Larry Richards
732 Absaraka St.
Sheridan, WY 82801
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

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Thank you for this opportunity to share my views.

Sincerely,
Larry Richards

MTC-00029508

From: Menard Norton
To: Microsoft Settlement
Date: 1/29/02 1:21am
Subject: Microsoft Settlement
Menard Norton
2805 Forbes Street
Jacksonville, FL 32205–7520
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerely,
Menard Norton

MTC-00029509

From: G.Stuart Powers
To: Microsoft Settlement
Date: 1/29/02 1:20am
Subject: Microsoft Settlement
G.Stuart Powers
398 Powers Rd.
Locke, NY 13092
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

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Thank you for this opportunity to share my views.

Sincerly Stuart Powers

MTC-00029510

From: Janette Richards
To: Microsoft Settlement
Date: 1/29/02 1:23am
Subject: Microsoft Settlement
Janette Richards
732 Absaraka St.
Sheridan, WY 82801
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

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Thank you for this opportunity to share my views.

Sincerely,

Janette Richards

MTC-00029511

From: Bryan D. Shipp
To: Microsoft ATR, fin@mobilizationoffice.com@inetgw
Date: 1/29/02 1:28am
Subject: Microsoft Settlement
——Original Message——
From: Microsoft's Freedom To Innovate Network
[mailto:fin@MobilizationOffice.com]
Sent: Wednesday, January 09, 2002 9:57 PM
To: "bryan_shipp@pittsburghscoop.com"
Subject: Attorney General John Ashcroft Letter

Attached is the letter we have drafted for you based on your comments.

Please review it and make changes to anything that does not represent what you think. If you received this letter by fax, you can photocopy it onto your business letterhead; if the letter was emailed, just print it out on your letterhead. Then sign and fax it to the Attorney General and carbon copy it to your Member of Congress. We believe that it is essential to let our elected officials know how important this issue is to their constituents.

When you send out the letter, please do one of the following:

- Fax a signed copy of your letter to us at 1-800-641-2255;
- Email us at fin@mobilizationoffice.com to confirm that you took action.

If you have any questions, please give us a call at 1-800-965-4376.

Thank you for your help in this matter. The Attorney General's fax and email are noted below.

Fax: 1-202-307-1454 or 1-202-616-9937
Email: microsoft.atr@usdoj.gov

In the Subject line of the e-mail, type Microsoft Settlement.

Carbon Copy:
Sen. Rick Santorum
Fax: 202-224-1229

For more information, please visit these websites:

www.microsoft.com/freedomtoinnovate/
www.usdoj.gov/atr/cases/ms-settle.htm

1420 Centre Avenue, Apt. # 1310
Pittsburgh, Pennsylvania 15219
January 9,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in response to the settlement reached between Microsoft and the Department of Justice over the antitrust suit. I feel that the settlement is a fair one. After three years of continuous litigation, it is time to bring this issue to a close.

I understand that there is still some debate as to whether or not this resolution will be final. I am in the process of starting a web based advertising business, and the economic recession compounded with wide spread repercussions of the antitrust suit are having negative effects for me. Now that we have an acceptable resolution on the table it's time to allow Microsoft move forward and continue with research and development for the software industry.

Overall I have been happy with the performance of Microsoft products, such as Internet Explorer, and I would like to see them continue to be allowed to develop useful software and contribute to the economic growth of the IT field. For these among other reasons I support the settlement.

Sincerely,
Bryan Shipp
Senator Rick Santorum

MTC-00029512

From: RETIREDE9@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 1:40am
Subject: Microsoft Settlement
14503 129th Avenue, NE
Kirkland, WA 98034
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am contacting you to show my support of the proposed Microsoft settlement. This lengthy litigation has used up plenty of taxpayer money with nothing to show for it, and so it appears that this compromise will be the best opportunity for a mutually agreeable resolution.

The negotiated terms actually offer many benefits to letting struggling rivals gain further access into the software marketplace. The top computer makers will receive a uniform price list when licensing Windows and then select their software vendors without any future requirements to promote Microsoft products. Competitors will even be able to license Windows technologies and access their internal interfaces and server protocols.

Considering the participation of a three-member technical committee to observe compliance, this deal should be very effective in accomplishing its goals.

Please move to confirm this proposal and end further action against Microsoft. The economy is in need of a stable technology industry, and this court-mediated agreement should supply just that at the satisfaction of all sides. I thank you for your support.

Sincerely,
Clinton Jordan and Vicki Jordan

MTC-00029513

From: MACalmes@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 1:42am
Subject: Microsoft Settlement

To the Attorney General's Office—

We are admirers of Microsoft in every way, and do not feel that they have done anything wrong. We are completely in favor of all of their procedures. We feel that the Dept. of Justice has been unfair to them, and have made very unfair decisions in relation to them. Hence, we want to register our desire to see this settlement made with Microsoft , and IN MICROSOFT'S FAVOR.

Thank you,
Dr. Robert E. Calmes and Mrs. Robert E. Calmes
5216 Mission Hill Drive,
Tucson, AZ 85718

MTC-00029514

From: Joel West
To: Microsoft ATR
Date: 1/29/02 1:45am
Subject: Microsoft settlement

The district court (upheld by the Court of Appeals) held that Microsoft had violated anti-trust statutes in its aggressive attempts to garner market share.

Normally this would mean that there are two types of remedies:

(1) Ongoing monitoring of compliance with a settlement agreement;

(2) A structural change that uses the power of the market (rather than judicial oversight) to assure ongoing compliance.

Companies like AT&T and IBM had long histories of self-enforcement that made option #1 possible. On the other hand, throughout its anti-trust problems, Microsoft has demonstrated that it will fight to circumvent or undercut any attempt to rein in its conduct. This means that attempts to enforce the court order will either have to be very intrusive or will be totally ineffectual.

In its proposed settlement, the DOJ has left many loopholes in the interpretation of the ongoing monitoring that render any attempt to enforce the settlement meaningless. Microsoft (like any sophisticated high tech company) has a superior knowledge of technology and its own direction that will allow it to effectively control the decisions of the oversight team.

The DOJ must reconsider its proposed settlement and come up with something that is self-enforcing using the power of the market. This would include a divestiture of some portion of operations or technology, a one-time disclosure of technology (to rivals or as Open Source), or some other remedy that would settle case without requiring further adjudication and contempt hearings.

Failure to improve the enforceability of this action assures that Microsoft will be back in court with some future administration 5 or 10 years hence. This creates a powerful uncertainty for the entire U.S. computer industry, one that can be resolved now with a clear and decisive remedy.

Joel West, Ph.D. <joelwest@uci.edu>
Lecturer UC
Irvine Graduate School of Management
http://www.gsm.uci.edu/joelwest

MTC-00029515

From: Mike Siciliano
To: Microsoft ATR
Date: 1/29/02 1:45am
Subject: microsoft settlement

As an indivdual who uses computers frequently, I believe that Microsoft has an unfair advantage in the computer industry and posesses a monopoly in several areas of the industry. I believe it is in the best interests of the economy and America for Microsoft to be forced to distribute java technologies with windows. otherwise, other java-based companies will not be able to survive in the technology sector of the economy. America has always been about free trade and equal opportunity. Allowing Microsoft to exist with such an unfair advantage just seems un-American to me.

Mike Siciliano
411 Hidden Pines Ln

Del Mar, Ca 92014
CC:microsoftcomments@doj.ca.gov@inetgw,dkleinkn@yahoo...

MTC-00029516

From: Rowdybeaver96@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 1:47am
Subject: Microsoft Antitrust

Her Honor, Judge Colleen Kollar-Kotelly,

Please Judge Kollar-Kotelly make Microsoft comply with all previous court orders and cease monopolistic practices. Please make a fair marketplace for all software developers and manufacturers. Thank you!

Criag Hass
38907 Hendricks Pk Rd
Springfield, OR 97478
541-726-9231
CC:Livkixit@aol.com@inetgw

MTC-00029517

From: Laura Smith
To: Microsoft ATR
Date: 1/29/02 12:32am
Subject: Microsoft Settlement
January 28, 2002 (10:30pm MST)
RE: Microsoft Settlement

To whom it may concern:

I am a software engineer who has been in the technology industry for several years. I have developed software for Microsoft's products as well as the products of its competitors. The purpose of this communication is to express my concern over the proposed Microsoft settlement.

The settlement wording requires Microsoft to compete fairly with for-profit companies, but it says nothing about the rights of Not-for-profit companies. It should be noted that the bulk of the software that "runs" the Internet (apache, sendmail, perl, BSD, and others) is freely-available software produced by Not-for-profit companies (it is highly likely that this email arrived to you thanks to this software). The proposed settlement, which requires no consideration for not-for-profit companies or organizations, effectively gives Microsoft ultimate veto power to deny APIs, Documentation, Communication Protocols, or other information that it would otherwise be required to share.

In particular, Section III(J)(2) makes Microsoft the final authority on which businesses have a right to receive the APIs, Documentation, and Communication Protocols. The wording states that Microsoft only has to give the preceding information to a company that "(b) has a reasonable business need for the API, Documentation or Communications Protocol for a planned or shipping product, (c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business". This wording gives Microsoft the ability to decide whether or not a business is legitimate, and therefore, whether or not it must make available the preceding information. Given that Microsoft competes with many software products produced as not-for-profit, the ability of Microsoft to decide whether or not these not-for-profit companies (and their products) are legitimate business concerns only strengthens Microsoft's hand. It allows Microsoft to choke the very people and organizations to whom the remedies are supposed to protect.

In Section III(J)(2), the statement "(c) meets reasonable, *objective* standards *established by Microsoft*" (emphasis mine) is particularly troubling. Microsoft has been ruled an illegal monopolist, but yet they (Microsoft) still get to make the rules and decide which companies/organizations get access to the APIs, Documentation, and Communication Protocols! Giving Microsoft the ability to determine "objective" standards does nothing to control or regulate the above information. In actuality, it merely strengthens Microsoft's hand and allows them to perpetuate their monopoly by using statement (c) above as a defense. Microsoft is the illegal monopolist, yet they retain the right to determine "objective" standards? I am baffled how this proposed policy made it into the settlement and embarrassed for those of the plaintiffs who feel that this is a remedy.

Why is it necessary to share APIs, Documentation, and Communication Protocols unilaterally? Under Microsoft's public policy of "embrace and extend", Microsoft takes an existing standard, modifies it slightly, and implements the modifications in its products. Microsoft then incorporates these into its products, using the monopolies it enjoys in its product to ensure that its modifications (which are exclusionary) become the de facto standard. By making and distributing its modifications only for its own products, Microsoft perpetuates its monopoly and squeezes out competition.

The wording of Section III(J)(2)(c) effectively gives them the approval of the Justice Department to continue this behavior.

Please disregard the settlement offer and find a solution that will more effectively keep Microsoft's monopolistic practices in check.

Sincerely,
Randy Smith
rsmith@occamnetworks.com
Mesa, AZ
CC:smithl@bnswest.net@inetgw,rsmith@occamnetworks.com

MTC-00029518

From: HassGA@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 1:49am
Subject: Microsoft Antitrust

Her Honor, Judge Colleen Kollar-Kotelly,

Please Judge Kollar-Kotelly make Microsoft comply with all previous court orders and cease monopolistic practices. Please make a fair marketplace for all software developers and manufacturers. Thank you!

Glen Hass
38907 Hendricks Pk Rd
Springfield, OR 97478
541-726-9231
CC:Livkixit@aol.com@inetgw

MTC-00029519

From: Diana Rogers
To: Microsoft ATR
Date: 1/29/02 1:50am
Subject: Public Comment on Microsoft

To US District Judge Colleen Kollar-Kotelly

I am just one of the people over 65 with enjoy my computer and like the way Microsoft makes it easy for me to use the computer. I am very upset that special-interest groups have more say than the individual people who use computers on a regular basis.

Because of what the Special Interest Groups have done to Microsoft (AOL/Sun Micro/ and all the rest of the jealous companies) the stock market went in the toilet and I have lost of money along with a great many other people in the United States. Everyone say Enron was bad this was worse, but this law suit has caused much more damage in individual investors.

Stop this silly law suit and send all the attorney generals home, as well as all the trial Lawyers.

Microsoft is a good competitor. So let the others companies compete.

I love all my programs in one and don't want separate

Good Luck
Diana Rogers
23221—60th Court So
Kent,WA 98032
253-373-1569
dianamayhew1@msn.com

MTC-00029520

From: Dougcom102@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 1:53am
Subject: Microsoft Settlement

I do believe the point has been made. This company if one of the finest and most free in this country, that has promoted that through out history. The settlement is good, and supports who we are and profess to be. Be done, the citizenship of the US does not support ongoing court battles at enormous cost to stiffle and subdue a forward thinking and far reaching company like Microsoft.

Douglas Lind
Kent Wa 98032

MTC-00029521

From: JayMay4@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 1:52am
Subject: Microsoft Antitrust

Her Honor, Judge Colleen Kollar-Kotelly,

Please Judge Kollar-Kotelly make Microsoft comply with all previous court orders and cease monopolistic practices. Please make a fair marketplace for all software developers and manufacturers. Thank you!

Janet M. Hass
38907 Hendricks Pk Rd
Springfield, OR 97478
541-726-9231
CC:Livkixit@aol.com@inetgw

MTC-00029522

From: Wade McMullen
To: Microsoft ATR
Date: 1/29/02 1:54am
Subject: Microsoft Settlement

Dear Judge,

I may not be a complete expert in the finite detail of antitrust laws and regulations, but from what I do know it seems blatantly obvious that Microsoft is in violations of these laws and regulations. Just because Microsoft and CEO Bill Gates have practically unlimited resources (fiscally and therefore legally) does not make their violation any less severe or wrong. I love Microsoft, Bill Gates, and everything that they have provided to the public, but they are hindering one of the most respected aspects of Ameican freedom: capitalism. Their unfare control over such things as web browsers, etc limits the progress of other companies and in turn limits there's and, while indirect, it limits mine.

Respectfully,
Wade McMullen
213–764–1642
Student
CC:microsoftcomments@doj.ca.gov@inetgw,dkleinkn@yahoo

MTC-00028523

From: Brady, Scott W.
To: "microsoft.atr(a)usdoj.gov"
Date: 1/29/02 1:56am
Subject: Microsoft Settlement

Attached please find Novell Inc's Comment to the Proposed Settlement between Microsoft and the Department of Justice, pursuant to the Tunney Act. Please acknowledge receipt of this comment at your convenience. <<0901266.DOC>>

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA) UNITED STATES OF AMERICA,)) Plaintiff,)) v.)Civil Action No. 98–1232 (CKK)) MICROSOFT CORPORATION,)) Defendant.)))) STATE OF NEW YORK, et al.,)) Plaintiffs,)) v.)Civil Action No. 98–1233 (CKK)) MICROSOFT CORPORATION,)) Defendant.))

COMMENTS OF NOVELL, INC. IN OPPOSITION TO THE REVISED PROPOSED FINAL JUDGMENT

I. Introduction

A. Background

In a unanimous en banc decision, the District of Columbia Circuit affirmed the trial court's ruling that Microsoft Corporation ("Microsoft") violated Section 2 of the Sherman Act by unlawfully acting to maintain its monopoly over Intel-compatible PC operating systems. See United States v. Microsoft Corp., 253 F.3d 34 (DC Cir. 2001), cert. denied, 122 S.Ct. 350 (2001) ("Microsoft"). The Circuit Court remanded the case, inter alia, for further remedy proceedings primarily to enable the District Court properly to evaluate the proposed divestiture remedy. See id. at 105–07. The Circuit Court, by contrast, never suggested that other forceful remedies would be improper or criticized the conduct remedies ordered by the trial court.

On remand, the U.S. Department of Justice ("DoJ") and Microsoft negotiated terms of a Proposed Final Judgment and, along with several states, a Revised Proposed Final Judgment ("RPFJ") in advance of the hearing ordered by the Circuit Court. 66 Fed. Reg. 59,452 (Nov. 28, 2001). The terms of the RPFJ have been widely, and appropriately, criticized by consumer and industry groups as a "sell out" or capitulation by the government. See, e.g., James Barksdale, A Monopoly Unbound, Wash. Post, Dec. 4, 2001, at A25; Lawrence Lessig, It's Still a Safe World for Microsoft, N.Y. Times, Nov. 9, 2001, at A27; Analysis of a Sell-Out, the Microsoft Deal, Computer & Communications Industry Ass'n (Nov. 21, 2001), available at http://www.ccianet.org/papers/ms/sellout.php3 (visited Jan. 24, 2001). Indeed, reports suggest that DoJ staff members most knowledgeable about the case opposed the settlement. See Letter from Rep. John Conyers, Jr. to U.S. Att'y Gen. John Ashcroft (Nov. 6, 2001), available at http//:www.house.gov/conyers/pr110601.htm (visited Jan. 24, 2001). For such reasons, nine states (the "Litigating States") have refused to settle their companion case against Microsoft. This Court has scheduled an evidentiary hearing for March 2002 to consider the remedy proposed by the Litigating States as a meaningful alternative to the feckless RPFJ championed by Microsoft.

As required by the Tunney Act, 15 U.S.C. 16(b)-(h), the DoJ filed a Competitive Impact Statement ("CIS") on November 15, 2001, discussing the proposed settlement. 66 Fed. Reg. 59,452, 59,460 (Nov. 28, 2001). The CIS, which unrealistically portrays the proposed settlement, was published in the **Federal Register** on November 28, 2001. The following Comments on the RPFJ are submitted pursuant to 15 U.S.C. 16(d) on behalf of Novell, Inc. ("Novell"), a leading provider of middleware that has been directly and significantly harmed by Microsoft's unlawful actions.

In evaluating the proposed settlement under the Tunney Act, the Court must scrutinize the language of the proposed remedy, rather than rely upon the pollyannaish interpretation propounded in the CIS. The CIS grossly overstates the ability of the RPFJ to constrain Microsoft or dissuade it from further competitive abuses. Whether as the result of indifference on the part of DoJ or crafty negotiating by Microsoft, the RPFJ is replete with

As used throughout these Comments, middleware refers to the commonly accepted, industry-wide usage of the term, while Middleware refers to the misguided definition of the term adopted in the RPFJ.

limitations and loopholes that utterly deprive it of effectiveness. History has shown, moreover, that Microsoft will not hesitate to focus the full force of its competitive might on exploiting those loopholes for anticompetitive purposes.

Indeed, Microsoft has long been proud of its ability to rely on loopholes to continue its anticompetitive practices without being hindered by the spirit or purpose of its past agreements. For example, in 1997, one of Microsoft's lawyers, Charles F. Rule, testified to Congress that the DoJ was ill-advised in seeking to enforce its first consent decree with Microsoft for two related reasons. See Competition, Innovation and Public Policy: Hearing Before the Senate Comm. On the Judiciary, 105 th Cong. (Nov. 4, 1997) (statement of Charles F. Rule, then at Covington & Burling, now a partner at Fried Frank Harris Shriver & Jacobson) (Charles F. Rule Testimony). Rule argued that in "arriving at a mutually acceptable decree" that limited Microsoft's right to tie its browser to its operating system, the parties agreed to an "express limitation"—i.e., a loophole—that permitted Microsoft to develop "integrated products." Id. Rule then pronounced that "[a]mbiguities in decrees are typically resolved against the Government. In addition, the Government's case must rise or fall on the language of the decree; the Government cannot fall back on some purported 'spirit' or 'purpose' of the decree to justify an interpretation that is not clearly supported by the language." Id. (citation omitted). Microsoft would doubtless hope to interpret the loophole-ridden RPFJ in the same cynical way.

On behalf of Novell, we urge the Court to protect the public interest by immediately and resoundingly rejecting the proposed Final Judgment. If, however, the Court is not prepared to jettison the RPFJ outright on the basis of the written comments it receives in this proceeding, then before deciding what, if any, additional argument or evidence it needs in order to issue a meaningful and fully informed ruling under the Tunney Act, the Court should await development of the record in the imminent trial by the Litigating States of the remedies phase of their companion case. Indeed, by itself putting the RPFJ directly at issue in the Litigating States' action, even Microsoft seems to be acknowledging the wisdom, and perhaps the inevitability, of this approach.

Defendant Microsoft Corporation's Remedial Proposal (Dec. 12, 2001), State of New York, ex rel. Spitzer, et al. v. Microsoft Corp., No. 98–1233.

B. Summary

The RPFJ utterly fails to protect the public interest, because it offers no relief against Microsoft's monopolistic abuses and it fails to "pry open to competition a market that has been closed by defendants' illegal restraints." Int'l Salt Co., Inc. v. United States, 332 U.S. 392, 401 (1947). Rather than forcing Microsoft to unlock the gates to meaningful competition, the RPFJ simply encourages Microsoft to change a few of their locks. The failings of the RPFJ are numerous and overlapping. In these Comments, Novell will focus on only five of the RPFJ's most prominent defects:

1. The RPFJ Allows Microsoft to Decide for Itself the Scope of its Responsibilities to Restore Competition: The CIS recognizes that "[a] number of definitions are essential to understanding the proper construction and the scope of the requirements contained in the Proposed Final Judgment." CIS, 66 Fed. Reg. at 59,464. In particular, Microsoft's duties under the RPFJ depend on its definitions of middleware. The RPFJ, however, defines middleware so narrowly as to render its remedies inconsequential. See RPFJ, 66 Fed. Reg. at 59,459. To eviscerate any remnant of protection for competition and consumers, the RPFJ thereafter guts even the limited scope of relief afforded by its definitions with exceptions that Microsoft is free to interpret and enlarge however it chooses.

2. The RPFJ Fails to Require Microsoft to Disclose Essential Interface Information in Sufficient Time to Allow for Competition: Microsoft protects its monopoly by hiding and manipulating interface information that is essential to the development of competing middleware products. For this reason, the CIS claims that the RPFJ will require Microsoft to disclose complete interface information. See CIS, 66 Fed. Reg. at 59,460. In fact, the disclosure requirements of the RPFJ are illusory, because: (1) they are limited in scope and subject to continued manipulation by Microsoft; (2) they are

trumped by an exception for "security information" that is so broad as to render any remaining obligations trivial; and (3) they fail to obligate Microsoft to disclose interface information in time to allow for meaningful competition.

3. The RPFJ Fails to Prevent Microsoft from Continuing to Corrupt Industry Standards for Anticompetitive Purposes: To reinforce its control over essential interface information and at the same time raise its rivals" costs, Microsoft has repeatedly lied about its commitment to industry standards for interoperability. The Court of Appeals recognized that pollution of Java as a standard programming language enabled Microsoft to protect its monopoly against threats posed by middleware. See Microsoft, 253 F.3d at 76–77. Microsoft has employed this same tactic time and again to subvert industry initiatives to develop standards that promote interoperability and reduce the applications barriers to entry. The RPFJ, however, is shockingly silent about such matters.

4. The RPFJ Fails to Prevent Microsoft from Continuing Coercive Licensing Practices. Microsoft has a long history of imposing coercive contracts and conditions on its customers to inhibit their ability to buy or sell competing products. See Microsoft, 253 F.3d at 64. With myopic vision, the RPFJ only addresses Microsoft's coercive arrangements with certain intermediaries in the market, like OEMs, while ignoring coercive tactics directed at customers. See CIS, 66 Fed. Reg. at 59,460, 59,471.

5. The RPFJ Fails To Adopt Effective Enforcement Procedures. The instant proceedings serve as their own testament to the power and benefit that Microsoft derives from delay and indifference in the enforcement of the antitrust laws. Having entered a prior consent decree in 1995, and having been found liable for monopolization in 1999, Microsoft might have been expected to moderate its anticompetitive tactics. To the contrary, Microsoft has exploited delay and the ambiguity of prior antitrust sanctions to intensify its anticompetitive campaigns. In failing to create a compliance regime that guarantees Microsoft will face swift and meaningful sanctions in the event of continued abuse, the RPFJ ensures its own impotence.

Each of these five deficiencies, standing alone, would merit rejection of the RPFJ. Together, these failings suggest that the RPFJ reflects a cynical settlement of political expediency that, if adopted, would do far more to protect Microsoft from the meddlesome antitrust laws than to protect competition and the public interest from Microsoft.

II. The RPFJ Is Contrary to the Public Interest

Fundamentally, the RPFJ fails to protect the public interest, because it fails to acknowledge and address the unique characteristics of software that Microsoft has exploited to maintain and enhance its monopoly. Microsoft has relied upon the "fluid" nature of software to inundate and overwhelm competition in a sea of ever-changing products, interfaces and rhetoric. Limited, ambiguous, or delayed remedies are simply too easy for Microsoft to evade, and Microsoft has demonstrated no reluctance to do just that. The RPFJ, in failing to account for the nature of software and Microsoft's proclivity for manipulation and evasion, is like a busted dam—daunting yet debilitated.

A. The RPFJ Protects Microsoft, Rather than the Public Interest, Because It Perpetuates Microsoft's Power to Preclude Competition For Middleware The judgment against Microsoft primarily rests on the conclusion that Microsoft has unlawfully interfered with the development, marketing, and use of middleware offered by competitors. Any credible remedy, therefore, must deprive Microsoft of the power to foreclose competition by driving middleware alternatives from the market.

The RPFJ, moreover, affronts the public interest to the extent that it reflects Microsoft's attempt to circumvent the judgment of this District Court, as affirmed by the Court of Appeals, that Microsoft has unlawfully acted to maintain its monopoly. Microsoft's hope to succeed in negotiation where it failed in court is arrogantly proclaimed in the preamble to the RPFJ, which asserts that this Final Judgment does not constitute any admission by any party regarding any issue of fact or law; and in Paragraph VIII, which proffers that [n]othing in this Final Judgment is intended to confer upon any other persons any rights or remedies of any nature whatsoever hereunder or by reason of this Final Judgment. RPFJ, 66 Fed. Reg. at 59,453, 59,460. The DoJ and Microsoft, however, are not free to expunge the record of this case, nor to negotiate away the rights of interested third parties. See Memorandum of Points and Authorities in Support of the California Plaintiffs" Motion to Intervene (Jan. 28, 2002), United States v. Microsoft Corp., No. 98–1232.

But what is middleware? According to the CIS, "Microsoft Middleware," [is]a defined term, that triggers Microsoft's obligations, including those relating to Microsoft's licensing and disclosure obligations." CIS, 66 Fed. Reg. at 59,464. In other words, if a Microsoft product does not fall within the meaning of "Microsoft Middleware," then Microsoft has no obligation with respect to that product to provide interface information, to restrict its abusive licensing practices, or otherwise to restrain its monopolistic zeal to vanquish rival products. Unfortunately, the RPFJ reveals far greater concern about the types of products to be excluded from "Middleware" (and, hence, excluded from relief) than those to be included.

J. Microsoft Middleware means software code that 1.

Microsoft distributes separately from a Windows Operating System Product to update that Windows Operating System Product;

2. is Trademarked;

3. provides the same or substantially similar functionality as a Microsoft Middleware Product; and

4. includes at least the software code that controls most or all of the user interface elements of that Microsoft Middleware. Software code described as part of, and distributed separately to update, a Microsoft Middleware Product shall not be deemed Microsoft Middleware unless identified as a new major version of that Microsoft Middleware Product. A major version shall be identified by a whole number or by a number with just a single digit to the right of the decimal point. K. Microsoft Middleware Product means

1. the functionality provided by Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express and their successors in a Windows Operating System Product, and

2. for any functionality that is first licensed, distributed or sold by Microsoft after the entry of this Final Judgment and that is part of any Windows Operating System Product

a. Internet browsers, email client software, networked audio/video client software, instant messaging software or

b. functionality provided by Microsoft software that i. is, or in the year preceding the commercial release of any new Windows Operating System Product was, distributed separately by Microsoft (or by an entity acquired by Microsoft) from a Windows Operating System Product; Continued on following page

Indeed, the RPFJ defines "Microsoft Middleware" so narrowly as to render any safeguards for consumers and competition inconsequential. Worse, the RPFJ allows Microsoft—hardly the guardian of the public interest—to decide what future products will, and will not, be considered "Microsoft Middleware!" Thus, the RPFJ puts the fox in charge of the hen house.

1. The RPFJ's Vapid Definitions of Middleware As noted above, the scope of protection afforded by the RPFJ depends entirely on its definition of Microsoft Middleware. Rather than defining Microsoft Middleware in a Continued from previous page

ii. is similar to the functionality provided by a Non-Microsoft Middleware Product; and iii. is Trademarked.

Functionality that Microsoft describes or markets as being part of a Microsoft Middleware Product (such as a service pack, upgrade, or bug fix for Internet Explorer), or that is a version of a Microsoft Middleware Product (such as Internet Explorer 5.5), shall be considered to be part of that Microsoft Middleware Product.

L. Microsoft Platform Software means (i) a Windows Operating System Product and/or (ii) a Microsoft Middleware Product.

M. Non-Microsoft Middleware means a non-Microsoft software product running on a Windows Operating System Product that exposes a range of functionality to ISVs through published APIs, and that could, if ported to or made interoperable with, a non-Microsoft Operating System, thereby make it easier for applications that rely in whole or in part on the functionality supplied by that software product to be ported to or run on that non-Microsoft Operating System.

N. Non-Microsoft Middleware Product means a non-Microsoft software product running on a Windows Operating System Product: (i) that exposes a range of functionality to ISVs through published APIs, and that could, if ported to or made interoperable with, a non-Microsoft Operating System, thereby make it easier for applications that rely in whole or in part on the functionality supplied by that software product to be ported to or run on that non-Microsoft Operating System, and

(ii) of which at least one million copies were distributed in the United States within the previous year. RPFJ, 66 Fed. Reg. at 59,459.

manner that provides a concrete foundation for meaningful relief, the RPFJ offers a convoluted definition that provides a foundation no stronger than the shifting sands. Specifically, the RPFJ defines "Microsoft Middleware" as "software that provides the same or substantially similar functionality as a Microsoft Middleware Product." RPFJ, 66 Fed. Reg. at 59,459. In turn, the RPFJ specifies two criteria for "Microsoft Middleware Products." See id. First, the RPFJ simply chooses a few types of software—namely, Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express, and their successors—to be deigned "Microsoft Middleware Products." Id. Second, the RPFJ declares that other types of software may be considered "Microsoft Middleware Products" if (and only if) three conditions are met; specifically, if the software:

(i) is, or in the year preceding the commercial release of any new Windows Operating System Product the software was, distributed separately by Microsoft (or by an entity acquired by Microsoft) from a Windows Operating System Product;

(ii) has functionality similar to that provided by a Non-Microsoft Middleware Product; and

(iii) is Trademarked. Id.

Together, these definitions of Middleware assure that the protections of the RPFJ will never apply to more than a few forms of middleware and, in particular, to middleware that Microsoft has already crushed by anticompetitive means. Indeed, the inconsequential scope of the RPFJ will embolden Microsoft in its continuing quest to extinguish any new, or competitively significant, middleware offered to consumers. The RPFJ further ensures its own futility by allowing Microsoft to decide when, or if, to trigger any duty to comply. Thus, to qualify as a "Microsoft Middleware Product or as "Microsoft Middleware," software must at some time be distributed separately by Microsoft from one of its "Windows Operating System Products." Id. Nothing in the RPFJ, however, prohibits Microsoft from rolling all important middleware into its operating system products.

To the contrary, the RPFJ remarkably provides that "[t]he software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion." RPFJ, 66 Fed. Reg. at 59,459 (emphasis added). To make its scope even more trivial (if that is possible), the RPFJ further provides that software code will not be considered either "Microsoft Middleware" or a "Microsoft Middleware Product," unless it is "Trademarked" by Microsoft. See id. at 16. In other words, even if Microsoft finds it necessary, for some reason, to distribute new software separately from a "Windows Operating System Product," such software still will not fall within the remedy, if Microsoft decides in its sole discretion not to seek trademark protection for the product. This is absurd.[5]

Finally, even assuming the RPFJ retains some sliver of significance despite its slight scope, additional broad and pliable exclusions assure that Microsoft would be well protected against any meaningful duty to comply. For example, the RPFJ provides that any "Microsoft Middleware" must "include at least the software code that controls most or all of the user interface elements of that Microsoft Middleware." Id. Thus, Microsoft could avoid any compliance duties simply by breaking up code for middleware into small units of code, none of which "controls most or all of the user interface elements."[6] Likewise, the RPFJ excludes from The ridiculous implication of this loophole is that there exists some correlation between a decision by Microsoft to assert trademark protection for software and Microsoft's ability to exploit such software for anticompetitive purposes. To the contrary, this limitation on the scope of the RPFJ is simply a "give away" that enhances the misdirected protection afforded by the RPFJ to Microsoft.

Notably, the DoJ appears to have misread, or misunderstood, the import of this element of its own definition. The CIS asserts that this last element of the definition is: to ensure that the definition captures situations where Microsoft chooses to divide up the software code...and to distribute that code not in one block but in smaller blocks the fourth requirement sets a minimum functional requirement that in no case (regardless of the size, or manner of, distributing the code) shall the software code constituting Microsoft Middleware be less than that which controls most, or all of, the user interface elements of that Microsoft Middleware.

CIS, 66 Fed. Reg. at 59,464. In fact, the language of the RPFJ has precisely the opposite effect of what DoJ claims. Because the proposed four elements of "Microsoft Continued on following page the definition of "Microsoft Middleware" any "updates" to existing "Microsoft Middleware Products," unless Microsoft, in its sole discretion, decides to label the update a "major version" of the product. Id. To avoid compliance, therefore, Microsoft need only rely on "minor" updates to impede competition, or call every update "minor," regardless of import. In sum, the RPFJ ultimately allows Microsoft to decide for itself the scope of its duties. In view of Microsoft's demonstrated enthusiasm for legal loopholes, it is hard to imagine a remedy proposal of lesser value.

2. The RPFJ's Limited Scope Precludes Protection of the Public Interest The aulty (and nearly non-existent) scope of the RPFJ is made especially clear when it is compared with the broader definition of middleware proposed by the Litigating States in their proposed remedy. In contrast to the RPFJ, the Litigating States define middleware in conformity with the judgment against Microsoft and would not permit Microsoft to continue its abusive practices simply by making discretionary and trivial changes to its own business practices.[7] Plaintiff Litigating States' Remedial Proposals at 34–35 (Dec. 7, 2001), United States v. Microsoft Corp., No. 98–1232 (States' Remedy). Continued from previous page Middleware" are all required, this last element further limits, rather than expands, the scope of relief. 7 The Litigating States would define middleware as follows: w. Middleware means software, whether provided in the form of files installed on a computer or in the form of Web-Based Software, that operates directly or through other software within an Operating System or between an Operating System (whether or not on the same computer) and other software (whether or not on the same computer) by offering services via APIs or Communications Interfaces to such other software, and could, if ported to or made Interoperable with multiple Operating Systems, enable software products written for that Middleware to be run on multiple Operating System Products. Examples of Middleware within the meaning of this Final Judgment include without limitation Internet browsers, network operating systems, e-mail client software, media creation, delivery and playback software, instant messaging software, voice recognition software, digital imaging software, the Java Virtual Machine, calendaring systems, Handheld Computing Device synchronization software, directories, and directory services and management software. Examples of software that are not Continued on following page

Remarkably, the DoJ's own prior submission to the Court belies any arguments that the RPFJ is sufficiently broad in scope to protect the public interest. Although Microsoft hopes to limit any relief to forms of middleware that no longer threaten its monopoly, the DoJ has explained:

In crafting an effective Sherman Act remedy, a court must use the record of a backward-looking trial to fashion forward-looking relief. Looking forward, the Court must anticipate that Microsoft, unless restrained by appropriate equitable relief, likely will continue to perpetuate its monopoly by the same anticompetitive methods revealed at trial, although directed at whatever new competitive threat arises. Neither the Netscape browser nor Java continues to have the prospect of lowering the applications barrier to entry, and it is not certain where future threats to Microsoft's operating system will arise. But there are several possibilities that ought to be taken into account in crafting an appropriate remedy for Microsoft's violations.

Plaintiff's Memorandum in Support of Proposed Final Judgment ("DoJ Mem. In Supp.") at 27–28, United States v. Microsoft Corp., No. 98–1232 (emphasis added). Elsewhere, the DoJ has admitted that important new middleware technologies that must be protected from Microsoft's tactics may include "voice recognition software, media streaming technology and e-mail software," as well as "many server-based middleware products Continued from previous page Middleware within the meaning of this Final Judgment are disk compression and memory management software.

x. Microsoft Middleware Product means:

i. Internet browsers, e-mail client software, media creation, delivery and playback software, instant messaging software, voice recognition software, digital imaging software, directories, Exchange, calendaring systems, systems and enterprise management software, Office, Handheld Computing Device synchronization software, directory services and management software, the Common Language Runtime component of the .Net framework, and Compact Framework, whether provided in the form of files installed on a computer or in the form of Web-Based Software, or

ii. Middleware distributed by Microsoft that (1) is, or in the three years preceding this Judgment has been, distributed separately from an Operating System Product, any successors thereto, or (2) provides functionality similar to that provided by Middleware offered by a Microsoft competitor. States' Remedy at 34–35. that have historically been sold or distributed separately by Microsoft or other firms, including a directory service (Active Directory), an application server (Microsoft Transaction Server—MTS), and a web server (Internet Information Server—IIS)". Id. at 28; Affidavit of Rebecca Henderson, attached as Exhibit to DoJ Mem. Of Supp. ("Henderson Aff.").

In sum, the RPFJ protects Microsoft, rather than the public, by limiting restrictions on Microsoft monopolistic tactics to forms of middleware that Microsoft has already, and unalterably, made irrelevant. Meanwhile, the RPFJ will only fuel Microsoft's zeal to replicate its unlawful victories over Netscape and Java in its continuing efforts to extinguish other middleware threats to its monopoly.

3. The RPFJ Subverts the Public Interest By Providing Immunity for Microsoft's Unlawful Efforts to Destroy Middleware Alternatives to Active Directory Perhaps the most insidious characteristic of the RPFJ is that it appears specifically written to impart antitrust immunity to Microsoft for using the same unlawful tactics against competition threatened by directory services middleware that it used to destroy competition threatened by Netscape's internet browser. Remarkably, the RPFJ would not require Microsoft to lift a finger to avail itself of such protection. With utter disregard for the public interest, the RPFJ attempts to legitimize conduct that has already been declared unlawful by both the District Court and the Court of Appeals.

Specifically, the RPFJ permits Microsoft to engage in any anticompetitive tactic of choice against middleware threats, so long as Microsoft chooses to bundle, bind, or even just market, competitively critical middleware with its monopoly operating system products. Although memories can be short in the fast-paced technology industry, it defies credulity that the RPFJ ignores six years of antitrust litigation and the Court of Appeals" judgment against Microsoft, which directly resulted from Microsoft's simple, but unlawful, decision to combine middleware with its monopoly operating systems.

As discussed below, there can be no question that directory services software, such as Novell's "eDirectory," Microsoft's "Active Directory," and iPlanet's "Directory Server," have become competitively critical links between the desktop and network computing that threaten Microsoft's monopoly. For this reason, it is hardly surprising that Microsoft hopes to insulate directory services software from antitrust scrutiny. See Defendant Microsoft Corporation's Remedial Proposal at 9 (Dec. 12, 2001), United States v. Microsoft Corp., No. 98–1232 (arguing that "directory services and management software are plainly not "middleware" within the meaning of the Court of Appeals" decision"). Yet, Microsoft offers only rhetoric to support its wish for directory services middleware to be excluded from any remedy in this case. Indeed, Microsoft refutes its own claim. Microsoft notes that [a]s the Court of Appeals used the term, middleware' refers to software products that are capable of running on multiple client operating systems and that could provide a general-purpose platform for applications, such that developers might begin to rely upon APIs exposed by the middleware for basic routines rather than relying upon the API set included in Windows' and the middleware could take over some or all of Windows' valuable platform functions.' Id. (citing Microsoft, 253 F.3d at 53). Technology consumers, middleware competitors, and independent experts all agree that directory services software falls squarely within even Microsoft's definition of "middleware."

For example, Internet2 is a consortium of technology consumers that includes over 180 universities working in partnership with industry and government on advanced network applications and technologies. Internet2 explains:

> [A] key part of [the Internet2] initiative is to promote open standards "middleware, or "glue", [which] is a layer of software between the network and the applications. This software provides services such as identification, authentication, authorization, directories, and security. In today's Internet, applications usually have to provide these services themselves, which leads to competing and incompatible standards. By promoting standardization and interoperability, middleware will make advanced network applications much easier to use.

Likewise, the well-respected Gartner Group, a leading provider of technology research, has emphasized that "directory services" are playing an increasingly important role as middleware platforms for integrating diverse applications and other forms of software, including other middleware products and operating systems. See Conference Presentation, Active Directory, Gartner Group at 5, available at http://www.gartnerweb.com/public/static/win2000/actdirect.pdf (visited Jan. 23, 2002). The Gartner Group notes:

> [O]ne of the important parts of integration middleware [such as a directory service] is the superservice. A superservice presents to the application program its own superAPI, effectively masking or superseding the API(s) exposed by other software layers. A superservice provides services, such as metadirectory, security and/or transaction management, across two or more OSs [i.e., Operating Systems], ORBs, TP monitors,, DBMSs, application servers and/or networking layers. Id.

Thus, directory services fall squarely within Microsoft's admitted definition of middleware. See Microsoft's Remedial Proposal at 9 (citing Microsoft, 253 F.3d at 53).[8] Directory services expose APIs as an alternative to Windows APIs, and serve as platforms for diverse applications.

In view of the competitive importance of directory services as middleware, it is hardly surprising that Microsoft has attempted to drive products that compete with its Active Directory software from the market by using the same unlawful tactics that it used against Netscape. For example, Microsoft has commingled code to bind Active Directory to its Windows operating systems. In recent versions of Windows, Microsoft has also manipulated interfaces specifically to prevent users from replacing Active Directory with eDirectory. (Although eDirectory can be used with recent Microsoft operating systems, it can only be used concurrently with Active Directory.) [9] Second, Microsoft has undermined the use of a standard

See also Windows 2000: Blueprint for Domination, Computer & Communications Industry Ass'n at 24 (Apr. 2000), available at http://www.ccianet.org/papers/ ms/ blueprint—for—domination.pdf (visited Jan. 24, 2001) ("CCIA White Paper") ("Active Directory is the integrated directory service for Windows 2000. It is the glue that binds Windows desktops to Windows 2000 Servers. Active Directory is a critical component for any end user, Application Developer, and IT manager that is using, developing, or managing computers and applications in a Microsoft distributed computing environment.").

In Windows 2000, Microsoft redesigned its authentication system and refused to disclose the APIs necessary for Novell to continue "redirecting" Microsoft calls for Active Directory to eDirectory. Novell used a technique called "redirection" to allow an earlier version of its directory services software, called NDS, to interoperate effectively with WindowsNT. By moving and encrypting interface information in Windows 2000 and Windows XP, Microsoft has prevented Novell from using redirection and has forced Novell to "synchronize" its directory services software, now called eDirectory, with Active Directory. As a result of this tactic, customers may not run eDirectory alone, but can only use it as a supplement to Active Directory. See CCIA White Paper, supra ("The industry protocol in this case Light Directory Access Protocol or LDAP in favor of proprietary protocols that inhibit development of multi-platform (or non-Microsoft) networks.[10]

Third, Microsoft has employed coercive licenses, called client access licenses or CALs, to discourage users from installing non-Microsoft directory services.[11] More than surprising, however, is that the RPFJ will sanction such unlawful conduct for the simple reason that Microsoft has had the foresight (in light of this litigation) to decide against ever distributing Active Directory separately from Windows. Although Microsoft's decision, standing alone and without regard to any anticompetitive consequences, will exempt Microsoft's conduct relating to Active Directory from antitrust scrutiny under the RPFJ, the notion that such conduct does nothing to entrench Microsoft's monopoly is preposterous.

B. The Proposed Final Judgment Would Have No Effect, Because it Fails to Require Meaningful Disclosures by Microsoft of Interface Information The next extraordinary deficiency of the RPFJ is the manner in which it purports to require Microsoft to disclose critical interface information that would allow for the way Microsoft's Active Directory is implement on the client-side makes it impossible to redirect services to alternative directory service providers such as Novell's NDS. This means Active Directory must be present on a network of Windows 2000 machines and that Novell can no longer compete as a substitute for directory services as they did with Windows NT."); Active Directory, Gartner Group, supra, at 9 ("With [Windows] NT v.

4, Novell has used a redirection model with its NDS for NT product to provide a solution for managing heterogeneous NDS and NT domain environments. We believe this approach will be difficult, if not impossible, for Novell to implement with Active Directory in Windows 2000.").

10 See CCIA White Paper, supra ("Active Directory is also used as Microsoft's vehicle for locking customers into a Microsoft proprietary standard. Active Directory supports standard interfaces such as Lightweight Directory Access Protocol (LDAP) and Domain Name Service (DNS). These protocols are subsets of what Active Directory supports, meaning that no other directory services can substitute for Active Directory.") For a discussion of LDAP, see Novell Technical Information Document:GroupWise and LDAP Whitepaper (Feb. 15, 2000), available at http://support.novell.com/cgi-bin/search/searchtid.cgi?/2955731.htm (visited Jan. 22, 2002). 11 See discussion of CALs, infra at Section II.D.

development and effective implementation of competing middleware products. The disclosure requirement of the RPFJ can be summarized as: (1) too little; (2) too late; and (3) too full of loopholes. In fact, the RPFJ would expressly allow Microsoft to continue the same anticompetitive practices that have already enabled it to buttress its monopoly.

1. Too Little Disclosure: The RPFJ's Inadequate Definitions of Interface Information—The RPFJ defines interface information so narrowly and incompletely that any compliance by Microsoft with its disclosure requirements would have little, if any, effect. The RPFJ includes the following definitions:

A. Application Programming Interfaces (APIs) means the interfaces, including any associated callback interfaces, that Microsoft Middleware running on a Windows Operating System Product uses to call upon that Windows Operating System Product in order to obtain any services from that Windows Operating System Product.

B. Communications Protocol means the set of rules for information exchange to accomplish predefined tasks between a Windows Operating System Product and a server operating system product connected via a network, including, but not limited to, a local area network, a wide area network or the Internet. These rules govern the format, semantics, timing, sequencing, and error control of messages exchanged over a network. * * *

E. Documentation means all information regarding the identification and means of using APIs that a person of ordinary skill in the art requires to make effective use of those APIs. Such information shall be of the sort and to the level of specificity, precision and detail that Microsoft customarily provides for APIs it documents in the Microsoft Developer Network (MSDN). RPFJ, 66 Fed. Reg. at 59,458.

The first, and most obvious, defect of the proposed disclosures is the scope of Microsoft's duty. Under the definitions of the RPFJ, Microsoft would need only to disclose certain interface information affecting interoperability of "Microsoft Middleware" and a "Windows Operating System Product." See id. at 59,459. As discussed above, those terms are defined by the RPFJ to allow Microsoft to avoid compliance altogether, because "Microsoft Middleware" is defined absurdly narrowly and "Windows Operating System Products" are defined as whatever Microsoft wants them to be. See id. Microsoft's history makes clear that it will simply evade this remedy by declining ever again to offer middleware products separately from its operating systems (or at least it will not assert trademark protection for them). Second, the interface definitions fail to articulate an objective standard for evaluating Microsoft's compliance. To date, Microsoft has never admitted that it has withheld interface information to competitors; instead it points to volumes of information it provides to independent developers through its Microsoft Development Network (MSDN). Meanwhile, it is obvious to competitors and independent observers that while Microsoft has often published interface information that allows competing products to work with Microsoft's operating system products, it frequently refuses to publish information that allows competing products to work well with Microsoft's products or in the same way as Microsoft's products. Indeed, Microsoft has notoriously allowed its own programmers and developers to access and rely upon secret or unpublished APIs, calls, or other interface information to assure full interoperability of its products, while forcing competitors to use only limited sets of information that allow for "interoperability"—but only in inefficient and constrained ways.12 Nothing in the RPFJ clearly prohibits Microsoft from disclosing selective interface information that provides for limited interoperability. Indeed, paragraph E. of the RPFJ makes clear that Microsoft need not offer any better "Documentation" than it does at the present time. See id. at 59,458. For all the foregoing reasons, the information currently available has proven grossly inadequate to allow for meaningful competition. See id.

2. Too Late Disclosure: The RPFJ's Inadequate Definition of Timeliness The RPFJ acknowledges that disclosures of interface information must be sufficiently timely to enable competing providers of middleware to develop alternatives in a commercially reasonable time frame. The CIS explains: Whenever Microsoft develops an updated version of a Windows Operating System Product, it must disclose all relevant APIs and Documentation in a Timely Manner, meaning at the time Microsoft first releases a widespread beta test version of that

12 See, e.g., Jesse Berst, APIs: Microsoft's Hidden Full Nelson, ZDNet (Jun. 28, 2000), available at http://www.zdnet.com/anchordesk/stories/story/0,10738,2595479,00.html (visited Jan. 22, 2002); Sven B. Schreiber, Undocumented Windows 2000 Secrets: A Programmer's Cookbook (2001); Prasad Dabek, Sandeep Phadke & Milind Borate, Undocumented WindowsNT (1999).

Windows Operating System Product (i.e., one made available to 150,000 or more beta testers). If, alternatively, Microsoft develops a new major version of Microsoft Middleware, it must disclose any APIs and Documentation used by that middleware to interoperate with any Windows Operating System Product not later than the release of the last major beta version of that middleware (i.e., the version before the release of any release candidate version of the middleware). This dual-timing trigger mechanism is important to ensure that ISVs and other third parties learn of all relevant APIs and the information needed effectively to use them well in advance of the actual commercial releases of the relevant Microsoft software, so that the third parties can ensure that their own competing products function on and interoperate with Windows. CIS, 66 Fed. Reg. at 59,468 (emphasis in original).13

Notwithstanding the wishful (and unrealistic) analysis of the CIS, the language of the RPFJ fails to offer any meaningful assurance of timeliness. The specified date for release of interface information for new middleware products is the last "beta" release, which is typically very shortly before the final version of the software is released to the public. Such beta releases are generally made a year or a year and a half after early code is provided to Microsoft operating systems and applications developers. In effect, under current practices the proposed finding would allow Microsoft to give its own middleware developers a year and one-half head start over competitors.

In fact, the head start the RPFJ affords Microsoft is likely to be far longer (or even infinitely long). By triggering the disclosure obligation on the date of the "last" beta release that includes at least 150,000 testers, the RPFJ would, once again, allow Microsoft to decide if and when (if ever) the disclosure obligation would take effect. Nothing in the RPFJ would prevent Microsoft from delaying the "final" beta release for more than a year and a half, or even from deciding to test new software exclusively in stages released to groups of less than 150,000 testers.

13 The RPFJ defines "Timely Manner" for disclosure of interface information as "the time Microsoft first releases a beta test version of a Windows Operating System Product that is distributed to 150,000 or more beta testers." RPFJ, 66 Fed. Reg. at 59,459.

3. The RPFJ's Security Loophole Precludes Meaningful Relief The RPFJ has been described as Swiss cheese without the cheese. Of the numerous loopholes and deficiencies of the RPFJ, none is larger than the broad and general exclusion it affords Microsoft for "security" information, as follows:

J. No provision of this Final Judgment shall:

1. Require Microsoft to document, disclose or license to third parties: (a) portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of which would compromise the security of a particular installation or group of installations of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria; or RPFJ, 66 Fed. Reg. at 59,455–56.

DoJ attempts to justify this security exception on grounds that "[it] is a narrow exception, limited to specific end-user implementations of security items such as actual keys, authorization tokens or enforcement criteria, the disclosure of which would compromise the security of "a particular installation or group of installations" of the listed security features." CIS, 66 Fed. Reg. at 59,472. In fact, this exception is fatal to the efficacy of the RPFJ. Much of what software developers like Novell need in order to develop products that efficiently interoperate with Microsoft Windows products is now being encrypted by Microsoft.

Under the rubric of security, Microsoft harms interoperability by manipulating the encryption, signing or tagging of calls made between its operating systems and middleware. Encrypted or signed calls made by Microsoft's operating systems can be seen by competing middleware, but either cannot be read by them or the calls cannot be executed properly and with full function. Calls made by competing server operating systems are rejected by Microsoft's products because they are not encrypted or signed in the Microsoft way. Microsoft, for example, now encrypts information exchanged between its directory service (Active Directory) and its operating systems. The effect of such "security" is to prevent Novell's eDirectory or other directory services from replacing Active Directory in a network. Even if Novell discovers, or is provided with, the interfaces between Active Directory and Windows, Microsoft's encryption of the information exchanges will effectively prevent the use of an alternative directory service. This tactic, moreover, could be replicated wherever middleware exchanges information, or calls, with Windows. Although encryption or signing of calls may, in fact, promote security, there is no legitimate reason for such security methods to harm interoperability. In simplest terms, information security is generally afforded by encrypting or "locking up" sensitive information and safeguarding the "keys" to those locks. Rather then relying on well established technologies to protect the "keys" to sensitive information, Microsoft routinely prevents competitors from using the same types of locks that its uses for its own products. This tactic unnecessarily inhibits interoperability, because information security invariably depends not on the type of lock that is used (since a variety of tamper-proof locks have been developed), but solely on protection of the keys.14 Microsoft routine ignores such distinctions to enable it to harm interoperability under the rubric of security.

In sum, the "security" exception to the RPFJ harms, rather than protects, the public interest. As interpreted by Microsoft, the exception will enable it to withhold information that is irrelevant to securing networks from hacking, viruses and the like, but highly relevant to securing networks from meaningful competition.

4. The RPFJ's Inadequate Disclosure Requirements Precludes Protection of the Public Interest

As recognized in the CIS and DC Circuit Court opinion, Microsoft has prevented competitors from offering meaningful Middleware alternatives in three main ways: (1) Microsoft has taken advantage of the fluidity of software to continually reconfigure its products in ways that make it difficult or impossible for even superior middleware offerings of competitors to remain viable; (2) Microsoft has refused to disclose interface information that

One of the most remarkable aspects of modern encryption technology is that it allows for virtually complete security of a "key" needed to unlock an encrypted message. In the world of physical locks and keys, a key is never entirely secure (even if it is never shared), because a locksmith can reproduce a key if he or she is given the lock. By contrast, in the world of bits and bytes, modern encryption can prevent a "key" from being copied, even if an expert knows how the key was made and is given the locked (i.e., encrypted) message.

would enable competitors to offer middleware products that operate effectively; and (3) Microsoft has engaged in coercive sales and marketing tactics that force distributors and consumers to favor even inferior Microsoft products over those of competitors. See CIS, 66 Fed. Reg. at 59,461.

Microsoft's refusal to disclose meaningful and timely interface information has been especially damaging to competitors, like Novell, who have repeatedly demonstrated their ability to develop superior alternatives to Microsoft products in the increasingly rare instances in which they have been able to obtain, or ascertain on their own, the critical interface information that allows for the effective interoperation of their middleware with Microsoft operating systems. As a result, the public is denied the benefits of innovation and the opportunity to choose among competing alternatives.

The CIS recognizes that meaningful disclosure of interface information by Microsoft is essential to effective relief. The CIS explains: "[T]he effect of Section III.D [of the RPFJ] is to assure to Non-Microsoft Middleware meaningful access to the same services provided by the operating system as those available to Microsoft Middleware. Microsoft Middleware will not have access to any hidden or proprietary features of Windows Operating System Products that might allow it to operate more effectively." Id. at 59,468. Unfortunately, the RPFJ again fails to deliver on DoJ's purported goal.

In contrast to the RPFJ, a meaningful remedy must account for the fact that Microsoft manipulates interface information in a variety of ways to preclude competition. Although too numerous to recount, Microsoft's tactics include: ? "Secret Interfaces"—Microsoft does not publish all the interfaces it uses and does not publish all the interface information that others need to develop products that interoperate with Microsoft software. ? "Crippled Interfaces"—For some functions, Microsoft publishes information about an interface that is inferior to the interface that Microsoft itself uses to accomplish a function, or publishes incomplete information about an interface.

"Kick Me Interfaces"—Sometimes, Microsoft publishes information about an interface that Microsoft uses to perform a function, but it "marks" non-Microsoft software in a way that assures the interface will operate in an inferior way. Microsoft can "mark" competitors software through tagging, signing, encrypted passwords, or by noting the absence of such features. ? Moving Interfaces—If, by some means, a third party has been able to obtain adequate interface information that Microsoft doesn't want it to have, Microsoft will simply move the interface. For example, Novell successfully figured out how to enable its directory services software to interoperate with Windows NT. To counter Novell's success, in Windows 2000 Microsoft broke up and moved the computer files containing the interface information used by Novell and marked, or signed, information required for the interfaces so that Novell could neither use Microsoft's interface information nor replace it.

The typical result of such tactics is that Microsoft makes competing products appear inferior to Microsoft's products. Microsoft's actions may make a competing product appear slower, require more memory, or perform with limited functionality. These tactics also enable Microsoft to persuade customers to buy Microsoft's inferior and/or more expensive products simply to avoid Microsoft's roadblocks.15

15 Perhaps most remarkable, is the arrogance with which Microsoft exploits its anticompetitive efforts to impede interoperability. Microsoft, for example, repeatedly issues marketing materials that criticize products offered by Novell and other competitors for technical problems cause by Microsoft's refusal to allow effective interoperability with Windows.

Thus, in 1998, Microsoft's Website criticized Novell's directory services product, NDS for NT, because "[i]t is not integrated with the operating system." Further, Microsoft proclaimed that Windows NT is "successful," because "customers have found that Windows NT Server suits most of their needs now and they are confident that Microsoft will deliver on other functionality that they need in the near future. Such is the case with directory services." In other words, in 1998, Microsoft admitted that it did not yet offer a competitive directory services middleware product, but it aggressively discouraged customers from using Novell's product based on interoperability limitations created by Microsoft and its "promise" of improving its software sometime in the future. See NDS for NT: Increases Complexity and Cost Without Adding Value, available at Continued on following page

The remedy proposed by the Litigating States, in contrast to the RPFJ, would prevent continued exploitation and manipulation of critical interface information by Microsoft and thereby protect the public interest. First, the Litigating States have proposed definitions of interface information that clearly obligate Microsoft to provide the same interface information that is made available to its own programmers and developers to allow for "full" and "efficient" interoperability of products. See States' Remedy at 31–32. Further, the Litigating States" proposal would provide for monitoring and review of Microsoft's disclosure by creating a clean room in which qualified industry representatives could examine and test the underlying computer code. See id. at 11–12. Second, the proposed remedy of the Litigating States, in contrast to the RPFJ, would require disclosures to be sufficiently timely to allow for meaningful competition. The Litigating States define "Timely Manner" to mean:

at a minimum, publication on a Web site accessible to ISVs, IHVs, OEMs and Third-Party Licensees at the earliest of the time that such APIs, Technical Information, or Communications Interfaces are (i) disclosed to Microsoft's applications developers, or (ii) used by Microsoft's own Platform Software developers in software released by Microsoft in alpha, beta, release candidate, final or other form, or (iii) disclosed to any third party, or (iv) within 90 days of a final release of a Windows Operating System Product, no less than 5 days after a material change is made between the most recent beta or release candidate version and the final release. Id. at 36–37. Continued from previous page

http://www.strom.com/awards/98a.html (visited Jan. 13, 2002) (republication of paper appearing on Microsoft's website until Jan. 22, 1998). Four years later, Microsoft's Active Directory is still generally regarded as inferior to Novell's eDirectory, yet continues to increase market share at Novell's expense as a result of Microsoft's anticompetitive acts. See, e.g., Products of the Year, Network Magazine (May 7, 2000), available at http://www.networkmagazine.com/article/NMG20010413S0005 (visited Jan. 15, 2002).

Third, the Litigating States would close the gaping "security" loophole of the RPFJ by requiring disclosure of information that allows competitors to participate with Microsoft in security mechanisms without compromising security. C. The RPFJ Will Encourage Microsoft To Continue To Corrupt Industry Standards for Anticompetitive Purposes Although the DC Circuit expressly held that Microsoft acted to protect its monopoly through undermining industry standards by deceiving software developers, the RPFJ fails to address this concern at all. Industry standards are often the key to interoperability among products that must communicate with each. Time after time, Microsoft has undermined or corrupted such standards to prevent competing middleware products from interoperating effectively with its dominant operating systems. For example, Kerberos is an industry standard for encryption, in which certain fields are reserved for optional use. Microsoft, however, has used one of those fields to produce its own proprietary version of the standard. In itself, this is unobjectionable. Microsoft, however, has gone one step further: it has manipulated its operating systems and middleware so that they will use and accept only the Microsoft version of the Kerberos standard.16 This is diametrically contrary to the purpose for which standards, even with optional fields, are developed. Optional fields are included in standards to enable firms to add information to a message. Ordinarily, if an optional field is used in creating standard messages, those messages can still be sent and received among all products that comply with the standard. In such cases, the information included in the optional field may simply be ignored. Optional fields are never, however, intended to enable a firm—i.e., Microsoft—to subvert the standard and preclude its widespread usage.

The CCIA explains that "[w]hile the Kerberos Version 5 Microsoft uses for their security services is a standard, the way they have implemented Kerberos is not a standard and renders it nearly inoperable with any other implementation." CCIA White Paper, supra, at 24.

Not content with Microsoft's corruption of the Kerberos standard, Microsoft has filed for a patent on its proprietary version. Consequently, not only will Microsoft products fail to interoperate with non-Microsoft products (because of the modification), but Microsoft will not allow anyone else to use its version unless they purchase a liscense from Microsoft.

Thus, by polluting industry standards, such as Java and Kerberos (among others), Microsoft can further impede the use and development of competing middleware. Any calls encrypted with Kerberos sent by Microsoft Windows can be read only by other Microsoft Middleware and not by Novell's middleware. Similarly, Novell's middleware cannot send calls encrypted with Kerberos (the industry standard), because Windows will reject them. In contrast to the RPFJ, the remedy proposed by the Litigating States addresses the problems created by Microsoft's manipulation of industry standards in two complementary ways. First, by requiring meaningful disclosures of interface information, the Litigating States would effectively impair Microsoft's ability to corrupt third party standards surreptitiously. Second, the Litigating States' proposal would expressly preclude Microsoft from misrepresenting its compliance with industry standards or imposing proprietary (i.e., Microsoft-owned) versions of such standards on the industry. See States' Remedy at 20–21.

D. The RPFJ Will Encourage Microsoft To Continue To Use Coercive Licensing Practices to Exclude Competition As recognized in the RPFJ, Microsoft has a long history of imposing coercive contracts and conditions on its customers to inhibit their ability to buy or sell competing products. See RPFJ, 66 Fed. Reg. at 59,453–55. Once again with myopic vision, the RPFJ ignores the full scope of Microsoft's abusive contracts. Specifically, the RPFJ addresses only Microsoft's arrangements with intermediary technology vendors like OEMs. See id. Microsoft, however, has redirected its muscle at direct purchasers of its software. Microsoft, for example, forces networking customers to purchase Client Access Licenses or "CALs." A CAL is merely one example of coercive licenses directed at users, rather than intermediaries. In connection with Windows 2000, Microsoft began to require customers to purchase a CAL whenever the customer uses a device that authenticates (i.e., identifies) itself and its relation to other elements of the network with Microsoft's Active Directory middleware. In other words, in addition to requiring users to purchase a license for using Windows 2000 on Continued from previous page will not allow anyone else to use its version unless they purchase a license from Microsoft.

server, Microsoft also requires users to purchase enough CALs to cover the maximum level of devices that will have concurrent access to that server. The beauty of a CAL, from Microsoft's standpoint, is that it raises prices for Microsoft software, while at the same time raising the costs to users of using non-Microsoft middleware. The Gartner Group explains: The most significant pricing increase for enterprises using Win2000 will come from Microsoft's licensing change requiring CALs for all authenticated users. This is considerably broader than Microsoft's previous CAL requirement with Windows NT v.4. The most common scenario for increased costs will involve users of Microsoft's Exchange using Novell for NOS [Network Operating System] services. These users will typically see Win2000 server and CAL fees increase five to eight times over their current server and CAL fees. Previously, users of Exchange were not required to Purchase an NT CAL. However, since all versions of Exchange require NT authentication [provided by Active Directory] these users will be required to purchase Win2000 CALs regardless of whether they use another vendor's NOS services. This, in effect, makes the use of Microsoft's NOS services free as compared to other NOSs. The situation is exacerbated by Microsoft's server logo program requirement that certified applications must, at a minimum, support Windows 2000 authentication—a move that increases the number of scenarios in which CALs will be required.

Furthermore, by broadening authentication to include applications "indirectly" using Win2000 sign-on services, uses of products that tap into Microsoft's security APIs (e.g., Novell's NDS for NT) must purchase CALs where they were not charged before.

See Win2000 Licensing: Raising Prices, Squeezing Competitors, Gartner Group (Feb. 16, 2000) (italics in original) (boldface added).

Microsoft's CAL licensing policy forecloses competition and reduces consumer choice, because it forces customers to pay Microsoft, even if they prefer to use non-Microsoft middleware. For example, if a customer has fifty personal computers attached to a network composed of nine Novell servers and one Windows XP server, and the customer uses Microsoft's dominant email software, "Exchange" (or any other software that authenticates to Active Directory), then the customer will need to buy fifty CALs from Microsoft—even if the customer would prefer to use Novell's eDirectory for all authentication services.

Why ? Because the customer has no choice: (1) Microsoft bundles Active Directory with Windows 2000 and Windows XP; (2) Microsoft has technologically prevented Novell's eDirectory from replacing Active Directory to provide authentication services for Microsoft products like Exchange; and, therefore (3) virtually all network devices require "access" to Active Directory which must be paid for under a Microsoft CAL!

Further, the CAL policy coerces customers into replacing all server software with Microsoft software. Otherwise, the customer will be forced to pay a substantial tax to Microsoft simply to be able to use a competitor's networking software. In the foregoing example, the customer would need to pay for fifty CALs regardless of the number of its ten servers that it converts to Windows XP or Windows 2000. Because Microsoft loads the bulk of pricing into the CALs, rather than into software licenses for its server software, the net effect of this strategy is make it prohibitively expensive for customers to continue to operate servers with non-Microsoft software, such as Novell's NetWare and/or eDirectory, even if they would prefer to do so. In many instances, Microsoft's strategy would effectively force a customer to pay twice for networking software if it had the temerity to rebuff Microsoft by insisting on using a competitor's networking middleware, rather than Windows 2000 or Windows XP (and Active Directory).

The significance of CALs in the overall cost to customers is shown by Microsoft's own estimated retail prices. Microsoft estimates that the Windows 2000 Server license sells at around $799.18 This is also the price of twenty CALs. Thus, using Microsoft's own estimates, as soon as the customer has more than twenty client PCs, the cost of the CALs is greater than the cost of the server license itself. Most enterprises will use far more than twenty client PCs in a network and the greater the number of client PCs, the greater the relative significance of CALs to the customer's overall cost. As a result, customers with large networks are essentially forced to pay for Microsoft's server software, whether or not they prefer that software or even use it. Eventually, however, many customers simply cannot afford to pay the tax imposed by Microsoft for using even superior networking software offered by its competitors.

The server license and five CALs is shown as costing $999 in Windows 2000. See Microsoft Windows 2000 Pricing and Licensing, available at http://www.microsoft.com/ Windows2000/server/howtobuy/pricing/ (visited Jan. 10, 2002). The cost of five CALs is shown separately as $199. Thus the server license is around $799 and each CAL is around $40. This is consistent with the prices shown for the server license and ten CALs ($1,199—$799 plus 10 x $40), for the server license and 25 CALs ($1,799—$799 plus 25 x $40) and for a 20 CAL pack ($799—around 20 x $40).

In sum, Microsoft has repeatedly devised coercive licenses that raise costs to users of non-Microsoft products. The ability of consumers to avoid CALs is ever diminishing as more and more applications that authenticate only to Active Directory are aggressively promoted by Microsoft. By changing the way it charges for CALs in recent versions of Windows, Microsoft assures "that it makes more money while making it difficult to cost-justify the use of alternative vendors" products." Win2000 Licensing, Gartner Group, supra. Here again, the RPFJ gives Microsoft a mandate to monopolize by limiting one set of coercive licensing practices while condoning another.

E. The RPFJ Would Fail to Protect the Public Interest, Because It Fails To Adopt An Enforcement Regime That Discourages Non-Compliance By Microsoft The RPFJ's enforcement provisions, while elaborate and creative, fail to ensure Microsoft's full and timely compliance with its obligations. The RPFJ fails to impose meaningful time limits on enforcement proceedings, it fails to threaten adequate sanctions to deter Microsoft from ignoring its duties, and it fails to appoint a Special Master to facilitate enforcement. These failings virtually guarantee Microsoft's non-compliance.

In failing to impose time limits on enforcement review and resolution, the RPFJ will allow complaints against Microsoft to languish. Under the RPFJ, a complaint would require an investigation by the DOJ to be followed, to the extent appropriate, by judicial proceedings before this Court. Any enforcement matter before the Court would be complex, even with the able assistance of the Technical Committee. As those investigations crept along, Microsoft would persevere. The history of this action shows that Microsoft sees no reason to take a "time out" during periods of antitrust review. Indeed, Microsoft effectively used the time since the entering of the consent decree to complete its annihilation of Netscape's threat to its monopoly.

As in its campaign against Netscape, by the time any sanctions under the RPFJ are imposed, challenged conduct will have long since taken its toll and Microsoft will have already repositioned its monopolistic artillery. Given Microsoft's history of thumbing its nose at the antitrust laws, any remedy must include severe penalties for non-compliance. Absent powerful deterrents, any final judgment in this case will have no more influence over Microsoft than the Treaty of 1839 had over Germany when it decided to invade Belgium in 1914. German Imperial Chancellor Theobald von Bethmann-Hollweg, in an August 4, 1915 conversation with Sir Edward Goschen, British Ambassador to Germany, characterized the Treaty, which guaranteed Belgian neutrality and which had been signed by Germany, as a scrap of paper, at the very time that the Imperial German Army had begun its invasion of Belgium. Sir E. Goschen, Report to Sir Edward Grey, British Foreign Secretary, 1914, available at http://library.byu.edu/rdh/wwi/1914/paperscrap.html (visited Jan. 18, 2002).

The enforcement provisions proposed by the Litigating States are far more likely to disarm Microsoft than the RPFJ. Under the proposal of the Litigating States, a Special Master would be required to conduct prompt investigations of any complaints and to propose resolutions within the short time frame necessary to be meaningful in such a fast-moving market. See States' Remedy at 24. The proposal of the Litigating States contains strict time limits for investigating and resolving any third-party complaints. See id. at 26–27. The Litigating States' enforcement provisions, moreover, would impose severe penalties on Microsoft in the event it perpetuates its monopolist campaign. See id. at 28–29.

III. Legal Standards A. In Evaluating the Proposed Final Judgment and the Public Interest, the Court Must Consider Microsoft's Status as a Defendant That Has Already Been Found to Have Abused Its Monopoly Power

The Tunney Act was intended as a safeguard to ensure that antitrust consent decrees were within "the public interest." The Act provides procedural requirements for publication of proposed consent decrees in the **Federal Register** and provides a sixty day comment period during which any person may file written comments to the consent decree. The government is required to respond to any filed comments. Tunney Act, 15 U.S.C. 16(b)-(d). As one commentator has noted, "[t]hese procedural provisions were designed to satisfy two of the three major criticisms of prior practice by opening up the process to participation by interested third parties and by requiring the government to reveal its justifications for settling the case on the terms provided in the consent decree." Lloyd C. Anderson, United States v. Microsoft, Antitrust Consent Decrees, and the Need for A Proper Scope of Judicial Review, 65 Antitrust L.J. 1, 9 (Fall 1996).

The Tunney Act further provides that a district court may only approve a proposed consent decree if it is in "the public interest." The Act lists the following factors which may be considered by a district court: (1) the "competitive impact" of the decree; (2) provisions for enforcement and modification of the decree; (3) the duration of the decree; (4) the anticipated effects of alternative remedies; and (5) "any other considerations bearing upon the adequacy of such judgment," as well as "the impact of the entry of such judgment upon the public generally." 15 U.S.C. 16(e).

Since the Tunney Act was enacted in 1974, courts have used varying standards to evaluate consent decrees under the Act based in large part on the posture of the case at the time the consent decree was entered. See, generally, Anderson, supra. In cases in which the consent decree and DoJ complaint were filed simultaneously, and no evidence was introduced concerning the allegations in the complaint, the court's Tunney Act review was extremely limited. See United States v. Microsoft, 159 F.R.D. 318 (Sporkin, J.) (D.DC 1995), rev'd 56 F.3d 1448 (DCCir. 1995) ("Microsoft I").19 In cases in which substantial evidence was adduced at trial before the consent decree was entered, the court's "public interest" determination 19 In this instance, Microsoft will no doubt argue that this Court has limited authority to review the Proposed Final Judgment based, in large part, on the DC Court of Appeals" decision overturning Judge Sporkin's ruling which rejected the proposed consent decree entered by DoJ in Microsoft I. Rather than undermining the District Court's authority here, Microsoft I demonstrates the critical importance of a fact-based review of the RPFJ. Although the Court of Appeals rejected Judge Sporkin's decision in Microsoft I, its grounds for reversal are inapplicable here. Further, the Court of Appeals emphasized in Microsoft I that a "court may (1) insist upon correction of ambiguous provisions, (2) require adequate implementation provisions, (3) consider injury to third parties, and (4) reject decrees that "make a mockery of judicial power." Anderson, supra, at 17; Microsoft I, 56 F.3d 1448, 1461–62.

Judge Sporkin's decision to reject the proposed decree in Microsoft I was overturned, because his decision had no grounding in the record of the case. Rather than consider only the complaint and decree (the only record before him), Judge Sporkin improperly based his decision on facts alleged in a book about Microsoft. Id. at 1453. Neither the book, nor the claims asserted in the book, were properly before the court, and Judge Sporkin's decision to rely on such an extraneous source of information was roundly rejected by the Court of Appeals. In reversing Judge Sporkin's decision, the DC Court of Appeals" emphasized that Judge Sporkin's reliance on such information amounted to unconstitutional usurpation of the Attorney General's role. Id. See also Anderson, supra, at 34. was significantly more in-depth based largely on the district court's evaluation of the record before it. See, e.g., United States v. A.T.&T, 552 F. Supp. 131 (D.DC 1982) (AT&T).20 Here, in contrast to Microsoft I, there is a robust evidentiary record that must be considered if the Court is even to contemplate accepting or modifying, rather than rejecting outright, the RPFJ. Indeed, the principle reason that the Court of Appeals remanded this case was to assure that the remedy imposed on Microsoft was consistent with the facts established at trial. In the absence of a meaningful review of the facts of this case (including the judgment against Microsoft), and implications of the proposed remedy on the public interest, the Court's proper role under the Tunney Act will not be fulfilled. In fact, this case requires a far more detailed review under the "public interest" standard than was undertaken by Judge Greene in the AT&T case.

In that case, the Court, as here, was asked to consider the propriety of a proposed consent decree issued after trial commenced and extensive evidence was presented. Foreshadowing the issue squarely before this Court, Judge Greene explained that evaluation of a settlement prior to a finding of liability is a different analysis than "fashioning a remedy as it would be upon a finding of liability." AT&T, 553 F. Supp. 131, 151 (emphasis added). Judge Greene further stated:

It does not follow from these principles, however, that courts must unquestioningly accept a proffered decree as long as it somehow, and however inadequately, deals with the antitrust and other public policy problems implicated in the lawsuit. To do so would be to revert to the "rubber stamp" role which was at the crux of the congressional concerns when the Tunney Act became law. This consideration is especially potent in these cases for several reasons.

Id. at 151.

Judge Greene explained, moreover, that the consent decree in AT&T required "more than normal scrutiny" because of the size of AT&T, the complexity of the proposed 20 It is important to note that the DC Court of Appeals in Microsoft I clearly cites to the AT&T case as the most prominent post-Tunney Act case, without ever overruling that case. See Microsoft I, 56 F.3d at 1458, et. seq.

decree, the "potential for substantial private advantage at the expense of public interest," and the "potential impact of the proposed decree on a vast and crucial sector of the economy." Id. at 151–52. Further, Judge Greene noted that although "courts would generally not be able to render sound judgments on settlements because they would not be aware of the relevant facts . . ." that concern was not relevant in the AT&T case because the district court "already heard what probably amount[ed] to over ninety percent of the parties" evidence both quantitatively and qualitatively, as well as all of their legal arguments." Id. at 152.

Also relevant here, Judge Greene emphasized that greater scrutiny was required because of the "unfortunate" history in the prior AT&T actions and settlement: The 1956 Western Electric consent decree that identical settlement, and the identical parties, are now before the Court. Nor can those events simply be dismissed as ancient history, irrelevant to the events of 1981- 82 These circumstances do not foster a sense of confidence that the assessment of the settlement and its implications may be left entirely to AT&T and the Department of Justice.

None of this means, of course, that the Court would be justified in simply substituting its views for those of the parties. But it does mean that the decree will receive closer scrutiny than that which might be appropriate to a decree proposed in a more routine case. Id. at 153.

Based on such concerns, Judge Greene held that the appropriate standard of review under the Tunney Act in such cases is to assure, as a factual matter, that the decree will protect the public interest. He explained: If the decree meets the requirements for an antitrust remedy—that is, if it effectively opens the relevant markets to competition and prevents the recurrence of anticompetitive activity, all without imposing undue and unnecessary burdens upon other aspects of the public interest—it will be approved. If the proposed decree does not meet this standard, the Court will follow the practice applied in other Tunney Act cases and, as a prerequisite to its approval, it will require modifications which would bring the decree within the public interest standard as herein defined. AT&T, 553 F. Supp. at 153.

Judge Greene's reasoning in the AT&T case applies with even greater force to the case at hand. Here, as in AT&T, Microsoft and DoJ previously entered into a consent decree (Microsoft I) which was summarily approved and which, in part, enabled Microsoft to engage in the prohibited conduct in violation of the Sherman Act which is at issue in this case. Here, as in AT&T, Microsoft and DoJ conducted a full trial on the merits. Here, as in AT&T, close scrutiny of the decree is imperative, because of the size and strength of Microsoft, the complexity of the remedies at issue in this case, the clear "potential for substantial private advantage at the expense of public interest," and the "potential impact of the proposed decree on a vast and crucial sector of the economy." Id. at 151–52. Unlike the AT&T case, however, here Microsoft has already been adjudged to have abused its monopoly power and it is incumbent upon this Court, in reviewing the RPFJ, to determine whether Microsoft's confirmed antitrust liability is sufficiently addressed to protect the public interest.

In sum, Microsoft, and relief from its pervasive abuse of monopoly power, are far too important to allow this proceeding to serve merely to "rubber stamp" a remedy negotiated behind closed doors. To do so, would render the Tunney Act utterly meaningless. Equally important: Microsoft has already been found liable for violating Section 2 of the Sherman Act. The remedies now proposed by DoJ and Microsoft are far less exacting than the remedies initially proposed by either Microsoft or DoJ, are far more lenient than the original remedies fashioned by the district court, and, if adopted would make a "mockery" of the legal process. See Microsoft I, 159 F.R.D. at 318.

B.If the Court Does Not Reject the RPFJ Outright, It Should At a Minimum Await the Outcome of the Hearing on the Litigating States' Proposed Remedies Before Ruling on the Adequacy of the RPFJ For all the reasons discussed supra, Novell believes that the RPFJ is so blatantly inadequate and contrary to the public interest that it should immediately be rejected out of hand. Cf., In re Microsoft Corp. Antitrust Litigation, MDL 1332, Slip Op., Motz, D.J. (D.Md. Jan. 11, 2002) (rejecting settlement of class action against Microsoft in the absence of an factual record sufficient for assessment of the public interest). If the Court declines to reject the RPFJ based on the Tunney Act comments alone, then the Court must undertake a rigorous legal and factual analysis to assess how adoption of the RPFJ would affect the public interest.

Under the terms of the Tunney Act, in making such an analysis, a court may:

(1) take testimony of Government officials or experts or such other expert witnesses, upon motion of any party or participant or upon its own motion, as the court may deem appropriate;

(2) appoint a special master and such outside consultants or expert witnesses as the court may deem appropriate;

(3) authorize full or limited participation in proceedings before the court by interested

persons or agencies, including appearance amicus curiae, intervention as a party pursuant to Federal Rules of Civil Procedure, examination of witnesses or documentary materials, or participation in any other manner and extent which serves the public interest as the court may deem appropriate;

(4) review any comments including any objections filed with the United States under subsection (d) of this section concerning the proposed judgment and the responses of the United States to such comments and objections; and

(5) take such other action in the public interest as the court may deem appropriate.

15 U.S.C. 16(f).

Because of the impending trial on the Litigating States'' proposed remedies, and the fact that Microsoft has chosen to proffer the RPFJ as its own remedies proposal in that Litigating States'' case, the record developed therein is likely to obviate what would otherwise be the clear need for a full evidentiary hearing if the court were even contemplating adoption or modification the RPFJ. Novell respectfully suggests that, in lieu of holding a separate Tunney Act hearing, this Court refrain from ruling on the RPFJ until the conclusion of the hearing in the Litigating States'' case. In that way, the Court will have the opportunity, after a full exposition of the relevant facts, to order a single remedy in the public interest.

IV. Conclusion

To protect the public interest, antitrust relief must look not only backwards at past unlawful conduct, but also forward at foreseeable risks. An antitrust remedy must "unfetter a market from anticompetitive conduct," Ford Motor Co. v. United States, 405 U.S. 562, 577 (1972), and "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future." United States v. United Shoe Mach. Corp., 391 U.S. 244, 250 (1968); see also United States v. Grinnell Corp., 384 U.S. 563, 577 (1966). The RPFJ fails this test. Indeed, the RPFJ even ignores Microsoft's aggressively anticompetitive past.

Microsoft has persistently manipulated interface information to cut lines of mooring between the middleware of its competitors and its own monopoly operating systems and to repel any incursions onto the beachfront of competition. Microsoft moreover, has cynically sought to recast its malevolent monopolization as the harmless development of "integrated products" under the "Windows" name. In spite of this well-documented history, the RPFJ replenishes Microsoft's arsenal of technological knives and linguistic camouflage and encourages it to develop additional anticompetitive weaponry in its assault on the public interest.

Much has been made of the fact that, at the end of the negotiations that resulted in the Proposed Final Judgment, it was Microsoft's counsel, Charles F. Rule, a former Assistant Attorney General for Antitrust in the second Reagan Administration, and Charles James, the current head of DoJ's Antitrust Division, who hammered out the final provisions of the settlement now before this Court. This was the very same Charles Rule who, testifying before Congress in 1997, reminded the Senate Judiciary Committee that ambiguities in consent decrees are typically resolved against the Government (and, assumedly, against the public interest, which the Government should represent) and that, in interpreting a decree later,
the Government cannot fall back on some purported 'spirit' on 'purpose' of the decree to justify an interpretation that is not clearly supported by the language." Charles F. Rule Testimony, supra at 3. If this Court does not act to reject this settlement, for Microsoft it will be "been there, done that;" for the rest of us, it will be "dij? vu all over again." For the foregoing reasons, Novell respectfully requests that the Court reject the RPFJ as contrary to the public interest.

Respectfully submitted,

—/s/—

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(412) 288–4268
Counsel for Novell, Inc.
Dated: January 28, 2002

MTC-00028524

From: Brian Snider
To: Microsoft ATR
Date: 1/29/02 1:59am
Subject: Microsoft Settlement

I've read the first half of the Complaint <http://www.usdoj.gov/atr/cases/f1700/1763.htm> (5/18/1998), and the latest proposed settlement to remedy the monopolistic behavior of Microsoft. As a professional in the creative field, I will be watching this case with baited breath, hoping to see Microsoft brought to a real, long lasting justice.

Please remedy this matter in a way that seeds new hope for competing software to flourish. Forcing Microsoft to re-introduce Java into it's OS would be a good start, suspending their exclusive relationships with OEM's would go a long way as well. Perhaps forcing them to port their Office suite to the Linux OS would be the ultimate way to shake things up.

I'm no lawyer, and even I can see the loopholes of the current proposal that the remaining nine states are refusing to sign off on. We need something CONCRETE!

Thank You,
Brian Snider
Seattle, WA

MTC-00028525

From: A.C. Ross
To: Microsoft ATR
Date: 1/29/02 2:05am
Subject: Microsoft Settlement
Grossly Inadequate

I would like to add my voice to those calling for a rejection of the currently proposed DOJ settlement with Microsoft. Microsoft has demonstrated time after time both that it is not reluctant to use the monopoly power it was found guilty of wielding and that it is entirely unrepentant since the decision was handed down.

I'm a management consultant in the computer software industry and have been since the mid 1980s. My jobs in that period often included working or negotiating with large and small software companies who treated Microsoft's presence as the first major marketing issue to address. Always, managers explicitly asked the question, "Can we survive long enough before Microsoft embeds software like ours in Windows or ties Windows to it in some way to squeeze us out of the market." Although some companies may have lost their competitions through their own missteps, there are others, going as far back as STAC, that competed well and won their own court cases, only to be steamrolled by Microsoft's market power.

Transcripts from the trial show multiple instances of Microsoft's outright efforts to illegally divide up markets (the conversations over allocating non-Windows platforms to Netscape noted by Marc Andreeson) and to tie access to the Windows operating system to Draconian restrictions on the marketing decisions of hardware platform vendors.

I don't want to reiterate arguments and proofs that have been made in the press. My summary position starts with the fact that Microsoft was found guilty in federal court. The terms of the agreement are so tenuous and the remedies so weak that I have no confidence whatsoever that Microsoft will feel the need to comply with the spirit and will sail as close to the letter of the law as possible. Its conduct will be entirely unchanged. Indeed, it has clearly indicated that it does not agree with the decision, shows no remorse for its actions, and is safely positioned to violate laws until someone large enough has the resources to take them on.

Microsoft was found guilty, and the government is responsible for setting and enforcing remedies. If you want to get Microsoft's attention, you will have to define and enforce remedies that causes them to change their behavior. The current remedies merely enforce the public perception that a large corporation can buy its way out of any legal difficulties. If the monopoly laws are to mean anything in the future, you must enforce them, and you must make an example of the important role the government plays in ensuring compliance. Otherwise, we are not a nation of laws, but a nation for sale to the highest bidder.

A.C. Ross

MTC-00028526

From: pdm@wt6.usdoj.gov@inetgw

To: Microsoft ATR
Date: 1/29/02 2:10am
Subject: Microsoft Settlement

To Whom It May Concern:

I am writing to express my concern over the settlement in the Microsoft antitrust case.

I am a professional software engineer with over 12 years of experience. During my time in industry, I have seen many promising companies and products hindered by Microsoft's monopoly. Microsoft has consistently shown a lack of regard for reliability and security in their products.

I do not feel that the proposed settlement goes far enough. I encourage you to reconsider the option of splitting Microsoft into separate companies. Only then will it be possible for smaller companies to compete.

Sincerely,
Peter DiMarco
Staff Software Engineer
Integrated Flow Systems
250 Technology Circle
Scotts Valley, CA 95066

MTC-00029527

From: Jim Macey
To: Microsoft ATR
Date: 1/29/02 2:09am
Subject: Microsofe Settlement

2603 Louisiana Street
Longview, WA 98632
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I wanted to submit this letter to express my approval of the Justice Department's settlement with Microsoft Corporation. I have disagreed with the government's case from the beginning, but I see this agreement as the best solution for all parties to declare victory. Although it is hard to be a real monopoly when you have so much competition trying to push their way into more market share through the tool of litigation, not to mention a constituency of millions of satisfied customers, Microsoft is taking several steps to create a more dynamic software environment with this deal. Hardware developers will have broader rights to configure Windows with software that competes with Microsoft, and will benefit from no contract restrictions on future distribution or promotion of Windows products. The top 20 computer makers will also receive uniform pricing for licensing Windows, to provide further incentives to consider alternative software vendors and truly level the playing field.

As these examples prove, this agreement is quite generous and actually exceeds some of the government's demands. Microsoft is the most dominant software player because they have earned it and deserve to continue without further government interference. Hence, I ask for your support.

Sincerely,
James M. Macey
jimm333@juno.com

MTC-00029528

From: Geoffrey Peck
To: Microsoft ATR
Date: 1/29/02 2:11am
Subject: Microsoft Settlement

January 28, 2002
Renata B. Hesse
microsoft.atr@usdoj.gov
Antitrust Division
U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530–0001

I am writing to you to suggest a possible set of restrictions on the future conduct of business by Microsoft Corporation that would prevent the company from continuing its aggressive and monopolistic business practices in the rapidly developing computer industry. While these restrictions may seem draconian, I believe that the injury to other parties in the computer software industry has been severe, and that Microsoft has used its dominant position not only to compete unfairly in the marketplace, but also to stifle innovation. I will keep my comments brief for your convenience.

1. Require full disclosure of all interfaces and software elements. It is important that parties other than Microsoft have full access to interfaces and internal characteristics of the monopoly's software products. To make this effective, I propose that Microsoft be required to release full development source code and all internal documentation whenever it releases a product, regardless whether that is a final product or a pre-release (alpha, beta, and release candidate) version. This code shall be made available at a reasonable price, not to exceed the end-user price of one (1) copy of the software. Microsoft may make this source code available under license that restricts the licensee's use of the source code so that the licensee may not directly utilize significant portions of the code to create products that are essentially identical to Microsoft's own products.

Full, commented source code and complete documentation is the only form of full disclosure that will truly enable competitors to produce software that fully integrates with Microsoft's monopoly operating system and desktop program suites.

Releasing specifications of interfaces at a point in time does not affect Microsoft's ability to arbitrarily change these interfaces in ways that make competitive or complementary products noncompetitive or non-interoperable. For example, Microsoft's Common Internet File System (CIFS) was a specification released by Microsoft, but Microsoft has continued to change the messages sent between computers so that maintaining a compatible interface such as Samba is a difficult job, requiring substantial reverse engineering.

Another reason that full disclosure is required is that Microsoft may choose to release only specific, partial information on certain key interfaces. This information would allow a software vendor to produce programs that perform arbitrary, specified functions. A Microsoft version of a similar program might use a "hidden" interface that produces better performance, or Microsoft's knowledge of the internal algorithms that underlie an interface might allow it to utilize this supposedly public interface in ways that an external developer could not.

2. Restrict Microsoft's purchase of other technology companies. Microsoft often states that its most sincere desire is to innovate. Unfortunately, the record shows that most of Microsoft's innovation has come in the form of purchasing (or appropriating) technology developed by others, applying its exceptional marketing muscle, and then updating this acquired technology at an often-painfully slow rate once Microsoft has established a comfortable market lead or monopoly position. Examples of this behavior include:

* MS-DOS (acquired by license, Seattle Computer Products)
* Microsoft Windows (copied from Apple's Macintosh, in turn derived from work at SRI and Xerox PARC)
* Microsoft Windows NT OS (and the newer XP OS) (appropriated and then licensed from Digital Equipment Corporation)
* Microsoft Excel (copied from the original spreadsheet, VisiCalc)
* Microsoft Internet Explorer (copied from Netscape Navigator)
* Microsoft FrontPage (company acquired)
* Microsoft PowerPoint (company acquired)
* Microsoft Visio (company acquired)
* Microsoft Hotmail (company acquired)
* Microsoft UltimateTV (company acquired)

To truly encourage innovation and reward that innovation in the market, such acquisitions should be prevented. Microsoft should be prohibited from acquiring more than 40% of any other company, public or private, either directly or via one or more of its major stockholders.

3. Require Microsoft to support at least one additional viable alternative operating system on its desktop applications suite. Many users are forced to purchase Microsoft operating systems because they need to utilize Microsoft's Office Suite or a subset thereof. If offered the choice of running these applications on a different operating system such as Linux, many customers would be delighted to opt for that choice.

Microsoft does offer some, but not all, of the Office applications on the Apple Macintosh; however, given Apple's small market share, the Macintosh Office Suite does not constitute a significant fraction of the market. Microsoft should be required to release a fully comparable version of its Office Suite products (Access, Excel, FrontPage, Outlook, PowerPoint, Publisher, Word, and supporting applications such as Photo Editor) on a widely-used Linux distribution such as Red Hat. The first Linux version of these applications must be made available within 120 days of the conclusion of these proceedings, and subsequent versions must be released at the same time as or before the Microsoft Windows version of these programs. Retail, corporate, and OEM pricing for the Linux version of these programs and packages shall not exceed the prices for the same programs and packages on Microsoft Windows, and all configurations of these programs and packages offered on Microsoft Windows must be offered on Linux. Further, these Linux-based products must be full and complete ports—they cannot use a Windows emulation library and simply sit on top of Linux with poor interoperability with other Linux tools.

4. Compensate past purchasers of Microsoft software for the overcharging that was made possible by Microsoft's monopoly and tying practices. I believe that direct financial compensation via actual monetary payment (no coupons, no rebates on future purchases) would be the most equitable solution. If a user registered one or more product(s) with Microsoft, those records can be used to make payment to the original purchasers of each product and/or upgrade. If a user did not register, proof of purchase such as original CD-ROMS should be accepted. I believe that the amount of compensation should be selected so that a substantial fraction (more than 50%) of Microsoft's cash on hand is disbursed to consumers. Although these four remedies each may sound quite harsh, I believe that Microsoft's conduct cannot fundamentally be altered without applying all four remedies simultaneously. Ultimately, these remedies will result in the resumption of competition and market-based innovation in many areas of the computer software industry. Without all four remedies, it is quite likely that Microsoft will be able to resume its anticompetitive practices by interpreting the ruling in its own ways.

Thank you for your time.

Geoffrey G. Peck

San Jose, California

Mr. Peck is a computer scientist who has been involved since the late 1960s in designing and a wide variety of computer software ranging from the file system component of operating systems to end-user applications. He graduated from Harvard College in 1978, and obtained his Masters degree in computer science from the University of California, Berkeley in 1982. He is currently Chief Technology Officer of a Silicon Valley start-up. This letter represents Mr. Peck's personal views, and does not necessarily reflect the views of his employer.

MTC-00029529

From: Raymond Borys
To: Microsoft Settlement
Date: 1/29/02 2:09am
Subject: Microsoft Settlement
Raymond Borys
3051 Alexis St.
Portage, IN 46368
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

Raymond J. Borys

MTC-00029530

From: Steven Apour
To: Microsoft Settlement
Date: 1/29/02 2:12am
Subject: Microsoft Settlement
Steven Apour
2640 Melendy Drive, Apt. 3
San Carlos, CA 94070
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,

Steven H. Apour

MTC-00029531

From: esko
To: Microsoft ATR
Date: 1/29/02 3:02am
Subject: Microsoft Settlement

I am a software engineer with 19 years of experience developing software for Apple, Windows, DOS, Unix, and Linux. Having studied the proposed final judgement it is obvious to me that it is not in the public interest. To begin with, there appears to be no provision for enforcement.

Additionally there are so many loopholes in the definitions used that even the little that it attempts to do is virtually guaranteed to fail. There are many anti-competitive practices that the proposed judgement does not address at all.

For a more detailed critique of the settlement that touches on most of the issues I highly recommend checking out Don Kegel's summary of the flaws on the internet. (http://www.kegel.com/remedy/remedy2.html) I agree with each of the points he makes in the essay. It is a good outline of many of the most obvious limitations of this proposed settlement.

Microsoft has been allowed to run roughshod over the computer industry for more than a decade. It has danced around the terms of the "consent decree" and completely subverted them. There are many examples in the Findings of Fact illustrating an almost complete lack of ethics and total disregard for the law.

Only a very restrictive, well-defined, comprehensive decree with a real enforcement mechanism has any hope of accomplishing the goals that a remedy decree requires.

The ongoing actions taken by this company while these proceedings take place make it readily apparent to me that Microsoft has no intention of following any court order or honoring any agreement it signs.

I strongly urge you to take the necessary steps to accomplish the goals defined by the appeals court. If you manage to do so, you will help restore the computer industry to the dynamic and creative environment I fell in love with so many years ago.

Sincerely,

Esko Woudenberg
391 Montclair Dr. #46
Big Bear City, CA 92314
Software Developer

MTC-00029532

From: Ronald Fritz
To: Microsoft Settlement
Date: 1/29/02 2:14am
Subject: Microsoft Settlement
Ronald Fritz
317 Heather Dr.
Carmel, IN 46032
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

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Thank you for this opportunity to share my views.

Sincerely,
Ronald E.Fritz

MTC-00029533

From: fondue@best.com@inetgw
To: Microsoft ATR
Date: 1/29/02 2:18am
Subject: Microsoft Settlement
Ms. Renata B. Hesse,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Tracey Cutler
14480 Oak Place
Saratoga, CA 95070

MTC-00029534

From: Marge Evans
To: Microsoft ATR
Date: 1/29/02 2:21am
Subject: AOL/Time Warner/Netscape Suit

It is time for the attacks on Microsoft to end. As a consumer, I now have and have had ample opportunity to choose browsers, internet connectors. The government approved the union of AOL/Time Warner making it a very large media monopoly. AOL has a majority of the online subscriber business for the internet to boot. Having used the Netscape browser years ago I was bombarded with unsolicited e-mail as there was no way to easily get it blocked. AOL is a very aggressive company. I feel that these suits are NOT creating more choice or competition for the industry but rather taking from investors, consumers, the right to improved products. All the money that has been spent on lawsuits, legal costs, trials has taken away from improved products, research, jobs. I feel AOL, Oracle, Netscape and the rest of the companies that have banded together against Microsoft should better spend their time and their investor's monies improving their own products rather than trying to destroy this company. It is difficult to believe that any of those companies is any less aggressive than Microsoft.

When it comes to monopolies, the US Government is the biggest monopoly of all and has, through its inept and unthinking Federal Reserve Bank Policies, with its rate increases, cost hundreds of small companies to go bankrupt. This country needs to stop attacking companies and get its act together to get the economy headed in an upward direction. We are now in the process, because of our policies, of letting China take over Global Crossing, thereby giving up the global fiber optics business to a foreign country. Do we have our heads in the sand?

MTC-00029535

From: Mike Schuh
To: Microsoft ATR
Date: 1/29/02 2:22am
Subject: Microsoft Settlement

Greetings:

I wish to comment on proposed settlement in U.S. et al v. Microsoft. I strongly believe that Microsoft should be penalized for their injurious use of their monopoly in desktop operating systems. However, I do not think that their proposal to give computers and software (theirs, of course) to "impoverished" schools is acceptable. It would be like allowing a fox, convicted of raiding a chicken coop, to stand guard over the coop as punishment... One should be cautious of the remedies proposed by those who must fulfill those remedies ("please don't throw me in the brier patch" comes quickly to mind, albeit in a slightly different context). The basic problem with the proposal is that it helps to perpetuate Microsoft's illegal monopolistic practices! In a few years, when the schools have to upgrade (because Microsoft will have rendered the "free" software obsolete), they'll have to buy from Microsoft.

Here's a better idea, and one that I support: http://www.redhat.com/about/presscenter/2001/press—usschools.html Among other things, the "retail" value of Microsoft software is, to Microsoft, approximately zero, so the proposal really isn't much of a penalty.

An alternative is for Microsoft to sell off (and forever stay out) their applications software, then reimbursing everyone who has ever purchased software from them with the proceeds (that is, they don't get to keep the proceeds from the sale, that being their penalty). Kind of like a giant class action law suit.

If we don't punish the guilty in a manner that truly is punishing, then there is no disincentive for them (or anyone else) to go and just repeat their behavior. In fact, Microsoft has already done this! Thank you.

Mike Schuh—Seattle, Washington USA
http://www.farmdale.com

MTC-00029536

From: jmetz
To: Microsoft ATR
Date: 1/29/02 2:23am
Subject: microsoft

Sirs

I have only a few thoughts on the matters before the judge. If microsoft is in actuallity a monopoly as most of the tech world belives and it has manipulated the law government and its access to the hardwarre manufacturers there are some very simple solutions that might be implemented.

They need to be punished in a manner that would benefit disadvantaged competitors and the general public as well. So here might be a method that would serve all the injuried parties starting back from 1992 when they virtually drove Geoworks from the office and school suite business.

Geoworks now is under the control of www.breadbox.com had been developed as a complete operating suite and sold recently as NewDealOffice 2000 is a service system that resides on top of any DOS or Win9x NT or linux in a DOSEMU and OS/2 as a cross platform suite

If microsoft were to be forced to release both its win9x as a downloadable and its DOS as downloadable in total with the associated Knowledgebases and source codes this might enable other companies to continue development of those operating systems.

If they were forced to give away mac systems with the associated versions of software to all the schools in need, that would partially aid another company that had been harmed greatly.

If they were to pay for the rehab of older boxes 386 486 and low end pentium units with the addition of the software suggested above for distribution in the 3rd world of central and south americas this would also solve other existing problems. But those are my opinions.

MTC-00029537

From: bill frack
To: Microsoft ATR
Date: 1/29/02 2:23am
Subject: Microsoft Settlement
11143 Philadelphia Road
White Marsh, MD 21162
January 28, 2002
Attorney General John Ashcroft
U.S. Dept. of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you today to express my support of the settlement reached with Microsoft. The November settlement represents three years of mediation, and given the current state of the economy, I believe enacting it is in the best interests of the country. I urge you to do so.

The settlement contains many concessions on the part of Microsoft. Microsoft has agreed to disclose the internal interface of the Windows system. This information sharing will allow developers to create software that is more compatible with the Windows system. In addition to this, Microsoft users will also have the ability to reconfigure their desktops at their discretion with the new design of Windows XP. Obviously, Microsoft has done its share to end this litigation process; I trust that the Justice Department has the sense to enact the settlement. Thank you for your concern regarding this issue.

Sincerely,
J. W. Frack

MTC-00029538

From: Lewis Zechmeir
To: Microsoft ATR
Date: 1/29/02 2:27am
Subject: MICROSOFT SETTLEMENT

TO WHOM IT MAY CONCERN:

I find the proposed Microsoft settlement odiferous. To allow them to advance their monopoly and call it punishment is ludicrous. The very people who were harmed by their business practices would be harmed by the proposed settlement. I feel that any judgment has to be made to level the playing field.

One alternative would be to have Microsoft donate light wave fibers to local servers and pay to have it laid into rural areas in the various states that are asking for damages. Any company could connect or provide service and customers could choose between them.

This would bring high speed internet into rural areas and bridge the digital gap. The affected states would benefit and it would stimulate the economy fairly.

Respectfully,

Lewis Zechmeir

MTC-00029539

From: Boyd Bronson
To: Microsoft Settlement
Date: 1/29/02 2:27am
Subject: Microsoft Settlement

Boyd Bronson
8915 Somerton Circle
Sandy, UT 84093-7022
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

Boyd Bronson

MTC-00029540

From: Masodoi@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 2:31am
Subject: Microsoft andti-trust case.

To Renata Hesse, trial attorney,
Antitrust Divison,
U.S. Deptment of Justice:

No one considered Microsoft a monopoly before it was so designated by Judge Penfold Jackson, who was so prejudiced against Microsoft that a related decision by him was overruled by the appeals court.

Microsoft's tactics to protect its share of the market are common business practice, which is illegal only if performed by a monopoly. So it cannot be punished for violating the Sherman Antitrust Act, before it was legally a monopoly; or it will become an ex post facto case.

Also, the Sherman Antitrust Act outlaws trusts, or combinations of companies, which conspire to restrain trade. Since when has a single company, which won a major share of the market because its service was so superior to its competitors, been prosecuted like Microsoft?

Microsoft founder Gill Gates is giving billions of dollars for worthy causes. By contrast, AOL/Times Warner is lavishing vast sums for politicians and slick lawyers to subvert the law for its own benefit. They are seeking competitive advantages by their list of demands that violate patent laws—not justice!

Hopefully U. S. District Judge Colleen Kollar-Kotelly uses her common sense and not be confused by the countless, questionable details, dredged up by the anti-Microsoft coalition.

Mas Odoi

MTC-00029541

From: Patrick O'Connor
To: Microsoft ATR
Date: 1/28/02 5:31pm
Subject: Microsoft Settlement

Dear Ms. Hesse:

Attached please find Comments of NetAction and Computer Professionals for Social Responsibility on the Proposed Final Judgment in U.S. v. Microsoft. An additional copy has been provided by fax. Please feel free to contact me at 202-955-6300 with any questions or concerns.

Regards,

Patrick O'Connor

Counsel to NetAction and Computer Professionals for Social Responsibility

MTC-00029542

From: Mark Horton
To: Microsoft Settlement
Date: 1/29/02 2:34am
Subject: Microsoft Settlement

Mark Horton
690 Fort Washington Ave. #2F
New York, NY 10040
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,

Mark Horton

MTC-00029543

From: ron
To: Microsoft ATR
Date: 1/29/02 2:44am
Subject: Microsoft Settlement

Ron Hardesty
12024 147th St. Ct. E.
Puyallup, WA 98374
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in favor of Microsoft and the Department of Justice settling the antitrust case. It is time for the federal government, the plaintiff states, and Microsoft to get back to the things that really matter. There is a multitude of reasons why this case should be settled. To begin with, Microsoft has been unfairly singled out in this case. Several other high-tech, media conglomerations truly are monopolistic. Yet, Microsoft has been the only target of antitrust litigation. Additionally, the suit was brought under the guise that consumers were being harmed by anticompetitive behavior on Microsoft's part. To the contrary, Microsoft helped consumers by producing innovative products at reasonable prices. The lawsuit has driven up prices of Microsoft software. Consumers will clearly benefit from an end to this protracted litigation. The terms of the settlement agreement are more than fair. Microsoft has agreed not to retaliate against those who promote or distribute software that competes with Windows. They also agreed to begin designing Windows in such a way so that it is easier for computer manufacturers, consumers, and software developers to promote non-Microsoft software within Windows. It will be much easier for consumers to change the configuration of their computers. This will result in more choices, and, hopefully, stronger competition.

I hope to see this settlement agreement finalized as soon as possible. Thank you for reviewing my comments.

Sincerely,
Ron Hardesty
(253)229–6186 Cell
12024 147th St. Ct. E.
Puyallup, WA. 98374

MTC–00029544

From: Anonymous
To: Microsoft ATR
Date: 1/29/02 2:52am
Subject: Microsoft Settlement

Introduction

This document is a sparse skeleton, as the author only discovered the ability to file Microsoft final ruling commentary about a day ago. The 1/28/02 deadline is now known and the skeleton commentary is submitted to meet that deadline, on Email date/time.

The author asserts this timely skeleton is sufficient, as he is claiming US legal mandate in a comment to the US DOJ, carrying "coals to Newcastle" so to speak. However, the author will continue to make a more detailed argument with references and plans to file that argument as a collateral DOJ complaint in about a week, with disclosure to presumptively interested parties Apple Computer, American Online, and the other non judgment participating sovereign states. The author presumes the DOJ will disclose that complaint to Judgement interested parties. The author stands by this skeleton, speculates that further argument may be of benefit in the pursuit of justice, plans that further submission within about a week, but has major collateral duty and makes no delivery guarantee.

The major issues, see below, are the Apple QuickTime environment change, the "server side" functionality, and the possible secret Microsoft scheme in iterative maneuvers of an unwitting user body into periodic, not one time, computer system licensing fees. This document is written from memory but is believed to be correct. If nothing shows up in two weeks, 2/11/02, the claim of further argument delivery expires.

The author is not computer "innocent", speaks from decades of computer operating system development and maintenance experience as well as legal awareness. The author has purchased, installed, and used Microsoft operating system and tool software. The author is neither lawyer nor witness, attributes the entirety of the possible factual issues to media sources, is submitting Federally protected, US Amendment One petition believed to be true, but labeled as speculation and not fact, expects full investigation, and may be entirely wrong. This document is not signed, as the author is not witness and has collateral awareness of retaliation to complaint. However, US Amendment Right of Petition specifies no signature mandate.

Claim

It is possible Microsoft is guilty of bad faith at a minimum, in knowing, pre-judgement violation of Final Judgement III. A. Prohibited Conduct, ". . . shall not retaliate . . . ." This retaliation is possibly via the continuing exercise of a scheme or artifice to defraud OEM's and clients with continual, anti-competitive, fraudulent conduct possibly in violation of US Title 18. It is possible that scheme or artifice is a racketeering enterprise run for profit. It is possible there is probable cause for formal investigation of these issues within US Title 18 mandate.

Assertion

Use of the Microsoft Operating System Product ("MOSP"), and / or Internet connectivity use of the MOSP to other sites or to Microsoft sites, is possibly directly linked to the exercise of interstate commerce, interstate wire traffic, and causal or facilitated US Mail, thus making US Title 18 mandates material.

Assertion

Client usage of purchased MOSP tools runs under sovereign state contract law and regulation, thus possibly defining contract and / or property right entitlement(s) covering that MOSP tool exercise. An involved sovereign state who may have sovereign state entitlement change in progress has a right to a hearing on these possibilities.

Assertion

A reasonable person view of MOSP security support, also within full sovereign entitlement, is possibly a further, distinct property right entitlement and / or contract material issue. Assertion A reasonable person view of questionable MOSP operating system maintenance changes, security or otherwise, changes that impact or eliminate legacy services or that suddenly mandate new interfaces, when viewed by that reasonable person in the current "operating system world" and / or history, may involve property right entitlement and / or contract breach, on that questionable cause.

Assertion

An undisclosed change to the MOSP that substantively both eliminates a prior OEM function and adds a Microsoft maintenance/change may be viewed by a reasonable person as an extortionate act. One wants the change and is thus forced to give up the function . . . to get the change. Alternatively, one installs the change with secret OEM function elimination, possibly evolves into substantive value in the effect of that change, suddenly discovers the OEM function elimination, but no longer can simply "back up" to the prior maintenance level, because of involvement in MOSP change.

Assertion

It is possible Microsoft made an MOSP maintenance change that, in part, knowingly eliminated the ability of a current Apple QuickTime product to function. It is possible that change was not done for MOSP function enhancement, but was rather done to harm OEM Apple, to reduce competitor product QuickTime usage, to enhance competing product Microsoft Media Player usage, and to enhance Microsoft profit at the expense of client MOSP service and choice. It is possible a harmful act of this type may be a contract breach, an interstate wire received, cause of breach, and / or a property right entitlement denial.

MTC–00029545

From: Anonymous
To: Microsoft ATR
Date: 1/29/02 2:55am
Subject: Microsoft Settlement

Assertion

It is possible Microsoft apparent change focus on "server side" MOSP maintenance enhancement control, as distinct from "client side" control, breaches a reasonable person view of the contract rights under MOSP purchase, the sovereign property right entitlement(s) associated with that contract, and / or the intangible right to honest services for an interstate wire transaction.

As an example, Norton Systemworks on Windows 98 appears to do maintenance upgrades on the "client side", the user tool using Internet in contacting Symantec for current system levels, offering a list of changes for user download and install, then running that user download and install process.

However, Microsoft MOSP maintenance from Microsoft support itself appears to run "server side" system level support, not "client side" and appears to possibly force security changes in web browser configuration. The server side browser code possibly determines the needed maintenance by examining the client, not the client side code examining the server.

Microsoft develops both the MOSP client and its own server, has the direct choice of client (MOSP) or server (Microsoft server) support, and is possibly doing the reverse of Symantec. It is possible that server/client choice breaches a reasonable person view of rights and / or entitlements, with the author stating he would never choose server side support if given a choice.

It is possible Microsoft in the past and recently made "server side" changes in its Windows maintenance update process that forced "client side" security changes in order to obtain both maintenance support and merely a list of the "client side" system changes possibly needed. Some of these changes may be critical security changes.

Assertion

It is possible Microsoft has a secret scheme or artifice to increasingly disregard "client side" functionality choice, choosing to impose "server side" functionality, but for no disclosed or apparent MOSP support reason. It is possible that increasing, undisclosed, suspicious change effects, installed by MOSP necessary bug maintenance practice, is in fact a pattern and practice scheme to increasingly foster "server side" functionality upon an unwitting user body, until "server side" functionality becomes a mandate, not a choice. At that mandate time, it is possible a secret Microsoft plan to now force periodic software licensing fees upon the user body now will become reality, with the user body, after repeated, subtle, concealed change over time, is now dependent on "server side" functionality, and is unable to drop Microsoft or Windows because of business or personal need.

Assertion

It is possible Microsoft has not in good faith tried to comply with the intent of the Proposed Final Judgment and the espoused complaint of opposing parties, has not in good faith tried to be consistent with reasonable person expectation of MOSP and computer tool expectation with Proposed Final Judgement III. A. retaliation expectation, but rather is engaging in a secret scheme or artifice to continually engage in anti-competitive, fraudulent practices in at least three ways:

One, to "tailor" MOSP maintenance changes to reduce or eliminate the ability for a possible OEM to offer competing product, such as Apple QuickTime, Microsoft thus acting not to compete and offer MOST client choice, but to defraud and to retaliate.

Two, to use the secret scheme or artifice to later force periodic licensing upon a user body that now requires "server side" functionality, on evolving business or personal need, Microsoft using near-monopoly power to secretly—reverse—the possible entire history of computer usage financing.

Three, speculating on the future, to use that periodic licensing scheme as an anti-competitive mechanism, where a user whose computer is old or wears out has minimal choice for competing product, being forced to stay with the now necessary "server side" licensing mechanism because of business or personal need of that software. While Microsoft offers presumptively equal software on Macintosh and Windows, after Windows periodic licensing becomes reality, the pretextual, competing Macintosh versions may become obsolete.

Assertion

While a vendor certainly has the right to develop and offer their own delivery of service, a vendor has no right to use the US Mail, interstate wire, or interstate commerce in a pattern and practice to deny honest services, to conceal material fact in a secret scheme for future profit, to scheme in iterative enticement, lure, or extortion of unwitting users into future, periodic licensing.

Rewording, offering a "server side", monthly license fee tool is certainly legal. Maintaining and extending an operating system is certainly legal. But maintenance change patterns that have no credible client value, that have a secret Microsoft value, that are part of a likely "setup scheme" for the user, are fraud, in the denial of honest contract and wire services.

If questionable change A, precedes B, precedes C, . . . into now necessary "server side" functionality "P", a functionality that facilitates periodic licensing, then each distinct change, absent credible cause, is falsified cause and fraudulent effect.

Using a near-monopoly customer base to impose secret, subtle maintenance changes for no credible reason, in denying reasonable person expectation of operating system, computer tool, and / or competitive product honest services, or using knowingly false MOSP maintenance changes to impose Microsoft benefit at the expense of reasonable person expectation, is not legal. It is potential fraud and potential racketeering.

Assertion

This is not a single redress against a single Microsoft. It is a possible class action issue for the entirety of Microsoft users of all tools and all products, for the entire world, for all interstate mail, wire, and commerce acts, for all Microsoft support downloads.

MTC-00029546

From: blakem@cobalt.blakem.com@inetgw
To: Microsoft ATR
Date: 1/29/02 2:58am
Subject: Microsoft Settlement

To whom it may concern:

I am writing to express my disappointment over the settlement proposed by the DOJ in US v. Microsoft. As a software engineer, I am well aware of the strangle-hold Microsoft holds over the industry, and the stifling effect it has on innovation.

In 1994–1995 when Netscape and Mosaic were the only browsers around, Microsoft started whispering about entering the browser market. I was in college at the time (University of Pennsylvania) and had seriously considered entering the browser market with several of my peers. As soon as rumors of Microsoft surfaced, those plans were stopped dead in their tracks. Netscape's 100% market share didn't discourage us at all. Microsoft's track record of stomping out rivals—dare say I entire markets—using ill-gotten gains is what sent our creative energies elsewhere. The ensuing 4–5 years were full of "browser-war" stories, but the result was a foregone conclusion before Microsoft had released a single product.

The current software landscape is rather bleak. When the bully gets to usurp any and all innovative ideas, people eventually stop being creative. Motivation is tough to come by when you know that the spoils of your labor will eventually be in the war-chest of said bully.

Since the settlement does nothing to fundamentally change this landscape, I can not support it. I don't feel that the DOJ has represented the public's best interests.... they certainly have not done so with mine.

Blake Mills

MTC-00029547

From: Roddybabes@aol.com@inetgw
To: Microsoft ATR,senator—leahy@leahy.senate.gov@inetg...
Date: 1/29/02 2:59am
Subject: Microsoft Settlement

Mario Rodrigues
1921 North H Street
APT 48
Oxnard
CA 93030
Wednesday, January 23rd, 2001

To whom it may concern,

Having read the testimony of the Senate Committee on the Judiciary, and the Court's Findings of Fact, I for one am against the proposed settlement because it will maintain the status quo. This will mean the continued absence of any compelling competition for software on the desktop. Any one of a neutral disposition, who has read the testimony and the Court's Findings of Fact, can clearly see the lack of justice when viewed against this landmark judgment.

The Supreme Court has explained that a remedies decree in an antitrust case must seek to ???unfetter a market from anticompetitive conduct," Ford Motor Co., 405 U.S. at 577, to ???terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future," United States v. United Shoe Mach. Corp., 391 U.S. 244, 250 (1968); see also United States v. Grinnell Corp., 384 U.S. 563, 577 (1966).

Where does the proposed settlement, "terminate the illegal monopoly" and "deny the defendant the fruits of its statutory violation?" From the Court's Findings of Fact, Netscape, Sun, Apple, RealNetworks, IBM, and Intel have all suffered lost business because of Microsoft's anti-competitive behavior. From their standpoint, the proposed settlement must just look like a slap on the face. Where does the proposed settlement "terminate the illegal monopoly" and "deny the defendant the fruits of its statutory violation?" These two fundamental principles of remedy have not been addressed at all. Microsoft's market position will not change if this settlement is implemented. Remember what happened to AT&T's illegal telephone monopoly, and how that break-up brought to the consumer choice, better service, and lower costs. If this proposal is accepted, those who buy Microsoft's products will continue to pay over the top rates to use them. If implemented, the proposed settlement that the DOJ has succumbed to will not change the industry for the better, but will continue to leave the consumer, government, and business, over a barrel; to suffer Microsoft's continued exploitation, whose ill-gotten gains (profits) continue to line the pockets of those company officers responsible for creating this illegal monopoly. This can only be seen as "payback" for breaking the law, and sets a terrible precedent for future antitrust litigation. Let's hope that Judge Kollar-Kotelly has the courage, and the law, to turn payback into blowback. Let's remember that well known and often used adage, once bitten twice shy. Microsoft has chosen, all too often, to stretch forth its hand and eat from the forbidden fruit. It is now time that they were punished and expelled from their Eden of milk and honey. Microsoft has to be penalized with penalties that bite, which go way beyond the kindergarten settlement we have here today. This has to be done for two fundamental reasons. First symbolic. Microsoft has to be seen to be punished, which has to be commensurate in effect to the way it dealt with companies that it illegally competed against. This punishment will then draw a line in the sand, which for the future will bring to remembrance and serious reflection the serious penalties for stepping beyond the law. Second for competition. The market has to be given time to normalize to a competitive environment. Regulation, not another consent decree, will be required until market conditions allow companies of substance to hold their own against a convicted monopolist. Microsoft should not be left in a position where it is able to repeat conduct that an ideologically diverse Court of Appeals unanimously found illegal. I am not a lawyer, but I do feel confident that this settlement will not meet the requirements of the Tunney Act. If by chance, there is a miscarriage of justice, it will not only be very sad day for justice, it will also cloud all future anti-trust litigation. Because of the courts" inability to punish illegal conduct with justice of equal measure to the crime, it will give a green light for more commerce law breaking. The saying will be, "if you want to stay in business act like Microsoft.

if you don't, you'll end up a loser, like Netscape."

If US law should fail to meet out the requisite punishment for Microsoft, antitrust litigation against Microsoft will continue well into the future. AOL filed suit yesterday, the EEC have a case pending, half the State Attorneys don't agree with the settlement case here, and the judge in the private class action lawsuits ruled that settlement anti-competitve. There is no argument against Microsoft's guilt, there is plain disagreement as to what that punishment should be. In his statement to the Senate Committee on the Judiciary, Senator Orrin G. Hatch said, "The Microsoft case - and its ultimate resolution—present one of the most important developments in antitrust law in recent memory. The proposed settlement does not justify the Senator's statement.

Let's remember Proverbs 29:18, "Where there is no vision, the people perish." I hope that Judge Kollar-Kottely is blessed with the wisdom and vision to ensure that justice meets its obligations. Mario Rodrigues

---

MTC-00029549

From: MarieL234@aol.com@inetgw
To: Microsoft ATR
Date: 1/29/02 3:01am
Subject: Microsoft Settlement

This country and our economy is highly dependent upon FREE Enterprise and talented companies like Microsoft that have created so many jobs and technology for our betterment. Microsoft must be given the freedom to continue their innovation unhampered by further litigation. Let the cry-babies work a little harder and stop hiding behind their lawyers.

We are weary of all this litigation. Enough!

Sincerely
Marie L. Odenheimer

MTC-00029551

From: Majewski Harry J Jr SSgt 31CS/SCMFG
To: "microsoft.atr(a)usdoj.gov"
Date: 1/29/02 3:07am
Subject: Microsoft Settlement

I beleive that the current settlement on the books for Microsoft allows for the company to continue to abuse its monopolistic position on the software market. In order for market fairness to be regained, the company should be, at the very least, forced to make it's browser separate from its operating system, and to not allow the company the use of API's or software libraries that would cause another companies competing software to run less efficiently (I.E. Netscape Communcator), and be disallowed from using secret API's to promote the sale of additional software created by them. I also beleive that Microsoft should be forced to compensate for loss of revenue to other companies due to faulty software that they themselves advocated (I.E. advocated the use of their software in a specific situation when a survey was requested by one company or another.) This, in effect, would bring Microsoft in line with every other major production corporation out there. In the late 80's, software was not a critical aspect of our economy/safety, and thus, was afforded a different kind of protection under law. Unfortunately, times have changed, but the law hasn't; Software companies still have almost complete immunity for creating a faulty product. Microsoft software is being placed in a higher, and higher level of trust every day, as more and more of our lives become computerized. This places a responsibility on the software companies to create software that is secure to outside attacks.

If a car maker had a vehicle that was "fool proof" and was capable of avoiding *ANY* accident that would be that vehicle owners fault, that would be great. But, if the same car, when involved in an accident caused by someone else, provided no security, or protection for the occupant, that auto manufacturer would find themselve in a very lengthy court battle, and be responsible for injuries to occupants. Microsoft, and other software companies do not face such problems, yet create the very same situation every day. Their software by itself, does not pose a threat, but, they deny responsibility for the actions of others who create havoc with their software.

Thank you.
SSgt Majewski

MTC-00029552

From: Tom DeChaine
To: Microsoft ATR
Date: 1/29/02 3:10am
Subject: Microsoft Settlement
To: Department of Justice District Court Judge

Microsoft is only "guilty" of aggressive marketing; what successful company in the US isn't! Our irrational anti-trust regulations are predicated on the notion that too much success is unhealthy for our economy—which is totally false. And they are used merely as a tool by the envious to devour the very strength in our economy. I, and every computer user, is indebted to Microsoft for the software they have provided and their broader contribution to the advancement of computer technology. Our Government—Federal and States—must side with Microsoft in the legal suits against them. This company is not guilty of a legitimate crime (e.g. fraud); it is a positive example of Capitalism at work. It is time for our Government to turn back the clock and defend Capitalism whenever possible: defend the principles upon which this country was based.

Tom DeChaine
Penn Valley, Ca.

MTC-00029553

From: R. Todd Reasonover
To: Microsoft ATR
Date: 1/29/02 3:10am
Subject: Microsoft Settlement

I believe the Justice Department should NOT settle the lawsuit with Microsoft. I personally believe that Microsoft should be broken into pieces. There is virtually no competition in the OS market, browser market, and office suite market to name a few. Microsoft has consistently shown that they won't play fair. All in the name of innovation; as long as it's Microsoft's way.

Thank you.
Todd Reasonover

MTC-00029554

From: Robert Lyle
To: Microsoft Settlement
Date: 1/29/02 3:06am
Subject: Microsoft Settlement
Robert Lyle
3605 Arlington Oaks Dr.
Mobile, AL 36695–8707
January 29, 2002
Microsoft Settlement
U.S. Department of Justice
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Robert E. Lyle

MTC-00029555

Marilyn Ayers
2292 Bitterroot Place—
Littleton, Colorado 80129
January 26, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

As an active user of Microsoft software programs since 1989, I want to express my views on the Microsoft settlement: Support. Complete support. Microsoft has standardized the way we use computers.

They continue to give us deals. They provide us with new concepts on how to get the most out of our computers.

Clearly, the Company wants to put this costly legal action behind them and move forward with developing new products. They are certainly not getting off easy with the settlement, and their compliance is guaranteed thanks to the excessive oversight the settlement includes.

Please accept the terms of the settlement Thank you.

Sincerely,
Marilyn Ayers

MTC-00029556

45 Gramercy Park N

New York, NY 10010
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 0530

Dear Mr. Ashcroft:

I support the settlement the Department of Justice and Microsoft agreed to several months ago in their three-year-old antitrust lawsuit. I think Microsoft has gotten a bad rap because of its market dominance, and I believe the case should be concluded without more litigation.

The settlement's terms will allow competitors to better integrate their programs into Windows. Disclosing internal programming language to competitors is a generous move on Microsoft's part, and shows the company's willingness to put the situation behind them. Please support the settlement and allow Microsoft to concentrate on future business endeavo's. They have led the way in technological innovation for two decades now, and should be free to continue doing so.

MTC–00029557

Robert L. Kaufman
34 Jade Lane
Cherry Hill, NJ 08002–1612
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Your strong leadership in working to settle the Microsoft antitrust case is certainly in the best interests of America. Federal Judge Thomas Penfield Jackson showed his disdain for judicial ethics by revealing his biased prejudgment to a member of the press in his own judicial chambers long before he issued his opinion in the case. Whatever happened to judges hearing all the evidence and arguments before deciding the case? Whatever happened to judges who aren't ego-induced publicity hounds? Judge Jackson did damage well beyond the judicial and legal community though. His decision to break up Microsoft into pieces, as though he .saw himself as Julius Caesar dividing Gaul, pulled down the whole stock market, in my opinion. Technology stocks were badly hurt.

Fortunately, the Court of Appeals later overturned Judge Jackson, and Microsoft and your department have reached a settlement that will be good for American business and the American public.

Microsoft will have to show its cards, its hidden poker hand. It will show the industry its internal interface code and server protocol code, and license its other codes to companies on a non-discriminatory basis. It will allow computer makers to sell non-Microsoft operating systems at the same time they sell Windows, and set uniform prices and terms instead of negotiating. This will allow the industry greater flexibility. I don't "know how good this will be for Microsoft, although Microsoft has agreed to it to settle the case and move on. However, it will be very good for the tech industry.

Thank you again for your support of the settlement. Let's hope the new federal judge on the case approves it. I .just had to add my voice during the public comment period. This settlement is important for America.

Sincerely,
Robert L. Kaufman

MTC–00029558

383 Second Ave
Massapequa Park, NY 11762
Phone: 516 799–8300 -24/7
Fax: 516 799–8350 -24/7
eMail: walts@dorsai.org
Fax:
To: Attorney General John Ashcroft
From: Walter C. Schmidt, CPA
US Department of Justice
Fax: 202–307–1454 or 202–616–9937
Pages: Two including this cover sheet
Phone:
Date: 01/27/2002
Re: Microsoft Settlement CC:
See following...
WALTER C. SCHMIOT, CPA.
Massapequa Park, NY 11762 24/7:516.799.8300
Fax: 516.799.8350
eMail: walts@dorsai.org
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Fax: 202–307–1454- 202–6169937
—Email: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement.

Dear Mr. Ashcroft:

Microsoft continues in its role as a leader in the Information Technology industry. They do this not by luck, but because they are the best at what they do. Microsoft has given us, the business user, the ability to do things we only dreamt of a decade ago. They have done this efficiently and effectively, while at the same time their products have developed a network of satisfied users. It appears other companies are now trying to take advantage of Microsoft's current situation because they are unable to accomplish on their own what Microsoft has successfully done. To continue litigation, already agreed to by the Department of Justice, nine states and Microsoft, would prove to be a waste of time and money.

As an Information Technologies CPA, I continue to use Microsoft products as part of my day-to-day work routine. I do this after an ever continuing and exhaustive review of available products, and because I feel that they continue to be the best, the market has to offer.

The settlement currently under review is fair. Microsoft has agreed to terms that will allow other companies to be better equipped to compete. So far, the passage of time without litigation resolution has caused little harm. Nevertheless, this issue needs to be resolved before it does do serious harm to either Microsoft, the Information Technologies industry, or our country's economy. I would hope the Justice Department feels the same way, sees that the proffered settlement is indeed in the public interest, and submits its final report, recommending acceptance of the settlement.

Sincerely,
Walter C. Schmidt, CPA

MTC–00029559

4929 Canterwood Drive NW
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

[have personally founded six small businesses, each providing software and related services to companies and consumers. Also, I have worked for five of America's largest businesses, performing turn-around leadership to help restore them to competitive health. I know what it means to compete here in America, where entrepreneurship and a free market economy have historically been protected by our government.

I think it is a shame that the previous administration punished successful entrepreneurship and stifled creativity—and has left your department to bat cleanup. The Microsoft antitrust suit is the perfect example of this. I am appalled that the negotiated settlement has been rejected by half of the plaintiff states—without even giving it a: trial period and thus letting six months of negotiations go to waste. I think before rejection is considered, it is necessary to give the settlement a chance.

It is a disgrace that the settlement should be delayed to give Microsoft's opponents a bigger piece of the pie. I think the. settlement is fair as it stands. Microsoft has agreed not to enter into any contracts that would require a third party to distribute or endorse Microsoft products either exclusively or at a fixed percentage. Microsoft also plans to design future versions of Windows so that the operating system will support non-Microsoft software. I believe that these terms are more than reasonable.

In the long run, I believe the economy and the consumer would benefit from a speedy settlement.

I urge you to give your support to the settlement.

4929 Canterwood Drive NW II
Gig Harbor; WA 98332

MTC–00029560

TO:
FROM:
DATE:
??OTAL PAGE (Including Cover Sheet):
Robert She??s
I605 60th Place W
Muki??eo WA 98275
425–349–1207
January 21, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Mr. Ashcroft

The federal case against Microsoft is definitely without warrant. The Case is largely p??litical and has been up in the court system long enough. I find it appalling to consider the amount of taxpayer dollars that have financed this persecution of Microsoft. Having sated the above, I believe that the settlement that was reached signifies an important resolution of the issue. Throughout this process, Microsoft has made many compromises. Microsoft agrees under the terms of the, agreement to license Windows at the same rate to the larger manufacturers of PCs. Further, Microsoft will relax contractual restrictions upon PC manufacturers. These reass??ssed relations will definitely change the industry.

But clever people like me who talk loudly in resta??ants, sec this as a de??berate ambiguity. A plea for justice in a mechanized society. To conclude, the case against Microsoft is unfair, yet the settlement should be enacted as soon as possible.

But is suspense, as Hitchcock state"& in the box. No, there isn't room. the ambiguity's put on weight.

Robert Shelts DVM

MTC-00029561

January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NVY
Washington, DC 20530

Dear Mr. Ashcroft:

The antitrust suit against Microsoft has gone on long enough, and I would like to see this whole issue end on a bos??tive note. I feel that the settlement that has been reached between Microsoft and the Department of Justice is as fair as it is going to get, even though the terms go a little far in imposing restrictions and obligations on Microsoft.

What we have had here is the federal government punishing success. Microsoft has agreed to terms that extend beyond what was at issue in the initial settlement, and have done so ?? order to get this over with. They have actually agreed to give their competitors code and design information that composes the Windows operating system. This enables the competition to produce software and install in within Windows, and Microsoft can do nothing about it. Enough is enough.

The settlement is reasonable enough; please approve it as soon as possible. Thank you.

Sincerely,
Igor Alexeff

MTC-00029562

JAN-27-02 SUN 04:2S PM SMITH
8059676721
January 27, 2002
To: Attorney General John Ashcroft
FAX: 202/307-1454
From: Mr. & Mrs. James R. Smith
FAX: 805-957-6721
Re: Microsoft Settlement
Please see attached letter.
JAN-27-02 SUN 04:26 PM SMITH
8059676721
Mr. & Mrs. James R. Smith 340 Princeton Avenue Santa Barbara, CA 93111
January 25, 2002
Attorney General John Ashcroft US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The settlement that has been reached in the United States of America vs. The Microsoft Corporation is fair, and I believe that settling this case is in the best interest of the U.S. economy as well as the American consumer. It is vital that for us to have our best and brightest companies working at full steam in these times of economic uncertainty, and continuing this litigation will not benefit this nation.

The settlement is reas??nable; Microsoft will design future versions of Windows to be compatible with the products of other software companies, the company will also cease any retaliatory action against any of its competitors. A three-person technicla committee will monitor this settlement to ??sure Microsoft's compliance. These terms go above and beyond the original grievances of the suit. It is apparent that the parties who feel that the settlement does not go far enough are not looking for a solution to this case, but rather the perpetuation of their own po??cal motives.

Please continue you support of this settlement, the work that you have done to ensure that there is a place ?? free enterprise in the future of this nation has not gone unnoticed. Thank you. Sincerely,

James R. Smith
Willie Smith

MTC-00029563

Kenway Consultants, Inc.
2715 E Mill Plain Boulevard
Vancouver, WA 98661
(360) 696-2553
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have followed the antitrust suit against Microsoft for the past three years and feel that it is time this matter was brought to a close. Microsoft has been more than fair with regards to the settlement and I would like to see the Department of Justice finalize it as soon as possible. I am the president of my own company and have faithfully used Microsoft products. I have also used non-Microsoft software and have had no problems running it through the Windows operating system. I understand that one of the terms of the settlement is that Microsoft will have to license the internal codes to Windows that will allow competitors to design software that is compatible to Windows. Obviously there are companies who have accomplished this without going to court because I use non-Microsoft software and it runs fine.

I feel that this issue has turned into more of a political issue than an economic one. The government has wasted millions of tax dollars on this suit when there are more pressing issues at hand. This suit has become a way for other companies such as AOL to use Microsoft as a stepping-stone. They are taking advantage of what Microsoft has done because they were unable to do it themselves.

I have always been under the impression that this country is one who supports free enterprise, yet this suit has not backed that philosophy up. There will soon be a chance for the Justice Department to finalize the settlement that has been reached and I hope they do. Thank-you.

Sincerely,
Kenway Mead
President

MTC-00029564

COVER PAGE
TO:
FAX:
FROM: JERRY&BETTY PURCELL
FAX: 970-181-4009
TEL: 970-484-2345
PAGE [S] TO FOLLOW
COMMENT:

Please, I Ask you To Tell The De?? Justice That I STRONGLY Support The MicRoSOFT ?? ??'s heave well enough ALONE

MTC-00029565

STATE OF MICHIGAN
SENATE MAJORITY LEADER
State Capitol
Lansing, Michigan 48913
SENATOR DAN L. DEGROW
(517) 373-7708
27th District
FAX (517) 373-1450
TDD (517) 373-0543
January25,2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW—Suite 1200
Washington, DC 20530-0001
Re: Department of Justice Antitrust Lawsuit Settlement with Microsoft

Dear Ms. Hesse:

I write in support of the Department of Justice (DOJ) proposed settlement that was ordered by the United States District Court. The terms of settlement have been agreed to by Michigan's Attorney General.

It is my understanding that the scope of the settlement addresses not only what the United States Court of Appeals for the District of Columbia Circuit ruled on but also issues beyond their findings. Further, this settlement will be strictly enforced by an independent committee that will assure Microsoft complies with the judgment.

The DOJ settlement will resolve the case and allow the industry to move forward, thus, providing innovation for the industry and greater competition and protection for consumers.

Sincerely,
DAN L. DeGROW Senate Majority Leader
Michigan State Senate
DLD
aj

MTC-00029566

548 Corte Aguacate
Camaril10, CA,,93010
January 26, 2002
Attorney General John Ash croft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

The Department of Justice and Microsoft leached an agreement in November settling the antitrust suit brought against Microsoft. I am writing to say that I support this agreement, I feel it is fair and reasonable, and has already been approved by nine states. I see no need for further federal action, especially while Microsoft is negotiating with the remaining states to reach an agreement. Although the settlement calls for concessions that make antitrust precedent, Microsoft has agreed in an effort to end this case sooner rather than later. The longer this debacle ensues, the longer that the IT sector will focus on litigation, rather than innovation.

We must allow the industry and the economy to move forward. I feel that this settlement provides that vehicle. Thank you for your consideration of my opinions.

Sincerely,
Harry P. Lee
cc: Representative Elton Gallegly

MTC-00029567

MARLENE F. PARTYKA
611 Berkshire Lane
Des Plaines, IL 60016-7520
847-298-1594
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

t am taking the time to write you on behalf of myself and thousands of other Americans who I know are behind Microsoft. We support efforts at seeing the Microsoft Corporation freed of further litigation. The past three years have tested Microsoft's ability to produce innovative products, and I expect to see a boost to our economy once the law suit ends. Microsoft has not hurt the consumer.

In view of the fact that our nation prides itself on freedom of enterprise, I have difficulty, understanding why the government initiated this law suit in the first place. We are raised to believe that with hard work and innovation, one can achieve any success, but obviously, this is not true. The price for success is the fear of being criminalized by one's own government. Shameful.

I feel the settlement, proposed and accepted by the U.S. District Court and Microsoft, is the only solution at present to salvage the remaining ingenuity Microsoft has brought to this country and the world. I certainly hope this 60-day public comment period will make a difference in how the case finally ends.

It is time to let Microsoft off the hook and get them back m the field of creating software—if we take that freedom away from them, then what does that say about our country?

Thank you for your time in this matter.

Sincerely,
Marlene F. Partyka
cc: Representative Henry Hyde

MTC-00029568

20319 82nd Avenue SE
Snohomish, WA 98296
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear General Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The government needs to stay out of private business. The United States is the only country in the world that destroys its own industry. We have destroyed several major companies with our antitrust laws, take a look at Eastman Kodak and AT&T before and since government anti-trust involvement, if you think my position is not tenable. The government has now undertaken an attack on Microsoft. This issue needs to be put to rest. The government needs to get out of private business affairs and allow business to rise or fall in the marketplace. In order to put this issue behind them Microsoft has agreed to many terms. They have agreed to release part of the Windows base code to their competitors which cost them many years and millions of dollars to develop. This is exactly what the government did to Eastman Kodak, in the "public interest" with their chemical formulae and Kodak. once a world leader in their field, is now struggling to survive. Where is the public interest in the destruction of successful businesses that provide income and employment to many people and help the balance of payments? Once again, the government is trying to correct a perceived wrong (perceived by unsuccessful competitors and their elected representatives) at the expense of the innovative and successful. Microsoft and the technology industry need to move forward, the only way to move forward is to put this issue in the past. Please accept the Microsoft antitrust settlement and allow them to get on with the development of the best software business m the world.

Sincerely,

MTC-00029566 0001

MTC-00029569

January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to express my support of the decision by Microsoft and the Department of Justice to settle the antitrust lawsuit that has occupied federal court for three full years. Through the settlement, Microsoft will pay for its misdeeds by opening parts of its code to other software manufacturers so that they may better compete with Microsoft Windows. Microsoft will also have to make itself subject to the constant scrutiny of a technical committee that will oversee the implementation of the various terms of the settlement. The settlement addresses the needs and viewpoints of both the plaintiffs and Microsoft well.

Some of Microsoft's opponents would see the suit continue, this would be a great mistake. Consumers and the IT industry have already suffered too much in the suit. Continuing litigation can only serve to further harm consumers. The Justice Department must see that the proposed settlement becomes formal as soon as this public comment period concludes.

Sincerely,
Bob Moore
7025 116th Avenue SE
Newcastle, WA 98056

* Lets get this lowsuit over with Il has cln??gged or too longe other compp??es Are using this lowsuit to Compete.

MTC-00029570

215 S. Stale Street
Appleton, WI 549l 1
(920) 739-1021
Fax # (920) 739-1565
Fax
To: John Ashcroft
From: Jon A G??oves
Fax: 202-297-1454 Pages: 2
Phone:
Date: Jan. 27
Re: microsoft Settlement CC: Rep G??ven
One Odana Court,
Madison, WI 53719,
(608) 274-7744
January 28, 2002
Attorney General John Ashcroft
U.S. Justice Department
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

This letter documents my ,support for the proposed settlement of the Microsoft antitrust case, in accordance with the Tunney Act. This case has been negotiated for over three years under a court-appointed mediator, and it is time to implement the settlement.

There are many terms in the settlement which individually would be enough to make sure that competition is increased; the multitude of them should be a fantasy for Microsoft's competitors Microsoft has sworn to give its competitors access to all necessary Windows interface programs so that they can link with and promote their software products. In addition, Microsoft has agreed to allow the all-new Technical Committee to monitor its progress in complying with all provisions.

This case should be finalized soon. Thank you for your consideration.

Sincerely,
Jon A. Groves
CC: Representative Mark Green

MTC-00029572

January27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The Microsoft antitrust case was unnecessary to begin with,, but the fact that it has dragged out this long is absolutely ridiculous. I do not believe that the push for additional litigation is in the interest of justice; I am of the opinion that the remaining litigants just want what everybody else wants—to get into Microsoft's wallet. A settlement has been proposed that, while it may not be ideal, is acceptable to both Microsoft and the Department of Justice. Next week, the courts will determine whether the settlement is acceptable. I believe it is in the best interest of the consumer to settle now rather than to drag this case on any longer.

Microsoft and the Department of Justice have managed, after half a year of ex??ruciatingly complex negotiations, to reach a settlement that not only satisfies the concerns of both sides, but addresses the issues presented by antitrust laws as well. For example, Microsoft has agreed not to enter into any contract that would require a third party to distribute Microsoft products at a fixed percentage. This would prevent

Microsoft from shutting its competitors out of the market through exclusive contracts. Microsoft has also agreed to disclose source code and interfaces integral to the Windows operating system for use by its competitors.

I do not believe that the settlement is in any way deficient. In fact, I believe it would be best for the economy and the American public to finalize the settlement now. I urge you to take the appropriate action.

MTC-00029573

FROM : JOHN-BURKE
PHONE NO. : 13154514195
Jan. 27 2002 07:55PH P1
5773 Innsbruck Road
East Syracuse, NY 13057
Ph. 315-656-0081
Ms. Renata Hesse
Trial Attorney
Anti-Trust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

This letter is to advocate for a swift settlement of the federal lawsuit against the Microsoft Corporation (U.S. v. Microsoft)

I work for a company that relies on technology for its success. We service major corporate and manufacturing facilities by building and maintaining redundant backup safeguards for their critical energy systems. You could say that our business is to keep others in business.

How sad for this already damaged economy when the federal government jumps in to assist Microsoft's competitors in trying to put one of America's biggest success stories out of business by forcing a breakup. When consumers are damaged by monopolistic activities, that's anti-trust. When Microsoft beats its competitors in the marketplace, that's capitalism.

I have yet to see a situation where software/Internet consumers did not have a choice, and it would appear to me that many of the corporate entities screaming for fairness (Oracle, Sun, Apple, AOL/Time Warner [monopoly- look at my Time Warner cable bill if you want to see monopoly./]) are fully prepared to play hardball and are in no danger of starving anytime soon. Billion dollar companies are tough to view as victims.

We spent eight years under a President who liked to punish business success. Today the President is different, the country is different and the world is different. Let's do the right thing and help business be successful rather than strike them down when they become successful on their own.

Sincerely,
Taxpayer

MTC-00029574

Jan 27 02 06:55p
STAMATS
??
DATE
??
Trial Attorney
Antitrust Division
Department of justice
601 D Street NW, State 12.00
Washington, DC 20530

Dear Ms, Hess,

As part of a company that assists educational institutions with the development of effective student recruitment, medi?? and promotion, and the implementation of institutional enhancement ??es, I have a solid grasp on the importation of public image and public pressure.

When ??sseminating a message to the general public through the media, one key factor to acknowledge is that perception is rea??y Although consumers may or may not have seen the notions of bundling by Microsoft as det?? to the??,. ?? after reading the results of the proceedings many would feel differently.

Thanks to the revolutionary developments by such ??ology ??es as Microsoft and AOL, we have all or the facts and all sides of the story more ??at our fingertips than any generation before us. We are able to access information and communicate via ?? the World Wide web. Through your online sine ?? we are able to ?? the proposed settlement that you face and submit our own personal judgments to you based on our own research.

Upon reviewing this information of the suit and following the proceedings for file few years it has progressed, it is my belief that this is a reason??ble ??fer for a settlement in: the suit: and should be approved.

Sincerely, ??

MTC-00029575

STAMATS
CON?? INC.
Pat Collins
Judge Kolar Ko??ely
c/o Renata Hesse
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530 ??

Dear Judge Kolar Kottely:

Late last year the U.S. Department of Justice ??ully reached a settlement with the Microsoft Corporation. This settlement is corrently under your review for acceptance, and I am writing to ??ncourage your support for this agreement.

I work in a compelitive business where my hard work ??as paid ??. My success depends on the superior quality of my product and my ability to sell ??is product to my clients. I have a na??al inclination to admire any individual or company that finds success by working hard and having a good product. Microsoft is a great example of these ideals. Microsoft continues to be an industry leader because ?? provides the consumer with superior products and excellent service.

I have never understood why the government seemed determined to prose??nte a company that provides a reliable product, creates countless jobs, and s??lates both the economy and innovation. By bringing this case the government appeared to be m??ent on nothing more than g??ining ??procedented control over the technology in??ustry.

Now, over two years since the suit was brought, calmet heads now seem to be provailing. The DOJ and Microsoft have fashioned an agreement that represents a true compromise. New reports indicate that Microsoft will be required to share ??tual prop??rfy and must guarantee flexibility to comp??ter manufactures that equip their products will Microsoft operating systems.

More importantly though, this settlement represents a vi??tory for the ??omy, entreprencurs, and consumers. This settlement moving forwa?? will once again open the door of inves??ment and innovation.

Thank you.
Pat Collins

MTC-00029576

HOUSE OF REPRESENTATIVES
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04333-0002
(207) 287-1400
TTY: (207) 287-4469
Ken Honey
Chapel Street
F.O. Box 6
Roothbay, ME 04537
Telephone: (207) 633-5500
Fax: (207) 633-5092
Renata Hesse
Department of Justice
601 D Strect NW, Suite 1200
Washington. DC 20530

Dear Ms. Hesse,

Please accept my support of the proposed settlement between United States vs. Microsoft Corporation.

Rather than beating Microsoft in the free market, AOL and Sun and others engaged the Justice Department to do it for them. Their true intention has clearly been to deny consumers their market choices and instead force them into paying higher prices for lesser quality products. Competition is the key, not government intrusion.

Without competition, the high technology industry would be completely insignificant. Microsoft, Sun. AOL, Netscape, and others all drive each other to lower prices and better products, all the to benefit of consumers.

The time has come to settle this case. Taking into consideration the poor condition of the economy, the last thing we need is additional inane litigation.

Sincerely,
Ken honey
State Representative

MTC-00029577

FROM: CA
PHONE NO. : 207 848 3685
Jan. 19 2002 09: 35AM P1
HOUSE OF REPRESENTATIVES
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002
(207) 287-1400
TTY: (207) 287-4469
Donald P. Berry, Sr.
115 Sca??smont Road
Relmont, ME 04952
Telephone: (207) 342-5675
Fax: (207) 342-3045
E-Mail: chema??@northlen??ink.com
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

As a former aducator and current legislator I am writing to express my support for the proposed settlement reached by Microsoft, the Department of Justice and several of the State. In reviewing the points of the settlement I see several benefits perticu??arly for educators and our schools. In accapting this proposal and ending this costly process for all parties involved we also send a message to the American taxpayers that we are being responsible. First in holding large companies accountable for their actions and secondly in knowing when a point has been reached, after which further expenses in non productive.

I believe that Microsoft has learned, ?? all good companies do, that they needed to change some of their business practices and policies. Secondly, they have r??ched an agreement that appears to be beneficial to many of our nations schools and their students, by providing resources that will help train and prepare them for the future. This appeals to me because it puts the resources to work, rather than a cash settlement that might allow politicians to wind??all that would not be as productively distributed.

I also see it as beneficial to the parties Involved. The point has been made to Microsoft, a fair settlement has been negotiated and I see no further need for added legal expenses to the government or Microsoft. It Is In everyone's beet Interest to move on Thank you for consideration of my comments and for all you do.

Sincerely.
Donald P. Berry,
Sr. State Representative
District 109
Belmont, Lincolnville, Morrill, Searsmont, Searsport,
Swanville and Waldo
Printed on recycled paper

MTC-00029578

HOUSE OF REPRESENTATIVES
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Stavros J. Mendros
135 Hogan Road
Le??? ME 04240
Telephone: (207) 783–6475
E-Mail: ???tav@yahoo.com
January 18, 2002
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

As a businessman involved in the computer field I wish to express my support for the proposed settlement reached by Microsoft, and the Department of Justice. I have reviewed the settlement and find many aspects of it to be unique and beneficial to all Americans, I have come to realize the critical importance of training and ongoing development for our teachers and young people. Our communities will benefit by the opportunities provided by these future leaders properly trained in the latest technology. This is a greater benefit to our society and workforce than any other program the government could design using a cash penalty assessed on Microsoft. I also believe Microsoft has and will benefit from this experience. They have learned the need to adjust their policies and procedures; there is no a greater needs to further punish them. It to also, o time to move on from this long drawn-out legal dispute, so the people of this country can see the continued healing their our nation needs, we don't need to see more division, but we do need to see positive resolution and I believe that is what this settlement can Offer.

Thank you for consideration of my comments.

Sincerely,
Stavro?? J. Mendros
State Representative

MTC-00029579

HOUSE OF REPRESENTATIVES
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E-Mail:: terryrnck@maine.rr..com
January 18, 2002
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

As a businessman and legislator I wish to express my support for the proposed settlement reached by the court appointed negotiator with Microsoft. and the Department of Justice. I have read the settlement and find many parts of it to be a win-win option for all parties, I gee R as a hotter alternative than e cash fine that will disappear into the federal government's coffers. The practical use of technology and the training of our youth is the key to our future. Our communities will benefit by the opportunities provided by these future leaders properly trained in the latest technology. This is a greater benefit to our society and workforce than any other program the government could design.

Microsoft has end will benefit from this experience. They as any smart and successful business will adjust their policies and procedures there is no need to further punish them. or to wreak havoc on the public members who have invested their retirement or children's college savings in Microsoft stock. It is In all Of our interests to resolve this matter and move on in a productive way.

Thank you for consideration of my comments,

Sincerely
Terrence P. McKenney
State Representative

MTC-00029580

JACK GAMBETTA, CFP
Certified Financial Planner
ICFP Registered Practitioner
Registered Investment Advisor
Registered Representative or
Mutual Service Corporation
Member NASD and SIPC
January 27, 2002
Attorney General John Ashcroft:
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am a financial planner. I have watched the economy go into a tailspin because of the lawsuit brought against Microsoft. This lawsuit put fear throughout not only the tech industry, but also the entire economy itself. We now hear Congress constantly talking about ways to bring the economy back, yet hamstrings the one company that is the major engine of our economy—Microsoft. Microsoft bas been charged with an antitrust suit, the basis of which is abuse of the consumer. Yet, Bill Oates has done nothing more lima help the consumer with the innovations he has created. There is a standardization now of computer software where there was none before More people can use and understand computer programs than before. Prices are lower, Microsoft has contributed so much to our technological expertise; the faro that the company is now being charged with this lawsuit is ridiculous,

Further, I am appalled that the legal system should be brought into what is basically a battle between technological companies, First, what do lawyers know about the computer industry? And how can these self-same people make decisions affecting the use of it? Tilts whole process was a result of Microsoft rivals trying to rein Microsoft in through the legal system; however, the legal system is not just. just legal, influenced more by politics than any real concern over questionable business practices.

Microsoft has agreed to many terms demanded by the Department of Justice that go far beyond the original suit, Microsoft tins agreed to design future versions of Windows with a device to, make it easier to promote non-Microsoft software; Microsoft has agreed to open up to third party developers more of its copyrighted coda to aid in development of third party programs; Microsoft has agreed to a technical committee to oversee compliance. This is more titan a lot of companies would do.

I urge you to gave your approval to this agreement and allow us to move on.

Sincerely.
Jack Gambetta, CFP
email: jagambetta@cs.com
WEB.JACKGAMBETTA.COM
P.O. Box 100,
One Kent Circle,
Terrace Park, OH 45174
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Eden Park
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Cincinnati, OH 45202–6005
(513) 241–5000

MTC-00029581

FORREST H. MUIRE, JR.
908 PRINCETON MIDLAND, TEXAS 79701–4159
915–682–5087
email, lmuirc@swbell.net
FAX 685–1091
January 23, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20550–0001

Dear Mr. Ashcroft:

Please accept the proposed settlement of the Microsoft anti-trust case. As a long-time user of Microsoft products, I see this agreement as the most practical solution for competitors to thrive, short of a break up that would risk consumers losing a quality, stable presence in the software industry.

Seemingly inspired by a lack of monetary support from the last administration, this government intervention into the business world has been off base from the start. With this deal, Microsoft's market position is clearly weakened, so any further litigation would be an even more misguided attempt to manipulate the marketplace on behalf of the "consumer." Microsoft will allow computer manufacturers broad freedoms to configure Windows with the software of their choice without preference in future licensing deals and will provide competitors with extensive access to its internal code, among other agreed measures to expand competition.

Considering the constant verification by a committee of experts to monitor the deal, I ask for you to support for this overly fair settlement. The IT industry and the economy will greatly benefit from the return of stability to the software marketplace. Thank you very much for your support.

Sincerely,
Forrest Muire

MTC-00029582

HOUSE OF REPRESENTATIVES
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Car??el. ME 04419
Telephone: (207) 848–5123
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington. DC 20530

Dear Ms. Hesse,

I understand we are in a period where you are looking for public comment on the proposed settlement with Microsoft. In light of this I would like to urge you to accept the proposed terms and resolve this mater for the following reasons.

I believe Microsoft has been significantly and negatively impacted by this more than three year suit. True some of their practices may have been heavy handed and even detrimental to competitors, but those same competitors such as AOL, Sun and Oracle have used the weight and resources of the state and federal legal system to attack and distract Microsoft. I say it is time to end this legal attack, and stop the use of taxpayers monies. Microsoft bas agreed to a very reasonable and, fry for the public and our schools, a extre??ly generous and beneficial program to compensate fox any supposed harm that was done.

I strongly encourage you to move forward on resolving this matter and ending the battle that has consumed so much time and resource of the government and associated parties.

Thank you very much for all your efforts on behalf of the American people and for reviewing my comments.

Best Regards,
Russell P. Treadwell

MTC-00029583

THE NICHOLS STREET ASSOCIATION
138 NICHOLS STREET
NORWOOD, MA 02062
Loretta Fehm
January 25, 2001

I am writing to have my thoughts on the proposed settlement between Microsoft and the United St Department of Justice entered into the record in accordance with the Tunny Acts requirement of public Comment on such settlements, I think the settlement plan is a good one, and one that reaches the necessary balance between antitrust enforcement and the need for as competitive a software market as the U.S. economy can have, Consumers benefit from a competitive market in ways that the kind of regulations previously argued in this case would nullify. Whereas a free and competitive market will drive down prices and hasten the pace of innovation, a heavily regulated market, or a software market including a carved-up Microsoft would stow the pace of innovation and allow companies to sit on their hands and let prices gradually rise.

Consumers deserve the best high tech market available to them, and the best high tech market is the one that innovates, The innovations of the last decade were primarily responsible for the creation of jobs, Investment; and wealth at rates never before witnessed In any economy anywhere. The success of the "New" Economy In the i990s was not a boomlet, in my view, but a harbinger of things to come In the future, If the government will allow consumers and entrepreneurs to successfully guide the market toward higher levels of competition and innovation.

I hope my thoughts can be entered into the record and also hope the court sees fit to approve the settlement proposal. It is the best way for the economy to start to put. this recession behind it and begin to build for the future.

Sincerely.
Loretta Fehm

MTC-00029584

January 15, 2002
Judge Kolar Kottely
U.S, Department of Justice, Antitrust Division
601 D Street. NW, Suite 1200
Washington, DC 20530

Dear Judge Kottely,

I am writing to express my opinion as a consumer in the case of the U.S. Department of Justice and state attorneys general versus Microsoft.

This case has been loitering and squandering our hard-earned tax funds for long enough, As a consumer of Microsoft products, I do not feel cheated by the company. Even the limited number and size of computer stores here In Des Moines, we nave a choice in brands of spreadsheets, operating systems, and word processors. When setting up Internet access on a new computer, there was always the choice between Notscape Navigator or Internet Explorer as a web browser. This case came about for the protection of consumers. Yet, we as taxpayers are more concerned about spending tax money to pursue this case than we ever were about Microsoft being a monop??y Please give thoughtful consideration to settling this case quickly.

Thank you,
Lore McManus Solo, APR
Public Relations Director
Strategic America

MTC-00029585

Judge Kolar Kottely
Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge Kolar Kottely:

There is not an American who has not been touched by or seen the impact of the slowing national economy. As the chief executive officer of a strategic marketing and communications firm, I have witnessed first hand what the slowing economy has meant for our clients and our employees. Across ??owa, we have seen many of our most important employers either close their doors or endure severe layoffs in these troubled economic times.

Almost every decision our government makes right now has a direct impact on the health of our national economy, The decision whether to accept the Department of Justice's settlement with Microsoft is no exception.

Microso?? is one of the most successful corporations in the country. The growth of this company has translated into thousands of jobs, new innovation and the creation of still more technology-based companies. Unfortunately, as the economy began to inch toward recession, the government began its legal wrangling with Microsoft. Next came the major decline of technology stocks. The creation of new technology based companies and jobs slowed as well.

Settling the Microsoft case will help give the economy the boost it needs toward recovery. Plus, the conditions of the settlement were fair for all involved. Under this agreement, Microsoft must allow computer makers to remove their software and they will be prevented from punishing companies that promole Windows competing products. A neutral commission will oversee all elements of the settlement.

I respectfully urge you to accept the Department of Justice's settlement with Microsoft.

Sincerely,
Michael R. Schreurs
Chief Executive Officer
Strategic America

MTC-00029586

PAULA ENLOW
702 Laramie Street
Manhattan, KS 66502
January 23, 2002
Ms. Renata Hesse
Trial Attorney
U.S. Department of Justice, Anti-trust Division
601 "D" Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to express my opinion regarding the Microsoft anti-trust case settlement recently proposed by the Bush administration.

I believe that if the court wishes to act in the best interests of all Americans, it will approve the settlement, end this case and allow Microsoft and the American tech industry to move forward unencumbered by ongoing litigation. Continuing to pursue this matter in court is a waste of precious time and energy and sets a very bad precedent for undue government interference in private business. Even under the terms of the settlement, Microsoft will be operating under a level of scrutiny that I feel is unnecessary given the facts of the case. However, I believe that the Bush settlement offers our best hope for moving onward and upward, and I urge the court to accept that settlement.

Best regards,
Paula Enlow

MTC-00029587

TIM HOLLOWAY
600 N. 12TH STREET
INDEPENDENCE, KS 67301
January 21. 2002
Judge Kolar Kottely
Attention: Renata Hesse
U.S. Department of Justice, Antitrust Division
60t D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge Kolar Kottely,

I've seen firsthand the blows the economy has been dealt in the last year. As an aeronautical technician, I have seen many in our industry lose their jobs due to cutbacks resulting from the precarious state of the economy.

The economy is soft. In addition to layoffs, the public has also seen a decrease in their investment portfolios. The public and our economy need to be reassured. Approving the current Microsoft settlement proposal is a step toward that reassurance. That assurance will restore investor's faith, providing cash flow for innovation and a demand for employment in one of the driving sectors of our economy—high tech. The boom of the 90's and even 2000 was driven by the health of the technology sector. I believe we can help turn our economy around if we help the tech industry get back on its feet. In my opinion, settling the case against Microsoft is the first step in that direction.

I appeal to you and your wisdom to support settlement of the suit, allowing America's economy to rebound at this time when we all could use some encouragement.

Sincerely,
Tim Holloway

MTC-00029588

January 22, 2002
Ms. Renata Hesse
Department of justice Antitrust Division 60I
D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

Last Er??day the drop in the Dew and NASDAQ were the largest since just after the attacks of September 11th The catalysts were cautious forecasts from two technology stock market ??ants IBM and Microsoft.

This sector has see a great deal of change and turmoil over the past several years on both .sides of the pendulum- sky level highs and rock bottom lows. Many peaks and valleys have stemmed from the Microsoft antitrust case just prior to the case, and even for so. me time into it, many would argue that loch stocks were infla??ed. It was the belief of several financial analysts that the valleys ca??sed by the case were necessary to deliver a reality check to ??ch investors. All of this may in fact be trite.. Today, however, is a different day, a different time, and our nation's economy is facing very different challenges.

Disheartening news continues to surface in the Wall Street Journal during this time of economic downfall—airline difficulty, telecommunication battles, and the technology industry's downturn. Stories like the one on Friday take the market on another sharp decline taking the Dow down 78 points and the Nasdaq down 55.

As part of the investment and insurance sector, these are issues that bit very close to home both for my clients and myself. With the obvious effects this case has had on the market, I believe k is prudent during this time of economic instability to settle this case.

Thank You,
Brian Hewitt
President
Group Benefits, Ltd

MTC-00029589

Thomas & Loft Stambaugh
8501 Bayview Drive
Wildwood Crests NJ 08260
(609) 522-2754
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I am writing you to inform you of my opinion in regards to the Microsoft settlement issue. I support the settlement that was reached in November. This settlement will end three years of costly litigation and will give our economy the boost it needs. Please support this settlement so Microsoft can get back to business.

This settlement contains many provisions that will benefit the technology industry and companies attempting to compete with Microsoft. Under this agreement, Microsoft has agreed to grant computer makers broad new rights to configure Windows to promote non-Microsoft software programs that compete with programs included within Windows. Microsoft has also agreed to share more information with other companies, such as various internal interfaces within Windows and any protocols implemented in Windows. Microsoft is more than willing to carry, out all these provisions if it delivers a resolution to this dispute.

Again, I urge you to support this settlement so our resources can be funneled into more important issues. Thank you for your support.

Sincerely,
Thomas & Lori Stambaugh

MTC-00029590

DOROTHY GRATION
1004 FEARRINGTON POST
PITTSBORO, NC 27312
FAX: 919-542-3090
PHONE: 919-542-1963
FAX TRANSMISSION SHEET
TO:
FAX:
FROM: Dorothy Gration
DATE:
PAGES (including cover sheet):
MESSAGE:
1004 Fearrington Post Pittsboro, NC 27312
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my gratitude that this whole mess involving Microsoft and the federal government looks as though it may finally be coming to an end. I have never agreed with the federal government's pursuit of Microsoft and have long thought of it as a waste of taxpayer money, as well as an attempt to sully the reputation of someone who has lived the American dream. That being said, this settlement offers an opportunity for both parties to walk away satisfied and should be accepted/implemented as soon as possible. The settlement agreement contains provisions that provide for increased competition, the fostering of innovation and greater accountability. The highlight of this agreement is Microsoft's agreement to share its most valued intellectual property in order to advance the industry.

This is a settlement that is three years too late and I strongly urge that it is implemented as soon as possible. Thank you for your efforts in Washington.

Sincerely,
Dorothy Gration

MTC-00029591

January 26, 2002
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o: Renata B. Hesse
Antitrust Division, U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Judge Kollar-Kotally:

I write to express my concerns about the proposed settlement of the Microsoft cases. As the executive director of business/trade association, I consider myself to be very pro-business and generally supportive of free enterprise and open competition. However, in order for the free enterprise system to properly work, there must be an opportunity for businesses to actually compete against each other! I respect Microsoft for what they have been able to accomplish, but I believe Microsoft has gone too far in some of its practices. As a result, a competitive market in their sector no longer exists, and businesses and consumers are hindered and frustrated. I understand that a settlement has been proposed that the Department of Justice has found acceptable. I further understand that various attorney generals have also found the proposed settlement acceptable. The Attorney General of the Stare of Utah is not one of them. I support his position and believe that the term, of the settlement are too lenient on Microsoft. Adoption of the proposed settlement would do nothing but delay the imposition of reasonable sanctions, prohibitions, and conditions on Microsoft until the next government action is taken, if any. In the meantime, Microsoft would essentially walk away with a hand-slap and the ability to continue its anticompetitive behavior. This could also set a precedence that would allow other businesses to take similar control of a market, because they know that they could get away with only lenient punishment, if" any.

I ask the court to conduct hearings to determine an appropriate remedy that will reasonably penalize Microsoft for past actions and prevent future violations of antitrust laws. Such an action will only be in the best interest of all businesses and consumers.

Sincerely.
Ann Gambr??o, executive director
Utah Hotel & Lodging Association
cc. The Honorable Mark Shurtleff. Utah Attorney General Jonathon Jaffe, The MWW Group

MTC-00029592

January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, N W
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to your office because I support Microsoft and its desire to settle the antitrust lawsuit that the government brought against them. The case has proven to be very lengthy, and I feel that if the government's case were solid, they would have been able to prove it by now. In the meantime, Microsoft's business has been adversely affected.

The settlement proposed several months ago offers Microsoft's competitors an unparalleled opportunity for market growth. Microsoft is boldly agreeing to broad changes, between disclosing Windows program codes it developed to other companies, as well as enabling computer users and manufacturers to remove Internet Explorer and other Windows-based programs from their PCs.

Most importantly, the settlement does not seek the breakup of Microsoft. The company clearly wants to put this dispute behind them. I hope you agree and will settle the case.

Sincerely,
Nadine Hearth
3426 Whitnor Court
Sacramento, CA 95821
Telephone: 916–483–7723

MTC-00029593

FAX COVER SHEET
Herbert L. Stevenson
602 Fifth Street #1003
Kirkland, WA 98033
Tex 425 828 8575
Fax 425 889 0659
SENO TO Company name Depf. Of Justice
From Herhert L. Stevenson
Attention Ms. Renata B. Hesse Ds?? 1—27—62
Office location Office location
Fax number Phone number
(202) 301–145?? (425) 828—8575
COMMENTS

The Microsoft proposed settlement seems more than fair. The #35 million spent to punish Mirosoft is an excessive amount of taxpayer money; especially since the company has done so much for the U.S. Economy

MTC-00029594

January26,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support Microsoft and its desire to settle the antitrust lawsuit that the government brought against them, I believe it is in the best interests of our country and the economy. This lawsuit has brought untold damage to the economy and it was one of the factors leading to the recession. I am sure you are aware that Microsoft is a leader in its field and spawned many opportunities for other companies. Our country is presently the leader in the computer field. Don't prolong this any more and allow for the possibility for other countries to take the initiative away from our country. It potentially has security impacts that can only be measured in future developments. I hate to use an old cliche but as Microsoft's business goes so goes America's lead in this field. Don't delay the settlement.

As a graduate of the University of California in electrical and electronic business, I believe that I have an inside view of the problem. While Microsoft is a fierce competitor on one hand, they still allow many opportunities for others to enter and succeed in the business. Further delay in this suit will only cause further erosion of these opportunities. Believe me there are many legitimate actions that Microsoft can exercise that will decrease these opportunities. Like any good management plan, i1 must include protection of the company and its stockholders.

The settlement proposed should be grabbed and taken to the bank.

The most important aspect of the proposal is that it will not break-up Microsoft. I hope you agree and settle this case now.

Sincerely,
Richard Hearth
3426 Whitnor Court
Sacramento, CA 95821
Telephone: 916–483–7723

MTC-00029595

January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The Department of Justice's decision to settle the Microsoft antitrust case is reasonable and should be supported. The case has dragged on for long enough, and has had a very detrimental impact on the tech industry as well as our economy. Further litigation might be good for the litigators of the county, but will do little else other than act to further slow down an already slow business environment.

The terms of the settlement agreement are fair. With the assistance of a mediator, the parties engaged in extensive negotiations. As a result, the remedies provided by the settlement agreement are well thought out and provide adequate solutions to the complaints lodged by the plaintiffs. Upon the approval of the settlement agreement, Microsoft will change many of its business practices in an effort to restore fair competition to the software world. Microsoft has agreed not to enter into any contracts that would require third parties to exclusively promote or distribute Windows. They also agreed not to take any retaliatory action against those who distribute software that competes with Windows.

I see no need for protracted litigation in this case, especially in light of what Microsoft is willing to do to resolve the case.

Thank you for working toward a resolution of this case. It is time to move on.

Sincerely, ??
Glen A. Phillips

MTC-00029596

JACQUELYN R. REESER
5827 Hollyhock Drive
Lakeland, FL 33813
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

With the pending results of the Microsoft settlement, I am pleased with the outcome. This agreement should reestablish Microsoft on one main issue...business development. As a self-employed person I know that your reputation can make or break you. The fact that Microsoft extended restrictions and obligations to products and technologies that were not found to be unlawful by the Court of Appeals, convinced me that they are more interested in new growth and development of their company.

Microsoft will now share technology information with its competitors that will allow them to place their own products on Microsoft's operating system. Additionally, Microsoft will use a uniform pricing list when licensing Windows out to the twenty, largest computer companies in the nation. I give my full support to Microsoft's settlement and wish them the best.

Sincerely, ??
Jacquelyn R. Reeser

MTC-00029597

J. R. Mitchell
10315 159th Avenue SE
Snohomish, WA 98290
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I think the Microsoft antitrust case was ridiculous to begin with; it was all a matter of Microsoft's bitter competitors trying to retaliate against Microsoft's success and innovation. As part of free enterprise, their competitors had die opportunity to be just as successful as Microsoft- However, they just weren't as smart and didn't create such exceptional products. That's certainly no fault of Microsoft's. I use Microsoft's products ever3: day in my job as a Computer Specialist. I could give you several reasons why I prefer Microsoft's products to anyone else's.

Microsoft is conceding a great deal in this settlement. It is more than fair to their competitors, if not giving them an unfair advantage that they don't deserve. Microsoft is giving away their technology to their competitors and has agreed not to retaliate against software or hardware developers that come up with competing products. They've also agreed to make their Windows software more cross-platform compatible so that users and OEMs can easily configure Windows with other software.

Please accept this settlement for the good of the country. Microsoft is not harming consumers and this settlement unquestionably does not harm their competitors. Please help put a long-awaited end to this lawsuit.

Sincerely, ??

Jimmy R. Mitchell

MTC-00029598

JOHN EBERT
5910 PROVMENOR GOUNTRY GIUB DRIVE
GHARLOTTE, NORTH GAROLINA ??
January 26, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue SW
Washington, DC 20530

Dear Mr. Ashcroft,

The current status of the American government's case against Microsoft Corporation concerns American citizens like me. It threatens the principles of free enterprise in our country. Microsoft has been targeted because of its overwhelming success and innovation. Other companies have been saddled with government oversight for the opposite reason. The American people axe happiest when businesses are allowed to do what they do best without outside influence. Government interference is rarely a solution. Continued action by the government against Microsoft will likely have negative effects on the American consumer. This is no time for that. Microsoft has attained its position in industry because it is innovative, not predatory. Microsoft has created jobs without political interference. It is an economic engine without rival.

The settlement at hand is fair and just. It should be embraced so that we an all see Microsoft get back into the business of changing people's lives through innovative software technology. Our country desperately needs engines like Microsoft to bee running at full capacity again. Please consider accepting the present settlement. Everyone will receive considerable benefit. Thank you in advance for your attention to this matter.

Sincerely yours,

John Ebert

MTC-00029599

OUTGOING COMMUNICATION
Raytheon Missile Systems Company
P.O. Box 11337 (Bldg: MO2)
Tucson, Arizona (USA) 85734–1337
Raytheon Missile Systems Company
1511 E. Hermans Road
Tucson, Arizona (USA) 85706
TO: RENATA B. HESSE NO. OF PAGES: 7 (INCLUDES COVER SHE??
TELEPHONE:
FAX: 202–307–1454 DATE: 27 JAN 2002 202–616–9937
FROM: KENNETH J. HENDRICKSON VOICE TELEPHONE: (520) 7943853
E-MAIL ADDRESS: Kenneth—J—Hendrickson@west.raytheon.com
ALTERNATE (520) 794–0603 FAX: (520) 794–4860
FAX NUMBERS: (520) 794–9087
CC:

COMMENTS ON PROPOSED MICROSOFT SETTLEMENT

Date: 27 January 2002
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
From: Kenneth J. Hendrickson
2747 W. Anklam Rd., Apt E.
Tucson, AZ 85745–3705

Dear Renata,

Executive Summary:

I strongly urge the Department of Justice (DoJ) and the Court to modify the Proposed Final Judgment (PFJ) in order to achieve an effective remedy against a continuing Microsoft monopoly, and the harm to consumers that will inevitably continue to result.

The modifications I recommend are:

1 Microsoft must be required to publish COMPLETE and ACCURATE documentation for all Application Programming Interfaces (APIs), protocols, and file formats, for *ALL* Microsoft products. This should include a requirement to publish full and complete source code. However, as the source is likely to be very difficult to understand, Microsoft must also be required to fund an independent documentation effort to study the source code and completely and accurately document it. Such documentation and source code must be made available AT NO CHARGE to anybody who wants it, via an Internet download. In addition, Microsoft must NOT be allowed to require a Non-Disclosure Agreement (NDA) in order to obtain this important information.

2 Security considerations must NOT be an excuse for continuing the harmful practice of closed, hidden, and/or undocumented APIs, protocols, and file formats. All algorithms, APIs, protocols, and file formats, must be COMPLETELY and ACCURATELY documented, *ESPECIALLY* when those algorithms, APIs, protocols, and file formats are needed for security and authentication. Sections III.J1 and III.J2 should be entirely stricken from the PFJ.

3 Microsoft must not be allowed to use its patents offensively. A patent is a government granted monopoly. As Microsoft already has a monopoly (even without government granted patents), and has been convicted of illegally ABUSING that monopoly, the government should not be in the business of granting Microsoft more monopoly power with which to abuse its competitors. The PFJ should be amended to forbid Microsoft from using its patents offensively. Before preparing my comments, I read the following documents in their entirety:

1 Original Complaint
http://www.USDoJ.gov/atr/cases/f1700/1763.htm

2 Findings of Fact
http://www.USDoJ.gov/atr/cases/f3800/msjudgex.htm

3 Stipulation and Revised Proposed Final Judgment
http://www.USDoJ.gov/atr/cases/f9400/9495.htm

4 State's Proposed Final Judgment
http://www.NAAG.org/features/microsoft/ms-remedy—filing.pdf

5 Competitive Impact Statement
http://www.USDoJ.gov/atr/cases/f9500/9549.htm

Justification for my Recommended Modifications:

Full Disclosure of Algorithms, APIs, Protocols, and File Formats:

I was very heartened to note that the PFJ would require that Microsoft must publish details of its APIs (section III.D. and others). However, as published, this provision will be largely ineffective, because it does not include Free Software and Open Software development efforts.

Microsoft's own lawyers indicated in 1999 that Microsoft views Linux and the GNU GPL license as its greatest threat.

http://www.OReillyNet.com/pub/a/mediakit/linux.html

Microsoft produced a white paper on the GNU GPL license, in an effort to dissuade companies from trying and/or using Linux.

http://www.Microsoft.com/business/downloads/licensing/Gp1—faq.doc

Although Linux and the Free Software movement are not yet a true competitor to Microsoft (as stated in the Findings of Fact), Linux offers the best hope for a future competitor to Microsoft. In light of this, the DoJ and the Court should tailor the PFJ such that it does not lock out Free Software and Open Software developers from the fruits of the PFJ.

Free Software and Open Software developers must be granted access to COMPLETE and ACCURATE documentation on *ALL* algorithms, APIs, protocols, and file formats for *ALL* Microsoft products, without any cost, and without any nondisclosure agreement (NDA) requirements.

The most complete and accurate documentation is the actual source code, and so that should be made available. The source code, however, is not enough. It is likely that the source code will be very difficult to understand; therefore Microsoft must also be required to fund an independent documentation effort to study the source code and completely and accurately document it. Such documentation and source code must be made available at no charge to anybody who wants it, via an Internet download, without any requirement for an NDA.

Without this extremely important provision, the most important potential competitor to Microsoft's monopoly will not be able to compete. In addition, without this important provision, Microsoft will be able to *CONTINUE* using closed and secret APIs, Protocols, and File Formats to extend, enhance, and broaden their existing monopoly. It is absolutely necessary that the PFJ be amended to require that Microsoft COMPLETELY and ACCURATELY document *ALL* of their algorithms, APIs, protocols, and file formats, and provide this information at no charge and without NDA requirements to everybody, via a free Internet download.

Security:

The security technique espoused in the PFJ is "security through obscurity". The idea is that if nobody knows how authentication or encryption is accomplished, they will not be able to bypass the authentication routines or break the encryption. There is a significant problem with this idea (and thus with the PFJ): IT IS FALSE! It is widely known and accepted within the security community that "security through obscurity" is no security at all.

SECURITY THROUGH OBSCURITY IS NO SECURITY AT ALL.

The following papers detail why "security through obscurity" is no security at all:

http://Slashdot.org/features/980720/0819202.shtml

http://www.VnuNet.com/Analysis/1126488

http://www.WideOpen.com/print/101.html

http://www.NightfallSecurity.com/whitepapers/obscurityeu.html

http://www.Albion.com/security/intro-8.html

http://www.eCommerceTimes.com/perl/printer/11060/

http://Adjacency.org/essays/securitythroughobscurity.html

http://www.Treachery.net/jdyson/toorcon2001/

Many more examples exist; they can be found with a Google search.

http://www.Google.com/search?hl=en&q=%22security+through+obscurity%22&btnG=Google+Search

This is perhaps the most important comment I am making, so I will repeat this important point:

SECURITY THROUGH OBSCURITY IS NO SECURITY AT ALL.

Bruce Schneier and Adam Shostack, two of the world's foremost experts in the area of computer and network security, have given a list of recommendations for Microsoft to follow in order to achieve more secure products, after the recent announcement by Bill Gates that Microsoft will henceforth be concentrating on security.

http://www.SecurityFocus.com/news/315

IT WILL BE NOTED THAT NOWHERE IN THIS LIST OF RECOMMENDATIONS IS THERE ANY NOTION THAT ANYTHING SHOULD BE KEPT SECRET. Instead, the recommendations from Messrs Schneier and Shostack encourage complete openness, full and accurate documentation, and a waiting period before Microsoft's proposed protocols and encryption methods are implemented. This is in order that the security community may examine Microsoft's proposed protocols and encryption methods and algorithms in order to find weaknesses, and repair those weaknesses, *before* they are implemented and insecure systems are built and fielded.

Messrs Schneier and Shostack also encourage Microsoft to publish its entire source code, even though they have no hope that Microsoft will do this. The source code should be published so that the security community can examine Microsoft's *implementations* for flaws and weaknesses, and suggest remedies for those flaws and weaknesses. The most well designed security protocols and encryption algorithms can be made worthless by poor implementation. The only way to check the implementation is to have access to the source code.

It is in the best interests of all those who must use Microsoft products, and all those who use computers on networks that include Microsoft products (which includes the entire Internet), that Messrs Schneier's and Shostack's recommendations are adopted by Microsoft. Paradoxically, it is also in Microsoft's best interests to adopt *ALL* of Messrs Schneier's and Shostack's recommendations!!

If Microsoft is forced to COMPLETELY and ACCURATELY document *ALL* algorithms, APIs, protocols, and file formats—without restriction—and make the documentation and source code available to everybody without charge, and without any NDA requirement, bugs will be found in Microsoft's code and fixes will be suggested, just as they are for other open source OSes such as Linux, FreeBSD, NetBSD, and OpenBSD. Microsoft's products will improve as a result of this process. Microsoft will receive the benefit that all Open Source software receives: bug fixes, increased security, and increased stability, all at no cost to Microsoft.

Microsoft will be opposed to this requirement, arguing that their business will be destroyed by forcing their code open. This is not true! COPYRIGHT LAW AND CONTRACT LAW PROVIDE ALL THE LEGAL PROTECTION THAT MICROSOFT REQUIRES TO MAINTAIN THE VALUE IN THEIR SOURCE CODE. In the end, however, it does not matter if Microsoft benefits from the PFJ. What does matter is that Microsoft's monopoly abusing powers are restricted, and that the DoJ and the Court create the possibility for competitors to Microsoft to arise in the marketplace.

Microsoft has been found guilty of abusing their monopoly. One of the ways that Microsoft has abused their monopoly is by using closed and proprietary algorithms, APIs, protocols, and file formats, and by changing them from time to time in order to create incompatibilities with non-Microsoft products, and with older Microsoft products that Microsoft wishes to make obsolete. Microsoft's *secret* algorithms, APIs, protocols, and file formats are part of the problem that the DoJ and the Court must remedy. Such secrecy cannot be part of the solution, even when it comes to "anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria". Furthermore, in light of the fact that SECURITY THROUGH OBSCURITY IS NO SECURITY AT ALL, there is never any justification for any "governmental agency of competent jurisdiction" to "direct Microsoft not to" COMPLETELY and ACCURATELY document *ALL* algorithms, APIs, protocols, and file formats—without restriction—and make the documentation and source code available to everybody without charge. Therefore, section III.J1 and III.J2 must be entirely stricken from the PFJ. As it is necessary to require Microsoft to COMPLETELY and ACCURATELY document *ALL* algorithms, APIs, protocols, and file formats—without restriction—and make the documentation and source code available to everybody without charge, and without any NDA requirement, it is not reasonable to require "any of the Plaintiffs to keep secret any information or documents obtained from Microsoft" as detailed in section IV.A.3 of the PFJ. This section should also be stricken from the PPJ.

Patents

Patents are a government granted monopoly. Microsoft has been judged to have a monopoly, and further, to have illegally abused that monopoly. For this reason, Microsoft should be forbidden from using its patents offensively. The government should not continue to grant a preferential monopoly to a convicted monopoly abuser.

This is especially true in the case of Open Software and Free Software. Those who develop Free and Open Software and give it away to the world for no charge are greatly enhancing the wealth of the entire world. These people CANNOT afford to participate in the patent system. In addition, those who develop Free and Open Software are often philosophically opposed to the patent system, and would not participate even if they could. These people who are greatly increasing the world's wealth, should not have the patent system used against them by a convicted monopoly abuser.

Microsoft has already threatened to use patents as an offensive weapon against Linux, the Free Software Foundation, the GNU Project, and other Free and Open Software producers. Full details can be found in the 2nd Halloween document.

http://www.OpenSource.org/halloween/

In order to protect the Free and Open Software movement from future monopoly abuse, Microsoft must be forbidden from using their patent portfolio offensively. This prohibition should *never* expire. A clause to this effect must be added to the PFJ in order to achieve an effective remedy.

Enforcement

A *very* strong enforcement mechanism needs to be put in place by the DoJ and by the Court. We have arrived at this juncture today because Microsoft failed to abide by previous consent decrees (1994) of the Court. Microsoft has proven themselves to be obstinate and belligerent. They cannot be trusted to obey this PFJ without strong and effective oversight. If by some unfortunate circumstance, the DoJ and the Court decide not to require Microsoft to disclose all source code, then an especially vigorous enforcement mechanism must be put in place to ensure COMPLETE and ACCURATE documentation of *ALL* algorithms, APIs, protocols, and file formats. I would suggest that the PFJ should include a clause stipulating that if anybody finds any errors or discrepancies in Microsoft's documentation, then at that point the Technical Enforcement Committee shall have the authority to immediately force the disclosure of all relevant source code, in order to force compliance with the COMPLETE and ACCURATE documentation requirement.

Dan Kegel's Comments

I would like to add that I am a co-signer to Dan Kegel's comments.

http://www.Kegel.com/remedy/letter.html

I fully agree with Mr. Kegel's entire letter, including all links therein, and strongly urge that each of the problems noted therein must be remedied in the PFJ before the PFJ is adopted by the DoJ and by the Court.

Thank you,

Kenneth J. Hendrickson

*All web references were current on 26–27 January 2002, during the writing of these comments.

MTC-00029600

GLORIORS EVENTS
January 26, 2002
Attorney General John Ashcroft
United States Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in support of the Microsoft antitrust settlement agreement. I would appreciate your consideration of the following comments about this issue.

The settlement agreement will dramatically change the way Microsoft conducts its business. Microsoft will license Windows to the main computer manufacturers at the same price, and on the same terms. Microsoft has also agreed not to retaliate against those who distribute or promote software that competes with Windows. These concessions should subdue concerns about any "predatory" business practices by Microsoft.

I find it interesting that the stock market took a rum for the worse when this litigation ensued. In the interest of stimulating the economy, doesn't it make sense to put an end to the lawsuit so that Microsoft can focus on its research and development endeavors?

Thank you for your commitment to settle this case.

Sincerely,

Vetra Bilsland

MTC-00029601

294 E Frog Hollow Road
Science Hill, KY 42553
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Thankfully, an end is in sight for this whole mess. The Settlement reached in November answers all the proble??s that were brought against Microsoft at the beginning of the trial

MTC-00029602

44260 Riverview Ridge Drive
Clinton Township, MI 48038
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I was happy to hear that Microsoft had reached a settlement late last year with the Department of Justice. I believe the settlement will be good for consumers and the entire computer industry. Microsoft has agreed to many concessions in order to wrap up this case and move forward. For example, Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products. This type of provision is groundbreaking for an antitrust settlement. Also, Microsoft agreed to the creation of Technical Committee that will be charged with monitoring the company and assuring they meet all their obligations.

I believe the federal government, especially in the current environment, could make better use of their resources than continuing this litigation. I commend you for your efforts to resolve tiffs case and hope you will finalize the settlement soon.

Sincerely,

Andrew Emerson

cc :Representative David E. Bonior

MTC-00029603

January 20, 2002
Attention: Renata Hesse
Judge Kollar Kottely
U.S. Department of Justice, Antitrust Division
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge Kollar Kottely:

I am writing regarding the Microsoft antitrust case and the lessons we should have learned from past experiences.

As I recall, nearly three decades ago, the government initiated another antitrust lawsuit against a computer industry leader.

Success was not defined by a legal victory in that case, but rather by the enormous business expenses incurred by the defendant. These expenses clearly resulted in allowing its competitors to catch up. After three years of the Microsoft case, it seems we are now at that point. This lawsuit has gone on long enough and any legal victory has lost its relevance because the financial price has been paid.

I urge you to move forward by approving the proposed settlement. This settlement is in the best interest of the industry, the economy, and the consumer. It only makes sense to put an end to it.

Thank you for your efforts on this important case.

Sincerely,

Rachel Maher
Rachel Maher
22939 Bauserman Road
Easton, KS 66020

MTC-00029604

ARTISAN DESIGN, INC.
Computer Aided Design & Manufacturing
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

After three long years of court rattles, Microsoft and the Department of Justice have reached settlement regarding the antitrust suit. I believe that this settlement will be beneficial to both, the IT industry and the consumers alike It is necessary that those who are involved in the suit put aside their differences and work to put this issue behind us.

Even though the settlement goes farther than what Microsoft would have liked, I believe that settling the case now is the right thing to do help the industry and the economy move forward. This settlement is fair and reasonable and was reached at after extensive negotiations with a court-appointed mediator present.

There has been enough money spent, and the current settlement is perfectly acceptable. I feel it is incumbent upon the government to put a swift end to dais ordeal so that all involved parties can return to work. Thank you.

Sincerely,

Jake Breedveld

35595-F Curtis Blvd. * East??ake; Ohio 44095 * (440) 953–0147 * Fax: (440) 953–0148

MTC-00029605

13537 Glencliff Way
San Diego, CA 92130
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like the Justice Department to settle its antitrust lawsuit against Microsoft. I am aware that both sides reached an agreement in November that would end the case, and I support it. I believe if Microsoft appears to take the settlement seriously, and the company is taking steps to move on and to promote competition. Giving users a greater ability to integrate non-Microsoft programs into Windows will be beneficial to consumers and software developers everywhere. Additionally, Microsoft will level the tech playing field by using a uniform price listing when licensing Windows out to the largest computer makers in the nation. Also, Microsoft will not retaliate against companies that use, sell, or promote non-Microsoft products. I believe it is the time to end the case.

Please settle the Microsoft case and allow them to concentrate on further innovating the way man), of us conduct our personal and professional business.

Sincerely,

Walter Liao

MTC-00029606

URGENT
To: John Ashcroft, Esq.,
Voice Number:
Fax Number: 1–202–307–1454
Company: Attorney General USA
From: MORRIS KAY
Company:
Fax Number: 305–792–4243
Voice Number: 305–792–4041

Date: 1/27/2002
Number of Pages: 2
Subject: Settlement of MICROSOFT pending action.
Message:
Honorable Attorney General:

Attached herein please find a letter expressing my sentiments on the matter related above,

Respectfully Yours,
Morris Kay
20185 E Country Club Drive, #1701
Aventura, FL 33180
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to express my support for the recent settlement proposed to Microsoft by the DOJ. The truth is that I have a terrible time seeing what continued litigation would accomplish if the last three years were so unproductive. I would really love to see this lawsuit wrapped up so that taxpayers don't have to waste any more money. Additionally, wrapping up this case will help boost the slowing economy and give the IT industry much needed revitalization.

I believe that the settlement is a fair one that encompasses all points of concern. Microsoft's adherence to terms of this contract ensures that future antitrust violations will not occur. Competitors may also put their concerns to rest as a result of several of Microsoft's agreement. Microsoft has agreed to create future versions of Windows that will allow for non-Microsoft products to function therein. Also, Microsoft has agreed to disclose Windows interfaces and Intellectual property.

It is my hope flint Microsoft desire to comply will help to quell the concerns of the dissatisfied states. Please make the necessary decision to wrap this matter up as soon as possible. This will be in the best interest of the IT industry, the economy and consumes.

MTC-00029607

January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support the settlement reached in the Microsoft antitrust case. The settlement reflects the compromises and concessions of the parties, especially Microsoft, over three months of negotiations with the assistance of a court-appointed mediator. I feel that approval of the settlement by the Federal Court would be in the best public interest of America. The settlement addresses the complaints brought against Microsoft simply for using all its legal rights. Microsoft's legally protected innovations in its software code for its internal interface and server interoperability protocols will be disclosed to the whole industry, while its other copyrighted and patented intellectual property will be licensed on non-discriminatory terms to any company that wants to use it. Computer makers will be given more flexible contracts to work with non-Microsoft companies like AOL Time Warner, RealNetworks, and Symantec. A technical committee will ensure the terms are followed. These terms will provide an opportunity for the American computer industry to make better use of the very widely used Windows operating system, and will allow Microsoft to get the lawsuit, with its distraction and expense, over with.

I appreciate your strong stand in favor of the Microsoft case settlement. Thank you.

Sincerely,

MTC-00029608

01/28/2002 MON 09:05
FAX 914 693 2247
THE REMBAR COMPANY INC 001/001
Michael Misch
39 Chestnut St
Dobbs Ferry, NY 10522
January 27, 2002
Attorney General John Ashcroft
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

The antitrust case between the federal government and Microsoft has been going on for much too long, and I would like to see the settlement that the two sides reached become final so that the matter can be put behind us once and for all. The two sides agreed to a reasonable compromise that will foster competition in the industry, and I see no reason to pursue litigation beyond this point.

The technology industry has struggled as a result of this lawsuit, and the nation's economy has been negatively affected as well. Once this settlement becomes final, consumers will have more choices in the marketplace, and independent companies will have a better chance to compete in the future. Microsoft has agreed to design future versions of the Windows operating system so that computer makers may remove Microsoft software and replace it with that of its competitors. Microsoft has also agreed to license its products to the 20 largest computer makers at uniform prices. These and the many other concessions that Microsoft has made in order to achieve this settlement are certainly enough to stop this litigation.

I realize that this settlement was reached after long and arduous hours of negotiations, and [appreciate your decision not pursue this matter any further. I am hopeful that no more action will be taken against Microsoft in the future.

Sincerely,

MTC-00029609

2401 Zion Hill Road
Weatherford, TX 76088
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement issue. I support the settlement that was reached in November and believe this agreement will serve in the best public interest. I am a Microsoft supporter and feel that this company should not be punished for being successful.

Microsoft has agreed to all terms and conditions of this settlement. Under this agreement, Microsoft must grant computer makers broad new rights to configure Windows so as to promote non- Microsoft software programs that compete with programs included within Windows. Microsoft has also agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products.

MTC-00029610

William Young 4142 Dundee Drive
Murrysville, PA 15668-1010
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

As a supporter of Microsoft, I write you in reference to the recent settlement. The settlement is fair and reasonable and should be adopted immediately. After three years of negotiations, further delay would be ridiculous. What more is there to discuss? It is time to get on with business and get our technology industry back to normal.

Not only has Microsoft agreed to make changes in licensing and marketing, but has agreed to design future versions of Windows that will allow for easier installation of non-Microsoft software. Also, in an anti-trust first, Microsoft has agreed to disclose internal information about the Windows operating system. An outside committee will monitor Microsoft's compliance with the agreement.

By stopping any further federal action on this case, we are allowing our technology industry to get back to business. I urge you to help get this agreement moving. I thank you for your help.

Sincerely,
cc: Senator Rick Santorum
Representative Melissa A. Hart

MTC-00029611

Mr. John Martin
3208 SW Sena Drive
Topeka, KS 66604
January 23, 2002
Renata Hesse, Antitrust Division Public Comment
U.S. Department of Justice
6i)1 D Street, NW, Suite 1200
Washington, DC 20530

Dear Renata Hesse,

Thank you for accepting my comments regarding the rod-trust lawsuit against Microsoft. It seems to me that the companies that pushed the suit against Microsoft their competitors: AOL, Oracle, San Micro are about the only ones who don't want to see the case settled. I can understand that as rival high-tech companies, they will do "whatever it takes" to compete, but I think this case has gone on long enough.

The DOJ is on the right track to try to settle their case against Microsoft. It is my hope that eventually all of the states involved in the case. will do the same. I hope that the companies that Cave pushed this lawsuit from the beginning see the writing on the wall and start to worry about competing for customers in fire marketplace rather than the cou??troom.

I strongly urge you to sign off on the settlement terms that have been a agreed to by both sides so that we can at least begin to clean up the mess this case has caused.

Sincerely,

John Martin

MTC-00029612

iNetXperts
January 25,2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Please make haste to settle the lawsuit in the case of USA vs. Microsoft. I believe that if the terms of the settlement are enforced strictly they are sufficient to prevent Microsoft from engaging in unfair business practices with OEMs and software companies.

It is better for consumers, businesses and the IT industry that this suit is ended.

Sincerely,

Mark Heaney
CTO
iNetXperts Corporation, 113 N.
Washington St. #490, Rockville, MD 20850
tel 202.262.9348
fax 603.947.4732 www.inetxperts.com

MTC-00029613

DATE: January 27, 2002
PHONE:
TO: Renata B. Hesse Department of Justice
FAX: 202–307–1454
FROM: D. Shah
PHONE: 707–538–5900
RE: MICROSOFT SETTLEMENT
FAX: 253–484–2789
Number of pages including cover sheet: 7
Message

Pursuant to the Tunney Act, please find enclosed my comments on the Microsoft settlement.

January 27, 2002
VIA FACSIMILE & EMAIL
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Sir/Madame.

The Microsoft settlement proposed by the Justice Department should not be. approved by the court. It does not adequately prevent Microsoft from abusing its monopoly powers, It is also a poor solution in that it will be complicated to enforce and Microsoft will have economic incentive to try to circumvent the agreement.

No doubt, there are precise legal standards that the court must follow in reviewing the settlement and making its decision. As a layman, I cannot hope to address the intricate legal issues as to what is explicitly mandated by statute and precedence—I can only speak in broad terms. My background is that of an engineer (M.S. in EECS) with 20 years of experience using PC software at work and at home and that of a founder and officer of a small software development company. I comment mostly from the perspective of an end user of PC software products. As a businessman, I have had substantial, experience negotiating, implementing, and litigating business agreements. I have found that the best agreements are those that (1) align the economic interest of the two parties (i.e. there is no economic benefit to either party to try to circumvent the agreement) and (2) are simple. The proposed settlement agreement is neither.

As one example, the language in the agreement requires Microsoft to provide access to certain information only to viable business entities. In paragraph III(J)(2)(c), the proposed settlement states that Microsoft will not be required to provide API's or Documentation to an entity that fails to meet "reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business." Arguably, this language could allow Microsoft to exclude access to small businesses, start-ups, and Linux developers (or other non-profit type software developers) if it was in Microsoft's economic interest to do so.

For a second example, the proposed settlement requires Microsoft not to automatically override OEM settings. Paragraph III(H)(3)(b) says Microsoft must not seek permission from the end user for "[automatic] alteration of the OEM's configuration until 14 days after the initial boot up of a new Personal Computer." What does the agreement mean by initial bootup? Strictly speaking, "initial bootup" could be interpreted to mean the first time the unit is turned on by the manufacture or the local retailer (for testing & verification purposes) and not the first time the end user turns on the machine. (As an aside, why does Microsoft need to be able to automatically override any settings? It should be sufficient to notify the user in the manual or on-line help that the user can change his settings by selecting the proper options in his application program or Windows operating system.) If such a simple item is this complicated to interpret and enforce, what does it augur for the rest of the agreement?

While it may not be the perfect solution, separating Microsoft into two independent companies meets the criteria stated above for a good business agreement. One, a breakup is simple, once it is completed, it is done—there is no agreement to interpret. Two, a breakup eliminates any economic incentive for Microsoft to circumvent an agreement because there is no agreement to circumvent once the breakup is completed.

My strong feelings about this case arise because I constantly find I have no real choice in my selection of PC operating systems and applications. As much as Microsoft's legal counsel and economists may argue about the user having choices and being better off, I find from my personal experience, that I am not.

If I am unhappy with my GM car, I can easily switch with my next purchase to a Toyota, Ford, Chrysler, Honda, etc. at zero cost. If I dislike my Sony television, I can buy a Zenith, JVC, Philips, or Panasonic, etc. without constraint. Nowadays, I have the freedom to switch phone service or my television reception from cable to satellite. Even with my PC, I can switch from Dell to IBM, Compaq, HP or others, But, I cannot switch from my use of the Microsoft operating system or Microsoft applications without cost. so substantial as to be prohibitive.

On the surface it may appear that there are alternatives to Microsoft's operating systems and applications. However, there are six barriers which effectively prevent me from using a competitor's product. First, because of Microsoft's market dominance, there is far more support from other vendors for Microsoft's products. For example, an application program or peripheral such as a printer may not be supported under either the Apple or Linux operating systems. Other vendor's import/export utilities, synchronization functions or the like may only support dominant Microsoft applications such as Word or Excel. Similarly, web sites may be designed to function best with Microsoft Internet Explorer as compared to competing products.

As a concrete example, consider my brother's experience with the Apple Imac. My brother's children learned to use the Imac growing up because of its superior user interface as compared to Microsoft Windows, However, my brother is now finding that it is too difficult to support the Imac on his home network and DSL line. Vendors just do not provide the same support for Apple that they do for Windows. Additionally, it is too difficult to maintain both Windows systems (for his use) and Apple systems. Therefore, he is forced to switch the children to using Microsoft Windows.

Second, if I wish to use a non-Microsoft product in an area where Microsoft is entrenched, I will be at a tremendous disadvantage when trying to share information. I will be speaking French when everybody else is speaking English. For example, given that everybody uses Microsoft Excel or Word, what real freedom do I have to select a different word processor or spreadsheet (even if superior) when I will be unable to share files with my clients or vendors.

Third, I have invested substantial time in learning to use and debug my existing Windows and Microsoft application programs. I cannot afford to switch to a competing operating system or application and start at ground zero on the learning curve. The amount of time it takes to learn to use a new application is enormous. It far outweighs the dollar cost of purchasing the product. To become as proficient in another word processor application as I am in Microsoft Word after years of use would take months at the very least. No one can afford that cost. As applications grow larger and more complex, this barrier grows larger and larger in Microsoft's favor.

In an interview, Bill Gates himself points out that Microsoft's biggest competitor (when they release a new operating system) is themselves. Users who have already invested time and money in purchasing and using an older version of Windows are loathe to switch to a new version because of the cost in dollars and time to install, debug, and learn the new version. Imagine then the barrier posed to a completely new operating system or application.

Fourth, there is risk that if I am using a non-Microsoft product, the vendor will eventually be forced out of business by Microsoft and I will ultimately have to switch to the Microsoft product anyway. This was the case with my Lotus and WordPerfect products. In both case, I was finally forced to switch to Microsoft products when the vendors went out of business. Now, if I need to choose between a Microsoft and competing product, the safe decision is to select Microsoft because it is likely the competitor will be eventually driven out of business.

Fifth, there is a cost to switch to a new application because of prior work (data files) that has been generated by the old application. If I have a substantial amount of prior work saved in data flies produced by my Microsoft applications, switching to a competing application means I lose compatibility with all of my old work. At the very least, I will have to spend time converting the data files with the accompanying risk of losing information or formatting.

Sixth, It is risky to use a non-Microsoft product because Microsoft has the upper hand. in keeping its applications in step with operating system upgrades and taking advantage of new operating system features. Microsoft is in a position to improve its products faster because it is also in charge of the underlying operating system. By the same token, Microsoft applications are least likely to break with operating system upgrades. No competitor has that same advantage. (If Microsoft argues there is no advantage, then it should have no complaint against being separated into two independent companies).

In summary, I do not have the freedom to choose to use Microsoft products because they are superior but am forced to use them because the investment in time and potential risk to use competing products is too high.

There are many examples where Microsoft did not have a superior product (or, initially, even a product), but ultimately succeeded due to its monopoly position. For a non-exhaustive list, consider the products: Word (vs. WordPerfect), Excel (w. Lotus), Internet Explorer (vs. Netscape), Microsoft Project (vs. Symantec's Timeline project management software) and even Windows (vs. the Macintosh). In each of these cases, Microsoft did not have the first product or even the better product. Yet, over time in each case Microsoft has either put the other product out of business or become the clear-cut market leader.

In these cases, Microsoft did not succeed because it was the innovator; but because it had a monopoly in the operating system market. It could use its ownership of the operating system and its monopoly profits to enter new markets and eventually push out the competition. No other company, even dominant ones such as Lotus, WordPerfect, and Novell with all their financial resources, has been able to compete successfully against Microsoft because of the monopoly Microsoft enjoys.

Another example of the monopoly power Microsoft enjoys, is its recent decision not to include JAVA in its latest version of Windows. Given the runaway popularity of JAVA, only a monopoly such as Microsoft could risk making that decision. In a competitive environment, no operating system vendor would decide to exclude JAVA and pursue its own initiative. Microsoft can afford to do that because it wields such absolute control over the operating system market. A consumer has no alternate choice of operating systems so he is forced to accept Microsoft's decision to exclude JAVA from the operating system.

As a final example, consider the operating system called "OS/2" developed and marketed by IBM. There can be no question that it was a superior operating system and years ahead of Microsoft Windows. It failed however because of the barrier posed by Microsoft's installed base of users. The fact that even IBM failed to make any headway in the market is further evidence of Microsoft's power as a monopoly.

Microsoft may argue that the reason for its success in all of the above examples is that it had the better product or strategy. This is patently false. Microsoft was not the first one to introduce a windowing operating system, an internet browser, the concept of a spreadsheet, a word processor, etc. Microsoft has only been successful in first copying and then outlasting the competition. Microsoft argues that there is no need to regulate Microsoft as a monopoly because technology and the product landscape change so fast that not even Microsoft can exercise monopoly powers. I think it is just this argument taken in context of Microsoft's success time after time over the last decade that is the smoking gun. No company other than Microsoft has been so successful. It is so unlikely that in an area where the pace of change is this fast, that any one company could be so successful in every endeavor it undertakes, that it must be taken for granted that the company enjoys substantial monopoly power.

Contrast Microsoft's situation to that of microprocessors and Intel. Intel is a dominant market leader but faces fierce competition from AMD, Motorola, and others in the microprocessor market. As a result, we have seen a 100-fold or more increase in price vs. performance (comparing a 33MHz 80386 processor to a 2GHz Pentium II) over perhaps the last 10 years. Imagine a situation where Intel enjoyed the same monopoly position that Microsoft does today. That is to say, there was effectively no competition from AMD, Motorola, or others. Without doubt, we would not have seen the same increase in performance vs. price. Intel would not have been forced It innovate and cut prices at the rate it is forced it do so today in order to maintain its market leadership. This is clearly evident from the reported news where each time AMD releases a microprocessor, Intel responds by cutting prices. Of course, there would still have been improvements in microprocessor performance if Intel was a monopoly, but nowhere near the current pace. Intel would have made slow improvements at its own unhurried pace under little pressure from others.

Microsoft has at times argued that it is not a monopoly because the price of its operating system software (as a percentage of the price of a PC) has come down over the years and this is characteristically untrue of monopoly pricing. Even if the price of software is in fact lower today than 10 years ago, it is a meaningless statistic. The relevant question is what would the price of software be today if Microsoft did not enjoy a monopoly position. As compared to the innovation fostered in the microprocessor arena due to competition, software performance has advanced relatively slowly, [here certainly has not been a 100-fold increase in the performance of Microsoft's software over the last 10 years.

In considering the proposed settlement, the court must balance protecting Microsoft's rights and our system of free enterprise against the damage to society from continued abuse by Microsoft's monopoly position. I think the court must err on the side of the consumer. On a big-picture scale, there is no great damage to Microsoft, its shareholders or the concept of free enterprise by breaking Microsoft into separate operating companies. On the other hand, there is potential for great damage to innovation and free enterprise if Microsoft is free to remain a monopoly and to use its power to stifle new products and block the success of other companies.

In conclusion, the question simply comes down to whether the typical end user is better off because of Microsoft's monopoly. As a typical end user, I am firmly convinced that I am not and hope that the courts will take strict action.

Sincerely,
D. Shah

MTC-00029614

A??ey General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 50530

Dear Mr. Ashcroft:

I am retired from a career in engineering. J have used a vatlet3, of computer systems, and I have found computing with Microsoft's Windows software to be easier, more affordable and in many way more productive than other systems. Windows has brought welcome uniformity to the way people work with computers.

It is certainly time to accept the settlement in the Microsoft antitrust case. The lawsuit was, in some ways, a big joke by Microsoft's less successful competitors intended to give Microsoft a raw deal in court. I am glad that you took the lead in directing your department to earnestly work with the mediator appointed by the new judge. The settlement will le?? the American computer industry get back to concentrating on making better, innovative products and maintaining America's leadership in the world of technology.

The anti-Microsoft forces have agreed not to pursue the outrageous and ridiculous demand made by a few of them to "divide and conquer" Microsoft. In return, Microsoft has agreed to give up much of its legal rights to its intellectual properly, and business practice. Until now, no company in antitrust litigation has ever had to give its industry the copyrighted software codes to the internal interfaces to its operating system programs. Nonetheless, Microsoft has agreed to license those codes to any party on reasonable and non-discriminatory terms. Microsoft will release companies that make computers from exclusive marketing agreements, allowing them to mix and match Windows with other operating systems. Also, even the largest equipment builders will be offered a uniform price and term list, instead of individual negotiations. The Windows desktop program included with installation will be made easy to remove and replace with those made by others, such as AOL Time Warner, which owns its own browser and internet messaging software. With government-sponsored engineers who are experts in software monitoring the agreement and investigating and, complaints, the public can be assured of compliance.

Thank you for your support of the settlement. It should be approved, because it is in the best interest of the American public.

Sincerely,

Allan J. Hessel

Hessel Properties Inc.

MTC-00029615

Jo Phylis Esman
3864 NE 167th Street
North Miami Beach, FL 33160
January 25 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support your efforts to see that the Federal Court approves the settlement of the Microsoft antitrust case. I believe that approval of the settlement would be in the best interest of the United States. I do not think Microsoft ever had or abused a monopoly. I think Microsoft simply build the best, easiest to use, value-priced software. There have always been software choices to be made in buying computers. Microsoft just won out. However, the settlement is good in that it gets the lawsuit behind Microsoft and opens up the Windows software to the industry.

Just as Microsoft gives up much in the settlement, the computer industry gains much in being better able to integrate its products with Microsoft's Windows operating system, or avoiding Microsoft products. Microsoft will disclose its software code for internal Windows interfaces and license its other software to any company that wants to use it. Computer makers will no longer be required to adhere to exclusive marketing agreements with Microsoft, and will be able to modify Windows to remove Microsoft's program, such as Internet Explorer. So, I do not see what Microsoft's competitors could really still want in a reasonable way. Some competitors, having been ignored by customers, seem to think they can become bigger fish in a smaller pond by seeking to dismember and destroy Microsoft. That would not be good for America and its leading place in the worldwide computer industry.

MTC-00029616

Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, IV. W., Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I understand that you are currently reviewing public comments on the Microsoft settlement and I am pleased to have this chance to participate.

John Ashcroft's team was smart to 9o after a reasonable settlement of this case that has been hanging around since 1998. My only disappointment is that Kansas was not one of the many states that joined this settlement. I do not understand why our Attorney General Carla Stovall has banded together with Microsoft's competitors to pursue breaking up this strong and vibrant company. Ignoring the real benefits of this settlement ignores the needs of the technology industry and the national economy.

I am appalled that private corporations like Oracle and AOL-Time Warner are so committed to continued litigation. Apparently the decision-makers in this company refuse to see the negative effects their actions and this suit have had on the economy as a whole. They, along with the AGs still on the case, also seem to believe that break-up is the only acceptable solution. I believe this shows their true colors.

For those who believe Microsoft was guilty of some wrong doing this agreement provides many solutions. For example, it provides guaranteed flexibility for computer manufacturers, Microsoft must is not allowed to punish manufacturers who do not promote Windows and Microsoft is required to share certain sensitive information that will definitely put their competitors at an advantage. And to top it all of, a Technology Committee that will make sure Microsoft is living up to all aspects of the settlement will guard the integrity of the agreement.

Please accept this settlement.

Sincerely

MTC-00029617

Corrie A. Kangas
I 17.55 W. ?? 12th Street
Overland Park, KS 66210
913-406-3649
January 21, 2002
Renata Hesse
Antitrust; Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I encourage you to view settlement of the Microsoft antitrust suit as a positive solution designed to benefit all parties involved. The proposed settlement addresses every point of the charges upheld by the court.

It is certainly a step toward rejuvenating our lagging economy and restoring faith and investment in the ever changing, ever lucrative tech sector.

This competitor driven lawsuit, thinly veiled as consumer advocacy, has actually done more to harm the consumer than protect it. To date, more than 30 million dollars of taxpayer money has been spent on this lawsuit that has affected the consumer through little more than financial implications. The lawsuit has dragged the economy down, giving a bearish outlook toward tech investments, thwarting new innovation. The American public is ready for closure. I urge you to review the settlement before you, and to concur it's a suitable conclusion for all.

Sincerely,

Corrie Kangas

MTC-00029618

January 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft,

If you build a better mousetrap the world will beat a path to your door. They did, it has.

I write to you today to express my opinion that the Microsoft antitrust case lacks merit, in that, it does not represent the good or the will of the public, it represents only special interest groups who, as they are finally finding some acceptance realize that their own intellectual properties might be challenged by the government. Microsoft created a better product than their competitors. It should not be prosecuted for its success.

Microsoft is not the only operating system. It has many competitors who are rapidly closing ground(unix linnux ect.) Hampered by greedy litigation, government regulation, and time it may not survive. This company is no Standard Oil or Enron There is only slight evidence of what is known in the parlance of southern lawyers and horse traders as "sharp practice". If you buy a Rolls Royce with accessories included, you should not sue the provider because the radio is difficult to remove and the Honda radio you want to install may not fit.

The case against Microsoft should be immediately dismissed. The right to create, incorporate, innovate and merchandise are recognized as free enterprise in this country.

Sincerely,

Will Taylor
2855 Jordan Woods Dr.
Lawrenceville, Georgia 30044

MTC-00029619

Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

Late last year the Justice Department and Microsoft reached a long sought after compromise in the anti-trust case. I understand that in order to comply with the Tunney Act members of the public at= provided with the opportunity to provide comment on the settlement.

There is no doubt that this case against Microsoft has been art interesting one to observe. The issues of this case are fairly simple to grasp, the government is basically contending that Microsoft has violated anti-trust laws through its business practices and has in fact committed consumer harm.

One interesting aspect of this case is that throughout the last four years that we have watched this case unfold and have heard reports of the impending break-up of

Microsoft we have yet to be shown one sliver or" evidence that demonstrates consumer harm.

Another aspect of this case is not so much interesting as it is painful. In 1998 when this case first began, our country was in the midst of a healthy economy. The New Economy was really beginning to look real. However, as this case began to pick up steam and break-up rumors were rampant the tech economy began to drift downward. Americans have experienced the impact of this lawsuit first hand in their investment accounts and lost jobs.

The DOI and Microsoft have deemed this settlement satisfactory. It outlines remedies for Microsoft that appear to he equitable given what has held up in lower courts. The compromise now on the table will bring an end to a suit that has already cause significant damage. I urge you to accept it.

Sincerely,
Sharon Miller

MTC-00029620

Joyce O. Thedy
933 Beverly Garden Dr.
Metairie, La. USA 10002-5001
jothedy@aol.com
January 27,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The settlement agreement reached between the Justice Department and Microsoft was welcome news, and I hope that it is implemented after the close of the public comment period.

The agreement will provide additional opportunities for software companies to compete with Microsoft products. Microsoft has agreed to allow competition from non-Microsoft programs within its Windows operating systems, and it has agreed to allow its distributors and licensees to deal in products other than those produced by Microsoft.

Whether or not these additional opportunities for competition will result in an increase in products and consumer choice remains to be seen. However, the purpose of this case and the settlement are to open avenues of competition, not to guarantee the success of the competitors.

Thank you for the opportunity to voice my opinion.

Sincerely.
Joyce Thedy
933 Beverly Garden Drive
Metairie, LA 70002

MTC-00029622

BONNIE BERGGREN
January 19, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As a political activist in Kansas, I do my best to follow current events and to take seriously my responsibilities as a citizen by exercising my rights and fighting to uphold the liberties I maintain as a citizen of this great nation. This letter is a small way for me to use these values to state the reasons I believe settlement of the Microsoft anti-trust case is overdue and serves the interests of Microsoft, their competitors and the consumers of these products.

Though many are wary of government interference in business, the damage this lawsuit has caused from an economic and developmental standpoint justifies settling under the terms of the current proposal. In an attempt to move on with business, however restricted, Microsoft has offered to be subject to review by an onsite technical committee, having access to all areas at all times—at Microsoft's expense. This provision leaves Microsoft with time and loyalty as the only advantage over their competition.

Now, more than ever, it is imperative that we preserve the freedom to innovate and promote free commerce. Approval of the settlement will allow our industry to move forward, freeing the courts and our nation to focus on some of the more demanding issues of today.

Thank you,
Bonnie Berggren

MTC-00029623

1622 Plum Street
San Diego, CA 92106
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you on behalf of Microsoft regarding the antitrust suit of the Department of Justice against Microsoft. I personally feel that this litigation is absolutely a waste of time and energy. I feel very strongly on this issue and believe that companies that cannot compete in the open free market should not run to the Federal Government for help.

As a physicist I have used computers at home and work. Microsoft has not been my favorite supplier of software (too unstable and crash prone). Only casually have I followed the details of the government's case against Microsoft. However, as a consumer [don't feel that Microsoft has done me any harm. In fact quite the opposite—their bundling of suites of programs with their browser has saved me money, and has furnished the industry with a single standard.

My suggestion is to move on to more pressing matters.

Thank you for your consideration.
Yours truly.
Myer Geller
Tel: 619,223.8425
Fax:619.523,8885
E-Mail: Conny@cox.Net

MTC-00029624

Steve Loney
3032 Aspen Road
Ames Iowa 50014
January 3, 2002
Judge Kollar Kotelly
c/o Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge Kotelly:

For over a year now our country has been facing serious economic problems. The stock market is weak, the economy is waning, and Americans are losing jobs. There is not one definitive reason why we are facing these economic hard times and our recovery is dependent upon several factors.

It is important that we make smart decisions about everything that may influence our economy. One bright spot on the economic horizon is the proposed settlement between the United States and Microsoft. This proposal is a fair settlement for all involved and will provide benefit to our economy.

While some may argue this settlement is not a good one, a fair review of its provisions demonstrates that it strikes a good compromise. Among other things, Microsoft will be required to share its intellectual property and an independent committee will be established to ensure that Microsoft is following the rules of the agreement.

For over twenty years Microsoft has been a leader of our national economy and its growth. When the government threatened to assert new and excessive regulations on this strong corporation its impact was felt throughout the economy. By allowing this settlement to take place the case will come to a fair conclusion and the best interests of our country will be served.

Thank you for your time.
Sincerely,
Ames, Iowa

MTC-00029625

William Bellamy
3919 Highwiew, Road
Chailotte, ?? 28210
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this letter is to voice my support of the settlement. Microsoft has been at the forefront of the technology industries for years. It is through their dedication to innovation that Microsoft has been able to forge their way in this industry. Microsoft has done more for this country than any other company in technology industry. I believe that raising legal battle in this case is altogether unwarranted. Despite these sentiments, I am pleased that there has finally been resolution in this issue.

The terms of the settlement show Microsoft's further dedication to resolve this issue. One of the most important aspects of this resolution is that Microsoft will now license Windows at the same rate to the twenty biggest computer makers. PC makers will not have to gain favor with Microsoft in order to receive the same rate on the Windows system. This should give PC makers a little more freedom in the negotiations process.

To summarize, I believe that the terms of this agreement are fair and should be enacted with haste. Thank you for your time regarding this issue.

Sincerely,

William Bellamy

MTC-00029626

January 26, 2002
Sury S Tumuluri
2475 Brookshire Drive # 80-9
Schenectady, NY, 12309
(H) 518-381-1885
(W) 518-385-0581
e- mail: tsnsarma@yahoo.com
To,
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Please permit me to express my opinion of the settlement that was finally reached in the antitrust case against Microsoft. It is my opinion that this settlement is fair and should be accepted by the all parties involved in this case.

The settlement disciplines and restrains Microsoft adequately such that it will not have a monopoly on the Technology and yet leaves it free to continue with its excellent and monumental work. I am among those who felt pleased that Microsoft agreed to design all future versions of Windows to be compatible with the products of its competitors and desist from retaliatory tactics.

We should also note that the settlement would also be ensured by a technical oversight committee that will monitor Microsoft's business practices in future to be sure that they comply with the settlement.

I am writing this letter to request you to support this settlement and ensure that the future of American business in general and IT Industry in particular is not stifled and side tracked.

Thank You,

Sincerely,

(Sury S Tumuluri)

MTC-00029627

Ms. Renata Hesse
U.S. Department of Justice—Antitrust Division
601 "D" Street—Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Thank you for this forum to share my thoughts regarding the continuing case against the Microsoft Corporation.

The Microsoft Corporation is one of country's leading producers and is certainly a worldwide leader in the growing technology market. I believe this company is an excellent model for study of the free enterprise system. We must always remember that Microsoft was not always the giant it is today, instead this company was created from virtually nothing. It was the innovations and business savvy of its founders that have brought it to the pinnacle of success.

It is the nature of the business world that when a company finds success it becomes the target of its adversaries in the business world. This is part of our system. What I do not believe is part of our system is when the government sets its sites on company simply because it is successful.

The success of this company is felt by all of us. Microsoft has provided good products that make all of our lives easier. These products are easy to use and relatively inexpensive. The company has worked hard to get where it is today and I am sure works just as hard to stay there. This is not a crime.

What is disturbing is that the pursuit of Microsoft has also been felt by all of us. We are living in a very strained economy. Prior to the onset of this suit, the computer and information industry was truly booming. Since the suit began, however, this sector of our economy stalled dramatically. The effects of this slow down have been felt throughout the markets and have negatively added to our strained economy.

I can only assume that the agreement is a fair one since both the Justice Department and Microsoft have agreed to its provisions. It is my hope that the court will approve this settlement.

Sincerely,

MTC-00029628

Sornson Masonry Construction, Inc.
7520 Valley St
Dalton Gardens, ID 83815
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

There has recently been a settlement to the antitrust lawsuit between Microsoft and the Department of Justice. While we do not agree with the relentless pursuit of the Microsoft Corporation, we are happy to see that a settlement has been reached. The United States government needs to move on and worry about more important issues.

Microsoft will now be working much closer and communicating much more with their competitors. They will be giving their competitors code and other information that makes-up the Windows operating system. It is also our understanding that they will be allowing their competitors to remove Microsoft-made software from Windows, and replace it with non-Microsoft software. Enough is enough.

Microsoft agreed to terms that extend well beyond what was issue in the initial suit, just for the sake of ending this senselessness. We support this settlement and would like to see it implemented as soon as possible.

Sincerely,

David W. Sornson

Cheryl A. Sornson

MTC-00029629

January 23, 2002
Renata Hesse, Esq.
Trial Attorney
Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

Thank you for the opportunity to express my opinion regarding the anti-trust lawsuit against Microsoft.

I was elected to the Kansas State House in 2000 and my experiences since that time has taught me that the actions of government can often have negative effects on the average American. I think this holds true in the government's case against Microsoft.

There is no doubt that this pursuit of Microsoft has negatively affected our economic health. At a time when many states are facing major budget problems, they have also been spending taxpayers" money to finance this case. In fact, here in Kansas, our budget problems are so bad that some members of the Legislature are supporting an increase in taxes. At the same time, our Attorney General sees fit to continue wasting tax money on this case that the public clearly wants to see brought to an end.

When we look back at the fall of the technology industry and the markets overall, we should not be surprised. Our government was determined to use the courts to break up one of the world's largest companies. Of course the markets are going to feel the effects of this. Of course investors are going to wait on the sidelines. Of course struggling technology companies will declare bankruptcy. And of course the American worker and consumer will feel the pinch.

The settlement currently under consideration addresses this matter fully and fairly. It represents a true compromise. Allowing the proposed settlement to go through is the right thing to do legally. It is also the right thing to do in order to help revitalize our economy and restore faith in the capitalist system we all appreciate.

Thank you.

Rep. Mary Pilcher Cook

MTC-00029630

GENE RASQUEZ
4708 SW TERRACE
AUGUSTA, KS 67010
January 22, 2002
Ms. Renata Hesse
Trial Attorney, Anti-trust Division
U.S. Department of Justice
601 "D" Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I always appreciate an opportunity to participate in government matters that affect me directly as an American citizen and I thank you for conducting this comment period regarding the Microsoft anti-trust lawsuit.

I simply wish to voice my full support for the settlement proposed by the President's team. This settlement provides a genuine solution to a costly lawsuit—the merits of which are hotly debated across the nation. There are so many other more critical issues facing our government and your court, especially in light of the September 11 " attacks, that I cannot see the wisdom in continuing to pursue one of our best and brightest organizations. Microsoft's agreement to operate under the stringent restrictions imposed by the proposed settlement is an indication to me of the company's good faith and the tech market could certainly use the boost of confidence this settlement would provide.

I trust that the court will see the benefits of settling this matter in the manner proposed and move to accept the Bush settlement agreement.

Sincerely,

Gene Basquez

MTC-00029631

Rev David J. Goodrich
P.O. Box 1600
Norwich, VT 05055
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

To provide some personal feedback during this 60-day public comment period, in my opinion it's about time that the government reached a settlement in its case against Microsoft. I feel the legal action should never have begun in the first place, and the Justice Department should stop wasting tax money on this issue.

America was built by people who worked hard to be successful and make money at their businesses, and the government should not try and stop them. Microsoft built themselves from the ground up by making a better product at a fair price, which has left their competitors desperate enough to push for this legal action. By agreeing to several terms to encourage a more dynamic marketplace, Microsoft has surpassed even the government's complaints about their business practices. With an objective group of experts to monitor implementation of the plan, there should no longer be a need to bring this dispute into the legal system.

Our federal and state governments have better things to spend their money on than pursuing this case any further. Please let Microsoft get back to developing great products without distraction and the government to get back to dealing with the real needs of protecting national security.

Thank you for your support.

Please know that I have been a Microsoft user for about 14 years and they have provided a very user friendly product at a reasonable price. Microsoft Word exceeds the competition in quality and price. Please stop this action which will only hurt the consumer. The cost of this case far exceeds the cost of many good projects and is only a punishment for the business community who are the real providers of jobs in America.

Sincerely,
Rev David J. Goodrich
1-802-649-1866
Fax 1-802-649-5601

MTC-00029632

5945 154th Place
Flushing, NY 11355-5508
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

As a computer professional in the technical industry that has been following this Microsoft antitrust case, I think it is grossly unfair that this case was brought about in the first place.

Microsoft has been great for the economy, the technical sector, and the NASDAQ. It is coincidental that all of these sectors are way down now that Microsoft is in the middle of litigation. If we leave the settlement as it stands and not pursue further litigation, it would be of great benefit to us in the end.

Microsoft did not get off as easy as its competitor's would have you think. After intense negotiations and mediation, they agreed to terms well beyond what is expected in any antitrust case. I understand that Microsoft agreed to disclose various internal interfaces in their operating system to competitors. I cannot think of any other software company that would risk their proprietary source code bring exposed to the competition for their use. Apparently, the sacrifice Microsoft is willing to make is not enough. Everyone (the states and the competition) wants more.

Enough is enough. Microsoft should not be penalized because of other companies inability to compete on level ground—Whatever happened to free enterprise? Litigation is bad for the economy. Let us go with the settlement and not pursue any further litigation. In addition, let's focus on rebuilding our economy.

Thank you.

MTC-00029633

1512 N. Elsea Smith Road
Independence, M064056
January 27, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I was pleased to learn that the Justice Department has reached a proposed settlement agreement in the Microsoft litigation.

You now have the opportunity to clean up the mess created by your predecessor. Microsoft was the target of this litigation because of its size and because of its great degree of success. Your implementation of this settlement will bring an end to the political witch-hunt.

Microsoft has placed a number of concrete proposals on the table to resolve the case. They have agreed to changes in almost every aspect of their business operations, from pricing, to distribution, to system design. These changes, if implemented, should provide additional competitive opportunities for Microsoft's competitors and more choice for computer users.

Please go forward with the settlement and let Microsoft get back to business.

Sincerely,
Mark Zachgo

MTC-00029634

1512 N. Elsea Smith Road
Independence, MO 64056
January 27, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I was pleased to learn that the Justice Department has reached a proposed settlement agreement in the Microsoft litigation.

You now have the opportunity to clean up the mess created by your predecessor. Microsoft was the target of this litigation because of its size and because of its great degree of success. Your implementation of this settlement will bring an end to the political witch-hunt.

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Please go forward with the settlement and let Microsoft get back to business.

Sincerely,
Dawn M. Zachgo

MTC-00029636

Jason t. Rigsbee
9237 Estate Cove Circle
Riverview, Florida 33569-3102 U.S.A.
Home: (813) 740-2979 / Mobile; (813) 787-5961
Facsimile: (630) 214-4890
E-mail: jrigsbee@rigsbee.net
World-Wide-Web: http:llwww.rigsbee.net
To: U.S. Department of Justice (Antitrust Division)
RE: Microsoft Settlement/Future Litigation

I have no problem [along with the majority of all Americans] with what Microsoft has done to better the computer technology of today. Without the innovations and mindset of the president and founder, William Gates, the many luxuries we all enjoy as one world would cease. Microsoft is not an evil empire whose goal is to exploit the people of this country. However, its goal is to enhance and bring computer technology to a newer level that will better aid people throughout their daily activities. Microsoft must be allowed to bring the Internet into its operating system, make set-top boxes for televisions, or create the most dominant product since Windows; otherwise you [the government] have taken away one of the priceless commodities that this great nation was founded upon.

If you are so bent on stopping a company's free will to innovate, you should turn your eyes on America Online. America Online (AOL) planned its big takeover of Netscape and its semi-agreement with Sun Microsystems (by the way...both companies approached the government to pursue a case against Microsoft) at the same time as the Microsoft lawsuits. Isn't this a bit odd? If we are so worried about Microsoft's *LARGE* empire, shouldn't we be stepping on AOL's toes also? If you haven't been keeping up with current affairs...AOL has one goal, and that is to be number one and to destroy Microsoft. There is *NO* monopoly here.

Sun Microsystems, America Online, and Oracle are using you [the government] to get back at Microsoft. They are using you [the government] to build their business and in using you hoping to get one step ahead. If you destroy Microsoft's ability to enhance its products m any way its competition will see the victory...not the American people you are trying to protect.

A company [Microsoft] *MUST* be given the right to enhance its products in any way possible to benefit its customers. The Microsoft cases have gone on too long. I hope that you will favor the Justice Department's recommendation for compromise and disallow all current litigation against Microsoft.

Sincerely,
Jason L. Rigsbee

Romans 10:13 For whosoever shall call upon the name of the Lord shall be saved.

MTC-00029637

ALAN & NANCY STRAND
20100 156TH AVE. N.E
WOODINVILLE, WA 98072.
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. This issue has been drug out for over three years now and it is time to put it to rest. Microsoft needs the chance to move on and put this government over regulation behind them.

When I buy a Ford it does not come with Chew parts. Chew pans do not fit in Fords and nobody has a problem with that. Now Microsoft creates a product and is being sued because everyone else's products do not work perfectly with their products. Microsoft has agreed to provide their competitors with part of the Windows base code, in order for their competitors to create products that are more compatible with Microsoft's. This has never been done m any other industry and I do not see why it is being demanded from Microsoft.

Microsoft has been harassed for too long. Demands have been made and agreed to that have never been made on any other company. Now it is time to allow Microsoft to move forward. The only way to move forward is to put this issue in the past. Please accept the Microsoft antitrust settlement.

Sincerely,
Alan Strand

MTC-00029638

James Wilkins
1901 Windsor Place
Findlay, OH 45840
January 16, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

After three long years, the antitrust case against Microsoft has been settled. I applaud this decision. 1 believe the initial lawsuit was wrong. It was, in my opinion, very counter-productive for the economy. Microsoft is one of the engines of our economy; the economic downturn we have experienced can be traced directly to the antitrust case against Microsoft.

But it is time to go forward. Microsoft has agreed to a great number of demands from the Department of Justice; e.g. agreeing to a technical committee to monitor future actions; agreeing to design future versions of Windows with the ability to promote non-Microsoft software; agreeing not to retaliate against computer makers who send software that competes with Windows operating system. Microsoft is apparently trying to settle the case and get back to business. I agree with this. I urge you to give your support to the agreement between Microsoft and the Department of Justice.

Sincerely,
James Wilkins

MTC-00029639

January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania A?? NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

The Department of Justice and Microsoft have ?? three-year-??, I want to ?? my support to ?? measure and ask that you do so also This has become more of a personal battle between Microsoft and its rivals such as ?? Microsystems, and AOL. It should be noted that ?? stock has gone down, while Microsoft's sto??k, despite all the legal problems, has stinted to rise, again. I believe Microsoft was one of the ?? of the ?? the technological world to be embraced by all—providing lens of thousands of high??. It is on ?? part of ?? nature that there are those who do not like the fact that some people are more successful than they, and they try to bring such individuals down.

But ?? has now been ??, and we should let it stand. Mi?? many changes in their operations. Microsoft has agreed to help companies ?? greater degree of reliability with regard to their networking software; M?? agreed to allow computer makers to ship non-Microsoft product to customers; Microsoft has agreed to design future versions of Windows with a device to make it easier to promote non-Microsoft software. Microsoft has even agreed to a technical committee to monitor future settlement adherence. This is more than fair and reasonable. I urge you to give your support to this agreement and allow us to get back to business and Bill G?? to his creativity.

Sincerely,
Paul?? Dreger

MTC-00029640

Donald Delahaut
260 Fernledge Drive
New Kensington, PA 15068–4614
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. As a member of the technology industry, I want to see Microsoft and the industry to move on. The suit has dragged on for over three years and has caused great damage to the entire industry.

Some say that Microsoft is being treated leniently. In fact is quite tough. Microsoft has agreed to document and disclose, for use by its competitors, various interfaces that are internal to Windows' operating system products. Microsoft is virtually handing over their company secrets to their competitors. That is no getting off easy.

In order to move forward Microsoft is giving in to a lot. The terms, of the settlement are fair and they should be accepted.

MTC-00029641

Louis Theriault
643 Yorkshire Drive
Oviedo, FL 32765–8159
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Take a moment to reflect on what the breakup of ATT did to the phone industry. It created very poor phone service and drastically reduced innovation. If ATT were still together people would be looking and talking to each other over the connection instead of only talking to each other.

This hindered innovation is a direct result of the breakup of ATT because it caused them to divert their attention from long overdue innovation.

The same is true in Microsoft's case. Though I am glad that there has been no decision to break up Microsoft, the mere thought that this was considered is appalling. The way I see it, if I ran a company that was unable to keep up with my competition then the fault is mine and not my stronger competitor. I should therefore seek to strengthen my stance in the industry rather than seek corporate welfare from the government. Indeed, seeking the government's help to break up a company for your advantage only is a pitiful thing and I think the government should put a stop to it immediately!

Look at all that Microsoft has conceded in this case. They have agreed to grant competitors greater access to Windows by creating new versions. In addition, they have agreed to give computer makers more flexibility to reconfigure Windows for interoperability with non-Microsoft software. In light of all the varied factors of this case and Microsoft's spirit of cooperation, please put an end to litigation in the interest of fairness.

Sincerely,
Louis Theriault

MTC-00029642

James Hahn
440 E 57th Street
New York, NY 10022
January 27, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Last November, Microsoft and the Department of Justice reached a settlement in the antitrust case. The settlement is currently being reviewed, and soon the courts will have to decide whether or not the settlement is acceptable. Microsoft competitors are touting the agreement as lenient towards Microsoft and harmful to the consumer. They would like nothing better than to see the settlement overturned and litigation against Microsoft continued. I disagree. Continued litigation, not settlement, would do the most damage to the consumer, and the settlement is anything but lenient.

The settlement allows Microsoft to remain intact, but prohibits Microsoft from engaging in behaviors that would prevent other computer makers from having a fair chance to compete. For example, the settlement requires that Microsoft disclose source code from the Windows operating system to its competitors for their use either in working independently or with Microsoft Microsoft will also furnish third parties acting within the limits of the settlement with a license to applicable intellectual property rights to prevent infringement. I do not think that Microsoft has been treated too mil?? in this case; in fact, in the interest of wrapping up the se??, Microsoft has agreed to a number of terms that extend to aspects of Microsoft not found to be in violation of ?? laws.

The time has come for a decision to be made, whether or not it is in the best interests of the public to allow a ridiculous amount of time and money to be wasted in laughably ?? litigation, or if the technology industry should be permitted to return to normal and the economy to recover. I would like to see the consumer benefit from a return to nor?? in the economy and the computer industry, and I urge you ?? support the settlement. Enough is enough??

Sincerely,
James Hahn

MTC-00029643

January 17, 2002
Attorney General John Ashcroft
U.S. Justice Department
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft.

At long last, this debacle of an antitrust trial between the government and Microsoft has sputtered to a settlement. While the settlement is weighed slightly against Microsoft, it at least has the advantage of ending the litigation.

This entire lawsuit was, I believe, grounded in much misinformation and misunderstanding. A company's "dominance" in any particular market does not necessarily mean that it has achieved that status through anything other than legal—albeit aggressive—means. I believe this to have always been true of Microsoft. Microsoft never manipulated the marketplace to force anyone to purchase its system. Rather, its pricing policies, its integration, and its reliability attracted most people to its product. This is enviable, not despicable.

When our government engages in a mission to "level the playing field" for all, there is the natural side effect of having to "dumb down" those that have been successful, and force them to either step aside, or give away their hard-earned successes to those less fortunate souls who are not as creative or as industrious. This attitude is reflected in the settlement. Microsoft is being forced to give up some of its source code to others in order to satisfy the government need to level the IT playing field.

While it is useless to object, I find that the settlement at least has the advantage of ending the contentious nature of the trial. For this reason alone, I find myself supporting it.

Sincerely,
Charles Aunger
Chief Technology Officer
PO BOX 470671,
CELEBRATION, FLORIDA, 34747-0671
www.vhinternet.com.
TEL: 407 709 6559 FAX: 407 650 2703

MTC-00029644

Lesa Stafford
3395 80th Road
Thayer, KS 66776
Renata Hesse
U.S. Department of Justice
601 "D" Street NVV Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am glad to have this opportunity to express my opinion regarding the Microsoft antitrust case.

I was relieved to learn that the Bush Administration had proposed a settlement that could soon end this costly endeavor. As a taxpaying citizen, I nave been concerned for quite some time over the high cost of continuing to pursue this case in court, From all I have read and experienced as a consumer in the marketplace, I am convinced, that Microsoft has created no monopoly—especially since computer products continue to become more affordable and not more expensive

I firmly believe that the funds being spent to litigate this matter in court are desperately needed in other areas such as education and law enforcement, Therefore I urge the court to accept the proposed Microsoft settlement and free up tax dollars for matters that are truly critical to all our futures.

Sincerely.
Lesa Stafford

January 25,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The settlement reached in the Microsoft anti-trust dispute is essential to the continued success of America's technology industry in the world market. Our IT industry has floundered for the past three years since the inauguration of this anti-trust suit against Microsoft three years ago. This settlement is fair and is a prime opportunity to put this litigation behind us.

Under the terms of the agreement, Microsoft has agreed to design all future versions of Windows to be more compatible with the products of its competitors. Microsoft has also agreed not to retaliate against any competitor who produces products that compete with its own. And, finally Microsoft has promised to report to a three person technical committee that will monitor Microsoft's compliance to these terms. I believe that this settlement is reasonable for the simple reason that it will allow Microsoft to get back to business without being pirated and split apart.

Thank you for you help in this issue and for allowing me to express my opinion. Free enterprise is a precious commodity in this nation and it must be protected.

Sincerely,
James Lay
3400 W Bristol Road
Flint, MI 48507

Made Up To a Quality ... Not Down To a Price !

MTC-00029646

January 23, 2002
Renata Hesse
Trial Attorney
Antitrust Division Department of Justice
601 D Street NW. Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As an employee for a large midwestern hospital. I see first hand the benefits of technology everyday. Whether it is computerized laser surgical tools or sophisticated medical record software packages, my employer relics everyday on constant innovation within the technology field to better serve our patients and community.

The pervasive nature of technology continues to astound me...it seems as if virtually every thing we encounter has some kind of microchip inside. Is it any wonder then, that one of the largest computer companies in the world being involved in a major lawsuit would have an extraordinary impact on virtually every segment of our economy?

As I understand it, there is a settlement before you that could bring closure to this matter very quickly. While I agree it is vitally important to protect consumers, it is also important to do what is prudent to protect our economy and to continue technological innovation. research and investment.

The settlement before you addresses the concerns of the original complaint. All interested parties have approved it. Please give the settlement your final approval and help get the economy moving again.

Sincerely;
Terri Hasselman
Director of Major Gifts
Mercy Foundation
1111 6th Avenue
Des Moines.

MTC-00029647

Alba English
14113 Grant St
Overland Park, KS 66221
January 19. 2002
Ms. Renara B. Hensse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse,

It was music to my ears to learn that there can be a settlement soon in the antitrust case against Microsoft Corporation?

I am confident that this settlement will have a positive impact on the ailing U.S. economy. Many of the investments citizens like my self have are directly related to the high-tech market place.

With less government intrusion into private business and mote good old-fashioned competition in the marketplace, we can look forward to new growth in the U.S. economy. Enough taxpayer dollars have already been spent attempting to fix a problem that never existed.

I appreciate your consideration of my view as you deliberate. It is important for you to support this settlement.

Sincerely,
Alba English

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1985

Federal Register

5–3–02
Vol. 67 No. 86

Friday
May 3, 2002

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May 3, 2002

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Pages 28699-29273

Part II—Continued

Department of Justice

Antitrust Division

United States v. Microsoft Corporation; Public Comments; Notice

MTC-00029649

Wayne Stringer
1270 205th St
Fort Seott, KS 66701
January 26, 2002
Attorney Renata Hesse
Department of Justice, Antitrust Arty
601 D Street NW, Suite 1200
Washington. DC 20530

Dear Attorney Hesse.

I strongly encourage your support in accepting the proposed settlement in the Microsoft antitrust suit "Microsoft. has simply provided a product that meets a market demand at a price the consumer is willing to pay. If anything, their competitors have used similar tactics to grow their own business—in a sense. keeping the marketplace fair.

The unfairness lies in Microsoft's competitors using the marts to accomplish what they couldn't do in the marketplace. ??'s Larry Ellison has very publicly decreed their he will unseat Microsoft as the number one player in the software industry, and he will do anything to accomplish that goal I sincerely object to this move to replace the free market system with court manipulation.

With all due respect. I hope you object as welt.

I encourage yore full acceptance and approval of the settlement. I truly believe it addresses all involved and allows Microsoft and the industry to move forward on a positive, note.

Sincerely,
Wayne Stringer

January 27, 2002, 11:40 pm
Antitrust Division
U.S. Dept. of Justice
601 D Street NW, Suite 1200
Washington DC, 20530–001

To Whom It May Concern:

I am writing to exercise my right under the Tunney Act to voice my strong disapproval of the current proposed settlement of the Microsoft anti-trust trial. The proposed settlement is both weak and lacking strong enforcement provisions, and is likely to have zero (or worse) effect on competition within the computer industry, with continued and increased harm to consumers in the form of fewer options in the software market and continued increases in the price of the Microsoft software consumers are forced to buy.

Microsoft was convicted of abuse of monopoly power by one Federal judge, and the judgment was largely upheld by another seven Federal justices. In evaluating any proposed settlement, keep repeating one Important Phrase over and over: "Microsoft is guilty."

The seven justices of the appeals court ruled that any actions taken against Microsoft (a) must restore competition to the affected market, (b) must deprive Microsoft of the "fruits of its illegal conduct," and (c) must prevent Microsoft from engaging in similar tactics in the future. The proposed settlement fails on every one of these.

(A) Restore Competition

Among the many flaws in the proposed settlement is the complete disregard for the Open Source software movement, which poses the single greatest competitive threat to Microsoft's monopoly.

Most organizations writing Open Source software are not-for-profit groups, many without a formal organization status at all. Section III(J)(2) contains strong language against non-for-profits, to say nothing of the even less-formal groups of people working on projects.

Section III(D) also contains provisions which exclude all but commercially-oriented concerns.

To restore competition the settlement must make allowances for Open Source organizations—whether formal not-for-profit organizations or informal, loosely associated groups of developers—to gain access to the same information and privileges afforded commercial concerns.

(B) Deprivation of Ill-Gotten Gains

Nowhere in the proposed settlement is there any provision to deprive Microsoft of the gains deriving from their illegal conduct. Go back to the Important Phrase: "Microsoft is guilty." In most systems of justice, we punish the guilty. But the current proposal offers nothing in the way of punishment, only changes in future behavior.

Currently Microsoft has cash holdings in excess of US$40 billion, and increases that by more than US$1 billion each month. A monetary fine large enough to have an impact on them would be a minimum of US$5 billion.

Even a fine that large would be a minimal punishment. Microsoft's cash stockpile is used, frequently and repeatedly, to bludgeon competitors, buy or force their way into new markets, or simply purchase customers, with the long-term intent to lock people and organizations into proprietary software on which they can set the price. Taking a "mere" US$5 billion from their stockpile will have zero effect on this practice.

For that reason, Microsoft's cash stockpile must be further reduced. In addition to the monetary fine, Microsoft should be forced to pay shareholders a cash dividend in any quarter in which they post a profit and hold cash reserves in excess of US$10 billion. The dividend should be substantial enough to lower Microsoft's cash holdings by US$1 billion, or 10%, whichever is greater.

(C) Prevention of Future Illegal Conduct

The current proposed settlement allows Microsoft to effectively choose two of the three individuals who would provide oversight of Microsoft's conduct and resolve disputes. The proposed settlement also requires the committee to work in secret, and individuals serving on the committee would be barred from making public or testifying about anything they learn.

This structure virtually guarantees that Microsoft will be "overseen" by a do-nothing committee with virtually zero desire or ability to either correct Microsoft abuses, or even call attention to them.

Instead of the current proposal, a five-person committee should be selected. Microsoft may appoint one person, but will have no influence over any of the other four. For the four, two should be appointed by the Federal court of jurisdiction, one should be appointed by the U.S. Department of Justice, and one should be appointed by the U.S. Senate. At least two of the appointees should have technical experience and be competent to evaluate technical proposals and arguments by themselves, without the filters which assistants would bring.

These are hardly the only thoughtful and reasonable suggestions you will no doubt receive regarding the proposed settlement of this anti-trust case. And these are hardly the only suggestions which should be adopted if the settlement is to prove effective. But all of them are essential to that aim, and adopt them you must,

Thank you for your time and the opportunity to comment.

Respectfully,
Michael A. Alderete
569 Haight Street
San Francisco, CA 94117
(415) 861–5758
michael@alderete.com

MTC-00029652

Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing in supp ort of the consent decree for the Microsoft settlement. Microsoft has show itself to be an innovator and a company whose products make lives better for he average American. This lawsuit is bad for consumers and ba?? for the economy.

By supper ting the consent degree, you will put an end to a lawsuit theft has become more political than substantive. The Bush administration priorities have been amazingly out of step and out of touch with the American public Hopefully they will at least get this one right and settle the suit. The I maybe we can all move on to a healthy economy and a healthy debate concerning the future of our nation.

Thank you.

Sincerely
Tim Allison Executive Board Member
CA Democratic Party

Title for identification purposes only. This letter reflects the solely the opin on of the signer.

MTC-00029653

January 25, 2002
Renata hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

The Microsoft Lawsuit Is Bad for Business and Bad for Consumers.

For many, the idea of attacking one of the most successful companies in American history, and its CEO Bill Gates, sounds like fun. But the Department of Justice's pursuit of Microsoft is no laughing matter, having cost American taxpayers well over $35 million in litigation so far and the meter is still running.

The reality is that this lawsuit does nothing to benefit consummers. It does however benefit Microsoft's competitors, who after spending millions of dollars lobbying the Department of Justice to file this suit want a return on their investment. Also, it benefits the lawyers who have made a fortune on both sides of this issue... and the Attorneys General and bureaucrats who are making political hay, back home by demonizing Microsoft. The real beneficiaries are the powerful anti-Microsoft forces not consumers.

The Cost To Businesses and Consumers in Just Too High.

Rather than protecting consumers, drastic remedies such as breaking up Microsoft would be a disaster for consumers and businesses. The integration and standardization Windows brought us has been a boon for the public as well as for our economic productivity. What Bill Gates understood, much to his competitors'' chagrin, was that consumers- people who use computers, not live computers—want an affordable and reliable system that works with and understands other systems.

Government intervention into the world of high tech programming and design sets a dangerous and potially disastrous precedent. Dictating to Microsoft what technology it can develop will decrease the effectiveness of existing products or meet the expanding needs of users could cripple the technological innovation that has been the hallmark of hour high tech, internet economy.

One could argue in fact that the genesis of the huge decline in the Nasdaq, which so far has resulted in more than $2 trillion of lost wealth, is primarily the result of the government's sustained attack on Microsoft's right to innovate. After all, today Microsoft, tomorrow Intel.

Over the past 10 years, Microsoft has lowered its prices, created a better product, and invested enormous sums of money in research and development. This doesn't sound like monopolistic behavior by any standard.

The government's pursuit of Microsoft has cost the American taxpayer over $35 million so far with devastating results for state and private pension funds, and small investors, all over the country, [illigible] state pension funds have lost $144.2 billion. Here in California, since the March, 2000, break down of mediation on the case, Public Employee Retirement System funds have dropped more than $59 billion while the State Teacher Retirement fund lost $15 billion.

We hope the consent decree is adopted and the federal lawsuit is dropped. If not, it may be time to [illegible] our elected representatives to do the right thing and allow Microsoft to continue its history of investment, innovation and improvement The American economy depends on it.

Sincerely
Joe [illegible]
Executive Director, SBCTA
214 East Victoria Street,
Santa Barbara, California 93101
Tel: 805.965.9415
Fax: 565–7915
email: info@sbcta.org www.sbcta.org

MTC–00029654

January 9, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D S??et NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As a member of the North Carolina General Assembly, I have always sought to make government a cooperative partner of business and industry. After all, business and industry creates jobs that enhance the lives of countless North Carolinians.

For several years, I have witnessed the federal government's pursuit of a lawsuit against Microsoft, one of the most successful companies in the history of American business. This suit has cost the taxpayers upwards of $30 million over the past years.

I request that Judge Kollar Kotelly approve the settlement that the Department of Justice and Microsoft have both agreed upon. In addition, I am pleased to say that my state, North Carolina, has also signed the agreement and decided to settle.

In spite of the fact that nine state attorneys general plan to prolong their cases against Microsoft, I believe the federal case should be settled.

Sincerely,
Jeffrey L. Barnhart
State Representative

MTC–00029655

January 23, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street, NW suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As a business executive who travels to Chicago on business from my home in Greensboro nearly every week, I know how important Microsoft's business technology is to American business. In fact, I find Microsoft's products to be bery helpful when I travel abroad on business as well.

I realize that not everyone travels to the extent that I do, but I would imagine that most people who work in business do rely on Microsoft products to a great extent. And shouldn't they? Microsoft's products are universally recognized as the industry leader and they've improved communication for American businesses, schools and government.

Virtually everyone uses Microsoft's products. Executives, attorneys, entrepreneurs, educators and government officials know that Microsoft is the universal leader in technological innovation They all have great confidence in Microsoft's products to get the job done.

I read recently that Microsoft and the federal government agreed to settle the antitrust lawsuit they've been engaged in for a number of years. That's good news for businesses, families, the stock market and the American economy, our economy needs a shot in the arm at this point in time, and I believe that this settlement will provide it. I request that Judge Kollar-Kotelly approve this settlement. Thank you for your consideration of my comments.

Sincerely,
Kumar Lakhavani
Senior Manager
HR Dynamics Global Practice

MTC–00029656

Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As a member of the Greenville City Council, I am concerned about the off??er that the Microsoft anti??rust lawsuit is having on both the business and educational institutions in our city. I am a newly elected member of the council, a member who ran in order to create a more efficient government for our ??tizens. I am also concerned that the government operates efficiently.

The American people have a twofold desire in regard to the Microsoft suit, as I see it. First, they want the federal government to work to create a more positive business climate for all Americans. Government needs to use its power to encourage private investment, innovation and job growth, Second, it is the moral responsibility of the federal government to use taxpayers' funds wisely.

The government's work in fostering a strong coonomy is par??licularly timely right now. After all, the unemployment rate is up, the stock market is down, and consumer spending is off. We've got to get back on track. I can think of no more positive action for the federal government to take than for its courts to approve the settlement in the Microsoft case.

Also, Americans today are paying taxes to the federal government at the highest rate per capita in over fifty years. It is the government's responsibility to see to it that these funds are used responsibly for the benefit and general welfare of the American people. The Microsoft lawsuit has cost the American people $30 million to prosecute. It's time to and this litigious spending.

Thank goodness both parties want the suit to end. They have come to art amicable settlement. I urge Judge Kollar-Kotelly to approve the settlement.

Sincerely,
Ray Craft
Council Member

MTC–00029657

January 18, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Departnent of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As a business leader who has served as Chairman of the American Furniture against Microsoft is close to ending. Virtually all of the executives in business and industry that I am in contact with want to see the case settled.

Our society has become more litigious than ever. Litigation costs business money... and can cost employees their jobs That's why I believe that we ought to move beyond this ease. There are so many societal problems for us to contend with no the least of which is our ourrent economic recession. We need to focus on growth, and we aced the government to be a true partner in that effort.

The company that I own uses Microsoft products every day. t find them to be useful in making my business more efficient. En??epreneurial life is much different from the legal profession. If I am not constantly looking for now niches in which to make a profit, my business will lag. Microsoft products have made my business more productive, and I think it's time to settle this lawsuit so that Microsoft can focus all its resources on creating new products to benefit businesses like mine.

Microsoft and the federal government are in agreement On the settlement, I strongly urge Judge Kollar-Kotelly to quickly approve the settlement Let's set me economy moving again.

Sincerely,
J. Ray Shufelt
CEO

MTC-00029658

Beth Saine
Lincoln County Commissioner
1760 Whispering Pines Drive
Lincolnton, NC 28092
704.735,3297
January 18, 2002
Renata Hesse
Trial Attorney
Antitrust Divisions Department of Justice
60l D Strut NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937

As a member of the Lincoln County Commission, I am pleased that the United States Justice Department is settling with Microsoft. Technology is so important to the future of counties like ours all across America, and this settlement will enhance all facets of the tech industry in the coming years.

Our neighbors in Mecklenburg County have had many advantages over Lincoln County, and other counties in the past. Charlotte is the nation's mega banking centaur. That attracts business, and with it comes a substantial local fax base. I'm not saying that money is everything, but huge counties have had a traditional advantage over smaller ones in the past. As a result, they have had an easier time funding essential county services, such as school improvements. Technology quite simply levels the playing field for average-sized counties across America.

When someone togs on to the internet, it doesn't matter if they're sitting in Raleigh or Hanging Dog, their access to information is the same, and their ability to profit from the proliferation of information is the same, The tech industry needs a shot in the arm so that it can continue aiding America's counties in o significant way. Fore this reason, I'd like to request that Judge Keller Kotelly approves the settlement that Microsoft and the federal government have reached. It will benefit Lincoln County, and counties like ours across America,

Regards,
Beth Saine

MTC-00029659

North Carolina Federation of College Republicans
BOX 16160
SULLIVAN HALL
NCSU
Raleigh, NC 27607
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601D Street, N-W Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As one of the younger members of the North Carolina Republican Party's Central Committee, I have a strong interest in how government interacts with technology so the economy is strengthened in the future. As Chairman of the North Carolina Federation of College Republicans, I want to formally ask that Judge Kollar Kotelly approve the landmark settlement between the federal government and Microsoft. Here's why:

I do not believe that Microsoft has done any harm to even one single consumer. And without consumer harm, what reason exists to bring an antitrust case? None. Face this fact: the future is in high tech jobs. Also, every industry is going high tech. Imagine the damage done by the federal government suing the technology industry's leading company. It discourages young people from being innovative. It discourages them from becoming entrepreneurs. Our Republic will only survive is maintain a strong free market system. And our market system can only thrive if companies continue to be innovative. I hope the settlement is finalized soon, so that American business can operate at its full capacity again soon.

Thank you for your consideration of my comments.

Sincerely,
Matthew Adams
State Chairman

MTC-00029660

Wake Forest Town Commission
January 11,2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As a member of the Wake Forest Board of Commissioners, I am all too aware of the high cost of government despite the fad that our citizens and businesses endure terrible economic conditions in our state. Out town needs revenue from increased business activity, not higher property taxes. It seems to me that all our local industries will be enhanced when the settlement of the Microsoft lawsuit is completed.

As you can tell, I am adamantly opposed to higher taxes in whatever form and work hard to ensure that tax money is spent wisely. But, the fact is, in our growing community, we have services that need to be paid for by government. The best way for our town to generate additional revenue is to increase business activity in Wake Forest. That is why I was happy to see that the federal government's case against Microsoft had come to a settlement agreement in the court of Judge Kollar-Kotelly, I know that this case has cost the taxpayers of this nation $30 million, not to mention lesser sums in the t 8 states that also brought the original lawsuits. More significantly, it has hurt business, and local revenues, in our town and towns across America.

I am pleased that North Carolina is one state that decided to agree with the settlement and now no more state tax money will be expended. I hope to see the same thing happen in the federal case as well. That is why t am strongly urging the judge to agree to the settlement in this case.

Sincerely,
Chris Malone
Town Commissioner
401 Owen Avenue—Woke Forest, NC 27587

MTC-00029661

January 25, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200 Washington, DC 20530 Fax: 202-616-9937

Dear Ms. Hesse:

Microsoft's products are the greatest in the technology industry, and that is the major reason that they are regarded as a leader m the American economy. Given that fact, it is no wonder that when the federal court announced that Microsoft would be broken up, the stock market came to a screeching halt, and tumbled down from record highs.

I am very encouraged that Microsoft and the federal government have agreed to a settlement in the antitrust case. I believe that this is good for the economy, the government and other societal institutions, which increasing rely on industry to invent new products to make their operations more effective.

The settlement provides for more oversight into Microsoft's operations, and a more competitive playing field for all companies in the industry. That's welcome news for everyone who demands consumer choice. It will also send the right signal to investors that the government is prepared to work in a cooperative effort to spur economic growth and job creation.

I request that Judge Kollar Kotelly will approve the settlement, so that the Justice Department can conserve resources for more pressing legal matters. Additionally, closure in this matter would send a message that government is prepared to work with the American business in taking constructive steps toward a brighter future for all Americans.

Thank you,
Trustee
Rowan-Cabarrus Community College

MTC-00029662

Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937

Dear Ms. Hesse:

As a young business executive, I am relieved that the federal government and Microsoft, which have been engaged in a protracted antitrust lawsuit, have arrived at a settlement arrangement that is amicable to both sides. Settling this case as soon as possible is important to the technology industry, as well as many other important segments of the economy.

In the business world, companies look at industry leaders for innovation, and they often try to emulate the corporate giants'' successful business strategies. This partially explains why the tach sector of the economy has been in a tailspin for an extended period of time. When the antitrust suit is finally ended once and for all, a dark cloud will be lifted from the entire industry. The American economy, and to some extent, the world economy has never been more interconnected. Each change within one economical sector creates a ripple throughout the rest of the economy. A major shift in one sector results in a sea change across the board of leading economic indicators.

I work in the mortgage banking industry, a business that is highly sensitive to the state of the national economy. While ending the Microsoft litigation will not alone create record revenues for our industry, I feel certain that it would boost consumer confidence, and encourage investments in many types of business enterprises.

Finally, I am excited about the future of technological innovation in the workplace. Microsoft has led the way in this regard, and finalizing the settlement will help the company refocus on developing new and exciting products. That means a more productive workplace in the future.

I request that Judge Kollar Kotelly approves the settlement.

Sincerely,
Stewart

MTC-00029683

January 24, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937

Dear Ms. Hesse:

As a long-term care specialist, I am concerned that the tumble that the sock market has suffered is draining the finances of our nation's elderly. We've got to get the nation's economy back on track. The government needs to focus on ways to spur economic growth like never before. In less than ten short years, the baby boom generation will begin to reach retirement age. A record number of seniors will inundate our nation's hospitals, nursing homes and assisted living facilities. These people will need savings not for luxury items, but to cover living expenses associated with aging.

Our nation's greatest generation, for the most part, worked at one company for their entire working career. Their pensions are largely vested in stocks. When the stock market is unstable, their financial situation, and living conditions, become unstable as well. The baby boom generation are less likely to have worked in one company, and are less likely to have saved for a retirement. They are, however, more likely to have invested a substantial portion, or all, of their savings in the stock market. IT IS IMPERATIVE THAT WE STRENGTHEN THE ECONOMY IN ORDER TO BOLSTER THESE SAVINGS.

I request that Judge Kollar Kotelly approves the settlementbetween Microsoft and the federal government. This lawsuit has been proven to have caused much of the turmoil within the economy in general, and the stock market in particular. Our nation's retirees need security, and deserve governmental cooperation.

Sincerely,
Douglas McCabe Russell

MTC-00029684

GEORGE W. LITTLE & ASSOCIATES, INC.
INSURANCE CONSULTANTS—BROKERS
January 22, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937

Dear Ms, Hesse:

I have been involved in business, industry and economic development for over thirty years. Over that period of time, I have come to understand that a quality education system, a solid public infrastructure and a strong flee market system are the keys to economic development in North Carolina and across America.

Virtually every societal institution which is vital to economic development has benefited from the proliferation of technological advances in the past decade. Leading the way in innovative technology is Microsoft. Their products have benefited businesses by saving countless hours of time and making communications between businesses seamless. Microsoft's benefits to the education system are tremendous, Research, class instruction and other benefits have been realized through application of these useful tools. Governmental institutions also rely on Microsoft to maximize their efficiency and serve, the public in a responsive manner.

For these reasons, I am gratified that federal government and the Microsoft have agreed to a settlement in their antitrust case, Microsoft will be able to focus its energies once again on research and development, while the government is granted unprecedented oversight into Microsoft's operations. Under this settlement, economic development wins, and so do the American people.

I hope time Judge Kollar Kotelly will approve the settlement.

Sincerely,

MTC-00029685

January 23, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937

Dear Ms. Hesse:

I write to express my desire that the government will act in a cooperative manner with Microsoft and similar business interests in developing a mutually beneficial relationship. I am convinced that now is the time to end the federal government's litigation against Microsoft. Microsoft and the federal government have agreed to settle the suit. The public is yearning for an economic recovery. Congress is debating an economic stimulus package. With these facts in mind, I am quite confident that we should move beyond the Microsoft case and work to get our stagnant economy moving again.

As an attorney, I realize that antitrust law is an important component of maintaining a competitive marketplace. However, company innovation and product improvements are as well, and since both parties have agreed to settle the lawsuit, I believe that it would be advantageous for everyone if Microsoft can get back to doing what it does best: researching and developing useful technological tools for the American workplace and the American home.

The settlement guarantees that other companies will have market access. Every new Microsoft operating system will have to include a mechanism that enables end users to remove or re-enable Microsoft s middleware products. While end users can already remove Microsoft middleware from Windows XP, this settlement would make it even easier for users to change middleware products.

I hope that Judge Kollar Kotelly approves the settlement.

Regards,
Phillip J. Strach
Attorney

MTC-00029686

Professor Eric Brodin
P.O. Box 209
Bules Creek, NC 27506
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

During my career as a columnist and professor. I have written over 3,000 articles for various publications such as the Dana Daily Record, the Coastal Piedmont leader and other Journals, newspapers and magazines in twenty countries. I feel compelled to write to you on a hot contemporary issue: the pending settlement of the federal government's antitrust case against Microsoft.

I live in a university community. In the past ten years. I have seen a technological explosion on campus that has revolutionized learning processes and intellectual research. I have found the technological advancements of the newspaper to be beneficial in my work as a columnist. The technological advancements to which I refer are in no small measure due to the entrepreneurial success of Bill Gates and Microsoft. After all, Microsoft has developed products that have aided the process of word processing immeasurably, as well as improved columnists" ability to transmit data.

I served as the Endowed Chair of the Landry-Fetterman School of Business at Campbell University from 1980 until 1983. During my tenure, I did my utmost to promote the notion that our societal liberty is largely dependent upon the foundation of the free enterpriss system. I fully realize that antitrust laws are needed in order to foster a competitive marketplace, however if a corporation's business practices do not result in harm to the conssumer, the government should not interfere. I have seen no evidence that Microsoft's business practices have harmed consumers in any way. On the contrary, I believe that Microsoft has benefited the American consumers greatly.

I urge Judge Kollar-Kotelly to approve the proposed settlement of the lawsuit. It's time to allow the free market system to determine the corporate winners and losers in our great land.

Sincerely,
Professor Eric Brodin

MTC-00029667

Steve Tyndall
PO Box 33358 Raleigh, NC 27636
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937

Dear Ms. Hesse:

The business of America is business, according to President Woodrow Wilson. That statement has held true for the entire duration of our nation's young life Whenever business is good, we say that "times are good" in America. When business is off, we say that we're going through a "tough time". ! regret to say that I believe that tough times are currently upon us and our economy needs for business to get back on track. In some areas, the government can play an active role in restoring consumer confidence, and strengthening investor resolve.

The stock market is in limbo. Investors are in a period of uncertainty that began when the federal government announced that Microsoft would be dissolved into a series of small companies. The tech sector of the economy, which had been largely separated from government, and looked to Microsoft for leadership, became a very unstable place for investors and employees to be that day. We need to recapture the magic of the 1990s economy by putting the Microsoft lawsuit behind us once and for all.

The federal government and Microsoft are in agreement on the terms of the settlement. All that remains is for Judge Kollar Kotelly to approve the settlement. I hope and pray the settlement will be approved. A renewed spirit of entrepreneurial innovation will be started on that momentous occasion.

I am honored to live in the Unites States of America, a country in which we have a fair and impartial judicial system. The trial has run its course. The verdict is in. Both parties want to settle, in order to save the American people and the American economy irreparable harm. It's time to move forward.

I request that Judge Kollar Kotelly will approve the settlement. Senior Tactical Management Specialist Planner John Deere Corporation

MTC-00029668

Scott Lampe
Former Treasurer, N.C. Republican Party
3707 Waterton Leas Court.
Charlotte, NC 28269
January 21, 2002

Dent Ms. Hesse:

I believe that the United States of America has the highest standard of living of any country in the world. I am certain that our prosperity is a direct result of the free enterprise system that enables our economy to flourish. I enjoy following current events, end participating in the political process when I believe that my participation is needed.

The federal government's lawsuit against Microsoft is a prime example of an issue that has stirred my passions and evoked my interest in the public good, From the outset of the lawsuit, I have worried about the suit's impact on the American economy as a whole. I noticed that the entire stock market began its slide at the point which the federal government annoyed Microsoft's breakup.

Microsoft's, innovation has been beneficial for industrial and educational institution across America. I strongly believe that the government ought to be as supportive as possible of all companies that are vital to American enterprise and American jobs. It's important to families that their tax dollars be used to strengthen, not weaken, the economy. That's why I believe that the proposed settlement between Microsoft and the federal government is a positive development for America. The settlement provides for like access and monitoring of Microsoft. In essence, everybody wins... business, industry, the government, and most importantly, the American people.

I hope that Judge Kollar Kotelly will approve the settlement.

Thank you,
Scott Lampe

MTC-00029669

January 18, 2002.
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse:

I am encouraging you to accept the Microsoft settlement. It is fair! For three years, I've been reading about the litigation, lobbyists, lawyer's fees and millions of dollars in taxpayers monies spent.

It's time to have less regulation in technology and to have more competition in the market. As a consumer, I want affordable, high quality products that Microsoft creates. This settlement will allow the company to again focus on leading in technology rather than fighting for survival in the face of litigation.

Thank you for considering my input as you deliberate this decision.

Liberty Carty
620 S Highland Dr
Andover, KS 67002

Journalism major, Butler County Community College Member, Kansas Republican State Committee President, Buffer County Republican Assembly

MTC-00029670

Gerald R. Slifka
2028 Winston Place
Waterloo IA 50701
January 27, 2002
Renata Hesse Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

I am writing to urge the court to accept the settlement proposal of the Microsoft anti-trust case. As a consumer I have witnessed the value of our constantly advancing technology on a daily basis. Like most Americans I am at the same time thrilled and overwhelmed by the new products that are available. These have gone along way toward helping work and live more efficiently. I work in the printing industry and can tell you first hand that technology has had a significant impact on how this industry operates. The quality of our work improved to a great extent while the product turnaround time has been significantly reduced

We are living in a time of financial uncertainty in this country. We must do whatever we can to regain stability in the stock markets and the job market. Ending the government's case against one of our leading companies will help lead our county to continued prosperity.

Please accept the settlement before you.

Sincerely,
Gerald R. Slifka

MTC-00029671

January 16, 2002 Ms.
Renata-Hesse, Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I appreciate that my ideas as a livestock business owner can be shared regarding the Microsoft antitrust ease.

It is important that the Federal Courts recognize the benefits of competition in business and technology. The Anti-trust laws were written over 100 years ago to protect consumers. In this day and age, it seems, some of Microsoft's competitors want to use them as a safe-guard from competition. A better use of the government's legal power would be an examination of the vertical integration of agricultural conglomerates.

I personally agree with settlement and hope that you will accept it to bring closure to this litigation that is costing us so much in time and tax dollars.

Sincerely,
Vernon Suhn, Owner
Suhn Cattle Company
RR2, Box 67
Eureka, Kansas 670445-9428
(620) .583-5923

MTC-00029672

January 22, 2002

Judge Kolar Kottely
U.S. Department of Justice,
Antitrust Division
601 D Street, N. W., Suite 1200
Washington, DC 20530

Dear judge Kottely:

As an educator, with 37 years of experience, I have followed the Microsoft antitrust suit with much interest and would like to express a major concern regarding the timely disposition of this matter.

I believe the principle parties of this suit have come to a fair settlement for all concerned. However, the nine remaining attorneys general and the District of Columbia need to put aside their individual grievances and settle in the interest of consumers as well as the technology industry which so greatly affects the growth of our economy. It disappoints me that the Attorney General of Kansas is one of the parties who have resisted settlement.

I am encouraged that this settlement has the prospects of more healthy competition in the software industry as well as the increasing the availability of a variety of software to consumers. I sincerely hope you will actively work toward approving the settlement of this case as soon as possible.

Sincerely,
Kent Austin, Speech Pathologist/Audiologist
2520 Coronado Ct.
Emporia, Kansas 66801

MTC–00029673

Patricia Piester
12122 willow Lane, #1124
Overland Park, KS 66213
January 21, 2002
Judge Kolar Kottely
U.S. Department of Justice, Antitrust Division
Attention: Renata Hesse
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge Kottely,

The Federal government has been pursuing its case against Microsoft for 3 years and has spent $30 million of the hard-earned taxpayer's dollars in an effort to protect the consumer against Microsoft's perceived unfair business practices. The result has been confusion and no clear answers.

The Court of Appeals effectively put an end to this case by throwing out a break-up plan instituted by a lower court. This move was clearly in the right direction. We should follow their lead by putting an end to this case. Nothing good will come from dragging it out any longer at an even greater cost to taxpayers and consumers.

Instead, we must see action now in order to spur the American economic recovery we need, especially for our ailing technology industry.

Please support the proposed settlement in this case.

Thank you for considering my opinion on this case.

Sincerely,
Patricia Piester

MTC–00029674

January 25, 2001
Renate Hesse
Antitrust Division,
Department of Justice
Fax (202) 616–9937

To Whom It May Concern:

I am writing to express my support for the Department of Justice settlement in your case against Microsoft. I understand that you are close to a settlement and have asked for public input about this issue.

Our tax dollars are spread thin as well our governmental resources. Enough time and money has been spent on this case to come up with the current settlement. The settlement is impartial and the punishment fits the wrong.

My concern at this time is "who" will actually benefit from continuing this case against Microsoft. I believe it will be Microsoft's competitors and not consumers. The current settlement creates a stronger technology industry and consumers will be the overall winners. The case against Microsoft stands as an obstruction to progress. We are going through a war and economic recession. Refusing to settle and extending the campaign against Microsoft is technically out-of-date and just another reason for the country slow down. It is time to get back to work.

Thank you for your time and your efforts to settle US v. Microsoft as soon as possible.

Sincerely,
Jaye Stretesky
P.O. Box 2553
South Lake Tahoe, CA 96158

MTC–00029675

Renata Hesse
Trial Attorney; Antitrust
U.S. Department of Justice
601 "D" Street NW
Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

It has come to my attention that the Department of Justice has brokered a settlement with Microsoft that could end the government's anti-trust case against this company. I am very supportive of this.

I live in Kansas where our own Attorney General Carla Stovall has been. a leading advocate for the breaking up of Microsoft and has refused to join. the settlement of this case. I am very disappointed that the Attorney General who was elected to protect my interests continues to pursue this case.

The basis for this suit has always been a mystery to me. Microsoft creates great products that people want to purchase. Because the company is in tune with American consumers and is very innovated they have grown tremendously. This growth has benefited us through lower prices, a growing technology industry and a previously skyrocketing NASDAQ. If Attorney Generals like my own were really interested in protecting the public good they would join this settlement. Besides, it appears to me that those who sought to punish Microsoft are getting much of what they want in this agreement.

I urge you to accept this settlement.

Sincerely,

MTC–00029676

To: c/o Renata Hesse, Trial Attorney
Date: Sun Jan 27 21:39:18 CST 2002
Pages (including cover): 4
From: Rick Voland
Comments: Please oppose the proposed settlement in United States v. Microsoft Corporation.
2120 University Ave., Apt. 210
Madison, WI 53705–2343
January 27, 2002
Renata Hesse, Trial Attorney
Suite 1200, Antitrust Division
Department of Justice
602 D Street NW
Washington, DC 20530
fax (202) 616–9937

Dear Renata Hesse,

Thank you for this opportunity to comment on the United States v. Microsoft Corporation; Revised Proposed Final Judgement and Competitive Impact Statement. I write as an advanced user. I am not a programmer, but I rely on computers for my work and am very much concerned about preserving diversity, choice, and quality in computer software.

I am concerned about the power of Microsoft to coerce its competition. Microsoft paid money to both Corel and Apple when each company was desperate and Microsoft could control the terms. I am also concerned that Microsoft forces computer manufacturers to bundle Microsoft applications with the result that computer buyers now assume that Microsoft applications are part of Windows and are included at no cost. The settlement proposed by the Department of Justice would not cover either of these situations even thougt1 riley are clear examples of the power of Microsoft to coerce its competitors into less competitive postures.

In Apple Computer's 10K annual report for the fiscal year ended Sepbember 30, 2000 is the statement of an agreement between Apple Computer and Microsoft. "Microsoft purchased 150,000 shares of Apple...preferred stock...for $150 million [p. 52]. Apple in turn agreed to limit computer production, and thus competed less against Microsoft.

In August 1997, the Company and Microsoft Corporation entered into patent cross licensing and technology agreements. In addition, for a period of five years from August 1997, and subject to certain limitations related to the number of Macintosh computers sold by the Company, Microsoft will make future versions of its Microsoft Office and Internet Explorer products for the Mac OS. Although Microsoft has announced its intention to do so, these agreements do not require Microsoft to produce future versions of its products that are optimized to run on Mac OS X. The Company will bundle the Internet Explorer product with Mac OS system software releases and make that product the default Internet browser for such Mac OS releases. [p. 24, "SUPPORT FROM THIRDPARTY SOFTWARE DEVELOPERS," emphasis added] The same document discusses Apple Computer's continued dependence on CPU chips from Motorola [INVENTORY AND SUPPLY, pp. 22–23]. Apple Computer's new operating system, now known as Mac OS X, derives from Nextstep and Openstep purchased with NEXT, Inc. Both Nextstep and Openstep run well on CPU chips by Intel or Motorola. I am writing this letter on an Intel PC minting Openstep 4.2. Even the bridging version between Openstep and Mac OS X (a developer-only release known as Rhapsody) ran on both Intel and Motorola CPU chips.

This cross-platform technology would have left Apple Computer far more flexible and competitive as Motorola continues to have manufacturing problems that leave Apple Computer with more marketing problems (the megahertz gap) and a more hazy future. Motorola chips currently cannot achieve the same clock speeds (megahertz) as CPU chips from Intel, AMD, etc. Consumers often choose computers on the basis of clock speeds, so they tend to discount Apple computers even though the Motorola chips accomplish more work than Intel chips for the same clock speed (the megahertz myth). Apple Computer has been aware of this situation for several years.

The statement that Apple Computer agreed to limit its production is not about Apple limiting its production of the Apple computers using Motorola chips. Apple agreed at that time to stop development of Mac OS X for Intel which would have been a far more serious competitor to Microsoft. A consumer could buy an inexpensive PC and replace the Windows operating system with Mac OS X for Intel. Mac OS X is derived from Unix and is known for great stability. Also, Mac OS X has special software development tools that would attract developers because individuals could complete aggressively with far larger software colt)orations. Mac OS X for Intel would have allowed Apple Computer to move from selling hardware (Macintosh Computers) and proceed to selling software only (Mac OS X) in the same way as NEXT, Inc. moved from selling hardware and software to selling software only. The investment by Microsoft in Apple was incidental. Apple Computer's real concern was that Microsoft threatened to cease development of Microsoft Office for Macintosh, leaving Apple Computer without a strong word processor and office suite. In return, Apple Computer agreed to make Microsoft Internet Explorer the default web browser, instead of Netscape. Macintosh computers don't use Windows, but they largely still depend on Microsoft Office, and Microsoft maintains a hold. Microsoft played one rival (Apple Computer) against Netscape, another rival.

In press release dated October 2, 2000, Corel, Inc. announced that Microsoft agrees to buy 24 million shares of Corel preferred stock at US $135 million. Corel now owns and develops WordPerfect, a competitor to Microsoft Word. WordPerfect was once a dominant word processor, but is now far in the minority. The DoJ Microsoft trial included evidence that Microsoft shipped flawed versions of the Windows 95 operating system to WordPerfect developers in order to leave WordPerfect a flawed product that could not easily compete with Microsoft Word. Also, Microsoft cultivates bundling agreements where PC manufacturers include Microsoft Word and other components of Microsoft Office with Windows computers so that consumers do not even think of purchasing WordPerfect. Then, when they upgrade their software, they continue to purchase Microsoft Word and do not consider WordPerfect. This agreement with Corel, has Microsoft offering .NET, a sort of networking server technology, to Corel. It is interesting that Corel now offers all its graphics products in versions optimized for the new Mac OS X, and advertises its cooperation with Apple. At the same time, it has ceased development of WordPerfect for Macintosh. WordPerfect for Linux exists and could be easily ported to the new Unix-based Mac OS X. This agreement between Microsoft and Corel looks like an agreement to dissuade Corel from continuing to compete agressively with Microsoft Word. Isn't perception an important part of this case?

Microsoft bundles many small applications with Windows that leave fewer opportunities for third-party competitors. Windows now includes image editing software that took away opportunties from Kodak. Kodak negotiated some new opportunties. Kodak now offers little support for Macintosh computers. The larger number of Windows computers is not a true measure of the market here. A large proportion of the images on the Internet were created with Macintosh computers. The graphics and desktop publishing industries still rely heavily on Macintosh computers, yet Kodak digital cameras offer far less support for Macintosh computers than for Windows computers.

Microsoft is now offering very inexpensive versions of its software to schools at prices far below even academic prices. Here at the University of Wisconsin-Madison, Microsoft Office is available at $25–30 for a fully functional suite, and Microsoft Windows 2000 at a similar price. In return, Microsoft often pressures schools to replace their server software with Microsoft products. These prices are attractive because they offer a product students want at an attractive price, but they leave server operators subject to pressures unrelated to product quality. Also, end users may find themselves with fewer opportunties because Microsoft server products do not interoperate well with non-Microsoft products. Microsoft has a history of adopting Internet standards and then releasing an "enhanced" version that only works with Windows computers. By the way, the DoJ uses an opensource product (OpenBSD) downloaded from Canada (www.openbsd.org) for its most sensitive communications that require the ultimate in security.

The proposed agreement (final judgement) between the US Department of Justice and Microsoft does not provide protections for Apple Computer or for developers of Linux and other opensource software (e.g., FreeBSD) that would compete with Microsoft products. Linux, FreeBSD, and Hewlett-Packard servers would face unfair competition as I describe in the previous paragraph. The DoJ proposal does not address these concerns. Please separate the Microsoft operating system and application (e.g., Word) divisions. Titus, I favor a breakup of Microsoft into at least two parts.

Thank you for your time and consideration.

Sincerely,
Rick Voland

MTC-00029677

MINDI COOK
4824 SW 98h Ter
Augusta KS 67010
January 21, 2002
Renata.Hesse, Esq.
U.S. Department of Justice
Anti-trust Division
601 "D" Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I was truly glad to learn that the court was conducting a comment period during which I might write to express my views regarding the lawsuit currently being waged against Microsoft. I have been opposed to this lawsuit for quite some time for many reasons, including its high cost to American taxpayers, its apparent negative effect on the technological industry and general economy, and its attempts to over-monitor the business activities of an American company. If I could see that Microsoft was, in any way. threatening our free marketplace and driving up consumer costs, I might feel differently about the matter. But I see no indication that Microsoft has hurt the tech industry in any way. It makes me wonder who and what is really driving the campaign against Microsoft and I resent having to pay for a lawsuit that most likely serves the interests of Microsoft's competitors—not the American public.

We, the American people, need to have the court decide this matter in a manner that truly serves our needs -not the needs of a big business. In light of that fact, I ask the court to please accept the settlement proposed by President Bush's team and end this lawsuit as soon as possible.

Sincerely,
Mindi Cook

MTC-00029678

??
2825 Ya??cy St. SW
Seattle, WA 98126
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing you today to express my opinion in regards to the US vs. Microsoft settlement. I support Microsoft in this dispute and I believe this litigation is costly and will have adverse effects on consumers. I support the settlement that was reached in November and would like to see a permanent resolution to this dispute.

The settlement that was reached is reasonable and far more than sufficient to deal with the issues of this lawsuit Under this agreement, Microsoft must grant the same rights to all of the twenty major computer makers who want to install Windows on their machines, no matter how the companies configure the platform.

I think this witch hunt to try and make Microsoft the villain is going to have a detrimental effect on the business climate for now and the future. Please pick another battle .... like national security.

We are facing a lagging economy presently. We must do all we can to boost and stimulate our economy, Stifling Microsoft will not accomplish this. Letting them go back to Washington State to develop more software will. Please support this settlement and allow Microsoft to get back to business.

MTC-00029679

Renata B. Hesse, Trial Attorney
Suite 1200,
Antitrust Division
U.S. Department of Justice
601 D Street NW
Washington, DC 20530–0001
Via Fax @ 202–307–1545

The undersigned is opposed to the proposed settlement in the Microsoft antitrust trial because the settlement does not fully redress the actions committed by Microsoft, nor substantially inhibit their ability to commit similar actions in the future, or most importantly, attempt to restore competition to this important market.

Furthermore, there are concerns regarding the fact that none of the provisions within the settlement effectively address Microsoft's abuse of its monopoly position in the operating system market. Even non-educated, non-technical citizens can recognize the absurdity and inequity of the requirement that consumers pay for a Microsoft OS on a new PC—whether it is wanted or not—and yet this most basic issue has never been addressed.

Perhaps most appalling is that the proposed settlement does nothing to address Microsoft's previous misdeeds. Software piracy or violations of the DMCA result in million of dollars in fines and potential incarceration, yet no penalties are stipulated in this settlement? it is equally disheartening that there are no provisions to address future abuses instead the settlement, from a technical perspective, appears to bolster Microsoft's expanding control of the Internet and other related areas, Letting the US government publicly reward criminal behavior simply makes a mockery of the law.

Microsoft's monopolistic practices cause the public to bear increased costs and deny them products and innovation that would otherwise be created because of competition. Consequently it is incomprehensible that obvious cost free measures, such as a requirement for the inclusion of Linux and dual-booting on all OEM PC's, is not even considered.

The finding that Microsoft was (and is) an abusive monopoly must be followed by specific, well-defined measures to address past practices and compensate those harmed by the abuses, In addition, substantial penalties and measurable sanctions are required to prevent future monopolistic abuses. Based on past history, it is even more crucial that strong constraints be placed on Microsoft to mitigate their proven propensity for illegal and unethical activities. The proposed settlement is clearly inadequate to serve its function and calls into question the United State's Judicial System's ability to appropriately perform its purpose. As such, it is respectfully requested that the entire matter be reconsidered in a public courtroom.

MTC-00029680

Elsie Zeurcher
1556 SW Santa Fe Lake Road
Towanda, KS 67144
January 24, 2002
Ms. Renata Hesse
Anti-trust Division
Department of Justice
601 "D" Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I understand that the Department of Justice is currently conducting a comment period during which members of the American public may express their opinions regarding the Microsoft anti-trust settlement proposed by the Bush administration. I am grateful to have this opportunity to voice my thoughts and would like to thank you in advance for your consideration of my views on this matter.

I firmly believe that the court should approve the settlement which I understand Microsoft has already agreed to accept. At this time in our nation, saving resources for homeland defense and taking steps to strengthen our economy should be at the top of the government's priority list. If the court agrees to the Microsoft settlement, thus ending this expensive and troublesome lawsuit, it will be appropriately addressing both of those pressing needs by: (1) freeing up resources for defense and (2) allowing one of our nation's most productive companies, Microsoft, to continue to generate health activity in the marketplace.

Please consider carefully the realities that face the United States today and approve the Microsoft anti-trust settlement. Thank you again for your consideration.

Best regards,
Elsie Zeurcher

MTC-00029681

Jim Morrill
2220 Casement Road
Manhattan, KS 66502–6628
January 21, 2002
Renata Hesse, Esq.
Trial Attorney, Anti-trust Division
Department of Justice
601 "D" Street NW, Ste. 1200
Washington, DC 20530

Dear Ms. Hesse:

I would like to thank the court for inviting the views and opinions of individual United States citizens regarding the Microsoft anti-trust lawsuit and proposed settlement, it seems only right that those of us on the front lines, paying taxes and supporting the economy, should have a voice in this matter.

Free trade is a cornerstone of American capitalism and I believe that the court has been attempting to protect our free trade through its pursuit of Microsoft. However, in spite of all good intentions, the court's efforts appear to have damaged free trade and enterprise instead of protecting it. As a result of the court's actions, Microsoft, one of our nation's most productive business giants, has been forced to pour untold resources into defendin9 itself against an ever-changing, never-ending lawsuit that has yet to establish that the company has harmed the marketplace in any way. In fact, as a result of Microsoft's commitment to improving technology, average American consumers now have access to affordable computer products that were out of reach to them only a decade ago. In the interest of free trade, the court should allow such a company to continue to generate products and business without undue interference.

Additionally, as the court makes its decision regarding the Microsoft settlement, I ask that it consider the amount of taxpayer money it will save by ending this expensive litigation. Too man.,., hard-earned dollars have already been thrown at this dubious case. Acceptance of the proposed settlement will stop the bleeding and save American citizens further needless cost. I ask the court to make the decision that will truly protect free trade and best benefit the American public. Accept the settlement and end the Microsoft anti-trust case quickly.

Respectfully,
Jim Morrill

MTC-00029682

Logan Overman
632 Tara Court ?? Wichita ?? KS ?? 67206
Renata Hesse
Trial Attorney
US Department of Justice
601 D Street, N-W Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

As an avid consumer of new technology products I am writing to express to you my support for the settlement of the Microsoft anti-trust lawsuit. There are many arguments why the case against Microsoft was an ill-founded decision. However, I feel the economic reasons are the most compelling.

The whole premise of the government's case has been that Microsoft was responsible for significant consumer harm. It is quite apparent this is not the case. Microsoft is the leading choice among consumers because they find its products to be of superior quality. Yet the government has spent millions of dollars prosecuting a case that the public does not support. The cost to the taxpayer has been staggering

The damage this case has caused to our nation's financial well-being goes beyond the wasting of public funds. This case and the government's threat of break-up have served as a deterrent to investment in the computer and communications industry. There are many contributing factors to the major decline of the NASDAQ, however, the threat of serious government intervention in our nation's fastest growing industry only added to the problem.

In an effort to end this case, DOJ and Microsoft negotiators have found enough common ground to reach a settlement. Based on my knowledge of the agreement this settlement is a solid one. Microsoft will be held responsible for portions of the complaint upheld in court and an independent commission will monitor its compliance with the provisions of the settlement.

The settlement of this case is a good indication that companies like Microsoft will be free to compete and grow in our open market. Both our economy and consumers will benefit.

Sincerely,
Logan Overman

MTC-00029683

Kristen Boulware
Renata Hesse, Antitrust Division
Public Comment
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

Finally, Microsoft and the U.S. DOJ have agreed upon a settlement of the marathon-style anti-trust suit against the company. I think that having nine states sign on to the deal proves its value.

From what I have read and heard about the proposed settlement that is pending your approval, it goes a long way toward what the DOJ wanted to accomplish, but does not completely tie Microsoft's hands in a way that they cannot compete. To me this makes great sense as a worthy compromise.

I am hopeful the judge will approve this settlement and allow all the case's participants to go back to doing business as they should.

Thank you.

Kristen Boulware
11780 West 118th Terrace
Overland Park, KS 66210

MTC-00029684

Ms. Renata Hesse
U.S. Department of Justice, Anti-trust
601 D Street Northwest, Suite 1200
Washington, DC 20530

Ms. Hesse:

I am writing to express my support for the Microsoft antitrust settlement propsed by President Bush and his administration.

While I appreciate the Department of Justice's concerns regarding the effects Microsoft creates in our marketplace, I believe the facts all point to this conclusion: Microsoft is not a threat to free trade. I believe the real threat in this matter lies in the exorbitant cost of continuing to pursue Microsoft in court.

I ask the court to please approve the proposed Microsoft settlement and put an end to this lawsuit.

404 Traders Ave
Fall River, KS 67047

MTC-00029685

Scalio, Inc.
Tel: (425)889–8553
Fax: (425)889–9303
6119 114th AVE NE
Kirkland, WA 98033
FAX COVER SHEET
Date:——/——/——Pages, including cover page:———
To:
Name:
Office Number:
Phone Number:
Fax Number:
From:
Name:
Office Number:
Phone Number:
Fax Number:
Note:
Ramon G. Pantin
From: "Ramon G. Pantin" <rgp@scalio.com>
To: <Microsoft.atr@usdoj.gov>
Cc: <rgp@veritas.com>
Sent: Sunday, January 27, 2002 11:59 PM
Attach: commenls-040.html
Subject: Microsoft Settlement

Dear Department of Justice representative,

Attached is an HTML document with my comments about the settlement proposed. I have included my background and contact information in that document.

Please feel free to contact me at:
rgp@scalio.com
or at home at:
425–889–1043
if you have trouble with the attached documents.

Sincerily,
Ramon G. Pantin

Introduction

My name is Ramon G. Pantin, I have been in involved in commercial Operating System development since 1989. I have worked on the design and implementation of a large variety of Operating Systems and system software (operating system components) including chronologically:

. IBM's AIX 3. I, AIX 3.2, AIX 4.1 and AIX 5.x UNIX operating systems for their RS/6000 product line (recently renamed eServer pSeries) as a consultant.

. Tandem's NonStop UX UNIX operating system for fault tolerant systems (as an employee of Tandem Computers).

. IBM's now defunct WorkPlace OS desktop operating system (successor to their OS/2 product)) (as a consultant and later as an employee).

. Microsoft's Windows NT4.0 and Windows 2000 (employed by Microsoft).

. ICCOS (a now defunct operating system) (employed at TagoSoft, Inc.)

. FreeBSD UNIX operating system (at TagoSoft, Inc and consulting for Shawn Systems, Inc).

. SUN's Network Filesystem V3 for Windows NT (as a consultant)

. SUN's PC/SKIP product for Windows NT (as a consultan0

. Impactdata/Megadrive/Data Direct Networks CDNA shared storage SAN file system (as a consultant and later as an employee)

. At Scalio, Inc developping storage management software for both Windows 2000 and UNIX systems.

. IBM's AIX 5.x UNIX operating systems for their RS/6000 product line (recently renamed eServer pSeries) as a consultant to Veritas Software making changes to AIX as part of an IBM/Veritas relationship.

I have also taught operating systems design classes at Universidad Simon Bolivar (Venezuela) in 1989 and professional system software classes, both for UNIX and Windows NT. I consider myself eminently well versed as a software enginner with 12 years of hands on operating system design and development.

The issues herein are of great importance to me and the industry that I am a participant of. I appreciate the opportunity to comment about the proposed settlement.

Below is a long list of comments. Each comment's name is of the form "Comment X.Y" where X is the major section of the proposed settlement within which the commented terms are discussed, and Y is simply a sequential number of the comments that I have written and it is actually independent of the acutal comment numbering within the proposed settlement itself. Each comment includes the appropriate reference to text in question within the proposed settlement document.

I am available for comment and clarification in any and all issues hereing, preferrably thorugh email, please contact me at:

Ramon G. Pantin
rgp@scalio.com or at:
Ramon G. Pantin
6119 114th AVE NE
Kirkland WA 98033

Sincerily,
Ramon Pantin
January 26th, 2002

Comment III.1

Section III.A reads:

"A. Microsoft shall not retaliate against an OEM by altering Microsoft's commercial relations with that OEM, or by withholding newly introduced forms of non-monetary Consideration (including but not limited to new versions of existing forms of non-monetary Consideration) from that OEM, because it is known to Microsoft that the OEM is or is contemplating:" There are 3 problems with this section:

1. It allows Microsoft to withhold existing forms of non-monetary Consideration, because it only prevents witholding newly introduced forms;

2. Monetary considerations are explicitly excluded, they shouldn't be excluded.

3. Microsoft knowledge is irrelevant and hard to establish, that text only contributes to the ambiguity of this section. Section III.A should be not be constrained or qualified in these ways. It should be replaced with this text:

A. Microsoft shall not retaliate against an OEM by altering Microsoft's commercial relations with that OEM, or by withholding any forms of Consideration from that OEM, because the OEM is or is contemplating:"

Comment III.2

Section III.A.I reads:

"1. developing, distributing, promoting, using, selling, or licensing any software that competes with Microsoft Platform Software or any product or service that distributes or promotes any Non-Microsoft Middleware;"

There are 2 problems in this section:

1. Microsoft in the past has retaliated against OEMs that market products that compete against Microsoft products, not just Microsoft Platform Software. For example, Microsoft retaliated against IBM when IBM decided to pre-install its SmartSuite product (a product that competes directly with Microsoft Office) on its PCs, see Findings of Fact, paragraph 122 which reads: "... Then, on July 20, 1995, just three days after IBM announced its intention to pre. install SmartSuite on its PCs, a Microsoft executive informed his counterpart at the IBM PC Company that Microsoft was terminating further negotiations with IBM for a license to Windows 95. Microsoft also refused to release to the PC Company the Windows 95 "golden master" code. The PC Company needed the code for its product planning and development, and IBM executives knew that Microsoft had released it to IBM's OEM competitors on July 17 ...."

2. The words "any software that competes" allow for retaliation against the development, distribution, promotion, use, sell, or licensing of any technology that competes against Microsoft technologies. Examples of such technologies, include but are not limited to: technical standards, open or proprietary protocols, services, hardware products, etc. Section III.A1 should be not be constrained or qualified in these ways. The existing Section III.A.1 should be left as part of the text and a new paragraph should be added to the list. Thus Section III.A.4 (a new paragraph) should be:

"4. developing, distributing, promoting, using, selling, or licensing any technology or product that competes with any Microsoft product, technology or service;" Comment III.3

Section III.A.2 reads:

"2. shipping a Personal Computer that (a) includes both a Windows Operating System Product and a non-Microsoft Operating System, or (b) will boot with more than one Operating System; or" Microsoft currently forbids OEMs, or it imposes Market Development Agreement penalities or it withholds Consideration from OEMs when they offer for sell Personal Computers without a Microsoft Operating System. Because of the earlier consent decree imposed on Microsoft, instead of requiring that every Personal Computer include a Microsoft Operatin System, Microsoft requires that for each model of Personal Computer offered by the OEM that each Personal Computer of that model be sold with a Microsoft Operating System. If this isn't done, Market Development Agreement penalties or Considerations are withheld from the OEM. Theoretically, the OEM is free to offer a model of Personal Computers for which it expects to sell such a high fraction of them without a Microsoft Operating System, that offering them in that way doesn't cause harm or competitive disadvantage to the OEM. In reality, node of the models of Personal Computers are expected to sell in any large enough percentage without a Microsoft Operating System, thus the OEM ends up paying for a Microsoft Operating System for each Personal Computer for each model that it offers, thus it is forced to always pay for a Microsoft Operating System.

Microsoft, additionally requires that the end user of the Personal Computer accept a license agreement, and the it indicates that if the license agreement is not accepted, that the Microsoft Operating System product should not be used and that the Personal Computer manufacturer should be contacted for a refund.

Because of Microsoft per unit per model royalty imposition on the OEM, the OEM has no incentive to provide such a refund to the end user and these requests are largely ignored by the OEMs thus resulting in end users that desire to purchase a Personal Computer to pay for a software license for a Microsoft Operating System, even if they never use such a software. Given Microsoft's creativity in constraining OEMs in their business decisions, a broad based term should also be included. For example, Microsoft could technologically constraint the GEM from supporting non-Microsoft Operating Systems, for example by Microsoft imposing on the GEM technological standards that must be used in the Personal Computer design and because of intellectual property reasons the use of these standards prevent non-Microsoft Operating Systems from functioning on the Personal Computer (for example because Microsoft might have patents on the technology).

Section III.A.2 should be augmented with these subclauses to allow consumer to purchase Personal Computers without a Microsoft Operating System:

"2. shipping a Personal Computer that (a) includes both a Windows Operating System Product and a non-Microsoft Operating System, or (b) will boot with more than one Operating System, or (c) does not include any Operating System of any kind, or (d) includes a Windows Operating System Product and provides for the removal of the Windows Operating System Product during the startup of the Personal Computer, as long as the Windows Operating System has not been used by the consumer, and allows for a refund to be issued to the comsumer for the price of the operating system, or (e) in any way supports or provides non-Microsoft Operating Systems; or"

Comment III.4

Section III.A by virtue of enumerating the activities that the GEM "is or is contemplating" allows Microsoft to retaliate for any activities not explicitly enumerated in this list (III.A.1, III.A.2, III.A.3, etc). A broad term should be added that prevents Microsoft from any other cause for retaliation. Section III.A.5 should be added (Section III.A.4 was proposed to be added above in Comment III.2):

5. engaging in any lawful activity by any means by itself or in cooperation with any party.

Comment III.5

Section III.A in the fith paragraph (the paragraph under III.A.3) reads in its last two sentences: "Microsoft shall not terminate a Covered OEM's license for a Windows Operating System Product without having first given the Covered GEM written notice of the reasons for the proposed termination and not less than thirty days" opportunity to cure. Notwithstanding the foregoing, Microsoft shall have no obligation to provide such a termination notice and opportunity to cure to any Covered GEM that has received two or more such notices during the term of its Windows Operating System Product license."

There are three problems with these sentences:

The time period of thirty days for cure is extremely short and would lead to unnecessary hardship on the OEM because of product distribution considerations (channel, distribution, resellers) that might require a constly product recall to be able to cure in thirty days. A period of at least 90 days is more appropriate. It is interesting to notice how terminating a Covered OEMs license and thus putting the OEM immediately out of the Personal Computer business is codified into this consent decree, when any restraint on Microsoft's illegal monopolistic behaviour requires (so far) years of litigation and continued complaints about how "draconian" such measures are.

2. The non-obligation to provide a termination notice can be used by Microsoft as a means of retaliation by not enforcing contractual terms on some OEMs while enforcing them on others, thus easily allowing for just two such notices to cure to be used as retaliatory means. The number of notices should be a function of time, for example 2 notices per year.

3. Microsoft should be required to enforce contractual terms in a non-discriminatory way across all OEMs, it should not be allowed to selectively enforce contractual terms because it would provide an easy retaliatory tool against the OEMs. Additionally, Microsoft must show that if it makes efforts to enforce certain terms, then it must enforce all terms across all OEM with equal effort, dilligence and strength.

4. The notion of termination notices, per se, is problematic, because termination notices might not even correspond to actual OEM behaviour but to misunderstanding between the parties or Microsoft's desires for retaliation against the OEM. Any such termination notice should be submitted to the Technical Committee for technical consideration, the Microsoft Internal Compliance Officer, and to all the Plaintiffs; together with detailed documentation of the non-discriminatotry enforcement by Microsoft of these and any other contractual terms across all Covered OEMs. This communication is important because it ensures that the antitrues enforcement parties are involved from the start when any such notice is given. Comment III.6

Section III.A, last paragraph reads:

"Nothing in this provision shall prohibit Microsoft from providing Consideration to any OEM with respect to any Microsoft product or service where that Consideration is commensurate with the absolute level or amount of that OEM's development, distribution, promotion, or licensing of that Microsoft product or service."

These issues should be addressed:

1. Such Consideration should be offered to all Covered OEMs in a non-discriminatory basis.

2. The Consideration should be objectively measured according to established accounting practices.

3. The Technical Committee, the Microsoft Internal Compliance Officer, and all Plaintiffs should be informed and provided a copy of any and all such agreements and be allowed to requests additional documentation and conduct interviews related to the agreement.

Comment III.7

Section III.B, first paragraph reads:

"B. Microsoft's provision of Windows Operating System Products to Covered OEMs shall be pursuant to uniform license agreements with uniform terms and conditions. Without limiting the foregoing, Microsoft shall charge each Covered OEM the applicable royalty for Windows Operating System Products as set forth on a schedule, to be established by Microsoft and published on a web site accessible to the Plaintiffs and all Covered OEMs, that provides for uniform royalties for Windows Operating System Products, except that:" Issues:

1. In the first sentence, where it reads "... with uniform terms and conditions." it should read:" .... with uniform terms and conditions and Considerations." Considerations established outside or after the license agreement has been entered should be communicated to the OEMs in a uniform manner. All agreements and Considerations should be provided to the Technical Committe, the Microsoft Internal Compliance Officer, and all Plaintiffs and these parties must be allowed to requests additional documentation and conduct interviews related to the agreements and Considerations.

2. Microsoft in the past has discriminated against OEMs and other Personal Computer manufacturers (for example Apple) by threatening to not make Microsoft products available on those manufacturers computers, for example Microsoft Office cancellation for Apple's Macintosh systems. Additionally, Microsoft has used the OEM prices of these non-Operating System products as a means to discriminate against OEMs. The prices and the offering of any Microsoft product to any Covered OEM for bundling with a Personal Computer should be nondiscriminatory and subject to uniform license agreements.

3. Volume discounts of groups of Microsoft Operating System Products and Microsoft non-Operating System Products should not be allowed, because it might lead to exclusion from the market of products that competed against the Microsoft non-Operating System Products. For example, group discounts for a bundle of Microsoft Windows XP and Microsoft Office; or Microsoft Windows XP and Microsoft Word (or Microsoft Excell, etc); or Microsoft Windows XP and Microsoft Works; must not be allowed.

Comment III.8

Section III.C reads:

"C. Microsoft shall not restrict by agreement any OEM licensee from exercising any of the following options or alternatives:"

This should read:

C. Microsoft shall not restrict by agreement or any other means any OEM licensee from exercising any of the following options or alternatives:

For example, Microsoft could, through verbal or written communication, or through the quality of service that it provides the OEM restrict the OEM, or threaten the OEM from exercising the alternatives. Microsoft has in the past retaliated against OEMs, particularly IBM and Gateway, as is described in detail in the Findings of Fact through means other than agreements. For example by witholding IBM participation in marketting programs, or threatening Gateway with sofware audits.

Comment III.9

Section III.C.1 and others enumerate: "icons, shortcuts, or menu entries" this list should be: icons, shortcuts, folders, appliactions, explorer hierarchies or menu entries

Comment III.10

Section III.C.1 ends in "with respect to non-Microsoft and Microsoft products." This should be changed to read: "with respect to non-Microsoft and Microsoft products or technologies that offer similar types of functionality." For example, the technology might be provided by a network service and not by a product installed in the Personal Computer, how the technology is provided should not be a reason for allowing Microsoft to retaliate or discriminate.

Comment III.11

In general, section III.C.1 and throughout the document, it is assumed that the only way to allow applications or software facilities to be used is through "icons, shortcuts, or menu entries", when in reality, applications/middleware can also be activated by associating it with particular types of data, and when such types of data are accessed, the application associated with it is activated. For example, when a file with a given extension is accessed, or when a URL is accessed over the interact, the type of the data is determined and the application associated with that type of data is activated. It is vital that such associations be allowed in a non-discriminatory basis between Microsoft and non-Microsoft technologies. For example, when a Internet audio URL is accessed, the media player associated with the data type is invoked to cause the audio to be decoded and played. It is not unusual for multiple competing technologies, such as Microsoft Media Player, Real Networks and Apple's Quicktime media players to be capable of supporting the same data types, thus the preservation of the setting chosen by the user is important. Discrimination in this area has occurred in the past against both Apple's Quicktime and Real Network's Real Player. The document should be updated throughout to take into account this form of application activation through data type and file name extension associations.

Comment III.12

Section III.C.2 reads:

"2. Distributing or promoting Non-Microsoft Middleware by installing and displaying on the desktop shortcuts of any size or shape so long as such shortcuts do not impair the functionality of the user interface."

The term shortcuts should be replaced with icons, because many types of items can be shown on the desktop and these are not limited to shortcuts. For example, applications, files, folders, etc.

Comment III.13

Section III.C.3 reads:

"3. Launching automatically, at the conclusion of the initial boot sequence or subsequent boot sequences, or upon connections to or disconnections from the Interact, any Non-Microsoft Middleware if a Microsoft Middleware Product that provides similar functionality would otherwise be launched automatically at that time, provided that any such Non-Microsoft Middleware displays on the desktop no user interface or a user interface of similar size and shape to the user interface displayed by the corresponding Microsoft Middleware Product." Issues:

1. The qualification: "if a Microsoft Middleware Product that provides similar functionality would otherwise be launched automatically at that time" is simply a form of restraint of trade. Microsoft usually doesn't lead in innovation, it follows, copies and bundles other's innovations into its products. It is unreasonable to require that Microsoft launch some software at a particular time to allow others to launch their software at that time. Usually some third party or OEM will developped these concepts and only later (much later sometimes) Microsoft will copy the concepts and include them in their versions of such functionality. The qualification should be removed.

2. The second qualification is also very unresonable, here Microsoft again thinks that it can dictate or retrain through its actions (or lack thereof the innovations of others. The qualification reads: "provided that any such Non-Microsoft Middleware displays on the desktop no user interface or a user interface of similar size and shape to the user interface displayed by the corresponding Microsoft Middleware Product." Again, it is ludicrous that competing ISVs or OEMs be reatrained to only mimic Microsoft's actions when usually innovation happens the other way around. This qualification should be removed. Why should microsoft care about the size of the user interface? If the OEM creates a user interface that is too small, or narrow, or large, it doesn't cause any harm to Microsoft, only to the OEM in user dissatisfaction and support costs (none of which are Microsoft's concern given that it doesn't bare any of those costs, and given Microsoft's treatment of Hewlett Packard with respect to startup sequnce shells, it has shown that it doesn't care about those OEM costs).

3. The qualification "if a Microsoft Middleware Product that provides similar functionality" also allows for Microsoft restraint of other's innovations, the definition of Microsoft Middleware Product is particularly weak and full of escape clauses. The qualification should not be present at all.

4. The time qualification and enumeration of the circumstances and times under which launching can occur "at the conclusion of the initial boot sequence or subsequent boot sequences, or upon connections to or disconnections from the Internet" should also be removed. There are many reasons why lounching might be desireable at other times.

5. Launching of should not be restricted to "Non-Microsoft Middleware", any software should be allowed to be launched. Section III.C.3 should read:

3. Launching automatically, at the conclusion of the initial boot sequence or subsequent boot sequences, or upon connections to or disconnections from the Interact, or at any other time, any Non-Microsoft software is allowed without this being subject to any restraint from Microsoft. Mechanisms (APIs, Protocols, Facilities, etc) present in a Microsoft Operating System that aids launching of Microsoft software at particular times should be documented and allowed to be accessed by non-Microsoft software without restraint.

It should be noted that the original Section III.C.3 precludes the implementation of IAP sign up sequences, OEM shells, end user tutorials that are desired to be lounched at the initial and subsequent boot sequences. For example the OEM might present an IAP sign up sequence until such a time when the user as made such a selection or when the user as indicated that it doesn't want to asked again in subsequent sign up sequences. The reason the Section III.C.3 precludes even the implementation in the initial boot sequence is because Microsoft can remove their own facilities from startup or from displaying a user interface, thus forcing the OEM to remove their facilities. Freedom of innovation and choice by the OEMs cannot be at the mercy of Microsoft's actions. For example, Microsoft might move such facilities to the second boot sequence and it might require that the system reboot after an initial boot sequence process, the OEMs would then not have the freedom to provide their facilities in the second boot sequence.

Comment III.14

Section III.C.4 reads:

"4. Offering users the option of launching other Operating Systems from the Basic Input/Output System or a non-Microsoft boot-loader or similar program that launches prior to the start of the Windows Operating System Product."

This section should be augmented in this way:

4. Offering users the option of (a) launching other Operating Systems from the Basic Input/Output System; or (b) launching other Operating Systems from a non-Microsoft boot-loader or similar program that launches prior to the start of the Windows Operating System Product.; or (c) choosing to make a non-Microsoft boot-loader the default boot loader in the system; or (d) choosing to allow the end user to interactively direct the Basic Input/Output System or a non-Microsoft boot-loader or any other facility to remove a Microsoft Windows Operating System and to provide the Personal Computer owner to receive a refund for the cost of the Microsoft Windows Operating System from the OEM; or (e) to select a default Operating System that is a non-Microsoft Operating System, for example by allowing the default Operating System to start without user intervention after a timeout period; or (I3 any other form of restraint that might cause an OEM to not preload non-Microsoft Operating systems in theft Personal Computers (for example by having the Microsoft Operating System corrupt the disk occupied used by such non-Microsoft Operating Systems, or from denying supprt to OEMs for such product configurations, etc)..

Given the nature of existing restraints by Microsoft in this area, these additional clauses allow for less restraint by Microsoft on the OEMs actions.

Comment III.15

Section III.D reads:

"D. Starting at the earlier of the release of Service Pack 1 for Windows XP or 12 months after the submission of this Final Judgment to the Court, Microsoft shall disclose to ISVs, IHVs, IAPs, ICPs, and OEMs, for the sole purpose of interoperating with a Windows Operating System Product, via the Microsoft Developer Network ("MSDN") or similar mechanisms, the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product. In the case of a new major version of Microsoft Middleware, the disclosures required by this Section III.D shall occur no later than the last major beta test release of that Microsoft Middleware. In the case of a new version of a Windows Operating System Product, the obligations imposed by this Section III.D shall occur in a Timely Manner." Issues:

1. The text "via the Microsoft Developer Network ("MSDN") or similar mechanisms" allows Microsoft not to use the MSDN program which is broadly available and non-discriminatory, and allows instead for Microsoft to extract other agreements and conditions from the interested parties. The intent should by "via the Microsoft Developer Network ("MSDN") or successor developer program (if the MSDN program is discontinued or replaced by a new developer program, but such a program should be equally broadly available and equally nondiscriminatory as the MSDN program was on the earliest date the proposed consent decree was filled with the Court by Microsoft and the Plaintiffs)."

2. The text "APIs and related Documentation" should be extended to include "APIs, related Documentation, Protocols, File Formats, Data Formats, Certification/Validation Component Signatures, and any other technological mechanism".

3. The text "that are used by Microsoft Middleware to interoperate with a Windows Operating System Product ", given the loose definition and the escape clauses that Microsoft can invoke in that definition, and given that Microsoft also markets a wide variety of non-Middleware software and hardware, the text should be corrected to require full disclosure of the use by these software and hardware products of Microsoft Operating System facilities. The proposed text is shown below.

4. The requirement that disclosure only occur in the case of a new major version of Microsoft Middleware allows Microsoft an easy exit from their documentation requirements. Microsoft has stated in fron of the District Court (Judge Jackson) that a sandwich would be part of the Operating System if they so dictated, clearly Microsoft cannot be trusted to name a release major or non-major, because to Microsoft it would be whatever they desire at such a time. Furthermore the mechanism of Major and first Minor point release numbers is highly ambiguous and maleable, certain Microsoft products don't even have a version number (Windows XP, Microsot .Net). In any case, whether a product release is major or minor should not be an excuse for non-diclosure, a small bug fix release wouldn't have many changes on interface use, so its documentation requirements would be proportional to the effort spent in the release development. If this restriction is not removed, facilities would remain undocumented, simply because Microsoft doesn't use them initially in their so called major release but instead only uses them initially in a minor release; or even more easily by making every release a minor release. Microsoft has shown in the earlier Consent Decree entered with the D.O.J. that it will take advantage in any ambiguity.

The new section should thus read:

D. Starting at the earlier of the release of Service Pack 1 for Windows XP or 12 months after the submission of this Final Judgment to the Court, Microsoft shall disclose to ISVs, IHVs, IAPs, ICPs, and OEMs, for the sole purpose of interoperating with a Windows Operating System Product, via the Microsoft Developer Network ("MSDN") or successor developer program (if the MSDN program is discontinued or replaced by a new developer program, but such a program should be equally broadly available and equally non-discriminatory as the MSDN program was on the earliest date the proposed consent decree was filled with the Court by Microsoft and the Plaintiffs), the APIs, related Documentation, Protocols, File Formats, Data Formats, Certification/Validation Component Signatures (and Microsoft shall not restraint or deny such signature facilities or enablements, and any other technological mechanism that are used by Microsoft Middleware, Microsoft Application, Microsoft Hardware Products, or by newly introduced Microsoft Operating System features (that are similar to existing facilities available from third parties in the market) to intemperate with a Windows Operating System Product. In the case of a any new version of Microsoft Middleware or Microsoft Operating Systems, or Microsoft Application, the disclosures required by this Section III.D shall occur no later than the last major beta test release of that Microsoft Middleware. In the case of a new version of a Windows Operating System Product, the obligations imposed by this Section III.D shall occur in a Timely Manner.

Comment III.16

Section III.E should be augmented where it reads "on reasonable and non-discriminatory terms" to read "on reasonable, non-discriminatory and non-royalty bearing terms." The imposition of per unit royalties as a condition to grant access to any Communication Protocol would allow Microsoft to exclude competitors from the market.

Comment III.17

Section III.E reads:

"E. Starting nine months after the submission of this proposed Final Judgment to the Court, Microsoft shall make available for use by third parties, for the sole purpose of interoperating with a Windows Operating System Product, on reasonable and nondiscriminatory terms (consistent with Section III.I), any Communications Protocol that is, on or after the date this Final Judgment is submitted to the Court, (i) implemented in a Windows Operating System Product installed on a client computer, and (ii) used to interoperate natively (i.e., without the addition of software code to the client operating system product) with a Microsoft server operating system product."

There are many issues with this section:

1. Communication Protocols can be used for communication between two or more personal computers running a Windows Operating System Product installed on client computers. For example a client computer can share a disk drive so that its file are accessed to other client computers, such functionality doesn't require a Microsoft server operating system product. The ability to interoperate natively should not be

restricted to the Communication Protocols used to interoperate natively with a Microsoft server operating system product, for example a competing non-server client operating system might require to implement these protocols to be competitive. For example, both Apple's MacOS X client operating system and client versions of the GNU/Linux operating systems contain incomplete implementations of the file sharing protocols used by Windows Operating System). Section III.E shall apply equally to both client and server operating systems to allow them interoperate natively with Windows Operating System Products installed on client computers.

2. To circumvent the provisions in Section III.E Microsoft could do this in future (major or minor) releases of its Personal Computer Operating System Products: (a) do not include software that implements future revisions of a Communications Protocol with the Windows Operating System Product installed on a client computer; and (b) request from the Microsoft server operating system product the software that the client requies at first boot, each boot, or at under other circumstances. Thus Microsoft would have circumvented the requirements stated in Section III.E because there would be "addition of software code to the client operating system product" (which Section III.E.ii requires that it be "without the addition of software code to the client operating system product"). By Microsoft implementing a new protocol (which it would not have trouble documenting to 3rd parties) that the client computer's Windows Operating System Product would use to request these addional software codes from a Microsoft server operating system product the circumvention would have been achieved. Thus by removing the existing components that implement existing Communications Protocols all kinds of Communications Protocols would thus be allowed to remain undocument in future releases of a Windows Operating System Product by Microsoft, thus denying the purpose of allowing native interoperability between other operating systems and Windows Operating System Products. Microsoft, through privave key signin and public key signature validation, Microsoft would be able to sign these software components to ensure their origins (Microsoft) and that they have not ben tampered, thus allowing every Communications Protocols to remain undocumented, including security protocols, filesystem protocols, transaction management protocols, etc. The intent of Section III.E is good because it is pro-competitive, but the actual terms easily allow Microsoft to circumvent that intent. Software is very maleable, terms used to describe it, such as: "without the addition of software code" are easily circumvented, for example by slicing the software and requiting thatthere be "addition of software code", this can be done easily and transparently (i.e. without knowledge by end user).

3. The word "implemented" is also used to describe the software, and can lead to arguments or circumvention from Microsof with respect to meaning.

4. The description of what is being made available is ambiguous. Instead of "Microsoft shall make available .... any Communications Protocol", it should be stated clearly what is being made available. A description of what should be made available is shown in the proposed revision to Section III.E below.

Section III.E should be replaced with:

E. Starting nine months after the submission of this proposed Final Judgment to the Court, Microsoft shall make available for use by third parties, for the sole purpose of interoperating with a Windows Operating System Product, on reasonable (without an up front fee and royalty free) and non-discriminatory terms (consistent with Section III.I), technical implementations for any Communications Protocol that is, on or after the date this Final Judgment is submitted to the Court, utilized by a Windows Operating System Product nstalled on a client computer to interoperate with (i) a Microsoft server operating system product, or (ii) a Windows Operating System Product. The means through which any such Communications Protocol shall be made available shall include:

(a) a non-fee based and non-royalty based patent license to any and all patents required by an implementation of fully featured, high performance, and interoperable client or server operating system product components that implement the Communication Protocols in question. The patent license can be limited to be for the sole purpose of interoperating with Windows Operating System Products installed on a client computers; and

(b) a non-fee based and non-royalty based license to implement the Communications Protocol in client and server operating system product components that are fully featured, high performance, and interoperable with Windows Operating System Products installed on a client computers. The protocol license can be limited to be for the sole purpose of interoperating with Windows Operating System Products installed on a client computers; and

(c) a technical discussion forum (mail list, newsgroup or web site) through which Microsoft will provide in a nondiscriminatory basis non-fee based technical support to ISVs that require support related to the Communications Protocol. Microsoft shall make its best efforts to provide such technical support. Microsoft shall provide subject to the Communication Protocol license the Communications Protocol specifications which shall be:

(d) the precise and complete set of specifications of the Communication Protocols (and their predecessors), such that based on it a competent third party software developper would be capable of implementing fully featured, high performance, and interoperable operating system product components that implement the Communication Protocols in question (without the need to perform any reverse engineering of any kind); or In the abscence of such a precise and complete set of specifications as described in Section III.E.a (above), or at Microsoft's choosing or by direction of the Technicall Committee, Microsoft shall provide instead:

(e) any and all specifications that Microsoft has of the Communication Protocols (and their predecessors); and the complete source code and build procedures of all the relevant client side components and implementations (for each Microsoft Windows Operating System Product) of the Communications Protocol in a form that these components can be compiled (i.e. translated from source code form into binary form) and linked (translated from object form into a binary executable form) by the third party to produce the exact same binaries of the native components in the Windows Operating System Product that implement the Communication Protocols. The license under which these component's source codes and build procedures would be provided to the third party would be only for reference and use only within the third parties premises for the sole purpose of implementing fully featured, high performance, and interoperable operating system product components that implement the Communications Protocol in question. No redistribution rights of any kind (in binary or source form) are required to be given to the third party.

Additionally:

(f) Microsoft shall continuously and proactively provide updates to the third party such that the third party can continue to implement fully featured, high performance, and interoperable operating system product components that implement the Communication Protocols in question as the corresponding Microsoft Windows Operating System Products implement new patents, versions or features of the Communications Protocol. These updates should be provided irrespective of how major or minor is the Microsoft Windows Operating System Product update that makes use of the Communications Protocol changes or patents. Microsoft shall provide these through addendums:

(i) to the licenses described in Sections III.E.a and III.E.b to cover new patents or protocol revisions or versions as appropriate; and

(ii) the specifications and implementations described or provided in Sections III.E.d and III.E.e as appropriate

Comment III.18

Section III.F.1.a reads:

"a. developing, using, distributing, promoting or supporting any software that competes with Microsoft Platform Software or any software that runs on any software that competes with Microsoft Platform Software, or" Microsoft has shown that it retaliates against OEMs when they support now-Microsoft software in general, not just Microsoft Platform Software, for example the retaliation against IBM because of IBM's intent to bundle SmartSuite with their Personal Computers as can be seen in the Findings of Fact.

Section III.F.1.a should be expanded to read:

a. developing, using, distributing, promoting or supporting any software that competes with Microsoft Platform Software, Microsoft Operating Systems, Microsoft Application Software, Microsoft Hardware or any other Microsoft supported technologies or any software that runs on any software that competes with Microsoft Platform Software, Microsoft Operatin Systems, Microsoft Application Software, Microsoft Hardware or any other Microsoft supported technologies; or

Comment III.19

Section III.F.2 reads:

"2. Microsoft shall not enter into any agreement relating to a Windows Operating System Product that conditions the grant of any Consideration on an ISV's refraining from developing, using, distributing, or promoting any software that competes with Microsoft Platform Software or any software that runs on any software that competes with Microsoft Platform Software, except that Microsoft may enter into agreements that place limitations on an ISV's development, use, distribution or promotion of any such software if those limitations are reasonably necessary to and of reasonable scope and duration in relation to a bona fide contractual obligation of the ISV to use, distribute or promote any Microsoft software or to develop software for, or in conjunction with, Microsoft."

Issues:

1. Again, Microsoft retaliates against OEMs (IBM) to product Microsoft products other than its Operating Systems.

2. Allowing Microsoft to enter into agreements that "place any limitations on ISV's development, use, distribution or promotion of any such software" is an open ended means under which Microsoft can cause ISV's to act in manners that Microsoft desires. For example, Microsoft might extend the MSDN agreements with limited sublicensing of Microsoft patent pools and extract in exchange agreements from all ISVs in the market to limit their development, use, distribution or promotion of any other software. The litigation to ensure that those limitations are not "reasonably necessary to and of reasonable scope" would probably take another 4 years of litigation. The Plaintiffs must remember that one of Microsoft's options at any time is to relly on the ambiguities of these terms and use them to realize their means, given that it has been shown that Microsoft has monopoly power int he x86 compatible Personal Computer market its retaliatory means must be reduced as much as possible.

Section III.F.2 should read:

2. Microsoft shall not enter into any agreement relating to a Windows Operating System Product, Microsoft Application Software, Microsoft Hardware or any other Microsoft supported technologies, that conditions the grant of any Consideration on an ISV's refraining from developing, using, distributing, or promoting any software that competes with Microsoft Platform Software, Microsoft Operatin Systems, Microsoft Application Software, Microsoft Hardware or any other Microsoft supported technologies or any software that runs on any software that competes with Microsoft Platform Software. Microsoft may not enter into any agreements that place limitations on an ISV's development, use, distribution or promotion of any such software for any reason.

Microsoft has more than enough resources to all the software development that it requires, if it has to felly on outside parties to do software development, it must do so without placing limitations.

Comment III.20

Section III.G.1 reads:

"G. Microsoft shall not enter into any agreement with:

1. any IAP, ICP, ISV, IHV or OEM that grants Consideration on the condition that such entity distributes, promotes, uses, or supports, exclusively or in a fixed percentage, any Microsoft Platform Software, except that Microsoft may enter into agreements in which such an entity agrees to distribute, promote, use or support Microsoft Platform Software in a fixed percentage whenever Microsoft in good faith obtains a representation that it is commercially practicable for the entity to provide equal or greater distribution, promotion, use or support for software that competes with Microsoft Platform Software, or"

These are the issues:

1. The text: "except that Microsoft may enter into agreements in which such an entity agrees to distribute, promote, use or support Microsoft Platform Software in a fixed percentage whenever Microsoft in good faith obtains a representation that it is commercially practicable for the entity to provide equal or greater distribution, promotion, use or support for software that competes with Microsoft Platform Software" allows Microsoft to extract agreements from these parties under which at least, by assuring itself of a 50% distribution, promotion or usage share it guarantees that no competitors technology can be bradly available on a large fraction of Personal Computers so that it can become a platform for cross-platform software. For example by ensuring that 50% of new Personal Computers don't include such software, Microsoft can ensure that such software doesn't obtain critical mass as a platform.

2. These kinds of allowances, given Microsoft's behavior, only serve to codify Microsoft's right to extinguish competition. It codifies the right and means through which Microsoft can cut other parties "air supply".

3. By restricting these terms to "Microsoft Platform Software" it allows Microsoft to enter other kinds of agreements in which the means to kill innovation and drive others off the market is by developping non-Platform Software, for example by developping Applications, giving them for free and forcing these parties to distribute them at 50% usage share. The whole exception should be removed and Section III.G.1 should read: G. Microsoft shall not enter into any agreement with:

1. any IAP, ICP, ISV, IHV or OEM that grants Consideration on the condition that such entity distributes, promotes, uses, or supports, exclusively or in a fixed percentage, any Microsoft Platform Software, Microsoft Operatin Systems, Microsoft Application Software, Microsoft Hardware or any other Microsoft supported technologies, or Furthermore, the agreement that Microsoft might enter might require that the OEM doesn't distribute certain non-Microsoft Sofware without actually requiring the distribution of Microsoft technologies. Thus a new clause should be added, Section III.G.3:

3. any IAP, ICP, ISV, IHV or OEM that grants Consideration on the condition that such entity refrains in any way or percentage from distributing, promoting, using, or supporting, any non-Microsoft software or technologies

Comment III.21

Section III.G.2 reads:

"G. Microsoft shall not enter into any agreement with:

2. any LAP or ICP that grants placement on the desktop or elsewhere in any Windows Operating System Product to that IAP or ICP on the condition that the IAP or ICP refrain from distributing, promoting or using any software that competes with Microsoft Middleware." Again the restriction is too narrow with respect to Microsoft's other means of distributing software, it should read:

2. any LAP or ICP that grants placement on the desktop or elsewhere in any Windows Operating System Product to that IAP or ICP on the condition that the IAP or ICP refrain from distributing, promoting or using any software that competes with Microsoft Middleware, Microsoft Platform Software, Microsoft Operatin Systems, Microsoft Application Software, Microsoft Hardware or any other Microsoft supported technologies

Comment III.22

Section III.G contains this, it is the second to last paragraph in the section: "Nothing in this section shall prohibit Microsoft from entering into (a) any bona fide joint venture or (b) any joint development or joint services arrangement with any ISV, IHV, IAP, ICP, or OEM for a new product, technology or service, or any material value-edd to an existing product, technology or service, in which both Microsoft and the ISV, IHV, IAP, ICP, or OEM contribute significant developer or other resources, that prohibits such entity from competing with the object of the joint venture or other arrangement for a reasonable period of time." Microsoft should be allowed to enter into these arrangements, but it should be allowed to require it to "prohibits such entity from competing with the object of the joint venture or other arrangement for a reasonable period of time.". Again, "reasonable period of time" is ambiguous and open ended, and non-compete clauses have no pro-competive role other than exclusionary when included in agreements by a Monopolist such as Microsoft. Joint development or joint services agreements should not be restricted in this manner. If an actual separate entity is formed, a joint venture that includes the incorporation or foundation of a separate independent legal entity, the entity in question could have non-competition restrictions placed on it, but not the shareholder companies themselves (i.e. Microsoft and the other party).

Comment III.23

Section III.G, last paragraph, reads:

This Section does not apply to any agreements in which Microsoft licenses intellectual property in from a third party. This statement, is very ambiguous and unqualified. The meaning of "Microsoft licenses intellectual property in from a third party" could easily mean that Microsoft products that include any third party intellectual propery are exempt from the section. Most Microsoft products contain third party software, certainly its operating systems do (for example the Vcritas/Seagate backup software and the Veritas Volume Manager included in both Windows XP and Windows 2000; the BSD software included in Windows 2000 and Windows XP; the Mosaic sofware included in all version of Internet Explorer; the Java software included in Windows 2000 and Windows XP; the printing drivers and other device drivers from IHVs included in Windows 2000 and Windows XP; the amount of software licensed into these products is very large; etc). Additionally, there can also be other forms of intellectual licenses that apply to these and other products (for example licenses to use patents of third parties). If the clause is intended to mean something different from my interpretation, please explain what it is intended to mean, and what terms in that sentence ensures that only that meaning is allowed.

This sentence should be removed completely from this section. Alternatively, a sentence that says:

Where terms in this section would cause a third party who has licensed software or any other form of intellectual property to Microsoft to have its license agreement violated then the specific terms in this section that would cause such a license breach do not apply. Unless the third party, at its own discrtion, chooses to allow the specific violations under an agreement amendment. Violation of the license agreement means violation to the detriment of the interest of the third party and not violation to the detriment of Microsoft's interests. Additionally, Microsoft should proactively inform the Microsoft Internal Compliance Officer, the Technical Committee, and the Plaintiffs about the circumstances in question and provide, as priviledged communication and without violating the interests of the third party, all information required for their enforcement activities.

Comment III.24

Section III.H.2 (the first such section, there are two such sections in Section III.H) reads:

"2. Allow end users (via a mechanism readily available from the desktop or Start menu), OEMs (via standard OEM preinstallation kits), and Non-Microsoft Middleware Products (via a mechanism which may, at Microsoft's option, require confirmation from the end user) to designate a Non-Microsoft Middleware Product to be invoked in place of that Microsoft Middleware Product (or vice versa) in any case where the Windows Operating System Product would otherwise launch the Microsoft Middleware Product in a separate Top-Level Window and display either (i) all of the user interface elements or (ii) the Trademark of the Microsoft Middleware Product."

These are the issues:

The text "require confirmation from the end user" should include statements that ensure that Microsoft will not act in a discriminatory or derrogatory manner in those confirmations. For example, Microsoft should not be allowed to include as part of that confirmation process: documentation, help, verbal communitation or any other means discriminatory or derrogatory statements. Examples of such statemetns are: "By choosing this option, Microsoft voids the warranty of the product or disclaims its obligation to provide support. Microsoft has not tested this third party option, use at your own risk. Use of this option might cause data loss, corruption, etc." Microsoft has included messages in their products purposedly to cause third parties to not use non-Microsoft technology. The Windows 3.0 betas included messages similar to these when Windows realized that it was running on top of Digital Research's DR-DOS Operating System (instead of running on top of Microsoft's MS-DOS).

2. These statements: "launch the Microsoft Middleware Product in a separate Top-Level Window and display either (i) all of the user interface elements or (ii) the Trademark of the Microsoft Middleware Product." allow for Microsoft to easily subvert the intent by not Trademarking the Microsoft Middleware (while allowing compound Trademarks suchs as "Windows (R) Stuff'), by only showing all but one (1) of the user interface elements. The restriction to a separate Top-Level Window means that by providing it in a subwindow of an existing window on in a visually separate top level window that is controlled by a Microsoft non-separate or independent process, these escape clauses, again provide Microsoft with a a myriad ways to escape the intent of the clause. Additionally because of the software maleability the restriction to only Microsot1 Middleware Products should not apply.

Section III.H.2 (the first such section, there are two such sections in Section III.H) should read:

2. Allow end users (via a mechanism readily available from the desktop or Start menu), OEMs (via standard OEM preinstallation kits), and Non-Microsoft software and technologies (via a mechanism which may, at Microsoft's option, require confirmation from the end user in a non-discriminatory and non-derrogatory manner) to designate a Non-Microsoft software or technologies to be invoked in place of any Microsoft Middleware, Microsoft Application or any Microsoft Operating System feature that existed in the market as a third party product prior to Microsoft's incorpration of such a feature into its Operating System (or vice versa) in any case where the Windows Operating System Product would otherwise launch the Microsoft Middleware Product, Microsoft Applications or any such Microsoft Operating System.

Comment III.25

Section III.H.3 allows for "(b) seek such confirmation from the end user for an automatic (as opposed to user-initiated) alteration of the OEM's configuration until 14 days after the initial boot up of a new Personal Computer". Such confirmation must be sought through non-discriminatory and non-derrogatory means (as outlined in Comment III.23). Additionally such confirmation from the end user must allow the user to reject the continued request for this confirmation by providing an easily visible checkbox that indicates: "would you like to be asked this question again in the future?" if the user doesn't want this question to be asked in the future it selects the checkbox and the question is never asked again (and the current settings remain unchanged).

Comment III.26

Section III.H.3.2 (the second such section, there are two such sections in Section III.H) reads:

"2. that designated Non-Microsoft Middleware Product fails to implement a reasonable technical requirement (e.g., a requirement to be able to host a particular ActiveX control) that is necessary for valid technical reasons to supply the end user with functionality consistent with a Windows Operating System Product, provided that the technical reasons are described in a reasonably prompt manner to any ISV that requests them."

Issues:

1. The "designated Non-Microsoft Middleware Product" term should be "designated Non-Microsoft software or technology".

2. Requirements to host a paricular ActiveX control must require that Microsoft proactively documents the interfaces of the particular Active) control, and doesn't prevent through signature or any other mechanism such hosting by the Non-Micorosft software or technology.

3. The "provided that the technical reasons are described in a reasonably prompt manner to any ISV that requests them" text shold read "Microsoft must pro-actively and broadly (through the MSDN program and web sites) describe the technical reasons reasonable manner." Any such "valid technical reasons" must be communicated to the Technical Committee, the Microsoft Internal Compliance Officer and the Plaintiffs.

Section III.H.3.2 (the second such section, there are two such sections in Section III.H) should read:

"2. that designated Non-Microsoft software or technology fails to implement a reasonable technical requirement (e.g., a requirement to be able to host a particular ActiveX control) that is necessary for valid technical reasons to supply the end user with functionality consistent with a Windows Operating System Product, provided that the technical reasons and detailed and complete technical documentation and mechanisms (component signatures) are described in a reasonably prompt manner to all ISVs through the MSDN program or its successor. Addionally the valid technical reasons and any other information relevant to the reasons must be communicated to the Technical Committee, the Microsoft Internal Compliance Officer, the Plaintiffs and the ISVs in question."

Comment III.27

The last paragraph of Section III.H.3 reads:

"Microsoft's obligations under this Section III.H as to any new Windows Operating System Product shall be determined based on the Microsoft Middleware Products which exist seven months prior to the last beta test version (i.e., the one immediately preceding the first release candidate) of that Windows Operating System Product." Issues:

1. Again this is tied to Microsoft Middleware Prodcuts, it should be replaced by the broader term.

2. When a technology "exists" can lead to ambiguity given that Microsoft might dictate that technology doesn't exist until it determines (at its sole discretion) that it exists. This ambiguity is not required.

The last paragraph of Section III.H.3 should be removed completely. Microsoft can introduce new Microsoft Middleware, Microsoft Applications, Microsoft Technologies, Microsoft Hardware at any arbitrary point in time after the release of an Operating System product. In so far as those Microsoft technologies alter user's preferences and default system settings, saving and restoring those settings sould be supported through an Operating System mechanism and user interface that allows for these settings to be manipulated.

Comment III.28

The first paragraphs of Section III.I reads:

"I. Microsoft shall offer to license to ISVs, IHVs, IAPs, ICPs, and OEMs any intellectual property rights owned or licensable by Microsoft that are required to exercise any of the options or alternatives expressly provided to them under this Final Judgment, provided that" The text "shall offer to license" requires that licensing be offered, it doesn't require that it actually enter into such license agreements. The text should instead read:

I. Microsoft shall offer to license, and shall make its best effort to actually license, to ISVs, IHVs, IAPs, ICPs, and OEMs any intellectual property rights owned or licensable by Microsoft that are required to exercise any of the options or alternatives expressly provided to them under this Final Judgment, provided that

Comment III.29

Section III.I.1 reads:

"1. all terms, including royalties or other payment of monetary consideration, are reasonable and non-discriminatory;" Allowing for per unit royalties or prohibitive up front licensing fees might prevent Microsoft competitors from actually being able to participate competitibly in the relevant product markets. This Section III.I.1 should read instead: "1. all terms, are reasonable and non-discriminatory. Royalties or other payments of monetary consideration are explicitly forbidden from the temps when the intellectual property is to be used only for interoperation with a Microsoft Operating System product." For example such a license would not require royalties from a server Operating System to interoperate with a Microsoft Operating System for Personal Computers, but if the server Operating System makes use of the licensed intellectual property to interoperate with non-Microsoft Operating Systems for Personal Computers, then a royalty might be required by Microsoft.

Comment III.30

Section III.I.2 reads:

"2. the scope of any such license (and the intellectual property rights licensed thereunder) need be no broader than is necessary to ensure that an ISV, IHV, IAP, ICP or OEM is able to exercise the options or alternatives expressly provided under this Final Judgment (e.g., an ISV's, IHV's, IAP's, ICP's and OEM's option to promote Non-Microsoft Middleware shall not confer any rights to any Microsoft intellectual property rights infringed by that Non-Microsoft Middleware);" XXX

Comment III.31

Section III.I.3 reads:

"an ISV's, IHV's, IAP's, ICP's, or OEM's rights may be conditioned on its not assigning, transferring or sublicensing its rights under any license granted under this provision;" Not allowing the transferring or assignment of these parties rights under certain circumstances, for example under an acquisition, is inherently a form of discrimination. Given that the licenses are to be offered in a non-discriminatory fashion, it is important that such licenses once offered be available in the future and that the licensing not be restricted to a given period of time. If subsequent versions of technology become available, and new licenses are developped for that technology, the older licenses to the earlier technology should continue to be offered for the earlier verisions of the technology.

Comment III.32

The paragraphs immediately after Section III.I.5 reads: "Beyond the express terms of any license granted by Microsoft pursuant to this section, this Final Judgment does not, directly or by implication, estoppel or otherwise, confer any rights, licenses, covenants or immunities with regard to any Microsoft intellectual property to anyone."

Comment III.33

Section III.J.2.b reads:

"that the licensee:

(b) has a reasonable business need for the API, Documentation or Communications Protocol for a planned or shipping product,"

Microsoft shall not unreasonably dispute the licensee's assertions with respect to III.J.2.b, any individual member of the Technical Committee through direct communication with the prospective licensee can make a positive determination about the III.J.2.b requirement and inform Microsoft about its determination without any further Microsoft argument, dispute or delay about the prospective licensee meeting the III.J.2.b requirement (Court intervention shall not be required).

Section III.J.2.b should read:

(b) has a reasonable business need (as promptly and in a non-discriminating manner determined by Microsoft or any one individual member of the Technical Committee), for the API, Documentation or Communications Protocol for a planned or shipping product

Comment III.33

Section III.J.2.b reads:

"that the licensee:

(c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business" It should instead read: (c) meets reasonable, objective and non-discriminatory standards (proposed by Microsoft and promptly approved by the Technical Committe in consultation with the Plaintiffs) for certifying the authenticity and viability of its business, the actual determination of the actual authenticity and viability of the business can be made by Microsoft or any one member of the Technical Committee after taking into consideration legal consultation from the Technical Committee's legal staff

Comment III.34

Section J.2.d reads:

"that the licensee:

(d) agrees to submit, at its own expense, any computer program using such APIs, Documentation or Communication Protocols to third-party verification, approved by Microsoft, to test for and ensure verification and compliance with Microsoft specifications for use of the API or interface, which specifications shall be related to proper operation and integrity of the systems and mechanisms identified in this paragraph."

The issues are:

1. Should be at Microsoft's expense, not the licensee's.

2. Verification should hot be performed by "third-party verification, approved by Microsoft" if such verification is required by Microsoft it should be done under staff hired by the Technical Committee and at Microsoft's expense and not through unknown for profit relationships and agreements between a third party and Microsoft. The intent of this section is for "proper operation and integrity of the systems and mechanisms", Microsoft should be satisfied with the Technical Committee staff performing these duties unless its goals are other than those expressed herein.

3. The text "to test for and ensure verification and compliance with Microsoft specifications for use of the API or interface, which specifications shall be related to proper operation and integrity of the systems and mechanisms identified in this paragraph" refers to to a "Microsoft specifications for use of the API or interface", these specifications shall be made available to the licensee

Section J.2.d should read:

(d) agrees to submit, at Microsoft's expense, any computer program using such APIs, Documentation or Communication Protocols to the Technical Committe for verification, to test for and ensure verification and compliance with Microsoft specifications (which Microsoft shall make available to the licensee) for use of the API or interface, which specifications shall be related to proper operation and integrity of the systems and mechanisms identified in this paragraph.

Comment IV.1 Section IV.A.2.a reads:

"a. Access during normal office hours to inspect any and all source code, books, ledgers, accounts, correspondence, memoranda and other documents and records in the possession, custody, or control of Microsoft, which may have counsel present, regarding any matters contained in this Final Judgment."

This should be expanded to include electronic forms of communication in electronic form, not printed form, because it is extremely hard to sift through information, such as source code, in non-electronic form.

Section IV.A.2.a should read:

a. Access during normal office hours to inspect any and all source code, source code control systems, bug or defect databases, design documents, build procedures, binary codes, books, ledgers, electronic ledgers, electronic databases, accounts, correspondence, memoranda, newsgroups, discussions forums, web sites and other documents and records in the possession, custody, or control of Microsoft, which may have counsel present, regarding any matters contained in this Final Judgment. Access to electronic forms of information shall be provided in electronic form and not in only in printed form.

Comment IV.2

Section IV.B.2 describes "The TC members shall be experts in software design and programming." section IV.B.2.c reads:

"c. shall perform any other work for Microsoft or any competitor of Microsoft for two years after the expiration of the term of his or her service on the TC."

Given that Microsoft competes in almost every software market conceivable, it is a strecth to request two years of non-compete agreement from the TC member. Two such years of non-compete could be provided only if Microsoft provides two such years of salary to the TC member with a yearly inflationary bonus adjustment per year.

Comment IV.3

Section IV.B.8.iii reads:

"(iii) obtain reasonable access to any systems or equipment to which Microsoft personnel have access;"

This should reads:

(iii) obtain reasonable access to any systems, services or equipment to which Microsoft personnel have access; services should include but not be limited to: authentication, file sharing, discussion forums, newsgroups, chat channels, source code control systems, bug/defect database systems, design management systems, document repositories, web sites, etc.

Comment IV.4

Section IV.D.4.d reads:

"d. No work product, findings or recommendations by the TC may be admitted in any enforcement proceeding before the Court for any purpose, and no member of the TC shall testify by deposition, in court or before any other tribunal regarding any matter related to this Final Judgment."

This is one of the most egregious terms of the settlement. Given that the Technical Committee has hardly any actual enforcement duties, other than monitoring, and the Technical Committee actually being an impartial participant in the actual history of Microsoft's interaction with third parties and Microsoft's possible violations of settlement terms, it is astonishing that this term mandates that the actual work product of the Technical Committee not be admissible as evidence of the settlement enforment activities.

Microsoft deifnitely over-reached by requesting this, this shows Microsoft's true intentions (another 5 years without actual enforcement plus maybe another 5 of further litigation), Microsoft should be forced to accept instead the contrary of this term.

It is an interesting legal question if any documents related to presummed antitrust violations are made the work product of the Technical Committee, then by IV.D.4.d and those documents being unadmissible, then what other documents could be used to initiate Court proceedings by the plaintiffs without any such documents being alleged by Microsoft as being derived from the TC's unadmissible work. How could the plaintiffs promptly produce equivalent analysis without it being under this gag order?

Section IV.D.4.d must read:

"d. All work product, findings or recommendations by the TC must be admitted in any enforcement proceeding before the Court for any purpose, and any member of the TC is herein explicitly allowed to testify by deposition, in court or before any other tribunal regarding any matter related to this Final Judgment."

If the Plaintiffs are not willing to mandate this rewritten IV.D.4.d they are engaging in blatant dereliction of duty of the antitrust enforcement offices and duties that they purport to serve.

Comment IV.5

Section IV.D.4.e reads:

"e. The TC may preserve the anonymity of any third party complainant where it deems it appropriate to do so upon the request of the Plaintiffs or the third party, or in its discretion." It should read instead:

"e. The TC must preserve the anonymity of any third party complainant upon the request of the Plaintiffs or the third party. Where the TC deems it appropriate to do so, and it has not ben requested, by the Plaintiffs or the third party, the TC in its own discretion it may preserve the anonymity of any third party complainant."

Comment V.1

Section V.A reads:

"A. Unless this Court grants an extension, this Final Judgment will expire on the fifth anniversary of the date it is entered by the Court."

The Final Judgement should last longer than five years. The actual initial antritrust violations by Microsoft occured more than five years ago and we are still without any form of remedy. The legal system works very slowly. By entering this Final Judgement, and Microsoft continuing its anticompetitive practices, it would probably take more than five years to resolve those further complaints. Given that the orignal D.O.J. vs Microsoft settlement that related to per computer unit licensing was ambiguous enough that it ended up being mostly ignored and full antritrust proceedings were required, it wouldn't surprise me if this agreement which is even more ambiguous and has many more loopholes means at Microsoft's disposal to circumvent its intent would not result in many more years of litigation without any real behaviour change on Microsoft's part.

Mandating an expiration only after Microsoft no longer has monopoly power in the market of Operating Systems for Personal Computers for Intel x86 or x86 compatible systems is more appropriate. Court proceedings or the under the parties agreement and Court supervision would be required for the settlement to expire, Otherwise a period longer than 5 years, at least 12 years should be mandated.

It must be observed how durable has Microsoft's monopoly been and that it was initially cemented through antitrust violations for which a Final Judgement with no teeth got the industry into its current state: 1.

Since the mid 80s it faced no competition. Through illegal competitive behaviour, it foreclose the market to then Digital Research's DR–DOS product (an atlernative to Microsoft's MSDOS). Microsoft has recently settled a separate antitrus suit by the current owner of the DRDOS assets (Caldera). These original violations animated the first consent decreed between D.O.J. and Microsoft 1995. That consent decree was determined to be ambiguous by the appellate Court in its allowance of integration, and a full antitrust lititgation ensued.

2. Even though Microsoft's technology significantly lagged behind the technical abilities of the systems (for example it took Microsoft 10 years to produce a quasi 32 bit operating system after x86 Intel 32 bit capable operating systems became available in the market) no other competitors could enter the market because Microsoft moved from per-unit licenses to persystem licenses for each model of system that the OEM manufactured (and this continued to exclude other vendors from the market). 3. The one significant threat that Microsoft has faced to its personal computer operating system monopoly has been the advent of the Internet with open standards and as a means for delivering applications from server computers (either through Java or directly as web applications) or through middleware based applications that could perform on Microsoft Operating System based personal computers or personal computers running other operating systems. This one threat has been completely erradicated from the market. Microsoft will continue to exclude Java as a viable Interact based application delivery mechanisms, because this Final Judgement doesn't mandata the allowance of interoperability of Sun's Java with Microsoft's Internet Explorer (the Top Level Window definition is purposedly design to make this impossible). Dereliction of duty now from the Plaintiffs would mean that even under the most blatant violations of antitrust laws and astonishing findings of fact, that Microsoft would escape with a Final Judgement that is too short and very weak from many perspectives. 12 years of enforcement seem the minimal time for market conditions to actually have another opportunity to arise and for actual market change to actually occur.

Comment V.2

Section V.B reads:

"B. In any enforcement proceeding in which the Court has found that Microsoft has engaged in a pattern of willful and systematic violations, the Plaintiffs may apply to the Court for a one-time extension of this Final Judgment of up to two years, together with such other relief as the Court may deem appropriate."

The Plaintiffs in any enforcement proceeding shall not be limited to only one extension of two years. If the Plaintiffs cannot request as a remedy to future Microsoft's violations of this settlement, then it is not clear if the Court can actually mandate a remedy that is not being requested. Additionally, limiting the length of the actual extension at this time and as part of this settlement seems beyond belief given that any enforcement will require the Court participation because there is no actual real enforcement (other than monitoring by the Technical Committee with its work product later bein unadmissible as court evidence and without the TC members being allowed as witnesses).

Section V.B should read:

B. In any enforcement proceeding in which the Court has found that Microsoft has engaged in a pattern of willful and systematic violations, the Plaintiffs may apply to the Court for an extension of this Final Judgment for up to ten years, together with such other relief as the Court may deem appropriate, which is hereby agreed by the parties that it is acceptable for it to be of any length as the Court deems appropriate.

Comment VI.1

Definition VI.A reads;

"A. "Application Programming Interfaces (APIs)" means the interfaces, including any associated callback interfaces, that Microsoft Middleware running on a Windows Operating System Product uses to call upon that Windows Operating System Product in order to obtain any services from that Windows Operating System Product."

Issues are:

API refers to the interfaces that are used not only by Microsoft Middleware uses, but any other software uses. APIs are mostly used by regular applications, narrowing the definition of APIs to what Microsoft Middleware uses is a contorted way to allow even more freedoms of circumvention to Microsoft. For example for Microsoft to perform anti-competitive practices through undocumented interfaces that its applications use, but that Microsoft's Middleware doesn't use, thus excluding those APIs (by definition!) from being covered by this settlement. Amazingly, this definition proposed to define API to mean something other than Application Programmin Interface, do you see the word application? It is not Middleware Programming Interface! Simply amazing!

Definition VI.A should be replaced by the definition in the Final Judgement entered by Judge Jackson (definition 7.b):

A. "Application Programming Interfaces (APIs)" means the interfaces, service provider interfaces, and protocols that enable a hardware device or an application, Middleware, or server Operating System to obtain services from (or provide services in response to requests from) Platform Software in a Personal Computer and to use, benefit from, and rely on the resources, facilities, and capabilities of such Platform Software.

If another definition is adopted, it should be explained why it is different from the one proposed.

Comment VI.2

Definition VI.B reads:

"B. "Communications Protocol" means the set of rules for information exchange to accomplish predefined tasks between a Windows Operating System Product and a server operating system product connected via a network, including, but not limited to, a local area network, a wide area network or the Internet. These rules govern the format, semantics, timing, sequencing, and error control of messages exchanged over a network."

Issues:

1. Given that Communication Protocols relevant to this settlement (given the proposed changes in other sections) also exist between two personal computers, the definition should reflect that.

2. The set of tasks between the parties in a protocol doesn't have to be predefined, there are protocols under which the parties actually sent pieces of arbitrary code to each other to perform actions that are arbitrary.

Definition VI.B should read:

"B. "Communications Protocol" means the set of rules for information exchange to accomplish tasks between a Windows Operating System Product and another operating system connected via a network, including, but not limited to, a local area network, a wide area network or the Internet. These rules govern the format, semantics, timing, sequencing, and error control of messages exchanged over a network."

Comment VI.3

Definition VI.J reads:

"J. "Microsoft Middleware" means software code that

1. Microsoft distributes separately from a Windows Operating System Product to update that Windows Operating System Product; 2.

is Trademarked;

3. provides the same or substantially similar functionality as a Microsoft Middleware Product; and

4. includes at least the software code that controls most or all of the user interface elements of that Microsoft Middleware.

Software code described as part of, and distributed separately to update, a Microsoft Middleware Product shall not be deemed Microsoft Middleware unless identified as a new major version of that Microsoft Middleware Product. A major version shall be identified by a whole number or by a number with just a single digit to the right of the decimal point."

This is a very astonishing definition of Middleware, nowhere does it talk about software that provides APIs to other software components, which is core to any definition of Middleware. The definition of Non-Microsoft Middleware (VI.M) does seem appropriate to what Middleware is. Definition 7.q in Judge Jackson's Final Judgement should be seen for a reasonable defintion of Middleware:

""Middleware" means software that operates, directly or through other software, between an Operating System and another type of software (such as an application, a server Operating System, or a database management system) by offering services via APIs or Communications Interfaces to such other software, and could, if ported to or interoperable with multiple Operating Systems, enable software products written for that Middleware to be run on multiple Operating System Products. Examples of Middleware within the meaning of this Final Judgment include Internet browsers, e-mail client software, multimedia viewing software, Office, and the Java Virtual Machine. Examples of software that are not Middleware within the meaning of this Final Judgment are disk compression and memory management."

These notions in the VI.J "Microsoft Middleware" definition are astonishing:

"2. is Trademarked;" other than to provide Microsoft another escape clause, this term adds absolutely no value. With this term as part of the definition, Microsoft can rename some component, not use an earlier trademark name for it, and voila! it is no longer Microsoft Middleware.

The notion of what Microsoft Middleware is certainly cannot be tied to the version number given to it! Something is what it is whatever the name used to refer to it. Something as arbitrary as a version number and as easily maleable as a version number certainly cannot be criteria to be used to determine what it is. Contract writting 101 should certainly tech any lawyers about this. It is interesting to pose these questions to the Plaintiffs:

What is the major version number of Office XP? What is the version number of Internet Explorer. NET? What is the version number of Outlook Express. NET? What is the version number of Windows XP, Windows CE, Windows ME, Winodows 95 OSR2? Widonws 95? Microsoft certainly can change interfaces, protocols, APIs, etc in a major, minor, service pack, hot fix, or any other packaging of its software. The names or version numbers of such software should not be used to determine what is contained by them.

Both of these (VI.J.2 and VI.J last paragrpah) should be removed from the definition. The term VI.J.4 seems to be there only for the purpose of allowing Microsoft to slice and recombine its software in such a way as to ensure that the user interface component be the one called the "Microsoft Middleware" and not the components that acutally perfrom the traditional Middleware functionality (see Jacksons definition above) of providing APIs to other software. It is very interesseting that Middleware is mostly not about user interfaces but about providing interfaces to other applications, applications that felly on the Middleware as a platform. Most Midleware doesn't have a user interface, if it has one it is incidental.

The term VI.J.4 should be removed.

After these adjustments, Defintion VI.J should just be:

J. "Microsoft Middleware" means software code that

1. Microsoft distributes separately from a Windows Operating System Product to update that Windows Operating System Product; and

2. provides the same or substantially similar functionality as a Microsoft Middleware Product; and

Comment VI.4

Definition VI.K reads:

"K. "Microsoft Middleware Product" means

1. the functionality provided by Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express andtheir successors in a Windows Operating System Product, and

2. for any functionality that is first licensed, distributed or sold by Microsoft after the entry of this Final Judgment and that is part of any Windows Operating System Product

a. Internet browsers, email client software, networked audio/video client software, instant messaging software or

b. functionality provided by Microsoft software that

i. is, or in the year preceding the commercial release of any new Windows Operating System Product was, distributed separately by Microsoft (or by an entity acquired by Microsoft) from a Windows Operating System Product;

ii. is similar to the functionality provided by a Non-Microsoft Middleware Product: and

iii. is Trademarked.

Functionality that Microsoft describes or markets as being part of a Microsoft Middleware Product (such as a service pack, upgrade, or bug fix for Internet Explorer), or that is a version of a Microsoft Middleware Product (such as Internet Explorer 5.5), shall be considered to be part of that Microsoft Middleware Product."

The first issue with this definition is, what is the connection between VL.K.2 and the presumably subordinate VI.K.2.a and VI.K.2.b? The sentence under VI.K.2 seems incomplete, it should end in something like:

"* * * and that is part of any Windows Operating System Product, and is either:"

Other issues are:

1. Throughout the trial Microsoft and depositions (but not before litigation was brought into action) would not budge on its pretense incomprehension of what an Internet Browser is. They would only talk about browsing technologies but would react stupified to the notion of Integer Browsers, particularly their own, when they were referred to as "the browser product." It is amusing and without any sign of legal thouroughness that the Plaintiffs have come to agree with Microsoft to a definition that uses the term "Internet browser" without actually providing a definition for such a term anywhere in the proposed Final Judgement. Not even what a Internet Browser is being agreed amongst the parties in the dereliction of duty that this document embodies.

2. Given that this section includes other disputed terms such as Internet Explorer, it sould seem to be important to include precise definitions about what these actual terms mean. Maybe when the Plaintiffs try to do this together with Microsoft they will realize that only contorted definitions such as the ones for API, Microsoft Middleware, Microsoft Middleware Product, etc. are arrived at.

3. Again software can be or stop from being a Microsoft Middleware Product depending on whether it is trademarked or not (which to no ones surprise is another contorted and unnatural definition by itself).

4. VI.K.2.b.i refers to "distributed separately by Microsoft from a Windows Operating System Product", that term should be precisely defined to mean what it seems to mean, because Microsoft having argued in court that a sandwich is part of Windows if they soley dictate so, then they surely would say that any code "is distributed as part of a Windows Operating System" even if the code is sent to the end user m a CD-ROM inside a sandwich not included in the Windows box, or more complexily and seriously, if it is sent to the user's system through a the Windows update process.

5. VI.K.2 seems to require that the functionality be "part of any Windows Operating System Product" but immediately and sub-ordinated to that clause it also says VI.K.2.b.i "distributed separately by Microsoft from a Windows Operating System Product" which seems to contradict the pre-requisite governing condition (it has to be both part of and not part of?.), that would be by necessity the empty set, because something cannot be both part of something and not part of something; thus redering the whole contorted VI.K definition sense-less.

06. The final paragraph on VI.K states that:

"Functionality that Microsoft describes or markets as being part of a Microsoft Middleware Product (such as a service pack, upgrade, or bug fix for Internet Explorer), or that is a version of a Microsoft Middleware Product (such as Internet Explorer 5.5), shall be considered to be part of that Microsoft Middleware Product."

as some form of saving grace for the grotesquely constructed prior definition. Obviously, since the litigation started, Microsoft has described everything as part of Windows, so one should not wait standing for Microsoft to ever again market anything in their anticompetitive campaigns as not being part of Windows.

Definition VI.K should be replaced by:

"K. "Microsoft Middleware Product" means

1. the functionality provided by Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express and their successors in a Windows Operating System Product, and

2. any functionality that is first licensed, distributed or sold by Microsoft before, on, or after the entry of this Final Judgment and that is later made part of any Windows Operating System Product, this shold include but not be limited to: Internet browsers, email client software, networked audio/video client software, instant messaging software; or

3. functionality provided by Microsoft software that

i. is, or at any time preceding the commercial release of any new Windows Operating System Product was, distributed separately by Microsoft (or by an entity acquired by Microsoft) from a Windows Operating System Product; or

ii. is similar to the functionality provided by a Non-Microsoft Middleware Product Functionality that Microsoft describes or markets as being part of a Microsoft Middleware Product (such as a service pack. upgrade, or bug fix for Interact Explorer), or that is a version of a Microsoft Middleware Product (such as Internet Explorer 5.5), shall be considered to be part of that Microsoft Middleware Product."

Additionally, reasonable definitions of what these mean should be included as separate definitions: "Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express and their successors in a Windows Operating System Product"

Comment VI.5

The word product should be replaced by technology in definition VI.M because not all middleware is made available in a product form, some of it might be made freely available or under conditions or packaging that don't relate directly to it being a product:

"M. "Non-Microsoft Middleware" means a non-Microsoft software product running on a Windows Operating System Product that exposes a range of functionality to ISVs through published APIs, and that could, if ported to or made interoperable with, a non-Microsoft Operating System, thereby make it easier for applications that rely in whole or in part on the functionality supplied by that software product to be ported to or run on that non-Microsoft Operating System."

It shold read:

"M. "Non-Microsoft Middleware" means a non-Microsoft software technology running on a Windows Operating System Product that exposes a range of functionality to ISVs through published APIs, and that could, if ported to or made interoperable with, a non-Microsoft Operating System, thereby make it easier for applications that rely in whole or in part on the functionality supplied by that software product to be ported to or run on that non-Microsoft Operating System."

Comment VI.6

The requirement under VI.N.ii that:

"and (ii) of which at least one million copies were distributed in the United States within the previous year."

Seems excessive, a more reasonable number of one hundred thousand copies is more appropriate because the benefits of the settlement can benefit nascent technologies and not just more established ones.

Comment VI.7

The definition under VI.O of OEM is self centered, to be an OEM, the OEM has to be a licensee of a Windows Operating System Product. How do new OEMs come to be if Microsoft refused to license its products directly or uses intermediaries not under its ownership control but under agreement control to do actual sublicensing? The definition of an OEM should be independent of whether they at any given point in time they have a direct license from Microsoft (instead of purchasing the product in the channel like smaller OEMs do). The definition of Covered OEM already takes care of them being licensees.

"O. "OEM" means an original equipment manufacturer of Personal Computers that is a licensee of a Windows Operating System Product."

Should be:

O. "OEM" means an original equipment manufacturer of Personal Computers.

Comment VI.8

Definition VI.Q reads:

"Q. "Personal Computer" means any computer configured so that its primary purpose is for use by one person at a time, that uses a video display and keyboard (whether or not that video display and keyboard is included) and that contains an Intel x86 compatible (or successor) microprocessor. Servers, television set top boxes, handheld computers, game consoles, telephones, pagers, and personal digital assistants are examples of products that are not Personal Computers within the meaning of this definition."

The only concern here is if:

television set top boxes, handheld computers, game consoles, telephones, pagers, and personal digital assistants are constructed from Intel x86 or x86 compatible processors and Microsoft offers a version Windows for them that allows any software designed for Personal Computers to work on those systems, then what those products would be are:

x86 Personal Computer based handheld personal computers; or

x86 Personal Computer based personal digital assistants; or

x86 Personal Computer based personal game consoles; etc

For example today Microsoft offers a fully functional Personal Computer as its game console, the Microsoft Xbox. If Microsoft were to offer Windows XP for that system, it would not only be a game console but also a fully function Personal Computer. Under those circumstances it should not be excluded from the definition.

Comment VI.9

Defintion VI.R reads:

"R. "Timely Manner" means at the time Microsoft first releases a beta test version of a Windows Operating System Product that is distributed to 150,000 or more beta testers." Without actual evidence about the actual size of the MSDN subscription base, it seems safer to rewrite this. Addtionally because of naming issues, the term "beta test version" should be expandded into its meaning:

"R. "Timely Manner" means at the time Microsoft first releases a release version of a Windows Operating System Product through its MSDN developper program solely for the purpose of developper testing and not intended for end user use for reasons other than for testing. If Microsoft plans multiple such test releases, then Timely Manner shall means the release time of a test release that is at least one year away from the product's final availabilty to OEMs for pre-installation or for consumer retail purchase, whichever is earlier."

Comment VI.10

Defintion VI.S reads:

"S. "Top-Level Window" means a window displayed by a Windows Operating System Product that (a) has its own window controls, such as move, resize, close, minimize, and maximize, (b) can contain sub-windows, and (c) contains user interface elements under the control of at least one independent process."

This definition is purposedly constructed to prevent:

1. An alternative Jave Virtual Machine (for example from Sun Microsystems) from being invoked when Java Applets are invoked through a web page because the window controls are the window controls of the Internet Browser and the Java Applet executes within the same window. By Microsoft using this defitintion to condition where it allows non-Microsoft Middleware to be invoked it controls the most important way for Java application execution (i.e. under a more complex web based application). Thus Microsoft having killed Netscape Navigator's viability proceeds to deny Java the remaining vehicle that it could have enjoyed under this settlement, i.e. under Interact Explorer. Of course the Plaintiffs do nothing other than acquesce under this settlement either because of dereliction of duty or blatant technical misunderstanding of the issues involved.

2. For example, the "live chart" stock quotes provided (through Java applets) by www.quote.com or the Chess application provided (Java applet) by www.chessclub at

http://www.chessclub.com/interface/java.html

http://queen.chessclub.com/sji/index.html

Would simply continue to run under Microsoft Java Virtual Machine and not under Sun's Java Virtual Machine when installed on the same system and with all the provisions of the settlement fully implement (and without any Microsoft violation of the terms whatsoever).

Thus Microsoft gets to reap the fruits of its anti-competitive camapaign without having actually conceeded anything of substance for non-Microsoft Middleware as it relates to Microsoft's Internet Explorer. The same will occur with network video and audio formats because Microsoft will make its players not start on a Top Level Window thus taking control of audio and video formats of Real Networks players even when the end user has choosen otherwise under the provisions of this agreement.

The notion of Top Level Window must be extricated from the settlement and Microsoft should allow invocation of ActiveX based components of the non-Microsoft Middleware under all circumstances, in a manner similar under which today third party software is invoked under a non Top Level Window and displayed within the Internet Explorer window without a problem (for example see how Adobe's Acrobat Reader is displayed under a non-Top Level Window). Microsoft has done already all the technical work in this area, an it is now only putting contractual road blocks to all these natural forms of invocation of non-Microsoft Middleware.

Comment VI.10

Definition VI.T reads:

"T. "Trademarked" means distributed in commerce and identified as distributed by a name other than Microsoft?? or Windows?? that Microsoft has claimed as a trademark or service mark by (i) marking the name with trademark notices, such as ?? or ??, in connection with a product distributed in the United States; (ii) filing an application for trademark protection for the name in the United States Patent and Trademark Office; or (iii) asserting the name as a trademark in the United States in a demand letter or lawsuit. Any product distributed under descriptive or generic terms or a name comprised of the Microsoft?? or Windows?? trademarks together with descriptive or generic terms shall not be Trademarked as that term is used in this Final Judgment. Microsoft hereby disclaims any trademark rights in such descriptive or generic terms apart from the Microsoft?? or Windows?? trademarks, and hereby abandons any such rights that it may acquire in the future."

The main issue throughout this proposed settlement with respect ot Trademarks is that software is what it is irrespective of what it is called. The definitions of Microsoft Middleware and Microsoft Middleware Product where conditioned with them being trademarked (under this definition) as a means to provide Microsoft and escape clause to make the no longer Microsoft Middleware (and Microsoft Middleware Products). That concept should completely go away. If it doesn't then the defintion of Trademarked shold be exactly the legal defintion understood under the law and not this one.

Comment VI.11

Defitions VI.U reads:

"U. "Windows Operating System Product" means the software code (as opposed to source code) distributed commercially by Microsoft for use with Personal Computers as Windows 2000 Professional, Windows XP Home, Windows XP Professional, and successors to the foregoing, including the Personal Computer versions of the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc. The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion."

The list must also include Windows 95, Windows 98, Windows SE, Windows ME (collectively known as Windows 9x) and Windows NT 4.0 and all their service releases. The current installed base is mostly made out of these products. By purposedly excluding them Microsoft and the Plaintiffs allow Microsoft to continue to prevent non-Microsoft Middleware from fairly competing in the broad installed base and forces competition to only occur under Microsoft's controlled evolution of the market. It does so by not allowing competition from the broad installed base by not affording the benefits of the settlement to that gigantic installed base (i.e. all the versions of Windows 9x).

MTC-00029686

P.O. Box 369
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to Microsoft. I fully support the settlement that was reached in November. In my opinion, the litigation that has continued for the last three yearn is a waste of precious resources that should be focused on more important issues. I am chagrinned that many state Attorneys General have continued suing Microsoft. I sincerely hope there, will be no further action against Microsoft at the federal level.

This settlement is fair and reasonable. Microsoft has agreed to carry out all provisions of this agreement, Under this agreement, Microsoft remains together as a company, while following procedures; that will make it easier for companies to compete. Microsoft has agreed to disclose information about certain internal interlaces in Windows;. Furthermore, Microsoft agreed to, disclose any protocols implemented in Windows" operating system products.

This settlement will benefit the economy and the technology industry as a whole. Please support this settlement so this dispute, can finally be resolved. Thank you for hearing my opinion.

Sincerely,

MTC-00029687

January 24, 2002

Attention: Renata Hesse
U.S. Department of Justice.
Antitrust Division
601 D Street NW Suite 1200
Washington, DC 20530

Deal Ms. Hesse

Though I am a current member of the Kansas ago Board of Education, I am writing this letter personally and not as a representative of the Kansas State Board of Education. Before you is a fair proposal for settlement of Microsoft case. In a sincere a??empt to close the door on a highly publicized legal embattlement, Microsoft offers to reveal technical information to comp??titors, enabling other companios to write software that actually works with Microsoft's operating products. Microsoft even offers, at its own expense, a failsafe in the form of an impartial review board which will have clearance to every facel of Microsoft's business dealings. This means software customers will have the ability to smoothly access competing software products on the same desktop, just like they are part of Microsoft Office.

Though Microsoft may surely have hoped for a solid win in this case, Bill Gates himsel recently recognized that accepting the strict rules and regulations imposed by the settlement is "the right thing to do", benefiting the consumer, the tech sector and the economy. We may hate to admit it, but Gates is right again. Settlement is the right thing to do. Thank you for your consideration of my opinions.

Sincerely,
Dr. Steve Abrams

MTC-00029688

January 27, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530

Dear Mr. Ashcroft,

I would like to express my appreciation to the Justice Department for allowing we as Americans to comment on the Microsoft antitrust case. I am a part of the tech industry and am in favor of the settlement in its current form.

I would like to express how happy I am with Microsoft products. Microsoft ha3 changed the way Americans do business. I think most Americans believe that the terms and conditions of the settlement are decent and just, and they are right. The settlement covers all sorts of parts of Microsoft's operation, from business practices to design changes.

Please use your power to end this case in an expeditious manner. It will benefit the country and the IT industry if you do so.

Sincerely,
Dean Martin
Co: Representative Tammy Baldwin

MTC-00029689

Jim Atkins
5569 Pinebrook Lane
Winston Salem, NC 27105
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am amongst those who believe that the Microsoft antitrust case should have never gone to trial. Nevertheless 1 would like you to support the settlement that was achieved in this case. Continuation of this case would be harm fid to Microsoft, and needlessly cost the Justice Department money in a time of a dwindling government surplus.

Justice Department officials have approved and agreed to the settlement in this case. The settlement will make it easier for non-Microsoft software to be installed on Microsoft platforms, giving competitors a better opportunity to offer their products to the public. However for some opponents of the settlement this is not adequate. It must be kept in mind that special interests will pressure officials to have this case re-opened.

I appreciate you taking the time to review my views on this issue. Once again I would like to stress to you my belief that this cage has undoubtedly become protracted and should be terminated. Please back the settlement.

Sincerely,
Jim Atkins
cc: Representative Mel Watt

MTC-00029690

Michael DiBello
15 Orchard St.
Syosset, NY 11791-2712
January 26. 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I feel that the settlement made between Microsoft and the Department of Justice is reasonable and that the litigation against Microsoft needs to be brought to an end. The money and time that has been spent on this suit doesn't seem to be worth what will be gained if this continues. The terms of the settlement, if finalized, will open up competition to other companies, which will in turn benefit the consumer, Not only will there be more choice but also hopefully there will also be more reasonable prices. Because of the terms of the settlement, Microsoft is going to have to make Windows internal code available to other companies so they can design their software to be compatible. Microsoft will be reimbursed for this, which is fair for all sides involved.

Overall I feel that the settlement should stand the way it is and that any further litigation against Microsoft would prove to be wasteful. Thank you for allowing me the opportunity to express my opinions.

Sincerely,
Michael DiBello

MTC-00029691

January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft.

The Department of Justice was absolutely wrong in wanting to slice Microsoft into separate parts. Three years have produced public resentment and gravely hurt the computing Industry, all for the benefit of those who won't ever be able to compete with Microsoft. The settlement Microsoft agreed to with the federal government must go forward. It is more than generous, and is obviously better than forcing Microsoft back into court, where the only winners are the attorneys representing both sides of this case.

Microsoft concedes to give up more than enough to promote far more competition among the computer makers and software developers who want a more level playing field. Agreeing to open Windows for further application development, Windows and non-Windows alike, will produce far more innovations than ever before, and will show the consumer that they are not at the whim of this industry giant, creating more individually-based options and configurations.

I urge the Department of Justice to see to it that Microsoft is given unprejudiced consideration by allowing them to return to business NOW. Do not continue to waste the incredible innovation and efforts of Microsoft, by choking them in more court proceedings. They have been the most industrious and prolific business since that of Ford Motors. The ramifications are far reaching, for the better good, by supporting the position of this settlement with Microsoft.

MTC-00029692

Mr. Todd Kangas
21800 Dempsey Rd
Leaven worth, KS 66048
U.S. Department of Justice, Antitrust Division
C/O Renata Hesse
601 D Street, NW, Suite 1200
Washington, DC 20530
January 38, 2002

Dear Ms. Hesse:

I would like to share a few thoughts of mine about the Microsoft case that you are currently reviewing as pan of the public comment period for the suit. Microsoft and Bill Gates have paid their penance. Throughout this case, Microsoft has been portrayed as an evil corporate citizen, but in my opinion this accusation does not stand up to reality.

In addition to Microsoft's corporate giving, Bill Gates has established the largest charitable foundation in the world. This foundation is making significant progress by donating hundreds of millions of dollars every year to assist in feeding the hungry in third world countries, preventing diseases, and educating youth in America. Lets put an end to this lawsuit and allow the success of Bill Gates and other high-tech entrepreneurs continue to, not only boost the economy of our country, but to aid to the underprivileged worldwide through charitable giving.

Sincerely,
Todd Kangas

MTC-00029693

Kenneth R. Sone
195 N Harbor Drive Apt. 5307
Chicago, IL 60601
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW

Washington, DC 20530

Dear Mr. Ashcroft:

I want to take a moment to give my feelings on the settlement reached last year between Microsoft and the Department of Justice. I believe the settlement is fair to both sides and should continue t6 be supported by the federal government.

The settement is exlensive aggressive, and covers all the issues that were m dispute. Microsoft has agreed to many concessions for the ??ake of wrapping up this suit and moving forward One example is Microsoft agreeing to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products. This is a first for an antitrust settlement and reveals the strength of the agreement on the government's part.

I believe settling this case and ending the litigation can only help the economy during this difficult period. It will bring some certainty to the computer industry and lessen the uncertainty about where the litigation may he heading I commend your office for the efforts so far and hope your support for the settlement remains strong.

Sincerely,

MTC-00029694

FAX
DATE: January 28, 2002
TIME: 9:00 AM
ATTENTION: Attorney General John Ashcroft
COMPANY: US Department of Justice
FAX NUMBER: (202) 307-1454
FROM: Glenn R. Hasman
SUBJECT: Microsoft
NUMBER OF PAGES: 2 (including this cover sheet)

8797 Treetop Trail
Broadview Heights, OH 44147
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This is to give my approval to the ending of the antitrust case brought against Microsoft. In my opinion, it has gone on far too long and we need to get back to business. We talk about the economic downturn but keep the one company that could probably pull us out of it, tied up in litigation.

From what I understand of the agreement, Microsoft has been more than fair in trying to settle this case. Microsoft has agreed to terms that go far beyond the products and procedures that were actually at issue in the original case; Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs. Microsoft has further agreed to design future versions of Windows with a mechanism to make it easier to promote non-Microsoft software.

It is in the best interests of America, and the world, if we put this case behind us and get back to business. Please give your support to this agreement.

Sincerely,

Glenn R. Hasman

MTC-00029695

1-28-02

Ms. Renata B. Hesse

Please approve the microsoft settlement.

Harry Westenberg
13008 W. Willow Creek
Huntley, IL
60142

MTC-00029696

PO Box 135
Monterey, MA 01245
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

I would like to take this opportunity to express my personal opinion about the government's role in Microsoft's freedom to innovate The United States Department of Justice and Microsoft reached an agreement at the beginning of this past November and that is where the litigation should end. The settlement was fair; allowing Microsoft to continue doing business while allowing competitors to sue Microsoft if they do not think the company is complying with the agreement.

I believe no more litigation should be enacted at the federal level. With a reasonable settlement already reached, further action by our government would only waste more time and money. In this time of economic recession, these resources could be used in a much more productive manner In these trying times, we need to support our homeland companies and allow them to continue providing high quality products to the marketplace both nationally and internationally. This settlement allows our companies to actually return to the success that the IT industry enjoyed four years ago. Microsoft will now be making future versions of Windows that will include a way to greatly simplify the process of adding arid removing non-Microsoft programs from the Windows operating system.

In a battle that already has been fought and won, I believe it would be in our best interest not to continue suing Microsoft at the federal level Let us get our economy back on track and start supporting products and companies that me made in the USA. Thank you for you time.

Sincerely,

J.T. Buchar

MTC-00029697

3312 Zimmer Road
Williamston, MI 48895
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I was quite pleased to learn that the federal government and Microsoft reached a settlement in their three-year anti-trust lawsuit. I am hopeful that this settlement will become final in the near future so the negative effects that is has had will cease, and the technology industry can see a resurgence.

This will be made possible by the various concessions that Microsoft made in order to settle this dispute. A three person technical committee will oversee Microsoft's business operations from this point forward, and any company that has a complaint of anti-competitive behavior against Microsoft will be able to be heard immediately. Competition will increase, and consumers will have more choices in the marketplace. I see no reason to pursue this matter beyond this point. I want to thank you for your decision to stop this litigation. I am certain it will have positive effects on the industry as well as the whole economy, and I look forward the settlement becoming final in the weeks ahead.

Sincerely,

Rudy Key

MTC-00029698

6402 Dolphin Shores Drive
Panama City Beach, FL 32407-5474
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

Three years ago when Microsoft was first brought to trial, my fear was that the company wouldbe split up and the American technology industry would begin to suffer. Now, a settlement hasbeen proposed that would allow Microsoft to remain whole, and I believe that would be in thebest interest of the consumer for the Justice Department to approve the settlement and move on.I do support limits on Microsoft's conduct to safeguard our antitrust laws, but I think theserestrictions are a bit harsh. Microsoft agreed to terms and conditions in the settlement that extendto procedures and technologies that were not found to be unlawful by the Court of Appeals.Microsoft has agreed, among other things, to disclose source code and interfaces from theWindows operating system to its competitors for their use in developing Windows-compatiblesoftware. Microsoft has also agreed to license the Windows operating system to twenty of thelargest computer makers at the same price. In the interest of wrapping up the case, Microsoftagreed to these and more terms, and I believe that, regardless of the harshness of certainobligations, it is better to settle now and let things get back to normal than to continue litigationand risk further economic damage.

This has gone on long enough, and it is time to move on. Microsoft has made the necessarychanges to prevent further antitrust violations, and I do not believe further litigation is eithernecessary or constructive. I ask you to endorse the settlement.

Sincerely,

Jeannie Fitzsimmons

cc: Representative Jefferson Miller

MTC-00029701

ARTHUR F. HARDEN
1389 OUTLOOK DRIVE WEST
MOUNTAINSIDE, NEW JERSEY 07092
Tel.& FAX # 908-233-7737
DOJ
ATT. Ms. RENATA B. HESSE
202-307-1454.

GENTLEMEN:
I SUPPORT THE PROPOSED SETTLEMENT OF THE MICROSOFT LAWSUIT.
AETHUR F. HARDEN
JANUARY 26, 2002

MTC-00029702

Rhonda Green
11920 Brown Road
Thayer, KS 66776
United States Department of Justice
Antitrust Division
Attn: Renata Hesse
601 D Street, NW, Suite 1200
Washington, DC 20330

Dear Ms-Hesse;

As the parents of two children in a small, rural Kansas school, I was excited to hear about theprospects of Microsoft donating millions of dollars worth of computer systems and learningprograms to schools like the ones my children attend.I have seen first hand the value of computers in advancing the education, of my children and Ifirmly believe that, if accepted, this settlement could prove to be very beneficial to the educationof America's children.

The government has wasted enough taxpayer dollars pursuing a problem that never existed. It ismy hope that this fair settlement, which has levied steep and taxing financial burdens onMicrosoft, will end soon.

Sincerely,
Rhonda Green

MTC-00029703

January. 23, 2002
Ms. Renata Hesse, Anti-Trust Division
U.S. Department of Justice
601 D Street Northwest
Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to you to express my feelings regarding the lawsuit filed against Microsoft by JanetReno. I understand that the Bush administration has proposed a settlement that has been agreedto by Microsoft and several of the states involved in the lawsuit.

I want to add my voice to those who believe it is time m put this lawsuit to bed. It is drainingvaluable resources from government coffers and unnecessarily burdening one of America'sleading technology companies. I urge you to approve the settlement proposed by the Bushadministration.

Sincerely,
Mrs. Floyd Powers
Retired Neosho County Employee
5435 Highway 47
Thayer, KS 66776

MTC-00029704

745 Norman Drive
North Bellmore, NY 11710
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter in support of Microsoft. As a businessman, I believe there is no place forGovernment in free enterprise. I have a lot of respect for Microsoft and saw the economy flourishas Microsoft grew. It's no coincidence that the technology, sector, technical stocks andemployment numbers are down while this antitrust case is going on. While it may not be thecause, it sure is the contributor.

Microsoft agreed that if a third party's exercise of any options provided by the settlement wouldinfringe on the rights of any Microsoft intellectual property, they will provide the third party witha license to the necessary, intellectual property on reasonable terms. That seems more than fair tome. Microsoft agreed to provide computers in the school, but all the states rejected it since itwould infringe on Apple's ability to continue providing computers in the school. Here in NassauCounty, we are in desperate need of IBM compatible computer's, especially since we use oldtechnology, like a microfiche. It's a shame we can't access any.

It's obvious to me that the competition and the states are only pursuing litigation because theywant "a piece of the action." If the consumer likes the products of a company "a", and thecompany "a" gains a large market share, it's not fair for other companies to sue company "a" justbecause consumers like their product. Your help in resolving this mailer is greatly appreciated.

Sincerely,
Stuart Muchnick

MTC-00029705

GBG STRATEGIES, INC.
100 FANEUIL HALL MARKETPLACE
BOSTON, MA 02109
Leo T. Goodrich
President
January 25, 2001

I am writing to have my thoughts on the proposed settlement between Microsoft and the UnitedStates Department of Justice entered Into the record in accordance with the Tunny Actsrequirement of public comment on such settlements.

I think the settlement plan is a good one, and one that reaches the necessary balance betweenantitrust enforcement and the need for as competitive a software market as the U.S. economy canhave. Consumers benefit from a competitive market in ways that; the kind of regulationspreviously argued in this case would nullify. Whereas a free and competitive market will drivedown Dries and hasten the pace of innovation, a heavily regulated market, or a software marketIncluding a cawed-up Microsoft would slow the pace of Innovation and allow companies to siton their hands and let prices gradually rise.

Consumers deserve the best high tech market available to them, and the best high tech market isthe one that innovates. The Innovates of the last decade were primarily responsible for thecreation of Jobs, Investment, and wealth at rates never before witnessed In any economyanywhere. The success of the "New" Economy In the 1990s was not a boomlet, in my view, but aharbinger of flings to come In the future, if the government will allow consumers andentrepreneurs to successfully guide the market toward higher levels of competition andInnovation.

I hope my thoughts can be entered into the record and also hope the court fit to approve thesettlement proposal. It is the best way for the economy to start to put this recession behind it andbegin to build for the future.

Sincerely,
Leo T. Goodrich

MTC-00029706

NEWTON REAL ESTATE RESOURCE GROUP
Matthew D. Adams
January 25, 2001

I am writing to have my thoughts on the proposed settlement between Microsoft and the United States Department of Justice entered into the record in accordance with the Tunny Act's requirement of public comment on such settlers.

I think the settlement plan is a good one, and one that reaches the necessary balance between antitrust enforcement and the need for as competitive a software market as the U.S. economy can have. Consumers benefit from a competitive market in ways that the kind of regulations previously argued in this ease would nullify. Whereas a free and competitive market will drive down prices arid hasten the pace of innovation, a heavily regulated market, or a software market including a carved-up Microsoft would slow the pace of innovation and allow companies to sit on their hands and let prices gradually rise.

Consumers deserve the best high tech market available to them, and the best high tech market is the one that innovates. The in innovations of the last decade were primarily responsible for the creation of jobs, investment, and wealth at rates never before witnessed in any economy anywhere. The success of the "New" Economy in the 1990s was not a boomlet, in my view, but a harbinger of things to come in the future, if the government will allow consumers and entrepreneurs to successfully guide the market toward higher levels of competition and innovation.

I hope my thoughts can be entered into the record and also hope the court sees fit to approve the settlement proposal. It is the best way for the economy to start to put this behind it and begin to build for the future.

Sincerely,
Matthew D. Adams

MTC-00029707

7831 El Pastel Drive
Dallas, TX 75248
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. This issue has been dragging on for entirely to long now and I feel that the current settlement before the DOJ is fair and just. I would like to see the government accept it. Many people think that Microsoft has gotten off easy, in fact they have not. In order to put the issue behind them Microsoft has agreed to many concessions. Microsoft has agreed to give computer makers the flexibility to install and promote any software that they see fit.

Microsoft has also agreed not to enter into any agreement that would obligate any computer maker to use a fixed percentage of Microsoft software. Also, Microsoft has agreed to license its products at a uniform price to computer makers no matter how much that computer maker uses Microsoft products.

What we need to remember is that Microsoft products are very affordable and offer many advantages over other products, if one desired, they could purchase another operating system ie; Linux etc., but the fact is most people choose Microsoft Windows over others. With the economy stalling, we need to move forward not backward, many people have spent large amounts of time and money to be trained on Microsoft products, lets not forget them.

Sincerely,
Dameon Rustin
co: Representative Richard Armey

MTC-00029708

Brad D. Houghtaling
230 Wellington Road
Syracuse, NY 13214-2226
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, N-W
Washington, DC 20530

Dear Mr. Ashcroft:

I am violently opposed to the antitrust lawsuit against the Microsoft Corporation, I personally feel that the suit should be dropped, and Microsoft left alone. This case defies the very ideal of free enterprise upon which this nation has been built, and this case does nothing but damage the entrepreneurial spirit that has heretofore been celebrated in this nation.

I understand that Microsoft has agreed to the settlement that has been reached in this case because it would simply like to see this litigation end. While I do not agree that Microsoft should have to settle I understand their desire to see the end of this lawsuit. The terms of the settlement, while a little harsh, are not overly objectionable, Microsoft has agreed to design all future versions of its Windows operating system to be compatible with the products of its competitors, along these same lines Microsoft will disclose certain segments of source code to its competitors enabling them to design products that work within Windows, it is this term that I find most objectionable. I believe that the parties trying to perpetuate this litigation are seeing only their own political ends rather than a fair solution to this dispute.

Please ensure the passage of this settlement. American business needs 3,our support. Thank you.

Sincerely,
Brad Houghtaling

MTC-00029709

808 Beazer Lane
Antioch, TN 37013
January. 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am of the opinion that the settlement that has recently been reached between Microsoft and the Department of Justice is fair and reasonable, and I would like to see it implemented as soon as possible.

The only reason why I do support this settlement is because it brings an end to the ludicrous litigation against Microsoft. The governments, both stale and federal, are legally pursuing Microsoft for one reason and one reason only, for the cash. It is ironic that they have wasted millions of dollars taking Microsoft to court, and do not have much to show in return. The economy is bad enough; we do not need our tax dollars going towards the prosecution of a company that has been so beneficial to the American economy. I hope that the ongoing technical oversight committee, which is a result of the settlement and will monitor Microsoft's compliance with that settlement, will satisfy the government and all other anti-Microsoft entities. A settlement has been reached, we must now put this issue behind us and move on to more pressing issues. Thank you.

Sincerely,
Carl Beck

MTC-00029710

COMMERCIAL REAL ESTATE SERVICES
1005 Boylston Street
P.O. Box 610259
Newton, MA 02461-0259
Thomas P. Godino
January 25, 2001

I am writing to have my thoughts on the proposed settlement between Microsoft and the United States Department of Justice entered into the record in accordance with the Tunny Act's requirement of public comment on such settlements.

I think the settlement plan is a good one, and one that reaches the necessary balance between antitrust enforcement and the need for as competitive a software market as the U.S. economy can have, Consumers benefit from a competitive market in ways that the kind of regulations previously argued in this case would nullify. Whereas a free and competitive market will drive down prices and hasten the pace of innovation, a heavily regulated market, or a software market including a carved-up Microsoft would slow the pace of innovation and allow companies to sit on their hands and let prices gradually rise.

Consumers deserve the best high tech market available to them, and the best high tech market is the one that innovate. The innovations of the last decade were primarily responsible for the creation of jobs, investment, and wealth at rates never before witnessed in any economy anywhere. The success of the "New" Economy in the 1990s was not a boomlet, in my view, but a harbinger of things to come in the future, if the government wilt allow consumers and entrepreneurs to successfully guide the market toward higher levels of competition and innovation I hope my thoughts can be entered into the record and also hope the court sees fit to approve the settlement proposal. It is the best way for the economy to start to put this recession behind it and begin to build for the future.

Sincerely,
Thomas P. Godino.

MTC-00029711

January 24, 2001

I am writing to have my thoughts on the proposed settlement between Microsoft and the United States Department of Justice entered into the record in accordance with the Tunny Act's requirement of public comment on such settlements.

I think the settlement plan is a good one, and one that reaches the necessary balance between antitrust enforcement and the need for as competitive a software market as the U.S. economy can have. Consumers benefit from a competitive market in ways that the kind of regulations previously argued in this case would nullify. Whereas a flee and competitive market will drive down prices and hasten the pace of innovation, a heavily regulated market, or a software market including a carved-up Microsoft would flow the pace of innovation and allow companies to sit on their hands and let prices gradually rise.

Consumers deserve the best high tech market available to them, and the best high tech market is the one that innovates. The innovations of the last decade were primarily responsible for the creation of jobs, investment, and wealth at rates never before witnessed in arty economy anywhere. The success of the "New" Economy in the 1990s was not a boomlet, in my view, but a harbinger of things to come in the future, if the government will allow consumers and entrepreneurs to successfully guide the market toward higher levels of competition and innovation.

I hope my thoughts can be entered into the record and also hope the court sees fit to approve the settlement proposal. It is the best way far the economy to start to put this recession behind it and begin to build for the future.

Sincerely,
James J. Campbell

MTC-00029712

VONDA WIEDMBR
ROUTE 1, Box 545
MADISON, KS 66860
January 15, 2002
Renata Hesse
Trial Attorney
U.S. Department of Justice
601 "D" St., NW—Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

All too often in our country it seems our government has taken aim at a successful company under the auspices of protecting the American people. Unfortunately, it is the government's actions that are truly hurting Americans. When the Department of Justice first began its pursuit of Microsoft it claimed it was doing so to protect consumers from some harm created by Microsoft. The reality could not be further from the truth.

The facts are simple really. Microsoft leads its industry because it has developed ways to meet consumers needs better then its competition. This is the American way! Most successful companies strive to be the very best in their field and compete hard with others in their industry. Certainly Microsoft is no exception. Punishing them for being the best is not appropriate. The United States government and the Microsoft's competitors have yet to provide proof of how consumers have been harmed by Microsoft. However, as a taxpayer T can see where I have been harmed Countless tax dollars have been spent in the pursuit of this case at o time when our economy is constricting. I view this a real example of harm.

Please accept the settlement offer.

Sincerely,
Vonda Wiedmer

MTC-00029713

Matthew Alfieri
7 Northfield Gate
Pittsford, NY 14534
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The intention of this letter is so that I may go on record as being a staunch supporter of the proposed agreement that was reached between Microsoft and the Department of Justice. The litigation between these two has gone on for long enough, more than three years actually. It is time to put this issue to rest and move on.

The settlement actually goes further than Microsoft would have liked, but they decided to settle because it was in the best interests of the IT industry and the American economy. The settlement mandates that Microsoft make future versions of the Window, operating system to include a feature that makes it much easier for computer makers and consumers to remove Microsoft software programs from Windows and then replace it with non-Microsoft software. This completely opens the industry up to much more competition, and the companies producing the competing software will need to deliver a "Grade A" product to the market, or people will simply not buy it.

Everything is now in place for a stronger IT industry and a healthier economy. I support this settlement because it looks out for everyone's best interests. Thank you.

Sincerely,
Matthew Alfieri

MTC-00029714

January 27, 2002
Renata Hesse
Trial Attorney
Anti-Trust Division
U.S. Department of Justice
601 D St., NVV
Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I appreciate the opportunity to voice my opinion on the proposed settlement before you in the Microsoft antitrust lawsuit.

As a Kirkwood community college computer instructor, I have the opportunity to teach the Microsoft Office suite to my students. I have seen first-hand the advances Microsoft has made in the software industry. Everyday, my students learn more about how to harness technology and use it to their advantage to work more efficiently.

Microsoft changed the way America, and the world for that matter, does business. As I understand it, most of the world's computer users work on Microsoft's Windows software. That is truly an amazing accomplishment. Success on that scale only comes when a company continues to produce an outstanding product year in and year out.

I urge you to accept the settlement before you on behalf of all taxpayers. Too much time and too many resources have been spent trying to tear down a company that has enriched our national economy and aided businesses worldwide. Enough is enough.

Sincerely,
Marie Schulte

MTC-00029715

Leonard R. Beard
841 East 12th Street
Crowley, La. 70526
(337) 781-2317
January 28,2002
Renata Heese
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
FAX: 202-616-9937
RE: Settlement of U.S. v. Microsoft

Nearly 30 million dollars in taxpayer funds have been spent on this case. The time and expense of this case combined with the uncertainty it has led to in the technology sector leads me to believe that now is time that we settle this case.

I do appreciate the government's efforts in protecting consumers. The settlement is appropriate in scope because it addresses only those items upheld by the courts and it provides for close monitoring of future Microsoft operations.

Let's get the technology companies back to competing, which will help consumers and our economy. Thanks for considering my views on this matter.

Sincerely,
Leonard Beard

MTC-00029716

STEPHEN J. OATS 1
WILLIAM M. HUDSON, III 1,2
HENRY ST. PAUL PROVOSTY 1
EDGAR D. GANKENDORFY 1
KENNETH M. HENKE
CLIFTON O. BINGHAM, JR. 3
PATRICK B. MCINTIRE
LAWRENCE E. MARINO 2
HENRY A. HERNAKD. JR.
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2 ALSO ADMHTTD IN TEYAS
3 BOARD C??TIFIED TAX AT??
TO: Renata Heese, Esq.
FROM: Craig T. Broussard
FAX NO.: 202-616-9937
HARD COPY SENT: No
RE: U.S. v. Microsoft
OUR FILE: FE
TOTAL NO. OF PAGES (INCLUDING COVER SHEET): 2
MESSAGE: Please see the attached.

If you experience any problems with this transmission, please call Dina at the telephone number listed above.

STEPHEN J. OATS"
WILLIAM M. HUDSON, III??
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EDOAR D. GANKENDORPP 1
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CLIFTON O. BINGHAM. JR. 1
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LAWRENCE E. MARINO??
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CRAIG T. BROUSSARD
MICHELLB K. BUFORD
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ROBIN L. JONES
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3 BOARD CERTIFICD TAX ATTORNEY
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
FAX: 202–616–9937
RE: Settlement of U.S. v. Microsoft

I am of the opinion that it is in the best interest of consumers and all involved that this case be settled once and for all.

It is my understanding that the settlement addresses the findings of the court and provides for future operations by Microsoft that will avoid any monopolistic practices. That is good news for all parties.

The bottom line is that enough tax dollars have been spent in this effort and now is the time for our technology companies to return to the marketplace battlefield. That would be the best news for consumers and our economy.

I appreciate your consideration of my views on this matter.

Sincerely,

MTC–00029717

ATTN: Ms. Renata B. Hesse (DOJ)
202–307–1454

Ms. Renata,

This note is to inform you & the Doe that I love support the Microsoft Settlement. Please "Approve the Microsoft Settlement".

Thank you
MR & Mrs K. Ni??henke
K. Ni??

MTC–00029718

January 28th, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202–616–9937
microsoft.atr@usdoc.gov

Dear Ms. Hesse:

As a co-owner of medium size construction company in central Missouri, I have observed the Microsoft lawsuit from the beginning. It appears to me from the press that this case has come full circle and now is the time settle. Based upon my review of the summary of the lawsuit it would appear that the Department of Justice has garnered a fair compromise with Microsoft. While I cannot specifically defend the software giant's business practices, I remain skeptical that this case should have been dismissed some time ago.

Now is the time to settle the case against Microsoft. Thank for allowing me to offer my opinion.

Sincerely,
Chris Hentges

MTC–00029719

Mr. Kenneth Cordon
821 W. Walnut Street
Chanute, KS 66720
January 17, 2002
U.S. Department of Justice
Anti-Trust Department
Attn: Renata Hesse
601 "D" Street NW, Ste. 1200
Washington, DC 20530

Dear Judge Hesse:

I am writing to take advantage of the opportunity for the public to express its opinion regarding the anti-trust lawsuit filed against Microsoft. Thank you for making this opportunity available. I believe that the entire basis for suing Microsoft in the first place was flawed. The argument posed by Janet Reno was that Microsoft was engaging in monopolistic practices which were detrimental to the buying public. And yet, Correct me if I'm wrong, but haven't the prices of computers and software been falling? Isn't the definition of a monopoly a company that shuts out its competitors so it can raise prices? That just doesn't make sense.

I hope you'll agree with President Bush that winding up this lawsuit is the right thing to do. It's been going on too long already.

Thanks for letting me comment.

Very truly yours,
Mr. Kenneth Cordon

MTC–00029720

Coastal Equipment Corporation
PO Box 1118
Portland Maine 04104
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in support of the Microsoft antitrust settlement agreement. The lawsuit has ensued for three years now. Continuing the litigation will only amount to an incredible waste of resources. Settling is in everyone's best interest.

If antitrust laws have been violated, steps should be taken to ensure no further violations occur. The settlement agreement should provide the appropriate safeguards. The agreement provides for the creation of a technical review committee that will monitor Microsoft's business practices. The review committee will also field complaints from parties who believe the settlement agreement is not complied with.

Microsoft has agreed to disclose portions of its code to its competitors. I do not agree that Microsoft should be forced to give away what it has worked hard at developing. However, if Microsoft is agreeable to this concession, I would support that decision in the interest of resolving this case and moving on to other endeavors.

Your efforts toward resolving this lawsuit are appreciated. Thank you for your time m reviewing my thoughts on this matter.

Sincerely,
Mark Goldstein

MTC–00029721

1425 Bella Vista Avenue
Coral Gables, Florida 33156
January 5, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I was happy to hear of the recent settlement regarding the Microsoft antitrust suit. During these times of recession, it is important to allow our industry to continue to develop. Holding the IT sector back, by dragging out the negotiation process, can only hold back our technology industry. Let us allow the IT sector to get back to business.

Not only do the terms of this agreement promote the competitive process, but they also open up avenues of development on both sides of the fence. Although Microsoft has made an overwhelming number of concessions, they are still able to prosper somewhat. The other software manufacturers have been given many new options with regard to licensing, marketing and new avenues in running non-Microsoft software. All parties involved are ready to move forward and get back to business. By thwarting this process, we only hold up the advancement of the 1T sector and our economy in general.

Let us help our economy move forward by supporting our 1T sector. The competitive market is a global one, and we need to work together to keep our piece of the pie. Help us to move this settlement along, by making sure that no more action is taken against it.

I thank you for your help

Sincerely,
Maria Brito

MTC–00029722

Oilfield Services
Schlumberger-Doll Research
36 Old Quarry Road
Ridgefield, CT 06877–4108
Tel: 203 431–5000
Fax: 203 438–3819
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 25, 2002

Dear Mr. Ashcroft:

I am writing to voice my opinion on the antitrust case settlement between the US department of Justice and Microsoft. I am glad to see that there will soon be an end to this lawsuit. It has been a waste of our government's resources and our tax dollars. Does the government want to be responsible for an Enron-type business failure? They need to end this case immediately so that we can all move on with our lives.

I am a Research Scientist and use Microsoft products all the time for my work. Their company has been responsible for the advent of our computer industry, as we know it. They have also created tremendous growth in our economy and have put our nation ahead in the technology race. The proposed settlement is a very fair compromise and should be enacted at once. Microsoft is going to share an unprecedented amount of technology information with their competitors and they will give consumers more choices by allowing OEM's to install non-Microsoft products on Windows.

Please use your influence to implement the settlement as soon as possible. Thank you for your time.

Sincerely,
Chung Chang

MTC–00029723

16112 E 28th Terr. #1806

Independence, MO 64055
January 27, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I was pleased to learn that the Justice Department has reached a proposed settlement agreement in the Microsoft litigation.

You now have the opportunity to clean up the mess created by your predecessor. Microsoft was the target of this litigation because of its size and because of its great degree of success. Your implementation of this settlement will bring an end to the political witch-hunt. Microsoft has placed a number of concrete proposals on the table to resolve the case. They have agreed to changes in almost every aspect of their business operations, from pricing, to distribution, to system design. These changes, if implemented, should provide additional competitive opportunities for Microsoft's competitors and more choice for computer users. Please go forward with the settlement and let Microsoft get back to business.

Sincerely,
Ben Kormanik

MTC–00029725

(708) 547.5969
DESSERT SPECIALISTS
FAX (708) 547–5974
lezza@ameritech.net
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you to express my belief that the antitrust lawsuit against Microsoft should be concluded. The settlement reached in November 2001, should be accepted by the Justice Department.

Microsoft has offered very generous terms includes full access to the Windows system for rival software developers. Never before has a company had to offer its competitors the right to use its own information against itself. This is a legal first and will allow rival developers the chance to drastically improve their own software. The economy and the country need a strong American company, like Microsoft, to help us through these trying times A lawsuit against Microsoft does nothing but damage our economy, and our country. Please take this opportunity to put an end to this suit. Thank you.

Sincerely,
Ed Lezza

MTC–00029726

S&D SALES COMPANY, INC.
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in favor of the Microsoft settlement for the following reasons:

Microsoft has agreed to a number of changes in its business that result in greater competition and growing consumer choice:

. Adoption of a Uniform Price List under which Microsoft will market Windows on identical terms and conditions to computer makers.

. Revising agreements which would allow third parties to distribute products other than those manufactured by Microsoft.

. Granting rights to computer makers to reconfigure Windows systems so as to allow the placement of non-Microsoft programs within Windows.

I would rather see this case concluded now with a predictable result than see you roll the dice in Court. The Bill Clinton Department of Justice instigated this unnecessary case. Government at its worst caused the subsequent decline in the technology side of the economy. Please do not jeopardize the fragile business rebirth that the U.S. is going through by extending this case.

Thank you for reviewing my comments.

Sincerely,
Dennis Lange
Excellence In Bulk Material Handing
2965 Flowers Road South, Suite 110
. Atlanta, Georgia 30341–5520
. 770–936–8836
. Fax 770–936–8846 . 800–878–4419
URL: http://www. sdsales.com
e-mail: info@sdsales.com

MTC–00029727

JFERRY WALLACE
708 W. Main Street
Cherryvale, KS 67335
January 21, 2002
Judge Kollar Kottely
Attention: Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge Kollar Kottely:

Those lobbying for stricter regulations against Microsoft had better be careful what they wish for. I seriously doubt that they wish to operate under the same level of scrutiny themselves. Contrary to the claims of the antitrust suit, Microsoft has done nothing but benefit the consumer in terms of providing better, more innovative products at affordable prices.

I ask you to accept the current settlement offer, concluding this questionable lawsuit. Settlement of the suit will definitely crimp Microsoft to some extent, but the fact remains that the consumer will still choose the products they prefer. The only fair way that AOL, Oracle, and other Microsoft competitors can knock off Microsoft's top spot is to truly offer a better product, Hopefully this lawsuit will spur an investigation of the underlying issue, current antitrust law, and how this law does or does not apply to modem day business.

Sincerely,
Jerry Wallace

MTC–00029728

1111 Harbor Lane
Gulf Breeze, FL 32563
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am disgusted that the government has so little to do with its time that it can waste nearly four years pro-suing the Microsoft antitrust case. I hoped that the economy, which has been suffering ever since this case began, would have the chance to recover. Microsoft's opponents have kept after Microsoft for so long. It is truly becoming tedious.

The settlement provides Microsoft's competitors with the opportunity to use Microsoft's technological advances to their own advantage, in order to restore an atmosphere of fair competition to the technology market. For example, Microsoft will reformat future versions of Windows so that its competitors will have the opportunity to introduce their own software directly into the Windows operating system. Microsoft will also allow computer makers the ability to replace Microsoft programs in Windows with non-Microsoft alternatives.

The settlement is fine; in fact, I think it would be harm.tiff to the consumer to extend litigation any longer. The suit is no longer about progress; it is about inhibition. America desperately needs to be able to progress. I urge you and your office to take the necessary action to see this settlement finalized.

Sincerely,
Edwin Barksdale
cc: Representative Jefferson Miller

MTC–00029729

TRUEWATER
January 15, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

There has been enough posturing on both sides of this Microsoft lawsuit to make a flock of peacocks jealous, and more confusion than a chicken running around with its head cut off. It is clear that any further litigation would only make matters worse.

I am writing to lend my individual support for this settlement. I believe that its terms are reasonably fair for both sides. They make sure that Microsoft avoids its allegedly unfair retaliation practices to software makers, such as attaching software to Windows. It will also be required to change future versions of Windows to accommodate other brands of software more effectively.

I am hoping that no further federal action will be necessary, and that this sort of rancor can be minimized in the future.

Sincerely,
Christopher Britt
Cc: Representative Sheila Jackson Lee

MTC–00029730

1901 Empire Drive
Waukesha, WI 53186
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Now that a settlement has been reached in the Microsoft case, I would like to confirm my support behind the terms negotiated and allowing this action to be completed. As a technology consultant, I am fully aware that Microsoft has overstepped its bounds in some respects in the past, yet this lawsuit has gone beyond what any reasonable person would consider worth the price in government time and money. A deal is a deal and it's time to put this issue to rest. There is ample competition to Microsoft and many "disruptive technologies" emerging that will change the balance of market dominance.

Microsoft is a great success story that is being punished, rather than lauded, for its achievements in the software industry. To suggest a break up would be an injustice to entrepreneurs everywhere who want to create the best products and services possible for their customers. This compromise offers significant concessions to how Microsoft can freely do business and should be considered a credible good faith gesture to allowing more competition.

Considering the greater freedoms for computer makers to configure Windows without question and developers to utilize Windows technology for their own interests, this deal should pass the approval process at once. This is the fairest solution possible among these parties, and also the most practical one, considering the need for stability, in this dicey economic climate. Please halt any further action.

Sincerely,

Phil Mattson

MTC-00029731

FLAMINGO TOURS
4230 S. E. 6TH Street
Miami, Florida 33134
[305] 445–6865
January 22, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street, N. W. Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft fails to put an end to Microsoft's predatory practices. The final settlement in U.S. v. Microsoft does not adequately protect competition and innovation in this vital sector of our economy, does not sufficiently address consumer choice, and fails to meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia. Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is far too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through years of fear and intimidation.

Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7–0 decision, saw its petition for rehearing in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement fails to do so. In fact, the weak settlement between Microsoft and the Department of Justice ignores key aspects of the Court of Appeals ruling against Microsoft. The decision gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product. The deal fails to terminate the Microsoft monopoly, and, instead, guarantees its survival.

The flawed settlement empowers Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with it and permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding.

In addition, the proposed settlement contains far too many strong-sounding provisions that are fiddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would harm the company's security or software licensing. Who gets to decide whether such harm might occur? Microsoft. The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary?" Microsoft.

Furthermore, the weak enforcement provisions of this proposed deal leave Microsoft free to do practically whatever it wants. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must only comply with the lenient restrictions in the agreement for only five years. This is clearly not long enough for a company found guilty of violating antitrust laws.

Sadly, the proposed final judgment has the potential to make the competitive landscape of the software industry worse, it contains so many ambiguities and loopholes that it may be unenforceable and will likely lead to years of additional litigation. Various industry experts from such institutions such as Morgan Stanley, the Harvard Business School, Schwab Capital Markets, and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions.

Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation.

The end result is that Microsoft is now able to preserve and reinforce its monopoly, and is also free to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, surely we can do better.

Thank you for your time.

Regards,

Rose Wayne

MTC-00029732

January 15, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court,
District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft does not put an end to Microsoft's questionable practices.

Does the final settlement in U.S. v. Microsoft adequately protect competition and innovation in this vital sector of our economy? Does it sufficiently address consumer choice and meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia? These questions remain unanswered. The five-year time frame of the proposed settlement seems far too short to deal with the multiple antitrust actions of a company that has maintained and expanded its monopoly power through years of unmatched success. Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7–0 decision, saw its petition for rehearing in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly.

The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement may not be strong enough.. In fact, the settlement between Microsoft and the Department of Justice seems to ignore key aspects of the Court of Appeals ruling against Microsoft. The decision as it stands gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product, thus failing to terminate Microsoft's standing position in the market.

The settlement allows Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with it and permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding.

In addition, the proposed settlement contains far too many strong-sounding provisions that are riddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would ham the company's security or software licensing. The question is, who gets to decide whether such harm might occur? The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary?" Microsoft.

Furthermore, the provisions in this proposed deal may create a scenario in which Microsoft has too much freedom. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must only comply with the lenient restrictions in the agreement for only five years. This is clearly not long enough for a company found guilty of violating antitrust law.

Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions.

Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation.

The end result is that Microsoft may still be able to preserve and reinforce its predominance. After more than 11 years of litigation and investigation against Microsoft, I eagerly await what is to be the final outcome.

Thank you for your time.

Regards,
Manolo Coroalles
President
Dupont Plaza Travel

MTC-00029733

January 15, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft does not put an end to Microsoft's questionable practices.

Does the final settlement in U.S. v. Microsoft adequately protect competition and innovation in this vital sector of our economy? Does it sufficiently address consumer choice and meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia? These questions remain unanswered. The five-year time frame of the proposed settlement seems far too short to deal with the multiple antitrust actions of a company that has maintained and expanded its monopoly power through years of unmatched success.

Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7-0 decision, saw its petition for reheating in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly.

The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement may not be strong enough.. In fact, the settlement between Microsoft and the Department of Justice seems to ignore key aspects of the Court of Appeals ruling against Microsoft. The decision as it stands gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product, thus failing to terminate Microsoft's standing position in the market.

The settlement allows Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with it and permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding.

In addition, the proposed settlement contains far too many strong-sounding provisions that are fiddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would harm the company's security or software licensing. The question is, who gets to decide whether such harm might occur? The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary?" Microsoft.

Furthermore, the provisions in this proposed deal may create a scenario in which Microsoft has too much freedom. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must only comply with the lenient restrictions in the agreement for only five years. This is clearly not long enough for a company found guilty of violating antitrust law.

Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions.

Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation.

The end result is that Microsoft may still be able to preserve and reinforce its predominance. After more than 11 years of litigation and investigation against Microsoft, I eagerly await what is to be the final outcome.

Thank you for your time.

Regards,
Santiago Morales
President
MaxiForce, Inc.

MTC-00029734

January ??, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC. 20503-000??

Dear Judge Kollar-Kotally

The recent proposed settlement between the Department of Justice and Microsoft fails to put an end to Microsoft's predatory practices.

The final settlement m?? does not adequately protect competition and ??ation in this ?? sector of our economy does not sufficiently address consumer choice and fails to meet t he standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia Its enforcement provisions are ??ague and unenforceable. The five-year time frame of the proposed settlement is far too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through years of fear and intimidation.

Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the ??ed States Court of Appeals for the District of Columbia in a 7–0 decision, saw its petition for rehearing in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory ??olations, and prevent any ?? ??competitive activi??. This proposed settlement fails to do so. In fact, the weak settlement between Microsoft and the Department of Justice ??gnores key aspects of t he Court of Appeals ruling against Microsoft. The decision gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating ?? product. The deal tails to terminate the Microsoft monopoly and instead, guarantees its survival.

The flawed settlement empowers Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with ?? and permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding.

In addition, the proposed settlement contains far too many strong-sounding provisions that are riddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However Microsoft is under no obligation to share information if that disclosure would harm the company ?? security or software licensing. Who gets to decide whether such harm might occur Microsoft The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another another provision permits those payments and deals when they are "reasonably necessary". The ultimate arbiter of when these deals would be "reasonably necessary" Microsoft.

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Sadly the proposed final judgment has the potential to make the competitive landscape of the software industry worse, it contains so many ambiguities and loopholes that it may be unenforceable and will likely lead to years of additional litigation Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft current monopolistic intentions.

Antitrust law has protected free markets and enhanced consumer wel??are in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and VI&I Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation. The end result is that Microsoft is now able to preserve and reinforce its monopoly and is also free to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, surely we can do better.

Thank you for your time.

Regards.
Juan D ??
President
??eRespondo.com. Inc

MTC-00029735

January 7, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotelly:

The recent proposed settlement between the Department of Justice and Microsoft fails to put an end to Microsoft's predatory practices.

The final settlement in U.S. v. Microsoft does not adequately protect competition and innovation in this vital sector of our economy, does not sufficiently address consumer choice and fails to meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia. Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is far too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through years of fear and intimidation.

Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7–0 decision, saw its petition for reheating in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetive activity." This proposed settlement fails to do so. In fact, the weak settlement between Microsoft and the Department of Justice ignores key aspects of the Court of Appeals ruling against Microsoft. The decision gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product. The deal fails to terminate the Microsoft monopoly and, instead, guarantees its survival.

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Sadly, the proposed final judgment has the potential to make the competitive landscape of the software industry worse, it contains so many ambiguities and loopholes that it may be unenforceable and will likely lead to years of additional litigation. Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions.

Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation.

The end result is that Microsoft is now able to preserve and reinforce its monopoly, and is also free to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, surely we can do better.

Thank you for your time.

Raul Valdes-Fauli
5700 Collins AV, #9–G
Miami Beach FL 33140

MTC–00029737

THE AMERICAS-COLLECTION
PRIVATE & CORPORATE FINE ARTS DEALERS
January 7, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft fails to put an end to Microsoft's predatory practices. The final settlement in U.S. v. Microsoft does not adequately protect competition and innovation in this vital sector of our economy, does not sufficiently address consumer choice and fails to meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia. Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is far too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through years of fear and intimidation.

Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7–0 decision, saw its petition for rehearing in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement fails to do so. In fact, the weak settlement between Microsoft and the Department of Justice ignores key aspects of the Court of Appeals ruling against Microsoft. The decision gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product. The deal fails to terminate the Microsoft monopoly and, instead, guarantees its survival.

The flawed settlement empowers Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with it and permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding.

In addition, the proposed settlement contains far too many strong-sounding provisions that are fiddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would harm the company's security or software licensing. Who gets to decide whether such harm might occur? Microsoft. The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary?" Microsoft.

Furthermore, the weak enforcement provisions in this proposed deal leave Microsoft free to do practically whatever it wants. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must only comply with the lenient restrictions in the agreement for only five years. This is clearly not long enough for a company found guilty of violating antitrust law.

Sadly, the proposed final judgment has the potential to make the competitive landscape of the software industry worse, it contains so many ambiguities and loopholes that it may be unenforceable and will likely lead to years of additional litigation. Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions.

Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation.

The end result is that Microsoft is now able to preserve and reinforce its monopoly, and is also free to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, surely we can do better.

Thank you for your time.

Regards,
Dora Valdes-Fauli
Director

MTC–00029738

January 18, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
Government Relations & Public Affairs Counselors 2350 Coral Way, Suite 301
Miami, Florida 33145
Telephone (305) 860–0780
Facsimile (305) 860–0580
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW Suite
1200 Washington, DC 20530–0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft fails to put an end to Microsoft's predatory practices.

The final settlement in U.S. v. Microsoft does not adequately protect competition and innovation in this vital sector of our economy, does not sufficiently address consumer choice and fads to meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia. Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is far too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through years of fear and intimidation.

Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7–0 decision, saw its petition for rehearing in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement fails to do so. In fact, the weak settlement between Microsoft and the Department of Justice ignores key aspects of the Court of Appeals ruling against Microsoft. The decision gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product. The deal fails to terminate the Microsoft monopoly and, instead, guarantees its survival.

The flawed settlement empowers Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with it and permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding. In addition, the proposed settlement contains far too many strong-sounding provisions that are riddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would harm the company's security or software licensing. Who gets to decide whether such harm might occur? Microsoft. The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary?" Microsoft.

Furthermore, the weak enforcement provisions in this proposed deal leave Microsoft free to do practically whatever it wants. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must only comply with the lenient restrictions in the agreement for only five years. This is clearly not long enough for a company found guilty of violating antitrust law.

Sadly, the proposed final judgment has the potential to make the competitive landscape of the software industry worse, it contains so many ambiguities and loopholes that it may be unenforceable and will likely lead to years of additional litigation. Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions.

Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation.

The end result is that Microsoft is now able to preserve and reinforce its monopoly, and is also free to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, surely we can do better.

Thank you for your time.

Regards, Fausto Gomez
President
Gomez Barker Associates

MTC-00029739

January 15, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Judge Kollar-Kotelly:

The recent proposed settlement between the Department of Justice and Microsoft does not put an end to Microsoft's questionable practices. Does the final settlement in U.S. v. Microsoft adequately protect competition and innovation in this vital sector of our economy? Does it sufficiently address consumer choice and meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia? These questions remain unanswered. The five-year time frame of the proposed settlement seems far too short to deal with the multiple antitrust actions of a company that has maintained and expanded its monopoly power through years of unmatched success. Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7-0 decision, saw its petition for rehearing in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity" This proposed settlement may not be strong enough.. In fact, the settlement between Microsoft and the Department of Justice seems to ignore key aspects of the Court of Appeals ruling against Microsoft. The decision as it stands gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product, thus failing to terminate Microsoft's standing position in the market.

The settlement allows Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with it and permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding. In addition, the proposed settlement contains far too many strong-sounding provisions that are fiddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would harm the company's security or software licensing. The question is, who gets to decide whether such harm might occur?

The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of" when these deals would be "reasonably necessary?" Microsoft.

Furthermore, the provisions in this proposed deal may create a scenario in which Microsoft has too much freedom. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must only comply with the lenient restrictions in the agreement for only five years. This is clearly not long enough for a company found guilty of violating antitrust law.

Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions. Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation.

The end result is that Microsoft may still be able to preserve and reinforce its predominance. After more than 11 years of litigation and investigation against Microsoft, I eagerly await what is to be the final outcome.

Thank you for your time.

Regards,
Abel ?? Iglesias
828 Maria??a AV
Coral Gables FL 33134

MTC-00029740

EMS educational management services, inc.
January 18, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Judge Kollar-Kotelly:

The recent proposed settlement between the Department of Justice and Microsoft fails to put an end to Microsoft's predatory practices. The final settlement in U.S. v. Microsoft does not adequately protect competition and innovation in this vital sector of our economy, does not sufficiently address consumer choice and fails to meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia. Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is far too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through years of fear and intimidation.

Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7-0 decision, saw its petition for rehearing in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement fails to do so. In fact, the weak settlement between Microsoft and the Department of Justice ignores key aspects of the Court of Appeals ruling against Microsoft. The decision gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product. The deal fails to terminate the Microsoft monopoly and, instead, guarantees its survival.

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In addition, the proposed settlement contains far too many strong-sounding provisions that are fiddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would harm the company's security or software licensing. Who gets to decide whether such harm might occur? Microsoft. The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary?" Microsoft.

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Sadly, the proposed final judgment has the potential to make the competitive landscape of the software industry worse, it contains so many ambiguities and loopholes that it may be unenforceable and will likely lead to years of additional litigation. Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation.

The end result is that Microsoft is now able to preserve and reinforce its monopoly, and is also free to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, surely we can do better.

Regards,
Esther Tellechea
President
Educational Management Services

MTC-00029741

January 7, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court,
District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft fails to put an end to Microsoft's predatory practices.

The final settlement in U.S. v. Microsoft does not adequate protect competition and innovation in this vital sector of our economy, does not sufficiently address consumer choice and fails to meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia. Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is far too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through years of fear and intimidation.

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That you for your time.

Regards,
Janet M. Perez
Commercial Services Department
Italy-America Chamber of Commerce
Southeast, Inc.

MTC-00029742

January 15, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft fails to put an end to Microsoft's predatory practices.

The final settlement in U.S. v. Microsoft does not adequately protect competition and innovation in this vital sector of our economy, does not sufficiently address consumer choice and fails to meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia. Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is far too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through years of fear and intimidation.

Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7–0 decision, saw its petition for reheating in the appellate court denied, and had its appeal to the Supreme court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." The proposed settlement fails to do so. In fact, the weak settlement between Microsoft and the Department of Rustic ignores key aspects of the Court of Appeals ruling against Microsoft. The decision gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product. The deal fails to terminate the Microsoft monopoly and, instead, guarantees its survival.

The flawed settlement empowers Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with it and permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding.

In addition, the proposed settlement contains far too many strong-sounding provisions that are fiddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would harm the company's security software licensing. Who gets to decide whether such harm might occur? Microsoft. The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary?" Microsoft.

Furthermore, the weak enforcement provisions in this proposed deal leave Microsoft free to do practically whatever it wants. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must only comply with the lenient restrictions in the agreement for only five years. This is clearly not long enough for a company found guilty of violating antitrust law. Sadly, the proposed final judgment has the potential to make the competitive landscape of the software industry worse, it contains so many ambiguities and loopholes that it may be unenforceable and will likely lead to years of additional litigation. Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions.

Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. court decisions to break up these monopolies led to prices declining as much as 70% and an increase rein competition-driven innovation. The end result is that Microsoft is now able to preserve and reinforce its monopoly, and is also free to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, surely we can do better.

That you for your time.

Regards,

Jose Gutierrez
Commercial Broker

MTC-00029743

January 17, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft fails to put an end to Microsoft's predatory practices. The final settlement in U.S. v. Microsoft does not adequately protect competition and innovation in this vital sector of our economy, does not sufficiently address consumer choice and fails to meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia. Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is far too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through years of fear and intimidation. Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7–0 decision, saw its petition for reheating in the appellate court defiled, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly.

The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement fails to do so. In fact, the weak settlement between Microsoft and the Department of Justice ignores key aspects of the Court of Appeals ruling against Microsoft. The decision gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product. The deal fails to terminate the Microsoft monopoly and, instead, guarantees its survival.

The flawed settlement empowers Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with it and permits Microsoft of define many key terms, which is unprecedented in any law enforcement proceeding. In addition, the proposed settlement contains far too many strong-sounding provisions that are riddled with loopholes. Furthermore, the weak enforcement provisions in this proposed deal leave Microsoft free to do practically whatever it wants. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must comply with the lenient restrictions in the agreement for only five years. That is clearly not long enough for a company found guilty of violating antitrust law.

Sadly, the proposed final judgment has the potential to make the competitive landscape of the software industry worse, it contains so many ambiguities and loopholes that it may be unenforceable and will likely lead to years of additional litigation. Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions.

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Thank you for your time.

Regards,
Martin Mendiola
President

MTC-00029744

January 7, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft fails to put an end to Microsoft's predatory practices. The final settlement in U.S. v. Microsoft does not adequately protect competition and innovation in this vital sector of our economy, does not sufficiently address consumer choice and fails to meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia. Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is far too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through years of fear and intimidation.

Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7–0 decision, saw its petition for rehearing in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement fails to do so. In fact, the weak settlement between Microsoft and the Department of Justice ignores key aspects of the Court of Appeals ruling against Microsoft. The decision gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product. The deal fails to terminate the Microsoft monopoly and, instead, guarantees its survival.

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In addition, the proposed settlement contains far too many strong-sounding provisions that are riddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would harm the company's security or software licensing. Who gets to decide whether such harm might occur? Microsoft. The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when those deals would be "reasonably necessary?" Microsoft.

Furthermore, the weak enforcement provisions in this proposed deal leave Microsoft free to do practically whatever it wants. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must only comply with the lenient restrictions in the agreement for only five years. This is clearly not long enough for a company found guilty of violating antitrust law.

Sadly, the proposed final judgment has the potential to make the competitive landscape of the software industry worse, it contains so many ambiguities and loopholes that it may be unenforceable and will likely lead to years of additional litigation. Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions.

Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation. The end result is that Microsoft is ow able to preserve and reinforce its monopoly, and is also free to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, surely we can do better.

Thank you for your time.

Regards,
Lourdes Castro

MTC-00029745

January 14, 2002
Vincent Import & Export, Inc.
751 North Greenway,
Coral Gables, FL
Hon. Colleen Kollar-Kotelly
U.S. District Court,
District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft fails to put an end to Microsoft's predatory practices.

The final settlement in U.S. v. Microsoft does not adequately protect competition and innovation in this vital sector of our economy, does not sufficiently address consumer choice and fails to meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia. Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is far too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through years of fear and intimidation.

Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7–0 decision, saw its petition for reheating in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets that appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement fails to do so. In fact, the weak settlement between Microsoft and the Department of Justice ignores key aspects of the Court of Appeals ruling against Microsoft. The decision gives Microsoft "sole discreti8on" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless pan of a Windows Operating System product. The deal fails to terminate the Microsoft monopoly and, instead, guarantees its survival.

The flawed settlement empowers Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with it and permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding.

In addition, the proposed settlement contains far too many strong-sounding provisions that are fiddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would harm the company's security or software licensing. Who gets to decide whether such harm might occur? Microsoft. The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary?" Microsoft.

Furthermore, the weak enforcement provisions in this proposed deal leave Microsoft free to do practically whatever it wants. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must only comply with the lenient restrictions in the agreement for only five years. This is clearly not long enough for a company found guilty of violating antitrust law.

Sadly, the proposed final judgment has the potential to make the competitive landscape of the software industry worse, it contains so many ambiguities and loopholes that it may be unenforceable and will likely lead to years of additional litigation. Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions.

Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation. The end result is that Microsoft is now able to preserve and reinforce its monopoly, and is also free to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, surely we can do better.

Thank you for your time.

Regards,
Francia Quijada
President
Vincent Import & Export, Inc.

MTC-00029746

January 14, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court,
District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft fails to put an end to Microsoft's predatory practices.

The final settlement in U.S. v. Microsoft does not adequately protect competition and innovation in this vital sector of our economy, does not sufficiently address consumer choice and fails to meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia. Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is far too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through years of fear and intimidation.

Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7–0 decision, saw its petition for reheating in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement fails to do so. In fact, the weak settlement between Microsoft and the Department of Justice ignores key aspects of the Court of Appeals ruling against Microsoft. The decision gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product. The deal fails to terminate the Microsoft monopoly and, instead, guarantees its survival.

The flawed settlement empowers Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with it and permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding. In addition, the proposed settlement contains far too many strong-sounding provisions that are fiddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would harm the company's security or software licensing. Who gets to decide whether such harm might occur? Microsoft. The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary?" Microsoft.

Furthermore, the weak enforcement provisions in this proposed deal leave Microsoft free to do practically whatever it wants. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must only comply with the lenient restrictions in the agreement for only five years. This is clearly not long enough for a company found guilty of violating antitrust law.

Sadly, the proposed final judgment has the potential to make the competitive landscape of the software industry worse, it contains so many ambiguities and loopholes that it may be unenforceable and will likely lead to years of additional litigation. Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions.

Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation. The end result is that Microsoft is now able to preserve and reinforce its monopoly, and is also free to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, surely we can do better.

Thank you for your time.

Regards,
Daniel Guiterras
Owner
The Globe

MTC-00029747

January 22, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court,
District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, N. W.
Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft fails to put an end to Microsoft's predatory practices. The final settlement in U.S. v. Microsoft does not adequately protect competition and choice, and fails to meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia. Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is far too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through years of fear and intimidation.

Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7–0 decision, saw its petition for reheating in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement fails to do so. In fact, the weak settlement between Microsoft and the Department of Justice ignores key aspects of the Court of Appeals ruling against

Microsoft. The decision gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product. The deal fails to terminate the Microsoft monopoly, and, instead, guarantees its survival.

The flawed settlement empowers Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with it and permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding.

In addition, the proposed settlement contains far too many strong-sounding provisions that are fiddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would harm the company's security or software licensing. Who gets to decide whether such harm might occur? Microsoft. The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary?" Microsoft.

Furthermore, the weak enforcement provisions of this proposed deal leave Microsoft free to do practically whatever it wants. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must only comply with the lenient restrictions in the agreement for only five years. This is clearly not long enough for a company found guilty of violating antitrust laws.

Sadly, the proposed final judgment has the potential to make the competitive landscape of the software industry worse, it contains so many ambiguities and loopholes that it may be unenforceable and will likely lead to years of additional litigation. Various industry experts from such institutions such as Morgan Stanley, the Harvard Business School, Schwab Capital Markets, and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions.

Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation. The end result is that Microsoft is now able to preserve and reinforce its monopoly, and is also free to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, surely we can do better.

Thank you for your time.

Regards,
Alina Lopez-Centellas
Vice President

MTC-00029748

January 15, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court,
District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft does not put an end to Microsoft's questionable practices. Does the final settlement in U.S. v. Microsoft adequately protect competition and innovation in this vital sector of our economy? Does it sufficiently address consumer choice and meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia? These questions remain unanswered. The five-year time frame of the proposed settlement is far too short to deal with the antitrust actions of a company that has maintained and expanded its monopoly power through years of unmatched success. Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7-0 decision, saw its petition for reheating in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement may not be strong enough.. In fact, the settlement between Microsoft and the Department of Justice ignores key aspects of the Court of Appeals ruling against Microsoft. The decision gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product. The deal fails to terminate the Microsoft monopoly and, instead, guarantees its survival.

The settlement empowers Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with it and permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding.

In addition, the proposed settlement contains far too many strong-sounding provisions that are fiddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would harm the company's security or soft-ware licensing. Who gets to decide whether such harm might occur? Microsoft. The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary" Microsoft.

Furthermore, the provisions in this proposed deal leave Microsoft free to do practically whatever it wants. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must only comply with the lenient restrictions in the agreement for only five years. This is clearly not long enough for a company found guilty of violating antitrust law.

Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions.

Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation.

The end result is that Microsoft may still be able to preserve and reinforce its monopoly. After more than 11 years of litigation and investigation against Microsoft, I eagerly await what is to be the final outcome.

Thank you for your time.

Regards,
K. William Leffland
Past Dean
Florida International University

MTC-00029749

January 15, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court,
District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft does not put an end to Microsoft's questionable practices.

Does the final settlement in U.S. v. Microsoft adequately protect competition and innovation in this vital sector of our economy? Does it sufficiently address consumer choice and meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia? These questions remain unanswered. The five-year time frame of the proposed settlement seems far too short to deal with the multiple antitrust actions of a company that has maintained and expanded its monopoly power through years of unmatched success. Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7–0 decision, saw its petition for reheating in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement may not be strong enough.. In fact, the settlement between Microsoft and the Department of Justice seems to ignore key aspects of the Court of Appeals ruling against Microsoft. The decision as it stands gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product, thus failing to terminate Microsoft's standing position in the market.

The settlement allows Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with it and permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding.

In addition, the proposed settlement contains far too many strong-sounding provisions that are fiddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would harm the company's security or software licensing. The question is, who gets to decide whether such harm might occur? The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary?" Microsoft.

Furthermore, the provisions in this proposed deal may create a scenario in which Microsoft has too much freedom. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must only comply with the lenient restrictions in the agreement for only five years. This is clearly not long enough for a company found guilty of violating antitrust law.

Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions. Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation. The end result is that Microsoft may still be able to preserve and reinforce its predominance. After more than 11 years of litigation and investigation against Microsoft, I eagerly await what is to be the final outcome.

Thank you for your time.

Regards,

Gustavo Godoy
Publisher
Vista Magazine

MTC-00029750

January 7, 2001
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotally:

The recent proposed settlement between the Department of Justice and Microsoft fails to put an end to Microsoft's predatory practices.

The final settlement in U.S. v. Microsoft does not adequately protect competition and innovation in this vital sector of our economy, does not sufficiently address consumer choice and fails to meet the standards for a remedy set in the unanimous ruling against Microsoft by the Court of Appeals for the District of Columbia. Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is far too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through years of fear and intimidation.

Microsoft's liability under the antitrust laws is no longer open for debate. The company has been found liable before the District Court, lost its appeal to the United States Court of Appeals for the District of Columbia in a 7–0 decision, saw its petition for reheating in the appellate court denied, and had its appeal to the Supreme Court turned down. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly. The next step is to find a remedy that meets the appellate court's standard to "terminate the monopoly, deny to Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement fails to do so. In fact, the weak settlement between Microsoft and the Department of Justice ignores key aspects of the Court of Appeals ruling against Microsoft. The decision gives Microsoft "sole discretion" to unilaterally determine that other products or services which don't have anything to do with operating a computer are nevertheless part of a Windows Operating System product. The deal fails to terminate the Microsoft monopoly and, instead, guarantees its survival.

The flawed settlement empowers Microsoft to retaliate against would-be competitors, take the intellectual property of competitors doing business with it and permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding. In addition, the proposed settlement contains far too many strong-sounding provisions that are riddled with loopholes. The agreement requires Microsoft to share certain technical information with other companies. However, Microsoft is under no obligation to share information if that disclosure would harm the company's security or software licensing. Who gets to decide whether such harm might occur? Microsoft. The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However, another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary?" Microsoft.

Furthermore, the weak enforcement provisions in this proposed deal leave Microsoft free to do practically whatever it wants. The company appoints half the members of its overseeing committee and has the ability to violate regulations, knowing that whatever the committee finds inappropriate is not admissible in court. Finally, Microsoft must only comply with the lenient restrictions in the agreement for only five years. This is clearly not long enough for a company found guilty of violating antitrust law.

Sadly, the proposed final judgment has the potential to make the competitive landscape of the software industry worse, it contains so many ambiguities and loopholes that it may be unenforceable and will likely lead to years of additional litigation. Various industry experts from such institutions as Morgan Stanley, the Harvard Business School, Schwab Capital Markets and Prudential Financial have been quoted as saying that this settlement is beneficial to Microsoft's current monopolistic intentions.

Antitrust law has protected free markets and enhanced consumer welfare in this country for more than a century. The Microsoft case does not represent a novel application of the law, but is the kind of standard antitrust enforcement action that could ensure vigorous competition in all sectors of today's economy. These same standards have been applied to monopolies in the past, such as Standard Oil and AT&T. Court decisions to break up these monopolies led to prices declining as much as 70% and an increase in competition-driven innovation. The end result is that Microsoft is now able to preserve and reinforce its monopoly, and is also free to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, surely we can do better.

Thank you for your time.

Regards,

Ben Quevedo, Jr.

Vice President- Administration Alliance Air, Inc.

Alliance Air, Inc.

MTC-00029751

7505 S Avenida de Belleza
Tucson, AZ 85747-9707
January 23, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing you this brief letter to ask you to utilize your office and influence to expedite the finalization of the settlement proposal in the Microsoft anti-trust case. This case is three years old, It has been the subject of endless controversy and continuous litigation, negotiation and mediation, and is now ready and ripe for settlement. Your Justice Department and Microsoft have reached an agreement. It is fair, timely and overdue. Please support it.

The agreement will allow Microsoft to retain its present corporate structure. In return Microsoft will substantially change its marketing practices and marketplace philosophy. Microsoft will hereafter promote the use of non-Microsoft software by reconfiguring its Windows platform systems to readily accept competitors" products. Microsoft will now even share certain Windows technology with the rest of the industry in order to facilitate innovation and choice for consumers. Within the industry Microsoft will now license its Windows products to major computer manufacturers at similar terms and prices. This settlement contains all of this and more in an effort to prod Microsoft's competitors to greater market share. Such concessions merit a settlement.

Let's let Microsoft get back to the work of leading the IT industry into this new century.

Sincerely,

Charlie Tucker

MTC-00029752

RI?RESINTATIVE J. SAM ELLI?
I you O?ETAICT ORRJCE AOO??OG:
?OT LODI?LATIVE OR?ICE
BUILOING??L?J??. NC 37401-10??
TELE?NONE: ? 735-6788
? 715-7080 ?
HOHI AOC????; ? AU?UAN KWICNTOAL K ROAD
??LCICII. NC 2741?
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite
Washington, DC 20530

Dear Ms. Hesse:

The United States Department of Justice has wisely approved the proposed consent docr??e that would end the federal government's three-year antitrust case against Microsoft. The North Carolina Department of Justice has done the same. I believe it is now time for the federal courts to accept the settlement and put an end to this unwise and unnecessary litigation.

Yes, Microsoft has been a tough competitor. But the purpose of antitrust law is to protect the consumer, not to protect the market share of competitors. I have never seen proof set forth that Microsoft's business practices hurt consumers, Software has become more available, easier to use and less expensive. Millions of people have been able to use computers for the first time. Where is the consumer harm?

Yes, in the interests of settling this case and ending the litigation, Microsoft has now agreed to accept unprecedented curbs on how it does business. It must provide more information to competitors and computer manufacturers. It must change the way it develops, licenses and market its software. It must accept the oversight of a technical committee.

These are remarkable concessions. They were developed in tough negotiation led by a court-appointed mediator. They offer something for both sides. More important, they offer Microsoft, this industry and the technology-dependent economy the opportunity to end the costly and time-consuming litigation.

I sincerely hope the federal court will approve this settlement. It is time to put an end to this ill-advised case.

Sincerely,

Sam Ellis

MTC-00029753

Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW. Suite 1200
Washington, DC. 20530
Fax 202-616-9937
Mictoso?? att??

Dear Ms. Hesse:

From the beginning, the federal government's pursuit of Microsoft has been politically inspired and economically unwise. The case was conceived and even subsidized in the beginning by Microsoft's competitors. They sought to win in the courts what they could not win in the market. The government should never have initiated this proceeding. Now the courts have an opportunity to end this madness. Three years and $30 million of the taxpayers money is enough. At a time when terrorists threaten America and we are facing an economic slowdown, our nation. the information technology industry and Microsoft should not be forced to waste more time and money on this case. It is time to move ahead. Please put and end to this travesty.

Sincerely.

Ballard Evere??t

MTC-00029754

Rick Wolf
435 Glen Park Drive
Bay Village, Ohio 44140
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvanta Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

Microsoft and the Department of Justice recently reached an agreement ending a three-year-long antitrust suit. I am in the computer industry and thus feel more confident to comment on the case. It should not have happened. The case was brought simply to give an advantage to Microsoft's competitors. I am as happen as I can be with the settlement, and hope this issue is finally over. What is totally ignored, and what I don't understand, is the lack of recognition of the way things were before Microsoft. Before Microsoft, there was no compatibility between software packages. You could have ten different software packages, none of which "talked" to cash other and you were left to have to deal with ten different companies. Nothing worked. Bill Gates saw an opportunity and seized it. Isn't that what you're supposed to do? Would it have been any better if it had been Sun Microsystems? Or IBM? Would the Justice Department be hounding these companies? Is success in this country only acceptable if kept within limits strictly define by the federal government? I have problems with the federal government and its intrusion into our everyday life. Can I bring suit against the federal government for being to large? Another example is AT&T. We had the best phone system in the world. Now, I do not understand my phone bill, I have to talk to any number of people, none of which take responsibility for my problem. I pay just as much for a fraction of the service. But, hey, the goal was accomplished; break up AT&T. It was too big, too good.

The result of Microsoft's "business practices" is widely available, higher quality software at a very reasonable price. The only harm to the consumer comes from lawsuits like these. Companies should spend their money on research and development not legal fees. If my government wants to fix something that's broke, they should take a look at the medical industry.

I appreciate your time in this matter, and would like to reiterate that fact that I am happy with the settlement. The economy can now move on.

Sincerely,

Rick Wolf

MTC-00029755

Evelyne N. Byll-Paul
12432 Braxted Drive ??
Orlando, FL 32837
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to register my opinion in support of the Microsoft settlement, To begin with, I agree with the 32 states that decided to not join the case in the first place. I don't think there was any justification for the lawsuit, and there wasn't any real evidence that consumers had been overcharged or deprived in any way. There has always been flee choice in the computer marketplace, and people simply chose Microsoft's Windows over other systems, and a stronger market of partnering companies has built up around Windows.

I work with Microsoft Windows NT to administer a local area network (LAN) in my division of our healthcare company, and we use a non-Microsoft billing software package customized for our industry. This collaboration is part of the strength of the Microsoft Windows system. The settlement will encourage still greater cooperation. For instance, Microsoft will release its software codes and allow computer makers to be more flexible in how, or if, they load Windows or other Microsoft software. The programs included in Windows installation, such as Internet Explorer browser and Windows Media Player, will be made easier to remove and substitute with non-Microsoft products, like Netscape Navigator, Software experts on a government-sponsored technical committee will monitor Microsoft for compliance with the agreement, and investigate complaints. These provisions should enable the industry to make creative use of Microsoft's Windows innovations, and assure the industry that Microsoft will live up to the agreement. I appreciate the leadership you have provided in seeing that the settlement is approved by the Federal Court's new judge on this case. Once this case is resolved, the American will be better off. Thank you for considering my public comment.

Sincerely,
Evelyne Byll-Paul
CC: Representative Rick Keller

MTC-00029756

FAX COVER SHEET
Aldosoft
569 Haight Street,
San Francisco, CA 94117
Work Voice:
Fax: (415) 861–5758
Home Voice: (415) 861–5758
To: Department of Justice
Company:
Fax: 1, 202–307–1454
Work Voice:
Home Voice:
From: Michael Alderete
Date: January 28, 2002
Time: 8:02 am
Number of pages, including cover: 4
Notes:

My comments on the proposed settlement of the Microsoft anti-trust trial, exercised under the Tunney Act.

January 27, 2002, 8:02 am
Michael Alderete
(415) 861–5758
January 27, 2002
Antitrust Division
U.S. Dept. of justice
601 D Street NW, Suite 1200
Washington DC, 20530–001

To Whom It May Concern:

I am writing to exercise my right under the Tunney Act to voice my strong disapproval of the current proposed settlement of the Microsoft anti-trust trial. The proposed settlement is both weak and lacking strong enforcement provisions, and is likely to have zero (or worse) effect on competition within the computer industry, with continued and increased harm to consumers in the form of fewer options in the software market and continued increases in the price of the Microsoft software consumers are forced to buy.

Microsoft was convicted of abuse of monopoly power by one Federal judge, and the judgment was largely upheld by another seven Federal justices. In evaluating any proposed settlement, keep repeating one Important Phrase over and over: "Microsoft is guilty." The seven justices of the appeals court ruled that any actions taken against Microsoft (a) must restore competition to the affected market, (b) must deprive Microsoft of the "fruits of its illegal conduct," and (c) must prevent Microsoft from engaging in similar tactics in the future. The proposed settlement fails on every one of these.

A) Restore Competition

Among the many flaws in the proposed settlement is the complete disregard for the Open Source software movement, which poses the single greatest competitive threat to Microsoft's monopoly. Most organizations writing Open Source software are not-for-profit groups, many without a formal organization status at all. Section III(1)(2) contains strong language against non-for-profits, to say nothing of the even less-formal groups of people working on projects. Section III(D) also contains provisions which exclude all but commercially-oriented concerns. To restore competition the settlement must make allowances for Open Source organizations—whether formal not-for-profit organizations or informal, loosely associated groups of developers—to gain access to the same information and privileges afforded commercial concerns.

B) Deprivation of Ill-Gotten Gains

Nowhere in the proposed settlement is there any provision to deprive Microsoft of the gains deriving from their illegal conduct. Go back to the Important Phrase: "Microsoft is guilty." In most systems of justice, we punish the guilty. But the current proposal offers nothing in the way of punishment, only changes in future behavior. Currently Microsoft has cash holdings in excess of US$40 billion, and increases that by more than US$1 billion each month. A monetary fine large enough to have an impact on them would be a minimum of US$5 billion.

Even a fine that large would be a minimal punishment. Microsoft's cash stockpile is used, frequently and repeatedly, to bludgeon competitors, buy or force their way into new markets, or simply purchase customers, with the long-term intent to lock people and organizations into proprietary software on which they can set the price. Taking a "mere" US$5 billion from their stockpile will have zero effect on this practice.

For that reason, Microsoft's cash stockpile must be further reduced. In addition to the monetary fine, Microsoft should be forced to pay shareholders a cash dividend in any quarter in which they post a profit and hold cash reserves in excess of US$10 billion. The dividend should be substantial enough to lower Microsoft's cash holdings by US$1 billion, or 10%, whichever is greater.

C) Prevention of Future Illegal Conduct

The current proposed settlement allows Microsoft to effectively choose two of the three individuals who would provide oversight of Microsoft's conduct and resolve disputes. The proposed settlement also requires the committee to work in secret, and individuals serving on the committee would be barred from making public or testifying about anything they learn. This structure virtually guarantees that Microsoft will be "overseen" by a do-nothing committee with virtually zero desire or ability to either correct Microsoft abuses, or even call attention to them.

Instead of the current proposal, a five-person committee should be selected. Microsoft may appoint one person, but will have no influence over any of the other four. For the four, two should be appointed by the Federal court of jurisdiction, one should be appointed by the U.S. Department of Justice, and one should be appointed by the U.S. Senate. At least two of the appointees should have technical experience and be competent to evaluate technical proposals and arguments by themselves, without the filters which assistants would bring.

These are hardly the only thoughtful and reasonable suggestions you will no doubt receive regarding the proposed settlement of this anti-trust case. And these are hardly the only suggestions which should be adopted if the settlement is to prove effective. Rut all of them are essential to that aim, and adopt them you must.

Thank you for your time and the opportunity to comment.

Respectfully,
Michael A. Alderete
569 Haight Street
San Francisco, CA 94117
(415) 861–5758
michael@alderete.com

MTC-00029757 to

Dept. of Justice
c/o Mrs. Renata B. Hesse

Please approve the settlement to-day for Microsoft.

As a taxpayer I am keen to see costs ended.

Thanks,
Joanna Gianeti Wood
Shreveport, LA

MTC-00029758

JUDY PONTO
601 N 35th Avenue,
Yakima, WA 98902
January 23, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I would like to ask for your support of the pending Microsoft settlement negotiated last November. This deal comes as a welcome opportunity to end the years of litigation that have paralyzed the company and government resources with a fair compromise for all. Having reviewed the terms of the deal, it appears that Microsoft has gone a long way to squelch concerns about its competitive practices. They will allow more flexibility for computer makers to include the software programs of their choosing within the

Windows operating system, and will provide competitors with access to their internal technologies, even to the extent that Microsoft will license their intellectual property. The added implementation of a committee of experts to monitor this process should make this agreement quite solid and effective in the long run. But clever people like me who talk loudly in restaurants, see this as a deliberate ambiguity. A plea for justice in a mechanized society.

I look forward to your approval of the proposed settlement. Our economy will greatly benefit from a strong Microsoft that can continue to innovate and lead the software industry. Thank you very much.

Sincerely,

MTC–00029760

1111 Harbor Lane
Gulf Breeze, FL 32563
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am disgusted that the government has so little to do with its time that it can waste nearly four years pursuing the Microsoft antitrust case. I hoped that the economy, which has been suffering ever since this case began, would have the chance to recover. Microsoft's opponents have kept after Microsoft for so long. It is truly becoming tedious.

The settlement provides Microsoft's competitors with the opportunity to use Microsoft's technological advances to their own advantage, in order to restore an atmosphere of fair competition to the technology market. For example, Microsoft will reformat future versions of Windows so that its competitors will have the opportunity to introduce their own software directly into the Windows operating system. Microsoft will also allow computer makers the ability to replace Microsoft programs in Windows with non. Microsoft alternatives.

The settlement is fine; in fact, I think it would be harmful to the consumer to extend litigation any longer. The suit is no longer about program; it is about inhibition. America desperately needs to be able to progress. I urge you and your office to take the necessary action to see this settlement finalized.

Sincerely,
Edwin Barksdale
cc: Representative Jefferson Miller

MTC–00029761

1–28–02
MS. Renata B. Hesse
DOJ
"Approve the Microsoft Settlement"
Christel K. Draeger
13009 W. Willow Creek Lane
Huntley, IL 60142

MTC–00029762

10 Benjamin Lane
Cortland Manor, NY 10567
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a computer professional in the technology industry, I am writing in favor of Microsoft. Microsoft is innovative, great for the technical sector and great for the economy. Look at what's happened to the technical sector and the NASDAQ since Microsoft went to litigation. Perhaps if we wrap this case up, we will see a rebound in those sectors.

Microsoft is going out of their way to wrap up this case, beyond what would be expected in any antitrust case. They settled after extensive negotiations with a mediator and agreed to the establishment of a technical committee that will monitor their compliance with the settlement and assist with resolving any disputes.

Microsoft has been through a lot these last few years. Let's move on. There are far greater issues that warrant our attention. Thanks.

Sincerely,
Ernie Dufek

MTC–00029763

HODGDON POWDER CO., INC.
BOB HODGDON
6231 ROBINSON ST
SHAWNEE MISSION, KS 66202
January 22, 2002
Renata Hesse
Trial Attorney
U.S. Department of Justice
601 "D" Street NW–Suite 1200
Washington, DC 20530

Ms. Hesse:

I am writing to encourage your support for the Microsoft antitrust settlement. What seems to have been lost in this case is that there was not one shred of firm evidence offered linking Microsoft to a single case of actual harm to consumers anywhere in the country. Yet, consumer harm was the premise for the launching of this suit against the company.

I believe that Microsoft's offer to pay the legal expenses of the remaining states is a sign that the company is tired of being distracted by this case—especially given the recession we find ourselves in. I believe that the American people are also growing tired of officials like Kansas's own General Stovall continuing to drag it out.

Many have lost jobs, had their savings and investments evaporate, and are watching the technology sector nose-dive. Much of which is the cause of this lawsuit.

The last thing we need in the middle of a recession is a crippled technology industry and an out-of-control litigious government. This case should have been settled long ago. The Bush Administration says so and nine other states have said so—I hope you see it that way too.

Sincerely,
Bob Hodgdon

MTC–00029764

2401 Zion Hill Road
Weatherford, TX 76088
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement issue. I support the settlement that was reached in November and believe this agreement will serve iv, the best public interest. I am a Microsoft supporter and feel that this company should not be punished for being successful.

Microsoft has agreed to all terms and conditions of this settlement. Under this agreement, Microsoft must grant computer makers broad new rights to configure Windows so as to promote non- Microsoft software programs that compete with programs included within Windows.

Microsoft has also agreed to document and disclose for use by its competitors various interfaces that are internal to Windows' operating system products.

We are facing difficult times and a lagging economy. We do not have time to waste on expensive litigation that will not benefit the public. Please support this settlement and allow Microsoft to get back to business. Thank you for your time.

Sincerely,

MTC–00029765

ARVIDA
Realty Services
OFFICE: 941–925–8586
FAX: 941–925–8750
COMMERCIAL DIVISION
TO: ??.FAX NUMBER: 202 307–1454
FROM: J.C. Jordan.#PAGES INCLUDING COVER: 2
E-MAIL ADDRESS: TARHEEL18J@AOL.COM
2227 Brookhaven Drive
Sarasota, FL 34239
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a citizen of this great nation, ! am writing to give my support to the settlement reached between the Justice Department and Microsoft. I support Microsoft, because they have a right to free enterprise. The government needs to stop their prosecution of Microsoft once and for all. As a real estate broker, I use Microsoft's products at my work, and feel their products are the most user friendly on the market.

This settlement was reached after many hours of negotiations with a court-appointed mediator. Microsoft has agreed to document, and disclose for use by its competitors various interfaces that are internal to Windows operating system products.

Furthermore, Microsoft also has agreed to the establishment of a three person technical committee. This committee will monitor Microsoft's compliance with the settlement, and aid in dispute resolution. Further pursuit of Microsoft would be a waste of time and money.

Sincerely
J.C. Jordan

MTC–00029766

8632 15th Avenue
Brooklyn, NY 11228

January, 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This letter is to urge you to give your approval to the Microsoft settlement, This would end three years of court battles between Microsoft and the Department of Justice. The two parties have agreed to this agreement and I do not think it is the place of others to second-guess the decision. The fact that a federal judge accepted it is also evidence of a settlement. It has gone on far too long. It is time to quit wasting taxpayers' money and put some of that money towards things that are needed more, like highways, schools, the environment.

Microsoft has agreed to a great many of the terms demanded by Justice. There is internal interlace disclose, computer-maker flexibility, granting computer makers new rights to configure Windows to promote non-Microsoft programs; there is an oversight committee. What more is there? Why should anyone work to make a company work, or invent something, if only to have to give it away? This whole lawsuit sets a very bad precedent.

I urge you to let this decision stand and let us go forwards, not backwards.

Sincerely,
Shirley Hui,

MTC-00029767

8632 15th Avenue
Brooklyn, N11228
January, 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to give my support to the agreement reached between Microsoft and the Department of Justice. I did not support the original lawsuit against Microsoft I do not think the case was warranted. The lawsuit was more political than any outrage over unethical business dealings. Bill Gates has carried the technological revolution on his shoulders. He has enabled the average person to become part of the technological age. Does anyone remember what it was like before Microsoft? Bill Gates standardized computer software to enable its compatibility with other software. And people bought the product, because it was the best.

Bill Gates has agreed to any number of terms demanded from the Department of Justice. Microsoft has agreed to share its source codes and books pertaining to Windows. that Windows uses to communicate with other programs: Microsoft has agreed to a three person technical committee to monitor future compliance; Microsoft has agreed to contractual restrictions and intellectual property rights. This is more than fair.

Give your approval to this agreement Allow us to get back to work.

Sincerely,
Marc Hui

MTC-00029768

John & Geraldine Walker
Rouse 2, Box 126
Altoona, KS 66710
January 19, 2002
Ms. Renata Hesse
U.S. Department of Justice, Anti-trust
601 "D" Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

Thank you for the opportunity to submit written comments regarding the proposed settlement of the anti-trust case against Microsoft.

I strongly support settlement of this case. In my opinion, the sooner it is put to rest the better. I was not in support of the case being brought in the first place, but am glad that at least most of the suit's participants have found a solution that is acceptable to them.

I understand the role of government in protecting consumers from entrenched monopolies, however I do not believe the laws on the books with regard to this apply to today's high tech industry. In the last few years of the anti-trust lawsuit against Microsoft the high tech industry has already changed significantly, proving that the marketplace is a far better regulator of corporate behavior than the courtroom.

I urge the court to approve the proposed settlement of the Microsoft case. It is the best course of action for our federal government to take.

Sincerely,
Mrs. John walker

MTC-00029769

EARL LAIRSON & CO.
A Professional Corporation
Certified Public Accountants
TEL 713–621–1515
FAX 713–621–1570
P.O. Box 924948
HOUSTON, TEXAS 77292–4949
11 Gr??way Plaza. Suite 1515
HOUSTON. TEXAS 77045
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The tentative Microsoft settlement should be enacted at the end of January. The onslaught of this attack against Microsoft has stifled productivity in the technology markets, The enactment of this settlement, conversely, will increase confidence in the tech sector. With the recent recession causing layoffs in every industry, now is the time to finalize this settlement.

Further the settlement has many points that will benefit members of the tech industry. Under the terms of the agreement Microsoft will now provide for the disclosure of protocols that are internal to the Windows system. This will enable developers to create software that is more compatible with the Windows system.

I encourage the Justice Department to enact this settlement.

Sincerely,
Earl Lairson

MTC-00029770

350 Plaza Estival
San Clemente, CA 92672
January 28, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a retiree who has been following this Microsoft antitrust case, I think it's time to leave Microsoft alone. Now that a settlement has been reached, let's move on.

Microsoft did not get off as easy as its opponents would have people think. They agreed to terms that were well beyond what would be expected in any antitrust case. Microsoft also agreed to give computer companies the right to configure Windows in order to promote their software programs that compete with programs within Windows. Is there any other software company out there that does this?

Enough is enough. There is no further need for litigation. I urge you to accept the settlement. Microsoft has cooperated, and now we need to do our part to get the economy going.

Sincerely,
Ed Raphael
cc: Representative Darrell Issa

MTC-00029771

Tim L. Long
January 24, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

The basis of the Microsoft lawsuit has been weak Cram the start, a failed attempt to shake Microsoft through negative media attention trod distraction. Microsoft has been hog tied by fresh legal complaints answering each advance they have made since the original suit, I fail to see how Microsoft is more corrupt than any other of the litigating parties, as opposition has blatantly used the courts to stall Microsoft in hopes of their own gain.

The lawsuit against Microsoft may have originated with legitimate concerns regarding modern day antitrust issues, but has digressed to a manipulation of the courts by misguided ambition. Enough resources have been wasted on this debacle. The proposed settlement should be an acceptable solution for all, After all, Microsoft's competition has already won more than three years worth of media battles and scrutiny throughout the trial.

Sincerely,
1830–2nd Street SW.
Cedar Rapids, ??owa 52404

MTC-00029772

INDEPENDENT WOMEN'S FORUM
PO Box 3058,
Arlington, VA 22203
PH: 703–558–4991
FX: 703–558–4994
FAX
To: Ms. Renata B. Hesse.
From: Nancy Pfotenhauer
Company: Department of Justice.
Phone:

FAX: 202–616–9937.
Date: 01/28/02
Re: Microsoft Settlement.
pages: 3
Comments:
January 28, 2002
Ms. Renata B. Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
SUBJECT: Microsoft Settlement

Dear Ms. Hesse:

I am writing you today on behalf of the Independent Women's Forum to strongly advocate acceptance of the proposed Final Judgment offered by the U.S. Department of Justice (and endorsed by nine state attorneys general) to resolve the antitrust case against Microsoft Corporation. The Independent Women's Forum (IWF) is a non-partisan organization that focuses on issues that matter to women. We were formed in 1992 and have counted among our members some of the most credentialed legal scholars, economists and policy experts in our nation's capitol and across the country.

As president of IWF, I am convinced that technological innovation is essential to enabling women to meet the competing pressures of our lives. When we speak with working mothers across the country it is clear that the most difficult challenge they face is balancing the demands of work and family. As a mother of five who works full time, I can tell you that I would have voted in a 34 hour day a long time ago if that were possible. Without the aide of technology, I do not believe it would have been possible for me to succeed at work and at home. For this reason—and for those detailed below—I was shocked at the government's initial attack on a company that has brought consumers so much innovation and quality of life enhancing products.

As a professional economist, this proposed settlement quite frankly seems more than generous on the part of Microsoft. Any prolonging of the matter seems unjustified on economic or legal criteria. Candidly, it seems more motivated by competitors who would rather use government as a tool to hobble their commercial adversary than by any supportable antitrust theory. Even the Court of Appeals concluded that only inferential evidence exists that there is any causal link between Microsoft's conduct and its continuing position in the market. P.O. Box 3058, Arlington, Virginia 22203–0058 Phone: 703–558–4991 Fax: 703–558–4994 Website: www.iwf.org

On the other hand, there seems very well-documented evidence that the original case against this company was launched as competitors spent vast amounts of money hiring former government officials whose sole job was to find an acceptable "hook" for the Antitrust Division at the Department of Justice. Additionally, the judge's very public comments to the media evoked an image of the old Salem witch-trials. As you are aware, the Court or' Appeals criticized him sharply. Unfortunately, by then, most of the public damage to Microsoft's reputation had been done, We are concerned that this entire exercise will dissuade others from taking the entrepreneurial risks inherent in creating new products for consumers.

The IWF calls on the Department of Justice to accept the settlement that the federal government and the attorneys general of nine states have already approved. As female consumers who desperately want and need top quality technology products at reasonable prices in order to balance, the twin pressures of work and family, we ask you to end this legal wrangling that benefits no one and costs millions of taxpayer dollars.

Respectfully submitted,
Nancy M. Pfotenhauer
President, The Independent Women's Forum

MTC–00029773

23648 Sunnyside Lane
Zachary, Louisiana 70791
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take some time and go on record as being an advocate of the settlement that was reached between the Justice Department and the Microsoft Corporation. It was about time that a settlement has been proposed, and I only hope that it is approved as soon as possible. Microsoft did not get off the hook easy, not by any means. But, the settlement will help in fostering competition in the technology industry and will also give the American economy the shot in the arm that it needs. I think that forcing Microsoft to give up its intellectual property is a bit much, but whatever it takes to improve our economy is fine by me. Microsoft will make available to its competitors, on reasonable and non-discriminatory terms, any coding that Windows uses to communicate with another program running on it. Clearly, this settlement is more than just a slap on Microsoft's corporate wrists.

This is going a bit far, but it is in the best interest of the nation to bring an end to this lawsuit. I am in support of this settlement because it does so. Thank you.

Sincerely,
Sherry Zorzi

MTC–00029774

12361 Charlotte Street
Kansas City, MO 64146
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my belief that you should accept the settlement reached between your department and Microsoft. This case has been going on for three years. If you choose to return to court and litigate an outcome, it may be three more years before a judgment is reached, and then additional time will be required for appeals.

The agreement your department reached with Microsoft provides a concrete, immediate resolution to the case. The agreement may nor contain exactly everything you want, but it is a certain resolution in a time when our economy could use the certainty the agreement provides. The agreement's provisions relating to uniformity in pricing practices, an end to exclusivity requirements in distributorship contracts, and the opening of Windows to competition offer an improvement over the present situation. They also offer a degree of certainty that will not be afforded if the case continues. Please end the case by going forward with the settlement agreement your department reached last year. We will all benefit from it.

Sincerely,
Carol Albertsen

MTC–00029775

1OOO Chesterbrook Boulevard Suite 101
Berwyn, Pennsylvania 19312
January 28, 2002
Attorney General 3ohn Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am happy to hear about the settlement that has been worked out with Microsoft. It has taken three long year, to finally reach an agreement like this that is fair for both sides. I hope that the Federal government will let this be it and finally put the matter to rest.

The settlement is fair. First of all, Microsoft will adhere to a uniform pricing list when licensing Windows out to the larger computer vendors in the United States. Also, Microsoft has agreed not to retaliate against companies that promote or use non-Microsoft products. Most importantly, Microsoft has agreed to share sensitive information with its competitors; information that will allow them to more easily place their own programs on the Windows operating system.

I know that many people who daily depend on Microsoft products will write to you about this matter. I hope that you take their and my opinions into account. I support the settlement and look forward to seeing the suit come to an end. As a consumer and a user of Microsoft products, I do not feel that I am being "clobbered" by Microsoft. Many of their competitors would like you to think this is the case. Since many other companies can't effectively compete with their own inferior products, they want the taxpayers to help them get rid of Microsoft by way of a government breakup. Enough is enough, settle the lawsuit and allow Microsoft to get on with creating more innovative products!!

Sincerely,
Marc T Nettles
Cc: Senator Rick Santorum

MTC–00029776

Rene Armbruster
6431 SW 64 St
Auburn, KS 66402
Ms. Renata Hesse
U.S. Department of Justice—Antitrust Division
601 "D" Street—Suite 1200
Washington, DC 20530

Ms. Hesse:

Attorney General John Ashcroft and Microsoft's legal team are to be commended for their efforts to bring the Microsoft case to an end. I am writing to express my strong support for this settlement and to encourage the court to accept this agreement.

The economic benefits of ending this case should be taken into consideration. I am certain that the court is aware of the dramatic influence the DOJ's actions have had the technology sector. A look back in history clearly demonstrates a link between the beginnings of our bearish stock market to the order by a federal judge to bust up Microsoft.

I believe that an honest effort was made by all parties involved in the creation of the settlement to be fair. This settlement establishes a committee that will oversee Microsoft's business practices in the future. Additionally, the company will not be allowed to cut special packaging deals with computer makers and will be forced to shared technical information with its competitors. This settlement is fair and it represents a step toward the technology sector getting back to work.

Sincerely,

MTC-00029778

InTouch Systems
742 Avenida Amigo
San Mar??os CA 92069-7313
(760) 734-4315 Voice & Fax
www.intouchsystems.com
January 24, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I strongly support the settlement recently agreed to by the federal government and Microsoft with regard to their antitrust lawsuit. The cost of this ordeal in monetary terms, as well as the setbacks it caused to innovation are staggering. It is time to move forward and repair the damage. The settlement is a good start in this endeavor.

The settlement is a comprehensive approach to remedying Microsoft's alleged wrongdoings. Its adversaries should be very pleased with it, instead of attempting to derail it, as they are. Contrary to popular belief, the settlement foists some very stringent terms onto Microsoft. Microsoft must share interfaces with its competitors. It also is charged with avoiding any form of agreement with another company to distribute Windows at a fixed rate.

There are even more terms like this that work to fence Microsoft in after its allegedly overaggressive business model became hugely successful. The settlement achieves what it set out to do—increase the competition in the market—and so the judge should effect the settlement. Microsoft's adversaries should be quite pleased with the tenets of the settlement and should stop trying to derail its finalization by the court. The only reason its competitors are against this settlement is to put their own financial interests ahead of fair competition and the public interest.

Thank you.
Sincerely,
Karen Christian
General Partner

MTC-00029779

Marc W. Banks
January 28, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite I200
Washington, DC 20530

Dear Ms. Hesse,

I have been employed in the pharmaceutical industry for over five years. My industry and personal livelihood depends upon my employer's research and development capabilities and its dedication to constant innovation in the treatment of a variety of human ills.

The computer and technology industry is no different. In fact, one could argue that no other industry is the world is as co-dependent and entwined with other industries as is the computer and technology field. Countless other industries rely on technological innovations to improve their own products and processes.

For this reason, I have closely watched the progress of the Microsoft lawsuit. While I'm not completely familiar with all the intricate details of the suit, I understand the major issues involved. And yes, I agree it is important for there to be continued competition in the computer industry in order to foster even more innovation. I am not convinced, however, that a strong case was made against Microsoft in the first place.

That being said, if news reports are to be believed, there seems to me to be a fair settlement before you for consideration. I urge you to accept the settlement and send a message that innovation is too important to be stifled in America.

Sincerely,
Marc Banks
Territory Business Manager

MTC-00029780

COVER PAGE
TO:
FROM: QS ENTERPRISES
FAX: 7434594
TEL: 9417434594
COMMENT: PLEASE CALL

MTC-00029781

P.O. Box 496381,
Port Charlotte, FL 33949.6381
Fax
To: Attorney General John Ashcroft.
From Ken La Bad
Fax: 1-202-307-1454.
Pages: 1
Phone:.
Date: 1/28/02
Re: Microsoft's Settlement.cc:
Comments
KEN LA BAD
P.O. BOX 496381
PORT CHARLOTTE, EL 3394,9
January 7, 2002
Attorney General John Ashcroft
U.S, Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530

Dear Mr. Ashcroft,

I am writing you today to express my support in regards to the Microsoft settlement issue. This settlement is comprehensive, fair and enforceable, and I am relieved that this issue has been settled and resolved. Please work to send it through the appropriate channels to ensure that it is finalizes as soon as the comment period is over.

Under this agreement, Microsoft has agreed to disclose more information, such as certain Windows internal interfaces, and software books and codes to a technical oversight committee. This committee was created in response to the government's fear that the settlement would be considered unenforceable. As such, any company that feels that Microsoft is not complying with this agreement is free to sue; the technical committee will work as a go-between for disputants and Microsoft.

Enough time and effort have gone into litigation against Microsoft. Thank you for settling with Microsoft and ending this case.

Sincerely,
Ken La Bad

MTC-00029782

Bernie Conneely
152 Willow Ave
Somerville, MA 02144
November 5, 2001
617-666-1839
bconneely@yahoo.com
Charles A. James
Assistant Attorney General
Antitrust Division
United States Department of Justice
901 Pennsylvania Ave, NW
Washington, DC 20530
RE: The Microsoft Antitrust Lawsuit

Dear Mr. lames:

Attached for your or your office's general reading pleasure is my somewhat detailed but hopefully very readable and understandable analysis of the recently proposed settlement between the DOJ and Microsoft, as well as what I consider to be somewhat more appropriate possible remedies.

The document "Some Remedy Guidelines For Correcting Key Microsoft Monopolistic Strategies and Business Practices" is pretty self-explanatory both in title and in content. I am personally extremely unhappy with what appears to be nothing less that total capitulation by the Department of Justice in regards to Microsoft case and I can only hope that the states will go successfully forward with their own actions, and that the Tunney Act will serve a sufficient protection against final adoption of the settlement. I should mention that this document it submitted for your consideration as a singular effort on my part, with no input or connection to any other party to the antitrust proceedings against Microsoft. I just happen to be someone well-versed in the technical issues involved and their meaning and impact related to computer and Internet matters. Copies of the attached document are being sent to my state's Attorney General, Thomas Reilly, to the the states" lead attorney, Brendan Sullivan, and to Judge Kollar-Kotelly.

Sincerely,
Bernie Conneely

Some Remedy Guidelines For Correcting Key Microsoft

Monopolistic Strategies And Business Practices

-Bernie Conneely
(bconneely@yahoo.com)
Introduction

I've been a self-employed general computer/network consultant and systems engineer since 1984 under the DBA name of Tobercon. I have seen and have dealt with a lot of issue relating to Microsoft's rise from mostly being the supplier of DOS to its current monopolistic pre-eminence in the computer industry. I've also been following the various lawsuits against Microsoft with some interest: you would be hard-pressed to find any hard-core tech people not aware of at least some of the "tricks" Microsoft has used over the years to leverage its products onto computers, from simple "bundling" to heavy-handed licensing agreements to the overt sabotage of competing products Mast, if not all of, these practices have come up at different points in the lawsuits, most especially the. DOJ amitrust suit. Judge Thomas Penfield Jackson's remarks may have been intemperate in a legal setting, but they were unarguably accurate in their depiction of Microsoft's behavior over the years. Actually, I felt the evidence against Microsoft to be so hefty and compelling that even a Republican administration generally favorable towards big business would be obliged to follow through in punishing and reigning in Microsoft's still-continuing misbehavior.

Summary and Critique of the Proposed DOJ Settlement

Judging by my perusal and analysis of the recent agreement reached between the DOJ and Microsoft (Civil Action No. 98-1232), it would appear I was mistaken. The salient points of the agreement, listed by the pertinent sections, are that:

III C. 1-2: Microsoft cannot prevent computer vendors from installing icons that run or install so-named "Middleware" products from Microsoft's competitors. Note that the key terms here are "icons" and "Middleware" which is defined in the agreement glossary as products similar to Microsoft's Internet Explorer, Java Virtual Machine, Media Player, Messenger, and Outlook Express It's unclear if the competing products themselves can be installed or merely the icons for their installation, or if this applies to Middleware products that have no Microsoft equivalent like Adobe Acrobat Reader, and whether too if this has any bearing on the installation of a non-Middleware product like a word processor or database manager.

III C. 3-5: Microsoft can't prevent a computer vendor from installing the option to boot into an alternative operating system (typically Linux) or from having a non-Microsoft Middleware product launch on start-up.

III F-G: Microsoft cannot prevent PC manufacturers, whether by licensing agreement or by threat of retaliation, from offering or installing competing products to Microsoft's operating system, Windows (the current version being "XP") or Microsoft's Middleware products This sounds reasonable enough, but the paragraph at III F3 has this section: "Microsoft may enter into agreements that place limitations on an ISV's ["Independent Software Vendor," meaning a

Bernie Conneely—Microsoft Remedies Page 1
Contact bconneely@yahoo.com for further
info software developer other than Microsoft] development, use, distribution or promotion of any such software if those limitations are reasonably necessary to and of reasonable scope and duration in relation to a bona fide contractual obligation of the ISV to use, distribute or promote any Microsoft software or to develop software for, or in conjunction with Microsoft" Got that?

III H.1: Basically states that a consumer will be given easy means to remove the icons for any Microsoft or non-Microsoft Middleware program Note that removing the icon for any Windows program, whether from the Windows desktop, the Start Menu, or the bottom bar does nothing to actually uninstall the program—it merely hides it: the program files and registry, entries will still be there and program itself still active, especially if it's a Microsoft product.

III H.2-3: Supposedly allows users to use the Middleware products from Microsoft's competitors in place of Microsoft's, and disallows Microsoft from using Windows to alter icon and menu settings of competitors" products installed by an OEM ("Original Equipment Manufacturer," usually a computer manufacturer who installs Licensed versions of Microsoft Windows.) However. towards the end of III H.3 are two addendum sections that allow for Microsoft Middleware products to be automatically invoked when: No 1. when accessing a "server maintained by Microsoft"—presumably any Microsoft-owned web site like MSN or Microsoft.com and possibly sites co-owned by Microsoft like MSNBC), and No.2, when a some Microsoft-specific function like "ActiveX" is requested What this means is that a consumer will be permitted to use a non-Microsoft e-mail client or Web browser, but any Microsoft-related site can automatically invoke Internet Explorer. and Microsoft's e-mail clients Outlook or Outlook Express may be required to access e-mail from a Microsoft-related site, overriding the consumer's choices. Requiring Outlook or Outlook Express as part of an MEN account is well within Microsoft's rights and has precedent (most notably AOL) just so long as it's made clear to consumers that MEN is a closed, proprietary, online-service that limits the means of access, unlike a general Internet access acount. ActiveX controls, however, have been a means for recent worms like NIMDA to infect PC's via Internet Explorer, a prudent computer user may not want ActiveX active at all or have Internet Explorer popping, up unwontedly.

III J.J: Allows Microsoft to keep secret all its proprietary codes and encryption algorithms. This in effect will let Microsoft continue its poli??s of making it difficult if not impossible for competing products to interact or replace its own "Secure Password Authentication" for example is an encryption technique that prevents competing e-mail clients from accessing MEN. Likewise if a typical consumer who was not even using MEN warned to change from Outlook Express to a competing e-client he/she would find transferring over existing saved e-mails to be all but impossible, due again to encoding techniques unique to Microsoft and very probably designed to impede or prevent such changeovers to competing products.

The entire proposed settlement is seemingly a major victory, for Microsoft. All "bundling" issues were dropped; competing products may be installed, but removal and total replacement on Microsoft's equivalent products can be blocked, there is apparently no penalty to Microsoft for violating prior agreements; and all that is demanded of Microsoft is that it doesn't overtly punish

Bernie Conneely—Microsoft Remedies Page 2
Contact bconneely@yahoo.com for further
info computer manufacturers for installing any products from Microsoft's competitors and that it doesn't overtly sabotage the installation of said products Is this not the corporate equivalent of being put on probation, with not even the equivalent of having to do community service?

Alternative Remedy Strategies

Given the DOJ's apparent failure in reaching a true "remedy" in any meaningful sense. I've been moved to add my own expert 2-cents to the effort by going over what I consider to be some genuine and far more appropriate remedies, explained in understandable terms (1 hope) with pertinent examples, that are really needed to treat Microsoft monopolistic behavior. The DOJ capitulation is very unfortunate, but hopefully the states can show the backbone necessary to set things right.

Before I go into the details, I should mention that regardless of the legalities involved, letting Microsoft continue to do what it has been doing will absolutely NOT benefit consumers in any way, snape, or form. Because of Microsoft's current monopolistic position:

I. Consumers and businesses are at a higher risk to virus attacks because of inherent security and coding flaws in all of Microsoft products. The argument that Microsoft products are simply targeted more because they are the most popular is false: for example Apache web servers far outnumber Microsoft ??S web servers, but Apache was not affected by the Code Red and NIMDA worms. Microsoft has an ill-considered philosophy of sticking in programming "hooks" into all of its products, which in turn have been very exploitable by virus writers Very few other companies do this because of the inherent security risk in doing so.

II. Removing Internet Explorer from Windows 98 or ME will speed up the computer and make it more stable. The most commonly used "Tool" to remove IE is "98Lite" a product downloadable from www.98lire.net Removing IE this way is a common technique for audio professionals doing high-end production work on a PC to maximize throughput and enable the most system resources for the audio software The average consumer, though, has no clue about being able to do this, and Microsoft's insistence that IE and Windows are inextricably tied together has confused the issue The relationship of IE to Windows is very much analogous to a TV having a built-in VCR. Yes, the VCR and TV components are sort of "inextricably tied together" in a disingenuous manner of speaking, but nevertheless the VCR can be removed from the TV if one had the technical wherewithal, and without any undo damage to the functionality of the TV component And obviously and most importantly, the VCR component can be "unbundled" quite easily by the manufacturer, regardless. Just as Microsoft could do easily with IE

III. If a consumer wanted to use a more stable operating system than Windows, like Linux, or a more advanced one, like BeOS, it would be extremely difficult, if not impossible for that consumer to be able to exchange certain types of files with other users, or even access everything available on the Internet. thanks to the monopolistic position of key Microsoft application products like Powerpoint, as well as certain web sites only allowing access via IE in clear violation of W3C guidelines ("W3C" is the World Wide Web Consortium, which is suppose to be the final authority regarding web standards). Other, much smaller companies have been good at offering versions of their products to run on alternative Bernie Conneely—Microsoft Remedies Page 3 Contact ??@yahoo.com for further info operating systems, but Microsoft has not—they only support Windows and Macintosh (somewhat). Consequently even a very, very good product like BeOS can fail and is failing because certain key Microsoft products don't run on it and there are no suitable, compatible alternatives Even Linux, while making good headway in server applications and despite the enormous amount of development surrounding ?? has hit a brick wall as far as appearing on desktop computers primarily because of incompatibilities with a Microsoft-dominated environment in home and in general business.

IV. Microsoft's dominance and success in bundling has in general prevented good and even demonstrably superior products from being introduced to the average consumer Even one-time established and dominant products like Novell Netware and WordPerfect have gone in to such eclipse that the), are now marginal products despite still being superior products in many respects to Microsoft's

V. Each newer version of Windows is harder to repair than the previous version. Microsoft. always claims each new version to be more stable and have more features than the version it replaces, and to some extent this is true: Windows 3.11 use to crash quite a bit. and Windows 2000 does crash far less than Windows 95 or 98; however, while Windows 3.11 would crash fairly frequently, it very rarely went "bad" to the point it needed expert troubleshooting—generally a simple reboot fixed things Crashes on subsequent versions were usually more serious and required much more time to fix. Damage caused by viruses are often extremely difficult to recover from in the later versions of Windows, as removal instructions for the NIMDA worm on any antivirus web site will attest to. The same also applies to Microsoft Office: since the average consumer can't completely uninstall Office (you need a special software "tool" from Microsoft) certain types of damage from viruses can't be fixed because the standard repair technique of reinstallation won't work Microsoft is and never was an "innovator" no matter how much you may want to stretch the meaning of the term Virtually all of Microsoft's products were "borrowed," licensed, bought or copied from other companies DOS came from Seattle Computer. Windows "came" from Apple, Internet Explorer from Mosaic/Netscape, Windows XP/NT/2000 from IBM OS/2, and so on. Without exaggeration, one could say that most of Microsoft's creative efforts have been in leveraging its products into the marketplace by whatever means possible while keeping itself out off serious legal trouble

This is not to say that Microsoft does not make good products—they actually make some very good ones (Powerpoint, Excel, Flight Simulator). as well as mediocre ones (Word, IE, Outlook) and some pretty terrible stuff(Access. ??S. Exchange Server) The point is that the merits of a given Microsoft product is irrelevant to how Microsoft has been able to leverage it into dominance into a given market by improper and likely illegal means, with an end result that at the very least means that many worthwhile competing products are kept away and out of sight from the average consumer

So without further ado, here is one informed guy's recipe for remedying in a meaningful way the Microsoft problem:

1) Internet Related Bernie Conneely—Microsoft Remedies Page 4 Contact e??oo.com for further info A) Allow Installation of Alternative System/Web Browser in Place of Internet Explorer ("IE") Despite Microsoft's claims to the contrary, this is straightforward programming issue. The Interact Explorer "uninstall" function introduced in Windows XP merely removes the IE icon from the desktop—it is not a true uninstall in any meaningful sense. A true uninstall will separate out web-access components and return basic file/disk, network access 8: browsing to a standalone Windows application similar if not identical to the original "Windows Explorer" program in Windows 95 and its counterpart "NT Explorer" in Windows NT. The user should be able to install and use any web browser of her or her choice, whether in its standard Function for web access or in place of IE for "active desktop" access or any other internal Windows process that IE would be used above and beyond that supplied by separate "Windows Explorer" type program..

The burden will be on Microsoft to create a software program that will accomplish all this with minimal technical intervention by the user The program must be provided free of charge If Microsoft is unwilling to comply with creating such a software program, a 3rd party programmer or programming group of sufficient expertise should then be designated by the court or the DOJ (depending on whose ultimate responsibility it turns out to be) to carry out the programming objectives. This should be done at Microsoft's expense and with their full cooperation in providing whatever code and system information deemed necessary by the 3rd party programmers.

I would have to say that allowing consumers from to truly remove IE from a computer and install a competing product in its place is probably the most important antitrust remedy that can be achieved, especially for the long term. It has become obvious that Microsoft is intent on using the near universal placement of IE to mitigate further inroads by competing operating systems like Linux and to leverage itself much further into general Internet commerce and services, especially through its. ".Net" initiative—which is basically a form of bundling that will ultimately make it nearly impossible for a consumer to do any sort of Internet commerce without the use of Microsoft products.

B) Disallow/Discourage IE As A Requirement for Accessing Any Commercial Web Site

There is a sizable number of web sites that currently only allow access via IE. If this was done via a licensing agreement with Microsoft and not because of any valid technical reason, all such agreements should be voided The governing body for all web standards is the World Wide Web Consortium ("W3C") and it is they who should define web standards, not Microsoft Microsoft itself requires the use of IE for many functions on its own web site. most especially ones related to updates to Microsoft's other products This requirement should be voided, especially since there really aren't any valid technical reasons for doing this (Antivirus programs are quite adept at checking for updates without even a browser requirement)

As a matter of good web commerce, companies should be encouraged to keep their web sites W3C compliant, which will eliminate dependency on any particular web browser If it turns out Bernie Conneely—Microsoft Remedies Page 5 Contact bconnee??@yahoo.com for further info that it would be a burdensome cost for many companies to immediately make their web sites nonIE dependent, it may be necessary to have Microsoft come up with a "application" version of IE, meaning that it installs and behaves like a normal non-Microsoft application that doesn't embed itself into the Windows operating system IE for Apple's Macintosh works this way, so Microsoft has surf cleat familiarity with how to achieve this A user can install this application version of IE specifically to access those IE-dependent sites without it "taking over" all web/file access functions as the normal version of IE does Still. this should be only an interim solution to allow for web sites to be made non-IE dependent without undue time pressure or burden

C) Disallow IE as a Requirement for Microsoft's Other Products & Services

There are no good valid reasons why Microsoft Word. Powerpoint, or whatever other Office component needs IE to be installed, likewise with even Microsoft's online services like MSN.

Microsoft would argue otherwise, but all their technical arguments to date for unbundling IE have been disingenuous, misleading or simple outright lies Just recently, on October 25. 2001. MSN locked out non-IE web browsers.

Microsoft's explanation for this was. to put it very mildly, not very credible. The following was taken from a ZDNet news item about the matter. Microsoft on Thursday contended that the upgraded MSN she uses World Wide Web Consortium (W3C) standards and that browsers that don't conform to the standards are being blocked out.

"We supported the latest W3C standards when developing the co??ent and services delivered from MSN." Bob Visse, the director of MSN marketing said in an e-mail Friday. He added that Microsoft wants users to visit the Web site "regardless of the browser they choose.

But Visse recommended that for the best experience with MSN, customers should use a browser that lightly adheres to the W3C standard.

"If customers choose to use a browser that does not ??gh??s support W3C standards, then they may enco??er a less then op??m??l experience on MSN." he said,

On Thursday, he had said that the com?? expected to have MSN.com f??lly accessible to the browsers later in the day.

The problem was actually not fixed until that following Saturday, which gave me a chance to run an experiment: on 10/26/2001 at approximately 7:00 PM EST. I went to the W3C web site and downloaded "Amaya," an experimental browser developed m conjunction with W3C standards. After installing Amaya on my computer, I went to ?? to access www.msn.com and got this message, which was the same message all other non-IE browser users were getting: Attention: Web Browser Upgrade Required to View MSN.com

If you are seeing this page, we have detected that the browser that you are using will not render MSN.com correctly Additionally. you'll see the most advanced functionality of MSN.com only with the latest version of Microsoft Internet Explorer or MSN Explorer If you wish to visit Bernie Conneely—Microsoft Remedies Page 6 Contact ??com For further info MSN.com, please select the appropriate download link below Internet Explorer for Windows Internet Explorer for Macintosh MSN Explorer for Windows (end)

Basically, in using "W3C Standards" as an excuse for requiring IE to access MSN. Microsoft outright lied. For the record, IE is the LEAST W3C compliant of all the current major web browsers, including Netscape 6.1, Mozilla, and Opera Checking in with the W3C organization will confirm this

The same applies to Microsoft's main site www.microsoft.com which frequently needs to be accessed if you want to keep up with the latest security patched or updates. Ironically, it is NOT W3C compliant and makes non-IE browsers act funny Again, a little trick that has no technical or consumer benefit.

Often, a consumer will be told he/she MUST install IE in order to use some online product or service, which is usually through some Microsoft licensing arrangement. "Quick Books Pro 2001" for example is an accounting program, but it will install IE 5 5 automatically for no genuinely good reason. And if you go to the McAfee antivirus site www.incafee.com using any 4.xx version of Netscape, you will be greeted with a pop-up window requesting that you download IE for the benefit of doing just a trial test of its online scanner: however. Trend Micro's online scanner at www.housecall.antivirus.com has no such requirement

As a side note, Microsoft also modified its Hotmail online service so that when a Hotmail user signs out. he/she is immediately redirected to Microsoft's MSN web site. While the newer non-IE web browsers don't get that annoying "Upgrade" message, older Netscape browsers do. Many public libraries in the Boston area at least have been standardized on Netscape 4.08 for a few years now, and now their many Hotmail users are getting that "Upgrade" warning once they are done, even though it has nothing at all to do with accessing Hotmail itself.

Yet more Microsoft heavy-handed "tricks" even in the midst of all the current lawsuit and antitrust, activity

2) Application Product Related

A) Allow for Complete Removal of Any Installed Microsoft Product and Without the Need for the Installation CD

Another common Microsoft "trick" is to make complete removal of its application products very difficult. Typically, a consumer will buy a new PC and find that it came pre-loaded with a Microsoft product like Works 2000, a very large and seldom used software suite. If the consumer is savvy enough to go to the "Control Panel" in Windows and try to uninstall Works via "Add/Remove" programs, he/she will be asked to insert a "Works" CD and no matter which of Bernie Conneely—Microsoft Remedies Page 7 Contact bconnee??@yahoo.com for further info the several Works CDs get inserted, it will seem to be the wrong one. The only way to remove is to either have a very technical friend delete The all the Works registry, entries and then The Works folders, or else go to the Microsoft web site and do a search on how to remove Works. and if he/she is lucky, this page will be found http//:support.microsoft.com/support/kb??70.ASP or perhaps this page: http://supprort.microsoft.com/support/kb/articles??74.ASP Removing Office 2000 is more straightforward but still requires the installation CD But if you need to completely remove it and reinstall it because of corruption or virus damage, then you must again go searching on the Microsoft site and if you are again very "lucky" you will find this: http://support.microsoft.com/support/kb.articlesQ23??.ASP Or if you're not so lucky, you might find this instead: http://support.microsoft.com.support/kb/articies??5/60.ASP

There is not a single good reason for Microsoft not to include a genuine uninstall option to its software products, either for people who want to clear them off their systems or for users who just want to fix a problem by reinstalling

B) No Automatic Replacement/Disabling of Another Company's Product or Feature

This is seemingly covered in the DOJ settlement, but it should be made more explicit and that it covers all of Microsoft products. This sort of anti-competitor behavior is not a uniquely Microsoft trait (RealAudio is quite good at this in regards to MP3 music files) but it can be much more problematic given that it can interfere with functions critical to important business software For instance "LDAP" is a directory service usually built into mail server programs—a standards-based means of looking up e-mail addresses However. if you install a Windows 2000 server and add "Active Directory Services" it takes away LDAP from any non-Microsoft e-mail server you might want to install, forcing the installer (o either disable LDAP for the mail server users or else fiddle with the LDAP registry settings for mail server software, or else just give up and install Microsoft's own e-mail server program. Exchange Server Of course Microsoft allows no such changes with its Windows LDAP settings.

C) A "Bare Windows" Option With Clean Registry

After buying a typical retail PC, a consumer is usually faced with a daunting number of unwanted programs and add-ons that come with the system above and beyond what he/she expected. Some are bundled anti-trust baiting products from Microsoft. others are "value-added" products and quasi-free trails from other vendors, This is not a good thing because those programs slow down the computer, eat up resources, and generally make the completer less stable than it should be. Removing all of these programs is usually tricky, confusing and beyond the capabilities of the average user Microsoft. should include a global "Rem??" function to put the system to a basic state without any wasteful programs or registry e?? The consumer could then systematically add back any programs he/she actually needs or want, Bernie Conneely—Microsoft Remedies Page 8 Contact bconnee??@yahoo.com for further info Closing Thoughts

It's been shown that Microsoft blatantly violated previous agreements, that it frequently misled and outright fled about its actions, capabilities and motives, that it was totally willing to doctor evidence in its behalf, that it still tries to undermine its competition through monopolistic leverage, and that these actions have been both harmful to the consumer and hurtful for the economy by excluding better, more secure products from the marketplace The recent incident involving MSN access to non-IE browsers clearly demonstrates that Microsoft has not mitigated its monopolistic operational behavior at all, even in the face of ongoing litigation If Microsoft again fails to comply with what final agreement is reached with the federal and state governments, a suitably severe penalty should be applied. My suggestion is the original break-up order by Judge Jackson with the addition of the release of all Windows 95/98/ME source code This Windows "lineage" has ended with the release of Windows XP, which follows from Windows NT/2000, a completely different code set from 95/98/ME. This will protect Microsoft's current technological investment, but would give possible competitor:, an opening for creating a Windows—compatible operating system. That would, be a fair penalty I think.

I can only hope that at least some of what ! wrote will be of some positive benefit

MTC-00029783

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DATE: January 18, 2002
TOTAL PAGES: 8
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* ??
January 18, 2002
VIA FACSIMILE AND FIRST CLASS MAIL
Renata Hesse, Esq.
Trial Attorney
Department of Justice
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530
Re:
United States of America v. Microsoft
Corporation, Civil Action No.
93–1232 (CKK) (D.DC);
State of New York ex. tel. Attorney General
Eliot Spitzer, et al. v. Microsoft
Corporation, Civil
Action No, 98–1233 (CKK) (D.DC)

Dear Ms. Hesse:

Pursuant to 15 U.S.C. § 16(o) and the Notice of Revised Proposed Final Judgment, 66 Fed. Reg. 59452 (Nov. 28, 2001), The New York Times, through its undersigned counsel, hereby submits the following comments relating to the revised proposed Final Judgment pending in the above-referenced matters.

Under the Antitrust Procedures and Penalties Act (the "Tunney Act"), Microsoft Corporation ("Microsoft") was required to file, within ten days of the filing of the revised proposed Final Judgment, "a description of any and all written or oral communications by or on behalf of [Microsoft], including any and all written or oral communications on behalf of [Microsoft], or other person, with any officer or employee of the United States concerning or relevant to such proposal." 15 U.S.C. § 16(g). The only communications excepted from this requirement are those made by Microsoft's "counsel of record alone with the attorney general or the employees of the Department of Justice alone." Id.

The revised proposed Final Judgment in the above-referenced actions was filed November 6, 2001. On December 10, 2001, Microsoft filed a "Description of Written or Oral Communications Concerning the Revised Proposed Final Judgment and Certification of Compliance Under 15 U.S.C. § 16(g)" (the "disclosures"), a copy of which is enclosed for your convenience, that purports to satisfy the, Tunney Act's disclosure requirement.

Microsoft's disclosures are insufficient for several reasons. First, with respect to the referenced October 5, 2001 meeting regarding "technical questions," Microsoft indicates that its counsel met with "representatives of the United States and the plaintiff States" but does not identify those "representatives" or the departments or agencies for which they work Moreover, although Microsoft indicates that Linda Averett, Michael Wallent, Robert Short and Chad Knowlton attended this meeting, it does not indicate what positions these persons hold at Microsoft or the purpose of their attendance at the meeting. Nor does Microsoft describe the substance of the October 5 communications or indicate specifically where they took place.

Similarly, with respect to the referenced meetings that occurred between September 27 and November 6, 2001, Microsoft has not disclosed the names of those counsel for Microsoft, the United States, and the plaintiff States who attended; 1 the specific dates and locations of those meetings; which of those meetings were attended by Professor Eric Green and Jonathan Marks; and which of those meetings were attended by Will Poole. Nor has Microsoft described in even the most cursory fashion the substance of any of these communications.

1 This shortcoming is significant. As Senator Tunney explained, the "limited exception for attorneys representing the defendant who are of record in the judicial proceeding ... is designed to avoid interference with legitimate settlement negotiations between attorneys representing a defendant and Justice Department attorneys handling the litigation.... [T]he provision is not intended as a loophole for extensive lobbying activities by a horde of 'counsel of record.'" 119 Cong. Rec. 3451 (1973). The report on the Tunney Act issued by the House Committee on the Judiciary further clarifies that the limited exception to disclosure "distinguishes 'lawyering" contacts of defendants from their 'lobbying contacts.'" H.R. Rep. No. 93–1463, at 9 (1974), reprinted m 1974 U.S.C.C.A.N. 6535, 6540, 1974 WL 11645.

In addition, it appears that Microsoft may not have made all of the disclosures required. The only exception to the disclosure requirement is for communications between counsel for Microsoft alone and the attorney general or employees of the Department of Justice alone; any other communications between the government and Microsoft or others on Microsoft's behalf concerning or relevant to the disposition of these actions—even those in which no counsel participated—must be disclosed. See 15 U.S.C. § 16(g). The communications disclosed by Microsoft appear to each involve its counsel of record. This fact, coupled with the absence of any meaningful description of the communications and the lack of any express disclaimer of the existence of communications with the government not involving counsel of record, renders it impossible to determine whether Microsoft has complied with Section 16(g).

According to the House Report, the Tunney Act was intended "'to encourage additional comment and response'" by the public to proposed consent decrees "'by providing more adequate notice to the public.'" 1974 U.S.C.C.A.N. at 6538 (quoting S. Rep. No. 93–298, at 5 (1973), reprinted in 9 Earl W. Kintner, The Legislative History of the Federal Antitrust Laws and Related Statutes 6598 (1984) ("Kintner")). "[E]ffective and meaningful public comment is also a goal." Id. (emphasis added). In addressing Section 16(g) specifically, the House Report emphasized that Congress "intend[ed] to provide affirmative legislative action supporting the fundamental principle restated by the Supreme Court ... [that it] 'is not only important that the Government and its employees in fact avoid practicing political justice, but it is-also critical that they appear to the public to be avoiding it if confidence in the system of representative Government is not to be eroded to a disastrous extent.'" Id. (quoting United States Civil Serv. Comm'n v Nat'l Ass "n of Letter Carriers, AFL-CIO, 413 U.S. 548, 565 (1973)); see also Kintner, at 6600 ("antitrust violators wield great influence and economic power," and "additional comment and response" from the public would alleviate much of the "significant pressure" violators could often "bring ... to bear on government, and even on the courts, in connection with handling of consent decrees"). Indeed, when Senator Tunney first introduced his bill, he focused on the significance of the disclosure provision. "Sunlight is the best of disinfectants," he explained (quoting Justice Brandeis), and thus "sunlight ... is required in the case of lobbying activities attempting to influence the enforcement of the antitrust laws." 119 Cong. Rec. 3453. The disclosure provision was only slightly altered before passage, and the amendments were designed "to insure that no loopholes exist in the obligation to disclose all lobbying contacts made by defendants in antitrust cases culminating in a proposal for a consent decree .... "1974 U.S.C.C.A.N. at 6543.

The New York Times respectfully submits that Microsoft's disclosures are inadequate to serve these statutory purposes, i.e., to assure the Court and the public that the parties agreed upon the revised proposed Final Judgment at arms length and without the exertion of any improper or undue influence. The public has a statutorily recognized right to information sufficient to make this determination. For this reason, The New York Times respectfully suggests that Microsoft should be required to supplement its disclosures to: (1) identify the location, date and, where possible, time of each communication; (2) identify the names and titles of all persons present for each communication; (3) state the purpose of the participation in each communication by those other than counsel of record; (4) describe the substance of each communication; (5) disclose any other required communications, if necessary; an (6) certify that there exist no further communications required to be disclosed.

Sincerely,

LEVINE SULLVAN & KOCH, L.L.P.
By
Lee Levine
Jay Ward Brown
Enclosure

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Plaintiff,
Civil Action No. 98–1232 (CKK)
v.
MICROSOFT CORPORATION,
Defendant.

STATE OF NEW YORK ex. rel.
Attorney General ELIOT SPITZER, et al.,
Plaintiffs,
Civil Action No. 98–1233 (CKK)
v.
Next Court Deadline: March 4, 2002 Status Conference
MICROSOFT CORPORATION,
Defendant.

DEFENDANT MICROSOFT CORPORATION'S DESCRIPTION OF WRITTEN OR ORAL COMMUNICATIONS CONCERNING THE REVISED PROPOSED FINAL JUDGMENT AND CERTIFICATION OF COMPLIANCE UNDER 15 U.S.C. § 16(g)

In conformance with. Section 2(g) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16(g), defendant Microsoft Corporation ("Microsoft") respectfully submits the following description of "any and all written or oral communications by or on behalf of" Microsoft "with any officer or employee of the United States concerning or relevant to" the Revised Proposed Final Judgment filed in these actions on November only "communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice alone."

(1) Following the Court's Order dated September 27, 2001, and continuing through November 6, 2001, counsel for Microsoft met on a virtually daily basis with counsel for the United States and the plaintiff States in Washington, DC After the Court appointed Professor Eric Green of Boston University School of Law as mediator on October 12, 2001, Professor Green and his colleague Jonathan Marks participated in many of those meetings. From October 29, 2001 through November 2, 2001, Will Poole, a Microsoft vice president, also participated in some of the meetings.

(2) On October 5, 2001, counsel for Microsoft met with representatives of the United States and the plaintiff States in Washington, DC to answer a variety of technical questions. Linda Averett, Michael Wallent, Robert Short and Chad Knowlton of Microsoft attended this meeting, as did Professor Edward Felten of Princeton University, one of plaintiffs'' technical experts. Microsoft certifies that, with this submission, it has complied with the requirements of 15 U.S.C. § 16(g) and that this submission is a true and complete description of such communications known to Microsoft.

Dated: Washington, D.C, December 10, 2001

Respectfully submitted,

William H. Neukom John L. Warden (Bar No. 222083)
Thomas W. Burt Richard J. Urowsky
David A. Heiner, Jr. Steven L. Holley
Diane D'Arcangelo Michael Lacovara
Christopher J. Meyers Richard C. Pepperman, II
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Charles F. Rule (Bar No. 370818)
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1001 Pennsylvania Avenue, NW
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MTC–00029784

James Hall
Attorney at Law
47 E. Wilson Bridge Road
Worthington, Ohio 43085–2301
Telephone: 614–885–3500
Fax. 614–527.18
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ash croft:

I would like to start by saying that I am neither pro nor anti-Microsoft. I do however believe in right and wrong. What the government has done to Microsoft over the past three years is definitely wrong. This letter is to show my support for the settlement that was reached with Microsoft. I do not support the settlement because I agree with it; I support it because it brings an end to one of the most absurd lawsuits I have ever seen.

There was not a single reason why the government should have brought Microsoft to court at all. I do not agree with all of their practices, but they have never broken the law. I guess that does not matter when the competition of Microsoft spends more money lobbying to get them in trouble than it does on their own research and development. I suppose the competition can now rest easy in the fact that their money was well spent. Microsoft has agreed, just to get this madness over with, to not retaliate against the competition if they produce software that competes with Microsoft's. Let's examine the word "competition" American Heritage Dictionary as defines it: "the act of competing, as for profit or a prize rivalry". Microsoft took part in just that; they were competing for a profit. They made this profit, and did great things with it. Millions of dollars in profits were donated to charities other profits were used to establish scholarship funds for college students. Clearly Microsoft isn't some sort of evil corporation.

We need to end this senselessness now. The lawsuit should never have been necessary in the first place.

Sincerely,

James Hall

MTC–00029785

January 27, 2002
FAX TO: ATTN: MS. RENATA B. HESSE
U.S. DEPARTMENT OF JUSTICE
202–307–1454
RE: MICROSOFT SETTLEMENT

Dear Ms. Hesse:

The proposed settlement is, I believe, fair and equitable for all concerned.

. Microsoft will continue to provide new software that will integrate new products;
. Competitors will have more Windows access to incorporate in their products, making them more compatible;
. Software manufacturers will resume the creation of new products;
. Consumers will have wider choices among software products; and
. Investors will enjoy stability in the marketplace.

Sincerely,

William F. Summerfield

MTC–00029786

January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to give my approval to the agreement between Microsoft and the Department of Justice. This is a reasonable settlement for all and it is time to put this matter behind us and move on. I am somewhat irritated with the entire lawsuit, as the competitors of Microsoft are coming across as a bunch of whiners who, because they are not producing a quality product, cry and run to the government to bail them out instead of doing a better job at their own production and marketing.

Be that as it may, Microsoft and the Justice Department worked out a fair agreement. Microsoft agreed to open the company up to more third parties making available more of its copyrighted code to aid in development of third party programs; Microsoft has agreed to disclosure various interfaces that are internal to Windows' operating system, and have agreed to a three person technical committee to oversee future compliance. This is more than enough.

I urge you to give your support to this agreement and allow this country to get back to business.

We desperately need to.

Sincerely,

James P. Duggan

MTC-00029787

Anthony Perrella
6017 Java Plum Lane
Garden Lake Estates
Bradenton, FL 34203
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my full support of the recent settlement between the US Department of Justice and Microsoft in the antitrust case. The case has taken too long to settle and needs to be finalized to serve the best interests of the public.

The terms of the settlement reflect the intense lobbying efforts on the part of Microsoft's competitors. Microsoft is agreeing to disclose interfaces that are internal to Windows operating system products—a first in an antitrust case. They have also agreed to grant computer makers broad new rights to configure Windows so that non-Microsoft products can be promoted more easily.

It is time for your office to use its influence to press for an end to this matter. There are nine states out there looking to continue litigation, and it is my belief that your office should be active in suppressing this silly notion. Our nation cannot afford further litigation, and we need Microsoft back at full strength.

Sincerely,

Anthony Perrella

MTC-00029788

20 B S Main Street Alburg, VT 05440
January 15, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft

I am writing to you today to voice my support for the Microsoft settlement. Three years have now passed since the beginning of this case During this time, much money has been wasted. Federal dollars have been squandered on court mediators and countless extensions. The settlement of this case then is a welcome end to the protracted ??gation.

The settlement that was reached is equitable Microsoft agrees to share with its competitors some of the workings of its operating system. This gives developers the freedom to design software that will be mereasingly compatible with the Windows system. While this is a large concession on behalf of Microsoft. I agree with Microsoft's support of the settlement. The settlement allows Microsoft to finally resolve this issue. Getting back to business is important to Microsoft.

I agree with Microsoft's decision to settle this case. I believe that the terms of this agreement are fair. I hope that the Justice Department will enact this settlement as soon as possible.

Sincerely,

Richard Bayer

MTC-00029789

KerrAlbert
Office Supplies & Equipment
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

The Justice Department's anti-trust lawsuit against Microsoft has gone on for much too long, and I would like to express my support for the settlement that the two sides reached in November of last year. It is a fair compromise that will benefit all parties involved, and I would like to see it finalized in the near future.

The government should not interfere with Microsoft simply because it is a successful company. Yet Microsoft has agreed to allow other independent companies new rights that will allow them to promote their own products (rather than Microsoft's) within the Windows operating system. Microsoft will not ?? against computer makers that choose to do this, and the result will be stronger competition in the industry. Once competition increases, consumers will have more to choose from, and the technology industry will receive a real boost.

I believe the Justice Department made the right decision in settling this lawsuit. Microsoft can no go back to developing the types of ideas that have made it the successful company it is today, and the government can begin to focus its time and money on more important issues.

MTC-00029790

45 Springfield Street # 1
Belmont, MA 02478
January 28,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter to express my opinion about the settlement that has been reached between Microsoft and the Department of Justice.

First off, I am NOT 100% in Microsoft's camp. I have tried MANY of their competitors" products: very few are truly better when you take all of the real world factors into consideration. The pattern has been simple all along: Microsoft sees a product in the marketplace, imitates it until it is as good as the competing product, and then (now this is the KEY) they surpass their competitor's product. This is really the driving force behind the technicalities of the lawsuits. You cannot even imagine how much it disgusts me that companies are allowed to sue because another company bettered their product.

If I were Bill Gates, I would be so outraged that I would move Microsoft to Canada. I have consulted for EMC Corporation in Ireland so I know firsthand that the U.S. is losing ground as THE place to be for technology. If our court system continues to allow cases as outrageous as this, no business will want to set up shop here.

Who's going to file a lawsuit next? Palm, Inc.? Well, I'm a registered Palm developer and if they file a lawsuit, guess who will be switching to Windows CE devices?

I obviously think this case should have been thrown out of court on the first day, but since it was not, please just get it over with and APPROVE the settlement. Thanks.

Sincerely,

David M. McNamara

MTC-00029791

Raymond L. Barker, CPA
3967 Hancock Forest Trail,
Annadale, VA 22003
Telephone: 703473-6066
e-mail lbarkcr@erols.com
Fax 703-208-0709
FAX COVER SHEET
From: Raymond L. Barker [lbarker@ erols.com]
Sent: Monday, January 28, 2002 9:10 AM
To: 'mailto:microsoft.atr@usdoj.gov''
Subject: Microsoft Settlement

The settlement between DOJ and Microsoft should be settled. Each has affirmed that the settlement is hard but fair. To continue to go after Microsoft is counter-productive to our economy.

The AOL suit is outrageous.

Raymond L. Barker, CPA

MTC-00029793

8632 15th Avenue Brooklyn, NY 11228
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This letter is to urge you to give your approval to the Microsoft settlement. This would end three years of court battles between Microsoft and the Department of Justice. The two parties have agreed to this agreement and I do not think it is the place of others to second-guess the decision

The fact that a federal judge accepted it is also evidence of a settlement. It has gone on far too long. It is time to quit wasting taxpayers" money and put some of that money towards things that are needed more, like highways, schools, the environment.

Microsoft has agreed to a great many of the terms demanded by Justice. There is internal interface disclose, computer-maker flexibility, granting computer makers new rights to configure Windows to promote non-Microsoft programs; there is an oversight committee. What more is there? Why should anyone work to make a company work, or invent something, if only to have to give it away? This whole lawsuit sets a very bad precedent.

I urge you to let this decision stand and let us go forwards, not backwards.

Sincerely,

Shirley Hui .

PS: ?? a Corner, I can't be more ?? with ?? products. It's a great ??

MTC-00029794

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FAX COVER PAGE
Attn: ATTORNEY GENE?? JOHN ASHCROFT
Company: US DEPT. OF ??
Phone No.: 202
Fax No.: 202 307 1454
From: Bob BEDD??FIELD
Company: SERVCOMP, INC.
Phone No: 713 935 3600 112
Fax No.: 713 935 3650
Date: 61 28 02
No. Pages: (Including Cover) 2
Message:
ServComp
2700 Post ?? Suit?? 400
713-935-3600
713-935-3650 fox
www.servcomp.com
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

This lawsuit against Microsoft has gone on long enough. There are other Issues of greater Importance facing our county and there is now a settlement In place that will, hopefully, end the hostilities between our government and Microsoft.

Often overlooked throughout the course of this contentious litigation is the fact that there are many other IT companies, that have built their businesses off of Microsoft's leadership and innovative products. While few, of these companies are dependent upon Microsoft, they are dependent upon a reasonable stability In the marketplace. This litigation has disturbed this stability.

The strength of this settlement is that it focuses on remedies for the original issues and leaves Microsoft Intact. I am therefore writing in favor of this settlement, and hope that similar actions will not be brought in the future.

Sincerely,
Bob Beddingfield
Sales Director
ServComp, Inc.
2700 Post Oak Blvd, Suite 600
Houston, TX 77056
713-935-3600, ext. 112
jrb@servcomp.com

MTC-00029795

January 21, 2002
Attn Renata Hesse
US Department of Justice, Antitrust Division
601 D Street, NW, Suite 1200
Washington, DC 20530

The opportunity to make commennts on the Microsoft annual lawsuit is much appreciated with the importance it carries for the economy. We would like to other our opinion for your consideration as you deliberate the proposed settlement of this case.

As the owners of a wholesale plumbing supply company, we understand that government has a role in protecting consumers and businesses from monopolistic behavior. Although we were never supportive or the case against Microsoft, we acknowledge the Court of Appeals findings.

To this end we believe that settlement is the best option for the economy and the high-tech industry.

The key point in our minds in that settlement not only ends the suit, but it does accomoplish what the government set out to do; put a more watchful eye on Microsoft's business practices to ensure consumers are protected.

What we have read about the details of the suit and the settlement talks us that the settlement that is on the table is a good compromise that gives the government what it is seeking, Microsoft some of what it wants, and the economy what it desperately needs. We hope your deliberations bring you to the same conclusion.

Sincerely,
John and Beverly Trimmell, Owners
B & J Wholesale Plumbing Supply
525 S Kansas Avenue
Liberal, KS 67801

MTC-00029796

To whom it may concern:

I am responding to the proposed Microsoft settlement in accordance with the Tunney Act I was someone who has been an IT professional for the past seven years it disturbs me to learn that the proposed settlement will have no real affect on Microsoft and will not restore competition. It is imperative that a settlement to restrain Microsoft include:

1. The equired publishing of API's, file formats, and other protocols to all developers. This is the only way to truly give independent soft-ware companies the ability to compete with Microsoft.

2. Protection to OEM's that wish to load competitive software on their systems. This will allow OEM's to install the software that customers want.

3. Full ??ricing disclosure from Microsoft on how much it charges OEM's for its products. This will allow consumers to make informed choices as to which products are the most cost effective solution.

Thank you for you time.

Mark King

MTC-00029797

January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

As a Microsoft supporter, I would like to see this case concluded. I believe Microsoft has become powerful not by malicious intent, but because it makes a quality product that is reasonably priced.

I do not agree with every decision that Microsoft has made in the past, but I understand the idea of aggressively marketing your own product. Either way, I do not agree with the allocation of scarce state and federal resources on problems that have already been solved.

Under the settlement agreement, Microsoft has promised to change the way it develops, licenses, and markets its software. It has granted computer makers broad new rights to configure Windows to better promote non-Microsoft software on the Windows platform. Also, Microsoft has agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows. Microsoft has opened its inventions to the competition that would see that invention become obsolete. This goes against the very fundamentals of capitalism, but if it ends the case, then Microsoft is willing to concede.

Although the settlement reaches further than Microsoft may have wished, Microsoft realizes that settling sooner is better than settling later. The longer that the case proceeds and innovation suffers, the greater the risk that American products may lose their competitive advantages in the world market. I am convinced that the only reason states would continue litigation would be an effort to appease Microsoft's competitors, rather than to protect consumers. Let's make sure that we don't lose our place as the world leader in the IT industry; let's end this debacle once and for all.

Sincerely,
Randall Baxley

MTC-00029798

28 January 2002
The Attorney General, John Ashcroft
US Department of Justice
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The issue, which should never have begun, has been dragged out long enough and it is time to put the issue to rest. A settlement is available and the government should accept it.

Under the settlement, Microsoft gave in to many concessions in order to return to software design. They have agreed to give computer makers the flexibility to install and promote any software that they see fit, With no fear of retaliation, Microsoft has also agreed to license Microsoft software at a uniform price to computer makers no ma?? software the company decides to install or promote. Also Microsoft has agreed not to enter into any agreement that would obligate a computer maker to exclusively install or promote Microsoft software.

Microsoft has given far too much in order to settle this issue. Microsoft and the technology industry need to move forward, arid the only way to move ahead is to put this issue behind us. In these days, we hear shouts of outrage that the government has not done more to bolster the airlines, Enron, K-Mart, and many other companies in financial trouble. It is truly outrageous that the government should do much to destroy one of the this country's most successful businesses.

As unfair as it is to Microsoft, ask you to please accept the Microsoft antitrust settlement.

Michael R. Yosko

MTC-00029800

7199 Bahne Road
Fairview, TN 37062
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We wanted to write to you today to express our dismay over the Microsoft antitrust dispute. As Americans, we feel that this quit is contrary to the very ideals of Free trade and capitalism theft we treasure in this nation. It is our opinion that punishing a company or an individual for demonstrating the very cleverness and ingenuity upon which we have built this nation is un-American.

Americans are unlike any other people in the world. It is our goal to became a success; to became something marc than our Fathers and grandfathers were: to start with nothing more than a good idea and a diligent work ethic and end up a success. This is the American dream, and it is this dream that is under attack in this suit.

This litigation is not a question of whether or not Microsoft violated antitrust laws. It is a question of whet her or not we, as Americans, have the right to become successful without the interference of the government. We are pleased that this heinous suit has finally reached a conclusion that is satisfactory to all of the parties involved. However, it is our fondest wish that none of this unpleasant litigation had begun in the first place, Please keep the government out of the private sector. Thank you.

Sincerely,
Don Crohan
Gayle Crohan

MTC-00029801

Robert Agness
608 Juanita Court
The Villages, FL 32159
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a concerned citizen who would like to see this process ended,

I would like to ask for your approval of the proposed agreement in the Microsoft antitrust lawsuit. This legal action appeared to have been punishment for not having given enough campaign contributions to the previous administration, which then led down the ridiculous path of Judge Jackson trying to break up Microsoft.

It is time to come back down to earth and accept this more reasonable compromise without further legal action.

The fact is that Microsoft has done more than any other company to move the PC industry forward over the last 20 years. With such advantageous terms, the Justice Department should finalize this deal and let this company continue to work toward further innovations. Considering Microsoft's flexibility of allowing non-Microsoft software programs to be placed on Windows, and offering to license intellectual property and access to its internal code, the competition should be quite pleased with this decision.

It is time to end the arduous legal proceedings and get back to priorities. Please keep Microsoft intact and the software industry stabilized by moving forward with this plan. Thank you very much for your support.

Sincerely,
Robert Agness

MTC-00029802

FAX
DATE: 12802
TO: Renata Hesse, Dept of ??
202, 616, 9937
FROM: Kim Waltman
Number of pages: (including cover sheet) 2
Please call 815-282-8053 if you do not receive all pages indicated.
Message:
January 28, 2002
Ms. Renata Hesse
Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am writing to you regarding you the Microsoft lawsuit. This lawsuit was brought against Microsoft by the federal government. During the course of this three-year lawsuit, the federal government has spent $30 million pursuing their case. The funding for the federal government's case comes from the taxpayers of this country.

This case has had its day in court. And the Court of Appeals has ruled to do away with the lower courts' plan to break up the company. Let's put an end to the lawsuit. At this point, spending any additional taxpayer money would just be sending good money after bad. The proposed settlement agreement is the only logical solution.

If this case is carried out any longer, it will only result in unnecessary increased expenses to consumers. I believe any additional public funds spent on this lawsuit are not being used for an appropriate cause. That is why I am asking that you move ahead with the settlement agreement without delay. The agreement will close the book on this overdone court case and allow us to move forward into the next century of technological advancements.

Thank you for giving consideration to my opinion.

Sincerely,
Kim Waltman
Founder
InSync Communications

MTC-00029803

10852 NORTH KENDALL DR # 208
MIAMI, FLORIDA 33176-3469
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

We are writing to show our support for the Microsoft antitrust settlement. It is of vital concern to this country that a climate of stability and support by established for American businesses to flourish. With the grave challenges facing America now, both in the domestic economy and around the world, self-destructive legal abuse is uncalled for.

Microsoft has shown that it is willing to bend over backwards to reach a settlement that will help its partners and competitors perhaps more than itself. The settlement, whatever the effect it has on Microsoft, will greatly help the broader American technology industry. Software companies will be better able to have their products work with Microsoft's Windows operating system when Microsoft makes the code for the internal interfaces and server interoperability protocols that tie program together available. Computer manufacturers will have more flexibility to contract with other companies, like AOL Time Warner, RealNetworks, and Symantec to substitute their products for the program Microsoft includes in the standard Windows installation, such as internet Explorer. The American computer industry should benefit from the settlement I welcome your support and leadership for the settlement, Mr. Attorney General, The Federal Judge who will be deciding on the settlement should approve it in the best interests of the American public.

Sincerely,
Axel Heimer

MTC-00029804

OnQuest Technologies, Inc
January 17, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Whatever might be said of this lawsuit against Microsoft, it is, in my opinion, good that the entire case has settled. Without necessarily taking sides on any of the issues explored during the court proceedings, at the very least it can be observed that the tone was contentious and unnecessarily inflammatory.

All of this has apparently created a perceptible nervousness among consumers that has, in turn, adversely affected both sales of computer products, as well as the economy in general.

I am therefore writing to convey my support of the settlement, as well as my hope that there will be no further federal action against Microsoft, or any other IT company. The settlement assures that Microsoft will commit to better business practices, and change its software to reflect that.

Starting with the next release of Windows XP, Microsoft will make their software easier to use for non-Microsoft software developers, and Microsoft will even make it easier for developers, since Microsoft will release its interfaces and protocols to them so they can be more competitive.

This really is more than a slap on the wrist; it's a whole new way of doing business.

Sincerely,
Luis Navarro
President

MTC-00029805

January 28, 2001
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
Fax: 1-202-307-1454

Dear Mr. Ashcroft:

This letter pertains to the recent settlement of the antitrust lawsuit between Microsoft and the Department of Justice. I am in favor of leaving the company as it is—NOT breaking it up. Let's accept the terms of the settlement and let Microsoft and the industry move forward.

I support final adoption of the settlement as soon as possible. I feel the terms are reasonable and fair to all parties—they meet, or exert go beyond, the ruling by the Court of Appeals. This has been going on far too long.

Helen M. Pickering
3815 E. Funk Avenue
Spokane, WA 99223

MTC-00029806

COLESYSTEMS
Business Applications
Networking Technologies
Software Development
Web Commerce
Training

January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I have always believed that it was a bit overzealous for our government to have actually reacted with a federal lawsuit against Microsoft simply because a few of Microsoft's competitors had suggested it. I agree that Microsoft may well have employed aggressive marketing and sales tactics, but these tactics had never risen to the level of needing federal court intervention. I worry more about any business that doesn't aggressively pursue sales.

The IT business, by its very nature, is a very fluid business. Where one particular company may be dominant today, another will be tomorrow. It is incumbent upon all who hope to survive in the IT world to change with the current times and technologies. Any company that does not—even a company with the apparent invulnerability of Microsoft—will soon find itself relegated to yesterday's outmoded ideas. By the very nature of the IT business, therefore, Microsoft would have had to change to remain competitive. The limitations on Microsoft brought on by the settlement, such as disclosure about internal interfaces of Windows, will only make trade secrets public, and prepare IT engineers for the "next big thing."

The irony here is that this lawsuit, and the subsequent settlement, only delayed what would have had to happen on its own anyway. I am hopeful that this marks the end of any federal action against Microsoft, or any other IT business.

Sincerely,
Ivan Cole
Chief Technology Officer

cc: Representative Jerrold Nadler
174 Hudson Street
New York NY 10013
Phone: (212) 965 6400
Fax: (212) 965 6401
Toll Free: 888-COLESYS
Web: http://wwwcolesys.com

MTC-00029807

David Millage
STATE REPRESENTATIVE
Forty-First District
Statehouse (515) 281-3221
e-mail—dmillag@legis.state.ia.us
HOME ADDRESS
3910 Aspen Hills Drive
Bettendorf, Iowa 52722
Home: (319) 332-8723
Office: (319) 388-8417
House of Representatives
State of Iowa
Seventy-Ninth General Assembly
STATEHOUSE
?? 50319
COMMITTEES
Appropriations, Chair
Judiciary
Labor & Industrial Relations
State Government

January 28, 2002
Renata Hesse
Department of Justice, Antitrust Division
202-616-9937
VIA FACSIMILE

Ms. Hesse:

Iowa Attorney General Tom Miller's leadership in the Microsoft antitrust case has caused many Iowans to track the situation with a watchful eye.

According to the Wall Street Journal, Miller "was the one who originally cooked up the idea of a multi-state assault on Microsoft." (November 9. 2001) Regarding the case, Miller told the Journal, "Everyone knew it was high profile. This one was a no-"??rainer." (The same article on November 9, 2001.)

I serve as Chair of the Iowa House Appropriations Committee and I am trying to solve the sizable budget deficit the State of Iowa is facing. I have publicly urged AG Miller to sign on to this settlement and bring this case to an end.

The state is scraping for every dollar in a time of budget cuts, yet our state attorneys are spending staff time and money pursuing this case—that has not and likely will not bring anything back to our state. Thus far, Miller has claimed over $1.1 million in spending on the case. Of the 19 states involved when that claim was filed, only three states topped Iowa's spending, including much larger states like California and New York. According to the Wall Street Journal, Miller is a main reason several states are balking at a settlement, "...some state pols will stoop lower than others to latch onto a celebrated case in hopes of boosting their name recognition for future electoral ambitions. These antics might have been tolerated when the economy was stronger. but such frivolity looks conspicuously out of place after September 11. In light of the discovery that we have real enemies in the world, suffice it to say the Microsoft prosecution looks more myopic and perverse than ever."—Wall Street Journal. "Finally, A Settlement" Nov. 2.

The hard-earned money of taxpayers can be better spent, and consumers will be no better off if this case are prolonged. At a time of belt-tightening all over the country, the attorneys general who remain on the case are acting like they have unlimited resources for an indefinite pursuit of an American business that anchors a sector of an already limping economy.

Americans deserve fiscal responsibility from their government. Please We strong consideration to approving the settlement in this case.

Sincerely,
David Millage
Iowa House of Representatives

MTC-00029808

Lon Anderson
REPUBLICAN CAUCUS STAFF
IOWA HOUSE OF REPRESENTATIVES
STATE CAPITOL
Des Moines, Iowa 50309
(515) 281-5184

January 28, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

With utter consternation, I have watched my state attorney general continue to battle Microsoft on the issues raised in the current lawsuit pending with the U.S. Department of Justice. I'm not clear on his motives, given that Iowa is facing a severe budget crisis and the expenses of his continued crusade against Microsoft would be much better used to aid Iowans with their education and security budgets than it is to relentlessly pursue one of the most successful companies in the country.

I'm always amazed when politicians like Tom Miller conveniently use lawsuits as a means to advance their own personal agenda at the expense of the taxpaying public they claim to represent. Anyone with any common sense realizes how ludicrous it is to continue this lawsuit when a settlement has been proposed that addresses the concerns raised in the original complaint.

In my opinion, from its onset, this lawsuit was brought by jealous colleagues who are in awe of Bill Gates and his phenomenal capacity to invent and market his products. Isn't that what America is all about? In a few short years, Gates built one of the most successful and profitable companies in the world, which, by the way, made billions of dollars for investors across the globe. To portray this man as an evil to be "dealt with" is unfair and unwarranted. The Bill Gates and Microsoft legacy will be one that stands the test of time.

Settle this nuisance lawsuit as quickly as possible so we can all get back to business.

Sincerely,
Lon Anderson
Research Analyst

MTC-00029809

To,
The Department of Justice,

United States of America.

Dear Sir or Madam:

Sub: Opinion on Microsoft settlement

Since it has been proven in US court of justice that Microsoft Corporation has been unlawfully maintaining its monopoly, violating US competition laws. Being a software engineer for about 3 years now I have been in situations when I was a victim of the unlawful monopoly and hence, I would like to make a few suggestions and give possible solutions so that the fights and freedom of people like me is protected in the free market.

Firstly, the judgment has overlooked an important aspect. All OEM's licensing Microsoft software should be made to provide an option without the Microsoft product. For e.g., An OEM selling desktop computers preinstalled with Microsoft Windows Operating System should give an option of a desktop without the Microsoft software. The rationale being "Why should a consumer who just wishes to buy a desktop computer be forced to have Microsoft software we-installed on it." Currently there is not a single portable computer (notebook) in the market which offers a option other than Microsoft Windows.

Though its good to see nearly all clauses of the "Prohibited Conduct" talk about the Microsoft licensing policy in the section of the judgment. But, a very important aspect has been missed out: Currently Windows OS overwrites the Master Boot Record so that no other preinstalled operating system would be recognized. Microsoft should be asked to make changes to their OS so that it stops it intrusive behavior and thus making other OS to co-exist on the same machine.

Sincerely hoping that my comments would be helpful to the justice effort.

Regards,
JayaBharath Goluguri
Texas Instruments Inc.
P.O. Box 660199
12500 TI Boulevard, MS 8723
Ph: 972–978–6807(c)

MTC–00029610

To the United States Department of Justice:

Sub: Opinion on Microsoft settlement

I am writing in response to the proposed settlement which is currently under the 60 day public comment period. I consider myself to be a person whom the outcome of this case will have a very significant effect. Since it has been proven in US court of justice that Microsoft Corporation has been unlawfully maintaining its monopoly, violating US competition laws. Being a software engineer for about 3 years now I have been in situations when I was a victim of the unlawful monopoly and hence, I would like to make a few suggestions and give possible solutions so that the rights and freedom of people like me are protected in the free market.

Firstly, the judgment has overlooked an important aspect. All OEM's licensing Microsoft software should be made to provide an option without the Microsoft product. For e.g., An OEM selling desktop computers preinstalled with Microsoft Windows Operating System should give an option of a desktop without the Microsoft software. The rationale being "Why should a consumer who just wishes to buy a desktop computer be forced to have Microsoft software pre-installed on it." Currently there is not a single portable computer (notebook) in the market which offers a option other than Microsoft Windows.

Microsoft has been using open standards in its products and then making some proprietary extensions and claiming all rights over it including closing the source of the so-far open protocol How can Microsoft claim trade secrecy for a protocol that is distributed over the Internet? For example the ‘Kereberos” case.

Microsoft makes it unable for prospective purchasers of its operating system to make informed judgments regarding interoperability with other operating systems in connection with their purchasing decisions. Also it overwrites MASTER BOOT RE CORD of all other previous OS's thus ensuring that user does not have access to his/her OS, other than WINDOWS. The fact is that now, Microsoft has a monopoly on not only operating systems, but also to a lesser degree, office software and web browsers. They have blatantly and obviously abused this monopoly in many cases over the years and it has to stop. The DOJ has made that very clear. However the penalties sought to be imposed nor the agreement between the DOJ and MICROSOFT do not properly address and punish MS for its judged illegal Monopoly. All communication standards and protocols and API, file system formats must be made open source so that all developers can effectively compete and produce more efficient software for the users who are currently forced into buying MS software by various illegal means.

Sincerely hoping that my comments would be helpful to the justice effort.

Regards,
Ravi Shankar R Jagarapu
University of Texas at Dallas
2200 Waterview Pkwy, # 2125
Richardson, TX 75080
Ph: 972–437–2846

MTC–00029611

Tim Pawlenty
Majority Leader
District 38B
Dakota County
COMMITTEES: CHAIR, RULES AND LEGISLATIVE ADMINISTRATION
Minnesota House of Representatives
January 28, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

I applaud the leadership displayed by the Department of Justice and the nine Attorneys General for developing the proposed Microsoft settlement agreement that balances the protection of consumer interests and the competitive process.

I believe that this settlement will preserve Microsoft's ability to innovate and engage in normal procompetitive activities, critical during our nation's current economic recession. At the same time, the settlement is a win for consumers, with its broad scope of prohibitions and obligations imposed on Microsoft. It will certainly require substantial changes in the way that Microsoft does business. It imposes significant costs on the company and entails an unprecedented degree of oversight. Furthermore, the agreement strikes an appropriate balance within the technology industry, providing opportunities and protections for firms seeking to compete while allowing Microsoft to continue to innovate and bring new technologies to market.

This reasonable settlement will help consumers, the industry, and the economy to move forward.

Very truly your,
Tim Pawlenty
Majority Leader

MTC–00029612

Raymond E Beal
300 E 27th St
Dover OH 44622
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

After three long years of court battles Microsoft and the Department of Justice have reached a settlement regarding the anti-trust stilt. I believe that the settlement will be beneficial to both the IT industry and the consumers alike. It is necessary that all those who are involved in this suit put aside their differences and work to put this issue behind them. I would like to go on record as being a staunch supporter of the settlement.

This settlement went further than what Microsoft would have liked, but they believe that settling the case now is the right thing to do to help the industry and the economy move forward. The agreement is fair and reasonable, and was arrived at after extensive negotiations. The industry will be more competitive since Microsoft has agreed not to retaliate against competitors who produce, promote and ship software that competes with Microsoft's.

I am satisfied with this settlement since it is fair and reasonable to all parties involved.

Sincerely,
Raymond Beal

MTC–00029613

Stephen and Diane Walter
1460 Mills Court
Menlo Park, CA 94025
28 January 2002
Renata B. Hesse
Antitrust Division
US Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–001
Fax: 1–202–307–1454
1–202–616–9937

RE: Microsoft Settlement

We urge the Department of Justice to withdraw its consent to the revised proposed Final Judgment. The agreement, as it now stands, will allow Microsoft to extend its monopoly to most if not all aspects of computing. The new settlement allows firms better access to APIs necessary to work with Windows, which only reinforces the Windows monopoly.

We ask that you (1) restrict Microsoft's practice of forcing Internet Explorer in contractual tying, (2) restrict their practice of giving favorable Windows pricing deals to OEMs, (3) require Microsoft to allow users to remove icons from Windows desktops, (4) restrict Microsoft's bundling of middleware to force its monopoly, (5) re-insert the source code licensing provision of the 2000 DOJ settlement, and (6) allow OEMs to modify Windows to add features.

As you are aware, it is small business that its the fire of the US economy. By allowing Microsoft to extend its monopoly as your proposed agreement will do, you are in essence a□lowing them to continue chasing small companies out of business. Microsoft tolerates NO competition—no matter how small, Please, please take this shark out of the waters of our economy.

Sincerely,
Diane Walter

MTC-00029814

632 Khyber Lane
Venice, FL 34293
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The nine plaintiff states in the Microsoft antitrust case who are seeking to overturn the settlement reached last November are claiming to act in the best interest of the public. They are mistaken. I do not understand the intricacies of the Microsoft antitrust case. but I do know that extended litigation would be anything but beneficial to the consumer. I do not believe it is necessary to continue litigation at this point. Extended suit can only result in wasted time and money.

The settlement is reasonable. Microsoft will be allowed to remain intact, and it will also retain control over its software, but it will be required to give its competitors access to various parts of Microsoft technology and to refrain from monopolistic actions. For example, Microsoft will not be permitted to enter into any contracts that would require a third party to distribute Microsoft software either exclusively or at a fixed percentage.

It is wrong for States to attack Microsoft under the guise of protecting the consumer. Consumers benefited from Microsoft's developments & marketing. Allowing these nine states to cause the existing ruling to be overturned will only result in expensive litigation, which is contrary to the best interest of consumers.

Thank for your consideration.
Kenneth Twigg

MTC-00029815

620 Terrace Place
Norman, OK 73069–5037
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I completely disagree with the last three years of litigation against Microsoft. The government has no right to keep messing around with private enterprise and it stands to reason why the economy took a turn for the worst when America's number one company is a victim of lawsuits brought on by the Attorney General and Microsoft's competitors.

The terms of the settlement are not fair as they force Microsoft to disclose interfaces that are internal to Windows" operating system products. They also force Microsoft to grant computer makers broad new rights to configure Windows so that competitors can more easily promote their own products.

Although the terms of settlement are not fully justified, I urge your office to implement it as soon as possible, because our economy cannot afford further litigation against it. Thank you.

Sincerely,
Glen Bell
cc: Senator Don Nickles
Representative J.C. Watts, Jr.

MTC-00029816

decisionmarkTM
818 Dows Rd. S.E., Cedar Rapids, Iowa 52403–7000
Phone: 319–365–5597
Fax: 319–365–5694
January 28, 2002
Renata Hesse
Trial Attorney
Anti-Trust Division
U.S. Department of Justice
601 D St., NW
Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

It is no secret that one of the reasons that Microsoft has succeeded is that the federal government has had very little control over the technology industry. Over-regulating this industry will slow progress.

Technology has fueled the current economic expansion and we should be looking to preserve its status rather than take it down. As a regular consumer of high technology products, I enjoy the benefits of a free and competitive market prices are affordable, the products are of high quality, and the rate of development is the fastest of any market in the world.

There is now an agreement between the opposing parties in this case that designates a fair system of checks and balances. Additionally, it sets out a plan to monitor future activities and a technology committee to enforce them.

Resolving this case once and for all is not only beneficial to the courts and all participants, but also to the marketplace, t hope you will accept this fair agreement.

Sincerely,
David Cechota
2311 Bever Ave SE
Cedar Rapids, IA 52403

MTC-00029817

Carolyn Sergel
3100 Springdale Boulevard
Lake Worth, Florida 33461
January. 22, 2002
Attorney General Ashcroft
US Department of Justice
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing in full support of the recent settlement between Microsoft and the US department of Justice. Although I think the lawsuits have dragged on too long to date, I am happy to see a settlement has been reached. I am confident that the settlement will serve the public's best interests and protect the consumer.

The terms of the settlement are more than fair. Microsoft will be forced to document its Windows interface codes for competitors. It will also be monitored by a special "Technical Committee" that will make sure that it stays within the bounds of the settlement.

Our nation cannot afford to continue litigation on fids issue. For the sake of our IT sector and economy, please finalize the settlement. Microsoft needs to focus on business, not politics.

Sincerely,
Carolyn Sergel

MTC-00029818

4040 Lake Forest Drive W
Ann Arbor, MI 48108
January 2.5, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to ask the Department of Justice to accept the Microsoft antitrust settlement The suit by AOL that Microsoft has violated antitrust laws is outrageously beyond my reasonable imagination. Microsoft has done nothing wrong and both companies should work together as well as on a competitive bases to improve the benefit of end customers. It is absolutely bad idea for both companies and the government to spend their resources for nothing. A settlement is in place and the terms are fair, I would like to see the government accept it.

I believe the settlements by Microsoft are more than I could think of as a private company could endure. At the same time, the Justice Department should use its resources from tax dollars in more productive ways for the consumers than harassing Microsoft as a company.

Sincerely,
Seha Son

MTC-00029819

January 24. 2002
Attorney General ,John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion m regards to the Microsoft settlement that was reached m November. I favor Microsoft and support the settlement that was reached by Microsoft and the DOJ. I am anxious to see an end to the costly litigation that has gone on for throe years. Microsoft has agreed to all terms and conditions of this agreement, and will be monitored by the government to ensure, compliance with the agreement Under this agreement, Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs that. compete with programs included within Windows. Microsoft has also agreed to disclose information about. various internal interfaces in Windows. This litigation is costly and a waste of time. I urge you to support this settlement so Microsoft. can be free to design and market its innovative software, which will benefit our society. Thank you for your support. Sincerely,

Roger Perer??
3616 Spokeshave Lane
Matthews, NC 28105

MTC-00029820

Fax Cover Sheet
James and Christianna Downs
3624 Thai Road
Titusville, FL 32796-4017
(321) 267-2485
1-202-307-1454
Supporting comments regarding current Microsoft settlement issue.
James and Christianna Downs
3624 Thai Road
Titusville, FL 32796
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We are writing you today in regards to the Microsoft settlement issue, We support the settlement that was reached in November and feel that this costly dispute has gone on too long. Further pursuit of Microsoft will cement the impression held by stockholders that our government is simply conducting a harassment program, Shame on those responsible!

The current settlement is thorough and complete. Microsoft has agreed to share more information with other companies and give consumers more choices. Microsoft has agreed to disclose for use by its competitors various interfaces that are internal to Windows' operating system products.

Microsoft has also agreed to grant computer makers broad new rights to configure Windows in order to promote non-Microsoft software programs that compete with programs included within Windows. Computer makers will now be free to remove the means by which consumers access various features of Windows, such as Microsoft's Internet Explorer web browser, Windows Media Player, and Windows Messenger.

Unfortunately for stockholders, this settlement will benefit companies attempting to compete with Microsoft. We accept that consequence, as this settlement will benefit consumers and will be good for stimulating our lagging economy. Please support this .settlement so our precious resources can be funneled into more pressing issues. Thank you for your support.

Sincerely,
James and Christianna Downs

MTC-00029821

The Seale Group, Inc.
The Source for Developer Training
January 28, 2002
8601 Dunwoody Place Suite 310
A??anta, Georg?? 30350
(770) 992-4888
FAX (770) 992-1296
www.seste.com
Attorney General John Ashcroft
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

The government's case against Microsoft quickly degenerated into such a war of rhetoric that it became impossible to decipher the real issues. It is my opinion that the government has badly misunderstood the free market concept of employing aggressive marketing techniques over and against its contention that Microsoft was in any way attempting to create an atmosphere of unfair competition.

However, now that the case has entered into the settlement phase, these questions will remain unresolved. I am writing to suggest that the settlement itself is a decidedly better option than the continuation of the litigation. However, I may have some misgivings over some of the more salient terms of the settlement, particularly the provisos for information and divulging of intellectual property.

Sincerely,
Christopher Seale President

MTC-00029822

January 28, 2002
Renata Hesse
Trial Attorney
Department of Justice Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530
Re: U.S. vs. Microsoft

Dear Ms. Hesse:

This letter will acknowledge my support for the settlement reached by the Department of Justice and Microsoft Corp.

Realizing the time and expense involved, there does not appear to be further reason to expend any more taxpayer money on an already long drawn out process. This case appears to have been thoroughly litigated and attempts by competitors to influence judicial review appear unfounded and contrary to the best interests of the consumer.

Thank you for the chance to express my view of this very important issue.

Sincerely,
Susan B. Sweetland
Account Executive
Fax: 202 616-9937

MTC-00029823

RE: Microsoft Settlement
January, 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

While my business has not been adversely affected by this lawsuit against Microsoft, had it continued to its anticipated bitter end, I cannot help but think that all IT businesses would somehow have been hurt.

There is a perception that Microsoft had grown a little too big and successful for its own good. Adding to that perception is the allegation that they had treated much of their customer base (the OEMs) with a certain amount of undue, over-protective suspicion. However, this has more than adequately addressed in the settlement, and the settlement has ample protections figured into it.

It is good on several levels that there has been a settlement. While in a few areas, the settlement goes beyond the lawsuit, it does address the initial concerns leveled at Microsoft by their competitors. I am writing to express my support for this settlement, and hope that with it the IT community, can resume business in a more normal fashion.

Sincerely,
Walter A. Householder
President
cc: Representative left Flake Microsoft
SUITE 400 2999 NORTH 44th STREET, PHOENIX,ARIZONA 85018 602.840.4750 FAX 602.840.5250 WWW.KDC-PHOENIX.COM

MTC-00029824

595 Providence Street
Everett, PA 15537
January 22, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

This correspondence is to show my support for the proposed settlement that has been reached between the Justice Department and Microsoft. The litigation has lasted for over three years, and the time has come to worry more about our slumping economy than a company who has been vital to the economy.

It is nice to see that the government and Microsoft both realized that the best way to stop a recession is to attack the problem at its source. As soon as the antitrust suit against Microsoft was announced, the market started to dive. The longer the litigation lasted, the lower our economy sunk. The settlement will allow the IT industry to be more competitive, and Microsoft will have to work closer with their competitors. They will actually share information and source code to their products just so their competitors can make products that are compatible with Microsoft's.

All in all, this settlement is the best thing that could have happened, and I support it all the way.

cc: Senator Rick Santorum
Sincerely,
Robert Harclerode

MTC-00029825

Charles H. Schaaf Jr.
4900 Southwest 31st Avenue
Fort Lauderdale, FL 33312
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

In the interest of ending this costly litigation, I would like to ask for your support of the pending settlement with Microsoft Corporation. This case has been motivated by states that want to protect their weakened software businesses, which would seem antithetical to America's purported belief in the free market system. The case should be wrapped up at the earliest opportunity.

This agreement is a very good one for the competition, as Microsoft has made several gestures to encourage more competition in the industry, even surpassing some of the government's initial complaints. They will allow computer makers to receive universal terms and conditions on licensing the Windows operating system, while working without any contractual quotas to distribute or promote their technologies. Additionally, the broader rights of these companies to offer non-Microsoft software will enable software developers plenty of opportunities to gain a bigger share of the PC market.

In light of the ongoing struggles of the U.S. technology sector, it is time to accept this deal and get these companies back to business. Any further action would only postpone a solution and cost taxpayers more government time and money. I thank you for your support.

I wonder if all the lawsuits that American businesses have to put up with will ruin our economy.

Sincerely,
Charles Schaaf

MTC-00029826

2516 NE 37th Drive
Fort Lauderdale, FL 33308
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I avidly support the Microsoft Corporation and have so for many years. Thus, the federal case against Microsoft over antitrust laws met me with trepidation. I do not believe that the federal government was justified in enacting the outdated antitrust laws against Microsoft. Despite this, however, the settlement that was reached in November is suitable in that it ends the negotiation process.

Microsoft has made many concessions in an attempt to end this process. Microsoft has agreed to disclose much of the internal information regarding the design of Windows. Microsoft has agreed to disclose both the protocols and the design interfaces of the Windows system to its competitors on reasonable grounds. Now Microsoft competitors can access this information when designing software. The software designed from information sharing should result in products that are compatible.

Microsoft has done enough. They have complied with all the terms of the federal government. I believe it is time to put this issue to rest once and for all.

Sincerely,
Wynn Courtney

MTC-00029827

1001 NW 63rd Street Suite 280
Oklahoma City, OK 73116
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to support the implementation of the recent settlement between the U.S. Department of Justice and Microsoft. There is no sense in continuing litigation a against a company that is the only bright in our sorry economy. I do not think the lawsuit should have begun in the first place. Microsoft has made a good offer and the rune states opposing the settlement should accept it. Microsoft is giving away technological secrets, granting broad new rights to computer makers to configure. Windows so as to make it easier for non-Microsoft products to be promoted, and a three-person team will monitor compliance with settlement.

I urge your office to finalize the settlement and to make sure that further unnecessary lawsuits against Microsoft do not occur. Thank you. My losses in the stock market during the past year have been in excess of $2,000,000 and Microsoft is the only bright spot I have left in my technology portfolio, I urge you to get this lawsuit settled and allow Microsoft to work on behalf or the stockholders and America.

Sincerely,
George Platt
CC: Senator Don Nickles

MTC-00029828

STRUCTURAL ASSOCIATES, INC.
General Contractors/Construction Managers
January 28, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D. Street NW, Suite 1200
Washington, DC 20530
Fax: (202) 616-9937
Re: United States vs. Microsoft

Dear Ms Hesse:

I believe that the proposed consent decree between Microsoft and the U.S. Department of Justice provides a fair settlement of this case.

I support the settlement because I believe it is in my best interest as a software user, both Microsoft and other.

Sincerely,
Larry M. Ike
Controller

5903 Fisher Road ?? East Syracuse, New York 13057 ?? Phone: (315) 463-0001 ?? Fax (315) 432-0795 ?? E-mail: info@structuralassociates.com

Regional Office: PO Box 43968 ?? 7939 Honeygo Blvd., Suite 226 ?? Baltimore, Maryland 21236

Phone: (410) 931-0905 ?? Fax (410) 931-0135 ?? E-mail: bill@graytechnologies.com

MTC-00029829

MASTERMAN ADVOCATES
Beth J. Masterman, Esq.
4 Philbrook Terra??e
Lexington, Massachusetts 02421
Telephone: (617) 227-9404
Fax: (781) 863-8550
BJM@mastermanadvocat??.com
Publi?? Consulting and Legal Services
Honorable Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001
RE: U.S. v Microsoft

Dear Judge Kollar-Kotelly,

The proposed settlement between Microsoft and the Department of Justice seems inadequate in resolving Microsoft's monopoly of the market. The settlement may serve to promote further monopolies for Microsoft in web services and other related products. This settlement does not sufficiently protect competitors against predatory pricing and does not protect consumer choice. The unanimous ruling by the Court of Appeals for the District of Columbia against Microsoft should warrant a strong remedy and this settlement does not meet those standards. Microsoft's violation of federal antitrust is no longer an issue it is time that they are held accountable for their questionable practice& It is time that we find a remedy that meets the appellate court's standard to "terminate the monopoly, deny Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement fails to do so.

The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary?" Microsoft. The settlement does not go far enough to provide greater consumer choice, and leaves Microsoft in a position that it can continue to charge whatever it wants for its products. Consumers should be protected from these types of practices Enforcing federal antitrust laws is vital to maintaining the integrity of free markets. It is Important that we continue to enforce them to protect tile welfare of consumers and the fundamentals that contribute to what makes our country's industries great.

I appreciate you taking your time to examine this important matter.

Sincerely,
Both Masterman
President
Masterman Advocates
CC: Honorable Tom Reilly, Attorney General Commonwealth of Massachusetts

MTC-00029830

O'Sullivan & Associates
333 Victory Road
Quincy, MA 02171
U.S. v Microsoft
January 28, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
C/O Ms. Renata Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Judge Kollar-Kotelly,

The Antitrust Procedures and Penalties Act, also called the Tunney Act, was passed to insure that competition and consumer choice continue in the marketplace. With regard to Microsoft, neither competition nor consumer choice seems to be a concern.

Manufacturers of computers are hamstrung as are those who use computers because they cannot install the software they prefer on their computers. Instead Microsoft, which has become a monopoly in this arena dictates what may be used. Software developers need to have complete information about Microsoft's operating system so that they can compete creating a competitive market.

Included among the concerns I have in looking at the remedy are:

–Microsoft will be permitted to expand its control by bolting applications to Windows using a "commingling code". This violates antitrust law.

–Some of the future applications which will undoubtedly be included are: financial, cable services as well as an expanded use of the internet.

–Microsoft is required to share technical information concerning Windows. The catch is that Microsoft itself will determine if there is any possible situation where its security or software licensing may be compromised. The likelihood that Microsoft will use this option is very high.

–The manufacturers' concern is that Microsoft will have access to its intellectual properties by virtue of doing business with the software giant.

–Microsoft will make decisions concerned with which companies it will share technical information as called for m the settlement. There is a clause indicating that sharing information must be reasonably necessary.

–A three person technical committee will be set up to hear violations.

–It is highly unlikely that a company will take on the giant when it could lose the challenge and risk retaliation in the future.

–One of the three people on the committee is appointed by Microsoft; one by the Department of Justice and the third must be an individual who will be agreed to by both Microsoft and the Department of Justice. This arrangement gives an interesting advantage to Microsoft.

–The findings may not be admitted into court in enforcement proceedings. Additionally the compliance is for only five years.

For the most part after all the years of investigating and litigating there will be little or no change in the way Microsoft does business. I appreciate your interest in tiffs matter. If there is any way with which I may be of assistance, please contact me.

Sincerely,
Paul J. O'Sullivan
CC: Tom Reilly

MTC-00029831

Gregory & Associates
Honorable Colleen Kollar-Kotelly
U.S. District Court,
District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
RE: U.S. v Microsoft

Dear Judge Kollar-Kotelly,

I would like to express my dissatisfaction with the settlement between Microsoft and the Department of Justice. I feel that the settlement, made virtually no impact on protecting consumers from companies like Microsoft who have monopolies in the marketplace.

The settlement has many loopholes and its level of enforcement is questionable, this does not provide consumers the level of protection they need for greater consumer choice. In addition the settlement leaves Microsoft in a position to continually raise prices for their products. It is my understanding that many consumer groups have opposed the settlement.

The agreement states that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with their products, but it is Microsoft that will be the final decision maker on that provision. The agreement also states that Microsoft must share certain technical information, but only if it would not harm the company's security or software licensing. Again, Microsoft will be the final decision maker regarding this matter. The settlement does nothing to deal with the effects on consumers and businesses of technologies such as Microsoft's Passport.

The enforcement of the settlement is questionable at best. The three person technical committee that will be assigned to monitor any violations made by Microsoft of the agreement is comprised half of people selected by Microsoft, and if any violations are found, the work of the committee cannot be admitted into court.

I find these inadequacies to be too broad to accept this settlement. I hope that Microsoft will not be able to continue to preserve its monopoly while consumers and competitors are subject to the practices that are supposed to be protected by antitrust laws.

Thank you for your time.
Regards,
CC: Attorney General, Tom Reily
77 North Washington Street
Boston, MA 02114.1908
Phone 617.367.6449
Fax 617.367.6299
Email chris.gregory@neec.org

MTC-00029832

TO: Microsoft
From: ??tore Val??
Date: 1/28/02
P??: ?? will do ?? possible to help Microsoft
?? believe in Microsoft and the Company Philo??ply.

Salvatore Volvo
101 N Woodland Ridge
Elma, NY 14059
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

This is to give my support to the recent settlement between Microsoft and the Department of Justice. This litigation has gone on long enough, and it is time to settle this matter. The basis of the suit is that Microsoft excluded other companies from competition. However, whenever I have gone into a store, I have had any number of choices. I chose Microsoft because it worked. The competition could not produce the same quality product; hence, the public chose the product that worked for them. This is the basis for all free market philosophy, which is really what the antitrust suit was against.

Furthermore, Microsoft has more than acceded to the demands of the Department of Justice. Microsoft has agreed to allow computer makers to ship non-Microsoft products to its customers; Microsoft has agreed to help companies achieve a greater degree of compatibility with regard to their networking software; axed Microsoft has agreed to gram computer makers broad new license to make Windows promote non-Microsoft software programs. Ultimately, the company agreed to terms that extend well beyond the products that were at issue in the original suit.

Further litigation will only hinder our progress in this direction. Let Microsoft, and the country, get back to work.

Sincerely,
Salvatore Valvo

MTC-00029833

FAX TRANSMISSION
DATE: 28 JAN TIME:
TO: ATTORNEY GENERAL
FROM:
LOCATION:
LOCATION:
FAX#: 1–202–616–9937
FAX#:
MESSAGE:
PHONE#:

Dennis C. Deggett
383 Center Road
Lopez Island, WA 98261–8298
January 28, 2002
Attorney General Jon Ashcroft
US Department of Justice
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settelment. The issue was brought about the former administration that simply did not understand the technology industry. They ignored one of the things that makes this country the best in the world, our free enterprise system. Then to top it all off, they extended their socialistic philosophy to apply antiquated antitrust laws to a brand new industry.

In the free market, Microsoft rose to the top because they had the best products. Their products are user friendly and Microsoft has made them very easy to Integrate and at lower cost than the alternitives. It is no wonder that where people had a choice most choose Microsoft software. Under the terms of the settelment Microsoft has agreed to allow computer makers the flexability to install and promote any software they see fit. Microsoft has also agreed not to enter into any agreement that would require a computer maker to use a fixed percentage of Microsoft software. I beleive that computer makers will continue to predominatly preinstall Microsoft software becuase it is the best and most computer buyers will choose a Microsoft Windows based computer when making a new purchase. This is not a monopoly problem, Microsoft simply is, supplying a better product and most people know it.

My experiance as supervisor of an electric power generation plant for over 15 years, offered me the opportunity to try many brand, of computer software products and computer equipment. What I found over time was that even when cost was not a consideration, products that were not Microsoft based, did not perform satisfactorly. Microsoft products and windows based computers were simply the best. On top of that we experienced signifig??nt savings over other options. Sure Microsoft has made a lot of money, but can you imagine the cost to the people of our nation if Microsoft and all they have provided for us vanished or had never existed? This is my plea for justice in our mechanized and technolgical society.

Microsoft has gotten to where they are by developing better products, not by crushing their competitors. This suit and the fact It has gone on for over three years Is simply mind-booling. It is time to end It. DO NOT PUNISH MICROSOFT FOR BEING BETTER. Please accept the Microsoft antitrust settelment.

Sincerely,
Dennis C. Daggett

MTC–00029834

THE WASHINGTON COURT HOTEL
FACSIMILE TRANSMITTAL SHEET
TO: Renata Hess
FROM: Joe Wiegand
FAX NUMBER: 202–616–9937 OR 202–307–1454 DATE: 1–28–02
COMPANY: Dept of Justice
TOTAL NO. OF PAGES INCLUDING COVER: 2
PHONE NUMBER: RE: Microsoft Settlement
NOTES/COMMENTS:
Attorney Renata Hesse
Justice Department
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse,

I am certain that you are receiving many letters of comment regarding the Microsoft settlement with the Justice Department. Your time is greatly appreciated.

It was 1998 when the government first brought its anti-trust suit against Microsoft. In the years since then we have witnessed truly astounding developments in our industry. Laptops are thinner and more reliable, email is a communications device many Americans depend on, and many of us are speeding across the Internet at speeds not thought possible four years ago. These innovations are truly amazing and beneficial to our daily lives. These new products and ideas came about because of the competitive free market system we live in, not because the government was directing it behind the scenes.

The circumstances of our current economy and the government's anti-trust case have truly stifled new growth in this industry. As our country's economy is struggling to find its way toward positive growth again, settling the anti-trust suit can only be viewed as a benefit. Please work to make sure this settlement is agreed to.

Sincerely, ??
32486 White Street??
Ki??bland, ?? 60146
815–522–3801

MTC–00029835

microsoft settlement
Subject: microsoft settlement
Date: Mon, 28 Jan 2002 15:46:14–0500
From: Frank Lastner <FLastner@qis.net>
To: microsoft.atr@usdoj.gov

Microsofts efforts in the computer field have been invaliable to th U.S. Their inovations, systems and marking kept prices falling until the Government intervention. Close the books on litigation and help get the economy moving again.

Frank Lastner
16 Stillway CT.
Hunt Valley Md. 21030

MTC–00029836

Fax Transmission
The Sack Company, Inc.
P.O. Box 528
3302 Zell Miller Parkway
Statesboro, Georgia 30459
Phone: 912.871.8771
Fax: 912.681.6001
TO:
Date: 1/28/02
Fax Number: 202–307–1454
Pages: 2 pages, including this cover sheet
From: Albert Roesel
Subject:
Comments:
"A Standard of Excellence"
The Sack Company, Inc.
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

I am writing to express my support of the Microsoft antitrust settlement agreement. I am in favor of this case settling. As a fellow entrepreneur, I sympathize with the position of Bill Gates. I believe Microsoft should be free to conduct its business with limited government intervention. Notwithstanding my opposition to the lawsuit, the terms of the settlement agreement are reasonable. Microsoft has made many concessions in the interest of settling this case. Microsoft has agreed not to take retaliatory action against those who promote software that competes with Windows. They also agreed not to enter into agreement obligating third parties to exclusively distribute Windows. These types of concessions should put to rest the complaints of anticompetitive behavior on Microsoft's part.

I am happy of see that the current Department of Justice has made the wise decision to settle this case. I appreciate your review of my comments.

Sincerely,
Albert Roesel
Chairman of the Board

MTC–00029837

Microsoft Corporation
123 Wright Brothers Drive
Suite 200
Salt Lake City, UT 84116
Microsoft
Tel 801 257 6300
Fax 801 257 6501
http://www.microsoft.com/
January 26, 2002
Attorney General Ashcroft, USDOJ
950 Penna. Avenue, NW
Washington, DC 20530–0001

Dear AG Ashcroft,

I believe that your decision to settle this Microsoft suit was a wise one. Anytime that our government takes upon itself the rather extreme position of suing a private business is serious indeed. It is important for our government to encourage innovation and creativity through incentives, rather than discouraging them through convoluted, politically expedient lawsuits. It seems as if this case may have had less actual legal merit than it first appeared. In these days, we should remain especially vigilant at concentrating on far more important issues like national security and budgetary problems. It is good for us to settle this case and move on to these more important matters. The settlement does an excellent job of answering for all the problems that competitors brought against Microsoft. By allowing manufacturers their own say in how to configure Windows and competitors more access to source code that will improve their programs' ability to operate in Windows, Microsoft is going well beyond what has been asked of them.

Thank you for your foresight and wisdom in this matter and thank you for taking the time to review my opinion in this matter. It is about time for the Justice Department ask the people who will be most affected by this decision how it will impact them.

Sincerely,
Clark Spencer
Microsoft Corporation is an equal opportunity employer,

MTC–00029838

STRATFORD
3737 Glenwood Ave.
Sutre 100
Raleigh: NG 27612
Tele: (919) 573–6102
Fax: (919) 573–6026
January 23, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D, Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I understand that the federal courts are now reviewing the proposed settlement in the Microsoft antitrust case. I further understand that the government is collecting public comment on that issue.

My comment is simple: Accept the settlement and help get this country back to work. A lengthy, expensive lawsuit contributes nothing to our nation's economic prosperity. Unwise government interference in the marketplace contributes nothing to economic growth—in fact) it hurts growth. And the Microsoft lawsuit has hurt our nation's economy, make no mistake about it.

The marketplace, not the courtroom, is where these issues should have been decided. Those who are concerned by Microsoft's dominance of its market should remember other industry leaders that no longer lead: Apple and Tandy in computer manufacturing; Kodak and 3M in copiers, and CompuServe m online services.

A market leader that fails Is satisfy its customers will remain a leader no longer. Microsoft will remain a leader if and only if it continues to provide new services and lower costs. That is where its competitors should seek to replace Microsoft, not through the courtroom.

The government should not file antitrust lawsuits simply because a company is dominant in its market or because competitors cry foul. Yes, Microsoft plays hardball. But nothing in this long and costly lawsuit has established that the consumer—the most important person in this proceeding—has been damaged by anything Microsoft has done. In fact, the consumer has been the big winner. If this settlement is approved, the consumer will again be the big winner—as will the entire American economy.

Sincerely,

James A. Ciao

Introduction ?? in from sources ?? it not ?? by ?? and is subjects to change in ??, cor??, ?? and ?? or withdrawal without notice

MTC-00029839

January 28, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937

Dear Ms. Hesse:

As the government accounts representative for Comark, a leading regional tech firm, I am thrilled that the long awaited settlement between Microsoft and thee federal government is finally at hand. All we need now is for the Judge to approve the settlement. The Judge, in my opinion, has more than ample reason to do just that.

First of all, let me say how well I believe that government and business can work together for mutual prosperity. It can and does happen—EVERY DAY! I see it when I call on governmental agencies, officials and departments.

I enjoy using technology to build a bridge between government and business. It makes perfect sense. After all, the emerging technologies of today make every segment of society more productive—it makes no difference if the end user works for the public good or a private interest. Let's forge ahead and revitalize the American economy. Let's renew our commitment to research and development, so that we continue to lead the world in productivity and quality. Let's create a new spirit of cooperation between the government and private enterprise. Let's show the rest of the world that American don't take recessions lying down—that we will act to strengthen our country and assist our countrymen.

Now is the time for bold action. I request that Judge Kollar Kotelly approves the settlement.

Sincerely,

Jason Deans

MTC-00029840

FAX
To: John Ashcroft
Phone
Fax Phone +1(202)307-1454
Date: Monday, January 28, 2002 Pages including cover sheet: 2
From: Eric & Britt Boston
17525 199th Place NE
Woodinville
WA 98072
Phone +1(425)788-2297
Fax Phone +1(425)788-2297
NOTE:
January 26, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I'm writing to encourage you to accept the terms of the antitrust settlement recently reached between Microsoft and the United States Justice Department. Microsoft has agreed to terms that will result in a much more competitive software environment and that will allow Microsoft to move forward with its business of developing innovative software.

To put this lawsuit behind it, Microsoft has agreed to allow computer makers and software developers to set-up Windows within their computer systems they will sell on the market so that Microsoft products can be disabled and competitive non-Microsoft products can be enabled in their place. And to make this easier, Microsoft will show competitors the various interfaces that are internal to Windows. This will allow smaller, developing software companies to get their foot in the door and grow while fostering a competitive environment that will drive all parties to create better, more innovative software.

Further, Microsoft will not take any retaliatory action against any computer makers of software developers who choose to modify Windows, nor will Microsoft retaliate against any computer makers who ship operating systems that directly compete with Microsoft Windows. Based on these facts, I encourage you to support the terms of the settlement so everyone can move forward with the business of developing good software for the American people. Thank you for all your hard work!

Sincerely,

Brittisha Boston

MTC-00029842

FHANC??S H SUITTER
SUITTER AXLAND
A ??ALT PROSESSIONAL LAW ??TION
175 South West ??emple
Seventh Floor
Sal?? Lake City, ??tah 84101-1480
Telephone (801) 512-7300
F Man ??utter@sunter.com
?? (801) 532 73??
January 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I write today concerning the Microsoft Antitrust Class Action Lawsuit. I urge you to settle this case as quickly as possible. As a user of technology on a daily basis, I am concerned that technology consumers are suffering the biggest loss rather than those involved in this suit. I am increasingly alarmed at all of the government regulatory oversight, which will be placed tm computer companies. I have never witnessed a settlement where more government intervention and layers of bureaucracy have been the solution. I urge you to move forward to settlement.

Sincerely,

Francis H. Suitter, Esq.

FHS/jg ??

MTC-00029843

Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937

Dear Ns. Hesse:

Given that my husband is a local television news personality, I follow the news even more keenly than I ordinarily would. I began working at a new job just a few short weeks ago, as the membership and marketing director for Heritage Golf Club in Wake Forest, North Carolina. Unfortunately, the news and my common sense tells me that many other folks won't be fortunate enough to find new jobs because of the poor economic conditions our country is in. Were got to change that.

Our government must demonstrate that it is serious about stimulating the economy. A great first step in that process would be to finish the job of settling its antitrust lawsuit against Microsoft. I think I speak for most American when I say, "Enough already!" Both sides have agreed to settle—it's time to move on to something else,

I believe that I also speak for executives who work in membership and marketing when I say that I'm much more efficient in my job because of Microsoft's quality products. Database management, communications, and publications are all professionally done with just a click of a mouse.

The American people choose Microsoft products because they make life better. Life will also be better for many Americans once this suit is settled. I request that Judge Kollar Kotelly approves the settlement.

MTC-00029844

To: Microsoft Fax: 001
fin@Mobilization Office.com
1-202-307-1454
From: Joe G. Ike
Date. 1/26/02
Letter to Attorney General
Pages: 2

To Whom It May Concern:

Reference is made to your e-mail of Friday January 25, 2002. Attachment USAGike—

Joe—1018—0123 and my reply thereto by return e-mail. As noted in my reply, please find attached a signed copy of the letter that I dispatched this morning to the Attorney General of the USA. I sincerely hope that all will turn out in your favor! Wishes!

3410 76th Avenue, SE
Mercer island, WA 98040–3439
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft

I am writing to you today to encourage you to bring the litigation against Microsoft to an immediate and decisive closure. I must state that I have been unequivocally and strongly against this case from its very inception. It appears evident to me that it is very unfair to punish a company for excelling in their industry. I am a volunteer instructor with a non-profit organization teaching senior citizens how to enrich their lives by becoming computer literate. This is no easy task but at the close of every session I thank God that Microsoft has been so innovative and far sighted as to integrate their basic Operating System with applications to provide the User with a basis of commonality that makes the learning process infinitely easier. This applies not only to senior citizens but also to those individuals learning the use of new software to increase their knowledge and consequently leading to industrial efficiency. Prior to my retirement I vividly remember the days when it was a nightmare when attempting to home-brew our own integrated system, I have experienced the fact that Microsoft has expended every effort to provide us with the features that we sorely needed.

As I dwell upon the past three years ! conclude that it must have been very taxing on the IT industry, the economy, Microsoft and its employees. I understand that Microsoft has spent millions of dollars in their defense-money that could have been put into the development of new products resulting in further advancement of technology and industrial efficiency. The employees of Microsoft have had to endure an air of uncertainty during this entire situation. As a citizen I am extremely concerned with the possible flight of talent that is the backbone of Microsoft's awesome capability.

It is difficult for me to understand the problems related to the proposed, but rejected, settlement. Judging from what the media has reported, Microsoft has agreed to the terms included in the settlement as well as to the terms brought forth on issues that were not considered to be unlawful, To name two concessions, Microsoft has agreed to avoid agreements that would obligate any third party to exclusively distribute Windows technology. Additionally, Microsoft will not obligate software developers to refrain from developing competing software. Frankly, I personally cannot understand why Microsoft should have to divulge the code that makes up their Operating System. t would certainly include that in the realm of being proprietary and intellectual property. To put it more strongly, to me it smacks of being a case of sour grapes by certain other organizations that have not been as successful. Chairman Greenspan commented, with words to the effect, that the Guide-On that is going to lead the economy of our nation out of tile doldrums is technology. It is our future. There is absolutely no doubt in my mind that Microsoft has been a major contributor to technology. As a result, and to reiterate, I personally would like to see this matter dosed as soon as possible and I am sure that I am among many who share this same point of view. Thank you for your time and giving me this opportunity to voice my opinion.

Sincerely,
Joe 13. Ike
Engineer(retired) e-mail joeikel@attbi.com
tel: (206) 232–5e43

MTC–00029845

Edward A. Garvey
32 Lawton Street
St. Pail, MN 55102
Phone: 651–296–2243 (wk); 651–221–1922 (hm) E-mail: GarveyEd;@;AOL.com
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington DC 20530

Dear Ms. Hesse:

As a small Microsoft stockholder (about Ii0 shares in my daughter's college fund) and a user of diverse computing and software products, I have followed the antitrust proceedings against Microsoft with interest. With this introduction, I thought it worth sharing with you that I think the settlement between the Department of Justice and Microsoft is a reasonable conclusion to a matter whose founding facts have been (and are being) addressed in the marketplace.

I support the settlement and am pleased that it was reached. Thank you for considering my thoughts.

Sincerely,
Edward A. Garvey

MTC–00029846

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
6ol D Street NW
Suite 1200
Washington, DC 2053D–0001
Randolph S. Kahle
6161 N Canon del Pajaro
Tucson, AZ 8S750
28-January-2002

Dear Ms. Hesse:

I have worked in the computer industry for over 2S years. During that time I have worked as a developer, a marketing / business strategist, and as a consultant to large and small companies. I have a degree from Rice University in software and hardware design and an MBA from the Amos Tuck School of Business Administration at Dartmouth College.

My work experience includes Hewlett-Packard as well as six years as a marketing and business strategist at Microsoft working on database and developer products.

I have seen Microsoft from both the inside and now, for the last ten years, from the outside. As I am not an attorney, I cannot speak to the legal specifics of the Proposed Final settlement, however, I am qualified to speak to the practical implications of the terms in the computer industry as well as other industries and markets into which Microsoft may enter.

COMMENTS IN GENERAL

As the computer industry moves towards a future, fully-distributed, computing environment, it is vital to have an environment which fosters and rewards innovation. While it may seem a mature industry, we are still only at the early stages. To date, there have been several waves of general innovation and consolidation. Each wave brings cost reductions, creative ideas, whole new companies and new technologies. After a wave, there has been consolidation around standards and then the next wave appears. These waves could be named the "mainframe era", the "minicomputer era", and the "personal computer era". We are now leaving the "personal computer era" and entering a new one centered on distributed computing and information, the "distributed computing era". As each era transitioned to the next, the companies and products of each successive wave accommodated the past, while providing new innovations.

IBM anchored the mainframe era, Digital and Hewlett-Packard emerged during the minicomputer era, and Microsoft, Dell, Gateway, and others emerged during the personal computer era.

What is different about the current transition, is that a single company, Microsoft, is attempting to leverage their monopolistic power created in the personal computer era and their position in the industry to define and control the next era.

COMMENTS ON CULTURE

I worked at Microsoft before Windows was a monopoly. What I observed was a culture fixated on domination at all costs. While Microsoft was growing, these actions and activities were not illegal. After becoming a monopoly, they clearly are (and were found to be so by the courts). What is important to note is that these illegal behaviors stem from the culture of the company. Because of this strong culture, I do not believe that any external monitoring of internal operations would ever be successful (e.g. the "TC" as proposed). Microsoft managers are simply too smart, experienced, and aggressive to ever agree to submitting to external pressures. This comes from the top, Bill Gates himself. In my experience, I have never encountered a discussion in which anyone at Microsoft ever thought that they were in the wrong. This would never occur to anyone. This is a cultural factor, an arrogance of doing no wrong. With this culture, it seems extremely unlikely that Microsoft would be able to self-monitor or even work with an external auditing agency.

REMEDIES

My first choice for a remedy is to break Microsoft up into smaller competing entities. The reason for this is to attempt to reshuffle the organization so that there could be cultural and behavioral change.

I petition the court to explore this remedy as the best way to combat future violations by Microsoft.

If the court does not pursue a break-up of Microsoft, then I strongly agree with many others, that there must be changes to and additional provisions added to the Proposal Final Settlement.

For example, I fully support, and have sign Dan Kegel's open letter (http://www.kegel.com/remedy/letter.html).

OPENNESS AND TRANSPARENCY

My second choice for a remedy is to force openness and transparency in Microsoft's technology. Distributed computing systems are very complex and can be very subtle. To help the court, many other petitioners have listed specific technology disclosures that will help create openness. I will add that, in a general way, if Microsoft's technologies can be viewed by the industry and the market as *components* rather than as a *whole*, then a good balance may be struck between Microsoft's ability to innovate, and the industry's ability to compete and develop both complementary technology as well as competing technology.

The tricky question is this: "Where are the boundaries between the components7"

A simple answer can be found by focusing on and leveraging the upcoming pressures that will be felt as the distributed computing era arrives. The answer I propose is simple, easily monitored and enforced:

* Force Microsoft to fully disclose all wire-level (binary) protocols used between independent computing devices. (This include .Net protocols, SMB/NBT protocols for file sharing, and others) Force Microsoft to disclose the APIs which they expect other components to use as they access the wire-level protocols.

* Force Microsoft to fully disclose all file formats used to store persistent information. The reason these are good remedies relies on the following:

* The future direction of computing is toward small, distributed computing devices. The economic and technological pressures will force the definition of boundaries between distributed components. This will be a constant pressure to *increase* disclosure over time.

* It is easier to monitor and audit compliance at these boundaries compared to other more abstract and more easily re-defined boundaries. (Microsoft is a master at redefining boundaries for their own benefit).

* These disclosures provide significant value to competitors and innovators. However, I must also point out that this is only a first step, This describes the technological boundaries and requirements. The Settlement must also address the legal issues such as Microsoft's attempt to prevent open-source software from running on Windows, and other licensing and cross-tie issues. I will leave these issues to the legal experts.

Violation of the Settlement must bring with it a powerful and costly punishment. I propose that if Microsoft violates the provisions of the Settlement that they be forced to place any software or system found to be in violation or associated with a violation into the general domain through, an open-source license. This, more than any financial penalty, would be a real deterrent.

Randolph S. Ka??e

Tucson, AZ

MTC-00029847

FROM : Santo L Gaudio
3011 146th Street
Flushing. NY 11354
January 25, 2002

Dear Mr. Ashcroft:

I am writing this letter to express my full support for the settlement with Microsoft. Enough is enough. Milllons of dollars are being wasted on unnecessary litigation and we must take advantage of this opportunity to end needless spending now.

Microsoft has made many concessions just so that the company may move forward with developing new products. For example, Microsoft, has agreed to disclose for its competitors various interfaces that are internal to Windows' operating system products—a first in an antitrust settlement, Also, the Company has agreed in design its future products to provide easy access to computer makers and consumers to promote non-Microsoft software within Windows. In addition, Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers on identical terms, including price. Clearly, these changes will benefit both consumers and the economy.

Not only is this settlement fair and reasonable, but it will prevent any future antic0mpetitive behavior as well. The recession has had a huge affect on both government and individual pocketbooks, and it. is important that the IT industry be allowed to concentrate on business as soon as possible.

MTC-00029849

Avionet (U.S.A.) Ltd.
Avionet Leasing Inc.
888 S. Figueroa St., Suite 800
Los Angeles, CA g0017
Tel: (213) 896–1000 Fax: (213) 824–7796
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to express my support of the recent settlement between the Department of Justice and Microsoft. Even though the terms of the settlement are certainly not favorable to Microsoft, the settlement has the advantage of ending the litigation.

It is better that Microsoft will now be encouraged to handle its pricing policies to its OEMs in a fairer and more equitable fashion, but the requirement that Microsoft release more of its source codes to developers and competitors can be problematic. I am hopeful that that proposed technical committee would be a fair arbiter when dealing with all of these issues.

With so many other more important issues facing our country today, I am glad that this lawsuit is finally over. I am hoping that no further federal action in this matter will be necessary.

MTC-00029850

347 Chilian Ave.
Palm Beach, FL 33480
January 28, 2002
Ms. Renata B. Hesse
US Dept of Justice

Dear Ms Hesse:

I strongly support the Microsoft settlement. I do so as a taxpayer and consumer. Thank You.

Very Truly Yours
Marvin A. Goldenberg

MTC-00029851

Constance Roberts
3421 South Dye Road
Flint, Michigan 48507–1009
January 23, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am urging you to settle the lengthy antitrust lawsuit pending against Microsoft. I think it is ridiculous that the case even made it as far as it has. I think it is a shame that the government has gone after Microsoft. Bill Gates is simply a guy who made good and has been punished for his success. The Justice Department seems to have unfairly singled out Microsoft instead of treating all companies in similar positions in an evenhanded manner.

Though I believe that the justice system has wasted significant time and money in continuing to pursue legal action against Microsoft, I believe that the terms of the current settlement are reasonable, and I would like to see Microsoft back on track. I am a stockholder in the company, so I am affected by its inability to conduct business as usual.

The government's stated aim is to increase competition. The new provisions Microsoft has agreed to will do just that. Users and computer makers can more often and more easily install and configure Windows in ways that promote and use competing products.

Please settle the case as quickly as possible.

Sincerely,
Constance Roberts

MTC-00029852

05/06/1994 09:07 0609663171
GARY REID HOMES INC
Jan–28–02 11:66A Sharon Cassidy
Gary and Susan Reid
5651 Mission Road
Bellingham, WA 98226–9580
Tel (360) 966–2385/1 ax (360) 966–3171
Form: The Attorney General
From: Oaty Reid
Date: January 28, 2002
Re: Microsoft Anti-Trust Settlement

From any viewpoint as a consumer, this suit needs to be resolved. I believe that this suit with cost in money. First, it has increased Microsoft's cost to do business second, it has diverted effect from producing a better products and, third, the tax dollars spent on this suit exceed possible savings to the public.

I believe the Microsoft's product is fairly priced when compared to the benefits obtained I can be par?? communication revolution that has changed the world for less than $200,00.

Does not Microsoft have a proprietary right to its st??ems? It appears that the patent holder of be ?? hoop has more rights than the designers of this life-changing system The me?? of the internet browser into the basic system is important to the consumer. I should not be se??nitted to give a competition an advantage. Several of the business p?? that were in question have already been changed. If our economic system is ?? competitors need to produce better products—not resort to politically driven ?? that results in power products for the purpose of bringing equality

ee: Microsoft

MTC-00029853

SGM Bindery Inc.
January 28, 2002
Attorney General John Ashcroft
US DOJ
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take this time to give you my opinion on die Microsoft Anti Trust case. This case has been a fiasco since its beginnings and I can't understand how it has been allowed to go on for so long.

I run my own company and use Microsoft products every day. I have never been forced to use their software. This is supposed to be a free enterprise system and anyone can go out and buy whatever products they want. There is a reason Microsoft's products have become so widespread and widely used that consumers prefer them to their competitors. Consumer preference does not constitute a monopoly.

Even though I feel this settlement goes farther than Microsoft may want, it is necessary to get out country on its feet again. Microsoft has agreed to give away a lot of thee intellectual property and will be changing their business practices to make it easier for consumers to access non-Microsoft products on their computers.

For the sake of our technology industry and our entire economy, please do your pall m putting a final end to this case.

Sincerely,
Stephen G Martinec
President
7120 Rutherford Road,
Baltimore, MD 21244
410.944.7660
800.852.4530
Fax 410.944.5707
bind@sgmbindery.com
www.sgmbindery.com

MTC-00029854

Jan 28 02 04:28p
EVERGLADES
Laboratories. Inc.
1602 Clare Avenue
West Palm Beach. FL 33401
ph: 561/833–4200
fx: 561/833–7280
email: evlabs@beffsouth.net
January 28,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DO 20530

Dear Mr. Ashcroft:

Microsoft is not the evil money grubbing corporation that it has been made out to be. Rather, it is in my opinion that the other information technology companies are the ones with dollar signs in their eyes. The antitrust lawsuit filed against Microsoft was nothing more than profit driven facade.

The settlement that was reached in November is reasonable and in the best interest of all parties involved. Microsoft has agreed not to seek any sort of retaliatory measures against computer manufacturers that promote software other than Windows. The settlement further stipulates that

Microsoft must provide documentation on how to interface competitors' software with its own operating system. Microsoft has already given a lot of ground with this settlement, and I feel that they should be asked to give no more. The settlement as decided upon in November should be left as is with no changes. The money driven attack on this company needs to stop, so please finalize the current settlement and stop litigation now.

Sincerely,
Ben Martin, Ph.D.

MTC-00029855

James Woodward
432 Lynshire Lane
Findlay, OH 45840
January, 26, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing you today to express my concern in regards to the Microsoft settlement issue. I feel this settlement is fair and reasonable, and I believe that this three-year-long dispute should be resolved permanently. Because of the federal action many states have jumped on board. I don't understand their cause. If you drop the case and accept the initial agreement, then, I'm sure man), of the states will also.

Microsoft is a company that is successful m its business. I do not believe they should be penalized for this. Microsoft has pledged to share more information with other companies and create more opportunities for them, therefore, the entire technology industry will benefit from this settlement.

Again, it will be more productive to allow Microsoft to continue doing what they do best. This will benefit the economy and consumers. I sincerely hope that this settlement will be finalized because it is in the best interest of the industry and the American consumers.

Sincerely,
James Woodward

MTC-00029856

January 27, 2002
Renata Hesse
Trial Attorney
Anti-Trust Division
U.S. Department of Justice
6Ol D St., NW
Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am not a lawyer, an officer of the court, a technology professional, or a politician. So granted, there may be nuances that I am overlooking in the Microsoft antitrust case. I am having a difficult time understanding why some of Microsoft's competitors driving the antitrust case, along with half of the states suing the company, are unhappy with the settlement that all others involved in this case have agreed upon.

Reviewing the compromise from my vantage point, it would appear that Microsoft gave the most and the plaintiffs got the most. Computer makers using Windows receive flexibility allowing them to replace and remove specific parts of Windows. Even customers receive more flexibility with the product and information technology providers will have access to technical specifications. Plus, they would set up a panel to make sure all parts of the settlement are complied with.

As children, and sadly sometimes as adults, when it comes to decision-making there are always a couple of people that won't budge. In order to seek a compromise, two sides must at least come part way to meet somewhere in the middle. It seems those not signing off on the settlement simply refuse to take any steps toward the middle. Where I come from, that's bullheaded and stubborn and it gets you nowhere fast.

It is my hope that as the officer of the court making a final judgment on this decision, that you will be able to compartmentalize the intricate parts of this case. Set aside those who haven't signed on to the settlement, set aside those technology companies seeking a break up of Microsoft refusing to accept any punishment less, set aside those politicians who may be seeking continued spotlight by moving on with the case. Focus on the facts. A settlement has been reached by most of the parties partaking in the case. It seems to me to be a just compromise.

Sincerely,
Joe Meyers
4822 Ashley Park Drive
W. Des Moines, IA 50265

MTC-00029857

January 28, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

During my tenure as Assistant Director of Admissions at North Carolina State University, I have witnessed many technological innovations and trends. Most Of these have involved the use of a computer, and many involved Microsoft products.

While I cannot say with exact certainty why the federal government pursued an antitrust lawsuit against Microsoft, I can tell you that it has had a devastating impact on technological innovation while it has transpired. Before the lawsuit, tech companies were lauded for focusing on research and development at the exclusion of politics. In fact, few of the leading tech firms employed anyone to conduct government relations programs.

Microsoft learned quickly that its exclusive focus on making life more efficient for everyone had made its competitors struggle for market share. The competitors retaliated by getting into the political game. The lawsuit followed. Even today, Microsoft's competitors are lobbying to contignue the lawsuit endlessly.

We should support the federal government and Microsoft in their decision to settle the case. I urge Judge KollarKotelly to approve the proposed settlement of the lawsuit. Let's allow research and development to march ahead.

Sincerely,
Jill Green

MTC-00029858

January 28, 2002
Renata Hesse
Antitrust Division
Trial Attorney
U S. Department of Justice
601 D St NW, Ste 1200
Washington, DC 20530

Attorney Hesse:

In my eyes, the government's treatment of Microsoft has not been unlike the actions of Medieval European Lord's who would cut off the head of a nemesis and display it on a stake in the village square for all to heed the warning. Unfortunately, the real harm goes to taxpayers, consumers, and tech investors in this case.

The government and Microsoft finally came to a settlement after going in and out of courtrooms as fast as they would enter and cease mediation talks since this case began a few years ago. Although this settlement is fair, we are beyond even that factor in this proceeding. Whether or not the agreement serves one side more than the other—which from the looks of it serves the government over the corporation—what is important is that a settlement has been reached with most of the contributors to the case have signed off on.

Please end this portion of the case with your approval of the settlement so that all of us—Microsoft, consumers, taxpayers, government court officials, and investors—can get back to business as usual.

Many Thanks,
Richard J. McLaren
President, McLaren Ins. & Associates

MTC-00029859

Linda Diamond
1961 West Hood Avenue 2B
Chicago, Illinois 60660
January 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to see the government stop interfering with the business practices of Microsoft, and I am happy to see this case has been settled at the federal level. The two sides reached a fair compromise in November of last year, and it is time to finalize that settlement and end this matter once and for all.

The government agreed to settle this matter because Microsoft agreed to change its operating system to allow independent companies a better chance to compete in the marketplace. Windows will be designed so that these other companies can promote their own products rather than Microsoft's, and Microsoft will not retaliate against its competitors in any way for promoting non-Microsoft products. Them will be no more risk of anti-competitive behavior by Microsoft because a three person technical committee will oversee Microsoft's business operations from this point forward, ensuring that the company fully complies with all terms of the proposed settlement. I see no need to continue this litigation.

Once this case is settled, the IT industry will really benefit, and consumers will have more choices and better choices as a result. Competition will be strong, the industry will flourish, and the nation's economy will get a jump-start that it desperately needs. Thank you for settling this lawsuit, as it is the right thing to do for the industry and for the American economy.

Sincerely,
Linda Diamond

MTC-00029860

Wayne Hummer
Investments, LLC.
Fax
To: Attorney General John Ashcroft
From: Steven & Linda Diamond
Fax: 1-202-307-1454 or
1-202-616-9937 3
Phone:
Date: 1/26/02
Re: Microsoft Litigation cc:
Comments:
JAN-28-2002 15:29
WAYNE HUMMER
312 431 0704
P.02/03
Wh Wayne Hummer
INVESTMENTS
300 South W. Drive,
Chicago, IL 60606-6607
local 312/431.1700 / toll free 800.621.4477
312,431,0704
www.whunmer.com
January 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to see the government stop interfering with the business practices of Microsoft, and I am happy to see this case has been settled at the federal level. The two sides reached a fair compromise in November of last year, and it is time to finalize that settlement and end this matter once and for all.

The government agreed to settle this matter because Microsoft agreed to change its operating system to allow independent companies a better chance to compete in the marketplace. Windows will be designed so that these other companies can promote their own products rather than Microsoft's, and Microsoft will not retaliate against its competitors in any way for promoting non-Microsoft products. There will be no more risk of anti-competitive behavior by Microsoft because a three person technical committee will oversee Microsoft's business operations from this point forward, ensuring that the company fully complies with all terms of the proposed settlement. I see no need to continue this litigation.

Once this case is settled, the IT industry will really benefit, and consumers will have more choices and better choices as a result. Competition will be strong, the industry will flourish, and the nation's economy will get a jump-start that it desperately needs. Thank you for settling this lawsuit, as it is the right thing to do for the industry and for the American economy.

Sincerely,
Steven M. Diamond
Serving Investors Since 1931

MTC-00029861

January 28, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite
1200 Washington, DC 20530

Dear Ms. Hesse:

I wanted to correspond with you and convey my opposition to the Microsoft lawsuit and support the compromise settlement.

I don't sec rely harm that has come to the American consumer as a result of the legal proceedings. Capitalism continues to work and Microsoft has developed useful and practical technology for education I am clear that Microsoft has been targeted by its competitors and I don't believe that taxpayers" money should be silent for this type of lawsuit. Take the government out of this dispute and let capitalism do its job.

In conclusion, I ask that the Court resolve this issue as quickly as possible, in the interest of the American people.

Sincerely,
Barnes Elementary Principal

MTC-00029862

Wake Forest Town Commission
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As a member of the Wake Forest Board of Commissioners, I am concerned that the Microsoft antitrust lawsuit has dragged on too long and we need to settle it now. I am elected to represent all the people in Wake Forest, and I am concerned that everyone's jobs are being threatened by the recession. Microsoft products are the backbone of business and industry—and they help offices run efficiently throughout our community. I am opposed to prolonging the lawsuit in any way. The suit needs to be resolved... and resolved now! Many of our commuting citizens work in the Research Triangle Park. High tech solutions for health care, business and communications firms are developed here in the Triangle. However, the ability of these companies to be innovative in creating solutions, and productive in the creation of jobs, hinges upon moving beyond excessive litigation.

Let's face the fact that both parties want the suit to end, Microsoft and the federal government are in agreement on all points of the settlement. I want to strongly urge Judge Kollar-Kotelly to promptly approve the settlement. This lawsuit has cost businesses and local governments untold millions in lost revenues, Let's stop the bleeding,

Let's move beyond this case and move the economy forward.

Sincerely,
Kim Marshall
Mayor Pro Tempore
401 Owen Avenue—Wake Forest, NC 27587

MTC-00029863

2601 Scofield Rid6e Parkway
#1523
Austin, TX 78727
David Morgan
Fax
To: Attorney General John Ashcroft
From: David Morgan
Fax: 1–202–307–1454 or
1–202–616–9937
Pages: 1
Phone:
Date: 1/28/2002
Re: Microsoft Anti-Trust
cc:
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft

I'm happy to see the Federal Government has come to at least some decision to end the unjustifiably offensive and expensive anti-trust case against Microsoft Corporation. Three years of untold waste has been directed at Microsoft and we the tax payers incurred the entire cost. Quite frankly, had Justice spent the amount of money it wasted in this suit in anti-terrorist security several thousand people would be alive and working at the World Trade Center building. The agreement arrived at after extensive negotiations with a court-appointed mediator is very unfair and only serves the self interests of the individuals and companies which brought the action as well as those political interests of the Justice Department attorneys and US politicians. Simply; Microsoft has gone well beyond any legitimate or fair agreements to remedies. It's time the government accepted the terms levied against the company and moved on to other things, Let Microsoft continue doing great things for the computer industry which helps us all instead of hindering the company and as we all know harming the little guys—the employees and the consumers.

Enough is enough. No more federal legal action should be taken against Microsoft.

Sincerely,
David Morgan

MTC-00029864

Jeffrey L. Phelps
4705 East U.S. Highway 160
Independence, KS 67301
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

The proposed settlement of the Microsoft antitrust case is a good deal for the taxpayer, investors and the computer industry. I strongly encourage the court to accept the settlement. The good news for supporters of the free-market system is that Microsoft is not going to be busted up by the federal government. Instead tiffs settlement specifically provides remedy for portions of the complaint that have been made it through lower courts.

Under this agreement competitors of Microsoft will find it much easier to promote their products into the Windows operating system, it requires Microsoft to provide intellectual property with other companies when necessary, and Microsoft will be banned from cutting special deals with specific computer manufacturers.

Clearly the Department of Justice and the company are interested in seeing this case ended. I the American public can count on the court to support this agreement.

MTC-00029865

To: Attorney General John Ashcroft
From: Forrest G. Gregory
11134 Villas On The Green DR
Riverview, Fl. 33569
Sub. Microsoft Settlement
Date: January 26, 2002

Dear Sir.

I feel the Justice Department should settle with Microsoft. The agreement you and the nine states agree to was a victory for neither side.

Now we need a victory for the consumer. Allow us to use the windows system without diluting it with more regulations on Microsoft.

The public has been supporting the Justice Department and state attorneys with our tax Dollars to continue these lawsuits. Settle and allow the private industry to make a profit. If an inventor has his property taken away by the government, other inventors will take notice. Consider what little incentive Microsoft or other potential targets of lawsuits would have to make a better product I would not be able to type and send you this letter without windows operating system. I'm sure there are others systems but I don't have time to search them out. Settle and somehow don't allow the other nine states to continue battling the litigation can be endless and no benefit to the public.

Settle and close the book.

Forrest G. Gregory

MTC-00029866

Anne Gould Anderson
614 West Marconi Ave
Phoenix AZ 85023–7447
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I would like to urge you and the administration to do every thing in your power to bring to a close the years old Microsoft case. This anti-trust suit is settled but m name and further politicking in Washington or posturing in the media are wasteful and counter productive exercises. The proposed settlement agreement was born of years of litigation, negotiation and mediation, it is a hard fought and won compromise between the several parties and varied interests. It deserves to be adopted for the sake of Microsoft, a great American company, the faltering IT industry, and our national wellbeing.

The settlement will leave Microsoft as it stood at the outset, the sole leader of America's most innovative industry. It will require the company, however, to change its ways and embrace a more Open and pro-competitive business philosophy. Microsoft will have to abandon its software exclusivity demands when selling its platforms to computer manufacturers. It will have to open itself up to regular government review. It must eschew further predatory or anti-competitive marketing practices. It will have to, not just accept, but also promote a more competitive IT world. In doing so it will hopefully become a catalyst for the whole industry.

Please support this settlement.

Sincerely,
Anne Gould Anderson

MTC-00029867

HENRY G, & EILEEN C. JAMES
1825B BRIARCLIFFE BOULEVARD .
WHEATON, IL 60187
P 630–665–8904 .
F 630–260–4037
Email: twojames@earthlink.net
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We are writing to express our opinion regarding the antitrust suit against Microsoft, which is that it should be concluded at once. The settlement reached in November 2001, is a fair and just settlement that ought to be accepted by the Justice Department.

For fire sake of Microsoft's shareholders and customers, this antitrust suit needs to be brought to a swift and final conclusion.

Thank you and we think you are doing a good job in your cabinet position.

Sincerely,
Henry G. James
Eileen C. James

MTC-00029868

Fred Dorst
11715 Canyon Vista Lane
Tomball, TX 77375–7677
January 26, 2002

Dear Mr. Ashcroft:

I am happy to hear that the Justice Department has decided to end its antitrust lawsuit against Microsoft. The Department's three-year case has gone on for way too long.

The agreement they came up with came after extensive negotiations with a court-appointed mediator. The company agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit—trust for the sake of wrapping up the suit. The company even agreed to document and disclose, for use by its competitors, various interfaces that are internal to windows' operating system products—a first in an antitrust settlement.

Microsoft has been distracted long enough. I don't think the federal government should ever have to drag the company in to the courts ever again, it would be soon by most as nothing more than pure harassment.

Sincerely,
Fred Dorst

MTC-00029869

TRAVEL WORLD
US DEPARTMENT OF JUSTICE
RE:COMMENT PERIOD MICROSOFT SETTLEMENT
JANUARY 28, 2002

AS A SMALL BUSINESS OWNER WHO BELIEVES STRONGLY IN THE FREE INTERPRISE SYSTEM WE SHOULD BE ABLE TO COUNT ON IN THE UNITED STATES, I WISH TO OFFER MY OPION ON THE MICROSOFT ANTITRUST LAWSUIT. I BELIEVE IT WAS WRONG FOR OUR GOVERNMENT TO INITIATE THE LAWSUIT WHICH IN ESSENCE PENALIZED MICROSOFT FOR IT'S SUCCESS IN THE TECHNOLOGY ARENA. I STRONGLY FEEL THAT MICROSOFT HAS NOT HARMED CONSUMERS AND THAT CONSUMERS INSTEAD HAVE BENEFITED FROM THE NEW CHOICES, AND LOW PRICES PROVIDED BY MICROSOFT AND OTHER COMPANIES LIKE THEM. I WAS VERY SORRY TO HEAR THAT NINE ATTORNEYS GENERAL AND THE DISTRICT OF COLUMBIA HAVE DECLINED TO ACCEPT THE SETTLEMENT TO THIS 3 YEAR MILTIMILLION DOLLAR EFFORT TO TOPPLE MICROSOFT AND ALLOW THEIR COMPITORS TO HAVE UNFAIR LEVERAGE OVER THEM. UNFORTUNATELY MY STATE OF IOWA IS ONE OF THOSE NINE.

I WANT TO INCOURAGE THE DOJ TO MOVE FORWARD WITH WHAT IS BEING CONCIDERED A SETTLEMENT WITH SOMETHING FOR EVERYONE WHILE NOT ENTIRELY SATISFYING TO ANYONE. IN THIS TIME OF ECONOMIC UNCERTAINTY, WE NEED BUSINESSES THAT STIMULATE DEMAND FOR PRODUCTS THROUGHOUT THEIR INDUSTRY TO RETURN WORK AND NOT! ENCOUNTER NEW OBSTACLES TO GROWTH.

THANK YOU FOR THE OPPORTUNITY TO EXPRESS MY CONCERNS REGARDING THE LAWSUIT AND PROPOSED SETTLEMENT.

KAY KING, OWNER/PRESIDENT
TRAVEL WORLD. INC
5922 Ashworth Road
West Des Moines, Iowa 50266
Office: 515.223–7474 .
Fax: 515–223–7722

MTC-00029870

Management Reports Incorporated
23945 Mercantile Koad
Beachwood, OH 44122–5924
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC, 20530–0001

Dear Mr. Ashcroft:

At first glance, many companies in the IT community were elated when the Department of Justice filed their suit against Microsoft. As time went on, however, it became evident that the punitive nature of the suit would probably end up more damaging than helpful to the entire IT community.

Now there is this settlement. I believe this settlement to he amply fair. It is my hope that it will prevail through this period of public comment, and that no further federal action will be contemplated. The settlement's call for interoperability protocol disclosure and Windows reconfiguration will ensure that more varied and effective computer software is brought to the market.

The IT business community has already been hit with slowdown and its share of business failures, both of which cut into the ability to quickly rebound. As the IT business has faltered, so has our entire national economy. It is time to put all of this unpleasantness behind us and allow the IT community to regain its position of strength. It is here that our economic recovery as a nation will be greatly enhanced.

Sincerely,
Robert Burger
IS Manager

MTC-00029871

Kevin H. Smith
12435 129th Avenue E
Puyallup, WA 98374
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I favor an immediate resolution to the Microsoft anti-trust case. A settlement proposal exists. It has the support of the major parties and the majority of party states. It is fair and it is workable and it deserves to be ratified by the government and enacted.

The settlement agreement addresses the concerns and the complaints of all parties. It leaves Microsoft whole while requiring the company to adopt practices that benefit its competitors. Microsoft must abandon predatory market practices. It must open its systems and technology to the exploitation of its competitors. It must now license its Windows platforms to computer manufacturers without exclusivity requirements for its software. These and other settlement terms, which Microsoft has accepted, make it clear that the company is willing to actively contribute to a new more competitive marketplace and justify an end to this case.

Please support this settlement and use your influence to convince the congress that it is, as it is in fact, the best thing for everyone.

Sincerely,
Kevin H. Smith

MTC-00029872

FACSIMILE COVER PAGE
To: Renata B. Hesse
From: Bill Barmes
Sent: 2/1/2002 at 10:17:56 AM
Pages 1 (including Cover)
Subject: Microsoft Settlement

I am a VAR (Value Added Reseller) in the state of Idaho. I believe it is extremely important for the economy of this country to have the DOJ Microsoft agreement resolved as soon as possible. The Small Business Owner not only in Idaho but accross the country has already been badly affected by this process being dragged out. We all need to move forward and get OUR economy going again in the right direction.

Bill Barmes
CompNet Systems
208–283–5400
bbarmes@velocitus.net
fax 208–388–0610

MTC-00029873

Bill Hughes
33 Deborah Drive
Roswell, New Mexico 88201–6501
January 27, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0011

Dear Mr. Ashcroft:

I am of the opinion that the settlement that was reached between the Justice Department and the Microsoft Corporation is fair and reasonable, and I am in full support of it. It is nice to see that the lawsuit that has leveled the stock market and pushed our economy into recession is over, and I hope that the other states still involved in litigation will follow the lead of the federal government.

The settlement does not go easy on Microsoft, but will be beneficial to the entire information technology industry and the economy. Microsoft has agreed to design future versions of Windows, which will include a mechanism that will make it easier for computer makers and consumers to install and use non-Microsoft software within the Windows operating system. It will also make it easier to add or remove access features that are built into Windows. This will push the competition to develop better software that will rival Microsoft's, and gives the consumer more choices. This gives the consumer the best of all worlds. Competition in the information technology industry will benefit as will consumer choice. This settlement is good for everyone involved, and i stand behind it.

Sincerely,
Bill Hughes

MTC-00029874

January 28, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I work in the financial services industry (commercial insurance) and have closely watched the impact of the Microsoft lawsuit, particularly its effect on the economy as a whole. I don't believe it is a coincidence that just when the lawsuit was getting underway, our economy began a significant downturn which some say we are just beginning to come out of in recent weeks. Continuing this lawsuit is only detrimental to the companies involved and the American economy as a whole. It would be far more advantageous to all parties to settle the matter with appropriate safeguards in place to prevent a similar suit in the future. In my opinion this suit did nothing to protect me or other American consumers. In fact it harmed our buying power and the overall strength of the economy.

As I understand the settlement from media reports, Microsoft has agreed to share intellectual property (which I don't think is right or fair) and create software that would allow for more flexibility for competing products to be used within Microsoft's operating system. In addition, a special committee will be formed to ensure compliance with all aspects of the settlement. It seems to be a fair and just compromise. Continuing to cripple Microsoft to allow others to "catch up" is not what our market economy is based upon. The fair opportunity taken advantage of by Microsoft 20 some years ago was open to all, do not further punish them for exercising their opportunity.

Please accept the settlement before you and put this case to rest. Thank you.

Sincerely,
Scott M. Scheidel

MTC-00029875

Advanced Network Design, Incorporated
301 N. Harvey
Oklahomg City, OK 73102
(405) 319-9795, Fax: (405) 319-9824
January 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

During the course of the past several years, there has been a lot of saber-rattling going on between Microsoft and the department of Justice over this lawsuit. I personally do not think that the ultimate goal of the government to break up Microsoft would have survived a Supreme Court review, but the very threat seems to have tamed Microsoft into this settlement.

In the unlikely event that Microsoft would have ever been broken up, it could have been beneficial for my company. However, it must be quickly said that the Microsoft product line is deservedly superior to anything on the market today. The long-term effects of having Microsoft splintered through this lawsuit would have been devastating for most consumers as well as many IT companies.

This settlement is therefore good. Even though its terms encompass more than the lawsuit did, it has been accepted by both sides and, with its acceptance, the struggle between our government and Microsoft is over. i am hoping that this in itself will be enough to allow all of us to put this behind us and move forward.

Sincerely,
John Woods
President
CC: Senator Don Nickles

MTC-00029876

ALLIED WASTE
Charlotte Metro District
January 19, 2002
Renate Hesse
Trial Attorney
Anlitrust Division
Department of Justice
601 D Street NW, Suite I200
Washington, DC 20530
Subject: Support for Microsoft Settlement

Dear Ms. Hesse:

I started in business as a very young man, working with my father at the garbage company he owned. Since then I have worked with a variety of companies in the waste industry. I have seers dramatic changes not only in this industry but also in the national economy, Technology is a driving force in the waste industry and the economy, providing the foundation for increased productivity, consumer and business knowledge and millions of new jobs in almost every industry.

Microsoft has been the leader in technology, not only in the United States, but internationally through its establishment of technology standards and integration of software. The efforts to restrict Microsoft's ability to compete could have serious implications for our economy. I urge a speedy resolution to the antitrust lawsuit. The proposed consent decree offers new flexibility and access to the tachnical aspects of Microsoft software so that computer makers and software developers can integrate non-Microsoft products into computer operating systems. Microsoft itself, its competitors, computer manufacturers, information technology providers and, most important of all, the consumer and end-users will benefit from the protections provided in the settlement agreement. It is time to accept this agreement and allow Microsoft and other technology companies to return to building a competitive technology industry.

Sincerely,
Jimmie Jones
P.O. Box 219/ Pineville, NC
28234/ 704.377.0161/ 803.548.2026 FAX
Waste Services of Charlotte
January 17, 2002
Renata Hesse
Tria1 Attorney
Antitrust Division
Department of Justice
601 D Street NW. Suite 1200
Washington, DC 20530
Fax 202-616-9937
Subject: Support for Microsoft Settlement

Dear Ms. Hesse:

For more than 20 years, I have worked in different aspects of the waste management industry During that time, I have seen dramatic changes in my industry as well as the overall economy. Certainly the use of technology has dramatically changed the way business is done, The waste industry is much more efficient and more capable of keeping track of equipment, waste sites and a variety of other aspects of our work because of technology.

I have watched the antitrust litigation against Microsoft with interest not only because of the impact on technology but also the impact it could have on innovation and product development. While not a panacea for the concerns voiced by computer makers and software developers, the proposed settlement agreement will give them new rights to configure Windows so that non-Microsoft products can be used. Microsoft has also agreed to the establishment of a technical committee to monitor progress of the settlement and to provide a venue for concerns of computer makers, software developers and consumers.

Microsoft will have the freedom to continue efforts to develop new and innovative products, Innovation is key in this country's ability to thrive in a global marketplace where foreign competitors try to replicate our products and sell them st cheaper prices to undercut our economic growth, The proposed settlement, agreement provide protections to all involved in this industry Microsoft itself, its competitors, computer manufacturers, information technology providers and, most important of all, the consumer. From my own experience, I know how difficult it is to come up with a compromise I encourage a quick resolution to the litigation so the technology industry can focus on regaining its competitive edge in the world economy.

Sincerely,
Tony Davies
5105A Morenead Road
Concord, NC 28027
(704) 393-6900, Fax (704) 782-2177
?? Pre??cts, Inc.
?? Break Read, FF-202
Charietie, North Carallas 28205
Phone 704-373-9889
Toll Free 888-332-2888
January 22, 2002
Ronal?? Hesso
Trial Attorney
Antitrust Division
Department of Justice
601 D Streat NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesso.

I am writing in support of the proposed settlement a??eement in the United States v. Microsoft case The Antitrust laws were meant to protect consumers, not to stop market competition. As a small business owner, I believe this proposal will not penalizeó other competing operating systems. This proposed settlement encourages more competition and groater innovation. All new Microsoft operating systems, including Windows XP. would have to include a mechanism that readily allows and users to remove or to-enable Microsoft's middleware products, such as the Internet web browser We need to be encouraging the technology sector, which is critical to out economic recovery.

This Agreement is good for the technology industry, the economy and consumers

Sincerely,
Evan J. Boxer
President
EJn/dgb

MTC-00029877

John O'Donnell
13000 NE 28th Place
Bellevue, WA 98005
January 27, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing in full support of the recent settlement between Microsoft and the US

Department of Justice. It is time that this foolishness comes to a prompt end. More than enough time has been used to cover all of the bases and I feel that it is just a political standoff at this point.

The terms of the settlement make apparent to me the intense lobbying efforts of Microsoft's competition as they will be granted new rights to configure Windows so that non-Microsoft products can be promoted more easily and also be given interfaces that are internal to Windows' operating system produces.

Even though these concessions do not actually protect consumers and just help Microsoft's competitors that were unable to be innovative on their own, I urge your office to finalize the settlement. It is in the best interests of our economy, IT sector, and public for the case to end and our country to move on. Thank you.

Sincerely,
John O'Donnell

MTC-00029878

Beverly Duncan
8310 E MORRIS ST
WICHITA, KS 67207
Renata Hesse
Trial Attorney
Antitrust Division
US Department of Justice
601 D Street NW—Suite 1200
Washington, DC 20530

Attorney Hesse:

Please accept the settlement before involving the Department of Justice's antitrust suit against Microsoft. Based on what I have seen on the news and read in the papers lower courts have ruled that Microsoft should not be broken up and have thrown out much of the original case. It is my understanding that this occurred because the case revolved around proving consumer harm and such harm has never been proven.

While this case has gone on for the last several years, we have all felt its negative impact on our wallets. Whether you consider the astronomical costs that taxpayers must bear or the millions lost in the stock-market, the effects of this case have been negative to average Americans. In an effort to resolve this case the Justice Department and Microsoft have wisely found a way to reach an agreement. It seems to me this agreement more then addresses any concerns some may hold about Microsoft's business practices.

Please support the settlement before the court.

Sincerely,
Beverly Duncan

MTC-00029880

Gary G. Hill
44024 Countryside Druive
Lancaster, CA 93536
January 26, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Re: Microsoft Settlement Support

As an elected member of the Antelope Valley Health Care District representing 450,000 people, I am writing this letter as in support of the settlement in the case against Microsoft. I believe that this whole suit was a waste of time and money. Only in America do we focus on tearing down success, and destroying a product line the works. There are choices out there, but none of them work as well as the Microsoft products.

There are more pressing issues that are of concern to me in this country such as the energy crisis here in California. The state has lost $22 billion dollars resulting in consumers getting gauged. In addition, the price of gas has risen 20 cents per gallon, just in the last week. The Department of Justice should have taken a strong NO to the rash of oil company mergers this past decade; we can live without a home computer, but must have gasoline (real public transit has not arrived yet) Microsoft did not get off as easy, as its opponents would have people think. They agreed to terms beyond what was required in the suit. They also agreed to design future versions of Windows, starting with an interim release of XP, to provide a mechanism to make k easy for computer companies, consumers and software developers to promote non-Microsoft software within Windows.

Microsoft seemed to be generous when settling the case. Let's end litigation now so that Microsoft can go back to work. We, the American people, need a company like Microsoft to stay strong, so they can continue to create innovative products, well paying jobs, and help strengthen the tech sector of the economy.

Sincerely
Gary G. Hill

MTC-00029882

TAMMY FOX
Renata Hesse
Thai Attorney
Anti-Trust Division
U.S. Department of Justice
601 D St., NW
Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

After years of hearing and reading about the Microsoft antitrust case, it is a great opportunity for the those of us in the general public to voice our opinion as part of the official record. Thank you for the opportunity to do so.

Bill Gates started his company in his garage. Today, it's one of the largest software companies in the world. There is no better example in our time of fulfilling the American Dream. This man and his company are what entrepreneurial spirit is all about. When raising our children, never was it instilled in them to work hard, work smart, build something, BUT be careful not to get too big because if you do, the government might try to take it away. That is not how our country became the economic super power it is today. We got there with freedom and free enterprise. Clearly, I disagree with the premise of this entire case. However, we are past that point. Now we are at a place, after three long years of courtrooms and lawyers, where you have a decision to make On a proposed settlement. The agreement presented delivers what the federal and state governments involved felt they needed—oversight of Microsoft's business operations. I hope you will see fit to endorse the agreement so we can all move on.

Thanks Again,
Tammy Fox
2136 Blake Boulevard SE
Cedar Rapids, Iowa 52403

MTC-00029883

State Senator Stan Clark
205 US Highway 83
Oakley, KS 67748
January 25.2002
Judge Kolar-Kottely
Attn: Renata Hesse, Antitrust Division, U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge Kolar-Kottely,

This is a difficult time for our nation as we face economic hardship we have not seen in a decade. As a state senator, I know the difficulties that come with this economic downturn. My own state of Kansas is facing budget shortfalls and the threat of increased taxes as a result.

I understand that the economic situation is the result of a number of elements that together have culminated in a recession. Some of these elements, like the attacks on America on September 11(th), were beyond our immediate control. Others elements, like the monetary" policy of the Federal Reserve are controlled directly by the government. The US Department of Justice's antitrust suit against Microsoft is another event that contributed to our economic downturn at the hands of our own government.

There is quite a pool of evidence that demonstrates that specific events during the government's case against Microsoft had a direct correlation to the state of the stock market, Upon Judge Jackson's "findings of fact" against Microsoft, the NASDAQ fell. Upon his recommendation for splitting up the company, there was another NASDAQ freefall.

The lawsuit against Microsoft may seem to be a small part of the whole economic picture, but it is difficult to deny that the case has had a negative economic impact—and on one of the driving sectors of our economy: the high-tech industry".

When the high-tech industry is ailing, the rest office economy suffers as well. Technology is so integrated into our daily lives that we sometimes forget just how dependent up on it we are. Thus the ripple effect through the economy. When high-tech hurts, everybody hurts.

From what I understand of the settlement accord the Department of Justice, state attorneys general and Microsoft Corp have agreed to, the major concerns of the government have been addressed; yet Microsoft is kept from breakup and allowed to continue to be an innovator in our high-tech industry.

I hope you take a valuable step forward for our national economy by lending your approval to this settlement. It is a timely and appropriate way to end this suit and allow our country's economy to begin to repair itself.

Sincerely,
Sen. Stan Clark

MTC-00029884

VIRGINIA V. MANN
3004 Normandy Place
Evanston, Illinois 60201
January 25, 2002
Renata B. Hesse
Anti-trust Division
US Department of Justice
601 D Street, NW
Washington, DC 20530
Sent via fax to: 202-307-1454

Dear Ms. Hesse:

I was pleased to hear that the Department of Justice had settled its ridiculous suit against Microsoft. Clearly, this lawsuit was politically driven and using our government and our laws in this fashion was unfortunate from the beginning. I am relieved to see this dispute resolved, although believe it should never have been brought in the first place.

Although Microsoft has agreed to the restrictions in this settlement, I believe it is unfortunate that our government has chosen to do anything less than completely dropping the case. Microsoft has done more to improve our efficient and effective communications than has any other company in history. They should be left alone to continue their fine work without further interference from our government.

Sincerely,

MTC-00029885

Mark D. Snipe
420 West 42(nd) Street, Apt. 11F
New York, New York 10036
To: Attorney General's office
Fax: 202-307-1454
From: Mark D. Snipe
Date: 1/28/02
Re: Microsoft Settlement
Pages: 2 (including fax cover page)
CC:
420 West 42nd Street, Apt. 11F
New York, NY 10036
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion m regards to the Microsoft antitrust dispute. I fully support Microsoft in this dispute and feel that this company is being punished for being successful. Microsoft has contributed such a great deal to our society that stifling this company would only have adverse consequences for consumers. I support the settlement that was reached in November and believe that this settlement will serve in the best public interest.

Microsoft has agreed to all provisions of this agreement. Microsoft is willing to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows. Microsoft has also agreed to design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers, and software developers to promote non-Microsoft software within Windows.

This settlement is thorough. Continuing litigation against Microsoft will only serve to negatively impact our economy and consumers. Please support this settlement so that this company can devote their resources and time to innovation, rather than litigation. Thank you for your time.

Sincerely,
Mark Snipe

MTC-00029886

To:
Fax:
Date:
Subject:
FAX
Citizens for a Sound Economy
Phone 202 783-3870
Fax 202 783-4687
1250 H Street NW
Suite 700
Washington, DC 20005-3908

To the U.S. Department of Justice:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Name:
Address:
Email:

To the U.S. Department of Justice:

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Print Name:
Address:
Email:

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Respectfully,
Print Name:
Address:
Email:

To the U.S. Department of Justice:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys" general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Print Name:
Address:
Email:

To the U.S. Department of Justice:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

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MTC-00029891

January 25, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937

Dear Ms. Hesse:

As the new Commissioner of the Babe Ruth Softball League, I am confident in the future of our programs. I only wish that I had reason to be as optimistic about the future of the American economy. It seems as though everywhere I look I see doubt, confusion and a lack of stability in the American economy. We've got to improve this situation

I think that President Bush has the right ideas: strengthening our military, improving education and cutting taxes will make our nation stronger, smarter and more ready for business. However, consumer confidence in the short term must be fixed in order to spur growth. The American people want to see their government working to help create jobs. In that spirit, I believe that the pending settlement in the federal government's antitrust suit against Microsoft needs to be finalized. Think about it: the stock market took a nosedive when the federal courts announced that they planned to dissolve Microsoft. The economy has never recovered. We need to reverse this trend!

When I think of every American out of work, it makes me realize how needless and futile that any further pursuit of this lawsuit would be. We need our industry leaders, particularly our industry giants, like Microsoft, to be as strong as possible. Our government should work cooperatively to bolster, not weaken, them.

I request that Judge Kollar Kotelty approves the settlement.

Sincerely,
Famie Horn

MTC-00029892

Adam Marigold
January 27, 2002
Renata Hesse
Trial Attorney
Anti-Trust Division
U.S. Department of Justice
601 D St., NW
Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

The antitrust case against Microsoft brought the booming success of the high-tech industry to a screeching halt.

Microsoft has been a leader in the surge in both the high-tech sector and our overall economy. The case caused numerous slides on Wall Street costing investors everywhere. Future success for not only tech companies, but businesses of all types, seems in jeopardy of government intervention.

The marketplace is constantly changing and guarantees success to no one, but opportunity for success to all. Government involvement in business obstructs the workings of America's free-market system. Customers determine what they want, what they like and buy it. There's no sure thing. The federal government should not be placed in a position of authority over the market—choosing champions and runners up. There is a place for a limited government—to protect.

Those who argue this is in fact the role the state and national Justice Departments undertook in this case, should be asking themselves—Why does this settlement come three years too late? Three years after it began we have a wounded economy, a limping technology industry, puzzled consumers and furious taxpayers. Please accept the settlement before you.

Sincere
Adam Marigold
3906 B Ave NE
Cedar Rapids, IA 52402
(319) 363–3527

MTC–00029893

Commercial Underwriters
22720 Michigan Ave., Ste. #210
P 0 Box 1088
Dearborn, MI 4812t
Phone: (3t3) 278–3800
Fax: (3t3) 278–8467
TO: Attorney General John Ashcroft
DATE: 1/28/02
COMPANY:
FROM: US Department of Justice
FAX# 202–307 145/05 616–9937
FROM: Dan Schwartz
PAGES INC- COVER:
MESSAGE:
Please see Following page.
Click on us at:
www. CURMinc.com
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, N W
Washington, DC 20530

Dear Mr. Ashcroft:

I want to express my gratitude liar the work you have done since being named Attorney General last year. I am especially pleased with your decision to settle the government's anti-trust lawsuit against Microsoft, and I fully support this settlement. Private businesses should have the right to develop ideas and become successful from them without being punished by the federal government.

This lawsuit has had very negative effects on the technology industry, and this has carried over and hurt the U.S. economy. Microsoft has agreed to change its business practices so that competition can increase, the industry can be revitalized, and the economy can be stimulated. The settlement calls for a three person technical committee that will watch over Microsoft, and make sure that no more anti-competitive behavior exists in the future. Consumers will benefit from more choices in the marketplace, and this was the desired outcome when the lawsuit began over three years ago.

Settling now is the right thing to do for our country at this time, and I thank you for your decision to end the litigation against Microsoft. I am hopeful that this is truly the end of this case at the federal level, and that there will no further action taken against Microsoft.

Sincerely,
Dan Schwartz
P.O. Box 5644
Dearborn, M—I 48128
P.O. Box 1088,
Dearborn, Michigan 48121–1088
22720 Michigan Avenue,
Suite 210,
Dearborn, Michigan 48124
Phone (313) 278–3800
Fax (313) 278–8467—Toll Free 1–800–856–8701
www.curminc.com

MTC–00029894

JOSEPH TARTAGLIA
88 FARRELL DRIVE
WATERBURY, CT 06706
Renata Hesse, Esq.
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Via Facsimile 202–616–9937

Dear Ms Hesse:

This letter is to articulate my support for the proposed settlement in the Microsoft case. The fact that over $30 million in taxpayer dollars has been spent in this case during these trying economic times is proof enough that this case has gone on far too long. Hopefully, the settlement will signal a return to innovation without the threat of government intervention.

The Department of Justice has done a commendable job in putting together an agreement that is fair but won't put Microsoft out of business. It is a reasonable conclusion to this case and I support it wholeheartedly.

Sincerely,
Joseph Tartaglia

MTC–00029895

ASSOCIATED BROKERS
OF SUN VALLEY, LLC
Real Estate
January 28.2002
Mike Sampson
P.O. Box 2004
Sum Valley, ID 83353
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in support of Microsoft and believe this whole antitrust case has become political. I don't see how this benefits consumers and businesses—especially at the expense of the economy. The tech stocks are down. The technology sector is down. The employment numbers are down. Let Microsoft get back to work and the government get on with worthwhile business. The only people I see benefiting from this case are the lawyers.

I am a small businessman who employs 25 people. I have greatly benefited since 1982 from the products Microsoft produces and feel they have been more than fair to me. If their competitors can't put out a better product with competitive pricing and service that's their problem. I don't see why I should suffer as a small businessman.

After years of extensive negotiations and mediation, Microsoft has gone out of their way to settle this case. They went well beyond what would be required in any antitrust case. They agreed to design future versions of Windows, starting with an interim release of XP, to provide a mechanism to make it easier for computer companies, consumers and software developers to promote their software within Windows.

Let's end this litigation so that we can focus on what's really important. Thanks,

Sincerely,
Mike Sampson
cc: Senator Larry Craig

MTC–00029896

Jesse L Clay
1205 Ridgecrest Drive SE
Albuquerque, NM 87108
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take some time to express to you my feelings about the proposed settlement that was reached between Microsoft and the Department of Justice. It is about time that the antitrust suit ended, and I feel that the terms in the settlement, although harsh on Microsoft, will be for the betterment of the computer industry and the economy.

I am pleased with the prospect of the case being resolved, but I think it was initiated for all of the wrong reasons. Microsoft's competitors had a major role in initiating the litigation, because they could not bring to the market a product that matched Microsoft's own. The competition should be happy though. The terms of the settlement require Microsoft to turn over to their competitors source code and design data that are crucial to the internal makeup of Windows. Enough is enough. This settlement needs m he approved so the industry can get back on its feet, and with competitors working more closely with one another, the industry will benefit.

I feel the proposed settlement will benefit all parties involved, including Microsoft's competitors.

Sincerely,
Jesse Clay

MTC–00029897

Carol Morse Sibley
92 Overlook Terrace
Bloomfield, NJ 07003–2917
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

The antitrust lawsuits against Microsoft have gone on for too long. They are also not very well justified. Microsoft has not only created jobs and wealth for our country, but also has made technological breakthroughs that have revolutionized the IT sector. I do wish that when they come out with new versions of software they would always make it compatible with previous versions, which they didn't do, for instance, with PowerPoint.

Still, it's clear that the settlement seems to only help competitors gain an edge they were not able to gain beforehand. It forced Microsoft to disclose interfaces that are internal to Windows operating system products, and also grant computer makers broad new rights to configure Windows so that non-Microsoft software can be promoted more easily. It is in the best interests of the

American public to finalize the settlement. Our nation cannot afford further litigation so I urge your office to use its influence to try to rein in the nine states that want to drag this case out for even longer. Thank you for your time.

Sincerely,

Carol Morse Sibley

MTC-00029898

Nancy A. Waxdahl
305 N. Chicago Avenue
Sioux Falls, SD 57103
605-332-5335 Home/Consultant Phone
January 24, 2002
Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am addressing in this letter the settlement agreement in U.S.v. Microsoft, and its benefits for our state and America's economy.

Frankly, this case has run its course after four years and the tremendous financial investment by federal and state governments, and the Microsoft Corporation, I am aware that nine of the 18 states in the antitrust case have chosen not to agree to settle, but I think it speaks more loudly and convincingly when nine states and the U.S. Department of Justice agree that this case has reached a satisfactory conclusion.

As someone who has served on county and city boards which were created a better quality of life, I am very pleased that a positive result of this case wilt be the distribution of computers, software and support for low income schools in the nation. Our state will certainly benefit, particularly among the Indian populations where some of America's poorest counties are found. I am also pleased that this agreement indicates that this court action will finally end, and Microsoft will be able to refocus its energies to providing the leadership in information technologies. Because Microsoft has blazed the path, America's technology industry has been a cornerstone to our nation's economic position in the world. Please do what you can to allow this agreement to be implemented so that we can all move forward. Thank you very much.

Sincerely,

Nancy Waxdahl

MTC-00029899

JEFFREY Q. OLSON, D.D.S.
Clock Tower Plaza. Suite 211B
2525 West Main St.
Rapid City, SD 57702 605/342.2445
January 25, 2002
Renata Hesse, Trial Attorney
Antitrust Division
U.S, Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Trial Attorney Hesse:

Thank you for the opportunity to provide my Input on the settlement reached recently in U.S.v. Microsoft. I am very pleased that this antitrust case has settled after the years and millions invested in pursuing every relevant issue involved, I realize that it has been a complicated case which has caused the courts to enter unfamiliar territory in determining the appropriateness of Microsoft Corporation's practices as they affect its equally ambitious competitors, However, I have been concerned that this case would also act to stifle the dynamic ability of Microsoft—or any other software firm—to create and successfully market the best software which meets the needs of consumers Placing our government in charge of micromanaging innovation would certainly limit the ability of American software companies to keep our nation ahead in technology development, For my dental practice and home use, I have relied on Microsoft to provide a competent and versatile system to conduct business and communicate with friends and family. I hope this settlement will allow Microsoft to dived its resources into continuing to make its clients satisfied with its new products.

Sincerely,

Dr. Jeff Olson

MTC-00029900

COMMUNITY COLLEGE
224 NORTH PHILLIPS AVENUE
Sioux FALLS. SD 57104
605/336,1711
FAX: 605/336–2606
1–800–888. 1147
E-Mall: Info@kee.cc.??d.us
January 17, 2002
Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Renata Hesse:

My letter is for the public commentary portion of the settlement phase in U.S. vs. Microsoft. As an educator in a Sioux Falls college, one reason I support the settlement is it offers a chance to improve education in South Dakota's and the nation's poorest school districts by bringing IT equipment, software, and support to them. This will create a ladder to those who've been trapped in the IT access gap, and give these children the tools they will need to continue their education in our state's colleges.

I also support the proposed settlement largely because it puts an end to an antitrust suit which has not shown consumers have been harmed by Microsoft, and because it has found answers to the issues which were found to be important by the federal court system. Additionally, when a case of this size and important has boon running for four years with all of the resources brought into it, I think you can safely assume that all valid issues have been brought to light and all questions have been answered satisfactorily. Apparently the U.S. Department of Justice thinks so, as do half of the state attorneys general who brought the case.

Our own state did not join this antitrust action. Our Attorney General felt it lacked enough ?? to warrant using our state's limited financial resources to pursue it, I think he was right. Considering them arc much more important and pressing matters before the Department of Justice, I think it's time to call this matter resolved and settled.

Thank you for your attention to my letter.

Sincerely,

Kip Scott

MTC-00029901

Randy
2408 W. Rice Street.
Sioux Falls. SD 57104
January 24, 2002
Renata Hesse—Trial Attorney
Antitrust Division
US Department of Justice
601 D Street NW—Suite "1200
Washington, DC 20530

Dear MS. Hesse:

With the court's approval, our nation will be best served by the settlement agreement reached between the Department of Justice and Microsoft Corporation. The settlement resolves the issues which were found to be legitimate. It resolves an issue which has absorbed four years and many millions in taxes from the Justice Department.

While our nation has endured a recession, one Of the strong points in our recovery has been the Microsoft Corporation which has Shown great resiliency, even though its resources and attention have been split with the threats posed by the antitrust case. Microsoft has ?? In one of the most hostile Industries because the entire company's energetic focus is on remaining the leader in software development. Their competitors are also very wealthy and they are equally as determined to replace Microsoft as the leader. Therefore, I am not surprised that half of the states in the original suit are still in the hunt to bring down Microsoft.

I am impressed with one Of the gifts available In this settlement. Which will target computers and Information technologies resources for our nation's most poverty-stricken school districts. My home state will probably be rewarded With these computers since some of the nation's poorest counties are located in South Dakota. I nave been an activist on social development Issues, Including my service as Executive Director of the S.D. Alzheimer's Association. I support this settlement not only because It ends an action which has served its usefulness, but also because it benefits children who need the help. I appreciate your consideration of my letter.

MTC-00029902

PAUL SYMENS
STATE SENATOR
3ENATE CH.AMBERS: RESIDENCE:
TELEPHONE:
State Capitol RR Box 89 605/a48–5775 (home)
Pierre, SD 575Ol Amherst, SD 57421 605/448–2624 (work)
phone: 773–525l 605/448–5786 (fax)
January 18, 2002
Reacts Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Trial Attorney Hesse:

Thank you for the opportunity to provide my comments on the settlement of U.S.v. Microsoft and the benefits this settlement will have for the nation and our state. South. Dakota has been pro-active in making information technologies ubiquitous for children and adults throughout our state. Governor Bill Janklow's Wiring the Schools Program is making high-speed, wide ban interact service available in all schools and public buildings in every town. Additionally, with the help of a $670,000 matching grant from the Bill and Melinda. Gates Foundation, the state is bringing faculty and administrators up to speed on using these systems so that more children will benefit. The settlement from the Microsoft antitrust case will result in financially disadvantaged school districts receiving free software, hardware and technical support. For disadvantaged kids, this is a case of what happens when preparedness meets opportunity, In South Dakota, where the nation's three poorest counties are found, this settlement will have great meaning for young people seeking their way in tills world.

Aside from the educational benefit, I am glad that this ease is nearly settled. It has absorbed an incredible amount of taxes and four years of productive time to resolve the issues brought to the court. Those issues are addressed in this settlement, and I believe they should he satisfied. There are those who would like to continue this case, I can't imagine that after all of the time and money invested to date that anything useful or productive would be the result. Please let this case become settled, Microsoft is part of the foundation of our nation's economy, and continuing this case will work only to weaken a corporation which has been a responsible citizen to our nation. Thank you for considering my letter.

Sincerely,
Paul N. Symens
State Senator, District I

Paid for by Paul Symens for Senate Committe, RR Box 89, Amherst, SD 57421

MTC-00029903

South Dakota Network
Against Family Violence and Sexual Assault
P.O. Box 20453.
Sioux Fails, SD 57109.
(605)731.0041.
sdnafvsa@meleodusa.net
January 17, 2002
Renata Hesse, Trial Attorney
Antitrust Division
U.S, Department of Justice
601 D Street NW, Suite t200"
Washington, DC 20530

Dear Ms. Hesse:

My comments here are" in favor of the settlement in U.S. vs. Microsoft, because the settlement's provisions will be a benefit for children in regions" where poverty has prevented them from accessing the intenet. The state government of South "Dakota has put an emphasis of wiring our public schools and public" buildings for the. internet, but obtaining good software and hardware, and the support needed to make the system work smoothly, have been lacking. The settlement will be of great benefit to this program and to the state's children.

I also feel the settlement is the. right thing for our nation's economy, I have used Windows products for work and pleasure, and I am satisfied with the products. They empower people to gain the full benefit of the information superhighway, and they enable business people and nonprofits to correspond on the same technical level, I think it is noteworthy that the antitrust case never established a finding that consumers were shortchanged by Microsoft.

Your attention to my letter :is appreciated.

Sincerely,
Deb Aden

MTC-00029904

Mark Proctor
family & children advocacy services
713 N. Madison Avenue
Picrre, SD 57501
January 22, 2002
Renata Hesse
That Attorney
Anti-trust Division
US Department of Justice
601 D Street NW, Suite t200
Washington, DC 20530

Dear Ms. Hesse:

On the issue of the settlement agreement in US v. Microsoft, please allow this agreement to move forward so that this anti-trust case is allowed to come to a fair and final conclusion very soon.

The time and money which has gone into this case, in both the government and private sectors, has been more than sufficient to render sensible decisions, it is my understanding that the settlement agreement addresses each of the issues which needed to be addressed by the courts. It is interesting that none of Microsoft's practices and policies were determined to be harmful to consumers. AS someone who has worked in family and children advocacy projects in Western South Dakota, I am pleased that an important aspect of this settlement will help to bridge the IT gap among poorer Children in the nation.

The distribution of computers and supplies by Microsoft is in keeping with the reputation of the Bill ?? Melinda Gates Foundation. The Foundation made a sizeable gift to our state to enhance the development of IT services within South Dakota's public school systems. And the Foundation has a tremendous record of philanthropic contributions [o eliminate diseases worldwide through vaccination programs. Despite the criticism by some, the remedy of forcing Microsoft to install and maintain computer systems in public schools to help the neediest children is profoundly wise and beneficial to society.

Sincerely,
Mark Proctor

MTC-00029905

South Dakota Legislature
State Capitol,
500 East Capitol,
Pierre, South Dakota 57501–6070
January 22, 2002
Renata Hesse—Trial Attorney
Antitrust Division
US Department of Justice
601 D Street NW—Suite 1200
Washington, DC 20530
RE: Public commentary In U.S. v. Microsoft settlement

Dear Ms. Hesse:

Public service, for me, means investing my time and energy to help improve the quality of life for the people in my legislative district. That is why I have served as a member of the Rossbud Sioux Tribal ??, and as a State Senator for 10 years, and now as a State House member for my second year.

My legislative District 27 is home to the pine Ridge Reservation and the Ro??obud Reservation, where you will find two of the poorest counties in the entire United States, according to the U.S. Census Bureau. My district is filled with kids who want to do well in school no that they can make a good life for themselves as adults, Everybody is encouraged by our Governor's program Wiring the Schools because it brings wide band, high speed Internal capabilities to our schools. But it is discouraging when you visit the schools and see Kids waiting their turn to use systems which are slow, dilapidated and not up to the standards of systems used by kids in other parts of the United States.

That is one important reason why I support the settlement agreement, because it will bring updated systems, software and support to the schools in my district. Another strong point is the fact that this antitrust case has been fully scrutinized and debated for four years in the federal court system, and the settlement agreement speaks to all of the significant issues which have survived the court process. I have enough faith in the U.S. Justice Department to know that this settlement is a good one, or it would not have aigned off on the agreement.

Thank you for the opportunity to submit my opinion on this important settlement.

Sincerely,
State Representative

MTC-00029906

STEVEN D. SANDVEN
LAW OFFICES
300 HUNDRED BUILDING
300 NORTH DAKOTA AVENUS, SUITE 516
SIOUX FALLS, SD 57104–6026
PHONE: (605) 332–4408
FAX: (605) 332–4496
CELLULAR: (605) 941–1498
January 22, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Dept. of Justice
601 D Street NW / Suite 1200
Washington, DC 20530
RE: Public commentary on U.S.v. Microsoft Settlement

Dear Ms. Hesse:

In my service as General Counsel to the Sisseton-Wahpeton Sioux Tribe at Lake Traverse Reservation, I am concerned with the development of tribal schools and the education of Indian children. My work also involves services to other tribes in more remote areas of western South Dakota, North Dakota, and Kansas where education programs are also viewed as essential to the economic survival of Indian people and tribal governments.

Tribal schools throughout this region are becoming increasingly interested in new technologies and making sure Indian children are not left behind the curve with non-Indian students. That is why I believe the Microsoft settlement is going to have untold benefits for generations by supplying these schools and schools of other low-income students with computers, software and technical support they need to operate competent systems.

As an attorney, I have been watching the antitrust case, and I have taken an interest in its outcome. While consumers clearly have not been hurt by anything Microsoft has done, I think it is debatable whether Microsoft was inappropriate in its practices against its competitors. I am glad to see that the U.S. Justice Department and nine of the 18 states in the case come to terms with Microsoft, because I think this case has had enough time and resource paid to it to render a just settlement of issues.

I appreciate your interest in my thoughts on this settlement, and I ask for a quick resolution to approve the settlement.

Steven D. Sandven

MTC-00029907

City of Winnfield
PHONE (318) 628–3939
FAX (318) 628–6773
P. O—BOX 509
WINNFIFLD, LOUISIANA 71453
winn@imerica.net
Deano Thornton, Mayor
Council Members
TONY ASOSTA
KENNY CALDWELL
WILLIE HOLDEN
ANDRE" HOWARD
MATT MILAM
Date 1–28–02
From?? Fax No.318–428–4773
To?? Fax NO. 202–414–9937
Re: MESSAGE
Renata Heese
Trial Attorney
Antitrust Division Department of Justice
601 D. Street NW. Suite 1200
Washington. DC 20530
FAX: 202–616–9937
RE: Settlement of U.S. vs. Microsoft

Dear Ms. Heese:

I have always been a strong believer in the free enterprise system. It is what built this country from the beginning and is responsible for making us the economic giant of the world. This case has cost taxpayers over thirty million dollars and It is high time that it come to an end. Microsoft's competitors need to return to competing in the marketplace When they do. the consumer wins and the free enterprise system works.

The last thing the technology sector needs is more "lawyers and governmental intervention. Please accept this letter as complete support of the settlement and request that this case come to an end.

Thank you.
Sincerely
Deano Thomoto
Mayor
DT/sp

MTC-00029908

Peripherals Plus Technologies, Inc
317 North Queen Sweet
Lancaster PA 17603
Phone 717.397.9752
Fax 717.397.9905
www.pptnet.com
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Since the Courts reached a settlement on the Microsoft antitrust case in November, I was hopeful we could move forward. Now with the additional states and competitors coming forward to pursue further litigation, I am starting to wonder if this benefits the consumer at all or just the business of the competitor's.

Microsoft has been more than cooperative. They agreed to license their Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price. They also agreed to grant computef makers broad new rights to configure Windows, in order to promote non-Microsoft software programs that compete with programs included within Windows.

I urge you to put an end of this litigation fiasco. There are more pressing issues upon which the government should be focused.

Sincerely,
Byron Wright

MTC-00029909

Ellisport Engineering, Inc.
January 28, 2002
To: Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Subject: Microsoft Settlement

Dear Ms. Hesse,

I believe the terms of the agreement are reasonable and fair to all parties involved. This settlement represents the best opportunity for Microsoft and the industry to move forward. To continue prosecuting Microsoft is to punish one of the few American companies who are helping us to compete in the international arena of commerce.

Please settle this now. It is in the best interest of the country.

Stephen T. Kicinski, PE
Ellisport Engineering, Inc.
20501 81st Ave. S.W.
Vashon, WA 98070
Telephone (206) 463–5311
FAX (206) 463–2578
E-Mail: Ellisportl@aol.com

MTC-00029910

ReportWare
1460 Manzanita Lane
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www.ReportWare.com
Sales@ReportWare.com
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Re: Microsoft Settlement

Dear Mr. Ashcroft:

I support the settlement between Microsoft and the U.S. Department of Justice. Please stop this foolishness.

I feel that, as an attorney and president of a technology firm, I have some reasonable understanding of the issues in this case. It is my strong feeling that the Government's actions have been overly aggressive and caused problems damaging to the whole software industry. I have no sympathy for Microsoft's competitors who have sought to promote this case. I believe that they have done so in order to gain advantage for their otherwise inferior software. I have no economic relationship with Microsoft, beyond being in the same industry and using their products—for which I pay retail. I support Microsoft and this settlement and I hope you will lend your support as well. Thank you.

Yours truly,
Randy Hanshaw
9President. ReportWare, Inc.
RH:gt
cc: Senator Harry Reid

MTC-00029911

34 Heritage Court
Randolph, NJ 07869
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support of Microsoft and by extension, the settlement recently proposed by the DOJ. I support this settlement because Microsoft deems the terms fair and will comply in the hope of regaining a measure of normalcy in the IT industry as soon as possible. I am sure that this has been public's desire from the very beginning.

However, I don't believe in the prosecution of Microsoft, in the first place, in my mind, this all started due to an overzealous prosecutor and competitor's which used the available court system as a venue to retain competitive advantage, damn fairness and free trade. Microsoft has brought new innovative products to market and because they were superior, they've become widespread. Why on earth should they be prosecuted for being successful?

To me the only good thing that has come out of this lawsuit is that the public has been able to see the kind of company that Microsoft is, one that provides products that the market wants, low cost and effective computing solutions. That they bundled their software, made it easier for me and I support them for it. It didn't kill Netscape (I still use it) or any other competitor. They just failed to be as successful as Microsoft, and now they're complaining.

Microsoft's willingness to comply with the terms of this agreement and those not even at issue in the lawsuit is a classic example of their high caliber. Microsoft has agreed to allow their competitors aspects of Windows that will facilitate competitiveness such as Microsoft's internal interfaces, protocols and intellectual property. To ensure their compliance, Microsoft has agreed to be monitored by a Technical Committee.

In the interest of seeing a restored IT industry and a more stabilized economy, please make the necessary decision to formalize the proposed settlement, though I personally think it goes to far.

Sincerely,

Richard Paeschke

MTC-00029912

The Genate
Slate of Iowa
Seventy-ninth General Assembly
STATEHOUSE
Des Moines, Iowa 50319
STEVEKING
STATE SENATOR
Sixth District
Statehouse: (515) 281–3371
HOME A ADDRESS
3897 Esther Avenue
??, Iowa 51448
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FAX—(712) 675–4573
steve king@legistrate ??
January 28, 2002
COMMITTEES
State Government, Chair
Appropriations
Business & Labor Relations
Commerce
Judiciary Oversight & Communications Appropriations Subcommittee
Vice Chair
Renata Hesse
Department of Justice, Antitrust Department
601 D St NW
Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am a State Senator from Iowa and I also the owner of construction contracting business. In my capacity as a State Senator I am chairman of the state government committee and also serve on the commerce committee. I chose to serve on these committees because as a business owner I am acutely aware of" negative impact: over regulation can have on business It is from this unique perspective that I am writing you today to encourage you to settle the Microsoft anti-trust case

The suit against Microsoft was brought under anti-trust laws that were developed in at a time in our history when our nation was growing into the industrial and economic leader it is today. These laws were meant to protect American consumers from harm inflicted by monopoly companies. These laws have served their purpose in the past. However, in this case, I do not think they apply the government and Microsoft's critics have yet to prove consumer harm as a result of Microsoft actions or practices.

As a businessman and strong supporter of our free-market system, it is apparent to me that Microsoft's only crime is giving the American public a superior product, and therefore has been able to build a loyal following of committed users. Assumedly, Microsoft worked very hard to develop its products and market. They should not be punished for this or for having the business savvy to take action to protect their market.

A closer look at this suit and the lobbying efforts that have fueled it will expose disturbing realities. Microsoft's competitors do not appreciate that technology consumers are overwhelmingly loyal to Microsoft products. However, instead of committing to production of new products that may allow them to more successfully compete in our free-market, they have banded together and found a way to use outdated anti-trust laws for their own purposes.

The settlement before you is truly a compromise for Microsoft. Certainly, Microsoft will be held to the severe provision of this settlement, not the least of which is the sharing of intellectual property. However, negotiating settlement is the best solution for the technology industry and our" economy in general. When this settlement is approved it will send a signal to the technology industry that the threat of government interference has been lifted.

Sincerely,

Senator Steve King

MTC-00029913

C. Cowdery
3926 NE Eighty-Ninth Street
Seattle, Washington 98115
January 22, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

After three long years of court baffles, Microsoft and the government have settled an antitrust suit that has profound implications for all software publishers, the rest of the Information Technology industry, and American consumers. By ending this case, the government is actually giving a boost to our sagging economy.

The settlement has teeth. Under the agreement, computer manufacturers were granted new rights to configure systems with access to various Windows features. Microsoft must also design future versions of Windows to make it easier to install non-Microsoft software and to disclose information about certain internal interfaces in Windows.

The government even went so far as to create an ongoing technical oversight committee to review Microsoft software codes and books and to test Microsoft compliance to ensure that Microsoft abides by the agreement. This will help to promote fairness. In conclusion, I don't think it will ever be necessary for the federal government to ever bring any more litigation against Microsoft beyond this agreement. This agreement is more than fair and reasonable and was arrived at after extensive negotiations with a court appointed mediator.

Sincerely,

C. Cowdery

MTC-00029914

RJA Pollinating Co.
P.O. BOX 58
450 West Main St.
Westmorland, CA 92281
760–344–3726
760–344–3091
FAX 760–344–0012
TO: MA Renata B. Hesse
Location: U.S. Dept by Justice—Antitrust Division
Telephone:
FAX: 202 616 9937
Date: 1–28–02
Comments:
Total Number of Pages Sent: 2
Approval:
RJA Pollinating Co.
P.O. Box 58 450
West Main St.
Westmorland, CA 92281
760–344–3726
760–344–3091 FAX 760–344–0012
January 28, 2002
Ms. Renata B, Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
VIA FACSIMILE: 202–816–9937

Dear Ms. Hesse:

As a concerned citizen with an eye for government waste, I strongly believe that the antitrust case against Microsoft has been a squandering of public resources. I also believe this was brought on by those who have a liberal bias and are against corporate America. Therefore, I support the agreement between Microsoft and the nine plaintiff states.

As you know, our antitrust laws are supposed to protect consumers, not competitors, What's going on here is that our government is penalizing Microsoft for its success, The consequences are far ranging. If the United States government can attack one of the most successful companies in America, who's next?

As a believer in open markets and opponent of government intrusion, I support "the Microsoft settlement.

Thank you for your time.

Sincerely,

Richard J. Ashcroft

MTC-00029915

1000 Chesterbrook Boulevard,
Suite 101
Berwyn, Pennsylvania 19312
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am happy to hear about the settlement that has been worked out with Microsoft. It has taken three long years to finally reach an agreement like this that is fair for both sides. I hope that the Federal government will let this be it and finally put the matter to rest.

The settlement is fair. First of all, Microsoft will adhere to a uniform pricing list when licensing Windows out to the larger computer vendors in the United States. Also, Microsoft has agreed not to retaliate against companies that promote or use non-Microsoft products. Most importantly, Microsoft has agreed to share sensitive information with its competitors; information that will allow them to more easily place their own programs on the Windows operating system.

I know that many people who daily depend on Microsoft products will write to you about this matter. I hope that you take their and my opinions into account. I support the settlement, and look forward to seeing the suit come to an end. As a consumer and a user of Microsoft products, I do not feel that I am being "clobbered" by Microsoft. Many of their competitors would like you to think this is the case. Since many other companies can't effectively compete with their own inferior products, they want the taxpayers to help them get rid of Microsoft by way of a government breakup. Enough is enough, settle the lawsuit and allow Microsoft to get on with creating more innovative products!!

Sincerely,
Marc T Nettles
Cc: Senator Rick Santorum

MTC-00029916

Denterlein Worldwide
Honorable Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
C/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
RE: U.S. v Microsoft

Dear Judge Kollar-Kotelly,

At a time when innovation in the computer technology industry should be booming the decision with regard to U.S. v Microsoft certainly makes it very difficult for companies to find the investment dollars to develop software. Limiting the ability of companies competing, the settlement provides loopholes which will probably keep this issue in litigation for years. Microsoft's monopoly has grown stronger. Its Windows operating system and Office Suite have higher than 90% usage. It is clear that operating systems which may have posed a threat and others that might have competed are no longer a concern.

If competition is precluded it is very unlikely venture capital will be available. Investors historically will avoid the risk involved when potential future development is impeded by a monopoly. Consumers are affected as well be, cause they will not find affordable products in the marketplace. The already sluggish job market and economy certainly does not reflect the potential in the industry if a monopoly did not exit.

It is clear that Microsoft hopes to expand to web services, financial, cable and the like, perhaps even the interact. Without venture capital companies will be unable to creatively address emerging markets. At a time when government on all levels faces serious challenges involving security and privacy issues they will be limited in the software they can use if it is not compatible with Windows.

There is nothing the settlement which will hinder Microsoft. It will be business as usual. The settlement requires Microsoft to share technological information unless Microsoft determines that sharing the information might harm its security or software. In addition Microsoft, due to its monopoly and dominant market share, dictates the technologies, which will be compatible with Windows.

One of the three person technical committee will be selected by Microsoft. The Department of Justice will choose a second member and they must agree on the third member. There is no question that companies will be less inclined to take on a monopoly when their future business, if the challenge fails, may well depend on that company. Microsoft will continue to be able to charge whatever it wants for its products, prices will skyrocket.

The technical committee must identify violations of the agreement. No findings may be admitted into court in enforcement proceedings and compliance is only for five years. This seems a short time for such a flagrant violation of antitrust law.

After all the years examining this important issue it would seem a better solution could be found. I appreciate your interest. If there is any additional information with which I may be of assistance, please contact me.

Sincerely,
Geri Denterlein
President
CC: Honorable Tom Reilly, Attorney General

Ten Liberty Square
Boston, MA 02109
P: 617 482 0042
?? 617 357 6911
geri@denterleinworldwide.com

MTC-00029917

Lynch Associates, LLC
Honorable Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
RE: U.S. v Microsoft

Dear Judge Kollar,Kotelly,

I am writing in regards to the proposed settlement between Microsoft and the Department of Justice. In the decision on U.S.v. Microsoft it appears that the settlement does not fully resolve Microsoft's monopoly of the market and will continue to lead to predatory, practices.

Microsoft's "bolting" of applications to their software which was not terminated in the settlement has maintained an unfair advantage for Microsoft in the distribution of these applications. These types of practices don't create an environment of fair competition, which creates a problem not only for their competitors but also eventually for consumers.

It is clear that Microsoft hopes to expand its monopoly to web services, financial, cable and the like, perhaps even the Internet. If we let Microsoft continue this expansion ultimately consumers will have to pay inflated prices for these products that we will only become more dependant on. Antitrust laws were created to avoid business being conducted in such a manner.

This deal also threatens to curtail innovation in an industry that is a vital part of our new economy. At a time when serious challenges face government and corporations they will be seriously handicapped in choosing the high value systems they need for privacy and security because compatibility with Windows does not exist.

The enforcement mechanisms in the settlement leave Microsoft free to do whatever it wants. The three person technical committee will only serve as a kangaroo court, which further threatens the integrity of enforceability. Analysts from many sectors of the technology industry have indicated the lack of impact the settlement will have and will result in minuet changes in Microsoft's practices.

10 Liberty Square, 5th Floor
Boston, Massachusetts 02109
Telephone: 617.574.3399
Facsimile: 617.695.0173

Enforcing federal antitrust laws is vital to maintaining the integrity of free markets. It is important that we continue to enforce them to protect the welfare of consumers and the fundamentals that contribute to what makes our country's industries great. I appreciate you taking your time to examine this important matter. If there is any additional information I can provide for you, please contact me

Sincerely,
Anne Lynch
Lynch Associates
CC: Honorable Tom Reilly, Attorney General Commonwealth of Massachusetts

MTC-00029918

International Brotherhood of Electrical Workers
256 FREEPORT STREET
DORCHESTER, MASSACHUSETTS 02122
TELEPHONE: (617) 436–3710
FAX: (617) 436–3299
TOLL FREE: (800) 218–0015
WEBSITE: www, ibew103, corm
January 25, 2002
The Honorable Coleen Kollar-Kotelly
U.S. District Court, District of Columbia
C/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20540–000:t
RE: U.S. v Microsoft

Dear Judge Kollar-Kotelly:

After many years of investigating Microsoft with regard to monopoly issues, a settlement has been struck which appears to continue that monopoly. Limiting the ability of other companies to compete, the settlement provides loopholes, which wilt probably keep this issue in litigation for years.

The longer it takes for competition to be permitted the less likely it is for those interested in investing venture capital to risk taking a chance on potential future development by companies hoping to compete. The result is that not only are consumers affected in that they will be unable to buy an affordable product, but the already sluggish job market will fail to reflect the potential of the industry.

It is clear that Microsoft hopes to expand its monopoly to web services, financial, cable and the like, perhaps even the internet. Without venture capital companies will be unable to creatively address emerging markets.

Although the agreement precludes Microsoft from paying a vendor to keep it from developing or distributing software that would compete, Microsoft is the determining body when an exception is identified. Likewise Microsoft: must share technological information unless Microsoft determines the information may harm its security or software. In addition Microsoft, due to its monopoly and dominant market share, dictates the technologies, which will be compatible with Windows.

The Honorable Coleen Kollar-Kotelly
January 25, 2002

At a time when serious challenges face government and corporations they will be seriously handicapped in choosing the high value systems they need for privacy and security because compatibility with Windows does not exist.

Although the technical committee will oversee the process, Microsoft will choose one of its three members. The Department of Justice will choose a second and they must agree on the third member. There is no question that companies will be less inclined to take on a monopoly when their future business may well depend on the company. Given that Microsoft will continue to be able to charge whatever it wants for its products, prices will skyrocket. The technical committee of three must identify violations of the agreement. No findings may be admitted into court in enforcement proceedings and compliance is only for five years. This seems a short time for such a flagrant violation of antitrust law.

After all the years examining this important issue it would seem a better solution could be found. I appreciate your interest. If there is any additional information with which I may be of assistance, please contact me.

Sincerely,
Richard P. Gambino
Business Manager
cc: Honorable Tom Reilly, Attorney General

MTC-00029919

January 23, 2002
CARROLL LOGISTICS INC
P.O. Box 4797
Tisbury, MA 02568
TEL 617–945–1600
FAX 617–945–2416
Honorable Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
C/o Renata B. Hesse
Antitrust Division
U.S. Department. of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotelly,

I am writing with regard to the settlement between the Department of Justice and Microsoft in U.S. v Microsoft. It appears to violate antitrust law. Microsoft has a monopoly now and will be permitted to expand it with regard to emerging markets.

The fact that Microsoft Is free to bolt financial services, cable services or even the internet to Its Microsoft Windows is a great concern. As companies develop software they will be unable to address the issue of affordability due to the dependency on Windows technology to function.

Microsoft may not pay a vendor to keep them from developing or distributing software that would compete, however Microsoft is the determining body when an exception is identified. Likewise Microsoft must share technological information unless Microsoft determines the Information may harm Microsoft security or software. In addition Microsoft, due to its monopoly and dominant market share, dictates the technologies, which will be compatible with Windows. Governments and corporations will be unable to choose high value systems they need for privacy and security if that compatibility does not exist.

Half of the technical committee will be appointed by Microsoft. The Department of Justice and Microsoft each appoint one member while they must agree on the third member. There is no question that companies will be less inclined to take on a monopoly when their future business may well depend on that company. Given that Microsoft will continue to be able to charge whatever it wants for its products, prices will skyrocket.

The technical committee of three must identify violations of the agreement. No findings may be admitted into court in enforcement proceedings and compliance is only for five years. This seems a short time for such a flagrant violation of antitrust law. After many years of examining this important issue I would think a better solution could be found. I appreciate your Interest. If there is any additional Information with which I may be of assistance, please contact me.

Sincerely,
Thomas R Carroll
PO Box 4797
264 Sandpiper Lane
Vineyard Haven, MA 02568
CC: Honorable Tom Reilly, Attorney/General

MTC-00029920

allan associates
six osmanosen avenue
ball, massachusetts 02045
(781) 925–6388
January 22,2002
Hon. Colleen Kollar-Kotelly
US District Court
District of Columbia
C/o Renata B. Hesse, Antitrust Div.
US Dept. of Justice
601 D St. NW
Washington, DC 20530–0001
RE: US v Microsoft

Dear Judge Kollar-Kotelly,

The settlement agreed to by the Department of Justice and Microsoft appears to fly in the face of antitrust laws. Although the examination of this problem took a number of years, the results seem inadequate and the penalties less than one would expect for such serious violations of the law. Among the areas which are of concern:

* Microsoft will determine if any company's technology violates Microsoft security or software. This would preclude a vendor from distributing or developing software as proscribed by the settlement.
* Microsoft may bolt financial, cable services or even the internet to Windows, creating a dependency on Windows technology for all software developers.
* The technical committee which will oversee implementation will be stacked in favor of Microsoft, as there will be one member appointed by Microsoft, another appointed by the Department of Justice and a third on whom both entities must agree.
* The process to'' file a complaint would be unlikely to attract many businesses challenging Microsoft, as the most probable result would be the company then still having to deal with Microsoft.
* Consumers will bear the brunt of this decision, as they will find the expense of software reflected in the monopoly Microsoft will hold in its development.
* At a time when governments and corporations are looking to develop software to insure privacy and security it will be impossible if compatibility with Microsoft Windows does not exist.

I am pleased that Attorney General Tom Reilly has agreed to reject the settlement and is pursuing all avenues to assist individuals and businesses in the Commonwealth of Massachusetts. I appreciate your attention. Please contact me if I may be of assistance.

Sincerely,
Virginia M. Allan
CC: Attorney General Tom Reilly

MTC-00029921

Law Offices of
Mark T. Collins
329D Boston Post Road Millbrook Park
Sudbury, Massachusetts 01776
Telephone (978) 443–7677
January 24, 2002
Honorable Colleen Kollar-Kotelly
U.S. District Court
District of Columbia
C/O Ms. Renata B. Hesse
United States Department of Justice
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotelly,

With regard to the settlement of the Department of Justice and Microsoft in U—S—v Microsoft I would like to raise a few issues. It appears Microsoft will continue to have a monopoly in the marketplace. Expansion will only increase the corporation's ability to intimidate smaller companies as they make an effort to produce software at more affordable prices.

At a time when development of financial services, updated cable services and the internet are offering challenges to many small and midsized companies to be creative in new uses, the inability of a company to progress without compatibility with Microsoft is a major stumbling block. Microsoft in theory may not keep a vendor from developing or distributing software, even if it might be competition, but Microsoft itself will determine if a company's information technology might adversely affect Microsoft's security or its software.

Compatibility with Microsoft Windows is essential and Microsoft makes the determination as to which technologies will be compatible thus limiting the ability for companies whose technologies are not included to procede.

The oversight of the settlement offers additional problems in that Microsoft will be responsible for the appointment of one individual on the technical committee. In addition the Department of Justice appoints one other and the two must agree on the third. The committee must identify violations of the settlement. In addition it must hear complaints from the companies whose products are not compatible. It is highly unlikely that a challenge will be made against a company which essentially controls the monopoly which at some point may well control the smaller companies ability to develop future software,

Although Microsoft will comply with these lenient restrictions it will only be required for five years. This seems a short time for a penalty for violating antitrust law. Please contact me if you have any questions.

Sincerely,
Mark T. Collins
CC: Honorable Tom Reilly
Attorney General
Commonwealth of Massachusetts

MTC–00029922

THE LIBERTY SQUARE GROUP
Honorable Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
C/O Renata Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
RE: US v Microsoft

Dear Judge Kollar-Kotelly,

I realize there has been discussion over many years concerning this issue. It does seem a more equitable solution could have been reached in light of antitrust laws. As it stands now, Microsoft can still bolt financial services, cable or even the internet to Windows hindering competition. The fact that Microsoft will determine what technologies will be compatible with Windows makes it very difficult for companies to develop software or for that matter find capital investors to even be interested in their companies.

As it stands now both Microsoft Windows and Office Suites enjoy a 90% user status. Expansion into other markets will expand that usage even more. At a time when computer technology should be expanding to address security and privacy issues in government and corporations, the inability to compete is certainly not making it the environment good for growth. The settlement provides many loopholes which will probably keep the issue in litigation for years.

Without competition it is very likely venture capital will be unavailable. The affect on consumers will be reflected in the high cost of software. The already sluggish job market and economy certainly does not reflect the potential in the computer software market. It is clear that Microsoft plans to expand to financial, cable and the internet, expanding its monopoly. There is nothing in the settlement which will hinder Microsoft.

One of the three people on the technical committee will be selected by Microsoft. The Department of Justice will choose a second member and they must agree on the third member. It is apparent that companies will be reluctant to take on a monopoly when their future business may well depend on that company. Microsoft will continue to be able to charge whatever it wants for its products, prices will skyrocket.

This issue has been discussed for many years. It seems a more equitable solution could be determined, if I may be of any assistance, please contact me.

Sincerely,
Scott M. Ferson
President
Liberty Square Group
CC: Attorney General Tom Reilly

MTC–00029923

JENNIFER E. LAWRENCE, ESQ.
Honorable Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
RE: U.S. v Microsoft

Dear Judge Kollar-Kotelly,

I am writing in regards to the anticipated settlement with the Microsoft Corporation. This proposed settlement allows Microsoft to preserve and reinforce its monopoly, while also freeing Microsoft to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, it seems a more equitable solution can be reached.

The deal fails to meet the appellate court's remedy standards, which are clearly laid out by the appellate court. The following are some examples of how the deal fails to meet the standards:

1. The settlement does not address key Microsoft practices found to be illegal by the appellate court, such as the finding that Microsoft's practice of bolting applications to Windows through the practice of "commingling code" was a violation of antitrust law. This was considered by many to be among the most significant violations of the law, but the settlement does not mention it.

2. The proposed settlement permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding.

3. The flawed settlement empowers Microsoft to retaliate against would-be competitors and to take the intellectual property of competitors doing business with Microsoft.

4. The deal fails to terminate the Microsoft monopoly, and instead guarantees Microsoft's monopoly will survive and be allowed to expand into new markets. The settlement is also fiddled with loopholes making the enforceability of the settlement questionable.

The agreement requires Microsoft to share technical information with competitors so that non-Microsoft software will work on Windows operating systems. However, Microsoft is not required to do so if it may harm the security or software licensing. The determiner of this harm? Microsoft. The settlement also says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop software that would compete with its products. However, another provision permits those payments and deals when they are "reasonably necessary." Again who determines this "reasonably necessary?" Microsoft.

The enforcement provisions in the settlement are weak and leave Microsoft virtually unaccountable.

Microsoft is only subject to comply with the terms of the agreement for a mere five years. Hardly an adequate amount of time for a corporation found guilty of violating antitrust laws. The three-person committee that is being assembled to identify violations of the agreement will have nearly no effect since the work of the committee cannot be admitted into court in any enforcement proceeding.

The proposed settlement between the Department of Justice and Microsoft in U.S.v. Microsoft falls short of what would be prudent and necessary in rectifying Microsoft's monopoly and changing their current practices.

Thank you for your time.

Regards,
Jennifer E. Lawrence, Esq.

MTC–00029924

4712 Ferncreek Drive
Rolling Hills Estates, CA 90274
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

I would tike to express some of my opinions regarding the settlement agreement between your Department and Microsoft. I feel that it is fair, reasonable, and extensive. I do not see the need for further federal action, especially when nine states have approved the agreement. Microsoft is currently negotiating with the opposing states to reach a conclusion. Not only does this agreement address the issues that brought about the lawsuits, but it provides direction in dealing with future problems as weft.

Although the settlement calls for concessions that make antitrust precedent, Microsoft has agreed in an effort to end this case sooner rather than later. The company will stop retaliating against those that design or p ore non-Microsoft programs, end will allow computer makers to configure Windows so as to promote those programs. Most importantly, a technical oversight committee will ensure Microsoft's compliance with these concessions, and competitors will be allowed to sue Microsoft directly if they feel they've been treated unfairly.

I appreciate you taking time to consider my views on this issue. We must bring certainty and stability back to the IT sector. This agreement will allow the market, the industry, and the economy to move forward.

Sincerely,
Erwin Oetken

MTC–00029925

Henry Kath P.O. Box 1920
Cottonwood, CA 96022–0351
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

As a citizen of California I am very disappointed that the settlement reached between Microsoft and the Department of Justice has not been accepted by my state. I believe that this suit has gone much farther than was ever appropriate. It is my opinion that the alleged crimes committed by this company are much less severe than a number of people have made them out to be. Microsoft does not deserve the callous treatment that they have been given, and the continuation of this already protracted suit will not benefit either the United States as a whole or the state of California.

The proposed settlement is well thought out and is a fair conclusion to this unfortunate litigation. Microsoft will not commit any further anti-trust infringements, the company will be monitored by a three-man oversight committee which will ensure that all business tactics engaged by the company in future are fair and do not lean towards monopolistic practices. The settlement ensures that Microsoft will not strike back against any company that develops products that compete against its own. And finally, Microsoft will develop all future versions of Windows to work more completely with the products of competing companies. This settlement will remedy any problems that any of Microsoft's competitors may have experienced when dealing with this company. All of the states should jump at the chance to accept the terms and finalize this costly litigation.

I understand the need to protect businesses and to ensure that there is a fair playing field for everyone. However, free enterprise must be protected. Without it, we lose the very fabric upon which we have built this nation. I believe that we need to move forward as a nation and to do so we need this settlement. Thank you for the work that you have done to bring this agreement about and for ensuring that we do not ring in another year with this costly litigation hanging around our necks.

Sincerely,
Henry Kath

MTC-00029926

Elliott.
US Department of Justice
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Elliott Davis Technology Solutions, LLC
1200 Woodruff Rd. Suite C40
P.O. Box 5088
Greenville, SC 29606-6088
Phone 864.281 7440
Fax 864.987.0180
1866281.74.10
January 22, 2002

Dear Mr. Ashcroft,

I personally believe that this lawsuit against Microsoft is better settled. Even though many of the points enumerated in the suit were valid, the litigation was quickly getting out of control and could have resulted in a lot of unnecessary complications for both Microsoft and for the IT businesses in general.

The points of the suit have been adequately addressed in the settlement. The settlement, for example, requires more responsible and flexible attitudes by Microsoft towards its OEM licensees as well as to third party software developers, who will now be able to take advantage of disclosure of Microsoft software code. Microsoft's competition should be elated at this.

I am therefore writing in support of the settlement and hope that this kind of lawsuit be prevented in the future.

Sincerely,
Charles Johnson
Partner

MTC-00029927

LS Consulting
Date: January 21, 2002
Renate Hesse
Triel Attorney
Antirust Division
Department of Justice
?? D Street NW. ?? 1200
Washington, DC 20550

Dear Ms. Hesse.

The Microsoft ?? case reminds me of the novel ?? Shrugged, written by Ayn Rand In the novel, industral competitors turn to the govenment and empower it to choose ?? and losers in the marketplace.

Without question, Microsoft's primary competitors have joined into an unholy ziliance with the judicial ?? of government, in an effort to target the success of Microsoft are its popular software You might also want to reference ?? Bastiat's The Law, to gain his insights on how government attempts to choose winners and losers in the marketplace.

I have been intimately involved with personal computers and the software that drives them since the very ??. As a computer consultant and a database software developer for nearly twenty years, I would be amused by government lawyers with limited computer skills—and an even more limited grasp of the actual inner working of software—trying to dictate policy to a marketplace that literally changes every day. If the slakes weren't: so high.

As an active an informed citizen, I have a thorough understanding of the roles the branches of government are to play in our society, and the businese, of choosing winners and losers in the marketplace is not a function of government, in belongs to the American consumer. Sign off on the proposed settlement before you in this case and lot us do our work Sincerely,

Loras Schulte
In His ??

MTC-00029928

NASH FINCH COMPANY
Cedar Rapids Distribution Center
Rob Reinert
Regional Pricing Manager
319-743-4245
Ms. Ronata Hesse
U.S. Department of Justice, Ami-trust
601 "D" Street NW. Suite 1200
Washington, DC 20530

Ms. Hesse:

I have been informed that under the Tunney Act you are accepting public comment on the United State's agreement with the Microsoft Corporation. I am writing to offer my views on this matter. I work for a company called Nash-Finch that is based in Minneapolis and operates a large chain of grocery stores in the upper Midwest and wholesale operations in more than thirty states. As Regional Pricing Manager I have seen first hand the benefits of computer innovations. It seems that we are constantly being presented with new tools that allow us to maintain better control of our inventory and maintain/improve gross margins:

The future holds many exciting things for consumers and lousiness when it comes to technology. The last few years have taught us theft almost anything is possible when technicians are allowed to freely ?? and create. Future innovations will allow businesses to operate more efficiently and help our economy as we work out of our current recession.

This case has cruised questions throughout the entire industry as it watches to see if the government will successfully gain new power to regulate this industry. It is clear in the reports that I have read that the settlement currently on the table is fair. It appears that any allegations against Microsoft that have been shown to have merit in court are fairly remedied in the settlement.

This settlement provides a good resolution and it allows the technology industry as a whole to get on the move again.

Your consideration is appreciated.
RO. Box 549
Cedar Rapids, IA. 52406
1201 Blairs Ferry Rand N.E.
Cedar Rapids, IA 52402.
Ph. 319-393-1880
Fx. 319-393-2223
Sincerely.
Rob Reinert
Customer Satisfaction is ACWAYS First

MTC-00029929

January 22, 2002
Ms. Renata Hesse
Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse.

Like so many Americans, I am an investor in the stock market and have been financially hurt by the downturn this past year. As an individual investor, I have made every effort to do my part to prevent an even greater drop in the markets by maintaining my holdings without over-reacting. While we enjoyed a relatively minor upswing recently, the markets once again dropped following the national media attention of the Enron bankruptcy. In the face of so much negative news, it is getting more and more difficult for investors to optinistically believe the markets have hit the bottom and are in a recovery.

From an economic standpoint, you have the ability to send a message which can only be construed as good by the media and the American public. I am referring to the Microsoft lawsuit. A proposed settlement in this case is before you. Most of the parties involved in this case are in agreement to settle this case based on the proposal presented. Please take this opportunity to do your part and sign on to the proposed settlement. By putting and and to this lawsuit, you allow the tech industry the chance to move forward. You will also create much needed oprimism for a ?? point in our times of economic struggles.

Thank you.

Sincerely,

Keith ??
4815 Grand Avenue
Des Moines, Iowa 50312
515 255–8328

MTC–00029930

ERIG J. KFOURY. EGQ.
January 24, 2002
Honorable Colleen Kollar-Kotelly
U.S, District Court, District of Columbia
C/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotelly:

Please accept this letter of concern with regard to the terms of the settlement being proposed by the United States Department of Justice and Microsoft Corporation. Acceptance of this settlement will not dissuade Microsoft from continuing to pursue its established objective of market dominance, and, more importantly, will encourage other businesses to follow the lead in new and different markets without fear of any reprisals or Interference from the government, in all, it is a seemingly toothless me measure of exactitude that undermines the historical good achieved by the antitrust regulations of which Microsoft was duly found to be in violation.

The settlement purports to force Microsoft to share key information with competitors as a way of braking the stranglehold the company enjoys with its Windows product. However, it need only do so if Microsoft, itself, determines such divulgence would not hurt its security or product licensing. Further, the continued market dependency c Windows created by the fact Microsoft can bolt it to financial and cable services, as wall as, the internet will adversely affect the affordability of new software being developed by other companies. As such, any potential competition will be priced out of the market and Microsoft will stand alone—the essence of a true monopoly.

Though there are other areas of the settlement that are problematic, the final concern sterns from the notion that there can be a limit to the amount of time (e.g., five years) an antitrust violator should be subject to enforcement. If the government agrees to terms with a corporation to correct conditions set by monopolistic practices, there should be no expiration data with regard to the commitment to those terms.

An antitrust violation has been established. Irrespective of penalizing the violator, an equitable resolution must be found that opens up the market and ensures it remains a place where other businesses and entrepreneurs have a chance to succeed. This proposed settlement does not amount to such a resolution.

Very truly yours,

Eric J. Kfoury, Esq.

Co: Honorable Thomas Reilly, Attorney General Commonwealth of Massachusetts

MTC–00029931

JAN-25-02 14:31
FROM:
ID: PAGE 2
SALOMON SMITH BARNEY
A member of Columbia
Ho??orable Colleen Kollar-Kotelly
U.S. District Court. District of Columbia
C/o Renata B. Hesse
A?? Division
U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotelly,

I am writing with regard to the settlement between the Department of Justice and Microsoft in U.S. v Microsoft. It appears to violate antitrust law. Microsoft has a monopoly now and will be permitted to expand it with regard to emerging markets.

The fact that Microsoft is free to bolt financial services, cable services or even the internet to its Microsoft Windows is appalling. As companies develop software they will be unable to address the issue of affordability in working to help consumers find a lower priced product due to the dependency on Windows technology to function.

Microsoft may not pay a vendor to keep them from developing or distributing software, which would compete, however Microsoft is the determining body when an exception is identified. Likewise, Microsoft must stare technological information unless Microsoft determines the information may harm Microsoft security or software. In addition, Microsoft, due to its monopoly and dominant market share, dictates the technologies, which will be compatible with Windows. Governments and corporations will be unable to choose high value systems they need for privacy and security if that compatibility does not ??.

The three person technical committee which will be appointed is inordinately weighted in favor of Microsoft as the department of Justice and Microsoft each appoint one member while they must agree on the third member. There is no question that companies will be less inclined to take on a monopoly when their future business may well depend on that company. Given that Microsoft will continue to be able to charge whatever it wants for its products, prices will skyrocket.

The technical committee of three must identify violation, of the agreement. No lindings may be admitted into court in enforcement proceedings and compliance is only for five years. This seems a short time for such a flagrant violation of antitrust law.

After many years of examining this important issue, I would think a better solution could be found, I appreciate your interest. If there is any additional information with which I may be of assistance, please contact me.

Sincerely,

Karen I. Macdonald
Financial Consultant
SALOMON SMI?? BARNEY A member of citigroup
28 State Street
Beaten, MA 02109
617–570–9430 / 800–235–1205 / 617–570–945R fax
e-mail Karen ??mac??onald@rssmb.com

MTC–00029932

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133??1054
RONALD MARIANO
STATE REPRESENTATIVE
SRD NORFOLK DISTRICT
DISTRICT: (??17) 328–5166
E-Mail: Rep.RonaldM??riano@hou.state.??.us
Chairman
Committee on Insurance
STATE HOUSE, ROOM 254
TEL. (617) 722–2220
FAX (617) 722–2821
January 25, 2002
The Honorable Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
C/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice 601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotelly,

I am writing with regard to the settlement between the Department of Justice and Microsoft in U.S. v Microsoft. It appears that this settlement will enable Microsoft to continue to expand its monopoly with regard to emerging markets and may violate antitrust laws.

Microsoft's ability to bolt financial services, cable services and the Internet to its Microsoft Windows program is of great concern. As companies develop software, they will be unable to address the issue of affordability due to the dependency on Windows technology. Microsoft is required to share technological information unless they determine the information may harm their security or software. Additionally, Microsoft dictates the technologies, which will be compatible with Windows. As such entities will be unable to choose high value systems they need for privacy and security if that compatibility doesn't exist.

As I feel that this agreement raises significant questions affecting the equity and fairness of the settlement, I ask for your consideration of a more appropriate solution to this matter. Thank you for your time mad attention to this matter.

Sincerely,

RONALD MARIANO
State Representative
Cc: The Honorable Thomas Reilly,
Massachusetts Attorney General

MTC–00029933

FROM:
FAX NO.:Jul. 26 2001 06:26PM P1
Wake Forest Town Commission
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW. Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As a member of the Wake Forest Board of Commissioners, I am concerned that the Microsoft antitrust lawsuit has dragged on too long and we need to settle it now. I am elected to represent all the people in Wake Forest, and I am concerned that everyone's jobs are being threatened by the recession. Microsoft products are the backbone of business and industry—and they help offices run efficiently throughout our community.

I am opposed to prolonging the lawsuit in any way. The suit needs to be resolved... and resolved now} Many of our commuting citizens work in the Research Triangle Park. High tech solutions for health care, business and communications firms are developed here in the Triangle. However, the ability of these companies to be innovative in creating solutions, and productive in the creation of jobs, hinges upon moving beyond excessive litigation.

Let's face the fact that both parties want the suit to end. Microsoft and the federal government are in agreement on all points of the settlement. I want to strongly urge Judge Kollar Kotelly to promptly approve the settlement. This lawsuit has cost businesses and local governments untold millions in lost revenues. Let's stop the bleeding.

Let's move beyond this case and move the economy forward.

Sincerely,
Kim Marshall
Mayor Pro Tempore
401 Owen Avenue- Wake Forest, NC 27587

MTC-00029934

Jan 28 02 02:38p p. 1
U.S. Department of Justice, Antitrust Division
Attention: Renata Hesse
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge,

It is time for the Anti-trust lawsuit" against Microsoft to end.

Our antitrust laws were designed and enacted in order to protect the citizens and consumers of the United States.

The Microsoft Antitrust lawsuit was originally pushed by its competitors and their claims they were working in the interest of consumers. I do not believe that the consumers were clamoring for this lawsuit. I wonder how prolonging these proceedings will benefit consumers?

The Federal Government has spent millions of dollars on this antitrust case. Microsoft has probably spent several times as much defending itself against this claim filed by the government.

These costs will no doubt be passed on to the consumer, the same consumer the antitrust laws are supposed to benefit.

I believe this case has cost enough and should be settled once and for all.

Thanks for your consideration and your acceptance of my comments as part of the public comment period for the case.

Sincerely,
Ruth Mellen
21000 West 180th Street-
Olathe, KS 66062

MTC-00029935

15 Riverpoint Road
Hannibal, MO 63401
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I understand that Microsoft and the Justice Department have reached a proposed settlement of their antitrust case, and I want you to know that I support the settlement.

I wish my letter were sent for the purpose of thanking you for dismissing the case. Microsoft has incurred substantial expenditures of time and money for no reason other than to defend the fact that they are big and they are successful. It is a shame that Microsoft's ability to defend itself in Court was thwarted by a judge with an axe to grind. The case should have been thrown out before evidence was ever presented.

The settlement proposed clearly addresses the allegations of anticompetitive behavior by promoting greater consumer choice and opening areas to greater degrees of competition from non-Microsoft software programs. After implementation of the settlement agreement, Microsoft Windows operating systems will be subject to competition in areas such as messaging and the Internet from non-Microsoft programs.

In addition to responding to the allegations of antitrust violations, Microsoft has placed a settlement on the table that makes concessions regarding products and practices that were never even at issue in the suit. I fail to see the need to punish Microsoft by continuing the Case.

Thank you for the opportunity to speak on this matter.

Sincerely,

MTC-00029936

January 28, 2002
Attorney General John Ashcroft, DOJ
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear AG Ashcroft,

While I agree that this settlement appears better than a perpetuation of this ill-advised lawsuit, I believe that the settlement goes too far. In spite of the fact that Microsoft has agreed to its terms, I do not see the necessity of forcing them to release any more of their source code to developers than they had previous to the suit. This code is proprietary and Microsoft is entitled to keep it so. This consideration aside, I am at least pleased that the lawsuit and all that it entailed will soon be over. On the whole, however, I am hopeful that our government will not be as quick to interject itself into the private marketplace in the future as it has here. If Microsoft supports this suit, than I will.

I am appreciative of the opportunity afforded me to voice my opinion of this settlement, and I must stress here that this opinion is my own. However, the issue of forcing a company to relinquish even a small piece of its proprietary intellectual property, simply because its competitors cannot develop better products on their own, is of some concern.

Sincerely,
Charlie Butler
St. Exchange Engineer
Agilera, Inc.
Cc: Senator Strom Thurmond
1400 Browning Road
Suite 150
Columbia, South Carolina 29210
PHONEú 803.770.1800
www.8gilera.com

MTC-00029937

804 Stirling Road
Silver Spring, MD 20901
January 28, 2002
Attorney General John. Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The Microsoft Corporation and the Department of Justice agreed to terms on a proposed settlement that will bring an end to the three-year antitrust lawsuit filed against Microsoft. I support this settlement because it ends the litigation against Microsoft, and allows them to focus even more on producing innovative products.

The settlement goes further than k should have, in particular as regards intellectual property, which Microsoft will have to disclose to its competitors. In order to end this messy litigation process, Microsoft has actually agreed to give to its competitors source code and other design information that is critical to the internal structure of Windows. While that does not fit the mold of a free market economy, it enables Microsoft's competitors to do more, and to produce software that is compatible with Microsoft's. This will foster competition in the IT industry, and the economy will benefit as a result.

I support this settlement. Now the economy can regain its former level of success, and we can put this costly litigation behind us.

Sincerely,
Sunil Chatterjee

MTC-00029938

1-28-02
Tried to email—mo luck used address
microsfot.atr@usdoj.gov.
fax.
RE: Microsoft Settlement

To the Dept of Justice

We believe the settlement between Microsoft and the movement is fair for both sides. At this time to put this to behind us and move forward for the good and all, especially economy

Sincerely.

MTC-00029939

Ken Graham
7531 Aberdon Road
Dallas, TX 75252
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am highly opposed to excessive government intervention in the business world. It is no surprise, then, that I am opposed to the antitrust lawsuit that was brought against Microsoft three years ago. Now that a settlement has been reached in this case, I hope you will support it, as well, and allow Microsoft to put this episode behind them.

Microsoft has offered many compromises as part of this settlement. The company has agreed not to have any contractual restrictions with companies it deals with regarding the sale of non-Microsoft products. Microsoft has also agreed to build all future operating systems in such a manner that non-

Microsoft products can easily be promoted on them.

Despite the fairness of the settlement and the compromises made by Microsoft, some opponents want this case brought back to court. I believe it is your duty to make sure they do not succeed.

Sincerely,
Ken Graham

MTC-00029940

DBM Associates
Computer Systems & Services
One Salem Square,
Whitehouse Station, NJ 08889
January 28, 2002
Attorney General John Ashcroft,
Justice Dept.
950 Penna. Avenue
Washington, DC

Dear Mr. Ashcroft:

I am glad that the litigation in this matter with Microsoft has ended with a settlement. Settling in this case is better for all. There has been a noticeable uncertainty in the IT industry over the threat to break Microsoft up, and this settlement at least will end this talk and help us all get back to business.

Progress in the IT industry, and the strength of this country's IT infrastructure, depend upon both innovation and some semblance of standardization. The prevalence of Microsoft software has greatly aided the exchange of information both within and between organizations. This prolonged legal action is hurting this country by slowing progress to a crawl.

I can appreciate that Microsoft's competitors are unhappy with this prevalence, but that's the way it has worked out. To them I say, there are plenty of other problems to be solved and they should put their resources into solving them instead of counter-productive efforts directed against Microsoft.

For their part, the evidence indicates that Microsoft has engaged in unfair business practices and abused their monopoly position. I see that penalties and restrictions on their future behavior are part of the settlement. I hope that the settlement terms were negotiated in good faith by both parties to effectively address the issues.

I am writing in support of the settlement of the Microsoft case, and the sooner the better. I am hopeful that with it, some uncertainty in the IT industry will be resolved, and we can all put this behind us.

Sincerely,
David Weston
Vice President

MTC-00029941

FAX COVER LETTER
To: attorney ??
Fax No. 1-202-616-9937
From: ??
Fax No. 1-740-482-2126
Date: Jan. 28, 2002
Re: ??
Number of Pages 2
??
Comments:
See attached letter
Rodger and Carol Carpenter
140 T.H. 70
Bucyrus, OH 44820
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

This is to give our support to the antitrust settlement between Microsoft and the Department of Justice. This antitrust suit has gone on for far too long, crippling our economy and holding our country back from further innovation in the technology industry. Furthermore, I do not believe the government should have been brought into what is competition between technology companies. Microsoft became the dominant force in computer software, creating the first compatible software programs. Before Bill Gates nothing worked, nothing was compatible. Through hard work and creativity, Bill Gates met the needs of consumers. The company became successful because of tiffs, and unfortunately, created a lot of jealousy with other rims, who were unable to compete. This was the real cause behind the antitrust suit against Microsoft.

The case has been settled. Even the federal judge wanted to see an end to it, ordering round-the-clock dialogue. Microsoft has agreed to a uniform price list, and to design future versions of Windows with a way to make it easier for computer makers to promote non-Microsoft software such as different startup screens; Microsoft has also agreed to help companies reach a greater degree of reliability with regard to then competing networking software. The company has gone the extra mile to end this case and satisfy the demands of the Department of Justice. We think we should honor that decision.

We urge you to give your support to this agreement and not give in to the pettiness of those whose only concern seems to be the destruction of Microsoft.

Sincerely,
Rodger Carpenter and Carol Carpenter

MTC-00029942

Scott B. Glynn
3205 Poppleton Ave. # 2
Omaha, NE 68105
402-932-6535
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing with regards to the pending settlement between the Department of Justice and the Microsoft Corporation.

In my opinion, the finding of fact in the case of the federal government versus Microsoft, overlooked the most important point: whether or not there has been harm to consumers. We hear conflicting reports—(a) that the company's dominance in the market has resulted in higher prices and (b) that their dominance has produced a trend of prices dropping lower than cost for consumers.

How do consumers feel? In even the most recent public opinion polls, most consumers express their approval of Microsoft and the company's products. The reality of it is that the high-tech industry develops and changes so rapidly that since the trial began the face of the industry has changed. Linux has made great strides in the market with their operating system and several software companies have closed the gap between themselves and Microsoft.

I am sure that most consumers would be in favor of ending the lawsuit against Microsoft. The proposed settlement would end the suit and that is exactly what consumers are looking for. I urge the Judge to approve the settlement.

Sincerely,
Scott B. Glynn

MTC-00029943

Planning Enterprises
David A. Kulle
P.O Box 8019
Jupiter, FL 33468-8019
(800) 447-3660
(561) 335-3077
Fax (561) 335-0009
Robert C. Kulle
P.O. Box 601481
?? 75360-1481
(714) 361-5707
?? (214) ??-3110
fax (214) 378-??
January 26, 2002
Attorney General
John Ashcroft
US Department of Justice
Washington, DC 20530

Dear Mr. Ashcroft,

I have been a firm supporter of Microsoft for many years and my philosophy as far as this settlement goes is that I will support anything that is in Microsoft's best interest. As far as the settlement reached in the antitrust case, I am willing to express support for it in the interest of closure. I feel this entire lawsuit was unwarranted and a complete contradiction to the spirit of free enterprise. Bringing closure to this as soon as possible will be in the best interest of consumers, the economy, and the IT industry on a whole.

It is very hard for me to imagine why there are still States that wish to pursue this matter when one considers the severity of our economic situation. What exactly is the issue? Microsoft has made several concessions in this settlement that will doubtless have adverse effects on their own competitiveness. For example, Microsoft has agreed not to obligate third parties to distribute or promote Windows technology exclusively or at a fixed percentage. Also, Microsoft will make no attempt to obligate software developer to only create Windows-compatible software. I am very pleased with the Microsoft's obvious compliance and hope that you will aggressively pursue means that will pacify the concerns of the dissatisfied states and bring this matter to close immediately.

Sincerely,
Cynthia Kulle

MTC-00029944

TIM GOLBA
13G24 S. S?? STREET

??. KS 66062
January 23, 2002
MS. Renata Hesse
Trial Attorney
Anti-trust Division
U.S. Department of Justice
601 "D" Street NW,
Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

Our country is experiencing a recession like we have not seen in decades. Many factors have contributed to our shaken economy, but the onset of the Microsoft antitrust case really bit into the NASDAO, shaking confidence of investors and consumers. It is important to remember that for the first time in history, more than half of American citizens are invested in the stock markets. I am pleased to see the significant steps President George W. Bush has taken to offset the panic of the American consumer in the form of tax rebates and tax cuts. We are fortunate to have such a proactive in office.

Information regarding the lawsuit is readily available through every imaginable media source, and I couldn't help but notice that tech stocks parked up a little with news of the ?? settlement. I appeal to your sense of good ?? and ask you to endorse the settlement. I fear that further litigation and regulation will further damage our economy and morale. Rest assured that an end to this lawsuit would result in a collective sigh of relief from the entire nation.

Sincerely,
Tim Golba

MTC-00029945

January 28, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street N W, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I live and work in a Midwestern state that is constantly battling to keep our citizens here to work and raise their families. One of the most important incentives we have to offer is a growing technology industry, which we affectionately refer to as "Silicorn Valley."

I've watched with much interest the progress of the Justice Department's suit against Microsoft. I understand the issues involved, but more importantly, I've felt the impact of the lawsuit on my own pocketbook. As a young investor, I have a portion of my retirement savings invested in the technology sector and have watched my returns deflate along with the sinking economy and can't help but assume that this lawsuit has some bearing on my poor returns.

Common sense tells me tells me that the quicker we can ?? this issue ?? the better off all Americans will be, particularly those Americans whose livelihood is directly dependent on the technology industry and those whose retirement savings could use a shot in the arm.

Please give your utmost consideration to the settlement before you. An approval of the settlement will go far in jump-starting the economy and actting America back on the road to prosperity.

Thank you for your consideration.

Sincerely,
Susan Severino
Office of the Speaker
?? House of ??
State Capital
Des Moines, IA 50319

MTC-00029946

34–20 l2th Street
Long Island City, NY 11106
January 22. 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing you to express my opinion in regards to the Microsoft settlement. The settlement that was reached in November is fair and reasonable, and I am extremely anxious to see this settlement finalized. This three-year-long litigation against Microsoft has been expensive and a waste of resources.

Microsoft has agreed to all terms and conditions of this agreement. Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products. Microsoft has also agreed not to enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively or in a fixed percentage, subject to certain narrow exceptions where no competitive concern is present. This settlement will create more opportunities for other companies and make "it easier for these companies to compete against Microsoft. Please support this settlement so this company can remain together and continue benefiting our society, with inventive software that makes our lives easier. Thank you for your support.

Sincerely,
Stefanos Evangelinos

MTC-00029947

January 28,2002
Attorney General John Ashcroft
Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft,

The pending settlement between Microsoft and the federal government presents an opportunity to bring this case to a close. This suit has distracted Microsoft and the nation from more pressing priorities for too long, and this settlement will allow us to get back to business.

The settlement will, in effect, force Microsoft to treat its competitors in a more sympathetic way. For example, Microsoft has agreed to avoid retaliation against any computer makers who ship software that competes with anything in Windows. This alone will increase competition among software developers. Additionally, Microsoft has agreed to share its code for the Windows operating system that will enable its competitors to configure software that is fully compatible with Windows. Most vexing, however, is the provision that places Microsoft under the oversight of a government mandated technical review committee. As the president of a business, I can say that I would not relish the idea of my company being watched by the government at all times.

This lawsuit has drained resources on both sides for more than three years. The settlement can stop the resource drain, and at the same time make the IT sector more competitive. I support it wholeheartedly, and believe that it is in the best interest of the nation. Thank you for your time and efforts in Washington.

Sincerely,
Carol Conway
President

MTC-00029948

Renata Hesse
Department of Justice, Antitrust Department
601 D St NW
Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am writing as a Kansas State Representative and Vice Chairman of the House Business, Commerce, and Labor Committee. As settlement in the Microsoft suit hangs in the balance, I write with genuine concern for the future of our industry.

The Microsoft Antitrust suit was brought to fruition due to antiquated rules and regulations written during the development of the railroads, Microsoft's harm to the consumer has yet to be proven; point in fact, there is a discrepancy in claims that Microsoft: has undercut the competition by under pricing, yet there are contradicting claims that Microsoft has overcharged the consumer.

Microsoft is primarily guilty of supplying a terrific product for a huge niche market. A market they actually helped to grow due to high demand for the technology they pioneered. The prosecution of Microsoft for giving the consumer what they ask for is absurd. Like an>, business, Microsoft has tried to protect the details of their products from competitors and tried to maintain their market share.

The real meat of this lawsuit lies in the antitrust laws themselves. Microsoft's competitors have merged and aligned in a full attack in hopes of gaining Microsoft's market share through court orders rather than through the free market system. It's as if these laws are allowing the competition to monopolize Microsoft with protection of the courts.

In the time since the lawsuit was introduced, the software and tech industries have ?? into a living, breathing organism, changing daily with each new advance. Paid far by leggy long for State Representative, Rayburn, Treasure. PO Box 546—Madison, KS 66860–0546 (620) 437–283—peglong@ink.org

There are no linear changes here. Each new advance seems to drive the consumer toward a different direction. This reality holds no marker share security for Microsoft. In your consideration of the settlement of this suit, please be thoughtful as to the root of the problem, outdated antitrust law. Prompt settlement will appease the competition, but more importantly let industry move on without such slowing scrutiny.

Cordially,
Representative Peggy Long

MTC-00029949 LARRY McKIBBEN

9STATE SENATOR
Thirty-second District
Statehouse (515) 281–3171
e mail Larry mekibben@legis.state.la.us
HOME: ADDRIESS
P.O. Box 618
Marshulltown, lowa 501.58
The Senate
State of lowa
Seventy-ninth General Assembly
STATEHOUSE
Des Moines, Iowa 50319
Appropriations
Business & labor Relations
local Government
Ways and means, Chair
Transportation, ?? &
Capitals Appropriations ??
January 28,2002
Judge Kollar Kotelly
c/o Ms. Renata Hesse LI.S, Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Your Honor,

The new economy has been the source of an economic and technological renaissance in America and Microsoft has been a part of that from the beginning. At the dawn of the Information Age, there is no denying the importance of the technology industry to America's prosperity in the 21st century.

As an elected official, I need to ensure an environment that allows the technology industry's entrepreneurial freedom to innovate and reinvigorate our economy. We need a return of the self-regulating competition that has built this industry into the most vibrant and successful in the world. The U.S. economy stands to grow by leaps and bounds in coming years, all due to the innovation, competition, and customer-focused attitude of our high tech community.

This case opened a Pandora's box of litigation and regulation that is already stifling competition, cramping innovation, and haring consumers and investors. Microsoft's presence in the market increased competition and innovation driving down costs for consumers, Microsoft helped set a high standard in the market and raised the bar for competitors many of whom have stepped up to the plate and become viable competitors to Microsoft.

Considering a snapshot of the high-tech industry when this case started compared to one from today, it is a much different picture Aside from the fact that the industry has outgrown this case, the proposed Final Judgment would decidedly help our economy and hopefully close the lid on the Pandora's box it opened. I urge you to approve the settlement.

Sincerely,
Larry Mekibben

MTC-00029950

Bonnie Wood
116 Timber Springs Lane
Exton, PA 19341
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Fax 1–202–307–1454
Page 1 of 1

Dear Mr. Ashcroft:

This letter is to give my support to the Microsoft and Department of Justice settlement. Microsoft is one of our greatest companies and I resent the government interference in what is basically competition between technology companies. I doubt whether Microsoft has done anything that the other firms have not. More likely, the other firms could not compete and have gone crying to the government. They just want a bigger piece of the pie.

You don't have to look any further than AT&T to see the havoc that can result from breaking up certain so-called monopolies. AT&T was deemed a monopoly while we had the best service in the world. Now, no one can understand the half-dozen phone bills received each month from strange sounding phone companies. Phone companies come and go with alarming frequency, and those that stay in business seem to be merging all back together. I often wonder if I would have been better off if AT&T had been left alone.

The same may be true for Microsoft. In any event, Microsoft and the Justice Department have reached an agreement. Microsoft has agreed to open the company up to third party, innovation; has agreed to disclose internal source codes for Windows; and agreed to an oversight committee. This is more than fair.

I urge you to give your approval to this agreement.

Thank you for your consideration of my views.

Sincerely,
Bonnie Wood
cc: Senator Rick Santorum
202–228–0604

MTC-00029951

THE HENRY HAZLITT FOUNDATION
Free-Market.Net: The Freedom Network
40t N. Franklin St., Suite 3E
Chicago, IL 60610
(312) 494–9440
fax (312) 494–9441
e-mail: info@hazlitt.org
http://www.free.market, net
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Idees Action
Virginia Postral
Reason magazine
Andrea Millen Rich
Laissez Faire Books
Dr. Jeremy Shearmur
Australian National UniverSity
Dr. Thomas Szasz
SUNY Health Science Center
Dr. Walter E. Williams
George Mason University
January 25, 2002
Renata Hesse
Department of Justice
Antitrust Division
601 D St NW, Ste 1200
Washington, DC 20530

Dear Ms. Hesse,

The settlement before the court in the Microsoft antitrust case is not ideal. The premise for this case was unwarranted to begin with. The antitrust laws being applied are subjective and left to regulators to interpret—in this case not even for the benefit of consumers. All things considered, I still write you today to encourage Judge Kolar Kottely to support the proposal.

The settlement gives the government most of what they wanted, stopping short of breaking up the company. Among other measures, the company is required to disclose significant proprietary information to its competitors. This is a significant and meaningful punishment. To enforce the terms of the settlement, Microsoft engineers will have to put up with a team of three on-site, full-time monitors. The monitors will have access to all of the company's records and personnel, and Microsoft will even have to pick up the tab for their offices and up-keep. Again, this is a significant and meaningful punishment that provides ample ground for the state to make the case to the public that justice has been served.

The end of the conflict between Microsoft and the federal government will restore a much-needed measure of "certainty in the marketplace," as the Justice Department itself has claimed. Consumers and business partners will no longer have to fear the dismemberment of a major player in the software industry. I, as a Microsoft customer, won't have to worry about dealing with more vendors to get the same goods and services. People will be able to make plans for the future with a somewhat reinforced sense of confidence.

But real certainty in today's marketplace requires a knowledge of what's legal and what's illegal. While the Microsoft settlement seems to put a high-profile conflict to rest, it doesn't deal with the larger problems that sparked that battle. As long as legislation that means whatever bureaucrats say remains on the books, conflict will continue between frustrated businesses and arbitrary regulators.

So, I urge you to take this needed step toward bringing this chapter to an end. And I encourage the Department of Justice to work with the legislative branch to carefully re-examine and restructure, or, preferably, repeal the Sherman Antitrust Law.

Thank You,
Louis James
President

MTC-00029952

January 28, 2002
Attorney, General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am the controller of a diamond wholesale company writing to give my support to the recent Department of Justice and Microsoft antitrust case. This settlement was reached after three months of intense, round-the-clock negotiations endorsed by a federal judge. Ongoing persecution of one of the strongest companies m our country is unfair, and stands in stark relief to how much positive difference Bill Gates has made in the computer industry.

When I first started using computers, interoperability was virtually nonexistent, and computers were not user-friendly at all. Now, with Windows, I can install everything myself. I am not a computer expert by any means, but bemuse of Microsoft's simple programs, I have been able to customize my computer to my specifications.

The envious competitors who foisted this lawsuit on America now claim that the settlement is not strict enough. Any objective view of the settlement, however, shows that Microsoft is more than fairly reprimanded. Microsoft has agreed to change Windows so that it will be even easier to install programs, and Microsoft has agreed to share any interfaces that Windows uses to communicate with other programs. This alone is more than enough, and should placate even the shrillest of the competition.

I urge you to continue your support to this agreement.

Sincerely,
Irene Chin
Controller
FULLCUT
M?? Inc.
MAK?? BIRN??ACH)
CHAIRHAN
?? FIFTH AVENUE
NEW YORK. N.Y. 10017
(212) 681-00??0
January 28, 21302
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft;

I am writing on this last day of the comment period to express my full support of the recent settlement in the antitrust case between Microsoft and the US Department of Justice. The lawsuit dragged on too long and now it is definitely in the best interests of the American public to end litigation against Microsoft.

I am a Microsoft supporter. I do not think my rights as a consumer have been infringed upon. In fact, 1 think that Microsoft has standardized the industry and made it mush easier for users. The terms of the settlement are fair. Microsoft has agreed to increase its relations with computer makers and software developers, design future Windows" versions so that competitors can more easily promote their own products and form a three person team to monitor compliance with the settlement.

I hope your office implements the settlement as soon as possible. Our nation needs Microsoft as the cornerstone of the tech sector. Please suppress the opposition from the nine states and make this thing a reality.

Sincerely
Max Birnbach
President

MTC-00029953

Mrs. Victoria Jenson
32710 WEST ??IST TERRACE
DESOTO, KS 66018
January 19, 2002
Ms, Renata Hesse
U.S. Department of Justice, Anti-trust
601 "D" Street NW, Suite 200
Washington, DC 20530

Ms. Hesse:

I appreciate the chance to comment under the Tunney Act on the settlement that has been proposed to end the Department of Justice's anti-trust suit against Microsoft.

I am in favor of settlement of the suit. I believe the suit should be brought to an end. as soon as possible. In my opinion, the case should not have been brought in die fiat place. The fact that nine states and the Department of Justice trove found common ground with Microsoft to settle the case is a very positive development for the entire nation,

It seems to me that the laws governing anti-trust suits are not designed to -keep up with a constantly changing industry like high technology. That said, the proposed settlement does reach a solid middle ground that cakes measures to ensure competition without over-reaching the role of government regulators.

The settlement is a fair and reasonable way to end this suit. I urge the judge to approve it.

Sincerely,
Victoria Jenson

MTC-00029954

165 E 32nd Street
Apt. 2B
New York, NY 1 0016-6054
January 17, 2002
Atty. Gen. John Ashcroft
950 Penn. Ave., NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing in regards to the antitrust settlement reached between Microsoft and the Department of Justice. I am in favor of bringing the litigation process to an end immediately, and I support the current settlement. The antitrust suit with Microsoft has been going for three years now, and with a settlement proposed is the time to put this issue to bed once and for all.

Under the terms set forth in the current settlement, Microsoft has agreed to make several major changes in the way it operates and interacts with other companies, consumers, and in particular with its competitors. Microsoft has agreed to license its Windows products out to the 20 largest computer manufacturers on identical terms and conditions, Additionally Microsoft will no longer enter into any agreements with third parties to exclusively distribute or promote Windows family products, unless there are no competitive concerns present in the particular situation.

While I feel that many of the aspects of the settlement are too restrictive on Microsoft I am still in favor of the settlement as a whole. Now more then ever we need companies such as Microsoft, leaders in the industry, who are financially able to weather our current economic storm. At a time when the economy is dwindling and layoffs are prominent we should not be penalizing successful companies. For these reasons I urge you to support the antitrust settlement and take no further action against Microsoft.

Sincerely,
Jorge Godoy

MTC-00029955

AMERICA
GENERAL
FINANCIAL GROUP
MOORE FINANCIAL GROUP

Please deliver the following documents to the person or department listed below as quickly as possible. Thank Your

NAME: Renata Hesse
COMPANY: 1/28/01
DATE:(202) 616-9937
PHONE NO.:
FAX NO.:
COMMENTS:
PERSON SENDING THIS FAX: Bill

Should there be any difficulty reading this document or if all pages have not been received,
please call (337) 261-1006 for assistance.

William E. "Bill" Moore
Registered Representative
P.O. Box 92802
Lafayette, LA 70509
(337) 261-1006
Fax: (337) 236-5566
January 23, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
FAX: 202-616-9937
RE: Settlement of U.S.v. Microsoft

I share the government's concern about consumer harm in the fast growing technology industry. However, I am aware that the settlement agreement provides resources, access, and authority to respond to complaints about Microsoft's compliance.

I am aware that the negotiators have worked out a settlement that may not satisfy, anyone, but includes something for everyone. Usually that is the sign of a fair settlement.

Therefore I believe that it is time to settle this case. As our economy begins to try to rebound, finality in this case would be a great boost. I appreciate your consideration of this important matter.

Sincerely,

MTC-00029956

Anne G. Pullin, President
AAA, FRICS, GG
2887 Wright Avenue
Winter Park, FL 32789
Personal Property Appraisals & Consultations Fine & Decorative
Arts—Antiques
January 28,2000
Attorney General John Ash??? Sales—Art Market Research
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC20530
Phone: (407) 644–2156 jimannep@ worldnet.att.net

Dear Mr. Ashcroft:

I am concerned about the states and now AOL currently seeking litigation and more litigation against Microsoft They all seem to be operating only on a basis of greed and without a firm foundation for claims. Or else, they are suffering from sour grapes because they have not been able to bring to the market a product that was as good or as easily usable by people like me. I have used Microsoft products since Word Version One came out. In fact I bought my first computer because research indicated that it would be the best and easiest product to use. Time tins proved me correct.

Microsoft has helped me in so many ways to improve my business: I can exchange information without telephone calls and long retyping of material. Everything is less expensive to operate and buy—from computers to all the software.

I tried Netscape -what a pain it was to use. And AOL is the only E-mail service that I have not been able to exchange images with Microsoft walked away with the business because they had better products and were good about customer service. They have always been able to get me operating—and I am a complete novice to the technical end of this business. I cannot say this for many other software products.

As an example of their products: I took my old DOS with the Multiplan spreadsheet to Europe. Used the old DOS computer because the battery had 6 hours, and I was working in an ancient library. Recorded my data. Brought the data home into Excel and then into Access. It all worked like a charm.

Sincerely,
Anne Pullin
CC: Representative Ric Keller

MTC-00029957

True Blue—Freedom
January 26, 2002
Board of Adojsors
Hon.john A. ??
R??? 8ty ???istrict Ohio
Hon John Kastoh, For??? Chai???
Congressional ???dget ???
???hn S. Dowlin, Co???ssion???
Han??? Couny
Wayne ??? Prestent
Data Rank Cerp
Gregg Schole Ventech
Ranata B, Hesse
Fax 202–616–9937

Dear Renata:

While I am pleased that the Tunney Act allows me to make an input on behalf of True Blue'8 membership across America in regard to the proposed Microsoft settlement, I want to be candid. The federal government's pursuit of Microsoft damaged consumers and the economy, as follows:

. Consumers paid more than $30 million in taxes to sue a company that has consistently created and marketed better products at a lower cost.

. Investors lost millions more as the tech sector of the stock market sagged under the Impact of the threat to break up Microsoft, adding Impetus to a recession.

. Taxpayers, whose Interests are the key priority of lawmakers, paid lawmakers and attorneys" salaries to work on behalf of the competitors of Microsoft. (Personally, I'm not sure I'll ever want to buy products from companies that whine to the Papa Fools to secure taxpayer funding of their marketplace fights.)

Asking Microsoft to hire a staff and provide offices for a bureaucracy to enforce the settlement is simply using a socialist mechanism to control an Industry. At best, such an office should exist no longer than 12–18 months, and then be completely terminated, If Congress determines a need for such an agency, we can place the idea before Congress, debate the law, and vote. The Court must not become a bureaucracy-creating and bureaucracy-enforcing entity.

Every State Attorney General who continues in this suit clearly morphs his/her office into collection arm grabbing for taxpayer dollars. It is disturbing that the Attorneys General, who are funded by taxpayers at the state level, are grasping for families" earnings at the federal level, too We urge you to end this matter and allow Microsoft to return to what it does best: Innovating to serve consumers. Consumers will see that Microsoft offers flexibility and demonstrates its resolve to become an ever better industry leader.

Yours truly,
Patricia R. Cooksey, President

MTC-00029958

Attention: Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street. NW, Suite I200
Washington, DC 20530

Dear Ms. Hesse.

I often encourage my students to speak up when they have, an opinion on a current event. I decided recently to heed my own advice and speak up on the proposed proposed Microsoft settlement during this open comment period.

As a teacher in a small rural school. I am encouraged by the possibility that Microsoft has offered to donate millions of dollars of computer equipment to schools like the one where I teach. Many times, rural schools have a hard timer keeping up with technological advances and opportunities available at larger, more urban schools. I believe the settlement proposed by the Bush administration would go a long wary toward leveling the playing field for students who attend rural schools by allowing them access to cutting edge computer technology. Thank you for your work on this important case. I urge you to approve the settlement

Sincerely
Connie Morris

MTC-00029959

Jim Waldo
1202 April Lane
Green Bay, WI 54304–4106
(920) 494–4628 (Voice & Automatic Fax, if our fax does not recognize ≤yours, dial # 11 during ringing
Cell Phone: (920) 362–3623
EMAIL: JIMWALDO2@CS.COM
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to say that I fully support the Microsoft settlement. I feel that if Microsoft is going to comply with all the terms and conditions of the settlement agreement, then the Justice department should conclude their investigations in this matter. The country needs to go on with it business of production and development in regards to the tech industry.

One way in which Microsoft has agreed to comply in regards to the settlement, is the three expert technical committee, which was formed to make sure that Microsoft will not step out of the bounds of the agreement. If another group finds Microsoft acting inappropriately, that group can take up a formal grievance with a number of individuals appointed by the government and who are associated with this case.

I know that you will make the right decision for all Americans. End this case now, and let the country keep moving.

Sincerely,
Jim Waldo
cc: Representative Mark Green

MTC-00029960

TO: John Ashcroft
Department of Justice
202616–0937
FROM: Calvin A. Jordan
3800 Meredith Drive
Greensboro. NC 27408
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue. NW
Washington. DC 20530–0001

Dear Mr. Ashcroft:

For a long time I have followed the antitrust, suit being brought on Microsoft by the Justice Department. After more than three years of litigation, a setflement has finally been reached. The purpose of this letter is to show my support for this settlement. This case has simply gone on far too long.

Unfortunately, some powerful opponents of Microsoft would like to see this settlement, revoked, and are pressuring the Justice Department to withdraw this offer. They believe that the settlement does not go far enough. This is where I distinctly disagree. Under the terms of the settlement, Microsoft will allow easy access to its operating systems for competing software firms. Also under the terms of the settlement. Microsoft will be monitored full-time by the government, and can still face lawsuits from competing companies.

The government at the State and Federal levels must fully support, the settlement for it t come to fruition. After three years and millions of dollars, isolated opponents should not be allowed to spoil the work of the DOJ to settle this case. I stand behind the settlement 100%, and appreciate this outlet to have my opinion count.

Sincerely
Calvin A. Jordan
cc: Representative Howard Coble

MTC–00029962

Post-it Fax Note 7671 Date ??? 2
To ZEN???A HESSE From ZOB??? HAUS
Co./Dept. Dos Go.
Phone # Phonb #
Fax #202 616 9937 Fax #.
Robert J. Haus
5501 Harwood Drive
Des Moines, IA 50312
(515) 277–3098 (horne)
(515) 490–0538 (office)
January 28, 2002
Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms, Hesse,

I am writing to take advantage of the opportunity to weigh in on the Microsoft antitrust settlement decision by the U.S. District Court. Thank you for this opportunity. Microsoft has been a leader in the technology industry with its software, operating system, and Internet browser. They are accused of being a monopoly, yet the companies fueling the case are identified as Microsoft's "competitors"—seems like a contradiction.

Linux operating system (OS) is growing at an astounding pace taking a larger share of the market every day. It's able to capture more of the market because consumers are choosing the Linux OS over Windows. The customer is deciding which product best suits their needs—not the government.

Bill Gates took Microsoft to unforeseen levels with unmatched speed. His vision and business savvy made the company "king of the hill"... for now. However, the high-tech industry grows at such rapid rates that no company will be "king of the hill"... for long.

In the meantime, Microsoft's position in the market has not caused harm to the consumer. On a professional and personal level I appreciate the ease with which Windows works and my children would agree...it is simply the most user friendly software on the market today. Whether or not Microsoft is the best system for me is, and should remain, my own decision.

The settlement that the parties in this suit have come to is reasonable and delivers the government much of what it sought including a way to enforce the requirements set forth in the agreement. I respectfully request that you support the settlement in this ease.

Thank You,
Robert Haus

MTC–00029963

Kellene Walker
Route 4
??. KS 66736
January 22, 2002
Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DO 20530

Attorney Hesse,

I find it interesting that Apple is objecting to Microsoft's settlement offer, perhaps due to Microsoft's offer of cash, software, and computer equipment to schools in need, I think Apple pioneered the idea of discounting computers to schools and teachers in the 1980's, possibly in a smart strategy of gaining youth loyalty and influencing future sales, No matter, fair is fair. When Bill Gates and company were working out era garage, they had no more opportunity than any other person or company. Microsoft was literally built from nothing to an empire due to hard work, innovation, and by recognizing an untapped market.

Microsoft's biggest edge is that they pioneered the industry, and to date, they do it better than anyone else. Their business model is studied internationally. Of course Microsoft is a fierce competitor, there are no laws against that.

The bottom line is that freedom to innovate is there for everyone. This lawsuit borders on hindering that freedom. I strongly encourage you to approve the current settlement offer in a move to protect free commerce.

Sincerely,
Kellene Walker, RN

MTC–00029964

FORRESTST H. MUIRE, JR.
908 PRINCETON
MIDLAND, TEXAS 79701–4159
915–682–5097
email, ??uire.@swbell.net FAX 685–4091
January 23, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Please accept the proposed settlement of the Microsoft anti-trust case. As a long-time user of Microsoft products, I see this agreement as the most practical solution for competitors to thrive, short of a break up that would risk consumers losing a quality, stable presence in the software industry.

Seemingly inspired by a lack of monetary support from the last administration, this government intervention into the business world has been off base from the start. With this deal, Microsoft's market position is clearly weakened, so any further litigation would be an even more misguided attempt to manipulate the marketplace on behalf of the "consumer." Microsoft will allow computer manufacturers broad freedoms to configure Windows with the software of their choice without preference in future licensing deals and will provide competitors with extensive access to its internal code, among other agreed measures to expand competition. Considering the constant verification by a committee of experts to monitor the deal, I ask for you to support for this overly fair settlement. The IT industry and the economy will greatly benefit from the return of stability to the software marketplace. Thank you very much for your support.

Sincerely,
Forrest Muire

MTC–00029965

SEAN GALVIN
Renata Hesse, Esq.
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Via Facsimile 202–616–9957

Dear Ms. Hesse:

I am writing to express my support for Microsoft case's settlement with the federal government. Considering the poor state of the economy, the last thing consumers need prolonged litigation resulting in additional oppression of the high tech industry.

Consumers, on the whole, were harmed by the case far more than they were ever harmed by the conduct described by it. It's been a long time since the high tech industry was truly free to compete and innovate without fear of repercussions from the government, but now that that time has come again. I believe we will see great results in short order that could turn this economy around.

Sincerely,
Sean Galvin

MTC–00029966

Eric Movassaghi
1765 Coliseum St. #314
New Orleans, LA 70130
January 22, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
FAX: 202–616–9937
RE: Settlement of U.S.v. Microsoft

As the owner of a private business I know how fierce competition can be out in the open market. And I do appreciate the government's role in protecting consumers against monopolistic activities. However, this case has gone on long enough and I am hopeful that the proposed settlement will be approved.

It is important to my business that our economy begin to turn around and I think the technology sector is important to the rebound. A final settlement in this case will provide that boost and protect consumers at the same time. I am hopeful that the settlement is approved soon.

Thank you for your consideration of my views.

Sincerely,

MTC–00029967

Inwoodola
Jan 28, 2002
Attn U.S. Department of Justice.
Regarding the lawsuit Against Microsoft

I think it is time to settle this and get it behind us so we can proceed with more important things such as economy and terrorists. I feel this Company is being punished for being successful and that most libly have not done anything more out of their time than those that are bringing charges against them. Lets get on with it and say it is done!

Sincerely,

Mark Hanson

MTC-00029968

FACSIMILE TRANSMISSION COVER SHEET
Transmission Date: 2/28/02
Total Pages: 2(Including cover page
FROM: Attorney James R. Graves
TO FAX NO: (202) 307-1454
TO THE ATTENTION OF: Renata B. Hesse
Antitrust Division
RE: Letter to Attorney General John Ashcroft
January 28, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

As a Microsoft supporter, I would like to point out some reasons why the antitrust case should be closed at the federal level. The settlement is fair and reasonable, and has been extensive enough for nine states to approve. I fear that the states pursuing further litigation will never be satisified. Under the terms of the agreement, Microsoft will make significant changes in the way it develops and licenses its software. The corporation has agreed to more or less open its inventions to the competition, allowing them to use the success of Windows to launch their own competing products. For instance, Microsoft has granted broad new rights to software engineers and computer makers to configure Windows so that competing programs can be promoted on Windows itself.

Although these concessions make antitrust precedent, Microsoft has been willing to change in an effort to bring this case to a close. As long as the industry leader is giving away market share, there will always be those that want more. I hope you will pay attention to the merits of this case.

If so, you will see fit to end this matter.

Very truly yours,

James R. Graves Attorney-at-Law

MTC-00029969

2 High Stepper Court, Apt. 406
Pikesville, MD 21208
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to ask that you give your support to the settlement reached between Microsoft and the Department of Justice I am a retired electrical engineer. I know computers, and I know Microsoft. I believe Microsoft was all right; in no way did it monopolize the market. Bill Gates" main strength was that he was simply quicker and smarter than the other fellows. Bill Gates recognized the need for standardized software programs and filled it. Then he marketed it brilliantly. There are any number of firms out there in other industries whose product is not necessarily better, it's just that they are smarter in promoting it and changing to fulfill public need. MBAs are taught this very lesson Bill Gates was hauled into court out of jealousy, not any unfair business practices.

I also understand from the settlement, Microsoft will be opening up its source codes for the Windows operating system. This is a lot more than other firms would do Microsoft has also agreed to a technical committee that will oversee Microsoft's compliance. Microsoft has more than paid for any sins it may have committed. I urge you, for the good of the county, for business, for the general public, to give your support to this settlement. Thank you.

Sincerely,

Bernard Gerber

MTC-00029970

WILCO VETERINARY CLINIC
RR 4. BOX 186. FREDONIA. KS 66736
January 14, 2002
Judge Renata Hesse
U.S. Department of Justice Anti-Trust Division
601 "D" Street Northwest, #1200
Washington, DC 20880

Dear Ms. Hesse:

The purpose of this letter is to add my comments to the record regarding the anti-trust lawsuit filed against Microsoft.

As a veterinarian and businessman, I believe in as little interference as possible in the operations of a private company. Though I see the value of having anti-trust statutes in place to protect the public from, anti-competitive practices. I also believe that in this case, those statutes have not been properly applied.

While it is true that Microsoft is a large company and has earned a great share of the computer and software marker, I believe that has happened because Microsoft offers great products at reasonable prices. I do not believe it has been demonstrated that Microsoft has been engaging in anti-competitive practices that would warrant an anti-trust lawsuit of this type. I further believe that to continue pursuing this lawsuit will only sap state and federal resources that are already in short supply and cause unnecessary damage to a company that has contributed a great deal to the American economy and way of life.

I urge you to affirm the settlement proposed by the Bush Administration and agreed to by many state Attorneys General.

Sincerely,

Dr. Charles Fox

MTC-00029971

2800 Blue Spruce Lane
Silver Spring, Maryland 20906
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania A venue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

After a long, difficult three years, the Department of Justice has settled its antitrust suit against Microsoft. Microsoft did not get off easy. The firm went far beyond what was originally mentioned in the antitrust case. Microsoft has substantially opened up the company to competitors of Microsoft. Something I do not think any other firm would have done. But it is time to move on. It should be over. We cannot keep dragging the case on. Congress is arguing about a stimulus package, but keeps one of our major companies tied down with litigation. I support the settlement, and look forward to the boost ending this case will give our economy. Thank you for your time and consideration,

Sincerely,

Eldridge Parks

MTC-00029972

East 1751 Riverview Drive
Postfalls, Idaho 83854
January 17,2002
Attorney General John Ashcroft
US Department of Justice
950 Pert??is Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The antitrust law was designed to Protect consumers from abuse by a company. Not to monitor competition between businesses, which is what happened with the antitrust case brought against Microsoft by the Department of Justice. A settlement has been reached and I am writing to ask that you give your rapport to this agreement. The original antitrust suit against Microsoft was badly misinterpreted. Microsoft has not harmed consumers; on the contrary, Bill Gates has helped consumers enormously in understanding the technological revolution that has descended upon us. He has made software easier to understand, easier to imegrate, and much more affordable. What he has not done is pay court to the powers that be in Washington, or appeased his competitors by not being too successful. Hence, we have our antitrust lawsuit against Microsoft. However, the case is over, and it is time to move on.

Microsoft has met the demands by the Department of Justice by agreeing to configure its Windows program to allow competing software to be inserted; Microsoft his agreed to help companies achieve a greater degree of reliability with their networking software, and Microsoft has agreed to terms that extend well beyond the products and procedures ?? in the original lawsuit. Whatever "sins" Microsoft may have committed, they have more than paid for. I urge you to give your support to this agreement. It is time to get back on track. We have been through some rough times and now need to concentrate on getting our ??my going again.

Microsoft can help us to this, if we allow it. Thank you.

Sincerely,

James Rocca

cc: Senator Larry Craig

MTC-00029973

Attorney General
Department of Justice
Washington, DC
FAX 1-202-307-1454 or 1-202-616-9937

Please settle the Microsoft case with the current findings.

We feel the prosecution of Microsoft has been and is detrimental to the entire economy. The public has been penalized by actions of the federal government in this unreasonable prosecution by the government.

Microsoft competitors, various states where the competitors reside and a prejudice judge. We feel Microsoft has a better product and should not be prosecuted for making the best successful economy in history and its prosecution led to the recession. It appears the other giants, i.e. Exxon and Mobile, merging banks, merging lumber companies, etc., manage to merge and be monopolistic to the detriment of the regular citizen causing increased prices and the federal government does not interfere.

While Microsoft gets punished for going it alone (without political aid) and the other giants lobby Congress, we (everyday citizens) have to pay the higher prices. Please settle this matter with the current decisions and do not carry it out any longer. Forcing Microsoft to help their competitors is unAmerican.

Sincerely,
Joe Brennan
Betty Brennan
FAX 206–878–1681
January 28, 2001

MTC–00029974

January 26, 2002
Attorney General John Ashcroft
US Dement of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–000

Dear Mr. Ashcroft:

I have taken this opportunity to write and express my opinion of the settlement that has been reached in the Microsoft antitrust case. I believe that we need to concentrate on issues of greater importance. I am pleased that a settlement has finally been reached in this case and that Microsoft will be able to continue doing business as a whole entity.

It is apparent to me that the people pursuing this litigation on are not looking for a good judgment in this case but rather the perpetuation of their own personal agendas. When government becomes involved in business, socialism becomes the rule of the day. I feel that this case has been fueled by jealousy and that until we reach a conclusion to this litigation free enterprise is stymied. The terms of the settlement are fair: Microsoft has agreed to design all future versions of Windows to be compatible with the products of its competitors, and they will also cease any behavior that may be considered retaliatory.

Please support this settlement. I trust that you will do all that is within your power to protect American businesses.

Sincerely,
Vanessa I. Castagliola, Leonard D. Castagliola Jr.

MTC–00029975

January 24, 2002
Attorney General John Ashcroft
US Justice Department
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am tired of the Justice Department using my tax dollars to fund litigation against Microsoft. No other company has provided the amazing tools that have helped businesses around the globe to produce their work faster and better.

The litigation was shaped and formed in the Clinton administration under the guidance of Microsoft's competitors. Had they put as much passion and energy into developing products that were worth using, they would not be in this fight.

Please, let's put the American machine to work protecting our people from terrorists inside and outside of America. Let the free market economy decide who has the better product. At the end of the day, it really doesn't matter what is loaded onto a computer. I can strip it down and build it back with whatever programs I so desire. To date, the competitive products have not been worth the effort.

I am a business owner who has a product that is so great; my clients won't go elsewhere ever again. Does that make me a monopoly too? By the way, I intend to make a profit this year. Is it cause for litigation by the Justice Department?

Sincerely Yours,
Laurie J. Mitchell, Director
EventForce, Inc.
1323 102nd Avenue NE
Bellevue, WA 98004
(425) 635–7696

MTC–00029976

J C BOATRZGIIT
1395 N Falkenburg Road
Tampa, FL 33619
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you today in support of the settlement that was reached in the Microsoft antitrust dispute. I believe that this case needs to come to a close, and indeed, never should have been brought in the first place.

The settlement is reasonable, under its terms Microsoft will disclose information about the internal interface of its Windows operating system, this will enable its competitors to create new products that will work within the system. Microsoft will also design all future versions of Windows to be compatible with the products of other companies. Finally Microsoft will not engage in predatory business tactics, or exact revenge against any of its competitors. The company will be monitored the by a government appointed technical committee which will ensure that Microsoft complies with the terms of this settlement.

Microsoft is one of this nations greatest corporate assets. Attacking this company will not benefit the U.S. economy, the IT industry, or the American consumer. Thank you for doing all that is within your power to see this settlement pass. Thank you for your consideration of my position.

Sincerely,
J.C. Boatright

MTC–00029977

January 18, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse,

The settlement of the Microsoft antitrust case can help our nation's struggling economy begin to improve.

Employers are challenged by the downswing in the economy. Many workers are seeking employment after being laid off. NASDAQ and technology stocks have been directly affected by the Microsoft lawsuit since the spring of 2000. It is imperative to draw closure to this litigation. I see that this is important to improve our economy and to encourage consumers. I urge you to agree with the settlement of the proposed Final Judgment antitrust case against Microsoft Corporation.

Sincerely,
Jack & Mary Woelfel
4346 SE Maryland
Topeka, KS 66609

MTC–00029978

EQUITRRC
THE TRACKING COMPANY
January 21, 2002
Attorney General John Ashcroft
U.S, Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530–0001

Dear Mr. Ashcroft,

Your decision to settle the Justice Department's lawsuit against Microsoft offers every party involved in the matter the best of both worlds; Microsoft will cease its alleged unfair business practices to the immense benefit of its competitors while at the same be allowed to stay in tact as a company.

Microsoft certainly was penalized with more than a rap on the corporate knuckles. The settlement was arrived at after extensive negotiations with a court-appointed mediator. Important to note is Microsoft's agreeing to terms that extend well beyond the products and procedures that were actually part of the suit; it demonstrates how much Microsoft is committed to settle this lawsuit. Even though they may not realize k right now, Microsoft's biggest adversaries will benefit from the terms of the settlement. First of all, Microsoft has agreed to share its patented code for its Windows operating system with competitors. Second, Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system. These two measures will significantly increase competition.

I hope the settlement process is quickly concluded and that the settlement is implemented as soon as possible.

Sincerely,
Gid Yousefi
836 Ponce de Leon Boulevard, Coral Gables, Florida 33134, (305) 442–2060, Fax (305) 442–0687

MTC–00029979

1449 Chelmsford Street NW
North Canton, OH 44720
January 27, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC
20530–0001

Dear Mr. Ashcroft:

Three years ago, Microsoft was brought to trial in the federal courts. Up until six months ago, absolutely no progress was made it was just a waste of time and money. Now, a settlement has been proposed and is currently awaiting approval. Microsoft's opponents believe that the settlement lets Microsoft off too lightly and that Microsoft holds a dangerous monopoly over the consumer. They are wrong. Microsoft did not get off lightly in the settlement, they do not hold a dangerous monopoly, and the only thing that is harming the consumer is the litigation itself. The economy has been crippled over the past several years, arid this is due in large part to the antitrust case, the amount of money that has been spent in litigation, and the panic of stockholders pulling out of their Microsoft shares. I do not believe it is in the best interest of the consumer to continue litigation against Microsoft. It can only do more damage to the economy and the technology industry.

The settlement needs no further deliberation or modification. Microsoft has been more than generous to its competitors, agreeing to terms that cover aspects of Microsoft technology and procedures that were not found to be in violation of antitrust laws. The settlement requires Microsoft to refrain from retaliation should software be introduced into the market that directly competes with Microsoft technology. Microsoft has also agreed to license the Windows operating system to twenty of the largest computer makers on identical terms and conditions, including price.

I can find no reason for litigation to be continued against Microsoft. As I see it, only more harm can come to the public if this drags on for much longer. I ask you to support the settlement as it now stands.

Sincerely,
Richard Miller

MTC-00029980

Senator W.Tom Sawyer, Jr.
3 State House Statum
Augasta, ME 04333-0003
(207) 287-1505
S?? Valley Ave.
Ranger, ME 04401
TEL (207) 942-1771
FAX (107) 943-3073
January 17, 2002
Renata Hesse, Trial Attorney
Antitrust Division—department of Justice
801 D Street NWW, Suite 1200
Washington, DC 20530
Fax 202-616-9937

Dear Ms. Hesse,

I am writing in regards to the proposed settlement negationed with Microsoft. As the former owner and CEO of a Maine Company that employed over 250 people and relied on negotiations with state and local governments for much of my business, I can appreciate first hard the complexity of dealing with issues that effect the public good. In fact that was a significant factor in why I chose to run for both local and state offices in my home town. I also have been involved in litigation and know the enormous drain it is on a business, and even its employees, many of whom are also stockholders, both financially and emotionally. That is why I feel it is in the best internet of the public and the government to accept the proposed settlement negotiated with Microsoft and move on. Having need a considerable amount surrounding the proposal, I feel it to be a beneficial arrangement for the general public in several ways.

It provides for the introduction of technology resources into the education system that will be functional and integrated. It offers the potential for widespread benefit because it includes money for teacher training and support as well as sorely needed hardware and software. These have proven to be more critical to the successful integration of technology than the latest version of computers and associated programs.

I also like the matching greats aspect of the proposed foundation. I have always felt in dealing with various nonprofit groups and charities with which I have been involved, that some contribution on the part of the recipient provided for appreciation of the items or services received. It just makes sense to me.

Fax (201) 287-1527 * TTY (207) 287-1858 * Message Service 1-800-423-6900 * Web Site: http://www.state.me.sul/legis/s??sts E-MAIL: S??@aol.com

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MTC-00029981

Ms. Renata Hesse, Esq.
January 17, 2002
Page Two

To return for a moment to the matter of litigation, I am of the opinion that a civil case of prominence benefits our society in that it causes both parties to become more sensitive and responsive to issues that resulted in the suit to begin with. However, there comes a time where the need to resolve the case becomes crucial as it starts to drain productive resources from both parties. Our government's case has reached such a stage. Timing is always of the essence for all parties.

The legal actions to date have forced Microsoft, and many other large corporations, to rethink and modify their business practices if they have half a brain, which can only benefit the general public. Microsoft's willingness to reach a settlement of this magnitude demonstrates a responsive attitude and finally it brings to a productive conclusion a very expensive and burdensome lawsuit which has had adverse effects on the company's value and productivity during the period of the lawsuit and this too has an adverse effect on many citizens as well. As we have seen in the Enron debacle, stockholders are real people too.

At a time when the economy and our nation are in recovery, I feel settlement of this case to be in the general public's best Interest and urge the Attorney General to convey this message to all parties involved.

Thank you for consideration of my comments.

Enthusiastically,

MTC-00029982

HEADQUARTERS
6033 W. Century Blvd.
Suite 950
Los Angeles, CA 90045
(310) 410-9981
Fax: (310) 410-9982
POLICY CENTER
126 C Street, NW
Washington, DC 20001
(202) 479-2873
Fax: (202) 479-2876
www.urbancure.org
January 24, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001
SUBJECT: Microsoft Settlement

Dear Ms. Hesse:

I am writing to urge acceptance of the proposed Final Judgment offered by the U.S. Department of Justice and endorsed by nine state attorneys general to resolve the antitrust case against Microsoft Corporation.

I am president of the Coalition on Urban Renewal & Education (CURE), a 5-year-old independent nonprofit organization based in Los Angeles. CURE produces research and commentary on a wide range of public policy issues impacting America's inner cities and the poor. CURE promotes faith-based and free-market solutions on issues of race and poverty. CURE works with policy leaders, inner city pastors, entrepreneurs, college students and ex-welfare recipients to create an environment for self-government and free-enterprise.

This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance—the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a

Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors" products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability, this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Star Parker
President

MTC-00029983

FACSIMILE TRANSMITTAL SHEET
TO: Ms. Renata Hesse
FROM: Rep. Jeff Plale
COMPANY: Department of Justice
DATE: 01/28/2002
FAX NUMBER: (202)616-9937
TOTAL NO. OF PAGES INCLUDING GOVER:2
PHONE NUMBER:
SENDER'S REFERENCE NUMBER
RE: U.S. v. Microsoft
YOUR REFERENCE NUMBER:
NOTES/COMMENTS:

Please call with any questians.
Thanks,
Rep. Jeff Plale (608) 266-0610
Jeff Plale
State Representative
21st Assembly District
OFFICE
State Capitol
P.O. Box 8953
Madison, WI 53708-8953
(608) 266-0610
1-888-534-0021
Fax:
(608) 282-3621
E-Mail:
Rep.Plale@legis.state.wl.us
HOME
1404 Eighteenth Avenue
South?? 435
(414) 764-5292
Fax:
5404 18?? Avenue
(414) 571-0035
Printed on recycled paper
January 28, 2002
Ms. Renata Hesse
Trial Attorney
Department of Justice—Antitrust Division
601 D Street NW, Suite 11200
Washington DC 20530

Dear Ms. Hesse:

I am writing to encourage your swift approval of the settlement of the U.S. v. Microsoft case. As you are aware, Microsoft has been a worldwide leader in groundbreaking technology. This has been a tremendous benefit to consumers. Prompt settlement of this case is in the best interest of the state of Wisconsin, and my constituents in the 21st Assembly District. Microsoft's leading technology is of great advantage to our school children and the future of America. By file Department of Justice settling this case, Microsoft could again assist less fortunate school districts with much needed help in technology. To date, over $30 million dollars in taxpayer dollars has been needlessly spent on this case. It is time for the Department of Justice to move forward and approve the settlement of the U.S. v. Microsoft case.

Sincerely,
Jeff Plale
State Representative
21st Assembly District

MTC-00029984

JOSEPH TARTAGLIA
88 FARRELL DRIVE
WATERBURY, CT 06706
Renata Hesse, Esq.
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Via Facsimile 202-616-9937

Dear Ms Hesse:

This letter is to articulate my support for the proposed settlement in the Microsoft case. The fact that over $30 million in taxpayer dollars has been spent in this case during these trying economic times is proof enough that this case has gone on far too long. Hopefully, the settlement will signal a return to innovation without the threat of government intervention. The Department of Justice has done a commendable job in putting together an agreement that is fair but won't put Microsoft out of business. It is a reasonable conclusion to this case and I support it wholeheartedly.

Sincerely,
Joseph Tartaglia

MTC-00029985

ASSOCIATED BROKERS
OF SUN VALLEY, LLC
Real Estate
January 28, 2002
Mike Sampson
P.O. Box 2004
Sun Valley, ID 83353
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in support of Microsoft and believe this whole antitrust case has become political. I don't see how this benefits consumers and businesses—especially at the expense of the economy. The tech stocks are down. The technology sector is down. The employment numbers are down. Let Microsoft get back to work and the government get on with worthwhile business. The only people I see benefiting from this case are the lawyers.

I am a small businessman who employs 25 people. I have greatly benefited since 1982 from the products Microsoft produces and feel they have been more than fair to me. If their competitors can't put out a better product with competitive pricing and service that's their problem. I don't see why I should suffer as a small businessman. After years of extensive negotiations and mediation, Microsoft has gone out of their way to settle this case. They went well beyond what would be required in any antitrust case. They agreed to design future versions of Windows, starting with an interim release of XP, to provide a mechanism to make it easier for computer companies, consumers and software developers to promote their software within Windows.

Let's end this litigation so that we can focus on what's really important. Thanks,

Sincerely,
Mike Sampson
cc: Senator Larry Craig
P.O. Box 186, Sun Valley, Idaho 83353
Sun Valley Road & Main Street,
Ketchum, Idaho
208-226-5300 . Fax 208-726-4311

MTC-00029986

2724 Gladstone Avenue
Ann Arbor, MI 48104-6431
January 15, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, N-W
Washington, DC 20530-0001

Dear Mr. Ashcroft:

As a citizen of a state party to the pending Microsoft settlement, I would like to offer my support to the Justice Department approving the current deal and ending further legal action in this case. The seemingly envious reaction of the government to Microsoft's growing power and dominance in the technology industry, led to a lawsuit, then a misguided judgment, that far over-reached the right of government to manipulate the marketplace. This agreement seems like a reasonable compromise and should be approved, or risk alienating the public and hurting the economy. Based on the terms of the settlement, it would seem that Microsoft has made great strides to offer competitors more opportunities to succeed. They have agreed to not retaliate against computer makers who ship competitive software, offering broader fights to promote non-Microsoft programs within Windows and providing the top 20 manufacturers a uniform price structure to back up that promise. Starting with Microsoft XP, they will begin to provide a mechanism to make it easy to add access to competitive software, such as those from AOL or Real Networks, or even remove features within Windows. These steps seem like a major opportunity for competitors to show they can thrive in the Windows environment.

I ask for your approval of this very fair settlement, as both sides have proven able to compromise through negotiation with a court-appointed mediator and that work should be upheld. I appreciate your time and look forward to an intelligent decision.

Sincerely,
Vernon Kempfert

MTC-00029987

THE REGION'S CHAMBER
PRINCE WILLIAM REGIONAL CHAMBER OF COMMERCE
4320 Ridgewood Center Drive,
Prince William, Virginia 22192 ??
Tel. 703-590-5000 ??
703-590-9815
email: pwrcc@RegionalChamber.org ??
Internet: www.RegionalChamber.org
FAX COVER SHEET
To
DATE
BUSINESS FAX #
FROM
PAGES (??)
MESSAGE
PRINCE WILLIAM REGIONAL CHAMBER OF COMMERCE
VISION
To be the leading organization for businesses in the Prince William Region.
MISSION

To promote and improve the business climate through initiatives that stimulate economic growth, effect legislative change and enhance the region's quality of life.

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FORT BELVOIR FEDERAL CREDIT UNION
Jan 3rd, 8:00 am Legislative Kick-off Breakfast, Manassas
Jan 10th, 5:30 pm BAH at the Hampton Inn Woodbridge
Jan 16th, 11:30 am Membership Meeting Luncheon at Montclair Country Club
Topic: State of the County
Sponsor: Washington Gas
Jan 18th, 12 pm Lunch Bunch at Burger King, River Oaks
Jan 22nd, 9:00 am New Member Orientation at River Run Senior Apartments
Jan 24th, 8:00 am Business Before Hours at the Chinn Center
Jan 26th, 6:30 pm Chairman's Dinner & the Silver Salute at Montclair Country Club
Happy New Year !
JOIN THE REGION'S CHAMBER NOW—DON'T MISS ANOTHER OPPORTUNITY!
Call (703) 590-5000 for Reservations/Directions/Information
January 28, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, Suite 1200
Washington, DC 20630
RE: Comments on the Microsoft Proposed Settlement Agreement
Dear Ms. Hesse:

The Prince William Regional Chamber of Commerce is writing this letter to express its support for the settlement reached by the U.S. Department of Justice, nine state attorneys general and Microsoft in the long-running antitrust lawsuit initiated by the federal government. The Region's Chamber is critically aware of how important it is to our national economy that all businesses be able to "get back to business." There were many knowledgeable people guided by an internationally recognized mediator to reach the Microsoft settlement. We believe that additional litigation, following on the heels of many years of costly legal proceedings and on the subsequent work of those in mediation would serve only to prolong the negative impact on our economy of the Microsoft litigation.

Therefore, the Prince William Regional Chamber of Commerce, an organization of more than 800 businesses in the Prince William area, respectfully encourages the U.S. Department of Justice to urge the Courts to adopt the agreement with all due speed so that business and our national—and even international—economy can move forward again with certainty.

Sincerely,
Carol A. Kalbfleisch Laurie C. Wieder
Chairman of the Board President

MTC-00029988

MARLANE R. TAYLOR
4600 Laurel Ave.,
Grants Pass, OR 97527
541.471.4126
uscchirp@terragon.com
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 205301-0001
Re: Comments on Microsoft Antitrust Settlement
Dear Mr. Ashcroft:

It has been well over three years that I have watched the litigation debacle among the Department of Justice, states and other lawsuits against Microsoft. I have been dismayed that Judge Thomas Penfield Jackson's decision was allowed to stand in the first place, when it was obvious that he was biased before the trial ended and his ruling ought to have been tossed out in its entirety. That the litigation continues to date without settlement is egregious.

I am indignant that millions of our tax dollars have been wasted in pursuit of Microsoft, a tax-paying corporation that employs over 40,000 workers worldwide. In the past twenty-five years, it has been known for its software advances and innovation. It has established industry standards where there were none, advanced computer science, and single handedly has been the catalyst of the technological boom. They are only guilty of "being very successful" in what they do.

The DOJ's lawsuit has and continues to financially injure retirees, mutual funds, PERS state retirement funds, individual investors, and anyone who has invested in Microsoft. "How in good conscious can the department justify this?" So far, the DOJ has done more to disrupt business, injure the public, damage the economy and technology sector, and financial markets combined than what you claim Microsoft has done to the consumer.

Finally, it appeared there would be a settlement with Microsoft offering to undergo close scrutiny and willing to spend a billion dollars on computer science, hardware and software, teacher training and on-going assistance in the most needy schools. It is an innovative idea and adequate settlement offer, all of which is geared to help our youth become computer literate, as the business world will demand and expect of them for entry-level positions.

However, Judge Motz denied the offer, since he believes it gives Microsoft an unfair advantage and allows them to expand their market share into the school system. The judge fails to recognize that he alone is denying impoverished school districts, and the children therein, access to a computer education they will need in order to compete for jobs in the real world. He would rather have children computer-illiterate, because Microsoft might just benefit in some way. What's wrong with this picture?

His ruling is notably without justification, denying Microsoft's good faith offer to settle. Even in a perfect world, the judge's decision would still be wrong, very wrong. This litigation is a perfect example of an imperfect legal system. The ease has gone on far beyond anyone's imagination, and has become a virtual nightmare. The DOJ has seemingly painted itself into a corner, looking very inept. From my viewpoint, it seems the entire justice system needs a complete overhaul, because of its anti-business bias, and predilection against what constitutes normal and free competition in the business world. Judges need to be knowledgeable in the law, of course, but they also need to understand business, economics, capitalism, and who succeeds in business and why. Innovation is not a dirty word. Until now, our country has led the world in creativity and innovation thanks to Microsoft. Take a good look at all the companies that have stood on the shoulders of Microsoft and have ably competed in the marketplace for the last twenty-five years. The list is huge.

That Microsoft is willing to follow the provisions set forth, it should satisfy every one. It is past time to end this debacle. The states that are holding out simply want to pan for gold in Microsoft's deep pockets. There isn't one rational reason not to grant Microsoft's substantial offer of settlement, because, it IS in the public's interest.

The litigation has already cost millions of tax dollars for nothing. Moreover, the DOJ is directly responsible for the untold millions that it has cost Microsoft for its legal defense and representation—not to mention the financial fallout affecting millions of investors.

Enough of this: Settle the case.

Sincerely,
Marlane R. Taylor

MTC-00029989

1001 NW 63rd Street Suite 280
Oklahoma City, OK 73116
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

I am writing to support the implementation of the recent settlement between the U.S.

Department of Justice and Microsoft. There is no sense in continuing litigation against a company that is the only bright in our sorry economy. I do not think the lawsuit should have begun in the first place. Microsoft has made a good offer and the nine states opposing the settlement should accept it. Microsoft is giving away technological secrets, granting broad new rights to computer makers to configure Windows so as to make it easier for non-Microsoft products to be promoted, and a three-person team will monitor compliance with settlement.

I urge your office to finalize the settlement and to make sure that further unnecessary lawsuits against Microsoft do not occur. Thank you. My losses in the stock market during the past year have been in excess or $2,000.000 and Microsoft is the only bright spot I have left in my technology portfolio. I urge you to get this lawsuit settled and allow Microsoft to work on behalf of the stockholders and America.

Sincerely,
George Platt
CC: Senator Don Nickles

MTC-00029990

From the Desk of Rick Bagley
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I wanted to write to Judge Kollar-Kotelly to encourage her to approve of the settlement that has been reached between Microsoft, nine of the attorneys general and the Department of Justice in Washington. If you have a consensus like this with so many interested parties, it is hard to see what is standing in the way of approval of this settlement.

As a member of the school board in Forsyth County and a former employee of one of the largest law firms in the Southeastern United States, I am more than aware of what happens when the government gets involved in lawsuits. The effects of a lawsuit on any company, school or just an individual is chilling enough. But in this case, the effect of forward movement in the Microsoft lawsuit was devastating to millions of investors throughout America who were heavily invested into Microsoft stock. During this period and while many high-tech firms were losing ground, Microsoft continued to be strong and show good earnings. Yet, by facing a court trial and possible break up, Microsoft stock suffered a great deal as did investors as, at that time, Microsoft was the No. 1 held stock in pension and mutual funds. The reason that I would like to see a quick settlement in this case is to get the matter out of the courts so that Microsoft and the other parties can get back to business.

Thanks for your consideration of my views
Sincerely,
Rick Bagley
1195 Whispering Pines Dr.,
Kernersville, NC 27284

MTC-00029992

11234 NE 87th St.
Kirkland, WA 98033
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The entire case was uncalled for from the beginning. Now that there is a settlement that is fair I would like to see the government accept it and move on.

Many people think that Microsoft is getting off easy, this is simply not true. Microsoft has given up much to reach the settlement. Microsoft has agreed to allow computer makers the flexibility to install and promote any software that they see fit. Microsoft has also agreed to not enter into any agreement with any computer maker that would require them to use Microsoft software in any set percentage. Microsoft has also agreed to license Microsoft software at a set price no matter what kind of software the computer maker installs or promotes.

Microsoft has agreed to much in order to put the issue behind them. The government needs to accept the settlement and allow Microsoft to move forward. The only way to move forward is to put the issue in the past. Please accept the Microsoft antitrust settlement.

Sincerely,
Kenneth Jerome

MTC-00029993

CENTRAL CALIFORNIA
HISPANIC
CHAMBER of COMMERCE
Serving the Central Valley Business Community from Stockton to Bakersfield Since 1984
Fax
To: RENATA HESSE
From: ANTONIO GASTELUM
ANTITRUST DIVISION
EXECUTIVE DIRECTOR
DEPARTMENT OF JUSTICE
CENTRAL CALIFORNIA HISPANIC
CHAMBER OF COMMERCE
Fax: 202-616-9937
Pages: 2
Phone:
Date: JANUARY 28, 2002
Re: DOJ v. Microsoft Settlement
CC: BECKY DARLING
· COVER PAGE PLUS 1
ADDITIONAL PAGES FOLLOWING
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
801 D Street NW, Suite 1200
Washington DC 20530
January 26, 2002

Dear Me. Hesse,

Pursuant to the Tunney Act in anti-trust cases, we are writing to strongly urge you to support the settlement reached by the Department of Justice and Microsoft. It is time to put this issue to rest, Nearly four years and 35 million dollars is enough!

Microsoft is a true American business success story and doesn't deserve to be penalized for it. Fair business guidelines are sometimes necessary, and have been already incorporated into the settlement agreement. Let Microsoft get back to the business of creating new and useful computer software. Every part of the economy feels the affects of this issue. As we are in the middle of a hard-hitting recession, it is time to do what is necessary to get the nation back on its financial feet.

Again we strongly urge you to support the settlement reached by the Department of Justice and Microsoft.

Sincerely,
Antonio Gastelum
Executive Director
Central California Hispanic Chamber of Commerce

MTC-00029994

FAX COVER PAGE
FROM THE OFFICE OF
ASSEMBLYMAN JOSEPH D. MORELLE
132ND ASSEMBLY DISTRICT
716 Legislative Office Building
ALBANY, NEW YORK 12248
(518) 455-5373 FAX (518) 455-5647
TO:
FAX #:
FROM:
DATE:
RE:
PAGES: INCLUDING COVER PAGE
REPRESENTING BRIGHTON AND IRONDEQUOIT AND THE EAST SIDE OF ROCHESTER.
JOSEPH D. MORELLE
Assemblyman 132nd District
Monroe County
THE ASSEMBLY
STATE OF NEW YORK
ALBANY
CHAIRMAN
Committee on Tourism,
Arts and Sports Development
CHAIRMAN
Subcommittee on Manufacturing
COMMITTEES
Economic Development, Job Creation,
Commerce & Industry
Higher Education
Local Governments
Libraries & Education
Technology
January 28, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
Re: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

The United State government negotiated a meaningful settlement with Microsoft that is in our nation's best interest. The settlement places sanctions on Microsoft without destroying the company. These sanctions will foster greater competition in the software industry and give consumers greater choice when they purchase and enhance their computers. This settlement will also help define the direction of government's role in the high-tech industry. This is a just, not punitive, resolution that will help the economy and promote new investment in technology. I am encouraged by the actions of the Department of Justice and support you in your efforts to settle this case.

Sincerely,
Joseph D. Morelle
MEMBER OF ASSEMBLY

MTC-00029995

Tom A. Schatz, President
Citizens Against Government Waste
13Ol Connecticut Avenue, NW, Suite 400
Washington, DC 20036
I am in gavor oh this mio TM. Herrick
Ms. T. M. Herrick
1500 Terrace Ave, Apt. 112
Liberal, KS 67901-5702

Dear Ms. Herrick,

Your response to this letter today will not only put a stop to $35 million in government waste, it may also be the single best way you can help stimulate America's economy and protect this nation's and your own financial future. I need to ask you today to send an urgent message to the U.S. Department of Justice (DOJ) that you support the proposed settlement of the Microsoft lawsuit,

Under a federal antitrust law called the Tunney Act, there is a 60-day period for public comment before the U.S. District Court decides whether to accept the settlement. This period will expire on January 28th.

By sending your message to DOJ, you can help put an end to the government's long-running legal assault on Microsoft, which has cost taxpayers more than $35 million and undermined one of the primary engines of America's economic growth. Let me tell you what's going on and why it's urgent that you send DOJ a message right away that you support the Microsoft settlement.

On November 6, 2001, Microsoft reached, a proposed settlement with DOJ and nine states in the antitrust lawsuit against the company. The terms of the settlement, briefly, are as follows: Computer manufacturers would be free to include non-Microsoft software in their products. Microsoft would alter its products, including the new Windows XP, to make it easier for consumers to substitute non-Microsoft programs in the Windows operating system. Microsoft would be required to share its programming code with competitors so their software for video streaming, digital photography and other features would be compatible with Windows. In addition, a three-member Technical Committee would be established, at Microsoft's expense, to monitor the company's behavior and enforce the settlement for the next five years. Should the company be found in violation of the terms of the settlement, it can be extended for another two years.

The proposed settlement is a win-win for all concerned. It's fair to:

- Microsoft, which will continue to be able to provide new software that integrates new products;
- competitors, who will have more access to the Windows platform to incorporate their products or make them compatible;
- software manufacturers, who will get back to the business of creating innovative products;
- Consumers, who will have more choices among software products; and,
- investors, who will have stability in the marketplace.

Opponents of the settlement—primarily Microsoft's well-heeled competitors who lobbied DOJ and the states to bring this lawsuit on the backs of taxpayers in the first place—have launched a massive campaign to prevent the court from accepting the agreement. They want nothing less than the dismantling of Microsoft, and they want taxpayers to continue to pay to secure a competitive advantage they couldn't win in the marketplace. That's why I urgently need you to send a strong message to DO! today that you support the Microsoft settlement.

By visiting CAGW's website at www.cagw.org, you can e-mail a letter to DOJ, telling the government that you support the settlement. DOJ has specifically stated that they would prefer to receive comments electronically, so that's why I'm talcing the extraordinary step of asking you to visit our website today and send an e-mail to DOJ. All you need to do is go to CAGW's homepage at www.cagw.org, click onto the "Approve the Microsoft Settlement" link on the top fight-hand side of the page, and follow the instructions to e-mail your letter. It will just take a few minutes of your time.

If, however, you prefer to fax your comments in support of the settlement to DOJ, you may fax them to the attention of Ms. Renata B. Hesse at (202) 307-1454 or (202) 616-9937. The most important point is that you tell DOJ you support the Microsoft settlement and that you do it right away before the comment filing period ends on January 28th. To date, the Microsoft lawsuit has cost taxpayers more than $35 million. As the District Court Judge presiding over the case has said, "In light of the recent tragic events affecting our nafion...the benefit which will be" derived from a quick resolution of these cases [is] increasingly significant." Please tell DOJ to approve the settlement today. Thank you.

Sincerely,
Thomas A. Schatz
President, CAGW

P.S. Help put an end to $35 million in government waste. Tell DOJ that as a taxpayer and consumer you support the Microsoft settlement, and please get your message off to them today.

Time is nmning out.

MTC-00029996

Jesse L Clay
1205 Ridgecrest Drive SE
Albuquerque, NM 87108
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take some time to express to you my feelings about the proposed settlement that was reached between Microsoft and the Department of Justice. It is about time that the antitrust suit ended, and I feel that the terms in the settlement, although harsh on Microsoft, will be for the betterment of the computer industry and the economy.

I am pleased with the prospect of the case being resolved, but I think it was initiated for all of the wrong reasons. Microsoft's competitors had a major role in initiating the litigation, because they could not bring to the market a product that matched Microsoft's own. The competition should be happy though. The terms of the settlement require Microsoft to turn over to their competitors source code and design data that are crucial to the internal makeup of Windows. Enough is enough. This settlement needs m he approved so the industry can get back on its feet, and with competitors working more closely with one another, the industry will benefit. I feel the proposed settlement will benefit all parties involved, including Microsoft's competitors.

Sincerely,
Jesse Clay

MTC-00029997

Carol Morse Sibley
92 Overlook Terrace
Bloomfield, NJ 07003-29t7
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

The antitrust lawsuits against Microsoft have gone on for too long. They are also not very well justified. Microsoft has not only created jobs and wealth for our country, but also has made technological breakthroughs that have revolutionized the IT sector. I do wish that when they come out with new versions of software they would always make it compatible with previous versions, which they didn't do, for instance, with PowerPoint.

Still, it's clear that the settlement seems to only help competitors gain an edge they were not able to gain beforehand. It forced Microsoft to disclose interfaces that are internal to Windows operating system products, and also grant computer makers broad new rights to configure Windows so that non-Microsoft software can be promoted more easily.

It is in the best interests of the American public to finalize the settlement. Our nation cannot afford further litigation so I urge your office to use its influence to try to rein in the nine states that want to drag this case out for even longer. Thank you for your time.

Sincerely,
Carol Morse Sibley

MTC-00029998

1-23-02
Mi. Renata B. ??
?? (202) 307-1454 02 (202) 616-9937 (FAX)
Ms. ??

This Letter is intended to Conform that I am in favor of the ?? settlement between Microsoft and The U.S. Dept. of Justice.

This is the ?? settlement of november 6,2001.

Sincerely ??

MTC-00029999

4911 Bainbridge Court Southwest
Lilburn. GA 30047
January 24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The lawsuit that has reached a tentative agreement between Microsoft and the US Department of Justice was flawed from the start. The initial aim of settlement was to break up a perceived monopoly and stop Microsoft from infringing in consumer rights. First off, Microsoft does not fall under the terms of he definition for monopoly because it does not sell poor quality goods at inflated rates. Microsoft in fact has consistently delivered user-friendly products that far outdo their competitors. They have also not infringed on our rights, because all consumers made a conscious decision to purchase Microsoft. The terms of the settlement violate Microsoft's intellectual property rights as they force them to disclose for use by competitors interfaces that are internal to Windows'' operating system products. I urge your office to take a firm stance against the nine states that want to continue litigation. Put an end to this dispute so that the cornerstone of the IT sector can continue to innovate as it has in the past. It is in the public's best interests to settle.

Sincerely,

Ralph Knight

MTC-00030000

FRANK W. BROWN
REALTON
POST OFFICE BOX 215.
ORANGE PARK, FLORIDA 32067–0215
—TELEPHONE
904–264–0504
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear General Ashcroft:

If the public spends time listening to Microsoft's opponents, we all would be under the impression that this industry icon was the bad guy in this entire case. These same opponents would like us to think that Microsoft got off easy in this settlement. The truth, however, is the very opposite. Since the company's inception, Microsoft has set the standard for innovation and quality. Their products are accessible, easy to use, arid affordable. They have been seen as the "bad guy" because they are being blamed for their competitor's inability to innovate and keep up with Microsoft's rapid changes. How fair is that?

As far as Microsoft getting off easy in the case, this is simply not true, Microsoft has basically opened their operation doors to their competitors by allowing them access to Windows interfaces, protocols, and intellectual property. They have even agreed to create future versions of Windows within which non-Microsoft products may function. In addition to all these damaging concessions, Microsoft has also agreed to terms that were not even found unlawful. I hope that you will make every possible attempt to bring this matter to an early close.

Sincerely,

Frank W. Brown, Jr.

MTC-00030001

320 Tanglewood Trail
Wadsworth, OH 44281–2355
(330) 334–1097
January 14, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I would like to express my support for settling the antitrust suit against Microsoft. I do not feel that the case should ever have been taken as far as it was. It is time to move on to more pressing concerns.

While I recognize Microsoft's market dominance, I also feel that they are operating legally, and as such no further action should be taken. With the economic downturn of the past year, ending the case and letting Microsoft generate further technologies is important. Competitors of Microsoft will gain a lot from the settlement, including disclosure by Microsoft of the internal interfaces of the Windows operating system Microsoft development with its own personnel and capital.

The longer the government keeps Microsoft's hands tied, the more the economy will suffer. Please finalize the settlement agreement as soon as possible. Thank you.

Sincerely,

Jenny Wallace

MTC-00030002

Janurn7 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The Microsoft antitrust settlement agreement should be finalized. I am opposed to this lawsuit.

We operate h≃ a free enterprise system where competition is the driving force behind a prosperous economy. Lawsuits of this nature punish a company for being competitive. Despite my opposition to the lawsuit, I believe the terms of the settlement are reasonable. Microsoft has agreed to begin designing Windows with mechanisms to make it easier for consumers to add or remove features of Windows, and instead replace them with non-Microsoft software. They also agreed to not to enter into contracts that would obligate third parties to exclusively promote or distribute Windows products. With these types of concessions, consumers will have greater choices, and any so-called anticompetitive behavior wilt be curtailed.

I am hopeful the Department of Justice will continue in its efforts to settle this case. Thank you.

Sincerely,

MTC-00030003

CarrierChoice
January 28, 2002
Attorney General John Ashcroft
US Department of Jusnce,
950 Pennsylvania, Avenue, NW
Washington. DC 20530

Dear Mr. Ashcroft:

I am writing you this brief note to encourage you to help end the Microsoft antitrust case. This nearly four-year-old case has dramed Microsoft and the government of millions of dollars. It has been the subject of controversy and litigation to no one's discernable benefit. It has had a debilitating affect on Microsoft, the entire ?? industry and the national economy at a nine when we can least afford it. It is tune to resolve this matter.

At present, the major parties and the majority of compl??ant states have reached a tentative settlement agreement. The agreement allows Microsoft to retain its present corporate structure in return for committing itself to a radical change in its marker philosophy and practices. Microsoft will now actively encourage "competition" by reconfiguring its Windows platforms to readily accept and even promote non Microsoft software. The company will now no longer requite exclusive Windows software be in agreements of computer manufacturers to whom they license their basic platforms. These and other concessions prove the sincerity of Microsoft's commitment to ameliorating its in intimidating marker dominance.

Microsoft is a great, inventive and productive player in our economy and its own industry. We need Microsoft up and running full time. Please support this settlement

Sincerely,

Chick ??earberstone
Director of Carner Relations
CarrierChoice
cc Senator Rick Santorum

MTC-00030004

THE CENTER FOR THE
MORAL DEFENSE
OF CAPITALISM
VIA FAX
January 28,2002
From: Nicholas Provenzo
Chairman
Center for the Moral Defense of Capitalism
To: Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Re: Microsoft Settlement

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, the Center for the Moral Defense of Capitalism respectfully submits its evaluation of the proposed Final Judgment resolving U.S. v. Microsoft Corporation (Civil Action No. 98–1232) and State of New York ex. ref Attorney General Eliot Spitzer, et al., v. Microsoft Corporation (Civil Action No. 98–1233). The mission of the Center for the Moral Defense of Capitalism is to promote the social welfare of the nation by presenting to the public a moral foundation for individualism and economic freedom based on a philosophical analysis of humanity and human nature. Specifically, we seek to apply Ayn Rand's philosophy of Objectivism to the understanding of human action and human relationships.

As the cornerstone of a free, capitalist system, we argue that human life requires thought and effort and that the free market springs from the trade of one's thoughts and efforts with others. We make the argument that human minds and bodies must be left free of coercion, that all human interaction must be voluntary and that the initiation of physical force must be banished from human relationships. We see a proper government as the agent of its citizens, charged with one mission: the use of retaliatory physical force in defense against the initiation of physical force. Our organization has followed the Microsoft antitrust case from its initial filing—we have opposed the case from the outset, seeing it as an abridgement of the freedom of production and trade and an interference with the right to acquire and possess property. We disagree with the essential factual component of this case-that Microsoft's integration of its Internet Explorer Web browser with its Windows operating system was a coercive act against Microsoft's competitors and customers. Instead, we see a company that accordin9 it its evaluation of the marketplace saw the commercial value of product integration and acted accordingly. In exercise of Microsoft's right to control its property, the firm set terms for the sate of that property that it believed was in its own self-interest. Microsoft's subsequent commercial success after this integration affirms the wisdom of Microsoft's actions—Microsoft's customers themselves chose to reward the firm with increased sales and increased market share. Rather than serve an impediment to the free market, Microsoft's actions personified them.

Yet, obviously, Microsoft's success has made it into the target of the government's wrath via the current antitrust case. Our organization closely followed the District Court case, writing several published evaluations of the case and its subsequent rulings (see Appendix t & 2). Our organization also participated in the US Court of Appeals for the District of Columbia Circuit appeals proceedings as an amicus curie. Our amicus brief relied on two major arguments in opposing the government's case: 1.) that the antitrust laws are unconstitutional laws that fail to provide with clear and concise guidance necessary to avoid sanctions under the law; and 2.) that the antitrust laws are unconstitutional laws because they require the government to initiate force against innocent citizens.

Today, our view of the Microsoft antitrust case and its proposed settlement is as follows: While we respect the desire of the parties to seek a resolution to this case, particularly that of Microsoft, which has had to endure a 3½ year crusade against its property rights and its right to conduct its business in a profitable manner, we are wary of any settlement that legitimizes any aspect of this unjust assault against a successful, innovative business

We consider the case against Microsoft to have been defective at every level, from the fundamental claim that the entrepreneurial actions of a successful business are a threat against others, to the claim that a monopoly can exist where there is no legal barrier to entering a market, to the claim that the citizens of the United States are too ignorant or incompetent to exercise their individual power of choice when in the marketplace and therefore require the government to make their personal choices for them. We consider it a failure that the court saw no distinction between the earned success of a business in the free market and the coercive power of a government favorite and we consider it a failure that the court did not ultimately throw out the case against Microsoft.

Considering that this case was initial brought not at the insistence of individual consumers or with Microsoft's business partners, but at the insistence of Microsoft's unsuccessful competitors, this entire case reeks of business failures asking the government to step in and give them the commercial success they could not achieve in the marketplace. Failed businesses must not be allowed to set the rules for the markets in which they failed.

In evaluating the proposed settlement, we find that it specifically threatens the right to private property. A key component of the proposed remedy is a requirement that Microsoft make its source codes available to a government-sanctioned oversight committee, which in turn is supposed to ensure these same source codes are made available to non-Microsoft "middleware" producers, so that these companies can create products to compete with Microsoft. Since under the proposed judgment, the United States would retain the right to determine and enforce the scope to which these source codes are to be made available, the final judgment constitutes a de facto seizure of private property—the source codes—and its subsequent conversion to a public good. Such a taking is wholly incompatible with the Constitution of the United States.

Accordingly, we reject the notion that this settlement serves the public interest, or that any punishment of Microsoft for its business practices will be of benefit to any consumer. Eroding Microsoft's property rights serves no one. We hold that no antitrust case, including the Microsoft case can withstand rational scrutiny, and we ask that no sanction be placed on Microsoft as a result of its antitrust conviction.

Appendix 1:
Judge Jackson's Findings of Fiction
By Dr. Edwin A. Locke, Ph.D.
Senior Policy Analyst

The Center for the Moral Defense of Capitalism Judge Thomas Penfield Jackson has released his "findings of fact" in the Microsoft antitrust case. While his report did contain some correct information—such as the truism that a successful company tries to defeat its rivals—the central claims of his report are blatant falsehoods Let us examine five of these fictions

Fiction #1: Microsoft is a "monopoly. "There is no such thing as a private monopoly. Only the government can forcibly prevent competitors from entering a market. Microsoft has attained dominance in the software industry, but dominance is not monopoly. Market dominance has to be earned through a long struggle, by providing better products and better prices than anyone else Dominant companies who falter (as did Xerox, IBM, General Motors and Kodak) will find their market share eroded, sometimes very quickly. There is no threat from these dominant players so long as their competitors are legally permitted to enter the field, invent new products, and combine with each other to gain the needed market power.

In a free market, a dominant position can only be sustained by continually providing new products and services that are better than other firms" products. Paradoxically, Judge Jackson recognizes this fact but condemns it. Microsoft's innovation, its continual product upgrades, its millions spent on research and development, are cited by Jackson, not as evidence that Microsoft has earned its position, but only as evidence of a conspiracy to "stifle" its competitors.

Fiction #2: Microsoft's "monopoly power" allows it to "coerce" its customers. A private company has no power to force consumers to do anything. Did Judge Jackson find that Microsoft threatened to beat people up or throw their bodies into the East River if they bought the wrong Web browser? Of course not. The only "leverage" Microsoft has is the leverage it has earned by producing a product that people want to buy.

This economic power, the power of voluntary trade, is fundamentally different from political power, the power of the gun. Yet Judge Jackson is eager to erase this distinction. Thus, such actions as upgrading a product to match the features offered by a competitor, distributing a product for free, or negotiating favorable terms with business partners—all of them normal and beneficial business practices—are presented by Judge Jackson as if they are a nefarious, mafia-like conspiracy to oppress the public.

Fiction #3. Microsoft harmed consumers. This is certainly news to the millions of people worldwide who value Microsoft products enough to make the company and its founders rich. Most bizarre is Judge Jackson's claim that Microsoft harmed consumers by giving away its Web browser, making it unprofitable for other firms to sell their browsers Any sane consumer would be delighted to get a product for free rather than paying money for it. To speak of receiving free software as a "harm" is Orwellian doublespeak.

Fiction #4: Microsoft is a threat to consumers because it "could" raise its prices. Under this criterion, anyone could be prosecuted for anything. Do you own a kitchen knife? Then you might stab somebody—so should the government put you in jail?

Microsoft has the right to sell its product for any price it chooses—but anyone familiar with the history of business and with Economics 101 knows that market leaders have a selfish interest in keeping their prices low. Why? Because they make a lot more money by creating a mass market than by creating a product only the rich can buy. Henry Ford understood this. So did Bill Gates.

Clearly, Judge Jackson does not. The only basis for his conclusion is the caricature of the successful corporation as a vicious "Robber Baron" which, even if it is not "exploiting" consumer now, is merely waiting for the opportunity to do so

Fiction #5: Blocking Microsoft's ability to compete will foster greater industry innovation. A private company, with no power over consumers but the power conferred by offering a useful product, is branded by Judge Jackson as dangerous. But far-reaching government intervention in the software industry, including the massive use of force to shatter Microsoft and control its business practices, is presented as an attempt to spur innovation. Only those who believe Al Gore invented the Internet could take this argument seriously.

What Judge Jackson really objects to is the fact that Microsoft defeated its competitors, i.e., that it was successful. The real meaning of his "findings of fact" is that the best brains must be crippled, so that lesser brains will not have such a hard time succeeding. He and the government prosecutors whose arguments he is echoing do not want to foster innovation; they want to sacrifice the best and the brightest in the name of egalitarianism. They want the playing field leveled by coercion so that no one can rise to the top.

What consumers need is an antidote to the fictions peddled by Judge Jackson: the recognition that businessmen have a right to succeed by trading their products in a free market Dr. Edwin A. Locke is Dean's Professor of Motivation and Leadership at the Robert H. Smith School of Business at the University of Maryland and is affiliated with UMD's Department of Psychology. An internationally renowned behavioral scientist, Locke's work is included in leading textbooks and acknowledged in books on the history of management.

Appendix 2:

Altruism in Action: An Analysis of Judge Jackson's Finding of Fact and the Antitrust Assault on Microsoft by Adam Mossoff

Policy Analyst

The Center for the Moral Defense of Capitalism United States District Court Judge Thomas P Jackson is crystal clear in his recent "findings of fact": Microsoft is marked for destruction. But why does Judge Jackson want to punish one of the most successful corporations in American history? Because Bill Gates proclaimed that he wanted "to prove that a successful company can renew itself and stay in the forefront"[i] and he proceeded to do just that.

By the early 90s, Microsoft had gained a dominant position in the software industry by creating Windows, the first commercially viable graphical operating system that could be used on PCs. But in the mid-90s, Gates realized that the Internet represented the next step in the ongoing computer revolution; thus, he created a business plan to "stay in the forefront" of this revolution. In so doing, he set into motion the same technological and commercial innovation that had led to Microsoft's leading market position in the first place.

Microsoft began by investing a staggering $100 million each year in Internet research and development, and in four years the company expanded its Internet division from only six people to more than one thousand. These investments, in the words of Judge Jackson, paid "technological dividends.[ii] (Paragraph 135) Microsoft developed a Web browser called Internet Explorer, and "after the arrival of Internet Explorer 4.0 in late 1997, the number of reviewers who regarded it as the superior product was roughly equal to those who preferred [Netscape's] Navigator." (Paragraph 135)

But Gates took Microsoft even farther. He integrated Internet Explorer into Microsoft's Windows operating system so that it would be easier to incorporate the fast-growing Internet into all aspects of personal computing. In fact, Judge Jackson partly acknowledges the groundbreaking work performed by Microsoft in this regard:

The inclusion of Internet Explorer with Windows at no separate charge increased general familiarity with the Internet and reduced the cost to the public of gaining access to it, at least in part because it compelled Netscape to stop charging for Navigator. These actions thus contributed to improving the quality of Web browsing software, lowering its cost, and increasing its availability, thereby benefiting consumers. (Paragraph 408)

Concurrent with its technological innovation, Microsoft put into practice novel business services and licensing arrangements. Just one of many examples addressed by Judge Jackson is the Internet Explorer Access Kit (IEAK), a service that permits an Internet access provider (IAP), such as America Online or Earthlink, to accept a license agreement on the Web and then download and customize Microsoft's Internet software. When Microsoft began offering this service in September, 1996, it was the first time an Internet access provider could create a distinctive identity for its service in as little as a few hours by customizing the title bar, icon, start and search pages, and "favorites" in Internet Explorer. The IEAK also made the installation process easy for IAPs. With the IEAK, IAPs could avoid piecemeal installation of various programs and instead create an automated, comprehensive installation package in which all settings and options were pre-configured (Paragraph 249)

More than 2,500 access providers—representing more than 95% of the Internet subscriber market in the US—used Microsoft's IEAK service. (Paragraph 251) Notably, Netscape did not create a similar service until nine months after Microsoft introduced IEAK, and Netscape charged almost $2,000 for something Microsoft offered for free. (Paragraph 250)

Microsoft blended technological innovation with business acumen and thus offered its business partners an integrated package of new technology and new business opportunities. In exploiting these opportunities: Microsoft often offered "valuable consideration"—such as special discounts-to companies like Compaq, IBM, and Intel as an incentive to adopt its Internet Explorer and other Microsoft technology In fact, Judge Jackson uses the term "valuable consideration" eight times to describe Microsoft's business agreements with other companies—leaving the honest reader to conclude that Microsoft's dealings were not some form of coercion but rather value-for-value trades.

For instance, Microsoft beat Netscape in developing a special type of browser that America Online (AOL) required for its Internet service As a result, the two companies entered into several agreements in 1996. In exchange for AOL's commitment to use Microsoft's Internet software, Microsoft promised to provide AOL with unprecedented access to Internet Explorer source code, extensive technical assistance, "free world-wide distribution rights to Internet Explorer," an assurance "that future versions of its Web browsing software would possess the latest available Internet-related technology features, capabilities, and standards," and the placement of an AOL icon in a special folder on the Windows desktop. (Paragraph 288)

This relationship has been advantageous to both parties. Overall usage of Internet Explorer has risen dramatically, and as a result of this agreement AOL registered almost one million new users in a single year—11% of its total membership—through its icon on the Windows desktop. This fact alone prompted AOL to state in 1998 that its business arrangement with Microsoft was an "important, valued source of new customers for us." (Paragraph 302)

Microsoft's achievements should be held up as a model of how to create and maintain a highly productive, innovative company. Yet Judge Jackson is unable to view any of these facts in a positive light. While Judge Jackson recognizes many of the concrete facts that demonstrate Microsoft's productive achievement, he is incapable of praising the innovation and business acumen that led to Microsoft's success.

Instead, his descriptions are clouded by slanted, inflammatory terms that attribute vicious motives to Gates and his company. When Microsoft created new technology to compete with its rivals, Judge Jackson describes the company's motivation as "fear" and "alarm." When Microsoft offered incentives to its business partners, Judge Jackson decries this as the "quashing" and "stifling" of rivals. When Microsoft licensed its products only under conditions favorable to its long-term success, Judge Jackson describes these actions as "threats" and "force." (Judge Jackson uses variations of "threat" no fewer than twenty times and of "force" no fewer than sixteen times to describe Microsoft's actions.) When Microsoft refused to support its competition, Judge Jackson calls this "punishment." When Microsoft ingeniously melded technological and business strategies to convince consumers that its products were the best, Judge Jackson sees the company as "seizing control" and trying to "capture" the market.

Even worse than his slanted terminology are his substantive arguments, in which he sets up impossible standards according to which no successful business could escape prosecution For example, Judge Jackson writes early in his ruling that:

It is not possible with the available data to determine with any level of confidence whether the price that a profit-maximizing firm with monopoly power would charge for Windows 98 comports with the price that Microsoft actually charges. Even if it could be determined that Microsoft charges less than the profit-maximizing monopoly price, though that would not be probative of a lack of monopoly power, for Microsoft could be charging what seems like a low short-term price in order to maximize its profits in the future for reasons unrelated to underselling any incipient competitors (Paragraph 65) (Emphasis added.)

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[i] Bill Gates, The Road Ahead 64 (1995).

[ii] US v Microsoft, No. 98–1233 (TPJ) D.D.C. Nov 5, 1999) (findings of fact). All references to the findings of fact hereafter will refer only to the paragraph number.

Judge Jackson admits that it is not possible to tell whether Microsoft is in fact charging a monopoly price. Yet he dismisses this lack of evidence as irrelevant because Microsoft could simply be using low prices today in order to "capture" the market and charge exorbitant prices at some future date. In other words: Microsoft is a monopolist if it charges prices that are deemed "too high"—but it is also a monopolist if it charges prices that are too low. By virtue of its dominant position in the industry—that is, by virtue of its success—Microsoft is damned if it does and damned if it doesn't.

Judge Jackson's visceral antagonism to business is also revealed by his condemnation of Microsoft for winning the browser battle against Netscape when "superior quality was not responsible for the dramatic rise [in] Internet Explorer's usage share" (Paragraph 375) Note the implicit premise in this condemnation: If Microsoft hasn't produced a product that is technologically superior, then only commerce can explain its success. Jackson is repulsed by the notion that successful computer companies require both technological savvy and business skills; in his ideal world, Silicon Valley would be populated solely by computer scientists with nary an "alarming" venture capitalist or "threatening" businessman in sight.

Judge Jackson's praise for innovation, however, might seem to contradict his overall attack on successful businesses. Technological innovation is a source of business success, is it not? Although Judge Jackson recognizes that technological innovation causes businesses to succeed, he believes that this innovation has another, more legitimate, function. He writes: In many cases, one of the early entrants into a new software category quickly captures a lion's share of the sales What eventually displaces the leader is often not competition from another product within the same software category, but rather a technological advance that renders the boundaries defining the category obsolete. These events, in which categories are redefined and leaders are superseded in the process, are spoken of as "inflection points." (Paragraph 59) (Emphasis added.)

Innovation appeals to Judge Jackson not because it leads to the creation of wealth, but rather because it tends to tear down the market leader. He argues that the emergence of the Internet in the mid-90s was one such "inflection point." (Paragraph 60) Thus, the nature of his support for innovation explains his disgust with Microsoft's defeat of Netscape: By introducing its browser product sooner, Netscape should have replaced Microsoft—if only Microsoft had not engaged in the "vicious" commercial competition that ensured its continued leadership in the computer industry.

These beliefs ultimately lead Judge Jackson to conclude that Microsoft's "monopoly power" has "harmed consumers in ways that are immediate and easily discernible?" (Paragraph 409) What are these alleged harms? Judge Jackson claims (wrongly) that the integration of Windows 98 and Internet Explorer does not allow employers to block employees from surfing the Web He asserts that vast "confusion" reigns among consumers—but beyond one or two offhand references throughout the rulin9, he never explains this vague allegation Moreover, he claims, the integration of Windows and Internet Explorer has created slower computers with more bugs—as if computers are slower and less dependable than they were two years ago! One might regard such mythical "harms" as the laughable allegations of a Luddite—if they did not come from a judge who wields the coercive power of the federal government

Regardless of how trivial these alleged harms may be, Judge Jackson seems sincerely to believe that Microsoft is acting as a vicious monopolist Why? He answers this question in the last few sentences of his ruling: "Microsoft's past success in hurting such companies and stifling innovation ... occur for the sole reason that [other companies and their innovations] do not coincide with Microsoft's self-interest." (Paragraph 412) (Emphasis added.) It takes Judge Jackson more than 200 pages, but in the end he names the essence of his disgust for Microsoft—and the essence of the antitrust laws In so doing, Judge Jackson exposes the fundamental moral premise dictating his factual distortions, his fallacy-ridden arguments, and his illogical conclusions: a hatred for any form of self-interest The morality of altruism or self-sacrifice is often presented as a form of benevolence, as if it simply means being nice to other people. But the actual meaning of this philosophy is a hatred of success. Under this morality, anyone who achieves some extraordinary wealth or distinction owes it to his fellow men to sacrifice what he has earned—including giving away his whole fortune, as and when it is demanded by others. (This is essentially what has been demanded of Bill Gates) But what about those who have not achieved anything? They are entitled to welfare programs, private charities, protective legislation, and a host of other unearned benefits to be paid for by those who have succeeded. In this system, anyone who earns success through his own effort is to be punished, while anyone who hasn't exerted any effort and hasn't attained any success is to be rewarded.

Far from standing for benevolence or good will, such a moral outlook stands for destruction. This code of sacrifice demands an assault on a Microsoft or a Bill Gates. By amassing so much money and achieving so much success, they must be shirking their duty to sacrifice to others. But it does not demand the destruction of the Netscapes of the world because, by virtue of having faltered, they are the "have-nots" who are entitled to benefit from the sacrifice of their more-successful competitors.

Note that the ultimate standard of this moral outlook is not the well-being of the poor, the weak, the downtrodden: has the welfare state ever achieved these aims? Instead, the goal is the sacrifice of the rich, the strong, and the powerful—not to achieve any positive aim, but simply to punish them because they are rich, strong, and powerful.

The altruist connection to antitrust is evident in the mere fact that Judge Jackson could have applied the antitrust laws against Microsoft without finding any harm at all. Although the ostensible purpose of antitrust is to "protect consumers" from alleged "monopolists," court decisions consistently belie this fiction. In one of the first cases defining the doctrine of antitrust, a large railroad trust defended itself against prosecution by arguing that its price-fixing plan resulted in lower prices for consumers. Since the stated purpose of the 1890 Sherman Antitrust Act was to protect consumers, and since consumers actually benefited in this case, the defendant logically concluded that the antitrust laws should not apply to its practices. The Supreme Court rejected this argument and ruled that the railroad trust was guilty. In an illuminating statement, Justice Peckham declared: "in this light it is not material that the price of an article may be lowered. It is in the power of the [monopolist] to raise it." [iii]

(Interestingly, Justice Peckham was an ardent conservative who was one of the principal advocates of "freedom of contract" in the 19th century—just as Judge Jackson was a Reagan appointee. This proves once again that conservatives are not reliable friends of freedom.) Continuing to apply the underlying anti-success principle of antitrust, the Supreme Court ruled in 1968 that a newspaper company violated the Sherman Antitrust Act when it fired a distributor for charging rates above an allowable maximum price. The Court found that the newspaper "would not tolerate over-charging" of its customers, and that it even agreed to rehire the distributor if he "discontinued his pricing practice"—that is, if he charged lower prices. Nonetheless, the Court held that the benefit to consumers was irrelevant in finding that the newspaper company acted in "conspiracy" with its other distributors to set prices—thus its actions were "an illegal restraint of trade under Section 1 of the Sherman Act." [iv]

Harm to consumers has nothing to do with the purpose of antitrust. The antitrust laws are intended only to punish "power"—but since economic power is earned on the free market, this means that the purpose of antitrust is to punish successful business practices. Antitrust case law is replete with examples of companies being punished, not for any alleged harm, but simply for having the acumen to remain successful in their industries. A ski resort in Aspen, Colorado, was not only found guilty in 1985 of violating the antitrust laws because it successfully competed against its only rival; it was also held to a "duty under antitrust law to help a competitor." [v] In the famous case against ALCOA in 1945, Judge Hand declared that "the successful competitor, having been urged to compete, must not be turned upon when he wins."

[iii] United States v. Trans-Missouri Freight Association, 166 US 290, 324 (1897), emphasis added.

[iv] Albrecht v. Herald Co., 390 US 145, 153 (1968).

[v] "Olympia Equipment Leasing Co. v. Western Untion Telegraph Co., 797 F.2d 370, 377 (7th Cir. 1986), citing Aspen Skiing Co. v. Aspen Highlands Skiing Corp., 472 US 585 (1985) (holding that monopolist has a duty to help a competitor).

But he contradicted himself in the very next paragraph, concluding that ALCOA insists that it never excluded competitors: but we can think of no more effective exclusion than progressively to embrace each new opportunity as it opened, and to face every newcomer with new capacity already geared into a great organization, having the advantage of experience, trade connections, and the elite of personnel.[vi] ALCOA's ability and success, by Hand's reasoning, was the deciding factor for finding it guilty of violating the antitrust laws.

Given this legal context, Microsoft was doomed before it even set foot in the courtroom. The media, in an anti-Microsoft feeding frenzy, often highlighted mistakes made by Microsoft's counsel during the lengthy (and ongoing) trial. Yet Microsoft's attorneys could have performed flawlessly, and Judge Jackson would still have produced the same ruling. The reason is that Microsoft is an extremely successful company; Gates is a unique combination of technological genius and businessman, reminiscent of earlier American giants like Thomas Edison Thus, it was irrelevant how hard Microsoft's attorneys worked or how much intellectual vigor they brought to their legal briefs and courtroom arguments. These things were irrelevant because no army of lawyers could hide a single, essential fact—the only fact necessary for applying the antitrust laws: Microsoft succeeds at what it does.

The punishment doled out for success is paralysis. Judge Jackson makes it clear that Microsoft must not be permitted to capitalize upon its well-earned success. Because it has created values, it must now relinquish them. Does it matter that Microsoft has earned its success by producing a better product, by offering better incentives to its business partners, and by providing better service to software developers and Internet access providers? No.

Such facts do not matter to a man who believes that a successful company has a moral duty to sacrifice to its lesser rivals—especially when that man has the legal power to coerce the company to obey its alleged duty. With every slanted term and with every absurd conclusion, Judge Jackson practically screams his unstated moral premise: Since Microsoft is a leader in the computer industry, it must sacrifice the values it has created because it has created them In his ruling, Judge Jackson claims to set out the objective facts underlying his impending application of the antitrust laws to Microsoft. But the only thing he manages to establish is his own animosity towards commercial success. What drives this animosity is the underlying moral justification for antitrust: altruism's hatred of success.

The basis for Judge Jackson's ruling is not any "monopoly" allegedly controlled by Microsoft; it is the monopoly commanded by the morality of altruism over our culture. That monopoly can be seen, unfortunately, in Bill Gates's sanction of his own destruction in a comment immediately after the ruling, in which he declares that "because of our success, we understand that Microsoft is held to a higher standard, and we accept that responsibility."[vii] vii As long as this moral monopoly remains unchallenged, legal doctrines such as antitrust will continue to punish successful businesses.

MTC-00030005

Henry R. Ochel, Jr.
1155 East 2100 South
Salt Lake City, Utah 84106
January 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a yahoo Internet user I would like to voice my opinion concerning the Microsoft lawsuit. I urge you to support the settlement and encourage the various companies to get back to the business of technology research. It is my belief that millions of dollars are being spent to stifle competition when these companies should be focused on new markets and technology. Please do what is in the best interest of consumers through out the United States and settle this costly suit.

Sincerely,
Henry R. Ochel, Jr.

MTC-00030006

2035 Harbert Avenue
Memphis, TN 38104–5329
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

The intention of this letter is so that I may go on record, per the Tunney Act, as supporting the settlement that was reached between the Department of Justice and the Microsoft Corporation. The court battles between these two entities went on for over three years, and cost millions of dollars. This is time and money that could have been put to much better use.

Microsoft did not get off easy by any stretch of the imagination, and has had severe restrictions placed upon it. For example, Microsoft will now have to turn over data and source code that makes up internal interfaces in Windows' products. This is a first in an antitrust settlement, and is not fair in that it makes them forfeit their intellectual property. I think this goes too far. Plus they will have to deal with a technical oversight committee watching over Microsoft's every move and testing their compliance with the terms of the settlement.

Enough is enough, this has gone on too long, cost too much money, and is too harsh on Microsoft. End this now. I support any settlement, even though it is not 100.*,'o fair, which ends the litigation against Microsoft.

Sincerely,
Vincil C. Bishop, Jr

MTC-00030007

568 Scenic Hills Drive
North Salt Lake, UT 84054
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have been following the Microsoft antitrust case for quite some time now, and quite honestly this is getting a little out of hand. I am pleased that a settlement has been reached in the matter, and I believe it is in the best interest of the public to have the settlement finalized rather than dragged out any longer. The economy has suffered as a result of this seemingly endless suit, as has; the technology industry. Naturally, consumers have begun to suffer as well. Time is getting to be of the essence in this case, and I see no reason to reject this settlement.

After extensive negotiations, Microsoft and the Department of Justice reached an agreement on various terms that would prevent antitrust violations on Microsoft's part in the future and allow Microsoft's competitors more of an edge in the market. Microsoft has, for instance, agreed to reformat future versions of Windows so that non-Microsoft software will be able to be introduced and supported within the Windows operating system. Microsoft has also agreed to refrain from retaliation should sofa, are be introduced into the market that directly competes with Microsoft programs. I believe that these terms are fair; in fact, Microsoft has agreed to conditions that extend to products or policies that the Court of Appeals did not, in fact, find to be unlawful.

This settlement is, I believe in the best public interest. No further action needs to be taken at the federal level. I urge you to support the settlement and allow the Justice Department to move on.

Sincerely,
Hao Chen

MTC-00030008

Name: James W. Putt
Company: PFE Management
Voice Number: 445–2590
Fax Number: 445–2590
77 Mary Ann Lane
Wyckoff, NJ 07481
Date: Monday, January 28, 2002
Total Pages: 2
Subject: Microsoft Settlement
Name: Attorney General
Company: US Government
Voice Number:
Fax Number: (202) 3071454
Note: Please include my attached letter in you decision making process.
Jim Putt
James W. Putt
77 Mary Ann Lane
Wyckoff, NJ 07481
January 28, 2002
Attorile3, General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to see the antitrust lawsuit against Microsoft settled. I feel that the case has been active long enough, and that ending it according to the settlement reached in

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[vi] US v. Aluminum Co. of America, 148 F.2d 416, 431 (2d Cir. 1945).

[vii] "Statement by Bill Gates on the Findings of Fact," www.microsoft.com/presspass/ofnote/11

November is fair. An important reason I would like to see the case settled is because of the concessions Microsoft is agreeing to. I have not felt positively about the company bundling Windows-related programs onto computers, and the new removal features will give users and computer manufacturers a wider range of choices. Microsoft's competitors will now be able to more easily place their own programs on the Windows platform. Because of that and the other provisions in the settlement, I believe settling the suit is in the best interests of the public.

Microsoft is approaching the settlement reasonably, and I urge you to do the same. Please end the case without additional delay.

Sincerely,
James Putt

MTC–00030009

5235 W Pershing Avenue
Glendale, Arizona, 85304
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 205301

Dear Mr. Ashcroft:

I have long been a Microsoft supporter and was angry to see a case being brought against them in the first place. Microsoft is a company that is being punished for simply being too successful and the government simply needs to keep their hands off of business. The settlement, that has taken three long years to work out, I think adequately covers many off the issues that people had with Microsoft. Because of the terms of the settlement, Windows will have greater compatibility with a wider array of products and relations with other software developers won't be tarnished because of this case. I feel that this case will improve things overall in the software industry, if that is it is ever over and done with.

I know that there will he many letters coming in concerning this issue, but I also know that a good deal of them will support Microsoft. Please pay attention to how much the average person care about Microsoft and end any further Federal litigation.

Sincerely,
Beverly Goyen

MTC–00030010

LTC Bernard R Buchta (US Army, Ret)
5100 Cameron Drive
Troy, Michigan 48098
.. E-mail: MrBuchta@home.com
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a six-year teacher of PCs and the Windows operating system, I would like to voice my strong support for settling the pending Microsoft case.

My experience as a PC instructor and my 26-year's as a military logistics officer has taught me the great value of standardization. Standardization buys everyone a lot. And, after standardization is achieved, "the payback is forever." Witness: When we go to war, we want our bullets to fit into our allies' guns and rifles, and want theirs to fit into ours. We want to be able to share, substitute and interchange their artillery rounds, fuel, and rations, etc., with ours. It's called being "Interoperable." It's a great force-multiplier and keeps costs down.

Standardization, by definition, creates efficiency. It also makes for convenience and ease of use. Now, today, we need standardization and efficiency more than ever. Therefore, the proposed solution seems like a fair compromise that will provide the most effective long-term results for consumers.

As seen with the International Standards Organization, the uniformity of Windows* and its supporting products is an asset to all computer users. This includes business and industry, schools, home users, . .. just everyone!

Technology is complicated enough for the average person, so the advantages Microsoft provides with the scope of their software presence is immeasurable in the form of America's almost seamless transition into the information age with young and old alike: Though I did not respect the government's case, the restrictions imposed with this deal are far more favorable than the possibility, of a corporate break up and chaos within the computer world. Based on the new, more even-handed approach of Microsoft toward competitors, and those who do business with competitors, plus the implementation of an objective technical committee of experts to ensure compliance, it seem to me it would be in the best interest of all parties involved to proceed with this agreement. This will, save the consumer a great deal of heartache. It will also permit continued interoperability in future systems and software programs.

Thank you very much for your consideration.

Sincerely,
LTC, OrdC
US Army (Ret)
P.S.

You're doing a great job in the War on Terror.

Don't let them grind you down!

MTC–00030011

651 North Washington Street.
Wilkes Barre, Pennsylvania 18705
January 9, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinion in the recent settlement between Microsoft and the US Department of Justice. While I am glad to see Microsoft is not being broken up, I do believe some of the concessions Microsoft are making axe not in the best interest of the public. Microsoft must integrate their software with different software makers' products to allow for more effective development of windows interfaces and technology. But other concessions such as contractual restrictions and windows design obligations seem to go against intellectual property fights and patent laws.

I think that the IT sector is hurt badly enough without any further litigation brought against Microsoft by the nine states who oppose the settlement. I look forward m seeing Microsoft focusing on business and watching one of the premier companies in the world keep on thriving.

Sincerely,
Hudson Zhu
cc: Senator Rick Santorum

MTC–00030012

1651 Nocatee Drive
Miami, FL 33133–2540
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

We are writing to urge you to accept the pending deal in the Microsoft case. This agreement offers the competition plenty to work with to gain ground in the software market and should mean an end to this costly government action.

Microsoft is one of the great success stories in the history of U.S. business and should not be disbanded because their competitors can't gain consumer support and market share. With the pending settlement, the company has made extensive moves to give their rivals more opportunities to succeed, from licensing its technologies to disclosing its internal code for the Windows operating system. The added verification of a three-person group of experts to monitor the deal should provide added assurance of the plan's long-term effectiveness.

Please make sure to confirm this court-mediated compromise at the soonest time possible, as these steps provide plenty of options for computer makers and give software developers more than enough chance to compete. Any further action is unnecessary. Please make the right decision.

Sincerely,
Daniel Riemer
Rebecca Weymouth

MTC–00030013

Brian Showalter
14713 W. 149th Court
Olathe, KS 66062–4623
bshowalter@sbcglobal.net
January 28, 2002
U.S. Department of Justice
Antitrust Division
6O1 D Street, NW
Suite 1200
Washington, D* 20530–0001
Attn: Renata B. Hesse
Re: Comments regarding the Proposed Final Judgement
United States v. Microsoft
Civil Action No. 98–1232

As a United States citizen and experienced computer professional who has at times been compelled to work with Microsoft products, I would like to express my opposition to the settlement that has been proposed for the USDOJ's antitrust lawsuit against Microsoft. I feel that the terms of the settlement as currently specified are weighted far too heavily in favor of Microsoft, and that they will do nothing to prevent Microsoft from continuing to abuse its monopoly position to stifle competition and lock customers into its products. The terms also significantly underestimate the lengths to which Microsoft has shown it is willing to go to root out loopholes in any agreements it enters into and exploit them in such a way that any intended restrictions on its behavior are effectively neutralized, T also feel that the terms will do literally nothing to ease the market barrier to entry for new products, particularly open-source products such as the Linux operating system, which may happen to directly compete with Microsoft's offerings.

There are a number of problems with the settlement which others have outlined and on which I will not 9o into further details. However, I am dismayed by the extent to which the proposed settlement focuses almost completely on attempting to restrict Microsoft's behavior on the Windows desktop and middleware platforms, to the virtual exclusion of server platforms and other operating system products that are offered or soon to be offered by Microsoft. In particular, the name "Windows" is mentioned 56 times in the document, yet no mention is made of the embedded operating system market or of Microsoft's explicitly stated intention to replace the Windows desktop and server platform with the .NET initiative. Furthermore, the definitions of "operating system," "personal computer," "Microsoft Platform Software," and "Windows Operating System Product" in the document refer entirely to desktop operating systems intended for use by a single user at a time. This loophole would have the effect of rendering Section III.A moot in its entirety should Microsoft attempt to retaliate against an OEM that is attempting to market a competing SERVER platform on its products. Additionally, the proposed settlement does nothing to preclude Microsoft from dropping the Windows brand name altogether and continuing their customer lock-in, competition-stifling and monopoly-extending behavior on a similar but differently named platform.

Dan Kegel has done an excellent analysis which may be found online at (http://www.kegel.com/remedy/remedy2.html). Mr. Kegel's site also contains links to several other very compelling analyses. Due to the flaws which I and others have pointed out, the settlement as it is currently written does not serve the public interest and should not be accepted without considerable revisions to ensure that the market is not tilted unfairly in Microsoft's favor. Thank you for your time and for considering my point of view.

Sincerely,
Brian Showalter
Programmer/Analyst

MTC-00030014

Joyce Newell, M.S.W.
Licensed Clinical Social Worker
facsimile transmittal
Joyee Newell L.C.S.W
2729 Blair Stone Lane
Tallahassee. Fl. 32301
Phone (850) 871t-0279
Fax (850) 878-0459
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It has been three long years of litigation between Microsoft and the Department of justice and quite frankly it is tirr a to put this issue to rest. I am an avid supporter of Microsoft and am very pleased that the settlement is acceptable at the federal level hut am puzzled as to the persistence of the nine remaining states, Is it not obvious to them the negative effects that this continued litigation has on the economy and on the Technology industry? I trust that; my views and those of others will contribute to the expeditious settlement of this matter.

Microsoft's innovations have done much to enhance productivity both on and off the job and is doubtless an Industry icon. This company has made significant contributions to the economy and the overall growth of our country and the sooner this matter is settled the sooner Microsoft is able to rededicate their full attention to doing what it does best—innovate Looking closely at the details of the settlement, we will see that Microsoft has already done very much to honor the terms. They have agreed to make their protocols and intellectual property license available to competitors and have made it easier for competitors to promote non-Micro, soft software within windows. The list of measures taken by Microsoft goes on and on and is a direct indication of their willingness to comply.

Sincerely,
Paul Newell
1362 Grovaland Hills Drive
Tallahassee, FL 32311

MTC-00030015

Mail Boxes Ete.
330 Old Steese Hwy
Fairbanks. AK 99701
(907) 452-2221 Phone
(907) 45%8329 Fax
Facsimile Transmission
481 Valley View Drive
Fairbanks, AK 99712-1327
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
January 24,2002

Dear Mr. Ashcroft:

Winter greetings from Fairbanks!

I am sending you this e-mail to register my support on behalf of the settlement in the Microsoft antitrust case. This is the best resolution available to America now due to a bad situation. The settlement required Microsoft, the attorney generals from the states involved, and the Department of Justice, to state their differences, make concessions, and reach compromises in front of the Federal judge appointed in an effort to avoid countless days of court battles and appeals. In the settlement, Microsoft basically kept itself intact in exchange for giving up its legal rights. Microsoft will release from copyright the software codes of the various internal interfaces and protocols allowing servers to interoperate for its Windows operating system programs. Microsoft must license its other software copyrights and patents to any company that wants to use them on reasonable terms. The ability of a business to enter into exclusive marketing agreements is often very important to its success. Microsoft will no longer be able to contract with computer builders to use its Windows operating system exclusively. Monitoring of the settlement terms by software engineering experts will make sure that the agreement is followed.

The settlement is in the best interest of America. Please use your best efforts to see that the Federal judge approves it. Thank you for your consideration and support.

Sincerely,
Bill Moberly

MTC-00030016

PO Box 1419
Missoula, MT 59806
Ph: 406-541-4545
Fax: 406-54.1-4543
To: Attorney General John Ashcroft
From: Larry D. Williams
Fax: 1-202-307-1454
Date: 1/28/2002
Re: Microsoft Settlement
CO:
PO Box 14-]9
Missoula, MT 59806
Certified Technologies Incorporated
Phone: 406-541-4545
Fax: 406-541-4543
Toll Free: 866-541.-4545
620 W Addison
Missoula, MT 59801
January 16,2002
Attorney General 3ohn Ashcroft
Justice Department
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Microsoft revolutionized the computer age with the advent of its Windows operating system. The standardization and user-friendly operability offered by Windows has a wide appeal and is what pushed Microsoft to the front of the pack. Microsoft's success is due to great innovation and clever products, not surreptitious antitrust activity.

I am content with the pending settlement reached by Microsoft and the government because it is fair. The settlement provisions, such as Microsoft agreeing to share its Windows source code with competitors, represent a very positive development. It is important because they are also interconnected and comprehensive. Microsoft not only will avoid retaliating against software developers who promote software that competes with Windows, but also the computer makers who ship the aforementioned software are also covered. Together, these measures will lead to an increase in competition and therefore remedy the government's primary "beef" with Microsoft.

Everyone wins! Thanks.

Sincerely,
Larry Williams
Controller
Certified Technologies, Inc.

MTC-00030017

HIMALAYA ENTERTAINMENT
Renata H??
The Attorney, Antitrust Division

Department of Justice
801 D Street, NW, Ste, 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing in support of proposed consent decree between the D??trment of Justice and I believe It represents a fait ??ment for both sides.

The lawsuits here been dragging along for nearly four years now and have cost taxpayers $36 million—enough is enough. Let's move forward with this agreement good of the country. Please feel free to contact me for more information, but my position is clear—let Microsoft get back to work and stop w??ting any more tax do?? in pu?? of these lawsuits.

MTC-00030018

Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Ste. 1200
Washington, DC 20530

Dear Ms. Hesse,

This letter is to express my strong support for the proposed settlement between the Department of Justice and Microsoft, It is a fair settlement to the antitrust lawsuit. Fair means that it is a compromise which all sides can live with.

This issue has been going on for more than three years. It has gown into multiple lawsuits and the millions of dollars. The proposed settlement gives the opportunity to close part of the issue. If both the DOJ and Microsoft have reached an agreement, let's move forward for the good of the economy and in the bigger picture, the good of the country.

Sincerely,
Katteena Salgado

MTC-00030019

January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

During these times of economic strain, it is important for us to watch our spending, and to focus on production. After hearing that the recent Microsoft settlement may be even further delayed, I felt the need to write you. After years of well thought out negotiations, it is time to let the terms of the settlement speak for themselves. I support the settlement as it stands

The terms of this settlement have teeth. Not only does Microsoft make various concessions to help promote non-Microsoft software, but they have also agreed to be monitored throughout the entire process. The settlement will require Microsoft to share information detailing the internal interfaces in Windows with its competitors, allowing them to more easily install their own software on machines that use Windows It is obvious Microsoft is willing to work with the many companies in the IT sector so that everyone can get back to business.

I urge you to help get the economy back on track. The delay of this settlement can only slow down our growth in the technology industry. The finalization of this settlement would be a step in the right direction.

Sincerely,
Paul W. Budd

MTC-00030020

January 22, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to go on record as supporting the settlement that has been reached between the Department of Just?? a and Microsoft. The settlement finally brings an end to the three-year-old antitrust law suit that has been partly esponsible for the sharp decline in America's economy. I can remember three years ago when the antitrust skill against Microsoft was first announced.

The stock market and economy immediately started to go down, and now we are in the middle of a recession I have no idea how economists working for the government did not notice the correlation between these two events. In any case, the settlement is fair. The increased information shoring and non-retaliation provisions should be enough to satisfy even Microsoft's harshest crities.

The settlement is the best thing that has come out of the ??titrust su?? between fi?? Department of Justice and Microsoft, and I fully su?? pert it.

Sincerely,
W??mda Bel??

MTC-00030021

January 22, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

As an active computer user, I would urge you to settle the case against Microsoft. I have heard repeatedly of the unfair advantages that Microsoft has over its competitors and believe this to be a ploy on the part of Microsoft's competitors in the industry.

I have owned a Palm Pilot for over five years while using Microsoft Outlook on my desktop computer. I have never had any synchronization problems with the two software programs. The charge that Microsoft is trying to squash its competition by making software that does not work with other programs is unwarranted. Please work to settle this case as quickly as possible so that all companies involved can focus their time and efforts on software not law suits.

Sincerely,
Barney Chapman

MTC-00030022

Holme Roberts & Owen LLP
Paul F. Moxley most VP@hro.com
Attorneys at Law
111 Last Broadway Suite !100
Salt Lake City; Utah 841I? "5233
Tel (??1)521–5800 Fax (??01)521–9639
www.??ro.com
Salt Lake City
Den??r
Bou??er
Colorado Spring,
London

January 28, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 307–1454
or (202) 616–9937
1ST CLASS MAIL TO:
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

My comments are made with regard to the proposed settlement in the Microsoft v. DOJ case. I believe it would be improper to allow Microsoft to enter a settlement agreement that does not guarantee that future antitrust violations will be prevented. Microsoft has been adjudged to have violated antitrust laws. Its conduct was so pervasive that the original trial court judge determined that break-up was the only remedy. That decision, but not the decision that Microsoft violated antitrust laws, was reversed on appeal to the Court of Appeals. The case is now back before a new trial court judge following the U.S. Supreme Court's decision not to review the case. The purpose of the remand is to determine the proper sanctions to penalize Microsoft for past conduct and to prevent future violations.

This determination should be made by the court and not by the parties. I am informed that the proposed agreement contains critical provisions that do not go far enough or that place too much discretion into Microsoft's hands. Failure to impose proper and adequate sanctions will set an unfortunate precedent for future antitrust cases and will do little to resolve the issues in the Microsoft litigation.

The court should resist the urge to adopt a settlement and hold hearings to make a proper determination.

Respectfully,
Paul T. Moxley

cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC-00030023

Casey Jones
January 28, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

The Justice Department and State Attorney General offices' case against Microsoft was arguably unwarranted from its commencement.

As a concerned and active voting citizen, I am focused on how to keep taxes at a minimum in our state as well as serving as somewhat of a watchdog for the use of taxpayer money at the state level.

There has been no proof of consumer harm from the monopoly behavior of which this technology company is being accused. Yet, this suit continued seemingly gaining steam with every new wave of national media attention that came with it. At present, consumets are no better or worse off than when it all started. Unless you consider their position as taxpayers, in which case they are much worse for the wear.

More than $I million has been spent by Iowa's state attorney office alone. Millions of tax dollars have also been spent cumulatively by the other states involved in the case and tens of millions more by the federal Justice Department.

Now after cycling through mediators and various bumps in the road toward bringing this case to an end, there is now a settlement proposed. The proposal is one that gives enough to satisfy both sides and addresses the consumer concerns. I urge you to accept it for the sake of the American taxpayer.

Sincerely,
Casey Jones
Attorney at Law
7216 Wilton Drive NE
Cedar Rapids, IA 52402

MTC-00030024

Angie Weible-Jones
January 27,2002
Renata Hesse
Trial Attorney
Anti-Trust Division
US Department of Justice
601 D Street, NW
Washington, DC 20530

Dear Ms. Hesse:

As an individual who owns her own business, I am very interested in seeing the Microsoft case brought to Its end. I congratulate the US Department of Justice for working hard to find a sound way to close this chapter In American legal history. One of the most amazing things about the technology industry Is that we are only just beginning. The innovations and great strides yet to come should be exciting to all of us. However, the costs and risks of Innovation are extremely high. Investors and creators must have the confidence and the will to move forward,

When the move was made against Microsoft, It was felt throughout the entire industry, This action coincided with falling technology stocks and loss of investment capital for start-up companies. The entire Industry felt the blow and its suffering is detrimental to our nation, When our economy was booming there was much talk about the New Economy and the leading role technology stocks had this economy. But this all ended about the time the government threatened Microsoft. This action raised a cloud of uncertainty around the technology industry and many Investors decided it was best to wait it out. It is interesting that when technology stocks began to slide, it hurt the entire market, If tech stocks rebound it can only be a positive sign for our economy, Investors may regain their confidence if the government ends Its case against Microsoft,

Additionally, when the technology industry slows down if no longer has the free??? case brought to an end. It is In all of our best Interests.

Sincerely,
Angie Weible-Jones
7216 Wilton Drive NE
Cedar Rapids, Iowa 52402

MTC-00030025

Ronald Skaggs
22801 N Briarwood Drive
Edmond, OK 73003.9425
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I think the three-year lawsuit against Microsoft is flawed and unjustified. Microsoft has not done anything that can be called monopolistic. Instead, Microsoft has done wonderful things for our nation, including creating jobs and wealth, as well as making technological breakthroughs. I think it is ridiculous that Microsoft is being forced to disclose interfaces that are internal to Windows operating system products. Microsoft has spent vast amounts of time and money to develop and innovate. They should not be penalized for being the most successful company in the IT industry.

I urge your office to finalize the settlement, although it is flawed, because the alternative of further litigation would be detrimental to our nation's IT sector and economy. I believe it is time to discard the liberal Democrat notion that every competition has to end up in a tie. Thank you.

Sincerely,
Ronald Skaggs
cc: Senator Don Nickles

MTC-00030026

BOB L JOHNSON
4276 EAST SOUTH SHORE DRIVE
ERIE, PENNSYLVANIA 16511
8995380
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr, Ashcroft:

I would like to tell you how I feel about the Microsoft antitrust case. I am in favor of the settlement and do not agree with the federal government's role in this whole issue. Under the settlement, Microsoft will have to share information with its competitors regarding the internal workings of Windows, allowing them to install their own programs on the operating systems. I am retired and use computers to communicate via email. Microsoft has done a fine job of" bringing technology into the homes of everyday people, not to mention the thousands of jobs that the company has created. This lawsuit is a waste of tax dollars and I urge you to put an end to any federal action against Microsoft.

Thank you for hearing my opinion on this matter, and again, I support the settlement and hope to see it implemented as soon as possible.

Sincerely,
Bobby Johnson
cc: Senator Rick Santorum

MTC-00030027

STA America
225 Lennon Lane. Suite 110
Wa??nut Creek, CA 84588
FAX 925.955-9993
January 23, 2002
Renata Hesse Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Ste. 1200
Washington, DC 20530

Dear Ms. Hesse:

I write in support of the proposed comet decree between Microsoft and the Department of Justice, After four years and $35 million spent pursuing the lawsuit, it is tune that the country move On to more pressing business.

Microsoft is being adequately reprimanded by the proposed agreement, as the settlement would address many of the major charges against Microsoft. The company would be required to provide technical details to help rivals make products compatible with the Windows operating system. It also bans exclusive* contracts with computer makers that put rival software vendors at s disadvantage.

Prolonging the settlement would deliver a severe blow to California's already shaky financial situation, as our state is expected to pay the lion's share of the remaining trial costs. This is a fair deal—but more importantly, it is time to put tiffs lawsuit behind us for the good of taxpayers. I urge you to move forward with the agreement.

Sincerely,
Robert Branzuela

MTC-00030028

CENTRAL CALIFORNIA
HISPANIC
CHAMBER of COMMERCE
Serving the Central Valley Business Community from Stockton to Bakersfield Since 1984
Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

Our chamber finds the ongoing pursuit of Microsoft through litigation a very bad precedent to set for business in America Microsoft has succeeded on a global scale and revolutionized the way America, and the world does business.

The business community has always supported the government in actions that best serve the interests of the nation. With that in mind we ask you to take the settlement now on the table between Microsoft and the Federal Government. Ultimately, this long and expensive law suit is proving detrimental to Microsoft, tax payers and for the business community at large. You have the opportunity to bring it to a close. Again we strongly urge you to accept the settlement.

Thank you for your time on this issue.

Sincerely,
Antonio Gastelum
Executive Director
Central California Hispanic Chamber of Commerce
1900 Mariposa Mall, Suite 105. Fresno, California, 93721
(559) 485-6840 office . (559) 485-3738 facsimile . (559) 977-7030 mobile/m??g
cchispanicchamber@sbcglobal.net

MTC-00030029

Fernandez Translation Services
January 23, 2002
Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Ste. 1200
Washington, DC 20530

Dear Ms. Hesse:

I am a translator and a bilingual aide in the Alhambra School District, and have been working in education for more than 15 years. I know the problems of our school system first hand, and know that increased funding can go a long way towards improving the quality of education our children receive.

That's why I can't believe our federal government has spent $35 million of taxpayer dollars on the antitrust lawsuit against Microsoft. That money is sorely needed in our schools, and could have gone to solve real problems facing our children. The only positive note is the proposed consent decree between the company and the Department of Justice. If the government and Microsoft have come to an agreement, I say let's ratify it and get on with Solving real problems facing real people. I support the proposed consent decree not only because it addresses the major charges against the company; it allows our leaders to get back to work on the greater issues affecting ordinary citizens.

Sincerely,
Sylvia Fernandez
304 N. Hidalgo Ave., Alhambra, CA 91801
(626) 300-0810

MTC-00030030

Gino's Primo Pizza
"Serving, Southern California for Nearly 20 Years"
January 23, 2002
Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Ste. 1200
Washington, DC 20530

Dear Ms Hesse:

As a small business owner, I don't want the government telling me how to run my business—but I understand the validity of the antitrust lawsuit against Microsoft. I also understand that the lawsuit has stretched out to four years—and has cost taxpayers $35 million.

I don't want my tax money going to waste—I want to see it go to help our schools and our healthcare system. I would also like to see it help end the energy crisis—something that directly impacts my business. So that's why I'm writing to support the proposed consent decree between Microsoft and the Department of Justice.

From my understanding, it has a little something for everyone—the major issues against the company are addresses without preventing Microsoft from innovatin8 new technology or responding to the needs of its customers.

Let's put this lawsuit behind us and get on with the nation's business. Feel free to call me if you have any questions.

Sincerely,
Joseph Harvey
Owner
717 W. Las Tunas Dr., San Gabriel, CA 91775 626.576.5945

MTC-00030031

Thea Perrino, MPH
206 Chumalia St., Ste. 3F
San Leandro, CA 94577
510.483.6143
January 23,2002
Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Ste. 1200
Washington, DC 20530

Dear Ms. Hesse:

As an alcohol prevention specialist working with at-risk youth, I am deeply concerned that taxpayer dollars have been used to draw out the antitrust lawsuit against Microsoft for almost four years. The $35 million spent pursuing the suit could have gone a long way towards funding youth programs throughout the country.

I understand that a proposed consent decree has been reached between the Department of Justice and Microsoft. I support this agreement—it's time that we let everybody get back to work solving the real problems facing our nation.

Please feet free to call me if you have any questions.

Sincerely,
Thea Perrino

MTC-00030032

Jennifer Zago, RN
360 S. Euclid Ave., #332
Pasadena, CA 91101
626.584.6769
January 23, 2002
Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Ste. 1200
Washington, DC 20530

Dear Ms. Hesse:

As a registered nurse, I have firsthand knowledge of our nation's woeful healthcare system. Many of my colleagues are confronted with shortages and inadequate supplies on a daily basis, That is why I am deeply troubled by the federal government's continued pursuit of the Microsoft lawsuit. These lawsuits have been drawn out for four years, costing taxpayers upwards of $35 million. That money is sorely needed in our healthcare system, and could have been put to good use by doctors and nurses throughout our country.

I understand that there is now a proposed consent decree on the table between Microsoft and the Department of Justice that would address many of the major charges against the company. I support this agreement. It's time that we let everybody get back to work solving the real problems facing our nation, like fixing our healthcare system and getting more funding to hospitals.

Please call me if you have any questions.

Sincerely,
Jennifer Zago

MTC-00030033

Edward D. Failor, Jr.
2610 Park Avenue
P.O. Box 747
Muscatine, Iowa 52761
Renatta Hesse
Antitrust Division
Department of Justice
601 D Street, NW—Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am writing to express my support for the settlement Judge Kollar Kottely is considering to end the US Department of Justice's antitrust suit against Microsoft.

As Vice President of Iowans for Tax Relief, I have monitored the suit against Microsoft from its inception. I stand in stark opposition to my Attorney General Tom Miller's dogged pursuit of it. I believe this case has been a waste of taxpayer dollars at the state and federal level. It has also been an albatross around the neck of the technology industry, making it unattractive to investors and uncertain for companies making long-term decisions.

It is important to the high tech industry, taxpayers and investors to end this case as soon as possible. The settlement that the DOJ, nine states and Microsoft have agreed to is a very good deal for the government and achieves what is most important: ending the lawsuit.

Taxpayers have been bearing the negative impacts of this case from the beginning. They have been funding the suit at the state and federal level—without their consent. They have seen their retirement funds suffer through the downturn the stock market has taken since the ruling for a breakup of Microsoft was made back in the Spring of 2000.

I urge Judge Kollar Kottely to approve the proposed settlement in this lawsuit in order to stop the needless damage done to American taxpayers throughout this process. Thank you for accepting my comments as part of the court record.

Sincerely,
Edward D. Failor, Jr.
Vice President
Iowans for Tax Relief

MTC-00030034

Jamie Hopkins
2610 Park Avenue
P.O. Box 747
Muscatine, IA 52761
Renatta Hesse
Antitrust Division
Department of Justice
601 D Street, NW—Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I support approval of the proposed settlement Judge Kollar Kottely is reviewing that would bring closure to the federal government's antitrust case against Microsoft Corporation.

As a grassroots taxpayer advocate, I know firsthand that ending this suit is a priority for taxpayers across Iowa. It is an issue that comes up at many meetings and in telephone conversations with activists on a regular basis.

Taxpayers want to see the suit ended, not just to end the waste of their money, but also to send the message that the marketplace is where decisions about the success and failure of businesses should be made and not courtrooms.

I am hopeful that the judge will approve the settlement and bring an end to waste of federal taxpayer dollars that have been spent on this suit. I appreciate the opportunity to register my opinions on this important issue.

Sincerely,
Jamie Hopkins
Development Director
Iowans for Tax Relief

MTC-00030035

Jeffrey R. Boeyink
EXECUTIVE VICE PRESIDENT
IOWANS FOR TAX RELIEF & TAX EDUCATION FOUNDATION
2610 PARK AVENUE
MUSCATINE, IA
52761 319-284-8080
January 28, 2002
Renata Hesse
Trial. Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to submit my position on the Microsoft antitrust case. There was no outcry from taxpayers for action in this, case. Rather, competitors implored the * federal government to make sweeping regulatory decisions picking winners over losers in the market.

Iowa attorney general alone spent more than 3,000 hours working on this landmark antitrust case filing a federal court document asking for $1.1 million to reimburse "the. state* for the time. Altogether, 19 states tendered a $13 million tab from lawsuit expenses and it has been estimated that the federal government spent, some $30 million.

Nine of the states, the Department of Justice, and Microsoft saw fit to settle. There are many more important issues facing. America and taxpayers deserve to have their funds utilized in a responsible manner, which best serves them With a fiercely competitive technology industry Microsoft, like* any business or individual, should be afforded economic freedom.

I urge you to deliver closure for taxpayers in this case and support the proposed settlement.

Cordially,
Jeff. Boeyink
Executive Vice President
Iowans for Tax Relief

MTC-00030036

Richard R. Phillips
Attorney-at-Law
300 E. Second
Muscatine, IA 52761
January 28, 2002
Attention: Renata Hesse
Judge Kollar Kottely
U.S. Department of Justice, Antitrust Division
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge Kollar Kottely:

I am baffled by the fact that the Microsoft antitrust suit has gone this far. Unfortunately, the lawsuit has had serious repercussions not only on Microsoft, but also on the economy and the tech sector in particular. It is time to bring closure to this case so the economy can begin to rebuild.

Even through the economic turmoil this case has created, the public has seen a variety of new products introduced by many different companies. There is real competition in the software industry. So many of us are now plugged into the web, a service that actually bombards us with free software and offers from hundreds of software companies. Many of us have unexpectedly become dependent upon high tech in our work and personal lives and are using products from a wide variety of companies.

Just think how much more innovation and creativity there will be in software and hardware when this lawsuit is ended and the threat of government intervention in the tech marketplace is shelved. I hope you will see to it to approve the settlement in this case. I believe it to be in the best public interest.

Sincerely,
Richard R. Phillips

MTC-00030037

January 28, 2002
Ms. Renata Hesse
Trial Attorney Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Free enterprise is what made our country a leader in so many sectors of the global marketplace. Today, the nation's has economy weakened and we are facing serious economic concerns. During this difficult time, many of us are tightening our belts and curtailing our own personal family budgets. I hope you will agree that now is the time, to do the same within our government.

In the antitrust case against Microsoft the total to the federal government as of July 2000 was an estimated $30 million dollars in taxpayer funds. The suing states spent millions of state tax dollars on top of that.

The majority of participants reached a long awaited resolution in this case. We applaud those state attorneys general who signed on to this proposed settlement—unfortunately our state attorney general is notably absent .from that list. Nevertheless, settling this case now is the right thing to do for American taxpayers.

Those who came together on this settlement have found a conclusion that will have positive effects for the industry and consumers—those for whom the case was originally brought about. I urge you to approve, the settlement before you.

Thank you for your time and careful consideration.

Cordially,
Edward D. Failor
President
Iowans for Tax Relief

MTC-00030038

DARTMOUTH HITCHCOCK MEDICAL CENTER
1 MEDICAL CENTER DRIVE
LEBANON, NEW HAMPSHIRE
03756
FACSIMILE TRANSMISSION
DATE:1/28/02
FAX #:1-202 307 1454
TO: MS ??
ATTENTION:
NUMBER OF PAGES (INCLUDING COVER):2
FROM:??
SECTION OF GIM
RETURN FAX #: (603) 650-8770
RETURN TELEPHONE #: 603 ??
Mark Countermarsh
39 Evarts Road
PO BOX 37
North Hartland, VT 05052
January 27, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

This letter is to ask you to give your support to the proposed agreement between the Department of Justice and Microsoft. I understand there is a 60-day period in which public comment is allowed, and I feel it is my duty to encourage your support of this agreement. There is no need for any further Federal action.

Microsoft has provided so much to this country through creating jobs and opening the way for technological innovation in the software industry. I don't feel it should be punished for its success at the expense of weak competition. The agreed terms provide a major opening for other players to build market share and should be quite satisfactory to Microsoft's opponents. Software developers will benefit from access to Windows internal interfaces and server protocols and will even be able to license Microsoft technology while marketing themselves without obstacles due to computer maker's business limitations,

Please move forward with this plan and allow the competition to prove their worth in the software market without the industry disruption of a corporate break up. Our economy will respond, and so will the general public, to this very fair decision being implemented without further delay, I appreciate your support.

Sincerely,
Mark Coutermarsh

MTC-00030040

Microsoft"
January 26, 2002
Attorney General Ashcroft, USDOJ
950 Penna. Avenue, NW
Washington, DC 20530-0001

Dear AG Ashcroft,

I believe that your decision to settle this Microsoft suit was a wise one. Anytime that our government takes upon itself the rather extreme position of suing a private business is serious indeed. It is important for our government to encourage innovation and creativity through incentives, rather than discouraging them through convoluted, politically expedient lawsuits. It seems as if this case may have had less actual legal merit than it first appeared. In these days, we should remain especially vigilant at concentrating on far more important issues like national security and budgetary problems. It is good for us to settle this case and move on to these more important matters. The settlement does an excellent job of answering for all the problems that competitors brought against Microsoft. By allowing manufacturers their own say in how to configure Windows and competitors more access to source code that will improve their programs" ability to operate in Windows, Microsoft is going well beyond what has been asked of them.

Thank you for your foresight and wisdom in this matter and thank you for taking the time to review my opinion in this matter. It is about time for the Justice Department ask the people who will be most affected by this decision how it will impact them,

Sincerely,
Clark Spencer

MTC-00030041

Craig Schannaman
P.O. Box 2001—??
January 22, 2002
R?? Hesse, Trial Attorney
A?? Division
U.S. Department of Justice
601 D Street NW, Suite 1.200
Washington, DC 20530

Dear Ms. Hesse:

My interest in the antitrust case, U.S. v. Microsoft, comes from my concerns as a former state legislative leader and as a satisfied customer of Microsoft products. It is no secret that Microsoft is in an incredibly competitive and combative business climate. Microsoft has maintained its position as the number 1 creator and distributor of office systems software by making sure its customers get the most innovative systems at the best prices. Perhaps this is the reason why this four-year-old case did not show that consumers wars getting the poorly served by Microsoft's business decisions.

I am very concerned about the precedents which could be set if this settlement agreement is not approved, and the ball is again tossed in the air to see where it may land next. Would Microsoft be forced to give away its intellectual property, thus removing its technological edge over its competitors? Is the government going to begin micromanaging the affairs of information technology research and development, thus making it virtually impossible for any IT firm in the United States from maintaining a world leadership status? After four years in the courts, this case should have examined every possible aspect of Microsoft's business pr??tices. I trust that the U.S. Department of Justice and nine of the 18 states in this case used good judgment in reaching their settlement.

I hope that it is allowed to end this case and allow the benefits of the settlement to help kids in disadvantaged schools. Thank you for considering any letter in this public commentary on the settlement.

Sincerely,
Craig Schaunaman

MTC-00030042

JOHN L. WILDS
LAWYER
3RD FLOOR THREE HUNDRED BUILDING
300 NORTH ??AKOTA AVENUE
SIOUX FALLS, SOUTH DAKOTA 37104–5026
TELEPHONE (603) 332.1822
TELECOPIER (605) 332–0304
January 25, 2002
Renata Hesse, Trial A??orney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Su?? 1200
Washington, DC 20530

Dear Trial Attorney Hesse:

I am submitting my comments to support the settlement in U.S. vs. Microsoft Corporation, because the settlement has answered all of the significant issues which have survived the court process so far. While there are those who oppose this settlement, it would be senseless to turn it away. I understand it has taken the Justice Department four years and about $40 million to reach this point. It is time for this case to be allowed to come to a conclusion.

No doubt, Microsoft's competitors will continue seeking any means to gain an advantage over Microsoft inside the marketplace and outside the marketplace. Bringing issues to court is an appropriate action when there are significant issues to be answered.

I think this case has answered these issues, and now it is time for the case to be ended. A decision to not accept the settlement, I believe, would be perceived as an invitation to a fishing expedition which will not serve justice for Microsoft or any other company which is involved in the creation and marketing of new software technologies.

I appreciate your attention to my remarks.

Very truly yours,
John L. Wilds

MTC-00030043

01/28/2002
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
6Ol D Street NW—Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

The best interests of the future of Information technologies are found in the settlement agreement between the Microsoft Corporation and the U.S. Department of Justice. The antitrust case, to a large extent, plowed new ground in the development of regulating a company like Microsoft, which has moved very quickly in the development of its software systems. I have been told the settlement answers the issues that prevailed in the court process.

As a state legislator, I am particularly interested In the benefit to schools with high percentages of low-income children and families. South Dakota has a number of school districts that would be eligible for the supply of hardware, software and support in this offering. I think it is a fair method of resolving a case like this, and it will matter quite a lot to the future of the children included in these school districts.

I appreciate your attention to my statements.

Sincerely
Jim Hundstad
State Representative
Legislative District 2

MTC-00030044

South Dakota Legislature
State Capitol,
500 East Capitol,
Pierre, South Dakota 57501–5070
Senate Chamber
Renata Hesse, Trial
Attorney Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
January 28, 2002

Dear Ms. Hesse:

The settlement agreement in U.S. v. Microsoft can result in a major benefit to, education in South Dakota because of the children who would be identified to receive computer systems. I understand the settlement terms seek to send the systems to school districts whore there are disproportionate numbers of children who qualify for the fedela1 school lunch aid program. In South Dakota, there are quite a few school districts which would qualify under that criteria.

State government in South Dakota has focused on making internet use ubiquitous via the Wiring the Schools Program. Our state seeks to use long distance learning technologies to make sure our rural school districts are on even ground with, the wealthier urban school districts. The availability of computer systems via the settlement will make this technique a reality for more and more children.

My letter is sent to support the settlement for the benefits it would bring children, arid to express my hopes that this four-year-old lawsuit can be allowed to be put to rest. The settlement fairly and adequately addresses the pertinent issues in the lawsuit, and the settlement will allow good things to happen to children who need the help, Thank you.

Sincerely,
John McIntyre
State Senator
Legislative District 12

MTC-00030045

South Dakota Legislature
State Capitol,
500 East Capitol,
Pierre, South Dakota 57501–5070
House of Representatives
January 28, 2002
Renata Hesse
Trial Attorney
Antitrust Division
US Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

My legislative district is home to or borders on the Yankton Sioux Tribe, the Crow Creek Reservation and the Lower Brule Reservation, as well as non-Indian school districts where you will find tow-income families and stressed financial resources for schools. The people in my district are quite diverse, not only in race, but also in terms of ethnic heritage, faith and occupation.

One cause we all agree on is the fact that a quality education will do more to equalize opportunity for children than anything else. For this reason, I am looking forward to the settlement in U.S. v. Microsoft. The installation of up-to-date computers and systems in low income school districts will allow disadvantaged children equal access to the wonderful learning tools found in the interest.

I also support the settlement became the antitrust case has fully lived its usefulness to addressing the legal questions involved. It is doubtful that extending this case beyond it's 4-year-old lifespan is going to be productive, I hope this settlement wig. be enacted so that everyone concerned may benefit. Thank you for your attention to my letter

Sincerely,
Sam Nachtigal
State Representative
Legislative District 25

MTC-00030046

Joanne Lockner
Country Visions
301 3rd Street MW/
St. Lawrence 57373
Studio/Ho??e
605-853-2756
Renata Hesse
Trial Attorney
Anti-trust Division
US Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
January 25, 2002

Dear Ms. Hesse:

My comments are offered here to show my support for the Settlement recently obtained between the Justice Department and the Microsoft Corporation, support this settlement because it will bring an end to a case which has remained in the courts long enough to resolve the relevant Issues Involved.

Beyond the Issues, however, I strongly encourage this settlement because it will surely bring a better quality education to children who need the most help in South Dakota and elsewhere. I have served as a State Representative in central South Dakota where them are school districts in farming and ranching communities which are considered remote and low income. Pr??sentiy, the state is expanding its efforts to Improve the quality and availability of tong distance learning. I know there are plenty of rural school districts wh??ch need competent computer systems to take advantage of the Internet and the state's educational efforts. As an ?? who supports the Ar??sts in Schools P?? am excited by the possibilities of helping more ch??dren enhance their lifestyles through the arts via the Internet.

Thank you so much for allowing my comments to be considered. I think the settlement is a healthy step forward for children and for justice.

Yours very truly,
Joanne Lockner

MTC-00030047

DR. NONA LEIGH WILSON
415 Medary Avenue
Brookings, South Dakota 57006
605-688-4365 SDSU Office—
605-692-3915 Residence
January 17, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Sate 1200
Washington, DC 20530

Dear Ms. Hesse: My letter is intended to articulate my support for the settlement reached in U.S. v. Microsoft and to help complete a four-year-old antitrust case which has addressed the issues which have been deemed valid through the court process. It is plainly clear that this case has had sufficient time and enough resources to fully and fairly consider all of the pertinent issues and develop a remedy that is appropriate to the findings involved.

Any further time and financial resources expended to search for additional issues would, in all likelihood, be a wasteful effort, and not worthy of the resources of the United States government. As an educator, I am very interested in realizing the befits to education and disadvantaged children that would result from the settlement. This penalty seems to be a wise and useful result of this lawsuit. Thank you very much for considering my input on this settlement.

Sincerely,
Nona L. Wilson

MTC-00030048

H??C Galloways
Electrical Consultants
P.O. BOX 375
Black Hawk, SD 57715-0375
(605) 787-4169
Fax (605) 787-5839
January 17, 2002
Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Trial Attorney Hesse: On the issue of the settlement in U.S. vs. Microsoft, let my comments show that I support it because the settlement will have great value to Indian children throughout western South Dakota. The settlement calls for Microsoft to supply computers, equipment, software and the technical support they require to the nation's neediest school districts, as defined by the criteria for federal school lunch aid to students. The U.S. Census Bureau has shown South Dakota has three of the nation's poorest counties, all of which are located on reservations. South Dakota also has plenty of low income counties and school districts in rural counties where farm incomes have floundered.

The settlement should be the last word in the Microsoft controversy. This case has had more than enough time and money to find remedies to the issues brought before the U.S. Department of Justice Antitrust Division. I think it says a tot that nine of the eighteen states in the case (South Dakota decided to stay out of the case) and the Justice Department have declared they have a settlement with the Microsoft Corporation. It's not my intention to retry the issues in this tatter because I have faith that everything which could be done to reasonably remedy the controversy has been done. Thank you for your attention to my comments.

Sincerely,
Henry Maicki

MTC-00030049

Fax
To: Renata B. Hesse
From:
Fax: (202) 307-1454 / (202) 616-9937
Pagas: 2 (includes cover)
Phone:
Date: 01/28/02
Re: CC:
. Comments:
CREW & CREW
Attorneys at Law 141 North Main, Suite 706
P.O. Box 923
Sioux Falls, SD 57101-0923
Michael B. Crew
Karen L. Crew
Anje L. Olseth, Legal Assistant
(605) 335-5561
FAX (605)335-762l
January 28, 2002
Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
RE: Settlement agreement in U.S. v. Microsoft

Dear Ms Hesse:

Please include my sentiments in the public commentary as a supporter of the settlement agreement. The sooner this case ends, the sooner all parties involved can move on to other matters.

From what I have been able to learn, the settlement ought to be in the final chapter in this case; it has taken four years to reach this point. I understand that the issues which ,,,ere deemed important by the court have been satisfied in this settlement. I believe, the Department of Justice made a wise decision to close the book on this issue after an exhausting effort to examine all pertinent issues.

Thank you including my remarks on this commentary.

Sincerely,
KAREN L. CREW

MTC-00030050

PUBLIC
POLICY
SYSTEMS
INC.
130 Bowdoin Street, Suite 1108 ??
Boston, MA 08108
Honorable Colleen Kollar-Kotelly
U.S, District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
RE: U.S. v Microsoft

Dear Judge Kollar-Kotelly,

I would like to express my dissatisfaction with the settlement between Microsoft and the Department of Justice.

The settlement made virtually no impact on protecting consumes from companies like Microsoft who have monopolies in the marketplace, It has many loopholes and its level of enforcement is questionable, In addition the settlement leaves Microsoft in a position to continually raise prices for their products. This does not provide consumers the level of protection they need for greater consumer choice. It is my understanding that many consumer groups have opposed the settlement.

The agreement states that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with their products, but it is Microsoft that will he the final decision maker on that provision, The agreement also ??tates that Microsoft must share certain technical information, but only if it would not the their security or software licensing. Again, Microsoft will be the final decision maker regarding this matter. The settlement does nothing to deal with the effects on consumers and businesses of technologies such as Microsoft's Passport.

I find rhea, inadequacies to be too broad to accept this settlement. I hope that Microsoft will not be able to continue to preserve its monopoly while consumers and competitors are subject to the practices that are supposed to be protected by antitrust laws.

Thank you for your time,

Regards,

William A Carito, President

CC: Attorney General, Tom Reily

MTC-00030051

January 27, 2002
Renata Hesse
Trial Attorney
Anti-Trust Division
U.S. Department of Justice
601 D St., NW
Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Thank you for your service as U.S. District Court Justice.

The agreed upon remedies in the Microsoft case allow computer operating equipment manufacturers limited access to Microsoft Windows to manipulate it in a way that fits their specific needs and product. Permits some adjustments to the Windows operating system to be made by the average user. It affords other technology providers—including Microsoft's direct competitors—the benefit of access to technical specifications. It sets in motion a machine to enforce these remedies.

It does the equivalent of disclosing the recipe for the McDonald's Big Mac special sauce to all competing fast food restaurants. The fact that this only applies to Microsoft and none of the other software or operating system manufacturers provides all its competitors with an unfair advantage.

Yet, Microsoft agreed to settle with these remedies in an effort to end this relentless infinitely long litigation. Hopefully you will add your consent to this agreement.

Thank You,

Jill Stutts
5520 Antler Drive
Cedar Rapids, Iowa 52411

MTC-00030052

January 28, 2002
Jason Deans
7412 N. Thorncliff Place
Raleigh, NC 27616
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202–616–9937

Dear Ms. Hesse:

As the government accounts representative for Comark, a leading regional tech firm, I am thrilled that the long awaited settlement between Microsoft and thee federal government is finally at hand. All we need now is for the Judge to approve the settlement. The Judge, in my opinion, has more than ample reason to do just that.

First of all, let me say how well I believe that government and business can work together for mutual prosperity. It can and does happen—EVERY DAY! I see it when I call on governmental agencies, officials and departments.

I enjoy using technology to build a bridge between government and business. It makes perfect sense. After all, the emerging technologies of today make every segment of society more productive—it makes no difference if the end user works for the public good or a private interest. Let's forge ahead and revitalize the American economy. Let's renew our commitment to research and development, so that we continue to lend the world in productivity and quality. Let's create a new spirit of cooperation between the government and private enterprise. Let's show the rest of the world that American don't take recessions lying down—that we will act to strengthen our country and assist our countrymen.

Now is the time for bold action. I request that Judge Kollar Kotelly approves the settlement.

Sincerely,

Jason Deans

MTC-00030053

January 28, 2002
Jill Green
4660–302 Tournament Drive
Raleigh, NC 27612
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

During my tenure as Assistant Director of Admissions at North Carolina State University, I have witnessed many technological innovations and trends. Most of these have involved the use of a computer, and many involved Microsoft products.

While I cannot say with exact certainty why the federal government pursued an antitrust lawsuit against Microsoft, I can tell you that it has had a devastating impact on technological innovation while it has transpired. Before the lawsuit, tech companies were lauded for focusing on research and development at the exclusion of politics. In fact, few of the leading tech firms employed anyone to conduct government relations programs.

Microsoft learned quickly that its exclusive focus on making life more efficient for everyone had made its competitors struggle for market share. The competitors retaliated by getting into the political game. The lawsuit followed. Even today, Microsoft's competitors are lobbying to conti9nue the lawsuit endlessly.

We should support the federal government and Microsoft in their decision to settle the case. I urge Judge Kollar-Kotelly to approve the proposed settlement of the lawsuit. Let's allow research and development to march ahead.

Sincerely,

Jill Green

MTC-00030054

January 28, 2002
Tresa Jalot
829 Joyner Court
Wake Forest, NC 27587
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202–616–9937

Dear Ms. Hesse: Given that my husband is a local television news personality, I follow the news even more keenly than I ordinarily would. I began working at a new job just a few short weeks ago, as the membership and marketing director for Heritage Golf Club in Wake Forest, North Carolina. Unfortunately, the news and my common sense tells me that many other folks won't be fortunate enough to find new jobs because of the poor economic conditions our country is in. We've got to change that.

Our government must demonstrate that it is serious about stimulating the economy. A great first step in that process would be to finish the job of settling its antitrust lawsuit against Microsoft. I think I speak for most American when I say, "Enough already!" Both sides have agreed to settle—it's time to move on to something else.

I believe that I also speak for executives who work in membership and marketing when I say that I'm much more efficient in my job because of Microsoft's quality products. Database management, communications, and publications are all professionally done with just a click of a mouse.

The American people choose Microsoft products because they make life better. Life will also be better for many Americans once this suit is settled. I request that 3udge Kollar Kotelly approves the settlement.

Sincerely,

Tresa Jalot

MTC-00030055

January 28, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Jennifer Sidbury
1425 Suncourt Villa Drive
Wilmington, NC 28409

Dear Ms. Hesse:

As a past Executive Director of the North Carolina Federation of College Republicans, it has been my pleasure to work with many delightful people in all walks of life. Attorneys, business executives and university faculty were heavily involved in the statewide organization that I ran. Most were people of common sense, good judgement and fine moral character. Most wanted the common good to prevail in all political proceedings. I have always sought to emulate these people—the ones who act in the best interest of ALL of society.

It is in that spirit that I call on Judge Kollar Kotelly to approve the proposed settlement in the antitrust suit between Microsoft and the federal government. It's the right thing to do. People are hurting. We're in a recession. Let's move the economy... and the country forward by ending this whole affair.

Sincerely,
Jennifer Sidbury

MTC-00030056

January 28, 2002
Dan Mansell
Demco Construction
317 W. Second Street Clayton, NC 27520
Renata Hesse
Trial Attorney
Antitrust Division Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937

Dear Ms. Hesse:

I have always believed that a limited government is the best government. Our federal government should give businesses and families a hand up when they need it. Our federal government should never stand in the way of American progress.

I believe that the Microsoft antitrust suit has gone far enough. Microsoft is an industry leader. They deserve to be supported. I use Microsoft's technology to run my construction business. Start to finish, I use the many tools they offer to estimate, bid, and execute a job.

In short, their products help me meet a payroll. I want the feds to support Microsoft the way Microsoft supports me.

I request that Judge Kollar Kotelly approves the proposed settlement.

Sincerely,
Dan Mansell
CEO

MTC-00030057

January 25, 2002
To: Renata B. Hesse
Antiturst Division
U.S Department of Justice
601 D Street NW
Suite 1200
Washington, DO 20530-001
Subject: Microsoft Settlement

The following are my comments regarding the proposed settlement of the United States vs. Microsoft antitrust case.

Personal Background

I am Information Technology specialist who works primarily in Systems architecture, design, and development, Over the past ten years I have specialized in Information Security. I have been a user of Microsoft products (for both consumers and developers) since the early 1980s. United States w Microsoft Background The District Court and the Court of Appeals concluded that Microsoft had "unlawfully maintained its monopoly power by suppressing emerging technologies that threatened to undermine its monopoly control of the personal computer operating system market."

The Court of Appeals held "a remedies decree in an antitrust case must seek to 'unfetter a market from anticompetitive conduct,' to 'terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future.'"

Comments

Scope of Protection Is Too Limited

Microsoft's competition in the Operating system area varies greatly in type and size. This competion includes:

. direct competitors, organizations creating different Operating systems (e.g. Linux)

. organizations that build applications and middleware that run "on top" of an operating system (e.g. Java and Netscape Communicator)

. organizations that customize operating systems for their clients (hardware OEMs)

. organizations that provide software equivalence of the services of one operating system on a different system or environment.

The proposed restrictions on Microsoft business conduct will provide protection to a subset of these Microsoft competitors. The majority of the Proposed Settlement focuses on providing relief for 1) organizations that provide middleware that run exclusively on Microsoft Windows products, and 2) hardware OEM vendors. There are only minimal changes in the Microsoft conduct to protect vendors of competing operating systems.

Only Large Competitors Are Protected

The size of organizations that develop software varies greatly. Even Microsoft started as a small number of people. Unlike many other businesses, there is not a requirement for a large capital investment to start developing software.

The restrictions on Microsoft conduct apply only to large organizations (both OEM and software developers). Not only does this not work to terminate the monopoly it creates new exclusionary and discriminatory practices which did not previously exist,

Scope of Interfaces to be Disclosed Is too Narrow

The Proposed Settlement requires that Microsoft disclose the APIs for its middleware. However, in the Proposed Settlement the definition of Middleware is so limited that it excludes many of the interfaces required by competitors, The Interfaces to be disclosed need to include not just Application Programming Interfaces (APIs) but all other data structures and protocols externalized by Microsoft software components. The Department of Justice chose not to pursue issues related to the comigling of software and yet the Proposed Settlement assumes to have sufficient knowledge of the separate pieces (middleware vs. operating system) to provide a working definition in the Proposed Settlement. As long as the definition of the Windows Operating Systems is outside the scope of the Proposed Settlement Microsoft will maintain the control over which interfaces must be disclosed. It would be more appropriate to require Microsoft to disclose ALL interfaces between all components of their products.

Not All Middleware Components are Identified.

Given that some of the Microsoft Middleware components that are subject to this settlement are mentioned in the Proposed Settlement, the ".net" interfaces, as the Microsoft followon to Java should be included, Given the complexity of the definition of Middleware provided in the Proposed Settlement, it would be desireable to include the complete list of all Microsoft Middleware. This list should be publicly available for the time period that the Settlement is enforced.

Not All Current Versions of Windows are Covered In the Settlement

All current versions of Windows that are based on Win-32 should be covered by the Settlement. This should at least include Windows CE and Windows XP Tablet Edition.

Too Many Restrictions on Disclosure of Security Interfaces

The Proposed Settlement places restrictions on the disclosure of Microsoft security interfaces in the name of National Security. I would suggest that the reverse is true. In the current environment it is important to nurture the development of security functionality. All Microsoft security programmable interfaces, protocols, and date structures should be fully disclosed. The only restriction should be that the content of some specific data elements may not be disclosed (private keys, etc.)

Limits on Which Organizations can Seek Disclosure of Interfaces

The proposed Settlement places restrictions on which competitors Microsoft must disclose their APIs. The competitors must be of sufficient size and have a valid business case. This allows Microsoft to chose which organizations they wish to compete. Even Microsoft in its earliest years would have failed these requirements. Given that in the current environment one of Microsoft's strongest competitors is primarily a volunteer organization (Lunix) it seems likely that Microsoft would not disclose any APIs to "Free" Software development organizations.

Poor Enforcement Mechanisms

A good settlement should include enforcement that is easily understood, quantifiable, and verifiable. There should be metrics that can be used over a period of time to evaluate the success of the Settlement. A good enforcement needs to provide quick resolution of issues related the Settlement for the business needs of both any plaintiff as well as Microsoft. Finally, them needs to be a sufficient motivation to insure Microsoft will not violate the Settlement.

The Proposed Settlement provides almost none of the above There is technical review by a three person team but all of their work will be confidential and not subject to review. There is no public or judicial review of the progress of the Settlement. The only option for handling misconduct, outside of the technical team, is to go back to court—one of the slowest ways to resolve any violations. Finally, given that them is no financial incentive required in this Settlement and that Microsoft earns billions of dollars using their current business conduct it is hard to see why Microsoft will be motivated to make any changes in their conduct.

Conclusion

The Proposed Settlement does not provide adequate changes in business conduct of Microsoft to provide a remedy that meet the requirements of the Court of Appeals mandate. In some cases the Proposed Settlement adds new herders to the competition to Microsoft Operating Systems and Middleware. Thus, the Proposed Settlement does not serve in the public interest. I recommend that the Proposed Settlement be rejected.

Sincerely,
Jerry L. Hadsell
2800 Woodley Road NW
Washington DC, 20008

MTC-00030058

Fax Cover Sheet
Date: 28 Jan 2002
To: Renate Hesse Antitrust Division
Company: Department of Justice
Fax: (202) 616–9937
From Harold R. ANDRLS Sr
Company:
Tel: (301) 935–0057
Number of pages including this one: 2
kinko's
4417 Hartwick Rd.
College Park, MD 20740
Tel: (301) 277–7543
Fax: (301) 779–6417
Comments:
Renata Hesse, Trial Attorney
28 January 2002
Antitrust Division
Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530
Fax (202) 616–9937
e-mail microsof.atr@usdoj.gov.

On Shabbas, 26 January 2002AD, an unsolicited virtual message was deposited on my telephone requesting my immediate comments concerning the "Microsoft" litigation. Please for the sake of immediacy do not make the mistake of recasting the story of Genesis 25:29–34. The action taken must avoid the ??okology of yet another mons?? marching through-out the Lands of this World. The objective of governance should be to protect the rights and freedoms of People (be they individuals or organizations) against predicatory statements by any entity conspiring to sup press and gain absolute control or power.

In presenting and resolving this and similar issues, perhaps rite views of Dr. Herbert I. Schiller should be, considered. I understand that his observations are available in such works as "Culture, inc."/ "Living in the number one country"/"Mass communication ,and American empire".

In resolving the arguments, Please do NOT make the mistake of ESAU by selling ?? need of the moment to satisfy greed.

"Happy Iris" & Trails!
Harold R. Andrus,??
3509 DePauw Pla??
College Park, MD 207404009

MTC-00030059

447 Larchwood Avenue
Trevose, PA 19053–4407
January 11, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to express my opinion about the recent antitrust settlement between Microsoft and the US Department of Justice. In light of the recent terrorist attack and the ongoing war on terrorism, I think it is absurd that nine states continue to bring lawsuits against Microsoft in a case that seemed unjust from the start.

The settlement is too harsh to begin with since entering into third party exclusive distribution agreements have never been a problem in the past. Also, disclosing internal interfaces that Microsoft spent a lot of time and money to develop is a violation of their intellectual property rights.

I urge your office to free up Microsoft to allow them to focus on business. This will serve the public's best interests because only our strong industry leaders can rejuvenate economy.

Sincerely,
John Stern

MTC-00030060

Kory Nanke Letterhead—realtor / business owner
DATE
Judge Kolar Kottely
Renata Hesse, Antitrust Division Public Comment
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge Kottely.

After years of litigation, the Department of Justice, nine state attorneys general, and Microsoft Corporation—the majority of the parties involved in the case—have agreed upon a settlement. It is now before you to make your judgment.

As history has revealed, there is often a six-month to one-year delay before the real estate market feels the effects of a significant economic change in either direction. An economic downturn had begun prior to the horrific events of September 11th. However, it was accelerated after that day. Those of us in the real estate industry are just beginning to feet the market soften.

In addition to the much appreciated efforts of President Bush and Congress to put forth an economic stimulus package to help generate a spark in the economy, settling this case is another small, but important step in that direction.

I urge you to accept the settlement that the majority of the parties involved in this case have agreed upon.

Sincerely,
Kory Nanke

MTC-00030061

Jim Grabowski
487 Covewood Boulevard
Webster, NY 14580–1107
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Now that Microsoft and the Government have reached an agreement, it appears that the states are doing to Microsoft what they did in the tobacco suit. They wish to pursue further litigation in order to fund their state governments, and I think it's ridiculous.

Microsoft did not get off easy. Not only did they agree to disclose various Windows internal interfaces to the competition, they also agreed to not enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively.

Let's move on. Our government should focus on more pressing issues, and leave decisions about software company size and success up to consumers.

Sincerely,
Jim Grabowski

MTC-00030062

Fax
To: Renata Hesse
From: Kenneth Brown
Fax: 202–616–9937
Pages: 7
Phone: 202–307–1454
Date: 1/28/2002
Re: Tunney Act Comments
CO:
Please call 703–608–4222 if you have any problems with this submission. Ken Brown
January 28, 2002
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW Suite 1200
Washington, DC 20530
e-mail: microsoft.atr@usdoj.gov
Re: AdTI Tunney Act Comments

The Alexis de Tocqueville Institution submits these comments under the Tunney Act. The Alexis de Tocqueville Institution is an independent non-profit education and research organization described in detail at www.adti.net. The mission of AdTI is to provide helpful policy analysis to advance the ideas of democracy and freedom around the world.

Sincerely,
Kenneth Brown
President
Telephone Number(s)- office 202–548–0006, cell 703–608–4222
Why the Microsoft Case Should Be Settled
Alexis de Tocqueville Institution
Washington, DC
January 22, 2002

The Hard Truth About Invention in the U.S. Marketplace Two courts have reaffirmed that Netscape nor its browser were shut out of the marketplace. The browser wars produced a winner and a loser; and Netscape was the loser. However, within thousands of briefs and legal arguments criticizing the U.S. vs. Microsoft settlement is the repeated concern about the future of new Netscape's in the technology sector. Almost every other issue is tangential, and we must differentiate the arguments properly.

We see an interchanging of terms being used, specifically, "....the settlement should make the marketplace safe for firms to compete with Microsoft..." vs. "...the settlement should be safe for firms to introduce new products...ie. like Netscape

Navigator..." The Department of Justice has proposed a settlement that properly speaks to its duty—to introduce a remedy which allows firms to safely introduce new products. Microsoft has agreed to the rules; which include a mandate that Microsoft disclose any information necessary for rival firms to produce fully interoperable products with Windows for competing software and servers.

The reason why critics want a settlement which goes further is because they want Microsoft completely out of the way. The case is merely obfuscation. With billions of dollars in resources, Microsoft's competitors want every advantage because 1) the marketplace for new technology is overwhelming and having a chief competitor eliminated makes things a little easier and 2) the competitors lobbying for a far-reaching settlement are among the most aggressive and fierce technologists in the world.

The reality is that the marketplace, particularly the marketplace for new technology has never been safe from a competitor. What Microsoft's competitors want is an oxymoron because no technology product is ever "competition-free" or guaranteed success in the marketplace. This benefits consumers, the country and ironically inventors themselves, which makes it relevant to observe the reality of the marketplace (beyond the courtroom) for a moment. Great Inventors Must Be Fierce Strategists

Every inventor and innovator small and large must face the formidable odds to succeed in the marketplace for new technology. Since the day the first idea was registered in the U.S. patent office, countless inventions and innovations have become cinders in the furnace of competition. Relentless markets in America only sustain the fiercest competitors, without exception. Technologists rewarded with fabulous wealth and fame did so at the expense of employing hard-hitting, merciless strategies. Regardless of ingenuity, technologists without the ability to navigate in the marketplace were failures; and lucky to even receive credit as creators of their own inventions.

The marketplace for food, furniture and other goods each have their challenges. But, the technology marketplace is unique because it demands both inventive genius and keen business savvy. The combination of the two is rare in individuals and corporations, and particularly scarce among pure inventors such as physicists, mathematicians or engineers. From the light bulb to the PC operating system, every innovator that history has been kind to, had the indomitable capability to merge intellectual power with commercial insight. In the end, technologists with these qualities became far more successful than their counterparts with better inventions or greater talent.

Competitive Inventors Preserve U.S. Leadership

However, America's owes its technological leadership in the world to its competitive battleground. Although education, vigorous intellectual property rights and democracy are also credit to American invention, its ability to surface inventors with commercial savvy, make it a source of the most competitive innovations in the world. In the end, the U.S. is a loader in world-changing innovations, at the expense of sustaining a "bare-knuckled" marketplace.

After an excruciating and lengthy examination by the court system, the federal government and 9 states (actually 41 when you consider the states that never filed suit) agree on the U.S. vs. Microsoft settlement. Regardless of the differences among the parties, we can't expect any ruling to settle the differences between Microsoft and its competitors. However, this dissatisfaction is in the best interest of our country and will only spawn better ideas and products that will propel the U.S. to new heights. U.S. technological leadership depends on the undying will of its innovators to be no. 1.

The "Electric" War Between Edison and Tesla

The debate over Windows is similar to many stories about wars between rival innovators throughout history, particularly aspects of the Thomas Edison story. Although the Edison-Tesla rivalry did not involve anti-trust law, the contest details the reality of the "invention business" in the most competitive capitalist society in the world.

Contrary to popular belief, the idea of electric lighting was not Edison's. A number of individuals had developed forms of electric lighting, but none had developed a system that was practical for home use. Using lower current, a small carbonized filament, and an improved vacuum inside the bulb, Edison was able to produce a reliable, long-lasting source of light. Thomas Edison didn't "invent" the light bulb, but became a legend for making a 50year-old idea a fantastic commercial success.

Edison's fiercest rival, was an ex-employee named Nikola Tesla from Smijlan, Croatia. Tesla was a genius who invented the fluorescent bulb in his lab forty years before industry "invented" them. At World's Fairs and similar exhibitions, he demonstrated the world's first neon signs. Perhaps Tesla's greatest invention was the AC (alternating current) system we use in our homes today. DC (direct current), an inferior system, ironically, was designed by Thomas Edison. After years of fierce wars and debate between the Tesla and Edison teams, AC became the accepted system of transporting electricity. In fact, Edison later admitted that AC was the better system. While both men were geniuses ahead of their time, the biggest difference between Edison and Tesla was their perspective and approach to invention. Edison had a keen understanding of capital markets and the strategies necessary to finance, promote and commercialize his inventions. Tesla was a great theoretician who worked perpetually to finance experiments.

Edison held a world record 1,093 patents and died a wealthy, famous man. Tesla received over 800 patents, died penniless and was literally erased from the history books. In fact, Tesla was poor the last thirty years of his life and arguably would have eclipsed Edison's patent record if he had the capital. Remembered for many things, Edison was known for saying, "I have more respect for the fellow with a single idea who gets there than for the fellow with a thousand ideas who does nothing." Edison's vision reflects the view of anti-trust law, that the greater value is in a stable marketplace, not the resurrection of competing ideas.

The Other Truth about Netscape

The Appeals Court ruling reflects another hard truth—Netscape fell, because it did. The DC Circuit rejected the course-of-conduct theory, under which Microsoft's specific practices could be viewed as part of a "broad monopolistic scheme." This obviously has made anyone that viewed Microsoft as an evil-doer exponentially dissatisfied with DOJ's settlement. But again, is the responsibility of the DOJ to make the world safe from Microsoft? Netscape maintained its Internet dominance until 1997, when Internet Explorer's fourth version was able to lap Netscape. Netscape Navigator never regained its prominence. In addition, by that time, the Netscape product was slow, outdated, and unstable, falling to a swifter surging Internet Explorer.

But perhaps the most unmentioned reality regarding Netscape's fall was their announcement to all (Microsoft included) that their strategy was to be the middleware that would be the "new" Windows, removing Microsoft's flagship product from dominance. Hindsight is 20/20 but when you consider how far ahead Netscape was in front of Microsoft, there are infinite what if's" to consider if it had been mum about its strategy to take on Redmond. Microsoft had all but ignored the Internet and it is very questionable if they would have been able to play catch-up to a well-funded and branded Netscape team. The outcome of this possibility almost completely counters any damage claims in their civil suit recently announced. After all, Netscape's grand plan was never realized, thus the future is incalculable especially when taking into consideration the hubris of Netscape.

Innovators are the Lifeblood of U.S.

Today, new technology firms use every means available to compete including spending billions of dollars on research and development. Sun Microsystems, IBM and AOL and Microsoft combine to spend over $100 billion annually just on research and development. Firms spend exorbitant amounts of money to create and protect to new products. But again, this competition is to the benefit of inventors and the U.S. marketplace.[1] Recently, the United States Patent Office released its annual list of the top ten private sector patent recipients, it reported that for the ninth consecutive year, IBM received more patents than any other organization in the world. "I am proud that American corporations are leaders among U.S. patent holders," said James E. Rogan, Undersecretary of Commerce for Intellectual Property. "Patents promote technological progress and are a potent source for competitive free enterprise."

USPTO's comments echo the importance of preserving the status quo of the U.S. marketplace. In the end, it is in the interest of innovation that we close the chapter on

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[1] U.S. Patent and Trademark Offfice. January 10. 2002.

U.S. vs. Microsoft. The judicial process has sorted through the facts and come to judgment. Those dissatisfied with the settlement should be reminded by W. M. Deming's famous quip, "Learning is not essential, survival is not mandatory." Deming's point speaks not only to the Microsoft case; but the hard truth about invention and success in the technology business. The court system has done its job, and enough precious time has been dedicated to legal jurisprudence. It is now the time for Microsoft and its opponents to tuck in their chin, learn from their mistakes and return to the marketplace.

U.S. PATENT AND TRADEMARK OFFICE (USPTO) LIST OF TOP 10 PATENT RECIPIENTS

Preliminary rank in 2001	Preliminary # of Patents in 2001	Organization	Final rank in 2000	Final Number of Patents in 2000
1	3,411	International Business. Machines (IBM)	1	2,886
2	1,953	NEC Corporation	2	2,021
3	1,877	Canon Kabushiki Kaisha	3	1,890
4	1,6543	Micron Technology	7	1,304
5	1,450	Samsung Electronics Co., Ltd.	4	1,441
6	1,440	Matsushita Electrical Industrial Co., Ltd.	11	1,137
7	1,363	Sony Corporation	5	1,385
8	1,271	Hitachi, Ltd	13	1.036
9	1,184	Mitsbushi, Denki Kabushiki Kaisha	14	1,010
10	1,166	Fujitsu Limited	10	1,147

*Source: USPTO, January 10, 2002. The listed patent counts are preliminary counts, which are subject to correction. The final listing of patent counts for the top patent organizations in 2001 should be available by early April 2002. Patent information reflects patent ownership at patent grant and does not include any changes that occur after the

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MTC-00030063

E. BLAINE RAWSON
596 East 1050 North
Bountiful, Utah 84010
January 28, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 307-1454 or (202) 616-9937
1ST CLASS MAIL TO:
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I write to inform you of my support for the position taken by Utah's Attorney General concerning the proposed Microsoft settlement.

It would have been easy for Utah's Attorney General, as a Republican, to join with certain other states in accepting the proposed Microsoft/Justice Department settlement. He has been criticized by some for being anti-free market. However, this case can not be reduced to such simplistic sound bytes. His support for a free market is not at issue. Microsoft was found in violation of law by a court of law. The real question is what action should be taken to prevent similar violations from occurring in the future and what penalty should be imposed upon Microsoft: for past violations. The proposed settlement does not appear to reflect the extent of the findings of violation made by the trial court and sustained by the appellate court.

I applaud Attorney General Shurtleff for holding fast to the rule of law, notwithstanding the pressure brought to bear through campaign contributions and by certain public officials who would have him take a position that may not be in the best interest of the citizens of the State of Utah.

If the settlement does not properly terminate present antitrust violations, penalize for past violations, and prevent future antitrust violations, then it should not be adopted. I would prefer this court hold evidentiary and legal hearings and impose a remedy warranted by the facts and law. In addition, the government should zealously enforce the remedy to avoid future abuses.

Respectfully,
E. Blaine Rawson
cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC-00030064

77 Blackbird
Drive Bailey, Colorado 80421
January 26, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
U.S. Department of Justice
Washington, DC 20530

Dear Mr. Ashcroft:

The Microsoft case was ridiculous. In my view, it showed how the U.S. Government can step in and attack a company because it has a huge market share. The competitors complained and said Microsoft was unethical even though the stone attackers" business practices are largely the stone. The settlement on Microsoft's behalf shows how cooperative the company can be in a reluctant situation. It includes compromises that far exceed the original scope of the lawsuit, and gives their competitors several unfair advantages.

Please approve the settlement and let Microsoft put the lawsuit behind them once and for all.

Sincerely,
Jerol Love

MTC-00030065

The Web Practice
Internet alchemy
FACSIMILE TRANSMITTAL SHEET
TO: John Ashcroft
FROM: Curt Fluegel
COMPANY "
DATE: 1/28/2002
US Department of Justice
FAX NUMBER: 1-202-307-1454
TOTAL NO OF PAGES INCLUDING COVER: 2
PHONE NUMBER: 651.842.0475
SENDER'S REF??RENCE NUMBER
RE: YOUR REFERENCE NUMBER:
Microsoft Settlement
NOTES/COMMENTS:
THE WEB PRACTICE, LLC
175 5TH STREET EAST, STE. 700 . ST PAUL, MN 55101 .
[650 776-993]
FAX: [651] 726-7326 .
January 9, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing this letter to inform you that I am fully in support of the settlement reached between Microsoft and the Department of Justice. The legal battle that preceded this settlement drained tax funds, and challenged state budgets. This suit was initially brought about to help give the consumer more choices in the IT market; instead, it has succeeded in draining money from our pockets.

This settlement is fair and pragmatic. Microsoft has gone far and above what it should have needed to do to get this issue resolved. The settlement addresses concerns that were not even part of the original suit, and Microsoft even compromised some of its intellectual property to make the settlement adequately thorough.

Please prevent any further abuse of our tax resources. The right thing to do would be to finalize the settlement and resolve this issue promptly. We muse give Microsoft way, so it can return to innovation—

Sincerely,
Curt Fluegel
General Partner

MTC-00030066

43 Beaumont Circle Apt. 1
Yonkers, NY 10710
January 25, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Since the Department of Justice is accepting and publishing public comments for the first time since the antitrust suit was brought against Microsoft over three years ago, here are my comments.

Microsoft agreed to the right of third party's to exercise any of the options provided by the settlement that would infringe on any Microsoft intellectual property right. Microsoft will provide the third party with a license to the necessary intellectual property on reasonable and non-discriminatory terms.

Microsoft also agreed to the establishment of a technical committee that will monitor Microsoft's compliance with the settlement and assist with dispute resolution. The technical committee will consist of three experts in software engineering. Any third party who believes that Microsoft is not complying with any provision of the settlement will be free to lodge a complaint with an internal Compliance Officer at Microsoft, as established by the settlement, the Department of Justice, or any of the State plaintiffs that are party to the settlement. Now that Microsoft has agreed to those terms, shouldn't Government agree to end litigation?

Sincerely,
Syed Kamal

MTC-00030068

SUZANNE F. THORUP
3148 Creek Road
Salt Lake City, UT 84121
January 25, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 307-1454 or (202) 616-9937
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division, U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

This letter will inform you of my opposition to the proposed Microsoft settlement. I understand that Microsoft was found to be in violation of the antitrust laws of the United States by virtue of uncompetitive conduct, particularly in its marketing practices. It is important that the market have viable competitors, including those who would make compatible products. Microsoft's practices have destroyed any semblance of an open market place. The proposed settlement appears to be little more than business as usual. Microsoft has once again won, and the consumer has lost. The proposed settlement does not resolve the problems identified by the trial judge, it has merely postponed their resolution because the agreement fails to prevent future violations and does little to correct past behavior.

I am not advocating that Microsoft should be broken up. I am a shareholder and believe that Microsoft is still a strong company that holds value for investors. However, I believe that Microsoft will succeed in a competitive market place. Breaking up Microsoft would not be in the best interests of investors. By the same token, adoption of the proposed settlement agreement would not be in the best interests of the consumers.

Since the parties have not achieved a reasonable settlement, it is time for the courts to do so. Please reject the proposed settlement and conduct such hearings as may be necessary to determine what appropriate remedies should be employed.

Respectfully,
Suzanne F. Thorup
cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC-00030069

268 Neptune Boulevard
Long Beach, NY 11561-3732
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
January 24, 2002

Dear Mr. Ashcroft:

In a few days, the Justice Department will make its final decision on the Microsoft settlement. It is my fervent hope that the government accept this settlement from Microsoft. I feel that Microsoft is giving away too much to the competition, but I completely support Microsoft's efforts to end this three-year legal war over antitrust behavior.

The federal government's actions toward Microsoft have been abominable. I am completely against government involvement in private business affairs. The freedom to innovate must be preserved if our country is to continue to be a world leader This country's strength has been built from our free enterprise system. Further government involvement will continue to hurt our already weak economy.

As a real estate agent, I have exclusively used Microsoft Windows and Microsoft Office for years and it has indeed contributed to the success of my small business. I also use Internet Explorer, my web browser of choice. Nothing on the market compares to Microsoft's software products. The competition can put their software on Windows and remove Microsoft's, but I will always use Microsoft's products.

I have confidence that Microsoft is doing what is in their best interest, to get out from under the hand of government involvement. I see nothing but positives for the economy and for the computer industry, once Microsoft is allowed to work entirely free from further government entanglements. Please do what I feel is best for the economy and the people of this great nation, confirm the Microsoft settlement.

Sincerely,
Maria Ferrer

MTC-00030070

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From: Name: Tanya Bartucz
Voice Phone: Joanna Harkin 202/736-8268
To: Name: U.S. Department of Justice
Company:
Facsimile #: 202-307-1454
Voice Phone:
Subject:
Message:
Date: 01/28/02
Time: 05:24 PM
No. Pages (Including Cover): 5

Note: If you do not receive all the pages, please call: Joanna Harkin 202/736-8268

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FACSIMILE TRANSMISSION FORM
Date: January 28, 2002 No. of pages including cover sheet:
To: Company: U.S. Department of Justice
Telephone #: Fax #: (202) 307-1454
SPECIAL INSTRUCTIONS: IF NOT USA PLEASE INDICATE COUNTRY & CITY CODE NUMBER
From: Tanya Y. Bartucz Ext. 8067 Floor:

COMMENTS: Attached please find the Tunney Act comments on the Microsoft settlement of Griffin B. Bell, Edwin Meese III, and C Boyden Gray. An electronic copy will also be submitted Problems with this transmission should be reported to: (202) 736-8067

January 28, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
Re: Microsoft Settlement

Dear Ms. Hesse:

We believe the Revised Proposed Final Judgment ("RPFJ") that the federal government and some of the plaintiff states have reached with Microsoft should be adopted, and that the proposals of the nine states that continue to pursue this litigation (the "Litigating States") should be rejected. That is so, in our view, for four main reasons. First, the RPFJ will serve the central goal of antitrust law—benefiting consumers—far better than any of the states" proposed remedies. Most importantly, it allows Microsoft to continue selling a single, uniform operating system under the Windows name. This will directly benefit all the consumers who have relied on Windows' continued availability when deciding which computer and software to purchase.

At the same time, the RPFJ will increase the range of choices available to consumers by requiring Microsoft to enable both computer manufacturers and end-users to turn off Microsoft's middleware products such as its Internet browser, instant messaging tools, media player, and email utilities. Consumers will therefore be free to sample and choose among a variety of middleware utilities from various companies. The RPFJ thus strikes a sensible balance between the goal of giving rival middleware producers access to Microsoft's customers, and the equally important goal of avoiding anything that would destabilize the Windows platform on which consumers—and indeed most of the software industry—depend.

The Litigating States' proposals strike no such balance. For example, the Litigating States would require Microsoft to sell stripped-down versions of Windows at court-mandated prices, without regard for the technical advantages of integrating middleware and operating system functions, or for the importance of a stable, uniform operating system. Computer manufacturers would then be able to patch competitors' middleware into the Windows system and sell the hybrid product to consumers without giving them any guidance as to how to restore their computers to the original Windows settings. This would effectively destroy the Windows standard. That will not benefit consumers; it will harm them. And it is anti-competitive, not pro-competitive.

Second, the RPFJ is narrowly tailored to the findings of illegality affirmed by the Court of Appeals. The RPFJ thus enjoins the types of conduct held illegal by that court—primarily certain exclusive dealing arrangements and threats of retaliation—in language broad enough to preclude similar behavior, without losing sight of the limited Court of Appeals holding.

In contrast, many of the Litigating States' proposals have nothing to do with any of the issues in this case, much less the Court of Appeals' decision. For example, the Litigating States would require Microsoft to inform them sixty days in advance of any acquisition of technology or other intellectual property. Yet this "remedy" cannot be tied to any element of this case, let alone to any finding of liability that was affirmed on appeal. Other proposals are simply overbroad or unworkable, such as the proposal that Microsoft notify any software developer sixty days in advance of any action it intends to take that might have an impact on the interaction between the developer's middleware and Windows.

Third, the remedy in this case must be one that the federal courts can administer, not one that will turn the District Court into a regulatory agency. Again, the RPFJ strikes the needed balance. The Technical Committee and the Compliance Officer that it would install are unquestionably intrusive, but at least the Committee would properly make its reports to the plaintiffs, who then would decide what course to pursue.

By contrast, installing a Special Master with his own staff and the power both to investigate and to judge, as the Litigating States propose, would drag the federal courts into a prosecutorial and regulatory role that they are ill-suited to perform. The Litigating States' substantive proposals take a similar, regulatory approach. They would mandate product design and pricing, force Microsoft to distribute its competitors" products, and give Microsoft's rivals a mechanism to try to block any decision by Microsoft that they dislike.

Finally, we believe that entry of the RPFJ will respect and promote the primacy of the U.S. Department of Justice in enforcing federal antitrust law. To be sure, the States may have some role to play in this area. But it would be bad policy to allow a small group of state attorneys general to trump, in effect, the Department's decision to settle on reasonable terms an antitrust case that has such enormous implications for the national economy.

For all these reasons, we urge the District Court to enter the RPFJ as its final judgment in this case. We believe it would benefit consumers, effectively address the Court of Appeals' findings, and provide a workable resolution to this long-running litigation.

Sincerely,
Griffin B. Bill
Edwin Meese III
C. Boyden Gray

MTC-00030071

South Dakota Legislature
State Capitol,
500 East Capitol,
Pierre, South Dakota 57501–5070
House of Representatives
January 28, 2002
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW—Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

My pursuit in public service has been to make sure that taxpayers and justice are well served in all matters. In the settlement proposal affecting U.S. v. Microsoft, I am concerned that enough resources in time, money, attention and personnel have been used to pursue the issues raised in this anti-trust case.

At no time in the proceedings has it been established that consumers have been wronged by Microsoft's actions. In fact, I think consumers who've used Microsoft have been well pleased with the quality and cost of the company's products and services. The issue seems to focus on Microsoft and its ambitious competitors, and I think this case has expended enough resources to determine what is fair. I strongly support putting the settlement into effect.

I appreciate your attention to my statements.

Sincerely
Representative Bill Napoli
Legislative District 35
Assistant Majority Leader

MTC-00030072

South Dakota Legislature
State Capitol,
500 East Capitol,
Pierre, South Dakota 57501–5070
Senate Chamber
January 28, 2002
Renata Hesse, Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

This letter is to be entered in the public input phase of the settlement in U.S. v. Microsoft. I support the settlement for the following reasons:

. The settlement answers the issues which were found to be valid at the end of this 4-year-old case.

. The settlement will conclude a case which has used sufficient time, personnel and money to seek out every possible issue and fully explore each one.

. At no time during the past four years has it been established that consumers have been wronged by Microsoft's actions.

. A significant benefit from this case to school districts which hold a disproportionate share of economically stressed children is the dedication of hardware, software and tech support to bridge the IT gap for these children.

Frankly, the continuation of this case will not benefit justice or the information technologies industry. After more than four years, an antitrust case of this magnitude should have yielded all of the benefits that are reasonable.

I appreciate the opportunity to submit this letter.

Sincerely,
Brock L. Greenfield
State Senator
Legislative District 6

MTC-00030073

January 28, 2002
Renata Hessé, Trial Attorney
Antitrust Division
United States Department of Justice
601 D Street NW—Suite 1200
Washington, DC 20530

Dear Renata Hesse:

I am a strong supporter of the use of information technologies as a major resource of developing the economy of South Dakota. Efforts achieved in the state's Wiring the Schools Program and long distance learning systems will reap huge dividends as the so-called digital divide is erased between urban America and rural states. The allocation of computers and backup support which is expected from the settlement proposal in the antitrust case, U.S. v. Microsoft, offers another leap forward because those systems are targeted for use by low income school districts. South Dakota has many of those districts which should qualify for the computer systems. That is one reason I support the settlement.

The other speaks to how the justice system is used to pursue justice. This antitrust case was established to explore Microsoft Corporation's practices as they relate to its competition. It has not established any harm to consumers, which should be a strong consideration in the value of this settlement. From what I have been able to read and understand, the settlement adequately addresses the issues which have remained viable throughout the court process. I think this case has reached the point when it is time to say enough is enough; it's no longer necessary to keep this court action going.

I think justice has been pursued, and the pursuit has not wandered outside the lines of what is a proper action by the courts. My hope is that this process is not allowed to wander outside the lines by rejecting the settlement. Thank you.

With best regards,
Phil Hanson

MTC-00030074

January 28, 2002
Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Renata Hesse:

My letter is being sent for the settlement phase in U.S. vs. Microsoft. I have followed the case in the news and I have wondered why so much money and attention has been consumed to pursue Microsoft on issues which could have been decided in much less time. Frankly, the case has the public appearance of Microsoft being punished for leading the competition with software which is more competent and less expensive for average users than Microsoft's competitors.

Skepticism aside, I hope the settlement is enacted because this issue has had its day in court and because the issues which were believed to be important have been answered. I am very pleased that the U.S. Department of Justice reached an accord with Microsoft. The fact that such an accord was reached by the federal government and nine of the states involved in the action should weigh heavily in favor of allowing thin settlement to move toward enactment.

Thank you for your attention to my letter.

Sincerely,
Ron Sauby

MTC-00030075

To: US Department of Justice—Antitrust Division
Title:
Company:
Fax 202-616-9937
Business
From:
Fax number:
Business phone:
Date & Time: 1/28/2002 5:46:28 PM
Pages sent: 12
Re: Microsoft Settlement
Please see attached document
The Center for the Moral Defense of Capitalism
4901 Seminary Rd #1320
Alexandria, VA 22311-1830, USA
(703) 625-3296 (VOX)
(815) 327-8852
(FAX)
Internet: http://www.moraldefense.com E-mail: info@moraldefense.com
10708 N Essex Court
Mequon, WI 53092
January 26, 2002
Attorney General John Ashcroft
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I was relieved last November when a settlement was finally proposed in the Microsoft antitrust case. I do not think Microsoft has done anything worthy of such harsh litigation, and I think that a settlement would, at this point, be the best thing that could happen in the case. To my dismay, however, Microsoft's competitors, who have been relentlessly pursuing the destruction of Microsoft from the beginning, are currently engaged in undermining the settlement and seeking further litigation against Microsoft. Ever since this case was brought to the federal courts, the economy has declined and the technology industry has suffered. The measures Microsoft's opponents want to pursue will ultimately de more harm than good, and I do not believe that the public should have to suffer simply because Microsoft's competitors want to make some money.

Microsoft has been very generous in this suit. I think Bill Gates and his lawyers have shown a great deal of pragmatism in making so many unnecessary concessions. They have gone beyond what was required of them in the lawsuit, and have agreed to terms that restrict parts of their company that have not violated antitrust law,. The settlement appears to be very fair, and I can honestly see no good reason for additional litigation. Microsoft has agreed not to cater into any contract that would require a third party to sell Microsoft software at any fixed percentage. Microsoft has also agreed to change its Windows operating system so that it will support non-Microsoft software, and Microsoft's competitors will be able to introduce their own software directly into Windows.

I believe it is time to let Microsoft gel back to business, and the only way to do that is to settle the case. The proposed settlement is sufficient to prevent future antitrust violations, and there is no need to continue federal action. I urge you to accept the settlement.

Sincerely,
Ronald Chikalla
cc: Representative F. James Sensenbrenner, Jr.

MTC-00030076

WP Investments
January 24, 2002
Renata Heese
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
FAX: 202-616-9937
RE: Settlement of U.S. v. Microsoft

Dear Ms. Heese:

I am writing in support of this proposed settlement. I deeply appreciate the efforts of our government in pursuing antitrust activities and believe that this settlement is a positive development in this pursuit. As the former director of a state agency I know that the government and Microsoft lawyers have fought diligently in this important case. I would like to see the case resolved so that private industry can return to competing in the marketplace. The technology sector of our economy is looking for a signal to get moving again. The settlement of this case can provide the right signal that competition is alive and well through innovation and hard work and not continued litigation.

Please know that t appreciate your consideration of my views on this important matter.

Sincerely,
Chris Pilley
Partner
729 S. Acadian Thruway
Baton Rouge, LA 70806
225-389-9429
225-387-0309 (fax)

MTC-00030077

FAX
Date: Monday, January 28, 2002
Pages including cover sheet: 2
To:
Phone
Fax Phone (202)6169937
From: James J. Ferraro
A&J Marketing Southeast In.
PO Box 150533
Altamonte Springs FL 32715
Phone +1(407)331-4960
Fax Phone +1(407)331-7137
NOTE: Microsoft Settlement.
??
P.O. Box 150533
Altamonte Springs, FL 32715-0533
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

Microsoft has been dealing with a hostile government for over three years now; it is time to put on end to the lawsuit. I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The critics are wrong when they claim that Microsoft is getting away with lenient terms. The settlement was arrived at after extensive negotiations under a court-appointed mediator. Microsoft has agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit, simply for the chance to put the issue behind it. Microsoft has given up the right to charge different computer makers different prices, thus losing leverage useful in getting its software promoted. It has also agreed to allow computer makers and users to remove access to Windows technologies, features, and bundled applications, in favor of competing software. Microsoft has even committed competing software ?? works better with Windows.

It is time that the government stops harassing Microsoft and allows free enterprise to re-emerge. The terms of the settlement are fair and the government needs to accept it. Please exercise your influence and authority to help make that happen.

Sincerely,
James Ferraro

MTC-00030079

HOUSE OF REPRESENTATIVES
STATE OF UTAH
REPRESENTATIVE JUDY ANN BUFFMIRE
35TH DISTRICT
(SALT LAKE COUNTY)
785 EAST 4255 SOUTH
SALT LAKE CITY, UTAH 84107
HOME (801) 268-1862
STANDING COMMITTEES: EDUCATION; REVENUE AND TAXATION; RULES APPROPRIATIONS: PUBLIC EDUCATION
January 25, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 307-1454 or (202) 616-9937
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division, U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

This letter will inform you of my opposition to the proposed settlement of the Microsoft lawsuit. Although we are from different political parties, I agree with the Utah Attorney General's reasons for opposing file proposed settlement—the State of Utah must defend laws that protect our consumers, protect free enterprise, and promote competition. It was determined by the trial court that Microsoft violated the antitrust laws of the United States. That decision has been reviewed and affirmed by the Court of Appeals, and the United States Supreme Court has determined not to hear a further appeal by Microsoft. Microsoft has had ample opportunity to defend itself against charges that its actions thwarted competition in the market. These actions have had an adverse impact on Utah consumers, including some who are my constituents.

Any settlement approved, or any remedy imposed, by the court must assure that Utah's consumers, including its businesses, are protected from Microsoft's anti-competitive behavior. I am informed that the proposed settlement allows Microsoft too much discretion in determining whether or not certain of the settlement provisions apply. Such provisions do not protect free enterprise or promote competition.

Rather than adopting settlement provisions that might lead to future litigation, I recommend that hearings be conducted by the court to determine an appropriate remedy that will ensure fair competition into the future.

Sincerely,
Representative Judy Ann Buffmire
Utah House District 35
cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC-00030080

111 NW First Street
Suite 910
Miami, FL 33128
(305) 375-4507
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

To protect the idea of free enterprise in this country, please make sure to confirm the proposed agreement with Microsoft Corporation. Microsoft has developed a great product, which tile public is satisfied with, so any further attempt to infringe on that could only damage our many years of progress in the PC industry.

Under the review of a committee of software experts, these terms enable computer makers to re-configure Windows with their own preferred software offerings, and the ability to manipulate their supporting features, without reprisal from Microsoft. The top 20 manufacturers will be able to operate without preference on terms and conditions to license the Windows operating system and any requirements to distribute or promote Microsoft technologies. Not only is the offer generous, but also some of the proposed measures even exceed the Justice Department demands in order to encourage swift approval of the deal.

It's time to put the legal activities aside and complete this agreement at the earliest opportunity. There is no reason for further action against Microsoft, as the company should continue freely to develop the high-quality software that consumers want and businesses need. I look forward to your approval.

Sincerely,
Miguel Cordero

MTC-00030081

January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in favor of the decision to settle the Microsoft antitrust lawsuit. Little will be gained by continued litigation, especially in light of the vast concessions Microsoft has made. Contrary to assertions made by their competitors, Microsoft will not be getting off easy. The settlement agreement will impose numerous restrictions on the way Microsoft conducts its business. For instance, Microsoft will not enter into agreements obligating third parties to exclusively distribute Windows products. They have also agreed not enforce many of their intellectual property rights. Instead of calling for more litigation, Microsoft's competitors should be overjoyed by the changes that will be taking place in Microsoft's business practices. I tort hopeful the court will approve the settlement. The time has come for fine parties to move on, and to focus on other matters.

Sincerely
Michael Baldasare

MTC-00030083

January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Attorney General:

With as many people and small businesses that depend on Microsoft and their products on a daily basis, and considering how large an impact the company has on the U.S. economy and balance of trade, I cannot see how the Justice department thought it a good idea to attack Microsoft. It is like shooting ourselves in the foot to attack one of, if not the, top businesses in the world. That is why I was so pleased to hear that you had reached a settlement. This settlement will mean an end to this issue once and for all. It is harsh enough to satisfy Microsoft's competitors and yet will leave the company in one piece to continue innovating. I only hope that they will respect how much Microsoft is giving up by allowing full access to key components of its software. This will allow anyone to use it to enhance their products to better compete with Microsoft's, without retaliation from Microsoft.

That, without all the other pans of the settlement, should be enough to satisfy Microsoft's critics. Microsoft has simply gone beyond what was expected of them in order to end this case. Let's let them move on and get back to business as usual. In my opinion, this will make a major part of ending our recession.

Sincerely,
Lee & June Johns
645 Village Lane South
Mandeville, LA 70471

MTC-00030084

PAUL C. THORUP
3148 Creek Road
Salt Lake City, Utah 84121
January 28, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
IA FACSIMILE COPY TO: (202) 307-1454 or (202) 616-9937
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division,
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I write this letter to express my concerns about the proposed Microsoft settlement. I am a 17-year old high school student working on a merit badge for my scouting activities. My parents own some stock in Microsoft, and I have discussed the issue with them to help me better understand the issues before making up my mind concerning what type of letter to mite. I am told that the Microsoft proposal is the result of court action in which Microsoft was found to be in violation of antitrust laws. I commend Microsoft for its ingenuity and creativity in bringing products to market, however, I believe Microsoft may have abused its market power to the detriment of its market competitors and consumers.

The courts have determined that Microsoft has violated antitrust laws. The only thing to determine is what should be done. My parents suggested to me that breaking-up Microsoft may not be in the best interest of its shareholders, however, from I have learned, the proposed settlement has many problems and may not prevent future violations. This would not be in the best interest of the shareholders either.

Please hold hearings to decide what remedies should be imposed, and do not adopt the proposed settlement agreement.

Thank you for your consideration.

Sincerely,

Paul C. Thorup

cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC-00030086

MICHAEL SONNTAG
P.O. Box 675
Draper, UT 84020
January 25, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 307-1454 or (202) 616-9937
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division,
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I am a concerned consumer who believes that the federal government is not looking out for my best interests in supporting the proposed settlement of the government commenced lawsuit against Microsoft.

I have been concerned for a long time that Microsoft's actions were not in the best interest of consumers and that its practices were uncompetitive, designed more to monopolize than provide reliable products to the market. My concerns were realized when the Department of Justice was able to prove its antitrust case against Microsoft. Although the Court of Appeals determined that breaking Microsoft up would be too punitive, the Court did uphold the district court's findings that Microsoft violated antitrust laws.

If breaking up Microsoft is too harsh of a remedy, then the proposed settlement is too lenient of a remedy. Some of the proposed settlement provisions do not go far enough and others are either not easily enforceable or are subject to conditions that would allow Microsoft to determine whether and how to comply. For instance, one of the driving issues of the lawsuit dealt with Microsoft's failure to share information with others to allow for the reasonable development of compatible software. The proposed settlement agreement would allow Microsoft to determine whether disclosure should be allowed, based upon Microsoft's determination that disclosure would harm Microsoft's security of software licensing.

Settlement should be allowed only if past violations are cured and future violations are prevented. The current proposal, in my estimation, does neither and should be rejected.

Your truely,

Michael Sonntag

cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC-00030087

MIKE BROWNING
88 East Mutton Hollow Road
Kaysville, UT 84037
January 25, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 307-1454 or (202) 616-9937
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division,
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I am a supporter of the free enterprise system and believe that government should generally allow businesses to operate and compete without government intervention. Nonetheless, I am informed that a settlement has been proposed in the Microsoft case that may not be in the best interest of average consumers like me.

I understand that the original trial court held that Microsoft violated U.S. antitrust laws and that the Court of Appeals did not overturn that portion of the trial court's decision. If Microsoft has violated antitrust laws, they have hurt rather than promoted competition which is one of the most important aspects of a free enterprise system. This call not be good for the average consumer. If the proposed settlement does not resolve the antitrust violations, then Microsoft's conduct could continue into the future, therefore, I ask that you not accept the proposed settlement and take whatever action may be appropriate to properly protect the interests of consumers.

Sincerely,

Mike Browning

cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC-00030088

POH
42 Quail Run Warren, NJ 07059
Telephone: 732-302-9608
Number of Pages (Including cover) 2
To: Attorney General Mr. John Ashcroft
From: Ann Poh
Company: US Department of Justice
Date: 1/28/02
Fax Number: 1-202-307-1454 Phone Number:
Reply Requested: Yes [ ] No [ ]
Notes/Comments:
Letter attached. Thank you.
POH 42 Quayle Run
Warren, NJ 07059
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinion of the recent settlement between Microsoft and the US Department of Justice. The lawsuits have been too long to date and need to be ended. I feel that Microsoft has been a victim of personal vendettas and greed and has gotten a raw deal even in temps of the recent settlement.

The settlement is harsh and requires Microsoft to give up interfaces that are internal to their Windows products and design future Windows version so that computer makers, software developers, and consumers can more easily promote their own products. These concessions should be enough to appease all parties that are part of dispute so it amazes me that 9 states want to continue litigation. Please ignore this opposition for the sake of our IT sector and economy. Our nation needs your office to take a strong stance and uphold principles of free enterprise.

Sincerely,

Ann Poh

MTC-00030090

423 NW 21st Street
Oklahoma City, OK 73103
January 19, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

This is to address the recent settlement between the Department of Justice and Microsoft. I want to give my support to this agreement. It has gone on far too long. I opposed the initial lawsuit. It was not warranted. Microsoft, through Bill Gates, has done nothing but benefit the consumer with his technology. I use Microsoft software programs, operating systems, everything, because they work better than the other programs on the market. If another firm were to put out a better product, I would use that one. The antitrust suit was nothing more than a bunch of crybabies getting together and trying to cripple the one firm they could not compete with, and the Department of Justice fell right into line. I know there is a great desire to break up Microsoft, but I cannot think of any thing worse for the industry or the country. AT&T was broken up; our phone system has gotten worse ever since. I get ten different bills, none of which I understand, and my phone service keeps increasing in price. When you need to call service, you are always switched somewhere else; no one takes responsibility. This is what would happen with Microsoft. Further, those who are rivals of Microsoft, and those who see any big business as evil, would sit gleefully on the side, cheering.

Microsoft has agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit. Microsoft has agreed to allow computer makers to ship non-Microsoft product to a customer; Microsoft has agreed to design future versions of Windows with a mechanism to make it easier to promote non-Microsoft software; Microsoft has agreed to document for use by its competitors various interfaces that are internal to Windows" operating system products—a first in an antitrust settlement.

Whatever "sins" Microsoft has committed, they have more than paid for. Give your support and approval to the agreement. Thank you.

Sincerely,
E. Claudine Long
CC: Senator Don Nickles

MTC-00030091

ERIC MECHAM
3274 East 7800
South Salt Lake City, UT 84121
January 27, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 307–1454 or (202) 616–9937
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division,
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I understand you are receiving comments concerning the proposed Microsoft settlement, and I wish to be heard on the subject.

I believe it was appropriate for the Department of Justice to bring the antitrust case against Microsoft concerning its anti-competitive actions. It was long overdue. However, I am concerned that the case is being settled without imposing appropriate remedies against Microsoft. This is not the first case brought against Microsoft. Each time, the parties thought they had resolved their problems only to find that Microsoft had found a way around compliance with the settlement agreement. Therefore, settlement of those prior cases has not well-served the public interest in having Microsoft stop its anti-competitive behavior.

Microsoft has proven that it can not be trusted to self-police, and the language of the proposed settlement agreement is not tight enough to prevent future violations of antitrust laws. Some of the agreement's provisions grant too much discretion to Microsoft to determine if and when they will comply with some of its provisions. If left to enforce the agreement itself, Microsoft find a way to interpret the agreement in its favor. This is only natural, however, it does not solve the problems that concerned the Department of Justice in the beginning.

Microsoft has already been found to have violated federal antitrust laws. Break-up may be the only way to finally rein Microsoft in, however, whatever remedy is finally imposed, it must take into account past and the potential for future violations of the same laws. The proposed settlement does not do this. The proposed agreement does not prevent future anti-competitive actions against vendors, suppliers, retailers and competitors.

I request that any settlement or court order be tightly worded to avoid any question as to Microsoft's obligation to comply.

Sincerely,
Eric Mecham
cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC-00030092

PATRICIA CHRISTELLO
Honorable Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1.200
Washington, DC 20530–0001
RE: U.S. v Microsoft

Dear Judge Kollar-Kotelly,

I am writing with regard to the settlement between the Department of Justice and Microsoft in U.S. v Microsoft. This proposed settlement allows Microsoft to safeguard and bolster its monopoly, while also allowing Microsoft to use anticompetitive strategies to spread its dominance into other markets.

The deal does not promote innovation in this vital sector of our economy. The enforcement provisions are vague and it seems there are many loopholes left in the settlement. At a time when security is of vital importance to both our government and corporations it would seem eminently important that we do not curb the production of new products in an attempt to protect an illegal monopoly.

Microsoft has been found liable before the District Court, they subsequently lost an appeal in a 7.0 decision to the U.S. Court of Appeals for the District of Columbia, have had their rehearing in the appellate court denied, and its appeal to the Supreme Court denied. It is time we rectify those inadequacies and promote the true nature of free markets to keep from hindering innovation in the marketplace.

The court must find a solution that meets the appellate court's standards and avoid any future anticompetitive strategies.

I appreciate you taking the time to consider this matter further.

Sincerely,
Patricia Christello
Business Manager

MTC-00030093

GREGORY M. D'AGOSTINO
Honorable Colleen Kollar-Kotelly
US District Court, District of Columbia
C/O Renata Hesse
Antitrust Division
United States Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
RE: US v Microsoft

Dear Judge Kollar-Kotelly,

I am writing with regard to the settlement between the Department of Justice and Microsoft in US v Microsoft. I realize there has been much discussion over many years concerning this matter. In light of that, it seems a more equitable solution could have been reached. The specifics of this settlement appear to violate antitrust laws.

As it stands now, Microsoft has the capacity to bolt financial services, cable or even the Internet to Windows hindering competition. In addition Microsoft makes the decision as to what technologies will be compatible with its Windows. This makes it very difficult for companies to develop software or for that matter find investors to provide venture capital for their companies. It is interesting to note that currently Microsoft Windows and Office Suites enjoy over a 90% user status. Expansion into other markets will expand that usage even more. At a time when computer technology companies should be challenged to address security and privacy issues in government and corporations, the inability to compete is. certainly not making it an environment good for growth. The settlement provides many loopholes, which could well keep the issue in litigation for years.

The computer software market should be buttressing the economy rather than adding to its sluggishness. Without competition, venture capital and an expectation of success it is very likely this industry will continue its downward slope. It is interesting to look at the monopoly of Microsoft and note the growth in the company as compared to other companies who do not have the ability to control most aspects of the market. The affect on consumers will be reflected in the high cost of software.

Given that nothing in the settlement hinders Microsoft, there should be little change in its business operation. It appears Microsoft plans to expand to financial, cable and the Internet, which will only serve to expand its control.

Although Microsoft will be required to share technology if it is reasonably necessary it also will determine which companies' technologies will be compatible with Windows. Microsoft will appoint one member of the three-person technology committee, the Department of Justice appoints another and they must both agree on the third.

It is likely companies will be reluctant to take on a Microsoft with a challenge, as their future business may well depend on their relationship with Microsoft. Given that Microsoft will be able to charge whatever it wants for its products, prices will skyrocket.

It seems a more equitable solution could be determined. If I may be of any assistance, please contact me.

Sincerely,
Gregory M. D'Agostino
Consultant
CC: Attorney General Tom Reilly

MTC-00030094

Holme Roberts & Owen LLP
Dee L. Heugly
heuglyd@hro.com
Attorneys at Law
111 East Broadway
Suite 1100
Salt Lake City, Utah
84111–5233
Tel (801)521 5800
Fax (801) 521–9639
www.hro.com
Salt Lake City
Denver
Boulder
Colorado Springs
London
January 28, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 307–1454 or (202) 616–9937

1ST CLASS MAIL TO:
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

Please add my name to the list of those who believe that the court should not adopt the proposed settlement in the Microsoft v. DOJ case.

I firmly believe that markets should be open and free to competition. When adequate competition exists, consumers generally benefit. When competition does not exist, consumers are generally harmed to the benefit of one player controlling the market. The federal courts have already determined that Microsoft has so controlled the market that it is in violation of U.S. antitrust laws. Notwithstanding Microsoft's attempt to strike a better deal with the DOJ than it might receive from the court, the proposal falls short of the goal of remedying past conduct and preventing future anti-competitive acts in the future.

Microsoft has proven to be a super-charged competitor in the market place and requires the special attention of the court to deter it from once again becoming too dominant in the market. Please reject the proposed settlement and conduct whatever hearings may be necessary to determine a proper remedy. Respectfully,

Dee L. Heugly

cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC–00030095

Holme Roberts & Owen LLP
Abigail L. Jones
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slolebr@bro.com
Attorneys at Law
111 East Broadway
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U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I write to express some concerns with the proposed settlement in the Microsoft v. DOJ case. I am informed that the Microsoft case will be returning to the federal district court for the purpose of imposing a proper remedy. Appropriate sanctions and penalties in an antitrust suit generally require that the violator discontinue past anti-competitive conduct, provide a component to compensate for the damage caused by the past violations, and include conditions under which the violator can operate to prevent future violations. Although this can occur through settlement, it is appropriate for a court to have sufficient supervision over the settlement and approval of its provisions to ensure that future violations will not likely re-occur.

I am informed that the proposed settlement does not go far enough to ensure that there will be an open and fair market place in the future. Microsoft can not be allowed to have too much discretion concerning release of its access codes, otherwise, competitors will not be able to develop compatible products and vendors will once again be required to market software packages according to Microsoft's direction, without competition.

It is time to bring this litigation to an end and correct improper market conduct. It appears this will only occur if the court takes a strong hand to craft and be willing to enforce sanctions designed prevent past conduct from re-occurring. Please reject the proposed settlement and fashion your own remedy based upon the facts and law applicable to this case.

Respectfully,

Abby L. Jones

cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC–00030096

Holme Roberts & Owen LLP
Jennifer N. Byde bydej@hro.com
Attorneys at Law
111 East Broadway
Suite 1100
Salt Lake City, Utah
84111–5233
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www.hro.com
Salt Lake City
Denver
Boulder
Colorado Springs
London
January 28, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoi.gov
VIA FACSIMILE COPY TO: (202) 30%1454
or (202) 616–9937
VIA FIRST CLASS MAIL TO:
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I write to object to the proposed settlement in the Microsoft v. DOJ case.

The federal district court determined that Microsoft has violated United States antitrust laws and the Court of Appeals reviewed and sustained that finding. The Court remanded the case to the district court for a determination of the appropriate remedy. At long last, the case can proceed and the Court may impose appropriate remedies for violations U.S. antitrust law. Although I personally find Microsoft's cavalier attitude towards antitrust laws troubling, and feel that the break-up may be appropriate under certain circumstances, I understand that the Court of Appeals has already determined that break-up is not an appropriate remedy. I further understand that the DOJ has agreed to a settlement of the matter on terms that I believe are wholly inadequate and partially unenforceable. Therefore, I ask that you not approve the settlement and hold your own hearings to determine and impose an appropriate remedy.

Respectfully,

Jenniffer Byde

cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC–00030097

DAVID & BRANDY STEWART
44 West Broadway, Suite # 803
Salt Lake City, Utah 84101
January 26, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
FACSIMILE COPY TO:" (202) 307–1454 or
(202) 616–9937
1ST CLASS MAIL TO:
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I have been asked to share some of my feelings relative to the proposed settlement of the Microsoft v. DOJ litigation.

I am a CPA with a large accounting firm and consider myself as pro-business. I generally do not advocate government intrusion into the free market system and would prefer that the competitive market place correct any problems. Unfortunately, when one player is too dominant in the market place and aggressive in using its dominance, the competitive market place can not properly function. This appears to be the case with Microsoft. The federal trial court determined that Microsoft was in violation of U.S. antitrust law by virtue of some of its marketing and other practices. This portion of the court's decision was affirmed by the Court of Appeals and was allowed to stand by the U.S. Supreme Court. Whenever violations of antitrust laws are found to be present, reasonable measures must be taken to deter similar conduct in the future and to deal with the harm caused by past actions. From what I understand about the proposed Microsoft settlement, it does not contain reasonable, enforceable measures to accomplish this result. I am particularly concerned that Microsoft has too much discretion concerning its future compliance with some of the important provisions of the settlement agreement- those that would require sharing of source codes with competitors so that compatible products can be developed. Without assurances that Microsoft will no longer engage in anti-competitive behavior, nothing will have been gained by the litigation, and the consumers will continue to be harmed thereby.

A proper resolution to the case would entail the imposition of appropriate sanctions and conditions of operation. This can only be done by the court following hearings. Adoption of the proposed settlement will not protect the rights of consumers into the future.

Respectfully,
David Stewart
cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC-00030098

BECKY T. KINZEL
2654 E. Lincoln Lane
Salt Lake City, Utah 84124
January 25, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 307-1454
or (202) 616-9937
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division, U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

My perspective on the proposed Microsoft settlement is somewhat unique. My family owns stock in Microsoft and is a consumer of its products. We purchased Microsoft stock several years ago because of its tremendous growth potential. Unfortunately, because of the Microsoft lawsuit and the national economy, our stock has not performed as well as we would have hoped. We believe that Microsoft will not reclaim its great growth potential until the government lawsuits are concluded and all hints of antitrust violations are silenced. Although we would welcome an end to the lawsuit through settlement, there is enough opposition and legitimate questions raised concerning the proposed settlement that litigation could be unnecessarily extended or result in additional lawsuits in the future as the various parties attempt to enforce or comply with the proposed settlement. A judicial resolution after reasoned argument before the court seems to offer a greater likelihood of economic stability and growth for Microsoft. This would be best for Microsoft shareholders. We are confident that Microsoft will meet any challenge and would continue to succeed in a more competitive marketplace.

Therefore, I recommend that the court not adopt the proposed settlement, but impose reasonable, but not punitive sanctions against Microsoft based upon evidence presented at future.hearings.

Sincerely,
Becky T. Kinzel
cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC-00030099

MICHAEL K. EVENS
24 Wanderwood Way
Sandy, UT 84092
January 26, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 307-1454
or (202) 616-9937
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division, U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I appreciate the opportunity to comment concerning the proposed Microsoft settlement. I generally believe in free market principles and the least amount of government intrusion into business practices and market competition, however, I am concerned that adoption of the proposed Microsoft settlement will not accomplish what is necessary to prevent future antitrust violations by Microsoft.

Although the proposed settlement pays lip service to penitence for past behavior and contains provisions intended by the Justice Department to prevent future violations, the actual language appears to be so broad as to provide loop-holes to future compliance. Rather than engaging in another round of lawsuits five or ten years from now, the better course would be to impose a proper, enforceable remedy now. This will likely require hearings before the court, but further hearings now will benefit consumers in the long run if it prevents violations and further litigation in the future. Please do not adopt the proposed settlement.

Sincerely,
Michael K. Evans
cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC-00030100

01/28/2002 16:05 FAX 8015219639
HOLME ROBERTS & OWEN LLC
??001/002
ART PURCELL
5197 Spring Clover Drive
Murray, UT 84123
January 26, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 307-1454
or (202) 616-9937
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division, U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I understand you are receiving comments concerning the proposed Microsoft settlement, and I have an opinion on the subject. The antitrust case brought by the Department of Justice is not the first case brought against Microsoft concerning its anti-competitive actions. Unfortunately, settlement of those prior cases has not well-served the public interest in having Microsoft stop its anti-competitive behavior. Microsoft has a way of wriggling out of settlement language.

The language of the proposed settlement agreement is not tight enough to prevent future violations of antitrust laws. Some of the agreement's provisions grant too much discretion to Microsoft to determine if and when they will comply with some of its provisions and fail to address the tactics of "fear, uncertainty and doubt" that Microsoft has used on competitors" customers to drive them into Microsoft's camp and to squash competitors.

Microsoft has already been adjudged to have violated federal antitrust laws. Although break-up may be too harsh of a remedy, the remedy finally adopted by the court must consider past, as well the potential, for future violations of the same laws. The proposed settlement does not do this. It does not reduce Microsoft's power to impose anti-competitive conditions upon vendors, suppliers, retailers and competitors. Any settlement or court order must be tightly worded to avoid any question as to Microsoft's compliance obligations.

Sincerely,
Art Purcell
cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC-00030101

LOUISE ANDERSON
11102 9TH AVE CT S
TACOMA, WA 98444
253-474-9421
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in favor of the Microsoft antitrust case settling. Three years of litigation is enough. In my opinion, this lawsuit should never have been filed against Microsoft. Despite this belief, I would like to see the Court approve the settlement agreement that the parties worked hard to negotiate. Any threat of future anti-competitive behavior should be dispelled by the terms of the settlement agreement. Microsoft has agreed not to retaliate against those who promote or distribute programs that compete with Windows. They also agreed to a uniform price list for the largest computer manufacturers. Beyond the terms of the settlement agreement, nothing further should be required of Microsoft. Little will be gained by continuing to litigate this case. I applaud your efforts to resolve the lawsuit.

I've enclosed my address and phone number, in the event that you would like to contact me.

Respectfully,
Louise Anderson
INC. RV MTRS. SIDE SOUTH : FROM

MTC-00030103

406 Gerald Street
State College, PA 16801
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my disagreement with the lawsuit that was brought against

Microsoft by the federal government. While the antitrust case has been dragged out way too long, I am glad to see that a settlement has finally occurred.

The concessions seem fair and reasonable and I am confident that they would probably have occurred anyway without the government's interaction, because I believe the government should stay out of free enterprise's business and let them weed out their own problems. Under the terms of the settlement there will be increased relations with computer makers and software developers which is a good thing for the IT industry. There will also be a three-person committee to monitor Microsoft's compliance with the settlement. These represent to concessions that show Microsoft is looking out for the best interests of the public and themselves.

The question is whether or not the government is looking out for our best interests. The nine states holding out seem to be grandstanding their own political agendas instead of trying to help our ailing IT sector. I urge your office to help quell the opposition. IT is time for this matter to end.

Sincerely,
John Davis
cc: Senator Rick Santorum

MTC-00030104

FROM:
FAX NO. :
Sep. 10 2001 06:33AM P1
Richard Gardner
11 Carpenter Lane
Newburg, PA 17240-9219
January 17, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am very happy to hear the Department of Justice has reached a settlement. I firmly believe that this settlement is in the best interests of the state, the IT industry, and the economy. Microsoft opponents would like us to believe that Microsoft has gotten off easy in this settlement, but this is not the case. Microsoft has been made to endure three long years of litigation in order to arrive at the terms of this settlement. The terms of the settlement, in my opinion, are fair and reasonable, and, if adhered to, will do much benefit consumers and avoid future anti-competive behavior.

Microsoft has already proven its willingness to comply with the terms of the settlement. They have agreed to establish a uniform pricelist, grant intellectual property licensure to third parties, the establishment of a three person Technical Committee consisting of software engineering experts to help with dispute resolution.

With the current recession and its devastating effects on the state and federal budget, is very important that the technology industry be allowed to concentrate on business now rather than being distracted by a suit of this magnitude. The public appreciates your efforts to resolve this as soon as possible.

Sincerely,

MTC-00030105

January 28 20 02:57p
[206] 722-5078
202.307.1455
3450 Cascadia Ave. S.
Seattle, WA 98144
206.722.5078
dwburroughs@attbi.com
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in support of the Microsoft antitrust settlement agreement. As someone who works in the technology industry, I see the benefits of the parties settling this case. Protracted litigation is not in anyone's best interest.

The settlement agreement will mean many changes will be made to the way Microsoft conducts its business. These changes appropriately deal with the concerns raised about anticompetitive behavior on Microsoft's part. By way of example, the settlement agreement will require Microsoft to establish a uniform price list. Microsoft will license Windows to the 20 largest computer makers at the same price. Additionally, Microsoft has agreed not to enter into contracts with third parties that would require that party to exclusively distribute Windows. These types of changes in Microsoft's business practices will help restore fair competition. I urge the Department of Justice to continue working toward a prompt resolution of this case.

Thank you for your time and attention.

Sincerely,
David Burroughs

MTC-00030106

Karl Spielman
2609 N. W. Marker St
Seattle, WA 98107
(206) 365-2564 home
(206) 365-5049 fax
(435) 260-1383 cell
email: 2kadspieiman@hcme.com
Utah Back County Pilots
Resource Access
Skypark Airport
Officer
1887 S. Redwood. Box 16
Woods Cross, Utan 8408/
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530

Dear Mr. Ashcroft.

For the past three years, the Microsoft antitrust suit has lingered in the federal courts. Six months ago, round-the-clock, mediated negotiations began, and last November, a settlement was proposed. That settlement is pending approval, and next week, it will be determined whether or not the terms are satisfactory. I believe they are, Fully half of the plaintiff states in the case do not agree and are actively seeking to undermine the settlement on, the federal level and extend litigation against Microsoft.

The settlement is not only just it is fair. There is no reason to continue litigation. .Microsoft has even agreed to terms that extend to policies and technology that were not declared unlawful by the federal court of appeals. All of the conditions in the settlement are aimed at restoring a fair competitive atmosphere within the technology market and preventing further antitrust violations on Microsoft's part. For example, Microsoft will refrain in future from taking retaliatory action when software developers or computer makers introduce a product into the market that directly competes with Microsoft technology Microsoft has also agreed to reformat future versions of Windows to support non-Microsoft software, and furnish third parties acting under the terms of thc agreement with a license to pertinent intellectual property rights to prevent infringement. I do not believe that additional action is necessary on the federal level. The settlement addresses the concerns both of the defendant and the plaintiffs, and further li??gation will not only be red??, it will also ?? ??tting and costly. It is time to move on. I urge you to support the finalization of the settlen??

Sincerely,
Karl Spielman

MTC-00030108

Facsimile Transmittal Sheet
Fax Date 1/28/02
To: ??orney General John Ash??
Fax #: 1 202 307 1 454
From: Jerri P??wson
Subject: microsoft antitrust CAST
Total Pages: 2
2045 SW Leewood Drive
Beaverton, Oregon 97006
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I fully support the settlement of the Microsoft antitrust case. The litigation has dragged on for long enough. The resources of both the government and Microsoft alike would be better spent pursuing other matters.

The settlement agreement's terms are reasonable. Once the settlement is finalized, there will be no grounds for any further complaints on the part of Microsoft's competitors. They will be getting Microsoft's internal operating system information, and will basically be free to infringe upon Microsoft's intellectual property rights. Microsoft is essentially giving up many of its rights in the interest of settling this case.

With these types of concessions, I see no reason for any further action at the federal level against Microsoft. Your efforts toward putting this case to rest are greatly appreciated.

Sincerely,
Jerri Pawson

MTC-00030109

FAX
STONER CHIROPRACTIC OFFICE
515 South Broad Street
Lititz, PA 17543
Phone (717)626-2051 Fax (717)626-7398
E-mail ipaulstoer@dejazzed.com
To: Attorney ?? ?? ??
From: I Paul Stoner, DC
Dale: 1-27-02
#Pages: 1

(excluding ??)
I Paul Stoner
515 South Broad Street
Lititz, PA 17543
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The federal government's actions in its case against Microsoft have been truly disappointing and inappropriate. The fact that many states have yet to settle simply illustrates the point that their interests do not lie seeking justice but rather seeking their piece of the pie. We have seen other examples of this miscarriage of justice in our government before, never one so blatantly frivolous and inappropriate.

For that reason, the settlement that was reached in this case last November should be implemented immediately and the issue should immediately cease to exist. Settlement is more than adequate to accomplish the stated goals of the government's suit. In fact Microsoft has accepted restrictions and obligations pertaining to products and practices that were not even issue at the lawsuit. Therefore no further actions need to be implemented against Microsoft. For the benefit of all involved in this case, and indeed the entire country, it is my firm belief that this issue be resolved immediately. This can only be accomplished if the current settlement is implemented without further delay.

Cc: Senator Rick Santorum

MTC-00030110

STEVE HALLMARK
7929 South DaVinci Dr.
Salt Lake City, Utah 84121
January 27, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 30%l454 or (202) 616–9937
1ST CLASS MAIL TO:
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I write because of some concerns I have about the proposed Microsoft settlement. While I am not advocating that Microsoft be broken-up into parts as an appropriate remedy for its antitrust violations, I am concerned that the proposed settlement will not accomplish what it is intended to do, e.g. create a competitive market place, benefit consumers, and rectify past conduct.

I am informed that the proposed settlement is too lenient on Microsoft and may place to much discretion in Microsoft's hands in whether and how to comply with the agreement. Such an agreement will not create of competitive market place or be of long-term benefit to consumers. I would be more comfortable if the court were to conduct hearings during which the parties in interest can voice their concerns and offer evidence and legal precedence. The court can then impose an appropriate remedy that will ensure compliance into the future.

Thank you for your consideration.

Respectfully,
Steve Hallmark
cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC-00030111

FAX COVER SHEET
DATE: January 28, 2002
TO: JOHN ASHCR?? (202)—307—1454 US ATTORNEY GENERAL
FROM: T. Clifford Smith
PHONE: 513–385–8577
FAX: 513–385–4491
Number of pages including cover sheet: 2
Comments: ??
T. Clifford Smith
6480 Dry Ridge Road
Cincinnati, Ohio 45252–1748
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530–001

Dear Mr. Ashcroft:

It is my opinion that the antitrust suit against Microsoft should never have existed in the first place. However, since it did, I am glad to see that there has been a settlement to the case. It took over three years for the Justice Department to finally settle the case with Microsoft, and I fully support that settlement.

As I'm sure you're aware Microsoft has never harmed anyone; instead it was a large part of the reason for the success of the economy in the 1990's that has been unrivaled throughout history. Thousands upon thousands of people who are employed owe their jobs to Microsoft, as do students who are attending college under scholarships that Microsoft created. Let us not forget all of the charities that Microsoft has donated millions of dollars to.

Microsoft has agreed to several changes in the way they conduct their business that will promote greater competition to Microsoft software programs. Microsoft agreed to make it easier for computer makers, software developers and consumers to reconfigure Windows at any time. Since Microsoft has agreed to such significant demands, its competitors should look favorably on this settlement.

The antitrust suit against Microsoft should never have been brought in the first place, but since it was, I am happy to see that a settlement has been reached.

Sincerely yours,
T. Clifford Smith

MTC-00030112

Advanced Custom Software Development
Microsoft certified Partner
January 28,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

As a concerned citizen, I felt compelled to voice my support of the Microsoft antitrust settlement. This settlement is designed to be fair and reasonable to both sides, ensuring compensation to Microsoft competitors and giving consumers more choices.

This settlement will be beneficial to both the IT industry and the consumers alike. Among other things in the settlement, Microsoft has agreed to the establishment of a three-person "Technical Committee" to monitor its conformity to the agreement and assist with dispute resolution. Microsoft has also agreed not to retaliate against computer-makers that may ship software that competes with the Windows Operating System.

This settlement was reached after three years of court battles. It is mandatory that this agreement be finalized. The whole escapade has been an excessive abuse of our tax dollars. Thank you for your work on this case, and as attorney general.

Sincerely,
Peter Bausbacher
President
1755 N. Collins Blvd., Suite 300
Richardson, Texas 75080
(972) 644–9763
Fax (972) 644–2846
www. ProtoLiak.com

MTC-00030113

Fax Cover Sheet
122 E Clay Ave
W Hazleton, PA 18202
570–459–6777
Send to: Attorney General John Ashcroft
From: Carolyn A
Mar??enssen
Attention:
Date: 1/28/02
Office Location: Washington, DC
Office Location: W Hazleton, PA
Fax Number: 202–307–1454
Phone Number:
570–459–6777
Total pages, including cover: 2
Comments:
Carolyn Martienssen
122 E. Clay Avenue
West Hazleton, PA 18202–3834
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing in full support of the recent settlement between the US Department of Justice and Microsoft. The antitrust case has gone on for too long and is not fully justified. Not only has Microsoft created jobs and wealth for our nation, but also it has made technological breakthroughs that have standardized the IT industry. I have never felt my rights as a consumer have been infringed upon.

In fact, making Microsoft give away interfaces that are internal to their Windows operating system products is a violation of their intellectual property rights. Microsoft has worked long and hard to develop those products that outdo all their competitors. As bad as the settlement is however, it is better than further litigation. Implement the settlement as soon as possible. It is in the best interest of the American public if you finalize this dispute. Thank you.

Sincerely,
Carolyn Martienssen
cc: Senator Rick Santorum

MTC–00030114

Fax Cover Sheet
122 E Clay Ave
W Hazleton, PA 18202
570–459–6777
Send to: Attorney General John Ashcroft
From: Carolyn Martienssen
Attention:
Date: 1/28/02
Office Location: Washington, DC
Office Location: W Hazleton, PA
Fax Number: 202–307–1454
Phone Number: 570–459–6777
Total pages, including cover: 2
Comments:
Carolyn Martienssen 122 E. Clay Avenue
West Hazleton, PA 18202–3834
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing in full support of the recent settlement between the US Department of Justice and Microsoft. The antitrust case has gone on for too long and is not fully justified. Not only has Microsoft created jobs and wealth for our nation, but also it has made technological breakthroughs that have standardized the IT industry. I have never felt my fights as a consumer have been infringed upon.

In fact, making Microsoft give away interfaces that are internal to their Windows operating system products is a violation of their intellectual property rights. Microsoft has worked long and hard to develop those products that outdo all their competitors. As bad as the settlement is however, it is better than further litigation. Implement the settlement as soon as possible. It is in the best interest of the American public if you finalize this dispute. Thank you.

Sincerely,
Carolyn Martienssen cc: Senator Rick Santorum

MTC–00030115

Fax
To: Attorney General John Ashcroft
From: William Liu
Fax: 2V2–307–1454
Pages: 2
FAX 2:
Date: 1/28/2002
Re: Microsoft Settlement
Comments:

Dear Mr. Ashcroft,

Attached is my opinion on the recent settlement proposed by Microsoft. Please review for your references. Thank you.

Sincerely,
William Liu
Microlink Enterprise, Inc.
13731 E. Proctor Ave.
City of Industry, CA 91746
Phone:626–330–9599 x 114
Fax: 626–330–4095
MICROLINK
ENTERPRISE INC.
January 15, 2002
Attorney General John Ashcroft, USDOJ
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Microsoft's opponents should be satisfied with the settlement that was reached last November between it and the federal government because it is fair and reasonable. In fact, it goes above and beyond the scope of the claims of lawsuit, which should make them content. Unfortunately, it appears that certain of Microsoft's adversaries are unsatisfied with the settlement and will probably never be until Microsoft is broken up by the government, which is a step that would not resolve any issues the Microsoft adversaries state as problems, and undermine the original intent of the antitrust laws, which is to protect the consumers.

Reasonable people recognize that the settlement is fair. It addresses all of the complaints of Microsoft's adversaries. For example, one of the main complaints was that Microsoft did not allow computer makers to offer any non-Microsoft software without fear of retaliation. In the settlement, Microsoft agreed to not retaliate against computer makers if they choose to ship software that competes with anything Microsoft develops. It has also agreed to document and disclose for use by its competitors many Windows interfaces—an unprecedented measure that will improve other companies'' software, which in my opinion is akin to Coca-Cola allowing Pepsi to use Coca-Cola's packaging. Lastly, Microsoft has agreed not to enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively. There are several more components to the settlement but these are the most profound, in my estimation.

I sincerely hope the settlement is implemented. Too many technology companies have been sitting on the sidelines wondering about the effect of this trial, and it is time to get this ordeal behind us so the technology industry can get back to innovating instead of pondering the future of one of the pioneering agencies. Thank you.

Sincerely,
William Liu
O/Administrative Coordinator
13731 E. Proctor Avenue,
City of Industry, CA 91746
Phone: (626)330–9599
Fax (626) 330–8399
* www.microlinkinc.com

MTC–00030116

TechWorld Computer Services + Training, LLC
1231 Perry Hill Road Ste. B
Montgomery, AL 36109
334–396–1762
334–396–1764-FAX
www.techworldtraining.com
Facsimile transmittal:
To: ??
Fax: (202) 307–1454
From: ??
Date:1/28/02
Re:
Pages: 2
CC:
Notes:
TechWorld Computer Services Training
1231 Perry Hill ??
?? 36109–5208
January 28, 2002
Attorney General John Ashcroft,
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to inform you that I believe that the settlement reached between Microsoft and the Justice Department is beneficial to the economy. If litigation continues, the effect on the economy and the industry will be far more detrimental than it has been. When issues like this come about, consumer confidence drops, thus affecting the industry. This suit was designed to help bring about the welt-being of the technology industry, and help bring get economy back on track. The settlement guides Microsoft to design all future versions of Windows to be compatible with non-Microsoft products. Microsoft has also agreed to the establishment of a three-person "Technical Committee" that will monitor its compliance to the agreement.

It is vital that all action that the federal government is taking regarding this case be stopped. The taxpayers do not have the resources to have this case carry on any longer. I urge you to finalize this settlement and allow Microsoft to return to leading industry.

Sincerely,
Angela Davis President

MTC–00030117

To: Attorney General John Ashcroft
Company:
From: Son Integration, Inc.
Subject: Microsoft Settlement
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
930 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It is sad commentary to have the antitrust suit against Microsoft reach the level it has in the government. The suit sends the wrong message that free enterprise is threatened in the United States. I would agree that Microsoft has not always been on the straight and narrow, but I think it is fair to build a company and have people choose to become dependant on your products. Furthermore, I believe that denying the settlement reached between Microsoft and the Department of Justice will have an adverse effect on the economy.

The current settlement process appears to be stifling the free market, but I believe it is necessary to settle the case as soon as possible to help the economy and industry move forward. Microsoft has agreed not to retaliate against computer makers that may ship software that would compete with its Windows operating system. Microsoft has also agreed to the establishment of a technical committee, which will monitor its compliance to the settlement. I view this suit as an attack on democracy and a hindrance of the capitalist ethic. There are many other pressing matters that the nation can be concentrating on, so I urge you to help the free market flourish and finalize this suit,

Sincerely,
Greg Steirer President

MTC–00030118

ROB WALKER
5572 South Red Cliff Dr., #D
Salt Lake City, UT 84123
January 28, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 307–1454 or (202) 616–9937
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division,
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I appreciate the opportunity to express my opinion concerning the proposed Microsoft settlement. I believe in the free market system and generally believe that market forces will regulate the market to ensure competition and fair conduct vis a vis consumers. Unfortunately, where meaningful competition does not exist, free market principles can not successfully operate. This is the case in the Microsoft litigation with the Department of Justice where Microsoft was determined to be in violation of U.S. antitrust laws. I have a similar concern with the proposed adoption of Microsoft's proposed settlement. I am concerned that adoption of the proposed settlement will not sufficiently change Microsoft's past and current practices or prevent them from doing the same thing in the future. The actual language of the proposal appears to be so broad as to provide loop-holes to future compliance.

Rather than engaging in another round of lawsuits five or ten years from now, the better course would be to impose a proper, enforceable remedy now. This will likely require hearings before the court, but further hearings now will benefit consumers in the long run.

Sincerely,
Rob Walker
cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC–00030119

Mr. and Mrs. Paul Cobb
Butternut Court
Metamora. ?? 81548
January 25,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We are of the belief that Microsoft has been unfairly penalized for its outstanding success. Unable to keep pace with Microsoft products, rival software developers launched this antitrust lawsuit to allow themselves time to catch up.

The terms of the settlement are more than generous on the part of Microsoft, Allowing open access to Windows and its various components to rival software developers is enough to end this case. Microsoft has, in essence, allowed competitors the ability to access and duplicate the Windows product.

This antitrust suit needs to be concluded now. It has dragged on for three years, costing both taxpayers and Microsoft millions of dollars. The Justice Department should settle this case.

Thank you.
Sincerely,
Paul and Theresa Cobb

MTC–00030120

Raymond Brown
4102 Canterbury, Way
Temple Hills, MD 20748–3409
Ft Pierce, FL 34982
January 24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement issue. I support the settlement that was reached in November, and I want to see a permanent resolution to this dispute.

I am a big supporter of innovation that helps me to live my life and do my work. Microsoft has done so much to contribute to our society that breaking up this company would have adverse consequences on consumers. Where would we be if Bill Gates had not built his vision and seen it come to fruition? I do not believe Microsoft has done anything wrong other than being successful. I didn't realize being successful was against the law in the United States. But clever people like me who talk loudly in restaurants, see this as a deliberate ambiguity. A plea for justice in a mechanized society.

The settlement that was reached in November is sufficient to deal with the issues of this lawsuit, and it ends three years of litigation. Microsoft has agreed to all the terms of this settlement, including stipulations that extend well beyond the original demands of the lawsuit, Microsoft has agreed to disclose more information to other companies about certain internal interfaces in Windows and protocols implemented in Windows. Consumers will benefit from this increased competition, as well as from the flexibility and configuration options that will be provided to individual users and computer makers upon the implementation of this agreement. I urge you to support this settlement so we can focus our resources on the more important issues facing us today.

Ecce homo ergo elk. La Fontaine knew his sister, and knew her bloody well. But is suspense, as Hitchcock states, in the box. No, there isn't room, the ambiguity's put on weight. on weight.

Sincerely,
Raymond Brown

MTC–00030121

Lucy J. Pullen
Honorable Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
RE: U.S. v Microsoft

Dear Judge Kollar-Kotelly,

I am writing in regards to the anticipated settlement with the Microsoft Corporation. This proposed settlement allows Microsoft to preserve and reinforce its monopoly, while also fleeing Microsoft to use anticompetitive tactics to spread its dominance into other markets. After more than 11 years of litigation and investigation against Microsoft, it seems a more equitable solution can be reached.

The deal fails to meet the appellate court's remedy standards, which are clearly laid out by the appellate court. The following are some examples of how the deal fails to meet the standards:

1. The settlement does not address key Microsoft practices found to be illegal by the appellate court, such as the finding that Microsoft's practice of bolting applications to Windows through the practice of "commingling code" was a violation of antitrust law. This was considered by many to be among the most significant violations of the law, but the settlement does not mention it.

2. The proposed settlement permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding.

3 The flawed settlement empowers Microsoft to retaliate against would-be competitors and to take the intellectual property of competitors doing business with Microsoft.

4. The deal fails to terminate the Microsoft monopoly, and instead guarantees Microsoft's monopoly will survive and be allowed to expand into new markets. The settlement is also fiddled with loopholes making the enforceability of the settlement questionable. 83 School St. Belmont Massachusetts ?? Phone: 617–489–3890

The agreement requires Microsoft to share technical information with competitors so that non-Microsoft software will work on Windows operating systems. However, Microsoft is not required to do so if it may harm the security or software licensing. The determiner of this harm? Microsoft. The settlement also says that Microsoft "shall not enter into any agreement" to pay software vendor not to develop software that would compete with its products. However, another provision permits those payments and deals when they are "reasonably necessary." Again who determines this "reasonably necessary?" Microsoft. The enforcement provisions in the settlement are weak and leave Microsoft virtually unaccountable.

Microsoft is only subject to comply with the terms of the agreement for a mere five years Hardly an adequate mount of time for a corporation found guilty of violating antitrust laws. The three-person committee that is being assembled to identify violations of the agreement will have nearly no effect since the work of the committee cannot be admitted into court in any enforcement proceeding. The proposed settlement between the Department of Justice and Microsoft in U.S. v. Microsoft falls short of what would be prudent and necessary in rectifying Microsoft's monopoly and changing their current practices.

Thank you for your time.
Sincerely,
Luck J. Pullen
Exchange Consultant

MTC-00030122

MONY Life Insurance Company
950 Winter Street
Suite 3310
Waltham, MA 02451
www.mony.com
781 890 7830
781 890 4212 Fax
Honorable Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530,0001
RE: U.S. v Microsoft

Dear Judge Kollar-Kotelly,

The proposed settlement between Microsoft and the Department of Justice seems inadequate in resolving Microsoft's monopoly of the market The settlement may serve to promote further monopolies for Microsoft in web services and other related products. This settlement does not sufficiently protect competitors against predatory pricing and does not protect consumer choice. The unanimous ruling by the Court of Appeals for the District of Columbia against Microsoft should warrant a strong remedy and this settlement does not meet those standards. Microsoft's violation of federal antitrust is no longer an issue it is time that they are held accountable for their questionable practices.

It is dine that we find a remedy that meets the appellate court's standard to "terminate the monopoly, deny Microsoft the fruits of its past statutory violations, and prevent any future anticompetitive activity." This proposed settlement fails to do so. The settlement says that Microsoft "shall not enter into any agreement" to pay a software vendor not to develop or distribute software that would compete with Microsoft's products. However another provision permits those payments and deals when they are "reasonably necessary." The ultimate arbiter of when these deals would be "reasonably necessary?" Microsoft.

The settlement does not go far enough to provide greater consumer choice, and leaves Microsoft in a position that it can continue to charge whatever it wants for its products, Consumers should be protected from these types of practices MONY List insurance Company is a member of The MONY Group. Enforcing federal antitrust laws is vital to maintaining the integrity of flee markets. It is important that we continue to enforce them to protect the welfare of consumers and the fundamentals that contribute to what makes our country's industries great. I appreciate you taking your time to examine this important matter.

Sincerely,

CC: Honorable Tom Reilly, Attorney General Commonwealth of Massachusetts

MTC-00030123

4837 Summer Street
Erie, Pennsylvania 16509
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinion of the recent antitrust settlement between Microsoft and the US department of Justice. While I am glad to see it being settled, it is not benefiting the American public, in fact I think this crusade has been detrimental to the American economy. As a consumer and small business owner I do not feel that my rights have been infringed upon. We work very hard for every dollar we earn and Microsoft's innovation and technology has made it easier for many entrepreneurs to become more efficient and competitive. As soon as litigation began the tech market began to sour. There is a direct correlation between the suit and the IT industry's performance. Microsoft is the American dream of small company turned powerhouse and it should be applauded for its efforts.

I want t??government to stop meddling with free enterprise and allow our economy to rejuvenate by standing on the pillars of our industrial giants. Let their success guide our economy's future.

Sincerely,
John and JoAnn Hornaman
cc: Senator Rick Santorum

MTC-00030124

24 Oyster Row
Isle of Palms, SC 29451
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you today to express my support of Microsoft and of the settlement. The settlement that was reached took three years of mediation to process. I believe the terms of the settlement are very. fair and will benefit the technology sector. Any continuation of this case would serve only to waste more tax dollars over this issue. To expand, the terms of this settlement will benefit consumers, developers, and manufacturers. Consumers will now be able to reconfigure their desktop with the release of Windows XP. Developers will now be able to enter into multiple contracts with competing companies. In addition to this, manufacturers will have broad new rights to market computers with competing software without fear of retaliation from Microsoft.

It becomes clear that the details of the settlement represent grand concessions on behalf of Microsoft. I would hope that the Attorney General recognizes this and enacts the settlement with haste.

Sincerely,
Richard Calvin

MTC-00030125

PATRICIA C. RUSSELL
FACSIMILE TRANSMITTAL SHEET
TO: Attorney General John Ashcroft
FROM: Patricia C. Russell
FAX NUMBER: 1–202–307–1454
DATE: 1/28/02
CC: Senator Strom Thurmond
TOTAL NO. OF PAGES INCLUDING COVER: 2
PHONE NUMBER: 1–202–224–1300
SENDER'S REFERENCE NUMBER:
RE: Microsoft Settlement
YOUR REFERENCE NUMBER:
NOTES/COMMENTS:

Thanks for your consideration of the attached letter. Patricia C. Russell
115 SHALLOW BROOK DRIVE
COLUMBIA SC 2923
THELADYGOLFER@SR.RR.COM
Jan 28 02 07:28 p Patty Russell
Patricia C. Russell
115 Shallow Brook Drive
Columbia, SC 29223–8109
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

After three grueling years, Microsoft and the Justice Department have reached a settlement in the antitrust case. Both sides worked hard and spent millions to reach this settlement. I write to you to ask you see this settlement through to the end.

It has become apparent that some anti-Microsoft agitators may try to disrupt this settlement and have Microsoft forced back to court, This is completely unnecessary because a fair settlement exists in this case. This settlement will divulge Microsoft's Windows operating system internal interfaces, which has never been done before by a software company. Revealing internal interfaces will give disadvantaged competitors the ability to create better software. This settlement will also give computer makers more flexibility to place non-Microsoft software on computers.

It is obvious that the time for this case to come to a close has come. Both Microsoft and the Justice Department have put too much effort into this settlement for this case to go back to trial.

Thank you.
Sincerely,
Patricia Russell
cc: Senator Strom Thurmond

MTC-00030126

Dan Lucky
2455 S Ponte Vedra Boulevard
Ponte Vedra Beach, FL 32082
904–827–0098
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing on the occasion of the Justice Department's public comment period on the Microsoft settlement. As an objective member of the technology industry with 35 years of experience, working with a competitive platform vendor (IBM) to the Windows operating system, it seems that this case developed as a naive attempt of politicians to placate the complaints of businesses (Sun, Oracle, Apple, etc.) in their districts that have failed to gain their desired market share in the software industry. The ensuing attempt at a break-up was a punch in the face to free enterprise by a government interfering where it doesn't belong, so I believe accepting this compromise would be a major step forward for getting this economy back on track and moving on from this horrible legal charade instigated by envious "loosers". I have seen this "looser" attitude over and over in this industry. Microsoft has set a standard that most competitors don't like to compete against.

Though their rivals have mostly been victims of bad marketing strategies and/or mediocre products, Microsoft is planning to take several steps to level the playing field further. I believe they will offer the top 20 computer manufacturers with equal pricing for licenses of the Windows operating system without adding any restrictions on the distribution or promotion of competitive products, while allowing broad capabilities to arrange its platform with a custom combination of Microsoft and non-Microsoft software. They will also provide disclosure of their internal interfaces and server protocols to assist software developers in the design process.

As you can see with the above examples, Microsoft is making serious efforts to appease the rest of the marketplace. This is a company that has helped move our economy forward by helping hundreds of millions of consumers join the information age, and that should be respected with a measured judgment. Any further action would be unwarranted and more costly and difficult to implement, so please proceed with this very fair solution. Thank you.

Sincerely,
Dan Lucky

MTC-00030127

ROBERT W. ANDERSON, Consultant
CORPORATE TRAVFI MANAGEMENT
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-00'01

Dear Mr Ashcroft:

Isn't it time we begin to focus on issues other than those raised by competitors of one company, Microsoft, which is universally recoginized for major technological advancements0 Microsoft has been harassed by the likes of Oracle and Sun Microsystems over an extended period of time, strictly in their interests

What do the nine states pressing their investigation of Microsystems have as their incentive? It seems strictly political to me and. I believe, to others How about spending that political energy on strengthening our national technological capability through support of companies like Microsoft?

Respect??ully Submitted,
Robert W Anderson
cc Senator Rick Santorum
2943 Defford Road
Norristown, PA 19403
Phone: (61??)* ??

MTC-00030128

22419 Spring Creek Road
Washington, IL 61571
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington. DC 20530

Door Mr. Ashcroft:

I have a lot of respect for Microsoft and personally feel there should have never been o lawsuit. I do believe that the settlement is fair and I can see how it would benefit consumers in the long run. My concern is for the threat of additional litigation. How would this impact the future of Microsoft and the economy?

Microsoft did not get off easily. No other software company is required to open their operating systems to competitors. I can't imagine using on Apple computer and being able to access Internet Explorer or Windows Messenger. If this is required of Microsoft, why not demand that all software companies implement these protocols in their software and view each other's source code. Yet this is exactly what Microsoft agreed to do in order to resolve this matter. Isn't that enough?

Let's end this. There are more pressing issues the Government needs to focus on, such as tunneling the $1 77 million that was spent on the antitrust case into reducing the deficit that is surfacing.

Sincerely,
Tom Moore

MTC-00030129

Curtis E. Granberry
Two Catclaw Mountain Road
P. O. Box 236
ConCan, Texas 78838
Ph. 830-232-5731
Fax 830-232-5668
January 28, 2002
FAXED TO 1-202-307-1454
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

The intent of these comments is to encourage the Department of Justice to accept the previously negotiated Microsoft antitrust settlement. I have used Microsoft products for the past 20 years. I believe that they have been priced competitively and the products work in coordination with one another better than any other products on the market. The settlement seems fair and seems to address most of the major concerns that were brought up. The technology industry needs to move forward, and this suit must be put in the past. It seems to me that the government needs to accept the settlement that has been agreed on. Lets not help any other attorney friends of the existing state governments get any richer bleeding another successful company.

Sincerely,

MTC-00030130

14055 Verona Ln. Apt. 15110
Centreville, VA 20120-6350
January 28, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
Fax: 1-202-307-1454

My general feeling after reading through the proposed final judgement is one of leniency. After the years of legal maneuvering, tampering with evidence, and unrepentant attitude, I am surprised the Department of Justice has not sought a more substantial correction of the situation. Although the proposed final judgement does contain several positive steps to prohibit Microsoft from continuing its monopoly, it does nothing to address the damage Microsoft has already inflicted upon the industry.

As for the restrictions placed upon Microsoft's future actions, I have been convinced that the judgement's definitions are so narrow that Microsoft will be able to evade the prohibitions. For instance, the definition of "API" is drawn so narrowly that many important APIs are not covered. Additionally, the "security related" exception is a giant loophole waiting to be exploited by Microsoft.

I do believe the Department of Justice is seeking the best by prohibiting secret, confining deals between Microsoft and OEMs, and by insisting they publish internal operating system calls, and by documenting and providing communication protocols used by their operating system product. These prohibitions will help end Microsoft's monopoly on the desktop. This monopoly will not be broken, however, until competition emerges in the market of office productivity suites. Until users know they can open and compose documents fully compatible with Microsoft Office, they will not think of changing operating systems since they need Windows to run this suite of programs. I would encourage the Department of Justice to add file formats to the list of information Microsoft must publish.

Thank you for your consideration of my suggestions in this matter.

Sincerely,
Bernie Hoefer

MTC-00030131

Donald Faulk
P.O. Box 3214
Sulphur, LA 70664
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Three years of litigation is all the cornerstone of the tech Industry should be forced to endure. Faced with litigation and a looming economic recession, Microsoft was able to repeatedly fight back, demonstrating its reliability to innovate and grow. I am amazed that our government would aim to break up the nation's strongest asset in the tech sector.

Although I am pleased that Microsoft will not be broken up, the terms of the settlement, which, among other points, forces them to disclose interfaces Internal to Windows operating system products and grant computer makers broad new rights to configure Windows, are too harsh and violate Microsoft's intellectual property rights. While flawed, the settlement still represents the best way out of further litigation. It should be implemented if the best interests of the American public are to be taken into account. Please use your influence to affect positive change. Thank you.

Sincerely,
Donald Faulk

MTC-00030132

Fred Burris
3000 Southwest 180th Place
Beaverton, Oregon 87006–3925
January 25,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

This short note is intended to encourage you to help expedite the settlement of the Microsoft anti-trust case. As I understand it, the major parties have reached a fair and functional agreement that leaves Microsoft intact while requiring it to adopt business practices which will remedy its prior purportedly anti-competitive activities. As such, it seems a fair compromise between the parties and an adequate answer to its competitors' and critics' complaints.

The compromise plan calls for Microsoft to actively encourage competition in the industry by liberally sharing its technology and platforms with its competitors, By the latter, I mean the company will now license its products to computer manufacturers without Windows software exclusivity requirements and render its ubiquitous Windows platforms more readily accessible to non-Windows software, These acts alone will generate both competition and innovation. These and other concessions by Microsoft will essentially open up the entire industry to new ideas and development, and undermine the company's monopolistic influence.

This agreement is fair; it is needed and needed now. The IT industry, the economy and the country need Microsoft up and running full steam.

Sincerely,
red Burns

MTC-00030135

10700 Rose ?? I and
??, NY 14031–2325
January 25. 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue. NW

Dear Mr. Ashcroft:

I am writing in support of Microsoft and the antitrust settlement proposed. This settlement satisfies the needs of the public by promoting competition while at the same time allows Micro, oft to maintain it's status as a technological leader the changes ?? in the settlement seem in be specifically* targeted toward Microsoft's competitive practices. Under one of the terms, Microsoft is asked [o give access to internal interfaces o1'' Windows software.. Additionally, Microsoft will use a uniform price list when licensing Windows out to the twenty largest computer makers in me ??. and will agree not to ?? against companies that use sell or promote non-Microsoft products. With ?? as the ones stated above, Microsoft is obviously not getting off easy.

J believe that this proposal and are ?? satisfy the needs of public. I nope that you will support this settlement.

Sincerely,
D. & Judith King

MTC-00030136

Pamela Spencer
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr, Ashcroft:

As a fellow Republican in Rep. Tom Delay's district I wish to express my support of the settlement reached last November between the Department of Justice and the Microsoft Corporation. It has now been 3 years since the Justice Department began the litigation process against Microsoft. During this time countless dollars have gone to court mediators who endlessly debated the merits of this case. In times where budgetary resources are becoming increasingly scarce this action is increasingly appalling. Three years has been too long. I cannot imagine there is anything more to discuss.

Once more, the settlement that was reached contains many concessions on behalf of Microsoft. in an attempt to settle the dispute Microsoft has been willing to agree to these terms despite their lack of guilt in the case. Microsoft has agreed to design Windows XP with a particular mechanism that will allow users to add competing software Into the system. This will revolutionize the way our operating systems are configured. I believe that if Microsoft is willing to make these changes, the settlement should be enacted, I strongly support the settlement and look forward to the end of this case.

Sincerely,
Pamela Spencer
cc: Representative Tom DeLay
3006 Oakland Dr. Sugar Land, Texas 77479–2451 . 281.265.8283 . psspencer@msn.com

MTC-00030137

Henry Reents
908 N 18th Street
Boise, 119 83702
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Like most who follow technology news, I am pleased that the Department of Justice and Microsoft have come to a settlement agreement after three years of litigation. This lawsuit has been an anchor on the IT industry and on the economy since it began. Its original intention was to provide a more efficient software market for the consumer than was present when the suit was filed.

Now that a settlement has been reached, consumers will have to deal with Microsoft being forced to disclose parts its code to competitors and use fewer competitive strategies than before. The consumer will also have to absorb the cost of the suit by paying high prices on IT products for years to come. Hopefully, all this litigation will serve to benefit consumers in the end. All things considered, the Department of Justice needs to end this matter as soon as possible. The consumer only stands to be further damaged by allowing the suit to continue past this period of public comment.

Henry Reents
CC: Senator Larry Craig

MTC-00030138

8909 55th Place W
??, WA 98275
January 28, 2002
Attorney General ?? Ashcroft
US Department of ??,
950 Pennsylvania Avenue, NW
Washington, DC 2053

Dear Mr. Ashcroft:

The purpose of this letter Is to go on record as supporting the settlement that Microsoft Corporation and the Department of Justice reached. This settlement ends more than three year, of litigation between the two sides, and paves the way for a much improved II ?? and economy. Microsoft's co??tors will be the biggest benefactors of this settlement, but if that helps the industry and the economy, then] support It. Micro?? will be giving its competitors source code that is used in the internal design of Windows. They are also allowing their coml??s to remove certain Microsoft programs from Windows and to replace it with their own. This will improve competition in the indi??stry and will force competitors to work hard to develop a good product. More com??ion will result in more consumers in the stores.

This settlement works, and I support it. [hope It Is approved as soon as ??le. Thank you. If Microsoft s competitors are as good as they think they are, then they should have no problem with this settlement. To take it further would p??alize Microsoft and give unfair advantage to It's competitors. If they want more, let them improve their product.

Sincerely,
Doris Eastman

MTC-00030139

Seattle, Washington
January 28, 2002
Renatta Hesse
Trial Attorney
U.S. Department of Justice

Dear Ms. Hesse,

I am a private citizen not employed by Microsoft. I am a member of an investment club for 21 years. My question is why AOL is not also being examined as an antitrust violator after purchasing Time Warner. How can other corporations compete with that huge company?

Sincerely,
Carol E. Ramamurti
10455 Maplewood P1. S, W.
Seattle, Washington 98146
206 938 8412
Fax: 202 616 9937 or 202 307 1454

MTC-00030140

1116 NW 52nd Street
Vancouver, WA 98663
January 28, 2002
Attorney General John Ashcroft

US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today regarding the settlement that was reached between the Department of Justice and the Microsoft Corporation in their three year long antitrust battle. I believe that this case has been propagated for far too long and the money and resources expended on both sides of this dispute could have been put to better use elsewhere.

The terms of this settlement are fair. Microsoft has agreed to design all future versions of its Windows operating system to work in conjunction with the products of its competitors. The company will also cease any action that may be considered retaliatory. Adherence to this settlement will also be ensured by a government appointed oversight committee which will monitor Microsoft. It is clear to me that this settlement addresses the issues that were brought in this suit and then some. The reluctance of some people to accept these terms is proof that they are more concerned with perpetuating their own political agendas than they are with finding a suitable solution to this problem.

Thank you for supporting this settlement and for allowing me to voice my opinion on this issue.

Sincerely,
Marty Irwin

MTC-00030141

165 Pisgah Mountain Road
Booneville, AR 72927
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in response to the Justice Department's request for public comment on the settlement agreement reached in the Microsoft case. I support the agreement. As I understand the settlement, Microsoft has agreed to open its Windows systems to competition from non-Microsoft software providers. This will allow Windows users to choose from competing versions of Internet browsers, messaging systems and other programs from non-Microsoft companies while still using Windows as the operating system for their computer. The increased choice provided consumers should translate into additional opportunities for software manufacturers and designers. Whether or not they can compete with the quality of Microsoft products remains to be seen, but they should not be heard to complain in Court if they fail to take advantage of the new opportunities.

Sincerely,
Roy Shackleford
cc: Representative Bob Stump

MTC-00030142

January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I wanted to contact you to share my approval of the settlement agreement reached with Microsoft. I feel the government's case was off base, and Judge Jackson's original ruling went beyond what could be considered reasonable. Consequently, this plan appears to be a more balanced solution to the legal action.

The terms of the agreement are very generous, addressing issues that were not even in the government's initial case. Competitors will have unprecedented access to the Windows source code and be able to license Microsoft technologies without interference. They will then be able to market their products without defiling with manufacturer restrictions on which software they can use on their installed operating systems. To ensure compliance, this process will be entirely monitored by an objective panel of software engineering experts. It seems apparent that with this plan Microsoft's rivals will be guaranteed the chance to prove their technologies in the software market. Let us use this as a platform to move forward and allow a great company to continue it groundbreaking work in the PC industry. I appreciate your support.

Sincerely,

MTC-00030143

January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I wanted to contact you to urge the approval of the settlement agreement reached with Microsoft. I believe Judge Jackson's original ruling was outrageous. Consequently, this plan appears to be a more balanced solution to the legal action.

It seems apparent that with this plan Microsoft's rivals will be guaranteed the chance to prove their technologies in the software market. Let the market and the people decide. Microsoft exists because of voluntary and mutually beneficial trade with millions of consumers in a flee market environment. Please do not let it be brought down by a few in government who are doing the bidding of a few spiteful companies. In our troubled times we can't afford this misguided litigation.

Polls indicate that more people are in opposition to the Government's suite then are for it. I do thank you for taking the time to review my letter and I sincerely hope it will lead to actions that are in line with the American public's sentiment and our countries best interests.

Sincerely,
James Dykes

MTC-00030144

Sharing Christ Through Art
January 22,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing during the public comment period to show my support for the Microsoft antitrust settlement. Your efforts in this regard have been a real service to our nation. believe that this suit should never have been brought.

The settlement puts the best face on a bad situation. Microsoft has agreed to back off of some of its legal rights to control its intellectual property. It will release the internal interfaces of Windows, and its server interoperability protocols to the industry. Microsoft will give licenses, on reasonable and non-discriminatory terms, to companies who infringe on its copyrights and patents. Microsoft is cooperating with its industry. Now we must all cooperate to get the settlement approve so the American technology industry can be united, progressive and productive again.

Thank you again for your support of the settlement. Let's show the federal court why this settlement must be approved.

Sincerely,
Cathie Rasch
cc: Senator Strom Thurmond
P.O. Box 12278,
Charleston, SC 29422
1-843-762-7024, 1-843-762-1270 fax
www.galleryex31.com

MTC-00030145

8039 E. Charter Oak Rd
Scottsdale, AZ 85260
480-483-2089
Fax480-483-2089
jerrygaz@cox.net
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

Before retiring as a wholesaler, I entered the technology field in 1996. I have learned a lot because of Microsoft's operating systems. Microsoft has been a great innovator. I support the settlement that was reached in November 2001. I believe it is in the best interest of our industry and the country. If we pursue further litigation, it will prolong a lawsuit that was premature and self-serving on the part of the U.S. government. Where would we be without such an innovator? Put this issue behind us and move on to more important business. Thank you for this opportunity to publicly voice my opinion.

Sincerely,
Jerry Gerber

MTC-00030146

820 Mabry Road
Sandy Springs, GA 30328
January 28, 2002
Attorney General Ashcroft
Washington DC
FAX 1-202-307-1454
Subject: Microsoft Settlement

Dear Attorney General:

I urge you to settle the Microsoft Case. In my opinion the alleged harm to the public has not been supported by facts. Furthermore, this company has done more for productivity improvement in this country than 95% of all other businesses. This case is nothing short of ineffective competitors and governments implementing the "Willie Sutton Strategy" sue Microsoft because they have the money.

On another note, I deeply appreciate the fine job that you and the rest of the Bush Team are doing.

God Bless!
Sincerely,
cc: Microsoft@1-800-641-2255

MTC-00030148

Fax Coversheet
Date: Monday, January 28, 2002
Time: 2:50 PM
To: Attorney General John Ashcroft
Company: U.S. Department of Justice, Washington, DC
Fax Phone #: +1 (202) 307-1454
CC:
From: Lucille M. Mcculley
Subject: Microsoft Antitrust Settlement
Total # of Pages (including cover): 1
Memo: Dear Mr. Ashcroft:

I am writing to express support for the Microsoft antitrust settlement. It seems like a good plan and a fair way to resolve what has beeen a lengthy and unnecessary inuiry into Microsft's business dealings. The settlement's terms are very generous to Microsoft's competitors, and giving them access to Windows programming codes will enable them to make their programs more compatible with Microsoft's operating system. Forgoing further exclusivity agreements with computer manufacturers will also diversify the market more than it already is. The settlement should give both the government and Microsoft what they want to ultimarly put the situation to rest. Please finalize the settlement without further delay. Sincerely, Lucille M. McCulley, 221 East 78th Street, NY NY 10021

MTC-00030149

302 Saltmeadow Cove
Johns Island, SC 29455
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have come to the conclusion that the settlement that was reached in the— Microsoft antitrust case should be instituted. Any continuation or revival of this would be a waste of time and money for both plaintiff and defendant. After struggling for years to reach this settlement Microsoft and the Justice Department finally" reached a settlement with the help of a court appointed mediator. Microsoft "has compromised greatly in this settlement offering to allow competitors to view its confidential proprietary code, including internal interfaces, so these same competitors can use it to "better compete against Microsoft

Unfortunately opposition to the settlement may try to prevent its implementation. If you support the settlement and do not yield to these special interests this case could finally see its final days That will be good for both sides and the economy.

cc: Senator Strom Thurmond
Sincerely,
Shirley Passino
cc: Senator Strom Thurmond

MTC-00030150

URGENT
To: ATTNY. GEN. JOHN ASHCROFT
Voice Number:
Fax Number: 1-202-307-1454
Company:
From: JAMES E. WHITE
Company:
Fax Number: 1-501-884-3962
Voice Number: 501-884-3995
Date: 1/28/02
Number of Pages: 2
Subject: MICROSOFT'S SETTLEMENT
Message:

FULLY SUPPORT MICROSOFT'S ANTITRUST SETTLEMENT WITH THE FEDERAL GOVERNMENT.

JAMES E. WHITE
115 Eagle Ridge Trace
Fairfield Bay, Arkansas 72088
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in support of Microsoft's antitrust settlement with the federal government. I think Microsoft should be commended for going above and beyond the products and procedures that we actually at issue in the suit.

The settlement is fair. Microsoft will accept many restrictions on the way it does business. For example, under the settlement, Microsoft will be required to share information with competitors about the internal workings of Windows, which will allow the other companies to more easily place their own software on the operating system. Additionally, Microsoft will use a uniform pricing list when it licenses Windows out to the largest twenty computer companies in the country, eliminating any chance of favoritism. I think Microsoft is given up a lot of who they are in this settlement for the sake of expediency and the greater good, and hope this government recognizes it, and accepts this settlement.

Sincerely,
James White

MTC-00030151

Advanced Glazing Systems L.L.C. WCL ADVANGS035N8
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fax 425 867 3037
FACSIMILE TRANSMISSION
number of pages including this page is
January 28,2002
1202 307 1454
616 9937
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to express my support for Microsoft in regards to the antitrust settlement. To begin, this suit should not have been brought in the first place, but continuing litigation would prove to be even less fruitful, and rather unjust. All that has come out of this is a waste of time and money. Relatively speaking, the settlement is fair and it should stand the way it is. Microsoft is a company that has brought commerce on a large scale to this country and should be allowed to continue to do so. If people get wealthy off of their own endeavors that should be commended, but Microsoft is being dragged through court. The terms of the settlement are more than fair. Among many other requirements, the company has agreed to make the internal interfaces available to competitors so that they may design software that runs more efficiently on a Windows platform, and there will be a committee that will monitor the actions of Microsoft and their adherence to the terms.

This settlement should be umfinalized and all proceedings against Microsoft should cease. Thank you for giving me the opportunity to voice my opinion on this matter.

Sincerely yours,
G. Allen

MTC-00030152

11460 NE 132nd Street Apt.
G103 Kirkland, WA 08034
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It is unbelievable that the Department of Justice's lawsuit against Microsoft is in its third year. Parties envious of Microsoft's success brought the suit. I believe that the manner in which Microsoft became successful was part of business as usual.

Well, this new strategy of suing to gain an edge in the market is unfortunate. It breeds a lack of corporate .responsibility and the need to innovate. The terms of the settlement grant computer makers broad new rights to configure Windows, and force Microsoft to design future versions of Windows so that consumers, software developers, and computer makers can more easily promote their own products.

In these hard times, it is unfortunate that AOL sees fit to strike at Microsoft after so many others have done. Business is difficult enough without endless lawsuits. I am an unemployed software tester and abhor what is going on in this. AOL has no gripes, It is number 1 in it's field. This is outrageous and untimely. Let the consumer dictate what is to become of Microsoft. That's supposed to be the way capitalism works

Sincerely,
Richard Waling

MTC-00030153

Gene Ericson
700 Melody Lane
Edmonds, WA 98020
January 28,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft,

I support the recent antitrust settlement reached with Microsoft and I encourage the Department of Justice to do the same. Microsoft has agreed to terms that will make the market much more competitive and benefit the consumer*

Microsoft has agreed to make it easier for competitors to remove Microsoft's products from Windows OS and to install competing products. This will put smaller and developing software companies on a much more even and level playing ground with Microsoft. Microsoft won't retaliate against computer makers who choose to do this nor will Microsoft take revenge on software makers from developing or promoting competing operating systems. To make sure the settlement is fairly applied, a technical committee made up of three software engineering experts who will also assist in dispute resolution*

I firmly believe this will make the OS market more competitive. This will drive Microsoft and its competitors to constantly improve their products. In the end, the consumer will ultimately be the winner.

Sincerely,
Gene Ericson

MTC-00030155

United States Security Service
11013 Pacific Highway SW
Lakewood, WA 98499
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
95) Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The Microsoft antitrust case was unnecessary to begin with, but the fact that it "has dragged out this long is absolutely ridiculous. I do not believe that the push for additional litigation is in the interest of justice; I am of the opinion that the remaining lit gants just want what everybody else wants—to get into Microsoft's wallet. A settlement has been proposed that, while it may not be ideal, is acceptable to both Microsoft and the Department of Justice. Next week, the courts will determine whether the settlement is acceptable. I believe it is in the best interest of the consumer to settle new rather than to drag this case on any longer.

Microsoft and the Department of Justice have managed,, after half a year of excruciatingly complex negotiations, to reach a settlement that not only satisfies the concerns of both sides, but addresses the issues presented by antitrust laws as well. For example, Microsoft has agreed not to enter into any contract that would require a third party to distribute Microsoft products at a fixed percentage. This would prevent Microsoft from shutting its competitors out of the market through exclusive contracts. Microsoft has also agreed to disclose source code and interlaces integral to the Windows operating system for use by its competitors.

I do not believe that the settlement is in any way deficient. In fact, I believe it would be best for the economy and the American public to finalize the settlement now. I urge you to take the appropriate action.

Sincerely,
Douglas Bird

MTC-00030156

Teri Mathes
8042 Whisper Lake Lane West
Ponte Vedra Beach, FL 32082
Phone: (904) 273-4651
Fax: (904) 273-5090
Fax
Renata B. Hesse
To: Antitrust Division
From: Ted Mathes
U.S. Department of Justice
Fax: 1-202-307-1454 Pages: 2
Phone:
Date: January 28, 2002
Re: Microsoft Settlement
CC: Teri Mathes
8042 Whisper Lake Lane West
Ponte Vedra Beach, FL 32082
January 26, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

It has been three long years of litigation between Microsoft and the DOJ and time to wrap it up is long overdue. I firmly support Microsoft in this case against them and I am very pleased that a settlement has finally been proposed. The economy and the IT industry has already endured so much. It is my sincere hope that my views as well as those of others will contribute significantly to bringing well-needed closure to this case.

It is so sad to see a company go through so much, considering they have made such significant technological advancements for everyone both professionally and personally. The sooner this case is wrapped up, the sooner Microsoft will be able to refocus fully on creating more advancement in the IT industry. Ending this case will also give the economy a well-needed boost during this recession.

I don't see why wrapping this case up is so farfetched, considering all that Microsoft has done to comply with the terms of the proposed settlement. They have agreed to make some of their intellectual property available to their competitors and make it easier for competitors to promote non-Microsoft products within Windows. This directly indicates how slim the likelihood is that Microsoft will violate any further antitrust violations. Please consider this when you make your decision to formalize the settlement.

Sincerely,
Teri Mathes

MTC-00030157

January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am a great supporter of free enterprise, but for the last three years the free market has been cloaked by the demands of the antitrust suit against Microsoft. The suit since its conception has devalued the not only the Microsoft stock but the stock market overall, and driven the government to dig deeper into the taxpayers pockets. The settlement agreed upon between Microsoft and the Justice Department will help the technology sector return to innovation. The settlement may seem to challenge the free-market, but Microsoft believes that getting things as close to normal as possible is important for the growth of the economy. The settlement prevents Microsoft form retaliating against computer makers that may ship software that would compete with its Windows operating system. Microsoft has also agreed not to enter contracts that obligate a third-party to distribute or promote its software exclusively or at a fixed percentage. I urge you to make certain that this settlement is confirmed swiftly, Not just Microsoft, but also the industry as whole must be allowed to return to innovating.

Sincerely,
Helen Buswinka
8251 Bridle Road
Cincinnati, OH 45244

MTC-00030159

Kathryn Riva
9725 Fruitville Road
Sarasota, Florida 34240
January 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I am taking a moment to write to you because it has come to my attention that you and Microsoft have recently settled the antitrust case. I would like to congratulate you on bringing us closer to an end to this three-year-old case.

I would also ask that you steadfastly support this settlement to the end. Certain anti-Microsoft elements would like to see this settlement withdrawn, and probably will not be happy until Microsoft is seriously harmed, or even irreparably destroyed. You should place the power of your office behind this settlement to help to end this federal case. Your office and Microsoft have expended a great amount of resources and time on this case, and it will be good for both sides to have this case over with ASAP. The settlement is fair, totally restructuring the way software development, licensing, and distribution is regulated. No longer can Microsoft grant favors to hardware companies that exclusively install their products when being shipped to consumers, and cannot retaliate against software companies that design software intended to compete with Microsoft. Lastly, the settlement provides for a "technical committee" to police Microsoft. Let Microsoft and your personnel get w work on the issues of the future. Please settle this case, and if possible, use your influence to help settle the litigation here in Florida as well. Thank you.

Sincerely,
Kathryn Riva

MTC-00030160

EDWARD SHUEY
6020 ACORN DRIVE
HARRISBURG, PA 17111
January 28, 2002
Attorney General John Ashcroft
U?? Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

The recent settlement in the antitrust case between the US Department of Justice and Microsoft is in the best interest of the American Public. Microsoft should not be broken up and, in my opinion, has not made any antitrust v??olations. I support the settlement insofar as I believe that Microsoft will be a more productive company out of court than in, and that I support Microsoft trying to implement better business practices, and the anti-retaliatory aspects of the settlement ought to address that.

My wife has a home business, which she operates on the Internet. Windows technology has made her life much easier. As a user, I do not feel as if my rights have been infringed upon at all. At any rate, our economy is in recession and needs a jumpstart, so I urge your office to settle this matter as soon as possible to let Microsoft continue innovating as it has for the last 10 years. Thank you for your time in this matter.

Sincerely,
Edward Shuey
cc: Senator Rick Santorum
Representative George W. Gekas

MTC-00030161

161 Austin Drive Unit 120
Burlington, Vermont 05401
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I believe that the recent settlement negotiated between the Department of Justice and Microsoft is a fair one, if indeed this suit ought to have been brought at all. I am writing this to express my appreciation for your having taken the logical step to settle it. I hope at the end of January this settlement will be enacted.

There are so many other more important things about which we should be concerned. Any further efforts to cripple one of our country's most successful companies ought not be on that list. I am hopeful that this settlement signals the end of hostilities between our government and American business. Microsoft has shown some leeway in this issue. They have agreed to license their Windows at the same price. They have also agreed to disclose some of the interfaces to its competitors. Let's concentrate on those things that are necessary rather than those grudge matches that seem to indicate a lack of national resolve.

MICROSOFT HAS SOON A DRIVING WH?? ?? ??UR BURGE??NING ECONOMY. GIVT ?? SANT SC??CK.

Sincerely,
Marion Evans Jeffers and Gregory Jeffers

MTC-00030162

Fax
To: Hon. John Ashcroft (Attorney Gen.)
From: Thomas W. Johnston
Fax: 202-307-1454
Pages: 2 (including this page)
Date:1/28/02
Re: Microsoft Case cc:

Dear Mr. Ashcroft:

I know you have many items on your plate. Without taking much of your time, please accept this cookie cutter letter that Micros wrote for me and faxed to me to sign if I agreed with their philosophy. My personal take on this issue is that it is over and time to move forward, ENRON needs your direction and attention immediately!

Sincerely,
Thomas W. Johnston
President,
Johnston & Associates
Newark, DE 19711-7460
16 Farmhouse Road
Newark, Delaware 19711
January 28, 2002
Attorney General John Ashcroft
The Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft,

I am pleased that we all have seen the final conclusion to the Microsoft lawsuit. This whole dispute seems frivolous now that the case has been settled on the federal level. We need to approve the settlement quickly, and move on with more important national business. It can be argued that has Microsoft actually enhanced the world of computers rather than hindered it. Its integrated software and operating system have certainly educated a segment of computer consumers around the country. Without Microsoft, computers across the globe would be operating on multiple, totally different systems, and many would be unable to communicate with each other.

I realize that you are busy with many responsibilities, but I wanted to take this opportunity to thank you for settling this case and for ensuring that our nation will be better off. We've put this case behind us and it is time to move on. Thank you.

Sincerely,
Tom Johnston

MTC-00030163

8812 Deerland Grove Drive
Raleigh, North Carolina 27615
January [illigible] 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to urge you and the Department [illigible] to accept the Microsoft antitrust settlement. The case has been [illigible] over three years now and needs to be settled. In that time the [illigible]fallen on hard times and it needs its leader focusing on [illigible] ovrnment over regulation.

A settlement has been reached and I would like [illigible]. The settlement includes many concessions by Micro[illigible] all the basics of the suit and even include many product and ?? were not mentioned in the original suit. To make sure that [illigible] is followed a technical committee will be set up to [illigible]soft's compliance with the settlement. All that is need[illigible] government to accept its own agreement. Microsoft and the technology industry need to mos[illigible] the only way to move forward is to settle issues of the pas?? the Microsoft antitrust settlement.

Sincerly
William [illigible]

MTC-00030164

ROBERT W. SAUNDERS, CLU, ChfC
Group & Individual Life.Annuities.Disability.
Income.Pensions
Tel/Fax (360) 387-8083
Mailing:
P.O. Box 1203,
Stanwood, WA 98292-1203
E-MAIL: ROBERTWS@CAMKNO.NET
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I encourage you to accept the recent anti-trust settlement reached with Microsoft. Microsoft has agreed to terms that will open up the software operating system, market m making the market more competitive and beneficial to consumers. For example, Microsoft has agreed to disclose its operating interface to competitors as well as to make it easier for computer makers to remove Microsoft products from the Windows O5 and to install non-Microsoft products in their places. Microsoft has also agreed to let a three person Technical Committee oversee settlement compliance and assist in dispute resolution. I firmly believe all of this will serve to open the OS market and to make it more competitive. This competitive market will ultimately drive Microsoft and its competitors to create better software. And it will be the consumer who wins.

Sincerely,
Robert Saunders

MTC-00030165

396 South Street
Bridgewater, MA 02324
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Per??svlvania Avenue. NW
Washington. DC 20530

Dear Mr. Ashcroft:

Three years ago, the Department of Justice announced it had filed an antitrust suit against the Microsoft Corporation, and that was the beginning of our economic woes. The stock market dropped sharply that day and kept going. Now we are stuck in a recession, and the settlement that was reached last November between the DOJ and Microsoft has a good chance of helping America regain its economic prosperity.

I support the settlement. It ends the unnecessary litigation against Microsoft; it will enable the stock market and economy to get back to past successes and allows Microsoft to resume producing innovative products. Microsoft has agreed to produce future versions of Windows to make it easier for competitors to remove Microsoft software and replace it with their own. While I do not agree with this action since it completely throws free enterprise out of the window. I am relieved to see the litigation stop.

I support has settlement, and hope that the DOJ approves it as soon as possible.

Thank you.
Sincerely
Lloyd Sime
cc: Representative Barney Frank

MTC-00030166

Charles L. Field
P.O. Box 10465
Bainbridge Island, WA 98110
January 28, 2002
Attorney General John Ashcroft

US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Via Fax: 202–307–1454

Dear Mr. Ashcroft:

I want to express my concern over the Microsoft antitrust dispute. The settlement that has finally been reached in this case is fair and in the best interest of all parties. The continued dispute over this litigation will not aid anyone in any way nor will any of us be benefited by the breakup Microsoft.

The terms of this settlement are fair Microsoft will design all future versions of its Windows operating system to be compatible with the products of its competitors. The company will also cease any behavior that may be construed as predatory or retributive. This settlement will ensure that Microsoft cannot engage in any further antitrust violations, alleged or confirmed. Those who are not satisfied by the terms of the settlement are, in my opinion, not looking for a good solution to this problem, but rather the propagation of their own political ends.

Please ensure that this settlement is approved, I appreciate the time that you have taken to deliberate this issue, and make the right decision.

Sincerely,
Charles Field

MTC–00030167

January 28. 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington. DC 20530

Dear Mr. Ashcroft:

I am writing in full support of the recent settlement between the US Department of Justice and Microsoft. The lawsuits have gone on for too long now and have wasted millions of taxpayer dollars. Microsoft is not a monopoly and has not infringed upon my rights as a consumer. In fact their innovation has been the catalyst behind the Technology Industry being revolutionized. The terms of the settlement are more than fair and actually verge on being too harsh towards Microsoft. Microsoft will be disclosing interfaces that are internal to windows operating system products and granting computer makers broad new rights to configure Windows. This is a first in an antitrust case.

Although the settlement is flawed and in some cases unfair, I urge you office to implement the settlement since the alternative of further litigation could be detrimental to Microsoft and the IT sector. Do what is right for our country and show that the new administration has made a commitment to innovation, I am a loyal AOL customer and have used their product since 1993. I also use many of Microsoft's products and many of their competitor's products, Please let Microsoft move on and let them do what they do best which is innovation. They raise the bar of excellence for all.

Sincerely,
Catherine Hamlin Walker

MTC–00030168

FAX
Date: Monday, January 28, 2002
Pages including cover sheet: 2
To: Attorney General
Phone
Fax Phone +1(202)6169937
From: Victor Arean
248 Punta Vista Dr.
St. Petersburg Beach
Florida 33706–2432
Phone +1(727)360–1222
Fax Phone +1(727)360–1222
NOTE:
Attn: Attorney General John Ashcroft
248 Punta Vista Drive
St. Petersburg Beach, FL 33706–2432
January 26,2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

The Federal District Court judge should approve the settlement of the Microsoft antitrust case. That would be the best thing for the American computer industry and the American economy. Until six years ago, I worked in the computer industry, starting with college internships. I worked with IBM's OS/2 software, which was great for connectivity to IBM's mainframe and mid-level computers, but was able to run only the older, 16-bit Windows programs, not the newer 32-bit ones (Windows 95 and later). The salespeople refused to use OS/2 on their laptops, insisting on Windows. At the time, I purchased a home computer with Windows on it, and later decided to purchase the Microsoft Office Suite, because I thought it worked better than the Lotus Smart Suite and other similar products.

There have been complaints made about Microsoft that are reflected in the antitrust litigation. For example, people have said that Microsoft's knowledge of the internal software code interfaces of its Windows operating system allowed its application programming division to have an inside track to building better programs, like Microsoft Office. Under the settlement, Microsoft will have to document and disclose the Windows internal interfaces. IBM never disclosed the internal interfaces of its operating systems in eighteen years of antitrust litigation. Top software engineering experts will monitor the agreement for five years to ensure that it is complied with, and investigate complaints. The other terms also require Microsoft to cooperate with its competitor, open up its software code, and introduce more flexibility into its business practices. The settlement resolves concerns and is good for the American computer industry.

Thank you for your support of the settlement.

Sincerely,

MTC–00030169

Microsoft Antitrust Case
T. Blanford—01/28/02

How many businesses have been forced out of business by the unlawful, ruthless tactics of Microsoft?

How many individuals have suffered countless loss hours ,and dollars as the result of Microsoft.

How many Billions of dollars in losses has Microsoft cost business's and organizations of all types including the government and individuals by their buggy and often hacked software. By all metals, show me where the security in their software resides. I can't find it.

Show me where the competition is. Microsoft couldn't sell their crap software if there were real competition.

I personally have lost ten of thousands if not hundreds of thousands of dollars and ten of thousands of man-hours as the result of anti-competitive actions by Microsoft.

Show me where the standards are. Show me where Microsoft has promoted and implemented universal cross platform and cross application compatibility.

Who, outside of government, has the power to control rite abuses and raider-handed actions of Microsoft?

Where is tile level playing field for all businesses and individuals?

What is the purpose of government if not to protect the people from unlawfull and unethical acts committed by those without civil sensibilities.

Where is this crap going to end?

Tom Blanford—

MTC–00030170

W. E. SALTER
4531 Fishers Hollow Rd
Myersville, MD 21773
Attorney General John Ashcroft
US Dept. of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 26, 2002

Dear Mr. Ashcroft:

The federal case against the Microsoft Corporation is without merit. The Justice Department's litigation against Microsoft has served only to attack the principles of free enterprise that spur productivity. I believe that settling this issue is in the best interests of this nation and I would urge the Dept. of Justice to enact the settlement swiftly.

The details of the settlement agreement contain many changes brought forth by Microsoft in an attempt to resolve the issue. Microsoft will now disclose the protocols and design interfaces of the Windows system. The result of this change will be that developers will more readily be able to design soft-ware that is compatible with the Windows system. I believe that consumers and developers will both benefit from these changes.

The Justice Department should realize the benefits of enacting this settlement.

Sincerely,
Willard E. Salter

MTC–00030171

Claude V. DeShazo
Maureen M. DeShazo
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter to show my support for the recent proposed settlement that was reached between Microsoft and the Department of Justice. It is my opinion that the settlement will provide the necessary push that the IT industry needs to help bolster the economy. The economic troubles that America is facing all started when the antitrust suit against Microsoft was announced. Our stock market and economy went from being the best in history to being mired in a nasty recession. Microsoft is the one company that has the ability to save our economy, and since the settlement makes them work ever closer with their competitors, competition in the IT industry will benefit, and the economy will show gains. The settlement that was reached is more than fair, and I support it.

Sincerely,

15804 High Bridge Road * Monroe, WA 98272 * 360–794–2172 * 800–530–37OO * Fax: 360 794–5592 * Email: applady@aol.com TOTAL P. 01

MTC–00030172

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
January 28, 2002

Dear Mr. Ashcroft:

I encourage you to accept the recent antitrust settlement reached with Microsoft. Microsoft has agreed to terms that will open up the software operating system, market making the market more competitive and beneficial to consumers.

For example, Microsoft has agreed to disclose its operating interface to competitors as well as to make it easier for computer makers to remove Microsoft products from the Windows OS and to install non-Microsoft products in their places. Microsoft has also agreed to let a three person Technical Committee oversee settlement compliance and assist in dispute resolution. I firmly believe all of this will serve to open the OS market and to make it more competitive. This competitive market will ultimately drive Microsoft and its competitors to create better software. And it will be the consumer who wins.

Sincerely,

MTC–00030173

Gary and Susan Reid
5651 Mission Road
Bellingham. WA 98226–9680
Tel. (360) 966–2385/Fax (360) 966–3171
To. The Attorney General
From Gary Reid
Date: January 28, 2002
Re' Microsoft Anti-Trust Settlement

From my viewpoint as a consumer, this suit needs to be resolved. I believe that this suit will cost me money. First, it has increased Microsoft's cost to do business; second, it has diverted efforts from producing a better product: and. third, the tax dollars spent on this suit exceed, am possible savings to tile public.

I believe than Microsoft's product is fairly priced when compared to the benefits obtained. I can be pan or a communication revolution that has changed the world for less than $20000 Does not M?? have a proprietary right to its systems? It appears that the patent holder of the ?? hoop has more rights than the designers of this life-changing system.

The incorpera?? of the internet browser into the basic system is important to the con?? It should not be separated to give, a competitor an advantage. Several of the business ?? that were in question have already been changed. If our economic system is to work. competitors need TO produce boiler products—not resort to politically driven ?? that result, in pourer products for the purpose of bringing equality ee Microsoft

MTC–00030174

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to take advantage of this opportunity to give my opinion on the settlement concluded last year between Microsoft and the Department of Justice. I believe the agreement represents a good deal and should continue to be supported by the federal government. The agreement is fair and the government received many strong provisions. Microsoft has agreed to design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. This mechanism will make it easy to add or remove access to features built in to Windows or to non-Microsoft software. This change will give consumers the freedom to change their computer's configuration whenever they so desire. This agreement is also good for consumers because it allows Microsoft to focus their attention on new products that consumers have come to expect. This will make everyone more efficient, whether they use the products at home or their job.

Sincerely,
Maya Balle

MTC–00030175

19 Lakeview Drive Kinnelon, NJ 07405–3113
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing to express my support in the recent antitrust settlement between Microsoft and the federal government. I sincerely hope that no further action is being taken an the federal, level. Considering the terms of the agreement, Microsoft did not get off with just a slap on the wrist. In fact, Microsoft is left to make several significant changes to the ways that they handle their business. For example, Microsoft has agreed to make available to its competitors, any protocols implemented in Windows' operating system products that are used to interoperate natively with any Microsoft server operating system. With the many terms of the agreement, there should be no reason to pursue father litigation against Microsoft on any level.

Thank you.
Sincerely yours,
Donald B Wain

MTC–00030176

Seattle Pacific University
School of Business and Economics
3307 Third Avenue West Seattle, WA 98119–1997
Phone: 206 281–2970
Fax: 206 281–2733 http://www.spu.edu
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this letter is to support Microsoft and the antitrust settlement, The suit brought against Microsoft was frivolous and misplaced. Clearly, Microsoft has been the leader in the technology industry and has driven the incredibly positive returns in the stock market for the entire decade of the 1990s. Government meddling in business has almost never produced positive results—but in this case, the interference has been even more egregious than ever before. I disagree with any Government involvement.

The terms of the settlement will allow other companies the ability to compete and will also be more beneficial/advantageous to consumers. In addition, Microsoft has agreed not to retaliate against software and hardware developers and competitors. They have also agreed to make it easier for non-Windows software to operate within Windows, starting with Windows XP. Surely, you must agree that Microsoft has shown much more than good faith in this entire, ridiculous lawsuit!

Best regards,
Carolyn A. Strand, Ph.D., CPA
Assistant Professor

MTC–00030177

Liam Newman
15127 NE 24th St #403 Redmond, WA 98052
January 28, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530–0001

Dear Attorney General:

I was happy to hear the Department of Justice made the wise decision to settle the Microsoft antitrust case. As a software developer, I am cognizant of the benefits settlement agreement provides to both Microsoft and to its competitors.

I am supportive of Microsoft's efforts to dispel concerns about anticompetitive behavior. Microsoft has agreed to disclose portions of its code to its competitors, as well as to make it easier for consumers to run other software systems with Windows. Future versions of Windows will be designed with mechanisms that will allow consumers to remove features of Windows and replace them with non-Microsoft programs. By these and other concessions, Microsoft has really gone above and beyond what should be required it.

It is time for the litigation to conclude so Microsoft will be free to focus its resources on developing new products. I hope you continue your efforts to resolve this case. Thank you for your consideration.

Sincerely,
Liam Newman

MTC–00030178

5984W10800 N
Highland, UT 84003

January 21, 2002
Attorney General John Ashcroft, DOJ
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am appalled that the Microsoft antitrust case has gone on for this long. Three years have been spent already in the federal courts, and the possibility that even more time and money could be wasted in an extended court battle is outrageous. The push for continued litigation represents a pathetic attempt on the part of state legislatures to line their own pockets at Microsoft's expense. It is not in the best interest of the consumer for another round of proceedings to be brought against the Microsoft Corporation; indeed, the economy and the technology industry have been stagnating since the case began. The proposed settlement would not only prevent future antitrust violations, it would also allow Microsoft and the Department of Justice to get back to business. This is what the economy, the consumer, and the IT industry all need.

Microsoft and the Department of Justice were able last November, with the aid of a courtappointed mediator, to reach a settlement that was realistic as well as just. In the interest of wrapping up the case, Microsoft has agreed to conditions that extend to products and procedures not found to be unlawful by the Court of Appeals. Microsoft has, in fact, already made the necessary changes and is no longer in violation of antitrust laws. For example, Microsoft has agreed to refrain from taking retaliatory action should software developers or computer makers introduce software onto the market that directly competes with Microsoft products. Microsoft has also agreed to disclose various interfaces integral to the Windows operating system for use by its competitors. I cannot imagine that the Department of Justice will be able to find the agreement to be anything but fair.

The settlement needs no revision. Continued litigation is not in the best interest of the consumer. I do not believe that further action needs to be taken on the federal level. I urge you and your office to support the settlement.

Sincerely,
Michael Curtin
CC: Representative Chris Cannon

MTC–00030179

14761 N 88th Lane
Peoria, AZ 85381–2780
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

As a member of the technology industry, my only concern when working with computers and software is whether or not I can rely on it consistently over time. Microsoft has delivered the best services and products In the industry over the last decade and has benefited consumers, software developers, and computer makers alike. While I think that Microsoft, like any large corporation, has probably been aggressive in its use of marketing, I think that the lawsuits have been brought on not because there are antitrust violations of any great nature, but, because the Clinton administration had political vendettas against Microsoft for their lack of financial support for the party.

The government should stay out of big business and the technology industry especially at this time of growth where our country is competing with other nations for the lead in the IT sector. Even though I think the settlement should have never occurred in the first place, I want to see it come to fruition because it is In the best interests of everyone involved to end litigation. Let Microsoft focus on innovation and growth.

Under the terms of settlement Microsoft is giving away numerous technological secrets, which seem s to me to be in violation of their Intellectual property rights. They are also agreeing to license its Windows" operating system products to the 20 largest computer makers on identical terms and conditions, including price. This stipulation seems to me to be creating an opportunity for monopolistic behavior since there will be collaboration on pricing.

In spite of these flaws, the settlement should be finalized. The nine states holding out should be reprimanded and all of this has to come about due to the direction off your office. I ask you to please take these thoughts into consideration. Thank you for your time.

S. Gorman

MTC–00030180

1624 Etain Road
Irving, TX 75060–5518
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 26, 2002

Dear Mr. Ashcroft:

It's good to see that the Justice Department has ended its very long and costly antitrust lawsuit against Microsoft. By freeing the innovative giant to fully focus on business, the Government will be aiding the creation of many jobs.

The agreement calls for Microsoft to agree to terms that extend well beyond the products and procedures that were actually at issue in the suit—for the sake of wrapping up the suit. One provision calls for Microsoft to disclose and document, for use by its rivals, various interfaces that are internal to Windows" operating system products—a first in an antitrust lawsuit. Good work deserves its rewards. Microsoft has produced amazing software products for the world. It is time now for the government to allow the provisions of the agreement to fall in to place. No more action should be taken at the federal level against Microsoft.

MTC–00030181

January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a fellow Republican in Rep. Tom Delay's district I wish to express my support of the settlement reached last November between the Department of Justice and the Microsoft Corporation. It has now been 3 years since the Justice Department began the litigation process against Microsoft. During this time countless dollars have gone to court mediators who endlessly debated the merits of this case. In times where budgetary resources are becoming increasingly scarce this action is increasingly appalling. Three years has been too long. I cannot imagine there is anything more to discuss.

Once more, the settlement that was reached contains many concessions on behalf of Microsoft, in an attempt to settle the dispute Microsoft has been willing to agree to these terms despite their lack of guilt in the case. Microsoft has agreed to design Windows XP with a particular mechanism that will allow users to add competing software into the system. This will revolutionize the way our operating systems are configured. I believe that if Microsoft is willing to make these changes, the settlement should be enacted. I strongly support the settlement and look forward to the end of this case.

Sincerely,
Pamela Spencer
cc: Representative Tom DeLay

MTC–00030182

FAX TO ATTORNEY GENERAL JOHN ASHCROFT
1 202 307 1454
1928 Claremont Country Club Commons
Normal, IL 61761
January 28, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

It is in the best interest of the American public to finalize the antitrust settlement with Microsoft as soon as possible. Although we are happy to see Microsoft will not be broken up, we maintain our belief that Microsoft is still receiving unwarranted treatment. Under the terms of the concession, Microsoft has agreed to disclose internal interfaces, and increase its relations with software developers. All of these concessions have their positives and negatives. But, it seems to us when a company starts from nothing and is innovative to the point that it becomes the unprecedented leader of an industry, that company should be applauded, not criticized.

We urge your office to free up the IT sector and allow it to grow again at the rapid rate it did before litigation. Only by allowing Microsoft to focus on business—not politics will the tech sector make a quick recovery. Thank you for your time. We appreciate your consideration of our thoughts for the continuing growth of Microsoft for everyone's benefit.

Sincerely,
Joseph and Maxine Stephens

MTC–00030183

13611 160th Avenue NE
Redmond, WA 98052
January 28, 2002
Attorney G metal John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW

Washington, DC 20530

Dear Mr. Ashcroft:

The Department of Justice has finally ended its pursuit of the Microsoft Corporation. A proposed settlement was reached between the two last November, and I am in full support of it. Now my government will be able to focus its attention o 1 more pressing matters than Microsoft. The settlement that has been reached is more than fair to all parties involved, and I urge you to, approve it as soon as possible. Microsoft will now be communicating more with their competitors than ever before, which will provide the IT industry with the necessary boost it needs. They have agreed to share design information with their competitors concerning the internal make-up of the Windows operating system, an I will make future versions of Windows that will make it easier for companies to manipulate the operating system and install their own software into it.

All in all, his settlement benefits the industry and economy and should be implemented as soon as possible.

Sincerely,

Reginald L. Armfield

MTC-00030184

1624 Etain Road
Irving, TX 75060-5518
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
January 26,2002

Dear Mr. Ashcroft:

It's good to see that the Justice Department has ended its very long and costly antitrust lawsuit against Microsoft. By freeing the innovative giant to fully focus on business, the Government will be aiding the creation of many jobs.

The agreement calls for Microsoft to agree to terms that extend well beyond the products and procedures that were actually at issue in the suit—for the sake of wrapping up the suit. One provision calls for Microsoft to disclose and document, for use by its rivals, various interfaces that are internal to Windows" operating system products—a first in an antitrust lawsuit. Good work deserves its rewards. Microsoft has produced amazing software products for the world. It is time now for the government to allow the provisions of the agreement to fall in to place. No more action should be taken at the federal level against Microsoft.

Yours truly,

Peggy Broyles

MTC-00030185

Francis E. Baird
206 Radnor Chester Road
Villanova, PA 19085
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in full support of the recent antitrust settlement between the US Department of Justice and Microsoft. Although I am happy to see that Microsoft will not be broken up, I believe the current penalties are still too harsh. I am an avid believer in free market enterprise. Microsoft continually outdid its competitors by developing better products and services faster. This is called free market competition and Microsoft's efforts only served to increase the rate of growth in the industry. They should be applauded for their efforts not criticized.

I sincerely hope that the remaining nine states opposing Microsoft's actions drop litigation immediately and allow the IT sector to focus on business which is in the best interest of the American public, especially in this time of recession.

Sincerely,

Francis Baird

cc: Senator Rick Santorum

MTC-00030186

19355 Sherman Way, Unit 33
Reseda, California 91335
Phone 818/885.7179
Fax 818/885.1428
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

Please see that the new Federal District Court judge approves the settlement in the Microsoft case. The settlement is good for the country, because the information technology industries is a leader in fostering American prosperity through increased efficiency as a result of useful innovations, and because Microsoft is a vital part of the IT industry, which has for too long been stymied by this litigation.

The settlement is fair and will be adhered to. A committee of software engineering experts will be able to look throughout Microsoft's facilities and into its software code to see that the agreement is followed. Other companies will be able to make any complaints they may have to the committee and the committee will investigate. This sounds like an approach that should work well.

Please keep up your efforts to resolve this case now that we are so close.

Thank you.

Sincerely,

Sonia Tarrish

MTC-00030187

DAN LESTER
6511 164th Street Southwest
Lynnwood, WA 98037
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to inform you of my support of the proposed settlement in the antitrust lawsuit against Microsoft. This litigation has extended much further, and cost more money, than the public wants. It should be completed without further delay.

Microsoft has made a significant attempt with this agreement to encourage weaker competitors to gain market share. They will make it easier to configure Windows with the software of competitors and will offer top computer makers equivalent terms and conditions to encourage fair play. Software developers will benefit from measures that are sensitive in scope, gaining the ability to license Microsoft's intellectual property and access their Windows source code. Now that we have the opportunity to move on, let us enact this fair, court mediator-assisted plan and get back to business. Any further action would just do harm to our fragile economy and truly over-step the public's feelings on the issue. I hope we have your approval.

Sincerely,

Dan Lester

MTC-00030188

7080 Weybridge Road
Weybridge, VT 05753
January 27, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I understand there is a 60-day public comment period, as required by the Tunney Act, with regard to the settlement between Microsoft and the Justice Department. Please know that I am fully supportive of this court mediator-assisted compromise and am urging you to cease any further legal action against Microsoft. Microsoft's success is extremely important to the U.S. economy, technological innovation, and millions of consumers. Microsoft's offer—access to their internal code for future design and permitted licensing of their intellectual property—should more than suffice to their competition. Creative, forward-thinking individuals and companies should not be penalized because their competitors are not able to be as successful due to their own lack of ability. This deal offers capitulation with sensible restraint, so I urge you to finalize it and move on to more important matters. Thank you very much.

Yours truly,

Shirley Claudon

MTC-00030189

TAYLOR ANGUS RANCH
Lester and Pain Taylor
HC 89, Box 225
Pleasant, AR 72561
Mt. Pleasant, AR 72561
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
RE: Microsoft Settlement

Dear Mr. Ashcroft:

We understand that the public comment period on the proposed settlement agreement between the Department of Justice and Microsoft closes today, January 28, 2002. We are writing to cast our votes in favor of settlement.

Given the record of accomplishment so far in this case, it makes no sense to continue litigation when you have the chance to conclude the case in a manner beneficial to the economy. The primary complaint against Microsoft was that consumers who chose to use Windows operating systems for their computers were precluded from utilizing non-Microsoft software Programs for such services as Internet browsers and messaging services within Windows. Microsoft has agreed to end this practice, and open its Windows systems to such competition. With the major complaint answered, there is no need to further litigate.

Please end this case, and put Microsoft back to work. The country needs to heal. Thank you for your kind consideration in this matter.

Sincerely,
Lester A. Taylor
Pamela J. Taylor

MTC-00030190

1738 Swann Street,
FAYETTEVILLE, NC 28303
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

There has been a recent settlement between the Department of Justice and Microsoft. I want to give my support to this agreement and ask that you do also. The whole case, in my opinion, was a boondoggle. The lawsuit was entirely political, more a result of the collaboration of Microsoft's r??vals tan any unethical business practices. I find it interesting that we comp ??out competition from abroad, urge innovation, yet in other countries, the government helps companies. In our country, companies, if they become ??o successful, are hauled into court, completely at the mercy of their competitors and the government's definition of success. This is a shame out the two parties have reached an agreement and I urge you to give your approval since they, obviously, want this to end.

Moreover, Microsoft has acquiesced to a great number of demand from the Department of Justice. Microsoft has agreed to grant compute takers broad new license to cast Windows as to promote non-Microsoft software programs; Microsoft has agreed to new relations with software developers; Microsoft has agreed to internal interface disclosure. Enough is enough.

Sincerely,
William Hatley

MTC-00030191

FAX??
Date: Monday, January 28, 2002
To: US Department of Justice—Attorney General John Ashcroft
Fax: 202-307-1454
From: GreCon Dimter, Inc.—Larry Hilchie
Phone: 425-313-0275
Fax: 425-391-1686
Pages: 1
Subject: Microsoft Settlement

Dear Mr. Ashcroft,

I am faxing you concerning the Microsoft settlement.

I believe in free enterprise and have for many years worked with other small companies. I have used computers since the mid 1980's in my businesses. I greatly appreciate all that Microsoft has done to enable US companies but especially small companies do their business productively. We faced major costs with unknown results trying to use custom software before the success of Microsoft who offer us competitive suitable software for our various needs.

I, like many other people in small business, feel that major companies which try to compete with Microsoft: are trying to use the US government and courts to fight Microsoft success because these big companies have not met the market needs that Microsoft so successfully addresses. While I was totally opposed to the court actions, I was pleased that a settlement was reached at least between the US government as well as many states and Microsoft. The settlement was a compromise but I thought would enable Microsoft to focus again on their customers' needs in a world of global competition. Weakening Microsoft could enable not only US competitors but overseas competitors an unfair advantage. Microsoft is a major US exporter which we need and has helped many other companies and technologies grow to the benefit of the USA. I hope this settlement will be enacted this month.

I believe that less government and more individual initiative is what makes the USA strong in this world. Let us finally let Microsoft focus on their business which has definitely help our company and many thousands of companies our size compete daily in our business areas. Thank you for your time. I wish you continued success in your fight against world terrorism.

Sincerely,
Larry Hilchie
GreCon Dimter, Inc.,
19536 SE 51st Street,
Issaquah, WA 98027 USA

MTC-00030192

FAX
1-202-307-1454
Renata B. Hesse
AntiTrust Division
U.S. Dept. of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-001
Midrosoft Settlement

Dear Sirs,

We are in agreement with the rulings of the Court of Appeals in the Microsoft suit. I feel enough is enough.

Many thanks for you time + effort beyond the hrs of 9-5.

Sincerely,
(Mrs.) Dick C. Grossblatt

MTC-00030193

Comments on the Revised Proposed Final Judgment
http://www.meer.net/iq/doj—comments.html
John Giannandrea, Independent Software Developer, formerly ('94-'99) Chief Technologist in the Internet Browser group at Netscape/AOL

Summary

After reviewing the Revised Proposed Final Judgment, the Competitive Impact Statement, the May 18th 1998 Antitrust complaint together with the findings of the District Court and the Court of Appeals I submit that the Proposed Final Judgment fails to describe effective remedies for Microsoft's illegal activities.

An effective Final Judgment would prevent recurrence of the illegal behavior and provide relief and protection for independent software developers to develop innovative new middle-ware products and compete with Microsoft in the market for Windows software. The terms of this Final Judgment will not achieve this result because it is seriously flawed. These comments briefly describe the following problems with the Proposed Final Judgment:

1. Problems with the scope of the remedy
2. Shortcomings in the OEM configuration provisions
3. Loopholes and technical shortcomings with the wording of the judgment
4. Restrictive language related to Intellectual Property.
5. Problems with the term and proposed implementation
6. Flaws in several of the definitions

Taken together I believe these flaws in Proposed Final Judgment make it an inappropriate remedy for the illegal behaviors found by the Court of Appeals. While changing some of the specific wording of the Final Judgment and removing some of the loopholes will make it stronger, on balance it is a wholly inappropriate remedy for the ongoing harm done by Microsoft in protecting and extending its Windows monopoly.

ig@meer.net
January 27th, 2002.

1. Problems with the scope of the remedy

There are several problems with the scope of the proposed remedies which are likely to make it ineffective in practice. The Final Judgment does not correct the harm done to the marketplace today by Microsoft's existing software products, nor address the issue of backwards compatibility and harm done to the market by ongoing changes ("upgrades"). Nor does the Final Judgment address the crucial issue of APIs in Microsoft middle-ware products themselves, as opposed to APIs in the Windows Operating System Product.

1.1 What products fall under the proposed remedy?

Sections III.D, III.E and III.H limit the practical effects of the Final Judgment to some future versions of Microsoft's latest operating system product (WindowsXP, SP1) or 12 months from submission of the Final Judgment. This will not provide effective remedy for the actual installed base of Windows users, of which WindowsXP remains a small minority. Microsoft's monopoly position is, and will be for the length of the initial proposed term, made up of Windows2000, WindowsME, Windows98 and Windows95 products and their associated middle-ware product lines. It is in these products that harm is and was being caused by the illegal activities. For the Final Judgment to be effective in providing relief, the communications protocol and Windows API disclosures need to apply to the actual installed base of Windows. It is no more technically difficult for Microsoft to document current APIs than it is to do so in future products.

The final paragraph of III.H limits the proposed remedies to middle-ware as defined by a timeline relative to the release of new Windows operating system products. The reality is that the illegal conduct relates to all existing and past Microsoft middle-ware products, and the release of future versions of Windows will not significantly affect the harm being done in the marketplace. There is no technical reason why existing Microsoft and non-Microsoft middle-ware will not be compatible with future versions of Windows. In fact Microsoft makes considerable effort to ensure that Windows is "backwards compatible" with its own applications. Remedies need to apply to all future versions of Windows, and all middle-ware now and in the future, and the obligations of the monopoly holder should not change unilaterally with a product release cycle under their express control. Much of the harm found by the Court is related not just to the disclosure of interfaces and APIs, but to the fact that Microsoft can stop supporting a documented feature or API without consulting the affected parties.

One possible way to improve the Final Judgment would be to add a new condition to III. C. that allows OEMs the option of shipping any prior Microsoft middle-ware with any subsequent version of Windows.

1.2 Middle-ware APIs are as important as Windows APIs Section III.D. proposes that Microsoft shall disclose APIs used by its middle-ware to interoperate with a Windows operating system. Since middle-ware such as Internet Explorer or Windows Media Player has added, subtracted or altered significant APIs with each subsequent version, including minor, so called "maintenance" versions, and since these APIs are depended on by the the majority of ISVs. III.D. should be extended to require disclosure of all APIs used by, or provided by any Microsoft middle-ware product, including APIs in other middle-ware software.

1.3 Changes to current and past middle-ware needs to be covered The definition in VI.] excludes software in minor version changes from the definition of Microsoft middle-ware. Yet it was exactly such a minor change that disabled Java for millions of Internet Explorer users, or forced thousands of ISVs to abandon the Web Plug-in API and redevelop or abandon their middle-ware. (See http://www.meer.net/jg/broken-plugins.html) At a minimum all software middle-ware released by Microsoft and in use by a majority of Windows users should be covered by the Final Judgment for it to be effective.

2. Shortcomings in the OEM configuration provisions It is clear from the findings of the Court that needs to exist remedies that enable OEMs and End Users to be able to add, remove and replace middle-ware without limitation by Microsoft through its Windows product. It has been shown to the Court that its technically easy to allow middle-ware either from Microsoft or its competitors to be added removed from the Windows operating system. The current language in the Final Judgment does not protect distribution of new and innovative forms of middle-ware and therefore fails to remedy the current situation where investment and competition in Windows middle-ware is "chilled" by Microsoft's prior and current practices.

III.H.3 allows Microsoft to undo an OEM configuration in any subsequent version of a Windows product and to change the way an OEM's configuration interacts with Windows in each subsequent version. This lack of "backwards compatibiliy" is in Microsoft's interest at the expense of the OEM's investment.

III.H.3. Allows Windows OS to undo an OEM's configuration automatically after 14 days. But it does not give the same capability to an ISV, or the OEM themselves. If a third party provides competitive differentiation by adding features and services on top of Windows they should be able to do so with no hindrance from Microsoft at all. If it is determined that Windows should have a "revert" feature that disables or undoes an OEM's enhancements, then that feature should have an "undo" capability so that the enhanced product purchased from the third party is not irreparably harmed by the behavior of the Windows software at some later time. III.H attempts to give end users and OEMs the right to add and replace non Microsoft middle-ware with competitive middle-ware, an essential component of the proposed remedies. Rather than just stating this as a simple requirement, additional restrictions are imposed in III.H.2:

that competing middle-ware be replacing a Microsoft middle-ware

that the middle-ware be a specific subset of possible middle-ware that has a particular and limited type of user interface

that Microsoft can require (and itself present?) a confirmation dialog for the end user if the change is made by software that the user presumably installed themselves

III.H.3 imposes conditions on Microsoft operating system products altering OEM configurations, but Microsoft middle-ware also has a documented history of making such alterations. The Final Judgment does not protect OEM investments or end user choices unless it enjoins all Microsoft software products from altering, without express permission, the end user experience. It is exactly Microsoft's ability to make unilateral changes that expresses its monopoly power and distorts the market for improvements to Windows.

The mechanism proposed in III.H.1 allows Microsoft to provide a interface choice to enable "all Microsoft Middle-ware Products as a group". This should be specifically disallowed since it reinforces the distinction between Microsoft and non Microsoft software, and suggests that an end user would be given the default choice of "taking everything" (i.e. all available Microsoft middle-ware, turning off competitors middle-ware) in order to allow ease of use and configuration.

III.C.3 The requirement that a non-Microsoft middle-ware product should display a user interface "of similar size and shape" to a Microsoft middle-ware product is technically onerous. The additional inferred requirement that a middle-ware product can only launch automatically if a Microsoft middle-ware product were otherwise to do so, is also technically unreasonable. If the purpose of this remedy is to allow competition in such middle-ware; to allow, for example, an OEM to configure a PC so that it connected automatically to an IAP or ICP on boot up, then these restrictions would preclude this.

3. Loopholes and technical shortcomings with the wording of the judgment There are significant exceptions and conditions attached to the definitions used by the Final Judgment. These exceptions appear to make the remedies themselves weaker and in several cases are technically inaccurate or groundless.

3.1 Excluding existing middle-ware

Section III.H after III.H.3 describes two exceptions where Microsoft middle-ware would be allowed to execute in preference to competing Middle-ware. These exceptions effectively negate the value of III.H and are seriously flawed.

3.1.1 The first exception is for middle-ware "invoked solely for use in inter-operating with a server maintained by Microsoft". Given the current and past scope of MSN and the services provided by various servers in the "microsoft.com" domain, this exception is unreasonable. For example, a component of Windows that contacted a server to upgrade or maintain the device driver software on a Personal Computer would be exempt from III.H. This would presumably preclude an OEM from providing their own value-add service using the same component APIs of Windows. As the value and prevalence of network services grows, Microsoft would be able to continue to exclude competing middle-ware as long as they could define the service as being hosted at Microsoft. This would also include most .NET services, which Microsoft has publicly stated will be at the core of most end user functions in all future versions of Windows. The proposed remedy for past behavior is ineffective.

3.1.2 The second exception is if "non-Microsoft middle-ware fails to implement reasonable technical requirements .–.–.". This is an unreasonable and overly broad restriction on the proposed remedy. The specific example given, failure of support ActiveX, is a most egregious example. ActiveX is not a feature of Windows, it is an API created for Internet Explorer middle-ware expressly to tie that middle-ware to the Windows platform. In a healthy competitive environment it should be end users that conclude if middle-ware is providing "functionality consistent with the Windows product", not Microsoft. The idea that Microsoft themselves are qualified to say what is and what is not a valid non-Microsoft middle-ware product puts the fox in charge of the henhouse. In fact by the definitions of this section of the Final Judgment, most existing successful non-Microsoft middle-ware (.lava, Netscape Navigator, Web Plug-ins) would be exempt from the remedy. It was precisely the success of these products, demanded by end users, that precipitated the threat to Microsoft and led to the illegal behavior.

3.2 Limitations on disclosure of communications protocols

Section III.E. Requires disclosure of any communications protocol implemented in a Windows OS installed on a "client" computer. This would appear to exclude protocols implemented as Microsoft middle-ware, such as Web Browsers, or communications middle-ware such as e-mail programs (Outlook Express) or streaming media players (Windows Media Player). It would also appear to exclude protocols implemented in the same copy of Windows, running as a "server". Given the advent of "peer-to-peer" computing this distinction excludes more significant protocols than it includes. To meet the intent described in the impact statement, the requirement should be the disclosure of any communications protocol implemented by the Windows Operating System Product and any Microsoft middle-ware product.

3.3 Preventing disclosure on "security" grounds.

Section III.J.1.a attempts to limit the APIs and protocol descriptions to be published as part of the proposed remedy. The exceptions include those that would "compromise the security .–.–." of the Microsoft products. It is well known and supported by the majority of reputable computer security experts, including many who work for Microsoft Corporation, that disclosure of the mechanisms of software makes it more secure, not less secure. In fact requiring Microsoft to document and disclose APIs will make the products more secure as flaws are discovered by peer review and then repaired. Computer security should not be considered valid technical grounds to limit disclosure.

3.4 Limitations on who can access the disclosures

Section III 3.2 places all kinds of limitations on the disclosure of the information central to the proposed remedy. In III.D the Final Judgment requires Microsoft to disclose APIs to all listed parties via "MSDN or similar" i.e. publicly and for a small fee. This conflicts with III.J.2 which allows Microsoft to withhold such information unless Microsoft itself determines "a reasonable business need", or that the requester meets "standards established by Microsoft for .–.–. viability". These restrictions are unnecessary and are not vital to the remedy. The required information should be disclosed simply, via MSDN or Microsoft.com, to anyone who has a valid Windows license.

Section III.J.2 additionally requires that non-Microsoft middle-ware innovators be in "compliance with Microsoft specifications" and, at their own expense, pass a Microsoft defined third party verification test. These new tests and requirements are onerous, and do not exist in the market today except as optional marketing programs. In particular the non-Microsoft middle-ware at issue in the anti-trust action would not have met these standards. These additional requirements and limitations will serve to place further hurdles in front of middle-ware ISVs. They only serve the interests of the monopolist in limiting access to the required APIs as has happened in the past as documented in the Findings of Fact.

4. Restrictive language related to Intellectual Property.

The licensing terms implied by the Final Judgment are both more onerous than the prevailing market today, and unfairly biased in favor of Microsoft. The terms of III.G are not in force if Microsoft licenses intellectual property from the third party. This would appear to allow, for example, Microsoft to enter into an exclusive distribution arrangement with an ICP if the ICP had a reciprocal license to Microsoft for some middle-ware enhancement related to their Internet content. This kind of transaction is common in the industry today and would seem to weaken the intent of III.G.

Section III.I.5 grants Microsoft the right to require a competitor to license to it IP rights to "relating to the exercise of their options or alternatives provided by this Final Judgment". This is an onerous and unreasonable requirement because Microsoft does not need such non reciprocal IP rights to comply with the Final Judgment. (Could such rights be licensed father by Microsoft to other ISVs?)

III.I requires Microsoft to reasonable and non discriminatory licensing of any intellectual property required for the market to take advantage of the provisions of the Final Judgment. However there is a restriction (H.III.3) on sub-licensing. This would in practice curtail most ISV business models if a technology innovator was unable to resell its technology to an "end user" OEM or ISV without that entity then being required to obtain a license from Microsoft. The last paragraph of III.I explicitly states that the terms of the Final Judgment will not confer any rights with regard to Microsoft IP on anyone. But as the Final Judgment requires disclosure by Microsoft of APIs, protocols and detailed documentation of mechanisms inherent in middle-ware interfaces, then certain legal rights are in fact surrendered in most jurisdictions.

III.I does not address the significant and influential market in royalty free software (such as Linux) and the open standard nature of the Web protocols and standards. Industry standards groups which Microsoft itself is an active member of such as W3C (The World Wide Web Consortium) customarily require all APIs and protocols to be royalty free. Yet III.I potentially places further restrictions or costs on ISVs developing products and innovations under that model if they wish to integrate them with Windows.

5. Problems with the term and proposed implementation

5.1 Term is not long enough

The Final Judgment has a term of five years (V.A), or seven years with additional violations. Given the pattern of illegal behavior by Microsoft since 1995 and the fact that Windows Operating system product cycles are frequently many years apart, the scope of this agreement appears unusually short. A 10 or 15 year agreement would be more appropriate.

5.2 Issues with creating a competent technical body

The Final Judgment requires a three person technical committee. While this committee is intended to be knowledgeable about software design and programming, it also needs to be knowledgeable about Internet standards and protocols, online transactions and web e-commerce architectures and business models. It is unlikely that a committee as small as three people will have the requisite skill set to oversee the broad range of initiatives and innovations that center on the Windows platform and are the subject of the monopoly concern. The committee would be more in keeping with industry standards and accepted practice if it were larger and comprised of experts in several fields.

5.3 Public disclosure of information relating to enforcement

Section IV.B.10 and other language in :IV (e.g IV.D.4.d) suggests that the Final Judgment requires the work of compliance and technical overview to be conducted in secret. For example if an ISV submitted a complaint to the TC or the Microsoft Compliance Officer it is not required that the complaint and its response be published (IV.D.3) It would be more in keeping with industry standards and accepted practice for technical discussion around the enforcement of a Final Judgment be open to wider technical review. This would improve the quality and accuracy of such review as well as reassuring the community of OEMs, ISVs etc. that the enforcement process was actually working. At a minimum there should be a requirement that the TC host an independent web-site to communicate with the industry about the status of enforcement issues.

6. Flaws in several of the definitions

There are many problems with the definitions of key terms that affect the meaning and substance of the Final Judgment.

VI.A. A suitable definition for Application Programming Interface needs to include interfaces provided by middle-ware itself, since middle-ware can include tiers of software, not just a simple arrangement where middle-ware calls the Windows software layers. A more accurate and common definition of APIs would be independent of both the terms Windows and middle-ware. VI.B. The scope of Communications Protocol should not be limited to communications with a "server operating system". This excludes the concept of one Windows XP PC talking to another PC, which is a common occurrence and should be within the scope of the remedy. "Peer-to-peer" is an example of a middle-ware category that is not covered by this definition. VI.J.2 and VI.K.b.iii both require that the covered software be "Trademarked" to be under the terms of this agreement. This requirement seems to exclude certain middle-ware. For example "My Photos" and "Remote Desktop" are new middle-ware in WindowsXP and are apparently not trademarked. VI.T defines Trademarked to exclude certain named products regardless of their impact in the market.

VI.J.4 excludes software that has no user interface, such as a streaming video codec or a web commerce protocol handler.

VI.K.1 lists certain products explicitly as middle-ware. Given that the Final Judgment as written only covers Windows XP and subsequent versions (it should be modified to cover prior versions), the list of covered products and categories should also include MSN Explorer, Microsoft Outlook and other Microsoft Office components, Windows Movie Maker and others. VI.N limits the definition of a "non-Microsoft middle-ware product" to one that has shipped 1,000,000 copies in a previous year. Under this definition, Netscape Communicator would not be covered by this Final Judgment, nor would Sun's Java JVM, both examples cited by the Court of middle-ware that require relief. The idea that a competing product has to already be successful to receive the protection of the Final Judgment is flawed. This condition should be removed. VI.N defines non-Microsoft middle-ware in terms of code exposing APIs, which are defined in VI.A as being uses by Microsoft middle-ware (this is a circular definition), More importantly, non Microsoft middie-ware should not be defined more narrowly than Microsoft middie-ware. Not all middie-ware "exposes a range of functionality to ISVs though punished APIs" although some (like lava) does. The original Netscape 1.0 web browser would have failed the definition in VI.N.

VI.Q defines Personal Computer as using an Intel x86 processor. Microsoft has in the past and will most likely in the future ship Windows Operating systems for processors other than x86. The Court found that Microsoft's illegal practices in respect of distribution of Internet Explorer also extended to the Macintosh Power-PC platform so this definition is overly narrow. VI.R. 150,000 beta testers is an unusually large number, even for Windows and suggests that "timely manner" would be defined as the last test release of a Microsoft product rather than the first public test release. The interests of the enforcement are better served if Timely Manner was defined as the first public test release of a Windows OS product.

[end]

http://www.meer.net/jg/doj—comments.html

MTC-00030194

January 28, 2002 5:09 PM
From:
Fax #:
Page 1 of 1
Jose Diaz
206 L Street Southwest Quincy,
Washington 98848
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinion about the recent antitrust settlement between Microsoft and the US Department of Justice. I think that the government should stay out of big business and not interfere with the operations of our free market. Microsoft has done a world of good for education, job growth, and technological advances. They should be applauded, not reprimanded. I am glad to see that the terms of the settlement do not break up Microsoft. They are harsh though. For instance, Microsoft will have to disclose technological information such as interfaces and protocols to their competitors. They have also agreed not to retaliate against competitors who distribute or promote non-Microsoft products.

I think the settlement is flawed n many ways, but it should be finalized because the alternative, which is further litigation, could be a lot worse. Please take a firm stance against the nine states that want to continue opposition.

To tell you the truth, with all my respects to you, I think our government should learn from Microsoft, our government started long time ago and am able to see the flaw on it.—Microsoft had been evolving for better in a competitive enviroment and it is growing, even though, It stared a few years ago.

Sincerely,

MTC-00030195

3828 High Summit Drive
Dallas, TX 75244
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The issue has been dragged out for over three years now and needs to be put to rest. A settlement has been reached, the terms are fair and the government needs to accept it. In order to reach a settlement Microsoft has agreed to many concessions. They have agreed to allow computer makers the flexibility to install and promote any software that they see fit. They have also agreed not to make any agreement that would obligate any computer maker to use a set percentage of Microsoft software. Also, Microsoft has agreed to license its software at a set price no matter what software the computer maker uses or promotes and no matter at what percentage they use Microsoft: software. These terms are set to allow complete competition in the realm of pre-installed software.

Microsoft and the technology industry need to move forward, the only way to move forward is to put this issue in the past. A settlement is available and the terms are fair, I would like to see it accepted. Please accept the Microsoft antitrust settlement.

Sincerely,
Barem Christian

MTC-00030196

3828 High Summit Drive
Dallas, TX 75244–6620
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing today to encourage you and the Department of Justice to accept the Microsoft antitrust settlement. This issue has dragged on for over three yearn now and it is time to put an end to it. Contrary to critics" claims, Microsoft has not gotten away with easy terms. Microsoft has agreed to allow computer makers to install and. promote software that competes with Microsoft's. Microsoft has also agreed to release part of the Windows base code to its rivals, making it easier for them to write competing software.

The settlement is fair and should be accepted. Microsoft and the industry need to move forward. It is time to end this government harassment. Please accept the Microsoft antitrust settlement.

Sincerely,
Dorothy Christian

MTC-00030197

MARGARITA CAICEDO
FACSIMILE TRANSMITTAL SHEET
TO: Attorney General John Ashcroft
FROM: Margarita Caicedo
COMPANY: US Department of Justice
DATE: 01/28/02
FAX NUMBER: (202) 307–1454
TOTAl NO. OF PAGES INCLUDING COVER: 2
PHONE NUMBER: (305) 466–0123
SENDER'S REFERENCE; NUMBER:
RE: Microsoft Settlement
SENDER S FAX NUMBER (305) 466–0117
?? URGENT
Following this fax cover is a letter in favor of the Microsoft Settlement
Margarita Caicedo
P.O. Box 801510
Miami, Florida 33280
January 5, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington. DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the settlement that was reached with Microsoft in November. I believe this settlement is fair and vital to improving our economy. Under this agreement, Microsoft must share more information with other companies, create more opportunities for other companies, and give consumers more choices. Microsoft has agreed to create future versions of Windows that will make it easier to install non-Microsoft software. Microsoft must also share software books and codes, and a technical oversight committee has been created to oversee Microsoft compliance to this agreement. These stipulations make it clear that this settlement is fair, and not simply a cakewalk for Microsoft.

Thank you for making the right decision and considering public comment on this issue.

Sincerely,
Margarita Caicedo

MTC-00030198

Eve & Andre Nowack
377 B.W. Broadway
Long Beach, N.Y. 11561
Jan. 28, 2002
Attorney General John Ashcroft
U.S. Dept. of Justice
Pennsylvania Ave. NW
Washington, DC 20530

Dear Mr. Ashcroft:

Last Nov, a settlement to the antitrust suit between Microsoft and the Dept. of Justice was proposed and we would like to lend our support to it. The public comment period is coming to an end and it is our hope that the proposed settlement is approved shortly thereafter. Millions of dollars have been spent by both sides in this matter and that is a complete waste of money. Microsoft could be investing that cash into research and development, and the Federal Govt. could have used taxpayer dollars in a much more productive manner. We hope that once the settlement is approved there will be no further litigation against Microsoft at the Federal level. The settlement calls for a 3-member oversight committee that is extremely well versed in software engineering. This committee will make sure tht Microsoft follows the terms of the settlement and will also handle any 3rd party disputes that might arise. Let us move on.

We support this settlement and hope it is enacted quickly. Thank-you.

Sincerely,
Eve Nowack
Andre Nowack

MTC–00030199

Duane Ellis
206 Pine Blvd
Medford NJ 08055
January 28, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Reg: US V Microsoft, Anti Trust Act Tunney Act Comments

Ladies and Gentlemen,

I am opposed to the settlement as written. I believe it not to be in the public interest. Many times I've heard or seen comments to the effect that "We can't do that .–.–., look at the effect on our economy that would have .–.–." Statements such as these are wrong and must be rejected. I believe Franklin Roosevelt said it best: ,

The liberty of a democracy is not safe if the people tolerate the growth of private power to a point where it becomes stronger than their democratic State it self. That, in its essence is Facism—ownership of a government by an individual, by a group, or any controlling private power.—Franklin D. Roosevelt

That is also a great benefit of the Tunney Act, under which I write this objection. There are two themes that I see missing: (1) they should be broken up, and (2) their interfaces between the companies and products lines must be publicly available. Each of the baby-Microsofts must make use of, and work only from the same publicly available documentation that every one else has access to.

Specifically:

1) The Divisions

I believe that the public interest would be better served Microsoft should be split into at least 4 operating units, not the two that Judge Jackson ruled.

Those divisions should be:

Games & Entertainment Group. Focus: The home user Duane Ellis, 206 Pine Blvd Medford NJ 08055

Tunny Act Comments reg: Microsoft Includes XBOX, Cable TV. WebTV, MSN, Hotmail, all "Internet Related" activities, Microsoft Reader [eBooks] and Internet Explorer, Business Applications

Focus: The business user

This would include Microsoft Word, Excel, PowerPoint, Access, Visio Servers And Operating Systems

Focus: Core Operating systems, and servers. This would include Microsoft Windows CE/95/98/XP/2000/whatever .–.–. and all of its successors what ever they may be. Exchange Mail Server, SQL Server, Terminal Server, Developer Tools

Focus: The software developer community, the people who write the applications. This would include Visual Studio, the computer language compilers for things like "C, C++, C#, Java, linkers, assembler, Visual Basic, FoxPro" and so forth.

2) Publicly Document the Interfaces, common to all. This is the fundimental means by which Microsoft has extended and held their monopoly and will continue to hold it:

The proprietary communications formats the Microsoft applications use. These 'communications formats" include: (a) 'over the wire" communications such as when one computer communicates with another [Such as a computer network, or the internet], and (b) documentation of the file formats that their products use [such as those used by Microsoft Office].

Today, through out the world many companies claim to have an "ISO–9000" (or 9001, or 9002) certification. The fundamental requirement those certifications have is simple: Document what you do. Do what you document. Nothing more, nothing less.

If you look back at the IBM Anti Trust case, and the Telephone industry, a central theme in the solutions are or where: Document the interfaces between the systems, and abide by them. The openness of protocols and file formats is so fundamental that there must be a lethal "Sword Of Damocles" making Microsoft document and publish what they do so that competitors have a chance to offer a competing product.

Duane Ellis, 206 Pine Blvd Medford NJ 08055 Tunny Act Comments reg: Microsoft The most striking example of this I can find of this is the documentation for the ubiquitous Microsoft Word DOC file format, or the lack there of. If one was to write a competing word processor, one needs to be able to read and write DOC files. To do so, one needs documentation. To date, all DOC file format programs have been reverse engineered [Those in the industry are aware of the phrase "Undocumented Function Call", a hall mark of a Microsoft Style] For example: I wish to write a word processing program. To compete in the market place, my product must be able to read and write the Microsoft Word DOC file format directly.

Nowhere at Microsoft. COM can one find an accurate description of the DOC. The response I have seen about this is: You should supply a plug-in converter for Word so that users could download it. That might be one business solution. I think this will work just as well as Netscape being able to supply their browser to customers using this method .–.–.

My example word processor, to be a viable product must be able to read and write a DOC file directly'—without messing up. (How many times have you, or a co-worker imported a file, only to find it screw up, this is a constant problem users face.) To Microsoft's credit, on their web site one can find Microsoft's "Knowledge Base" article id: Q111716 titled: "How to Obtain the WinWord Converter SDK (GC1039)" Which has not been updated since 1997. Obviously over the last 5 years we've seen Word98, then Word-2000, and now Word-XP yet there is no updated documentation that I can find. The simple test is this: Please supply me with a Part Number and Price so that I may order full, complete, and not 'reverse-engineered by a 3rd party' documentation for the various file formats used by the last 4 versions of Microsoft Office (Office 98, ME, 2000 and XP). And no, it's not in the MSDN developer package—I've looked. If I've over looked it—please tell me exactly what file or 'page' to find this information.

By the way, the "GC1039" documentation refers you to yet another document about RTF files that is of some help, but is so hopelessly out of date (Again 1997)—and has this caveat: Note: The sample RTF reader is not a for-sale product, and Microsoft does not provide technical or any other type of support for the sample RTF reader code or the RTF specification. Site: http://msdn.microsoft.com/library/default.asp?url=/library/enus/dnrtfspec/html/rtfspec.asp, click on "Appendix A: Sample RTF Reader" [Visited & Verified January 28, 2002] Duane Ellis, 206 Pine Blvd Medford NJ 08055 Tunny Act Comments reg: Microsoft Microsoft and all the baby-Microsofts must be required to document completely, fully and un-ambiguously their external interfaces for all of the products or groups of products for which they hold a monopoly.

Given Microsoft's prior record there must be a "Sword Of Damocles" to enforce this. My choice would cost Microsoft nothing if they behave, and lots if they misbehave. It works like this:

This requirement is in effect for a product, or families of products where Microsoft represents more then 49.9% of the installed user base, and does not expire for at least 20 years. The requirement to supply documentation for a specific product interface expires 1 year after the product is no longer available for purchase (or licensing). Microsoft must in a timely manner, make widely and freely available under a 'free license" (no patent royalties or non-disclosures required), at a cost of no more then the cost of duplication the documentation for all interfaces to their products.

The first of such disclosures must be made at the same time each "beta or test" version is made available. Specifically: The interface documentation must be of the same quality and accuracy that the 'beta or test" application is. Where applicable, part of the documentation Microsoft should include reference program [or application], with full source code under the same free terms as the documentation that serves to validate the documentation.

As each 'service pack" or 'patch" is made available to improve an application, so must the interface documentation be improved. If any one [not just baby Microsofts] asks another for further clarification or information, that information must be posted in a public way so that others may benefit from the information. If a reasonable man would conclude that the above conditions where not met, Microsoft: would be required to refund 100% of the license fees they have collected for the effected products, including a 5% interest as if the license fees were deposited in a bank account. If a reasonable man would conclude that the disclosures where purposely vague, or show a pattern of problems that are not remedied the penalties increase 10 fold. Duane Ellis, 206 Pine Blvd Medford NJ 08055 Tunny Act Comments reg: Microsoft

The test of this solution is simple:

If Microsoft says they will document—they will have no fear of the Damocles" sword, as it will never fall. This sword makes them understand in simple terms: Do not forget to document what you do, and do what you document. And you will do nothing else.

Thank you for your time.

Duane Ellis.

Duane Ellis, 206 Pine Blvd Medford NJ 08055 Tunny Act Comments reg: Microsoft

MTC-00030200

Constance Roberts
3421 South Dye Road
Flint, Michigan 48507-1009
January 23, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am urging you to settle the lengthy antitrust lawsuit pending against Microsoft. I think it is ridiculous that the case even made it as far as it has.

I think it is a shame that the government has gone after Microsoft, Bill Gates is simply a guy who made good and has been punished for his success. The Justice Department seems to have unfairly singled out Microsoft instead of treating all companies in similar positions in an evenhanded manner.

Though I believe that the justice system has wasted significant time and money in continuing to pursue legal action against Microsoft, I believe that the terms of the current settlement are reasonable, and I would like to see Microsoft back on track. I am a stockholder in the company, so I am affected by its inability to conduct business as usual.

The government's stated aim is to increase competition. The new provisions Microsoft has agreed to will do just that. Users and computer makers can more often and more easily install and configure Windows in ways that promote and use competing products.

Please settle the case as quickly as possible.

Sincerely,
Constance Roberts

MTC-00030201

LOGISTICS,inc.
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my full support of the recent antitrust settlement between Microsoft and the US Department of Justice. I am glad to see that Microsoft will not be broken up, but the rest of the concessions seem fair. In order to increase competition in the tech market, Microsoft will agree to share information about how Windows works with its competitors. This information will allow them to place their own programs on Microsoft's operating system, and to better compete with Microsoft.

I am a firm believer in free enterprise and a fan of what Microsoft has accomplished in the last 10 years. There are many large companies that also could be targeted, which leads me to believe their suits are serving political interests than public ones. I support the settlement and look forward to seeing it implemented soon. This settlement will enable the country to move forward again.

Sincerely,
Clifford Bagwell
cc: Senator Rick Santorum
1-800-810-8708
717-284-4521
FAX: 717-284-6024
P.O.Box 32
Pequeo, PA 17565

MTC-00030202

ReidMiddleton
728 134th Street SW—Suite 200
Everett, WA 98204
Ph: (425) 741-3800
Fax: (425) 741-3900
TO: Renata B. Hesse
DATE: January 28, 2002
FROM: Brian P. Seguin, PE PLS
ORGANIZATION: Antitrust Division, U.S. Department of Justice
FAX NO. (202)616-9937
PHONE NO. ( )
CITY: Washington DC
SUBJECT: Microsoft Settlement
MESSAGE:

Attached is my letter to Attorney General John Ashcroft requesting that the lawsuit be settled under the terms agreed on between the U.S. Dept. of Justice and Microsoft. Lets all get back to work and get this economy going again. Thank you.

3622 99th Street Southeast
Everett, WA 98208
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The antitrust lawsuit brought against Microsoft was unjustified and flawed. The dispute in my opinion arose due to competitors" envy for their own lack of innovation and creativity. Microsoft has been the leading innovator of technology, for over a decade. In the 80's when we lagged behind Japan in many industries, Microsoft developed a product that streamlined and made more effective many of our businesses. The company I worked for is a perfect example as it was able to use Microsoft software for its businesses.

The terms of the settlement are harsh and seem to reflect the intense lobbying of Microsoft's competitors. Forcing Microsoft to give up internal interfaces and protocols, making them agree not to retaliate against other vendors, stipulating that they must grant computer makers broad new rights to configure Windows so as to make it easier for non-Microsoft products to be prompted, the settlement also reflects lawmakers and politicians lack of concern for the public.

This settlement only aims at giving competition an edge they did not have and could not attain on their own.

Even though I think the settlement is unfair, I must support it because the alternative of further litigation would be too much for our weak economy. I urge your office to take a firm stance against the opposition and stop any further disputes. Thank you.

Sincerely,
Brian P. Seguin
Professional Land Surveyor
Professional Engineer

MTC-00030203

George Arthur
12734 111th Lane
Largo, FL 33778-1943
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The settlement with Microsoft in the antitrust case should be approved in the best public interest of America. The settlement was reached only after three months of negotiations with a court-appointed mediator. What is more, the terms of the settlement represent reasonable compromises of the positions of the parties, and will be beneficial to the American computer technology industry as a whole.

The settlement will make it easier for computer software and hardware companies to work with and modify Microsoft's Windows operating system. With disclosure by Microsoft of the internal interfaces and server protocols by which Windows works with programs and other computers, computer companies will be able to find better ways to work with Windows. This can only encourage growth in this industry.

I would appreciate your support of the Microsoft settlement. The Federal Court should approve the settlement. Thank you.

Sincerely,
George Arthur

MTC-00030204

January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Enough is enough! Please implement the fair and equitable settlement reached by the Dept. of Justice and Microsoft.

Washington state has been hit hard by the economic recession. The Bush Administration is now in a position to stop the economic troubles which now effect not only Washington state but the entire nation. Microsoft mirrors the Market. When the tech sector was healthy, the Market was healthy. It is my opinion that the settlement will provide the necessary push that the IT industry needs to help bolster the economy back to its previous strength.

Microsoft is the one company that has the ability to save our economy, and since the settlement makes them work ever closer with their competitors, competition in the IT industry will benefit, and the economy will show gains.

The Bush Administration did not start the recession, but it is in a position to STOP the recession. The settlement that was reached is fair, and I support it.

Sincerely,
Maureen M. DeShazo
16121 High Bridge Road
Monroe, WA 98272–9478

MTC–00030205

United Wholesale Supply Inc.
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support the terms of the settlement agreement the Department of Justice and Microsoft were able to negotiate. I am in favor of bringing this case to a conclusion.

Microsoft has appropriately addressed the concerns raised by the plaintiffs in the case. They have agreed to take steps to safeguard against future antitrust violations. Microsoft has agreed not to enter into contracts that would require third parties to exclusively promote or distribute Windows. They also agreed not to take retaliatory actions against software developers who design software that competes with Windows. Another important concession is Microsoft's agreement to implement a uniform price list. Beyond the concessions set forth in the settlement agreement, nothing further should be required of Microsoft.

Your efforts to settle this case are appreciated.

Sincerely,
Gerald Robinson
President
25713 74th Ave.
South Kent, WA 98032
(253) 852–9595
Fax (253) 852–9449
UNITEWS044RP

MTC–00030206

Mike Franklin
76708 N Yakima River Drive
West Richland, WA 99353
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support the Department of Justice and Microsoft's recent proposal to settle. I think it is a satisfactory outcome for both sides.

Microsoft has done its part by accepting restrictions on its business practices, its competitive behavior, and its licensing requirements, among other things. It is the government's turn to do what it must to bring this dispute to an end.

I ask you to represent what "fairness" there may be in government, by supporting this ??ottlement. The American government and the Department of Justice have more important issues to spend their time and money on.

Sincerely,
Mike Franklin

MTC–00030207

118 Third Street
Estill, South Carolina 29918
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

American ingenuity should not be punished. The government's suit against Microsoft is nothing more than an attack on the very creativity and hard work that have made this nation great. I feel that Microsoft has had the wherewithal to become a successful company and they should not be punished for pursuing the American dream.

While I am glad that this suit has reached an end with the settlement that was negotiated in early November, I would rather see the entire thing dropped. I understand that Microsoft has agreed to a number of rather harsh terms because they understand that a quick end to this case is vital to future American leadership in the worldwide technology market. For example, Microsoft will agree not to retaliate against computer companies that use, sell, or promote non-Microsoft software,

Thank you for your efforts thus far in bringing forth a quick end to this litigation. I hope that we can put this unsavory business behind us and that Microsoft can get back to the business that it is best at: innovation. Thank you.

Sincerely,
Lawton Ocain
cc: Senator Strom Thurmond

MTC–00030208

sage software
January 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

The greatest advantage to this settlement between Microsoft and the Department of Justice is that it ends the court action. Aside from that, the settlement is rather lopsided.

While I support the settlement, I also feel that some of the terms set a dangerous precedent. Not only will this settlement force Microsoft to release some of its protocols to its competitors, but the settlement also forces Microsoft to allow software other than its own to essentially become part of its operating system.

All of this can have two undesirable side effects: The first is that the reliability and high quality standards that we have all grown accustomed to when operating a computer with the Windows platform may now be rendered unstable because of the addition of someone else's software. Secondly, there will now be a possibility for cloned versions of Windows to flood the market. The idea of Rolex watches springs to mind. Microsoft will no doubt be blamed for this too. Again, I reiterate my support for the settlement in principle, but the specifics of some of these terms can prove problematic down the road.

Sincerely,
Chad Ruff
President
Sage Software, Inc.
3423 Piedmont Road
Suite 550
Atlanta, GA 30305

MTC–00030209

OFFICES OF THOMAS M. ROTH, III
1001 South Marshall Street, Box 14, Suite L6
Winston-Salem, North Carolina 27101
Telephone: 336–777–0114
Telefax: 336–777–8499 or
336–777–3601
TELEFAX MEMORANDUM
FROM: Tam Roth
TO: Ins. ?? Hesse
DATE:
FIRM: U.S. Pest ??Jostice
RE:
TELEFAXNO. 202—616—9937
TIME OF SENDING:
NO. OF PAGES
ORIGIN AL: Will not be sent Will follow by U.S. Mail Will follow by overnight mail
MESSAGE:
OFFICES OF
THOMAS M. ROTH, III
ATTORNEY AND COUNSELOR
1001 SOUTH MARSHALL STREET, BOX 14
WINSTON-SALEM, NORTH CAROLINA 27101
TELE: (336) 777–0114
FAX: (336) 777–8499
E-MAIL: TRROTH@PRODIGY.NET
January 28, 2002
Renata Hesse, Esq.
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am writing today in response to the **Federal Register** item concerning the Microsoft settlement with the United States and nine of our states" attorneys general. I note that North Carolina, my home state, is among the states that have signed off on the proposed settlement.

I have reviewed the proposed settlement of this long running case and endorse the proposed settlement between these parties. I would urge Judge Kollar-Kotelly to do the same. The proposed settlement has positive points for all sides; and appears to make many of Microsoft's anticompetitive practices impossible to continue, while not destroying a firm which has done much to revolutionize the way people all over the world live.

Certainly, Microsoft's agreement to an independent monitor is quite a concession for a corporation in the high-tech areas. The agreement also calls for Microsoft to guarantee "equity" in a number of areas with third parties which will mean less profit for the company m the future. I understand that Microsoft is willing to agree to these provisions just to get this case over with. Since this proposed settlement has the support of the Department of Justice, and of nine states, I hope that Judge Kollar-Kotelly will be willing to approve.

Very truly yours,
Thomas M. Roth III

MTC-00030210

Australian Union of Students
P.O. Box 123
Roma Street
BRISBANE Qld. 4003
Telephone: (07)3321 3059
Email: info@students.org.au

14 November 2001

Renata Hesse
Trial Attorney
325 7th Street, NW
Suite 500
Washington, DC 20530
USA

Dear Sir/Madam,

I refer to the antitrust case against Microsoft Corporation in the United States District Court for the District of Columbia, reference Civil Action No. 98–1232 (CKK). In accordance with provisions of the Antitrust Procedures and Penalties Act, there is attached to this letter a written submission concerning the proposed Final Judgment which has been agreed to between the United States Government and Microsoft Corporation. Our standing to make a submission is explained in the submission.

Cordially,
Geoff Bird National President

SUBMISSION IN RESPONSE TO THE PROPOSED SETTLEMENT OF THE ANTITRUST CASE AGAINST MICROSOFT CORPORATION

AUSTRALIAN UNION OF STUDENTS

NOVEMBER 2001

EXECUTIVE SUMMARY

1. The proposed settlement will not end litigation against Microsoft, as it neglects to punish Microsoft for unlawful conduct and compensate those affected.

2. If the proposed settlement goes ahead, it will deprive the United States Government of influence over the settlement that Microsoft will ultimately reach with the European Union.

3. Accordingly, our association, on behalf of our members who are American citizens, wishes to propose an alternative settlement.

4. Microsoft should be required to publish the source code for its operating systems.

5. Microsoft should be required, by way of a punishment, to set up a venture capital corporation, and to transfer a proportion of its assets to this corporation.

6. The assets which Microsoft should be required to transfer should be equal to the stockholders'' equity in Microsoft, less the stockholders'' equity that Microsoft would have if it had complied with the law.

7. The venture capital company should be required to invest in business start-ups in a country in proportion to the amount that residents of the country have spent on Microsoft products.

8. Stockholders in Microsoft should be issued with stock in the venture capital company in proportion to their holding in Microsoft.

9. The United States Government should be required to use its best efforts to persuade foreign governments to enact legislation excusing Microsoft for any illegal action committed prior to 2002.

10. If a government of a foreign country does not enact the legislation, the venture capital corporation should not be required to invest in the country.

SUBMISSION

The United States Government has brought an anti-trust action against Microsoft Corporation. Following the election of President Bush with the assistance of donations from Microsoft, the Justice Department has reached a settlement with Microsoft. According to the Antitrust Procedures and Penalties Act, the details of the settlement have to be published in the "Federal Register". Members of the public have sixty days to make written submissions on the proposed settlement. This submission is being made in accordance with the statute.

Our association, the Australian Union of Students, has standing to make a submission on the following basis. We have a number of United States citizens as members. Under the constitution of our association, we have the power to make representations to governments on behalf of our members, without necessarily consulting the members beforehand. Accordingly, this submission should be treated as though it was made by American citizens. We could, if necessary, provide to the United States Government, in confidence, the names and addresses of the members concerned.

We are against the proposed settlement. It is not that we are unsympathetic to Microsoft. The management of Microsoft are very much respected in Australia, and are held out by our association as examples who young people in Australia should copy. Nevertheless, the proposed settlement will be of limited usefulness to Microsoft, and will not settle existing litigation by American states, and proposed litigation by European Union countries. This litigation will go ahead, and there will in time be settlements or judgments, which may not be beneficial to Microsoft or the United States.

From the point of view of the United States Government, Microsoft has been held to have broken the law, and to have gained substantial financial benefits as a result. The Justice Department is of the view that it would be undesirable to break up Microsoft into smaller corporations, or to require that Microsoft pay fines. We agree with this. At the same time, Microsoft should have to make up for its illegal actions in some way, so as to discourage other corporations from breaking the law.

The advantage of an out-of-court settlement is that Microsoft can be made to do things that it otherwise cannot be made to do. A court is limited in what it can order. But an out-of-court settlement can contain anything within reason. As an example, an out-of-court settlement could contain a requirement that Microsoft executives must wash their hair each day. An out-of-court settlement should be a "wish list" of things that Microsoft should do. The Justice Department has not been imaginative enough in formulating its "wish list".

The Justice Department's "wish list" must meet two requirements. First, it must end the illegal conduct by Microsoft. Secondly, it must compensate the people adversely affected by Microsoft's actions. The Justice Department should be asking the question, "What can Microsoft do that would be most beneficial to users of its operating systems?" This should not necessarily be limited to things that Microsoft can do in its capacity as a supplier of operating systems, but should include anything that Microsoft can do.

For example, an out-of-court settlement could include Microsoft making donations to charities. No distinction should be made between a donation made by Microsoft and a donation made by its stockholders. Past charitable donations certainly go some way to making up for Microsoft's actions, and should be taken into account in deciding whether to accept an out-of-court settlement.

To end the illegal conduct by Microsoft, we propose that Microsoft should publish the source code written by its programmers, that is used to compile its operating systems, from DOS up to and including Windows XP. This should include comments by programmers put in to explain what the code does. But it should not include code for functions that are for national security purposes.

The publication of the source code would not make piracy of Microsoft operating systems any easier. The software can already be copied illegally. Anyone compiling the operating system from the source code, and using the software without paying a royalty could still be prosecuted. The advantage of publishing the source code would be that software developers could produce operating systems that are functionally equivalent to Microsoft operating systems. If Microsoft refused to allow its distributors to bundle software with its Windows operating systems, Microsoft would run the risk that a distributor would use an equivalent operating system from some other software developer.

Microsoft operating systems have a similar status to human DNA. The information is essential for everyday life. It is surely unsatisfactory that information that is essential for everyday live should be controlled by Microsoft. Certainly Microsoft developed the information, at great expense, so is entitled to a royalty. But they should not be able to prevent further development and improvement of the information.

In formulating its out-of-court settlement, the Justice Department appears to have thought that Microsoft can best compensate consumers for its illegal actions by continuing to develop operating systems. We disagree. We think Microsoft's talent can be used to greater effect in the field of Venture Capital. Of course, if Microsoft was complying with the law, it would be up to them how they use their resources. But since they have broken the law, it is up to the government. The terms of an out-of-court settlement are up to the government.

We propose that Microsoft should be required by a settlement to set up a venture capital corporation. This corporation would invest in and provide advice to business start-ups. Microsoft would be required to transfer a large part of its assets to this corporation. Its stockholders would be issued with stock in the new corporation, in proportion to their holding in Microsoft. The corporation would be required by its charter to invest an amount in each country that is proportional to the amount that has been spent in that country on Microsoft products. This would be advantageous to the European Union, and so they would be likely to agree to such a settlement.

To make sure they do, the United States Government should lobby the European Union and other countries on Microsoft's behalf for legislation to excuse Microsoft from any illegal action committed prior to 2002. It should be included in the out-of-court settlement that the government must use its best efforts to secure such legislation. Such legislation should be a pre-requisite for the venture capital corporation being required to spend any money in a country.

The amount that Microsoft should have to invest in the venture capital corporation would be set so as to compel Microsoft to downsize to the size they would have reached if they had complied with the anti-trust statute. In other words, their stockholders'' equity should be reduced to a level that it would be if they had complied with the statute. Microsoft will as a result have to scale down the extent of its activities and lay off staff. These people will be able to set up businesses in areas of Information Technology that Microsoft was previously involved in. Hence there will be greater competition.

We are suggesting that the Justice Department try to compel Microsoft to transfer its capital into the Venture Capital Industry. This is based on a number of considerations. Microsoft has expertise in taking an industry which is disorganised, and organising it. The Information Technology Industry was disorganised in 1975, but after Microsoft released its Windows 98 operating system, it became organised on a comparable basis with other industries. In our view, it is a waste of resources for Microsoft to continue being exclusively involved in this area. Cars made in 2001 are not much better than cars made in 1971, and Windows XP is not much better than Windows 98.

There are a number of industries which are disorganised compared to other industries. The Venture Capital Industry is disorganised in most countries, and is organised only on the West Coast of the United States. Other industries that are particularly disorganised are the Entertainment Industry, the Property Development Industry, and the Genetic Engineering Industry. By getting involved in Venture Capital, Microsoft can bring its organisational ability to bear on helping set up businesses in Information Technology, Entertainment, Property Development, and Genetic Engineering. This will be of incalculable benefit to consumers. Microsoft already acts as a venture capital corporation, so it has staff who can be transferred to the proposed corporation.

The Justice Department's proposed solution certainly prevents future breaches of the antitrust statute by Microsoft. But it is not as imaginative and beneficial as our proposed solution. Of course, the staff of the Department of Justice work under great pressure, in circumstances that are not conducive to imagination. That is why the United States Congress made provision for the Department of Justice to consider public submissions, in order to arrive at a more imaginative solution. We hope our submission is of some assistance.

Our telephone number including country code is +61 7 3321 3059, and our facsimile number is +61 7 3311 2090, while our e-mail address is info@students.org.au, and our postal address is Australian Union of Students, P.O. Box 123, Roma Street, Brisbane 4003, Queensland, Australia.

MTC-00030213

Manning, Fulton & Skinner, P.A.
?? At Law
RALEIGH, NORTH CAROLINA
GLENWOOD PLAZA
3605 GLENWOOD AVENUE
27612
P.O. Box 20389
?? CODE 27619-0389
January 16, 2002
HOWARD B. MANNING
?? L. PULTON
W?? P. ??. ??
?? D. ??
W. ?? ??
M. M?? H?? J??
MICH?? T. M??
SAXUEL T. OLIVER. JR.
DAVIL D. DAUL
C?? B. NICHOLE, J??
B?? D. Many
John C. DO??
W?? C. S??. Jr.
D?? L. H??
STBPHEN T. BYRD
MICHARL S. HARR??LL
M. ??ADLEY EA??
A??ON R. CA??
David T. ??
C?? H. C??
K?? O. L??
Tanya D. Van ROHKEL
T?? C. K??
B. NICOL?? TAYLO??
J?? A. W??
SANDRA?? M. CLA??
H?? W. Taylor
NIICOL?? S. LAYLO??
L?? ?? HODO??
A ?? C?? C??
?? H. H??
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202-616-9937
microsoft.atr@usdoe.gov

Dear Ms. Hesse: As an attorney, I have long been concerned by the antitrust litigation pursued against Microsoft by the federal government and several states at the instigation of Microsoft's competitors. I was heartened by the decision of North Carolina Attorney General Roy Cooper to agree to the settlement that has been negotiated, and I write in support of the settlement agreement that is before the judge now.

Microsoft's release of its XP program recently again demonstrates why the company has been successful: it offers a superior product at an affordable price that enables even the most computer-challenged among us to take advantage of the information technology revolution. Microsoft should be praised, not punished, for this aggressive innovation and marketing. I strongly believe it is time to bring an end to this lawsuit and get on with the business of meeting the economic and safety challenges that face America today.

Thank you for the opportunity to comment.

M. Bradley Harrold

MTC-00030214

Julie Edge
6010 Melbourne Drive
Raleigh, NC 27603
January 16, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202-616-9937
microsoft.atr@usdoc.gov

Dear Ms. Hesse:

I am by no means an expert on federal antitrust law. But I am a small business owner, and I am qualified to recognize when a business is spending too much time on the wrong issues. Right now, Microsoft, its competitors and the entire information technology industry are spending far too much time fighting over the law and not nearly enough time doing what they should do: serve their customers.

If, as I understand it, there is a reasonable settlement to this matter before the court, it should be approved and put into effect immediately. As I further understand it, the settlement was reached through negotiations supervised by a court-appointed mediator and accepted by the U.S. Attorney General and a number of state attorney generals.

That is good enough for me. Let's end the lawsuits and get back to the business of rebuilding our nation's economy.

Thank you for allowing me to express my opinion.

Sincerely,

Julie Edge

MTC-00030215

State of New ??
HOUSE OF ??
CONCORD
January 8, 2002
Renate Hesse
Trial Attorney
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Subject: Microsoft Settlement

Dear Attorney ??:

Thank you for your public service and your work on behalf of the ?? government. I am writing you today to offer my support of the current settlement proposed in the Microsoft case. I understand you are now accepting public comment and wish to submit my support. As our nation's economy continues in a downturn, many are out of work and ?? are doing more with less. Here in New Hampshire, I am working with my colleagues in the state ?? to find new and ?? ways to wisely spend the money we have and avoid needless spending in areas that do not have an impact on the public good.

I am concerned that if we continue to pursue the government's case against

Microsoft, we are further impeding in the area of technology and making it less and less attractive for investment in this industry both by ?? and in the financial ??. We cannot afford to have the happen. We need to encourage investment in order to spur an upturn in the economy.

By approving the settlement in this case, you will be benefiting just about everyone except the small group of Microsoft's competitors who have been pushing this case from the beginning. But, it is not the government's role to do their ??, the need to compete in the marketplace by offering comparable products.

I hope you will accept the settlement and and the government's involvement in the operations of one of our nation's most exciting companies. Thank you for your consideration.

Sincerely,

John T. ??

Member of the New Hampenire House of Representatives

?? County, District 7

TDD Access: ?? NH 1-800-735-2984

MTC-00030216

JEANNEMARIE DEVOLITES
POST OFFICE BOX 838
VIENNA, VIRGINIA ??
THIRTY-FIFTH DISTRICT
COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND
COMMITTEE ASSIGNMENTS, PRIVILEGES AND ELECTIONS
HEALTH, WELFARE AND INSTITUTIONS SCIENCE AND TECHNOLOGY CLAIMS
January 23, 2002
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D. Street, NW # 1200
Washington, DC 20530

Dear Ms. Hesse:

As the Delegate representing the 35th House District in Northern Virginia, I am writing to encourage you to approve the settlement agreement in U.S. vs. Microsoft.

The United States has become a global technology leader because we have always encouraged our citizens to develop their skills, both intellectually and creatively, in order to invent and develop new ideas. Due to their courage, persistence, and work ethic many choose, through entrepreneurship, to further those ideas by establishing businesses. Every once in a while, one of these entrepreneurs will work hard enough to meet with extraordinary success, at which time, it seems, those that are less successful will attempt to "shoot them down."

The message this antitrust litigation sends to the entrepreneur is that if he works hard to create a successful business, he will be penalized. This works against the very spirit that has made our nation great!

Thank you for taking the time to read this letter. Once again, I respectfully request that the Department accept the settlement agreement in the U.S. v. Microsoft case,

Sincerely,

Jeannemarie Devolites

MTC-00030217

1/25/02
68 Hillcrest St.
Charleroi, PA 15022

Dear Mr. Ashcroft:

I wanted to write to you giving our family's opinion about the suit brought by the Dept of Justice and Micro- soft. I fully support the settlement that was reached—not because it was warranted or that Microsoft deserved to be punished but because it harms our economy and stifles further creativity by business who want to compete and innovate.

Government interference was not the right thing to do and probably was brought about as a result of lobbying on the part of Microsofts competitors. Just as in the case of the airlines the government ought to be providing other services to its citizens instead of pressure and regulations on the private sector of legitimate business dealings. I am happy a settlement has been reached and hope that the future direction of the Justice Department will not be to hamper and oppress Microsoft and other capitalistic endeavors.

Sincerely,

Evelyn Parent

cc Senator Rick Santourini

MTC-00030219

January. 18, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202-616-0037
microsoft.atr@usdoc.gov

Dear Ms. Hesse:

As an attorney, I can appreciate the complexity that the court faces as it reviews the proposed settlement of the Microsoft federal antitrust lawsuit. But I am impressed by the fact that the consent decree under consideration was developed in negotiations overseen by a court-appointed mediator, that it is supported by the U.S. Attorney General and that it has been agreed to by North Carolina's Attorney General.

Further, it is telling that the under the proposal Microsoft would agree to accept significant changes in its business practices, as well as the continuing supervision of a technical committee empowered to review the company's compliance with the agreement.

This certainly seems to me to be adequate protection for Microsoft's competitors, without at the same time crippling the company's ability to continue providing excellent products for use in schools, businesses and homes.

I hope the agreement will be approved.

Sincerely,

Sarah Capel

MTC-00030220

Telefax Service
Fax (804) 786-6310
General Assembly Building
January 25, 2002
House of Delegates
To: Ms. Renata Hesse
From: Del. Michele B. McQuigg
Fax No.: Long Distance 202-616-9937
Tel. No.:
City:
State:

This transmission contains 2 pages, which includes this cover sheet. have any problems with this transmission, please contact (804) 698-1558.

Comments:

If you have any questions, call 804-698-1151.

MICHELE B. McQUIGG
2241-R TACKETTS MILL DRIVE
WOODBRIDGE, VIRGINIA 22102
FIFTY-FIRST DISTRICT
COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND
January 20, 2002
Ms. Reneta Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing in support of the settlement of the Microsoft antitrust case. In a nation where we pride ourselves on free trade and development of services and ideas, Microsoft has proven itself. The agreement contains significant rules and regulations on how Microsoft develops and licenses its software, but it also allows Microsoft to keep innovating on behalf of consumers. I hope you will resist the efforts of Microsoft's competitors, who try to continue their efforts to dissolve this company.

We have many computer and Internet companies throughout Virginia, with a large concentration in Northern Virginia, the area I represent. The economy depends upon technology and Internet success—including Microsoft. It is extremely important to allow this facet of trade to grow and produce without restriction. It is equally as important to allow it to grow free from fear of developing a product that is accepted universally by computer users.

I urge you to accept the settlement as just and fair. If you have any questions, please do not hesitate to contact me.

Sincerely,

DISTRICT: (703) 491-9870
RICHMOND: (804) 898-1051
E-MAIL.:
MICHELE@MCOUIGG.COM ?? HTTP://WWW.HCOUIGG.COM

MTC-00030221

January 20, 2002
Ms. A. Sheard
6503 Rock Crystal Drive
Clifton, VA 20124
Ms. Renata Hesse
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Now that the new year has begun, it is my hope that the other states involved in the suit against Microsoft will agree That it's time to move forward and progress with the proposed settlement. American consumers need some sort of hope that the economy will improve in the months ahead and the high technology sector could provide just the kick to get the economy moving in the upward direction.

It's time for healthy competition and re-investment into our economy made by consumers. The end needs to arrive as it concerns this case and we all need to do what we can for our country—work to improve the quality of our lives and give us back some sort of stability.

Thank you,

MTC-00030222

January 20, 2002
Mr. Ken Richardson
708 Duff Road NE
Leesburg, VA 20176
Ms. Renata Hesse
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As jobless rates and economic indicators continue to tell consumers that times are getting worse, I think Microsoft's settlement with the federal government could provide a beginning bright light. By settling the case, we could once again see the competitive prosperity of the 90's foster the necessary kick the economy needs to move in a positive direction.

The high tech industry has been a driving force for our nation in recent years and if Microsoft's settlement revitalizes competition, than we should welcome this opportunity. This long drawn out case should be resolved once and for all, and the focus should be on lowering the jobless rate, increasing consumer confidence and strengthening our economy.

Sincerely,

MTC-00030223

202-307-1454
Ms. Renata B. Hesse
Dept. of Justice
Microsoft

Please accept the Microsoft settlement. Enough of this alrady!! Get it overwith.

Shirley S. Henry, AHC
Seattle, WA

MTC-00030224

January 20, 2002
Ms. Patty Richardson
708 Duff Road NE
Leesburg, VA 20176
Ms, Renata Hesse
Department of Justice
601 D Street, AT. W., Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Now that the federal government has finally settled its long antitrust case against Microsoft, I hope the states still involved with the suit will do the same. It is time for consumers to come together and move the economy and our country in a positive direction—a forward and economically strong direction.

The settlement's provisions protect Microsoft's ability to continue to be innovative and, this hopefully, will revitalize competition and the technology industry for the betterment of us all. Consumers and investors will reap the benefits of this settlement and this should help to get the engines running toward a healthy and prosperous economic stance. Thank you for your consideration.

Sincerely,

MTC-00030225

January 25, 2002
United States Department of Justice
Attn: Ms. Renata B. Hesse
Antitrust Division
950 Pennsylvanie Avenue, NW
Washington, DC 20530-0001

Dear Ms. Hesse:'

I am writing to you in: support of the recent Department of Justice settlement with the Microsoft Corporation.

The country is at war, the economy is sour and the business community is struggling. Yet, the U.S. Department of Justice is spending millions of dollars in time and resources on the Microsoft settlement.

I believe it has been a waste of taxpayers dollars, my understanding is that it has cost us over $30 million. This has been a competitor driven lawsuit and it has hampered high tech innovation. If Microsoft's competitors would spend time and money on their own research and development, instead of this lawsuit, all consumers would benefit.

Enough is enough, let's settle this lawsuit and move forward. Thank you for your attention to this matter.

Sincerely,
Jean Ross
5705 Ambrosia Terrace
McFarland, WI 53558

Cc: Michelle Kussow-Wisconsin Grocers Association

MTC-00030226

January 25, 2002
Ms. Rcnata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washinton, DC 20530

Dear Ms. Hesse,

In respect to the U.S. vs. Microsoft anti-trust action and why I support the courts decision. I believe our country, government, judicial system and constitution to be second to no other in the world.

Henceforth if the most advanced and just court system in the world has made a settlement of this case. Being a believer and supporter of our system I would have to agree with this decision. As for I do not believe that the general public has more knowledge of the facts,laws and complexity of this case than the decision rendered by the courts.

I do believe most of the nonsupport of this settlement to be no more than sensational rhetoric influenced by microsoft's competitors.

I trust the judge will do what's best for the consumers and not the profiteering of the competitors.

Thankyou.
Sincerely
John J. J. Rybinski
Small business owner for over one score

MTC-00030227

From: "CHRISTINE CAWLEY" <clcawley@msn.com>
To: "Christine Cawley" <cawley_c@univerahealthcare.com...
Date: Fri, Jan 25, 2002 6:44 AM
Subject: Fw: U.S. v. Microsoft
Original Message
From: CHRISTINE CAWLEY
Sent: Thursday, January 24, 2002 10:04 PM
To: microsoft.atr@usdoc.gov
Subject: U.S. v. Microsoft

To whom it may concern:

I feel it necessary to voice my opinion in regards to the U.S. v, Microsoft case in hopes that this case will finally settle. As a concerned citizen, and as a business woman in Buffalo, NY, I strongly believe that the continuation of this lawsuit will only serve to put continued undue pressure on our economy and damage further economic advancement possibilities. Buffalo is a perfect example of a city that has been first into any national economic slump and last out, I can only see this lawsuit negatively impacting the economy further. Further funding of a lawsuit that is going after an incredibly successful company—which has been built on the principle of free enterprise that we as Americans so value—will only serve to help Microsoft's competition and do nothing for medium to small businesses. Thank you for your attention to my opinion—

Christine L. Cawley
20 Saber Lane
Williamsville, NY 14221

MTC-00030228

DANIEL J. BURLING
Assemblyman 147th District
THE ASSEMBLY
STATE OF NEW YORK
ALBANY
RANKING MINORITY MEMBER
Veterans' Affairs
COMMITTEES
Agriculture
Environmental Conservation
Housing
Legislative Commission
on Solid Waste Management
January 25, 2002
Renata Hesse, Trial Attorney
Antitrust Division
Department of Justice
601 D. Street NW, Suite 1200
Washington, DC 20530
VIA FAX: 202-616-9937

Dear Ms. Hesse:

As a member of the New York State Assembly and small business owner, I strongly support the settlement of litigation associated with the case United States v. Microsoft.

The Country and especially New York State have suffered immeasurable financial losses due to a lagging economy and the destruction of the World Trade Center on September 11, 2001. It is apparent, now more than ever that we need to generate growth in all sectors of the economy. We need to encourage businesses, both small and large, to continue to strengthen the economic environment of the United States.

It is time to move forward and allow one of the world leaders in software technology to do what they do best, and continue to lead the United States economy toward the recovery we all expect and desperately need at this time. Settlement would be in the best interest of all parties involved including the taxpayers of this great country.

I appreciate your consideration of this matter, and hope for a speedy resolution to this most pressing matter.

Sincerely
DANIEL J. BURLING
Member of Assembly
147th Assembly District
ALBANY OFFICE: Room 938
Legislative Office Building
Albany, New York 12248
(518) 45–5314,
FAX: (518) 455–5891
DISTRICT OFFICE: 2371 North Main Street
Warsaw, New York 14569
(716) 786–0180
FAX: (716) 786–0182

MTC–00030229

Lions of Oklahoma
OFFICE OF THE STATE SECRETARY
4123 NW 10TH Street
Oklahoma City: OK 73107
405–947–6540
January 25, 2002
Renata B. Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Re: Microsoft Propose, d Settlement Agreement

Dear Ms. Hesse:

On behalf of our business community and thousands of individual computer users, I am writing to lend support to the proposed final settlement between the Department of Justice and Microsoft Corporation.

The growth of the high tech industry has been phenomenal due to the innovative spirit of companies such as Microsoft. The economy of our community and that of the State of Oklahoma have benefited from this impressive industry. The settlement effectively puts an end to what has been a dark cloud over the technology sector, It is better to settle the dispute in a reasonable manner than to continue to hamper the industry with pro-longed litigation.

Please add our voice to those of other civic and business groups that believe the provisions of the settlement should be expeditiously approved.

Sincerely,
Cindy Davis
Office Administrator

MTC–00030230

MARILYN BRAIGER
3021 Hillegass Avenue
Berkeley, CA 94705
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ascroft:

Although not a technology expert, as someone familiar with the Microsoft anti-trust case and its products, I am contacting you to express my agreement with their pending settlement with the Justice Department. From my perspective, Microsoft is hardly a big evil trust squashing the competition and hurting the consumer, so the government's case appears to have gone much further than necessary and should finally be completed. For instance, if the consumer has been hurt, why are prices continually falling for software and related products?

From my review of the pending agreement, I would say Microsoft has made some substantial efforts to encourage competitors to succeed in the software marketplace. They will offer the same pricing to the top 20 computer makers, while opening up their opportunities to re-arrange Windows with the software offerings and features of their preference, free of contract obligations. They will even allow other software developers to utilize their internal codes and license their technologies.

In addition, the situation has certainly changed since this suit was begun; there is much more competition in all the technology fields than once existed, and, if one can credit the business news, AOL is aggressively pursuing Microsoft and may bid fair to best her. This does not appear to be the position of a monopoly, who can shrug off competition and maintain dominance in an industry with no large expenditure of effort.

So much of the attack on Microsoft has appeared to me to be lot of whining by companies that could have done better, and are blaming someone else for their incompetence. Such measures as Microsoft is offering should be quite satisfactory to those who have encouraged this lawsuit. To proceed with a break-up of the company at this point would be overkill to say the least and would only destroy tile opportunity for a peaceful compromise. I look forward to your support.

Sincerely,
Marilyn Braiger

MTC–00030231

HAROLD C, BROWN, JR.
121st Assembly District
THE ASSEMBLY
STATE OF NEW YORK
ALBANY
January 25, 2002
CHAIRMAN
Minority Conference
COMMITTEES
Aging
Health
Rules
Ways & Means
Renata Hesse, Esq.
Antitrust Division
United States Department of Justice
601 D Street NW, State 1200
Washington, DC 20530

Dear Ms. Hesse:

I write in support of the proposed settlement in the anti-trust action involving the U.S. Department of Justice and Microsoft Corporation.

I believe strongly that the time has come for an end to the litigation of this matter, which has cost U.S. taxpayers upwards of $30 million to date. A negotiated settlement appears to be in everyone's interest. The settlement agreed to by the Justice Department and Microsoft, as well as numerous state attorneys general, presents an opportunity to remove this debate from our nation's courtrooms and place it squarely back in the hands of consumers via the marketplace, the most appropriate vehicle, in my opinion, for resolution of the issues involved.

The technology marketplace is a highly competitive one, to be sure. I am among those who have always believed that competition is a positive and lasting characteristic of our nation's economic framework. Those industry competitors who are aggressively opposing settlement of this case are asking the U.S. government to move beyond its role as enforcers of federal anti-trust laws, in my opinion, setting a new standard of government intervention in what should be market-driven forces.

The time has come for a settlement of these issues, and I urge the Department of Justice to move expeditiously toward that end.

Sincerely,
HAROLD C. BROWN, JR.
Chairman
Assembly Republican Conference
Room 521
Legislative Office Building,
Albany, New York 12248,
(518) 455–4505,
FAX (518) 455–5523
Room 102,
5109 W. Genesee Street,
Camillus, New York 13031
(315) 487–3011,
FAX (315) 487–3014

MTC–00030232

FAX TRANSMISSION
ASSEMBLYMAN GUY R. GREGG
268 ROUTE 206
BUILDING D.
FLANDERS, NEW JERSEY 07836
TELEPHONE: 973–584–5422
FAX: 973–58,4–2977
To: Renata Hesse
Fax #: 202–307–1454
From: Asm. Guy Gregg
Subject: Microsoft
Date: January 25, 2002
Pages:
COMMENTS:
NEW JERSEY GENERAL ASSEMBLY
GUY R. GREGG
ASSEMBLYMAN, 24TH DISTRICT
MORRIS-SUSSEX-HUNTERDON COUNTIES
268 ROUTE 206, BUILDING D
FLANDERS, NJ 07886
(973) 584-5422
FAX (973) 554–2977
E-mail: AsmGregg@njleg.state.nj.us
COMMITTEES
CHAIRMAN
REGULATORY OVERSIGHT
MEMBER
COMMERCE, TOURISM,
GAMING, AND MILITARY
AND VETERANS AFFAIRS
January 25, 2002
Ms. Renata Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
RE: Microsoft Proposed Settlement

Agreement

Dear Ms. Hesse

The Microsoft settlement is a nimble resolution that preserves competition, allows Microsoft and its rivals to freely continue to meet consumer demands, and helps define the direction of government's role in the high-tech industry. More than anything, certainty and resolution will help the economy and promote new investment in technology.

In my estimation, it will be very hard to justify rejecting a settlement that is good for consumers, the technology industry and the economy as a whole. Accordingly, I urge you to accept the proposed settlement agreement.

I thank you for your time.

Sincerely,
Guy R. Gregg
Assemblyman
District 24
GRG:kvp
Printed on Recycled Puper

MTC–00030233

ROME COTTON COMPANY, INC.
706/234–3366
FAX: 706/234–3768
220 Glen Milner Boulevard
Post Office Box 102
Rome, Georgia 30162–1021
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I'd like to express my opinion on the Microsoft antitrust ??ase. Microsoft agreed to make available to its competitors, on reasonable and nondiscriminatory terms, any protocols implemented in the Windows' operating system that are used to operate with any Microsoft server operating system. They also agreed to design future versions of Windows, to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows.

Now that Microsoft has agreed to the above and a host o?? other terms of the agreement, there may be more pending litigation. How can that be? Is there anything that can be done to stop the pending litigation? Our economy is already below what it was this time last year We cannot afford another drain on our economy.

cc: Representative Bob Barr
Sincerely,
Harvey Burnes
Member
ATLANTIC COTTON ASSOCIATION
AMERICAN COTTON SHIPPERS ASSOCIATION
NEW YORK COTTON EXCHANGE

MTC–00030234

John Biondolillo
504 Young Avenue
Chattanooga: TN 37405
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am of the opinion that the settlement that ended the antitrust case between Microsoft and the Department of Justice is more than fair, and should be implemented as soon as possible. The time has come to put this issue behind us and to move forward. Our economy needs all the help it can get.

This proposed settlement brings an end to the more than three years of litigation than has cost the government and Microsoft millions of dollars. The agreement does not let Microsoft easy by any means, but it does finish the tireless lawsuit. Microsoft will now have to share with its competitors, the source code and data that make-up the design of Windows. This will be done in order to make competing software compatible with Windows, and will encourage competition in the IT industry.

The settlement is past due, and I hope that it is approved as soon as possible.

Sincerely,
John Biondolillo

MTC–00030235

John Biondolillo
504 Young Avenue
Chattanooga: TN 37405
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

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The settlement is past due, and I hope that it is approved as soon as possible.

Sincerely,
John Biondolillo

MTC–00030236

132 Mill Road
Norristown, PA 19401
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am concerned that the possibility of continued litigation against the Microsoft Corporation even exists. I cannot fathom how nine states still believe that Microsoft has not been properly dealt with in the antitrust suit. The whole thing is a waste of time for everybody including the government.

Microsoft and the Justice Department have come to an equitable settlement in this case. An agreement has been reached that is fair both to Microsoft and its competitors. Microsoft has agreed to reformat future versions of Windows so that the operating system will support non-Microsoft software. They have also agreed not To retaliate against software producers who introduce programs onto the market that directly compete with Microsoft's technology. I believe that these terms satisfy antitrust laws. I find it unnecessary to bring further suit against Microsoft. No further action should be taken on the federal level. I urge you to allow this settlement to carry through. THIS LAWSUITE IS A JOKE, AND AN INJUSTICE TO ALL THE AMERICAN PEOPLE AND THE USA.

Sincerely,
Sebastian Bartorillo
cc: Senator Rick Santorum

MTC–00030237

6 Sinclair Rd.
Sinclair, ME 04779
January 22, 2002
Attorney General John Ashcroft,
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530,

Dear Mr. Ashcroft,

I would like to give you my thoughts about the Microsoft Antitrust Case. This issue has been in and out of the news for almost three years. Doesn't our government have anything better to do with their time? It is a waste of taxpayers'' hard-earned money and is not something that truly represents the public interest. Microsoft's company is not harming consumers. Their company has actually contributed a great deal to our economy, providing thousands of well-paying jobs to the technology industry directly, and countless more indirectly.

I am retired and use computers at home now. For years, I used Microsoft products m my office and liked their east of use and compatibility. No other system provides that as Microsoft does; that is why they have been so successful.

This settlement is very reasonable, calling for Microsoft to change their counteractive marketing practices and to give away some of their technology. This will make things more than fair for their competitors, especially since they are getting to take advantage of Microsoft's intelligence and money spent to come up with the technology. Please uphold this settlement for the good of everyone. Our economy needs a boost right now and improving our computer industry is a good way to do it.

Sincerely,
Claudia Morin

MTC–00030238

Salvatore A. DeLuca 60 7 Boulevard Boston, MA 02151
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support the Microsoft antitrust settlement agreement. I believe that continued litigation at this point would be a waste of time.

Endless amounts of time could certainly be spent nit-picking the terms of the agreement. But, as a whole, I believe its terms are fair. The agreement provides for mechanisms to ensure Microsoft does not have a monopoly. Microsoft will be prevented from engaging in predatory business practices. A technical review committee will be created which will monitor Microsoft's business practices. Microsoft also agreed to uniform price lists for the largest computer makers.

Microsoft may have ended up with a monopoly in the software world, and steps are being taken through the settlement to restore competition in that arena. The settlement goes as far as covering products and procedures that were not the subject of the initial lawsuit.

I would like to see this case brought to a conclusion. Thank you for your efforts in this regard.

Sincerely,
Salvatore A. De Luca

MTC-00030240

Deluca, Salvatore A.,M.D.
From: Microsoft's Freedom To Innovate Network [fin@ MobilizationOffice.com]
Sent: Wednesday, January 23, 2002 11:35 PM
To: Deluca, Salvatore A.,M.D.
Subject: Attorney General John Ashcroft Letter
USAGDe

Luca__Salvatore__1100—012.... Attached is the letter we have drafted for you based on your comments. Please review it and make changes to anything that does not represent what you think.

If you received this letter by fax, you can photocopy it onto your business letterhead; if the letter was emailed, just print it out on your letterhead. Then sign and fax it to the Attorney General. We believe that it is essential to let our Attorney General know how important this issue is to their constituents. The public comment period for this issue ends on January 28th. Please send in your letter as soon as is convenient.

When you send out the letter, please do one of the following:

* Fax a signed copy of your letter to us at 1–800–641–2255;

* Email us at fin@mobilizationoffice.com to confirm that you took action.

If you have any questions, please give us a call at 1–800–965–4376. Thank you for your help in this matter.

The Attorney General's fax and email are noted below.

Fax: 1–202–307–1454 or 1–202–616–9937

Email: microsoft.atr@;usdoj.gov In the Subject line of the e-mail, type Microsoft Settlement.

For more information, please visit these websites:www.microsoft.com/freedomtoInnovate/www.usdoj.gov/atr/cases/ms-settle.htm

MTC-00030241

COVER PAGE
TO:
FAX: 12023071454
FROM: LUREY PSYCHOLOGICAL
FAX: 910–3738948
TEL: 910–3738947
COMMENT: CONFIDENTIAL
January 24, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Please support the proposed settlement between Microsoft and the Department of Justice. There needs to be a resolution of this case. I think that the terms agreed to are reasonable, since they offer increased competition, without calling for the break-up of Microsoft.

The settlement calls for improved design features, more competition among computer makers and software developers, and a technology committee to review complaints. The settlement would benefit the state, the IT industry, and the economy.

Since many of the obligations extend to products that were not part of the original lawsuit, I believe this is more than a reasonable compromise by Microsoft. Again, I ask you to please support this settlement.

Sincerely,
Edward Lurey
cc: Representative Howard Coble
902 NORTH ELM STREET
GREENSBORO, NC 27401–T513
(336) 373–8947
FAX (336) 373–8948

MTC-00030242

P.O. Box 381107
Germantown, TN 38183–1107
901–753–8797 or 800–842–0052
FAX 901–753–8796 Fax
To: Attorney General John Ashcroft
From: Carolyn Skinner of Ro?? SKinner
Date: 1–25–02 Pages: 3
COMMENTS:
Carolyn Skinner * 8252 Park Ridge Drive * Germantown, TN 38138
January 25, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this letter is to express my support of the Microsoft settlement. The settlement, which was reached last November after three years of litigation, is extensive, and equitable. I strongly urge the Justice Department to enact the settlement.

Enacting the settlement is in the best interest of the technology sector, consumers, and the economy. It will increase confidence in the technology sector and provide for heightened productivity. What's more, Microsoft has agreed to redesign Windows to allow users to reconfigure their operating system at their discretion. Further, the surge in the technology sector that the enacting of this settlement will catalyze will strengthen the economy as well.

Finally, I would hope that the Justice Department recognizes the benefits of this settlement and suppresses any opposition to it.

Sincerely,
Carolyn Skinner
8252 Park Ridge Drive
Germantown, TN 38138
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The intent of this letter is to urge the Justice Department to enact the federal antitrust settlement reached with Microsoft. As a Microsoft supporter, I have followed the case against Microsoft with great interest. have been increasingly annoyed by the amount of time and money that has been squandered over this issue. Microsoft has been generous in this mediation process. Any continuation of this case would serve only to waste federal resources.

Further, the settlement agreement that was reached is extremely equitable. Microsoft has agreed to license the rights to Windows to competing computer manufacturers at the same rate. Also, Microsoft will disclose some of the interfaces of the Windows system. The disclosure of interfaces will help developers to create software and hardware that is more compatible with the Windows system.

These changes will greatly benefit technology, consumers. Once more, the settlement is fair and should be enacted.

Sincerely,
Rodger Skinner

MTC-00030243

JEFFERY J. RHODE
311 Cherry Lane
Wynnewood, PA 19096
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I understand the Department Of Justice is accepting and publishing public comments for the first time since the antitrust suit was brought against Microsoft more than three years ago.

Microsoft did not get off easy. The settlement was reached after extensive negotiations with a court-appointed mediator. The Company agreed to terms that extend well beyond the products and procedures that were at issue in the suit, for the sake of wrapping up the suit. Now several states anti competitors want to pursue further litigation.

I personally fell the agreement reached m November was fair. I urge you to please end all litigation against Microsoft. Let's focus on other far Important issues such as getting us out of the Recession and other pertinent issues.

Sincerely,
Jeffrey J. Rhodes
cc: Senator Rick Santorum

MTC-00030244

A.C.D. ENTERPRISES
WILLIAM A YOCHUM
34166 STATE STREET
FARMINGTON, MI 48335–4168
PH, (248) 474–2700
FAX (248) 426–0171
To D.O.J.—c/o RENATA B. HESSE
FAX—(202) 307–1454
DATE 1–25–02
SUBJECT MICAOSOFT SETTLEHENT

D.O.J.—Gentlemen and Renata B. Hesse

Please use this fax communication to register my approval of the proposed subject.

William A. Yochum—Owner

MTC-00030245

Vernon George
1273o S Oak Park Avenue
Palos Heights, IL 6o463-2254
January 22,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

As a retiree who has been following this Microsoft antitrust case, I thought the settlement was more than fair. Now I understand that several states want to reopen this case and pursue further litigation. Hasn't this dragged on long enough?

After all, Microsoft did not get off easy. They settled after extensive negotiations and agreed to terms well beyond the issues in the suit. Microsoft has agreed to not retaliate against computer companies that ship competing software.

This lawsuit needs to stop. The economy cannot afford further litigation. No more action should be taken at the Federal level.

Sincerely,
Vernon George

MTC-00030246

DifferentDrummer Lenox
TEL:1-415-637-2910
Jan 25,02 10:13
No.004 P.01
January 24th., 2002
Department o% Justice
Washington, DC
Réf, Proposed Microsoft Antitrust Settlement, Public Comment Opportunity

I wish to weigh in on this matter from the perspective of someone (n small business owner) who has suffered substantial harm as a result of Microsoft's dominance in the past is being harmed at this moment, and will continue to be adversely affected unless major changes occur in the future. First, I would ask you to consider some history. We began a major involvement with computers some fifteen years ago. The operating system in use for IBM compatible computers was DOS. It is important to remember that while Microsoft acquired the rights to this system and IBM used it, there were a number of operating system software producers.

Each system was guaranteed to operate any DOS program and each one offered particular features which might recommend them to the user. Then there were producers of software that dealt with functions viz word processing, spreadsheets; and utilities viz: backup, file management, hard drive maintenance. There was constant competition between these software producers to gain a competitive edge and thereby gain new users far their offerings. It is important to remember that at this time while Microsoft produced certain offerings they were not dominant, or even a major player, in any category.

We had perhaps ten or twelve 8oftware vendors in those days. Of that number the vast majority are out of business as a direct result of Microsoft's practices. Those that are still in business survived by a capitulation to Microsoft and a willingness to stay within the parameters in which they were permitted to operate.

While reason forces one to admit the unknowableness of "what might have been", I can feel confident in saying that the damage to the advancement of computer applications as a result of Microsoft having crushed their competition is beyond measure.

We have applications that perform tasks in a manner superior to any offering from Microsoft but they are essentially obsolete as they will not run in a Windows environment. Their developers long since were rolled over by the microsoft behemoth. I could go on for pages about why this monstrous monopoly developed and the interests that supported and abstained it. I will forebear this as it is, at this point, not relevant. What is relevant is.

Different Drummer Lenox
TEL:1-413-637-2910
Jan January 24th., 2002
page two whether or not the situation is
going to change or just get worse, No one seems to realize the potential being lost to our economy as a result of computer applications that will be never be developed due to the Microsoft monopoly.

In order to break the Microsoft monopoly two things must be required. First The Windows operating system must be made available for license under terms that will truly allow one or more competitors. Second, Microsoft must be prohibited from being a developer of any applications or utilities software by setting these operations under the control of an unrelated company.

Any remedies short of this will not solve the problem. A problem that is far more onerous and detrimental to our economy than can be imagined save by those who live with the results every business day. I implore you to stop now that which should have been stopped earlier and thereby reintroduce competition to the computer software industry. Thus you will allow the American computer industry to fully achieve its potential.

Respectfully submitted,
Raymond F. Meisberger, President
Different Drummer's Kitchen, Inc.
374 Pittafield Rood
Lenox, MA 01240

MTC-00030247

From: John P. O'Donnell
To: Fax#1-202-307-1454
Date: 1/25/02
Time: 10:03:50 AM
John O'Donnell
13 Old Dutch Road
Harleysville, PA 19438
January 15, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am disturbed by the fact that the Microsoft settlement is in jeopardy. It concerns me that, regardless of the comprehensive and impartial settlement reached in November of 2001, nine out of eighteen plaintiff states continue to seek federal action against Microsoft. What grounds can these nine states possibly find for additional litigation? The terms of the settlement do not allow Microsoft to further violate antitrust laws; how then can the antitrust suit be pursued?

Microsoft did not get off easy. Once the settlement is final, Microsoft will be required to disclose any Windows operating system protocols that allow native interoperation with any Microsoft server. Microsoft has agreed to reformat future versions of Windows so that competing software producers can introduce their products and programs into the Windows operating system without complication. Property rights violations are not an issue here, because Microsoft has also agreed to provide third parties acting within the terms with a license to applicable intellectual property rights. There is nothing in the agreement that does not benefit competitive software makers and prevent antitrust law violations.

I urge you and your office to support this settlement. The only thing that can come of additional litigation is a stagnation of growth in the IT industry and further economic decline for all Americans. I support this settlement, and I believe you should do the same. cc: Senator Rick Santorum

Sincerely,
John O'Donnell

MTC-00030248

City of Salisbury
Human Resources Department
City Office Building
132 North Main Street, 2nd Floor
PO Box 479
Salisbury, NC 28145-0479
General Phone: (704) 638-5217
General Fax: (704) 638-8454
Web Site: www.ci.salisbury.nc.us
Name: Attorney General John Ashcroft
Company:
Fax Number: 1-202-307-1454
Voice Phone:
From:
Name: Brenda Allman
Fax Number: 704-638-8456
Voice Phone: 704-638-5226
Notes:
Date and time of transmission:
Number of pages including this cover sheet:
Friday, January 25, 2002 9:40:36 AM 02

This fax was transmitted directly from a network PC using RightFax for NT.

3605 Lowerstone Church Rd.
Rockwell, NC 28138
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a Microsoft supporter I felt it was necessary to write and disclose my opinion of the settlement that was finally reached in the antitrust lawsuit against this company. I believe that this settlement must be passed and that the continued litigation involved in this case has done nothing but bog down the American economy as well as the 1T sector in general.

It is my personal belief that the terms of the settlement are reasonable. Microsoft will no longer commit antitrust violations and in return they will be allowed to continue trading as a whole entity. The settlement will include the implementation of a technical oversight committee that will monitor Microsoft's compliance to the terms. I feel that the acceptance of this settlement is vital to a positive future of American business. Please ensure that this settlement is accepted. Thank you.

Sincerely,
Brenda Allman
Representative Mel Watt

MTC-00030249

January 24, 2002
Attorney General John Ashcroft
(US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear AG Ashcroft:

Microsoft had been responsible for some business practices that could be construed by others as anti-competitive. Whether this had actually been over the point of legality or not is, in my opinion, an open question. There are many examples of other IT companies that have—and and do—exert this kind of anticompetitive behavior who have not been as visible as has Microsoft.. or for whatever reason have remained closer to the political mainstream. Nevertheless, it is far better that this litigation has ended with a settlement. The terms of the settlement address the main points of the original lawsuit, such as the problems of retaliatory action and allegedly u/flair licensing, Settling the lawsuit has the advantage of causing less disruption in the IT industry than would have resulted in Microsoft had been broken up. For this reason, I support the settlement, though I remain skeptical that the original suit should ever have been brought originally.

Sincerely,
David Phillips
President

MTC-00030250

TO: Attorney General John Ashcroft
Company: US Department of Justice
Fax Number: 9,12023071454
Phone Number:
FROM: Veronica S. DeLuca
Fax Number: 61 7-783-7666
Phone Number: 61 7-783-7600/800-545-7665
NOTES:
Date and time of transmission: Friday, January 25, 2002 9:50:38 AM
Number of pages including this cover sheet: 02

This document was faxed using a RightFAX v7.0 electronic document delivery solution. RightFAX

January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Last November there was finally a settlement hammered-out between Microsoft and the Department of Justice, which ended the three-year ant/trust lawsuit. This settlement was a long time coming, and I hope that it will be approved as soon as possible.

Microsoft had to concede more than they would have liked in the settlement, but after everything is all said and done, the biggest winner will be the economy. Microsoft has agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows. This will allow the competition to bring their product to the marketplace without having to worry about being punished by Microsoft. This will give a much-needed shot in the arm to the economy.

I am in favor of the settlement between Microsoft and the Department of Justice, and would like to go on record as being so.

Sincerely,
Veronica S. Deluca

MTC-00030251

1032 Coronet Road
Warminster, PA 18974
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I understand the Courts will make a final decision at the end of January on whether the proposed Microsoft settlement is in the best interest of the public. I don't believe this case should have gone to litigation at all. Since it did, and an agreement has been reached, why not end this case? Microsoft did not get off easy, as its opponents would have people think. They have agreed to not enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively or in a fixed percentage. Microsoft has also agreed to not retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows.

I urge you to put an end to this litigation. No more action should be taken at the Federal level.

Sincerely,
Randall Seller
cc: Senator Rick Santorum

MTC-00030252

P.O. Box 5804
Baltimore, MD 21282-S804
January 22, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am writing to express my support for Microsoft and the government for reaching a settlement on the antitrust issue. The government did what they thought was in the best interest of the consumer. Microsoft showed in this settlement that they have always done that and will continue to.

Microsoft took the initiative and offered a very reasonable settlement. They have agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows, not to enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively or in a fixed percentage, subject to certain narrow exceptions where no competitive concern is present, and agreed that if a third party's exercise of any options provided for by the settlement would infringe any Microsoft intellectual property right, Microsoft will provide the third party with a license to the necessary intellectual property on reasonable and nondiscriminatory terms.

Microsoft has lived up to its corporate responsibility, and I, the consumer, never doubted that they would. I support this settlement, and hope it stands.

Sincerely,
Michael Nelson

MTC-00030253

BRIAN SCOTT OLSON
4627 TARAY LANE
HOLDAY FLORIDA 34690-3822
Phone & Fax 727-937-4766
Thinskate@yahoo.com

I am 71 years old and not influenced by keeping up with the Jones or AOL. I have been teaching the use of computers since 1988 and was thrilled when Netscape help drive the Interact, but I do not buy Edsels.

Internet Explorer works so much better now then Netscape, you wonder what AOL programmers are doing. AOL should be in court because of their blatant rejection of material from other services. You can not use their buddy system, even from the greatest Home Page "Yahoo." If you send video or photos outside of AOL you are very fortunate if they arrive. I constantly send Video and photos to my one Son who has the bad judgment to use AOL, those efforts rarely get delivered. My other three children seem to have no problem viewing my efforts. My opinion on a company that is out of control (I assume because they think they are GOD) has to be AOL. I am pragmatic, I had AOL for five years, I now use AT&T. If Netscape and AOL were better they would be on my computer.

When you go on-line with AOL & CS, you are not on the Internet, you are on AOL & CS. AT&T, Earthlink, Juno you are on the Internet. SO? It means AOL is not faster, it also means they control the content on your home page. You pick the content on other servers, not the choices AOL gives you.
INTERNET EXPLORER WORKS BETTER AND THE UPGRADES ARE FREE

This is supposed to be about the public, not AOL, Correct?

MTC-00030254

To:
From: Tom Cope
Fax: Pages:
Phone:
Date:
Re:
CC:
Comments:
STEWART E. IVERSON, JR.
STATE SENATOR
Ninth District
Wright, Franklin, Hamilton & Hardin Counties
Statehouse: (515) 281-3560

HOME ADDRESS
3020 Dows-Wiliams Road
Down, Iowa 50071
Home: (515) 852–3350
January 25, 2002
STATE OF IOWA
Seventy-ninth General Assembly
STATEHOUSE
Des Moines, Iowa 50319
SENATE MAJORITY LEADER COMMITTEES
Rules & Administration, Chair
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530–0001
Re: Comments in Support of the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

I am adding my support as Majority Leader of the Iowa Senate for the efforts by the Department of Justice and a number of Attorneys General to settle the Microsoft case. I am not an economist or a lawyer, but I know the marketplace. The markets have responded very positively to the prospect of this settlement agreement being accepted by the Court. That would be good news here in Iowa as we struggle to regain the momentum our economy had in the 1990s, much of it because many smaller businesses were able to partner with Microsoft and others in the high-tech industry. The markets have said it's time to clear away the cloud cover and bring some sunshine again.

I know the government has some role in overseeing the market place. The settlement helps define that role. It is also important that we not destroy this company. Thank you for the efforts of all involved in crafting this proposed agreement. Keep urging the Court to accept your work product.

Sincerely,
Stewart Iverson, Jr.
Iowa Senate Majority Leader

MTC–00030255

3195 Old Trail Road
York Haven, Pennsylvania 17370
January 14,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to address the settlement reached in the Microsoft antitrust case. I am in favor of ending these proceedings against Microsoft as soon as possible. To that end I am in favor of the current antitrust settlement, although I am opposed to the antitrust suit as a whole. I do not believe that Microsoft should have been involved in antitrust proceedings at all. As I understand it, Microsoft agreed to terms that exceed well beyond the original products and procedures that were at issue under the antitrust suit. Under the terms of the settlement, Microsoft has agreed to license their Windows products out to the 20 largest computer makers on identical terms and conditions, including cost. In addition Microsoft must document and disclose information to its competitors regarding the internal interfaces of the Windows product line for the purposes of further software development on there part.

While I feel that many of the terms of the settlement are overly restrictive to Microsoft, I am in support of the settlement for the sake of getting back on track economically. Bringing an immediate end to the litigation process will benefit the slumping economy. There for I strongly urge you to bring an end to the antitrust proceedings, as we have many more pressing issues currently at hand.

Sincerely,
Millard Wolfgang
cc: Senator Rick Santorum

MTC–00030256

To Whom It May Concern:

Under the Tunney Act, I wish to comment on the proposed Microsoft settlement. The current proposed settlement will not put any constraints on Microsoft that Microsoft can not maneuver out of easily. It is imperative to restore competition to the marketplace for the benefit of consumers and businesses alike. Microsoft has maintained its monopoly in the marketplace by controlling who has access to the API's, file formats and protocols used in it s products. These API's file formats and protocols should be available to other vendors and the general public, so adequate competitive products can be developed and to ensure that users have access to their data and computers if Microsoft raises prices. I have always believed in fair competition and letting the best product win. However. Microsoft used its dominance in one area to take over another area. They were able to do this by controlling API's, file formats and protocols available to other vendors. If Microsoft claims its products are superior then it should not have a problem competing on a level playing field where each competitor has the same API's, file formats and protocols available. So I ask the court to consider requiring Microsoft to publish all API's, file formats and protocols on all products prior to their release. This should be monitored by an independent monitoring board appointed by the court with stiff penalties for non-compliance. I also ask the court to require Microsoft to publish the amount it charges for each copy of its products shipped with a new computer to allow consumers to determine the actual value of the software they receive. I also ask the court to provide protection to 0EM manufacturers from Microsoft if the 0EM manufacturers determine that another configuration other than the default windows configuration is best for its customers. Thank you for your time.

George King

MTC–00030257

Ms. Renata B. Hesse
Antitrust Division,
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001 .
FAX (202)307–1454/(202)616–9937

Dear Ms Hesse:

By way of introduction, my name is John A. Mulhall. I am a practicing pharmacist with Eckerd Drug in Syracuse, New York. As a taxpayer and consumer, I strongly support the proposed settlement with Microsoft in the government's long-standing Clinton-era antitrust lawsuit. So far, it has been estimated that the lawsuit has cost the American taxpayers more than $35 million. What a waste of taxpayer dollars in this witch hunt! I urge you to put a stop to this travesty of justice NOW.

The way I see it, this lawsuit has been nothing more than a form of welfare for Netscape and other competitors of Microsoft, as well as a way for states to get "free" money. It has done absolutely nothing for those supposedly harmed by Microsoft, the computer users of this nation, and has greatly discouraged technological innovation. This is not "the American Way". At least not the America in my mind's eye.

The waste of taxpayer dollars aside, I, for one, hold the United States government, and specifically he Department of Justice, responsible for crippling this premier high-tech cog in the nation's economy. Is this really an opportune time when we can afford to continue to harm the backbone of this country? Has not the DOJ suffered enough "black eyes"? Microsoft has already agreed to hide its Internet Explorer icon from the desktop. The proposed settlement is in the best interest of all involved:

—Microsoft: can continue to provide innovative software that integrates new products
—Competitors: can return to the creation &new products which can be incorporated or made compatible with Windows
—Consumers: can have more software choice
—Investors: can have marketplace stability

If the lawsuit is allowed to continue, the expenditures involved will be even more outrageous to the American taxpayer than they already are. The nine states and the District of Columbia still involved in the case have retained many high-priced lawyers intent on dragging this out for a very long time. They have issued twice as many requests for information including frivolous subpoenas of non-involved third parties, during the remedy phase of the trial than the previous 19 states did in the entire liability phase.

It is high time to put an end to this abuse &hard-working American taxpayers. The economy is in dire need of a remedy to this situation. The proposed settlement is a fair one, I thank you in advance for your time and consideration in this very important matter. It is my hope that you and your staff can keep me up-to-date regarding the status of the settlement.

Sincerely Yours,
John A. Mulhall, RPh
7 Evergreen Lane
Cazenovia, New York 13035
(315) 655–4859

MTC–00030259

January 24, 2002
To: Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
From: Jim W Myers
40835 244th Ave S E
Enumclaw, WA 98022

Dear Mr. Ashcroft:

I strongly recommend that the Court approve the Microsoft antitrust settlement agreement. The uncertainty of this situation continues to damage the economic condition of our country far more than any actions taken by Microsoft. As a business person, I am all too familiar with the dog eat dog climate in the business world. All Microsoft did was play the game too well and the other teams got mad and jealous.

The restrictions that will be placed on Microsoft pursuant to the settlement agreement will allow the competition an extra edge, but they will still have to learn to play the business game as well as Microsoft. Microsoft has agreed not to retaliate against computer makers who promote non-Windows software. They have also agreed to make it easier for consumers to replace features of Windows with non-Microsoft software. Additionally, a technical review committee will monitor Microsoft's business practices to ensure no further antitrust violations occur. No settlement can make Microsoft competitors stronger competition; they have to do it themselves. This settlement is good for the country but still unfair to Microsoft. Microsoft has approved it and so should the country! This case has dragged on for long enough. I am anxious to see the settlement agreement finalized and the case brought to an end.

Thank you,
Sincerely,
Jim W Myers

MTC-00030260

Annc Otcrsen
207 Swansboro Drive
Apex, NC 27502
January 18, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202-616-9937
microsoft.atr@usdoc.gov

Dear Ms. Hesse:

As a public school teacher now on sabbatical, I know the importance of computer literacy to students in today's world. The products and services that Microsoft provides to schools, businesses and residences have played an important part in providing many people with opportunities to learn, work and improve their lives. So I hope the proposed settlement of the federal litigation against Microsoft will he resolved soon

I understand that the settlement now before the court strikes a balance between restricting Microsoft's potentially anticompetitive business practices and allowing the company to get back to what it does best. Clearly, that is a difficult balance to achieve. But the fact that this settlement has been negotiated under court supervision, accepted by the U.S. Attorney General and accepted by a number of state attorney generals, including North Carolina's, makes a compelling case for its value.

I sincerely hope the court will approve the settlement and resolve this matter soon.

Regards,
Anne Otersen

MTC-00030261

From: REDMOND CHAMBER
FAX/VOICE MESSAGE (206) 882-0996
GREATER REDMOND CHAMBER OF COMMERCE
16210 N.F. 80TH St.
P.O. Box 628
Redmond, Washington
Phone: (425) 885 4014
FAX: (425) [illegible]
www.redmondchamber.org
January 25, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D. Street NW
Suite 1200
Washington, DC 20530.0001
Re: Proposed Microsoft Settlement Agreement

Dear Ms. Hesse:

Redmond is proud and honored to be the home of Microsoft [illegible] American entrepreneurism. The success stories of its founders and employees [illegible] are e ncouragement and example to thousands of other entrepreneurs [illegible] company which has nearly 15,000 employees in Redmond, [illegible] out community by providing family-wage jobs [illegible] and contributing talent and resources to non-profit [illegible] Microsoft job creates five additional jobs.

The company makes good products in high demand [illegible] and businesses. The Greater Redmond Chamber of Commerce believes [illegible] provisions of the settlement will be good for consumers, business, the technology industry and the economy as a whole. On behalf of the Board of Directors [illegible] full support of the Department of Justice and the nine Attorney Generals [illegible] to finally put an end to this case and agree to a settlement that [illegible]

Sincerely
John P. Plovie
Chairman

MTC-00030262

GRANITE STATE TAXPAYEBS
P O Box 10473
Bedford NH 03110-0473
Tel (608) 472-3421
Fax (803) 471-0425
@Mall GST@lopaner.net
January 10, 2002
Attorney Renata Hesse
Antitrust Division, Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Deer Attorney. Hesse:

It is my understanding that your office is now accepting letters of comment in the settlement proposed in the U.S. v Microsoft case. Please accept my letter of supper[for this agreement. Granite State Taxpayers is a coalition of taxpayers and taxpayers associations throughout New Hampshire that work together to stop attempts to increase taxes and : help make sure taxpayer dollars are spent efficiently.

That is why I find this cage so appalling. It has already cost the taxpayers of this nation over $30 million $30 million to prosecute one of the most exciting companies our nation has seen This case never should have been brought forward in the first place. Microsoft has been an innovator in the area of technology, and because of that, their competitors have not been able to keep up with their technology. As a result, they successfully lobbied the government to fight for them In the courtrooms and now we have this kind of money being wasted on our hands. After many, many months, a settlement has been reached that has something for everyone. This is an opportune time to end these proceedings and remove the federal government's involvement in the operations of this area marketplace.

I urge you to stop the needless wasting of taxpayer delivers and approve this case quickly. Thank you for your attention.

Sincerely,
Roy Stewart
Immeditate Past Chairman

MTC-00030263

ANITA GULLICKSON
Post Office Box 223—
Alexandria, South Dakota 57311
—605-239-4664
January 19, 2002
Renata Hesse, Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

The settlement in U.S. v. Microsoft has my support because I believe this case has reached a reasonable conclusion for all parties concerned, including the American economy. I believe It Is Important to point out that the case did not show that consumers were adversely affected by Microsoft's actions, and that the essence of the matter is centered around Microsoft and its highly competitive marketplace adversaries.

In my professional life, personal life and endeavors as a family farm activist, I have depended upon Windows systems, and I have been very satisfied with the product. For farm families in South Dakota, Windows systems have the right price, the most important functions and accessibility needed to remain competitive in agriculture. Windows empowers people, and in the rural areas of our nation Windows becomes a "great equalizer" by giving farm people equal access to market information and financial transactions.

A feature I particularly like in the settlement is the requirement that Microsoft will send software, computer systems and technical support to schools in low income areas, and I am sure South Dakota will ultimately become a significant beneficiary in that distribution. Thank you for the opportunity to provide input On this settlement.

Sincerely,
Anita Gullickson

MTC-00030264

SHARI ROWLAND
2105 S. Blauvelt Avenue Sioux Fails, South Dakota 605-339-1424
January 17, 2002
Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice

601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

The settlement in United States vs. Microsoft has my strong support because four years is plenty of time to examine all of the issues and reach logical conclusions in this highly visible antitrust suit. From everything I've seen on this issue, this case has exhausted every possibility of wrongdoing, and I think it is remarkable that none of the findings have indicated consumers were being harmed by Microsoft Corporation. For your information, I have worked with many businesses in Sioux Falls in a consulting capacity, and I can tell you that the vast majority of them use Windows systems, and they are very pleased with the products they use. From what I've learned, the remedies sought in this settlement are not only fair, but also would be beneficial to improving the education and career preparedness of disadvantaged kids. This would be a commendable result from a case which has threatened to tie the hands of research and development in information technologies.

I hope this case can be allowed to end fairly and quickly, and that Microsoft can continue to produce the great innovations which have helped to strengthen America's economy, and to keep our nation in the leadership position in technological breakthroughs.

Sincerely,
Shari Rowland

MTC-00030265

SIOUXPERIOR STRATEGIES
5305 Lake Placid Circle
Sioux Falls, SD 57110
(605) 336-6321
338-7395 fax
January 18, 2002
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW—Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

My comments are to be directed for public commentary in U.S. vs. Microsoft's settlement phase. I support the settlement because it is time, after four years, to end this dispute in the American courts system. The important issues have been addressed in this settlement, and continuing this dispute for another year or two would not serve justice nor the American economy, which benefits from a strong presence by Microsoft Corporation.

Microsoft has been the world's leader in the development of innovative software because of its strong competitive nature and the brilliant people who work hard to stay in front of the competition. This antitrust case acts to keep some of the issues involved in the rapid growth of information technologies in check, That much of it is healthy to the process of growth. But there comes a point when detaining a vibrant company like Microsoft in the courts system beyond e reasonable time becomes burdensome to its viability in a harsh, competitive climate. I hope this settlement obtains permission to be enacted and that this antitrust action is put to rest, It would ultimately serve the best interests of all involved, including Microsoft's competitors.

Thank you.

Sincerely,
Patrick Starr
A CREATIVE MARKETING & PUBLIC RELLATIONS

MTC-00030266

January 22, 2002
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Here:

Protecting the best interests of business and consumers, as I understand the law, is the purpose of antitrust law and court actions. As U.S. v. Microsoft Corporation has moved along in its winding four-year path through the federal courts system, I think it is interesting that the court has not established that consumers were harmed by Microsoft's policies and decisions. What has mattered in court process has been Microsoft's relationship with its marketplace competitors, and I question whether Microsoft's actions were inappropriate when considering the predatory and pressurized nature of competition between companies striving to get ahead in information technologies. It's a tough business.

It is my hope that this case ends soon, so that one of our nation's most important corporations is allowed to continue serving the quickly shifting needs of consumers with the most versatile and reliable line of software for business and home use. It is remarkable that, despite being sidetracked in the courts for the past four years or more, Microsoft Corporation remains a vibrant force in our national economy. Considering that our economy needs all the help it can within the private sector, we need Microsoft back in the ring putting its full energies into its research and development to keep American information technologies development ahead in the world.

Thank you for your attention to my letter.

Sincerely,
Randy Stratton
THE STRATTON GROUT. INC.
100 S. DAKOTA AVE
SIOUX FALLS, SOUTH DAKOTA 57104
BUSINESS 605-338-6829—FACSIMILE 605-332-4860
www.theseratrongroup.com
Received Time Jan 23. ??:17PM

MTC-00030267

REBECCA J. DUNN
320 N. Summit Avenue—Sioux Falls, South Dakota 57104
-2933
605.33.6524 residential & business telephone
January 22, 2002
Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

From a South Dakota perspective, I believe the agreement to settle the U.S. vs. Microsoft antitrust case is not only fair, it is appropriate because it creates a public benefit which will be helpful for our nation's poorest children. By targeting school districts with the highest percentages of students who qualify for government assisted lunches, this settlement will put disadvantaged students on a fast track to learning through the internet. Certainly, many of the targeted school districts in this settlement will be here in South Dakota. They will be set on a more level playing field to compete for opportunities with students in wealthier school districts.

My career is as a trainer of children and adults to enable them to realize and fully develop their potential in business and in life. As a State Senator in South Dakota, I worked with many local and state educational leaders to develop positive alternatives for growth, especially for disadvantaged children, I cannot think of a better result for this antitrust suit than to enable these economically challenged children with the tools they need to open their worlds to the internet and its infinite educational resources.

Additionally, I want you to know that I believe that it would be in the best interests of our nation's economy and of Justice to accept this settlement and put this case to rest. The case has examined virtually all relevant issues involved in Microsoft's business practices, and the settlement appears to have addressed these issues as well as anyone could reasonably expect.

Thank you for considering my opinions on this settlement.

With best regards,
Rebecca .J. Dunn

MTC-00030268

House of Delegates
Telefax Service
Fax (804) 786-6310
General Assembly Building
January 25, 2002
To: U.S. Wept of ??tice : Renata Th??
From: ??gat?? go?? A. Reid
Fax No.: 202-616-9937
Tel. No.:
City: Washington, DC 20530
State:
This transmission contains pages, which includes this cover sheet. If you have any problems with this transmission, please contact (804) 698-1558.
Comments:
JOHN S. (JACK) REID
POST OFFICE BOX 29566
RICHMOND. VIROINIA 23242
SEVENTY-SECOND DISTRICT
COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND
January 25, 2002
COMMITTEE ASSIGNMENTS:
GENERAL LAWS (CO-CHAIR) PRIVILEGES AND ELECTIONS EDUCATION
TRANSPORTATION FINANCE
Reneta Hesse, Trial Attorney
Antitrust Division
United States Department of Justice
601 D Street, NW
Suite 1200

Washington, DC 20530

Dear Ms. Hesse:

It is my understanding that a settlement agreement has been reached between the Microsoft Corporation and the United States Attorney's office, and that the proposed settlement is based on the competitive principles of the free market system. It is my hope that Microsoft and its competitors will be encouraged to operate and provide the most technically advanced products at the most reasonable cost to consumers.

The growth of the technology industry has been of enormous benefit to the Commonwealth of Virginia providing jobs for our citizens and tax revenues to state coffers. Thus, an expeditious settlement of this dispute should be in the best interest of all concerned.

Thank you for your consideration of my concern.

Sincerely,

JSR:ecr

PHONE: (804) 741-2927

RICHMOND: (804) 898-1072

MTC-00030260

kinko's?? fax cover sheet

Kinko's of Ann Arbor I

Telephone: (734) 761-4539

Fax: (734) 761 1416

Date 2002-01-25

Number of pages 5 (including cover page)

to: Name United States Depatment of Justice

Company: Antitrust Department

Telephone

Fax (202) 307-1454

Comments 616-9937

Comment on Microsoft Antitrust Case,

from: Name Elliot Glaysher

Company

Telephone (248) 608-6424

To Whom It May Concern,

As both a member of the public who has been watching this case very carefully, a contributing member of the open source community, and as someone who has been programming for over six years, I feel it is my civic duty to inform you to several problems with the proposed antitrust settlement in the Microsoft case. The proposed settlement addresses does not address any of Microsoft's past anticompetitive behavior, does not force Microsoft to atone for it's past transgressions, and appears to be, as Red Hat CEO Matthew Szulik says, "an agreement reached for the purpose of expediency, not for ensuring an adequate remedy."

Not only does the settlement fail to address any of Microsoft's behavior outside of coercing cooperation from original equipment manufactures (OEM), but it also specifically gives Microsoft a government enforced monopoly, with the loophole-ridden Section III.J. Using emotionally and politically loaded phrases like "anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems" gives all the ammunition Microsoft needs to maintain it's monopoly, as these systems are vital components that allow Microsoft to leverage it's monopoly, while at the same time, causing problems for Microsoft's largest competitor: Open Source Software.

Open Source Software1 (OSS) is a new form of software development, relying around a model based on community involvement and the principle that the underlying source code2 should be freely available for all to see, modify, and distribute. This is significant as this allows anyone to contribute to an Open Source project. It also must be noted that the open nature of source code means that the full details on the inner workings of a program or protocol are available to any programmer who wants them, as will become significant latter. Because of the uniqueness of the Open Source Model, special attention must be taken in the settlement to make sure that the does not harm Microsoft's largest competitor as a side-effect.

But let us look at certain problems with the settlement that are problematic: First, I must examine the term "authentication systems" in Section III.J.1.a, and show why this term is problematic by looking at some recent actions by Microsoft. When Microsoft released Windows 2000, Microsoft included support for an authentication protocol developed at Mir called Kerberos. The problem was that Microsoft deviated from the protocol specifications ever so slightly as to only introduce incompatibilities with other implementations of Kerberos. This means that Windows 2000 only grants access if the Kerberos "ticket" (the method of authentication in a Kerberos security model) was issued by a Windows 2000 server. It would reject what would be valid tickets from other vendor's versions of Kerberos for the sole effect of customer lock-in.

1 For a detailed description of the Open Source model, please read Eric S. Raymond's The Cathedral and the Bazaar, available in print format from O'Reilly Press, or http://tuxcdo.org/-esr/writings/cathedral-bazaar/cathedral-bazaar/.

2 Source Code is the programming instructions that describe the intricate operation of a program. Microsoft's later actions show why this situation is dangerous: Microsoft insisted that the changes were trade secrets. Microsoft later released information about their modifications to the Kerberos protocol under the condition that the contents be kept a secret. The agreement was mutually exclusive with the development of Open Source Software, where anyone and everyone has access to the source code, where there arc no secrets.

Another fine example would be the wording regarding "anti-piracy" and "digital rights management." Section III.J.I, in effect, gives Microsoft a monopolistic position in regards to digital content, as Microsoft will argue that their distal media file formats are inseparable from their digital fights management scheme and will allow competitors access to neither. For example, what would happen if an Open Source project wanted to extend one of the many Open Source video players on an operating system other than Windows to play Microsoft's video format, including files protected under Microsoft's digital fights management software? Microsoft would deny the project the specifications, as the openness of the code would allow anyone who wished to know how the distal rights management system worked to find out easily. At the same time, Microsoft would be under no obligation to help the other operating system by writing a video player that would play Microsoft's video format, allowing Microsoft to maintain it's monopoly.

In fact, Microsoft has already kept others from using their digital video formats. Microsoft owns patent #6,041,345, which is a patent on the ASF file format. In May of 2000, Microsoft forced Avery Lee, the main author of the popular Open Source project VirtualDub to remove support for their ASF files. This is dangerous because ASF has become the dominant streaming format on the Internet, and only Microsoft can control it. ASF files are now only legal on Microsoft desktops.

In both examples, Microsoft was able to use patents or trade secrets to prevent competition, and force customer lock-in to Microsoft products.

Also troubling is Section III.J.2, as it gives Microsoft the right to discriminate on whom it to licenses information to. Microsoft can easily say that a competitor "has a history of software counterfeiting or piracy or willful violation of intellectual property fights" and can deny them access to vital interoperability information. I would be surprised if Microsoft doesn't use this as an excuse to deny information to Linux vendors, as they have already used the unorthodox development process of Open Source Software as the basis of flat out calling it "un-American." Jim Allchin, Microsoft Corporation's Platforms Group Vice President, has also said "Open source is an intellectual-property destroyer,"3 in a blatant attempt to break down the distinctions between software pirates and OSS writers.4 Microsoft will, beyond a shadow of a doubt, abuse this provision if it's allowed to stand as it is.

3 http://news.cnet.com/news/0-1003-200-4833927 html?tag=mn—hd

4 The argument is fundamentally flawed, as software pirates take the work of others, while OSS programmers freely give out their work as an act of generosity, both creating new intellectual-property, and holding to the American values of volunteerism and community service.

Moreover, Section III.E gives Microsoft even more ways to hurt the competition. The use of the terms "reasonable and non-discriminatory" may, at first, not appear to be problematic, yet one must consider the people who write Open Source Software: The majority of Open Source programmers write these programs in their spare time, as non-corporate entities for the benefit of the community. The mere term "reasonable" is relative. Is it "reasonable" for a large business like Apple or Sun Microsystems? Is it "reasonable" for a small start-up that has great ideas but can't implement them due to these fees? Is it "reasonable" for a middle-class programmer who wants to write software to better the community."? Any licensing scheme that Microsoft may come up with which requires monetary compensation to Microsoft in return for information will, by definition, be discriminatory, as Microsoft's largest competitor will be unable to afford the licensing fees for the information necessary to compete.

This proposal is woefully inadequate. Between the combination of Section III.E and Section III.J, we, in effect, have a settlement that gives Microsoft full license to continue it's anti-competitive practices with the government's blessing. A good settlement to halt Microsoft's anticompetitive and destructive behavior must specifically assert the following points:

1. Microsoft must be forced to open any and all technical specs to anyone who asks for any reason. Microsoft must not have the right to discriminate who has access to this information. This solves the problems with Section III.E and III.J, and allows true interoperability to exist, in contrast to the facade presented in the current settlement. Technical specs includes, but isn't limited to:

a. All file formats that Microsoft saves information to. including Word Documents, Excel Spreadsheets, et cetera

b. All distal media file formats. I mention this separately to reiterate the loopholes opened by Section III.J.I.

c. All network protocols, including authentication and encryption protocols

d. All extensions and modifications to existing file formats and network protocols. (Recall that Microsoft's version of Kerberos was only a modification to an open standard.)

e. The Windows API (Application Programming Interface) in its entirety

2. Microsoft must also comply with the following terms regarding the licensing of said information.

a. Microsoft may not be allowed to require monetary compensation for the previously mentioned technical information. While Microsoft may argue that it must be compensated for this information, there is no way in which the information can be reasonably priced for everyone, especially for those that have the largest chance of breaking Microsoft's monopoly.

b. Microsoft may not use the excuse of trade secrets, patents, or any other forms of Intellectual Property protection to withhold information from competition, or to break compatibility. Microsoft has used both patents and trade secrets as an excuse to bully software developers, as seen with the above Kerberos example, and Microsoft's threatening of Avery Lee of the VirtualDub project.

3. New computers must be sold "naked," meaning without an operating system or other bundled software. This would allow people to install the operating system of their choice, whether that be Windows, Linux, BeOS, et cetera. The operating system and related software become an added cost; meaning people who would rather use an alternative operating system would not be forced to pay Microsoft for software they wouldn't use.

4. Microsoft must not have the right to sell its software to anyone at a lower price then anyone else. This means that the price of a computer without Microsoft Windows would be drastically lower then the cost of a computer containing Microsoft software. This is necessary, as the difference in price between a computer loaded with Microsoft's software and a "naked" computer would otherwise be insignificant.

5. Any settlement that requires Microsoft to make financial reparations, must specifically forbid Microsoft from repaying the debt in the form of Microsoft software. In closing, I'd like to direct you to the points of Red Hat CEO Matthew Szulik, one of which I mentioned in the opening of this letter: "...contrary to the statements of the US Department of Justice in its impact statement discussing the Consent Decree, the remedies settlement embodied in the Consent Decree fails to achieve the ends mandated by the Court for the following reasons:

—it fails to deny Microsoft the fruits of its statutory violations,- it fails to ensure that competition is likely to result,

—it was an agreement reached for the purpose of expediency, not for ensuring an adequate remedy and,

—it establishes an untenable precedent for future antitrust cases."

Thank you,
Elliot Glaysher
Current Residence:
1410 Little House
1503 Washington Heights
Ann Arbor, MI48109–2015
Permanent Address:
668 Bolinger
Rochester Hills, MI 48307
(248) 608–6424

MTC–00030270

12 Lansing Avenue
Trumbull, CT 06611
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the settlement that was reached in November between Microsoft and the government. This settlement is fair and reasonable, and I am anxious to see this dispute resolved at the federal level. Microsoft has agreed to all terms and conditions of this settlement. Microsoft has pledged to share more information with other companies and create more opportunities for them. Under this agreement, Microsoft must disclose for use by its competitors various interfaces that are internal to Windows operating system products. Microsoft must also make available any protocols implemented in Windows. A technical oversight committee has been created to monitor Microsoft compliance to this agreement.

This settlement will serve in the best public interest. Please support this settlement so we can focus our resources on more pressing issues. Thank you for your support.

Sincerely,
Tej Ram

MTC–00030271

14171 Bahama Cove
Del Mar, California 92014
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a supporter of Microsoft, I write you concerning the recent developments in the Microsoft settlement. The terms of this agreement have been determined through a well thought out process and should, at this time, be supported.

Our technology industry, has been working toward a more unified IT sector, and needs our support. By supporting the agreement as it stands, we allow our technology, industry to work together to maintain our position in this highly competitive global market. Not only has Microsoft agreed to make changes in licensing and marketing, but has agreed to design future versions of Windows for easier installation of non-Microsoft software. Also, as an and-trust settlement first, Microsoft has agreed to disclose various interfaces that are internal to Windows" operating system products. All of these concessions clearly point toward the IT sector working together to continue to advance in this industry.

I urge you to help support this agreement by stopping any further actions against it. Please help to get our technology industry back to business. I thank you for your help.

Sincerely,
Amy Caterina

MTC–00030273

BH&S
Builders' Hardware &
Supply Co., Inc.
1516 15th Ave. West—P.O. Box C 79005
Seattle, WA 98119–3185—
Phone 281–3770
Fax No: 202–307–1454
Attention: Ms. Renata B. hesse
Company: Dept. of Justice
Subject: Microsoft
Pages Including Cover: 1
Date: 1–25–02
From: Shirley S. Henry, AHC

PLEASE accept the Microsoft settlement. Enough of this, already!!

Get it overwith

MTC–00030274

FAX
Date: 1/25/02
Number of pages including cover sheet:
To: Attorney General
John Ashcroft
Phone:
Fax phone: 202–307–1454
CC:
From:
Robert burns
Phone: 615–333–3958
Fax phone: 615–361–0788
REMARKS:

Mr. Ashcroft,

Please consider my letter regarding the Microsoft settlement.

Thanks,
Robert Burns

Robert W Bums
3716 Valley Ridge Dr
Nashville, TN 37211
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to you today to express my support of the Microsoft settlement. The settlement that was reached constitutes significant compromise from the Microsoft Corporation. After three years of court mediation, continuing the federal case against Microsoft still further would serve only to waste necessary federal resources. Hence, I urge the Justice Department to enact the settlement at the end of January.

Microsoft serried on generous terms for its competitors and for the public. It will now agree to disclose protocols and internal interfaces of the Windows system. This will allow competing companies to design both hardware and software that is more fully Windows-compatible. Additionally, with an upcoming revision of Windows XP, users will be able to more easily reconfigure their desktops, including the ability to remove access to Microsoft applications and features.

These changes wi11 clearly benefit consumers and developers. I believe that Microsoft has been generous throughout this mediation process and further that the settlement agreement is just. Please finalize the settlement.

Sincerely,
- Robert W Bums

MTC-00030275

JAMES WANG
3925 Jamestown Place
Plano, Texas 75023
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The case has languished long enough and it is time to put an end to it. Microsoft and the technology all need to move forward; the only way to move forward is to put this issue in the past.

Microsoft and the government have reached a compromise on all of the major issues involved in the suit. Microsoft has agreed to give computer makers the flexibility to install and promote any software that they see fit. Microsoft has also agreed to release part of the Windows base code, to their competitors, so other software developers will have the ability to develop more compatible software. The terms of the settlement are fair and cover the major concerns that are at issue in the suit.

This case has for over three years and it is time to put an end to it. Microsoft and the industry need to get back to business. It is time to stop this government over regulation. Please continue your support of the Microsoft antitrust settlement.

Sincerely,
James Wang

MTC-00030276

ELC, Inc.
302 888 7030
01/25/02
04:17P
P.001
Edward Land
27 Rose Hill Drive
Bear, DE 19701
January 25, 2001
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

According to the Tunney Act, I am free to comment on the Microsoft antitrust settlement; I briefly wanted to express my approval of the settlement between Microsoft and the Department of Justice. I believe that the lawsuit was a bit unwarranted to begin with, in that Microsoft has always endeavored to make its software compatible with its operating system, This compatibility—which is the very heart of the government's claim that Microsoft was monopolistic-is the one thing that has allowed the average computer user to actually make use of modern computer technology. Whether the issue is a spreadsheet program that works well with the word processor; or either (or both) working at all on the operating system; or the latest release of DirectX that allows for sophisticated gaming that the young people like so much—all of this is possible because of Microsoft's commitment to integration.

I am confident that the review process for the Department of Justice will bear this out. I am hoping that many other Microsoft detractors both in the corporate area, as well as within our government, will allow this settlement to proceed.

I appreciate the hard work that you and your colleagues do to safeguard the American people from abusive business practices. But this Microsoft suit is not one of those areas of corporate abuse. I believe that in fact, it is much more beneficial to have Microsoft continue to do what it has, as unhindered as possible. Thank you.

Sincerely,
Edward Land

MTC-00030277

01/26/2002 03:18 FAX
P.O. Box 111
Highmore, SD 57345
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to participate in the public comments on the Microsoft antitrust settlement. I support the settlement. It is not perfect, but it. is far better than continuing to have lawyers haggle in court over the fate of one of America's chief engines of prosperity and innovation. It is gratifying to know that you directed your department to work to settle this case, and let Microsoft continue to innovate.

Since the settlement is acceptable to Microsoft, it is acceptable to me. Microsoft agreed up a lot of its property and a lot of its rights. That must not have been easy. Microsoft gives up to the software industry the code of its internal interfaces and server interoperability, It will license its intellectual properly to any company that wants to use it. on reasonable and non-discriminatory terms. It wi11 make it easy for computer makers, software companies and consumers to remove the programs Microsoft includes gralis in Windows, like Internet Explorer, and replace them with their own.

This case has gone on too long, with too little to show for it, and at too great a cost. Your efforts to have the federal court approve this settlement will be greatly appreciated.

Thank you.

cc: Senator Thomas A. Daschle

Sincerely,
Roger Ballew

MTC-00030278

01/25/2002 05:09
FAX 2024663801
ALEC AMERICAN LEGISLATIVE EXCHANGE COUNCIL
FACSIMILE TRANSMITTAL SHEET
TO: Renata B. Hesse
FROM: Duane Parde
COMPANY: Department of Justice, Antitrust Division
DATE:1/25/02
FAX NUMBER: 202-307-1454
TOTAL NO. OF PAGES INCLUDING COVER: 2
RE: US v. Microsoft
01/25/2002 05:09
FAX 2024663801
ALEC AMERICAN LEGISLATIVE EXCHANGE COUNCIL
Bo?? OF D??
N?? C??
O??
Jim Dunlap
F?? V?? CMA??
Louisi?? Stam Rep??
Donald R?? Kenn??d
St?? V?? CHAIRMAN
Mich?? State Senatar
Philip ??offman
T??
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Susan Wagle
SECRETARY
M??ppi S?? Senator
Biliv H??s
Immkd?? Pax?? CHA??
Tenn?? State Represent??ve
Steve K McD??n??el
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James F Boyer
North C?? State Repreven??ive
Harold J. Brubnker
?? State S??
Br??d Bu??
Taxas State ??
Bill Carter
G?? State Re??
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?? State S??
L.̄P??
A??
Steve Fans
C??
George L. Gunth??
Coli?? State Senator
Ray Havn??s
N Y S?? Free Pr?? Pro Tom
Owen Johnson
?? State Representatr??
Dolor??s M??
Colorado State Senator
D?? Owwn
N?? Senate M?? L??
Wi??
Navada State Senator

Dean Rhoads
His?? State Senator
Robert Weleh
P??
C??FMAN
Michacl K. Morgan
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F??
Harry M. Winters
U??
SECOND VICE CMAIDNAN
L??S Goldbere
Am?? Expr?? Company
TURA??
Pete Poy??
Re??
St??
Edward D Fall??. Sr.
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Co??
C?? EMERITUS
Ronald F Schc??
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R?? Bagger
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Jane Caltill
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C.T. Kip Howle??
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Roger L. Moxing??
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J. Pa?? Rooney
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A National Association for America's State Legislators Jeffersonian Principles in Action!

January 25, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Re: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

As you know, on June 28, 2001, the U.S. Court of Appeals for the District of Columbia Circuit overturned a lower court ruling that Microsoft be broken into two companies as remedy for so-called anti-competitive practices. On November 2, 2001, Microsoft and the Department of Justice announced a settlement to the U.S. v Microsoft antitrust case. Nine of the 18 states that were party to the suit have agreed to join this important settlement.

Innovations in technology and telecommunications are an important contributing factor to our nation's economic success. It is, therefore, vitally important that this innovation continues and accelerates, as the economy struggles to rebound from its recent downturn. Settlement of this suit will help ensure this happens.

As the nation's largest, bipartisan individual membership association of state legislators, the American Legislative Exchange Council (ALEC) applauds your efforts to settle this case. We hope that the states that are not party to this settlement will follow the lead of the Justice Department and seek a fair settlement that encourages innovation and secures our economic growth.

Sincerely,
Duane Parde
Executive Director,
American Legislative Exchange Council

MTC-00030279

01/25/02 FRI 13:04
FAX 360 664 0228
ATTY GEN ADMINISTRATION
Christine O. Gregoire
ATTORNEY GENERAL OF WASHINGTON
Administration Division
PO Box 40100 .
Olympia WA 98504-0100 .
(360) 753-6200
FAX COVER SHEET
Date: January 25, 2002
Time: 12:01 PM
Please deliver the following one page(s)
TO: Chief Deputy Peter Siggins
916-327-7154
Chief of Staff Erie Tabor
515-281-4209
Renata Hesse, Department of Justice
202-307-1454
FROM: Attorney General Christine Gregoire
Fax Number: 360-664-0228
Voice Number: 360-664-8565
If there is a problem receiving this fax, please call Barb Winkler at 360-664-9082.

Christine O. Gregoire
ATTORNEY GENERAL OF WASHINGTON
1125 Washington Street SE .
PO Box 40100 .
Olympia WA 98504-0100
January 25, 2002
Ms. Renata Hesse
Antitrust Division
U.S. Department Of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse:

This is a comment submitted pursuant to the Tunney Act, 15 U.S.C. section 16, on the proposed settlement between the Department of Justice and Microsoft. The Attorney General of Washington ("Attorney General") enforces state and federal antitrust laws. The Attorney General oftentimes works cooperatively with the Department of Justice on enforcement issues which impact the public on a national and local level, and works cooperatively with other state Attorneys General Offices on cases of national interest.

The Attorney General participated in the initial multi-state review of numerous allegations of violations of the antitrust laws by Microsoft. Even before the suit was filed, the Attorney General urged the parties to consider settlement.

The Attorney General did not join the Department of Justice lawsuit for several reasons including:

1. The lawsuit alleged harm to each state's general welfare and economy. This argument was problematic for the state of Washington.
2. We had received very few comments concerning consumer harm in Washington arising from Microsoft's conduct. In fact, we had received contrary comments.
3. If the Department of Justice did successfully obtain an injunction, the injunction would benefit any injured consumers in Washington.

We have reviewed the proposed settlement agreement with the Department of Justice, including the additional requirements negotiated by nine of the litigating states. We compliment all parties on their efforts to fashion a settlement agreement to resolve the litigation. We also acknowledge and respect that nine of the litigating states believe that the proposed settlement does not fully address outstanding issues and are continuing forward with the litigation.

Under the circumstances, with the Federal District Court having found violations of antitrust laws, and the parties formulating an agreement which addresses the contested issues, we support the proposed settlement as being in the public interest and believe it should be approved as proposed by the parties.

Sincerely,
CHRISTINE O. GREGOIRE
Attorney General

MTC-00030280

1-25-2002 2:54PM
FROM JIM CRUMLEY 610 558 3998
1521 N. Hunting Horn Turn
Glen Mills, PA 19342-2248
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am in favor of an immediate settlement of the Microsoft anti-trust case by the ter now before your office for review. I see no reason to further delay an end to this long controversy. It has hobbled a great and productive corporation at a time of national economic decline. It has proved a drain on our entire IT industry. A settlement plan exists and stands endorsed by your own department and the court, Please see that it's ratified and adopted as soon as feasible.

This case arose out of the government's consternation with Microsoft's seeming monopolistic hold on the IT industry. The settlement amply addresses the government's concerns by directing Microsoft to open itself up to more competition by surrendering its hold on near-exclusive Windows software integration in Microsoft platforms. Microsoft will now not just tolerate competition; it will be constrained to promote it. It will in fact be required to radically alter its corporate ethos.

Please help bring an end to this case and allow Microsoft to work untethered towards a more dynamic future for this industry and this country.

Sincerely,
Jim Crumley
cc: Senator Rick Santorum

MTC-00030281

FAULKNER UNIVERSITY
FACSIMILE TRANSMITTAL SHEET
TO: Attny Gen John Ashcroft FROM: Christi S. Lones
COMPANY
DATE: 1.25.02
FAX NUMBER: 202.307.1454/616.9937
TOTAL NO OF PAGES INCLLUDING COVER ·2
PHONE NUMBER
SENDER'S REFERENCE NUMBER:
RE
NOTES COMMENTS
Christi Lones
5345 Atlanta Highway
Montgomery, AL 36109–3323
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue,
NW Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am delighted that a settlement has finally been reached between Microsoft and the federal government.

Microsoft has cooperated beyond what was required. They have agreed not to retaliate against computer makers and software or hardware developers that ship, develop or promote software that competes with Microsoft's operating systems, features, or applications.

Microsoft's compliance with this settlement will be monitored by a three-person Technical Committee established under the settlement by the Department of Justice and by those plaintiff states that are party to the settlement. In addition, any violations of the settlement are punishable as contempt of court.

So why isn't that enough?

This lawsuit has got to stop. The settlement should be accepted, and no more action should be taken at the Federal level.

Sincerely,
Christi Lones

MTC-00030282

Horst Seweron
12028 26th St. NE
Lake Stevens. WA 98258
12028 26th Street NE
Lake Stevens, WA 98258
January 23, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Last November the Microsoft Corporation reached a settlement with the Department of Justice, which brought an end to the three years of antitrust litigation between the two. I am writing to express my support for this settlement since it is in the best interests of the IT industry, and America.

There were concessions made in the settlement that went further than Microsoft would have liked, but the terms were agreed to because the ending the suit was the best thing to do. Microsoft will now work much closer and actually ??n This will make competing software more compatible, and encourage competition to work harder than they ever have before. They will do that because Microsoft has also agreed not to retaliate against competitors. ??s.

You cannot go wrong with this settlement. I fully support m and hope it is approved as soon as possible.

Sincerely,
Horst Seweron

MTC-00030283

FROM: 2002. 01–25 10:51
#913
P.01/02
FAX MBE
MAIL B??XES ETC
Transmitted Via:
Mail Boxes Etc.
12995 N. Oracle Rd. #141
Tucson, AZ 85739–9594
Fax: (520) 825–2070
If there are any problems with this transmission, please call (520) 825–123I.
Date: 1–25–2002
Time:
To: Attorney General JoHN Asbcro??
Fax: 1–202–301–1454
From: Cal?? Rab??ks
Phone: 1–202–616–99??7
Total Pages (including cover page): 2
Message: Attoched
FROM: 2002.01–25 10:51
#313
P.02/02
1397 W Blooming Desert Way
Oro Valley, AZ 85737
January 24, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my full support of the recent settlement between the U.S. Department of Justice and Microsoft. Although I believe that the lawsuit was not justified in the first place, after three long years, I am happy to see that Microsoft is not being broken up and that a settlement has been reached.

Under the terms of the settlement Microsoft is not getting off easy. They must give up internal interfaces and protocols to their competitors. They must not retaliate against soft-ware developers or computer makers who promote no-Microsoft products. They must also grant computer makers broad new rights to configure Windows so as to more easily promote competitors" products. Although I do not fully agree with the terms of the settlement, I want to see it finalized because it is in the best interests of the American public that there be no further litigation. I ask that your Office takes a firm stance and ends the lawsuits from the nine states trying to drag this thing through the mud.

Thank you.
Sincerely,
Calvin A. Roberts

MTC-00030284

TEL:
BETTY GRA??SSL??
Graphi?? Dev??gnor
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: Microsoft has done more for our economy in the last 5 years than many other companies. They have created jobs, made technological breakthroughs, and contributed to education and social causes for the good of our nation. Yet, three years of lawsuits still haunt their ability, to grow further. I am appalled that nine states want to continue litigation even after settlement has been reach

The terms of the settlement are more than fair and should appease competitors The reason being that they will be given access to internal interface technology and protocols that Microsoft has worked long and hard to develop. They will also be granted broad new rights to configure Windows so as to make it easier to promote non-Microsoft software.

While I believe parts of settlement are unjustified and in violation of Microsoft's intellectual property rights, I still believe the settlement is in the best interests of the public. We cannot afford further litigation. Please lake a strong stance against the opposition and make the settlement a reality.

Sincerely,
??
Betty Graessle
25 Midchester Avenue . While Plains .
New York ??
914. 949. 7909
Fax 914. 949. 7991

MTC-00030285

01/25/2002 14:02
3149971774
FULLERTON
David Fulle??on
Full Circle Computing
??S Greenridge Avenue
White Plains. NY 10605–1248
Telephone/FAX 914997 1774
E-Mail: DCFullenon??ullcircle-ccomputing.com
January 24, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Throughout this entire Microsoft lawsuit, it has been evident that the issues were obscured by all the animosity. While I have felt that there have been certain things that Microsoft gas done that should merit some control, this litigation was not adequately addressing them.

This is why I think that the settlement is so important. Rather than wasting time with all the divisive contentiousness, the settlement clearly enumerates specific remedies. It addresses the unpleasant quarrel over Microsoft using its OS to steamroll over other companies who wish to sell other software, and calls for interface disclosure so that software companies can write better software. These are just two provisions that help to increase competition, which is what the antitrust case was supposed to do in the first place.

While some of the terms of the settlement certainly do not favor Microsoft, the settlement itself ends all the acrimony. For this reason, I am writing in support of its acceptance, and hope that with it, our country can get beyond this and move forward with more important priorities.

Sincerely,
David Fullerton=

MTC-00030286

To: Renata Hesse, Trial Attorney
Suite 1200, Antitrust
Division, Department of Justice
Fax: 202-616-9937 or 202-307-1454
From: Robert Wood, 256-895-9286
RE: Comment on Proposed Microsoft Settlement
25 January 2;002
Robert Wood
117Gibbon Drive.
Harvest, AL 35757
25 January, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse:

The following document is a brief objection to the terms of the proposed settlements to Civil Action No. 98-1232 and 98-1233. It i, being sent on 25 January 2002 both as a signed FAX (202-616-9937 or 202-307-1454) and as an e-mail message (microsoft.atr@usdoj.gov) to aid in any transcription that might take place. As a defense engineer whose work has been associated with Information Technology for the past 15 years, I have witnessed the damage done by the monopolistic activities of the Microsoft Corporation. I am concerned that if these activities are allowed to continue (and the proposed settlement does not seem to do anythin8 to curb these practices) the company will continue to squeeze out competing operating systems and ISVs until there are no practical alternatives to the Microsoft products. For the sake of innovation, competition, and security we need viable alternatives for operating systems and applications that have been developed independently of Microsoft's codebase. The high numbers of macro viruses (both in documents and e-mail attachments) as well as the recent US worms demonstrates the danger of widespread adoption of a single product, With healthy competition, there are enough alternative products that it is impossible to attack them all since they will have different weaknesses.

Paragraph III. J of the proposed settlement is especially troubling, since the argument can be made that any component of a Communications Protocol has the potential to "compromise the security of a particular installation or group of installations..." Considering that Microsoft has recently announced that they are finally going to "make security its first priority," I believe that this section will be used to withhold any useful data from release.

I recognize the positive aspects of Microsoft's role as the dominant provider of Intel Operating system software, middleware, and applications. The software industry can benefit from the leadership of one entity who has the power and resources to introduce new technologies. Unfortunately, I have seen Microsoft's dominance increasingly used to force alternative products and approaches out of the marketplace. For example, in my organization, no alternative to Microsoft Word is considered by management because it is presumed that no other product can read/write Word formatted text fides perfectly. Even those products that currently do a good job on Word file reading/writing are not guaranteed to be able to continue to be able to keep up with the changes to the largely undocumented Word format. The documentation of the modifications Microsoft made to the widely-accepted Kerberos authentication protocol was distributed under a restrictive license designed to prevent the information about the changes to an open standard to be used to create compatible software. This is a disturbing trend.

The proposed settlement does not appear to do anything to curb the monopolistic practices of Microsoft. It appears, in fact, to simply formalize them and allow the company to continue its practices with little interference. It does not touch on some of the most commonly used Barriers to Entry that the company puts up to discourage competition such as document formats and changing communications protocols. The proposed settlement appears to set up a system where any potential competitor is relegated to the role era Microsoft Developer (MSDN is explicitly mentioned as a delivery medium for some of the information) rather than a competitor. It is difficult to compete in an environment whet0 you can not get necessary information on a product until it is almost ready for release. Quality software demands extensive testing in addition to basic development time and if the required information is only released "no later than the last major beta release," then by the time a competitor's product can be finished and tested, the Microsoft product would have long since been deployed.

In the interests of competition, security, and interoperability, Microsoft should be compelled to develop and deploy those protocols required for communication and authentication in cooperation with an appropriate standards body for the widest possible examination and testing. The standards body could then properly oversee the distribution of the protocol to ensure that competitor's software is truly interoperable with the Microsoft product as well as ensuring that competing products do not introduce incompatibilities with the Microsoft product. Microsoft should be compelled to disclose upfront which elements of a new and existing API, Communications Protocol, or Middleware product are covered by the company's own or licensed intellectual property as a part of this standards acceptance process. The result would be a set of protocols that benefit from community involvement and more extensive security testing than Microsoft is capable of on its own.

Sincerely,
Robert Wood

MTC-00030287

January24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This is to give my approval to the recent Department of Justice and Microsoft settlement. This has gone on long enough and it is time to put this thing to rest. I didn't agree with the initial lawsuit. I think if someone is smart enough to come up with something, then it is their right to sell it. Microsoft is just smarter than everyone else and the company keeps coming up with bright ideas. The other companies are just jealous. It is time to act like grown-ups and move on.

Further, I understand Microsoft has given away a great deal. Microsoft has agreed to allow computer makers to ship non-Microsoft product to a customer; Microsoft has agreed to a uniform price list; Microsoft has agreed to help companies better achieve a degree of reliability with regard to their networking software. Enough is enough. I urge you to let this settlement stand. We have more important things to worry about.

Sincerely,
Robert Willetts
1251 St, Rt. 726 New M???, Ohio 45346
Phone: 937,996-5103
Fax: 937-996-5103
Email: ??@??
TOTAL P. 01

MTC-00030288

John R. With
420 Palmer Ave
Aplos. CA 95003
Fax. 831-687-0552
SEND TO
Company name Department of Justice From John P. Wirth
Am??mion Ms. Renate B ??esse
Date 1-25-02
Office location Washington, DC
Fax number 202-307-1454
Phone number 931-586-0297
URGENT URGENT URGENT URGENT URGENT
Total pagas, including cover.

COMMENTS

I am writing to ask that you accept the settlement proposed in the Microsoft case. It is total waste of my tax dollars to pursue this any ??urther. Spending 35 million dollars is enough.

Thank you for your kind consideration.

MTC-00030289

January 25, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing to express my relief and my support for this lawsuit between the Department of Justice and Microsoft having ended in a settlement. From what relatively little specific information I have about the details of this settlement, I can say that it appears to satisfy most of the complaints of the lawsuit. There is, for example, this provision that allows for Microsoft to refrain from penalizing computer manufacturers from installing non-Microsoft applications onto any new Microsoft OS. This is a good thing that will obviously allow more flexibility in the industry.

My greatest fear throughout this process has been that serious damage could have resulted from the splintering of a company like Microsoft. While it must be readily admitted that Microsoft has maintained a rather rigid control over the use of its product, even by its own customers, breaking apart a company of this size, as envisioned by the litigation, could have had far-reaching negative effects upon the entire industry.

With this settlement, it appears as if this eventuality is less likely. For this reason I am hoping that the settlement will ultimately prevail.

Sincerely,
Todd Epp??e
Senior Partner

MTC-00030290

18000 72 Ave. S., Suite 217
Kent, WA 98032
Fax
To: Attorney General—John Ashcroft
From: Dave Hafermann
Fax: (202) 307–1454
Pages: 2
Phone:
Date: 1/25/2002
Re: Microsoft Settlement
cc:

Attached, please find my letter regarding the Microsoft Anti-Trust Settlement.

Regards,
Dave Hafermann
cohesion
MARKETING
www.cohesionInc.com
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support the Microsoft antitrust settlement agreement. I have witnessed first hand how this case has created a great deal of uncertainty in the technological industry. It is time for the litigation to end so that companies that are within and/or dependent on the industry can get back to focusing on their own business and the delivery of great new technologies. Continuation of litigation will result in a never-ending legal cycle as companies attempt to use the legal system to accomplish what they were unable to do when competing within the marketplace (as the recently filed AOL/Netscape case shows). More litigation has a negative Impact on the industry and economy, and with the current economic status, this is something the hi-tech industry does not need.

The terms of the agreement are both fair and reasonable. Microsoft will be subjected to restrictions that will help ensure no future antitrust violations occur. For example, Microsoft has agreed to not retaliate against computer manufacturers who install computers with its competitors'' software. They have also agreed to license out code to competitors that would normally be protected under intellectual property statutes. Additionally, a technical oversight committee will be created as a result of the settlement agreement. The oversight committee will act as a watchdog to ensure Microsoft does not engage in anticompetitive business practices. Nothing more should be required or expected of Microsoft.

I appreciate your efforts to resolve this case. I hope the court makes the wise decision to approve the settlement agreement.

Sincerely,
Dave Hafermann
EVP Technology
Cohesion, Inc.

MTC-00030291

Bottomline Technologies (de), Inc.
155 Fleet Street
Portsmouth, NH 03801
(603) 436–0700
Fax: (603) 436–0300
www.bottomline.com
TO:
FROM:
DATE:
TIME:
Pages, including cover sheet
Technologies
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support of the settlement agreement in the Microsoft antitrust case. The agreement's terms are both fair and reasonable, and the Court should approve the settlement. This settlement is important for our economy.

In the interest of resolving the litigation, Microsoft has agreed to a wide variety of concessions. They have agreed to design Windows in such a way that it will be easier for consumers to replace features of Windows with software programs made by Microsoft's competitors. This will result in greater choice for the consumer. Additionally, in an effort to allay fears of predatory behavior, Microsoft has agreed not to retaliate against those who distribute or promote software that competes with Windows. Microsoft has also agreed to give up its right in many cases to go after those who infringe on Microsoft's intellectual property rights. These types of concessions illustrate how the agreement provides the appropriate remedy for the complaints lodged against Microsoft.

I would like to see this case resolved. I appreciate your efforts in this regard.

Sincerely,
D. M. McGurl
Chairman & CEO
Bottomline Technologies, Inc.
155 Fleet Street
Portsmouth, NH 03801
Phone 603 436–0700
FAX 603 436–0300
www. bottomline.com

MTC-00030292

Software Development And Consulting
701 Merlin Dr.
Green Bay WI 54301
Phone: 920–983–9365
Fax: 920–988–9359
Email: msuls@co??pubrain.com
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Having spent 15 years as a computer programmer, I would like to share my approval of the pending Microsoft settlement being completed at the end of the month and letting the company continue as a successful innovator that has driven the growth of the PC industry. This lawsuit was brought on by desperate competitors, such as Sun and AOL, leading to an expensive litigation that has only succeeded in lost taxpayer dollars and should be ended immediately.

Judge Jackson overstepped his authority with his ruling, as a break up would be a disaster for this fragile economy. Microsoft has not been perfect, but they are superior to any alternative on the market, and should be allowed to continue their progress unimpeded by more government intervention. The negotiated deal already sacrifices several aspects of the company's autonomy and gives the rival factions a broad spectrum of tools to make their mark on the competitive playing field.

I ask for your go-ahead with this plan, which unfortunately provides a level of regulation unheard of in the IT industry. Yet no matter the obstacles, Microsoft deserves a compromise and to exist as one company.

Sincerily
Michael Sule
COMPUBRAIN
cc: Representative Mark Green

MTC-00030293

JAN-25-2002 14:15
PBG/FINANCE 212 304 4060
P.01/05
21 Bennett Avenue
New York, NY 10033–3628
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement issue. I support the settlement that was reached in November and I support Microsoft in this antitrust dispute. I believe it will benefit all of us to settle with Microsoft and stop this litigation.

Microsoft has agreed to carry out all provisions of this agreement. Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non- Microsoft software programs that compete with programs included within Windows. Microsoft has also agreed to design future versions of Windows, beginning with an interim release of Windows XP, to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non- Microsoft software within Windows.

I urge you to support this settlement and allow Microsoft to devote its resources to designing innovative software, rather than litigation. Thank you for your support.

. Sincerely,

Felix Yukilevich

MTC-00030294

JAN-25-2002 14:15
PBG/FINANCE
2i2 904 4060
P.82/85
21 Bennett Avenue APT, 26
Now York, NY 10033
January 11,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

To Whom It May Concern:

Subject: Microsoft Settlement

I'm writing you about the DOJ v Microsoft antitrust lawsuit, I've heard how important it is for the government, the interest of Americans. According to the Tunney Act, we (the people) have a given period of time when we can express our opinions on the case.

I want to take this time to express my opinions about the case. I'm a high school student (18 years of age), and in my senior year. I attend the Urban Academy High School (In Manhattan, the Borough of New York City). This case is very important 1:o Americans, and the students as well, for we are all American.

I've been following this case for quite a long time, and I believe, and know that Microsoft is guilty of no crime, unless you can count innovation as one. If we all take a brief moment end think, we can't remember who invented the steering wheel of the automobile; and yet every automobile company features this mechanical part in the car. So far, nobody has cried foul yet.

For another example: when Nissan manufactures its car, the company includes a (Nissan) thermos, and only Nissan's, no one else's; so companies have a right to litigate because the thermos is in any way "anti-competitive"? So, if Microsoft doesn't feel that it needs to include more programs into its Operating System, it has the constitutional right not to. Why don't you bother Ford, or GMC about them being "uncompetitive" about their products if they happen to withhold their secret to their car engineering, and locking out competitors" parts? I'll tell you why, because it's ludicrous to persecute a company (constantly)just because they don't want to pre-install certain programs.

Microsoft's main competitor Apple should be litigated for locking out competitors as well. The fact that Apple's Macintosh Operating system only runs on Apple's Macintosh computer, and no one else's. No other company has a pre-loaded Mac OS, and that is anti-competitive. Microsoft is being forced to include what we computer people call "bloat ware"——loading up the OS with unnecessary programs, graphics, etc. People can install these programs on their own. Some of those (major) programs include:

. AOL (and all its products)
. NETSCAPE
. PRODIGY
. AT&T WORLDNET

By counting the hard drive space that these programs take up, the result would be unbelievable. Microsoft doesn't have to include them all, due to the fact that we can install programs of our choice. The same way you download software, freeware, and shareware off the Internet, you can install them just the same way. Why do we need all those programs bundled with Windows? I purchased Windows, so why do I have to get all those Online Services, and all those Instant Messengers (AOL, and Yahoo!)? It Just slows down the computer, no wonder Windows is the OS that is most expected to crash. Why isn't Apple being forced to do the same? How about Corel with its Linux OS? Mandrake's Linux, or Redhat's Linux?

Microsoft is a very innovative corporation. If not for Microsoft, I shudder to think how the world would look like today. Think about this: what do you at the DOJ use for word processing? Do you use the Windows OS? Or do you still use one of those typewriters? Think about it. The briefs for the U.S. Supreme Court cases are written on PC Computers, with Microsoft Word. The sad part is, is that the 9 Justices don't realize that they (or their clerks) are using them. Every court in The Nation uses Laptop computers, and I know they are not Apple's. I, as a professional computer user in the technical fields, I know the necessities, and making sure that Netscape has its browser pro-loaded in Windows is not one of them. AOL is a company that people have a tendency to dislike. My parents and canceled our AOL account, we now use Road Runner Cable service. So why are we being forced to include AOL's buggy software on Windows? We can install it if we want to. AOL's Instant Messenger has a new security problem that gives hackers the control of the victims" computers.

Microsoft was also accused of forcing consumers to view pictures, play music files, etc... with Internet Explorer, but that [s not true; you don't have to associate the browser with picture file extensions, or music extensions, you can select a different program (Netscape). The reason why you can view pictures through Intemet Explorer is that it's a Web browser, and Web browsers are built to view information on the Intemet, (that includes pictures, music clips, etc...). In fact, you don't have to use Intemet Explorer; you can use Netscape, Lynx, Mosaic, and other third party Web Browsers. In fact, I've even installed other Operating Systems (Mandrake Linux) on my SONY VAIO computer and it works perfectly.

I know how our opinions are Important to you, and therefore, I've written you mine. I also know that it is vital to have opinions on Information Technology from students (high school, and/or college), for it is the "hot topic", and we are the future, I'm going to major in Computer Information Technology; therefore, I'm familiar with this field. I'm also interested in law and politics, and want to take Political Science in College.

I hope we can all settle, and move on. Continued litigation is not the right answer. Good luck with the decision.

Sincerely,

Felix Yukilevich.

MTC-00030296

Jan 25 02 12:28p
O'Doherty
(G51)483-2691
p.1
Ned K O'Doherty
177 Galtier Place Shoreview
Minnesota- 55126
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a very satisfied user of Microsoft products and customer service, I would like to add my support for settling the Federal lawsuit after the public comment period ends later this month. I believe any further action would compromise the free market, as the idea of a break up or other extreme measure to rectify lack of competition in the industry was truly over the line.

Having seen the terms of the agreement, I support many of the gestures made in the settlement and see this deal as a fair compromise. The measures to provide an open architecture to competitors, not discriminate against computer makers utilizing non-Microsoft software programs and offer a uniform price list for licensing the Windows operating system to the top 20 computer manufacturers, all seem like good steps to guaranteeing free competition to all. As someone facing anti-competitive tactics in the pharmaceutical industry, the benefits of a uniform price structure have definitely resonated the most.

Now that a settlement has been reached and Microsoft is offering such a wide range of positive measures to give competitors more than their fair chance in the marketplace, I hope the Justice Department will accept this deal and move on to more pressing issues. Any more action would hurt businesses, consumers and the country. Thank you.

Sincerely,

MTC-00030297

01/25/02 14:16
FAX 212 450 1555
THE LUDWIG GROUP INC.
143-40 Roosevelt Avenue
Flushing, NY 11354-6145
January 24, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

There has been a recent settlement to the antitrust case brought against Microsoft. This agreement came as a result of round-the-clock negotiations, with both sides agreeing to settle this dispute. I want to give my support to this agreement. Microsoft has been chastised and has opened the company significantly to competition. It is important for us to put this matter in the past since it has not only been decided in a U.S. District Court, but by the parties as well. I do not believe further litigation will be beneficial to our economy or country.

As I understand it, Microsoft has agreed to a great many terms that extend well beyond the issues raised in the initial suit. Microsoft has agreed to allow computers to ship non-Microsoft products to customers; Microsoft has agreed to help companies achieve a greater degree of reliability with regard to their networking software; Microsoft has agreed to design future versions of Microsoft with a mechanism to make it easier to promote non-Microsoft software. I urge you to g-ire your support to this agreement. Thank you.

Sincerely,
Pauline Schwager

MTC-00030298

1/25/2002 2:17 PM
FROM: Fax Caudill Consulting
TO:
1-202-307-1454
PAGE: 001 OF 001
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC. 20530-0001

Dear Mr. Ashcroft

Today I write to express my opinion regarding the Microsoft antitrust settlement. I believe that the settlement is fair and beneficial to everyone involved. It is therefore in the best interests of our country that this issue be resolved.

Through a court appointed mediator Microsoft has settled on the terms of this agreement, which goes beyond the original scope of the case. Microsoft has agreed to change procedures that were not originally an issue in this lawsuit. An example of this is Microsoft's agreement to disclose the internal interfaces of its Windows system to its competitors.

Clearly Microsoft is interested in resolving this issue. I believe that it is time we do just that.

Sincerely,
James Caudill

MTC-00030299

JAN-25-2002 12:24
PM
P. 01
6739 Murray Park Drive San Diego, CA 92120
January 24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

From seeing how the IT sector has affected Silicon Valley and the bay area's economy, I urge you to end any further litigation in this Microsoft antitrust case. Microsoft did not get off easy. After extensive negotiations, they agreed to terms beyond what is expected in any antitrust case. Microsoft has agreed to document and disclose various interfaces that are internal to Windows'' operating system to the competition. Also,

Microsoft has agreed to use a uniform price list when licensing Windows out to the 20 largest vendors in the U.S. It's obvious to me that Microsoft wants to settle this case so they can go back to business. Shouldn't we get back to business and put people back to work and out of this Recession. Please, I urge you, no more litigation.

Sincerely,
Steven Horowitz

MTC-00030300

01/25/2002 FRI 14:19
FAX 001/001
David Dindy
8 Baron Park Lane Apt. 27
Burlington, MA 01803
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Last November the Department of Justice and Microsoft agreed to terms on a proposed settlement that will bring an end to the antitrust suit against Microsoft. I support this settlement.

If you look back, the economic downturn started the day that the Department of Justice filed the antitrust suit against Microsoft. The market has been spiraling downward ever since. This settlement sets forth certain obligations that Microsoft must adhere to, and those terms will encourage competition and spur economic growth. Microsoft has agreed to design future versions of Windows that will make it much easier for software and hardware developers to reconfigure the Windows operating system to include non-Microsoft software. Technology companies will be working hard to create a product that will work well in Windows, and that will catch the eye of consumers. This is just what is needed, and the industry will benefit.

I support this settlement, and hope it is approved as soon as possible.

Sincerely,
David Dindy

MTC-00030301

Jan 25 02 02:23p
CINDY BL??EUER 863-802 8722
p.1
4300 STEWARD ROAD
LAKELAND, FL 33815-3240
863-688-4042
863-802-8722 (FAX)
CJPALLET CO., INC.
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I believe that it is time for the Microsoft case to come to an end. For the past three years, the government has wasted its time and energy on a case concerning the problem with Microsoft's success. I believe this to be a mistake. However, I understand that the issue at hand now is whether the settlement is fair to the consumer. Thus, being a consumer myself, I would like to support Microsoft in seeing the end of this settlement.

Three years is a long time for any lawsuit especially since Microsoft has agreed to many terms beyond the scope of these current issues. Basically, Microsoft has agreed to promote the competition as well as to provide them with valuable interfaces that will enable compatible software. Because of this, I believe Microsoft to have sufficiently fulfilled their debt to the competition.

Microsoft is a great company and their success should not be punished any longer. After the finalization of this settlement, I am confident that it will be to the best interest of not only the consumer but also the software industry so that new products and technologies can be developed. Thank you for taking the time out to listen to the public voice.

Sincerely,
Cindy H. Blaeuer
2nd Vice President
Serving the Industry Since 1969!

MTC-00030302

Jane R. Maytin
20011 Cameron Mill Road
Parkton, MD 21120
Via Facsimile 1-202-307-1454
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Attention: Microsoft Settlement

Dear Mr. Ashcroft:

I am writing to voice my opinion regarding the settlement of the Microsoft case. I am glad to see that there is an end in sight. I just hope that the settlement is accepted and we can all get on with our lives. Microsoft has given a lot to our economy and they need to be allowed to focus on developing new products instead of fighting legal battles.

I work in the Development office at a private school in Maryland; we use Microsoft products to run our department and I personally use Microsoft products at home as well. Even though the settlement is harsher than they have wanted, Microsoft is agreeing to a lot just so they can move forward with business. They are sharing an unprecedented amount of technology information with their competitors and will also be changing their anticompetitive business practices. All of the terms of the settlement are more than fair and will allow our computer industry to boom again.

Please do your part in ending this lawsuit. I believe it is for the good of our entire country that you accept the proposed settlement.

Sincerely,
Jane R. Maytin

MTC-00030303

RIKER, DANZIG, SCHERER, HYLAND & PERRETTI LLP
50 West State St.
Trenton, NJ 08608-1102
(609) 396-2121
FAX (609) 396-4578
FAX COVER SHEET
Date: January 25, 2002
From: Mary Kathryn Roberts
User ID # 0298
Attorney #: 0298
Client/Matter #: 16995/2
Re: Microsoft Settlement
Pages sent (including cover): 3
RECIPIENT FIRM CC:
FAX NUMBER
Department of Justice
202-307-1454 or 202-616-9937
.Comments:

Please see attached statements from New Jersey legislators. Confidentiality Note:

The documents accompanying, this telecopy transmission contain information from the law firm of Riker, Danzig, Scherer, Hyland & Perrerd LLP, which is confidential and/or legally privileged. The information is intended only for the use of the individual or entity named in the transmittal sheets. If you ate not the intended recipient, you arc hereby nod fled that any disclosure, copying, distribution or the taking of any action in reliance on the contents of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone so that we can arrange for the return of the original documents to us at no cost to you.

3114591.01
Time Sent:Operator:
NEW JERSEY GENERAL ASSEMBLY
GUY R. GREGG
ASSEMGLYMAN, 24TH DISTRICT
MORRIS-SUSSEX-HUNTERDON COUNTIES
268 ROUTE 20??. BUILDING D
FLANDERS. NJ 07896
(973) 584–5422
FAX (973) 584–2977
E-mail. AsmGregg@??
COMMITTEES
CHAIRMAN
REGULATORY OVERSIGHT
MEMBER
COMMERCE, TOURISM.
GAMING, AND MILITARY
AND VETERANS AFFAIRS
January 25, 2002
Ms. Renata Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
RE: Microsoft Proposed Settlement Agreement

Dear Ms. Hesse

The Microsoft settlement is a nimble resolution that preserves competition, allows Microsoft and its rivals to freely continue to meet consumer demands, and helps define the direction of government's role in the high-tech industry. More than anything, certainty and resolution will help the economy and promote new investment in technology.

In my estimation, it will be very hard to justify rejecting a settlement that is good for consumers, the technology industry and the economy as a whole. Accordingly, I urge you to accept the proposed settlement agreement.

I thank you for your time.

Sincerely,
Guy R. Gregg
Assemblyman
District 24
GRG:kvp

January 24, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Re: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

When word of a possible settlement in the Microsoft case broke, the markets surged. In spite of gloomy economic reports, the news was viewed by investors as a sign that our nation's critically important high-tech industry could move forward. The fact is that news of an impending settlement lifted the share price of technology companies across the spectrum, including Microsoft's rivals. AOL, Time Warner, Sun, Oracle, IBM—they all saw their stocks jump.

The economics of settlement were made clear by the markets. Public sentiment—from consumers to businesses to investors—favors settlement. This fair settlement prevents Microsoft from abusing the strength that it derives from its operating system, but still allows the company to continue to innovate in all areas of software development.

As elected officials from the New Jersey Legislature, we congratulate the Department of Justice for developing a strong but fair settlement and its efforts to put and end to this lawsuit.

Sincerely,
The Honorable Anthony Bucco
New Jersey Senate
Co-Republican Majority Leader
The Honorable Robert Singer
New Jersey Senate
Co-Republican Majority Leader
The Honorable Gerald Cardinale
New Jersey Senate
Co-Chair Senate Commerce Committee

MTC-00030304

Christine Williams
PO Box 1069
Clinton, WA 98236
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to share my thoughts on the Microsoft Anti Trust case. I believe that the Clinton Administration's Justice Department should never have pursued a legal case against Microsoft in the first place, but I do think that the proposed settlement is in the best interests of everyone involved. From the moment this case began our economy has been negatively affected. It is imperative that Microsoft be free of legal entanglement so that the company can continue to provide innovative products to the marketplace and contribute to the recovery of our economy and the reversal of the recession.

Microsoft is one of the dynamos behind our leadership and superiority in the World Market today. Please don't allow the company's dynamism and innovation to be diminished any further by actions of the Justice Department. "Dragging down" Microsoft puts our county at greater peril.

Sincerely,
Christine Williams

MTC-00030305

64 76 ROCKAWAY AVE REALTY CORP.
1005 Park Lane E
Franklin Square, NY 11010
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The settlement with Microsoft is in the best interests of the public and the economy. It is both fair and reasonable, and it will prevent future anticompetitive behavior. This case has dragged on for far to long and now is the time to end it. This settlement has placed many restrictions on Microsoft. For example, Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products—a first in an antitrust settlement. Also, Microsoft has agreed not to enter into agreements with any third party to promote any Windows technology exclusively. Plus, Microsoft has agreed to a "Technical Committee" that will monitor the company's compliance with the settlement. A quick return to business as usual should be the focus for all parties involved in this case, not a return to the courtroom. State and Federal budgets have already been spending millions of dollars on this case unnecessarily. Let's end this litigation as soon as possible.

Sincerely,
Fred Bothe

MTC-00030306

Joseph Kishman
3001 Market Street Suite #10
Philadelphia, PA 19104–2800
January 8, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530–0001

Dear Mr. Ashcroft,

As a concerned citizen, I write you in support of the recent settlement between Microsoft and the Department of Justice. After three years of court battles, it seems ridiculous to waste our resources on scrutinizing a well-calculated and well-monitored agreement. The process was not only well monitored, but was carried on in the interest of the entire IT sector. Microsoft, as well as other IT companies, is ready to move forward and get back to business. Let us not be the ones to hold them back.

Not only did Microsoft agree to reconfigure licensing and marketing agreements, but also agreed to redesign future versions of Windows in order to help promote non-Microsoft software. If this isn't in the interest of the technology industry as a whole, I don't know what is. As we continue to delay this process, we continue to jeopardize our position in the global market. We need to move forward and get back to business so that we may help out our current economic situation.

I urge you to support the settlement in its current state, and help us to get our IT sector back to business. I thank you for your support.

Sincerely,
Joseph Kishman
Cc: Senator Rick Santorum

MTC-00030307

Leonard P. Ponte
14156 E. Hampden Place
Aurora, Colorado 80014
January 16, 2002
Attorney General John Ashcroft

950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Attorney General:

I am writing in Support of the Microsoft antitrust case settlement. I would like to see the litigation end. I am hopeful the Court will not hesitate to approve the settlement, agreement the parties recently hammered out.

It goes against my principles to settle a case just for the sake of getting out of the litigation. Especially when in a case like this the suit should not have been filed in the first place. However, there comes a time when a company must cut its losses and do what it takes to end the litigation insanity.

Microsoft has clearly gone above and beyond what should be required of them. They have agreed to not retaliate against third parties who distribute or promote software that competes with Windows. They have also agreed not to enter into contracts obligating third parties to exclusively sell Windows products. They have also agreed not to enforce their intellectual property rights. I don't think continuing the lawsuit will result in anything else of substance

The settlement agreement should be approved in its present form, and the parties: focus their efforts on more fruitful endeavors.

Sincerely,

MTC–00030306

Kansas Legislative Education And Research
Legislators Defining the Role of Government
January 25, 2002
BOARD OP DIRECTORS
President Rep Andrew Howell
Vice President Rep. Peggy Palmer
Secretary S??. Tim Huelskamp
Treasurer Rep. Peggy Long
Sen. Bob Lyon
Rep. Bill McCreary
Rep. Judy Morrison
Rep. Don Myers
Sen. Robert Tyson
Executive Director Bob L. Corkins
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms Hesse:

On behalf of KLEAR, Inc., an association of Kansas state legislators representing nearly a third of this state's current House and Senate office holders, I write today with their explicit authorization in strong support of the proposed Final Judgment to the Microsoft antitrust case offered by the U.S. Department of Justice and endorsed by nine state attorneys general. Regrettably, Kansas is not yet among the states agreeing to end their pursuit of this ill-conceived litigation. However, we will continue to press the bee-market rationale for an end to this counter-productive legal course. With the direct means at our disposal, we have already severely restricted the state resources that may be devoted to its prosecution.

The rationale for ending the litigation is squarely in line with our KLEAR philosophy. We stand for the Constitutional principles of limited government, individual liberty, free enterprise and traditional family values. From its initiation forward, the antitrust action against Microsoft has been an affront to these principles that hold real hope in achieving the greatest good for the greatest number of people.

In harmony with a glut of esteemed economists and legal scholars from around the country, we consider the justification for the lawsuit to be baseless. New competitors have emerged to challenge Microsoft's well-earned dominance. Consumer have benefited greatly from reduced prices and improved products. In fact, conspicuously absent at trial and in endless media accounts of the controversy is any evidence that consumers have been harmed. To the contrary, Kansans have lost hundreds of millions of dollars as a result of the antitrust litigation. Our own pension program for government employees in this state has seen its unfunded liability mushroom as a direct product of the legal attack on Microsoft. When we take into account such tangible negative effects, the fragile case theory, the inappropriate and counter-productive remedies imposed by Judge Jackson, and the threat to this country's core principles of liberty, our decision to support the proposed Final Judgment to this lawsuit is KLEAR-cut.

Bob L. Corkins
Executive Director
827 SW TOPEKA BLVD
TOPEKA, KS 66612
PHONE 785–233.8765
EAX: 928–244–3262
EMALL: k?? kless@webell.net

MTC–00030309

Carol Storm
15420 139th Avenue SE
Renton, WA 98058–7828
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania
Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take this opportunity to express my feelings about the antitrust settlement made between Microsoft and the Department of Justice. I feel the settlement reached is more than Microsoft should have agreed to in the first place. Not only has this damaged Microsoft, but it has also hurt the economy and the rest of the IT industry.

Microsoft has taken many steps to help put this issue to rest. They have agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products. In conjunction with this they have agreed to a uniform price list. This means that Microsoft will license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price.

It is obvious that I feel this issue needs to be resolved. This agreement is a step in the right direction.

Sincerely,
Carol Storm

MTC–00030310

1341 Desoto
Ypsilanti, MI 48198
Fax
To: Renata Hesse
From: Joy Lauderman
Fax: 1–202–307–1454
Pages: 2 (total)
Phone: 734–764–1575
Date: 01/23/02
Re: Opposition to the Microsoft Settlement
Comments:

The included letter states my strong opposition to the proposed DoJ vs. Microsoft settlement.

1341 Desoto
Ypsilanti, MI 48198
January 23,2002
Renata Hesse
Trial Attorney
Suite 1200
Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530

I am writing about the proposed settlement in the U.S. vs. Microsoft anti-trust case. After reviewing the proposal, it seems to me that the Department of Justice let Microsoft off easy. I find it highly concerning that most observers of the case consider this settlement to be a victory for Microsoft that will allow them to continue with business as usual. Since Microsoft was found guilty as a predatory monopoly and they have already violated a prior agreement with the DoJ, much stronger remedies are in order.

Any settlement that allows Microsoft to determine what non-Microsoft products may be invoked by Windows and subject that product to a reasonable technical requirement, determined by Microsoft, is terribly is flawed, In addition, the ability of Microsoft to limit the disclosure of API's or communications protocols if they may compromise the security of a particular installation or group of installations is overly broad. Finally, the release of data cannot only be to those that meet objective standards established by Microsoft for certifying the authenticity and viability of their business.

In particular, the viability of business clause completely omits educational, non-profit, open source and free software developers from being eligible for disclosure of API's or communications protocols as the nature of their endeavors are not necessarily to be viable businesses. This is clearly a strategic move on Microsoft's part as it allows them to squeeze the open source Linux community from being able to compete as efficiently in the server and desktop markets. Any remedy must include full public disclosure of all API's and communications protocols. The information disclosed must be determined by an independent third party that is given sweeping investigative and enforcement powers with public accountability, Anything less will not restore competition to the software industry or prevent future anticompetitive behavior from Microsoft.

Sincerely,
Joy Lauderman

MTC–00030311

Fax Cover Sheet
Date: Jan 25 2002
To: Dehastment of Justice
Company:

Fax: 1–202–307–14.54
From: william a ?? som
Company:
Tel: 650 968 5845
Number of pages including this one: 2
kinko's
20660 Homestead Road
Cupertino, CA 95014
Tel: (408) 777–1000
Fax: (408) 777–1030
Comments:
microsoft Settlement
Date: Jan 25, 2002.
To: Department Of Justice
From: William Peterson
Subject: Microsoft Settlement.

I'm very satisfied with the settlement between Microsoft and US Department of Justice. The following is the main reason. As a US citizen is my duty to try my best to provide any information that is good for our country.

I have read extensivly material and documents on this case and settlement including: Complaint(5/18/1998), Stipulation (11/06/2001) and Competitive Impact Statement (11/15/2001). Its a good thing you folks and Janet Reno weren't around at the turn of the last century. If you were I wouldn't be driving my ford.

The Department Of Justice gave Microsoft a very strong order, stronger than the compitition complainted about. I'm very happy that Microsoft agrees to this final settlement.

Sincerely
William G Peterson
LOS ALTOS, CA 94024

MTC–00030312

DATE
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington. D C. 20530

Dear Ms. Hesse

Under the Tunney Act the Department of Justice is required, to provide a public comment period on the merits of the proposed settlement of the Microsoft Anti-Trust case. I gratefully accept this opportunity to participate m this public comment period.

Our new Attorney General, John Ashcroft and the Department of Justice were on target to actively pursue an equitable settlement with Microsoft. It is unfortunate that some states and several of Microsoft's competitors are insistent in their arguments that this case must continue to be prosecuted, in my view, this is proof that they are only focused on their own self-interest and not on the national economy or the growth of the technology industry.

It is unfortunate that companies like AOL and Oracle are apparently more interested in continuous legal wrangling instead of competing on the open market. Arguing that this case should continue ignores the major remedies found in this proposal. While I can only comment on those made public, it would seem to me that guaranteed flexibility for computer manufacturers, Microsoft's sharing of intellectual property and the establishment of a "policing" commission, all combine to create a very fair agreement.

I urge you to accept this settlement.

MTC–00030313

DISTRICT OFFICE:
191 WAUKEGAN ROAD, SUITE 204
NORTHFIELD IL 60093
847/441–0077
FAX: 847/441–9322
E-MAIL:SENKATHYPARKER®
WORKLONET.ATTNET
CHAIR: TRANSPORTATION
VICE CHAIRMAN: PUBLIC HEALTH AND WELFARE
MEMBER: COMMERCE & INDUSTRY
CAPITOL OFFICE:
ROOMM118 STATE CAPITOL
SPRINGFIELD IL 62706
217/782–2119
FAX: 217/782–0650
ILLINOIS STATE SENATE
KATHLEEN K. PARKER
STATE SENATOR .
29TH DISTRICT
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D, Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

It's great news for the country that a settlement has been reached between Microsoft and the Department of Justice and the nine Attorney Generals. The reaction from Americans was overwhelmingly in support of the settlement. It is so important that we try to stabilize the high tech industry at this time. And continuation of this lengthy lawsuit is not in the nations's best Interest as the country grapples with recession, business failure and stock market shocks.

I support your efforts to resolve this Issue with a meaningful and fair agreement.

Sincerely,
Kathleen K, Parker
Senator
29th District
KP:ckr

MTC–00030314

E. P. FRANKS. M. D.
Two EXECUTIVE PARK DRIVE
STUVVESANT PLAZA
ALBANY, NEW YORK 12203
TELEPHONE 518–438–1332
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to express my opinion about the Microsoft ant/trust settlement agreement. I understand flint the Justice Department is accepting public comment on this issue, and I would like to state that I am in full support of the current agreement, because I believe it is a fair and reasonable solution to this complex case.

It took more than three years to reach this agreement, and I believe that it should remain in its present form. Microsoft has agreed to share its technology and information, allow its rivals to be more competitive in the market, and permit non-Microsoft programs to be installed in Windows. In my view, Microsoft has agreed to the changes that most significantly affect the American public.

For this reason, and because the company produces a reliable, high-quality product, I will continue to support Microsoft. I certainly hope that file government will maintain the integrity of the current agreement and allow the computer company to do what it does best—create and innovate.

Sincerely,
Edward P. Franks, MD FRCOphth

MTC–00030315

Washington State Senate
Democratic Caucus
322 J.A. Cherberg Building
PO Box 40482
Olympia, WA 98504–0482
(360) 786–7350
FAX: (360) 786–7020
TO PPHONE:
FROM:
PHONE:
DATE: TIME:
PAGES (EXCLUDING COVER):
COMMENTS:
Washington State Senate
Senator Sid Snyder
19th Legislative District
Majority Leader
Residence:
PO Box 531
Long Beach, WA 98631
(360) 642–2519
Olympia Office:
311 Legislative Building
PO Box 40419
Olympia, WA 98504–0419
(360) 786–7636
January 22, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
RE: Proposed Settlement of US v. Microsoft

Dear Ms. Hesse:

I support the Department of Justice and the nine state Attorneys General for their efforts to finally put an end to US v. Microsoft and agree to a settlement that is in the best interest of the nation and Washington State.

A driving force for the new economy, Microsoft has provided a number of innovative, quality software solutions for businesses and individual consumers over the years. Microsoft has also created thousands of jobs in Washington State. The company's employment growth has had a positive multiplier effect on our economy—one study estimates that every Microsoft job results in an additional 3.4 Washington jobs. Microsoft's presence in this state contributes to a high-tech sector that employed more than 130,000 Washingtonians in 2000 and generated $15.5 billion in state payroll in 1999.

The provisions of this settlement, worked out with one of the nation's top mediators, will allow Microsoft and its competitors to continue developing new products and services. This is undoubtedly good for the high technology industry, the Washington state economy and the nation's economy as a whole.

Sincerely,
Sid Snyder
State Senator, 19th District
Committees: Agriculture & International Trade . Natural Resources, Parks & Shorelines . Rules . Ways & Means

MTC–00030316

P.O. Box 1079
Colfax, CA 95713
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The Microsoft ?? within for resolution among comp??. This settlement will provide computer makers and software developers with flexibility when configuring Windows to better promote non-Microsoft software programs that compete with programs included within windows, without the threat of a lawsuit. Microsoft will also use a uniform price list when licensing Windows out to the twenty largest computer makers in the nation, and will not retaliate against companies that use or promote software that competes with Microsoft's programs.

As a retired professor of Engineering & Technology in Sierra College, Rocklin, California, I constantly researched different software programs and found Microsoft's software programs superior among the competition.

The steps taken to settle this case are important because it shows Microsoft has nothing to hide regarding its business practices, and competitors will have an equal playing field.

Sincerely,
Kenneth J. Weger

MTC–00030317

1390 Braewood Drive
Algonquin, IL 60102–3238
January 25, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I want to take a little time to express my full support for the settlement concluded between Microsoft and the Department of Justice last November. I believe the settlement is good for consumers and our economy.

The terms of the agreement are fair and reasonable to both sides. Microsoft has agreed to many concessions in order to wrap this case up and move forward. For example, Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system. Also, Microsoft will be monitored by a three-member Technical Committee to assure compliance with the settlement.

As a business owner, I fully understand the importance and value Microsoft provides to both businesses and consumers. This settlement will free them to continue to provide the innovation that has made our economy the engine for the entire world.

Sincerely,
Michael Reilly
cc: Representative J. Dennis Hastert

MTC–00030318

5701 Woodward Avenue
Downers Grove, IL 60516–1128
January 12, 2002
Attorney General John Ashcroft
U.S. Department of Justice
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I was recently amazed to find out that the three year long settlement between Microsoft and the Department of Justice, might be delayed even further. I cannot believe that there would be anything further to discuss. After a well thought out process, these meticulous terms are ready to be set in motion. Let us support the process, by letting this take place.

Not only has Microsoft agreed to redesign new versions of Windows to better accommodate non-Microsoft software, they have also agreed to rework licensing and marketing agreements as well. This definitely proves that Microsoft has been working for the benefit of the IT sector as a whole. By using this agreement as a guideline, the IT sector can get back into the mainstream, and help maintain our position in the global market.

I urge you to help us maintain our global status. Please help stop any action against this settlement. Thank you so much.

Sincerely,
Wayne Wisniewski

MTC–00030319

2181 Osprey Point Dr. W
Jacksonville, FL 32224
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in order to express my relief over the settlement with Microsoft. I have waited three long years in order for this thing to finally be over and it seems as if the end is in sight. I hope that the federal settlement goes forward so that we can all put this thing behind us.

Microsoft has sacrificed much in order to reach an acceptable settlement with the Department of Justice and I hope that people will realize and respect that They have offered to forgo many of their intellectual property rights and license out software to their competitors. They will also give competitors some say in how computer manufactures can configure their product. This means that they stand to lose a substantial portion of their profits as well as aiding their competitors in contending against Microsoft's products.

Microsoft is willing to do this in order to end this case once and for all I hope that they will be allowed to do so and that this settlement will mean an end to any more action at the federal level.

Sincerely,
Eileen Kirby

MTC–00030320

Caroline Raphun
2109 Nancy Ann Drive
Raleigh, NC 27607
January 21, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202–616–9937
microsoft.atr@usdoc.gov

Dear Ms. Hesse:

As a parent and a taxpayer, I am impressed by what I have heard about the proposed settlement of the Microsoft case. This litigation has gone on too long and cost too much of the taxpayers" money. Our state's attorney general has accepted the settlement, and that is a welcome step. I hope the federal court will now do the same.

Microsoft may well be guilty of illegal and improper behavior. It is difficult for the average person to make that judgment. But one can recognize the wisdom of settling a case that distracts an important industry from its work during a time when our nation's economy faces an uncertain future.

Sincerely,
Caroline Raphun

MTC–00030321

HOUSE OF REPRESENTATIVES
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333–0002
(207) 287–1400
TTY: (207) 287–4469
Brian M. Duprey
PO Box 214
Hampden, ME 04444
Telephone: (207) 862.57115
Fax: (207) 287–1449
E-Mail: repduprey@hotmail.com
January 18, 2002
Renata Hesse
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse.

I am a business owner and legislator who wish to strongly encourage you to accept the proposed settlement between United Stats vs. Microsoft Corporation.

Rather than focusing on improving technology, creating jobs and helping the economy and our nation to rebound, AOL, Oracle, Apple, Sun and others engaged the Justice Department in their effort to compete with Microsoft, Their true intention has clearly been to deny consumers their market choices and instead force them. true paying higher prices for lesser quality products. Competition is the key, not government intrusion.

Without competition, the high technology industry would be completely insignificant. Microsoft, Sun, AOL, Netscape, and other all drive each other to Iowa prices and better products, all the to benefit of consumers.

The time has come to settle this case. Our country needs to see responsible companies mad our government working together on issues of national concern.

Sincerely,
Brian M. Duprey

State Reprcsen??
District 114 Ha??pden, Newburgh and Dixmont
Printed on recycled paper

MTC-00030322

FRANCES T. SULLIVAN
Assemblywoman 117th District
THE ASSEMBLY
STATE OF NEW YORK
ALBANY ALBANY OFFICE
Room 437
Legislative Office Building
Albany, New York 12248
(518) 455-5841
DISTRICT OFFICE
200 N. Second Street
Fullon, New York 13069
(315) 598-5185
January 25, 2002
Renata Hesse, Trial Attorney
Antitrust Division
Department of Justice
601 D Street NY, Suite 1200
Washington, DC 20530
Re: U.S. v. Microsoft

Dear Ms. Hesse:

Throughout my tenure in the New York State Assembly I have been a strong advocate on behalf of small business, consumers, and decreased government regulation.

As an extension of this advocacy I write to support the proposed settlement between the U.S. Department of Justice and Microsoft. It appears that continued litigation would satisfy only technology competitors of Microsoft while the negotiated settlement will inure to the benefit of taxpayers, consumers, the industry and the state and national economy.

Since the most desirable outcome would be that which serves the best interest of the general public, I respectfully urge a favorable consideration of the pending settlement. Thank you.

Sincerely,
FRANCES T. SULLIVAN
Assemblywoman 117th A.D.

MTC-00030323

Joseph A, Sale
Government Consulting
301 South B??onough Street, #600
Tollaha??ee, Florida 32301
January 25, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D. Street NW, suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse:

Recently, I was pleasantly surprised to learn that Microsoft had reached a settlement with nine states. I believe so for two key masons:

First, as a matter of principle, it is the right thing to do. This Ant/trust case has worn its welcome out and has gone on too long. Now is the right time to settle, given the state of the economy. Second, and most important, the terms of the agreement are fair and balanced to everyone. Microsoft agrees to share its intellectual property when necessary and will not penalize a company if it does not use Microsoft products. At the same time, Microsoft is allowed to move on and focus on its business without having to worry about this part of the Antitrust case.

This settlement benefits both sides, and I fully support it.

Thank you for your time.

Sincerely,
Joseph A. Sole

MTC-00030324

Design
Embroidery
Screenprinting
Promotional Products
924 Main Street ??
Lynchburg, ?? 2450 ??
434-846-5223 ??
800-524-4739 ??
Fax 434-847-7563
?? www.hipeak.com
January 25, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW Suite 1200
Washington. DC 20530

Dear Ms. Hesse:

As a business owner who relies heavily on computer technology to be competitive, I have Followed the antitrust suit against. Microsoft. While I appreciate the concerns expressed, I believe there is a danger in the government interfering too much with product development, and regulations that will inhibit innovation.

It is my understanding that Microsoft has tried to address these concerns in order to being the case to a conclusion and to allow the company to move forward with developing new products. It has been reported that Microsoft is agreeable to the proposed settlement. I hope the Department of Justice will agree as well, and allow Microsoft to settle and move on.

Respectfully yours,
Rodney Taylor
Vice-President
Proud Members of:
LYNCHBURG CHAMBER
LYNCH'S LANDING

MTC-00030325

Ms Renata Hesse, Trial Attorney
25 Jan. 2002
Suite 1200, Anti-Trust Division
Department of Justice
601D Street NW
Washington, DC 20530

Dear Ms. Hesse,

I would like to add my thoughts to the others you receive regarding the proposed Microsoft settlement. In a nutshell, I believe the present settlement is inadequate to rectify a situation that, even while it helps some, also harms many others, both businesses and customers.

I am a private, self-employed, long-time computer user, and do not work in the computer or software industries. This makes me a customer. Let me state at the outset that I see no objection to a company, and company personnel, making large profits from a successful business. My objections are purely with the unethical, coersive, and harmful means with which that success was attained. The observations below are drawn from my own experiences and from news and anecdotes from select other sources. So I don't pretend to have complete and detailed knowledge, but am comfortably certain of the following:

—Microsoft has used pervasively the tactic of 'bundling' its software with new computers, forcing thousands of customers buying a new computer to pay for a Microsoft Windows operation system when they didn't want it and intended to erase it.

—Microsoft used blackmail tactics to induce companies with which they did business to use MS software or lose that business.

—Microsoft covertly employed people to pose as unaffiliated with MS but who issued concerted streams of lies and disinformation intended to instill Fear, Uncertainty, and Doubt (commonly known on usenet as FUD) in actual and potential users of non-Microsoft software. The Edelman PR and the Barkto incidents of four years ago are specific examples. Other similar tactics include the MS-fabricated 'grass roots' campaign to dissipate the increasing objections to Microsoft's nefarious tactics.

—Most directly experienced is Microsoft's concerted sabotage of non-MS software that competes with MS software. Most competing software applications went to some pains to describe how to work with MS Windows, while Windows ignored these apps and lavished attention on MS apps. But this neglect was only the beginning: Microsoft invariably 'tweaks' its OS to break competing apps. This has been happening so consistently, for so long, and requires such specific action, that it is not realistic to think it is accidental.

It is true that Microsoft's aggressive marketing has helped swell the number of computer users, and its enforced 'upgrading' regime has increased both hardware and software sales. These have lowered general costs, though at the expense of increased per-customer 'upgrading' cost. But their unethical business tactics have stifled competition and impeded diversification, exacting the additional cost on consumers of decreased choice and lowered quality (reliability and security of Microsoft software is generally deplorable by professional standards).

Some years ago the Department of Justice took IBM to task for its perceived business transgressions, issuing two decrees by which IBM needed to abide. It seems to me that Microsoft is at least as guilty of ethical misbehavior as IBM was, and therefore should be subjected to equally stern measures. In particular, mirroring the second IBM decree, the operating system should be open enough that independent software vendors have the information they need to write software that can compete with that written by Microsoft. This information needs to be equally accessible, with equal timeliness, to the independent software producer as to Microsoft's own applications producing department.

A specific case of this is document formats, whose specifications should be generally available so that Microsoft-produced documents could be read and edited by non-MS programs. Given Microsoft's established record of unethical coercive business tactics, it is difficult to see how one can realistically expect Microsoft NOT to apply those tactics if they are able and have the motivation. If the same management entity controls both the OS producing department and the apps producing department, then it has the ability, and if it profits from both departments, it has the motivation. This is why I expect that as long as Microsoft's operations are combined, producing both 05s and apps, independent software producers will suffer large handicaps and customers, both business and private, will remain deprived of the advantages of product diversification and true competition.

Cordially,
Dushan Mitrovich
3111 Jane Pt NE, #279
Albuquerque, NM 87111

MTC-00030326

FROM: Lynchburg Florist & Antiques
FAX NO. : 8043856898
Lynchburg Florist & Antiques, Inc.
3224 Old Forest Road
Lynchburg, Virginia 24501
434-385-6566
January 25,2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to encourage the Department of Justice to agree to the proposed settlement in the Microsoft Antitrust case. As a small business owner, t have benefited from the ease of use of Microsoft's software; it saves me money and employee hours.

I was glad to learn that Microsoft has agreed not to retaliate against software developers who develop competin9 software. This seems to have been a big part of the antitrust lawsuit, and I hope agreeing to this will enable DOJ to settle and allow Microsoft to continue to develop new products.

Sincerely,
President,
Lynchburg Florist & Antiques

MTC-00030327

City of SUDN
111 ?? First Street
P.O. Box 39
??, Texas 79731
??-??-21??2
Fax 806-227-2146
??
January 25, 2002
Renata Hesse
Antitrust Division
Department Justice
601 D Street NW, Suite 1200
Washington. DC: 20530

Dear Ms. Hesse.

The U. S. District Court has an opportunity to end one of the most misguid??d and wasteful lawsuits in the history of the United States by dismissing the remaining lawsuits against Microsoft Corporation and accepting the proposed settlement. The cost of the lengthy litigation has now exceeded $30 million and is rapidly rising as ??ch day passes. If the settlement is rejected, any eventual financial judgment against Microsoft will be so diminished by legal and administrative fees that vary little will actually find its way to the consumer.

The proposed settlement puts an end to the wasteful use off taxpayer dollars and requires Microsoft to make substantial concessions to its competitors. I am writing to ask the Court to accept the settlement and let consumers make the final determination as to the quality and usefulness of the products they buy.

Sincerely,
Freddie Maxwell Mayor
FM/??

MTC-00030328

House of Delegates
Telefax Service
Fax (804) 786-6310
General Assembly Building
January 25, 2002
To: Ms. Renata Hesse
From: Del. Michele B. McQuigg
Fax No.:
Long Distance 202-616-9937
Tel. No.:
City:
State:—

This transmission contains 2 pages, which includes this cover sheet. If you have any problems with this transmission, please contact (804) 698-1558.

Comments:

If you have any questions, call 804-698-1151.

COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND
MICHELE B. MCQUIGG
22-41-R TAKCETTS MILL DRIVE
WOO??SRIDGE, VIRGINIA 221??2
FIFTY-FIRSY DISTRICT
COMMITTEE ASSIGNMENT
COURTS OF JUSTICE
GENFRAL LAWS
COUNYIES, CITIES AND TOWNS
LABOR AND COMMERCE
January 20, 2002
Ms. Reneta Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW Suite 12
Washington, DC 20530

Dear Ms. Hesse:

I am writing in support of the settlement of the Microsoft antitrust case. In a nation where we pride ourselves on free trade and development of services and ideas, Microsoft has proven itself. The agreement contains significant rules and regulations on how Microsoft develops and licenses its software, but it also allows Microsoft to keep innovating on behalf of consumers. I hope you will resist the efforts of Microsoft's competitors, who try to continue their efforts to dissolve this company.

We have many computer and Internet companies throughout Virginia, with a large concentration m Northern Virginia, the area I represent. The economy depends upon technology and Internet success—including Microsoft.

It is extremely important to allow this facet of trade to grow and produce without restriction. It is equally as important to allow it to grow free from fear of developing a product that is accepted universally by computer users.

I urge you to accept the settlement as just and fair. if you have any questions, please do not hesitate to contact me.

Sincerely,
Michele B. McQuigg

MTC-00030329

Diane Lyden
January 24,2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

I have recently been made aware that you are accepting public comment in the case of U.S. v Microsoft. I would like to contribute letter in support of Microsoft.

This company has been at the forefront of technology and deserves to continue to be provided the opportunity to reach its company goals. Microsoft has provided Americans and the world with products and services at reasonable costs.

Although I can understand the concerns of the government and Microsoft's competitors, extreme restrictions and continued persecution on Microsoft's activities will only decrease the productivity of all computer companies and the American people. The settlement, as I understand it, gives a little to each party in this case without compromising the continual success of this industry.

Too much time has already been spent on this case. We should be concentrating our efforts on increasing national security, improving schools and healthcare, and offsetting the faltering economy. Government no longer has the luxury to be spending time and money on this issue. The United States needs to focus on the current problems facing the American people. Please approve this settlement as quickly as possible.

Diane Lyden
HC-62 Box 591 B
Center Harbor, New Hampshire
03226

MTC-00030330

John R. with
420 Palmer Ave
Aptos, CA 95003
FAX COVER SHEET
Fax 831-387-0552
SEND TO
Company name
From
Department of Justice
John R. Wirth
Attention
Date
Ms. R??n??ta B. Hesse
1-25-02
Office location Office location Washington, DC
Fax number
Phone number 202-307-1454
831-688-0897
URGENT URGENT URGENT URGENT

URGENT
Total pages, including cover. 1
COMMENTS

I am writing to ask that you accept the settlement proposed in the Microsoft case.

It is a total waste of my tax dollars to pursue this any further. Spending 35 million dollars is enough.

Thank you for your kind consideration.

MTC-00030331

Kinko's (tm) fax cover sheet
Kinko's Bailey's Crossroads .
Telephone: (703) 379-0909 .
Fax: (703) 998-2419
Date 25 Jan 2002
Number of pages 3 (including cover page)
to: Name Renata B. Hesse
from: Name David A. Wheeler
Company U.S. Dept. of Justice
Company (self)
Telephone Telephone 703-250-7047
Fax 1-202-616-9937

Comments

I am strongly opposed to the proposed find judgment in U.S. vs. Microsoft, there is no effective penalty & nothing to prevent similar future activities. These Comments (enclosed), which expand on this, are pursuant to the Tunney Act.

January 24, 2005

Dear Renata Hesse:

I am strongly opposed to the proposed final judgment in United States vs. Microsoft. Microsoft has been clearly convicted of illegal actions, and this is the penalty phase. Yet there is no effective penalty in the proposed final judgment, and in particular, nothing to prevent similar future activities. The proposed "remedies" are easily circumvented, indeed, they seem to be carefully crafted to ease circumvention! For example, APIs involving security need not be disclosed, so clearly Microsoft will simply relabel or modify many APIs to be security-relevant and thus circumvent the judgment. Microsoft has clearly harmed the computer industry and the consumer, robbing U.S. citizens of many innovative products, simply because so many organizations are now afraid to compete with Microsoft. Some have even been eliminated by Microsoft's illegal activities. A remedy must end these activities.

In addition to the current judgment, I believe that any remedy must ensure that there will be unfettered public access to all information necessary for interoperability. All interfaces, not just certain APIs, must be made public. Thus, in addition to the current judgment:

1. The specifications of Microsoft's present and future document file formats must be made completely public, so that documents created in Microsoft applications may be read and written by programs from other makers (this is in addition to the APIs already part of the settlement). Much of the world's most important information is trapped in these proprietary formats, making it very difficult for customers to switch to competitors even if competitors offer better functionality and lower prices.

2. There must be no exceptions for what interfaces must be publicly documented. For example, the exception for "security" issues must be removed. Indeed, security-related issues require the most public scrutiny.

3. Any Microsoft networking protocols must be published in full and approved by an independent network protocol body, and be re-implementable without royalty fee. This would prevent Microsoft from seizing de facto control of the Internet.

4. Since "open source software" is one of Microsoft's prime competitors, any judgment must ensure that open source software developers have equal access to such information, without interference in the form of royalty payments, nondisclosure agreements, and other schemes to prevent consumer choice.

5. Microsoft's claims of "Intellectual Property Rights" (IPR) must not be allowed to justify continued illegal activity. If such rights are used to continue illegal activity, then those rights must be forfeited.

Also, in addition to the current judgment, sales channels must be free to sell competing products. The proposed judgment tries to make this possible, but it does not go far enough. Thus, in addition to the proposed judgment:

6. Microsoft's product prices must be strictly based on volume (to prevent Microsoft from "punishing" vendors who sell competing products). There are some vague words about "not punishing" but their meaning and enforcement is not sufficiently clear.

7. Microsoft products must be extra-cost options in the purchase of new computers, so that users who do not wish to purchase Microsoft products are not forced to do so. If I choose to not use Microsoft's products, then Microsoft should not get a cut of my money. I want the freedom to not pay Microsoft.

8. Microsoft's agreements with resellers must be made and kept public, to prevent secret agreements from damaging the public. A capitalistic economic system only works when there is competition. When a company can gain and routinely exploit a monopoly to eliminate competition in other fields, the result is a loss of choice and quality for all. Without being reigned in, Microsoft might someday completely control essentially all communication media, a dangerous situation for any democracy. Microsoft has already tried to limit freedom of speech through its existing control (e.g., at one time Microsoft's Passport prevented their customers from publishing negative comments about Microsoft, and their database licenses prevented users from publishing benchmarks showing Microsoft product performance). Allowing a single company's products to so dominate an industry "also presents a grave computer security risk—any flaw in their products opens the entire country to attack. Since there is currently little competition, there's little incentive for Microsoft to improve many of its products. As documented by computer security experts (such as those in "Bugtraq"), Microsoft has a history of claiming to secure their products yet continuously releasing poorly-secured products.

Allowing Microsoft to continue flagrantly disregarding the law is dangerous, and in the long run may pose more danger to our country than the terrorists we are fighting now. Failing to impose a strong judgment may send a disturbing message—it suggests that we are no longer a country of laws, since nothing important will happen if those laws are repeatedly broken. Please, do not let this proposed judgment be a stain on this court. I urge you to require a real final judgment that actually inhibits future illegal activities.

David A. Wheeler
9904 Manet Rd.
Burke, VA
(703) 250-7047

MTC-00030332

12th Co??
Sua??
Mi??e
Senate District 26
Senator Karl W. Turner
3 State House Stature
Augusta, ME 04332-0003
(207) 287-1505
16 Town Landing Rd.
Cumberland Foreside. ME 04110
(207) 829-6427
Renata Hesse
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse

Please accept my support of the proposed settlement between United States vs. Microsoft Corporation.

Rather than beating Microsoft in the free market, AOL and Sun and others engaged the Justice Department to do it for them. Thor true intention has clearly been to deny consumers their market choirs and instead force them into paying higher prices for lesser quality products, Competition is the key, not government intrusion.

Without competition, the high technology industry would be completely insignificant. Microsoft, Sun. AOL, Netscape, and others all drive each other to lower prices and better products, all to the benefit of consumers.

The time has come to settle this case, Taking into consideration the poor condition of the economy, the last thing we need is additional inane litigation.

Sincerely
Karl Turner
State Sonator
?? . TTV (207) 287-1583 . Message Service 1-800-423-6900 . Web Sue:
http://www.state.??us/legit/s??te

MTC-00030333

Carp Storm
15420 139th Avenue SE
Renton, WA 98058-7828
January 25, 2002
Attorney General John Ashcroft US:
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take this opportunity to express my feelings about the antitrust settlement made between Microsoft and the Department of Justice. I feel the settlement reached is more than Microsoft should have agreed to in the first place. Not only has this damaged Microsoft, but it has also hurt the economy and the rest of the IT industry.

Microsoft has taken many steps to help put this issue to rest. They have agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products, in conjunction with this they have agreed to a uniform price list. This means that Microsoft will license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price.

It is obvious that I feel this issue needs to be resolved. This agreement is a step in the right direction.

Sincerely,

Carol Storm

MTC-00030334

FACSIMILE TRANSMITTAL SHEET
TO: Atty Hesse
FROM: D G?? COMPANY:
DATE: 1/2??
FAX NUMBER: 202 6169937
PAGES INCLUDING COVVER: 2
PHONE NUMBER: PHONE NUMBER: 9786866732
RE: da??
FAX NUMBER: 975 6817693
PLEASE RECYCLE
NOTES/COMMENTS:
Chemical Services Division
January 20, 2002
??safety-kleen.

Renata Hesse
Trial Attorney
Justice Department, Anti-trust Division
601 D Street NW, Suite 1200
Washington DC 20530

Dear Attorney Hesse,

I have been following the Microsoft lawsuit with an increasing level of concern over the past few years. Initially, it seemed that the action was heavy-handed to say the least. But, with every further disclosure of the role of the industry competition orchestrating many aspects of the litigation, it becomes clear that the United States citizenry will only be served justice if this case is ended.

There is apparently a settlement proposal now before Judge Kollar Kotelly, which will end the case and impose sanctions without creating too much new bureaucracy. This is a great time to turn this case around, and end the practice of using federal lawyers to advance private agendas. The economy needs the boost, and the citizens deserve better.

I respect the government attorneys who worked hard to hammer out this settlement, and hope their effort succeeds.

Respectfully,

Donald W Gallant
Safety-Kleen (NE), Inc.
221 Sutton Street . North Andover, Massachusetts 01845 . 978.683.1002 . Fax 978.687.3036

MTC-00030336

Microsoft Settlement
January 23, 2002

To Whom It May Concern:

AS a US citizen, I would like to express my views on the proposed Final Judgement in the United States vs. Microsoft Settlement. I have been in the software development field for 7 years I have felt for many years that Microsoft has monopolistic market positions and tendencies, and has continued these practices even through the current anti-trust investigations. I believe that these practices have hindered innovation and hurt consumers and businesses.

In general, I thing that the proposed Final Judgement is too soft on Microsoft and will not resolve the anti-trust issues at all. In particular:

*Section 3.A.2 of the proposed Final Judgement appears to prevent Microsoft from strong-arming OEMS that ship dual-boot machines, but offers no protection for OEMs shipping a single-boot machines that do not boot to Microsoft windows.

*Definition K of the proposed Final Judgement covers Microsoft's Java Virtual Machine, but does not affect Microsoft's NET strategy. NET, and the C# language specifically, appear to be designed to woo existing Java programmers with a minimum of new training, while C# is a documented standard, Microsoft's standard method of operation is to extend the standard with Microsoft-only features which eliminate any opportunity for inter-operability. If C# becomes as widely accepted as C++ or Java, I fully expect thee there will quickly be divergent "Microsoft CS" and "Standard CS" implementations.

*There appears to be no solution to the issue of Microsoft proprietary file formats in the proposed Final Judgement. This is huge hindrance, as more and more email attachments are being sent as Microsoft Word documents, etc. File formats were covered in the "Applications Barrier to Entry" section of the "Findings of Fact". These are just three of the issues that I was immediately drawn to in the proposed Final Judgement. I am also very concerned with Microsoft's continuing efforts to extend their stranglehold on US consumers and businesses including:

*New Microsoft XP licensing schemes which may raise costs for US consumers and businesses. As part of the XP licensing, consumers will not be allowed to 10ad multiple copies of XP on their own hardware. And licensing costs may increase for 59% of businesses (see article in Ci0 magazine, "Software Licensing Debate", http://www2.cio.com/research/surveyreport.cfm?idm50)

*Microsoft's forays into home entertainment (UltimateTV, XBox)

*Microsoft's new effort to be at the center of the Internet (.NET and Passport) Thank you for reviewing my opinions. I hope that any Final Judgement in she United States vs. Microsoft trial will be carefully considered.

Greg Shrack
15140 Jessie Drive
Colorado Springs, CO 80921
greg.shrack@usa.net

MTC-00030337

Catfish Software, Inc,
6070 Mission Gorge Road, Suite 2
San Diego, Ca 92120

Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
Via Fax #202–616–9937

TO Whom It May Concern:

I understand that, as part of the Tunney Act proceedings, public comments on the case of US v Microsoft should be sent to the fax number above. Last month, the Senate Judiciary Committee called for hearings on the settlement being proposed in US v. Microsoft. At that time I sent in testimony which was introduced into the record. With this letter I am including a copy of that testimony, I would like for this to be included with the materials in support of the settlement. I am small hi-tech businessman and I firmly believe settling the case against Microsoft is in the best interest of our industry.

If you have any questions, please feel free to contact me.

Sincerely,

Jerry Hilburn
Founder—Catfish Software
619–858–1390

Testimony by
Jerry Hilburn, President and Founder)
Catfish Software, Inc.
San Diego, CA
Provided to the U.S. Senate Committee on the Judiciary
December 12, 2001

I am very pleased to provide a written statement for your hearing on "The Microsoft Settlement: A Look to the Future. Thank you, Chairman Leahy and Members of the Committee, for the opportunity to deliver a small businessperson s perspective on the case before this distinguished group.

I would like to tell you my point of view on the Microsoft case. I am a small businessman in San Diego, California. Catfish Software, Inc! started operations in 1994 providing network services and custom database applications for small business. In 1998, Catfish Software launched an E-mail Application Services branch providing double opt-in mail list service and web-based customer support applications and today, Catfish Software provides support to 300+ companies reaching 2,000,000+ subscribers of its software services.

One of my firm's top competitors is Microsoft's bCentral. So you may ask why I speak in favor of the Microsoft settlement.

Businesses large and small have mortgaged their futures against the impact of the terrorist war. Some smaller businesses—techology and otherwise—have already found themselves strangled by a lack of consumer demand and by slowdowns in corporate and consumer spending. Most of us are finding it is time to shore up resources and protect our assets from the impact of the war. In this time of so much uncertainty, we need the promise of a brighter day and the knowledge that the government—from the federal level on down—is doing everything possible to invigorate our flagging economy.

Competition and consumer preference should decide the direction of the marketplace and meanwhile, the government should not rush to intervene in the New Economy. The last thing our economy needs at this time is the burden of remedies which do nothing but slow the pace of development and limit the choices of consumer.

The Justice Department handled this case admirably, and the settlement they agreed upon is sound. The settlement outlines how Microsoft can operate, but more importantly it provides some assurances to an industry that has been on unstable ground lately.

Microsoft's ability to design and produce new software in turn creates opportunities for small and medium-sized developers to write applications which operate on a Windows-based platform. As the old saying goes, a high tide floats all ships. Calls for break-up of the company did not help the already tenuous situation. And when Microsoft looked like it might be pulled under, the Nasdaq was hit as well as the stocks of many high-tech companies.

But when announcements of the settlement were made public around the beginning of November 2001, everyone got a nice little bump. Consumers and other technology entrepreneurs were hopeful that this case could be put to bed and that the tech sector could get back to business. This litigation that has been an albatross around all our necks for so long—and ending the string of lawsuits associated with it—will have a positive effect on the tech economy With a little luck, that will ripple out to America's economy as a whole.

With so many technologies poised to enter the marketplace, Microsoft and many others, including Catfish Software are looking for ways to enhance the computing experience. The Internet has become a center of most everyone's daily lives—from toddlers typing their first strokes with learning games to seniors learning how to send and receive e-rural. Untapped markets and unimagined ideas abound, but we must not harness the creativity or the ability of software firms to bring those products to bear in the marketplace.

The olive branch of settlement was extended, and it is a solution that is good for the economy and good for the tech industry. Allow us the opportunity to get back to work and earn money with our products and ideas once again.

This concludes my testimony. Once again, I thank the Committee and its distinguished Members for the opportunity to provide written testimony on tilts important issue.

MTC-00030338

FAX
Date: January 25, 2002
Pages: 3 (incl. cover)
FROM: George Haas
Fax: (831)439–9599
TO: Renata Hesse
Trial Attorney, Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: (202)616–9937 or (202)307–1454
Subject: Microsoft Settlement Public Comment
Message: Attached are my further comments for your consideration.
January 25, 2002
Renata Hesse
Trial Attorney, Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: (202)616–9937 or (202)307–1454
Re: Microsoft Settlement

Dear Ms. Hesse:

Microsoft has done, and continues to do, serious damage to consumers and competitors alike. I will list here the evidence I have witnessed personally.

Microsoft eliminated all competition in the spreadsheet industry, thus destroying Borland, a local company. Hundreds of jobs were lost in our city alone, costing hundreds of thousands of dollars lost in local revenue.

Microsoft blatantly gave away their Internet browser software, Explorer, virtually eliminating Netscape, a pioneer in the industry. Without remedy consumers will have no choice but to use Explorer. Then Microsoft will be free to charge whatever fees they please. They will be the only gateway to an enormous new marketplace. On-line consumers will be at their mercy.

Consumers already suffer, in a number of ways, just by using Microsoft software products. I have worked on both Microsoft and Macintosh operating systems, so I believe I am qualified and justified in comparing the two.

Microsoft Windows products have been notoriously unstable for years, They consistently crash computers for no apparent reason. They are tilled with "bugs" that often require specialized knowledge to repair. Users are strangely resigned to these problems since they feel they have no other choice in the business world. The new Windows OS was supposed to correct this problem, but hasn't I never have these types of problems with my Macintosh.

I have a friend who has been a computer hardware and software engineer for 25 years, He is a brilliant engineering consultant who has worked all over the world. He recently bought the new Windows OS. It took him three days of bard work to upgrade from his old system. He ended up buying an entirely new hardware system to run his old programs because the new Windows operating system was not compatible with most of his old software. He readily acknowledged that Microsoft does not care in the least about the grief and cost to its customers.

I recently upgraded my Macintosh system. It took my local dealer a couple of hours. It now runslikeacharm.

The average computer user has a choice. They can spend vast amounts of time mastering complex software and hardware technology Or, they can spend vast amounts of money, paying computer technicians to assist them in solving mundane computer problems that shouldn't exist in the first place. Or, they could buy a Macintosh, as long as Microsoft allows Apple to exist. In seventeen years I can count on one hand the number of times I've had to consult a technician in regards to my Macintosh. In two years I lost count of the number of times I needed a technician to solve software problems with Windows

The damage done to consumers is compounded by Microsoft's vulnerability to breaches of security of its on-line and email services. They are prone to hackers, viruses, and their own quality control problems.

It has been well documented that Microsoft has ignored pleas to improve security, and that they have had the capability, but chose not to implement it. Just another example of their arrogant disregard for the welfare of their customer.

The longer Microsoft is allowed to tighten their grip on the computer industry, the higher the cost will be to consumers. It will be much more than just the financial cost. There will be further losses in productivity, losses in innovation, and losses in consumer confidence, if the world comes to rely on an inheritently flawed system, with no hope of change.

My local congressman has chosen to abrogate his responsibility on this important issue. It is possible that he is ignorant of the dangers to his constituents, since Microsoft poses a serious threat to the Silicon Valley economy Or, perhaps Microsoft has "persuaded" our fine congressman that it would be in his best interest to look the other way. Whatever the case might be, I pray that you will seek justice for the consumer, and inflict the harshest penalties possible upon Microsoft.

Cordially,
George Haas
20 Fred Court
Scotts Valley, CA 95066
Fax: (831)439–9599
email: haas@got.net
cc: Congressman Mike Honda

MTC-00030339

ANNE PORTER JACKMAN
136 FOREST STREET
SOUTH HAMILTON, MA 01982
January 7, 2002
Renata Hesse
C/o The Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
By Fax, Hard Copy by Mail

Dear Attorney Hesse:

Please consider this letter as public comment in the case of U.S. v Microsoft. I have been following the case in the press and believe that it is time for the government to accept the settlement as is and stop the litigation.

It is very easy in times of peace to prosecute companies and civilians for reasons that may be more theoretical than pertinent. We arc no longer in peacetime. Now, while this country is at war, it is crucial that all of our energies be focused on prosecuting war criminals and providing national security. Not only is prosecuting Microsoft wasting the time of our justice department it is wasting taxpayer dollars.

Microsoft is a large company and as such has great responsibilities to consumers and other technology firms. The settlement should case some of the concerns of the government and Microsoft competitors without diminishing Microsoft's importance to the economy and the industry. The purpose of this litigation should not be to decrease the productivity of Microsoft because if so American citizens will suffer the consequences.

The United States needs to lead the world in technology, not lag behind because of misinterpreted antitrust laws.

Sincerely,
Anne Porter Jackman

MTC-00030340

Peter T. Flaherty
Citizens Against Unfair Taxation
736 Fords Landing Way

Alexandria, VA 22314
VIA FACSIMILE: 202–616–9937
January 24, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530
Re: Comment on the Microsoft Settlement

Dear Renata Hesse:

As provided for by the Tunney Act, I am writing to comment on the proposed settlement in the Microsoft case.

As someone who has spent a great deal of my adult life advocating policies that address the concerns of the American taxpayer, I view the use of taxpayer funds to pursue the break-up of Microsoft as little more than corporate welfare for Microsoft's competitors. There is no dispute as to why the government initiated this case—it was the result of a well-financed lobbying effort by Microsoft's competitors. What these companies could not achieve through competition, or even through direct legal action against Microsoft, they sought to do with taxpayer funds.

As many observers of this anti-trust case have already commented upon, it differed in a major way from the classic view of why monopolies harm the public, i.e., the monopolist uses their monopoly power to overcharge the public for the goods they supply. In this case, the public was benefitting enormously from Microsoft products and many of the prices of such products were dropping or—in some cases—were available free.

The bottom line was that taxpayers benefitting from Microsoft, as well as millions of individuals who directly or indirectly benefitted from Microsoft stock ownership, were forced to fund with their tax dollars a legal action that unquestionably benefitted the narrow economic interests of those who lobbied for the anti-trust action by the government. In short, this was a classic fleecing of the taxpayer.

I support the settlement for one reason—to close the door on this very expensive and shortsighted abuse of the anti-trust laws.

Sincerely,
Peter T. Flaherty

MTC–00030341

Christine Mvote
January 8, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
BY FAX

Dear Attorney Hesse:

I am writing to contribute to public comment in the case of U.S. vs Microsoft, I support the settlement that has been reached in this case, I believe it is time for the government to stop prosecuting Microsoft, We now know there are many groups who are trying to harm Americans. Microsoft is not one of these.

Millions of dollars have been spent arriving at the Microsoft decision. The settlement is appropriate and should not have further restrictions added to It. It is not necessary to continue spending money on this case, especially when there are so many people out of work and the threat of an even greater recession,

At this time the United States needs further technological advances not regulations that make such advances difficult or impossible. The economy also needs some help, Microsoft has contributed a tremendous amount to technology as well as the economy. Placing further restrictions on Microsoft will result in a decrease in the innovative products we've become accustomed to as well as an almost certain increase In cost.

Please settle this case as quickly as possible. Thank you for your time and your attention in this matter

Sincerely,
Christine Myote

MTC–00030342

Kenneth Boehm
Director
Farm Business Council
4933 N. 34th Street
Arlington, VA 22207
VIA FACSIMILE: 202–616–9937
January 24,2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530
Re: Public Comment on the Microsoft Settlement

Dear Renata Hesse:

Pursuant to the provisions of the Tunney Act, I am writing to comment on the proposed settlement in the Microsoft anti-trust case.

As an attorney and someone who has followed this case in the media from the onset, it's quite clear that the legal case was driven by Microsoft competitors seeking financial advantage, The detailed coverage of the case in Wired and other publications outlined a highly politicized effort by Microsoft's competitors which appears more motivated by a desire to break up Microsoft than to demonstrate any economic harm to the public.

In addition to a strong belief that using government to obtain what cannot be obtained in the free market is an abuse of government, I view my own experience with computers as evidence as to the hollowness of the cries of "monopoly" by the Microsoft competitors. For the last ten years I have exclusively used Apple computers and cannot think of anything Microsoft has done that remotely has harmed me economically in any way.

The settlement seems overly harsh to Microsoft insofar as it allows the very same competitors who lobbied for the lawsuit to abuse the terms of the settlement to frustrate any number of future Microsoft technical developments. The recent reaction of these competitors to the release of Windows XP indicates that they have no reluctance to use government to undercut their competition. Unfortunately, the settlement appears to provide a means for future harassment of Microsoft in the guise of holding Microsoft to the terms of the settlement.

Ultimately, the consumer benefits most from a legal environment that encourages and rewards technical advances. To the extent that Microsoft competitors have shown a predisposition to use government to delay or attack Microsoft's technical advances, the consumer is the loser to the degree the settlement facilitates such actions.

Despite my view that the anti-trust action and the proposed settlement are unfair to Microsoft, I reluctantly support the settlement to get the entire matter resolved. In the context of an economy in recession, it's hard to imagine a more indefensible policy than using government action to try to break up one of the most successful companies in the country.

The settlement appears to fully address many of the limited concerns about the ability of computer firms to remove or replace Microsoft middleware (browsers, instant messaging tools, et al.). Similarly it also appears to allow end users to very readily remove or replace such middleware.

The settlement also allows for an independent Technical Committee to makes sure the settlement is followed. This unprecedented step should answer any qualms as to enforcement although this untried approach may result in unfairly limiting Microsoft's ability to promote important innovations that work well with its existing software.

In the final analysis, our prosperity is dependent on innovation and property rights which reward innovation. The real test for the settlement will be whether it is abused by Microsoft competitors in an effort to tear down their competitor.

Sincerely,
Kenneth Boehm, Esq.

MTC–00030344

Kinko's(tm)
Kinko's Bailey's Crossroads .
Telephone: (703) 379–0909 .
Fax: (703) 998–2419
Date
Number of pages (including cover page)
to: Name
from:
Name
Company Company
Telephone Telephone
Fax
Comments
January 25, 2002

Dear Renata Hesse:

I am vigorously opposed to the proposed final judgment (penalty phase) in the case of United States vs Microsoft. The proposed "remedies" seem to be carefully written to ease circumvention of that judgment!

Microsoft has frightened many companies in the US computer industry so that they do not even compete with Microsoft. This effectively is a loss for the US citizen because many innovative products may no longer come to the marketplace. The final judgment does not seem to aid the US citizen or competitive companies at all.

The current judgment must be expanded! There must be easily available public access to all information necessary for interoperability with Microsoft's products. All interfaces, not only certain APIs, must be made public. One of Microsoft's prime competitors is "open source software". Therefore, any judgment must ensure that developers of open source software have equal access to pertinent information—without interference—especially in the form of royalty payments and non-disclosure agreements. The current judgment must also be expanded so that competitive sales organizations are free to sell their competing products. Microsoft's product prices must be based strictly on volume. They must be unbundled additional-cost options, especially in the purchase of new computers, so that customers who do not wish to purchase Microsoft products are not forced to do so. Microsoft's agreements with resellers must be made public and kept public, to prevent secret agreements from damaging the public. I remember the government's anti-trust case against IBM a few decades ago—unbundling worked then, and it can work again now!

It is extremely dangerous to allow Microsoft to flagrantly disregard the law. I urge you to require a real final judgment that actually inhibits future illegal activities.

Thank you for your consideration.

Clyde G. Roby
5206 Jarrett Court
Centreville, VA 20120
(703) 968–7522

MTC-00030345

Fax Transmission
Senator Robert Duncan
P.O. Box 12068
Austin, TX 78711
(512) 463–0128
Fax: (512) 463–2424
To: Renata Hesse
Date: 1/25/02
From: Robert Duncan
Fax#: 2021307–1454
Pages, including this cover sheet:
Subject:
Comments:
COMMITTEES
NATURAL RESOURCES, VICE-CHAIAMAN
SUB-COMHITTEE ON AGRICULTLIRE
FINANCE
JUAISPRUDENCE
ROBERT DUNCAN
STATE SENNTOR
DISTRICCT 2B
January 22, 2002
FAX TRANSMISSION
Senator Robert Duncan
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street N,W., Suite 1200
Washington, DC 20530–0001
Re: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

The settlement agreement between the U.S. Government and Microsoft comes at a critical time when our economy and nation most need reconciliation. The settlement is fair requiring significant changes in the way Microsoft develops, licenses and markets its software. In turn, the settlement allows innovation and competition to move forward on all sides and removes a critical point of uncertainty for high-tech companies. More importantly, the provisions of the settlement will foster greater competition in the software industry and give consumers more choice in purchasing and upgrading their computers.

I support the Department of Justice and nine Attorneys General for their efforts to finally put an end to this case and agreeing to a settlement that is in our nation's best interest.

Yours very truly,
Senator Robert Duncan

MTC-00030346

STATE OF MAINE HOUSE OP: REPRESENTATIVES
HOUSE REPUBLICAN OFFICE
AUGUSTA, MAINE 04333–0002
Office: (207) 287–1440
Fax: (207)287–1449
B-Mail: disiBS@aol.com
WILLIAM J. SCHNEIDER
ASSISTANT REPUBLICAN FLOOR LFADER
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am writing this letter to urge the Justice Department to accept the proposed settlement negotiated with Microsoft Corp. and this costly lawsuit.

I feel it is in the best interest of the public and the government to accept the proposed settlement negotiated with Microsoft. Having read about and followed the issue and reviewed debates surrounding the proposal, I have come to the conclusion that it would be a beneficial arrangement for the general public in several ways.

It provides for the Introduction of functional and Integrated technology resources into the educational system. It offers the potential for widespread benefit, because. it includes money for training and support as well as hardware and software. These are more critical to the successful integration of technology into everyday life than are the latest versions of computers end associated programs.

At a time when the economy and our nation are recovering from disruption, I feel that settlement of this case is in the general public's best interest and I urge the Justice Department and all associated parties to settle this matter as soon as possible. Thank you for consideration of my comments.

Sincerely,
William J. Schneider
Assistant House Republican Leader

MTC-00030347

Hew Hampshire Homeowner/Main Street Alliance
30 Norway Hill
Hancock, New Hampshire 0344??
888–666–4782
VIA FAX (2O2) 616 9937
January 11, 2002
Renata Hesse
Trial Attorney
Antirust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing on behalf of NH Homeowners/ Main Street Al lance to encourage you to approve the proposed settlement between the United States Department of Justice and Microsoft Corporation.

Our organization in a ??

Thank you for your ??

MTC-00030348

California State Senate
SENATOR
KEVIN MURRAY
TWENTY.SIXTH DISTRICT
January 24, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, NW
Suite 1200
Washington DC 20530–0001
Re: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

It goes without saying that the settlement agreement between the U.S. Government and Microsoft comes at a critical time when our economy and nation most need reconciliation.

The proposed settlement requires significant changes in the way Microsoft develops, licenses and markets its software. This settlement is fair. It prevents Microsoft from abusing the strength that it derives from its operating system, but also allows the company to continue innovating in all areas of software development.

I congrat??e you on developing a strong but. fair settlement.

Warm regards,
KEVIN MURRAY
Senator. 26th district

MTC-00030349

January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take some time to express to you my feelings about the Microsoft antitrust suit. The government should have never initiated the suit to begin with, and I was relieved to see that both sides had come to terms on a settlement. The settlement between Microsoft and the Department of Justice is fair to all parties involved, and I would like to see this issue finally put to rest.

I am a big fan of the free enterprise system, and feel that less government involvement is business is better. Microsoft has been extremely beneficial to America, and there is no need to keep dragging them through court. They have donated millions of dollars to charities, simplified computing on a global level, and have been responsible for thousands upon thousands of jobs here in America and across the globe. Government interaction is not necessary, and the settlement actually tries to address that issue a little. An oversight committee has been set-up to watch over Microsoft and make sure they adhere to the terms of the settlement.

So, instead of having the Department of Justice and the federal government breathe down Microsoft's neck, the committee will make sure everything is going smoothly.

I support this settlement since it brings to an end the litigation against Microsoft at the federal level.

Sincerely,
Janice Adams
47-110 Lulani Place Kaneohe, HI 96744

MTC-00030350

William B. Zollars
3248 Comanche Rd.
Pittsburgh, PA 15241
Phone: (412)835-1408
Fax: (:412)835-4781
Email: billzol@compuserve.com
TO: JOHN ASHCROFT
LOCATION: US DEPT OF JUSTICE
DATE: 02-01-25
Number of pages including this header: 3
RE: MICROSOFT SETTLEMENT

Attached is my letter of 1/23 viewing my feelings about the Microsoft settlement. Please use it to represent my views in the matter.

WILLLAM B. ZOLLARS
3248 Comanche Road
Pittsburgh, PA 15241
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 205730

Dear Mr. Ashcroft:

I was really glad when the Department of Justice and Microsoft reached an agreement. Microsoft has been very generous ?? their willingness to donate over $100 million worth of computers in the public school system to foster computer literacy.

Microsoft did not get off easy. The settlement was arrived at after extensive negotiations with a court-appointed mediator. The Company agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit, for the sake of wrapping up the suit. !n addition, Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system.

Since Microsoft has done everything in their power to cooperate with the Government and get back to business, why does this case need to be dragged out costing the taxpayer more and Microsoft more resulting in computer user's paying more for software? I believe we need to move on. No more action should be taken at the Federal level.

Sincerely,
William B. Zollars
CC: Senator Rick Santorum

MTC-00030351

BLUE RIDGE ADVISORS
P. O. Box 815
Etowah, NC 28729
828-891-7679
E-Mail pnd4@home.com
January 25, 2002
Mr. John Ashcroft
U.S. Attorney General
Washington, DC
FAX 202-307-1454

Dear Attorney General Ashcroft;

I would like to ask you for your help. The United States Government has finally reached a tentative settlement with the members of the Board of Directors of Microsoft Corporation. Please expedite the wrap-up of this case so that Microsoft can get back to the business of helping the United States be a World leader in high technology.

I am the Program Chairman of the 254 member Hendersonville, NC Area Computer Society. Our members all use Microsoft's high quality computer operating systems, including Windows 95, Windows 98, the Windows Millennium Edition and now many are moving up to Microsoft's new operating system, XP for Windows. This product is simply the best and has received rave reviews in all the computer magazines.

Please give my request your personal attention.

Best regards.
Pardon N. Dexter

MTC-00030352

Fax Cover Sheet
Date: JANUARY 25, 2002
To: RENATA B. HESSE
Company: ANTITRUST DIVISION U.S. DEPARTMENT OF JUSTICE
Fax: 202-307-1454 OR 202-616-9937
From: JOEL SCHENIDER
Company: EFFELTINE TECH SERVICES
Tel:952-842-0890
Number of pages including this one: 4
kinko's??
Edina
3535 Hazelton Rd
Edina, MN 55435
Phone: (952) 820-6000
Fax: (952) 820-6060
Comments:
THIS COMMENT IS ALSO BEING SUBMITTEO VIA EMAIL AND U.S. MAIL.

Joel Schneider
8941 Kell Avenue South
Bloomington, MN 55437
24th January 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
501 D Street NW
Suite 1200
Washington, DC 20530-0001

To whom it may concern:

As a software developer with over 10 years of experience: I would like to comment on the United States v. Microsoft Corporation Revised Proposed Final Judgement (PFJ), published in the **Federal Register** on November 28, 2001.

My reading of the PFJ has lead me to an opinion that it will not adequately curtail Microsoft's exclusionary, anticompetitive, and predatory practices: and therefore does not serve the public interest. Tiffs comment describes a number of my concerns.

One concern I have about the PFJ is its expiration date. This supposed remedy is set to expire five years from the date it is entered by the Court, with a potential one-time extension of up to two gears. Considering the fact that Microsoft has already been able to successfully circumvent judgements for Sherman Act infractions dating back to 1994, it seems unwise to limit the PFJ to a maximum term of seven years.

Section VI.N, the definition for "Non-Microsoft Middleware Product", includes a requirement that "at least one million copies were distributed in the United States within the previous calendar year." This is a ridiculous requirement, as it requires any Non-Microsoft Middleware Product to first struggle against and overcome Microsoft's monopoly power and the applications barrier to entry for at least, one year before becoming eligible for pro, protection as middleware under the PFJ. This numerical constraint should be eliminated.

Section III.C.1 g-rants Microsoft authority to restrict an 0EM from displaying icons, shortcuts, etc. Granting this authority to Microsoft limits the ability of OEMs to compete through customization of their products. This section also does not clearly address middleware for which there is no Microsoft equivalent. Microsoft's authority to restrict the ability of OEMs to customize their systems should be eliminated.

Likewise, section III.C.2 prohibits OEMs from altering the user interface. This infringes on the ability of OEMs to compete by modifying the user interface. Microsoft's authority to stop OEMs from modifying the user interface should be eliminated.

Section III.C.3 requires Non-Microsoft Middleware to display a user interface similar to the corresponding Microsoft Middleware Product. This limits the ability of middleware producers to compete through user interface innovation. Microsoft's authority to control the user interfaces offered by competing middleware should be eliminated.

Section III.C.4 requires that a non-Microsoft boot-loader be used when launching other Operating Systems. OEMs should not be restricted to using a non-Microsoft hoot-loader for this purpose, and should be free to use any boot-leader: including a Microsoft boot-loader.

Section III. C.5 requires that the OEM comply with technical specifications established by Microsoft when presenting an IAP offer in the initial boot. sequence. This limits the ability of IAPs to compete against Microsoft's LAP (MSN.com) and aids Microsoft in its efforts to extend its monopoly into the LAP business. Microsoft's authority to control competing LAP offers should be eliminated.

Section III.H.1 grants Microsoft authority to rest, riot users and OEMs from displaying icons, shortcuts, etc. Greeting this authority to Microsoft, limits the ability of users and OEMs to compete by customizing their systems. This section also does not clearly address middleware for which there is no Microsoft equivalent. Microsoft's authority to restrict the ability of users and 0EMs to customize their systems should be eliminated.

Section III.H.2 grants Microsoft control over the way in which Non-Microsoft Middleware Products are presented to the user. This grants favored status to Microsoft, Middleware Products and thereby impairs the ability of Non-Microsoft Middleware Products to compete. Microsoft's authority to control the way in which Non-Microsoft

Middleware Products are presented to the user should be eliminated.

Section III.H also grants Microsoft, the authority to impose technical requirements, such as the ability to host a particular ActiveX control, upon Non-Microsoft Middleware Products. However, Netscape 4.x, for instance, does not host ActiveX controls, in part due to the security risks the3, present. This authority should be eliminated.

Section III. J enables Microsoft to withold documentation for some of its APIs and communication protocols based on the pretense of protecting the security of specific installations. It also enables Microsoft to impose limitations on the audience to whom such API documentation is made available. However, there is a general consensus among computer security experts that the witholding of such documentation (a.k.a. security by obscurity) does not establish true computer security. Microsoft should not, he allowed to withold documentation for its APIs and communication protocols based on this pretense.

The PFJ also omits an important consideration. Much of the present and future competition to Microsoft comes from non-commercial Open Source and freeware software products such as Linux, Apache, Sendmail, Samba, and Wine. In January 2001, Microsoft president and CEO Steve Ballmer identified the Linux phenomenon as "threat number one." Apache and Sendmail are established mainstays of the internet. Samba sad Wine enable non-Microsoft systems such as Linux to interoperate with (monopolistically entrenched) Microsoft systems. It is reasonable to expect that these and other Open Source and freeware software products are potential targets of Microsoft. Under the existing PPJ, Open Source and freeware software products receive very little consideration, as important portions of the PFJ apply only to companies that meek Microsoft's criteria as a business (see Section III.J.2). The PFJ should be revised to offer specific protection to Open Source and freeware software products.

The above briefly outlines several of my concerns regarding t4e PFJ. It is possible, even likely, that the PFJ contains additional significant flaws not mentioned here. I am of the opinion that the existing PFJ would completely fail to accomplish its stated purpose of providing "a prompt, certain, and effective remedy for consumers by imposing injunctive relict to halt continuance and prevent recurrence of the violations of the Sherman Act by Microsoft." The PPJ is in need of extensive rework and should not be accepted in its present form.

In addition to this comment, I have endorsed an open letter to the DO J, written by Dan Kegel (of Los Angeles, California.) and others. The open letter contains an analysis of deficiencies in the proposed Microsoft. Settlement, along with suggestions for addressing those deficiencies. At the time of this writing, the open letter is visible on the internet at http://www.kegei.com/remedy/lerter.html.

I hope the United States Department of Justice will take these comments into consideration and withdraw its consent from the PFJ. Failing that, I hope these comments will help the Court to reach a conclusion that entry of this PFJ does not serve the public interest.

Sincerely,
Jo??l Schneider

MTC-00030353

52 Headquarters Road
Litchfield, CT 06759
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We have followed the lawsuit against Microsoft for the past three years and feel that it is time this matter was brought to a close. The settlement Microsoft has agreed to is more than fair and will insure that other companies are able to compete and in turn the consumer will receive a better product.

The state, the IT industry, and the economy will all bounce back from this set back if the matter is resolved soon. Microsoft has agreed to many terms that are more than fair. They have consented to a uniform price list which means Microsoft will license its Windows operating system products to the twenty largest computer makers on identical terms and conditions. Also, Microsoft will design future versions of Windows, beginning with an interim release of Windows XP, to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. Microsoft has taken all the necessary steps to conclude this matter, it is time now for the DOJ to do the same. We hope that this issue is soon put to rest Thank you.

Sincerely,
John & Janet Baker

MTC-00030354

Crystal Clear Solutions, Inc.
8313 West Hillsborough Ave, Suite 460
Tampa Fl 33615–3818
813–249–7754
* 813–243–1321 * 813–789–6640
Microsoft
Windows Web
Hoster Program
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsyivania .&venue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Throughout the course of this litigation against Microsoft, there has been discussion about how unfair Microsoft is, and how best to legally strip it of its success by breaking it up as a company.

Lost in this rhetoric is the effect that a Microsoft breakup would have on the hundreds of IT companies that depend upon the integrity and reliability of the Microsoft product line for their own business success, my own included.. Had this suit progressed through to its logical conclusion, and Microsoft been broken up as was anticipated, there would certainly have been serious repercussions throughout the IT industry. My business would have been one of the many forced into bankruptcy.

Fortunately", such will not be the case. This settlement at least has the benefit of forestalling any such drastic outcome. The terms of the settlement provide for Microsoft to adopt a more floxible attitude and better policies regarding its OEMs and developers. Some of the terms appear to be harsh, but since both the Department of Justice and Microsoft have agreed to its terms, then I am hoping that this will end the litigation altogether. I am writing in support of the settlement's ultimate acceptance and hope that this entire suit can be put behind us.

Sincerely.
Christine Collins
President
FAX 813 243–1239
Website: www. Crystalear.net
Email: SiteMaster@Crystalclear.net

MTC-00030355

?? TOX 2002??
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TOO: (817) 3730311
FAX: (817) 377.2878
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www.gop.sonste.state.mi.us/senator/
nchuette/
BILL SCHUETTE FAX TRANSMTTTAL
COMMITTEES: CONHAN. ECOHOMIC DEVELOPWENT INTERNATIONAL THAOK AND ?? QUALTOAY AFFALAS OF CHARMANTECHNOL OGY AND ENERGY ??. GAMING AND CASINO OVERSGHT HEMBER, TOUCATON LEGHATIVE COUHCIL
TO:
FROM:
DATE:
NUMBER OF PAGES (including cover)
COMMENTS:

If this fax is not received in full; please call (517) 373–7946.

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senator/schuette/
BILL SCHUETTE January 24, 2002
COMMITTEES; CHA(RMAN, ECONOMIC DEVELOPMENT, INTERNATIONAL. TRADE AND SEGULATORY AFFAIRS CHAIRMAN, REAPPORTIONMENT JUDICIARY TFCHNOLOGY AND ENERGY
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW—Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

I am writing to express my support for the proposed settlement between the State of Michigan and Microsoft in the Department of Justice Antitrust action against Microsoft. Thank you for your reviewing my comments.

The State of Michigan has decided to join with eight other states in agreeing to the terms of the Microsoft settlement which was announced on November 2, 2001. I am writing to express my support for this settlement.

By agreeing to end this lawsuit, over three years of debate will be brought to an end. I feel the terms of this settlement are fair, which is evidenced by the hi-partisan group of Attorneys General who have endorsed it. Not only wi1l a quick settlement be good for the economy, it will also benefit consumers. Average Americans will benefit by having other software available on their personal computers. This will allow for greater competition, and help to generate new ideas for the next generation of" software.

I appreciate the efforts of the Department of Justice in bringing this action to a quick resolution.

Again, thank you for considering my support.

Sincerely,
Bill Schuette
State Senator
WDS/rkh

MTC-00030356

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Cleveland. Ohio 44106
216/229-6860
FAX 216/229-2666
www.henneshoslett.com
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I have been paying close attention to the developments of the antitrust case between Microsoft and the Department of Justice, and I am now taking some time to write this letter and go on record as being a staunch supporter of the settlement.

Not only does Microsoft benefit from this agreement, but consumers, the competition, and the economy of the United States will also benefit. Even though Microsoft did not get off easy in the settlement, the terms are reasonable, and this country needs all of its companies performing to the best of their abilities. The settlement paves the way for this by mandating that Microsoft grant computer makers vast new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows. This will encourage smaller software firms to work hard and make a good product that consumers will like. In turn, competition will be spurred, and the economy will benefit.

The settlement that has been reached is more than fair, and it will benefit everyone involved.

Microsoft can worry less about court and more about innovation. I support this settlement, and urge you to approve it as soon as possible. Thank you.

Sincerely,
Bruce Hermes
Sr. Partner

MTC-00030357

Renata B. Hesse
Anti-trust Division
U.S. Dept. of Justice
60ID Street Northwest, Ste. 1200
Washington, DC 20530-0001

Dear Ms. Hesse:

I am writing to suggest that the Microsoft settlement be affirmed as soon as possible, The case, which has wasted tens of millions of taxpayer dollars, has poisoned our economy when it was already sick.

Investors need assurance that our nation's high-tech industry will thrive, free of the meddling and interference of government gone awry. Our economy being in recession has resulted in large losses of revenue for Illinois and other states. We who are responsible for state budgets need restored public confidence in America's high-tech leadership.

This settlement will serve to revive the very industry that drives the engine of the economy. That will benefit our nation and every one of its citizens.

Please move forward with haste.

Thank you.

Sincerely,
Mary Lou Cowlishaw State Representative
41(st) District
MLC/lr

DISTRICT OFFICE: 552 5. WASHINGTON ST., SUITE 119 . NAPERVILLE, IL 60540 . 630/355-4113 CAPITOL OFFICE: ROOM 2016 STRATTON BLOG., SPRINGFIELD, IL 62706 § 2171782-6507 AECVCLED PAPER SOYBEAN INKS

MTC-00030358

685 Ocean Blvd.West
Holden Beach, NC 28462
January25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We are writing to give our support to the settlement between Microsoft and the US Department of Justice. This three year antitrust suit has been ongoing for far to long. However, we feel that this case should not have gone to court in the first place, since Microsoft did not break any laws. Windows is an excellent operating system, since it is user friendly for both my husband and I. We can assure you that this settlement is not a "sweet-heart" deal to please the government. The company will be making changes in their business practices that will prevent any future antitrust violations. For example, Microsoft has agreed to license its Windows OS products to the 20 largest computer makers on identical terms and conditions, including price.

Furthermore, Microsoft has agreed to be monitored for compliance to this settlement by a three person technical committee that will also aid in dispute resolution. We ask the government to stop attacking Microsoft once and for all.

Sincerely,
Kenneth & Carolyn Shick

MTC-00030360

The Chamber
Atascocita * Humble * Kingwood * Spring
January 25, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Ms Hesse:

It is time to move on! The recent settlement offer by Microsoft Corporation appears to be a win-win situation. The U.S. Justice Department and the Federal Court can tam a very negative and potentially damaging lawsuit into an exciting and positive outcome for our nation's technology industry and consumers.

On behalf of our chambers twenty-eight board of directors and 1200 plus members, I writing to ask that you dismiss the remaining lawsuits and accept the terms of the most recent settlement offer.

Settling is the best solution to the lengthy and expensive lawsuit. Though terms of the agreement may not satisfy Microsoft's competitors, it will, m the end, benefit consumers most. I hope you agree with me that for the good of our nations' economy, business environment and consumer, a settlement is the best solution.

Mike Byers
President
Humble Area Chamber of Commerce
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MTC-00030361

GLORIA LONG
PO Box 2117
Lake Ozark, MO 65049
January 26, 2002
Renta Hesse
Trial Attorney—Antitrust Division
Department of Justice
601 D Street Northwest,
Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am concerned over/he continuing legal action aginst Microsoft. It is time to stop utilizing our courts in an attempt to work out perceived problems that should be resolved in the marketplace.

I believe the recent agreement between the Department of Justice and Microsoft was fair and equitable and should form the basis for disposing of this entire matter.

Sincerely,
Gloria Long

MTC-00030362

KATHLEEN KILGORE
838 Rachael
Republic, Mo. 65738
January 26, 2002
Renta Hesse
Trial Attorney—Antitrust Division
Department of Justice

601 D Street Northwest,
Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

It appears that the legal problems concerning the Microsoft Corporation never end. I read with interest, some time ago, the main details of the settlement between Microsoft and the Department of Justice. This settlement sounded like a good basis for resolving this matter and allowing Microsoft to get on with their business of producing products that are needed by the American consumer.

Let's stop dragging this controversy through the courts and use the settlement that was worked out between Microsoft and the Justice Department as a basis for resolving this matter.

Very truly yours,
Kathleen Kilgore

MTC-00030363

Office on Children and Youth
Harrisonburg ?? Rockingham County
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
January 25, 2002

Dear Ms. Hesse:

I have read a summary of the key provisions of the proposed Consent Decree for the Microsoft anti-trust case. It appears that the agreement is broad and that compliance is assured by the Technical Committee's monitoring responsibility.

This agreement appears to be a reasonable compromise that is in the best interest of everyone—especially consumers. I direct a small not-for-profit agency that relies upon work-study students and volunters; there is no money in the budget for a professional computer Specialist We use Microsoft software and find it user-friendly. [sincerely hope that this anti-trust suit will not result in government regulations that will hamper the efforts of software companies like Microsoft to provide integrated software and hardware.

Respectfully yours,
Director, Office on Children and Youth
Harrisonburg, VA.
P.O. Box 1753 Harrisonburg, VA 22803 * Phone: (540) 568-2558 * Fax: (540) 568-2559 * E-mail: officconyouth@rica.net

MTC-00030364

Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing in regard to the proposed Microsoft settlement. As a retired business executive with 40 years experience, over the course of my career I have observed the tremendous impact that computers have had on business. We are far more efficient and more productive due to the Innovations of companies like Microsoft. In my opinion, this innovation has been possible because government has not tried to regulate or interfere with them in the past.

I hope that you will agree to the settlement Microsoft has agreed to, and allow them to move on.

Let the marketplace drive the business.

Sincerely yours,
Buford L. Driskill, Jr.
President
Bilbo, LLC
1907 Link Road
Lynchburg, VA. 24503

MTC-00030365

Karen Hoffman
27633 SE—400th Way
Enumclaw, WA 98022
January: 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The reason for this letter is to request that you make a good effort to ensure the settlement reached in the Microsoft antitrust case becomes a reality.

Challengers and foes of Microsoft may pressure officials to delay tiffs settlement in favor of continued litigation in this case. The), are working under the premise that the courts should punish Microsoft. I do not believe the courts should be used in this way.

Furthermore the settlement that is being offered is a good agreement. The settlement will allow easier placement of non-Microsoft products on Microsoft operating systems; including easier removal of Microsoft components. Additionally the settlement will permit computer makers to place non-Microsoft operating systems on computers with fewer restrictions, even if they also use Microsoft systems. Moreover the settlement creates a technical review committee that includes a full time government monitor to ensure all elements of the settlement are enforced. It is clear that this settlement should be implemented and this settlement is good.

Sincerely,
latch Hoffman ''

MTC-00030366

January 25, 2002
I East Pulteney Street, Suite 20.3
Corning, New York 14830
phone: (607) 962-6408
fax: (607) 962.43522
e-mail: success@GOPcampaigns.com
website: www.GOPcampaigns.com
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D. Street, NW, Suite I20O
Washington, DC 20530

Dear Atty. Hesse:

As a small business owner who has seen a two-fold increase in business this past year, I am supportive of the tentative settlement in United States versus Microsoft. My office uses Microsoft products and we have only good things to say about their products, services, and pricing.

On many levels it seems like the "American Way" is in jeopardy when we try to punish people or companies for being successful. The markets have decided that Microsoft products and services are superior to their competition and litigation should not hold them back from continuing to bring quality products to the public, especially in the present economic situation.

The anti-trust laws were meant to protect consumers and were not meant to be a means to control a competitive industry. The Microsoft competitors are looking for overzealous government intervention instead of searching for innovative products and services of their own. The last thing we as consumers and business people need are lobbyists and lawyers setting technology and industry policy.

Now that over $30,000,000 of our tax dollars have been spent to help companies battle their competition, it is time for us to support this tentative settlement. It addresses the proper items and does not interfere with industry competition. The battle belongs in the market-place not in the courts.

Thank you for your time and consideration.

Sincerely
Timothy R. Kolpien,
Managing Consultant, Kolpien & Associates LLC

MTC-00030367

RAYMOND CONSULTING, LLC
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I understand your office is accepting public comment about the Microsoft case. In my Opinion, If Microsoft had not set the standard for compatibility and integration, users would have had a far more difficult (and expensive) time getting software that works together at an affordable price. I hope the proposed settlement with Microsoft will be agreed to, and that government will refrain from trying to regulate the technology business.

Yours truly,
Walker R. Cash, Jr
Raymond Consulting, LLC

MTC-00030368

52 Headquarters Road
Litchfield, CT 06759
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We have followed the lawsuit against Microsoft for the past three years and feel that it is time this matter was brought to a close. The settlement Microsoft has agreed to is more than fair and will insure that other companies are able to compete and in turn the consumer will receive a better product.

The state, the IT industry, and the economy will all bounce back from this set back if the matter is resolved soon. Microsoft has agreed to many terms that are more than fair. They have consented to a uniform p??

Microsoft will license its Windows operating system products to the twenty largest computer makers on identical terms and conditions. Also. Microsoft will design future versions of Windows: beginning with an interim release of Windows XP. to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows.

Microsoft has taken all the necessary steps to conclude this ??. It is time now for the DOJ to do the same. We hope that this issue is soon put to rest Thank you

Sincerely,

MTC-00030369

Fax Cover Sheet Kinko's
Date: January 25, 2002
To: Renata Hesse
Company: Department of Justice
Fax: (202) 616–9937
From: Christ??
Company:
Tel: (805) 482–1781
Number of pages including this one:
393 Ameill Rd
Camarillo,, CA 93010
Tel: (805) 482–3364
Fax: (805) 482–2815
Comments:
From:
805 Paseo Camarillo, #520
Camarillo, CA 93010
January 24, 2002
To Renata Hesse, Trial Attorney
Antitrust Division,
Department of Justice,
601 D Street NW
Suite 1200,
Washington, DC 20530
Re: Microsoft Antitrust Settlement

Dear Mrs. Hesse,

I am writing to express my concern over the proposed settlement terms of the current antitrust case against Microsoft. The terms are inadequate as a remedy for the antitrust violations for which Microsoft has been found guilty, and may in fact strengthen Microsoft's grip on the software industry.

To be effective, the settlement must promote interoperability between Microsoft software and that of other makers. At a minimum, the following provisions are required: 1. The specifications of all Microsoft document formats must be made public, so that documents created in Microsoft applications can be read by software from other makers, and vice versa. This is in addition to the publication of the Windows API, which is already included in the proposed settlement.

2. The specification of all Microsoft network protocols must also be made public, so that network software/hardware from other makers can interoperate with that from Microsoft. These measures will sharply reduce Microsoft's control over the largest barriers to entry to the software marketplace, without damaging Microsoft's ability to produce innovative software. A lever playing field in the software industry is at the heart of the national interest, and the effects of this settlement on the software industry—and on businesses in general—will be felt for many years to come. Therefore, I stress that a correct remedy to this issue is far more important than a speedy conclusion to this case, and respectfully urge the court to add provisions similar to those outlined above to the final settlement.

Respectfully,
Christopher Raser
Web Developer

MTC-00030370

Dick Rasmussen
6314 Autumn Moss Court
Charlotte, NC 28277
January 8,2002
Ranata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202–616–9937
microsoft.atr@usdoc.gov

Dear Ms. Hesse:

It is inconceivable to me that, in the face of the damage that has been done to our nation's economy in the wake of the September 11 attacks, some state governments are still intent on pursuing the Microsoft antitrust case.

Now is not the time to further weaken the information technology innovations that led to the greatest period of economic progress in our history. Now is the time to bring this costly and case to an end.

Now is not the time to force the technology industry to spend another year in the courtroom. Now is the time to get to rebuilding our economic prosperity It is heartening that North Carolina has agreed to the settlement. I sincerely hope the judge will do the same.

Sincerely,
Dick Rasmussen

MTC-00030371

Donahue, Christopher
From: Donahue, Christopher
Sent: Friday, January 25, 2002 4:32 PM
To: 'microsoft.atr@usdoj.gov'
Subject: Microsoft Settlement
To Whom This May Concern:

I believe that the terms of the settlement are tough on Microsoft and may hurt it's revenues. This company has been an innovator in the technology field and has played a key part in the technology revolution.

The settlements are fair and reasonable to all parties, and meet—or go beyond—the ruling by the Court of Appeals, and represent the best opportunity for Microsoft, the industry and the economy to move forward.

Thanks for your time in this matter,
Christopher J. Donahue
Pfizer Global. Research and Development
Discovery Technologies
Assay Development
2800 Plymouth Road
Ann Arbor, Michigan 48105
734–622–1473 phone
734–622–3244 fax
christopher.donahue@pfizer.com

MTC-00030372

January 14, 2002
Ms. Renata Hesse
Antitrust Division
Department of Justice
60i D Street NW, Suite 1200
Washington. DC 20530

Dear Ms. Hesse:

I wish to offer my comments about the proposed Microsoft settlement. First, I like the provision that Microsoft would not retaliate against software or hardware developers who make products that compete with Windows.

Second, I also think that the provision that sets up a technical committee to assure compliance is good.

These are just two reasons why this settlement ought to be workable.

Sincerely yours,

MTC-00030373

ALAN G. SCHAAF
5925 WILLIAMSPORT DRIVE
FLOWERY BRANCH, GEORGIA 30542
770 965–0445
770 965–0492 FAX
678 656–1024 Cell Phone
aschaaf@bellsouth.net
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

For the past three years, the Microsoft antitrust case has dragged on in the federal courts. The lawsuit has already had a detrimental effect on the economy by introducing additional uncertainty m an already turbulent climate. Isn't it time to put an end to this disrupting influence?

Microsoft and the Justice Department have agreed upon a number of terms that both sides of this suit support.

While this case has lingered in the federal courts, America has suffered. No good can come of additional federal action. I urge you to give your support to the settlement. It is time to move on!

Sincerely,
Alan Schaaf

MTC-00030374

Holme Roberts & Owen LLP
Attorneys at Law
111 East Broadway
Suite 1100
Salt Lake City, UT 84111
Td (801)521–5800
Fax (801)521–9639
FACSIMILE COVER SHEET
FROM FACSIMILE NUMBER: (801)521–9639
Date: January 25, 2002
Time:
To: U.S. District Court, District of Columbia
Attention: Honorable Colleen Kollar-Kotally
Facsimile No.: 202–307–1454
Verification No.:
Client No.:
From: Jay D. Gurmankin
Message: Re: Microsoft Settlement
Number of Pages Following this Cover Sheet: 2

If you need a confirmation or any of the pages sent again, please call our offices at the following number: (801)521–5800. If you do not call within I5 minutes, we will assume you have received the pages satisfactorily.

SECRETARY: Anette Cunningham EXT: 3274
Offices in: Denver Salt Lake City Boulder Colorado Springs London
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Attorneys at Law
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Fax (101) 521–9639
www.hro.com
Salt take City
Den??r
Bou??er
Cole ??do Springs
Lon??n
January 24, 2002
SENT VIA:
E-MAIL TO:
Microsofi.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 307–1454 or (202) 616–9937
1sT CLASS MAIL TO:
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

I write to comment on the proposed settlement in the Microsoft v. DOJ case. I have practiced in the antitrust area for approximately 30 years. Although I am not fully aware of all the facts and circumstances of this particular case, and although I believe that break-up of Microsoft would be too stringent of a remedy, I do not believe the current proposal to settle the case is appropriate.

The district court judge made significant findings concerning antitrust violations committed by Microsoft. Although the Court of Appeals may have determined that the break-up remedy may have been inappropriate, that Court did not reverse the district court's findings on the antitrust violations. Therefore, it is neither prudent nor appropriate for the DOJ of a new administration to propose or support a settlement that does not reflect what our judiciary, after a full and fair airing of the arguments of all sides, might impose.

#112664 v1
Holme Roberts & Owen LLP
Renata B. Hesse
January 24, 2002
Page 2

I believe the most appropriate course of action would be for the court, on remand, to conduct a proceeding to determine an appropriate remedy. At such a hearing, all parties, including the attorneys general of the interested states, to present their positions concerning the appropriate remedy.

Respectfully,
Jay Gurmankin
cc: The Honorable Mark Shurtleff, Utah Attorney General
#112664 v1

MTC-00030375

Comment from the Small Business Survival Committee on the Proposed Settlement in United States v. Microsoft

January 25, 2002
Darrell McKigney
President &
Raymond J. Keating
Chief Economist
Small Business Survival Committee
Small Business Survival Committee 1920 L Street, NW, Suite 200
Washington, DC 20036
Phone: 202–785–0238
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The Small Business Survival Committee (SBSC) believes that the proposed settlement between Microsoft Corp., the federal government and nine U.S. states in the case of United States v. Microsoft Corp. generally serves the "public interest" and the nation's economic well being. In its settlement, Microsoft has agreed to a variety of restrictions on its business practices for at least five years. Microsoft also would be subject to (and have to pay for) a full-time, onsite monitoring panel of three computer experts, who would have complete access to Microsoft's software code, systems, books, records, personnel, etc.

Considering that the antitrust case against Microsoft had absolutely no basis in economic reality, and that the government brought its case at the behest of competitors—not consumers-who could not keep up in the marketplace, we view any findings against Microsoft, and related restrictions placed on the firm, as unwarranted. However, given the costs, looming uncertainties, the current economic climate, and penchant for bad law and convoluted economics to dominate in the antitrust realm, Microsoft certainly made the correct business decision in reaching this settlement. Investor's Business Daily hit the nail on the head when it recently (January 22) editorialized:

"Late Thursday, Microsoft reported its earnings for the fourth quarter. They included a hefty charge of $660 million, or 8 cents a share, for expenses linked to antitrust lawsuits and ongoing legal action by some states.

"Think about it: that's two-thirds of a billion dollars. It could fund a lot of research, give a lot of raises to workers, even fund more Microsoft charity around the country."

So, the costs of this case for the company, the taxpayers and the economy in general have been formidable.

And make no mistake, these costs are felt by many small businesses. Small enterprises certainly can be affected by the costs of this antitrust case (and others) in their roles as consumers of Microsoft products, and as suppliers to Microsoft. In addition, entrepreneurship and business can be impacted by the message sent by government in a case such as this, i.e., that if a business works and competes hard to succeed and gain market share, the government may move against it through regulation and litigation. That is not a positive economic message for government to be broadcasting into the marketplace.

Microsoft, the many businesses which serve as its suppliers and consumers, and the software industry have been placed at risk due to the government's long antitrust inquisition against Microsoft, and real costs have been incurred. The government's antitrust case against Microsoft has boosted costs, increased uncertainty in the high-tech community, and thereby, hurt the entire U.S. economy.

Looking ahead, it is quite disturbing that government officials—including regulators, lawyers, and judges—have the ability to impose their own anachronistic views of how markets should work on the rest of us, including the high-tech industries of today and tomorrow. Antitrust regulation remains a dangerous wild card in the marketplace. Depending how the latest political breezes happen to be blowing, our nation's most successful companies are in a position to be punished for their success via antitrust actions.

Antitrust law is regularly presented as a bulwark of competition and free markets. In reality, however, antitrust law, for the most part, is distinctly anti-market and anti-competition because it allows government bureaucrats or judges to overrule decisions made by consumers in the marketplace. In the end, government antitrust actions in this case have amounted to nothing more than an effort to protect some of Microsoft's current rivals from the rigors of competition, and/or an effort to expand the reach and control of government.

It needs to be understood that in the free market, businesses compete against current and future competitors. The rapid pace of innovation in the computer industry makes this abundantly clear. Therefore, many antitrust actions exhibit an inability on the part of regulators, government lawyers and some judges to understand the dynamic nature of the marketplace. Markets are not static. The classroom lesson about "perfect competition" does not exist in the real world. Instead, the economy involves a rough-and-tumble competitive process whereby entrepreneurs and businesses create new products and services, innovations, and efficiencies, often generating temporary monopolies that are then obliterated by competitors. Prices and profits act as signals in the marketplace to other businesses and entrepreneurs. An activist antitrust regime, as was exhibited over the past several years in the Microsoft case, disrupts this beneficial economic process.

The fact that antitrust law looms unchanged—to be erratically used as a club by government—will continue to cast a shadow over the U.S. economy, particularly dynamic high-tech industries in which temporary monopolies are the clear rule.

Ideally, the Microsoft case should have been dropped altogether, and looking ahead, dramatic antitrust reform needs to be undertaken to reflect economic reality.

Short of such action though, a settlement in this case, which obviously steps far back from a proposed break up of Microsoft, makes sense. Hopefully, since much of the government's case has been thrown out or overturned, perhaps this Microsoft settlement will serve as a warning that antitrust restraint on the part of the government far better serves consumers, entrepreneurship and innovation, than does antitrust activism.

Darrell McKigney is the president of the Small Business Survival Committee. Raymond J. Keating serves as chief economist for the Small Business Survival Committee (SBSC). SBSC is a nonpartisan, nonprofit small business advocacy group headquartered in Washington, DC

MTC-00030376

Attention: Renata Hesse
Date: 1/25/2002
Company: U.S. Department of Justice
Number of Pages:
Fax Number: 1-202-307-1454
Voice Number:
From: Tom Moertel
Company: Moertel Co.
Fax Number: 412-341-6618
Voice Number:
Subject: Microsoft Settlement
Comments:

Please admit the following letter as my comments under the Tunney Act regarding the proposed Microsoft Settlement.

205 Dell Avenue
Pittsburgh, PA 15216
January 23, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear officials of the Department of Justice:

As a small-business owner and software professional with more than a decade's experience creating software for Windows, Macintosh, Unix, and Linux operating systems, I am writing pursuant to the Tunney Act to comment on the revised proposed Final Judgment (PFJ) in United States v. Microsoft.

I am deeply troubled that the PFJ, when scrutinized from a technical viewpoint, fails to satisfy any of the requirements for a remedies decree as set forth by the Court of Appeals ruling (section V.D., p. 99). The PFJ does not unfetter the market from Microsoft's anticompetitive conduct, terminate Microsoft's illegal monopoly, deny Microsoft the fruits of its statutory violation, or ensure that there remain no practices likely to result in monopolization in the future. Rather, the PFJ allows many of Microsoft's anticompetitive practices to continue—effectively legitimizing these illegal practices—and provides license for Microsoft further to abuse and extend its monopoly.

Rather than enumerate my specific concerns here, I will refer you to the findings of Dan Kegel's analysis? which summarizes the technical failings of the PFJ. I agree with Mr. Kegel that the PFJ fails to take into account Windows-compatible competing operating systems, contains misleading and overly narrow definitions and provisions, fails to prohibit anticompetitive license terms currently used by Microsoft, fails to prohibit intentional incompatibilities historically used by Microsoft to protect and extend its monopoly, and fails to prohibit anticompetitive practices towards OEMS.

I also agree with Mr. Kegel's conclusion that the PFJ allows and even encourages anticompetitive practices to continue, would delay the emergence of competing Windows-compatible operating systems, and is therefore counter to the public interest. Further, I am appalled that, despite the best intentions of the Department of Justice, the PFJ permits so many of Microsoft's illegal practices to continue unfettered that it effectively legitimizes these practices and threatens to make Microsoft's abuses into a government-sanctioned benefit of its monopoly.

Therefore, I must urge the Department of Justice to withdraw its consent to the existing PFJ and begin work on a new proposal that provides meaningful and effective remedies for Microsoft's illegal business practices. To do otherwise would likely result in a monumental miscarriage of justice and, ultimately, irreparable harm to the competitive environment that is vital to our nation's promising technology industry and the economy it supports. Again, I must urge you to withdraw your consent for this fundamentally flawed proposal.

Sincerely,
Thomas G. Moertel

MTC-00030377

Matthew Seymour
123 Wright Brothers Drive
Salt Lake City, UT 84116
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Three years ago, Microsoft was found to be in violation of antitrust laws. The corporation was duly brought to trial in the Federal courts, and it was not until June of last year that a settlement even began to be negotiated. After six months of around-the-clock negotiation, Microsoft and the Department of Justice were finally able to reach a settlement, and finalization has been pending ever since, However, nine of the plaintiff states in the case are currently seeking to undermine the settlement and bring further litigation against the Microsoft Corporation. I do not believe this is either necessary or wise. The proposed settlement would not only prevent further antitrust violations and thereby negate the claims that Microsoft's opponents have against the corporation, it would also allow business within the technology industry to return to normal.

The settlement restricts various actions on the part of Microsoft and also requires them to make changes in the Windows operating system. For example, future versions of Windows will be reformatted in order to support non-Microsoft software. Additionally, Microsoft has agreed to refrain from entering into any contract that would require a third patty to promote or sell Microsoft products either exclusively or at a fixed percentage. Microsoft has been extremely compliant in reaching this agreement, and the Justice Department has been fair to Microsoft in return. Microsoft will be allowed to remain intact, instead of being divided in thirds as was initially proposed. Microsoft has, in turn, agreed to terms under the settlement that: extend to technologies and processes that were not determined to be unlawful by the Court of Appeals. It is time for the nine states that have thus far refused to settle to cease their compliant(s) and to allow justice to be served. I urge you, Sir, to support the settlement.

MTC-00030378

Post-it?? Fax Note 7671
Date
# of pages??/
To Jom?? Ashcroft
From JAMES Sen??
Co./Dept. DOJ Co.
Phone # Phone #
Fax# 1-202-616 .9937
Fax# 201-291-7929
1-202-307-1454
464 Beverly Road
Ridgewood, NJ 07450-3308
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
January 25, 2002

Dear Mr. Ashcroft:

My family is writing to express our support for the settlement reached between Microsoft and the Federal Government. Microsoft went beyond the products and procedures that were actually at issue in the suit, for the sake of wrapping up the suit.

Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows, not to enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively or in a fixed percentage, and not to retaliate against computer makers who ship software that competes with anything in its Windows operating system.

This is a very generous settlement that addresses the government's concerns and Microsoft's competitors' concerns. Its time to let Microsoft get back to work, please approve this settlement

Sincerely,
James S. Serpico
Cheryl L. Serpico
Alexander J. Serpico

MTC-00030379

AMITAVA GHOSE, Ph.D., P.E.
2715 Darnby Drive,
Oakland, CA 94611
(510) 531-7570
January 25, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington., DC 20530

Dear Mr. Ashcroft,

I urge you to settle the lengthy antitrust lawsuit that the government has brought against Microsoft after this comment period. The concessions Microsoft is willing to make to end the case are more than fair, and the situation should be put to rest.

Whining competitors who are jealous of Microsoft's market dominance are driving many of the concessions Microsoft is making. Many of those companies engage in similar business practices, but are being hypocritical simply because Microsoft has performed better. One of Microsoft's concessions is to disclose certain Windows codes to other companies in the marketplace, yet those companies have not agreed to do the same thing in relation to their products. Microsoft is being more than reasonable in trying to resolve the litigation.

It is high time that this lengthy legal process ceases to handicap Microsoft's ability to bring cutting edge innovations to both Corporate America and the private consumer, at the dazzling rates that it has been able to do in the past. Microsoft's concessions will not only further ensure market competition, but will in fact benefit their rivals more than themselves. The government should not ask any more of Microsoft than that.

I strongly urge you to finalize the settlement.

Sincerely,

MTC-00030380

P.O. Box 9706
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Albuquerque, NM 87119.9706
Fax: (505) 842-0734
Web site, http://www.aci.nm.org
January 25, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Re: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

Microsoft is a company that has long provided good products to consumers and businesses, and it provides opportunities for other software companies as well to develop programs for the Windows platform. The provisions of the settlement, worked out with one of the nation's top mediators, will be good for consumers, businesses, the tech sector and the economy as a whole. I fully support the Department of Justice and the nine Attorneys General, including New Mexico Attorney General Patricia Madrid, for their efforts to finally put an end to this case and agree to a settlement that is in our nation's best interest.

ACI is the statewide business advocate and the New Mexico affiliate of the U.S. Chamber of Commerce and the National Association of Manufacturers.

Sincerely,
John A. Carey
President & CEO
??The Statewide Business Advocate??

MTC-00030381

P.O. Box 9706
Phone: (505) 842-0644
E-mail: aoci@nm.net
Albuquerque, NM 87119.9706
Fax: (505) 842-0734
Web site, http://www.aci.nm.org
January 25, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Re: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

Microsoft is a company that has long provided good products to consumers and businesses, and it provides opportunities for other software companies as well to develop programs for the Windows platform. The provisions of the settlement, worked out with one of the nation's top mediators, will be good for consumers, businesses, the tech sector and the economy as a whole.

I fully support the Department of Justice and the nine Attorneys General, including New Mexico Attorney General Patricia Madrid, for their efforts to finally put an end to this case and agree to a settlement that is in our nation's best interest.

ACI is the statewide business advocate and the New Mexico affiliate of the U.S. Chamber of Commerce and the National Association of Manufacturers.

Sincerely,
John A. Carey
President & CEO
??The Statewide Business Advocate??

MTC-00030382

BILL FLETCHER
S??
January 22. 2002
Renata Hesse, Trial Attorney
Antitrust Division
Department of Justice
6m D Street NW, S?? 1200
Washington, DC 20530
Fax 202-616-9937

Dear Ms Hesse:

I am the parent of three children; have run my own business for must of the past two decades, and am in my third four-year term on the Wake County Board of Education. So I come to my conclusions from a variety of viewpoints.

I believe Microsoft has put their offer on the table in their effort to bring to closure the action initiated by the Clinton Justice Department.

1. For the public schools, Microsoft's settlement offer contains desperately needed hardware, software and training. There is significant inequality in ?? schools in terms of technology. Some characterize the emerging "digital divide" and a change from the "haves and have nots" to the "knows and the know nots" The Microsoft proposal puts essential technology in the hands of our d??erving students immediately. And none too soon

2. For my business Microsoft continues to provide high value, cost effective products and services, even with significant resources d?? away by frivolous lawsuits.

3. For my family, prices of quality hardware and software continue to decline so that we ?? been able to provide appropriate educational tools for our college hound children. From the beginning, the federal government's pursuit of Microsoft has been politically inspired and ?? unwise. The case was ?? and oven subsidized in the beginning by Microsoft's competitors. They sought to win in the courts what they could not win in the market. The government should never have initiated this proceeding.

Now the courts have an opportunity to end this madness. Three years and 530 million of the taxpayers" money is enough. At a time when terrorists threaten America and we are facing an economic slowdown, our nation, the information technology industry and Microsoft should not be forced to waste more time and money on this case.

It is time to move ahead Please ?? the Mrcrosoft offer and let's refocus our government's resources on more important issues.

Sincerely,
Bill Fletcher

MTC-00030383

Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I write to say that I am pleased to see that the Department of Justice is close to settling the Microsoft case. I don't know many details about the charges in the case, but I do know that Microsoft has produced software that has proven extremely valuable in my work. In my view, Microsoft is the reason most software is now created 1o be compatible on most computers. For computer users who are not "techies". this has been invaluable.

It is time to settle and move on, so Microsoft can proceed with the kind of product development and innovation that has been so valuable in business, and therefore, in our economy. I hope the Department of Justice will agree.

Sincerely,
Elizaboth R. Cash
Director of the Annual Fund
Lynchburg College
Lynchburg, VA 24501

MTC-00030384

Management ??" at Lyn??hburg
2511 Memorial Avenue, Suite 202
Lynchburg, VA 20501
(804) 528-1611
FAX (804) 528-1611
careers@mrlynchburg.com
January 28, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
Got D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As a recruiter with more than 20 years in the business, I have observed the impact Microsoft products have had on business and industry, and in particular on small business. In the early days of computers, only very highly paid "computer gurus" could use the technology of the day. Recruiting and hiring these people was an expensive proposition, so much so that most small businesses had to do without.

Because of the innovation and "Dear-friendly" products of Microsoft, small businesses today can hire someone right out of high school to use software, which enables them to compete with much larger companies. Because we have access to the latest software and hardware at affordable prices, we have been able to develop a reputation in the marketplace and are frequently called on by many of the Fortune 100 companies to conduct National and International searches for them. Without the access to the affordable technology we use this would not be possible.

One reason Microsoft and other computer and software makers have been so successful, in my opinion, is because they have been allowed to operate in a free marketplace, unencumbered by unnecessary government restrictions. Their success has in turn has allowed us to he successful. I suggest to you that a timely settlement of the antitrust lawsuit is in the best interests of everyone, especially business.

Sincerely,
David Blue
Manager

MTC-00030385

Delivering Internet Results
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft, understand the government decided to settle its three-year-long antitrust lawsuit with Microsoft Corp. This is very good news, because settlement is in the best interests of the State of Michigan, the IT industry, and the economy.

Microsoft did not get off easy, but the settlement is fair and reasonable, and it will definitely benefit consumers and preclude future anticompetitive behavior. The recession has had a devastating effect on state on state budgets and the federal budget, and it is important that the technology industry be allowed to concentrate on business now.

One of the main accomplishments of the settlement is Microsoft's agreement not to retaliate against computer makers who ship software that competes with Microsoft in its Windows operating system. Microsoft's competitors should be very pleased with this clause. Additionally, Microsoft agreed to share its software code for various interfaces that are internal to Windows with its competitors. This should make its competitors ecstatic. It is my hope that this can all be worked out and that the settlement can take effect as soon as possible.

Thank you.
Sincerely,
e-Business Analyst
Internet Operations Center Inc

MTC-00030386

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–000
Via Facsimilie: 1–202–307–1454

To Whom it May Concern:

I am writing you today to express my grave concern about the proposed settlement to the Microsoft anti-trust case, I hope you'll consider my comments under the Tunney Act, I am the Chief Technology Officer of a company that develops internet content and software applications for a variety of mid- to large-sized businesses. I have ten years" experience as a computer programmer, systems engineer, and technologist.

After thoroughly reading the terms of the proposed settlement, I object to it on two equally important but distinct grounds,

First, the settlement fails to adequately punish Microsoft for its anticompetitive and illegal behavior, in order to be in the public interest. any settlement must substantially deny Microsoft the benefit of its illegal acts. The settlement further harms the public interest in this regard by failing to serve as a sufficient deterrent to future monopolies, Only an immensely large fine, of sufficient magnitude to madate immediate changes in the company's business practices, could achieve these goals.

I furge you to consider the opinions of former Supreme Court Justice Robert Bark on this matter, as he expressed in a recent interview: http://www.linuxplanet.com/linuxpianet/opinions/4020/3 My second objection to the settlement is that it is riddled with errors and other failings in terms and definitions, any one of which could allow Microsoft to evade all but the most convenient of the settlement's provisions, Specifically, any settlement terms requiring Microsoft to disclose APIs and other documentation to its competitors and the general public must specifically define the effect that disclosure must achieve. For example, the remedies that address Microsoft's anti-competitive use of file formats must specifically state that the company's competitors and customers must be able to use the documentation to build fools that are completely and effectively compatible with Microsoft's tools.

In an effort to make the terms legally abstract enough to remain relevant to future products and technologies, they have been rendered largely useless. These fallings, and others documented in the comments you've received under the Tunney Act, must be resolved before this or any settlement could be considered in the public interest.

Thank you for considering my comments.

Yours,
Matthew J, Rechs
Chief Technology Officer
The Content Project

MTC-00030388

CERTIFIED PUBLIC ACCOUNTANT
1300 SOUTH UNIVERSITY DRIVE, SUITE 308
FORT WORTH, TEXAS 76107–5735
(817) 338–1115
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e-mail wbrown@sgw-cpas.com
Member of Texas Society of Certified Public Accountants
January 25,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am a practicing CPA and have been using Microsoft products for many years. I currently use Internet Explorer, Microsoft Excel, Microsoft Word and Microsoft Outlook. These axe all superior products. Never have I felt disadvantaged in not being able to use competing products since I could switch at any time if I wanted to. As far as Windows is concerned it is a superior operating system. I have never met anyone who felt handicapped in not being able to use another operating system.

Everyday as I read about the settlement process regarding the Microsoft anti-trust case, I become more annoyed with our federal legal system. After three years of litigation, I fail to see what can be scrutinized any longer. Microsoft has made numerous concessions in an attempt to resolve this case.

Under this settlement Microsoft will disclose the protocols and design interfaces of Windows. This will enable developers to design software that is increasingly compatible with the Windows system. In addition to this users will be able to delete Windows programs that they do not want on their system with greater ease.

The settlement can finally bring an end to this case that has drained resources for more than three years now. I support the settlement, and hope it is enacted soon.

Sincerely,
Willis F. Brown, CPA

MTC-00030389

Sanborn
42 Isabella Road
Elverson, PA 19520
January 25,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support of the recent settlement in the antitrust case between Microsoft and the US Department of Justice. I think the lawsuit was unjustified in the first place, considering how much Microsoft has done for our country by way of creating jobs, generating income, and making technological breakthroughs. I realize that the competition is way behind, but this is the reality of a capitalist society and a free market. The most innovative will always succeed.

I feel that the lawsuit was initiated because Microsoft would not and did not play ball with the Democratic Party and specifically the Clinton's who wanted donations from Microsoft. The terms of the settlement are harsh and make Microsoft give away many secrets. For one, Microsoft is being forced to disclose interfaces that are internal to Windows operating system products. This seems to me to be in violation of their intellectual property rights.

Nevertheless, I think it is in the best interests of the American public to have the case finalized. Our economy and the IT sector in particular needs Microsoft focusing on business, not politics. I urge your office to take a stance against the nine states in opposition and do what is right for the American public.

Thank you.
A. Sanborn
B. cc: Senator Rick Santorum

MTC-00030390

WASHINGTON LEGAL FOUNDATION

2009 MASSACHUSETTS AVENUE, NW
WASHINGTON, DC 20036
(202) 588–0302
FAX: (202) 588–0386
FACSIMILE COVER SHEET
To: DOJ Antitrust Div.
ATTN: Renata B. Hesse
From: Paul D. Kamenar
Fax: 202–307–1454
Copy Sent (Date & Time): Jan. 25, 2002
Transmission consists of pages, including this cover page
COMMENTS:

ATTACHED ARE COMMENTS OF THE WASHINGTON LEGAL FOUNDATION ON THE PROPOSED JUDGMENT IN US v. MICROSOFT

CALL IF ANY QUESTIONS OR PROBLEMS. I CAN EMAIL YOU A COPY AS WELL.

PLEASE EMAIL ME THE DOJ EMAIL ADDRESS. MY EMAIL IS: pkamenar@wlf.org

Thank you.

MTC–00030391

Attorneys at Law
111 East Broadway
Suite 1100
Salt Lake City, UT 84111
Tel (801)521–5800
Fax (801)521–9639
FACSIMILE COVER SHEET
FROM FACSIMILE NUMBER: (801)521–9639
Date: January 25, 2002
Time:
To: U.S. District Court, District of Columbia
Attention: Honorable Colleen Kollar-Kotally
Facsimile No.: 202–307–1454
Verification No.:
Client No.:
From: Thomas J. Rossa
Message: Re: Microsoft Settlement
Number of Pages Following this Cover Sheet: 2

If you need a confirmation or any of the pages sent again, please call our offices at the following number: (801)521–5800. If you do not call within 15 minutes, we will assume you have received the pages satisfactorily.

SECRETARY: Anette Cunningham EXT: 3274

Offices in: Denver Salt Lake City Boulder Colorado Springs London

Thomas J. Rossa ??@??.com
Attorneys at Law
111 East Broadway Suite ??100
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Salt Lake City Denve??
Boul??
Color??do Springs
London
January 25, 2002
SENT VIA:
E-MAIL TO: Microsoft.atr@usdoj.gov
VIA FACSIMILE COPY TO: (202) 307–1454 or (202) 616–9937
1ST CLASS MAIL TO:
The Honorable Colleen Kollar-Kotally
U.S. District Court, District of Columbia
c/o Renata B. Hesse Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement

Dear Judge Kollar-Kotally:

As a practicing attorney in the intellectual property area for nearly 30 years, I write to object to the proposed settlement in the Microsoft v. DOJ case. While comment from the public or the bar is typically inappropriate, in this case the involvement of press suggests that it would seem highly appropriate that comments be supplied in reference to the proposed arrangement. My purpose in writing is not to comment on the correctness of the decision but the application of the proper remedy. I must assume that the district court correctly determined and the Court of Appeals correctly reviewed the determination that Microsoft violated the antitrust laws of the United States. The U.S. Supreme Court has determined not to hear an appeal of the Court of Appeals decision, therefore, Microsoft's legal remedies to challenge the trial court's findings are at an end. What remains is the Court of Appeals'' remand to the district court to determine how Microsoft should be punished for its violations.

I understand that with a change in the administration, the DOJ's desire to continue with the litigation has somewhat waned and that a settlement has been proposed that DOJ finds acceptable. In my experience and understanding, however, the determination that a monopoly exists and findings of antitrust violations require the imposition of remedies that follow certain logical principles. Specifically the remedy or disposition should lead to a termination of the monopolistic activities. In addition there should be some structure to level the playing field and allow those who have been disadvantaged to reenter the market place. Indeed, logic supports tilting that playing field toward the excluded for a time to dissipate the advantage unfairly and illegally obtained by the monopolizer.. Of course there should be some penalty for past conduct and something to prevent or deter future violations. I am at a loss to explain how the proposed settlement satisfies the requirements of these principles and how it complies with the standards set forth in the Court of Appeals'' decision.

Anytime a company's dominance in the marketplace and behavior reaches the levels of a monopoly as has been determined in this case, affirmative action must be taken to bring the marketplace into balance. The proposed settlement does not do so, and I suggest the court take evidence from others not party to the proceedings to develop proper and appropriate remedies. While there are experts who are better positioned to opine on the details, it seems entirely logical for sufficient portions of the programs including the source code to be made available so that others are able to access and develop compatible systems. There is some similar precedent for such because in the early 70's the Bell system was forced to allow others to access the Bell system through interface circuitry. Thus Bell's monopoly over the PBX systems ended. While Microsoft is not a utility, it dominates the industry to the point that it is tantamount to a utility. In turn, remedies that are somewhat regulatory would be logical if not compelling. Indeed, some continuing court supervision after the remedy has been fashioned would seem to be as important as court supervision of bussing to effect integration.

Respectfully,

Thomas J. Rossa

cc: The Honorable Mark Shurtleff, Utah Attorney General

MTC–00030392

Patrick Neborg
101 Horseshoe Lane
North Wales, PA 19454–4272
January 22, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0002

Dear Mr. Ashcroft:

I would like to see the Microsoft case brought to a conclusion. It is in the best interest of all involved that this case be settled.

The concessions made by Microsoft will achieve the goal of restoring fair competition. Microsoft will take steps to ensure computer manufacturers and consumers may more easily install its competitors'' software programs. Microsoft has also agreed to not retaliate against those who promote the competition's products. These types of changes in Microsoft's business practices will help ensure there are no future antitrust violations.

Like most members of the technology industry, I would like to see Microsoft concentrate its resources on developing new products, rather than on litigation. Drawing out the case any further will benefit no one.

Sincerely,

Patrick Neborg

cc: Senator Rick Santorum

MTC–00030393

Anqelo J. Bello
1437 79th Street
Brooklyn, New York 11228
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to express my opinion on the recent settlement in the Microsoft antitrust case. This case needs to be ended and the current settlement is a good solution. There should be no question that this settlement serves the public interest, Microsoft is giving up so much in this case and it is only fair to leave them alone now.

I am a computer technician and I install computers for my employer as well as for friends, family and other personal business associates. We don't solely rely on Microsoft's products, but rather use a combination of software products. We have complete freedom to choose to use other products and have obviously done so with no problems. Additionally, when using the MS windows platform, never once was I, nor anyone I know, prohibited from installing or using other products. As a successful company, when providing a product, why would you want to include a competitors'' product within your own? That's not to say that you are stopping from adding or installing others". I don't see that Microsoft has acted unfairly, they are merely a hugely successful company who made smart business decisions to try and maintain that success. They are now being punished because less successful companies wanted a part of it and didn't have the means to step up to Microsoft without bringing the courts and lawyers into the process.

As it stands, the settlement already is more than fair. This issue needs to be ended and maintaining the settlement is the right thing to do. It indeed serves the public interest and it indeed addresses the issues brought up by Microsoft's competitors. Please allow this settlement to be the end of this drawn-out lawsuit. Our economy can't stand any further delay in this issue.

Sincerely,
Angelo J. Bello

MTC-00030394

Carl C. Carlsen
Captain (Ret.)
425-334-1454
2903—116th Ave NE
Lake Stevens, WA 90258-9161
cearlsent@compuserve.com
ha?? radio call—KD7BFN
January 25, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Bear Mr. Ashcroft:

I would like to start off by saying that I am not a strong supporter of Microsoft. I don't really have any stong ties to them, but I don't agree with the antitrust suit against them. The settlement that was made between Microsoft and the Department of Justice is more than fair, and it is time this matter was over with. Millions of state and federal dollars have been wasted on this suit. The Untied Slates is based upon a free enterprise system; while we may not always agree with the tactics employed by big business, our interference in business undermines the very foundation this nation has been built upon.

Microsoft has agreed to terms that will enable other companies to compete. They have to license the internal codes of Windows to the top twenty companies so they can produce software that is compatible with Windows. Because of the competition that will arise from this settlement a wider variety of products will emerge. So now, not only will the consumer have a better product, but the prices will be more reasonable. Also, Microsoft will be forced to produce a better product in order to stay competitive.

I would like to reiterate that I am not writing this letter because the issue is personal to me. I am not a huge stockholder and I know no one who works for Microsoft. I do know what is right though, and ending this ridiculous suit against Microsoft is the right thing to do. Thank-you.

Sincerely,
Carl Carlsen

MTC-00030395

January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am an architect with his own firm. I am well versed in business and business practices which is why I am thoroughly annoyed with the lawsuit brought against Microsoft. The whole process was one of professional jealousy than any monopolistic business practices.

The antitrust laws were set up to protect the consumer; Bill Gates did nothing but help the consumer. He standardized computer software; he made computer software more understandable; he made computer software more affordable. Software has gone down in price, not up. Does anybody remember how difficult computers were before Microsoft? And for this the company is being persecuted. This is wrong.

Furthermore, from what I understand of the agreement, Microsoft has done a great deal to assuage the demands of the Department of Justice. Microsoft has agreed to help companies achieve a greater degree of reliability with regard to their networking software; Microsoft has agreed to document for use by its competitors various interfaces that are internal to Windows" operating system; and has even agreed to a technical committee to monitor future adherence. I would not do as much.

Microsoft, through Bill Gates, has made this country's technological revolution. Microsoft and the Department of Justice have made peace. Let's honor it and go forward.

Sincerely,
Herb Zelikoff

MTC-00030396

January 25, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937

Dear Ms. Hesse:

As a member of the North Carolina Academy of Trial Lawyers, I believe that the government needs to end the Microsoft antitrust case. The case has already cost hard working American taxpayers over $30 million, and that figure is rising every day.

A settlement has been reached that is suitable to both parties. Under the agreement, the government has unprecedented oversight of Microsoft's operations and controls to prevent anti-competitive business practices. Consumers will have greater choice in the selection of their computer operating system than ever before.

In the free enterprise system, consumers dictate the success of a given firm or product. They control the system by voting with their pocketbook. I am certain that throughout American history, there have been many examples of companies egregiously violating antitrust laws. In this instance, however, I do not see the harm to consumers that is required in order to prosecute the Microsoft case further.

Settling the case not only helps the economy a great deal, but it frees up needed funds for the Justice Department to pursue more pressing concerns. I sincerely hope that we can end this antitrust saga soon. wall Street and Main Street are waiting.

I hope that Judge Kollar Kotelly approves the settlement.

Regards,
Tony Gurley
10037 Sycamore Rd.
Raleigh, NC 27613

MTC-00030397

January 25, 2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms, Hesse:

I am writing this letter, as a consumer of high-tech products, to register my support for the recently negotiated settlement of the Microsoft lawsuit. It is clear that the best interest of all is for a quick resolution of this long and expensive lawsuit.

Even though some will say the terms of the settlement are not tough enough, I think it is far preferable to find a workable solution rather than mete out crippling sanctions against Microsoft that will do nothing more than dull America's cutting-edge technological superiority.

Antitrust laws were meant to protect consumers, yet at no time during this case has anyone shown that Microsoft has done harm to a consumer. I say it is time to put and end to this competitor-driven pursuit and let technological innovators, such as Microsoft continue to fight it out in the marketplace-not the courtroom.

Sincerely,
Darlene Causey
Executive Director

MTC-00030398

CERTIFIED PUBLIC ACCOUNTANT
1300 SOUTH UNIVERSITY DRIVE, SUITE 308
FORT WORTH, TEXAS 76107-5735
Member of
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(817) 338-1113
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e-mail wbrown@sgw-cpas.com
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am a practicing CPA and have been using Microsoft products for many years. I currently use Internet Explorer, Microsoft Excel, Microsoft Word and Microsoft Outlook. These ate all superior products. Never have I felt disadvantaged in not being able to use competing products since I could switch at any time if I wanted to. As far as Windows is concerned it is a superior operating system. I have never met anyone who felt handicapped in not being able to use another operating system.

Everyday as I read about the settlement process regarding the Microsoft anti-trust case. I become more annoyed with our federal legal system. After three years of litigation, I fail to see what can be scrutinized any longer, Microsoft has made numerous concessions in an attempt to resolve this case.

Under this settlement Microsoft will disclose the protocols and design interfaces of Windows. This will enable developers to design software that that increasingly compatible with the Windows system. In addition to this users will be able to delete Windows programs that they do not want on their system with greater ease.

The settlement can finally bring an end to this case that has drained resources for more than three years now. I support the settlement, and hope it is enacted soon.

Sincerely,
Willis F. Brown, CPA

MTC-00030399

January25, 2002
Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Madam:

I am writing this letter to express my support for the recently negotiated settlement of the Microsoft case For the past several months, I have watched as the Department of Justice and several state Attorneys General have relentlessly pursued a frivolous antitrust lawsuit against Microsoft. As a user of Microsoft products, I think it is time to bring this issue to a conclusion. The treat of government regulation has caused tremendous harm to the industry, consumers and the entire economy. At a time when the economy is heading into difficult times, the last thing the technology industry needs is more litigation and government regulation.

Further litigation will not improve quality or increase innovation. On the contrary, attempts to place limits or] any part of the tech sector—not just Microsoft—will inhibit innovation, increase costs, and place America's technology at a disadvantage in the global market.

I think it is time to settle this matter and let the industry, and Microsoft, continue to develop affordable, innovative products.

Sincerely,
Diana Queen Koether
Manager
Hamilton Chamber of Commerce

MTC-00030400

January 24, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
RE: Microsoft

Dear Ms. Hesse:

As each day we see more of our industries faltering in the aftermath of September 11, 2001, I am writing to encourage the Justice Department to free companies in the high-tech industry to compete with one another in the marketplace without crippling them with unnecessary sanctions. Please lend your support to the negotiated settlement of the Microsoft lawsuit as it is clearly in the best interest of the national economy to quickly resolve this lawsuit and avoid further slowdown in one of our most important industries.

The terms of the settlement are strong enough. Consumers such as Sanders & Sanders Associates, Inc. have not been harmed by Microsoft, but rather, helped by this strong, innovative company.

Sincerely,
Janet R. Sanders
Vice President
Sanders & Sanders A??
5252 Westchester. Suite 170
Houston, Texas ??
713 522–9734 Fax
713 522 9733

MTC-00030401

Tax Plus of Oklahoma
Renata Hesse
Antitrust Division
Department of Justice
601 D. Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

The U.S. Department of Justice and nine state attorneys general decided to settle the Microsoft antitrust case. A recent survey done by Americans for Technology Leadership, a broad-based coalition of technology professionals, found that 70 percent of American consumers agreed with that decision.

Yet, the pursuit of Microsoft continues.

It seems that a handful of Microsoft's competitors have prevailed upon the remaining nine state attorneys general to reject any settlement—be it reasonable or not—and continue to chip away at Microsoft.

Of the 1001 individuals contacted in poll, 82 percent said that Microsoft's competitors should compete by creating new products rather than lobbying for the government to stop Microsoft's new products.

We lead the world in technological innovation thanks in large part to Microsoft. Let's not lose that advantage because we-re afraid to let one corporation get too far ahead in the market place. I say, settle this case quickly and let's get back to what made this nation great—competition.

Sincerely,
Rhonda Schrum
President

MTC-00030402

SJS CADD, Inc.
4072 US HIGHWAY 62
CALVERT CITY, KY 42029
phone: (270)395–1851
fax: (270)395–1708
www.sjscadd.com
25-Jan-02
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I write this letter to express my opinion regarding the antitrust suit against Microsoft. I support the settlement and the conclusion of the federal involvement in the suit. Continued litigation would have resulted the eventual destruction of Microsoft, thus causing detrimental effects on the progress of technology and the economy in the country. It is necessary that further litigation is prevented, and this settlement is implemented.

The settlement will help taxpayers and consumers save on taxes and costs of technology. It directs Microsoft to provide information regarding the various interfaces of its Windows operating system. Microsoft has also agreed not retaliate against computer makers that may ship software that would compete with Windows.

I urge you to realize the necessity for the conclusion of this case. It has been a suit that has created a state of ambiguity within the technology field. It is imperative that you stop all federal action and confirm the settlement.

Sincerely,
Shane Cosby
Partner

MTC-00030403

ROWLETT
CHAMBER OF COMMERCE
January 25, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Re: Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

It is time to end the pursuit of Microsoft. It is time to accept the terms of the recently negotiated settlement.

A vast majority of American consumers feel they have benefited from Microsoft products and feel Microsoft has contributed to the economic growth of the United States. I consider myself one of those American consumers.

The settlement worked out with the nation's top mediators will be good for everyone, consumers, businesses, the technology industry and the economy.

On behalf of the Rowlett Chamber Commerce being part of the Texas Association of Businesses and Chambers of Commerce and a spokesperson for the Rowlett business community I urge there be an end to the Microsoft case", agree to a settlement that is in our nation's best interest.

Sincerely,
Mary Alice Ethridge
President/Executive Director
3910 Main Street . P.O. Box 610 . Rowlett, Texas 75030–0610
972/475–3200 . Fax 972/463–1699
e-mail: rowlett_chamber@rowlettchamber.com .
http://www.rowlettchamber.com

MTC-00030404

CHICAGO TECHNICS, Inc.
January 17, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft.

The antitrust suit against Microsoft has not had an adverse affect upon my technology-based company as of yet, but if this suit were to continue, it would surely affect it. In a worst-case scenario, if Microsoft were broken up, I could go out of business, even though I am not employed by Microsoft. There are probably thousands of businesses like mine that would face the same problem. The settlement that was reached between Microsoft and Department of Justice promises to prevent any adverse effects if litigation is stopped.

Under the settlement, Microsoft has agreed not to retaliate against any computer makers if they ship software that would compete with its Windows operating system. Microsoft has also agreed to make all future versions of Windows to be compatible with non-Microsoft products. The settlement also establishes a three-person "Technical Committee" that will monitor Microsoft's compliance to it.

I also do not want to see Microsoft forced to open the code for Windows?? to the world. I would not want to be forced to buy my software from India, Germany, Japan or China. If you think that opening the source code to Windows?? will help Microsoft's competitors, what do you think it will do to those same competitors when they have to compete with companies in other countries. To continue litigation is to squander all the time and money spent formulating this settlement. The government must not waste such scarce resources amid recession. I urge you confirm this settlement and allow the industry to move ahead.

Sincerely,
John G Miller
President
Microsoft CERTIFIED Partner
?? Harbor Point Concourse,
155 North Harbor Drive,
Chicago, IL 60601 ??
(312) 938–0026??

MTC–00030405

Patricia Meluin
1011 Great ??and Read
Narth ??nd??ver, Massachusetts 01845
(978) 683–4396
January 24, 2002
Renata House
Trial Attorney
Antitrust Division
Department of Justice
601D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

Please accept my comments for consideration during the public comment period in the Microsoft anti-trust case. I support the settlement agreement that has been reached in this case, and urge the court to accept it as written as soon as possible. This case has dragged on too long with little discernible public benefit, and ought to be concluded once and for all.

The other players in the high tech industry would be better served to have their research and marketing divisions work as hard as their lawyers and lobbyists. This case has never been about protecting the consumer from anti-trust abuses, as much as it has been about picking sides in the marketplace. We would all be better off if the case is settled, and everyone can get back to business.

It is a shame that so much taxpayers" money has been wasted chasing one company in a competitive field; it would only make matters worse if we were left with government bureaucrats micromanaging the industry. Please don't allow the terms of the settlement to be expanded. They go far enough as it its.

Respectfully,
Patricia Melvin

MTC–00030406

Mega-Data
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

RE: Microsoft Settlement

I have been most disturbed by the Federal government's continued proceedings against Microsoft Corporation. In my opinion, the entire suit brought by the Federal government and several states was extremely ill-founded, and strikes a negative blow at the very heart of the free enterprise system through which this country has prospered

I bought my first "personal" computer in 1978. It was an Ohio Scientific brand, and it contained 3 separate CPUs and 3 separate operating systems. One of the operating systems was CP/M, which was the front-runner at that time. The second operating system was DOS (by Microsoft). I no longer remember the name of the third operating system, as it never became widely Used. There was no "standard" in PC operating systems at that time, but it was presumed at that time that CP/M would become the prevailing operating system.

Obviously, that did not happen. Microsoft's DOS and later its Windows operating system because the prevailing product in the market. There are many reasons for this, including:

1. Superior feature content which was readily accepted by users
2. Wide selection of compatible application software, due to a programmer-friendly development interface
3. Availability of information to enable developers to write applications to run on this operating system
4. Affiliate and partnership programs with developers, software and hardware vendors

In short, Microsoft came to the forefront of the industry by offering "a better mousetrap" than the competition. The Federal government itself has affirmed this fact by making Microsoft products its own desktop standards. (Our company had the privilege of delivering training on Microsoft products to all of the regional offices of the General Services Administration several years ago.) Mega-Data Services, Inc, . 13667 Edith Road, Loxahatchee, Florida 33470–4911 Tel (561) 798–3940 . Fax (561) 798–3525 . e-mail: info @mega-data.com

Microsoft has contributed immensely to the prosperity of this country. And there are thousands of small businesses like ours that would probably not even exist today if we had not had the benefit of Microsoft's partner programs.

It is an extremely dangerous precedent to allow a competitor in the open market to bring suit when it fails to "win" in the market place. Forcing a company to share its proprietary and confidential research and development information in order to allow its competitors to better compete squelches the free market initiative to invest in R&D. It also has a decidedly malodorous aura of Socialism.

In my opinion, this continued legal action is motivated as much by the anticipated revenues of the legal firms involved as by the competitors" wishes to gain marketplace by any means possible - an obvious instance of the "deep pockets" syndrome. Even though the settlement goes further than original complaints in the suit, Microsoft has chosen to settle so that it and the market can move forward The settlement requires Microsoft to disclose information regarding how it develops it software. Microsoft has also agreed not retaliate against computer-makers that may ship software that would compete with its Windows operating system. Just these two remedies by themselves will have an enormous impact on Microsoft, but there are even more stipulations than that, as you are well aware.

Although I firmly believe that Microsoft should not even be subject to these settlement requirements because I believe it won the prevailing market position by offering superior products, it would be beneficial to the entire industry and to this country to confirm the current settlement agreement and move on to other issues. Therefore, we are urging you to confirm the current :Settlement agreement as soon as possible and let the IT industry be free to develop products in an unfettered free enterprise environment.

Yours truly,
Patricia McDermott-Wells President
Tel (561) 798–3940 .
Fax (581) 798–3525 .
e-mail: info@mega-data.com

MTC–00030407

551 Blue Spruce Road
Alpine, UT 84004
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: I am thoroughly disgusted with the outright refusal of half of the plaintiff states in the Microsoft antitrust case to accept the settlement. It has not only had a negative impact on the economy and impeded the progress of the technology industry, but it has also cost the parties involved a great deal of time and money. I cannot imagine how Utah plans to finance additional litigation against Microsoft. Not only that, but it appears that the only reason flint these nine states are pursuing litigation against Microsoft is because the plaintiff states in the big tobacco suit were able to make such a profit off of their lawsuit.

The settlement, is, I believe, a little too heavy-handed with Microsoft. Microsoft has done its best to wrap up the case as speedily as possible, and I believe that is in the best interest of all parties involved to settle. The terms agreed upon are sufficient to prevent further antitrust violations. For example, Microsoft has agreed not to enter into any contracts that would require a third party either to sell or distribute Microsoft products at a fixed percentage. The agreement also allows for a leveling of the playing field in the technology market. Microsoft's competitors, for instance, will be allowed to introduce their software into Windows, and Microsoft: has agreed to reformat the Windows operating system to this end.

I do not believe it is necessary for Microsoft to be held further accountable in the antitrust suit. No additional action needs to be pursued on the federal level. This has gone on for long enough, and, frankly, I think it's starting to do more harm than good. I urge you to support the settlement.

cc: Repres entative Chris Cannon

Sincerely,

Nathan Larsen

MTC-00030408

William Hunnicutt
7904 Briarwood Lane
Urbandale, IA 50322
515-7274854
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
January 25, 2002
Re: Microsoft Settlement

Dear Ms. Hesse:

Microsoft's competitors are guilty of tying up the courts with litigation based on unsubstantiated, personal vendettas. I am even more appalled, however, that there are State Attorneys General pushing the case, seemingly more eager to make a name for themselves than adhere to the rule of law. As a consumer, I see no benefit in the continuation of protracted litigation based upon the spurious public interest proffered by the remaining States. Indeed, not only have millions of tax dollars been wasted, this frivolous litigation has taken money out of our economy as investors hold their breath, watchful of government involvement in business.

The Department of Justice has settled the case, as have a handful of State Attorneys General. The stolid AGs remaining should follow their lead. A suitable settlement is on the table and there is nothing left to gain. I appeal to you to use your power to put an end to this prejudicial litigation so that the country, the economy, trod the Court can focus on the more substantive issues that face our nation today.

Sincerely,

William Hunnicutt

MTC-00030409

25 January, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
Suite 1200
601 D Street NW
Washington, DC 20530-0001

To whom it may concern:

Pursuant to the Tunney Act, I am writing to express my opposition to the Proposed Settlement in the: United States vs. Microsoft antitrust case. The Proposed Settlement places much-needed restrictions on Microsoft's licensing practices by preventing Microsoft from retaliating against OEMs who ship Personal Computers that include both a Windows Operating System Product and a non-Microsoft Operating System. However, the Settlement completely ignores a critically important class of licenses: End-User License Agreements (EULAs).

Microsoft uses EULAs as a lever against competing Operating Systems with the ability to run Microsoft Windows programs. For example, the Microsoft Windows Media Encoder 7.1 Software Development Kit (SDK) EULA states in part:

...You may install and use the SOFTWARE on a single computer to design, develop, and test your software application products that utilize Microsoft Windows Media technology (your "Application") for any version or edition of Microsof5 Windows 98, Microsoft Windows NT 4.0, Microsoft Windows 2000 operating system or any Microsoft operating system that is a successor to any of those operating systems (the "OS Platforms")...

Thus even if a competing Operating System has the technical ability to run Microsoft software, the user is prevented from doing so by the EULA because it is not a "sanctioned" Microsoft Operating System. Microsoft doesn't stop there, however. The same EULA prevents the software from even being distributed with an Open Source system:

...you shall not: distribute the REDISTRIBUTABLE COMPONENT in conjunction with any Publicly Available Software. "Publicly Available Software" means each of (i) any software that contains, or is derived in any manner (in whole or in part) from, any software that is distributed as free software, open source software (e.g. Linux) or similar licensing or distribution models; and (ii) any software that requires as a condition of use, modification and/or distribution of such software that other software distributed with such software (aa) be disclosed or distributed in source code form; (bb) be licensed for %he purpose of making derivative works; or (cc) be redistributable at no charge. Publicly Available Software includes, without limitation, software licensed or distributed under any of the: following licenses or distribution models, or licenses or distribution models similar to any of the following: GNU's General Public License (GPL) or Lesser/Library GPL (LGPL); The Artistic License (e.g., PERL); the Mozilla Public License; the Netscape Public License; the Sun Community Source License (SCSL); and the Sun Industry Standards License (SISL)...

Thus, through their EULAs Microsoft is able to effectively retard or even halt development of competing Open Source systems which might otherwise be competitors. However, they are still not satisfied with such restrictions. Microsoft goes further by placing limits on the end user's right to Free Speech. For example, the EULA included with Microsoft FrontPage 2002 (an application for creating web pages) states in part:

...You may not use the software in connection with any site that: disparages Microsoft, MSN, MSNBC, Expedia, or their products or services...

Thus, Microsoft is not content to simply squelch competition, they insist on squelching Free Speech as well.

The Proposed Settlement is a good start, but until it limits the restrictions Microsoft is permitted to place in their EULAs. the Settlement will be insufficient to curb their anticompetitive behavior.

Regards,

Tristan Fillmore

Redwood City, CA

MTC-00030410

Thomas D. Hogen
30074 Village Park Drive
Chapel Hill, NC 27517
(919) 967-5574
FAX (919) 967-1668
Email Thogen1535@aol.com
January 25, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I want to use this opportunity to convey my thoughts on the settlement between Microsoft and the Department of Justice. I believe the settlement is a good development for the economy and will end this unwarranted litigation. The settlement is strong and requires many concessions from Microsoft. And these concessions are backed by very strong enforcement measures. These measures include the creation of a Technical Committee to monitor Microsoft's actions. Also, any third party that believes Microsoft is not meeting their obligations can file a complaint with the Technical Committee, the Department of Justice, or any of the State plaintiffs that are party to the agreement.

Both sides in this dispute will benefit from this settlement. Microsoft can focus their attention on developing new technology that will make businesses more efficient. And the government will be able to focus on more urgent matters, such as stimulating the struggling economy and prosecuting our country's enemies.

Microsoft has been helpful to me in their supply of quality products.

Sincerely,

Thomas Hogen

MTC-00030411

DARRYL C. TOWNS
Assemblyman 54th District
Kings County
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(718) 235-5627
FAX (718) 235-5966
?? ALBANY OFFICE:
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FAX (518) 455-5591
THE ASSEMBLY STATE OF NEW YORK
ALBANY
January 23, 2002
CHAIR
Legislative Commission on Science and

Technology
CHAIR
Sub-Committee on Mass Transit
COMMITTEES
Banks
Children & Families
Health
Mental Health
Oversight, Analysis & Investigation
Transportation
Veterans Affairs
MEMBER
Black, Puerto Rican & Hispanic Legislative Caucus
Puerto Rican/Hispanic Task Force

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001

RE: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

It goes without saying that the settlement agreement between the U.S. Government and Microsoft comes at a critical time when our economy and nation most need reconciliation. Microsoft is a company that has long provided good products to consumer and businesses, and it provides opportunities for other software companies as well to develop programs for the Windows platform. The provisions of the settlement, worked out with one of the nation's top mediators, will be good for consumers, businesses, the tech sector and the economy as a whole.

I fully support the Department of Justice and the nine Attorneys General for their efforts to finally put an end to this case and agree to a settlement that is in our nation's best interest. I congratulate you on developing a strong but fair settlement.

Sincerely,
Darryl C. Towns
Member of Assembly

MTC–00030412

January 25, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I appreciate the chance to offer my comments on the Microsoft settlement. It is important to note that the settlement gives computer users a great deal of flexibility. To be able to remove or reinstate products like an Internet browser, tools for instant messaging and email is remarkable. This will make it much simpler for users to switch and compare with other products available in the marketplace. The technology industry, the economy and consumers are all better off with the speedy settlement of this case.

Sincerely yours,
Elizabeth G. Ludden

MTC–00030413

Louise Fontaine Ware
3222 Grove Avenue
Richmond, VA. 23221
January 25, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
Washington, DC 20530

Re: Microsoft antitrust suit

Dear Ms. Hesse:

Please accept my comments regarding the proposed settlement in the Microsoft antitrust suit. It is my understanding that the settlement imposes a broad series of restrictions and affirmative obligations on Microsoft, I have read that these restrictions and obligations extend to products and technologies that were not at issue in the lawsuit as welt as aspects of Microsoft's business and product development that were not found to be unlawful by the Court of Appeals.

Microsoft appears to be making more that a good-faith effort in order to conclude this case, I hope that the Department of Justice will agree with the proposed consent decree and allow this settlement

Sincerely,
Louise F. Ware

MTC–00030415

Herb Boome
506B Spring Lake Road
Ocala, FL 34472
January 25, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

After three long years of expensive court battles, Microsoft and the government have settled an antitrust suit that will permanently change the face of the computer industry. I think this will boost our economy, because it will free this innovative company to focus on what it does best. The agreement they came up with was the result of extensive negotiations with a court-appointed mediator. The company agreed to terms that extend well beyond the procedures and products that were actually at issue in the suit. For the sake of expediency—and a first in an antitrust settlement—Microsoft has even agreed to document and disclose, for use by its competitors, various interfaces that are internal to Windows" operating system products.

The Federal Government has many more important issues to tackle. It should allow the provisions of this settlement to fall into place.

This agreement notwithstanding, I do not see any reason for the government to sue Microsoft in the courts ever again.

Sincerely,
Herb Boome

MTC–00030416

Randy Hoffman 27633 SE 400th Way
Enumclaw, WA 98022
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The reason for this letter is to request that you make a good effort to ensure the settlement reached in the Microsoft antitrust case becomes a really.

Challengers and foes of Microsoft may pressure officials to delay this settlement in favor of continued litigation in this case. They arc working under the premise that the courts should punish Microsoft. I do not believe the courts should be used in this way.

Furthermore the settlement that is being offered is a good agreement. The settlement will allow easier placement of non-Microsoft products on Microsoft operating systems; including easier removal of Microsoft components. Additionally the settlement will permit computer makers to place non-Microsoft operating systems on computers with fewer restrictions, even if they also use Microsoft systems. Moreover the settlement creates a technical review committee that includes a full time government monitor to ensure all elements of the settlement are enforced. It is clear that this settlement should be implemented and this settlement is good.

Sincerely,
Randy Hoffman

MTC–00030417

MANAGED BENEFIT SERVICESINC
263 Summer Street
Boston, MA 02210
Tel: 617,946–B700
Fax: 617–946–8744
Diane P. Davis President
January 24, 2001

I am writre8 to have my thoughts on the proposed settlement between Microsoft and the United Sates Department of Justice entered into the record in accordance with the Tunny Act's requirement of public comment on such settlements.

I think the settlement plan is a good one, and one that reaches the necessary balance between antitrust enforcement and the need for as competitive a software market as the U.S, economy can have. Consumers benefit from a competitive market in ways that the kind of regulations previously argued in this case would nullify. Whereas a free and competitive market will drive down prices and hasten the pace of innovation, a heavily regulated market, or a software market including a carved-up Microsoft would slow the pace of innovation and allow companies to sit on their hands and let prices gradually rise.

Consumers deserve the best high tech market available to them. and the best high tech market is the one that innovates. The innovations of the last decade were primarily responsible for the creation of jobs, investment and wealth at rates never before witnessed in any economy anywhere, The success of the "New" Economy in the 1990s was not a boomlet, m my view, but a harbinger of things to come in the future, if the government will allow consumers and entrepreneurs to successfully guide the market toward higher levels of competition and innovation.

I hope my thoughts cart be entered into the record and also hope the court ?? fit to approve the seulement proposal. It is the heal way for the economy to start to put this recession behind it and begin to build for the future.

Sincerely,
Diane P. Davis

MTC-00030419

January 25, 2002
Renata Hesse, Trial Attorney VIA FACSIMILE
Antitrust Division,
Department of Justice
(202) 616-9937
601 D Street NW, Ste. 1200
Washington, DC 20530

Dear Ms. Hesse:

Each time I think about those Enron employees whose 401k retirement accounts have been obliterated to nothing, my heart goes out. In this day and age, all of us are counting on corporate stocks to provide for our years after we finish working. That is why I hope the courts will resolve this Microsoft case by approving of the settlement.

Hundreds of thousands of Americans are now going to work longer than they, originally planned because of the recent stock market crash. I believe the uncertainty this case against Microsoft causes in the market is very threatening to those of us who are using the market to finance our retirement. This case has too much significance with too many people to get caught up in insignificant issue. It is time to settle.

Sincerely,
Chris Ernst

MTC-00030420

P.O. Box 7322
Arlington, VA 22207-0322
(703) 598-4293—ofc
(413) 723-5038—fax
To: Renata B. Hesse
From: G. Andrew Duthie
Antitrust Division
U.S. Department of Justice
Fax: (202) 307-1454
Pages: 3
(202) 616-9937
Phone:
Date: 1/25/2002
Re: US v. Microsoft Settlement
cc:
Comments:
Attached is a letter from my company in support of the proposed settlement of the Microsoft antitrust lawsuit.
Graymad Enterprises, Inc.
P.O. Box 7322
Arlington, VA 22207-0322
January 25,2002
Renata B. Hesse
Antitrust Division,
U.S. Department of Justice
601D. Street NW. Suite1200
Washington, DC 20530-0001

To Whom It May Concern:

I am writing to express my support for the proposed settlement of the Department of Justice's antitrust suit against Microsoft Corporation, and my dismay at the actions of Microsoft's competitors in trying to derail this settlement. As a software developer, author, conference presenter, and small business owner, I have been working with Microsoft products for more than 5 years professionally, and for many more years in my personal life. I have also from time to time attempted to use products from Microsoft's competitors, including the Linux operating system, Sun Microsystems" Solaris operating system (for the Intel platform), and database software from Oracle. In every case, I have found these products to be manifestly inferior to those I have used from Microsoft.

What's more, despite the ongoing assertions on the part of Microsoft's detractors and competitors that their purported monopoly has crushed innovation and harmed consumers, I find that Microsoft's operating system products have improved more during the period during which they were found to have a monopoly than at any period prior. Microsoft's Windows XP operating system is more stable, more secure, easier to install, and compatible with more devices than any Microsoft operating system I have worked with prior, and is far superior to any other operating system I have used, regardless of vendor. All of this is to say that I do not believe that it is Microsoft's alleged monopoly that has held back its competitors. Rather, it is these competitors" inability (or unwillingness) to provide products and services that rival Microsoft's offerings in either value or quality.

Case in point of this is the Navigator browser, offered by Netscape Communications, now a division of AOL-Time-Warner, which recently filed suit against Microsoft in what appears to be an effort to derail the antitrust settlement through negative publicity. But Netscape did not lose the 'browser wars" because of anti-competitive conduct on Microsoft's part It lost because it failed to produce a superior, or even equal, product. I say this as one who has developed Web applications for both Internet and intranet use, and who has had to code around flaws in Navigators support for accepted Web standards, and flaws in the implementation of the JavaScript language for browser interactivity (which was introduced by Netscape). Since version 4.0, Microsoft's Internet Explorer browser has been superior to Navigator in performance, standards compliance, and features, and has consistently been reviewed as superior in trade magazines. This is why Netscape lost, not because of Microsoft's actions, which were certainly not unusual in a competitive market.

I am also disturbed by the continuing trend of supposedly independent entities, such as ProComp, and most recently, the American Antitrust Institute, attempting to influence the outcome of the antitrust case and the settlement, without fully disclosing that they are, in fact, wholly or partly funded by Microsoft's competitors. For example, from the ProComp Web site (http://www.procompetition.org/procomplindex.html):

Among the companies and trade associations supporting ProComp are: American Society of Travel Agents, Computer and Communications Industry Association, Corel, Netscape Communications Corporation, Oracle Corporation, Preview Travel, Software Information Industry Association, Sun Microsystems, Inc., The Air Transport Association, the SABRE Group, Sybase, and worldweb.net. A number of other companies and organization are also working with or supporting ProComp but do not choose to be publicly identified at this time. Corel, Netscape, Sun Microsystems, and Oracle Corp. are all direct technology competitors to Microsoft, while the American Society of Travel Agents and the SABRE group (which operates the Travelocity.com travel Web site) are competitors to Microsoft's Expedia travel Web site. That these competitors are weighing in via a supposedly independent third party should be viewed with some skepticism, in my opinion. The American Antitrust Institute, meanwhile, is funded by, among others, Oracle Corp.:

Funding for the AAI comes from corporations such as Oracle, as well as from trade associations, foundations, and law firms.

Source: http://www.antitrustinstitute.org/recent/82.cfm

The voices of these advocacy groups, funded by Microsoft's harshest competitors, should not be allowed to drown out the voices of satisfied consumers across America, who have made their satisfaction clear by voting for Microsoft again and again with their wallets, despite the longtime availability of such alternatives as Linux and FreeBSD (both free operating systems whose adherents claim they are technically superior to Windows), and the products of Apple Computer, including their newest iMac computer, which recently was given the cover of Time magazine. If a company that is able to get its products on the cover of a national magazine cannot win in the marketplace, it is not due to lack of consumer awareness. Rather, it is due to not offering consumers what they want. Apple, true to form, has priced its new machine higher than comparable Windows-based machines, counting on the "leading-edge" style of their machines to increase their popularity. Whether this is a smart strategy or not remains to be seen, but it is a decision that should be made in the marketplace, not in the courts, and not due to political lobbying by Microsoft's competitors.

I and other small businessmen like me, am able to contribute significantly to the health and ongoing growth of the American economy in large measure because of the many productive tools provided by Microsoft. The antitrust trial, and other legal maneuverings by Microsoft's competitors, however, can only impose unnecessary costs on businesses and consumers alike. I strongly urge you to complete the proposed settlement with Microsoft, and end the antitrust action against them with all haste. Doing so will benefit consumers and competitors alike be removing a significant drag on the information technology industry.

Respectfully,
G. Andrew Duthie
President, Graymad Enterprises, Inc.

MTC-00030421

Rich Jasper
7305 Soundview Drive, Unit #702
Gig Harbor, WA 98335
January 25, 2002
Attorney General John Ashcroft

US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I believe the antitrust settlement case between Microsoft and the U.S. government is fair and reasonable, and I agree with the terms.

Microsoft has agreed to remove technical and contractual barriers to computer makers or consumers shipping or installing competing operating systems, applications, and other software. In fact, Microsoft has gone well beyond the products and procedures covered in the actual suit itself. Clearly, they are being cooperative and doing what they can to resolve this matter.

In this context, continuing with litigation would not merely be damaging to the economy and the consumer, but also unfair. The settlement that has been developed was done so in good faith by both parties and now is the time to eliminate the cloud hanging over this situation and let Microsoft get on with their business.

I believe the settlement is in the best interest of the people, industry, and economy of our state of Washington. Let's get this behind us and move on with our lives.

Sincerely,
Rich Jasper

MTC-00030422

R.D. 4, Brown's Run Road
Wheeling, WV 26003
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530–0001
RE: Microsoft Settlement

Dear Attorney General Ashcroft:

We have had Microsoft Windows on both of our computers, as well as, our previous computers, and use the internet extensively; however, we have never used the Microsoft Internet Explorer product that was "maliciously" bundled with the Windows Program. We preferred to use our local internet service provider and Netscape.

We are writing to you today to express our opinion in regards to the antitrust case being settled with Microsoft. We feel that this has drawn on long enough, and we would be truly relieved to see this issue settled. We sincerely hope that there will be no further action against Microsoft, as settling with this company would be in the best interest of our economy, which certainly needs all the help it can get at this time.

We are happy with this settlement and believe it is fair. Thank you for your time and effort in reaching an agreement with Microsoft. Also, thank you for the great job you are doing for our country, during this time of crisis.

Sincerely,
Charles Monfradi
Dolores Monfradi

MTC-00030423

M. David Stirling
P.O. Box 1000
Walnut Grove, CA 95690
January 25, 2002
To: U.S. Department of Justice
From: M. David Stirling
Subject: Microsoft Settlement

This letter is submitted pursuant to the Tunney Act public comment provision.

I served as Chief Deputy Attorney General of the California Attorney General's Office between January 1991 and December, 1998. The Chief Deputy is the chief operating officer of the California Department of Justice and more than 4,500 employees. Within the Legal Divisions of the Attorney General's office, I, as Chief Deputy, provided overall general supervision and direction to the approximate 1,000 deputy attorneys general (lawyers), including the deputies in the Anti-trust Section and the Consumer Law Section of the Public Rights Division. From this experience, I am knowledgeable regarding the law of anti-trust and the law of unfair competition/business practices.

During my eight years as Chief Deputy, one of my primary concerns within the office was the consumer-activist, anti-business attitude of deputies in these sections, as well as their case filing motivations and litigation practices. Generally speaking, instead of working mine with amenable businesses to gain compliance with the laws, the attitude was to file suit immediately, and, using the vast resources of the state, leverage the defendant business into an eventual settlement at a higher dollar amount than perhaps the legal violation justified. While I attempted to reign in the use of this approach, my efforts were only partially successful due to its entrenched nature and the protections of civil service

My "second-in-command" position in the largest state attorney general's office in the country also gave me the opportunity to work with and observe elected state attorneys general, including how they regard their powerful roles, including how they prioritize the use of the legal resources of their offices. And while their general philosophy as reflected by their political party affiliation is a factor, in large, high-visibility cases, at least three other considerations play a more direct role in their litigation decisions. Indeed, in the case of the U.S. Justice Department's settlement of its anti-trust case with Microsoft, the decision by nine state attorneys general, including California's, to go forward with the anti-trust/unfair competition litigation against Microsoft is influenced by one or more of these other considerations. It is the position of this writer that none of these considerations constitute legitimate legal justification for their separately proceeding with the litigation.

First Consideration: Some of these nine elected state attorneys general are up for re-election in November, 2002. For those, there is much political visibility to be had, and spin to be made of a scrappy state attorney general not taking the easy road of settlement, but fighting the giant software company alone in court on behalf of higher state's residents. And if these nine state attorneys general prior to the November elections are able to settle their cases against Microsoft (mostly likely not having anything to do with the particular merits of their cases) for amounts larger Than what the Justice Department settlement provided, then the political mileage they will garner for carrying on the fight will be played to the hilt.

Second Consideration: Some of the nine state attorneys general have based in their states high technology companies that are not only competitors of Microsoft, but were the chief complainants against Microsoft in the Justice Department's anti-trust litigation. None of those competitors are satisfied with the federal Microsoft settlement, and each is pushing for their attorney general to go forward with the litigation against Microsoft. It could also be assumed that these companies have been, or have indicated their intention at a future time to be, political financial supporters of their state attorney general.

Third Consideration: Despite Judge Jackson's judicial finding that consumers were not harmed by Microsoft's marketing practices, the consumer-activists among the nine state attorneys general are driven by Microsoft's potential as an even bigger "cash cow" than the tobacco industry. In the mid-'90s, one state attorney general hired a local plaintiffs" lawyer on a contingency fee arrangement to sue the tobacco companies. The notion of the states hiring contingency-fee lawyers to simultaneously wage legal warfare against the giant tobacco industry, without incurring the legal expenses or risks of litigation, quickly lead to a nationwide alliance between the states" elected attorneys general and well-connected plaintiffs" lawyers. In December, 1998, this powerful alliance settled its multiple lawsuits against the tobacco industry for $246 billion over 25 years. For the 200 to 300 contingency-fee lawyers who teamed with the state attorneys general, the Hudson Institute's Michael Horowitz estimates they will share $500 million each and every year—probably in perpetuity. This powerful alliance between state attorneys general and their favorite members of the plaintiffs" bar still exists. It has been estimated that there are as many as 100 separate lawsuits against Microsoft filed by these lawyers in multiple jurisdictions around the country (for maximum leverage). These suits are not nearly as valuable, nor are there chances of establishing liability against Microsoft as great, under the Justice Department's settlement with Microsoft as they would be if these nine attorneys general are allowed to try to establish in court a greater degree of liability against Microsoft. Finally, those state attorneys general who have reputations as consumer-friendly and anti-business have reason to keep their state's plaintiffs" bar happy. The plaintiffs" bar is a major political funding source for those attorneys general. Consider how much of the enormous attorneys fees they received and will continue to receive from the tobacco settlement went to their favorite state attorneys general as political contributions.

All of the foregoing considerations undermine the nine state attorneys generals" given reasons for being allowed to litigate against Microsoft beyond the Justice Department-Microsoft settlement. As in California, when a "consumer-friendly, anti-business" attorney general gives the green light to activist attorneys in the Anti-trust and Consumer Law sections of his office, the question of the legal validity of his case and whether it is so compelling as to warrant continued litigation beyond the Justice

Department-Microsoft settlement becomes lost in the political agendas of the numerous players involved.

Thank you for your consideration.

M. David Stirling

MTC-00030424

FAX
TO Department of Justice
Fax: 1-202-307-1454 or 1-202-616-9937
FROM Daniel Jones
SUBJECT Proposed Microsoft settlement
DATE 25 January, 2002
PAGES 1 (including this header)

I would like to express my opposition to the proposed antitrust settlement with Microsoft. I work in the information technology area, and can see clearly the ways that Microsoft takes unfair advantage of it monopoly position. This behavior continues even as the proposed settlement is being considered.

The narrow terms of the proposed settlement may hinder some of Microsoft's practices. Personally I think even that doubtful, but for the sake of argument [illegible]. However the outlines of equally effective substitute strategies can already be seen.

For instance, using its operating system monopoly as leverage. Microsoft used bundling of software to destroy potential competitors. That might be hindered by the proposed settlement. (Though even that is doubtful given the ease with which cosmetic changes in version numbering or file naming might be used to circumvent restrictions.) Even so Microsoft is already employing a highly different strategy [illegible] to systematically subvert industry standards that might allow competitors a niche in which to develop. For instance, Microsoft has "extended" euphemism for [illegible] subverting) the Javascript language used for many websites. It has then bundled tools for developing websites that incorporate these extensions in such ways that only the Microsoft Internet Explorer can properly access them This sort of Trojan Horse strategy is not addressed at all by the proposed settlement.

In my opinion there are very few ways to address the undesirable effect of the Microsoft monopoly. One would be to require that Microsoft publish ALL operating system APIs down to the least significant [illegible] call. Such publication would have to be done sufficiently far in advance that any developers could incorporate them. They could also have to be fully public, not simply available to a select group of major developers. Very harsh penalties would have to be in place for violations. Even so, this approach would remain open to manipulation.

The other approach is the one originally decided upon by the courts. Microsoft should be broken into two or more completely separate companies.

Whatever the ideal solution. It is clear that the proposed judgement is almost completely toothless. It appears to be a political fig leaf to allow the Justice Department to walk away from its legal responsibilities. Hopefully the courts will have more integrity.

Daniel Jones

MTC-00030425

SWS Integration, LLC
IT Integration, Management and Technical Support
January 23, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing to offer my support for the recent settlement between Microsoft and the Department of Justice. As a small business owner of a technology company, this has been a very important topic for me. Even though the anticipated impact upon my company would have primarily been limited to higher prices for Microsoft products, It is far better to have this lawsuit and all the bad publicity that it generated behind us.

I am not acquainted with all of the details of the settlement, but what I have heard is certainly good in that It will cause Microsoft to handle Its relations with computer makers and others to be improved with greater flexibility. This Is good for consumers as well as for IT customers that Microsoft serves, including small businesses like ours that depend on new Industry innovations. The provision that forces Microsoft to share more of its source code with software developers concerns me, but since Microsoft has agreed to that provision as well I see no reason to think that the company will not be able to adequately control the integrity of its own product.

I am supportive of the agreement, in that It is better to have this lawsuit resolved. I am hoping that no further action will be necessary, in that consumer confidence in the computer industry needs time to rebuild.

Sincerely,
Tina Filla
CTO
1840 130th Ave, NE, Suite One,
Bellevue, WA 98005
Tel: 425-881-3332
Fax: 425-869-6114

MTC-00030426

Thomas C. Morton
20 Harleston Green
Hilton Head Island, SC 29928
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this letter is to express my support of the Microsoft settlement. After three years of litigation, I feel it is time that this issue is finalized. I strongly dispute the merits of this case, yet I believe the settlement of this case is in the publics" best interest. I urge the Justice Department to enact the settlement with haste.

Further Microsoft has given up much under the terms of the settlement in the hopes of finding a resolution. Microsoft has agreed to relax relations with software developers so that developers will now be able to enter into multiple contracts with competing employers. Developers will also have access to the Windows design interfaces. This will allow developers to create software that is increasingly compatible with Windows.

Obviously Microsoft has done their part to resolve this dispute. I would hope that the Justice Department recognizes the importance of enacting this settlement.

Sincerely,
Thomas C. Morton
cc: Senator Strom Thurmond

MTC-00030427

Attorney General of New Mexico
P.O. DRAWER 1508
SANTA FE, NM 87504
(505) 827-6000
FRONT OFFICE FACSIMILE
(505) 827-5826
PATRICIA A. MADRID
Attorney General
STUART M. BLUESTONE
Deputy Attorney General
TO: Renata Hesse: Anti-Trust Division
DATE: 01/25/2002
FAX: (202) 307-1454
FROM: Attorney General Patricia A. Madrid
PHONE: (50.5) 827-6000
TOTAL NUMBER OF PAGES INCLUDING THIS PAGE: 2
MESSAGE:
PO Drawer 1508
Santa Fe, New Mexico 87504-1508
505/827-6000
505/$27-5S26 Fax
PATRICIA A. MADRID
Attorney General
January 25, 2002
Attorney General of New Mexico
STUART M. BLUESTONE
Deputy Attorney General
Renata Hesse
Antitrust Division
US Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001
Re: Proposed Settlement with Microsoft

Dear Ms. Hesse:

As Attorney Genera of New Mexico, I determined shortly after the decision by the U.S. Court of Appeals for the District of Columbia that the Microsoft antitrust lawsuit should not be litigated any further and was ripe for a speedy resolution. I believed that the litigating states" continued pursuit of a structural remedy was no longer appropriate. Accordingly, in July 2001, I was the first to enter into a separate settlement agreement with Microsoft for the State of New Mexico. It was my hope that this decision to settle would open the way for the remaining litigating states to pursue their own acceptable settlement terms.

I am glad to see that hope finally realized. I have been of the firm belief that k was time to settle this case and to move forward. I believe the current settlement pending between Microsoft and the Department of Justice and nine of the remaining litigating states imposes appropriate conduct sanctions, while not unduly inhibiting Microsoft's ability to innovate and market its products. I believe that the best interests of consumers, the computer industry, and the national economy will be served by bringing this lawsuit to this agreed-to conclusion.

Sincerely
PATRICIA A. MADRID

ATTORNEY GENERAL
PO Drawer 1508
Santa Fe. New Mexico 87504–1508
505/827–6000
Fax 505/827–5826

MTC–00030428

11501 Steele Creek Drive
Ch??rl??ne, NC 29273
facsimile transmittal
To: Attorney General John Ashcroft:
Fax: 1–202–307–1454
From: Ronald E. Hostetler
Date: 01/25/02
Re: Microsoft Settlement
Pages: 2
CC: Strom Thurmond
FAX: 202 224–1300
972 Eagle Drive
Rock Hill, SC 29732–9007
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

For more than three years now, the unfortunate Microsoft lawsuit has occupied the attention of the entire software industry. The resulting uncertainty about the future of the technology sector has discouraged hightech investment and damaged the economy. Fortunately, your department and Microsoft have recently agreed on a settlement.

Under its terms, Microsoft must now disclose important proprietary information regarding its Windows product to competitors. Microsoft must also function under the permanent scrutiny of a three-person technical committee. These two parts of the settlement should be enough to show that Microsoft is willing to do whatever it takes in order for the federal government to get out of the Microsoft's private business dealings.

Those who wish to see the lawsuit continue past the stipulated period of public comment are more concerned with how to take more of Microsoft's money than they are for the public interest in the case. Ending the suit now is imperative to the future of Microsoft and for the good of the IT industry. We urge you to do all you can in seeing the currently proposed settlement formalized as soon as possible.

Sincerely,
Ronald & Carol Hostetler
cc: Senator Strom Thurmond

MTC–00030429

Ray and Barbara Merritt
37082 S.
Rock Crest Drive,
SaddleBrooke Resort,
Tucson, Arizona 85739
<>(S20) 818–0130
<>Fox (520) 818–0129
<>E-Mail ExKodaker@AOL.COM<>
Bate: January 25, 2002
To: U.S. Attorney General John Ashcroft
Fax #: 1 202 307–1454 or 1 202 616–9937
Total # of pages including cover sheet: 2
From: Raymond & Barbara Merritt
Subject: Microsoft settlement.
Raymond & Barbara Merritt
37082, S. Rock Crest Drive
SaddleBrooke Resort
Tucson, AZ 85739–1176
January 16, 2002
Attorney General John Ashcroft
U.S. Justice Department
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

This is a short note with tall intention. After almost four years of litigation, negotiation, controversy and self-serving political posturing, would you and the Administration please see you're way clear to settling the Microsoft case?

This case is ripe for settlement. The main parties have reached an agreement. The court supports it. The settlement addresses the salient complaints and concerns of ALL the parties. There is no justifiable reason to prolong this process.

The proposed settlement will essentially require Microsoft to refrain from any future trust-like activities. The company will be required to reconfigure its Windows systems so as to readily accommodate other company's software. It will have retool its product licensing practices to the benefit of the major computer manufacturers. It will in a nutshell have to open itself up to competition. These concessions and others more than justify the government's blessing and support of the settlement.

For the sake of our economy and the future of the IT industry a settlement is appropriate and needed now.

Sincerely,
Raymond Merritt
Barbara Merritt

MTC–00030433

GOD FIRST MENTALITY INCORPORATED
P.O. BOX 444
ALBION, MI 49224
Phone (517) 629–5227
Fax (517) 629–5227*51
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052–6399
ATTN: William Neukom

On December 2, 1998, I faxed you a letter. It refers to the micro-processing of privacy invasion. This involves a tort system. It is a wrongful act, not including a breach of contract or trust, that results in injury to another person, property, reputation, or the like, and for which the injured party in entitled to compensation. The dishonest computer hackers need to be prosecuted. Privacy invasion is a violation of the U.S. constitution. I believe its'' in Microsofts'' best interest to compensate for damages suffered. Microsoft can participate in acknowledging the relentless pursuit of injury to our central nervous systems. I will be informing the Inspector General at the U.S. Justice Department.

I have been online for nearly 1900 consecutive days, around the clock.

Environmental Defense Fund in Washington DC has offered to support me.

My case is about how word processors are converting electrical pulses into sound that is compressed and decompressed into digital code. It refers to software that has not been processed into voice recognition. Microsoft has not acknowledged this either. These interfaces have me a centralized PC within a Public Switched Telephone Network. I need these signals or pulses converted into modulation transmitted above the threshold. This will help me regain my privacy. Considering all the devastation, I will settle for a 1 billion dollar settlement. I will consider any, out court, counter offer. Please, have someone contact me by mail, phone call or fax at your earliest convenience.

YOURS IN CHRIST
gfm inc.

MTC–00030441

Thomas D. Hogen
30074 Village Park Drive
Chapel Hill, NC 27517
(919) 967–5574
FAX (919) 967–1668
Email Thogen1535@aol.com
January 25, 2002
Attorney General John Ashcroft US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I want to use this opportunity to convey my thoughts on the settlement between Microsoft and the Department of Justice. I believe the settlement is a good development for the economy and will end this unwarranted litigation.

The settlement is strong and requires many concessions from Microsoft. And these concessions are backed by very strong enforcement measures. These measures include the creation of a Technical Committee to monitor Microsoft's actions. Also, any third party that believes Microsoft is not meeting their obligations can file a complaint with the Technical Committee, the Department of Justice, or any of the State plaintiffs that are party to the agreement.

Both sides in this dispute will benefit from this settlement. Microsoft can focus their attention on developing new technology that will make businesses more efficient. And the government will be able to focus on more urgent matters, such as stimulating the struggling economy and prosecuting our country's enemies.

Microsoft has been helpful to me in their supply of quality products.

Sincerely,
Thomas Hogen

MTC–00030442

DEPT. OF JUSTiCE
MS. RENATA B HESSE
STOP SPENdinG OUR TAX MONEY ANd ENd
THE MiCROSOFT FiGHT.
GET ON WiTH MATTERS Which CONGERN
SEPT ??!
F.E. WEHNER
8510 WiMBoRNE WAY
LooiSViLLE KY 40222

MTC–00030443

FAX
Date: Friday, January 25, 2002
Time: 7:55:00 PM
To: U.S.Attorney General John Ashcroft
From: Ronald J. Markham
Fax: 307–1454
Fax: 860,349,3816

Voice: Voice: 860,349,3816
Comments:
The Honorable Attorney General John Ashcroft
27 Dunn Hill Road
Durham, CT 06422
Washington DC
Jan. 25, 2002
Dear Attorney General,
re: Microsoft Settlement

Please count me in the opposed column to the pending suit against the Microsoft Corporation. Night after night I see on television or read in the newspapers adds for cars and trucks, appliances, and other products hawking giveaways if you will just buy this or that product. I see no difference in the marketing of many other corporations than the marketing of Microsoft. Is not the idea of building a better mousetrap or marketing a better mousetrap the "American Way"? I am an ordinary citizen with no axe to grind, but I find it very distasteful to waste tax dollars on such a silly exercise. Microsoft has improved our way of life in so many ways by pursuing this legal action leaves me saddened and frustrated. Please Attorney General Ashcroft, stop this waste of manpower arid tax dollars and redirect the governments legal efforts to meaningful pursuits.

Very truly yours,
Ronald J. Markham

MTC-00030444

Brent Smith
12025 Gold Pointe Lane
Gold River, CA 95670
January 21, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Sir:

Given this open comment period, I am writing to give you my thoughts on the Microsoft settlement. I have been following this case for some time and am familiar with the issues involved. This compromise between the DOJ and Microsoft is long past due and accepting it now is a necessary action to help revitalize our computer industry.

I am self-employed and use Microsoft software to help run my business. Their company is responsible for building up our existing computer industry. They've provided consumers with superior products but now are being punished for that.

In a move toward the future, Microsoft is limiting its own competitiveness so that the lawsuit might end. They are sharing an unprecedented amount of their intellectual property with their competitors arid have agreed to tone down their often-aggressive marketing practices. This settlement is more than fair to Microsoft's rivals and is clearly in the public interest. Please make the necessary decision to end this lawsuit as so on as possible. Our struggling economy can afford no less.

Sincerely,
Brent Smith

MTC-00030445

m & ?? Construction, Inc.
DRYWALL CONTRACTOR
320 E. WASHINGTON STREET
YORKVILLE, ILLINOIS 60560
(630) 553-0508
January 25, 2002
Renata B. Hesse
US Dept of Justice
Fax # 1-202-307-1454

To whom it may concern:

I am writing to express my views on the Microsoft antitrust case. If you are pursuing this case in the consumers best interest, please stop! The wonderful economist, Ludwig von Mises, wrote that the greatest democracy ever invented is the free market system. Everyone is constantly voting, with every dollar they spend, for what they want and what they, can do without Consumers have full power and authority to deal with supposed evil monopolists like Bill Gates.

They do this by either freely spending their dollars on his products, or deciding to do without (even boycott) Microsoft products. The most appropriate use of the US Dept of Justices" time would be to fight terrorism and leave the American consumers to deal with legitimate businessmen in the most effective way possible; the free market system.

Sincerely,
Mike McCurdy (President)

MTC-00030447

COVER SHEET
TO:
FAX NO:
FROM: B. Kehayes
DATE:
FAX NO: 252-482-8521
COMMENTS:
NO. OF SHEETS INCLUDING COVER:
P.O. Box 733
Edenton, NC 27932
January 24, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, N. W
Washington, D C 20530
Dear Mr. Ashcroft:

I writing to urge you to support the recent settlement created between the government and Microsoft. This prolonged period of court battles has sapped energy that could be better put into moving ahead in our economy.

This agreement allows manufacturers to compete on a more even footing while not penalizing Microsoft too greatly for their part in the vast technological revolution that has made life better for all Americans.

America has been a country of innovation and we need companies that can afford to and will spend money and time to bring new products to market. Microsoft has done this in the past and is eager to continue doing so if they are not unduly constrained. Our economy is sadly strained; our young people are out of work. Please do what you can to settle this issue and let us all get back to pulling ahead.

Thank you.
Sincerely,
Barbara Kehayes

MTC-00030448

Department of Justice
Subject: Microsoft Settlement

I believe it is time for the DOJ to terminate the proceedings against Microsoft. There never should have been a lawsuit. There has never been a shred of evidence that Microsoft has harmed the consumers. If anything Microsoft has been a tremendous force for uniting and standardizing the PC industry. No other company has stepped forward to do this. Microsoft has virtually no competition because no one else had the vision, foresight and nerve to invest and drive to develop an operating system that would make the PC the vital, universal tool that it is today. The companies that cannot compete have stooped to lawsuits through the government as the only way they can damage an industry leader. It only looks like sour grapes to me.

The US government should be giving Microsoft at-a-boys for being the driving force behind the most useful tool of the present generation and maybe of the 20th century. It is past time to stop harassing Microsoft. so they can get back to being the world leader in developing easy to use operating systems and other software which will keep the US in the forefront of this industry.

Sincerely,
Bob Maupin
PO Box 1030
Frankston, TX 75763

MTC-00030449

1103 East 1500 Road
Lawrence, KS 66046
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

This is to give my approval to the agreement between the Department of Justice and Microsoft. I think the whole lawsuit has ruined the country. Microsoft was one of the major engines of our economy, producing not only a quality product, but providing thousands of jobs. This lawsuit was more the result of sour grapes on the part of Microsoft's rivals than any unethical business practices.

Microsoft has more than tried to meet the demands of the Department of Justice. Microsoft has agreed to help companies better achieve a greater degree of reliability with regard to their networking software; Microsoft has agreed to grant computer makers broad new rights to configure Windows to promote non-Microsoft software programs that compete with programs included within Windows.

This is more than fair. Give your support to Microsoft.

Sincerely,
Nancy Hardman

MTC-00030451

FAX
ATTN. AG John Ashcroft
Fax Number 1-202-307-1454
Phone Number
FROM Keith D. Wheeler
Fax Number 480-759-6841
Phone Number 480-759-8823
SUBJECT
Number of Pages 2
Date 1/25/02
MESSAGE
KEITH D. WHEELER

2549 E. Mountain Sky Ave
Phoenix, AZ 85048
Fax 480–759–6841
Home Phone 480–759–8823
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: ,

I am writing to say that the lawsuit against Microsoft has gone on now for entirely too long. I am a proponet of a free market economy and this lawsuit seems to do everything to undermine the underlying reason to be innovative. How can our government go after a company that has created jobs, generated wealth, and made technolgical breakthroughs? The case was flawed from the beginning.

The terms of the settlement show this in that they do little to protect consumer rights. The settlement forces Microsoft to disclose interfaces internal to the Windows operating system products and also prohibits them from entering into agreements that obligate third parties from exclusively distributing Microsoft products. These concessions reflect the intense lobbying efforts of competitors.

I believe it is in the publics best interests to have this case sealed. Our economy cannot afford further litigation and that is why I am appalled at the nine states holding out. Please implement the settlement as soon as possible and suppress any state opposition. Thank you.

Sincerely,
Keith D. Wheeler
cc: Representative Jeff Flake

MTC-00030452

18 Janock Road
Milford, MA 01757
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a concerned citizen, I write you to discuss the recent developments of the Microsoft settlement. After three years of negotiations, it is time to support this agreement and get our technology industry back to business. I urge you to help support this agreement and help to assure that no more actions be taken against it.

Microsoft has agreed to make many alterations including changes in licensing and marketing. Along with this, Microsoft has agreed to not enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively. Also, all of these concessions will be monitored to make sure that Microsoft is following procedure. The many concessions that Microsoft has made are bold statements toward a unified IT sector. Microsoft is obviously working hard to let our technology industry work together. By doing this, we can secure our place in this highly competitive global market.

Let's work together to support our technology industry and get everyone back to business. I thank you for your support.

Sincerely,
Mary Bruno

MTC-00030453

Fax Transmission
From: Steven Waldman
44 Stridesham Ct
Baltimore MD 21209
tel (410) 336–1408
swaldman@mchange.com
To: Renata B. Hesse
Antitrust Division
US Department of Justice
fax (202) 307–1454 or (202) 616–9937
Re: Microsoft Settlement
Length: 8 Pages Including This Page
Notes:

The attached Tunney Act comments have been submitted by fax (26-January-2002), as an e-mailed PDF document (26-January-2002), and by a commercial overnight carrier (delivery a.m., 28-January-2002). I apologize for the multiple modes of submission, but it is important that these comments be verifiably received by the morning of January 28. I would be very grateful if the Department could provide an acknowledgement of on-deadline receipt of these comments, perhaps by e-mail. Many thanks for your attention and assistance.

Steven Waldman
44 Stridesham Ct
Baltimore, MD 21209
(410) 336–1408
swaldman@mchange.com
January 26, 2002
US Department of Justice
Antitrust Division
601 D Street NW
Suite 1200
Washington DC 20530
Attn: Renata Hesse
Re: Comments regarding Proposed Final Judgement United States v. Microsoft Corporation Civil Action No. 98–1232

Thank you for the opportunity to comment upon the US v. Microsoft Proposed Final Judgement, published in the **Federal Register** on November 28, 2001.

The Proposed Final Judgement as written is not in the public interest. I urge the Department to pursue remedies substantially different from those proposed, whether via further negotiations with Microsoft, or through adversarial proceedings. If the settlement is presented to the District Court without substantial modification, I would urge Judge Kollar-Kotelly make a determination under the Tunney Act that the Proposed Final Judgement would not serve the public interest.

The Proposed Final Judgement Would Do Positive Harm

It may seem odd to suggest that an antitrust remedy could be positively harmful. After all, regardless of the remedy, a convicted monopolist cannot leave an antitrust proceeding with more rights than it had when it arrived, and usually leaves with fewer. However, a poor remedy can indeed leave the public in a situation worse than the status quo ante. The current Proposed Final Judgement does so, in two ways. First, the PFJ describes, permits, and envisions specific future conduct on the part of Microsoft that would itself be anticompetitive. By providing implicit government endorsement for this conduct, the PFJ would make it difficult for the Department, the States, or private third parties to bring proceedings against Microsoft to curb it at a later date. Second, the PFJ contains enforcement provisions whose primary practical effect would be to delay and reduce the likelihood of further action should the company continue to behave unlawfully.

In other words, while the Proposed Final Judgement does place Microsoft under some new constraints, it places the DOJ and other potential litigants under even greater constraint. The net effect would be a diminishment rather than an increase in deterrence of Microsoft's anticompetitive behavior.

PEJ Explicitly Permits Continued Anticompetitive Practices

The purpose of the Proposed Final Judgement is to remedy Microsoft's unlawful conduct, specifically its unlawful maintenance of a monopoly in Intel-compatible PC operating systems. The reasoning behind the Court of Appeals upholding of the monopoly maintenance claim centered on the idea that there is an "applications barrier to entry" to operating systems markets, but that this barrier to entry could plausibly be chipped away at by a class of applications referred to as "middleware". The Court held that Microsoft engaged in various practices to "protect[] Microsoft's monopoly from the competition that middleware might otherwise present", in violation of Section 2 of the Sherman Act. It is these practices that must be remedied. In particular, the Court held that by virtue of restrictive contracts with computer manufacturers ("OEMs"), internet providers ("IAPs"), software companies ("ISVs") and by other means, Microsoft impeded the widespread distribution of middleware that might have threatened its monopoly.

Section III.C.3 of the Proposed Final Judgement forces Microsoft to allow OEMs to automatically launch non-Microsoft middleware at the end of a PCs boot sequence, but only "if a Microsoft Middleware Product that provides similar functionality would otherwise be launched automatically at that time". By this caveat, the PFJ endorses a restriction in an OEM licensing agreement that would otherwise constitute a violation of Section 2 of the Sherman Act under the Court of Appeals" reasoning. The caveat is anticompetitive on two counts. First, it permits Microsoft to "choose its battles": Microsoft need only face challenges from automatically launched middleware where the company feels its own offerings have an advantage. Should a competitor create an innovative middleware product that would threaten Microsoft's applications barrier to entry, Microsoft can prevent its distribution as a default running service indefinitely, by simply not fielding an offering of its own or by quietly integrating but not trademarking its offering (see the definition of a "Microsoft Middleware Product", PFJ, Section VI.K.2.b.iii).

Secondly, the caveat necessarily permits competing middleware only if OEMs include Microsoft's offering as well, since by definition (again, PFJ, Section VI.K.2) a Microsoft Middleware Product is a part of a

Windows Operating System Product. The Appeals Court noted several reasons why OEMs are reluctant to include two products of the similar functionality in a default installation, including customer confusion; increased support and testing costs; and that it is a "questionable use of the scarce and valuable space on a PCs hard drive." (the Appeals Court quoting the District Court's Findings of Fact) These considerations are cited by the Court in holding unlawful and exclusionary OEM contracts that forced a choice of including Microsoft middleware alone or Microsoft middleware plus a similar competitor. Additionally, even when competitive middleware is preinstalled alongside Microsoft's offering, "network effects" would put any one of several non-ubiquitous occasionally installed competitors at a serious disadvantage with respect to offering by Microsoft, even if inferior, that is guaranteed to be present on all installations. Should Microsoft force an "ours or both" decision with respect to competing middleware as a condition of OEM Windows licensing, it would most certainly be anticompetitive. However, it would also be explicitly sanctioned by the Proposed Final Judgement, and therefore difficult for the government or a third party to oppose. [1]

To the degree that Section III.C might have any effect in allowing OEMs to integrate third party middleware with a Microsoft OS, Section III.H.3 largely eviscerates the hazard to the monopolist by foreseeing a mechanism by which the company's operating systems could ask end-users to confirm an alteration or undoing of OEM additions to the OS fourteen days after the consumer first turns on a PC. For example, under this section, an operating system would be permitted to present a dialog box stating, "Windows has detected that this configuration has been modified from Microsoft-recommended defaults. This may lead to incompatibilities or system faults. [Correct Now?] [Cancel]" Clicking "Correct Now?" would replace OEM-installed non-Microsoft middleware with Microsoft's offering. If faced with the question, a court might determine that such a presentation (which Microsoft's competitors would be unable to make) would constitute unlawful monopoly maintenance by Microsoft. But it would be difficult for the government or for a private litigator to make that case in the face of a Final Judgement that clearly endorses the conduct.

The problems thus far mentioned are not unique. The Proposed Final Judgement is riddled with "loopholes" that not only make it a weak remedy, but that foresee and allow specific behavior by Microsoft that in the absence the Final Judgement would be actionable. By complicating potential future public or private antitrust enforcement against Microsoft, the Proposed Final Judgement would encourage misconduct and do positive harm to competition in the software industry.

PFJ Specifically Discriminates Against "Open Source" Competition

Over the past several years, a novel approach to software development known as "open source" has risen to prominence. Under the "open source" development model, many widely dispersed individuals, businesses, and other entities collaborate in the production of complex software products, contributing to what over time has become a rich commons of collectively authored software. "Open source" software is made available free of charge, under licenses that permit widespread redistribution and modification by users, sometimes with the restriction that any derived works must be made available to the public under the same terms. The business model that supports the continued development of open source software remains to be fully understood. The licensing terms of open source software prevent the exploitation by authors of any limited monopoly that would enable them to profitably "sell" software as traditional software vendors, such as Microsoft, have done. Nevertheless, a wide variety of actors including individual hobbyists, multinational companies, public and private universities, governments, and nongovernmental organizations have found sufficient incentive to invest substantial amounts of time and money into the production of open source software.

In the face of Microsoft's successful and unlawful monopoly maintenance, very few traditional software vendors still stand as competitors in the company's core market of Intel-compatible PC operating systems. Behemoths like IBM and scrappy upstarts like Be, Inc. have battled to gain a fingerhold, but failed to make any headway at all, and their products (IBM's OS/2, Be's BeOS) have all but faded from the computing landscape. The only non-Microsoft operating system that has managed to grow its share dramatically despite Microsoft's well-established pattern of anticompetitive behavior is the open source operating system Linux. Other open source projects that have competed effectively with Microsoft include Samba (which provides Windows interoperable file and print services to computer networks) and Apache (the most popular web server on the Internet).

It appears that the open source development model is somewhat resistant to the sort of anticompetitive behavior that has been effective for Microsoft in the past. One might even argue that the explosion of open source soil. ware over the past few years is a response by businesses, developers, and users to an artificially straitened "traditional" software landscape, and is perhaps attributable at least in part to Microsoft's anticompetitive behavior. As traditional vendors have receded from whole categories of software under the self-fulfilling truism that competing with Microsoft is akin to suicide, many entities have for one reason or another decided that the cost of contributing a small portion to the development of alternatives is less than the direct costs (continual licensing fees) and indirect costs (the failings of software not adequately tailored to their needs; uncertainty and future costs created by vendor lock-in) associated with relying on Microsoft products.

Regardless of the whys, open source software now stands as one of the few sources of effective competition against Microsoft. Indeed, while many of the battles that prompted the Justice Department's action against Microsoft are now past and prologue (e.g. the "browser wars" between Netscape and Microsoft), the struggles between open source Linux and Windows in the server space and between open source Apache and Microsoft's IIS remains, among many others, remain active and fierce. [2] Any remedy to Microsoft's anticompetitive behavior that diminishes the likelihood that open source projects can effectively interoperate with and compete against Microsoft's offerings would harm competition in the software industry. Unfortunately, the Proposed Final Judgement in several places explicitly permits Microsoft to discriminate against open source competitors.

Importantly for open source developers, Sections III.D and III.E of the Proposed Final Judgement would obligate Microsoft to disclose APIs, communication protocols, and documentation that might be required to interoperate with a Windows Operating System product. However, the caveats of Sections III.I and III.J restrict these earlier sections, and would allow Microsoft to essentially exclude open source competitors from access to or the use of this information. For the disclosure requirements of Sections III.D and III.E to have any effect, competitors must be able to use the information disclosed to develop and distribute competing and/or interoperating products. However, Section III.I foresees a regime under which the disclosed information must be licensed, as it continues to be the proprietary, intellectual property of Microsoft. Section III.I guarantees "reasonable and non-discriminatory terms" for such licensing, based on the payment of "royalties or other payment of monetary consideration". However, "reasonable and non-discriminatory" commercial terms inherently discriminate against open source software, which by virtue of its licensing must be freely distributable and modifiable.

Under ordinary circumstances, a company certainly should have the right to offer use of its proprietary technology only under commercial license, and this would legitimately prevent those who might wish to distribute open source applications based on that technology from doing so. But in the case of a company that has a monopoly over a substantial portion of the computing world and that has maintained that monopoly through unlawful anticompetitive conduct, allowing it to require competitors to pay even "reasonable" licensing fees in order to interoperate with its monopoly product provides the monopolist with unjustifiable reward for its misbehavior, in Microsoft's case, permitting such licensing is particularly insidious, because even if it were to provide licensing of its putative IP on absurdly generous terms, for example if it were to levy a royalty of 1¢ per thousand copies, it would immediately exclude what in the present real world are currently its most tenacious competitors from any possibility of interoperating with its software. By permitting "reasonable and non-discriminatory" commercial licensing of technologies the use of which is required in order to compete against and interoperate with Microsoft technologies, the Proposed Final Judgement condones and foresees a practice that would exclude and discriminate against important open source competitors.

Section III.J restricts the scope of the PFJ disclosure requirements where security technologies ("anti-piracy, antivirus, software licensing, digital rights management, [and] encryption or authentication systems") are concerned. Unfortunately, in today's networked world, no software is untouched by security concerns, and any non-trivial internet application must make use of and interoperate with encryption and authentication systems. Further, non-disclosure of security-critical techniques and protocols is unnecessary: the professional computer security community is nearly unanimous in its disavowal of the notion of "security through obscurity". A well-designed system should be secure even in the face of an attacker who fully understands the algorithms and protocols used to enforce the security. This is not as difficult as it sounds: the academic literature is filled with encryption algorithms and protocols that have never been broken despite massive peer-review, and even some that are "provably secure". Historically, non-disclosure of security techniques in software has more often served to provide cover for shoddy work than to even arguably enhance security. "Security by trade secret" is invariably broken, because, invariably, secret techniques are not subjected to sufficient peer review, and weak secret techniques can be reverse-engineered and then compromised. (See the recent history of CSS, a once-secret, easily broken, scheme for protecting DVDs, for a topical case-in-point.) Microsoft has a particularly poor security record, with respect to both the inadequate security of its products, and its attempts to restrict disclosure in hopes of covering up embarrassing lapses.

Open source software, in general, has a much better reputation for security, owing in large part to the fact that security algorithms in open source software are necessarily published, and are therefore subject to widespread review. Thus it is ironic that Section III.J.2 of the Proposed Final Judgement explicitly allows Microsoft to condition disclosure of security-sensitive technologies to those who "meet[] reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business". Since most open source software projects are not developed or "owned" by any one business, and since the terms of open source licensing often require disclosure of source code, III.J.2 effectively excludes open source software from any access to protocols, APIs, and other information that might be required to interoperate with or compete against Microsoft products that include a security component. Any significant application now must have security designed into it, so Section III.J.2 could be used to effectively lock open source competitors out of the disclosure requirements of the Proposed Final Judgement. It would be difficult to oppose Microsoft in court for discriminating against its troublesome open source competitors when the discrimination is based on the language of a court-sanctioned Final Judgement.

PFJ "Enforcement Mechanisms" Would Hinder Effective Enforcement

The following portions of the Proposed Final Judgement would hinder effective enforcement of the agreement:

. Section IV.B provides for the appointment of a Technical Committee to "assist in enforcement and compliance" with the PFJ. The constitution and role of the "TC" is described in detail. The Technical Committee would oversee Microsoft's compliance with the agreement in an ongoing way, and would respond to complaints from the plaintiffs or third parties. However, the Technical Committee has no power other than to assist in Voluntary Dispute Resolution, and, according to Section IV.D.4.d, "No work product, findings, or recommendation by the TC may be admitted in any enforcement proceeding before the Court for any purpose, and no member of the TC shall testify by deposition, in court or before any other tribunal regarding any matter related to this Final Judgement."

. Section IV.A.1 requires that "the plaintiff States shall form a committee to coordinate their enforcement of this Final Judgement. A plaintiff State shall take no action to enforce this Final Judgement without first consulting with the United States and the plaintiff States" enforcement committee."

. Section VIII explicitly excludes third parties from taking any role in the enforcement of the Proposed Final Judgement.

Let us be perfectly clear: At the end of the day, the Proposed Final Judgement provides the United States and each of the plaintiff States with a right to sue to enforce its terms. But let's also be honest: the choice by a State of whether or when to enter into complex antitrust litigation against a well-known and well-heeled opponent is politically fraught under the best of circumstances. Under the terms of the PFJ, an unsatisfied plaintiff would be faced with two bad options: 1) the plaintiff can expend resources on a dispute resolution mechanism (the "TC") that the PFJ endorses, but that has no power, cannot be used at all as a basis for further proceedings, and will have no effect unless an amicable resolution is reached; or 2) eschew the dispute resolution mechanism endorsed by the settlement, thereby facing accusations of burdening Court resources unnecessarily, as well as a politically treacherous "consulting" process that would predictably lead to accusations of judicial overzealousness by reluctant former co-plaintiffs. A reasonable non-judicial enforcement mechanism would serve as a basis for judicial enforcement if required. Instead, the PFJ creates a "middle path to nowhere", that increases the political difficulty of undertaking any binding action against the company Under the PFJ, the real-world probability that misbehavior on Microsoft's part would bring legal consequences would be less than without the proposed enforcement mechanisms. Thus, the Proposed Final Judgement does positive harm to the public.

Complex, Vague, and Contradictory Language Hides New Anticompetitive Tools For Microsoft The ostensible purpose of Section III.1 of the Proposed Final Judgement is to require that Microsoft license under "reasonable and non-discriminatory terms" intellectual property that software vendors and other parties might require in order to offer middleware products interoperable with Windows. If the wording were less vague (and if "reasonable and non-discriminatory" were changed to "royalty free" to include open source developers), this would be a serious and legitimate remedy: Having unlawfully restricted the development of competing middleware, it is fair that Microsoft be compelled to license, under generous terms, whatever intellectual property nascent competitors would find necessary to interoperate with Windows.

However, the wording of this section is astonishingly vague. Microsoft may be compelled to license its IP to "ISVs, IHVs, IAPs, ICPs, and OEMs" only as required to "exercise options and alternatives expressly provided to them under this Final Judgement". Exactly what "options and alternatives" are provided to these parties by the Proposed Final Judgement is not a matter of scientific clarity, even to the avid reader of the document. What is crystal clear, however, is that those to whom the PFJ purports to offer this relief—the alphabet soup of third parties—have absolutely no standing to enforce (and therefore to enlist a Court's aid in interpreting and clarifying) this or any other section of the Proposed Final Judgement (Section VIII of the PFJ, see above).

Further, in an astonishing twist, Section III.I.5 exacts the remedy of compulsory licensing not only of the convicted monopolist, but of innocent competitors seeking relief. Section III.I.5 insists that a software vendor who wishes to provide a middleware product for a Microsoft operating system, if they require access to Microsoft IP to interoperate, must license to Microsoft its own intellectual property. The following language is no doubt intended to soothe competitors: "[T]he scope of such license shall be no broader than is necessary to insure that Microsoft can provide such options or alternatives" (Sec III.I.5). However, nowhere in the PFJ have I been able to discern any "options and alternatives" that Microsoft must provide to any third parties that would require a license on its part. Microsoft must merely permit practices that it has heretofore managed to prevent, in part by refusing to license its own IP, and it must disclose some of what it has heretofore kept secret. The requirements of Section III.I.5 unnecessarily and specifically envision a situation where a competitor, attempting to interoperate with Windows in ways that arguably would require some license of IP from Microsoft, could be asked to license its own IP to Microsoft, or else to cease and desist. If Microsoft and the putative competitor were to disagree about what "no broader than necessary" means, a competitor could not enlist, any court to resolve the dispute and compel licensing under the PFJ. Thus, the PFJ sets up a situation where Microsoft could "leverage" an interoperability requirement by a competitor or ISV in order to acquire access to the attractive IP of its competitors. In the absence of the PFJ, a court might look at a "we'll show you ours only if you show us yours" requirement as anticompetitive, given that Windows Operating Systems are a de jure monopoly with which many third parties must interoperate or die. However, the Proposed Final Judgement gives cover to the practice by explicitly foreseeing and sanctioning a cross-licensing requirement, diminishing the likelihood of a successful outcome and increasing the burden in litigation for companies that may find themselves in the crosshairs of Microsoft's IP lawyers. Again, the public is positively harmed by the PFJ, because it diminishes the likelihood of legal consequences should Microsoft engage in foreseeable anticompetitive behavior.

Conclusion

A District Court found, and a Federal Court of Appeals, affirmed, that Microsoft engaged over a period of years in multiple unlawful and sometimes deceptive practices in order to maintain its monopoly on PC-compatable operating systems. The fruits of this illegally maintained monopoly have been and continue to be huge for the company and its principals. The Proposed Final Judgement fails to provide any strong remedy for this conduct, and instead shelters the monopolist from potential consequences of past and future misconduct. The Proposed Final Judgment, by providing court sanction to practices a court might well find to be anticompetitive absent the proposed settlement, leaves consumers, competitors, open source software developers, and other interested parties in a worse position than they would be in if Microsoft were simply left to face private litigation as a de jure monopolist without any specific remedy being imposed in the present case. The Proposed Final Judgement would therefore be harmful to the public interest, and, unless it is very substantially modified, it should be rejected.

Notes

[1] Section III.C.1 suffers from the same flaw. It permits OEMs to install "icons, shortcuts, and menu entries" for pre-installed, competing middleware, but "Microsoft may restrict an OEM from displaying icons, shortcuts, and menu entries for any product in any list of such icons, shortcuts, or menu entries specified in the Windows documentation as being limited to products that provide particular types of functionality, provided that the restrictions are non-discriminatory with respect to non-Microsoft and Microsoft products." Microsoft would be freed again to create an "ours or both" situation, justified by language it could graft into contracts directly from the Proposed Final Judgement.

[2] For an informal measure of the perceived threat that open source software presents to Microsoft's monopoly, we might examine the lengths to which Microsoft has gone in disparaging such software recently. Microsoft CEO Steve Ballmer has called Linux "a cancer" [Chicago Sun-Times, June 1, 2001] that has "the characteristics of communism." [The Register, August 2, 2000] Ballmer has explicitly described Linux as "threat number 1." [upside.com, January 20, 2001] According to the public comments of Microsoft exec Jim Allchin, "Open source is an intellectual property destroyer... I'm an American, I believe in the American Way. I worry if government encourages open source, and I don't think we've done enough education of policy makers to understand the threat." [CNet news.com, February 15, 2001] [URLs:

http://www.suntimes.com/output/tech/cstfin-micro-01.html;

http://www.theregister.co.uk/content/1/12266.html;

http://www.upside.com/texis/mvm/news/story?id=3a5e392ca3;

http://news.com.com/2100-1001-252681.html?legacy=cnet]

MTC-00030454

6320 Chaprice Ln.
Montgomery, AL 36117
J.R. SMITH
1535 WILDLIFE TRAIL
UNION SPRINGS, AL 36089
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I was recently surprised to hear of the recent development in the Microsoft settlement. After three years of negotiations, I cannot believe that this agreement may be held back even further. The terms of this agreement were part of a sophisticated, detailed process and all affected were involved. At this point in time, the settlement is fair and reasonable and should be used as a guideline to get our technology industry back to business.

Under the settlement, Microsoft will design all future operating systems so that competitors can easily place their components on the system. Also, under this settlement, the government will appoint a full-time monitor to observe Microsoft. These concessions are clearly a step toward a more unified, stronger II sector. By getting back to work, we can maintain our place in the competitive world market, and car, get our economy back on track To enforce this agreement would be beneficial to the consumer, the IT sector and the entire economy.

Please work to help stop any further actions against this agreement. As we support our technology industry, we support the growth of our economy and the advancement of this great country.

Sincerely.
I.R. Smith
334-738-2182

MTC-00030455

Cipher Systems
80 Glastonbury Blvd
Glastonbury, CT 06033
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

This letter is to inform you of my full support of the antitrust settlement that was reached by the Justice Department and Microsoft Corporation.

The settlement is fair and reasonable, and should be finalized as soon as possible, since Microsoft did not get off easy. In fact, Microsoft has agreed to share portions of its interfaces and protocols for its Windows operating system. This is nearly priceless intellectual property. It also agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows. The settlement changes every aspect of the way Microsoft conducts business. I hope the settlement is finalized soon.

Thank you generously for your attention.

Sincerely,
Bert Sirkin
Chief Technology Officer
Cipher Systems LLC

MTC-00030456

Carole Tovar
P.O. Box 13675
Mill Creek, WA 98082-1675
January 21, 2002
John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I'm writing to encourage you to support the recent anti-trust settlement Microsoft reached with the U.S. Justice Department. I feel this is something Microsoft has agreed to merely so it could end the suit and so it can return to the business of making good and innovative software.

Microsoft has, for example, agreed to allow computer makers to change Windows so that Microsoft's products can be removed from the operating system and competing, non-Microsoft products can be installed in their places. AOL Instant Messenger can be installed in the place of Windows Messenger; RealNetworks RealPlayer can be installed in the place of Windows Media Player; and Netscape Navigator can be installed in place of Internet Explorer. Microsoft has also agreed to not take any actions against computer makers who choose to do this, or who decide to ship operating systems that compete with Windows, or who develop software that runs on such alternative operating systems.

That sounds pretty, far-reaching to me. To give its rivals a break: Microsoft is giving up all kinds of fights over its freedom to contract and over its own property. There's no point in hounding them with even more litigation.

I encourage you to accept the terms of the settlement so Microsoft can continue to make good software and provide jobs to thousands around the country.

Sincerely,
Carole Tovar

MTC-00030457

TOVAR PROPERTIES
January 21, 2002
John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I'm writing to encourage you to support the recent anti-trust settlement Microsoft reached with the U.S. Justice Department. I feel this is something Microsoft has agreed to merely so it could end the suit and so it can return to the business of making good and innovative software.

Microsoft has, for example, agreed to allow computer makers to change Windows so that Microsoft's products can be removed from the operating system and competing, non-Microsoft products can be installed in their places. AOL Instant Messenger can be installed in the place of Windows Messenger; RealNetworks RealPlayer can be installed in the place of Windows Media Player; and Netscape Navigator can be installed in place of Internet Explorer. Microsoft has also agreed to not take any actions against computer makers who choose to do this, or who decide to ship operating systems that compete with Windows, or who develop software that runs on such alternative operating systems.

That sounds pretty, far-reaching to me. To give its rivals a break, Microsoft is giving up all kinds of rights over its freedom to contract and over its own property. There's no point in hounding them with even more litigation.

I encourage you to accept the terms of the settlement so Microsoft can continue to make good software and provide jobs to thousands around the country.

Sincerely,
Carole Tovar

MTC-00030459

650 Halfway Road
Crawfordsville, IN 47933
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

My name is Ginger Todd. I am a resident of Crawfordsville, Indiana. I am happy to hear that a proposed settlement has been reached between the federal government and Microsoft in the antitrust case.

While I don't know all of the details of the lawsuit or this settlement proposal, one thing the proposal clearly deals with is the most frequently voiced consumer complaint against Microsoft: the lack of choice when utilizing the Windows operating system. Microsoft has agreed to allow computer makers to change Windows to have non-Microsoft programs built-in—programs that compete directly with Microsoft features and programs that usually come included with Windows.

The agreement by Microsoft to allow competition within Windows will be of great benefit to both consumers and competing software designers and manufacturers. I hope that you will approve the agreement so we consumers will be able to benefit from it soon. Thank you for taking time to read my comments.

Sincerely,
Ginger Todd

MTC-00030460

FACSIMILE COVER PAGE
To: Renata B. Hesse
From: HARRY MESSENHEIMER
Sent: 1/25/02 at 8:33:16 PM
Pages: 3 (including Cover)
Subject:
Comments on Microsoft Settlement
Rio Grande Foundation
P.O. Box 2015
Tijeras, NM 87059
505 286-2030
www.riograndefoundation.org
January 25, 2002
Antitrust Division
U.S. Department of Justice
601 "D" Street NW, Suite 1200
Washington, DC, 20530
Attn: Renata B. Hesse
Subject: Comment on Proposed Final Judgment re Microsoft

Dear Sir or Madam:

I am writing to you on behalf of the Rio Grande Foundation of New Mexico, an independent, non-partisan policy research group dedicated to promoting free markets and open competition. I appreciate tile opportunity to comment.

In my capacity as Senior Fellow for Economic Research at the Foundation, I urge you to accept the proposed settlement in the anti-trust case involving Microsoft. In urging you to accept the settlement my arguments are that (1) we do not know enough about possible harms to take more aggressive action against MS and (2) we should be careful about opening up antitrust law to unproductive, rent-seeking activity.

The proposed settlement is file one that likely will do file least harm. I say that with a good deal of humility, since I think many economists tend greatly to overstate what we really know of tile possible harms alleged in this case. But one thing we do know is that competition is beneficial to society. Competition in an environment of economic freedom tends to promote human prosperity, an assertion strongly supported by recent empirical evidence.

What we don't know much about, however, is how the competitive process leads to prosperity. The economist's model of "perfect competition" is not particularly useful in informing us about antitrust law as it relates to possible harms that may reduce prosperity. Knowledge is not given; innovative change has been taking place at incredible speed. The premier scholar who wrote about competition and our lack of knowledge was Professor F. A. Hayek, who said in a famous essay about competitive process:[1] ".-.-. we should worry much less about whether competition is perfect and worry much more about whether there is competition at all." Undoubtedly some of MS's restrictions on access to Windows were only intended to increase its market share while raising cost barriers to potential entrants. But it is hard to differentiate those restrictions from actions that substantially benefit consumers, as some of the alleged predatory behavior on the part of MS would appear to do. It is not readily apparent, for example, that the tying of Internet Explorer to the Windows desktop is anything but a benefit to those who purchase Windows. The issue boils down to whether or not this tying will result in differential harm to consumers over time. The only way that could happen is if the barriers to entry were so substantial and the resulting MS monopoly so inefficient as to erode away this short-run benefit. But those barriers actually seem to be quite small. Any time I surf the Internet I am amazed at how much competition there is. And how can we tell if MS is more or less efficient now than an unseen evolution under a different set of antitrust doctrine in which MS has a court-dictated constraint on behavior to reduce its market share? Market share as a measure of harm seems to be a red herring. The threat of entry, itself, tends to promote expanded service and lower costs. I think what we have observed over the past 40 years at least partially justifies my assertion.[1] Hayek, F.A, "The meaning of competition," in Individualism and Economic Order, Univ. of Chicago Press 1948, Midway reprint 1980, p 105.

As mentioned above, my second argument involves the unproductive cost of seeking differential advantage over competitors through the government in general and antitrust law in particular. In economics this is know as "rent-seeking" behavior. Economists are in wide agreement that rent-seeking is a loss the economy. Rather than seeking differential advantage from the government, firms could be using those resources to produce a better product at lower cost. The costs of rent-seeking behavior in this case alone seem to be enormous. And the draconian ruling by Judge Jackson would appear to open the door for like kind of wasteful activity. It would lead to severe impacts far beyond one company, acting as a drag on one of the most vibrant sectors of our economy. We can do nothing about the resources already used in this case, but we can prevent this kind of wasteful activity in the future.

That is why the settlement should be approved. It is a common-sense solution that recognizes the limitations in what we know about competition and innovation. And its approval also would serve to reduce predatory, rent-seeking behavior in the future.

Thank you for your consideration.

Sincerely,
Harry Messenheimer, Ph.D.
Senior Fellow, Rio Grande Foundation

MTC-00030461

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NVV
Suite 1200
Washington, DC 20530-0001
January 25, 2002

ISSUE: It is my understanding that the Dept. of Justice is asking for public comment concerning the negotiations over the Microsoft antitrust suit.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop. I personally believe, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. The Clinton/Reno Justice Dept. began this suit for some nebulous masons of their own, I have never trusted their motives in the situation, and I for one, would cheer Bill Gates if he shut down his complete US holdings and moved to Singapore or somewhere else where the government would not be trying to destroy a successful business during a recession. Please put a stop to this madness. The destruction to the economy already done is huge, and continuing this blunder will only exacerbate an already bad situation.

Thank you for considering my opinion.

Ray Grace
468 West Street, Box 222
Heppner, OR 97836
Fax 541–676–5292

MTC–00030463

FAX
Date: Friday,
January 25, 2002
Time: 8:13:00 PM
2 Pages
To: U.S.Attorney General John Ashcroft
From: Ronald J. Markham
Fax: 616–9937
Fax: 860,349,3816
Voice: Voice: 860,349,3816
Comments:
The Honorable Attorney General John Ashcroft Washington DC
27 Dunn Hill Road
Durham, CT 06422
Jan. 25, 2002

Dear Attorney General,

re: Microsoft Settlement

Please count me in the opposed column to the pending suit against the Microsoft Corporation. Night after night I see on television or read in the newspapers adds for cars and tracks, appliances, and other products hawking giveaways if you will just buy this or that product. I see no difference in the marketing of many other corporations than the marketing of Microsoft. Is not the idea of building a better mousetrap or marketing a better mousetrap the "American Way"?

I am an ordinary citizen with no axe to grind, but I find it very distasteful to waste tax dollars on such a silly exercise. Microsoft has improved our way of life in so many ways by pursuing this legal action leaves me saddened and frustrated. Please Attorney General Ashcroft, stop this waste of manpower and tax dollars and redirect the governments legal efforts to meaningful pursuits.

Very truly yours,
Ronald J. Markham

MTC–00030464

January 25, 2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
VIA FACSIMILE
(202) 616–9937

Dear Ms. Hesse:

The case against Microsoft has been a tremendous waste of time and money. Monopolies are when train companies won't let other train companies use their rail system. Monopolies are not when companies load a browser on to a computer—when a consumer can simply download the competing browser at the click of a button. When did this country lose the idea of open competition in the market place?

The cries from Microsoft's competitors were not legitimate. However, assuming they were justified, those issues are certainly dealt with in the existing settlement. This settlement will end much of the case and get the software industry working again, I urge the courts to endorse the settlement.

Sincerely,
Bill Carlson

MTC–00030465

Michael S. Giorgino, Esq.
1634 Pomona Avenue
Coronado, CA 92118–2932
(619) 437–8217
mgiorgino@aol.com
Renata Hesse, Trial Attorney
Antitrust Division,
Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
VIA FACSIMILE
(202) 616–9937

Dear Ms. Hesse:

I am writing the court because I am very concerned about the case of US v. Microsoft. From my reading on the case, I believe I am able to introduce public comments into the record. Please accept this letter as my public comment.

I am an attorney licensed to practice law. in the State of California and in the Federal Courts. While I have not reviewed this case in depth, I understand its core issues. I am a concerned citizen who truly abhors government waste. My concern about wasted taxpayer dollars inspired me to write this letter.

Before September 11, the US Government spent more on the case against Microsoft than it did trying to stop the actions of Osama Bin Laden. We, the American taxpayers, have funded this case long enough. It has gone on almost four years and cost untold millions of dollars. To date, I know of nothing positive which has come from this case. The t??ch industry is down, innovations have slowed, and almost every state (including California) went from a surplus to a deficit in their budgets.

Novelist/philosopher Ayn Rand wrote that Antitrust is "the penalizing of ability for being ability, the penalizing of success for being success, and the sacrifice of productive genius to the demands of envious mediocrity." Microsoft's competitors initiated this case so they could gain from the courts what they were unable to accomplish in the free market. Enough is enough! Wasting a single additional taxpayer dollar persecuting Bill Gates" brilliant and innovative company is unacceptable—economic progress cannot be achieved at the point of a gun.

I urge the court to accept the proposed settlement in the interests of fiscal responsibility and economic justice.

Sincerely,
Michael Giorgino
Attorney at Law

MTC–00030466

FAX
TO:
FR:
RE:
DATE:
# of pages: (including this page)
January 25, 2002
Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Thank you for this opportunity to state my opinion regarding the government's proposed settlement of its case against Microsoft.

First of all, the government had no business interfering with the operation of Microsoft when it began its pursuit of them back during the Clinton administration. The federal government was wrongly attempting to control and regulate a new, growing, and very vital part of our nation's economy. The last thing the technology industry needed was bureaucrats and Justice Department lawyers hovering over them like vultures.

I have read the proposed settlement/stipulation, and I believe Microsoft is being more than reasonable to agree to this document. Setting up the governmental "technical committee" seems particularly onerous. However, in the interest of ending this whole misplaced attack, I urge you to approve this settlement.

Thank you for your consideration of my comments.

Sincerely,
Cynthia M. Lyon
2315 Iowa Avenue
Independence, IA 50644
(319) 334–3490

MTC–00030467

Chris H. Pipkin
January 21, 2002
Judge Kolar Kottely
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, D.C 20530

Dear Judge Kolar Kottely

It is my understanding that you are currently considering whether to accept the proposed settlement reached by the Department of Justice and Microsoft. I am writing m you in order to express my strong support for this settlement.

I am an investment officer in Cedar Rapids. The ebbs and flows of the economy, along with any outside forces that impact it, are of great interest to me. There is no doubt that bringing closure to the Microsoft case will have a positive impact on the national economy.

The government's case against Microsoft had potential to set far-reaching precedent for government intervention and regulation of an industry. This reality caused much concern for investors who worried that the growth of the technology industry would be hampered by government regulation. While there are many causes for our weakened economy, the uncertainty erented by this ease was a contributing factor in the decline of many technology stocks.

Bringing the Microsoft case to end is in the best interest of the economy and this proposed settlement is the vehicle to make it happen. While I do not know all of the intricate details of the settlement, what I have read lends me to Believe a fair compromise addressing the concerns of the complaint was reached. For example, Microsoft will be bound to share intellectual property and must create new versions of Windows that allow the promotion of non-Microsoft products. The settlement also establishes a committee that will police Microsoft's compliance with the settlement.

Thank you for your consideration

Sincerely,

Chris H, Pipkin

3604 HEATHERIDGE DR. + Cedar Rapids, + 52402 + 319-862-2293

MTC-00030468

To Renata Hesse

The following six (6) pages of this facsimile are a comment on the Microsoft Settlement in the Microsoft antitrust case. This comment has been simultaneously submitted by email.

Mason Thomas

(805) 530-1502

As a professional working in the technology sector, I often have occasion to use Microsoft software and competing products. I am therefore concerned that the Revised Proposed Final Judgment in the Microsoft antitrust case has a number of deficiencies that prevent the Judgment from providing certain and effective relief for Microsoft's violations of the Sherman Act. Unless these flaws are corrected, the Revised Proposed Final Judgment is clearly against the public interest and will positively harm third parties.

This Comment addresses five serious deficiencies of the Revised Proposed Final Judgment, The deficiencies are discussed in the order they appear in the Judgment, not necessarily in their relative order of impact on injunctive relief. The deficiencies are:

1. The Judgment provides no remedies for past unlawful conduct.

2. Allowing volume discounts anticompetitively maintains Microsoft's monopoly (Section III.A. and III.B.).

3. Restrictions on disclosure of communications protocols maintains a barrier to competition (Section III.E.).

4. Arbitrary five year term of Judgment harms the public interest (Section V.).

5. The definition of "Non-Microsoft Middleware Product" maintains a barrier to competition (Section VI.N.).

Although it is unreasonable to expect a truly optimal Judgment that best serves the public interest, the existence of any one of the above deficiencies—and certainly the coexistence of several of them—will not end Microsoft's unlawful conduct nor avoid a recurrence of violations of the Sherman Act, and is thus outside the reaches of the public interest.

1. Judgment provides no remedies for past unlawful conduct

Although the Revised Proposed Final Judgment provides limited remedies "to halt continuance and prevent recurrence of the violations of the Sherman Act by Microsoft" (Competitive Impact Statement, Section I.), it does not in any way "undo its anticompetitive consequences" (Competitive Impact Statement Section IV.B.) , There is no provision in the Judgment to remedy any past anticompetitive actions by Microsoft: all provisions in the Judgment attempt to alter the current and future behavior of Microsoft. As such, the Judgment does not effectively restore the competitive conditions experienced by Microsoft prior to its violations of the Sherman Act. An effective remedy for Microsoft's past illegal actions requires a careful balance to empower injured competitors while not unduly damaging Microsoft. A simple but fair remedy would create a pool of Microsoft's money based on a percentage of sales of Microsoft Operating System Products since the filing of the antitrust complaint till the time of the Final Judgment entered by the Court. The parties damaged by Microsoft's anticompetitive behavior (e.g., Sun Microsystems, Netscape Communications Corp., etc.) would be payed from this pool. The size of the pool and the relative payment terms to competitors are details that require careful consideration.

2. Allowing volume discounts anticompetitively maintains Microsoft's monopoly allowing volume discounts serves no procompetitive interest and is in fact very much against the public interest as it serves to illegally maintain Microsoft's monopoly. Section III.A. of the revised proposed final judgment stipulates that "Nothing in this provision shall prohibit Microsoft from providing Consideration .-.-. commensurate with the absolute level or amount of that OEM's development, distribution, promotion, or licensing of that Microsoft product or service." Section III.B.2 provides for a licensing fee schedule that "may specify reasonable volume discounts based upon the actual volume of licenses of any Windows Operating System Product .-.-." These provisions allow Microsoft to continue to leverage its monopoly position to illegally maintain that monopoly. The Competitive Impact Statement entirely ignores the anticompetitive ramifications of these terms.

Unlike traditional manufacturing, where the production or distribution of a large quantity of a product can generate "economies of scale" and thereby procompetitively justify non-uniform pricing (e.g., volume discounts), the licensing of software has no significant economies of scale. A comparison with traditional manufacturing is useful. For a car dealership selling hundreds of cars per month, there is economic justification for the car manufacturer to provide a volume discount to the dealership: the distribution costs (shipping) per car are lower than for a dealership selling only ten cars per month, with software however, the only economy of scale obtained is slightly cheaper production materials: compact disks for distribution and paper for documentation and product boxes. OEMs typically only include a compact disk with a new computer purchase, for which the volume production cost is under one dollar (US$1.00). Hence the economies of scale afforded by large scale OEMs to Microsoft are less than one percent (1%) of the retail value of typical Windows Operating System Products. Hence there is no significant procompetitive reason to allow volume discounts to large OEMs.

Allowing Microsoft to offer volume discounts will further entrench its monopoly position. With volume discounts, Microsoft would retain the ability to price its Windows Operating System Product licenses at an artificially low cost to the largest OEM vendors. These vendors would thus have a strong incentive to continue to offer exclusively or predominantly the Microsoft Operating System Product on new Personal Computers, The largest OEM Personal Computer suppliers would have a free market incentive to choose alternate Operating System Products if Microsoft's Operating System Product were instead priced at an open market value. Avoiding volume discounts increases competition while preventing Microsoft from leveraging its monopoly to stifle competition.

This deficiency of the revised proposed final judgment is remedied by deleting the words "distribution" and "licensing" from the last paragraph of Section III.A. and by modifying Section III.B.2 to read "the schedule may not specify volume discounts based upon the actual volume of licenses of any Windows operating System Product or any group of such products." These modifications will still allow Microsoft to compete in the marketplace based on the merits of the windows Operating System Products, but prevent Microsoft from anticompetitively erecting barriers to competitive products.

3. Restrictions on disclosure of communications protocols maintains barrier to competition The Revised Proposed Final Judgment maintains a significant barrier to competing Non-Microsoft Middleware Products by restricting the disclosure of Communications Protocols. Section III.E. of the Judgment provides that Microsoft shall disclose Communications Protocols "on reasonable and non-discriminatory terms." Such terms, however, prevent a large number of established and nascent competitors from obtaining the Communication Protocols. "Reasonable and non-discriminatory" license terms act as an anticompetitive barrier to potential Microsoft competitors, while providing no procompetitive advantage for Microsoft.

"Shareware" software developers typically provide software products (including middleware) free of charge for end users to evaluate, and only demand payment if the end user decides to continue using the software product. Such developers would be unable to comply with "reasonable and non-discriminatory" licensing terms unless a very large percentage of end users payed for the software product. Similarly, the entire "open source" class of software would be unable to meet "reasonable and non-discriminatory" terms as the "open source" licenses allow virtually unlimited duplication and derivation rights. Several important Non-Microsoft Middleware Products are "open source", notably the Samba program (http://www.samba.org), that provides file transfer and print Services through the Microsoft SMB Communications Protocol. The Samba program is a well-established and widely used alternative to Microsoft Middleware Products, but it would be effectively prevented from competing with Microsoft through the adoption of "reasonable and non-discriminatory" licensing terms for future changes in the SMB protocol.

This deficiency of the Revised Proposed Final Judgment can be remedied by a simple wording change. The phrase "reasonable and non-discriminatory" in Section III.E. of the Judgment should be changed to "royalty free". Since Microsoft's ability to hide Communication Protocols serves only to prevent competitors from effectively interoperating with Microsoft products and does not in any way increase competition, a mandatory royalty free license would serve to allow both large and small competitors to interoperate with Microsoft products.

4. Arbitrary five year term of Judgment harms the public interest The Competitive Impact Statement in Section IV.C. claims that a five year time frame for the Judgment "provides sufficient time for the conduct remedies contained in the Proposed Final Judgment to take effect .–.–. and to restore competitive conditions to the greatest extent possible." The Competitive Impact Statement provides neither evidence, nor precedence, nor logic to support this claim.

In fact, a five year term may well be too long. The provisions of the Revised Proposed Final Judgment may turn out to be so effective at restoring competition that Microsoft loses its dominance in less than two years in the Operating System market for Personal Computers and becomes unnecessarily hobbled by the restrictions of the Judgment. In such a case, Microsoft would be unfairly restricted from competing in the market for another three years, possibly causing great economic damage to Microsoft and depriving consumers of the fruits of a vibrant competition in the Operating System market.

Alternatively, the provisions of the Revised Proposed Final Judgment might not be sufficient to hinder Microsoft's anticompetitive actions, and Microsoft could continue to violate the Sherman Act through an extended seven-year Judgment period. Clearly such a situation would severely harm the public interest, again depriving consumers of the benefits of a competitive market and stilting the entire Operating System and Middleware market. The arbitrary five year Judgment term length would only be beneficial in the most serendipitous of circumstances, and the arbitrary two-year extension does not mitigate this fault.

The overriding concern of this Judgment is to prevent Microsoft's anticompetitive actions and to restore competitive conditions to the market, and it is that principle that should guide the term length of the Judgment. The most straightforward application of this principle would be to terminate the Judgment when Microsoft no longer enjoys monopoly status. This could be achieved with the following replacement for Section V. (Termination) of the Revised Proposed Final Judgment:

"This Final Judgment will expire when Microsoft's windows Operating System Product has less than fifty percent share of the Personal Computer Operating System market (as determined by a market study provided by a mutually agreed upon third party)."

With this revised termination clause, the Judgment will stand exactly as long as necessary for the public interest. An alternate definition of monopoly status (i.e., instead of "fifty percent market share") may also be acceptable, provided it is logically and legally defensible, and maintains the intent of the Judgment.

This new termination clause will ensure the return of healthy competition to the Operating System market without unduly burdening—or harming—Microsoft. At the point that Microsoft's windows Operating System Products have less than fifty percent share of the Personal Computer Operating System market, there is clearly healthy competition in that market, with at least one other dominant competitor to Microsoft. There is then no further reason to impose the conditions of the Judgment. However, Microsoft is not prevented from maintaining its monopoly on the technical merits of its products. The ongoing terms of the Judgment would not be onerous to Microsoft should it maintain a monopoly position without resorting to anticompetitive actions.

5. Definition of "Non-Microsoft Middleware Product" maintains barrier to competition Although the Revised Proposed Final Judgment seeks to "restore the competitive threat that middleware products posed prior to Microsoft's unlawful conduct (Competitive Impact Statement, Section IV), the proposed definition of "Non-Microsoft Middleware Product" serves instead to maintain barriers to competition. Section VI.N. of the Revised Proposed Final Judgment stipulates that a software product, among other requirements, can only be considered a "Non-Microsoft Middleware Product" if "at least one million copies were distributed in the United States within the previous year." This requirement is explained in the Competitive Impact Statement, Section IV.A. as being "intended to avoid Microsoft's affirmative obligations .–.–. being triggered by minor, or even nonexistent, products that have not established a competitive potential in the market .–.–." As the Competitive Impact Statement makes clear, the definition of "Non Microsoft Middleware Product" intentionally limits the possible competitive impact of nascent middleware products. Such a limitation is antithetical to the desired goals of the Judgment.

This deficiency of the Revised Proposed Final Judgment can be easily remedied by deleting Section VI.N.(ii) and thus removing the restriction on number of copies distributed. The Competitive Impact Statement in Section IV.A. states that the restriction on number of copies distributed "is intended to avoid Microsoft's affirmative obligations—including the API disclosure required by Section III.D. and the creation of the mechanisms required by Section III.H.—being triggered by minor, or even nonexistent, products .–.–." In other words, Microsoft should not endure an onerous burden in its obligations. However, deleting Section VI.N.(ii) would not create such a burden. Since Section III.D. already specifies that APIs and related Documentation shall be disclosed via the Microsoft Developer Network or similar mechanisms, Microsoft will not require any further effort to make the APIS and Documentation available to ISVs or other middleware developers that have not established a competitive potential in the market—but that nevertheless have the potential to become competitors with Microsoft, Furthermore, the mechanisms required in Section III.H. (such as the creation of Add/Remove icons) are sufficiently generic that they will only need to be created once—and likely already exist—to accommodate all Microsoft and Non-Microsoft Middleware, and hence the expansion of the number and kind of possible middleware competitors to Microsoft again does not create an undue burden on the company.

This Comment has been submitted through both e-mail and facsimile copy.

Respectfully submitted,
Mason Thomas
4333 Wildwest Circle
Moorpark, CA 93021
(805) 530–1502
January 25, 2002

MTC–00030469

13405 NW Spirit Court W
Silverdale, WA 98383–9507
(360) 697–2461
January t2, 2002
Attorney General John Ashcroft
United States Department of Justice
Washington, DC 205300001

Dear Attorney General Ashcroft:

I urge the Department of Justice to accept the proposed Microsoft anti-trust settlement, which goes far beyond the original scope of the lawsuit as it was originally filed. I feel Microsoft made this settlement so it can back to its business of developing software.

As terms of the settlement Microsoft has agreed to grant computer manufacturers and software developers the ability to remove Microsoft products and install competing products in their places. Examples include: Netscape Navigator, RealNetworks RealPlayer, and AOL Instant Messenger. You should note, though, that consumers can install these products on their computer systems regardless if those products came preinstalled on their systems. Microsoft has also agreed to not enter into agreements with third-party computer manufacturers or software developers that would require them to exclusively or in a fixed percentage distribute or promote Windows, unless there is no competitive issue.

Microsoft also must grant intellectual property rights to those third parties that choose to exercise any options in the settlement if those options would infringe on Microsoft's intellectual property. Also as part of the settlement, a three-person "Technical Committee" made of software engineers will be overseeing compliance and assisting in dispute resolution, when needed. The settlement also makes it easy for an individual or company who feels Microsoft is not complying with the settlement provisions to file a complaint, thus making it more likely that Microsoft will abide by all terms in the settlement. For these reasons, I support the Microsoft settlement. I look forward to seeing this matter finalized and put behind us so we can get on with the business of business. Thank you.

Sincerely,

MTC–00030470

FAX COVERSHEET
URGENT
To: Attorney General John Ashcroft
Fax Number: 1–202–307–1454

From: Sharon Miller
Fax Number: 1-716-388-7329
Pages: 2
Date: 1/26/2002
Subject: Microsoft Settlement
21 Cedarview
Fairport, NY 14450
January 25, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I was really happy when Microsoft and the Department of Justice reached an agreement; now my hopes were dashed when I learned that several states want to pursue further litigation. Why? Microsoft has already agreed that if a third party's exercise of any options, provided for by the settlement, would infringe any Microsoft intellectual property, Microsoft will provide the third party with a license to the necessary intellectual property on reasonable and nondiscriminatory terms.

They also agreed to license file Windows operating system to the largest computer companies on identical terms, conditions, and price.

I urge you to end all litigation so that we can move forward. No more action should be taken at the Federal level.

Sincerely,
Sharon Miller

MTC-00030471

John J. Petroci Jr.
1909 Kirkby Drive
South Park, Pennsylvania 15129
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to let you know my views on the Microsoft settlement. First and foremost, this case has been in litigation for many years now. Secondly, this lawsuit should not have concerned the federal government, since no laws have been broken. Settlements have been reached in various states, all of which have involved appropriate concessions, including more information sharing and changes in Microsoft's business practices.

I have firsthand experience with big business. I previously worked in the steel industry, and due to government intervention and regulation, I was put out of work when the companies were broken up. Pennsylvania's steel industry will never be the same. I urge to you please do your best to see that this does not happen to Microsoft. Our nation's IT industry depends on companies such as Microsoft, and our economy also depends on the IT industry. Please discontinue these lawsuits and help our economy return to normalcy. I strongly suggest that it is in the best interests of everyone to discontinue these lawsuits so our economy can return to a sense of normalcy.

Sincerely,
John J.Petroci Jr.
cc: Senator Rick Santorum

MTC-00030472

371 Bald Road
Touchet, WA 99360
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I think the federal government never should have filed the lawsuit against Microsoft. At this stage in the proceedings, however, I think it is in everyone's best interest that the case is settled. It is a shame that the remaining plaintiff states have not joined in the settlement efforts. The concessions Microsoft has made are more than reasonable. Microsoft has agreed to disclose portions of its code to its competitors. They have agreed to establish a uniform price list for computer manufacturers. They have agreed to make it easier for servers to interoperate with one another. They have agreed not to take actions against computer manufacturers who install the competition's software on their computers. All of these concessions amount to establishing fair competition for other software companies.

The settlement agreement should be approved, and the federal government should take no further action in this case.

The Clinton Administration should have never initiated this suit. They were totally anti-business and their motives were entirely political!

Sincerely,
Mark Wagoner

MTC-00030473

Christopher & Sharon Moline
12407 Madeley Lane
Bowie, MD 20715-2904
January 22, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

We are writing to show our support for the settlement reached between Microsoft and the government. It is fair and reasonable.

The fact that Microsoft has agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows shows me that Microsoft is not looking for ways to hurt consumers, but to help them. Further, Microsoft won't enter into any agreements forcing a third party to distribute or promote any Windows technology exclusively or in a fixed percentage. Finally, the government will establish a "Technical Committee" that will monitor Microsoft's compliance with the settlement and assist with dispute resolution.

This is a good settlement and Microsoft deserves a lot of credit for taking the lead on resolving these issues. We hope the settlement will be approved so Microsoft can get back to developing innovative software.

Sincerely,
Christopher & Sharon Moline

MTC-00030474

PhoneTools
BVRP
software
508 North View Road
Mount Airy, MD 21771
Phone: 301-831-0927
Fax: 3010-831-0927
Message:
Please review the attached document.
From: Steve and Linnea Capps
To: us Department of Justice Attorney General John Ashcroft
Date: 1/26/2002
Page(s): 2
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

As a woman aspiring to start her own business, I am discouraged and disheartened by the manner in which the federal government treats success. I am bitterly disappointed that our government—MY government—feels it necessary to oversee the financial castration of inventors and creators, hobbling what is supposed to be free enterprise. I feel strongly that government has no right to insert itself into legitimate and successful business, to legislate and litigate, to attempt to regulate a product that clearly outshines other, similar products. Smaller companies, who can't compete became the quality of the product they offer is no match for the "big guy", cry foul and the government steps in to try to level the playing field. The playing field for business will never be level It is not only futile to attempt to level that field with legislation or legal action, it is a childish wish for fairness that assumes that it can be done. If Linux and Unix were such operating systems, they would be where Microsoft is now, became the consumer would have demanded their products over Windows. If WordPerfect or Lotus 1-2-3 were as user-friendly as MS Word or Excel, they would be the applications in great demand. The fact is, Microsoft is guilty of nothing more than being popular—popular became they provide an intuitive, user-friendly, and versatile environment in which to work. How can you, as Attorney General, support, represent, or oversee the punishment of a company whose only crime is that the consumer prefers its product over the competition's?

For example: The entry of Wal-Mart and Target into the discount department store business, offering better products at lower prices, drove KMart into Chapter 11 bankruptcy. Consumers regulated the market with their purchases. In the eyes of the consumer, Kmart just didn't measure up to the competition. It has always been consumers who ensure the success or demise of a business. We have, and should be allowed to retain, without legislative or litigious interference, the power to regulate business with our wallets.

I am not so naive as to think Microsoft is entirely without fault or abuse of power in their rise to their current market position. The proposed settlement with the government, which I have reviewed, appears to be genuinely equitable. It not only provides a solution to the anti-trust "problem" Microsoft presented (in the eyes of the Department of Justice), it also provides concessions to Microsoft and its competitors. At this point, I do not believe additional action is necessary on the federal level.

I am concerned that the federal government has been so intrusive and vituperative against Microsoft. Success, innovation, and creativity should not be a federal offense, and are certainly no reason for litigation to continue. I urge you and your office to finalize the settlement and move on.

Sincerely,
Linnea Capps
(Mrs. Stephen R.)

MTC–00030475

Natalie Dunlap
316 Webster Street
Lewiston, ME 04240–4854
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I was pleased to learn the federal government decided to settle its antitrust case against Microsoft. This should have been done a long time ago. Nonetheless, I am in favor of the steps that have recently been taken to resolve this lawsuit.

I am a very strong supporter of Microsoft. As a result of Microsoft's hard work and innovation, we live in a world where I can communicate with loved ones across the country with ease. I firmly believe this case was brought as a result of the misguided idea that a successful company should be knocked down, and its competitors should be awarded the fruits of their labor, Notwithstanding my belief that this case lacked merit from its inception, I think the settlement agreement's terms are fair. The court should not hesitate in its approval of the settlement. Microsoft has agreed to make it easier for its competitors to compete with Windows. They agreed to document and disclose to their competitors portions of the Windows code. They also agreed not to retaliate against those who promote software that competes with Windows. Nothing more should be expected or required of Microsoft beyond the terms of the settlement agreement.

Sincerely,
Natalie Dunlap

MTC–00030476

Jan 26 02 10:07 am
January 16, 2002
Attention: Renata Hesse
Judge Kolar Kottely
U.S. Department of Justice,
Antitrust Division
801 D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge Kottaly.

From the perspective of a regulatory compliance officer for Iowa's state-designates secondary market for student loans. I have followed the Microsoft antitrust case with great interest and look forward to a settlement.

Working with college graduates and students of Iowa colleges and universities, we are well aware of the growing number of young people a??ting our state after compi??ting higher education. To start this tide, businesses and our state government continue to focus attention on how best to keep and attract college graduates to Iowa—investment in our cities, increasing amounts and avaliability of vonture capital, creating a business ??mate that is Inviting to companies.

It is unfortunate our state is one of only nine others whose Attorney General did not sign onto the proposed Microsoft antitrust s??tlement before you. It does not help our state's cause to attract burg??ning tech companies or young professionals. I do not believe his position is representative of the majority of Iowa residents or businesses—which is what com??iled me to write. The settlement on the table has taken a great deal of time and effort from the parties involved. It is a fair settlement and your approval of it would take a large pace toward the finish line in this marathon case.

Thank you for accepting my comments.

Sincerely.
camas G. Solo, CPA. CIA
Compliance Officer
Iowa Student Loan Liqui??ty Corporation

MTC–00030477

Facsimile transmittal
To: Department of Justice
Fax: 1–202–307–1454
From: Don Phillips
Date: 1/26/2002
Re: Microsoft Settlement
Pages: 1
CC:
X Urgent
To: Department of Justice
From: Don Phillips, Consumer, Engineer, Voter

I believe the US Government should settle its antitrust suit against Microsoft immediately. The current proposed settlement should be approved and implemented as soon as possible. This lawsuit never, in any way, represented the interests of consumers. Microsoft has had a long track record of developing and selling software products that consumer like and use. The company's growth and profits are evidence of this. On the other hand, no credible evidence was ever presented during the trial (or after) to show that Microsoft ever did anything that was against consumer interests. Clearly this lawsuit never had any basis In fact and never should have been undertaken.

In fact, the lawsuit, itself, has caused major harm to consumers and to the entire US economy. Also, the government's reputation as being objective and fair has been seriously eroded. In short, the whole process has been a disgrace to justice and an insult to American consumers. I have worked in the semiconductor industry for 30 years and have had many dealings with Microsoft as well as many of Microsoft's competitors. Also, I have personally used many products from Microsoft and from its competitors. Based on my Long experience with technical products it is very clear to me why Microsoft's competitors have not prevailed in the marketplace. This lawsuit has clearly been shown to be nothing more than a thinly veiled attempt by weak competitors to do serious harm to a more successful company. This is very disgraceful behavior! For the government to continue to perpetuate this case would be a major miscarriage of Justice.

Respectfully, Don Phillips, Palo Alto, CA

MTC–00030478

1721 15th Avenue Southwest
Olympia, WA 98502
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I understand the Courts will make a final decision at the end of this month on whether the proposed Microsoft settlement is in the best interest of the consumer. I personally believe that we need to leave it alone. It has already cost us billions of dollars in legal fees, lost production and loss of jobs in the technology sector of the economy.

Microsoft has agreed to grant computer makers broad new rights to configure Windows, in order to promote non-Microsoft software programs that compete with programs included within Windows. They have also agreed to document and disclose various interfaces that are internal to 'Windows' operating system for use by its competitors. This is definitely beyond what is expected in any antitrust settlement.

Let's end this before we get in over our head. There are far more pressing issues we need to concentrate on such as reviving this fragile economy.

Sincerely,
Edward Heffernan

MTC–00030479

John & Darlene Cooke
Phone: (252) 537–0960
P.O. Box 495
Fax: (252) 308–0990
Gaston, NC 27832–0495
email: dcooke@schoollink.net
TO: Attorney General John Ashcroft
FROM: Darlene Cooke
DATE: 1–24–02
NUMBER OF PAGES (including cover page): 2
COMMENTS: Re?? Microsoft Settlement
P. O. Box 495
Gaston, NC 27832
January 23, 2002
Via Facsimile (202)–307–1454 or(202)–616–9937
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

As part of the public comment phase, I am writing to urge the Department of Justice to accept the settlement proposal in the Microsoft anti-trust case. I believe the terms of the proposed settlement will protect consumers and will shield Microsoft's competitors from unfair business practices. By accepting the proposed settlement, Microsoft will change many of its former business practices and will agree to abide by the stipulations therein. If Microsoft is willing to accept those terms, the Department of Justice should be willing to endorse the settlement and bring the issue to a close.

Our nation is facing profound challenges on several fronts. I think your department and the various states'' Attorneys General should settle the Microsoft case in order to focus on other more pressing issues.

Sincerely,

Darlene Cooke

MTC-00030480

Frederick & Coleen Walther
P.O. Box 30
West Poland, ME 04291-0030
January 25, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I would very much like to see the Microsoft settlement agreement which, in my opinion is very well conceived, approved by the Court. It seems to me that the goals set forward were met and that no antitrust laws are in jeopardy.

From what I understand, Microsoft has agreed to significantly change the way it conducts business so that its competition has a level playing field, and it will not take negative actions against any competitor of Windows. They have also agreed not to enter into agreements with third parties obligating them to sell Windows exclusively.

I just can't see why taxpayer dollars would be spent wisely by litigating this case further. It is time to get on with business and allow Microsoft to help stimulate the economy and reward its patient shareholders like my family. Government actions have already cost our portfolio far more than we would like!

Thank you for your time and attention.

Sincerely,

Frederick & Coleen Walther

MTC-00030481

Helga Gardetto
475 Windridge Drive
Racine, WI 53402-2658
January 21, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I would like to propose finalization of the agreed settlement deal with Microsoft and the government. I don't think a company should be held down in its attempt to prosper, and this lawsuit has over-stepped any reasonable bounds of dealing with the free market.

The settlement proposed offers several steps to allow more competition. Microsoft will not require computer companies to use Microsoft software, and will allow competitors unheard-of access to Microsoft's proprietary technologies. This deal should be appear quite accommodating to the company's opponents, as it will be monitored regularly by industry experts. Meanwhile, I'm sure that a break-up would not offer such favorable cooperation and results for those groups.

Please move forward with this settlement and allow the PC industry to be stable and successful in the coming years ahead. Thank you for your time.

Sincerely,

Helga Gardetto

MTC-00030482

12938 Kingsbridge Lane
Houston, TX 77077
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to Microsoft and the antitrust dispute I support Microsoft in this dispute, and I believe this litigation is costly and a burden on taxpayers and consumers I support the settlement that was reached in November as an adequate means to end this dispute.

Microsoft has agreed to carry out all provisions of this agreement and will be monitored for compliance. Under this agreement, Microsoft must license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price. Microsoft has also agreed to disclose various interfaces that are internal to Windows'' operating system products, which is a first in an antitrust settlement. Microsoft did not get off easy in this settlement.

This settlement not only keeps Microsoft together as a company but will also foster competition. Continuing this litigation will only have adverse effects on consumers and the economy Please support this settlement so our precious resources can be devoted to more pressing issues. Thank you for your support.

Sincerely.

Amanda Quam

MTC-00030483

12938 Kingsbridge Lane
Houston, TX 77077
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to Microsoft and the antitrust dispute I support Microsoft in this dispute, and I believe this litigation is costly and a burden on taxpayers and consumers I support the settlement that was reached in November as an adequate means to end this dispute.

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This settlement not only keeps Microsoft together as a company but will also foster competition. Continuing this litigation will only have adverse effects on consumers and the economy Please support this settlement so our precious resources can be devoted to more pressing issues. Thank you for your support.

Sincerely.

Amanda Quam

MTC-00030484

6585 South Military Trail
Lake Worth, Florida 33463
(561) 968-1111
Fax (561) 968-1804
FAX
COVER PAGE
DATE 1-26-02
TO ATTORNEY GENERAL JOHN ASHCROFT
FAX # 1-202-616-9937
PHONE 1-202-307-1454
FROM: JERRY DOSER
UMBER OF PAGES INLCUDING COVER 2
ORIGINALS TO FOLLOW: NO ?? YES
MESSAGE: COMMENTS REGARDING MICROSOFT SETTLEMENT.
3855 Jonathans Way
Boynton Beach, Florida 33436
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The intent of this letter is to go on public record and express my support for the settlement that was reached in the antitrust lawsuit between Microsoft and the Department of Justice. The settlement was reached on November 2, 2001, and I was relieved to see that the suit had finally come to an end.

There are still individual states that are continuing with litigation against Microsoft, and I hope that will soon come to an end, but I am happy to see that it has been settled at the federal level. Hopefully the remaining states will see that they are wasting funds that could be used for so many other more important issues. Microsoft had to concede more than they would have initially liked, but settling the dispute and getting back to business was more important. Microsoft will be monitored by an ongoing technical oversight committee, so. they will have to abide by the terms of the settlement. I am glad to see that two sides come to an agreement, and I fully support the settlement.

Sincerely,

Jerry Doser

cc: Representative Robert Wexler

MTC-00030485

Henry M. Gubitosi
13 Easton Street
Cantonment, FL 32533-6559
January 24, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

For the past three years, the people who depend on Microsoft's products everyday have waited for a settlement to be reached in this antitrust suit. Now it seems that the end is in sight. I hope that this settlement goes forward so that this case can finally be put to rest.

Microsoft is willing to give up a lot in order to reach a settlement and I for one hope they do. Out of the many elements that

Microsoft is willing to forfeit, one of the most overlooked is the right they're giving to computer manufacturers. By giving them the freedom to configure Windows with whatever applications they choose, Microsoft is ceding significant portions of its market share. Microsoft has also agreed to provide a uniform price list to them.

I hope that people will spend the time to go over the settlement, to see exactly what Microsoft is forgoing in order to put this case to rest. The settlement should be acceptable to everyone but the most ardent Microsoft opponents. I hope that it will be finalized soon so that everyone can just move on.

Sincerely,
Henry Gubitosi
cc: Representative Jefferson Miller

MTC-00030486

Cathy Bason
125 Phillips Rd
Longville LA 70652
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Please allow this letter to serve as my vote of support for the settlement agreement that was reached in the Microsoft antitrust case.

Under this agreement, Microsoft will be making changes in its pricing structures, distribution agreements and Windows systems configuration in an effort to promote increased competition and greater consumer choice. It is in the public's best interests to enforce this agreement and end this case.

Thank you for considering my opinion.

Sincerely,
Cathy Bason
125 Phillips Rd
Longville, LA 70652

MTC-00030487

1200 Harger Road Suite 521
Oak Brook, IL 60523
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am taking this moment to write you concerning the current settlement between the US Federal government and Microsoft. I feel it necessary to voice my opinion during this period of public comment, after all, it is people like myself, the American consumer, that are suffering throughout this overdrawn litigation.

The current settlement plan is, in my view, a fair and just compromise and the federal government should remove itself from the corporation's future business tactics. Microsoft has only made the face of technology easier for America, not to mention the whole world, and thanks to Microsoft, America has continued to be one of the leaders in the global economy. Please take into consideration my opinion as an active member of my community and an American consumer who wants to see Microsoft back in the business of innovation.

Sincerely,
Anthony De Paul
cc: Representative Henry Hyde

MTC-00030488

Bob Jones Tax Service
3333 Brea Canyon Rd. Suite 201
Diamond Bar, CA 91765
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

I would like to convey to you my support for the settlement reached between Microsoft and the Department of Justice. This settlement ends an expensive court battle and will facilitate the American technology industry in its efforts to once again flourish.

This unprecedented settlement will create more openness in the technology sector. The settlement gives competitors more access to Microsoft's product information and code than any other company has ever had to disclose in the history of the technology industry. More expensive courtroom battles and conflict will serve only to increase the legal bills of the government and Microsoft. Microsoft has agreed to more terms in the settlement than were actually at issue in the lawsuit to facilitate a reasonable conclusion to the suit.

Undoubtedly this settlement's time has come. No further Federal action is required in this case. Microsoft and the DOJ should finalize the settlement and help to focus the high tech sector of our economy on technology and not lawyers.

Sincerely,
Robert Jones
Bob Jones Tax Service

MTC-00030489

Tim L. Long
January 24, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

The basis of the Microsoft lawsuit has been weak from the start, a failed attempt to shake Microsoft through negative media attention and distraction. Microsoft has been hog tied by fresh legal complaints answering each advance they have made since the original suit. I fail to see how Microsoft is more corrupt than any other of the litigating parties, as opposition has blatantly used the courts to stall Microsoft in hopes of their own gain.

The lawsuit against Microsoft may have originated with legitimate concerns regarding modern day antitrust issues, but has digressed to a manipulation of the courts by misguided ambition. Enough resources have been wasted on this debacle. The proposed settlement should be an acceptable solution for all After all, Microsoft's competition has already won more than three years worth of media battles and scrutiny throughout the trial.

Sincerely,
Tim L. Long
1830—2nd Street SW
Cedar Rapids, Iowa 52404

MTC-00030490

Gary A. Bean
January 24, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

Thank you so much for considering comments from the consumer in your deliberation of the Microsoft antitrust suit. What may have begun as a test of modem day antitrust law has become a corrupt forum for corporate lobbyists. It seems as though this suit has gone strangely awry, focusing on corporate influence and loopholes rather than law.

The speed of advancement in the tech sector today is scarcely confinable by current antitrust law. Microsoft's competition may have gained better results at challenging antiquated antitrust law rather than Microsoft's specific business practices.

The abuse of corporate power in this case certainly dispels any merited changes to current law. Paradoxically, the competition hemmed themselves in to more government scrutiny rather than gaming a leg up on Microsoft.

Quiet, prompt settlement is the most graceful exit from such poorly intentioned litigation.

Sincerely,
Gary A. Bean
6016 Sharon Lane NW ??
Cedar Rapids, Iowa 52405

MTC-00030491

Samantha West Gudheim
137 ½ West ?? Street
Manch??, New Hampshire 03101
January 23, 2002
Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

I am aware of a period of public comment in the case of the U.S .and Microsoft is now open and will be until January 27, 2002. I would like to express my support of the settlement that has been reached.

I understand that these settlements are difficult to reach. Knowing how much time and effort goes into these cases I believe that no more time should be spent on this case. Further litigation in the Microsoft case will only keep government lawyers and staff from more meaningful business. The government now needs to focus on other more pressing national matters. Needless to say, too much money has already been spent.

Microsoft lawyers and staff should also be allowed to concentrate on the business of technology. They should be allowed to continue to be a progressive and productive company. As such, Microsoft will contribute to the economy and the computer industry. At a time when many companies are failing the government should be encouraging all companies, especially large and productive ones, to continue to grow—not restrict or regulate them needlessly.

Thank you for your consideration and for your service in the United States government.

Sincerely,
Samantha Gudheim

MTC-00030492

Fax Cover Sheet
copyworks??
OPEN 24 HOURS
Date: 1-26-02
Number of Pages (including Cover): 2
Fax Directed To: Department of Justice
Sent By: ??
Fax Number: 202 616 9937
Fax Number:
Phone Number:
Phone Number:
Company:
Message:
?? AMES ?? AUBURN ?? CEDAR FALLS ?? CEDAR RAPIDS ?? CORALVILLE ?? DUBUQUE ?? LINCOLN 105 Welch Ave. 212 West Magnolia St. 2227 College Street 4837 1st Ave. SE 309 2rid St. 136 Wacker Plaza 1320 Q St. Ames, IA 50014 Aubum, AL Cedar Falls, IA 50613 Cedar Rapids, IA 52402 Coralville, IA 52241 Dubuque, IA 52002 Lincoln, NE Ph: (515) 292-3630 Ph: (334) 826-3555 Ph: (319) 266-2306 Ph: (319) 373-5335 Ph: (319) 338-5050 Ph: (319) 557-2679 Ph: (402) 477-7400 FAX: (515) 292-5011 FAX: (334) b26-3553 FAX: (319) 266-5422 FAX: (319) 373-5436 FAX: (319) 338-1717 FAX: (319) 557-2004 FAX: (402) 477-8966

Patricia E. Masteller
345 Marion Boulevard
Apartment # 112
Marrow, Iowa 52302
January 24, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

American consumers have been bilked out of tens of millions of dollars enduring prolonged litigation in the Microsoft antitrust case. And their own attorneys general and the very companies trying to woo their business have done the bilking.

Microsoft's competitors would tell like they are the proverbial "David" to Microsoft's "Goliath", but several of these companies have grown and merged to monolithic conglomerates themselves. In the biblical story, it is David who threw stones, and Microsoft's competitors have fervently done so, encouraging media frenzy through bitter accusations and editorial campaigns. Somehow excusing their own anti-competitive behaviors, competition has rabidly sought to achieve through the courts what they haven't been able to in the marketplace.

This shameful abuse &our judicial system should not be tolerated. I understand this highly publicized case has come to you through a questionable course of litigation. I am confident that prompt settlement ends this tragic scene of corporate manipulation, and I hope you'll agree.

Sincerely,
Patricia E. Masteller

MTC-00030493

WHITE & JOHNSON, P.C.
ATTORNEYS AND COUNSELDRS AT LAW
January 21, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW. Suite 1200
Washington, DC 20510

Dear Ms. Hesse:

The settlement proposed in the Microsoft antitrust case deserves strong consideration. The independent Technical Committee set out in the proposal provides an enforcement device. If compliance backsliding by Microsoft should occur, the committee would be engaged ?? the cost of Microsoft.

End users would receive the kind of continued flexibility that we have already seen in the release of their new Windows XP operating system guaranteeing consumers the freedom to select applications from competitor providers with ease.

Information technology consumers of Microsoft's operating system would have access to technical specifications of Windows that actually makes it easier for its competitors to provide compatible applications to be used on computers and with servers of Microsoft's operating system.

Although shor?? of breaking apart the company, there are also fair provisions set forth in this settlement that would punish the company for the sections of which they have been found guilty.

I trust you will give this settlement offer sufficient deliberation.

Thank you
Brent Cl??son

MTC-00030494

The ?? Comm?? Massachasetts ??
FRANCIS L. MARINI ??NTATIVE
MINORITY LRABER ??
ROOM 124
TEL: (617) 722-2100
FAX: (617) 722-2300 ??
January 24, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse,

There is a growing sentiment among economists that we are finally seeing the light at the and of the tunnel of our nation's recession. The markets are improving, and the economic forecast is generally positive. However, state revenues are down and most states will have to consider tough outs on spending in coming budgets.

In Massachusetts, we have witnessed a shrinking state revenue base mostly caused by the recession. Many growth opportunities were squandered in the 1990s, and now, in ?? of trading on our accomplishments, we are ?? over what might have been.

On thing that can be done to aid states" economies is to end the Microsoft lawsuit.

We are writing in support of the nine states and the Department of Justice's settlement agreement. It is a fair and reasonable agreement which brings a satisfactory conclusion to this long-running anti-trust case. As the old saying goes, a rising tide floats all boats. And just as a rising tide will float a boat sitting at the lowest point first, so the resolution of this case will help those who have the farthest to rise first.

The technology-driven "innovation economy" has created tremendous opportunities for the citizens of the Commonwealth. But we must act now to take some of the uncertainty out of the economy. We urge you to endorse this settlement agreement, which would provide states greater confidence in fiscal planning and would allow entrepreneurs and businesses to get back to the business of creating new and better products for consumers.

Sincerely,
Fra?? L. M??ini
Minority Leader
Georg?? Peterson, Jr.
Minority Whip
Bradley ?? Jon?? Jr.
Assistant Min?? Leader
Mary S. Rogeness
Assistant Minority Whip

MTC-00030495

HOUSE OF REPRESENTATIVES
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002
(207) 287-1400
TTY: (207) 287-4469
Roger L. Sherman
P.O. Box 682
Houlton, ME 04730
Telephone: (207) 532-7073
E-Mail: reproger??man@??
E-Mail Home: ??-2000@yahoo.com
Renate Hesse
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am a ??red teacher and current legislator I am writing to express my support for the proposed settlement reached with Microsoft, by the Department of Justice and nine of the States involved. In reviewing the settlement I see several benefits particularly for our schools.

The opportunity to provide funding for critically need training of educators and staff. Hardware and software, available for use on multiple operating systems, and for the critical resources needed to acquire hardware for financially strapped schools across the nation.

Microsoft has been put on notice they need to change their business practices, and has agreed to do so. The Federal and State Governments have exercised their rightful authority in protecting the public interests, have reached a reasonable solution.

Now is the time to show the public that we are being responsible and ??nd the long drawn out legal process. We must be responsible with the resources of the people with which the government has been entrusted. It is time to restore faith in our legal system by showing that we know when to end the seemingly endless stream of litigation. Thank you for consideration of my comments and for all you do.

Sincerely,
Roge?? L. Sherman
State Representative

MTC-00030496

Saturday, January 26, 2000 11:30 AM
To:
From: Dave Poage
Sharla S. Poage
9390 264th Road
Arkansas City, KS 67005
Judge Kolar Kottely
Attn.: Ranata Hesse, Antitrust Division Public Comment
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge Kottely,

Since the Clinton years the federal government and several states have been pursuing on anti-trust case against Microsoft which has been one of our country's leading producers of innovative technology. It appears that we are now faced with an opportunity to clear our courts of this case for good. I am hopeful that those in charge will cease this opportunity.

While I am not directly involved with the technology industry and am not a legal scholar, I am a consumer and taxpayer that follows current events very closely. When this case was first brought I was disappointed to learn that my own Attorney General, Carla Stovall, was dragging Kansas into this litigation. It is my belief this case should have never been brought in the first place because it serves no public good.

The theory under which this case was brought is that Microsoft was harming the consumers of their product and had established a sort of monopoly. I do not believe this theory has been borne out with substantial evidence.

What I see is a company that has put products on the market that are appreciated and purchased by consumers. Because of Microsoft's ability to provide customers with products they want, the company has experienced tremendous growth. This is not a reason to punish them! Rather, it is more proof that our system of free enterprise and competition works.

Companies like Microsoft that succeed through supplying innovative and highly demanded goods to consumers should be celebrated not torn down. It is just these types of companies that help stimulate our economy by encouraging consumer confidence, creating jobs, and growing their industry. When the government steps in to flex its regulatory muscle real harm is done. Again, the settlement on the table provides those in charge with an opportunity to end a case that has been harmful to the public good. I urge you to take that opportunity and give your approval to the settlement.

Thank you,
Sharla S. Poage

MTC-00030497

January 25, 2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
VIA FACSIMILE (202) 616-9937

Dear Ms. Hesse:

One of the reasons the American economy is in such a weakened state is the flaws in our system. Specifically, special interests have too much power in Washington DC. The Microsoft case is a perfect example.

Microsoft's competitors don't want to compete against Microsoft in the marketplace. They spend their money on politicians rather than research and development—next thing you know—Microsoft is facing antitrust investigation.

US v. Microsoft has been competitor driven since the day it began. Those opposed to the settlement are still promoting their self interest over the interests of the rest of the country.

Sincerely,
Pete Whittet

MTC-00030498

Jan 26 02 11:25a
John J. DiPietro
ABC/D ADVANCED BUSINESS CONCEPTS/ DiPIETRO
Marketing Strategies.Advertising.Public Relations.Speaking.Training
January 25, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FAX: 202-616-9937

To Whom It May Concern:

It is my understanding that the Justice Department is seeking input, regarding the proposed settlement in the Microsoft lawsuit.

As a small business owner, I understand competition and know that it is healthy for our economy. I use Microsoft products daily in my business and they have been a great help to me. They have allowed me to better serve my customers clients, to manage our business and to actually expand. Given the state of our economy right now, we should do everything possible to spur growth, not hinder it.

There has been no consumer harm as a result of any actions taken by Microsoft. Microsoft's innovations have, in fact, have helped many small businesses like mine grow.

It is also my understanding that an additional benefit to settling the suit is the proposal to donate about 200,000 computers to the public schools. It think this is a great idea. We need workers who are computer literate.

I would suggest that we end this action and approve the settlement.

Sincerely yours,
John J. DiPietro
Managing Partner
672 Main Street.Holden, Massachusetts 01520.Tel: (508) 829-9949.FAX" (508) 829-9959.e-mail: market4you@aol.com
VISIT US ON THE INTERNET AT www.joindipietro.com

MTC-00030499

January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am pleased that a settlement has been proposed to Microsoft by the U.S. Department of Justice. This settlement is long overdue. I understand that we are currently in a sixty-day period for comments on what is in the best interest of the public. In light of this, I am taking this opportunity to express my views on the matter.

Microsoft opponents persistently seek to give the impression that Microsoft has gotten away with easy terms. I beg to differ! If the millions of dollars that they had to spend in their defense is no indication the very opposite is true, then look at all the concessions they have agreed to make. For example, Microsoft has agreed to grant their competitors licensure to their intellectual property. Competitors will now also have the assurance of interoperability within the Windows environment because Microsoft has agreed to disclose Windows protocols. Future versions of Windows will also allow users and computer makers to reconfigure Windows to remove potions of the operating system and substitute competing alternatives.

In my estimation, Microsoft obvious willingness to cooperate with these terms should be enough to abate the concerns of the dissatisfied states. hope that your decision will bring this matter well-needed closure.

Sincerely,
Frank Lempert
31600 S.W. Arbor Glen Loop ??
Wilsonville, Oregon 97070

MTC-00030500

01/26/2002 21:55
508-435-7788
VERNE KAMINSKI
Verne Kaminski
185 West Main Street
Hopkinton, MA 01748
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to take a moment to express my support for the settlement that was reached between Microsoft and the Department of Justice in November. I believe it is time to move forward and stop this unnecessary litigation.

I believe Microsoft has agreed to many tough concessions to reach this agreement. One such concession is that Microsoft has agreed to grant computer makers broad new rights to configure Windows. This should satisfy those consumers who felt they were locked into only using Microsoft products as it allows them to buy competing products if they so desire.

This agreement will allow Microsoft to return their focus solely to producing the next generation of innovations. Microsoft can turn its attention to the competitive environment instead of the legal environment. I hope your support of this consumer-friendly settlement will continue. Let's remember that this country was founded on competitive ideas.

Sincerely,
Verne Kaminski

MTC-00030501

2684 Taft Court
Denver, CO 80215
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I express my fullest support regarding the Microsoft settlement. This settlement should bring any pending issues against Microsoft to closure. Microsoft did not deserve to go through such a long litigation.

The terms in the settlement are very beneficial to software developers. As a writer of database programs in the chemical engineering field I have personally enjoyed using Microsoft programs. The only real concern Z have is the recent allegations from AOL/TIME Warner (Netscape) about the Internet web browsers. I am confident the U.S. Government will try and resolve their issues. Overall, the settlement should reap big benefits for businesses and individual consumers.

Because it allows computer-makers the flexibility to configure Windows as well as the ability to promote non-Microsoft software programs that compete with programs included within Windows.

Sincerely,
Stephen Erickson

MTC-00030502

Don G. Baker
3725 Lucy Trimble Road
Burleson, TX 76028
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to inform you of my position in regards to the Microsoft antitrust dispute. I fully support Microsoft and the settlement that was reached in November, and I am anxiously waiting for an end to this dispute.

The settlement that was reached in November is fair and reasonable. Microsoft has agreed to all provisions, including provisions that extend well beyond the products and procedures that were actually at issue in the suit, for the sake of wrapping up the suit, Microsoft is willing to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price. Microsoft has also agreed to design future versions of Windows, beginning with an interim release of Windows XP, to provide a mechanism to make it easy for computer makers, consumers, and software developers to promote non- Microsoft software within Windows.

This settlement will serve in the best public interest. I strongly urge you to support this settlement so consumers and the economy can feel the positive effects of allowing Microsoft to get back to business as usual. Thank you for your support.

I actually believe Microsoft did no wrong.

Sincerely,

MTC-00030503

59 Laurel Avenue
West orange, HJ 07052
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We would like to use this opportunity of public comment to give our support for the settlement reached between Microsoft and the Department of Justice. The settlement is good for our country and gives each side the chance to move forward.

The terms of the settlement are comprehensive and mandate many changes in Microsoft's past business practices. For example, Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows. This gives computer makers the ability to replace access to features of Windows with access to non-Microsoft so—re such as programs from AOL Time Warner. Finally, the agreement calls for the creation of Technical Committee to supervise Microsoft's compliance with their responsibilities.

This case has gone on for too long and neither side wins with continued litigation. The settlement gives Microsoft the opportunity to focus on innovation while the federal government can focus dwindling resources on stimulating the economy.

Sincerely,

MTC-00030504

January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I cannot see how a case was ever brought against Microsoft in the first place. They are not a monopoly; they simply make the product that most people enjoy. That's why I was so pleased when a settlement has finally reached in November.

I was sorry, however, that Microsoft had to give up so much in order for the Justice Department to agree to end its suit. Microsoft is being asked to hand over software, that it has taken time and hard work to create, to its competitors for free. They even have to make sure that subsequent versions of Windows are more geared toward non-Microsoft products.

I feel that while this is all a bit extreme, it would be worth it in order to put an end to this case. Both Microsoft and the Justice Department have more important issues to worry about right now, and it would be good to have them free to do so.

Sincerely,

MTC-00030505

COVER PAGE
TO:
FAX: 12823871454
FROM: JIM CARLETON
FAX: 7137231403
TEL: 7137293417
COMMENT:
Jim Carleton
6043 Lymbar Drive
Houston, Texas 77096
January 26, 2002
Attorney General John Ashcroft
Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft,

It has become apparent that some anti-Microsoft forces are attempting to derail the settlement that was reached in the antitrust case this November. It would be very unfortunate if the case was resumed, and Microsoft was forced to continue wasting time and money on this case.

A settlement was agreed to by all sides, and approved by a federal judge. Sadly, forces opposed to the settlement are trying to interfere and have this case resuscitated. Many want to see Microsoft face injury in the court because they are unable to compete with Microsoft in the free market.

It is unfortunate that this opposition exists because the settlement is beneficial to all, including Microsoft's rivals. The settlement give non-Microsoft companies the ability to view and use Microsoft code to create better software. It also will make it very simple for non-Microsoft software to be placed on Microsoft operating systems. Undoubtedly, it is time to conclude this case, and promote competition in the market, not the courts.

Sincerely,
Jim Carleton
Cc: Rep. Tom DeLay

MTC-00030506

53 Arrowhead Road
Duxbury. MA 02332-5035
January 25,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

I am writing to give my support to the recent settlement between the Department of Justice and Microsoft The proposed agreement was a long time coming, and we are only' days away from the end of the comment period. ! hope that once everything is all said and cone, the settlement is approved and implemented as soon as possible.

It is time to move on The Department of Justice has accomplished its goal of making Microsoft. technology more accessible to competing companies Microsoft has agreed to a number of changes opening up its codes and books to other manufacturers. The Justice Department has held Microsoft's "feet to the fire" long enough, and the settlement even goes as far as having a "Big Brother" feel to it. A three-member committee of software engineering experts has been assembled and will monitor Microsoft's compliance to the agreement. Please support the proposed agreement between the Department of Justice and Microsoft as I do, and approve it with haste Thank you.

Sincerely,
David Delory

co: Representative William Delanunt

MTC-00030507

Darryl LaRocque
P.O. Box 2772
Big Bear City, CA 92314
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have been following the Microsoft antitrust case in the federal courts since its inception three years ago. Last November, a settlement was proposed, and it is curtly pending approval. This bodes well for the economy, which has been steadily declining since the case began.

Unfortunately, Microsoft's opponents are not happy that Microsoft will emerge intact in this settlement, and are striving both to undermine agreement of the settlement and to bring additional litigation against Microsoft.

Further litigation will serve no one. Microsoft has agreed to make the necessary adjustments in policy and product to prevent further antitrust violations; no further action is necessary. The settlement reached late last year is fair both to Microsoft and its competitors. Microsoft will be allowed to retain control over the bulk of its operations, but will be required to restrict some other practices deemed monopolistic and alter certain products in order to facilitate fair competition.

For example, Microsoft has agreed not to retaliate if software is introduced into the market that directly competes with Microsoft software. Microsoft also plans to allow computer makers broad fights to reconfigure Windows to their own specifications using non-Microsoft software, and enable them to do so by reformatting upcoming versions of Windows in order to support non-Microsoft programs.

I believe the settlement is fair and that no additional measures need to be taken against Microsoft on the federal level. I urge you to support finalization of the settlement.

Sincerely,
Darryl LaRocque

MTC-00030509

Constance Reynolds Lewis
1611 Ninth Street
Lake Charles, LA 70601
FAX COVER SHEET
Date: 1-26-02
Time:
To:
Phone:
Fax: 1-V02-Z07-1454
From:
Phone:(337) 439-4245
Fax: (337) 439-4245
RE: MICROSOFT
Number of pages including cover sheet: 2
Message:

Jie:

I do not believe Hat the government has ANY ?? ?? to ?? Microsoft ?? the posilion?? ?? ?? it has

EARNE?? ??
ROBERT M & LET. RUDE
21301 8th Place W
Lynnwood, WA 98036
January 25, 2002
Attorney General John Ashcroft
U.S. Department oú Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

We have taken this opportunity to write in and express our opinion of the antitrust suit against the Microsoft Corporation. We feel that this suit has been bogged down in the judicial system for long enough and it is time for the government to allow Microsoft to get back to work. It needs to continue setting the standard in the worldwide technology industry.

It is our opinion that this suit has pulled the American economy down, especially in the vital IT sector. The bottom line is, Microsoft is one of this nation's largest employers, and the perpetuation of this case during these times of economic uncertainty is imprudent. Microsoft is and always has been a great company. They have given millions of dollars to charity and have changed the way we view computers forever. Microsoft made technology accessible to Americans in a form that was usable. Without this company, there would have been no "P.C. revolution." We believe that the terms of this settlement will ensure that there are no further violations of antitrust committed by the company, especially with the establishment of a technical committee which will monitor Microsoft and prevent them front any future violations.

We are please that an end to this litigation is in sight. Please continue to support the settlement and the future of free enterprise in this nation.

Sincerely,
Robert Rude
Lc Rude

MTC-00030510

Jerry Stork
6528 Volley Stream Way
* Cumming, GA 30040
Cell Phone 770.329.3794
* Answering Machine 770.475.0922*
Home phone 770.475.1225
* Fax 770.664.1404*
E-mail jrsdll@bellsouth.net
Saturday, January 26. 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

Please do whatever you can to help expedite a settlement of the Microsoft antitrust case. This nearly four-year-old case has produced little, but controversy. There is now, as you know, a settlement agreement that has been preliminarily accepted by the major parties and the court. This agreement fairly balances the concerns of the parties and offers a fair solution to the dispute. In return for retaining its corporate integrity, Microsoft has agreed to adopt certain practices, which will render it more vulnerable to its competitors. It has, in fact, agreed to help raise its competitors to its own level of play. For example, Microsoft will now invite competition by configuring its Windows platforms to easily incorporate non-Windows software. Microsoft will now offer computer manufacturers licensing agreements without a condition of Windows software exclusivity. Microsoft has even promised to disclose to competitors certain internal Windows interfaces. In other words, Microsoft has agreed to encourage the industry to catch up with itself.

These concessions and this change in philosophy will inure to the benefit of the industry and the public. Please support this settlement.

Sincerely,
Jerry Stark
Teleflex Fluid Systems,
One Firestone Drive, Suffield, CT 06078
1-800-225-9077 or 1-860-668-1285
Fax 1-860-666-2353
www.teleflexhose.com

MTC-00030511

350 S Clinton Street Apt. 9A
Denver, CO 80231
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. A settlement is available and the terms are fair, Microsoft has agreed to a wide rang of concession in order to settle. I would like to see the government accept the settlement and allow Microsoft and the industry to move on.

Many people think that Microsoft has gotten off easy, in fact they have not. The settlement was arrived at after extensive negotiations with a court-appointed mediator. Microsoft has agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit. To make sure that Microsoft complies with the settlement a technical committee will be set up to monitor Microsoft's compliance. The settlement that was reached is fair and it is guaranteed to be followed.

Microsoft and the industry need to move forward, and in order to move forward this issue needs to be put in the past. Please accept the Microsoft antitrust settlement.

Sincerely,

MTC-00030512

Justice Department:

Three years of litigation is enough. Dragging out this legal battle further will only benefit a few.

The aggressive lobbying campaign to undermine the settlement is only serving to line the pockets of wealthy competitors, lawyers and special interest bigwigs. Not one new product that helps consumers will be brought to the marketplace.

I strongly urge the U.S. Department of Justice to end this wasteful investigation. The proposed settlement offers a reasonable compromise. It is time to move on with the agreed settlement negotiated and allow businesses who wish to compete to compe??. Those who can't muster up the competitive edge need to either merge or get out of the business arena

Sincerely
Ben Jones
E-mail

MTC-00030513

Complimentary Fax Cover Sheet
To:
From:
Fax #
Phone #
Date: Urgent
Confidential Confirm Receipt
Number of Pages: (Including Cover)
Reply Fax #:
Message:
Dorothy Klughers
30 John Lane
Levittown, NY 11756-1905
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am in favor of the Microsoft antitrust settlement agreement. The terms of the settlement agreement are more than fair. I urge the court to approve the agreement. Among other things, Microsoft has agreed to grant computer makers many new rights. The manufacturers will be able to remove various features of Windows. such as Microsoft's web browser. Internet Explorer, and replace them with browsers made by Microsoft's competitors. This will result in giving consumers more choice when it comes to software they purchase. Microsoft has also agreed not to take retaliatory action against those who promote or develop software that competes with Windows.

The settlement agreement will help level the piaying field among the software companies. Litigating this case further will not prove to be as beneficial to consumers as this agreement will be.

Sincerely,
Dorothy Klughers

MTC-00030514

16 Charles River Road
Medway, MA 02053
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to strongly urge you to support the current settlement between Microsoft and the Department of Justice. I firmly believe that there should be no further action against Microsoft regarding the proposed negotiated settlement A/though the litigation should have never brought forth several years ago, this current settlement is the result of a fair, judicious and reasonable process that should be respected.

This settlement is unique in that it has the necessary enforcement powers to ensure that the terms of the agreement are abided by. The agreement contains a provision that allows private companies such as SUN Microsystems, Apple and IBM to sue Microsoft should the company not follow the terms of the settlement. Additionally, the agreement requires Microsoft to submit to a government technical oversight committee and to change their business, licensing and marketing practices to foster greater competition. This settlement signals the end of a long and drawn out process and should be respected.

With all that is going on in the world, a faltering economy, and more significant national priorities I hope that you will help support this settlement in its current state. It is a shame that a company like Microsoft who builds a superior product and is a major contributor to the economy would be consistently hounded by a government that is supposed to support free enterprise.

Sincerely,
Allen Sisson

MTC-00030515

DANIEL HICKY GRANT, Ed.D.
Board Certified Forensic Examiner, Fellow of the American College of Forensic Examiners, Diplomate of the American Board of Psychological Specialties—American College of Forensic Examiners
Board Certified Expert in Traumatic Stress
Diplomate, American Academy of Experts in Traumatic Stress
Board Certified Neuropsychologist—The Americana Board of Professional Neuropsychology
Diplomate in Pain Management—American Academy of Pain Management
Licensed Psychologist—Georgia License # 850
Post Office Box 1359
Richmond Hill
Georgia 31324
912-727-3158
danielgrant@msn.com
899 Mill Hill
Landing Road
Richmond Hill, GA 31324-4625
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Fax #: 202 307 1454
January 25, 2002

Dear Mr. Ashcroft:

I am in support of Microsoft and its right to practice ethical business in a free market economy. I am also in support of the proposed antitrust settlement between them and the Department of Justice. I believe this is a fair resolution to this lawsuit,

Microsoft is disclosing much of the features that give it a competitive edge. This includes disclosure of interfaces that are internal to Windows" operating system, and allowing software developers to develop competitive software. The release of this information should be enough to satisfy the government.

I urge you to support this settlement and conclude this case. I would feel more comfortable with the Government focusing its efforts on pursuing more suspicious and illegal companies.

Thank you.

MTC-00030516

Don & Arlene Fenno
1124 S. Ave. B
Washington, IA 52353
(319) 653-2365
534 Princeton Greens Ct.
Sun City Center, FL 33573
(813) 634-5494
Justice Department

Re: Microsoft Settlement.

We believe that the Federal court settlement was very adequate. Any further harassment could damage our inventive spirit and curb new efforts when we need them most. States should stop now.

Don & Arlene Fenno

MTC-00030517

Attention: Concerning comments about Microsoft Litigation Microsoft has gone thru enough. The settlement the federal government came up with should be enacted. We can thank Microsoft for a lot of the Standands enjoyed today to computing and the internet.

X-president Clinton should have been going after Bin Laden and not Bill Gates.

Thanks,
Mike Stuart
P.S.

Would you mail or E-mail me a schedule of upcoming topics and issues for ocmment by the
DOJ.
mikesutart@coastalnet.com
1104 Karen Dr. A-6
New Bern, NC
28562
Thanks

MTC-00030518

10831 Valmay Avenue NW
Seattle, WA 98177-5336
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. It disappoints me that the government has in the past chosen to harass a company like Microsoft. Microsoft has added such a great economic contribution to this country. The contribution extends from Washington State all the way to Washington, DC Microsoft is a core holding of most company retirement plans, 401Ks, IRAs and mutual funds throughout America Therefore it is in the best interests of almost every American to get this case settled.

In order to settle this issue Microsoft has agreed to many terms. It has agreed to design future versions of Windows to be more compatible with non-Microsoft soft-ware. It has also agreed to change several aspects of the way it does business with computer makers. Microsoft did not get off easy, there are pages of terms agreed to in addition to these two.

Microsoft needs to be able to get back to business. This suit has bogged down the company for over three years now. For the good of American's everywhere ! urge you to accept the Microsoft antitrust settlement

Respectfully
J. Bradford Borland

MTC-00030519

7957 2nd Avenue S

St. Petersburg, FL 33707–1023
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Asberoft:

I am writing in support of the settlement that you have reached with Microsoft in November. I know that, while not yet finalized, this settlement brings the promise of an end! to the Microsoft lawsuit at the federal level.

I hope that everyone will see just how much Microsoft is willing to sacrifice in order to bring about an end to this settlement. By offering its proprietary code and the rights that go along with it, Microsoft is forgoing billions in creative profits. And that provision is merely a small portion of the overall settlement.

This settlement should be agreeable to everyone and I feel that the states that refuse to settle are only trying to pad their own budgets like they did with the tobacco companies. But this time, they are attacking a company that is vital to the average American and the economy. Hopefully, with this settlement finalized, they will fall in line with the rest of America.

Sincerely,
Jim Engel

MTC–00030520

3115 Lafayette Street
Houston, TX 77005
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to point out some of my views regarding the Microsoft antitrust case. I do not agree with every decision that Microsoft has made, but understand that business is business. I feel that there was merit behind many of the issues that brought about this case, but that was three years and countless taxpayers'' dollars ago. I feel that the settlement agreement is the best way to close this case, and ensure that it never reaches the federal level again.

Although the settlement calls for concessions, Microsoft has agreed in an effort to end this case sooner rather than later. Microsoft has agreed to change the way it markets, licenses, and develops its software, as well as the way it deals with independent vendors. Microsoft Ins agreed to stop retaliating against those that promote or design non-Microsoft programs, and computer makers will be allowed to configure Windows so as to promote those programs.

It appears to me that Microsoft has made the necessary concessions, and now we must move our focus to the states that are pursuing further litigation. I fear that since the tobacco settlements, states have seen corporate lawsuits as additional forms of state revenue. I hope you are Wing to recognize when states are using consumer protection as a veil for return on investment. As long as Microsoft is willing to give up some of its market share and competitive advantage, there will always be those requesting more. I hope you will do everything in your power to attempt to close this case as soon as possible, or we might be back in a few years trying to protect Microsoft.

Sincerely,
Catherine McNamara

MTC–00030521

29303 NE 11th Street
Carnation, WA 98014
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am very much in favor of the Microsoft antitrust case settlement agreement. The remedies provided in it are good for everyone involved, and I would not like to see the case dragged on through the courts any further.

The terms of the settlement agreement are quite reasonable by any standards. Once the agreement is approved, Microsoft will be helping the competition by leveling the playing field in the high-tech industry. For example, Microsoft has agreed to make it easier for consumers to run other software programs simultaneously with the Windows operating system. They also agreed not to retaliate against retailers that promote software that competes with Windows. Additionally, Microsoft has agreed to implement a uniform price list for the top 20 largest computer manufacturers. Microsoft's competitors should be satisfied with these types of concessions.

I appreciate your efforts toward settling this case. Thank you.

Sincerely,
Ron Beman

MTC–00030522

Benjamin Friedman
* 17846 Beckley
* CircleVilla Park, CA 92861
January 23, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take a moment to express my opinions regarding the Microsoft antitrust case. I think I might feel differently about Microsoft if it had become powerful by malicious intent, but it achieved its position because it made a better mousetrap and sold it at the lowest price. I am a supporter and avid user of Microsoft products, and would like to see this case put behind us. Although the settlement may reach further than Microsoft may have wished, it realizes that settling the case sooner, is better than later. In order to do this, it has agreed to concessions that make antitrust precedent. Microsoft has granted broad new rights to computer makers, software engineers, and to consumers. It has allowed them to configure Windows so as to promote non-Microsoft programs that compete with the programs already included within. Also, Microsoft has agreed to document and disclose various interfaces within its Windows operating system. This boils down to Microsoft opening its doors to the competition, and allowing them to use its invention to promote their own competing products. Imagine if Nike put Reebok logos on its shoes, or if Ford built cars with Toyota engines. It seems ridiculous when considering products that we are more familiar with, but nevertheless, Microsoft has a agreed to these concessions to speed a conclusion. We should consider the very foundations of free enterprise and competition and realize that the longer this case precedes, the greater the risk that we may cause irreparable damage to the IT industry, and the economy.

Sincerely,
Berjamin Friedman
cc: Representative Christopher Cox

MTC–00030523

January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express to opinion in regards to the Microsoft anti- trust dispute. I support Microsoft in this dispute, and I favor the settlement reached in November. This settlement is complete and thorough, and I am anxious to see this dispute resolved permanently. Microsoft has agreed to carry out provisions in this agreement, such as: designing future versions of Windows to provide a mechanism to make it easy for computer makers, consumers, and software developers to promote non-Microsoft software within Windows. The mechanism will make it easy to add or remove access to features built into Windows or to non- Microsoft software. Microsel5 has pledged to create more opportunities for competing companies. ''

Microsoft is a company that delivers quality product to the marketplace. I have used Microsoft's products for years now, and I hope I will be able to enjoy these products for years to come. Please do your part to stop litigation against Microsoft. Thank you for your support.

Sincerely

MTC–00030524

Earl W. Mallick
13 Lands End Way
Hilton Head Island, SC 29928
January 26, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear General Ashcroft:

I am writing, as a long time admirer of yours as well as a small shareholder in Microsoft, to voice my support for the federal settlement with Microsoft. I believe that Microsoft has earned a position of leadership in the technology sector through its focus on excellence. It has consistently and continually provided its customers with innovative products. I feel that it is improper to stifle creativity by permitting those less innovative companies to go to the federal government to file lawsuits as a substitute for their own lack of imagination, and I therefore believe that the case against Microsoft is without merit.

The time has come to finally resolve this lawsuit to let Micorsoft concentrate on doing what they do best—developing innovative products. Microsoft has made plenty of concessions. The government should not be wasting funds on this lawsuit when we need to spend more on fighting terrorism. The third-party oversight committee which Microsoft has agreed to will keep everybody honest. Please see that the Department of Justice recognizes the importance of finalizing this settlement and does so soon.

I can't close this letter without commending you on the outstanding work you are doing on the terrorism front. May God continue to bless you, the President, and all of the others working to preserve our way of life. Cc: Senator Strom Thurmond

Sincerely,

Earl W. Mallick

MTC–00030525

15 Broadway
Ocean Grove, NJ 07756
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I urge you as strongly as possible to settle the Microsoft antitrust case and to end the extensive and costly legal proceedings against them. I find the amount of money spent fighting the case an irresponsible use of resources, and the case should be wrapped up as quickly as possible at this point.

As an everyday computer user, I find a uniform operating system to be beneficial in my ability to smoothly operate my PC. Though some of Microsoft's tactics have been heavy-handed, there is no denying the success they have had in making programs work seamlessly with each other and creating a standard other companies have yet to match. Though they will lose some of their entrepreneurial freedom in disclosing Windows coding to competitors, it will allow Microsoft to get back to business, and to continue paving the way for innovations that benefit millions of people.

Therefore, I am in favor of settling the case as soon as possible. If our past President, Mr. Clinton had spent as much time, energy and money pursuing Bin Laden and company as he had pursuing Bill Gates and company (Microsoft), we as a nation would be in better shape. One of the main reasons I voted for President Bush was in the belief that he would do the right thing.

Sincerely,

John Sosenko

MTC–00030526

Sandra Drake
12201 NE Olive Drive
Kingston, WA 98346–9265
January 26, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I believe that the antitrust lawsuit against Microsoft has gone too far. I feel that it has been fueled by political motives and personal avarice since its conception three years ago. It is not my belief that Microsoft was guilty of antitrust violations in the first place, and finally I believe that the settlement that has been reached in this case must be accepted for the simple reason that it is the quickest way to end this case.

This settlement will require Microsoft to design all future versions of Windows to be compatible with the products of its competitors. While I believe that this is a bit harsh I would like to urge you to accept this settlement. Microsoft has agreed to the terms because it understands the importance of ending this litigation—not just for its own sake, but for the sake of the U.S. economy as well as the technology industry.

Thank you for the work that you have done in this case and for your support of this settlement.

Sincerely,

Sandra Drake

P.S. The U.S. should be ?? of ??government officials. In ?? Government, what a concept.

MTC–00030527

John Gilstrap
36 South Marion Circle
Ringgold, GA 30736
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The court should approve the Microsoft antitrust settlement. Entering into the settlement agreement will ensure Microsoft will be able to get back to focusing on developing innovative products while safeguarding against the complaints made about anticompetitive business practices. Continued prosecution of this case by the federal government is unnecessary. Microsoft has agreed to make many changes in the way it conducts its business. They agreed to design future versions of Windows in a way that will make it easier for consumers to run software made by other companies along with Windows software.

While I have not been directly impacted by this lawsuit, I have friends in the technology industry who have. Drawing out this lawsuit is not beneficial to them, or to the tech community as a whole.

Thank you for working toward a resolution of this case.

Sincerely,

John Gilstrap

MTC–00030528

FAX COVER SHEET
ATTENTION: Attorney General ??
COMPANY: Department of Justice
FAX NUMBER: 1–202–307–1454
DATE:.1.26.2002
NUMBER OF PAGES SENT INCLUDING THIS PAGE: 2
FROM: ??
COMPANY:
PHONE: (253) 582 8368
FAX: (253) 581–9178
MESSAGE: As attached
NOTICE: If you have any problems receiving this fax, please con :act Mail Masters at (253) 581–9177 immediately.

8302 104th Street Southwest
Lakewood, WA 98498
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to express my support of the settlement reached between Microsoft and the Department of Justice. I do not believe the anti-trust case against Microsoft had any merit in the first place. Yet, I was pleased to hear that Microsoft and the Department of Justice had agreed to the terms of a settlement. I urge the Justice Department to enact the settlement this month.

The proposed settlement contains many stipulations that will benefit the IT industry. Microsoft has agreed to disclose the protocols and interfaces of its Windows system, which provides for the development of new software. This new software should be more compatible with the Windows system. Competing developers will clearly benefit from the disclosure of this information. Finally, everyone will benefit from this settlement. Microsoft will be allowed to return its full focus to business, and technology companies will benefit from the increased confidence in the sector. For these reasons, and many more, the Justice Department must enact the settlement.

Sincerely,

MTC–00030529

Carlotta Boyd
6104 36th Avenue NW
Seattle, WA 98107
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in favor of the Microsoft antitrust settlement agreement. It is in the public's best interest that this protracted litigation come to an end.

The terms of the settlement agreement are fair. Microsoft has taken appropriate steps to restore fair competition in the software industry. Microsoft has agreed to make available to its competitors the information necessary to enable servers to interoperate natively with Microsoft server operating systems. They also agreed to not to enter into contracts with third parties which would require that third party to exclusively sell Windows products. Concessions such as these will help foster competition.

I appreciate your commitment to resolving this case. Further litigation is obviously not going to accomplish anything more than running up legal expenses and creating more uncertainty in the tech world.

I support the settlement, and I look forward to the end of this case. Thank you for your time and consideration.

Sincerely,

Carlotta Boyd

MTC–00030530

867 Plymouth Street
Pelham, NY 10803–3128

January 15, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

Extending litigation In the Microsoft antitrust case would be a mistake. A settlement has been reached between Microsoft and the Justice Department, Our Justice Department should continue to support this settlement.

Certain spatial interests would like to see the case continue. The continuation of this case, however, will benefit no one but some special Interests. The settlement is fair and balanced. It will create more openness in the technology Industry, It allows competitors unprecedented access to Microsoft cede, In addition to the code openness, Microsoft has agreed to submit to a three person, government appointed technical oversight committee who will ensure that Microsoft is complying with the terms of the agreement.

Unquestionably the Microsoft antitrust case should be settled. Despite the wishes of some special Interests to continue with this case, It Is time for this costly and time-consuming case to and. Attorney General Ashcroft, please continue your outstanding support for the settlement.

Sincerely,
Albert Andresen

MTC–00030531

1985 Green Lane Road
Lansdale, PA 19446–5043
January 22, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington. DC 20530–0001

Dear Mr. Ashcroft:

I wish to express my frustration about the fact that it took the Department of Justice three years to end its costly antitrust lawsuit against Microsoft. Our tax money can be far more properly spent. The agreement they came up with is strict. It requires Microsoft to grant computer makers broad new ways to set up Windows with non-Microsoft software programs. Computer makers will now be free to remove the means by which consumers access various features of Windows. They can also replace access to those features with access to non-Microsoft software.

The big deal in this settlement, however, is that Microsoft has also agreed to disclose various interfaces for its rivals, so that they can write more effective software programs and applications. Certainly this agreement is more than fair and reasonable. The federal government should now allow the provisions of this settlement to fall in to place. No more litigation should be brought against Microsoft beyond this agreement.

Sincerely
Fran Henshaw
CC: Senator Rick Santorum

MTC–00030532

12230 SE 61st Street
Bellevue, WA 9,8006
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter because of my expressed interest of putting this matter behind us. We need to move forward and get beyond this point. It is a lingering process that is not in the best interest of the people, the industry or the economy of our great state of Washington.

I believe the settlement is a reasonable solution to this ongoing litigation process. Microsoft will, under this settlement, share information with its competitors that will enable them to place their own programs on the Windows operating system. In addition to the federal government, I would also like to see the other individual nine states that are still pressing this case settle at the state level.

The settlement is an important one and I thank you for giving me the opportunity to share my opinions.

Sincerely,
Arvid Portin

MTC–00030533

1985 Green Lane Road
Lansdale, PA 19446–5043
January 22, 2002
Attorney General John Ashcroft
U.S, Department of Justice
950 Pennsylvania Avenue, NW
Washington. DC 20530–0001

Dear Mr. Ashcroft:

I wish to express my frustration about the fact that it took the Department of Justice three years to end its costly antitrust lawsuit against Microsoft. Our tax money can be far more properly spent.

The agreement they came up with is strict. It requires Microsoft to grant computer makers broad new ways to set up Windows with non-Microsoft software programs. Computer makers will now be free to remove the means by which consumers access various features of Windows. They can also replace access to those features with access to non-Microsoft software.

The big deal in this settlement, however, is that Microsoft has also agreed to disclose various interfaces for its rivals, so that they can write more effective software programs and applications. Certainly this agreement is more than fair and reasonable. The federal government should now allow the provisions of this settlement to fall in to place No more litigation should be brought against Microsoft beyond this agreement.

Sincerely.
Joseph Henshaw
CC: Senator Rick Santorum

MTC–00030534

R MILTON LAIRD
Certified Public Accountant
4550 Union Road
Paso Robles, California 93446
Tel (805) 237–9202 Fax (805) 237–84.49
January25,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530

Dear Mr. Ashcroft:

I am deeply disturbed by the travesty of justice caused by legal actions that have been and are icing taken against Microsoft. Microsoft, in fact, is one of the primary contributors to the success of our economy. The efficiency and productivity of our entire workforce has been dramatically increased by Microsoft's software.

Along with other companies such as Intel, Microsoft has enabled computer users to speedily communicate and handle complicated problems efficiently on PCs and network by replacing numerous cumbersome, complicated and slow operating systems with Windows and other products that are amazingly effective and economical.

Before Microsoft s software was available, only engineers and sophisticated mathematicians were able to program and operate the massive computers in use, Now anyone who can read and write can expertly operate their PCs and business networks.

As a reward for this massive contribution to oar economy and improvement in the work forces efficiency, Microsoft has been severely penalized by actions brought by competitors who could not develop competitive systems and turned instead to the government in an attempt to limit Microsoft's effectiveness.

Even though the proposed settlement is severe, Microsoft has agreed to make future programs easier for other companies to release their products. Windows XP will have a device that enables other companies to add or remove computer attributes built into Windows, so if anyone comes up with better programs, (which I doubt will happen) these programs can be easily introduced into new computers.

Yet some greedy State Attorney Generals are trying to exceed the already unjust penalties proposed for Microsoft and AOL is bringing a lawsuit which can only lead to more unnecessary and unproductive litigation to the detriment of all except attorneys.

Let's conclude this hassle and get on with making America more efficient.

R. Milton Laird
cc. Senator Dianne Feinstein

MTC–00030535

Haskell Rosenberg
4 Bridgewater Court
Pittsford, New York 14534
716:381 -2340
Fax—716:381—3094Haskelini@aol.com
Fax Cover
January 28, 2002
FROM: Haskell Rosenberg
Phone: 585/381 -2340
Fax: 585/381—3094
TO: Attorney General John Ashcroft
FAX: 202/307–1454 202/616–9937

I trust that, despite your overcrowded agenda, you will be able to give consideration to something that has already gone on much too long.

Haskell Rosenberg
2 Pages, including cover
Haskell Rosenberg
4 Bridgewater Court
Pittsford, New York 14534
Ph. 716:381—2340
Fax:716: 381- 3094
email: haskelini@aol.com
January 28 2002
Attorney General John Ashcroft

US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing in support of settling the Microsoft antitrust case according to the settlement agreement negotiated in November. The case should never have been brought in the first place and has resulted in enormous expense to taxpayers and a great waste of everyone's time. In the settlement agreement Microsoft has made a number of concessions, including the implementation of a uniform price list for the largest computer manufacturers, and an agreement not to take retaliatory action against competing software companies. With these concessions Microsoft has gone far to level the playing field, giving these companies a meaningful opportunity to compete with Windows and with the applications Microsoft writes for it. Microsoft has earned its dominant position because they earned it in the hurly-burly of the market-place. It ill becomes giving sore losers the opportunity to bring down a company, especially one so important in our "new economy", simply because of its success. It would be better for all parties to see this case resolved. The November settlement agreement is an appropriate way to put an end to at least a portion of this needless litigation.

With best wishes.
Sincerely,
Haskell Rosenberg

MTC–00030538

[illegible]
January 25, 2002
Attorney General John Ashcroft
U.S. Department of Justice
9500 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am writing to you to express my support for Microsoft and the sttlement in the antitrust case. This case has dragged on for long enough and it is time to conclude these legal proceedings. Microsoft has offered generous terms in the settlement: the licensing of intellectual property, [illegible] on Windows for rival software developers free reign for computer makes in relation to what software they install, and a uniform price for the top 20 computer makes to purchase Microsoft products. These are only a few of the concessions Microsoft has offered in the November 2001 settlement.

Microsoft is a great company that has revolutionized the technology industry. It is time [illegible] move forward once again and continue to make fine products without the threat of a lawsuit hanging over them. I strongly urge you to accept this settlement because it is fair to all parties involved.

[illegible]

MTC–00030539

January 9, 2002
Judge Kollar Kotelly
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530
Attention: Renata Hesse

Dear Judge Kotelly:

After years in the courtroom and millions of dollars of taxpayer money spent, the Department of Justice has reached a proposed settlement with Microsoft, I am aware that you are considering the merits of this settlement and that the law allows for comments from the general public on this matter. I am grateful for this opportunity to participate in this way.

When news of this settlement was first announced I was very pleased to know this case seemed to be drawing to a dose, While I have never seen the merit of the 9overnment's case in this matter, my greatest concern was the clear lack of regard for the financial impact this case would have on our national economy.

Since this case started over $30 million dollars of taxpayer money has been spent pursuing this boondoggle, This is unacceptable at a time when states like mine are facing real budget constraints and the federal government should be placing its resources in areas that truly protect the interests of Americans.

At this time of economic recession and heightened budget concerns this proposed settlement is the best solution. I am hopeful you will agree to support this proposed settlement.

MTC–00030540

3690 Woods Road E
Port Orchard, WA 98366
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you today to express my support of the settlement that was reached between Microsoft and the Department of Justice. While I ardently question the merits of this case, I was pleased to hear that a resolution may finally be in sight given the three-month mediation process that has already ensued. The enactment of this settlement would be beneficial. I urge the Justice Department to enact the settlement and suppress any further action against Microsoft. Some people have made the mistake of seeing Shunt's work as a load of rubbish about railway timetables.

Microsoft has done more for this country under the leadership of Bill Gates than any many other entrepreneurs in American history. Further, Microsoft, as a corporation, has gone above and beyond the scope of the original litigation in an attempt to resolve this issue. Microsoft has agreed to disclose the internal interfaces of the Windows system. This is a first in any antitrust settlement.

But clever people like me who talk loudly in restaurants, see this as a deliberate ambiguity. A plea for justice in a mechanized society.

I would hope that the Justice Department recognizes the immense benefits of enacting this settlement and proceeds accordingly at the end of the month. When Shunt says the 8:15 from Paddington he really means the 8:17 from Paddington. The places are the same, only the time is altered.

MTC–00030543

A HY YO! HIHARA DESIGN
San Gabriel, CA
91775
Voice:
(626) 284–0233
FAX.
(826) 284–5411
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing in support of the Microsoft settlement. It is time for the federal government to stop spending millions on a lawsuit, when a reasonable settlement is at hand. This settlement, which all parties have agreed to, will put this issue to rest.

At a time when the stock market at is down and the economy is in recession, the market is looking for stability—not the uncertainty of an ongoing lawsuit against one of America's most successful companies. There are many more important issues that the government can fund—from programs for children to paying down the national debt.

The consent decree is a fair compromise. Please support it. Thank you.

Sincerely,
Ka by Yoshihara
President
K hy Yoshihara Design

MTC–00030544

CALIFORNIA DEMOCRATIC PARTY
Sc
1401 21st Street,
Sacramento, 455 22
916,442,570
Ms. Renate Hesse
Antitrust Division
Department of Justice
801 D. Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing in support of the Microsoft settlement. The time has come for the federal government to jet its spending prior straight. Instead of wasting millions o?? dollars on a lawsuit that will do??thing for the consumer except make an already shaky economy worse, the time has come to and the ch??ade.

By supporting the co??ent degree, you will put the issue behind us and help refocus the spending priorities of the administ??ation. Hopefully, the consumer backlash?? this west??ful spending will in??cause this administration to focus its effects on important priorities such as working men and women, programs for our nation's youth and paying down the national debt. The first step, ??owever, is to avoid wasting the millions of dollars fun??ed into it is laws it that could be better spent almost anywhere else.

Thank you.
Sincerely,
Bob H??ndy
Director, Region 10
CA Democratic Part

*This letter represents the opinion of the author of the letter and shall hot be construed to
implement it represents the official California Democratic Party position.

Class S. Fig?? Str??t Suite 400

Let Angeles, CA 9–017–5440
213,239,8736- F?? 2398737
DE-?? Web site
imfo@??dem.urg
www.ci-dcm.org

However not intervention into the world of nigh tech programming and design sets a dangers is, and potentially dis??rous prec??dent. Di??tating to Microsoft what technology it can develop to in?? the effectiveness of existing products of meet the rapidly expanding needs of us?? the technological into a from that has been the hallmark of our high tech, internet??

?? could argue in fact that the ger??esis of the huge decline in the Nasdaq, which so far ?? in ?? than $2 million of loss wealth, it primarily the result of the government's ?? attach Microsoft's right to innovate. After ?? today Microsoft, to norrow Intel.

Microsoft appears to be a Government target because of their success as a company. We need to guard success and innovation, r than attack a company because of their success. Microsoft's success should be viewed as an ?? not a liability. The consumer has benefitted from Microsoft's success. The prospect of ?? benefits to the consumer should not be stifled by our ?? government. Similarly, other companies should not have to worry that their success could so ready be h??eatened by heavy-handed government action, oppressive attorneys foes and a legal a ?? designed to harass, publicly smear and possibly even break apart the business. The message we must and is that success should be rewarded and not punished.

We hope the consent decree is adopted and the federal lawsuit is dropped.

Sincerely,
Joe An?? ??
Executive Director,
Sit Council ?? Association

MTC–00030546

City of Santa Barbara
City Hall
De Le Guerre Plaza
(806) 584–5324
mailing address
Post Office Box 1990
Santa Barbara, CA 93102
Fax (808) 594–5475
[illegible]
January 25, 2002
Renata Hesse
Trial Attorney Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Des Ms. Hesse:

I urge the Department of Justice to end the class action lawsuits against Microsoft. The millions of dollars being spent on this lawsuit would offer more of a benefit to the public if they were spent on programs for youth it our communities.

There is a severe lack of funding for mentoring programs, after-school activities, sponsor programs, summer reading programs, gang violence prevention, school facilities monies, and many other important youth-serving programs.

Children are the future for this great country. Please, help to redirect the money that is being wasted on a class action lawsuit this provides no benefit to the consumer, to programs that will make a positive difference in the lives of our children. Please support the settlement.

Sincerely,
Harold P. [illegibel]
Mayor Pro Tempore

MTC–00030547

Mires Promotions
1228 Leavenworth St..San Francisco, CA
94109 * 415–793–7933 Field
Marketing . In-Store
Promotions . Event Management
January 21, 2002
Ms. Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I was a dot-tom victim. My previous employer was partially funded by Microsoft. It was a new and amazing telecommunications concept.

When we went back to Microsoft for more funds in late 1999, they refused on the grounds that the Anti-trust lawsuit would make it more difficult to move investments into the telecommunications space. They feared what the media and the courts might say.

I know that the settlement can't bring back my failed dot-corn. But ending a three-year lawsuit that has cost Microsoft and the Government millions will allow everyone to get back to work.

That's just what our economy needs right now.

Thank you,
David Mires
President, Mires Promotions

MTC–00030548

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George Mason University
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Department of Economics
Ohio University
Bruce Yahd??e
Department of Economics
Clemson University
27 January 2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Millions of average Americans like myself have invested in Microsoft; many directly, even more through their pension funds. We've witnessed with alarm your office's case against the company cause dramatic flux in the stock market. All investors, not just those holding Microsoft shares, have been hurt by the general downturn in the market.

Speaking of "markets," in my view it was only an extremely narrow, and unrealistic definition of the "operating-system market" that allowed the judge to conclude that Microsoft was "monopolizing." Microsoft is big—it shipped product to 100 million people just in the last year—but this is because Americans, and many people overseas, have made Windows the operating system of choice, not because there is no competition, or any illegal restraint of trade. The fact that there are other competing operating systems such as Apple's Macintosh platform, and the Linux share-ware platform seems to have been lost.

All high-tech companies live and die by guarding the make-up of their key intellectual products, particularly software. Yet the proposed remedy that Microsoft, and of course the government, agreed upon would force the company to share such information with its competitors. Although this may trample the heart of commercial and intellectual property law in the country with untold harm done not just to this one company, but also to an entire sector of our economy, Microsoft appears to have agreed to it in an effort to, in the currently popular phrase, "move on." It's important we let the high-tech sector of the American economy continue to increase the standard of living of the average American to levels never before seen in history If Microsoft's competitors and the government act like the greedy persons who killed "the goose that laid the golden eggs," our economy is likely to end up as dead as the goose did in the fairy tale. It's time to "close the book" on this case by approving the proposed settlement.

Sincerely,
Dr. Don Racheter, President

MTC–00030549

Dr. Jacqueline. Bartol
Doctor of Veterinary Medicine
157–2 Hare Road

Milton, New Hampshire 03850
January 23, 2002
Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

I am writing to contribute public comment in the case of U.S. v Microsoft. It is time for the government to stop spending time and money on the Microsoft case.

Millions of dollars have already been spent arriving at the current settlement. The settlement should allow both Microsoft and its competitors to be productive. It is unfortunate that individual companies have tied up the government's time on this issue, but the reality is that they have, We should recognize it and move on.

Microsoft has contributed greatly to the technology industry and the economy. In this time of recession and national insecurity we need companies like Microsoft to help pull the country out of difficult economic times and continue to lead the world in technological advances. As an elected official, I work hard to make sure that taxpayer dollars are spent wisely and in areas that make a positive difference in peoples lives. I urge you to do the same and end this needless spending spree.

Please accept this letter as support of the Microsoft settlement. There are many other important issues facing our country at this time. It would be in everyone's best interest if the government spent our money and time dealing with these rather than Microsoft.

Sincerely,
Jacqueline Bartol, DVM

MTC-00030550

Paul Dow Dawson, Ph.D.
318 Maranon Way
Punta Gorda, Florida 33983
pdawson@sunline.net
1-941-235-0197
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
January 27, 2002

Dear Mr. Ashcroft:

The reason for this letter is because I am interested in American business, and I am also interested in having the stock market make a comeback. With that said, the settlement between Microsoft is good for two reasons. First, the absurd antitrust suit is finally over. Second, Microsoft can now devote all of its resources to bringing new and advanced products to the market instead of to wasting time in court.

Better products in the marketplace will result boost the ailing tech sector. The litigation against Microsoft started the economic downturn, and now we are in a recession. While all of this was happening, Microsoft's competitors were lobbying as hard as they could to keep Microsoft in court. Innovation was stifled. Who cares how much money Bill Gates makes? I consider myself successful, and if he makes more money than me, fine. The more money people make, the stronger the economy. The one good thing that came out of the settlement is that Microsoft will not be able to retaliate against companies who ship software that competes with Windows. This will encourage competition and benefit the economy.

Although there should have never been a suit in the first place, I am in support of anything that will put an end to the litigation.

Sincerely,
Paul Dow Dawson

MTC-00030551

E 2370 Spring Rock Lane
Hayden, ID 83835-8355
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC? 20530

Dear Mr. Ashcroft:

The Microsoft antitrust case has dragged through the federal courts for nearly four years now last year, a settlement was reached between Microsoft and the Dep??mont of Justice, and that se??tlemem is currently pending, in the federal courts Unfor??naiel Microsoft's opponents are currently seeking to undermine the settlement and bring additional litigation against the Microsoft Corporation in the federal corals. ??urther sail would be a waste of time and money, and I think it is in the best interest of the public to finalize the settlement, rather than allow the federal courts to become the playground for personal vendettas to be hashed out.

The settlement is by no means unfair, especially to Microsoft's competitors In fact in the interest of wrapping up the case, Microsoft has agreed to terms and conditions that extend to aspects of the corporation that were not found to be in violation of antitrust laws. In other words, the settlement represents generosity on Microsoft's part Microsoft has agreed to refrain from retaliating against computer makers who introduce software into the market flint directly competes with Microsoft technology. Microsoft has also agreed to license the Windows operating system to twenty of the largest computer makers on identical terms, including price. I do not believe that, with a perfectly reasonable settlement available, further litigation is necessary. Microsoft has paid its debt to society and it is time to move on. I ask you to support the finalization of the settlement as soon as possible.

Sincerely,
Helen Tester
cc: Senator Larry Craig

MTC-00030552

284 Melrose Avenue
Merion Station, PA 19066
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Now that the Department of Justice has reached an antitrust agreement with Microsoft, what's next? Will this matter get dragged on for another three years, leaving the technology sector in a major recession?

Microsoft has been more than willing to settle this matter. They have agreed to license their Windows operating system to the largest computer makers, with identical terms and conditions. They have also agreed to design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers, and software developers to promote non-Microsoft software within Windows.

Let's end this dispute and allow economic law—supply and demand—determine how business is done. I support the settlement and look forward to the end of this case.

Sincerely,
Jordan Driks
cc: Senator Rick Santorum

MTC-00030553

T&K Solutions
12126 Feldwood Creek Ln
Riverview, Fl 33569
(813) 671-7362
(813) 671-7413 (fax)
eMail tomg@t-k-solutions.com
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have been an avid user of Microsoft and am happy to see the government finally reach a settlement in their antirust case against Microsoft. I feel that the settlement is fair and I just wish the whole issue were already resolved.

While I have been pretty neutral throughout the whole case, I have anxiously been awaiting an outcome. Microsoft was not wholly innocent, but that was three years ago and the concessions they make in the settlement more than cover for what was asked of them. By giving over their source code to the competition, while at the same time designing Windows to work better with outside programs, Microsoft will be helping to increase the diversity of choices for people to use in what have been predominantly Microsoft dominated areas.

In short, I would like to thank you for taking the time to read opinions like mine on this case. I feel that it is important to know how a decision of this magnitude will affect the public before finalizing it.

Sincerely,
Tom Gerhart
Thank you for allowing us to serve you!
Tom Gerhart

MTC-00030554

FAX SHEET
H. Thomas & Patricia H. Norris
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Phone 252-355-2479 FAX 252-355-8927
tomnor@attglobal.net
FAX TO: Attorney General John Ashcroft—
FAX NUMBER: 1-202-307-1454
FROM: Ab??se—
DATE: 1/27/02
TIME: 6142 AM/PM
NUMBER OF PAGES INCLUDING COVER SHEET

COMMENTS:______________________________

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403 Wesley Road
Greenville, NC 27858
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you today to express my support for the settlement agreement between Microsoft and the Department of Justice. After three years of litigation, the time has come to finally put this issue to rest. The settlement agreement that was reached is fair and should be quickly enacted.

The terms of the agreement indicate Microsoft's desire to resolve the antitrust dispute. Under the terms of the settlement, Microsoft will now disclose the protocols and internal interfaces of the Windows system. This will allow developers to create software that is increasingly compatible with the Windows system. Information sharing, then, should provide consumers with an increased choice in operable software. Clearly, Microsoft has agreed to disclose this information in an attempt to resolve the dispute.

Please enact the settlement at the end of January. Enough litigation has already gone through the courts.

Thank you for your time regarding this issue.

Sincerely,
H. Norris

MTC-00030555

REALTY EXECUTIVES
WILLAM R. JOHNSON, CRS
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Email: BillJohnson@realtor.com
January 22, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Although I believe this situation should not have arose in the first place, I wanted to write to express my support for finalizing the Microsoft settlement deal announced in November. Considering Microsoft's incredible contribution to the PC industry—offering a user-friendly, standardized software platform that has changed the world—keeping this company intact should be a priority of this legal action.

The incredible costs that have been endured by this lawsuit, from years of prior litigation to future monitoring, are a major sacrifice of taxpayer time and money. Now that Microsoft has offered guidelines to open up more competition in the industry, changing licensing agreements and design of Windows, let's end this process and move on to more important issues. Leave Windows alone, unlike the government, it works!

To further the course of breaking up a company because of competitive business practices, just because it is so successful at it, would be a major mistake and would preclude the potential opportunity for cooperation from here forward. Please approve the agreement and let the technology industry get back into position to rebound and grow in 2002. Thank you.

Yours trul??
William R. Johnson, C.R.S. G. R. I.
cc: Representative Jim Sensenbrenner

MTC-00030556

January 25, 2002
Ann Rothstein
14 Rolling Way
New Rochelle, NY 10804–2406
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am in favor of the Microsoft antitrust case settling. I urge the court to approve the settlement agreement, and hope that no further action will be taken against Microsoft by the federal government

The terms of the settlement agreement are more than reasonable. Microsoft has agreed to make it easier for their competitors to compete with Windows technology. They have also agreed to design future versions of Windows in such a way that computer manufacturers will be able to more easily add or remove features of Windows and replace those features with non-Microsoft software. Additionally, Microsoft has agreed not to enter into contracts that would obligate third parties to exclusively sell Windows products. Concessions of this type should certainly do away with concerns of predatory business practices on Microsoft's part.

The settlement agreement is good for consumers, and is good for the technology industry as a whole. I would like to see the court approve this agreement without any further delay.

Sincerely,
Ann Rothstein

MTC-00030557

Saturday January 25, 2002
TO: The Department of Justice
Washington, D.C
Subject: Microsoft Settlement;
Fax # 1 202–307–1454

As a voter, living in the state of Colorado, I feel the negotiated agreement made by Microsoft with your department, and nine states, is a fair and equitable to all parties concerned. It time we all move forward without spending more of our tax dollars, and lining the pockets of the attorneys involved.

Regards:
Bill Coriell
Denver, CO

MTC-00030558

2304 41st Avenue E
Seattle, WA 98112–2732
January 25. 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter to express my opinion on the settlement reached between the Department of Justice and Microsoft. For three years I have followed the case against Microsoft with avid interest. I'' have become increasingly annoyed with the length of the litigation process. The terms of the federal settlement are extremely fair and I believe that it should be enacted without hesitation. Any continued mediation in this case would be poor judgment by the Justice Department.

Further, the terms of the settlement include many concessions on behalf of Microsoft. The terms of the agreement call for the disclosure of protocols and internal interface designs of the Windows system. This will result in the ability for competing developers to produce software that may be more compatible with the Windows system. In addition to this Microsoft has allowed for the formation of a technical review board that is composed of outside members. This panel will ensure Microsoft's compliance with the terms of the settlement. It becomes increasingly clear that the enactment of this settlement is important. Resolution in this case will benefit the technology industries and the economy. Please enact the settlement.

Sincerely,
Kurt Buecheler

MTC-00030559

Rebecca Frankel
MIT Laboratory for Computer Science
Room 435, 200 Technology Square
Cambridge, MA
rfrankel@mit.edu
January 26, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Response to the Proposed Settlement of the Microsoft Case:

I am writing because I am unhappy about the proposed settlement of the Microsoft antitrust trial. I do not wish to try to enumerate the flaws of the settlement. I think other people have done a good job of that; for instance, I approved of Daniel Kegel's petition and signed it. In addition, I feel uncomfortable saying anything that might imply that I know better than I he judge how to decide issues of law or apply them to a remedy. I am a software engineer; I don't know anything about law. The only special understanding I have is of technology.

However, the problem of the "understanding of technology" is an issue in this case. There has been much griping in technology circles that this settlement shows how thoroughly the legal system doesn't "get" technological issues. But most of this griping is just that—griping. You legal people must wonder about us: if there really is something you don't "get," why can't we explain to you what it is?

For instance, recently an engineer complained to Lawrence Lessig: "Members of the judiciary are largely unqualified to comment or judge upon issues of a technical nature, simply because their careers do not incorporate a great deal of technical knowledge, and also because they have not sought it ... My concern is that...we won't have a lot of judges with a high awareness of the intricacies involved for several years. However, the judges presently sitting are essentially creating a body of law to govern what they do not understand." In reply, Lessig shot back a challenge to us:

"There was a time when I thought that lawyers wouldn't do too much damage... All that has changed now ... This is, in part, because courts don't understand the technology. But I don't think it's because courts don't know how to code. I think the problem is that courts don't see the connection between certain kinds of technology and legal values. And this is because we've not done a good job in demonstrating the values built into the original architecture of cyberspace:

That the Internet embraced a set of values of freedom...that those values produced a world of innovation that otherwise would not have existed. If courts could be made to see this, then we could connect this struggle to ideals they understand.

Sometimes when I read Slashdot debates, I wonder whether you guys get this connection either... And this leads me to the greatest pessimism: If you guys don't get the importance of neutral and open platforms to innovation and creativity; if you get bogged down in 20th century debates about libertarianism and property fights; if you can't see how the .commons was critical to the .com revolution, then what do [you] expect from judges?

You guys ... built an architecture of value. Until you can begin to talk about those values, and translate them for others, courts and policy makers generally will never get it. Lessig is basically telling us we are being a bunch of inarticulate crybabies. He is right. If we want to claim the right to complain that courts do not understand us, we need to provide a "translation of our values" in terms that a layman can understand.

My goal in this letter is to attempt to provide such a translation, and then use it to make an analysis of the nature of the public interest in the settlement of the Microsoft trial. I am deeply involved with the society that created the values to which Lessig refers. I have spent a large part of the last eight years at the MIT Lab for Computer Science—a place whose extraordinary qualities were better characterized by another student from my floor:

[I]t is tough for most people to imagine a building where a young herd can walk out of his office on the 4th floor, argue with the founder of the free software movement (Richard Stallman), annoy the authors of the best computer science book ever written (Abelson and Sussman), walk up one floor to run a few ideas past Dave Clark, Chief Protocol Architect for the Internet from 1981–1989, and walk down two floors to talk to Tim BernersLee, developer of the World Wide Web. I know all these people; many of them feel like family to me. I know what they care about, what they hope for, what they dream about, what they fight, for, and what they fear. I never imagined that, as an MIT engineer, so much of what I would struggle with would not be the "intricacies involved" in the practice of engineering, but instead the problems of defining and communicating the value that technology can and can't provide to society. The engineers here are in a constant battle to prevent society from destroying the value they try to build for it: this struggle takes up so much of their energy that it is hard to think of what they do as just engineering anymore. I do not, like this: I want to simply be an engineer. I wish that you, the court, could take from us the job of defining and communicating values, so we could go back to being ordinary engineers. It is much more natural for you to take on this role, than it is for us to have it. But in order for you to do that, first we would have to explain these values to you.

I am unhappy with the proposed settlement because it shows how deeply the courts do not understand the value that engineers here are trying to build. I could pick on the specifics of the settlement terms ad infiniturn, but I feel it would be a pointless exercise, because only a basic failure of understanding of the nature of the public interest could make such a flawed settlement, seem acceptable in the first place. But if I claim that there is a basic failure of understanding, that raises a question: "What exactly is it that I think government, officials don't understand?" It is rather shocking that we have failed to effectively answer this question. We have told you many things: long stories of power struggles in the browser market, mind-bendingly technical analysis of the proper design of network protocols, plenty of satirical accounts of Microsoft's shady shenanigans, and many other similar things. But we never have given a simple answer to the simple question "What is the nature of the public interest in all these matters?" It is the goal of t, his letter to try to fill this gap. I will make my argument in a context so ordinary that it may well seem childish, but please bear with me: in my silly example, I think I can capture the essential issues at stake and then tie them back to our complex and confusing real situation.

So here is my simple picture—instead of talking vaguely about the "old economy" and the "new economy," and about the mysterious difference between them, I want instead to talk about two ordinary household tasks: mowing the lawn and cleaning the basement. In my picture "mowing the lawn" will represent the old economy, and "cleaning the basement" will represent the new. (I warned you this would sound silly; but please hang on—it is not as dumb as it sounds). Why did I choose these particular examples? Because I think the fundamental change that we are calling "the appearance of a new economy" is a shift from an economy that strives to increase productivity by automating manufacturing, to one that strives to increase productivity by automating organizational tasks. The new frontier is the reorganization of supply chains and business processes to take advantage of "information technology"—the ability of machines to do the organizational tasks that used to be handled by armies of clerks and middle managers. But this shift, is so huge, complex, and hard to picture, that I want to pull it down to earth and discuss its central principles in the context of the kind of organizational task we all are familiar with: the problem of how to bring some order to a messy basement. By way of contrast, I want to compare this task to another one we all know and love: the problem of how to tame an unruly lawn. (You might ask, how is mowing the lawn manufacturing? Well, it is manufacturing shorter grass.) Now that I have identified my representative "industries", I want to talk about how we can think about the nature of the "public interest" in the context of these tasks. As I continue this description, I hope you will see the advantages of translating our discussion to such a down-to-earth context. In this setting, it is easy to use one's ordinary intuition to understand the public interest, in a conflict. Maybe it is hard to interpret the public's interest in the "future of an online architecture for e-business," but how hard is it to think about what you want for the future state of your basement? I want you to see what our conflict with Microsoft would look like if it occurred in this ordinary context.

So, to start my story, let me describe a conflict which illustrates a threat to the public interest in the context of the "old economy." Suppose I need my lawn mowed, and the kid who I usually hire to push my clunky old gas mower around the yard, instead shows up to work with a shiny, spiffy new lawnmower of his very own. He has broken his piggy bank to buy it: he is very proud of himself and shows it off to everyone on the block. His beautiful new lawnmower mows the lawn twice as fast as the old one did. As a result, he can mow twice as many lawns in the same time. Pretty soon he is raking in the cash. He is making so much money, he can afford to lower his lawn-mowing rates, so he begins to steal business from the other lawn-mowing kids on the block. The other kids get upset. "He's cheating!" they cry. They gang up on him, beat him up, and smash his new lawnmower. The original kid, recovering in the hospital, appeals to the adults on the block for justice. "The other kids were jealous of my success!" he cries. "They had no right to hurt, me or my lawnmower. You should protect me so that nothing like this ever can happen again!"

Should the adults listen to him? Absolutely. Not only was what happened to the kid unfair, it also damaged the public interest. When a kid can mow lawns twice as fast for less money, everyone on the block benefits. He put considerable investment and risk into obtaining his lawnmower, and it provided a benefit for everyone. Yes, he also made a lot of money from his new lawnmower, and maybe he was a little obnoxious about showing it off, but his good fortune was good fortune for everyone. Therefore, his investment deserved to be protected from the destructive jealousy of the other kids. The rich kid should be protected, and the jealous kids should be punished.

Now, to continue, let me introduce another story of a situation that causes harm to the public interest, this time in the context of the "new economy." Suppose I decide to hire a kid to help me clean my basement. This kid works very hard, sorting all the stuff in the basement, building appropriate-sized boxes for various categories of stuff, and carefully labelling all the boxes so it is easy to find things later. His hard work is useful to me: it helps me find tilings more easily. But, there is trouble in my little paradise. One day, my little helper cannot come, so I hire another kid to help out. But this kid is different. He is careless: he puts things in the wrong boxes, and mislabels the boxes. Worse, he is devious: he discovers that if he puts things in the wrong boxes deliberately, and labels the boxes in a scrawl only he can understand, then he can make extra money off me, because I will need his help to be able to find things again. Worse still, he is ambitious: he realizes that if he puts the potting soil in a place where only he can find it, then pretty soon I will be forced to ask him to take charge of organizing the gardening shed as well. Thus he can double the amount of money he can make off me, and there is nothing I can do about it.

So how do we think about the "nature of the public interest" in this situation? Well, in order to answer that question, it is important to ask first "what is the result I am trying to achieve?" If I hire someone to clean my basement, the result I want is a well-organized basement, a basement in which it is easy to find things. The kid who worked hard to sort things accurately and label the boxes clearly helped me achieve my goal. The kid who deliberately mislabeled the boxes and misplaced the potting soil did not help me achieve my goal. He hurt my interests, not merely because he over-charged me, took over my basement, and hatched devious designs on my gardening shed, but much more simply, because he failed to deliver to me the basic effect I wanted and needed. I needed a basement where I can find things easily: he didn't give it to me. By contrast, the first kid, the one who built me a good system of well-organized; wen-labelled boxes, did give me the effect I needed. The first kid's actions served the public interest; the second kid's did not.

This observation is the whole secret to understanding the "architecture of value" of which Lessig spoke. What is an "architecture of value?" It is nothing fancy: one can think of it as an information architecture that would remind one of a well-organized basement. This architecture is valuable because the careful sorting and clear labels make it easier to find things. There is nothing terribly subtle or difficult about this idea. The only really deep concept here is the observation that it is useful to ask the question: "what is the fundamental goal we are trying to achieve?" We are entering into an "organization economy," and in such an economy, we want to achieve the goal of being well-organized. These central value of such an economy is no more complicated than the admonition we have all heard a thousand times from our mothers: "it, is nice to put things away where they belong so it will be easier to find them again later." But if it is all so simple, why does it seem so hard? It seems hard because it IS hard, but it is not hard because anything about the situation is complicated. It is hard for quite another reason, which I want to illustrate using a third story. This, my final story, is a classic tragedy.

Let us suppose that the first kid I hired to clean my basement returns from his vacation and ventures downstairs to view the state of his handiwork. When he sees what the second kid has done, words cannot describe what he feels at the sight of the ruin of all his hard work. He grabs the second kid by his shirt collar and drags him to me to face judgment. "He's cheating!" he cries. (He doesn't say much else: unfortunately this first kid—though a good, honest worker—is not exactly the articulate type.) The second kid replies: "He is just, complaining because he is jealous of my success! He has no right to handle me this way or damage the valuable "intellectual property" I have created. You should protect me so that nobody can ever treat me like this again!" Now when I hear these words, I remember my earlier trauma when I witnessed the kid with the new lawnmower get beaten up by a jealous gang. I remember how I pledged to the kid on his hospital bed that nothing like that would ever be allowed to happen again. This recollection plunges me into a state of fear and confusion. The first kid comes to me and begs for the right to re-label the boxes correctly: it is hard to deny such a heartfelt request. On the other hand, I made a solemn pledge to the kid in the hospital that I would never, ever allow anything like the disaster that happened to him to happen to anyone else. I am riven in two: I do not know what to do. So I propose a compromise. I propose that certain of the boxes in the basement are to be declared "Middleware", and I will require of the kid who now owns the organization system of my basement that he reveal the meaning of the labels on those boxes. "To protect his "intellectual property," I only require that he reveal these labels to another party when they agree to sign a non-disclosure agreement. The second kid is happy enough to agree to that, especially since he alone knows exactly where he has hidden the potting soil, and he has carefully made sure that the box where it is hidden is not declared "Middleware." In this way, his designs for the takeover of my gardening shed are unaffected. Since summer is coming, the control of the gardening shed is the only thing that really matters anyway, so he loses nothing by signing on to my "compromise". Now, what can we say about, this compromise? Should I say that it is a bad compromise because I was not. careful enough to locate the hidden potting soil before I settled on my definition of "Middleware"? Should I say that it is unfair to require people to sign a non-disclosure agreement whenever they want to get a hammer from the basement? I could say all these things, and more, but they seem to skim over the surface of the problem. Much more fundamentally, this compromise represents a failure to think clearly about what we are trying to accomplish. It is in our statement of the nature of the values which we are "compromising" that we have failed. We have failed to understand the essential values that we are pledged to protect. To appreciate the tragedy of this failure, imagine how this situation would appear to the first kid, the one who cares more than anything about properly organizing the basement. He worked hard and honestly to do the very best job he could, but to no avail: all his hard work was ruined, it wasn't even accidentally ruined it was ruined on purpose. But when he tries to protest about this betrayal of his values, not only is he not listened to, he is also treated like a jealous, violent gang leader. Since he is not a sophisticated kid, he cannot figure out why any of this is happening to him. It simply feels to him like all the adults around him have gone mad.

I might ask: what exactly were the essential values I failed to understand when I devised my compromise? One might say that my compromise shows how little I understand the values associated with the "new economy." It is true that I have failed [o understand how overwhelmingly important it is to have clearly labeled boxes in my basement. But this concept of "value" in the new economy is so very simple and easy to understand, that one might also maintain that I understood it perfectly clearly. When I insisted that the "Middleware" boxes should be clearly labelled, I,showed that I do understand what constitutes value in the new economy.

Nonetheless, my judgment was confused, but it was not a lack of understanding of the new economy that caused this confusion. Instead, my judgment was clouded by the pain and confusion that the reminder of an old-economy conflict invoked in me. I ran into difficulties because I was led to apply "old economy thinking to a new economy problem." In particular—this is the key point—my real failure carne not from a failure to understand the values of the "new economy," but from a failure to understand the values of the old one. When I promised to the kid in the hospital that nothing like what happened to him would ever be allowed to happen again, I did not define very clearly in my head what exactly it was I was pledging myself to protect. What exactly did I promise? Did I promise that in every circumstance where a rich and successful kid was challenged by a poorer, less successful kid, I would always side with the rich kid?

No, that is not what][promised. I made the promise to the kid in the hospital because I saw that his good fortune was good fortune for everyone, and therefore I pledged myself to protect it. But when I later found myself in a situation when a rich and successful kid demanded that I protect his good fortune, I forgot the rationale behind my original promise. If I had remembered it, I might have thought to ask myself "in this new situation, is riffs rich kid's good fortune good fortune for everyone?" Hopefully it is clear that this question receives a rather different answer in this situation. So, does my old promise bind me anymore? Am I required to devise a compromise between the interests of the two children in my charge? No, such a compromise doesn't make sense. I could make things much easier on myself if I just worried about protecting my own interests. My interest is to be able to easily find things in my own basement. The first kid fought for my interests, the second kid did not. It is that simple: there is no need for the terrible pain and confusion this case evokes, or the strange and convoluted compromises that are the result. So, to wrap up my Story, I want to summarize the four conceptual errors I made which drove me to devise such a thoroughly flawed compromise.

First, I made two mistakes in my understanding of the "new economy":

1. I did nor understand how much value the first, kid provided for me when he carefully sorted and labeled all my stuff.

2. I did not understand how badly the second kid hurt me when he destroyed this careful labeling system. I did not understand how dangerous it is that I have become dependent on his aid to find anything in his system of artfully mislabeled boxes. Second, I made two mistakes in nay application of principles that came from the "old economy":

3. When the second kid claimed to me that I had an obligation to protect his incentive to invest, I forgot that the statement of this obligation is that we must protect the "incentive to invest in machinery to make a manufacturing job more productive." I need to protect a kid's incentive to break his piggy bank and buy a lawnmower, or I will have to put up with the fumes and noise from my old gas mower forever. But, this obligation does not apply to the conflict between the kids who are cleaning my basement, because there is no machinery that will aid the task of "manufacturing" a cleaner basement. So there is no need to protect the incentive to invest in such machinery.

4. More generally, I made a mistake when I failed to notice how the second kid manipulated and abused my commitment to the values of the old economy with his carefully chosen words. Earlier I said that this kid was careless, and worse, devious: and worse still, ambitious. But worst of all, he is manipulative. He is perfectly willing to take our most central, sacred values and twist them into a empty caricature of themselves to serve his own interests. It is our mistake and our shame that we cannot see what is being done to us.

So now I have completed my story. I have explained the essential failures of understanding that caused me to make a dreadful mistake. I promised earlier that when I was done I would take the lessons I have explained and tie them back to our complex and confusing real situation. So I will describe again the four mistakes I have just identified, this time as they appear in the real world. I contend that this settlement reveals that public officials fail to understand four important concepts that are crucial to understanding the nature of the public interest in the conflict with Microsoft.

First, it reveals that there are two ways that public officials basically misunderstand the "new economy."

1. They do not understand the tremendous value to society provided by the creators of the open standards of the Internet, the World Wide Web. the associated free software that supports the Internet (Apache, Bind, Perl, etc) and the free operating systems Linux and BSD. They do not understand the tremendous value to society of open, well-specified APIs on every level of the information architecture we are trying to build to support the future productivity of our society.

2. They do not understand how badly society is hurt by Microsoft's manipulation of its APIs and file formats. They do not understand how much the constantly changing proprietary file formats hurt ordinary people's ability to get work done, nor do they understand the loss of potential productivity that occurs when a API is obscured or destroyed. They do not understand how Microsoft's control of the platform hurts the prospect for real competition and progress in the computer industry.

Second, more seriously, it reveals two ways that public officials are confused about how to apply the values of the "old economy" in this new situation.

3. They haven't noticed that, just as you don't need a lawnmower to clean a basement, you don't need a lawnmower to write an opera, ting system. All the effort to preserve a delicate balance between the need for open APIs, and the need to preserve the incentive to invest, have missed the point that we are protecting the incentive to invest in a purely imaginary lawnmower. There is no machinery that will make the job of writing an operating system any easier, so there is no need to protect the incentive to invest in imaginary machinery.

4. Finally, they haven't noticed that Microsoft is lying to them Microsoft is lying in a horrible way: they are invoking the values that honorable public officials have spent their whole lives protecting, and they are manipulating them, using them, twisting them around so they come to mean something entirely different. The government does not detect this duplicity—that is their greatest mistake. We engineers have a name for these kinds of lies: we call them FUD, which stands for "fear, uncertainty and doubt." We watch Microsoft deliberately spread fear, uncertainty and doubt in the government, the courts and the general population, and we view with amazement and horror the enormous power that these lies have over the world.

We are lost: we do not know what to do to combat lies which have such terrible power. We are like children who live in a world where all the adults have gone mad.

Yours sincerely,
Rebecca Frankel

MTC-00030560

4404 Burke Drive
Metairie, LA 70003
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr Ashcroft:

As a supporter of Microsoft, I cannot say how pleased I was to see that the Justice Department finally came to its sense and resolved to settle with Microsoft. This case has gone in far too long for people like me, who depend on Microsoft's products in our daily lives

I hope that the settlement will not be too harsh on Microsoft. With giving over their trade secrets to their competitors and allowing people who ship computers to configure Windows anyway they want, Microsoft could lose out on a lot of money. However, I feel that they will continue to succeed like they always have despite these handicaps,.

I hope that the government will refrain in the future from attacking business that are integral to our economy like Microsoft is. This whole case, which has taken up so much of their time, could be the reason why we are currently in a recession. End this case and let Microsoft get back to work.

MTC-00030562

2454 28th Street
Long Island City, NY 11102–1917
January 25, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Now that the Courts will make a final decision next week on whether the proposed settlement benefits the public, I'd like to express my opinion.

Microsoft has agreed to not enter into any agreements obligating any third party to distribute or promote any Windows technology, exclusively or in a fixed percentage, subject to certain narrow exceptions where no competitive concern is present. The company has also agreed not to enter into agreements relating to Windows that obligate any software developer to refrain from developing or promoting software that competes with Windows. Microsoft has also agreed to not retaliate against software or hardware developers who develop or promote applications of operating systems that compete with Microsoft's.

So why should we pursue further litigation? The agreement seems more than fair. Let's move on.

No more litigation!!

Sincerely,
Nikolaos Natsoulis

MTC-00030564

6419 Fairbanks Street
New Carrollton, MD 20784
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the antitrust dispute involving Microsoft. I support Microsoft in this dispute and feel that this litigation is a waste of precious resources, time, and talent.

I believe the settlement that was reached in November is a fair and reasonable agreement to end this three-yearlong dispute.

This settlement is thorough, and Microsoft did not get off easy. Microsoft has agreed to license its Windows operating system to the 20 largest computer makers on identical terms and conditions, including price. Microsoft has also agreed to grant computer makers broad new rights to configure Windows so as to promote non- Microsoft software programs that compete with programs included within Windows.

This settlement will benefit companies attempting to compete with Microsoft. This settlement will also benefit consumers by allowing tiffs company to remain together and continue delivering innovative products to the marketplace. Please support" this settlement. Thank you for your time.

Sincerely,
Sesil Rubain

MTC-00030565

Doug and Marle Oison
4180—71st Ave NE
Marysville, Wash. 98270–8807
Phone: (425) 554 0188
Pax (425) 334 1010
doug.mariooison@luno.com
January 28, 2OO2
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr, Ashcroft:

As a concerned constituent, I write to inform you of my support of the Microsoft settlement. Over the last three years I have followed the federal suit against Microsoft. I have been increasingly annoyed with the Justice Department's pursuit of Microsoft. Microsoft has been more than willing to compromise In attempts to resolve this issue.

With the release of Windows XP, Microsoft will now put into effect a mechanism that will allow users to add or delete Microsoft programs at their own discretion. This will revolutionize consumer ability to configure their operating systems and should be beneficial.

I believe Microsoft has gone above and beyond themselves to meet the demands of the Justice Department. It is finally time to resolve this issue once and for all. Thank you for your concern regarding this issue.

Sincerely,
Marle Olson

MTC-00030566

JAMES D. SMTIH
10675 NINB MILE ROAD
WAITMORB LAKE, MI 48189
EMAIL Jameeds Oum??h.odu
VO??E 734 449–8836
FAX 734 449–8849
C&IL 734–476 1109
January 26, 2002
Anor?? ?? John Ar??roft
US D?? of Ju??tice
950 Pe?? Av??ue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I urge you to accept the settlement with Microsoft. We should one the begal?? system to insure a highly competitive marketplace. We should not, however, be misged??ded by constructs of competitiveness in an industrial economy when analyzing an informationed one. Microsoft has made a major contribution to growing the American economy. It has a lead?? po??ition in the software market, but its station is easy prey to innovative comp??sons. Microsoft has made concessions that will enhance the ability of others to challenge it. It is time to ?? the conflict from the courtroom to the marketplace.

The real danger we face is excessive government incursion in the marketplace. If the last hundred years tell us anything, it is flee peoples and free markets knock the socks off bureaucratic decision making.

MTC-00030567

117 Northwood Court Bayport, NY 11705
January 25, 2002
Attorney General john Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to inform you of my opinion as regards the Microsoft antitrust suit. I support Microsoft in this dispute, which is now in its third year. I believe we should be focusing on more pressing issues, and not prolonging litigation against Microsoft that will only be a waste of time and precious resources.

This agreement is thorough. Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions. Microsoft has also agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows. A technical oversight committee has been created by the government to oversee Microsoft compliance.

The terms of this settlement are sufficient to end the lawsuit. Please support this settlement.

Thank you for your time.

Sincerely,
Martha Schary

MTC-00030568

AVIATION SIMUI?? A??TIONS INTERNATIONAL. Inc.
POST OFFIC?? BOX 358 ?? TEL & FAX 516271–6476
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support the settlement of the Microsoft antitrust lawsuit ??hile your office primarily seems concerned with Microsoft's impact with?? the technology industry, I feel that it is important to consider their role in our overall e??nomy, which has slowed considerably in the past few years. Aside from the economy slowing, the U.S. still retains a large surplus in exporting software, Microsoft is a leader in that market and why mess with a good thing? As a small-scale software developer, t appreciate the standard platform that Microsoft has created. Many average PC users probably do as well. It simplifies all of our lives.

The changes Microsoft is making in the settlement are reasonable and favorable to its competition Easing its bundling and exdus??ity pacts with computer makers will immediately open the door wider for other com??nies to market their software. Because that is the government's main contention with Microsoft, the company's endorsement of the settlement should leave you with no reason not to finalize it

Sincerely,
Everett Jo??ne

MTC-00030569

Walter W. Lerch
15220 Golden Rain Drive, Chesterfield Missouri, 63017
January 26, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am writing to voice my support to an end to the Microsoft antitrust case. The proposed settlement between Microsoft and the Justice Department reflects a fair balancing of the interests and should be approved and implemented.

If given the opportunity, I am sure Microsoft's opponents will nickel and dime tiffs agreement to death. This should tell you that they are not after fairness, but are truly after a permanently crippled Microsoft. This snow job on Microsoft by competitors is most certainly not in the public interest any more than any alleged antitrust violations.

Microsoft has responded to the main complaint against it by agreeing that non-Microsoft software programs can be installed in the Windows operating system. They do this both by changing their licensing scheme and their program as a whole. I do not see the need to return to court when the main objective can be accomplished short of further litigation.

Thank you for considering my comments.

Sincerely,
Walter W. Lerch

MTC-00030570

System Integrators Inc.
Developing Solutions of Tomorrow—Today
January 27, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Sir:

We are a small business and develop products targeting Microsoft??* Windows??* platforms. The general economy as you are aware is not helping any business, especially small business. Add another dimension to the problem—the Microsoft, Justice Department legal battle. We see customers have taken a wait and see attitude toward new purchases and upgrades, on account of both the delays in the lawsuit settlement and the general economy. We are also unable to plan our future business for the same reason as our products generally support Microsoft technologies. I feel the suit should have been resolved one way or the other long time ago.

At long last, there is a settlement that covers the points in the suit. It fairly changes Microsoft's business practices, particularly with respect to licensure and software development, and prevents the retaliatory action Microsoft allegedly used to keep its hold on the market. I am hopeful that the current review process will come to a speedy conclusion so that consumers and other software publishers such as us will be able to move forward. Let's break this period of uncertainty, and accept the current settlement. Let's channel our efforts and time to innovate for the benefit of the consumer, instead of wasting it on long drawn legal wrangling.

Sincerely,
Ganesh Srinivasan
President

MTC–00030571

114 Eddy St. #5
Ithaca, NY 14850
January 27, 2002
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530
Facsimile: (202)6:6–9937 or (202) 307–1454
Email: microsoft.atr@usdoj.gov
Re: Microsoft Trial Tunney Act Comments

I am very concerned about the proposed settlement of the antitrust case against Microsoft. I don't think this settlement is in the public interest. After enduring years of litigation and continued anti-competitive action on the part of Microsoft, the public deserves an effective remedy. The proposed remedy, if adopted, will not be effective. The proposed remedy restricts Microsoft's actions very little and allows them to continue the same anti-competitive business practices that have resulted in the bleak software business of today.

The most important and most critical effect of any final judgment in this case should be to restore competitive conditions in the markets affected by Microsoft's unlawful conduct. The proposed settlement is bound to fail in this goat because it is ill-conceived, ambiguous, and full of holes. Effective relief would be based on principles, not an enumeration of prohibited conduct. Just as a judge must avoid even the appearance of impropriety, Microsoft should be required to avoid even the appearance of anti-competitive conduct. Given its history of unlawful behavior, Microsoft must be held to the highest standards of ethical, pro-competitive behavior. There must also be an effective, efficient, and powerful enforcement authority.

The proposed settlement has none of these properties. Rather it is full of holes, restrictions, and limitations that will make it wholly ineffective:

1. The proposed settlement is confusing and ambiguous. Given Microsoft's history, one must assume that every ambiguity will be interpreted in the most advantageous possible way by Microsoft. This practically ensures future litigation over the meaning of the terms and conditions.

2. The proposed settlement is backward looking. Rather than focus on restoring competitive conditions to the markets as they are now or will be, it focuses on the past.

3. There is no effective means for enforcement. Some sort of oversight board with actual power is necessary, as are actual penalties for noncompliance. The proposed settlement permits only further litigation.

4. The proposed settlement aims to protect the market for personal computer operating systems, but not the market for server operating systems. Should not Microsoft be enjoined from using anti-competitive practices to monopolize the server market in addition to the PC market?

5. The proposed "Technical Committee" is worthless, in part because of its secrecy. It needs real investigative and oversight powers. It should be a resource for further litigation. It should have the right and responsibility of reporting the behavior of Microsoft to the public.

6. The proposed settlement fails to adequately protect 'open source' competition. As 'open source' software is generally provided to the public with source code as a public service at no charge, it is deserving of the highest protections from unlawful anti-competitive practices. 'Open source' software is commonly written as a hobby by individuals or small associations. The proposed settlement discriminates against open source software by allowing Microsoft to deny access to those with out a 'legitimate business need'. Similarly, the 'reasonable and non-discriminatory' terms for API and communications protocol licensing may be used to discriminate against open source developers and products. Microsoft could impose non-disclosure licensing terms that prohibit distribution of source code, for example.

7. The protections of OEM's are inadequate. The proposed settlement provides maximum protection to only the largest twenty. All OEM's should be treated equally, and price schedules should be published for all to see.

8. The term of 5 years, extensible to 7, of the proposed agreement is inadequate, given Microsoft's record of ignoring such agreements and litigating.

9. Microsoft's competitors need to be protected against the 'Embrace and Extend' strategy of hijacking established standards and modifying them to be incompatible. Microsoft should be enjoined from using these tactics, and rather should be required to work with standards groups. Java and Kerberos are two standards that have suffered this fate in recent years.

10. Recent price increases in volume licensing agreements have demonstrated to the public that the Microsoft monopoly is alive and well despite the ongoing litigation. The final judgment should ensure that pricing is kept at a reasonable level,

11. Microsoft should be enjoined from using patents to prohibit or discriminate against 'Open Source' software. Perhaps Microsoft should be required to license for free 'Open Source' use any patent that it owns or otherwise licenses.

12. Microsoft has been recently trying to leverage its operating systems monopoly and Internet subsidiaries to promote its 'Passport' on-line authentication service. Microsoft should be enjoined from using its currently monopoly to eliminate or prevent competition in the on-line authentication service business.

13. The definition of middleware is poor. Middleware should be defined based upon functionality or character of a product, not on whether it is trademarked.

I have enumerated but a few of the serious limitations of the proposed settlement. The proposed settlement is wholly inadequate and is not in the public interest.

Sincerely,
Stephen D. Holland

MTC–00030572

6803 244th Street Court E
Graham, WA 98338
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am a small business owner and I have used Microsoft products to help run my business for years. I feel that the antitrust case against Microsoft is senseless. The settlement should stand the way it is and this whole mess should be over.

Microsoft has contributed greatly to the IT industry and I feel that they've earned what they have. According to one of the terms of the settlement, as I understand it, Microsoft is required to release their internal codes to Windows so that other companies can use them to produce their software. I feel as though others are simply taking advantage of Microsoft, I don't think the courts should support that.

I hope that the Department of Justice decides to clear this matter up. To finalize the settlement is clearly in the best interest of all involved. I would hate to see any more money wasted on this.

Sincerely,
Jerry Taylor

MTC–00030573

Watts and Associates
22622—50th Avenue S E
Bothell, WA 98021
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in favor of the proposed Microsoft vs. The Department of Justice antitrust settlement. In my opinion, the settlement as put forth, is a reasonable one providing all of the participants fair and just resolution; not to mention putting all of this government financed litigation behind us. This settlement accomplishes a number of specific changes. For instance, computer makers will be able to replace access to various features of Windows with access to non-Microsoft software. Another change that I believe to be very generous on Microsoft's part is the proposed licensing of Windows operating system to computer makers.

I am particularly disturbed that while the government was searching for ways to break up Microsoft, other institutions were getting away with countless acts of corruption. It's time that Microsoft got back to business and the government went back to governing. Why is it that we allow the liberals in the government to continue rewarding the do-nothing persons and punishing those who accomplish and contribute to the economy?

Sincerely,
G W Watts

MTC-00030574

Shirley M. Sebright
1047 Crystal Lane
Springfield, OH 45502-9567
Fax
To: Attorney General John Ashcroft
From: Shirley M. Sebright
Fax: 1-202-307-1454
Date: 1-27-02
Phone: Pages: 2 Including Fax Sheet
Re: CC:
x Urgent %62 For Review %62 Please Comment %62 Please Reply %62 Please Recycle
Comments: [Click here and type any comments]
Shirley Sebright
1047 Crystal Lane
Springfield, OH 45502
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to give your support to the Department of Justice and Microsoft. I think the government should leave Microsoft and Bill Gates alone and allow the company to get back to be the creative, innovative company it is. The Department of Justice had no business bringing the suit against Microsoft. This suit was more a political ploy brought about by Microsoft's competitors. This lawsuit sets a dangerous precedent in that the government is being used as a weapon against a competing company. This lawsuit also threatens the innovative and creative spirit of our country. What effect do you think this action has on those who have dreams of creating a product, but then see a very creative company being hounded? Yes, the company was aggressive, but business is aggressive. Microsoft did nothing more or less than what their rivals did.

Microsoft will ultimately be giving up its interfaces and protocols to other software developers so that they can more comprehensively write software for Windows. The company will also be held to a regimented licensing code that will ensure that computer makers are able to use the software they want with Windows. A Technical Committee will make sure these rules as well as others are followed.

Leave the company be. Give your support to this agreement.

Sincerely,
Shirley Sebright

MTC-00030575

1860 Hall Street SE
Grand Rapids, MI 49506
January 25, 2002
Attorney General John Ashcroft US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Microsoft has had to suffer through three years in the antitrust case with the Justice Department. It is pleasing to know a settlement was reached in this case, however it is unsettling that this case could be re-opened.

The fact is that this case has a good settlement available to end it, and it should be implemented.

The settlement will allow Microsoft's competitors to access Microsoft code so they can design better software. Competitors under this settlement will have the ability to effortlessly place their software on Microsoft operating systems. Despite these improvements opponents of the settlement have launched a campaign to have it revoked, and Microsoft dragged back to court. There is no good reason to let this happen, the settlement is good and it is too expensive to continue this case.

Once more I would like to state that this case should be concluded with the current settlement.

Sincerely,
Ron La Mange

MTC-00030576

JBMB CONSULTING
January 26, 2002
Michel G. Bernard
President
29 East 64th Street New York, NY 10021
Tel (212) 879-6242
Cell (917☐ 881-2224 Fax (212) 744-2552
mbernard@jbmb.org
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The settlement reached between Microsoft and the Department of Justice, appears to be fair. It is my strong belief that at this point additional litigation will not help anyone, including the States that are seeking to continue suit. It is now time to settle and move on.

Microsoft tins agreed to a number of terms and conditions, all of which restrict monopolistic behavior and promote competition within the technology industry. Microsoft will refrain from engaging in retaliatory behavior should software developers and computer makers introduce a product into the market that directly competes with Microsoft technology. Microsoft has also agreed to license its Windows operating system to twenty of the largest computer makers on identical terms and conditions, including price, and to grant them broad fights to reconfigure Windows to their own specifications.

I do not believe additional action is necessary on the federal level. The proposed settlement is equally beneficial to Microsoft and its competitors, and a cessation of litigation would most definitely be beneficial to the consumer. I urge you to give your support to the settlement.

Sincerely,
Michel G. Bernard
President

MTC-00030577

2304 41st Avenue East Seattle, WA 98112
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Today I write to voice my support of the Microsoft settlement. It is true that the Microsoft Corporation has been at the forefront of the technology industries in recent years. Their leadership, however, is the result of a dedication to excelence that is not matched within the industry. The result is the continual production of quality products that out perform any substitutes. This is in by no means a crime. I therefore take issue with the federal pursuit of a case based upon outdated statutes.

Regardless of this opinion, I believe that the settlement agreement is in the best interests of the public. Too much time has already been spent in the litigation process and the entire technology industry has suffered for it. Further, anyone wary of Microsoft's compliance with the terms of the agreement should be eased as the agreement calls for the formation of a watchdog group.

I adamantly believe that enacting the settlement will encourage confidence and growth within the tech. industry. The Justice Department should suppress any opposition to the enactment of this settlement.

Sincerely,
Lori Buecheler

MTC-00030578

January 27, 2002
Attention: Ms. Renata B. Hesse U.S. Department of Justice Fax # 202-307-1454

Dear Ms. Hesse:

This is to inform you that I fully support the proposed settlement of the Microsoft lawsuit. For the sake of national interest I would hope that this can be finalized without delay; the matter has dragged on entirely too long.

Sincerely,
J.C. Hensel

MTC-00030579

Via FAX
432 Greensboro Drive
Dayton, OH 45459
January 25, 2002
Attorney General John Ash??
U S Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

During the period of the past three years, the IT industry, and the general public have been forced to endure the US vs Microsoft lawsuit. This unfortunate quit has slowed innovation and movement in the software industry and has hurt investment in technology as a whole. Consumers have taken the suit in stride even though it is they who will receive the bill for the case by way of higher prices on technology products through the coming years.

The settlement has teeth that force Microsoft to disclose proprietary software code to competitors and will exist under the constant scrutiny of a three-person committee in its future business dealings. These and other points in the settlement make it more than fair to all the plaintiffs in the lawsuit.

Now that all. the involved parties have been served, a settlement must be formalized. The Department of Justice must see that the needs of the consumer are met in ending this lawsuit as soon as legally possible. I urge the Department of Justice to formalize the proposed settlement as soon as this period of public comment concludes.

Sincerely,
Arthur C. O'Neil

MTC-00030581

P.O. Box 3125
Atlantic Beach, NC 28512
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As you are well aware, Microsoft has been under public and government scrutiny concerning their business tactics as being a monopoly. In my view, this lawsuit has been going on for far too long and I'd like to see it finished once and for all. The continuation of its opposing competitors who keep pressuring Microsoft are doing damage to this nation far beyond what they could possibly realize.

Thousands of Americans rely on Microsoft in various ways, some in terms of jobs, most in terms of computer technology that they use in their homes and businesses. If we let this suit go back to the Federal Court, our people will continue to lose out on millions of dollars and the possibility of improved software to evolve our way of life.

The settlement is fair and reasonable and it will most definitely benefit consumers and eliminate future possibilities of competitors attacking Microsoft for unjustly dominating the IT market. This country needs to consider the money being spent on file lawsuit and realize that re-direction of funds is in need. Your help m Microsoft's defense is greatly needed and appreciated.

Sincerely,
William Woodbury

MTC-00030582

January 27, 2002
From: Steven White, 5125 Logan Avenue
South, Minneapolis, Minnesota 55414
About: Microsoft Settlement

I am sending this in a way that verifies its authenticity (hand writing) because it is regarding a company that has been reported to have commissioned "spontaneous" letter writing campaigns to state attorneys general which, in one case, included letters from two dead people. I want to report tht I am alive and strongly opposed to any lieniency toward Microsoft. Three courts have declared that they have broken the law. They should pay the price of their freely-chosen actions.

i would like to address one point that I hope has not escaped your notice. This is a company famous for its willingness and ability to squirm around restrictions and whatever it can to win at any cost. They have squashed or stolen innovative ideas from others, driven companies out of business, and finally been convicted of illegal tactics, and they not only show no penitance, but, based on their public statements, seem to be convinced they are in the right.

If you make a settlement that has any imaginable loophole, they will be through it the day it goes into effect. If you say that programming interfaces to Windows must be made public, they will move the interfaces to some layer of "middleware" and declare that they are not part of Windows.

They will behave as they did when ordered to release Windows 95 without Internet Explorer; they released a version that didn't work. They will "comply," but, as one journalist phrased it, "with middle finger extended."

For the sake of the future of the computer industry, Micorost's anti-competitive grip must be broken.

Sincerely yours,
Steven White

MTC-00030583

www. GenGap.net
Judge Kolar Kottely
c/o Attorney Renatta Hesse
Department of Justice, Antitrust Division
601 D St, NW—Ste 1200
Washington, DC 20530
January 28, 2002
VIA FACSIMILE: 202–616–9937

Dear Judge Kolar Kottely

I am writing to express my overall concern with for the technology sector with the pursuance of the Microsoft antitrust case.

I am the resident of a rural town and owner of a small online business. I am able to conduct business with customers all over the world thanks to the innovation and developments in the technology and telecommunications industries.

What I don't see is the lack of competition in the high-tech industry addressed by this case. Over the last decade the number of jobs in the software industry has grown from 290,000 to close to some 860,000. The 24,000 software companies in 1990 can be compared to the 57,000 software companies today. The growth in this industry is like nothing we've seen in recent history, yet the case against Microsoft was brought on by an alleged lack of competition in the market.

In just the past few years the number of software companies and employees have nearly tripled. This year the software industry alone will add nearly $20 billion in surplus to America's balance of trade. Microsoft is on a list of indicators for the Dow Jones Average and is considered a market bellwether.

These factors do not add up to a lack of competition in the industry. They are instead indicators that the high-tech industry is a flourishing, rapidly growing industry that changes so quickly that tomorrow's Linux will replace today's Microsoft.

Continued litigation in this case will only slow competition and growth in the industry. I hope you see fit to sign off on the fair settlement in this case.

Marlene McLaren
PO BOX 383 Spirit Lake, IA 51360–0363
(712) 336–2346
www. GenGap.net
President, CEO
GenGap.net
PO Box 383 Spirit Lake, IA 51360–0363
(712) 336–2346

MTC-00030584

January 3, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
FAX To:
202–307–1454

Dear Mr. Ashcroft:

I am writing to support the settlement between the Justice Department and Microsoft that will bring an end to their long antitrust dispute.

Some groups do not think the settlement is fair, but they are wrong. The only possible way the settlement could be unfair is if it unfairly harm Microsoft Look at the stipulations Microsoft is willing to accept. It disclose documentation on the internal interfaces of its Windows operation system. It will make future versions of Windows easier to work with terms of removing Microsoft programs and adding non-Microsoft ones. will guarantee that Windows runs as well with the new software as it c with the original Microsoft software. It will not retaliate against any of the companies that sued it. It will change its licensing practices to increase competitors" viability in the IT market. Microsoft will even submit constant government oversight of their business practices. How mayo outside of Microsoft's boardroom could possibly be dissatisfied with the settlement is a mystery to me.

Microsoft is willing accept these terms. For that reason alone, I think ?? settlement ought to go forward. Thank you for your time.

Sincerely,
Kirk Puffenberger
6263 Indian Field
Norcross, GA 30092

MTC-00030585

7 Edwards Drive
Freehold, New Jersey 07728
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The consistent persecution and harassment of the Microsoft Corporation must cease immediately, both for the good of our country and because it is the fight thing to do. The past three years of litigation have resulted in nothing besides wasting my money, and the recently settlement services the public interest in this matter and its provisions go beyond the government's original complaints.

The provisions of this settlement, among other things, require Microsoft to submit to a federal technical oversight committee which is required to review Microsoft's business and software practices. Additionally, Microsoft must make its intellectual property available to those compentors who use it in their application of this agreement.

These provisions, the general settlement and the process in which it was reached are all fair, judicious and reasonable. It is my hope that there is no further federal action in this matter.

Sincerely,
Fred Billand

MTC-00030586

COLDWELL BANKER
TRAR PROPERTIES
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage you and the Department of Justice to accept the Microsoft antitrust settlement. Microsoft has given up a lot to be able to settle the issue. The terms of the settlement are fair and they should be accepted.

Many people think that Microsoft is getting off easy, in fact this is not so. In the terms of the settlement, Microsoft has agreed to release part of their Windows base code to their competitors. This is so their competitors can make more compatible software. Microsoft is being forced to give up their patented trade secrets. Microsoft has spent years and millions of dollars developing their products, now they have to simply hand part of them over to their competitors. In the technology industry there are companies that develop new products and companies that copy products. Not surprisingly the companies that develop new products are more successful, it is a shame that the government has chosen to harass a company simply because it is successful. This issue has been dragged out for over three years; it is time to put an end to it. The terms of the settlement are more than fair and they should be accepted. Please accept the Microsoft antitrust settlement.

Sincerely,
Diana M. Campbell
Sales associate
FREELAND OFFICE BAYVIEW OFFICE LANGLEY OFFICE OAK HARBOR OFFICE
18205 SR 525 HIGHWAY 525 AT BAYVIEW CENTER 221 SECOND STREET 35 SE ELY STREET
P.O. BOX 760 2869 EAST HOWARD ROAD PO BOX 205 OAK HARBOR, WA 98277
FREELAND, WA 98249 LANGLEY, WA 98250 LANGLEY, WA 98260 (360) 675–7200
(360) 331–6300 (360) 321–6400 (360) 223–1700√Fax (360) 675–8600
FAX (360) 331–8474 FAX (360) 321–5283 FAX (360) 221–4800 cakharbor@coldwellbankerwhidb??y.com
freeland@coldwellbankerwhildbey.com bayview@coldwellbankerwhtdbey.com
langley@coldwellbankerwiudbcy.com
Each Office Is Independently Owned And Operated.

MTC-00030587

January 26, 2001
Diana M. Campbell
7410 Dead Goat Road
Clinton Washington 98236
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage you and the Department of Justice to accept the Microsoft antitrust settlement. Microsoft has given up a lot to be able to settle the issue. I would like to tell you exactly how I feel about this issue, please think back to articles of history of the United States and the Auto Industry. Mr. Henry Ford certainly was not the first automaker competing with other industrialist of his time, His story is fabulous. One story that really talks about the "American dream." And this is only one story of such struggle to produce a sellable product that has lasting quality, No Mr. Ford was not the only automaker of his time but he produced a good competitive product.

Mr. Gates and his company have been producing a sellable competitive product. What is the Justice Department trying to tell the American businessperson? What is this new attack? The United States of America is the home of the free. If we do not have the freedom to create a better "mouse trap", then why are our borders flooded with immigrants?

Mr. Gates has not asked to have the status of a King in the United States, He has built a team of people that are of the highest regard working with ideas and values to build competitive soft wear for a very fast growing industry.

Please know Mr. Ashcroft that I am a normal everyday housewife, and I know something about cooking and recipes, some of the ingredients are private, some are family secrets. Are you telling me that I must tell people what I put in a cake should I want to compete in a contest, for my personal gain. I believe in the American Dream. I grew-up having the ability to choose my way of life, I think you are treading on sacred ground.

Please Mr. Ashcroft do not use any more of your precious time and my money. Please accept the
Microsoft antitrust settlement.

Sincerely,
Diana M. Campbell
Wife
Mother of 10, Grandmother of 22
Great grandmother of 6
Real Estate sales associate

MTC-00030588

Mr. Stan Eischen
10113 Keysboruogh Drive
Las Vegas, Nevada 89134
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Dear Attorney General Ashcroft,

I support the settlement that has been reached between Microsoft and the Department of Justice. The settlement will bring an end to the costly and contentious court conflict between the two.

Some may criticize the settlement and say it lets Microsoft off too easy. That is simply not the case. Microsoft will agree to many restrictions on its method of doing business. First and foremost among these restrictions is the requirement that Microsoft share its code for Windows with its competitors, thereby allowing them to place their own programs on the Windows system.

Additionally, Microsoft will eliminate any possibility of favoritism in its licensing procedures by using a uniform price list when dealing with the top twenty computer business in the nation.

These two provisions alone would be enough, but Microsoft has also agreed to forgo any retaliation against companies that sell or promote software that competes with Microsoft's products. Some people may claim that Microsoft will just ignore these requirements, but the settlement will establish a technical review committee to make sure that Microsoft adheres to all of its terms. With all of these restrictions, Microsoft will be severely hampered and its competitors will be aided.

There comes a time in any conflict when the sides sit down and ask themselves if the time and effort would really be worth continuing to fight. Microsoft and the Justice Department have decided that the answer to that question is no. This settlement will end their battle, and no one should block an agreement that is amenable to both of them. Thank you for your time and efforts in Washington.

Sincerely,
Stan Eischen

MTC-00030589

Association of
Business and Industry
The Voice of Iowa Business
January 21, 2002
Judge Kolar Kottely
C/O Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, D.C 20530

Dear Judge Kolar Kottely:

Thank you for the opportunity to participate in the public comment period regarding the settlement of the government's antitrust case against the Microsoft Corporation. As an executive with the Iowa Association of Business and Industry in Des Moines, Iowa I was pleased to hear that a settlement in this case has been reached. While this case has implications for most American consumers, the implications for those of us in the business sector are even greater.

The negative impact this case has had on the technology industry was apparent nearly from its inception, technology stocks began their slide downward at the same time the district court ruled that Microsoft should be broken up. This ruling caused major uncertainty within the tech community and with its investors.

This proposed settlement would provide much needed subility to the technology industry that was absent during the period this case remained unresolved. The conclusion of this suit will send the signal to both investors and innovators that they no longer need to be concerned with unnecessary government regulations as they work to create new technology products and services for the future.

I encourage you to accept the settlement reached by the Department of Justcie and the Microsoft Corporation .

Sincerely,
John R. Gilliland
Vice President

MTC-00030590

HANSER & ASSOCIATES
public relations
4401 Westown Parkway, Suite 212
West Des Moines, IA ??266–0991
Email:nanser@hanser.com
www.hanser.com
January 22, 2002
Ms. Renata Hesse
Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

The appeal and success of our great country lies in the opportunity to succeed and to make a better way of life for our families. This has been possible because of our economic and personal freedoms. Those with innovative and pioneering spirits are the reason our country rose so quickly to become a world leads.

Most of those who drive our country because of their innovation and willingness to take risks never become global figures or even nationally known. But there is one such individual who is known worldwide for his technological developments. Bill Gates has prodded software and Interact technologies that have forever changed our personal and business relationship with the computer. With his great ideas turned into reality, he has created thousands of jobs for Americans and provides a great deal of financial support for humanitarian relief. For example, The Bill and Mclinda Oates Foundation announced on January 4, 2001 a $7.5 million grant to help combat the spread of HIV in sub-Saharan Africa and worldwide. And this is just one. example of the impact he has had on our world.

Because we are a lawful society, we certainly have an obligation to enforce our national laws. But that obligation has been met in the Microsoft antitrust lawsuit, it no longer can serve any relevant purpose. A fair and realistic settlement has been proposed and should be signed in order to conclude tiffs case and allow Microsoft to move forward with all new business activities, and to allow Bill Gates to continue providing humanitarian relief throughout the world through his foundation.

Thank you,
Arnanda Carstens Steward
Account Manger .

MTC-00030591

Jan 27 02 02:46p
p.2
HANSER & ASSOCIATES public relations
4401 Wastown P??way, Su?? 212
West Des Meines, 1A 50266–1037
575,224??086 Fax. 515.224,0991
Emailhanser@ha??ser.com
www.henser.com
January 22, 2002
Ms. Renata Hesse
Department of Justice,, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

Antitrust is defined by Merriam-Webster, as consisting of laws to protect trade and commerce from unlawful restraints and monopolies or unfair business practices. A lawsuit was filed against Microsoft several years ago alarming the company was in violation of the antitrust laws of our country. In other words, theo claim is that other companies competing for the, game customer base were not able to fairly compete with Microsoft. A lower court ruled that the company would have to be broken up, This ruling did not stand up in the Court of Appeals. But in the process, the Federal government has spent millions of dollars and Microsoft has been forced to spend similar amounts defending its case. Now a settlement has been proposed and agreed to by many of the parties involved in the lawsuit.

Until this case is permanently closed, the biggest loser is the American consumer. Not only have our tax dollars been the source of income for the federal government to fund their rose, but it is likely that Microsoft will offset of the millions they have spent by increasing costs on their products.

I think the only reasonable course reasonable is to agree to the proposed settlement, It is in theo best interest of all parties involved, including the American consumer. Your efforts are truly appreciated. Thank you.

Sincerely,
Ron Hanser President

MTC-00030592

JAN—27—0205: 12PM
FAX COVER PAGE
TO: ATTORNEY GENERAL JOHN ASHEROFT
FROM: MS. ALICE FASS
FAX #: 212 828–9854
VOICE # : 212 534–0682
(CALL IF THERE IS A PROBLEM WITH THE FAX!)
TOTAL # OF PAGES: (INCLUDING COVER PAGE)
NOTES: BE: MICROSOFT
Alice Fass
January 18, 2002
Attorney General John Ashore
US Department Justice 950 P, ???sylvania Avenue, NW
Washington, DC 20530–0001

D??? Asheroft:

I am willing to express my support for Microsoft in light, of recent litigation against them Microsoft is a great company with great products available to the public at very reasonable prices. It has been an industry leader who has done much to stabilize the IT industry and the economy. With this lawsuit. Microsoft has been forced to shift their attention from producing new products to defending themselves in court. This reduced production has doubtless made., damaging impact on the IT industry and the economy as a whole.

In the interest of settling the matter mote quickly Microsoft agreed to procedures and obli??ons that the US Court of Appeals did not even find problems with. For one example, Microsoft decided to allots" computer makers to remove the "paths" that consumers use to access venous Windows programs. These include programs like Explorer and Media Player. D??ing ???us well enable sofrware made by companies such as Netscape or RealNetworks to use those paths instead. This will intensity competition, which will benefit consumers.

I look forward to this matter being wrapped up as soon as possible It has gone on for far too long, and has done severe damage to the country on a whole I appre???ate the willingness of your office to hear the views of the public. I trust that you will conclude that wrapping this matter up will be in the best interest of the public.

Sincerity,
Ahe ??

MTC-00030593

FROM DIANE AND BARRY CAVANAUGH
324 ANNA AVENUE
MOUNTAIN VIEW, CA 94043–4704
FAX/PHONE 1–656–968–4524
E-Mail: ebarrydiane@webtv.net
DATE January 27 2002
REF: Microsoft Litigation
TO: US Federal Government
FAX NUMBER 202–3071454

Gentlemen or Madam

We as seniors feel and believe that the settlement against Microsoft was fair and just. We believe that further litigation by selfish lobbyists would be costly and wrong. Pleae sned all further litigation against Microsoft now.

Barry and Diane Cavanaugh

MTC-00030594

Jan 27 02 03: 36p OFFICE DEPOT#617 1 248 968 2486 p. 1
15261 Forrer Street
Detroit, MI 48227
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. I cannot understand why the government has gone after Microsoft in the first place. As soon as the government started their suit against Microsoft the entire technology industry went downhill. Now that there is a settlement in place, the government should accept it and allow business to return to normal.

In order to put this .issue behind them Microsoft has agreed to a long list of provisions. Microsoft has agreed to allow computer makers the flexibility to install and promote any software that they see fit, or that consumers request. Microsoft has also agreed to design future versions of Windows to be more compatible with non-Microsoft software. Microsoft has agreed to many compromises to reach the settlement. It is time for the government to accept the settlement and move on.

Please accept the Microsoft antitrust settlement. A settlement this fair has no business languishing in court

Sincerely,
H. Pankratz
Cc: Rep. John Conyers

MTC-00030595

FROM: FAX NO.: 2158785193 Jan. 27 2002 03:01PM P1
6329 Sherwood Road
Philadelphia, PA 19151–2521
January, 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

As a supporter of Microsoft, I write you with concern over the recent developments in the settlement. It is strange to see that, after three years of negotiating, this settlement may be subject to still further litigation. It is ridiculous to waste our time and money on fighting a battle that has already been won.

Microsoft has made sweeping commitments to prove that they are willing to work with their competitors. They have agreed to make changes in licensing and marketing and even design. Microsoft has agreed to design future versions of Windows that will allow for easier installation of non-Microsoft software. They have also agreed to be monitored for proper procedure and even allow- themselves to be sued if a competitor does not feel that they are acting properly.

With concessions such as these it only makes sense to support this settlement. It is clearly beneficial for the consumer, the IT sector and our economy as a whole. I urge you to help support it in its current state and not waste more time, energy and money that could be better spent elsewhere.

Sincerely,
Marcia Levinson
cc: Senator Rick Santorum

MTC-00030596

FROM: RICK & SHERRY BEATTY FAX NO. : 360 779 4958 Jan. 27 2002 01: 06PM P1
P.O. Box 135 Keyport, Washington 98345
January 12,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to express my support for Microsoft in the government's antitrust case. A settlement has been reached and I think that it should be respected. Microsoft has been punished enough in the last three years. This lawsuit has been a waste of time and money. Everyone, the government included, has better things to do than pursue a lawsuit that punishes a company for being successful.

It is a total injustice to allow every competitor of Microsoft to continue their influence over the courts and to blame Microsoft for their own inability to have and market a better product. I don't believe there has been one consumer financially damaged by Microsoft's business tactics. Enough is Enough.

Microsoft may have made some mistakes, but they are ready to change their ways. The settlement is evidence of that. Microsoft is conceding a great deal in order to move on. They are giving away some of their technology information and making it easier for consumers to use non-Microsoft programs within their Windows platform. Please respect the efforts of Microsoft and their supporters. This settlement is fair and is a good ending to this whole mess.

Sincerely,
Richard R Beatty

MTC-00030597

FROM : RICK & SHERRY BERTTY FAX NO. : 360 779 4958 Jan. 27 2002 01:06PM P2
P.O. Box 135 Keyport, Washington 98345
January 12,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to express my support for Microsoft in the government's antitrust case. A settlement has been reached and I think that it should be respected. Microsoft has been punished enough in the last three years. This lawsuit has been a waste of time and money. Everyone, the government included, has better things to do than pursue a lawsuit that punishes a company for being successful.

Microsoft may have made some mistakes, but they are ready to change their ways. The settlement is evidence of that. Microsoft is conceding a great deal in order to move on. They are giving away some of their technology information and making it easier for consumers to use non-Microsoft programs within their Windows platform. Please respect the efforts of Microsoft and their supporters. This settlement is fair and is a good ending to this whole mess.

Sincerely,
Sherry Beatty

MTC-00030598

JAN-27-2002 01: 44P FROM: Dale L i 11 i e 918–492–9541
TO: 12023071454 P: 1/2
5622 E70th PL
Tulsa, OK 74138–8413
Phone: 918–492–5806
Fax: 918–492–9341
To: ??Dept. of ??
From: Dale G Lillie
Fax: 1–202–307–1454
Date: Jan 27, 2002
Phone:
Pages: 2
Re: Microsoft ??eff??
CC:
Urgent For Review Please Gomment Please Reply Please Recycle
-Comments:
River Forecast Group
5622 E 78 PL
Tuha OK 741.30–8413
www.River Forec???. corn
January 27,2002
U. S Department of Justice
Antitrust Division
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Sir or Madam:

I strongly urge the U.S. Department of Justice to settle the Microsoft case now and enter the revised proposed Final Judgment. The case brought against Microsoft was motivated primarily by competitive malice. Settling this case is certainly in the public interest.

Microsoft has been a boon to me by bringing lower PC prices, faster and better computing, and better software development tools. In addition, this lawsuit has cost investors, literally hundreds of billions of dollars.

I have gladly purchased and used Microsoft products for over 20 years. Professionally, I have developed many systems based on Microsoft software products. During this time I have interacted with Microsoft personnel at many levels. At no time did I think that the relationship with Microsoft was not fair or beneficial to me as well as to other parties involved To the contrary, I believe that Microsoft to a large degree is responsible for the current economic good health of the USA, as well as many other countries of the world.

It is time to end this antitrust action begun in 1997

Sincerely,
Dale G Lillie
Principal, River Forecast Group

MTC-00030599

01/12/1995 02: 38 4072996027 VINCENT PAGE 01
1609 Hinckley Road Orlando, FL 32818–5927
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW Washington, DC
20530–0001
January 26, 200

Dear Mr. Ashcroft:

I am writing to express my disapproval with the last three years of litigation brought against Microsoft by the US department of Justice. Microsoft has been the cornerstone of the Technology Industry, and its capacity to generate wealth and create jobs for our nation should not be overlooked. Our Government needs to stop interfering in free enterprise and start worrying about more pertinent issues like security.

The terms of the settlement do not let Microsoft off easily as they stipulate Microsoft will have to disclose interfaces that are internal to Windows operating system products and also grant computer makers broad new rights to configure Windows so as to make it easier for non-Microsoft products to be promoted. This, I believe will be a detriment to Microsoft, the consumer and the free market as we know it.

I urge your office to do what is right for the American public and the Information Technology sector by implementing the settlement. The nine states that want to continue litigation should be reprimanded and this case should come to an end. Thank you for your time.

Sincerely,
Carol Vincent

MTC-00030600

aai
The American Antitrust Institute
2919 ELLICOTT ST, NW . WASHINGTON, DC 20008
January 24, 2002
Renata Hesse
Trial Attorney

Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530
Facsimile: (202) 616–9937 or (202) 307–1454
E-mail: microsoft.atr@usdoj.gov
Re: AAI Tunney Act Comments

The American Antitrust Institutes submits these comments under the Tunney Act. Separately, we have filed with the U.S. District Court a complaint for declaratory and injunctive relief, arguing that failures of the U.S. and Microsoft to comply fully with the requirements of the Tunney Act have kept us and the public generally from receiving all the information that is required by statute as a basis for these comments. With that in mind, these comments must be viewed as preliminary, subject to amendment or expansion if and when additional public disclosures are made.

The American Antitrust Institute ("AAI") is an independent non-profit education, research and advocacy organization, described in detail at www.antitrustinstitute.org. The mission of the AAI is to support the laws and institutions of antitrust. To our knowledge, we are the only public interest organization devoted solely to the field of antitrust.

Executive Summary

This Court should reject the Proposed Final Judgment ("PFJ") between Microsoft, the U.S. Department of Justice ("DOJ"), and the settling states. The PFJ is not in the "public interest," as this term is defined under the Tunney Act.[1] 1 The PFJ is ambigous, will be extraordinarily difficult, if not impossible, to implement and affirmatively harms consumers and other third parties. Most importantly, however, the PFJ constitutes a mockery of judicial power since it fails to satisfy any of the remedial goals established by the Court of Appeals.

Standard of Review. Under the Tunney Act a reviewing court is not permitted to "rubber stamp" a proposed consent order if that consent order makes a "mockery of judicial power."[2] Normally, this standard gives substantial discretion to the DOJ's determination of what is in the "public interest." But this deference is not appropriate in cases like this one where there has been a full trial and decision on the merits.[3] In such cases the court has a special obligation to ensure that the remedial goals of the court that imposed liability on the defendant—in this case the D. C. Court of Appeals[1]—have been met. A consent judgment, such as the PFJ, which effectively ignores the findings of liability and remedial goals expressly stated by a unanimous en banc decision of the Court of Appeals is a mockery of judicial power.

Even when courts are reviewing consent orders entered before a trial, a consent judgment is not in in the "public interest" if it: (1) is ambiguous;[1] 5 (2) presents foreseeable problems in compliance and implementation;[6] or (3) affects third parties detrimentally.[7] Since virtually every key provision in the PFJ is ambiguous, will be extraordinarily difficult to implement, and will have a direct and substantial detrimental effect on consumers and other third parties, the PFJ is not in the "public interest" even under the lower standards of scrutiny applied to pretrial settlements.

Substantive Failings of the PFJ. The DOJ asserts that the PFJ "will provide a prompt, certain and effective remedy."[8] While a prompt, certain and effective remedy is often better than a perfect remedy achieved after extended litigation, virtually any remedy this Court would order after litigation would be better than the PFJ. The PFJ is neither prompt, certain, nor effective.

A prompt remedy would take effect quickly and provide procedures to enforce swift compliance. Most of the so-called restrictions on Microsoft's conduct will not take effect for 12 months.[9] Given the rapid pace of change in information technology, Microsoft's dominance of the covered middleware markets may well be a fait accompli before much of the PFJ would take effect. The procedural provisions also fail to provide for quick resolution of disputes over compliance. The Technical Committee cannot resolve disputes, but only "advise" Microsoft and the government of its conclusions.[10]

A certain remedy, at the very least, would set forth a clear delineation of what Microsoft can and cannot do. Yet many of the most important putative restrictions on Microsoft are vague and all are riddled with exceptions and qualifications. This lack of clarity will almost certainly compound the delay already present in the PFJ since the inevitable differences of opinion cannot be resolved without extended litigation to determine the "intent" of the parties according to the rules of contract law.

Finally, and most fundamentally, the remedy should be effective. As the Court of Appeals explained, a remedy should (1) free the market place from the effects of Microsoft anticompetitive conduct, (2) deny to Microsoft the fruits of its illegal monopolization, and (3) ensure that Microsoft does not undertake similar practices likely to result in future monopolization.[11] Yet the PFJ affirmatively allows some of the most egregious anticompetitive acts such as the commingling of middleware and operating system software.[12]

The following comments focus upon the deficiencies of the PFJ rather than attempt to propose alternative measures. Nonetheless, we urge the Court to consider the proposals put forward by the nine dissenting states. These proposals correct many of the PFJ's deficiencies identified in these comments.

Discussion

I. Standards of Review: The Tunney Act Requires Careful Review of the PFJ To Determine Whether It Is In The Public Interest

The Microsoft case is widely considered the most important antitrust case of our time. It is critically important to the future of antitrust that this case be decided—or settled—on the merits in a way that the public will perceive justice to have been achieved. All the more so when Microsoft has been found (after a full trial and by a unanimous landmark appellate opinion) to have abused a monopoly in an industry that all agree will have a profound impact on our future. With so many economic interests affected in cases like this, it is important that special efforts be made to keep antitrust settlements transparent so that the public will recognize them to be free of political taint or corruption.

A. Especially Careful Review Is Warranted in a Fully Litigated Case

The Tunney Act directs Courts to carefully scrutinize proposed antitrust Consent Orders.[13] The Tunney Act mandates that the Court shall make an independent inquiry into whether the decrees, and it will assure that the courtroom rather than the backroom becomes the final arbiter in antitrust enforcement." The Antitrust Procedures and Penalties Act of 1974: Hearings on S. 782 and S. 1088 Before the proposed consent order is in the "public interest,"[14] and authorizes the Court to take evidence and receive arguments to assure itself that the consent order serves the public interest.[15] As noted in the landmark Tunney Act decision of United States v. AT&T, a degree of deference to the DOJ in the reviewing the consent order is appropriate—otherwise, parties would have no incentive to compromise and settle.[16] The

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[1] 1 15 USCS Section 16(e).

[2] The Antitrust Procedures and Penalties Act of 1974: Hearings on S. 782 and S. 1088 Before the Subcomm. on Antitrust and Monopoly of the Senate Comm. on the Judiciary, 93d Cong. 1 (1973). (opening remarks of Senator Tunney); United States v. ABA, 118 F.3d 776, 783 (DC Cir. 1997)

[3] See Section I(A), infra

[4] United States v. Microsoft Corp., 253 F.3d 34 (DC Cir. 2001) (hereinafter "Microsoft III").

[5] United States v. Microsoft Corp., 56 F. 3d 1448, 1461 (1995) (the reviewing judge "should pay special attention to the decree's clarity").

[6] Id. at 1462 (if the judge "can foresee difficulties in implementation we would expect the court to insist that these matters be attended to").

[7] Id ("certainly, if third parties contend that they would be positively injured by the decree, a district judge might well hesitate before assuming that the decree is appropriate.").

[8] Competitive Impact Statement ("CIS"), p. 2.

[9] See, e.g., PFJ sections III.D and III.H.

[10] See PFJ section IV.D.4.c. Moreover, the PFJ's "gag orders" prohibiting both testimony from Committee members and use of their work product in enforcement proceedings will cause further delay since enforcement will always require the government to duplicate the Committee's work in amassing evidence.

[11] United States v. Microsoft Corp., 253 F.3d 34, 103 (DC Cir. 2001). The PFJ does nothing to deprive Microsoft of the fruits of illegal monopolization, and the DOJ's Competitive Impact Statement ("CIS") omits this goal in its discussion of the remedial goals. CIS, pp. 2 and 24.

[12] See Section II infra.

[13] The Tunney Act "will make our courts an independent force rather than a rubber stamp in reviewing consent Subcomm. on Antitrust and Monopoly of the Senate Comm. on the Judiciary, 93d Cong. 1 (1973). (opening remarks of Senator Tunney).

[14] 15 U.S.C. 16(e).

[15] 15 U.S.C. 16(0.

[16] See United States v. AT&T, 552 F. Supp. 131, 151 (1982) ("If courts acting under the Tunney Act disapproved proposed consent decrees merely because they did not contain the exact relief which the court would have imposed after a finding of liability, defendants would have no incentive to consent to judgment and this element of

AT&T court also noted, however, that the standard of review would vary depending on the circumstances.[17] AT&T rejected the notion that courts must unquestioningly accept a proffered decree as long as it somehow, and however inadequately, deals with the antitrust and other public policy problems implicated in the lawsuit. To do so would be to revert to the "ber stamp, role which was at the crux of the congressional concerns when the Tunney Act became law." [18]

The need for deference is important in cases where there has been no trial since the "public interest" must include consideration not only of an appropriate remedy but also whether and for what the defendant may be found liable at trial.[19] More importantly, the court has little knowledge of the determinative facts. But once a trial has established the defendant's liability, the need for deference diminishes greatly. As the court in AT&T stated, the concern "that the courts would generally not be able to render sound judgments on settlements because they would not be aware of all the relevant facts ... is of relatively little relevance here, for this Court has already heard what probably amounts to well over ninety percent of the parties" evidence both quantitatively and qualitatively, as well as all of their legal arguments[, and the reviewing court] is thus in a far better position than are the courts in the usual consent decree cases to evaluate the specific details of the settlement." [20] Once liability has survived appellate scrutiny, as in the case at bar, the need for deference to the DOJ's understanding of the public interest almost completely vanishes since the only consideration left in determining the public interest is whether the consent order does in fact remedy the defendant's violation of the law.

The DOJ argues for a cursory review, limited to the allegations contained in the complaint.[21] The DOJ's argument, however, relies on cases such as the 1995 Microsoft consent decree case ("Microsoft/"),[22] where the case settled prior to a trial. Microsoft I, however, was expressly concerned with the entry of a consent decree where "there are no findings that the defendant has actually engaged in illegal practices." [23] While Microsoft I was correct in stating that it would be "inappropriate for the judge to measure the remedies in the [pretrial settlement] decree as if they were fashioned after trial," [24] in the case at bar, there has in fact been a trial, a finding of liability and an affirmance of that finding on appeal. The DOJ also relies on selected passages from AT&T while 'gnoring the passages quoted here. Simply put, the law does not compel the court to ignore the record developed at trial and affirmed on appeal as the DOJ asserts.

The Court in this case faces an unprecedented situation. Although almost all Tunney Act proceedings have involved cases where the litigation has not started, in this case the facts and law have been fully argued. There are findings of liability by both a District Court and Court of Appeals.[25] The public has expended large amounts of money and time in establishing the facts and the specific nature of a substantial violation of the antitrust laws. The only thing remaining in this historic, massive and protracted case, before the PFJ was signed, was the remedy proceeding.

We have not located another case in which the settlement occurred this late in a proceeding. In prior Tunney Act proceedings there were few, if any facts established through the legal process and the Court's knowledge of the facts was admittedly limited.[26] Here, all of the trial court's Findings of Fact were affirmed by the Court of Appeals.[27] It also agreed with Judge Jackson that Microsoft had violated the antitrust laws.[28]

These unique circumstances require that this Court should carefully follow the instructions of the Court of Appeals as to what constitutes an appropriate remedy.[29] As was held by the Court of Appeals: the remedy must (a) restore competition to the illegally monopolized market,[30] (b) deprive the violator of the "fruits" of its illegal acts,[31] and (c) prevent the violator from engaging in similar behavior in the future.[32]

In a case that has proceeded as far as this one, this Court should use its substantial discretion to see that the views of the Court of Appeals as to what constitutes appropriate relief is implemented. Accordingly, this Court is only under a limited obligation to give deference to the DOJ as to whether the Court of Appeals requirements have been satisfied. Indeed, at this stage of the proceedings, the very nature of this task is more of a judicial function than a prosecutorial function. Accordingly, a settlement at this stage will be in the "public interest" only if these three requirements of a remedy are strictly achieved. This Court has an obligation to the Court of Appeals to ensure that this occurs.

B. Especially Careful Review Is Warranted By the Importance of this Case to the Economy

All cases are of great importance to the litigants, but few cases have far reaching economic consequences on their own. From this point of view, it is no exaggeration to say that this Court is reviewing the most important consent order since the break up of AT&T a generation ago. The words of the court in A T& T apply with equal force to the case at bar: This is not an ordinary antitrust case. The American Telephone and Telegraph Company, with its various components and affiliates, is the largest corporation in the world by any reckoning, and the proposed decree, if approved, would have significant consequences for an unusually large number of ratepayers, shareholders, bondholders, creditors, employees, and competitors .... [the decree would have] a potential for substantial private advantage at the expense of the public interest. In view of these considerations, and of the potential impact of the proposed decree on a vast and crucial sector of the economy and on such general public interests as the cost and availability of local telephone service, the technological development of a vital part of the national economy, national defense, and foreign trade, the Court would be derelict in its duty if it adopted a narrow approach to its public interest review responsibilities.[33]

Virtually the same thing could be said with respect to the position of Microsoft within

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compromise would be destroyed. The consent decree would thus as a practical matter be eliminated as an antitrust enforcement tool, despite Congress" directive that it be preserved. See S.Rep. No. 93–298, supra, at 6; H.R.Rep. No. 93-1463, supra, at 6.")

[17] "It follows that [where no evidence has been taken and no liability has been found] a lower standard of review must be applied in assessing proposed consent decrees than would be appropriate in other circumstances. H.R.Rep. No. 93–1463, supra, at 12. For these reasons, it has been said by some courts that a proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is "within the reaches of public interest." United States v. AT&T, 552 F. Supp. 131, 151 (1982)

[18] United States v. AT&T, 552 F. Supp. 131,151 (1982), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983).

[1] At pretrial stage, "[r]emedies which appear less than vigorous may well reflect an underlying weakness in the government's case, and for the district judge to assume that the allegation in the complaint have been formally made out is quite unwarranted." United States v. Microsoft Corp., 56 F.3d 1448, 1461 (DC Cir. 1995) ("Microsoft I").

[20] us v. A T & T, 552 F. Supp. 131,152-(D.DC 1982).

[21] CIS, pp. 65–68.

[22] United States v. Microsoft Corp., 56 F.3d 1448 (DC Cir. 1995) ("Microsoft I").

[23] Id. at 1460–61.

[24] Id. at 1461.

[25] United States v. Microsoft Corp., 87 F. Supp. 2d 30 (D.DC 2000) ("Conclusions of Law"), United States v. Microsoft Corp., 253 F.3d 34, 117 (DC Cir. 2001) ("Microsoft III")

[26] The closest example was the AT&T settlement, US v. A T & T, 552 F. Supp. 131 (D.DC 1982), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983). The Settlement was agreed upon during the trial, before the Court had issued its decision.

[27] United States v. Microsoft Corp., 253 F.3d 34, 117 (DC Cir. 2001).

[28] Id., 60–80.

[29] See, Jonathan B. Baker and Andrew I. Gavil, Ill-Gotten Gains, Toothless Settlement Lets Microsoft Keep Rewards of Monopolization, The Legal Times, Nov. 12, 2001, available at. http://www.antitrustinstitute.org/recent/152.cfm. ("When the settlement follows trial and appeal, judicial concerns about encroaching on prosecutorial power to decide what charges to bring and congressional concerns about uninformed courts venturing into the realm of prosecutorial discretion—both of which underlie the narrow role allotted the District Court in the usual Tunney Act review—are mooted. Once the nature and scope of the violations have been determined, as they have here, all that is left is to set the appropriate remedy—a peculiarly judicial task, concerning which the executive branch may advise but not encroach")

[30] The Court of Appeals explained: "The Supreme Court has explained that a remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct," United States v. Microsoft Corp., 253 F.3d 34, 103 (DC Cir. 2001).

[31] Quoting the Supreme Court, the goal is to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation..." Id.

[32] "[E]nsure that there remain no practices likely to result in monopolization in the future," United States v. United Shoe Mach. Corp., 391 U.S. 244, 250, 20 L. Ed. 2d 562, 88 S. Ct. 1496 (1968), quoted in United States v. Microsoft Corp., 253 F.3d 34, 103 (DC Cir. 2001).

[33] United States v. A T & T, 552 F. Supp. 131,151 (D.DC 1982) (emphasis added).

the personal computer and Internet industry. The personal computer industry and the Internet now reach into almost every facet of the economy. Consumers of personal computers, just like consumers of telecommunications services a generation ago, have an enormous stake in ending the monopoly and enjoying the choices of new technologies and other benefits from a newly competitive marketplace. With so much at stake, any court would be derelict in its duty under the Tunney Act if it did not carefully review the PFJ to ensure that its entry is in fact in the public interest.

C. Especially Careful Review Is Warranted Because the PFJ Is Ambiguous, Difficult to Implement and Enforce, and Will Harm Consumers and Other Third parties

Under the Tunney Act, even when courts review consent orders entered into before a trial, they are charged with providing an especially close review to those portions of the consent order that: (a) are ambiguous (i.e., the reviewing judge "should pay special attention to the decree's clarity"[34] since it will be very difficult for the Court to administer unclear provisions); (b) relate to compliance mechanisms (if the judge "can foresee difficulties in implementation we would expect the court to insist that these matters be attended to")[35] and (c) affect third parties detrimentally ("certainly, if third parties contend that they would be positively injured by the decree, a district judge might well hesitate before assuming that the decree is appropriate.")[36]

Every key provision in the PFJ is ambiguous and therefore unlikely to effectively achieve its desired result, will be extraordinarily difficult if not impossible effectively to implement, and will have direct and substantial detrimental effect on a number of third parties, including consumers.

These are three additional reasons why this Court should scrutinize the PFJ especially closely. Section II of this Discussion also will show that this scrutiny will reveal to the Court that the PFJ is not in the "public interest." Section II of this discussion will demonstrate why this Court should reject the PFJ because: (a) key terms are so ambiguous or riddled with loopholes that they will not achieve any of the objectives of the relief portion of this litigation; and (b) difficulties in implementation, including the ineffective and cumbersome enforcement mechanism, will similarly serve to render the PFJ toothless. These two problems will exacerbate other features of the PFJ, which will cause significant injury to many third parties, including in particular consumers.

D. Especially Close Review Is Warranted Because the PFJ Is a "Mockery of Judicial Power"

Finally, under the Tunney Act a reviewing court should not "rubber stamp" a proposed Consent Order that makes a "mockery of judicial power."[37] The PFJ does exactly this.

Although a prompt, certain and effective remedy is often better than a perfect remedy achieved after extended litigation, virtually any remedy that this Court would order after litigation would be better than the PFJ. Section II of this discussion will demonstrate that the PFJ is neither prompt, certain, nor effective.

If the Court of Appeals" three requirements for an adequate remedy are not satisfied, the public's investment in this case will be wasted and the public interest will not be served. Worse, future monopolists will be sent a signal that they will not be made to account for their illegal behavior, and so many might conclude that the entire Microsoft proceeding has been a mockery of judicial power.

E. The Court Should Not Make its Tunney Act Determination Until It Has Heard The Nonsettling States" Evidence As To Which Remedy Is In The Public Interest

Not only is this case unique in that the consent order has been submitted after a finding of liability has been made and upheld on appeal, it is also unique in that the Court continues to have a responsibility to fashion a remedy independent of whether it accepts the PFJ in its current or in modified form. This is because nine of the Plaintiff states did not accept the terms of the PFJ.

Clearly, these non-settling Plaintiff states in the Microsoft case believe that the PFJ is an unsatisfactory remedy for Microsoft's illegal conduct.[38] They believe that only much more stringent remedies would constitute an effective remedy.[39] They have asked for, and are entitled to, a hearing on their proposed remedy, and this remedy hearing is scheduled to start on March 11.[40]

The peculiar situation of this "two track" proceeding requires that the Court hold off its decision under the Tunney Act until after it has heard the arguments to be presented by the nine non-settling States. These plaintiffs have a constitutional right to completion of the trial, and this includes the right to a Hearing before a Court that not only is unbiased, but also a Court that appears to be unbiased. However, if this Court rules under the Tunney Act that the PFJ is in the "public interest" prior to the completion of the non-settling States" hearing, this Court will appear to be biased. It will appear that, even before this Court has heard the evidence that the plaintiff states produce during the March 11 hearing, this Court already had determined the appropriate remedy in the Microsoft case.

To avoid even the appearance that this Court has prejudged the plaintiff-states" case, this Court should receive and carefully review the public comments on the PFJ, and receive and carefully review the Justice Department's responses. But then this Court should hold off making a Tunney Act determination until the plaintiff-states" hearing is completed.

This is especially true in light of the overall purpose of the Tunney Act. The Tunney Act granted authority to the Court to take additional evidence in order to ascertain whether the remedy is in the "public interest." It sets deadlines for the DO J, the defendant and the public, but it does not prevent this Court from waiting until the remaining parties have presented their evidence.

Moreover, this delay will not cause any hardship to Microsoft, which has sought to delay the remedial proceedings in this case on numerous occasions. Since not postponing of the Court's Tunney Act determination would harm the remaining plaintiffs by depriving them of their right to a remedy determination that appears to be unbiased, and will not adversely affect Microsoft, a balancing of the equities (as would be done in a preliminary injunction proceeding) clearly suggests that the Court should not make a Tunney Act "public interest" determination until all of the evidence concerning the appropriate remedy is before this Court.

It is important to stress the need for further evidence and argumentation with respect to the remedy in this complicated case. As commentators under the Tunney Act, we are asked to rely on the Competitive Impact Statement ("CIS") filed by the Department of Justice. The CIS mentions that the Department considered a variety of alternative remedies, but it fails utterly to analyze them, saying in less than one page, conclusorily and in disregard of its obligation to help the public comment on the case, that it has rejected all alternatives. Without the detailed explanation by the Government of why various alternatives (including many that were proposed by the American Antitrust Institute) were rejected, it is impossible for the public commentors to play their proper role under the Tunney Act in providing the Court with advice as to the implications of the PFJ. Because of this shortcoming, it is especially appropriate for the Court to hear the evidence in support of alternative remedies that will be promulgated by the non-settling States before judging what is in the public interest.

II. Substantive Failings of the Proposed Final Judgment

As noted in the previous section, the Court is not to "rubber stamp" whatever settlement the DOJ puts forward. The degree of deference given the DOJ depends on the stage of the proceeding.

Where, as here, the issues of liability been fully litigated and the remedial goals clearly established, the Court is obligated to ensure that any consent order fulfills those goals. Under this standard, the Court should reject the PFJ as a mockery of judicial power. But even under the more deferential standards used to review pretrial consent orders, the Court should reject the PFJon grounds that it is ambiguous, unenforceable, injures consumers and other third parties.

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[34] United States V. Microsoft Corp., 56 F.3d 1448, 1463 (1995).

[35] Id. at 1462.

[36] Id.

[37] United States v. ABA, 118 F.3d 776, 783 (DC Cir. 1997) ("The district court must examine the decree in light of the violations charged in the complaint and should withhold approval only if any of the terms appear ambiguous, if the enforcement mechanism is inadequate, if third parties will be positively injured, or if the decree otherwise makes "a mockery of judicial power"); See also, United States v. Central Parking Corp., 2000 U.S. Dist. LEXIS 6226 (D. DC 2000) (It appears, upon examination in light of the violations charged in the complaint, that the terms of the decree are not ambiguous, that the proposed enforcement mechanism is adequate, that third parties will not be "positively injured," and that the decree does not make a mockery of judicial power);United States v. Microsoft Corp., 56 F.3d 1448, 1462 (DC Cir. 1995).

[38] These states filed their own proposal with the Court on December 7, 2001.

[39] Id.

[40] See Scheduling Order filed October 2, 2001.

A. The PFJ Constitutes a Mockery of Judicial Power

This case presents unique circumstances in that the issues of liability have been fully litigated and affirmed by the Court of Appeals in an unanimous en banc decision. Consequently, the Court must strictly follow the standard for a proper remedy established by the Court of Appeals: "a remedies decree in an antitrust case must seek to [1] "unfetter a market from anticompetitive conduct," [2] "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and [3] ensure that there remain no practices likely to result in monopolization in the future."[41] The PFJ fails to prohibit the most pernicious anticompetitive conduct identified by the Court of Appeals and does nothing to inhibit Microsoft's power to continue to use these tactics to maintain its operating system ("OS") monopoly or to expand that monopoly into other markets. Not only does the PFJ do absolutely nothing to deprive Microsoft of the fruits of its monopoly, the Competitive Impact Statement ("CIS") filed by the DOJ does not even mention this remedial goal mandated by the Court of Appeals. A proposal which completely ignores critical holdings of the Court of Appeals consitutes a mockery of judicial power.

1. Failure to Prohibit Anticompetitive Integration of Middleware and the Operating System

The PFJ fails to restrict, let alone prohibit, the most egregious types of illegal activity identified by the Court of the Appeals, Microsoft's integration of its products into the Operating System. As with many of the deficiencies in the PFJ, Microsoft's continuing and unfettered ability to integrate products into the operating system transgresses all three remedial goals established by the Court, for it is not only the most important tool used by Microsoft to maintain its current monopoly and create new ones, the exclusive power to integrate software into the operating system is a fruit of Microsoft's illegally maintained monopoly.

While the DOJ completely ignores the Court of Appeals mandate to deprive Microsoft of the fruits of illegal monopoly, the CIS concedes that appropriate relief should, among other things, "end the unlawful conduct."[42] The Court of Appeals unanimously and squarely held that Microsoft's integration of the browser middleware and the operating system "constitute exclusionary conduct, in violation of § 2" of the Sherman Act.[43] More specifically, the Court of Appeals found that Microsoft violated the law by commingling software code and by failing to create a way to remove the commingled code from the operating system.[44] Not only does the PFJ fail to end this unlawful conduct by requiring Microsoft either to stop the commingling or to provide a way to remove the commingled code, the PFJ actually endorses such anticompetitive integration by giving "Microsoft in its sole discretion" the right to determine the "the software code that compromises a Windows Operating System Product."[45] It is hard to imagine anything that could more readily constitute a mockery of judicial power than to authorize the defendant to engage in conduct which the court has specifically found to be illegal. Yet that is precisely what the PFJ does.

The importance of integration to Microsoft's ability to maintain and extend its monopoly can hardly be understated. It is Microsoft's weapon of mass destruction against competition. Network effects assure that middleware distributed with every new PC will dominate the market and drive out even superior products simply because the middleware is distributed with every new PC. In markets characterized by network effects, ubiquity beats quality. Microsoft can achieve this universal distribution without resort to threats of retaliation or contractual restrictions simply by commingling its middleware code with the operating system software code. As the Court of Appeals found, Microsoft can and has used this type of integration to snuff out middleware that threatened the applications barrier to entry which protects Microsoft's operating system monopoly. So important is this weapon to Microsoft that it sought a rehearing on this matter, despite the fact that the Court had unanimously found that the conduct violated Section 2 of the Sherman Act. Not surprisingly, the Court of Appeals refused to rehear the issue.[46]

The Court of Appeals identified two types of illegal integration, commingling the browser middleware code with the operating system and excluding the browser middleware code from the Add/Remove programs utility. Yet the PFJ neither prohibits commingling nor mandates a method of removing commingled code. Section III.H of the allows OEMs and end users to hide Microsoft middleware products, but Microsoft can force the OEMs to install Microsoft middleware products as part of the operating system. OEMs and consumers can remove the icons for Microsoft middleware products, but neither OEMs nor consumers remove the middleware product itself. It is simply untrue to say that OEMs will have "freedom to make middleware decisions"[47] when Microsoft "in its sole discretion" can force OEMs to distribute and consumers to accept Microsoft's middleware product as part of the operating system.[48]

Similarly, OEMs and end users can change the settings so that, for example, the PC will launch RealPlayer instead of Microsoft's Windows Media Player middleware to play certain types of music, but neither the OEM nor the end user can really turn off the Windows Media Player. Windows Media Player will still play the music whenever "necessary for valid technical reasons to supply the end user with functionality consistent with a Windows Operating System Product."[49]

Given the existence of network effects, this inability to turn off, let alone remove, Microsoft middleware will ensure that Microsoft defeat rivals offering cross platform alternatives. Consider the music example. RealPlayer does not play music streamed in Microsoft's proprietary format and Windows Media Player does not play music streamed in RealNetworks proprietary format.

Consequently, whenever consumer wants to hear music streamed in Microsoft's format, the PC will automatically play the music using Windows Media Player even though the consumer or the OEM has installed RealPlayer. But the situation is not reciprocal. If the consumer or OEM has not installed RealPlayer and chosen it as the option to play music, when the consumer attempts to listen music streamed in RealNetwork's format the PC will not automatically invoke RealPlayer.

Instead, the PC will display an error message, probably leading the consumer to believe that the content provider's products are defective. Now consider the position of content provider. She can stream her music in RealNetwork's format, which may provide superior features, but which can only be listened to on a subset of PCs. Alternatively, she can stream her music in Microsoft's format and have it play on all PCs, even PCs where the OEM or end user has attempted to disable Windows Media Player. Of course, she will choose to stream in Microsoft's format and as more and more content providers reach the same obvious conclusion, demand for RealPlayer will evaporate regardless of which format provides the better quality music or lower prices. (Note that price is an issue. Even if Microsoft does not charge a separate price for Windows Media Player, Microsoft does sell the server software, encoding tools, etc., to content providers.)

Realistically, ISVs cannot avoid the implications of integration by purchasing installations from OEMs. The obstacles to successful implementation of such a strategy are overwhelming. First, network effects dictate that an ISV will have to purchase installation from every OEM or it will fail to achieve the universal distribution necessary to have a fighting chance against Microsoft.

The price for universal distribution will not be cheap. Again, consider the plight of RealNetworks. Since an OEM cannot remove Windows Media Player, Real Networks would have to compensate the OEM for the additional testing, support and hardware costs of having two media players installed on the PC.[50] OEMs will demand payment because the universal distribution needed by RealNetworks to survive will also mean that an OEM cannot achieve a competitive advantage over its rivals by installing RealPlayer, e.g., IBM cannot differentiate its PCs from Dell's by installing RealPlayer when Dell also installs RealPlayer, and if

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[41] Microsoft III, 253 F.3d at 103 (citations omitted).

[42] CIS, p. 24.

[43] United States v. Microsoft Corp., 253 F.3d 34, 67 (DC Cir. 2001); CIS, pp.3 and 7.

[44] Id. at 66–67

[45] PFJ, sec. VI.U.

[46] United States v. Microsoft 2001 U.S. App. LEXIS 17137 (DC Cir.)

[47] CIS, p.3.

[48] 48 PFJ, sec. VIM.

[49] PFJ, sec. III.H.

[50] Microsoft III, 253 F.3d at 64.

RealPlayer is not installed on both IBM and Dell PCs, RealNetworks cannot reasonably hope to survive against Microsoft in this middleware market. The cost to RealNetworks is compounded by the fact that Microsoft not only does not have to compensate the OEM for the cost of installation, Microsoft also gets paid by the OEM for installation of Windows Media Player as part of the overall royalty for Windows. Consequently, every PC shipped would represent an expense to RealNetworks and income to Microsoft. In short, any ISV who seeks to challenge Microsoft in a middleware market will do so at an enormous and probably insurmountable cost disadvantage.

The PFJ contains provisions which further discourage ISVs from challenging Microsoft's integrated middleware and diminish their chances of success if they do. For example, the PFJ gives Microsoft the right to have Windows automatically request the end user to change back to Microsoft middleware fourteen days after the PC's first use.[51] Assume that RealNetworks convinces an OEM to install RealPlayer and to configure the PC to use RealPlayer instead of Windows Media Player for music. Two weeks after the consumer purchases her new PC, she may be confronted with a pop up window asking her to switch to Windows Media Player every time she tries to listen to music. Microsoft is free to make it impossible to turn off these incessant requests except by agreeing to turn off RealPlayer and turn on Windows Media Player. Just to get rid of the annoying message, at least some consumers will agree to switch to Windows Media Player. In other words, RealNetworks cannot really purchase more than fourteen days worth of installation on a PC. Microsoft, however, will Windows Media Player permanently installed as part of the operating system.

Microsoft also has an unrestricted right to automatically override the consumer's or OEM's configuration whenever the consumer installs "a new version of a Windows Operating System Product."[52] There are no restrictions on Microsoft's power to issue "new versions" of Windows. Nor is there any restriction on Microsoft's ability to update a consumer's PC to these new versions automatically when the consumer connects to the Internet. Microsoft is free to issue automatic updates to new versions of Windows which do little more than sweep away the configuration. So even among consumers who refuse Microsoft's repeated requests to switch to Windows Media Player, the RealPlayer installation may last only until Microsoft issues its next operating system update.

At best, therefore, all an ISV can purchase from an OEM will be a temporary presence on many PCs. Not only will this discourage ISVs from entering the market with competitive middleware products, those who do will find that a temporary presence creates the same problems as lack of universal distribution due to network effects. Why should someone stream audio, write applications, etc., for a non-Microsoft middleware product that is available on a hit or miss basis when Microsoft middleware is universally present on a permanent basis?

There are two effective tools to deal with the issue of anticompetitive integration: (1) prohibit integration by Microsoft or (2) require Microsoft to include competitive middleware with the operating system. The PFJ contains neither tool. Given a unanimous en banc decision of the Court of Appeals holding that Microsoft illegally commingled middleware code with the operating system, the failure of the PFJ to provide either tool constitutes a mockery of judicial power.

2. Microsoft Remains Free to Withhold Vital Information

Without disclosure of the operating system's APIs and related information, IHVs, IAPs, ICPs, OEMs, and perhaps most importantly ISVs cannot develop functional products that will work on Windows. Microsoft used selective disclosure of this information as a reward/retaliation mechanism in order to obtain compliance from third parties in its effort to eliminate competition from cross platform middleware products. Furthermore, by withholding information from ISVs that is available to Microsoft's own developers or by disclosing the information to ISVs later than the information is made available to Microsoft's own developers, Microsoft can retard an ISV's ability to develop competitive products, including middleware.

In a competitive market for operating systems, Microsoft would fully disclose all APIs and related information in order to attract support from third parties and to make sure that their products worked as well as they possibly could with the Windows operating system. But Microsoft does not operate in a competitive marketplace, and Microsoft has an incentive to engage in selective, incomplete and delayed disclosures in order to prevent the development of cross platform middleware products.

Rather than simply compel Microsoft to make the complete and timely disclosures that would ordinarily be required by a competitive marketplace, the PFJ puts into place a regime which seems designed to preserve Microsoft's unbridled ability to exploit its monopoly power through selective disclosure. For example, the PFJ does not require disclosure of all APIs but only the subset of "the APIs and related documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product."[53] There are a number of problems with this restricted set of mandatory disclosures. First, ISVs may want to use APIs in Windows that Microsoft does not happen to use for its own middleware. While a certain API or set of APIs may be the best way for Microsoft to implement its middleware on Windows, a different set of APIs may prove better for a competitor's middleware. Under the terms of the PFJ, however, Microsoft only has to disclose the APIs used by its own middleware. In other words, and contrary to the CIS, competitiors do not have access to the same APIs as Microsoft's own middleware developers. Rather, they have access only to those APIs used by Microsoft's middleware developers.

Second, Microsoft has complete discretion over which APIs fall into this subset of mandatory disclosures. Under the PFJ, an API is limited to the interfaces "that Microsoft Middleware running on a Windows Operating System Product uses to call upon that Windows Operating System Product in order to obtain any services from that Windows Operating System Product."[54] The PFJ also gives Microsoft complete control over what constitutes the "Windows Operating System Product."[55] The repeated references to "Windows Operating System Product" in the definition of APIs make clear that Microsoft can refuse to disclose APIs simply by exercising its unfettered discretion under the PFJ to remove those APIs from the "Windows Operating System Product."

Third, the APIs used by important Micorosoft Middleware Products such as Windows Media Player may not be subject to mandatory disclosure. The PFJ does not require disclosure of the APIs used by "Microsoft Middleware Products." Instead, the PFJ requires disclosure of the APIs used by "Microsoft Middleware."[56] The definition of "Microsoft Middleware Products" expressly includes not only Windows Media Player, but also other important middleware such as Microsoft Internet Explorer.[57] However, these products are not expressly included in the definition of "Microsoft Middleware."[58] Not all software which provides "the same or substantially similar functionality as a Microsoft Middleware Product"[59] falls within the definition of "Microsoft Middleware." It must also be "distribute[d] separately separately from a Windows Operating System Product to update that Windows Operating System Product."[60] If, for example, Microsoft ceases to distribute Internet Explorer and Windows Media Player separately from Windows or if Microsoft no longer treats these separate distributions of Internet Explorer and Windows Media Player as Windows updates, then Internet Explorer no longer constitutes "Microsoft Middleware" and Microsoft no longer has an obligation to disclose the APIs used by Internet Explorer.[61]

Whether a product falls within the definition of "Microsoft Middleware," and hence whether the APIs it uses must be disclosed, also depends on whether the product is trademarked.[62] Under PFJ section VI.T, a product is "Trademarked" if Microsoft claims a trademark in the product, separate from its trademark claims for "Microsoft??" and "Windows??," by, for example, marking the name with the ??

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[51] PFJ, sec. III.H.3

[52] PFJ, sec. III.H.3.

[53] PFJ, sec. III.D.

[54] PFJ, sec. VI.A.

[55] PFJ, sec. VI.U.

[56] PFJ, sec. III.D and VI.A

[57] PFJ, sec. V.K

[58] PFJ, sec. VI.J

[59] PFJ, see. VI.J.3.

[60] PFJ, sec. VI.J. 1.

[61] Note that Microsoft's current distribution of these products for the Macintosh platform will not constitute the required separate distribution because the Macintosh versions cannot be updates to Windows.

[62] PFJ, sec. VI.J.2.

character. But a product is not Trademarked if its name is "comprised of the Microsoft ?? or Windows?? trademarks together with descriptive or generic terms." In other words, Microsoft Internet Explorer?? and Windows Media Player?? would be Trademarked and the APIs used by those products would be subject to disclosure. But Microsoft?? Internet Explorer and Windows?? Media Player would not be Trademarked and the APIs used by those products would not be subject to any mandatory disclosure. Under PFJ Section VI.T, Microsoft "disclaims any trademark rights in such descriptive or generic terms."

Consequently, if the Court enters the PFJ, Microsoft Internet Explorer?? and Windows Media Player?? will automatically become Microsoft?? Internet Explorer and Windows?? Media Player and the APIs used by those products will fall outside the scope the PFJ's mandatory disclosure provisions.

Fourth, the number of APIs subject to mandatory disclosure is further reduced by PFJ section III.J.1 (a) which allows Microsoft to refuse disclosure of APIs "which would compromise the security of a particular installation or group of installations of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems." The importance of the APIs for these functions can be seen from the fact that anyone who wishes to play music distributed by the PressPlay joint venture created by two of the five major record labels will need access to the digital rights management APIs. The CIS asserts that "the APIs ... for the Secure Audio Path digital rights management service ... must be disclosed."[63] Unfortunately, the CIS is wrong. Section III.J.1(a) of the PFJ states: "No provision of the Final Judgment shall ... [r]equire Microsoft to ... disclose ... portions of APIs ... which would compromise the security of a particular installation or group of installations of ... digital rights management." The CIS appears to assume that "installation" refers to an "end-user installation,"[64] when, in fact, the the term "end-user installation limitation" is not stated anywhere in Section III.J.1.a. Installation could just as easily mean Microsoft particular installation of this technology in Windows generally as it could an consumer's particular installation on his own PC. Indeed, the former interpretation is more probable, at least with respect to APIs, since it is hard to conceive of a Windows API installed only on the PC of one particular consumer.

Fifth, not only are ISVs limited to an articificially and anticompetitively limited subset of the APIs, ISVs do not get access to those APIs until the "last major beta test release" of the Microsoft Middleware. In other words, ISVs can never hope to catch up with Microsoft's own developers. While Microsoft's developers presumably have access to new APIs as soon as they are created, ISVs do not get access to new APIs until Microsoft releases a beta version of the revised operating system to 150,000 or more beta testers.[65] It is not clear that Microsoft has ever had 150,000 beta testers in any of its beta testing programs.

Sixth, the PFJ delays the initial disclosure of the APIs for a year.[66] There is no need for this delay. Microsoft already discloses the APIs it wants to disclose through the Microsoft Developer Network mechanism utilized by the PFJ. The CIS restates the one year delay, but provides no justification for it. Consequently, it is a mockery of judicial power to allow Microsoft to continue this anticompetitive conduct for another year.

Finally, PFJ section J.2 empowers Microsoft to exclude Open Source developers from access to many, if not all, APIs. The most important source of competition for Microsoft may well come not from commercial ISVs but the Open Source movement, i.e., the creators of Linux, Apache, etc. While the Open Source movement has significant potential for creating competition, the Open Source movement does not constitute a for profit business or even a traditional nonprofit business. Section III.J.2(b), however, gives Microsoft the right to condition access to many APIs on proof of "a reasonable business need for the API" and section III.J.2(c) allows Microsoft to limit access to those who meet "reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business." Participants in the Open Source movement will have difficulty establishing that they are a business with business needs under many tests, but it will certainly be impossible to meet the standards established by Microsoft given that Microsoft has already attacked the Open Source model as "unhealthy" and doomed to failure.[67] Indeed, Microsoft has even branded all Open Source software as "a virus."[68]

The CIS is simply wrong when it states that "Subsection III.J.2, by it explict terms, applies only to licenses for a small subset of the APIs and Communications Protocols that Microsoft will have to disclose."[69] In reality, Section III.J.2, "by its explicit terms," covers APIs and other information "related to anti-piracy systems, anti-virus technologies, license enforcement mechanisms, authentication/authorization security, [and] third party intellectual property protection mechanisms." Virtually all APIs fall into this category, depending on how one defines "related to" and Microsoft will have no incentive to define the phrase narrowly. But even under a narrow interpretation of section III.J.2, participants in the Open Source movement may still be excluded from disclosures of APIs and other critical information on grounds that they are not ISVs because they do not constitute an entity. Sec. Vii.

The District Court found, and the Court of Appeals affirmed, that Microsoft illegally maintained its monopoly by engaging in selective and delayed disclosures of APIs. The PFJ allows this practice to continue virtually unabated. Consequently, the PFJ is a mockery of judicial power.

3. Failure to Prohibit Anticompetitive Corruption of Cross-Platform/Open Standards

Microsoft's assault on middleware threats to its Operating System monopoly has not been limited to integration. Java represented a perhaps even greater threat to Microsoft's Operating System than Netscape's web browser, and unlike the Netscape web browser, Java continues to be a viable product. Created by Sun, Java is at its essence a technology that allows programmers to write applications that will run on any operating system with a Java Virtual Machine installed.

Microsoft licensed Java from Sun and began to market programming tools for ISVs to use in writing Java applications. Microsoft also created its own version of the Java middleware for Windows. Microsoft, however, secretly altered its implementation of Java so that applications written using Microsoft's programming tools would not run correctly under any operating system other than Windows. The Court of Appeals condemned Microsoft's use of these tactics as part of an "embrace and extend" strategy—Microsoft embraced an open/cross-platform and then extended it with Windows-only proprietary technology—as a violation section 2 of the Sherman Act. Use of the "embrace and extend" strategy, whether done openly or in secret, effectively renders any cross-platform technology useless as a means of breaking down the applications barrier to entry.[70]

While the PFJ does purport to contain language which restricts—but does not eliminate—Microsoft's use of exclusive dealing agreements and threats of retaliation for using competing middleware products, including, presumably, Sun's Java Virtual Machine, nothing in the PFJ restricts Microsoft's ability to subvert an open standard by engaging in a surreptitious embrace and extend strategy. If, as the CIS asserts, "[c]ompetition was in this case principally because Microsoft's illegal conduct maintained the applications barrier to entry into the personal computer operating system market by thwarting the success of middleware that would have assisted competing operating systems in gaining access to applications and other needed complement," then Microsoft must be prohibited from polluting the open standards on which cross-platform middleware relies. The failure of the PFJ to do so constitutes a mockery of judicial power.

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[63] 63 CIS, p. 35.

[64] Page 51 of the CIS states that Section III.J.1.a is "limited to specific end-user implementations of security items."

[65] PFJ, sec.III.D and. VI.R.

[66] More specifically, the PFJ section III.D states that the mandatory disclosures will begin "[s]tarting a the earlier of the release of Service Pack 1 for Windows XP or 12 months after submission of the [Proposed] Final Judgment for to the Court."

[67] See, Prepared Text of Remarks by Craig Mundie, Microsoft Senior Vice President The Commercial Software Model The New York University Stern School of Business May 3, 2001 <http://www.microsoft.com/presspass/exec/craig/05–03sharedsource.asp>

[68] See, e.g., Stephen Shankland," Microsoft license spurns open source" CNet News.com, June 22, 2001 <http://news.com.com/2100–1001–268889.html?legacy=cnet>

[69] 69 CIS, p. 53.

[70] Microsoft III, 253 F.3d at 74–78.

4. Microsoft Remains Free to Retaliate Against Those Who Favor Competitive Products

Section III.A of the PFJ initially purports to prohibit retaliation against OEMs who distribute competitive middleware products. Yet section III.A then renders this prohibition meaningless by giving Microsoft the right to provide "Consideration ....commensurate with the absolute level or amount of that OEM's development, distribution, promotion, or licensing of that Microsoft product or service." Consideration includes both "monetary payment" and "the provision of preferential licensing terms."[71] So Microsoft may reward OEMs who distribute, promote or license Microsoft products to the exclusion of competitive middleware products. Of course, those OEMs who favor competitive middleware products will not receive "Consideration" from Microsoft. It does not matter that this use of Consideration is limited to "absolute" versus "relative" levels of distribution. The additional support costs of installing two products which provide the same functionality will deter most OEMs from installing competitive product when they are already installing the Microsoft product. By any reasonable standard, therefore, Microsoft's ability to give consideration to OEMs for the distributing, promoting and licensing of Microsoft's products amounts to an unrestricted right to retaliate against OEMs who distribute, promote or license non-Microsoft products.

Similarly, Section III.G.1 purports to prohibit Microsoft from offering "Consideration" to OEMs as well as IAPs, ICPs, ISVs, and IHVs in exchange for their distribution of Microsoft Platform software in a fixed percentage, but the section goes on to state Microsoft may enter such agreements whenever "Microsoft in good faith obtains a representation that is commercially practicable for the entity to provide equal or greater distribution, promotion, use or support for software that competes with Microsoft Platform Software." Note that the OEMs and others are not required to distribute any competitive product, only to represent that they could distribute competitive products. The CIS points out that Microsoft could grant an ISV preferential marketing, technical and other support "on the condition that the ISV ship the Windows Media Player along with 70% of the ISV's products" so long as "the ISV affirmatively states that it is commercially practicable for it also to ship competing media players with at least the same (or greater) number of shipments."[72] Commercial practicability is not defined in the PFJ, and it is difficult to imagine that an ISV (or OEM, IAP, etc.) would refuse to make such a representation in exchange for preferential treatment from Microsoft. At the same time, it is difficult to believe that an ISV would distribute two products that perform the same function. As with OEMs, the additional distribution costs may be small, but the additional support costs to help consumers sort out which product to use are likely to be prohibitive.

Section III.F.2 also purports to prohibit Microsoft from giving an ISV Consideration in exchange for the ISV's agreement to refrain from "developing, using, distributing, or promoting any software" that competes a Microsoft or runs on a competing platform. Yet the very same section gives Microsoft the right to enter into these exclusive agreements as part of a "bona fide contractual obligation of the ISV to use, distribute or promote any Microsoft software." All ISVs who write software for Windows must use Windows, even if only to test whether products will run under Windows. Consequently, Microsoft is relatively free to offer Consideration, including preferential developer support, to any ISV as part of the ISV's other contractual obligations with Microsoft. Section III.F.2 does, to be sure, require that the restrictions be connected to "bona fide contractual obligations" and limits the permissible restrictions to those that are "of reasonable scope and duration." But these are all undefined terms, so challenges to conduct under this section as unreasonable in scope or duration may require years of litigation. Since the Technical Committee ("TC") cannot issue binding decisions, nor can its members testify, nor can its work product be used in any enforcement proceeding, the TC will add a layer of delay rather than expedite resolution of these disputes.

B. Consumers and Other Third Parties Will Be Injured

Independently of whether the PFJ consitutes a mockery of judicial power, the Court can and should refuse to a consent order which poses a high risk of injury to consumers or other third parties. The PFJ contains provisions which will affirmatively make matters worse in at least four important ways. First, the PFJ contains language which Microsoft may be able use to require competitors to license their intellectual property to Microsoft. This would take away the rights of third parties to negotiate with Microsoft over whether and on what terms Microsoft may use their property. Second, the Court of Appeals modified the standard for tying from "illegal per se" to "rule of reason," but the PFJ purports to immunize Microsoft from tying claims altogether. This poses an unacceptable risk that the third party victims of Microsoft's tying may lose some or all their rights to challenge this conduct. Third, whereas Microsoft now makes it possible to remove certain middleware such as Windows Messenger from middleware, the PFJ will limit Original Equipment Manufacturers ("OEMs") and consumers to deleting icons. Finally, the PFJ enables Microsoft to retaliate with legal immunity against OEMs and others in a variety of ways.

1. The PFJ Requires Cross-Licensing of Third Party Intellectual Property to Microsoft.

Currently, ISVs and other third parties are at least theoretically free to license their intellectual property to Microsoft or not as they see fit. The extent to which third parties actually have the power to exercise this legal right may remain in doubt due to Microsoft's monopoly power, but the PFJ, with no consideration for the possible anticompetitive effects of cross licensing with a monopolist in networked markets, appears to sweep away the intellectual property rights of third parties who deal with Microsoft.

The loss of the legal right to refuse to cross license intellectual property with Microsoft is found in section III.I.5 which provides:

> an ISV, IHV, IAP, ICP, or OEM may be required to grant to Microsoft on reasonable and nondiscriminatory terms a license to any intellectual property rights it may have relating to the exercise of their options or alternatives provided by this [Proposed] Final Judgment; the scope of such license shall be no broader than necessary to insure that Microsoft can provide such options or alternatives.

The scope of this provision and its potential impact on third parties is astonishing. Assume, for example, that an OEM wishes to enable dual booting, i.e., to allow the end user to choose between using Linux (or some other OS) and Windows when she turns on her PC. Can Microsoft insist that it receive a license from the OEM for the software that makes the choice possible? The answer would seem to be yes. After all, the OEM would be attempting to take advantage of "options or alternatives provided" by the PFJ and Section III.I.5 does say that Microsoft may require the OEM to grant Microsoft "a license to any intellectual property rights it may have relating to the exercise of [its] options or alternatives." Expanding Microsoft's ability to insist on cross-licensing will likely have two types of negative effects. In some cases, it will raise the price of dealing with Microsoft too high for the other company, in which case the company will be disadvantaged in the marketplace. In other cases, the cross-licensing will occur and Microsoft may gain important intellectual property that will give it a competitive advantage over its competitors. In either instance, the incentives for other companies to produce new intellectual property will be reduced and consumers will suffer.

2. The PFJ May Immunize Microsoft From Tying Claims.

One of the more remarkable phenomena in this case has been Microsoft's success at escaping liability for tying under Section 1 of the Sherman Act. When the lawsuit began, Microsoft, like everyone else, was subject to the rule that tying is illegal per se. The Court of Appeals ignored at least a half century of Supreme Court precedent and held that the rule of reason analysis should apply to Section 1 claims of tying against Microsoft.[73] (Note that the Court of Appeals already found that this conduct violated the rule of reason standard under Section 2 of the Sherman Act.) Section VI.U of the PFJ, however, dispenses with even the rule of reason analysis and tries to immunize Microsoft from tying claims altogether when it states that the "software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion." Even the failed 1995 Consent Decree required Microsoft to offer at least a plausible procompetitive reason for its tying of software to the Operating System.[74] It is difficult even to conceive of a greater victory for a convicted abusive monopolist who is already in the process of tying new products to its core operating system monopoly. This provision of the PFJ alone makes a mockery of the entire case, but it also could mean that the victims of tying; whether it be consumers forced to purchase products they do not want or ISVs whose products are excluded from the OEM channel of distribution, may also be left without remedy. Clearly, the PFJ gives consumers and other third parties no legally enforceable rights.[75] The PFJ also presents an unacceptably high risk of depriving them of their existing rights. Such a consent order is not in the public interest.

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[71] PFJ, sec. VI.C.

[72] CIS, pp. 42–43.

[73] Microsoft III, 253 F.3d at 89–95.

[74] See United States v. Microsoft Corp., 147 F.3d 935 (DC Cir. 1998).

3. The PFJ Delays Changes in Microsoft's Conduct which Should Already Be in Place. Section III.H allows OEMs and consumers to hide certain Microsoft middleware by deleting the icons for the Microsoft products and replacing them with icons for competitive products beginning "at the earlier of the release of Service Pack 1 for Windows XP or 12 months after submission of this [Proposed] Final Judgment to the Court." In the rapidly changing middleware markets affected by this provision, a year may provide Microsoft more than enough time to eliminate viable competitors by excluding them from access to consumers, and there is no justification for giving Microsoft a year to implement this provision. On July 11,2001, Microsoft issued a press release stating these changes would be incorporated into Windows XP when it shipped in October 2001.[76] If Microsoft could implement this flexibility in October 2001, why must competition take a battering for another full 12 months? The delay can only serve to entrench Microsoft's efforts to eliminate competition in the middleware markets covered by Section III.H of the PFJ.

4. The PFJ Enables Microsoft to Retaliate Against OEMs and Others. As noted in our comments on justice and ambiguity, Microsoft may in fact remain free to retaliate against OEMs, Independent Software Vendors ("ISVs") and others who do not favor Microsoft middleware products. While the other comments focus on Microsoft's ability to take advantage of loopholes and vague and ambiguous provisions within the PFJ, perhaps it is as important to note that the PFJ covers only a small number of Microsoft products. Programming tools and Application Programming Interfaces ("APIs") not used by Microsoft are critically important to ISVs and others. Similarly, Microsoft Office's commanding market share makes it an indispensible product to OEMs. The Court of Appeals noted the willingness of Microsoft to use these products in its illegal efforts to maintain the Windows monopoly, yet the PFJ leaves Microsoft free to retaliate against ISVs, OEMs and others by discriminating on price and other terms of access to these products. Without realistic protections against retaliation, the record of this case indicates strongly that many remedial portions of the PFJ will be ineffective. C. The Proposed Final Judgment Is Ambiguous "A district judge pondering a proposed consent decree understandably would and should pay special attention to the decree's clarity."[77] The PFJ fails to set forth specific and precise remedies for the antitrust concerns identified by the Court of Appeals. There are no clear prohibitions on Microsoft's conduct in the Proposed Final Judgment. Many of the putative restrictions on Microsoft are vague and all are riddled with exceptions and qualifications. As the experience over the 1995 Consent Decree shows, Microsoft and the government may have enormous differences of opinion as to the meaning of the terms. This lack of clarity will almost certainly compound the delay already present in the Proposed Final Judgment since the inevitable differences of opinion cannot be resolved without extended litigation to determine the "intent" of the parties according to the rules of contract law.

1. Unclear Whether Microsoft Can Retaliate Against OEMs Who Favor Competitive Products A critical issue in Microsoft's illegal maintenance of its monopoly has been its ability to retaliate against those who stand in its way, especially OEMs. OEMs provide an extraordinarily important distribution channel for software, including any cross-platform middleware that could serve to break down the applications barrier to entry. Unlike Microsoft, OEMs face intense competition and operate on razor thin profit margins. Consequently, they are especially vulnerable to retaliation from Microsoft. Seemingly small differences in the price charged for Windows can account for the success of one OEM and the demise of another. Nor is retaliation limited to price differences for Windows. If Microsoft can retaliate through the prices it charges for other products, such as Microsoft Office, and through the level of support that Microsoft gives an OEM. Since OEMs currently have no viable alternative to Windows, they simply cannot afford incur Microsoft's disfavor.

Section III.A. 1 appears to prohibit Microsoft retaliating against OEMs who favor rival products: Microsoft shall not retaliate against an OEM by altering Microsoft's commercial relations with that OEM, or by withholding newly introduced forms of non-monetary Consideration ... from that OEM, because it is known to Microsoft that the OEM is or is contemplating ... developing, distributing, promoting, using, selling, or licensing any software that competes with Microsoft Platform Software ...

Now assume that an OEM wants to develop, distribute and promote a new type of software that will compete with JAVA as a tool for creating applications that will run on multiple Operating Systems. As such, this technology threatens to erode the Applications Barrier to Entry that protects Microsoft's monopoly. Can Microsoft retaliate against the OEM for doing this? No one can tell from the language of the PFJ. First, there is the question of whether this new technology competes with a "Microsoft Platform Product." Microsoft Middleware products are included within the PFJ's definition of a "Microsoft Platform Product."[78] It is still unclear, however, whether this new OEM middleware would compete with "Microsoft Platform Software." The PFJ narrowly defines "Microsoft Middleware Products."[79] Microsoft's "Java Virtual Machine" is included in the definition of Microsoft Middleware Products,[80] but the OEM is not offering a different "Java Virtual Machine," The OEM is offering an alternative to using Java. True, this technology threatens Microsoft's monopoly in the same way as Java does, but it remains unclear whether this new technology competes with any Microsoft Middleware Products. Therefore, it remains unclear whether the new technology competes with Microsoft Platform Software. Therefore, it remains unclear whether Microsoft may retaliate against the OEM for offering this technology. Consider another example where an OEM seeks to distribute the Netscape web browser, and the OEM promotes its use of Netscape in advertising, etc. Presumably this presents a clearer case since the definition of Microsoft Middleware Products expressly includes the Internet Explorer web browser and, therefore, it would seem almost certain that the Netscape web browser competes with Microsoft Platform Software. May Microsoft retaliate against the OEM for distributing the Netscape web browser? Again, the answer is unclear. As previously noted, section III.A. 1 does state that Microsoft cannot condition any Consideration that it gives an OEM based on whether the OEM distributes or promotes software that competes with Microsoft Platform Software. But Section III.A also states that "[n]othing in this provision shall prohibit Microsoft from providing Consideration to any OEM with respect to any Microsoft product or service where that Consideration is commensurate with the absolute level or amount of that OEM's development, distribution, promotion, or licensing of that Microsoft product or service." In other words, Microsoft cannot withhold Consideration for promoting Netscape, but Microsoft can withhold Consideration for failing to promote Internet Explorer. OEMs have limited resources to devote to the distribution and promotion of software, and if an OEM devotes its marketing budget to Netscape, the OEM cannot also spend those funds distributing and promoting Internet Explorer. Consequently, the OEM's distribution and promotion of Netscape may mean that the OEM has not given the required level of distribution or promotion to Internet Explorer, thereby entitling Microsoft to withhold the Consideration that Microsoft gives to competing OEMs who do not distribute and promote Netscape. This contradiction recreates the same type of ambiguity found the 1995 Consent Decree which prohibited Microsoft from tying products to Windows, but expressly allowed Microsoft to integrate products into Windows.

2. Unclear Whether Non-Microsoft Middleware and Non-Microsoft MiddleWare Products as Defined by the PFJ Could Ever Exist

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[75] PFJ, see. VIII.

[76] See Microsoft Press Release.

[77] United States v. Microsoft, 56 F.3d 1448, 1461(DC Cir. 1995).

[78] PFJ, sec. VI.L(ii).

[79] PFJ, sec. VI.K

[80] PFJ, Sec. VI.K.1

Some of the most important provisions of the PFJ concern the rights of OEMs, consumers, and others to use Non-Microsoft Middleware and Non-Microsoft Middleware Products. Section III.H, for example, allows an OEM or end user to hide Microsoft Middleware Products and install Non-Microsoft Middleware Products as the default mechanism to perform the same functions. Thus, it would seem that an OEM could remove the icon for Internet Explorer and replace it with an icon for Netscape's web browser, but in reality this will depend on whether Netscape's web browser constitutes a Non-Microsoft Middleware Product. To constitute a Non-Microsoft Middleware Product, Netscape's web browser must, among other things, expose "a range of functionality to ISVs through published APIs."[81] Generally speaking, APIs are the special codes that an application uses to communicate with Middleware or the Operating System. Indeed, Middleware constitutes a competitive threat to Microsoft's Operating System monopoly because Middleware contains its own set of APIs so that an application does not have to communicate directly with the Operating System. As long as the PC contains the appropriate Middleware, the application will run regardless of whether the PC uses Windows or some other Operating System. This is not to say that the Operating System APIs are irrelevant. The Middleware still uses the Operating System's APIs, but the applications use the Middleware APIs. Netscape's web browser does expose APIs as that term is commonly used.

The PFJ, however, contains a much narrower definition of APIs than that commonly used. Under PFJ section VI.A, only "the interfaces ... that Microsoft Middleware running on a Windows Operating System Product uses to call upon that Windows Operating System Product in order to obtain any services from that Windows Operating System Product" constitute APIs. In other words, APIs that exist outside the Windows Operating System do not appear to constitute APIs at all. These APIs are, of course, Microsoft's intellectual property.

So, for an OEM to have the right to install Netscape as the default web browser the question is not whether Netscape exposes Netscape APIs, but whether Netscape exposes Windows APIs. This makes no sense since it could easily mean that there is no such thing as Non-Microsoft Middleware Product, thereby rendering a significant portion of the PFJ meaningless. But this interpretation is more than plausible given the express language of the PFJ. Ultimately, the Court may reject this interpretation and refuse to use the PFJ's definition of APIs for purposes of determining what constitutes a Non-Microsoft Middleware Product. Then again, the Court might not. Either way, the PFJ is ambiguous on this fundamental point.

3. Unclear Whether Microsoft May Retaliate Against ISVs Who Favor Competitive Products Just as Section III.A. 1 initially appeared to limit Microsoft's ability to retaliate against OEMs, so too Section III.F.1 provides that "Microsoft shall not retaliate against any ISV ... because of that ISV's ... developing, using distributing, promoting or supporting any software that competes with Microsoft Platform Software or any software that runs on any software that competes with Microsoft Platform Software" and Section III.F.2 states that "Microsoft shall not enter into any agreement relating to a Windows Operating System Product that conditions the grant of any Consideration on an ISVs refraining from developing, using, distributing, or promoting any software that competes with Microsoft Platform Software or any software that runs on any software that competes with Microsoft Platform Software." As with the prohibition against OEM retaliation, whatever clarity these provisions might otherwise have vanishes upon careful examination.

Assume that an ISV plans to develop a game that will make use of some RealPlayer's multimedia functionalities. Does the PFJ allow Microsoft to punish the ISV for not using RealPlayer instead of Windows Media Player? Could Microsoft, for example, refuse to provide the ISV with technical support in retaliation? The answer is far from clear. RealPlayer competes with Windows Media Player, which is included in the definition of Microsoft Middleware Products and, therefore, within the definition of Microsoft Platform Product which would seem to invoke Section III.F's ban on retaliation. But Section III.F.2 contains an exception to the general rule against withholding Consideration in retaliation for the use of competing software: Microsoft may enter into agreements that place limitations on an ISV's development, use, distribution or promotion or any such software if those limitations are reasonably necessary to and of reasonable scope and duration in relation to a bona fide contractual obligation of the ISV to use, distribute or promote any Microsoft software ... The PFJ does not define or give any guidance as to how to define what is "reasonably necessary," "reasonable scope and duration," or "a bona fide contractual obligation." If Microsoft wants to retaliate, Microsoft would simply argue that it offered Consideration only as part of a contract to promote Windows Media Player and that the ISV who uses RealPlayer either did not enter into such a contract or breached the contract by using RealPlayer. Such an interpretation of the exception would render the main prohibition meaningless and the Court might interpret the exception more narrowly, but then again the Court might accept the broad interpretation of the exception. Either way, the provisions that relating to retaliation against ISVs who favor non-Microsoft products are ambiguous.

4. Unclear Whether Microsoft Must Make Any Disclosures to Third Parties.

The PFJ contains language which standing on its own might require Microsoft to make certain disclosures of APIs, Communications Protocols, and related documentation that enable ISVs and others to write software capable of running on Windows. These comments have already pointed out that the loopholes contained in the API provisions allow Microsoft almost complete discretion to continue to withhold APIs. The ambiguities surrounding the mandatory disclosure provisions for Communications Protocols allow Microsoft to withhold critical information. PFJ section III.E states that "Microsoft shall make available for use by third parties ... any Communications Protocol that is ... (1) implemented in a Windows Operating System Product ... and (ii) used to interoperate natively ... with a Microsoft server operating system product." There are three critical terms in determining what Microsoft must disclose: "Communications Protocol," "Windows Operating System Product," and "Microsoft operating system product." The PFJ defines "Communications Protocol" as:

> [T]he set of rules for information exchange to accomplish predefined tasks between a Windows Operating System Product and a server operating system connected via a network, including, but not limited to, a local area network, a wide area network or the Internet. These rules govern the format, semantics, timing, sequencing, and error control of messages exchanged over a network.[82]

The incorporation of "Windows Operating System Product" and "server operating system" into the definition of "Communications Protocol" makes the definition of these terms especially important in understanding what Microsoft must disclose. The PFJ definition of "Windows Operating System Product" expressly allows Microsoft to include whatever it wants and by implication to exclude whatever it does not want from the "Windows Operating System Product."[83]

The definition of "Windows Operating System Product" and its incorporation into the definition of "Communications Protocol" makes Microsoft's obligation to disclose "Communications Protocol" a moving target. But the third critical term, "server operating system product," is not defined at all. Nor does the PFJ define server operating system. The CIS, perhaps in belated recognition of this issue, purports to define the term,[84] but there is no reason to believe that Microsoft agrees with the CIS definition. Thus, exactly what Microsoft must disclose as under the Communications Protocol provision remains ambigous.

Microsoft's obligations to disclose Communications Protocols are also subject to the same exceptions in PFJ section III.J that apply to the API disclosure provisions. Just as PFJ section III.J. 1 threatens to remove a broad set of APIs from disclosure, so too it may exempt many if not most of the Communications Protocols that Microsoft would otherwise have to disclose. Similarly, PJF section III.J.2 may well mean that Microsoft can deny disclosure of Communications Protocols to competitors, including the Open Source movement, just as it does for APIs.

5. Unclear Whether Open Source Developers Are ISVs.

The Open Source Movement presents one of the biggest threats to Microsoft. Linux is undoubtedly the most famous Open Source project, but a wide variety of Open Source Projects are underway. Although some commercial enterprises bundle Open Source software with additional proprietary software, documentation or services, e.g., Red Hat, the Open Source software itself is distributed without charge. A number of references in the PFJ suggest that its protections may not apply to Open Source developers despite their unusual potential for creating competition against Microsoft.

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[81] PFJ, sec. VI.N.

[82] PFJ, sec. VI.B

[83] PFJ, sec. VI.U

[84] CIS, p. 37

For example, section III.J.2(c) specifically states that Microsoft can refuse to license "any API, Documentation or Communcations Protocol related to anti-piracy systems, anti-virus technologies, license enforcement mechanisms, authentication/authorization security, or third party intellectual property protection mechanism of any Microsoft product" to any one who fails to meet "reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business." Ambiguity exists on two levels here. First, Microsoft could argue that virtually all of its APIs, etc., are in some way "related to" this wide range of key technologies. Second, Microsoft would seem to have almost carte blanche to refuse access to anyone on grounds that they do not meet Microsoft's standards for "authenticity and viability." What constitutes "reasonable, objective standards" is anyone's guess, but even if this language sufficiently protects commercial enterprises, Microsoft may still be able to refuse to grant access to Open Source developers since, by definition, they do not even charge for their software, let alone make a profit.

More fundamentally, the PFJ defines an ISV as "an entity other than Microsoft that is engaged in the development or marketing of software products."[85] Much of the Open Source community remains a loose collection of individuals who post changes to software code on an ad hoc basis in a variety of sometimes shifting locations on the Internet. Whether these communites constitutes "entities" is unclear.

6. Additional Ambiguities

Trying to pin down what Microsoft may or may not do is like trying to hold water in your hand. Virtually every provision raises questions. The preceding discussion identifies the most important ambiguities, but there are more. Fore example: When does an OEM installed "shortcut" for Non-Microsoft Middleware "impair the functionality of the user interface"?[86] What constitutes "a user interface of similar size and shape to the user interface displayed by the corresponding Microsoft Middleware Product?[87] What constitutes "commercially practicable"?[88] . What constitutes a "bona fide joint venture" or a "joint development or joint services arrangement"?[89] What constitutes "a reasonable technical requirement" or "valid technical reasons"? PFJ, sec. III.H. What constitutes a "bona fide join venture"?[90] What constitutes "a reasonable period of time" ?[91]

D. The Enforcement Mechanism Is Inadequate

The PFJ cannot possibly achieve its purported goals without an enforcement mechanism adequate to deter violations by Microsoft or bring about compliance when violations occur. For this to occur, the line between permissible and impermissible conduct must be clearly drawn. Unfortunately, most of the "prohibitions" contained in Section III of the PFJ are riddled with exceptions and undefined terms. Consequently, even under the best of circumstances, fairly extensive litigation would be necessary to determine the exact parameters of permissible conduct. But the Microsoft case does not present the best of circumstances. The delay inevitably caused by disputes over the interpretation of vague language and complex exceptions inevitably play to Microsoft's advantage. The PFJ lasts at most seven years. PFJ, sec. V. Consider the issue of Microsoft's "integration" of middleware with the operating system. This issue appeared to be settled with the consent decree that Microsoft agreed to in 1994 and which the Court entered in 1995. Microsoft never accepted the government's interpretation of the 1995 Consent Decree or the law on that issue. This dispute ultimately led to the current litigation. Microsoft eventually lost the dispute in 2001 when the Court of Appeals held that Microsoft's integration of the browser middleware with the operating system violated Section 2 of the Sherman Act (a decision which will effectively be reversed if the Court enters the PFJ in 2002). In the meantime, Microsoft has effectively eliminated all competition in the browser middleware market largely by integrating its browser into the operating system.

The rapidly changing nature of the software markets compounds the necessity of a swift and certain enforcement mechanism. "By the time a court can assess liability, firms, products, and the marketplace are likely to have changed dramatically."[92] Despite the pressing need of swift and sure enforcement, the PFJ seems designed to enable and to reward delay.

1. The Enforcement Mechanism Lacks Appropriate Penalties.

An effective enforcement mechanism must contain a penalty sufcient to deter misconduct by the defendant. Ideally, the enforcement mechanism would reward the defendant for extending itself to accomplish the remedial goals, but at the very least the mechanism should severely punish a pattern of willful misconduct. The PFJ, however, does neither. The PFJ provides no incentives for Microsoft to cooperate in the effort to break down its Operating System monopoly. Worse, the PFJ does not punish Microsoft for deliberate and repeated violations of the PFJ's restrictions. Microsoft's only stated penalty for "engag[ing] in a pattern of willful and systematic violations" of the restrictions is "a one-time extension of this [Proposed] Final Judgment of up to two years." PFJ, sec.V.B. The base period of the PFJ is five years. If Microsoft has repeatedly violated the PFJ for five years, why should it care if the PFJ is extended to seven years.'? If Microsoft can get away with ignoring the restrictions for five years, surely it will not pose any problem for Microsoft to ignore the restrictions for another two years.

2. The Technical Committee Will Only Delay Enforcement.

The Technical Committee can only serve to delay resolution of complaints about Microsoft's failure to comply with the restrictions contained in the PFJ. The Technical Committee cannot resolve disputes, but only "advise" Microsoft and the government of its conclusions. The Proposed Final Judgment's "gag orders" prohibiting both testimony from Committee members and use of their work product in enforcement proceedings will cause further delay since enforcement will always require the government to duplicate of the Committee's work in amassing evidence.

Assume, for example, that Microsoft refuses to disclose an API to an ISV in retaliation for the ISV's use of RealPlayer technology. This denial immediately places the OEM at a significant disadvantage over ISVs who comply with Microsoft's wishes that they only use Windows Media Player. Assume further that the ISV immediately contacts the TC with its complaint alleging violations of sections III.D and F of the PFJ. The TC must then begin the investigation. While it is impossible to know how long such an investigation would take, the powers and duties of the TC outlined in section IV.B.8.b enable the TC to undertake a truly exhaustive investigation: The TC may, on reasonable notice to Microsoft:

(i) interview, either informally or on the record, any Microsoft personnel, who may have counsel present; any such interview to be subject to the reasonable convenience of such personnel and without restraint or interference by Microsoft;

(ii) inspect and copy any document in the possession, custody or control of Microsoft personnel;

(iii) obtain reasonable access to any systems or equipment to which Microsoft personnel have access;

(iv) obtain access to, and inspect, any physical facility, building or other premises to which Microsoft personnel have access; and

(v) require Microsoft personnel to provide compilations of documents, data and other information, and to submit reports to the TC containing such material, in such form as the TC may reasonably direct.

While such expansive investigatory powers are laudable in many respects, they do represent a tradeoff in favor of accuracy over speed. After such a thorough investigation, however, the TC may only conclude whether the "complaint is meritorious," and if so, "it shall advise Microsoft and the Plaintiffs of its conclusion and its proposal for cure." PFJ, sec. IV.D.4.c. Assuming that the TC finds merit in the ISV's complaint, it is not clear whether the TC may inform the ISV of its findings. PFJ section IV.B.8 states that "TC members may communicate with non-parties about how their complaints ... might be resolved with Microsoft," but whether communication "about how their complaints might be resolved" includes the TC's findings and recommendations remains unclear. PFJ section IV.D.4.c authorizes the TC to communicate its findings only to Microsoft and the Plaintiffs. PFJ section IV.B.9 provides that "any report and recommendations prepared by the TC ... shall not be disclosed to any person other than Microsoft and the Plaintiffs." It is certainly possible to construe these provisions as prohibiting the TC from informing the complaining ISV of anything other than a range of possible outcomes. What happens if, after extensive investigation, the TC finds merit in the ISV's claim and recommends that Microsoft disclose the APIs to the ISV? If Microsoft resists the decision, whether to proceed against Microsoft rests not with the OEM victim or the TC, but with the Plaintiffs. Section IV.A.1 of the PFJ gives the Plaintiffs "exclusive authority" to enforce the restrictions. Any one of the Plaintiff's may now take up the ISV's complaint, but if the Plaintiff who is willing to pursue the OEM's complaint is one of the settling states, it must first consult with "with the United States and with the plaintiff States" enforcement committee." PFJ, sec. IV.A.1. After consulting with the United States and the plaintiff States" enforcement committee, the enforcing state must then "afford Microsoft a reasonable opportunity to cure" the alleged violation. PFJ, sec. IV.A.4. Note that this is a second opportunity for Microsoft to cure the violation, since the first opportunity was given with the TC's decision. If the United States decides to take up the ISVs complaint, then it apparently avoids the delay of consulting with the enforcement committee, but the United States must still give Microsoft an opportunity to cure. The "consultation" and "reasonable opportunity to cure" delays are merely the tip of this iceberg. Although the TC has conducted an extensive investigation and gathered much, perhaps even all of the relevant evidence, neither an enforcing state nor the United States use the evidence accumulated by the TC and the TC members are prohibited from testifying. Section IV.D.4.d specifically provides:

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[85] PFJ, see. VI.I

[86] 86 PFJ, sec. III.C.2.

[87] PFJ, see. III.C.3.

[88] PFJ, sec. III.G.1

[89] PFJ, sec. III G.

[90] PFJ, sec. III.I.

[91] PFJ, sec. III.I.

[92] Microsoft III, 253 F.3d at 49.

> No work product, findings or recomendations by the TC may be admitted in any enforcement proceeding before the Court for any purpose, and no member of the TC shall testify by deposition, in court or before any tribunal regarding any matter related to this [Proposed] Final Judgment.

In other words, the United States or the enforcing state will needlessly duplicate the discovery work of the TC and the Court will have to conduct a de novo review of the evidence without the benefit of the TC's insights and expertise.

3. The Court Will Be Denied Access to the Insights and Expertise of the Technical Committee. Despite the fact that the Technical Committee cannot render enforceable decisions, the TC will be in an excellent position to evaluate both Microsoft's overall conduct and the appropriateness of various alternative remedies for specific complaints and problems. The TC members will have expertise "in software design and programing." PFJ, see. IV.B.2. The TC will have considerable access to Microsoft documents and personnel. PFJ, sec. IV.B.8.b. In addition to its own experience with complaints, the TC will apparently receive reports from Microsoft advising the TC of the nature and disposition of complaints filed with Microsoft's compliance officer. PFJ, sec. IV.D.3.c. The TC, in short, has an exceptional vantage point from which to "monitor Microsoft's compliance with its obligations under [the Proposed] [F]inal [J]udgment." PFJ, sec. IV.B.8.a. Despite the exceptional value of the TC to the Court as both expert witnesses on technical issues and as eye witnesses to larger issues, including whether Microsoft "engaged in a pattern of willful and systematic violations," PFJ, sec. V.B, section IV.D.4.d expressly prohibits members of the TC from testifying "by deposition, in court or before any other tribunal." By denying the Court access to witnesses with critical information and expertise, the PFJ ensures that the Court will have to make rulings without regard to some of the most important evidence on the issues that will inevitability arise under the ambiguous provisions of the PFJ.

Conclusion

The acid test of the PFJ must be whether it would have protected Netscape as it tried to launch a middleware challenge to Microsoft's operating system monopoly in 1994. Sadly, even a cursory reading of the PFJ reveals that the answer is no. Since Microsoft did not have comparable middleware, there would, even under the most favorable interpretations of the API disclosure provisions in PFJ section III.D, have been nothing to prevent Microsoft from engaging in selective disclosures to Netscape. Microsoft would have been free to deny Netscape access to many, if not all, of the Communications Protocols necessary for any Internet middleware to work on Windows since the new, untested company would certainly have failed to meet Microsoft's test of a viable business under PFJ section III.J.2(c). Most importantly, nothing in the PFJ could change the economics of the OEM industry which make it unprofitable to install two web browsers and therefore, in what can only be called a mockery of judicial power, PFJ VI.U would expressly allow Microsoft to choke off Netscape's acess to the crucial OEM distribution channel by declaring Internet Explorer to be a part of the Windows Operating System Product. For the foregoing reasons, we urge the Court to reject the Proposed Final Judgment.

Respectfully submitted on behalf of the American Antitrust Institute by:——

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MTC-00030601

BEFORE THE UNITED STATES DEPARTMENT OF JUSTICE ANTITRUST DIVISION COMMENTS OF THE WASHINGTON LEGAL FOUNDATION SUPPORTING THE PROPOSED JUDGMENT IN UNITED STATES v. MICROSOFT

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Date: January 25, 2002

COMMENTS OF THE WASHINGTON LEGAL FOUNDATIONIN SUPPORT OF THE PROPOSED JUDGMENT IN UNITED STATES v. MICROSOFT

Introduction and Summary. The Washington Legal Foundation (WLF), pursuant to the Tunney Act (Antitrust Procedures and Penalties Act, 15 U.S.C. § 16), hereby submits these comments in support of tee settlement reflected in the Revised Proposed Final Judgment dated November 6, 2001 in United States v. Microsoft Corp., Civil No. 98–1232.[1]

WLF is the nation's preeminent center for public interest law and policy, advocating free-enterprise principles, responsible government, property fights, a strong national security and defense, and a balanced civil and criminal justice system. WLF devotes substantial resources to these issues through litigation, by publishing through its Legal Studies Division, and by educating the public through its Civic Communications Program. With respect to antitrust law, and the Microsoft case m particular, WLF filed a brief in the United States Supreme Court supporting the petition for writ of certiorari filed by Microsoft to review the judgment of the court of appeals that left intact the district court's findings of fact and conclusions of law, despite the flagrant judicial misconduct of the trial court in giving interviews to the press expressing his bias and hostility to Microsoft and Bill Gates: Microsoft Corporation v. United States, 122 S.Ct. 350 (2001). WLF's Legal Studies Division has also published studies and other materials on antitrust issues and the Microsoft case. See Antonio F. Perez, U.S. v. Microsoft: DOJ's "New" Antitrust Paradigm

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[1] The case is on remand from the Court of Appeals which vacated the Final Judgment, affirmed in part the market maintenance claims, ordered reconsideration of the Section 1 tying claim, reversed the browser market attempted monopolization claim, and ordered new remedy proceedings. U.S. v. Microsoft Corp., 253 F.3d 34 (DC Cir. 2001).

Resurrects Outdated Economics (WLF Legal Backgrounder, Feb. 4, 2000); Robert A. McTamaney, Microsoft On Appeal: "Monopolies" In A Complex Society (WLF Working Paper Feb. 2001). WLF supports the Proposed Judgment (the result of intense negotiations with the assistance of two of the nation's top mediators) as a rational resolution to a case formally initiated in May 1998, but effectively tracing its roots to an FTC investigation begun more than a decade ago, therefore now rivaling in time and burden the IBM antitrust litigation of the 1980's. The matter is overly ripe for resolution, and the States which have declined to join the settlement should in our judgment be urged by the Department and the Court to reconsider and adopt it. The Standard for Entry. The Tunney Act contemplates that the Court will evaluate the relief set forth in the Proposed Judgment and enter the judgment if the settlement is within the reaches of the public interest and within the government's rather broad discretion, considering (1) the competitive impact and adequacy of the judgment and (2) the impact on the public generally, and on affected individuals, and the benefit, if any, of an eventual trial determination. The Court reviews the Proposed Judgment in light of the Complaint's allegations, and withholds approval only if there is ambiguity, art inadequate enforcement mechanism, if third parties would be positively injured, or if the decree somehow makes a 'mockery" of judicial power.[2] The belief that other remedies might be preferable does not warrant rejection of the Proposed Judgment; the Tunney Act does not authorize the imposition of different terms or permit de novo review of the settlement.[3]

The Complaint Versus the Proposed Judgment. Under the Tunney Act, whether the public interest is served by entry of the judgment is first tested by comparing the allegations of the Complaint with the Proposed Judgment. As will be demonstrated, the comparison is more than a favorable one.

The Complaint is dated May 18, 1998. There are 141 numbered paragraphs in the Complaint, of which, read fairly, 128 paragraphs relate to Microsoft's browser technology, including its Interact Explorer (IE) in Windows 98, and the promotion and distribution of that technology to Windows 98 users. The principal responsible author of the Complaint described the case as an extremely limited, discrete, "surgical strike" directed solely against the Company's integration of browser technology with its operating system.[4]

On June 23, 1998, the U.S. Court of Appeals for the District of Columbia Circuit held that the IE Browser was not a product separate from Windows for purposes of the 1995 consent decree that had resolved the Department's 1994 case, and the related European Commission (EC) case, against Microsoft.[5] While the Court reserved its position on any future market power allegations, most observers believed that the May 18 Complaint had been rendered moot, since any arguably illicit tie requires, by definition, two products.

The trial judge disagreed, and permitted the case to proceed, and premised his eventual breakup order, in effect, on the sparse references in the Complaint to the alleged market dominance of Windows in a narrowly-defined market of Intel-powered personal PCs.[6] In its reversal and remand of the trial judge's conclusions and remedies, the Court of Appeals specifically reversed the conclusion that Microsoft attempted to monopolize a browser market, and remanded the issue of an illegal tie for reconsideration under the Rule of Reason.[7] In recognition of the rigors of this test, and in light of the demonstrated insistence of consumers on a browser-operating system combination, the Department determined not to pursue this claim.

To the extent therefore that the Tunney Act dictates measuring the judgment against the Complaint,[8] the Proposed Judgment is a remarkable result. The judgment exacts dramatic conduct remedies and imposes massive costs on a defendant, when the essential allegations of the Complaint were first deflated by the Court of Appeals, then carefully either selected or avoided by the Department and the State plaintiffs, then momentarily revived by the trial judge, only to be excised again by the Court of Appeals, which set a standard for resolution that the Department itself has decided unilaterally could never be met.

Certainty of the Proposed Judgment. The Tunney Act as interpreted next suggests that the Judgment should be examined for ambiguities. Ambiguity is measured by the trial judge interested in the reasonably manageable enforcement of the judgment, rather than by competitors who might parse every comma to suggest ambiguities where none fairly exist. And of course ambiguity is anathema to the defendant, since it is the party most at risk from an overly broad interpretation urged by its competitors or others. In that respect, the Proposed Judgment is a strikingly plain-worded document, difficult (for anyone versed or educated in the field) to misinterpret mad even more difficult, it would seem, to avoid. The Proposed Judgment is accompanied by a thorough and convincing Competitive Impact Statement that explains the theory underlying each section of the Proposed Judgment, how it addresses and cures the conduct found wanting by the Court of Appeals, and how it would operate in practice. The Competitive Impact Statement itself would surely assist in, if not dictate, the resolution of may arguable ambiguity.

The Proposed Judgment broadly prohibits any retaliation against OEMs that distribute competitive middleware or operating systems (Section III.A), requires uniform licensing terms (which cannot include exclusive or percentage promotion of Microsoft middleware) to the significant universe of OEMs (Section III.B), and leaves most desktop decisions to the OEMs" discretion. (Section III.C). This all seems very plain. The Proposed Judgment permits OEMs to install icons or shortcuts to access products that provide particular types of functionality, even if they compete with Microsoft's own installed versions (Section III.C.1), so long as they do not impair the user interface. Basically, the Original Equipment Manufacturers (OEM) can add an icon to access, for example, a competing photo program, provided that shortcut works without unseating Windows itself. Surely there is little room for ambiguity here.

Under the Proposed Judgment, Microsoft can override a competing product only if that product "fails to implement a reasonable technical requirement." Basically, Microsoft can provide the consumer with its own product if the competitor's doesn't work, and even then the failing product's proponent is given the right to remedy the problem. Competitors have objected to the use of the word 'reasonable," which is obviously a standard the Courts have dealt with successfully since the outset of the common law. There is no ambiguity apparent here. Next, the Judgment requires Microsoft to disclose the Application Programming Interfaces (API) for new products to makers of interoperable products, whether they make hardware or software or are Internet carriers, unless the disclosure would compromise security or anti-privacy safeguards (Section III.D). No ambiguity exists here, and the burden would certainly be on Microsoft to demonstrate that the API disclosure would impair security or privacy, which should in any event be a primary goal of the competitor as well.[9] And the API disclosure must be made timely and in good faith, again well-recognized standards in the courthouse. Microsoft also agrees not to automatically alter competitors" icons or shortcuts placed on the desktop by OEMs (Section III.H.3). It can offer its own alternatives to consumers, but they can accept or decline as they see fit.

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[2] E.g., U.S. v. Microsoft Corp., 56 F.3d 1448 (DC Cir. 1995)

[3] "The court should therefore reject the [judgment] only if 'it has exceptional confidence that adverse antitrust consequences will result...'" U.S. v. Enova Corp., 107 F. Supp. 10, 27 (D.DC 2000); accord, U.S. v. Central Parking Corp., 2000 U.S. Dist, Lexis 6226 (D.DC 2000). Applying these legal standards, the Proposed Judgment should be entered.

[4] In its 1994 maintenance case against Microsoft, the Department did not contend that the company's obtaining of its market position was illegal, but rather that it was the fortuitous result of IBM's choice of Microsoft's MSDOS for IBM's PCs. In that case the government's economic witness said that only artificial barriers such as restrictive license provisions should be prohibited since the company's market position was entirely natural and not the result of anticompetitive behavior. Id.

[5] U.S. v. Microsoft Corp., 147 F. 3d 935 (DC Cir. 1998).

[6] Compare U.S. v. Microsoft, supra note 2 ("The government... urges us to flatly reject the district judge's efforts to reach beyond the complaint to evaluate claims that the government did not make ...").

[7] The Court of Appeals dismissed 4 of the 5 principal claims against Microsoft, and alas dismissed 23 of the 35 acts found wrong by the trial judge.

[8] E.g., U.S. v. Alcoa, 152 F.Supp. 2d 37, 44 (D.DC 2001) ("[T]he court is confined to the factors alleged in the government's complaint.").

[9] This has been a goal for Microsoft, which has just announced a company-wide suspension of development while security concerns are assessed and resolved. The New York Times, January 17, 2002.

and many a court has said in other contexts that there's no harm in asking.

Under the judgment, OEMs can even include a competing operating system as easy to access as Windows, arid even give it preference in the boot sequence. Again, this seems to be as clear as it reads.

In short, the Proposed Judgment is plainly worded and devoid of apparent ambiguity. One competitor has suggested that Microsoft improperly seized on art ambiguity to avoid the 1995 Consent Decree to the extent that the decree prohibited the integration of the IE browser with Windows. This is an intriguing fallacy, but a fallacy nonetheless. Microsoft certainty did seek to integrate IE with Windows, but this was consistent in its judgment with the 1995 Decree; and the Court of Appeals agreed that it was entirely legal for Microsoft to do so, under the plain wording of that document. Impact Upon Third Parties. The Proposed Judgment goes far beyond the prohibition of the handful of specific and isolated instances of conduct found wanting by the Court of Appeals, to generic relief which presumably will benefit all those to which it is directed and all others within its ambit. Will consumers be satisfied? Presumably they will vote with their pocketbooks. Will competitors be satisfied? Presumably never, but the correct test is whether the proposed decree would positively injure third parties, not whether some competitor claims that it could be better treated.[10]

For example, California and the other States dissenting thus far from the settlement have proposed instead that the Company completely redesign Windows (and then presumably maintain, update, and support it) to offer a version stripped even of the browser, then force open-source licensing of the browser, require Java (a competitive operating system of sons), to be included in Windows, and require licensing of the Office Suite to third parties like Apple (although Apple now already has it). A new 60-day version of Hart Scott Rodino Act would also be imposed on Microsoft acquisitions, another and entirely new commercial burden on a company never even accused of growth through acquisition. Conduct specifically upheld by the Court of Appeals would be specifically baited. We submit that this is a wish list for competitors, not consumers, and has nothing to do with fostering competition as anticipated by the U.S. antitrust laws.[11] To the extent that alternative remedy proposals were put forward by all parties, including the competitors intent on imposing their own punitive schadenfreude on Microsoft, they were considered by the Department in formulating the Proposed Judgment, including specifically the very remedies now proposed again by the dissenting States.[12] "The United States has ultimately concluded that the requirements and prohibitions set forth in the [Proposed Judgment] provided the most effective and certain relief in the most timely manner." [13]

The Enforcement Mechanism. The final substantive prong of the Tunney test is whether the Proposed Judgment is readily enforceable. In this respect, the Proposed Judgment contemplates contempt sanctions and other relief if violated. Microsoft has agreed to appoint an Internal Compliance Officer [14] to supervise an internal compliance program, and has also agreed to the extraordinary remedy of an onsite, court-approved Technical Committee, experienced in software design and programming, with virtually unfettered access, for at least five years, to the Company's design and business planning and implementation, for the purpose of ongoing and constant oversight regarding the Company's compliance.[15] In this respect, as well as in the breadth of the conduct remedies which will be supervised, the Proposed Judgment vastly exceeds the typical constraints imposed upon a settling defendant. Courts are most reluctant to impose sanctions which require the ongoing observations of a defendant's commercial activities. Here, to the contrary, the oversight established by the onsite observers will give the Court, and interested outsiders as well, more assurance than could reasonably be ever expected regarding the Company's ongoing good faith adherence.

Adequacy of the Remedy. First, the Proposed Judgment should be considered in light of the remedies one might expect to have been imposed after further evidentiary hearings, briefs, arguments, conclusions, and the inevitable appeals. In this respect, one searches in vain for precedents as broad and inhibiting as the Proposed Judgment in a case where all claims except isolated, specific findings of market position maintenance have been dismissed or unilaterally discarded by the principal prosecutors. We submit that judicial remedies might well be expected to be far more 'surgical" and conduct-specific than the broad and thoroughgoing conduct requirements imposed by the Proposed Judgment, not the least of which is the ongoing oversight to assure good faith compliance.

Certainly office Remedy: Second, there is no assurance that an eventual judicial remedy would survive appeal, since the case is presently proceeding on remand on the basis of findings of fact and, in part, on conclusions of law [16] expressed by a trial judge with deepseated, privately expressed, actively concealed, personal bias against the company and its president reflected by the drastic remedies ordered after the briefest of further proceedings.[17] The Supreme Court has deferred consideration of this issue, and so observers in the meantime must accept the illogic of an appellate court finding that the District Judge had repeatedly violated law and the judicial canons, but nonetheless feeling constrained to accord his findings of tact and law the same presumptions of correctness usually reserved for judges with no appearance of impartiality.[18]

If the case proceeds to judicial remedies, with the inevitable appeals, there is more than a fair likelihood that the Supreme Court would refuse to accept any of the former trial judge's findings under the circumstances; rather, the Court would likely remand the case to begin again before an unbiased jurist. The Proposed Judgment obviates that possibility to some extent, and would avoid it completely if it were joined by the thus far dissenting States, and thereby achieve a final resolution.

The Remedy and Innovation. In 1998, when the then Assistant Attorney General made his often-quoted 'surgical strike" comments, his purpose was to allay concern in the computer industry that the Government was opening a broadside attack on Microsoft, which is, sadly, exactly what the ease then became. His purpose was to assure innovators that they could continue to innovate without governmental interruption or interference, provided that they stayed within the principal antitrust boundaries.

Microsoft has been reported publicly as saying that innovation, at least its own, will not be impeded by the Proposed Judgment. We submit that is a critically important issue for the Court in considering the public interest overall.

For example, Windows XP, Microsoft's latest rendition of the operating system, presents users, according to its reviewers, with improvements in reliability, performance, and system security, and also facilitates multi-use end user customization, workplace enhancements, and marked file improvements. It continues to integrate IE, and adds instant messaging (a favorite feature of AOL), digital photography and movie making, and other media features to the new design. Industry reaction has been fascinating. Some competitors have reportedly been encouraging the Department and certain of the States to resurrect the original IE integration ease, arguing that the Company should make the various components of its integrated design (some of which have been part of Windows for many years) available separately. Others, notably Apple, have instead decided to compete where competition belongs—in the marketplace instead of the courthouse. Apple is scheduled to begin shipping the elegant and affordable "iMac," which will incorporate "iDVD," a DVD recording software, "iPhoto," a photo organizer and processor, "iTunes," a CD and internet music player and converter, and "iMovie," which enables easy home-movie production, and other features, all on a 15-inch flat panel display connected to a computer half the size of a basketball at a very competitive price.

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[10] U.S. v. Microsoft, 56 P.3d 1448, 1461 n.9.

[11] Netscape, the competitor whose objections set off the 1998 case, has objected that it never would haw corn, into being if the Proposed Judgment had been in place when Netscape's own monopoly was created in 1994. Dow Jones Newswires Dec. 12, 2001. If this is to be believed, then presumably Netscape's multi-billion dollar combination with AOL also would have been avoided.

[12] Competitive Impact Statement, p. 35

[13] Id. at 36.

[14] Microsoft on December 13, 2001 announced the appointment of its internal compliance officer as contemplated by the Proposed Judgment. He is a former enforcement lawyer with the Federal Trade Commission. The Public Interest. Overall, the Tunney Act contemplates an affirmative finding that the settlement is in the public interest, There are several other factors relevant to this consideration, beyond the specific traditional tenets of approval discussed above.

[15] By Stipulation, Microsoft began complying with the Proposed Judgment effective December 16, 2001.

[16] U.S. v. Microsoft Corp., 84 F. Supp. 2d 9 (D.DC 1999); U.S. v. Microsoft Corp., 87 F. Supp. 2d 30 (D.DC 2000).

[17] U.S. v. Microsoft Corp., 97 F. Supp. 2d 59 (D.DC 2000).

[18] According to the Court of Appeals, the District Judge's violations of the Code of Conduct for United States Judges and Section 455(a) of the Judicial Code by speaking to reporters about the case while it was pending were "deliberate, repeated, egregious, and flagrant." 253 F.3d 34, 107 (DC Cir. 2001). The judge's insistence to the reporters to embargo his comments until the trial was over implied full knowledge of the improprieties. This arrangement made it impossible for Microsoft to have objected sooner, an objection that the appellate court said would have succeeded by the removal of the trial judge from the case.

Would Apple have created this incredible device had Microsoft not raised the bar with Windows XP? Perhaps, but far less likely. We submit therefore that an important component of the Court's Tunney Act determination is to ensure that any proposed judgment does not stifle the very innovation the antitrust laws were enacted to promote. Otherwise, such a judgment could surely serve the private interests of competitors rather than the public interest of competition and consumers, and thereby make a mockery of the very process which the Tunney legislation cautions against and condemns.

Conclusion. The United States has said it best: "[T]he [Proposed Judgment], once implemented by the Court, will achieve the purposes of stopping Microsoft's unlawful conduct, preventing its reoccurrence, and restoring competitive conditions in the personal computer operating system market, while avoiding the time, expense and uncertainty of a litigated remedy." [19] We support the Proposed Judgment. The matter is long overdue for resolution, and the States that have declined to join the settlement should, in our judgment, be urged by the Department and the Court to reconsider and adopt it.

Respectfully submitted,

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MTC-00030602

Fax Cover Sheet
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Comments on the proposed United States v. Microsoft Settlement
Date: January 26, 2002
Tunney Act Submission United States v. Microsoft
Rebecca Henderson,
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MIT Sloan School
January 2002
Introduction

My name is Rebecca Henderson. I am the Eastman Kodak LFM Professor of Management at the MIT Sloan School of Management, where I have been teaching since 1988. I am also a Research Associate at the National Bureau of Economic Research. My C.V. is attached.[1]

I write to express my deep concern with the terms of the proposed settlement between the United States and the Microsoft Corporation. In my view it does almost nothing to remedy the harm caused by Microsoft's prior illegal conduct, and the provisions that it includes in an attempt to forestall future anticompetitive conduct fall short on a number of important dimensions. Moreover it creates incentives for Microsoft to engage in behavior that has the potential to create significant harm for consumers.

1. A failure to remedy the harm caused by prior illegal conduct. As the Court found and the Appeals Court maintained, Microsoft engaged in a systematic pattern of illegal conduct in an attempt to undermine Netscape's position in the browser market. Microsoft came to believe that the Netscape Browser had the potential to develop into "cross-platform middleware," since it potentially enabled the development of full-featured PC applications on a range of platforms. Microsoft viewed this possibility as a potent threat to its monopoly and moved against Netscape with devastating effect. Microsoft's predatory conduct crushed the possibility that Netscape might emerge as a viable alternative platform for full-featured applications development.

Microsoft's success in preventing the emergence of browser-based alternative platforms that would threaten the applications barrier to entry, along with its current overwhelming and increasing share of browser usage, puts the firm in an extraordinarily strong position to prevent the emergence of other threats to its desktop monopoly. The proposed settlement does almost nothing to attempt to redress this harm.

A world in which Netscape had succeeded in building a dominant share of the browser market would have been one that was significantly more conducive to competition (and significantly more threatening to the Microsoft monopoly). A successful independent browser would not only have been potentially important cross platform middleware in its own right: it would also have been of enormous assistance to the further development of additional independent middleware. Both would have greatly increased the possibility that Microsoft's desktop monopoly would have faced significant competition. Had Netscape succeeded the world would probably be different in three important respects. First, the Netscape browser might have become an ideal platform for web-centric and network-centric applications cross-platform applications. Second, if there had been a widely-distributed browser outside Microsoft's control, new middleware initiatives such as Java, that involve software running on the client would certainly have been able to achieve widespread distribution without Microsoft's sufferance. Third, the existence of such a browser would have given Microsoft much less control over the evolution of important Internet interfaces, increasing the possibility that new types of middleware running on the server might emerge to facilitate challenges to the Windows monopoly.

(i) The Netscape Browser might have become a platform for applications development An independent browser might have become an ideal platform for web-centric and network-centric cross-platform applications. An independent browser enables developers to write cross-platform applications without additional porting costs. As the Court found, "for at least the next few years, the overwhelming majority of consumers accessing server-based applications will do so using an Intel-compatible PC system and a browser," (FOF 27) and a "browser product is particularly well positioned to serve as a platform for network-centric applications that run in association with Web pages." (FOF 69). Or as Microsoft's Ballmer expressed it: "the browser is as much a platform for what people will want to do in the Internet over the next several years as DOS was the platform for what people would want to do on personal computers." (RX 21, at 4). Microsoft's illegal actions ensured that Netscape did not have the opportunity to develop into this kind of cross platform middleware, and the proposed settlement does nothing to reverse this.

(ii) A successful Netscape Browser would have developed into a distribution vehicle for additional non Microsoft cross platform middleware As both the Court and the Appeals Court found, one of the goals of Microsoft's illegal conduct was the suppression of platform independent Java. An independent, widely distributed Netscape Browser would have become an ideal vehicle for the distribution of this kind of platform independent middleware. Microsoft, in contrast, has very little incentive to distribute client based middleware that might facilitate the development of cross platform applications. Netscape's defeat in the browser war means not only that the browser itself is not available as a platform for applications development but also that the Java virtual machine, and other middleware technologies like it, are much less likely to be widely available on the PC. The proposed settlement attempts to make the distribution of alternative middleware possible, but its provisions are incomplete and are likely to be ineffective.

(iii) Microsoft's control of the browser gives it enormous influence over the future development of the Internet, allowing it to ensure that server based technologies that might lower the applications barrier to entry and facilitate threats to the OS monopoly are unlikely to emerge. Owning the dominant browser gives Microsoft great influence over the evolution of the Internet, and in particular over the evolution of important Internet interfaces. As Paul Maritz recognized, "By controlling the client, you also control the servers." GX 498, at MS980168614. This set of interfaces goes beyond the browser APIs to which developers can directly write applications, to include the set of interfaces that constitute the communications protocols between the browser and the network. For information to be received and viewed in Internet Explorer, the developer has to follow these interfaces, and so has to conform to Microsoft standards. The importance of browser interfaces is widely acknowledged. Ron Rasmussen, an executive with operating system supplier Santa Cruz Operation, testified: "if there is one person or one company who controlled the browser and its look and feel and how it presented applications, it could severely enhance or detract from the application functionality of ... the server." Rasmussen Dep., 12/15/98am, at 67:14—68:3. Similarly Brian Croll of Sun testified that "having a degree of control over the browser" is "critical" because the browser is "linked very closely to whether a server is useful or not." Because the "two sides need to talk to each other," Sun cannot sell servers if the browser "can't talk to the server." Croll Dep., 12/15/98pm, at 60:22—61:16. Control over the browser thus gives Microsoft significant control over the software running on the server, and this in turn makes it significantly less likely that software running on servers will develop into potentially powerful "cross platform middleware", facilitating competition to the Microsoft Windows OS. Just as a platform independent browser might have become an attractive platform for cross platform applications development, so a server operating system that could be accessed through Microsoft independent standards by an independent browser might have become an attractive platform for applications development, greatly increasing the probability that serious competition to the Windows OS might emerge.

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[19] Competitive Impact Statement, p. 34.

[1] In 1999 I was retained by the Department of Justice as an expert witness in connection with the remedies phase of the Microsoft trial. The declaration that I filed in the spring of 2000 as a result of this work is available on the Department of Justice's web site. While I do not believe that anything in this document is inconsistent with the opinions that I would have expressed in court had I been called as a witness, the opinions expressed here are entirely my own. Nothing in this document draws in any way on confidential information to which I was given access in the course of my work with the Justice Department.

Microsoft's control of the browser greatly reduces the probability that this will happen. Developers and content providers will generally choose to write to the interfaces that will enable them to reach the broadest possible audience (FOF 361). This led Microsoft, when it had a low market share in browsers, to pledge to write Internet Explorer to conform to some of the public interfaces promulgated by the World Wide Web Consortium (W3C). RX 15 (Microsoft Press Release, 7/8/97). In fact, Microsoft itself had difficulty when its market share was only 30% in convincing its own Office developers to take advantage of IE 4 features. GX 514, at MS7 0075706.

Given IE's dominant position today, web developers have an incentive to write to IE's interfaces first and foremost, and now that it has a dominant share, Microsoft has stated that it may not always choose to support public interfaces. RX 16 (MSDN Online 2/7/00). To the extent that Microsoft is able to impose Microsoft-specific interfaces on the Internet, the capabilities of users of non-Microsoft browsers to view content may be degraded or eliminated. Cf. FOF 322 (Microsoft contracts requiring that content providers offer content viewable only with IE or "with acceptable degradation when used with other browsers"), and the ability of server based software to develop into cross platform middleware will be severely curtailed. The ability to influence the development of web-based applications is a highly valuable tool for future anticompetitive campaigns should Microsoft choose to mount them. As web-based applications grow in importance, so does Microsoft's ability to steer them towards being IE-centric, and, given its control over the browser-to-operating system interface, Windows-centric as well. The proposed settlement does nothing to address this issue.

(iv) Conclusion

In summary, the proposed settlement does little or nothing to redress the harm caused by Microsoft's destruction of the browser threat. Microsoft's victory leaves it in control of all browser interfaces, without the need to accommodate an independent browser that might have served as an important platform for cross platform applications, and without any real threat that a Java virtual machine (or other comparable cross platform middleware) might be widely distributed.

Prevention of Future Harm

The proposed settlement instead attempts to ensure that Microsoft will not act against future middleware threats as it acted against Netscape. Unfortunately its provisions in this respect are insufficient to prevent the harm they seek to guard against.

(i) The definition of Middleware

Many of the most important provisions of the proposed settlement refer to actions that Microsoft must take in regard to "Middleware" products. For example, in section III D, Microsoft is required to "disclose to ISVs, IHVs etc... the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product." Similarly section III H requires that Microsoft allow end users and OEMs to make a number of choices with respect to the nature of the Middleware that is installed and invoked on the end user's PC. In both cases the definitions of "Middleware" are overly restrictive, and omit both current software that might well be considered "middleware" in the terms of the original case and new software that might emerge to take on the characteristics of middleware. In the case of section III D, Middleware is defined in section VI, point K as:

1. the functionality provided by Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express and their successors in a Windows Operating System Product and
2. for any functionality that is first licensed, distributed or sold by Microsoft after the entry of this Final Judgment and that is part of any Windows Operating System Product

a. Internet browser, email client software, networked audio/video client software, instant messaging software or

b. functionality provided by Microsoft software that—

i. is, or in the year preceding the commercial release of any new Windows Operating System Product was distributed separately by Microsoft (or by an entity acquired by Microsoft) from a Windows Operating System Product;

ii. is similar to the functionality provided by a Non-Microsoft Middleware Product; and

iii. is Trademarked

There are two problems with this definition. The first is that it omits a number of types of software that might reasonably be considered potentially platform independent middleware. For example it omits Handheld Computing Device synchronization software. Handheld computers are probably currently complements to the PC: their use encourages PC use and vice versa. But if the power and speed of these devices increases sufficiently, and if a significant number of important applications become available over the web via server hosting and other kinds of services, one can imagine a world in which the existence of Handheld Computing Devices might greatly facilitate the development of substitutes for Windows. Thus software that enables a PC to synchronize with a Handheld Computing Device is arguably "Middleware" in the sense of the case. Other types of software that might plausibly develop into "Middleware" in the sense of the case but that are omitted from the settlements definition include voice recognition software, and directory and directory service support software.

The second problem with this definition is that it is inherently static. In focusing on a subset of current Middleware products it omits, by definition, any future middleware products that might emerge. The path of technological progress in an industry as dynamic as the computer industry is impossible to predict. In focusing on current Middleware products rather than on the more general question of which classes are software are likely to facilitate competition to the Windows monopoly, the settlement makes it unlikely that entirely new Middleware—the kinds of products that are perhaps most likely to facilitate challenges to Windows—will be covered by any of the provisions of the settlement.

This static focus is particularly evident in the definition of "Middleware" in operation in the case of Section III H. Here "Middleware" is defined by the statement: Microsoft's obligations under this Section 111.H as to any new Windows Operating System Product shall be determined based on the Microsoft Middleware Products which exist seven months prior to the last beta test version Notice that this means that these obligations apply only to those Middleware Products for which Microsoft has produced a product of its own. They would not cover, for example, the first editions of the Netscape browser! More generally, if new forms of Middleware emerge, the settlement gives Microsoft strong incentives to bind them to the operating system immediately. If Microsoft never issue the Middleware as a separate product, by the terms of this clause it is never "Middleware", and Microsoft never has to meet its obligations under Section III H. (ii) Giving Microsoft control over the pace and shape of technological development The agreement as currently written is also flawed in that much of the assistance it purports to offer to potentially important competitive Middleware is not only very slow, but is also technically limited in important ways.

The provisions of Section III.D, for example, require Microsoft to release key information about the ways in which Middleware can interoperate with the Windows Operating system "no later than the last major beta release of that Microsoft Middleware." The timing of a beta release varies by product, but in most cases the availability of a beta release signals that the hard work of new product development has been done, and the product is more or less ready for sale. Delaying the release of key technical information to third party suppliers until the time of a beta release puts third party suppliers under a very significant handicap, since it forces them to enter the market significantly after Microsoft.

In the case of Netscape, for example, denying them access to key interface information until after the beta release of Microsoft's first browser product would have forced them to delay their entry to the marketplace very significantly and would have deprived them of the early entry, "first mover" advantage that is often the one of the most advantages that third party suppliers can offer consumers. Competition thrives where new, innovative firms can enter a market quickly with dramatically new offerings. This provision would serve to slow competition to the speed at which Microsoft wishes to compete.

The provisions of Section III.D. are also flawed in that they restrict the release of critical technical information to "the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product." This effectively forces potentially competitive Middleware to use the same interfaces as Microsoft's middleware. Clearly some information is better than none. But to the degree that the purpose of competition is precisely to encourage the generation of alternatives that do not mirror Microsoft's offerings, forcing competitive software to use the same kinds of interfaces as Microsoft's own offerings leaves tremendous control over the direction of technological development in Microsoft's hands. Those competitive offerings that wish to interoperate with the operating system in different ways will get no help from this provision.

(iii) Who counts?

Section J.2. of the proposed settlement allows Microsoft to condition the license of "any API, Documentation or Communication Protocol related to anti-piracy systems, antivirus technologies, license enforcement mechanisms, authentication/authorization security..." to persons or entities that: "meets reasonable, objective standards established by Microsoft (my emphasis) for certifying the authenticity and viability of its business." I read this provision as suggesting that Microsoft can refuse to release key information—information that is increasingly critical to the development of any third party Middleware—to any firm that Microsoft deems "inauthentic" or "not viable." Would Microsoft have deemed Netscape viable, in its early days? Will the company believe that firms whose business model is based on the exploitation of Linux are viable? This provision allows Microsoft to deny critical information to precisely those kinds of firms that are most likely to provide significant competition in the marketplace—those firms that may be too small or too new or too unconventional to be "viable."

(iv) Forced Licensing

Section I. 5 provides that: "an ISV, IHV, IAP, ICP or OEM may be required to grant to Microsoft on reasonable and nondiscriminatory terms a license to any intellectual property rights it may have relating to the exercise of their options or alternatives provided by this Final Judgment; the scope of such license shah be no broader than is necessary to insure that Microsoft can provide such options or alternatives."

I find this wording ambiguous and potentially troubling. First, I wonder why any third party should be required to license anything to Microsoft. Microsoft's obligations extend to the provision of technical information about interfaces and to offering to OEMs and to end consumers the ability to remove Microsoft supplied Middleware. It is not at all clear to me why Microsoft should need to know anything about third party software in order to meet these obligations. Second, I am troubled by a possible interpretation of this language. One interpretation is that it forces third parties to license their software to Microsoft in order that Microsoft should be able to offer the same options and alternatives as the third party supplier. Would this language not have forced Netscape to license their browser to Microsoft so that Microsoft could provide the Netscape browser as an alternative? If an OEM chooses to install Real Player as the default media player, does this language imply that Microsoft has the right to license Real Player so that Microsoft also has the option to offer Real Player as the default media player? Surely this kind of forced licensing can only suppress competition?

(v) Second guessing consumer choice:

Although the current agreement purports to make it much easier for OEMs to install alternative Middleware and thus to offer end users a real choice of systems, the agreement severely restricts this choice in two important respects. In the first place, Section C.3. allows for the installation of third party Middleware provided that "any such Non-Microsoft Middleware displays on the desktop no user interface or a user interface of a similar size and shape to the user interface displayed by the corresponding Microsoft Middleware Product."

Just as section III.D. restricts the design of competitive Middleware by limiting competitive knowledge of key interfaces to knowledge of only those technical interfaces used by equivalent Microsoft authored Middleware, so this provision restricts the presentation of potentially competitive Middleware to a "look and feel" roughly similar to Microsoft Middleware. How can this restriction increase consumer welfare? If OEMs believe that end users would welcome Middleware that uses a very different kind of user interface for their alternative Middleware, should they not be allowed to install it?

In the second place, Section H.3. permits Microsoft to offer end users the choice to install Microsoft middleware as default software 14 days after the first boot of their system. While this provision may seem innocuous, its real effect will be to remove choice from the OEM. As the trial established, OEMs cannot afford the costs of widespread consumer confusion. Imagine a world in which consumers face every day—or every hour (!)—a screen saying something like "are you sure you want to use Product ABC? Why not use Microsoft XXX, a product designed to work seamlessly with the operating system?" Many consumers may be effectively forced into switching products in the face of what may well be perceived as an implicit threat. Real competition cannot thrive under such circumstances. OEMs should have the power to configure systems in the ways they wish. Competition in the market place can decide if these configurations create value for end users.

Microsoft incentives from this agreement.

Lastly, the agreement is flawed in that it creates incentives for Microsoft to take actions that may significantly reduce consumer choice. Framed as it is, the current agreement creates very strong incentives for Microsoft never to release another piece of separate "Middleware"! Releasing Middleware will incur obligations—Microsoft will need to release technical information and to permit OEMs to remove the Microsoft authored product. These obligations can be easily evaded by immediately bolting new applications to the operating system. This will create two kinds of harm. In the first place, it will lead inevitably to increasingly "bloated" code. Consumers that might have preferred to purchase a "slimmer" Operating System will be unable to do so. Indeed in the worst case Microsoft might actively invest in the generation of "spaghetti code"—systems in which the code necessary to provide the new functionality and the code necessary to run the operating system are deliberately commingled. Such commingling may significantly lower the overall performance of the operating system. In the second place, such immediate "bolting" will defeat the intention oft he settlement: potential third party suppliers of such Middleware will not have access to the key technical information that would enable them to seamlessly interoperate with the operating systems, nor will OEMs have the opportunity to install them in place of the Microsoft Middleware. It is possible, of course, that the fully integrated Microsoft solution that this agreement gives Microsoft strong incentives to provide may be a technologically superior solution. But this solution will be imposed on consumers without the process of competition that has historically proven to be such a source of consumer benefit.

Conclusion

The proposed settlement falls short in two critically important respects. Not only does it do almost nothing to redress the harm caused by Microsoft's illegal conduct with respect to Netscape, leaving Microsoft with all the fruits of its illegal victory, but the provisions that it includes in an attempt to prevent a repetition of Microsoft's conduct in the browser case are limited and incomplete.

Suppose a Middleware threat with the potential impact of the Netscape browser were to emerge next year, or two years from now. The terms of the proposed settlement do little to ensure that Microsoft could not engage in an anticompetitive campaign to successfully crush it. Unless Microsoft chooses to recognize it as "Middleware" by producing a competing product, as opposed to simply copying the functionality and immediately bolting it to the operating system, it would not be covered by the terms of this settlement. Even if Microsoft were to choose to recognize it (and they would have strong incentives to avoid so doing), the current settlement would allow Microsoft to decide that the firm producing it did not have a "viable" business: to delay releasing critical technical information until after the release of its own beta product; to insist that its user interface be of "similar size and shape" to Microsoft's own product and, 14 days after first boot up, to bombard consumers with the option to switch to the Microsoft alternative.

Microsoft's victory in the browser war leaves it in a significantly stronger position to protect its operating systems monopoly and to block threats from any competition that might emerge to challenge it. The settlement does very little to remedy this situation and is instead rife with the potential for significant consumer harm.

Curriculum Vitae

Name: Rebecca Henderon Department: BPS, Sloan School

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Education

Harvard University Ph.D. 1983–1988

Doctorate in Business Economics. Thesis: The Failure of Established Firms in the Face of Technological Change: A Study of Photolithographic Alignment Equipment.

Massachusetts Institute of Technology S.B. 1978–1981

Mechanical Engineering.

Academic Employment:

Eastman Kodak LFM Professor, MIT Sloan School, 1999-

Tenured Associate Professor, MIT Sloan School, 1995–1999

Research Associate, National Bureau of Economic Research, 1995-

Thomas Henry Carroll Foundation Visiting Professor of Management, Harvard Business School. 1996–1997

Robert Noyce Associate Professor, MIT Sloan School, 1993–1995

Research Fellow, National Bureau of Economic Research, 1990–1995

Visiting Assistant Professor, Stanford Graduate School of Business, 1992–1993.

Assistant Professor, MIT Sloan School, 1988–1992

Non Academic Employment:

McKinsey and Company Summer associate. Summer 1986

Harvard University Research assistant, K Clark. Summer 1985

General Electric Analyst, strategic planning. Summer 1984

McKinsey and Company Analyst. 1981–1983

Honors and Awards:

ASQ Awa??d for Scholarly Contribution 1996

Teacher of the Year 2001

Runner-up, Teacher of the Year 1990, 1991, 1992, 1993, 1995, 1996, 1998, 1999

Dively Award for best thesis proposal, H.B.S 1988

Alumane Award, (outstanding female graduate) MIT. 1981

Elected to Phi Beta Kappa 1981

Boards and Advisory Panels

Boards

The Whitehead Institute for Biomedical Research, Cambridge, MA. 1999—

Linbeck Construction Corporation, Houston Texas. 2000—

The Ember Corporation, Cambridge MA 2001—

Advisory Panels

The Department of Social and Decision Sciences, Carneige Mellon 1995—

ThePlatform, Inc 2000-

Anti-Trust Experience

Retained by the Department of Justice as an expert witness in connection with the remedies phase of the Microsoft trial. Summer 1999—Spring 2000. Declaration available on line at: www.usdoj.gov/atr/cases/ms—remediespapers.htm

Editorial Responsibilities

Department Head, Strategy, Management Science 1995—2000

Member, Editorial Board:

Administrative Science Quarterly 1994—

The Strategic Management Journal 1994—

Economics of Innovation and New Technology 1995—

Research Policy 1998—

Management Science 2000—

Publications

Journal Articles (Refereed).

"Putting Patents in Context: Exploring Knowledge Transfer from MIT" Jointly with Ajay Agrawal, forthcoming in Management Science

"Discontinuities and Senior Management: Assessing the Role of Recognition in Pharmaceutical Firm Response to Biotechnology" Jointly with with Sarah Kaplan, Fiona Murray, forthcoming in Industrial and Corporate Change.

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"Breaking the Chains of Embedded Knowledge: Architectural Innovation as a Source of Competitive Advantage." Design Management Journal, Vol.2, No.3, Summer 1991 Chapters in Edited Volumes.

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"Measuring Competence? Exploring Firm Effects in Drug Discovery" Jointly with Iain Cockburn. Chapter 6 in The Nature and Dynamics of Organizational Capabilities, Edited by Giovanni Dosi, Richard R. Nelson and Sidney G. Winter, 2000 by Oxford University Press, Oxford, UK.

"The Economics of Drug Discovery" Jointly with Iain Cockburn, Chapter 5 in Pharmaceutical Innovation, edited by Ralph Landau, Basil Achilladelis and Alexander Scriabine, Chemical Heritage Press, Philadelphia PA 1999, pp 308–331.

APharmaceutical and Biotechnology@J-Jointly with Iain Cockburn, Luigi Orsenigo and Gary Pisano. Chapter 13 in US Industry—in 2000: Studies in Competitive Performance. David Mowery, Editor. Board on Science, Technology and Economic Policy, National Research Council. National Academy Press. Washington, DC, 1999.

"The Pharmaceutical Industry and the Revolution in Molecular Biology: Interactions Among Scientific, Institutional and Organizational Change." Jointly with Luigi Orsenigo and Gary Pisano. Chapter 7 in The Sources of Industrial Leadership, Cambridge University Press, David Mowery and Richard Nelson, Editors, Cambridge University Press, 1999, pp 267–311.

"On the Dynamics of Forecasting in Technologically Complex Environments: The Unexpectedly Long Old Age of Optical Lithography" In Technological Innovation: Oversights and Foresights, Raghu Garud, Pravenn Nayyar and Zur Shapira, Editors, Cambridge University Press, New York, 1997.

"Trends in University Patenting 1965–1992," (Jointly with Adam Jaffe and Manuel Trajtenberg.) Forthcoming in the Center for Economic Policy Research conference volume: University Goals, Institutional Mechanisms and the "Industrial Transferability" of Research.

"The Determinants of Research Productivity in Ethical Drug Discovery." (Jointly with Iain Cockburn) In The American Enterprise Institute Conference Volume: Competitive Strategies in the Pharmaceutical Industry, Robert B Helms, Ed. Washington DC, 1996.

"Maintaining Leadership across Product Generations: The Case of Canon in Photolithographic Alignment Equipment" in Managing Product Development, Toshihiro Nishiguchi, Ed. Oxford University Press, 1996. (This book was awarded the 1996 Shingo Prize for Excellence in Manufacturing research.)

"Technological Change and The Management of Architectural Knowledge." In Transforming Organizations, Edited by T. Kochan and M. Useem. Oxford University Press, Oxford, U.K., 1992. Reprinted in Organizational Learning, edited by Michael D. Cohen and Lee S. Sproull, Sage Publications Inc, CA, 1996. Conference Proceedings.

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"Workload Regulating Wafer Release in a GaAs Fab Facility." International Semiconductor Manufacturing Science Symposium, May 1990, San Francisco, CA. (Jointly with James Lawton, Al Drake, Lawrence Wein, Ron Whitney, and Dick Zuanich) Working Papers.

"A Behavioral Analysis of Learning Curve Strategy" With Eric Beinhocker, Lee Newman and John Sterman.

"Balancing Incentives: The Tension between Basic and Applied Research" Jointly with Iain Cockburn and Scott Stern.

MTC-00030603

January 28, 2002

VIA FACSIMILE (202) 307–1454

The Honorable Charles James
Assistant Attorney General for Antitrust
c/o Renata Hesse, Antitrust Division
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Dear Assistant Attorney General James: The proposed Final Judgment submitted in U.S. v. Microsoft Corporation, mad State of New York et al. v. Microsoft Corporation, triggers obligations by you under the Antitrust Procedures and Penalties Act (the "Tunney Act"), set forth at 15 U.S.C. § 16. Under the Act, you are designated to "receive and consider any written comments relating to the proposal for [a] consent judgment submitted under... this section." 15 U.S.C. § 16(d). On November 8, 2001, Judge Colleen Kollar-Kotelly ordered "that members of the public may submit written comments concerning the proposed Final Judgment to [the Justice Department.]" This letter is sent to you pursuant to this statute and court order.

As Chairman of the Subcommittee on Antitrust, Business Rights, and Competition of the Senate Committee on the Judiciary, I have studied the proposed settlement of the government's antitrust lawsuit against Microsoft very closely, and I write to express my concern about whether the settlement is in fact "in the public interest." 15 U.S.C. § 16(e). Accordingly, I respectfully ask that you address the issues raised in this letter when you file with the district court your mandatory "response" to these comments. See 15 U.S.C. § 16(d). This settlement affects vast and important segments of the U.S. economy, and thus, its significance cannot be overstated. As a result, I believe it should only be approved if it can truly be shown that the settlement is "is m the public interest," Such a determination will require the court to assess "the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, [and] anticipated effects of alternative remedies actually considered." 15 U.S.C. § 16(e)(1). These comments and questions are designed to inform this inquiry.

(1) Does the proposed settlement contain significant loopholes that render it largely ineffective to cure the damage to competition caused by Microsoft's illegal behavior? The unanimous District of Columbia Circuit Court of Appeals held that Microsoft violated section 2 of the Sherman Act by illegal conduct designed to maintain its monopoly on personal computer operating systems. The proposed settlement is designed to "provide a prompt, certain and effective remedy for consumers" arid "halt continuance mad prevent recurrence of the violations of the Sherman Act by Microsoft... and restore competitive condition, s to the market." Competitive Impact Statement at 2.

However, it appears that, in many respects, the Revised Proposed Final Judgment ("PFJ"), contains so many loopholes, exceptions, qualifications, and definitional limitations that Microsoft can easily avoid its requirements. I have serious concerns that these loopholes and qualifications in the proposed settlement render it inadequate to accomplish its task of remedying Microsoft's illegal conduct and restoring competition in the computer software market. I will list a few examples below, but this list is not exhaustive.

(a) Million software copy limitation—Under the proposed consent decree, competitive access to the computer desktop has to be provided for certain types of firs.1 software application makers. More specifically, Microsoft must permit computer manufacturers and computer users to replace the icons, short-cuts, or menu entries for Microsoft Middleware Products on the desktop or start menu with Non-Microsoft Middleware Products. See PFJ ¶III.H.1. But the proposed consent decree contains a loophole in the definition of Non-Microsoft Middleware Products that denies that protection unless, in the prior year, "at least one million copies (of that rival software) were distributed m the United States." Id. ¶VI.N. Thus, many start-up software companies with promising yet unproven technology in the pipe]me—precisely the companies most in need of protection from exercise of market power by a monopolist—will be left unprotected by the settlement. This could have a negative impact on the flow of venture capital and investment to technology start-ups—precisely the engine that drove the economic expansion of the late 1990s and a key to further expansion of our all-important technology sector. Requiring the distribution of a million copies in the United States in a year seems a very high threshhold. Why was this limitation written into the settlement? Why was the one million number chosen? In this era of internet downloads, how can a software maker prove that a million copies were distributed in the United States? What purpose does this limitation serve? Should the consent decree be modified to close that loophole and foster new investments and growth by protecting those investments from monopoly practices?

In answering this inquiry I would request that you conduct a survey of a representative sample of non-Microsoft middleware product manufacturers to determine how long it took them to distribute one million copies of their software in the United States (if in fact they have done so). For example, it would be fruitful to determine how long it took products such as Kodak photofinishing software or the Palm OS to reach this threshhold, even though they might not qualify as non-Microsoft middleware products under the decree.

(b) Definitional limits on API disclosures—A cornerstone of the proposed settlement is the requirement that Microsoft disclose certain Application Programming Interfaces ("APIs") that are used by Microsoft Middleware to interoperate with a Windows Operating System Product. See ¶III.D. Yet the definition of Microsoft Middleware is limited in such a way that raises doubts about the true extent of the requirement of API disclosure. Microsoft Middleware must be distributed seperately from a Windows Operating System Product and must be trademarked. Id. ¶VI.J. And any product comprised of the Microsoft or Windows trademark together with descriptive or generic terms are not considered to be trademarked. Id ¶VI.T. It appears that these definitional limitations will make it easy for Microsoft to avoid having to disclose APIs. Why can Microsoft simply decide not to trademark software and thereby have it fall outside this definition? Why does the definition of trademark exclude products identified by the Microsoft or Windows trademark plus a generic term?

In addition, Microsoft need not release any API to a software maker unless Microsoft determines that the software maker "has a reasonable business need for the API" and "meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business." Id. ¶III.J. Many are concerned that permitting Microsoft to determine the "business need" and "viability" of potential competitors will be another way Microsoft can avoid the API disclosure requirements.

Another limit on API disclosure applies to new versions of Windows Operating Systems Products. With respect to new versions, disclosures of APIs need only be made in a Timely Manner. Id. ¶III.D. Timely Manner is defined to mean when Microsoft releases a test version of a Windows Operating System Product to 150,000 beta testers. Id. ¶VI.R. Microsoft could avoid this provision by simply having the new version—and the obligation to release APIs tested by less than 150,000 beta testers. What assurance is there that Microsoft will not avoid the API disclosure limitation in the future in this manner? There are many other definitional limits and qualifications found throughout the proposed consent decree. Beyond their specific provisions, these limitations raise the broader—and fundamental—question: is the proposed settlement is strong enough to make sure that Microsoft cannot use its monopoly power to squelch competition and innovation?

(2) Is the scope of the settlement's protection of middleware adequate to promote competition ? Before even running the gauntlet of the decree's restrictions outlined above, software must qualify as non-Microsoft middleware under the restrictive definitions of middleware used in the decree, see PFJ ¶¶VI.J, VI.K, VI.M, VI.N. The decree's protections are largely limited to competitors of "Microsoft Middleware Products." But the definition of what is (or is not) a Microsoft Middleware Product remains somewhat ambiguous. Windows Messenger is covered, but MSN Messenger does not appear to be. Internet Explorer is covered, but MSN Explorer seems to be missing. Popular products such as software for personal digital assistants and photofinishing are excluded. What accounts for these gaps? And why did the Department of Justice and Microsoft abandon the definition of middleware that had been employed by, the District Court and affirmed unanimously on appeal? These definitions lie at the core of the consent decree's potential effectiveness. The heart of the Court of Appeals" ruling was that Microsoft's acts of illegal monopoly maintenance blocked the ability of competitors to develop middleware which could effectively become an alternative platform to compete with the Windows operating system. The goal of the consent decree therefore must be to encourage and protect innovation in the middleware field. Yet the more restrictive and unclear the definitions are, the more they introduce uncertainty into this field and the more ineffective the consent decree will be. If potential innovators believe that Microsoft can avoid the ambit of the decree, then hopes for spurring innovation and competition among middleware products will be lost.

(3) Why is Microsoft ever allowed to retaliate against the computer makers? The settlement rests on the computer makers" ability to promote competition on the desktop and in the industry generally. A key provision of the consent decree bans Microsoft from retaliating by agreement for a computer makers loading certain types of non-Microsoft software on its computers. See PFJ ¶III.A. Yet, the ban on Microsoft retaliation against computer makers is limited: the decree only bans retaliation in commercial agreements (not other forms of retaliation); only bans retaliation for removing specifically named "Microsoft Middleware Products" (not other Microsoft products); and only bans retaliation, for promoting specific competitive products (and not other products that could challenge Microsoft's desktop dominance). Will these loopholes "swallow the rule" that Microsoft should be banned from retaliating against computer makers? Would it not be far simpler to ban all Microsoft retaliation against the computer makers?

(4) Will Microsoft be able to accomplish through incentives what it could not accomplish by retaliation.? The ban on retaliation in no way prevents Microsoft from paying incentives to computer makers to strongly prefer—or install exclusively—Microsoft software products. Indeed, the proposed consent decree expressly provides that nothing "shall prohibit Microsoft from providing Consideration to any OEM with respect to any Microsoft product or service where that Consideration is commensurate with the absolute level of that OEM's development, distribution, promotion, or licensing of that Microsoft product or service." PFJ ¶III.A. Given Microsoft's market power and financial resources, what will prevent Microsoft from using its financial resources, what will prevent Microsoft from paying bounties to computer manufacturers to "voluntarily" exclusively install or at least to prefer, Microsoft products, thereby accomplishing through incentive payments what it could not achieve by retaliation?

(5) Why does the settlement abandon the ban on commingling that the Court of Appeals found to be illegal? Nothing in the agreement prohibits Microsoft from commingling code or binding of its middleware to the Operating System (OS), even though the Court of Appeals specifically found Microsoft's commingling of browser and OS code to be anti-competitive and rejected a Microsoft petition for rehearing that centered on this issue. Computer manufacturers are likely to be discouraged from installing competing middleware products to those commingled with OS code, as these are likely to slow down the computer's speed and performance. Why should the proposed settlement permit this commingling to continue in the face of an explicit finding of illegality from the Court of Appeals?

(6) Is the five year term of the settlement sufficient to restore competition? The proposed consent decree has a five year term (extendable for two years only if the Court finds Microsoft has engaged in willful and systematic violations of the decree). PFJ ¶V. This is an unusually short time for an antitrust consent decree, which is typically ten years in length. Many wonder if this term is sufficient to remedy Microsoft's illegal conduct and restore competition. Why was the term of the decree limited to five years? How can we be sure that five years will be sufficient to restore competition?

In addition, under the decree, Microsoft has up to a year after submission of the decree before implementing several of its provisions, including the crucial API disclosure requirements and the provisions granting computer manufacturers and users the right to modify the start-up menus and icons with competing products. See PFJ ¶¶III.D, III.H. Thus the effective time that Microsoft must live under these restrictions is substantially shorter than the five year term of the agreement. And yet, this summer, when Microsoft made some very, minor changes to Windows to respond to the Court of Appeals ruling, it took just three weeks to make the changes. Given Microsoft's proven ability to make rapid changes, would it not be in the public interest to require Microsoft to live by the consent decree immediately and not wait another year?

(7) Is the enforcement mechanism sufficient? The proposed Final Judgment does not set forth vigorous enforcement mechanisms to keep Microsoft within the framework of this settlement. The proposed consent decree requirements the appointment of a "Technical Committee" to

monitor compliance with the decree, but its findings are entirely advisory and not binding on Microsoft. PFJ ¶IV.B. The only true enforcement mechanism would be for the Justice Department to go to Court in art enforcement action. In such an enforcement action, no work product findings or recommendations of the Technical Committee can be admitted as evidence in court. Id. ¶IV.D.4.d. "While Microsoft is required to "be reasonable" in its conduct: violations of such "be reasonable" provisions can only be remedied through proceedings that will become, in essence, mini-retrials of U.S. v. Microsoft itself. Are these provisions sufficient to ensure that the settlement can be enforced properly? Without an iron-clad enforcement mechanism, how can the public take solace in the "promise" that Microsoft will "be reasonable" given the history of litigation in this case, and earlier antitrust lawsuits against Microsoft?

(8) What will the settlement's effect be on Microsoft's future conduct? Microsoft is has dubbed its aggressive Internet strategy .NET or "Hailstorm"—a strategy to give consumers a one-stop shop on the Internet. How will the consent decree foster competition for these future "platforms?" If the purpose of this case was to check Microsoft's monopoly power, how will the Justice Department ensure that this monopoly dominance is not extended from the desktop to the Internet? And why are critical new technologies, such as digital rights management and identity-authentication, exempted from the proposed settlement's disclosure provisions? In closing, we today stand on the threshold of writing the rules for competition in the digital age, and we have two choices. One option involves one dominant company controlling the computer desktop, facing minor restraints that expire in five years, but acting as a gatekeeper to 95% of all personal computer users. The other model is the flowering of innovation and new products that resulted from the ending of the AT&T telephone monopoly nearly twenty, years ago. From cell phones to faxes, from long distance price wars to the development of the Interact itself, the end of the telephone monopoly brought an explosion of new technologies and services that benefit millions of consumers every day. We should resist on nothing less from this proposed settlement. In sum, any settlement in this case should make the market for computer software at least as competitive as the market for computer hardware is today. We should insist on a settlement that has an immediate, substantial, and permanent impact on restoring competition in this industry. I recognize the extraordinary effort that the Justice Department has expended in the litigation of this case, and I thank you and your staff for the vigor with which you have pursued this challenging case. I believe that answers to the questions and issues posed above are essential for determining whether the proposed settlement is in the public interest. Thank you for your attention to this matter.

Sincerely,
HERB KOHL
Chairman
Subcommittee on Antitrust, Business Rights and Competition

MTC-00030604

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Facsimile Cover Sheet
FROM: Patrick O'Connor DATE: January 28, 2002
TO: Renata B. Hesse FAX: (202) 307–1454 TEL:
CC: Audrie Krause, NetAction (415) 673–3813

Dear Ms. Hesse: The attached are the Comments of NetAction and Computer Professionals for Social Responsibility on the Proposed Final Judgment in United States v. Microsoft. A copy has already been provided to you via E-mail.

Please feel free to contact me at 202–955–6300 with any questions or concerns.

Regards,
Patrick O'Connor
Counsel to NetAction and Computer Professionals for Social Responsibility

Comments of NetAction and Computer Professionals for Social Responsibility On the Proposed
Final Judgment

INTRODUCTION

The Government's Competitive Impact Statement claims that "[t]he relief contained in the Proposed Final Judgment provides prompt, certain and effective remedies for consumers." [1] However, any potential relief is far from "certain" or "effective" for the average (non-corporate) consumer, and relief certainly will not be "prompt" since it will arrive, if at all, only as Microsoft rolls out later versions of its Windows Operating System.

Unfortunately, the Proposed Final Judgment does not offer consumers any hope of relief in the market for the non-middleware software applications on which they rely, such as word processing and spreadsheets. Nor does the Proposed Final Judgment attempt to offer any hope of relief to consumers using Windows 95, Windows 98, Windows NT, or Windows 2000. By its terms, the Proposed Final Judgment only applies to Microsoft's dealings with third pasty developers for Windows 2000 Professional, Windows XP, and later Windows versions. Thus, to achieve even the uncertain benefits of the Proposed Final Judgment, consumers will have to pay a high price for new software and, as explained below, new hardware, including new computers. For these reasons, the Proposed Final Judgment is suspect in terms of both the public interest and the goals of antitrust relief described by the Government.[2]

Moreover, the Proposed Final Judgment must be rejected because the record does not permit the Court to determine, with any reasonable degree of comfort or certainty, exactly what relief the Proposed Final Judgment provides. The language of the Proposed Final Judgment, in combination with the numerous exceptions to its prescriptions, necessarily leaves the Court and the public at a loss to confidently predict what conduct is prohibited and what conduct is permitted. Indeed, in a number of specific instances, the exceptions provided for in the Proposed Final Judgment appear to enable Microsoft to escape large portions or even all of its obligations. As the Court is fully aware, the Government's current lawsuit-now approaching its fourth anniversary-was triggered by Microsoft conduct that the Government thought it had prohibited in a previous consent decree. Only when it attempted to enforce the decree against that conduct did the Government discover that the language of the decree-language perhaps inserted by Microsoft and "protecting" its rights to innovate-could be interpreted to permit Microsoft to require that customers purchase its browser as a component of Microsoft's Windows Operating System, the exact conduct that the earlier decree ostensibly would have prevented.[3] The very same sorts of ambiguity are evident in the Proposed Final Judgment. If it is approved, Microsoft and the Government will find themselves back in this Court yet again, arguing over interpretation, while non-corporate consumers are forced to endure yet another round of anticompetitive effects.

Because the Court has no power under the Tunney Act to modify the terms proposed by the parties, the Court must either reject the Proposed Finn Judgment as inconsistent with the public interest, or order additional proceedings to clarify its terms.[4] Such additional proceedings should provide the parties to the Proposed Final Judgment with an opportunity to prove that there has been an actual "meeting of the minds" with regard to the terms of the agreement. Only where that has occurred should the Court consider approving the Proposed Final Judgment; otherwise, rejection is the Court's only recourse.

DISCUSSION

NetAction is a national nonprofit organization dedicated to promoting use of the Internet for effective grassroots citizen action campaigns, and to educating the public, policymakers, and the media about technology policy issues. Among other projects, NetAction manages the Consumer Choice Campaign to focus public attention on Microsoft's growing monopolization of the Internet.

Computer Professionals for Social Responsibility ("CPSR") is a public-interest alliance of computer scientists and other interested individuals concerned about the impact of computer technology on society. CPSR provides the public and policymakers with realistic assessments of the power, promise, and limitations of computer technology and directs public attention to critical choices concerning the applications of computing and how those choices affect society.

I. A Large Segment of the Consumer Market Will Be Unable to Avail Themselves of the

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[1] Competitive Impact Statement § I

[2] See 15 U.S.C. § 16(e), Competitive Impact Statement § I

[3] See U.S. v. Microsoft, 56 F.3d 1448, 1461–62 (DCCir. 1995); see infra. § II.A.

[4] See 15 U.S.C. 16(b) et seq.

Limited and Uncertain Benefits of the Proposed Final Judgment Unless They Invest Substantial Sums in Hardware and Software Upgrades

A. The Proposed Final Judgment Would Do Nothing to Increase Competition for Software Applications

Despite Microsoft's substantial dominance in the market for software applications-such as email, word processing, and spreadsheets-the Proposed Final Judgment limits its modest proposed remedies co the market for "middleware." The Government's loftiest description of its anemic proposed remedy promises only to "restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings."[5] The "bulleted" enumeration of those benefits offered by the Government further clarifies that only the market for middleware is targeted for relief.[6]

It is certainly true, as the Government points out, that middleware poses-or perhaps more accurately "posed" when the case was filed nearly four years ago-a significant threat to the dominance of Microsoft's Windows Operating System. By exposing its own "APIs," middleware allows software developers to write applications that will run on multiple operating system platforms, thus decreasing the importance of any particular operating system.[7] And the middleware category is particularly important as computing evolves towards a model in which users go outside their desktop/laptop hardware not only for their data-as Internet has taught them to do-but also for applications by which to interact with that data.

While the Government certainly was correct to make middleware an important focus of its case, the Government certainly is not correct to make middleware the sole focus of its proposed remedy. It is one thing to say that the existence of a competitive market for middleware could undercut Microsoft's monopoly of operating system software if computing moves away from a desktop/server environment to a Net-based environment. It is quite another to say, as the Proposed Final Judgment does, that the public interest is satisfied when consumers can achieve some benefits of competition only if computing moves away from a desktop/server environment to a Net-based environment.

It is simply not in the public interest-certainly not in the non-corporate consumers" interest-to conclude what by now is nearly a decade of Government antitrust litigation by providing for some uncertain possibility of middleware competition while ignoring file monopoly position that Microsoft has built in the applications market over that same period.

B. Consumers Will Be Forced to Buy Software and Expensive New Hardware To Get Any Benefits From the Proposed Final Judgment

Even assuming that the Proposed Final Judgment has the potential, over time, to create a more competitive market in the narrow middleware product line which is its sole aim, consumers will have to buy a very expensive "admission ticket" to obtain any of those benefits.

The Government acknowledges that relief should, at a minimum, end the unlawful conduct, prevent its recurrence, and "undo its anticompetitive consequences."[8] Curiously, despite this acknowledgement, the Proposed Final Judgment is purely prospective: by its terms it would apply only to the conduct of Microsoft and the opportunities of third party software and hardware vendors in relation to Windows 2000 Professional, Windows XP, and later generations of Microsoft's Windows Operating System.[9] While not evident on the face of the Proposed Final Judgment, this result flows from the interplay among the Proposed Final Judgment's operative provisions and definitions. All of Microsoft's proposed obligations would be limited to conduct relating to a "Windows Operating System Product" which is defined as the "software code ... distributed ... by Microsoft ... as Windows 2000 Professional Windows XP Home, Windows XP Professional, and successors[:]"[10]

Thus, by its terms the Proposed Final Judgment would not even attempt to "undo [the] anticompetitive consequences" of Microsoft's conduct for consumers who continue to use earlier versions of Windows, including Windows 95, Windows 98, and even Windows Me. Perversely, consumers will have to fill Microsoft's coffers by purchasing upgraded operating system software in order to obtain relief. Under the Proposed Final Judgment, only those consumers who upgrade to Windows 2000 Professional or a later version of the Windows Operating System would see any of the benefits of increased competition in the range of software choices available to them.[11]

And the cost of admission to the realm of greater choice is not just the price of the new software product. As anyone who has attempted a system upgrade on his or her own can attest, it is an endeavor best left to professionals. The process is enormously complex, takes hours of time, requires the user to make numerous decisions, often without adequate information, and is prone to crashing the computer, requiring professional help for recovery.[12] Even the IS departments in corporate America are wary of upgrading their entire user community before they have thoroughly tested both the new operating system and the process of upgrading to it. And outside corporate America-that is, for the average (non-corporate) consumer-the task is so difficult that most consumers avoid it, continuing to use the operating system that came with their computers, and changing operating systems only if and when they buy a new computer.

To compound the problem and increase the price of admission even further, each new generation of operating system is significantly more resource-intensive than the last, as clearly indicated by the "minimum system requirements" notice Microsoft includes on its packaging and on its web site. The "minimum system requirements" for random access memory (RAM) have doubled with each succeeding consumer version of Windows. Windows Me required 32 megabytes (MB) of RAM; Windows 2000 Professional required a minimum of 64 MB; Windows XP recommends at least 128 MB.[13] The "minimum" CPU and hard disk requirements have accelerated even more rapidly.[14] And as every computer user knows, the "minimum" hardware requirements rarely provide adequate performance under the new operating system. So consumers are forced to buy enhancements to their existing computers, such as more memory and larger hard drives, to "catch up" with the demands of the new operating system. Even the consumer who upgrades her computer faces significant performance limitations stemming from the processor and bus architecture of existing systems. This history of Microsoft operating system evolution is that a consumer will, as a practical matter, need to buy a new computer to make effective use of a new operating system.

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[5] Competitive Impact Statement § 1 <http://www.usdoj.gov/atr/cases/f9500/9549.htm>.

[6] Id.; see also Competitive Impact Statement § III, IV <http://www.usdoj.gov/atr/cases/19500/9549.htm>.

[7] This would be true so long as several conditions obtain: (1) those applications depend only on the middleware's APIs, and not on the APIs of the underlying operating system, (2) the middleware runs equally effectively on multiple operating system platforms, and (3) all of every user's applications run on middleware.

[8] Competitive Impact Statement § IV.B <http://www.usdoj.gov/atr/cases/f9500/9549.htm>.

[9] Proposed Final Judgment § VI.U <http://www.usdoj.gov/atr/cases/f9400/9495.htm>.

[10] Proposed Final Judgment §§ III.A–I VI.U <http://www.usdoj.gov/atr/cases/f9400/9495.htm>; Competitive Impact Statement § I (bullet points) <http://www.usdoj.gov/atr/cases/19500/9549.htm>.

[11] A massive migration to later Windows operating system products carries additional problems for consumers, Indeed, another of the hidden costs to consumers of both Microsoft's anticompetitive conduct and the Proposed Final Judgment is the cost in network security. The continued dominance of the Windows Operating System and related applications means that Microsoft is a target for hackers and all those who would compromise the privacy and security of network systems. Elinor Mills Abreu, Hack this! Microsoft and its critics dispute software security issues, but users make the final call, InfoWorld (Sept. 27, 1999) <http://iwsun3.infoworld.com/??qibin/displayStory.p12/features/990927haek.htm>. Thus, a breach of privacy or security in a given Microsoft product will be visited upon millions of consumers worldwide. Absent continued anticompetitive conduct, leading to continued dominance in operating system, browser and office applications, such costs would be significantly decreased as the risk of breech would be more dispersed among several operating systems. See Letter from the Electronic Privacy Information Center to United States Senator Patrick Leahy, Senate Judiciary Committee (Dec. 11, 2001), <http://msdn.microsoft.com/msdnews/2001/July/hess/prior.as??>.

[12] 12 See, e.g. Mark Hammond, Hidden upgrade woes found in Windows 98, eWEEK (June 25, 1998) http://zdnet.com.com/2102–11–510242.html, A. Kandra, Consumer Watch: Avoiding the Upgrade From Hell, PC World (August 2001) <http://www.??cworld.com/features/article/0,aid,52348,00.as??>.

[13] Compare <http://www.microsoft.com/catalog/display.asp'site=10451&subid=22&??=3> (Windows Me); <http://www.microsoft.com/catalog/display.asp'site=657&subid=22&p??=3> (Windows 2000 Professional); and <http://www.microsoft.com/catalog/display.asp'site=11052&subid=22&pg=3> (WindowsXP).

[14] 14 Id.

The reality, then, is that even if the Proposed Final Judgment would allow the development of a more competitive market for middleware, consumers would have to purchase new software and new computers (or spend almost as much to upgrade their existing systems) to obtain any benefits. As a result, a large percentage of consumers would simply be unable to afford the price of admission in their homes, or in their schools, or in their libraries. No proposed antitrust remedy can be in the public interest when it excludes the most vulnerable members of the public from any potential benefits.

II. Important Provisions of the Proposed Final Judgment Will Not Accomplish Their Intended Purposes

The Proposed Final Judgment is vague or subject to evasion by Microsoft to such an extent that it is not in the public interest as it currently stands. In Tunney Act proceedings—particularly where the litigation was required by a failure of precision in a prior settlement decree—a court should insist on precision in the proposed decree, so that the task of enforcing the decree does not become unmanageable.[15] As discussed below, however, the Proposed Final Judgment is fiddled with provisions that make its interpretation and enforceability highly problematic.

A. Microsoft I Illustrates the Importance of Eliminating Ambiguities and Loopholes from the Proposed Final Judgment

In assessing the Proposed Final Judgment, there are important lessons to be learned from past dealings between the Government and Microsoft, in particular the unfortunate history of the first Microsoft consent decree. That decree provided, among other things, that Microsoft can not require OEMs, as a condition of a license to an operating system, to license another Microsoft product.[16] Soon after that decree was approved, however, Microsoft integrated its web browser code into the Windows Operating System, causing the Government to seek an injunction. The decree, however, contained an exception that doomed its very object: it could not be "construed to prohibit Microsoft from developing integrated products."[17] Because the appellate court found that the Government was unlikely to prevail on this question of integration, Microsoft was free to integrate its web browser into the operating system.[18]

It was only last year, after extensive litigation, that Microsoft's integration of the browser code into the Windows Operating System was finally found to be illegal as an improper effort to prevent entry by rival browsers.[19] By that time, however, Netscape Navigator, the browser at which Microsoft had directed many of its tactics, was no longer a threat to Microsoft's monopoly. In a very real sense, the presence of a vague exception for "integration" in the first Microsoft decree, and Microsoft's ability to exploit that exception, made possible the monopolistic behavior and anticompetitive distortion that was at issue in Microsoft II.[20] It is crucial that that scenario not be repeated here, and that the Proposed Final Judgment be cleansed of similar opportunities for Microsoft to "design around" the decree's restrictions. Regrettably, there are many aspects of the Proposed Final Judgment that require such cleansing.

B. The Proposed Final Judgment Will Allow Microsoft To "Design Around" Its Obligations Despite the fact that ambiguous language is exactly the reason this case was initiated, the Proposed Final Judgment suffers chronically from the same defect. Loose language and a plethora of exceptions would permit Microsoft to "design around" the restrictions that are currently being proposed by the Government:

First, the Proposed Final Judgment would allow Microsoft alone to determine the definition of its Windows Operating System. Combined with loose language in the definition of Microsoft Middleware, this provision raises the possibility that Microsoft would be able to escape its API disclosure obligations by incorporating middleware products into future versions of its operating system. If such is the case, contrary to the intent of the Proposed Final Judgment, Microsoft could thereby prevent competition in middleware;

Second, under the Proposed Final Judgment, Microsoft alone would be able to determine when its disclosure obligations arise, as it would determine what constitutes a "major version" release under the definition of Microsoft Middleware. By releasing updates, as opposed to "major versions," Microsoft could continue to advance the development of Microsoft Middleware, while precluding competition from other middleware producers;

Third, when a major version is released by Microsoft, the terms of the Proposed Final Judgment regarding the release of information on APIs would permit Microsoft a perpetual advantage in the relevant markets: by the time Microsoft was obligated to release information on APIs, it would already have developed its next major version for release. Thus, under the terms of the Proposed Final Judgment, competitors will always remain at least one step behind Microsoft;

Fourth, Microsoft would unilaterally control whether the user can designate a competitive middleware product by determining the technical compatibility of such products with the Windows Operating System. By continually establishing new (and potentially irrelevant) technical requirements, Microsoft can ensure that consumers are forced to use Microsoft products for an increasing number of applications;

Fifth, and finally, Microsoft would be able to escape all of its disclosure obligations under the Proposed Final Judgment where it would be able to determine that a particular product threatens the "security" of any number of integrated systems. In the current environment where applications are increasingly tied to both the operating system and other programs, such claims are easy to make and difficult to disprove. By invoking this exception, Microsoft would be free to preclude competition altogether;

Each of these shortcomings is discussed in further detail below. Given the ambiguities and exceptions, consumers have no reason to expect that the Proposed Final Judgment would effectively prevent the Microsoft monopoly from expanding beyond the operating system and browser markets into every facet of digital life. For these reasons, the Proposed Final Judgment should be rejected or additional proceedings ordered by this Court.

Under Section VI.U of the Proposed Final Judgment, "[t]he software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion." This overarching provision would permit Microsoft to unilaterally alter one of the bedrock terms of the Proposed Final Judgment and, thus, to alter the terms of the agreement. As in 1995, the actual implications of this provision of the decree are unclear (except, perhaps, to Microsoft). Nevertheless, it is not difficult to imagine instances in which Microsoft would attempt to, for example, integrate potential Microsoft Middleware Products into its Windows Operating System in order to escape its disclosure obligations (a possibility discussed further below).[21] The provision would also allow Microsoft to implement code designed to make competing middleware products incompatible with the Windows Operating System and thus prevent consumers from using that product as is ostensibly permitted under Section III.H. Indeed, the overarching problem with this provision for both competitors and consumers is its ambiguity and the uncertainty that is associated with it. At a minimum, definitional control of the Proposed Final Judgment should reside first with the agreement itself and, next, with the Court; it certainly should not reside with Microsoft. There is hardly any point in a decree that gives the defendant the right to determine its meaning.

Similarly, under Section III.D of the Proposed Final Judgment, Microsoft must disclose to competitors any and all APIs used by Microsoft Middleware to function effectively on the Windows Operating System. However, because the definition of Microsoft Middleware appears to be limited to "software code that Microsoft distributes separately from a Windows Operating System

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[15] 15 U.S. v. Microsoft, 56 F.3d 1448, 1461–62 (DCCir. 1995).

[16] 16 U.S. v. Microsoft, 147 F.3d 935,939 (DCCir. 1998) ("Microsoft I").

[17] 17 Id. at 939.

[18] 18 Id. at 955.

[19] U.S. v. Microsoft, 253 F.3d 34 (DCCir. 2001) ("Microsoft II").

[20] 20 Id.

[21] "A monopoly in operating system software is a platform for unprecedented control over the flow of information to consumers. Control over this software can be leveraged to near total control over the computer screen. Dominating the screen means controlling ... what [consumers] see and when they see it." The Project to Promote Competition & Innovation in the Digital Age. At the Crossroads of Choice, <http://procompetition.org/researchlcrossroads/crossexec.htm>.

Product,"[22] the possibility arises that Microsoft could avoid the required disclosure of its APIs simply by integrating potential Microsoft Middleware into the operating system.[23] Integration would have the same effect upon potential competitors as nondisclosure; the applications barrier to entry would remain impenetrable and innovation by anyone other than Microsoft would be prevented. Moreover, further integration of middleware products would permit Microsoft to extend its monopoly power into adjacent markets."[24]

Moreover, assuming that Microsoft determines to release future Microsoft Middleware, Section VI.J would egregiously permit it to determine when or even if its API disclosure obligations are triggered. Specifically, this provision would allow Microsoft to unilaterally determine which releases are "updates" to existing Microsoft Middleware and which are "new major version[s]" of such.[25] Microsoft would avoid disclosure (triggered by release of a new major version) simply by denominating the release anything other than "a whole number or ... a number with just a single digit to the right of the decimal point."[26] The implications of this type of control on the part of Microsoft make the API disclosure provisions of the Proposed Final Judgment effectively meaningless.

Even where disclosure of APIs to competitors was to occur under Section III.D, it would not be required until "the last major beta test release" of the relevant Microsoft Middleware.[27] Microsoft would thus have two incentives with regard to the release of the updated version: (1) to push the date of release of its last beta test as close as possible to the release of a commercial product, and (2) to use the interval until the last beta test to plan a subsequent and improved version of the same software to be released once competition with the updated version is threatened. After release, potential competitors would hurriedly attempt to implement the APIs to enable their products to interoperate with the Windows Operating System. Meanwhile, Microsoft's product would have been commercially released and gaining market share. Thus, before competitors would have been able to convince consumers of the value of their products, Microsoft would have developed a subsequent and improved version of the product, effectively foreclosing competition. The timing of competitors" access to APIs is crucial for competition to have any chance of developing. But the timing provided for in the Proposed Final Judgment does not accomplish its purpose.

Section III.H ostensibly "ensures that OEMs will be able to choose to offer and promote, and consumers will be able to choose to use, Non-Microsoft Middleware Products[.]"[28] However, the same section would provide Microsoft with yet another exception that effectively swallows the obligation: Microsoft would be permitted explicitly to override a consumer's default choice of middleware product with its own Microsoft Middleware Product where the non-Microsoft product "fails to implement a reasonable technical requirement ... that is necessary for technical reasons to supply the end user with functionality consistent with a Windows Operating System Product[.]"[29] Even a superior middleware product could be preempted where it did not conform to Windows Operating System Product code, over which Microsoft would have exclusive control (described above). It is not difficult to imagine Microsoft creating a series of "technical requirement" obstacles that would need to be navigated by competitors and consumers in order to permit them choice in middleware products. Granting Microsoft such control over this important provision would permit Microsoft to avoid its impact entirely, continuing the exact anticompetitive conduct this provision was ostensibly designed to prevent.

Finally, the Proposed Final Judgment would grant Microsoft an overarching exception to all of its disclosure obligations where, in Microsoft's determination, "the disclosure ... would compromise the security of a particular installation or group of installations of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria[.]"[30] In an environment where each and every piece of software is increasingly integrated with both the underlying operating system and companion programs, each piece of software could be interpreted by the platform provider as a vehicle for potential interference with vital systems. This is a common argument of monopolists, for it is designed to delay or prevent competition in network services. Given this amount of discretion, Microsoft would be able to effectively prevent competitors from introducing products based upon Microsoft's "determination" that such products would be "dangerous" to the platform or other components.

The litany of ambiguities described in the preceding paragraphs are not a complete listing of the faults of the Proposed Final Judgment; rather, they are indicative of a systematic failure to consider the machinations of Microsoft and the extent to which even the smallest exception will undoubtedly be employed to preclude competition. Ultimately, consumers will suffer the most from these anticompetitive tactics because, with few alternative resources, they will be forced to buy what the incumbent has to offer, without the benefits of innovation and competition. For these reasons, the Court should reject the Proposed Final Judgment or order additional proceedings as described below.

III. The Court Should Either Reject the Decree As It Currently Stands or Order Additional Proceedings to Eliminate Evident Ambiguities

Unfortunately, under the Tunney Act, the Court has no power to modify the terms agreed to by the parties to the Proposed Final Judgment.[31] This leaves the Court with the difficult decision of whether to accept or reject the Proposed Final Judgment in its entirety. NetAction and CPSR respectfully recommend that the Court not shy away from rejection of the Proposed Final Judgment where it is apparent that ambiguous provisions, described above, will not ameliorate the extant competitive situation for consumers. Such approval would not be in the public interest as required by statute.[32] As an alternative to outright rejection, the Court should consider instituting additional proceedings to assure itself of a "meeting of the minds" among all parties to the agreement.

Microsoft, the Government, and the state parties to the Proposed Final Judgment will undoubtedly argue that the expenditures in time and resources necessary to come to a workable agreement justify approval of the Proposed Final Judgment at this time. On the contrary, however, the time and energy spent upon formulating a solution to a competitive problem that has plagued competitors and consumers for the better part of a decade argues for, and not against, an agreement that is stable, workable and not subject to multiple interpretations. The Court should nor rush to approve an agreement that will return to its docket in the near future as a result of ambiguities.

Instead, the Court must be careful to define the terms of the Proposed Final Judgment such that it neither inadvertently accepts an agreement that will not solve the problem nor rejects an agreement that would successfully ameliorate the problem and benefit consumers in the marketplace. Such terms have not yet been defined with respect to the Proposed Final Judgment. Fortunately, under the Tunney Act, the Court has broad powers to order further proceedings to ensure that the public interest is served.[33] In aid of its enforcement authority, then, the Court should order additional proceedings in this case to "pin down" the meaning of the various provisions of the Proposed Final Judgment that appear to be subject to dispute.

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[22] Proposed Final Judgment § VI.J <http://www.usdoj.gov/atr/cases/f9400/9495.htm>.

[23] Comments of Robert Litan, Roger Knoll and William Nordhaus on the Revised Proposed Final Judgment (filed Jan. 17, 2002); see also Jonathan Krim, Wording of Microsoft Deal Too Loose, Analyses Say. The Washington Post, E1, E10 (Jan. 18, 2002).

[24] The list of markets into which Microsoft is attempting to expand its dominance is growing. Consumer Federation of America and Consumers Union recently published a report, which describes Microsoft's current bundling strategy, which includes integrating email, instant messaging, calendars and contact lists, audio and video media players, digital photography, digital rights management, and identity verification, Dr. Mark N. Cooper. Consumer Federation of America. and Christopher Murray, Consumers Union, Windows XP/.NET: Microsoft's Expanding Monopoly, How It Can Harm Consumers and What the Courts Must Do to Preserve Competition (Sept. 26, 2001) <http://www.consumcrfed.org/WINXP anticompetitive study.pdf>.

[25] Proposed Final Judgment § IIT J <http://www.usdoj.gov/atr/cases/f9400/9495.htm>.

[26] Id.

[27] Proposed Final Judgment § III,D <http://www.usdoj.gov/atr/cases/f9400/9495.htm>.

[28] Competitive Impact Statement § IV.B.8 <http://www.usdoj.gov/atr/cases/f9500/9549.htm>.

[29] Proposed Final Judgment § III.H <http://www.usdoj.gov/atr/cases/f9400/9495.htm>.

[30] Proposed Final Judgment § III.J.1 <http://www.usdoj.sov/atr/cases/9400/9495.htm.>.

[31] 15 U.S.C. § 16(b) et seq.

[32] 15 U.S.C. § 16(e).

[33] 33 Id.

In order to assure itself that Microsoft, the Government, and the state parties have reached an actual "meeting of the minds," the Court should permit participants to the Tunney Act process to submit written questions to each of the three parties to the Proposed Final Judgment. Such questions should only cover what is or what is not permissible under the provisions of the Proposed Final Judgment. Each of the three parties should answer separately, with no consultation among them, as to whether the action in question is permissible. In order to prevent any "backsliding" in interpretation, each party should be required to submit an affidavit agreeing to be bound by its answers in any additional proceedings. If the three separate answers are in agreement as to the questions posed, the Court should recognize that a "meeting of the minds" has occurred and approve the Proposed Final Judgment forthwith. If the answers are not in agreement, the Court should reject the Proposed Final Judgment until such a "meeting of the minds" is reached and conclusively proven.

CONCLUSION

The Proposed Final Judgment, as it currently stands, does not offer consumers any hope of relief in the market for non-middleware software applications. Nor does it attempt to offer any relief to consumers using Windows 95, Windows 98, Windows NT, or Windows 2000. To achieve even the uncertain benefits claimed by the Proposed Final Judgment, consumers will have to buy new software and hardware, including new computers.

Moreover, the Proposed Final Judgment is disturbingly reminiscent of Microsoft I in its ambiguities. Indeed, it was an ambiguity in Microsoft I that led to this proceeding and forced consumers to endure five long years of legal wrangling over an issue that the Government thought had been decided between the parties. As it stands, the Proposed Final Judgment does not permit the Court to determine, with any reasonable degree of comfort or certainty, what relief in fact would be provided by the Proposed Final Judgment. Indeed, in a number of specific instances, the exceptions provided for in the Proposed Finn Judgment appear to permit Microsoft to escape large portions or even the entirety of its obligations.

On the present record, the Proposed Final Judgment cannot be found to be in the public interest. The Court should either reject the Proposed Final Judgment outright, or order additional proceedings, as described herein, to definitively clarify its terms.

Dated: January 28, 2002

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Re: United States v. Microsoft Corp. & State of New York v. Microsoft Corp., United States District Court for the District of Columbia, Case Nos. 98-1232, 98-1233

Dear Ms. Hesse: On behalf of Sony Corporation ("Sony"), a Japan corporation, we offer the following comments pursuant to 15 U.S.C. °16(d) with regard to the Revised Proposed Final Judgment (the "Proposed Judgment") in the above captioned matter.

Introduction and Summary

As one of the world's leading technology and entertainment companies, Sony develops and manufactures a wide variety of audio, video, communications and information technology products. Sony is also an original equipment manufacturer ("OEM") of personal computers and a direct licensee of Microsoft Corporation ("Microsoft").

Microsoft maintains that certain provisions of the Proposed Judgment require it to impose "standard" licensing terms on Sony and other OEMs that could possibly erode protections for their intellectual property. Sony and other OEMs have made, and continue to make, significant investments in such intellectual property. These companies should be free to negotiate more favorable licensing provisions that restrict Microsoft's ability to leverage its market power to gain access to this intellectual property. Accordingly, Sony requests a clarification or modification of the Proposed Judgment to ensure that Sony and other similarly situated OEMs can negotiate appropriate protections for their intellectual property beyond those available in "standard" licensing terms and conditions.

Background

Like other OEMs, Sony has entered into a series of one-year Desk Top Operating System (DTOS) license agreements with Microsoft that contain terms relating to operating system products, royalties and payments. These license agreements incorporate other terms and conditions from longer term "Business Terms Documents" negotiated between Microsoft and its OEMs. Last year, Sony and Microsoft entered into the current Business Terms Document, which is effective for several years.

The current Business Terms Document contains several provisions relating to intellectual property. These provisions include "non-assertion covenants" in which OEMs, under certain conditions, agree not to assert patent claims against Microsoft and Microsoft licensees. Sony and its various affiliates, however, have a significant history and patent portfolio in various areas, including audio, video, software applications and other technologies. To protect its rights to assert these patents, Sony negotiated with Microsoft important limitations on the scope of these non-assertion covenants. Sony believes these limitations are necessary to protect its investments in intellectual property.

Section III.B of (he Proposed Judgment

Under the terms of the Proposed Judgment, Sony is a "Covered OEM" because it is one of the 20 OEMs with the highest worldwide volume of licenses of Windows Operating System Products. (Revised Proposed Final Judgment, ° VI.D.) The Proposed Judgment would require Microsoft to offer Sony and other Covered OEMs licenses on "uniform terms and conditions." Section III.B of the Proposed Judgment provides:

B. Microsoft's provision of Windows Operating System Products to Covered OEMs shall be pursuant to uniform license agreements with uniform terms and conditions. Without limiting the foregoing, Microsoft shall charge each Covered OEM the applicable royalty for Windows Operating System Products as set forth on a schedule, to be established by Microsoft and published on a web site accessible to the Plaintiffs and all Covered OEMs, that provides for uniform royalties for Windows Operating System Products, except that:

1. the schedule may specify different royalties for different language versions;

2. the schedule may specify reasonable volume discounts based upon the actual volume of licenses of any Windows Operating System Product or any group of such products; and

3. the schedule may include market development allowances, programs, or other discounts in connection with Windows Operating System Products, provided that:

a. such discounts are offered and available uniformly to all Covered OEMs, except that Microsoft may establish one uniform discount schedule for the ten largest Covered OEMs and a second uniform discount schedule for the eleventh through twentieth largest Covered OEMs, where the size of the OEM is measured by volume of licenses;

b. such discounts are based on objective, verifiable criteria that shall be applied and enforced on a uniform basis for all Covered OEMs; and

c. such discounts or their award shall not be based on or impose any criterion or requirement that is otherwise inconsistent with any portion of this Final Judgment.

(Revised Proposed Final Judgment ° III.B.)

The Department of Justice has explained that Section III.B was included in the Proposed Judgment to prevent Microsoft from retaliating against OEMs that market or promote products from Microsoft's competitors. In its "Competitive Impact Statement," the Department of Justice stated:

In order to ensure freedom for the 20 Covered OEMs from the threat of Microsoft retaliation or coercion, Section III.B requires that Microsoft's Windows Operating System Product licenses with such OEMs contain uniform terms and conditions, including uniform royalties. These royalties must be established by Microsoft in advance on a schedule that is available to Covered OEMs and the Plaintiffs.

(Competitive Impact Statement at 27–28.)

The Department of Justice also has argued that Section III.B will eliminate "any opportunity for Microsoft to set a particular OEM's royalty or license terms as a way of inducing that OEM to decline to promote non-Microsoft software or retaliating against that OEM for its choices to promote non-Microsoft software." (Id. at 28.) The Department concluded that Section III.B will "ensure that OEMs can make their own independent choices." (Id.) Microsoft's Proposed Uniform Terms and Conditions

Microsoft has informed Sony that it intends to enter into a new DTOS license agreement with Sony embodying new "uniform terms and conditions" mandated by Section III.B. These "uniform terms and conditions" apparently represent an effort to create a standard set of terms and conditions from a variety of existing Business Terms Documents with various OEMs. Microsoft's efforts to comply with Section III.B, however, may have produced new "uniform terms and conditions" that weaken certain pro-competitive limitations on the non-assertion covenants.

Microsoft has been adjuged to have illegally maintained its operating system monopoly in violation of the Sherman Act. United States v. Microsoft Corp., 253 F.3d 34, 54 (DC Cir. 2001), cert. denied, 122 S.Ct. 350 (2001). This raises the possibility that Microsoft will use its monopoly power to force its OEM licensees to give up intellectual property rights, thus affording Microsoft the opportunity to expand its power. In the current Business Terms Document, Sony has negotiated narrow non-assertion covenants to reduce this possibility.

Microsoft maintains that Section III.B of the Proposed Judgment precludes it from accepting the non-assertion covenants in the Business Terms Document freely negotiated and signed last year with Sony. Microsoft insists that, in order to comply with Section III.B, Sony must agree to new "uniform" non-assertion covenants that may weaken previously negotiated protections for Sony's intellectual property. If Sony is forced to agree to these changes, 1:he new license agreement would diminish Sony's ability to assert its patents, particularly in markets outside the operating system market, and thereby may enable Microsoft to expand its power into new areas. Proposed Clarification or Modification.

Requiring Sony to accept new "uniform" provisions that may weaken Sony's existing intellectual property protections and allow Microsoft to leverage its power into other markets is contrary to the underlying principles of the Proposed Judgment. Forcing all OEMs to accept identical non-assertion covenants also fails to acknowledge or accommodate the important differences among companies regarding intellectual property portfolios and business activities in other markets.

Sony or any other Covered OEM desiring additional intellectual property protection to enable it to compete with Microsoft or other licensees should be free to negotiate for such provisions outside any framework imposed by the Proposed Judgment. Accordingly, Sony respectfully requests that the Proposed Judgment be clarified or modified to provide that OEMs desiring protection for their particular intellectual property interests can negotiate for more favorable non-assertion covenants than those contained in the "uniform terms and conditions." As long as there is a baseline set of "uniform terms and conditions" available to all covered OEMs that would apply if the OEM is unsuccessful in its efforts to obtain more favorable terms, the OEM is protected from coercion or retaliation. If an OEM obtains different terms and conditions for non-assertion covenants, these new covenants could be made available to all Covered OEMs on a non-discriminatory basis to prevent Microsoft from withholding these provisions to coerce or retaliate against other Covered OEMs. The OEMs should be free to accept or decline the non-assertion covenants depending on their own interests and intellectual property portfolios.

The courts have recognized the threat to competition posed by a monopolist that uses its power in one market to secure domination of other markets. See Spectrum Sports v. McQuillan, 506 U.S. 447 (1993); Alaska Airlines v. United Airlines, 948 F.2d 536 (9th Cir. 1991), cert. denied, 503 U.S. 977 (1992). An antitrust settlement should not enable a monopolist to erode the intellectual property barriers that would otherwise limit the monopolist's penetration of other markets. By including the clarifications or modifications described above, the Proposed Agreement would avoid this unfortunate consequence.

Very truly yours,
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of O'MELVENY & MYERS LLP

MTC–00030606

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BEFORE THE UNITED STATES DEPARTMENT OF JUSTICE UNITED STATES OF AMERICA, Plaintiff, v. Civil Action No, 98–1232 (CKK)

MICROSOFT CORPORATION, Defendant.

STATE OF NEW YORK ex rel.

Attorney General Eliot Spitzer, et al., Plaintiffs, Civil Action No. 98–1233 (CKK)

v.

MICROSOFT CORPORATION Defendant.

Comments of The Progress & Freedom Foundation on the Revised Proposed Final Judgment and the Competitive Impact Statement

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Table of Contents

I. Introduction 1
A. Authors 1
B. Summary of Contents 2
II. Background: The Facts, the Law and the Remedy 5
A. The Illegal Conduct and its Effects 5
B. The Appropriate Criteria for a Remedial Action 7
III. The CIS and the PFJ: Flawed Analysis of a Flawed Remedy 9
A. Major Provisions of the PFJ 9
B. The Competitive Impact Statement 10
C. The PFJ Will Not Have Its Claimed Effect, Nor Any Pro-Competitive Effect 18
IV. The Remedies Alternatives 23
A. Alternative Structural Remedies 24
B. The Litigating States Proposal 29
V. Conclusion 31

I. Introduction

These comments on the Proposed Final Judgment[1] ("PFJ") and the Competitive Impact Statement[2] ("CIS") in the Microsoft ease are submitted to provide the Department of Justice ("DOJ") and the Court with information and analysis based on nearly five years of research by the authors on the legal, policy and economic implications of this landmark proceeding. Based on that research, it is our assessment that (a) the PFJ fails to address meaningfully the violations of law found by this court and upheld by the U.S. Court of Appeals and its entry by the court manifestly is not in the public interest; (b) the CIS fails to meet the standard of analysis demanded by the law mad occasioned by the magnitude of the issues involved; and (e) the public interest will best be served through imposition of a "hybrid" structural remedy or, if the court chooses not to impose a structural remedy, a conduct remedy modeled after the proposals of the remaining litigating states.

A. The Authors

Dr. Eisenach is President and Senior Fellow at The Progress & Freedom Foundation,[3] a non-profit research and educational institution dedicated to analyzing the impact of the digital revolution and its implications for public policy, and an Adjunct Professor at George Mason University Law School. As a professional economist, he has been actively engaged in the analysis of competition and regulatory policy issues for more than 20 years, and has served in senior positions at the Office of Management and Budget mad the U.S. Federal Trade Commission and as a consultant to the U.S. Sentencing Commission on criminal sentencing guidelines for corporations. He has also served on the faculties of Harvard University's Kennedy School of Government, the University of Virginia and Virginia Polytechnic institute and State University.

Dr. Lenard is Vice President and Senior Fellow at The Progress & Freedom Foundation and a professional economist with 30 years of experience in academia, government, private consulting and the non-profit sector. He has worked on a wide range of regulatory and antitrust issues covering a broad span of industries, and has consulted on antitrust cases for both private firms and the Federal Trade Commission. In government, he has held senior economic positions at the Council on Wage and Price Stability, the Office of Management and Budget and the Federal Trade Commission. A principal focus of his research has been the benefits and costs of regulatory interventions into the economy and the analytical underpinnings needed to make informed decisions about government interventions. Both Drs. Eisenach and Lenard have done extensive work on the economics of high-tech markets in general, and the Microsoft case in particular. They are co-authors of the annual Digital Economy Fact Book,[4] co-editors of Competition, Innovation and the Microsoft Monopoly: Antitrust in the Digital Marketplace and authors of numerous other papers on these and related topics.[5]

B. Summary of Comments

The PFJ is intended to settle the government's antitrust case against Microsoft and was agreed to by the United States, 9 of the 18 states that were also party to suit, and by Microsoft. The nine remaining states and the District of Columbia (the "Litigating States") have not agreed to the PFJ and are pursuing more stringent relief through a remedy hearing at the District Court.[6] The DOJ is required by the Antitrust Procedures and Penalty Act ("APPA")[7] to prepare a CIS, which is intended to analyze the competitive implications of the PFJ and any alternatives to it.

The PFJ does not serve the public interest mid will not achieve the government's objective that it "halt continuance and prevent recurrence of the violations of the Sherman Act by Microsoft that were upheld by the Court of Appeals and restore competitive conditions to the market."[8] Indeed, much of the behavior found by the Court of Appeals to be anticompetitive would be permitted under the PFJ. Further, even if the PFJ did preclude such behavior it would fail to restore competitive conditions because it fails to affect the behavior of participants in the marketplace.

The CIS does not satisfy the government's obligation to provide the District Court with an analytical basis for determining whether the PFJ is hi the public interest. The APPA clearly requires, and good public policy demands, an "evaluation" of the proposed remedy and major alternatives to it. The C1S does not present such an evaluation. It does not explain why the PFJ will achieve the intended results, but merely asserts that it will do so. It also does not explain why the DOJ concluded that the PFJ will better serve the public interest than major alternatives, but merely states that "[t]he United States ultimately concluded that the requirements and prohibitions set forth in the Proposed Final Judgment provided the most effective and certain relief in the most timely manner."[9] The DOJ has produced no real analysis of the relative merits of alternative forms of relief to guide the District Court in deciding whether to approve the PFJ. Indeed, the CIS fails by a wide margin to meet the standards required of analyses of regulatory proposals routinely promulgated by government agencies.

Accordingly, the District Court should not accept the PFJ, but should, instead, expand its hearing on the Litigating States Proposal ("LS Proposal") to include the full range of major alternatives. This would permit the District Court to gather the information needed to make an informed judgment concerning which of the remedy proposals will best serve the public interest.

The alternatives that should be considered include:

- The PFJ.
- The proposals of the Litigating States.
- Major structural remedies, including the vertical-divestiture remedy initially adopted by the District Court and the "hybrid" remedy proposed by Dr. Lenard and others.

Among these remedies, the "hybrid" structural approach would best serve the public interest and maximize net economic benefits to consumers.

In the sections that follow, we provide, first, a brief restatement of the facts and legal background in this case, including a brief discussion of what we believe to be the appropriate standards by which remedial action should he judged. Next we discuss the shortcomings in the PFJ and the CIS, explaining why the PFJ will not achieve the government's objectives or serve the public interest and demonstrating that the CIS falls far short of the analytical standard that should be demanded by the court. Finally, we turn to an evaluation of the remedial alternatives mad explain why we believe that (a) a "hybrid" structural remedy would best serve consumers and competition and (b) that if the court chooses not to impose a structural remedy, the LS Proposal is superior to the PFJ.

II. Background: The Facts, the Law and the Remedy

The U.S District Court[10] found, and the U.S. Court of Appeals[11] affirmed, a pattern of Sherman Act violations by Microsoft that had the effect of foreclosing competition in the market for personal computer operating systems. The District Court ordered a structural remedy, which was overturned by the Appeals Court, which remanded the remedy issue back to this court. The Appeals Court did not prescribe or prohibit adoption of any particular remedial actions by this court.

A. The Illegal Conduct and Its Effects The Appeals Court unanimously affirmed the core of the government's case against Microsoft, finding that the company had undertaken a broad array of anticompetitive practices to maintain its monopoly in personal computer operating systems, in violation of Section 2 of the Sherman Act. Microsoft's strategy was to use its monopoly power to prevent the emergence of any new technology that might compete with Windows. Microsoft's anticompetitive activities were particularly directed against two products—the Netscape browser and Sun's Java programming language—that could support operating-system-neutral computing and thereby erode Microsoft's market position. In summary, the District Court found, and the Appeals Court affirmed, that:

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[1] United States v. Microsoft Corp., Stipulation and Revised Proposed Final Judgement (November 6, 2001) (hereafter "PFJ").

[2] United States v. Microsoft Corp., Competitive Impact Statement (November 15, 2001) (hereafter "CIS").

[3] These comments reflect the views of the authors and do not represent the views of The Progress & Freedom Foundation, its officers or board of directors.

[4] See Jeffrey A. Eisenach, Thomas M. Lenard and Stephen McGonegal, The Digital Economy Fact Book 2001 (Washington: The Progress & Freedom Foundation, 2001).

[5] See Jeffrey A. Eisenach and Thomas M. Lenard, ads., Competition, Innovation and the Microsoft Monopoly. Antitrust in the Digital Marketplace, Kluwer Academic Publishers, 1999; Thomas M. Lenard, Creating Competition in the Market for Operating Systems: A Structural Remedy for Microsoft. (Washington: "rile Progress & Freedom Foundation, 2000), http://www.pff.org/remedies/htm; and Thomas M. Lenard, "Creating Competition in the Market for Operating Systems: Alternative Structural Remedies in the Microsoft Case," George Mason Law Review, Vol., 9, Spring 2001,803–841.

[6] United States v. Microsoft Corp., Plaintiff Litigating States" Remedial Proposals, (December 7, 2001) (hereafter "LS Proposal").

[7] 15 USCS 16 (b-h)

[8] CIS at 2.

[9] CIS at 63.

[10] United States v. Microsoft Corp., 84 F. Supp. 2d 9 (DCCirc 1999) ("Findings of Fact"); United States v. Microsoft Corp., 87 F. Supp. 2d 30 (DC Circ. 2000) ("Conclusions of Law").

[11] United States v. Microsoft Corp., 253 F 3d, at 6 (DC Circ. 2001).

- Microsoft has monopoly power in the market for Intel-compatible PC operating systems, with a market share of greater than 95 percent. Microsoft's market is protected by a substantial barrier to entry—the "applications barrier to entry"—that discourages software developers from writing applications for operating systems that do not already have an established base of users.
- Microsoft effectively excluded rival browsers from the two most efficient means of distribution—pre-installation by Original Equipment Manufacturers (OEMs) and distribution by Internet Access Providers (IAPs).
- Microsoft imposed restrictions on its Windows licenses that effectively prevented OEMs from pre-installing any browser other than Interact Explorer (IE).
- Microsoft's technological binding of IE to Windows deterred OEMs from pre-installing rival browsers and consumers from using them.
- Microsoft's contracts with IAPs—for example, agreeing to give AOL preferential placement on the Windows desktop in exchange for AOL's agreement not to distribute any non-Microsoft browser to more than 15 percent of its subscribers and to do so only at the customer's explicit request—blocked the distribution of a rival browser.
- Microsoft's deals with Independent Software Vendors (ISVs)—for example, giving preferential support to ISVs that used IE as the default browser in software they develop—and Apple-prohibiting Apple from pre-installing any non-Microsoft browser—were similarly exclusionary.
- Microsoft's agreements with ISVs that made receipt of Windows technical information conditional on the ISVs" agreement to use Microsoft's version of the Java Virtual Machine (JVM) exclusively were anticompetitive. Microsoft also deceived Java developers into believing that its tools were not Windows-specific and were consistent with Sun's objective of developing cross-platform applications.
- Microsoft's pressuring of Intel to stop supporting cross-plat form Java—by threatening to support an Intel competitor's development efforts—was exclusionary.

Microsoft was clearly successful in its efforts to eliminate threats to its desktop monopoly. Through its anticompetitive activities, Microsoft achieved dominance in the browser market and forestalled the development of such cross-platform technologies as the Netscape browser and Java that could have eroded the applications barrier to entry. The promise of operating-system-neutral computing was that it would inject competition into the market for operating systems, which would foster innovation throughout the industry. By preventing the development of competition, Microsoft's illegal conduct thwarted innovation and harmed consumers.

B. Appropriate Criteria for a Remedial Action

The Supreme Court has stated that be purpose of remedial action in an antitrust case is to "terminate the illegal monopoly, deny to the defendant tile fruits of its statutory violation and ensure that there remain no practices likely to result in monopolization.[13] In other words, a remedy must be effective in the present (terminating the monopoly), the past (expropriating ill-gotten gains), and the future (preventing similar conduct going forward).

As professional economists, we s??ggest it is especially important to look to the future, where economic actors will make decisions based on the incentives inherent in whatever remedy the court imposes. The remedy should not only address the illegal practices Microsoft already has employed to maintain its operating system monopoly, it should also—as the Supreme Court has said—address practices that Microsoft might employ in the future to erect barriers to operating system competition or to use anticompetitive practices to leverage its monopoly beyond the desktop into new phases of computing. In a business that moves as rapidly as the software marketplace (and other information technology and communications markets Microsoft is now entering or is likely to enter soot) it is particularly important that the remedy be forward looking.

The DOJ claims that the PFJ meets these standards, and "will eliminate Microsoft's illegal practices, prevent recurrence of the same or similar practices, and restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings."[14] For reasons discussed at length below, we disagree. Here, we address two issues relating to the standard by which any remedy should be judged.

First, it is noteworthy that the DOJ does not claim the PFJ achieves the goal of denying Microsoft the fruits of its violations, and clearly it will not. Such restitution is important not only to "make whole" the victims of Microsoft's illegal activity (e.g., the United States), but also to establish appropriate incentives on a going forward basis. In general, allowing violators to retain the fruits of their illegal conduct deprive the antitrust laws of much of their force, because it sends a signal to violators that the returns to their behavior are positive—even when they are caught. With $42 billion in the bank, on wonders how Microsoft's senior management could read the proposed PFJ any other way.

Second, and relatedly, DOJ's stated goal of restoring "the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings" is not the appropriate objective, and certainly is not equivalent to the Supreme Court's standard of "terminat[ing] the illegal monopoly." The competitive threat posed by the Netscape browser and Java was quantitatively relatively small at the tin: that Microsoft's illegal campaign against them was undertaken. But it was clear, certainly to Microsoft, that their competitive potential in the dynamic software marketplace was very significant. Had Microsoft not engaged in illegal activities, the competitive significance o t" hose products would be much greater today than it was at the time.

There is a useful analogy here to simple commercial damage cases. If, for example, an individual or a company incurs monetary damages from actions in the past, compensation is generally based on the present value of those damages, typically calculated by bringing the damage amount forward (from the time of the damage to the present) at a normal rate of return. That would be the only way for the damaged party to be made whole. Similarly, society has been damaged by Microsoft's actions. For society to be made whole, competition should, to the extent possible, be restored to what it would be today in the absence of Microsoft's illegal conduct.[15] Equally important on a going forward basis, however, Microsoft should not be permitted to earn continuing returns based upon its illegally enhanced monopoly position. To do so would be to allow the company not only to retain the fruits of its illegal conduct in the past but to continue harvesting those fruits indefinitely.

III. The CIS and the PFJ: Flawed Analysis of a Flawed Remedy

DOJ and Microsoft prefer a PFJ which contains a number of restrictions on Microsoft's conduct on a going forward basis. The questions before the court are whether entry of the PFJ is consistent with the purpose and intent of the Sherman Act and, in addition, whether, under the APPA, it is consistent with the public into rest. To facilitate the court's deliberations on the latter issue, the APPA requires the DOJ to submit a CIS.[16] However, the CIS submitted in this proceeding contains virtually no analysis of either the PFJ or alternative remedies. It represents nothing more than a set of unsupported assertions, and accordingly should be given little deference by the court.

In this section, we briefly describe the main provisions of the PFJ. Next, we explain why the CIS fails to meet a reasonable standard of substantive analysis. Third, we provide some examples of shortcomings in the PFJ which would have been obvious had DOJ performed a more complete analysis in the CIS.

A. Major Provisions of the PFJ

As described in the CIS, the proposed PFJ contains seven major provisions. In brief summary, they are:

- OEMs would have the freedom to support and distribute non-Microsoft middleware products or operating systems without fear of retaliation by Microsoft.
- To help ensure against retaliation, Microsoft would be required to provide

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[13] 253 F 3d at 99–100, quoting (United States v. United Shoe Mach. Corp), 391 U.S. 244,250 (1968).

[14] CIS at 3.

[15] To truly be made whole, society would in addition need to be compensated for the benefits it lost due to the absence of competition in the intervening years, which is probably not possible.

[16] CIS at 3–4.

uniform licensing terms to the 20 largest computer manufacturers.

. Computer manufacturers would have the freedom to feature and promote non-Microsoft middleware and customize their computers to use non-Microsoft middleware as the default.

. Microsoft would be required to disclose the interfaces and technical information that its own middleware uses, so that ISVs can develop competitive middleware products.

. Microsoft would be required to disclose communications protocols necessary for server and Windows desktop operating system software to interoperate with each other.

. Microsoft would be prohibited from retaliating against ISVs or IHVs that develop or distribute software that compeles with Microsoft middleware or operating system software.

. Microsoft would be prohibited from entering into exclusive contracts concerning its middleware or operating system products.

The CIS claims that these provisions, and the supporting provisions pertaining to enforcement, "will eliminate Microsoft" illegal practices, prevent recurrence of the same or similar practices, and restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings." But the CIS presents virtually no analysis to support this claim.

B. The Competitive Impact Statement

The CIS does not meet the standards established by the APPA and does not provide sufficient analysis for this court to make an informed decision on whether the PFJ is in the public interest. Section 16(b)(3) of the APPA requires that the CIS include "an explanation of the proposal ... and the anticipated effects on competition of such relief" (Emphasis added.)

Section 16(b)(6) further requires "a description and evaluation of alternatives to such proposal actually considered by the United States." (Emphasis added). Under Section 16(e), the District Court is required to determine that the consent judgment is in the public interest and in making that determination "may consider...anticipated effects of alternative remedies...." Taken together, these provisions make clear that the CIS was intended by Congress to serve as a guide to the court in evaluating the proposed relief relative to other alternatives which might better serve the public interest, not simply as a pro forma set of claims and assertions. Yet the CIS in this case fails even to fully "explain," and certainly cannot be said to "evaluate," either the likely effects of either the PFJ or the available alternatives. Such an analysis would seem especially important in a fully-litigated Tunney Act case such as this one, where a prior finding of liability suggests a lower degree of deference to the PFJ than would otherwise be appropriate, and thus a higher burden on the court to evaluate alternatives.

How should the court evaluate the adequacy of the CIS? Three sets of criteria present themselves.

First, does the CIS satisfy the plain language of the statute? Second, how does it compare with previous CIS's in similarly significant cases? Third, how does it compare with the standards of analysis that are required to be performed in similar situations, such as agency rulemakings? This CIS fails all three standards.

First, does the CIS satisfy the plain language of the statute? It depends on how the words "explain," mad "evaluate" are defined. To defend successfully the plain-language adequacy of the CIS, the DOJ would have to adopt a very narrow interpretation of both words. Granted, the CIS devotes 43 pages[17] to reciting and, DOJ presumably would argue, "explaining" the provisions or the PFJ. What the CIS does not do at any point, however, is explain "the anticipated effects [of the PFJ] on competition."

The semantic sleight of-hand upon which DOJ relies to avoid this obligation is found on page 24 of the CIS. There, DOJ reminds us that "Restoring competition is the 'key to the whole question of an antitrust remedy," du Pout, 366 U.S. at 326." Then it continues with a clever subterfuge: "Competition was injured in this case principally because Microsoft's illegal conduct maintained the applications barrier to entry....Thus, the key to the proper remedy in this ease is to end Microsoft's restrictions on potentially threatening middleware...."[18] (Emphasis added.)

There, in the word "thus," lies the sum and the entirety of the CIS's explanation of the connection between the PFJ and its anticipated effects on competition. For as explained in more detail below, it is hardly obvious, indeed, it is highly unlikely, that simply ending Microsoft's illegal restrictions on middleware would have any significant effect on competition on a going forward basis. Even in these semantically troubled times, we submit, the word "thus" cannot be taken as the "explanation" the law requires.

But the CIS's discussion of the PFJ must be counted ,an analytical masterpiece when compared with its treatment of alternative remedies. In contrast to the lengthy, if failed, treatment accorded the PFJ, the CIS attempts its "evaluation of alternatives" in three pages. Not surprisingly, given its brevity, the analysis is limited in how much light it can shed on the DOJ's decisionmaking process or the relative merits of the alternatives before the court. With respect to structural remedies, for example, the evaluation consists of 49 words: "After remand to the District Court, the United States informed the court and Microsoft that it had decided, in light of the Court of Appeals opinion and the need to obtain prompt, certain and effective relief, that it would not further seek a breakup of Microsoft into two businesses."[19] Receiving even less attention are six other remedy alternatives, which are summarily dismissed in a single paragraph, and an unknown number of "others received or conceived" which, in apparent direct violation of the APPA, are not even described.[20] There simply is no semantic standard by which this treatment of the alternative remedies can possibly be considered "an evaluation."

In summary, the CIS submitted by the DOJ in this case fails the first test the court should apply: It does not fulfill the plain language requirements or either Section 16(b)(3) or Section 16(b)(6) of the APPA.

Any effort the DOJ may make to defend the CIS would be on firmer ground if it could argue it is simply following past practice. While we believe, as suggested above, that the CIS in this case should be held to a higher standard than in cases where the issues have not been fully litigated and a finding of liability has not been entered, at least the DOJ could claim it was adhering to precedent. Even by the standards of past cases, however, this CIS falls far short.

Of course, Tunney Act cases vary in significance and complexity. The best standard for comparison for this case would appear to be the CIS filed in the AT&T case in 1982."[21] In that case as in this one, DOJ was tasked with explaining and evaluating a Proposed Final Judgment aimed at resolving a continuing series of complex antitrust actions affecting one of the most important sectors, and companies, in the U.S. economy.

The AT&T CIS differs markedly from the CIS in this proceeding both in its explanation of the competitive effects and in its evaluation of alternative remedies. Section III of the AT&T CIS[22] presents a comprehensive explanation of the proposed remedy and its anticipated effects on competition. Indeed, in stark contrast to the CIS in this case, the AT&T CIS contains, in Section III.E, an extensive discussion specifically detailing "The Competitive Impact of the Proposed Modification." The section is a lengthy one, explaining in detail how each provision of the proposed remedy is expected to affect competition on a going forward basis, beginning as follows:

> Put in simplest terms, the functional divestiture contemplated by the proposed modification will remove from AT&T the power to employ local exchange services in ways that impede competition in interdependent markets, and will remove from the Bell Operating Companies ("BOCs"), which will retain such power, any incentive to exercise it. The United States believes, therefore, that the modification% divestiture requirement, and its complementary injunctive provisions, will substantially accelerate the development of competitive markets for interexchange services, customer premises equipment, and telecommunications equipment generally.[23]

The ensuing pages present a careful analysis of why the government believes this to be the case and what the precise impacts on competition are likely to be. The proposed remedy will "accelerate the emergence of competition in interexchange services,"[24] "prevent the reemergence of the ... incentive and ability to leverage regulated monopoly power into the customer premises equipment market,"[25] make AT&T "subject to competition in all of its services,"[26] "remove the source of AT&T's monopoly power ,and its ability to leverage monopoly power into related markets,"[27] and "prevent the creation anew of incentives and abilities in the BOCs to use their monopoly power to undercut rivals in competitive markets."[28] There is every reason to believe that, divested of the BOCs, AT&T wilt be a procompetitive force in the markets that it enters. As a result of the modification, it is likely that AT&T will expand not only its product lines, but also the areas in which it sells telecommunications equipment."[29]

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[17] CIS, 17–60.

[18] CIS at 24.

[19] CIS at 61.

[20] CIS at 63.

[21] United States v. Western Electric Company, Inc. and American Telephone & Telegraph Company, Competitive Impact Statement (February 17, 1982), 47 FR. 7170–01. (Hereafter AT&T CIS). Of course, unlike this case, the PFJ in the AT&T case was entered prior to any finding of liability.

[22] AT&T CIS at 7173–7180.

[23] AT&T CIS at 7178.

[24] AT&T CIS at 7178.

The authors have searched in vain, as will the court, for any similar explanation in the Microsoft CIS. As a procedural matter, the absence of such explanations flies in the face of the APPA. As a substantive one, it strongly suggests such statements are lacking for the simple reason that they are not justified by the remedy Microsoft and the DOJ are asking the court to adopt.

The AT&T CIS also differs from the one in this case in its treatment of" alternative remedies.

The AT&T CIS appears to meet the requirements of the APPA by describing in some detail the alternative remedies considered and evaluating their likely impacts" on competition relative to those expected from the one proposed. "The United States believes," it concludes, "that the [main alternative] did not approach even remotely the effectiveness of the proposed modification in achieving conditions that would assure full competition in the telecommunications industry."[31] Again, such evaluative language is simply absent from the CIS in this case. And again, one cannot help but conclude that, had today's DOJ conducted the same careful analysis as that conducted 20 years ago, it might well have reached different conclusions in the current case.

In summary, then, the CIS not only fails the satisfy the plain language of the APPA, but also fails to meet the standard established by DOJ for a CIS in the most directly analogous case. The third criteria by which the court should evaluate the sufficiency of the CIS is whether it meets the standards of analysis that are required to be performed in similar situations, the most obvious of which is agency rulemakings.

For at least the last 20 years, agencies have been required to undertake a detailed regulatory impact analysis when they propose major regulatory actions. Under E.O. 12291 (in effect during the Reagan and Bush Administrations), and E.O. 12866 (issued by President Clinton and still in effect), government agencies have been expected to prepare a detailed analysis of the expected benefits and costs of major regulatory proposals and alternatives to them.[32] While the PFJ is technically not a regulation that would fall under E.O. 12866, the magnitude of its impact far exceeds the $100 million threshold that defines a "major rule" and thus triggers the requirement for a detailed analysis.

The analysis of regulatory interventions in the economy, which is what the PFJ in this case is, is not a black art. Increasingly, and on the basis of more than two decades of performing such analyses of all major rules, regulatory analysis has become a scientific process comprised of distinct steps and containing specific elements. E.O. 12866, for example, lays out specific criteria such analyses should meet, including: "(i) An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets ....) together with, to the extent feasible, a quantification of those benefits; (ii) An assessment, including the underlying analysis, of costs anticipated from the regulatory action ... together with, to the extent feasible, a quantification of those costs; and (iii) An assessment including the underlying analysis, of the costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation...."

The specific analytical techniques to be used in such evaluations are further described in guidance from the Office of Management and Budget issued January 11, 1996,[33] and reiterated most recently by OMB on June 19, 2001."[34] These guidelines require agencies, before issuing any major regulation, to take into account such issues as whether more "performance oriented" approaches are possible, the impact of alternative levels of stringency mad effective dates, and alternative methods of ensuring compliance, and to perform evaluations that take into account "discounting," "risk and uncertainty," and "non-monetized benefits and costs." Each analysis, the guidance demands, must "provide information allowing decisionmakers to determine that: There is adequate information indicating the need for and consequences of the proposed action; The potential benefits to society justify the potential costs ...; The proposed action will maximize the net benefits to society...; [and] .... Agency decisions are based on the best reasonably available scientific, technical, economic, and other information."

The requirements of the APPA with respect to Competitive Impact Statements are, of course, far less specific than those listed above. Bat the purpose of the APPA in requiring a CIS is presumably similar to the purpose of regulatory analyses: To allow decisionmakers, in this case the court, to understand the ramifications of their actions relative to alternative choices. By the standards of modern policy analysis, DOJ's CIS fails to perform this function at the level the court should expect, especially in a case of this magnitude.

To repeat what we asserted at the outset of this section, the court might evaluate the CIS in this case by three standards: First, does the C1S satisfy the plain language of the statute? Second, how does it compare with previous CIS's in similarly significant cases? Third, how does it compare with the standards of analysis that are required to be performed in similar situations, such as agency rulemakings? This C1S Pails ale three standards.

C. The PFJ Will Not Have Its Claimed Effect, Nor Any Pro-Competitive Effect

In fact, a close reading of the language of the PFJ indicates that it will not do what the DOJ claims. Moreover, even if DOJ's claims are taken at face value, the PFJ will not have its intended effect because of the realities of the marketplace. Indeed, this is the only conclusion that can be reached based upon a real analysis of the "competitive impact" of the PFJ, which is to say an analysis of how, if at all, the provisions of the PFJ will change the behavior of participants in the marketplace.

Other commentators will undoubtedly thoroughly catalogue the loopholes in the PFJ, of which there are many, and it is not our intention to do so here. It is, however, illustrative of the defects of the PFJ to analyze it through the lens of the Netscape browser experience, since so much of Microsoft's liability concerns its actions toward the Netscape browser. Accordingly, much of the PFJ is directed at precluding the type of anticompetitive acts that Microsoft undertook against Netscape (even though the browser war is over and the industry has now moved on to a different stage). But, the PFJ does not even succeed in this minimal goal—of creating the conditions under which the Netscape browser could have competed without being subject to Microsoft's exclusionary practices. Indeed, the PFJ specifically permits many of the exclusionary practices in which Microsoft engaged:

. Section III.A of the PFJ is supposed to protect OEMs from retaliation by Microsoft if they distribute non-Microsoft products. However, the language of Section III.A prohibits Microsoft from retaliating against an OEM for "developing, distributing, promoting, using, selling, or licensing any software that competes with Microsoft Platform Software or any product or service that distributes or promotes any Non-Microsoft Middleware." (Emphasis added). (Microsoft Platform Software is defined as including (i) a Windows Operating System Product and/or (ii) a Microsoft Middleware Product,) While the Netscape browser was a potential competitor for the Microsoft operating system, it never became an actual competitor. Morcover, at the time Netscape introduced its browser, Microsoft did not have a comparable Middleware Product. Thus, the language of III.A would have permitted Microsoft to retaliate against OEMs for distributing the Netscape browser at the time it was introduced.

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[25] AT&T CIS at 7179.

[26] AT&T CIS at 7179.

[27] AT&T CIS at 7179.

[28] AT&T CIS at 7179.

[29] AT&T CIS at 7179.

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[32] See E.O. 12291 (February 17, 1981) and E.O. 12866 (September 30, 1993).

[33] Office of Management and Budget, Economic Analysis of Federal Regulations Under Executive Order 12866 (January 11, 1996)(available at www.whitehouse.gov/omb/inforeg/riaguide.html).

[34] Office of Management and Budget, Memorandum for the Beads of Executive Departments and Agencies: Improving Regulatory Impact Analyses (June 19, 2001)(available at www.whitehouse.gov.omb/memoranda/m01–23.html)

. Similarly, Section III.F.1 prohibits Microsoft from retaliating against any ISV or IHV for "developing, using, distributing, promoting or supporting any software that competes with Microsoft Platform Software or any software that runs on any software that competes with Microsoft Platform Software...." (Emphasis added). The prohibitions in Section III.F.2 on Microsoft's relations with ISVs are also triggered by software that "competes with Microsoft Platform Software", which the Netscape browser did not initially do.

. Section III.G.2 is intended to prevent similar exclusionary behavior with respect to IAPs and ICPs, by prohibiting Microsoft from entering into any agreement with "any IAP or ICP that grants placement on the desktop or elsewhere ... on the condition that the IAP or ICP refrain from distributing, promoting or using any software that competes with Microsoft Middleware." (Emphasis added). Again, Netscape's browser was a new product that did not compete with any Microsoft product at the time it was introduced.

. Section III.C is intended to prevent restrictive agreements with OEMs by, for example, preventing Microsoft from restricting the ability of its OEM licensees from "[l]aunching automatically ...any Non-Microsoft Middleware if a Microsoft Middleware Product that provides similar functionality would otherwise be launched ...." (See Section III.C.3, emphasis added). Under this language, Microsoft can preclude its OEM licensees from permitting the automatic launch of a new product if Microsoft does not have a similar product or if the Microsoft product does not have "similar functionality" (obviously, a term open to interpretation). Again, when the Netscape browser was launched, Microsoft did not have a similar product.

. Section III.D is intended to preclude Microsoft from excluding rival products by denying them the technical information they need to interoperate with the Windows operating systems. It requires Microsoft to "disclose to ISVs, IHVs, IAPs, ICPs, and OEMs, for the sole purpose of interoperating with a Windows Operating System Product ... the APIs and related Documentation that arc used by Microsoft Middleware to interoperate with a Windows Operating System Product." (Emphasis added). If, however, Microsoft does not produce an analogous product, it might not use the APIs needed for a new application, such as the Netscape browser, to get started.

. Section III H contains a variety of provisions designed to enable choice of Non-Microsoft Middleware Products on the part of users and OEMs. The PFJ explicitly states, however, that "Microsoft's obligations under this Section III.H as to any new Windows Operating System Product shall be determined based on the Microsoft Middleware Products which exist seven months prior to the last beta test version (i.e., the one immediately preceding the first release candidate) of that Windows Operating System Product." At the time the Netscape browser was introduced, there was no comparable Microsoft Middleware Product.

. Finally, Non-Microsoft Middleware Products arc defined to include products "of which at least one million copies were distributed in the United States within the previous year." (Section VI.N). Thus, regardless of any of the other provisions, the PFJ permits exclusionary behavior against new products that arc trying to get established.

In sum, under the provisions of the PFJ Microsoft would have been permitted to engage in anticompetitive practices against the Netscape browser because the browser did not compete against the Windows operating system and because Microsoft did not at the outset have a comparable product. Moreover, at least in the early stages, the Netscape browser would not have been covered because a million copies had not been distributed in a single year. The DOJ obviously feels that the fabled entrepreneurs of Silicon Valley, working in their garages, are not worthy of protection against Microsoft under the PFJ. It is especially ironic that Microsoft, which has dedicated so much rhetoric to persuading the courts and the public that its monopoly could be overturned at any moment by the proverbial entrepreneur working out of her garage, should seek to preserve the right to squash precisely such competitive threats.

More broadly, the requirement that Microsoft have a comparable product in order to trigger some of the PFJ's provisions creates perverse incentives. It may discourage Microsoft from introducing its own product, because to do so triggers provisions restricting its ability to exclude a potential competitor. The result could be that consumers would be deprived entirely of a useful middleware product that might potentially compete with the Windows operating system, because Microsoft is able to engage in exclusionary practices against another firm and does not find it in its interest to introduce its own product.

But the PFJ is flawed at an even deeper level: Even if it did what DOJ and Microsoft say it would, its effect on firms that operate in Microsoft's markets and its ability to restore competition in those markets would be minimal at most. Most of the PFJ is intended to prevent Microsoft from retaliating against OEMs, ISVs, IAPs and others that distribute, develop or otherwise support software that competes with Microsoft middleware. Under the terms of the PFJ, however, these entities would have little incentive to promote competitive middleware. This is principally because, despite the Appeals Court ruling that Microsoft's integration of the browser and the operating system was anticompetitive, the PFJ would allow Microsoft to continue to bundle its middleware (and other) products with its operating system. Indeed, Microsoft's new XP software incorporates new functionality into the Windows operating system as never before. It includes, among other things, the IE browser, Microsoft's instant messaging and email software, Windows Media Player and the Microsoft Passport digital authentication software. All of these functions are bundled together and the combined package is sold at a fixed price.

Thus, OEMs have virtually no incentive to customize their offerings with non-Microsoft software. To do so involves an additional cost for the non-Microsoft software when comparable functionality is provided by Microsoft at no additional cost. An OEM that did this would have to pass these added costs on to its customers and would likely lose sales to other OEMs. Obviously, if OEMs don't have the incentive to install non-Microsoft software, ISVs won't have the incentive to develop it and IAPs won't have the incentive to distribute it.

As a result, the PFJ will not have any significant pro-competitive impact in the markets for either middleware or PC operating systems. Nor, for the same reasons, is it likely to have any significant pro-competitive impact on newly emerging markets, such as voice-over-IP instant messaging, game boxes, e-commerce technologies (e.g., "Passport") or digital rights management technologies. Indeed, the inability to make any plausible claims for such pro-competitive effects is the most likely explanation for the fact that, in contrast to the AT&T CIS, the CIS in this case doesn't make any.

IV. The Remedy Alternatives

There are two general classes of remedies that can be employed to remedy Microsoft's antitrust violations—conduct remedies and structural remedies. Conduct remedies leave Microsoft intact and attempt to constrain its anticompetitive behavior by imposing a set of behavioral requirements-essentially, a regulatory regime tailor-made for one firm. Microsoft's structure—and, importantly, its incentives—remain largely the same.[35] The challenge is to develop rules that effectively deter anticompetitive behavior, given that such behavior might continue to be in Microsoft's interest. The PFJ, which relies on conduct remedies, will not be effective in deterring anticompetitive behavior on the part of Microsoft.

Structural relief takes a different approach. Structural relief, as the name implies, involves restructuring the firm so as. to change its incentives and ability to act anticompetitively. As DOJ explained eloquently in the AT&T CIS, if a restructuring is successful in achieving those goals, behavioral restrictions are largely unnecessary. The Appeals Court noted that structural relief is a common form of relief in ,antitrust cases and is "the most important of antitrust remedies."[36]

In this section, we describe the alternative structural remedies available to the court. Then we offer an evaluation of the proposals offered by the remaining litigating states.

A. Alternative Structural Remedies

At the government's urging, the District Court initially adopted a structural remedy, supplemented by interim conduct relief.[37] The Appeals Court vacated the District Court's remedy, partly because it modified the District Court's liability finding and partly because the District Court had failed to hold an evidentiary hearing.[38] The Appeals Court did not, however, rule out a structural solution to this case. The Court directed that "the District Court also should consider whether plaintiffs have established a sufficient causal connection between Microsoft's anticompetitive conduct and its dominant position in the OS market."[39] It continued, "[i]f the court on remand is unconvinced of the causal connection between Microsoft's exclusionary conduct and the company's position in the OS market, it may well conclude that divestiture is not an appropriate remedy."[40] This is an issue that should be explored in an evidentiary hearing. While it is difficult to predict exactly how the industry would have developed in the absence of Microsoft's anticompetitive behavior, it is likely that an alternative to Microsoft's operating-system platform would have emerged and it is a virtual certainty that Microsoft's position would be far less dominant than it is today. Clearly, Microsoft thought that was a distinct possibility.

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[35] Microsoft's incentives would be modified to the extent it faces legal penalties, but those penalties would have to be very large to have a significant effect on Microsoft's incentives.

[36] 253 F 3d at 103, quoting United States v,. E.I. du Pont de Nemours & Co., 366 U.S. 316, 331 (1961).

[37] United States v. Microsoft Corp., 97 F Supp-2d. (DCCirc. 2000) "Final Judgement".

The causation between Microsoft's anticompetitive practices and its operating system monopoly runs both ways. Without its monopoly, Microsoft would have been unable to engage in the exclusionary practices documented by the District Court and affirmed by the Appeals Court. Moreover, because of the wide array of business practices at issue and the complexity of the industry, it is very difficult to fashion a conduct relief regime that will be effective if Microsoft retains its dominant market position. This is why the Department of Justice (initially) and others (including ourselves) favor a structural solution. Two different forms of structural solution have been proposed, which we review in turn.

The DOJ initially proposed, and the District Court initially ordered, a vertical divestiture, which would divide Microsoft along product tines, into an operating systems company and an applications company.[41] The DOJ argued that this remedy would create two powerful companies that would have the incentive to compete with each other, diminishing the market power of both. According to Timothy Bresnahan, Chief Economist at the Antitrust Division at the time, "divestiture of the company into an applications and an operating system company restores competitive conditions very like those destroyed by the anticompetitive acts, Absent the anticompetitive acts, Microsoft would have lost the browser war, and other firms would have commercialized useful technologies now controlled by Microsoft. Divided technical leadership, which could be accomplished by having an independent browser company in the late 1990s or an applications company now, lowers barriers to entry and competition in many markets. It was exactly this route to an increase in competition that Microsoft avoided by its anticompetitive acts. Second, ending Microsoft's unique position in the industry offers innovative new technologies the choice of two mass-market distribution partners, either Appsco [the applications company] or OSCo [the operating system company]. The divestiture will do much to reduce the motive to violate and also to reduce the effectiveness of future anticompetitive acts. It restores conditions for competitive innovation at a moment in technology history [i.e., when the Internet is starting to be commercialized] when having a single firm set the direction of innovation in PC and end-user oriented internet markets is most unwise,"[42]

Similarly, the Department of Justice, in initially proposing this remedy, argued that separating the operating system from the applications company would "reduce the entry barriers that Microsoft's illegal conduct erected and make it less likely that Microsoft [would] have the incentive or ability to increase them in the future."[43] An independent applications company would have every incentive to support competitors to Windows rather than make decisions based on the level of threat those competitors pose to Microsoft.[44] A separate applications company would have appropriate incentives to port its products to competing operating systems, such as Linux. thereby lowering the applications barrier to entry that potential competitors face. Currently, Microsoft has an incentive to strategically withhold applications from actual or potential competitors, even if providing them would otherwise be economically justified. In addition, the applications company would have the incentive to make its tools available to Independent Software Vendors (ISVs) that cooperate with competing operating system providers.

Separate operating system and applications companies would make it possible for middleware technologies in the applications company to be competitive with Windows. When applications are written to middleware technologies, like the Netscape browser, which operate between the applications software and the operating system, they become operating system-neutral,[45] reducing the applications barrier to entry and facilitating competition with Windows. There are several desktop applications, including Microsoft Office, that expose APIs and could become important middleware technologies.

Of course, a vertical divesture now would have a somewhat different effect than when it was first adopted by the District Court, because Microsoft has bundled many more applications into its new XP operating system. If the District Court again decided to adopt this remedy, it would also have to decide whether to require Microsoft to remove some applications functionality from its XP operating system or permit it to remain as is. If the XP operating system were allowed to remain as is, applications that would previously have been part of the applications company would be part of" the operating system company. However, significant applications—principally, Microsoft Office—still remain separate from the operating system.

The alternative to a vertical approach is what we term a "hybrid" structural remedy, which combines both vertical and horizontal elements. A purely horizontal divestiture would divide Microsoft into several vertically integrated companies, each with full rights to Microsoft's intellectual property, creating several sellers of Windows as well as Microsoft's other software products. This remedy arguably goes beyond what is necessary or could be justified as matter of law, since it divides up products that were not the subject of the case.

A number of commentators, including Dr. Lenard, have proposed a "hybrid" remedy, which has elements of both vertical and horizontal divestiture.[46] It goes a step beyond the vertical divestiture remedy that the District Court adopted by first separating the operating systems company from the applications company and then creating three equivalent operating system companies.

Microsoft's bundling of more applications functionality into the new XP operating system strengthens the arguments for the hybrid remedy relative to other remedies. The PFJ (as discussed above) does not contain any restrictions on bundling, which will hinder its effectiveness dramatically, in addition, as more applications are moved into the operating system, the vertical divestiture becomes less able to restore the competitive balance, because the newly formed applications company would be a less powerful competitor.

By creating competing Windows companies, the hybrid remedy directly addresses the monopoly problem, which is the source of Microsoft's anticompetitive behavior. As indicated above, without the monopoly, Microsoft would never have been able to exclude the Netscape browser from the most effective means of distribution—OEMs and IAPs. It would not, for example, have been able to get the OEMs to refrain from pre-installing the Netscape browser as a condition for receiving a Windows license. Similarly, Microsoft would not have been able to extinguish the market for a competing browser by bundling the Windows operating system with IE. Microsoft would not have been able to do these things—which are at the core of the Appeals Court's liability finding—because the OEMs and the IAPs would have had competitive alternatives to which they could turn.

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[38] 253 F 3d at 6.

[39] 253 F 3d at 105.

[40] 253 F 3d at 105–6..

[41] Final Judgement at 2.

[42] Timonthy F. Bresnahan, "The Right Remedy," at 1, (available at www.stanford.edu/tbres/microsoft/The Right Remedy.pdf).

[43] Plantiffs" Memorandom in support of Proposed Final Judgement at 30–43, Microsoft (No. 98–1232), available at http://www.usdoj.gov/atr/cases/f4600/4640.htm.

[44] United States v. Microsoft Corp., 147 F 3d 935 (DCCirc. 1998) Romer Declaration # 4, (hereafter Romer).

[45] Romer at 13.

[46] See Thomas M. Lenard, Creating Competition in the Market for Operating Systems." A Structural Remedy]'or Microsoft, (Washington: Progress & Freedom Foundation, 2000) http://www.pff.org/remedies/htm; Remedies Brief of Amici Curiae Robert E. Litan et al., 2000; Thomas M. Lenard, "Creating Competition in the Market for Operating Systems: Alternative Structural Remedies in the Microsoft Case," George Mason Law Review, Vol. 9., Spring 2001.

The hybrid remedy would eliminate the applications barrier to entry for the new Windows companies and deprive Microsoft of its ability to leverage its desktop monopoly into new markets. Because it really does restore competition, extensive behavioral restrictions are not required, making this the least regulatory of the available alternatives.

The hybrid remedy is to a significant extent an "intellectual property" remedy, requiring Microsoft to grant full intellectual property rights to its Windows Operating System to two new companies. This type of remedy is particularly suited to "new-economy" companies like Microsoft, whose assets consist primarily of informational capital, which can easily be replicated. [47] The rationale for going further and dividing up employees is that much of the intellectual property is embodied in the employees.[48] In contrast to traditional "old-economy" companies, however, there is very little physical capital to be divided up.

This factor should alleviate some of the concerns expressed in the Appeals Court opinion about the use of a structural remedy in tile case of a "unitary company"—i.e., a company not formed by mergers and acquisitions.[49] Such concerns bare more validity in the case of old-economy companies, because of the difficulty of dividing up physical capital. What is being proposed in the hybrid remedy is much closer to a reproduction than it is to a division of the company's assets. When those assets consist primarily of information, they can be reproduced at very low cost.

B. The Litigating States Proposal

We believe a structural remedy continues to offer the best hope of deterring Microsoft's anticompetitive behavior in a way that is not overly regulatory. If, however, a structural remedy is off the table, the conduct remedy proposed by the Litigating States (LS) is far better than the PFJ. The LS Proposal does not contain the obvious loopholes and exceptions that are pervasive in the PFJ. Moreover, the LS Proposal includes a number of provisions that can partially restore competition to what it might have been absent the anticompetitive behavior. Because it will change the behavior of the participants in the market, the LS Proposal provides a serious remedy to Microsoft's offenses. Some of the attractive features of the LS proposal are as follows:

. In contrast to the PFJ, the LS Proposal contains: prohibitions on exclusionary and retaliatory behavior that are clear and unambiguous and mean what they purport to mean. In general, they provide meaningful protection against retaliation for the development and distribution of non-Microsoft software.

. The LS Proposal would require Microsoft to license an unbundled version of its software. As discussed above, the bundling of applications together with the monopoly operating system makes it uneconomic in most cases to develop and distribute software that competes with Microsoft. This requirement would address that problem and create an environment in which rival software can be developed.

. The LS Proposal would require Microsoft to license its software to third parties (not just OEMs) who could produce a customized product that would enlarge the range of consumer choice and provide competition for Microsoft.

. The proposal also would require Microsoft to continue to license predecessor versions of Windows. This would permit OEMs to expand the range of consumer choice by providing a lower-priced operating-system product that might be perfectly satisfactory for a large number of users. In addition, it would permit OEMs and third parties to continue to develop a differentiated product that might be competitive with Microsoft.

. The LS Proposal would require Microsoft to make IE available on an open-source basis, and would require Microsoft to distribute Java, thereby partially reversing same of the effects of Microsoft's illegal activities

. Finally, the LS Proposal would require Microsoft %0 auction to a third party the right to port Microsoft Office to competing operating systems." This would reduce the applications barrier to entry for a competing operating system, such as Linux. All of these aspects of the LS Proposal would add significantly to the probability that the remedy in this case would actually have the desired effect of increasing competition in one or more of the relevant product markets.

V. Conclusion

The PFJ is not an adequate remedy and its adoption is not in the public interest. It will not deter Microsoft from engaging in anticompetitive activities and it will not restore competition in this extremely important sector of the economy. Moreover, the CIS that the government has prepared does not provide the information necessary for the District Court to determine that the PFJ is in the public interest.

In order to generate the necessary information for such a determination, the District Court should hold an evidentiary hearing in which the competitive impacts, benefits and costs of all the available remedies are closely evaluated. In addition to the PFJ, the Court should consider structural remedies—which appear to be justified under the criteria established by the Court or Appeals—as well as the LS Proposal. We believe that at the end of this process, the court will agree that the PFJ is not in the public interest and that the "hybrid" structural remedy we recommend best meets all the of the criteria governing the court's deliberations in this matter.

MTC-00030607

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA,))
Plaintiff,))
v.) Civil Action No. 98–1232 (CKK))
MICROSOFT CORPORATION,))
Defendant.))) —————————————
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STATE OF NEW YORK, et al.,))
Plaintiffs,))
v.)Civil Action No. 98–1233 (CKK))
MICROSOFT CORPORATION,))
Defendant.))

PLAINTIFF LITIGATING STATES" REMEDIAL PROPOSALS

Pursuant to this Court's Scheduling Order of September 28, 2001, Plaintiff States California, Connecticut, Florida, Iowa, Kansas, Massachusetts, Minnesota, Utah, West Virginia and the District of Columbia hereby submit their proposals for remedial relief in this matter.

Introduction

A unanimous en banc decision of the United States Court of Appeals for the District of Columbia Circuit affirmed the District Court's conclusion that Microsoft Corporation ("Microsoft") unlawfully maintained its monopoly power by suppressing emerging technologies that threatened to undermine its monopoly control of the personal computer operating system market. See United States v. Microsoft Corp., 253 F.3d 34 (DC Cir.), cert denied, 122 S. Ct. 350 (2001). The key to Microsoft's monopoly maintenance was the use of its monopoly power to enhance and maintain what the Court of Appeals called the "applications barrier to entry." Computer operating systems can compete successfully only if they provide a platform for the software applications that consumers want their computers to perform; but software developers naturally prefer to write applications for operating systems that already have a substantial consumer base. The applications barrier to entry, coupled with Microsoft's 90% plus market share, gave Microsoft the power to protect its "dominant operating system irrespective of quality" and to "stave off even superior new rivals." Id. at 56.

During the mid-1990s, Microsoft was confronted with a potential threat to the applications barrier to entry, and thus to its monopoly power, in the form of two new products, Netscape's Internet browser, known as Navigator, and Sun Microsystems" Java technologies. Recognizing the threat posed by these middleware products (i.e., software that can itself be a platform for applications development), Microsoft aggressively and unlawfully prevented these rivals from achieving the widespread distribution they needed to attract software development and ultimately make other platforms meaningful competitors with Microsoft's Windows operating system. The Court of Appeals catalogued an extensive list of anticompetitive, exclusionary acts by which Microsoft artificially bolstered the applications barrier to entry, including commingling the software code for its own middleware with that of its monopoly operating system, thereby eliminating distribution opportunities for competing middleware; threatening to withhold and withholding critical technical information from competing middleware providers, thereby allowing Microsoft middleware to obtain significant advantages over its rivals; threatening to withhold porting of critical Microsoft software applications and financial benefits from those who even considered aiding its rivals; contractually precluding OEMs and ultimately end-users from the opportunity to choose competitive software; and even deceiving software developers to conceal the fact that the software they were writing would be compatible only with Microsoft's platform.

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[47] Remedies Brief of Amici Curiae Robert E. Litan et al., 2000.

[48] Thomas M. Lenard, Creating Competition in the Market for Operating Systems: A Structural Remedy for Microsoft, (Washington,: Progress & Freedom Foundation, 2000) http://www.pff.org/remedies/htm.

[49] 253 F 3d at 103.

"The proper disposition of antitrust cases is obviously of great public importance, and their remedial phase, more often than not, is crucial. For the suit has been a futile exercise if the Government proves a violation but fails to secure a remedy adequate to redress it." United States v. E.I. du Pont de Nemours & Co., 366 U.S. 316, 323 (1961). As the Court of Appeals held, "a remedies decree in an antitrust case must seek to 'unfetter a market from anticompetitive conduct,' to 'terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future.'" Microsoft, 253 F.3d at 103 (quoting Ford Motor Co. v. United States, 405 U.S. 562, 577 (1972) and United States v. United Shoe Mach. Corp., 391 U.S. 244, 250 (1968)) (citation omitted).

Consistent with these principles, any remedy must prevent Microsoft from continuing the practices it used to artificially enhance and protect the applications barrier to entry—prohibiting, for example, the types of deals with third parties that cut off the critical channels of distribution needed by Microsoft's middleware competitors. A meaningful remedy must do more, however, than merely prohibit a recurrence of Microsoft's past misdeeds: (1) it must also seek to restore the competitive balance so that competing middleware developers and those who write applications based on that middleware are not unfairly handicapped in that competition by Microsoft's past exclusionary acts, and (2) it must be forward-looking with respect to technological and marketplace developments, so that today's emerging competitive threats are protected from the very anticompetitive conduct that Microsoft has so consistently and effectively employed in the past. Only then can the applications barrier to entry be reduced and much-needed competition be given a fair chance to emerge.

Specific Remedial Proposals

A. Unbinding Microsoft's Software

As part of its illegal effort to suppress forms of middleware that threatened to offer a competitive platform for software development, Microsoft commingled the software code for Internet Explorer with the code for its monopoly operating system. See Microsoft, 253 F.3d at 66. The Court of Appeals affirmed the District Court's findings that (1) the commingling of Internet Explorer with the Windows Operating System deterred computer manufacturers ("OEMs") from installing a rival browser such as Netscape Navigator, (2) Microsoft offered no specific or substantiated evidence to justify such commingling, and (3) "such commingling ha[d] an anticompetitive effect." Id.

To prevent further unlawful commingling of Internet Explorer with the Windows Operating System, and to prevent similar anticompetitive commingling of other rival middleware (such as multimedia viewing and/or listening software or electronic mail software), Microsoft must be required either to cease such commingling or to offer its operating system software on an unbundled basis:[1]

1. Restriction on Binding Microsoft Middleware Products to Windows Operating System Products. Microsoft shall not, in any Windows Operating System Product (excluding Windows 98 and Windows 98 SE) it distributes beginning six months after the date of entry of this Final Judgment, Bind any Microsoft Middleware Products to the Windows Operating System unless Microsoft also has available to license, upon the written request of each Covered OEM licensee or Third-Party Licensee that so specifies, and Microsoft supports both directly and indirectly, an otherwise identical version of the Windows Operating System Product that omits any combination of Microsoft Middleware Products as indicated by the licensee; further, Microsoft must take all necessary steps to ensure that such version operates effectively and without degradation absent the removed Microsoft Middleware Product(s). Microsoft shall not deny timely access to alpha and beta releases of Windows Operating System Products to any OEM or third party seeking to exercise any of the options or alternatives provided under this Final Judgment. Microsoft shall offer each version of the Windows Operating System Product that omits such Microsoft Middleware Product(s) at a reduced price (compared to the version that contains them). The reduction in price must equal the ratio of the development costs of each omitted Microsoft Middleware Product to the relative development costs of that version of the Windows Operating System Product (i.e., development costs incurred since the previous major release; and for the avoidance of doubt, the major release previous to Windows XP is Windows 2000), multiplied by the price of the version of the Windows Operating System Product that includes all such Microsoft Middleware Products. However, if any such Microsoft Middleware Product(s) is/are sold separately from the Operating System, and the price of the license(s) for those omitted unbound Microsoft Middleware Product(s) is greater than the result of the formula in the preceding sentence, then the amount of the reduction shall be equal to or greater than the price of such separate licenses.

B. Mandating Uniform and Non-Discriminatory Licensing

The District Court concluded that Microsoft provided significant additional consideration to OEMs who promoted Internet Explorer or curtailed distribution or "promotion of Netscape Navigator. See United States v. Microsoft Corp., 84 F. Supp. 2d 9, 67 (D.DC 1999). The Court of Appeals and the District Court both concluded that Microsoft also employed numerous restrictive license provisions to reduce distribution and usage of Netscape Navigator. 253 F.3d at 61. This restrictive and discriminatory contractual treatment of Microsoft licensees was a critical means of preventing rival middleware from receiving effective distribution in the important OEM channel.

Because Microsoft has monopoly power and thus typically licenses the overwhelming majority of the operating systems used by virtually every major OEM, Microsoft has the undeniable power to harm an OEM or any other third-party licensee, who wishes to distribute non-Microsoft middleware, by providing more favorable licensing terms to the recalcitrant OEM's or third-party licensee's competitors—i.e., those who promote or distribute Microsoft middleware. In order for competing middleware to have a chance to obtain distribution through the important OEM channel (and thereby achieve a degree of usage that would erode the applications barrier to entry), Microsoft must be required, at a minimum, (1) to offer uniform and non-discriminatory license terms to OEMs and other third-party licensees, and (2) to permit such licensees to customize Windows (including earlier versions of Windows) to include whatever Microsoft middleware or competing middleware the licensee wishes to sell to consumers. Moreover, Microsoft's obligation to license should not be restricted just to OEMs, but rather should include other third parties who also could repackage some or all of Windows with competing middleware and thereby offer software packages that are differentiated from and competitive with Microsoft's Windows:

2. Windows Operating System Licenses.

a. Mandatory, Uniform Licensing for Windows Operating System Products. Microsoft shall license, to Covered OEMs and Third-Party Licensees, Windows Operating System Products, including those versions made available for license pursuant to Section 1, pursuant to uniform license agreements with uniform terms and conditions. Microsoft shall not employ Market Development Allowances or other discounts, including special discounts based on involvement in development or any joint development process. Without limiting the preceding sentence, Microsoft shall charge each licensee the applicable royalty for the licensed product as set forth on a schedule, to be established by Microsoft and published on a web site accessible to Plaintiffs and all licensees, that provides for uniform royalties for each such product (which royalties shall in any case be consistent with the requirements of Section 1), except that:

i. the schedule may specify different royalties for different language versions; and

ii. the schedule may specify reasonable, uniform volume discounts to be offered on a non-discriminatory basis based upon the independently determined actual volume of total shipments of the licensed products (aggregating all Windows Operating System Products, including any versions made available for license pursuant to Section 1).

Microsoft shall not engage in any discriminatory enforcement of any license for a licensed Windows Operating System Product (including those versions of the Windows Operating System Product offered and licensed pursuant to Section 1) and shall not terminate any such license without good cause and in any case without having first given the Covered OEM or other Third-Party Licensee written notice of the reason for the proposed termination and not less than sixty days" opportunity to cure. Microsoft shall not enforce any provision in any Agreement with a Covered OEM or other Third-Party Licensee (including without limitation any cross-license) that is inconsistent with this Final Judgment.

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[1] The proposed text of the remedial order appears in italics throughout this document. The full text of the proposed remedial order is also attached at Exhibit A.

Microsoft shall not, by contract or otherwise, restrict the right of a Third Party Licensee to resell licenses to Windows Operating System Products (including those versions of the Windows Operating System Product offered and licensed pursuant to Section 1).

b. Equal Access. Microsoft shall afford all Covered OEM licensees and Third-Party Licensees equal access to licensing terms; discounts; technical, marketing, and sales support; support calls; product information; technical information; information about future plans; developer tools or developer support; hardware certification; and permission to display trademarks or logos. Notwithstanding the preceding sentence, Microsoft need not provide equal access to technical information and information about future plans for any bona fide joint development effort between Microsoft and a Covered OEM with respect to confidential matters solely within the scope of that joint effort.

c. OEM and Third-Party Licensee Flexibility in Product Configuration. Microsoft shall not restrict (by contract or otherwise, including but not limited to granting or withholding consideration) an OEM or Third-Party Licensee from modifying the BIOS, boot sequence, startup folder, smart folder (e.g., MyMusic or MyPhotos), links, internet connection wizard, desktop, preferences, favorites, start page, first screen, or other aspect of a Windows Operating System Product (including any aspect of any Middleware in that product). By way of example, and not limitation, an OEM or Third Party Licensee may:

i. include a registration sequence to obtain subscription or other information from the user or to provide information to the user;

ii. display and arrange icons or menu entries of, or short-cuts to, or otherwise feature, other products or services, regardless of the size or shape of such icons or features, or remove or modify the icons, folders, links, start menu entries, smart folder application or service menu entries, favorites, or other means of featuring Microsoft products or services;

iii. display any non-Microsoft desktop, provided that an icon or other means of access that allows the user to access the Windows desktop is also displayed, or display any other user interface;

iv. launch automatically any non-Microsoft Middleware, Operating System, application or service (including any security/authentication service), offer a non-Microsoft IAP or other start-up sequence, or offer an option to make or make non-Microsoft Middleware the Default Middleware; or remove the means of End-User Access for Microsoft Middleware Products; or remove the code for Microsoft Middleware Products; or

v. add non-Microsoft Middleware, applications or services.

3. Continued Licensing of Predecessor Version.

a. License and Support. Microsoft shall, when it makes a major Windows Operating System Product release (such as Windows 98, Windows 2000 Professional, Windows Me, Windows XP, "Longhorn," "Blackcomb," and all their successors), continue for five years after such release to license on the same terms and conditions and support both directly and indirectly the immediately previous Windows Operating System Product (including any unbound versions of that Operating System licensed under Section 1) to any OEM or Third-Party Licensee that desires such a license. In addition, Microsoft shall continue to license and support, both directly and indirectly, Windows 98 SE to any OEM or Third-Party Licensee that desires such a license, on the same terms and conditions as previously licensed, for three years from the date of entry of this Final Judgment.

b. Royalty Rate. The net royalty rate for the immediately previous Windows Operating System Product shall be no more than the lowest royalty paid by the OEM or Third-Party Licensee for such product prior to the release of the new version. The net royalty rate for Windows 98 SE shall be no more than the lowest royalty offered to that OEM or Third-Party Licensee for Windows 98 SE prior to December 7, 2001.

c. Marketing Freedom. The OEM or Third-Party Licensee shall be free to market Personal Computers in which it preinstalls such immediately previous Windows Operating System Product or Windows 98 SE in the same manner in which it markets Personal Computers preinstalled with other Microsoft Platform Software.

C. Mandatory Disclosure to Ensure Interoperability

The District Court found that Microsoft threatened to delay and did delay disclosing critical technical information to Netscape that was necessary for the Navigator browser to interoperate with the Windows 95 Operating System. Microsoft, 84 F. Supp. 2d at 32–33. This delay in turn substantially delayed the release of a version of the Navigator browser that was interoperable with Windows 95, causing Netscape to be excluded from most of the crucial holiday-selling season and giving Internet Explorer an unfair advantage in the market. Id. at 33. Moreover, the Court of Appeals upheld the District Court's finding that Microsoft illegally gave preferential treatment in terms of early release of technical information to Independent Software Vendors ("ISVs") that agreed to certain anticompetitive conditions, including using only Internet Explorer. Microsoft, 253 F.3d at 71.

In order to prevent future incidents in which Microsoft middleware developers receive preferential disclosure of technical information over rival middleware developers, thereby stifling the competitive threat posed by rival middleware, Microsoft must provide timely access to the technical information needed to permit rival middleware to achieve interoperability with Microsoft software so that such middleware may compete fairly with Microsoft middleware. Moreover, because nascent threats to Microsoft's monopoly operating system currently exist beyond the middleware platform resident on the same computer, timely disclosure of technical information must apply to facilitate not only interoperability between middleware and the monopoly operating system on the same computer, but also interoperability with respect to other technologies that could provide a significant competitive platform, including network servers, web servers and hand-held devices:

4. Disclosure of APIs, Communications Interfaces and Technical Information.

a. Interoperability Disclosure. Microsoft shall disclose to ISVs, IHVs, IAPs, ICPs, OEMs and Third-Party Licensees on an ongoing basis and in a Timely Manner, in whatever media Microsoft customarily disseminates such information to its own personnel, all APIs, Technical Information and Communications Interfaces that Microsoft employs to enable:

i. each Microsoft application to Interoperate with Microsoft Platform Software installed on the same Personal Computer;

ii. each Microsoft Middleware Product to Interoperate with Microsoft Platform Software installed on the same Personal Computer;

iii. each Microsoft software installed on one computer (including without limitation Personal Computers, servers, Handheld Computing Devices and set-top boxes) to Interoperate with Microsoft Platform Software installed on another computer (including without limitation Personal Computers, servers, Handheld Computing Devices and set-top boxes); and

iv. each Microsoft Platform Software to Interoperate with hardware on which it is installed.

b. Necessary Disclosure. Microsoft shall disclose to each OEM and Third-Party Licensee all APIs, Communications Interfaces and Technical Information necessary to permit them to fully exercise their rights under Section 2.c.

c. Compliance. To facilitate compliance, and monitoring of compliance, with this Section 4, Microsoft shall create a secure facility where qualified representatives of OEMs, ISVs, IHVs, IAPs, ICPs, and Third-Party Licensees shall be permitted to study, interrogate and interact with the source code and any related documentation and testing suites of Microsoft Platform Software for the purpose of enabling their products to Interoperate effectively with Microsoft Platform Software (including exercising any of the options in Section 2.c).

D. Prohibitions on Certain Licensing and Other Practices

The Court of Appeals affirmed the District Court's conclusion that Microsoft's licensing practices and/or other dealings with various third parties, including Internet Access

Providers ("IAPs"), Independent Software Vendors ("ISVs"), and rival operating system manufacturers, were similarly designed to stifle competition. Microsoft, 253 F.3d at 67. These dealings, when coupled with other Microsoft conduct designed to thwart or delay interoperability, confirm that Microsoft must also be prohibited from taking certain actions that could unfairly disadvantage its would-be competitors, whether by (a) knowingly interfering with the performance of their software with no advance warning, or (b) entering into certain types of contracts that could unreasonably foreclose competing middleware providers:

5. Notification of Knowing Interference with Performance. Microsoft shall not take any action that it knows, or reasonably should know, will directly or indirectly, interfere with or degrade the performance or compatibility of any non-Microsoft Middleware when interoperating with any Microsoft Platform Software other than for good cause. If Microsoft takes such action it must provide written notice to the ISV of such non-Microsoft software us soon as Microsoft has such knowledge but in no case less than 60 days in advance informing the ISV that Microsoft intends to take such action. The written notice shall state Microsoft's reasons for taking the action, and every way known to Microsoft for the ISV to avoid or reduce interference with, or the degrading of, the performance of the ISV's software.

6. Ban on Exclusive Dealing. Microsoft shall not enter into or enforce any Agreement in which a third party agrees, or is offered or granted consideration, to:

a. restrict its development, production, distribution, promotion or use of (including its freedom to set as a default), or payment for, any non-Microsoft product or service;

b. restrict Microsoft redistributable code from use with non-Microsoft Platform Software;

c. distribute, promote or use any Microsoft product or service exclusively or in a minimum percentage;

d. interfere with or degrade the performance of any non-Microsoft product or service; or

e. in the case of an agreement with an IAP or ICP, distribute, promote or use a Microsoft product or service in exchange for placement with respect to any aspect of a Microsoft Platform Product.

7. Ban on Contractual Tying. Microsoft shall not condition the granting of a Windows Operating System Product license, or the terms (including without limitation price) or administration of such license (including any license granted pursuant to Section 1), on a licensee agreeing to license, promote, distribute, or provide an access point to, any Microsoft Middleware Product.

E. Ban on Retaliation

The Court of Appeals and the District Court catalogued a variety of conduct by Microsoft that was designed to reward those who acceded to Microsoft's anticompetitive aims and punish those who did not. An effective remedy therefore must prevent Microsoft from taking adverse or other retaliatory or discriminatory actions against OEMs, other third-party licensees, ISVs, and others, who in any way develop, distribute, support or promote competing products. Microsoft must also be barred from any acts of retaliation against any individual or any entity as a result of their participation in any capacity in any phase of this litigation:

8. Ban on Adverse Actions for Supporting Competing Products. Microsoft shall not take or threaten any action that directly or indirectly adversely affects any IAP, ICP, IHV, ISV, OEM or Third-Party Licensee (including but not limited to giving or withholding any consideration such as licensing terms; discounts; technical, marketing, and sales support; enabling and integration programs; product information; technical information; information about future plans; developer tools or developer support; hardware certification; ability to install Synchronization Drivers; and permission to display trademarks or logos) based directly or indirectly, in whole or in part, on any actual or contemplated action by that IAP, ICP, IHV, ISV, OEM or Third-Party Licensee to:

a. use, distribute, promote, support, license, develop, set as a default, produce or sell any non-Microsoft product or service; or

b. exercise any of the options or alternatives provided under this Final Judgment.

9. Non-retaliation for Participation in Litigation. Microsoft shall not take or threaten to take any action adversely affecting any individual or entity that participated in any phase of the antitrust litigation initially styled as United States v. Microsoft, Civil Actions No. 98–1232 and State of New York v. Microsoft, Civil Action No. 98–1233, including but not limited to pretrial discovery and other proceedings before the liability trial, the liability trial, any of the remedy proceedings before this Court, any proceeding to enforce the Final Judgment or to investigate any alleged violation of the Final Judgment, and any proceeding to review or otherwise consider any settlement or resolution of this matter, based directly or indirectly, in whole or in part, on such individual or entity's participation as a fact witness, consultant or expert on behalf of any party, or on such individual or entity's cooperation in any form, whether by meeting, providing information or documents, or otherwise, with or to "any party in this litigation, or any counsel, expert or agent thereto or thereof.

F. Respect for OEM and End-User Choices

Microsoft engaged in various practices that were designed to coerce OEMs into setting Internet Explorer as the "default browser" on their computers. Microsoft, 84 F. Supp. 2d at 67–68. If competing middleware is to have a fair opportunity to gain distribution sufficient to erode the applications barrier to entry, OEMs and other third-party licensees, as well as end-user consumers, should be accorded the freedom to select a default middleware product other than a Microsoft middleware product. If applications software developers perceive that Microsoft, through its control of the operating system, is unfairly tilting end users to Microsoft applications, then they will be less inclined to develop the applications necessary to erode the entry barrier that preserves Microsoft's monopoly:

10. Respect for User, OEM and Third-Party Licensee Choices. Microsoft shall not, in any Windows Operating System Product distributed six or more months after the date of entry of this Final Judgment, make Microsoft Middleware the Default Middleware for any functionality unless the Windows Operating System Product (i) affords the OEM or Third-Party Licensee the ability to override Microsoft's choice of a Default Middleware and designate other Middleware the Default Middleware for that functionality, and (ii) affords the OEM, Third-Party Licensee or non-Microsoft Middleware the ability to allow the end user a reasonably accessible and neutrally presented choice to designate other Middleware as the Default Middleware in place of Microsoft Middleware. If the OEM, Third-Party Licensee, or end user has designated non-Microsoft Middleware as the Default Middleware for a functionality, the Windows Operating System Product (including updates thereto) or other Microsoft software or services shall not change the designation or prompt the user to change that designation (including by cautioning the end user against using the non-Microsoft Middleware). However, in the event that the end user has subsequently installed a Microsoft Middleware Product performing that functionality, the subsequently installed Microsoft Middleware Product may offer the end user a reasonably accessible and neutrally presented one-time choice to make that product the Default Middleware for that functionality.

G. Prohibition on Agreements Not to Compete

The Court of Appeals and the District Court found numerous instances in which Microsoft entered into agreements with OEMs, ISVs and others that stifled competition. In one particular instance, Microsoft proposed a "special relationship" with Netscape that, if consummated, would have effectively ended any potential competitive threat posed by the Navigator browser to the Windows Operating System. 84 F. Supp. 2d at 33. Given Microsoft's past conduct, a prohibition on offering or agreeing to limit competition with respect to Operating System Products or Middleware Products is necessary and appropriate:

11. Agreements Limiting Competition. Microsoft shall not offer, agree to provide, or provide any consideration to any actual or potential Platform Software competitor in exchange for such competitors agreeing to refrain or refraining in whole or in part from developing, licensing, promoting or distributing any Operating System Product or Middleware product competitive with any Windows Operating System Product or Microsoft Middleware Product.

H. Internet Browser Open-Source License

Much of the evidence during the trial concerned Microsoft's relentless campaign to drive down usage of Netscape's Navigator and push people instead to its own browser, Internet Explorer. Indeed, a substantial percentage of the acts reviewed by the Court of Appeals involved tactics designed to "reduce[] the usage share of rival browsers not by making Microsoft's own browser more attractive to consumers but, rather, by discouraging OEMs from distributing rival products." 253 F.3d 34, 65.

Eliminating Netscape and establishing Internet Explorer as the dominant browser was a critical component of Microsoft's monopoly maintenance strategy. Given that Microsoft's browser dominance was achieved to bolster the operating system monopoly, the remedial prescription must involve undoing that dominance to the extent it is still possible to do so. Accordingly, the appropriate solution is to mandate open source licensing for Internet Explorer, thereby ensuring at a minimum that others have full access to this critical platform and that Microsoft cannot benefit unduly from the browser dominance that it gained as part of its unlawful monopolization of the operating system market:

12. Internet Browser Open-Source License. Beginning three months after the date of entry of this Final Judgment, Microsoft shall disclose and license all source code for all Browser products and Browser functionality. In addition, during the remaining term of this Final Judgment, Microsoft shall be required to disclose and make available for license, both at the time of and subsequent to the first beta release (and in no event later than one hundred eighty (180) days prior to its commercial distribution of any Browser product or Browser functionality embedded in another product), all source code for Browser products and Browser functionality. As part of this disclosure, Microsoft shall identify, provide reasonable explanation of, and disseminate publicly a complete specification of all APIs, Communications Interfaces and Technical Information relating to the Interoperation of such Browser product(s) and/or functionality and each Microsoft Platform Software product. The aforementioned license shall grant a royalty-free, non-exclusive perpetual right on a non-discriminatory basis to make, use, modify and distribute without limitation products implementing or derived from Microsoft's source code, and a royalty-free, nonexclusive perpetual right on a non-discriminatory basis to use any Microsoft APIs, Communications Interfaces and Technical Information used or called by Microsoft's Browser products or Browser functionality not otherwise covered by this paragraph.

I. Mandatory Distribution of Java

Microsoft's destruction of the cross-platform threat posed by Sun's Java technology was a critical element of the unlawful monopoly maintenance violation affix-axed by the Court of Appeals. Microsoft continues to enjoy the benefits of its unlawful conduct, as Sun's Java technology does not provide the competitive threat today that it posed prior to Microsoft's campaign of anticompetitive conduct. Because an appropriate antitrust remedy decree should, among other things, attempt "to deny to the defendant the fruits of its statutory violation," Microsoft, 253 F.3d at 103 (quoting United States v. United Shoe Mach. Corp., 391 U. S. 244, 250 (1968)), Microsoft must be required to distribute Java with its platform soft-ware (i.e., its operating systems and Internet Explorer browser), thereby ensuring that Java receives the widespread distribution that it could have had absent Microsoft's unlawful behavior, and increasing the likelihood that Java can serve as a platform to reduce the applications barrier to entry:

13. Java Distribution. For a period of 10 years from the date of entry of the Final Judgment, Microsoft shall distribute free of charge, in binary form, with all copies of its Windows Operating System Product and Internet Browser (including significant upgrades) a competitively performing Windows-compatible version of the Java runtime environment (including Java Virtual Machine and class libraries) compliant with the latest Sun Microsystems Technology Compatibility Kit as delivered to Microsoft at least 90 days prior to Microsoft's commercial release of any such Windows Operating System Product. Microsoft must publicly announce the commercial release of its Windows Operating System Products (including significant upgrades) at least 120 days in advance.

J. Cross-Platform Porting of Office

The applications barrier to entry can be eroded only when consumers can obtain significant software application functionality from their computers through means other than Microsoft's monopoly operating system. Cross-platform software, such as middleware, would have permitted the porting of numerous important applications to operating systems other than Microsoft's Windows. To begin to erode the applications barrier to entry that was enhanced by Microsoft's unlawful behavior, and thereby begin to "pry open to competition a market that has been closed by defendants" illegal restraints," International Salt Co. v. United States, 332 U.S. 392, 401 (1947), Microsoft should be required to auction to a third party the right to port Microsoft Office to competing operating systems:

14. Mandatory Continued Porting of Office to Macintosh and Mandatory Licensing of Office for the Purpose of Porting to Other Operating Systems.

a. Continued Porting of Office to Macintosh. Microsoft shall port each new major release of Office to the Macintosh Operating System within 60 days of the date that such version becomes commercially available for use with a Windows Operating System Product, pursuant to the same terms and conditions under which it currently ports Office to Macintosh. The ported version shall operate at least as effectively as the previous ported version.

b. Auction of Licenses To Port. Within 60 days of entry of this Final Judgment, Microsoft shall offer for sale, at an auction administered by an independent third party, licenses to sell Office for use on Operating Systems other than Windows, without further royalty beyond the auction price. In conjunction with these licenses, Microsoft shall supply to the winning bidders all information and tools required to port Office to other Operating Systems, including but not limited to all compatibility testing suites used by Microsoft to port Office to the Macintosh Operating System, the source code for Office for Windows and Office for Macintosh (to be used for the purpose of such porting only), all technical information required to port Office to other Operating Systems (including but not limited to file formats), and all parts of the source code of the Windows Operating System Product necessary for the porting. At such auction, Microsoft shall offer" to sell at least three such licenses, as described in this Section 14.b, to three third parties not affiliated with either Microsoft or each other. The terms of such licenses shall become effective (and the relevant source code made available to the licensee) immediately upon their sale.

c. Provision of Necessary Information. As soon as practicable, but in no case later than 60 days prior to the date each new version of Office becomes commercially available for use with a Windows Operating System Product, Microsoft shall provide, to holders of the licenses issued pursuant to Section 14.b, the compatibility testing suites and source code necessary to enable porting of the new version of Office to other Operating Systems. The terms of such licenses shall become effective (and the relevant source code made available to the licensee) no later than the date on which the new version of Office becomes commercially available.

K. Intellectual Property Rights

For many of the provisions of the remedy to be effective, including but not limited to the disclosure provisions contained in Section 4, various 0EMs, ISVs and others must necessarily acquire certain intellectual property rights from Microsoft. Accordingly, it is appropriate for Microsoft to license to such third parties those intellectual property rights that are necessary for the effective implementation of this remedy proposal:

15. Necessary Intellectual Property License. Microsoft shall, within 20 days of request, license to IAPs, ICPs, IHV's, ISVs, OEMs and Third-Party Licensees all intellectual property rights owned or licensable by Microsoft that are required to exercise any of the options or alternatives provided or available to them under this Final Judgment (including without limitation enabling their product(s) to Interoperate effectively with Microsoft Platform Software), on the basis that:

a. the license shall be on a royalty-free basis and all other terms shall be reasonable and non-discriminatory;

b. the license shall not be conditional on the use of any Microsoft software, API, Communications Interface, Technical Information or service;

c. the scope of any such license (and the intellectual property rights licensed thereunder) must be as broad as necessary to ensure that the licensee is able to exercise the options or alternatives provided under this Final Judgment but shall not provide any unnecessary rights (e.g., an IAP's, ICP's, IHV's, ISV's, and OEM's option to promote Non-Microsoft Middleware shall not confer any rights to any Microsoft intellectual property rights infringed by that Non-Microsoft Middleware); and

d. the terms of any license granted under this section shall be in all respects consistent with the terms of this Final Judgment.

L. Adherence to Industry Standards

A common tactic in Microsoft's unlawful monopoly maintenance was the limitation on interoperability with potential competitors. This has been accomplished, on occasion, by co-opting and/or undermining the industry standards for software developers. Microsoft also purposely deceived software developers into believing that the Microsoft Java programming tools had cross-platform capability with Sun-based Java:

16. Adherence to Industry Standards.

a. Compliance With Standards. If Microsoft publicly claims that any of its products are compliant with any technical standard (“Standard9 that has been approved by, or has been submitted to and is under consideration by, any organization or group that sets standards (a “Standard-Setting Body”), it shall comply with that Standard. If Microsoft chooses to extend or modify the implementation of that Standard, Microsoft shall continue fully to implement the Standard (as that Standard may be modified from time to time by the Standard-Setting Body). Microsoft shall continue to implement the Standard until: (i) Microsoft publicly disclaims that it implements that Standard; or (ii) the Standard expires or is rescinded by the standard-setting body. However, Microsoft shall not be permitted to require third parties to use or adopt Microsoft's version of the Standard. To the extent Microsoft develops a proprietary version of a Standard, Microsoft's Operating Systems must continue to support non-proprietary, industry versions of such Standard.

b. Compliance With De Facto Standards. As to any Standard with which Microsoft is required to comply under the preceding paragraph, to the extent that industry custom and practice recognizes compliance with the Standard to include variations from the formal definition of that Standard (a “De Facto Standard”), Microsoft may discharge its obligations under this provision by complying with the de facto Standard provided that: (i) before doing so, Microsoft notifies Plaintiffs and the Special Master in writing of its intention to do so, and describes with reasonable particularity the variations included in the De Facto Standard; and (ii) Plaintiffs do not, within 30 days of receipt of such notice, object to Microsoft's intention to comply with the De Facto Standard.

M. Internal Compliance

Vigilant compliance is absolutely critical to any remedial program's effectiveness. The first prong of such compliance must be an active program of internal controls to ensure compliance, including the appointment of an internal January 28, 2002

Ms. Renata Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, N. W., Suite 1200
Washington, D. C. 20530

Re: United States v. Microsoft Corporation, Civil Action No. 98–1232 (CKK)
State of New York. ex tel. Attorney General Eliot Spitzer, et al. v. Microsoft Corporation, Civil
Action No. 98–1233 (CKK)

Dear Ms. Hesse:

I am writing on behalf of the states of California, Connecticut, Florida, Iowa, Kansas, Massachusetts, Minnesota, Utah, West Virginia and the District of Columbia. These jurisdictions continue to litigate against Microsoft Corporation to seek a remedies decree that will “‘unfetter [the] market from anticompetitive conduct”; “terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future” U.S. v. Microsoft, 253 F.3d 34, 103 (DC Cir. 2001) (quoting Ford Motor Co. v. United States, 405 U.S. 562, 577 (1972) and United States v. United Shoe Mach. Corp., 391 U.S. 244,250 (1968)). Although the litigating jurisdictions will have the opportunity to present evidence and argument directly to the. court concerning appropriate remedies in this case, we have produced or received three documents in the course of our litigation that we believe are especially pertinent to the record of the Tunney Act proceeding. Without waiving any rights to a hearing on our proposed decree, these documents arc:

1. Excerpt from Plaintiff Litigating States” Answers to Interrogatories from Microsoft Corporation: Attached as Exhibit A it; the Litigating States” answer to an interogatory from defendant Microsoft Corporation detailing the principal inadequacies of the proposed consent decree. (Please note that further or additional problems may be revealed by discovery so this list should not be considered final.);

2. Plaintiff Litigating States” Re??ial Proposals: Attached as Exhibit B is rite Litigating Stales” remedial proposal filed with the trial court on December 7, 2001. For the reasons stated in this document, the Litigating States conclude that their proposed remedy is necessary to address the illegal conduct of Microsoft Corporation; and

3. Defendant-Microsoft's Responses to the Litigating States' Requests for Admissions: Attached as Exhibit C ate the responses of defendant Microsoft Corporation to the Litigating States' requests for admissions. In this document, Microsoft repeatedly refuses to admit or sidesteps characterizations by the Department of Justice of the proposed consent decree contained in the Competitive Impact Statement (CIS). Microsoft's objection that such admissions require a “legal conclusion” is troubling. While this could mean that there was never a meeting of the minds among the parties, it suggests, at a minimum, that the decree itself is ambiguous. As a result, enforcement will. in all likelihood. be delayed as the parties wrangle over the meaning of their agreement in an industry in which product cycles are extremely short and in which enforcement must be swirl in order to be effective.

For the foregoing reasons, the litigating jurisdictions request that the Department of Justice withdraw its consent to the Revised Proposed Final Judgment because of its ambiguity and failure to adequately address the illegal conduct of Microsoft. If the Department chooses not to do this, the litigating jurisdictions request that the Revised Proposed Final Judgment be disapproved by the court because it fails to meet the standard in 15 U.S.C. section 16(e).

Respectfully submitted,
Tom Greene
Senior Assistant Attorney General
California Department of Justice
FOR THE LITIGATING STATES

Exhibit A

SUPPLEMENTAL RESPONSES TO INTERROGATORIES

1. State in the most specific and detailed manner possible each and every respect in which you claim that the Revised Proposed Final Judgment is deficient, and explain why.

RESPONSE: The Plaintiff Litigating States object to this Interrogatory as a contention interrogatory that is premature and more appropriately answered at a later time, see Fed. R. Civ. P. 33(c), and therefore the Plaintiff Litigating States reserve the right to amend, supplement or modify the response to this Interrogatory to incorporate information gained through discovery. Subject to and without waiving this objection or the General Objections, the Plaintiff Litigating States respond that, as highlighted in Plaintiff Litigating States” Remedial Proposals filed on December 7, 2001, the Revised Proposed Final Judgment (the “RPFJ”) is deficient in many respects, including without limitation the following:

(1) the RPFJ does not require Microsoft to license an” unbundled version of Windows, even though (a) the Court of Appeals found that Microsoft's commingling of middleware code with its monopoly operating system was anticompetitive (see United States v. Microsoft Corp., 253 F.3d 34, 66 (DC Cir.) (“Microsoft”), cert. denied, 122 S. Ct. 350 (2001), and (b) such a remedy would enable competing middleware developers to gain access to the OEM channel of distribution, recognized by Microsoft, and the District Court, as one of the two most important distribution channels (United States v. Microsoft Corp., 84 F. Supp. 2d 9, 46 (D.DC 1999) (“Microsoft Findings of Fact'));

(2) the RPFJ provides for overly broad exceptions to the OEM uniform licensing requirement, including without limitation (a) market development allowances, and (b) consideration tied to the level of an OEM's promotion or distribution of Microsoft's products or services, even though the Court of Appeals and District Court found Microsoft's discrimination between OEMs in its contractual relationships a critical lever in several types of anticompetitive conduct (see Microsoft, 253 F.3d at 59–64; Microsoft Findings of Fact, 84 F. Supp. 2d at 66–68);

(3) the RPFJ does not adequately provide for timely and broad disclosure of interfaces and other technical information to third parties, despite the fact that (a) the Court of Appeals found that Microsoft illegally used the discriminatory disclosure of technical information to ISVs as an incentive to obtain their agreement to certain anticompetitive conditions, including curtailment of the use and promotion of Internet Explorer (see Microsoft, 253 F.3d at 71–79.; see also Microsoft Findings of Fact, 84 F. Supp. 2d at 93–94), and (b) the District Court found that Microsoft deliberately withheld technical information necessary to ensure the interoperation of a rival platform (Netscape's Navigator) and the Windows operating system (see Microsoft Findings of Fact, 84 F. Supp. 2d at 33–34) and thereby hampered the rise of this threat to Microsoft's monopoly;

(4) the RPFJ limits the disclosure of interfaces and technical information to those that concern the interoperation of only

Microsoft middleware and its Windows operating system, even though (a) there are many other currently existing nascent threats to Microsoft's operating system monopoly such as alternative platforms like network servers, web servers, handheld computing devices and set-top boxes, (b) disclosure of information relating to interoperation between these products is as important as information relating to interoperation with Windows, and (c) an antitrust remedy must be forward looking to prevent a recurrence of analogous harm and not simply seek to remedy specific past misconduct (see Nat'l Soc'y of Pro??l Engineers v. United States, 435 U.S. 679, 697 (1978));

(5) the RPFJ mandates the disclosure of communications protocols only in the context of client-server interoperation, even though the disclosure of such protocols is necessary to permit third parties to develop other nascent threats to Microsoft's operating system monopoly that communicate with personal computers such as widely interoperable handheld devices and middleware installed thereon;

(6) the RPFJ delays the impact of the disclosure provisions for up to nine months in the case of communications protocols that concern the interoperation of client personal computers and servers, and twelve months in the case of interfaces relating to the interoperation of middleware and operating systems—given the necessity of prompt disclosure in the light of the pace of change in the computer industry, such delays are simply unjustifiable;

(7) the RPFJ delays the required disclosure of middleware/operating system interoperability interfaces, in the case of new releases of Microsoft operating systems, until Microsoft releases a beta test version of the new release to 150,000 or more beta testers—this test is not only subject to manipulation to avoid timely disclosure but on its face means that disclosure will not be required until very close to the release date of the new product, thereby disadvantaging Microsoft's rivals;

(8) the RPFJ does not require disclosure of the technical information required by third parties to make full use of the disclosed interfaces and protocols;

(9) the RPFJ permits only members of a three person "Technical Committee" (one of whose members is appointed by Microsoft) to have access to Microsoft's source code, even though third parties wishing to make meaningful use of Microsoft's interoperability disclosures need direct access to source code through some means, such as a secure facility at which they can view and interrogate such code;

(10) the RPFJ imposes unjustifiable qualifications in the provisions that appear to provide for flexibility in product configuration (e.g., (i) Microsoft can limit the addition of icons, shortcuts and menu entries for non-Microsoft products to only those places where Microsoft has decided to promote a Microsoft product with similar functionality (thus blocking such additions if Microsoft does not make that decision and/or does not offer a competing product), and (ii) the automatic launching of competing software may be prohibited if such software displays a user interface that is not of a similar size and shape to the interface displayed by the equivalent Microsoft software or a Microsoft product would not otherwise launch automatically);

(11) the RPFJ does not adequately require Microsoft to respect OEM and end-user preferences for non-Microsoft software because the provisions which appear to have that aim are encumbered with unjustifiable qualifications (e.g., (i) the ability to designate a non-Microsoft middleware product to be invoked in place of a Microsoft middleware product is available only where the Microsoft middleware would be launched in a separate Window and would display all of the user interface elements or a trademark; and (ii) the restriction on Microsoft asking an end user to alter an OEM's product configuration lasts for only fourteen days and there is no restriction on the number of such requests Microsoft may make thereafter);

(12) the RPFJ does not require Microsoft to license previous versions of Windows, even though (a) the guaranteed existence of previous versions of Windows encourages the creation of middleware threats to Microsoft's operating system monopoly by giving software developers confidence that the operating system with which their middleware would be designed to interact will be available to end users for a reasonable length of time, and (b) the District Court found that Microsoft used its control of information regarding a new release of Windows to thwart the growing popularity of a threat to its operating system monopoly (see Microsoft Findings of Fact, 84 F. Supp. 2d at 3334), and efforts to use such leverage would be less effective if the previous version were still to be available;

(13) the RPFJ does not require Microsoft to notify third parties regarding its knowing interference with non-Microsoft middleware, despite the fact that (a) the Court of Appeals found that one aspect of Microsoft's anticompetitive conduct regarding the middleware threat of Sun's Java was to deceive software developers into writing programs using Microsoft Java development tools that did not interact with Sun's Virtual Java Machine (see Microsoft, 253 F.3d at 76–77), (b) the District Court found that Microsoft made technical changes to Windows and Internet Explorer to ensure that the interoperation of Windows and a non-Microsoft browser was a "jolting experience" for users (see Microsoft Findings of Fact, 84 F. Supp. 2d at 50), and (c) the Distric Court found that Microsoft deliberately withheld from Netscape vital information required to ensure the interoperability of Navigator and a new version of Microsoft's Windows operating system (see Microsoft Findings of Fact, 84 F. Supp. 2d at 33–34)—in other words the remedy fails to curb Microsoft's anticompetitive tendency to hinder the interaction of non-Microsoft products with Microsoft-sponsored products;

(14) the RPFJ does not adequately restrict Microsoft's exclusive arrangements, despite the Court of Appeals condemnation of such practices as anticompetitive (see Microsoft, 253 F.3d at 67—74), because, for example, the provisions that appear to be aimed at such practices are subject to overbroad and unjustifiable qualifications (e.g., (i) a joint venture exception that does not define with Any specificity the minimum criteria for the existence of such an arrangement and thus appears subject to manipulation; (ii) an exception where the third party represents that it could devote greater resources to non-Microsoft products than to Microsoft products, whether or not it actually does so; and (iii) an exception for any agreement under which Microsoft licenses intellectual property from a third party, no matter how anticompetitive the other terms of such agreement);

(15) the RPFJ does not prohibit contractual tying of Microsoft middleware to Microsoft's Windows operating system, even though (a) such arrangements could unreasonably foreclose competing middleware providers, (b) such a remedy would help to prevent Microsoft's ability to further reap benefits from its illegally maintained operating system monopoly, and (c) the Court of Appeals found that Microsoft manipulated contractual relationships with various third parties to stifle middleware threats to its operating system monopoly (see Microsoft, 253 F.3d at 59–64, 69–72, 75–76);

(16) the RPFJ does not adequately protect against retaliation by Microsoft (e.g., the prohibition on retaliation against OEMs is limited to particular types of actions, instead of broadly banning any adverse action, and lists OEM activities only in connection with middleware and operating systems, instead of referring to any activities relating to products or services that compete with Microsoft);

(17) the RPFJ does not effectively restrict agreements limiting competition, despite the Court of Appeals clear holding that such arrangements were anticompetitive (see Microsoft 253 F.3d at 71–72), because, for example, (a) the provision apparently aimed at restricting such conduct is subject to an exception where an ISV has agreed to use, distribute or promote Microsoft software, even though such an exception could be construed as effectively nullifying the applicable restriction, (b) the restriction does not apply to agreements with any entity other than an ISV (i.e., presumably such agreements with an OEM, ICP, IAP, IHV or any other third party would not be prohibited), and (c) the restriction only applies to agreements relating to Windows operating system products (i.e., an exclusive dealing arrangement that related to other Microsoft platform software would not be prohibited);

(18) the RPFJ does not address specifically the status of Microsoft's Internet browser, Internet Explorer, which benefited directly from much of Microsoft's anticompetitive conduct (see, e.g., Microsoft, 253 F.3d at 59–74);

(19) the RPFJ does not address specifically Microsoft's anticompetitive conduct aimed at elimination of Sun's Java as a threat to its operating system monopoly (see, e.g., Microsoft, 9.53 F.3d at 74–78);

(20) the RPFJ does not require Microsoft to port its Office suite of applications to Apple's Macintosh, even though the Court of Appeals found that Microsoft's threat to terminate

such support for Office had been deliberately used as a "club" to force Apple to enter into an anticompetitive exclusive dealing arrangement (see Microsoft, 253 F.3d at 72–74);

(21) the RPFJ does not provide a mechanism to ensure that Office is ported to other operating systems, despite the Court of Appeals' recognition of the importance of this suite of applications and acknowledgment that the absence of Office on a rival operating system, Mac OS, would eliminate such competition (see Microsoft, 253 F.3d at 72–73), and the fact that ensuring the availability of Office on other platforms is likely to weaken the applications barrier to entry and enhance the potential of other platforms to compete with Microsoft's monopoly operating system;

(22) the RPFJ requires licensees of required Microsoft intellectual property to pay for such license and to cross license their intellectual property to Microsoft, even though the premise of this remedy is that such intellectual property is required to allow third parties to exercise their rights under the final judgment—it is unjustifiable for Microsoft to be paid and benefit from cross-licensing rights simply, for ensuring the efficacy of remedies imposed as a result of its illegal conduct;

(23) the RPFJ does not address Microsoft's undermining of industry standards, despite the Court of Appeals holding that Microsoft sabotaged the Java standard by deceiving software developers into believing that the Microsoft Java programming tools had cross-platform capability with Sun-based Java (see Microsoft, 253 F.3d at 75–76);

(24) the RPFJ does not require Microsoft to provide information about transactions that are not subject to the filing requirements of the Hart-Scott-Rodino Act, even though such transactions could be used by Microsoft to maintain its operating system monopoly;

(25) the RPFJ does not protect from retaliation individuals and entities that participate in this litigation, despite the District Court and Court of Appeals findings that Microsoft is no stranger to retaliation and threats when it does not get its own way (e.g., (i) retaliation against IBM (see Microsoft Findings of Fact, 84 F. Supp. 2d at 40); (ii) threats against Apple (see Microsoft, 253 F.3d at 72–74); and (iii) threats against Intel (see Microsoft, 253 F.3d at 77–78);

(26) the RPFJ contains other unjustifiable exceptions and carve-outs that hobble the provisions they qualify (e.g., (i) the restriction on retaliation against, and discriminatory treatment of, OEMs that promote non-Microsoft products is qualified by an exception that permits Microsoft to provide additional consideration to OEMs that, inter alia, promote Microsoft products; (ii) Microsoft's disclosure obligations may be construed as not extending to areas of activity that Microsoft has identified as important enough to its monopoly operating system to include in its latest Windows operating system release, such as authentication and security/encryption systems and digital rights management; and (iii) Microsoft's disclosure obligations relating to certain matters such as authentication systems are subject to Microsoft's subjective determination as to whether, inter alia, the recipient has a "reasonable" business need and a "viable" business);

(27) the RPFJ contains ineffective compliance provisions (e.g., (i) there is no independent office or body such as a special master to assist the Court with compliance and enforcement; (ii) there is no annual compliance certification by Microsoft; (iii) there is no periodic reporting to the Court by an independent body regarding Microsoft's compliance; (iv) there is no mandatory document retention provision; (v) there is no mechanism for Microsoft employees to submit evidence of violations on a confidential basis to a third party; and (vi) no work product, findings or recommendations of the body empowered to consider complaints against Microsoft may be used in court, necessitating a duplication of effort if a complaint is not adequately dealt with on an extra-judicial basis);

(28) the RPFJ does not provide for a sanctions regime making clear the potential consequences to Microsoft of non-compliance and thus providing a strong incentive to comply;

(29) the RPFJ's middleware definitions are drawn too narrowly, excluding from protection competitors of Microsoft in critical middleware markets and excluding from the restrictions of the judgment important Microsoft products—for example, (a). software cannot qualify as a "Non-Microsoft Middleware Product" unless at least one million copies were distributed in the U.S. in the previous year, meaning that by definition nascent or developing middleware threats receive no protection under the user configuration flexibility remedy, (b) certain important software categories such as web-based software and digital imaging software are not present in any of the middleware definitions, (c) software developed in the future by Microsoft that does not perform a pre-identified function (e.g., Internet browsing) but that does exhibit the characteristics of middleware, such as API exposure, would be excluded from the definition of "Microsoft Middleware Product" if it is not trademarked (e.g., Microsoft's photo editing software), had not been distributed by Microsoft separately from an operating system product (e.g., many of the new features on Windows XP) or was not similar to a competitor's product;

(30) the RPFJ's definition of "Windows Operating System Product" leaves Microsoft to determine its scope, a freedom that could potentially eviscerate major portions of the judgment;

(31) the RPFJ does not define certain key terms (e.g., "Interoperate," "Bind," "Web-Based Software") and narrowly defines other key terms (e.g., "Communications Protocol"); and

(32) the RPFJ's term is limited initially to five years—given the scope of Microsoft's violations and the time needed to restore effective competition, this term is too short.

Exhibit B

COMPLIANCE OFFICER AND AN ANNUAL CERTIFICATION BY MICROSOFT THAT IT IS ADHERING TO THE REQUIREMENTS OF THE FINAL JUDGMENT:

17. Internal Antitrust Compliance. This section shall remain in effect throughout the term of this Final Judgment.

a. Compliance Committee. Within 30 days of entry of this Final Judgment, Microsoft shall establish a compliance committee (the "Compliance Committee9 of its Board of Directors, consisting of at least three members of the Board of Directors who are not present or former employees of Microsoft.

b. Compliance Officer. The Compliance Committee shall hire a Compliance Officer, who shall report directly to the Compliance Committee and to the Chief Executive Officer of Microsoft. The Compliance Officer shall be responsible for development and supervision of Microsoft's internal programs to ensure compliance with the antitrust laws and this Final Judgment. Microsoft shall give the Compliance Officer all necessary authority and resources to discharge the responsibilities listed herein.

c. Duties of Compliance Officer. The Compliance Officer shall:

i. within 60 days after entry of this Final Judgment, arrange for delivery to each Microsoft officer, director, and Manager, and each platform software developer and employee involved in relations with OEMs, ISVs, IHVs, or Third-Party Licensees, a copy of this Final Judgment together with additional informational materials describing the conduct prohibited and required by this Final Judgment;

ii. arrange for delivery in a timely manner of a copy of this Final Judgment and such additional informational materials to any person who succeeds to a position described in subsection c.i above;

iii. ensure that those persons described in subsection c.i above are annually briefed on the meaning and requirements of this Final Judgment and the United States antitrust laws and advising them that Microsoft's legal advisors are available to confer with them regarding any question concerning compliance with this Final Judgment or under the United States antitrust laws;

iv. obtain from each person described in subsection c.i above, within 30 days of entry of this Final Judgment and annually thereafter, and for each person thereafter succeeding to such a position within 5 days of such succession and annually thereafter, a written certification that he or she:

(1) has read, understands, and agrees to abide by the terms of, and has to their knowledge not violated, this Final Judgment; and

(2) has been advised and understands that his or her failure to comply with this Final Judgment may result in conviction for criminal contempt of court;

v. maintain a record of persons to whom this Final Judgment has been distributed and from whom, pursuant to subsection c.iv above, such certifications have been obtained;

vi. establish and maintain a means by which employees can report to the Special Master potential violations of this Final Judgment or the antitrust laws on a confidential basis;

vii. on an annual basis, certify to the Plaintiffs and the Special Master that Microsoft is fully compliant with this Final Judgment; and

viii. report immediately to the Plaintiffs and the Special Master any credible evidence of violation of this Final Judgment.

d. Removal of Compliance Officer. The Compliance Officer may be removed only by the Chief Executive Officer with the concurrence of the Compliance-Committee.

e. Retention of Communications and Relevant Documentation. Microsoft shall, with the supervision of the Compliance Officer, maintain for a period of at least four years (i) the e-mail, instant messages, and written correspondences of all Microsoft officers, directors and managers engaged in software development, marketing, sales, and developer relations related to Platform Software, and (ii) all documentation necessary or useful to facilitate compliance with this Final Judgment, including without limitation the calculation of development costs in Section 1.

f. Compliance Inspection. For purposes of determining or securing implementation of or compliance with this Final Judgment, or determining whether this Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time:

i. Duly authorized representatives of a Plaintiff, upon the written request of the Attorney General of such Plaintiff, and on reasonable notice to Microsoft made to its principal office, shall be permitted:

(1) access during office hours to inspect and copy (or, at the option of the duly authorized representatives, to demand Microsoft provide copies of) all books, ledgers, accounts, correspondence, memoranda, source code, and other records and documents in the possession or under the control of Microsoft (which may have counsel present), relating to the matters contained in this Final Judgment; and

(2) subject to the reasonable convenience of Microsoft and without restraint or interference from it, to interview, either informally or on the record, its officers, employees, and agents, who may have their individual counsel present, regarding any such matters.

ii. Upon the written request of the Attorney General of a Plaintiff, made to Microsoft at its principal offices, Microsoft shall submit such written reports, under oath if requested, as may be requested with respect to any matter contained in this Final Judgment.

iii. No information or documents obtained by the means provided in this section shall be divulged by a representative of a Plaintiff to any person other than a duly authorized representative of a Plaintiff, except in the course of legal proceedings to which the Plaintiff is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, of as otherwise required by law.

iv. If at the time information or documents are furnished by Microsoft to a Plaintiff, Microsoft represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Microsoft marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by a Plaintiff to Microsoft prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Microsoft is not a party.

N. The Special Master

In addition to internal oversight by Microsoft, effective implementation of this remedy also requires a Special Master empowered and equipped to conduct prompt investigations of any complaints and to propose resolutions within the short time frame necessary to be meaningful in such a fast-moving market. Such a Special Master can ensure timely resolution of any disputes and minimize any demand on judicial resources.

18. Special Master. Pursuant to Rule 53 of the Federal Rules of Civil Procedure ("Rule 53") the Court will appoint a special master (the "Special Master") to monitor Microsoft's obligations under the Final Judgment and to aid the Court in enforcing the Final Judgment.

a. Appointment. The Court will select a Special Master. Ten days after the Plaintiffs and Microsoft are notified of the selection, the Plaintiffs and Microsoft may file with the Court their written objections to the proposed Special Master. Any party who does not object within ten (10) days shall be deemed to have consented to the Court's selection. The terms of this subsection shall apply to any replacement Special Master chosen by the Court.

b. Powers. The Special Master has and shall exercise the power and authority to monitor Microsoft's compliance with this Final Judgment, including taking all acts and measures he or she deems necessary or proper for the efficient performance of the Special Master's duties and responsibilities as set forth in this Final Judgment.

c. Internal Compliance. The Special Master, and those acting under his or her authority, shall have access to all information, personnel, systems, equipment, premises and facilities the Special Master considers relevant to the performance of his or her duties. Microsoft shall develop such financial or other information as the Special Master may request and shall cooperate with the Special Master and facilitate the Special Master's ability to perform his or her responsibilities and to monitor Microsoft's compliance with this Final Judgment. To facilitate Microsoft's compliance, Microsoft will create a full-time position entitled "Special Master Liaison Officer" with primary responsibility for ensuring full cooperation with the Special Master, including without limitation arranging for timely access to personnel, information and facilities. The Special Master Liaison Officer shall be a senior Microsoft executive and shall report directly to the Chief Executive Officer of Microsoft. Microsoft shall give the Special Master Liaison Officer all necessary authority and resources to discharge his or her responsibilities under this subsection. If the Special Master determines that Microsoft is inhibiting the Special Master in any of its Rule 53 functions, the Special Master may file with the Court, sua sponte, a report of non-compliance.

d. Advisory Committee; Staff and Expenses. The Court, with the assistance of the Special Master, shall appoint an advisory committee of 3 individuals (the "Advisory Committee9 to assist the Special Master on technical, economic, business and/or other areas of expertise. Objections to the Court's selection shall be lodged in the manner noted in Section 18.a. Microsoft shall indemnify each Advisory Committee member and hold him or her harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the Advisory Committee's functions, except to the extent that such liabilities, losses, damages, claims, or expenses result from gross negligence or willful acts by an Advisory Committee member.

The Special Master, upon approval from the Court, may hire such additional individuals as a permanent staff or on an advisory basis to assist the Special Master. The Special Master shall submit to the Court a monthly accounting of the Special Master, his or her staff and the Advisory Committee's services and expenses. Upon approval from the Court, Microsoft will remit payment to the Special Master.

e. Periodic Reports. The Special Master shall apprise the Court, in writing (with copies to the Plaintiffs), whether Microsoft is in compliance with this Final Judgment thirty (30) days after the date of his or her appointment and every one hundred eighty (180) days thereafter until the Final Judgment terminates.

f. Actions and Proceedings.

i. Any person who has reason to believe that Microsoft is not complying with the Final Judgment may submit a complaint to the Special Master. The Special Master shall promptly provide a copy of the complaint to a State chosen by the Plaintiffs to serve as the recipient of such complaints.

ii. To facilitate the communication of complaints by third parties, the Special Master Liaison Officer shall place on Microsoft's Internet website, in a manner acceptable to the Special Master, the procedures for submitting complaints.

iii. The Special Master may preserve the anonymity of any third party complainant where he or she deems it appropriate to do so upon the request of the Plaintiffs or the third party, or in his or her discretion.

iv. Within fourteen (14) days of the receipt of the complaint, the Special Master shall determine if an investigation is warranted. In making this decision, the Special Master may use any of its Rule 53 powers. If the Special Master determines that an investigation is not warranted, the Special Master will issue a statement noting his or her decision to the complainant, Microsoft and each Plaintiff.

v. If the Special Master decides to pursue a formal investigation, the Special Master must notify Microsoft, each Plaintiff and the complainant of" (i) its decision to investigate; (ii) the conduct underlying the potential violation; and (iii) the provision of the Final Judgment at issue. The Special Master will furnish a copy of this notice to the Court.

vi. Within fourteen (14) days of receiving the notice of the Special Master's investigation, Microsoft and the complainant shall file with the Special Master, and copy to the Plaintiffs, a response, including any documentation they wish the Special Master to consider.

vii. Upon receipt of the responses, the Special Master shall schedule a hearing within twenty-one (21) days. The Special Master may exercise all powers available under Rule 53 (including without limitation requiring the production of documents and examining witnesses). The Plaintiffs shall have standing to participate in each such hearing.

viii. Within fifteen (15) days from the conclusion of the hearing, the Special Master will file with the Court a report containing its factual findings and a proposed order pursuant to Rule 53(e)(1).

ix. Pursuant to the requirements of Rule 53(e)(2), Microsoft and the complainant may object to the Special Master's report.

g. Power Retained by Court. In addition to acting on the recommendations of the Special Master, the Court may institute its own proceedings and modify or amend the Final Judgment as necessary either sua sponte or at the request of the Plaintiffs.

h. Admissibility in Subsequent Proceedings. (i) Any findings or recommendations by the Special Master and work product of the Special Master and the Advisory Committee are not prohibited hereunder from submission or admission in any subsequent action or proceeding whether before this Court or elsewhere regarding this Final Judgment, and (ii) the Special Master and any person who provided assistance thereto (including without limitation any member of the Special Master Advisory Committee) is not prohibited hereunder from testifying in any such action or proceeding.

O. Consequences of a Pattern of Non-Compliance. In a market in which timing is so important, it is all too likely that delaying one's rivals by begrudging compliance with the obligations of the Final Judgment punctuated by occasional acts of outright non-compliance—could well be profit-maximizing behavior. One prudent and potentially highly effective means of avoiding this situation is to make clear in advance that a pattern of significant, material non-compliance will lead to serious consequences, and thereby reduce the likelihood that such non-compliance will ever be an issue:

19. Orders and Sanctions.

a. Orders. The Court may act at any time to issue orders or directions for the construction or carrying out of this Final Judgment, for the enforcement of compliance therewith, and for the punishment of any violation thereof.

b. Jurisdiction. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

c. Knowing Act of Material Non-Compliance. Upon recommendation of the Special Master or the Plaintiffs, or sua sponte, the Court shall review evidence pertaining to Microsoft's Material Non-Compliance with the terms of this Order. If the Court determines that Microsoft has knowingly committed an act of Material Non-Compliance, the Court may, in addition to any other action, convene a hearing to consider an order requiring Microsoft to license its source code for the Microsoft software that is implicated by the act of Material Non-Compliance to anyone requesting such a license for the purpose of facilitating interoperability between the relevant Microsoft product and any non-Microsoft product or, in the case of an act of Material Non-Compliance that does not implicate particular Microsoft software, to order such other sanctions as the Court deems just and appropriate given the nature of Microsoft's actions and the likely deterrent effect of the sanction.

d. Pattern or Practice of Material Non-Compliance. If the Court finds that Microsoft has knowingly engaged in a pattern or practice of Material Non-Compliance with the terms of this Order, the Court may, in addition to any other action, (i) convene a hearing to consider an order requiring Microsoft to pay such civil penalties as the Court deems just and appropriate, given the nature of the violation and the likely deterrent effect of the sanction, and/or (ii) request proposals from the Plaintiffs and/or the Special Master for appropriate further conduct remedies and impose those or other conduct remedies the Court deems just and appropriate, given the nature of the violation and the likely deterrent effect of the sanction.

e. Meaning of Material Non-Compliance. For purposes of this Section, "Material Non-Compliance" shall include any:

i. violation of the disclosure requirements relating to APIs, Communications Interfaces, and Technical Information that has any significant effect on the ability of ISVs to develop Software Products or Web-Based Software that Interoperate as effectively with Microsoft Platform Software as Microsoft's own Software Products or Web-Based Software do;

ii. violation of any anti-retaliation or non-discrimination provision included in this Order;

iii. violation of the provision of this Final Judgment pertaining to interference with the performance of non-Microsoft applications, Middleware, or Web-Based Software; or

iv. other action or omission that the Court determines has the effect of undermining a substantial purpose of this Order.

f. Intellectual Property Infringement Claims. Upon recommendation of the Special Master or the representative of the Plaintiffs, or sua sponte, the Court shall review evidence that Microsoft has brought or has threatened to bring a groundless claim of Intellectual Property infringement for the purpose of preventing, hindering, impairing, or inhibiting any non-Microsoft software, Middleware, or Web-Based Software from Interoperating with a Microsoft Operating System Product or Microsoft Middleware Product. If the Court determines that Microsoft has undertaken such action, it shall issue an order enjoining Microsoft from asserting or enforcing any intellectual property rights in related APIs, Communications Interfaces, or Technical Information.

P. Reporting of Software and Related Transactions

Microsoft can use acquisitions as a weapon to maintain its operating system monopoly. Many of these deals are structured in such a way, or relate to such relatively small businesses, that they are not captured by the disclosure regime under the Hart-Scott-Rodino Act. To ensure governmental oversight over these transactions, the remedy should provide for limited disclosures to the plaintiffs in connection with such transactions.

20. Reporting of Certain Transactions.

a. Notice. For any direct or indirect acquisition (which term includes an acquisition of securities or of assets) or investment by Microsoft or any of its Subsidiaries and for any exclusive license of technology or other intellectual property to Microsoft or any of its Subsidiaries, Microsoft must provide the Plaintiffs with sixty (60) days'' prior written notice of the consummation of such acquisition, investment or license transaction where such transaction involves (either as a direct or indirect "acquiree, investee or licensor) a person (other than Microsoft or any of its Subsidiaries) whose business (or any part thereof) has been or could reasonably be classified under (or any of whose Subsidiary's businesses, or any part thereof, has been or could reasonably be classified under) any of the following North American Industry Classification System codes, and Microsoft did not own 33% or more of the securities of such person prior to December 1, 2001:

i. 334 (computer and electronic product manufacturing);

ii. 42143 (computer and computer peripheral equipment and software wholesalers);

iii. 5133 (telecommunications);

iv. 5132 (cable networks and program distribution);

v. 52 (finance and insurance); or

vi. 5415 (computer systems design and related services).

b. Information. Accompanying such written notice shall be the same information that would be reported if the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "HSR Act9 were applicable to such transaction. Such information shall be treated as confidential to the extent that it would be so treated under the HSR Act.

21. Effective Date, Term, Broad Interpretation, Costs and Fees.

a. Effective Date. This Final Judgment shall take effect 30 days after the date on which it is entered.

b. Term. This Final Judgment shall expire at the end often years from the date on which it takes effect.

c. Broad Interpretation. All of the provisions of this Final Judgment, whether substantive, regulatory or procedural, will be interpreted broadly consistent with its remedial purpose of restoring the prospect of competition to the operating systems market.

d. Costs and Fees. Plaintiffs shall be awarded reasonable costs and fees. The Plaintiffs shall submit a motion for costs and fees, with supporting documents as necessary, no later than forty-five (45) days after the entry of this Final Judgment.

22. Definitions.

a. "Advisory Committee" has the meaning given in Section 18.d.

b. "Agreement" means any agreement, understanding, joint venture, arrangement or alliance, whether written or oral.

c. "APIs" or application programming interfaces mean the interfaces, service provider interfaces; file formats, data structures, Component Object Model specifications and interfaces, registry settings, global unique identifiers ("GUIDs") and protocols that enable a hardware device or an application, Middleware, server Operating System or network Operating System to efficiently obtain services from (or provide services in response to requests from) and fully Interoperate with Platform Software and to use, benefit from, and rely on all the resources, facilities, and capabilities of such Platform Software. APIs include all interfaces, methods, routines and protocols that enable any Microsoft Operating System or Middleware Product installed on a Personal Computer to (a) execute fully and properly applications or Middleware designed to run in whole or in part on any Microsoft Platform Software installed on that or any other device (including servers, telephones and devices), (b) fully Interoperate with Microsoft Platform Software, applications or directories installed on the same computer or on any other computer or device, and (c) perform network security protocols such as authentication, authorization, access control, encryption / decryption and compression/decompression.

d. "Bind" means to include software or a link to Web-Based Software in an Operating System Product in such a way that either an OEM or an end user cannot readily remove or uninstall the binary code of that software or link without degrading the performance or impairing the functionality of such software or the Operating System.

e. "Browser" means software that, in whole or in part, provides the functionality present in any version of Internet Explorer or MSN Explorer offered on either Macintosh or Windows, including without limitation utilizing, storing or communicating in any way with or via HTTP, HTML, URLs, XML, Javascript or any broadly compatible or competitive standards, products, systems, protocols, or functionalities.

f. "Communications Interfaces" means the interfaces and protocols that enable software, directories, networks, Operating Systems, network Operating Systems or Web-Based Software installed on one computer (including Personal Computers, servers and Handheld Computing Devices) to Interoperate with the Microsoft Platform Software on another computer including without limitation communications designed to ensure security, authentication or privacy.

g. "Covered OEM" means one of the 20 Personal Computer OEMs having obtained the highest volume of licenses of Windows Operating System Products from Microsoft in the calendar year preceding the effective date of the Final Judgment. Starting on January 1, 2003, Microsoft shall annually determine and publish within 30 days the list of OEMs that shall be treated as covered OEMs for the new calendar year, based on the independently determined volume of licenses during the preceding calendar year.

h. "De Facto Standard" has the meaning given in Section 16.b.

i. "Default Middleware" means Middleware configured to launch automatically (that is, "by default") to provide particular functionality in the event that the user has not selected specific Middleware for this purpose. For example, a default Web browser is Middleware configured to launch automatically to display Web pages in the event that the user has not selected other software for this purpose.

j. "End-User Access" means the invocation of Middleware directly or indirectly by an end user of a computer, or the end user's ability to invoke Middleware. "End-User Access" includes invocation of Middleware that the Operating System Product's design requires the end user to accept.

k. "Handheld Computing Device" means any RAM-based electronic computing device (including without limitation a cellular telephone, personal digital assistant and Pocket PC) that is small enough to be used while held in the user's hand, that may or may not be capable of networked operation, including Internet access, that contains a computer microprocessor, and that can run software applications or Web-Based Software.

l. "HSR Act" has the meaning given in Section 20.b.

m. "IAP" means an Internet access provider that provides consumers with a connection to the Internet, with or without its own proprietary content.

n. "ICP" means an Internet content provider that provides content to users of the Internet by maintaining Web sites or Web servers.

o. "IHV" means an independent hardware vendor that develops hardware to be included in or used with a computer.

p. "Intellectual Property" means copyrights, patents, trademarks or trade secrets that Microsoft uses or licenses to third parties.

q. "Interoperate means the ability of two products to effectively access, utilize and/or support the full features and functionality of one another.

r. "ISV" means any entity other than Microsoft (or any subsidiary, division, or other operating unit of any such other entity) that is engaged in the development and licensing (or other marketing) of software products or Web-Based Software (including without limitation products or services designed for Personal Computers, servers or Handheld Computing Devices).

s. "Manager" means a Microsoft employee who is responsible for the direct or indirect supervision of more than 100 other employees.

t. "Market Development Allowance" means any marketing development allowance, agreement, program, rebate, credit or discount, whereby an OEM or Third-Party Licensee is provided a monetary discount in the applicable royalty for a licensed product (other than the discount specifically described in Section 2.a.ii of this Judgment) in exchange for the OEM or Third-Party Licensee agreeing to some additional licensing term. For example, Microsoft has previously referred to Marketing Development Allowances as marketing development agreements, or MDAs, and marketing development programs, or MDPs.

u. "Material Non-Compliance" has the meaning given in Section 19.e.

v. "Microsoft" means Microsoft Corporation, its successors and assigns (including any transferee or assignee of any ownership rights to, control of, or ability to license the Intellectual Property referred to in this Final Judgment), their subsidiaries, affiliates, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

w. "Middleware" means software, whether provided in the form of files installed on a computer or in the form of Web-Based Software, that operates directly or through other software within an Operating System or between an Operating System (whether or not on the same computer) and other software (whether or not on the same computer) by offering services via APIs or Communications Interfaces to such other software, and could, if ported to or made Interoperable with multiple Operating Systems, enable software products written for that Middleware to be run on multiple Operating System Products. Examples of Middleware within the meaning of this Final Judgment include without limitation Internet browsers, network operating systems, e-mail client software, media creation, delivery and playback software, instant messaging software, voice recognition software, digital imaging software, the Java Virtual Machine, calendaring * systems, Handheld Computing Device sychronization software, directories, and directory services and management software. Examples of software that are not Middleware within the meaning of this Final Judgment are disk compression and memory management software.

x. "Microsoft Middleware Product" means

i. Internet browsers, e-mail client software, media creation, delivery and playback software, instant messaging software, voice recognition software, digital imaging software, directories, Exchange, calendaring systems, systems and enterprise management software, Office, Handheld Computing Device synchronization software, directory services and management software, the Common Language Runtime component of the Net framework, and Compact Framework, whether provided in the form of files installed on a computer or in the form of Web-Based Software, or

ii. Middleware distributed by Microsoft that-

(1) is, or in the three years preceding this Judgment has been, distributed separately from an Operating System Product, any successors thereto, or

(2) provides functionality similar to that provided by Middleware offered by a Microsoft competitor.

y. "Microsoft Platform Software" means a Windows Operating System Product or

Microsoft Middleware Product or any combination of a Windows Operating System Product and a Microsoft Middleware Product.

z. "OEM" means the manufacturer or assembler of a computer (including without limitation servers and Handheld Computing Devices), regardless of whether such manufacturer or assembler applies its trademark to the final product.

aa. "Office" means all software developed and distributed by Microsoft incorporating the brand name "Microsoft Office" and its successors, including at least the individual Microsoft Middleware Products Word, Excel, Outlook, Power Point, and Access.

bb. "Operating System" means the software that controls the allocation and usage of hardware resources (such as memory, central processing unit time, disk space, and peripheral devices) of a computer (including without limitation Personal Computers, servers and Handheld Computing Devices) or network, providing a "platform" by exposing APIs that applications use to "call upon" the Operating System's underlying software routines in order to perform functions.

cc. "Operating System Product" means an Operating System and additional software shipped with the Operating System, whether or not such additional software is sold separately. An Operating System Product includes Operating System Product upgrades that may be distributed separately from the Operating System Product and any version of any Operating System Product created pursuant to the terms and requirements of this Final Judgment.

dd. "Personal Computer" means any computer configured so that its primary purpose is to be used by one person at a time, that uses a video display and keyboard (whether or not the video display and keyboard are actually included), and that contains an Intel x86, successor, or competitive microprocessor, and computers that are commercial substitutes for such computers.

ee. "Plaintiff" means any of the following plaintiffs in this action: the States of California, Connecticut, Florida, Iowa, Kansas, Massachusetts, Minnesota, Utah and West Virginia and the District of Columbia.

ff. "Platform Software" means an Operating System or Middleware or any combination of an Operating System and Middleware.

gg. "Rule 53" has the meaning given in Section 18.

hh. "Special Master" has the meaning given in Section 18.

ii. "Special Master Liaison Officer" has the meaning given in Section 18.c.

jj. "Standard" has the meaning given in Section 16. a above.

kk. "Standard-Setting Body" has the meaning given in Section 16.a above.

ll. "Subsidiary" of a person means an affiliate controlled by such person directly, or indirectly through one or more intermediaries.

mm. "Synchronization Drivers" means software that facilitates or enables the synchronization of information on any two computers (including without limitation Personal Computers, servers and Handheld Computing Devices).

nn. "Technical Information" means all information regarding the identification and means of using and/or implementing APIs and Communications Interfaces that competent software developers require to make their products running on any computer Interoperate effectively with Microsoft Platform Software running on a computer. Technical information includes but is not limited to reference implementations, communications protocols, file formats, data formats, syntaxes and grammars, data structure definitions and layouts, error codes, memory allocation and deallocation conventions, threading and synchronization conventions, functional specifications and descriptions, encryption algorithms and key exchange mechanisms for data translation, reformatting, registry settings and field contents.

oo. "hird-Party Licensee" means any person offering to purchase from Microsoft at least 10,000 licenses of a product or products offered and licensed under Section 1, including without limitation ISVs, systems integrators and value-added resellers.

pp. "Timely Manner": Disclosure of APIs, Technical Information and Communications Interfaces in a Timely Manner means, at a minimum, publication on a Web site accessible to ISVs, IHVs, OEMs and Third-Party Licensees at the earliest of the time that such APIs, Technical Information, or Communications Interfaces are (i) disclosed to Microsoft's applications developers, or (ii) used by Microsoft's own Platform Software developers in software released by Microsoft in alpha, beta, release candidate, final or other form, or (iii) disclosed to any third party, or (iv) within 90 days of a final release of a Windows Operating System Product, no less than 5 days after a material change is made between the most recent beta or release candidate version and the final release.

qq. "Web-Based Software" means software code that resides, in whole or in part, on a computer connected to a network and whose functionality (whether or not described as or labeled a service), includes without limitation database, directory and/or security functionality, accessed via a different computer via the Internet.

rr. "Windows Operating System Product" means software code (including source code and binary code, and any other form in which Microsoft distributes its Windows Operating Systems for Personal Computers) of Windows 95, Windows 98, Windows 2000 Professional, Windows Me, Windows XP and their successors (including the Windows Operating Systems for Personal Computers codenamed "Longhorn," and "Blackcomb," and their successors), as distributed by Microsoft to any licensee, whether or not such product includes software code of any one or more Microsoft Middleware Products.

The Importance of this Remedy Litigation

Plaintiff Litigating States" proposed remedies, taken together, redress Microsoft's anticompetitive behavior in a manner that fully comports with the principles and spirit of the Court of Appeals" decision. These proposed remedies are intended to prohibit the recurrence of, and remedy the harm done by, the Microsoft practices that were held to be unlawful by the Court of Appeals.

They are framed in terms of the specific anticompetitive conduct in which Microsoft engaged, such as commingling middleware and operating system software code; discriminatory licensing; failure to make timely disclosure of the interfaces necessary to enable its rivals to market software compatible with Windows; actual and threatened retaliation against customers and rivals to discourage their development and use of competing software; refusal to give OEMs and consumers the freedom to choose software based solely on its merits; the pollution of cross-platform technologies like Java; and the abuse of important applications like Office to deter the emergence of alternative software platforms.

These remedies are also intended to minimize the enforcement burden on the Court by giving Microsoft incentives to comply and by appointing a Special Master with substantial authority. Unlike the previously announced settlement between the Department of Justice ("DOJ") and Microsoft, these remedies create a real prospect of achieving what the DOJ said it intended to accomplish: "stop Microsoft from engaging in unlawful conduct, prevent any recurrence of that conduct in the future, and restore competition in the software market..." Assistant Attorney General Charles James, DOJ Press Release, Nov. 2, 2001, at page 1.

To implement a meaningful remedy faithful to the Court of Appeals decision, the Plaintiffs" proposals must and do differ substantially from the DOJ settlement. By the terms of the Final Judgment, Plaintiffs propose that, unlike the DOJ settlement, Microsoft be required, inter alia: (1) to license an unbundled version of Windows (i.e., in which code for Microsoft's middleware and its monopoly operating system is not commingled); (2) to provide early and broad disclosure of interfaces so that rival software companies have a fair opportunity to bring their products to market at the same time as Microsoft; (3) to disclose technical information so that rival handheld devices, servers and networks can interoperate with Microsoft's dominant Windows operating system; (4) to respect OEM and end-user preferences for non-Microsoft software, so that consumers have real freedom of choice unbiased by Microsoft; (5) to make Internet Explorer, the browser that benefited from so many of Microsoft's anticompetitive acts, available on an open source basis; (6) to carry Java, which Microsoft also labored mightily to destroy, along with its own operating system; and (7) to pert Office to work on other operating systems. These remedies also differ from the DOJ settlement in that they recognize that: (1) carefully crafted carve-outs and exceptions must be avoided, because of their tendency to render potentially useful provisions impotent, and (2) effective compliance requires strict requirements for internal compliance, strong incentives, and an enforcement mechanism (the Special Master) that promises prompt resolution of differences and minimal burden on the Court's resources. Accepting the determinations and directives from the Court of Appeals, both in its liability determination and in its guidance on remedy, the Plaintiff Litigating States'' Remedy Proposals maximize the prospect for truly meaningful platform competition, and all of the benefits to consumers that such competition would yield.

Respectfully submitted,
By: /s/ Brendan V. Sullivan, Jr.
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Exhibit C

IN THE UNITED STATES DISTRICT COURT FOR THE D1STRICT OF COLUMBIA

STATE OF NEW YORK ex. rel.
Attorney General ELIOT SPITZER, et at.,
Plaintiffs, Civil Action No. 98-1233 (CKK)
v.
Next Court Deadline: March 4, 2002
MICROSOFT CORPORATION, Status Conference
Defendant.

MICROSOFT CORPORATION'S RESPONSE TO PLAINTIFF LITIGATING STATES'' FIRST JOINT REQUESTS FOR ADMISSION IN REMEDY PROCEEDINGS

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, Local Rule 26.2, and the Scheduling Order entered by the Court on September 28, 2001, defendant Microsoft Corporation (''Microsoft'') hereby objects and responds as follows to the Plaintiff Litigating States'' First Joint Requests for Admission in Remedy Proceedings (the ''Requests'').

GENERAL OBJECTIONS

The following General Objections apply to each of the Requests and shall have the same force and effect as if set forth in full in response to each individually numbered request.

A. To the Requests Generally

1. Microsoft objects to each of the Requests to the extent that they seek information protected from discovery by file attorney-client privilege, the attorney work product doctrine or any other applicable privilege, protection, immunity, law or rule. Any disclosure??of information protected from discovery by the attorney-client privilege, the attorney work product doctrine or any other applicable privilege, protection, immunity, law or rule is inadvertent and should not be construed to constitute a waiver.

2. Microsoft objects to each of the Requests (and their accompanying Instructions) to the extent that they seek to impose burdens and obligations on Microsoft that exceed those imposed by the Federal Rules of Civil Procedure or the Local Rules of the United States District Court for the District of Columbia.

3. Microsoft objects to each of the Requests to the extent they are overly broad and unduly burdensome and seek information that is not relevant to any remaining claim or defense in this action.

4. Microsoft objects generally to the Requests to the extent they are vague and ambiguous and do not pose simple and direct questions that cab. be readily admitted or denied.

5. Microsoft objects generally to the Requests to the extent they seek to elicit information concerning issues in dispute between the parties that is more appropriately sought through other discovery devices.

6. Microsoft objects generally to the Requests to the extent they call for legal conclusions or seek ratification of the legal significance plaintiffs ascribe to disputed issues of fact.

7. Microsoft objects generally to the Requests 1o the extent they are argumentative or reflect plaintiffs'' subjective interpretation of factual issues.

8. By agreeing to respond to the Requests, Microsoft does not concede that the Requests seek information that is relevant to any remaining claim or defense in this action. Similarly, Microsoft does not concede that the Requests seek information that is reasonably calculated to lead to the discovery of admissible evidence. Microsoft instead expressly reserves all further objections as to the relevance and admissibility of the information provided, as well as the fight to object to further discovery relating to the subject matter of any information provided.

9. Microsoft objects to the Requests to the extent they purport to require that the response be made ''under oath.'' Rule 36 of the Federal Rules of Civil Procedure provides that a written answer ''signed by the party or the party's attorney'' is a fully sufficient response to requests for admission.

B. To the Instructions

1. Microsoft objects to Instruction No. 1 to the extent that it purports to impose burdens and obligations on Microsoft that arc different from or greater than those imposed by Rule 36 of the Federal Rules of Civil Procedure.

2. Microsoft objects to Instruction No. 2 to the extent that it purports to impose burdens and obligations on Microsoft that are different from or greater than those imposed by Rule 36 of the Federal Rules of Civil Procedure.

3. Microsoft objects to Instruction No. 3 to the extent that it purports to impose burdens and obligations on Microsoft that are different from or greater than those imposed by Rule 26(e) of the Federal Rules of Civil Procedure.

RESPONSES TO SPECIFIC REQUESTS FOR ADMISSION

REQUEST NO. 1

Admit that Microsoft has violated the antitrust laws of the United States of America, and in particular Section 2 of the Sherman Act, 15 U.S.C. § 2. Response: Objection. This request improperly calls for a legal conclusion. Notwithstanding this objection, Microsoft admits that the United States Court of Appeals for the District of Columbia affirmed in part a conclusion that Microsoft had violated Section 2 of the Sherman Act and avers that, pending resolution of all proceedings in this Court, Microsoft retains the ability to challenge that conclusion in the United States Supreme Court.

REQUEST NO. 2

Admit that ''the key 1o the proper remedy in this case is to end Microsoft's restrictions on potentially threatening middleware, prevent it from hampering similar nascent threats in the future and restore the competitive conditions created by similar middleware threats.'' Plaintiff United States Department of Justice Competitive Impact Statement (''CIS'') at 24. Response: Admit that the quoted statement appears in the CIS prepared by the A?? Division of the U.S. Department of Justice. (''DOJ'') but deny that Microsoft shares the opinion expressed.

REQUEST NO. 3

Admit that ''OEMs are a crucial channel for distribution and ultimate usage of Non-Microsoft Middleware Products such as browsers.'' CIS at 25. Response: Admit that the quoted statement appears in the CIS prepared by the DOJ but deny that Microsoft shares the opinion expressed. There are numerous other distribution channels for software products, including electronic downloading from the Interact, and those channels have, if anything, become more effective in garnering usage since the original trial of this action ended.

REQUEST NO. 4

Admit that in order for a remedy in this proceeding to be effective, ''it is critical that the OEMs ... are free to choose to distribute and promote middleware without interference from Microsoft.'' CIS at 23.

Response: Admit that the quoted statement appears in the CIS prepared by the DOJ but deny that Microsoft shares the opinion expressed, particularly to the extent it suggests that OEMs were appreciably restrained from promoting non-Microsoft middleware in the past. OEMs have always been free to install non-Microsoft software products on their personal computers and to promote such software products through placement of icons on the Windows desktop and in the Start menu and otherwise.

REQUEST NO. 5

Admit that in determining whether Microsoft has violated Section III.A. of the Revised Proposed Final Judgment filed on November 6, 2001 (hereafter ''RPFJ''), ''[t]he existing Microsoft-OEM relationship provides a baseline against which any changes Microsoft makes in its treatment of that OEM for prohibited reasons can be detected and assessed.'' CIS at 25.

Response: Admit that the quoted statement appears in the CIS prepared by the DOJ but deny knowledge or information sufficient to form a belief as to how the DOJ intends to ascertain whether a violation of Section III.A of the RPFJ has occurred.

REQUEST NO. 6

Admit that under the RPFJ, Microsoft can compensate (both monetarily and non-monetarily) an OEM in return for an agreement to include a Microsoft product or service with personal computers shipped to customers.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.A of the RPFJ for a complete end accurate statement of its terms.

REQUEST NO. 7

Admit that under the RPFJ, Microsoft can withhold Consideration from an OEM if an OEM chooses not to support, promote or carry any Microsoft product or service.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.A of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 8

Admit that under the RPFJ, if an OEM chooses to remove user access to any Microsoft Middleware Product, Microsoft can compensate (both monetarily and non-monetarily) that OEM less than an OEM that chooses not to remove user access to any Microsoft Middleware Product.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Sections III.A and III.B of the RPFJ for a complete and accurate statement of their terms.

REQUEST NO. 9

Admit that the majority of Covered OEMs were at one or more times during the calendar years 2000 and 2001 in violation of the terms of their license agreements with Microsoft.

Response: Denied.

REQUEST NO. 10

Admit that "Windows license royalties and terms are inherently complex and easy for Microsoft to use to affect OEMs" behavior, including what software the OEMs will offer to their customers." CIS at 28.

Response: Admit that the quoted statement appears in the CIS prepared by the DOJ but deny that Microsoft shares the opinion expressed.

REQUEST NO. 11

Admit that under the RPFJ, Microsoft is free to enforce its license, s with OEMs for Windows Operating System Products in a non-uniform manner.

Response: Objection. The nature of Microsoft's rights and obligations under the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 12

Admit that under the RPFJ, if an OEM "promote[s] or install[s] third party offers for Interact access, subscription on-line music services, or Web-based applications that use or support Non-Microsoft Middleware such as an alternate browser, audio/video client software, or Java Virtual Machine," CIS at 30, Microsoft may offer that OEM less Consideration than an OEM that agrees to promote or install Microsoft software applications, services and/or Middleware Products.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Sections III.A and III.C of the RPFJ for a complete and accurate statement of their terms.

REQUEST NO. 13

Admit that under the RPFJ, if Microsoft designs a Windows Operating System Product to "reserve a particular list for multimedia players, [Microsoft] cannot specify either that the listed player be its own Windows Media Player or that, whatever multimedia player an OEM chooses to list in that entry, it be capable of supporting a particular proprietary Microsoft data format." CIS at 30–31.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.C.1 of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 14

Admit that under the RPFJ, Microsoft can prevent an OEM from installing a list of Middleware Products or other software products on a Windows Operating System Product.

Response: Objection. This request is vague and ambiguous in its use of the phrase "installing a list of Middleware Products or other software products." Moreover, the proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.C.1 of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 15

Admit that under the RPFJ, Microsoft can prohibit an OEM from launching automatically, at the conclusion of the initial boot sequence or upon connection or disconnection from the Internet, any non-Microsoft Middleware Product so long as a Microsoft Middleware Product with similar functionality would not otherwise launch automatically.

Response: Objection The proper interpretation of the RPFJ calls for a legal conclusion Microsoft refers plaintiffs to Section III.C.3 of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 16

Admit that under the ??PFJ, Microsoft can prevent an OEM from configuring its products to launch non-Microsoft Middleware automatically, other than when Microsoft Middleware Products launch automatically at the conclusion of the first boot sequence or subsequent boot sequences or upon connection to or disconnection from the Internet.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.C.3 of die RPFJ fur a complete and accurate statement of its terms.

REQUEST NO. 17

Admit that under the RPFJ, Microsoft can offer an OEM Consideration in return for that OEM configuring its products to launch Microsoft Middleware Products at any time, including at the conclusion of the first boot sequence* or subsequent boot sequences or upon connection to or disconnection from the Internet.

Response: Objection. The nature of Microsoft's rights and obligations under the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 18

Admit that under the RPFJ, Microsoft can impose currently unspecified "technical specifications" in connection with any IAP offer presented during the initial boot sequence.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.C.5 of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 19

Admit that under the RPFJ, Microsoft can restrict by agreement an OEM from promoting any non-Microsoft Middleware or any other ISV product or service during the initial boot sequence.

Response: Objection. The nature of Microsoft's rights and obligations under the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs 1o the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 20

Admit that under the RPFJ, Microsoft can offer an OEM Consideration in return for aa agreement to promote only Microsoft products or services, including Microsoft Middleware Products, during the initial boot sequence.

Response: Objection. The nature of Microsoft's fights and obligations under the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 21

Admit that under the RPFJ, Microsoft does not have to disclose to ISVs, IHVs, IAPs, ICPs, and OEMs all of the APIs and related technical information relating to Microsoft Platform Software that are disclosed to developers of Microsoft Middleware Products.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.D of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 22

Admit that since January 1, 2000 developers of Microsoft Middleware Products have studied, interrogated and/or interacted with the source code and any related documentation of Microsoft Platform Software.

Response: Objection. This request is circular #yen that Microsoft Platform Software is defined in Section VIA. of the RPFJ to include the Microsoft Middleware Products defined in Section VI.K of the RPFJ.

REQUEST NO. 23

Admit that the APIs that must be disclosed under the RPFJ include, "broadly, any interface, protocol or other method of information exchange between Microsoft Middleware and a Windows Operating System Product." CIS at 33–34.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.D of the RPFJ for a complete* and accurate statement of its terms.

REQUEST NO. 24

Admit that under the RPFJ, Microsoft's obligation to disclose "documentation" only requires Microsoft to disclose the sort of information that Microsoft already provides to ISVs and others through the Microsoft Developer's Network ("MSDN").

Response: Objection. The proper interpretation of the RPFJ calls "for a legal conclusion. Microsoft refers plaintiffs to Section III.D of the RPFJ and the definition of Documentation in Section VI.E of the RPFJ for a complete and accurate statement of their terms.

REQUEST NO. 25

Admit that developers of Microsoft Middleware have access to APIs and/or related technical information and documentation relating to Microsoft Platform Software that are not disclosed by Microsoft through the MSDN.

Response: Objection. This request is circular given that Microsoft Platform Software is defined in Section VI.L of the RPFJ to include the Microsoft Middleware* Products defined in Section VI.K of the RPFJ, and the developers of such Microsoft Middleware Products are also the developers of the Microsoft Middleware defined in Section VI.J of" the RPFJ.

REQUEST NO. 26

Admit that under the RPFJ, developers of Microsoft Middleware are permitted access to APIs and/or related technical information relating to Microsoft Platform Software that arc not made available to ISVs, IHVs, IAPs, ICPs and OEMs.

Response: Objection. This request is circular given that Microsoft Platform Software is defined in Section VI.L of the RPFJ to include the Microsoft Middleware Products defined in Section VI.K of the RPFJ, and the developers of such Microsoft Middleware Products are also the developers of the Microsoft Middleware defined in Section VI.J of the RPFJ.

REQUEST NO. 27

Admit that under the RPFJ, Microsoft Middleware developers may have access to APIs and/or related technical information relating to Microsoft Platform Software before such information is made available to ISVs, IHVs, IAPs, ICPs and OEMs.

Response: Objection. This request is circular given that Microsoft Platform Software is defined in Section VI.L of the RPFJ to include the Microsoft Middleware Products defined in Section VI.K of the RPFJ, and the developers of such Microsoft Middleware Products arc also the developers of the Microsoft Middleware defined in Section VI.J of the RPFJ.

REQUEST NO. 28

Admit that under the RPFJ, Microsoft is not obliged to release the last major beta version of any Windows Operating System Product "well in advance of the actual commercial release" of that Windows Operating System Product. CIS at 35.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.D of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 29

Admit that under the RPFJ, Microsoft is not obliged to release the last major beta version of any Microsoft Middleware "well in advance of the actual commercial release" of that Middleware. CIS at 35.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.D of the RPFJ for a complete and accurate, statement of its terms.

REQUEST NO. 30

Admit that under the RPFJ, developers of Microsoft Middleware* "will not have access to any ... features of Windows Operating System Products that might allow it to operate more effectively" that are not also made available to ISVs, IHVs, IAPs, ICPs and OEMs. CIS at 35.

Response: Objection. This request misquotes the CIS by (i) referring to developers of Microsoft Middleware rather than to the Microsoft Middleware itself and (ii) replacing the words "hidden or proprietary" with an ellipsis. Moreover, the proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.D of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 31

Admit that under the RPFJ, all APIs and related technical information, including all documentation, "for the Secure Audio Path digital fights management service that is part of Windows XP must be disclosed and mad* available for use by competing media players in interoperating with Windows XP." CIS at 35.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.D of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 32

Admit that the "competitive significance" of non-Microsoft Middleware is "highly dependent on content, data and applications residing on servers and passing over networks such as the Internet or corporate networks ...." CIS at 36.

Response: Admit that the quoted statement appears in the CIS prepared by the DOJ but deny that Microsoft shares the opinion expressed.

REQUEST NO. 33

Admit that under tile RPFJ, Microsoft is not obliged to license to third parties all APIs, technical information and Communications Protocols relating to Windows Operating System Products that Microsoft makes available to Microsoft developers of server software.

Response: Objection. This request is vague and ambiguous in its use of the term "technical information" and "server software." Moreover, the proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.E of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 34

Admit that under the RPFJ, third party licensees "will have full access to and be able to use, the protocols that arc necessary for software located on a server computer to interoperate with, and fully take advantage of, the functionality provided by a Windows Operating System Product." CIS at 36.

Response: Objection. This request is vague and ambiguous in its use of the phrases "software located on a server" and "fully take advantage of." Moreover, the proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.E of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 35

Admit that notwithstanding the fact that the term "server operating system products" is not defined in the RPFJ, it "include: but is not limited to, the entire Windows 2000 Server product families and any successors...as well as a number of server software products and functionality, including the Interact Information Services ... and Active Directory." CIS at 37.

Response: Objection. This request misquotes the CIS by (i) adding an ellipsis at the end of the first sentence of the first paragraph on page 37, wrongly suggesting that the words following the ellipsis are part of the same sentence; (ii) adding the words "as well as" without placing them in square brackets, wrongly suggesting that those words are part of the original text; and (iii) quoting only a portion &the third sentence of the paragraph and concluding the quotation with a period rather than an ellipsis, wrongly suggesting that the sentence ends with the words "Active Directory." In fact, Internet Information Services and Active Directory are features of the Windows 2000 Server family of products. Microsoft admits that Windows 2000 Server, Windows 2000 Advanced Server and Windows 2000 Datacenter Server and their successors are server operating system products as that term is used in the RPFJ.

REQUEST NO. 36

Admit that under the RPFJ, Microsoft is not required to license Communications Protocols implemented in any Windows Operating System Product that are used by a Microsoft server operating system product to interoperate with that Windows Operating System Product with the addition of other software to the client computer.

Response: Objection. The proper interpretation of the RPFJ" calls for a legal conclusion. Microsoft refers plaintiffs to Section III.E of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 37

Admit that under the RPFJ, there is no time period within which Microsoft must make available for license to third parties the Communications Protocols referenced in Section III.E. of the RPFJ.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.E of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 38

Admit that under the RPFJ, Microsoft is not obliged to license any Communications Protocols distributed only with a Microsoft server or otherwise separately from a Windows Operating System Product.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.E of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 39

Admit that one of the purposes* of Section III.E. of the RPFJ is to "??nsur[e] that competing, non-Microsoft server products ... will have the same access to and ability to interoperate with Windows Operating System Products as do Microsoft's server operating systems." CIS at 38.

Response: Objection. This request is vague and ambiguous in its use of the term "non-Microsoft server products." Moreover, Microsoft denies knowledge or information sufficient to form a belief as to what the DOJ thinks are the "purposes" of Section III.E of the RPFJ. The proper interpretation of the RPF3 calls for a legal conclusion. Microsoft refers plaintiffs to Section III.E of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 40

Admit that one of the purposes of Section III.E. of the RPFJ is to "permit seamless interoperability between Windows Operating System Products and non-Microsoft servers on a network." CIS at 38.

Response: Objection. This request is vague and ambiguous in its use of the term "seamless interoperability." Moreover, Microsoft denies knowledge or information sufficient to form a belief as to what the DOJ thinks arc the "purposes" of Section III.E of the RPFJ. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.E of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 41

Admit that Section III.E. of the RPFJ "requires the licensing of all Communications Protocols necessary for non-Microsoft servers to interoperate with the Windows Operating System Products" implementation of the Kerberos security standard in the same manner as do Microsoft servers, including the exchange of Privilege Access Certificates." CIS at 38.

Response: Objection. This request is vague and ambiguous in its use of the phrase "the Windows Operating System Products" implementation of the Kerberos security standard." Moreover, the proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.E of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 42

Admit that Section III.E. of the RPFJ requires Microsoft to "license for use by non-Microsoft server operating system products the Communications Protocols that Windows Operating System Products use to enable network services through mechanisms such as Windows server message block protocol/common Internet file system protocol communications, as well as Microsoft remote procedure calls between the client and server operating systems." CIS at 39.

Response: Objection. This request is vague and ambiguous in its use of the terms "network services" and "Microsoft remote procedure calls." Moreover, the proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.E of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 43

Admit that Section III.E. of the RPFJ requires Microsoft to license to third parties "Communications Protocols that permit a runtime environment (e.g., a Java Virtual Machine and associated class libraries or competing functionality such as the Common Language Runtime) to receive and execute code from a server ... if those protocols are implemented in a Windows Operating System Product." C1S at 39.

Response: Objection. This request is vague and ambiguous in its use of the term "runtime environment." Moreover, the proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.E of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 44

Admit that Section III.J.1.a. of the RPFJ exempts from disclosure under Section III.E. only "specific end-user implementations of security items such as actual keys, authorization tokens or enforcement criteria, the disclosure of which would compromise the security of a particular installation or group of installations of the listed security features." CIS at 39 (quoting RPFJ §III.J.1.a.).

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Sections III.E and III.J.1.a of the RPFJ for a complete and accurate statement of their terms.

REQUEST NO. 45

Admit that Section III.J.1.a, of the RPFJ "permits Microsoft to withhold limited information necessary to protect particular installations of the Kerberos and Secure Audio Path features of its product5 (e.g., keys and tokens parti?? to a given installation) but does not permit it to withhold any capabilities that are inherent in the Kerberos and Secure Audio Path features as they are implemented in a Windows Operating System Products." CIS at 39.

Response: Objection. This request is vague and ambiguous in its use of the phrase "capabilities that arc inherent in the Kerberos and Secure Audio Path features as they arc implemented in a Windows Operating System Product" Moreover, the proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Section III.J.1.a of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 46

Admit that under the RPFJ, Microsoft may contractually prevent an ISV from developing, using, distributing or promoting any software that competes with Microsoft Platform Software or runs on any software that competes with Microsoft Platform Software so long as it is part of an agreement to use, distribute or promote any Microsoft software or to develop software for, or in conjunction with, Microsoft.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiff?? to Sections III.F and III.G of the RPFJ for a complete and accurate statement of their terms.

REQUEST NO. 47

Admit that under the RPFJ, Microsoft may cater into an agreement with an ISV in which Microsoft pays the ISV to make Internet Explorer the default browser for software developed by the ISV.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Sections III.F and III.G of the RPFJ for a complete and accurate statement of their terms.

REQUEST NO. 48

Admit that under the RPFJ, Microsoft may enter into an agreement with an ISV or ICP in which Microsoft pays the ISV or ICP to make Windows Media Player the default media player for software or Interact content developed by the ISV or ICP.

Response: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Sections III.F and III.G of the RPFJ for a complete and accurate statement of their terms.

REQUEST NO. 49

Admit that under Section III.G.1. of the RPFJ, Microsoft could not make the "commercially practicable" representation a standard part of its agreements with IAPs, ICPs, ISVs, IHVs or OEMs. Respond: Objection. The proper interpretation of the RPFJ calls for a legal conclusion. Microsoft refers plaintiffs to Sections III.G.1 of the RPFJ for a complete and accurate statement of its terms.

REQUEST NO. 50

Admit that under the RPFJ, Microsoft is free to take action it knows or reasonably should know will directly or indirectly interfere with or degrade the performance or compatibility of non-Microsoft Middleware when interoperating with Microsoft Platform Software, without providing notice to the ISV of such non-Microsoft Middleware prior to taking the action.

Response: Admit the subject matter of this request is not addressed in the RPFJ, but deny that (i) Microsoft has ever taken such action or (it) such action is expressly or impliedly permitted under the RPFJ.

REQUEST NO. 51

Admit that Microsoft currently restricts its redistributable code from use with some non-Microsoft Platform Software.

Response: Objection. This request is vague and ambiguous in its use of the terms "redistributable code" and "non-Microsoft Platform Software," neither of which is defined in the RPFJ or the Requests.

Dated: Washington, DC
January 11,2002
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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of January, 2002, I caused a true and correct copy of the foregoing Microsoft Corporation's Response to Plaintiff Litigating States'' First Joint Requests for Admission in Remedy Proceedings to be served by facsimile and overnight courier upon:

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MTC-00030608

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RE: Comments to the Proposed Final Judgment In United States v. Microsoft Corporation, No. 98-1232 State of New York, et al v. Microsoft Corporation, No. 98-1233

Dear Ms. Hesse,

Enclosed please find ten (10) copies of the comments of the Project to Promote Competition and Innovation in the Digital Age ("ProComp"), submitted pursuant to the Tunney Act, 15 U.S.C. §16, with respect to the Proposed Final Judgment in the above-captioned matters.

Please also note that this filing is accompanied by an affidavit prepared and submitted by Professor Kenneth J. Arrow, the original signed copy of which is attached hereto.

Sincerely yours,
Mitchell S. Pettit
President
ProComp

Comments to the Proposed Final Judgment In United States v. Microsoft Corporation, No. 98-1232 State of New York, et al. I,. Microsoft Corporation, No. 98-1233

Submitted By

Project to Promote Competition & Innovation in the Digital Age ("ProComp")

Pursuant to the Tunney Act, 15 U.S.C. § 16

January 28, 2002

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TABLE OF CONTENTS

Page:

I. INTRODUCTION. 1
A. Standard of Tunney Act Review 1
B. Failure to Satisfy Settled Monopolization Remedies Law 4
C. Failure to Redress Core Violations 6
D. The PFJ Does Not Achieve its Purported Goals 8
I. The API Disclosure Requirements 9
3. OEM Desktop Flexibility 9
E. The PFJ Fails to Address Competitive Issues that Will Determine the Future of the Software Industry 10
II. THE COURT SHOULD DEFER DECISION ON THE PROPOSED DECREE UNTIL AFTER THE LITIGATING STATES'' REMEDIES HEARING AND SHOULD APPLY THE SETTLED ANTITRUST REMEDY STANDARD EXPRESSLY REAFFIRMED IN THIS CASE BY THE COURT OF APPEALS 11
A. Approving the Proposed Decree Before Completion of the Remedy Hearings Would Be Wholly Unprecedented and Highly Prejudicial 12
1. Waiting to Rule on the Proposed Decree Until After the Remedies Trial Avoids Pre-Judging the Remedies Case and the Prospect of Inconsistent Rulings 12
2. Deferring Ruling on the Proposed Decree Promotes the Tunney Act's Express Goal of Conserving Judicial Resources 15
B. The Applicable Legal Standard for Reviewing the Proposed Decree is the Ford/United Shoe Test Specifically Mandated by the Court of Appeals 15
C. The Court Owes No Tunney Act Deference To the Department in this Unprecedented Post-Trial, Post-Appeal Settlement 20

TABLE OF CONTENTS—Continued

Page

D. The AT&T Model is Instructive by Conducting a Searching Inquiry into the Scope, Adequacy and Effectiveness of the Proposed Decree 23
III. THE PROPOSED FINAL JUDGMENT IS INSUFFICIENT UNDER ANTITRUST REMEDIES LAW AND DOES NOT MEET THE STANDARD ARTICULATED BY THE DEPARTMENT 25
A. The Decree Does Not "Undo" the Competitive Harm Resulting from Microsoft's Anticompetitive Practices 26
B. The Proposed Settlement Fails to Deny Microsoft the Ill-gotten Fruits as Required by Established Antitrust Law 29
C. The Decree Does Not Terminate or Redress Numerous Practices that the Court of Appeals Found to Violate the Sherman Act 31
1. Integration of Windows and Middleware 31
2. Coercion and Market Allocation 33
3. Deception and Product Sabotage 35
IV. THE API DISCLOSURE AND OEM FLEXIBILITY PROVISIONS OF THE PROPOSED DECREE WILL NOT CREATE THE OPPORTUNITY FOR MIDDLEWARE COMPETITION 36
A. The Proposed Decree's Provisions for Information Disclosure Do Not Assure that Future Middleware Competitors Will Have Access to Necessary Interoperability Information 37
1. The API Provision's Scope is Far Too Narrow 38
2. The API Provision of the PFJ Constructs an Illusive Framework for Disclosure of Interoperability Information 39
a. Defined Terms Within the API Disclosure Provision Leave All Material Disclosure Determinations to Microsoft 42
3. The API Disclosure Provision Also Leaves Critical Terms Undefined 47
4. Under Provision III.D, APIs Will Never be disclosed in a Timely Manner 48
5. The Exceptions from and Preconditions to API Disclosure Further Narrow the Scope of an Already Unworkable Disclosure Provision 49
6. Cross-Licensing of Middleware APIs 51
7. Timing of API Disclosure Obligation 51
B. The Communications Protocol Provisions of the Decree Do Not Require Release of any Server APIs and are Based on Terms the Department Failed to Include in the Settlement 52
C. The Proposed Decree's Provisions for OEM Flexibility Do Not Open the PC Manufacturing Channel to Future Middleware Competitors 55
1. The OEM Provisions Place Sole Responsibility for Introducing Middleware Competition on PC Manufacturers 56
2. The Provisions Allowing OEM Flexibility Do Not Address the Key Issue of Microsoft's Ubiquitous Middleware Development Platform 61
3. The OEM Provisions Do Not Create a Level Playing Field for Middleware Desktop Competition 62
4. Additional OEM Provisions Further Undermine the Crucial Ability of ISVs to Differentiate Competing Middleware Products .. 63
5. The OEM Provisions Contain Other Superfluous Terms that Substantially Limit Any Potential Market Impact 65
6. The OEM Provisions Have No Impact on Java 66
7. The OEM Provisions Largely Codify Microsoft's Existing Business Practices 66
D. The Proposed Decree Does Not Effectively Preclude Microsoft's Exclusive Dealings 67
E. Current Market and Economic Realities Demonstrate that the PFJ is Incapable of Having Any Substantial Procompetitive Impact 68
1. New Monopolies Enable Microsoft to Protect its Operating System Monopoly Despite the PFJ 68
2. The Proposed Settlement Ignores the Likely Tactics Microsoft Will Use to Eliminate the Next Significant Threat to its Monopoly Position 69
F. The Decree Increases Microsoft's Market Dominance and Actually Worsens Competitive Conditions in the Relevant Software Markets 72
G. The Settlement Would Not Have Prevented Microsoft's Unlawful Campaign Against Netscape and Java 73
V. THE PROPOSED DECREE IS HOPELESSLY VAGUE AND INHERENTLY UNENFORCEABLE 74
VI. DIVESTITURE REMAINS THE PREFERABLE AND MOST EFFECTIVE REMEDY FOR MICROSOFT'S SECTION 2 VIOLATIONS .. 77
VII. THE COURT SHOULD CONDUCT A RIGOROUS TUNNEY ACT EXAMINATION OF THE DECREE, THE COMPETITIVE IMPACT STATEMENT AND THE DEPARTMENT'S UNSUBSTANTIATED PROJECTIONS OF FUTURE COMPETITIVE EFFECT 78
A. The Complexity and Substantial National Importance of this Case, the Government's Flat Reversal of Position and its Disregard of Clear Tunney Act Obligations All Dictate the Necessity of Critical Judicial Oversight in this Landmark Proceeding 78
1. This Complex, Controversial, Nationally Important Antitrust Prosecution Demands Serious Judicial Oversight 79
2. Heightened Scrutiny is Needed Because Neither the Department Nor Microsoft Complied With their Respective Tunney Act Obligations 80
3. The Court Should Closely Examine the Government's Reversal of Position on Relief 83
B. Live Evidence is Needed on the Technical and Economic Complexities of the Software Industry and the Profound Failings of, and Harms Caused by, the PFJ 84
VIII. CONCLUSION 86

I. INTRODUCTION

This proposed decree is so ineffective that it would not have prevented Microsoft from destroying Netscape and Java, the very acts that gave rise to this lawsuit. It is so ineffective in controlling Microsoft that it might as well have been written by Microsoft itself.

A. Standard of Tunney Act Review

The "public interest" standard of the Tunney Act, 15 U.S.C. § 16(e), is determined in this case by the unanimous legal ruling of the Court of Appeals for the District of Columbia Circuit sitting en banc. That Court held that Microsoft has maintained its monopoly in personal computer operating systems in clear violation of Section 2 of the Sherman Act. No decree that fails to cure that illegality and prevent its recurrence can conceivably serve the public interest. The Proposed Final Judgment ("PFJ" or "proposed decree") accomplishes neither of those mandatory purposes.

For that reason, the proposed decree should be rejected by the District Court.

This case is entirely different from any settlement since the adoption of the Tunney Act in 1974.

All other settlements were entered into prior to the conclusion of any trial, usually before any trial had even commenced. Cases holding that a Tunney Act court must accept a lesser remedy than might (or might not) be obtained after trial are utterly irrelevant. The Competitive Impact Statement's ("CIS") reliance upon such cases is misguided. United States v. Microsoft Corp., Revised Proposed Final Judgment and Competitive Impact Statement, 66 Fed. Reg. 59,452 (2001). Here, the District Court and the Court of Appeals, including a total of eight judges, have decided that in violating the Sherman

Act, Microsoft's behavior is directly contrary to the public interest. The Tunney Act does not empower the District Court to enter a remedy that excuses past violations and permits future conduct of the same nature. The proposed decree does precisely that. It is no more binding on the District Court than would be a Department of Justice statement that henceforth a named company would be immune from antitrust prosecution.

In particular, the proposed settlement takes no steps to remedy Microsoft's foreclosure of middleware threats from competing Internet browsers and cross-platform Java technology, Microsoft's related efforts to illegally increase the applications barrier to entry protecting its Windows monopoly, or Microsoft's illegal commingling of browser and other middleware code with Windows. Further, the proposed settlement does not assure that future middleware competitors will have access to the necessary technical information to interoperate properly with Windows, and does not open up the critical Original Equipment Manufacturer ("OEM") distribution channel to these future competitors. Finally, the PFJ ignores the competitive threat to Microsoft's monopoly presented by server-based distributed applications, and thus fails to address Microsoft's practice of protecting its monopoly by controlling proprietary interfaces and communications protocols.

More significantly, the only suggestion in the CIS as to any basis for a very limited and deferential scope of judicial review is simply wrong. The Department insists that such a standard is "particularly" appropriate "where, as here, court's review of the decree is informed not merely by the allegations contained in the Complaint, but also by the extensive factual and legal record resulting from the district and appellate court proceedings." CIS, 66 Fed. Reg. at 59476. Exactly the opposite is the case. In routine Tunney Act cases, the law is clear that respect is to be accorded to the Department's antitrust enforcement judgments—its "perceptions of the market structure and its view of the nature of the case"—precisely because there is no factual or legal record before the court. United States v. Microsoft Corp., 56 F.3d 1448, 1448 (DC Cir. 1995) ("Microsoft l") (emphasis added). When a Sherman Act case has been litigated and affirmed on appeal, however, the district court is fully capable of assessing the proposed remedy in light of those rulings and its "familiarity with the market involved." Id. at 1461.

The closest parallel to this Court's review of the PFJ is the AT&T monopolization settlement presented by the Department end decided by this Court (Harold Greene, J.) under the Tunney Act. United States v. AT&T, 552 F. Supp. 131 (D.DC 1982), aff'd mere. sub nora., Maryland v. United States, 460 U.S. 1001 (1983). In the AT&Tease, Judge Greene had heard the vast majority of the evidence—on all issues except remedy—and more than a year earlier bad denied AT&T's motion to dismiss on the merits after the close of the government's case-in-chief.

Following a wide-ranging Tunney Act process that included evidentiary hearings, third-party submissions and several days of oral argument, Judge Greene refused to approve the consent decree as proposed, even though it mandated divestiture of major components of the Bell System. He concluded that the decree was in certain respects substantively inadequate, precluded the Court from effective oversight and enforcement, and posed a risk of harming third-parties (despite the presence of complementary regulatory jurisdiction to accomplish similar goals). Judge Greene therefore insisted upon substantial modifications to the proposed decree before he would enter the settlement under the Tunney Act's public interest standard.

Recognizing the intense public concern over a possible "rubber stamp" of the settlement by the Court, Judge Greene concluded that it was his responsibility to ensure that the decree protected consumers, opened the relevant markets to effective competition in a timely manna-, and was readily enforceable. Significantly, Judge Green found that "unlike ordinary pre-trial antitrust settlements, the Court would "be able to render sound judgments" because it "ha[d] already heard what probably amounts to well over ninety percent of the parties" evidence both quantitatively and qualitatively, as well as all of their legal arguments." Id. at 152 (citations omitted). For this reason, Judge Greene held that "it does not follow that [the Court] must unquestionably accept a consent decree as long as it somehow, and, however inadequately, deals with the antitrust problems implicated in the lawsuit." Id.

The purpose of judicial review under the Tunney Act is to ensure that a consent decree follows "the public interest as expressed in the antitrust laws." S. REP. NO. 93—298 (1973) ("SENATE REPORT") (emphasis added). Here, the Court of Appeals held specifically that "a remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct," to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future." United States v. Microsoft Corp., 253 F.3d 34, 103 (DC Cir. 2001) ("Microsoft III") (quoting Ford Motor Co. v. United States, 405 U.S. 562, 577 (1972), and United States 1,. United Shoe Mach. Corp., 391 U.S. 244, 250 (1968)). The Department itself earlier emphasized to this Court on remand that "both the applicable remedial legal standard and the liability determination of the Court of Appeals are clear." Joint Status Report, United States v. Microsoft Corp., at 24 (D.DC filed Sept. 20, 2001). The Court of Appeals has spoken and its holding is binding on this Court as well es the litigants. Consequently, in the unique procedural posture of this case, the "public interest as expressed in the antitrust laws" is the Court of Appeals" mandate itself. SENATE REPORT, supra, at 5.

B. Failure to Satisfy Settled Monopolization Remedies Law

The CIS does not even cite, let alone argue, that the PFJ meets the DC Circuit's remedial standard, quoted above, to terminate the monopoly, deny the defendant of its ill-gotten fruits, and ensure that monopoly practices cannot arise in the future.

As that standard recognizes, there is no difference between the remedies called for when a defendant has unlawfully gained a monopoly or unlawfully maintained a monopoly. The offense of monopolization under Section 2 of the Sherman Act occurs when a finn has either "acquired or maintained" monopoly power by anticompetitive means. United States 1,. Grinnell Corp., 384 U.S. 563, 570–71 (1966); Microsoft III, 253 F.3d at 50. There is no legal basis to distinguish between the methods of monopolization either for liability or relief purposes, and neither DOJ nor Microsoft has cited a case making such a distinction. All arc equally unlawful and all arc equally harmful to consumers. Here, for example, even assuming that Microsoft achieved its monopoly power through legitimate business means, it has been found to have maintained such monopoly power through a series of anticompetitive conduct designed to illegally preserve its monopoly position by foreclosing rivals. But for this illegal maintenance, Microsoft's monopoly power would probably have dissipated, and competitors and consumers would have enjoyed the benefits of free and fair competition. Microsoft's internal communications demonstrate that Microsoft thought that would be the likely outcome.

For these reasons, courts apply broad relief even where a firm has been found to possess monopoly power that was legally acquired but illegally maintained. See, e.g., United Shoe, 391 U.S. at 250 (in context of a legally attained monopoly position that was illegally maintained, the Court held it has a duty to "prescribe relief which will terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future"). And courts have never distinguished between illegal attainment and illegal maintenance when determining remedies for a Sherman Act Section 2 monopolization claim. See, e.g., Schine Chain Theatres, Inc. v. United States, 334 U.S. 110, 128 (1948) (holding conduct injunctions against future violations not adequate to protect public interest in monopolization cases since defendant thus maintains the full benefit of the monopoly; instead broad remedies, including divestiture, are necessary to undo the harm to the market); see also 3 PHILLIP E. AREEDA AND HERBERT HOVENCAMP, ANTITRUST LAW ¶653i (2002) (quoting United Shoe, 391 U.S. at 250–52, for the proposition that a "monopoly that has been created or maintained by plainly exclusionary conduct is unlawful and that it is the duty of the court to assure its "complete extirpation." (emphasis added)). In short, an appropriate set of remedies to restore competition needs to be sufficient to pry open the market to competition, stop the bad acts, undo the effects of the bad acts, and preclude future alternative anticompetitive tactics.

The DC Circuit was well aware that this case involves monopoly maintenance—that the achievement by Microsoft of a Windows monopoly in the first instance was not alleged to be unlawful—but nonetheless specifically adopted the Ford/United Shoe remedy standard, including its command to "terminate" the defendant's monopoly power. That is the law of this case and the law in all Sherman Act monopolization cases.

C. Failure to Redress Core Violations

By agreeing to the proposed settlement, the Department and the Settling States have "won a lawsuit and lost a cause." International Salt Co. v. United States, 332 U.S. 392, 401 (1947). By excluding consideration of terminating the Windows monopoly from their remedy calculations, Plaintiffs have ignored the central meaning of Section 2. They would have the Court sanction Microsoft's unlawful conduct allowing its monopoly to remain intact. The Court of Appeals" use of the traditional Ford/United Shoe standard clearly holds that that is not a proper remedy. The CIS explains that the applications barrier to entry protecting Microsoft's monopoly was directly threatened by "two incarnations of middleware that, working together, had the potential to weaken the applications barrier severely without the assistance of any other middleware"—Netscape and Java. CIS, 66 Fed. Reg. at 59464–65. Nonetheless, the PFJ inexplicably contains no provision addressing Internet browsers or cross-platform Java runtime technology, let alone any other provisions that erode the applications barrier to entry. Moreover, the proposed decree simply ignores a number of other significant ways in which the Court of Appeals held that Microsoft's practices violated the Sherman Act. Consequently, the PFJ does not "unfetter [the] market from anticompetitive conduct" or "ensure that there remain no practices likely to result in monopolization in the future." Microsoft III, 253 F.3d at 103.

Nothing in the settlement prohibits Microsoft from commingling code or binding its middleware to the operating system. This was a major issue in this litigation, and the Court of Appeals specifically found Microsoft's commingling of browser and operating system code to be anticompetitive. The danger is reinforced by the definition of "Windows Operating System Product" in Section VI.U, which states that what code comprises Windows "shall be determined by Microsoft in its sole discretion." PFJ, 66 Fed. Reg. at 59459. Thus, Microsoft can render the protections for middleware, meaningless by binding and commingling code and redefining the operating system to include the bound/commingled applications.

ProComp strongly disagrees with the notion that it is impossible to move the market forward to approximate where it would have been absent Microsoft's violations. The applications barrier to entry is not an immutable condition. There are remedial alternatives available to restore Internet browsers and cross-platform runtime technology to the position they would have achieved—ubiquitous distribution without any "lock-in" to the Windows operating system m in the absence of Microsoft's violations. The open source Internet Explorer ("IE") licensing requirement proposed by the Litigating States does just that. More specifically, a remedy that acts directly to undermine the applications barrier to entry, for instance by requiring "porting" of the Office suite to other operating systems platforms, could potentially do precisely what Netscape and Java were poised to accomplish in 1995–98—"commoditize" the operating systems and thus allow operating systems competition to occur on the basis of efficiency and consumer demand, rather than hardware lock-in. In any event, by ignoring the economic importance of the competition destroyed by Microsoft's wide range of exclusionary practices, the PFJ fails to address the central lesson of this litigation. It does not redress the core Sherman Act violations on which liability was unanimously affirmed by the en banc Court of Appeals.

The relief proposed by the Litigating States acts directly to deny Microsoft the fruits of the violation (Interact Explorer licensing), pry open the operating systems market to competition (Java must carry) and erode the barrier to entry protecting Microsoft's monopoly power (applications porting). It is precisely these omissions m consequences of the Department's current, erroneously truncated remedy analysis m that fatally undermine the legal sufficiency of the PFJ. The Department's proposed remedy flatly contradicts the Court of Appeals" directives and thus "the public interest as expressed in the antitrust laws." SENATE REPORT, supra, at 5.

D. The PFJ Does Not Achieve its Purported Goals

The PFJ purports to provide applications developers with the tools to create competing platforms, but the proposed decree fails to achieve even the narrow goals it sets out to accomplish. The PFJ neither creates the conditions under which new middleware competition can flourish nor provides OEMs with the freedom to support such middleware in the event these technologies avoid the predatory acts of Microsoft.

Most predatory conduct fails to achieve or maintain monopolization because the aggressor must incur greater costs than its prey in order to keep or drive competitors from the market. What this litigation has shown is that Microsoft has numerous weapons in its arsenal to impose far greater damage on its competitors than the loss Microsoft suffers by using such weapons. Controlling the disclosure of the Application Program Interfaces ("API") and the related technical information, imposing conditions on OEM licenses, "commingling" or bolting of software code and products are all examples of weapons Microsoft employed in its predatory attack on Netscape's Navigator and Java technologies. The PFJ does nothing to protect Microsoft from using the same tactics against any future middleware threats.

1. The API Disclosure Requirements

The PFJ purports only to make public those APIs between the operating system and Microsoft middleware that run on top of the operating system. It does not accomplish even that narrow result. To name a few, the convoluted definitions and exemptions to the API disclosure obligation allow Microsoft itself to decide which APIs will be subject to the disclosure requirement and when those APIs will be released. The decree also permits Microsoft to design and bundle its products in different ways to evade the disclosure requirements, for instance by permitting Microsoft in "its sole discretion" to decide what software comprises a "Windows Operating System Product." PFJ, 66 Fed. Reg. at 59459. With some simple packaging decisions, Microsoft can unilaterally dictate whether middleware competitors will receive the interoperability information necessary to innovate. In short, as explained in detail below, the API disclosure provisions are riddled with numerous deficiencies that render them ineffective in promoting competition.

These are not loopholes, but triumphal arches that allow Microsoft to proceed uninhibited by the antitrust laws. The PFJ expressly allows Microsoft to play a game of form over substance by categorizing pieces of code into different defined terms. The operation of the disclosure requirements is devoid of any notion of technological or economic efficiency.

2. OEM Desktop Flexibility

The PFJ relies almost exclusively on OEMs to restore competition, a naive hope at best. OEMs do not have the resources or the economic incentive to create competition for Microsoft. In any event, the provisions regarding OEM flexibility to distribute competing middleware products ignore the economic realities of the software industry. Most importantly, the decree fails to provide OEMs and consumers with the flexibility to support competing middleware or other new technologies that Microsoft may deem as a threat to its monopoly position. The add/remove provisions in the proposed decree only allow for removal of end user access, i.e., the icon for Microsoft middleware, not the middleware itself. As discussed in the accompanying Declaration of Kenneth Arrow (Attachment A), Nobel laureate and the Department's own expert in Microsoft 1, this perpetuates the applications barrier to entry that is at the heart of this litigation. Thus, the OEM provisions enhance rather than erode Microsoft's operating system monopoly power.

E. The PFJ Fails to Address Competitive Issues that Will Determine the Future of the Software Industry

Even if these serious deficiencies in the structure, scope and language of the proposed decree were corrected, the settlement would still not create the conditions for a competitive operating systems market. The proposed decree hardly deals at all with Microsoft's likely future anticompetitive conduct. Microsoft's prodigious market power is now directed at the next threat to the Windows platform—applications and services provided via the Internet and other networks m not the Netscape/Java threat of 1995–99. Microsoft has destroyed those revolutionary technologies that are a source of operating systems competition and has moved on to other areas that the proposed decree all but ignores.

The PFJ fails to serve the public interest and to achieve the settled goals of monopolization relief reaffirmed in the Court of Appeals" decision. It ignores the changing market realities, and the core violations upheld by the DC Circuit. The proposed settlement exhibits an unjustifiable deference to a convicted monopolist in designing its products and determining the scope of the remedy. In doing so, it renounces its purported goal of creating the conditions for new middleware threats to flourish. Additionally, it clearly fails to deny Microsoft the "fruits" of its violations and "terminate" its monopoly power. It is precisely these flaws that fatally undermine the legal sufficiency of the PFJ. In contrast, the relief proposal by the Litigating States includes provisions, such as Interact Explorer licensing, Java must carry, applications porting, sufficient and timely disclosure of information, and the freedom to license unbundled Microsoft products, just to name a few, which deny Microsoft the fruits of the violation, pry open the OS market to competition and erode the barrier to entry protecting Microsoft's monopoly power. As a matter of law, the Department's settlement proposal cannot be said to be consistent with "the public interest as expressed in the antitrust laws," SENATE REPORT, supra, at 5, where it has proposed a remedy without reference to those laws as reiterated by the Court of Appeals m this very case.

11. THE COURT SHOULD DEFER DECISION ON THE PROPOSED DECREE UNTIL AFTER THE LITIGATING STATES" REMEDIES HEARING AND SHOULD APPLY THE SETTLED ANTITRUST REMEDY STANDARD EXPRESSLY REAFFIRMED IN THIS CASE BY THE COURT OF APPEALS

This is the only substantial Government Section 2 case in more than 30 years litigated through trial to judgment, appeal and dual opportunities for Supreme Court review. [1] A "rush to judgment" is simply not the appropriate course of judicial review under the Tunney Act, or otherwise. A decision on the adequacy of the proposed decree should therefore be deferred until after the conclusion of the evidentiary heating on the remaining Plaintiffs" ("Litigating States") relief proposals. Moreover, the normal Tunney Act flexibility accorded to the Government in offering a proposed pretrial antitrust settlement cannot hold in the unique circumstances of this case, in which the Court is obligated to conduct a searching, independent inquiry into the proposed decree, with no deference accorded to the government.

A. Approving the Proposed Decree Before Completion of the Remedy Hearings Would Be Wholly Unprecedented and Highly Prejudicial

No court has ever approved an antitrust settlement where, as here, there are remaining plaintiffs in the very same consolidated action that are about to begin a full remedies hearing based on adjudicated Sherman Act liability that has been affirmed on appeal. In this unprecedented case, [2]It is essential that the Court evaluate all available evidence bearing on the "public interest" of the Department's proposed settlement.

1. Waiting to Rule on the Proposed Decree Until After the Remedies Trial Avoids PreJudging the Remedies Case and the Prospect of Inconsistent Rulings

The Tunney Act sets no deadlines. Neither the Act nor its legislative history in any way encourages "fast-track" review. Instead, the Act expressly allows the Court to set its own schedule and to tailor its judicial review process to the facts and circumstances of each antitrust case. 15 U.S.C. ¶¶16(1) [3] As the Senate sponsor of the Tunney Act explained:

> The decision to make [Tunney Act] procedures discretionary is dictated by a desire to avoid needlessly complicating the consent decree process. There are some cases in which none of these procedures may be needed. On the other hand, there have been and will continue to be cases where the use of many or even all of them may be necessary. In fact, in a very few complex cases, failures to use some of the procedures might give rise to a, indication that the district court had failed to exercise its discretion properly.

119 Cong. Rec. 3453 (statement of Sen. Tunney) (emphasis added).

This highly complex case demands that the Court utilize all available procedures for evaluating the adequacy of the proposed decree and the evidentiary basis of the economic projections that underly the Department's remedial scheme. Deferring decision on the proposed decree is the only sensible approach. The Court's consideration of testimonial and other evidence on the failings of the decree will avoid unfair prejudgment of the remedies remand and the entry of potentially conflicting relief. It also offers the most efficient means of ensuring that the many issues raised by the proposed decree and the Court of Appeals" decision receive a thorough hearing on the merits. Deferring judgment will not harm any party or inconvenience the Court, given that the Litigating States" upcoming remedies trial is scheduled to begin just thirteen days after the completion of the Tunney Act comment process. [4]Indeed, neither the Justice Department nor Microsoft can claim to be prejudiced by a short deferment in judgment on the PFJ, because Microsoft represents that it is already complying with the terms of the proposed decree.

Deferral would also avoid the highly undesirable result of inconsistent judgments. The Litigating States" remedy proposal differs markedly from the proposed settlement in breadth, scope and approach. A premature ruling on the PFJ would force the Litigating States either to (1) pursue their relief proposal in full, knowing there may be inconsistent remedy orders issued by this Court that would make compliance difficult, if not impossible, or (2) stunt their case by limiting their proposed remedies to those that can be implemented in a manner consistent with the PFJ, even though they have already rejected that settlement as inadequate.

The Court faces a similar, untenable choice if it seeks to issue an early ruling on the proposed decree. The Court would have to limit its ultimate remedy order to the terms already required by its ruling on the Department's settlement, or order new remedies but vacate those portions of the PFJ that are inconsistent with the subsequent decree. This dilemma is easily avoided, however, by waiting to resolve the issues raised by the Tunney Act comments until after the Litigating States and Microsoft have had a full and fair opportunity to present evidence supporting their respective remedy proposals.

Avoiding conflicting remedial orders alone is reason enough to defer judgment on the decree. Inconsistent judgments are to be avoided in antitrust as in all complex litigation. See In re Transit Co. Tire Antitrust Litigation, 67 F.R.D. 59, 65 (W.D. Mo. 1975) (separate relief hearings "would result in duplication of effort [and] possible inconsistent judgments"). It is well-established that "[t]he avoidance of logically inconsistent judgments in the same action" is a "just reason for delay[ing]" entry of final judgment in multi-party civil actions. [5]

The Court should give particular weight to considerations of uniformity in this case, because of the great need to ensure that all in the software industry—suppliers, customers and competitors —face a fair and even playing field. As the Supreme Court has held, antitrust violations should be remedied "with as little injury as possible to the interest of the general public." United States v. American Tobacco Co., 221 U.S. 106 (1911). Thus, "the Court would be justified in rejecting the proposed decree or requiring its modification if it concluded that the decree unnecessarily conflicts with important public policies other than the policy embodied in the Sherman Act." AT&T, 552 F. Supp. at 151. In this case, such an important public policy is the uniform application of antitrust law to the national software market.

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[1] Microsoft Corp. v. United States, 530 U.S. 1301 (2000) (denying appeal); Microsoft Corp. v. United States, 122 S. Ct. 350 (2001) (denying certiorari).

[2] Like AT&T, "It]his is not an ordinary case." 552 F. Supp. at 151

[3] A Tunney Act court is authorized to "take testimony of Government officials," appoint a "special master and such outside consultants or expert witnesses as the court may deem appropriate," hear evidence and argument from other interested persons and organizations, and "take such other action in the public interest as the court may deem appropriate." 15 U.S.C. § 16(f). These procedures are so important to a careful assessment of the public interest that courts routinely employ them, even in pretrial Tunney Act cases. See, e.g.. United States v. Bechtel Corp., 1979–1 Trade Cas. (CCH) ¶62,430 (N.D. Cal. 1979), aff'd 648 F.2d 660 (9th Cir. 1981); Dillard v. City of Foley, 166 F.R.D. 503 (M.D. Ala. 1996); United States v. Westinghouse Elec. Corp., 1988–1 Trade Cas. (CCH) ¶68,012 (D.DC 1988); United States v. ARA Serves., 1979–2 Trade Cas. (CCH) ¶62,861 (E.D. Mo. 1979); United States v. Mid-America Dairymen, Inc., 1977–1 Trade Cas. (CCH) ¶61,508 (W.D. Mo. 1977).

[4] Based on the deadlines set forth in the Court's November 8, 2001 Order and Section 16(b) of the Tunney Act, comments on the PFJ and the Department's responses to those comments are not due uhtil February 26, 2002. Thus, the remedy trial, scheduled to begin on March I 1, 2002, will start only two weeks after the Justice Department is scheduled to submit its Response-to-Comments on the PFJ. Even if the Justice Department files its Response-to-Comments early, deferring judgment on the PFJ will cause little if any delay, no prejudice, and great benefits to the parties and the Court.

[5] Phoenix Renovation Corp. v. Gulf Coast Software, F.R.D. 580, 582 (E.D. Va. 2000) (quoting Fed. R. Civ. P. 54(b)); see also Dana Corp. v. Celotex Asbestos Settlement Trust, 251 F.3d 1107, 1120 (6 th Cir. 2001) (affirming the district court's condemnation of a reorganization plan provision that unnecessarily "raise[d] a likelihood of inconsistent judgments").

2. Deferring Ruling on the Proposed Decree Promotes the Tunney Act's Express Goal of Conserving Judicial Resources

Deferring judgment on the proposed decree will also conserve judicial resources by allowing the Court to determine which questions raised by the PFJ can be resolved by the testimony and other evidence offered in the remedy trial. The Court may then limit or avoid duplicative evidence that must be adduced to assess whether the decree meets the applicable substantive standard for Tunney Act judicial review.

Consent decrees subject to Tunney Act review are generally used to obviate trial—to avoid "extended proceedings" and provide a "prompt and less costly" means of resolving antitrust suits pre-litigation. CIS, 66 Fed. Reg. at 59476 (quoting 119 Cong. Rec. 24598 (1973)). Even the Department of Justice, in discussing the negotiation of antitrust settlements in its Practice Manual, identifies the consent decree as the best way to obtain relief "without taking the case to trial." Antitrust Division Manual, Ch. IV, § E, at 50 (3 rd ed. 1998) (emphasis added). Here, however, a liabilities trial has already occurred, and a remedies trial must occur regardless of when or whether the proposed Department settlement is approved. There is little or no court action to avoid. As a result, judicial resources are best conserved and most efficiently allocated by holding the remedies trial before ruling on the PFJ.

B. The Applicable Legal Standard for Reviewing the Proposed Decree is the Ford/United Shoe Test Specifically Mandated by the Court of Appeals

In no reported case since adoption of the Tunney Act in 1974 has the Department sought to settle a monopolization action after prevailing at trial and on appeal. The CIS nonetheless suggests that in assessing the adequacy of the proposed decree under the Act, this Court must approve a settlement that is less than the remedy the Court would otherwise impose of its own accord. CIS, 66 Fed. Reg. at 59476 (citations omitted). In the unprecedented procedural posture of this case, it cannot.

The Court of Appeals agreed that relief in this case must seek to "terminate" Microsoft's operating system monopoly, to "unfetter" barriers to competition to the operating systems market, to "deny" Microsoft the "fruits" of its statutory violations, and to "ensure" there are no practices "likely to result in monopolization in the future "[6] That mandate is binding on this Court as well as the litigants. The Supreme Court has "consistently held that an inferior court has no power or authority to deviate from the mandate issued by an appellate court." Briggs v. Pennsylvania R. Co., 334 U.S. 304, 306 (1948). Indeed, even prior to the Tunney Act the Supreme Court emphasized that in antitrust cases, "[t]he Department of Justice ... by stipulation or otherwise has no authority to circumscribe the power of the courts to see that [their] mandate is carried out." Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 386 U.S. 129, 136 (1967).[7]Consequently, in the unique procedural posture of this case, the "public interest as expressed in the antitrust laws," SENATE REPORT, supra, at 5, is the Court of Appeals" mandate itself. [7] "[A] remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct," to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future." Microsoft III, 253 F.3d at 103 (citations omitted). 7 The legislative history of the Tunney Act indicates that Congress was clearly aware of Cascade and intended the Act's public interest standard to codify that rule of antitrust remedies. Judge L Skelly Wright, former Chief Judge for the DC Circuit, discussed the Cascade problem at length in his Senate appearance, explaining that "the Supreme Court felt compelled to say that—and I am quoting—"The United States knuckled under to El Paso and settled this litigation"—close quote, rather than fully protecting the public interest by getting a decree which fully insured future competition." SENATE REPORT, supra, at 147.

The DC Circuit did not establish a new legal standard for monopolization relief, but rather adopted the traditional test developed by the Supreme Court decades ago. See Microsoft. III, 253 F.3d at 103 (quoting Ford Motor Co. v United States, 405 U.S. 562, 577 (1972), and United States v. United Shoe Mach. Corp., 391 U.S. 244, 250 (1968)). Notably, however, the CIS does not even cite, let alone argue, that the PFJ meets the DC Circuit's remedial standard. The Department instead offers its own view that "[a]ppropriate injunctive relief in an antitrust case should: (1) [e]nd the unlawful conduct; (2) avoid a recurrence of the violation and others like it; and (3) undo its anticompetitive consequences." CIS, 66 Fed. Reg. at 59465 (citations omitted). This lesser standard is invalid because it ignores the Supreme Court's directives to "terminate" the monopoly and to eradicate the "fruits" enjoyed by the unlawful monopolist.

To the extent that DOJ may contend this case is different because the acquisition of Microsoft's monopoly was not challenged, rather the unlawful maintenance of that monopoly, it would be incorrect. There is no legal basis to distinguish between the methods of monopolizalion either for liability or relief purposes, and neither DOJ nor Microsoft has ever cited a case making such a distinction. The adverse consumer welfare and economic efficiency consequences of monopoly power are the same whether a monopoly was illegally acquired, illegally maintained or both. Indeed, the DC Circuit was well aware that the achievement by Microsoft of a Windows monopoly in the first instance was not alleged to he unlawful, [8] but nonetheless specifically adopted the traditional Ford/United Shoe remedy standard.

The Court of Appeals" carefully crafted and detailed opinion can hardly be deemed to have applied this standard by accident. Accordingly, notwithstanding Microsoft's claim, it is simply not true that "contrary to the critics" overheated rhetoric, there is no basis for relief designed to terminate an 'illegal monopoly.'" [9] The fact that a monopoly was acquired lawfully does not provide any defense, because the monopolist forfeits its right to continue to hold even a lawfully acquired monopoly when it violates the Sherman Act in its preservation.[10]

The Department and Microsoft may argue that the Court of Appeals" "drastic" modification of liability is of crucial significance in evaluating the scope of a remedy. See Microsoft III, 253 F.3d at 105. What this contention ignores is that the Court of Appeals reversed or remanded separate, distinguishable legal theories for Sherman Act liability that all arose from the same set of operative facts. As the government explained to the Supreme Court: The court of appeals affirmed the district court's central ruling that Microsoft violated Section 2 of the Sherman Act by engaging in an unlawful course of conduct to maintain its monopoly of the market for Intel-compatible PC operating systems. With minor exceptions, the court agreed with the district court's findings and conclusions that Microsoft's restrictions on original equipment manufacturers; its bundling of Internet Explorer into Windows; its dealings with internet access providers, independent software vendors, and Apple Computers; and its efforts to contain and to subvert Java technologies that threatened Microsoft's operating system monopoly, all served unlawfully to maintain the Windows monopoly.

Brief for the United States in Opposition [To Certiorari], Microsoft Corp. v. United States, No. 01–236, at 5 (S. Ct. filed Aug. 2001) (emphasis added; citations omitted). And the Court of Appeals added the explicit, highly unusual caution that "[n]othing in the Court's opinion is intended to preclude the District Court's consideration of remedy issues."[11] That the lesser included offenses of attempted monopolization and tying were not upheld does nothing to subtract from the seriousness of the widespread Section 2 violations affirmed by the Court of Appeals or the Court's explicit reaffirmation of the Ford/United Shoe standard for antitrust relief.

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[8] See Microsoft L 56 F.3d at 1452 (no claim that "Microsoft obtained its alleged monopoly in violation of the antitrust laws") (emphasis in original); Microsoft III, 253 F.3d at 58 (Microsoft "violated § 2 by engaging in a variety of exclusionary acts ... to maintain its monopoly").

[9] Statement of Charles F. (Rick) Rule, Fried Frank Hams Shriver & Jacobson, Prepared for the Committee on the Judiciary, United States Senate, at 5 (Dec. 12, 2001) ("Rule Senate Testimony"). 10 This self-evident proposition becomes even more clear when the relief in this case is compared with that adopted by the Department, approved by this Court under the Tunney Act and affirmed on the merits by the Supreme Court in the AT&T antitrust case. United States v. AT&T, 552 F. Supp. 131. There, like here, the Section 2 claim was monopoly maintenance, not unlawful acquisition of monopoly power. Furthermore, unlike Microsoft, AT&T's monopoly was in part a de jure consequence of regulatory and legal protections. Id. at 135–41. Had there in fact been a difference for antitrust remedy purposes between monopoly maintenance and monopoly acquisition, use of the ultimate relief of divestiture in A T& T would have been impermissible. Thus, only by ignoring the largest antitrust settlement of the generation preceding Microsoft can the settling litigants here escape the conclusion that termination of a defendant's monopoly power is the principal remedial objective of Section 2 monopoly maintenance cases.

CIS" lengthy recitation of cases indicating that a Tunney Act court must accept a lesser remedy than might be obtained after trial is irrelevant. CIS, 66 Fed. Reg. at 59475–76. None of these cases arose in the context of a post-trial settlement of a Section 2 monopolization claim and thus none resolved whether the remedial standard adopted by the federal courts in a fully litigated antitrust case must be jettisoned if the government subsequently agrees to a consensual decree.[12] More importantly, the Department has not offered any statutory or policy basis 1o justify its wooden invocation of Tunney Act dicta to this case. By failing to articulate any legitimate justification for the deference it insists upon, the Department's position suggests that it is designed to shield the merits of the decree from critique by the Court and to mask the weakness of the proposed settlement, rather than to satisfy any compelling institutional or constitutional policy.

The only suggestion in the CIS as to any basis for a limited scope of judicial review is just wrong. The Department insists that a different relief standard is "particularly" appropriate "where, as here, court's review of the decree is informed not merely by the allegations contained in the Complaint, but also by the extensive factual and legal record resulting from the district and appellate court proceedings." CIS, 66 Fed. Reg. at 59476. That has things backwards. In normal Tunney Act cases, the law is clear that respect is to be accorded to the Department's antitrust enforcement judgments w its "perceptions of the market structure and its view of the nature of the case"—precisely because there is no factual or legal record before the court. Microsoft I, 56 F.3d at 1448. When a Sherman Act case has been litigated and affirmed on appeal, however, the district court is fully capable of assessing the proposed remedy against that record and its "familiarity with the market involved." Id. at 1461.[13] In short, the Court of Appeals" mandate, and its application of traditional monopolization remedy law, is the applicable standard against which to measure the scope and efficacy of the PFJ.

C. The Court Owes No Tunney Act Deference To the Department in this Unprecedented Post-Trial, Post-Appeal Settlement

The language, legislative history and purpose of the Tunney Act all indicate that the relatively deferential attitude ordinarily adopted by courts to antitrust settlements should not constrain this Court's inquiry into the legal sufficiency and acceptability of the remedy proposed by Microsoft, the Department and the Settling States.

The leading authority on Tunney Act deference is not at all to the contrary. In Microsoft I, the DC Circuit reversed the district judge for "construct[ing] his own hypothetical case and then evaluat[ing] the decree against that case." 56 F.3d at 1459. Here, no one is asking the Court to consider claims the government chose not to pursue. Quite to the contrary. ProComp asks the Court to grant effective relief for those claims that the Department actually brought and on which it has already prevailed.

The difference in judicial deference owed to the Executive Branch is easily understood against this backdrop. The Tunney Act was created as a "check on prosecutorial discretion," In re IBM, 687 F.2d 591,595 (2d Cir. 1982), that is, "a check... on the government's expertise m or at the least, its exercise of it—even on its good faith." United States v. Gillette Co., 406 F. Supp. 713, 715 (D. Mass. 1975). The concern of Congress was the predominance of pretrial antitrust settlements that otherwise would never reach a courtroom.[14] For these reasons, the Microsoft I decision cautions that a district court's Tunney Act obligation to avoid delving too deeply into the substantive merits of antitrust settlements arises because "there are no findings that the defendant has actually engaged in illegal practices." Microsoft I, 56 F.3d at 1460 (emphasis in original). .

That is obviously not the case here. Microsoft's liability for a wide variety of exclusionary practices violative of Section 2 of the Sherman Act has been adjudicated and affirmed on appeal. In contrast, it is clear that the Tunney Act was predicated on the assumption that proposed consent decrees would be presented in the context of pretrial settlements over which the courts had yet to engage in an exercise of judicial power. See 15 U.S.C. § 16(e)(1) (district court must "evaluate the competitive impact of... termination of alleged violations ...."); § 16(e)(2) (court must consider "the public benefit, if any, to be derived from a determination of the issues at trial"). Unlike the ordinary Tunney Act situation, in this case it is indisputably not correct to conclude that "[r]emedies which appear less than vigorous may well reflect an underlying weakness in the government's case." Microsoft I, 56 F.3d at 1461.

The Tunney Act's underlying principles of judicial restraint applicable to the exercise of prosecutorial discretion—deeply rooted in separation of powers—simply do not apply here.[15] In the typical Tunney Act case, courts have made "no judicial finding of relevant markets, closed or otherwise, to be opened or of anticompetitive activity to be prevented," is by definition not present in a post-appeal antitrust settlement. Maryland v. United States, 460 U.S. 1001, 1004 (1983) (per curiam) (Rehnquist, J., dissenting). The separation of powers concerns in a post-trial settlement are actually reversed.[16] The source of Tunney Act deference is that "the court's authority to review a decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first instance." Microsoft I, 56 F.3d at 1459–60 (emphasis added). In contrast, deferential review of a post-trial settlement in a fully litigated, finally appealed antitrust prosecution would directly contradict the "mandate rule" of Cascade Natural Gas and would be inconsistent with this Court's Article III obligations.

The Court of Appeals has explained that because there are "constitutional difficulties that inhere in this statute," it is "inappropriate for the [district] judge to measure the remedies in the decree as if they were fashioned after trial." Microsoft I, 56 F.3d at 1461. The converse is true when a remedy is in fact fashioned after trial. In that situation, the court has already made the factual and legal findings that do not exist in the ordinary consent decree situation, and therefore is not required to "give due respect to the Justice Department's perception of the market structure and its view of the nature of the case." Id. at 1461.

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[11] United States v. Microsoft Corp., No. 00–5212, Order (Aug. 2, 2001) (per curiam).

[12] The Department's reliance on United States I,. BNS, Inc., 858 F.2d 456 (9 th Cir. 1988), is especially problematic. CIS, 66 Fed. Reg. at 59476. In BNS, a merger case, the public interest "could be harmed irreparably by permitting a merger to become a fait accompli" while the district court deliberated on the adequacy of the decree's provisions. 858 F.2d at 462. The proposed Microsoft settlement could not be more different. This is not a merger proceeding. Indeed, the public interest would be harmed profoundly if the Court accepts a relief proposal, like the PFJ, that is plainly inadequate to restore competition or eliminate the widespread anticompetitive practices whose illegality was squarely affirmed by the Court of Appeals. Accordingly, the Department's citation to BNS for the proposition that this Court cannot "engage in an unrestricted evaluation of what relief would best serve the public," id., is both highly misleading and inapplicable.

[13] The Court of Appeals admonished and reversed the prior District Judge in this case, in part, for entering a decree based largely on the relief proposed by the government. Although the Justice Department's officers "are by reason of office obliged and expected to consider w and to act—in the public interest," Microsoft 111. 253 F.3d at 34 (quoting Judge Jackson), that did not excuse the District Court from its independent obligation to consider and explain how the relief proposed would meet the sealed objectives of antitrust remedies. Microsoft I!!. 253 F.3d at 34. Nothing less is warranted now.

[14] H.R. REP. NO. 93–1463 (1974) ("HOUSE REPORT"). Note, The ITT Dividend: Reform of Department of Justice Consent Decree Procedures, 73 colum. L. Rev. 594 (1973).

[15] The purposes of the Tunney Act are not implicated in a proposed post-trial settlement of a Government. Section 2 prosecution that has already been affirmed on appeal. There is no risk of excessive secrecy, because the remedy phase of a litigated antitrust case necessarily takes place in an open judicial process dining which, based on the trial record and l/ability findings, the district determines whether the government's requested relief adequately remedies the defendant's violations of the antitrust laws. Nor is there any risk that judicial review of a proposed post-appeal consent decree will discourage government antitrust settlements, as the Department retains the power—which it exercised long ago in this case -whether to initiate an antitrust prosecution or settle.

[16] The courts have therefore distinguished between a court's involvement in "the executive branch's decision to abandon litigation," which "might impinge upon the doctrine of separation of powers," and "[j]udicial approval of consent decrees under the [Tunney] Act," which is "an entirely distinct proposition because the decree is entered as the court's judgment." In re IBM Corp., 687 F.2d 591,602 (2d Cir. 1982).

In light of these serious constitutional concerns, this Court should not and cannot accept a proposed decree that falls short of the remedy that the Court would impose based on its own, independent assessment of the record and the Court of Appeals" remand mandate. The Court is undoubtedly aware of the long-standing maxim that constitutional questions are to be avoided if a statute can be interpreted so as not to raise them. E.g., Richmond Screw Anchor Co., 275 U.S. 331, 346 (1928). In the context of this unprecedented Tunney Act case, simple prudence dictates that the Court should construe the Act to dispense with deference to the government where liability has been adjudicated and affirmed on appeal, and thus avoid any possibility of a constitutional challenge to its remand decision on remedies.

D. Tile AT&T. Model is Instructive by Conducting a Searching Inquiry into the Scope, Adequacy and Effectiveness of the Proposed Decree Before turning to a substantive critique of the PFJ, it is appropriate to discuss the close parallels between Microsoft and the last major monopolization settlement presented by the Department and decided by this Court (Harold Greene, J.) under the Tunney Act. United States v. AT&T, 552 F. Supp. at 151.

Before the AT&T settlement was proposed, Judge Greene had heard the vast majority of the evidence—on all issues except remedy—and had denied AT&T's motion to dismiss on the merits after the close of the government's case-in-chief. United States v. AT&T, 524 F. Supp. 1336, 1380 (D.DC 1981). Following a wide-ranging Tunney Act process that included evidentiary hearings, third-party submissions, and several days of oral augment, Judge Greene declined to approve the decree as proposed—even though it required divestiture of the Bell system—because he concluded that it was substantively inadequate, precluded the Court from effective oversight and enforcement, and posed a risk of harming third parties.

The Judge insisted upon substantial modifications to the proposed decree before he would enter the settlement under the Tunney Act's public interest standard. In doing so, Judge Greene explained that ,47&T was &ldquo;not an ordinary antitrust case." 552 F. Supp. at 151. Instead, in that case as in this one, the proposed decree was an "enormous undertaking" having "significant consequences for an unusually large number of ratepayers [i.e., consumers], shareholders... and competitors." 552 F. Supp. at 152. In addition, and also like in this case, the Court would "be able to render sound judgments" because it "ha[d] already heard what probably amounts to well over ninety percent of the parties" evidence both quantitatively and qualitatively, as well as all of their legal arguments." Id. For these reasons, Judge Greene concluded that "it does not follow that [the Court] must unquestionably accept a consent decree as long as it somehow, and, however inadequately, deals with the antitrust problems implicated in the lawsuit." Id. Instead, Judge Greene reasoned it was his responsibility to ensure the decree protected consumers, opened the relevant markets to effective competition in a timely manner, and would be readily enforceable. The Supreme Court affirmed. Maryland v. United States, 460 U.S. 1001 (1983) (per curiam); California v. United States, 464 U.S. 1013 (1983)(per curiam).

Like AT&T, this has been a long, exceedingly complex and very hard-fought case. Unlike AT&T, however, in this litigation the proposed settlement comes after the trial was completed and after the courts finally adjudicated the defendant's liability. Also" unlike AT&T, moreover, here the government has not succeeded in obtaining via settlement anything close to the relief it sought on the merits from this Court. We have submitted our view that deference to the Department of Justice is inappropriate in this unique case. The A T&7 model provides a benchmark for the scope of Tunney Act judicial review which, if anything, should be exceeded given the far more advanced procedural posture here. This Court cannot err by following an expanded AT&T-like procedure. The converse may not be true.

In sum, the Litigating States must be allowed to proceed free from the interference that early Court approval of the proposed decree would entail. When the Court does assess and rule on the decree, it must undertake a thorough, independent analysis of whether the settlement protects the public interest and satisfies the DC Circuit's mandate for effective relief. Delegating this core judicial responsibility to the Department would violate the Tunney Act, raise serious separation-of-powers concerns and leave the public without effective redress against a proven monopolist.

III. THE PROPOSED FINAL JUDGMENT IS INSUFFICIENT UNDER ANTITRUST REMEDIES LAW AND DOES NOT MEET THE STANDARD ARTICULATED BY THE DEPARTMENT

The proposed settlement does not meet the DC Circuit's remedial standard, quoted above, to terminate the monopoly, deny the defendant its ill-gotten fruits, and ensure that monopoly practices cannot arise in the future. The CIS does not even cite, let alone argue that the PFJ meets the DC Circuit's remedial standard. Indeed, the PFJ does not even meet the lesser standard, articulated in the CIS, to "(1) end the unlawful conduct; (2) "avoid a recurrence of the violation" and others like it; and (3) undo its anticompetitive consequences." CIS, 66 Fed. Reg. at 59465 (citations omitted).

In fact, the proposed settlement fails to undo the competitive harm from the core antitrust violations affirmed by the Court of Appeals, and does not even address a series of additional violations of the Sherman Act upheld by the Court of Appeals.

A. The Decree Does Not "Undo" the Competitive Harm Resulting from Microsoft's Anticompetitive Practices

Netscape's browser and Sun's Java were revolutionary middleware technologies which allowed Independent Software Vendors CISVs") to write programs that would run on any operating system, thus potentially making hardware platforms—and correspondingly, operating systems—a matter of competitive and technological indifference. Microsoft both recognized and feared that this new model for software development would be an inflection point in the computer industry, [17] and accordingly launched a multi-faceted campaign to destroy the economic and technological viability of these forms of competing middleware.

In this case, Microsoft early on recognized middleware as the Trojan horse that, once having, in effect, infiltrated the applications barrier to entry, could enable rival operating systems to compete .... Alerted to this threat, Microsoft strove over a period of approximately four years to prevent middleware technologies from fostering the development of enough full-feature, cross-platform applications to erode the applications barrier to entry. United States v. Microsoft Corp., 87 F. Supp.2d 30, 38–39 (D.DC 2000) (Conclusions of Law), affirmed in part, 253 F.3d 34 (DC Cir.), cert. denied, 530 U.S. 1301 (2000).

The Court of Appeals affirmed the illegality of Microsoft's campaign to destroy the competitive threat of Internet browsers and cross-platform Java technology. Further, as the Court of Appeals explained, Sun's distribution arrangement with Netscape was key to .,"achiev[ing] the necessary ubiquity on Windows" required for Java to serve "as the ubiquitous platform for software development." Microsoft HI, 253 F.3d at 74, 75. By foreclosing Netscape from the market, Microsoft thus eliminated the ability of the Java runtime environment to develop into a ubiquitous, competitive alternative to Windows for applications development. [18] Today, the anticonsumer effects are even more clear because Microsoft has integrated its own Internet browsing and Java-like runtime technologies into Windows.

No other middleware technologies introduced since Netscape and Java have evolved to the point where they could directly challenge, and substitute for, Windows. While a variety of middleware is available today, most if not all presently lack the capability to serve as major platforms for software development. As Professor Arrow explains, no middleware entrant currently exists that offers the user base, head start and technological capability to supplant Windows, characteristics enjoyed by both Netscape and Java before Microsoft eliminated them as serious competitive threats. Arrow Decl. ¶¶25–30. Middleware is more often a short-run complement to the operating system rather than a substitute. It is only when particularly "disruptive technologies" can achieve the distribution scale and scope of exposed APIs to permit substitution among operating systems—the "commoditized" operating systems feared by

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[17] Microsoft accepts the concept of inflection points in technology markets, and unsuccessfully argued to the DC Circuit that the possibility of inflection points meant that it did not enjoy monopoly power in the operating systems market. Brief of Appellant Microsoft Corporation, United States v. Microsoft Corp., at 16 (DC Cir. filed Nov. 27, 2000) ("Microsoft DC Circuit Brief').

[18] The CIS agrees that distribution of Java by Netscape "creat[ed] the possibility that Sun's Java implementation would achieve the necessary ubiquity on Windows to pose a threat to the applications barrier to entry." CIS at 16, 66 Fed. Reg. at 59463

Microsoft—that middleware becomes a long-run competitive substitute for the operating systems. Id. ¶¶16–17, 33–34. Powerful middleware substitutes for Microsoft's operating systems monopoly just do not come along every week. Id. ¶18 ("Technological disruptions such as the middleware threat of the mid-1990s do not occur continually.")

Microsoft's anticompetitive practices destroyed the prospect that middleware could effect such a fundamental change (sometimes called a "paradigm shift') in the operating system market and, thus, have substantially entrenched its monopoly power. "Microsoft's significantly enhanced ability to stem potential middleware threats is the result, in very substantial part, of its past anticompetitive campaign against Netscape." [19] As Professor Arrow explains, "[a]t times of technological disruption, the forces of dynamic competition play an especially important role." Id. ¶18. See Findings of Fact ¶377 ("Microsoft "successfully denied" Netscape status of "the standard software for browsing the Web"). [20]It will be "exceedingly difficult now, even with the best of remedies, to re-establish middleware fully as the kind of competitive threat to Microsoft's monopoly power that it posed in the mid-1990s." Arrow Decl. 5, 18, 71. Thus, as Professor Arrow concludes, it is "highly unlikely" that "market forces alone will lead to the development of innovative middleware that creates the same competitive risk to Microsoft that it faced from Navigator and Java in 1995." Id. ¶30.

Despite these compelling facts, the Department and the Settling States have proposed middleware provisions that ignore the core Internet browser and Java runtime technologies in favor of undefined, future middleware that may or may not present the same viable cross-platform capabilities. The Department's remedy ratifies the illegal acts that Microsoft committed, instead of moving the market forward to where it would be today had Netscape and Java been permitted to grow without illegal Section 2 constraint. [21] The Supreme Court, however, has squarely rejected the proposition that "antitrust violators may not be required to do more than return the market to the status quo ante." Ford, 405 U.S. at 573 n.8.

Assistant Attorney General James explains that the settlement is designed "to recreate the potential for the emergence of competitive alternatives to Microsoft's operating system monopoly through middleware innovations." [22] But without identifying any comparable middleware products today or predicting that truly competitive middleware will be introduced in the near-term future that could become substitutes for Windows, the Department does not have a verifiable basis to project that such a remedy will have any impact on competition. The Department's proposed settlement posits only hypothetical future entry to counteract the very real monopoly power of Windows today.

In addition, Microsoft's integration of Internet browsing and runtime environment technology into Windows allows Microsoft today to prevent any competing middleware technology from achieving ubiquity, thus preserving the applications barrier to entry.[23] Unlike the Netscape and Java technologies that Microsoft's unlawful practices eliminated as serious competitive threats, however, Microsoft middleware is not cross-platform. Consequently, by sanctioning Microsoft's integration of middleware into Windows and by failing to redress its illegal campaign against Netscape and Java, the proposed decree enhances, rather than reduces, Microsoft's operating systems monopoly power. In short, the PFJ does not undo the competitive harm resulting from Microsoft's unlawful assault on Netscape and Java, and therefore, fails to meet the requirements of established antitrust law and the lesser standard the Department has set.

B. The Proposed Settlement Fails to Deny Microsoft the Ill-gotten Fruits as Required by Established Antitrust Law

Equally importantly, in clear denial of the standards under established antitrust remedies law, the decree permits Microsoft to retain the fruits of its statutory violations. See United Shoe, 391 U.S. at 252. It "would be inimical to the purpose of the Sherman Act to allow monopolists free rein to squash nascent, albeit unproven, competitors at will—particularly in industries marked by rapid technological advance and frequent paradigm shifts." Microsoft III, 253 F.3d at 79. Consequently, because the PFJ fails to "deny to [Microsoft] the fruits of its statutory violation," id. at 103, it cannot be approved by this Court.

There are remedial alternatives available to restore Internet browsers and cross-platform runtime technology to the position they would have achieved—ubiquitous distribution without any "lock-in" to the Windows operating systems D in the absence of Microsoft's violations. The open source Internet Explorer licensing requirement proposed by the Litigating States does precisely that. A remedy that acts directly to undermine the applications barrier to entry, for instance by requiring "porting" of the Office suite to other operating system platforms, would act to commoditize the operating system and thus allow operating systems competition to occur on the basis of efficiency, technology and consumer demand.[24] See Arrow Decl. 46–49.[25]

In sharp contrast, the proposed decree is described in the CIS as encouraging the development of future technologies that "over time could help lower the applications barrier to entry." CIS, 66 Fed. Reg. at 59467 (emphasis added). As no significant platform innovations with the characteristics necessary to substitute for Windows have developed since Microsoft's multi-faceted predatory campaign was launched, there is simply no reason to believe that new Netscape and Java-like middleware competition could flourish today, especially under the decree, which not only does not lower the applications barrier to entry—it actually preserves and strengthens. Therefore, the remedy fails to meet the standard set by established antitrust remedies law by refusing to deny Microsoft the fruits of its unlawful acts, or providing any viable alternative mechanism.

C. The Decree Does Not Terminate or Redress Numerous Practices that the Court of Appeals Found to Violate the Sherman Act

The decree now proposed by the government improperly permits Microsoft to continue some of the very exclusionary practices that the Court of Appeals explicitly held were illegal. Both established antitrust remedies law and the lesser standard articulated by the Department require that the settlement terminate and redress the unlawful conduct affirmed by the Court of Appeals. The settlement does not.

1. Integration of Windows and Middleware

The PFJ does not preclude Microsoft from integrating middleware software, or any other technology that could erode the applications barrier to entry, into its operating system products. Hence, the proposed decree not only does not end Microsoft's practice of binding competing technologies to Windows, but allows middleware integration to continue unabated in the future. This failure is impossible to square with the Court of Appeals" decision. First, the Court specifically held that "Microsoft's decision to bind IE to Windows 98" by "commingling of code" was an unlawfully "exclusionary" practice. Microsoft III, 253 F.3d at 64–67. The Court of Appeals" discussion is worthy of close attention became it sheds light on the magnitude of the PFJ's failure with respect to product integration. The Court explained that "[t]echnologically binding IE to Windows ... both prevented OEMs from pre-installing other browsers and deterred consumers from using them," Microsoft III, 253 F.3d at 64 (citing Findings of Fact ¶159), and thus that "Microsoft's... commingling of browser and operating system code constitute[s] exclusionary conduct, in violation of ¶2." Id. at 67. Moreover, the Court of Appeals emphasized that its Section 2 holding rebuffed Microsoft's arguments "not only that its integration of IE into Windows is innovative and beneficial, but also that it requires non-removal of IE." Id. at 89. Second, the Court summarily denied Microsoft's rehearing petition challenging both the factual basis and the legal sufficiency of the code commingling holding.[26] The Court denied without opinion Microsoft's rehearing petition, in which the defendant Microsoft argued that "'commingling of code" is not "per se pernicious or even suspicious'" and urged the DC Circuit to (1) reverse the applicable findings of fact, and (2) limit its liability holding with respect to bundling of Internet Explorer to Microsoft's refusal to permit "[r]emoval of end-user access by OEMs." [27]

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[19] Henderson Decl., supra, ¶73.

[20] "Microsoft's campaign succeeded in preventing—for several years, and perhaps permanently—Navigator and Java from fulfilling their potential to open the market for Intel-compatible PC operating systems to competition on the merits." United States I,. Microsoft Corp., 87 F.Supp.2d 30, 38 (2000) (Conclusions of Law).

[21] The Competitive Impact Statement explains that the objective of the proposed decree is "to restore the competitive threat that middleware products posed prior to Microsoft's unlawful conduct." CIS, 66 Fed. Reg. at 59463–64.

[22] James Senate Testimony, supra, at 10.

[23] See Findings of Fact ¶397 ("By bundling its version of the Windows JVM with every copy of Internet Explorer and expending some of its surplus monopoly power to maximize the usage of Interact Explorer at Navigator's expense, Microsoft endowed its Java runtime environment with the unique attribute of guaranteed, enduring ubiquity across the enormous Windows installed base.").

[24] Assistant Attorney General James has suggested that such relief would be improper because no "essential facilities" claim was made by the government. James Senate Testimony, supra, at 10 (emphasis added). But a monopoly maintenance "must cant" remedy designed to redress artificial applications barriers to entry does not need to be supported by an essential facilities claim. To the contrary, in its 1998 Complaint to this Court, the government expressly sought as one form of injunctive relief that Microsoft be required to "include with [the Windows] operating system the most current version of the Netscape Internet browser." Complaint, § VII.2.e.1 (Prayer for Relief). Thus, the very "must-carry" obligations that the Department now opposes were the precise relief it initially sought.

[25] Professor Rebecca Henderson of the MIT Sloan School of Management, a remedies expert for the government, testified by affidavit in 2000 that "[t]he availability of the world's most popular office productivity suite on alternative platforms would serve to reduce the barriers to entry protecting Microsoft's monopoly, which will, in turn, increase the potential for competition in the PC operating systems market." Declaration of Rebecca M. Henderson, United States v. Microsoft Corp., No. 98–1232 (TPJ), at ¶22 (D.DC filed April, 28, 2000).

In spite of these repeated holdings, the PFJ reverses course and adopts the position for which Microsoft argued on rehearing. The proposed settlement allows OF. Ms to remove "access to" middleware—that is, icons w from the desktop and related areas of the Windows user interface. Conversely, it permits Microsoft to commingle any code and prohibits OEMs from deleting Microsoft middleware code from the operating system software. Thus, although the Court of Appeals expressly reiterated that technological integration of Interact Explorer violated Section 2, the PFJ fails to impose any limits whatsoever on current or future bundling of middleware and operating systems software.

Assistant Attorney General James has testified that "[t]he court of appeals ruled that, albeit with some limits, Microsoft could lawfully integrate new functions into the operating system."[28] This is a mischaracterization. The DC Circuit remanded the tying claim for rule of reason analysis, Microsoft III, 253 F.3d at 84–95, but did not conclude that any product integration litigated at trial was "lawful." The only general statement the Court made was that the "integration of additional software functionality into an operating systems" is not a per se unlawful Section 1 offense.[29]

2. Coercion and Market Allocation

The DC Circuit affirmed that Microsoft's coercion of Apple, by threatening to withhold porting of Office to the Macintosh operating systems platform, was unlawful. The District Court likewise found that Microsoft attempted (this time without success) to coerce Apple into abandoning development of its QuickTime software, in order to limit "the development of multimedia content that would run cross-platform." Findings of Fact ¶110.

Microsoft also coerced Intel—Microsoft's partner in the IBM-compatible PC market m into abandoning its work on creation of Java-compatible multimedia software.[30] Microsoft III, 253 F.3d at 77. In fact, the Court specifically ruled that "Microsoft's threats to Intel were exclusionary, in violation of § 2 of the Sherman Act." Id. at 78 (emphasis added). And the District Court, again without objection by the Court of Appeals, also found that Microsoft pressured Intel to cease development of "Native Signal Processing ('NSP') software, [which] would endow Intel microprocessors with substantially enhanced video and graphics performance,"[31] as well as "using revenues from its microprocessor business to fund the development and distribution of free platform-level software," [32] in order to "halt the development of software that presented developers with a set of operating-system-independent interfaces." [33]

The proposed decree does not constrain Microsoft's ability to engage in this sort of coercive conduct to impede competition from potential middleware or other software rivals. Section III.F of the PFJ precludes Microsoft only from "retaliating" against ISVs and IHVs that develop or use competing platform software and from entering into exclusive dealings with ISVs (but curiously not IHVs) for platform software. It does not, however, deal with the use of threats and coercion to compel adherence to Microsoft's objectives short of an actual agreement.[34] As both a legal and practical matter, the PFJ fails to redress the Court of Appeals" holding that Microsoft's "threats" to its competitors and partners violated Section 2.

3. Deception and Product Sabotage

The Department recognizes that among the practices the DC Circuit ruled unlawful was Microsoft's "attempt[s] to mislead and threaten software developers in order to contain and subvert Java middleware technologies that threatened Microsoft's operating system monopoly." [35] Yet the PFJ does not prohibit Microsoft from misleading developers or, as it did with Java, creating supposedly "open" software development tools that, in reality, are compatible only with Windows. See Microsoft III, 253 F.3d at 77. These sorts of practices are added in the Litigating States remedy proposal.[36] By preventing Microsoft from intentionally sabotaging competing applications or middleware products, and by requiring that if Microsoft implements open industry standards it not "pollute" those standards with proprietary, Windows-specific protocols and features, such relief would constrain the exclusionary conduct held unlawful by the DC Circuit. The Department's proposed settlement does not.

The Department's claim that the decree "ends" Microsoft's unlawful practices is incorrect. It is also wrong as a matter of remedies jurisprudence. Antitrust courts must "start from the premise that an injunction against future violations is not adequate to protect the public interest." [37] In order to prevent "a recurrence of the violation" found, antitrust courts are not limited to imposing "a simple proscription against the precise conduct [the violator] previously pursued." [38]

Yet Assistant Attorney General James recently testified that the government's remedy proposal is "focused on the specific practices that the court [of appeals] had ruled unlawful." [39] This focus on specific practices does not eliminate those practices. In any event, it is settled that antitrust relief may prohibit even otherwise lawful conduct if it "represents a reasonable method of eliminating the consequences of the illegal conduct" or preventing its resumption.[40]

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[26] United States v. Microsoft Corp., No. 00–5212, Order (Aug. 2, 2001) (per curiam).

[27] Microsoft Corporation's Petition for Rehearing, United State v. Microsoft Corp., Nos. 00–5212, 5213, at 2, 4 (DC Cir. filed July 18, 2001) (quoting United States v. Microsoft Corp., 147 F.3d 935, 958 (DC Cir. 1998) (Wald, J., concurring in part and dissenting in part)) ("Microsoft DC Cir. Rehearing Petition").

[28] James Senate Testimony, supra, at 14 (emphasis added).

[29] For Section I purposes, the DC Circuit ruled that technological innovation is subject to an efficiency-harm balancing test under the rule of reason. Microsoft II1, 253 F.3d at 90, 93. Given the lack of an efficiency justification by Microsoft for having commingled the browser with the operating system, it is highly likely that the Government would have prevailed on the Section I claim under the "rule of reason" test. See/d. at 66 (Microsoft does not "argue that either excluding IE from the Add/Remove Programs utility of commingling code achieves any integrative benefit").

[30] See also Findings of Fact ¶388 ("Gates told Intel's CEO in June 1996 that he did not want the Inter Architecture Labs cooperating with Sun to develop methods for calling upon multimedia interfaces in Windows."); Id. ¶404 ("Microsoft used threats to withhold Windows operating-system support from Intel's microprocessors and often to include Intel technology in Windows in order to induce Intel to stop aiding Sun in the development of Java classes that would support innovative multimedia functionality.").

[31] Findings of Fact ¶95.

[32] Findings of Fact ¶102.

[33] Findings of Fact ¶94.

[34] Under the antitrust laws, a firm has not as a matter of law entered into an "agreement" with a distributor or other party where it unilaterally declares its position and by virtue of its economic power compels distributors to adhere to those conditions. See Monsanto Co. v. Spray-Rite Svc. Corp., 465 U.S. 752, 764 ¶n.9 (1984).

[35] CIS, 66 Fed. Reg. at 59460. In related private antitrust litigation, courts similarly have found that Microsoft "create[d] the illusion that [a competing product] was incompatible with Windows by inserting error messages conveying to the user that either [the competing product] was incompatible with Windows that [Microsoft's product] was the only environment in which Windows could properly function." Caldera, Inc. v. Microsoft Corp.. 72 F. Supp. 2d 1295, 1314 (D. Utah 1999).

[36] Litigating States" Remedy Proposal, supra, at 12.

[37] Schine Chain Theatres, Inc. v. United States, 334 U.S. 110, 128 (1948).

[38] National Soc'y of Prof. Eng'rs v. United States, 435 U.S. 679, 698 (1978).

[39] James Senate Testimony, supra, at 6.

[40] National Soc'y of Prof Eng'rs, 435 U.S. at 698; United States v. U.S. Gypsum Co., 340 U.S. 76, 90 (1950) (Section 2 relief may "go beyond the narrow limits of the proven violation"). Accord

IV. THE API DISCLOSURE AND OEM FLEXIBILITY PROVISIONS OF THE PROPOSED DECREE WILL NOT CREATE THE OPPORTUNITY FOR MIDDLEWARE COMPETITION

The proposed decree neither provides future middleware competitors with the API information needed to develop interoperable products nor opens the OEM distribution channel to effective competition from any such new entrants. To a surprisingly large degree, the PFJ's provisions simply memorialize Microsoft's current business practices. Indeed, the PFJ would not have thwarted Microsoft's 1995–98 unlawful campaign against Net. scape and Java had the decree been in place at that time.

As a consequence, the PFJ will discourage, rather than encourage, investment and innovation in new middleware technology. Future middleware competitors, faced with the very real prospect that they may not be able to obtain necessary API information from Microsoft or access to the OEM distribution channel, will have virtually no incentive to invest in time development of new and innovative middleware technology. Moreover, even if the PFJ actually did "creat[e] the opportunity for software developers and other computer industry participants to develop new middleware products that compete directly with Microsoft," as the CIS states, the five-year term of the proposed decree is far too short to promote innovation and investment in middleware technology. In short, under the PFJ the status quo that prompted the Department of Justice and State Attorneys General to bring these actions against Microsoft will perpetuate.

As the Supreme Court emphasized in its landmark ruling in the DuPont antitrust case, "[t]he proper disposition of antitrust cases is obviously of great public importance, and their remedial phase, more often than not, is crucial. For the suit has been a futile exercise if the Government proves a violation but fails to secure a remedy adequate to redress it." United States v. E.I. du Pont de Nemours & Co., 366 U.S. 316, 323 (1961). Under any appropriate standard for judging the effectiveness of antitrust remedies, the key portions of the PFJ are just such an exercise in futility.

A. The Proposed Decree's Provisions for Information Disclosure Do Not Assure that Future Middleware Competitors Will Have Access to Necessary Interoperability Information

The Department proclaims that the API disclosure provisions of the proposed decree will create middleware competition by requiring Microsoft to disclose all of the interfaces and related technical information that Microsoft's middleware uses to intemperate with the Windows operating system." CIS, 66 Fed. Reg. at 59460.[41] That is simply not accomplished by a literal reading of the proposed decree's API provisions. The proposed decree does not provide middleware competitors with the information needed to intemperate, but rather allows Microsoft itself to decide whether, when and which APIs to release to potential competitors.

There are four provisions of the proposed decree that seek to address the issues of information disclosure for the purposes of enabling interoperability. Section III.D addresses the disclosure of APIs and Section III.E addresses the disclosure of communications protocols with server operating systems products. These provisions need to be read in concert with Section HI J, which substantially narrows the scope of required disclosures, and Section HI.L5, which potentially undermines the information disclosure regime by granting to Microsoft rights to insist on cross licenses to intellectual property developed through the use of Microsoft's APIs. Lastly, these provisions are dependent on a multitude of definitions which include Sections VI.A "APIs"; VI.B "Communications Protocol"; VI.E "Documentation"; VI.J "Microsoft Middleware"; VI.R "Timely Manner"; VI.T "Trademarked"; and VI.U "Windows Operating System Product." To understand the impact of the PFJ on information disclosure, all these provisions must be read together, along with their subordinate definitions and exceptions.

1. The API Provision's Scope is Far Too Narrow.

The PFJ falls short of requiting the disclosure of APIs that innovative middleware technologies might need. Section III.D requires only that Microsoft disclose: "the APIs and related Documentation that are used by Microsoft Middleware to intemperate with a Windows Operating System Product." PFJ, 66 Fed. Reg. at 59454 (emphasis added). This obligation is plainly too narrow to support real middleware competition. If a potential competitor creates a new form of middleware that provides innovative functionalities, it will not be entitled to the necessary APIs, if those APIs are not "used by Microsoft Middleware to interoperate with a Windows Operating System Product" within the scope of Section III.D. This necessarily limits future innovation to the parameters set by the breadth of Microsoft's Middleware functionality, it creates a regime where competitors must always follow, as opposed to lead, middleware innovations. For example, when Netscape was attempting to achieve full 38 interoperability with the Windows operating system in 1995, Netscape required the APIs for Windows, not merely the APIs between Windows and Microsoft's browser, which was just in the process of development.[42]

Further, under Section III.D, Microsoft must disclose "for the sole purpose of interoperating with a Windows Operating Systems Product... APIs and related documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product." PFJ, 66 Fed. Reg. at 59454. Windows Operating Systems Products are defined in Section VI.U to include Windows 2000 Professional and Windows XP for the PC. Thus, Microsoft does not have to disclose APIs its middleware uses to interoperate with Microsoft operating systems on servers or handhelds. And for those APIs that Microsoft does disclose, Microsoft is permitted to limit their use by third parties "solely for the purpose of interoperating with a Windows Operating System Product." Id. at 59454. Thus, Microsoft can distribute middleware products that interoperate with all of its client and server operating systems along with its applications such as Office, while competitors" middleware products will be limited to using any disclosed APIs to intemperate only with PC versions of Windows. This limitation certainly does not provide a level playing field for competitive middleware.

2. The API Provision of the PFJ Constructs an Illusive Framework for Disclosure of Interoperability Information

Close review of the plain language of the API disclosure provision and its subordinate definitions reveals that the provision is quite illusory. A careful examination of these complex provisions of the proposed decree—represented graphically in Figure 1 on the next page reveals that, despite their length, they are nonetheless circular and illusory. ??

Section III.D sets forth the basic obligation that Microsoft must disclose to competitors "the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product." The PFJ therefore establishes a regime where Microsoft must disclose the "APIs," a defined tern, that are used by "Microsoft Middleware," a defined term, to intemperate with a "Windows Operating System Product," a defined term.

a. Defined Terms Within the API Disclosure Provision Leave All Material Disclosure Determinations to Microsoft.

The defined terms within Section III.D reveal that the PFJ's API disclosure obligations are without substance. As stated, the provision calls for the disclosure of "APIs" between "Microsoft Middleware" and the "Windows Operating System Product." Taking those definitions in reverse order demonstrates that the Department cannot possibly predict precisely what information is required to be disclosed under Section III.D because most of the definitions are left to Microsoft.

First, Section VI.U provides the definition of a "Windows Operating System Product."

International Salt, 334 U.S. at 400; DuPont. 366 U.S. at 327.

[41] See also CIS, 66 Fed. Reg. at 59468 (decree "requires Microsoft to disclose to ISV, IHVs, IAPs, ICPs and OEMs all of the interfaces and related technical information that Microsoft Middleware uses to intemperate with any Windows Operating System Product").

[42] The district court's "Internet Order" did not suffer from this problem because Section 3.b of its API disclosure provisions broadly required the release of APIs that Microsoft employs to enable (i) Microsoft applications to interoperate with Microsoft Platform Software (defined as both operating systems and middleware), (ii) Microsoft middleware to interoperate with a Microsoft operating systems product (or Microsoft middleware distributed with a Microsoft operating systems product, and (iii)any Microsoft software installed on one computer to interoperate with a Microsoft operating systems or middleware product installed on another computer. The proposed decree's use of "Microsoft Platform Software" is confined to Sections III.A and III.F.I (retaliation) and Section III.F.2 and III.G.I (exclusivity), but has no application to API disclosure. United States v. Microsoft, Final Judgment (D.DC 2000) ("Interim Order").

A Windows Operating System Product is defined as: the software code (as opposed to source code) distributed commercially by Microsoft for use with Personal Computers as Windows 2000 Professional, Windows XP Home, Windows XP Professional, and successors to the foregoing, including the Personal Computer versions of the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc. The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion. (emphasis added)

The CIS explains that, pursuant to the proviso in the final sentence, this definition means that "the software code that comprises a Windows Operating System Product is determined by Microsoft's packaging decisions (i.e., by what it chooses to ship as "Windows')." CIS, 66 Fed. Reg. At 59459. Under this approach, therefore, Microsoft retains the unilateral discretion to determine what constitutes Windows for purposes of its API disclosure obligations. If middleware software is included with Windows, it is thus part of a Windows Operating System Product for the purposes of this definition. It follows that if Microsoft chooses "at its sole discretion" to include middleware as part of Windows it escapes the disclosure requirements of

Section III.D.

The other "bookend" of Microsoft's information disclosure requirement rests on definition VI.J, "Microsoft Middleware." First, it is critical to understand that provision III.D does not invoke definition VI.K "Microsoft Middleware Product," which clearly sets forth that "Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express and their successors" are "Microsoft Middleware Products." Id. Rather, the provision rests on the far more ambiguous definition of "Microsoft Middleware." Under definition VI.J, Microsoft Middleware means: software code that

1. Microsoft distributes separately from a Windows Operating System Product to update that Windows Operating System Product;

2. Is Trademarked;

3. Provides the same or substantially similar functionality as a Microsoft Middleware Product; and

4. Includes at least the software code that controls most or all of the user interface elements of that Microsoft Middleware.

Software code described as part of, and distributed separately to update, a Microsoft Middleware Product shall not be deemed Microsoft Middleware unless identified as a new major version of that Microsoft Middleware Product. A major version shall be identified by a whole number or by a number with just a single digit to the right of the decimal point.

The weakness of this definition is immediately apparent. The first prong of the definition requires Microsoft middleware to be distributed "separately from a Windows Operating System Product." Therefore, if Microsoft decides to include middleware as part of Windows as it is entitled to do "in its sole discretion" it cannot possibly be Microsoft Middleware because it will not be "distributed separately." Alternatively, because middleware is "Microsoft Middleware" only if it is distributed "to update" Windows, Microsoft can as easily avoid any API disclosure obligations by distributing middleware as a separate application rather than as a Windows update.[43]

Second, in order to qualify as Microsoft Middleware, the middleware must also be "Trademarked." Section VI.T of the PFJ defines "Trademarked" in two ways. The first clause of the definition states:

"Trademarked" means distributed in commerce and identified as distributed by a name other than Microsoft?? or Windows?? that Microsoft has claimed as a trademark or service mark by (i) marking the name with trademark notices, such as ?? or TM, in connection with a product distributed in the United States; (ii) filing an application for trademark protection for the name in the United States Patent and trademark Office; or (iii) asserting the name as a trademark in the Unites States in a demand letter or lawsuit. PFJ, 66 Fed. Reg. 59459.

We cannot fathom the rationale for resting the definition of Middleware on whether or not a particular technology is trademarked. The Department contends that the definition is "designed to ensure that the Microsoft Middleware ... that Microsoft distributes (either for free or for sale) to the market as commercial products are covered by the Proposed Final Judgment." CIS, 66 Fed. Reg. at 59465. Yet, again it appears that exactly the opposite is true based on the second part of the "Trademarked" definition, which states:

Any product distributed under descriptive or generic terms or a name comprised of the Microsoft?? or Windows?? trademarks together with descriptive or generic terms shall not be Trademarked as that term is used in this Final Judgment. Microsoft hereby disclaims any trademark fights in such descriptive or generic terms apart from the Microsoft?? or Windows?? trademarks and hereby abandons any such rights it may acquire in the future. PFJ, 66 Fed. Reg. at 59459 (emphasis added).

Under this definition, if the product is distributed as "Windows?? Media Player" as opposed to "Windows Media?? Player" it would not be covered. That is because the formulation of the name "Windows?? Media Player" would be "comprised of the ... [Windows??] trademarks together with a descriptive or generic term [Media Player]."

An analysis of each of Microsoft's Middleware Products demonstrates the problem. "Microsoft Internet Explorer" could easily be distributed as Microsoft?? plus the generic or descriptive term "Internet Explorer" or "Windows Messenger" as Windows?? plus the generic or descriptive term "Messenger." As a factual matter, "Microsoft Internet Explorer," "Microsoft Java Virtual Machine," "Windows Media Player" and. "Windows Messenger" are not currently distributed under either ?? or m nor are they registered with the United States Patent and Trademark Office.[44] Thus, in stark contrast to its purported effect, Section VI.T either currently excludes or provides a roadmap to exclude each of Microsoft's major Middleware Products from the disclosure requirements of III.D.

When the "Trademarked" provision is taken in conjunction with the additional requirement that the Middleware must be "distributed separately from a Windows Operating System Product to update that Windows Operating System Product," it is apparent that Microsoft can completely escape coverage under Definition VI.J by either altering its distribution or the nomenclature of its products. In sum, the set of "Microsoft Middleware" that interoperates with "Windows Operating System Products" appears to be a null set.

The final definition implicated by Provision III.D is that of "Application Programming Interfaces." "APIs" are defined in Definition VI.A as follows: the interfaces, including any associated callback interfaces, that Microsoft Middleware running on a Windows Operating System Product uses to call upon that Windows Operating System Product in order to obtain any services from that Windows Operating System Product. PFJ, 66 Fed. Reg. at 59458. (emphasis added). Thus, "interfaces" means "interfaces" because the basic API definition rests once on the Microsoft Middleware definition (described above) and three times on the definition of Windows Operating System Product, which is defined by Microsoft in its "sole discretion." The Department has proclaimed the API disclosure remedies to be the centerpiece of the PFJ. That the definition of "API" will be exclusively determined by Microsoft highlights the seriously flawed nature of the entire proposed device.

In sum, we do not believe it is possible for the Department of Justice, Microsoft or any party to know with any degree of certainty exactly what must be disclosed under Provision III.D. But there is no question that these definitional issues will be before the Court in numerous enforcement actions and dominate this Court's docket for the next five years.

3. The API Disclosure Provision Also Leaves Critical Terms Undefined. Focusing on the terms of Provision III.D that are not defined yields some striking conclusions.

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[43] The Competitive Impact Statement flatly mischaracterizes this section in contending that the definition of Microsoft Middleware captures what it calls "'redistributable[s]" associated with Microsoft Middleware Products." CIS, 66 Fed. Reg. at 59464. The Department claims that "[i]f such a redistributable exists, as they currently do for most Microsoft Middleware Products, then the redistributable is Microsoft Middleware" because it is "distributed separately" from Windows. Id. This explanation, however, ignores the clause specifying that separate distribution must be "to update" Windows under Section VI.J.

[44] A complete list of Microsoft trademarks is posted on the Web at http://www.microsoft.com/trademarks/docs/mstmark.rtf. The description in the test is taken from the document at that location titled "Microsoft Corporate Trademarks," dated December 2001. That document advises that other companies should "not use any trademark symbols ... for those products that are not listed above as trademarks, such as 'Microsoft?? Excel,' 'Microsoft?? Internet Explorer.'"

First, the critical term "interoperate" is left undefined by the PFJ. Moreover, despite the Department's claim in the CIS that the decree's API provisions require the release of all "interfaces and related technical information,"[45] these terms are neither defined nor employed in the language of Section III.D. In fact, the phrase "technical information" does not even appear in the proposed decree. In contrast, the Interim Order included a detailed definition of "Technical Information" (Section 7.dd) that the Department and Microsoft have without explanation eliminated from the proposed decree.[46] Inexplicably the PFJ has lowered the standard of interoperability supported by disclosed APIs in the Interim Order from information that software developers "require" to "interoperate effectively" with Windows to information "used by Microsoft" to "interoperate."

These terms are not peripheral. They go to the core meaning of the API disclosure provisions of the proposed decree. An injunction designed to require Microsoft to disclose interoperability information to rivals cannot possibly be effective where the scope of the information to be released is not defined with specificity. The elimination of the definition of Technical Information is thus particularly revealing, because it illustrates that the Department has crafted a remedy that is, at best, a subset of the Interim Order on which the Department claims it relied. It also demonstrates that the Department affirmatively made a determination not to define a term which was clearly central to the disclosures mandated by the Interim Order.

4. Under Provision III.D, APIs Will Never be disclosed in a Timely Manner

Finally, Section III.D does not ensure simultaneous API access for Microsoft and its competitors.

While the Interim Order required disclosure of APIs at the same time they were made available to Microsoft applications developers, the PFJ does not. Instead, the proposed decree uses the very ambiguous standard that, for a "new major version" of Microsoft middleware, API disclosure "shall occur no later than the last major beta test release." PFJ, 66 Fed. Reg. at 59454. Yet "last major beta test release" is not defined, and the provision in any case begs the question of how to decide which beta release is the "last."

No less problematic are the requirements for timely disclosure of APIs exposed by new versions of Windows. Here, the proposed decree provides in Section III.D that for "a new version of a Windows Operating System Product," disclosure "shall occur in a Timely Manner." Here the definition of "Timely Manner" provides little, if any, protection for ISVs. Definition VI.R provides that Timely Manner is "the time Microsoft first releases a beta test version of a Windows Operating System Product that is distributed to 150,000 or more beta testers." We do not believe that Microsoft has ever had 150,000 "beta testers" as opposed to 150,000 "beta copies" of its new product. Regardless, all Microsoft has to do is limit distribution to 149,000 beta testers in order to frustrate the timeliness of the required disclosures.

5. The Exceptions from and Preconditions to API Disclosure Further Narrow the Scope of an Already Unworkable Disclosure Provision

The proposed decree also contains several broad exemptions from and preconditions to API disclosure by Microsoft. These provisions undermine whatever strength, if any, remains in Section III.D in light of the scope and definitional failings addressed above. Section III.J of the PFJ exempts Microsoft from disclosing "portion of APIs or Documentation" related interface information "which would compromise the. security" of a "particular installation or group of installations" of any "anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems." 66 Fed. Reg. at 59455. These exceptions to API disclosure are extremely broad.

First, the scope of this provision implicates nearly all of Microsoft's Middleware products. For example, digital rights management is encompassed in all multimedia applications (e.g., Windows Media Player). Authentication is a function embedded in Windows software (e.g., Outlook Express and Microsoft Passport) and is required for access to Windows server operating systems. Encryption likewise is a technology that is used by Internet browsers (e.g., Internet Explorer) for e-commerce and by instant messaging middleware (e.g., Windows Messenger). Second, because the Department acknowledges that this provision permits Microsoft to withhold from disclosure certain APIs, CIS, 66 Fed. Reg. at 59472, it must also acknowledge that this provision both narrows an already limited scope of disclosures and ensures that an alternative middleware product will never be fully interoperable in the same way as Microsoft's middleware.[47]

Third, the CIS either misstates the implications of the provision or the Department does not understand what was agreed to in the PFJ. For example, there is no such thing as an API that is relevant to a "particular installation [PC] or group of installations [network of PCs]." APIs are standard across all Windows installations. Moreover, the provision does not refer to "keys and tokens particular to a given installation" as stated in the CIS, 66 Fed. Reg. at 59472, but rather states that Microsoft may withhold "APIs ... the disclosure of which would compromise the security of a particular installation or group of installations ... including without limitation, keys, authorization tokens or enforcement criteria." PFJ, 66 Fed. Reg. at 59455. Therefore, the way the provision appears in the PFJ as opposed to the CIS, is that it is not limited to the user-specific security duties protecting specific computer networks that no one argument should be disclosed publicly.

Section III.J.2 also imposes onerous preconditions on ISVs for the receipt from Microsoft of APIs "related to" encryption, authentication and other security matters. In order to receive relevant APIs that relate to security technologies, competitors must meet a subjective standard of "reasonableness" which the decree appears to consign to Microsoft's discretion. Thus, an ISV is only entitled to the APIs if the competitor (1) "has a reasonable business need" for the information "for a planned or shipping product," (2) satisfies "reasonable, objective standards established by Microsoft" for "certifying the authenticity and viability of its business," and (3) submits its software for Microsoft testing to "ensure verification and compliance with Microsoft specifications for use of the API or interface."

None of these limitations seems appropriate, because they unduly rely on Microsoft to determine "reasonable business" need. As one example, Microsoft clearly views "open source" software, or a threat, but will no doubt continue to claim that it is not a "viable business".

6. Cross-Licensing of Middleware APIs

The API section must also be read in conjunction with Section III.I of the proposed decree. This portion of the proposed decree contains a provision (Section III.5) that grants Microsoft the right to require ISVs and other API recipients to cross-license their own intellectual property back to Microsoft if it relates "to the exercise of their options or alternatives provided by this Final Judgment." PFJ, 66 Fed. Reg. at 59455. Under this approach, Microsoft can, at is own discretion, require that the products developed with APIs and related interface information—for instance, a competing middleware program—be licensed back to Microsoft, because they "relate[] to the exercise" of an ISV's "options or alternatives" under the proposed decree. That is not a new issue in the industry. For years Microsoft has attempted to extract cross-licensing requirements and most in the industry have successfully resisted. If this provision is exercised, Provision III.D will simply not be utilized if the result is a requirement that intellectual property resulting from competitors'' own investments in software research and development.

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[45] CIS, 66 Fed. Reg. at 59460, 59468.

[46] The Interim Order defined "Technical Information" as "all information regarding the identification and means of using APIs and Communications Interfaces that competent software developers require to make their products running on any computer interoperate effectively with Microsoft Platform Software running on a Personal Computer. Technical information includes but is not limited to reference implementations, communications protocols, file formats, data formats, syntaxes and grammars, data structure definitions and layouts, error codes, memory allocation and deallocation conventions, threading and synchronization conventions, functional specifications and descriptions, algorithms for data translation or reformatting (including compression/decompression algorithms and encryption/decryption algorithms), registry settings, and field contents." In contrast, the PFJ requires only disclosure of related "Documentation," defined in Section VI.E as "information" that is "of the sort and to the level of specificity, precision and detail that Microsoft customarily provides for APIs it documents in the [MSDN]." PFJ, 66 Fed. Reg. at 59459.

[47] The CIS appears to limit the extent of Microsoft's ability to withhold APIs under Section 1113 of the PFJ. But the CIS description is either unclear or inconsistent with the terms of Section III.J. At a minimum, the Department should reconcile these two documents in order to mitigate the risk of future anticompetitive conduct and litigation over the interpretation of this section. There is no reason to believe that Microsoft will endorse the CIF interpretation, and no doubt Microsoft will argue in any future action that where these two documents conflict, the plain language of the PFJ controls.

Again, the CIS purports to limit the plain meaning of Section III.I by opining that the intellectual property cross-licenses are only available if Microsoft "is required to disclose interfaces that might be used by others to support a similar feature in the same fashion." CIS, 66 Fed. Reg. at 59472. But that does not appear to be consistent with the language of the PFJ.

7. Timing of API Disclosure Obligation Finally, under Section III.D, the requirement for Microsoft to release APIs and Documentation to competitors does not commence for one year. This delay means that Microsoft's own middleware will continue to be preferred in terms of its interoperability with the Windows operating system. The one-year period in which competitors must wait for API releases is one-fifth of the decree's five-year term. Nothing in the CIS discusses or explains a rationale for this substantial delay. B. The Communications Protocol Provisions of the Decree Do Not Require Release of any Server APIs and are Based on Terms the Department Failed to Include in the Settlement The Competitive Impact Statement claims that the server provisions in Section III.E of the proposed decree will "prevent Microsoft from incorporating into its Windows Operating System Products features or functionality with which its own server software can intemperate, and then refusing to make available information about those features that non-Microsoft servers need in order to have the same opportunities to interoperate with the Windows Operating System Product."[48] Like the decree's API disclosure provisions, this obligation is ephemeral.

First, Section III.E is designed only to support interoperability between Windows PCs and non-Windows servers. See CIS, 66 Fed. Reg. at 59469 (interoperability between "Windows Operating System Products and non-Microsoft servers on a network"). It expressly does not cover interoperability between Windows servers and non-Windows PCs. Thus, Apple, Linux and all other desktop operating systems competitors have no right under the proposed decree to obtain any of the technical information needed to allow PCs running such competing operating systems to intemperate with Windows servers.

Second, as with the API disclosure requirements, Microsoft can easily avoid Communications Protocol disclosure through product design. For example, Microsoft can implement protocols in other software on the desktop, such as Office, or from software it downloads over the Internet from its servers to its Windows Operating Systems Product rather than implementing those protocols directly in the Windows Operating Systems Product.[49] Indeed, we understand that with Microsoft's new .Net offering, Microsoft plans to download code from the Internet to effect communications between clients and Microsoft's .Net servers. This will require no disclosure under Section III.E.

Third, the definition of "Communications Protocols" itself is extraordinarily ambiguous. The decree defines Communications Protocol in Section VI.B as: the set of rules for information exchange to accomplish predefined tasks between a Windows Operating System Product and a server operating system product connected via a network, including, but not limited to, a local area network, a wide area network or the Internet. These rules govern the format, semantics, timing, sequencing, and error control of messages exchanged over a network.

PFJ, 66 Fed. Reg. 59458. This definition does not prescribe what "predefined tasks" are encompassed, and the phrase "format, semantics, sequencing, and error control of messages" can just as easily be read to apply only to the physical means of sending information to or from a server (the rules for transmitting information packets over a network) rather then the content of such information (the rules for structuring and interpreting information within such packets). Thus, Microsoft competitors wilt be able to learn how to construct messages that can be passed to or from Microsoft severs, but will not learn the substance of the information necessary to invoke the features and functionalities of the server.

Fourth, like the PFJ's API disclosure provisions, the key terms of Section III.E are undefined. We have addressed Windows Operating System Product, which allows Microsoft itself to define the term, above. The corresponding prong of Section III.E is that Communications Protocols are disclosable when used by a Windows Operating System Product to interoperate with "a Microsoft server operating system product." The CIS claims that [t]he term "server operating system product" includes, but is not limited to, the entire Windows 2000 Server product families and any successors. All software code that is identified as being incorporated within a Microsoft server operating system and/or is distributed with the server operating system (whether or not its installation is optional or is subject to supplemental license agreements) is encompassed by the term. For example, a number of server software products and functionality, including Internet Information Server (a "web server") and ActiveDirectory (a "directory server"), are included in the commercial distributions of most versions of Windows 2000 Server and fall within the ambit of "server operating system product."

CIS, 66 Fed. Reg. at 59468–69. Amazingly, this term is nowhere defined in the PFJ, despite the fact that this language is what bounds the scope of Microsoft's obligation to disclose crucial information to rivals. Based on the plain language of the PFJ alone, there is no reason to believe that, for example, Internet Information Server is covered by the undefined PFJ term "server operating system product." Although the Department attempts to clarify this definition in the CIS, as noted above there is no reason to expect Microsoft to accept the Department's CIF definition.

Fifth, a large share of PC interactions with servers occur via the Interact browser. (For instance, all Web browsing, e-commerce and other Web functionalities are a result of the browser interoperating with a server.) Section III.E does not cover protocols that are implemented in Internet Explorer to support interoperability with Microsoft's server operating systems products. Therefore, Microsoft can easily evade the scope of this provision—whatever that may be—by incorporating proprietary interfaces and protocols into IE rather than Windows. Sixth, the obligations of Section III.E appear to only apply to Communications Protocols that are "implemented ... on or after the date this Final Judgment is submitted to the Court." Read literally, all of the Communications Protocols built into Windows 2000 and Windows XP are exempt from disclosure because they were implemented before the proposed decree was submitted.

Finally, Section III.J constrains the Communications Protocol provisions of Section III.E in the same way it limits the API disclosure provisions of Section III.D. Thus, any Communications Protocols that "would compromise the security" of authentication, encryption or related technologies are exempt from disclosure. Because the heart of sever-based network interoperability is authentication and encryption, these exemptions once again swallow the rule. For all these reasons, the decree's provisions for server interface information disclosure do not provide Microsoft competitors with the interface or protocol information necessary to enable interoperability between Windows PCs and non-Windows servers. Section III.E does not even cover interoperability between non-Windows PCs and Windows servers. The central terms establishing the scope of Microsoft's obligations are undefined and subject to Microsoft's unilateral control. In short, the PFJ has created another Venn Diagram with no intersecting circles, because the Communications Protocol provisions of the decree require nothing at all. C. The Proposed Decree's Provisions for OEM Flexibility Do Not Open the PC Manufacturing Channel to Future Middleware Competitors

The Department explains that the personal computer manufacturer ("OEM") provisions of the proposed decree support "the ability for computer manufacturers and consumers to customize, without interference or reversal, their personal computers as to the middleware they install, use and feature." CIS, 66 Fed. Reg. at 59460, 59471. In reality, these measures hardly change anything in existing Microsoft-OEM relations, and do not appreciably alter the dynamics of the OEM distribution channel. Most important, Sections III.C and III.H cannot, by their very design, provide an opportunity for rival middleware products—as compared to Microsoft's middleware—to attract sufficient distribution to have any impact at all on the applications barrier to entry. The OEM sections may actually make matters worse for middleware rivals. The PFJ limits what OEMs can remove from their PC products to just the middleware icons, euphemistically referred to as "access to" middleware in Sections III.C and III.H. In other words, OEMs are not permitted to remove the code for Microsoft Internet Explorer, Windows Media Player or any other Microsoft middleware, and the proposed decree allows Microsoft to commingle and integrate middleware with its Windows operating system software. The fact that the flexibility guaranteed to OEMs is limited to removing icons, and not the middleware itself, has major competitive significance and actually guarantees perpetuation of the applications barrier protecting Microsoft's operating systems monopoly.

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[48] CIS, 66 Fed. Reg. at 59469. See also CIS, 66 Fed. Reg. at 59460 (decree "prevent[s] Microsoft from incorporating into the Windows operating system features or functionality with which only its own servers can interoperate by requiring Microsoft to disclosure the communications protocols that are necessary for software located on a computer server to interoperate with the Windows operating system").

[49] The CIS makes clear that this ploy avoids the Section III.E obligations, stating that disclosure is not required if Microsoft "only distributes code that implements that protocol along with its server software or otherwise separately from the client operating system ..." CIS, 66 Fed. Reg. At 59469.

1. The OEM Provisions Place Sole Responsibility for Introducing Middleware Competition on PC Manufacturers

To achieve its goal of "recreating the potential for the emergence" of middleware alternatives to Microsoft's monopoly operating system, the PFJ delegates the role of competitive gatekeepers to OEMs. Instead of requiting the monopolist itself to unfetter the market for entry by competitors, here the PFJ imposes that obligation on third-parties who are partners with, not competitors of, the defendant. If PC manufacturers do not act on the desktop flexibility powers provided by Sections III.C or III.H of the PFJ, there will, by definition, be no OEM-based remedy. Walter Mossberg, Personal Technology columnist for the Wall Street Journal, captured the problem elegantly. "Much" of the DOJ settlement, he explained, "pertains to the company's relations with the hapless makers of PCs, which aren't in any position to defy Microsoft."[50]

OEMs are captives of Microsoft for a number of reasons, beginning with the obvious fact that there are no commercially viable alternatives to the Windows operating system; there are no real alternatives to Microsoft's Office suite of personal productivity applications (Word Processing, Spreadsheets, E-Mail, etc.); and there is de minimis competition for Interact browsers. The fact that OEMs find themselves in a sole source relationship with the defendant provides Microsoft with innumerable avenues to exercise its leverage over the OEM channel. These complex relationships are built more on the subtleties of a sole source relationship than on written contracts, or overt retaliation, and thus are hardly resolved by the uniform Windows pricing obligation provided for in Section III.B.

It must also be understood that personal computer manufacturers are in the business of producing low margin commodity equipment, a business characterized by very minimal (and shrinking) R&D budgets. It is unrealistic to expect any Windows-centric OEM to develop, test, and pre-install packages of rival middleware, because that would require substantial expenditures in technical software expertise and customer support which would further narrow already shrinking profit margins in a business where competitors are currently engaged in a major price war to gain market share.

The financial burden of customer support, where a single end user service call can eliminate an OEM's profit margin on a PC, creates powerful disincentives to the inclusion of non-Microsoft middleware. See Microsoft III, 253 F.3d at 62. Judge Jackson found and the Court of Appeals affirmed that in light of their customer support obligations, which are "extremely expensive," Microsoft III, 253 F.3d at 61 (citing Findings of Fact ¶210), OEMs are disinclined to install multiple versions of middleware. Since OEMs "have a strong incentive to minimize costs," id., the customer confusion resulting from duplicative middleware is sufficient to preclude OEMs from installing competitive programs where comparable Microsoft middleware is included with Windows.

Under the proposed decree, however, these are precisely the circumstances faced by OEMs. There are no restrictions in the PFJ on Microsoft's ability to integrate middleware technologies into Windows; in fact Microsoft is allowed to do so at its "sole discretion." Even if an OEM wants to install a competitive non-Microsoft middleware program, it will be required to deal with the fact that the corresponding Microsoft middleware product is already present on its PCs, which it is not permitted to remove. Consequently, just as OEMs" cost minimization requirements forced them not to pre-install Netscape where IE was included with Windows, so too will these same profit pressures force OEMs to decline to install competing middleware programs under the PFJ.

This is in stark contrast to the provision of the Interim Order on which the Department claims to have based its settlement. Both the Interim Order and the remedy proposed by the Litigating States would require Microsoft to ship a version of the operating system without any middleware included, if requested by an OEM. That scheme makes it possible for an OEM to truly offer a differentiated product suite without the burden of having Microsoft's corresponding technology present on the system as well.

Even if they had an independent economic incentive to support middleware competition, however, Windows OEMs are still held captive under the proposed decree's retaliation provisions. Section III.A prohibits "retaliation" (another undefined term) by Microsoft against OEMs for developing, distributing or supporting competitive middleware or exercising their desktop icon flexibility rights.

Despite their relative length, the retaliation provisions do not at all effectively preclude retaliation. Retaliation is only prohibited under Section III.A where "it is known to Microsoft" that an OEM is undertaking a permitted, competitive action. This subjective, actual knowledge standard will be difficult if not impossible to enforce. In addition:

. Microsoft is not prohibited from retaliating if an OEM removes the code for a Microsoft Middleware Product from its retail PCs.

. Nor does this provision prevent retaliation if an OEM removes either icons or code for Microsoft software that does not qualify as a "Microsoft Middleware Product" (for instance, Microsoft Movie Maker).

. And Microsoft is not prohibited from retaliating against OEMs for promoting products that fall outside of the Section III.A terms. By way of example, Microsoft could retaliate against OEMs for promoting non-Microsoft Internet services, server operating systems, server middleware or server applications. Microsoft could even retaliate against OEMs for distributing or promoting middleware that does not yet compete with Microsoft Middleware Products.

Section III.A also limits the prohibited forms of retaliation to "altering Microsoft's commercial relations with that OEM, or by withholding newly introduced forms of non-monetary Consideration (including but not limited to new versions of existing forms of non-monetary Consideration)." PFJ, 66 Fed. Reg. 59453. Microsoft is not precluded from denying new monetary consideration to OEMs as a means of retaliation, as that is neither an "alter[ed] commercial relation" nor a "newly introduced form of non-Monetary Consideration." Similarly, Microsoft can also reward compliant OEMs by providing concessions on license fees for non-Windows Microsoft software, including applications such as Office, server operating system software and server applications, as well as Microsoft Middleware Products. None of these types of software is covered by the pricing parity requirements of Section III.B, which apply only to "Microsoft Operating System Products." Id.

Finally, as a general matter there is no practical way to identify and prohibit all the subtle ways Microsoft can preferentially favor some OEMs, and harm others, depending on their degree of support for Windows. For instance, the definition of Consideration in Section VI.C covets "product information" and "information about future plans." Id. at 59458. Yet Microsoft could retaliate against OEMs by denying them sufficient technical information regarding important, upcoming Windows features, for example by not inviting them to internal development conferences or presentations. Likewise, Microsoft could assign fewer or less knowledgeable technical support personnel to a specific OEM's account team, a form of retaliatory discrimination that would be difficult to detect and virtually impossible to prove. In sum, the anti-retaliation provisions offer little shelter for OEMs desiring to respond to legitimate demands by their customers for choice among competing software products. If there is any doubt about this analysis of Sections III.C and III.H above, the Court should took no further than the OEMs" treatment of Microsoft Internet Explorer. On July 11, 2001 Microsoft announced that OEMs would be free to remove access to Internet Explorer, which they had previously been prohibited from doing.[51] Since this announcement was made more than six months ago, not one OEM has actually taken advantage of this provision and removed the icon for Internet Explore from retail PCs This real-world market test is an accurate gauge of how many OEMs will likely take advantage of the exact same flexibility provided in Section III.H of the decree, albeit for a somewhat wider range of middleware products: none.

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[50] Walter S. Mossberg, Microsoft Has Good Year, At Expense of Customers, Wall Street J., Dec. 27, 2001, at B1.

2. The Provisions Allowing OEM Flexibility Do Not Address the Key Issue of Microsoft's Ubiquitous Middleware Development Platform

The core of the case against Microsoft rests on the theory that Netscape and Java provided an alternative development platform (middleware) for applications developers, which, if applications developers began writing applications to the middleware, would undermine the applications barrier to entry and thus Microsoft's Windows monopoly. For this to occur, developers need to view rival middleware as a more attractive development platform than Windows. Unfortunately, the PFJ provides a solution to the wrong problem and actually ensures that rival middleware applications will never be able to attract a critical mass of developers.

Sections III.C and III.H of the decree allow OEMs to install competing middleware and to "enable or remove access to" Microsoft Middleware Products from the desktop of Windows PCs that they sell to end users. However, as noted, these provisions do not authorize OEMs to delete the Microsoft middleware itself, and Microsoft is not prohibited from retaliating against OEMs that attempt to delete Microsoft middleware code from its configured PCs.

This distinction between icons and code is competitively decisive. The applications barrier exists because developers write to Windows-centric APIs. Under the terms of the decree, however, the APIs exposed by Microsoft middleware remain on every Windows PC even if OEMs and end-users exercise all of the flexibility provided by Section III.H. It is crucial to understand that an application developer can write to Microsoft middleware regardless of whether "access" to that software is removed. In other words, Microsoft's middleware APIs remain ubiquitously available on all Windows PCs under the proposed decree. The best a rival middleware provider can hope for is to be "carried" alongside Microsoft's middleware on some lesser portion of personal computers.

A critical lesson learned in this case is that, as with Netscape and Java, ubiquity trumps technology in network effects markets. Professor Arrow explains that no middleware competitor can expect any economically significant chance to compete on the merits if, as permitted under the decree, Microsoft middleware is ubiquitous. Arrow Decl. ¶26. The important distinction between icons and code was explained by the DC Court of Appeals in 1998. The court emphasized that removal of end user access "do[es] not remove the IE software code, which indeed continues to play a role in providing non-browser functionality for Windows. In fact, browser functionality itself persists, and can be summoned up by ... running any application (such as Quicken) that contains the code necessary to invoke the functionality." Microsoft II, 147 F.3d at 941.

Consequently, by limiting its effect to the removal of icons only, the proposed decree cannot achieve any appreciable effect in eroding the applications barrier. They cannot "recreate the potential for the emergence" of middleware alternatives in a way that provides an economically realistic opportunity for operating systems competition. 3. The OEM Provisions Do Not Create a Level Playing Field for Middleware Desktop Competition

We explained above why it is unlikely that OEMs will expend resources to promote rival middleware products. The alternative model is that rival middleware providers would pay an OEM to feature its software and delete end-user access to Microsoft's middleware. This is consistent with the CIS, which explains that the function of the OEM provisions is to allow OEMs to "feature and promote" non-Microsoft middleware. CIS, 66 Fed. Reg. at 59460.

Section III.H does not achieve this goal, for two primary reasons. First, as detailed above, the "value" of the PC desktop is diminished by the fact that an OEM is not permitted to remove the Microsoft middleware code, and thus cannot offer a rival exclusivity.

Second, Section III.H.3 does not guarantee that a rival's middleware icon will even remain on the desktop. As the Department explains the theory of this remedy, it is to create a "marketplace" on the desktop where OEMs can "stand in the shoes" of consumers and exercise choices in which middleware technologies to feature based on price and performance. Yet, the PFJ permits Microsoft to "sweep" competing middleware icons placed on the Windows desktop by OEMs.

That is, Windows may automatically remove the icons featured by an OEM just fourteen days "after the initial boot-up of a new Personal Computer." True, this section contains a proviso stating that Microsoft may not do so absent end user "confirmation," but neither the text of this provision nor the Competitive Impact Statement require that confirmation be based on any objective notice or alert by Microsoft. CIS, 66 Fed. Reg. at 59471.

The fourteen-day desktop sweep proviso directly contradicts the objective of fostering OEM flexibility to feature and promote non-Microsoft middleware, because it undermines the ability of OEMs to sell desktop placement an ISV can count on. Under Section III.H.5, the best an OEMs can offer is a guarantee of desktop placement for fourteen days.

This is critically important for the reasons stated above. As rival middleware vendors attempt to attract developers to write applications to their platforms, as opposed to Microsoft's platform, they will have to make representations as to how many PC desktops actually have the rival middleware installed and available to consumers. With the fourteen day "sweep" provision included in the PFJ, ISVs will simply not be able to make any accurate projections, which will further reduce the price they might be willing to pay for desktop placement. 4. Additional OEM Provisions Further Undermine the Crucial Ability of ISVs to Differentiate Competing Middleware Products

In order to displace Microsoft middleware and encourage applications developers to write to their APIs, competing ISVs will need to differentiate their middleware products from Windows Media Player, Windows Messenger and the other Microsoft middleware products that are bundled with Windows. The OEM provisions affirmatively undermine the ability of ISVs to achieve any meaningful degree of product differentiation.

First, Section III.C.3 permits OEMs to launch automatically non-Microsoft middleware only at boot-up or upon making a connection to the Interact. This constrains the ability of manufacturers to configure competing middleware products and reduces the value of this flexibility for (and hence potential OEM revenues from) ISVs.

Second, auto-launch of competing middleware is permissible under Section III.C.3 only (a) "if a Microsoft Middleware Product that provides similar functionality would otherwise be launched automatically at that time," PFJ, 66 Fed. Reg. 59454, and (b) if the non-Microsoft Middleware "displays on the desktop no user interface or a user interface of similar size and shape to the user interface displayed by the corresponding Microsoft middleware product." Id. These limitations allow Microsoft to gate middleware competition by reducing the role of non-Microsoft middleware to only those instances in which Microsoft's own products are launched. If Microsoft decides that its middleware products will not have a user interface, or will utilize a window of a specific size, those decisions are binding on competitors" product designs as well. Indeed, the PFJ surprisingly appears not even to contemplate a situation where Microsoft's competitors develop a middleware product for which there is no "corresponding" Microsoft middleware. Third, the PFJ empowers Microsoft to limit the freedom of ISVs in their product design and functionality decisions on its competitors. Microsoft can also limit the placement of icons and shortcuts may appear on the desktop and elsewhere, id. at 59454, 59455, the "functionality" of middleware products whose icons and shortcuts may be included by the OEM, and the ability of end users to designate non-Microsoft middleware as default middleware on their computers. Id. at 59455.

Each of these provisions has a similar, substantial effect. By allowing middleware to be substituted by an OEM only when (a) it performs similarly to Microsoft middleware, (b) exhibits functionality defined by Microsoft, or (c) includes the same user interface as Microsoft middleware, the PFJ allows Microsoft to "gate" competition. There is no competitive justification for these provisos, all of which serve to eliminate opportunities for product differentiation and permit Microsoft to constrain middleware competition to the scope, location and even "look and feel" it determines for its own products.

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[51] We note that at the time of the announcement, Microsoft had already achieved significantly greater than 80 percent of the browser market as a result of its six-year anticompetitive campaign, so it is hard to view this as a concession.

5. The OEM Provisions Contain Other Superfluous Terms that Substantially Limit Any Potential Market Impact

Section III.H of the proposed decree allows Microsoft twelve months to modify Windows XP in order to permit OEMs to remove Microsoft middleware icons or change default settings for invoking middleware functionalities. Yet the modification necessary to allow removal of icons via the "Add/Remove Programs" utility is a trivial exercise. Demonstrable proof of this fact is that Microsoft was able to modify the beta version of Windows XP to permit removal of the Interact Explorer icon within weeks of its July 11, 2001 announcement. We can not fathom why Microsoft is now given twelve months to accomplish the same task.

Section VI.N of the decree also provides that a "Non-Microsoft Middleware Product" is software with certain functionalities "of which at least one million copies were distributed in the United States within the previous year." Because the Section III.H obligations requiring modification of Windows XP to permit addition and removal of competing middleware apply to "Non-Microsoft Middleware Products," OEMs are foreclosed from the ability to feature and promote small middleware start-up competitors in Windows XP, Section VLN is a very veal impediment to achievement of the innovative middleware market the PFJ is purportedly designed to promote. 6. The OEM Provisions Have No Impact on Java.

Sections III.C and III.H also do not apply to Microsoft's Java Virtual Machine ("JVM"), or Microsoft's equivalent of the JVM, its Common Language Runtime. Despite the fact that the "Microsoft Middleware Product" definition includes the Microsoft Java Virtual Machine, it appears there is no competitive consequence to its inclusion in this definition in any of the provisions of the decree. First, Microsoft no longer ships its JVM with Windows, so there is nothing for OEMs to remove. Second, even if they did continue to ship a JVM, there is no "icon" or "end-user access" to Java. Rather, Java is invoked automatically by programs that rely on its presence.

7. The OEM Provisions Largely Codify Microsoft's Existing Business Practices. Users today enjoy the flexibility—without the benefit of the PFJ—to add, delete or customize their own PC desktops. Users may delete icons by simply "dragging" the icon to the "recycle bin" or "right-clicking" on the icon and simply choosing "delete."

Thus, the decree's OEM provisions allowing OEM removal of icons only codify Microsoft's current business practices. In response to the Court of Appeals" opinion, Microsoft on July 11, 2001 announced that "it is offering computer manufacturers greater flexibility in configuring desktop versions of the Windows operating system in light of the recent ruling by the U.S. Court of Appeals for the District of Columbia."[52] According to the Microsoft press release, under this policy OEMs can "remove the Start menu entries and icons that provide end users with access to the Interact Explorer components of the operating system," and "Microsoft will include Internet Explorer in the Add/Remove programs feature in Windows XP." Id. Thus, Microsoft stressed that "Microsoft has always made it easy for consumers to delete the icons for Interact Explorer, but will now offer consumers this additional option in Windows XP." Id.

This announcement is revealing because it confirms, from Microsoft itself, that the "flexibility" provided to end users by Section III.H of the decree has always existed. And by revising Windows XP to permit OEMs to remove the Interact Explorer icon, Microsoft has already done precisely what the decree requires. Thus, the OEM provisions of the decree succeed mostly in codifying Microsoft's current business practices and achieve minimal, if any, remedial purpose.

In sum, the relief provided by Sections III.C and III.H is fundamentally at odds with the theory of the case. These OEM "desktop" remedies will not provide any opportunity for alternative middleware platforms to attract developers and thus to challenge the applications barrier to entry.

They are economically irrational since Microsoft's middleware will continue to be ubiquitously available on all PCs, regardless of the choices exercised by OEMs. These provisions allow Microsoft to dictate product design features to its rivals, to limit product differentiation and to restrict OEM deals with rivals to a brief, fourteen-day exclusivity period. And at bottom, they cannot change the economic structure of the PC distribution channel because OEMs are sole-source partners of Microsoft, not competitors.

D. The Proposed Decree Does Not Effectively Preclude Microsoft's Exclusive Dealings Although the proposed decree purports to ban exclusive dealing by Microsoft with respect to Windows software, Section III.G expressly permits Microsoft to establish favored or exclusive relations with certain OEMs, ISVs, etc., if the parties enter into "any bona fide joint venture or ... any joint development or joint services arrangement." This exception all but vitiates the supposed prohibition, for it allows Microsoft to enter into the identical distribution agreements that were held. unlawful at trial merely by denoting them as "nt" activities.

E. Current Market and Economic Realities Demonstrate that the PFJ is Incapable of Having Any Substantial Procompetitive Impact

The Department recognizes explicitly that relief in this case must "'ensure that there remain no practices likely to result in monopolization in the future.'" Microsoft Ill, 253 F.3d at 103 (citations omitted); see CIS, 66 Fed. Reg. at 59465 (monopolization remedy should "avoid a recurrence of the violation" in the future). Yet by failing to address significant market and technological developments that have occurred in the period since the trial record closed, the narrow remedies of the proposed decree do not provide relief that comes even close to ensuring that Microsoft's unlawful practices will not be repeated in the future.

1. New Monopolies Enable Microsoft to Protect its Operating System Monopoly Despite the PFJ Since the trial, Microsoft has solidified three new chokeholds with which it can easily perpetuate its monopoly power:

Microsoft's monopoly power over Internet browsers and its integration of IE into Windows allow it to replicate many of the prohibited practices through IE.

Microsoft's monopoly power over the Office suite and its anticompetitive use of Office porting allow it to replicate many of the prohibited practices through Office.[53]

Microsoft is fast acquiring monopoly power in the operating systems for low-end servers used in local or wide area networks. Microsoft can just as easily exploit the APIs exposed by the operating system on the network to perpetuate the applications barrier to entry.

However, the PFJ does not require the disclosure of APIs exposed by IE, Office the low-end server operating systems. Microsoft can develop middleware programs that utilize these APIs—which are as ubiquitous as the Windows APIs themselves—and thus evade the API disclosure provisions of the PFJ. Similarly, although Section III.E of the PFJ requires the disclosure of Communications Protocols used for interoperability with Microsoft server operating systems, by controlling the client (IE), Microsoft can control the server irrespective of these provisions.[54] That is, Microsoft's monopoly control over IE allows it unilaterally to implement proprietary standards and protocols within IF, that are not disclosable under the PFJ because they are not "implemented in a Windows Operating System Product installed on a client computer" within the scope of Section III.E.

2. The Proposed Settlement Ignores the Likely Tactics Microsoft Will Use to Eliminate the Next Significant Threat to its Monopoly Position

The primary competitive threat to the Windows OS/IE platform is the emergence of applications and services provided over the Internet, where the application or service is independent of the computing platform employed by the user. The recent spread of high-speed Internet service has further spurred the development of this category of distributed applications or web services that take advantage of Internet's underlying architecture.

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[52] Available at www.microsoft.com/MSCorp/presspass/Press/2001/Jul01/07-11OEMFlexibilityPR.asp.

[53] Microsoft's resulting power over Internet browsers and personal productivity applications provides it with alternative vehicles with which to achieve the same anticompetitive foreclosure of middleware threats that it accomplished in 1995–98 through Windows itself.

[54] As Microsoft executive (and trial witness) Paul Maritz put it, "the most important thing we can do is not lose control of the Web client," because "[b]y controlling the client, you also control the server." Gov't Ex. 498. Microsoft can suppress competition by adding proprietary features and protocols to the IE browser that are necessary to generate actions by its server operating systems products or by refusing to add features and protocols that would similarly support a competitor. Professor Schmalensee acknowledged this incentive at trial: "[I]f one company controlled the browser and its look and feel and how it presented applications, it could severely enhance or detract from the application functionality of programs or applications running on the server." 6/24/99 (p.m.) Tr. 46–47; see also id. at 48; Henderson Decl. ¶82 (quoting Rasmussen Dep., 12/15/98 (a.m.), at 67–68).

Two features of distributed applications in particular constitute a revolutionary change from the previous "client-server" model. First, rather than residing principally on one machine (either a client or a server), distributed applications effectively reside on the network itself. It is therefore possible to access these services from any computer or device connected to the Internet. From the user's perspective, although the application itself resides on the network, it is accessible as rapidly and seamlessly as if it resided on the user's own PC.

Second, because the applications and data are accessible from different machines, access to these services depends critically upon being able to establish the identity of the user seeking access to those services. Web identity and authentication services accordingly take on extraordinary importance in the world of distributed applications.

These changes in the market reveal a picture of today's PC industry that is radically different from the Department's placid vision of "recreating the potential" for middleware competition by opening the OEM channel to possible future middleware innovations. The critical question, however, is whether distributed web-based applications, which do not need to be compliant with any particular operating system, will be able to remain independent of Windows and in the process bring down the applications barrier to entry.

The PFJ does not protect the Internet-based competition for the Windows operating systems monopoly in the future because the proposed decree does nothing to prevent Microsoft from continuing to shift from one anticompetitive activity to another in order to maintain its monopoly. Instead of bundling middleware code into Windows and creating exclusive dealing arrangements with ISVs and OEMs, Microsoft today is attempting to defeat the threat from Web-based services by bundling its Web services technologies into Windows and entering into exclusive vertical distribution arrangements with Web-based content and e-commerce providers.

See Passport to Monopoly: Windows XP, Passport, and the Emerging World of Distributed Applications at 25 (ProComp June 21, 2001) and Microsoft's Expanding Monopolies: Casting A Wider .Net (ProComp May 15, 2001).

As would be expected, Microsoft now attempts to create a proprietary equivalent to the distributed applications paradigm by bundling its latest operating system with certain applications and technologies in order to secure dominance in distributed applications. For example, Microsoft Passport, a proprietary authentication technology built on the .NET Framework, is bundled with Windows XP. This bundling allows Microsoft's own authentication services to have a ubiquitous distribution base—and deny rival technologies ubiquity—in the same way that its bundling practices extinguished the middleware threats from Netscape and Java. A monopoly in web identity services will enable Microsoft to control the means by which users access distributed applications from the Internet. Nonetheless, the PFJ does nothing to restrict Microsoft's practices in this area. The API disclosure provisions only mandate the release (if at all) of APIs used by a Microsoft Operating System product to interoperate with Microsoft Middleware, which excludes Passport.

Similarly, Microsoft's broader .NET initiative is replacement of the Java and Netscape technologies that it unlawfully crippled with Microsoft proprietary technology. Microsoft defines .NET as its "platform for XML web services."[55] The services which .NET offers are a combination of pre-designed applications, some of which come under the rubric "Hailstorm," and a set of tools, under the rubric of Visual Studio Integration Program, designed to allow developers to create web applications which rely on the all-important APIs exposed by Microsoft programs. At the core of .NET stands the Common Language Runtime environment ("CLR").

CLR is Microsoft's answer to the Java runtime environment, with a key difference. CLR provides the developer with a device that is similar to the JVM, but that lacks the element so destructive to Microsoft's hegemony—freedom from reliance on Microsoft's APIs. Of course, CLR will take full advantage of Microsoft's vast distribution network via bundling with future versions of Windows (including Windows XP) as well as with IE and Microsoft Network.

Microsoft's monopolization strategy has not changed at all. Bill Gates has explained that "there's a very strong analogy here between what we're doing now [with Web-based services] and what we did with Windows."[56] Since Microsoft will pursue the same tactics and strategies found unlawful in the instant case, any remedy that does not prohibit a repeat of these practices in new markets and new contexts is facially flawed.

In sum, the proposed decree fails to address identifiable market and technological developments since the trial record closed that allow Microsoft both to protect its operating systems monopoly against current potential rivals and to engage in the same types of conduct adjudged unlawful by the Court of Appeals. Consequently, the proposed decree does not and cannot "ensure that there remain no practices likely to result in monopolization in the future," Microsoft III, 253 F.3d at 103 (citations omitted), and must be rejected by this Court.

F. The Decree Increases Microsoft's Market Dominance and Actually, Worsens Competitive Conditions in the Relevant Software Markets

The proposed settlement not only does not achieve the procompetitive effects that the Department claims, it increases Microsoft's dominance of the operating systems market and actually worsens competitive conditions across the entire software industry. Among other things, the proposed decree rewards Microsoft for its illegalities, promoting future defiance of antitrust laws and intransigent tactics by dominant firms. Many of the deficiencies of the proposed decree have been outlined in this submission. These deficiencies will allow Microsoft to perpetuate its monopoly position. In addition, the decree represents a step back from the current state of affairs notably because it sanctions continued bundling or commingling by Microsoft of middleware technologies with Windows, thus increasing rather than decreasing Microsoft's power to sustain the applications barrier to entry protecting its operating systems monopoly while disadvantaging non-Microsoft middleware providers. By enhancing Microsoft's ability to buttress the applications barrier to entry, the proposed settlement harms competition, and increases, rather than terminates, Microsoft's monopoly power.

G. The Settlement Would Not Have Prevented Microsoft's Unlawful Campaign Against Netscape and Java

One appropriate measure for assessing whether the PFJ is adequate is whether it would preclude today the same conduct Microsoft used to foreclose Netscape and Java, and thus preserve its monopoly power, in 1995–98. It would not.

As a fundamental matter, this is because Microsoft is not required to disclose the APIs needed for new and innovative forms of middleware. When Netscape was launched in late 1994, Microsoft did not have an Internet browser and was focused on Chairman Gates" vision of interactive television, rather than the Internet. Thus, there were no APIs exposed by Windows that were "used by Microsoft Middleware to interoperate" within the scope of Section III.D of the proposed decree. Had the decree been in place when Jim Barksdale, former CEO of Netscape, met with Microsoft in 1995, Netscape would not have been entitled to APIs or any other interoperability information under the express terms of the decree. "For the same reasons, no interoperability information would have been disclosable to Sun in order to enable interoperability of Java runtime technology with Windows.

Most of the distribution tactics Microsoft used to cut off Netscape's air supply and to "pollute the market for cross-platform Java" are also permissible under the decree. Microsoft can still force OEMs to take its own middleware through bundling. Microsoft can still coerce or threaten partners like Intel and rivals like Apple and can still refuse to port its monopoly Office suite in order to protect the applications barrier to entry. Microsoft can still throttle middleware innovations because the PFJ gives it the ability to "gate" the functionality and product design of rival middleware products. Microsoft can still prohibit OEMs from removing its middleware, or applications, and is free to retaliate against OEMs that do so. Microsoft can still deceive middleware developers and can still introduce application development tools that pollute open standards by producing only Windows-compatible programs. And Microsoft can still protect the applications barrier by utilizing the very same practices through its monopoly IE and Office products that the PFJ purportedly outlaws for Windows.

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[55] .NET Defined. available at www.Microsoft.com/net/whatis.asp.

[56] "So for every element of Windows—user interface, the APIs .–.–. for each one of those things there's an analogy here." Bill Gates, Forum 2000 Keynote, Bill Gates Speaks About the .NET Platform. (Available at www.microsoft.com/BUSINESS/vision/gates.asp)

In short, the PFJ does not even foreclose the means of foreclosure that were proved at trial and affirmed by the Court of Appeals. Under any Tunney Act standard of review, it must be rejected.

V. THE PROPOSED DECREE IS HOPELESSLY VAGUE AND INHERENTLY UNENFORCEABLE

The proposed decree is fiddled with ambiguities and loopholes and grants unilateral, essentially unreviewable, power to Microsoft to define the scope of its own ambiguous obligations. As such, the PFJ is an illusory contract, and unenforceable as a matter of well-settled contract law.

As the Court emphasized in Microsoft I, a proposed settlement cannot be entered, at least without substantive modification, if it is ambiguous or if there are "foresee[able] difficulties in implementation." 56 F.3d at 1462. The proposed decree here is the epitome of such a case.

Twenty-four different sections of the PFJ provide that specific actions by Microsoft, or standards for assessing whether its practices are permissible, must be "reasonable."[57] In a decree purportedly drafted to provide a "certain" remedy, this is anything but. As just two examples, in addition to the reasonable scope of "bona fide," exclusive joint ventures discussed in the preceding section, Microsoft is expressly permitted to adopt "reasonable technical requirements" on which to override an OEM's or end user's choice of non-Microsoft middleware (Section III.H) and to enter into concerted refusals to deal with ISVs—requiring them not to develop software for competing platforms—that are "of reasonable scope and duration" (Section III.F.2). Consent decrees are interpreted as contracts, and it is black letter contract law that illusory contracts, those that give one party the fight to decide the scope of its own obligations, are not enforceable. See Rest. Contracts 2d § 77.

The judge in the first instance for all of these reasonableness clauses is Microsoft itself. In short, it is difficult to conceive of a more loosely drafted decree than the PFJ, which allows the defendant, without any practical constraint except lengthy contempt proceedings, to establish unilaterally the extent of its own decree obligations. Due to the inherent ambiguity in "reasonableness" terms, these disputes will be complex, tedious and time-consuming exercises for the Court.

The "Technical Committee" and so-called "Crown Jewel" provisions are equally inefficacious. The Technical Committee ("TC") established by Section IV.B of the proposed decree does not help enforcement matters appreciably. Most significantly, nothing that the Technical Committee does is binding and nothing that it investigates, analyzes or recommends is permitted to see the light of day. The TC reports only to the plaintiffs (Section IV.B.8.e) and "all information" gathered by the TC is subject to confidentiality and non-disclosure agreements and a protective order (Section IV.B.9). The members of the TC may "communicate" with third-parties, but only about "how their complaints or inquiries might be resolved with Microsoft" (Section IV.B.8.g). Furthermore, "[n]o work product, findings or recommendations by the TC may be admitted in any enforcement proceeding before the Court for any purpose, and no member of the TC shall testify by deposition, in court or before any other tribunal regarding any matter related to the decree" (Section IV.D.4.d).

Rather than a vehicle for prompt resolution of enforcement disputes, the TC provisions are a charter for delay and obfuscation. By denying the Court any access—whether or not in camera—to the work product of the TC, the proposed decree simply creates another hoop through which third-party complainants, and the government itself, must pass in order to enforce violations of the decree b5, the defendant It also denies the Court the benefit of the unbiased, objective technical expertise of the TC, which is the principal criterion on which its members are to be selected. Coupled with the sheer number of "reasonableness" provisions in the decree itself, the TC process will therefore delay enforcement and make clean resolution of decree interpretation issues more costly and burdensome for all affected parties and non-parties.

Finally, Section V.B of the PFJ provides that if the Court finds Microsoft "has engaged in a pattern of willful and systematic violations," on application of the plaintiffs a "one-time extension" of the decree may be granted, for up to two years. Although presented as a "Crown Jewel" provision, this section does little to ensure compliance. The function of a Crown Jewel clause is to provide such an onerous penalty that the defendant's compliance with its substantive obligations can be coerced, and deliberate evasion avoided, without ever having to invoke the penalty. Here, the "threat" Microsoft is being presented with is that of being forced for two more years to decide at its "sole discretion" what constitutes Windows, to constrain exclusive joint ventures to "reasonable" duration, to gain access to intellectual property developed by middleware competitors, and to dictate to those competitors the functionality and user interface of their products. This is plainly something Microsoft should welcome with open arms rather than fear.

The vagueness of the terms, the ineffectiveness of the Technical Committee and the lack of a meaningful deterrent Crown Jewel provision will plague the courts for years to come. In the absence of any deterrent, Microsoft will no doubt interpret the "reasonableness" standards generously incorporated in the proposed settlement in its own favor. The enforcement agencies and numerous competitors will witness the ill effects of future Microsoft actions and challenge these practices. However, without the proper dispute resolution mechanisms in place, it will be up to the courts to resolve all these "reasonableness" issues arising out of the proposed settlement.

VI. DIVESTITURE REMAINS THE PREFERABLE AND MOST EFFECTIVE REMEDY FOR MICROSOFT'S SECTION 2 VIOLATIONS

ProComp and its members have consistently supported structural relief in this case. In our view, divestiture remains the most effective remedy for Microsoft's wide-ranging unlawful practices. Conduct remedies like the proposed decree are a second-best solution, because they rely on the defendants good will to comply. An injunctive decree in a Section 2 monopolization case "does no more than encourage the monopolist to look for some new way of exercising its dominance that is not covered by the current injunction."[58] Comprehensive behavioral decrees inevitably require interpretation and application as the defendant introduces new products, moves into new markets, or changes its business strategies in its traditional markets.

That does not mean, however, that conduct remedies will necessarily be ineffective here, but rather that they must be targeted and broad enough to redress the core practices used to maintain Microsoft's monopoly and to eliminate the barriers to entry protecting that monopoly power. The proposed decree does not even purport to satisfy this goal, which we submit is compelled by the Ford/United Shoe standard required for assessing relief in this case. The relief proposed by the Litigating States achieves these objectives. We respectfully submit that the Court adopt a crown jewel divestiture provision to deter Microsoft from engaging in further unlawful conduct.

VII. THE COURT SHOULD CONDUCT A RIGOROUS TUNNEY ACT EXAMINATION OF THE DECREE, THE COMPETITIVE IMPACT STATEMENT AND THE DEPARTMENT'S UNSUBSTANTIATED PROJECTIONS OF FUTURE COMPETITIVE EFFECT

There are several circumstances in which it is established that district courts must engage in rigorous scrutiny of proposed antitrust settlements under the Tunney Act. This case epitomizes those circumstances. If ever there was a case in which a full, independent judicial assessment should be conducted, it is this one.

A. The Complexity and Substantial National Importance of this Case, the Government's Flat Reversal of Position and its Disregard of Clear Tunney Act Obligations All Dictate the Necessity of Critical Judicial Oversight in this Landmark Proceeding

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[57] Substantive "reasonable" provisions are III.B.2, III.C.5, III.E, III.F2 (two), III.G, III.H.2, III.I, III.J.2.b and III.J.2.C. Procedural "reasonable" provisions are IV.A.2, IV.A.2.b, IV.A.2.c, IV.A.4, IV.A.6, IV.A.7 (two), IV.A.8.b (three), IV.A.8.h and IV.A.8.l (three).

[58] 3 P. AREEDA & H. HOVENKAMP ANTITRUST LAW ¶704.3, at 213 (1999 Supp). See William K. Kovacic, Designing Antitrust Remedies for Dominant Firm Misconduct, 31 Conn. L. Rev. 1285, 1311 (1999) ("By blockading recourse to certain commercial tactics, a remedial decree will inspire the defendant to pursue other paths that circumvent the judicially imposed constraints."). As the Supreme Court cautioned in the landmark DuPont antitrust case, "the policing of an injunction would probably involve the courts and the Government in regulation of private affairs more deeply than the administration of a simple order of divestiture. United States v. E.I. du Pont de Nemours & Co., 366 U.S. 316, 334 (1961); accord, AT&T, 552 F.Supp. at 167–68.

Even in the pretrial context with its more limited review, Tunney Act courts will rigorously scrutinize proposed settlements when an antitrust case is complex. subject to considerable controversy, and affects large segments of the public.[59] Especially rigorous scrutiny is also undertaken when the proposed decree departs substantially from the relief sought in the government's complaint,[60] or otherwise represents a sharp reversal in the government's prior position.[61] Each of these situations is present in this case

1. This Complex, Controversial, Nationally Important Antitrust Prosecution Demands Serious Judicial Oversight

This is certainly a highly complex case that has preoccupied the political, technology and business communities for years. These are precisely the circumstances in which the Tunney Act's genesis reveals a major policy concern with the appearance of the government settling for too little "because of the powerful influence of antitrust defendants and the complexity and importance of antitrust litigation." SENATE REPORT, supra, at 147 (statement of Judge J. Skelly Wright).

Microsoft plainly "wield[s] great influence and power" and has brought "significant pressure to bear on [the] Government" throughout the litigation. Id. Thus, the Court needs to consider whether this is a case, such as Cascade, where the Department "knuckled under" to an economically and politically powerful antitrust defendant. Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 386 U.S. 129, 136, 142 (1967).[62]

2. Heightened Scrutiny is Needed Because Neither the Department Nor Microsoft Complied With their Respective Tunney Act Obligations

Courts have also refused to enter proposed antitrust consent decrees where the Government or the defendant did not comply with its procedural responsibilities under the Tunney Act. Even technical and formalistic failures have been deemed grounds to deny entry of a proposed judgment. United States v. Central Contracting Co., 527 F. Supp. 1101 (E.D. Va. 1981).

The procedural irregularities in this case are far greater, and are of substantive importance to the Court's review. First, the Tunney Act requires the Department to provide an explanation of "alternatives" to the proposed decree considered in evaluating a settlement proposal. 15 U.S.C. § 16(b)(6). Here, however, the Department simply offers a laundry list of other conduct remedies proposed by third-parties, dismissing all of them collectively with the terse statement that the PFJ "provide[s] the most effective and certain relief in the most timely manner." CIS, 66 Fed. Reg. at 59475. The Department's assertion is unexplained.

The CIS recites only that the Department considered intervening changes "in the computer industry, as well as the decision of the Court of Appeals, which reversed certain of the District Court's liability findings."[63] Nothing in the CIS offers any useful guidance to the Court, or the public, as to why the rejected conduct remedies are inappropriate; thus, the Department fails to come forward with the "detailed notice to the public" the Tunney Act was intended to require.[64] This violates the Government's duty not just to "describe" the alternatives (which the CIS does), but also to provide an "explanation" of their adequacy (which the CIS does not). This is an improperly narrow view of the government's Tunney Act responsibilities is incompatible with the purpose of the Tunney Act to ensure that all relevant issues are subject to maximum "ventilation."[65]

The government's "predictive judgments" about market structure and competitive effect should be accorded a presumption of regularity, Microsoft I, 56 F.3d at 1460 (quoting United States v. Western Elec. Co., 993 F.2d 1572, 1577 (DC Cir.), cert. denied 510 U.S. 984 (1993), but on& when tile circumstances are regular. Where, as here, the Department's exposition of the reasons for its settlement and its legal interpretation of the Court of Appeals" mandate are woefully lacking, such a presumption of regularity should not apply. In these circumstances, the Court cannot "carefully consider the explanations of the government in the competitive impact statement." CIS, 66 Fed. Reg. at 59476 (citation omitted).

Second, the Tunney Act mandates that the government make available all "materials and documents which the [it] considered determinative in formulating [a settlement] proposal." 15 U.S.C. § 16(b). The CIS responds to this requirement with a blanket statement that [n]o materials and documents of the type described in the [Tunney Act] were considered in formulating the Proposed Final Judgment. Consequently, none are being filed with this Competitive Impact Statement.

CIS, 66 Fed. Reg. at 59476. That cannot be accurate. Even in antitrust cases that are not the length and complexity of the Microsoft litigation, courts have found similar disclaimers "to be almost incredible." Central Contracting Co., 527 F. Supp. at 1104. It defies credulity to suggest that there does not exist even one document, memorandum or analysis that the Department considered "determinative" in selecting the relief package presented to this Court.

Third, the CIS misstates many provisions of the PFJ. We address these in detail in Section III above, and will not repeat that analysis here. Where, as here, the government presents a document that seeks to justify provisions that on close examination arc illusory, it has in effect challenged the legitimacy of statute. Under even the strictest interpretations of Tunney Act deference, this Court cannot permit the Tunney Act process to "make a mockery of judicial power." Microsoft I, 56 F.3d at 1462.

Fourth, the Tunney Act requires that the defendant file a list of "all" written or oral communications "by or on behalf of such defendant .–.–. with any officer or employee of the United States concerning or relevant to such proposal, except [for] communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice alone." 15 U.S.C. § 16(g). Remarkably, Microsoft's Section 16(g) filing indicates that only two such communications occurred, both in connection with negotiations together with Microsoft and the Court-appointed mediator. This cannot be true It has been publicly confirmed by numerous public officials, and acknowledged by Microsoft, that a large number of Microsoft-retained lawyers and lobbyists have advocated its position on this case before countless officials in Congress and the Executive Branch. The Court should require Microsoft to fully comply with Section 16(g).[66]

3. The Court Should Closely Examine the Government's Reversal of Position on Relief

The government's about-face on its remedy proposals provides another reason why heightened judicial scrutiny is required. While the government now says that the PFJ will provide effective relief, this reflects a marked abandonment of its earlier position. Indeed, the Justice Department's position just 18 months ago was that only structural relief was adequate, and conduct decrees like the proposed PFJ were inherent failures. As emphasized in one of the cases cited by the

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[59] Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 356 U.S. 129, 136, 141 (1967); AT&T, 552 F. Supp. at 152; Associated Milk Producers, 394 F. Supp. 35, 42 (W.D. Mo. 1975).

[60] United States v. Automobile Mfrs. Ass'n, 307 F. Supp. 617, 621 (C.D. Cal. 1969), aff'd mem. sub nom. New York v. United States, 90 S. Ct. 1105 (1970).

[61] Cascade, 386 U.S. at 137; Automobile Mfrs. Ass'n, 307 F. Supp. at 621.

[62] In Cascade, the Department refused to implement an antitrust divestiture decree affirmed on appeal by the Supreme Court. The Court eventually directed the Department to oversee "divestiture without delay" and instructed the district court to prepare "meticulous findings .–.–. in light of the competitive requirements" of the remedy. 386 U.S. at 137.

[63] CIS, 66 Fed. Reg. at 59475.

[64] The CIS was intended, rather, to be "detailed notice to the public what the case is all about. Further than that, the public impact statement makes the lawyers for the Department of Justice go through the process of thinking and addressing themselves to the public interest consideration in the proposed decree. There is no better exercise for determining whether you are right or not than trying to put it down on paper to see how it writes." SENATE REPORT, supra, at 8 (remarks of Judge J. Skelly Wright).

[65] See Central Contracting. 527 F. Supp. at 1103 (quoting 119 Cong. Rec. 24597 (1973).(remarks by Senator Tunney)).

[66] The company apparently takes the unsupportable position that lobbying communications on the subject of the Microsoft litigation occurring before the September 2001 negotiations resumed are not "relevant" to the settlement. Microsoft also claims many communications were protected by the "counsel of record" exception. "Counsel of record" for purposes of these disclosures is intended to differentiate between lawyers actively appearing before the trial court and those undertaking related, but non-judicial "lobbying" functions. Central Contracting Co., 527 F. Supp. at 1105. The House Report discusses Congress's intent to distinguish "lawyering contacts," which warrant protection, from "lobbying contacts," which must be disclosed. It states that a lobbying contact is performed by "counsel of record accompanied by corporate officers; or by attorneys not counsel of record." HOUSE REPORT, supra, at 6 (emphasis added). Congress requires their disclosure in order to guarantee "that the Government and its employees in fact avoid practicing political justice." Id. (quoting Civil Service Comm'n, 414 U.S. 906 (1973)).

Justice Department, less deference is warranted when "the government has requested broad relief at the outset, represented to the courts that nothing less would do, and then abruptly knuckled under." United States v. National Broad. Co., 449 F. Supp. 1127, 1144 (C.D. Cal. 1978).

The point is not that the Department has decided not to seek divestiture, but instead that the conduct remedies it now proposes contradict its prior representations to this Court on their effectiveness. The earlier DOJ position was also consistent with its prior settlement decisions in this litigation itself. In the mediations supervised by Chief Judge Richard Posner in March 2000, the Department and the State plaintiffs demanded settlement terms that would have gone far beyond the limited provisions of the PFJ in eradicating Microsoft's ability to act anticompetitively. Indeed, the plaintiffs" last settlement proposal in the mediations—dubbed "Mediator's Draft 18 (Attachment B)—would have included provisions requiring Microsoft to license the actual source code for Windows, to permit ISVs to modify Windows itself, and to allow OEMs to "display[] a middleware user interface" in lieu of the Windows desktop. None of these or similar provisions is included in the proposed decree. Thus, the PFJ is considerably weaker in several key respects than the very conduct relief which the Department demanded in settlement before Microsoft's Sherman Act liability had been established.[67]

Given the importance of this case, and Court's obligation to look to the Supreme Court and the DC Circuit for guidance rather than the Justice Department, the Court must decide for itself whether the settlement would give the public effective relief against Microsoft's proven wrongdoing.

B. Live Evidence is Needed on the Technical and Economic Complexities of the Software Industry and the Profound Failings of, and Harms Caused by, the PFJ The drafting of an antitrust decree necessarily "involves predictions and assumptions concerning future economic and business events."[68] It is a "cardinal principle" of our system of justice that "factual disputes must be heard in open court and resolved through trial-like evidentiary proceedings." Microsoft III, 253 F.3d at 101. This mandate for evidentiary hearings applies not just to liability determinations, but also to determinations concerning the "appropriate [form of] relief." Id.; see also, id. at 107 (vacating and remanding Judge Jackson's remedy decree in large part due to his "fail[ure] to hold an evidentiary hearing despite the presence of remedies-specific factual disputes," and holding that a remedies decree must be vacated whenever there is "a bona fide disagreement concerning the substantive items of relief which could be resolved only by trial" Id. (quoting Interim Order at 62).

The Tunney Act contemplates an evidentiary hearing in these circumstances. As the Justice Department recognizes, this court must permit the use of the "additional procedures" authorized by 15 U.S.C. § 16(f)"—which include live hearings with fact and expert testimony—if "the [public] comments have raised significant issues and .-.-. further proceedings would aid the court in resolving those issues." CIS, 66 Fed. Reg. at 59476. It strains credulity to suggest, as the Justice Department does, that the remedial phase of the most complicated antitrust case in decades will not involve "significant issues" that would benefit from "further proceedings." Evidentiary hearings are critically important in complex antitrust cases because the assessment of antitrust remedies necessarily requires the Court to determine a number of facts relevant to both the degree of anticompetitive harm and the likely future condition of the market in which competition must be restored. United States v. United States Gypsum Co., 340 U.S. 76, 89 (1950); see also United States v. Glaxo Group, Ltd., 410 U.S. 52, 64 (1973). In particular, any proposed settlement decree must reach forward in time to "assure the public freedom from" continuance of the monopolistic practices. Id. As such, this Court must make "'predictions and assumptions concerning future economic and business events.'" Microsoft III, 253 F.3d at 102 (quoting Ford, 405 U.S. at 578). Although courts retain wide discretion in fashioning such forward-looking relief, they must base that relief on a sound evidentiary record. International Salt, 332 U.S. at 401.

In this case it is especially important to heed Congress's instruction to "resort to calling witnesses for the purpose of eliciting additional facts," HOUSE REPORT, supra, at 5, because the record has not yet been developed on remedies. See Associated Milk Producers, Inc., 394 F. Supp. 34 (W.D. Mo. 1975).[69] Indeed, the procedural posture that the Court now faces is more closely akin to a contested summary judgment motion or administrative consent decree, for which hearings are the standard method of resolution. E.g., Celotex Corp. v. Catrett, 477 U.S. 317 (1986); Citizens for a Better Environment v. Gorsuch, 718 F.2d 1117 (DC Cir. 1983); United States v. Trucking Employers, Inc., 561 F.2d 313 (DC Cir. 1977).[70]

Only by permitting third parties, such as ProComp and its members, to participate fully in such a proceeding can the Court assure that there will be adequate evidentiary attention to facts and circumstances that contradict the Department's views on the market, competition and other issues relevant for remedy purposes. Otherwise, this Court would repeat the very error that led the DC Circuit to reverse the last judgment in this case.

VIII. CONCLUSION

For all the foregoing reasons, the Court must find that the Proposed Final Judgment is not in the public interest. At a minimum, the Court should defer any judgment on the PFJ until the upcoming remedies hearing in the ongoing litigation is conducted. This is necessary to avoid inconsistent remedies. Indeed, many of the remedies proposed by the Litigating States are irreconcilable with those proposed by the PFJ. When the Court does consider the PFJ, it is obliged in the discharge of its Article III duties to make an independent determination whether the PFJ adequately fulfills the mandate of the DC Circuit.

Attachment A

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff,
v. Civil Action No. 98–1232 (CKK)
MICROSOFT CORPORATION,
Defendant.———————————)

STATE OF NEW YORK, et al.,
Plaintiffs,
v. Civil Action No. 98–1233 (CKK)
MICROSOFT CORPORATION,
Defendant.———————————)

DECLARATION OF KENNETH J. ARROW

Kenneth J. Arrow declares under penalty of perjury as follows:

I. INTRODUCTION

1. I am the Joan Kenney Professor of Economics Emeritus and Professor of Operations Research Emeritus at Stanford University. I received the degrees of B.S. in Social Science from The City College in 1940, M.A. in mathematics from Columbia University in 1941, and Ph.D. in economics from Columbia University in 1951. I have taught economics, statistics, and operations research at the University of Chicago, Harvard University, and Stanford University,

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[67] The barrier to introduction into evidence of settlement offers under Rule 408 of the Federal Rules of Evidence does not apply where the settlement is not used to show liability but instead, as here, to illuminate the policy considerations governing fashioning of a remedy. E.g., Carney v. American Univ., 151 F.3d 1090, 1095 (DC Cir. 1998). Rule 408 precludes proof of settlements and settlement offers only "to prove liability for or invalidity of" a claim. Fed. R. Evid. 408. Indeed, evidence of settlements is expressly permitted by Rule 408 "when the evidence is offered for another purpose." Id.

[68] Ford, 405 U.S. at 578.

[69] To the contrary, the DC Circuit reversed and remanded precisely because the prior District Judge did not permit an evidentiary hearing on remedies. The court stressed that "a full exploration of the facts is usually necessary to properly draw an antitrust decree so as to prevent future violations and eradicate existing evils," and remanded for such an exploration of facts. Microsoft III, 253 F.3d at 101 (quoting United States v. Ward Baking Co., 376 U.S. 327, 330–31 (1964) (internal quotations and brackets omitted)).

[70] In summary judgment practice, complex legal issues are frequently presented to courts on the basis of affidavits and other "paper" evidence. But, unless the papers reveal no "genuine issue" of "material fact," a standard that cannot be met here, summary judgment motions must be denied and a case set for trial so that the Court can adduce whether the parties have met their respective burdens of proof on the disputed factual issues. E.g., Celotex Corp., 477 U.S. at 323; Thompson Everett, Inc. v. National Cable Adver., 57 F.3d 1317, 1322 (4th Cir. 1995) (applying Celotex to review of a motion for summary judgment of antirust conspiracy claim). Indeed, where the credibility of an affiant is at issue, as it undoubtedly will be here with respect to the reliability of expert opinions and projections of future economic and technological developments, it is difficult to conceive of any basis on which the Court would be permitted to resolve such controverted issues without availing itself of ordinary, trial-type evidentiary procedures.

and I have written more than 200 books and articles in economics and operations research. I am the recipient of numerous awards and degrees, including the Nobel Memorial Prize in Economic Science (1972). A significant part of my writing and research has been in the area of economic theory, including the economics of innovation and its relation to industrial organization. My curriculum vitae is attached.

2. I have been asked by ProComp to comment on various economic issues related to the Revised Proposed Final Judgment ("PFJ" or the "decree") proposed by the United States, various settling States and Microsoft Corporation ("Microsoft").

3. My review of the PFJ begins with the fact that Microsoft has been found liable for violating Section 2 of the Sherman Act by engaging in a widespread series of practices that illegally maintained its monopoly in Intel-compatible PC operating systems. These practices were focused on eliminating the threat posed to Microsoft's PC operating system monopoly by the combination of Netscape Navigator and cross-platform Java technology ("middleware competition").

4. Given that Microsoft has been found liable for illegal monopoly maintenance, the remedies in this case should be designed to eliminate the benefits to Microsoft from its illegal conduct. To the extent possible, the remedies should be designed to restore the possibility of competition in the market where monopoly was illegally maintained (i.e., the market for PC operating systems). In addition, the remedies should strengthen the possibilities for competition and deter the exercise of monopoly power in the present and future, taking account of the special problems of an industry in which network effects are important.

5. It is my opinion that the PFJ fails to accomplish these objectives. First, the PFJ is unduly focused on attempting to re-create an opportunity for future middleware competition. Because of network effects and path dependencies, Microsoft's monopoly power in PC operating systems is more entrenched than it was in the mid-1990s. It will be exceedingly difficult now, even with the best of remedies, to re-establish middleware fully as the kind of competitive threat to Microsoft's monopoly power that it posed in the mid-1990s. Additional remedial steps need to be taken to ensure that Microsoft does not benefit from its illegal conduct and the consequences of that conduct on dynamic competition in the OS market. Second, the PFJ does not address the fact that no effort to restore competition in the market for PC operating systems will be successful without measures designed to lower the applications barrier to entry that currently protects Microsoft's position in this market. Third, the enforcement mechanism described in the PFJ seems likely to be ineffective, even with respect to the inadequate remedies in the PFJ. Fourth, the PFJ pays insufficient attention to the ways in which Microsoft is currently attempting to protect its monopoly power by using its illegally maintained monopoly in PC operating systems against current and future competitive threats, such as server operating systems and Web services.

6. This affidavit has six pans and is organized as follows. After this introduction (Part I), Part II reviews the threat that Netscape, Java and the Internet posed in the mid-1990s to Microsoft's monopoly power in PC operating systems. Part HI then reviews the illegal conduct that Microsoft used in defeating this threat. Part III also analyzes the state of the computer industry today following this illegal conduct and explains why it seems unlikely, at this stage, that the middleware threat can be re-created. With this as background, Parts IV and V review and assess the remedies proposed in the PFJ. Part IV critiques the remedies designed to restore middleware competition. In addition, Part IV discusses the lack of attention in the PFJ to the applications barrier to entry that protects Microsoft's monopoly power in PC operating systems. It also notes certain deficiencies in the enforcement mechanism proposed in the PFJ. Part V follows with a discussion of Microsoft's efforts to protect its existing monopoly power by using its illegally maintained monopoly in PC operating systems to gain advantages in other markets that threaten to reduce the scope of its current market power. Part V explains that the PFJ gives insufficient attention to this important subject—a subject that bears on the future of competition in the computing industry. The affidavit concludes in Part VI with a summary of conclusions.

II. MICROSOFT'S MONOPOLY POWER AND THE THREAT POSED BY NETSCAPE, JAVA AND THE INTERNET

A. NETWORK EXTERNALITIES

7. Network externalities have been central to Microsoft's ability to maintain its monopoly power in the market for PC operating systems. Both the District Court and the U.S. Court of Appeals for the District of Columbia Circuit referred to the "applications barrier to entry," the process by which a large installed base induces the development of applications and other complementary goods designed for the dominant operating system, which further reinforces the position of the dominant operating system. I described this process in a declaration that I submitted in 1995 on behalf of the government in a prior settlement with Microsoft:

> A software product with a large installed base has several advantages relative to a new entrant. Consumers know that such a product is likely to be supported by the vendor with upgrades and service. Users of a product with a large installed base are more likely to find that their products are compatible with other products. They are more likely to he able successfully to exchange work products with their peers, because a large installed base makes it more likely that their peers will use the same product or compatible products. Installed base is particularly important to the economic success of an operating system software product. The value of the operating system is in its capability to run application software. The larger the installed base of a particular operating system, the more likely it is that independent software vendors will write programs that run on that operating system, and, in this circular fashion, the more valuable the operating system will be to consumers.

8. The applications barrier to entry implies that it is likely that a single platform (or programming environment) will dominate broad segments of the computer software industry at any point in time. This does not necessarily imply that there will be monopoly; that depends on the extent to which the dominant platform is proprietary or closed. However, if the dominant platform is proprietary (which is certainly the case with Windows), then the interdependence of applications and operating systems creates a barrier against any new entrant. A new entrant would need to create both an operating system and the applications that make it useful.

9. In addition, any customer of a new entrant would have to incur considerable costs in switching to a new system. In the first place, the customer would have to learn new operating procedures. Second, there would be a problem of compatibility of files. These factors constitute a natural obstacle to change, so that a system with a large installed base will have a tendency to retain its users.

10. The special nature of operating systems and software also gives Microsoft, because of its large installed base of operating system, a great advantage in the markets for complementary software. Specifically, it can distribute the software much more easily than its competitors. Since virtually every new PC ships with Windows, Microsoft can put its software into the hands of users by including it with the operating system. Any other vendor of complementary software that wanted to distribute through OEMs would have to cut a separate deal with each OEM, and would face the task of persuading OEMs to carry software products that may be directly competitive with products offered by Microsoft. As a result, complementary software from other vendors typically either has to be downloaded (which imposes added costs on users) or distributed separately to users in "shrink wrap." In addition, Microsoft has the ability to allow Microsoft developers of complementary software access to "hidden APIs"—application programming interfaces in the PC operating system that Microsoft developers know about but which are not disclosed fully to competing developers of complementary software. of the OEM distribution channel. Most important, Sections III.C and III.H cannot, by their very design, provide an opportunity for rival middleware products—as compared to Microsoft's middleware—to attract sufficient distribution to have any impact at all on the applications barrier to entry.

The OEM sections may actually make matters worse for middleware rivals. The PFJ limits what OEMs can remove from their PC products to just the middleware icons, euphemistically referred to as "access to" middleware in Sections III.C and III.H. In other words, OEMs are not permitted to remove the code for Microsoft Interact Explorer, Windows Media Player or any other Microsoft middleware, and the proposed decree allows Microsoft to commingle and integrate middleware with its Windows operating system software. The fact that the flexibility guaranteed to OEMs is limited to removing icons, and not the middleware itself, has major competitive significance and actually guarantees perpetuation of the applications barrier protecting Microsoft's operating systems monopoly.

1. The OEM Provisions Place Sole Responsibility for Introducing Middleware Competition on PC Manufacturers

To achieve its goal of "recreating the potential for the emergence" of middleware alternatives to Microsoft's monopoly operating system, the PFJ delegates the role of competitive gatekeepers to OEMs. Instead of requiring the monopolist itself to unfetter the market for entry by competitors, here the PFJ imposes that obligation on third-parties who are partners with, not competitors of, the defendant. If PC manufacturers do not act on the desktop flexibility powers provided by Sections III.C or III.H of the PFJ, there will, by definition, be no OEM-based remedy. Walter Mossberg, Personal Technology columnist for the Wall Street Journal, captured the problem elegantly. "Much" of the DOJ settlement, he explained, "pertains to the company's relations with the hapless makers of PCs, which aren't in any position to defy Microsoft."[50]

OEMs are captives of Microsoft for a number of reasons, beginning with the obvious fact that there are no commercially viable alternatives to the Windows operating system; there are no real alternatives to Microsoft's Office suite of personal productivity applications (Word Processing, Spreadsheets, E-Mail, etc.); and there is de minimis competition for Internet browsers. The fact that OEMs find themselves in a sole source relationship with the defendant provides Microsoft with innumerable avenues to exercise its leverage over the OEM channel. These complex relationships are built more on the subtleties of a sole source relationship than on written contracts, or overt retaliation, and thus are hardly resolved by the uniform Windows pricing obligation provided for in Section III.B.

It must also be understood that personal computer manufacturers are in the business of producing low margin commodity equipment, a business characterized by very minimal (and shrinking) R&D budgets. It is unrealistic to expect any Windows-centric OEM to develop, test, and pre-install packages of rival middleware, because that would require substantial expenditures in technical software expertise and customer support which would further narrow already shrinking profit margins in a business where competitors are currently engaged in a major price war to gain market share.

The financial burden of customer support, where a single end user service call can eliminate an OEM's profit margin on a PC, creates powerful disincentives to the inclusion of non-Microsoft middleware. See Microsoft III, 253 F.3d at 62. Judge Jackson found and the Court of Appeals affirmed that in light of their customer support obligations, which are "extremely expensive," Microsoft III, 253 F.3d at 61 (citing Findings of Fact ¶210), OEMs are disinclined to install multiple versions of middleware. Since OEMs "have a strong incentive to minimize costs," id., the customer confusion resulting from duplicative middleware is sufficient to preclude OEMs from installing competitive programs where comparable Microsoft middleware is included with Windows.

Under the proposed decree, however, these are precisely the circumstances faced by OEMs. There are no restrictions in the PFJ on Microsoft's ability to integrate middleware technologies into Windows; in fact Microsoft is allowed to do so at its "sole discretion." Even if an OEM wants to install a competitive non-Microsoft middleware program, it will be required to deal with the fact that the corresponding Microsoft middleware product is already present on its PCs, which it is not permitted to remove. Consequently, just as OEMs" cost minimization requirements forced them not to pre-install Netscape where IE was included with Windows, so too will these same profit pressures force OEMs to decline to install competing middleware programs under the PFJ.

This is in stark contrast to the provision of the Interim Order on which the Department claims to have based its settlement. Both the Interim Order and the remedy proposed by the Litigating States would require Microsoft to ship a version of the operating system without any middleware included, if requested by an OEM. That scheme makes it possible for an OEM to truly offer a differentiated product suite without the burden of having Microsoft's corresponding technology present on the system as well.

Even if they had an independent economic incentive to support middleware competition, however, Windows OEMs are still held captive under the proposed decree's retaliation provisions. Section III.A prohibits "retaliation" (another undefined term) by Microsoft against OEMs for developing, distributing or supporting competitive middleware or exercising their desktop icon flexibility fights.

Despite their relative length, the retaliation provisions do not at all effectively preclude retaliation. Retaliation is only prohibited under Section III.A where "it is known to Microsoft" that an OEM is undertaking a permitted, competitive action. This subjective, actual knowledge standard will be difficult if not impossible to enforce. In addition:

Microsoft is not prohibited from retaliating if an OEM removes the code for a Microsoft Middleware Product from its retail PCs.

Nor does this provision prevent retaliation if an OEM removes either icons or code for Microsoft software that does not qualify as a "Microsoft Middleware Product" (for instance, Microsoft Movie Maker).

And Microsoft is not prohibited from retaliating against OEMs for promoting products that fall outside of the Section III.A terms. By way of example, Microsoft could retaliate against OEMs for promoting non-Microsoft Interact services, server operating systems, server middleware or server applications. Microsoft could even retaliate against OEMs for distributing or promoting middleware that does not yet compete with Microsoft Middleware Products.

Section III.A also limits the prohibited forms of retaliation to "altering Microsoft's commercial relations with that OEM, or by withholding newly introduced forms of non-monetary Consideration (including but not limited to new versions of existing forms of non-monetary Consideration)." PFJ, 66 Fed. Reg. 59453. Microsoft is not precluded from denying new monetary consideration to OEMs as a means of retaliation, as that is neither an "alter[ed] commercial relation" nor a "newly introduced form of non-Monetary Consideration." Similarly, Microsoft can also reward compliant OEMs by providing concessions on license fees for non-Windows Microsoft software, including applications such as Office, server operating system software and server applications, as well as Microsoft Middleware Products. None of these types of software is covered by the pricing parity requirements of Section III.B, which apply only to "Microsoft Operating System Products." Id.

Finally, as a general matter there is no practical way to identify and prohibit all the subtle ways Microsoft can preferentially favor some OEMs, and harm others, depending on their degree of support for Windows. For instance, the definition of Consideration in Section VI.C covers "product information" and "information about future plans." Id. at "59458. Yet Microsoft could retaliate against OEMs by denying them sufficient technical information regarding important, upcoming Windows features, for example by not inviting them to internal development conferences or presentations. Likewise, Microsoft could assign fewer or less knowledgeable technical support personnel to a specific OEM's account team, a form of retaliatory discrimination that would be difficult to detect and virtually impossible to prove.

In sum, the anti-retaliation provisions offer little shelter for OEMs desiring to respond to legitimate demands by their customers for choice among competing software products. If there is any doubt about this analysis of Sections III.C and III.H above, the Court should look no further than the OEMs" treatment of Microsoft Internet Explorer. On July 11, 2001 Microsoft announced that OEMs would be free to remove access to Internet Explorer, which they had previously been prohibited from doing.[51] Since this announcement was made more than six months ago, not one OEM has actually taken advantage of this provision and removed the icon for Internet Explore from retail PCs This real-world market test is an accurate gauge of how many OEMs will likely take advantage of the exact same flexibility provided in Section III.H of the decree, albeit for a somewhat wider range of middleware products: none.

2. The Provisions Allowing OEM Flexibility Do Not Address the Key Issue of Microsoft's Ubiquitous Middleware Development Platform

The core of the case against Microsoft rests on the theory that Netscape and Java provided an alternative development platform (middleware) for applications developers, which, if applications developers began writing applications to the middleware, would undermine the applications barrier to entry and thus Microsoft's Windows monopoly. For this to occur, developers need to view rival middleware as a more attractive development platform than Windows. Unfortunately, the PFJ provides a solution to the wrong problem and actually ensures that rival middleware applications will never be able to attract a critical mass of developers.

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[50] Waiter S. Mossberg, Microsoft Has Good Yea); At Expense of Customers, Wall Street J., Dec. 27, 2001, at B1.

[51] We note that at the time of the announcement, Microsoft had already achieved significantly greater than 80 percent of the browser market as a result of its six-year anticompetitive campaign, so it is hard to view this as a concession.

Sections III.C and III.H of the decree allow OEMs to install competing middleware and to "enable or remove access to" Microsoft Middleware Products from the desktop of Windows PCs that they sell to end users. However, as noted, these provisions do not authorize OEMs to delete the Microsoft middleware itself, and Microsoft is not prohibited from retaliating against OEMs that attempt to delete Microsoft middleware code from its configured PCs.

This distinction between icons and code is competitively decisive. The applications barrier exists because developers write to Windows-centric APIs. Under the terms of the decree, however, the APIs exposed by Microsoft middleware remain on every Windows PC even if OEMs and end-users exercise all of the flexibility provided by Section III.H. It is crucial to understand that an application developer can write to Microsoft middleware regardless of whether "access" to that software is removed. In other words, Microsoft's middleware APIs remain ubiquitously available on all Windows PCs under the proposed decree. The best a rival middleware provider can hope for is to be "carried" alongside Microsoft's middleware on some lesser portion of personal computers.

A critical lesson learned in this case is that, as with Netscape and Java, ubiquity trumps technology in network effects markets. Professor Arrow explains that no middleware competitor can expect any economically significant chance to compete on the merits if, as permitted under the decree, Microsoft middleware is ubiquitous. Arrow Decl. ¶26. The important distinction between icons and code was explained by the DC Court of Appeals in 1998. The court emphasized that removal of end user access "do[es] not remove the IE software code, which indeed continues to play a role in providing non-browser functionality for Windows. In fact, browser functionality itself persists, and can be summoned up by .–.–. running any application (such as Quicken) that contains the code necessary to invoke the functionality." Microsoft II, 147 F.3d at 941.

Consequently, by limiting its effect to the removal of icons only, the proposed decree cannot achieve any appreciable effect in eroding tile applications barrier. They cannot "recreate the potential for the emergence" of middleware alternatives in a way that provides an economically realistic opportunity for operating systems competition.

3. The OEM Provisions Do Not Create a Level Playing Field for Middleware Desktop Competition

We explained above why it is unlikely that OEMs will expend resources to promote rival middleware products. The alternative model is that rival middleware providers would pay an OEM to feature its software and delete end-user access to Microsoft's middleware. This is consistent with the CIS, which explains that the function of the OEM provisions is to allow OEMs to "feature and promote" non-Microsoft middleware. CIS, 66 Fed. Reg. at 59460.

Section III.H does not achieve this goal, for two primary reasons. First, as detailed above, the "value" of the PC desktop is diminished by the fact that an OEM is not permitted to remove the Microsoft middleware code, and thus cannot offer a rival exclusivity.

Second, Section III.H.3 does not guarantee that a rival's middleware icon will even remain on the desktop. As the Department explains the theory of this remedy, it is to create a "marketplace" on the desktop where OEMs can "stand in the shoes" of consumers and exercise choices in which middleware technologies to feature based on price and performance. Yet, the PFJ permits Microsoft to "sweep" competing middleware icons placed on the Windows desktop by OEMs.

That is, Windows may automatically remove the icons featured by an OEM just fourteen days "after the initial boot-up of a new Personal Computer." True, this section contains a proviso stating that Microsoft may not do so absent end user "confirmation," but neither the text of this provision nor the Competitive Impact Statement require that confirmation be based on any objective notice or alert by Microsoft. CIS, 66 Fed. Reg. at 59471.

The fourteen-day desktop sweep proviso directly contradicts the objective of fostering OEM flexibility to feature and promote non-Microsoft middleware, because it undermines the ability of OEMs to sell desktop placement an ISV can count on. Under Section III.H.5, the best an OEMs can offer is a guarantee of desktop placement for fourteen days.

This is critically important for the reasons stated above. As rival middleware vendors attempt to attract developers to write applications to their platforms, as opposed to Microsoft's platform, they will have to make representations as to how many PC desktops actually have the rival middleware installed and available to consumers. With the fourteen day "sweep" provision included in the PFJ, ISVs will simply not be able to make any accurate projections, which will further reduce the price they might be willing to pay for desktop placement.

4. Additional OEM Provisions Further Undermine the Crucial Ability of ISVs to Differentiate Competing Middleware Products

In order to displace Microsoft middleware and encourage applications developers to write to their APIs, competing ISVs will need to differentiate their middleware products from Windows Media Player, Windows Messenger and the other Microsoft middleware products that are bundled with Windows. The OEM provisions affirmatively undermine the ability of ISVs to achieve any meaningful degree of product differentiation.

First, Section III.C.3 permits OEMs to launch automatically non-Microsoft middleware only at boot-up or upon making a connection to the Internet. This constrains the ability of manufacturers to configure competing middleware products and reduces the value of this flexibility for (and hence potential OEM revenues from) ISVs.

Second, auto-launch of competing middleware is permissible under Section III.C.3 only (a) "if a Microsoft Middleware Product that provides similar functionality would otherwise be launched automatically at that time," PFJ, 66 Fed. Reg. 59454, and (b) if the non-Microsoft Middleware "displays on the desktop no user interface or a user interface of similar size and shape to the user interface displayed by" the corresponding Microsoft middleware product." Id. These limitations allow Microsoft to gate middleware competition by reducing the role of non-Microsoft middleware to only those instances in which Microsoft's own products are launched. If Microsoft decides that its middleware products will not have a user interface, or will utilize a window of a specific size, those decisions are binding on competitors" product designs as well. Indeed, the PFJ surprisingly appears not even to contemplate a situation where Microsoft's competitors develop a middleware product for which there is no "corresponding" Microsoft middleware.

Third, the PFJ empowers Microsoft to limit the freedom of ISVs in their product design and functionality decisions on its competitors. Microsoft can also limit the placement of icons and shortcuts may appear on the desktop and elsewhere, id. at 59454, 59455, the "functionality" of middleware products whose icons and shortcuts may be included by the OEM, and the ability of end users to designate non-Microsoft middleware as default middleware on their computers. Id. at 59455.

Each of these provisions has a similar, substantial effect. By allowing middleware to be substituted by an OEM only when (a) it performs similarly to Microsoft middleware, (b) exhibits functionality defined by Microsoft, or (c) includes the same user interface as Microsoft middleware, the PFJ allows Microsoft to "gate" competition. There is no competitive justification for these provisos, all of which serve to eliminate opportunities for product differentiation and permit Microsoft to constrain middleware competition to the scope, location and even "look and feel" it determines for its own products.

5. The OEM Provisions Contain Other Superfluous Terms that Substantially Limit Any Potential Market Impact

Section III.H of the proposed decree allows Microsoft twelve months to modify Windows XP in order to permit OEMs to remove Microsoft middleware icons or change default settings for invoking middleware functionalities. Yet the modification necessary to allow removal of icons via the "Add/Remove Programs" utility is a trivial exercise. Demonstrable proof of this fact is that Microsoft was able to modify the beta version of Windows XP to permit removal of the Internet Explorer icon within weeks of its July 11, 2001 announcement. We can not fathom why Microsoft is now given twelve months to accomplish the same task.

Section VI.N of the decree also provides that a "Non-Microsoft Middleware Product" is software with certain functionalities "of which at least one million copies were distributed in the United States within the previous year." Because the Section III.H obligations requiting modification of Windows XP to permit addition and removal of competing middleware apply to "Non-Microsoft Middleware Products," OEMs are foreclosed from the ability to feature and promote small middleware start-up competitors in Windows XP, Section VI.N is a very real impediment to achievement of the innovative middleware market the PFJ is purportedly designed to promote.

6. The OEM Provisions Have No Impact on Java.

Sections III.C and III.H also do not apply to Microsoft's Java Virtual Machine ("JVM"), or Microsoft's equivalent of the JVM, its Common Language Runtime. Despite the fact that the "Microsoft Middleware Product" definition includes the Microsoft Java Virtual Machine, it appears there is no competitive consequence to its inclusion in this definition in any of the provisions of the decree. First, Microsoft no longer ships its JVM with Windows, so there is nothing for OEMs to remove. Second, even if they did continue to ship a JVM, there is no "icon" or "end-user access" to Java. Rather, Java is invoked automatically by programs that rely on its presence.

7. The OEM Provisions Largely Codify Microsoft's Existing Business Practices.

Users today enjoy the flexibility—without the benefit of the PFJ—to add, delete or customize their own PC desktops. Users may delete icons by simply "dragging" the icon to the "recycle bin" or "right-clicking" on the icon and simply choosing "delete."

Thus, the decree's OEM provisions allowing OEM removal of icons only codify Microsoft's current business practices. In response to the Court of Appeals" opinion, Microsoft on July 11, 2001 announced that "it is offering computer manufacturers greater flexibility in configuring desktop versions of the Windows operating system in light of the recent ruling by the U.S. Court of Appeals for the District of Columbia."[52] According to the Microsoft press release, under this policy OEMs can "remove the Start menu entries and icons that provide end users with access to the Internet Explorer components of the operating system," and "Microsoft will include Internet Explorer in the Add/Remove programs feature in Windows XP." Id. Thus, Microsoft stressed that "Microsoft has always made it easy for consumers to delete the icons for Internet Explorer, but will now offer consumers this additional option in Windows XP." Id.

This announcement is revealing because it confirms, from Microsoft itself, that the "flexibility" provided to end users by Section III.H of the decree has always existed. And by revising Windows XP to permit OEMs to remove the Internet Explorer icon, Microsoft has already done precisely what the decree requires. Thus, the OEM provisions of the decree succeed mostly in codifying Microsoft's current business practices and achieve minimal, if any, remedial purpose. In sum, the relief provided by Sections III.C and III.H is fundamentally at odds with the theory of the ease. These OEM "desktop" remedies will not provide any opportunity for alternative middleware platforms to attract developers and thus to challenge the applications barrier to entry.

They are economically irrational since Microsoft's middleware will continue to be ubiquitously available on all PCs, regardless of the choices exercised by OEMs. These provisions allow Microsoft to dictate product design features to its rivals, to limit product differentiation and to restrict OEM deals with rivals to a brief, fourteen-day exclusivity period. And at bottom, they cannot change the economic structure of the PC distribution channel because OEMs are sole-source partners of Microsoft, not competitors.

D. The Proposed Decree Does Not Effectively Preclude Microsoft's Exclusive Dealings

Although the proposed decree purports to ban exclusive dealing by Microsoft with respect to Windows software, Section III.G expressly permits Microsoft to establish favored or exclusive relations with certain OEMs, ISVs, etc., if the parties enter into "any bona fide joint venture or .-.-. any joint development or joint services arrangement." This exception all but vitiates the supposed prohibition, for it allows Microsoft to enter into the identical distribution agreements that were held unlawful at trial merely by denoting them as "joint" activities.

E. Current Market and Economic Realities Demonstrate that the PFJ is Incapable of Having Any Substantial Procompetitive Impact

The Department recognizes explicitly that relief in this case must "ensure that there remain no practices likely to result in monopolization in the future." Microsoft III 253 F.3d at 103 (citations omitted); see CIS, 66 Fed. Reg. at 59465 (monopolization remedy should "avoid a recurrence of the violation" in the future). Yet by failing to address significant market and technological developments that have occurred in the period since the trial record closed, the narrow remedies of the proposed decree do not provide relief that comes even close to ensuring that Microsoft's unlawful practices will not be repeated in the future.

1. New Monopolies Enable Microsoft to Protect its Operating System Monopoly Despite the PFJ Since the trial, Microsoft has solidified three new chokeholds with which it can easily perpetuate its monopoly power:

Microsoft's monopoly power over Interact browsers and its integration of IE into Windows allow it to replicate many of the prohibited practices through IE.

Microsoft's monopoly power over the Office suite and its anticompetitive use of Office porting allow it to replicate many of the prohibited practices through Office.[53]

Microsoft is fast acquiring monopoly power in the operating systems for low-end servers used in local or wide area networks. Microsoft can just as easily exploit the APIs exposed by the operating system on the network to perpetuate the applications barrier to entry.

However, the PFJ does not require the disclosure of APIs exposed by IE, Office the low-end server operating systems. Microsoft can develop middleware programs that utilize these APIs—which are as ubiquitous as the Windows APIs themselves—and thus evade the API disclosure provisions of the PFJ. Similarly, although Section III.E of the PFJ requires the disclosure of Communications Protocols used for interoperability with Microsoft server operating systems, by controlling the client (IE), Microsoft can control the server irrespective of these provisions.[54]

That is, Microsoft's monopoly control over IE allows it unilaterally to implement proprietary standards and protocols within IE that are not disclosable under the PFJ because they are not "implemented in a Windows Operating System Product installed on a client computer" within the scope of Section III.E.

2. The Proposed Settlement Ignores the Likely Tactics Microsoft Will Use to Eliminate the Next Significant Threat to its Monopoly Position

The primary competitive threat to the Windows OS/IE platform is the emergence of applications and services provided over the Internet, where the application or service is independent of the computing platform employed by the user. The recent spread of high-speed Internet service has further spurred the development of this category of distributed applications or web services that take advantage of Internet's underlying architecture.

Two features of distributed applications in particular constitute a revolutionary change from the previous "client-server" model. First, rather than residing principally on one machine (either a client or a server), distributed applications effectively reside on the network itself. It is therefore possible to access these services from any computer or device connected to the Internet. From the user's perspective, although the application itself resides on the network, it is accessible as rapidly and seamlessly as if it resided on the user's own PC.

Second, because the applications and data are accessible from different machines, access to these services depends critically upon being able to establish the identity of the user seeking access to those services. Web identity and authentication services accordingly take on extraordinary importance in the world of distributed applications.

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[52] Available at www.microsoft.com/MSCorp/presspass/Press/2001/Jul01/07-11OEMFlexibilityPR.asp.

[53] Microsoft's resulting power over Internet browsers and personal productivity applications provides it with alternative vehicles with which to achieve the same anticompetitive foreclosure of middleware threats that it accomplished in 1995–98 through Windows itself.

[54] As Microsoft executive (and trial witness) Paul Maritz put it, "the most important thing we can do is not lose control of the Web client," because "[b]y controlling the client, you also control the server." Gov't Ex. 498. Microsoft can suppress competition by adding proprietary features and protocols to the IE browser that are necessary to generate actions by its server operating systems products or by refusing to add features and protocols that would similarly support a competitor. Professor Schmalensee acknowledged this incentive at trial: "[I]f one company controlled the browser and its look and feel and how it presented applications, it could severely enhance or detract from the application functionality of programs or applications running on the server." 6/24/99 (p.m.) Tr. 46–47; see also id. at 48; Henderson Decl. ¶62 (quoting Rasmussen Dep., 12/15/98 (a.m.), at 67–68).

These changes in the market reveal a picture of today's PC industry that is radically different from the Department's placid vision of "recreating the potential" for middleware competition by opening the OEM channel to possible future middleware innovations. The critical question, however, is whether distributed web-based applications, which do not need to be compliant with any particular operating system, will be able to remain independent of Windows and in the process bring down the applications barrier to entry.

The PFJ does not protect the Internet-based competition for the Windows operating systems monopoly in the future because the proposed decree does nothing to prevent Microsoft from continuing to shift from one anticompetitive activity to another in order to maintain its monopoly. Instead of bundling middleware code into Windows and creating exclusive dealing arrangements with ISVs and OEMs, Microsoft today is attempting to defeat the threat from Web-based services by bundling its Web services technologies into Windows and entering into, exclusive vertical distribution arrangements with Web-based content and e-commerce providers. See Passport to Monopoly: Windows XP, Passport, and the Emerging World of Distributed Applications at 25 (ProComp June 21, 2001) and Microsoft "s Expanding Monopolies: Casting A Wider .Net (ProComp May 15, 2001).

As would be expected, Microsoft now attempts to create a proprietary equivalent to the distributed applications paradigm by bundling its latest operating system with certain applications and technologies in order to secure dominance in distributed applications. For example, Microsoft Passport, a proprietary authentication technology built on the .NET Framework, is bundled with Windows XP. This bundling allows Microsoft's own authentication services to have a ubiquitous distribution base—and deny rival technologies ubiquity—in the same way that its bundling practices extinguished the middleware threats from Netscape and Java. A monopoly in web identity services will enable Microsoft to control the means by which users access distributed applications from the Interact. Nonetheless, the PFJ does nothing to restrict Microsoft's practices in this area. The API disclosure provisions only mandate the release (if at all) of APIs used by a Microsoft Operating System product to intemperate with Microsoft Middleware, which excludes Passport.

Similarly, Microsoft's broader .NET initiative is replacement of the Java and Netscape technologies that it unlawfully crippled with Microsoft proprietary technology. Microsoft defines .NET as its "platform for XML web services." [55] The services which .NET offers are a combination of pre-designed applications, some of which come under the rubric "Hailstorm," and a set of tools, under the rubric of Visual Studio Integration Program, designed to allow developers to create web applications which rely on the all-important APIs exposed by Microsoft programs. At the core of .NET stands the Common Language Runtime environment ("CLR").

CLR is Microsoft's answer to the Java runtime environment, with a key difference. CLR provides the developer with a device that is similar to the JVM, but that lacks the element so destructive to Microsoft's hegemony—freedom from reliance on Microsoft's APIs. Of course, CLR will take full advantage of Microsoft's vast distribution network via bundling with future versions of Windows (including Windows XP) as well as with IE and Microsoft Network.

Microsoft's monopolization strategy has not changed at all. Bill Gates has explained that "there's a very strong analogy here between what we're doing now [with Web-based services] and what we did with Windows." [56] Since Microsoft will pursue the same tactics and strategies found unlawful in the instant case, any remedy that does not prohibit a repeat of these practices in new markets and new contexts is facially flawed.

In sum, the proposed decree fails to address identifiable market and technological developments since the trial record closed that allow Microsoft both to protect its operating systems monopoly against current potential rivals and to engage in the same types of conduct adjudged unlawful by the Court of Appeals. Consequently, the proposed decree does not and cannot "ensure that there remain no practices likely to result in monopolization in the future," Microsoft III, 253 F.3d at 103 (citations omitted), and must be rejected by this Court.

F. The Decree Increases Microsoft's Market Dominance and Actually Worsens Competitive Conditions in the Relevant Software Markets

The proposed settlement not only does not achieve the procompetitive effects that the Department claims, it increases Microsoft's dominance of the operating systems market and actually worsens competitive conditions across the entire software industry. Among other things, the proposed decree rewards Microsoft for its illegalities, promoting future defiance of antitrust laws and intransigent tactics by dominant firms. Many of the deficiencies of the proposed decree have been outlined in this submission. These deficiencies will allow Microsoft to perpetuate its monopoly position. In addition, the decree represents a step back from the current state of affairs notably because it sanctions continued bundling or commingling by Microsoft of middleware technologies with Windows, thus increasing rather than decreasing Microsoft's power to sustain the applications barrier to entry protecting its operating systems monopoly while disadvantaging non-Microsoft middleware providers. By enhancing Microsoft's ability to buttress the applications barrier to entry, the proposed settlement harms competition, and increases, rather than terminates, Microsoft's monopoly power.

G. The Settlement Would Not Have Prevented Microsoft's Unlawful Campaign Against Netscape and Java One appropriate measure for assessing whether the PFJ is adequate is whether it would preclude today the same conduct Microsoft used to foreclose Netscape and Java, and thus preserve its monopoly power, in 1995–98. It would not.

As a fundamental matter, this is because Microsoft is not required to disclose the APIs needed for new and innovative forms of middleware. When Netscape was launched in late 1994, Microsoft did not have an Internet browser and was focused on Chairman Gates" vision of interactive television, rather than the Interact. Thus, there were no APIs exposed by Windows that were "used by Microsoft Middleware to interoperate" within the scope of Section III.D of the proposed decree. Had the decree been in place when Jim Barksdale, former CEO of Netscape, met with Microsoft in 1995, Netscape would not have been entitled to APIs or any other interoperability information under the express terms of the decree. "For the same reasons, no interoperability information would have been disclosable to Sun in order to enable interoperability of Java runtime technology with Windows.

Most of the distribution tactics Microsoft used to cut off Netscape's air supply and to "pollute the market for cross-platform Java" are also permissible under the decree. Microsoft can still force OEMs to take its own middleware through bundling. Microsoft can still coerce or threaten partners like Intel and rivals like Apple and can still refuse to port its monopoly Office suite in order to protect the applications barrier to entry. Microsoft can still throttle middleware innovations because the PFJ gives it the ability to "gate" the functionality and product design of rival middleware products. Microsoft can still prohibit OEMs from removing its middleware, or applications, and is free to retaliate against OEMs that do so. Microsoft can still deceive middleware developers and can still introduce application development tools that pollute open standards by producing only Windows—compatible programs. And Microsoft can still protect the applications barrier by utilizing the very same practices through its monopoly IE and Office products that tile PFJ purportedly outlaws for Windows.

In short, the PFJ does not even foreclose the means of foreclosure that were proved at trial and affirmed by the Court of Appeals. Under any Tunney Act standard of review, it must be rejected.

V. THE PROPOSED DECREE IS HOPELESSLY VAGUE AND INHERENTLY UNENFORCEABLE

The proposed decree is riddled with ambiguities and loopholes and grants unilateral, essentially unreviewable, power to Microsoft to define the scope of its own ambiguous obligations. As such, the PFJ is an illusory contract, and unenforceable as a matter of well-settled contract law. As the Court emphasized in Microsoft I, a proposed settlement cannot be entered, at least without substantive modification, if it is ambiguous or if there are "foresee[able] difficulties in implementation." 56 F.3d at 1462. The proposed decree here is the epitome of such a case.

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[55] .NET Defined, available at www.Microsoft.com/net/whatis.asp.

[56] "So for every element of Windows—user interface, the APIs ... for each one of those things there's an analogy here." Bill Gates, Forum 2000 Keynote, Bill Gates Speaks About the .NET Platform. (Available at www.microsoft.com/BUSINESS/vision/gates.asp)

Twenty-four different sections of the PFJ provide that specific actions by Microsoft, or standards for assessing whether its practices are permissible, must be "reasonable."[57] In a decree purportedly drafted to provide a "certain" remedy, this is anything but. As just two examples, in addition to the reasonable scope of "bona fide," exclusive joint ventures discussed in the preceding section, Microsoft is expressly permitted to adopt "reasonable technical requirements" on which to override an OEM's or end user's choice of non-Microsoft middleware (Section III.H) and to enter into concerted refusals to deal with ISVs—requiring them not to develop software for competing platforms—that are "of reasonable scope and duration" (Section III.F.2). Consent decrees are interpreted as contracts, and it is black letter contract law that illusory contracts, those that give one party the right to decide the scope of its own obligations, are not enforceable. See Rest. Contracts 2d § 77.

The judge in the first instance for all of these reasonableness clauses is Microsoft itself. In short, it is difficult to conceive of a more loosely drafted decree than the PFJ, which allows the defendant, without any practical constraint except lengthy contempt proceedings, to establish unilaterally the extent of its own decree obligations. Due to the inherent ambiguity in "reasonableness" terms, these disputes will be complex, tedious and time-consuming exercises for the Court.

The "Technical Committee" and so-called "Crown Jewel" provisions are equally inefficacious. The Technical Committee ("TC") established by Section IV.B of the proposed decree does not help enforcement matters appreciably. Most significantly, nothing that the Technical Committee does is binding and nothing that it investigates, analyzes or recommends is permitted to see the light of day. The TC reports only to the plaintiffs (Section IV.B.8.e) and "all information" gathered by the TC is subject to confidentiality and non-disclosure agreements and a protective order (Section IV.B.9). The members of the TC may "communicate" with third-parties, but only about "how their complaints or inquiries might be resolved with Microsoft" (Section W.B.8.g).

Furthermore, "[n]o work product, findings or recommendations by the TC may be admitted in any enforcement proceeding before the Court for any purpose, and no member of the TC shall testify by deposition, in court or before any other tribunal regarding any matter related to the decree" (Section IV.D.4.d).

Rather than a vehicle for prompt resolution of enforcement disputes, the TC provisions are a charter for delay and obfuscation. By denying the Court any access—whether or not in camera—to the work product of the TC, the proposed decree simply creates another hoop through which third-party complainants, and the government itself, must pass in order to enforce violations of the decree by the defendant. It also denies the Court the benefit of the unbiased, objective technical expertise of the TC, which is the principal criterion on which its members are to be selected. Coupled with the sheer number of "reasonableness" provisions in the decree itself, the TC process will therefore delay enforcement and make clean resolution of decree interpretation issues more costly and burdensome for all affected parties and non-parties.

Finally, Section V.B of the PFJ provides that if the Court finds Microsoft "has engaged in a pattern of willful and systematic violations," on application of the plaintiffs a "one-time extension" of the decree may be granted, for up to two years. Although presented as a "Crown Jewel" provision, this section does little to ensure compliance. The function of a Crown Jewel clause is to provide such an onerous penalty that the defendant's compliance with its substantive obligations can be coerced, and deliberate evasion avoided, without ever having to invoke the penalty. Here, the "threat" Microsoft is being presented with is that of being forced for two more years to decide at its "sole discretion" what constitutes Windows, to constrain exclusive joint ventures to "reasonable" duration, to gain access to intellectual property developed by middleware competitors, and to dictate to those competitors the functionality and user interface of their products. This is plainly something Microsoft should welcome with open arms rather than fear.

The vagueness of the terms, the ineffectiveness of the Technical Committee and the lack of a meaningful deterrent Crown Jewel provision will plague the courts for years to come. In the absence of any deterrent, Microsoft will no doubt interpret the "reasonableness" standards generously incorporated in the proposed settlement in its own favor. The enforcement agencies and numerous competitors will witness the ill effects of future Microsoft actions and challenge these practices. However, without the proper dispute resolution mechanisms in place, it will be up 1o the courts to resolve all these "reasonableness" issues arising out of the proposed settlement.

VI. DIVESTITURE REMAINS THE PREFERABLE AND MOST EFFECTIVE REMEDY FOR MICROSOFT'S SECTION 2 VIOLATIONS

ProComp and its members have consistently supported structural relief in this case. In our view, divestiture remains the most effective remedy for Microsoft's wide-ranging unlawful practices. Conduct remedies like the proposed decree are a second-best solution, because they rely on the defendants good will to comply. An injunctive decree in a Section 2 monopolization case "does no more than encourage the monopolist to look for some new way of exercising its dominance that is not covered by the current injunction."[58] Comprehensive behavioral decrees inevitably require interpretation and application as the defendant introduces new products, moves into new markets, or changes its business strategies in its traditional markets.

That does not mean, however, that conduct remedies will necessarily be ineffective here, but rather that they must be targeted and broad enough to redress the core practices used to maintain Microsoft's monopoly and to eliminate the barriers to entry protecting that monopoly power. The proposed decree does not even purport to satisfy this goal, which we submit is compelled by the Ford/United Shoe standard required for assessing relief in this case.

The relief proposed by the Litigating States achieves these objectives. We respectfully submit that the Court adopt a crown jewel divestiture provision to deter Microsoft from engaging in further unlawful conduct.

VII. THE COURT SHOULD CONDUCT A RIGOROUS TUNNEY ACT EXAMINATION OF THE DECREE, THE COMPETITIVE IMPACT STATEMENT AND THE DEPARTMENT'S UNSUBSTANTIATED PROJECTIONS OF FUTURE COMPETITIVE EFFECT

There are several circumstances in which it is established that district courts must engage in rigorous scrutiny of proposed antitrust settlements under the Tunney Act. This case epitomizes those circumstances. If ever there was a case in which a full, independent judicial assessment should be conducted, it is this one.

A. The Complexity and Substantial National Importance of this Case, the Government's Fiat Reversal of Position and its Disregard of Clear Tunney Act Obligations All Dictate the Necessity of Critical Judicial Oversight in this Landmark Proceeding

Even in the pretrial context with its more limited review, Tunney Act courts will rigorously scrutinize proposed settlements when an antitrust case is complex, subject to considerable controversy, and affects large segments of the public.[59] Especially rigorous scrutiny is also undertaken when the proposed decree departs substantially from the relief sought in the government's complaint,[60] or otherwise represents a sharp

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[57] Substantive "reasonable" provisions are III.B.2, III.C.5, III.E, III.F2 (two), III.G, III.H.2, III.I, III.J.2.b and III.J.2.C. Procedural "reasonable" provisions are IV.A.2, IV.A.2.b, IV.A.2.c, IV.A.4, IV.A.6, IV.A.7 (two), IV.A.8.b (three), IV.A.8.h and IV.A.8.1 (three).

[58] 3 P. AREEDA & H. HOVENKAMP ANTITRUST LAW ¶704.3, at 213 (1999 Supp). See William K. Kovacic, Designing, Antitrust Remedies for Dominant Firm Misconduct, 31 Conn. L. Rev. 1285, 1311 (1999) ("By blockading recourse to certain commercial tactics, a remedial decree will inspire the defendant to pursue other paths that circumvent the judicially imposed constraints."). As the Supreme Court cautioned in the landmark DuPont antitrust case, "the policing of an injunction would probably involve the courts and the Government in regulation of private affairs more deeply than the administration of a simple order of divestiture. United States v. E.I. du Pont de Nemours & Co., 366 U.S. 316, 334 (1961); accord, AT&T, 552 F.Supp. at 167–68.

[59] Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 386 U.S. 129, 136, 141 (1967); AT&T, 552 F. Supp. at 152; Associated Milk Producers, 394 F. Supp. 35, 42 (W.D. Mo. 1975).

[60] 60 United States v. Automobile Mfrs. Ass'n, 307 F. Supp. 617, 621 (C.D. Cal. 1969), aff'd mere.

Continued

reversal in the government's prior position.[61] Each of these situations is present in this case

1. This Complex, Controversial, Nationally Important Antitrust Prosecution Demands Serious Judicial Oversight

This is certainly a highly complex case that has preoccupied the political, technology and business communities for years. These are precisely the circumstances in which the Tunney Act's genesis reveals a major policy concern with the appearance of the government settling for too little "because of the powerful influence of antitrust defendants and the complexity and importance of antitrust litigation." SENATE REPORT, supra, at 147 (statement of Judge J. Skelly Wright).

Microsoft plainly "wield[s] great influence and power" and has brought "significant pressure to bear on [the] Government" throughout the litigation. Id. Thus, the Court needs to consider whether this is a case, such as Cascade, where the Department "knuckled under" to an economically and politically powerful antitrust defendant. Cascade Natural Gas Corp. v. El Paso Natural Gas Co., 386 U.S. 129, 136, 142 (1967).[62]

2. Heightened Scrutiny is Needed Because Neither the Department Nor Microsoft Complied With their Respective Tunney Act Obligations

Courts have also refused to enter proposed antitrust consent decrees where the Government or the defendant did not comply with its procedural responsibilities under the Tunney Act. Even technical and formalistic failures have been deemed grounds to deny entry of a proposed judgment. United States 1,. Central Contracting Co., 527 F. Supp. 1101 (E.D. Va. 1981).

The procedural irregularities in this case are far greater, and are of substantive importance to the Court's review. First, the Tunney Act requires the Department to provide an explanation of "alternatives" to the proposed decree considered in evaluating a settlement proposal. 15 U.S.C. § 16(b)(6). Here, however, the Department simply offers a laundry list of other conduct remedies proposed by third-parties, dismissing all of them collectively with the terse statement that the PFJ "provide[s] the most effective and certain relief in the most timely manner." CIS, 66 Fed. Reg. at 59475. The Department's assertion is unexplained.

The CIS recites only that the Department considered intervening changes "in the computer industry, as well as the decision of the Court of Appeals, which reversed certain of the District Court's liability findings."[63] Nothing in the CIS offers any useful guidance to the Court, or the public, as to why the rejected conduct remedies are inappropriate; thus, the Department fails to come forward with the "detailed notice to the public" the Tunney Act was intended to require.[64] This violates the Government's duty not just to "describe" the alternatives (which the CIS does), but also to provide an "explanation" of their adequacy (which the CIS does not). This is an improperly narrow view of the government's Tunney Act responsibilities is incompatible with the purpose of the Tunney Act to ensure that all relevant issues are subject to maximum "ventilation."[65]

The government's "predictive judgments" about market structure and competitive effect should be accorded a presumption of regularity, Microsoft I, 56 F.3d at 1460 (quoting United States v. Western Elec. Co., 993 F.2d 1572, 1577 (DC Cir.), cert. denied 510 U.S. 984 (1993), but only when the circumstances are regular. Where, as here, the Department's exposition of the reasons for its settlement and its legal interpretation of the Court of Appeals" mandate are woefully lacking, such a presumption of regularity should not apply. In these circumstances, the Court cannot "carefully consider the explanations of the government in the competitive impact statement." CIS, 66 Fed. Reg. at 59476 (citation omitted).

Second, tile Turnkey Act mandates that the government make available all "materials and documents which the [it] considered determinative in formulating [a settlement] proposal." 15 U.S.C. § 16(b). The CIS responds to this requirement with a blanket statement that [n]o materials and documents of the type described in the [Tunney Act] were considered in formulating the Proposed Final Judgment. Consequently, none are being filed with this Competitive Impact Statement.

CIS, 66 Fed. Reg. at 59476. That cannot be accurate. Even in antitrust cases that are not the length and complexity of the Microsoft litigation, courts have found similar disclaimers "to be almost incredible." Central Contracting Co., 527 F. Supp. at 1104. It defies credulity to suggest that there does not exist even one document, memorandum or analysis that the Department considered "determinative" in selecting the relief package presented to this Court.

Third, the CIS misstates many provisions of the PFJ. We address these in detail in Section III above, and will not repeat that analysis here. Where, as here, the government presents a document that seeks to justify provisions that on close examination are illusory, it has in effect challenged the legitimacy of statute. Under even the strictest interpretations of Tunney Act deference, this Court cannot permit the Tunney Act process to "make a mockery of judicial power." Microsoft I, 56 F.3d at 1462.

Fourth, the Tunney Act requires that the defendant file a list of "all" written or oral communications "by or on behalf of such defendant ... with any officer or employee of the United States concerning or relevant to such proposal, except [for] communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice alone." 15 U.S.C. § 16(g). Remarkably, Microsoft's Section 16(g) filing indicates that only two such communications occurred, both in connection with negotiations together with Microsoft and the Court-appointed mediator. This cannot be true It has been publicly confirmed by numerous public officials, and acknowledged by Microsoft, that a large number of Microsoft-retained lawyers and lobbyists have advocated its position on this case before countless officials in Congress and the Executive Branch. The Court should require Microsoft to fully comply with Section 16(g).[66]

3. The Court Should Closely Examine the Government's Reversal of Position on Relief

The government's about-face on its remedy proposals provides another reason why heightened judicial scrutiny is required. While the government now says that the PFJ will provide effective relief, this reflects a marked abandonment of its earlier position. Indeed, the Justice Department's position just 18 months ago was that only structural relief was adequate, and conduct decrees like the proposed PFJ were inherent failures. As emphasized in one of the cases cited by the Justice Department, less deference is warranted when ???"the government has requested broad relief at the outset, represented to the courts that nothing less would do, and then abruptly knuckled under." United States v. National Broad. Co., 449 F. Supp. 1127, 1144 (C.D. Cal. 1978).

The point is not that the Department has decided not to seek divestiture, but instead that the conduct remedies it now proposes contradict its prior representations to this Court on their effectiveness. The earlier DOJ position was also consistent with its prior settlement decisions in this litigation itself. In the mediations supervised by Chief Judge

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sub nom. New York v. United States, 90 S. Ct. 1105 (1970).

[61] Cascade, 386 U.S. at 137; Automobile Mfrs. Ass'n, 307 F. Supp. at 621.

[62] In Cascade, the Department refused to implement an antitrust divestiture decree affirmed on appeal by the Supreme Court. The Court eventually directed the Department to oversee "divestiture without delay" and instructed the district court to prepare "meticulous findings ... in light of the competitive requirements" of the remedy. 386 U.S. at 137.

[63] CIS, 66 Fed. Reg. at 59475.

[64] The CIS was intended, rather, to be "detailed notice to the public what the case is all about. Further than that, the public impact statement makes the lawyers for the Department of Justice go through the process of thinking and addressing themselves to the public interest consideration in the proposed decree. There is no better exercise for determining whether you are right or not than trying to put it down on paper to see how it writes." SENATE REPORT, supra, at 8 (remarks of Judge J. Skelly Wright).

[65] 65 See Central Contracting. 527 F. Supp. at 1103 (quoting 119 Cong. Rec. 24597 (1973) (remarks by Senator Tunney)).

[66] The company apparently takes the unsupportable position that lobbying communications on the subject of the Microsoft litigation occurring before the September 2001 negotiations resumed are not "relevant" to the settlement. Microsoft also claims many communications were protected by the "counsel of record" exception. "Counsel of record" for purposes of these disclosures is intended to differentiate between lawyers actively appearing before the trial court and those undertaking related, but non-judicial "lobbying" functions. Central Contracting Co., 527 F. Supp. at 1105. The House Report discusses Congress's intent to distinguish "lawyering contacts," which warrant protection, from "lobbying contacts," which must be disclosed. It states that a lobbying contact is performed by "counsel of record accompanied by corporate officers; or by attorneys not counsel of record." HOUSE REPORT, supra, at 6 (emphasis added). Congress requires their disclosure in order to guarantee "that the Government and its employees in fact avoid practicing political justice." Id. (quoting Civil Service Comm'n, 414 U.S. 906 (1973)).

Richard Posner in March 2000, the Department and the State plaintiffs demanded settlement terms that would have gone far beyond the limited provisions of the PFJ in eradicating Microsoft's ability to act anticompetitively. Indeed, the plaintiffs'' last settlement proposal in the mediations—dubbed "Mediator's Draft 18 (Attachment B)—would have included provisions requiring Microsoft to license the actual source code for Windows, to permit ISVs to modify Windows itself, and to allow OEMs to "display[] a middleware user interface" in lieu of the Windows desktop. None of these or similar provisions is included in the proposed decree. Thus, the PFJ is considerably weaker in several key respects than the very conduct relief which the Department demanded in settlement before Microsoft's Sherman Act liability had been established.[67]

Given the importance of this case, and Court's obligation to look to the Supreme Court and the DC Circuit for guidance rather than the Justice Department, the Court must decide for itself whether the settlement would give the public effective relief against Microsoft's proven wrongdoing.

B. Live Evidence is Needed on the Technical and Economic Complexities of the Software Industry and the Profound Failings of, and Harms Caused by, the PFJ

The drafting of an antitrust decree necessarily "involves predictions and assumptions concerning future economic and business events."[68] It is a "cardinal principle" of our system of justice that "factual disputes must be heard in open court and resolved through trial-like evidentiary proceedings." Microsoft III, 253 F.3d at 101. This mandate for evidentiary hearings applies not just to liability determinations, but also to determinations concerning the "appropriate [form of] relief." Id.; see also, id. at 107 (vacating and remanding Judge Jackson's remedy decree in large part due to his "fail[ure] to hold an evidentiary hearing despite the presence of remedies-specific factual disputes," and holding that a remedies decree must be vacated whenever there is "a bona fide disagreement concerning the substantive items of relief which could be resolved only by trial" Id. (quoting Interim Order at 62).

The Tunney Act contemplates an evidentiary hearing in these circumstances. As the Justice Department recognizes, this court must permit the use of the "additional procedures" authorized by 15 U.S.C. § 16(t)"—which include live hearings with fact and expert testimony—if "the [public] comments have raised significant issues and ... further proceedings would aid the court in resolving those issues." CIS, 66 Fed. Reg. at 59476. It strains credulity to suggest, as the Justice Department does, that the remedial phase of the most complicated antitrust case in decades will not involve "significant issues" that would benefit from "further proceedings."

Evidentiary hearings are critically important in complex antitrust cases because the assessment of antitrust remedies necessarily requires the Court to determine a number of facts relevant to both the degree of anticompetitive harm and the likely future condition of the market in which competition must be restored. United States v. United States Gypsum Co., 340 U.S. 76, 89 (1950); see also United States v. Glaxo Group, Ltd., 410 U.S. 52, 64 (1973). In particular, any proposed settlement decree must reach forward in lime to "assure the public freedom from" continuance of the monopolistic practices. Id. As such, this Court must make "'predictions and assumptions concerning future economic and business events.'" Microsoft III, 253 F.3d at 102 (quoting Ford, 405 U.S. at 578). Although courts retain wide discretion in fashioning such forward-looking relief, they must base that relief on a sound evidentiary record. International Salt, 332 U.S. at 401.

In this case it is especially important to heed Congress's instruction to "resort to calling witnesses for the purpose of eliciting additional facts," HOUSE REPORT, supra, at 5, because the record has not yet been developed on remedies. See Associated Milk Producers, Inc., 394 F. Supp. 34 (W.D. Mo. 1975).[69] Indeed, the procedural posture that the Court now faces is more closely akin to a contested summary judgment motion or administrative consent decree, for which hearings are the standard method of resolution. E.g., Celotex Corp. v. Catrett, 477 U.S. 317 (1986); Citizens for a Better Environment v. Gorsuch, 718 F.2d 1117 (DC Cir. 1983); United States v. Trucking Employers, Inc., 561 F.2d 313 (DC Cir. 1977).[70]

Only by permitting third parties, such as ProComp and its members, to participate fully in such a proceeding can the Court assure that there will be adequate evidentiary attention to facts and circumstances that contradict the Department's views on the market, competition and other issues relevant for remedy purposes. Otherwise, this Court would repeat the very error that led the DC Circuit to reverse the last judgment in this case.

VIII. CONCLUSION

For all the foregoing reasons, the Court must find that the Proposed Final Judgment is not in the public interest. At a minimum, tile Court should defer any, judgment on the PFJ until the upcoming remedies hearing in the ongoing litigation is conducted. This is necessary to avoid inconsistent remedies. Indeed, many of the remedies proposed by the Litigating States are irreconcilable with those proposed by the PFJ. When the Court does consider the PFJ, it is obliged in the discharge of its Article III duties to make an independent determination whether the PFJ adequately fulfills the mandate of the DC Circuit.

Attachment A

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
(UNITED STATES OF AMERICA,)
(Plaintiff,)
(v.) Civil Action No. 98–1232 (CKK)
(MICROSOFT CORPORATION,)
(Defendant.)
(STATE OF NEW YORK, et al.,)
(Plaintiffs,)
(v.) Civil Action No. 98–1233 (CKK)
(MICROSOFT CORPORATION,)
(Defendant.)

DECLARATION OF KENNETH J. ARROW

Kenneth J. Arrow declares under penalty of perjury as follows:

I. INTRODUCTION

1. I am the Joan Kenney Professor of Economics Emeritus and Professor of Operations Research Emeritus at Stanford University. I received the degrees of B.S. in Social Science from The City College in 1940, M.A. in mathematics from Columbia University in 1941, and Ph.D. in economics from Columbia University in 1951. I have taught economics, statistics, and operations research at the University of Chicago, Harvard University, and Stanford University, and I have written more than 200 books and articles in economics and operations research. I am the recipient of numerous awards and degrees, including the Nobel Memorial Prize in Economic Science (1972). A significant part of my writing and research has been in the area of economic theory, including the economics of innovation and its relation to industrial organization. My curriculum vitae is attached.

2. I have been asked by ProComp to comment on various economic issues related to the Revised Proposed Final Judgment ("PFJ" or the "decree") proposed by the United States, various settling States and Microsoft Corporation ("Microsoft").

3. My review of the PFJ begins with the fact that Microsoft has been found liable for

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[67] The barrier to introduction into evidence of settlement offers under Rule 408 of the Federal Rules of Evidence does not apply where the settlement is not used to show liability but instead, as here, to illuminate the policy considerations governing fashioning of a remedy. E.g., Carney v. American Univ., 151 F.3d 1090, 1095 (DC Cir. 1998). Rule 408 precludes proof of settlements and settlement offers only "to prove liability for or invalidity of" a claim. Fed. R. Evid. 408. Indeed, evidence of settlements is expressly permitted by Rule 408 "when the evidence is offered for another purpose." Id.

[68] 68 Ford, 405 U.S. at 578.

[69] To the contrary, the DC Circuit reversed and remanded precisely because the prior District Judge did not permit an evidentiary hearing on remedies. The court stressed that "a full exploration of the facts is usually necessary to properly draw an antitrust decree so as to prevent future violations and eradicate existing evils," and remanded for such an exploration of facts. Microsoft III, 253 F.3d at 101 (quoting United States v. Ward Baking Co., 376 U.S. 327, 330–31 (1964) (internal quotations and brackets omitted)).

[70] In summary judgment practice, complex legal issues are frequently presented to courts on the basis of affidavits and other "paper" evidence. But, unless the papers reveal no "genuine issue" of "material fact," standard that cannot be met here, summary judgment motions must be denied and a case set for trial so that the Court can adduce whether the parties have met their respective burdens of proof on the disputed factual issues. E.g., Celotex Corp., 477 U.S. at 323; Thompson Everett, Inc. v. National Cable Adver., 57 F.3d 1317, 1322 (4 th Cir. 1995) (applying Celotex to review of a motion for summary judgment of antitrust conspiracy claim). Indeed, where the credibility of an affiant is at issue, as it undoubtedly will be here with respect to the reliability of expert opinions and projections of future economic and technological developments, it is difficult to conceive of any basis on which the Court would be permitted to resolve such controverted issues without availing itself of ordinary, trial-type evidentiary procedures.

violating Section 2 of the Sherman Act by engaging in a widespread series of practices that illegally maintained its monopoly in Intel-compatible PC operating systems. These practices were focused on eliminating the threat posed to Microsoft's PC operating system monopoly by the combination of Netscape Navigator and cross-platform Java technology ("middleware competition").

4. Given that Microsoft has been found liable for illegal monopoly maintenance, the remedies in this case should be designed to eliminate the benefits to Microsoft from its illegal conduct. To the extent possible, the remedies should be designed to restore the possibility of competition in the market where monopoly was illegally maintained (i.e., the market for PC operating systems). In addition, the remedies should strengthen the possibilities for competition and deter the exercise of monopoly power in the present and future, taking account of the special problems of an industry in which network effects are important.

5. It is my opinion that the PFJ fails to accomplish these objectives. First, the PFJ is unduly focused on attempting to re-create an opportunity for future middleware competition. Because of network effects and path dependencies, Microsoft's monopoly power in PC operating systems is more entrenched than it was in the mid-1990s. It will be exceedingly difficult now, even with the best of remedies, to re-establish middleware fully as the kind of competitive threat to Microsoft's monopoly power that it posed in the mid-1990s. Additional remedial steps need to be taken to ensure that Microsoft does not benefit from its illegal conduct and the consequences of that conduct on dynamic competition in the OS market. Second, the PFJ does not address the fact that no effort to restore competition in the market for PC operating systems will be successful without measures designed to lower the applications barrier to entry that currently protects Microsoft's position in this market. Third, the enforcement mechanism described in the PFJ seems likely to be ineffective, even with respect to the inadequate remedies in the PFJ. Fourth, the PFJ pays insufficient attention to the ways in which Microsoft is currently attempting to protect its monopoly power by using its illegally maintained monopoly in PC operating systems against current and future competitive threats, such as server operating systems and Web services.

6. Ihis affidavit has six pans and is organized as follows. After this introduction (Part I), Part II reviews the threat that Netscape, Java and the Internet posed in the mid-1990s to Microsoft's monopoly power in PC operating systems. Part III then reviews the illegal conduct that Microsoft used in defeating this threat. Part III also analyzes the state of the computer industry today following this illegal conduct and explains why it seems unlikely, at this stage, that the middleware threat can be re-created. With this as background, Parts IV and V review and assess the remedies proposed in the PFJ. Part IV critiques the remedies designed to restore middleware competition. In addition, Part IV discusses the lack of attention in the PFJ to the applications barrier to entry that protects Microsoft's monopoly power in PC operating systems. It also notes certain deficiencies in the enforcement mechanism proposed in the PFJ. Part V follows with a discussion of Microsoft's efforts to protect its existing monopoly power by using its illegally maintained monopoly in PC operating systems to gain advantages in other markets that threaten to reduce the scope of its current market power. Part V explains that the PFJ gives insufficient attention to this important subject—a subject that bears on the future of competition in the computing industry. The affidavit concludes in Part VI with a summary of conclusions.

II. MICROSOFT'S MONOPOLY POWER AND THE THREAT POSED BY NETSCAPE, JAVA AND THE INTERNET

A. NETWORK EXTERNALITIES

7. Network externalities have been central to Microsoft's ability to maintain its monopoly power in the market for PC operating systems. Both the District Court and the U.S. Court of Appeals for the District of Columbia Circuit referred to the "applications barrier to entry," the process by which a large installed base induces the development of applications and other complementary goods designed for the dominant operating system, which further reinforces the position of the dominant operating system. 1 described this process in a declaration that I submitted in 1995 on behalf of the government in a prior settlement with Microsoft:

> A software product with a large installed base has several advantages relative to a new entrant. Consumers know that such a product is likely to be supported by the vendor with upgrades and service. Users of a product with a large installed base are more likely to find that their products are compatible with other products. They are more likely to be able successfully to exchange work products with their peers, because a large installed base makes it more likely that their peers will use the same product or compatible products. Installed base is particularly important to the economic success of an operating system software product. The value of the operating system is in its capability to run application software. The larger the installed base of a particular operating system, the more likely it is that independent software vendors will write programs that run on that operating system, and, in this circular fashion, the more valuable the operating system will be to consumers.

8. The applications barrier to entry implies that it is likely that a single platform (or programming environment) will dominate broad segments of the computer software industry at any point in time. This does not necessarily imply that there will be monopoly; that depends on the extent to which the dominant platform is proprietary or closed. However, if the dominant platform is proprietary (which is certainly the case with Windows), then the interdependence of applications and operating systems creates a barrier against any new entrant. A new entrant would need to create both an operating system and the applications that make it useful.

9. In addition, any customer of a new entrant would have to incur considerable costs in switching to a new system. In the fast place, the customer would have to learn new operating procedures. Second, there would be a problem of compatibility of files. These factors constitute a natural obstacle to change, so that a system with a large installed base will have a tendency to retain its users.

10. The special nature of operating systems and software also gives Microsoft, because of its large installed base of operating system, a great advantage in the markets for complementary software. Specifically, it can distribute the software much more easily than its competitors. Since virtually every new PC ships with Windows, Microsoft can put its software into the hands of users by including it with the operating system. Any other vendor of complementary software that wanted to distribute through OEMs would have to cut a separate deal with each OEM, and would face the task of persuading OEMs to carry software products that may be directly competitive with products offered by Microsoft. As a result, complementary software from other vendors typically either has to be downloaded (which imposes added costs on users) or distributed separately to users in "shrink wrap." In addition, Microsoft has the ability to allow Microsoft developers of complementary software access to "hidden APIs"—application programming interfaces in the PC operating system that Microsoft developers know about but which are not disclosed fully to competing developers of complementary software.

B. THE MIDDLEWARE THREAT: NETSCAPE AND JAVA

11. A threat to Microsoft's monopoly in PC operating systems arose in the mid-1990s with the nearly simultaneous emergence of the Internet browser developed by Netscape and the Java programming environment. These are both examples of middleware—application software designed to run on multiple operating systems and which has its own set of APIs. Middleware that provides extensive functionality through a broad set of APIs has the potential to become an alternative platform for application development. If many applications valued by PC users were written to middleware APIs, and if the middleware were ported to other operating systems (existing or to be created), then the applications barrier to entry in the market for PC operating systems would be weakened.

12. Netscape Navigator was a browser that also had the potential to become a platform for application programs. Netscape's browser had its own set of APIs to which developers could write application programs.

13. The initial success of Netscape Navigator was dramatic. Netscape shipped its first browser in September 1994.[1] In July 1995, less than a year later, its share of the browser market was 74%.[2] By mid-1996, Netscape's Share had reached 85%.[3]

14. The threat that Netscape pored to Microsoft's monopoly power in PC operating

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[1] "A Software Giant's March Onto the Internet," New York Times (Jan. 12, 1996) at C4.

[2] "Browser Usage: How It's Trending," Interactive Age (Jul. 31, 1995) (citing figures compiled by Interse Market Focus).

[3] "Microsoft v Netscape: Freer than Free," The Economist (Aug. 17, 1996, U.S. Edition).

systems was made even greater by the nearly simultaneous development of Java. The Java technology has several pieces. It is a programming language that I understand has features well suited for writing "distributed applications"dash;applications that run on networks, calling upon resources located on different computers in the network. Java technology also includes the Java Virtual Machine ("JVM") and Java Class Libraries. The JVM and Java Class Libraries am forms of middleware.

They are software programs that have been implemented on Windows and many other operating systems. A JVM is software that converts Java code into instructions that can be processed by the operating system on which the JVM sits. The Java Class Libraries are software that performs specific functions that developers can call upon, and build into, their Java application programs.

The JVM and Java Class Libraries are sometimes referred to collectively as the "Java runtime environment." The Java technology has been licensed in a way designed to encourage its implementation on a variety of different operating systems. The Java ideal was captured in the phrase, "write once, run anywhere."

15. Java added to the threat posed by Netscape because it extended the set of middleware APIs to which developers could write application programs. It increased the chances that developers could write sophisticated PC application programs written to middleware APIs instead of Windows APIs. Netscape also complemented Java by serving as a distribution mechanism. The Java technology could not succeed without widespread distribution of the Java runtime environment. Because Netscape supported Java and included the Java runtime environment with every copy of its browser, growth in the share of PCs that used the Netscape browser also meant growth in the share of PCs with a Java runtime environment that supported Java's "write once, run anywhere" ideal.

16. The economic relationship between middleware and the OS is unusual among the commodities that economic theory usually deals with. Middleware is a complement to any OS in the short run, but it facilitates substitution among operating systems in the long run. Middleware is a complement in the short run because it adds functionality to the existing OS, but it is in a sense a substitute in the long run, because applications can be written to it rather than to the OS. Middleware therefore permits substitution among operating systems, since the applications are not specific to any one OS. Therefore, an OS monopolist will have an incentive to control middleware in order to maintain its OS monopoly. The short-run complementarity becomes an instrument by which this incentive can be realized. The middleware has to be ported to the OS, and the OS producer's control of the needed APIs can be used to restrict the spread and use of the middleware.

17. Middleware is naturally thought of as a disruptive technology, and the emergence of middleware in 1995 created what is frequently referred to as an "inflection point." Put simply, this means that the then well-defined organization of the software market for personal computers might be altered substantially, or at least such a risk existed. As that organization was centered on the Microsoft Windows operating system and its productivity application suite Microsoft Office, Microsoft had the most at risk from any disrupting change that resulted from middleware.

18. Technological disruptions such as the middleware threat of the mid-1990s do not occur frequently. They only arise when there is an important innovation that allows technology to evolve and create new products or functionality that has widespread appeal. At times of technological disruption, the forces of dynamic competition can play an especially important role. The Netscape browser and the cross-platform Java technology separately and in combination had the potential to develop into an alternative platform for application programs that could run on any operating system and which could transform PC operating systems into a commodity business. Bill Gates, in his memorandum of May 26, 1995 on the "Internet Tidal Wave," described just this sort of dynamic competitive threat when he realized that, if successful, Netscape could "commoditize" the operating system.

19. There is no easy method by which an economist can determine exactly how significant a threat Java and Netscape actually represented to Microsoft's operating system monopoly. A precise determination of whether Netscape and Java could have succeeded in eroding Microsoft's monopoly power absent Microsoft's illegal conduct would require a counterfactual analysis that addressed a variety of complex interrelations. However, even without this kind of analysis, we have evidence that a reasonably expert onlooker felt the threat was serious, namely, the statements and behavior of Microsoft. Bill Gates, in his memorandum on the "Internet Tidal Wave," explained:

> A new competitor "born" on the Internet is Netscape. Their browser is dominant, with 70% usage share., allowing them to determine which network extensions will catch on. They are pursuing a multi-platform strategy where they move the key API into the client to commoditize the underlying operating system. ... One scary possibility being discussed by Internet fans is whether they should get together and create something far less expensive than a PC which is powerful enough for Web browsing.

20. In the same memorandum, Gates made clear that he understood how Microsoft should leverage its Windows advantage to bolster its Internet position:

> We need to move all of our Internet value added from the Plus pack into Windows 95 as soon as we possibly can with a major goal to get OEMs shipping our browser preinstalled. This follows directly from the plan to integrate the MSN and Interact clients. Another place for integration is to eliminate today's Help and replace it with the format our browser accepts including exploiting our unique extensions so there is another reason to use our browser.

21. To summarize, in an industry marked by network externalities, there is a strong tendency to monopoly (at least when the dominant platform is proprietary or closed). The consumer welfare and efficiency losses associated with monopoly are well known, but the one most relevant here is the decreased incentive to technological innovation. It is all the more important to encourage what may be called dynamic competition, the entry of new firms and new products. At certain periods, whether due to technological innovation or to a transient situation in which the tendency to monopoly has not yet worked to its completion, the market will be confronted with alternative lines of development; Netscape Navigator and Java as against Microsoft products in 1995, client-server networks and web services today. At these periods, there may be opportunities for a new platform to compete with and possibly take over from the existing one. In view of the strong tendency to monopoly in this industry (because of network externalities), it is all the more important to keep the competition as viable as possible when the opportunity presents itself. In particular, illegal anticompetitive steps by existing monopolists should be prevented to the maximum extent possible. Such a policy prevents the stagnation of existing monopolists and encourages the expansion of the number of alternatives among which the buyers can choose.

III. MICROSOFT DEFEATED THE THREAT POSED BY NETSCAPE AND JAVA

A. MICROSOFT'S ILLEGAL PRACTICES

22. Microsoft made a concerted effort to eliminate the threat from middleware competition. Microsoft was found to have engaged in illegal conduct exactly at the moment that dynamic competition might have flourished. As the DC Circuit concluded, Microsoft took illegal steps to exclude the middleware threat, and in particular, took anticompetitive actions directed against Netscape Navigator and Java. In particular, the DC Circuit judged illegal significant elements of Microsoft's strategy:

a) By barring original equipment manufacturers ("OEMs") from removing access to Microsoft's Internet Explorer ("IE") browser from the Windows desktop, Microsoft prevented many OEMs from installing Navigator or other browsers, and that in turn protected Microsoft's OS monopoly by reducing potential middleware competition. This violated Sec. 2 of the Sherman Act.

b) By preventing OEMs from altering the initial boot sequence for Windows, Microsoft prevented OEMs from promoting Internet access providers, many of whom were using and distributing Navigator to their customers. Again, this reduced competition with IE and protected Microsoft's OS market power in violation of Sec. 2.

c) Through commingling software code for Windows with that of Internet Explorer, Microsoft deterred OEMs from installing Navigator. That, in turn, reduced Navigator's usage share, and thereby protected the applications barrier to entry by reducing developer's interest in the APIs exposed by Navigator. Microsoft also removed Internet Explorer from its Add/Remove utility, further entrenching Internet Explorer and further discouraging OEMs from distributing Navigator. The DC Circuit found these actions to be anticompetitive and to support a finding of liability for exclusionary conduct and therefore monopolization under Section 2.

d) By entering into contracts with Internet access providers that foreclosed Navigator's access to an economically significant share of the Internet access provider ("IAP") market, Microsoft engaged in exclusionary conduct in protection of its OS monopoly, again in violation of Sec. 2

e) By entering into contracts with independent software vendors that required those independent software vendors ("ISVs") to use Internet Explorer if the ISV need web display, Microsoft further foreclosed distribution of Navigator, again in protection of its OS monopoly, in violation of Sec. 2.

f) By entering into an exclusive distribution contract with Apple for Internet Explorer after Microsoft had threatened to cancel the Macintosh version of Office, Microsoft engaged in exclusionary conduct in protection of its OS monopoly in violation of Sec. 2.

g) Through a number of exclusionary actions directed at Java, Microsoft limited Java's viability as a cross-platform threat and did so in violation of Sec. 2. Those actions included: limiting distribution of "write once, run anywhere" JVMs directly through exclusionary contracts with ISVs and indirectly through Microsoft's actions against Netscape; deceiving developers who wanted to develop pure Java code into writing code with Windows-specific extensions that would make the code Windows dependent; and threatening Intel and inducing it to stop developing Intel multimedia software for Java.

B. THE STATE OF THE MARKET TODAY

23. As of 1995, Microsoft's share was of the installed base of PC operating systems was 870% [4] while its share of the Internet browser market was less than 5%.[5] Today, those figures stand at 92% for PC operating systems [6] and 91% for browsers.[7] Thus Microsoft's position in PC operating systems remains strong, while its share in Internet browsers has risen dramatically.

24. Microsoft's illegal practices were successful in helping to minimize the threat that middleware posed for the creation of a programming environment outside of Microsoft's control. I am aware of no middleware today that poses a risk to Microsoft comparable to that posed by Navigator and Java in 1995. Nor does the government's Competitive Impact Statement suggest that such a threat exists today or is likely to emerge over the five-year duration of the PFJ.

C. MICROSOFT'S MIDDLEWARE ADVANTAGES

25. Microsoft today has substantial advantages in middleware that make it unlikely the market itself will generate new entrants into middleware capable of re-creating the competitive risk faced by Microsoft in 1995. As noted earlier, through its control over Windows, Microsoft has had—and under the PFJ will continue to have—an enormous advantage in the distribution of software that is complementary to Windows. Since every new PC ships with Windows, Microsoft has a very easy way to get software into the hands of users: it can include it with the operating system. Microsoft can simply bundle the middleware with Windows or it can integrate the code into Windows itself.

26. This ensures the ubiquity of Microsoft middleware and operates as a barrier to entry for competing middleware. Any entrant would have to make a substantial investment to achieve comparable widespread distribution. A firm considering entry should understand that its inability to guarantee a universally exposed set of APIs means that, all other things equal, developers would prefer to write to the APIs exposed by Microsoft middleware. The ubiquity of Microsoft middleware and its ability to integrate middleware into Windows—which the PFJ does not constrain—therefore operate as economic disincentives for the development of competing middleware by potential entrants.

27. Microsoft also has complete freedom in how it prices its middleware. In bundling middleware with Windows, Microsoft need not charge an incremental price for the middleware. It can simply fold into the price of Windows whatever price it would charge for the middleware were it distributed separately. This would not be an option available for a potential entrant who will expect that it would need to establish a separate, discrete positive price for any middleware that it might create. The ability of Microsoft to set an apparent price of zero for its middleware operates as a barrier to entry in middleware.

28. Even if competing middleware were created, the ubiquity of Microsoft middleware would operate as a direct barrier of the distribution of that middleware. As the DC Circuit affirmed, OEMs are reluctant to install two products that perform the same function, as this raises support costs. Twice as many products will be supported for the same function, plus consumers may be confused by the presence of both products.

29. Moreover, Microsoft's ability to "embrace and extend" any middleware created by an entrant also operates as a barrier to entry. Again, it will take a substantial amount of time for an entrant to distribute innovative middleware. During that time, Microsoft will likely be able to imitate that middleware and distribute updated" versions of Microsoft middleware over the Internet to end users through its Windows Update feature. Given this, entry into middleware is less likely and this may reduce innovation in and development of middleware.

30. In sum, Microsoft took substantial steps to eliminate the threat posed to it by Netscape and Java. The DC Circuit affirmed that a substantial number of those actions constituted impermissible monopoly maintenance and therefore monopolization in violation of Section 2 of the Sherman Act. Today, Microsoft's illegally maintained monopoly operates as a substantial barrier to new entry into middleware. The monopoly operates as a disincentive for entry and thereby likely reduces innovation in middleware. Given this market structure, it is highly unlikely that market forces alone will lead to the development of innovative middleware that creates the same competitive risk to Microsoft that it faced from Navigator and Java in 1995.

IV. THE RESTRICTIONS ON MICROSOFT'S BEHAVIOR CONTAINED IN PFJ ARE INSUFFICIENT TO RESTORE THE COMPETITIVE THREAT THAT MIDDLEWARE POSED IN 1995

31. No remedy can turn back the clock to 1995 and re-create the competitive threat that existed at that crucial time of technological disruption. Technological disruptions of the magnitude that Bill Gates called "the Internet tidal wave" cannot be created by judicial proceedings. Even so, one of the objectives of the remedies should be to attempt to restore, to whatever extent possible, the possibility of competition in the market where the illegal monopoly was maintained (i.e., the market for PC operating systems). The restrictions on Microsoft's behavior in the PFJ fall well short of this objective.

A. PROBLEMS WITH THE MIDDLEWARE REMEDIES

32. Following its years of illegal conduct, Microsoft's position in the core middleware products (Internet browsers and Java technology) is totally different today than it was in 1995. Microsoft has a dominant share of the browser market, IE has caught up to and surpassed Navigator's technical capabilities, and the prospect of large numbers of desktop applications written in "write once, run anywhere" Java seems remote.

33. There are two features of the industry that made the threat from Netscape and Java so significant. First, the technological disruption of the Internet made the functionality of the browser sufficiently important that it could become a platform for large numbers of applications. Second, the head start that Netscape and Java had over Microsoft middleware provided a substantial first-mover advantage, a particularly important element for competitive success in network industries prone to "tipping." Probably the only chance a competitor has to overcome the inherent advantages that Microsoft has in distribution is to create a large installed base of users before Microsoft can develop and launch a competitive product.

34. The market position that Microsoft has today makes it difficult for any set of conduct remedies to lead to significant middleware competition. Neither the PFJ nor any other set of conduct remedies can re-create the technological disruption or competitive head start that existed before Microsoft acted illegally. However, for the reasons explained below, the middleware remedies in the PFJ seem especially likely to be ineffective.

1. The Reliance in the PFJ on OEMs to Distribute Competing Middleware

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[4] Dataquest, "All Platform Operating Systems Sales History and Forecast Summary," Table 12 (Mar. 1997).

[5] "Microsoft v Netscape: Freer than Free," The Economist (Aug. 17, 1996, U.S. Edition).

[6] IDC, "Worldwide Client and Server Operating Environments, Market Forecast and Analysis, 2001–2005" (Aug. 2001).

[7] "AOL Files Suit Against Microsoft For Damages Inflicted on Netscape," Wall Street Journal (Jan. 23, 2002) (citing data compiled by WebSideStory, a market research firm).

35. The PFJ relies heavily on competition in the OEM distribution channel as the key mechanism for overcoming the competitive harm created by Microsoft's actions. The same was true in the government's prior settlement with Microsoft, as I noted in my 1995 declaration:

> Despite the importance of natural advantages [referring to the installed base discussion above] in the market for IBM-compatible PCs, the complaint and proposed remedies addressed competitive issues that are critical to the success of new competition in this market. The most effective and economic point of entry for sales of IBM-compatible PC operating systems is the OEM distribution channel. New operating system software products should have unimpeded access to this channel. The Government's complaint and proposed settlement provide needed relief to facilitate the entry of new competitors, such as IBM's OS/2.

36. Seven years later, it is clear that little was accomplished in the prior consent decree in relying on the OEM channel to facilitate competition in PC operating systems. Unimpeded access to this channel may indeed be necessary for effective competition. However, it is far from sufficient to create effective competition for middleware given the current state of the industry.

37. One obstacle to competition in middleware, which the PFJ does not address, is the applications barrier that now protects the position of Microsoft middleware. ISVs have a strong incentive to write applications to Microsoft middleware, since Microsoft middleware will be present on every Windows machine that is shipped. The PFJ does not restrict Microsoft's ability to commingle code and include middleware APIs in with its Windows operating system. The PFJ permits OEMs to remove Microsoft middleware icons, but the middleware itself, and its associated API set, will remain. Thus, the ubiquity of Microsoft's middleware will encourage ISVs to write applications to these APIs.

38. The PFJ restricts Microsoft's ability to discriminate against OEMs that also ship competing middleware, but this does not create an incentive for OEMs to ship competing middleware. For the reasons explained by the District Court and the Court of Appeals, OEMs are reluctant to include software that provides similar functionality to other software on the machine—it increases confusion among users and raises support costs.

39. If ISVs do not write applications to the competing middleware, OEMs will not distribute it. If OEMs do not distribute it, ISVs will not write applications to it. The current dominance of Microsoft middleware thus makes it very unlikely that this circle can be broken by the non-discrimination restrictions in the PFJ.

40. The PFJ also seeks to increase the role of OEMs in defining the Windows desktop. This is also insufficient to create significant middleware competition. Even if OEMs had complete control over the icons that would appear on the Windows desktop—and they would not under the PFJ—this would not alter in any way the software that would actually be present on the computer. Removing an icon from the desktop just removes the most obvious point of consumer access to the software, but the ability of ISVs to write to the APIs presented by the software remains unchanged.

41. The PFJ also attempts to prohibit Microsoft from discriminating against OEMs that distribute competing middleware. It does this by requiring Microsoft to provide uniform licensing terms to the 20 largest OEMs and preventing specific retaliation against OEMs that distribute competing middleware. It is not clear to me that these restrictions are sufficient to prevent Microsoft from exercising influence over the behavior of OEMs towards products that compete with Microsoft. First, I understand that the non-discrimination provisions apply only to certain Windows desktop operating systems (Windows XP and Windows 2000 Professional) and not to other Microsoft products that an OEM might purchase. Second, the relationships between Microsoft and OEMs are complex and multi-faceted. For example, Microsoft provides marketing and promotion support to OEMs; its provides technical assistance; its provides allowances for product development. Microsoft may provide these services differently to OEMs. Since the PFJ does not prohibit all forms of discrimination across OEMs, Microsoft may have sufficient ability to influence OEM decision-making.

42. The PFJ also contains limited disclosure requirements. The exact scope of these disclosures depends on careful interpretation of the complex language of the PFJ. I do not attempt such an interpretation but comment only on the limited impact of the disclosure remedies under any reasonable interpretation. There is a requirement to disclose interfaces that permit competing middleware to interoperate with Windows operating systems. I understand, however, that Microsoft is only required to make these disclosures if the interface is already in use by a Microsoft middleware product. A disclosure requirement limited in this manner pushes potential middleware competitors in the direction of "me too" products and does little to create incentives for significant innovation in middleware.

2. IE Open Source and Java Must-Carry

43. There are alternative middleware remedies that could have a more significant effect. More aggressive remedies with respect to that middleware threat would be open source Internet Explorer and a requirement for Microsoft to distribute the most current version of the standard Java runtime environment with IE and Windows. Even these remedies are likely to be insufficient to turn back the clock to the level of competition that existed before Microsoft's illegal conduct. But they are likely to have more impact than the remedies in the PFJ.

44. Open source IE is the most effective way to fully expose the links between IE and Windows as well as the IE APIs. This creates the possibility of interoperability between competing products and it furthers the possibility of operating system competition. It also allows anyone who wants to develop a competitive browser to be fully compatible with applications that are written to IE APIs. This way it limits the extension of the applications barrier to entry created by Microsoft's dominance in the browser.

45. The Java must-carry remedy works to erode the application barrier to entry by helping to overcome reluctance of ISVs to develop programs that require Java on the client. It is only by assuring sufficient ubiquity of Java and browser functionality that there is any chance that Microsoft may lose control of the applications barrier through competing middleware.

B. INATTENTION TO THE APPLICATIONS BARRIER TO ENTRY

46. The applications barrier to entry identified by the DC Circuit consists in part of the large number of applications available on the Windows platform. As discussed above, successful entry in middleware of the type commenced by Netscape Navigator and Java could have substantially eroded the applications barrier to entry and facilitated entry into the operating systems market.

47. Microsoft controls the most economically important set of applications in its Microsoft Office suite. Office accounts for nearly 30% of Microsoft's annual revenue.[8] Software suites consisting of personal productivity applications such as word processing, spreadsheets, presentation software, electronic mail, and calendar and contact management constitute a distinct and relevant product market. Microsoft's share of that market today is in the mid-90s[9] and Microsoft almost certainly holds substantial market power.

48. As found by the DC Circuit, Microsoft has used its control over Office to maintain its OS monopoly. Microsoft threatened to cancel the Macintosh version of Office if Apple did not distribute Internet Explorer, Microsoft's Interact browser. It is clear that Microsoft's ability to make such threats would be diminished if Microsoft had an obligation to license the rights to port Office to competing OS platforms.

49. Since remedies focused entirely on middleware will not re-create the threat to Microsoft's monopoly power in PC operating systems that existed prior to Microsoft's illegal conduct, additional actions need to be taken to ensure that Microsoft does not benefit from its illegal conduct. These additional actions should be targeted at further reducing the underlying source of Microsoft's market power, namely the applications barrier to entry. Porting Office to other platforms would be a remedy of this type that could have a significant impact on the applications barrier. One factor that limits the demand for Unix workstations, which have computational advantages over Intel-based PCs, is the inability to

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[8] Dresdner Kleinwort Wasserstein, "Microsoft Corporation," Figure 4 (1 Aug. 2001).

[9] In 1999, Microsoft accounted for 96.1% of the revenues of office suites designed for Windows. Since 98.1% of all sales of office suites in 1999 were for the Windows platform, these figures by themselves imply an industry share of 94%. But Microsoft also accounted for a large share of the revenues of office suites designed for Apple's Macintosh OS—a platform that accounted for nearly all of the non-Windows sales of office suites. IDC Office Suite Market Review and Forecast, 1998–2003 (Aug. 1999).

interoperate with Office. The thin-client model of computing, where most computing occurs on the server, not the client, represents one of the most important threats to Windows desktop computing. The switching costs of adopting new personal productivity software with files not compatible with Office represents a significant barrier to Unix-based thin client networks. A requirement to license the rights to port Office may be one of the most effective ways to create competition for Windows, something which can probably no longer be achieved by remedies exclusively related to middleware.

C. PROBLEMS WITH THE ENFORCEMENT MECHANISM

50. The remedies in the PFJ are too limited in scope to re-create past competitive conditions even if they are enforced perfectly. However, the enforcement mechanisms in the PFJ are far from perfect and will likely lead to delays and costs that further limit the effectiveness of the remedies. The PFJ relies on a technology committee to oversee Microsoft's compliance with the PFJ. The membership in the committee is controlled 50% by the company whose past illegal activities have been the subject of the Circuit Court's decision. The committee lacks both resources and the power to enforce the PFJ. The committee must rely on information provided to it by Microsoft and has little ability to engage in its own investigations. Furthermore, if it uncovers a violation, it must rely on lengthy litigation to enforce it.

51. The implication is that failures by Microsoft to comply may go undetected and if they are detected, it may take a great deal of time and effort to impose a change on Microsoft's behavior. Delays can greatly limit the effectiveness of any particular remedy in a dynamic industry subject to network effects. If enforcement will be ineffective, it may create an incentive for Microsoft to violate the terms of the decree.

52. Other consent decrees have used special masters with sufficient resources and expedited judicial review to enforce their terms. Given the complex, dynamic nature of the software industry, it is especially important that the resources are in place to monitor the terms of the decree and that swift enforcement is possible.

V. APPROPRIATE REMEDIES SHOULD NOT ALLOW MICROSOFT TO PROTECT ITS ILLEGALLY MAINTAINED MONOPOLY AGAINST CURRENT AND FUTURE COMPETITION FROM OTHER MARKETS

53. The PFJ focuses on the PC desktop as the central space in which competition will take place going forward. It does this by creating limited new operating rights for OEMs coveting the appearance of the desktop and greater protections for installing middleware that competes with Microsoft. As I have discussed above, given the substantial advantages in middleware that Microsoft has through its illegally maintained monopoly, I think that it is unlikely that these desk-top-oriented remedies will spur economically meaningful entry in middleware and that there is therefore little reason to think that those remedies will re-create the competitive risk Microsoft's desktop monopoly faced from middleware entrants in 1995.

54. The PFJ therefore needs to be augmented with remedies that take a forward-looking approach. The PFJ needs to focus on the current and future threats to Microsoft's market power and ensure that Microsoft is not allowed to use its illegally maintained monopoly in PC operating systems to dilute these current and future competitive threats. A PFJ focused on desktop remedies not only will not jump start competition now, but by allowing Microsoft to keep the benefits of its illegal activities, such remedies will fail to deter future illegal anticompetitive actions by Microsoft. Instead, additional remedies should naturally be directed at ensuring competition going forward uninfected by Microsoft's illegally maintained monopoly. In particular, these remedies should seek to re-create the same risks faced by Microsoft in 1995 when the middleware threat arose. "

A. FUTURE COMPETITION IN SERVERS AND WEB SERVICES

55. A forward-looking remedy should seek to limit Microsoft's ability to use its illegally maintained monopoly power to bias competition in complementary products that have the potential to develop into substitutes for desktop computers. Server operating systems and Web services are two prime examples. These products intersect at the middle of two related trends. To date, the Internet has been a PC Interact. Most Interact users access the Internet through a PC or workstation. The first trend is a probable shift to the use of many devices to access the Interact, including cell phones, handhelds such as the Palm Pilot and other personal digital assistants, and thin clients. As these devices themselves are not as powerful as a typical PC, they will demand more work from the servers and sewer operating systems delivering the information. The implication is that, in the future, a significant amount of computing will bypass the desktop—which in turn implies that Microsoft has an incentive (if it can) to extend its monopoly from the desktop into servers.

56. The second trend is a related shift in how software is owned and managed. Prior to the Internet, PC software and content was largely locally owned and locally managed. The software was installed directly on the user's PC, from a floppy disk and then later a CO. The rise of the Interact makes it possible to move the location of software off of the PC and onto a remote device—a server—with much of the work done remotely. This gives rise to the generalized notion of a web service, where software is no longer a thing like a CD but instead a service delivered to a connecting device, much the way electricity is delivered to many devices.

57. On November 29, 2001, Steve Ballmer, Microsoft's CEO, discussed these trends and how Microsoft was approaching them through its .NET initiative: [10]

> About three years ago we changed the vision of our company. Instead of talking about a computer on every desk and in every home we started talking about empowering people through software anytime, any place, any device. ... It starts with a view, which came to us quite clearly about five, almost six years ago now that XML [eXtensible Markup Language] would really be the transforming industry phenomenon of the next five years. If it was the PC 20 years ago and graphical user interface 10 or 15 years ago and the Internet five or six years ago, it's XML. And I'm not going to give a long description, but I think the way you should think about it is XML will be the Lingua Franca of computing. It will be the basis on which systems work better with systems, people with people, businesses with businesses, businesses with consumers. It will improve the level of integration and connectivity. It gives us a framework at least for the software community to build the software that allows that. ... .NET is our platform to let people take advantage of the XML revolution.

58. Ballmer also discussed the Microsoft business model and how .NET fits within it. He sees Microsoft as targeted on seven business areas, including, unsurprisingly, PC operating systems, PC productivity solutions "anchored" by Office, and server software for building and deploying these applications. All of these are now being organized around .NET:

> I think you could say we are a company that invests in seven businesses around one platform. That platform is .NET. .NET is our platform for the next technology revolution that is going on. And that is the shift to the XML web service model as the fundamental way of building and deploying software. .NET is our platform to do that. ... That's how we think about the seven business areas in which we are investing. They're all being re-platformed or re-plumbed around .NET and XML web services.

59. A computing world in which Web services, hosted on servers, are delivered on demand over the Internet is a world that has negative implications for Microsoft's near-monopoly in desktop operating systems. In such a world, there is no longer the same need for desktop computers to have "fat" operating systems such as Windows. In many respects, the Web services model is simply a more developed version of the thin-client, "network computer" model advocated by Oracle and Sun in the mid/late-1990s. As such, the Web services model is a threat to Microsoft's desktop monopoly and Microsoft therefore has an incentive (if it can) to use its existing monopoly to gain control over this possible threat. It has an incentive to ensure that Windows remains at the center of the Web services model and/or to migrate its monopoly from the desktop to Web services.

B. MICROSOFT IS ATTEMPTING TO PROTECT ITS EXISTING MARKET POWER BY USING ITS ILLEGALLY MAINTAINED MONOPOLY IN PC OPERATING SYSTEMS TO GAIN ADVANTAGES IN SERVERS AND WEB SERVICES

60. Microsoft's illegally maintained monopoly in the market for PC operating systems provides it with important advantages in server operating systems, in particular operating systems for workgroup servers. Workgroup servers are the servers in a "client-server" network that interoperate directly with desktop clients. Workgroup

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[10] S. Ballmer speech, Credit Suisse First Boston Technology Conference (Nov. 29, 2001) (http://www.microsoft.com/msft/speech/BallmerCSFB112901.htm).

servers provide services such as authentication and authorization, directory, and file and print. Very importantly, they are also the point of contact or gateway between an organization's network of servers and the Interact. Workgroup servers are distinct from enterprise servers, which are more powerful, reliable and expensive servers that handle databases and other "mission critical" applications.

61. Some of Microsoft's advantages in workgroup server operating systems arise because of the distribution advantage provided by its monopoly in PC operating systems. Suppose a vendor of workgroup operating systems develops a new feature (such as a new directory service for keeping track of the users and resources on a network or a new security system for authentication and authorization). In the usual case, the network cannot make use of the new service in a server operating system unless certain new code (supplied by the vendor of the server operating system) is also installed on the clients in the network. In large networks, this can be a costly and time-consuming exercise—unless the network is running Windows on its servers. A network that runs Windows on its servers does not face this kind of problem because Microsoft ensures that the client-side pieces of server-side technologies are built into its Windows desktop operating system. This gives Microsoft a competitive advantage over other vendors of workgroup server operating systems. But it is an advantage that derives from Microsoft's illegally maintained monopoly in PC operating systems. Moreover, there may be significant long-run costs through the adverse effect that Microsoft's distribution advantages (derived from its illegally maintained monopoly in desktop operating systems) may have on incentives to invest in server-side innovation.

62. There are other ways in which Microsoft's past illegal conduct has provided it with advantages today in the market for workgroup server operating systems—advantages that help protect and enhance Microsoft's existing market power. For example, one of the benefits to Microsoft from the defeat of Netscape's browser was the resulting reduction in demand for Netscape application programs for servers. These server-side applications were designed to interoperate with the Netscape browser and certain client-side applications, such as e-mail, written to the Netscape Navigator APIs. Unlike Microsoft's server-side applications (such as Exchange) that run only on Windows, Netscape's server-side applications were implemented on multiple platforms, including Unix and Novell's NetWare. As Netscape's share of the browser market declined following Microsoft's illegal conduct, the demand for Netscape's server applications also declined. Thus a consequence of Microsoft's illegal conduct has been an increase in the demand for Microsoft server-side applications such as Exchange that, as mentioned above, run only on Windows server operating systems. Put differently, Microsoft's past illegal conduct towards Netscape is helping Microsoft establish an applications barrier that will protect and enhance its future position in the market for workgroup server operating systems.

63. Another way in which Microsoft's past illegal conduct affects the market for workgroup operating systems today involves distributed application programs. As I mentioned before, Java is a programming language with features that I understand make it well suited for distributed applications, i.e., applications that call upon resources located on multiple different computers located around a network. As I understand it, for distributed applications to work, they need to conform to a particular set of protocols, and these protocols need to be supported by the operating systems of the computers involved in executing the distributed application. Java had protocols for distributed applications (RMI and CORBA) that were supported by multiple operating systems. Microsoft had an alternative, proprietary set of protocols called DCOM. By interfering with the development of cross-platform Java, Microsoft gave an advantage to its framework for distributed applications (DCOM) and promoted the development of distributed applications written to protocols that run only on Windows operating systems. In addition, since the programs that are written to these Microsoft protocols are targeted for computers using the Windows operating system, such programs also make use of Windows APIs. This means that even if rival operating systems were given the ability to support DCOM, they could not run most of the distributed applications written to this protocol because these applications also make use of Windows APIs. Thus this is another example of how Microsoft's past illegal conduct, this times towards Java, is helping Microsoft establish an applications barrier that will protect and enhance its future position in the market for server operating systems.

64. Microsoft's past illegal conduct has also given it advantages today in Web services. For example, one of the Web services that Microsoft has promoted heavily is Passport, its Internet authentication and authorization service. In a network environment, key issues are verifying the identity of users or computers ("who are you?") and determining the resources to which you are entitled to have access ("what are you authorized to do?"). Passport is an authentication and authorization service targeted, at least initially, at e-commerce. Consumers who subscribe to Microsoft's Passport service will have their name and credit card information on file on servers controlled by Microsoft. E-commerce vendors who participate in Passport will have back office connections with the Microsoft servers so that, when a consumer who subscribes to Passport wants to purchase something, the e-commerce vendor can check with Microsoft's Passport servers to authenticate and authorize the purchase (and debit the consumer's credit card). The theory is that Passport will simplify e-commerce transactions.

65. For Passport to be successful, Microsoft needs to have a large base of consumers who subscribe to the service. A large base of consumers will make firms engaged in e-commerce interested in joining Passport on the vendor side, which in turn will make Passport more attractive to consumers. Thus there are potential network effects which, if they get started, may result in Passport being in the middle of a very large volume of Internet transactions.

66. Microsoft is actively using its illegally maintained monopoly in PC operating systems as a vehicle for enrolling consumers in Passport. Every time a consumer boots up a new copy of Windows, the consumer is asked multiple times whether he or she would like to sign up with Passport. In addition, the consumer is told that he or she will not receive information about product upgrades unless the consumer signs up for Passport. Thus this is an example in which Microsoft is using the distribution advantages that it has by virtue of its illegally maintained monopoly in PC operating systems to gain advantages in Web services. In so doing, Microsoft helps protect its existing monopoly power and/or helps migrate its market power from the desktop to Web services.

C. THE PFJ GIVES INSUFFICIENT ATTENTION TO:FUTURE COMPETITION

67. The implications of these trends are significant. Microsoft's monopoly in desktop operating systems provides it with advantages in adjacent markets that Microsoft is able to use to protect and enhance its illegally maintained monopoly power. By migrating its monopoly from desktop operating systems into server operating systems and Web services, Microsoft can help ensure that its future market power is comparable to (or greater than) the market power it possessed when the desktop was the principal hub of computing activity.

68. Given these links between Microsoft's past illegal conduct and Microsoft's future market power, an appropriate remedy should be focused on limiting Microsoft's ability to use its illegally maintained monopoly to gain advantages in products in other markets that have the potential to become substitutes for the Windows desktop operating system. Disclosure remedies have the potential to be an important step in this direction. For example, if Microsoft were required to fully disclose the interfaces and protocols used by its server and client operating systems, then vendors of non-Microsoft server operating systems could design their products so that they could interoperate smoothly in networks populated by Windows clients and servers. The resulting competition among vendors of server operating systems would help ensure that servers remain a threat to Microsoft's illegally maintained monopoly in desktop operating systems.

69. The PFJ does, not ignore completely issues related to adjacent markets. The PFJ does require disclosure for communication protocols that allow for servers to interoperate with Windows operating systems. This requirement, in contrast with the other provisions of the PFJ, appears to focus more on the server operating system market than competition in middleware. I understand, however, that the disclosure requirements proposed in the PFJ are exceedingly narrow and ultimately inadequate to allow full and equal interoperability for competitive server operating systems or Web services architectures.

70. In designing disclosure remedies (or any other remedy), it is important to remember that one is try to cure the consequences of past illegal conduct. As a result, there is no reason to be troubled by remedies that impose obligations that one would be reluctant to impose on other firms. Against this background, it seems reasonable to consider a remedy that requires disclosure sufficient to allow competitive products to interoperate with Microsoft software on an equal basis as Microsoft's own products. It is not clear that even this would be enough to offset the advantages that Microsoft has gained for itself in adjacent markets through past illegal conduct and which serve to protect and enhance its existing market power. But it scans like a reasonable step.

VI. SUMMARY OF CONCLUSIONS

71. As the DC Circuit found, Microsoft violated Sec. 2 of the Sherman Act in impermissibly maintaining its monopoly through actions designed to eliminate the threat to that monopoly posed in the mid 1990s by competition from Netscape Navigator and Java middleware. Given that finding, the remedies in this case should eliminate the benefits to Microsoft of its illegal conduct; should restore, if possible, the possibility of competition in operating systems; and should not allow Microsoft to protect its illegally maintained monopoly from current and future competition in related markets, such as server operating systems and Web services. In my opinion, the PFJ fails to accomplish these objectives.

72. The PFJ focuses on the desktop and on re-creating the possibility for middleware competition by giving OEMs freedom with regard to icon display and more limited freedom in installing and using non-Microsoft middleware. In doing so, it ignores the reality that Microsoft's market position in browsers and other middleware is substantially stronger today than it was in 1995. I know of no competing middleware today—and none is suggested in the Competitive Impact Statement—that begins to enjoy the time-to-market and market presence advantages held by Netscape Navigator and Java in the mid-1990s. The PFJ does nothing to address the powerful distributional advantage that Microsoft alone has and which ensures that its middleware will be ubiquitous. That ubiquity operates as an unchecked barrier to entry and reduces the incentive for others to create innovative, competitive middleware. I therefore see no reason to think that the PFJ will succeed in spurring a new middleware threat to the Microsoft operating system or in denying Microsoft the fruits of its illegally maintained monopoly.

73. The PFJ ignores remedies that could have a more significant effect in middleware markets, in particular, remedies that require Internet Explorer to be open source and that require Microsoft to distribute the most current version of the Java runtime environment with IE and Windows. Although these remedies are unlikely to fully restore the competitive threat posed by middleware before Microsoft's illegal activities took place, these remedies would likely have a greater impact than those set forth in the PFJ.

74. More fundamentally, the PFJ does nothing to address the applications barrier to entry that defines Microsoft's monopoly in PC operating systems. Microsoft also controls the most economically important set of applications for Windows through its control over Microsoft Office. As the DC Circuit found, Microsoft used that control to protect its operating system monopoly through threats against Apple. It is clear that Microsoft's ability to make such threats would be diminished if Microsoft has an obligation to license the rights to port Office to competing operating systems. Indeed, porting Office to other operating systems is a remedy that could have a significant impact on the applications barrier to entry.

75. In addition, the PFJ should focus on the current and future threats to Microsoft's market power and ensure that Microsoft cannot use its illegally maintained monopoly to stifle such threats. This ease makes clear that those threats are likely to come from products that are complements to Windows in the short run and potential competitors in the long run. That was precisely the position of Netscape Navigator and Java in 1995; today, based on Microsoft's?? public statements, that may be the position of server operating systems and Web services. Both of these represent a move away from a computing structure organized around desktop computers using "fat" operating systems such as Windows. Server operating systems and Web services represent an evolution of the thin-client model of computing, and as such, represent a threat to Microsoft's desktop monopoly. Microsoft is currently attempting to defeat this threat by using its illegally maintained monopoly in PC operating systems as a vehicle for expanding its market share in servers and attaching consumers to its Web services infrastructure. The PFJ is missing forward-looking remedies that address such efforts by Microsoft to protect and enhance its existing market power by using its illegally maintained monopoly in PC operating systems to defeat competitive threats in adjacent markets. This is a significant hole in the PFJ that bears on the future of competition in the computing industry.

I hereby affirm under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Executed this 25th day of January, 2002 in Palo Alto, California.

Kenneth J. Arrow

Attachment B

PRIVILEGED AND CONFIDENTIAL

In re: United States v. Microsoft Corp., Civ. Action No. 98–1232; New York v. Microsoft Corp., Civ. Action No. 98–1233

Mediator's Draft No. 18 of Settlement Stipulation and Proposed Consent Decree Stipulation

The parties, by their respective attorneys, agree as follows:

1. The court has jurisdiction over the subject matter of this action and over all the parties to it.

2. The final judgment attached hereto (sometimes referred to as the "decree") may be entered by the court upon motion of any party or upon the court's own motion at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16.

3. The parties shall comply with the terms of the attached final judgment no later than 30 days after the date of the execution of this stipulation, with the exception of § 3.9 and 4.1, with respect to which compliance shall be due no later than 60 days after the date of the execution of this stipulation, and § 4.2, which specifies the time for compliance with that section.

4. The plaintiffs agree not to oppose a motion by Microsoft to vacate the findings of fact that the court issued on November 5, 1999, and to declare that those findings, and the judgment when entered, shall have no preclusive effect, either under principles of collateral estoppel (issue preclusion) or section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), in any proceeding, the court having rendered no conclusions of law or determination of liability and Microsoft Corporation having not acknowledged liability and having represented that it has agreed to the entry of this judgment solely for business reasons, to avoid the expense and uncertainties of continued litigation. Microsoft's consent to the entry of this judgment is conditional upon the grant of this motion.

5. If the court does not enter the decree as the final judgment in this proceeding, all the parties are relieved from all obligations under the decree and this stipulation.

6. This stipulation will not be effective until all the parties to the litigation have signified in writing that they agree to it. It will become effective on the day on which the last party communicates its acceptance to the other parties.

7. This stipulation and the attached decree are the complete and integrated expression of the parties" settlement agreement.

For the United States

For the other plaintiffs

For Microsoft Corporation Dated:——

——————, 2000 4/5/00

Final Judgment

It is ordered, adjudged, and decreed, as follows:

§ 1. Jurisdiction:

This court has jurisdiction of the subject matter of this action and of Microsoft. Microsoft has violated sections 1 and 2 of the Sherman Act, 15 U.S.C. § 1, 2, and related state laws of the States of New York, California, Connecticut, Florida, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, New Mexico, North Carolina, Ohio, Utah, West Virginia, and Wisconsin, and the District of Columbia.

§ 2. Definitions:

(1) "operating system": the software that controls the operation of a computer. An "operating system product" is any operating system or part or feature thereof that is distributed commercially whether or not it is marketed for a positive price. A "personal computer operating system" is an operating system intended to be used with personal computers, whether or not such operating system is also intended to be used with other computers.

(2) "Windows operating system." Software code (including source code and binary) of

Windows 98, Windows 2000 Professional, and their successors, including the Windows operating systems codenamed "Millennium," "Whistler," and "Blackcomb."

(3) "middleware": software that operates between two or more types of software (such as an application, an operating system, a server operating system, or a database management system) and could, if ported to multiple operating systems, enable software products written for that middleware to be run on multiple operating systems. Software does not cease to be middleware, if otherwise within the definition in this subsection, merely because it interacts directly with the operating system or other software. Examples of middleware within the meaning of the decree include Internet Explorer, the Outlook Express e-marl client, Windows Media Player, and the Java Virtual Machine. Examples of software that are not middleware within the meaning of the decree are disk compression and memory management.

(4) "platform software": either an operation system or middleware, as these terms are defined above.

(5) "default Middleware": software configured to launch automatically (that is, by "default") to provide particular functionality-when-other middleware has not been selected for this purpose. For example; a default browser is middleware configured to launch automatically to display Web pages transmitted over the Interact or an intranet that hear the .htm extension, when other software has not been selected for this purpose.

(6) "personal computer": a computer that is designed to he used by one person at a time that uses a video display and keyboard (whether or not the video display and keyboard are actually included), and that contains an Intel x86 or competitive microprocessor, and computers that are commercial substitutes for such computers.

(7) "original equipment manufacturer (OEM)": the manufacturer or assembler of a personal computer.

(8) "independent software vendor (ISV)": any entity other than Microsoft (or any subsidiary, division, or other operating unit of any such other entity) that is engaged in the development and licensing (or other marketing) of software products intended to intemperate with Microsoft platform software.

(9) "application programming interfaces (APIs)": the interfaces and protocols that enable an application, middleware, or server operating system to efficiently and effectively obtain services from (or provide services in response to requests from) platform software in a personal computer and to use, benefit from, and rely on the resources, facilities, and capabilities of such platform software.

(10) "communications interfaces": the interfaces and protocols that enable applications, middleware, or operating systems installed on other computers (including servers) to interoperate satisfactorily with the Windows platform software on a personal computer.

(11) "technical information": all information, regarding the identification and means of using APIs (or communications interfaces), that competent software developers require to make their products running on a personal computer, server, or other device interoperate satisfactorily with Windows platform software running on a personal computer. Technical information includes reference implementations, communications protocols, file formats, data formats, data structure definitions and layouts, error codes, memory allocation and deallocation conversions, threading and synchronization conventions, algorithms for data translation or reformatting (including compression/decompression algorithms and encryption/decryption algorithms), registry settings, and field contents.

(12)

(a) "intellectual property rights": copyrights, patents, trademarks, and trade secrets;

(b) "to infringe intellectual property rights": to commit a legal violation of such a right.

(13) "end-user access": the invocation of middleware by an end user of a personal computer or the ability of such an end-user to invoke middleware. "End-user access" includes invocation of middleware by end-users which is compelled by the design of the operating system.

(14) "Market Development Agreement (MDA)": the class of agreements with OEMs that provides discounts from Windows operating system royalties.

§ 3. Prohibitions:

Microsoft Corporation is enjoined from:(1) agreeing or offering to provide any consideration or advantage to any person in exchange for, or conditioned on, such person's agreement or willingness not to develop, promote or distribute (or to limit the development, promotion or distribution) of any operating system product or middleware competitive with any Windows operating system product or middleware.

(2) offering or conditioning a Windows operating system license to any OEM, or the terms of administration of a license, or any change in Microsoft's commercial relations with an OEM, or offering or threatening to do any of these things, related to whether (or to the extent) the OEM

(a) makes or promotes (or declines to make promote, distribute, or license) a non-Microsoft operating system product or middleware;

(b) makes, promotes, distributes, or licenses a modified version of the Windows operating system; or

(c) exercises any of the options provided under this decree;

(3) limiting an OEM's

(a) interrupting the Windows initial boot sequence by a registration sequence used to obtain subscription or other information from the user;,

(b) displaying icons of a competing platform software product on the Windows desktop, or the size, shape, or convenience of such icons;

(c) displaying a middleware user interface, provided that an icon is also displayed that allows the user to access the Windows desktop and that the OEM makes clear that the interface is not Microsoft's; or

(d) offering its own sign-up sequence, which may include an option to make a non-Microsoft middleware product (for example, non-Microsoft Web-browsing functionality) the default middleware product and to remove the icon for Microsoft's middleware product from the Windows desktop;

(4) conditioning the licensing of a Windows operating system, or the terms or administration of any such license (including the nature and extent of support provided), on the OEM's

(a) also licensing, shipping, or promoting (or declining to license, ship, promote; or limiting its licensing, shipment, or promotion of) (i) a Microsoft middleware product (ii) any other Microsoft software product that Microsoft distributes, in whole or in part, separately from the Windows -operating system(whether or not for a separate or positive price) (iii) the unmodified version of such an operating system if the OEM offers a modified version of the Windows operating system pursuant to this decree, or

(b) making middleware supplied by Microsoft the default middleware in computers sold or distributed by the OEM;

(c) whether the OEM limits end-user access to the middleware that is distributed with the operating system,

(5) Entering into any agreement with an OEM in which the operating system royalties are payable to Microsoft by the OEM are set otherwise than by reference to a uniform royalty schedule to be established by Microsoft: in its sole discretion, except that the schedule may specify different royalties for different language versions

(6) agreeing or offering

(a) to provide any consideration or advantage to any person in exchange for, or conditioned on such person's agreement or willingness to degrade or limit the quality of any non-Microsoft platform software, or not to may the supplier of any non-Microsoft platform software, or

(b) to include or promote any product of any person on the Windows desktop, in a folder on the Windows desktop, in the Active Desktop, or in the Windows initial boot sequence, related to the distribution, use, or promotion of Microsoft platform software, or to the limitation of the distribution, use, or promotion of non-Microsoft platform software;

(7) conditioning any bona fide ISV's access to technical information, or developer support to assist in its use, to assist in the creation of Windows-based applications (or the terms on which such information or support is provided), upon such ISV's

(a) use, distribution, promotion, or support of any Microsoft middleware

(b) declining to use, distribute, promote, or support any non-Microsoft middleware

(8) failing to disclose (at the time such APIs, technical information, or communications interfaces are disclosed to Microsoft's own software developers) for use in interoperating with Windows operating systems and middleware distributed with such operating systems, the APIs, technical information and communications interfaces that Microsoft employs to enable

(a) Windows platform software to interoperate with Microsoft applications installed on the same personal computer, or

(b) Windows operating system software and middleware distributed with such operating system to interoperate with Microsoft middleware installed on the same personal computer if the middleware is (i) Internet Explorer, the Outlook Express e-mail client, Windows Media Player, or the Java Virtual Machine, or their successors, or (ii) distributed separately from the operating system for installation on any Windows operating system; or

(c) a Windows operating system and middleware distributed with such operating system installed on one personal computer to interoperate with any of the following software installed on a different personal computer or on a server—(i) Microsoft applications, (ii) Microsoft middleware, or (iii) Microsoft client or server operating systems,

(9) tying or combining any middleware product to or with a Windows operating system unless Microsoft offers a version of that operating system without such middleware product at a reduced price that reasonably reflects the relative costs of the operating system and the excluded middleware

(10) limiting an OEM's right or ability to add non-Microsoft middleware to a Windows operating system

§ 4. Affirmative Provisions:

(1) Microsoft shall license the source code for Windows operating systems on the following terms:

(a) Microsoft-shall grant each of its 50 highest-volume OEM customers, at the OEM's option, a perpetual, nonexclusive license to the source code of Windows operating systems for the sole purpose of using that source code to modify those operating systems for purposes of (i) preventing end-user access to any middleware included in the operating system, (ii) facilitating, improving, or otherwise optimizing the interoperation of any non-Microsoft middleware with, and fixing the bugs in, the operating system, and (iii) installing any end-user interface; provided that OEMs shall have no right to make modifications to a Windows operating system that render inoperable any of the APIs exposed to ISVs by that operating system unless doing so is reasonably necessary to accomplishing purposes (i), (ii), or (iii) above and the end-user to whom such operating system is licensed is given the means readily to install all software necessary to endure that such APIs are rendered operable. The source code licenses granted by Microsoft under this subsection shall not entitle OEMs to use such source code for any purpose other than creating modified versions of Windows operating systems for the purposes stated in this section and working with ISVs to facilitate the interoperation of such ISV's products with Windows operating systems.

(b) The terms of source code licenses granted by Microsoft under this subsection shall be standardized and not be subject to negotiation with individual OEMs. Microsoft shall not charge OEMs a royalty or fee for access to the source code of Windows operating systems.

(c) Microsoft's royalty for any modified version of a Windows operating system installed on an end-user's personal computer shall be calculated as follows: (i) if the royalty charged that OEM for the unmodified version is no higher than the royalty charged for the predecessor operating system, the royalty charged the OEM for the modified version shall not exceed the royalty charged that OEM for the predecessor operating system; (ii) if the royalty charged that OEM for the unmodified version exceeds the royalty charged that OEM for the predecessor system, the royalty charged that OEM for the modified version shall be the royalty charged that OEM for the unmodified version discounted by the percentage difference that is allocable in accordance with accepted accounting principles to the middleware that is (i) excluded or (ii) made not end-user accessible by the OEM. The allocation shall be based on the development costs of the unmodified version of the operating system, as determined by the agreement of the parties or, in the absence of the agreement, by an arbitrator selected in accordance with the rules of the American Arbitration Association.

(d) OEMs shall have the right to license any modified version of a Windows operating system that they create pursuant to this § 4(1) to end-users, and to value-added resellers, systems integrators, retailers, ISVs, and other OEMs for licensing to end-users, for installation and use on personal computers, provided only that such non-end-user licensees agree, either in a sublicense With-the OEM or in a license with Microsoft, to be bound by the terms set forth in-the OEM's license (other than those terms providing for access to and modification of source code) with Microsoft pursuant to this section.

(e) Microsoft may require that modified versions of Windows operating systems created by a particular OEM be installed only in the form in which the unmodified versions of that operating system are installed, but must permit the OEM to distribute any non-Microsoft software in any form. Microsoft may also require that OEMs, and any licensees pursuant to § 4(1)(d) above, provide their customers with end-user licenses for such modified versions of Windows operating systems in a form prescribed by Microsoft .that is consistent with this decree. Microsoft is not required-to grant OEMs any right to disclose source code for the original or any modified version of a Windows operating system except as provided in the preceding sentence and in subsection 4(h) below.

(f) Microsoft may require that an OEM that develops a modified version of a Windows operating system that boots up automatically into a non-Microsoft user interface to include an icon on the primary screen of that user interface that enables the end-user to return to the Windows desktop as designed by Microsoft.

(g) Microsoft shall make all source code for Windows operating systems available to OEMs that enter into source code licenses pursuant to this section beginning with the first alpha, beta, or other release of the operating system outside of Microsoft and shall supply complete updates to that source code at the time of all later releases and release candidates. Microsoft may require OEMs to base their modified versions of Windows operating systems on the commercially released versions of those operating systems and not on a beta release or a release candidate, provided that Microsoft supplies OEMs with the final code for such systems at least 180 days prior to the earlier of their scheduled release date or their release. Microsoft may prohibit OEMs from releasing any modified version of a Windows operating system prior to the earlier release of Microsoft's release of that operating system or 60 days after the scheduled release date.

(h) To facilitate creation of modified versions of Windows operating systems by OEMs, Microsoft shall provide OEMs with its internal build tools, source code archives, bug-tracking databases, custom compilers, test suites, and other development tools ordinarily used by software developers in modifying and testing modified source code for operating systems (subject to normal and customary restrictions on disclosure of such proprietary technology), as well as reasonable access to knowledgeable Microsoft support engineers familiar with the source code, whose time may be billed by Microsoft to OEMs at customary rates. Subject to customary and reasonable intellectual property rights (including customary and reasonable nondisclosure agreements executed by ISVs and their personnel exposed to Microsoft's source code), Microsoft must permit an OEM to work with one or more ISVs or other software developers (which may participate in modifying the source code) to facilitate the OEM's development of a modified version of a Windows operating system pursuant to § 4(1) of this decree.

(i) OEMs shall have the right to use the word "Windows" to designate any modified version of a Windows operating system created pursuant to this section and to state, when true, that the modified version runs applications that run on Microsoft Windows, provided that the OEM states clearly that such modified version has been modified by the OEM, and does not imply that Microsoft endorses the modifications.

(j) Microsoft shall have no obligation to provide product support to an OEM's customers for those aspects of a modified version of a Windows operating system created by the OEM that are due to the modification.

(2) Microsoft shall, when it makes a major Windows operating system release (such as Windows95,Windows 98, Windows 2000 Professional, Windows "Millennium," "Whistler," "Blackcomb," and successors to these), continue to license the previous Windows operating system at the existing royalty rate for three years to any OEM that desires such a license. During that period, Microsoft shall make the previous Windows operating system's code available to its 50 highest-volume OEM customers at customary and reasonable terms, together with reasonable personnel support (for which Microsoft may require compensation from the OEM at customary rates), for the purpose of enabling those OEMs to adapt the operating system to the latest hardware advances and to fix bugs. The OEM shall be free to market computers in which it preinstalls such an operating system in the same manner in which it markets computers

preinstalled with other Windows operating systems, provided, however, that Microsoft shall be entitled to require OEMs to inform their customers that such computers contain a modified version of a Windows operating system.

(3) In all future MDAs, Microsoft shall offer the same MDA terms to all OEMs whose shipments of Microsoft operating systems fall within a specified range (e.g., the 10 largest OEMs, as measured by total annual volume of modified and unmodified versions of Microsoft operating systems that they ship, would be entitled to the highest MDA, the next 10 to a lower MDA, and the remaining OEMs to no MDA), subject to variations by geography for OEMs that make more than S0 percent of their sales outside the United States. No class entitled to the same MDA terms in accordance with this subsection shall have fewer than 10 members.

(4) Notwithstanding the foregoing provisions, upon the release of its next Windows operating system, codenamed "Millennium," and upon the next release, version, or service pack update of Windows 2000 Professional after May 30, 2000, Microsoft shall provide the means for OEMs and end users at their option readily to prevent end-user access to the operating system's browsing functionality. § 5. Term:

(1) Microsoft shall comply with the provisions of this decree within 30 days after its submission to the district court for approval.

(2) This decree shall expire at the end of five years from the date of that submission, except that:

(a) The source code licenses granted pursuant to § 4(1) are perpetual, and the right to license modified operating systems created thereunder shall continue for an additional five years; and

(b) If the obligation set forth in § 4(2) to continue to license a predecessor operating system is triggered during the five-year period referred to in the preceding subsection, Microsoft shall continue to comply with that obligation with respect to that predecessor operating system for an additional two years, but § 4(2) shall have no further force or effect after the expiration of the two-year period.

§ 6. Enforcement: In order to minimize the burden on the judicial system of enforcing this decree, the plaintiffs have agreed that exclusive responsibility for enforcing it shall be lodged with the United Department of Justice and with one of the-States that are plaintiffs in this action, as selected by the plaintiff States.

§ 7. Reporting and Compliance:

(1) To determine or secure compliance with this decree, duly authorized representatives of the plaintiffs shall, upon reasonable notice given to Microsoft at its principal office, subject to any lawful privilege, be permitted:

(a) access during normal office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda, source code, and other documents and records in the possession, custody, or control of Microsoft (which may have counsel present) relating to any hinters contained in this decree;

(b) subject to the reasonable convenience of Microsoft and without restraint or interference from it, to interview officers, employees, or agents of Microsoft, who may have counsel present, regarding any matters contained in this decree;

(c) upon written request and on reasonable notice to Microsoft at its principal office, require Microsoft to submit written reports, under oath if requested, with respect to any matters contained in this decree.

(2) No information or documents obtained by the means provided by this decree shall be divulged by any of the plaintiffs except in the course of legal proceedings to which one or more of the plaintiffs is a party, or for the purpose of securing compliance with this decree, or as otherwise required by law. If when information or documents are furnished by it Microsoft identified in writing material to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure and marks each page of such material "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," ten days" notice shall be given to Microsoft prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Microsoft is not a party.

(3) Within thirty days of the date of submission of this decree for approval by the court, Microsoft shall designate an officer of the corporation to be the antitrust compliance officer. That officer shall have primary responsibility within the corporation for achieving and maintaining full compliance with this decree and shall serve as liaison with the plaintiffs with respect to the administration of the decree. The officer may be assisted by other employees of Microsoft and will report directly to Microsoft's chief executive officer.

§ 8. Miscellaneous Provisions:

(1) This decree applies not only to Microsoft but also to each of its officers, directors, agents, employees, successors, and assigns, and to all persons in active concert or participation with any of them who shall have received actual notice of this decree by personal service or otherwise.

(2) The district court shall retain jurisdiction to enforce the decree.

(3) The decree is in the public interest.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA,)) Plaintiff,)) v.) Civil Action No. 98–1232 (CKK)) MICROSOFT CORPORATION,)) Defendant.)) ———————————

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STATE OF NEW YORK, et al.,)) Plaintiffs,)) v.) Civil Action No. 98–1233 (CKK)) MICROSOFT CORPORATION,)) Defendant.)) ————————————————

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DECLARATION OF KENNETH J. ARROW

Kenneth J. Arrow declares under penalty of perjury as follows:

I. INTRODUCTION

1. I am the Joan Kenney Professor of Economics Emeritus and Professor of Operations Research Emeritus at Stanford University. I received the degrees of B.S. in Social Science from The City College in 1940, M.A. in mathematics from Columbia University in 1941, and Ph.D. in economics from Columbia University in 1951. I have taught economics, statistics, and operations research at the University of Chicago, Harvard University, and Stanford University, and I have written more than 200 books and articles in economics and operations research. I am the recipient of numerous awards and degrees, including the Nobel Memorial Prize in Economic Science (1972). A significant part of my writing and research has been in the area of economic theory, including the economics of innovation and its relation to industrial organization. My curriculum vitae is attached.

2. I have been asked by ProComp to comment on various economic issues related to the Revised Proposed Final Judgment ("PFJ" or the "decree") proposed by the United States, various settling States and Microsoft Corporation ("Microsoft").

3. My review of the PFJ begins with the fact that Microsoft has been found liable for violating Section 2 of the Sherman Act by engaging in a widespread series of practices that illegally maintained its monopoly in Intel-compatible PC operating systems. These practices were focused on eliminating the threat posed to Microsoft's PC operating system monopoly by the combination of Netscape Navigator and cross-platform Java technology ("middleware competition").

4. Given that Microsoft has been found liable for illegal monopoly maintenance, the remedies in this case should be designed to eliminate the benefits to Microsoft from its illegal conduct. To the extent possible, the remedies should be designed to restore the possibility of competition in the market where monopoly was illegally maintained (i.e., the market for PC operating systems). In addition, the remedies should strengthen the possibilities for competition and deter the exercise of monopoly power in the present and future, taking account of the special problems of an industry in which network effects are important.

5. It is my opinion that the PFJ fails to accomplish these objectives. First, the PFJ is unduly focused on attempting to re-create an opportunity for future middleware competition. Because of network effects and path dependencies, Microsoft's monopoly power in PC operating systems is more entrenched than it was in the mid-1990s. It will be exceedingly difficult now, even with the best of remedies, to re-establish middleware fully as the kind of competitive threat to Microsoft's monopoly power that it posed in the mid- 1990s. Additional remedial steps need to be taken to ensure that Microsoft does not benefit from its illegal conduct and the consequences of that conduct on dynamic competition in the OS market Second, the PFJ does not address the fact that no effort to restore competition in the market for PC operating systems will be successful without measures designed to lower the applications barrier to entry that currently protects Microsoft's position in this market. Third, the enforcement mechanism described in the PFJ seems likely to be ineffective, even with respect to the inadequate remedies in the PFJ. Fourth, the PFJ pays insufficient attention to the ways in

which Microsoft is currently attempting to protect its monopoly power by using its illegally maintained monopoly in PC operating systems against current and future competitive threats, such as server operating systems and Web services.

6. This affidavit has six parts and is organized as follows. After this introduction (Part I), Part II reviews the threat that Netscape, Java and the Internet posed in the mid-1990s to Microsoft's monopoly power in PC operating systems. Part III then reviews the illegal conduct that Microsoft used in defeating this threat. Part III also analyzes the state of the computer industry today following this illegal conduct and explains why it seems unlikely, at this stage, that the middleware threat can be re-created. With this as background, Parts IV and V review and assess the remedies proposed in the PFJ. Part IV critiques the remedies designed to restore middleware competition. In addition, Part IV discusses the lack of attention in the PFJ to the applications barrier to entry that protects Microsoft's monopoly power in PC operating systems. It also notes certain deficiencies in the enforcement mechanism proposed in the PFJ. Part V follows with a discussion of Microsoft's efforts to protect its existing monopoly power by using its illegally maintained monopoly in PC operating systems to gain advantages in other markets that threaten to reduce the scope of its current market power. Part V explains that the PFJ gives insufficient attention to this important subject—a subject that bears on the future of competition in the computing industry. The affidavit concludes in Part VI with a summary of conclusions.

II. MICROSOFT'S MONOPOLY POWER AND THE THREAT POSED BY NETSCAPE, JAVA AND THE INTERNET

A. NETWORK EXTERNALITIES

7. Network externalities have been central to Microsoft's ability to maintain its monopoly power in the market for PC operating systems. Both the District Court and the U.S. Court of Appeals for the District of Columbia Circuit referred to the "applications barrier to entry," the process by which a large installed base induces the development of applications and other complementary goods designed for the dominant operating system, which further reinforces the position of the dominant operating system. I described this process in a declaration that I submitted in 1995 on behalf of the government in a prior settlement with Microsoft:

> A software product with a large installed base has several advantages relative to a new entrant. Consumers know that such a product is likely to be supported by the vendor with upgrades and service. Users of a product with a large installed base are more likely to find that their products are compatible with other products. They are more likely to be able successfully to exchange work products with their peers, because a large installed base makes it more likely that their peers will use the same product or compatible products. Installed base is particularly important to the economic success of an operating system software product. The value of the operating system is in its capability to run application software. The larger the installed base of a particular operating system, the more likely it is that independent software vendors will write programs that run on that operating system, and, in this circular fashion, the more valuable the operating system will be to consumers.

8. The applications barrier to entry implies that it is likely that a single platform (or programming environment) will dominate broad segments of the computer software industry at any point in time. This does not necessarily imply that there will be monopoly; that depends on the extent to which the dominant platform is proprietary or closed. However, if the dominant platform is proprietary (which is certainly the case with Windows), then the interdependence of applications and operating systems creates a barrier against any new entrant. A new entrant would need to create both an operating system and the applications that make it useful.

9. In addition, any customer of a new entrant would have to incur considerable costs in switching to a new system. In the first place, the customer would have to learn new operating procedures. Second, there would be a problem of compatibility of files. These factors constitute a natural obstacle to change, so that a system with a large installed base will have a tendency to retain its users.

10. The special nature of operating systems and software also gives Microsoft, because of its large installed base of operating system, a great advantage in the markets for complementary software. Specifically, it can distribute the software much more easily than its competitors. Since virtually every new PC ships with Windows, Microsoft can put its software into the hands of users by including it with the operating system. Any other vendor of complementary software that wanted to distribute through OEMs would have to cut a separate deal with each OEM, and would face the task of persuading OEMs to carry software products that may be directly competitive with products offered by Microsoft. As a result, complementary software from other vendors typically either has to be downloaded (which imposes added costs on users) or distributed separately to users in "shrink wrap." In addition, Microsoft has the ability to allow Microsoft developers of complementary software access to "hidden APIs" -application programming interfaces in the PC operating system that Microsoft developers know about but which are not disclosed fully to competing developers of complementary software.

B. THE MIDDLEWARE THREAT: NETSCAPE AND JAVA

11. A threat to Microsoft's monopoly in PC operating systems arose in the mid-1990s with the nearly simultaneous emergence of the Internet browser developed by Netscape and the Java programming environment. These are both examples of middleware—application software designed to run on multiple operating systems and which has its own set of APIs. Middleware that provides extensive functionality through a broad set of APIs has the potential to become an alternative platform for application development If many applications valued by PC users were written to middleware APIs, and if the middleware were ported to other operating systems (existing or to be created), then the applications barrier to entry in the market for PC operating systems would be weakened.

12. Netscape Navigator was a browser that also had the potential to become a platform for application programs. Netscape's browser had its own set of APIs to which developers could write application programs.

13. The initial success of Netscape Navigator was dramatic. Netscape shipped first browser in September 1994.[1] In July 1995, less than a year later, its share of the browser market was 74%. [2] By mid-1996, Netscape's share had reached 85%. [3]

14. The threat that Netscape posed to Microsoft's monopoly power in PC operating systems was made even greater by the nearly simultaneous development of Java. The Java technology has several pieces. R is a programming language that I understand has features well suited for writing "distributed applications"—applications that run on networks, calling upon resources located on different computers in the network. Java technology also includes the Java Virtual Machine ("JVM") and Java Class Libraries. The JVM and Java Class Libraries are forms of middleware. They are software programs that have been implemented on Windows and many other operating systems. A JVM is software that converts Java code into instructions that can be processed by the operating system on which the JVM sits. The Java Class Libraries are software that performs specific functions that developers can call upon, and build into, their Java application programs. The JVM and Java Class Libraries are sometimes referred to collectively as the "Java runtime environment." The Java technology has been licensed in a way designed to encourage its implementation on a variety of different operating systems. The Java ideal was captured in the phrase, "write once, run anywhere."

15. Java added to the threat posed by Netscape because it extended the set of middleware APIs to which developers could write application programs. It increased the chances that developers could write sophisticated PC application programs written to middleware APIs instead of Windows APIs. Netscape also complemented Java by serving as a distribution mechanism. The Java technology could not succeed without widespread distribution of the Java runtime environment. Because Netscape supported Java and included the Java runtime environment with every copy of its browser, growth in the share of PCs that used the Netscape browser also meant growth in the share of PCs with a Java runtime environment that supported Java's "write once, run anywhere" ideal.

16. The economic relationship between middleware and the OS is unusual among the commodities that economic theory usually deals with. Middleware is a complement to

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[1] "A Software Giant's March Onto the Internet," New York Times (Jan. 12, 1998) at CA.

[2] "Browser Usage: How It's Trending," Interactive Age (Jul. 31, 1995) (citing figures compiled by Interse Market Focus).

[3] "Microsoft v Netscape: Freer than Free," The Economist (Aug. 17, 1996, U.S. Edition).

any OS in the short run, but it facilitates substitution among operating systems in the long run. Middleware is a complement in the short run because it adds functionality to the existing OS, but it is in a sense a substitute in the long run, because applications can be written to it rather than to the OS. Middleware therefore permits substitution among operating systems, since the applications are not specific to any one OS. Therefore, an OS monopolist will have an incentive to control middleware in order to maintain its OS monopoly. The short-run complementarity becomes an instrument by which this incentive can be realized. The middleware has to be ported to the OS, and the OS producer's control of the needed APIs can be used to restrict the spread and use of the middleware.

17. Middleware is naturally thought of as a disruptive technology, and the emergence of middleware in 1995 created what is frequently referred to as an "inflection point." Put simply, this means that the then well-defined organization of the software market for personal computers might be altered substantially, or at least such a risk existed. As that organization was centered on the Microsoft Windows operating system and its productivity application suite Microsoft Office, Microsoft had the most at risk from any disrupting change that resulted from middleware.

18. Technological disruptions such as the middleware threat of the mid- 1990s do not occur frequently. They only arise when there is an important innovation that allows technology to evolve and create new products or functionality that has widespread appeal. At times of technological disruption, the forces of dynamic competition can play an especially important role. The Netscape browser and the cross-platform Java technology separately and in combination had the potential to develop into an alternative platform for application programs that could run on any operating system and which could transform PC operating systems into a commodity business. Bill Gates, in his memorandum of May 26, 1995 on the "Internet Tidal Wave," described just this sort of dynamic competitive threat when he realized that, if successful, Netscape could "commoditize" the operating system.

19. There is no easy method by which an economist can determine exactly how significant a threat Java and Netscape actually represented to Microsoft's operating system monopoly. A precise determination of whether Netscape and Java could have succeeded in eroding Microsoft's monopoly power absent Microsoft's illegal conduct would require a counterfactual analysis that addressed a variety of complex interrelations. However, even without this kind of analysis, we have evidence that a reasonably expert onlooker felt the threat was serious, namely, the statements and behavior of Microsoft. Bill Gates, in his memorandum on the "Internet Tidal Wave," explained:

> A new competitor "born" on the Internet is Netscape. Their browser is dominant, with 70% usage share, allowing them to determine which network extensions will catch on. They are pursuing a multi-platform strategy where they move the key API into the client to commoditize the underlying operating system .... One scary possibility being discussed by Internet fans is whether they should get together and create something far less expensive than a PC which is powerful enough for Web browsing.

20. In the same memorandum, Gates made clear that he understood how Microsoft should leverage its Windows advantage to bolster its Internet position:

> We need to move all of our Internet value added from the Plus pack into Windows 95 as soon as we possibly can with a major goal to get OEMs shipping our browser preinstalled. This follows directly from the plan to integrate the MSN and Internet clients. Another place for integration is to eliminate today's Help and replace it with the format our browser accepts including exploiting our unique extensions so there is another reason to use our browser.

21. To summarize, in an industry marked by network externalities, there is a strong tendency to monopoly (at least when the dominant platform is proprietary or closed). The consumer welfare and efficiency losses associated with monopoly are well known, but the one most relevant here is the decreased incentive to technological innovation. It is all the more important to encourage what may be called dynamic competition, the entry of new firms and new products. At certain periods, whether due to technological innovation or to a transient situation in which the tendency to monopoly has not yet worked to its completion, the market will be confronted with alternative lines of development; Netscape Navigator and Java as against Microsoft products in 1995, client-server networks and web services today. At these periods, there may be opportunities for a new platform to compete with and possibly take over from the existing one. In view of the strong tendency to monopoly in this industry (because of network externalities), it is all the more important to keep the competition as viable as possible when the opportunity presents itself. In particular, illegal anticompetitive steps by existing monopolists should be prevented to the maximum extent possible. Such a policy prevents the stagnation of existing monopolists and encourages the expansion of the number of alternatives among which the buyers can choose.

III. MICROSOFT DEFEATED THE THREAT POSED BY NETSCAPE AND JAVA

A. MICROSOFT'S ILLEGAL PRACTICES

22. Microsoft made a concerted effort to eliminate the threat from middleware competition. Microsoft was found to have engaged in illegal conduct exactly at the moment that dynamic competition might have flourished. As the DC Circuit concluded, Microsoft took illegal steps to exclude the middleware threat, and in particular, took anticompetitive actions directed against Netscape Navigator and Java. In particular, the DC Circuit judged illegal significant elements of Microsoft's strategy:

a) By barring original equipment manufacturers ("OEMs") from removing access to Microsoft's Internet Explorer ("IE") browser from the Windows desktop, Microsoft prevented many OEMs from installing Navigator or other browsers, and that in turn protected Microsoft's OS monopoly by reducing potential middleware competition. This violated Sec. 2 of the Sherman Act.

b) By preventing OEMs from altering the initial boot sequence for Windows, Microsoft prevented OEMs from promoting Internet access providers, many of whom were using and distributing Navigator to their customers. Again, this reduced competition with IE and protected Microsoft's OS market power in violation of Sec. 2.

c) Through commingling software code for Windows with that of Internet Explorer, Microsoft deterred OEMs from installing Navigator. That, in turn, reduced Navigator's usage share, and thereby protected the applications barrier to entry by reducing developer's interest in the APIs exposed by Navigator. Microsoft also removed Internet Explorer from its Add/Remove utility, further entrenching Internet Explorer and further discouraging OEMs from distributing Navigator. The DC Circuit found these actions to be anticompetitive and to support a finding of liability for exclusionary conduct and therefore monopolization under Section 2.

d) By entering into contracts with Internet access providers that foreclosed Navigator's access to an economically significant share of the Internet access provider ("IAP") market, Microsoft engaged in exclusionary conduct in protection of its OS monopoly, again in violation of Sec. 2.

e) By entering into contracts with independent software vendors that required those independent software vendors ("ISVs") to use Internet Explorer if the ISV need web display, Microsoft further foreclosed distribution of Navigator, again in protection of its OS monopoly, in violation of Sec. 2.

f) By entering into an exclusive distribution contract with Apple for Internet Explorer after Microsoft had threatened to cancel the Macintosh version of Office, Microsoft engaged in exclusionary conduct in protection of its OS monopoly in violation of Sec. 2.

g) Through a number of exclusionary actions directed at Java, Microsoft limited Java's viability as a cross-platform threat and did so in violation of Sec. 2. Those actions included: limiting distribution of "write once, run anywhere" JVMs directly through exclusionary contracts with ISVs and indirectly through Microsoft's actions against Netscape; deceiving developers who wanted to develop pure Java code into writing code with Windows-specific extensions that would make the code Windows dependent; and threatening Intel and inducing it to stop developing Intel multimedia software for Java.

B. THE STATE OF THE MARKET TODAY

23. As of 1995, Microsoft's share was of the installed base of PC operating systems was 87%,[4] while its share of the Internet browser market was less than 5%.[5] Today, those figures stand at 92% for PC operating

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[4] Dataquest, "All Platform Operating Systems Sales History and Forecast Summary," Table 12 (Mar. 1997).

[5] "Microsoft v Netscape: Freer than Free," The Economist (Aug. 17, 1996, U.S. Edition).

systems[6] and 91% for browsers.[7] Thus Microsoft's position in PC operating systems remains strong, while its share in Interact browsers has risen dramatically.

24. Microsoft's illegal practices were successful in helping to minimize the threat that middleware posed for the creation of a programming environment outside of Microsoft's control. I am aware of no middleware today that poses a risk to Microsoft comparable to that posed by Navigator and Java in 1995. Nor does the government's Competitive Impact Statement suggest that such a threat exists today or is likely to emerge over the five-year duration of the PFJ.

C. MICROSOFT'S MIDDLEWARE ADVANTAGES

25. Microsoft today has substantial advantages in middleware that make it unlikely the market itself will generate new entrants into middleware capable of re-creating the competitive risk faced by Microsoft in 1995. As noted earlier, through its control over Windows, Microsoft has had and under the PFJ will continue to have—an enormous advantage in the distribution of software that is complementary to Windows. Since every new PC ships with Windows, Microsoft has a very easy way to get software into the hands of users: it can include it with the operating system. Microsoft can simply bundle the middleware with Windows or it can integrate the code into Windows itself.

26. This ensures the ubiquity of Microsoft middleware and operates as a barrier to entry for competing middleware. Any entrant would have to make a substantial investment to achieve comparable widespread distribution. A firm considering entry should understand that its inability to guarantee a universally exposed set of APIs means that, all other things equal, developers would prefer to write to the APIs exposed by Microsoft middleware. The ubiquity of Microsoft middleware and its ability to integrate middleware into Windows—which the PFJ does not constrain—therefore operate as economic disincentives for the development of competing middleware by potential entrants.

27. Microsoft also has complete freedom in how it prices its middleware. In bundling middleware with Windows, Microsoft need not charge an incremental price for the middleware. It can simply fold into the price of Windows whatever price it would charge for the middleware were it distributed separately. This would not be an option available for a potential entrant who will expect that it would need to establish a separate, discrete positive price for any middleware that it might create. The ability of Microsoft to set an apparent price of zero for its middleware operates as a barrier to entry in middleware.

28. Even if competing middleware were created, the ubiquity of Microsoft middleware would operate as a direct barrier of the distribution of that middleware. As the DC Circuit affirmed, OEMs are reluctant to install two products that perform the same function, as this raises support costs. Twice as many products will be supported for the same function, plus consumers may be confused by the presence of both products.

29. Moreover, Microsoft's ability to "embrace and extend" any middleware created by an entrant also operates as a barrier to entry. Again, it will take a substantial amount of time for an entrant to distribute innovative middleware. During that time, Microsoft will likely be able to imitate that middleware and distribute "updated" versions of Microsoft middleware over the Internet to end users through its Windows Update feature. Given this, entry into middleware is less likely and this may reduce innovation in and development of middleware.

30. In sum, Microsoft took substantial steps to eliminate the threat posed to it by Netscape and Java. The DC Circuit affirmed that a substantial number of those actions constituted impermissible monopoly maintenance and therefore monopolization in violation of Section 2 of the Sherman Act. Today, Microsoft's illegally maintained monopoly operates as a substantial barrier to new entry into middleware. The monopoly operates as a disincentive for entry and thereby likely reduces innovation in middleware. Given this market structure, it is highly unlikely that market forces alone will lead to the development of innovative middleware that creates the same competitive risk to Microsoft that it faced from Navigator and Java in 1995.

IV. THE RESTRICTIONS ON MICROSOFT'S BEHAVIOR CONTAINED IN PFJ ARE INSUFFICIENT TO RESTORE THE COMPETITIVE THREAT THAT MIDDLEWARE POSED IN 1995

31. No remedy can turn back the clock to 1995 and re-create the competitive threat that existed at that crucial time of technological disruption. Technological disruptions of the magnitude that Bill Gates called "the Interact tidal wave" cannot be created by judicial proceedings. Even so, one of the objectives of the remedies should be to attempt to restore, to whatever extent possible, the possibility of competition in the market where the illegal monopoly was maintained (i.e., the market for PC operating systems). The restrictions on Microsoft's behavior in the PFJ fall well short of this objective.

A. PROBLEMS WITH THE M1DDLEWARE REMEDIES

32. Following its years of illegal conduct, Microsoft's position in the core middleware products (Internet browsers and Java technology) is totally different today than it was in 1995. Microsoft has a dominant share of the browser market, IE has caught up to and surpassed Navigator's technical capabilities, and the prospect of large numbers of desktop applications written in "write once, run anywhere" Java seems remote.

33. There are two features of the industry that made the threat from Netscape and Java so significant First, the technological disruption of the Internet made the functionality of the browser sufficiently important that it could become a platform for large numbers of applications. Second, the head start that Netscape and Java had over Microsoft middleware provided a substantial first-mover advantage, a particularly important element for competitive success in network industries prone to "tipping." Probably the only chance a competitor has to overcome the inherent advantages that Microsoft has in distribution is to create a large installed base of users before Microsoft can develop and launch a competitive product.

34. The market position that Microsoft has today makes it difficult for any set Of conduct remedies to lead to significant middleware competition. Neither the PFJ nor any other set of conduct remedies can re-create the technological disruption or competitive head start that existed before Microsoft acted illegally. However, for the reasons explained below, the middleware remedies in the PFJ seem especially likely to be ineffective.

1. The Reliance in the PFJ on OEMs to Distribute Competing Middleware

35. The PFJ relies heavily on competition in the OEM distribution channel as the key mechanism for overcoming the competitive harm created by Microsoft's actions. The same was true in the government's prior settlement with Microsoft, as I noted in my 1995 declaration: Despite the importance of natural advantages [referring to the installed base discussion above] in the market for IBM-compatible PCs, the complaint and proposed remedies addressed competitive issues that are critical to the success of new competition in this market. The most effective and economic point of entry for sales of IBM-compatible PC operating systems is the OEM distribution channel. New operating system software products should have unimpeded access to this channel. The Government's complaint and proposed settlement provide needed relief to facilitate the entry of new competitors, such as IBM's OS/2.

36. Seven years later, it is clear that little was accomplished in the prior consent decree in relying on the OEM channel to facilitate competition in PC operating systems. Unimpeded access to this channel may indeed be necessary for effective competition. However, it is far from sufficient to create effective competition for middleware given the current state of the industry.

37. One obstacle to competition in middleware, which the PFJ does not address, is the applications barrier that now protects the position of Microsoft middleware. ISVs have a strong incentive to write applications to Microsoft middleware, since Microsoft middleware will be present on every Windows machine that is shipped. The PFJ does not restrict Microsoft's ability to commingle code and include middleware APIs in with its Windows operating system. The PFJ permits OEMs to remove Microsoft middleware icons, but the middleware itself, and its associated API set, will remain. Thus, the ubiquity of Microsoft's middleware will encourage ISVs to write applications to these APIs.

38. The PFJ restricts Microsoft's ability to discriminate against OEMs that also ship

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[6] IDC, "Worldwide Client and Server Operating Environments, Market Forecast and Analysis, 2001–2005" (Aug. 2001).

[7] "AOL Files Suit Against Microsoft For Damages Inflicted on Netscape," Wall Street Journal (Jan. 23, 2002) (citing data compiled by WebSideStory, a market research firm).

competing middleware, but this does not create an incentive for OEMs to ship competing middleware. For the reasons explained by the District Court and the Court of Appeals, OEMs are reluctant to include software that provides similar functionality to other software on the machine—it increases confusion among users and raises support costs.

39. If ISVs do not write applications to the competing middleware, OEMs will not distribute it. If OEMs do not distribute it, ISVs will not write applications to it. The current dominance of Microsoft middleware thus makes it very unlikely that this circle can be broken by the non-discrimination restrictions in the PFJ.

40. The PFJ also seeks to increase the role of OEMs in defining the Windows desktop. This is also insufficient to create significant middleware competition. Even if OEMs had complete control over the icons that would appear on the Windows desktop—and they would not under the PFJ—this would not alter in any way the software that would actually be present on the computer. Removing an icon from the desktop just removes the most obvious point of consumer access to the software, but the ability of ISVs to write to the APIs presented by the software remains unchanged.

41. The PFJ also attempts to prohibit Microsoft from discriminating against OEMs that distribute competing middleware. It does this by requiring Microsoft to provide uniform licensing terms to the 20 largest OEMs and preventing specific retaliation against OEMs that distribute competing middleware. It is not clear to me that these restrictions are sufficient to prevent Microsoft from exercising influence over the behavior of OEMs towards products that compete with Microsoft. First, I understand that the non-discrimination provisions apply only to certain Windows desktop operating systems (Windows XP and Windows 2000 Professional) and not to other Microsoft products that an OEM might purchase. Second, the relationships between Microsoft and OEMs are complex and multi-faceted. For example, Microsoft provides marketing and promotion support to OEMs; its provides technical assistance; its provides allowances for product development Microsoft may provide these services differently to OEMs. Since the PFJ does not prohibit all forms of discrimination across OEMs, Microsoft may have sufficient ability to influence OEM decision-making.

42. The PFJ also contains limited disclosure requirements. The exact scope of these disclosures depends on careful interpretation of the complex language of the PFJ. I do not attempt such an interpretation but comment only on the limited impact of the disclosure remedies under any reasonable interpretation. There is a requirement to disclose interfaces that permit competing middleware to interoperate with Windows operating systems. I understand, however, that Microsoft is only required to make these disclosures if the interface is already in use by a Microsoft middleware product. A disclosure requirement limited in this manner pushes potential middleware competitors in the direction of "me too" products and does little to create incentives for significant innovation in middleware.

2. IE Open Source and Java Must-Carry

43. There are alternative middleware remedies that could have a more significant effect. More aggressive remedies with respect to that middleware threat would be open source Internet Explorer and a requirement for Microsoft to distribute the most current version of the standard Java runtime environment with IE and Windows. Even these remedies are likely to be insufficient to turn back the clock to the level of competition that existed before Microsoft's illegal conduct. But they are likely to have more impact than the remedies in the PFJ.

44. Open source IE is the most effective way to fully expose the links between IE and Windows as well as the IE APIs. This creates the possibility of interoperability between competing products and it furthers the possibility of operating system competition. It also allows anyone who wants to develop a competitive browser to be fully compatible with applications that are written to IE APIs. This way it limits the extension of the applications barrier to entry created by Microsoft's dominance in the browser.

45. The Java must-carry remedy works to erode the application barrier to entry by helping to overcome reluctance of ISVs to develop programs that require Java on the client. It is only by assuring sufficient ubiquity of Java and browser functionality that there is any chance that Microsoft may lose control of the applications barrier through competing middleware.

B. INATTENTION TO THE APPLICATIONS BARRIER TO ENTRY

46. The applications barrier to entry identified by the DC Circuit consists in part of the large number of applications available on the Windows platform. As discussed above, successful entry in middleware of the type commenced by Netscape Navigator and Java could have substantially eroded the applications barrier to entry and facilitated entry into the operating systems market

47. Microsoft controls the most economically important set of applications in its Microsoft Office suite. Office accounts for nearly 30% of Microsoft's annual revenue.[8] Software suites consisting of personal productivity applications such as word processing, spreadsheets, presentation software, electronic mail, and calendar and contact management constitute a distinct and relevant product market. Microsoft's share of that market today is in the mid-90s[9] and Microsoft almost certainly holds substantial market power.

48. As found by the DC Circuit, Microsoft has used its control over Office to maintain its OS monopoly. Microsoft threatened to cancel the Macintosh version of Office if Apple did not distribute Internet Explorer, Microsoft's Internet browser. It is clear that Microsoft's ability to make such threats would be diminished if Microsoft had an obligation to license the rights to port Office to competing OS platforms.

49. Since remedies focused entirely on middleware will not re-create the threat to Microsoft's monopoly power in PC operating systems that existed prior to Microsoft's illegal conduct, additional actions need to be taken to ensure that Microsoft does not benefit from its illegal conduct. These additional actions should be targeted at further reducing the underlying source of Microsoft's market power, namely the applications barrier to entry. Porting Office to other platforms would be a remedy of this type that could have a significant impact on the applications barrier. One factor that limits the demand for Unix workstations, which have computational advantages over Intel-based PCs, is the inability to interoperate with Office. The thin-client model of computing, where most computing occurs on the server, not the client, represents one of the most important threats to Windows desktop computing. The switching costs of adopting new personal productivity software with files not compatible with Office represents a significant barrier to Unix-based thin client networks. A requirement to license the rights to port Office may be one of the most effective ways to create competition for Windows, something which can probably no longer be achieved by remedies exclusively related to middleware.

C. PROBLEMS WITH THE ENFORCEMENT MECHANISM

50. The remedies in the PFJ are too limited in scope to re-create past competitive conditions even if they are enforced perfectly. However, the enforcement mechanisms in the PFJ are far from perfect and will likely lead to delays and costs that further limit the effectiveness of the remedies. The PFJ relies on a technology committee to oversee Microsoft's compliance with the PFJ. The membership in the committee is controlled 50% by the company whose past illegal activities have been the subject of the Circuit Court's decision. The committee lacks both resources and the power to enforce the PFJ. The committee must rely on information provided to it by Microsoft and has little ability to engage in its own investigations. Furthermore, if it uncovers a violation, it must rely on lengthy litigation to enforce it.

51. The implication is that failures by Microsoft to comply may go undetected and if they are detected, it may take a great deal of time and effort to impose a change on Microsoft's behavior. Delays can greatly limit the effectiveness of any particular remedy in a dynamic industry subject to network effects. If enforcement will be ineffective, it may create an incentive for Microsoft to violate the terms of the decree.

52. Other consent decrees have used special masters with sufficient resources and expedited judicial review to enforce their terms. Given the complex, dynamic nature of

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[8] Dresdner Kleinwort Wasserstein, "Microsoft Corporation," Figure 4 (1 Aug. 2001).

[9] In 1999, Microsoft accounted for 96.1% of the revenues of office suites designed for Windows. Since 98.1% of all sales of office suites in 1999 were for the Windows platform, these figures by themselves imply an industry share of 94%. But Microsoft also accounted for a large share of the revenues of office suites designed for Apple's Macintosh OS—a platform that accounted for nearly all of the non-Windows sales of office suites. IDC Office Suite Market Review and Forecast, 1998–2003 (Aug. 1999).

the software industry, it is especially important that the resources are in place to monitor the terms of the decree and that swift enforcement is possible.

V. APPROPRIATE REMEDIES SHOULD NOT ALLOW MICROSOFT TO PROTECT ITS ILLEGALLY MAINTAINED MONOPOLY AGAINST CURRENT AND FUTURE COMPETITION FROM OTHER MARKETS

53. The PFJ focuses on the PC desktop as the central space in which competition will take place going forward. It does this by creating limited new operating fights for OEMs covering the appearance of the desktop and greater protections for installing middleware that competes with Microsoft. As I have discussed above, given the substantial advantages in middleware that Microsoft has through its illegally maintained monopoly, I think that it is unlikely that these desktop-oriented remedies will spur economically meaningful entry in middleware and that there is therefore little reason to think that those remedies will re-create the competitive risk Microsoft's desktop monopoly faced from middleware entrants in 1995.

54. The PFJ therefore needs to be augmented with remedies that take a forward-looking approach. The PFJ needs to focus on the current and future threats to Microsoft's market power and ensure that Microsoft is not allowed to use its illegally maintained monopoly in PC operating systems to dilute these current and future competitive threats. A PFJ focused on desktop remedies not only will not jump start competition now, but by allowing Microsoft to keep the benefits of its illegal activities, such remedies will fail to deter future illegal anticompetitive actions by Microsoft. Instead, additional remedies should naturally be directed at ensuring competition going forward uninfected by Microsoft's illegally maintained monopoly. In particular, these remedies should seek to re-create the same risks faced by Microsoft in 1995 when the middleware threat arose.

A. FUTURE COMPETITION IN SERVERS AND WEB SERVICES

55. A forward-looking remedy should seek to limit Microsoft's ability to use its illegally maintained monopoly power to bias competition in complementary products that have the potential to develop into substitutes for desktop computers. Server operating systems and Web services are two prime examples. These products intersect at the middle of two related trends. To date, the Internet has been a PC Internet. Most Internet users access the Internet through a PC or workstation. The first trend is a probable shift to the use of many devices to access the Internet, including cell phones, handhelds such as the Palm Pilot and other personal digital assistants, and thin clients. As these devices themselves are not as powerful as a typical PC, they will demand more work from the servers and server operating systems delivering the information. The implication is that, in the future, a significant amount of computing will bypass the desktop—which in turn implies that Microsoft has an incentive (if it can) to extend its monopoly from the desktop into servers.

56. The second trend is a related shift in how software is owned and managed. Prior to the Internet, PC software and content was largely locally owned and locally managed. The software was installed directly on the user's PC, from a floppy disk and then later a CD. The rise of the Internet makes it possible to move the location of software off of the PC and onto a remote device—a server—with much of the work done remotely. This gives rise to the generalized notion of a web service, where software is no longer a thing like a CD but instead a service delivered to a connecting device, much the way electricity is delivered to many devices.

57. On November 29, 2001, Steve Ballmer, Microsoft's CEO, discussed these trends and how Microsoft was approaching them through its .NET initiative:[10]

> About three years ago we changed the vision of our company. Instead of talking about a computer on every desk and in every home we started talking about empowering people through software anytime, any place, any device .... It starts with a view, which came to us quite clearly about five, almost six years ago now that XML [eXtensible Markup Language] would really be the transforming industry phenomenon of the next five years. If it was the PC 20 years ago and graphical user interface 10 or 15 years ago and the Internet five or six years ago, it's XML. And I'm not going to give a long description, but I think the way you should think about it is XML will be the Lingua Franca of computing. It will be the basis on which systems work better with systems, people with people, businesses with businesses, businesses with consumers. It will improve the level of integration and connectivity. It gives us a framework at least for the software community to build the software that allows that ..... NET is our platform to let people take advantage of the XML revolution.

58. Ballmer also discussed the Microsoft business model and how .NET fits within it. He sees Microsoft as targeted on seven business areas, including, unsurprisingly, PC operating systems, PC productivity solutions "anchored" by Office, and server software for building and deploying these applications. All of these are now being organized around .NET: I think you could say we are a company that invests in seven businesses around one platform. That platform is .NET..NET is our platform for the next technology revolution that is going on. And that is the shift to the XML web service model as the fundamental way of building and deploying software..NET is our platform to do that .... That's how we think about the seven business areas in which we are investing. They're all being re-platformed or re-plumbed around .NET and XML web services.

59. A computing world in which Web services, hosted on servers, are delivered on demand over the Internet is a world that has negative implications for Microsoft's near-monopoly in desktop operating systems. In such a world, there is no longer the same need for desktop computers to have "fat" operating systems such as Windows. In many respects, the Web services model is simply a more developed version of the thin-client, "network computer" model advocated by Oracle and Sun in the mid/late-1990s. As such, the Web services model is a threat to Microsoft's desktop monopoly and Microsoft therefore has an incentive (if it can) to use its existing monopoly to gain control over this possible threat. It has an incentive to ensure that Windows remains at the center of the Web services model and/or to migrate its monopoly from the desktop to Web services.

B. MICROSOFT IS ATTEMPTING TO PROTECT ITS EXISTING MARKET POWER BY USING ITS ILLEGALLY MAINTAINED MONOPOLY IN PC OPERATING SYSTEMS TO GAIN ADVANTAGES IN SERVERS AND WEB SERVICES

60. Microsoft's illegally maintained monopoly in the market for PC operating systems provides it with important advantages in server operating systems, in particular operating systems for workgroup servers. Workgroup servers are the servers in a "client-server" network that interoperate directly with desktop clients. Workgroup servers provide services such as authentication and authorization, directory, and file and print. Very importantly, they are also the point of contact or gateway between an organization's network of servers and the Internet. Workgroup servers are distinct from enterprise servers, which are more powerful, reliable and expensive servers that handle databases and other "mission critical" applications.

61. Some of Microsoft's advantages in workgroup server operating systems arise because of the distribution advantage provided by its monopoly in PC operating systems. Suppose a vendor of workgroup operating systems develops a new feature (such as a new directory service for keeping track of the users and resources on a network or a new security system for authentication and authorization). In the usual case, the network cannot make use of the new service in a server operating system unless certain new code (supplied by the vendor of the server operating system) is also installed on the clients in the network. In large networks, this can be a costly and time-consuming exercise—unless the network is running Windows on its servers. A network that runs Windows on its servers does not face this kind of problem because Microsoft ensures that the client-side pieces of server-side technologies are built into its Windows desktop operating system. This gives Microsoft a competitive advantage over other vendors of workgroup server operating systems. But it is an advantage that derives from Microsoft's illegally maintained monopoly in PC operating systems. Moreover, there may be significant long-run costs through the adverse effect that Microsoft's distribution advantages (derived from its illegally maintained monopoly in desktop operating systems) may have on incentives to invest in server-side innovation.

62. There are other ways in which Microsoft's past illegal conduct has provided it with advantages today in the market for workgroup server operating systems—advantages that help protect and enhance Microsoft's existing market power. For

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[10] S. Ballmer speech, Credit Suisse First Boston Technology Conference (Nov. 29, 2001) (http://www.microsoft.com/msft/speech/BallmerCSFB112901.htm).

example, one of the benefits to Microsoft from the defeat of Netscape's browser was the resulting reduction in demand for Netscape application programs for servers. These server-side applications were designed to interoperate with the Netscape browser and certain client-side applications, such as e-mail, written to the Netscape Navigator APIs. Unlike Microsoft's server-side applications (such as Exchange) that run only on Windows, Netscape's server-side applications were implemented on multiple platforms, including Unix and Novell's NetWare. As Netscape's share of the browser market declined following Microsoft's illegal conduct, the demand for Netscape's server applications also declined. Thus a consequence of Microsoft's illegal conduct has been an increase in the demand for Microsoft server-side applications such as Exchange that, as mentioned above, run only on Windows server operating systems. Put differently, Microsoft's past illegal conduct towards Netscape is helping Microsoft establish an applications barrier that will protect and enhance its future position in the market for workgroup server operating systems.

63. Another way in which Microsoft's past illegal conduct affects the market for workgroup operating systems today involves distributed application programs. As I mentioned before, Java is a programming language with features that I understand make it well suited for distributed applications, i.e., applications that call upon resources located on multiple different computers located around a network. As I understand it, for distributed applications to work, they need to conform to a particular set of protocols, and these protocols need to be supported by the operating systems of the computers involved in executing the distributed application. Java had protocols for distributed applications (RMI and CORBA) that were supported by multiple operating systems. Microsoft had an alternative, proprietary set of protocols called DCOM. By interfering with the development of cross-platform Java, Microsoft gave an advantage to its framework for distributed applications (DCOM) and promoted the development of distributed applications written to protocols that run only on Windows operating systems. In addition, since the programs that are written to these Microsoft protocols are targeted for computers using the Windows operating system, such programs also make use of Windows APIs. This means that even if rival operating systems were given the ability to support DCOM, they could not run most of the distributed applications written to this protocol because these applications also make use of Windows APIs. Thus this is another example of how Microsoft's past illegal conduct, this times towards Java, is helping Microsoft establish an applications barrier that will protect and enhance its future position in the market for server operating systems.

64. Microsoft's past illegal conduct has also given it advantages today in Web services. For example, one of the Web services that Microsoft has promoted heavily is Passport, its Internet authentication and authorization service. In a network environment, key issues are verifying the identity of users or computers ("who are you?") and determining the resources to which you are entitled to have access ("what are you authorized to do?"). Passport is an authentication and authorization service targeted, at least initially, at e-commerce. Consumers who subscribe to Microsoft's Passport service will have their name and credit card information on file on servers controlled by Microsoft. E-commerce vendors who participate in Passport will have back office connections with the Microsoft servers so that, when a consumer who subscribes to Passport wants to purchase something, the e-commerce vendor can check with Microsoft's Passport servers to authenticate and authorize the purchase (and debit the consumer's credit card). The theory is that Passport will simplify e-commerce transactions.

65. For Passport to be successful, Microsoft needs to have a large base of consumers who subscribe to the service. A large base of consumers will make firms engaged in e-commerce interested in joining Passport on the vendor side, which in turn will make Passport more attractive to consumers. Thus there are potential network effects which, if they get started, may result in Passport being in the middle of a very large volume of Internet transactions.

66. Microsoft is actively using its illegally maintained monopoly in PC operating systems as a vehicle for enrolling consumers in Passport. Every time a consumer boots up a new copy of Windows, the consumer is asked multiple times whether he or she would like to sign up with Passport. In addition, the consumer is told that he or she will not receive information about product upgrades unless the consumer signs up for Passport. Thus this is an example in which Microsoft is using the distribution advantages that it has by virtue of its illegally maintained monopoly in PC operating systems to gain advantages in Web services. In so doing, Microsoft helps protect its existing monopoly power and/or helps migrate its market power from the desktop to Web services.

C. THE PFJ GIVES INSUFFICIENT ATTENTION TO FUTURE COMPETITION

67. The implications of these trends are significant. Microsoft's monopoly in desktop operating systems provides it with advantages in adjacent markets that Microsoft is able to use to protect and enhance its illegally maintained monopoly power. By migrating its monopoly from desktop operating systems into server operating systems and Web services, Microsoft can help ensure that its future market power is comparable to (or greater than) the market power it possessed when the desktop was the principal hub of computing activity.

68. Given these links between Microsoft's past illegal conduct and Microsoft's future market power, an appropriate remedy should be focused on limiting Microsoft's ability to use its illegally maintained monopoly to gain advantages in products in other markets that have the potential to become substitutes for the Windows desktop operating system. Disclosure remedies have the potential to be an important step in this direction. For example, if Microsoft were required to fully disclose the interfaces and protocols used by its server and client operating systems, then vendors of non-Microsoft server operating systems could design their products so that they could interoperate smoothly in networks populated by Windows clients and servers. The resulting competition among vendors of server operating systems would help ensure that servers remain a threat to Microsoft's illegally maintained monopoly in desktop operating systems.

69. The PFJ does not ignore completely issues related to adjacent markets. The PFJ does require disclosure for communication protocols that allow for servers to interoperate with Windows operating systems. This requirement, in contrast with the other provisions of the PFJ, appears to focus more on the server operating system market than competition in middleware. I understand, however, that the disclosure requirements proposed in the PFJ are exceedingly narrow mad ultimately inadequate to allow full and equal interoperability for competitive server operating systems or Web services architectures.

70. In designing disclosure remedies (or any other remedy), it is important to remember that one is try to cure the consequences of past illegal conduct. As a result, there is no reason to be troubled by remedies that impose obligations that one would be reluctant to impose on other firms. Against this background, it seems reasonable to consider a remedy that requires disclosure sufficient to allow competitive products to interoperate with Microsoft software on an equal basis as Microsoft's own products. It is not clear that even this would be enough to offset the advantages that Microsoft has gained for itself in adjacent markets through past illegal conduct and which serve to protect and enhance its existing market power. But it seems like a reasonable step.

VI. SUMMARY OF CONCLUSIONS

71. As the DC Circuit found, Microsoft violated Sec. 2 of the Sherman Act in impermissibly maintaining its monopoly through actions designed to eliminate the threat to that monopoly posed in the mid 1990s by competition from Netscape Navigator and Java middleware. Given that finding, the remedies in this case should eliminate the benefits to Microsoft of its illegal conduct; should restore, if possible, the possibility of competition in operating systems; and should not allow Microsoft to protect its illegally maintained monopoly from current and future competition in related markets, such as server operating systems and Web services. In my opinion, the PFJ fails to accomplish these objectives.

72. The PFJ focuses on the desktop and on re-creating the possibility for middleware competition by giving OEMs freedom with regard to icon display and more limited freedom in installing and using non-Microsoft middleware. In doing so, it ignores the reality that Microsoft's market position in browsers and other middleware is substantially stronger today than it was in 1995. I know of no competing middleware today—and none is suggested in the Competitive Impact Statement—that begins to enjoy the time-to-market and market

presence advantages held by Netscape Navigator and Java in the mid-1990s. The PFJ does nothing to address the powerful distributional advantage that Microsoft alone has and which ensures that its middleware will be ubiquitous. That ubiquity operates as an unchecked barrier to entry and reduces the incentive for others to create innovative, competitive middleware. I therefore see no reason to think that the PFJ will succeed in spurting a new middleware threat to the Microsoft operating system or in denying Microsoft the fruits of its illegally maintained monopoly.

73. The PFJ ignores remedies that could have a more significant effect in middleware markets, in particular, remedies that require Internet Explorer to be open source and that require Microsoft to distribute the most current version of the Java runtime environment with IE and Windows. Although these remedies are unlikely to fully restore the competitive threat posed by middleware before Microsoft's illegal activities took place, these remedies would likely have a greater impact than those set forth in the PFJ.

74. More fundamentally, the PFJ does nothing to address the applications barrier to entry that defines Microsoft's monopoly in PC operating systems. Microsoft also controls the most economically important set of applications for Windows through its control over Microsoft Office. As the DC Circuit found, Microsoft used that control to protect its operating system monopoly through threats against Apple. It is clear that Microsoft's ability to make such threats would be diminished if Microsoft has an obligation to license the rights to port Office to competing operating systems. Indeed, porting Office to other operating systems is a remedy that could have a significant impact on the applications barrier to entry.

75. In addition, the PFJ should focus on the current and future threats to Microsoft's market power and ensure that Microsoft cannot use its illegally maintained monopoly to stifle such threats. This case makes clear that those threats are likely to come from products that are complements to Windows in the short run and potential competitors in the long run. That was precisely the position of Netscape Navigator and Java in 1995; today, based on Microsoft's public statements, that may be the position of server operating systems and Web services. Both of these represent a move away from a computing structure organized around desktop computers using "fat" operating systems such as Windows. Server operating systems and Web services represent an evolution of the thin-client model of computing, and as such, represent a threat to Microsoft's desktop monopoly. Microsoft is currently attempting to defeat this threat by using its illegally maintained monopoly in PC operating systems as a vehicle for expanding its market share in servers and attaching consumers to its Web services infrastructure. The PFJ is missing forward-looking remedies that address such efforts by Microsoft to protect and enhance its existing market power by using its illegally maintained monopoly in PC operating systems to defeat competitive threats in adjacent markets. This is a significant hole in the PFJ that bears on the future of competition in the computing industry.

I hereby affirm under penalty of perjury that the forgoing is true and correct to the best of my knowledge, information and belieú Executed this 25th day of January, 2002 in Palo Alto, California.

Kenneth J. Arrow

BIOGRAPHICAL SKETCH

KENNETH J. ARROW

Personal

Born: 23 August, 1921

Wife's name: Selma

Children: David Michael and Andrew Seth

Education

B.S. in Social Science, City College, New York, 1940. Major: Mathematics.

M.A., Columbia University, 1941. Field: Mathematics.

Ph.D., Columbia University, 1951. Field: Economics.

Positions

Captain, U. S. Army Air Corps, 1942–46 (Weather Officer). Research Associate, Cowles Commission for Research in Economics, 1947–49.

Assistant Professor of Economics, University of Chicago, 1948–49.

Consultant, the RAND Corporation, 1948-date.

Acting Assistant Professor of Economics and Statistics, Stanford University, 1949–50.

Associate Professor of Economics and Statistics, Stanford University, 1950–53.

Professor of Economics, Statistics, and Operations Research, Stanford University, 1953–68

Economist, Council of Economic Advisers, U. S. Government, 1962.

Visiting Professor of Economics, Massachusetts Institute of Technology, Fall, 1966.

Fellow, Churchill College (Cambridge, England), 1963–64, 1970, 1973, 1986.

Guest Professor, Institute for Advanced Studies, Vienna, June 1964, June 1970.

Professor of Economics, Harvard University, 1968–74.

James Bryant Conant University Professor, Harvard University, 1974–79.

Joan Kenney Professor of Economics and Professor of Operations Research, Stanford University, 1979 to 1991.

Senior Fellow by Courtesy, Hoover Institution on War, Revolution and Peace, 1981–94.

Part-time Professor, European University Institute, 1986.

External Professor, Santa Fe Institute, 1988 to date.

Joan Kenney Professor of Economics Emeritus and Professor of Operations Research Emeritus, 1991 to date

Fulbright Professor, University of Siena, Spring 1995.

Visiting Fellow, All Souls College (Oxford, England), 1996.

University and Faculty Administration at Stanford University

Executive Head, Department of Economics, 1953–6

Member and Chair, Executive Committee of the Academic Council

Acting Executive Head, Department of Economics, 1962–3

Member and Chair, Advisory Board

Member and Chair, Senate of the Academic Council

Director, Stanford Institute for Theoretical Economics, 1993–98

Director, Stanford Center on Conflict and Negotiation, 1993–5

Honors and Awards

Gold Pell Medal (highest grades), City College, New York, 1940.

Phi Beta Kappa.

Social Science Research Fellow, 1952.

Fellow, Center for Advanced Study in the Behavioral Sciences, 1956–57.

John Bates Clark Medal, American Economic Association, 1957.

LL.D. (honorary), University of Chicago, 1967.

M.A. (honorary), Harvard University, 1968.

Marshall Lecturer, Cambridge University, Spring 1970.

D.Soc/Eco.Sci. (honorary), University of Vienna, 1971.

LL.D. (honorary), City University of New York, 1972.

Nobel Memorial Prize in Economic Science, 1972.

John R. Commons Lecture Award, Omicron Delta Epsilon, 1973.

D.Sci. (honorary), Columbia University, 1973.

D.Soc.Sci. (honorary), Yale University, 1974.

Dr. (honorary), Universite Rene Descartes, 1974.

LL.D. (honorary), Hebrew University of Jerusalem, 1975.

LL.D. (honorary), University of Pennsylvania, 1976.

D.Pol.Sci. (honorary), University of Helsinki, 1976.

Member, National Academy of Sciences (Chairman, Section 54, 1976–1979, Council member 1990 to date).

Fellow, American Academy of Arts and Sciences (Vice President, 1979–80, 1991–94).

Member, American Philosophical Society.

Member, Institute of Medicine.

Foreign Honorary Member, Finnish Academy of Sciences.

Corresponding Member, British Academy.

Sigma Xi (President, Stanford Chapter, 1981–82).

Tanner Lecturer, Oxford University, Spring 1983.

2nd Class Order of the Rising Sun, Japan, 1984.

Tanner Lecturer, Harvard University, Spring 1985.

Dr. of Letters, University of Cambridge, 1985.

Dr. Honoris Causa, Universite d'Aix-Marseille III, 1985.

von Neumann Prize of The Institute of Management Sciences and the Operations Research Society of America, 1986.

LL.D. (honorary), Washington University in St. Louis, 1989.

Clarendon Lectures, Oxford University, November 1989.

LL.D. (honorary), Ben-Gurion University of the Negev, 1992.

Member, Pontifical Academy of Social Sciences

Laurea (honoris causa) Universita Cattolica del Sacro Cuore (Milan)

Dr. (hon causus) University of Uppsala, 1995.

Publication of Enduring Quality Award 1995, Association of Environmental and Resource Economics (with Anthony C. Fisher)

Kampe de Feriet Award (Information Processing for Management under Uncertainty), 1998

Medal of the University of Paris, 1998

Dr. (hon.) University of Buenos Aires, 1999

LL.D. (hon.) Harvard University, 1999

Dr. (hon. Causus) University of Cyprus, 2000.

50th Anniversary Medal, School of Humanities, Arts, and Social Sciences, Massachusetts Institute of Technology

Ph.D. (h.c.) University of Tel Aviv, 2001

Professional Societies

Econometric Society (Fellow; Vice President, 1955, President, 1956, Member of the Council, 1983).

Institute of Mathematical Statistics (Fellow).

American Statistical Association (Fellow).

American Economic Association (Member, Executive Committee, 1967–1969; President-elect, 1972; President, 1973; Distinguished Fellow).

The Institute of Management Sciences (President, 1963; Chairman of the Council, 1964).

Western Economic Association (President, 1980–1981).

American Association for the Advancement of Science (Fellow; Chair, Section K, 1982).

International Society for Inventory Research (President, 1983–1988).

Honorary President, International Economic Association; President 1983–1986; Member, Executive Committee, 1986–1992.

The Society for Social Choice and Welfare, Caen, France, First President, 1992–93.

Economists Allied for Arms Reduction, Co-Chair, 1990–1995

Business Positions

Member, Board of Directors, Varian Associates, Inc., 1973–1991

Member, Board of Directors, Abt Associates, Inc., 1975–1985

Member, Board of Directors, Fireman's Fund Insurance Company, 1980–1991

Member, Board of Directors, Strategies for a Global Environment, Inc., 1998-

Member, Board of Directors, Unext, Inc., 2000-

PUBLICATIONS OF KENNETH J. ARROW

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Comments to the Revised Proposed Final Judgment in United States v. Microsoft Corporation, No. 98–1232

State of New York, et al. v. Microsoft Corporation, No. 98–1233 Submitted By
Sun Microsystems, Inc.
Pursuant to the Tunney Act, 15 U.S.C. § 16

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I. Introduction.
A. Competition in the market for PC operating systems must be restored.
B. Microsoft's unlawful power to exclude competition in adjacent and downstream markets must be stopped and eventually dissipated
C. The RPFJ fails to remedy the monopoly illegally maintained by Microsoft
D. The loopholes in the RPFJ must be eliminated and its important ambiguities clarified
II. Sun Microsystems" Interest Regarding the Terms of the RPFJ
III. The RPFJ Fails To Remedy the Continuing Harm to Competition Caused By Microsoft's Illegal Acts
A. The RPFJ fails to dissipate Microsoft's monopoly power in the market for PC operating systems.
1. The Department previously acknowledged that an effective remedy had to eliminate the applications barrier protecting Microsoft's monopoly
2. The RPFJ fails to address the effects of Microsoft's distribution power
3. The RPFJ does little more than attempt to enjoin Microsoft from continuing to engage in the conduct a/ready found to be unlawful.
4. The RPFJ assumes that Microsoft's Windows distributors will promote competitive middleware products
B. The RPFJ does not remedy the continuing competitive harm to web browsers
C. The RPFJ does not remedy the substantial harm to competition caused by Microsoft's illegal acts against the Java platform. IV. Critical Terms In The RPFJ Are Undefined or Ambiguous.
A. Significant ambiguities in the RPFJ must be cured to avoid further litigation. B. "Interoperate" and "interoperating" must be defined.
C. The scope of Microsoft's "Communication Protocols" disclosure should be clarified and exemplified.
D. The scope of the "carve-out" provisions of Section III.J should be clarified.
E. The definition of "Microsoft Middleware Product" should be amended
V. Section III.I's Licensing Provisions Allow Microsoft to Profit from Its Unlawful Acts
A. Microsoft should not be allowed to demand royalties as a condition for making interoperability disclosures.
B. Microsoft has too much discretion over licensing terms trader the RPFJ.
C. Microsoft should not be allowed to force third parties to forfeit their intellectual property claims against Microsoft
VI. Conclusion

I. Introduction

Microsoft illegally maintained its monopoly over Intel-compatible personal computer ("PC") operating systems by acting to undermine the distribution and commercial appeal of alternative computing platforms like Netscape Corporation's Navigator browser and Sun Microsystems, Inc.'s Java TM technology. [1]By eliminating the ability of alternative platforms to compete with Windows, Microsoft has not only maintained its monopoly over PC operating systems, it also has dramatically increased the economic power that it derives from that monopoly, such that Microsoft now has the power to control competition in a number of adjacent and downstream markets as well.

In the emerging world of networked devices and services, the commercial appeal and success of adjacent or downstream devices and services such as servers, personal digital assistants ("PDAs"), telephones, video game systems, television set-top boxes, and web-based services are in very large measure dependent on their ability to interoperate with PCs via the Internet or other networks. Microsoft's expanded monopoly power over PC operating systems and web browsers affords it the power to deny competing devices and services the same ability to interoperate fully and completely with PCs as Microsoft's networked devices and services enjoy. Microsoft is in fact exercising the power it derives from its PC monopoly in just this way to exclude competition in each of these adjacent markets. Unless and until that power is effectively checked and ultimately eliminated, Microsoft's past practices and insatiable ambition demonstrate that it will continue to destroy competition in each of these enormously important markets.

Unfortunately, the Revised Proposed Final Judgment ("RPFJ") does little or nothing to eliminate the unlawful monopoly maintained by Microsoft over PC operating systems. Nor does it redress the harm that Microsoft's illegal acts have caused to competition in that market. And while the RPFJ apparently recognizes the threat to competition posed by Microsoft's exclusionary behavior in adjacent and downstream markets, the remedies it proposes to redress this threat are plagued with so many loopholes and ambiguities that there can be no assurance that Microsoft's anticompetitive conduct will stop.

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[1] United States v. Microsoft Corp., 253 F.3d 34, 46 (DC Cir. 2001) ("Microsoft III").

A. Competition in the market for PC operating systems must be restored

The adjudicated facts establish that Microsoft illegally maintained a monopoly over the market for PC operating systems by undermining the ability of rival software platforms to compete in that or closely related markets. By offering consumers the ability to run compelling applications on operating systems other than Microsoft's Windows operating system, the Navigator browser and Java platform threatened to reduce or eliminate the applications barrier to competition that sustains Microsoft's monopoly. [2] Microsoft fully recognized the threat these middleware platforms posed to its continued monopoly over PC operating systems and contrived to maintain that monopoly by restricting consumer access to these and any other non-Microsoft middleware platforms.

The commercial appeal of any computing platform is dependent in very large measure on the numbers of consumers who own or use the platform. The greater the number of users, the greater the demand for applications capable of running on that platform. The greater the demand for applications, the greater the number and variety of applications developed for the platform. And the greater the number and variety of applications developed for a platform, the greater the consumer demand for a given computing platform.[3] Once started, this "feedback" effect can and will sustain the adoption and commercial success of platform software, such as Microsoft's Windows operating system, Netscape's Navigator browser or Sun's Java platform.The key to successful competition in platform software is thus distribution.[4] Unless a platform enjoys widespread and sustained distribution, such that large numbers of computer users have the platform installed and available for use on their computer systems, the feedback cycle of application development and platform adoption will not take effect.

As the District Court found, and the Court of Appeals affirmed, Microsoft engaged in a series of illegal acts to choke off the distribution channels for the Navigator and Java platforms.[5] By restricting and disrupting the distribution of the Navigator browser and the Java platform, Microsoft sought to limit the numbers of computer users with access to these alternative platforms and thereby also limit the demand for, and economic incentives supporting, application development on the Navigator and Java platforms. By decreasing the distribution of non-Microsoft platforms, such as the Navigator browser and the Java platform, Microsoft knew that it could also decrease the number and variety of applications developed for such platforms, and thus their relative commercial appeal to consumers.

But for Microsoft's unlawful attack on the distribution of the Navigator and Java platforms, the installed base of these alternative platforms would have been very different today. So too would the economic incentives and choices of consumers and software developers.

Consumers would have had the opportunity to choose among a variety of competing platforms—not just Microsoft's Windows platform—based upon performance, cost or personal preference. Developers too would have had the opportunity to choose among a variety of competing platforms on which to develop applications with the features, performance and cost that consumers demand.

Indeed, because the Navigator and Java platforms were "cross-platform"—that is, ran on top of a variety of operating systems, not just Microsoft's Windows operating system—consumers would have had the ability to run applications written for the Navigator browser and Java platform on any operating system, not just Microsoft's Windows operating system. By dramatically lowering the cost to switch applications from one operating system to another, the Navigator and Java platforms directly attacked the applications barrier to competition that protects Microsoft's monopoly over PC operating systems, and greatly reduced the cost to consumers and developers alike of switching away from Microsoft's monopoly platform. In short, but for Microsoft's anticompetitive conduct, consumers today would have enjoyed far greater freedom, at far less cost, to choose among competing operating systems based on their comparative features, performance, and price, rather than simply the number of applications they support.

B. Microsoft's unlawful power to exclude competition in adjacent and downstream markets must be stopped and eventually dissipated

By disrupting and eliminating the distribution of competing platforms, Microsoft has not only maintained its monopoly over PC operating systems, it also has increased the economic power that it derives from that monopoly. By secretly manipulating the interfaces and protocols needed to intemperate with Windows, Microsoft can control which products and services in adjacent or downstream markets are capable of interoperating with PCs. Not only does this permit Microsoft to enhance the relative appeal and functionality of its products and services at the expense of its competitors, it denies consumers the benefits of competition. Instead of choosing a server, telephone, application, or web service based solely on its competitive merits, Microsoft is increasingly forcing consumers to purchase such products and services based upon their ability to interoperate with its unlawfully monopolized platforms.

Microsoft is now abusing the power it has over PC operating systems and web browsers by seeking to extend its control to embrace any device, application, or web service that seeks to interoperate with Microsoft's monopolized PC operating systems or browsers. Microsoft's unbridled monopoly over a critical node on the digital network—PCs—provides it the power to allow only such servers, PDAs, telephones, television set-top boxes, videogame systems, or web services that implement Microsoft's proprietary interfaces and protocols to interoperate effectively with Microsoft's monopoly products. By illegally exploiting its PC operating system monopoly to acquire and utilize a chokehold over networked connections to PCs, Microsoft is dramatically expanding its power to deny consumers the benefits of choice and competition in adjacent and downstream markets as well.

C. The RPFJ fails to remedy the monopoly illegally maintained by Microsoft

In the face of this record, the law requires that any remedial decree "terminate" the monopoly, "unfetter" the market from anticompetitive conduct, "deny to the defendant the fruits" of its illegal acts, and "ensure" no repetition of such abuse in the future. [6] Measured against this standard, the proposed settlement between the United States and Microsoft reflected in the RPFJ falls far short.

Rather than act directly to restore competition to the market for PC operating systems, and redress the harm to competition inflicted by Microsoft's past misconduct in that and adjacent markets, the RPFJ actually accedes to Microsoft's monopoly, and does little or nothing to eliminate or check the enormous power it provides. Incredibly, the RPFJ barely proscribes behavior already held to be unlawful without remedying the far-reaching and continuing anticompetitive effects that have been caused by that behavior. [7] Even though Microsoft effectively destroyed competition for web browsers and blocked the distribution of upgraded, compatible versions of the Java platform for the PC, the RPFJ fails to remedy directly these anticompetitive acts or disgorge Microsoft of the power it now enjoys as a result of those acts.

Instead, the RPFJ relies on Microsoft's partners—PC manufacturers—to indirectly undermine Microsoft's monopoly by distributing non-Microsoft middleware. Relying on Microsoft's distributors to achieve the Department's goals is fundamentally flawed, since the PC manufacturers have little or no economic incentive or ability to work with Microsoft's competitors, absent fundamental changes to the competitive landscape in the PC operating system market, which the RPFJ fails to seek. [8] At best, the

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[2] United States v. Microsoft Corp., 84 F. Supp. 2d 9, § 68 (D.DC 2000) ("Findings of Fact") (explaining how middleware technologies such as the Navigator browser and the Java platform have the ability to weaken the applications barrier to entry).

[3] See Findings of Fact, 84 F. Supp. 2d at §§ 39–40.

[4] See Microsoft III, 253 F.3d at 55–60, 60–61, 70–71; Findings of Fact, 84 F. Supp. 2d at §§ 3652, 143–44,

[5] See Microsoft III, 253 F.3d at 61, 72, 75–76; Findings of Facts, 84 F. Supp. 2d at §§ 357, 395402.

[6] Microsoft III, 253 F.3d at 103.

[7] See Schine Chain Theatres, Inc. v. United States, 334 U.S. 110, 128 (1948) (concluding that injunctive relief which merely "forbid[s] a repetition of the illegal conduct" is legally insufficient because defendants would "retain the full dividends of their monopolistic practices and profit from the unlawful restraints of trade which they inflicted on competitors").

[8] Findings of Fact, 84 F. Supp. 2d at § 54 (stating that "[w]ithout significant exception, all OEMs pre-install Windows on the vast majority of PCs that they sell, and they uniformly are of a mind that

RPFJ will marginally increase the opportunity, but not the ability, of competitors to compete at some future date with Microsoft's middleware products. It does nothing directly to dislodge Microsoft's PC operating system monopoly or to restore the market for PC operating systems to the competitive dynamics the market would have possessed "but for" Microsoft's illegal conduct.

D. The loopholes in the RPFJ must be eliminated and its important ambiguities clarified

While promising in principle, the disclosure remedies in the RPFJ (Sections III.D. and III.E) are likely to fail in practice to achieve the procompetitive objectives identified by the United States Justice Department (the "Department") in its Competitive Impact Statement. Key provisions in the RPFJ contain critical loopholes and glaring ambiguities. Given Microsoft's past disdain for compliance with the strictures of its prior antitrust consent decree with the Department, these ambiguities will likely lead to future litigation, particularly since Microsoft has repeatedly refused to answer any questions regarding whether it agrees or disagrees with the interpretations of the RPFJ proposed by the Department in the Competitive Impact Statement. Instead, it is clear that Microsoft's strategy is to say as little as possible about the meaning or application of the RPFJ prior to entry of judgment, hoping that any ambiguities in the language will ultimately be interpreted in its favor. In order to protect the public and ensure that the Department has actually secured a settlement that is consistent with its representations to the Court, the Department must force Microsoft to identify any disagreements that it has with the Department's interpretations prior to entry of the judgment. Unless such minimal steps are taken, the RPFJ will certainly fail to secure even the modest objectives it seeks to attain.

The RPFJ is further flawed because it allows Microsoft to profit from its illegal acts by exacting royalties as a condition for making interoperability disclosures. Moreover, it gives Microsoft far too much discretion about how it will "comply" with the RPFJ. Given its past record of anticompetitive conduct, a remedial scheme which relies on Microsoft acting "reasonably" is doomed to fail. After having successfully prosecuted its case against Microsoft, it would be tragic for the Department to shirk its duty under the law, and through entry of the RPFJ, allow Microsoft to maintain and expand its monopoly power.

II. Sun Microsystems" Interest Regarding the Terms of the RPFJ

Since its founding in 1982, Sun has been propelled by an innovative vision- "The Network Is The Computer." TM Sun is a leader in the design, manufacture, and sale of computer hardware, software, and services. Sun directly competes with Microsoft across a wide variety of markets including operating systems, "middleware" platforms, software development tools, office productivity suites, directory services, and enterprise software.

Sun's experience and expertise place it in a unique position to assess the true competitive impact of the RPFJ. As one of Microsoft's leading competitors and as the creator and licensor of the Java platform, Sun was a prime target of the anticompetitive conduct at issue in United States v. Microsoft. In addition, because Sun designs, manufactures, and sells a wide variety of products and services that must interoperate with Microsoft's products and services, Sun's realworld experience regarding the difficulties and barriers to effective interoperability with Microsoft's products affords Sun unique insights into whether the various technical disclosures and licensing practices mandated under the RPFJ will actually achieve the results intended by the Department. Sun's comments on the RPFJ are not intended to be exhaustive. Instead, the comments focus on key shortcomings or problems with the RPFJ, which most directly impact Sun, its distributors, developers, and customers. Others, including trade organizations of which Sun is a member, are likely to raise additional problems with the RPFJ, which should be addressed prior to entry of the judgment. By omitting such subjects from its submission, Sun does not wish to convey to the Department the impression that it believes the remainder of the RPFJ is satisfactory to Sun. Rather, Sun has merely focused its comments to highlight particular areas of concern. III. The RPFJ Fails To Remedy the Continuing Harm to Competition Caused By Microsoft's Illegal Acts A. The RPFJ fails to dissipate Microsoft's monopoly power in the market for PC operating systems A remedies decree in an antitrust case "must seek to unfetter a market from anticompetitive conduct, to terminate the illegal monopoly, deny the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future." [9] Tile market over which Microsoft has unlawfully maintained its monopoly power is the market for PC operating systems. It is that market—the market for PC operating systems—that must be restored to competition, and in which Microsoft's power must be eliminated.

Indeed, the RPFJ does not even focus its principal remedies on the relevant market: the market for PC operating systems. Instead, it focuses its principal remedies on entirely different markets: the market for distribution of Microsoft operating systems and the market for middleware. In light of the record established and affirmed in this case, the Department's reliance on Microsoft's own distributors—entities whose commercial viability is dependent on and inextricably tied to Microsoft's success -to promote non-Microsoft middleware products capable of threatening Microsoft's monopoly position is misplaced at best, and foolhardy at worst.

1. The Department previously acknowledged that an effective remedy had to eliminate the applications barrier protecting Microsoft's monopoly

In recognition of the Department's obligations under the law and the extent of Microsoft's misconduct, the Department originally set its remedial objectives much higher than those proposed in the RPFJ. In fact, both the Department and the District Court concluded that a combination of structural relief and conduct remedies was necessary to lower the applications barrier to entry and to restore competition in the market for PC operating systems. [10] As the Department itself acknowledged, conduct remedies, by themselves, are likely to be insufficient in this case to remedy the past harm to competition:

> [C]onduct remedies can do little to rectify the harm done to competition by Microsoft's illegal conduct in the past. For example, the evidence shows and the Court found that Microsoft's illegal conduct prevented Navigator and Java from eroding the applications barrier to entry "for several years, and perhaps permanently" because they could not facilitate entry unless they became almost ubiquitous and thus became attractive platforms for ISVs. A conduct remedy cannot undo the demise of Navigator and the concomitant rise of Internet Explorer, nor can it ensure that there will be other middleware threats comparable to Navigator in the future. [11]

According to the Department, "[c]ompetition was injured in this case principally because Microsoft's illegal conduct raised entry barriers to the PC operating system market by destroying developments that would have made it more likely that competing operating systems would gain access to applications and other needed complements." [12] Thus, "the key to a remedy in this case is to reduce Microsoft's

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there exists no commercially viable alternative to which they could switch in response to a substantial and sustained price increase or its equivalent by Microsoft.").

[9] Microsoft III, 253 F.3d at 103 (internal quotations and citations omitted). Although the Department acknowledges the required remedial objectives under the law, it fails to achieve them in practice. See Competitive Impact Statement ("CIS") at 24 ("Appropriate injunctive relief in an antitrust case should: (1) end the unlawful conduct; (2) 'avoid a recurrence of the violation" and others like it; and (3) undo its ant/competitive consequences."). The RPFJ, however, fails to serve this fundamental objective. The first and most important flaw in the RPFJ lies in its failure to do anything to restore competition in the market for PC operating systems. But for Microsoft's anticompetitive conduct, the market would today provide consumers and software developers with the benefits of competitive choice among at least three alternative computing platforms for desktop computers: the Windows operating system, the Navigator browser, and the Java platform. As a direct result of Microsoft's anticompetitive conduct, consumers and developers today effectively enjoy no such choice. Rather than restore the market to the state it would have enjoyed but for Microsoft's illegal conduct, or even attempt to dissipate Microsoft's illegally maintained power over that market, the RPFJ accedes to and accepts Microsoft's monopoly over PC operating systems, and does nothing to directly and immediately restore that market to competition.

[10] United States v. Microsoft Corp., 97 F. Supp. 2d 59 (D.DC 2000), aff'd in part, rev'd in part, and remanded, 253 F.3d 34 (DC Cir. 2001).

[11] 11 4/28/00 Plaintiffs" Memo. in Support of Proposed Final Judgment at 7–8 (citations omitted).

[12] Id. at 30.

ability to erect or maintain entry barriers." [13] To achieve this objective, the Department originally sought to divide Microsoft into an Applications Business and an Operating Systems Business in order to "create incentives for Microsoft's Office and its other uniquely valuable applications to be made available to competing operating systems when that is efficient and profitable—in other words, in response to ordinary market forces—instead of being withheld strategically, at the sacrifice of profits and to the detriment of consumers—in order to protect the Windows operating system monopoly." [14]

But now that the Department has reversed its prior position and seeks to rely solely on conduct remedies, the remedies it has proposed are even less likely to rectify the harm done to competition than the interim conduct remedies previously adopted by the District Court. The conduct remedies of the RPFJ are simply not tailored to rectify the continuing harm or lower the barriers to competition for competing operating system vendors. For example, the RPFJ does not even attempt to redress the competitive harm caused by Microsoft's interference and disruption of the distribution channels for the Navigator browser or the Java platform, even though Microsoft correctly perceived that widespread distribution of those platforms would lower the barriers to competition protecting its monopoly. Nor does the RPFJ take any direct steps to loosen Microsoft's chokehold on the PC operating system market and facilitate the development of applications from both Microsoft and others that could run on competing operating systems. If, as the Department previously contended, the "key to a remedy" in this case is to reduce or eliminate Microsoft's ability to create and maintain barriers to competition, the RPFJ does not attempt to serve, much less achieve, that remedial objective.

Although the Court of Appeals vacated and remanded the District Court's divestiture order, it affirmed the central liability findings against Microsoft. Rejecting Microsoft's numerous challenges, the Court of Appeals concluded that Microsoft had monopoly power over the PC operating system market, that Microsoft's monopoly was protected by an applications barrier to entry, and that Microsoft engaged in a panoply of illegal acts to maintain that monopoly in light of the competitive threat posed by the Navigator browser and the Java platform. [15] Furthermore, it set forth the legal standard against which any remedy for such violations should be measured. [16]

While the Department certainly had discretion to choose not to pursue a divestiture remedy on remand, the Court of Appeals" affirmance of the core liability findings against Microsoft provided no excuse for seeking watered-down conduct remedies that are likely to be even less effective than the interim conduct remedies previously ordered by the Court. This is not a case where the Department entered into a settlement with a defendant in lieu of trial. Here, the District Court held, and the Court of Appeals affirmed, that Microsoft violated the antirust laws. By failing to remedy file effects of Microsoft's illegal acts, disgorge Microsoft's ill-gotten gains, and attack the barriers to competition protecting Microsoft's monopoly, the Department has shirked its duty under the law.

2. The RPFJ fails to address the effects of Microsoft's distribution power

Any remedy designed to restore competition in the PC operating system market mast account for the economic realities of software platform development. Distribution is the key to competitive viability in the market for PC platform software. [17] The applications barrier to entry which forms a "positive feedback loop" for Microsoft and a "vicious cycle" for Microsoft's competitors was a centerpiece of the Department's case: the number of installed units of a platform determines its commercial appeal to applications developers; the number and variety of applications available for a platform determines its commercial appeal to consumers; and the commercial appeal of the platform to consumers in turn drives its installed base and market share. [18] As the Court of Appeals concluded, "[b]ecause the applications barrier to entry protects a dominant operating system irrespective of quality, it gives Microsoft power to stave off even superior new rivals." [19]In large measure, the Navigator browser and the Java platform threatened Microsoft's monopoly because they had achieved widespread distribution on both Windows and non-Windows platforms, thereby becoming a potentially more attractive platform for application development than Windows. If developers increasingly chose to develop their applications to the Navigator and Java platforms, rather than the Windows platform, consumers would have greater freedom to switch away from the Windows operating system because they would still be able to run the applications that they desire using competing operating systems.

To restore competition in the PC operating system market, an appropriate remedy should attempt to place the market back in the position it would have been "but for Microsoft's illegal conduct. In other words, an appropriate remedy would ensure, to the extent possible, that alternative platforms achieve the distribution that they would have received "but for" Microsoft's illegal conduct. Moreover, an appropriate remedy also would seek to open up Microsoft's distribution channels to expand consumer choice by ensuring that alternative platforms could compete on the merits with Microsoft's products, rather than having Microsoft's illegally maintained distribution powers effectively foreclose such choices.

To evaluate the potential efficacy of the RPFJ, one must compare the competitive landscape before and after Microsoft's illegal acts. Prior to Microsoft's acts, the marketplace was undergoing dramatic changes as a result of the nearly simultaneous emergence of both the Navigator browser and the Java platform. By easily connecting consumers to resources across the Internet and providing a new platform for software development, these new, widely distributed platforms threatened Microsoft's monopoly power because they afforded consumers the ability to run applications on many different operating systems, not just Windows. Customers could chose between different browsers as well as different implementations of the Java platform. They were not reliant on a single vendor for their platform software. At this inflection point in the market, the barriers to competition protecting Microsoft's monopoly looked increasingly precarious. Microsoft's internal documents demonstrate how serious that threat really was. Despite its dominant market position, Microsoft believed it was necessary to engage in a campaign of illegal conduct to crush this competition. As a result of that conduct, consumers no longer have any real competitive choices for browsers for PCs, other than Microsoft's Internet Explorer. As a practical matter, PC consumers also have been denied access to the latest, compatible versions of the Java platform as a result of Microsoft's conduct. Instead, Microsoft first offered an incompatible version of the Java platform, and now seeks to roll-out their "knock-off" middleware runtime, the .NET Framework/Common Language Runtime, that copies many of the features of the Java platform with one critical difference—it rims only on Windows.

The question that should be asked regarding the RPFJ is whether it will disgorge from Microsoft the fruits of its illegal acts and restore a competitive marketplace where consumers will have the ability to choose their platform software from an array of competitive choices. A critical review of the P,.PFJ makes plain it does not.

3. The RPFJ does little more than attempt to enjoin Microsoft from continuing to engage in the conduct already found to be unlawful

Rather than attempting to undo the damage to competition resulting from Microsoft's actions and pry open the PC operating system market to competition, the RPFJ is purely forwardlooking, focusing primarily on the precise Microsoft conduct already found to be unlawful. Injunctive relief which simply "forbid[s] a repetition oft he illegal conduct" is insufficient under Section 2 because it would allow Microsoft to "retain the full dividends of [its] monopolistic practices and profit from the unlawful restraint of trade which [it] had inflicted on competitors." [20] As the Supreme Court has made plain, an antitrust remedy "does not end with enjoining continuance of the unlawful restraints" but must also seek to undo the effects of the illegal acts and ensure that they do not reoccur. [21]

Most of the RPFJ is oriented towards prohibiting a narrow set of future illegal conduct by Microsoft. For example, the RPFJ contains provisions which would prohibit Microsoft from:

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[13] Id.

[14] Id.

[15] Microsoft III, 253 F.3d at 51, 60, 64, 71, 76–78.

[16] Id. at 103.

[17] See Microsoft III, 253 F.3d at 55–56, 60–61, 70–71; Findings of Facts, 84 F. Supp. 2d at §§ 36–52, 143–44.

[18] Findings of Fact, 84 F. Supp. 2d at §§ 39–40.

[19] Microsoft III, 253 F.3d at 55–56.

[20] Schine, 334 U.S. at 128.

[21] See United States v. Paramount Pictures, 334 U.S. 131, 171 (1948).

- retaliating against distributors of or developers for Non-Microsoft Operating Systems and Non-Microsoft Middleware (Sections III.A and III.F);
- entering into certain restrictive agreements relating to the distribution of or development for Non-Microsoft Operating Systems and Non-Microsoft Middleware (Sections III.C, III. F.2, III.G); or
- preventing end-users and OEMs from enabling non-Microsoft Middleware Products over Microsoft Middleware Products (Section III.H).

Although such provisions are certainly appropriate in light of Microsoft's past conduct, they merely enjoin Microsoft from continuing to break the law in the future, and do nothing to repair the damage to competition caused by Microsoft's past acts.

4. The RPFJ assumes that Microsoft's Windows distributors will promote competitive middleware products

Sun questions whether the Department's reliance upon Microsoft's primary distributors, PC manufacturers, to re-start competition in the PC operating system market is fundamentally misplaced. In its Competitive Impact Statement, the Department contends that the RPFJ will "restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings."[22] The Department's assumption seems to be that by giving PC manufacturers greater contractual freedom to distribute non-Microsoft Middleware Products, a rich market of competing middleware products will arise that could eventually give rise to alternative computing platforms capable of undermining Microsoft's application barrier to entry.

The RPFJ, however, does nothing to ensure that such alternative platforms are actually distributed to consumers. If PC manufacturers choose not to distribute such software, consumers will never have the choice that they had, prior to Microsoft's illegal acts, when alternative platforms like the Navigator browser or the Java platform were ubiquitously distributed. The key question then is whether PC manufacturers will aggressively distribute non-Microsoft platforms. Unfortunately, the Department's Competitive Impact Statement offers no explanation or empirical evidence to support this critical assumption.

Given the limited nature of the relief proposed in the RPFJ, Sun is not as sanguine as the Department about such prospects.

First, despite the retaliation restrictions contained in the RPFJ, because Microsoft's market power is left largely untouched and PC manufacturers remain dependent solely on Microsoft for a critical component for their products, it is very likely that, in practice, many PC manufacturers will remain reluctant to risk incurring Microsoft's wrath by supporting competing platforms. Microsoft simply retains too many formal and informal tactics to reward its "friends," and punish its "enemies." One need only look at PC manufacturers" treatment of Microsoft's Internet Explorer for guidance on how the terms of the RPFJ are likely to be applied in practice. In July 2001, Microsoft: announced that PC manufacturers, for the first time, would be free to remove access to Internet Explorer. Since that time, not one PC manufacturer has removed the Internet Explorer icon from retail PCs.

Second, under the terms of the RPFJ, competing middleware vendors are at such a competitive disadvantage to Microsoft that it will remain extremely difficult to secure distribution of these competing products through PC manufacturers. Under the RPFJ, Microsoft's ability to bundle middleware products into its Windows operating system would remain essentially unfettered. PC manufacturers would have the legal fight to remove or disable certain Microsoft middleware products, but what commercial incentive will the PC manufacturers have to remove or disable the Microsoft products if they have already paid for such products in order to license the Windows operating system? Moreover, while Microsoft retains the ability to bundle its middleware product (e.g., a browser, media player, etc.) into every copy of Windows (absent an affirmative act by a PC manufacturer to exclude such product), a competitor would have to individually approach scores, if not hundreds, of different PC manufacturers around the world and negotiate a separate agreement with each to achieve a comparable degree of distribution. In addition, because the marginal cost to the PC manufacturer for the bundled Microsoft middleware product is effectively zero, PC manufacturers may be reluctant to pay non-Microsoft middleware vendors a sufficient price to recoup the costs such middleware vendors would incur to make and sell competing products.

Finally, since the vast majority of PC manufacturers are in the business of selling Windows PCs, some manufacturers might believe it is against their own commercial interests to support alternative middleware platforms. For example, if a middleware platform (e.g—, the Java platform) truly lowers barriers to entry and allows consumers to run applications on any operating system (e.g., Apple Mac operating system, etc.) that supports that middleware platform, consumers eventually might chose to purchase their computers from vendors other than Windows PC vendors. Thus, the RPFJ fails to account for the fact that many PC manufacturers may derive substantial benefit from maintaining the applications barrier to entry protecting Microsoft's Windows monopoly.

B. The RPFJ does not remedy the continuing competitive harm to web browsers

Prior to Microsoft's illegal campaign, Netscape's Navigator browser was the market leading web browser by a wide margin.[23] Today, Microsoft's Internet Explorer browser dominates the market, accounting for over 87% of all users.[24] To achieve this dramatic turn of events, the District Court found, and the Court of Appeals affirmed, that Microsoft engaged in a series of unlawful, anticompetitive acts:

- Exclusionary contracts with OEMs,[25] IAPs,[26] and ISVs;[27]
- Commingling of software code to make it technologically difficult to remove Internet Explorer from Windows.[28]

Anticompetitive deals with Apple Computer.[29]

Not only did Microsoft effectively destroy Navigator as a viable alternative platform, by seizing control over the web browser, Microsoft greatly expanded its market power. By dominating web browsers and effectively excluding all competitors, Microsoft secured the power to set and control the protocols and interfaces used for connecting with and communicating over the Internet.

Imagine, for example, that a single company monopolized the manufacture and supply of telephones, such that it supplied 95% of the world's telephones. If that company were permitted to change the dial tone on its phones, or the keypad, in ways that permitted only phones made by it to call and interact with its installed base of telephones, the telephones made and sold by its competitors would have very little or no value, since they could no longer interoperate effectively with 95% of all telephones. And if that company also altered the telephones it made so that they worked best—or indeed only—with the telephone switches and answering machines that the monopoly telephone company also made, then that company would quickly obtain a monopoly over the telephone switch and answering machine markets as well.

Microsoft's control over the browser and PC operating system provides Microsoft with just such unbridled power to dictate unilaterally the interfaces and protocols by which other devices and applications can interoperate with Microsoft's products and services over the Internet. The role played by the browser in communicating with devices, applications, and web services over the Internet is directly analogous to the role played by the consumer telephone in the telephone network.

As a result of Microsoft's illegal acts, Microsoft can now exclude competing products and services from being able to communicate over the Internet with Microsoft's browser, or Microsoft can mandate interfaces and protocols which favor its products over competitors" products. Thus, by virtue of its anticompetitive conduct, Microsoft has secured the power to potentially appropriate a public asset of immeasurable value—the Internet—through use of proprietary interfaces and protocols.

Control of the browser also was essential to protecting Microsoft's PC operating system monopoly. By controlling this "killer application," Microsoft can determine which competing operating systems, if any, will be able to run Internet Explorer. Without first-rate browser support capable of communicating with the content available across the Internet, competing PC operating systems simply will not be able to attract consumers away from Microsoft's monopoly operating system.

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[22] CIS at 3.

[23] See Findings of Fact, 84 F. Supp. 2d at § 360.

[24] 2/21/01 StatMarket Report Regarding Global Browser Usage Share.

[25] See Microsoft III, 253 F.3d at 64.

[26] See id. at 71.

[27] See id. at 72.

[28] See id. at 67.

[29] See id. at 74.

Finally, control of the browser was important in order for Microsoft to be able to control a key distribution channel for middleware that potentially threatened Microsoft's monopoly. Browsers have been a vital distribution channel for a variety of middleware products, including the Java platform, media players, instant messaging products, etc. If Microsoft did not control this distribution channel, competitors could have continued to use competing browsers as a vehicle for distributing non-Microsoft middleware.

Consequently, the continuing competitive harm flowing from Microsoft's unlawful conduct is substantial. The RPFJ, however, does nothing directly to address it. Instead, it leaves Microsoft to enjoy the spoils of its illegal conduct At best, the RPFJ attempts to make it easier for PC manufacturers to now distribute competing browsers. But given the dominant position that Internet Explorer has now achieved, who will develop and market a competing browser? Because Microsoft bundles Internet Explorer with its monopoly operating system, a competitor would have to compete against a product with a marginal cost to PC manufacturers and consumers of essentially zero, since Microsoft can recoup its costs from its monopoly products. Even if the competing browser were technically superior, Microsoft can regularly introduce new interfaces and protocols to interfere with the competing browser's ability to compete, forcing the competitor to chase each new proprietary standard Microsoft announces.

Unless Microsoft is first stripped of the fruits of its illegal conduct, real competition in the browser market is unlikely to occur. Absent such remedial relief, it is akin to holding a 100-yard dash in which Microsoft has an 87-yard lead after jumping the gun and intentionally tripping all of its competitors. Consumers are directly harmed as a result. Instead of a marketplace offering many different browser choices, consumers are increasingly faced with only one choice—Microsoft's browser.

C. The RPFJ does not remedy the substantial harm to competition caused by Microsoft's illegal acts against the Java platform

The District Court found, and the Court of Appeals affirmed, that Microsoft engaged in numerous anticompetitive acts directed against the Java platform:

Exclusionary ISV deals;[30]

Anticompetitive threats to Intel to stop Java platform development;[31]

Deceiving developers into using Microsoft's incompatible implementation of the Java platform;[32]

Blocking distribution of Netscape Navigator—a prime distribution channel for the Java platform to PCs.[33]

Prior to Microsoft's anticompetitive acts, Sun had secured two major distribution channels for delivering the Java platform to PCs—Netscape's Navigator browser and Microsoft's Internet Explorer browser and Windows operating system. By its illegal acts, Microsoft effectively blocked the distribution of compatible, upgraded versions of the Java platform through both channels, and substantially slowed the development of desktop applications written to the Java platform.

First, by blocking distribution of Netscape Navigator and dramatically reducing its market share, Microsoft effectively closed this alternative channel for distributing compatible versions of the Java platform to PCs. Second, by developing and distributing its own incompatible version of the Java platform which was tied to Windows, Microsoft fragmented the Java platform in order to re-create its applications barrier to entry, ensuring that PC consumers only had Microsoft's version of the Java platform. By refusing to distribute compatible upgrades of the Java platform, Microsoft effectively froze desktop development for the Java platform by continuing to distribute an "old" version of the technology, which did not have the richer set of functionality available in later versions. Finally, by means of exclusionary deals, threats, and incompatible developer tools, Microsoft attempted to either deceive or coerce developers away from developing compatible applications written to the Java platform that could run on operating systems other than Windows.

Since the trial, Microsoft has continued to attack the Java platform to the detriment of consumers. In its most recent version of Windows, Windows XP, Microsoft no longer included even the old version of the Java platform which it previously had been shipping as part of Windows in accordance with the terms of a settlement agreement with Sun. As a result, millions of consumers purchasing Windows XP will no longer be able to access web pages that contain applications written to the Java platform unless they engage in a time-consuming download of the entire Java platform.

In addition, Microsoft recently unveiled its own competing middleware runtime—the .NET Framework—as part of its .NET initiative. During the time that Microsoft effectively halted the development and distribution of the Java platform for the PC for several years, it simultaneously was busy developing its own middleware runtime that copied the design and architecture of the Java platform with one glaring difference—the .NET Framework runs only on Windows. Thus, not only did Microsoft's illegal conduct allow it to blunt the competitive threat which the Java platform posed to Microsoft's Windows monopoly, it also allowed Microsoft the time to try and catch up with many of the compelling features that, at the time, only the Java platform offered. The RPFJ, however, does not seek to remedy the continuing competitive harm caused by Microsoft's actions. For example, the RPFJ does nothing to attempt to put the marketplace in the position it would have been "but for" Microsoft's conduct—ubiquitous distribution of an upgraded, compatible Java platform on top of every Windows operating system as an available, alternative platform for software applications. Nor does it account for the time-to-market advantage that the Java platform lost as a result of Microsoft's conduct, particularly now that Microsoft will attempt to compete against the Java platform with its .NET Framework. Instead of attempting to undo this damage to competition, the RPFJ would allow Microsoft to bundle its competing .NET Framework with Windows, while forcing Sun and its licensees to try and m-create the distribution channels that Microsoft unlawfully destroyed. Absent real remedial relief, Microsoft will continue to reap the benefits of its unlawful conduct, and consumers will have no meaningful alternative computing platform available on PCs that is not controlled by Microsoft.

IV. Critical Terms In The RPFJ Are Undefined or Ambiguous

A. Significant ambiguities in the RPFJ must be cured to avoid further litigation The dispute between Microsoft and the Department regarding the prior consent decree demonstrates the need to carefully define technical terms to avoid future litigation and ensure the parties agree with respect to Microsoft's obligations. As the Department is well aware, the 1995 consent decree with Microsoft prevented Microsoft from requiring PC manufacturers to license other products as a condition of licensing the Windows operating system.[34] However, the consent decree specified that this obligation did not "prohibit Microsoft from developing integrated products," though the term "integrated products" was left undefined.[35]

In 1997, the Department asked the District Court to find Microsoft in contempt for requiring PC manufacturers who licensed the Windows operating system to also license Internet Explorer. Although the District Court found that the Department's proposed definition was probably correct, the court declined to find Microsoft in contempt because Microsoft offered a "plausible interpretation," and any ambiguities had to be resolved in Microsoft's favor.[36] Given that any ambiguities are likely to be resolved in Microsoft's favor in any future enforcement proceeding, Sun believes it is essential that any and all material ambiguities be clarified prior to the entry of the RPFJ.

Although the Department offers its own interpretation of some of the RPFJ's ambiguous terms in the Competitive Impact Statement, Microsoft has repeatedly refused to reveal whether it disagrees with those interpretations. For example, following recent testimony by Microsoft's counsel, Charles Rule, before the Senate Judiciary Committee, members of the Committee posed a series of questions to Mr. Rule regarding whether Microsoft agreed with the

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[30] See id. at 76.

[31] See id. at 78.

[32] See id. at 77.

[33] See Findings of Fact, 84 F. Supp. 2d at § 397 (explaining how Microsoft used some of its "surplus monopoly power" to suppress distribution of Netscape Navigator and inflict further competitive damage on the distribution of the Java platform).

[34] See United States v. Microsoft Corp., 980 F. Supp. 537, 539 (D.DC 1997).

[35] Id. at 53940 (emphasis added).

[36] Id. at 541–42.

Department's interpretation of the RPFJ as set forth in the Competitive Impact Statement. Mr. Rule's responses were telling. When asked a series of questions directed to whether "Microsoft disagree[d] with anything stated in the Department's Competitive Impact Statement concerning the meaning and scope of the proposed Final Judgment," Mr. Rule refused to answer the questions directly, instead repeatedly referring to the same "non-answer":

Microsoft did not participate in the preparation of the Competitive Impact Statement. The language of the Revised Proposed Final Judgment was carefully negotiated and means what it says. The Department's Competitive Impact Statement has the same legal force and effect in this case as in any other. Beyond that I cannot go in light of the facts that the Tunney Act proceeding is currently under way before Judge Kollar-Kotelly and that the non-settling states are attempting to raise various issues concerning the Competitive Impact Statement as part of the ongoing "remedies" litigation also before Judge Kollar-Kotelly. Once that litigation is completed, I may be in a better position to discuss these issues with the Committee. [37]

Microsoft's clear strategy is to refuse to reveal anything about its interpretations of the RPFJ prior to the Court's entry of the judgment, lest it become clear to both the Department and the public that Microsoft's understanding of its potential obligations under the RPFJ is substantially different from the Department's. Then, when disputes with the Department about the scope of its obligations arise, as they inevitably will, Microsoft will be free to argue that the R.PFJ is ambiguous, and therefore must be construed, as a matter of law, in Microsoft's favor. [38]

While it certainly is in Microsoft's interest to pursue such a strategy, the Department should not risk being complicit in a scheme that would effectively mislead the Court and the public about the true nature and impact of the RPFJ. The Department should insist that Microsoft identify any and all disagreements that it has with the interpretations offered by the Department in the Competitive Impact Statement prior to entry of the RPFJ. Absent such an inquiry and a record of Microsoft's position, the District Court, Sun, and the public at large have no assurances that the terms of the RPFJ will actually be construed/n the manner proposed by the Department in its Competitive Impact Statement.

B. "Interoperate" and "interoperating" must be defined

The key disclosure provisions contained in the RPFJ rely on the terms "intemperate" and "interoperating" to define the scope of Microsoft's obligations, but these critical terms are not expressly defined.

Section III.D of the RPFJ would require Microsoft to disclose "for the sole purpose of interoperate with a Windows Operating System Product ... the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product." (emphasis added).

Section III.E would require Microsoft to: make available for use by third parties, for the sole purpose of interoperating with a Windows Operating System Product, on reasonable and non-discriminatory terms..., any Communication Protocol that is ... (i) implemented in a Windows Operating System Product installed on a client computer, and (ii) used to interoperate natively (i.e., without the addition of software code to the client operating system product) with a Microsoft server operating system product. (emphasis added). [39]

Depending on the definition of these terms, the scope of Microsoft's obligations under these provisions could vary dramatically. Therefore, in order to avoid a reprise of the litigation surrounding the 1995 consent decree with Microsoft, the Department should clarify the meaning of these terms in the text of the RPFJ, particularly since any ambiguity is likely to be construed in Microsoft's favor in any enforcement action brought by the Department. An explicit definition of these terms is essential because Sun believes the Department and Microsoft likely attach very different meaning to these terms. For example, in the Competitive Impact Statement, the Department offers a number of broad characterizations regarding the scope of these interoperability disclosures: . "[I]f a Windows Operating System Product is using all the Communications Protocols that it contains to communicate with two servers, one of which is a Microsoft server and one of which is a competing server that has licensed and fully implemented all the Communications Protocols, the Windows Operating System Product should behave identically in its interaction with both the Microsoft and non-Microsoft servers."[40]

. "Section III.E. will permit seamless interoperability between WindowsOperating System Products and non-Microsoft servers on a network. For example, the provision requires the licensing of all Communications Protocols necessary for non-Microsoft servers to interoperate with the Windows Operating System Products" implementation of the Kerberos security standard in the same manner as do Microsoft servers, including the exchange of Privilege Access Certificates. Microsoft must license for use by non-Microsoft server operating system products the Communications Protocols that Windows Operating System Products use to enable network services through mechanisms such as Windows server message block protocol/common Internet file system protocol communications, as well as Microsoft remote procedure calls between the client and server operating systems."[41]

. "Section III.D of the proposed Final Judgment requires Microsoft to disclose to ISVs, IHVs, IAPs, ICPs and OEMs all of the interfaces and related technical information that Microsoft Middleware uses to interoperate with any Windows Operating System Product .... Microsoft will not be able to hamper the development or operation of potentially threatening software by withholding interface information or permitting its own products to use hidden or undisclosed interfaces."[42]

In light of these comments, the Department appears to be interpreting "interoperate" to mean the ability of two different products to access, utilize, and support the full features and functionality of one another. Under the Department's interpretation, the disclosures would be of sufficient detail to allow a non-Microsoft server operating system to implement the Microsoft Communication Protocols in a manner such that the non-Microsoft server operating system could be substituted for a Microsoft server operating system without any disruption, degradation, or impairment of all the features, functionality, and services of any Microsoft PC operating system connected to such non-Microsoft server operating system. By contrast, in proceedings before the European Commission, Microsoft has asserted a much narrower interpretation of "interoperate" than the Department's interpretation. In that forum, Microsoft has maintained it already discloses all information necessary to achieve interoperability between Microsoft's PC operating system and non-Microsoft server operating systems. Since Microsoft contends that they already disclose all of the information necessary to satisfy this narrow definition of "interoperate," if this definition were to prevail, Microsoft will disclose nothing new. Its conduct will remain unchanged.

Under Microsoft's narrow definition, interoperability is a one-way street that is satisfied if all of the functionality of a non-Microsoft server operating system can be accessed from a Windows PC operating system. In contrast to the Department's position, Microsoft has repeatedly taken the position that interoperability does not require a disclosure sufficient to allow a Windows PC operating system to behave identically when connected to both Microsoft and non-Microsoft server operating systems. Moreover, Microsoft has previously claimed that "interoperability" relates only to those protocols and interfaces which Microsoft has chosen to document and make available to third parties, and should not include protocols and interfaces that Microsoft reserves for itself to use to connect its PC and server operating system products. Absent an explicit definition of this critical term in the RPFJ, Sun believes the disclosure provisions of the RPFJ are doomed to fail. To avoid future disputes over the meaning of this term and to ensure that the public actually receives a remedy that is consistent with the Department's representations in the

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[37] Responses of Charles F. Rule to Judiciary Committee Questions at 13.

[38] See Microsoft, 980 F. Supp. at 541 ("The Court must resolve any ambiguities in the terms of the Final Judgment in favor of Microsoft, the party charged with contempt."); see also Cause v. Nuclear Regulatory Corem'n, 674 F.2d 921,927–28 (DC Cir. 1982).

[39] See also Section III.H (providing that a Windows Operating System Product may invoke a Microsoft Middleware Product in any instance in which "that Microsoft Middleware Product would be invoked solely for use in interoperating with a server maintained by Microsoft (outside the context of general Web browsing)").

[40] CIS at 38.

[41] CIS at 38–39.

[42] CIS at 33.

Competitive Impact Statement, Sun proposes that the RPFJ should be amended to include the following definition: "Interoperate" or "Interoperating" means the ability of two different products to access, utilize and/or support the full features and functionality of one another in all of the ways they are intended to function. For example, a non-Microsoft operating system installed on a server computer "Interoperates" with a Windows Operating System Product installed on a Personal Computer if such non-Microsoft server operating system can (a) be substituted for a Microsoft operating system running on a server computer connected to a Personal Computer running a Windows Operating System Product, and Co) provide the user of the non-Microsoft server operating system the ability to access, utilize and/or support the full services, features and functionality of the Windows Operating System Product that are accessed, utilized and/or supported by such Microsoft server operating system without any disruption, degradation or impairment in such services, features and functions.

C. The scope of Microsoft's "Communication Protocols" disclosure should be clarified and exemplified

As a vendor of server operating systems that must connect and communicate with Microsoft's monopoly PC operating system, the disclosure and licensing provisions in Section III. E relating to Microsoft's Communications Protocols are especially important to Sun's business. Although the term Communications Protocols is expressly defined, the RPFJ lacks any explicit examples regarding which Microsoft technologies would currently be required to be disclosed or what the extent of such disclosure would be in practice. While the terms of the RPFJ must be written to anticipate Microsoft's future conduct, there is no excuse for misunderstandings regarding Microsoft's obligations with respect to known, existing interoperability barriers. Because the technical terms surrounding this provision are potentially subject to varying interpretations, the RPFJ would be substantially improved if it gave better guidance on how these provisions would actually be applied in practice.

For example, in its Competitive Impact Statement, the Department identifies some of the specific protocols it believes Microsoft will be required to disclose under Section III.E to the extent such protocols are implemented in Microsoft's PC operating system products, including: protocols relating to Microsoft's Internet Information Services ("IIS") web server and Active Directory, Microsoft's implementation of the Kerberos security standard (including the exchange of Privilege Access Certificates), the Windows server message block protocol, the Windows common Internet file system protocol, Microsoft remote procedure calls between the client and server operating systems, and protocols that permit a runtime environment (e.g., the Common Language Runtime) to receive and execute code from a server.[43]

Microsoft, however, has refused to say whether it agrees with the Department's interpretation. To avoid future disputes and ensure that the parties agree on the kinds of protocols that will fall within the scope of the term "Communications Protocols," the RPFJ should be amended to identify particular examples of protocols that Microsoft would be required to disclose. Furthermore, in advance of entry of the RPFJ, Microsoft should be required to fully detail what it will disclose with regard to existing Communications Protocols that pose a barrier to interoperability. At a minimum, the Department should require Microsoft to identify any disagreements Microsoft has with the Department's interpretation of this provision prior to entry of the RPFJ. Unless the Department and Microsoft go through the exercise of attempting to apply this provision in practice, the public cannot be assured that there truly has been a "meeting of the minds" regarding the scope and meaning of this important provision. Not only should the Department clarify the RPFJ with examples of particular protocols that Microsoft currently would be required to disclose, the Department also should clarify the kinds of information Microsoft will be required to disclose regarding its Communications Protocols. Although the term Communications Protocols appears to be defined broadly in Section VI.B of the RPFJ, in practice, the actual application of these provisions is likely to give rise to many potential questions and disputes. For example,

. Is everything that is shipped with Microsoft Windows server operating system products (e.g., Windows 2000 Server, Windows 2000 Advanced Server, etc.), including Microsoft's Active Directory or IIS, part of the "server operating system," and therefore potentially the subject of disclosure to the extent it comprises a "Communications Protocol"?

. Are Active Directory, Kerberos security protocol, COM+, Dfs, DLT, CIFS extensions, RPC, the Win 32 APIs, or Passport examples of "Communications Protocols" that must be disclosed and licensed pursuant to Section III.E of the RPFJ?

. Where Microsoft has extended an industry standard like Kerberos, will Microsoft be required to disclose both the standard portion of its implementation and its proprietary extensions?

. Will Microsoft be required to disclose the details regarding its proprietary implementation of the Kerberos security protocol in Windows 2000 and Windows XP Professional, including the information necessary for a non-Microsoft server to be able to generate, exchange, and process the authentication and authorization data in Privilege Access Certificates?

. What does "make available for use by third parties" mean in practice in the context of Section III.E? Will Microsoft be required to just disclose fields, formats, etc., or will it be required to disclose sufficient information to allow a competitor to create its own implementation of the Communications Protocol that will allow a competitor's server operating system to seamlessly interoperate with the Windows PC operating system in the same manner as a Microsoft server operating system? Unless such questions are resolved and clarified in advance of entry of the RPFJ, the disclosure and licensing obligations of Section III.E will not provide any meaningful relief.

D. The scope of the "carve-out" provisions of Section III.J should be clarified

Particularly troubling to Sun is the possibility that the "carve-out" provisions of Section III.J might be broadly construed by Microsoft to exclude many of the kinds of disclosures that would otherwise fall within the scope of Sections III.D and III.E. Section III.J. 1 provides that no provision of the Final Judgment shall: [r]equire Microsoft to document, disclose or license to third parties: (a) portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of which would compromise the security of 'a particular installation or group of installations" of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria .... (emphasis added).

In the Competitive Impact Statement, the Department characterizes this exception as a "narrow one, limited to specific end-user implementations of security items such as actual keys, authorization tokens or enforcement criteria, the disclosure of which would compromise the security of 'a particular installation or group of installations" of the listed security features"[44] But nowhere in the RPFJ is the term "compromise the security of a particular installation or group of installations" defined. What will this provision mean in practice? With respect to known interoperability problems relating to Active Directory, Microsoft's Kerberos security model, Windows Media Player, or the Passport authentication/authorization service, what portions of those protocols and interfaces can Microsoft refuse to disclose pursuant to this provision? If Microsoft refuses to disclose such information, will competitors be able to fully interoperate with all of the features and functionality of the Windows operating system, or will the value of the disclosure provisions be effectively eviscerated? What steps has the Department taken to ensure that, in practice, this exception will not swallow the intended effect of the disclosure provisions?

Again, unless such questions are clarified in advance of entry of the RPFJ, Microsoft is likely to use this purportedly narrow exception to eviscerate its disclosure and licensing obligations under the RPFJ.

E. The definition of "Microsoft Middleware Product" should be amended The definition of "Microsoft Middleware Product"[45] in the

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[43] CI8 at 37–39.

[44] CIS at 39.

[45] The RPFJ defines "Microsoft Middleware Product" as Follows:

1. the functionality provided by Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express and their successors in a Windows Operating System Product, and.

2. for any functionality that is first licensed, distributed or sold by Microsoft after the entry of this Final Judgment and that is part of any Windows Operating System Product

RPFJ is fundamentally flawed because it grants Microsoft discretion to limit its obligations merely based on the way it chooses to trademark its products. For middleware functionality that is distributed after entry of the Final Judgment, except for a small, specified class of middleware applications (e.g., Internet browsers, email client software, etc.), Microsoft's obligations under the RPFJ are not triggered unless it chooses to distribute the middleware product under a trademark other than "Microsoft??" or "Windows??"[46] In other words, after entry of the RPFJ, if Microsoft bundles its new middleware runtime alternative to the Java platform, the .NET Framework (also known as the Common Language Runtime) with Windows, it only would have to make disclosures about the APIs used by the .NET Framework or allow OEMs and consumers to remove access to it, if it chose to distribute the .NET Framework under the trademarked name ".NET Framework." If it simply distributed the product under the name "Microsoft??" .NET Framework," its activities would appear to be unconstrained by the RPFJ. To allow Microsoft to evade its obligations under the RPFJ based on arbitrary trademarking practices is absurd.

To avoid this result, the definition of "Microsoft Middleware Product" should be amended as follows: the "Trademarked" requirement of Section VI.K.2.b.iii should be stricken; the terms ".NET Framework" and "Common Language Runtime" should be added to Section VI.K. 1; and the term "middleware runtime environment" should be added to Section VI.K.2.a.

V. Section III.I's Licensing Provisions Allow Microsoft to Profit from Its Unlawful Acts

A. Microsoft should not be allowed to demand royalties as a condition for making interoperability disclosures

The licensing provisions of the RPFJ are fundamentally flawed because they would require the public to pay royalties to Microsoft in order to interoperate with Microsoft's illegally maintained monopoly products. If Microsoft had not engaged in its pattern of illegal conduct, its monopoly would have begun to dissipate, and it would have been unable to collect this "interoperability" tax. As the Department itself previously recognized, "[i]f Microsoft were in a competitive market, it would disclose its confidential interface information to other server software developers so that their complementary software would work optimally with, and thereby enhance the value of, Microsoft's PC operating systems."[47] It is only because Microsoft has illegally maintained its PC operating system monopoly and wishes to expand its monopoly to server operating systems that Microsoft has an incentive to withhold information from competitors regarding complementary software. Thus, the RPFJ, in effect, authorizes Microsoft to collect a portion of its monopoly rents through this licensing regime.

Furthermore, not only is Microsoft authorized to collect royalties for the "privilege" of interoperating with its illegal monopoly, the RPFJ places no limits on how high a royalty Microsoft can demand, other than the royalty must be reasonable. However, since competitors" products must be able to interoperate with Microsoft's monopoly PC operating systems, they may be constrained to essentially pay whatever Microsoft demands. To ensure Microsoft does not continue to enjoy the fruits of its illegal conduct, Section III.I of the RPFJ should be mended to require Microsoft to grant any licenses required under the RPFJ on a royalty-free basis.

B. Microsoft has too much discretion over licensing terms under the RPFJ Although Section III.I of the RPFJ places some limitations on the terms under which Microsoft must license its technology to facilitate the disclosure obligations of the RPFJ, Microsoft retains broad discretion, which it is likely to exploit. For example, Section III.I. 1 requires that all license terms be "reasonable." A reasonableness standard, however, provides little practical guidance, and is a particularly poor choice in the case of a monopolist like Microsoft who has repeatedly broken the law to secure commercial advantages over its competitors. Similarly, the fact that licenses must be "nondiscriminatory" could actually be exploited by Microsoft to ensure that its strongest competitors are denied access to Microsoft's disclosures. For instance, a small start-up company with no revenues and no existing intellectual property rights might be willing to agree to terms that would be commercially unacceptable to significant Microsoft competitors like Sun, IBM, or Novell. The terms of the RPFJ also allow Microsoft the ability to substantially delay making any interoperability disclosures. Under Section III.E, Microsoft does not even need to make its Communications Protocols available until nine months after submission of the RPFJ. But since Microsoft can insist that third parties enter into a license agreement before they receive any disclosures, Microsoft can continue to delay making disclosures to key competitors by dragging out negotiations and insisting on commercially unacceptable terms. Does the Department intend to review ongoing negotiations to ensure Microsoft is taking reasonable positions in the negotiations? How will the Department ensure that Microsoft does not exploit the negotiating process to facilitate delay and disadvantage key competitors? Will Microsoft's competitors be forced to sign license agreements before they know the scope of information that Microsoft will or will not disclose? Does the Department expect that the proposed Technical Committee will be involved in resolving such disputes? If so, will Technical Committee members have the requisite licensing and legal experience to assess whether Microsoft is insisting upon commercially unreasonable terms? To ensure Microsoft cannot circumvent the intent of the RPFJ, Sire proposes that the R.PFJ be amended to include a publicly available template identifying the terms under which Microsoft will license its technology pursuant to the RPFJ. In principle, this approach is analogous to Section III.B which requires Microsoft to have uniform license agreements with OEMs in accordance with published, uniform royalty rates. Requiring Microsoft to identify this license template in advance would serve two important objectives. First, it would help limit Microsoft's ability to evade the intent of the RPFJ through negotiation tactics. Second, it would allow the public to understand the true costs and conditions of licensing under the RPFJ in advance of entry of the RPFJ. Unless the material licensing terms are specified in advance, neither the Department nor the public can accurately assess the actual commercial significance of the proposed disclosure obligations.

C. Microsoft should not be allowed to force third parties to forfeit their intellectual property claims against Microsoft

Section III.I.5 provides that third parties "may be required to grant to Microsoft on reasonable and nondiscriminatory terms a license to any intellectual property rights it may have relating to the exercise of their options or alternatives provided by this Final Judgment." In other words, Microsoft would be free to infringe a third party's patents or copyrights, or steal its trade secrets, and then by virtue of its monopoly position, force such third party to grant Microsoft a license to do so as the price that third party must pay in order to interoperate with Microsoft's monopoly product. If Microsoft wished to obtain rights to practice or use a competitor's intellectual property, it could do so simply by incorporating that technology into Windows, then insisting on both a royalty and a grant-back license as the consideration that competitor must provide in order to enable its products to interoperate with Microsoft's monopolized PCs. Indeed, Microsoft's competitors would have to license Microsoft the right to whatever intellectual property Microsoft may have incorporated into Windows even before they know what intellectual property Microsoft has stolen or infringed. No other company has such power, let alone governmental blessing and endorsement, to extort such concessions. Sun therefore proposes that the RPFJ be mended to strike Section III. I.5 in its entirety.

VI. Conclusion

The RPFJ fails to remedy the continuing competitive harm resulting from Microsoft's actions, and instead improperly accedes to Microsoft's illegally maintained and

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a. Internet browsers, email client software, networked audio/video client software, instant messaging software or

b. functionality provided by Microsoft software that—

i. is, or in the year preceding the commercial release of any new Windows Operating System Product was, distributed separately by Microsoft (or by an entity acquired by Microsoft) from a Windows Operating System Product;

ii. is similar to the functionality provided by a Non-Microsoft Middleware Product; and

iii. is Trademarked. Functionality that Microsoft describes or markets as being part of a Microsoft Middleware Product (such as a service pack, upgrade, or bug fix for Internet Explorer), or that is a version of a Microsoft Middleware Product (such as Internet Explorer 5.5), shall be considered to be part of that Microsoft Middleware Product.

[46] See RPFJ, Sections VI.K and VI.T.

[47] 4/28/00 Plaintiffs" Memo. in Support of Proposed Final Judgment at 28.

expanded monopoly power. The Department should withdraw its support for the RPFJ, and instead pursue remedies that will restore competition to the PC operating system market, prevent Microsoft from expanding its monopoly in that market into adjacent and downstream markets, and redress the harm to competition caused by Microsoft's illegal acts. At a minimum, the Department should seek to remedy directly the specific harm to competition caused by Microsoft's illegal acts against the Navigator browser and the Java platform, which formed the very heart of the Department's case against Microsoft. Because critical terms in the RPFJ are undefined or ambiguous, the Department also should assure the public that Microsoft is bound by the interpretation of the RPFJ set forth in the Department's Competitive Impact Statement. Finally, the Department should delay seeking entry of the RPFJ until the completion of trial on the remedies sought by the Department's co-plaintiffs, the Litigating States. Sun believes that the evidentiary record from that trial is likely to demonstrate the substantial flaws and inadequacies of the RPFJ and cause the Department to seriously re-consider whether its support for the RPFJ is in the public interest.

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January 28, 2002
VIA E-MAIL AND MESSENGER
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Re: Microsoft Settlement: United States v. Microsoft Corp., No. 98–1232 Tunney Act proceedings

Dear Renata:

Enclosed please find the following comments on the settlement:

(1) Comments of Computer & Communications Industry Association on the Revised Proposed Final Judgment;

(2) Declaration of Joseph E. Stiglitz and Jason Furman; and

(3) Declaration of Edward Roeder.

Thank you for your assistance. Please feel free to call my Washington colleague, David Gossett (202–263–3384) or me if you have any questions.

Hope all is well with you. It's a long way from the ELQ days.

Sincerely,
Donald M. Falk
Enclosures

BEFORE THE UNITED STATES DEPARTMENT OF JUSTICE UNITED STATES OF AMERICA Plaintiff, V. MICROSOFT CORPORATION, Defendant. Civil Action No. 98–1232 (CKK) United States District Court for the District of Columbia STATE OF NEW YORK ex rel. Attorney General ELIOT SPITZER, et al., Plaintiffs, v. MICROSOFT CORPORATION, Defendant. Civil Action No. 98–1233 (CKK) United States District Court for the District of Columbia

COMMENTS OF COMPUTER & COMMUNICATIONS INDUSTRY ASSOCIATION ON THE REVISED PROPOSED FINAL JUDGMENT

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TABLE OF CONTENTS
Page(s)

INTRODUCTION 2
A. Liability Rests On Microsoft's Suppression Of Middleware Threats That Threatened To Erode The Applications Barrier To Entry 6
B. The RPFJ Does Not Prevent Microsoft From Abusing Its Position And Does Not Meet Basic Standards For An Antitrust Remedy 9
C. The Obligations That Supposedly Restore Competitive Conditions In Fact Make Microsoft Do Virtually Nothing Against Its Will 11
D. The Public Interest Requires An Effective Remedy That The RPFJ Does Not Provide 15
I. The Tunney Act Requires Close Scrutiny Under The Present Circumstances 18
A. The Government's Victory On Liability Removes Litigation Risk And Therefore Limits Deference 19
1. The Imposition And Affirmance Of Liability Remove Any Constitutional Concerns About Searching Review And Require The Court To Perform Its Constitutional Duty 19
2. The Extensive Record And Judicial Opinions Provide Clear, Manageable Standards For Substantive Review Of The RPFJ 23
B. Broad Deference Is Particularly Inappropriate Because The Circumstances Are Suspicious 26
1. Microsoft's Manifestly Inadequate Disclosure Under The Tunney Act's Sunshine Provisions Weighs Strongly Against Judicial Deference To The Terms Of The RPFJ<5>26
2. The RPFJ Represents A Swift And Significant Retreat By DOJ 32
3. The CIS Overstates The Terms Of The RPFJ, Reflecting The Indefensibility of the RPFJ Itself 33
II. the rpfj must meet the legal standards normally applicable to antitrust remedies 34
A. The Relief Should "Terminate The Illegal Monopoly" 35
B. The Relief Should Prevent "Practices Likely To Result In Monopolization In The Future" 36
C. The Relief Should "Deny To The Defendant The Fruits Of Its Statutory Violation" 37
D. Broader Principles Applicable To Injunctive Relief Also Should Inform The Analysis Of The RPFJ 37
III. The RPFJ falls far short of providing a remedy for proven offenses upheld on appeal 39
A. DOJ's Effort To Minimize The Scope Of The DC Circuit's Affirmance Cannot Obscure The Failure Of The RPFJ To Remediate Clear, Proven Violations 39
B. The RPFJ Simply Restates The Antitrust Laws At Critical Points And Thus Forfeits The Clarity And Efficiency Of The Contempt Process 41
C. The RPFJ Provides No Remedy For Microsoft's Suppression Of The Browser And Java 42
IV. The Icon-focused Oem flexibility Provisions Are Ineffective 44
A. The PFJ Permits Microsoft's To Continue Illegally Commingling Middleware Code With The Code For The Monopoly Operating System 45
1. The DC Circuit Specifically Condemned Commingling Twice 46
2. The Failure To Limit Commingling Is Critical Because Ubiquity Trumps Technology In Platform Software Markets 49
3. The RPFJ Retreats From The 1995 Consent Decree 52
4. The RPFJ Encourages Illegal Commingling By Placing The Critical Definition of Windows Under Microsoft's Exclusive Control 53
B. Empirical Evidence Shows That The Icon Flexibility Provisions Will Not Be Used 54
C. The Icon Flexibility Provisions Require—And Accomplish—Little 55
D. The 14-Day Sweep Provision Effectively Nullifies RPFJ § III(H) 57
E. By Placing The Burden To Restore Competition On OEMs, The PFJ Leads To No Remedy At All For Much Of The Misconduct At Issue 58
F. The RPFJ Permits Microsoft To Control Consumers" Access To Innovation To Suit Its Monopolistic Aims 59
V. The API and Communications protocol Disclosure Provisions Are ineffective 60
A. The API Provisions Require Little, If Anything, Beyond Current Disclosure Practices In Microsoft's Self-Interest 60
B. The RPFJ Does Not Require Disclosure of Windows APIs, But Rather Lets Microsoft Determine The Scope of Disclosure Through The Design and Labeling of Its Operating System And Middleware 61
C. The Definition of "Microsoft Middleware" Gives Microsoft Further Leeway to Limit Its Disclosure Obligation 63
1. The RPFJ Requires Microsoft To Disclose Only The APIs Used By The "User Interface" Or Shell Of Microsoft Middleware 64
2. The RPFJ Requires Microsoft To Disclose APIs Only For "Microsoft Middleware" That Is Distributed Separately From

Windows, Yet Is Distributed To Update Windows 65
3. The Limitation Of Microsoft Middleware To "Trademarked" Products Further Eviscerates The API Disclosure Provision 65
D. The Disclosure Provisions—Particularly Those Concerning "Communications Protocols"—Depend On An Undefined And Thus Unenforceable Concept of "Interoperability" 69
E. The Narrow Scope Of The Disclosure Provisions Contrasts Sharply With The Broader Definitions In DOJ's Earlier Remedy Proposals 70
F. The "Security" Exceptions in Section III(J) Permit Microsoft To Avoid Its Disclosure Obligations 72
1. The Exclusions for Security-Related APIs and Protocols in RPFJ(J)(1) Permit Microsoft To Hobble Disclosures That Are Critical in Internet Computing 73
2. RPFJ III(J)(2) Permits Microsoft To Refuse Effective Disclosure To A Range Of Potentially Effective Competitors 77
G. RPFJ § III(I) Would Place A Judicial Imprimatur On Microsoft's Use Of Technical Information As A Lever To Extract Competitors" Intellectual Property 81
VI. built-in delays exacerbate the decree's unjustifiably brief duration 82
VII. Additional weaknesses undercut the rpfj 85
A. The Anti-Retaliation Provisions Are Deeply Flawed 85
B. Microsoft Can Evade The Price Discrimination Restrictions 87
C. Microsoft Can Enforce De Facto Exclusivity 88
VIII. THE RPFJ'S ENFORCEMENT MECHANISMS ARE FUNDAMENTALLY INADEQUATE 89
CONCLUSION 93

INTEREST OF THE COMMENTER

The Computer & Communications Industry Association ("CCIA") is an association of computer, communications, Internet and technology companies that range from small entrepreneurial firms to some of the largest members of the industry. CCIA's members include equipment manufacturers, software developers, providers of electronic commerce, networking, telecommunications and on-line services, resellers, systems integrators, and third-party vendors. Its member companies employ nearly one million persons and generate annual revenues exceeding $300 billion. CCIA's mission is to further the interests of its members, their customers, and the industry at large by serving as the leading industry advocate in promoting open, barrier-free competition in the offering of computer and communications products and services worldwide. CCIA's motto is "Open Markets, Open Systems, Open Networks, and Full, Fair and Open Competition," and its website is at www.ccianet.org. For nearly 30 years, CCIA has supported antitrust policy that ensures competition and a level playing field in the computer and communications industries. That involvement antedates the founding of Microsoft, much less its acquisition of its first monopoly and its refinement of anticompetitive techniques. CCIA supported the Tunney Act in the 1973 congressional hearings preceding the enactment of that legislation, and played active roles on the side of competition in other significant antitrust cases, including those against AT&T and IBM. Before participating as amicus curiae at the trial and appellate stages of the current Microsoft case, CCIA participated as a leading amicus curiae in the proceedings examining the last Microsoft consent decree in 19941995, both in the district court and in the court of appeals. As a consequence, CCIA and its members are intimately familiar with the shortcomings of that decree, and its failure to prevent or deter Microsoft from continuing on an anticompetitive course. Microsoft's conduct in the intervening years, including the period while this case has been litigated, has only sharpened CCIA's awareness of Microsoft's dedication to driving out competition from as many aspects of the computer-software and related industries as possible. Microsoft may repeat its attempts to mischaracterize CCIA as a mere voice for competitors, but that innuendo cannot withstand scrutingy in light of the diversity of CCIA's membership now and over the years, combined with CCIA's 30 years of vigorous commitment to supporting openness and competition in the computer technology and communications industries. In hopes that a meaningful remedy in this case will prevent Microsoft from further expanding the scope of its monopoly, and with the certainty that the current Revised Proposed Final Judgment ("RPFJ") falls far short of that task, CCIA submits this analysis of the RPFJ in conjunction with the economic analysis of Nobel laureate Joseph Stiglitz and his colleague Jason Furman, and the Declaration of Edward Roeder.

INTRONUCTION

The Tunney Act was designed to constrain the Department of Justice ("DOJ") from entering into settlements that provided DOJ with an exit from an antitrust case but did not provide the public with a remedy commensurate with the defendant's antitrust violations. The Revised Proposed Final Judgment (RPFJ) in this case does not provide adequate relief for the extensive and thoroughly proven antitrust violations it purports to remedy. Review of the RPFJ in this case should be especially searching because there can be no doubt about Microsoft's liability. For the first time in the history of the Tunney Act, the Court will review a proposed settlement reached after liability has been not only imposed, but unanimously affirmed on the government's most sweeping and economically significant theory. That clear-cut liability, and the voluminous Findings of Fact and trial record, place the Court in this case in a different position from courts reviewing pre-trial settlements. Because there is no litigation risk on liability, the Court is uniquely situated to evaluate any asserted litigation risk as to remedy. Established principles of antitrust relief provide the Court in this case with concrete, recognized standards to ensure that the settlement serves the public interest in a way that courts reviewing pre-trial settlements cannot. Magnifying the need for close measurement of the RPFJ by objective principles is Microsoft's silence, in its filing under 15 U.S.C. 16(g), about its effort to truncate this case by a lobbying campaign of unprecedented scope directed at the Executive and Legislative Branches alike—despite extensive public reports of that lobbying. Microsoft's effort to deny the obvious gives rise to an inference that it has something to hide.

The terms of the RPFJ provide the strongest reason for close scrutiny, because they cannot withstand analysis. The RPFJ would not provide a meaningful remedy for Microsoft's extensive campaign of exclusionary acts. That campaign suppressed the most serious threat to Microsoft's monopoly in the past decade, and not only prevented the erosion of the applications barrier to entry that insulates the monopoly, but increased the bar to new competition. The RPFJ ignores some of the most significant holdings of the court of appeals, however, including its separate imposition of liability for Microsoft's commingling of middleware code with the code for the Windows operating system.

More fundamentally, the RPFJ misses the point of Microsoft's illegal conduct, which was to prevent erosion of the applications barrier to entry by preventing middleware from attracting software developers to the middleware application programming interfaces ("APIs"). The RPFJ's basic premises, moreover, ignore the current economic and technical realities of the computer and software markets. In the seven years since Microsoft began the illegal conduct at issue in this case, Microsoft has strengthened its operating systems monopoly. The Internet browser, formerly a threat to that monopoly, has become an adjunct to it, with Microsoft's 91% share of that product adding further insulation to the operating systems monopoly. Microsoft's unadjudicated monopoly over personal productivity applications—a key to the applications barrier to entry in the operating systems market—likewise has grown in market share and market power. But the RPFJ does not try to deprive Microsoft of any of the benefits of its illegal activity directed at the browser and other middleware. DOJ's remedial theory rests entirely on unidentified future middleware threats. In fact, there are no technologies today presenting a threat as intense as that presented by the Netscape browser and Java, and the duration of the RPFJ is so short that it almost certainly will expire before any significant new threats materialize. Aside from some restrictions on commercial retaliation that at best might keep matters from getting worse, the RPFJ relies on two sets of putative obligations to achieve a more competitive market. But neither the provisions aimed at original equipment manufacturer ("OEM") flexibility nor those addressing information disclosure requirements in fact require anything competitively meaningful. In large part, these provisions replicate Microsoft's current business practices respecting the disclosure of technical information and the configuration of end-user access to middleware products.

The OEM flexibility sections in RPFJ §§ III(C) and III(H) are literally superficial, principally addressing desktop icons rather than the middleware code itself, which contains the APIs relied on by software applications developers. Even if successful, the flexibility provisions would not affect the applications barrier to entry. Moreover, these provisions largely restate current business practices or provide OEMs with flexibility that both Microsoft and DOJ understand from experience will never be exercised. OEMs have little or no incentive to exercise their options; if they decline to do so, then the flexibility provisions will have no competitive consequences for the industry. The RPFJ's information disclosure sections (III(D) and III(E)) are so transparently insubstantial as to cast doubt on the entire proposal. The purported disclosure requirements trace back to definitions that are committed to Microsoft's control, are circular, or simply do not exist. Neither DOJ nor any other objective observer could have any idea precisely which APIs or protocols must be disclosed. The RPFJ's provisions and definitions are so vague that only two practical results are possible. Either everyone will simply ignore the decree, which plainly would not be in the public interest for an antitrust remedy, or the Court will have to take primary responsibility for defining its terms during enforcement proceedings. DOJ's answer seems to be to let Microsoft set the terms of its obligations: the RPFJ gives the defendant "sole discretion" to define the decree's most important term, "Windows Operating System Product," which appears 46 times to delimit the RPFJ's 10 substantive

Indeed, much of DOJ's Competitive Impact Statement ("CIS") seems to reflect an understanding that the RPFJ is inadequate in several critical respects. The CIS defines terms not defined in the RPFJ, exaggerates the scope of certain RPFJ provisions, and redefines other terms in order to minimize the impact of some of the broad exemptions in the RPFJ. It is the RPFJ that the Court would have to enforce, however, as the CIS is not part of the contract between DOJ and Microsoft.

In sum, although the RPFJ's provisions superficially seem to restrict Microsoft's practices, there is no substance behind them. The provisions accomplish little beyond laying down criteria for Microsoft to follow in order to avoid any interference with its continuing campaign of illegal monopolization. The terms of the RPFJ, as much as the circumstances of the settlement, strongly suggest that Microsoft and the Department of Justice shared a desire to end this case, rather than to provide an effective remedy for Microsoft's substantial antitrust violations. The 1995 consent decree with Microsoft produced uninterrupted illegal monopolization, prompting the filing of this case in 1998. The Court can expect the same with this decree. The RPFJ, if approved, might temporarily end DOJ's involvement, but would not provide the type of remedy that the public interest and the Tunney Act demand. To the contrary, because the harm to the competitive process caused by Microsoft's adjudicated illegal conduct is certain, a remedy that masks but does not cure that harm affirmatively injures the public interest, and therefore should be rejected.

A. Liability Rests On Microsoft's Suppression Of Middleware Threats That Threatened To Erode The Applications Barrier To Entry

This case is about Microsoft's devastatingly thorough suppression of threats to its Windows operating system ("OS") monopoly by "middleware." That monopoly was insulated from competition by the applications barrier to entry described by the court of appeals and the CIS. See United States v. Microsoft Corp., 253 F.3d 34, 55–56 (DC Cir. 2001) ("Microsoft III"); CIS 10–11, 66 Fed. Reg. 59,452, 59,462 (2001). See also Declaration of Joseph E. Stiglitz & Jason Furman 7–9 ("Stiglitz/Furman Dec.") (attached). The middleware at issue in this case exposed APIs that could be used by software applications developers to write programs that did not rely on the underlying Windows operating system. As Microsoft recognized, if developers embraced non-Microsoft middleware APIs and designed their products to run on that middleware rather than directly on an operating system, "middleware" of this kind "would erode the applications barrier to entry," as "applications * * * could run on any operating system on which the middleware product was present with little, if any, porting." Microsoft III, 253 F.3d at 55. The threat that "middleware could usurp the operating system's platform function," id. at 53, prompted Microsoft's anticompetitive conduct. But non-Microsoft middleware can become a competing platform only if developers write software that calls on the non-Microsoft middleware APIs. Most developers will create software only to run on platforms that are distributed widely enough for the developers to be reasonably certain that the APIs (on which their programs rely) will be present on most, if not all PCs. Likewise, if developers can be certain that Microsoft's middleware APIs are present on all PCs, this will strongly influence their initial decision as to whether it is worth the effort to write applications to alternative, non-Microsoft middleware APIs. The successful theory of the case—proved and accepted by two courts—is that Microsoft engaged in an "extensive campaign of exclusionary acts" that were designed "to maintain its monopoly" by suppressing middleware threats posed by the Netscape Navigator Internet browser and the cross-platform Java technologies. CIS 9, 66 Fed. Reg. 59,462; Microsoft III, 253 F.3d at 53–56, 60–62, 74–78. Microsoft's response to this threat guaranteed that developers would not use the APIs of competing middleware, destroying the platform threat. Because Microsoft has a monopoly over the OS, it can ensure that its own versions of a middleware product have universal distribution, so that Microsoft's middleware APIs will be present on all PCs. For example, because Windows is both an operating system and a distribution channel for Microsoft's technologies, Microsoft could and did ensure that the code for its Internet Explorer ("IE") browser was distributed to every PC.

Ensuring that the code for Microsoft middleware was on every PC accomplished two related goals. First, it guaranteed instant and unassailable ubiquity for the Microsoft version of the middleware and the middleware APIs on which developers rely. Second, the forced ubiquity of Microsoft middleware prevents competing middleware from achieving ubiquity, or anything like it, because few distribution channels will incur the support and other costs of distributing two versions of the same functionality. A key theory of the case is that the applications barrier to entry could have been eroded only if developers chose and used alternative middleware platforms on which to write software. End-user access to middleware was significant only to the extent it influenced developers" choices to write to the APIs of that middleware. Thus, ensuring that the code for the Microsoft version of middleware is on every PC destroys the competitive threat presented by the competing middleware's APIs, since few developers will use them in preference to Microsoft middleware APIs that are certain to be ubiquitous. This fact provides the essential context for any meaningful analysis of the information disclosure and OEM flexibility provisions of the RPFJ.

B. The RPFJ Does Not Prevent Microsoft From Abusing Its Position And Does Not Meet Basic Standards For An Antitrust Remedy

The DC Circuit set out a simple standard for measuring the legal sufficiency of any remedy selected in the Microsoft litigation: the remedy must "seek to "unfetter [the] market from anticompetitive conduct," * * * to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future." Microsoft III, 253 F.3d at 103 (quoting Ford Motor Co. v. United States, 405 U.S. 562, 577 (1972), and United States v. United Shoe Machinery Corp., 391 U.S. 244, 250 (1968)). As the District Court recognized in beginning remedy proceedings on remand (9/28/01 Tr. 6–7), not one word in the DC Circuit's opinion suggests the slightest antipathy toward any conduct remedy related to the illegal monopolization that the Court of Appeals exhaustively condemned.[1] The District Court warned the plaintiffs to be "cautiously attentive to the efficacy of every element of the proposed relief." 9/28/01 Tr. 8. That is, the plaintiffs must make sure that the proposed remedy works.

That admonition appears to have fallen on deaf ears. Because liability has been established and affirmed in great detail, the scope of the District Court's appropriate deference to DOJ is extremely limited because the range of permissible action by DOJ is closely confined. There is no litigation risk other than the risk that the District Court would not approve a particular remedy, or that the District Court's exercise of discretion in approving a remedy might be reversed on appeal. A remedy, even one imposed by agreement, must provide adequate relief for the violations that have been proved, however. DOJ is entitled to deference only for choices that fall within the range of adequate relief. The RPFJ misses the point of the central theory of liability. The RPFJ does not impose certain, enforceable, or competitively significant obligations on Microsoft to restore competition or to avoid suppressing future threats. The RPFJ allows Microsoft to keep every anticompetitive gain that resulted from its illegal conduct, simply requiring Microsoft to find new and slightly different ways to accomplish its anticompetitive goals. DOJ seems to recognize that the case focused on two specific products—Netscape Navigator and Java—that embodied the broader threat of middleware and the Internet to the stability and significance of Microsoft's monopoly. The RPFJ does nothing to restore the specific competitive threat posed by an independent Internet browser. It does nothing to restore the threat of cross-platform Java. And it does nothing to protect any other middleware threat—in the unlikely event that another such threat might arise within the short duration of the RPFJ—from much similar exclusionary conduct, or indeed from the identical commingling of code that sealed Netscape's fate. Rather, the RPFJ appears to assume that it is still 1995, and that the threat of the Internet browser can begin anew without confronting a more thoroughly entrenched Microsoft. The RPFJ does not take account of the impact on participants at different levels of the computer and software industries of an additional seven years of Microsoft's anticompetitive abuses. That view does not accord with reality, and the provisions intended to permit open competition in that counterfactual world cannot achieve their goal.

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[1] Indeed, in denying rehearing, the DC Circuit made crystal clear that "[n]othing in the Court's opinion is intended to preclude the District Court's consideration of remedy issues." Order, at 1 (DC Cir. Aug. 2, 2001) (per curiam).

C. The Obligations That Supposedly Restore Competitive Conditions In Fact Make Microsoft Do Virtually Nothing Against Its Will

The RPFJ purports to give current and future middleware the ability to present the same threats to the Microsoft monopoly that Netscape and Java presented before the onset of Microsoft's illegal conduct. DOJ describes the obligations in the RPFJ as if they would have stopped Microsoft's suppression of Netscape, and as if they would allow rival middleware vendors to obtain the technical information that they need to "emulate Microsoft's integrated functions" (Testimony of Charles James before Senate Judiciary Committee 7 (Dec. 12, 2001)) and to step into the shoes of Microsoft middleware in relation to Windows and the Windows monopoly. The RPFJ does not achieve those goals. Most of the RPFJ reduces to two sets of obligations, along with some prohibitions on exclusive deals and on retaliation against those who take advantage of Microsoft's obligations. One set of obligations appears to restrain Microsoft from taking particular actions to interfere with OEMs" placement of the icons of Non-Microsoft Middleware on their machines, or with end-users" use of those products. These OEM flexibility provisions principally rely on the OEMs to provide a remedy for Microsoft's misconduct. The other set of obligations requires a certain degree of disclosure of APIs and Communications Protocols to allow competing software products can "interoperate" -an undefined term—with the monopoly OS. For the most part, the obligations placed on Microsoft by the RPFJ simply replicate current options voluntarily provided by Microsoft. For example, Microsoft must continue to disclose the APIs it currently discloses in the Microsoft Developers" Network (MSDN), a program Microsoft developed to further its self-interest in making the Windows platform popular with software developers. And Microsoft must continue to allow end-users to delete icons from the desktop and start menu. Such provisions at most simply prohibit Microsoft from making matters worse than they are after Microsoft's years-long anticompetitive campaign. Indeed, the RPFJ in some instances specifically approves potential misuse of Microsoft's current voluntary implementations of the flexibility and disclosure provisions. To begin with the flexibility provisions, their chief flaw is their focus on icons rather than on middleware functionality. This is literally a superficial approach. Microsoft can include its own middleware and middleware APIs on every PC. Developers will know those APIs are there and consequently will write to them in preference to the APIs of a competing product that may or may not be on a particular machine. No provision of the RPFJ restricts Microsoft's insertion and commingling of middleware code into the "Windows Operating System Product" bundle that Microsoft receives the right to define for decree purposes "in its sole discretion." RPFJ § VI(U). From the point of view of developers—and thus of the ability of middleware to erode the applications barrier to entry—these "flexibility" provisions are meaningless. Even to the extent that competing middleware vendors might obtain favorable placement for their products" icons in preference to the icons for Microsoft products, that achievement would be both superficial and temporary. The functionality of the Microsoft product would remain on the machine, and Microsoft could insist on its invocation for a variety of functions. And, 14 days after a PC first boots up, Microsoft would be free to nag users to click a "Clean Desktop Wizard" which would organize icons in the way that suited Microsoft. There is nothing in the RPFJ to stop that "Wizard" from resetting default applications to coincide with Microsoft's preferences as well, or even from enhancing the product so that it becomes a Clean File Wizard to remove code of competing middleware with a single click. These provisions place responsibility for restoring competition on innocent OEMs and ISVs rather than on Microsoft. And many provisions give end-users what they have now: the ability to remove an icon from the desktop or a program menu by right-clicking it and selecting "Delete," or by dragging it to the Recycle Bin. The provisions do change the status quo in one way. The "Add/Remove" function, which now removes some underlying code for applications, will only remove a few icons when the removed application is Microsoft middleware. The disclosure provisions are no better. The RPFJ requires Microsoft to disclose APIs between "Microsoft Middleware" and a "Windows Operating System Product," but the definitions of those terms are so completely within Microsoft's control that it is impossible to tell whether Microsoft ever would have to disclose an API that might have competitive significance. As noted above, a "Windows Operating System Product" is whatever Microsoft says it is. "Microsoft Middleware" must be distributed separately from the OS (unlike, e.g., the current version of Windows Media Player). "Microsoft Middleware" must be "Trademarked" in a way that would exclude Windows Messenger, may exclude Windows Media Player, and certainly would exclude any products that followed Microsoft's practice of simply combining the Microsoft(r) or Windows(r) marks with a generic or descriptive term. Indeed, because "Microsoft Middleware" need not mean any more than the user interface of a middleware functionality that meets the other definitional requirements, see RPFJ § VI(J)(4), the only APIs that must be disclosed are those between the middleware user interface and "Windows," which Microsoft in its discretion can define to include all of any given middleware functionality. See id. § VI(U). Microsoft need not disclose how the middleware actually invokes Windows to work, except for the way that the OS displays the middleware's shell. The disclosure provisions applying to Communications Protocols are similarly weakened by non-existent definitions. The disclosable Protocols are those required to "interoperate"—whatever that may mean—with equally undefined "Microsoft server operating products." RPFJ § III(E). In addition, the Communications Protocol disclosure provisions are limited by sweeping exceptions applying to security protocols that are intertwined with all significant computer-to-computer communication. See id. § III(J)(I). Microsoft can withhold parts of those Protocols (and, indeed, parts of APIs) on the basis that disclosure would compromise security of an installation. If this exemption were limited to the customer-specific data like encryption keys or authorization tokens, it would be necessary, not objectionable. But the exemption explicitly permits Microsoft to withhold portions of the Protocols and APIs themselves, which necessarily makes "interoperation" (as that term normally is used) incomplete. Interoperation, however, is an all-or-nothing state. Software that can use only parts of APIs and Communications Protocols simply cannot "interoperate" with the software on the other side of the API or Protocol. But that is not all. RPFJ § III(J)(2) permits Microsoft to refuse to disclose security-related Protocols or APIs to any company that does not meet Microsoft's standards of business viability or its standards for a business need. Again, little if anything is left of this disclosure requirement if Microsoft chooses to resist disclosure when that serves its anticompetitive goals. One thing is certain. Unless Microsoft and DOJ alike render the RPFJ irrelevant by simply ignoring it, the District Court will be faced again and again with the task of interpreting the RPFJ's indistinct provisions. Microsoft has demonstrated its incentive and ability to contest even the most seemingly obvious points of any court order.

D. The Public Interest Requires An Effective Remedy That The RPFJ Does Not Provide

Despite the belated efforts of DOJ to minimize the scope of this case, it remains the largest, most successful prosecution for monopolization liability since at least the Second World War. The DC Circuit affirmed "the District Court's holding that Microsoft violated § 2 of the Sherman Act in a variety of ways." 253 F.3d at 59. The breadth of that holding is clear from the 20 Federal Reporter pages consumed by the court's detailed discussion of Microsoft's array of exclusionary behavior. The competitive significance of the conduct condemned by that holding is explained both in the opinion, in the Declaration of Joseph E. Stiglitz and Jason Furman ("Stiglitz/Furman Dec.") 16–20, and in the Comment of Robert E. Litan, Roger G. Noll, and William D. Nordhaus ("Litan/Noll/Nordhaus Comment") 12–31, among other submissions for this Tunney Act proceeding. The difficulties encountered by peripheral claims are irrelevant, particularly because all of the challenged conduct supported monopolization liability in addition to one or more of the since-abandoned theories. The supposed "narrowing" left a huge monopolization case with a stark judgment affirming the government's theory. The RPFJ does not provide a remedy commensurate with that liability.

The RPFJ is insufficient for another overarching reason. The passage of time has only exacerbated the problem of Microsoft's successful abuse of its operating systems monopoly to extend that monopoly to embrace other sectors of computing and to forestall threats to the monopoly from those sectors. Microsoft's monopoly over Internet browsing is complete, as its current 91% market share indicates. Julia Angwin, et al., AOL Sues Microsoft Over Netscape in Case That Could Seek Billions, WALL ST. J., Jan. 23, 2002, at B1. Even the RPFJ recognizes, albeit through toothless provisions, that Microsoft is using its desktop OS monopoly to force greater use of its server operating systems. And Microsoft's efforts to use the inclusion of its Passport authentication software on every Windows machine as a means of directing through a Microsoft server all authentication and identification transactions—gaining a literal chokehold over the communications aspect of Internet computing—is so significant that Microsoft sought and obtained an exemption in the RPFJ specifically designed to excuse that known monopolistic strategy. See RPFJ § III(H)(1)[second] [2]; see also id. § III(J).

Microsoft has made ample use of the seven years since the beginning of the conduct at issue in this case. The RPFJ is wholly inadequate even on its own terms, which assume that the world has returned to 1995. But the RPFJ does not begin to address what has happened since then. The public interest in a remedy that achieves what antitrust law says it must cannot be obscured by focusing either on the preference of the technology industry for standards, or on the never-litigated assumption that Microsoft obtained its original operating systems monopoly legally in the 1980s. The last premise, after all, still suggests that the last ten years or so of Microsoft's hegemony have resulted from the illegal acts that prompted two government antitrust lawsuits. If DOJ's enforcement history is to be credited, Microsoft has at least doubled the life of its monopoly through illegal conduct. In addition, even if the nature of software platforms generally, or computer operating systems in particular, results in transitory single-firm dominance, that does not mean that competition has no place, or that entrenched monopoly is somehow without social costs. See Stiglitz/Furman Dec. 13–16. Innovation results in the periodic replacement or "leapfrogging" of one standard by another. This is not some meaningless replacement of one monopoly with another, as some would have it. To the contrary, as economists—including those of the Chicago school—have recognized, "competition * * * 'for the field'" provides consumers with substantial benefits. See Microsoft III, 253 F.3d at 49 and sources cited therein. But if competition in a market is limited in scope to serial competition for transitory dominance, predatory conduct is especially harmful. See generally Stiglitz/Furman Dec. 13–16. The monopolist may need to eliminate only a few incipient but significant threats in the course of a decade in order to transform transitory dominance into a durable, even impregnable monopoly. That is what happened here. Although Netscape Navigator had not developed into a competing applications platform when Microsoft cut off its revenue sources, Netscape contemplated just such a development—and Microsoft both contemplated and deeply feared it. The outcome of the competition that Microsoft thwarted is unknowable. But there will be no further competition—much less competitive outcomes—if Microsoft is allowed to repeat the course of conduct it undertook here. But the RPFJ permits Microsoft to continue to fortify and expand its monopoly. Indeed, the RPFJ provides an imprimatur for Microsoft to continue and expand a whole range of additional, related anticompetitive practices. As a consequence, the RPFJ is an instrument of monopolization, not a remedy for it. The Court should not add judicial endorsement to DOJ's agreement to give up the case. The "public interest," within the meaning of the Tunney Act, 15 U.S.C. § 16(e), requires far more effective relief.

I. THE TUNNEY ACT REQUIRES CLOSE SCRUTINY UNDER THE PRESENT CIRCUMSTANCES

The Tunney Act exists "to prevent 'judicial rubber stamping'" of proposed antitrust consent decrees. United States v. Microsoft Corp., 56 F.3d 1448, 1458 (DC Cir. 1995) (quoting H.R. Rep. No. 1463, 93d Cong. 2d sess. 8, reprinted in 1974 U.S.C.C.A.N. 6535, 6538) ("Microsoft"); United States v. BNS, Inc., 858 F.2d 456, 459 (9th Cir. 1988); In re IBM, 687 F.2d 591, 600 (2d Cir. 1982). Upon enactment it was immediately clear that "Congress did not intend the court's" review of a proposed settlement "to be merely pro forma, or to be limited to what appears on the surface." United States v. Gillette Co., 406 F. Supp. 713,715 (D. Mass. 1975) (Aldrich, J.). The Tunney Act requires particularly close scrutiny of the RPFJ in this case. The government seeks to remedy a proven, well-defined, serious violation of the antitrust laws. Microsoft's heavy lobbying of the executive and legislative branches in order to bring political pressure for a lenient settlement heightens the need for scrutiny, and in addition makes necessary the Court's active investigation into Microsoft's failure to disclose the bulk of that lobbying despite the command of 15 U.S.C. § 16(g). The lenient terms of the RPFJ itself further underscore the need for close judicial scrutiny. Never in the history of the Tunney Act has a Court been confronted with this combination of an impregnable judgment of liability, pervasive lobbying, and apparent surrender by the federal government. The circumstances here indicate exactly the sort of "failure of the government to discharge its duty"—whether or not actually "corrupt"—that even DOJ concedes warrants close judicial scrutiny of a settlement. CIS 66, 66 Fed. Reg. 59,476 (quoting United States v. Mid-America Dairymen, Inc., 1997–1 Trade Cas. ¶61,508, at 71,980, 1977 WL 4352 at *8 (W.D. Mo. 1977)).

A. The Government's Victory On Liability Removes Litigation Risk And Therefore Limits Deference

The CIS suggests (at 65–68, 66 Fed. Reg. at 59,475–476) that the Court owes nearly absolute deference to DOJ's decision to retreat from its appellate victory. That is not true. The affirmance of liability on appeal removes any speculation that "remedies which appear less than vigorous" simply "reflect an underlying weakness in the government's case." Microsoft I, 56 F.3d at 1461. There is no "underlying weakness"; liability is a given, and provides a clear benchmark for measuring whether the proposed relief is sufficiently effective to come "within the reaches of the public interest." Id. at 1460. Those "reaches" are narrower when liability is proved and affirmed than when it is merely alleged, as it was in Microsoft I.

1. The Imposition And Affirmance Of Liability Remove Any Constitutional Concerns About Searching Review And Require The Court To Perform Its Constitutional Duty

Most important, the current posture of this case places it beyond the scope of the prudential and constitutional concerns expressed by some courts (and dissenting Justices) about judicial scrutiny of DOJ's charging decisions, or of its settlement of unproven claims. It may be that when "the government is challenged for not bringing as extensive an action as it might, a district judge must be careful not to exceed his or her constitutional role." Microsoft I, 56 F.3d at 1462. Such concerns did not persuade the majority of the Supreme Court, however, which over a dissent rejected similar arguments in summarily affirming the modifications imposed by the district court in the AT&T consent decree. See Maryland v. United States, 460 U.S. 1001 (1983). In any event, when the action has been brought, tried, and won, and the only question is whether the proposed relief is adequate, the constitutional concerns dissipate. Because DOJ already made the discretionary decision to bring the case, and successfully proved liability to the satisfaction of two courts, the Court in reviewing this settlement runs no risk that by exercising its normal remedial discretion under established legal principles it somehow might be said "to assume the role of Attorney General." Microsoft I, 56 F.3d at 1462. It was precisely the absence of a "judicial finding of illegality" that might impede the Tunney Act from "supply[ing] a judicially manageable standard for review." Id. at 1459. Here, two courts have provided the "findings that the defendant has actually engaged in illegal practices" that were missing in both Microsoft I and AT&T (like other cases settled before trial). Id. at 1460–1461 (emphasis added). In addition, the appellate affirmance imposed monopolization liability for all of the significant conduct that had been alleged to support the additional, largely supererogatory legal theories that were rejected as ground for additional liability.

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[2] RPFJ § III(H) contains two subsections (1) and (2). We distinguish between the two sets of subsections with the bracketed terms "first" and "second."

It is accordingly entirely appropriate, and indeed necessary, for the Court in this case "to measure the remedies in the decree as if they were fashioned after trial," Microsoft I, 56 F.3d at 1461, because they were "fashioned after trial" and appellate affirmance. The Court need not "assume that the allegations in the complaint have been formally made out" (id.), but rather knows beyond doubt exactly which allegations were proved. There is a "judicial finding of relevant markets, closed or otherwise, to be opened" and "of anticompetitive activity to be prevented." Maryland v. United States, 460 U.S. at 1004 (Rehnquist, J., dissenting). "[T]hat there was an antitrust violation," and "the scope and effects of the violation," were not assumed, as they must be in a pretrial settlement, but proved to the satisfaction of two courts. Id. Very limited prosecutorial discretion remains in this situation. The amorphous, policy-laden choices whether to bring a case and how much to allege, are behind us. The predictive judgment as to the chances of success on liability likewise is beyond serious dispute in light of the unanimous affirmance of monopolization liability by the en banc court of appeals. DOJ has some leeway in choosing a remedy, but its chosen remedy must be "adequate to remedy the antitrust violations alleged in the complaint," United States v. Bechtel Corp., 648 F.2d 660, 665 (9th Cir. 1981), under the well-established legal standards for antitrust relief. See Microsoft III, 253 F.3d at 103. Those standards inform the "public interest" determination under the Tunney Act, and, by contrast with the "public interest" standing alone, are judicially manageable without a doubt. The DC Circuit has made crystal clear that a consent decree "even entered as a pretrial settlement, is a judicial act," so that "the district judge is not obliged to accept one that, on its face and even after government explanation, appears to make a mockery of judicial power." Microsoft I, 56 F.3d at 1462. Judicial approval of the settlement in this case is far more of a classic "judicial act" than the typical settlement without proof of liability. As in the context of post-conviction criminal sentencing, the Court must act as more than a passive recipient of arrangements made between the parties There is no serious question that a federal court may reject a plea bargain in its sound discretion, Fed. R. Crim. P. 11, Santobello v. New York, 454 U.S. 257, 262 (1971), for reasons that may include the "court's belief that the defendant would receive too light a sentence under the circumstances." United States v. Adams, 634 F.2d 830, 835 (5th Cir. 1981).[3] Granted, plea bargains in the criminal context generally involve admissions of liability. But the case here, if anything, is stronger here, where liability has been, not admitted, but established after extensive litigation and affirmed by an en banc court of appeals over the vigorous objection of the defendant.

At this stage, "the discrepancy between the remedy and undisputed facts of antitrust violations" can "be such as to render the decree 'a mockery of judicial power.'" Massachusetts School of Law, Inc. v. United States, 118 F.3d 776, 782 (DC Cir. 1997) (quoting Microsoft I, 56 F.3d at 1462). By contrast with the concerns expressed in the pretrial settlement context about the intrusion of Tunney Act courts on functions that are constitutionally allocated to the executive branch, the situation after liability is established presents opposite concerns under our system of separated powers, and of checks and balances between the branches of government. Constitutional concerns in this case would arise only if the Court failed to apply the legal standards governing antitrust relief to the adjudicated liability here. DOJ asks the Court not only to abandon its traditional power over the relief to be imposed in an adjudicated case, but also to ignore the clear command of Congress to provide a check on the irresponsible exercise of power by a suddenly and inexplicably compliant prosecutor. The Court should refuse that suggestion.

2. The Extensive Record And Judicial Opinions Provide Clear, Manageable Standards For Substantive Review Of The RPFJ

None of the authorities on which DOJ relies involved a full trial in which liability was proved, much less one in which liability was affirmed on appeal. Indeed, the statements quoted in the CIS draw heavily on that fact—that in each case there had been no finding of liability, and that review of the settlement at issue necessarily involved second-guessing DOJ's prosecutorial discretion in making two rather standardless assessments: (1) whether to bring a case at all, and thus place the matter in a judicial forum, see Microsoft I, 56 F.3d at 1459–1460, and (2) the chances for success. See, e.g., Mid-America Dairymen, 1977 WL 4352, at *8 (Tunney Act "did not give this Court authority to substitute its judgment about the advisability of settlement by consent judgment in lieu of trial") (emphasis added).

Here, neither of these fundamentally discretionary prosecutorial judgments is at issue. The decision to bring the case was made years ago, and the case was litigated and won, establishing liability to a known extent. It is telling that in asking for broad deference DOJ places heavy reliance on language from the Ninth Circuit's decision in United States v. Bechtel Corp., 648 F.2d 660 (9th Cir. 1981). See CIS 66–67 & n.4; 66 Fed. Reg. 59,476. One could hardly find a setting more distant from this one. Not only did Bechtel not involve a finding of liability after full litigation and affirmance on appeal; and not only did the setting there—alleged complicity in the "Arab boycott" of Israel in the mid-1970s—implicate the foreign policy powers of the executive branch; but the issue before the court in Bechtel was the defendant's effort to avoid its own settlement by arguing that the settlement to which it had agreed was "not in the public interest." Bechtel, 648 F.2d at 665.[4]

As it happens, however, the court of appeals in Bechtel enunciated the legal standard that should be applied here: "whether the relief provided for in the proposed judgment was adequate to remedy the antitrust violations alleged in the complaint." Bechtel, 648 F.2d at 665 (emphasis added). That is precisely the standard that DOJ wishes to avoid. Where liability is a given, as it is here, the Court must ensure that the "remedies negotiated between the parties and proposed by the Justice Department clearly and effectively address the anticompetitive harms" that have been proved. United States v. Thomson Corp., 949 F. Supp. 907, 913 (D.DC 1996). When the "anticompetitive harms" and their illegality have been proved, the fit between those harms and the proposed remedies must be closer than when those harms merely have been "initially identified," id., as is usually the case in Tunney Act proceedings. Even if there were no finding a liability, the Court would not be compelled "unquestionably [to] accept a consent decree as long as it somehow, and, however inadequately, deals with the antitrust problems implicated in the lawsuit." United States v. Alcan Aluminum, Ltd., 605 F. Supp. 619, 622 (W.D. Ky. 1985) (citing United States v. AT&T, 552 F. Supp. 131,151 (D.DC 1982), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983). With liability in place, however, the Court need not proceed "on the assumption that the government would have won." Gillette, 406 F. Supp. at 716 n.2. The government did win. The Court in this case need not "speculate in regard to the probability of what facts may or may not have been established at trial." United States v. Mid-America Dairymen, Inc., 1977 WL 4352, at *1. Those facts are a matter of record. Whatever narrow deference may be afforded here amounts only to the tested rule that "[i]t is not the court's duty to determine whether this is the best possible settlement that could have been obtained." Gillette, 406 F. Supp. at 716 (emphasis added). Although the Court may not be able to insist on the "best possible" decree, the proof and affirmance of liability require the Court to ensure that the RPFJ is at least adequate on that record under well-established remedial principles. Bechtel, 648 F.2d at 665. The differences are real, but not dramatic, between the Court's role in deciding whether to accept this settlement in Track I, and in deciding in Track II what relief to impose at the request of those plaintiffs who have not abandoned the pursuit of a full and effective remedy in this case. In each track, the Court must measure proposed remedies against the legal standards set out by the DC Circuit and by the Supreme Court. In each track, the Court should not approve a remedy that is inadequate to meet those standards. In evaluating the RPFJ, the Court is not at liberty to substitute its view of equally effective, or marginally more effective relief, if the terms of the RPFJ are fully adequate to the task as the law defines it. That is, the DOJ's choices among adequate alternatives warrant deference, but its determination of what is adequate warrants none. In the other track, the Court does have the liberty, not merely to go beyond any decree that might be entered in this track, but also to insist that the final decree address the competitive issues in a way that satisfies the Court's view as to the best and most effective means of opening the operating systems market to competition, depriving Microsoft of the fruits of its illegal conduct, and preventing similar monopolistic abuses in the future. That is, while in this track of the proceeding the Court cannot insist on the "best possible settlement," Gillette, 406 F. Supp. at 716, so long as the proposed relief meets the remedial standards anchored in antitrust law, in Track II the Court has not only the power but the duty to impose the "best possible" decree.

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[3] See also, e.g., United States v. Robertson, 250 F.3d 500, 509 (6th Cir. 2001); United States v. Greener, 979 F.2d 517, 521 (7th Cir. 1992); United States v. McGovern, 822 F.2d 739, 742 n.4 (8th Cir. 1987); United States v. Randahl, 712 F.2d 1274, 1275 (8th Cir. 1983).

[4] Decided in an equally remote context was United States v. BNS, Inc., 858 F.2d 456 (9th Cir. 1988), in which the Ninth Circuit approved a preliminary injunction, entered over DOJ's objection, against a tender offer for an acquisition that a proposed consent decree would have permitted.

B. Broad Deference Is Particularly Inappropriate Because The Circumstances Are Suspicious

1. Microsoft's Manifestly Inadequate Disclosure Under The Tunney Act's Sunshine Provisions Weighs Strongly Against Judicial Deference To The Terms Of The RPFJ

Section 2(g) of the Tunney Act requires Microsoft to file a "true and complete description" of "any and all written or oral communications" by it or on its behalf "with any officer or employee of the United States concerning or relevant to" the proposed settlement. 15 U.S.C. § 16(g) (emphasis added). The only exception from this requirement is for settlement negotiations between "counsel of record alone" and "employees of the Department of Justice alone." Id. (emphasis added).

When Senator Tunney first introduced his bill, he focused on the significance of the disclosure provision. "Sunlight is the best of disinfectants," he explained (quoting Justice Brandeis), and thus "sunlight * * * is required in the case of lobbying activities attempting to influence the enforcement of the antitrust laws." 119 Cong. Rec. 3449, 3453 (1973). Minor amendments to Section 2(g) were designed "to insure that no loopholes exist in the obligation to disclose all lobbying contacts made by defendants in antitrust cases culminating in a proposal for a consent decree." H.R. Rep. No. 1463, at 12 (emphasis added). The breadth of Microsoft's effort to use political pressure to curtail this case has no parallel in the history of the antitrust laws. The ITT episode that prompted the Tunney Act pales in comparison. It has been widely known that since 1998 Microsoft has comprehensively lobbied both the legislative and executive branches of the federal government in an effort to create political pressure to end this case.[5] But Microsoft did not disclose any of these contacts, much less all of them, as the Tunney Act requires.

Rather, Microsoft disclosed only meetings that occurred during the last round of settlement negotiations ordered by the Court. Microsoft's insupportable interpretation of its statutory disclosure duty effectively nullifies the sunshine provisions of the Act, which are crucial to the Act's protection of the public interest.

a. Contacts With All Branches Must Be Disclosed.

All contacts with "any officer or employee of the United States" must be disclosed. As Senator Tunney explained, Included under [section 16(g)] are contacts on behalf of a defendant by any of its officers, directors, employees, or agents or any other person acting on behalf of the defendant, with any Federal official or employee. Thus, * * * the provision would include contacts with Members of Congress or staff, Cabinet officials, staff members of executive departments and White House staff. 119 Cong. Rec. at 3453 (emphasis added). In other words, the disclosure applies equally to contact with any branch of Government, including the Congress. * * * [T]here is a great deal to be gained by having a corporate official who seeks to influence a pending antitrust case through congressional pressure, know that this activity is subject to public view. Id. Indeed, it is firmly established in other areas of the law that "officer" of the United States includes Members of Congress and their employees.[6]

But Microsoft did not disclose its extensive and heavily reported lobbying of Congress. Indeed, upon the remand to the District Court, Microsoft's lobbying of Congress produced a letter signed by more than 100 Members urging a swift settlement. But Microsoft did not disclose even that lobbying, aimed at pressuring a swift capitulation by the government despite its victory on appeal, directly before the last round of settlement negotiations.

b. The "Counsel of Record" Exception Is Very Narrow.

Section 16(g) provides a narrow exception from disclosure for contacts between "counsel of record alone" (emphasis added)—that is, without any other corporate officers or employees also involved—and "the Attorney General or the employees of the Department of Justice alone." As Senator Tunney explained, this "limited exception" for attorneys of record "is designed to avoid interference with legitimate settlement negotiations between attorneys representing a defendant and Justice Department attorneys handling the litigation. * * * [T]he provision is not intended as loophole for extensive lobbying activities by a horde of 'counsel of record.'" 119 Cong. Rec. at 3453. The House Report further clarifies that this "limited exception" distinguishes "'lawyering" contacts of defendants from their 'lobbying contacts'." H.R. REP. No. 1463, supra, at 9. Microsoft did not disclose the well-publicized participation in the last round of settlement negotiations of its lobbyist-lawyer, Charles F. "Rick" Rule. It appears that the critical "negotiations" leading to the RPFJ took place, not in the offices of Microsoft's counsel of record, but "in Justice's offices and those of Microsoft legal consultant Rick Rule." Paul Davidson, Some States Fear Microsoft Deal Has Big Loopholes, USA TODAY, Nov. 5, 2001. Rule has been a registered lobbyist for Microsoft for some years, but was not named as counsel of record until November 15, 2001, after the settlement negotiations were complete. See Notice of Appearance (D.DC filed Nov. 15, 2001). That designation—long after the settlement deal had been struck—cannot retroactively shield his extensive prior contacts with Mr. James or other executive or legislative officials from disclosure. Contacts by "[a]ttorney not counsel of record" must be disclosed. Id. Of course, Microsoft's many other lobbyists do not conceivably come within this exception. But Microsoft concealed all of those lobbying contacts.

c. All Communications Urging The Government To Abandon Or Settle The Case Were "Relevant To" The Proposed Settlement

Section 16(g) requires the disclosure of all contacts "concerning or relevant to" a proposed settlement. This statutory definition is intentionally broad. Microsoft's disclosure interprets the word "concerning" very narrowly, so that the provision covers only actual settlement discussions—and only the last round of them. In Microsoft's view, the Tunney Act would require disclosure only of the very meetings that must precede any settlement. Microsoft reads the words "relevant to" right out of the statute. That this statutory provision is broad is obvious by its very terms; in order for the phrase "relevant to" not to be mere surplusage, it must encompass contacts less directly focused on the settlement than those that "concern[]" that agreement. Senator Tunney gave an example: "the provision would require disclosure * * * of a meeting between a corporate official and a Cabinet officer discussing "antitrust policy" during the pendency of antitrust litigation against that corporation." 119 Cong. Rec. at 3453. The Act borrows from evidentiary concepts, including the privilege for settlement discussions, which prompted the narrow exception for counsel of record. The evidentiary concept of relevance is very broad. See Fed. R. Evid. 401. "Relevance of evidence is established by any showing, however slight, that the evidence" makes a legally important factor "more or less likely." United States v. Mora, 81 F.3d 781, 783 (8th Cir. 1996) (emphasis added) (citation omitted). Plainly "relevant" to the question whether a defendant's lobbying activities influenced the existence and terms of a consent decree are contacts with the administration, and with members of Congress, that touch on the desirability of the government's agreeing to end the case. It is startling, for example, that Microsoft would omit reference to its efforts to enlist support for congressional proposals that would have cut DOJ's funding for the pursuit of this case, and for antitrust enforcement in high technology industries in general.[7]

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[5] See generally Declaration of Edward Roeder (attached). See also, e.g., Ian Hopper, Microsoft Lobbied Congress Over Case, SAN JOSE MERCURY NEWS, Jan. 11, 2002, at C3; Heather Fleming Phillips, Washington Politicians Chime In On Microsoft, SAN JOSE MERCURY NEWS, June 30, 2001, at A1; Rajiv Chandrasekaran & John Mintz, Microsoft's Window of Influence; Intensive Lobbying Aims to Neutralize Antitrust Efforts, WASH. POST, May 7, 1999, at A1; James Grimaldi & Jay Greene, Microsoft Hard At Work Outside Courtroom, SEATTLE TIMES, Feb. 17, 1999, at A1. See also Microsoft's Political Donation In Question; South Carolina COP Says Decision To Quit Lawsuit Coincidental, CHI. TRIB., Dec. 25, 1998, at 3.

[6] See, e.g., Williams v. Brooks, 945 F.2d 1322, 1325 n.2 (5th Cir. 1991) ("a congressman is an 'officer of the United States" within the meaning of [28 U.S.C. § 1442(a)(1)]"); Nebraska v. Finch, 339 F. Supp. 528, 531 (D. Neb. 1972) ("It is * * * clear that a representative to the Congress of the United States is an officer of the United States, not an officer of the district in which he was elected."); United States v. Meyers, 75 F. Supp. 486, 487 (D.DC 1948) ("Obviously, a Senator of the United States is an officer of the United States.").

Disclosure under Section 2(g) is not usually burdensome; most defendants do not try to win their case politically rather than in the courtroom. Microsoft's massive and unprecedented effort to distort the judicial process through political pressure makes its compliance burdensome, but all the more necessary. It is exactly this sort of manipulation that the Tunney Act was designed to discourage by bringing it to light.

d. Microsoft's Flouting Of Its Statutory Duty Counsels Painstaking Judicial Scrutiny Of The RPFJ Microsoft's cunning "interpretation" of the statutory disclosure requirements -so that disclosures reach only the very settlement discussions that the Tunney Act was not concerned about—sheds considerable light on Microsoft's likely "interpretations" of any remedy imposed on it, especially one like the RPFJ of which it can claim to be an equal drafter, if not the principal author.

Microsoft's disclosure is so inadequate as to raise questions about Microsoft's good faith. The filing includes no disclosure of any lobbying contacts between Microsoft and the administration; it includes no disclosure of any contacts between Microsoft and members of Congress; it includes no disclosure of any contacts whatsoever before September 27, 2001, although it is well known that Microsoft and the government have tried to settle the government's antitrust action since before it was filed, and that Microsoft lobbied Congress to bring pressure on DOJ to settle or simply abandon the case.

Microsoft should face contempt sanctions for its certification "that the requirements of [Section 16(g)] have been complied with and that such filing is a true and complete description of such communications known to the defendant or which the defendant reasonably should have known." DOJ should refuse to acquiesce in Microsoft's deception. Although DOJ cannot be expected to be aware of all of Microsoft's lobbying of Congress in an effort to create pressure for a favorable settlement, DOJ should reveal the end-product of that pressure in the form of communications from Members and their staffs. And there is no excuse for DOJ to be complicit with Microsoft when it comes to contacts with DOJ itself. In particular, DOJ certainly is aware of Mr. Rule's lobbying contacts with before he belatedly appeared as counsel after the settlement had been concluded. The proper resolution of this issue is the appointment of a special master with the ability to examine the relevant participants under oath. In view of its responsibility to enforce 15 U.S.C. 16(g) along with the rest of the antitrust laws, DOJ should request (and support) the implementation of such a procedure by the Court.

2. The RPFJ Represents A Swift And Significant Retreat By DOJ Another factor counseling against deference here is the DOJ's striking capitulation to Microsoft's view of an appropriate remedy, despite the unanimous affirmance of the core of DOJ's case. The insubstantial provisions of the RPFJ provide ample "reason to infer a sell-out by the Department," Massachusetts School of Law, 118 F.3d at 784.

After prevailing on liability in the district court, DOJ sought and obtained not only structural relief—as is "common" in broad monopolization cases, see Microsoft III, 253 F.3d at 105—but also "interim" conduct restrictions that clearly could not stand alone as a monopolization remedy. DOJ earlier recognized that the interim conduct remedies were stopgaps to keep the competitive situation from continuing to decline in the year or so before divestiture jumpstarted competition. See Plaintiffs'' Memorandum in Support of Proposed Final Judgment 30–31 (corrected version) (filed May 2, 2000). On remand, DOJ abandoned the structural relief that it formerly found necessary, even though liability on the monopolization claim—which alone could support structural relief in the first place—was affirmed with minor modifications. DOJ stated that it would pursue relief "modeled upon" the interim "conduct-related provisions," along "with such additional provisions as Plaintiffs may conclude are necessary to ensure that the relief is effective, given their decision not to seek a structural reorganization of the company." Joint Status Report 2 (filed Sept. 20, 2001).

Instead of fortifying the proposed decree to compensate for the abandonment of structural relief, however, DOJ moved considerably backward from the interim remedies, narrowing Microsoft's duties and providing broad exceptions. Indeed, the RPFJ is weaker than the final proposal in the settlement negotiations that took place during Spring 2000, before any judgment of antitrust liability, much less appellate affirmance.[8] Then, there was litigation risk as to liability. Now there is none. Nonetheless, the definitions and obligations in the current RPFJ fall short of those in the pre-judgment offer.

3. The CIS Overstates The Terms Of The RPFJ, Reflecting The Indefensibility of the RPFJ Itself The CIS underscores the need for close scrutiny of the actual terms of the RPFJ and their effectiveness. The CIS seeks to convey an image of stringency by adding terms to provisions of the RPFJ that are absent from the RPFJ itself. But it is the RPFJ, not the CIS, that defines the enforceable bargain between the parties. As the Supreme Court has recognized, "any command of a consent decree * * * must be found within its four comers, and not by reference to any purposes of the parties." United States v. ITT Continental Baking Co., 420 U.S. 223,233 (1975) (citations and internal quotation marks omitted). While the CIS may be useful in interpreting ambiguous terms in the RPFJ, the wording of the CIS is not independently enforceable. Only the RPFJ would be entered as a judgment, and "[t]he government cannot unilaterally change the meaning of a judgment." Bechtel, 648 F.2d at 665. It would be different, of course, if the CIS or its relevant refinements were "expressly incorporated in the decree." ITT Continental, 420 U.S. at 238.

In particular, the CIS goes beyond the text of the RPFJ to paint a far stricter picture of Microsoft's disclosure obligations than the RPFJ supports. It is no wonder that DOJ seeks to defend a document—the CIS—to which Microsoft would not be bound, rather than the far weaker RPFJ that alone would be judicially enforceable. The CIS cannot transform the RPFJ into a better deal for competition and consumers than it is.

II. THE RPFJ MUST MEET THE LEGAL STANDARDS NORMALLY APPLICABLE TO ANTITRUST REMEDIES

The "public interest" standard in the Tunney Act is not without content. Rather, those "words take meaning from the purposes of the regulatory legislation," NAACP v. Federal Power Comm'n, 425 U.S. 662, 669 (1976). The well-developed jurisprudence of antitrust remedies provides sound guidance for the public interest determination.

Although a district court should not "engage in an unrestricted evaluation of what relief would best serve the public," Microsoft I, 56 F.3d at 1458 (quoting Bechtel, 648 F.2d at 666) (emphasis added), principled restrictions for that evaluation in this case arise from the extensive, unvacated Findings of Fact, the comprehensive opinion affirming monopolization liability on appeal, and the long-standing remedial principles of antitrust law, principles that the DC Circuit instructed the District Court to apply to any proposed relief on remand. See Microsoft III, 253 F.3d at 103. The "appropriate" inquiry (Bechtel, 648 F.2d at 666) is "whether the relief provided for in the proposed judgment [i]s adequate to remedy the antitrust violations" that were proved at trial and affirmed on appeal, Id. at 665.

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[7] See Chandrasekaran & Mintz, supra, WASH. POST, May 7, 1999, at Al; Grimaldi & Greene, supra, SEATTLE TIMES, Feb. 17, 1999, at Al.

[8] That final proposal, known as Draft 18, was formerly posted on a now-defunct website, www.contentville.com, in connection with a review of a book that detailed the progress of this case. The text of Draft 18 may now be viewed at www.ccianet.org/legal/ms/draft18.php3. "[T]he government's virtual abandonment of the relief originally requested" is "a sufficient showing that the public interest was not * * * adequately represented" in the RPFJ. United States v. Associated Milk Producers, Inc., 534 F.2d 113, 117 (8th Cir. 1976). It is precisely when DOJ appears to have "abruptly "knuckled under," id. at 118, as here, that judicial scrutiny under the Tunney Act should be most substantive and searching.

The DC Circuit provided benchmarks rooted in Supreme Court jurisprudence to guide the evaluation whether a remedy is "adequate." A remedy in this case must serve "the objectives that the Supreme Court deems relevant," Microsoft III, 253 F.3d at 103. That is, a remedy must "seek to * * * [1] "terminate the illegal monopoly, [2] deny to the defendant the fruits of its statutory violation, and [3] ensure that there remain no practices likely to result in monopolization in the future." Id. at 103 (quoting Ford, 405 U.S. at 577, and United Shoe, 391 U.S. at 250).[9]

A. The Relief Should "Terminate The Illegal Monopoly" In a monopolization case, the problem to be remedied is the monopoly itself. Because the RPFJ would leave the illegally maintained monopoly in place without making the market structure more competitive, to satisfy this criterion relief must exclude the possibility that Microsoft again will prolong its monopoly power by abusing it. At a minimum, however, a monopolist should emerge from a remedy facing competitive threats of similar scope and significance to those it illegally stamped out. The DC Circuit recognized that the illegal conduct in this case was aimed at increasing and hardening the applications barrier to entry that insulates Microsoft's OS monopoly. See Id. at 55–56, 79. The CIS similarly recognized that "[c]ompetition was injured in this case principally because Microsoft's illegal conduct maintained the applications barrier to entry * * * by thwarting the success of middleware." CIS 24, 66 Fed. Reg. 59,465. A remedy that does not literally terminate the monopoly accordingly must undermine the applications barrier to entry that was strengthened by the illegal conduct.

B. The Relief Should Prevent "Practices Likely To Result In Monopolization In The Future" To satisfy this criterion, any remedy must both (1) prevent the monopolist from engaging in the same sorts of conduct that underlie the current finding of liability, and (2) prevent other types of conduct that could preserve the monopoly. The "monopolization in the future" that must be prevented includes both the simple maintenance of the current monopoly and the expansion of that monopoly's scope. Relief should make it impossible for the monopolist to continue its pattern of using current market power to foreclose imminent or contemplated competitive threats. Because Microsoft has been "caught violating the [Sherman] Act," it "must expect some fencing in." Otter Tail Power Co. v. United States, 410 U.S. 366, 381 (1973).

A monopolist that has been litigating for years no doubt has developed anticompetitive techniques that achieve the same goals through slightly different means. Microsoft embarrassed DOJ by obtaining language in the 1995 consent decree that was tailored to exclude, at least arguably, the company's next planned anticompetitive initiative. Exemptions, provisos, and narrow definitions should be scrutinized on the assumption that Microsoft again has tried to ensure that the RPFJ will not impede currently planned anticompetitive acts.

C. The Relief Should "Deny To The Defendant The Fruits Of Its Statutory Violation" Relief in an antitrust case not only must prevent "recurrence of the violation," but also must "eliminate its consequences." National Society of Professional Engineers v. United States, 435 U.S. 679, 697 (1978). Thus, a remedy should prevent a monopolist from retaining the accrued competitive benefits of its illegal conduct. These advantages may permit a monopolist to maintain its monopoly without additional antitrust violations. Relief that allows a wrongdoer the full benefit of its illegal activity fails the most basic test of any remedy under any branch of the law.

In this case, the "fruits" of Microsoft's illegal conduct may be the most important target of a responsible remedy. One of the chief advantages that Microsoft gained by incorporating the Internet browser into the Windows monopoly was the ability to control not only the browser for its own sake, suppressing the possibility that the Internet browser would provide a source of alternate, OS-neutral APIs, but also the browser as the gateway to all Internet computing. As the Litan/Noll/Nordhaus Comment explains (at 5860), one of the most important fruits of monopolistic conduct is the suppressed development of competitive threats. That is why a forward-looking remedy must be rooted in current market conditions, and must seek to restore competition to where it likely would have been in the absence of the anticompetitive conduct. Litan/Noll/Nordhaus Comment 35–36, 40–42, 58–59.

D. Broader Principles Applicable To Injunctive Relief Also Should Inform The Analysis Of The RPFJ

The remedial analysis here resembles other remedial undertakings. Although civil antitrust relief is not punitive, effective antitrust relief shares with criminal sentencing the broad goals of incapacitation and deterrence. As much as possible, an illegal monopolist should be flatly prevented from engaging in the same or similar suppression of competition in the future. In addition, the remedy should be enforceable with sufficient speed and certainty to make stiff contempt sanctions likely if the monopolist nonetheless manages to engage in anticompetitive conduct again.

The point of antitrust relief after a finding of liability is to learn from history, not to permit the offender to repeat it. This consideration is particularly acute here, where the purposes of the expiring 1995 consent decree clearly have not been realized, but rather have been evaded or neutralized.

Because antitrust relief necessarily is forward-looking, a remedy's effectiveness should be judged with respect to where the market is going, not where it has been. Microsoft has directed its efforts to destroy the competitive threat of Internet computing. The more functionality that is performed on the Web, the less significant the operating system on a particular client device connected to the Web. Thus, Internet computing represents the maturation of the competitive threat posed by the Internet browser and squelched by Microsoft's illegal conduct. The current industry-wide focus on Web-based services reflects the realization that a competitive market still survives in this sector. The Court will have to consider whether the RPFJ in fact is "all about the past, not the future battle in Internet services[, and] doesn't touch the company's ability to use Windows XP to extend its monopoly to these new areas." Walter Mossberg, For Microsoft, 2001 Was A Good Year, WALL ST. J., Dec. 27, 2001, at B1. See Stiglitz/Furman Dec. 38–39.

III THE RPFJ FALLS FAR SHORT OF PROVIDING A REMEDY FOR PROVEN OFFENSES UPHELD ON APPEAL

The RPFJ lights upon narrowly defined practices and prohibits narrowly defined versions of them, in ways that might have mitigated, but would not have ended, the very conduct at issue in this case. The RPFJ does not measure up to the sweeping monopolization violations found by two courts. The RPFJ's provisions do not address Microsoft's ability and incentives to strengthen the applications barrier to entry, which was the underlying issue at the core of the case, instead focusing on techniques of monopolization that have been defined so narrowly that Microsoft's actual behavior need not change. And when addressing a precise technique that directly implicated the reinforcement of the applications barrier to entry—Microsoft's ability to stop porting its Office productivity suite to the Apple Macintosh platform—the RPFJ permits Microsoft to retain the ability to repeat that threat in slightly altered contexts.

A. DOJ's Effort To Minimize The Scope Of The DC Circuit's Affirmance Cannot Obscure The Failure Of The RPFJ To Remediate Clear, Proven Violations

DOJ has tried to lower the bar for approval of its proposal by minimizing the most significant appellate imposition of monopolization liability in the past half-century, and adopting Microsoft's crabbed view of its own liability. In Senate testimony,

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[9] It is telling that the CIS ignores the remedial standard that the DC Circuit set out. See CIS 24, 66 Fed. Reg. 59,465. The CIS submerges the need to craft relief that tends to "terminate" the illegally maintained monopoly, despite the court of appeals' contrary instructions. See 253 F.3d at 103. Rather, the CIS endorses a watered-down standard in order to set a lower bar for the RPFJ to clear, in tacit recognition that the RPFJ cannot satisfy the DC Circuit's standard. The CIS would require relief only to "[e]nd the unlawful conduct," to prevent recurrence of the violation "and others like it," and to "undo its anticompetitive effects." CIS 24, 66 Fed. Reg. 59,465. The RPFJ falls short even of these modified, more modest objectives, however, particularly when measured by its failure to prevent future violations that work slight variations on the conduct condemned by two courts, and its failure to "undo" any of the "anticompetitive effects" of Microsoft's sweeping, coordinated, and successful anticompetitive campaign.

Assistant Attorney General James made the remarkable assertion that the DC Circuit, despite affirming "the District Court's holding that Microsoft violated 2 of the Sherman Act in a variety of ways," 253 F.3d at 59, somehow precluded any consideration, for remedial purposes of Microsoft's astonishing anticompetitive campaign as a whole. See James Testimony 5. To the contrary, the court of appeals never rejected the common-sense notion that "Microsoft's specific practices could be viewed as parts of a broader, more general monopolistic scheme"; much less did the court of appeals insist (or even hint) that "Microsoft's practices must be viewed individually" for all purposes, Id. Rather, the court of appeals clearly considered some illegal acts in the context of others. Thus, the court held that Microsoft's exclusive contracts with ISVs, though affecting only "a relatively small channel for browser distribution," had "greater significance because * * * Microsoft had largely foreclosed the two primary channels to its rivals." 253 F.3d at 72.

The DC Circuit's examination of the divestiture remedy is telling. If the many separately illegal monopolistic acts could not be viewed as cumulatively contributing to the illegal maintenance of Microsoft's monopoly, divestiture would have been an unthinkable remedy, since no specific act held illegal on appeal changed the structure of the company or of the market. But the court of appeals recognized that divestiture could be justified if the many separate illegal acts, taken together, were shown to have had a sufficiently certain causal connection to justify using structural relief to undermine, if not end, the monopoly. See 253 F.3d at 80, 106–107.

The court of appeals did "reverse [the] conclusion that Microsoft's course of conduct separately violates "2 of the Sherman Act." 253 F.3d at 78 (emphasis added). But the reversal occurred because the district court purported to find that a series of acts that did not constitute separate, free-standing antitrust violations had a "cumulative effect * * significant enough to form an independent basis for liability"—but never specified acts other than those that separately violated Section 2 that might be aggregated into such a violation, Id.

It is a remarkable leap from this unremarkable holding to the absurd notion that Microsoft's extraordinary series of separate adjudicated antitrust violations cannot be considered together for any purpose. Even the CIS recognizes that those violations are part of one coordinated and "extensive pattern of conduct designed to eliminate the threat posed by middleware." CIS 11, 66 Fed. Reg. 59,462. They should be remedied as such.

B. The RPFJ Simply Restates The Antitrust Laws At Critical Points And Thus Forfeits The Clarity And Efficiency Of The Contempt Process

Another striking feature of the RPFJ is its repeated reliance on a reasonableness standard of conduct that simply imports full rule-of-reason analysis under the antitrust laws. Antitrust remedies, like other injunctive decrees, are supposed to be amenable to swift and sure enforcement, according to standards that give warning of what is forbidden and what is permitted both to the wrongdoer and to its potential victims. But the RPFJ would regularly require the decree Court to determine whether Microsoft's conduct was "reasonable." For example, the Court would have to determine

- whether volume discounts were "reasonable" or exclusionary (RPFJ III(B)(2));
- whether technical requirements for the bootup sequence that Microsoft imposed on OEMs were "reasonable" (id. § III(C)(5));
- whether the terms on which Microsoft makes Communications Protocols available are "reasonable" (id. § III(E));
- whether exclusivity requirements imposed on ISVs were "reasonable" in "scope and duration" (id. § III(F)(2)); see also id. § (III(G)(2));
- whether technical requirements designed to force the invocation of Microsoft Middleware despite contrary consumer or OEM preferences are "reasonable" (id. III(H)(2)[second]);
- whether the licensing terms accompanying required disclosures, and terms of mandatory cross-licenses required for access to the disclosures, are "reasonable" (id. III(I)(1), III(I)(5));
- and whether Microsoft's bases for excluding ISVs from access to security-related protocols are "reasonable" (id. § III(J)(2)(b)-(c)).

It is telling that the RPFJ states so many of its provisions in terms that simply duplicate the antitrust rule of reason. Rule of reason disputes are notoriously difficult to litigate, see Arizona v. Maricopa County Medical Soc., 457 U.S. 332, 343 (1982) (noting "extensive and complex litigation" involving "elaborate inquiry" at "significant costs"),—and difficult for plaintiffs to win. These provisions add nothing to the antitrust laws themselves, either in clarity of obligation or in efficiency of enforcement. That is no remedy at all.

C. The RPFJ Provides No Remedy For Microsoft's Suppression Of The Browser And Java. As noted above, perhaps the most glaring deficiency of the RPFJ is that it does nothing to restore the competitive threats to Windows posed by the Internet browser and cross-platform Java. That cannot be an oversight. The bulk of the evidence, and much of the opinion of the court of appeals affirming liability, focused on Microsoft's successful efforts to suppress these threats to the applications barrier to entry. See Microsoft III, 253 F.3d at 58–78. Even the CIS recognizes the primacy of these products in the case. See CIS 10–17, 66 Fed. Reg. 59,462–463. Yet the RPFJ does not change the competitive picture for either product in the least. The RPFJ does not deprive Microsoft of these "fruits" of its illegal conduct, but instead takes that illegal conduct, and the advantages derived from it, as a tacit baseline for future competition. The RPFJ leaves Microsoft with the full benefit not only of the years of insulation from the competitive threats posed by those products, but also of the expanded power it has accumulated by incorporating Internet Explorer into the Windows monopoly. Microsoft thus has more, and stronger, weapons to suppress any middleware threats that it identifies in the future, since its monopoly control over the browser—now labeled part of the Windows monopoly product—provides Microsoft with complete control over the universal client for Internet computing. The RPFJ's approach is like sentencing a bank robber to probation, but letting him keep his weapons and the loot.

But the RPFJ's failure to provide relief that restores the specific competitive threats that Microsoft illegally suppressed is worse than that. In a platform technology market like that for PC operating systems, single standards tend to prevail, so that only sweeping changes can dislodge the incumbent. Platform threats are very rare. It could easily be another five or ten years or more before a comparable threat arises again; certainly no threat of similar strength to the Internet browser or Java has surfaced in the nearly seven years since Microsoft began the course of illegal conduct condemned by the court of appeals. See Stiglitz/Furman Dec. 35–36. That is what makes anticompetitive conduct directed at them so potentially profitable. The RPFJ makes that conduct profitable beyond any rational actor's wildest dreams, and greatly increases the incentives for its repetition. Having been caught illegally suppressing two related platform threats, Microsoft retains all the benefits that it sought through its illegal acts.

By eliminating Navigator, Microsoft has not only eliminated consumer choice in browsers, but it also seized the power to control the interfaces and protocols through which an enormously valuable set of Internet applications—ranging from instant messaging and e-mail to streaming video and e-commerce—are delivered to desktop computers and other digital devices.

Microsoft's Internet Explorer is now the bottleneck through which all Internet-related middleware must pass. Instant messaging and media player technology are equally dependent on browser software. Microsoft has also seized the power to decide whether that browser functionality will be ported to any competing operating system, and, if so, to which ones. Finally, in destroying Navigator, Microsoft has also destroyed an important alternative distribution channel, one free of Microsoft's control or influence, through which Microsoft's competitors could formerly distribute middleware runtimes and products to desktop consumers and application developers.

Although Navigator has practically disappeared from the competitive scene, Java has not. But Java's importance has been limited to servers, where Microsoft has a leading share but not yet an operating systems monopoly. Microsoft's conduct appears to have assured that Java will not function as cross-platform middleware for client computers. Java thus poses no threat to the desktop OS monopoly. But the RPFJ lets Microsoft keep that anticompetitive benefit of its conduct.

IV. THE ICON-FOCUSED OEM FLEXIBILITY PROVISIONS ARE INEFFECTIVE

RPFJ §§ III(H)(1)-(2)[first] superficially allow OEMs and end users to rearrange icons and menu entries relating to middleware.[10] These provisions are hollow, however. Section III(H)(1) duplicates only what Microsoft unilaterally agreed to permit OEMs to do back on July 11, 2001.

And the end-user provisions simply restate and preserve end-users" longstanding options to delete icons and menu entries if they right-click and delete or drag the icon or menu entry to the Recycle bin. The default provisions in Section III(H)(2) are so limited, and so fully subject to Microsoft's architectural control, as to be competitively meaningless as well.

The icon provisions do not adequately address the competitive harms of Microsoft's adjudicated misconduct because Microsoft remains able to ensure that the Microsoft versions of middleware will appear, ready to be invoked by applications, on every PC. Even if the icon provisions had greater competitive significance in theory, they are unlikely to have any significance in fact, because few if any OEMs are likely to take advantage of the options provided. DOJ cannot claim to be unaware of this market reality. These provisions are mere window-dressing. See Stiglitz/Furman Dec. 35.

A. The PFJ Permits Microsoft's To Continue Illegally Commingling Middleware Code With The Code For The Monopoly Operating System

The RPFJ capitulates on DOJ's most hard-fought and significant substantive victory: the finding that Microsoft illegally preserved its monopoly by commingling the middleware code with the operating system, foreclosing the competitive threat to Windows while effectively expanding the scope of the monopoly to encompass middleware. DOJ's inability to enforce the 1995 consent decree against the binding of IE to Windows, see United States v. Microsoft, 147 F.3d 935 (DC Cir. 1998) ("Microsoft"), was widely viewed as prompting this action. The conduct itself was viewed as the most successful in furthering Microsoft's anticompetitive goals.

Rather than repeat and strengthen the prohibition in the 1995 decree that failed to achieve its goals, the RPFJ does not even impose the type of superficial prohibition applied to other conduct condemned at trial and on appeal. To the contrary, under the RPFJ, the operating system is whatever Microsoft says it is, and Microsoft can commingle any new product to the monopoly product—foreclosing competition for the OS and the new product alike. See Stiglitz/Furman Dec. 34–37. Not only does Microsoft preserve its anticompetitive gains, but it obtains a green light to repeat the same conduct to destroy any new middleware threats. In a market characterized by serial dominance, an incumbent monopolist may need only to suppress one threat every few years in order to make its monopoly virtually permanent. Cf. id. at 35–36. A continued ability to commingle middleware gives Microsoft limitless tenure over the OS market. If Microsoft emerges from this case free to bind middleware to the OS, this action will be an exercise in futility.

1. The DC Circuit Specifically Condemned Commingling Twice

DOJ's victory on the commingling point was crystal clear, and repeatedly underscored by the court of appeals. The court of appeals recognized that "Microsoft's executives believed" that "contractual restrictions placed on OEMs would not be sufficient in themselves" and therefore "set out to bind" IE "more tightly to Windows 95 as a technical matter." Microsoft III, 253 F.3d at 64 (quoting Findings, 84 F. Supp.2d at 50 (¶160)). In the CIS (and in Assistant Attorney General James" Senate testimony), DOJ appears to assume that icon-based relief that subjects some Microsoft Middleware Products to the Add/Remove utility equates with relief for commingling code. Thus, the CIS blends the two offenses in stating that Microsoft violated Section 2 when it "integrated Internet Explorer into Windows in a non-removable way while excluding rivals." CIS 7, 66 Fed. Reg. 59,461. In affirming liability for both courses of conduct, however, the court of appeals clearly distinguished between Microsoft's "excluding IE from the "Add/Remove Programs" utility" and its "commingling code related to browsing and other code in the same files." 253 F.3d at 64–65, 67. The court of appeals found no justification for commingling code or, indeed, more broadly, for "integrating the browser and the operating system." ld. at 66. One could hardly ask for a clearer statement. Microsoft argued bitterly against liability for commingling, and for a declaration that its product design decisions were beyond the reach of the antitrust laws. Instead, the DC Circuit pointedly rejected Microsoft's argument that it "should vacate Finding of Fact 159 as it relates to the commingling of code." Microsoft III, 253 F.3d at 66; see Findings, 84 F. Supp.2d at 49–50 (¶159). And the court of appeals "conclude[d] that such commingling has an anticompetitive effect," because it "deters OEMs from pre-installing rival browsers, thereby reducing the rivals" usage share and, hence, developers" interest in rivals" APIs as an alternative to the API set exposed by Microsoft's operating system." 253 F.3d at 66 (emphasis added). See generally id. at 64–67. That is, commingling helps reinforce the applications barrier to entry that shields the Windows monopoly.

The DC Circuit's holding reflected a principle of critical importance to the enforcement of the antitrust laws in the software industry, where the complementarity of different programs makes product design a potentially devastating weapon to foreclose competition: a "monopolist's product design decisions" can violate the antitrust laws just as any other economic conduct can.

253 F.3d at 65. Product design decisions may be grossly anticompetitive, particularly in the software industry where lines of code can be packaged (and marketed) in many different ways without affecting the operation of programs once they are installed. As Microsoft's James Allchin recently acknowledged, software "code is malleable," so that "[y]ou can make it do anything you want." Microsoft Net Profit Fell 13% in Recent Quarter, Wall St. J. Europe, Jan. 18, 2002, 2002 WL-WSJE 3352885 (quoting Allchin).

Lest there be any doubt on the matter, the court of appeals flatly rejected Microsoft's rehearing petition aimed squarely at the remedial issue. Microsoft specifically sought to preclude relief that addressed the commingling violation, and instead to treat the commingling and the lack of add/remove functionality as the same. Microsoft's reheating petition made clear that the "ruling with regard to "commingling" of software code is important because it might be read to suggest that OEMs should be given the option of removing the software code in Windows 98 (if any) that is specific to Web browsing [as opposed to] removing end-user access to Internet Explorer." Appellant's Petition for Reheating, at 1–2 (July 18, 2001). Microsoft argued that affirmance only on the ground of the add/remove issue would ensure that the remedy was tightly confined, because the "problem will be fully addressed by including Internet Explorer in the Add/Remove Programs utility, which Microsoft has already announced it will do in response to the Court's decision." ld. at 2. The court of appeals rejected this argument out of hand, adding this remarkable sentence in a terse per curiam order denying reheating: "Nothing in the Court's opinion is intended to preclude the District Court's consideration of remedy issues." Order at 1 (DC Cir. Aug. 2, 2001) (per curiam). Nonetheless, the RPFJ would settle this case as if rehearing had been granted, requiring Microsoft only to allow OEMs and end users to "add/remove" the icons for middleware. This is insufficient to remedy technological binding—commingling [] since it does nothing to remove the underlying middleware code on which developers will continue to rely. If only the Internet Explorer icon is removed from the desktop, the IE middleware remains, and with it the same applications barrier issues that Microsoft preserved by stifling competition by Netscape and Java.

It is true that the interim conduct relief in the vacated Final Judgment required only that Microsoft offer an operating system where OEMs and end-users were permitted to remove end-user access to the middleware components, United States v. Microsoft Corp., 97 F. Supp.2d 59, 68 (D.DC 2000), vacated, 253 F.3d 34 (DC Cir. 2001), a provision similar to that in RPFJ § III(H)(1)[first]. That transitional provision of course assumed the existence of structural relief that would remove Microsoft's economic incentive to bind middleware to the OS unless the binding was independently justifiable. Without a structurally more competitive market, those modest provisions would be meaningless, and would permit Microsoft to follow much the same course that triggered the lawsuit.

There is no excuse for DOJ's failure to do anything about one of the principal, and most easily replicable, violations in the case. Even one of Microsoft's vocal, libertarian defenders, University of Chicago law professor Richard Epstein, recognized that the minimum plausible remedy after the DC Circuit decision would involve "undoing a few product-design decisions." Richard Epstein, Phew/, Wall. St. J., June 29, 2001, at Al0. But DOJ did not even insist on that. Instead, the RPFJ's omission of any relief for this violation gives Microsoft something the DC Circuit twice refused: a victory on the hardest-fought legal issue in the case. Given the central importance of middleware to the theory of the case, failing to address the principal means by which Microsoft bundled browser middleware to Windows would be plainly inadequate.

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[10] 10 See n.2, supra.

2. The Failure To Limit Commingling Is Critical Because Ubiquity Trumps Technology In Platform Software Markets

The failure to prohibit commingling of middleware deprives the RPFJ of any significant procompetitive effect on the emergence and adoption of competing platform software. The critical competitive phenomenon in this case was not middleware in itself, but rather the potential, and deeply feared, development of particular middleware into a competing platform for software applications. Middleware can develop into a competing applications platform by attracting software developers to use its Application Programming Interfaces (APIs) in preference to, or at least in addition, to the APIs offered by Microsoft in Windows. Developers will write their applications to invoke particular APIs—i.e., to run on a particular platform—based on how widely available the APIs will be.

Although potential platform software not distributed by Microsoft must attract users in order to achieve the widespread availability of their APIs that will attract developers, it is the expected presence of the APIs that matters, not how much consumers directly use the application exposing the APIs. Non-Microsoft middleware depends on the availability of the application in order to gain the critical mass of users that, in turn, may attract developers.

The availability and prominence of the application's icon may be significant for the purpose of attracting end-users. In platform competition, however, the availability of the application is only a means to the desired end. Developers don't write to icons; they write to APIs. The inclusion of Microsoft Middleware functionality in every copy of Windows is determinative, regardless of how or whether the icons are featured, and regardless even of the presence of the user interface or shell.[11] If developers know that the plumbing for a Microsoft version of middleware will be on every PC because it is commingled with Windows, then developers will write to the Microsoft version's APIs. Because the RPFJ permits Microsoft to include the APIs accompanying the software functionality that mimics middleware that is a potential platform threat, Microsoft will be able to defeat any middleware threat in exactly the same way it destroyed the threat of Netscape and Java on the PC desktop. See Stiglitz/Furman Dec. 36.

Under the RPFJ, developers will continue to assume that Windows Media Player, for example, is present on every computer. This will be true regardless of whether "end user access" is removed, because the remedy does not require Microsoft to remove the middleware. The result is that software developers will write applications to, for example, the Windows Media Player APIs, rather than to the APIs supplied by rival platforms. That is an advantage that no competitor can overcome.

It is no answer to say that OEMs can offer rival middleware even if the code for a Microsoft version of the same product is commingled with Windows, so that the Microsoft version of middleware appears on every desktop PC. If Microsoft's version of a product is everywhere, few OEMs will go to the effort of providing another product that does largely the same thing. The district court and court of appeals alike recognized that OEMs faced strong disincentives to install two competing products with similar middleware functionality, disincentives arising largely from support costs and disk space. See 84 F.Supp.2d at 49–50, 60–61 (¶¶159, 210); 253 F.3d at 61. If the Microsoft Middleware is there, the OEM will have to support it, even if—perhaps especially if—the end-user does not know that it is there.

Thus, rival middleware cannot undermine Microsoft's monopoly unless (1) the rival middleware is ubiquitous, or (2) the Microsoft version is not ubiquitous. If developers do not feel compelled to write to the rival middleware as well as the Microsoft middleware, the rival middleware will not undermine the monopoly. And if Microsoft's version of particular middleware can be ubiquitous by virtue of its inclusion in the monopoly operating system, as the RPFJ plainly allows, there is virtually no likelihood that rival middleware will ever achieve the ubiquity needed to present a platform challenge. See Stiglitz/Furman Dec. 36–37; see generally Litan/Noll/Nordhaus Comment 44–47.

3. The RPFJ Retreats From The 1995 Consent Decree

Microsoft uses Windows as an instant, universal distribution channel for Microsoft software that represents a response to a threat to the dominance of Windows as a program development platform. As a consequence, "Windows" has become whatever bundle Microsoft needs it to be to forestall competition. The 1995 Consent Decree contained a prohibition on contractual tying of applications to the operating system in order to prevent anticipated conduct that would maintain the operating systems monopoly by anticompetitive means. That the earlier provision failed in its purpose suggests that the provision should be broader, not that it should be abandoned, particularly since this case began as a way to stop conduct that had escaped summary condemnation under the earlier decree. It would be senseless as a matter of enforcement policy to bring and win an action prompted by an evasion (if not a violation) of a monopolization consent decree, win the case on the monopolization theory most closely related to the object of the earlier consent decree, and then reward the violator by removing the relevant restriction upon the expiration of the earlier decree rather than broadening it as proposed here. Microsoft's monopoly gives it the power to make all systems integration and software bundle decisions, a power that Microsoft is exercising more broadly, as the breadth of the Windows XP bundles clearly illustrates. The RPFJ should not step back from the 1995 Consent Decree.

4. The RPFJ Encourages Illegal Commingling By Placing The Critical Definition of Windows Under Microsoft's Exclusive Control.

But the RPFJ does step back from the 1995 Decree, and makes matters still worse. Not only does the RPFJ completely fail to prevent future illegal commingling, but it effectively approves that conduct by permitting Microsoft "in its sole discretion" to "determine[]" exactly which "software code comprises [sic] a Windows Operating System Product." RPFJ VI(U). That provision permits Microsoft an unearned advantage in repelling any future challenges to illegal commingling of applications code with Windows. Were the Court to enter this provision as part of its judgment, Microsoft could point to DOJ's capitulation on this issue—and the Court's approval—as extraordinarily persuasive evidence that its monopoly product was as broad as it says it is, and that, despite the contrary holding of the DC Circuit, any commingling of an application with the operating system is per se legal.

The Court can and should disapprove provisions that appear to endorse practices of apparent anticompetitive effect and dubious legality. Thomson Corp., 949 F. Supp. at 927–930 (refusing to approve fee schedule for mandatory license for legally dubious copyright). The Court should not approve this provision, which defangs many of the other obligations in the RPFJ.

Rather than learning from the difficulties with the "integration proviso" in that Decree, DOJ has ceded the issue to Microsoft, permitting Microsoft to decide for purposes of the decree obligations where the OS stops and where middleware begins. Much of the RPFJ rests on the relationship between the Windows OS and middleware. But the RPFJ places Microsoft firmly in control of every technical aspect of the proposed decree by permitting Microsoft absolute control over the definition of "Windows Operating System Product." That subjects many of Microsoft's purported obligations to Microsoft's own discretion.

No term is more important in the RPFJ than "Windows Operating System Product," which appears fully 46 times in the RPFJ: 26 times in the descriptions of substantive obligations, and 20 times in the definitions that circumscribe those obligations. The definition of Application Programming Interfaces (APIs) is the starkest example. "Windows Operating System Product" appears three times among the 41 words of the API definition. See RPFJ VI(A.). Thus, Microsoft can determine "in its sole discretion" what an API is, and thus what must be disclosed.

One would think that DOJ would do everything possible to ensure that a new decree did not contain an analogue to the "integration proviso" that nullified much of the anti-tying provision of the 1995 decree. See generally Microsoft II, 147 F.3d 935. Instead, Section VI(U) ensures that few, if any, of the technical provisions of the RPFJ will mean anything except what Microsoft wants them to mean, and that none can be enforced without lengthy litigation that will further shrink the tightly limited duration of the proposed relief.

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[11] The user interface is especially insignificant because the browser window already can serve as the user interface for many products, and could easily be adapted to serve as the user interface for many more.

B. Empirical Evidence Shows That The Icon Flexibility Provisions Will Not Be Used

Not only do the icon flexibility provisions address the wrong problem, but the market already has tested their consequences. On July 11, 2001, Microsoft announced that OEMs and end users would be permitted to remove access to Microsoft's Internet Explorer browser, just as RPFJ III(H)(1) permits. As of this writing, not one OEM has availed itself of this new liberalized policy. Windows XP is shipping with Internet Explorer on every single personal computer shipped by every single OEM. This real-world experience speaks volumes about the practical significance of this relief.

C. The Icon Flexibility Provisions Require—And Accomplish—Little

1. The icon flexibility provisions do not permit OEMs to swap out Microsoft Middleware Products and replace them with other products. Rather, the OEMs at most can hide the Microsoft icon, but need to be prepared to support the underlying Microsoft software when another software application invokes it. That means that these provisions do not address the added "product testing and support costs" that discourage OEMs from including more than one version of particular functionality. Microsoft III, 253 F.3d at 66.

This is a step backward from DOJ's settlement posture before liability was established. At that time, DOJ insisted that OEMs be allowed to alter or modify Windows, and that Microsoft provide OS development tools for that purpose. See Draft 18, 4(1)(d), 4(g). The RPFJ provisions, by contrast, only permit OEMs to display icons, shortcuts, and menu entries for Non-Microsoft Middleware. The RPFJ does not require Microsoft to permit OEMs to remove any Microsoft Middleware Products, although even current Microsoft practice permits this. The RPFJ requires Microsoft only to allow the removal of "icons, shortcuts, or menu entries." RPFJ III(H)(1)[first].

2. Section III(H)(2)[first] seems to permit OEMs and end-users to choose default middleware for particular functions. Microsoft's obligations are far less than they appear.

The provision applies only where a Microsoft Middleware Product would launch into a top-level display window (rather than operating within another interface) and would either display "all of the user interface elements" or the "Trademark of the Microsoft Middleware Product." RPFJ III(H)(2)(i)-(ii) (emphasis added). Thus, the provision does not apply if Microsoft designs the slightest variation on the interface elements that launch from within another application, so long as the trademark also is not displayed in the top-level window. These do not present serious programming challenges. Microsoft's ability to preclude OEM installation of desktop shortcuts that "impair the functionality of the [Windows] user interface" (RPFJ III(C)(2)) provides another, largely unreviewable set of opportunities to impede the use of innovative shortcuts to innovative software. Microsoft asserted similar reasons to defend some of the conduct condemned by the DC Circuit. See Microsoft III, 253 F.3d at 63–64. The DC Circuit rejected Microsoft's approach, but the RPFJ adopts it.

3. As explained above, the code beneath the surface is critically important to the success of middleware in undermining the applications barrier to entry in the OS market. The RPFJ contains exceptions that ensure that, however icons may be displayed on the surface, Microsoft Middleware will be firmly (and unchallengeably) established in the plumbing of each PC. Sections III(H)(1)-(2)[second], undo what might be left of the obligations earlier in Section III(H). Section III(H)(1)[second] permits Microsoft to ensure that Microsoft Middleware Products are invoked whenever an end-user is prompted to use Microsoft Passport or the group of Microsoft web services now known as Hailstorm. Section III(H)(2)[second] ensures that Microsoft need only program in functions that invoke Active X or other similar Microsoft-proprietary implementations of common functions, in order to ensure that Microsoft Middleware Products constantly appear regardless of an end-user's stated preferences. And none of the provisions in Section III(H) would apply unless the corresponding Microsoft Middleware Products existed seven months before the last beta version of a new Windows release. As with other provisions, Microsoft would be constrained by these requirements only if it paid no attention to them when it decided when and how to release its products.

D. The 14-Day Sweep Provision Effectively Nullifies RPFJ § III(H) Even if these provisions otherwise might mean something, the RPFJ ensures that they will be competitively meaningless by permitting Microsoft to nag users to give permission for Microsoft to override any array of non-Microsoft icons and menu entries 14 days after the initial boot-up of a PC. See RPFJ III(H)(3). Thus, Microsoft only needs to prompt users with a dialog box inviting them to "optimize the Windows user interface" every time they boot up, or when they download the inevitable bug fixes and security patches among Windows updates, in order to undo any OEM's or end-user's customization of icons. Microsoft apparently provided DOJ with the name for this feature, which DOJ uses in the CIS: "Clean Desktop Wizard." CIS 48, 66 Fed.

Reg. 59,471. What user would not agree to have a cleaner desktop? No ISV is likely to pay an OEM a fee sufficient to cover the trouble of rearranging icons, and supporting additional software, for the privilege of having non-Microsoft software icons displayed advantageously for as little as two weeks.

The CIS suggests that the ability of Microsoft to sweep away icons of competing middleware and other products 14 days after a computer first boots up (RPFJ III(H)(3)) applies only to "unused icons" (CIS 48, 66 Fed. Reg. 59,471), but the decree terms contain no such limitation. Once its "Clean Desktop Wizard" (id.) secures a click of user consent, Microsoft can hide any icons that offend it. Indeed, there is nothing in the RPFJ that would stop Microsoft from including similar "wizards" that would prompt users to reset middleware defaults, or even to remove Non-Microsoft Middleware," in order to "optimize performance" or to "take full advantage of powerful new Windows features."

E. By Placing The Burden To Restore Competition On OEMs, The PFJ Leads To No Remedy At All For Much Of The Misconduct At Issue

One of the most misguided elements of the RPFJ is its allocation to OEMs, ISVs and end-users of the primary responsibility for injecting competition into the OS market. The icon and default flexibility provisions of the RPFJ allocate to the OEMs almost all of the financial risk and responsibility for remediating Microsoft's antitrust violation, while the monopolist has no obligations except to allow others to make changes to hide (or add to) Microsoft's middleware.

That approach ignores the fact that OEMs are motivated by their own fiduciary and economic considerations, not by the drive to remedy a monopolization offense. OEMs are risk-averse, as they operate in a low-margin, highly competitive environment in what has become a commodity-product market. In that environment OEMs are highly dependent on the good graces of Microsoft, not only for favorable pricing on Microsoft's monopoly software products [] Office as well as Windows [] but also for timely technical assistance, and access to technical information.

The Stiglitz/Furman Declaration confirms (at 32–34) that the economics of the OEM industry—a commodity industry captive to a bottleneck monopolist—discourage expenditures of this kind. It is bizarre and counterproductive to place the burden to restore competition on the innocent, low-margin OEMs rather than the monopolist. The "hapless makers of PCs" still "aren't in any position to defy Microsoft," Walter Mossberg, For Microsoft, 2001 Was A Good Year, But At Consumers" Expense, Wall. St. J., Dec. 27, 2001, at B1, any more than they were when the illegal conduct in this case first occurred. See, e.g., Findings, 84 F. Supp.2d at 62 (¶214) (Hewlett-Packard observation to Microsoft that "[I]f we had a choice of another supplier, * * * I assure you [that you] would not be our supplier of choice"). But if OEMs choose not to exercise their new "flexibility" under the middleware provision [] a choice that seems likely in view of the demonstrated lack of a response to Microsoft's offer of July 11, 2001 ?? the[12] government is left with no antitrust remedy for much of its case.

Nor can ISVs be expected to pay OEMs to take advantage of the limited flexibility provided by

RPFJ III(C) and III(H). The RPFJ gives ISVs very slight incentives to subsidize OEM alterations of Microsoft's preferred desktop display, since the ISVs who sell middleware that competes against a Microsoft offering cannot buy exclusivity on the desktop of any computer. Rather, at best an ISV can obtain parity in the availability to developers of its middleware's code. No matter what ISVs and OEMs do, Microsoft Middleware will be ubiquitous. And ISVs could buy only 14 days of advantageous icon display before a Microsoft "Clean Desktop Wizard" (CIS 48, 66 Fed. Reg. 59,471) would begin prompting users to undo the OEM's arrangement of icons and reinstate the arrangement favored by Microsoft. No ISV would pay more than a pittance for such a shallow and short-lived advantage on the desktop. F. The RPFJ Permits Microsoft To Control Consumers" Access To Innovation To Suit Its Monopolistic Aims The RPFJ allows Microsoft to exercise full control over the pace of innovation in middleware because Microsoft can ensure that consumers are denied access—or have only severely impeded access—to competitively threatening middleware products to which Microsoft has no analogue.

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[12] Similarly, the RPFJ places no limits on Microsoft's conduct toward one of its largest current groups of licensees—direct corporate licensors of bulk Windows licenses. The corporate market has always been Microsoft's point of leverage, and those buyers now often buy direct. Microsoft has made clear its intention to make Windows and other software a renewable "service." Microsoft can undo all of the provisions applying to OEMs upon the first license renewal with an end-user.

Section III(C)(3) allows Microsoft to prohibit OEMs from configuring PCs to launch non-Microsoft middleware from any point unless Microsoft already has a competing product that launches from that point. Microsoft can prohibit OEMs from configuring non-Microsoft middleware from launching automatically at the end of the boot sequence or upon the opening or closing of an Internet connection unless a Microsoft Middleware Product with similar functionality would launch automatically. RPFJ § III(C)(3).

Even after this catch-up provision serves its delaying purpose, Microsoft can control how competing middleware products reach and serve consumers, so that products launch only in the way that best suits Microsoft. This provision appears designed to protect Microsoft from competition, and to give the monopolist a clear imprimatur to control the pace of innovation. See Stiglitz/Furman Dec. 28.

V. THE API AND COMMUNICATIONS PROTOCOL DISCLOSURE PROVISIONS ARE INEFFECTIVE

The API Provisions Require Little, If Anything, Beyond Current Disclosure Practices In Microsoft's Self-Interest

The API and Communications Protocol disclosure provisions (§§ III(D)-(E)) contain little in the way of hard, fast, enforceable obligations, and do not appear to add anything significant to Microsoft's current disclosure practices. As the CIS recognizes:

> Through its MSDN [Microsoft Developer's Network] service, Microsoft presently makes widely available on the Internet an extensive and detailed catalog of technical information that includes, among other things, information about most Windows APIs for use by developers to create various Windows applications. MSDN access is presently broadly available to developers and other interested third parties.

CIS 34,66 Fed. Reg. 59,468.

Microsoft already discloses literally thousands of APIs to software developers through MSDN for the good reason that it is in Microsoft's self-interest to promote the Microsoft Windows platform to software developers. The extent of information disclosure required by the RPFJ must be understood in the context of Microsoft's current information disclosure practices. A "requirement" that Microsoft disclose APIs for the most part simply "requires" that Microsoft do what it does voluntarily.

Microsoft has a business incentive not only to disseminate Windows APIs but to assist ISVs in understanding and implementing Windows APIs in their products. Microsoft and other platform software vendors compete to attract developers by disclosing technical information, creating easy-to-use development tools, and "evangelizing" their development platforms. Attracting developers helps Microsoft perpetuate the substantial network effects that produce the applications barrier to entry protecting the Windows monopoly. Because the strength of the Windows monopoly and the power of the applications barrier to entry are directly related to the number of developers writing applications for Windows, it is in Microsoft's interest to provide a robust information disclosure program.

By widely disclosing APIs, Microsoft ensures that applications will continue to be written for its platform software rather than for rival platforms. Properly understood, Section III(D) does not actually require Microsoft to provide any new disclosure of APIs and technical information to promote interoperability; Microsoft already engages in these disclosures. Rather, the incremental effect of the API disclosure provisions of the RPFJ is at most to prevent Microsoft from selectively withholding certain APIs from certain vendors. As explained below, however, the disclosure "requirements" in the RPFJ are too insubstantial and too easily manipulated to accomplish even that limited goal.

B. The RPFJ Does Not Require Disclosure of Windows APIs, But Rather Lets Microsoft Determine The Scope of Disclosure Through The Design and Labeling of Its Operating System And Middleware

To begin with, the API disclosure requirements aim at the wrong thing. The RPFJ defines APIs as the interfaces used by Microsoft Middleware to invoke resources from a Windows Operating System Product. RPFJ § VI(A). But innovative rival software vendors do not need APIs between Microsoft Middleware and Windows. The really threatening innovators are threatening precisely because their products perform functions that Microsoft's do not. In those cases, by definition, there will not be any fully analogous Microsoft middleware—just as Microsoft did not have an Internet browser when Netscape Navigator first appeared. Those developers need full access to Windows APIs—APIs for all functionalities enabled by the Windows platform, whether Microsoft calls them "internal" calls within Windows or external APIs that may be distributed to ISVs—not to the limited subset used by a Microsoft version of similar middleware.

That is what Netscape needed in 1995; there was no Internet Explorer to speak of at that time, and certainly Microsoft's rudimentary browser did not perform anywhere near the range of functions performed by Netscape Navigator. See Findings, 84 F. Supp.2d at 31–32 (¶¶82–84), 33–34 (¶¶91–92). The RPFJ provisions would not have helped Netscape then. See Letter from James L. Barksdale, former CEO of Netscape, to Chmn. Leahy & Sen. Hatch, Senate Comm. on the Judiciary, Attachment, Question 1 (Dec. 11, 2001)[13] And they will not help any software developer whose products exceed the functionality of existing Microsoft middleware. The API disclosure provisions in the RPFJ thus ensure that Microsoft can control the pace of middleware innovation, providing another level of assurance that non-Microsoft products will not gain the type of head start that might result in ubiquity before a similar Microsoft product can be included That limitation on API disclosure is severe enough. But it is just a beginning. The disclosure obligation is further limited by the definition of APIs at RPFJ § VI(A): in the bundle of products sold with every Windows operating system.

Setting aside the circularity, the malleability of the two principal defined terms renders this definition (and the corresponding obligations) a practical nullity. The API definition depends on the relationship between two "products," each of which is defined solely by Microsoft. As noted above, Microsoft has "sole discretion" to identify software code as part of a "Windows Operating System Product." RPFJ § VI(U). Many APIs can disappear from view simply as a result of Microsoft's unreviewable decision to relabel certain interfaces as internal to Windows. If Microsoft says that an operation takes place entirely within Windows, rather than requiring the interaction of a middleware and Windows, then there is no API to disclose. [14]

C. The Definition of "Microsoft Middleware" Gives Microsoft Further Leeway to Limit Its Disclosure Obligation

The only APIs that need be disclosed are those used by "Microsoft Middleware." But "Microsoft Middleware," too, is defined in a way that gives Microsoft tight control over the scope of its own obligations. Remarkably, Assistant Attorney General James testified that this definition would have been difficult for DOJ to achieve in a litigated proceeding. Statement of Charles James to Senate Judiciary Committee 8 (Dec. 12, 2001). But it is difficult to imagine what Microsoft would have contested. Just as in the dispute whether Internet Explorer is part of Windows, Microsoft can simply relabel software as part of one product rather than another. The label does not affect the commands and operations in the software.

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[13] Mr. Barksdale's letter in lieu of hearing testimony is available at http://java.sun.com/features/2002.01.barksdale-letter.html, and the attachment is available at http://java.sun.com/features/2002.01.barksdale-attach.htm "Application Programming Interfaces (APIs)" means the interfaces, including any associated callback interfaces, that Microsoft Middleware running on a Windows Operating System Product uses to call upon that Windows Operating System Product in order to obtain any services from that Windows Operating System Product.

[14] Moreover, the term "interfaces" is not defined in the RPFJ. The CIS explains that ""[i]nterfaces" includes, broadly, any interface, protocol or other method of information exchange between Microsoft Middleware and a Windows Operating System Product." CIS 33–34, 66 Fed. Reg. 59,468. But that definition would not be part of the judgment.

1. The RPFJ Requires Microsoft To Disclose Only The APIs Used By The "User Interface" Or Shell Of Microsoft Middleware

The APIs that must be disclosed are those that "Microsoft Middleware * * * uses to call upon [a] Windows Operating System Product." RPFJ § VI(A); see id. III(D). But Microsoft determines how much code performing a Microsoft Middleware function is part of the Middleware, and how much is part of the Windows Operating System Product, since the latter definition is within Microsoft's "sole discretion." Id. § VI(U). The only code in Microsoft Middleware that Microsoft must consider separate for the purposes of API disclosure is the user interface, or shell, of the Middleware—or, rather, "most" of the shell. Id. § VI(J)(4). The only limit is that "Microsoft Middleware" must "[i]nclude at least the software code that controls most or all of the user interface elements of that Microsoft Middleware." Id. Thus, the terms of the RPFJ permit Microsoft to provide only the APIs that go between 51% of the user interface elements of Microsoft Middleware and the rest of the Windows bundle of products. None of the APIs used by the Middleware's functionality—the APIs that permit the Middleware perform its functions while running on Windows—need be disclosed, so long as the shell APIs are disclosed. This definition appears to be designed to have nothing to do with developer preferences, or with the applications barrier to entry.

2. The RPFJ Requires Microsoft To Disclose APIs Only For "Microsoft Middleware" That Is Distributed Separately From Windows, Yet Is Distributed To Update Windows

To come within the disclosure obligation, Microsoft Middleware must be "distributed separately from a Windows Operating System Product." That restriction alone is enough to take Windows Media Player 8 outside the definition, as that product is available only as part of the Windows XP bundle. But not all separate distributions prompt the API obligations; Microsoft must characterize the distribution as one that "update[s] th[e] Windows Operating System Product." See RPFJ § VI(J)(1). Thus, the scope of the obligation depends entirely on the labeling of the product, which Microsoft can easily manipulate.

3. The Limitation Of Microsoft Middleware To "Trademarked" Products Further Eviscerates The API Disclosure Provision But that is not all. At least equally significant is the restriction of the Microsoft Middleware definition, and thus the API disclosure obligation, to Middleware that is "Trademarked." RPFJ § VI(J)(2). The definition of "Trademarked" allows Microsoft to exclude current middleware from the API disclosure obligation, and to prevent future middleware from becoming subject to the API disclosure obligation, simply by manipulating its use of trademarks. a. Microsoft Easily Can Ensure That Middleware Is Not "Trademarked" By Using A Generic Or Descriptive Name Combined With Microsoft(r) or Windows(r) The definition of "Trademarked" does not include "[a]ny product distributed under * * * a name compris[ing] the Microsoft(r) or Windows(r) trademarks together with descriptive or generic terms." Id. § VI(T). That is how Microsoft has chosen to name some of its newest and most important products: the combination of a monopoly brand with a simple descriptive mark that helps identify an entire software function with the Microsoft implementation of it. Windows(r) Messenger instant messaging software is one example. Moreover, by the terms of the RPFJ Microsoft disclaims any rights in the use of such combinations of the Microsoft(r) or Windows(r) marks with generic or descriptive terms, and abandons any rights that may be acquired in the future. RPFJ § VI(T). These provisions suggest that Microsoft can change the scope of the definition of Middleware, and thus of the API disclosure obligation, by abandoning some marks it has registered as combinations of Microsoft(r) or Windows(r) with generic or descriptive terms—if the RPFJ does not accomplish that in itself. Windows Media Player is an example. Although Microsoft has registered the combination of Windows(r) and the generic term "Media" as Windows Media(r), at bottom the name Windows Media Player is a combination of the Windows(r) mark with the generic term "media player." Indeed, Microsoft could plausibly argue that the Windows Media(r) mark does not come within the "Trademarked" definition as it is, since even that mark consists of no more than the Windows(r) mark in combination with the generic term "media."15 RPFJ § VI(T) may therefore embody Microsoft's "disclaim[er of] any trademark rights in such descriptive or generic terms apart from the Microsoft(r) or Windows(r) trademarks." But even if Section VI(T) does not go so far, Microsoft could easily get Windows Media(r) Player outside of the "Trademarked" definition —and thus outside the scope of the disclosure obligations that apply only to "Microsoft Middleware"—simply by abandoning the registration mark and moving the registration symbol to the left. Thus, Microsoft can transform "Windows Media(r) Player," which might be subject to API disclosure requirements, into "Windows(r) Media Player," which clearly is exempt. 15. In this discussion we set aside the non-trivial question whether "Windows" itself is a generic, or at best descriptive, mark for the type of "windowing" graphical user interfaces invented at the Xerox Palo Alto Research Center in the 1970s, popularized by the Apple Lisa and Macintosh in the 1980s, and since used by Microsoft and many other software vendors. b. The "Microsoft Middleware" Definition Governing Disclosure Obligations Is Far Narrower Than The "Microsoft Middleware Product" Definition Governing OEM Flexibility That this highly restrictive definition is no accident is clear from comparison with the "Microsoft Middleware Product" definition which governs the icon-display obligations. To provisions paralleling the "Microsoft Middleware" definition, the "Microsoft Middleware Product" definition adds several named current products, including "Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express and their successors," RPFJ § VI(K)(1), although only to the extent that Microsoft "in its sole discretion" (id. § VI(U)) decides that those products are "in a Windows Operating System Product." Id. § VI(K)(1). Thus, Microsoft's icon display/removal obligations for those named products would not change merely because of a strategic product renaming or abandonment of a trademark that combines the Microsoft(r) or Windows(r) name with generic or descriptive terms. But none of those current products is named in the "Microsoft Middleware" definition that governs the disclosure obligations. That enables Microsoft to manipulate whether those products, although surely middleware, also satisfy the four subparts of RPFJ § VI(J).

c. The CIS Broadens The "Trademarked" Definition Beyond Its Terms

The CIS overstates the breadth of the "Trademarked" definition, contending that it "covers products distributed * * * under distinctive names or logos other than by the Microsoft?? or Windows?? names by themselves." CIS 22, 66 Fed. Reg. 59,465. The CIS further claims that the exception for products known by combinations of generic terms with Microsoft?? or Windows?? does not cover marks that "are presented as a part of a distinctive logo or another stylized presentation because the mark itself would not be either generic or descriptive." CIS 23, 66 Fed. Reg. 59,465 (emphasis added). To the contrary, the terms of the RPFJ definition of "Trademarked" focus entirely on "names," not "logos" or "marks" as a whole. RPFJ § VI(T). The distinction is striking: the word "name" appears five times in the definition, and "descriptive or generic terms" appears three times. Neither "logo" nor "mark" appears at all.

Microsoft clearly appreciates the distinction. Although Microsoft apparently has not yet formally abandoned the mark "Internet Explorer" (U.S. Trademark Reg. No. 2277122), it does not assert that mark when it lists its trademarks as a warning to the public. See http://www.microsoft.com/misc/info/cpyright.htm. Microsoft does list its trademark for the Microsoft Internet Explorer logo, however. Id.; see U.S. Trademark Reg. No. 2470273.

d. Microsoft Can Easily Manipulate Which Middleware Releases Are "New Major Versions" Indeed, even a "Microsoft Middleware Product" satisfying that four-part test may not be "Microsoft Middleware" subject to the disclosure obligation unless it is a "new major version" of the product, that is, if the release is "identified by a whole number or by a number with just a single digit to the right of the decimal point." RPFJ § VI(J). That has two implications. First, Microsoft can simply adopt a different method of naming new releases. Second, even under current practice a version with two digits to the right of the decimal point may fix significant errors, so that disclosure only of the prior version of the APIs might leave developers without the ability to invoke some needed functionality with the disclosed APIs.

D. The Disclosure Provisions—Particularly Those concerning "Communications Protocols"—Depend On An Undefined And Thus Unenforceable Concept of "Interoperability"

Both the API and Communications Protocol disclosure provisions define the scope of the data to be disclosed as that necessary to permit non-Microsoft products to "interoperate" with the Windows client OS and to "interoperate natively" with Microsoft server operating system products. See RPRJ §§ III(D), (E). The disclosure obligations are limited to "the sole purpose of interoperating with a Windows Operating system. Product." Id.

The obligations depend on the meaning of "interoperate," but the RPFJ never defines that term, and there is no non-discrimination provision attached to this obligation. That is critical because interoperability is not something that can be achieved half way. Either two software products interoperate for all functions that they must perform together, or they do not. Any impediment in any aspect of the interoperation nullifies the interoperability. The CIS seems to equate "inteoperate" with "fully take advantage of," see CIS 36, 66 Fed. Reg. 59,468, but there is no such language in the RPFJ itself.

The Communications Protocol disclosure provision (RPFJ § III(E)), outlines a seeming "obligation" that is entirely undefined. Section III(E) seems to require disclosure of Communications Protocols on Windows clients that are "used to interoperate natively * * * with a Microsoft server operating system product." But just as "interoperate" is not defined, neither does the RPFJ define "Microsoft server operating system product."

One of the most important aspects of the Windows 2000 Server product bundle is Microsoft's web server, IIS. In the absence of a definition of "Microsoft server operating system product," however, it is unclear whether the disclosure obligation encompasses protocols used to interoperate with this and other aspects of the current server product. Cf. RPFJ § VI(U) (defining "Windows Operating System Product" as all software code "distributed commercially * * * as Windows 2000 Professional" and other named products, and "Personal Computer versions" of their successors).

Again, the CIS attempts to provide assurances that go beyond the terms of the proposed judgment. The CIS states (at 37, 66 Fed. Reg. 59469):

The term "server operating system product" includes, but is not limited to, the entire Windows 2000 Server product families and any successors. All software code that is identified as being incorporated within a Microsoft server operating system and/or is distributed with the server operating system (whether or not its installation is optional or is subject to supplemental license agreements) is encompassed by the term. For example, a number of server software products and functionality, including Internet Information Services (a "web server") and Active Directory (a "directory server"), are included in the commercial distribution of most versions of Windows 2000 Server and fall within the ambit of "server operating system product."

That definition would be appropriate. But no corresponding language—no enforceable definition—appears in the RPFJ.

E. The Narrow Scope Of The Disclosure Provisions Contrasts Sharply With The Broader Definitions In DOJ's Earlier Remedy Proposals

Before liability had been confirmed on appeal, DOJ took a far broader view of what should be disclosed. The interim remedies in the vacated judgment required disclosure of APIs, Communications Interfaces, and "technical information" needed to enable competing products "to interoperate effectively with Microsoft Platform Software." 97 F. Supp.2d at 67 (3(b)). That disclosure requirement was backed up by a requirement, absent from the RPFJ, that Microsoft create a secure facility so that developers could work with Windows source code to ensure that their applications worked properly on the Microsoft platform. See id

The definition of "technical information," moreover, helped ensure that disclosure would be complete and not subject to many different methods of manipulative narrowing. The "technical information" definition encompassed the following items: all information regarding the identification and means of using APIs and Communications Interfaces that competent software developers require to make their products running on any computer interoperate effectively with Microsoft Platform Software running on a Personal Computer.

Technical information includes but is not limited to reference implementations, communications protocols, file formats, data formats, syntaxes and grammars, data structure definitions and layouts, error codes, memory allocation and deallocation conventions, threading and synchronization conventions, functional specifications and descriptions, algorithms for data translation or reformatting (including compression/decompression algorithms and encryption/decryption algorithms), registry settings, and field contents.

97 F. Supp.2d at 73 (§ 7(dd)).

Indeed, DOJ's position was stronger even before liability had been imposed at all. Draft 18 from the Posner mediation imposed a disclosure obligation using this definition of "technical information": all information, regarding the identification and means of using APIs (or communications interfaces), that competent software developers require to make their products running on a personal computer, server, or other device interoperate satisfactorily with Windows platform software running on a personal computer. Technical information includes reference implementations, communications protocols, file formats, data formats, data structure definitions and layouts, error codes, memory allocation and deallocation conversions, threading and synchronization conventions, algorithms for data translation or reformatting (including compression/decompression algorithms and encryption/decryption algorithms), registry settings, and field contents.

The RPFJ, by contrast, contains no analogue to these precise and inclusive definitions. Instead, the RPFJ relies solely on the circular (and completely manipulable) definition of API (RPFJ § VI(A)), a similarly narrow definition of "Communications Protocol" (id § VI(B)), and a definition of "Documentation" that is wholly dependent on the API definition (id. § VI(E)).

F. The "Security" Exceptions in Section III(J) Permit Microsoft To Avoid Its Disclosure Obligations

RPFJ § III(J) provides Microsoft with two additional lines of defense in the event that any competitively sensitive APIs nonetheless fall within the malleable definition of API. Section III(J)(1) severely undercuts the disclosure requirements to the extent they apply in the modem world where security protocols are critical to any communication between networked computers, particularly over the Internet. And Section III(J)(2) provides Microsoft with seemingly unfettered discretion to decide who is worthy to receive technical information necessary to make middleware function on the Internet.

Microsoft can plausibly rely on Section III(J) to decline to comply with disclosure requests based on concerns with authentication and security that it will be able to assert with respect to any program that involves communication between a PC and a server on the Internet (or even within many private networks). Authentication, security, and similar protection mechanisms are and will continue to be integral parts of the functioning of those products. See, e.g., Comment, William A. Hodkowski, The Future of Internet Security." How New Technologies Will Shape the Internet and Affect the Law, 13 SANTA CLARA COMPUTER 6: HIGH TECH. L.J. 217 (1997). Indeed, security and rights-protection are particularly critical to Internet-based economic activity, which encompasses much of the computing on the Internet. As a consequence, the security mechanisms are critically important to any Internet-based middleware threat to the Windows OS monopoly.

For example, digital rights management ("DRM") has become a principal part of Windows Media Player. Allowing Microsoft to withhold data needed to permit rivals to interoperate with the DRM specifications in Windows Media Player—specifications that Microsoft is making universal by including Windows Media Player on every PC -may well end effective competition for media players within the next upgrade cycle for Windows. Similarly, any distant remaining possibility of Internet browser (or even e-mail client) competition should be squelched by the RPFJ's approval for Microsoft to withhold parts of encryption-related protocols (again, as distinct from the customer-specific keys that make use of those protocols). For another example, Secure Socket Layer (SSL) is an open standard that has been critical to the open development of a relatively secure Internet. As Microsoft implements a proprietary version of SSL—one that others will have to follow given the ubiquity of the Microsoft browser as a result of the misconduct at issue in this case—it will be able to conceal critical layers of that altered protocol from rivals, essentially ending the possibility of competition for client software for Internet computing. And by giving Microsoft a basis to conceal authentication protocols (not merely data), the RPFJ frees Microsoft Passport from scrutiny and permits Microsoft to bind a proprietary universal password and identity utility to its monopoly operating system without hope of interoperation.

By permitting Microsoft to withhold key parts of encryption, digital rights management, authentication, and other security protocols, the RPFJ effectively allocates Web-based computing to the monopolist of the desktop. A decree could hardly try to place a clearer stamp of approval on an expansion of the scope of an illegally maintained monopoly.

1. The Exclusions for Security-Related APIs and Protocols in RPFJ(J)(1) Permit Microsoft To Hobble Disclosures That Are Critical in Internet Computing

It is no coincidence that Bill Gates has now emphasized the centrality of security concerns in Microsoft's future software offerings. See, e.g., John Markoff, Stung by Security Flaws, Microsoft Makes Software Safety a Top Goal, N.Y. TIMES, Jan. 17, 2002, at C1. That is no more than an acknowledgment of market and technical realities that have been widely known throughout the industry for years as Internet computing has taken hold. That market reality should have been sufficient to make clear that an indistinct exception of the type in RPFJ § III(J)(1) would allow Microsoft to disclose "crippled" versions of APIs and Communications Protocols. Microsoft's sudden dedication to security leaves no doubt that it will inject security aspects into its proprietary APIs and its proprietary, extended implementations of Communication Protocols. Under the terms of Section III(J)(1), Microsoft can easily argue that disclosure of those aspects—necessary for one machine to communicate with another—will compromise the security from any installation or group of installations. See also Stiglitz/Furman Dec. 30.

The CIS maintains that Section III(J)(l) simply protects Microsoft and its customers from disclosure of customer-specific "keys, authorization tokens, or enforcement criteria," and states that the exception "does not permit [Microsoft] to withhold any capabilities that are inherent in the Kerberos and Secure Audio Path features as they are implemented in a Windows Operating System Product." CIS 52, 66 Fed. Reg. 59,472. But that reading does not square with the text of the exemption. The quoted examples are specifically presented "without limitation." RPFJ § III(J)(1). The RPFJ language easily permits Microsoft to contend that any release of the way, its proprietary security protocols work "would compromise the security of a particular installation."

Most important, Section III(J)(1) clearly permits Microsoft to withhold portions of APIs or Communications Protocols, but the examples given of keys and authorization codes are not parts of APIs or Communications Protocols. They may be part of customer-specific Documentation, rather than the Documentation used by customers, consultants, and developers to create or identify and implement particular keys, tokens, or enforcement criteria.) The APIs and Communications Protocols for security-related applications are not customer-specific, nor does their disclosure compromise security. To the contrary, the most powerful encryption and other security-related software is openly disclosed, as is the Kerberos standard, or even open source, as is the federal government's new encryption standard. See, e.g., Watch your AES: A new encryption standard is emerging, Red Herring (Dec. 1, 1999) (open source government standard). Unless RPFJ § III(J)(1) refers to a null set, however, Microsoft will have a basis to withhold some parts of Communications Protocols and APIs. The CIS states that Communications Protocols "must be made available for third parties to license at all layers of the communications stack," (CIS 36–37, 66 Fed. Reg. 59,468 (emphasis added)) but the RPFJ to which Microsoft agreed—and which alone is potentially enforceable -says no such thing. To the contrary, Section III(J)(1) explicitly relieves Microsoft from the obligation to license some "portions or layers of Communications Protocols" (and some "[p]ortions of APIs")—not just client-specific data. If part of a Communications Protocol is withheld, not "all layers of the communications stack" are "available * * * to license." And if part of a Communications Protocol is unavailable, interoperation is impossible; at certain points, the interaction between two computers will break down.

Limited withholding of APIs or Communications Protocols (rather than merely withholding customer-specific data) will render middleware non-functional, since software cannot interoperate with other software partially. Carving off some aspects of interoperability means that there is no interoperability, thwarting the premise of the disclosure provisions altogether.

The CIS also describes other limits that do not exist in the text of the RPFJ. The CIS claims that the RPFJ requires disclosure of the Communications Protocols used for the Microsoft-proprietary implementation of the Kerberos security standard—a "polluted" Kerberos that is the strict analogue to the "pollute[d]" Java that figured prominently at trial. See Microsoft III, 253 F.3d at 76–77 (quoting 22 J.A. 14,514). But Section III(J) explicitly relieves Microsoft of the obligation to disclose "portions" of APIs or Communications Protocols that would "compromise the security of a particular installation or group of installations of" security software. That is an open invitation to withhold some part of the Microsoft-proprietary variation of Kerberos.

The type of customer-specific information that the CIS claims is all that can be withheld could and should be described much more accurately and specifically in the RPFJ, not as [p]ortions of APIs or * * * portions or layers of Communications Protocols," but rather as "customer-specific or installation-specific data the disclosure of which would compromise the security of a particular installation or group of installations of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation keys, authorization tokens or enforcement criteria." But that is not the approach the RPFJ takes. Rather, the RPFJ makes clear that Microsoft is entitled to withhold, not merely customer- or installation- specific data, but some "portions" of APIs and some "portions or layers" of Communications Protocols. All communication of substance between desktops (or other client computers) and server computers over the Internet increasingly involves layers of security protocols, anti-virus routines, and the like. And one of Microsoft's principal current efforts is to foist its own version of digital rights management (DRM) upon providers of copyrighted content over the Internet.

When Microsoft asserts a right to withhold information, it will be difficult indeed for the Technical Committee, DO J, or the Court to exclude the possibility that particular "portions or layers of Communications Protocols," or "[p]ortions" of the APIs that permit middleware programs to operate atop Microsoft operating systems, in fact "compromise the security of a particular installation or group of installations." RPFJ § III(J)(1). Any such determination is likely to be time-consuming, and related enforcement therefore would be slow. It should be a simple matter for Microsoft to delay disclosures of this type long enough to disadvantage competitors.

2. RPFJ III(J)(2) Permits Microsoft To Refuse Effective Disclosure To A Range Of Potentially Effective Competitors

While RPFJ § III(J)(1) allows Microsoft to refuse to disclose portions of APIs, RPFJ § III(J)(2) permits Microsoft to withhold all of any "API, Documentation, or Communications Protocol" having to do with "anti-piracy systems, anti-virus technologies, license enforcement mechanisms, authentication/authorization security, or third party intellectual property protection mechanisms of any Microsoft product." The RPFJ allows Microsoft to select to whom it will disclose this information by imposing several tests that may be based on standards apparently committed to Microsoft's sole discretion as much as is the definition of Windows Operating System Product.

Thus, RPFJ § III(J)(2)(b) permits Microsoft to evaluate whether a competitor has a "reasonable business need" for the desired information. What Microsoft is likely to consider a "reasonable" business need by a competitor may be narrow indeed. As the DC Circuit observed, Microsoft viewed its desire "to preserve its" monopoly "power in the operating system market" as a procompetitive justification for exclusionary conduct. Microsoft III, 253 F.3d at 71. No doubt Microsoft will view direct or indirect efforts to undermine its hammerlock on the OS market as unreasonable efforts to confuse consumers or impair the "Windows experience."

Even bona fide attempts by a monopolist to objectively evaluate a potential competitor's "reasonable business need" can scarcely be expected to produce consistent or foreseeable results.

Rather, that amorphous standard is likely to produce a flood of disputes—each of which will delay the competitor's receipt of technical information while Microsoft gains more time to respond (by legal or illegal means) to the competitive threat. Moreover, the "reasonable business need" must be for a "planned or shipping product." If the product is already "shipping," it may be too late for disclosure to be helpful in the market. How fully "planned" a product must be raises further questions that Microsoft will be able to resolve to its own disadvantage.

In addition, Microsoft need not provide security-related APIs, protocols, or documentation to any vendor that does not "meet[] reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business." RPFJ § III(J)(2)(c) (emphasis added).

That provides Microsoft with a basis for excluding almost all nascent competitors except for those associated with established, profitable companies. It would not be difficult to craft "reasonable, objective standards" for "viability of [a] business" that would exclude any Internet-focused startup, including Netscape in 1995. Indeed, the history of the software industry both before and after the dot-com bubble shows that very few software companies have had "viable" businesses. Certainly Section III(J)(2)(c) would give Microsoft at least a debatable basis for withholding the APIs and Communications Protocols needed to interoperate with Microsoft software over the Internet from all open source ISVs—who are more interested in constantly improving the quality of software than in obtaining licensing profits. Although open source software is widely recognized as a major threat to Microsoft's monopoly power, the business models even of the leading Linux providers might fail any number of "reasonable, objective standards" for "viability." Indeed, Microsoft's CEO Steve Ballmer describes open source software as a "cancer" that threatens the viability of any software business. See Mark Boslet, Open Source: Microsoft Takes Heat, INDUSTRY STANDARD, July 30, 2001; Dave Newbart, Microsoft CEO Takes Launch Break with the Sun-Times, CHI. SUN-TIMES, June 1, 2001, at 57. For that matter, it is not entirely unreasonable to regard head-to-head competition with Microsoft in platform software as a less than viable business plan; certainly most venture capitalist and other investors hold that view. It would not be difficult for Microsoft to craft "objective" standards of business viability that would exclude Corel and Novell, to name two examples. Microsoft should be able to exclude many sources of potential cross-platform middleware threats through RPFJ § III(J)(2)(c) alone.

Yet RPFJ § III(J)(2) contains yet another method for screening competitors from access to technical information needed by Internet-centric middleware applications. Any ISV that clears the hurdles and receives the information nonetheless must submit its implementation of the APIs, Documentation or Communications Protocols for review by a Microsoft-approved third party (likely a captive commercial ally) "to test for and ensure verification and compliance with Microsoft specifications for use of the API or interface, which specifications shall be related to proper operation and integrity of the systems and mechanisms identified in this paragraph." RPFJ § III(J)(2)(d). "[P]roper" no doubt will mean "the way Microsoft does it," making this provision into yet another way in which Microsoft can control the pace of innovation to ensure that the market has no or limited access to products that improve upon Microsoft's offerings. This mechanism means that vendors who tried to adapt APIs to function as bridges to other platforms would have to give Microsoft the ammunition to defeat that function—if not simply disapprove it and await the slow operation, if any, of the RPFJ enforcement mechanism.

The CIS suggests that there are strict limits on Microsoft's discretionary ability to deny access to security-related aspects of Communications Protocols and APIs, CIS 53, 66 Fed. Reg. 59,473, but those limits are absent from the decree language. The CIS contends that these exceptions "are limited to the narrowest scope of what is necessary and reasonable, and are focused on screening out individuals or firms that * * * have a history of engaging in unlawful conduct related to computer software * * *, do not have any legitimate basis for needing the information, or are using the information in a way that threatens the proper operation and integrity of the svstems and mechanisms to which they relate." Id. Setting aside the opportunity for Microsoft to argue, as it has in other contexts, that the injection of competing software "threatens the proper operation and integrity" of its products, see Microsoft III, 253 F.3d at 63–64, the CIS simply does not address the broadest basis for withholding APIs and Communications Protocols under Section III(J)(2): Microsoft's ability to decide, based on criteria within its own discretion, that an ISV is not "authentic[]" and "viab[le]." RPFJ § III(J)(2). That provision could provide a basis for excluding all but a handful of other software companies.

G. RPFJ § III(1) Would Place A Judicial Imprimatur On Microsoft's Use Of Technical Information As A Lever To Extract Competitors" Intellectual Property

The RPFJ would actually increase Microsoft's bargaining power by explicitly placing a judicial imprimatur on demands by Microsoft that recipients of APIs cross-license any intellectual property developed using the APIs. Section III(I) of the RPFJ permits Microsoft to use intellectual property licensing terms to impede whatever competitive benefits otherwise might have arisen from its disclosure obligations. Microsoft's licenses "need be no broader than is necessary to ensure" the licensee's ability to "exercise the options or alternatives expressly provided" by the RPFJ. RPFJ 111(I)(2). A welter of litigation over the breadth that is "necessary"—and the collateral restrictions that are permissible—is certain to continue through the life of the decree.

Similarly, Microsoft should have no difficulty delaying the use of any option for which it is entitled to charge a royalty, simply by setting a "reasonable" royalty (RPFJ § (I)(1)) beyond what any OEM could afford to pay in that competitive, low-margin business. If OEMs have to pay Microsoft to exercise any of their icon-shuffling options—a state of affairs clearly envisioned in RPFJ § III(I)—the slim likelihood that any OEM will take advantage of those provisions will be lessened still further. Microsoft need not permit transfers or sublicenses of API rights, imposing yet another barrier to entry. Id. III(I)(3). And Microsoft could ensure, through licenses, that end-users could not make competitively significant alterations to the Microsoft-approved package.

Most important, however, the RPFJ specifically permits Microsoft to use its monopoly as a means to force access to others" intellectual property. Microsoft can assert a right to license "any intellectual property rights" a competitor "may have relating to the exercise of their options or alternatives provided by" the RPFJ. RPFJ § III(J)(5). Thus, to take advantage of a competitive option, an ISV will need to license its product to Microsoft, and hope that Microsoft does not use that license as a means to produce a copycat program and bundle it into Windows. Many companies long since departed the software industry after entering into what they thought were limited exchanges of intellectual property with Microsoft. [16]

Although the CIS states that Microsoft could demand only any IP rights it would need to comply with its own disclosure obligations under the RPFJ, CIS 50–51, 66 Fed. Reg. 59,472, the broad "relating to" language does not compel that narrow reading, and may not support it at all. The vague limitations in Section III(I)(5) are unlikely to reassure ISVs that Microsoft will not use its license to analyze the ISV's IP rights well enough to design around it and bundle a copycat program into Windows or Office, as has happened many times before. This weapon should give Microsoft additional ability to prevent industry participants from taking advantage of the superficially appealing provisions of the RPFJ.

VI. BUILT-IN DELAYS EXACERBATE THE DECREE'S UNJUSTIFIABLY BRIEF DURATION

It is remarkable that the RPFJ would reward Microsoft for litigating and losing broadly on liability with a consent decree that is shorter than other such decrees, and may be the shortest ever. DOJ antitrust consent decrees now routinely last ten years.[17] Section V of the RPFJ provides for a term of only five years, however, less time even than Microsoft has engaged in the illegal conduct that was the subject of this litigation. The decree plainly should be longer than the period between the initiation of the misconduct and the imposition of relief, and at least as long as the typical relief.[16] Microsoft has enjoyed the benefits of its misconduct for at least seven years. The RPFJ not only would allow Microsoft to retain those benefits, but would subject Microsoft to its light and uncertain obligations for no more than five years, and scarcely four and one-half years for the many obligations that are delayed.

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[16] See, e.g., Testimony of Mitchell Kertzman before the Sen. Jud. Comm., July 23, 1998 (detailing Sybase's difficulties in this regard); Statement of Michael Jeffress before the Sen. Jud. Comm., July 23, 1998 (after TVHost revealed its intellectual property to Microsoft in failed negotiations to sell the company, Microsoft imitated the product).

[17] As of 1998 it was the policy of the Antitrust Division that consent decrees last for at least 10 years. See ANTITRUST DIVISION MANUAL, at IV:54 (3d ed. Feb. 1998); see also V VON KALINOWSKI ET AL., ANTITRUST LAWS AND TRADE REGULATION 96.0112], at 96–4; 96.0211] at 96–10 (2d ed. 2000).

The RPFJ further abbreviates its already brief duration, and undermines its already insubstantial requirements, by building in long delays before Microsoft must comply with its limited duties. Thus, Microsoft need not comply with the icon-related requirements until November 2002, see RPFJ § III(H)(1), although Microsoft needed only two weeks after the DC Circuit decision to offer OEMs roughly the same flexibility with icon display as the RPFJ requires, and needed no more than three additional months to implement that flexibility on Windows XP. See Microsoft Announces Greater OEM Flexibility for Windows (Microsoft press release July 11, 2001).

Similarly, Microsoft need not comply with its API disclosure requirements or the OEM flexibility provisions until November 2002, RPFJ §§ III(D), (H), and need not comply with the Communications Protocol disclosure requirements until August 2002. Id. § III(E). See also Stiglitz/Furman Dec. 30. These built-in delays cut far into the unusually brief term of the decree. The "Timely Manner" governing Microsoft's disclosure obligations in RPFJ §§ III(D)-(E)—after the initial delay—permits Microsoft to withhold that disclosure until a product version has been distributed to 150,000 beta testers. See RPFJ § VI(R). "Beta testers" in undefined. Until recently, Microsoft, like other vendors, distinguished between "beta testers" who agreed to provide substantial feedback to the software manufacturer, and "beta copies" of a program that might be distributed without such obligations or expectations. Few, if any, beta testing programs involved 150,000 beta testers under that usage. A return to the former terminology could postpone the "Timely Manner" until commercial release. And in any event, it should be a simple matter for Microsoft to delay distribution of any beta version to 150,000 testers, however defined.

Here again, the contrast with the interim remedies of the original decree is striking. The "Timely Manner" definition in that judgment required Microsoft to disclose "APIs, Technical Information and Communications Interfaces * * * at the earliest of the time that" those items were (1) disclosed to Microsoft's applications developers, (2) used by Microsoft's own Platform Software developers in software released by Microsoft in alpha, beta, release candidate, final or other form, (3) disclosed to any third party, or (4) within 90 days of a final release of a Windows Operating System Product, no less than 5 days after a material change is made between the most recent beta or release candidate version and the final release.

97 F. Supp.2d at 73–74 (§ 7(ff)) (emphasis added). While the vacated judgment made a strong effort to place outside developers on the same footing as Microsoft's applications developers throughout the development process, the RPFJ permits Microsoft to delay disclosure until the last minute, without any analogue to the requirement that Microsoft promptly update changes made in the final pre-release stage.

Another significant built-in delay results from the definition of "Non-Microsoft Middleware Product" to include only products that have one million users. RPFJ § VI(N) (ii). That definition governs the extent of the anti-retaliation provisions in RPFJ §§ III(A)(1), III(C), and III(H).

Moreover, the icon flexibility and information disclosure provisions apply only to Microsoft Middleware and Microsoft Middleware Products, each of which must have functionality similar to a Non-Microsoft Middleware Product. See RPFJ §§ VI(J)(3), VI(K)(2)(b)(ii). By restricting all of these protections to middleware products that have distributed more than one million copies, the RPFJ encourages Microsoft to crush new middleware threats at the earliest stages. That is, the RPFJ puts a premium—indeed, a judicial imprimatur—on the monopolistic exclusion of nascent threats before the innovations in those products reach a sizable mass of consumers. That flies in the face of the concerns behind the judgments of liability in this case. See Microsoft III, 253 F.3d at 54, 79.

VII. ADDITIONAL WEAKNESSES UNDERCUT THE RPFJ

A. The Anti-Retaliation Provisions Are Deeply Flawed

Although anti-retaliation provisions are clearly necessary, the provisions in the RPFJ proceed from a misguided premise that retaliation by the monopolist—abuse of monopoly power—is permitted unless squarely forbidden. The well-meaning restrictions in the RPFJ leave Microsoft with ample recourse to use its monopoly power to retaliate against those who aid competitive threats. See Stiglitz/Furman Dec. 31–32.

Most important, the anti-retaliation provisions permit Microsoft to withdraw the Windows license of any OEM (or other licensee) that does not serve Microsoft's anticompetitive bidding. The CIS (at 27, 66 Fed. Reg. 59,466) suggests that the provision of RPFJ § III(A) requiring notice and opportunity to cure a violation provides some kind of protection to OEMs. But the protection is evanescent, disappearing entirely after two notices within a license term. See RPFJ III(A). See also Stiglitz/Furman Dec. 31–32.

Such notices will become routine, quickly and completely nullifying this provision. In the rough-and-tumble of everyday business, parties frequently diverge in minor respects from the terms of their agreements. The CIS admits that "Windows license royalties and terms are inherently complex." CIS 28, 66 Fed. Reg. 59,466. Given that complexity, it would be surprising if most OEMs did not transgress some term of their Windows licensing agreements every year or so, if not more often. Such transgressions would provide ample basis for Microsoft to retaliate without fear of interference from the RPFJ.

There is no limit on what Microsoft can invoke as a reason for termination, that is, there is no requirement that terminations be for cause, much less for a material breach of the license agreement. Indeed, the sudden termination that Microsoft may impose after two notices—even notices of purported violations that were promptly and completely cured—need not even be based on something the OEM could cure.

The anti-retaliation provisions for software and hardware vendors contain another weakness. Section III(F)(1)(a) forbids retaliation against hardware and software vendors who support software that competes with Microsoft Platform Software or that runs on other platforms. But that provision therefore permits Microsoft to use its Windows monopoly to crush middleware vendors if Microsoft does not yet have competing middleware (see RPFJ §§ VI(K)-(L)) and whose middleware applications are used on the Windows platform—where any middleware would have to start in order to be a practical bridge to another platform.

Moreover, when prohibiting a specific type of retaliation would also help undermine the applications barrier to entry, the RPFJ hews to a general approach rather than focusing on precise adjudicated conduct. For example, Microsoft threatened to discontinue its port of Microsoft Office for the Macintosh unless Apple ceased supporting Netscape Navigator. See Microsoft III, 253 F.3d at 73–74. Yet the RPFJ does not require Microsoft to continue to offer Mac Office (much less to keep the port current)—an expedient that would take away Microsoft's weapon rather than merely admonishing it to behave well, and would tend to undermine the applications barrier to entry as well.

B. Microsoft Can Evade The Price Discrimination Restrictions

The uniform pricing provisions in RPFJ § III(B) have too narrow a reach to provide significant limits on Microsoft's ability to engage in price discrimination in order to force OEMs to eschew non-Microsoft products that may threaten Microsoft's OS monopoly. Microsoft's well-known market position in other products permits easy evasion of these limits. For example, nothing prevents Microsoft from discriminating in the pricing of its monopoly suite of desktop productivity applications, Microsoft Office, to which every OEM of any size needs access. Moreover, the leading PC OEMs all build server computers using Intel-based hardware, and increasingly rely on revenue from servers to make up for the exceptionally low margins on desktop PCs. To continue in the Intel-based server business, PC OEMs must license Microsoft's server operating systems, which are dominant on the Intel-based platform. The RPFJ places no limits on Microsoft's pricing of server operating systems, providing another outlet for the nullification of RPFJ § III(B).

Even on their own terms, however, the RPFJ pricing provisions contain a substantial loophole. Microsoft can reward an OEM for an "absolute level * * * of promotion" of Microsoft products. RPFJ § III(A). That provides a means for Microsoft to distinguish between OEMs who make sure that Microsoft software dominates their offerings, and OEMs who either promote competing software or simply do not interfere with consumers" choices.

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[16] If Microsoft actually and convincingly lost its monopoly before the expiration of a decree of appropriate length, it could, of course, move for modification or termination of the decree under Rufo v. Inmates of Suffolk County Jail, 502 U.S. 367 (1992).

C. Microsoft Can Enforce De Facto Exclusivity

Despite a superficial prohibition, Sections III(F)(2) and III(G) permit Microsoft to impose practical, effective exclusivity obligations on ISVs and others who need access to Windows to develop their products. Microsoft need do no more than recast its agreements with ISVs as contracts to "use, distribute, or promote * * * Microsoft software" or "to develop software for, or in conjunction with, Microsoft," RPFJ § III(F)(2), or as a "joint venture," joint development * * * arrangement" or "joint services arrangement." Id. § III(G). New "joint development agreements" or "joint services arrangements" likely will supersede the current licenses for use by ISVs of Microsoft software developments tools and perhaps also the current arrangements for preferential access under MSDN. At best, a decree court would have to undertake a full antitrust analysis of whether the joint venture was "bona fide." Id. § III(G). To nullify RPFJ § III(F)(2), Microsoft could simply change its development tools agreements to require use of Microsoft software -which literally would be "a bona fide contractual obligation * * * to use * * * Microsoft software." Since any ISV that wants its software to run on Windows almost certainly would need to use Microsoft's development tools, the anti-exclusivity provision, like so many others in the RPFJ, would have no practical effect.

DOJ has defended this provision as necessary to permit legitimate "procompetitive collaborations." CIS 44, 66 Fed. Reg. 59,470. But the broad terms of the RPFJ itself provide little basis for hope that the objects of joint ventures permitting exclusivity will not include a variety of "new" products that amount to little more than routine alterations to Windows and other Microsoft products in conjunction with requests from other industry participants. It is not uncommon for an ISV to ask for a new API, or for an IHV to ask for some other specification in Windows. These exercises soon may become objects of "joint ventures" or "joint development agreements" under RPFJ § III(G).

RPFJ § III(G)(1) undercuts its superficial prohibition on contracts that would require participants at different levels of the market to install or promote Microsoft Platform Software to a "fixed percentage" of those participants" own customers. Section III(G)(1) permits Microsoft to impose such contracts so long as it "in good faith obtains a representation that it is commercially practicable for the entity to provide equal or greater distribution, promotion, use or support for software that competes with Microsoft Platform Software." Such representations should be easy to come by, so long as Microsoft pays enough. There is nothing to require a single party making such a representation actually to carry out the parallel distribution that it told Microsoft was "commercially practicable." And it should be easy enough for Microsoft, through a wink and a nod, to ensure that any such representations were not accompanied by efforts to prove that commercial practicability to Microsoft's detriment.

VIII. THE RPFJ'S ENFORCEMENT MECHANISMS ARE FUNDAMENTALLY INADEQUATE.

As we have shown above, the RPFJ fails adequately to prevent Microsoft from engaging in illegal and anticompetitive practices, and allows it to continue the patterns of behavior that led to this litigation in the first place. The RPFJ suffers from an important secondary flaw, however: the enforcement mechanisms contained in Section IV are fundamentally inadequate. The RPFJ commits much of the practical enforcement responsibility to a "Technical Committee," RPFJ IV(B), that would monitor "enforcement of and compliance with" the RPFJ. Id. IV(B)(1). The Technical Committee is likely to impede enforcement rather than aid it. First, Microsoft—the antitrust violator—could exert inappropriate control over the membership of the Technical Committee. Rather than creating a special master or an independent review committee to monitor compliance with the consent decree, the RPFJ allows Microsoft to have an equal voice with the plaintiffs in choosing the members of the Technical Committee; indeed, Microsoft may choose one of the three members outright. Id. IV(B)(3). Although appointing a special master with real (though reviewable) power might make sense as a matter of judicial administration, allowing Microsoft to choose its own monitor makes no sense at all. The composition of the Technical Committee suffers from a second defect. The RPFJ provides that "[t]he Technical Committee members shall be experts in software design and programming." RPFJ IV(B)(2) (emphasis added). The interpretation of the RPFJ is largely a legal matter, however, dependent on adequate knowledge of the antitrust Section after section of the RPFJ is extraordinarily vague.[19] Experts in software design simply will not have any basis adequately to review complaints that Microsoft's behavior fails to comply with the RPFJ. However, that is the entire purpose of the Technical Committee.

Not only is the selection and composition of the Technical Committee problematic; the RPFJ's restrictions on how the Technical Committee can go about its business are equally inadequate. For example, it is likely that all third-party allegations of misconduct by Microsoft will be reviewed by the Technical Committee.[20] But the Technical Committee lacks any real power, and operates almost entirely in secrecy. Even if the Technical Committee finds Microsoft to be violating the RPFJ, its sole recourse is to "advise Microsoft and the Plaintiffs of its conclusion and its proposal for cure." Id. IV(D)(4)(c). If DOJ or the settling State plaintiffs proceed with a complaint, none of the "work product, findings or recommendations by the Technical Committee may be admitted in any enforcement proceeding before the Court for any purpose, and no member of the Technical Committee shall testify by deposition, in court or before any other tribunal regarding any matter related to [the RPFJ]." Id. IV(D)(4)(d). Enforcement would have to start over from scratch.

In effect, the Technical Committee's investigation is simply a waste of time. Even were the plaintiffs to decide, based on a Technical Committee report, that Microsoft had violated the RPFJ, the plaintiffs would need independently to investigate that violation under Section IV(A)(2). Indeed, the Technical Committee's reports to the plaintiffs will be secret. See RPFJ IV(B)(8)(e), (9). Ultimately, the Technical Committee simply injects delay into the process. But delay is indisputably in Microsoft's interest; Microsoft's monopolies bring it $1 billion each month in free cash flow, see Rebecca Buckman, Microsoft Has the Cash, and Holders Suggest a Dividend, WALL ST. J., Jan 18, 2002, at A3. Microsoft not only can afford to contest enforcement vigorously, but would not have to postpone enforcement for long before the RPFJ expires.

Finally, the "crown jewel" provision in the RPFJ is grossly inadequate. If at any point the court were to find that Microsoft had "engaged in a pattern of willful and systematic violations," RPFJ V(B) (emphasis added), the RPFJ provides only one remedy for plaintiffs or the court: to extend the inadequate, and already overly-short, consent decree by "up to two years." But that is no deterrent. Willful and systematic violations should result in divestiture that terminates the illegally maintained monopoly once and for all. See Microsoft III, 253 F.3d at 103; United Shoe, 391 U.S. at 250. Slightly prolonging a failed decree makes no sense at all.

CONCLUSION

The Revised Proposed Final Judgment should be rejected as contrary to the public interest.

Respectfully submitted.
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[19] For example, as we discussed above the RPFJ relies heavily on a "reasonableness" standard of conduct that simply reproduces a full analysis under the antitrust laws. Antitrust remedies, like other injunctive decrees, are supposed to be amenable to swift and sure enforcement, according to standards that give warning of what is forbidden and what is permitted both to the wrongdoer and to its potential victims. But again and again, the RPFJ would require both the Technical Committee and eventually the decree court to determine whether Microsoft's conduct was "reasonable."

[20] While third parties have the right to raise complaints with the Internal Compliance Officer, see RPFJ IV(C)(3)(g), the RPFJ gives them no incentive to do so; such complaints would merely allow a proven antitrust violator itself to determine whether it has violated the RPFJ or again violated the antitrust laws. Although the RPFJ also allows third parties to submit complaints directly to the plaintiffs, see id. IV(D)(1), the plaintiffs can thereafter at their sole discretion refer any such complaints to the Technical Committee, id. IV(D)(4)(a), or to the Internal Compliance Officer, id. IV(D)(3)(a).

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Dated: January 28, 2002

MTC–00030611

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. Civil Action No. 98–1232 (CKK) MICROSOFT CORPORATION, Defendant.

SIWTE OF NEW YORK, et al., Plaintiffs, v. Civil Action No. 98–1233 (CKK) MICROSOFT CORPORATION, Defendant.

DECLARATION OF EDWARD ROEDER

Edward Roeder declares under penalty of perjury as follows:

I. INTRODUCTION

1. I am a Washington journalist, author, lecturer, and editor, expert on the U.S. Congress, elections and efforts to influence the U.S. government. My byline has appeared in most major U.S. newspapers, many top magazines, and on all major wires and networks. I have written, edited, produced and reported on money in politics, Congressional ethics and the American political economy for more than three decades. My experience includes work as a Senate subcommittee counsel, House select committee chief investigator, United Press International editor, publisher, White House speechwriter, government aide at level GS-15, freelance reporter and publisher.

I founded Sunshine Press Services, Inc., a Washington news service and publishing house specializing in "Casting Light on Money and Politics." Sunshine has developed References to Use, Not Just Peruse TM, computer-based reference works on U.S. politics. As National Political/Finance Editor for United Press International, I produced the nation's first weekly state-by-state computer-generated reports on federal election financing.

In 1974, I became the first freelance correspondent fully accredited to U.S. House & Senate Press Galleries. As a freelance print and broadcast reporter, I specialized in covering elections and election financing. In Roeder v. FEC, I successfully sued Federal Election Commission under the federal Freedom of Information Act, forcing a reduction in fees for records and release of computerized data.

My experience includes lecturing about covering influences on government at the graduate schools of journalism at Columbia, Northwestern (Medill), American, Maryland and other universities, and at the Hastings Center, the Heritage Foundation, and many other forums, and testifying before U.S. House and Senate committees. I also taught a public affairs course, Shadow Government in the Sunshine State, for three terms at Florida State University. I have appeared on ABC's Nightline, the CBS Evening News, World News Tonight (ABC), NBC Nightly News, All Things Considered (NPR), John McLaughlin, and many other broadcast outlets. My reference publications include PACs Americana, the 1,150-page authoritative reference on political action committees and their interests, Congress On Disk TM, the pioneer diskette publication on politics, PAC-Track TM, covering all transactions by political action committees and party committees, FatCat-Track TM, covering "soft money" and all contributions of $200-and-up from individuals to any federal party, campaign or PAC, and Ready Money Reports TM, comparing relative financial standings of each federal campaign. A partial list of news clients is attached as Appendix B.

2. I was commissioned by the Computer & Communications Industry Association to conduct a review of publicly available documents, news reports, and commentary regarding Microsoft's lobbying and political contributions since the United States Department of Justice and 19 States filed suit against Microsoft in 1998.[1]

3. My review of the available documents has led me to conclude that over the past five years Microsoft has engaged in a "pattern and practice" of political influence peddling in many ways unprecedented in modem political history.[2] What makes Microsoft's lobbying efforts so unique is not necessarily the size (i.e. level of political contributions) but the scope of its efforts and the speed at which Microsoft went from having almost no political presence in Washington DC to having one of the largest and most sophisticated political operations in history.

4. By "scope" I am referring to the breadth of Microsoft's efforts. Microsoft has not merely established one of the largest Political Action Committees, or leapt to the top of the corporate contributor list in "soft money," unregulated corporate contributions. Over the past five years Microsoft has also assembled a large lobbying office and retained dozens of high-powered consultants; Microsoft has created numerous "front" groups and has contributed heavily to a variety of think tanks and other organizations willing to espouse Microsoft's view of antitrust policy and this case; and Microsoft has created a variety of grassroots capabilities that appear to be directed at state-level government.

5. Two key factors indicate that Microsoft's lobbying efforts were designed and directed to try to minimize the impact of its lawsuit and try to achieve a result in the political process that it is apparent it could not achieve in the legal process. First, Microsoft's efforts are new. Their onset coincides with the time the government sued Microsoft and they have continued and escalated ever since. Second, Microsoft's efforts are completely out of proportion to the rest of the high-technology industry. There is not one other example of a software, computer hardware, or Internet firm that comes anywhere near Microsoft's level of campaign contributions.

6. I am not a lawyer, an expert on antitrust or an expert on the Tunney Act. My substantive views of of the Proposed Final Judgment are based primarily on the analysis of Nobel economist Joseph Stiglitz, whose declaration also supports the CCIA submission.

7. The Tunney Act was enacted after the ITT scandal during the Watergate affair. As

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[1] I am aware that Microsoft has undertaken an effort to use the Court discovery process to build a political case against its competitors. The relevancy of Microsoft's strategy will have to be determined by the Court since Microsoft—and not its competitors—have been found to be liable under the antitrust laws. I took input and advice from a broad range of sources in conducting this research, including CCIA and its members. This research is nonetheless based on the extraordinary public record of Microsoft's political activities during the timeframe of this case. I have also undertaken extensive original review of the records of the Federal Election Commission regarding election finance. These records covering all election cycles since 1970–80 have been available in computerized format since the court-ordered settlement of Roeder v. FEC, a Freedom of Information lawsuit I filed in this very courthouse two decades ago.

[2] "Microsoft Targets Funding for Antitrust Office." Dan Morgan and Juliet Eilperin. Washington Post October 15, 1999. "Pro-Microsoft lobbying to limit antitrust funding irks top lawmakers." The Wall Street Journal October 15, 1999. "Microsoft Paid For Ads Against DoJ Case." Madeleine Acey. TechWeb September 20, 1999. "Microsoft Paid For Ads Backing Its Trial Position." David Bank. The Wall Street Journal September 20, 1999. "Microsoft Paid For Ads Backing It In Trial." Seattle Times September 19, 1999. "Pro-Microsoft Ads Were Funded by Software Giant." Greg Miller. Los Angeles Times September 18, 1999. "Microsoft Paid for Ads About Trial." Associated Press September 18, 1999. "Microsoft Covered Cost of Ads Backing It in Antitrust Suit." Joel Brinkley. New York Times September 18, 1999. "Rivals fear Microsoft will cut a deal." John Hendren. The Seattle Times June 21, 2001. "Bush's Warning: Don't Assume Favors Are Due." Gerald F. Seib The Wall Street Journal January 17, 2001. "Bounty Payments are offered for pro-Microsoft letters and calls." The Wall Street Journal October 20, 2000. "Microsoft is Source of 'Soft Money" Funds Behind Ads in Michigan's Senate Race." John R. Wilke. The Wall Street Journal October 16, 2000. "Microsoft leans creatively on levers of political power as breakup decision looms, 'stealth" lobbying efforts aim for survival." Jim Drinkard and Owen Ulmann. USA Today May 30, 2000. "Microsoft's All-Out Counterattack." Dan Carney, Amy Borrus and Jay Greene. BusinessWeek May 15, 2000. "Aggressiveness: It's Part of Their DNA." Jay Greene, Peter Burrows and Jim Kerstetter. BusinessWeek May 15, 2000. "The Unseemly Campaign of Microsoft." Mike France. Business Week April 24, 2000. "Microsoft's Lobbying Abuses." Editorial. New York Times November 1, 1999 "Awaiting Verdict, Microsoft Starts Lobbying Campaign." Joel Brinkley. New York Times November 1, 1999. "Microsoft Seeks Help Of Holders." John R. Wilke. The Wall Street Journal November 1, 1999. "Microsoft's Bad Lobbying." Editorial. Washington Post October 24, 1999. "Microsoft Attempt To Cut Justice Funding Draws Fire." David Lawsky. Reuters October 17, 1999. "Microsoft Targets Funding for Antitrust Office." Dan Morgan and Juliet Eilperin. Washington Post October 15, 1999. "Pro-Microsoft lobbying to limit antitrust funding irks top lawmakers." The Wall Street Journal October 15, 1999. "Microsoft Paid For Ads Against DoJ Case." Madeleine Acey. TechWeb September 20, 1999. "Microsoft Paid For Ads Backing Its Trial Position." David Bank. The Wall Street Journal September 20, 1999. "Microsoft Paid For Ads Backing It In Trial." Seattle Times September 19, 1999. "Pro-Microsoft Ads Were Funded by Software Giant." Greg Miller. Los Angeles Times September 18, 1999. "Microsoft Paid for Ads About Trial." Associated Press September 18, 1999. "Microsoft Covered Cost of Ads Backing It in Antitrust Suit." Joel Brinkley. New York Times September 18, 1999.

the court is aware, Watergate spurred a number of political reforms requiring "sunshine" on the political activities of special interests, in particular. But the Tunney Act was also enacted during a different political era, when political influence peddling was far less sophisticated than it has become after a quarter-century of efforts to circumvent the "reforms" of the 1970s. By necessity, political influence peddling is no longer necessarily marked by a single "transaction" or a single "meeting," or even an overt "quid pro quo." In fact, one of the effects of the modern reforms has been to legalize many activities—especially the transfer of funds from corporate to political coffers—that had long been illegal under laws in effect since 1907 or 1934. Lobbying today is marked by incrementalism, where there may not be any single meeting, or any single contribution, or any single agreement. Rather, over time, what may develop is an "understanding" of the respective parties" interests, objectives, and desired outcomes. Instead of corruptly influencing politicians to buy a discreet government decision, the money exerts far broader influence over appointments, policy frameworks or positions, and ultimately, decisions. Much of it may be legal, but it's far more corrupting than simple bribery.

The simple matter of paying off a corrupt politician to obtain a favorable government decision is certainly offensive and unfair to the voters and those who are disadvantaged by the decision. Yet such petty or grand corruption, if isolated, does not seriously threaten the American system. What Microsoft has accomplished over the past half decade, however, presents a far darker prospect. By pouring money into America's institutions of political pluralism, rewarding those organizations and individuals that do its bidding and denying or limiting funding to its opponents, Microsoft has in some ways corrupted American political discourse itself.

Newspapers that have run an editorial or opinion article sympathetic to a Microsoft position, reporters who have interviewed a professor, politician, or pundit about this antitrust action, and anyone who has hosted or observed public discourse on the subject must now wonder: Were the views expressed independent and sincere, or were they purchased by an unseen hand, smothering the American marketplace of ideas?

As is detailed below, Microsoft's efforts to subvert democratic institutions such as political campaigns and debates, party organizations, news outlets, think tanks and government offices have been so vast as to be a new phenomenon, unenvisioned and unaddressed by existing political mechanisms intended to check the influence of special interests. Limited campaign contributions can serve the purpose of encouraging, facilitating, extending and opening political discussion. But political money in such vast amounts is a substitute for politics, not a means of undertaking political action. While the modem-day political pressure brought to bear by Microsoft in the last decade may not be precisely the same as that undertaken by ITT in the 70%, it is no less objectionable to the Court's charge of acting on behalf of the "public interest."

8. Based on my review of the public record and the declaration provided by Dr. Stiglitz, it is apparent that the Department of Justice undertook a major "change in policy" at a critical moment this past fall. My belief-again based largely on Dr. Stiglitz" analysis and substantiated by a wide array of antitrust experts and scholars—is that the Proposed Final Judgment cannot be reconciled with the government's extensive court victory. The public record suggests a Microsoft strategy that appears to defeats in the legal process, but which focuses on winning an acceptable outcome through the political process. It appears to be working. Indeed, if it weren't working, such vast expenditures might give rise to a shareholder suit for breach of fiduciary duty. If Microsoft's money has had the desired effect of inducing the U.S. government to throw in the towel on the biggest antitrust suit in history, such a suit could be easily defended. But to argue that Microsoft had no such intent is tantamount to suggesting that its corporate spending it in the control of squandering fools.

9. I have also reviewed Microsoft's lobbying disclosures filed before the court as part of the Tunney Act. Again, while I am not a lawyer, my review of public documents, press reports and the plain language of the statute leads me to believe that disclosures made to the court can not possibly be reconciled with Microsoft's lobbying activities surrounding both this case and this settlement.

10. Various press reports indicate that Microsoft is trying to convince the court and the public that the litigating states have been "put up to this" (i.e. continuing to litigate through the remedy phase) by Microsoft's competitors, and therefore cannot be acting in the public interest. My review of public documents suggests this theory is backwards and should be particularly alarming to the Court. The far more likely scenario, into which the Court must inquire, is whether the Department of Justice has executed Administration policy in response to the unprecedented campaign to influence the new Administration's antitrust policy generally, and as antitrust policy applies to the high-technology sector and Microsoft, in particular.

11. In fact, with the benefit of hindsight, various Justice Department actions make perfect sense in the context of my research. The Department went to great lengths to create the appearance they were going to be "tough" with Microsoft, beginning with enlisting President Bush's renowned litigator, Phillip Beck. What actually occurred, however, is they systematically appear to have given away their hard-fought court victory. First, the Department unilaterally abandoned its pursuit of structural relief, and informed the court it would not seek a review of the Sherman Act Section 1 tying claim on remand. Then the Department suggested it would base its remedy on the interim conduct remedies ordered by Judge Jackson. Then the Department began speaking of the extensive litigation risk involved in pursuing a remedy based on the need for immediate relief. Finally, the Department—outside of public scrutiny—emerges with the Proposed Final Judgment, which based on Dr. Stiglitz" analysis appears to be woefully inadequate.

12. I declare to the court that where "there is smoke there is typically fire." Even if the "fire" in the context of modem day political influence peddling is very subtle, it nonetheless does not serve the public interest. My view is that Microsoft's political campaign has been so extensive the court should take immediate notice. In modem political influence-peddling and purchasing, Microsoft has set a new bar. South Korea's spreading cash throughout Washington in the 1970s Tongsun Park scandal paled in comparison.

13. During the course of my research I was struck by the similarities between Microsoft and the current scandal involving Enron Corporation. While Enron, of course, is in an entirely different business, it seems the core issue—from a public disclosure perspective—is its campaign contributions and its ability to influence the nation's energy policy. Microsoft's campaign contributions significantly surpassed those of Enron; Microsoft was a defendant in a major governmental lawsuit; and it appears Microsoft may have successfully influenced the Administration's antitrust policy, with major implications for legal antitrust precedent.

14. My recommendation to the court is to undertake an immediate review of Microsoft's lobbying activities surrounding this settlement, with particular attention to meetings with the Justice Department or the White House by Microsoft or its agents. Included in this review should also be contacts made on Microsoft's behalf to the Justice Department or the White House by Members of Congress, their official staff, and campaign staff. The court should also interview Department of Justice staff who do not operate within the sphere of political appointees. And the court should interview the political appointees of the Attorney General and their staff. Moreover, the court should review any contacts or communications between the Republican National Committee, the National Republican Senatorial Committee, the Republican Congressional Campaign Committee, and the White House or the Justice Department. Lastly, the court should review any contacts or communications between Microsoft and the settling states. Anything less would clearly not vindicate the public interest.

II. REVIEW OF PUBLIC RECORD

15. Since May 1998, Microsoft has fought strenuously in the courtroom to defend its "freedom to innovate" and to continue with business as usual. In fact, plugging in "Microsoft + trial" into the Google search engine produces more than 697,000 article hits. When "Microsoft + politics" is entered into the search engine, Google produced nearly 448,000 articles and links. But as hard as it fought inside the courtroom, Microsoft fought far harder—often secretly—outside the courtroom to influence the outcome of the trial. In a campaign unprecedented in its size, scope, and cost, Microsoft used campaign contributions, phony front groups, intensive lobbying, biased polling, and other creative, if not possibly unethical, pressure and public relations tactics to escape from the trial with its monopoly intact. According to media accounts, experts, and my own research,

Microsoft spent tens of millions of dollars to attempt to create an aura outside the courtroom of what it could not prove inside—innocence. According to Business Week Magazine: "Even seasoned Washington hands say they have never seen anything quite as flamboyant as the Microsoft effort."[3]

16. In late 2001, when the Department of Justice and a group of state Attorneys General agreed to the currently proposed settlement, it appeared as if Microsoft's efforts were successful. Fortunately, two obstacles stand in the way of Microsoft and the continued monopolization of the software industry: the remaining state Attorneys General who are continuing to litigate for a more effective remedy and the Tunney Act, which—among other things—requires Microsoft to divulge all of its dealings with the Administration and Congress in conjunction with the antitrust trial.

A. Campaign Contributions

17. In 1995, before the United States Department of Justice and state Attorneys General from 19 states and the District of Columbia brought an antitrust case against it, Microsoft had virtually no presence in Washington, DC The company had only one lobbyist working out of a Chevy Chase, Maryland sales office and had contributed less than $50,000 in the previous election cycle.[4] Its lobbyist, Jack Krumholtz, had no secretary and its PAC was financed by only $16,000. In those days, the Microsoft lobbying operation was affectionately referred to in press reports as "Jack and his Jeep."

18. However, since the beginning of the antitrust case against Microsoft, the company has become a major political contributor and was the fifth largest during the 2000 election cycle,[5] alongside the giants of the tobacco, telecommunications, pharmaceuticals and insurance industries. Microsoft's political contributions to elected leaders in a position to help the software giant in this election cycle when the trial was at its peak, was greater than all previous, cumulative campaign contributions. In the history of American PACs, only three companies that have raised at least $50K in one election cycle have increased receipts by 500% in the next. In 1984–86, Drexel Burnham Lambert, the corrupt and now-defunct securities brokerage, increased its receipts from just under $67,000 to more than $446,000, a 567% jump. In that same cycle, AT&T, facing antitrust divestiture, increased its PAC receipts by 745%, from $215,000 to $1.8 million.

In the history of corporate PACs, only 68 have increased their spending by half in one election cycle after reaching a level of a quarter of a million dollars. Only 15 have doubled their spending in one election cycle after reaching that level. Only one—Microsoft—has approached tripling its spending after reaching that threshold. Microsoft increased its spending almost fivefold, from $267,000 to more than $1.2 million, between the 1997–98 and 1999–2000 election cycles. (Table 5.)

20. Every year, Microsoft tops itself. The company's political giving in the 2000 cycle—the time leading up to its day of judgment in federal court—was again more than it contributed in all previous cycles combined. Campaign money to candidates and political parties in just one state was greater than Microsoft's contributions from 1990 through 1996 to every state and federal candidate combined. (Note that the government first levied antitrust charges against Microsoft in 1995.)

Except for Microsoft, no corporate PAC sponsor in American history has increased its PAC receipts by an order of magnitude, starting from a base of $50,000 or more. Since 1986, the only such firm that has increased its PAC receipts by as much as 500% in one election cycle is Microsoft. Receipts for Microsoft's PAC rose a record-setting 903%, from $59,790 in 1995–96 to just under $600,000 in 1997–98. (Table 1.)

Microsoft followed this by another jump of 165% in 1999–2000, to $1.59 million. (Table 2.) In the history of corporate PACs, only 15 have had as much as a 300% rise in receipts after achieving a base of $50,000. (That requires rising from at least $50,000 to at least $200,000.) None has ever followed such a rise with another three-digit percentage increase in receipts, except Microsoft. (That would require a subsequent rise to at least $400,000.)

21. Between 1995 and 2000, Microsoft donated more than $3.5 million to federal candidates and to the national parties, about two-thirds of which was contributed during the 2000 election cycle alone.[6] Including company and employee donations to political parties, candidates and PACs in the 2000 election cycle, Microsoft's giving (that of the company, its PAC and its employees) amounted to more than $6.1 million, far more than has been previously reported.[7] Nearly $1 million came in the 40 days immediately before the November 7th election. As most political operatives know, these late contributions often are made by donors who don't want their participation known until after the election, when financial reports for the final days of a campaign are due, and public and news media attention are no longer focused upon the election. The effect of delaying contributions until very near the election is to thwart efforts by the news media and the political opposition to make disclosures meaningful to voters before they vote.

i. Federal Contributions

(a) "Soft" Money

22. Comprising the majority of Microsoft's campaign contributions was soft money.[8] Like their overall presence in Washington, Microsoft's soft money donations grew substantially since the beginning of the antitrust trial. In fact, in the seven days preceding Judge Thomas Penfield Jackson's ruling against Microsoft, the company donated more in soft money to the national political parties than it gave to federal candidates and political parties between 1989 and 1996.

23. During the 1999–2000 election cycle, Microsoft and its executives accounted for some $2,298,551 in "soft money" contributions, according to FEC records. For context, consider that this was two-thirds more than the $1,546,055 in soft money contributed by the now-bankrupt Enron and its executives during the same period.

As one business commentator put it: "...there's something quite disturbing about watching the world's richest man trying to buy his way out of trouble with Uncle Sam... Gates's actions undermine the legal system itself."[9]

(b) Political Action Committee (PAC) Money

24. Microsoft's PAC donations also grew substantially in the years since the beginning of the antitrust trial. In 1998, the company made a concerted effort to increase the size of its PAC. Within a matter of days, the company grew its PAC from $31,000 to $326,000.[10] Employees contributed $1.6 million to Microsoft's PAC for the 2000 election cycle which allowed the PAC to contribute more than $1.2 million.

The PAC began the 2002 election cycle with an impressive $772,000 cash-on-hand—more than any other American corporate PAC. Microsoft's unprecedented rise as a political player took its PAC from just under $60,000 in 199596 receipts to just under $1.6 million in 1999–2000. In the history of corporate PACs, only two have had a rise of more than 1,000% in receipts over four years (two election cycles), after attaining $50,000. Only one, Microsoft, has had an increase of more than 2,000%. From 1995–96 through 1999–2000, Microsoft's PAC increased in size by more than 2,500%. (Table 4.)

(c) Party Breakdown

25. While Microsoft has donated to both national political parties, the company has tended to favor Republicans, who have been more vocal in their defense of the company. Between 1995 and 1998, 72% of Microsoft's contributions went to Republicans, while the GOP received only 55% of the company's donations during the 2000 election cycle.[11] Republicans received a total of $3.2 million, about half of which—$1.69 million—went to the national Republican Party.

26. Yet, when analyzing Microsoft's campaign contributions by donating entity, some stark disparities emerge. Virtually all of the money donated by individual Microsoft employees ($222,750) benefited Democratic 527s, groups that raise and spend money independent of political campaigns During this same period Microsoft employees gave $15,000 to Republican affiliated 527s. Democratic PACs also benefited from Microsoft's employees largesse, receiving $222,100 compared to just $42,875 for Republican PACs.

27. But Republicans enjoyed an edge in every other category; the majority of

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[3] BusinessWeek, May 15, 2000, Carney

[4] "The Microsoft Playbook" Common Cause

[5] San Francisco Chronicle, July 1,2001, Wildermuth

[6] Common Cause

[7] Independent analysis of giving to elective office candidates and political parties and PACs federally and in all 50 states.

[8] "Soft" money is the term generally applied to unregulated, unlimited corporate and individual contributions that can not go to candidates but typically goes to political parties in support of party "efforts."

[9] BusinessWeek, April 24, 2000, France

[10] ibid.

[11] ibid.

donations to leadership PACs, state parties and candidates went to the Republican Party. The following table illustrates the disparity.

	Republican	Democrat
Leadership PACs	$162,000	$41,500
State Parties	$255,025	$38,887
Candidates	$1,053,792	$818,951

(ii) State Contributions

28. Along with the Department of Justice, 19 states and the District of Columbia initially prosecuted Microsoft. Naturally, then, Microsoft concentrated a good deal of its campaign contributions on state races.

29. Candidates and political parties in all 50 states received contributions from Microsoft, but none more so than the company's home state of Washington, which received $830,478. Republicans received $359,000 while $458,000 went to Democrats. Nearly all of the $100,000 edge for the Democrats came from contributions to the State Democratic Party, which totaled $85,387.

30. One of the original states participating in the suit was South Carolina, whose attorney general, Charles Condon, was facing re-election in 1998. Shortly before the election, Microsoft contributed $25,000 to the South Carolina Republican Party. According to the Chairman of the South Carolina Republican Party this was the largest unsolicited donation ever received. Three weeks after he won,

Attorney General Condon withdrew from the antitrust case. Two years ago, Condon solicited and received a $3,500 donation from Microsoft.[12]

31. In California, a state represented by Attorney General Bill Lockyer, Microsoft contributed $25,000 to the 1998 election campaign for challenger Dave Stirling, a Republican; a contribution made nine days before election day. The company contributed an additional $10,000 to gubernatorial democratic candidate Gray Davis, whose opponent was among the original 19 state attorneys general to bring the antitrust suit against Microsoft.

32. Within weeks of the 2000 election, Microsoft CEO Steve Ballmer made late contributions of $50,000 each to two state Republican Parties, Michigan and Washington, where Microsoft found its defenders under fire. Then U.S. Senator Spencer Abraham, a Michigan Republican who is now Secretary of Energy, had been an outspoken supporter of Microsoft. Former U.S. Senator Slade Gorton, a Washington state Republican, who proudly called himself "the Senator from Microsoft" had even sought to cut the funding of the Justice Department's Antitrust Division while the court case was ongoing.

33. Microsoft used back channels to direct even more undisclosed soft money into the 2000 Michigan Senate race. According to The Wall Street Journal, Microsoft "funneled" soft money into the race by secretly making undisclosed contributions to the Michigan Chamber of Commerce to fund negative ads aimed at Abraham's opponent, now U.S. Senator Deborah Stabenow. Some close to the Chamber have estimated that the contributions, while legal and not requiring reporting, may have amounted to more than $250,000.[13] Such contributions are usually made to organizations to support the organization's activities, not political ads—which is why there is no disclosure requirement. Microsoft knew this and took advantage of the loophole in Michigan. Political operatives throughout the country reported similar occurrences in other political races considered "top targets" by both national parties, but efforts to gain access to contributor lists from some of the "independent" groups believed to be accepting the contributions have unsuccessful.

34. Significant contributions were also made in Missouri by Microsoft to help re-elect Senator John Ashcroft, the current U.S. Attorney General. Missouri was another state where independent groups without significant resources of their own suddenly were flush with money to run ads defending Ashcroft and attacking his opponent. Ashcroft, whose campaign benefited greatly from Microsoft's disclosed campaign contributions—$19,000 in reported donations—lost his election bid. He now runs the federal executive department responsible for proposing the settlement offer, and his office is now staffed with political operatives who played a role in raising the $19,000 from Microsoft, coordinating his campaign efforts with those of Microsoft in Missouri, and in one case, directing the entire Republican National Committee fundraising and political campaign operation in the 2000 election cycle.

35. Deborah Senn, the Democratic primary opponent of Washington State Senator Cantwell, received $15,000 more from Microsoft than did Cantwell who received $30,150. This total, however, dwarfs the money poured into now-former Senator Gorton's campaign—$131,160. Only Democratic Congressman Jay Inslee's total of $126,850 comes close to that of former Senator Gorton. Congressman Inslee represents Microsoft's home district, and defends the company vigorously in Washington, DC

36. In addition to those in Washington State, candidates or parties in three other states received contributions totaling six figures. Californie was second at $174,900 with virtually the entire amount going to Leadership PACs—Members" PACs that contribute money to other allied candidates—and directly to Members of Congress. Texas was third at $107,250 although this amount does not include contributions to the Bush/Cheney campaign. This was an unusually large amount for the state when compared to previous giving patterns.

37. While Microsoft contributed $100,000 to the Bush/Cheney Inaugural Committee in January 2001, virtually all contributions to presidential campaigns were made prior to July 3 1st, with the exception of contributions to Libertarian Party candidate Harry Browne's campaign. (This is presumably because, to be eligible for federal matching funds for the primaries and federal funding for the general election, major party candidates receiving are not allowed to solicit or receive campaign contributions after they are nominated at their conventions.) Only four primary presidential candidates received contributions greater than $10,000: Bill Bradley, $33,400; George Bush, $57,300; A1 Gore, $28,000, John McCain $39,448.

Table 1. Candidates & Organizations Receiving $10,000 or more from Microsoft

Following is a breakdown of Microsoft's contributions of more than $10,000 to candidates and organizations during the 2000 election cycle.

Abraham for Senate $24,650.00
Kerrey for US Senate $10,000.00
Adam Smith for Congress $31,750.00
Leadership PAC 2000 (Oxley) $10,000.00
American Success PAC (Drier) $11,750.00
Majority Leader's Fund (Armey) $11,000.00
Ashcroft (combined) $19,250.00
McCain 2000 $39,448.00
Bill Bradley for President $33,400.00
Mcntosh for Governor $25,000.00
Brian Baird for Congress $38,400.00
Michigan Republican State Ctte. $50,000.00
Bush for President $57,300.00
Montana Republican State Ctte. $10,000.00
Bush/Cheney Inaugural $100,000.00
NDN $38,750.00
California FriendsLatino PAC $10,000.00
New Majority Project $15,000.00
California Women Vote $10,000.00
New York Senate 2000 $40,000.00
Cantwell 2000 $30,150.00
NW Leadership PAC (Gorton) $17,000.00
Citizens for Rick Larsen $35,600.00
Republican Party $1,691,090.50
DASHPAC $10,000.00
Republican Campaign Committee of New Mexico $33,492.48
Democratic Party $1,300,892.00
Republican Majority Fund Don Nickles) $15,000.00
Democratic Party of Georgia $20,000.00
Republican Party of Virginia $12,000.00
Dooley for Congress $10,500.00
Republican Senate Council $15,000.00
EMILY's List $176,600.00
Santorum 2000 $11,000.00
Ensign for Senate $10,000.00
Senn 2000 $45,651.00
Feinstein 2000 $12,000.00
Snowe for Senate $10,000.00
Friends for Slade Gorton $131,160.00
TechNet $10,000.00
Friends of Conrad Bums $15,250.00
Utah Republican Party $29,383.00
Friends of Heidi $16,300.00
Washington State Democratic Central Committee $30,387.00
Friends of Jennifer Dunn $14,700.00
Washington State Republican Party $104,150.00
Gore for President $28,000.00
Washington Victory Committee 1999 $35,500.00
Inslee for Congress $126,850.00
Washington Victory Fund $55,000.00

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[12] USA Today, 5–30–00, Ullman, Drinkard

[13] Wall Street Journal, Oct. 16, 2000, Wilke

Jim Davis for Congress $17,250.00
Washington Women Vote $11,000.00
Jon Kyl for Senate $11,000.00
Western Republican PAC $10,000.00
Kennedy for Senate $12,000.00
Women Vote 2000 $100,000.00

B. "Strategic" Philanthropy

38. Microsoft has also contributed money to the causes of politicians as yet another method to use donations, political in nature, to garner support and ultimately influence the outcome of the trial.

39. According to USA Today, Microsoft and the philanthropic arm of its founder and chairman, the Bill and Melinda Gates Foundation, "donate millions of dollars to causes and projects that are dear to the hearts of government policymakers, such as a $50,000 gift to the Congressional Black Caucus Foundation.[14] Shortly after the donation to the CBC, according to Business Week, Microsoft gained an unlikely ally in the Caucus chairman, Representative James E. Clyburn (DSC), "who represents one of the least technology-rich districts in the country."[15] In addition, a timely $10 million gift to the U.S. Capitol Visitor's Center further endeared Microsoft to many Members of Congress.

40. Yet the strategic philanthropy began long before the 2000 election cycle. According to the Gates Foundation web site, there was a three-year hiatus in philanthropic giving between 1995 and 1998. Curiously, the last donation in 1995 occurred just prior to the signing of the 1995 consent decree and the first donation in 1998 occurred the day prior to the Department of Justice filing its antitrust suit against Microsoft.

c. Lobbying

41. In addition to the millions Microsoft spent on campaign contributions, the company spent millions more lobbying Congress, the Administration and state officials to influence the outcome of the antitrust trial. Much like its campaign contributions, the company's lobbying presence in Washington has grown significantly in the last few years, its growth accelerating rapidly at the outset of the antitrust trial. Once just Jack Krumholtz, the company's lobbying group now employs 40 people in Redmond and Washington. The company has hired a dozen lobbying firms and counts among its consultants and lobbyists some of the most prominent figures in politics. A company with 30,000 employees, Microsoft has more lobbyists on retainer than the handful of U.S. companies with more than 300,000 employees. According to USA Today, "in 1996, the company spent $1.2 million on its Washington lobbying operations. [In 1999], that figure topped $4.6 million." According to Business Week in reference to the company's political spending, "These days, Microsoft money flows like champagne at a wedding."[16] Some of the biggest names in Washington going back 30 years represent Microsoft—many are former bosses of the people they lobby. There are more than a half-dozen former Members of Congress, four former White House Chief Counsels, countless dozens of former senior aides from the Congress, Justice Department and elsewhere throughout the highest levels of government.

i. Lobbying the Administration

42. Since the inauguration of George W. Bush in January 2001, Microsoft has made a concerted effort to strengthen its ties to the Administration. The Administration's decision to agree to a settlement widely accepted to be ineffective calls into question the nature of such ties.

43. Prior to the announcement of the settlement, for example, it has been reported there was an inappropriate, if not illegal, discussion between a senior aide to Attorney General John Ashcroft and a lobbyist for AOL-Time Warner.

44. According to the account in the New York Times, the senior aide to General Ashcroft is David Israelite. Israelite was the political director of the Republican National Committee which received more than a million dollars from Microsoft during the 2000 presidential campaign. In that role, Mr. Israelite directed fundraising operations and coordinated campaign activities between entities like Microsoft and the national party apparatus. Now General Ashcroft's deputy chief of staff in the Office of the Attorney General, Mr. Israelite recused himself from the case as a result of his ownership of 100 shares of Microsoft stock.

45. The Times wrote, "According to the notes of a person briefed about the conversation on Oct. 9, the day it is said to have occurred, Mr. Israelite called [AOL lobbyist] Mr. [Wayne] Berman. "Are you guys behind this business of the states hiring their own lawyers in the Microsoft case?" Mr. Israelite asked Mr. Berman in the predawn conversation, according to the notes. 'Tell your clients we wouldn't be too happy about that."

46. Israelite allegedly said on that call that the Supreme Court was soon to deny Microsoft's appeal, which would prompt the Department of Justice to seek a settlement. He was reported to have complained that AOL was "radicalizing" the states.[7] While the conversation was confirmed, the participants denied the content of the conversation. Still, it was enough to provoke angry responses from the technology industry and an accusation of "inappropriate and possibly illegal" conduct from a key House Democrat, Congressman John Conyers, Ranking Democratic Member of the House Judiciary Committee. In a letter to Attorney General Ashcroft, Rep. Conyers asked for more information about Israelite's alleged contacts with Berman, specifically asking for a list of contacts between Israelite and AOL officials. "If the allegations reported by the media are true, such active involvement by a recused public official could violate federal conflict of interest laws," Conyers wrote.[18]

ii. Lobbying on the Campaign Trail

47. Mirroring its political giving strategy, Microsoft's lobbying strategy has focused mainly on Republicans, while hedging its bets and simultaneously courting Democrats to a slightly lesser extent.

48. During the campaign, Microsoft Chairman Bill Gates was asked if a Republican administration would be a positive development for the company. It would "help," he said[19] After all, before Judge Jackson ruled against Microsoft, then Governor Bush was quoted as saying that he stood "on the side of innovation, not litigation."

49. In fact, according to Newsweek Magazine, Bill Gates's visit to then Governor Bush in Austin was "part of a delicate political dance between the software giant and the Republican Party .... Dollar signs in their eyes, GOP leaders covet big political contributions from Microsoft's coffers. In turn, Microsoft executives, plagued by the Clinton Justice Department's lawsuit, hope that a Republican president and Congress might shut down the efforts to punish the company."

50. A number of other Microsoft executives, lobbyists and other paid counsel lead back to the Bush camp. The company's Chief Operating Officer, Steve Ballmer, served then Governor Bush as a technology adviser. Tony Feather, former Bush political director, is a partner with a Republican consulting firm Microsoft hired to manage grassroots lobbying efforts. And Microsoft has paid lobbyist and former head of the Republican Party Haley Barbour hundreds of thousands of dollars to assist the company in Washington. The company has also hired Vin Weber, a former Republican Congressman, and Michael Deaver, the former White House chief of staff and trusted adviser credited with crafting President Ronald Reagan's image and campaign advertisements in the 1980s.

51. In addition, Microsoft retained the services of Ralph Reed's Century Strategies "for the stated purpose of improving the company's public image."[20] Reed's firm—a paid consultant to the Bush campaign—aimed itself at mobilizing Bush supporters to express to the candidate their dissatisfaction with the antitrust trial. Once it was reported in the New York Times, the firm issued an apology. The Wall Street Journal later reported more on Ralph Reed's lobbying efforts on Microsoft's behalf:

"BOUNTY PAYMENTS are offered for pro-Microsoft letters and calls.

Republican Ralph Reed's lobbying firm coordinates a network of public-relations and lobbying partners that generates grass-roots comments for cash. Payments are for letters, calls and visits to lawmakers and policy makers. An e-mail offers sample letters opposing a Microsoft breakup. A letter to a member of Congress from a mayor or local Republican Party official is worth $200, the guidelines say. A "premier" letter or visit by a fund-raiser known to the lawmaker or a family member can be worth up to $450 apiece. An op-ed piece in local papers fetches $500."[21]

52. Microsoft was lobbying the Democratic side as well. Like its team of Republican all-

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[14] USA Today, May 30, 2000, Drinkard, Ullman

[15] BusinessWeek, May 15, 2000, Carney, Borrus, Greene

[16] ibid.

[17] New York Times, Nov. 2, 2001

[18] The Kansas City Star, Nov. 8, 2000, Kraske

[19] Common Cause, "The Microsoft Playbook"

[20] ibid.

[21] WSJ, Oct. 20, 2000

stars, Microsoft's team of Democrats had very close ties to its party as well. The team included "super lobbyist" Tommy Boggs, a top Washington insider with deep Democratic ties, Tom Downey, a former Democratic Congressman with close ties to former Vice President A1 Gore, and Craig Smith, former campaign manager for Gore and board member of the Microsoft front group, Americans for Technology Leadership. As a board member of the ATL, Smith wrote to the Democratic National Committee urging his fellow party members to abandon support for the antitrust case, citing that support "would make us vulnerable to attack in the general election."[22]

53. The company also hired Ginny Terzano, former Gore press secretary, and tobacco industry ad man Carter Eskew, a former Gore adviser-cum-Microsoft image consultant who helped craft the company's 1999 advertising campaign aimed at bolstering its reputation as a "good corporate citizen." Also retained by Microsoft was super-lobbyist Jack Quinn, former Chief of Staff to Vice President A1 Gore and White House Counsel.

iii. Lobbying Capitol Hill

54. But Microsoft did not focus solely on lobbying those who would soon be in control of the Department of Justice. Microsoft also waged a massive lobbying campaign aimed at Congress.

55. Alongside its Administration-oriented team, Microsoft recruited more lobbyists and consultants with ties to Members of Congress on both sides of the aisle. Republican hires included Allison McSlarrow, former deputy chief of staff to Senate Majority Leader Trent Lott, Ed Kutler, former assistant to then Speaker of the House Newt Gingrich, Mitch Bainwol, former chief of staff to the Senate Republican Caucus and the Republcian National Committee, Kerry Knott, former chief of staff to House Majority Leader Richard Armey, Ed Gillespie, former Armey and Republican National Committee communications director, and Mimi Simoneaux, former legislative director to House Commerce Committee Chairman Billy Tauzin, who was then-chairman of the House subcommittee with jurisdiction over the technology industry.

56. Among the Democrats lobbying on behalf of Microsoft were Jamie Houton, former associate director of the Senate Democratic Steering Committee, former Democratic Representative Vic Fazio, the third-highest ranking House Democrat, and his former top staffer Tom Jurkovich.

57. Despite Microsoft's assertion in its mere three-page Tunney Act disclosure filing, the company has incessantly used its tremendous resources to contact and influence Members of Congress. Over the course of a 16-month period beginning in 1999, Microsoft flew at least 130 Members of Congress or their staff to the company's headquarters in Redmond, Washington to lobby on a number of issues, including the antitrust case.

58. Perhaps the most egregious example of its heavy-handed largesse came in late 1999, when Microsoft lobbied Congress to cut $9 million from the budget for the Department of Justice's Antitrust Division, the very body that was leading the prosecution against Microsoft. Pilloried industries like the gun and tobacco had considered and rejected the strategy as overly bold.

59. According to the Washington Post, "Nonprofit organizations that receive financial support from [Microsoft] have also urged key congressional appropriators to limit spending for the division .... The non profits made their request in a letter last month after an all-expenses-paid trip to Microsoft headquarters in Redmond, Washington, where they were entertained and briefed on an array of issues facing the company." Further discussion follows in the next section entitled "Front Groups."

60. After the previously secret letters from these non-profit groups were exposed, news of the attempts received widespread bipartisan criticism from media and politicians alike. House Judiciary Committee Chairman Henry Hyde (R–IL), called the division "one of the best-run departments in the government." Senator Herb Kohl, a Democrat on the Senate Judiciary Committee's antitrust subcommittee, said "it would set [a] terrible precedent to alter the division's budget based on one case alone."[23] "It's like the Mafia trying to defund the FBI," said a prominent member of the Washington antitrust bar? According to Jan McDavid, a lawyer with the Washington firm of Hogan & Hartson and chairperson of the American Bar Association antitrust section, the section's policy states that it "opposes the use of the congressional budget and appropriations process to intervene in or influence ongoing antitrust enforcement matters."[24]One congressional GOP staffer went as far as to say that Microsoft's lobbying had "the odor of obstruction."[25]

61. Not surprisingly, Senator Slade Gorton, a Republican from Microsoft's home state of Washington, was adamantly supportive of the idea. Between 1997 and 1999, he received more than $50,000 from Microsoft and its employees. During the 2000 election cycle, Gorton's PAC received $17,000 while the Washington State Republican Party received more than $100,000. iv. Lobbying the States

62. Because 19 state attorneys general initiated the antitrust case alongside the Department of Justice, Microsoft initiated a state lobbying campaign aimed at influencing those attorneys general to back away from the case. Microsoft even hired former Iowa House Speaker Donald Avenson to lobby the state's Attorney General, who was leading the group of states prosecuting the company. While Microsoft has retained professional "grassroots consultants" and others in many states, according to published reports, it is their efforts in the 19 states with Attorneys General who brought suit against them where the real pressure has occurred. In those states they have retained former lawmakers, law partners of the Attorneys General, their predecessors in that same office, business associates, and their own trusted political consultants. Microsoft has also hired those on whom the AGs are often most politically dependent, such as union leaders and activists in states with Democratic Attorneys General, and fiscally conservative activists in state with Republican AGs.

63. Perhaps the company's most successful effort to influence the state attorneys general came in 1998, when, three days after a $25,000 contribution to the South Carolina Republican Party, the state's Attorney General, Charles Condon, announced that he would withdraw from the case.

64. Yet, a few of its grassroots efforts targeted at the states have done more harm than good. Because of the unprecedented size, scope and cost of Microsoft's campaign, a number of high profile gaffes have exhibited the true nature of Microsoft's "public support" and the depths to which the company will go to influence the outcome of the trial.

65. In August 2001, the Los Angeles Times reported that two letters received by the Utah Attorney General's office, one of the prosecuting states, were sent by dead men. The campaign was funded by Craig Smith's Americans for Technology Leadership. Despite its claims to represent "thousands of small and mid-sized technology companies," news reports have repeatedly characterized ATL and its counterpart, the Association for Competitive Technology (ACT) as essentially wholly-owned subsidiaries of Microsoft Corp., whose funding launched and sustains both groups.[26] Other characteristics of the letter writing campaign to the Attorneys General included similar phrases popping up again and again, invalid return addresses, and even masses of identical letters with different signatories.

66. In one news story, Jim Prendergast, director of ATL, initially admitted only to providing letter writers with "message points." "We gave them a few bullet points, but that's about the extent of it," he said. When asked why identical phrases were popping up again and again, he confessed that sometimes ATL did indeed provide whole letters for the citizens to sign and send. "We'd write the letter and then send it to them," he admitted.

67. According to the same article, other states, like Minnesota and Iowa, were subjected to Microsoft's full-press grassroots lobbying campaign. Both states are participants in the antitrust case. In the case of Iowa, Attorney General Tom Miller received more than 50 letters in a month's time calling on him to drop the case. While none of the letters were identical, several phrases were similar. In four of the letters, for example, the following sentence appeared: "Strong competition and innovation have been the twin hallmarks of the technology industry." Three others contained this sentence: "If the future is going to be as

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[22] Common Cause, "The Microsoft Playbook"

[23] Reuters, Oct. 17, 1999, Lawsky

[24] Ibid.

[25] WSJ, Oct. 15, 1999

[26] "Microsoft's All-Out Counterattack." Dan Carney, with Amy Borrus. BusinessWeek May 15, 2000; "Microsoft's Lobbying Largess Pays Off: Back-Channel Effort Wins Support for Case." James V. Grimaldi. Washington Post May 17, 2000; "Microsoft leans creatively on levers of political power as breakup decision looms, 'stealth' lobbying efforts aim for survival." Jim Drinkard and Owen Ullmann. USA Today May 30, 2000

successful as the recent past, the technology sector must remain free from excess regulation."[27]

68. Minnesota Attorney General Michael Hatch, who received 300 identical letters, characterized the campaign as "sleazy." Many of the letter writers were misled by Microsoft and one even wrote by hand to Attorney General Hatch to say so and to apologize for his previous letter. "I sure was misled," he wrote. "It's time for you to get out there and kick butt."[28]

vi. Tying Up the Lobbyists and Lawyers

69. A frequently employed tactic of Microsoft is to retain all major lobbying firms in key states so that its opposition cannot. Similarly, the company has hired many Washington, DC-based law firms with antitrust expertise to work on issues not related to the antitrust case. "They've got the whole town conflicted out," said one attorney. "They've sucked out all the oxygen."[29]

D. Front Groups

70. Supporting its political contributions and lobbying campaign, Microsoft undertook an aggressive public relations campaign aimed at "creating the appearance of a groundswell of public support for the company."[30]

71. In April 1998, a reporter for the Los Angeles Times received a package of confidential materials created by Edelman Public Relations for its client, Microsoft. Among the documents was a media relations strategy for a "multi-million dollar" campaign aimed at stemming the rash of antitrust investigations being undertaken by a number of states in conjunction with the federal government's investigation. According to the reporters, Greg Miller and Leslie Helm, "the elaborate plan ... hinges on a number of unusual—and some say unethical—tactics, including the planting of articles, letters to the editor and opinion pieces to be commissioned by Microsoft's top media handlers but presented by local firms as spontaneous testimonials."[31] While Microsoft contends that this strategy was never implemented, a number of the company's activities since the outset of the trial clearly indicate that most of the elements have been employed, at times repeatedly.

72. Throughout the antitrust trial, Microsoft relied heavily on many "independent" groups to support the company and to oppose the suit publicly. Some groups they created themselves out of whole cloth during the trial. Others sullied their long, distinguished backgrounds by trading hard cash for the use of their good names. Many denied any involvement with Microsoft, claiming that their passion came from concern for the economy or "innovation"—only to later be unmasked by the news media when evidence of their financial dealings with Microsoft came to light. One account suggests Microsoft has harnessed at least 15 advocacy groups and think tanks that use Microsoft donations to spread the company's message through polls, news conferences, Web sites, letters to the editor, research papers, opinion pieces and letter-writing campaigns aimed at lawmakers.[32]

73. Groups with names like Americans for Technology Leadership and the Association for Competitive Technology had the veneer of genuine independence, but were actually founded by Microsoft, launched with Microsoft dollars, and work on few other issues than the defense of Microsoft in its antitrust trial.

74. Even well known Washington, DC organizations with strong ties to the Administration and to Congress were well funded by Microsoft—respected fiscally conservative groups like Grover Norquist's Americans for Tax Reform, former White House Counsel C. Boyden Grey's Citizens for a Sound Economy, the National Taxpayers Union and Citizens Against Government Waste. But upon closer scrutiny, the true ties of these groups to Microsoft became apparent. By paying for pro-Microsoft advertisements, by sponsoring publications, by donating money outright, Microsoft both ensured and devalued their support.

75. According to Business Week, Microsoft "secretly funds those that do its public-relations work and pulls funding from those that dare question its positions."[33] On one such occasion, Microsoft pulled funding from the American Enterprise Institute once one of its fellows, Robert Bork, came out in favor of the antitrust trial even though the institute itself has no position on the trial and many of its technical and antitrust experts have expressed their opposition to the case. In another case, they quit a technology industry trade group, the Software and Information Industry Association, because a majority of its members supported the antitrust case.

i. Independent Institute

76. In one instance, Microsoft paid for the placement of newspaper advertisements by the California-based Independent Institute. Published in June 1999 in the New York Times and the Washington Post, the full-page ads featured a pro-Microsoft letter signed by 240 academics. Nothing in the ad's copy indicated to readers who—other than the Institute itself- was paying for the ads. Apparently, no one at the Independent Institute indicated to the letter's 240 signatories who was paying for the ad either. One signatory, Professor Simon Hakim of Temple University, stated that he would not have signed on to the advertisement had he known who was behind it.[34]

77. At a Washington, DC press conference unveiling the ads, Independent Institute president David Theroux answered a reporter's specific question about whether Microsoft had anything to do with the ads, including paying for them, with a resounding "no." When questioned months later by the New York Times, Theroux again denied that Microsoft paid for the ads. He said, instead, that the ads "were paid for out of our general funds." He also said the "implication that Microsoft had any influence is ridiculous."[35] But, according to a front-page article later written in the New York Times, "among the institute's internal documents is a bill from Mr. Theroux sent to John A. C. Kelly of Microsoft for the full costs of the ads, plus his travel expenses from San Francisco to Washington for the news conference, totaling $153,868.67. Included was a $5,966 bill for airline tickets for himself (Theroux) and a colleague. Unfortunately, he wrote Mr. Kelly, 'the airlines were heavily booked" and 'we had to fly first class to DC and business class on the return.'" Furthermore, despite additional statements from its president that it "adheres to the highest standards of independent scholarly inquiry," internal institute documents have shown that, having contributed more than $200,000, or 20% of the institute's total outside contributions, Microsoft "secretly served as the institute's largest outside benefactor [in 1999]."[36] It wasn't until September that the institute finally admitted the extent of Microsoft's support.

78. In these instances, as in others, Microsoft's behavior outside the courtroom had a direct impact on the proceedings inside the courtroom. According to the New York Times, the ads prompted not only more news stories but also courtroom discussion.[37] Microsoft also covered the costs of the publication of the institute's book, "Winners, Losers and Microsoft: Competition and Antitrust in High Technology," which Microsoft's economic witness in the trial then used to support his own testimony.

ii. Biased Polling

79. According to Business Week, Microsoft has also commissioned polls to help foster an image of great public support for the company. At the outset of the 2000 presidential campaign, around the time of the Iowa caucus and the New Hampshire primary, Microsoft funded polls aimed at demonstrating the public's opposition to the antitrust case. Once the results were in, Microsoft distributed the results to the media in order to compel the candidates to incorporate their opposition to the case into their platform.

80. In addition, while the state Attorneys General were working through the spring on formulating a remedy, Microsoft front group Americans for Technology Leadership conducted and issued the results of a poll, which concluded that the public wanted the

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[27] Los Angeles Times, August 23, 2001

[28] Los Angeles Times, August 23, 2001

[29] Business Week, May 15, 2000, Borrus, Carney, Greene

[30] "Trust Us, We're Experts" Sheldon Rampton and John Stauber, p. 8

[31] 31 ibid.

[32] USA TODAY, "Microsoft leans creatively on levers of political power as breakup decision looms, 'stealth" lobbying efforts aim for survival" by Jim Drinkard and Owen Ullmann, May 30, 2000

[33] Business Week, May 15, 2000, Carney, Borrus, Greene

[34] I am aware there have been allegations that material relating to the Independent Institute was uncovered by Investigative Group International (IGI), allegedly retained by Oracle Corporation. My understanding of the circumstances indicates that employees of IGI's were terminated as a result of their actions. I have not reviewed those allegations specifically, since the subject of my review was defendant, Microsoft Corporation. Regardless, neither the Independent Institute nor Microsoft ever denied the validity of the claims after they were exposed.

[35] Associated Press, September 18, 1999

[36] New York Times, Sept. 19, 1999

[37] New York Times, Sept. 19, 1999

Attorneys General to focus their time and energy on other issues. In this case, Microsoft failed to disclose the nature of its relationship with ATL and the source of funding for the poll.

iii. Targeting the Antitrust Division of the Department of Justice

81. As stated above, one of Microsoft's most egregious attempts to use lobbying to influence the outcome of the antitrust trial came when the company lobbied to cut funding for the Antitrust Division of the Department of Justice. Microsoft funded a host of third parties to push forth its agenda.

82. In September 1999, the company flew representatives from about 15 major Washington, DC-based think tanks to Microsoft's Redmond, Washington headquarters "for three days of briefings that included tickets to a Seattle Mariners game and dinner and entertainment at Seattle's Teatro ZinZani, according to an itinerary."[38] Among the groups were Citizens for a Sound Economy, the National Taxpayers Union and Americans for Tax Reform, whose president, Grover Norquist, received $40,000 in lobbying payments from Microsoft during the second half of 1998.

83. Two days after returning from the trip, those three groups and three others secretly sent a letter to House appropriators urging that the Antitrust Division receive the lowest amount of funding proposed. In a coordinated effort, on the same day one of Microsoft's own lobbyists, Kerry Knott, met with Rep. Dan Miller of Florida to urge him to grant the Antitrust Division the lower amount of funds. That meeting prompted Rep. Miller to write to the chairman of the House Appropriations Commerce, Justice, State and Judiciary Subcommittee that "it would be a devastating blow to the high-tech industry and to our overall economy if the federal government succeeds in its efforts to regulate this industry through litigation." According to the Washington Post, "Miller said that while he objects to the funding on fiscal grounds, he had not focused on it until Knott and Citizens for a Sound Economy spokeswoman Christin Tinsworth, a former Miller staffer, made their pitch just off the House floor."[39]

84. A Washington Post editorial summarized the propriety of the incident this way: "[T]he fact that Microsoft has the right to lobby ... doesn't make the lobbying any less unseemly. If Microsoft has a gripe, it should make its complaint to the court hearing its case."[40]

III. CONCLUSIONS

85. The end result of Microsoft's unprecedented political campaign seems to have been rewarded by the weak settlement presented by the Department of Justice.

Respectfully Submitted,
Edward Roeder
January 28, 2002

APPENDIX A: Selected Tables

Table 1. Rapid Rises in Corporate PAC Fundraising, 1979–2002 (After Raising More than $50,000)

Microsoft Corporation Formed: 1987–88

Total Raised, 1995–96: $59,750

Total Raised, 1997–98: $599,568

Difference: $539,818 903 46% Rank: 1

American Telephone & Telegraph Co. Formed: 1983–84

Total Raised, 1983–84: $215,423

Total Raised, 1985–86: $1,820,621

Difference: $1,605,198 = 745 14% Rank: 2

Drexel Burnham Lambert Group, Inc. Formed: 1981–82

Total Raised, 1983–84: $66,844

Total Raised, 1985–86: $446,279

Difference: $379,435 = 567 64% Rank: 3

Safari Club International Formed: 1979–80

Total Raised, 1993=94: $94,149

Total Raised, 1995–96: $545,915

Difference: $451,766 = 479 84% Rank: 4

Fluor Corporation Formed: 1979–80

Total Raised, 1987–88: $87,236

Total Raised, 1989–90: $494,417

Difference: $407,181 = 466 76% Rank: 5

Dow Chemical, USA—HQ Formed: 1979–80

Total Raised, 1995–96: $60,290

Total Raised, 1997–98: $331,286

Difference: $270,996 = 449 49% Rank: 6

Lucent Technologies, Inc. Formed: 1995–96

Total Raised, 1995–96: $87,568

Total Raised, 1997–98: $464,592

Difference: $377,024 = 430 55% Rank: 7

Nat'l Star Route Mail Contractors Ass'n Formed: 1981–82

Total Raised, 1995–96: $63,512

Total Raised, 1983–84: $313,609

Difference: $250,097 = 393 78% Rank: 8

Eastern Airlines, Inc. Formed: 1979–80

Total Raised, 1985–86: $53,309

Total Raised, 1987–88: $243,529

Difference: $190,220 = 356 83% Rank: 9

Pacific Telesis Group Formed: 1979–80

Total Raised, 1981–82: $65,538

Total Raised, 1983–84: $280,183

Difference: $214,645 = 327 51% Rank: 10

Henley Group/Wheelabrator Technologies, Inc. Formed: 1979–80

Total Raised, 1985–86: $89,255

Total Raised, 1987–88: $380,102

Difference: $290,847 = 325 86% Rank: 11

Firstar (First Wisconsin) Corp. Formed: 1979–80

Total Raised, 1997–98: $113,743

Total Raised, 1999–00: $480,239

Difference: $366,496 = 322 21% Rank: 12

U.S. West, Inc. Formed: 1983–84

Total Raised, 1987–88: $123,767

Total Raised, 1989–90: $521,886

Difference: $398,119 = 321 67% Rank: 13

CSX Corp.—Jeffboat Formed: 1981–82

Total Raised, 1997–98: $74,125

Total Raised, 1999–00: $303,763

Difference: $229,638 = 309 80% Rank: 14

J. P. Morgan & Company, Inc. Formed: 1979–80

Total Raised, 1983–84: $68,569

Total Raised, 1985–86: $274,515

Difference: $205,946 = 300 35% Rank: 15

Source: Computer analysis by Sunshine Press Services of Federal Election Commission data, Jan. 1, 1979 through Dec. 31, 2000.

Table 2. Continued Rises in Corporate PAC Fundraising, 1979–2002 Following Rapid Rise of More than 300% from a base of $50,000+(Ranked by Percentage Rise in Next Election Cycle)

Microsoft Corporation Formed: 1987–88

Total Raised, 1995–96: $59,750

Total Raised, 1997–98: $599,568

Difference: $539,818 = 903.46%

Next Cycle: 1999–88

Total Raised: $1,589,684

Difference: $990,116 = 165.14% Rank: 1

J. P. Morgan & Company, Inc. Formed: 1979–80

Total Raised, 1983–84: $68,569

Total Raised, 1985–86: $274,515

Difference: $205,946 = 300.35%

Next Cycle: 1987–88

Total Raised: $514,285

Difference: $239,770 = 87.34% Rank: 2

American Telephone & Telegraph Co. Formed: 1983–84

Total Raised, 1983–84: $215,423

Total Raised, 1985–86: $1,820,621

Difference: $1,605,198 = 745.14%

Next Cycle: 1987–88

Total Raised: $3,043,510

Difference: $1,222,889 = 67.17% Rank: 3

U.S. West, Inc. Formed: 1983–84

Total Raised, 1987–88: $123,767

Total Raised, 1989–90: $521,886

Difference: $398,119 = 321.67%

Next Cycle: 1991- 88

Total Raised: $734,130

Difference: $212,244 = 40.67% Rank: 4

Pacific Telesis Group Formed: 1979–80

Total Raised, 1981–82: $65,538

Total Raised, 1983–84: $280,183

Difference: $214,645 = 327.51%

Next Cycle: 1985–86

Total Raised: $364,113

Difference: $83,930 = 29.96% Rank: 5

Fluor Corporation Formed: 1979–80

Total Raised, 1987–88: $87,236

Total Raised, 1989–90: $494,417

Difference: $407,181 = 466.76%

Next Cycle: 1991–92

Total Raised: $610,142

Difference: $115,725 = 23.41% Rank: 6

Nat'l Star Route Mail Contractors Ass'n Formed: 1981–82

Total Raised, 1995–96: $63,512

Total Raised, 1983–84: $313,609

Difference: $250,097 = 393.78%

Next Cycle: 1985–86

Total Raised: $43,468

Difference: $2,269 = 5.51% Rank: 7

Firstar (First Wisconsin) Corp. Formed: 1979–80

Total Raised, 1997–98: $113,743

Total Raised, 1999–00: $480,239

Difference: $366,496 = 322.21%

Next Cycle: (data incomplete, cycle now in progress)

CSX Corp.—Jeffboat Formed: 1981–82

Total Raised, 1997–98: $74,125

Total Raised, 1999–00: $303,763

Difference: $229,638 = 309.80%

Next Cycle: (data incomplete, cycle now in progress)

Dow Chemical, USA—HQ Formed: 1979–80

Total Raised, 1995–96: $60,290

Total Raised, 1997–98: $331,286

Difference: $270,996 = 449.49%

Next Cycle: 1999–00

Total Raised: $279,618

Difference: $-51,668 = -15.60% Rank: 10

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[38] The Washington Post, Oct. 15, 1999, Morgan, Eilperin

[39] ibid.

[40] Washington Post, Oct. 24, 1999

Lucent Technologies, Inc. Formed: 1995–96
Total Raised, 1995–96: $87,568
Total Raised, 1997–98: $464,592
Difference: $377,024 = 430.55%
Next Cycle: 1999–00
Total Raised: $343,462
Difference: $-121,130 = -26.07% Rank: 11
Drexel Burnham Lambert Group, Inc. Formed: 1981–82
Total Raised, 1983–84: $66,844
Total Raised, 1985–86: $446,279
Difference: $379,435 = 567.64%
Next Cycle: 1987–88
Total Raised: $310,188
Difference: $-136,091 = -30.49% Rank: 12
Safari Club International Formed: 1979–80
Total Raised, 1993=94: $94,149
Total Raised, 1995–96: $545,915
Difference: $451,766 = 479.84%
Next Cycle: 1997–98
Total Raised: $378,078
Difference: $-167,837 = -30.74% Rank: 13
Eastern Airlines, Inc. Formed: 1979–80
Total Raised, 1985–86: $53,309
Total Raised, 1987–88: $243,529
Difference: $190,220 = 356.83%
Next Cycle: 1989–90
Total Raised: $105,734
Difference: $-137,795 = -56.58% Rank: 14
Henley Group/Wheelabrator Technologies, Formed: 1979–80
Total Raised, 1985–86: $89,255
Total Raised, 1987–88: $380,102
Difference: $290,847 = 325.86%
Next Cycle: 1989–90
Total Raised: $141,072
Difference: $-239,030 = -62.89% Rank: 15

Source: Computer analysis by Sunshine Press Services of Federal Election Commission data, Jan. 1, 1979 through Dec. 31, 2000.

Table 3. Largest Cash Balances at end of 1999–2000 Election Cycle American Corporate PACs

Rank	PAC Sponsor	Cash on Hand
1	Microsoft Corporation	$712,874
2	Southern Bell Telephone & Telegraph Co.	$617,922
3	Crawford Group / Enterprise Leasing	$611,442
4	Southwestern Bell Corporation	$550,841
5	Chrysler / Gulfstream Aerospace Corp.	$481,068
6	Federal Express Corporation	$424,739
7	NationsBank	$413,663
8	First Union Corporation	$410,242
9	First Bank System, Inc.	$405,187
10	Stone Container Corporation	$368,973
11	General Electric Company	$359,469
12	National Health Corporation	$340,205
13	Exxon Corporation	$328,559
14	Outback Steakhouse, Inc.	$325,977
15	Columbia / HCA Healthcare	$284,827
16	American Family Corporation	$283,963
17	Cooper Industries, Inc.	$281,054
18	Suntrust Banks, Inc.	$275,779
19	Winn-Dixie Stores, Inc.	$273,232
20	Jacobs Engineering Group, Inc.	$272,982
21	Ford Motor Company	$264,914
22	U.S. West, Inc.	$261,289
23	Compass Bancshares, Inc.	$253,625

Source: Computer analysis by Sunshine Press Services of Federal Election Commission data.

Table 4. Largest Percentage Increases in Receipts Over Two Election Cycles American Corporate

PACs With More Than $50,000

Microsoft Corporation Formed:1987–88
Total Raised, 1995–96: $59,750
Total Raised, 1999–00: $1,589,684
Difference: $1,529,934 = 2,560 56% Rank: 1
American Telephone & Telegraph Co. Formed:1983–84
Total Raised, 1983–84: $215,423
Total Raised, 1987–88: $3,043,510
Difference: $2,828,087 = 1,312 81% Rank: 2
Firstar (First Wisconsin) Corp. Formed:1979–80
Total Raised, 1995–96: $59,437
Total Raised, 1999–00: $480,239
Difference: $420,802 = 707 98% Rank: 3
J. P. Morgan & Company, Inc. Formed:1979–80
Total Raised, 1983–84: $68,569
Total Raised, 1987–88: $514,285
Difference: $445,716 = 650 03% Rank: 4
U.S. West, Inc. Formed:1983–84
Total Raised, 1985–86: $69,588
Total Raised, 1989–90: $521,886
Difference: $452,298 = 649 97% Rank: 5
Bell Atlantic Corp. Formed:1983–84
Total Raised, 1993=94: $146,949
Total Raised, 1997–98: $1,046,617
Difference: $899,668 = 612 23% Rank: 6
Fluor Corporation Formed:1979–80
Total Raised, 1987–88: $87,236
Total Raised, 1991–92: $610,142
Difference: $522,906 = 599 42% Rank: 7
Dow Chemical, USA—HQ Formed:1979–80
Total Raised, 1993=94: $53,297
Total Raised, 1997–98: $331,286
Difference: $277,989 = 521 58% Rank: 8
GA Technologies, Inc. Formed:1987–88
Total Raised, 1987–88: $51,702
Total Raised, 1991–92: $320,081
Difference: $268,379 = 519 09% Rank: 9
U.S. West, Inc. Formed:1983–84
Total Raised, 1987–88: $123,767
Total Raised, 1991–92: $734,130
Difference: $610,363 = 493 15% Rank: 10
American Information Technologies Corp. Formed:1983–84
Total Raised, 1989–90: $233,266
Total Raised, 1993=94: $1,370,945
Difference: $1,137,679 = 487 72% Rank: 11
Allied-Signal, Inc. Formed:1979–80
Total Raised, 1981–82: $65,703
Total Raised, 1985–86: $384,530
Difference: $318,827 = 485 25% Rank: 12
Glaxo, Inc. Formed:1985–86
Total Raised, 1989–90: $106,192
Total Raised, 1993=94: $607,224
Difference: $501,032 = 471 82% Rank: 13
Nynex Corporation Formed:1983–84
Total Raised, 1991–92: $62,304
Total Raised, 1995–96: $346,809
Difference: $284,505 = 456 64% Rank: 14
Pacific Telesis Group Formed:1979–80
Total Raised, 1981–82: $65,538
Total Raised, 1985–86: $364,113
Difference: $298,575 = 455 58% Rank: 15
Philip Morris, Inc. Formed:1979–80
Total Raised, 1979–80: $93,291
Total Raised, 1983–84: $499,938
Difference: $406,647 = 435 89% Rank: 16
American Electric Power Company, Inc. Formed:1979–80
Total Raised, 1995–96: $106,155
Total Raised, 1999–00: $545,295
Difference: $439,140 = 413 68% Rank: 17
Waste Management, Inc. Formed:1979–80
Total Raised, 1981–82: $76,738
Total Raised, 1985–86: $391,637
Difference: $314,899 = 410 36% Rank: 18
Cigna Corporation Formed:1979–80
Total Raised, 1979–80: $56,174
Total Raised, 1985–86: $286,319
Difference: $230,145 = 409 70% Rank: 19
LDDS Communications, Inc. Formed:1987–88
Total Raised, 1993=94: $63,542
Total Raised, 1997–98: $323,680
Difference: $260,138 = 409 40% Rank: 20
Safari Club International Formed:1979–80
Total Raised, 1991–92: $107,314
Total Raised, 1995–96: $545,915
Difference: $438,601 = 408 71% Rank: 21
Michigan Bell Telephone Company Formed:1979–80
Total Raised, 1983–84: $53,326
Total Raised, 1987–88: $266,944
Difference: $213,618 = 400 59% Rank: 22
E1 Paso Company Formed:1979–80
Total Raised, 1995–96: $75,920
Total Raised, 1999–00: $379,370
Difference: $303,450 = 399 70% Rank: 23
Merrill Lynch & Company, Inc. Formed:1979–80
Total Raised, 1979–80: $56,895
Total Raised, 1983–84: $282,297
Difference: $225,402 = 396 17% Rank: 24
Federal Express Corporation Formed:1983–84
Total Raised, 1983–84: $230,478
Total Raised, 1987–88: $1,139,978
Difference: $909,500 = 394 61% Rank: 25
MBNA Corporation Formed:1991–92
Total Raised, 1991–92: $184,764
Total Raised, 1995–96: $903,599
Difference: $718,835 = 389 06% Rank: 26
MCI Telecommunications Corporation Formed:1983–84
Total Raised, 1993=94: $104,688
Total Raised, 1997–98: $510,195
Difference: $405,507 = 387 35% Rank: 27
Smith Barney & Company Formed:1979–80
Total Raised, 1995–96: $128,843
Total Raised, 1999–00: $627,332
Difference: $498,489 = 386 90% Rank: 28
Chrysler / Gulfstream Aerospace Corp. Formed:1979–80
Total Raised, 1981–82: $77,152
Total Raised, 1985–86: $373,792
Difference: $296,640 = 384 49% Rank: 29
American Information Technologies Corp. Formed:1983–84
Total Raised, 1987–88: $105,465
Total Raised, 1991–92: $501,210
Difference: $395,745 = 375 24% Rank: 30
Waste Management, Inc. Formed:1979–80
Total Raised, 1983–84: $138,076
Total Raised, 1987–88: $653,361
Difference: $515,285 = 373 19% Rank: 31
Texas Air Corp. Formed:1979–80
Total Raised, 1981–82: $53,560
Total Raised, 1985–86: $252,847
Difference: $199,287 = 372 08% Rank: 32
Federal Express Corporation Formed:1983–84
Total Raised, 1985–86: $334,334
Total Raised, 1989–90: $1,561,744
Difference: $1,227,410 = 367 12% Rank: 33
Drexel Burnham Lambert Group, Inc. Formed:1981–82

Total Raised, 1983–84: $66,844
Total Raised, 1987–88: $310,188
Difference: $243,344 = 364 05% Rank: 34
Dow Chemical, USA—HQ Formed:1979–80
Total Raised, 1995–96: $60,290
Total Raised, 1999–00: $279,618
Difference: $219,328 = 363 79% Rank: 35
General Telephone & Electronics Corp. Formed:1979–80
Total Raised, 1987–88: $169,871
Total Raised, 1991–92: $779,782
Difference: $609,911 = 359 04% Rank: 36
NationsBank Formed:1979–80
Total Raised, 1987–88: $238,405
Total Raised, 1991–92: $1,094,012
Difference: $855,607 = 358 89% Rank: 37
CSX Corp.—Jeffboat Formed:1981–82
Total Raised, 1995–96: $66,789
Total Raised, 1999–00: $303,763
Difference: $236,974 = 354 81% Rank: 38
Sears Roebuck & Co. (Allstate) Formed:1979–80
Total Raised, 1981–82: $50,277
Total Raised, 1985–86: $223,313
Difference: $173,036 = 344 17% Rank: 39
First Union Corporation Formed:1983–84
Total Raised, 1995–96: $119,980
Total Raised, 1999–00: $525,262
Difference: $405,282 = 337 79% Rank: 40
Brown & Williamson Tobacco Corp. Formed:1979–80
Total Raised, 1991–92: $117,271
Total Raised, 1995–96: $512,562
Difference: $395,291 = 337 07% Rank: 41
Coca-Cola Enterprises, Inc. Formed:1991–92
Total Raised, 1993=94: $54,312
Total Raised, 1997–98: $232,861
Difference: $178,549 = 328 75% Rank: 42
Mutual of Omaha Insurance Company Formed:1979–80
Total Raised, 1989–90: $74,612
Total Raised, 1993=94: $319,846
Difference: $245,234 = 328 68% Rank: 43
Chase Manhattan Bank Formed:1979–80
Total Raised, 1983–84: $64,813
Total Raised, 1987–88: $274,828
Difference: $210,015 = 324 03% Rank: 44
Raytheon Company Formed:1979–80
Total Raised, 1979–80: $54,158
Total Raised, 1983–84: $228,899
Difference: $174,741 = 322 65% Rank: 45
Manufacturers Hanover Corporation Formed:1979–80
Total Raised, 1979–80: $69,178
Total Raised, 1983–84: $291,068
Difference: $221,890 = 320 75% Rank: 46
Tenneco, Inc. Formed:1979–80
Total Raised, 1991–92: $208,019
Total Raised, 1995–96: $866,590
Difference: $658,571 = 316 59% Rank: 47
Loral Systems Group Formed:1985–86
Total Raised, 1989–90: $86,215
Total Raised, 1993=94: $358,895
Difference: $272,680 = 316 28% Rank: 48
Koch Industries, Inc. Formed:1989–90
Total Raised, 1993=94: $202,392
Total Raised, 1997–98: $831,184
Difference: $628,792 = 310 68% Rank: 49
Koch Industries, Inc. Formed:1989–90
Total Raised, 1991–92: $104,401
Total Raised, 1995–96: $428,074
Difference: $323,673 = 310 03% Rank: 50
Bellsouth Corporation Formed:1983–84
Total Raised, 1985–86: $70,383
Total Raised, 1989–90: $287,836
Difference: $217,453 = 308 96% Rank: 51
Rockwell International Corporation Formed:1979–80
Total Raised, 1979–80: $123,700
Total Raised, 1983–84: $497,473
Difference: $373,773 = 302 16% Rank: 52
Safari Club International Formed:1979–80
Total Raised, 1993=94: $94,149
Total Raised, 1997–98: $378,078
Difference: $283,929 = 301 57% Rank: 53
RJR Nabisco, Inc. Formed:1979–80
Total Raised, 1981–82: $64,199
Total Raised, 1985–86: $256,498
Difference: $192,299 = 299 54% Rank: 54
American Information Technologies Corp. Formed:1983–84
Total Raised, 1985–86: $58,487
Total Raised, 1989–90: $233,266
Difference: $174,779 = 298 83% Rank: 55
Southern Company Formed:1981–82
Total Raised, 1995–96: $125,656
Total Raised, 1999–00: $497,118
Difference: $371,462 = 295 62% Rank: 56
Lucent Technologies, Inc. Formed:1995–96
Total Raised, 1995–96: $87,568
Total Raised, 1999–00: $343,462
Difference: $255,894 = 292 22% Rank: 57
Fluor Corporation Formed:1979–80
Total Raised, 1985–86: $126,081
Total Raised, 1989–90: $494,417
Difference: $368,336 = 292 14% Rank: 58
Central & South West Services, Inc. Formed:1979–80
Total Raised, 1993=94: $57,841
Total Raised, 1997–98: $226,201
Difference: $168,360 = 291 07% Rank: 59
HSBC Americas / Marine Midland Banks Formed:1981–82
Total Raised, 1983–84: $52,071
Total Raised, 1987–88: $200,106
Difference: $148,035 = 284 29% Rank: 60
Jacobs Engineering Group, Inc. Formed:1981–82
Total Raised, 1995–96: $127,472
Total Raised, 1999–00: $488,875
Difference: $361,403 = 283 52% Rank: 6!
Banc One Corporation Formed:1979–80
Total Raised, 1989–90: $270,704
Total Raised, 1993=94: $1,037,361
Difference: $766,657 = 283 21% Rank: 62
Archer-Daniels-Midland Company Formed:1979–80
Total Raised, 1979–80: $50,369
Total Raised, 1983–84: $192,426
Difference: $142,057 = 282 03% Rank: 63
Aetna Life and Casualty Company Formed:1983–84
Total Raised, 1983–84: $88,329
Total Raised, 1987–88: $333,008
Difference: $244,679 = 277 01% Rank: 64
Outback Steakhouse, Inc. Formed:1991–92
Total Raised, 1993=94: $230,022
Total Raised, 1997–98: $865,042
Difference: $635,020 = 276 07% Rank: 65
Lockheed Corporation Formed:1979–80
Total Raised, 1979–80: $136,127
Total Raised, 1983–84: $511,131
Difference: $375,004 = 275 48% Rank: 66
Duke Power Company Formed:1979–80
Total Raised, 1995–96: $69,970
Total Raised, 1999–00: $261,562
Difference: $191,592 = 273 82% Rank: 67
TRW, Inc. Formed:1979–80
Total Raised, 1979–80: $69,121
Total Raised, 1983–84: $256,296
Difference: $187,175 = 270 79% Rank: 68
United Telecommunications, Inc. Formed:1979–80
Total Raised, 1983–84: $66,922
Total Raised, 1987–88: $247,495
Difference: $180,573 = 269 83% Rank: 69
Loral Systems Group Formed:1985–86
Total Raised, 1987–88: $55,311
Total Raised, 1991–92: $202,887
Difference: $147,576 = 266 81% Rank: 70
American General Corporation Formed:1979–80
Total Raised, 1995–96: $182,254
Total Raised, 1999–00: $668,062
Difference: $485,808 = 266 56% Rank: 71
Phillips Petroleum Company Formed:1979–80
Total Raised, 1983–84: $99,365
Total Raised, 1987–88: $364,141
Difference: $264,776 = 266 47% Rank: 72
Entergy Operations, Inc. Formed:1989–90
Total Raised, 1993=94: $64,650
Total Raised, 1997–98: $236,109
Difference: $171,459 = 265 21% Rank: 73
American Information Technologies Corporation Formed:1979–80
Total Raised, 1983–84: $68,916
Total Raised, 1987–88: $249,574
Difference: $180,658 = 262 14% Rank: 74
Sea-Land Corporation Formed:1979–80
Total Raised, 1987–88: $52,291
Total Raised, 1991–92: $189,284
Difference: $136,993 = 261 98% Rank: 75
First City Bancorporation of Texas, Inc. Formed:1979–80
Total Raised, 1979–80: $85,372
Total Raised, 1983–84: $307,649
Difference: $222,277 = 260 36% Rank: 76
Banc One Corporation Formed:1979–80
Total Raised, 1987–88: $173,949
Total Raised, 1991–92: $622,458
Difference: $448,509 = 257 84% Rank: 77
E1 Paso Company Formed:1979–80
Total Raised, 1993=94: $74,169
Total Raised, 1997–98: $264,338
Difference: $190,169 = 256 40% Rank: 78
Dow Chemical, USA Formed:1979–80
Total Raised, 1985–86: $77,017
Total Raised, 1989–90: $274,424
Difference: $197,407 = 256 32% Rank: 79
Timken Company Formed:1995–96
Total Raised, 1995–96: $79,717
Total Raised, 1999–00: $277,044
Difference: $197,327 = 247 53% Rank: 80
Southern Bell Telephone & Telegraph Co. Formed:1979–80
Total Raised, 1981–82: $54,650
Total Raised, 1985–86: $189,822
Difference: $135,172 = 247 34% Rank: 81
National City Corporation Formed:1981–82
Total Raised, 1983–84: $59,921
Total Raised, 1987–88: $207,361
Difference: $147,440 = 246 06% Rank: 82
Wal-Mart Stores, Inc. Formed:1979–80
Total Raised, 1989–90: $56,535
Total Raised, 1993=94: $195,579
Difference: $139,044 = 245 94% Rank: 83
Eastern Airlines, Inc. Formed:1979–80
Total Raised, 1983–84: $70,676
Total Raised, 1987–88: $243,529
Difference: $172,853 = 244 57% Rank: 84
Heublein, Inc. Formed:1979–80
Total Raised, 1985–86: $52,292
Total Raised, 1989–90: $178,944
Difference: $126,652 = 242 20% Rank: 85
Salomon Brothers, Inc. Formed:1981–82
Total Raised, 1981–82: $106,250

Total Raised, 1985–86: $363,500
Difference: $257,250 = 242 12% Rank: 86
First Bank System, Inc. Formed:1979–80
Total Raised, 1995–96: $85,349
Total Raised, 1999–00: $290,311
Difference: $204,962 = 240 15% Rank: 87
Goodyear Tire & Rubber Company Formed:1979–80
Total Raised, 1993=94: $54,504
Total Raised, 1997–98: $185,093
Difference: $130,589 = 239 60% Rank: 88
North Carolina National Bank Corp. Formed:1979–80
Total Raised, 1979–80: $79,627
Total Raised, 1983–84: $269,718
Difference: $190,091 = 238 73% Rank: 89
Caterpillar Tractor Company Formed:1981–82
Total Raised, 1985–86: $65,232
Total Raised, 1989–90: $219,844
Difference: $154,612 = 237 02% Rank: 90
Lehman Brothers Kuhn Loec, Inc. Formed:1979–80
Total Raised, 1979–80: $51,400
Total Raised, 1983–84: $171,973
Difference: $120,573 = 234 58% Rank: 91
Northrop Corporation Formed:1979–80
Total Raised, 1979–80: $86,250
Total Raised, 1983–84: $288,361
Difference: $202,111 = 234 33% Rank: 92
GMC Electronic Data Systems Corporation Formed:1979–80
Total Raised, 1987–88: $116,315
Total Raised, 1991–92: $388,257
Difference: $271,942 = 233 80% Rank: 93
Textron, Inc. Eormed:1979–80
Total Raised, 1981–82: $116,552
Total Raised, 1985–86: $388,852
Difference: $272,300 = 233 63% Rank: 94
Southern Bell Telephone & Telegraph Co. Formed:1979–80
Total Raised, 1987–88: $203,554
Total Raised, 1991–92: $678,024
Difference: $474,470 = 233 09% Rank: 95
United Parcel Service of America, Inc. Formed:1979–80
Total Raised, 1983–84: $272,659
Total Raised, 1987–88: $905,482
Difference: $632,823 = 232 09% Rank: 96
Gun Owners of America (gun control foes) Formed:1991–92
Total Raised, 1995–96: $93,086
Total Raised, 1999–00: $309,050
Difference: $215,964 = 232 00% Rank: 97
Dun & Bradstreet Corporation Formed:1979–80
Total Raised, 1981–82: $51,577
Total Raised, 1985–86: $169,954
Difference: $118,377 = 229.52% Rank: 98
J. C. Penney Company, Inc. Formed:1979–80
Total Raised, 1981–82: $91,484
Total Raised, 1985–86: $301,185
Difference: $209,701 = 229.22% Rank: 99
United Parcel Service of America, Inc. Formed:1979–80
Total Raised, 1985–86: $567,328
Total Raised, 1989–90: $1,865,785
Difference: $1,298,457 = 228.87% Rank: 100

Source: Computer analysis by Sunshine Press Services of Federal Election Commission data, Jan. 1, 1979 through Dec. 31, 2000.

Table 5. Rapid Rises in Corporate PAC Spending, 1979–2002 (After Spending More than $250,000)

Microsoft Corporation Formed: 1987–88
Total Spent, 1997–98: $267,500
Total Spent, 1999–00: $1,221,730
Difference: $954,230 = 356 72% Rank: 1
Federal Express Corporation Formed: 1983–84
Total Spent, 1985–86: $392,441
Total Spent, 1987–88: $1,093,998
Difference: $701,557 = 178 77% Rank: 2
Compass Bancshares, Inc. Formed: 1983–84
Total Spent, 1991–92: $363,617
Total Spent, 1993=94: $974,893
Difference: $611,276 = 168 11% Rank: 3
Metropolitan Life Insurance Company Formed: 1979–80
Total Spent, 1997–98: $310,633
Total Spent, 1999–00: $815,624
Difference: $504,991 = 162 57% Rank: 4
Bell Atlantic Corp. Formed: 1983–84
Total Spent, 1995–96: $388,073
Total Spent, 1997–98: $1,006,783
Difference: $618,710 = 159 43% Rank: 5
Planned Parenthood Action Fund, Inc. Formed: 1995–96
Total Spent, 1997–98: $359,408
Total Spent, 1999–00: $914,501
Difference: $555,093 = 154 45% Rank: 6
RJR Nabisco, Inc. Formed: 1979–80
Total Spent, 1987–88: $348,897
Total Spent, 1989–90: $872,626
Difference: $523,729 = 150 11% Rank: 7
Southern Bell Telephone & Telegraph Co. Formed: 1979–80
Total Spent, 1989–90: $265,096
Total Spent, 1991–92: $650,905
Difference: $385,809 = 145 54% Rank: 8
American Information Technologies Corp. Formed: 1983–84
Total Spent, 1991–92: $518,442
Total Spent, 1993=94: $1,207,881
Difference: $689,439 = 132 98% Rank: 9
Tenneco, Inc. Formed: 1979–80
Total Spent, 1993=94: $380,688
Total Spent, 1995–96: $860,515
Difference: $479,827 = 126 04% Rank: 10
Banc One Corporation Formed: 1979–80
Total Spent, 1991–92: $421,467
Total Spent, 1993=94: $934,434
Difference: $512,967 = 121 71% Rank: 11
American General Corporation Formed: 1979–80
Total Spent, 1997–98: $291,488
Total Spent, 1999–00: $634,510
Difference: $343,022 = 117 68% Rank: 12
Boeing Company Formed: 1981–82
Total Spent, 1995–96: $370,105
Total Spent, 1997–98: $759,495
Difference: $389,390 = 105 21% Rank: 13
MBNA Corporation Formed: 1991–92
Total Spent, 1993=94: $403,796
Total Spent, 1995–96: $825,974
Difference: $422,178 = 104 55% Rank: 14
Compass Bancshares, Inc. Formed: 1983–84
Total Spent, 1995–96: $729,612
Total Spent, 1997–98: $1,468,094
Difference: $738,482 = 101 22% Rank: 15
Southtrust Corporation Formed: 1979–80
Total Spent, 1995–96: $266,593
Total Spent, 1997–98: $530,794
Difference: $264,201 = 99 10% Rank: 16
FirstEnergy Corp. (Ohio Edison) Formed: 1981–82
Total Spent, 1997–98: $253,675
Total Spent, 1999–00: $502,890
Difference: $249,215 = 98 24% Rank: 17
Koch Industries, Inc. Formed: 1989–90
Total Spent, 1995–96: $428,664
Total Spent, 1997–98: $807,318
Difference: $378,654 = 88 33% Rank: 18
Northrop Corporation Formed: 1979–80
Total Spent, 1993=94: $422,969
Total Spent, 1995–9G: $794,880
Difference: $371,911 = 87 93% Rank: 19
J. P. Morgan & Company, Inc. Formed: 1979–80
Total Spent, 1985–86: $262,250
Total Spent, 1987–88: $492,681
Difference: $230,431 = 87 87% Rank: 20
Philip Morris, Inc. Formed: 1979–80
Total Spent, 1983–84: $403,699
Total Spent, 1985–86: $754,949
Difference: $351,250 = 87 01% Rank: 21
Eli Lilly & Company Formed: 1979–80
Total Spent, 1995–96: $375,583
Total Spent, 1997–98: $700,580
Difference: $324,997 = 86 53% Rank: 22
Southwestern Bell Corporation Formed: 1979–80
Total Spent, 1993=94: $365,700
Total Spent, 1995–96: $674,857
Difference: $309,157 = 84 54% Rank: 23
Rockwell International Corporation Formed: 1979–80
Total Spent, 1981–82: $266,688
Total Spent, 1983–84: $490,541
Difference: $223,853 = 83 94% Rank: 24
United Parcel Service of America, Inc. Formed: 1979–80
Total Spent, 1991–92: $1,835,231
Total Spent, 1993=94: $3,350,884
Difference: $1,515,653 = 82 59% Rank: 25
General Telephone & Electronics Corp. Formed: 1979–80
Total Spent, 1989–90: $420,131
Total Spent, 1991–92: $765,805
Difference: $345,674 = 82 28% Rank: 26
United Parcel Service of America, Inc. Formed: 1979–80
Total Spent, 1985–86: $522,514
Total Spent, 1987–88: $943,815
Difference: $421,301 = 80 63% Rank: 27
Waste Management, Inc. Formed: 1979–80
Total Spent, 1985–86: $341,975
Total Spent, 1987–88: $615,059
Difference: $273,084 = 79 85% Rank: 28
Houston Industries, Inc. Formed: 1979–80
Total Spent, 1983–84: $256,353
Total Spent, 1985–86: $460,684
Difference: $204,331 = 79 71% Rank: 29
Cigna Corporation Formed: 1979–80
Total Spent, 1997–98: $352,512
Total Spent, 1999–00: $624,736
Difference: $272,224 = 77 22% Rank: 30
United Parcel Service of America, Inc. Formed: 1979–80
Total Spent, 1987–88: $943,815
Total Spent, 1989–90: $1,658,366
Difference: $714,551 = 75 71% Rank: 31
Black America's PAC Formed: 1995–96
Total Spent, 1995–96: $1,899,486
Total Spent, 1997–98: $3,337,602
Difference: $1,438,116 = 75 71% Rank: 32
Chase Manhattan Corporation Formed: 1979–80
Total Spent, 1989–90: $274,760
Total Spent, 1991–92: $481,894
Difference: $207,134 = 75 39% Rank: 33
Barnett Banks of Florida, Inc. Formed: 1979–80

Total Spent, 1985–86: $304,230
Total Spent, 1987–88: $532,509
Difference: $228,279 = 75 04% Rank: 34

Bankamerica Corporation Formed: 1981–82
Total Spent, 1993=94: $311,633
Total Spent, 1995–96: $535,516
Difference: $223,883 = 71 84% Rank: 35

NationsBank Formed: 1979–80
Total Spent, 1997–98: $607,578
Total Spent, 1999–00: $1,041,837
Difference: $434,259 = 71 47% Rank: 36

United Technologies Corporation Formed: 1979–80
Total Spent, 1993=94: $263,300
Total Spent, 1995–96: $450,078
Difference: $186,778 = 70 94% Rank: 37

Southwestern Bell Corporation Formed: 1979–80
Total Spent, 1997–98: $961,990
Total Spent, 1999–00: $1,642,657
Difference: $680,667 = 70 76% Rank: 38

Lockheed Corporation Formed: 1979–80
Total Spent, 1991–92: $422,512
Total Spent, 1993=94: $708,346
Difference: $285,834 = 67 65% Rank: 39

Union Pacific Corporation Formed: 1979–80
Total Spent, 1985–86: $296,938
Total Spent, 1987–88: $495,482
Difference: $198,544 = 66 86% Rank: 40

Household Finance Corporation Formed: 1979–80
Total Spent, 1989–90: $270,795
Total Spent, 1991–92: $444,889
Difference: $174,094 = 64 29% Rank: 41

Sierra Club (environmentalist) Formed: 1979–80
Total Spent, 1997–98: $441,208
Total Spent, 1999–00: $721,429
Difference: $280,221 = 63 51% Rank: 42

Westinghouse Electric Corp. Formed: 1979–80
Total Spent, 1987–88: $264,890
Total Spent, 1989–90: $431,697
Difference: $166,807 = 62 97% Rank: 43

American Telephone & Telegraph Co. Formed: 1983–84
Total Spent, 1985–86: $1,744,301
Total Spent, 1987–88: $2,841,464
Difference: $1,097,163 = 62 90% Rank: 44

General Motors Corporation Formed: 1979–80
Total Spent, 1993=94: $477,782
Total Spent, 1995–96: $777,521
Difference: $299,739 = 62 74% Rank: 45

Keycorp Formed: 1979–80
Total Spent, 1995–96: $376,200
Total Spent, 1997–98: $611,975
Difference: $235,775 = 62 67% Rank: 46

Union Pacific Corporation Formed: 1979–80
Total Spent, 1989–90: $731,974
Total Spent, 1991–92: $1,188,407
Difference: $456,433 = 62 36% Rank: 47

Sierra Club (environmentalist) Formed: 1979–80
Total Spent, 1987–88: $299,891
Total Spent, 1989–90: $486,795
Difference: $186,904 = 62 32% Rank: 48

Chrysler / Gulfstream Aerospace Corp. Formed: 1979–80
Total Spent, 1993=94: $417,015
Total Spent, 1995–96: $659,369
Difference: $242,354 = 58 12% Rank: 49

Pfizer, Inc. Formed: 1979–80
Total Spent, 1997–98: $536,471
Total Spent, 1999–00: $844,132
Difference: $307,661 = 57 35% Rank: 50

Chase Manhattan Bank Formed: 1979–80
Total Spent, 1989–90: $269,299
Total Spent, 1991–92: $423,632
Difference: $154,333 = 57 31% Rank: 51

Sierra Club (environmentalist) Formed: 1979–80
Total Spent, 1993=94: $431,725
Total Spent, 1995–96: $677,883
Difference: $246,158 = 57 02% Rank: 52

Banc One Corporation Formed: 1979–80
Total Spent, 1989–90: $269,833
Total Spent, 1991–92: $421,467
Difference: $151,634 = 56 20% Rank: 53

Raytheon Company Formed: 1979–80
Total Spent, 1995–96: $385,863
Total Spent, 1997–98: $601,994
Difference: $216,131 = 56 01% Rank: 54

Eli Lilly & Company Formed: 1979–80
Total Spent, 1997–98: $700,580
Total Spent, 1999–00: $1,089,599
Difference: $389,019 = 55 53% Rank: 55

Chrysler / Gulfstream Aerospace Corp. Formed: 1979–80
Total Spent, 1995–96: $659,369
Total Spent, 1997–98: $1,021,714
Difference: $362,345 = 54 95% Rank: 56

Amsouth Bancorporation Formed: 1983–84
Total Spent, 1997–98: $304,524
Total Spent, 1999–00: $470,782
Difference: $166,258 = 54 60% Rank: 57

Glaxo, Inc. Formed: 1985–86
Total Spent, 1997–98: $716,634
Total Spent, 1999–00: $1,104,801
Difference: $388,167 = 54 17% Rank: 58

Crawford Group / Enterprise Leasing Formed: 1987–88
Total Spent, 1993=94: $253,769
Total Spent, 1995–96: $391,094
Difference: $137,325 = 54 11% Rank: 59

Associates Corp. (Ford Motor Co.) Formed: 1989–90
Total Spent, 1995–96: $342,269
Total Spent, 1997–98: $526,937
Difference: $184,668 = 53 95% Rank: 60

Morgan Stanley & Company, Inc. Formed: 1979–80
Total Spent, 1985–86: $303,919
Total Spent, 1987–88: $465,992
Difference: $162,073 = 53 33% Rank: 61

Houston Industries, Inc. Formed: 1979–80
Total Spent, 1995–96: $470,646
Total Spent, 1997–98: $720,544
Difference: $249,898 = 53 10% Rank: 62

Outback Steakhouse, Inc. Formed: 1991–92
Total Spent, 1997–98: $636,741
Total Spent, 1999–00: $974,275
Difference: $337,534 = 53 01% Rank: 63

Household Finance Corporation Formed: 1979–80
Total Spent, 1997–98: $512,016
Total Spent, 1999–00: $782,819
Difference: $270,803 = 52 89% Rank: 64

General Motors Corp. / Hughes Aircraft Formed: 1979–80
Total Spent, 1985–86: $271,290
Total Spent, 1987–88: $412,181
Difference: $140,891 = 51 93% Rank: 65

American Airlines Formed: 1979–80
Total Spent, 1991–92: $282,647
Total Spent, 1993=94: $426,852
Difference: $144,205 = 51 02% Rank: 66

Cooper Industries, Inc. Formed: 1979–80
Total Spent, 1989–90: $264,213
Total Spent, 1991–92: $397,960
Difference: $133,747 = 50 62% Rank: 67

Flowers Industries, Inc. Formed: 1979–80
Total Spent, 1993=94: $254,819
Total Spent, 1995–96: $383,269
Difference: $128,450 = 50 41% Rank: 68

Source: Computer analysis by Sunshine Press Services of Federal Election Commission data,
Jan. 1, 1979through Dec. 31, 2000.

APPENDIX B: Publication List

The news organizations listed below have published news reports or commentary
by Edward Roeder

Daily Newspapers
Albuquerque Journal
Arizona Republic
Arkansas Gazette-Democrat
Atlanta Constitution *
Austin American-Statesman
Baltimore Sun *
Boston Globe *
Chicago Sun-Times *
Chicago Tribune *
Cleveland Plain Dealer
Dallas Morning News
Denver Post
Deseret News
Detroit Free Press*
Detroit News *
Florida Today
Fort Lauderdale News & Sun-Sentinel
Greensboro News & Record *
Kansas City Star
Los Angeles Times
Louisville Courier-Journal *
Miami Herald *
Nashville Tennessean
New Orleans Times-Picayune
New York Daily News
New York Newsday
New York Times *
Orlando Sentinel *
Philadelphia Inquirer *
Portland Oregonian
Providence Journal
Richmond Times-Dispatch
Sacramento Bee *
San Jose Mercury News
Seattle Post-Intelligencer
Seattle Times *
St. Louis Post-Dispatch *
St. Petersburg Times *
Tampa Tribune
USA Today
Washington Post *
Washington Times
Articles ran on page 1 or led Sunday section

Periodicals
American Banker *
Capital Style
Conservative Digest *
Free Inquiry *
Monthly Business Review *
Ms. *
New Republic *
New Times *
Newsweek
Playboy *
Politics Today *
Rolling Stone *
Saturday Review *
Sierra *
Space Business International *
The Nation *
Time

Village Voice *
Washington Monthly *
Washingtonian *
Bylined feature magazine articles
Broadcast
ABC News (TV) *
CBS News (TV) *
CNN *
Canadian Broadcast'g Co. (Radio) *
KABC–TV (Hollywood, CA) *
National Public Radio *
Nightline (ABC News-TV) *
NBC News (TV & Radio)
20–20 (ABC News—TV)
WBAL–TV (Baltimore, MD)
WDIV–TV (Detroit, Mich.) *
WJLA–TV (Washington, DC) *
WJXT–TV (Jacksonville, Fla.) *
WJZ–TV (Baltimore, MD)
WPLG–TV (Miami, Fla.) *
WRC–TV (Washington, DC)
WTVT–TV (Tampa, Fla.) *
WUSA–TV (Washington, DC) *
Paid on-air appearanc(s)

MTC–00030812

BEFORE THE UNITED STATES DEPARTMENT OF JUSTICE

UNITED STATES OF AMERICA, Plaintiff, V. Civil Action No. 98–1232 (CKK) MICROSOFT CORPORATION, Defendant.

STATE OF NEW YORK ex rel.

Attorney General Eliot Spitzer, et al., Plaintiffs, V. Civil Action No. 98–1233 (CKK) MICROSOFT CORPORATION, Defendant.

DECLARATION OF JOSEPH E. STIGLITZ AND JASON FURMAN

TABLE OF CONTENTS

I. QUALIFICATIONS 1
II. PURPOSE 2
III. INTRODUCTION 2
IV. THE MODERN ECONOMIC THEORY OF COMPETITION AND MONOPOLY. 6
A. Acquisition of a monopoly 7
B. Potential for competition 10
C. Consequences of monopoly 12
D. Monopolies and innovation 14
V. FACTS AND LEGAL CONCLUSIONS RELATING TO MICROSOFT 16
A. Monopoly power 16
B. Anticompetitive behavior 17
C. Effectiveness of anticompetitive behavior in maintaining the monopoly 19
VI. OUTLINE OF AN EFFECTIVE CONDUCT REMEDY 20
A. Creating more choices for consumers 22
B. Reducing the applications barrier to entry 23
C. Preventing Microsoft from strengthening its operating system monopoly by bringing new products within its scope 23
VII. ANALYSIS OF THE PROPOSED FINAL JUDGMENT 24
A. Creating more choices for consumers 26
1. Ensuring that OEMs and potentially ISVs have the right to modify fundamental aspects of the computer experience in any way they choose 27
2. Ensuring that OEMs and ISVs have adequate information and technical access to develop applications for, or even modifications to, Windows 29
3. Ensuring that OEMs and ISVs are protected from retaliation by Microsoft for providing alternatives to consumers 31
4. Ensuring that OEMs have financial incentives to make changes that benefit consumers 32
B. Reducing the applications barrier to entry 34
1. Middleware and the applications barrier to entry 34
2. Microsoft Office and the applications barrier to entry 37
C. Preventing Microsoft from strengthening its operating system monopoly by extending it to encompass additional products 38
VIII. STEPS TO IMPROVE THE PROPOSED FINAL JUDGMENT: THE LITIGATING STATES'' ALTERNATIVE 39
A. Fostering competition through OEMs and reducing the applications barrier to entry 40
B. Internet Explorer browser open source and Java distribution 41
C. Cross-platform porting of Office 42
D. Mandatory disclosure to ensure interoperability 42
IX. CONCLUSION 43

I. QUALIFICATIONS

Our names are Joseph Stiglitz and Jason Furman. Dr. Stiglitz is a Professor at Columbia Business School, Columbia's Graduate School of Arts and Sciences (in the Department of Economics), and Columbia's School of International and Public Affairs. In 2001, Dr. Stiglitz was awarded the Nobel Prize in Economic Sciences. In addition, Dr. Stiglitz serves as a Senior Director and Chairman of the Advisory Committee at Sebago Associates, Inc., an economic and public policy consulting firm.

Dr. Stiglitz previously served as the World Bank's Chief Economist and Senior Vice President for Development Economics. Before joining the Bank, he was the Chairman of the President's Council of Economic Advisers. Dr. Stiglitz has also served as a professor of economics at Stanford, Princeton, Yale, and All Souls College, Oxford.

As an academic, Dr. Stiglitz helped create a new branch of economics—''The Economics of Information''—which has received widespread application throughout economics. In the late 1970s and early 1980s, Dr. Stiglitz helped revive interest in the economics of technical change and other factors that contribute to long-run increases in productivity and living standards. Dr. Stiglitz is also a leading scholar of competition policy.

In 1979, the American Economic Association awarded Dr. Stiglitz its biennial John Bates Clark Award, given to the economist under 40 who has made the most significant contributions to economics. His work has also been recognized through his election as a fellow to the National Academy of Sciences, the American Academy of Arts and Sciences, and the American Philosophical Society, as well as his election as a corresponding fellow of the British Academy. He has also been awarded several honorary doctorates.

Jason Furman is a Lecturer in economics at Yale University. In addition, Mr. Furman is a Director at Sebago Associates. Mr. Furman previously served as Special Assistant to the President for Economic Policy at the White House, where his responsibilities included tax policy, the Federal budget, Social Security, anti-poverty programs, and other economic policy issues.

II. PURPOSE

This Declaration was commissioned by the Computer & Communications Industry Association (CCIA) as an independent analysis of the competitive effects of the Proposed Final Judgment. The views and opinions expressed in this Declaration are solely those of the authors based on their own detailed study of the relevant economic theory and court documents; they do not necessarily reflect the views and opinions of CCIA. In addition, the views and opinion expressed in this Declaration should not be attributed to any of the organizations with which the authors are or have previously been associated.

III. INTRODUCTION

Competition is the defining characteristic of a market economy. It provides the incentive to produce new products that consumers want, to improve efficiency and lower the costs of production, and to pass on these innovations in the form of lower prices for consumers. In a competitive market, a firm that does not act in the best interests of consumers will be punished and, ultimately, will fail. But when competition is imperfect—or when it is nonexistent as in the limiting case of monopoly—the incentives to undertake these beneficial actions may be attenuated. In fact, a firm may even face incentives to behave in ways which do not serve the interests of consumers or the economy more generally. Monopoly power may lead a firm to underinvest in innovation, misdirect its investments, or undertake other activities in order to stifle competition rather than to improve products. Costs of production may be excessive because the monopolist has insufficient incentives for efficiency, has incentives to undertake costly measures to deter competition, or undertakes measures to raise rivals'' costs. And consumers will face higher prices and fewer choices in the short run; in the long run, the losses to consumers may be even more severe.

In a unanimous decision, the full Court of Appeals for the DC Circuit upheld the District Court finding that Microsoft was guilty of violating § 2 of the Sherman Act through its illegal maintenance of a monopoly in the market for Intel-compatible personal computer (PC) operating systems.[1] The Court of Appeals also affirmed numerous findings of fact concerning the consequences of this illegal monopolization for misdirecting innovation, raising rivals'' costs, and limiting consumer choice.

The desire to maintain this monopoly, even against potentially superior products, creates a powerful incentive for Microsoft to eliminate or weaken competition that could erode or even eliminate its monopoly. In the mid-1990s, the principal threat to Microsoft's Windows operating system came from the development of the Netscape browser and Java technologies,[2] which allowed programmers to write applications to Netscape and Java, meaning that such programs would then work on any operating system that would run Netscape or Java. By reducing or even eliminating the cost of producing applications for different operating systems, these technological rivals reduced the barriers to entry for a new operating system and threatened, over the longer run, to erode Microsoft's monopoly in Intel-compatible PC operating systems by allowing competitors to provide superior products at a lower cost.

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[1] United States v. Microsoft Corp., 253 F.3d 34 (DC Cir. 2001).

[2] ''The Java technologies include: (1) a programming language; (2) a set of programs written

Microsoft's conduct has effectively eliminated the threat posed by Netscape and Java. Given ongoing rapid technological progress, it is impossible to predict with certainty where the next challenge to Microsoft Windows will come from. The experience in this area, however, suggests that it is likely to come from rivalry at the borders of operating systems, in particular from "middleware" that makes it possible for programmers to write to the "middleware" rather than to the underlying operating system. One such example comes from the increasingly important area of multimedia: streaming media players. Whether the next challenge to Microsoft's operating systems monopoly comes from a multimedia package or another technology, Microsoft will continue to have the same incentives and ability to stifle competition as it displayed against Netscape and Java in the mid-1990s.

The principal goal of any remedy for Microsoft's illegal behavior in this case should be to foster competition and expand choices for consumers. The key to achieving this goal is changing Microsoft's incentives and taking steps to increase competition. A structural remedy, such as splitting up the company, would most directly alter incentives. Where such structural changes are not possible, the remedy should prohibit and regulate the conduct that Microsoft has used in the past and will have an incentive to use in the future to eliminate threats from "middleware" products that threaten to limit its monopoly power by usurping some, and perhaps eventually all, of the important functions of the Windows operating system.

The Revised Proposed Final Judgment (PFJ) of November 6, 2001 does not change Microsoft's incentives to undertake anticompetitive acts to stifle consumer choice by thwarting potentially superior products.[3] Furthermore, the PFJ provides few effective prohibitions against future anticompetitive conduct: It alternatively ratifies Microsoft's existing conduct, contains sufficient loopholes to allow Microsoft to circumvent the legislation, and suffers from toothless enforcement procedures that would allow Microsoft to reap the fruits of its monopoly for a significant, and potentially even indefinite, period. In our view, the PFJ would leave intact Microsoft's ability to maintain, and benefit from, its Windows operating system monopoly, while allowing it to continue to limit choices for consumers and stifle innovation.

The PFJ does not even accomplish the limited remedial goals articulated in the U.S. Department of Justice's Competitive Impact Statement (CIS).[4] Specifically, in addition to its loopholes and its inadequate enforcement mechanism, the PFJ is entirely silent on several key findings of the Court of Appeals, including the commingling of applications and operating systems code, the pollution of Java, and the applications barrier to entry more broadly.

The PFJ should be rejected and replaced with a remedy that changes Microsoft's incentives to unfetter the market for competition. At a minimum, a remedy in this case needs to restrain Microsoft's conduct, by restricting the means through which Microsoft can illegally maintain and benefit from its monopoly.

The goal of this Declaration is to analyze the PFJ. It does not propose a detailed alternative remedy. It is important to note, however, that the proposal by the litigating States, while imperfect, is clearly superior to the PFJ in all of these regards. We do not address more aggressive remedies—such as structural changes to break up Microsoft or impose more extensive limitations on its intellectual property rights—but we note that such broader measures may well be necessary and desirable in order to alter Microsoft's incentives for anti-competitive behavior.[5] We are convinced, however, that the PFJ fails to meet the minimum requirement of an acceptable remedy—that is, it is unlikely to substantially increase competition in the relevant market.

The remainder of this Declaration contains five sections. First, it presents a brief discussion of the modem theory of competition, focusing on its relation to innovation. Second, it summarizes the relevant facts and legal conclusions relating to Microsoft. Third, it outlines what an effective remedy in this case should entail. Fourth, it examines the PFJ and highlights its deficiencies in comparison to this effective remedy. Finally, the paper concludes with a brief discussion of practical measures that could provide a more effective remedy.

IV. THE MODERN ECONOMIC THEORY OF COMPETITION AND MONOPOLY

This section presents a brief overview of the modem economic theory of competition and monopoly. The theory of competition has evolved rapidly in the last few decades, due in part to the natural evolution of economic thought and in part to the issues raised by the "new economy" (such as the importance of network effects and rapid innovation). Given the vast literature on the topic, this discussion is necessarily selective and focuses on the most relevant issues for Microsoft's monopoly of the market for operating systems for Intel-compatible PCs. This theoretical background motivates the conclusions about the PFJ.

A. Acquisition of a monopoly

The traditional view of monopoly is that in specific industries, like public utilities, increasing returns to scale create a situation in which luck or initial success will eventually lead to one firm that can maintain its monopoly by controlling an entire market and thus benefiting from the lower average costs of production that result from the larger scale of production. This aspect of the traditional view is still salient in the software market. Producing a software program has high fixed costs in the form of investments in research and development but, once this investment has been made, virtually no marginal cost from producing additional units. As a result, the larger the scale of production, the lower the average cost. By itself, these increasing returns to scale will provide a powerful force for consolidation.

The modem view of monopoly has added an additional effect that can strengthen the advantages enjoyed by the lucky or initially successful firm: network effects.[6] Network effects arise when the desirability of a product depends not just on the characteristics of the product itself but also on how many other people are using it.

Network externalities may be direct: as a user of Microsoft Word, I benefit when many other people also use the program because it is easier to share Word files. Network externalities may also be indirect: I am more likely to purchase a computer and operating system if I know that more software choices are currently available (and will be available in the future) for this system. An operating system with a larger set of existing (and expected) compatible applications will be more desirable. This indirect network effect has been called the "applications barrier to entry."[7] The main reason that consumers demand a particular operating system is its ability to run the applications that they want. In developing applications, Independent Software Vendors (ISVs) incur substantial sunk costs and thus face increasing returns to scale. This motivates ISVs to first write to the operating system with the largest installed base. Because "porting" an application to a different operating system will result in substantial additional fixed costs, a firm will have less incentive to produce the application for operating systems with a smaller installed base, and may do so with a delay or forgo porting completely.

The applications barrier to entry can skew competition for an extended period of time and ensure that any monopoly power, once established, will tend to persist. In choosing

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in that language, called the 'Java class libraries,' which expose APIs; (3) a compiler, which translates code written by a developer into 'bytecode'; and (4) a Java Virtual Machine ('JVM'), which translates bytecode into instructions to the operating system." See 253 F.3d at 74, citing Findings of Fact ¶73, United States v. Microsoft Corp., 84 F. Supp. 2d 9, 29 (D.DC 1999).

[3] United States v. Microsoft Corp., Revised Proposed Final Judgment, in the U.S. District Court for D.C, November 6, 2001.

[4] U.S. Department of Justice (November 15, 2001), Competitive Impact Statement in United States vs. Microsoft Corp.

[5] Restrictions on intellectual property rights have been used as a remedy in past antitrust cases, for example IBM's 1956 tabulating machines case, in a manner that is both effective and largely without adverse effects.

[6] For an overall survey, see Michael Katz and Carl Shapiro (1994), "Systems Competition and Network Effects." Journal of Economic Perspectives, 8:2, 93–115. For a specific application to Microsoft, see Timothy Bresnahan (2001), "The Economics of the Microsoft Case." Mimeo available at http://www.stanford.edu/tbres/Microsoft/The Economics of The Microsoft Case.pdf.

[7] Franklin Fisher, "Direct Testimony of Franklin Fisher" in United States v. Microsoft Corp.

a PC and an operating system, consumers make a large fixed investment. In addition, because a considerable amount of learning is associated with the use of operating systems and associated applications, and because files created under one applications software program may not be easily or perfectly transferable to others, there are large costs associated with switching. As a result, consumers will evaluate, among other factors, the current existence of compatible applications and the likely number of future compatible applications.[8] The current number of compatible applications is likely to depend directly on the past and current market share of the operating system. A consumer's reasonable evaluation of the prospects for the continued support of his or her favorite applications and the development of new applications is also likely to be based on current market share. As a result, increased market share indirectly increases the desirability of an operating system.

Empirically, this applications barrier to entry is dramatic. At its peak in the mid-1990s, IBM's operating system, OS/2 Warp, had 10 percent of the market for operating systems for Intel-compatible PCs and ran approximately 2,500 applications. In contrast, Windows supported over 70,000 applications.[9] Establishing a new operating system that effectively competes head-to-head with Windows would require the hugely expensive task of attracting ISVs to port thousands or even tens of thousands of programs to the new operating system, a process with a substantial fixed cost and, in the absence of a large guaranteed market, little scope to benefit from economies of scale. Particularly important to the applications barrier to entry is the availability of applications providing key functionalities, such as office productivity. Microsoft's dominance in this area, and its choice about whether or not to port its Microsoft Office program to alternative operating systems, can add a new and even higher level to the applications barrier to entry.

With this barrier to entry, a monopoly once established may be hard to dislodge. Anticompetitive practices early in the competitive struggle can lead to a market dominance that can persist, even if the anticompetitive practices which gave rise to the monopoly position are subsequently prohibited. These hysteresis effects are reinforced by switching costs. Learning a language or a program interface may involve significant costs. Users must therefore be convinced that an alternative program is substantially superior if they are to be induced to incur the learning and other costs associated with switching to an alternative product. These "lock in" effects make it more difficult to dislodge a firm that has established a dominant position, even when it is technically inferior to rivals.

This perspective has two important policy implications. First, it is imperative to address anticompetitive practices as quickly as possible. Delay is not only costly, but it impedes the restoration of competition even in the longer run. Second, prohibiting the practices that gave rise to the monopoly may not suffice to restore competition. Stronger conduct, and possibly structural, remedies may be required.

B. Potential for competition

In the most simplistic view, a monopoly once attained is permanent. Increasing returns to scale and network externalities make the monopolist impregnable—any new entrant can be priced out of business by the monopolist—which can then go back to charging the monopoly price for the product.

In contrast to this simplistic static view, the economist Joseph Schumpeter presented a dynamic vision of technological change giving rise to a series of temporary monopolies. In his vision, the most successful firm in a winner-take-all contest would become a temporary monopolist, benefiting from the rents that this monopoly confers—a process necessary to justify incurring the sunk costs in research and development required to obtain the monopoly in the first place. But, in the Schumpeterian vision, this monopoly would eventually be toppled by entry as a newly innovative entrant displaced the monopolist with a superior product, thus reaping the benefits of increasing returns to scale and network externalities.[10]

The real world likely lies somewhere between these two views. A monopoly is not a fixed part of the economic landscape. But the downfall of a monopoly is not inevitable. In fact, more recent economic research strongly indicates that Schumpeter's conclusion was wrong; when restraints on anticompetitive conduct are absent, a monopoly can take steps to ensure that it is likely to be perpetuated.[11] These steps can suppress the overall level of innovation and have other high social costs.[12] Significant network effects combined with switching costs, as discussed above, represent one way in which a firm can perpetuate its market power.

Understanding this point is central to understanding what motivated the actions of Microsoft in promoting Internet Explorer and restraining Netscape and Java, and also to understanding the motivations of a conduct remedy to improve competition. Network externalities are not a "fixed factor" in the economic landscape. They depend, at least in part, on decisions by the monopolist. A monopolist has substantial resources at its disposal to strengthen barriers to entry and thus to maintain and strengthen its monopoly power. Exclusionary conduct by the monopoly can be used to prevent a reduction in the barriers to entry or even affirmatively to raise them even higher. Java and Netscape would have reduced the monopoly power of Windows by allowing a greater variety of programs to function on a greater variety of operating systems. The social benefits from such innovation were likely significant, but Microsoft would have experienced significant losses from the innovation through the erosion of its monopoly power.

Similarly, this same point can provide the rationale for structural or conduct remedies that can potentially reduce barriers to entry and thus increase competition in part, or all, of the market. The fundamental idea is that Microsoft acted as it did because it was afraid that Netscape and Java would reduce the applications barrier to entry and thus undermine its operating systems monopoly. By preventing this anticompetitive behavior, and indeed promoting competition, a conduct remedy could have precisely the opposite effect, creating the conditions for the dynamic, innovative Schumpeterian competition that would otherwise be absent in this market. In understanding the monopoly in the operating systems market, and how it fits into the overall PC platform, it is useful to introduce some issues specific to this area. Timothy Bresnahan, a Professor of Economics at Stanford University and a former Deputy Assistant Attorney General and Chief Economist at the U.S. Department of Justice Antitrust Division, formulated the concept of "Divided Technical Leadership."[13] The concept is that although each aspect of the platform is dominated by a single company, different companies dominate different "layers" of the platform: "At one stage, all of IBM and Compaq (computer), Microsoft (OS), Intel (CPU), Netware (networking OS), WordPerfect and Lotus (near-universal applications) participated in technological leadership of the PC platform."[14] In a situation of divided technical leadership, according to Bresnahan, competition comes from two sources: "(1) firms in one layer encouraging entry and epochal change in another layer and (2) rivalry at layer boundaries."[15] To the degree that divided technical leadership is absent, because for example Microsoft controls many of the layers (operating system, office applications, networking, browsers, etc.), competition will be restricted. Any measures to facilitate divided technical leadership, even if they leave the monopoly at any given layer intact, will facilitate competition and thereby benefit consumers in the form of greater innovation, more choices, and lower prices.

C. Consequences of monopoly

Traditional economic theory suggests that the principal consequence of a monopoly is to raise prices and restrict production. This combination has two consequences. First, higher prices allow the monopolist to capture some of the surplus previously enjoyed by consumers. Second, restricted production results in a deadweight loss for society, the so-called "Harberger triangle," to the extent that the value placed on the forgone consumption by consumers exceeds its cost to producers.[16]

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[8] Nicholas Economides (1996), "The Economics of Networks." International Journal of Industrial Organization, 14:2.

[9] Findings of Fact, ¶40 and ¶46, 84 F. Supp. 2d at 20, 22.

[10] Joseph Schumpeter (1942 / 1984), Capitalism, Socialism and Democracy. Harper Collins, New York.

[11] See, among other references, Richard Gilbert and David Newbery (1980), "Preemptive Patenting and the Persistence of Monopoly." American Economic Review 72(3), pp. 514–526 and Partha Dasgupta and Joseph Stiglitz (1980), "Uncertainty, Market Structure and the Speed of R&D," Bell Journal of Economics, 11 (1), pp. 1–28.

[12] Joseph Stiglitz (1987). "Technological Change, Sunk Costs, and Competition." Brookings Papers on Economic Activity, 3, pp. 883–937.

[13] Timothy Bresnahan and Shane Greenstein (1999), "Technological Competition and the Structure of the Computer Industry." Journal of Industrial Economics, 47(1): pp. 1–40 and Bresnahan (2001).

[14] Bresnahan (2001), p. 5.

[15] Bresnahan (2001), p. 6.

Over the last few decades, economists have substantially enhanced this traditional theory and explored other ways in which market power imposes social costs. The modem view is that when competition is imperfect, firms try to maintain and extend their market power by taking actions to restrict competition. In the world of perfect competition, the source of success for firms is producing innovations that benefit consumers and reduce prices. In the world of imperfect competition, an additional—and perhaps paramount—source of success is the effort to reap monopoly profits, capture rents, deter entry into the market, restrict competition, and raise rivals" costs.[17]

Under the new view, the social costs of monopolies go well beyond the "Harberger triangles" that result from higher prices and restricted output. In fact, even if the monopolist is not currently restricting output, the steps taken to maintain the monopoly will result in substantial economic inefficiencies and costs to society. These costs may be far larger than the monopoly profits and far larger than the Harberger triangles. These social losses reflect higher costs of production (both for the firm and its rival), limited or distorted investment in innovation, a restricted set of potentially inferior choices for consumers, and, in the long run, higher prices.

D. Monopolies and innovation

The information technology industry is characterized by a rapid rate of technological change. As the modem theory of competition and monopoly underscores, it is important to focus not just on the static issues that affect consumers today, but also on how the mixture of monopoly, competition, and the intellectual property regime affects the pace and direction of innovation. Schumpeter emphasized that monopolies would provide both the incentives and the means for innovation. According to Schumpeter, the fear of losing monopoly rents would drive a monopolist to continue innovating and these monopoly rents—or the promise of further monopoly rents in the future—would provide the financing for these innovations. Schumpeter's vision contains elements of truth: the threat of competition may induce monopolists to invest more in innovation than it otherwise might. But the pace of innovation may be even higher if the incumbent's monopoly power were curtailed. Monopoly power could lower the pace of innovation for four reasons.

First, previous innovations are inputs into any subsequent innovation. Monopoly power can be thought of as increasing the cost of one of the central inputs into follow-on innovations. Standard economic theory predicts that as the cost of inputs into any activity increases, the level of that activity falls.

Second, with more substantial barriers to entry, the threat of Schumpeterian competition and therefore the incentives to innovate are diminished. In the extreme case, if a monopoly could ensure that there were no threat of competition, it would no longer have to innovate. A monopolist's anticompetitive actions to raise barriers to entry will reduce its future incentives to innovate; similarly measures that increase competition will increase the Schumpeterian incentive.

Third, innovation itself may be misdirected in order to secure a monopoly by deterring entry and raising rivals" costs. In operating systems, for example, the development of alternative proprietary standards and the construction of non-interoperable middleware are examples of innovations that could potentially strengthen monopoly power.

Fourth, the incentives of a monopoly to innovate are limited.[18] Since a monopolist produces less than the socially optimal output, the savings from a reduction in the cost of production are less than in a competitive market. Also, a monopolist's incentives to undertake research will not lead it to the socially efficient level. Rather, its concern is only how fast it must innovate in order to stave off the competition—a level of innovation that may be markedly lower than socially optimal. Consider, for example, a simple patent race in which a monopoly incumbent can observe the position (at least partially) of potential rivals. The monopolist's incentive is to move out in front of the potential rivals by just enough to convince them that they cannot beat the monopolist. Given those beliefs, the rivals do not engage in research, and the monopolist can then slow down its research to a lower level (since it no longer faces a viable threat).

In short, monopolization not only harms consumers by raising prices and reducing output in the short run, but may reduce innovation in the long run. These long-run harms, which are especially important in innovative industries, may substantially exceed the short-run costs to consumers.

V. FACTS AND LEGAL CONCLUSIONS RELATING TO MICROSOFT

In its decision, the Court of Appeals affirmed the District Court's overall judgment, albeit on a narrowed factual and legal basis. The Court of Appeals concluded that "Microsoft violated § 2 of the Sherman Act by employing anticompetitive means to maintain a monopoly in the operating system market."[19] In addition, the Court of Appeals overturned the lower court's judgment that Microsoft violated § 2 of the Sherman Act by attempting to monopolize the web browser market. The Court of Appeals remanded the decision on whether the tying of Internet Explorer to Windows violated § 1 of the Sherman Act and indicated that tying should be evaluated under the rule of reason, rather than under a per se rule; the U.S. Department of Justice chose not pursue this issue further. The Court of Appeals also vacated the District Court's Final Judgment, in part because of the narrowed scope of the judgment on the conclusions of law.

The current task in this case is to develop a remedy that addresses the central finding of the Court of Appeals: the monopolization of the operating systems market. This judgment was based on findings of fact and conclusions of law in three areas: Microsoft has monopoly power in the relevant market, Microsoft behaved anticompetitively, and Microsoft's anticompetitive behavior contributed to the maintenance of its monopoly. These are briefly discussed in turn.

A. Monopoly power

Monopoly power is the power to set prices without regard to competition. It can be inferred by the combination of market share in the relevant market and significant barriers to entry. The District Court found that Microsoft's share of the worldwide market for Intel-compatible PC operating systems exceeded 90 percent in every year of the 1990s and has risen to more than 95 percent in recent years. Microsoft did not dispute these facts, but instead argued that the relevant market was broader and should include all platform software (e.g., servers, handheld devices, Macintosh computers, etc.). The Court of Appeals, however, rejected Microsoft's attempt to broaden the definition of the market, agreeing with the District Court that these other platforms were not "reasonably interchangeable by consumers for the same purposes."[20]

In addition, the Court of Appeals affirmed the finding that Microsoft's dominant market share was likely to persist. This conclusion was based on the substantial barriers to entry, including increasing returns to scale and the applications barrier to entry discussed above. As a result, according to the Court of Appeals, "Because the applications barrier to entry protects a dominant operating system irrespective of quality, it gives Microsoft the power to stave off even superior new rivals. The barrier is thus a characteristic of the operating systems market, not of Microsoft's popularity."[21]

B. Anticompetitive behavior

The Court of Appeals found numerous instances where Microsoft behaved anticompetitively through exclusionary conduct that harmed consumers, had an anticompetitive effect, and had either no "procompetitive justification" or an insufficient "procompetitive justification" to outweigh the harm. These actions, according to the Court of Appeals, had the intention and effect of preserving or increasing the applications barrier to entry. The Court of Appeals upheld most of the general categories of anticompetitive behavior originally found by the District Court, but overturned some of the District Court's specific findings in these areas. The key instances of this anticompetitive behavior found by the Court of Appeals include:

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[16] Arnold Harberger (1954), "Monopoly and Resource Allocation," AEA Papers and Proceedings, 44: 77–87.

[17] Partha Dasgupta and Joseph Stiglitz (1988), "Potential Competition, Actual Competition and Economic Welfare." European Economic Review, 32: 569–577. For an extended discussion and additional references see Joseph Stiglitz (1994), Whither Socialism, MIT Press, Cambridge.

[18] Kenneth Arrow (1962), "Economic Welfare and the Allocation of Resources for Invention." In The Rate and Direction of Inventive Activity, Princeton University Press, Princeton: pp. 609–625.

[19] 253 F.3d at 46

[20] 253 F.3d at 52, quoting United States v. E.I. du Pont de Nemours & Co., 351 U.S. 377, 395 (1956).

[21] 253 F.3d at 56.

- Restrictive Licenses to Original Equipment Manufacturers (OEMs).[22] Microsoft's Windows license placed restrictions on OEMs that limited their ability to change the look of the Windows desktop, the placement or removal of icons for browsers, or the initial boot sequence. The result was to increase the user share of Internet Explorer, not because of its merits, but because Microsoft limited the crucial OEM channel of distribution for Explorer's chief rival, Netscape.
- Integration of Internet Explorer into Windows.[23] Microsoft discouraged OEMs from installing other browsers and deterred consumers from using them by not including Internet Explorer in the Add/Remove programs list for Windows 98 and commingling the operating system and browser code.
- Agreements with Internet Access Providers (IAPs).[24] Microsoft engaged in exclusionary conduct to restrict the second main distribution channel for Netscape by offering IAPs, including America Online, the opportunity to be prominently featured in Windows in exchange for using the Internet Explorer browser exclusively.
- Dealings with ISVs and Apple.[25] Microsoft further restricted additional outlets for Netscape by providing ISVs with preferential access to information about forthcoming releases of Windows 98 in exchange for their writing to Internet Explorer rather than Netscape. In addition, Microsoft negotiated with Apple to restrict the ability of Macintosh consumers to use Netscape in exchange for continuing to develop and support Microsoft Office for the Macintosh operating system.
- Polluting Java. The Court of Appeals also found that much of Microsoft's behavior visa-vis Java was an attempt to limit a threat to its operating system monopoly rather than benefit consumers. These illegal actions included entering into contracts requiring ISVs to write exclusively to Microsoft's Java Virtual Machine, misleading ISVs into thinking that Microsoft's Java tools were cross-platform compatible, and forcing Intel to terminate its work with Sun Microsystems on Java.[26]

C. Effectiveness of anticompetitive behavior in maintaining the monopoly

Finally, the Court of Appeals found that Microsoft's anticompetitive efforts to increase usage of Internet Explorer and Microsoft's Java Virtual Machine at the expense of Netscape and Sun's Java had the effect of increasing the applications barrier to entry and thus helping to maintain Microsoft's monopoly of the market for operating systems for Intel-compatible PCs. This finding is the crucial link to the economics of the case; a monopoly is neither automatically permanent nor automatically transient. Rather, its persistence depends, in part, on the barriers to entry which, in turn, depend on the actions of the monopolist and the regulation of the government. This finding is also crucial to the development of proposed remedies.

Specifically, the Court of Appeals found that although neither Netscape nor Java posed an imminent threat of completely replacing all the functions of the operating system (and thus should be excluded from the definition of the relevant market for the test of monopoly power), they did pose a nascent threat to Microsoft's future dominance of the operating system market. Though not part of the "operating systems market," they clearly affected the nature of competition in this market. Both Netscape and Java established Applications Programming Interfaces (APIs) that allowed developers to write some programs to Netscape and Java. These programs would then be able to run on any operating system that runs Netscape or Java. The result would be, at least in one segment of applications, a dramatic reduction in the applications barrier to entry. No longer would software developers have to incur additional costs to run on additional operating systems. As a result, Netscape and Java had the potential to act as a crucial level of "middleware" between the operating system and the programs, and eventually could "commoditize the underlying operating system," to use the memorable words of then-Microsoft Chairman and CEO Bill Gates in an internal memo.[27]

The Court of Appeals wrote:

> We may infer causation when exclusionary conduct is aimed at producers of nascent competitive technologies as well as when it is aimed at producers of established substitutes... the question in this case is not whether Java or Navigator would actually have developed into viable platform substitutes, but (1) whether as a general matter the exclusion of nascent threats is the type of conduct that is reasonably capable of contributing significantly to a defendant's continued monopoly power and (2) whether Java and Navigator reasonably constituted nascent threats at the time Microsoft engaged in the anticompetitive conduct at issue."[28]

The court answered in the affirmative on both issues.

VI. OUTLINE OF AN EFFECTIVE CONDUCT REMEDY

The Court of Appeals was clear that the District Court has "broad discretion" to fashion a remedy that is "tailored to fit the wrong creating the occasion for the remedy."[29] In the CIS, the Department of Justice appears to take a minimal view of the goals of a remedy, writing that it should "eliminate Microsoft's illegal practices, prevent recurrence of the same or similar practices, and restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings."[30] We believe that the PFJ fails even within the narrow terms that the Department of Justice set for itself.

The Court of Appeals appears to provide guidance for a broader remedy, quoting the Supreme Court in saying that the role of a remedies decree in an antitrust case is to "unfetter a market from anticompetitive conduct" and "terminate the illegal monopoly, deny the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future."[31]

One type of potential remedy, imposed by the District Court but vacated by the Court of Appeals, is structural. Such a structural remedy would involve breaking Microsoft into two or more companies with the goal of establishing a new set of incentives that foster competition. Although potentially disruptive in the short run, the goal of a structural remedy is to terminate the monopoly and create the structural conditions to prevent it from re-emerging, without requiring ongoing regulation or supervision by the court or the government. Such structural remedies are particularly suitable when there have been a wide variety of anticompetitive practices in the past and when changing market conditions (such as innovation) provide opportunities for new types of anticompetitive conduct in the future. Structural remedies have the further advantage of fundamentally altering incentives.

A second type of potential remedy relates to conduct or licensing, seeking to prevent anticompetitive conduct and foster competition. A conduct remedy has the advantage of avoiding the dramatic and potentially deleterious changes associated with a structural remedy, but suffers from the defect that it is necessarily complicated and requires at least some involvement of the court and the government in regulating private enterprise. Ideally, a conduct remedy would also be structured to affect incentives: in particular, such a remedy should raise the costs of acting in an exclusionary manner.

The remainder of this section discusses an outline of the elements of an effective conduct remedy that seeks to achieve three goals: creating more choices for consumers, reducing the applications barrier to entry, and preventing Microsoft from strengthening its operating systems monopoly by bringing new products within its scope.

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[22] The Court of Appeals narrowed the scope of this anticompetitive behavior slightly, rejecting the District Court's finding that Microsoft's restrictions on alternative interfaces was anticompetitive, arguing that the "marginal anticompetitive effect" of Microsoft's license restrictions was outweighed by the alternative, the "drastic alteration of Microsoft's copyrighted work." See 253 F.3d at 63.

[23] The Court of Appeals, however, overruled the District Court in one instance, finding a sufficient justification for the fact that in certain situations Internet Explorer will override user defaults and launch, for example when alternative browsers do not provide the functionality required by Windows Update. See 253 F.3d at 67.

[24] The Court of Appeals found that several inducements offered by Microsoft to encourage IAPs to use Internet Explorer were not anticompetitive. See 253 F.3d at 68.

[25] The Court of Appeals overturned the finding that Microsoft's deals with Internet Content Providers were anticompetitive. See 253 F.3d at 71.

[26] See 253 F.3d at 74–78. The Court of Appeals, however, found a sufficient procompetitive justification for Microsoft's development of its own version of a Java virtual machine. See id. at 74–75.

[27] United States v. Microsoft Corp., Government Exhibit 20.

[28] 253 F.3d at 79.

[29] 253 F.3d at 105, 107.

[30] CIS, p. 3.

[31] 253 F.3d at 103, quoting Ford Motor Co. v. United States, 405 U.S.562, 577 (1972).

A. Creating more choices for consumers

A conduct remedy should empower rival computer companies to modify their own versions of the computer experience to appeal to consumers. Not only will consumers benefit from the greater product choice, but entry and competition may be enhanced as consumers learn how to interact with a variety of interfaces. At a minimum, empowering OEMs and possibly ISVs to create more choices for consumers would involve: (1) the right to modify the desktop, the start menu, or other fundamental aspects of the computer experience so that OEMs can market PCs with alternative overall "looks", different software packages (including supplementing, replacing, or removing Microsoft middleware), and to offer lower-priced options with reduced features; (2) adequate information and technical access to develop applications for, and even modifications to, functionalities included with Windows, which would allow ISVs to develop their own bundle of the Windows operating system plus applications (and/or minus Microsoft middleware) that could be marketed either to OEMs or directly to end users; (3) protection from retaliation by Microsoft for engaging in this conduct; and (4) financial incentives to make changes that benefit consumers.

B. Reducing the applications barrier to entry

The central goal of Microsoft's illegal conduct was to preserve and strengthen the applications barrier to entry so that the Windows operating system continued to be essential to desktop computing. An effective conduct remedy in this case should take steps to reduce the applications barrier to entry, by creating conditions conducive to more competition and by requiring Microsoft to undertake actions that would lower that barrier. Reducing the applications barrier to entry is consistent with the findings of the Court of Appeals and is central to an effective remedy in this case. Although the Court of Appeals rejected or remanded the District Court's findings of liability for tying and for monopolization of the browser market, both of these actions were central to the Court's finding of liability on the § 2 Sherman Act violation for monopolizing the market for operating systems. The Court found that Microsoft used commingling of code and other exclusionary measures to increase the market share for Internet Explorer and reduce the distribution of Netscape and Java in order to strengthen the Windows monopoly.

There are two specific aspects to reducing the applications barrier to entry: (1) encouraging competition in middleware in a manner that makes it easier for developers to write programs that run on a variety of operating systems, and (2) requiring Microsoft to port its dominant applications to alternative operating systems.

C. Preventing Microsoft from strengthening its operating system monopoly by bringing new products within its scope

Microsoft's ability to leverage its Windows monopoly to control other aspects of computing that then reinforce the Windows monopoly is a key part of its strategy of anticompetitive conduct that formed the foundation for the Court of Appeals ruling. To deal with the anticompetitive practices that are "likely to result in monopolization in the future" requires a remedy that addresses not just areas of past misconduct, but emerging areas as well.

The next section compares the actual agreement to these elements.

VII. ANALYSIS OF THE PROPOSED FINAL JUDGMENT

The PFJ fails to fulfill even the minimal goals set by the CIS. It does not address many of the proven illegal practices, including commingling, polluting Java, and strengthening the applications barrier to entry more broadly. Furthermore, in our judgment the PFJ would not "restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings." [32] Nothing in the PFJ would be likely to resuscitate the conditions of greater "divided technical leadership" that prevailed in the mid-1990s when Netscape and Java both presented a serious threat to Microsoft, which Microsoft suppressed through anticompetitive actions.

The PFJ also falls dramatically short of all three elements of the guidelines that appear to have been endorsed by the Court of Appeals for the DC Circuit: it allows Microsoft's illegal monopoly in operating systems to continue and perhaps even be strengthened, it allows Microsoft to keep the fruits of its statutory violation, and it leaves intact all of the incentives and many of the means—for Microsoft to maintain and extend its monopoly in the future, especially in the important emerging areas of web services, multimedia, and hand-held computing.

The main impact of the PFJ is to codify much of Microsoft's existing conduct. Where the agreement limits Microsoft's conduct, there are often sufficient exceptions, loopholes, or alternative actions that Microsoft could undertake to make the initial conduct limits meaningless.

Even where the limits are binding, Microsoft could still flout the conduct restrictions without fear of a timely enforcement mechanism. Because the Technical Committee [33] is essentially advisory and only has expertise in software design, not law and marketing, the only enforcement of the PFJ is through a full legal proceeding—which would provide enough time for Microsoft to inflict irreversible harm on competition. The time issues are especially important because in a market characterized by increasing returns to scale and network externalities, once a dominant position is established it will be hard to reverse, even if the original abusive practices are subsequently circumscribed.

The fundamental problem with the agreement is that it does not change the incentives that Microsoft faces. All of the illegal anticompetitive actions identified by the District Court and affirmed by the Court of Appeals were the result of rational decisions by Microsoft about how best to enhance its value by maintaining and expanding its monopoly. These same incentives will persist under the PFJ; given these incentives, it impossible to foresee—let alone effectively prohibit—the wide variety of potentially anticompetitive conduct that may result. Indeed, the reason that many economists have argued for the more drastic structural settlement (such splitting up Microsoft) is that such structural changes would alter incentives.[34] Though the Court of Appeals has determined that such a remedy might be too drastic, the imperative in evaluating any remedy is to ascertain its impact on incentives.

The following analyzes the details of the PFJ by comparing it to the principles outlined in the previous section. Our discussion does not aim to be comprehensive, but instead to focus on areas that illustrate or represent important economic aspects of the PFJ. Although the enforcement aspects of the PFJ, in particular the powers of the Technical Committee, are essential to understanding the limitations of the agreement, we only briefly discuss these issues.

A. Creating more choices for consumers

In developing a remedy, the court is well aware of its technical shortcomings in deciding exactly what should or should not be included as part of an operating system today—or in the future. Neither should these determinations be made solely by a monopolist. These choices should be made by consumers through the choices they have between different OEMs and ISVs. Stanford Law Professor Lawrence Lessig described this strategy as follows: "To use the market to police Microsoft's monopoly... by assuring that computer manufacturers and software vendors remain free to bundle and support non-Microsoft software without fear of punishment by Microsoft." [35] We agree with Professor Lessig that this should be among the goals of a final judgment and that the current agreement is woefully inadequate in meeting this objective. In our view, this is in fact a minimal objective that mitigates some of the harms to consumers from Microsoft's monopoly position but, by itself, would do little to reduce the applications barrier to entry or facilitate competition in the operating systems market itself.

As noted above, a remedy that turns this overall strategy into a reality requires four different elements: (1) ensuring that OEMs and potentially ISVs have the right to modify the desktop, the start menu, or other fundamental aspects of the computer experience in any way they choose; (2) ensuring that OEMs and ISVs have adequate information and technical access to develop applications for, and even modifications to, Windows; (3) ensuring that they are protected from retaliation by Microsoft for providing alternatives to consumers; and (4) ensuring that they have financial incentives to make changes that benefit consumers. The PFJ is deficient in all four.

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[32] CIS, p. 3.

[33] The Technical Committee consists of three experts in "software design and programming"—one appointed by Microsoft, one by the plaintiffs, and the third by these previous two. The Committee would have broad access to internal Microsoft documents, source code, etc. It would be responsible for reporting any violations of the PFJ to the plaintiffs. They would not, however, be able to rely on the work of the Technical Committee in Court proceedings. See PFJ, Section IV.B.

[34] See, for example, Robert Litan, Roger Noll, and William Nordhaus (2002), "Comment of Robert E. Litan, Roger D. Noll, and William D. Nordhaus on the Revised Proposed Final Judgment." United States v. Microsoft Corp., Before the Department of Justice. The point is simple: now strategy with respect both to applications and the operating system is designed to maximize total profits, including the monopoly profits. With structural separation, applications would be designed and marketed to maximize their own profits, with no regard to how this might affect the profitability of the operating system.

[35] Lawrence Lessig (December 12,2001). "Testimony before the Senate Committee on the Judiciary."

1. Ensuring that OEMs and potentially ISVs have the right to modify fundamental aspects of the computer experience in any way they choose

The PFJ codifies several new rights for OEMs to modify the desktop or the computer experience, some of which were already voluntarily announced by Microsoft on July 11, 2001 and implemented with the release of Windows XP on October 25, 2001. Specifically, Section III.C of the PFJ prohibits Microsoft from restricting OEMs from "Installing or displaying icons, shortcuts, or menu entries for, any Non-Microsoft Middleware... distributing or promoting NonMicrosoft Middleware by installing and displaying on the desktop shortcuts of any size or shape..." among other actions.

This new required latitude, however, is unduly limited in several respects:

—New flexibility is quite narrow. OEMs can only modify the initial boot screen to market IAPs to users, but cannot modify it to uninstall Microsoft middleware or to market middleware that competes with Microsoft middleware (Section III.C.5). Nothing in the PFJ would allow ISVs to acquire licenses to create their own bundles of Windows plus applications to market to consumers or OEMs, a measure that could enhance competition by bringing additional participants with substantial experience in software development into the market. While the benefits to consumers and competition of allowing ISVs to acquire such licenses are evident, Microsoft would only be harmed to the extent that it reduces its monopoly power. There is no other convincing explanation for these restrictive trade practices.

—It contains several limitations that limit the overall look of Non-Microsoft Middleware and pace of innovation. For example, the PFJ requires that the user interface on automatically launched Non-Microsoft Middleware[36] must be "of similar size and shape to the user interface displayed by the corresponding Microsoft Middleware Product", can only be launched when a similar Microsoft product would have been launched, and Microsoft can impose non-discriminatory bans on icons (Section III.C.3). In addition to the fact that these limitation are frivolous, asymmetric, and would seem to serve no purpose other than restricting competitive threats—no such limitations apply to Microsoft—they could also have a severe impact in limiting competition. Specifically, it allows Microsoft to control the pace of innovation in the computer experience, letting Microsoft delay the effective launch of a new type of product until it is ready to compete in that area. Thus both competition and innovation may be impeded.

It is unnecessarily delayed. Specifically, Section III.H gives Microsoft up to 12 months or the release of Service Pack 1 for Windows XP, whichever is sooner, to provide end users and OEMs a straightforward mechanism to remove icons, shortcuts, or menu entries for Microsoft Middleware Products or to allow OEMs or end users to designate alternative Non-Microsoft Middleware Products[37] to be invoked by the Windows operating system in place of Microsoft Middleware Products.[38] There is certainly no economic or legal justification for this delay and our understanding is that it is technically feasible to carry out these changes in a few weeks time, as demonstrated by Microsoft's July 11, 2001 voluntary agreement to implement elements of this provision. As we have emphasized, there can be significant long-run consequences for competition from even short delays.

Microsoft could encourage users to undo changes after 14 days. The value of the new contractual freedoms is limited by Microsoft's ability to encourage the user to undo all OEM changes after 14 days by allowing a user-initiated "alteration of the OEM's configuration... 14 days after the initial boot up of a new Personal Computer." (Section III.H.3) This provision, in effect, would allow Microsoft to present a message to end users (e.g., "Press 'yes" to optimize your computer for multimedia") that could bias choices toward Microsoft products, regardless of what the OEM had chosen. This provision could therefore greatly reduce the scope and value of the changes that OEMs make.[39]

2. Ensuring that OEMs and ISVs have adequate information and technical access to develop applications for, or even modifications to, Windows

The right to make modifications to Windows will only work effectively if OEMs and ISVs have the knowledge to exercise this right. Microsoft currently releases an enormous quantity of information on the Windows operating system and its APIs, through the Microsoft Developer Network (MSDN) and other means. Indeed, the indirect network externalities supporting the Windows monopoly provide a strong incentive for Microsoft to ensure that as many applications as possible run well on its system. But Microsoft also has an incentive to bolster its operating system monopoly by selectively withholding timely information to impede or delay the development of products that threaten to reduce the applications barrier to entry.[40] In addition, Microsoft has also required anticompetitive actions in exchange for information, as in the "first wave" agreements found illegal by the Court of Appeals.[41]

The PFJ requires disclosure of "the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product" (Section III.D) and specified Communications Protocols (Section III.E).

These requirements, however, are deficient in several ways:.

Windows APIs are not covered. In particular, the PFJ does not require the disclosure of the APIs used by Windows. Although Microsoft already has an incentive to disclose Windows APIs, there are circumstances where delay could be more profitable. The consequences of this omission are aggravated by the definition in Section VI.U: "the software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion." Thus, as middleware gets blended in the operating system, the scope of disclosures could be narrowed.

Internet Explorer and other middleware APIs are not covered. Furthermore, the agreement does not require the disclosure of the APIs used by Internet Explorer. Although the government did not prove that Microsoft was guilty of monopolizing the browser market, dominating this market played a key role in shoring up its monopoly in the operating systems market. As a result, requiring disclosure of the APIs for Internet Explorer and other middleware could play a role both in denying the fruits of that monopoly and reducing this barrier to entry in its operating systems market.

Definitions could limit disclosure even further. The scope of APIs required to be disclosed under the agreement could be potentially limited even further by the control Microsoft has over what is "Microsoft Middleware" and what is the "Windows Operating System Product."

Additional loopholes further limit disclosure and ability of non-Microsoft middleware to fully interoperate with Windows. Section III.J. 1 provides a substantial loophole that exempts from the disclosure requirements anything that "would compromise the security of a particular installation,... digital rights management, encryption or authorization systems..." These are all very important technologies for Windows Media Player, Passport, the Internet Explorer browser, and any of the many programs that rely increasingly on security and encryption. In addition to giving Microsoft substantial discretion and blurring the disclosure requirements further, these exceptions would make it impossible for competitors to design middleware that fully interoperated with the Windows operating system, leaving certain features only accessible to Microsoft middleware.

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[36] As defined in Section VI.M.

[37] As defined in Section VI.N.

[38] As defined in Section VI.K.

[39] This provision would allow Microsoft to run the "Desktop Cleanup Wizard" that removes unused shortcuts from the desktop in a non-discriminatory manner. Nothing in our reading of the language of Section III.H.3, however, would limit the power of Microsoft to remove all user access to non-Microsoft middleware or restore access to Microsoft middleware.

[40] For example, the District Court found that Microsoft withheld the "Remote Network Access" API from Netscape for more than three crucial months in mid-1995. Findings of Fact, § 90–91, 84 F. Supp. 2d at 33.

[41] These agreements, which were entered into between the Fall of 1997 and Spring of 1998 between Microsoft and several ISVs, provided preferential early access to Windows 98 and Windows NT betas and other technical information in exchange for using Internet Explorer as the default browser. See See 253 F.3d at 71–72.

Disclosures are not timely. The disclosures are not very timely, allowing Microsoft enough time to ensure that its products—and products by favored OEMs and ISVs enjoy a substantial "first to market" benefit in taking advantage of the functionality of the operating system. Microsoft has up to 9–12 months to disclose the APIs and communications protocols. In the case of a new version of the Windows Operating System Product, the PFJ bases the timing of the disclosure on the number of beta testers, effectively giving Microsoft substantial discretion over the timing of the required disclosures through its definition of the term "beta tester" and its control over their number. (Sections III.D and VI.R)

Microsoft could cripple rival products. The PFJ does nothing to prevent Microsoft from deliberately making changes in Windows with the sole or primary purpose of disabling or crippling competitors" software products.

3. Ensuring that OEMs and ISVs are protected from retaliation by Microsoft for providing alternatives to consumers

The right to make alterations to the Windows desktop will only be effective if companies are protected from retaliation for exercising it. The PFJ provides some protection against retaliation (Section III.A) and requirements for uniform licensing and pricing for Microsoft Windows (Section III.B). The protections, however, are only partial, in that they omit several important behaviors, still leave substantial scope for Microsoft to retaliate, and contain a very large loophole.

First, the prevention against retaliation only applies to a very specific set of actions that are specified in the PFJ, such as altering the icons on the desktop or promoting an IAP in the initial boot sequence. This rule does not apply to other actions by OEMs, such as the inclusion of third party software that does not fall under the definition of Non-Microsoft Middleware.

Second, there may still be some scope for discrimination and retaliation. Section III.B.3 of the PFJ explicitly gives Microsoft the right to use "market development allowances," for example to provide a pre-license rebate to selected OEMs on the basis of potentially ambiguous joint ventures. Although these incentives would have to be offered uniformly, there still could be some scope for defining them in an exclusionary manner. Furthermore, the relationships between Microsoft and computer companies are very complex and multifaceted, leaving substantial scope for retaliation in aspects not covered by the PFJ, including potentially the pricing of Microsoft Office and the server business.

Finally, Section III.A allows Microsoft to terminate the relationship with an OEM without cause and within a brief span of time simply by delivering two notices of termination. With no ready substitutes for Windows available, this power would give Microsoft substantial leverage in its relationships with OEMs. Although the OEM would have the option of litigating Microsoft's denial of a Windows license, the text of Section III.A and the lack of "bright line" rules in the PFJ would make this litigation costly and uncertain—and thus an imperfect means of protection against this threat.

4. Ensuring that OEMs have financial incentives to make changes that benefit consumers Even if the three previous conditions were met, they would be economically irrelevant if OEMs did not have financial incentives to take advantage of the new licensing freedoms. The production of PCs is a highly competitive industry with very low profit margins.[42] PCs are virtually a commodity that can be priced based on a limited set of characteristics like processor speed and hard drive size. All of the steps allowed by the PFJ—including installing nonMicrosoft middleware or removing user access to Microsoft middleware—entail higher costs for the OEMs both in the costs associated with the initial configuration of the system and in the added costs of end user support.[43] In addition, OEMs may perceive that Microsoft would take additional steps to raise their costs through forms of retaliation either permitted by the PFJ or imperfectly banned. These costs may explain why, to our knowledge, no major computer manufacturer has yet taken Microsoft up on its July 11, 2001 offer to remove access to Microsoft middleware and replace it with non-Microsoft middleware.[44]

As a result, the key source of greater competition and consumer choice in the computer experience—OEMs—would have limited economic basis for promoting such choice. In part this is because the value of some of the new freedoms obtained by the OEMs in the PFJ are limited by loopholes. For example, by allowing Microsoft to bar OEMs from marketing non-Microsoft middleware in the initial boot sequence, the PFJ removes one source of revenue and choice. In addition, allowing Microsoft to encourage users to "voluntarily" revert to the Microsoft-preferred configuration of icons, the Desktop, and the Start Menu after 14 days may reduce substantially the value of this screen "real estate." As a result, the PFJ precludes some of the principal means by which OEMs could be remunerated for providing additional or alternative functionality desirable to consumers.

The more fundamental problem is that OEMs continue to be required to license a version of Windows that includes middleware like Internet Explorer, Windows Media Player, and Windows Messenger. By not requiring Microsoft to sell a cheaper, stripped-down version of the operating system—excluding many of these added features—the PFJ in effect would require OEMs to pay twice—once for Microsoft's version of the product (as bundled into the price of Windows) and once for the alternative. Such bundling is a particularly invidious way of undermining competition. In effect, it implies that the marginal cost of any item in the bundle is zero, making competitive entry, even for a superior product, impossible. The fact that such entry has occurred is testimony to the superiority of the rival products—consumers are willing to pay substantial amounts for the alternatives. In addition, forced bundling can have adverse effects on consumers, because it uses up memory and storage space, and there is always the possibility that the commingled code will interfere with the performance of other applications.

In summary, under the PFJ, OEMs are not provided the rights, means, protections, or incentives to create alternative choices for consumers. As a result, the lynchpin of the PFJ's strategy for promoting competition would be greatly attenuated.

B. Reducing the applications barrier to entry

The applications barrier to entry was central to the Court of Appeals" understanding of this case. It is the principal barrier to entry that protects Microsoft's overwhelming dominance of the market for operating systems for Intel-compatible PCs. Furthermore, the court found that Microsoft engaged in illegal acts to increase the applications barrier to entry, principally by suppressing Netscape and Java at the expense of Internet Explorer and Microsoft's version of Java. Thus, any remedy that is "tailored to fit the wrong creating the occasion for the remedy" must necessarily take affirmative steps to reduce the applications barrier to entry and also prevent Microsoft from engaging in anticompetitive actions to increase this barrier. Unfortunately, the PFJ barely addresses this central issue.

The following discusses two key aspects of the applications barrier to entry: the use of anticompetitive means to reduce the market share of rival middleware (and thus its potential to reduce the cost of porting applications to different operating systems) and the use of decisions about Microsoft Office to influence the prospects of rival operating systems.

1. Middleware and the applications barrier to entry

The CIS states that under the PFJ, "OEMs have the contractual and economic freedom to make decisions about distributing and supporting non-Microsoft software products that have the potential to weaken Microsoft's personal computer operating system monopoly without fear of coercion or retaliation by Microsoft."[45] Even if the PFJ did give OEMs this contractual and economic freedom without fear of retaliation, and the previous subsection expressed severe doubts on this point, it still would do little if anything to weaken Microsoft's operating system monopoly.

Enhancing competition by allowing OEMs and ISVs to provide consumers with a greater variety of choices, the subject of the previous subsection, is in some sense literally superficial. It involves the ability of firms in the computer industry to change the outer appearance of a computer and the way it is perceived and used by users, including the ability and ease of accessing programs that are included with the Windows operating system or added by the OEM or end user. The issues raised by the applications barrier to entry go deeper, to the underlying code in Windows. In particular, although the PFJ allows end users or OEMs to remove user access to Microsoft Middleware, it also allows Microsoft to leave in place all of the programming underlying this middleware. This code could still be accessed by other programs that write to the APIs exposed by the middleware.

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[42] For example, the Washington Post recently noted that profit margins are in "single digits." See Rob Pegoraro and Dina El Boghdady (January 20, 2002), "Building Creativity Into the Box" Washington Post.

[43] In the Microsoft trial numerous industry witnesses testified to the user confusion and added support costs associated with having alternative browsers pre-installed on a computer. See 253 F.3d at 71–72.

[44] Microsoft Press Release (July 11, 2001), "Microsoft Announces Greater OEM Flexibility for Windows."

[45] CIS, p. 25.

The Court of Appeals explicitly rejected Microsoft's explanation for commmingling the code of Windows 98 and Internet Explorer, concluding that it deterred users from installing Netscape, had no substantive purpose, and thus that "such commingling has an anticompetitive effect." [46] Despite this strong finding, no provision in the PFJ addresses this issue.[47]

Netscape and Java represented a very rare challenge to Windows—they offered the opportunity to develop middleware that would allow a wide range of applications to be costlessly transferred between different systems. It is difficult to imagine when, if ever, there will be a challenge of this magnitude again. Nonetheless, some existing middleware—and future middleware that we may not even be able to forecast today—will continue to present challenges to Windows. For example, there is still substantial competition in the market today for multimedia players, with Windows Media Player, RealNetworks RealOne player, and Apple's QuickTime, among others, all offering different versions of similar functionality.

The treatment of middleware is crucial because the market for middleware, like the market for operating systems, is subject to substantial network externalities. These externalities mean that the desirability of a middleware package increases as the installed user base increases. As with operating systems, such externalities arise for direct reasons (e.g., users can share files in a particular media format) and indirect reasons (writing a program to different middleware, so the dominant middleware will have the most programs associated with it). With regard to indirect network effects, the key point is that the installed base is not the number of computers with shortcuts to the given middleware, but the number of computers with the underlying code permitting the middleware to be invoked by a call from another program. A programmer that wanted to develop, for example, an interactive TV program could still use Windows Media Player regardless of whether or not an OEM or end user had removed the icons or shortcuts that allow easy user access to this program.

By providing no means for OEMs or end users to undo the commingling of code that ties Microsoft middleware to the operating system, the PFJ ensures that Microsoft middleware will have an installed base, in the relevant sense, of nearly the entire PC market. As a result, programmers will find it cheaper to write to Microsoft middleware rather than to rival programs. In this case, ubiquity could trump quality—because the size of a middleware's installed base could be more important than the quality of the middleware program. Microsoft middleware thus increases the applications barrier to entry in the same manner that promoting Internet Explorer and restricting the distribution of Netscape do. By allowing Microsoft to continue to commingle the code for middleware and its operating system, and preventing OEMs or end users from making real choices, the PFJ contributes to Microsoft's ability to restrict the market share of its rivals in neighboring "layers" to the operating system, reducing the main form of potential future competition at "layer boundaries."

2. Microsoft Office and the applications barrier to entry

As noted above, in the mid-1990s, Microsoft Windows was compatible with more than twenty times as many programs as IBM's OS/2 Warp. This offers a dramatic example of the applications barrier to entry. One crucial feature of Microsoft is that in addition to producing the Windows operating system, it is also a leader in many other applications. Network externalities work here to help create and maintain market dominance. Thus, for a rival operating system to succeed it would need not only to persuade "neutral" software companies to write to it, but also persuade Microsoft itself to port some of its leading applications to the operating system. To the degree that Microsoft produces leading or essential applications, they can use their refusal to port these applications to reinforce their Windows monopoly.

One application, in particular, is especially important to users: Microsoft Office and its associated programs, including Word (for word processing), Outlook (for e-mail and scheduling), Excel (for spreadsheets), and PowerPoint (for presentations). Indeed, Microsoft Office has about 95 percent of the market for business productivity suites.[48]

The Court of Appeals affirmed the District Court's finding that the desire by Apple to ensure that Microsoft continued to maintain and update Mac Office was central to its motivation to enter into an illegal, anticompetitive deal with Microsoft to suppress Netscape and promote Internet Explorer. In addition, Microsoft does not currently have a version of Office that operates on Linux, the primary alternative to Windows in the PC operating system market. Withholding or simply threatening to withhold Microsoft Office from other operating systems is a powerful way in which Microsoft can use anticompetitive means to reduce the desirability of rivals while also extracting concessions or exchanges that help support the Windows monopoly of PC operating systems.

The PFJ, however, does not address any issues relating to the pricing, distribution, or porting of Microsoft Office. This considerable loophole has been used by Microsoft in the past. In the future, Microsoft will have the same incentives to use this loophole again. In addition, it may be necessary to examine additional Microsoft applications that can be used to reinforce the Windows monopoly. Given the difficulty of undoing a monopoly of this sort, once established, it is particularly appropriate to reach beyond remedies that are narrowly circumscribed.

C. Preventing Microsoft from strengthening its operating system monopoly by extending it to encompass additional products

The Court is charged with fashioning a remedy that "ensure[s] that there remain no practices likely to result in monopolization in the future." Some of the most important newly emerging areas are multimedia, networking, web services, and hand-held computing. Microsoft is already making substantial investments in these areas with its .NET strategy, Microsoft Passport, MSN, Windows Messenger, Windows Media Player, and the Pocket PC operating system. The recently released Windows XP is characterized by substantial integration between all of these features; indeed the seamless integration is one of Microsoft's chief selling points for Windows XP. Microsoft has marketed Windows XP (standing for "experience") on the basis of its seamless integration between the Internet, multimedia, and the computer. For example, on the day it was released, a Microsoft press release announced, "Windows XP Home Edition is designed for individuals or families and includes experiences for digital photos, music and video, home networking, and communications." [49]

Like Internet Explorer, these new areas present new opportunities for Microsoft to leverage its monopoly in the operating system to dominate other markets. In addition, Microsoft could use its strong or dominant position in these new markets to erect new barriers to entry that prevent potential competitors from offering products and services with part or all of the functionality provided by Windows. For example, if Passport is successful then a rival operating system would not just need to persuade other developers to write for it, but would also need to develop its own version of Passport and convince numerous e-commerce sites to use it. If the rival operating system failed in any of these steps, its attempts to establish itself could be seriously curtailed. The PFJ, however, does not address any aspects of these important emerging barriers to entry.

VIII. STEPS TO IMPROVE THE PROPOSED FINAL JUDGMENT: THE LITIGATING STATES" ALTERNATIVE

The goal of this Declaration is to explain why we believe that the PFJ is deficient and why the Court should exercise its discretion to fashion a remedy in this case that would promote competition and benefit consumers.

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[46] See 253 F.3d at 66.

[47] The Court of Appeals rejected, per curiam, Microsoft's petition for a rehearing on this point. Order (DC Cir. Aug. 2,2001).

[48] Richard Poynder (October 1, 2001). "The Open Source Movement." Information Today, 9:18.

[49] Microsoft Press Release, "Windows XP is Here!" 10/15/01.

We do not propose an alternative remedy or provide an exhaustive analysis of any other proposals. Our analysis of the shortcomings of the PFJ, however, can be illustrated and strengthened by a selective comparison of some of the provisions in the PFJ with the proposal transmitted to the court by the nine litigating States and the District of Columbia on December 7, 2001.[50]

Many of the issues in the "Plaintiff Litigating States" Remedial Proposals" are technical and involve loopholes, some of which were discussed above including stronger anti-retaliation provisions and a broader definition of middleware that could not be manipulated by Microsoft. In addition, this proposed remedy makes an important change in enforcement: it proposes a Special Master, rather than requiring new legal proceedings to enforce the judgment. None of these important issues are discussed here. Instead, we focus on selected areas in which the litigating States" proposal illustrates some of the principal economic points identified in the preceding analysis.

A. Fostering competition through OEMs and reducing the applications barrier to entry

The litigating States proposal would require Microsoft to license a cheaper version of Windows that does not include commingled code from added middleware.[51] In addition, the proposal would require Microsoft to continue to license older versions of its operating system without raising its prices. This would have two effects. First, it would more effectively promote competition and consumer choice by allowing OEMs to ship computers with a wide range of alternative middleware, thereby allowing consumers to choose between different versions or different price-feature combinations. The lack of financial incentives for OEMs to take advantage of the more liberalized licensing rules is one of the principal deficiencies in the PFJ.

Moreover, such a provision would provide Microsoft with better incentives; only if it produced an operating system which performed substantially better would it be able to sell its new releases. It would at least attenuate its ability to use new releases as a way of extending its market power. Some have advocated even stronger measures to ensure Microsoft faces proconsumer, pro-competition incentives, including requiring Microsoft to release all of its Windows source code and requiring the free distribution of its operating system after 3 to 5 years. Second, this provision would directly address the Court of Appeals finding that Microsoft's commingling of code was anticompetitive. By disentangling the middleware from the operating system, this proposal would allow greater competition in middleware—and thus ultimately in operating systems—by reducing the network externalities that benefit Microsoft middleware at the expense of potentially superior products.

B. Internet Explorer browser open source and Java distribution

Two of the fruits of Microsoft's monopolization of the operating systems market are the dominance of the Internet Explorer browser and the destruction of Java as a viable competitor. The anticompetitive measures that helped achieve these goals protected a crucial "chink in the armor" of the Windows operating system. The PFJ does nothing to "deny the defendant the fruits of its statutory violation."[52] Furthermore, it does not enhance the ability of competitors to interoperate with Internet Explorer because it includes no disclosure requirement for the Internet Explorer APIs.

The litigating States propose to remedy these deficiencies by requiring Microsoft to publish the source code and APIs for Internet Explorer and freely license them to competitors. In addition, their proposal would require Microsoft to distribute a Sun-compatible version of Java Virtual Machine with all future operating systems. The result would be to decrease the applications barrier to entry and promote competition.

C. Cross-platform porting of Office

As discussed in the previous section, Microsoft Office is one of the most crucial applications for many users. The existence of this application for a particular operating system is one key factor in the demand for the operating system. The litigating States" proposal would remove the ability of Microsoft to either threaten to withhold Office or actually withhold Office by requiring Microsoft to continue to port Office to Macintosh. In addition, the proposal would require Microsoft to auction off licenses to ISVs that would provide them with the entire source code and documentation for Office in order for them to port the product to alternative operating systems. Although we draw no conclusions about the particular rules proposed by the litigating States, this proposal would clearly reduce Microsoft's ability to deliberately raise the applications barrier to entry.

D. Mandatory disclosure to ensure interoperability

The PFJ requires some disclosure to ensure that Microsoft is not able to withhold certain information to illegally benefit Microsoft Middleware at the expense of Non-Microsoft Middleware. The disclosures are limited in scope and timing. The litigating States" proposal is substantially broader.

Of particular importance, the litigating States" proposal recognizes that "nascent threats to Microsoft's monopoly operating system currently exist beyond the middleware platform resident on the same computer" and thus the States" proposal requires timely disclosure of technical information to facilitate "interoperability with respect to other technologies that could provide a significant competitive platform, including network servers, web servers, and handheld devices."[53] In doing this, the proposal would reduce the ability of Microsoft to use its dominant position in operating systems to eliminate emerging threats at the boundary of this "layer" of computing.

IX. Conclusion

The Revised Proposed Final Judgment agreed to by the U.S. Department of Justice, the Attorneys General of nine States, and Microsoft Corporation is critically deficient. The overall aims of the PFJ are laudable—to increase competition and reduce Microsoft's ability to maintain its monopoly at the expense of consumers. But the PFJ will not succeed in achieving these goals. It does not change any of the incentives faced by Microsoft to undertake anticompetitive actions. It restrains these anticompetitive actions only with highly specific and exception-ridden conduct requirements. And it has an insufficient enforcement mechanism.

The interest of consumers in a greater range of choices, lower prices, and greater innovation would be served by rejecting the PFJ and replacing it with a more effective conduct remedy. A remedy for this case should recognize that the monopoly power created by Microsoft's past anticompetitive, illegal practices is likely to persist, and that it will therefore be likely to continue to enjoy the fruits of its illegal behavior, unless there are far stronger remedies than those in the PFJ. The new remedy should change Microsoft's incentives. It should restrict Microsoft's ability to repeat its past, or develop new, anticompetitive practices. It should provide OEMs and ISVs with the means and incentives to stimulate genuine competition in the provision of platforms. And it should take whatever steps are possible to reduce the applications barrier to entry so that there is greater scope for genuine competition in the market for PC operating systems.

I, Joseph E. Stiglitz, declare under penalty of perjury that the foregoing declaration is true and correct. Executed on January 28, 2002.

Joseph E. Stiglitz

I, Jason Furman, declare under penalty of perjury that the foregoing declaration is true and correct. Executed on January 28, 2002.

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[50] United States v. Microsoft Corp., "Plaintiff Litigating States" Remedial Proposals," in the U.S. District Court for D.C, December 7, 2001.

[51] The Court of Appeals overturned the District Court, finding that Microsoft could not be held liable for the fact that in certain situations, like updating Windows or accessing help files, Internet Explorer overrides the user's default browser settings and opens automatically. This implies that the complete removal of HTML-reading software is impossible. But Windows could be shipped with, for example, a stripped-down browser that performs essential system functions. Most of the functionality of Internet Explorer, however, is not necessary for the examples Microsoft invoked. This is analogous to the way in which Windows is shipped with a stripped-down text editor, Notepad, but not with a full-fledged word processor.

[52] 253 F.3d at 103, quoting United States v. United Shoe Mach. Corp., 391 U.S. 244, 250 (1968).

[53] Litigating States, pp. 10–11.

MTC-00030613

Comments To The Revised Proposed Final Judgment In United States v. Microsoft Corporation, No. 98–1232

State of New York, et al. v. Microsoft Corporation, No. 98–1233

Submitted By Palm, Inc.

Pursuant To The Tunney Act, 15 U.S.C. § 16

January 28, 2002

TABLE OF CONTENTS Page

I. Summary Of Objections 1
II. Background On Palm And Its Interest In This Matter 4
III. The RPFJ's Deficiencies 5
A. Under The RPFJ, Microsoft Will Obstruct The Critical Interoperability Between Microsoft's Software Products And Non-Microsoft Products 5
B. The RPFJ's Toothless Definitions Will Enable Microsoft To Break Interoperability Without Recourse 8
C. The RPFJ Does Not Stop Microsoft From Using Its Control Over Development Tools To Protect The Applications Barrier To Entry 11
D. The RPFJ Does Not Prohibit Microsoft From Unlawfully Bundling Its Products Or Using Anticompetitive Pricing Schemes 12
E. The RPFJ Does Not Remedy Microsoft's Ability To Use The Installation Of Drivers For Peripheral Hardware As A Chokehold 12
F. The RPFJ Does Not Remedy Microsoft's Ability To Use Internet Explorer As A Chokehold 13
G. The RPFJ's Disclosure Delays Render It Ineffective 13
H. The RPFJ Does Not Restrict Knowing Interference With Performance 14
I. The RPFJ Fails To Provide OEMs And Consumers The Flexibility Necessary To Facilitate Competition 14
J. The RPFJ's Enforcement Provisions Are Insufficient 15
IV. Conclusion 16

I.SUMMARY OF OBJECTIONS

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. ° 16(b)–(h), Palm, Inc. ("Palm") hereby submits its comments and objections to the Revised Proposed Final Judgment ("RPFJ") filed by Plaintiffs United States of America ("DOJ") and the States of New York, Ohio, Illinois, Kentucky, Louisiana, Maryland, Michigan, North Carolina and Wisconsin, and Defendant Microsoft Corporation ("Microsoft") on November 6, 2001.

Palm, a leader in mobile computing,[1] respectfully submits that the RPFJ will not ensure vigorous competition in this important industry. Microsoft is already engaging in actions designed to unfairly extend its personal computing operating system ("PC OS") monopoly into the mobile computing market by eliminating competition and preventing free customer choice.[2] The RPFJ fails to address Microsoft's current actions, and will not constrain it from repeating in the mobile computing market the same tactics it used against Netscape and Java.

Mobile computing is an emerging threat to Microsoft's PC OS business. Handhelds are already displacing some notebook and desktop PCs for storing, accessing and managing information, including Interact information.[3] That competition will increase over time. If an open competitive environment exists, the convenience and simplicity of handheld devices will increasingly cause an evolution away from desktop and laptop PCs to handheld computers for accessing and managing information. The growth of handheld devices not based on Microsoft technology is a threat to Microsoft's PC OS monopoly, as were the competitive inroads being made by non-Microsoft Internet browsers.

Microsoft has the ability and incentive to take additional actions to forestall competition in the handheld industry. Palm's products—both the software products it manufactures as an independent software vendor ("ISV") and the hardware products it manufactures as an independent hardware vendor ("IHV")—must be compatible with PCs and the software that runs on them. Microsoft has a unique position as the PC OS monopolist and also the dominant vendor of related software products such as the Internet Explorer browser, the Office productivity suite, the Outlook e-mail and calendaring program, the Exchange server software and the Visual Studio developer tools. Palm's ability to offer innovative handheld solutions to consumers is, in significant part, reliant on full and timely interoperability with Microsoft's software products. Absent compatibility, consumers will be unable to obtain a fully functional handheld running anything other than Microsoft software.

As noted above, Microsoft is already taking actions to forestall competition in the mobile computing industry. In particular:

1. Microsoft has refused Palm access to information and software interfaces necessary to enable Palm to make its products interoperable with certain Microsoft products and technologies, including some elements of Microsoft's .NET software;

2. Microsoft has prevented Palm from working with Microsoft's software development tools (Microsoft Visual Studio);

3. Microsoft has refused to make Microsoft Internet Explorer operate on Palm OS handhelds; and

4. In exchange for addressing some of these issues, Microsoft has attempted to coerce Palm into deploying Microsoft .NET software on Palm handhelds under terms that would put the Palm OS business at a prohibitive disadvantage.

Microsoft has also already exhibited its intent to foreclose companies such as Palm by breaking interoperability with its products. Bill Gates himself directed his staff to alter Microsoft products to ensure that Microsoft's "PDA will connect to Office in a better way than other PDAs even if that means changing how we do flexible schema in Outlook and how we tie some of our audio and video advanced work to only run on our PDAs." (Remedy Exhibit GX1 attached to this submission). As the DOJ argued previously:

> ... on July 11, 1999, less than thirty days after the conclusion of the trial in this action, Bill Gates wrote an e-mail directing that Microsoft redesign its software in order to harm competitors. This time, the products in question were the Personal Digital Appliances that Microsoft heralded at trial as one of the products that might someday undo its monopoly.

Plaintiffs' Memorandum In Support Of Proposed Final Judgment, filed April 28, 2000 (corrected as of May 2, 2000) (citing Remedy Exhibit GX1). Microsoft's anticompetitive incentive is obvious. Its anticompetitive conduct will enable it to monopolize the emerging handheld industry and, at the same time, eliminate the threat handhelds pose to its PC OS monopoly.

As delineated more fully below, it is Palm's belief that the RPFJ, if adopted, would fail to protect competition in the handheld industry for at least the following reasons:

1. It does not appear even to attempt to address handheld industry competition; 2. It enables Microsoft to withhold interface information that is critical to the competitiveness of Microsoft's rivals such as Palm;[4]

3. It enables Microsoft to continue to disadvantage ISVs and IHVs that work with companies other than Microsoft, especially given the network effects that pervade this industry;

4. It fails to ensure that Microsoft will not use distributed Internet-based (.NET) applications to eradicate the competitive threat of non-Microsoft platforms;

5. It either does not define or improperly defines key terms of the RPFJ, thereby enabling Microsoft to circumvent the RPFJ's intended boundaries;

6. It enables Microsoft to commingle or technologically bundle its OS with other dominant Microsoft software;

7. It enables Microsoft to use anticompetitive pricing tactics such as bundled pricing;

8. It fails to provide OEMs with the freedom to promote software products competing with Microsoft's products;

9. The enforcement mechanisms of the RPFJ are too weak to ensure Microsoft's compliance; and

10. It contains other deficiencies described below.

If the above RPFJ shortcomings are not addressed, Microsoft will be able to dictate customer decisions regarding computing models and standard technologies for the indefinite future, rather than having those decisions made by consumers on the competitive merits. Competition, and the innovative solutions that emerge from that competition, will suffer. Any settlement with Microsoft must address these issues now, because, as the industry has learned from the Internet browser war, competition can be lost in the blink of an eye.

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[1] Mobile computers are small computers designed to be carried by the user in a pocket or purse. They perform a wide variety of tasks. Mobile computers include handheld computers and the new, emerging category of smart phones (cell phones that have handheld computing functionality built into them). Mobile computers are also sometimes referred to as Personal Digital Assistants ("PDAs").

[2] Microsoft, of course, also manufactures the Pocket PC operating system ("Pocket PC OS") a rival OS to the Palm operating system ("Palm OS").

[3] As Microsoft admitted in its filings before the Court: "...[A] range of devices other than personal computers such as handheld computers, television set-top boxes and game machines are becoming increasingly capable, providing functionality that consumers used to obtain exclusively from personal computers." (Defendant Microsoft Corporation's Revised Proposed Findings of Fact, at 5 (submitted Sept. 10, 1999) (emphasis supplied)). See also id. at 227, 230 and 235.

[4] As discussed below, this "information" could come in the form of APIs, data formats, commands and protocols.

II. BACKGROUND ON PALM AND ITS INTEREST IN THIS MATTER

Palm develops and markets, among other products, a line of handheld computers that operates proprietary and non-proprietary applications using its Palm OS. Based on the Palm OS platform, Palm's handheld solutions allow consumers to store and access their most critical information and communications, including from the Internet. Palm handhelds address the needs of individuals, enterprises and educational institutions through thousands of application solutions that ISVs create. The Palm OS platform is also the foundation for products from Palm's licensees and strategic partners (also known as the Palm Economy), such as Acer, AlphaSmart, Franklin Covey, HandEra (formerly TRG), Garmin, Handspring, IBM, Kyocera, Samsung, Sony and Symbol Technologies, as well as a multitude of ISVs and IHVs.

Palm competes with numerous companies in its software and hardware businesses. Microsoft's Pocket PC OS is one of Palm's most direct competitors in operating systems designed for handheld devices. Microsoft licenses the Pocket PC OS to OEMs, including Compaq and Hewlett Packard, that install the OS in their handheld products. It markets these products as "Windows Powered"—suggesting deceptively, Palm believes, that the Pocket PC product is a direct extension of its monopoly Windows PC OS product, and thereby leveraging the Windows monopoly to extend its market control into handhelds.

Plaintiff States that have opted not to join in the Microsoft settlement ("the Litigating States") approached Palm in an effort to remedy through their own proposed relief Microsoft's potential anticompetitive conduct that, under the RPFJ, could eliminate the threat posed by the handheld industry. Palm has agreed to testify in Track 2 in support of the Litigating States" proposed relief ("the Litigation States" Remedies"). Palm respectfully submits that the Litigating States" Remedies, unlike the RPFJ, protect competition in mobile computing industry as well as the competition that industry will provide to the PC OS monopoly.

III. THE RPFJ'S DEFICIENCIES

The RPFJ fails to create the market conditions necessary for competition to thrive. The structure and terms of the RPFJ are rooted in the computing industry as it existed in the mid-1990s, when the Internet was only beginning to gain widespread consumer use and software development was still focused on the PC.

To be effective, the remedy must take into account the industry as it exists today, and the new emerging threats against which Microsoft could (and, if left unchecked, will) repeat its pattern of anticompetitive behavior. The focus of competition in computing has shifted from the PC to the Internet, the server and to new devices such as handhelds. Microsoft's .NET initiative is an acknowledgement of this change, and the fact that it is being driven into virtually every Microsoft product highlights its significance. The RPFJ completely ignores this, and other, crucial dynamics.

A. Under The RPFJ, Microsoft Will Obstruct The Critical Interoperability Between Microsoft's Software Products And Non-Microsoft Products.

As products that manage users" information, handhelds must interface with the OS and applications on a customer's PC. When that PC is part of a larger network (as it is in nearly every corporate or "enterprise" scenario), handhelds must also interface with the software on the network, typically resident on a server,[5]

In order to interoperate effectively with Microsoft products, handhelds must, at the very least, be able to:

(1) read and write data to and from the consumer's PC and/or server;

(2) interpret and format the data so it can be properly stored in the handheld, PC or server;

(3) run communication software, called conduits, that facilitate such interfaces with the PC and server;[6] and

(4) install the software drivers necessary to attach the cradle or other communication mechanism to the PC through which the handheld communicates with the PC and server.

In short, Palm and other handheld manufacturers must know the "commands" (to access the data) and the "data formats" (to understand the data) with respect to the target PC or server in order to develop the necessary conduits to interoperate with the target. In most cases (and nearly all business situations), in addition to interacting with the PC OS, the handheld device interoperates with Outlook or Exchange information (such as e-mails, contact information, and calendars), Word and Excel documents on the PC or other databases on the server. The RPFJ fails to ensure that anyone other than Microsoft will be able to interface with Outlook, Exchange, software on corporate servers, other PC applications such as Office, middleware for distributed or web-based applications or even the PC OS itself. Specifically, Sections III.D and III.E of the RPFJ do not address the potential threat (as articulated by Mr. Gates in his e-mail cited supra) that Microsoft can constrain or eliminate competition in and from the handheld industry by regulating the access to technical information necessary for interoperability.[7] In general, the RPFJ does not require any disclosure of technical information regarding the interface between Microsoft's PC or server products and handheld products. For example, the section neither requires disclosure of server APIs, nor information regarding the interfaces between PC OS or middleware and server applications.

Moreover, the RPFJ also permits Microsoft to foreclose access to critical interfaces that it migrates from the PC OS to the applications or "distributed" environment on a network (and in the case of .NET services, to the Internet) by limiting the disclosure requirements to the APIs between the PC OS and middleware, and the communication protocols between the PC OS and the server OS.[8] The RPFJ does not require disclosure of the commands and data formats necessary to interface with the critical applications on the PC, such as Outlook, Office or Internet Explorer. In addition, Microsoft can create proprietary .NET APIs that work only with the Pocket PC OS, bundle them with Microsoft's Visual Studio software development environment, discussed infra, and encourage the development of web services and applications that can be accessed only through Microsoft's OS products.[9]

At the core of .NET stands the .NET Framework (for PCs) and .NET Compact Framework (for handhelds). The Framework is Microsoft's answer to the Java runtime environment, with a key difference: It lacks the freedom from reliance on Microsoft's APIs. .NET is important because it extends Microsoft's program interface (that is, Microsoft's APIs) to provide the underpinnings necessary for web-based services and distributed applications that do not reside on the PC and/or handheld.

Finally, the RPFJ is silent regarding the interfaces between handhelds and software that resides on the servers. In a networked environment, such as corporate networks, handhelds need to exchange data particularly with software on servers.[10] For example, without access to data on Microsoft Exchange (the server application product that complements the client e-mail and calendar application Microsoft Outlook), non-Microsoft handhelds cannot offer features offered by Pocket PC products.

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[5] As we discuss more fully below, this is particularly true where the software that has traditionally resided on the PC is increasingly being distributed, by design, to various locations over the networked environment.

[6] A conduit is a piece of software that interoperates with the handheld and the target PC or server, managing the communication between them.

[7] We note that the RPFJ requires even less disclosure than the parallel provision in the Interim Order, which was intended to serve as a remedial bridge pending the previously ordered divestiture. United States v. Microsoft. Final Judgment (D.DC 2000) ("Interim Order"). For instance, Section III(b)(iii) of the Court's Interim Order required Microsoft to disclose all APIs, Communications Interfaces and Technical Information (i.e., any and all possible technical dependencies) between (a) software installed on any device (including servers and handhelds) and (b) any Microsoft Operating System or Middleware installed on a PC.

[8] Microsoft defines .NET as its "platform for XML web services." .NET Defined, available at http://www. Microsoft.com/net/whatis.asp. The services that .NET offers are a combination of pre-designed applications, some of which come under the rubric .NET My Services or "Hailstorm," and a set of tools designed to allow developers to create web applications which rely on the all-important APIs exposed by Microsoft programs (see discussion of "VSIP" infra).

[9] It is Palm's understanding that, absent being forced to by the Court, Microsoft will not make certain of these APIs available at all. Others will be available on terms that essentially force Palm to exit the OS business, thereby reducing it to a device manufacturer implementing Microsoft software.

[10] The interface between the handheld and server products can be designed to be "through" the cradle and the PC via the network connection between the PC and the server, or a wireless link directly with the server as in the case of Microsoft's Mobile Information Server ("MIS") technology, to which Palm lacks unhindered access.

B. The RPFJ's Toothless Definitions Will Enable Microsoft To Break Interoperability Without Recourse.

The Definitions of "Operating System," "Windows Operating System Product" And "Personal Computer" Are Fatally Flawed. The definition of "operating system" specifies code that executes on a PC. Microsoft can evade this definition simply by moving code off of the PC and onto a server or other device. Microsoft's .NET architecture even facilitates this scheme.

The definition of "Windows Operating System Product" determines the scope of Microsoft's disclosure obligation. The definition itself, however, leaves Microsoft free to determine in its sole discretion what software code comprises a "Windows Operating System Product." In other words, Microsoft's disclosure obligation is subject entirely to its own discretion.

The RPFJ is also undermined by the interaction between the definitions of PC and OS. The definition of PC explicitly excludes almost every new category of device that may compete with PCs in the future, including set top boxes, handhelds, and servers. Because an OS is defined as software running on a PC, competing operating systems running on anything other than a PC appear to be excluded from the RPFJ's coverage.

The Definitions Of "Non-Microsoft Middleware" And "Microsoft Middleware" Are Too Narrow. To qualify as competing middleware protected by the RPFJ, software in question must run on the Windows PC OS and must be distributed in at least one million copies per year. The requirement that covered middleware run on the Windows PC OS leaves Microsoft free to retaliate against middleware software that runs on other devices, such as servers and handhelds. The million unit restriction allows Microsoft to target newly-developed middleware that does not yet sell a million units per year. In fact, Microsoft has an incentive to target such middleware before it can grow to a million units and enjoy the protections of the RPFJ. This restriction will stifle innovation by focusing Microsoft's competitive activity against smaller, younger companies—the companies least able to protect themselves against Microsoft's tactics. Furthermore, as more and more software becomes network-based, the whole concept of "distributing copies of software" becomes irrelevant. It is now possible for very popular software to exist only in a single copy.

For example, the Yahoo web service is intensely popular even though it is not copied onto any user's computer. As Microsoft's .NET initiative indicates, the industry is moving towards a web-based services model where consumers access software applications on the Internet. The RPFJ ignores this crucial change in the marketplace.

Moreover, to qualify as a middleware product, software must either provide the functionality contained in a short list of products (Explorer, Java, Media Player, Messenger, Outlook Express), or must first be sold separately, have a trademarked name and compete with qualifying non-Microsoft middleware. Missing from the list are a large number of Microsoft monopoly products which have already become "platforms" with which Microsoft competitors have to interoperate. These products include Microsoft Office, full Microsoft Outlook (as opposed to just the Express version), Microsoft Exchange, Microsoft Visual Studio, and Microsoft .NET.

Because the RPFJ excludes these products from the middleware definition, Microsoft is left free to manipulate its interfaces and APIs to exclude competitors. This gap alone is enough to render the RPFJ almost completely ineffective.

Under the RPFJ, Microsoft can avoid the provision regarding middleware simply by not trademarking the product name. According to this definition, many Microsoft products currently in the market would fail to qualify as middleware. Furthermore, to qualify as middleware software must include user interface code; Microsoft can avoid this by simply distributing the user interface code separately. Version numbers are also used to determine which software updates are covered; if the whole number or first decimal of the version number does not change, the software does not qualify. It appears that Microsoft could evade the middleware definition simply by changing its software numbering scheme (for example, moving to letters—version a, version b, etc.).

The RPFJ's Failure To Define "Interoperate" Creates A Significant Loophole. Neither Section III.E nor any other provision of the proposal defines "interoperate." This omission invites Microsoft to enable non-Microsoft products to continue to function but in a much less robust way than Microsoft's handheld products, to the detriment of consumers.

The Definition Of ISV Is Too Narrow. The definition of ISV covers only companies creating software that runs on the Windows PC OS. Many current and future Microsoft competitors create software that needs to access information on PCs but does not run on the PC itself. As more and more software development becomes web-based, it will be the norm for competing software not to run on the PC. The RPFJ does not protect these emerging competitors.

The Definition Of APIs Is Too Narrow. Under Section III.D of the RPFJ, the disclosure is narrowly limited to "APIs and related Documentation." Microsoft can circumvent this provision by hard-wiring links to its applications and through other anticompetitive coding schemes.

C. The RPFJ Does Not Stop Microsoft From Using Its Control Over Development Tools To Protect The Applications Barrier To Entry.

The RPFJ ignores Microsoft's control over application development tools, and how Microsoft can use that control to foreclose competition from third parties. The applications barrier to entry was the linchpin of this case and the RPFJ ignores how Microsoft can use development tools to perpetuate it.

For example, Microsoft's Visual Studio product has, as a result of Microsoft's PC OS monopoly, become the software development tools standard for most corporate and commercial application programmers, including prospective developers of software for mobile devices. As handheld technology increasingly displaces PC functionality, more and more PC OS developers have been seeking to create mobile software. Nevertheless, Microsoft has, up to this point, denied Palm access to the Visual Studio Integration Program,[11] despite Palm's significant position in the handheld space.[12]

Microsoft's exclusion of third parties such as Palm from Visual Studio has the following adverse effects. Exclusion makes it impossible for Visual Studio users (the vast majority of PC ISVs) to create Palm OS applications without changing the programming tools they use—an unlikely proposition. This, in turn, makes it more difficult for Palm to recruit software developers.

Exclusion also makes it very difficult to sell Palm OS handhelds to corporations, because Visual Studio is very often the standard for their in-house developers. Lastly, exclusion allows Microsoft to claim that Palm OS handhelds are incompatible with corporate standards. The net effect of these restrictions discourages PC ISVs from supporting non-Microsoft operating systems, and reduces the selection of software available to users of non-Microsoft OS handhelds.

Reduced to its essence, Microsoft's predatory developer tool strategy: (1) leverages its PC OS monopoly to create a software "standard"; (2) prevents competitors from accessing that standard; (3) "informs" customers that the competitive products are incompatible with the very same products that Microsoft used to create the incompatibility; and thereby most importantly, (4) limits consumer choice and experience by foreclosing non-Microsoft products as competitive alternatives.

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[11] The Visual Studio Integration Program ("VSIP") is a Microsoft licensing program which enables companies outside of Microsoft to "host" their software development within the Visual Studio tool. Many companies other than Palm have been given entry to the VSIP. If Palm is denied entry to the VSIP, Visual Studio users will find it much more difficult to create software for Palm OS handhelds.

[12] Microsoft first engaged in stall tactics by simply not responding to Palm's request for participation in the VSIP. Then, Microsoft told Palm that the Visual Studio team lacked the resources for Palm to participate (even as it added other companies to VSIP, Palm believes). Next, Microsoft told Palm that it could participate in the VSIP under the condition that Palm adopt Microsoft's proprietary .NET APIs under unacceptable terms that would have "commoditized" Palm's products. This would have extended the applications barrier to entry to the handheld industry by ensuring that applications developers designed their products not for the Palm platform but for Microsoft's. Ultimately, Microsoft's conduct would have eliminated Palm as a competitive platform. Only recently has Palm received an "offer" to join the Visual Studio without adopting .NET, which Palm believes is due to Microsoft teaming that Palm is testifying in the Track 2 proceedings, i.e., only when Microsoft concluded that its behavior would be subject to judicial scrutiny (and after 18 months of delay). Palm is currently evaluating the terms offered by Microsoft.

D. The RPFJ Does Not Prohibit Microsoft From Unlawfully Bundling Its Products Or Using Anticompetitive Pricing Schemes.

The RPFJ is notably deficient in its failure to address the potential for Microsoft to bundle or commingle its products with other dominant Microsoft software. The RPFJ also fails to prevent Microsoft from engaging in anticompetitive pricing to the ultimate detriment of the consumer (e.g., charging less for its Pocket PC OS only when it is licensed as part of a larger bundle). The royalty schedule restrictions in particular appear to be a major threat to legitimate competition.

For example, under the RPFJ Microsoft will be able to offer discounts on Windows to a PC OEM that also agrees to sell Pocket PC handhelds, so long as Microsoft offers this same subsidy to all OEMs. This gives Microsoft enormous coercive power to prevent any PC OEM from selling non-Microsoft based devices.

E. The RPFJ Does Not Remedy Microsoft's Ability To Use The Installation Of Drivers For Peripheral Hardware As A Chokehold.

The RPFJ does not address Microsoft's ability to obstruct the interoperability of a nonMicrosoft handheld by limiting the consumer's or OEM's ability to install drivers that must sit on top of the OS so that the handheld can communicate with the PC.

F. The RPFJ Does Not Remedy Microsoft's Ability To Use Internet Explorer As A Chokehold. Website developers specifically develop their products to be compatible with Internet Explorer because of Microsoft's monopolization of the browser market. Thus, Internet Explorer itself has become the ultimate test of Web compatibility for all computing devices, including handhelds. The RPFJ does not remedy Microsoft's ability to use this interoperability with Internet Explorer as a weapon. Microsoft has refused to even consider porting Internet Explorer to Palm OS, despite requests from Palm. Microsoft has, though, ported Internet Explorer to Pocket PC in the form of Pocket Internet Explorer.

G. The RPFJ's Disclosure Delays Render It Ineffective.

The disclosure requirements under the RPFJ do not become operative for up to twelve months in the case of interfaces relating to middleware and operating systems, and nine months in the case of interfaces between the PC OS and the server OS. In light of the speed with which the industry moves, these delays will continually undermine the competitive vitality of Microsoft's competitors, which will of course only result in further consumer harm.

The timing of the disclosure requirements under the RPFJ is also deficient. When Microsoft releases an OS, the disclosure requirements do not become effective until Microsoft releases a beta test version to 150,000 or more beta testers. Under this standard, Microsoft will not have to disclose the relevant technical information until very close to the public release date of the product, whereas Microsoft's in-house developers working on peripheral software (such as the Pocket PC OS) will have immediate access to the relevant information. Software development can take a year or longer, whereas the last beta cycle may be only a few weeks or months before release. If disclosure does not happen until the last beta cycle, non-Microsoft products will be at a substantial disadvantage relative to Microsoft products. Also, the definition of "timely manner" specifies a beta cycle of at least 150,000 people. Microsoft apparently could evade all OS pre-disclosure requirements by limiting its beta programs to 149,999 participants.

H. The RPFJ Does Not Restrict Knowing Interference With Performance.

The RPFJ contains no prohibition against Microsoft's intentional interference with the performance of non-Microsoft products by manipulating the interfaces with non-Microsoft products.

Without such a restriction, Microsoft can eliminate the effectiveness of the disclosure requirements by altering the interfaces or other information on which non-Microsoft products rely.

I. The RPFJ Fails To Provide OEMs And Consumers The Flexibility Necessary To Facilitate Competition.

Microsoft Retains Control of Desktop Innovation. Because of the RPFJ's restrictive definitions of middleware, Microsoft retains control of desktop innovation by being able to prohibit OEMs from installing or displaying icons or other shortcuts to non-Microsoft software, products and/or services, if Microsoft does not provide the same software, products and/or services. This undermines the OEMs' ability to differentiate their products, and stifles the emergence of new competitors to Microsoft.

The RPFJ's Non-Retaliation Restrictions Are Ineffective. Section III.F attempts to prohibit retaliation against companies working with competing products, but the narrow definitions of "operating system" and "personal computer" make it unclear whether Microsoft is prohibited from retaliating against companies that work with competing handhelds, set-top boxes, servers or Internet software infrastructure. This ambiguity, plus Microsoft's ability to threaten retaliation even when it is prohibited from carrying out the threats, will make it extremely uncomfortable for any PC OEM to contemplate working with any non-Microsoft product.

Under Section III.A, Microsoft is free to "threaten" to retaliate in any form. Further, Microsoft is constrained only from the specified forms of actual retaliation, a remedy further weakened by the fact that the protected OEM activities are narrowly and specifically defined. Retaliation against an OEM for installing a non-Microsoft application that does not meet the middleware definition is not prohibited; nor is retaliation against an OEM for removing a Microsoft application that does not meet the middleware definition. As noted above, the definitions are so narrowly drawn that the protection of the RPFJ will not apply in most competitive situations Microsoft is likely to encounter in the future. Microsoft could, for example, retaliate against a PC OEM for selling handhelds based on the Palm OS.

Add/Remove Provisions Relate Only To Icons, Not The Middleware Itself. The add/remove provisions in the RPFJ only allow for removal of end user access to Microsoft middleware, not the middleware itself. If Microsoft's middleware remains on PCs, then applications developers will continue to write applications that run on that middleware, reinforcing the applications barrier to entry that is at the heart of this litigation.

Non-Microsoft Icons Should Not Be Subject To Add/Remove. The RPFJ allows Microsoft to demand inclusion of non-Microsoft icons in the add/remove utility, which does not make sense in the absence of any finding that the permanence of non-Microsoft middleware icons on the desktop is anticompetitive. Microsoft's competitors should not be treated as if they are equally guilty of Microsoft's anticompetitive behavior.

Desktop Most Favored Nation Requirements. Nothing in the RPFJ forbids Microsoft from requiring, especially where the product fails to meet the definition of middleware, most favored nation agreements from the OEMs. These agreements tax OEM efforts to promote Microsoft rivals by requiring that equal promotion or placement be given to Microsoft products, often without compensation.

Notification To Developers Only When They Ask. Microsoft can disable competing middleware that fails to meet its requirements without any notice to the middleware developer. The developer is expected to discover the disablement and then request an explanation. Microsoft should be required to disclose in advance any conditions that would cause a competing product to be disabled.

J. The RPFJ's Enforcement Provisions Are Insufficient.

Technical Committee And Compliance Officer. As stated above, a Technical Committee of three experts, one of whom will be selected by Microsoft, will monitor Microsoft's compliance with the RPFJ. The RPFJ also obligates Microsoft to have an internal Compliance Officer. However, the RPFJ fails to provide this Committee and the Compliance Officer with effective oversight power. For example, Microsoft employees do not have a confidential mechanism to report violations to the Committee, the Compliance Officer, the Court or the Plaintiffs. Nor does the RPFJ require Microsoft to retain documents regarding topics relating to the business issues in this case.

Sanctions. In light of Microsoft's violations so far and the potential for continued serious harm to competition, the RPFJ is deficient in not including a "crown jewel" provision requiring Microsoft to incur substantial liability or divestiture of certain assets in the event of future violations of the RPFJ.

IV. CONCLUSION

For the reasons articulated above, Palm submits that the Court should reject the RPFJ as insufficient to remedy Microsoft's past unlawful conduct and to ensure vigorous competition in the future. In the alternative, this Court should defer ruling on the RPFJ until after the Track 2 proceedings conclude.

ATTACHMENT

From: Bill Gates;
Sent: Sunday, July 11, 1999 5:46 PM
To: Harel Kodesh
CC: Bob Mugia (Exchange); Jim Allchin

(Exchange): Mats Wennberg; Thomas
Koll; Greg
Faust;
Jonathan Kobetrs; Bill Mitchell
Subject: Nokia
While I was at the Allen and CO conference
I met with Jurma Oillie CEO of Nokia.

I was totally confused by them licensing their WAP browser to Spyglass. It's a disaster for us to have an effort that is duplicativē that we give away while the leaders in the industry move in their own direction.

I think the PDA group needs some better strategic think in this whole cheap browse area. How come we don't merge our effort with Nokia? Why do we let Spyglass undermine us IN so many areas? Who keeps paying money Spyglass?

I am also completely confused about why we aren't doing more due diligence on GPRS with Nokia and others. Jurma seemed very surprised when I told him our goal was to fund someone to roll out a nationwide wireless network using HDR or GPRS as quickly as possible to create something a based on Windows CE. He said his people need to explain to use how GPRS is a much better choice. They would love to help get involved in rolling this out with some partners. He rays HDR or another fraud from Qualcomm where exaggeration sways people who don't hear both sides of the story.

Jurma was asking about our strategy for voice recognition servers to make PDAs work a lot better. He sees all networked PDAs as needing. a voice recognition, server infrastructure (like phones) and that this changes the UI quite a bit I said I agreed with his view and that we had not factored that into our plans right now. We talked about how voice and screens will come together. l said there were a lot of key scenarios that we our PDA group was parenting around (I wish our activity level here was really as high as I suggested to him7.

Jurma also wanted to know what sort of strategy we had to bring Hotmail Contact lists/Schedules together with Exchange. They use Exchange internally but a lot of their people use Hotmail and don't understand what we are doing.,

Jurma told me their Fenix project is delayed because of a key chip so it won't ship until March 2000 so they don't want to announce at Telcom where I am going. He talked about how much money people spend on their booths at Telcom.

I am a bit confused about what we should be doing on witless data/pbx with various vendors. Why wouldn't we want to have a Windows PDA to work with each of their wirless PBX solutions?

Jurma talked about how he is thinking perhaps Cisco or Lucent may buy Ericsson if it doesn't get straightened out fairly soon. He also thinks someone will buy 3Corn. We talked about how we view Palm as a competitor. I was amazed at the number of Palm Pilots I saw at this conference. We really need to follow up with them on GPRS rapidly and get their best thinking given our goals.

We really need to demonstrate to people like Nokia why our PDA will connect to Office in a better way than other PDAs even if that means changing how we do flexible schema in Outlook and how we tie some of our audio and video advanced work to only run on our PDAs.

GOVERNMENT EXHIBIT
Remedy 1
MSCE 0097924 CONFIDENTIAL
From: Harel Kodesh
Sent: Sunday, July 11.1999 10:25 PM
To: Bill Gates
CC: Bob Muglia (Exchange); Jim Allchin
(Exchange); Mats Wennberg; Thomas
Koll; Greg
Faust;
Jonathan Roberts; Bill Mitchell
Subject: RE; Nokia

There is a lot of stuff here. I will try to answer line by line.

1. Our microbrowser needs a WAP stack. There are 3 Possible places we can like it from: Nokia is willing to SELL it to us, Ericsson is willing to give it to me wee, and MotoroLa is still undecided what they want to do. So right now we are working with Ericsson on getting the browser. It is a better deal than the Nokia one. We told Nokia that We do not need more than one stack, and the stack that Ericsson gives us is good. This is for V2 of the microbrowser and we do not plan to give that away. Our browser will be better in XML than the Nokia one.

2. HDR vs GPRS—we are going through the analysis now. I don't understand where the fraud is. As we and Sprint talk more about R we will do me analysis, Ericsson and Nokia in me past claimed that CDMA is a loser, but at the end 3G is CDMA based. I am not saying that the HDR is the winner and we will do more to understand GPRS—I will take the action item there.

3. the server based scenarios look very compelling, but we are missing some work items to make it really cool. Palm is the clearest threat right now and this is where we spent most of the efforts. I think the effors is bearing fruits: finally We got the sync technology to the point where it is much better man palm. Casio demonstrated the Video and Audio are huge sellers. (and with MSAudio we do have the tie back to our technology). Unfortunately we do not have enough inventory to reach parity and that will be the case until early 2000).

4. There are hotmail/exchange convergence issues here. as well as connectivity back to office. I think we are doing a good job in rapier time frame, but we will have problems with hardware availability and this is what we are trying to fix now. I will work with bobmu on these issues.

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From:. Harel Kodesh
Sent: Sunday. July 11, 1999 10:45 PM
To: Harel Kodesh; Bill Gates
CC: Bob Muglia (Exchange); Jim Allchin
(Exchange); Mats Wennberg; Thomas
Koll; Grog
Faust; Jonathan Roberts; Bill Mitchell
Subject: RE: Nokia

Forgot one thing: We absolutely need to go after other PBX manufacturers and develop the market independently of what Nokia can or cannot do. I really would like to see us announcing an effort to provide, campus communication (ideally .with Nokia and others) even though they may fall behind in terms of schedule. The whole offering is not a consumer offering and we will need some lead time to sell it to the enterprise.

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From:Harel Kodesh
Sent: Sunday, July 11, 1999 10:25 PM
To: Bill Gates
Cc: Bob Muglia (Exchange); Jim Allchin (Exchange; Mats Wennberg; Thomas Koll; Grog
Faust; Jonathan Roberts; Bill Mitchell
Subject: RE: Nokia

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MSCE 0097927
CONFIDENTIAL

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MSCE 0097928
CONFIDENTIAL

MTC–00030614

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UN??) STATES OF AMERICA, Plaintiff,
Civil Action No. 98–121 CKK, ??FT CORPORATION, Defendant

STATE?? NEW YORK: et al., Plaintiffs,
Civil Action No. 98–123 ??KK, MICRDN??FT CORPORATION, Defendant

COMMENTS OF SOFTWARE & INFORMATION INDUSTRY ASSOCI?? ION ON PROPOSED FINAL JUDGMENT

Ken Wasch, President (Bar No. 93,4984) I
Software and Information
Industry Associa?? 1090
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(202) 289–7442
Douglas L. Hilleboe (Bar No. 386091)
Steptoe & Johnson LLP
1330 Connecticut Avenue, NW
Washington, DC 20036
(202) 429–3000
Dated: January 28, 2002

COMMENTS OF SOFTWARE & INFORMATION INDUSTRY ASSO?? ON PROPOSED FINAL JUDGMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (the "??nney Act") 15 U.S.C. § 16(b)-(h) (2000), the Software & Information Industry Associati?? ("SIIA") submits those comments on the Proposed Finn Judgmenot ("PFJ") filed by the Unite ?? Department of Justice ("DOJ") on November 6, 2001.

SHA is the principal trade association of the software code and information?? tent corp?? SHA provides global services in government relations, business development corporate education and intellectual property protection to more than 800 leading s ??are and ?? company. Our member develop and market software and electronic ??tent for business education, consumers, and the Internet. SIIA's membership is compiled ??arge and small ?? companies, e-business and information companies, as well as many traditional and electronic commerce complies of varying sizes.

Among SIIA's key public policy issues is the promotion of competition in th??ftware industry. SIIA has promoted these principles of competition in a variety of fora, inc??g the federal courts.

The PFJ proffered by DOJ represents a remarkable change of heart- or, per?? more accurately, a loss of heart. For whatever reason, DOJ proposes to end one of its m?? important and successful monopolization case a with a settlement that reflects neither its litiga?? ??position nor the decisions it won at trial and on appeal. A settlement as weak as this would ?? been disapp??, but perhaps understandable, at it had been reached before trail. In ?? is uncertain, and sometimes DOJ must take a bird in the hand. But in this ?? of the ??giation is past, and the new Administration arrivals are dot free to decide ?? the?? to this case. The law of this case is settled. The trial and appeals ?? have alre?? finding of fact and conclusions of law. These findings and conclusi?? proceeding whose raison ?? is protecting against an improperly ?? or expedient compromise of the public's interest in enforcement of the antitrust laws.

Appropriate relief in an antitrust case should end the unlawful conduct, ?? competition, avoid a recurrence of the violation and others like it, and ?? anticompetitive consequences.

Unfortunately, SIIA submits that the PFI does not a?? these ?? and ignores significant parts of the Court of Appeals's decision regarding ?? an?? and their consequences. Ever where it seems to address the ?? identified by the Court, the PFJ is so porous that it provides little or no protection a ?? a repetition of Microsoft's past anticompetitive acts.

Flaws in the PFJ's Remedies. The two most salient remedies imposed?? Microsoft under?? PFJ concern flexibility for OEMs to install competing middleware and A?? DOJ's Competitive Impact Statement ("CIS") stresses the importance of preventing future??ses in these ?? The theme of the CIS and PFJ is that competition was injured in this?? prin?? because Microsoft's illegal conduct maintained the applications barrier?? personal computer operating system market by thwarting the success of middleware ?? would have ?? competing operating systems gain access to applications and other need?? complements. The PFJ is intended to restore competition. In fact, however, the PF?? so loosely written it is likely to have only the most modest effect on Microsoft's actions- ?? all on its ability to monopolize new sectors of the information technology market.

a. Middleware. Middleware was at the heart of the case. Impelled by enth??asm for the Intr??, PC users embraced Netscape's browser, and Netscape (particularly in c?? ??ination with JAVA) was able to provide developers with a new, non-Microsoft?? h to the des?? This is not simply an academic observation on the part of S??A and its ?? For ?? every one of our members, the rise of independent middleware opened ?? that were the objects of intense strategic focus. The reason for this ?? was that our ?? programs suddenly could use Netscape and JAVA as mediators to ?? launch and ?? the desktop. For the first time in year it seemed possible that independs?? software venders (ISVs) would have a way to reach the great majority of computer users ind??dent of Microsoft. Indeed, because they could run on other operating systems. JAVA and?? cape's browser suddenly offered these ISVs an even broader market than they could obtain developing for the Microsoft operating system.

The CIS describes how this competitive threat struck at the heart of Microso?? monopoly, and Microsoft's counterattack used every possible weapon, including?? ??lawful tactical?? "leveraging" its operating system monopoly. The PFJ seeks to prevent Mi?? soft from repeating these tactics by ensuring that future middleware vendors are not denied ac??to the desktop. But the measures chosen are unlikely to have that effect. As a matter of ?? they are family weak. Microsoft itself is expressly granted nearly complete control over ?? meaning of "middleware" under the PFJ.

Equally important, these measures are written for a world that no longer exis?? The market ?? has moved on. The PFJ grants to hardware makers the right to add middle wa??cons to their ?? but these companies simply lack the financial strength and the motivation??levelop new software that might threaten Microsoft. To take one example, OEMs have been ??ured by Microsoft for several monks that they may customize their desktops by uninstalling?? ??soft's Internet Explorer; not one has actually done so. Meanwhile, the PFJ does not give i?? endent software vendors who might challenge Microsoft the one thing that would tempt then?? a channel to users that is not subject to exclusionary practices by Microsoft. On the ?? trary, the PFJ pro??ects middleware only after Microsoft has launched a similar product, by w??time it is too late. Developers of applications will always develop first and most enthusiastical?? or the most w??dely deployed platform, because that platform offers them the largest marke ?? the most users Users, in turn, will typically choose the most widely deployed platform beca?? it offers ?? threatened Microsoft in 1995–98 because it could offer developers an even bigger m "Microsoft plus" market.

??u Microsoft cannot be seriously challenged in that way again because no n??enact to the middleware market can hope to equal the ubiquity of Microsoft in that market, l??:one achieve the "Microsoft plus" market that Netscape and JAVA offered in 1995–98.

b. APIs. The PFJ also requires that Microsoft disclose the APIs used by Mi?? soft middleware to interoperate with the Microsoft operating system. Here, too, the PFJ?? ??ers both from porous drafting, and #ore a curious blankness regarding the sources of Micros?? dom?? of the market.. The provision is replete with terms that are not defined (?????? is rimed or distributed ("Microsoft Middleware") or, most remarkably. are left to be defined ?? Microsoft's "sole discretion" ("Windows Operating system Product").

In any event, the PFJ does little more than throw Microsoft into a briar patch?? as long ??called to?? Microsoft's ?? application developers writing for its users. To write programs for Microsoft users, ?? developers must have access to Microsoft's APIs. The APIs are their air supply, an ?? who are too independent or too successful, it has every incentive to provide extensi?? inf?? about its APIs. And the PFJ leaves the valve firmly in Microsoft's?? allowing 'Microsoft to impose royalties and other restrictions on developers who on, access to the APIs. The PFJ thus requires little or nothing more than Microsoft would provid?? its own. Unless developers can be guaranteed an air supply that does not depend on Microso?? hey wi11 not ?? the company that can unilaterally cut them off.

2. Backward-Looking Remedies. In short, when all is said and done, this?? wagers everything on a series of measures that might have prevented Microsoft from unlaws?? y destroying Netscape in the browser wars. Even this is open to question, but the real ?? lem with the PFJ lies deeper, for there is not the slightest chance that these measures will ??ow a new competitor on the order of Netscape to emerge. The market has moved on. Focusin?? ??y on prever??ing a repetition of the unlawful actions Microsoft took in 1995–98 is like neg?? ling an end to World War II by letting the Germans keep Paris as long as they promise to rel?? d the Mag??st Line. Such a limited focus is not just improvident, it ignores the instructions of the ??art of ??? "fruits" of its unlawful conduct. This cannot be accomplished by relying on the emer??ce of some yet to-be-identified middleware challenger. To the contrary, Microsoft has alre?? solid find its unlawful victory into a browser monopoly, and it now bids fair to make?? entire Interne?? into a proprietary Microsoft environment. Any remedy that seeks to deny M??soft the fruits of its unlawful conduct must at a minimum prevent Microsoft from using the?? conduct to extend its control or services that rely on Internet Explorer.

For that reason, SIIA urges that the PFJ be expanded to address present and?? conditions, and not just the dead past. The PFJ must take steps to reduce the massiv?? tructural advantage that Microsoft has achieved by unlawfully leveraging is opiating systen?? into Internet-access These steps include opening the code of Inwrn?? restricting exclusionary uses of Windows XP and the tools that make up Mic?? .NET in tiative, preventing Microsoft from "polluting" standards by adding?? extensions, and inclusion of Microsoft's productivity applications in any relief.

3. Missing Principle. One further gap in the PFJ deserves mention. If the?? changes required by the PFJ are of very dubious force, the only provisions likely to ?? continuing value are those that spell out broad principles of conduct. Here too thee?? room for disappointment. The PFJ does not prohibit Microsoft from intentionally di??,ling or adver?? affecting the operation of competing products. No explanation is offered ??

4. Procedure. Finally, SIA wishes to address one procedural point. At the?? this proceeding are the decisions of the Court of Appeals and the District Court.?? about Microsoft's conduct and about the appropriate remedies are an essential?? interest analysis. But they are also at the heart of the case between the remaining liti?? and Microsoft. It may be difficult to reach a conclusion about this PFJ without Pref?? decision on the yew issues that the parties intend to litigate before the Court in the ?? To do so on the basis of a few Tunney Act filings rather than a full record might do a?? to the parties to that litigation. SIIA therefore respectfully requests that this Court ?? the PFJ and in terms under advisement until the conclusion of the litigation. In sum, the PFJ, as written, represents a failure of will and technological wis??m that canh?? approved by this court consistent with the unanimous liability decision o??3 Court of Appeals, traditional standards of antitrust remedy law, or the Tunney Act.

II. ARGUMENT

A. Standard of Review

Under the Tunney Act, this Court is required to review a proposed settlemen?? Deter??e whether it serves the "public interest." In most instances Tunney Act pr?? occur prior or to trial and without any judicial findings of liability. The Act was pass?? stage if the proceedings to the sunlight of public scrutiny. In the unique?? this case, however, where the Court of Appeals issued an opinion on the merits prio?? inition?? ?? consistent with the Court of Appeals opinion. The Court of Appeals ruled, "[t]he Su?? has expl??red that a remedies decree in an antitrust case must seek to "unfetter a ??

conduct," Ford Motor Co., 405 U.S. at 577, to terminate the?? deny in the defendant the fruits of its statutory violation, and ensure that there remain?? practices likely to result in monopolization in the future. Thus, this Court must ??ider each of these factors in its public interest analysis.

Ordinarily, the Department of Justice is given prosecutorial discretion in de??ng whether to bring a civil antitrust action. As a result, courts generally require that a ??posed settlement only be "within the reaches of the public interest'," which approval "even if it falls short of the remedy the court would impose on its own." Thus, in?? Tunney Act cases, courts have permitted entry of consent decrees which were mere?? with the government's general theory of liability as manifested in its complaint" ?? "gran??] relief to which the government might not be strictly entitled" under the ?? Ben??. 648 F.2d at 660.

In this case, after trial and with the benefit of an extensive factual record, the?? App?? held specifically that relief must seek to "terminate" Microsoft's operating. tem?? monopo?? "unfetter" barriers to competition to the OS market, and "deny" Microsc?? he "fruit" of its statutory violations. DOJ itself has emphasized to this Court that "b?? the applical?? remedial legal standard and the liability determination of the Court of A??als are clear ?? Here, there is no question that the Court of Appeals is binding on this Co?? as well as the ??itigins. Consequently, the Court of Appeals" mandate is the "public interest as?? pressed in the ?? laws." "[A] remedies decree in an antitrust case must seek to "unfetter a market ?? antico?? e??itive conduct," to "terminate the illegal monopoly, deny to the defendant t?? fruits of its sta??tory violation, and ensure that there remain no practices likely to result in me?? ??olization in the ??lure." Microsoft III, 253 F.3d at 103 (quoting Ford Motor Co. v. United S?? 405 U.S. 5??2 577 (1972), and citing United States v. United Shoe Mach. Corp., 391 U.S. ?? 4,250 (1968) (internal citations omitted)). No new legal standard for monopolization relief ?? is put forwar?? by the DC Circuit. On the contrary, the Court adopted the traditional test ??d on by the Supreme Court. Joint Status Report, United States v. Microsoft Corp., at 2g (D.DC filed S?? .20, 2001).

The CIS, however, articulates a different and considerably less rigorous stan??d for a reme??y in an antitrust case. According to the CIS, "[a]ppropriate injunctive relief. ??hould: (1) end the ??lawful conduct; (2) 'avoid a recurrence of the violation" and others like it??d (3) undo is anticompetitive consequences." Significantly, the formulation advocated DOJ does not re??re the remedy to 'terminate" the illegal monopoly, or to 'deny the defendan??e fruits" of its ?? awful conduct. Regardless of whether the DOJ formulation may have been ??propriate in pas??es, it is simply the wrong standard of review for the remedy in this case, where the Dist?? Court and Court of Appeals have clearly outlined how Microsoft violated th?? Her??an Act. The PFJ is deficient under either formulation. There are substantial disparities ??tween the CIS and the PFJ. And the DOJ has not even attempted to defend the PFJ under the ?? string??, and binding, Ford/United Shoe/Grinnell standard that this Court must see?? enforce. CIS at 2.4 (citations omitted).

?? SIIA's Remedy Proposals are Reasonable and Proportional to Microsoft's Unlawful Conduct ??UA's proposed modifications to the PFJ, described in detail below, are both ??umerous and substantial. Regrettably for consumers, Microsoft's already proven monopolist ??cts have so destroyed competition in the operating systems market that adoption of these pro??als is critical if the PFJ is to "unfetter" the market from Microsoft's anticompetitive cond?? "terminate" Microsoft's illegal monopoly, deny Microsoft the ""fruits" of its Sherma??ct violations, and prevent future monopolistic acts, in accordance with the Ford/United Shoe/Grinnell standard for remedies.

There are similarities between this case and the AT&T divestiture, the last ??ge mo??ization settlement under the Tunney Act. SIIA submits that in This case the PFJ is simila??y completely inadequate to remedy the serious antitrust violations in this ma??. In the former matter Judge Greene reviewed the evidence on all issues except remedy. Af?? evidentiary hearings, third-party submissions, and lengthy oral argument, Judge Gre?? declined to approve the consent decree as proposed because he concluded that it was inadequ?? in certain areas and precluded the Court from effective oversight and enforcement. Judge Gre?? required significant changes to the proposed decree before he would consent to enter the settlement under the Tun??ey Act's public interest standard, holding that "[i]t does not follow... that ?? Court] must ?? ??uestioningly accept a [consent] decree as long as it somehow, and however ?? inad??tely, deals with the antitrust... problems implicated in the lawsuit." SIIA ?? respect??lly requests that this Court follow Judge Greene's prudent actions and send ?? parries bac?? to the negotiating table to formulate an appropriate PFJ. This Court should re?? ??e its con??s on on the PFJ until after the pending State case has been litigated.

C. The PFJ Fails to Address the Core Violations Affirmed by the D?? Circuit

1. The PFJ Does Not Eliminate Microsoft's Binding of its M??eware to its Operating System As the C??S indicates, the core manner in which Microsoft unlawfully mainta??d its Win?? Operating System ("OS") monopoly was by bundling and tying platform ??dleware to the OS. Microsoft used this strategy to defeat the alternative platform threats pos?? by Nets?? and JAVA. The DC Circuit ruled that these actions constituted unlawful ??intenance of mo??poly under Section 2.

a. Failings of the PFJ

It is critical for this Court to understand that the business and economics that ??ive the software industry demonstrate conclusively that the ubiquity of a development platf?? will almost always beat technological superiority. The common interest of software dev??bers and cons?? in adopting the most uniform platform is the basis of the Microsoft mone??y. As a result, if Microsoft is allowed to continue to bind or bundle its middleware offerings th the Windows OS, the ubiquity of its middleware will be permanent, and active middiew?? comp?? will never emerge. Microsoft will enjoy a perpetual maintenance of its nopoly, codified and reinforced by to the PFJ, and consumers will suffer a significant retardi?? of innnov??tion that would have otherwise occurred. The negative consequences of this ??ome on innov??tion cannot be overstated. If there is no way to reach consumers except throu?? Microsoft's platform, and if Microsoft remains free to cut off the access of applicati?? that are "too ??ssful," then there are few incentives for independent innovation in the fie?? that Microsoft occupies. Yet one of the principal comparative advantages currently enje?? by the Un??tates" economy and its consumers is generally superior technological deve?? ??nent and innovation. Allowing Microsoft's monopoly to continue unfettered (as the PFJ doe?? would signi?? erode this advantage over a short time.

The CIS recognizes this central fact and claims to have addressed it. The CIS ??ays that the PFJ will ensure that OEMs (manufacturers of PCs) have the contractual and eco??nic freed?? to, distribute and support non-Microsoft middleware products without fear??oercion or retaliation by Microsoft. Further, the CIS claims the PFJ will ensure that OEMs have he freed ?? to configure the personal computers they sell to feature and promote non-Microsoft midd?? are, and will ensure that developers of these alternatives to Microsoft prod?? are able to fea?? those products on PCs. The CIS also claims the PFJ will ensure that OEM ??ave the freedom to offer non-Microsoft middleware, by requiring Microsoft to provide the OEMs with the ability to customize the middleware installed.

SIIA considers these goals to be laudable. But flaws in the PFJ as written m?? that it cann?? achieve these goals, or even reduce the monopoly Microsoft currently enjoys??

i. The "Plumbing" Problem

First, merely allowing OEMs and end-users (individuals and businesses) to ??veicons and shor?? cuts (so-called "end user access") does not solve the underlying problem. ?? PFJ leaves all of the browser middleware on the PC hard disk, which means that it is ava??le to Window, and all Windows applications. In other words, the PFJ does nothing to re??e or modi??y the code itself- the hidden "plumbing': by which Microsoft has bound Intel Explorer (IE). Windows. As a result, third-party software developers can continue to rely Microsoft's middleware plumbing—as long as they write Windows applications. N??e of the incer??ves that bind developers to Microsoft will change under the PFJ because dev??ers will still b??sured that Microsoft's middleware will be installed on about 95 percent of??sktop PCs whether or not the "end user access" is removed. In short, Microsoft can still enjoy benefit it wres??ed from Netscape and JAVA when it forced their middleware out of the main??un. That bene??vas not a ubiquitous icon—it was ubiquitous plumbing.

The PFJ thus fails to address the network effect that drives the Microsoft mo??oly corrp??tiors will still lice the same applications barrier to entry because Microsoft's development platform platform will still be ubiquitous. ISVs will therefore continue to write ??plications to the vi??osoft APIs, ignoring the more narrowly distributed—and therefore highest perunit?? ??lrematives. If anything, the PFJ helps to lock in this network effect by mere??iving OEM?? and end users the option to remove the icons and shortcuts rather than allow them to decide?? whether to add the Microsoft middleware in the first place. For this reason are the PFJ fails to meet even the requirements of antitrust remedies law and does not comport the DC Circuit opinion.

ii. Distribution of middleware

As is detailed throughout these comments, it is import-ant for this Court to un??stand that Microsoft currently enjoys a monopoly in the distribution channel—namely, the Win??ws oper?? system. The PFJ does nothing to alter this monopoly since Microsoft is ali??ed to contr?? integrating its middleware into its ubiquitous OS. The "removal" of the mi??eware in the s??peificial manner proposed by the PFJ permits Microsoft to commingle code for middleware with the OS, and does nothing to prevent Microsoft from protecting its w??ows monep??ly power through the same exclusionary means used against Netscape and ??A. Nothing is more persuasive than experience, and experience suggests that granting Ms the right?? uninstall" IE is a meaningless remedy In fact, Microsoft has already revis?? Windows XP so that OEMs may" "uninstall" end user access to IE. Nor one OEM to date has?? en adva??age of this option.

iii. Reliance on OEMs

SIIA also believes that the PFJ's reliance upon OEMs in this section of the is mis??d OEMs have historically been low-margin economic dependents of Micr??ft, and they have therefore been reluctant to challenge Redmond. Since 1995–98, this situa?? I has worseued. Currently, PC manufacturers face falling prices and demand. It is not ec??mieally rational in this market environment to expect OEMs to invest in the research and de??pment, and product design work, necessary to replace Microsoft's "free" middleware with ?? products of c??peting vendors. OEMs should have the option to ship Microsoft middleware hey choo?? do so by obtaining it from Microsoft, and not because they were forced to so by Microsoft's bundling or bolting of the middleware are to the OS.

iv. Lack of exclusivity

Another essential element of the PFJ's supposed remedy to Microsoft's mon??ly is to crea??e "marketplace" for competitive middleware on the PC desktop. This "marke??ce," however is illusory. It will never occur under the current structure of the PFJ. Deve??ers canno??be offered the "Microsoft plus" market that Netscape and JAVA offered befo?? Microsoft's unlawful counterattack. Microsoft will still have to all PCs for fr?? by virtue of its ?? r??ution monopoly. Consequently, its competitors can only hope to be instia?? alongside Microsoft's middleware on some of the machines sold by OEMs. Instead "Microsoft plus" they will have to settle for "Microsoft minus." Since software dev??pers write first ?? the most widely available middleware (the applications barrier to entry l9), c??eting middle are vendors will not pay much for the chance to run a distant second to Mir??oft in ubiquity. Nor does the PFJ allow independent middleware companies to purchase a ??icrosoft-free" market; without the commingling remedy, alternative middleware vendors cart?? pay for exclusivity. The PFJ only permits competitive middleware vendors to pay for share ??ccess to some PCs. SIIA's proposed anti-bundling remedy, in contrast, would immediately ??ease the value and competitiveness of the "marketplace" by permitting PC manufacturers to y differn??late their products with competing middleware.

b. Remedies for the PFJ's failings

The appropriate remedies proposed by SIIA for this bundling problem are n??erous because the problem is so central:

Microsoft should be prohibited from incorporating any middleware it the OS (including for purposes of this section IE), and prohibited from making any Microsoft Middleware Product the default middleware, i?? order to prevent the continuation of the applications barrier to entry. Further, the definition of Middleware Product in the 2000 Decree s??ld be amended by:

The definition of "Bind" in Section 7.d of the 2000 Decree should be supplemented to add "and all of its related files, including, without limitation, by commingling of code;" IE, and other browsers (includ?? MSN Explorer) should be eliminated from the definition of" Middle?? Product, but instead covered by the open source remedy described and Microsoft should be prohibited from "altering or interfering with the choice of middleware by a user or OEM, including without limitation setting or changing MIME types to automatically launch a Microsoft Middleware Product, plug-in or other Microsoft software." Microsoft should be provided with a 90-day transition period in whi?? reconfigure Windows XP and any other existing OS products that currently bind Middleware Products with the OS. Three other remedial points bear discussion here. First, the current definition Microsoft Middleware or Microsoft Middleware Product allow Microsoft to unilate?? Dete??e the scope of its obligation simply by deciding whether to ship a product ??rately from Windows. The definition under the PFJ provides that if Microsoft has distribu?? middleware separately from the OS, it is a Middleware Product. In S??A's view the defin??on should provide that if anyone distributes middleware separately from the Middleware Product, and subject to the binding prohibition. Thus, if a competitor c?? middleware technology, Microsoft would therefore be precluded from introducing it versic?? integrated: with the OS, and thereby stifling the potential for the new middleware techn??logy to erode the applications barrier to entry. In other words, the proposed r?? definition would ensure that Microsoft cannot gate" the development of middleware integ?? new innovations pioneered by third-parties into its OS, instead of distri?? Mi??ft "clone" as a separate retail product.

Second, the Office Suite of productivity applications and the Outlook email infor??tion management program should be added to the definition of Middleware order preclude Microsoft from evading the constraint of this section of the PFJ by b?? or O?? technology (each of which exposes APIs and can erode the applications entry ?? the OS. Third, Microsoft should be required to provide IE source code on an open s?? descr??bed below. This is necessary because IE, which once was a classic example ?? middleware, has now been so thoroughly integrated into the OS by Microsoft that P?? Mi??ft to bind middleware to IE would allow .Microsoft to circumvent the anti-b?? pro??on. Under a properly revised PFJ: IE would be treated as a Windows Operating System Product "for purposes of this section." To the extent middleware is available in the retail channels from competitors, Microsoft would be barred from tying, binding, or bolti?? (either contractually or technologically) similar technology to the operating system. Microsoft would be prohibited from shipping Windows to OEMs wit Middleware or Middleware Product included. Both OEM and end users would, of course, be free to use Microsoft middleware received by download, or sold in retail stores. OEMs would also be free to procure Microsoft's middleware separat?? and include that software on their retail PC systems. Microsoft products that would fall under the middleware restrictions l include Media Player and Windows Messenger. The Court of Appeals" decision in this matter supports the SIIA's proposed a?? reined?? While the Appellate Court reversed the District Court's conclusion that Mi?? exc??y conduct violated Section 1 as a per se unlawful tying arrangement, it ?? affirmed liability for monopoly maintenance under Section 2 for this same behavio?? "[t]??ologically binding IE to Windows... both prevented OEMs from pre-insta?? bro??s and deterred consumers from using them." The Court specifically fo?? Mic??ft's commingling of software code for Windows and IE was unlawful and r??, that its remand of the Section 1 tying claim was wholly consistent with imposing S?? liabi??y for essentially the same conduct: "The facts underlying the tying allegation overlap ??th those set forth.., in connection with the * 2 monopoly maintenance c?? Thus, this Court is not limited in an3" fashion in altering the PFJ to restrict Microsof?? bund?? and bind other software with the OS.

The DC Circuit's express affirmance of liability for binding IE to Window signi?? because Microsoft sought to limit ;he Court's holding solely to the more on which the DC Circuit "also affirmed, of excluding IE from the so-called "add/re?? Micr??ft argued that its commingling of code was appropriate and that the Court s?? affi?? the ground that it had not allowed end users a means of deleting the IE i?? desk?? The Court of Appeals rejected Microsoft's argument out-of-hand.

2. The PFJ Does Not Prevent Microsoft from Using Window Features to Protect Its OS Monopoly

a. Failings of the PFJ

The current computing market is shifting away from client-side software, to??d an envit??ent of Internet-based ("distributed") applications and Web services. Eve??ng from spread sheets and music to air travel reservations and photo development can be off?? as a web service. Microsoft has made clear its desire to shift its entire business from a produ??icensing model to a model in which it derives revenue from a subscription of services. Microsoft has designed Windows XP to distribute key middleware components such as Passport, ??dows Messenger, and Windows Media Player, while at the same rime making them archit??urally necessary for the provision of many internet services, in addition, Microsoft has in??singly been ??ding Web-based services into its Windows operating system, thereby plac?? competitive and innovative services at a great disadvantage. This is an all-too-fami?? tactic. By bundling and tying its Web-based services and Internet middleware to Windows?? Microsoft further reinforces the applications barrier to entry achieved by locking us?? into its own Web-based services and proprietary Internet interfaces. The CIS stares that the PFJ is designed to prevent recurrence of the same or ??ilar prac?? that Microsoft employed to reach its current monopoly position. As disc??ed above, however, the PFJ does not achieve the goal stated by the CIS because it fails to proh?? Microsoft from continuing to bundle and tie middleware to its Windows operating s??m, despi??he Court of Appeals" conclusion that these same acts were among Microsoft??ore Shern?? Act violations. The PFJ does nothing to impede Microsoft from repeating ?? pattern of exclusionary conduct because the PFJ is restricted to the software market and produ??hat existed in 995–98, and does not address today's Web-based marker in which service??nd multi??ia are replacing client-side software. The PFJ does not cover Web services?? Web-based applications, or Internet content, all of which Microsoft has integrated into Window??P. Therefore Microsoft is free simply to continue using its familiar repertoire of anti??petitive tacti??s (e.g., tying; technical restrictions on user choice, etc.) to protect its OS again??reats in the Web-based market through its Windows XP design. These inadequacies of the ??run completely counter to tile public interest and only compound the problems caused b?? Microsoft's unlawful conduct by enabling Microsoft to extend its unlawfully-won monopoly to next generator of technology.

b. Remedies for the PFJ's Failings

The PFJ should be modified to explicitly foreclose Microsoft's use of Windo??XP features to protect its Windows monopoly against Internet-based competition from ??er product?? and Web-based services. More specifically, with respect to the PFJ's OE??ovisions, SIIA proposes the following:

. the OEM provisions should be amended so that Microsoft may not re??ct (by contract or otherwise), or retaliate directly or indirectly against, a ?? OEM from modifying, adding or deleting icons, taskbars, toolbars, li?? and default pages, or other similar end user features, in Internet Exp?? and successor browser products whether or not such browsers are distributed together with or separately from a Windows Operating Sy??m Product;

. the OEM provisions should be expanded to cover the current configu?? on of Windows XP by permitting OEMs to remove, modify" or substitute ?? "My Photos," "My Music" and similar OS folders; and

. Section 3.a.iii.2 of the 2000 Decree should be clarified to require Microsoft to compensate an OEM for the placement of any icons of Microsoft products or services on the Windows desktop.

. With respect to tying of products and services, the prohibition on contractual tying in Section 3.f of the 2000 Decree, precluding Micro?? from "conditioning" a Windows Operating System Product license on 'OEM or other licensee" agreeing "to license, promote or distribute" ??y other Microsoft software product, "whether or not for a separate or positive price," should be reinstituted. In this regard, this provision ??uld be supplemented to include a prohibition on tying or bundling Web-??ed services, or access to Web-based services, with the Windows OS or ??Microsoft Internet browser.

Only with these modifications can the PFJ satisfy DOJ's own remedial goal?? the Court of Appeals" requirement to prevent future monopolistic practices. The modification?? the OEM provisions are essential to enabling OEMs" flexibility to differentiate their products OEMs must be free to eliminate or alter start menus and to integrate value-added technologies i??eir offerings. This ability must not be constrained by first having to remove or otherwi?? ??hange the Windows bundle. The key to an effective remedy is changing the ability of Microsoft to make all systems integration and software bundle decisions, and moving some of that dec??-making power down the supply chain either to the OEMs, or integrators, acting on their beh?? Moreover this ability should not be limited to fringe, applications, but should give OEMs the ability to focus on the core applications actually driving PC sales and demand at any??en point. This modification is designed to prevent the further reinforcement of the ap??tions barrier to entry by locking users into Microsoft's Web-based services. Microsoft's ??rol over interoperability interfaces is anticompetitive; it directly reinforces the applications b??er to entry reduces opportunities for ISVs and competing platform suppliers to cr??platform applications, and prevents emerging computing platforms (e.g., handheld devices, d??al telephones, etc.) from evolving into at least partial substitutes for desktop PCs.

Finally, it is critical to give OEMs the ability to customize and earn revenue??m desktop and browser configuration. Unfortunately, Microsoft's ability to impose its produc??acement and icons on the browser and the desktop for both products and services, without "??ng" for me placement, undercuts the ability of OEMs to earn revenue primarily because it e??inates the ability of the OEMs to provide exclusivity. This was most evident m Summer 2001??hen AOL's deal with a major OEM for placement of an AOL icon on the Windows des?? was thwarted by Microsoft's insistence that its corresponding icons also be included by??OEM, without compensation. Microsoft's action undercut the economic value of the AO??clusive arrangement and the OEM's ability to exercise its right to desktop flexibility.

The Court of Appeals's remedial standard in this case supports SIIA's prop??ban on con??al tying, which goes directly to Microsoft's ability to control the applicati?? barrier to entry. The District Court is specifically, obligated under the DC Circuit's standard "ensure there ??ain no practices likely to result in monopolization in the future." This req??s a cont??al tying prohibition to include not just the markers in which tying was used??eviously to m??in Microsoft's OS monopoly, but also the markets, such as the Web-based ??vices and applications integrated in Windows XP, in which tying would likely result in new m??polies in the future. A prophylactic ban on contractual tying is necessary, taking into account?? Court of Appea??s remand of the Section 1 claim, because without it Microsoft could easily ??e a prohi?? on technical bundling middleware with Windows.

With respect to Web-based services, two additional points directly support th?? Contra??al remedy. First, "Hailstorm"—now renamed NET MyServices—is a de??opment platform that industry experts agree is middleware under any definition. Second, un?? products, there has never been a claim that technological efficiency is achieved by ty?? Web-based services to the OS. Therefore, the Section 1 tying issues addressed by the C?? of Appe?? are immaterial to a tying ban on Web-based services. The Appellate Cou??ite clearly recognized that "[t]he facts underlying the tying allegation substantially overlap wit??ose set forth in Section II.B in connection with the §2 monopoly maintenance claim." ??use OEM and ?? contractual tying was a central element of Microsoft s unlawful monopoly ??intenance, it should equally be a central component of any remedy.

In its discussion of relief, the Court of Appeals did not indicate that any part??lar form of exclusionary behavior was off-limits, but at most that there should be an "indicat?? of significan causal connection" between a remedy and maintenance of the Windows ??nopoly. Curiously Assistant Attorney" General James has reportedly argued that elimination ?? tying relief from the PFJ was required because the DC Circuit "excluded" the tying clai?? In the con?? of the Court's actual decision, that is plainly incorrect. Regardless of the de?? on by DOJ and the State plaintiffs not to retry Section 1 liability, the Court of Appeals re??d was based solely on application of the particular clements of Section 1 tying law, indepe??nt of both Section 2 liability (which it affirmed) and remedy.

3. Microsoft Has Unfettered Ability. to Define Certain Term?? the PFJ

a. Failings of the PFJ

The PFJ does not adequately remedy Microsoft's monopolistic conduct beca?? it grants Microsoft complete freedom to decide what constitutes middleware and what qualifi??as a platform software product. Under the PFJ, Microsoft Middleware is limited to soft?? code that Microsoft (1) distributes separately from the OS, and (2) trademarks. A relat?? deficiency of the PFJ is its provision that [t]he software code that comprises a Windows Oper??g System Product shall be determined by Microsoft in its sole discretion."

This ability to categorize its own products gives Microsoft enormous flexibi?? to circu??ment the requirements of the PFJ, many of which hinge on product definition. ?? For exam?? merely by placing a product that would ordinarily be considered middlew ?? "inside" the OS, or by adding the trademark "Windows" to a generic designation. Microsoft ?? exclude the product from the PFJ's middleware definition, thereby avoiding the triggering o??e API disclosure provisions. According to the CIS, the PFJ will ensure that OEMs have the freedom to of?? non-Microsoft middleware by requiring Microsoft to provide the OEMs with the ability ??ustomize the middle ware installed. More specifically, the CIS asserts that "[t]he limits in th?? definitions ensure that the provisions of the Proposed Final Judgment apply to products that ca??edibly be said to pose, alone or in combination with other products, nascent threats to the appl??tions barrier to entry."

The PFJ cannot possibly achieve the stated goals of the CIS if it continues to ??ow Microsoft to determine for itself what middleware can be included in the OS, and th??ope of a Windows Operating System Product. By unilaterally exercising its powers under th?? FJ, Microsoft can target competing middleware providers and deny ISVs and others the?? PIs needed to interoperate with Windows. As a result, the PFJ permits competitive gaming of?? settlement in o?? maintain Microsoft's monopoly power, thus reducing innovation and ch??eling OEM flexibility into those areas chosen by Microsoft because they do not threaten Microsoft's market power. Microsoft's ability to manipulate these crucial product definitions w??d deprive consumers of whatever limited benefits that the PFJ does provide.

b. Remedies for the PFJ's Failings

To have any hope of achieving the C1S's goals, the PFJ must be modified to ??nove from Microsoft the power to unilaterally decide the scope of its provisions. The traderma??mitation in the Middleware definition, and the "sole discretion" proviso in the Windows Ope??ng System Product definition, should both be removed from the PFJ. The concept of "redistributable" should be eliminated as well from the: PFJ?? his would fore?? Microsoft's ability to keep key technologies outside the definition of Mid??vare by simply ??lining to make stand-alone versions available and thereby harming those ?? plat?? (such as the Apple Macintosh) to which it ports Middleware today. As di??ssed above, the CIS asserts that the PFJ's definitional limits will ensure the PFJ's applica?? only to comp??itively significant products. Contrary" to this claim, however, there is no rati?? conn?? between trademark status or stand-alone distribution and the competitive ??nificance of ??leware. Indeed, in some respects these factors act at cross-purposes to the F?? because they encourage the same type of technical integration with new middleware that Microsoft used with ?? to eliminate the threat from Netscape and JAVA.

4. The API Disclosures Under the PFJ Act to Reinforce The?? Applications Barrier to Entry According to the CIS, the API disclosure provisions of the proposed decree?? "creat[e] the opportunity for software developers and other computer industry participants to ??elop new middleware products that compete directly with Microsoft by requiring Microsoft t?? sclose all of the interfaces and related technical information that Microsoft's middleware uses ?? interoperate with the Windows operating system." While SHA concurs with the i?? of the CIS, a careful examination indicates that this statement cannot be reconciled with th??rms of the PFJ. The PHJ would not provide middleware competitors with the information ??ded to interoperate. If anything, it allows Microsoft itself (as it does now) to decide wheth?? when, and which AP's to release to potential competitors, and includes mitigating provisions ?? undermine any apparent disclosure and fortify the applications barrier to entry.

The information disclosure and interoperability sections of the PFJ are amo??s most complex. The core of the provisions are found in Section III.D, which addresses the ??ue of API disclosure, and Section III.E, which addresses the disclosure of communications pro??ols. These core provisions rely on numerous definitions which serve to undercut the effe??eness of these ??tions. SIIA describes below the impact of each definition. While Section III.J appears at the end of the PFJ, and III.D and III.E appear??ard the beginng of the PFJ, Section III.J is directly relevant to the scope of the disclosure??nd, in fact, relevant to no other provision of the PFJ). Section III.I.5 is also carefully exa??ed in S??A's analysis as it appears to grant Microsoft unique rights to insist on cross licer??to "any" intell?? property developed through the use of Microsoft's APIs.

a. Failings of the PFJ—Section III.D.—API Disclosu?? PFJ provision III.D requires Microsoft to disclose ":the APIs and related doc??entation that are used by Microsoft Middleware" (defined in the PFJ) "to interoperate" (under??ed in the PFJ) "with a Windows Operating System Product" (defined in the PFJ). This pro??on simply restates Microsoft's current business practices.

Relevant to the question of whether any new information is actually require?? the definition of documentation" within the context of API disclosure. "Documentation ??is defined in Section VI.E of the PFJ as all information regarding the identification and means of using APIs that a person of ordinary skill in the art requires to make effective use of those APIs. Such information shall be of the sort and to the level of specificity, precision and detail that Microsoft customarily provides for APIs it documents in the Microsoft Developer Network.

It is therefore unclear whether any information disclosure is required under ??section of the PFJ that is not already part of Microsoft's information disclosure regime through ?? Microsoft Developers Network. The fact that the critical term "interoperate" is left ??efined suggest that the parties did not have a meeting of the minds regarding the kind of in??mation disclosure that is required under the PFJ. Likewise, the decree does not specify wha??meant by "use" of APIs. In fact, the phrase "technical information" does not even appear in th??roposed decre??. In contrast, the 2000 Decree's interim conduct remedies included a detail??efinition of "Technical Information" (Section 7.dd) that the Department and Microsoft have ??out expla?? eliminated from the proposed decree.

The utility of the information disclosure is also constrained by what Microsoft's permitted to define under the PFJ. As previously noted, Microsoft "in its sole discr??" shall determine the software code that comprises a Windows Operating System Product. ??crosoft, therefore, could redefine some or all of a particular "middleware" technology as par?? Window's and escape any of the disclosure requirements of Section III.D.

Similarly, the definition of "Applications Programming Interfaces" lacks cle??nd effective meaning. APIs are defined as "interfaces, including any associated callba??terfaces, that Microsoft Middleware running on a Windows Operating System Product uses t??ll upon that Windows Operating System Product in order to obtain any services from that W??ows Operating System Product." This definition is inherently ambiguous because it de??ds on two terms, Windows Operating System Product and Microsoft Middleware, which are ?? defined by Microsoft alone.

It also remains unclear when there would be any information disclosure req??d by the PFJ. API disclosure for new "Windows Operating System Products" is required in ??mely ?? mann??r"

This term is defined as "at the time Microsoft first releases a beta test ?? of a Windows Operating System Product to 150,000 or more beta testers." In the sof?? e industry, of ?? the ?? "beta tester" has a meaning distinct from "beta copy." In the context ?? Microsoft products, even assuming that Microsoft has ever had 150,000 "beta tester ?? it would be easy to circumvent the timeliness requirement of this provision by limiting distri?? on to under 100 000 beta testers—a number that is substantial.

The professed objective, as stated by the government, is to encourage "midd?? are innovations." Yet, according to the specific terms of the PFJ, innovators are ?? those who are not entitled to APIs under the proposed decree. What innovators require is ?? the APIs that Microsoft middleware calls upon to perform its functions, but rather others, like ??indows APIs, that the next or broadened competing programs can call when executing their ??. By PFJ at 17. james.htm

b. Failings of the PFJ—Section III.E—Communicati?? Protocols

The CIS asserts that the provisions in Section III.E of the proposed decree w prevent Microsoft from incorporating into its Windows Operating System Products features functionality with which its own sender software can interoperate, and then refusing make avai?? information about those features that non-Microsoft servers need in order ??ave the same opportunities to interoperate with the Windows Operating

System Product." the dec?? API disclosure provisions, the specific obligations of Microsoft found in th?? FJ do not meet ?? Department's own test articulated in the CIS.

Section III.E of the decree does not require the disclosure of any APIs to co?? ??titors, only the release of "Communications Protocols." Microsoft is free to refuse to disc ?? to comp??s any of the APIs that enable its server OS products to interoperate with ??ows, ?? Middleware., or with Microsoft applications such as Office and Ou?? Thus. the ?? by Windows to interoperate with Microsoft s server OS, and vice-ve?? are simply ?? disclosable under the proposed decree. Nothing in the prevents Microsoft from building "features and functionalities" for server interoperability into Windows.

The definition of "Communications Protocols" itself is extraordinarily ambi??s. The dec?? defines Communications Protocol in Section VI.B as: the set of rules for information exchange to accomplish predefined tasks bet?? Windows Operating System Product and a server operating system produc?? via a network, including, but not limited to, a local area network, area network or the Internet. These rules govern The format, semantics, timin??cing, and error control of messages exchanged over a network. This ??tion does not prescribe what predefined tasks" are encompassed, and the ??rase "for?? semantics, sequencing, and error control of messages" can just as easily be. d to apply only ?? physical means of sending information to or from a server (the rules for ?? smitting information packets over a network) rather then the content of such information (the ??es for structuring and interpreting information within such packets).. Indeed, although the descri?? Section III.E as providing support for "features and functionalities," those ns do not appease ther in the substantive provision or the definition of Communications Proto Moreover, the key terms of Section III.E (like Section III.D, described above ??re undefined. Microsoft is allowed to define the term Windows Operating System Pr?? The co??nding prong of Section III.E is that Communications Protocols are disclosa?? when used ?? a Windows Operating System Product to interoperate with "a Microsoft set operating system product." This important term, which provides the boundary" for Microsoft" ??ligation to disclose crucial information to rivals, is nowhere defined in the PFJ. Likewise,?? Section III.D, the failure of' Section III.E to define "interoperate" reminds one of the stice ?? prior failure to define "integrate" in the 1995 consent decree.

The CIS asserts the term "server operating system product" includes, but is limited to, the ?? Windows 2000 Server product families and any successors. The PFJ, however, does not c??ain any of this language. Since consent decrees are interpreted as contracts, use of the ?? to supplement a decree in ways in which the parties did not agree is arguabl?? Unenforceable.

As with the definition of Windows Operating System Product, the scope of ??ndows server ??ating system product"—and thus Microsoft's Communications Protoco?? sclosure obligations—as a matter of law is subject Microsoft's sole discretion Therefore. ion III.E requ?? only the disclosure of the rules to accomplish predefined tasks" (defined b?? Microsoft) by which a "Windows Operating System Product" (defined by Microsoft) interoper?? with a "Microsoft sever operating system product" (defined by Microsoft).

Section III.E does not cover protocols that are implemented in Internet ?? to support interoperability with Microsoft's server OS products. Many, if not most, ?? with servers occur via the Internet browser. Therefore, Microsoft can e y evade any ?? scope of this provision by incorporating proprietary interfaces and ?? cols into IE rather than Windows.

The obligations of Section III.E only apply to Communications Protocols th??re "?? ... on or after the date this Final Judgment is submitted to the Court." ??onsequently all of the Communications Protocols built into Windows 2000 and Window ?? are expt?? disclosure because they were implemented before the proposed decree ??submitted. This ??ing proviso thus provides a "safe harbor" for all current Microsoft server pr ?? since under the anguage of Section III.E their means of interoperating with Windows nee ever be disclesed.

c. Section III.J. Carve Out.

Any disclosure provided by Sections III.D. and III.E. is mitigated by the car, ?? in ?? J, which permits Microsoft to refuse to disclose, in its discretion, protoc?? API's, and ?? information that are necessary for competition in the market and which Microsoft has ??. This Section of the PFJ is overbroad given the "District Court finding ?? the Court of Appeals ruling. For example, this Section would arguably allow Microsoft ?? to disclose any APIs between the IE browser and the Windows OS, and the Communi?? ?? between IE and ISS, Microsoft's web server, because of the browser's rel??ce upon authe??cation and encryption technologies.

Section III.J.2 is even more troubling because it appears to give Microsoft th??ght to disclosure requests even where legitimate needs are shown to promote intero?? ability refuse For ??, based upon highly subjective criteria determined by Microsoft, it coul??fuse to ?? an API, Documentation or Communications Protocol if: i) Microsoft determ?? that there is not ?? "reasonable business need" for the information, or ii) if the entity fails to m?? "reasonable objective standards established by Microsoft for certifying the authentic and viability of its business," or iii) if the entity does not agree "to submit at its own ?? ?? program using such APIs, Documentation or Communication Protocols to ??rd-party verification approved by Microsoft."

d. Section 11I.I.5—Mandatory Cross "Licensing

The requirements of Section III.I.5. reinforce the monopoly position of Microsoft and are incon??sent with the abuses found by the Courts. This Section is sweeping in its bre?? by provi??ing Microsoft with the right to insist upon a cross license to "any" intellectual ??perty rights ?? to the exercise of a third-party's options under the PFJ, including ac ?? sing APIs ?? Communications Protocols granted under Sections III.D. and III.E. the ??sible safely provided by the last clause is entirely illusory due to the breadth of the cross??se.

e. Other Failings of the PFJ

The CIS claims that the PFJ will prevent Microsoft from hampering the dev, operation of "potentially theatening software" by withholding interface information permitting its own product to use hidden or undisclosed interfaces. The PFJ's trea?? Of APIs ?? to achieve the goal stated by the CIS for several reasons. API's are centra?? The barrier-Microsoft's control of Windows APIs reduces costs for Wind, developers and raises costs for rivals. As the Court of Appeals explained, because controls the APIs, "porting existing Windows applications to the new version of ?? much less costly than porting them to the operating systems of other entrants who ?? freely include APIs from the incumbent Windows with their own." More fundam??lly, mere?? focusing upon Windows APIs used by Microsoft Middleware Products is no create conditions necessary for effective competition by alternative operating systen alternative Middleware. By requiring that APIs and similar information relate to ?? purpose of interoperating with a Windows Operating System Product" the PFJ doe undermine, but instead reinforces, the applications barrier to entry. Disclosing Win?? it easier for ISVs to write more middleware applications for the Wind.

As described in Section II.C.1 above, by limiting the add/remove provisions "access" to middleware, the PFJ allows the code itself to remain on all Windows ?? which ?? incentives for ISVs to write to the APIs exposed by Microsoft mid instead of competitors. Thus, removing the obstacle of hidden or delayed APIs will non-Microsoft Middleware, since Microsoft Middleware code will continue to be ??

Additionally,. failing to require Microsoft to disclose APIs and similar interf?? (file formats data structures, code??s, and protocols) needed to interoperate with Microsoft?? Middleware and the Microsoft Office family allows Microsoft to repeat its anti-Net: of ?? cross-platform middleware that poses a competitive threat. The PFJ's require disclosure of Platform Interfaces similarly allows Microsoft to hamper ISVs competing platform developers in the competition for other platforms, such as non-I??desktops, handhelds and mobile phones.

f. Remedies for the PFJ's Failings

In order to create the appropriate market incentives necessary to reduce the a ?? SDA urges that any effective remedy must: expand API disclosure rights to include MS Office Middleware (Wo?? Excel, PowerPoint, Access, Outlook), include APIs and similar interfaces exposed by, or required to interop?? effectively with Microsoft Middleware, and expand the definition of Microsoft Middleware, and include Platform Interfaces. To be more specific, the following changes should be made to the PFJ: The API disclosure provisions of Section 3.b of the 2000 decree, inch their applicability to "Communications Interfaces and Technical Information"- as well as the definitions thereof and of "Timely Main—should be expanded to require Microsoft in addition to make availa??to ISVs, IHVs, and OEMs, on the same terms as APIs: all "file formats," "data structures," "compression/decompression algorithms ('co-de??s')" "protocols" and related interfaces for its Applications products and Middleware, including but not limited to Office; and APIs, Communications Interfaces and Technical information allowing for interoperability of Microsoft Office with any Microsoft Platform Software, Windows Operating System Product, or Microsoft applications software product.

Microsoft should also be required to make available to all ISVs, IHV OEMs and third-party licensees all "Platform Interfaces" required to enable software installed on other computing devices (including but limited to servers, handheld devices, digital phones, etc.), whether Microsoft software, or that of any other company, to "Interoperate Effectively" with any Microsoft Platform Software, Windows Opera System Product or Microsoft applications software product. "Platfor?? Interfaces" and "Interoperate Effectively" should be defined as set f??in Appendix A.

S??A's proposal to expand the availability of API information to include Pla?? Inte??s (PIs), as well as Windows APIs, ensures that both ISVs and competing pl ?? soft?? vendors will have adequate technical information to develop applications ??ther OS platforms that can "Interoperate Effectively" with the Windows OS and other Micro ?? appli??nt??ons and middleware software. As a result, ISVs would face lower economi??bstacles in porting Windows applications to other OS platforms, and would have an incentive ?? tempt to develop cross-platform applications That would run equally well on any PC operatin?? ??stem, or other ?? device such as a desktop, handheld, or mobile device.

In considering this remedy it is important for the Court to understand that All isclosure ?? by which third-party software products run on the Windows OS, but ?? competing PC and non-PC platforms. Therefore, API disclosure alone has a counte??ductive ill ?? impact by reinforcing both the Windows platform, and the applications ?? to entry The communications protocols go to the broader question of allowing third ?? to ?? and add value to the operating system environment by better understand the way in which its different pieces communicate. By expressly including file formats and a structures for Microsoft applications (e.g. Office, Outlook, Exchange) in the inform, m that Microsoft is required to disclose to ISVs, the proposed remedy would reduce Micro ?? ability to expl??it its control of these critical interfaces (its ability to cut off the air supply o Vs) to reinforce the applications barrier and to disadvantage competing middleware and ?? software vendors.

S??A's proposed remedy would benefit consumers by providing a uniform b on which middleware and applications developers unaffiliated with Microsoft could design, ?? and ship competing software products that are interoperable with the Microsoft OS and ?? dominant applications and middleware products, thus eliminating exces?? and ?? stemming from software incompatibilities. Consumers would benefit ?? an expar?? choice of timely, interoperable software products, allowing them to make ??chasing decisio??s on the objective merits of product features and functions, rather than Micr?? unilateral power to control and offer interoperable software products.

As expanded, the remedy would also facilitate entry" by independent platforn?? venders and act to diminish the applications barrier to entry protecting Microsoft's ?? First, by requiring the disclosure of file formats and related technical in?? for Office and Outlook—two Microsoft applications products that dominate their respe?? the proposal would support the competitive development of applications ??can read/write files created by these Microsoft products, thereby providing consumers w a choice of applications in these key product categories for non-Microsoft PC platforms.

Second, the inclusion of PIs and the extension of APIs to include technical ?? mation for Office/OS interoperability would provide a level playing field on which unaffilia?? platform softw?? vendors and middleware developers could write cross-platform software a??ompeting OS pro??uots. In the absence of the market incentives that would have been created?? dives??re, these informational parity provisions will ensure, if enforced effectively??at the Windo?? OS monopoly is not used by Microsoft to constrain the development of ??eting platf??s and applications through the control of PIs and related technical informat??

5. The PFJ Fails to Prevent a Repetition of Microsoft's Anti??apetitive Acts With Respect to NET

a. Failings of the PFJ

Microsoft has developed its .NET Framework (and has also designed Wind??XP) with the ??ion of protecting its underlying Windows franchise and leveraging its desk?? OS monopoly into the broader realm of internet-based applications, Web services, and ??dheld OS sofi??. Microsoft's efforts to develop proprietary APIs and interfaces for its NE'??amework, incl??g he Common Language Runtime (CLR) it has now substituted for Java, h??been disc??d in detail in a number of trade and general business publications. In short?? first exti??shing the cross-platform threat posed by JAVA technology, Microsoft deve??d a substitute executable runtime environment, limited to the Windows platform only??NET Frarm?? is the functional equivalent of JAVA, but is compatible only with the W??ows elie??d server OS products, and with Microsoft's COM software design structure?? Cons??tly, by maintaining the proprietary, and Windows-centric nature of this N?? Frar??, Microsoft has succeeded in locking Web server providers into use of ??indows serve??S products, and it has precluded other OS platform vendors from competing??the "Crea?? today's networked PC users.

The impact on?? and on consumers competition resembles the effect in 1995–9?? Micro??'s campaign against Netscape and JAVA. Consumers are denied a choice??tintime en??s, the applications barrier to entry is strengthened against competition ??non-Micr??ft runtime environments, and Microsoft's Windows OS monopoly is protec?? against the ??r threat from server-based applications.

The CIS claims generally to prevent a repetition of Microsoft's past exclusi?? conduct and??e specifically, to protect the competitive significance of non-Microsoft Mi?? ware, networks which depends on content, data, and applications residing on servers and passing o?? such as the Internet. The PFJ neither accomplishes the stated goals of the CIS nor ??isfies the Court ?? Appeals standard of review.

The 2000 Decree included a broad API and "Communications Interface" pr?? ion thatreq?? disclosure of interface information for interoperability between non-Micro: OS platfor?? non-PC platforms (handhelds, phones, etc.) and Windows. The PFJ, howe?? takes a more ??ow approach, limiting API disclosure requirements to middleware alone a; ??ailing to addre?? interoperability with other platforms or applications. As a result, Microsoft ??rategy of "Windo?? everywhere" is essentially unaffected by the PFJ.

b. Remedies for the PFJ's Failings

In order to prevent further monopolistic practices by Microsoft in relation to NET initi?? SIIA proposes to include in the PFJ a remedy that maximizes the degree o ??terface info??ion disclosed by" Microsoft, including with respect to its .NET framework f?? server interc??e ability, and requires that Microsoft port .NET to non-Windows client and s??r operating systems. Specifically, Microsoft should be required to disclose to OEMs, ISVs and all other parties covered by Sections 14 and II.C.9 of these Comments all APIs, Communications Interfaces, protocols and related technical interfaces required or useful for interoperability between the .NET Framework and a Windows Operating System Product, and ?? the .NET Framework and a Windows server operating system product or any Web-based server (including Web, applications, commerce and other Internet servers); and the .NET Framework, within six months of the effective date, Linux and the Top three non-Microsoft server OS platforms, and to Macintosh and the top three non-Microsoft client OS platforms (including the leading non-Microsoft handheld com puting OS).

As discussed in Section II.C.7 below, the appropriate remedy for Microsoft ??lawful cond??t specifically directed against JAVA, designed to restore a "but for" market is '"unf??ed"' by Microsoft's illegal activities, is to require the inclusion of JAVA ?? the Wir??S. The remedy proposed here with respect to .NET is similar. Since M: soft has substi?? its own, proprietary middleware for JAVA—seeking to use its ubiquito?? distri?? capability to extinguish rival technologies—it should be prevented fro??rofiting by its foreclosure of rival platforms. Indeed. the PFJ includes JAVA expressly in th?? ??finition of Mi?? eware, but has no provisions designed to restore the competitiveness of this ??hnology or c??ain Microsoft's present efforts to make a proprietary substitute for JAVA.

?? Microsoft III, 253 F.3d at 103 (citation omitted).

By opening the .NET Framework interfaces, thereby" permitting competing s ??r vendo??s to interoperate with Windows

PCs running .NET, and by porting .NET to o?? PC plat??s, SIIA's proposed modification would help to prevent the end user lock-in ??forced by MET. Effective relief in this case must prevent Microsoft's further reinforceme??the app??s barrier to entry, which the Court of Appeals expressly found to be the ?? e most impo??t factor protecting Microsoft's Windows OS monopoly? This remedy is ??ssary both ??eve the stated goals of the CIS and, as required by the Court of Appeals ??deny Mi??ft the "fruits" of its exclusionary tactics directed to Java and favoring the ??" Fra??ork.

6. The PFJ's Lack of a Remedy for Internet Explorer Allow ??icrosoft to Retain "Fruits" of Its Monopoly Maintenance

As the Court of Appeals affirmed, Microsoft's exclusionary practices illegal ??naintained its O??opoly against the threats posed by Netscape and JAVA?? Since the beg?? ng of Micr??ft's campaign against the middleware threat, Netscape's market share has d??ned from ore?? percent to less than 10 percent. Microsoft's product—IE—has swept the f??rew??ing Microsoft's anticompetitive conduct by eliminating the browser as a viab??distrobi??ion channel for non-Microsoft middleware and APIs. As a result, develope most impo??t distribution channel—other than Windows itself—is now subject to Mi?? sows mono??ly*;control. Moreover, IE provides Microsoft with the power to require the t??of Microsoft's proprietary. APIs, communications interfaces, and/or security protocols ?? interoperability with desktop PCs via the Internet. As Microsoft's recent exclusion?? AVA from, ??and Windows XP amply demonstrates, Microsoft has used its browser mon?? y to exc?? distribution of any non-Microsoft platform software. Unfortunately, un?? the PFJ it can ??e to do so.

a. Failings of the PFJ

The CIS claims that the PFJ will prevent recurrence of the same or similar p??ices employed by Microsoft to reach its current monopoly position, and restore the coral tire threat pos??iddleware prior to Microsoft's unlawful conduct? Further, under the r?? dial stan??mandated by the Court of Appeals in this case, the PFJ must deny Micros?? e "fruits" violations. The PFJ plainly fails to meet both the stated goals he CIS, of its ?? ??erman Act and the Court of Appeals standard. Despite Microsoft's dominance of the Web bro?? market, which ??tained as a direct result of its unlawful conduct, the PFJ does not provid?? y remedy" for ??hether open source, licensing, source code access, or even API availability ??addition, with the PC interface migrating rapidly" from the desktop to the Web browser, this s ??oming of the ?? will permit Microsoft to do with IE whatever the PFJ precludes it from d ?? with Wind??s desktop.

b. Remedies for the PFJ's Failings

It is therefore S11A's position that the PFJ should require Microsoft to licens ??e source code??E on an "open source" basis, thus removing from Microsoft the ability to u ??rowsers as a?? cations and Internet gateway that further preserves its OS monopoly. Sp??ically: Microsoft should be required to disclose and make available for lice?? an?? third-party—within 60 days of the PFJ's effective date, and thereafter at least 180 days prior to its commercial distribution of any?? browser product—all source code for IE and any successor Browse?? products.

Such license should grant a royalty-free, nonexclusive perpetual lic?? on a non-discriminatory basis to make, use, and distribute products implementing or derived from Microsoft's source code pursuant to t?? industry-standard GNU General Public License agreement. Microsoft should be permitted to assess an appropriate license fee in ?? to recover its administrative overhead and distribution costs associat?? with open source licensing of IE. The proposed open source approach is linked directly to the central charge ??onopoly maintenance affirmed by the DC Circuit. Not only is Microsoft's IE monopoly a?? it" of its unlaw?? OS monopolization, but the browser represents one of the best API platfor ??on which ISVs ??develop cross-platform software applications that would help erode The ap ??ations bar?? entry. Moreover, an open source requirement would reinforce the standard ??elated provisions discussed in Section II.C.10 below by. eradicating Microsoft's ability to ?? propr?? IE browser standards to extend its desktop OS monopoly into Internet- a server- based app??ications. Because the browser has become the de facto standard interface—Internet aud??video, e-commerce and electronic mail applications, an open source remedy ??ents Mic??ft from biasing these crucial digital markets to Microsoft's own software an ??rmats by supp??g only proprietary interfaces in IE.

Finally, an open source requirement is the only mechanism that creates a "b?? r" mar??, restores the market to what it would have been but for Microsoft's suc??ful anti??etitive strategy of foreclosing Netscape from the market, and eliminating ?? hreat the browser to the applications barrier to entry. Thus, the open source bro ??r remedy posed by wo??dress the browser-specific unlawful conduct central to the monopoly main?? ??ceviola?? affirmed on appeal.

The proposed modification to the PFJ would eliminate Microsoft's "fruits" ?? foreclose the ??e protecting its OS market power. This would serve the interests of consi?? s by rest?? competition and innovation in browsers and precluding Microsoft from us?? IE as a vehic?? controlling the Internet standards, protocols and interfaces that lie at the ??rt of a netw??ed PC marketplace. In addition, it would: lower barriers to competition for desktop OS software and middlewa??y eroding Microsoft's power to dictate the APIs. communications inter ??es and security protocols by which PCs can interoperate with other devi?? and software platforms over the internet; redress Microsoft's monopolization of the distribution channels for desktop middleware runtimes; and foster (and perhaps restore) competition within the major distribution channels for desktop middleware.

As discussed above, the proposed IE remedy is necessary to satisfy the requi??ent that any ??f in this case remove from Microsoft the "fruits" of its monopoly maintenar ??violation.

The C??rt of Appeals opinion also supports the open source remedy in other respect?? n its reve??f the attempted monopolization claim, the Court chastised DOJ and the tri?? tort for not ??ifically defining Internet browsers as a relevant product market. It is clea?? ??wever, that li??e the Section 1 tying, claim, the attempted monopolization claim was simply ??ther legal theor??ising from the same set of operative facts. As the Court recognized, the p??iffs "made the ?? argument under two different headings—monopoly maintenance and atte??ted mo??ation." As a form of unlawful monopoly maintenance, the Court had n?? fficulty hol??g that "Microsoft's efforts to gain market share in one market (browsers) ser?? to meet the ??t 10 Microsoft's monopoly in another market (operating systems) by keepin ??val browsers from gaining the critical mass of users necessary to attract developer atten?? t away from ??ndows as the platform for software development." Thus, DOJ's failure to?? roduce aff??ve evidence defining a relevant market for Internet browsers cannot stand a barrier to fashi??g relief that restructures IE in order to eliminate its use as a vehicle for mai??ining Microsoft's desktop OS monopoly.

In sum, Microsoft's abuse of monopoly power through IE must be remedied pro??s directed specifically at IE, something the PFJ completely fails to address,-??is one of the. ??ironies of the settlement proposed by DOJ that in a case centered around ?? either the API provisions nor any other section of the PFJ redresses Microsoft's acquisition of ??yet in Inte??wsers, and its concomitant effect of reinforcing Microsoft's Windows m?? poly pow?? ignoring the browser issue the PFJ ensures that there will never be a corn ??itive oppp?? ity to reinvigorate browser competition, or to provide middleware cornpetit?? in the range ?? Internet-based technologies controlled by the browser.

7. The PFJ Fails to Rectify Microsoft's Unlawful Conduct A´??nst JAVA

a. Failings of the PFJ

The CIS states that the PFJ is designed to restore the competitive threat that ??ldleware prod??, such as Sun Microsystems JAVA, posed prior to Microsoft's unlawful act ??s. The PFJ ??ever, fails entirely to address the fact that Microsoft s illegal tactics thwart JAVA tecj??gy, which would have significantly eroded the applications barrier to entry?? ??e Court of Appeals found that Microsoft violated Section 2 by entering into exclusive ISV d?? for distrib??ion of Microsoft's own, incompatible version of JAVA, and by deceiving developers into ??ing JAVA applications with Microsoft tools that produced only Windows-c ??patible code. Microsoft also unlawfully destroyed Netscape as a viable distribution cha?? or JAVA tecj??gy

b. Remedies for the PFJ's Failings

SIIA's proposed remedy therefore requires inclusion of the JAVA runtime e?? onment in Mi??scft's OS products, and prohibits Microsoft from distributing any JAVA de ??pment tools. S??ifically, for a period of seven years, Microsoft should be required to dish ??te free of charg?? binary form in all copies of its Platform Software (including upgrades and ??isions such as Service Packs) the latest version of the JAVA Middleware as delivered to M??soft, at least ?? days prior to

Microsoft's commercial release of any such Platform Software ?? addition Microsoft should be enjoined from distributing: any Platform Software in beta or final commercial form unless such Platform Software includes the latest version of the JAVA Middlewa??

Runtime as delivered to Microsoft in binary form by Sun Microsyste ??no later than 90 days prior to distribution by Microsoft of such Platform Software or any upgrade or revision thereto; any Microsoft Operating System Product that requires, favors or advantages the utilization or functionality of any Microsoft Middlew?? Runtime (including the .NET framework) relative to the utilization o corresponding functionality of any competing Middleware Runtime ?? application, including (without limitation) the JAVA Middleware Runtime; any Office product that favors or advantages the utilization or functionality of any Microsoft Middleware Runtime, including the ?? framework, relative to the ??tilization or corresponding functionality ?? ny competing Middleware Runtime or application, including (without limitation) the JAVA Middleware Runtime; and any developer tool or development environment for the JAVA lang?? (including any tool or development environment that uses or convert: JAVA source or class files to other formats). The DC Circuit explicitly upheld Microsoft's Section 2 liability for exclusi??y con??t di??ected specifically at JAVA. The Court affirmed Judge Jackson's conclus??that Mi??ook steps to ""'maximize the difficulty with which applications written i?? a could be p?? from Windows to other platforms, and vice versa."'

To eliminate the threat posed by JAVA, Microsoft acted to destroy the value ??he tech??gy by polluting the industry standard set of JAVA interfaces and protocols, ??crosoft then ??ed its monopoly power by requiring its customers to adopt and distribute it ?? omc??ble, non-standard JAVA runtime and tools implementations. As the CIS ??n M??t fried to "extinguish Java" because "a key to maintaining and reinforcing ??appli??tons barrier to entry has been preserving the difficulty of porting application?? ??om Win??s to other platforms, and vice versa," which JAVA was designed to elimina??

??A's proposed remedy would increase consumer choice by fostering corer- ion and innov?? in middleware. Similarly, it would foster competition and create innova?? among ope??g systems by promoting the competitive distribution of middleware, and ere?? Micr??ft's power to dictate The APIs, and related interfaces by which PCs interope?? with netw??ed devices. It would also redress Microsoft's specific acts ofmonopolizati?? irected at JA?? and thus deny Microsoft "the fruits of its statutory violation."'

8. The PFJ Fails to Mandate Porting Requirements

a. Failings of the PFJ??

Another significant shortcoming of the PFJ is its failure to mandate that Mic?? ft port its key ??uctivity (Office), browsing (IE), and other Microsoft Middleware Products ??on-Mic?? operating systems. In the current market, such operating systems (Apple, ??ax, etc.), as well as handhelds (Palm, etc.), set-top boxes (Liberate, etc.), phones (Nokia, etc.) ?? other Inter??er abled appliances will only be provided with a level playing field to comp?? if Microsoft provides porting of its now-dominant products.

Mi??rosoft's ability and willingness to exploit the porting issue to its advanta?? as been spec??lly demonstrated m this case. Both the District Court and the Court of App?? ??dged That Microsoft previously used its monopoly power over Office to im??e an unla?? e??clusiona?? deal on Apple for distribution of IE on the Macintosh? This ??e of mos??f monopoly power by Microsoft is not specifically prohibited by the PFJ. ?? t result, Mic??ft could continue to use its monopoly power over Office, -and the overwhelr?? do?? of IE, to constrain and eliminate competition from other OS platforms b?? fusing, or thre??g to refuse, to port Office or IE to those platforms. By ignoring this realit?? e PFJ egle??s a critical component of the Microsoft monopoly, and significantly compro?? s its abili?? effectively eliminate what the Court of Appeals identified as the single m?? reportant factor??cting Microsoft's Windows OS monopoly: the applications barrier.

b. Remedies for the PFJ's Failings

The CIS asserts that the PFJ will ensure that OEMs have contractual and eco??nic free?? make decisions about distributing and supporting Non-Microsoft Middle?? Prod?? without fear of retaliation or coercion by Microsoft. The foregoing will pu??rtedly be achi??s reply by prohibiting Microsoft from retaliating against an OEM that supp??or dist??s alternative middleware or operating systems. But OEMs will not be e??mically free ??rt or distribute alternative operating systems until control of the applica??s barrier is se?? from Microsoft. Since The porting of Office, IE and other Microsoft Midd??re

Pro?? is a crucial element in re-establishing competition in the market for opera?? systems, SIIA ??ses that Microsoft should be required: to port Office, within six months of entry of final judgment, to Linux the top three non-Microsoft PC platforms (including the leading non-Microsoft handheld computing OS) based on shipments in a year; to port future versions of Office, within six months from the date that ?? products become commercially available for use with a Windows Operating System Product, to Macintosh and the top three non-Micro: PC platforms (including the leading non-Microsoft handheld comput?? OS); to port IE and other Middleware Products that Microsoft ports to any non-Microsoft OS platform to Linux and the two most significant other non-Microsoft PC platforms; and to provide the same or similar functionality in such ported Office applications and Middleware as that available with the Windows Operating System Product version of the application. Without modifying the PFJ to include such specific language, the only way ??revent "Po??g b??ackmail" by Microsoft would be lengthy and expensive litigation attemp?? to show that a ??al, or threat to refuse, porting would constitute a change in Microsoft's "??mercial rela??" with an OEM. Requiring Microsoft to port its Office and IE Middleware ducts to non??soft operating systems is essential to overcoming the applications barrier ??d tjere??roviding OEMs with the contractual and economic freedom the CIS promi.??—for at leas??easons, described below. Without a remedy specifically" addressing Offi?? the OE?? not be free of Microsoft's monopoly pressure. For example, Microsoil?? d be free ??dition pricing advantages for Office on an OEM's adoption of Microsoft ??dleware.

First, Microsoft's monopoly power over the Office business applications sui?? Word, Exce??werPoint, Access, Outlook—provides it with the ability to constrain and ?? inate?? comp??ion from other OS platforms by refusing (or as in the case of Apple, threate?? to refuse??t Office. The most important contributor to the applications barrier to en?? is MS Offi??ch currently holds a dominant share of over 95 percent of the business pr??ctivity so??applications market. Without the ability to run MS Office on a PC, users h?? little or no ?? except to select a Microsoft platform in order to maintain read/write intero?? ability with the most important applications product in today's software market.

Second, MS Office serves as the basis for Microsoft's current strategy of ex?? ting its desk t??O?? dominance into the broader realm of handheld and other non-PC comp?? systems. Thus the porting of Office would directly address the applications barrier to entry, ?? would pro??reased recentives?? investment in, and consumer purchase of, cornpetra?? soft?? for both PCs and other computing devices, such at handhelds. In addition, exposing its o?? of APIs, Office itself can represent a useful means of encouraging cross-?? form mid??are, but only if it is available on non-Microsoft platforms. Microsoft's refu?? to port MS ??e, except in return for Apple's agreement to make IE the default browser f?? ??e Ma??h, was thus manifestly anticompetitive and a major reason for Microsoft's ??ntenance of its ?? monopoly.

Third. ISVs and consumers today effectively have no choice in browser fun??ality Other ??n Microsoft's IE browser. As a consequence, Microsoft can now choose to ??antage its OS ?? any competing operating system either by refusing to port IE to the cor?? ng OS, by doing so significantly later than for its OS products, or by porting only inferior ??ns of IE. Like??, ??icrosoft can use the dominance of its IE product to extend its desktop O ??onopol to that :o/non-PC devices, such as handheld computers. Unlike virtually every ISV?? Microsoft has re?? to port either its Office software or Internet Explorer to the Palm OS. A?? en sour??ion of IE, as proposed in Section II.C.6 above, can eliminate Microsoft's?? ity to prese?? as a proprietary interface to the Internet; however, it cannot alone rectify ?? porting problem d??e to the lack of browser competition. Because Microsoft has established browser as a ??enue product, there is no profit opportunity for any ISV or platform cor??itor to create ??ux. Palm (or other handheld, digital phone, set-top box, etc) or other ver?? t of Intera??/Explorer. Fourth, because Microsoft's anticompetitive conduct destroyed the Internet ??ser as an econ??callyy significant market, it should be required to redress that harm by portin?? E to other plat??s. This flows directly from the recognition in the CIS that "Microsoft's a?? succeeded in eliminating the threat that the Navigator browser posed to Microsoft's ??rating system?? .... The adverse business effects of these restrictions also deterre??etscape from ?? taking technical innovations in Navigator that might have attracted cons??rs and reven??" Because porting the Navigator browser to all significant PC platforms ??an integr?? part of Netscape's competitive strategy until Microsoft began its unlawful c??aign, a remedy should restore the pro-competitive effect—a ubiquitously, available browse at exposes uniform APIs on all OS platforms—that has been lost as a result of Micro??'s violatio??s.

Arguments that porting is impossible or too costly are not legitimate. Micro?? ports versio??s of Office, Outlook, Media Player, IE and other middleware to the Macintos ??day, some of which are available free, and others for purchase. Furthermore. as the Coun?? Appeals explai??ed the important economic consideration in.porting is usage, as opposed to a??lute volu?? Particularly as to software (like IE and Outlook) that exposes its own APIs, ??sage share, ?? the underlying operating system, is the primary determinant of the platfor?? ??allenge a [pr??] may pose." Thus, requiring That Microsoft port to other OS platforms ?? principal, ubiqu?? ?? middleware/applications it now controls merely replicates what would be easy decisi?? ?? a stand-alone company that, unlike Microsoft, did not have an economic disad??tage other OS platforms. Because a firm that did not have a Windows mon??ly would port both Office and IE, Microsoft should be required to port these crucial products.

Finally, creating a viable market for Linux would immediately introduce pri?? comp??tion to the Windows OS. Linux—which is currently free—would be a po??tially attractive alternative to Windows, even in the OEM channel, if Office, IE and Outlo?? were all available for that client platform.

9. The PFJ Places a Disproportionate Reliance on OEMs to ??rease Competition

a. Failings of the PFJ

As noted previously, the PFJ's overwhelming reliance on OEMs as the prin?? ?? means for in??ing competition into the OS market is unjustifiable. Rather than adopt a m?? ??faceted approa?? focusing on all of the contributors necessary to adequately reinvigorate co??ition in the OS marker, the PFJ mistakenly focuses merely on allowing OEMs greater "flexil??y" to custor?? Windows icons and non-Microsoft middleware. By doing so the PFJ tur?? blind eye to the economic realities of today's market. OEMs are currently under such ext?? ??dinary financial pressures today that, even if they had the business experience necessary to ??er the software business, they have no financial incentive to purchase and incorporate into ?? r PCs anything other than the full Microsoft software package. The failure of any OEM to on Microsoft's offer last summer to replace icons in the Windows XP desktop makes pl. this reality.

The PFJ is purportedly designed to restore the competitive threat that non-Mi??soft middl?? products posed prior to Microsoft's unlawful undertakings. As noted a??e, the CISc?? that the PFJ does this by giving OEMs "the contractual and economic fr??m to make ??isions about distributing and supporting non-Microsoft software products t?? have the poten??a to weaken Microsoft's personal computer operating system monopoly with fear of coerci?? or retaliation by Microsoft." The PFJ only provides such freedom to OE?? in form, however, not in substance. Changes in OEM and retail PC market conditions—una?? ??owledged by the DO??—make it highly unlikely that contractually liberating the OEM distribut?? channel, without significantly more, can effectively serve as the prime vehicle for restoring C comp??tion. Such market changes include dramatically shrinking margins, price pr??ires, and slowing demand in the PC sector—trends that are the opposite of the high-flying e?? ??mic indici?? of the PC hardware market from 1995–98 when Microsoft's vertical restricti?? foreclosed OEM distribution to its middleware rivals.

In this current economic environment, provisions which merely give OEMs t?? ability to remove products or services, or that give OEMs the ability to make changes to the ??ting system ?? not succeed in achieving the stated goal of the CIS. The competitive la?? cape of the PC s??clor today is one of rapid commoditization with shrinking R&D budgets.

b. Remedies for the PFJ's Failings

Creating choice and differentiation in the PC sector is dependent upon two st?? first, the PP must fundamentally redefine the relationship between Microsoft and all OEM ?? affirmatively transferring some design and bundling decisions from Microsoft to the Ms (in the PC supply chain); second, the PFJ must create a regime in which OEMs have an??nomic ?? to choose alternative bundles of ??oducts and services for the Windows OS ??form from other vendors, thereby encouraging competition on the merits in the applicatio?? midd?? are and other non-OS markets.

In order to accomplish these objectives S??A proposes that Microsoft be req?? to license Windows to independent ISVs and software integrators (including platform ??are com??ors)who would be protected by the same API disclosures, desktop configu?? flexib??lity, and pricing nondiscrimination guarantees as provided to OEMs under the ?? J. More spec??cally, Microsoft should be required to license the base binary code of Windów including new ??ions and upgrades of Windows at a reasonable time before shipping of that duct to OEM ?? all third parties so that the licensees may create and license competitive b?? ??es comprised of Windows and non-Microsoft applications, middleware, services and to??

((a)) licensed third parties should have all the rights to modify the OS and IE desk?? links and related interfaces as provided to OEMs in Sections III.E and III.H of the??;

((b)) licensed third parties should have all the rights of access to APIs and other re??ical information as provided to OEMs in Sections III.D and III.E of the PFJ.

((c)) licensees should be protected by the same OEM nondiscrimination safeguard??ovided ?? Sections III.A, III.B and III.F of the PFJ;

((d)) Microsoft should be required to provide complete transparency of its agreeme?? with ??EMs and others;

((e)) the licenses should be made available for a price equal to the lowest (per volu?? ??price that Microsoft charges for any current version of the Windows OS to OEMs o?? her end user licensees, including enterprise customers, add any volume discounts sho?? ??e ??ardized and published; and

((f)) Microsoft should be prohibited from taking actions to interfere with or degrad??e in??eroperability of third-party applications with Windows.

This licensing proposal would foster wholesale-level competition for combin?? ??S and application bundles, thereby making available critical systems integration services to ??Ms seeking ??o provide alternative software packages to retail customers. The SIIA prop?? recognizes the realistic limitations on OEMs in creating and defining alternative sof?? ??re bundles (including middleware) and therefore creates opportunities for systems inte??ors and others to "stand in the shoes" of the OEMs and exercise their same rights to modify ?? cust?? the Windows desktop and middleware selections. This remedy works in??em with the ?? on middleware bundling, the provisions regarding OEM restrictions, and the ??I and tech?? information disclosure. It would limit Microsoft's ability to choke off the ??elopment of new middleware and potential rival platforms by creating an alternative means fo?? ??aker of those so ??products and services to distribute them to OEMs and, potentially, co??mers. By producing potential rival, retail-level bundles of software applications and servic ??with the OS, the licensing proposal could offer an important means to foster the technologica?? development and consumer acceptance of non-Microsoft middleware and potential a native platforms.

Adoption of the licensing provision would result in at least three major benef?? to cons?? and competition. First, the provision would allow the market, rather than ??crosoft, to deter?? the applications on, and configuration ?? consumers" PC desktops. The?? ??ense would ??Microsoft's ability ;o use its OS monopoly to favor its own products ove?? comp?? software. End users would be able to choose among competing, custon?? ??d bundles of applications that are as seamlessly integrated into the operating system as ??crosoft's products are?? today.

Second, in addition to to promoting consumer choice and creating competitio?? retail-level OS Application bundles, the licensing proposal would help preserve competitio ?? appli??, e-commerce, and other markets that Microsoft has targeted with its ille??actics. By given there applications/services and the investors, engineers, developers, and ??ers behind them—an alternative means to obtain access to consumers, the licensing pro?? ??alwould give ??petitors in these markets a new protection from Microsoft's anticompetiti?? cries. Con?? would benefit from the new choices, new applications, and new services ?? would resu??t.

Third, with a variety of licensees potentially acting as systems integrators an?? sellers, this ?? would provide the OEMs an efficient way of procuring bundles of speci?? ??ed software to resell to consumers.

10. The PFJ Pails to Constrain Microsoft From Converting O?? Industry Standards Into Exclusive Microsoft Protocols

The CIS states that the PFJ is designed to prevent recurrence of the same or s?? far prac?? that Microsoft employed to reach its current monopoly position. Microsc?? mono?? over the PC operating system market gives it a unique ability to appropria?? or its sole use and benefit technology first developed by others. By embracing industry st??rd technology. Microsoft ensures that its products benefit from the innovations of other?? ??y adding proprietary extensions to industry standards, Microsoft can effectively approp?? re those stanca?? for its sole benefit and can also extinguish the threat to Microsoft's proprie ?? standards posed by voluntary, open industry standards.

The Court of Appeals affirmed that this is what Microsoft did to JAVA. It in?? ionally deceived ??AVA developers and entered into exclusive ISV deals for distribution of ??osoft's own, incompatible version of JAVA. The Court explained that Microsoft fragment, he

JAVA standard in order to "thwart Java's threat to, Microsoft's monopoly in the ma?? for operating systems," and to "[k]ill cross-platform Java by grow[ing] the polluted Jav??arket." SO

a. Failings of the PFJ

The PFJ, however, does not restrict Microsoft's ability to modify, alter, or re??e to supp?? computer industry standards, including JAVA, or to engage in campaigns to??eive developers of rival platform, middleware, or applications software. By choosing to??port only its own, proprietary implementation of open industry standards, Microsoft can conti??to exclu?? meaningful competition from alternative platform vendors. In addition, Mic??oft will be ins position to dictate the interfaces and protocols by which products other than I, such as servers. handhelds, or telephones, can interoperate with PCs running Microsoft's des??p OS, and the applications that run on those PCs.

b. Remedies for the PFJ's Failings

SIIA proposes as a remedy that the PFJ constrain Microsoft's ability to conve??pen industry standards into exclusive Microsoft protocols through "extension" or other un??teral condu?? Specifically, Microsoft should be enjoined from modifying, altering, sub-se??g or super-se??ing any industry-standard Communication Interface or Security Protocol, e??pt to the extent that such modified Communication Interface or Security Protocol is complian??th, and appr??ved by. an independent, internationally recognized industry standards organizat?? Security protocol should be defined as set forth in Appendix A.

This proposed remedy would protect consumer choice in platform software by ??suring that co??s??ers are not required to purchase only Microsoft applications and other sof??tre products??n order to interoperate with Windows. It would foster innovation by ensuri??hat

?? Id. at 76–77 (citation omitted).

Microsoft has a business incentive, reinforced by the PFJ, to extend industry standat?? for sound engineering reasons, rather than anticompetitive foreclosure. The PFJ would requir?? at Microsoft additions to open industry, standards be approved as compliant with a volt??y industry standard available for support by all competitors; importantly, however, it ??ld not otherwise restrict Microsoft from developing new technologies, interfaces, or standa?? in propr??t??ry format.

11. MS Office Should be Included in the PFJ

Microsoft Office, a hybrid of application and middleware is a significant con??nent of the current applications barrier to entry. The Court of Appeals relief standard in this??se, tracking United Shoe, requires that a remedy "ensure that there remain no practices??ly to result in monopolization in the future."[81] To foreclose prospective antitrust practice??t is settled law that a remedy is not limited merely to the proven violations, but should e??mapass untr??ed roads" the monopolist could use into the future to protect its market pow?? "when the purpose to restrain trade appears from a clear violation of the law, it is not necess?? that all, of the ?? traveled roads to that end be left open and that only the worn one be closed.

a. Failings of the PFJ

The CIS states that the PFJ is designed to prevent recurrence of the same or s??lar practices that Microsoft used to reach its current monopoly position.[83] The PFJ does ??: achieve these stated goals because the PFJ's API, pricing, exclusive dealing, and OEM flexib?? provisions are all limited to Windows platform software. Due to the dominant market?? are of ??

Microsoft III, 253 F.3d at 103 (citation omitted).

?? Int'l Sall Co. v. United States 332 U.S. 392, 400 (1947).

?? CIS at 3.

MS Office—around 95 percent of the business productivity suite market—Microsoft dange??sly positioned to evade any relief by repeating the stone exclusionary and i??al acts employing Office, instead of Windows OS, to the same devastating effect upon the ??sumer. More??ver, as previously described, Office exposes its own set of APIs and can there ?? essentially function as a middleware alternative to operating system software.

b. Remedies for the PFJ's Failings

A remedy must cover MS office in order to foreclose Microsoft's ability to e??e the PFJ's ??sions by engaging in the same conduct with Office that is prohibited with ??indows. Speci??i??lly MS Office, the largest component of the applications barrier to entry, should be included in a number of provisions in order to prevent evasion of the remedy. These ??lude:

. Disclosure of APIs supporting interoperability of Office and Window Microsoft 1Middleware (see Section II.C.4 above);

. Disclosure of proprietary file formats for Office (see Section II.C.4 above);

. Prohibiting binding of Office with the Windows OS (see Section II.C. above); and

. Requiring Microsoft to price its Windows and Office products offered enterprise customers (i.e., all non-OEM customers) on a stand-alone b?? without any volume or other discount arising from combining the sale such products with any other Microsoft software product. Legitimate volume discounts for either Windows or Office products are not other ??e affected by this provision.

. As noted above, the existing scope of the API provisions is overly narrow sin??hey seem?? require transparency in the OS/middleware interface, but not correspondin??enness in the ??face between either applications or Office and the Windows OS. Under th??IA proposa?? Office, Outlook, and JAVA would be encompassed by the Middleware defi?? on in order to preclude Microsoft from evading the constraint of the remedy by binding Off Outlook o?? JAVA technology (each of which exposes APIs and can erode the applic??ons barrier to entry) to the OS. Similarly, the scope of "multimedia viewing software" s??ld be expanded from merely viewing digital content to encompass the entire spectrum of func??ion??ities provided by Real Player, Windows Media Player, and the like, in ord?? prevent Microsoft from evading the middleware bundling provisions by simply segmenting i?? multi??e?? middleware into different sub-products or applications.

12. The PFJ Fails to Stop Microsoft From Intentionally Disab?? Competitors" Products

a. Failings of the PFJ

The PFJ lacks any general "catch-all" enforcement provision designed to sto??icrosoft from taking intentional action to disable or adversely affect the operation of competi?? middle ware or applications products. The CIS claims that the PFJ has the teeth need ??to ensure that ??soft cannot thwart the purposes or remedies of the PFJ, and that the PFJ ??prive Microsoft of the means with which to retaliate against, or hinder the development of ??peting products k4 Unlike the District Court's interim decree in 2000, however, the PFJ ine??cably fails ??o ??clude a general prohibition of such conduct, relying instead upon narrowly ??wn prohibitions limited to specific forms of conduct.

b. Remedies for the PFJ's Failings

?? order to remedy this glaring problem, SIIA proposes that the PFJ be altered that Section (.3 of the 2000 Decree is restored verbatim:

Microsoft shall not take any action that it knows will interfere with or degrade the performance of any non-Microsoft Middleware when interoperating with any Windows Operating System Product without notifying the supplier of" such non-Microsoft Middleware in writing that Microsoft intends to take such action, Microsoft's reasons for taking the action, and any ways known to Microsoft for the supplier to avoid or reduce interference with, or the degrading ?? the performance of the supplier's Middleware.

In addition, Microsoft should be prohibited from promoting any standard as?? en" unless it has standards-body approval.

As is discussed in detail above, the Court of Appeals found that Microsoft ha?? aff??

deceived JAVA developers and improperly entered into exclusive ?? ISVs for dis??ution of Microsoft's own incompatible version of JAVA. Moreover, the d??ct cou?? Findings of Fact are replete with findings, none of which were overturned on the eff?? that Microsoft intentionally made it more difficult for Netscape and JAVA tun on the Windows platform. For instance, Judge Jackson found that the purpose of Micro's techni?? integration of IE "was to make it more difficult for anyone, including syste?? administrators and users, to remove Internet Explorer from Windows 95 and to simul??usly complicate the experience of using Navigator with Windows 95."[85] "Microsoft's re?? respect the user's choice of default browser fulfilled Brad Chase's 1995 promise to n?? the use of any ??wser other than Internet Explorer on Windows a?? experience." By i??rasing the lik??lihood that using Navigator on Windows 98 would have unpleasant conseque?? for users, ??ierosoft further diminished the inclination of OEMs to pre-install Navigator) Windows" ??6 The obvious adverse impact on consumers of intentional interference with cor??ting middleware and applications is evident: consumers are denied choice of software and ?? market is ar??ally tipped toward Microsoft products on a basis other than the performance the products themselves. This is a classic way in which Microsoft's maintenance of its, monopoly harms both competition and consumers. In order to ensure that Microsoft ??not intentionally degrade the performance of competitors" products, including middlewa?? such tactics should be specifically outlawed.

?? Findings of Fact at 79 ¶160.

?? Findings of Fact at 85 ¶172.

III. CONCLUSION

As noted previously, because it may be difficult for this Court to reach a con?? regarding the PFJ without prefiguring a decision on nearly identical "live" issues in ?? State case currently before this Court, SIIA respectfully requests that this Court take this n??er under advise?? until the State case has concluded. Alternatively. this Court should adop??A's propo?? remedy, as described in these comments.

Respectfully submitted,

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APPEND??X A DEFINITIONS OF "PLATFORM INTERFACES," "INTEROPERATE EFFECTIVELY" AND "BROWSER"

Platform interfaces" means all interfaces, methods, routines and protocols tl??enable any Mico??oft Operating System or Middleware Product installed on a Personal Con??ter to (a) execut?? fully and properly, applications designed to run in whole or in part on any M soft Platform Software installed on that or any other computing device (including without ??nitation ?? server??ligital telephones, handheld devices), (b) Interoperate Effectively with Micr??ft ?? Platform Software or applications installed on any other device, or (c) perform netw?? security l, ?? prot?? such as authentication, authorization? access control: or encryption.

"Interoperate Effectively" means the ability of two different products to acce:??tilize and/or support the full features and functionality of one another. For example, non-??osoft Platf?? Software "Interoperates Effectively" with an application designed to run on ??crosoft Platfor?? Software if such non-Microsoft Platform Software can be substituted for the ??icrosoft Plafor?? Software on which such application was designed to run, and nonetheless e?? le the application user the ability to access, utilize and support the full features and function y of the ?? application without any disruption, degradation or impairment in the functionality or??ures of the application.

??Internet Browser" means software that, in whole or in part, (i) makes hyperte?? ??ransfer protoccl?? (HTTP) requests in response to user input: (ii) converts or renders hypertext ??kup language HTML) and extensible markup language (XML) to any displayed form. or interme??linte representation with the intent to display it; (iii) displays or keeps in mere stores in any way "cookies," which are named values sent from web servers to web br??sers?? with the expectation that the browser send back the named values back to the server??uture intera??ion; (iv) displays, keeps in memory or otherwise stores a collection of unifo??resource lt locat?? URLs) representing a history of a use's interaction with web servers; (v) di??ys or?? keeps in??memory or otherwise stores "bookmarks," which are named URLs configur??e by a user; c?? runs JavaScript programs or runs programs in any computer programmi??anguage which is broadly compatible with JavaScript. The standards and formats referenced his definition include all successors to those standards and formats that may arise during term of the Final Judgment. The technical elements identified in subsections (i) to (vi) inclu?? not only the for??n of these functionalities as They currently exist and have existed in the past, also as They come to exist in the future, even if they come to be known by different names.

IN THE UNITED STATES DISTRICT COURT FOR. THE DISTRICT OF COLUMBIA

UN?? STATES OF AMERICA, Plaintiff, Civil Action No. 98–12-CKK MICROSOFT CORPORATION, Defendant. Defendant.

STATE, OF NEW YORK: et al., Plaintiffs, Civil Action No. 98–123 ??KK, MIC??CFT CORPORATION, Defendant.

COMMENTS OF SOFTWARE & INFORMATION INDUSTRY ASSOCI??ION ON PROPOSED FINAL JUDGMENT

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COMMENTS OF SOFTWARE & INFORMATION INDUSTRY ASSOC??ION ON PROPOSED FINAL JUDGMENT

??uant to Section 2(b) of the Antitrust Procedures and Penalties Act (the "l??ney Ac?") 15 U.S.C. §16(b)-(h) (2000), the Software & Information Industry Associati?? ("SIIA") ?? submits these comments on the Proposed Final Judgment ("PFJ") filed by the Unite??tates Department of Justice ("DOJ") on November 6, 2001.

SIIA is the principal trade association of the software code and information ??tent corporate education, and intellectual property protection to more than 800 leading st?? are and information companies. Our members develop and market software and electronic??tent for business education, consumers, and the Internet. SIIA's membership is comprised ??arge and small software companies, e-business and information companies, as well as many ??r traditional and electronic commerce companies of varying sizes. Among SIIA's key public policy issues is the promotion of competition in the ??ftware industry. SIIA has promoted these principles of competition in a variety of fora, in??ng the federal counts.

I. In??duction and Summary

The PFJ proffered by DOJ represents a remarkable change of heart-or, per?? more accu??tely a loss of heart. For whatever reason, DOJ proposes to end one of its m?? important and successful monopolization cases with a settlement that reflects neither its litigat?? position nor the decisions it won at trial and on appeal. A settlement as weak as this would, ?? been disappointing, but perhaps understandable, if it had been reached before trial, in su??t situation, ?? and sometimes DOJ must take a bird in the hand. But in this ??e, much of the litigation is past; and the new Administration arrivals are not free to decide w?? legal?? theories ?? apply to this case. The law" of this case is settled. The trial and appeals cou?? have alreac??nade findings of fact and conclusions of law. These findings and conclusio?? ??annot be ??ignored in a proceeding whose raison d??tre is protecting against an improperly mot??ed or expedient compromise of the public's interest in enforcement of the, antitrust laws.

Appropriate relief in an antitrust case should end the unlawful conduct, pry o?? the market to competition, avoid a recurrence of the violation and others like it, and und?? antic??et??tive consequences. Unfortunately, SIIA submits that the PFJ does not ac??aplish these goals and ignores significant parts of the Court of Appeals's decision regarding ??icrosoft's ?? anti??olations and their consequences. Even where it seems to address the viola ?? is DOJ filed, its PFJ on November 6, 2001,. which, if approved by this Court, ??ld terminate United States action against Microsoft Corporation ("Microsoft") in th??ase and prtovid??tain remedies for Microsoft's violations of the Sherman Act that were uph?? by the United

States Court of Appeals for the District of Columbia. See United Stares v. Mi?? Corp 25:3 F.3d 34 (DC Cir.) ("Microsoft III") (en bane), cert. denied, 122 S. Ct. 35 2001). In addition to DOJ and Microsoft, nine State plaintiffs agreed to the terms of the PFJ. ??wever, nine State plaintiffs and the District of Columbia concluded that the relief provided b??e PFJ is woefully ??nadaquate and thereby continue to pursue a complete remedy through ?? identified by the Court, the PFJ is so porous that it provides little or no protection 1st a repetition of Microsoft's past anticompetitive acts. Flaws in the PFJ's Remedies. The two most salient remedies imposed Microsoft PFJ und?? concern flexibility for OEMs to install competing middleware and A?? DOJ's future Co?? Impact Statement ("CIS") stresses the importance of preventing??ises in these areas. The theme of the CIS and PFJ is that competition was injured in this ?? prin??ly because Microsoft's illegal conduct maintained the applications barrier ??try in the perso?? computer operating system market by thwarting the success of middle ware ??it would have re??ed competing operating systems gain access to applications and other need compl??tents. The PFJ is intended to restore competition. In fact, however, the PFJ so loosely that it is likely to have only the most modest effect on Microsoft's actions—none at all o??s ability to monopolize new sectors of the information technology market.

a. Middleware. Middleware was at the heart of the case. Impelled by enth??asm for the Interne, PC users embraced Netscape's browser, and Netscape (particularly" in c??pination led a Competitive Impact Statement ("CIS")required I ?? under the ??tunney Act. 15 U.S.C. §16(b). The CIS provides an abbreviated history he legal?? proc?? in this case, describes Microsoft's monopolistic and anticompetitive pra??es that the District Court and the Court of Appeals held to be Sherman Act violations, and ??apts to expla??hy in DOJ's opinion, the PFJ remedies such violations and provides appro??e ?? bene?? lot consumers.

Middleware is "platform software that runs on top of an operating system—uses opera?? system interfaces to take advantage of the operating system's code and fun??nalley—and si??u??taneously exposes its own APIs so that applications can run on the middle?? itself.

An application written to rely exclusively on a middleware program's APIs could run all operating systems on which that middleware runs. Because such middleware also run??n Windows, application developers would not be required to sacrifice Windows compa??lity if they chose to write applications for a middleware platform." CIS at 11. desk??ip This is not simply an academic observation on the part of SIIA and its m??ers. For practi??ally every one of our members, the rise of independent middleware opened r??opportu??ities that were the objects of intense strategic focus. The reason for this fo?? was that our members" programs suddenly could use Netscape and JAVA as mediators to in launch, and run on the desktop. For the first time in years it seemed possible that independe?? software ??enders (ISVs) would have a way. to reach the great majority of computer users ind??ndent of Microsoft. Indeed, because they could run on other operating systems, JAVA and ??cape's browser suddenly offered these ISVs an even broader market than they could obtain ?? developing for the Microsoft operating system. The CIS describes how this competitive threat struck at the heart of Microsoft monopo??y, and Microsoft's counterattack used every possible weapon, including su?? unlawful tacti??a "leveraging" its operating system monopoly. The PFJ seeks to prevent Mi??soft from repeatto?? these tactics by ensuring that future middleware vendors are not denied ac??; to the desktop. But the measures chosen are unlikely to have that effect. As a matter of dr??ng, they are f??y weak. Microsoft itself is expressly granted nearly complete control over ?? meaning of m??dleware" under the PFJ.

Equally important, these measures are written for a world that no longer exist ?? The h??ils moved on. The PFJ grants to hardware makers the fight to add middlewa??cons to their First but these companies simply lack the financial strength and the motivation ?? develop new. software that might threaten Microsoft. To take one example, OEMs have been ??ured by ??rosoft's Microsoft for several months that they may customize their desktops by uninstalling Internet Explorer; not one has actually done so. Meanwhile, the PFJ does not give in??endent software vendors who might challenge Microsoft the one thing that would tempt then ?? a channel to users that is not subject to exclusionary practices by Microsoft. On the ??trary, the PFJ pro??ects middleware only after Microsoft has launched a similar product, by wh?? time it is too late. Developers of applications will always develop first and most enthusiastical?? or the most ?? deployed platform, because that platform becal?? it offers them the largest marke?? the most users ??, in turn, will typically choose the most widely deployed platform becan?? it offers them ?? greatest choice of applications. This reinforcing circle—a well established ??twork effect—in at the heart of Microsoft's dominance of the industry. Cross-platform mid?? ware threatened Microsoft in 1995–98 because it could offer developers an even bigger m?? et—a Microsoft plus" market.

?? Microsoft cannot be seriously challenged in that way again because no n??entrant to the middle ware market can hope to equal the ubiquity of Microsoft in that market, le?? one achie??e the. "Microsoft plus" market that Netscape and JAVA offered in 1995–98.

b. APIs The PFJ also requires that Microsoft disclose the APIs used by Mi??soft middleware to interoperate with the Microsoft operating system. Here, too, the PFJ. ??ers both from ?? drafting, and from a curious blankness regarding the sources of Micros?? Dom??ce of the market. The provision is replete with terms that are not defined ("inter??perate"), are defined only. vaguely ("API"), are defined based on how a pro?? is named or distributed ("Microsoft Middleware") or, most remarkably, are left to be defined ?? Microsoft's "so1e discretion" ("Windows Operating system Product").

In any event, the PFJ does little more than throw Microsoft into a briar patch?? as long called ?? Microsoft's competitive dominance depends on having the largest stab??f application developers writing for its users. To write programs for Microsoft users, t?? deve??per must have access to Microsoft's APIs. The APIs are their air supply, an??licrosoft has every reason to give developers access to that air supply- within limits. As lon??s Microsoft can keep its hand on the valve, as long as it can cut off the air supply to d??lopers who are too independent or too successful, it has every incentive to provide extensi?? Info??ion about its APIs. And the PFJ leaves the valve firmly in Microsoft's hant??y allow?? Microsoft to impose royalties and other restrictions on developers who obt?? access to the APIs. The PFJ thus requires little or nothing more than Microsoft would provid?? its own. Unless developers can be guaranteed an air supply that does not depend on Microso??hey will not chal??erage the company that can unilaterally cut them off. 2. Backward-Looking Remedies. In short, when all is said and done, this ?? wagers everything on a series of measures that might have prevented Microsoft from unlaw??y dest??ng Netscape in the browser wars. Even this is open to question, but the real??blem with the PFJ lies deeper, for there is not the slightest chance that these measures will ??ow a new com??or on the order of Netscape to emerge. The market has moved on. Focusin??ly on preve??ing a repetition of the unlawful actions Microsoft took in 1995–98 is like negt??ting an end to World War II by letting the Germans keep Paris as long as they promise to re??d the ?? Mag??t Line.

Such a limited focus is not just improvident, it ignores the instructions of the ??rt of Appea?? that any relief "terminate" Microsoft's unlawful monopoly and "deny" the ??pany the "fruits" of its unlawful conduct. This cannot be accomplished by relying on the eme??ce of some yet to-be-identified middleware challenger. To the contrary, Microsoft has alr?? soli?? its unlawful victory, into a browser monopoly, and it now bids fair to make ?? entire Interne?? into a proprietary Microsoft environment. Any remedy that seeks to deny M??soft the fruits of its unlawful conduct must at a minimum prevent Microsoft from using the ??e conduct to extend its control of services that rely on Internet Explorer.

For that reason, SIIA urges that the PFJ be expanded to address present and??e ?? and not just the dead past. The PFJ must take steps to reduce the massiv??tructural advantage that Microsoft has achieved by unlawfully leveraging its operating systen??tonopoly into a??nternet-access monopoly. These steps include opening the code of Internet??plorer ?? ("IE" restricting exclusionary uses of Windows XP and the tools that make up Mi??oft's ??NET in??tiative, preventing Microsoft from "polluting" standards by adding propriet?? exten??ons, and inclusion of Microsoft's productivity applications in any relief. ??

3. Missing Principle. One further gap in the PFJ deserves mention, If the ??sific changes required by the PFJ are of very dubious force, the only provisions likely to??e continuing value are those that spell out broad principles of conduct. Here too there??

??nuch room ?? disappointment. The PFJ does not prohibit Microsoft from intentionally di??ling or adve?? affecting the operation of competing products. No explanation is offered ?? this ?? omiss??on.

4. Procedure. Finally, SIIA wishes to address one procedural point. At the ??er of this pr??ceeding are the decisions of the Court of Appeals and the District Court. Wh??hey say about Microsoft's conduct and about the appropriate remedies are an essential part o??e public interest analysis. But they are also at the heart of the case between the remaining liti??ing States and Microsoft. It may be difficult to reach a conclusion about this PFJ without prefi??ng a decision on the very. issues that the parties intend to litigate before the Court in the ne??future. To do ??o on the basis of a few Tunney Act filings rather than a full record might do a?? justice to the p??ies to that litigation. S??A therefore respectfully requests that this Court ?? the PFJ and its terms under advisement until the conclusion of the litigation.

In sum, the PFJ, as written, represents a failure of will and technological wis??m that cannot be approved by this Court consistent with the unanimous liability decision o??e Court of Appeals, traditional standards of antitrust remedy law, or the Tunney. Act.

II. ARGUMENT

A. Standard of Review

Under the Tunney Act, this Court is required to review a proposed settlemen?? deter??e whether it serves the "public interest." In most instances Tunney Act pr??edings occur prior or to trial and without any judicial findings of liability. The Act was passed ??open this stage of the proceedings to the sunlight of public scrutiny. In the unique procedura??ntext of this case however, where the Court of Appeals issued an opinion on the merits prio?? the ini?? of Tunney Act proceedings, the "public interest" standard must necessarily ?? applied consistent with the Court of Appeals opinion. The Court of Appeals ruled, "[t]he Su?? me Court has expl??ed that a remedies decree in an antitrust case must seek to 'unfetter a mar,?? from antice??petitive conduct," Ford Motor Co., 405 U.S. at 577, to 'terminate the illegal??nopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remai??) practices likely to result in monopolization in the future." Thus, this Court must ??sider each of these factors in its public interest analysis.

Ordinarily, the Department of Justice is given prosecutorial discretion in de??ng whe?? bring a civil antitrust action. As a result, courts generally require that a ??posed settlement only be "within the reaches of the public interest'," for which approval ?? warranted even if it falls short of the remedy the court would impose on its own." Thus, in ??ical Tunney Act cases, courts have permitted entry of consent decrees which were merel?? consistent wire the government's general theory of liability as manifested in its complaint" a ??chat "grani??[ed] relief to which the government might not be strictly entitled" under the m?? rust laws, Bech??, 648 F.2d at 660. In this case, after trial and with the benefit of an extensive factual record, the ??tort of Appeals held specifically that relief must seek to "terminate" Microsoft's operating, ??tern mo??, "unfetter" barriers to competition to the OS market, and "deny" Micros??he

The CIS, however, articulates a different and considerably less rigorous start ??d for a rem?? ??n an antitrust case. According to the CIS. "[a]ppropriate injunctive relief, ??hould: (1) end the ??lawful conduct; (2) 'avoid a recurrence of the violation and others like it: ??d (3) undo its anticompetitive consequences." Significantly, the formulation advocated DOJ does not re?? the remedy to 'terminate" the illegal monopoly, or to 'deny the defendan??e fruits of its un??awful conduct. Regardless of whether the DOJ formulation may have been ??propriate in pas??cases, it is simply the wrong standard of review for the remedy in this case, v??re the District Court and Court of Appeals have clearly outlined how Microsoft violated th?? ??herman Act. The PFJ is deficient under either formulation. There are substantial disparities ??tween the CIS and the PFJ. And the DOJ has not even attempted to defend the PFJ under the r??e stringent, and binding, Ford/United Shoe/Grinnell standard That this Court must seek ??enforce.

B. S??A's Remedy Proposals are Reasonable and Proportional to M??osoft's Unlawful Conduct??s proposed modifications to the PFJ, described in detail below, are boy ??amerous and substantial. Regrettably for consumers, Microsoft's already proven monopolist?? Lets have so de??ed competition in the operating systems market that adoption of these pro??als is critic?? if the PFJ is to "unfetter" the market from Microsoft's anticompetitive cond?? "terminate" Microsoft's illegal monopoly, deny Microsoft the "fruits" of its She?? violations, and prevent future monopolistic acts, in accordance with the ford/United?? Shoe/Grinnell standard for remedies.

There are similarities between tiffs case and the AT&T divestiture, the last ??ge monopolization settlement under the Tunney Act. S??A submits that in this case the ?? is similarly completely inadequate to remedy the serious antitrust violations in this ma?? In the former matter Judge Greene reviewed the evidence on all issues except remedy. Af?? evidentiary hearings, third-party submissions, and lengthy oral argument, Judge Gre?? declined to approve the consent decree as proposed because he concluded that it was inadequ?? in certain areas and precluded the Court from effective oversight and enforcement. Judge Gre?? required significant changes to the proposed decree before he would consent to enter the settl??ant under the ??ey Act's public interest standard, holding that "[i]t does not follow, that [?? Court] must ??questioningly accept a [consent] decree as long as it somehow, and however?? inade??tely, deals with the antitrust... problems implicated in the lawsuit." SHA?? respectfully requests that this Court follow Judge Greene's prudent actions and send ?? parties back to the negotiating table to formulate an appropriate PFJ. This Court should re??e its cone??s on on the PFJ until after the pending State case has been litigated.

C. The PFJ Fails to Address the Core Violations Affirmed by the D?? Circuit

1. The PFJ Does Not Eliminate Microsoft's Binding of its M??lleware to its Operating System

As the CIS indicates, the core manner in which Microsoft unlawfully mainta??d its Winc??ws Operating System ("OS") monopoly was by bundling and tying platform, ??Idleware to the OS. Microsoft used this strategy to defeat the alternative platform threats pos?? by Netse??pe and JAVA. The DC Circuit ruled that these actions constituted unlawful ??tintenance of mo??poly under Section 2.

a. Failings of the PFJ It is critical for this Court to understand That the business and economics that ??ire the software industry demonstrate conclusively that the ubiquity of a development platf??t will almost always beat technological superiority. The common interest of software der??bers and consumers in adopting the most uniform platform is the basis of the Microsoft mon??y. As a result, if Microsoft is allowed to continue to bind or bundle its middleware offerings ??th the Windows OS, the ubiquity of its middleware will be permanent, and active middlew?? comp??tition will never emerge. Microsoft will enjoy a perpetual maintenance of its??nopoly, codified and reinforced by to the PFJ, and consumers will suffer a significant retardi?? of innovation that would have otherwise occurred. The negative consequences of this ??ome on innovation cannot be overstated. If there is no way to reach consumers except throu?? Micro?? platform, and if Microsoft remains free to cut off the access of applicatio?? that are

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MTC-00030615

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA UNITED STATES OF AMERICA Plaintiff, v. MICROSOFT CORPORATION, Defendant. Civil Action No. 98-1232 (CKK) STATE OF NEW YORK, et al., Plaintiffs, v. MICROSOFT CORPORATION, Defendant. Civil Action No. 98-1233 (CKK) COMMENTS OF AOL TIME WARNER ON THE PROPOSED FINAL JUDGMENT TABLE OF CONTENTS Page INTRODUCTION 1

I. THE COURT SHOULD USE THE REMEDIAL OBJECTWES ESTABLISHED BY THE DC CIRCUIT IN THIS CASE AS THE STANDARD FOR ASSESSING WHETHER THE PFJ IS "IN THE PUBLIC INTEREST." 4

II. AS MICROSOFT STARTS TO IMPLEMENT MOST OF THE DECREE'S PROVISIONS, THE COURT SHOULD CONSIDER HOW—IF AT ALL—OEMS ARE RESPONDING 9

A. There Is No Indication That Microsoft's Implementation Of Major Aspects Of The PFJ Is Even Beginning To Promote Competition Or Helping To Loosen Microsoft's Control Over The Desktop 10

B. The Provisions Of The PFJ Implemented By Microsoft Since July 11th Are Not Showing Signs That They Will Work To Restore Competition In The Browser Market 14

III. THE PFJ IS NOT IN THE PUBLIC INTEREST BECAUSE IT DOES NOT EVEN ATTEMPT TO HALT MICROSOFT'S MOST INSIDIOUS PRACTICE: ITS ILLEGAL BINDING AND BUNDLING OF MIDDLEWARE APPLICATIONS WITH THE WINDOWS OS 17

A. The Court Of Appeals Explicitly Held That Code Commingling—A Form Of Tying Unaddressed By The PFJ—Violates Section 2 Of The Sherman Act 19

B. Microsoft Uses A Variety Of Other Tying Practices To Maintain Its Operating System Monopoly; If The Monopoly Is To Be "Terminated," Such Contractual Tying Must Be Prohibited 24

C. By Allowing Microsoft To Continue To Tie Its Middleware Applications To Windows, Microsoft Retains One Of The Most Valuable "Fruits" Of Its Illegal Acts 31

IV. THE PROPOSED FINAL JUDGMENT FURTHER FAILS THE PUBLIC INTEREST TEST, BECAUSE IT DOES NOT ACHIEVE EVEN THE LIMITED OBJECTWES THAT IT HOLDS OUT AS ITS AIMS 33

A. The PFJ Allows Microsoft To Continue Engaging In Discriminatory And Restrictive Licensing Agreements To Curtail The Use Of Rival Middleware Products 34

B. The PFJ Requires Microsoft To Disclose APIs Only In Certain, Narrow Circumstances 39

C. The PFJ Does Not Ban Many Forms Of Retaliation By Microsoft Against OEMs 42

D. The PFJ Does Nothing To Remedy Microsoft's Illegal Campaign To Eliminate Java 45

E. The PFJ Includes A "Gerrymandered" Definition Of Middleware 47

F. The PFJ Lacks A Meaningful Enforcement Mechanism 50

V. THE CIRCUMSTANCES OF THIS CASE STRONGLY MILITATE IN FAVOR OF GATHERING EVIDENCE AND TESTIMONY—EITHER IN A HEARING, OR THROUGH THE USE OF THE RECORD FROM THE REMEDIAL PROCEEDING—TO DETERMINE IF THE PFJ MEETS THE PUBLIC INTEREST TEST 53

A. The Complexity And Significance Of This Case—And The Inadequacy Of The CIS—All Militate In Favor Of A Hearing On The PFJ 53

B. The Court Should Conduct A Proceeding—Taking Evidence And Hearing Testimony, If Necessary- To Determine How The PFJ's Provisions Have Functioned Since Some Were Put In Place In 2001 56

C. In Making Its "Public Interest" Determination, This Court Should Take Into Account The Evidence That Will Be Adduced In The Upcoming Remedial Proceeding 58

CONCLUSION 61

COMMENTS OF AOL TIME WARNER ON THE PROPOSED FINAL JUDGMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. §16, AOL Time Warner respectfully submits the following comments on the Proposed Final Judgment ("PFJ") in the above-referenced matter.

INTRODUCTION

The Proposed Final Judgment sets forth a decree that is too limited in its objectives and too flawed in its execution to meet the Tunney Act's "public interest" test. It allows Microsoft to continue to bind and bundle its middleware applications with its Windows Operating System (")—even though the Court of Appeals found Microsoft's actions in this regard to be illegal. And its patchwork of constraints on Microsoft's conduct is so loophole-ridden and exception-laden as to render its provisions ineffective. As a result, the PFJ is inadequate to promote competition and protect consumers, and the Court should refuse to find that its entry would be "in the public interest." 15 U.S.C. §16(e).

The PFJ comes before the Court in an unprecedented posture for a Tunney Act proceeding. This proposed settlement was reached—not as the case was being flied, nor as it was being tried, nor even as it was being appealed—but rather, after the Court of Appeals for the District of Columbia Circuit unanimously affirmed a finding of illegal monopoly maintenance by Microsoft. Such circumstances surely require a more rigorous application of the "public interest" standard than when a case is settled before the first interrogatory is even served—the usual situation when a Tunney Act review is conducted. Helpfully, a readily available and judicially administrable measure of the "public interest" is available for use in this special circumstance: the four-part test for "a remedies decree" established by the DC Circuit in this very litigation. United States v. Microsoft, 253 F.3d 34, 103 (DC Cir. 2001). Applying this standard, we believe that the Court should find the PFJ to be in the "public interest" only if it (1) "unfetter[s] a market from anticompetitive conduct"; (2) "terminate[s] the illegal monopoly"; (3) "den[ies] to the defendant the fruits of its statutory violation"; and (4) "ensure[s] that there remain no practices likely to result in monopolization in the future." Id. (internal quotations omitted). We believe that there are at least three reasons why the Court should conclude that the PFJ does not meet this test.

First, since July 11, 2001 (for the browser) and December 16, 2001 (for other middleware), Microsoft has been implementing many of the PFJ's remedial provisions. Thus, the Court need not speculate about the impact these provisions would have on the industry if they were put in place; rather, it can seek submissions and review evidence on whether these critical provisions are beginning to work as they are being implemented by Microsoft. We believe that any such inquiry will reveal that the original equipment manufacturers ("OEMs") are not exercising the flexibility that the PFJ ostensibly provides them, because the loophole-ridden PFJ gives too few rights to the OEMs and does too little to protect the OEMs in the exercise of those rights. As a result, there is little reason to believe that the PFJ will prove effective in restoring competition, terminating Microsoft's monopoly, or stripping Microsoft of the fruits of its illegal acts.

Second, the PFJ fails to prohibit Microsoft's signature anticompetitive conduct: the binding of its middleware applications to its monopoly operating system, and its bundling of these products to further entrench its OS monopoly. The factual questions that surround these legal issues are quite complex, but here again, the Court has a powerful tool to employ: the extensive factual findings entered by the District Court. These factual findings document Microsoft's purposeful commingling of middleware application code with the Windows OS to harm competition, as well as the contractual bundling of those applications with the OS, to force OEMs to distribute Microsoft's middleware, and to raise distribution hurdles for middleware rivals. Given the PFJ's failure to ban practices that the District Court and the Court of Appeals found to be at the center of Microsoft's illegal maintenance of its OS monopoly, the PFJ does not meet the "public interest" standard.

Third, even with regard to those limited objectives that the PFJ does attempt to achieve—i.e., the creation of "OEM flexibility" to promote desktop competition—the proposed decree is so ridden with loopholes, exceptions and carve-outs as to render it ineffective. These deficiencies are highlighted when the PFJ is compared to previous remedial plans considered in this case, including Judge Jackson's interim conduct remedies and the mediation proposal offered by Judge Richard Posner (which Microsoft apparently agreed to even before it had been found liable for antitrust violations).

Finally, we believe the Court will find the remedial proposal of the litigating state attorneys general ("Litigating States" Remedial Proposal" or "LSRP")—and the Court's consideration of that proposal—to be useful in its review of the PFJ. Most immediately, the LSRP provides a benchmark as to what one group of antitrust enforcers believes to be compelled by the "public interest" in order to achieve the case's remedial objectives. Moreover, the LSRP provides a helpful point of comparison for some specific aspects of the PFJ—i.e., a way to illustrate why particular PFJ provisions are ineffective, by comparison. And third, the Court's consideration of the LSRP will adduce testimony and other evidence that should be weighed in determining whether the PFJ should be approved. Taken as a whole, a comparison of the PFJ with the Litigating States" Remedial Proposal shows why the latter, and not the former, faithfully meets the remedial objectives set forth by the DC Circuit and serves the "public interest" as expressed in the nation's antitrust laws.

I. THE COURT SHOULD USE THE REMEDIAL OBJECTIVES ESTABLISHED BY THE DC CIRCUIT IN THIS CASE AS THE STANDARD FOR ASSESSING WHETHER THE PFJ IS "IN THE PUBLIC INTEREST."

Passed by Congress in 1974, the Antitrust Procedures and Penalties Act, commonly known as the "Tunney Act," provides that a proposed consent decree may be entered in an antitrust case only if the district court determines that such entry is "in the public interest." See 15 U.S.C. §16(e). Given that the Court will receive numerous submissions on this point, we do not provide here a recitation of the Tunney Act's provisions, or an extensive analysis of the standard of review under the Act. Instead, we focus on just one, overriding "procedural" question: How should the Court measure "the public interest" in this unique case? For reasons we will explain below, we believe that the measure of the "public interest" to be applied in reviewing the PFJ can be found in the remedial objectives set forth by the DC Circuit in its consideration of this litigation. See Microsoft, 253 F.3d at 103.

First, while the Tunney Act itself does not define "public interest," the case law makes clear that the Court must begin its analysis "by defining the public interest" in accordance with the basic purpose of the antitrust laws, which is to" 'preserv[e] free and unfettered competition as the rule of trade.'" United States v. American Tel. & Tel. Co., 552 F. Supp. 131,149 (D.DC 1982) (quoting Northern Pacific Ry. Co. v. United States, 356 U.S. 1 (1958)). As a general rule, a court has discretion to reject a proposed consent decree that is ineffective because it fails to address or resolve the core competitive problems identified in the Department of Justice's complaint. United States v. Microsoft Corp., 56 F.3d 1448, 1457–62 (DC Cir. 1995). As this Court stated in United States v. Thomson Corp., 949 F. Supp. 907, 913 (D.DC 1996), the court has a responsibility "to compare the complaint filed by the government with the proposed consent decree and determine whether the remedies negotiated between the parties and proposed by the Justice Department clearly and effectively address the anticompetitive harms initially identified." A court should "hesitate" in the face of specific objections from directly affected third parties before concluding that a proposed final judgment is in the public interest. United States v. Microsoft, 56 F.3d at 1462. And it "should pay 'special attention'' to the clarity of the proposed consent decree and to the adequacy of its compliance mechanisms in order to assure that the decree is sufficiently precise and the compliance mechanisms sufficiently effective to enable the court to manage the implementation of the consent decree and resolve any subsequent disputes." Thomson Corp., 949 F. Supp. at 914 (citing United States v. Microsoft, 56 F.3d at 1461–62).

In the context of this proceeding, tremendous guidance as to the content of the public interest test can come from the earlier decision of the Court of Appeals in this case. In that decision, the DC Circuit wrote:

> [A] remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct," to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future."

Microsoft, 253 F.3d at 103 (quoting Ford Motor Co. v. United States, 405 U.S. 562, 577 (1972) and United States v. United Shoe Mach. Corp., 391 U.S. 244, 250 (1968)). These words, in our view, form the essence of the public interest test to be applied by the Court in this Tunney Act proceeding.

First, on its face, this passage speaks of the object of a "remedies decree in an antitrust case," without differentiating between a decree that is achieved through negotiation and one achieved through litigation. Thus, the Court of Appeals" ruling would appear to be directly controlling here, insofar as it states the measure of adequacy for any remedial decree, however achieved. There is no apparent reason why the "remedies decree" negotiated by the Department of Justice with Microsoft should not have to meet the standard of adequacy generally set forth by the Court of Appeals in its decision. This is particularly true given that the passage merely "defin[es] the public interest in accordance with the antitrust laws." Accord American Tel. & Tel. Co., 552 F. Supp. at 149.

How wide a "gap" between a hypothetical litigated result and the proposed settlement is permissible in these circumstances is a question that need not be answered here because the PFJ falls so very short of meeting any reasonable understanding of the "public interest," given its failure to address many of Microsoft's illegal acts and its loophole-ridden provisions in the areas that it does purport to cover.

> [I]t is not necessary that all of the untraveled roads to [anticompetitive conduct] be left open and that only the worn one be closed. The usual ways to the prohibited goals may be blocked against the proven transgressor.

Additionally, "antitrust violations should be remedied 'with as little injury as possible to the interest of the general public" and to relevant private interests." Id. (quoting United States v. American Tobacco Co., 221 U.S. 106, 185 (1911)).

Second, the four-part test established by the DC Circuit here would give the Court a clear and manageable standard on which to evaluate the proposed decree's adequacy. Use of the DC Circuit's formulation thus avoids one of the principal bases of controversy and difficulty in Tunney Act reviews -i.e., the lack of a judicially manageable standard for assessing the public interest and the consequent risk that judges will inappropriately use standardless judgment to review an exercise of prosecutorial discretion. Thus, unlike in other Tunney Act cases, where a court lacks an appropriate benchmark on which to measure the purported benefits of the settlement (and thus must be careful not to impose its judgment for that of the Justice Department), here, there is a clear benchmark for the Court to use: the standard set by the Court of Appeals with regard to a "remedies decree."

Moreover, to the extent that insisting that the PFJ meet the standard set by the Court of Appeals would result in a more exacting review than the review imposed in other Tunney Act proceedings, that would be appropriate in this circumstance. For while the overwhelming majority of decrees reviewed under the Tunney Act occur in a pre-trial context—where the court lacks a judicial finding of illegality against which to measure the efficacy of the proposed settlement—this proposed settlement was reached after an appellate affirmance of liability. Because the public has invested its resources and time, and taken the risk to win a judgment of liability and defend that judgment on appeal, it has a right to expect a more rigorous decree that meets a higher standard of review. Under these circumstances, the Court's review under the Tunney Act should not be deferential to the Justice Department; instead, the Court should apply the Court of Appeals" four-part test and determine if the PFJ meets that test.

As explained in more detail below, the PFJ fails to meet the DC Circuit's four-part test, because contrary to the claims of the Department of Justice, it will neither "provide a prompt, certain and effective remedy for consumers," nor "restore competitive conditions to the market." (See CIS at 2.) Specifically, it does not "unfetter [the] market from anticompetitive conduct," because it does not even try to stop Microsoft's illegal binding and bundling practices—or effectively limit Microsoft's ability to coerce OEM behavior to its liking. It does not "terminate the illegal monopoly" because it does not effectively promote rival middleware, and because its provisions are so laden with loopholes, exceptions and carve-outs. It does not "deny to the defendant the fruits of its statutory violation," because it allows Microsoft to continue to leverage its OS monopoly to gain market share in other markets. And it does not "ensure that there remain no practices likely to result in monopolization in the future," because it leaves Microsoft free to exploit the OS monopoly to gain dominance in critical new markets. Failing to address the core anticompetitive wrongs that were found at trial and upheld on appeal against Microsoft, and failing to meet the four-part remedial test established by the DC Circuit, the PFJ is manifestly contrary to the public interest and should be rejected.

II. AS MICROSOFT STARTS TO IMPLEMENT MOST OF THE DECREE'S PROVISIONS, THE COURT SHOULD CONSIDER HOW—IF AT ALL OEMS ARE RESPONDING.

As noted above, the question before the Court is whether the PFJ is "in the public interest." 15 U.S.C. §16(e). In making that determination, the statute indicates that the Court may want to consider, inter alia: (1) "the competitive impact" of the PFJ, (2) whether it results in the "termination of alleged violations," and (3) "the impact of [the PFJ] upon the public generally and individuals alleging specific injury." Id.

Fortunately, contrary to most other courts conducting Tunney Act reviews, this Court need not struggle with evaluating the "competitive impact" of the PFJ in a factual vacuum because Microsoft has been, according to its own statements, implementing some provisions found in the PFJ since last July, and the bulk of its provisions since December. That means the Court need not base its "public interest" judgment on abstract legal and economic analyses only; instead, the Court's analysis can (at least in part) be shaped by a consideration of how Microsoft is beginning to implement parts of the PFJ, and how the PFJ's provisions are starting to work in practice. 7 We believe that such a practical review will demonstrate that the portions of the PFJ in question show little prospect—if any- that they will "unfetter the market," "terminate the monopoly," or "deny" to Microsoft "the fruits of its violation."

A. There Is No Indication That Microsoft's Implementation Of Major Aspects Of The PFJ Is Even Beginning To Promote Competition Or Helping To Loosen Microsoft's Control Over The Desktop.

In the joint stipulation filed with the Court on November 6, 2001, Microsoft stated that it would "begin complying with the [PFJ] as [if] it was in full force and effect starting on December 16, 2001 ." (Stipulation and Revised Proposed Final Judgment at 2 (November 6, 2001).) While provisions with specific timetables were exempted from this pledge—resulting in an excessive delay for some of the PFJ's competitive protections many of the PFJ's remedial provisions were covered by it. Thus, with regard to many provisions of the PFJ, the proposed decree has been "in effect" since mid-December.

Microsoft's stipulation offers the Court a unique opportunity to learn, not just how the PFJ would serve the public interest once implemented, but instead, whether the PFJ provisions already in effect are showing signs that they are likely to serve the public interest. These provisions have now effectively been in place for 43 days—and by the time of a likely hearing or other proceeding to consider this question (presumably, in March or April), will have been in effect for three to four months.

Microsoft may protest that a three- to four-month period in which parts of the PFJ will have been applied is inadequate to test those remedies. And that is doubtlessly true with regard to some measures of the PFJ's effectiveness, such as whether Microsoft's share of the OS market has shrunk from near absolute to anything less. But there are other measures of the PFJ's effectiveness that should be readily discernible even in this relatively short time.

Among the questions we believe that the court could determine, by the time of a heating in March or April, would be:

.Have the OEMs exercised (or even attempted to exercise)—in any way beyond the prevailing industry practice prior to December 16th—the flexibilities to remove/replace icons, start menu entries, and default settings for Microsoft middleware products, that are purportedly provided in Section III.C.1 of the PFJ? If not, why not?

.Are non-Microsoft middleware products gaining new distribution via the OEMs as a result of the provisions of Sections III.A. and III.C.2 of the PFJ, as implemented? If not, why not?

.Are non-Microsoft middleware products, to a greater extent than before implementation of the PFJ, attaining the benefits of an "automatic launch," pursuant to the provisions of Section III.C.3 of the PFJ? If not, why not?

.Is any OEM offering a dual-boot computer, as authorized by Sections III.A.2 and III.C.4 of the PFJ? If not, why not?

.Are there new IAP offerings being made at the conclusion of PC boot sequences, pursuant to Section III.C.5 of the PFJ? If not, why not?

. Has any ISV, IHV, IAP, ICP or OEM gained any additional Windows licensing tights that it did not have prior to the implementation of the PFJ, pursuant to Section III.I of the PFJ? If not, why not?

. Has Microsoft terminated any payments to OEMs that were anticompetitively advantaging Microsoft's products, and that are now forbidden, pursuant to Sections III.A and III.B of the PFJ? Based on our knowledge of industry developments, we believe that the answer to each of these questions is "no," with perhaps some very rare and isolated exceptions. Thus, despite Microsoft's proclaimed implementation of large portions of the PFJ, there is scant evidence of OEMs even attempting, let alone succeeding, to offer consumers new choices with respect to middleware products. Even in a relatively short time frame of a few months, one would expect to find numerous OEMs reaching agreements to promote or carry multiple non-Microsoft products. But no such evidence exists. No doubt, that is why countless industry observers and analysts have concluded, after examining the PFJ, that "[t]he changes we will see are minute. Microsoft can control its own destiny. It can do whatever it wants."

Presumably, it cannot be in "the public interest" to settle a case after years and years of litigation - including a finding of liability for the government at trial, affirmed unanimously on appeal by the Court of Appeals (See Microsoft, 253 F.3d at 46)—for a remedial decree that effectuates only "minute" changes in the strategy the defendant was using to illegally maintain its monopoly. And yet, that is precisely what appears to be happening, as the effectiveness—or lack thereof- of parts of the PFJ are starting to be observed in application.

While we certainly agree with the Department of Justice that it will only be "over time" that any remedy could "help lower the applications barrier to entry," (see CIS at 29), that objective will never be achieved if the PFJ does not lead OEMs to even begin to "offer rival middleware to consumers and ... feature that middleware in ways that increase the likelihood that consumers will choose to use it." (Id.) That is: the pro-competitive journey of a thousand miles can never be completed if- as it appears to be the case—the PFJ does not create a market in which OEMs feel free to take that all-important first step. To the extent that much of the CIS suggests that the goal of the remedy is to create OEM flexibility for its own sake—i.e., to make sure that OEMs have the right to choose non-Microsoft products, whether or not they exercise that right—it misses the mark. The goal of this litigation is not to protect OEMs" rights, but rather to protect consumers" rights to enjoy a free and competitive market. In such a market, OEMs can be important surrogates for consumers, but only if they actually offer competitive choices. Likewise, to the extent that the other goal of the remedial proceeding is to reduce the applications barrier to entry, that objective is only achieved to the extent that the OEMs actually distribute and promote non-Microsoft middleware—it is not advanced by the unexercised presence of theoretical OEM choice.

Thus, the determination of whether the PFJ will be effective in promoting its purported ends—i.e., fostering OEMs in making those choices and creating opportunities for competition—need not be left for some subsequent proceeding or for antitrust scholars in future years. It can be ascertained now from the submissions that the Court is receiving, or, if those submissions are inadequate, it could be resolved by the Court in a proceeding where evidence is taken and testimony is heard. See Section V.B, infra. The manner in which Microsoft is already implementing portions of the PFJ is among the most probative considerations the Court can weigh in determining how—it at all—the proposed settlement will promote competition in the years to come.

B. The Provisions Of The PFJ Implemented By Microsoft Since July 11th Are Not Showing Signs That They Will Work To Restore Competition In The Browser Market.

In addition to the general applicability of the PFJ's provisions, several of its provisions have been in place—as they relate to the Internet browser—since Microsoft took steps to implement them after the Court of Appeals" decision last June. As with the more general PFJ provisions discussed above, the Court should examine whether these browser-specific remedial provisions—which will have been in place for eight months by mid-March—have been effective to date. Again, we believe that the evidence to date shows that the provisions are showing no sign of effectuating change in the market; thus, the PFJ—which (with regard to browsers) does little more than codify these unilateral Microsoft actions does not meet the "public interest" standard.

On July 11, 2001, in response to the decision of the Court of Appeals, Microsoft announced a program of "greater OEM flexibility for Windows." See Press Release, Microsoft Corporation, Microsoft Announces Greater OEM Flexibility For Windows, July 11, 2001. Specifically, Microsoft announced that it would amend its OEM license agreements to provide that: PC manufacturers will have the option to remove the Start menu entries and icons that provide end users with access to the Internet Explorer components of the operating system. Microsoft will include Internet Explorer in the Add/Remove programs feature in Windows XP. PC manufacturers will have the option to remove the Start menu entries and icons that provide end users with access to Internet Explorer from previous versions of Windows, including Windows 98, Windows 2000 and Windows Me ....

Consumers will be able to use the Add-Remove Programs feature in Windows XP to remove end-user access to the Internet Explorer components of the operating system .... Id. These provisions mirror the browser-related provisions found in Sections III.C.1 and III.H.1 of the PFJ. Indeed, they comprise almost the entirety of all browser-related remedial provisions found in the PFJ.

Thus, the question of whether the PFJ fulfills the Department of Justice's promise of an effective remedy for "restor[ing] the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings," can easily be assessed—at least with regard to the browser threat, which was such an extensive part of the Court of Appeals" decision—by seeing how effective these unilateral Microsoft actions, taken in July of 2001, have been to date. And unlike the provisions discussed above, which were put in place only in December, it cannot be argued that these browser-related provisions have not yet been tested in the marketplace; rather, they were in place for the launch of Windows XP, which Bill Gates recently dubbed the "best-selling release of Windows ever, and one that is creating great opportunities for PC manufacturers and our other partners in the industry." In the simplest terms, as we note above, these "remedies" will have been in place for eight months by mid-March of 2002.

We believe that the initial evidence shows that these provisions are completely ineffective. We are unaware of a single OEM that has used the "flexibility" provided to it by Microsoft to remove Internet Explorer from the Start menu, or from any of its multiple promotional placements on the PC desktop. Nor are we aware of any OEM that has elected to use any competitor to Internet Explorer as a default browser, or to promote alternative browsers to Internet Explorer in any way. Moreover, there is no indication—more than six months after Microsoft's July 11th announcement and four months after the first shipments of Windows XP—that Internet Explorer's commanding market share in the browser market has fallen in any measurable way. If the provisions of the PFJ are strong enough to "restore" competition to the marketplace, which DOJ claims they are (see CIS at 3 ("[t]he requirements and prohibitions [of the PFJ] will ... restore the competitive threat that middleware products posed prior to Microsoft's unlawful undertakings")), one would expect to see that the market shares of Microsoft's browser competitors have increased during this time frame. There is simply no evidence of that. Not only is there a dearth of evidence suggesting that the PFJ's provisions are going to restore competition to the level enjoyed by Microsoft's rivals prior to its illegal conduct, but there is no evidence to suggest they are affecting the market at all.

A remedial provision that has no market impact cannot be said to be in the "public interest," especially in a case like this where the damage from Microsoft's illegal campaign to eliminate rival middleware has already been done. In other words, because Microsoft has illegally driven down the market shares of its rival middleware developers, restoring competition to the marketplace requires much more than simply eliminating the illegal practices: only if the status quo ante is restored would OEM freedom of choice be meaningful. And yet, the evidence suggests that the PFJ provisions that relate to the browser will have no market impact, given the practical experience with highly similar proposals put in place by Microsoft last July. This is important evidence for the Court to consider when reviewing the PFJ.

III. THE PFJ IS NOT IN THE PUBLIC INTEREST BECAUSE IT DOES NOT EVEN ATTEMPT TO HALT MICROSOFT'S MOST INSIDIOUS PRACTICE: ITS ILLEGAL BINDING AND BUNDLING OF MIDDLEWARE APPLICATIONS WITH THE WINDOWS OS.

In this submission—and doubtlessly in the many others the Court will receive—we identify a number of specific deficiencies in the PFJ. See Section IV, infra and Attachment B. But one omission stands out above all others: the failure of the PFJ to limit Microsoft's ongoing and insidious efforts to maintain its monopoly—and leverage and entrench that monopoly—by tying its middleware applications to the Windows OS. This conduct—found illegal by the District Court and upheld as illegal by the Court of Appeals (see Microsoft, 253 F.3d at 67)—is left unchecked by the PFJ. By contrast, a remedy to address this practice appeared in the interim conduct remedies offered by the District Court, as well as the remedial proposal designed by Judge Richard Posner ("Posner Proposal"). The practice is also addressed extensively in the litigating states" proposed remedy. By failing to remedy one of Microsoft's "signature" anticompetitive acts, the PFJ—even before reaching its many other defects—falls far short of the four-part remedial standard set by the Court of Appeals, and by the same token, fails to meet the public interest test established by the Tunney Act.

In explaining why it did not seek to limit Microsoft's tying of middleware applications to Windows in the PFJ, the Justice Department has suggested that there was no basis for such a remedy because of the Court of Appeals" reversal of the District Court's finding of liability under Section 1 of the Sherman Act, and the appellate court's direction that the remedy here should "focus[] on the specific practices that the court had ruled unlawful." This analysis fundamentally misapprehends the implications of the Court of Appeals" ruling: contrary to DOJ's view, the Court of Appeals did not suggest that an anti-tying remedy was inappropriate or unnecessary here; indeed, much of the Court of Appeals" decision is a strong declaration of how Microsoft's various forms of tying violated Section 2 of the Sherman Act. See, e.g., Microsoft 253 F.3d at 65–67. A remedy that truly "focused on the specific practices that the court had ruled unlawful" would have to address the tying practices that the Court of Appeals "ruled unlawful"; the PFJ does not.

Because Microsoft's various forms of middleware applications tying are critical tactics that it uses to maintain its illegal monopoly, they must be ended if the remedy is to "terminate the monopoly." (See Microsoft's Tying Strategies To Maintain Monopoly Power In Its Operating System ("Mathewson & Winter Report"), attached hereto as Attachment A.) Furthermore, the opportunity to gain market share as a result of such tying is one of the principal fruits of Microsoft's illegality, and should therefore be denied to it. As a result, the failure of the PFJ to address Microsoft's tying is a fundamental flaw that alone merits rejection of the proposed decree.

Importantly, we note that the legal and economic arguments presented below are reinforced by the empirical observations set forth in Section II, supra. That is, the legal and economic analysis below which suggests that a remedy without a ban on tying will be ineffective in theory, is supported by the fact that such a remedy—imposed in part since July, and more substantially since December—is proving to be ineffective in practice.

A. The Court Of Appeals Explicitly Held That Code Commingling—A Form Of Tying Unaddressed By The PFJ—Violates Section 2 Of The Sherman Act.

In affirming the District Court's findings of fact concerning Microsoft's practice of commingling the code for its own middleware products with the code for the Windows OS, the Court of Appeals made clear that such commingling was an unlawful act in violation of Section 2 of the Sherman Act. See Microsoft, 253 F.3d at 65–67. Specifically, the Court of Appeals concluded that Microsoft's "commingling has an anticompetitive effect ... [and] constitute[s] exclusionary conduct, in violation of §2." Microsoft, 253 F.3d at 6667 (emphasis added). According to the appeals court, Microsoft's "commingling deters OEMs from pre-installing rival browsers, thereby reducing the rivals" usage share and, hence, developers" interest in rivals" APIs as an alternative to the API set exposed by Microsoft's operating system." Id. at 66. Moreover, the Court of Appeals affirmed the District Court's finding that such commingling was done, deliberately and intentionally, to advance Microsoft's anticompetitive aims. Id.

Notwithstanding these clear declarations by the Court of Appeals, this practice is not prohibited by the PFJ. Such a prohibition was omitted despite the finding that it is illegal—and despite the Justice Department's recognition that the first remedial objective in a decree should be to "end the unlawful conduct." (See CIS at 24.) Thus, Microsoft remains free to bind its middleware applications, including the browser, to its Windows OS —making it impossible for an OEM, or a consumer, to remove that application from a PC without doing damage to that PC's operating system.

Microsoft's suggestion that competition is adequately served by allowing OEMs to pre-install rival middleware and to remove end-user access to Microsoft middleware—instead of banning commingling- is incorrect for several reasons. First, as the District Court found and the Court of Appeals affirmed, commingling of code strongly deters—and may even prevent—OEMs and consumers from using middleware products offered by Microsoft's competitors (because the Microsoft product is inextricably intertwined with the OS and is thus both easier to use and harder to remove). Why would an OEM include a competing middleware product that will cost money to install and use up valuable space on the hard drive when Microsoft's product is already there and has been so tightly knit with the OS that it cannot be removed without doing damage to the OS? As the Court of Appeals noted (citing the District Court's holding), Microsoft's commingling has both prevented OEMs from pre-installing other browsers and deterred consumers from using them. In particular, having the IE software code as an irremovable part of Windows meant that pre-installing a second browser would "increase an OEM's product testing costs," because an OEM must test and train its support staff to answer calls related to every software product preinstalled on the machine; moreover, pre-installing a browser in addition to IE would to many OEMs be "a questionable use of the scarce and valuable space on a PC's hard drive."

Microsoft, 253 F.3d at 64 (citations omitted).

As long as commingling is permitted, OEMs and other third party licensees will have no incentive to take advantage of the limited freedom provided by the PFJ and will continue to use Microsoft's middleware products at the expense of its competitors. As a result, commingling reduces Microsoft's distribution costs for its middleware applications to zero. It also raises the distribution costs of rival middleware application makers -who not only must pay for something that Microsoft gets for free (i.e., distribution via OEMs), but must also pay an added bounty to persuade OEMs to install their applications as the second such application on a PC. This, of course, assumes that such an added payment strategy for such middleware would even be plausible (which is highly doubtful, except in rare cases) and would not be defeated by Microsoft, a rival with roughly $39 billion in cash available to deter the prospect of being outbid by other middleware developers for PC access.

The other way in which code commingling illegally enhances the position of Microsoft middleware is by encouraging applications programmers to write their programs to Microsoft's products. (Mathewson & Winter Report at ¶¶14–16.) Third party developers decide how to write their applications based upon what APIs they believe will be available on the broadest number of computers and will enable their products to function most smoothly. See Microsoft, 253 F.3d at 55. Because the PFJ will allow Microsoft to continue commingling its middleware and OS code, it essentially guarantees that Microsoft's application programming interfaces ("APIs") are universally available in all Windows environments (in other words, on virtually all PCs)—and that software developers who write their applications to Microsoft's APIs can write directly to the OS. This is true regardless of whether or not end-user access to the middleware product is visible. As a result, third party software developers (whose business interests are to develop successful applications, not to challenge Microsoft's monopoly) will almost always write their programs to Microsoft middleware.

Thus, in the end, as both the Court of Appeals and the District Court concluded here, commingling itself deters OEMs from installing rival middleware. See Microsoft, 253 F.3d at 66; Findings of Fact, 84 F. Supp. 2d at 49–50, ¶159. No doubt this is why every other remedial plan contemplated in this litigation—from the Posner Proposal, to Judge Jackson's interim remedial order, to the proposal set forth by the Litigating States —has prominently included a ban on code commingling (or, at the very least, a requirement that Microsoft make available a non-commingled version of Windows). Yet, despite that, despite the Court of Appeals'' holding, and despite the District Court's factual findings, the PFJ fails to prohibit or limit this practice in any manner whatsoever.

Microsoft has already demonstrated its willingness and ability to fend off threats from competing middleware products by illegally commingling code with the Windows OS. As currently drafted, the PFJ gives the company a green light to continue this anticompetitive and illegal pfactice. The public interest requires that Microsoft's practice of tying its middleware and operating system, via code commingling, be prohibited.

B. Microsoft Uses A Variety Of Other Tying Practices To Maintain Its Operating System Monopoly; If The Monopoly Is To Be "Terminated," Such Contractual Tying Must Be Prohibited.

The Justice Department's insistence that the remedy in this case should not include a general tying prohibition because the government abandoned its Section 1 tying claim is logically flawed. Contrary to DOJ's assertions, as discussed at length above, the ultimate remedy in this case must "terminate" Microsoft's illegally maintained monopoly- and that can only happen if the remedy addresses those behaviors that anticompetitively maintain the Windows monopoly. The bundling, or contractual tying, of Microsoft's middleware products to its Windows OS is clearly such an anticompetitive behavior: it is the signature tactic used by Microsoft to maintain its monopoly and fend off competitive challenges, and it has been expressly found to be illegal by the Court of Appeals. See, e.g., Microsoft, 253 F.3d at 61 (the restriction in Microsoft's licensing agreements that prevents OEMs from removing or uninstalling IE "protects Microsoft's monopoly from the competition that middleware might otherwise present. Therefore, we conclude that the license restriction at issue is anticompetitive.") (emphasis added); see also Mathewson & Winter Report at ¶¶13–33. Put another way, various tying practices were found by the Court of Appeals to illegally reinforce Microsoft's OS monopoly and thus must be banned in order to realize the remedial mandate of the Court of Appeals and the public interest objectives of the Tunney Act.

The anticompetitive nature of tying is apparent on its face: it reduces competition and consumer choice, making it less likely for Windows consumers to acquire and use non-Microsoft middleware products for reasons unrelated to the merits of those products. See Microsoft, 253 F.3d at 60 (upholding District Court's conclusion that contractually restricting OEMs'' ability to remove IE "prevented many OEMs from distributing browsers other than IE"); see also Mathewson & Winter Report at ¶23. Microsoft only makes Windows available for license to OEMs in a bundle that includes a number of its middleware applications (e.g., Internet Explorer, Windows Media Player, Windows Messenger, MSN). Microsoft also contractually prohibits OEMs from removing its applications from the bundled offering. As explained in the attached economic report from Professors Frank Mathewson and Ralph Winter, such tying is anticompetitive and should fall under the purview of these remedy proceedings for four principal reasons: (1) it reinforces Microsoft's monopoly by increasing the applications barrier to entry against OS competitors; (2) it reinforces Microsoft's monopoly by deterring direct challenges to the OS itself as the platform of choice for software developers; (3) it weakens the greatest current competitor to Windows—prior versions of Windows; and (4) Microsoft's more recent practice of tying the Windows Media Player to the OS creates a new variant of the applications barrier to entry problem for potential OS rivals: a content-encoding barrier to entry. (See Mathewson & Winter Report, passim.)

First, tying anticompetitively strengthens Microsoft's OS monopoly by reinforcing the applications barrier to entry against OS competitors. (Id. at ¶¶14–16.) The dominance of the Windows standard in a wide range of applications, including a few particularly important applications, hampers entry into the operating system market because an entrant has to offer both a new operating system and a full set of applications, or hope that applications will quickly develop once the new operating system becomes available. See Microsoft, 253 F.3d at 55 (applications barrier to entry stems, in part, from the fact that "most developers prefer to write for operating systems that already have a substantial consumer base"). This is referred to as the applications barrier to entry, and the District Court found that it served to protect Microsoft against an OS challenge from IBM in the 1990s. Id. (upholding District Court's finding that "IBM's difficulty in attracting a larger number of software developers to write for its platform seriously impeded OS/2's success").

By engaging in tying to gain dominance in key applications markets, Microsoft can turn the already-daunting applications barrier to entry into a virtually insurmountable shield. As the Court of Appeals explained, "Microsoft's efforts to gain market share in one market (browsers) served to meet the threat to Microsoft's monopoly in another market (operating systems) by keeping rival browsers from gaining the critical mass of users necessary to attract developer attention away from Windows as the platform for software development." Microsoft, 253 F.3d at 60. If Microsoft controls the key applications, it can unilaterally decide not to make those applications available for even the most-promising rival operating systems. Microsoft's tying thus anticompetitively advantages its position in the middleware applications market and sustains its OS monopoly as well. (See Mathewson & Winter Report at ¶66.)

Consider, for example, Microsoft Office. At one point, companies such as Corel and Lotus provided the most popular versions of these applications. At that time, to compete with Microsoft's Windows, rival operating systems needed to persuade Corel and Lotus to port their applications to those rival systems. Now that Microsoft has successfully leveraged Windows to obtain dominance in the Office suite of applications, however, rival OS providers would have to persuade Microsoft to port Office to rival systems.

If Microsoft can gain dominance with key middleware applications such as Office, MSN Messenger, and Windows Media Player, it can ensure that rival operating systems cannot meet customers'' demands for the most popular applications. That is, when Microsoft's browser, Microsoft's media player, and Microsoft's instant messenger are dominant in those applications markets, Microsoft may choose not to write its applications to interoperate with a potential rival OS—making it much more difficult for nascent operating systems to compete with Windows. Thus, Microsoft's tying, over time, takes today's very high "applications barrier to entry," and raises it immeasurably higher. (See Mathewson & Winter Report at ¶66.)

Second, tying reinforces Microsoft's monopoly by deterring direct challenges to the OS itself as the platform of choice for software developers. (Id. at ¶¶17–19.) A clear incentive for Microsoft to tie its Internet Explorer browser with Windows was the threat that Netscape—on its own, or combined with Java software—would eliminate Microsoft's network advantages in the operating system by providing middleware that would offer a competing platform for software developers. As the District Court and Court of Appeals found, Netscape and Java were particular threats to Microsoft's dominance in operating systems because they potentially represented a platform/programming environment in which software applications could be developed without regard to the underlying operating system. See Microsoft, 253 F.3d at 74. With middleware, the success of a new operating system no longer depended on the development of new code by every application developer. (See Mathewson & Winter Report at ¶19.)

If rivals develop valuable, widely distributed middleware, software vendees could very well begin to write most of their applications directly to that middleware, and the applications barrier to entry would disappear. By using anticompetitive tying to dominate each promising field of middleware, Microsoft ensures that software developers face a unified field of proprietary Microsoft OS and middleware interfaces. (Id.) Thus, Microsoft's tying practices serve, in this way too, to reinforce and entrench its illegal OS monopoly.

Third, tying weakens the greatest current competitor to Windows—prior versions of Windows. (Id. at ¶¶27–30.) Existing versions of Windows provide competitive constraints on Microsoft for a simple reason: if new versions of Windows are insufficiently innovative or too expensive, consumers will choose to retain their older versions of the product. Through tying, however, Microsoft weakens this source of competition in two ways. First, new versions of Windows are marketed as much for new applications as for new OS features. Windows XP, for example, is being marketed in part for its inclusion of new applications, such as Windows Media Player 8.0—not just based on innovations and improvements to the OS itself. Second, middleware applications such as Internet Explorer, Windows Media Player (with the attendant Microsoft Digital Rights Management), and MSN allow Microsoft to track consumer usage. Microsoft's binding of these products to Windows thus creates a total product that lends itself to usage and leasing fees. By gradually reducing the price of Windows and increasing the usage fees on its tied applications, Microsoft can shift to a usage or leasing revenue model, rather than a revenue model based on sales. This eliminates the competitive threat from previous versions of Windows (in addition to providing Microsoft with the fruits of its illegal behavior, as discussed in Section III.C, below). (See id. at ¶28.)

One might argue that the durable-goods monopoly problem is eliminated by Microsoft's refusal to allow OEMs to install (without penalty) old versions of Windows. As explained in the attached Mathewson & Winter Report, this is incorrect for two reasons: "(i) increases in the price of the new version of Windows will reduce overall demand for new PCs, as users invoke the option to keep existing PCs with the old version, and (ii) there is a retail market for new versions of Windows software for installation on existing PCs. Both (i) and (ii) provide channels through which the existing stock of Windows software provides some competition for a new version of Windows (i.e., it increases the elasticity of demand for the new version). If the price of a new version is increased, the demand for the new version is reduced because fewer consumers will purchase new PCs as the price increase for Windows raises the price of the overall package of the PC and the (mandated by Microsoft) new version of Windows, and because some consumers who would have purchased Windows to install on their old PCs will now refuse to do so." (See Mathewson & Winter Report at 12 n. 10.)

Fourth, in addition to these three general ways in which Microsoft's contractual tying reinforces the OS monopoly, Microsoft's more recent tying of its media player to the OS creates yet another special and highly significant reinforcement of the Windows monopoly. (See Mathewson & Winter Report at ¶36.) This problem results from the close connection between the media player and Microsoft's proprietary media encoding format, Windows Media Audio ("WMA"). Because Microsoft does not license the WMA format to some rival media players—including, most notably, the only other media player with substantial market presence, Real Player—Microsoft's media player is the only major player that can play content encoded in Microsoft's format. As Microsoft's format becomes more and more widespread—it is currently growing in use at a rate ten times that of its rivals—more and more content will become viewable and playable only via Microsoft's media player, which is only distributed via Microsoft's OS.

In such a market, then, a rival OS would have to overcome not only today's applications barrier to entry to compete with Windows—that is to say, it would have to persuade application writers to write their applications to interoperate with their OS—it would also have to overcome a new, even more daunting "content encoding barrier to entry"—i.e., it would have to persuade owners of thousands (or perhaps even millions) of pieces of multi-media content to re-encode their content in formats that the media player used by the rival OS could read. (Id. at ¶¶37–38.) This barrier to entry applies not only to rival PC operating systems, but also to evolving operating systems for handheld and mobile communications devices, since consumers will want to access the best streaming content using those devices. Thus, the currently daunting applications barrier to entry is raised many times higher by virtue of the tying of the Windows Media Player (and its related proprietary formats) to the Windows OS.

All four of these anticompetitive effects are mutually reinforcing, because of the network effects operating between the applications sector and the operating system market. (Id. at ¶¶31–33.) Achieving dominance in applications (through tying) strengthens the dominance of the OS, because buyers in the OS market are more assured of available applications. The greater dominance in the OS market in turn feeds back into greater dominance in applications, since the tying strategies take the form of imposing an artificial advantage relative to applications of the dominant OS supplier. The greater Microsoft's share across all middleware applications markets, the greater the applications barrier to entry.

Thus, a remedy that does not forbid Microsoft's anticompetitive tying leaves in place one of Microsoft's most powerful tools to maintain its OS dominance—and as a result, does not "unfetter" the market or "terminate" the illegal monopoly. For this reason, the PFJ's failure to include a ban on bundling is not in the public interest.

C. By Allowing Microsoft To Continue To Tie Its Middleware Applications To Windows, Microsoft Retains One Of The Most Valuable "Fruits" Of Its Illegal Acts.

The Court of Appeals made clear that one necessary element of any remedy in this case was to "deny to [Microsoft] the fruits of its violation." See Microsoft, 253 F.3d at 103 (quoting United Shoe Mach. Corp., 391 U.S. at 250). This is in accord with the prevailing doctrine in this area. See Grinnell Corp., 384 U.S. at 577; 2 P. Areeda & H. Hovenkamp, Antitrust Laws ¶325(c) (2d ed. 2000).

The Court of Appeals found that Microsoft illegally maintained its OS monopoly by engaging in anticompetitive practices. See Microsoft, 253 F.3d at 51, 66. Here, because of the nature of its monopoly, one of the most lucrative fruits of Microsoft's illegal behavior is the ability to bundle its other software products with the OS and reap gains in those markets as well. In this way, the PFJ's failure to ban such tying clearly renders it deficient, because without such a prohibition it will fail to prevent future violations of Section 2, as discussed above—and also fail to prevent Microsoft from reaping the benefits of the OS monopoly that it illegally maintained. Without such a prohibition, Microsoft will be able to continue profiting from its anticompetitive behavior and will have evaded any real punishment for breaking the law.

For these reasons, as with the ban on code commingling discussed above, every other remedial proposal considered in this litigation included a ban on Microsoft's contractual tying via bundling. A formulation of such a ban was found in Judge Jackson's interim conduct remedies, which—in addition to the ban on binding middleware products to the OS—would also have prohibited Microsoft from "conditioning the granting of a Windows Operating System Product license ... on an OEM or other licensee agreeing to license, promote, or distribute any other Microsoft software product that Microsoft distributes separately from the Windows Operating System Product in the retail channel or through Internet access providers, Internet content providers, ISVs or OEMs." United States v. Microsoft, 97 F. Supp. 2d 59, 68 (D.DC 2000).

Judge Posner's proposal would have prohibited tying any middleware product with the OS unless Microsoft offered a version of the OS without the middleware application, and did so at a reduced price. See Posner Proposal §3(9). The litigating states also have proposed a very similar remedial approach. (See LSRP at 4–6.) Thus, it is only the PFJ, among the various proposals, that has failed to take this essential step to terminate Microsoft's OS monopoly, and deny Microsoft the fruit of its illegal acts. A remedy without such a provision cannot be in the public interest.

IV. THE PROPOSED FINAL JUDGMENT FURTHER FAILS THE PUBLIC INTEREST TEST, BECAUSE IT DOES NOT ACHIEVE EVEN THE LIMITED OBJECTIVES THAT IT HOLDS OUT AS ITS AIMS.

As demonstrated above, the PFJ fails to address Microsoft's anticompetitive tying of middleware applications to the Windows OS, and consequently fails to fulfill the remedial mandate of the Court of Appeals. Yet, even for those anticompetitive acts that the PFJ does attempt to address, it does not provide an adequate remedy for Microsoft's illegal conduct. Indeed, the PFJ is so replete with carefully crafted carve-outs and exceptions that many of its provisions, though well intentioned, are rendered meaningless. The result is that the PFJ will do little, if anything, either to terminate Microsoft's monopoly or constrain its ability to fend off middleware threats in the future. And, as we argue above, the preliminary experience with these provisions—since the onset of their implementation by Microsoft provides little reason to believe that the PFJ will be effective in practice. See Section II, supra.

While any conduct remedy will, of course, have limitations and the potential for evasion, none of the major defects in the PFJ are inherent in the nature of this sort of remedy. The Litigating States" Remedial Proposal provides a useful contrast on this point. Unlike the PFJ, the LSRP does not leave certain of Microsoft's anticompetitive acts unaddressed or leave Microsoft with the ability to perpetuate its operating system monopoly by illegally eliminating competitive threats from middleware developers. The Litigating States" Remedial Proposal prevents Microsoft from continuing its anticompetitive practices, is designed to restore the competitive balance in the marketplace, and seeks to ensure that competitive threats may emerge in the future unhindered by Microsoft's anticompetitive conduct. As such, it fully comports with the Court of Appeals" decision and provides this Court with a clear roadmap of what the public interest requires in this case.

To avoid undue length or repetition, we do not here provide a comprehensive list of all the numerous inconsistencies, loopholes, and shortcomings of the PFJ; we have included, in Attachment B, a more complete listing for the Court's benefit. (See A Detailed Critique of the Proposed Final Judgment in U.S. v. Microsoft, Attachment B.) In this Section, instead, we focus on six critical deficiencies in remedies that (unlike tying) are purportedly addressed in the PFJ: (1) the PFJ's failure to prevent Microsoft's discriminatory licensing practices; (2) its limited and slow-moving API disclosure provisions; (3) its inadequate protections for OEMs from retaliation; (4) its failure to promote distribution of Java; (5) its "gerrymandered"finition of middleware; and (6) its complete lack of an effective enforcement mechanism. Where helpful, we contrast the relevant provision in the litigating states" proposal for comparison's sake. By comparing the two proposals on a few central issues, it should be clear why the LSRP, and not the PFJ, addresses Microsoft illegal conduct in manner that both comports with the Court of Appeals" decision and serves the "public interest" under prevailing antitrust law.

A. The PFJ Allows Microsoft To Continue Engaging In Discriminatory. And Restrictive Licensing Agreements To Curtail The Use Of Rival Middleware Products.

One of the ways in which the District Court found, and the Court of Appeals upheld, that Microsoft illegally protects its operating system monopoly from rival middleware is through discriminatory and restrictive licensing provisions. Specifically, the Court of Appeals found that Microsoft uses its licenses not only to reward OEMs that utilize and promote its products (and to discriminate against those OEMs that wish to promote non-Microsoft products), but also to restrict the manner in which OEMs can distribute rivals" products. See Microsoft, 253 F.3d at 61–67.

Despite these findings, the PFJ permits Microsoft to continue to employ discriminatory and restrictive licensing agreements to curtail the use of its competitors" products. As currently structured, the PFJ allows Microsoft to continue its use of discriminatory and restrictive licensing provisions to fend off nascent threats from middleware competitors in several ways. First, the PFJ explicitly allows Microsoft to provide market development allowances to favored OEMs; it likewise allows Microsoft to enter into "joint ventures" with OEMs, that, in practice, are little more than shells for arrangements by Microsoft to shower financial rewards on OEMs that are willing to refuse to deal with Microsoft's competitors. Given the intense competition and low margins in the OEM industry, these rewards would create a decisive competitive disadvantage for "disfavored" OEMs, forcing them to accede to Microsoft's restrictive terms.

The PFJ's mechanisms for enabling these anticompetitive tactics are surprisingly explicit. Under Section III.B.3 of the PFJ, Microsoft is allowed to pay OEMs "market development allowances" to promote Windows products. Thus, OEMs that promote Microsoft products apparently can receive de facto cash rebates on their Windows shipments, while OEMs that deal with Microsoft's rivals will pay full list price. This preferential behavior in the browser market was found illegal by both the District Court and the Court of Appeals. See Microsoft, 253 F.3d at 60–61. Microsoft should be allowed to engage in legitimate pricing decisions, but those decisions should be limited to volume-based discounts published in its price lists.

Second, under Section III.G.2 of the PFJ, Microsoft may use "joint ventures" to escape any restrictions the proposed settlement would place on its licensing practices. For example, Microsoft may join an OEM in a joint venture for any "new product, technology or service" or improvement to any existing "product, technology or service," provided that the OEM contributes significant developer "or other resources." (See PFJ at Section III.G.2.) In such an arrangement, Microsoft can seek, and obtain, a pledge that its partner be "prohibit[ed] ... from competing with the object of the joint venture . . . for a reasonable period of time." (Id. at III.G.) Thus, Microsoft could enter into a "joint development" project for the "new product" of "Windows X for Preferred OEM Y." The OEM's contribution could be entirely in marketing and distribution. Yet, under the language of the PFJ, it appears that Microsoft would have the ability to contractually prohibit OEMs in such joint ventures from offering products or services that compete with Microsoft. Given Microsoft's history of abusive and coercive behavior toward OEMs, it should not be allowed to enter into joint ventures with OEMs that result in exclusive agreements. Otherwise, in no time at all, Microsoft will use the opportunity to squelch competition.

Third, the PFJ purports to provide OEMs with the freedom and flexibility to configure the computers they sell in a way that does not discriminate against non-Microsoft products. Under Section III.C, the PFJ ostensibly prohibits Microsoft from entering into an agreement that would - among other things—restrict an OEM's ability to remove or install desktop icons, folders and Start menus, and modify the initial boot sequence for non-Microsoft middleware. However, the PFJ contains carve-out provisions that may render these prohibitions effectively meaningless. Under the express terms of Section III.C.1 of the PFJ, Microsoft may retain control of desktop configuration by being able to prohibit OEMs from installing or displaying icons or other shortcuts to a non-Microsoft product or service, if Microsoft does not provide the same product or service. Thus, for example, if Microsoft does not include a media player shortcut inside its "My Music" folder, it can forbid an OEM from doing the same. This turns innovation—and the premise that OEMs be permitted to differentiate their products—on its head: under the PFJ, rivals can "compete" with Microsoft, but they are never allowed a chance to bring a product to market first, to offer a functionality before Microsoft does, or to benefit from their innovations before Microsoft determines that it is ready to meet (and if history is a guide, extinguish) these competitive challenges.

Additionally, under the PFJ, Microsoft can control the extent to which non-Microsoft middleware is promoted on the desktop by virtue of a limitation that OEMs may promote such software at the conclusion of a boot sequence or an Internet hook-up only if they display no user interface or a user interface that is "of similar size and shape to the user interface provided by the corresponding Microsoft middleware." (See PFJ at III.C.3.) And OEMs are allowed to offer Internet Access Provider ("IAP") promotions at the end of a boot sequence, but only for their own IAP offerings (whatever that ambiguous limitation means). (See id. at III.C.5.) Thus, under the PFJ, Microsoft maintains the ability to set the parameters for competition and user interface. In order to promote competition from rival middleware, Microsoft must be prohibited from entering into restrictive and discriminatory contractual agreements with its licensees. Although remedial proposals could have been crafted to address these anticompetitive practices, the PFJ falls short of this mark.

By contrast, the Litigating States'' Remedial Proposal would bring Microsoft's unlawful behavior to an end and thus provide competing middleware the opportunity to receive effective distribution through the important OEM channel. Under the LSRP, Microsoft would be required, at a minimum, to offer uniform and non-discriminatory license terms to OEMs and other third-party licensees. The LSRP would also require Microsoft to permit its licensees to customize Windows to include whatever Microsoft middleware or competing middleware the licensee wishes to sell to consumers. (See LSRP at 7–9.)

In addition, the LSRP specifically prohibits Microsoft from employing market development allowances, including special discounts based on joint development projects. It also gives OEMs and other third-party licensees the flexibility to feature non-Microsoft products in ways that increase the likelihood that consumers will use them, without providing broad exceptions that enable Microsoft to avoid its obligations. Thus, it is the LSRP—and not the PFJ—that meets the Tunney Act's "public interest" standard.

B. The PFJ Requires Microsoft To Disclose APIs Only In Certain, Narrow Circumstances.

Another key element of the government's case against Microsoft was the company's withholding of the operating system's API information from rivals, so as to illegally degrade the performance of rival applications. In any market where Microsoft is allowed to withhold APIs, rival software will perform imperfectly in the Windows environment, and Microsoft will illegally gain dominance. Accordingly, in order to promote competition from rival middleware developers, it is essential that Microsoft be required to provide timely access to all technical information required to permit non-Microsoft middleware to achieve interoperability with Microsoft software.

Section III.D of the PFJ imposes an obligation on Microsoft to disclose to Independent Software Vendors ("ISVs"), and others, the APIs that Microsoft middleware uses to interoperate with any Windows OS product. However, the PFJ's requirement for API disclosure is drawn much too narrowly to allow non-Microsoft middleware to compete fairly with Microsoft middleware. Here again, a comparison with the proposal of the litigating states is instructive.

First, the PFJ's disclosure requirement fails to prevent "future monopolization," because it fails to apply to critical technologies that Microsoft is likely to use to maintain the power of its OS monopoly in the future. Because nascent threats to Microsoft's monopoly operating system currently exist beyond the middleware platform resident on the same computer, any effective API disclosure requirement must apply to all technologies that could provide a competitive platform challenge to Windows, including network servers, web servers, and hand-held devices. The PFJ does not; by contrast, the Litigating States'' Remedial Proposal expressly provides that Microsoft must disclose all APIs, technical information, and other communications interfaces so that Microsoft software installed on one computer (including personal computers, servers, handheld computing devices and set-top boxes) can interoperate with Microsoft platform software installed on another computer. (See LSRP at 11.)

Second, the PFJ creates an apparent exception for Microsoft's API disclosure requirement in the emerging areas of identity authentication and digital rights management ("DRM")—critical applications that are also important to the prospects of Microsoft's "future monopolization." Section III.J. 1 .(a) appears to exempt Microsoft from disclosing any API or interface protocol "the disclosure of which would compromise the security of ... digital rights management ... or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria." This exception is written much more broadly than any of the limits on Microsoft behavior, and could easily be used to protect Microsoft's APIs relating to DRM and identity authentication applications. The implication of this is that any rival DRM or authentication software will not function as well as Microsoft's DRM, Passport, and .Net My Services (formerly known as Hailstorm). Thus, under the PFJ, Microsoft may be able to degrade the performance of any rivals to any of these services.

These markets, however, are just as important to the next stage of the industry's evolution as browsers were to the last stage. DRM solutions, for example, allow content vendors to sell audio and video content over the Internet on a "pay for play" basis. Since the most prevalent use of media players in the years ahead will be in playing content that is protected in this fashion, if non-Microsoft media players cannot interoperate with Windows'' DRM solution, those media players will be virtually useless except for "freeware" content. Thus, if DRM is exempt from API disclosures under the PFJ, Microsoft can destroy the competitive market for one of the most vital forms of middleware—media players.

The authentication exemption is potentially even more far-reaching. Most experts agree that the future of computing lies with server-based applications that consumers will access from a variety of devices. Indeed, Microsoft's ".Net" and ".Net My Services" (formerly known as Hailstorm) are evidence that Microsoft certainly holds this belief. These services, when linked with Microsoft's Passport, may allow Microsoft to participate in a substantial share of consumer e-commerce transactions over the Internet, irrespective of which device is used to access the Internet (cell phones, handheld computers, etc.). If Microsoft prevents competition with its Passport standard, it may be able to realize its stated goal of charging a fee for every single e-commerce transaction on the Internet.

Under the guise of security, Microsoft has obtained a loophole in the PFJ that undercuts a critical disclosure requirement. Microsoft's legitimate security concerns which, of course, are shared by all of its major business rivals—do not require this loophole. Section III.J.2 of the PFJ excludes from disclosure rights any company with a history of software counterfeiting or piracy or willful violation of intellectual property rights, or any company that does not demonstrate an authentic and viable business that requires the APIs. This means that Microsoft only has to disclose to bona fide software rivals whose interests in security and stability are as great as Microsoft's. As added protection, Section III.J. 1 .(b) of the PFJ allows Microsoft to refrain from any disclosure simply by persuading an impartial government body, on a case-by-case basis, that a specific disclosure would put system security at risk. Together, these provisions provide Microsoft with all the room it needs to take legitimate security precautions.

Once again, the litigating states'' proposal provides a useful contrast. It contains no disclosure "carve out" to exempt DRM and identity-authentication from the general disclosure obligation imposed on Microsoft. (See LSRP at 11.) Instead, it creates a regime of timely, complete, and comprehensive API disclosure that will allow competitors an opportunity to challenge Microsoft's efforts to entrench its OS monopoly in a market where distributed computing is the dominant model—an opportunity that was sadly missed as the browser became critical to Internet-related applications, due to Microsoft's anticompetitive refusals to share technical information. Thus, once again, it is the LSRP, not the PFJ, that would meet the Court of Appeals'' objectives and the public interest standard.

C. The PFJ Does Not Ban Many Forms Of Retaliation By Microsoft Against OEMs.

The District Court found, and the Court of Appeals upheld, that in order to create a competitive market structure in which non-Microsoft middleware products are able to compete effectively with Microsoft products, licensees, such as OEMs, must have the ability to distribute and promote non-Microsoft products without fear of coercion or interference from Microsoft. Recognizing the central role that OEMs play in the distribution and ultimate usage of non-Microsoft middleware products, the PFJ includes an anti-retaliation provision which is intended to protect those entities that support or promote non-Microsoft products. According to the Department of Justice, this anti-retaliation provision "broadly prohibits any sort of Microsoft retaliation against an OEM based on the OEM's contemplated or actual decision to support non-Microsoft software." (See CIS at 25.)

Unfortunately, the PFJ does not provide the broad protection from Microsoft's retaliation that the government claims it does. Indeed, the PFJ's anti-retaliation provision is so narrow that it will do little, if anything, to protect OEMs that wish to distribute or promote non-Microsoft products.

The PFJ's anti-retaliation provision is deficient in numerous respects. First, it appears to create only a narrow range of procompetitive activities that OEMs can engage in without being subject to Microsoft retaliation. For example, the PFJ prohibits retaliation for OEMs that promote rival middleware, but does not appear to prohibit retaliation against OEMs that promote any other type of rival software (which, under the PFJ's language, probably includes rivals to Passport, MS Money, Windows Movie Maker, and MSN Messenger, just to name a few). Even if this glitch were unintentional, the ambiguity might still be sufficient to allow Microsoft to coerce OEMs into avoiding Microsoft rivals.

Second, even within the scope of protected OEM activities, the PFJ appears to bar only certain types of Microsoft retaliation. The PFJ prohibits Microsoft from withholding "newly introduced forms of non-monetary Consideration" from OEMs, but is less clear about whether Microsoft may use already-existing forms of consideration to retaliate against OEMs. (See PFJ at III.A.) More importantly, while the PFJ prohibits Microsoft retaliation via an alteration of commercial agreements, it does not appear to prohibit any other form of Microsoft retaliation (e.g., product disparagement) that Microsoft can imagine.

In addition, under Section III.A of the PFJ, Microsoft may, sua sponte, terminate an OEM's Windows license after sending the OEM two notices stating that it believes the manufacturer is violating its license. There need not be any adjudication or determination by any independent tribunal that Microsoft's claims are correct. All that is required are two notices; after that, Microsoft may terminate an OEM's license. This provision means that the OEMs are, at any time, just two registered letters away from unannounced economic calamity; after all, given Microsoft's monopoly on the operating system, termination of an OEM's Windows license is a death sentence for an OEM's business.

Again, such inadequate safeguards are not inherent in an effective non-retaliation protection. For instance, the Litigating States" Remedial Proposal prevents Microsoft from taking any action that directly or indirectly adversely affects OEMs or other third-party licensees that in any way develop, distribute, support or promote competing products, thereby providing the type of protection contemplated by the Court of Appeals. (See LSRP at 13–14.) Thus, the Litigating States" Remedial Proposal clearly prohibits Microsoft retaliation for any procompetitive OEM behavior and prohibits all forms of Microsoft retaliation. Importantly, the LSRP also prohibits Microsoft from retaliating against any individual or entity for participating in any capacity in any phase of this litigation. Again, it is the LSRP that meets the Court of Appeals" objectives for this case—not the PFJ.

D. The PFJ Does Nothing To Remedy Microsoft's Illegal Camoaion To Eliminate Java.

Yet another aspect of the trial court's decision that was upheld on appeal by the DC Circuit was the District Court's finding that Microsoft's actions in eliminating the threat posed by Sun Microsystems" Java technology were unlawful under Section 2 of the Sherman Act. See Microsoft, 253 F.3d at 74–75. The PFJ, however, omits any remedy for this core abuse. Thus, unlike either the District Court's remedy or the remedy Judge Posner suggested, the PFJ does not protect those specific products, such as Java, that actually compete with Windows today and offer alternatives to Microsoft's dominance.

The Litigating States" Remedial Proposal addresses this deficiency by requiring that Microsoft distribute Java with its platform software for a period of ten years. (See LSRP at 17–18.) The LSRP recognizes, as did the District Court and Judge Posner, that in order to ensure that rival products such as Java can compete with Microsoft, they must receive the widespread distribution that they could have obtained absent Microsoft's unlawful behavior.

The requirement that Microsoft distribute Java with its operating system and Internet Explorer browser takes on even greater importance in light of Microsoft's recent behavior. For example, although the Court of Appeals upheld the trial court's finding that Microsoft targeted and destroyed independent threats from the Java programming language, see Microsoft, 253 F.3d at 53–56, 60, Microsoft announced less than a month later that it was dropping any support for Java from Windows XP. As The Wall Street Journal reported at the time, "This favors Microsoft's new technologies, and will inconvenience consumers.... [I]f you want your Web page accessible to the largest number of people, you may want to drop Java" and switch to Microsoft's competing set of products, which is under development and is known as .NET." Thus, notwithstanding the Court of Appeals" holding that Microsoft illegally maintained its monopoly by requiring major independent software vendors to promote Microsoft's JVM exclusively (i.e., by requiring developers, as a practical matter, to make Microsoft's JVM the default in the software they developed), Microsoft is again acting illegally to maintain—and further entrench—its operating system monopoly against Java's middleware threat.

To remedy the specific and extensive anticompetitive tactics aimed at Java, as found by the District Court and affirmed by the Court of Appeals, Microsoft should be ordered—as outlined in the Litigating States" Remedial Proposal—to distribute with its platform software a current version of the Java middleware. This would ensure that Java receives widespread distribution, thus increasing the likelihood that it can serve as a viable competitive platform to Windows. Although rivals such as Java will likely remain small players compared to the dominant Windows OS, their existence on the competitive fringe is critical to provide some competitive discipline to Microsoft on pricing and coercion matters. Moreover, the existence of these rivals creates a base for future developments that might one day provide true alternatives to Windows.

E. The PFJ Includes A "Gerrymandered" Definition Of Middleware.

Though not readily apparent, the effectiveness, or lack thereof, of the PFJ's restrictions on Microsoft's behavior heavily depends on the proposed agreement's definition of "middleware." Under the proposed settlement, OEMs are protected from retaliation and can promote competitive alternatives to Microsoft products only in the area of middleware. Thus, if rival software falls outside of the definition of middleware, Microsoft can essentially use its coercive might to prevent that software from being distributed via OEMs. Conversely, if a Microsoft product is not classified as middleware, Microsoft is permitted to use coercion to force its adoption and promotion.

The PFJ adopts a new, and greatly narrowed, definition of middleware, both in terms of "Microsoft Middleware Products" and "non-Microsoft Middleware." The result is significant because under the newly created definition, Microsoft may be able to subvert many of the PFJ's restrictions. The Litigating States" Remedial Proposal defines middleware in a manner consistent with the definition adopted by both the District Court and the Court of Appeals. It thus prevents Microsoft from using a definitional shell game to avoid changing its unlawful behavior.

The District Court and the Court of Appeals adopted the same definition of middleware: software products that expose their own APIs; are written to interoperate with a variety of applications; and are written for Windows as well as multiple operating systems. See Microsoft, 253 F.3d at 53; see also Findings of Fact, 84 F. Supp. 2d at 17–18, ¶¶28–29. Thus, while the DC Circuit discussed browsers and the Java technologies as leading examples of middleware, Microsoft, 253 F.3d at 59–78, it never adopted an exclusive list limited to specific products (as the PFJ does).

Importantly, the Court of Appeals also agreed with the District Court that the appropriate category of "middleware" applications that merit protection against Microsoft's anticompetitive conduct includes any application that could operate separately or together with other such applications to create even the "nascent" potential for alternative platforms that could compete with Microsoft's OS monopoly. Id. at 52–54, 59–60, 74.

These standard definitions of middleware were also endorsed in the Posner Proposal, which, as noted above, Microsoft was reportedly ready to accept last year. Section 2(3) of the Posner Proposal defined middleware broadly, to include any "software that operates between two or more types of software ... and could, if ported to multiple operating systems, enable software products written for that middleware to be run on multiple operating systems." Moreover, the substantive portion of the Posner Proposal, in Section 3(8)(c), explicitly included not just enumerated products, but also any "middleware distributed with such operating system installed on one personal computer to interoperate with any of the following software installed on a different personal computer or on a server: (i) Microsoft applications, (ii) Microsoft middleware, or (iii) Microsoft client or server operating systems."

The PFJ departs significantly from these established definitions of middleware and instead adopts wholly new definitions for both "Microsoft Middleware Products," and "non-Microsoft Middleware." These definitions include several flaws that Microsoft may be able to use to anticompetitively advantage its applications, continue to profit from the fruits of its illegally maintained monopoly, and evade the practical consequence of the PFJ for many product lines.

To start, the PFJ's definition of "Microsoft Middleware Products" appears to limit this category to five specifically-listed existing products and their direct successors. This makes no sense for two reasons. First, why define the most critical term in the proposed settlement narrowly when Microsoft has already demonstrated its skill at evading consent judgments? And second, why does the list include certain Microsoft products, but arguably not their virtually indistinguishable cousins: i.e., Outlook Express, but not Outlook; Windows Messenger, but not MSN Messenger; the Microsoft JVM, but not MSN RunTime; Internet Explorer, but not MSN Explorer. Likewise, Microsoft middleware applications such as the MSN client software and Passport appear to be excluded. The significance of these omissions cannot be overstated. For example, although Microsoft must allow OEMs, under the PFJ, to remove end-user access to Internet Explorer, the decree's language appears to allow Microsoft to ban any effort to replace MSN Explorer with a competitor. This is a step backwards from the status quo.

Additionally, Section III.H.2 of the PFJ explicitly limits OEM flexibility to set non-Microsoft Middleware as a default so that it can be automatically invoked: the PFJ appears to allow OEMs to do so only with competitors of "Microsoft Middleware Products" that (1) appear in separate Top-Level Windows, with (2) separate end-user interfaces or trademarks. Thus, Microsoft might be able to avoid the PFJ's provisions simply by embedding Microsoft middleware with other middleware, or not branding it with a trademark. That means Microsoft—not the OEMs, and certainly not the market—would determine the scope of desktop competition and the pace of desktop innovation.

Conversely, the definition of the rivals to Microsoft Middleware Products "non Microsoft Middleware Product"—is also jury-rigged to advantage Microsoft. Under Section IV.N of the PFJ, protected middleware products are limited to those applications "of which at least one million copies were distributed in the United States within the previous year." Thus, developers have no protection from Microsoft's well-honed predatory tactics until they can obtain substantial distribution. The PFJ's middleware definition also does not explicitly include web-based services, the most important future platform challenge to the Windows monopoly. These web-based services represent an important and growing type of middleware, and the PFJ's failure to explicitly cover them may allow Microsoft to recreate and extend its desktop monopoly to new platforms.

The newly created and narrowly crafted definitions of middleware in the PFJ pave the way for Microsoft to avoid many of the prohibitions on its conduct. The middleware definitions in the LSRP, on the other hand, are consistent with those endorsed by the District Court and Court of Appeals, and ensure that the protections from Microsoft's illegal conduct are extended to Microsoft's competitors in critical middleware markets.

F. The PFJ Lacks A Meaningful Enforcement Mechanism.

For any remedy against Microsoft to be effective, it must include a strong, timely, and meaningful enforcement mechanism. The PFJ creates an extraordinarily weak enforcement authority—one that likely will be overwhelmed and co-opted by Microsoft. More specifically, as currently drafted, there are two principal problems with the PFJ's enforcement mechanism.

First, the proposed decree leaves all enforcement to a single, three-person Technical Committee ("TC"). With no looming antitrust proceedings to put pressure on Microsoft to behave, Microsoft will have every incentive to hinder the efforts of the TC. Moreover, Microsoft will have substantial insights and influence over the TC—Microsoft will appoint at least one member of the TC (the first two members will appoint the third); the TC will be stationed full-time on Microsoft premises; and the TC will rely for many types of enforcement on a compliance officer hired and paid for by Microsoft. In light of all this, it would be easy to imagine a situation where the TC, during the entirety of its existence, never took a single action critical of or hostile to Microsoft, no matter what behaviors Microsoft engaged in.

Second, the enforcement authority has no power other than the authority to investigate. The TC cannot expedite claims, assess fines, or otherwise move quickly to redress Microsoft's illegal behavior. If the TC finds any abuse, its only recourse will be to the courts, through mini-retrials of United States v. Microsoft. Moreover, under Section W.D.4.(d) of the PFJ, the TC is prohibited from using any of its work product, findings, or recommendations in any court proceedings. Thus, even if the TC eventually refers a matter to the courts, the proceedings will have to start from scratch. The history of the 1994 consent decree shows the futility of this type of approach.

By contrast, the Litigating States'' Remedial Proposal recommends the creation of a Special Master who is empowered and equipped to investigate Microsoft's behavior in a manner that is prompt and resolute. The appointment of a Special Master with defined remedial powers is essential if Microsoft's unlawful behavior is to be curbed and competition restored to the marketplace. Thus, the creation of a Special Master provides for a mechanism that is much more effective in ensuring Microsoft's compliance with the settlement decree, and does not suffer from the defects identified above in the PFJ's TC proposal.

First, unlike the TC in the PFJ, a Special Master, as selected by the Court, would be independent. He or she would not be dependent on Microsoft for resources, appointment, or other needs. Second, under the Litigating States'' Remedial Proposal, the Special Master would have the authority to identify, investigate, and quickly resolve enforcement disputes. For example, under the States'' proposal, the Special Master would have the power and authority to take any and all acts necessary to ensure Microsoft's compliance. (See States'' Proposed Text ¶18(b).) The Special Master would have the benefit of both business and technical experts. (See id. ¶18(d).) Upon receipt of a complaint, it would be required to make an initial determination of whether an investigation is required within fourteen days. After notifying Microsoft and the complainant of its decision to investigate, Microsoft would then have fourteen days to respond. After Microsoft's response, the Special Master would be required to schedule a hearing within twenty-one days, and fifteen days after the hearing, would be required to file with the Court its factual findings and a proposed order. (See id.

Unlike the enforcement mechanism in the PFJ, the creation of a Special Master as outlined by the States would prevent disputes over Microsoft's compliance from becoming wars of attrition that would drain the system and guarantee Microsoft victory. The history of this case, and of antitrust regulation in general, suggest the need for an enforcement mechanism that can ensure the timely resolution of any disputes and minimize any demand on judicial resources. The enforcement provisions contained in the Litigating States'' Remedial Proposal accomplish these objectives.

V. THE CIRCUMSTANCES OF THIS CASE STRONGLY MILITATE IN FAVOR OF GATHERING EVIDENCE AND TESTIMONY—EITHER IN A HEARING, OR THROUGH THE USE OF THE RECORD FROM THE REMEDIAL PROCEEDING—TO DETERMINE IF THE PFJ MEETS THE PUBLIC INTEREST TEST.

We believe, for the reasons presented above, that the PFJ fails the Tunney Act's "public interest" test and should be rejected. At the very least, however, there is ample basis for the Court to conclude that a rigorous hearing is needed to air the objections to the PFJ and resolve the doubts that the Court hopefully has about the proposed decree. While it need not be a lengthy proceeding, the Court may also want to consider accepting evidence and taking testimony- or alternatively, making use of record evidence it will receive in the upcoming proceeding concerning the LSRP. The question of what can be learned about the PFJ's prospects for effectiveness, since its partial implementation began in July (and, in other respects, December), is especially critical, and would benefit from additional fact-finding by the Court.

A. The Complexity And Significance Of This Case—And The Inadequacy Of The CIS—All Militate In Favor Of A Hearing On The PFJ.

Of all the cases in which courts have reviewed proposed consent decrees to make a public interest determination under the Tunney Act, the case most similar to the present action is American Tel. & Tel. Co., 552 F. Supp. at 131, aff'd sub nom Maryland v. United States, 460 U.S. 1001 (1983), in which Judge Greene subjected the government's proposed consent decree with AT&T to intense judicial review. In AT&T, the court recognized that the proposed settlement not only would dispose of "what is the largest and most complex antitrust action brought since the enactment of the Tunney Act, but [] itself raises what may well be an unprecedented number of public interest questions of concern to a very large number of interested persons and organizations." American Tel. & Tel. Co., 552 F. Supp. at 145. In light of the size and the complexity of the case, as well as its "unfortunate history" and the interests of third parties, the court held an extensive hearing to address key issues raised by the consent decree and the comments of interested parties. Id. at 147, 152. The case for an extensive hearing on the PFJ in this proceeding is overwhelming for similar reasons.

First, this is an extremely complicated case, to say nothing of the profound consequences any settlement will ultimately have on the computer and Internet industries. The economic significance of the computer industry is unquestioned. In such an environment, expert economic analysis is critical to help the Court not only understand the incentives that will drive Microsoft's response to any proposed settlement, but also assess whether the PFJ will succeed in bringing the monopolist's unlawful behavior to an end and promoting competition in a market that has long been restricted. Given the complexity of this case, the Court should not approve the PFJ without an adequate hearing to consider the many—and often technical—objections to it that will doubtlessly be raised in the Tunney Act submissions.

Second, in terms of the impact that any proposed settlement in this case will have on the public, Judge Greene's depiction of the AT&T case is, once again, more than fitting here: "[t]his is not an ordinary antitrust case." Id. at 151. Microsoft is one of our nation's largest corporations. It plays a central role in one of the country's most critical and important industries, and thus in our country's economy. Any settlement that addresses Microsoft's illegal conduct in a manner that is consistent with the Court of Appeals" decision and prevailing antitrust law will have far-reaching consequences on numerous organizations, both public and private, as well as on Microsoft, its employees, shareholders, competitors, and most importantly, consumers. Thus, a hearing to consider the breadth and depth of these consequences is in order before the PFJ is approved.

Third, a hearing should be held to require the Justice Department to answer the many questions surrounding the PFJ—raised here, and doubtlessly elsewhere—that the Competitive Impact Statement ignores or fails to adequately address. Why was a new, "gerrymandered" definition of middleware used in the PFJ—instead of the definition used by both the trial and appellate courts, and in every other remedial proposal? Why was a Java-related remedy omitted, when that was such a key part of the case? Why were only some forms of retaliation, for only some procompetitive acts, prohibited? And most importantly, why does the PFJ not address all of the anticompetitive wrongs that were found at trial, and upheld on appeal—including, most especially, Microsoft's unlawful tying? These questions are not answered by the CIS, as the Tunney Act directs and the public interest demands, and as the Court would surely desire. A full review of these questions, and many others, is needed by the Court before it can approve the PFJ (if it is inclined to approve the PFJ).

Thus, in light of the specific objections from third parties revealing the PFJ's numerous deficiencies—and the oddity of the differing remedial proposals now before the Court—the Court should hear oral argument and, if necessary, take additional testimony. Giving the government an opportunity to explain the omissions in its proposed settlement, and third parties the opportunity to demonstrate the efficacy of the litigating states" proposal, will afford the Court the necessary basis on which to make its public interest determination in this important and unprecedented case.

B. The Court Should Conduct A Proceeding—Taking Evidence And Hearing Testimony, If Necessary.—To Determine How The PFJ's Provisions Have Functioned Since Some Were Put In Place In 2001.

A second rationale for a hearing is to develop a factual record concerning the point we make in Section II, supra: namely, that the Court can assess the prospects for the likely effectiveness of the PFJ by seeing how those provisions that have been implemented are starting to work—or not-in practice.

Above, we have suggested that the empirical record developed in the PC industry since Microsoft's July 11, 2001 announcement of "greater OEM flexibility for Windows," and since Microsoft began to implement many of the PFJ's remedial provisions on December 16, 2001, should be examined carefully by this Court as it determines whether the PFJ is in the "public interest." We also express the view that these provisions have, in fact, been ineffectual in promoting competition and are showing no signs that they will yield change in the competitive position of non-Microsoft middleware—and as a result, cannot be said to be in the public interest.

At the same time—while we doubt it, seriously—we recognize it is theoretically possible that there may be reasons why these provisions have not yet shown signs of effectiveness, but would be effective over time. At least, that is what Microsoft and the Justice Department are likely to assert. If the Court is inclined to give these assertions any credence, that is all the more reason for the Court to conduct a proceeding—taking evidence and hearing testimony, if necessary—to make a determination on such claims based on empirical evidence, rather than relying upon hypothetical contentions or abstract theories. Such a proceeding is authorized by the Tunney Act, see 15 U.S.C. §16(f), and would be appropriate in this instance.

Evidence and testimony from the OEMs can make clear whether they are taking advantage of the "new flexibility" ostensibly being provided under the PFJ—and if not, why not. Given the OEMs" likely fears of retaliation from testifying in such a proceeding—as reflected by their apparent (and understandable) reluctance to testify in the remedial proceeding—the Court may want to consider appointing a Special Master to take evidence from the OEMs confidentially. Likewise, evidence and testimony from non-Microsoft middleware companies can indicate how the provisions of the PFJ, after they have been in place for several months, are—or are not—enabling them to compete with Microsoft. The same can be said for OS rivals to Microsoft.

The point is that while we firmly believe that the publicly available information and reports all indicate that the PFJ's provisions, as implemented since December 16th (and the browser-related PFJ provisions, as implemented since July 11th), have done little or nothing to promote competition, the Court may wish to base such a conclusion upon a judicially developed record that would allow both proponents and opponents to offer explanations and evidence in support of their views. Such a proceeding could be of a more informal nature, i.e., the Court could solicit comments from the relevant parties and industry experts; or it could be conducted by a Special Master, as we suggest above; or it could be a more formal, trial-type undertaking. All of these approaches are authorized under the Tunney Act, which grants wide discretion to the court to adopt whatever form of proceeding it considers most effective. See 15 U.S.C. §16, passim. But on one point, the Act, or at least its legislative history, is rather firm: "[T]he court must obtain the necessary information to make [a] determination that the proposed consent decree is in the public interest." 1974 U.S.C.C.A.N. 6535, 6538–39 (H.R. Rep. 93–1463, quoting S. Rep. 93–298, at 6–7 (1973)) (emphasis added). Some sort of proceeding to examine these questions is justified in these circumstances, and could be helpful to the Court in its consideration of the practical effects of the PFJ.

C. In Making Its "Public Interest" Determination, This Court Should Take Into Account The Evidence That Will Be Adduced In The Upcoming Remedial Proceeding.

Finally, the Court should take advantage of the Tunney Act's broad procedural flexibility to use the record evidence that will be amassed in the upcoming remedial proceeding as it make its "public interest" determination in this review. The Court's Tunney Act review of the PFJ in this proceeding can be substantially assisted by the record developed in the forthcoming proceeding on the LSRP. As we have argued, the Court's objectives in both proceedings are the same—namely, to terminate Microsoft's illegal conduct, prevent the recurrence of such conduct, and create a market structure in which competition does not simply exist in theory, but actually yields real alternatives to Microsoft's products. Moreover, the Court's analysis in both proceedings is guided by the same legal principles. See Section I, supra.

Many of the questions the Court must answer in the course of reviewing the PFJ—e.g., What sort of anti-retaliation provisions are needed to empower OEMs and foster real competition? Must third parties be empowered to promote competition through offering alternatives to the "Windows bundle" for a remedy to be effective?—will be addressed, in whole or in part, in the remedial proceeding. To the extent that these questions can only be answered by hearing testimony from some of the same individuals and the same sources in the remedial proceeding, the Court's reliance on that evidence in this proceeding would result in a more comprehensively informed review, streamline the Court's resolution of the issues, and lead to a much more efficient use of judicial resources.

The Tunney Act itself grants the Court wide discretion to undertake any procedures it "may deem appropriate" in making its public interest determination. 15 U.S.C. §16(f)(5). This includes using evidence from another proceeding. See American Tel. & Tel. Co., 522 F. Supp. at 136. As the court noted in AT&T, "[i]n a Tunney Act proceeding the Court is not limited by the rules of evidence but may take into account facts and other considerations from many different sources." Id. at 136 n. 7 (emphasis added). In that case, the court relied on a report by the Antitrust Subcommittee of the House Committee on the Judiciary, which had conducted an investigation of the matter, to fill in gaps left in the court record. Id. at 136. If a court can weigh an evidentiary record compiled by the Congress, it surely can weigh an evidentiary record of its own creation in a related proceeding.

The Court is currently overseeing a wide range of discovery, both written and oral, in the remedial proceeding. Testimony will presumably be taken from a host of witnesses that will establish, among other things: how Microsoft deals with OEMs, including how various Microsoft practices limit OEM flexibility in configuring the desktop; how Microsoft has used the commingling of code, and other forms of binding its middleware to the OS, to reinforce the applications barrier to entry; how Microsoft has used discriminatory and anticompetitive licensing agreements to limit the distribution and use of rival products; how Microsoft's illegal conduct has worked to destroy Java; how Microsoft's .Net initiative repeats the illegal monopoly leveraging tactics it successfully used to decimate Netscape; how Microsoft's concealment of APIs degrades the performance of non-Microsoft products and services; and how Microsoft has manipulated industry standards and developed proprietary standards and formats that limit the interoperability of competing products.

This evidence, which will be presented during the Court's remedial hearing later this Spring, will form the basis on which the Court crafts its remedy in the ongoing litigation. It is our view that this evidence will affirmatively demonstrate why the LSRP, and not the PFJ, fulfills the mandate of the Court of Appeals and comports with well settled antitrust law. By the same token, it will also demonstrate why the PFJ fails to redress Microsoft's illegal behavior in a manner consistent with the public interest.

Because many of the questions the Court faces in this proceeding mirror those in the remedial proceeding, the Court should take the record evidence from the remedial proceeding into account in conducting its Tunney Act review of the PFJ. Simply put, by utilizing this evidence, the Court will adduce the information it needs to make its "public interest" determination in a manner that encourages greater efficiency and avoids unnecessary delay or duplication.

CONCLUSION

The Court should refuse to find that entry of the PFJ is "in the public interest." The PFJ does not unfetter the market from Microsoft's dominance; it does not terminate the illegal monopoly; it does not deny to Microsoft the fruits of its statutory violations; and it does not end Microsoft's practices that are likely to result in monopolization in the future.

More specifically, the PFJ does not even attempt to address, let alone end, Microsoft's illegal binding and bundling practices that have done so much to fortify its OS monopoly and to harm desktop competition. And its limited provisions are so filled with loopholes and exceptions that they are rendered ineffective.

At the very least, the Court should refuse to approve the PFJ until after it has concluded an extensive review, including an inquiry into whether the PFJ's provisions—as implemented by Microsoft since last year—are showing signs of effectively restoring competition to the marketplace. The Court could conduct an evidentiary hearing, appoint a Special Master, and/or rely upon the record that will be adduced in the trial on the Litigating States'' Remedial Proposal to meet its evidentiary needs.

In the end, it is the proposal of the litigating states—not the PFJ—that meets the public interest standard. The Court should reject the PFJ, and impose a strong, effective and forward-looking remedy that addresses Microsoft's proven anticompetitive conduct in a manner consistent with the mandate of the Court of Appeals and the nation's antitrust laws.

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ATTACHMENT A

Microsoft's Tying Strategies To Maintain Monopoly Power In Its Operating System

(Civil Actions No. 98-1232 and 98-1233 CKK)

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TABLE OF CONTENTS Page

I. INTRODUCTION 1
II. MICROSOFT HAS MANY TECHNIQUES AT ITS DISPOSAL FOR TYING MIDDLEWARE TO WINDOWS 2
III. ECONOMIC ANALYSIS SHOWS THAT MICROSOFT HAS SUBSTANTIAL INCENTIVES TO USE TYING TO SUSTAIN ITS OPERATING SYSTEM MONOPOLY, HARMING CONSUMERS AND COMPETITION 4
A. As a general matter, absent legal constraints, Microsoft possesses substantial economic incentives to integrate its products in a manner that reinforces its OS monopoly 5
(1) Microsoft ties its applications to its operating system as a way of sustaining the applications barrier to entry 5
(2) Microsoft ties applications to its operating system as a way of deterring direct challenges to Windows'' position as the dominant platform for software developers 7
(3) Microsoft has incentives to tie to achieve a monopoly in complementary applications as insurance against possible future erosion of its OS dominance 9
(4) Microsoft's operating system also has durable-goods qualities that create further anti-competitive incentives for tying 12
(5) Microsoft's anti-competitive tying incentives are mutually reinforcing and are manifest in strategies that lack any competitive justification 14
B. Microsoft's anti-competitive incentives are particularly powerful in the markets for browsers and streaming media, as well as the adjacent markets for content-encoding, digital fights management, e-commerce, and convergence 15
C. The theorized benefits of product integration that may exist in some cases do not apply to the markets at issue in this case 19
(1) The economics of software markets cast doubt on Microsoft's efficiency arguments for integration of its own browser and media player with the OS 20
(2) Contrary to Microsoft's claims, issues of pricing and innovation provide further evidence that Microsoft's tying harms the marketplace and consumers 22
IV. GIVEN THE INCENTIVES, HISTORY, AND EVIDENCE IN THIS CASE, THE CONCLUSION IS THAT MICROSOFT HAS ENGAGED, AND IS ENGAGING, IN ANTI-COMPETITIVE TYING IN ORDER TO PROTECT AND STRENGTHEN ITS OPERATING SYSTEM MONOPOLY 24
A. Microsoft's options, incentives, and history create a strong presumption that Microsoft's tying harms OS competition and consumers 24
B. The evidence indicates that Microsoft is anti-competitively tying the browser and the media player with its operating system 25
V. CONCLUSION 28

VI. APPENDIX: CURRICULUM VITAE OF FRANK MATHEWSON 1
VII. APPENDIX: CURRICULUM VITAE OF RALPH WINTER 1

I INTRODUCTION

1. We have been engaged in this case as professional economists to assess the economic incentives and effects of Microsoft's tying practices. Our specific charge is to determine whether Microsoft is tying middleware applications to its operating system ("OS") in a manner that protects and reinforces its monopoly power in the market for operating systems. Middleware is software that runs on the OS platform, i.e., that calls on the basic operating system through application programming interfaces ("APIs") of the OS in order to invoke functions of the OS, but which in turn contains its own published APIs that allow higher-level applications to run on the middleware itself. To execute our mandate, we have reviewed the economic incentives at play in this market, conducted interviews with various software developers, and studied the key documents in this case, including the Proposed Final Judgment and the Competitive Impact Statement of the U.S. Department of Justice, the submissions made on behalf of Microsoft, and the Comments Of AOL Time Warner On The Proposed Final Judgment.

2. Based on our analysis, we conclude that Microsoft has tied its middleware applications to its Windows operating system in ways that preserve and reinforce its monopoly power in the market for operating systems on PCs, damaging competition and harming consumers. The anti-competitive use of tying strategies to maintain a monopoly in this manner is, in our understanding, a violation of Section 2 of the Sherman Act. We conclude that market forces alone do not discipline Microsoft to limit the integration of middleware code into its OS or the bundling of middleware products with its OS to efficiency-enhancing levels. Rather, Microsoft has the ability to tie in ways that lack pro-competitive justification, and in any event has incentives to use tying strategies to integrate applications into its OS more aggressively than justified by efficiency.

3. We begin in the next section with a brief description of the tying strategies at Microsoft's disposal. We then demonstrate through economic analysis that Microsoft has substantial incentives to tie its middleware products to its monopoly OS to reinforce and entrench that monopoly. Given these incentives, Microsoft's history, and the evidence in this case, we conclude that Microsoft has engaged, and is engaging, in anti-competitive tying, and is doing so in a way that maintains its OS monopoly, to the detriment of consumers and competition.

II. MICROSOFT HAS MANY TECHNIQUES AT ITS DISPOSAL FOR TYING MIDDLEWARE TO WINDOWS.

4. Microsoft has various means of binding its middleware products to the Windows operating system. Before describing these practices and the ways in which Microsoft uses them to reinforce its OS monopoly, we explain the general concept of middleware and why Microsoft's licensing of middleware with its OS in the Windows package constitutes tying.

5. Middleware is exemplified by products such as Internet browsers, including Microsoft's Internet Explorer ("IE") and Netscape's Navigator, media players, instant messaging, and middleware applications platforms such as Java. By a strategy of tying middleware to the OS, we mean any constraint that Microsoft's operating system be bought with (or bound to) Microsoft middleware products, or any contractual or financial inducement to this end. Microsoft has argued that various middleware applications, especially IE and Windows Media Player ("WMP"), are essential components of an integrated operating system rather than distinct products, and that tying or bundling these products with the core operating system therefore does not constitute tying. Microsoft's argument is incorrect.

6. Middleware products, such as browsers and media players, are sold in separate markets. Users can obtain Navigator or RealPlayer without purchasing an operating system in the same transaction. Users can also obtain IE or MSN Messenger without obtaining Windows. Until Microsoft bundled WMP into Windows, users could obtain these two products in separate transactions. Moreover, these products are clearly sold by different suppliers. The Court cannot give serious weight to Microsoft's argument that once WMP, for example, is integrated into Windows, the media player ceases to be a separate product: If this argument were accepted, then the mere fact that Microsoft integrates application code into the operating system would itself be a defense for its actions. In other words, tying, as a means of reinforcing a monopoly position, would constitute its own defense. The law, we suggest, cannot intend this.

7. Tying involves contractual arrangements whereby Microsoft puts pressure on original equipment manufacturers ("OEMs") or end-users to acquire Microsoft applications as a condition of acquiring Windows. It includes requirements that OEMs install Microsoft applications, rather than applications developed by Microsoft's rivals, and prohibitions on removing or uninstalling those applications. It also includes financial inducements to adopt Microsoft applications when Windows is purchased and installed. Each of these requirements is enforced through Microsoft's coercive power to harm non-adhering OEMs.

8. Tying also involves designing the OS so that Microsoft's applications are integrated into the OS code, leaving rival applications unnecessary or even dysfunctional. This type of tying includes: (a) basic integration of code; (b) efforts by Microsoft to hinder disintegration; and (c) efforts to hamper the interoperability of rival applications. Basic integration involves providing, as part of the OS, services previously offered as standalone applications. This could be done in a purely modular fashion without the commingling of application code into the kernel of the operating system. If done in this manner, the products can be easily removed and replaced with competing products in a "plug and play" fashion. Technological efforts that hinder disintegration, however, have stronger anti-competitive overtones. These include: commingling code in a manner that hampers, and perhaps even bars, the replacement of the products or default options; designing the OS so that Microsoft's applications are chosen as default applications; making it difficult for OEMs or users to replace the icons or launch sequences; and creating utilities to "sweep" the Windows desktop and replace non-Microsoft icons.

9. Note that some of these forms of tying, such as hampering rivals" performance, entirely lack pro-efficiency rationales, while all of them can be used in inefficient, anticompetitive manners. The remainder of this paper demonstrates that Microsoft has strong incentives to engage in such anti-competitive, inefficient bundling, and that it is doing so in a manner detrimental to competition with the goal of maintaining its extant monopoly in operating systems.

III. ECONOMIC ANALYSIS SHOWS THAT MICROSOFT HAS SUBSTANTIAL INCENTIVES TO USE TYING TO SUSTAIN ITS OPERATING SYSTEM MONOPOLY, HARMING CONSUMERS AND COMPETITION.

10. Microsoft has maintained that its tying is efficient and that it should be allowed to determine the level of integration of applications into its operating system. Microsoft argues that it should be free to tie its products together in any fashion it sees fit, as this type of product integration is efficient and promotes innovation with eventual consumer benefits. These arguments generally claim to defend Microsoft's intellectual property, and are expressed in terms of the general advantages of product integration, rather than defining specific benefits to users from Microsoft's practice of tying particular middleware products, such as IE or WMP, into the Windows package.

11. Microsoft's claim amounts to the belief that market forces alone achieve the optimal degree of product integration and separation without any further regulatory or legal constraints. As a matter of economic theory, this argument fails to take note of Microsoft's position as a dominant producer in a market with substantial barriers to entry. For this general market-forces argument to be valid, Microsoft would need to demonstrate that competitive vigor in the market will discipline Microsoft to engage only in tying that enhances efficiency. But such complete reliance on market forces to achieve efficiency, in turn, requires open entry, while the evidence in this case has shown that there are significant barriers to entry in the OS market. This leaves Microsoft in a position to exploit any strategic and anti-competitive motives to integrate. As a matter of market reality, as we shall explain, the evidence demonstrates that Microsoft has engaged in tying to an excessive degree, with the sole purpose of achieving anti-competitive aims in general and OS monopoly-preserving aims in particular.

12. With respect to the practices of tying middleware, Microsoft's interests are not aligned with those of competition and consumers: Microsoft can benefit without improving its product by using tying strategies to reinforce and strengthen its existing OS dominance.

A. As a general matter, absent legal constraints, Microsoft possesses substantial economic incentives to integrate its products in a manner that reinforces its OS monopoly.

13. Below, we set forth four theories that explain why Microsoft's practice of integrating its applications with the Windows OS helps to maintain its OS monopoly, in a way that is detrimental to consumers and competition. First, tying helps to sustain the applications barrier to entry, and thus serves to enhance Microsoft's OS dominance. Second, tying deters direct challenges to Windows" position as the dominant platform and thereby maintains or enhances Microsoft's OS dominance. Third, tying involves dynamic leveraging that permits Microsoft to achieve a monopoly in complementary applications as insurance against any possible erosion of the OS monopoly. Put another way, a monopolist, such as Microsoft which produces a pair of perfectly complementary products, aims to protect its full monopoly power by ensuring its future monopoly in at least one of the complementary products. Fourth, tying permits Microsoft to mitigate the competitive constraints on its operating system monopoly provided by previous releases of the OS. These four theories are not mutually exclusive; each of them contributes to a full understanding of Microsoft's anti-competitive conduct. And, to make matters worse, each of these anti-competitive results is mutually reinforcing because of the network effects operating between the applications sector and the operating system market.

(1) Microsoft ties its applications to its operating system as a way of sustaining the applications barrier to entry.

14. Microsoft has a general incentive to engage in anti-competitive tying to protect its dominance in operating systems against the possibility of competitive developments in applications markets. The first means by which it accomplishes this is through enhancing the applications barrier to entry. The dominance of the Windows standard in a wide range of applications, or in a few particularly important applications, makes entry into the operating system market more difficult because an entrant has to offer both a new operating system and a full set of applications, or somehow rely on the chance that applications will quickly develop once the new operating system becomes available. In this way, an entrant faces a "chicken-and-egg" problem because of the indirect network effects in the operating system: the entrant could not succeed without a set of applications available to purchasers of its operating system; yet, few software developers would invest in the development of new applications based on an operating system without a large market share. This is referred to as the applications barrier to entry. The dominance of Windows as a standard for applications leads to the applications barrier to entry and growth in the operating system market.

15. Microsoft is able to sustain this barrier by exploiting a collective action problem among buyers. When Microsoft ties by supplying the OS with an application such as IE or WMP, users must incur a series of costs to replace the application. These costs include purchasing or downloading the substitute browser or media player, installing the application, and incurring any uncertainty associated with the possible compromise in the functional integrity of the system. In an application market, buyers would collectively be. better off if each incurred the costs of purchasing from competing suppliers, because doing so would ensure greater competition in the future application market. However, Microsoft's tying practices preclude this result.

16. Buyers" purchase decisions with respect to either the operating system or applications collectively affect the future market structure because Microsoft will achieve dominance if most buyers choose Microsoft products. Once Microsoft achieves dominance, network externalities sustain this dominance so that the market structure becomes a monopoly as a result of buyers" previous purchase decisions. The impact of each buyer's purchase decision on the future market structure, however, is negligible. Moreover, buyers do not take into account the impact of their purchase decisions on other buyers. As a result, even a small disadvantage to purchasing a competing product in the operating system or applications markets is enough to make the individual buyer prefer Microsoft's product. The result is that buyers" decisions make them collectively worse off. The future dominance of Microsoft and the higher prices faced by buyers are a result of their collective decision to purchase Microsoft's applications. Microsoft exploits this collective action problem and pursues dominance in the applications markets through its tying practices.

(2) Microsoft ties applications to its operating system as a way of deterring direct challenges to Windows "position as the dominant platform for software developers.

17. Microsoft's incentives for anti-competitive tying are particularly strong in the case of applications that might allow for the development of direct substitutes to the monopolized operating system. A clear incentive for Microsoft to tie its IE browser with Windows has been the threat that Netscape, either individually or combined with Java software, could eliminate Microsoft's network advantages in the operating system, by providing middleware (which serves potentially as universal translation support between any application and any operating system) that would provide a competing platform for software developers. This was a particular threat to Microsoft's dominance in operating systems because it potentially represented a platform/programming environment in which software applications could be developed without regard to the underlying operating system. Middleware provides a layer of software between applications and the operating system and can accommodate a new operating system with a change in a single set of code. Without middleware, the success of a new operating system would depend on the development of new code by every application developer. This incentive also explains Microsoft's initiatives to develop a Microsoft version of Java in an attempt to undermine the universal-translator aspect of Java.

18. Some economists have argued that the backwards compatibility of Microsoft's version of Java, i.e., the ability of all general Java applications to run on Microsoft's version, rules out the hypothesis that Microsoft designed its version of Java for the purpose of stifling the potential threat to its dominance in operating systems. This argument is wrong in its static assumption about compatibility. Given the history of the industry, the fact that Microsoft's initial version of Java was universally compatible with Java applications does not lead one to believe that if Microsoft dominated not just browsers but also Java in the future, it would continue to assure both compatibility of applications and free distribution of the pair of middleware products. Were Microsoft to establish dominance in the potential browser-Java bypass of its operating system dominance, why would it allow the bypass to be freely and effectively available? The concerns expressed by Microsoft's executives about the risks of "commoditization" of the operating system are well known.

19. Middleware generally has the potential to act to varying degrees as a universal translator between an operating system and specific applications, because (as the name suggests) middleware intermediates between the operating system and applications: it invokes calls through an operating system's APIs and in turn issues its own APIs to applications. To accommodate a new operating system, instead of each application requiring re-coding for compatibility, only the "bottom half" of the middleware application must be reprogrammed. If twenty applications run on top of a particular middleware program, for example, compatibility with a new operating system could be achieved by reprogramming the middleware program instead of reprogramming each application. Middleware thus mitigates the indirect network effects of the operating system—and could potentially diminish the dominance of any operating system that these network effects support.

(3) Microsoft has incentives to tie to achieve a monopoly, in complementary applications as insurance against possible future erosion of its OS dominance.

20. A common response to the argument that monopolies can profit through leveraging into a second market is that monopoly profits can be collected only once: a tie into a complementary market with an increase in the price of the tied good by a dollar will reduce the demand price of the first good by a dollar. According to this response, there is no incentive to leverage. In the simplest, static world in which there are no industry dynamics, no uncertainty, and no variation in consumer demand, this "one-monopoly theory" is correct. This theory, however, fails when there is uncertainty about the preservation of monopoly. If the initial monopoly is at some risk, then an incentive for leverage arises as insurance against the loss of monopoly profits. In the event that the first monopoly fails and the second succeeds, the monopolist will have preserved a monopoly in at least one of the

markets. Consistent with the common response, having a monopoly in only one of the pair of markets is sufficient to collect the full monopoly profits. If either market's monopoly is uncertain, the monopolist has an incentive to create monopolies in both markets, and thus increase the likelihood of being able to obtain monopoly profits in at least one market.

21. If Microsoft fears for the longevity of its operating system monopoly, or believes that operating systems are in a mature market with limited prospects for growth, it will have strong incentives to make minor sacrifices to Windows functionality in order to obtain dominance in high-growth markets. This is particularly true if the sacrifices (such as damaging relationships with OEMs and consumers by forcing them to accept an inferior browser or media player) have negligible effects on demand for Windows.

22. The greater the threat to its OS dominance in the future, the more incentive Microsoft has to establish a dominant supplier position in an application market, such as the browser or media player market. To take a hypothetical future contingency, if the development of middleware means that the future OS market turns out to be more competitive than the current market, then Microsoft's actions to achieve dominance in the application market will leave it with dominance in one product of a pair of complementary products, rather than dominance in neither. Microsoft's incentive to establish dominance in key applications is thus strengthened by the fact that Microsoft's monopoly in the operating system market is not guaranteed to always be airtight

23. The gains from leveraging are especially strong where network effects are present in applications markets or these markets otherwise promise large potential growth in revenues for any firm that establishes early dominance. Network effects have three implications that make Microsoft's tying practices particularly effective in reinforcing its OS dominance. First, in the early stages of the market's development, purchasers will be on alert for signals of which standard will eventually become dominant, in order to reduce their exposure to later costs of converting to the dominant standard. Tying a new application with the dominant Windows operating system will send strong signals to purchasers that will help to "tip" the market toward Microsoft's favored products, particularly given Microsoft's history. Second, a feedback loop will cause both the tying and Microsoft's dominance to steadily accelerate. As Microsoft begins to gain a substantial share in an application market, it will be able to engage in more overt forms of tying, as customers grow to accept even inconvenient results from Microsoft's anticompetitive behaviors (such as poor interoperability with rivals) because of the reinforcing network effects.

This, in turn, will accelerate the tipping toward Microsoft dominance. Third, once Microsoft's dominance is established, proprietary standards and continued tying will lock in this dominance, not just on current production but on future applications in the same functional space. While all of these effects promote Microsoft's dominance in applications, it is the feedback effect of this control over applications to reinforce the OS dominance that is relevant for the matter at hand.

24. It may appear that any preservation-of-monopoly theory must be applied narrowly to Microsoft's monopoly power in operating systems. If this were the case, then the insurance theory of tying just described would not apply, since this theory explains why tying to establish dominance in a new market can be profitable because of the profits that can be captured in that new market, instead of why it is profitable to protect the monopoly in the operating systems market.

25. The standard "one-monopoly" theory, however, tells us that when there are two perfectly complementary products A and B, a monopoly over either, or a monopoly on both, allows the identical profits and results in the identical effects. (This theory holds in a static framework that sets aside the other three theories that we discuss.) With respect to an OS with a set of applications that are virtually universally adopted by all PC users, a monopoly over the OS alone is identical in its effect and in its incentives to a monopoly over the set of applications alone or a monopoly over both the OS and the set of applications. That is, there is only one monopoly: the economic role of tying under the monopoly-insurance theory is not creating a new monopoly, but rather preserving the monopoly (the monopoly being at least one monopoly position in the OS-applications pair). The monopoly-insurance theory thus explains the anti-competitive use of tying to preserve a monopoly in violation of Section 2 of the Sherman Act.

26. The monopoly-insurance theory of tying has the effect of reinforcing Microsoft's monopoly position even if the preservation-of-monopoly requirement of Section 2 of the Sherman Act is construed narrowly to apply only to Microsoft's existing monopoly on operating systems for PCs.

The reason (discussed below) is that all of Microsoft's incentives for tying applications to Windows are mutually reinforcing. Even if Microsoft's incentive for tying were primarily to insure a monopoly in the event that the Windows OS monopoly failed in the future (the insurance theory), one effect of the tying is to reduce the chance that the Windows OS monopoly actually does fail, because of the strengthening of the applications barrier to entry. The impact is preservation, though imperfect, of Microsoft's monopoly in the operating system market.

(4) Microsoft's operating system also has durable-goods qualities that create further anti-competitive incentives for tying.

27. Part of Microsoft's argument that it should be free to "innovate" rests on the notion that an important source of "competition" in selling new versions of Windows is the existing stock of old versions of Windows. While it is true that the durable-goods aspect of the OS market (i.e., the ability of consumers to retain their existing versions of the OS instead of buying a new version) disciplines Microsoft, it only does so in the sense that Microsoft earns fewer profits than it would in a hypothetical world in which it were to lease its OS. The claim that the OS market is, in fact, more competitive than this hypothetical market does not weaken the claim that Microsoft's position in the OS market is dominant and that its activities are illegal.

28. Moreover, this "durable good monopolist" feature of the market contains an incentive for Microsoft to engage in illegal bundling. The strategy of leasing as a means of escaping the durable monopolist's dilemma is well established and has been thoroughly analyzed by economists. Rather than selling the product into the market in each period, if the monopolist seller of a durable good can lease the product on a period-by-period basis, it can retain complete control over the supply of the good into the market in each period. This allows the monopolist to set monopoly prices in each period instead of being constrained by the consumers" option to continue using the already-purchased stock (or version) of the product. The monopolist who leases for a period can lease both previous and current production together to achieve monopoly profits; doing so eliminates the competitive discipline that would otherwise occur as past sales re-enter current and future markets. If Microsoft could move to a business plan of leasing rather than selling software, it would completely eliminate competition from old versions of the software: as Microsoft leases new versions of software, it could retire leases on old versions.

This would serve to protect the monopoly power that Microsoft enjoys from its OS. Tying can allow Microsoft to implement this leasing strategy so as to avoid the durable good discipline. Specifically, tying the use of the OS to some complementary transaction that can be leased, or priced on a per-use basis—rather than sold—provides Microsoft with the opportunity to collect a revenue stream that is immune to the competitive discipline imposed by previous versions of the OS.

29. The escape from the durable monopolist's dilemma via leasing thus creates another incentive for tying. Tying allows Microsoft to move closer to the leasing outcome by facilitating the collection of transaction fees based on current usage. The set of middleware products that potentially puts Microsoft in the position of collecting a fee on Internet transactions serves this role. These products are IE, WMP, Microsoft's Digital Rights Management ("DRM") software, as well as the .Net My Services initiative. The Digital Rights Management software, with WMP, will initially support a market for music and video products. The combination of these middleware applications, enabling the Microsoft e-commerce network, will then support the transition to Internet sales transactions of a broad variety of products. As Microsoft begins to shift its revenue structure from Windows sales to Internet transaction fees, it will seek to control the key Internet access choke points such as browsers, media players, and digital rights management. Tying facilitates this control. Moreover, Microsoft can directly charge usage fees for its media player software that it cannot

charge for the OS. While the durable-goods monopoly theory of Microsoft's tying incentives can be seen most directly as a theory of the incentive to dominate applications that facilitate a leasing business plan, one important impact of dominating these applications is to preserve Microsoft's dominance in the market for operating systems. The impact, in other words, is a preservation of Microsoft's OS monopoly.

30. As an empirical matter, versions of Windows are converging in their substitutability. This convergence of versions strengthens the durable-good monopolist incentive to tie in two ways. First, it increases Microsoft's incentive to escape the durable-good monopolist discipline on prices, since the easier it is to substitute the current version of Windows with existing versions, the stronger this discipline is. Second, there are, in principle, two ways of leasing to escape the durable-good monopoly discipline. Microsoft could rent the OS or tie it to an application and collect the corresponding stream of revenues each time the application is used. The converging substitutability of Windows" versions renders the former more difficult, increasing the incentive to escape the durable-good discipline by tying applications. Thus, the increasing substitutability among sequential versions of Windows, even if later versions are superior, reinforces Microsoft's incentives to extend its monopoly to dimensions, such as Internet sales, in which it can charge a vig or rent the application.

(5) Microsoft's anti-competitive tying incentives are mutually reinforcing and are manifest in strategies that lack any competitive justification.

31. The incentives for anti-competitive tying that we discuss are mutually reinforcing because of the network effects operating between the applications sector and the operating system market. Achieving dominance in applications (through tying) strengthens the dominance of the OS, because buyers in the OS market are more assured of available applications; the greater dominance in the OS market in turn feeds back into greater dominance in applications, since the tying strategies take the form of imposing an artificial advantage relative to applications of the dominant OS supplier. The greater Microsoft's share across all applications markets, the greater the applications barrier to entry. Greater shares in applications markets create a feedback effect of even greater dominance in the OS market. The source of this feedback effect is an "indirect network effect": the greater the penetration of any operating system, the more applications will be written to it, and consequently, the more valuable the operating system will be to any user. Since the OS monopoly is not perfect, Microsoft will therefore take advantage of anti-competitive opportunities to generally strengthen the applications barrier to entry. As a general principle, therefore, any extension of Microsoft's monopoly to a set of important applications reinforces its monopoly in operating systems.

32. Microsoft has a clear incentive to engage in tying in the form of hampering rival applications and coding its own applications to be defaults to the detriment of consumer choice. This type of tying has a negligible negative effect on the demand for Windows, and by tipping high-growth markets, could provide Microsoft with long-term profits.

33. Given that the Windows source code is both complex and proprietary, Microsoft can engage in this type of tying surreptitiously. For example, Microsoft can alter the algorithms that set "favorites" in folders and task bars so that Microsoft-preferred applications and web sites are used more frequently. In addition, Microsoft can cause subtle performance problems for rival applications in Windows environments. This type of tying, however, is consistent only with anti-competitive behavior-no efficiency benefits result from harming rivals or setting Microsoft options as defaults.

B. Microsoft's anti-competitive incentives are particularly powerful in the markets for browsers and streaming media, as well as the adjacent markets for content-encoding, digital rights management, e-commerce, and convergence.

34. In markets with network effects and perceived similarity in product functions, directional changes in market shares can "tip" the market toward a dominant outcome because consumer expectations as to which format will dominate are self-realizing. In other words, the expectation on the part of consumers that a particular format will dominate leads each consumer to choose that format because of the rational concern that other formats will not be supported—accelerating the dominance and confirming the expectations of consumers. Consider the browser and the media player as examples.

35. In the browser market, Microsoft has achieved the dominance that it sought, and its monopoly power in the OS continues. These are related: browser dominance reinforces OS monopoly power. The connection is that browser dominance increases the applications barrier to entry and simultaneously removes the direct middleware threat posed by Netscape.

Both of these effects in turn serve to increase the demand for the Windows OS through network effects as buyers anticipate continued dominance of Microsoft formats in both the operating system and applications markets; the two effects thus reinforce the dominance of Windows OS.

36. Now that Microsoft has effectively achieved dominance in browsers, and through this reinforced its dominance in operating systems, the stage is set for applying the same tactics to markets for other applications. The media player market represents an important current market in which Microsoft's anti-competitive strategies are at play. In the media player market, Microsoft's first incentive for tying is to protect its dominance in the market for operating systems by deterring the development of new middleware platforms. Streaming media players will be essential for Internet browsing in the future because of their ability to enhance Internet content rendering under bandwidth constraints. If Microsoft achieves dominance in the media player market (and as noted above, the "tipping point" argument suggests that a trend to dominance can quickly translate into a highly dominant market share), any entrant into the operating system market would also have to provide a media player compatible with the WMP format.

37. For this reason, the applications barrier to entry incentive is especially powerful for streaming media players. Rival operating systems will be unable to provide a functional (i.e., Windows Media Audio-compatible) media player since the Windows Media Audio format is proprietary and Microsoft refuses to universally license it. Because compatibility with streaming media is vital to future operating systems, Microsoft's dominance over operating systems will be ensured. The observation that Microsoft licenses the software for playing downloaded media, but not the software for streaming media, suggests that Microsoft is strategically aware of the profit-enhancing power of retaining exclusive property rights on media streaming software.

38. To elaborate: with respect to other applications, an entrant into the OS market could—at least in theory—provide an OS plus a set of applications. However, even this potential entry strategy is not available in the case of the media player application, because the use of a media player by a user depends not just on products that could be provided by the new entrant, but on the proprietary formats chosen by Internet sites using media player software. In this sense, the provider selection of Microsoft's proprietary format creates a content-encoding barrier to entry for streaming media players. Again, this reinforces Microsoft's monopoly power over the OS market.

39. An additional anti-competitive incentive for dominating an application market is to secure a monopoly position in at least one product in the application/OS pair in order to achieve monopoly profits even in the event that the OS dominance is not sustained. This is discussed above in Section III.A.3. The possibility that the OS dominance is not sustained means that the joint monopolist could not necessarily collect the maximum profits through the OS price alone.

Dominance of the application market would secure, or at least increase the likelihood of, monopoly profits.

40. This incentive is particularly relevant to streaming media markets. For example, the OS dominance could be at risk as consumers move to handheld devices for computing and accessing the Internet that do not require Windows OS. Presumably, however, these customers will still wish to play music and see videos on such devices. To the extent that WMP and its accompanying format achieve dominance for streaming media, Microsoft will maintain monopoly power in the pair of products consisting of the OS plus the media player. (Recall that the essential measure of monopoly in the markets for a pair of complementary products is dominance in at least one of the products.) Thus, streaming media players and formats hold the potential for Microsoft to maintain its original monopoly.

41. Additionally, significant gain accrues to Microsoft if its DRM technology dominates the related market for audio and video files.

Using encryption technology, DRM technology permits only users with licenses to play the packaged file. The license has a key to unlock the encryption.

Should a user without a license attempt to play the file, the application initializes with an application that permits the user to acquire the license. Applications with DRM technology and Windows Media Device Manager enable the use of WMP on devices other than conventional desktop computers. Since market participants will tend to limit their investments to the likely dominant standard, Microsoft can easily become the sole provider of DRM solutions. Moreover, this will be a critical market for Microsoft, since users will require licenses for downloading, and content providers require certificates for encryption. The alternatives of mutual interoperability or even open standards are equally plausible conceptually, but not in Microsoft's interests.

Microsoft thus has incentives to use tying to ensure that its DRM solution remains proprietary and becomes dominant. Microsoft can ensure this outcome by making its media player format the format of choice for both users and content providers, and tying WMP to Windows ensures this choice. Once again, this creates a content-encoding barrier to entry that permits Microsoft to maintain its monopoly power in the pair: OS plus WMP as an application.

42. Because of the durable-goods nature of Microsoft's OS monopoly, as described in Section III.A.4 above, Microsoft has additional incentives to tie streaming media technologies to the OS. Indeed, the greatest value for locking in the dominant streaming media and DRM formats may be the vig that Microsoft hopes to collect from Internet transactions.

43. Dominating the media player format so as to collect a vig on transactions would position Microsoft to collect transactions revenue that may well exceed revenues available from Windows software licenses alone—even if Microsoft's dominance of the OS market is secure. As we discussed in Section III.A.4, monopolists of durable goods recognize that past sales constitute future competition (here, older versions of Windows compete with current and future versions of Windows). The monopolists face a competitive constraint against increasing prices even in the absence of any significant rivals. Such monopolies naturally seek ways to circumvent the constraint. In the case of Windows, the constraint is potentially circumvented by the collection of the vig on transactions.

44. What is the link between dominance in operating systems, streaming media, digital rights management, e-commerce, and convergence? Microsoft will attempt to use its dominance in any of these markets to increase the use of Microsoft-favored products in all of these markets. In contrast to the potential situation where different players are strong in each market, Microsoft will leverage its dominance in any market to strengthen its position in all of them. Microsoft's incentive to do this lies in the many revenue streams that it currently forgoes. For example, Microsoft does not currently charge web sites for the use of Windows media formats. If Microsoft establishes dominance in the media player market, as it translates to dominance in e-commerce hosting, Microsoft will no longer have any constraint on fully exploiting this revenue stream. Once again, this links back to the original dominance in Microsoft's OS. All of these applications are mutually reinforcing and serve to preserve the monopoly power that accrues from packaging Microsoft's OS with complementary applications.

C. The theorized benefits of product integration that may exist in some cases do not apply to the markets at issue in this case.

45. As a theoretical matter, of course, in many transactions, purchasers would prefer to buy bundles of products and services. Purchasers of glass prefer to have borates included, drivers prefer to have steering wheels with their cars, and purchasers of shoes typically prefer to have laces included. The relevant question here is whether computer applications are similar to those examples—i.e., whether browsers and other middleware such as streaming media players are "mere inputs" into the overall "Windows experience."

(1) The economics of software markets cast doubt on Microsoft's efficiency arguments for integration of its own browser and media player with the OS.

46. As discussed above, many forms of tying have no efficiency justification. Contractual provisions limiting the acceptance of rival technologies, or efforts to redesign code to harm rivals" performance, create economic loss. As further discussed above, Microsoft has these forms of tying at its disposal, incentives to use them, and a historical record of using them.

47. Microsoft's claims regarding the efficiencies of its contractual tying- i.e., that it reduces consumer time costs and confusion to have a set of default options provided with a personal computer "out of the box"—confuse the benefit to consumers of having a browser and its media player bundled along with the OS, with the benefit of having Microsoft's choice of applications bundled with the OS. The efficiencies that come with providing an integrated package of an OS and various applications are not specific to Microsoft's applications. In a market where OEMs were free to offer whichever packages of software consumers desired (e.g., Microsoft Windows with RealPlayer and IE, or Microsoft Windows with WMP and Netscape), the market would provide those varieties of packages preferred by consumers. The market would respond fully to the efficiencies associated with the purchase of a full package of hardware, OS, and software applications, and in addition, the market would be free to offer the variety that consumers demanded.

48. Our analysis supports the hypothesis that Microsoft's tying of IE and WMP and its efforts to gain DRM dominance are not driven by efficiency concerns. Although selection of some defaults is necessary on each PC, there appear to be no engineering efficiencies to the integration of the choice of default into the OS. To the contrary, choice and market competition (and consequently, efficiency) suffer when knowledgeable OEMs (who act as informed agents of consumers) face artificial barriers to playing that role, such as when Microsoft commingles code or makes Microsoft applications difficult to permanently remove as default settings. By designing system software to hamper the installation or operation of rival software suppliers, Microsoft reinforces the applications barrier to entry; the impact is a strategic reduction in competition and a reinforcement of Microsoft's OS monopoly.

49. Additionally, the usual arguments made to justify integration in other markets are largely inapplicable to software application markets. It is often argued that integration occurs (i) to reduce transaction, distribution or production costs, or (ii) to increase the value of the final product.

50. The argument that transaction and assembly costs justify integration does not apply to major software applications. For example, consumers want to purchase some integrated packages of complementary products such as functioning automobiles because separate purchases of steering wheels, engines, dashboards, seats, etc. would impose enormous transaction and assembly costs.

By contrast, software markets allow assembly at low cost even without integration, provided that monopolists are legally prohibited from impairing interoperability. With OEMs acting as purchasing and assembly agents for end-users, it is no more efficient for Microsoft to create OS-and-application bundles than for multiple OEMs (or third-parties who can then license such bundles to OEMs) to create those OS-and-application bundles desired by end-users.

51. Forced integration of particular software brands does not increase value. Instead, it causes an efficiency cost to the extent that end-users value the product variety entailed in the variety of inputs. The value of variety is lost with integration. Steering wheels in cars are typically undifferentiated commodities that comprise a trivial portion of the value of the final product.

Thus, even though a consumer could replace the steering wheel with limited effort, there is little reason to do so because a different steering wheel is unlikely to improve the performance of the overall product. By contrast, technological development in software applications markets means that different applications can differ substantially in what they deliver to consumers. Loss of product variety as a result of integration can be costly.

(2) Contrary to Microsoft's claims, issues of pricing and innovation provide further evidence that Microsoft's tying harms the marketplace and consumers.

52. Microsoft has argued that the extension of monopoly power across a set of complementary products may produce consumer benefits if the monopolist charges lower prices than would be charged if independent monopolists were to separately produce two or more complementary products. In the latter case, each independent monopolist would raise prices higher than the level that would maximize the combined profits of all the monopolists. Thus,

according to this theory, consumers benefit from Microsoft's monopoly leveraging through lower prices.

53. This theory imagines a static world in which innovation and entry are non-existent, and firms simply set prices to maximize profits, given unchanging demand and unchanging technology. The practical implications of the theory for the real world of rapidly changing technology and potential dynamic competition (as opposed to monopoly positions that are airtight) are minimal.

In an economic theory that incorporates industry dynamics, strategies taken by a dominant firm to eliminate a firm in a complementary market remove a potential rival or entrant in the primary market. In the reality of software markets, this anti-competitive effect clearly overwhelms any theoretical, static price effect: innovation and dynamic competition thus are, and should be, the focus of the Microsoft case. The driver of consumer benefit in these markets is innovation: over the past ten years, while prices of applications have fluctuated only moderately, the performance of applications has grown dramatically. New applications, such as browsers and media players, have become important sources of consumer benefit, while improvements in existing applications such as financial software have yielded strong consumer benefits. In any analysis on the impact of tying, the most important question is the impact on innovation, not price. Tying harms innovation by preserving Microsoft's monopoly position, protecting it against dynamic competition to the detriment of consumers.

54. Microsoft argues that a single monopolist over two products has greater incentives to innovate than two separate monopolists. If two complementary products are monopolized separately, the argument goes, each monopolist ignores the positive benefits that accrue to the other firm from an increase in its own pace of innovation. In the matter at hand, this theoretical efficiency would argue that if Microsoft had a monopoly in operating systems, while Novell had a monopoly in browsers, Novell would not innovate as much as possible because it would not take into consideration the positive effects of browser innovation on operating system demand.

This reasoning also suggests that innovation in the industry would be enhanced if Microsoft's OS dominance were to be extended further into still more applications markets. The key point missed in this theory is that any extension of Microsoft's OS monopoly power would dampen innovation into substitutes for Microsoft's OS. Enhancing the applications barriers only reduces the incentive for any firm to engage in OS or applications innovation. If an application could be open to competition—i.e., if it could be characterized by some rivalry or competition, as an alternative to Microsoft's integration—then unrestrained competition would strengthen rather than weaken innovation. While Microsoft's dominance in the browser market today may be a fait accompli, untying the OS and media player will lead to such greater competition in media player innovation.

55. Significantly for this case, untying would also increase competition in the operating system market. As discussed earlier in Section III.A, tying protects Microsoft's operating system dominance by maintaining the applications barrier to entry and weakening or deterring direct platform challenges. If there are separate monopolists in adjacent markets, each will have the incentive to enter or sponsor entry into the other's market, leading to competitive pressure in both markets.

A. Microsoft's options, incentives, and history, create a strong presumption that Microsoft's Wing harms OS competition and consumers.

56. The District Court's Findings of Fact confirm that it is Microsoft's "corporate practice to pressure other firms to halt software development that either shows the potential to weaken Microsoft's applications barrier to entry or competes directly with Microsoft's most cherished software products." As a historical matter, Microsoft has clearly engaged in anti-competitive, inefficient tying with other applications. For example, Microsoft has forbidden OEMs from changing system defaults so as to make non-Microsoft products the "default application" in "out of the box" packages. While Microsoft allows the "installation icons" of competing applications to be installed on desktops "out of the box," installation icons disappear if they are not invoked. In an even more subtle form of contractual tying, Microsoft requires applications that run with Windows to obtain a certification from Microsoft. This permits Microsoft to monitor and perhaps discipline its applications rivals. While some of these practices differ in form from strict tying (a certification requirement for software is not the same as a contractual requirement that OEMs use Microsoft products), the effect is similar in that Microsoft is signaling to all other market participants that applications may only run with Windows by Microsoft's permission.

57. Microsoft's profit incentives dictate that Microsoft would tie its products together much more aggressively than efficiency alone would suggest. With regard to the question of the nature of competition in the media player market, one of the current objects of Microsoft's tying, and, in particular its tying of WMP, is clear: as the District Court determined, the "multimedia stream [represents] strategic grounds that Microsoft [needs] to capture." That—and not efficiency—is the driving force behind Microsoft's conduct.

B. The evidence indicates that Microsoft is anti-competitively Wing the browser and the media player with its operating system.

58. In the absence of tying, Microsoft would provide an operating system and applications such as the browser and media player that were developed and offered in a modular, plug-replaceable fashion. The applications codes for the browser and the media player would not be commingled with the OS code, but would instead communicate with the OS through a set of well defined APIs. Publishing the APIs and interface protocols in this non-tying world would enhance the value of Microsoft's operating system by encouraging competition in the innovation of the complementary good—the browser and the media player. Greater competition and functional value in the market for a complementary good always benefit a firm by increasing the demand for its product. In the absence of anti-competitive incentives to reinforce barriers to entry, this strategy would maximize the profits that Microsoft obtains from its operating system. The fact that Microsoft does not engage in such a business strategy demonstrates, in the absence of evidence that tying is efficient, that Microsoft is motivated by anti-competitive incentives.

59. Microsoft openly engages in contractual tying and basic technological integration. By developing and marketing Windows XP as an integrated package of operating system and popular applications, Microsoft directly ignored the findings of fact and law by U.S. courts.Microsoft's history makes it likely that Microsoft is also engaging in various forms of OEM coercion to raise rivals''distribution costs and encourage the distribution of its own middleware products. Consistent with our analysis, this tying generally serves the purpose of Microsoft profitability and reinforcement of its OS dominance, rather than consumer benefit. Microsoft directly engages in anti-competitive tying when it prevents OEMs and end-users from removing or uninstalling IE and WMP. Microsoft does this through code commingling between the media player and the operating system that renders substitution for WMP difficult, or even impossible.

60. Another example of anti-competitive tying is that Microsoft renders its own DRM technology software non-interoperable with other media players because of DRM's interaction with Window XP's own "secure audio path" software. While this is not tying in the sense of designing the operating system to be incompatible with rival applications, it does involve designing an application—DRM—that limits the compatibility of rival applications in a closely related market, the market for media players.

61. More generally, Microsoft anti-competitively undermines the functionality and utility of rival streaming media players and formats. For example, Microsoft denies a license for playing files streamed in Windows content encoding formats to its principal competitor, RealNetworks, thereby reducing the utility to consumers of RealNetworks'' products. Microsoft also disadvantages rival content-encoding formats by designing WMP to record only in Windows media formats. These actions have, in the past, served to reduce consumers'' perceptions of rivals'' performance—for example by deliberately making consumers'' use of Netscape "a jolting experience" or damaging MP3 quality and functionality.

62. In general, OEMs perform a screening function, as agents of consumers, by ensuring that the software products provided out of the box are compatible with each other and with the operating system. Consumers are aware that OEMs perform this function. Consumers are also aware that OEMs'' reputations are based partly on packaging

high-quality software products, so that OEMs have the incentive to choose the best software products for the price. Consumers are in general not aware of the contractual restrictions imposed in various contractual arrangements that might explain the choice of media player, including, for example, any threat not to license the Windows OS to the OEM unless all Windows applications are included as defaults. Nor are consumers aware of any financial incentives offered to OEMs by Microsoft to include only Microsoft applications as default options. Contractual tying alone will thus cause consumers to infer, for reasons unrelated to merit, that Microsoft's applications are the optimal products for them.

63. As suggested above, the interaction of all these effects, combined with rational expectations, can easily lead to the rapid foreclosure of competition. The force of self-realizing expectations is especially strong when one firm or one format is a natural focal point for consumer expectations. In markets where any number of formats could be sustained as dominant because of self-realizing expectations (economists term this "the multiplicity of rational expectations equilibria"), a focal point property of any one equilibrium can be important in predicting which equilibrium will be sustained. There could hardly be a stronger focal point than the Microsoft/Windows format for predicting the likely dominant (and perhaps sole) format. The history of the PC software industry is one of the dominance of Microsoft standards. The prediction that the Microsoft standard will predominate in the media player market is natural, perhaps inescapable, for a consumer—uninformed about the media player market specifically—debating about which format to adopt. While it is arguable that strong network effects might yield dominance by a single firm in a good or service and its complements, it is uncertain whether a monopoly outcome is inevitable absent tying. In this context, tying assures OS dominance and is therefore anti-competitive.

64. Thus, Microsoft's coercion of OEMs to select WMP for the "out-of-the-box" experience, and to obscure the differences in capabilities between WMP and rival products, could weaken consumer awareness of the various functionalities available in the open market. This would increase expectations of a single dominant format, which in turn would accelerate that dominance. The dominance in the media player market, to emphasize the applications-OS interaction once more, reinforces Microsoft's dominance in operating systems.

V. CONCLUSION

65. We show in this report that Microsoft has substantial incentives to engage in anticompetitive tying of its middleware products with Windows. It has incentives to use contractual inducements to OEMs to bundle Windows with its own middleware instead of rival products; commingle applications code into the kernel of the operating system; and hamper the interoperability of rival applications. We also show that Microsoft's tying—in all of its forms—reinforces Microsoft's monopoly in operating systems.

66. Microsoft's incentives to anti-competitively bundle fall into four mutually reinforcing categories. First, by tying its middleware applications to the Windows operating system, Microsoft can strengthen the applications barrier to entry against its OS competitors. This reinforces Microsoft's OS monopoly. In order for entrants in the operating system market to succeed, they must have a wide variety of applications available for consumers to purchase. But software developers will invest in the creation of new applications only for operating systems that have widespread distribution. If Microsoft attains dominance with both the operating system and key middleware applications, it can ensure that its OS rivals will be unable to meet consumer demands for the most popular applications. With a dominant position in applications markets, Microsoft may choose not to write those applications to interoperate with rival operating systems, thus enhancing the already significant applications barrier to entry.

67. Second, tying reinforces Microsoft's OS monopoly by deterring direct challenges to the OS position as the platform of choice for software developers. Since programmers can write calls to middleware products, Microsoft's dominance in these products reduces the possibility that a universal translator (middleware) between operating systems and applications would threaten the Windows monopoly. Just as with the browser, Microsoft weakens this competitive threat to operating systems by integrating the potential substitutes directly into the OS.

68. Third, tying can provide a method of dynamic leveraging to ensure a future monopoly. This involves a direct counterargument to the familiar "one-monopoly theory," which states that a monopolist cannot collect more profits through a monopoly on a pair of complementary products (an operating system and an application) than through a monopoly on either product alone. Where the future entry into each product is uncertain, establishing a monopoly on both products in the pair increases the chance that the monopolist will retain a monopoly on at least one product in the future and therefore is positioned to collect full monopoly profits. In our context, the fact that the Windows monopoly over operating systems is not airtight creates an incentive for Microsoft to leverage its dominance so as to increase the likelihood of future dominance in at least one class of products—the operating system or applications. Dominance in applications provides (partial) insurance against the loss of monopoly power in operating systems, but the key is the preservation of monopoly in at least one of the pair of products: the OS and one or more important middleware applications.

69. Finally, tying IE and WMP into the OS and locking in Microsoft's streaming media and DRM formats put Microsoft in a position to potentially collect a tax on e-commerce transactions. Tying thus facilitates the move by Microsoft to a business strategy of collecting revenues from per-transaction royalty of its software, rather than outright sale of its software. This business strategy lessens the competition that Microsoft, as a durable-good monopolist, faces from the sales of its own previous versions of Windows. In this sense, the strategy, and its facilitation through tying, reinforce Microsoft's dominance in operating systems.

70. Product integration can theoretically be beneficial in some markets. Purchasers prefer to purchase some bundles of inputs, such as steering wheels with cars or laces with shoes. These efficiencies do not apply to the bundling of middleware with Windows. Purchasing a personal computer with a full set of applications and default options "out of the box" is valuable for many consumers. But the efficiencies that come with an integrated package of an OS and various applications are not specific to Microsoft's applications. In a market where OEMs were free to offer whichever packages of software consumers desired, without integration of applications into the operating system, and without Microsoft's tying constraints or inducements, the market would provide the variety of packages preferred by consumers. Moreover, the engineering efficiencies claimed for the integration of middleware code into the operating system appear to be negligible, and are therefore more than offset by the anti-competitive effects of tying. In fact, a software design organized around modular programming of the operating system and middleware applications would achieve the efficiencies associated with modular programming and would allow for plug-and-play replacement of the software.

71. In the absence of tying, Microsoft would offer an operating system and middleware applications that were distinct in the sense of modular programming. For example, neither browser nor media player code would be commingled with OS code: instead, both would communicate with the OS only through a set of published APIs. Microsoft would enhance the value of its operating system by encouraging competition in the innovation of the complementary good—i.e., the browser and the media player. This strategy would maximize value to consumers and the profits that Microsoft obtains from its operating system. The fact that Microsoft does not engage in such a business strategy demonstrates, in the absence of evidence that its tying is efficient, that Microsoft is motivated by anti-competitive incentives that maintain its OS monopoly.

VI. APPENDIX: CURRICULUM VITAE OF FRANK MATHEWSON

G. FRANKLIN MATHEWSON—Professor of Economics, Director of the Institute for Policy Analysis, University of Toronto

Ph.D. Stanford University

B. Com. University of Toronto

ACADEMIC POSITIONS

1996–present Director, Institute for Policy Analysis, University of Toronto.

1969–present Professor of Economics, Department of Economics, University of Toronto.

1969–present Research Associate, Institute for Policy Analysis, University of Toronto.

1995–1996 Acting Chair, Department of Economics, University of Toronto.

1985 Visiting Professor, Center for the Study of the Economy and the State, University of Chicago, Spring Quarter.

1984 Visiting Scholar, Graduate School of Business, University of Chicago, Spring Quarter.

1978–1983 Associate Chairman and Director of Graduate Studies, Department of Economics, University of Toronto.

1970–1982 Professor of Economics, Faculty of Management Studies, University of Toronto.

1978–1979 Senior Research Associate, Ontario Economic Council.

1976–1977 Visiting Research Fellow, Department of Political Economy, University College, University of London.

HONORS AND FELLOWSHIPS

—Social Science and Humanities Research Council Research Fellowship: 1994, 1991, 1989, 1987, 1986, 1985
—Social Science and Humanities Research Council Leave Fellowship: 1983–1984
—Canadian Council Leave Fellowship: 1976–1977
—Canada Council Doctoral Fellowship: 1966–1969
—Woodrow Wilson Fellowship: 1965

PROFESSIONAL AFFILIATIONS

—Editorial Board, Journal of Economics of Business, 1992-present.
—Editorial Board, Managerial and Decision Economics, 1994-present.
—Editorial Board, Economic Inquiry, 1987–1997.
—Editorial Board, Journal of Industrial Economics, 1990–1995.
—Associate Editor, International Journal of Industrial Organization, 1982–1988.
—Co-editor with M. Trebilcock and M. Walker. The Law and Economics of Competition Policy, Vancouver: The Fraser Institute, 1990.
—Co-editor with J. Stiglitz. New Developments in the Analysis of Market Structures, Cambridge: MIT Press, 1985.
—Program Committee, European Association for Research in Industrial Economics, 19831991.
—Program Committee, Conference on Industrial Organization, International Economics Association, 1982.

PUBLICATIONS

"The Analysis of Efficiencies in Superior Propane: Correct Criterion Incorrectly Applied." With Ralph Winter. Canadian Competition Record, Fall 2000, 20(2): 88–97.

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VII. APPENDIX: CURRICULUM VITAE OF RALPH WINTER

RALPH A. WINTER—Professor of Economics and Finance, University of Toronto

Ph.D. Economics, University of California at Berkeley

M.A. Statistics, University of California at Berkeley

B.Sc. Mathematics and Economics (with honors), University of British Columbia

ACADEMIC POSITIONS

1988-present Professor of Economics and Finance, University of Toronto

1985–1988 Associate Professor, Department of Economics and Faculty of Management Studies, University of Toronto

1979–1985 Assistant Professor, Department of Economics and Faculty of Management Studies, University of Toronto

HONORS AND FELLOWSHIPS

—Olin Senior Research Fellowship, Yale Law School, 1988

—National Fellowship, Hoover Institution, Stanford University, 1986–1987

Harry Johnson Prize (with M. Peters), for best article in the Canadian Journal of Economics, 1983

Canada Council Doctoral Fellowship, 1975–1979

John H. Wheeler Scholarship, University of California at Berkeley, 1974–1975

Dean's Honors List, University of British Columbia, 1974

RESEARCH GRANTS

Social Sciences and Humanities Research Council Research Grant: 1983–1985, 1986–1987, 1988–1989, 1990, 1991–1993

Social Sciences and Humanities Research Council Post-Doctoral Research Fellowship: 1981–1982 and 1982–1983

PROFESSIONAL AFFILIATIONS

International Editorial Board, Assurances

Editorial Board, Journal of Industrial Economics

PROFESSIONAL APPEARANCES

British Columbia Utilities Commission, regarding capital structure and equity risk premium for Pacific Northern Gas, 1998

Canadian Radio-Television and Telecommunications Commission, regarding price cap regulation for telephone companies, 1996

Alberta Energy and Utilities Board, regarding fair rate of return for TransAlta Utilities Corporation and Alberta Power Limited, 1996

Expert witness, Nielsen case, before the Canadian Competition Tribunal, 1994

Ontario Energy Board (EBRO 483,484), regarding fair rate of return for Centra Gas, 1993 (written submission)

Ontario Energy Board (EBRO 4790), regarding fair rate of return for Consumers Gas, 1992

Expert witness, Chrysler case, before the Canadian Competition Tribunal, 1988

PUBLICATIONS

"Efficiency as a Goal of Competition Policy," in Canadian Competition Policy: Preparing for the Future, forthcoming, 2002.

"Efficiency Analysis in Superior Propane: Correct Criterion Incorrectly Applied," forthcoming, Canadian Competition Record, 2001, with G.F. Mathewson.

The Law and Economics of Canadian Competition Policy, forthcoming 2001, with M.J. Trebilcock, E. Iacobucci, and P. Collins, University of Toronto Press.

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"Vertical Control in Monopolistic Competition," International Journal of Industrial Organization, 1(3), 1983: 275–286. With N.T. Gallini.

"On the Choice of an Index for Disclosure in the Life Insurance Market: An Axiomatic Approach," Journal of Risk and Insurance, XLIX(4), December 1982:513–549.

"An Alternative Test of the Capital Asset Pricing Model: Comment", American Economic Review, Vol. 72, No. 5, December 1982:1194–96. (With S.M. Turnbull).

"Majority Voting and the Objective Function of the Firm under Uncertainty: Note," Bell Journal of Economics, 12(1), Spring 1981: 335–337.

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ATTACHMENT B

A DETAILED CRITIQUE OF THE PROPOSED FINAL JUDGMENT IN U.S. v. MICROSOFT

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January 2002

TABLE OF CONTENTS

Page

INTRODUCTION 1
SECTION-BY-SECTION CRITIQUE OF THE PFJ 2
Section III of the PFJ: Prohibited Conduct 2
Section IV Of The PFJ: Compliance and Enforcement 11
Section V Of The PFJ: Termination 12
Section VI Of The PFJ: Definitions 12

INTRODUCTION

This Court may approve the parties" Proposed Final Judgment ("PFJ"), but only if it first determines that the proposed decree is "in the public interest." In reviewing the PFJ, we acknowledge that there are some beneficial and important restrictions put on Microsoft's unlawful conduct. In too many instances, however, these restraints are inevitably swallowed up by broad exceptions and grants of power to Microsoft. The result is that the proposed settlement will do little, if anything, to eliminate Microsoft's illegal practices, prevent recurrence of those acts, and promote competition in the marketplace. The public interest requires more, and the Court should thus reject the proposed settlement.

The purpose of this document is to expose—on a point-by-point, provision-by-provision basis—the many loopholes, "trap doors," and other critical deficiencies in the PFJ. We present the issues in an order that tracks the proposed decree itself so that they may be easily followed. We also provide "real world" examples where helpful.

In general, the PFJ suffers from several global, overarching flaws. First, in critical places, the language used in the PFJ to define the protections for competition are not broad enough to cover behavior the Court of Appeals held to be unlawful. Rather, only specific rights are granted, only specific competitive products are protected, and only specific anticompetitive practices are banned. In many cases, the rights and limitations are further clawed-back through carefully crafted carve-outs that benefit Microsoft.

Second, the proposed decree relies too heavily on the personal computer ("PC") manufacturers (original equipment manufacturers or "OEMs") to implement design changes—particularly in the critical area of middleware—without sufficiently ensuring their independence from Microsoft's tight clasp. The PFJ also follows timelines that are too loose and too generous to a company with the engineering resources and product-update capabilities of Microsoft.

Third, in too many places, the constraints on Microsoft (once the exceptions are taken into account) devolve into a mandate that Microsoft act "reasonably." Aside from the obvious concern about Microsoft's willingness to do so given its track record, this formulation is problematic for other reasons. It does little more than restate existing antitrust law (such provisions cannot be said to be "remedial" if they, in essence, are merely directives to refrain from future illegal acts).

And, in terms of enforcement, alleged violations of such "be reasonable" provisions can only be arrested through proceedings that will become, in essence, mini-retrials of U.S. v. Microsoft itself.

In sum, a consent decree that causes little or no change in the defendant's behavior cannot be found to advance the public interest, especially when the defendant's conduct has been found by both the district and appellate courts to be in violation of the law. As such, based on the numerous shortcomings outlined below, the Court should disapprove the PFJ.

SECTION-BY-SECTION CRITIQUE OF THE PFJ

Section III of the PFJ: Prohibited Conduct

A. Retaliation

?? The Scope Of The Protection Is Narrow: Section III.A of the PFJ appears to be directed at preventing Microsoft from retaliating against OEMs that attempt to compete with Microsoft products, but Microsoft is constrained only from specified forms of retaliation. If it retaliates against an OEM for any non-specified reason, that retaliation is not prohibited. This formulation is particularly problematic because the protected OEM activities are narrowly and specifically defined. Retaliation against an OEM for installing a non-Microsoft application that does not meet the middleware definition is not prohibited; nor is retaliation against an OEM for removing a Microsoft application that does not meet the middleware definition.

For example:

?? MSN and MSN Messenger do not appear to be middleware under the PFJ's highly specific definition of a "Microsoft Middleware Product." Given this uncertainty, an OEM cannot know with confidence that it is protected from retaliation if it removes the icon and start menu promotion for MSN and/or MSN Messenger.

?? If client software to support Sun's Liberty Alliance (a competitor to Microsoft's Passport) were developed, it would probably not be middleware under the PFJ definition. Thus, Microsoft can retaliate if an OEM adds that software.

More generally, it is odd to have a formulation that de facto approves of Microsoft's retaliation against OEMs, except where that retaliation is forbidden. That is, given that competitors to Passport, .Net My Services (formerly known as Hailstorm), Windows Movie Maker, Microsoft Money, gaming programs, and Microsoft Digital Photography programs—even when shipped through the OEM channel—may not be included in the scope of protected competition, Microsoft would be free to retaliate against OEMs that promote those competitors.

Finally, the provision is substantially weakened in that only certain types of retaliation (i.e., retaliation by changing contractual relations and retaliation by changing promotional arrangements) are forbidden, as opposed to prohibiting any form of retaliation whatsoever. In order to eliminate Microsoft's ability to unlawfully protect its OS monopoly, it is essential that Microsoft be prohibited from taking any action that directly or indirectly adversely affects OEMs or other licensees who in any way support or promote non-Microsoft products or services.

?? Non-Monetary Compensation Provision: Microsoft is free to retaliate against OEMs that promote competition by withholding any existing form of "non-monetary Compensation"—only "newly introduced forms of non-monetary Consideration" may not be withheld.

?? OEM Termination Clause Will Intimidate OEMs: Microsoft can terminate, without notice, an OEM's Windows license, after sending the OEM two notices that it believes the licensee is violating its license. There need not be any adjudication or determination by any independent tribunal that Microsoft's two predicate claims are correct; after just two notices to any OEM of a putative violation, Microsoft may terminate without even giving notice. This provision means that the OEMs are, at any time, just two registered letters away from an unannounced economic calamity. Obviously, that danger will severely limit the willingness of the OEMs to promote products that compete with Microsoft.

?? Pricing Schemes Will Allow Microsoft to Avoid Effects of the Decree: Microsoft can price Windows at a high price, and then put economic pressure on the OEMs to use only Microsoft applications through the provision that Microsoft can provide unlimited consideration to OEMs for distributing or promoting Microsoft's services or products. The limitation that these payments must be "commensurate with the absolute level or amount of" OEM expenditures is hollow—given that it is not clear how an OEM's costs will be accounted for, for this purpose.

B. Pricing

?? Microsoft Can Use Rebates To Eviscerate Competition. Under Section III.B of the PFJ, Microsoft can provide unlimited "market development allowances, programs, or other discounts in connection with Windows Operating System Products." This provision severely weakens the protection for OEM choice, functioning the same way as the rebate provision discussed above, but without any tether or limiting principle whatsoever. Arguably, Microsoft can charge $150 per copy of Windows, but then provide a $99 "market development allowance" for OEMs that install WMP.

Presumably, this is intended to be circumscribed by Section III.B.3.c, which provides that "discounts or their award" shall not be "based on or impose any criterion or requirement that is otherwise inconsistent with.., this Final Judgment," but this circular and self-referential provision does not ensure that the practice identified above is prohibited. While Microsoft should be allowed to engage in legitimate pricing decisions, those decisions should be limited to volume-based discounts offered on a non-discriminatory basis.

C. OEM Licenses

?? Microsoft Retains Control Of Desktop Innovation: Under Section III.C of the PFJ, Microsoft would retain control of desktop innovation by being able to prohibit OEMs from installing or displaying icons or other shortcuts to non-Microsoft software/products/services, if Microsoft does not provide the same software/product/service. For example, if Microsoft does not include a media player shortcut inside its "My Music" folder, it can forbid the OEMs from doing the same.

This turns the premise that OEMs be given flexibility to differentiate their products on its head.

For example:

?? Sony—as a PC OEM and a major force in the music and photography industries—would be uniquely positioned to differentiate the "My Music" and "My Photos" folder. And yet, Sony's ability to do so turns solely on the extent to which Microsoft chooses to unleash competition in these areas.

?? Microsoft Retains Control Of Desktop Promotion." Microsoft also, very oddly, can control the extent to which non-Microsoft middleware is promoted on the desktop, by virtue of a limitation that OEMs can promote such software at the conclusion of a boot sequence or an Internet hook-up, via a user interface that is "of similar size and shape to the user interface provided by the corresponding Microsoft middleware." Thus, Microsoft sets the parameters for competition and user interface.

?? Promotional Flexibility For IAPs Only, And Only For The OEM's "Own "IAP: OEMs are allowed to offer IAP promotions at the end of the boot sequence, but not promotions for other products. Also, OEMs are allowed to offer IAPs at the end of a boot sequence, but only their "own" IAP offers. Given that this phrase is ambiguous, Microsoft may attempt to read this provision as limiting an OEM's right to offer an IAP product to those IAPs marketed under the OEM's brand. Helpfully, the Competitive Impact Statement suggests otherwise, but whatever this phrase means, it is a needless restriction on an OEM's flexibility.

D. API Disclosure

?? APIs Defined Too Narrowly: Microsoft can evade the disclosure obligation provided under Section III.D of the PFJ by "hard-wiring" links to its applications, and through other predatory coding schemes. Additionally, the disclosure is limited to "APIs and related Documentation." This is too narrow and can be evaded. Moreover, the provision for the disclosure of "Technical Information" found in Judge Jackson's interim conduct remedies has been eliminated. These disclosures are necessary to provide effective interoperability.

G. Anticompetitive Agreements

?? Joint Development Agreements Can Subvert Protections Of The Settlement. The protection against anticompetitive agreements is substantially undermined by the exception in Section III.G of the PFJ that allows Microsoft to launch "joint development or joint services arrangements" with OEMs and others. Under this provision, Microsoft can "invite" OEMs, ISVs, and other industry players to enter into "joint development" agreements and then resort to an array of exclusionary practices.

For example:

?? Microsoft invites OEM X to form a "joint development" project to create "Windows for X," a "new product" to be installed on the OEM's PCs. As long as Microsoft's activities are cloaked under this rubric, it is exempt from the ban on requiring the OEM to ship a fixed percentage of its units loaded with Microsoft's applications, and other protections designed to promote competition.

H. Desktop Customization

?? Add/Remove Is For Icons Only, Not The Middleware Itself." The add/remove provisions in Section III.H in the PFJ only allow for removal of end-user access to Microsoft middleware—not removal of the middleware itself. This position is inconsistent with the language in the Court of Appeals" opinion on commingling or the "add/remove" issue.

If Microsoft's middleware remains on PCs (even with the end-user access masked), then applications developers will continue to write applications that run on that middleware—reinforcing the applications barrier to entry that was at the heart of this case. Allowing Microsoft to forbid the OEMs from removing its middleware, and allowing Microsoft to configure Windows to make it impossible for end-users to do the same, allows Microsoft to reinforce the applications barrier to entry, irremediably.

As we have seen with the implementation of this approach (i.e., icon removal only) with regard to Internet Explorer in Windows XP, Microsoft can use the presentation of this option in the utility to make it less desirable to end-users.

Moreover, limiting the required "add/remove" provision to icons only is actually a step backward from the current state of affairs in Windows XP, where code is removable for several pieces of Microsoft middleware.

?? Why Are Non-MS Icons Subject To Add/Remove?: The PFJ gives Microsoft an added benefit: it can demand that OEMs include icons for non-MS middleware in the add/remove utility. Why this should be required, in the absence of any finding that assuring the permanence of non-Microsoft middleware on the desktop is anticompetitive, is bizarre. This essentially treats the victims of Microsoft's anticompetitive behavior as if they were equally guilty of wrongdoing.

?? Microsoft Can Embed Middleware And Evade Restrictions: Under Section III.H.2, end-users and OEMs are allowed to substitute the launch of a non-Microsoft Middleware product for the launch of Microsoft middleware only where that Microsoft middleware would be launched in a separate Top-Level Window and would display a complete end-user interface or a trademark. This, in essence, allows Microsoft to determine which middleware components will or will not be subject to effective competition. By embedding its middleware components in other middleware (and thereby not displaying it in a Top Level Window with all user interface elements), or by simply not branding the middleware with a trademark, Microsoft can essentially stop rivals from launching their products in lieu of the Microsoft products.

?? Harder For Consumers To Choose Non-Microsoft Products Than Microsoft Products: In the same provision (III.H.2), Microsoft may require an end-user to confirm his/her choice of a non-Microsoft product, but there is no similar "double consent" requirement for Microsoft Middleware. There is no reason why it should be harder for users to select non-Microsoft products than Microsoft products.

?? Microsoft Can "Sweep" The Desktop, Eliminating Rival Icons: Additionally, the OEM flexibility provisions are substantially undermined by a provision that allows Microsoft to exploit its "desktop sweeper" to eliminate OEM-installed icons by asking an end-user if he/she wants the OEM-installed configuration wiped out after 14 days. Thus, the OEM flexibility provisions will only last on the desktop with certainty for 14 days, and after that period, persistent automated queries from Microsoft can reverse the effect of the OEM's installations. The effect of this provision is to severely devalue the ability of OEMs to offer premier desktop space to ISVs—and to undermine the ability of OEMs to differentiate their products and provide consumers with real choices.

?? Desktop "MFN" Requirements: Finally, nothing in the decree appears to forbid Microsoft from requiring—especially where non-middleware is concerned- so-called MFN agreements from the OEMs. These agreements tax OEM efforts to promote Microsoft rivals by requiring that equal promotion or placement be given to Microsoft products, often without compensation.

I. Licensing Provisions

?? Licenses Put In Hands Of OEMs Only—They May Not Be Able To Use Them Without Help:

The OEM licensing provision is limited in its effectiveness because the OEMs are prevented in Section 111.1.3 from "assigning, transferring, or sublicensing" their rights. This may severely limit their ability to partner with software companies to develop innovative software packages to be pre-installed on PCs. This provision is especially harmful when contrasted with the broad partnering opportunities afforded to Microsoft under Section III.G. In addition, the OEMs" willingness to use these provisions—even if they have the financial and technical wherewithal to do so—may be limited by the weakness of the retaliation provisions discussed above.

?? Reciprocal License? "Equal Treatment" For Law Abiders And Law Breakers Is Not Equal:

Under Section III.I.5, the PFJ requires ISVs, OEMs, and other licensees to license back to Microsoft any intellectual property they develop in the course of exercising their rights under the settlement. But that simply rewards Microsoft for having created the circumstances (i.e., having acted illegally) that necessitated the settlement in the first place. Microsoft should not be able to obtain the intellectual property rights of others simply because those law abiding entities have been required to work with a lawbreaker.

In addition, this provision may inadvertently work as a "poison pill" to discourage 1SVs, et al., from taking advantage of the licensing rights ostensibly provided to them in Section III.I. The risk that an ISV would have to license its rights to Microsoft will be a substantial deterrent for that ISV from exercising its rights under Section III.I.

J. "Security and Anti-Piracy" Exception to API Disclosure

?? The Settlement Exempts The Software And Services That Are The Future Of Computing: One of the most seemingly innocuous provisions in the PFJ is, in fact, one of the biggest loopholes: the provision found in Section III.J.1 that allows Microsoft to withhold from API, documentation or communication protocol disclosure any information that would "compromise the security of .... digital rights management, encryption or authentication systems." This provision raises several critical concerns:

?? Digital Rights Management Exception "Swallows" Media Player Rule." Since the most prevalent use of media players in the years ahead will be in playing content that is protected by digital rights management ("DRM") (i.e., copyrighted content licensed to users on a "pay-for-play" basis), allowing Microsoft to render its DRM solution non-interoperable with non-Microsoft Media Players and DRM solutions essentially means that non-Microsoft media players will be virtually useless when loaded on Windows computers.

?? Authentication Exception Allows Microsoft To Control Internet Gateways, Server-Based Services: Most experts agree that the future of computing lies with server-based applications that consumers will access from a variety of devices. Indeed, Microsoft's ".Net" and ".Net My Services" (formerly known as Hailstorm) are evidence that Microsoft certainly holds this belief. These services, when linked with Microsoft's "Passport," are Microsoft's self-declared effort to migrate its franchise from the desktop to the Internet.

By exempting authentication APIs and protocols from the PFJ's disclosure/licensure requirement, the settlement exempts the most important applications and services that will drive the computer industry over the next few years. If Microsoft can wall off Passport, .Net, and .Net My Services with impunity—and link these Internet/server-based applications and services to its desktop monopoly—then Microsoft will be in a commanding position to dominate the future of computing.

Additional Problems Raised By Numerous Provisions in Section III

?? No Ban On Commingling Of Code: Nothing in the agreement prohibits Microsoft from commingling code or binding its middleware to the OS. This was a major issue in the case; the Court of Appeals specifically found Microsoft's commingling of browser and OS code to be anticompetitive; it rejected a petition for reheating that centered on this issue. And yet, the PFJ would permit this activity to continue.

?? The danger of the absence of this provision is reinforced by what is found in the definition of the Windows Operating System Product ("Definition U"), which states that the software code that comprises the Windows Operating System Product "shall be determined by Microsoft in its sole discretion." Thus, Microsoft can, over time, render all the protections for middleware meaningless, by binding and commingling code, and redefining the OS to include the bound/commingled applications.

?? Too Many Of The Provisions Require A Mini-Retrial To Be Enforced: In numerous places throughout Section III, the limitations on Microsoft's conduct are basically rephrased versions of the Rule of Reason. For example, in Section III.F.2, Microsoft may enter into restrictive agreements with ISVs as long as those agreements are "reasonably necessary;" likewise, the Joint Venture provisions found in Section III.G also employ a rule-of-reason test. As such, they simply restate textbook antitrust law, and alleged violations of these provisions could only be resolved through mini-trials.

Server Interoperability Issues (Found in Sections III.E, III.H and III.J)

?? Only Full Interoperability Can Reduce Microsoft's Barriers To Desktop Competition: The PFJ's proposed server remedy will fail to provide meaningful, competitive interoperability between Microsoft desktops and non-Microsoft servers because:

?? The applications barrier to entry is central to this case and to Microsoft's desktop monopoly. A remedy that provides true server interoperability can be a powerful tool to reduce the applications barrier to entry. The server has the same potential to provide an alternative platform as did the browser or Java. In that sense, it is directly analogous to middleware products.

?? Microsoft has plainly recognized the threat that non-Microsoft servers pose as an alternative applications platform and has acted to exclude those products from full interoperation with the desktop and to advantage its own server products. It is able to do so because it controls the means by which servers may interoperate with the functions and features of the Windows desktop. In order to succeed in establishing non-Microsoft servers as an effective alternative application platform, both consumers and application developers have to be convinced that such servers: (1) can overcome the interoperability barriers that Microsoft has erected, and (2) have become viable alternatives to Microsoft's own servers, insofar as they can fully interoperate with the desktop. An incomplete interoperability remedy fails to meet this test. Neither consumers (professional IT managers) nor server application developers will be attracted to non-Microsoft servers that lack any important interoperability functionality. If important interoperability barriers are left in place, IT managers simply will not buy the product and the remedy will fail to achieve its intended purpose. This is an important guiding principle.

The proposed decree allows Microsoft to continue to exploit dependencies between its desktop applications or its desktop middleware and its servers or handheld devices to exclude server and handheld competition.

?? Section III.I Excludes Competing Server Vendors From The Benefits Of Section III. E's

Disclosures: Section III.I limits Microsoft's obligation to license its desktop-server Communications Protocols to ISVs, IHVs, IAP, ICPs, and OEMs; thus, server competitors are excluded from the group of companies that Microsoft must license information to under section III.E.

?? The Failure To Define "Interoperate" Is A Mistake: Neither Section III.E nor any other provision of the PFJ defines the meaning of "interoperate." The failure to define "interoperate" is tantamount to the Department of Justice's ("DOJ") prior failure to define "integrate" in the 1995 consent decree, and will form the basis for unending disputes over the scope of Microsoft's disclosure obligations.

?? "Communications Protocol" Is Defined Too Narrowly And Too Ambiguously: The definition of "Communications Protocol," which determines the scope of server information to be disclosed by Microsoft, is highly ambiguous and potentially very narrow in scope:

?? It appears to be limited to the Windows 2000 server, and thus may exclude Microsoft's Advanced Windows 2000 server and Datacenter server.

?? It is unclear whether "rules for information exchange" that "govern the format, semantics, timing sequencing, and error control of messages exchanged over a network" mean the rules for transmitting information packets over a network, or the rules for formatting and interpreting information within such packets.

?? It appears to be limited to information exchanged via LANs and WANs, and therefore may exclude information exchanged over the Internet. In other words, having illegally seized dominance over browsers, Microsoft will be allowed to use that power to establish de facto proprietary protocols for Internet communication and keep them entirely to itself. Even in its broadest possible meaning, the term "Communications Protocols" is insufficiently broad or comprehensive to require disclosure of the information needed to permit interoperability between non-Microsoft servers and the full features and functions of Windows desktops.

?? Section III.J's Carve-Out Eliminates the Most Important Disclosures: What little Section III.E provides, Section III.J takes away by permitting Microsoft to refuse to disclose the very protocols and technical dependencies it is currently using to prevent non-Microsoft servers from interoperating with Microsoft desktops and servers.

Section IV Of The PFJ: Compliance and Enforcement

A. Enforcement Authority

?? Enforcement Authority Is Too Difficult To Employ: Clearly, what is missing from the agreement is a quick, meaningful, and empowered mechanism for preventing and rectifying Microsoft's inevitable violations of the agreement. Thus, while the provision allowing Microsoft to cure any violations of Sections III.C, D, E, and H before an enforcement action may be brought is not itself objectionable, it is but one of a number of provisions that make enforcing the agreement cumbersome, expensive and time-consuming.

B. Technical Committee / D. Voluntary Dispute Resolution

?? Source Code Access Is Not Enough: While it is helpful that the Technical Committee ("TC") will have access to Microsoft's source code and can resolve disputes involving that issue, the TC is otherwise powerless to compel Microsoft's compliance with the agreement in any other respect. The prospects that Microsoft will accept the decisions of the TC in a voluntary dispute resolution process are near zero. And the entire mechanism seems designed to extend disputes indefinitely: no time limits or time-lines are specified for dispute resolution.

As it stands now, a party injured by Microsoft's violation of the decree can complain to the TC, which will then conduct an investigation:

?? Once the investigation is complete, the TC will presumably issue some decision; while the investigation is ongoing, the TC is supposed to consult with Microsoft's Compliance Officer, for an indefinite period;

?? If the TC concludes that Microsoft violated the agreement, and Microsoft does not agree to change its behavior or rectify the wrong, then the TC must decide whether to recommend the matter to the DOJ for further action;

?? Once recommended, the DOJ—after some review period—may decide to take action, and apply to the court for a remedy, or it may not;

?? And once the DOJ applies for action, the process in court to obtain relief or remedy may extend for an indefinite period.

This is obviously a lengthy and ineffective process for ensuring that Microsoft complies with its obligations under the decree. In an industry where time is of the essence and delays can be fatal, the built-in delays that allow Microsoft to drag its feet are wholly unacceptable.

?? Technical Committee's Investigation Has Only Limited Use: The work of the Technical Committee cannot "be admitted in any enforcement proceeding before the Court for any purpose," and the members of the TC are forbidden to appear. Thus, under the terms of the decree, the substantial time, effort and expense that can go into a TC process may need to be duplicated in an enforcement action adding to the complexity and expense that the process will pose for victims of Microsoft violations.

Section V Of The PFJ: Termination

A. Five-Year Limit

?? Five-Year Coverage Is Inadequate: Given the scope of Microsoft's violations, the time period required to restore effective competition, and the pattern of willful lawbreaking on Microsoft's part, a five-year consent decree is inadequate.

B. Two-Year Extension

?? Penalty For Knowing Violations Is Too Lenient: Amazingly, the PFJ provides that no matter how many knowing and willful violations Microsoft engages in, the restrictions found in the settlement may be extended only for a single two-year period. Thus, if Microsoft is adjudged to have engaged in such a pattern of violations, it essentially has a "free reign" to repeat those violations with impunity.

Section VI Of The PFJ: Definitions

A. APIs

?? API Definition Too Narrow: This is discussed above.

I. ISV

?? Definition Is Not Forward-Looking: The definition of ISV is drafted too narrowly and should more clearly encompass developers of software products designed to run on new versions of the Windows operating system and next generation computing devices.

K. Microsoft Middleware Product

?? Definition Exempts Too Much Middleware: Much of the decree is based on this definition—the OEMs" flexibility turns on what is included or excluded from this category of application. And yet the definition, which is different from the definition used by the District Court (affirmed and employed by the Court of Appeals) is fatally flawed.

?? First, there are only five existing products that can be known with certainty to be "Microsoft Middleware Products." That means that highly similar items, such as MSN, MSN Messenger, MSN Explorer, Passport, Outlook, and Office may be excluded from the definition of middleware. Why Windows Messenger would be covered by the PFJ, but MSN Messenger would be exempt; or why Internet Explorer would be covered, while MSN Explorer would be exempt—if this is, in fact, how the provision operates—is a mystery. Why ambiguity would be accepted in such a critical area is an even greater mystery.

Given the uncertainty, Microsoft may attempt to retaliate against OEMs that remove even the icons for its applications; it may also attempt to prohibit end-users from removing these applications (or even their icons). This is a step backward from the status quo (even in Windows XP); the ambiguity is a gaping hole.

?? Second, the generic middleware definition, which applies only to new products, and therefore does not capture any product now in existence, allows Microsoft to define which products are included or not, by virtue of Microsoft's trademark and branding choices. Thus, as long as Microsoft buries these products inside other applications, they are not independently considered middleware.

?? Third, as suggested in the points above, the definition misses the future platform challenges to Microsoft's Windows monopoly: web-based services. These services should be specifically defined and included in the class of protected middleware.

N. Non-Microsoft Middleware Product

?? Only Developers With Substantial Resources Will Be Protected: The competitive offerings protected by the decree are narrowly limited to offerings that fall within the definition of "Non-Microsoft Middleware Products." Again, as noted above, the guarantees of OEM flexibility, promotion, and end-user choice apply only to these specified products—not to any other software applications.

And yet, sadly, this narrow definition extends protection only to applications "of which at least one million copies were distributed in the United States within the previous year." Thus, "an innovator in his garage," creating a new form of middleware to revolutionize the computer industry, has no protection from Microsoft's rapacious ways until he can achieve the distribution of 1 million copies of his software.

Also, as noted above, "web-based services" are not captured in this definition, notwithstanding their importance to future competition to the Windows OS.

R. Timely Manner

?? Netscape, All Over Again: Microsoft's obligation to disclose APIs and other materials needed to make applications interoperable with Windows in a "timely manner" is keyed off the definition of that term in Section R. But Microsoft retains complete control over this timeline because the definition provides that Microsoft is under no obligation to engage in these disclosures until it distributes a version of the Windows OS to 150,000 beta testers. Thus, as long as Microsoft restricts its beta testing program to 149,999 individuals until very late in the development process, it can effectively eviscerate the disclosure requirements. Our review of the available documentation shows, for example, that Microsoft had no more than 20,000 beta testers for Windows XP until very late in the release cycle; thus, had this provision been in place during the Windows XP release cycle, Microsoft would have been under no obligation to release APIs until the eve of product shipping.

Slow disclosure of APIs is precisely how Microsoft defeated Netscape's timely interoperability with Windows 95. Thus, in this way, not only is the decree inadequate to prevent future wrongdoing, it does not even redress proven illegal acts in the past.

U. Windows Operating System Product

The scope of Microsoft's disclosure obligations under the agreement are determined in large part by the meaning of "Windows Operating System Product." The definition of Windows Operating System Product leaves Microsoft free to determine in "its sole discretion" what software code comprises a "Windows Operating System Product." In other words, Microsoft's disclosure obligation is subject entirely to its discretion.

Added Definitions—Bind, Interoperate, Technical Information and Web-Based Service

?? Missing Definitions From Remedial Order: As discussed above, the PFJ omits the definitions for "Bind," "Interoperate" and "Technical Information," which are critical for ensuring that this agreement provides real constraints on Microsoft's illegal activities.

?? Exclusion Of Web-Based Services: In addition, the exclusion of web-based services from the category of protected competitive threats to the Windows OS is a grave omission. The definition of middleware should include a proviso that stipulates that web-based services be considered as if they were middleware (whether or not they technically fit in the category).

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, V. MICROSOFT CORPORATION,, Defendant.

Civil Action No. 98–1232 (CKK)

STATE OF NEW YORK ex. rel. Attorney General ELIOT SPITZER, et al., Plaintiffs, V. MICROSOFT CORPORATION, Defendant.

Civil Action No. 98–1233 (CKK)

COMMENTS OF RED HAT, INC. TO REVISED PROPOSED FINAL JUDGMENT AND COMPETITIVE IMPACT STATEMENT IN UNITED STATES V. MICROSOFT CORP., CIVIL NO. 98–1232, IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

I. INTRODUCTION

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, Red Hat, Inc. ("Red Hat") files comments to the revised Proposed Final Judgment, filed November 6, 2001, and the Competitive Impact Statement, filed November 15, 2001, in United States v. Microsoft Corp., Civil No. 98–1232, in the United States District Court for the District of Columbia. Red Hat files these comments because the Proposed Final Judgment will not remedy the anti-competitive effects of Microsoft's antitrust violations that were upheld by the United States Court of Appeals for the District of Columbia Circuit in its June 23, 2001 decision. As a result, the market for PC-compatible operating systems—in which Microsoft unlawfully maintained its monopoly—will not return to a competitive environment, and the mandate of the District of Columbia Court of Appeals will be thwarted.

The Litigating States have filed their own Proposed Final Judgment and, to the extent it contains additional modifications to DOJ's revised proposed Final Judgment. Red Hat supports those modifications.

II. BACKGROUND

It is no exaggeration to say that Linux is the operating system that provides the most serious and fastest growing competition to the Microsoft operating system. Linux is the PC-compatible open source operating system based on the kernel developed by Mr. Linus Torvalds in the early 1990s, and in the short amount of time that it has been in the marketplace, the Linux operating system has become a viable competitor to other operating systems. Red Hat, which began in 1994, offers the Red Hat version of the Linux operating system with support and software applications and is the largest distributor of open source Linux. In order for the Proposed Final Judgment to have an effect in restoring the competitive nature of the PC-compatible operating system market, Red Hat believes that each and every provision must be viewed with the overall perspective of whether the provision provides a level playing field for companies such as Red Hat, which offer direct competition in the injured market, or whether the provision directly or indirectly will enable Microsoft to perpetuate the monopoly it has been found to have maintained illegally. In order to provide a background for these comments to the Proposed Final Judgment, a brief overview of open source, and Red Hat Linux follows.

Open source and free software is distinct from traditional (proprietary) software in that it is produced by a generally voluntary, collaborative process, and accompanied by a license that pants users the right to:

1) have the source code,

2) freely copy the software,

3) modify and make derivative works of the software, and

4) transfer or distribute the software in its original form or as a derivative work, without paying copyright license fees.

Many open source and free software licenses also embody the concept known as copyleft. Simply put, this is the condition that all versions of the product, including derivative works, be distributed along with, and subject to, the conditions and rights in the license under which they were received. This concept is central to the ability of a licensor to ensure that its product remains open source or free software.

The underlying principle is that improvements to a product are given back to the open source and free software community. In this way, open source and free software is continually improved, with the modifications being made available to all. Without the ability to impose this condition on further distribution, a copy, or a derivative work made pursuant to the authorization granted in the license, could be distributed without the right to copy, modify, distribute or have the source code—in effect it would be transformed into a proprietary work. It would cease to be "free." The benefits of open source and free software are numerous. In practical and commercial terms, open source and free software is stable, high quality software, which users are free to tailor to their own purposes. As the source code is available to all, a user is free to remedy any bugs it may find, maintain the software itself, or hire a third party to do so. The availability of the source code also allows the creation of complementary and interoperable programs by anyone and everyone, with no need to reverse engineer the product. As an element in the competitive environment, open source software provides an almost pure form of competition in the software (and, of course, operating system) competitive environment. Improvements are quickly available and users are able to make product-quality based choices, unfettered by many of the considerations that occur in other competitive markets. Moreover, because of the size of the community that participates in the open source arena, products are quickly debugged, refined and improved; greatly benefiting the ultimate end user.

From a company with only $482,000 in revenue in 1995, Red Hat has grown to over $100 million in revenue in 2001. The vast majority of Red Hat's revenues are derived from the services it offers around its well-known Linux distribution, not from license fees or royalties. Despite its rapid growth, however, until last year Red Hat Linux was not considered an effective competitor with either Sun Microsystems or Microsoft in the server market. With increasing success, Red Hat has now penetrated that market, demonstrating that it can be an effective competitor where no illegal monopoly exists. The same cannot be said for the desktop operating system market, the subject of many of the claims and findings against Microsoft in this matter. Because of Microsoft's stranglehold on that market, with over a 94% marketshare—a stranglehold unlawfully maintained—Red Hat has elected not to attempt to compete until a level playing field can be established. Any efforts by Red Hat toward competing would be utterly fruitless and an unjustified use of corporate resources.

Microsoft has made no secret of the fact that it considers companies such as Red Hat to be potential competitive threats in the marketplace. According to Microsoft's own executives, Microsoft has contacted "U.S. lawmakers" in an effort to curtail the spread of the Linux operating system. Microsoft Executive says Linux Threatens Innovation, Feb. 14, 2001, Bloomberg News, at http://news.cnet.com/investor/news/newsitem/0–99001028–4825719-RHAT.html. (Ex. A attached hereto.) Microsoft's CEO, Steve Ballmer has described Linux as a "cancer that attaches itself in an intellectual property sense to everything it touches." Microsoft CEO takes lunch break with the Sun-Times, Chicago Sun Times, June 1, 2001, at http://www.suntimes.com/output/tech/cst-fin-micro01.html (Ex. B attached hereto.); see also Joe Wilcox & Stephen Shankland, Why, Microsoft is wary of open source, CNET News.com, June 18,2001, at http://news.com.corn/21001001–268520.html (Ex. C attached hereto.); Stephen Shankland, Microsoft license spurns open source, CNET News.com, June 22, 2001, at http://news.com.com/2100–1001268889.html (Ex. D attached hereto.); Mike Ricciuti, Microsoft memo touts Linux, CNET News.com, Nov. 5, 1998, at http://news.com.com/2100–1001–217563.html (Ex. E attached hereto.); Joe Wilcox & David Becker, Microsoft sues Linux start-up over name, CNET News.com, Dec. 20, 200l, at http://news.com.com/2100–1001–277314.html (Ex. F attached hereto.). From these comments, it is clear, that, unless the Proposed Final Judgment protects the ability of non-Microsoft operating systems such as Red Hat Linux to gain access to, and compete for, software developers and users, and to compete, the remedies aspect of this lawsuit will be a failure. Therefore, in order for the Department of Justice to effect a remedy scheme that will address the findings of the Court of Appeals, the Department of Justice must ensure the ability of companies such as Red Hat to compete. A review of the Proposed Final Judgment, however, shows little to no attention paid to the very companies that directly compete in the market in which Microsoft unlawfully has maintained its monopoly. Unfortunately, this is despite the clear intent of the Competitive Impact Statement, in which the Department of Justice states:

> Appropriate injunctive relief in an antitrust case should: (1) end the unlawful conduct; (2) "avoid a recurrence of the violation" and others like it; and (3) undo its anticompetitive consequences. See Nat'l Soc'y of Prof'l Eng'rs v. United States, 435 U.S. 679, 697 (1978); United States v. E.I du Pont de Nemours & Co., 366 U.S. 316, 326 (1961); Int'l Salt Co. v. United States, 332 U.S. 392,401 (1947); United States v/ Microsoft Corp., 253 F.3d 34, 103, 107 (DC Cir. 2001) Restoring competition is the "key to the whole question of an antitrust remedy," du Pont, 366 U.S. at 326. Competition was injured in this case principally because Microsoft's illegal conduct maintained the applications barrier to entry into the personal computer operating system market by thwarting the success of middleware that would have assisted competing operating systems in gaining access to applications and other needed complements. Thus, the key to the proper remedy in this case is to end Microsoft's restrictions on potentially threatening middleware, prevent it from hampering similar nascent threats in the future and restore the competitive conditions created by similar middleware threats. The Proposed Final Judgment imposes a series of prohibitions on Microsoft's conduct that are designed to accomplish these critical goals of an antitrust remedy.

Competitive Impact Statement filed in U.S. v. Microsoft (D.DC Nov. 15, 2001) at 9. It is with consideration being given to the findings of the Court of Appeals and the realistic impact of the Proposed Final Judgment that Red Hat files these comments.

III. COMMENTS ON INTELLECTUAL PROPERTY ISSUES ASSOCIATED WITH THE FINAL JUDGMENT

A. The Proposed Final Judgment Would Neither Remedy Microsoft's Monopolization of, Nor Restore Competitive Conditions to, the Market for PC-Compatible Operating Systems, Because Microsoft Would Remain Free to Shut Down Competitive Operating Systems and Middleware Through Assertion of Microsoft's Intellectual Property Portfolio

For intellectual property reasons, the Proposed Final Judgment would fail to remedy Microsoft's monopolization of the operating systems market and fail to accomplish the goal to restore competitive conditions to the market. It would fail because it would permit Microsoft to block software and hardware developers, users, and vendors from developing, using, distributing, or promoting competitive operating systems by threatening or bringing suits for infringement of Microsoft's extensive intellectual property portfolio. To provide an effective remedy and accomplish that goal, the narrow scope of licenses to Microsoft's intellectual property fights required by the Proposed Final Judgment must, at a minimum, be expanded to allow those persons to engage in that competitive conduct without the threat of an infringement suit by Microsoft.

More specifically, the Proposed Final Judgment would prohibit Microsoft from retaliating against software and hardware developers, users, and vendors if they were to develop, use, distribute, or promote operating systems or middleware that competes with Microsoft's Windows cperating system or middleware. But giving with its right hand and taking with its left, the Proposed Final Judgment would exempt from prohibited retaliation—and expressly allow—Microsoft to sue those persons for infringement of Microsoft's intellectual property fights if they engage in that conduct.

Two primary effects would flow from this exemption. First, Microsoft would remain free to assert its intellectual property fights to stop developers and vendors of competitive operating systems and middleware from developing, using, distributing, or promoting their software. In that event, the downstream software and hardware developers, users, and vendors who want to use and work with competitive operating systems and middleware would not have any competitive operating systems or middleware to use, distribute, or promote. Second, Microsoft would remain free to assert the same intellectual property rights to stop those downstream developers, users, and vendors from using, distributing, or promoting such competitive operating systems and middleware.

If no competitive operating systems and middleware were available or if the downstream developers, users, and vendors could not use, distribute, or promote competitive operating systems or middleware because Microsoft threatens or brings intellectual property infringement suits, the Proposed Final Judgment cannot accomplish its purpose: to remedy Microsoft's unlawfully maintenance of its monopoly and restore competitive conditions to the market Microsoft in which Microsoft's monopoly was unlawfully maintained.

The antitrust remedy should at least remove this exemption and define retaliation to include threatening or bringing suit for infringement of Microsoft's intellectual property portfolio. Such a remedy would be proper and consistent with both Supreme Court and Justice Department precedent.

1. Microsoft Illegally Maintained a Monopoly in the Market for Intel-Compatible Operating Systems

The district court held, and the court of appeals affirmed, that Microsoft had illegally "maintained a monopoly in the market for Intel-compatible PC operating systems in violation of [Sherman Act] "2." United States v. Microsoft Corp., 253 F.3d 34, 45, 50 (DC Cir. 2001). The remedy in this case should at the very least restore competition to that market, because that was the only district court holding that the court of appeals affirmed. See id. at 46. Unless the remedy restores competition within that market, the courts" holdings, and the Justice Department's and States" efforts in proving that antitrust violation, will be nullities.

2. The Purpose of an Antitrust Remedy Is to Terminate the Monopoly and Restore Competition to the Monopolized Market

Controlling case law and the Justice Department both recognize that the purpose of the remedy in a Section 2 case is to end the monopoly and restore competition to the market that the defendant monopolized. As the Supreme Court explained, and as the Court of Appeals recognized in Microsoft, in a monopolization case "it is the duty of the court to prescribe relief which will terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future."

United States v. United Shoe Mach. Corp., 391 U.S. 244, 250 (1968); see Microsoft, 346 F.3d at 103 (quoting United Shoe). Indeed, the goal of relief is to make sure that competition results, not just to end a lawsuit. As the Supreme Court instructed:

> In an equity suit, the end to be served is not punishment of past transgression, nor is it merely to end specific illegal practices. A public interest served by such civil suits is that they effectively pry open to competition a market that has been closed by defendants'' illegal restraints. If this proposed Final Judgment accomplishes less than that, the Government has won a lawsuit and lost a cause.

International Salt Co. v. United States, 332 U.S. 392, 401 (1947).

In accordance, the Justice Department explained that its purpose in entering into the Proposed Final Judgment was to "restore competitive conditions to the market." Competitive Impact Statement at 2. Likewise, the Justice Department told the public in its press release that the "settlement will bring effective relief to the market and ensure that consumers will have more choices in meeting their computer needs." Press Release, U.S. Justice Department, Department of Justice and Microsoft Corporation Reach Effective Settlement on Antitrust Lawsuit, Nov. 2, 2001, at http://www.usdoj.gov/opa/pr/2001/November/01 at 569.htm (Ex. G attached hereto.). 3. Intellectual Property Restrictions Would Prevent the Proposed Final Judgment From Restoring Competitive Conditions to the Monopolized Market for Operating Systems

a. The Proposed Final Judgment Would Ban Microsoft from Retaliating Against Certain Groups if They Work with Operating Systems or Middleware that Compete with Microsoft's Windows or Middleware

The Proposed Final Judgment would protect certain groups of software or hardware developers, users, and vendors (OEMs, ISVs, and IHVs)[2] from undefined "retaliation" by Microsoft if the groups were to work with operating systems or middleware that compete with Microsoft's Windows or middleware. It would provide that Microsoft shall not "retaliate" against those groups if they engage in certain conduct with any "software that competes with Microsoft Platform Software," which the Proposed Final Judgment defines to include Microsoft's Windows operating system "and/or a Microsoft Middleware Product."[3] For example, the Proposed Final Judgment would provide that Microsoft "shall not retaliate" against an:

2. Under the Proposed Final Judgment: OEM is an "original equipment manufacturer of Personal Computers that is a licensee of a Windows Operating System Product"; ISV is an "entity other than Microsoft that is engaged in the development or marketing of software products"; and IHV is an "independent hardware vendor that develops hardware to be included in or used with a Personal Computer running a Windows Operating System Product." See Proposed Final Judgment, Sections VI.O, I, II.

3. "Microsoft Platform Software" is defined as including "a Windows Operating System Product" (either alone or with a middleware product), which in turn is defined as "the software code.., distributed commercially by Microsoft for use with Personal Computers as Windows 2000 Professional .... "Proposed Final Judgment, Section VI.L, U. An Operating System is defined as "the software code that, inter alia, (i) controls the allocation and usage of hardware resources ... of a Personal Computer, (ii) provides a platform for developing applications by exposing functionality to ISVs through APIs, and (iii) supplies a user interface that enables users to access functionality of the operating system and in which they can run applications." Id., Section VI?

I. OEM for "developing, distributing, promoting, using, selling, or licensing any software that competes with" Microsoft's Windows operating system or middleware. Proposed Final Judgment Section III.A. 1.

II. ISV or IHV for "developing, using, distributing, promoting or supporting any software that competes with" Microsoft's Windows operating system or middleware. Proposed Final Judgment Section III.F. 1 .a.

b. The Ban on Retaliation Would Not Ban Infringement Suits

While the term "retaliate" is undefined, the Proposed Final Judgment contradictorily exempts from the scope of prohibited retaliation—and therefore expressly permits—suits for infringement of Microsoft's intellectual property rights. More specifically, the provisions banning retaliation against OEMs, ISVs, and IHVs are followed by an exemption:

> Nothing in this provision shall prohibit Microsoft from enforcing.., any intellectual property right that is not inconsistent with this Final Judgment.

Proposed Final Judgment Section III.A; see Section III.F.3. While the term "inconsistent" also is undefined, it is clear from a later section that a suit to enforce intellectual property rights against conduct that is protected from Microsoft's retaliation nevertheless is "not inconsistent with" the Proposed Final Judgment.

The later section, Section III.I, provides that Microsoft must offer to license its intellectual property rights to the groups if those rights are required to exercise an option expressly provided under the Proposed Final Judgment. If it stopped there, the provision would be fine. But an exemption to that license provision emphasizes that the required license is very narrow, and that Microsoft could still bring infringement suits if the groups engage in the very conduct that is protected from Microsoft's retaliation:

> I. Microsoft shall offer to license to ISVs, IHVs,... and OEMs any intellectual property rights owned or licensable by Microsoft that are required to exercise any of the options or alternatives expressly provided to them under this Final Judgment, provided that
>
> 2. the scope of any such license (and the intellectual property rights licensed thereunder) need be no broader than is necessary to ensure that an ISV, IHV,... or OEM is able to exercise the options or alternatives expressly provided under this Final Judgment (e.g., an ISV's, IHV's ... and OEM's option to promote Non-Microsoft Middleware shall not confer any rights to any Microsoft intellectual property rights infringed by that Non-Microsoft Middleware);
>
> Beyond the express terms of any license granted by Microsoft pursuant to this section, this Final Judgment does not, directly or by implication, estoppel or otherwise, confer any fights, licenses, covenants or immunities with regard to any Microsoft intellectual property to anyone.

Proposed Final Judgment, Section III.I (emphasis added). In accordance, the Justice Department's November 15, 2001 Competitive Impact Statement explains that a purpose of this provision is to "[permit] Microsoft to take legitimate steps to prevent unauthorized use of its intellectual property." Competitive Impact Statement at 49.

"Unauthorized use" would include infringement. A patent, for example, provides the patent owner the exclusive fights to make, use, sell, and offer to sell the patented subject matter. 35 U.S.C. §271(a). Those exclusive fights cover developing, distributing, promoting, using, and selling. Thus, while earlier sections of the Proposed Final Judgment say Microsoft could not "retaliate" against that conduct (Proposed Final Judgment Sections III.A.1, III.F.1.a), this later section contradictorily provides that Microsoft could retaliate against the conduct—by lawsuits (Proposed Final Judgment Section III.1.2).

To illustrate the problem, apply the specific example quoted above, from Section III.I.2 of the Proposed Final Judgment, to an ISV that promotes an operating system that competes with Windows, and assume that Microsoft has patents that arguably cover that competitive operating system. Under the Proposed Final Judgment, Microsoft would be prohibited from "retaliat[ing]" if the ISV were "promoting" the competitive operating system, such as by offering it for sale. Proposed Final Judgment Section III.F.1.a. But the exemption provides that the option to promote the software without retaliation "shall not confer any rights to any Microsoft intellectual property rights [e.g., patents] infringed by that" competitive operating system. Proposed Final Judgment Section III.I.2. Thus, Microsoft could sue the ISV for infringing its patents by promoting the competitive software.

Consequently, the Proposed Final Judgment would prohibit Microsoft from "retaliating" against an ISV or IHV for "developing, using, distributing, [or] promoting" the competitive operating system—but Microsoft could sue the ISV or IHV for patent infringement for the same acts: making (developing), using, selling (distributing), or offering to sell (promoting) that system. Likewise, it would prohibit Microsoft from "retaliating" against an OEM for "developing, distributing, promoting, using, or selling" a competitive operating system—but Microsoft nonetheless could sue the OEM for patent infringement for that conduct.

Thus, while Microsoft could not "retaliate," it could sue for infringement, thereby completely eviscerating the ban on retaliation.

B. Infringement Suits by Microsoft Based on Its Massive Intellectual Property Portfolio Could Stop Competitive Operating Systems or Middleware

These intellectual property exemptions could permit Microsoft to completely prevent any competition from other operating systems or middleware, both at the development level and downstream throughout the development and distribution chain. ISVs, i.e., non-Microsoft entities that develop or market software products, would include developers and vendors of competitive operating systems. See Proposed Final Judgment Section VI.I. 4 A patent suit against such a developer or vendor for infringement of Microsoft's patents covering competitive operating systems could result in an injunction against making, using, selling, or offering to sell the competitive system, as well as damages (which could be trebled) and attorney fees for any sales. See 35 U.S.C. §§283–285. If that occurred, downstream ISVs, IHVs, and OEMs would not have any competitive operating systems with which they could work.

4. See. also, discussion in Parts IV.B. and V, infra, concerning the definition of ISVs. ISVs also would include downstream developers and vendors of middleware or applications software. A patent suit against them for infringement of Microsoft's patents would prevent them from, e.g., using a competitive operating systems to develop their software. Downstream IHVs and OEMs would include developers and vendors of personal computers. A patent suit against them for infringement of those Microsoft patents would prevent them from, e.g., making or selling any computers using competitive operating systems.

The same would apply to competitive middleware. A patent suit against an ISV that develops competitive middleware would preclude the availability of competitive middleware. A patent suit against downstream developers or vendors of applications software would preclude them from using competitive middleware to develop their software. And a patent suit against downstream IHVs and OEMs would preclude them from making or selling computers using competitive middleware.

Microsoft has amassed a large portfolio of numerous patents and other intellectual property that potentially covers competitive operating systems and middleware. While any infringement analysis must be specific to a particular software, it is clear that Microsoft has numerous patents that potentially could be asserted against that competitive software. The chart attached as Exhibit H lists over 1400 patents owned by Microsoft in December 2001 that are in Patent and Trademark Office classes that include operating systems and middleware software. Additional Microsoft patents covering operating systems and middleware may be in other classes. If Microsoft were to bring suit on multiple patents, the accused infringer would have to win against every patent to avoid an injunction and damages. The odds of losing are so great that only the most well financed competitive operating system or middleware developer or vendor could consider fighting that battle. The result would be the same downstream. If the competitive operating system or middleware developer or vendor indemnified its downstream customers (ISVs, IHVs, OEMs, and ultimate consumers), it would face the same problem. If it did not indemnify the downstream customers, those customers would face the problem directly. As a result, a threat of suit by Microsoft could be enough to stop the making, using, selling, or offering to sell competitive operating systems and middleware at all levels in the development-distribution chain.

1. Microsoft Intends to Enforce Its Intellectual Property

Microsoft clearly declared its intent to enforce its intellectual property rights against competitors by including the exemption for infringement suits in Section III.I of the Proposed Final Judgment and by arguing that the non-settling states were seeking to confiscate its intellectual property. See, Defendant Microsoft Corporation's Remedial Proposal at 2. (Dec. 12, 2001) ("Microsoft Remedial Proposal"). Similarly, Craig Mundie, Microsoft's Senior Vice President of Advanced Strategies, reportedly told the audience at an Open Source convention last July:

Well, at the end of the day, if you have a patent, you enforce the patent if it's valuable to you. And so I think that Microsoft and other people who have patents will ultimately decide to enforce those patents.

Shared Source v. Open Source: Panel Discussion, O'Reilly Network, Aug. 9, 2001, at http://linux.oreillynet.com/pub/a/linux/2001/08/09/oscon panel.html (Ex. I attached hereto.). The threat of Microsoft's patent enforcement has caused concern among the open-source community, as reported last August. Galli, Peter, "Microsoft Patents a Threat to Open Source," eWEEK, Aug. 28, 2001, at http://techupdate.zdnet.com/techupdate/stories/main/0,14179,2808548.00.html ("Members of the open-source community are becoming increasingly concerned by ongoing moves from Microsoft Corp. to acquire a range of software patents that the company can potentially use down the line to attack and try to restrict the development and distribution of open-source software.") (Ex. J attached hereto.).

2. The Intellectual Property Problem Can Be Fixed by Defining Retaliation to Include Infringement Suits and Eliminating the Exemptions

The Proposed Final Judgment should define "retaliate" in Section VI of the Proposed Final Judgment. While the term should remain broad to bar any type of retaliation, it can specifically include bringing infringement suits:

"Retaliate" means any type of retaliation and is intended to be construed broadly. It specifically includes threatening or bringing a suit for infringement of any intellectual property rights owned or licensable by Microsoft.

In addition, the exemption sections should be modified to prevent infringement suits against the protected groups for engaging in conduct that the Proposed Final Judgment would prohibit Microsoft from retaliating against:

For OEMs, Section III.A should be modified as follows—after the sentence "Nothing in this provision shall prohibit Microsoft from enforcing any provision of any license with any OEM or any intellectual property right that is not inconsistent with this Final Judgment," add the following:

Acts that would be inconsistent with this Final Judgment include, but are not limited to, threatening or bringing suit for infringement of any intellectual property rights that would restrict the OEM from developing, distributing, promoting, using, selling, or licensing any software that competes with Microsoft Platform Software or any product or service that distributes or promotes any Non-Microsoft Middleware.

For ISVs and IHVs, Section III.F.3 should be modified as follows—after the sentence "Nothing in this section shall prohibit Microsoft from enforcing any provision of any agreement with any ISV or IHV, or any intellectual property right, that is not inconsistent with this Final Judgment," add the following:

Acts that would be inconsistent with this Final Judgment include, but are not limited to, threatening or bringing suit for infringement of any intellectual property rights that would restrict the ISV or IHV from developing, using, distributing, promoting, or supporting any software that competes with Microsoft Platform Software or any software that runs on any software that competes with Microsoft Platform Software, or exercising any of the options or alternatives provided for under this Final Judgment.

Also, Section II1.1.2. should be deleted and replaced as follows—the scope of any such license (and the intellectual property rights licensed thereunder) need be no broader than is necessary to ensure that an ISV, IHV, IAP, ICP or OEM is able to exercise the options or alternatives expressly provided under this Final Judgment, and to engage in conduct against which this Final Judgment prohibits Microsoft from retaliating; To enable those third parties to obtain those licenses, Section VIII of the Proposed Final Judgment should be modified as follows:

Nothing in this Final Judgment is intended to confer upon any other persons any rights or remedies of any nature whatsoever hereunder or by reason of this Final Judgment, except as provided in Section III.I.

3. The Proposed Relief Requiring Licensing of Microsoft's Intellectual Property Is Proper and Consistent with Precedent

The proposed modifications would require Microsoft to license certain of its intellectual property: that which potentially covers competitive operating systems, middleware, or other software or hardware and is necessary to ensure that the protected groups are free to engage in the conduct against which the Proposed Final Judgment would prohibit Microsoft from retaliating. Compulsory licensing of intellectual property to remedy monopolization is consistent with Supreme Court and Justice Department precedent, including the Proposed Final Judgment as it now stands, even though abuse of intellectual property rights was not found to be predatory conduct.

To achieve the goal of restoring competitive conditions to the marketplace discussed above, the court has "large discretion" to fit the decree to the special needs of the individual case." Ford Motor Co. v. United States, 405 U.S. 562, 573 (1972) (quoting International Salt Co. v. United States, 332 U.S. 392, 401 (1947)). That discretion includes prohibiting acts that may otherwise be valid, if necessary to correct the effects of the violation. "Equity has power to eradicate the evils of a condemned scheme by prohibition of the use of admittedly valid parts of an invalid whole." United States v. Bausch & Lomb Optical Co., 321 U.S. 707, 814 (1944). As the Court similarly instructed in United States v. Paramount Pictures, Inc., 334 U.S. 131,148 (1948), to achieve effective relief a court can include restrictions on otherwise lawful conduct: "[E]quity has the power to uproot all parts of an illegal scheme—the valid as well as the invalid—in order to rid the trade or commerce of all taint of the conspiracy."

Compulsory licensing of patents was ordered to remedy monopolization in, for example, United States v. United Shoe Mach. Corp., 110 F. Supp. 295 (D. Mass. 1953), aff'd, 347 U.S. 521 (1954), even though enforcement of the patents was not an alleged predatory act. The court concluded that the defendant had not improperly asserted its patents, but they were a barrier to entry into the monopolized market. See 110 F. Supp. at 297,332–33. In determining the remedy, the court's goals were not only to eliminate specific predatory practices that had caused or would cause monopolization, but also "to restore workable competition in the market." Id. at 346–47. The court explained that licensing of patents was proper as part of the remedy to reduce the effects of the defendant's monopolization caused by non-patent predatory business practices: Defendant is not being punished for abusive practices respecting patents, for it engaged in none .... It is being required to reduce the monopoly power it has, not as a result of patents, but as a result of business practices. And compulsory licensing, on a reasonable royalty basis, is in effect a partial dissolution, on a non-confiscatory basis. Id. at 351. Fifteen years later, the Supreme Court again concluded that the relief granted was within the proper scope of relief for an antitrust violation. United States v. United Shoe Mach. Corp., 391 U.S. 244, 251 (1968).

Similarly, the Justice Department has required compulsory licensing of intellectual property as part of the remedy in proposed final judgments in antitrust cases. One of the latest examples, and perhaps the most pertinent, is this Proposed Final Judgment's requirement that "Microsoft shall offer to license to ISVs, IHVs .... and OEMs any intellectual property rights owned or licensable by Microsoft that are required to exercise any of the options or alternatives expressly provided to them under this Final Judgment .... "(Proposed Final Judgment Section III.I.) Indeed, the Competitive Impact Statement provides that some of those provisions "are designed specifically to prevent Microsoft from using its intellectual property rights to frustrate the intended effectiveness of the Proposed Final Judgment's disclosure provisions." Competitive Impact Statement at 49. The exemption from retaliation by infringement suits, however, allows that frustration. The issue, therefore, is not whether the remedy can properly include compulsory licensing of Microsoft's intellectual property. Instead, the issue is the scope of the licensing required. As shown above, the scope of the proposed modifications to the intellectual property provisions is reasonable and required to remedy the monopolization and restore competition to the market. The proposed modifications would not "result in... wholesale confiscation of Microsoft's intellectual property," a criticism that Microsoft wrongly asserted against the non-settling states" proposed remedy. Microsoft Remedial Proposal at 2. It would require only licensing that is necessary to prevent frustration of the anti-retaliation provisions. Moreover, the licenses could include royalties or other consideration on a reasonable and non-discriminatory basis, as provided in Section III.I. 1.

Nor would the proposed modifications be a significant disincentive to innovation by Microsoft. Since the Proposed Final Judgment would expire in five years (see Proposed Final Judgment, Section V), the obligation to license would exist only for that limited time period. Any future innovation by Microsoft also would be free of this obligation after those five years. Any arguable effect on Microsoft's incentives to innovate during those five years would be limited and only to the extent necessary to provide effective relief from Microsoft's monopolization.

In opposing the non-settling states" proposed relief, Microsoft pointed to the Court of Appeals" comment that the relief in this case "'should be tailored to fit the wrong creating the occasion for the remedy.'" Microsoft Remedial Proposal at 5 (quoting Microsoft, 253 F.3d at 107). Microsoft also relied upon this Court's statement that the "scope of any proposed remedy must be carefully crafted so as to ensure that the enjoin[ed] conduct falls within the penumbra of behavior which was found to be anticompetitive." Microsoft Remedial Proposal at 6 (quoting Sept. 8, 2001 Tr. at 8). Removing the infringement suit exemption and defining retaliation to include threatening or bringing suit for infringement of Microsoft's intellectual property portfolio would fall well within that scope.

C. Conclusion Regarding Intellectual Property

The scope of the required intellectual property licensing under the Proposed Final Judgment is far too narrow to remedy the monopolization of, and restore competitive conditions to, the market the courts held Microsoft monopolized—Intel-compatible operating systems. The modifications to the scope proposed above would be no broader than that which is necessary to allow the groups protected under the Proposed Final Judgment to engage in the specific conduct that the Proposed Final Judgment allows them to engage in without fear of retaliation from Microsoft. As shown above, unless the scope of the licensing is expanded, and the exemptions for infringement suits removed, "the Government has won a lawsuit and lost a cause." International Salt, 332 U.S. at 401.

IV. COMMENTS TO SECTION III—PROHIBITED CONDUCT

A focus of any final judgment in this litigation must be to put in place safeguards and protections against future actions by Microsoft that may not fit the known pattern, but that will obtain a familiar result—unlawful continuation of the Microsoft monopoly. An important aspect of this focus is to make sure that the participants in the marketplace are given a chance at viability in a competitive marketplace. As worded, Section III does not provide the safeguards and protections that are necessary. Prohibiting actual retaliatory conduct by Microsoft is simply insufficient to obtain the goals of the final judgment.

A. Section III.A

The Department of Justice set forth a clear intent for the impact of Section III.A. As stated in the Competitive Impact Statement, the perceived effect of Section III.A is to "ensure[] that OEMs have the contractual and economic freedom to make decisions about distributing and supporting non-Microsoft software products that have the potential to weaken Microsoft's personal computer operating system monopoly without fear of coercion or retaliation by Microsoft." Competitive Impact Statement at 9.

Unfortunately, Section III.A fails to protect the ability of OEMs to make business choices in a non-coercive atmosphere, for reasons in addition to those discussed above concerning intellectual property.

The conduct that is prohibited in Section III.A is actual retaliatory action by Microsoft against OEMs for, inter alia, dual booting personal computers with other operating systems. More specifically, Section III.A provides that "Microsoft shall not retaliate against an OEM by altering Microsoft's commercial relations with that OEM, or by withholding newly introduced forms of non-monetary Consideration (including but not limited to new versions of existing forms of non-monetary Consideration) from that OEM, because it is known to Microsoft that the OEM is or is contemplating ...." "Proposed Final Judgment, Section III.A. As worded, the only point at which injunctive relief is available is after an OEM can show actual retaliation.

The problem with prohibiting only action "after the fact," is that it provides for enforcement only after Microsoft has taken negative action against an OEM. It is no secret that Microsoft is an important business partner to may OEMs and even the potential or implication of the change in an OEMs business relationship with an OEM can be sufficient to prevent action. Section III.A does not remove the business threat that will prevent OEMs from "crossing" Microsoft.

Therefore, the parameters of the prohibitions on Microsoft's conduct need to be extended so that enforcement is not triggered only after an OEM has been harmed. By then, it may be too late and an OEM may find itself competitively or financially crippled by an impairment in its relationship with Microsoft. Moreover, by the time the retaliation is remedied, the OEM may even be out of the market. Ideally, Microsoft must be prohibited from maintaining the intimidating business environment that it has created—an environment that inhibits OEMs from the free exercise of competitive decision making. The language of the Proposed Final Judgment ignores what the Competitive Impact Statement and the Court of Appeals have acknowledged.

Thus, the actions prohibited under Section III.A must encompass a range of activities and not just after the fact retaliation in order to ensure that Microsoft does not continue to maintain unlawfully its monopoly. A possible modification of Section III.A is as follows: A. Microsoft shall not retaliate against an OEM by threatening to or altering Microsoft's commercial relations with that OEM, or by threatening to or withholding newly introduced forms of non-monetary Consideration (including but not limited to new versions of existing forms of non-monetary Consideration) from that OEM, because it is known to Microsoft that the OEM is or is contemplating: ....

B. Section III.D

An underlying premise of the Proposed Final Judgment is that if middleware software developers are able to develop and market middleware that can be used on either Microsoft or non-Microsoft operating systems or "that would have assisted competing operating systems in gaining access to applications and other needed complements" (Competitive Impact Statement at 9), then the competitive harm to the operating system market caused by Microsoft's unlawful maintenance of its monopoly will be remedied.

With respect to Section III.D, the Competitive Impact Statement indicates an intent by the Department of Justice to:

> ensure[ ] that developers of competing middleware—software that over time could begin to erode Microsoft's Operating System monopoly—will have full access to the same interfaces and related information as Microsoft Middleware has to interoperate with Windows Operating Products. Microsoft will not be able to hamper the development or operation of potentially threatening software by withholding interface information or permitting its own products to use hidden or undisclosed interfaces.

Competitive Impact Statement at 12.

The Proposed Final Judgment makes an effort to provide the interface and related technical information "transparency" to the entities that the Department of Justice believes will need access to Microsoft software in order to develop software compatible with Microsoft and non-Microsoft operating systems. While the named entities include ISVs, however, they do not specifically include entities that provide non-Microsoft Operating Systems. An argument can be made that the definition for "ISVs" appears to be broad enough to include providers of non-Microsoft operating systems because under the definition "ISV" means an entity other than Microsoft engaged in the development or marketing of software products." Proposed Final Judgment, Section VI.I. The question and possible loophole remains, however, that Microsoft might argue that the transparency extends only to entities that develop middleware, but not to entities such as Red Hat—entities that provide non-Microsoft operating systems. In order to ensure that the protections are as inclusive as possible, the definition of "Independent Software Vendor" can be supplemented to include specifically entities that compete in the operating system market. Thus, under the Section VI—Definitions—"ISV" would be modified to mean an entity other than Microsoft that is engaged in the development, marketing or providing of software products or services, including Operating System Providers.

C. Section III.F

. According to the Competitive Impact Statement, Section III.F "redresses conduct by Microsoft specifically found unlawful by the District Court and the Court of Appeals." By addressing only actual retaliatory conduct, however, Section III.F suffers from the same infirmity as Section III.A, and may provide injunctive relief only after Microsoft has taken action that will harm a business entity. Microsoft must not be prohibited only from actual retaliation, but must also be prohibited from intimidating, threatening to withhold business from, coercing or retaliating against any ISV or IHV because of activities that will further competing middleware or operating systems. See comment on Section III.A, supra.

D. Section III.J

As worded, Section III.J provides exceptions to Microsoft's disclosure obligations that have a serious potential to defeat the intent of the Proposed Final Judgment. The Competitive Impact Statement makes it clear that the exception to Microsoft's disclosure obligations is meant to be a "narrow exception limited to specific end-user implementations of security items such as actual keys, authorization tokens or enforcement criteria, the disclosure of which would compromise the security of a 'particular installation or group of installations" of the listed security features." Competitive Impact Statement at 18. The nature of security, however, requires that Section III.J should be modified so that there is a detailed specification of what Microsoft must provide under the mandates of the Proposed Final Judgment, rather than what it is excluded from providing within the context of security. Because of the potentially wide-ranging negative impact of this Section, Red Hat believes some background on the nature of security is required.

All security experts agree that there is no such thing as perfect security, and indeed this pessimistic view extends to the field of computer security. In his book "Secrets and Lies: Digital Security in a Networked World", noted security expert Bruce Schneier explains "modem systems have so many components and connections—some of them not even known by the systems" designers, implementers, or users—that insecurities always remain. No system is perfect." If no computer system can be made perfectly secure, then any computer system can potentially suffer a security compromise. Moreover, it is not knowable whether the security compromise will be a result of people having access to information about a security weakness (which they can exploit) or people not having access to such information (which allows others to exploit something one might otherwise be able to defend against). Thus, on the one hand, one could argue that divulging any information whatsoever could lead to a security compromise, but on the other hand, that not divulging any information of any kind could also lead to a security compromise. Such is the nature of computer security (indeed, all security).

One of the main issues in the antitrust case against Microsoft is the fact that Microsoft has controlled information about and permission to use system APIs, Documentation, licenses, and Communications Protocols to discriminate against or retaliate against one or more parties (or classes of parties), and has done so strategically to protect, extend, and indeed abuse its monopoly powers. Certainly any valid remedy for this anti-trust case would enjoin Microsoft from such conduct in the future.

While the Proposed Final Judgment attempts to set guidelines under which Microsoft would be required to document, disclose, or license to third parties portions of APIs or Documentation or portions or layers of Communications Protocols, Section III.J(1) carves out a specific exemption: the case where the disclosure of such would compromise the security of anti-piracy, anti-virus, software licensing, digital fights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria. While this may sound like a fair and reasonable exemption, it is not because Microsoft could legitimately argue that any requirement to document, disclose, or license anything to third parties could, in theory, result in a security compromise of one or more of these systems. Such is the nature of computer security.

Thus, Section III.J(1) grants Microsoft legal protection for the very behavior that this Proposed Final Judgment was designed to remedy.

As noted, the Competitive Impact Statement interprets Section III.J(1) as being an extremely limited exemption, essentially only extending to specific keys and security tokens, not to technologies, interfaces or interoperability. This interpretation, however, is not carried over to the language of the Proposed Final Judgment, which gives almost blanket permission to Microsoft to invoke the exemption. An appropriate modification of Section III.J(1)—other than removing it entirely—is as follows:

No provision of this Final Judgment shall:

1. Require Microsoft to disclose to any specific end-user implementations of security items such as actual end-user keys, authorization tokens, or enforcement criteria, the disclosure of which would compromise the security of a particular installation or group of installations of the security item. Notwithstanding the foregoing, if any such implementation of a security item requires a specific end-user key, authorization token, enforcement criteria, or analogous information to fully and equitably interoperate with Microsoft Platform Software, Microsoft Middleware, APIs, Communication Protocols, Microsoft applications software, or Microsoft network services (such as e-commerce or internet services), then Microsoft must either (a) disclose such specific end-user key, authorization token, enforcement criteria, or

analogous information, (b) provide alternative end-user keys, authorization tokens, enforcement criteria, or analogous information that enable third parties to fully and equitably interoperate with those software, products, or services, or (c) disclose how to make such end-user keys, authorization tokens, enforcement criteria, or analogous information that will fully and equitably interoperate with such software, products, or services; Microsoft must disclose or provide such keys, authorization tokens, enforcement criteria, or analogous information to third parties upon request and in a nondiscriminatory manner. In no event, however, shall Microsoft reserve to itself any functionality for such keys, authorization tokens, enforcement criteria, or analogous information.

E. Section III.J(2)

Section III.J(2) presents another loophole that Microsoft can manipulate to avoid disclosure of necessary information. Under the provisions of Section III.J(2), Microsoft is permitted to require a certification of the "authenticity and viability" of any business seeking a license of "any API, Documentation or Communications Protocol related to anti-piracy systems, anti-virus technologies, license enforcement mechanisms, authentication/authorization security, or third party intellectual property protection mechanisms of any Microsoft Product." Although the certification is required to be pursuant to "reasonable and objective standards," those standards are established by Microsoft and there is no independent third party approval either of the development or of the implementation of those standards. The Competitive Impact Statements indicates that: the requirements of this subsection cannot be used as a pretext for denying disclosure or licensing, but instead are limited to the narrowest scope of what is necessary and reasonable, and are focused on screening out only individuals or firms that should not have access to or use of the specified security-related information either because they have a history of engaging in unlawful conduct related to computer software (e.g., they have been found to have engaged in a series of willful violations of intellectual property rights or of one more violations consisting of conduct such as counterfeiting), do not have any legitimate basis for needing the information, or are using the information in a way that threatens the proper operation and integrity of the systems and mechanisms to which they relate.

Competitive Impact Statement at 19. This will not be the case if there is no safeguard on the development or implementation of the standards. For example, Microsoft may decide to include financial or organizational requirements in order for a (1) an entity to be considered a "business" and (2) an entity to be considered an "authentic and "viable" business. Microsoft may decide to require that, in order for an entity to be a "business," it must operate in the market in a currently "traditional" manner, such as Microsoft operates, but not as many open source companies operate. Will a company need to undertake its own software development? Will a company need to own and license its software? Unless Microsoft is held to certain independent guidelines or policing, this provision may gut the intent of the Proposed Final Judgment.

The potential for abuse with this provision is particular Feat when considering the open source development community. Most open source software is not developed or owned by a for-profit business entity. It is the result of collaborative development, with software code contributed by its author for the benefit of all. The restrictive language of Section III.J(2) would expressly permit Microsoft to deny access to such open source development projects.

COMMENTS TO VI—DEFINITIONS

A fair reading of the Proposed Final Judgment supports that the protections extend to the direct participants in the market in which Microsoft was found to have unlawfully maintained its monopoly—the providers of competing operating systems. The Proposed Final Judgment, however, needs to ensure that the protections extend to all possible readings. It cannot be ignored that the clear finding Upheld by the Court of Appeals is that Microsoft unlawfully maintained its monopoly in the PC-compatible operating system market. Thus, if there is any possibility that Microsoft can find a loophole, that possible loophole should be closed. It is in this vein that we recommend that the definitions should be expanded to include providers of competing operating systems—the participants in the market in which Microsoft unlawfully has maintained its monopoly. Operating System Providers, then, should be specifically included within the "ISV" definition—as recommended, supra. Furthermore, a proposed definition for Operating System Providers follows:

"OSP" means an operating system provider that provides a non-Microsoft software code that, inter alia, (i) controls the allocation and usage of hardware resources (such as the microprocessor and various peripheral devices) of a Personal Computer, (ii) provides a platform for developing applications by exposing functionality to ISVs through APIs; and (iii) supplies a user interface that enables users to access functionality of the operating system and in which they can run applications.

VI. COMMENTS TO SECTION IV—COMPLIANCE AND ENFORCEMENT PROCEDURES

A. Special Master

By not providing for the appointment of a Special Master to ensure enforcement of the Proposed Final Judgment, the Justice Department has left the injunctive relief toothless. There is absolutely nothing in the Proposed Final Judgment that provides a speedy vehicle for the resolution of complaints from an independent third party, such as Red Hat, that Microsoft has violated the Proposed Final Judgment. As suggested by the Litigating States in their proposed final judgment, the appointment of a Special Master could be made pursuant to Rule 53 of the Federal Rules of Civil Procedure.

B. Section IV.B—Appointment of a Technical Committee

The Technical Committee ("TC") as constituted and mandated has no real authority or ability to address quickly and thoroughly third-party complaints regarding Microsoft's compliance with the Proposed Final Judgment. Moreover, it is structured as a committee of compromise and not enforcement. One of the members of the TC is to be selected by Microsoft, one of the members is selected by the plaintiffs and the third member is a joint selection. All of the members are to be "experts in software design and programming." This narrowly restricts the scope of the TC to technical interpretations. It takes out of the realm of the TC's expertise issues relating to business practices and acts that may have a competitive impact on the market.

The TC should be supplemented with or assisted by a Special Master with the authority to order compliance with the Proposed Final Judgment. The Special Master will be able to address complaints relating to business practices as well as complaints relating to software disclosure or use.

C. Section IV.D—Voluntary Dispute Resolution

Section D sets forth the actual procedures for the Technical Committee to follow in the event that a third party makes a complaint regarding Microsoft's compliance with the Proposed Final Judgment. The procedures are general and the intent is to resolve complaints, not handle issues of enforcement. The Justice Department states that "[t]his dispute resolution function reflects the recognition that the market will benefit from rapid, consensual resolution of issues, where possible. It complements, but does not supplant, Plaintiffs" other methods of enforcement. If the TC concludes that a complaint is meritorious, the TC will so advise Plaintiffs and Microsoft and propose a remedy." Competitive Impact Statement at 20. Despite this statement, the provision does nothing to ensure a resolution of issues. There is no requirement that Microsoft accept the remedy and no sanctions if Microsoft does not accept the remedy. In effect, there appears to be no ultimate control on Microsoft's conduct except for a separate action or convincing the Justice Department to seek an order to enforce the Proposed Final Judgment. This dispute resolution provision should be removed from the TC. The Special Master should administer the process for resolving third party complaints and have the authority to develop and administer a speedy process for resolving complaints and to order compliance if Microsoft is found to have violated the Proposed Final Judgment.

Respectfully submitted,
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Exhibit A

Microsoft Executive Says Linux Threatens Innovation (Update1)

Related News

2/14/01 4:57 PM

Source: Bloomberg News

Redmond, Washington, Feb. 14 (Bloomberg)—Microsoft Corp.'s Windows operating-system chief, Jim Allchin, says that freely distributed software code such as rival Linux could stifle innovation and that legislators need to understand the threat.

The result will be the demise of both intellectual property rights and the incentive to spend on research and development, he said yesterday, after the company previewed its latest version of Windows. Microsoft has told U.S. lawmakers of its concern while discussing protection of intellectual property rights.

Linux is developed in a so-called open-source environment in which the software code generally isn't owned by any one company. That, as well as programs such as music-sharing software from Napster Inc., means the world's largest software maker has to do a better job of talking to policymakers, he said.

"Open source is an intellectual-property destroyer," Allchin said. "I can't imagine something that could be worse than this for the software business and the intellectual-property business." Microsoft distributes some of its programs without charge to customers, although it generally doesn't release its programming code, and it retains the ownership rights to that code. Linux is the most widely known open-source product, though other programs including the popular Apache system for Web server computers also are developed the same way.

$135 million investment in software maker Corel Corp. last October is being reviewed by the U.S. Justice Department. Corel said last month it willl drop efforts to develop the Linux operating system, though it will continue to make Linux applications. Corel said it hadn't consulted with Microsoft before making that decision.

Brian Behlendorf, founder of open-source company CollabNet Inc., said most companies that use the open-source development model do retain the rights to some of their intellectual property. "I think Microsoft is trying to paint the open-source community as being fascist; that all software have has to be free, or none of it can be," said Behlendorf, whose company helps businesses run their own open-source projects.

Allchin said he's concerned that the open-source business model could stifle initiative in the computer industry.

Tin an American, I believe in the American Way," he said. "I worry if the government encourages open source, and I don't think we've done enough education of policy makers to understand the threat."

Linux Adoption

Some leading computer companies including International Business Machines Corp. and Hewlett-Packard Co. are selling Linux- based products and working on open-source projects, noted Jeremy Allison, a VA Linux Systems Inc. software developer. He's also a leader in a project develop an open-source file and printer server program. Microsoft only began significant lobbying efforts in the last few years. The Redmond, Washington-based company also talks to lawmakers about issues including the need for more visas for people with computer skills and computer privacy and security.

Linux is the fastest-growing operating system program for running server computers, according to research firm IDC. It accounted for 27 percent of unit shipments of server operating systems in 2000. Microsoft's Windows was the most popular on that basis, with 41 percent.

Despite Linux's success in some markets, Allchin says he isn't concerned about sales competition from the product. Microsoft provides support to change and develop products based on its operating system software that Linux companies don't, he said. Companies that use Linux in their products then must pay someone else for support, he said.

"We can build a better product than Linux," he said. "There is always something enamoring about thinking you can get something for free."

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Exhibit B

Microsoft CEO takes launch break with the Sun-Times

June 1, 2001

It's hard to find a computer that doesn't run a Microsoft product, particularly in Chicago. Microsoft's Chicago-based Midwest district office, which covers Illinois, Indiana and Wisconsin, is the tech giant's biggest moneymaker in the country, with more than 500 customers generating $500 million in revenue annually for Microsoft.

It should come as no surprise, then, that the Seattle-area company sent its No. 2 man, CEO Steve Ballmer, for the official launch of its new Office XP software Thursday at the United Center (yes, Bill Gates went to New York).

Between appointments in a whirlwind visit to Chicago—which included a lunch with 100 local companies and back-to-back-to-back media interviews-Ballmer sat down with Chicago Sun-Times reporter Dave Newbart to discuss the local tech economy, Microsoft's dominance in the market, the federal antitrust case, Microsoft's new licensing requirements and the open-source movement (in effect, free software on the Web, which he called a "cancer").

Q: Boeing recently moved to Chicago. Why doesn't Microsoft relocate here?

A: [laughs] We are quite comfortable with our headquarters in Seattle. Chicago is a great city. I'm from Detroit. I like it here. But we have 20,000 people comfortably ensconced in Seattle.

Q: More seriously, in Chicago we do seem to have an inferiority complex about our place in the tech world. Rankings frequently put us toward the bottom among major cities in terms of our tech presence. How do you view the state of our tech economy?

A: I think there is a lot of great stuff going on in Chicago. There are a lot of innovative users in the Chicago area, which is exciting. We have a lot of great partners. I'll be on stage with a company called Genesis [Consulting], which I'm very excited about. We have a local partner named Calypso [Systems].

We literally have dozens of partners doing very innovative work with customers here. I don't know what the national surveys say. Other than Silicon Valley, I think it's hard to point to any one place and say, "That's where it's all happening."

Q: Microsoft's market dominance and financial position are stronger than ever, despite the government's antitrust case and the weakening economy. Has the government's case had any impact on the way you do business?

A: There has been no legal ruling put into effect. We have and continue to innovate within the spirit and letter of the law. We continue to do what we have always done, because we think it's 100 percent correct. We add new capabilities to our product, we keep our prices low, we try to offer our customers better and better values. The laws were designed to encourage that and protect that behavior, because it's good for consumers.

Q: Microsoft has expanded to a number of markets, especially with the development of the Xbox and a smart phone. What's next, and is there any area that you don't see yourself entering?

A: We have a lot on our plate. We have a big dream about what XML (a markup language for documents containing structured information, such as words and graphics) can do for the world. The way software gets built will change over the years, which we are pursuing with our .Net platform. But we are hardly trying to do everything. I won't sit here and try to rule out that we might do other things in the future, but we have a few clear priorities.

Q: The new Windows XP software, I've seen a trial version, contains a number of free products—media player, a CD burner, an Internet firewall. Could that bundling hurt smaller competitors who make stand-alone software? Isn't this kind of bundling that you offered with Windows and Internet Explorer?

A: Just as with Internet Explorer, our job is to offer customers what they want. We are trying to provide more functionality at the same or better prices every day. [A]11 the new capabilities of Windows XP are open to software developers to add onto, to build value around. I think Windows XP ought to be a real boon to the kinds of innovations that come from smaller companies. The inclusion of Internet Explorer with Windows has been absolutely great ... for innovation in the software industry. Whether it was great for Netscape is a different question.

Q: Independent analyses of your new licensing policy indicate that unless a company upgrades its software every two years, it could face costs from one-third to double what they are paying now to upgrade. What do you think of the criticism that says Microsoft is forcing companies to upgrade to Windows XP by October or face much higher costs later?

A: We are trying to simplify our licensing practices in many ways. We are clearly providing some incentive to upgrade more regularly. Your better customers get a better price. An analysis we've done, 80 percent of our customers are going to see the same or lesser prices, and 20 percent are going to see very small to somewhat larger increases.

Q: The new software also allows a user to install it only twice. You have recently cracked down on corporate piracy and large-scale pirating operations. Are home users next?

A: Intellectual property should be protected. That's the only way that a newspaper or a software company or record company or artist can get a fair return on their work. Our goal is to try to educate people on what it means to protect intellectual property and pay for it properly. We are trying to help customers understand when they are crossing the line by putting some bumps in the road so they can't do the wrong thing.

Q: Do you view Linux and the open-source movement as a threat to Microsoft?

A: Yeah. It's good competition. It will force us to be innovative. It will force us to justify the prices and value that we deliver. And that's only healthy. The only thing we have a problem with is when the government funds open-source work. Government funding should be for work that is available to everybody. Open source is not available to commercial companies. The way the license is written, if you use any open-source software, you have to make the rest of your software open source. If the government wants to put something in the public domain, it should. Linux is not in the public domain. Linux is a cancer that attaches itself in an intellectual property sense to everything it touches. That's the way that the license works.

Q: You've been on this job [as CEO] almost 18 months. What has it been like replacing Bill Gates?

A: [I]n a weird and strange way I probably feel more pressure now, no reason I should, but I feel a little more pressure, responsibility. The great thing is we get a chance to do two things. Bill gets a chance to put the highest possible percentage of time into our strategy. My particular capability and focus are really about building a management team, the business processes, etc. Bill and I are going to be around for a lot of years, but we are not going to be around forever. In some senses I'll put a little more time and energy into setting us up so the business is a business that doesn't depend on one guy, even a guy who is as talented as Bill Gates.

Exhibit C

Why Microsoft is wary of open source

By Joe Wilcox and Stephen Shankland

Staff Writers, CNET News.com

June 18, 2001, 11:00 AM PT

There's more to Microsoft's recent attacks on the open-source movement than mere rhetoric: Linux's popularity could hinder the software giant in its quest to gain control of a server market that's crucial to its long-term goals.

Recent public statements by Microsoft executives have cast Linux and the open-source philosophy that underlies it as, at the minimum, bad for competition, and, at worst, a "cancer" to everything it touches.

Behind the war of words, analysts say, is evidence that Microsoft is increasingly concerned about Linux and its growing popularity. The Unix-like operating system "has clearly emerged as the spoiler that will prevent Microsoft from achieving a dominant position" in the worldwide server operating-system market, IDC analyst Al Gillen concludes in a forthcoming report.

While Microsoft's overall operating-system market leadership is by no means in jeopardy, Linux's continued gains make it harder for Microsoft to further its core plan for the future, Microsoft. Net. The plan is a software-as-a-service initiative similar to plans from competitors including Hewlett-Packard, IBM and Sun Microsystems.

One of the cornerstones of .Net is HailStorm, which is built around the company's Passport authentication service.

Microsoft.Net and HailStorm make use of XML (Extensible Markup Language) to pass information between computers based on Windows and computers using other operating systems. However, many .Net components-such as Passport and server-based software including the company's SQL Server database software and BizTalk e-commerce server-only on Windows. "The infrastructure to operate XML Web services relies on the Windows operating system and the .Net Enterprise Servers," Microsoft's marketing literature states.

Microsoft needs to control the server operating-system market if HailStorm and all the .Net services and subscriptions associated with it are to succeed, analysts say.

"HailStorm itself by definition needs Microsoft-provided or -partnered services, which means Microsoft's or its partners' servers," said Gartner analyst David Smith. "In that sense, Linux is a threat to .Net."

Microsoft is expected to spend hundreds of millions of dollars marketing and developing .Net. Virtually every product from the company ties in to the plan at some point.

While Linux hasn't displaced Windows, it has made serious inroads. Linux accounted for 27 percent of new worldwide operating-system licenses in 2000, and Microsoft captured 41 percent of new licenses, according to IDC.

Overall, Gartner estimates Linux runs on nearly 9 percent of U.S. servers shipped in the third quarter of 2000, with worldwide projected Linux server sales of nearly $2.5 billion in 2001 and about $9 billion in 2005.

But Linux continues to gain credibility, particularly because of the massive support provided by IBM, which has pledged to spend $1 billion on Linux development.

In attacking Linux and open source, Microsoft finds itself competing "not against another company, but against a grassroots movement," said Paul Dain, director of application development at Emeryville, Calif.-based Wirestone, a technology services company.

"My guess is that they are now under pressure to defend themselves against the criticism from the open-source and free-software communities—whether it's justified or not—as well as companies like IBM that are aggressively marketing Linux," Dain said. "In order to combat that, they have to use strong language to get their point across."

Increasing Linux use makes it more difficult to spread the .Net message. That, in turn, has led to a string of comments from Microsoft executives publicly denouncing Linux and open source. "Linux is a cancer that attaches itself in an intellectual property sense to everything it touches," Chief Executive Steve Ballmer said in an interview with the Chicago Sun-Times.

Despite Microsoft's criticism, the company still uses open-source code in some products. Servers for the company's Hotmail e-mail service use FreeBSD for some DNS (domain name server) functions.

"This is a legacy issue that came from Hotmail when we originally got it," said Microsoft spokesman Rick Miller. "We haven't gone out, purchased and put into place FreeBSD. It came when we purchased other companies. We didn't build any of our infrastructure on FreeBSD. We build it on Windows."

In the mid 1980s, Microsoft licensed its TCP/IP (transmission control protocol/Internet protocol) networking stack from another company that used open-source code. "You could say it had its genesis in FreeBSD, but it's now absolutely Windows," Miller said. The code first appeared in Windows NT and also was used in Windows 2000.

Critical of change

Microsoft has also criticized the General Public License (GPL) that governs the heart of Linux. Under this license, changes to the Linux core, or kernel, must also be governed by the GPL. The license means that if a company changes the kernel, it must publish the changes and can't keep them proprietary if it plans to distribute the code externally.

Other open-source projects, such as FreeBSD, allow changes that are kept proprietary. That provision was one reason FreeBSD proved appealing to Wind River Systems, the dominant seller of operating systems for non-PC "embedded" computing devices such as network routers. Microsoft's open-source attacks come at a time when the company has been putting the pricing squeeze on customers. In early May, Microsoft revamped software licensing, raising upgrades between 33 percent and 107 percent, according to Gartner. A large percentage of Microsoft business customers could in fact be compelled to upgrade to Office XP before Oct. 1 or pay a heftier purchase price later on.

The action "will encourage—'force' may be a more accurate term—customers to upgrade much sooner than they had otherwise planned," Gillen noted in the IDC report. "Once the honeymoon period runs out in October 2001, the only way to 'upgrade' from a product that is not considered to be current technology is to buy a brand-new full license.'"

This could make open-source Linux's GPL more attractive to some customers feeling trapped by the price hike, Gillen said. "Offering this form of "upgrade protection" may motivate some users to seriously consider alternatives to Microsoft technology."

Ray Bailey, information services manager at The Bergquist Company, said a recent meeting with Microsoft changed the technology direction of his company, which manufactures electronic components and other goods.

"Our IS team agreed that, due to Microsoft's changing of the licensing rules and the manner in which they have given us less-than-adequate time to process those changes, we are seriously looking at other platforms," he said. "Linux is a strong contender for our next server because of the low-cost nature of the licensing."

Internally, Microsoft seems somewhat torn on how to approach the open-source movement. While the company denounces the move toward free software, it does recognize at least some of the value of open-source development.

"Microsoft views open source as a competitor, but it's hard to treat it as a competitor," Gartner's Smith said. "So they have to attack basic tenets, mentality, way of life and thought processes." Since last year, Microsoft has made available to hundreds of its larger customers copies of its closely guarded Windows source code. The company hopes its best customers can help it improve Windows.

Microsoft has been touting plans to broaden Windows source-code access to business partners in an initiative it calls its "shared-source philosophy."

In particular, Microsoft wants to emulate the spirit of cooperation that has spawned groups of volunteer Linux programmers. "Having a sense of community is a good thing. It's one thing we've watched with interest," Craig Mundie, senior vice president of advanced strategies at Microsoft, said in a recent interview. "The more of that we can foster in our community, the better."

Building a better community

Microsoft hopes to imbue its programmer network with some of this community spirit, Mundie said. "The Microsoft Developer Network hasn't been one where there was a lot of dialogue between (developers) and with Microsoft developers."

Though Microsoft will be expanding how it engages directly with those who see its source code, the company isn't going to extend the right granted to many members of the open-source community-the power to change the software. People may submit bug fixes, but "customers aren't trying to buy the rights to produce derivatives," Mundie said. "In general, we're going to control that reintegration. We worry a lot about uniformity and avoiding fragmentation."

But how far Microsoft is willing to go with open source appears limited, said Smith, who noted that while attacking Linux, the company promises to support the Unix variant through .Net. It's "a nice PR story for Microsoft to talk about the possibilities about .Net on Linux," he said. "It is true that Linux can participate in those .Net services, but don't expect Microsoft to provide any incentive or anything else that would make that possible."

Dain said Microsoft's attacks on Linux and open source may in the long run benefit technology buyers. "Personally, I think the talk on both sides-Microsoft vs. open source—will end up benefiting consumers in the workplace and at home. There definitely is competition in the marketplace, and this battle simply proves the point."

And while Microsoft may have the advantage in the consumer market with Windows, it's still the underdog in the large-scale business server market.

"To many people, including myself, implementing a Microsoft solution is a much more cost-effective way to go than a Sun or other high-end Unix/mainframe solution," Dain said.

Exhibit D

Microsoft license spurns open source

By Stephen Shankland

Staff Writer, CNET News.com

June 22, 2001, 12:05 PM PT

Microsoft lawyers have joined the company's campaign against open-source software, restricting how developers may use what it terms "viral software" in connection with Microsoft programming tools.

The license of the second beta version of Microsoft's Mobile Internet Toolkit—software used so programmers can create server software to connect with handheld computers over the Internet—prohibits customers from using the Microsoft software in conjunction with "potentially viral software." (Read an excerpt here)

In describing this category of software, Microsoft includes the most common licenses used for publishing open-source software, such as the Linux operating system. Licenses specifically excluded by Microsoft include the General Public License, the Lesser General Public License, the Mozilla Public License and the Sun Industry Standards License.

While the provision in Microsoft's license isn't surprising, Fenwick & West intellectual property attorney Dana Hayter said the company could have picked a more neutral term, such as "open software."

"The choice of the term says more about Microsoft's view than the rest of it," Hayter said. "I think it's a pejorative and misleading term. To suggest that open-source software is somehow "vital" is to confuse harm to your customers" machines and data with harm to Microsoft's profits." Microsoft representatives weren't immediately available for comment.

The license provision, posted Thursday at Linux Today, is the latest step in an increasingly vocal campaign by Microsoft Chairman Bill Gates, Senior Vice President Craig Mundie and Chief Executive Steve Ballmer to disparage open-source software.

The campaign, in which the executives have compared open-source software to viruses and cancer, comes at a time when some observers believe Microsoft is worried that Linux—the best-known open-source project—will undermine the Microsoft. Net strategy for joining desktop computer users with sophisticated Internet services.

Some open-source fans weren't happy with Microsoft's view of the software world and its use of the term "viral software."

"The GPL is not a virus, it is a vaccine, an inoculation against later abuse of your code by having someone, such as Microsoft, take your hard work, incorporate it into a proprietary product which is then extended and kept closed, marginalizing your project in the process," said one comment at discussion site Slashdot.

The Microsoft license seeks to prevent the possibility that a program that links both to Microsoft and open-source software components could force Microsoft to expose the now-secret source code of its software, Hayter said.

"They're saying you cannot use (Microsoft) software in a way that would create in Microsoft any obligations to do anything with (Microsoft's) code, for example to make the source public," Hayter said.

One example of a forbidden move would be to create software that used prepackaged components called libraries from Microsoft as well as a library covered by the GPL, Hayter said. Under the terms of the GPL, software covered by it may be directly incorporated only into other GPL software.

But a legally grayer area is creating software that merely calls upon such libraries rather than incorporating the library code directly. The Free Software Foundation created the LGPL license for precisely such occasions; this license allows links to proprietary software.

One example is the use of a library called "readline" that lets people use arrow keys and perform some other tasks when typing information into a computer, said PostgreSQL database developer Bruce Momjian. Because PostgreSQL is released under a BSD-style license that has different terms than the GPL, GPL code may not be freely mixed within PostgreSQL.

"If we required the readline library, then the entire PostgreSQL software would have to be GPL'd," Momjian said, noting that programs such as the BSD-licensed libedit software offer an alternative. "If you use (readline) in any application, your entire application is GPL." Regardless of the legalities involved, the provision in the license is significant, Hatyer said. "This demonstrates they're taking open source seriously."

Exhibit E

By Mike Ricciuti

Staff Writer, CNET News.com

November 5, 1998, 11:20 AM PT

Microsoft engineers see Linux as a "best-of-breed" Unix that outperforms the company's own Windows NT operating system and is a "credible alternative" to commercially developed servers, according to an internal memo posted to the Web this week.

The admission, contained in the second so-called Halloween memo posted to the Web this week by programmer Eric Raymond, is counter to the company's public statements downplaying the significance of Linux, and its suggestions that Fortune 1,000 companies have little interest in open source software (OSS).

The new memo also contains a single sentence suggesting that the company may investigate the use of patents and copyrights to combat Linux. Microsoft representatives were not immediately available to comment further on the statement.

In a preface to the memo, Raymond states that the document had been leaked to him by a former Microsoft employee. A Microsoft representative today said the document appears to be authentic, and said it is the second in "what could be a series" of similar memos posted to the Web. Yesterday, a Microsoft representative downplayed the significance of the initial memo.

According to the new memo, written by Microsoft engineer Vinod Valloppillil, Linux "represents a best-of-breed Unix, that is trusted in mission critical applications, and—due to its open source code—has a long term credibility which exceeds many other competitive OS's."

In what the memo's author considers the "worst case" scenario for Microsoft, Linux will "provide a mechanism for server OEMs to provide integrated, task-specific products and completely bypass Microsoft revenues in this space."

Another new revelation contained in the new memo is that Microsoft considers Linux to be a threat on both server and client systems. "Long term, my simple experiments do indicate that Linux has a chance at the desktop market..," the memo states. The initial memo only cited the server market as a competitive battleground between Linux and Windows NT, now renamed Windows 2000.

The first memo, posted to the Web over the weekend, showed that Microsoft executives fear that the growing popularity of Linux and other open source software poses a direct threat to the company's revenue stream, and suggests the company could respond by modifying Internet protocols to become proprietary technologies that tie consumers and developers to Microsoft products.

In the new memo, some of the reasons for the company's fears are more clearly defined. The memo states:

. "Most of the primary apps that people require when they move to Linux are already available for free. This includes Web servers, POP clients, mail servers, text editors, etc."

. "An advanced Win32 GUI user would have a short learning cycle to become productive [under Linux]."

. "I previously had [Internet Explorer and Windows NT] on the same box and by comparison the combination of Linux /[Netscape Navigator] ran at least 30 to 40 percent faster when rendering simple HTML + graphics."

. "Linux's (real and perceived) virtues over Windows NT include: Customization. Availability/Reliability. Scalability/Performance. Interoperability." The author of the memo also writes that he believes consumers "love" Linux.

Exhibit F

Microsoft sues Linux start-up over name
By Joe Wilcox and David Becker
Staff Writers, CNET News.com
December 20, 2001,3:50 PM PT

Microsoft asked a court on Thursday to stop a Linux start-up from using a name the software giant contends infringes on the Windows trademark.

The Redmond, Wash.-based software giant filed a motion with the U.S. Court for the Western District of Washington against Lindows, which is developing a version of the Linux operating system that will run popular applications written for Microsoft's Windows OS.

Microsoft contends the company, which plans to formally release its product next year, purposely is trying to confuse Lindows with Windows. The suit asks the court to order the start-up to stop using the Lindows name and also seeks unspecified monetary damages.

"We're not asking the court to stop the company from making their products," said Microsoft spokesman Jon Murchinson. "What we're saying is they should not use a name that could confuse the public and infringe on our valuable trademark."

Lindows is based on the Wine project, an open-source effort to mimic the commands that Windows programs use. The San Diego-based Lindows company was launched earlier this year by Michael Robertson, former CEO of digital music site MP3.com.

Robertson characterized the move as another attempt by Microsoft to thwart a viable threat to its Windows empire.

"If they're alleging that people are going to be confusing Microsoft Corp. with Lindows.com, I think there's zero potential of that happening," he said. "If people are confused, just remember that we're not the convicted monopolist."

Murchinson said Microsoft considered legal action a last resort.

"Clearly we prefer to work with them to resolve this problem voluntarily. Their product name infringes on our trademark," Murchinson said. "We hope they will work with us to resolve this problem without the need for legal action." Robertson said he had heard from nobody at Microsoft regarding the name dispute. "They

Microsoft has been involved in an increasingly fractious war of words with Linux supporters this year, with Microsoft executives castigating the open-source distribution model behind Linux as a sure road to commercial failure and on blight for software development. Emmett Stanton, an attorney at Palo Alto, Calif.-based Fenwick & West, said Microsoft has not been overzealous in the past about protecting its trademark, allowing spoof sites and others to go unchallenged.

"They're not the type to sue at the drop of a hat," he said, concluding that there appears to be solid ground for the Lindows complaint. "Superficially, you would have to say there's some potential for confusion, and the defendant may be trying to trade on Microsoft's position in the marketplace."

Robertson said he hoped to have a preview version of Lindows ready for download by next week, with a full version ready early next year. He said the company is targeting small and medium-sized business that might be interested in switching to a less expensive operating system but have invested in Windows applications such as Office. "We're trying to give consumers a choice, where there's really no choice today," he said.

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DEPARTMENT OF JUSTICE AND MICROSOFT CORPORATION REACH EFFECTIVE SETTLEMENT ON ANTITRUST LAWSUIT

Settlement Provides Enforcement Measures To Stop Microsoft's Unlawful Conduct, Prevent Its Recurrence, And Restore Competition

WASHINGTON, DC—The Department of Justice reached a settlement today with Microsoft Corporation that imposes a broad range of restrictions that will stop Microsoft's unlawful conduct, prevent recurrence of similar conduct in the future and restore competition in the software market, achieving prompt, effective and certain relief for consumers and businesses. The settlement reached today accomplishes this by: creating the opportunity for independent software vendors to develop products that will be competitive with Microsoft's middleware products on a function-by-function basis; giving computer manufacturers the flexibility to contract with competing software developers and place their middleware products on Microsoft's operating system; preventing retaliation against computer manufacturers, software developers, and other industry participants who choose to develop or use competing middleware products; and ensuring full compliance with the proposed Final Judgment and providing for swift resolution of technical disputes.

"A vigorously competitive software industry is vital to our economy and effective antitrust enforcement is crucial to preserving competition in this constantly evolving high-tech arena," said Attorney General John Ashcroft. "This historic settlement will bring effective relief to the market and ensure that consumers will have more choices in meeting their computer needs." The settlement, which will be filed today in U.S. District Court in the District of Columbia with Judge Colleen Kollar-Kotelly, if approved by the court, would resolve the lawsuit filed by the Department on May 18, 1998.

"This settlement will promote innovation, give consumers more choices, and provide the computer industry as a whole with more certainty in the marketplace," said Charles A. James, Assistant Attorney General for the Antitrust Division. "The goals of the government were to obtain relief that stops Microsoft from engaging in unlawful conduct, prevent any recurrence of that conduct in the future, and restore competition in the software market-we have achieved those goals."

Today's proposed settlement is modeled on the conduct provisions in the original Final Judgment entered by Judge Jackson, but includes key additions and modifications that take into account the and anticipated changes in the computer industry, including the launch of Microsoft's new Windows XP operating system, and the Court of Appeals decision revising some of the original liability findings.

The proposed Final Judgment includes the following key provisions:

Broad Scope of Middleware Products- The proposed Final Judgment applies a broad definition of middleware products which is wide ranging and will cover all the technologies that have the potential to be middleware threats to Microsoft's operating system monopoly. It includes browser, e-mail clients, media players, instant messaging software, and future new middleware developments.

Disclosure of Middleware Interfaces-Microsoft will be required to provide software developers with the interfaces used by Microsoft's middleware to interoperate with the operating system.

This will allow developers to create competing products that will emulate Microsoft's integrated functions.

Disclosure of Server Protocols- The Final Judgment also ensures that other non-Microsoft server software can interoperate with Windows on a PC the same way that Microsoft servers do. This is important because it ensures that Microsoft cannot use its PC operating system monopoly to restrict competition among servers. Server support applications, like middleware, could threaten Microsoft's monopoly.

Freedom to Install Middleware Software—Computer manufacturers and consumers will be free to substitute competing middleware software on Microsoft's operating system.

Ban on Retaliation—Microsoft will be prohibited from retaliating against computer manufacturers or software developers for supporting or developing certain competing software. This provision will ensure that computer manufacturers and software developers are able to take full advantage of the options granted to them under the proposed Final Judgment without fear of reprisal. Uniform Licensing Terms- Microsoft will be required to license its operating system to key computer manufacturers on uniform terms for five years. This will further strengthen the ban on retaliation.

Ban on Exclusive Agreements- Microsoft will be prohibited from entering into agreements requiring the exclusive support or development of certain Microsoft software. This will allow software developers and computer manufacturers to contract with Microsoft and still support and develop rival middleware products.

The proposed Final Judgment also includes key additional provisions related to enforcement: Licensing of Intellectual Propert—Microsoft also will be required to license any intellectual property to computer manufacturers and software developers necessary for them to exercise their rights under the proposed Final Judgment, including for example, using the middleware protocols disclosed by Microsoft to interoperate with the operating system. This enforcement measure will ensure that intellectual property rights do not interfere with the rights and obligations under the proposed Final Judgment.

On-Site Enforcement Monitors- The proposed settlement also adds an important enforcement provision that provides for a panel of three independent, on-site, full-time computer experts to assist in enforcing the proposed Final Judgment. These experts will have full access to all of Microsoft's books, records, systems, and personnel, including source code, and will help resolve disputes about Microsoft's compliance with the disclosure provisions in the Final Judgment. The core allegation in the lawsuit, upheld by the Court of Appeals in June 2001, was that Microsoft had unlawfully maintained its monopoly in computer-based operating systems by excluding competing software products known as middleware that posed a nascent threat to the Windows operating system.

Specifically, the Court of Appeals found that Microsoft engaged in unlawful exclusionary conduct by using contractual provisions to prohibit computer manufacturers from supporting competing middleware products on Microsoft's operating system; prohibiting consumers and computer manufacturers from removing Microsoft's middleware products from the operating system; and reaching agreements with software developers and third parties to exclude or disadvantage competing middleware products.

The proposed Final Judgment will be published by the **Federal Register**, along with the Department's Competitive Impact Statement, as required by the Antitrust Procedures and Penalties Act. Any person may submit written comments concerning the proposed consent decree within 60 days of its publication to: Renata Hesse, Trial Attorney, 325 7th Street, NW, Suite 500, Washington, DC 20530, (202–6160944). At the conclusion of the 60-day comment period, the Court may enter the proposed consent decree upon a finding that it serves the public interest. The proposed Final Judgment will be in effect for a five year period and may be extended for an additional two-year period if the Court finds that Microsoft has engaged in multiple violations of the proposed Final Judgment.

6330670 Digital rights management operating system 11-Dec-01

6330589 System and method for using a client database to manage conversation threads generated from email or news messages 11-Dec-01

6330566 Apparatus and method for optimizing client-state data storage 11-Dec-01

6330563 Architecture for automated data analysis 11-Dec-01

6330003 Transformable graphical regions 11-Dec-01

6327705 Method for creating and maintaining user data 04-Dec-01

6327702 Generation a compiled language program for an interpretive runtime environment 04-Dec-01

6327699 Whole program path profiling 04-Dec-01

6327652 Loading and identifying a digital rights management operating system 04-Dec-01

6327617 Method and system for identifying and obtaining computer software fro a remote computer 04-Dec-01

6327608 Server administration tool using remote file browser 04-Dec-01

6327589 Method for searching a file having a format unsupported by a search engine 04-Dec-01

6326964 Method for sorting 3D object geometry among image chunks for rendering in a layered graphics rendering system 04-Dec-01

6326953 Method for converting text corresponding to one keyboard mode to text corresponding to another keyboard more 04-Dec-01

6326947 Ractile character input in computer-based devices 04-Dec-01

6324587 Method, computer program product, and data structure for publishing a data object over a store and forward transport 27-Nov-01

6324571 Floating single master operation 27-Nov-01

6324546 Automatic logging of application program launches 27-Nov-01

6324544 File object synchronization between a desktop computer and a mobile device 27-Nov-01

6324492 Server stress testing using multiple concurrent client simulation 27-Nov-01

6321334 Administering permissions associated with a security zone in a computer system security model 20-Nov-01

6321276 Recoverable methods and systems for processing input/output requests including virtual memory addresses 20-Nov-01

6321275 Interpreted remote procedure calls 20-Nov-01

6321274 Multiple procedure calls in a single request 20-Nov-01

6221243 Laying out a paragraph by defining all the characters as a single text run by substituting, and then positioning the glyphs 20-Nov-01

6321226 Flexible keyboard searching 20-Nov-01

6321225 Abstracting cooked variables from raw variables 20-Nov-01

6321219 Dynamic symbolic links for computer file systems 20-Nov-01

6320978 Stereo reconstruction employing a layered approach and layer refinement techniques 20-Nov-01

6317880 Patch source list management 13-Nov-01

6317818 Pre-fetching of pages prior to a hard page fault sequence 13-Nov-01

6317774 Providing predictable scheduling of programs using a repeating precomputed schedule 13-Nov-01

6317760 Extensible ordered information within a web page 13-Nov-01

6317748 Management information to object mapping and correlator 13-Nov-01

6314562 Method and system for anticipatory optimization of computer programs 06-Nov-01

6314533 System and method for forward custom marshaling event filters 06-Nov-01

6314417 Processing multiple database transactions in the same process to reduce process overhead and redundant retrieval from database servers 06-Nov-01

6313851 User friendly remote system interface 06-Nov-01

6311323 Computer programming language statement building and information tool 30-Oct-01

6311228 Method and architecture for simplified communications with HID devices 30-Oct-01

6311216 Method, computer program product, and system for client-side deterministic routing and URL lookup into a distributed cache of URLS 30-Oct-01

6311209 Methods for performing client-hosted application sessions in distributed processing systems 30-Oct-01

6308274 Least privilege via restricted tokens 23-Oct-01

6308273 Method and system of security location discrimination 23-Oct-01

6308266 System and method for enabling different grades of cryptography strength in a product 23-Oct-01

6308222 Transcoding of audio data 23-Oct-01

6308173 Methods and arrangements for contro??ing resource access in a networked computing environment 23-Oct-01

6307566 Methods and apparatus for performing image rendering and rasterization operations 23-Oct-01

6307547 Method and system for providing enhanced folder racks 23-Oct-01

6307538 EMC enhanced peripheral device 23-Oct-01

6305008 Automatic statement completion 16-Oct-01

6304928 Compressing/decompressing bitmap by performing exclusive- or operation setting differential encoding of first and previous row therewith outputting run-length encoding of row 16-Oct-01

6304918 Object interface control system 16-Oct-01

6304917 Negotiating optimum parameters in a system of interconnected components 16-Oct-01

6304914 Method and apparatus for pre-compression packaging 16-Oct-01

6304879 Dynamic data cache for object-oriented computing environments 16-Oct-01

6304878 Method and system for improved enumeration of tries 16-Oct-01

6304261 Operating system for handheld computing device having program icon auto hide 16-Oct-01

6304258 Method and system for adding application defined properties and application defined property sheet pages 16-Oct-01

6303924 Image sensing operator input device 16-Oct-01

6301616 Pledge-based resource allocation system 09-Oct-01

6301612 Establishing one computer as a replacement for another computer 09-Oct-01

6301601 Disabling and enabling transaction committal in transactional application components 09-Oct-01

6298440 Method and system for providing multiple entry point code resources 02-Oct-01

6298391 Remote procedure calling with marshaling and unmarshaling of arbitrary non-conformant pointer sizes 02-Oct-01

6298373 Local service provider for pull based intelligent caching system 20-Oct-01

6298342 Electronic database operations for perspective transformations on relational tables using pivot and unpivot columns 02-Oct-01

6298321 Trie compression using substates and utilizing pointers to replace or merge identical, reordered states 02-Oct-01

6297837 Method of maintaining characteristics information about a system component either modified by an application program or a user initiated change 02-Oct-01

6295608 Optimized allocation of data elements among cache lines 25-Oct-01

6295556 Method and system for configuring computers to connect to networks using network connection objects 25-Oct-01

6295529 Method and apparatus for indentifying clauses having predetermined characteristics indicative of usefulness in determining relationships between different texts 25-Oct-01

6292934 Method and system for improving the locality of memory references during execution of a computer program 18-Oct-01

6292857 Method and mechanism for coordinating input of asynchronous data 18-Oct-01

6292840 Voice/audio data communication with negotiated compression scheme and data header compressed in predetermined scheme 18-Oct-01

6292834 Dynamic bandwidth selection for efficient transmission of multimedia streams in a computer network 18-Sep-01

6292822 Dynamic load balancing among processors in a parallel computer 18-Sep-01

6292194 Image compression method to reduce pixel and texture memory requirements in graphics applications 18-Sep-01

6289464 Receiving wireless information on a mobile device with reduced power consumption 11-Sep-01

6289458 Perproperty access control mechanism 11-Sep-01

6289390 System and method for performing remote requests with an on-line service network 11-Sep-01

6288726 Method for rendering glyphs using a layout services library 11-Sep-01

6288720 Method and system for adding application defined properties and application defined property sheet pages 11-Sep-01

6286131 Debugging tool for linguistic applications 04-Sep-01

6286013 Method and system for providing a common name space for long and short file names in an operating system 04-Sep-01

6285998 System and method for generating reusable database queries 04-Sep-01

6285374 Blunt input device cursor 04-Sep-01

6285363 Method and system for sharing applications between computer systems 04-Sep-01

6282712 Automatic software installation on heterogeneous networked computer systems 28-Aug-01

6282621 Method and apparatus for reclaiming memory 28-Aug-01

6282561 Method and system for resource management with independent real-time applications on a common set of machines 28-Aug-01

6282327 Maintaining advance widths of existing characters that have been resolution enhanced 28-Aug-01

6282294 System for broadcasting to, and programming, a motor device in a protocol, device, and network independent fashion 28-Aug-01

6281881 System and method of adjusting display characteristics of a displayable data file using an ergonomic computer input device 28-Aug-01

6281879 Timing and velocity control for displaying graphical information 28-Aug-01

6279111 Security model using restricted tokens 21-Aug-01

6279032 Method and system for quorum resource arbitration in a server cluster 21-Aug-01

6279016 Standardized filtering control techniques 21-Aug-01

6279007 Architecture for managing query friendly hierarchical values 21-Aug-01

6278989 Histogram construction using adaptive random sampling with cross-validation for database systems 21-Aug-01

6278462 Flexible schemes for applying properties to information in a medium 21-Aug-01

6278450 System and method for customizing controls on a toolbar 21-Aug-01

6278448 Composite Web page built from any web content 21-Aug-01

6278434 Non-square scaling of image data to be mapped to pixel sub-components 21-Aug-01

6275957 Using query language for provider and subscriber registrations 14-Aug-01

6275938 Security enhancement for untrusted executable code 14-Aug-01

6275912 Method and system for storing data items to a storage device 14-Aug-01

6275868 Script Engine interface for multiple languages 14-Aug-01

6275857 System and method for freeing shared resources in a computer system 14-Aug-01

6275829 Representing a graphic image on a web page with a thumbnail-sized image 14-Aug-01

6275496 Content provider for pull based intelligent caching system 14-Aug-01

6272631 Protected storage of core data secrets 07-Aug-01

6272593 Dynamic network cache directories 07-Aug-01

6272581 System and method for encapsulating legacy data transport protocols for IEEE 1394 serial bus 07-Aug-01

6272545 System and method for interaction between one or more mobile devices 07-Aug-01

6271858 Incremental update for dynamic/animated textures on three-dimensional models 07-Aug-01

6271855 Interactive construction of 3D models from panoramic images employing hard and soft constraint characterization and decomposing techniques 07-Aug-01

6271847 Inverse texture mapping using weighted pyramid blending and view-dependent weight maps 07-Aug-01

6271839 Method and system for sharing applications between computer systems 07-Aug-01

6269477 Method and system for improving the layout of a program image using clustering 31-Jul-01

6269403 Browser and publisher for multimedia object storage, retrieval and transfer 31-Jul-01

6269382 Systems and methods for migration and recall of data from local and remote storage 31-Jul-01

6269377 System and method for managing locations of software components via a source list 31-Jul-01

6368855 Method and system for sharing applications between computer systems 31-Jul-01

6268852 System and method for facilitating generation and editing of event handlers 31-Jul-01

6266729 Computer for encapsulating legacy data transport protocol for IEEE 1394 serial bus 24-Jul-01

6266665 Indexing and searching across multiple sorted arrays 24-Jul-01

6266658 Index tuner for given workload 24-Jul-01

6266064 Coherent visibility sorting and occlusion cycle detection for dynamic aggregate geometry 24-Jul-01

6266059 User interface for switching between application modes 24-Jul-01

6266054 Automated removal of narrow, elongated distortions from a digital image 24-Jul-01

6266043 Apparatus and method for automatically positioning a cursor on a control 24-Jul-01

6263492 Run time object layout model with object type that differs from the derived object type in the class structure at design time and the ability to store the optimized run time object layout model 17-Jul-01

6263491 Heavyweight and lightweight instrumentation 17-Jul-01

6263379 Method and system for referring to and binding to objects using identifier objects 17-Jul-01

6263367 Server-determined client refresh periods for dynamic directory services 17-Jul-01

6263352 Automated web site creation using template driven generation of active server page applications 17-Jul-01

6263337 Scalable system for expectation maximization clustering of large detabases 17-Jul-01

6263334 Density-based indexing method for efficient execution of high dimensional nearest-neighbor queries on large databases 17-Jul-01

6262733 Method of storing and providing icons according to application program calls and user-prompted system metric changes 17-Jul-01

6262730 Intelligent user assistance facility 17-Jul-01

6262712 Handle sensor with fade-in 17-Jul-01

6260148 Methods and systems for message forwarding and property notifications using electronic subscriptions 10-Jul-01

6260043 Automatic file format converter 10-Jul-01

6256780 Method and system for assembling software components 03-Jul-01

6256668 Method for identifying and obtaining computer software from a network computer using a tag 03-Jul-01

6256650 Method and system for automatically causing editable text to substantially occupy a text frame 03-Jul-01

6256642 Method and system for file system management using a flash-erasable, programmable, read-only memory 03-Jul-01

6256634 Method and system for purging tombstones for deleted data items in a replicated database 03-Jul-01

6256623 Network search access construct for accessing web-based search services 03-Jul-01

6256069 Generation of progressive video from interlaced video 03-Jul-01

6256031 Integration of physical and virtual namespace 03-Jul-01

6256028 Dyanmic site browser 03-Jul-01

6256013 Computer pointing device 03-Jul-01

6256009 Method for automatically and intelligently scrolling handwritten input 03-Jul-01

6253374 Method for validating a signed program prior to execution time or an unsigned program at execution time 26-Jun-01

6253324 Server verification of requesting clients 26-Jun-01

6253255 System and method for batching data between transport and link layers in a protocol stack 26-Jun-01

6253241 Selecting a cost-effective bandwidth for transmitting information to an end user in a computer network 26-Jun-01

6253195 Optimized query tree 26-Jun-01

6253194 System and method for performing database queries using a stack machine 26-Jun-01

6252608 Method and system for improving shadowing in a graphics rendering system 26-Jun-01

6252593 Assisting controls in a windowing environment 26-Jun-01

6252589 Multilingual user interface for an operating system 26-Jun-01

6249908 System and method for representing graphical font data and for converting the font data to font instructions 19-Jun-01

6249866 Encrypting file system and method 19-Jun-01

6249826 System and method for media status notification 19-Jun-01

6249822 Remote procedure call method 19-Jun-01

6249792 On-line dynamic file shrink facility 19-Jun-01

6249284 Directional navigation system in layout managers 19-Jun-01

6249274 Computer input device with inclination sensors 19-Jun-01

6247061 Method and computer program product for scheduling network communication packets originating from different flows having unique service requirements 12-Jun-01

6247057 Network server supporting multiple instance of services to operate concurrently by having endpoint mapping subsystem for mapping virtual network names to virtual endpoint IDs 12-Jun-01

6247042 Method and system for restoring the state of physical memory as the focus changes among application programs in a computer 12-Jun-01

6246977 Information retrieval utilizing semantic representation of text and based on constrained expansion of query words 12-Jun-01

6246412 Interactive construction and refinement of 3D models from multiple panoramic images 12-Jun-01

6246409 Method and system for connecting to, browsing, and accessing computer network resources 12-Jun-01

6246404 Automatically generating code for integrating context-sensitive help functions into a computer software application 12-Jun-01

6243825 Method and system for transparently failing over a computer name in a server cluster 05-Jun-01

6243821 System and method for managing power consumption in a computer system 05-Jun-01

6243766 Method and system for updating software with smaller patch files

6243764 Method and system for aggregating objects 05-Jun-01

6243753 Method, system, and computer program product for creating a raw data channel form an integrating component to a series of kernel mode filters 05-Jun-01

6243721 Method and apparatus for providing automatic layout capabilities for computer forms 05-Jun-01

6243701 System and method for sorting character strings containing accented and unaccented characters 05-Jun-01

6243093 Methods, apparatus and data structures for providing a user interface, which exploits spatial memory in three-dimensions, to objects and which visually groups matching objects 05-Jun-01

6243070 Method and apparatus for detecting and reducing color artifacts in images 05-June-01

6240472 Method and system for sharing a communications port 29-May-01

6240465 Method and system for aggregating objects 29-May-01

6240456 System and method for collecting printer administration information 29-May-01

6239814 Method for indicating the existence of a control object 29-May-01

6239783 Weighted mapping of image data samples to pixel sub-components on a display device 29-May-01

6237144 Use of relational databases for software installation 22-May-01

6236390 Methods and apparatus for positioning displayed characters 22-May-01

6233731 Program-interface converter for multiple-platform computer systems 15-May-01

6233624 System and method for layering drivers 15-May-01

6233606 Automatic cache synchronization 15-May-01

6233570 Intelligent user assistance facility for a software program 15-May-01

6232976 Optimizing dynamic/animating textures for use in three-dimensional models 15-May-01

6232974 Decision-theoretic regulation for allocating computational resources among components of multimedia content to improve fidelity 15-May-01

6232972 Method for dynamically displaying controls in a toolbar display based on control usage 15-May-01

6232966 Method and system for generating comic panels 15-May-01

6232958 Input device with multiplexed switches 15-May-01

6232957 Technique for implementing an on-demand tool glass for use in a desktop user interface 15-May-01

6230318 Application programs constructed entirely from autonomous component objects 08-May-01

6230312 Automatic detection of per-unit location constraints 08-May-01

6230269 Distributed authentication system and method 08-May-01

6230212 Method and system for the link tracking of objects 08-May-01

6230173 Method for creating structured documents in a publishing system 08-May-01

6230172 Production of a video stream with synchronized annotations over a computer network 08-May-01

6230159 Method for creating object inheritance 08-May-01

6230156 Electronic mail interface for a network server 08-May-01

6229539 Method for merging items of containers of separate program modules 08-May-01

6229537 Hosting windowed objects in a non-windowing environment 08-May-01

6226747 Method for preventing software piracy during installation from a read only storage medium 01-May-01

6226742 ciphertext message through use of a message authentication code formed through cipher block chaining of the plaintext message 01-May-01

6226689 Method and mechanism for interprocess communication using client and server listening threads 01-May-01

6226665 Application execution environment for a small device with partial program loading by a resident operating system 01-May-01

6226635 Layered query management 01-May-01

6226628 Cross-file pattern-matching compression 01-May-01

6226407 Method and apparatus for analyzing computer screens 01-May-01

6226017 Methods and apparatus for improving read/modify/write operations 01-May-01

6225973 Mapping samples of foreground/background color image data to pixel sub-components 01-May-01

6223292 Authorization systems, methods, and computer program products 24-Apr-01

6223212 Method and system for sharing negotiating capabilities when sharing an application with multiple systems 24-Apr-01

6223207 Input/output completion port queue data structures and methods for using same 24-Apr-01

6223171 What-if index analysis utility for database systems 24-Apr-01

6222937 Method and system for tracking vantage points from which pictures of an object have been taken 24-Apr-01

6222182 Apparatus and method for sampling a phototransistor 24-Apr-01

6219782 Multiple user software debugging system 17-Apr-01

6219675 Distribution of a centralized database 17-Apr-01

6219025 Mapping image data samples to pixel sub-components on a striped display device 17-Apr-01

6216177 Method for transmitting text data for shared application between first and second computer asynchronously upon initiation of a session without solicitation from first computer 10-Apr-01

6216175 Method for upgrading copies of an original file with same update data after normalizing differences between copies created during respective original installations 10-Apr-01

6216154 Methods and apparatus for entering and evaluating time dependence hypotheses and for forecasting based on the time dependence hypotheses entered 10-Apr-01

6216141 System and method for integrating a document into a desktop window on a client computer 10-Apr-01

6216134 Method and System for visualization of clusters and classifications 10-Apr-01

6215503 Image generator and method for resolving non-binary cyclic occlusions with image composting operations 10-Apr-01

6215496 Sprites with depth 10-Apr-01

6212676 Event architecture for system management in an operating system 03-Apr-01

6212617 Parallel processing method and system using a lazy parallel data type to reduce inter-processor communication 03-Apr-01

6212574 User mode proxy of kernel mode operations in a computer operating system 03-Apr-01

6212553 Method for sending and receiving flags and associated data in e-mail transmissions 03-Apr-01

6212541 System and method for switching between software applications in multi-window operating system 03-Apr-01

6212526 Method for apparatus for efficient mining of classification models from databases 03-Apr-01

6212436 Dynamic inheritance of software object services 03-Apr-01

6209093 Technique for producing a privately authenticatable product copy indicia and for authenticating such an indicia 27-Mar-01

6209089 Correcting for changed client machine hardware using a server-based operating system 27-Mar-01

6209088 Computer hibernation implemented by a computer operating system 27-Mar-01

6209041 Method and computer program product for reducing inter-buffer data transfers between separate processing components 27-Mar-01

6209040 Method and system for interfacing to a type library 27-Mar-01

6209011 Handheld computing device with external notification system 27-Mar-01

6208996 Mobile device having notification database in which only those notifications that are to be presented in a limited predetermined time period 27-Mar-01

6208952 Method and system for delayed registration of protocols 27-Mar-01

6208337 Method and system for adding application defined properties and application defined property sheet pages 27-Mar-01

6205561 Tracking and managing failure-susceptible operations in a computer system 27-Mar-01

6205498 Method and system for message transfer session management 20-Mar-01

6205492 Method and computer program product for interconnecting software drivers in kernel mode 20-Mar-01

6202202 Pointer analysis by type inference for programs with structured memory objects nd potetially inconsistent memory object accesses 13-Mar-01

6202121 System and method for improved program launch time 13-Mar-01

6202089 Method for configuring at runtime, identifying and using a plurality of remote procedure call endpoints on a single server process 13-Mar-01

6202085 System and method for incremental change synchronization between multiple copies of data 13-Mar-01

6201549 System and method for drawing and painting with bitmap brushes 13-Mar-01

6201540 Graphical interface components for in-dasn automotive accessories 13-Mar-01

6199166 Method and system for managing data while sharing application programs 06-Mar-01

6199107 Partial file caching and read range resume system and method 06-Mar-01

6199082 Method for delivering separate design and content in a multimedia publishing system 06-Mar-01

6199081 Automatic tagging of documents and exclusion by content 06-Mar-01

6199061 Method and apparatus for providing dynamic help topic titles to a user 27-Mar-01

6198852 View synthesis from plural images using a trifocal tensor data structure in a multi-view parallax geometry 06-Feb-01

6195655 Automatically associating archived multimedia content with 27-Feb-01

6195622 Methods and apparatus for building attribute transition probability models for use in pre-fetching resources 27-Feb-01

6192487 Method and system for remapping physical memory 20-Feb-01

6192432 Caching uncompressed data on a compressed drive 20-Feb-01

6192360 Methods and apparatus for classfying text and for building a text classifier 20-Feb-01

6191790 Inheritable property shading system for three-dimensional rendering of user interface controls 20-Feb-01

6189146 System and method for software licensing 13-Feb-01

6189143 Method and system for reducing an intentional program tree represented by high-level computational constructs 13-Feb-01

6189100 Ensuring the integrity of remote boot client data 13-Feb-01

6189069 Optimized logging of data elements to a data storage device 13-Feb-01

6189019 Computer system and computer-implemented process for presenting document connectivity 13-Feb-01

6189016 Journaling ordered changes in a storage volume 13-Feb-01

6189000 System and method for accessing user properties from multiple storage mechanisms 13-Feb-01

6188405 Methods, apparatus and data structures for providing a user interface, which exploits spatial memory, to objects 13-Feb-01

6188401 Script-based user interface implementation defining components using a text markup language 13-Feb-01

6188387 Computer input peripheral 13-Feb-01

6188358 Method and apparatus for displaying images such as text 13-Feb-01

6185579 Method and system for expanding a buried stack frame 06-Feb-01

6185569 Linked data structure integrity verification system which verifies actual node information with expected node information stored in a table 06-Feb-01

6185568 Classifying data packets processed by drivers included in a stack 06-Feb-01

6185564 Generation and validation of reference handles in a multithreading environment 06-Feb-01

6184891 Fog simulation for partially transparent objects 06-Feb-01

6182286 Dynamic versioning system for multiple users of multi-module software systems 30-Jan-01

6182160 Method and system for using editor objects to connect components 30-Jan-01

6182133 Method and apparatus for display of information prefetching and cache status having variable visual indication based on a period of time since prefetching 30-Jan-01

6182108 method and system for multi-threaded processing 30-Jan-01

6182029 Method and system for converting between structured language elements and objects embeddable in a document 30-Jan-01

6182086 Client-server computer system with application recovery of server applications and client applications 30-Jan-01

6181351 Synchronizing the moveable mouths of animated characters with recorded speech 30-Jan-01

6178529 Method and system for resource monitoring of disparate resources in a server cluster 23-Jan-01

6178423 System and method for recycling numerical values in a computer system 23-Jan-01

6177945 Advanced graphics controls 23-Jan-01

6175916 Common-thread inter-process function calls invoked by jumps to invalid addresses 16-Jan-01

6175900 Hierarchical bitmap-based memory manager 16-Jan-01

6175879 Method and system for migrating connections between receive-any and receive-direct threads 16-Jan-01

6175878 Integration of systems management services with an underlying system object model 16-Jan-01

6175863 Storage of sitemaps at server sites for holding information regarding content 16-Jan-01

6175834 Consistency checker for documents containing Japanese text 16-Jan-01

6175833 System and method for interactive live online voting with tallies for updating voting results 16-Jan-01

6173421 Centrally handling runtime errors 09-Jan-01

6173406 Authentication systems, methods, computer program products 09-Jan-01

6173404 Software object security mechanism 09-Jan-01

6173325 Method computer program product, and system for assessing the performance of a packet schedule 09-Jan-01

6173317 Streaming and displaying a video stream with synchronized annotations over a computer network 09-Jan-01

6172354 Operator input device 09-Jan-01

6169993 Method, data structure, and computer program product for object state storage 02-Jan-01

6169984 Global incremental type search navigation directly from printable keyboard character input 02-Jan-01

6169983 Index merging for database systems 02-Jan-01

6169546 Global viewer scrolling system 02-Jan-01

6167565 Method and system of custom marshaling of inter-language parameters 26-Dec-00

6167423 Concurrency control of state machines in a computer system using cliques 26-Dec-00

6166738 methods, apparatus and data structures for providing a user interface, which exploits spatial memory in three-dimensions, to objects 26-Dec-00

6166732 Distributed object oriented multi-user domain with multimedia presentations 26-Dec-00

6163855 method and system for replicated and consistent modifications in a server cluster 19-Dec-00

6163841 Technique for producing privately authenticatable cryptographic signatures and for authenticating such signatures 19-Dec-00

6163809 System and method for preserving delivery status notification when moving from a native network to a foreign network 19-Dec-00

616377 System and method for reducing location conflicts in a database 19-Dec-00

6163324 Median calculation using SIMD operations 19-Dec-00

6161176 System and method for storing configuration settings for transfer from a first system to a second system 12-Dec-00

6161130 Technique which utilizes a probabilistic classifier to detect "junk" e-mail by automatically updating a training and re-training the classifier based on the updated training set 12-Dec-00

6161084 Information retrieval utilizing semantic representation of text by identify hyponyms and indexing multiple tokenized semantic structures to a same passage of text 12-Dec-00

6160553 Methods, apparatus and data structures for providing a user interface, which exploits spatial memory in three-dimensions, to objects and in which object occlusion is avoided 12-Dec-00

6160550 Shell extensions for an operating system 12-Dec-00

6157942 Imprecise caching of directory download responses for dynamic directory services 05-Dec-00

6157905 Identifying language and character set of data representing text 05-Dec-00

6157747 3-dimensional image rotation method and apparatus for producing image mosaics 05-Dec-00

6157618 Distributed internet user experience monitoring system 05-Dec-00

6157383 Control polyhedra for a three-dimensional (3D) user interface 05-Dec-00

6154843 Secure remote access computing system 28-Nov-00

6154767 Methods and apparatus for using attribute transition probability models for pre-fetching resources 28-Nov-00

6154220 Rectilinear layout 28-Nov-00

6154219 System and method for optimally placing labels on a map 28-Nov-00

6154205 Navigating web-based content in a television-based system 28-Nov-00

6151708 Determining program update availability via set intersection over a sub-optical pathway 21-Nov-00

6151632 Method and apparatus for distributed transmission of real-time multimedia information 21-Nov-00

6151618 Safe general purpose virtual machine computing system 21-Nov-00

6151607 Database computer system with application recovery and dependency handling write cache 21-Nov-00

6151022 Method and apparatus for statically testing visual resources 21-Nov-00

6148325 Method and system for protecting shared code and data in a multitasking operating system 14-Nov-00

6148304 Navigating multimedia content using a graphical user interface with multiple display regions 14-Nov-00

6148296 Automatic generation of database queries 14-Nov-00

6147685 System and method for editing group information 14-Nov-00

6145003 Method of web crawling utilizing address" mapping 07-Nov-00

6144964 Methods and apparatus for tuning a match between entities having attributes 07-Nov-00

6144378 Symbol entry system and methods 07-Nov-00

6144377 Providing access to user interface elements of legacy application programs 07-Nov-00

6141722 Method and apparatus for reclaiming memory 31-Oct-00

6141705 System for querying a peripheral device to determine its processing capabilities and then offloading specific processing tasks from a host to the peripheral device when needed 31-Oct-00

6141696 Secure decentralized object exporter 31-Oct-00

6141018 Method and system for displaying hypertext documents with visual effects 31-Oct-00

6141003 Channel bar user interface for an entertainment System 31-Oct-00

6138128 Sharing and organizing world wide web references using distinctive characters 24-Oct-00

6138112 Test generator for database management systems 24-Oct-00

6137492 Method and system for adaptive refinement of progressive meshes 24-Oct-00

6137491 Method and apparatus for reconstructing geometry using geometrically constrained structure from motion with points on planes 24-Oct-00

6134658 Multi-server location-independent authentication certificate management system 17-Oct-00

6134602 Application programming interface enabling application programs to group code and data to control allocation of physical memory in a virtual memory system 17-Oct-00

6134596 Continuous media file server system and method for scheduling network resources to play multiple files having different data transmission rates 17-Oct-00

6134594 Multi-user, multiple tier distributed application architecture with single-user access control of middle tier objects 17-Oct-00

6134582 System and method for managing electronic mail messages using a client-based database 17-Oct-00

6134577 Method and apparatus for enabling address lines to access the high memory area 17-Oct-00

6134566 Method for controlling an electronic mail preview pane to avoid system disruption 17-Oct-00

6133925 Automated system and method for annotation using callouts 17-Oct-00

6133917 Tracking changes to a computer software application when creating context-sensitive help functions 17-Oct-00

6133915 System and method for customizing controls on a toolbar 17-Oct-00

6131192 Software installation 10-Oct-00

6131102 Method and system for cost computation of spelling suggestions and automatic replacement 10-Oct-00

6131051 Interface between a base module and a detachable faceplate in an in-dash automotive accessory 10-Oct-00

6128737 Method and apparatus for producing a message authentication code in a cipher block chaining operation by using linear combinations of an encryption key 10-Oct-00

6128713 Application programming interface enabling application programs to control allocation of physical memory in a virtual memory system 03-Oct-00

6128661 Integrated communications architecture on a mobile device 03-Oct-00

6128653 Method and apparatus for communication media commands and media data using the HTTP protocol 03-Oct-00

6128633 Method and system for manipulating page-breaks in an electronic document 03-Oct-00

6128629 Method and appatatus, for automatically updating data files in a slide presentation program 03Oct-00

6128012 User interface for a portable data management device with limited size and processing capability 03-Oct-00

6125373 Identifying a driver that is an owner of an active mount point 26-Sep-00

6125369 Continuous object sychronization between object stores on different computers 26-Sep-00

6125366 Implicit session context system with object state cache 26-Sep-00

6125352 System and method for conducting commerce over a distributed network 26-Sep-00

6122658 Custom localized information in a networked server for display to art end user 19-Sep-00

6122649 Method and system for user defined and linked properties 19-Sep-00

6122644 System for halloween protection in a database system 19-Sep-00

6121981 Method and system for generating arbitrary-shaped animation in the user interface of a computer 19-Sep-00

6121968 Adaptive menus 19-Sep-00

6121964 Method and system for automatic persistence of controls in a windowing environment 19-Sep-00

6119153 Accessing content via installable data sources 12-Sep-00

6119131 Persistent volume mount points 12-Sep-00

6119120 Computer implemented methods for constructing a compressed data structure from a data string and for using the data structure to find data patterns in the data string 12-Sep-00

6119115 Method and computer program product for reducing lock contention in a multiple instruction execution stream processing environment 12-Sep-00

6115708 Method for refining the initial conditions for clustering with applications to small and large database clustering 05-Sep-00

6115705 Relational database system and method for query processing using early aggregation 05-Sep-00

6112216 Method and system for editing a table in a document 29-Aug-00

6112214 Method and system for the direct manipulation of cells in an electronic spreadsheet program or the like 29-Aug-00

6111574 Method and system for visually indicating a selection query 29-Aug-00

63111567 Seamless multimedia branching 29-Aug-00

6110227 systems and methods for pre-processing variable initializers 29-Aug-00

6108784 Encryption of applications to ensure authenticity 22-Aug-00

6108715 Method and system for invoking remote procedure calls 22-Aug-00

6108706 Transmission announcement system and method for announcing upcoming data transmissions over a broadcast network 22-Aug-00

6108661 system for instance customization 22-Aug-00

6108006 Method and system for view-dependent refinement of progressive meshes 22-Aug-00

6106575 Nested parallel language preprocessor for converting parallel language programs into sequential code 22-Aug-00

6105041 Using three-state references to manage garbage collection of referenced objects 15-Aug-00

6105039 Generation and validation of reference, handles 15-Aug-00

6105038 Hysteresis System and method for achieving a mean constant cost per action in a computer system 15-Aug-00

6105024 System for memory management during run formation for external sorting in database system 15-Aug-00

6104377 Method and system for displaying an image at a desired level of opacity 15-Aug-00

6104359 Allocating display information 15-Aug-00

6102967 Testing a help system of a computer software application without executing the computer software application 15-Aug-00

6101546 Method and system for providing data files that are partitioned by delivery time and data type 08-Aug-00

6101513 Method and apparatus for displaying database information according to a specified print layout and page for mat 08-Aug-00

6101510 Web browser control for incorporating web browser functionality into application programs 08-Aug-00

6101499 Method and computer program product for automatically generating an internet protocol (IP) address 08-Aug-00

6101325 Parameterized packaging system for programming languages 08-Aug-00

6098081 Hypermedia navigation using soft hyperlinks 01-Aug-00

6097888 Method and system for reducing an intentional program tree represented by high-level computational constructs 01-Aug-00

6097854 Image mosaic construction system and apparatus with patch-based alignment, global block adjustment and pair-wise motion-based local warping 01-Aug-00

6097392 Method and system of altering an attribute of a graphic, object in a pen environment 01-Aug-00

6097380 Continuous media stream control 01-Aug-00

6097371 System and method of adjusting display characteristics of a displayable data file using an ergonomic computer input device 01-Aug-00

6096095 Producing persistent representations of complex data structures 01-Aug-00

6094680 system and method for managing distributed resources networks 25-Jul-00

6094679 Distribution of software in a computer network environment 25-Jul-00

6092208 System and method for waking a computer having a plurality of power resources from a system state using a data structure 18-Jul-00

6092144 Method and system for interrupt-responsive execution of communications protocols 18-Jul-00

6092067 Desktop information manager for recording and viewing important events data structure 18-Jul-00

6091411 Dynamically updating themes for an operating system shell 18-Jul-00

6091409 Automatically activating a browser with internet shortcuts on the desktop 18-Jut-00

6088739 Method and system for dynamic, object clustering 11-Jul-00

6088718 MethOds and apparatus for using resource transition probability models for pre-fetching resources 11-Jul-00

6088711 Method and system for defining and applying a style to a paragraph 11-Jul-00

6088708 System and method for creating an online table from a layout of objects 11-Jul-00

6088511 Nested Parallel 2D Delaunay triangulation method 11-Jul-00

6088041 Method of dropout control for scan conversion of a glyph comprising a plurality of discrete segments 11-Jul-00

6086618 Method and computer program product for estimating total resource usage requirements of a server application in a hypothetical user configuration 11-Jul-00

6085247 Server operating system for supporting multiple client-server sessions and dynamic reconnection of users to previous sessions using different, computers 04-Jul-00

608522 Method and apparatus for utility-directed prefetching of web pages into local cache using continual computation and user models 04-Jul-00

6085206 Method and system for verifying accuracy of spelling and grammatical composition of a document 04-Jul-00

6084592 Interactive construction of 3D models from panoramic images 04-Jul-00

6084582 Method and apparatus for recording a voice narration to accompany a slide show 04-Jul-00

6083282 Cross-project namespace compiler and method 04-Jul-00

6081898 Unification of directory service with file system service 27-Jun-00

6081846 Method and computer program product for reducing intra-system data copying during network packet processing 27-Jul-00

6081816 Method for placing text around Polygons and other constraints 27-Jun-00

6081802 System and method for accessing compactly stored map element information from memory 27-Jun-00

6081775 Bootstrapping sense, characterizations of occurrences of polysemous words in dictionaries 27-Jun-00

6081598 Cryptographic system and method with fast decryption 27-Jun-00

6071264 optimal frame rate selection user interface 27-Jun-00

6078999 Recovering from a failure using a transaction table in connection with shadow copy transaction processing 20-Jun-00

6078942 Resource management for multimedia devices in a computer 20-Jun-00

6078746 Method and system for reducing an intentional program tree represented by high-level computational constructs 20-Jun-00

6077313 Type partitioned dataflow analyses 20-Jun-00

6076100 Server-side chat monitor 13-Jun-00 6976051 Information retrieval utilizing semantic representation of text 13-Jun-00

6075545 Methods and apparatus for storing, accessing and processing images through the use of row and column Pointers 13-JUn-00

6075540 Storage of appearance attributes in association with wedges in a mesh data model for computer graphics 13-Jun-00

6075532 Efficient redrawing of animated windows 13-Jun-00

6073226 system and method for minimizing page tattles in virtual memory systems 06-Jun-00

6073214 Method and system for identifying and obtaining, computer software from a remote computer 06-Jun-00

6073137 Method for updating and displaying the hierarchy of a data store 06-Jun-00

6072950 Pointer analysis by type inference combined with a non-pointer analysis 06-Jun-00

6072496 Method and system for capturing and representing 3D geometry, color and shading of facial expressions and other animated objects 06-Jun-00

6072486 System and method for creating and customizing a deskbar 06-Jun-00

6072485 Navigating with direction keys in an environment that permits navigating with tab keys 06-Jun-00

6072480 Method and apparatus for controlling composition and performance of soundtracks to accompany a slide show 06-Jun-00

6070007 Method and system for reducing an intentional program tree represented by high-level computational constructs 30-May-00

6069622 Method and system for generating comic panels 30-May-00

6067639 Method for integrating automated software testing with software development 23-May-00

6067578 Container independent control architecture 23-May-00

606756 Fast-forwarding and filtering of network packets in a computer system 23-May-00

6067565 Technique for prefetching a web page of potential future interest in lieu of continuing a current information download 23-May-00

6067559 Server architecture for segregation of dynamic content generation applications into separate process spaces 23-May-00

6067551 Computer implemented method for simultaneous multi-user editing of a document 23-May-00

6067550 Database computer system with application recovery and dependency handling, write cache 23-May-00

6067547 Hash table expansion and contraction for use with internal searching 23-May-00

6067541 Monitoring document changes in a file system of documents with the document change information stored in a persistent log 23-May-00

6067412 Automatic bottleneck detection by means of workload reconstruction from performance measurements 23-May-00

6067095 Method for generating mouth features of an animated or physical character 23-May-00

6067087 Method for building menus during idle times 23-May-00

6065035 Method and system for procedure boundary detection 16-May-00

6065020 Dynamic adjustment of garbage collection 16-May-00

6065012 System and method for displaying and manipulating user-relevant data 16-May-00

6065011 System and method for manipulating a categorized data set 16-May-00

6065008 System and method for secure font subset distribution 16-MAY-00

6065003 System and method for finding the closest match 0f a data entry 16-May-00

6064999 Method and system for efficiently performing database table aggregation using a bitmask-based index 16-May-00

6064406 Method and system for caching presentation data of a source object in a presentation cache 16-MAY-00

6064393 Method for measuring the fidelity of warped image layer approximations in a real-time graphics rendering pipeline 16-May-00

6064383 Method and system for selecting an emotional appearance and prosody for a graphical character 16-May-00

6061792 System and method for fair exchange of time-independent information goods over a network 09-May-00

6061695 Operating system shell having a windowing graphical user interface with a desktop displayed as a hypertext multimedia document 09-MAY-00

6061692 System and method for administering a meta database as an integral component of an information server 09-May-00

6061684 Method and system for controlling user access to a resource in a networked computing environment 09-May-00

6061677 Data base query system and method 09-May-00

6059838 Method and system for licensed design and use of software objects 09-May-00

6058263 Interface hardware design using internal and e external interfaces 02-May-00

6057841 System and method for processing electronic messages with rules representing a combination of conditions, actions or exceptions 02-May-00

6057837 On-screen indentification and manipulation of sources that an object depends upon 02-May-00

6057836 System and method for resizing and rearranging a composite toolbar by direct manipulation 02-May-00

6055548 Computerized spreadsheet with auto-calculator 25-Apr-00

6055314 system and method for secure purchase and very of video content-Programs 25-Apr-00

6054989 Methods, apparatus and data structures for providing a user interface, which exploits spatial memory in three-dimensions, to objects and which provides spatialized audio 25-Apr-00

6052735 Electronic mail object synchronization between a desktop computer and mobile device 18-Apr-00

6052710 System and method for making function calls over a distributed network 18-Apr-00

6052707 Preemptive multi-tasking with cooperative groups of tasks 18-Apr-00

6052698 Reorganization of collisions in a hash bucket of a hash table to improve system performance 18-Apr-00

6052697 Reorganization of collisions in a hash bucket of a hash table to improve system performance 18-Apr-00

6049869 Method and system detecting and identifying text or data encoding system 11-Apr-00

6049809 Replication optimization system and method 11-Apr-00

6049805 Dynamic event mechanism for objects with associational relationships 11-Apr-00

6049671 Method for identifying and obtaining computer software from a network computer 11-Apr-00

6049663 Method and facility for uninstalling a computer program package 11-Apr-00

6049636 Determining a rectangular box encompassing a digital picture within a digital image 11-Apr-00

6049341 Edge cycle collision detection in graphics environment 11-Apr-00

6047307 Providing application programs with unmediated access to a contested hardware resource 04-Apr-00

6047300 System and method for automatically correcting a misspelled word 04-Apr-00

6047297 Method and- system for editing actual work records 04-Apr-00

6046744 Selective refinement of progressive meshes 04-Apr-00

6044408 Multimedia device interface for retrieving and exploiting software and hardware capabilities 28-Mar-00

6044387 Single command editing of multiple files 28-Mar-00

6044366 Use of the UNPIVOT relational operator in the efficient gathering of sufficient statistics for data mining 28-Mar-00

6044181 Focal length estimation method and apparatus for Construction of panoramic mosaic images 28-Mar-00

6044155 Method and system for securely archiving core data secrets 28-Mar-00

6043826 Transferring outline fonts to devices requiring raster fonts 28-Mar-00

6043817 Method and apparatus for arranging displayed graphical representations on a computer interface 28-Mar-00

6041359 Data delivery system and method for delivering computer data over a broad, cast network 21-Mar-00

6041345 Active stream format for holding multiple media streams 21-Mar-00

6041333 Method and apparatus for automatically updating a data file from a network 21-Mar-00

6041311 Method and apparatus for item recommendation using automated collaborative filtering 21-Mar-00

6040841 Method and system for virtual cinematography 21-Mar-00

6038628 System and method for encapsulating legacy data transport Protocols for IEEE 1394 serial bus 14-Mar-00

6038610 Storage of sitemaps at server sites for holding information regarding content 14-Mar-00

6038567 Method and system for propagating object properties in a desktop publishing program 14-Mar-00

6038551 System and method for configuring and managing resources on a multi-purpose integrated circuit card using a personal computer 14-Mar-00

6037932 Method for sending computer network data as part of vertical blanking interval 14-Mar-00

6036495 interactive simulation including force feedback 14-Mar-00

6035379 Transaction processing for user data employing both logging and shadow copying 07-Mar-00

6035342 Method and computer program product for implementing object relationships 07-Mar-00

6035327 SMTP extension to preserve per-message and per-recipient properties 07-Mar-00

6035269 Method for detecting stylistic errors and generating replacement strings in a document containing Japanese text 07-Mar-00

6035119 Method and apparatus for automatic generation of text and computer-executable code 07-Mar-00

6032197 Data packet header compression for unidirectional transmission 29-Feb-00

6032188 Method and system for controlling data flow 29-Feb-00

6031989 Method of formatting and displaying nested documents 29-Feb-00

6031534 Operating system function for specifying a checked image representation and an unchecked image representation of a menu item 29-Feb-00

6031518 Ergonomic input device 29-Feb-00

6029200 Automatic protocol rollover in streaming multimedia data delivery system 22-Feb-00

6029147 Method and system for providing an interface for supporting multiple formats for on-line banking services 22-Feb-00

6028604 User friendly remote system interface providing previews of applications 22-Feb-00

6026417 Desktop publishing software for automatically changing the layout of content-filled documents 15-Feb-00

6026416 System and method for storing, viewing, editing, and processing ordered sections having different file formats 15-Feb-00

6026239 Run-time code compiler for data block transfer 15-Feb-00

6026238 Interface conversion modules based upon generalized templates for multiple platform computer systems 15-Feb-00

6026233 Method and apparatus for presenting and selecting options to modify a programming language statement 15-Feb-00

6025841 Method for managing simultaneous display of multiple windows in a graphical user interface 15-Feb-00

6023744 Method and mechanism for freeing disk space in a file system 08-Feb-00

6023714 Method and system for dynamically adapting the layout of a document to an output device 08-Feb-00

6023710 System and method for long-term administration of archival storage 08-Feb-00

6023523 Method and system for digital plenoptic imaging 08-Feb-00

6023275 System and method for resizing an input Position indicator for a user interface of a computer system 08-Feb-00

6023272 Continuously accessible computer system interface 08-Feb-00

6021412 Method and system for automatically adding graphics to a document to illustrate concepts referred to therein 01-Feb-00

6021262 System and method for detection of, notification of, and automated repair of problem conditions in a messaging system 01-Feb-00

6021203 Coercion resistant one-time-pad cryptosystem that facilitates transmission of messages having different levels of security 01-Feb-00

6018619 Method, system and apparatus for client-side usage tracking of information server systems 25-Jan-00

6018349 Patch-based alignment method and apparatus for construction of image mosaics 25-Jan-00

6018340 Robust display management in a multiple monitor environment 25-Jan-00

6016520 Method of viewing at a client viewing station a multiple media title stored at a server and containing a plurality of topics utilizing anticipatory caching 18-Jan-00

6016515 Method, computer program product, and data structure for validating creation of and routing messages to file object 18-Jan-00

6016508 Server-determined client refresh periods for dynamic directory services 18-Jan-00

6016497 Methods and system for storing and accessing embedded information in object-relational databases 18-Jan-00

6016492 Forward extensible property modifiers for formatting information in a program module 18-Jan-00

6016488 Method arid System for constructing queries 18-Jan-00

6016150 Sprite compositor and method for performing lighting and shading operations using a compositor to combine factored image layers 18-Jan-00

6016145 Method and system for transforming the geometrical shape of a display window for a computer system 18-Jan-00

6014744 State governing the performance of optional booting operations 11-Jan-00

6014733 and System for creating a perfect hash using an offset table 11-Jan-00

6014708 Methods and apparatus for implementing control functions in a streamed vide display system 11-Jan-00

6014701 Selecting a cost-effective bandwidth for transmitting information to an end user in a computer network 11-Jan-00

6014681 Method for saving a document using a background save thread 11-Jan-00

6014666 Declarative and programmatic access control of component-based server applications using roles 11-Jan-00

6014518 Terminating polymorphic type inference program analysis 11-Jan-00

6012096 Method and system for peer-to-peer network latency measurement 04-Jan-00

6012075 Method and System for background grammar checking an electronic document 04-Jan-00

6012058 Scalable system for K-means clustering of large databases 04-Jan-00

6012052 resources, editing resource link topology, building resource link topology templates, and collaborative filtering 04-Jan-00

6009459 Intelligent automatic searching for resources in a distributed environment 28-Dec-99

6009462 Apparatus and methods for optimally using available computer resources for task execution during idle-time based on probabilistic assessment of future task instances 28-Dec-99

6009441 Selective response to a comment line in a computer file 28-Dec-99

6009190 Texture map construction method and apparatus for displaying panoramic image mosaics 28-Dec-99

6009188 Method and system for digital plenoptic imaging 28-Dec-99

6008820 processor for controlling the display of rendered image layers and method for controlling same 28-Dec-99

6008816 Method and system for managing color specification using attachable palettes and palettes that refer to other palettes 28-Dec-99

6008807 Method and system for controlling the display of objects in a slide show presentation 28-Dec-99

6008806 Shell extensions for an, operating system 28-Dec-99

6008803 System for displaying programming information 287Dec-99

6008799 Method and system for entering data using an improved on-screen keyboard 28-Dec-99

600633 Recovery of online sessions for dynamic directory services 21-Dec-99

6006241 Production of a video stream with synchronized annotations over a computer network 21-Dec-99

6006239 Method and system for allowing multiple users to simultaneously edit a spreadsheet 21-Dec-99

6006218 Methods and apparatus for retrieving and/or processing retrieved information as a function of a user's estimated knowledge 21 -Dec-99

6005582 Method and system for texture mapping images with anisotropic filtering 21-Dec-99

6005575 Foreground window determination through, process and thread initialization 21-Dec-99

6005551 Offline force effect rendering 21-Dec-99

6003108 Method and system for interrupt-responsive execution of communications protocols 14-Dec-99

6003097 System for automatically configuring a network adapter without manual intervention by using a registry data structure maintained within a computer system memory 14-Dec-99

6003061 Method and system for scheduling the use of a computer system resource using a resource planner and a resource provider 14-Dec-99

6003050 Method for integrating a virtual machine with input method editors 14-Dec-9

6002852 Method and system for confirming receipt of data opportunistically broadcast to client computer systems 14-Dec-99

5999996 Adapter for wirelessly interfacing a full-size stand alone keyboard with a handheld computing device 07-Dec-99

5999986 Method and system for providing an event system infrastructure 07-Dec-99

5999979 Method and apparatus for determining a most advantageous protocol for use in a computer network 07-Dec-99

5999938 System and method for creating a new data structure in memory populated with data from an existing data structure 07-Dec-99

5999896 Method and system for identifying and resolving commonly confused words in a natural language parser 07-Dec-99

5999711 Method and system for providing certificates holding authentication and authorization information for users/machines 07-Dec-99

5995997 Apparatus and methods for optimally allocating currently available computer resources to future task instances versus continued execution of current task instances 30-Nov-99

5995940 Method and system for editing multivalued properties of an object 30-Nov-99

5995922 Identifying information related to an input word in an electronic dictionary 30-Nov-99

5991804 Continuous media file server for cold restriping following capacity change by repositioning data blocks in the multiple data servers 23-Nov-99

5991802 Method and system for invoking methods of objects over the internet 23-Nov-99

5991794 Component integration system for an application program 23-Nov-99

5991777 System and method for performing defined actions when grafting the name space of one storage medium into the name space of another storage medium 23-No799

5990905 System provided child window controls 23-Nov-99

5990904 Method and system for merging pixel fragments in a graphics rendering system 23-Nov-99

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5781896 Method and system for efficiently performing database table aggregation using an aggregation index 14-Jul-98

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5781723 System and method for self-identifying a portable information device to a computing unit ??4-Jul-98

5781195 Method and system for rendering tw0-dimensional views of a three-dimensional surface 14-Jul-98

578119 Method and System for transferring a slide presentation between computers 14-Jul-98

5778403 Method for displaying text on a rendering device to accurately represent the text as if displayed on a target device 07-Jul-98

5778??02 Method and system for auto-formatting a document using an event-based rule engine to format a document as the user types 07-Jul-98

5778375 Database normalizing system 07-Jul-98

5778372 Remote retrieval and display management of electronic document with incorporated, images 07-Jul-98

5778361 Method and system for fast indexing and searching of text in compound-word languages 07-Jul-98

5778069 Non-biased pseudo random number generator 07-July-98

5774725 Method and computer program product for simplifying construction of a program for testing computer software subroutines in an application programming interface 30-Jun-98

5774668 System for on-line service in which gateway computer uses service map which includes loading condition of servers broadcasted by application servers for load balancing 30-Jun-98

5774126 Method and apparatus for dynamically changing the color depth of objects displayed in a computer system 30-Jun-98

5771399 Optical wand having an end shaped to register to the surface of a portable device to align respective optical element pairs for data transfer 23-Jun-98

5771384 Method and system for replacement and extension of container interfaces 23-Jun-98

5771381 Method and System for adding configuration files for a user 23-Jun-98

5771034 Font format 23-Jun-98

5771033 Method and system for dissolving an image displayed on a computer screen 23-Jun-98

5768566 Method and facility for uninstalling a computer program package 16-Jun-98

5768519 Method and apparatus for merging user accounts from a source security domain into a target security domain 16-Jun-98

5768515 Method for generating and storing two segments of HTTP message headers with different lifetimes and combining them to form a single response header 16-Jun-98

5767835 Method and system for displaying buttons that transition from an active state to an inactive state 16-Jun-98

5765180 Method and system for correcting the spelling of misspelled words 09-Jun-98

5765156 Data transfer with expanded clipboard formats 09-Jun-98

5764983 Method and system for efficiently creating a new file associated with an application program 09-Jun-98

5764913 Computer network status monitoring system 09-Jun-98

5764890 Method and system for adding a secure network server ??o an existing computer network 09-Jun-98

5764241 Method and system for modeling and presenting integrated media with a declarative modeling language for representing reactive behavior 09-Jun-98

5761689 Autocorrecting text typed into a word processing document 02-Jun-98

5761669 Controlling access to objects on multiple operating systems 02-Jun-98

5761510 Method for error identification in a program interface 02-Jun-98

5761477 Methods for safe and efficient implementations of virtual machines 02-Jun-98

5760788 Graphical Programming system and method for enabling a person ??o learn text-based programming 02-Jun-98

5760773 Methods and apparatus for interacting with data objects using action handles 02-Jun-98

5760770 System and method defining a view to display data 02-Jun-98

5760768 Method and system for customizing a user interface in a computer system 02-Jun-98

575836 Meta-data structure and handling 26-May-98

5758358 Method and system for reconciling sections of documents 26-May-98

5758352 Common name space for long and short filenames 26-May-98

5758337 Database partial replica generation system 26-May-98

5758184 System for performing asynchronous file operations requested by runnable threads by processing completion messages with different queue thread and checking for completion by runnable threads 26-May-98

5758154 Method and system for storing configuration data into a common registry 26-May-98

5757920 Logon certification 26-May-98

5757371 Taskbar with start menu 26-May-98

5754890 System for automatic identification of a computer data entry device interface type using a transistor to sense the voltage generated by the interface and output a matching voltage level 19-May-98

5754862 Method and System for accessing virtual base classes 19-May-98

5754858 Customizable application project generation process and system 19-May-98

5754854 Method and system for providing a group of parallel resources as a proxy for a single shared resource 19-May-98

5754175 Method and system for in-??ace interaction with contained objects19-May-98

5752252 Storage of file data on disk in multiple representations 12-May-98

5752243 Computer method and storage structure for storing and accessing multidimensional data 12-May-98

5752038 Method and system for determining an optimal placement order for code portions within a module 12-May-98

5752031 Queue object for controlling concurrency in a computer system 12-May-98

5752025 Method, computer program product, and system for creating and displaying a categorization table 12-May-98

5751283 Resizing a window and an object on a display screen 12-May-98

5751282 System and method for calling video on demand using an electronic programming guide 12-May-98

5751276 Method for calibrating touch panel displays 12-May-98

5748980 System for configuring a computer system 05-May-98

5748895 transmitted from a display device while concurrently displaying human-readable explanation of the Pattern 05-May-98

5748512 Adjusting keyboard 05-May-98

5748468 Prioritized c0-processor resource manager and method 05-May-98

5748191 Method and system for creating voice commands using an automatically maintained log interactions performed by a user 05-May-98

5745904 Buffered table use index 28-Apr-98

5745902 Method and system for accessing a file using file names having different filename formats 28-Apr-98

5745767 Method and system, for testing the interoperability of application Programs 28-Apr-98

5745764 Method and system for aggregating objects 28-Apr-98

5745752 Dual namespace client having long and short filenames 28-Apr-98

5745738 Method and engine for automating the creation of simulations for demonstrating use of software 28-Apr-98

5745119 C01or data conversion using real and virtual address spaces 28-Apr-98

5745110 Method and apparatus for arranging and displaying task schedule information in a calendar view format 28-Apr-98

5745103 Real-time palette negotiations in multimedia presentations 28-Apr-98

5745095 Compositing digital information on a display screen based on screen descriptor 28-Apr-98

5742848 System for passing messages between source object and target object utilizing generic code in source object to invoke any member function of target object by executing the same instructions 21-Apr-98

5742835 Method and system of sharing common formulas in a spreadsheet program and of adjusting the same to conform with editing operations 21-Apr-98

5742829 Automatic software installation on heterogeneous networked client computer systems 21-Apr-98

5742826 Compiler and method for evaluation or foreign syntax expressions in source code 21-Apr-98

5742825 Operating System for office machines 21-Apr-98

574281.8 Method and system of converting data from a source file system to a target file system 21-Apr-98

5742773 Method and System for audio compression negotiation for multiple channels 21-Apr-98

5742756 System and method of using smart cards to perform security-critical operations requiring user authorization 21-Apr-98

5742278 Force feedback Joystick with digital signal processor controlled by host processor 2??-Apr-98

5742260 System and method for transferring data using a frame-scanning display device 21-APr-98

5740456 Methods and system for controlling intercharacter spacing as font size and resolution of output device vary 14-Apr-98

5740439 Method and System for referring to and binding to objects ??sing identifier objects14-Apr-98

5740405 Method and system for providing data compatibility between different versions of a software program 14-Apr-98

5737733 Method and system for searching compressed data 07-Apr-98

5737611 Methods or dynamically, escalating locks On a shared resource 07-Apr-98

5737591 Database view generation system 07-Apr-98

5736987 Compression of graphic data normals 07-APr-98

5736983 Shellextensions for an 0Perating system 07-Apr-98

5734904 Method and system for calling one of a set of routines designed for direct invocation by programs of a second type when invoked by a program of the firs type 31-Mar-98

5734858 Method and apparatus for simulating banked memory as a linear address space 31-Mar-98

5734387 Method and apparatus for creating and performing graphics operations on device-independent bitmaps 31-Mar-98

5732267 Caching/prewarming data loaded from ?? 24-Mar-98

5732265 Storage optimizing encoder and method 24-Mar-98

5732256 CD-ROM optimization and stream splitting 24-Mar-98

5731844 Television scheduling system for displaying a grid representing scheduled layout and selecting a programming parameter for display or recording 24-Mar-981

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5729745 Methods and apparatus for creating a base class for manipulating external data connections in a computer generated document 17-Mar-98

5729689 Network naming services proxy agent 17-Mar-98

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5726687 Auto-scrolling with mouse speed computation during dragging 10-Mar-98

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5724588 Method and system for network marshaling of interface pointers for rem0te procedure Calls 03-Mar-98

5724558 System and method for dynamic data packet configuration 03-Mar-98

5724492 Systems and method for displaying control objects including a plurality of panels 03-Mar-98

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5724070 common digital representation of still images for data transfer with both slow and fast data transfer rates 03-Mar-98

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5721781 Authentication system and method for smart card transactions 24-Feb-98

5719941 Method for changing passwords on a remote computer 17-Feb-98

5717902 Method and system for selectively applying an appropriate object ownership model 10-Feb-98

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5715415 Computer application with help pane integrated into workspace 03-Feb-98

5713020 Method and system for generating database queries containing multiple levels of aggregation 27-Jan-98

5713003 Method and system for caching data 27-Jan-98

5713002 Modified buddy system for managing storage space 27-Jan-98

5710941 System for substituting protected mode hard disk driver for real mode driver by trapping test transfers to verify matching geometric translation 20-Jan-98

5710928 Method and system for connecting objects in a computer system 20-Jan-98

5710925 Method and system for aggregating objects 20-Jan-98

5710880 Method and system for creating a graphic image with geometric descriptors 20-Jan-98

5709219 Method and apparatus to create a complex tactile sensation 20-Jan-9

5708814 Method and apparatus for reducing the rate of interrupts by generating a single interrupt for a group of events 13-Jan-98

5708812 Method and apparatus for Migrating from a source domain network controller to a target domain network controller 13-Jan-98

5706505 Method and system for binding data in a computer system 06-Jan-98

5706504Method and system for storing 06-Jan-98

5706483 Run-time code compiler for data block transfer 06-Jan-98

5706462 Self optimizing font width cache 06-Jan-98

5706458 Method and system for merging menus of application programs 06-Jan-98

5706450 Method and system for presenting alternatives for selection using adaptive learning 06-Jan-98

5706411 Printer status user interface and methods relating thereto 06-Jan-98

5701511 Redbook audio sequencing 23-Dec-97

5701499 Method and-system for automatically entering a data series into contiguous cells of an electronic spreadsheet Program or the like 23-Dec-91

5701491 Method and system for transitioning the network mode of a workstation 23-Dec-97

5701469 Method and System for generating accurate search result using a content-index 23-Dec-97

5701462 Distributed file system providing a unified name space with efficient name resolution 23-Dec-97

5701461 Method and system for accessing a remote database using pass-through queries 23-Dec-97

5701460 Intelligent joining system for a relational database 23-Dec-97

5701424 Palladian menus and methods relating thereto 23-Dec-97

5701137 Method for separating a hierarchical tree control into one or more hierarchical child tree controls in a graphical user interface 23-Dec-97

5699518 System for selectively setting a server node, evaluating to determine server node for executing server code, and downloading server code prior to executing if necessary??6??Dec-91

696946 Method and apparatus for efficient transfer of data to memory 09-Dec-97

5694610 Method and system for editing and formatting.data in a dialog window 02-Dec-97

5694606 Mechanism for using common code to handle hardware interrupts in multiple processor modes 02-Dec-97

5694563 Method and system for transferring data to common destinations using a common destination list 02-Dec-97

5694561 Method and System for grouping and manipulating windows 02-Dec-97

5694559 on-line help method and system utilizing free text query 02-Dec-97

5694153 Input device for providing multi-dimensional position coordinate signals to a computer 02-Dec-97

5692189 Method and apparatus for isolating circuit boards in a computer system 25-Nov-97

5692177 Method and system for data set storage by iteratively searching for perfect hashing functions 25-Nov-9

569217 Methodarid System for combining prefix and first character searching of a list 25-Nov-97

5692157 Method and system for transferring data between objects using registered data formats 25-N0v-97

5692??44 Method and System for depicting an object, springing back from a position 25-Now97

5691745 Low power pixel-based visual display device having dynamically changeable number of grayscale shades 25-Nov-97

5689709 Method and system for invoking methods of an object 18-Nov-97

5689703 Method and system for referring to and binding to objects using identifier objects 18-Nov-97

5689700 Unification of directory service with file system services 18-Nov-97

5689664 Interface sharing between objects 18-Nov-97

5689663 Remote controller user interface and methods relating thereto 18-Nov-97

5689662 Shell extensions for an operating system 18-Nov-97

5689638 Method for providing access to independent network resources by establishing connection using an application programming interface function call without prompting the user for authentication data 18-Nov-97

5689565 Cryptography System and method for providing cryptographic services for a computer application 18-N0v-97

5687392 System for allocating buffer to transfer data when user buffer is mapped to physical region that does not conform to physical addressing limitations of controller ??-Nov-97

5687331 Method and system for displaying an animated focus item 11-Nov-97

5685003 Method and system for automatically indexing data in a document using a fresh index table 04-Nov-97

5685001 Method and system for automatically entering a data series into contiguous cells of an electronic spreadsheet program or the like 04-Nov-97

5684993 Segregation of thread-specific information from shared task information 04-Nov-97

5684510 Method Of font rendering employing grayscale processing of grid fitted fonts 04-Nov-97

5682536 Method and system for referring to and binding to objects using identifier objects 28-Oct-97

5682532 System and method having programmable containers with functionality for managing objects 28-Oct-97

5682511 Graphical viewer interface for an interactive network system 28-Oct-97

5682510 Method and system for adding application defined properties and application defined property sheet pages 28-Oct-97

5682478 Method and apparatus for supporting multiple, simultaneous services over multiple, simultaneous connections between a client and network server 28-Oct-97

5682469 software platform having a real world interface with animated characters 28-Oct-97

5680629 Method and system for previewing computer output 21-Oct-97

5680616 Method and system for generating and maintaining property sets with unique format identifiers 21-Oct-97

5680582 Method for heap coalescing where blocks do not cross page of segment b0ur??dartes 21-Oct797

5680559 Shell extensions for an operating system 21–00t-97

5680458 Root key compromise recovery 2??-Oct-97

5678034 Accessbar arbiter 14-Oct-97

5678014 Folder rack icons 14-Oct-97

5678012 Method and system for selecting a video piece from a database 14-Oct-97

5678007 Method and apparatus for supporting multiple outstanding network requests on a single connection 14-Oct-97

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5677708 System for displaying a list on a display screen 14-Oct-97

5675833 Apparatus and method for detecting insertions and removals of floppy disks by monitoring write-protect signal 07-Oct-97

5675831 Method for automatic installation of a modem wherein unique identification for the device registry is computed, from modem responses to queries by the system 07-Oct-97

5675813 system and method for power control in a universal serial bus 07-Oct-97

5675796 Concurrency management component for use by a computer program during the transfer of a message 07-Oct-97

5675793 Dynamic allocation of a common buffer for use by a set of software routines 07-Oct-97

5675787 Unification of directory service with file system services 07-Oct-97

5675782 Controlling access to objects on multiple operating systems 07-Oct-97

5675520 Method for extending a common user interface 07-Oct-97

5673401 Systems and methods for a customizable sprite-based graphical user interface 30-Sep-97

5673394 Method of sharing memory between an operating system and an application program 30-Sep-97

5670955 Method and apparatus for generating directional and force vector in an input device23-Sep-97

5668996 Rendering CD redbook audi0 using alternative storage, locations and formats 16–8ep-97

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5666523 Method and system for distributing asynchronous input from a system input queue to reduce context switches 09-Sep-97 5666489 Method and apparatus for enhancing capabilities of office machines 09-Sep-97 Portable information device and system and method for downloading executable instructions from a

5664228 computer to the portable in formation device 02-Sep-97

5664191 Method and system for improving the locality of memory references during execution of a computer program 02-Sep-97

5664??78 Method and system for organizing internal structure of a file 02-Sep-97

5664173 Method and apparatus for generating database queries from a meta-query pattern 02-Sep-97

5664133 Context sensitive menu system/menu behavior 02-Sep-97

5659791 Encapsulation of extracted portions of documents into objects 19-Aug-97

5659747 Multiple level undo/redo mechanism ??9??-Aug-97

5659685 Method and apparatus for maintaining network communications on a computer capable of connecting to a WAN and LAN 19-Aug-97

5659674 System and method for implementing an operation encoded in a graphics image 19-Aug-9

56.59336 Method and apparatus for creating and transferring a bitmap 1g-Aug-g??

5657050 Distance control for displaying a cursor 12-Au[illegible]97

5655154 Method and system for sharing utilities between operating systems 05-Aug-g7

5655148 Method for automatically configuring devices including a network adapter without manual intervention and without prior configuration information 05-Aug-97

5655077 Method and System for authenticating access to heterogeneous computing services 29-Aug-97

5652913 System for providing intercommunication of I/O access factors stored in a shared data structure,accessed and maintained by both file System and device driver 29-Jul-9

5652901 Method and system for previewing computer Output 29-Jul-97 System for interconnecting software components in an object oriented programming environment

5652888 using a separate editor object/or each run-time object instantiated for each selected component 29-Jul-97

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5652602 Fast serial data transmission using a CRT 29-Jul-97

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5627997 Method and system for converting computer mail messages using an extensible set of conversion routines 06-May-97

5625799 Method and apparatus for determining the logic and functionality of a changeline 29-Apr-97

5625783 Automated system and method for dynamic menu construction in a graphical user interface 29-Apr-97

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5623651 Method and system for repairing cross-linked clusters an d reattaching lost directories on a storage device 22-Apr-97

5623613 System for displaying programming information 22-Apr-97

5623282 Method and system for the direct manipulation of cells in an electronic spreadsheet program or the like 22-Apr-97

5621894 System and method for exchanging Computer data processing capabilites 15-Apr-97

5621875 Method and system for automatic formatting of user selected text 15-Apr-97

5619688 Method and system for constructing database queries using a field selection grid 05-Apr-97

5617569 Method and system for implementing pointers to members in a compiler for an object-oriented programming language 01-Apr-97

5617526 Operating system provided notification area for displaying visual notifications from application programs 01-Apr-97

5613131 Auto-formatting of tables in a spreadsheet program 18-Mar-97

5613124 Method and system for generating and storing multiple representations of a source object in object storage 18-Mar-97

5613123 Method and system for configuring and executing device drivers based on configuration requirements 18-Mar-97

5613105 Efficient storage of objects in a file system 18-Mar-97

5613079 System for verifying the proper operation of a replication facility 18-Mar-97

5613058 Method and system for in-place interaction with contained objects 18-Mar-97

5613019 System and methods for spacing, storing and recognizing electronic representations of handwriting, printing and drawings 18-Mar-97

5611060 Auto-scrolling during a drag and drop operation 11-Mar-97

5611040 Method and system for activating double click applications with a single click 11-Mar-97

5608909 Method and system for caching presentation data of a source object in a Presentation cache 04-Mar-97

5608901 Method and system for improving the contiguity of sectors of a file 04-Mar-97

5608853 System and method for graphics scaling and localized color enhancement 04-Mar-97

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5604887 Method and system using dedicated location to share information between real and protected mode device drivers 18-Feb-97

5604856 Motion compensated noise reduction method—and system for computer generated images 18-Feb-97

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5604849 Overlay management system, and method 18-Feb-97

5604847 System and method of printer banding 18-Feb-97

5603030 Method and system for destruction of objects using multiple destructor functions in an object-oriented computer system 11-Feb-9

5602981 Quickselect icon button on a computer display which redisplays the last view style activated by the icon button 11-Feb-97

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5598520 Methods and apparatus for hinting a font for controlling stem width as font size and resolution of output device vary 28-Jan-97

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5598183 System and method for computer cursor control 28-Jan-97

5596755 Mechanism for using common cede to handle hardware interrupts in multiple processor modes 21-Jan-97

5596726 Method and system for buffering transient data using a single physical buffer 21-Jan-97

5596347 System and method for computer cursor control 21-Jan-97

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5594847 System and method for selecting free form objects associated with a selection region displayed by a computer 14-Jan-97

5594462 Calibrating data transmission line spacing on a frame-scanning display device for optically transmitting data to a Portable programmable device 14-Jan-97

5592670 Avoidance of deadlocks in a demand paged video adapter 07-Jan-97

5590347 Method and system for specifying alternate behavior of a software system using alternate behavior indicia 31-Dec-96

5590336 Method and apparatus for performing overlapping service of multiple IDE peripheral devices 31-Dec-96

5590318 Method and system for tracking files pending processing 31-Dec-96

5590267 Method and system for scalable borders that provide an appearance of depth 31-Dec-96

5588147 Replication facility 24-Dec-96

5588100 Method and system for creating .a freeform drawing object 24-Dec-96

5588099 Method and system for automatically resizing tables 24-Dec-96

5586328 Module dependency based incremental compiler and method 17-Dec-96

5586318 Method and system for managing ownership of a released synchronization mechanism 17-Dec-96

5585838 Program time guide 17-Dec-96

5583981 Method and system for managing the size o? edit C?? graphical user in interface 10-Dec-96

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5581736 Method and system for dynamically sharing RAM between virtual memory and disk cache 03-Dec-96

5581686 Method and system for in-place interaction with contained objects 03-Dec-96

5579517 Common name space for long and short filenames 26-Nov-96

5579466 Method and system for editing and formatting data in a dialog window 26-Nov-96

5579223 Method and system for incorporating modifications made to a computer program into a translated version of the computer program 26-Nov-96

5577224 Method and system for caching data 19-Nov-96

5577187 Method and system for tiling windows based on previous position and size 19-Now-96

5577173 System and method of printer banding 19-Nov-96

5574920 Method for controlling power down of a hard disk drive in a computer 12-Nov-96

5574907 Two-pass defragmentation of compressed hard disk data with a single data rewrite 12-Nov-96

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5565886 Method and system for rapidly transmitting multicolor or gray scale display data having multiple bits per pixel to a display device 15-Oct-96

5561788 Method and system for executing programs using memory wrap in a multi-mode microprocessor 01-Oct-96

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5551024 System for identifying data records in a database using a data structure with linked parameters in a search range 27-Aug-96

5550972 Method and apparatus for efficient transfer of data to memory 27-Aug-96

5548759 System for storing executable cede within a resource data section of an executable file 20-Aug-96

5548305 Method and apparatus for displaying color on a computer output device using dithering techniques 20-Aug-96

5546518 System and method for composing a display frame of multiple layered graph sprites 13-Aug-96

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5537628 Method for handling different code pages In text 16-Jul-96

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5535324 Method and System for dragging and plotting new data onto an embedded graph 09-Jul-96

5530895 System and method for computer interface board identification by serially comparing identification address bits and asserting complementary logic patterns for each match 25-Jun-96

5530794 Method and system for handling text that includes p-paragraph delimiters of differing formats 25-Jun-96

5528742 Method and system for processing documents with embedded fonts 18-Jun-96

5526523 Interface between operating system and operating system extension 11-Jun-96

5522068 Statistic-based reorganization of B-trees yielding an approximate optimal fill on substantially every page 28-May-96

5519855 Summary catalogs 21-May-96

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5517257 Video control user interface for interactive television systems and method for controlling display of a video movie 14-May-96

5515536 Method and system for invoking methods of an object through a dispatching interface 07-May-96

5512921 Visual display system having low energy data storage subsystem with date compression capabilities, and method f0r operating same 30-Apr-96

5511197 Method and system for network marshalling of interface pointers for remote procedure calls 23-Apr-96

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5510811 Apparatus and method for controlling cursor movement 23-Apr-96

5506983 Method and system for transactioning of modifications to a tree structured file 09-Apr-96

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5504500 User programmable orientation of cursor movement direction 02-Apr-96

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5495566 Scrolling contents of a window 27-Feb-96

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5485460 System and method for running multiple incompatible network protocol stacks 16-Jan-96

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5437036. Text checking application programming interface 25-Jul-95

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5432941 Method and system for dynamically configuring a software System using configurati0n groups 11-Jul-95

5432936 Method for implementing pointers to members in a compiler for an object-oriented programming language 11-Jul-95

5432928 Updating objects stored in a permanent container while preserving logical contiguity 11-Jul-95

5432924 Method and system for selectively applying an appropriate object ownership model 11-Jul-95

5430878 Method for revising a program to obtain compatibility with a computer configuration 04-Jul-5

5426760 Method and system for storing index information using a base number of bits 20-Jun-95

5426729 Method and system for nonuniformly adjusting a predefined shape 20-Jun-95

5418956 Method and System for avoiding selector loads 23-May-95

5416726 Method and system for placing a computer in a reduced power state 16-May-95

5414445 Ergonomic pointing device 09-May-95

5412807 System and method for text searching using an n-ary search tree 02-May-95

5410705 Method for generating an object data structure layout for a class in a compiler for an object-oriented programming language 25-Apr-95

5394518 Luminance sensitive palette 28-Feb-95

5392427 System for updating data stored on a flash-erasable, programmable, read-only memory (FEPROM) based upon predetermined bit value of indicating pointers 21-Feb-95

5381521 System and method of rendering curves 10-Jan-95

5381347 Method and system for displaying images on a display device using an offscreen video memory 10-Jan-95

5375241 Method and system for dynamic-link library 20-Dec-94

5371891 Method for object construction in a compiler for an object-oriented programming language 06-Dec-94

5371885 High performance file system 06-Dec-94

5371847 Method and system for specifying the arrangement of windows on a display 06-Dec-94

5369770 Standardized protected-mode interrupt manager 29-Nov-94

5367617 System and method of hybrid forward differencing to render Bezier splines 22-Nov-94

5363487 Method and system for dynamic volume tracking in an installable file System 08-Nov-g4

5363479 System and method for rendering bezier splines 08-Nov-94

5357605 Method and System for displaying patterns using a bitmap display 18-Oct-94

5357603 Method and system for changing, a shape type while maintaining existing graphic characteristics 18-Oct-94

5341464 Luminance emphasized color image rendering 23-Aug-94

5339432 Method and system for providing user control of device driver configuration 16-Aug-94

5327562 Method for implementing virtual function tables in a compiler for an object-oriented programming language 05-Jul-94

5301326 Method and system for controlling the execution of an application program 57-Apr-94

5300946 Method for outputting transparent text 05-Apr-94

5297284 Method and system for implementing virtual functions and virtual base classes and setting a this pointer for an object-oriented programming language 22-Mar-94

5287514 Method and System for customizing a user interface in a computer system 15-Feb-94

5287417 Method and system for recognizing a graphic object's shape, line style, and fill pattern in a pen environment 15-Feb-94

5281958 Pointing device with adjustable clamp attachable to a keyboard 25-Jan-94

5274751 System and method for printing graphic objects 28-Dec-93

5272628 Method and system for aggregating tables having dissimilar formats 21-Dec-93

5268675 Computer command and pointing device with multi-axis engagement assembly 07-Dec-93

5265261 Method and system for network communications using raw mode protocols 23-Nov-93

5261101 Method for calling and returning from subroutine that is invoked by either a near call or a far call 09-Nov-93

5261051 Method and system for open file caching in a networked computer system 09-Nov-93

5257370 Method and system for optimizing data caching in a disk-based computer system 26–Oct-93

5255356 Method for hiding and showing spreadsheet cells 19–Oct-931

5247658 Method and system for traversing linked list record based upon write-once predetermined bit value of secondary Pointers 21-Sep-93

5231577 Method and system for processing formatting information in a spreadsheet 27-Jut-93

5220675 Method and system for customizing a an user interface in integrated environment 15-Jun-93

5218697 Method and system for networking computers having varying file architectures 08-Jun-931

5214755 Document processing method and system 25-May-92

5204960 Incremental compiler 20-Apr-93

5187468 Pointing device with adjustable clamp attachable to a keyboard 16-Feb-93

5146580 Method and system for using expanded memory for operating system buffers and application buffers 08-Sep-92

5138303 Method and apparatus for displaying color on a computer output device using dithering techniques 11-Aug-92

5125077 Method of formatting data from am use 23-Jun-92

5027273 Method and operating system for executing programs in a multi-mode microprocessor 25-Jun-91

5021974 Method for updating a display bitmap with a character string or the like 04-Jun-91

4974159 Method of transferring control in a multitasking computer system 27-Nov-90

4967378 Method arid system for displaying a monochrome bitmap on a color display 30-Oct-90

4866602 Power Supply for a computer peripheral device which positions a cursor on a computer display 12-Sep-89

4825358Method and operating system for executing programs in a multi-mode microprocessor 25-Apr-89

4779187 Method and operating system for executing programs in a multi-mode microprocessor 18-Oct-88

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08/09/2001

Part 1: The Debate

Tim:

Sounds like some of Michael's speech was maybe a treaty with the free software people. [laughter]

Anyway, there probably are divisions within Microsoft just as there are divisions within our community. It's kind of interesting, because the diversity of opinions often leads not to division but to strength, and I think we're going to demonstrate that strength as we hear from a number of people who are prominent in our community and are allied under the banner of the core principles of open source, but who do have different takes on how it works and what's important about it.

Anyway, I'd like to invite up the rest of our panel. Michael and Craig, you may want to come back up and sit down. I have here with us Brian Behlendorf, who's one of the cofounders of the Apache Project. [applause] I'll just start down at the far end, then.

Clay Shirky is a partner at an incubator called the Accelerator Group. He's also a well-known commentator on coming technologies, and he's recently done some very interesting thinking about some of Microsoft's new technologies, in particular Hailstorm. That's why he's here to talk to us. [applause]

Panelists:
Clay Shirky
Accelerator Group
Shirky.com
Michael Tiemann,
Multimedia
Networking
Programming
Security
Tools
Utilities
X Window System

Dave Stutz is, I believe, now the program manager for the shared source implementation of the common language run time and so forth. Is that the appropriate designation?

Dave:

Sure. It'll work.

Tim:

Dave is—

Dave:

—Craig's Mini-Me.

Chief Technical Officer RedHat
David Stutz
Software architect
Microsoft
Mitchell Baker
Chief Lizard Wrangler
Mozilla.org
Ronald Johoston
Partner
Arnold & Porter
Craig Munclie,
Senior Vice President
Advanced Strategies
Microsoft
Brian Behlendort
Founder & CTO
ColtabNet
Tim O'Reilly
Founder & President
O'Reilly & Associates

Tim:

Yeah, I was going to say, I don't know, maybe something like, if you had the hat [reference to the red hats on heads all through the room], I would say, "Mini-Me. Do not chew on your hat." [laughter]

Next in line is Mitchell Baker, who's known as the Chief Lizard Wrangler at Mozilla.org. Mitchell is also the person who wrote the Mozilla license, so she's done a lot of thinking about free software and open source licenses and the needs of corporations. [applause] We have with us Ron Johnson, who's an attorney at Arnold & Porter and the chair of the 22nd Annual Computer and Internet Law Institute.

And obviously you know Craig, and I already introduced Brian. So, Craig, I don't know if you wanted to respond at all to any of Michaers comments [laughter], or whether you want to hear from a few other people before we get there.

Craig:

I'll just offer one general thought, which is, you know, in some sense it's easy to poke fun or think you know what is the look-in from the outside and to be at Microsoft.

We're a company now of 50,000 people, and among any community of 50,000 people, particularly fairly smart people, you're going to have a lot of people who think carefully about a lot of issues, and feel passionately as you do about a lot of issues. So I don't think we're embarrassed at all to find that people would come forward at Microsoft and ask questions or ask whether we do the right thing or not.

What I can tell you is that there is a single-purpose focus in the management of the company. The leadership of the company is not uncertain about what we're doing. We welcome people asking questions in the company, but ultimately we recognize our job is to make decisions and provide consistent leadership. And so if people don't like what the company wants to do, there's no indentured servitude. You know, they're free to go do something else. But the company is clear about what it will do. And I can just tell you that as a member of a management committee of the company, and while listening to Michael's comments that many of the ways he characterizes what he thinks may go on inside the company in terms of a civil war or anything, frankly [it] just doesn't exist. It may be fine to ruminate about what you think could exist or does exist. I can tell you quite specifically, there's no civil war at the management level and, to me, no observable civil war among the rank and file either. So that's one thought I'd leave with you today.

Tim:

So, Brian, you're obviously someone who has, you know, come up from the GPL side of the house but from the university style of'' license regime. Clearly you have done a lot of thinking about what licenses you would choose and why. Do you have any thoughts on that, or any things you'd like to talk to Craig about with regard to the BSD orientation .... [laughter]

Brian:

Sure. [more laughter] You don't want to call on anybody else, do you? [laughter] One of the slides in [Craig Mundie's] presentation was actually a very useful slide. It showed that there is a relationship—a set of relationships between the public research through universities, corporations, users, and government. I think what we've seen is that it's not one-directional like that. What we've seen is that it's actually bi-directional in all those things—in fact, bi-directional across universities and consumers and government and business and all those directions.

And so while Apache, for example, is under a BSD-style license, it was very important while we were building the Apache community that we not only have other corporations use it and adopt it into their commercial products, but also that we communicate to those companies the need to reinvest back, the need to build Apache itself as a strong force as they build up the momentum behind it. And to us, even though the obligation isn't there to share their code back, the companies that are participating in the Apache Software Foundation and even more broadly, within the BSD communities, understand the need to reinvest, to build it back up. And that's one thing that I think may be missing in some of this debate: the creation of licenses, the creation of regimes that really are bi-directional, that really put all the participants at an equal level.

I totally welcome Microsoft exploring shared source licenses. I think for proprietary software, I'd much rather have the code to it than not have the code to it. I think we're going to see a big difference in the amount of resources that people will put in to a shared source license regime versus one that is an open source license regime. So it's all a matter of experimentation. I'm all for experimenting with different licenses. I think history has shown that open source is a more efficient way to go in certain circumstances. At the same time, there are 10 million Microsoft developers out there who might have a different opinion. I think it's worth finding out.

Craig:

One thought on that. I agree with you that it is bi-directional, and in a way, when you look at all the different licensing regimes, you're correct to point out that there are many different ways to give back. In a sense, giving the code back is just one way. You know giving taxes to the government to give back is essentially another institutionalized way.

Tim:

So how much does Microsoft pay in taxes? [laughter]

Craig:

It's a lot. I don't know the exact number this year, but it's billions. One of the things that we've been fascinated by, and I guess you could say it's some benchmark of this, [is that] this week, as I kind of predicted in May, we actually came out with this Windows CE source license. I guess we actually posted it three, maybe four days ago. And the first three days, ten thousand people downloaded the entire source tree. And we had had a kit that we had offered to people who just wanted to use it for commercial purposes and we had sold about four

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For the bulk of the panel discussion, Dave Stutz and Craig Mundie defended Microsoft's business position to the other panelists. Do you think this conversation helped bridge the gap between open source and Microsoft?

Post your comments hundred of those in the last year. I guess only time will tell whether people will decide that they really want to make an investment or whether they're just curious. But we were quite happy to see that when we offered it for noncommercial use—really targeting the academic environment, primarily -that ten thousand people in the first three days decided to take it and take a look at it.

So we're enthused with that kind of reaction, and it is, you know, some way of giving back. You know, we give back financially, we give back in the standards world, as Michael said, with XML and other things. I mean, well before XML, we've been a big participant in the process of standardization, and so I think we will continue to seek ways to share and give back.

Microsoft patents a threat to open source

By Peter Galli, eWEEK

August 28, 2001 10:55 AM PT

URL: http://techupdate.zdnet.com/techupdate/stories/main/0,14179,2808548,00.html

Members of the open-source community are becoming increasingly concerned by ongoing moves from Microsoft Corp. to acquire a range of software patents that the company can potentially use down the line to attack and try to restrict the development and distribution of open-source software.

And much of that concern is being directed toward open-source desktop company Ximian Inc.'s Mono Project, an open-source initiative to replace part of Microsoft's .Net product line, including a way to run C# programs and the .Net Common Language Infrastructure on Linux. Leading the charge is Bruce Perens, Hewlett-Packard Co.'s open-source and Linux strategist who helped to craft the Debian Social Contract, which later became the Open Source Definition. Perens told eWEEK in an interview on Monday in San Francisco ahead of the LinuxWorld conference that an increasing number of people in the open-source community are very concerned about the Mono Project and by Microsoft's initiative to buy software patents and to patent as much of its own technology as it can.

"If I were in Microsoft's position, I would be looking through all the patents I had been buying that are potentially being infringed by open-source software," Perens said. "They are going to hold onto these patents until they see what happens with the antitrust case against them. Once that is resolved, they will then use them against the open-source industry." But Doug Miller, the director of competitive strategy for Microsoft's Windows division, told eWEEK he was unaware of any intended move by Microsoft to acquire software patents. "Not to say it isn't happening, but I'm not aware of any such planned attack," Miller said.

"With that being said, we strive to protect our intellectual property, and holding patents is one of the ways we do that. But nothing has changed, we're certainly no more aggressive now about filing patents or other copyright protections than we have been over the past couple of decades," he said.

But Perens isn't buying this, saying that with regard to the Mono Project, Ximian needs to draw up an advance agreement with Microsoft that states the Redmond, Wash., company does not intend to assert its patents on this technology.

"If we don't get that agreement, I'll be happy to see Ximian implement this stuff, but I'm not sure I'll touch it," Perens said. "I'm also not sure I want to let it touch the rest of GNOME [GNU Network Object Model Environment] very much because if GNOME becomes dependent on it, it would have a potential weakness there."

Ximian is an active contributor to the GNOME Project, which has built a desktop environment for the user and a powerful application framework for the software developer. Ximian in fact this week launched two versions of the boxed Ximian Desktop, which includes the GNOME desktop interface.

No Linux app is safe

But Miguel de Icaza, the chief technical officer at Ximian, disagreed with Perens, saying that any application that runs on Linux could be infringing on some hidden and unknown patent owned by Microsoft.

"Microsoft has not historically used its patents in an aggressive way," he said. "They've previously used it to defend themselves. While I suppose they might use it for attack purposes going forward, I don't think they'll go after Mono as we are only in the early stages and are sticking to developing technology from existing concepts. There's nothing new in .Net; it's just a combination of existing technologies."

Nat Friedman, Ximian's vice president of product development, also stressed that Ximian is not co-operating with Microsoft on the Mono Project. "They are not assisting us in any way," he said. "We have talked to them twice—that's the extent of it.

"We believe this technology and infrastructure is too important to be controlled and wholly owned by Microsoft. We believe there has to be a free implementation of it out there," he said. But while Perens acknowledged that Microsoft has largely not invoked its patent rights to date, he said, "Past performance is not predictive of future behavior. Microsoft's [senior vice president] Craig Mundie has previously said the company intends to enforce all its patents." An example of a patent held by Microsoft that could be detrimental to open-source initiatives going forward was clearly demonstrated in the password change protocol found in Samba, he said. Microsoft had modified the password change technology and then patented the new protocol of the password change.

"This means you cannot make a compatible implementation without potentially infringing on a Microsoft patent," Perens said. "We went ahead and did it anyway, and Microsoft hasn't enforced that patent, but it doesn't mean they never will. This is a telling case as they've taken what was an open protocol and deliberately put in a patent to close it and then introduced the patented feature in all new systems."

Samba, which develops open-source software that lets a Linux machine share files or manage print jobs like a Windows file server or print server, has included this patented technology. "In the climate of antitrust it would be nice to force them to overplay their hand, and Microsoft overplays their hand consistently, Perens said.

But while Jeremy Allison, a lead developer for Samba, confirmed that Microsoft holds the patent for the password change protocol, he believed this "was done with no malicious intent at all. All big companies patent software for protection. I also think this is probably a defective patent anyway," he said.

Microsoft's Mundie said he wasn't familiar with the Samba example, "but in any case where someone reverse-engineers technology—and there's certainly lots of this in the Linux world—there's always the risk they'll infringe on someone% patent. We highly value intellectual property and the laws created to protect this," he said.

But Samba's Allison said the Mono Project is "a very bad idea—in fact, it's a terrible idea. By doing this they are helping .Net become a standard ..... Net will become important if a majority of the clients use it, but it will not be mandatory if only, say, 50 percent use it, as Web sites will then still have to do Java stuff," Allison said. "By implementing an open-source version of this, they are making it easier for Microsoft to get to that magic monopoly figure.

"And when they've got that on the client, all the servers are in trouble. Look at the way they leveraged their client base to take over services like authentication, e-mail with Exchange, and DNS services by tying Active Directory to DNS. It's a continual case of taking their monopoly on a client system and tying servers to it," he said.

MTC-00030617

January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvenia Avenue, NW
Washington, DC 20630

Dear Mr. Ashcroft:

The intention of this letter ?? that I may express my feelings about the antitrust suit against Microsoft, and the settlement that was reached last November that ended that suit. The Department of Justice and Microsoft agreed to terms on a proposed settlement, and I support that proposition.

I do believe however, that Microsoft should have been left alone In the flint place. There are many other corporations that should have received the attention from the government that Microsoft did. There are terms in the settlement that go a little far, especially the ones that force Microsoft to turn over their Intellectual property to competitors. They will be documenting various interfaces and source code that Is Internal to the Windows" operating system, and giving that to their competitors. This is a travesty of justice.

The antitrust suit against Microsoft was uncalled for, but I guess that the settlement Is the best thing that could have happened. It could have been much worse. I support the settlement because I do not wish to see any further legal action taken against Microsoft. This entire law suit was brought about because of sour grapes on the part of a few people, namely Sunmicro system's CEO. With his connections with a few Senators, namely Warren Hatch from Utah). He was able to get a senate hearing, and the rest is history.

Gosh darn it, the Federal Government can do us a great deal more good by going after such corporations as big oil. Look at what they are doing with the price of oil, at this very moment, with market control of prices almost varying by zip code. And they talk of Bill ??ging the public for his Windows programs and getting by with It due to e lack of competition—please, give me a break.

Sincerely,
Harry Riddle
P.O. Box 88
No. Lakewood, WA 98259

MTC-00030618

Subj: Microsoft Settlement
Date: Monday, January 28, 2002 9:39:34 PM
To: Renata B. Hesse, Antitrust Division, US Department of Justice Suite 1200 Washington DC

Ms: Renata B. Hesse

Just a short note asking for a swift settlement of the Microsoft lawsuit, this whole thing started with Pres. Clinton, and Janet Reno, since then the landslide has taken this country economic situation from stable to recession. Microsoft has worked hard for the consumer and its stockholder, and has agreed to settle this situation out of court and make some competitors happy because they did not have the foresight and dedication to make a great product, and now they want the same access and market share that Microsoft has developd. Its time to move on with progress and settle this situation and get the economy moving again.

Thank you for your time and consideration.

Gunther Hausmann
14311–206 St. SE
Snohomish Wash. 98296
425–481–0926

MTC-00030619

W. Thomas
3864 Quail Ridge Road
Lafayette, CA 94549–291Z
(925) 283–6569
Fax: (925) 284–7619
January 27, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

We five in a country that has been built upon the foundations of capitalism and free enterprise. The antitrust suit against Microsoft is a direct violation of these very ideals. When we attack free business we undermine the very foundation of this nation. I feel that the settlement that has been reached m this case must be accepted as soon as possible so that American business can continue to thrive.

According to this settlement Microsoft will license the internal code of its Windows operating system to twenty of its biggest competitors. This basically requires Microsoft to tell their competition how to make their product. While I believe that this term is a bit extreme I feel that the rest of the settlement will have a positive affect on the IT industry and thus the U.S. economy. The fact that this litigation will now be put to rest will, I believe, help mend some of the damage that has been done to the economy since this case was instigated three years ago. Please continue tc support this settlement and American business in general. Thank you for your time and consideration of this case, your diligence is to be commended.

Sincerely,
W. Thomas

MTC-00030620

344 Hedgehope Dr.
Las Vegas, NV 89123–0004
January 28, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to express my support of the settlement in the antitrust case between Microsoft and the Department of Justice. Although I am happy to see that Microsoft will not be broken up, I do think that litigation should have never occurred in the first place. As a Microsoft user, I do not feel that my rights as a consumer have been infringed upon. Microsoft created a product that is superior to its competitors and made navigating certain systems much easier. This has allowed many people who were computer illiterate to become competent on Microsoft Windows systems.

I regret that nine states feel the need to continue lawsuits. I hope the Attorney General will act to suppress this opposition because it is in the best interest of the American Public.

Sincerely,
Evan Emett
cc: Senator Harry Reid

MTC-00030621

Charles W. Guildnet
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am pleased that a settlement has been reached between Microsoft and the U.5. Department of Justice concerning the antitrust lawsuit. Though this is good news, I dare not fool myself into thinking that this matter has come to an end. The fact that there are still nine States who wish to pursue litigation against Microsoft is simply outrageous. What has Microsoft done to deserve such harsh treatment? From the very beginning Microsoft has proven itself to be a very strong company with timeless innovations. This company has done much to enhance the quality of the personal and professional lives of consumers all over the globe. Microsoft should not be punished for their competitors" inability to keep with Microsoft very distinct strides to revolutionize the IT industry.

Despite the harsh terms of the proposed settlement, Microsoft has not only agreed to these terms, they have also agreed to terms that were not even at issue in the lawsuit. This is the perfect illustration of Microsoft's willingness to comply. As part of their compliance efforts, Microsoft has agreed to enhance competition to the computer industry by granting their competitors greater access to their protocols and intellectual property. Microsoft has proven beyond a shadow of a doubt that they will do every thing they possibly can to prevent future antitrust violations. After oil, no one wants to repeat any of the events of the last three years of litigation. I hope that you make sincere strides to really listen to the public and give Microsoft the chance to continue their innovative and creative service to the computer industry and to as many consumers that want to utilize their products!

Sincerely,

MTC-00030622

Helen B. Gamsey
6006 S River Road
Norfolk. VA 23505–4711
January 27, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Peansylvania Avenue, NW
Washington, DC 20530-O001

Dear Mr. Ashcroft:

I am writing you today to voice my opinion in regards to the Mierosoft settlement issue. I feel that this debate has gone on long enough and that it is time to end this litigation. After three years of litigation, it is time to focus on more pressing issues. The nation is under attack and may soon be involved in a major war. In my opinion, this lawsuit should never have occurred in file first place. R was orchestrated by Microsoft's competitors like Sun Microsystems, Oracle, AOL, IBM, and others. I have not been a shareholder for almost a year but I am still very concerned about what I feel is gross miscarriage of justice in tiffs case.

Microsoft should be rewarded for all the technological and economic advances their products allowed in the last decade, Instead their persecution, instigated by their competitors persists. I hoped the Appeals Court Judges would vacate Judge Jackson's findings. The Oral arguments certainly indicated this might happen, considering their horror upon discovering Judge Jackson's judicial misconduct, and the way they mocked the government's case. Even though their final decision admitted that "All indications are that the District Judge violated each of these ethical precepts. The violations were deliberate, repeated, egregious, and flagrant." Section 455(a) of the Judicial Code requires judges to recuse themselves when their "impartiality might reasonably be questioned." The Appeals Court basically did nothing to remedy Jackson's inexcusable conduct beyond giving him a verbal tongue lasting, and they failed to hate Jackson recused retroactively from the first time there was evidence of judicial misconduct.

Contrary to Mierosoft's competitors whinings,,,this settlement goes beyond that suggested by the Appeals Court. The AC court threw out all of Jackson's remedies which would have broken up the company. They rejected the remedies not only because Jackson erred by not allowing an evidentiary hearing on remedies: but because those remedies no longer applied to the violations they found; which were much less severe than those found by Jackson. They also said that a structural remedy is rarely indicated and only if there was actual proof that "exclusionary her words, there was no evidence to show that Netsape and Java would

The Appeals Court judges threw out Judge Jackson entire remedy, partly because Jackson violated basic procedural rule m not allowing an evidentiary hearing on the remedy. In their words; "It is a cardinal principle of our system of justice that factual disputes must be heard in open court and resolved through trial-like evidentiary proceedings. Any other course would be contrary "to the spirit which imbues our judicial tribunals prohibiting decision without bearing." Yet the Appeals Court ignored their own advice, and failed to hold an evidentiary hearing to determine when these 'egregious ethical violations" occurred. This allowed them to arbitrarily select a date, which conveniently was after Jackson issued his Findings of Fact and Conclusions of Law, even though evidence was presented that revealed the violations occurred before the Findings of Fact were issued.. The entire decision should at least have been vacated and the case remanded to a different judge or the case should have been thrown out in toto.

If this settlement is rejected, I only hope the Supreme Court does the fight thing and throws it out entirely. The respected mediator from the first trial, Judge Posner, is strongly opposed to the participation of the States Attorney Generals who are the mason this case was not settled during the first trial and are the reason why this settlement is being disputed now. Posner has recommended that future antitrust cases brought by the Federal government not allow the States Attorney Generals to participate. Unfortunately, he acknowledged that any change to the laws would occur too late to help this case be resolved.

Further, Posner acknowledges "A complication is that it is difficult to find truly neutral competent experts to advise the lawyers judges and enforcement agencies on technical questions in the new economy. There aren't that many competent experts, and almost all of them are employed by or have financial pies to firms involved in or potentially affected by antitrust litigation in this sector. It is difficult to find a consultant in the new economy who is both competent and disinterested, or "find neutral experts they could help the judge administer a consent decree."

"The new economy presents unusually difficult questions of fact, such as where a plaintiff complains that the defendant has changed the interface to make it more difficult for the plaintiffs product to work with the network or a defendant contends that it disclosing a protocol would allow its competitors by reverse engineering to copy its trade secret, that cannot be protected by copyright or patent law. Both questions are very technical and difficult." "Antitrust in the New Economy. Antitrust Law Jounal, 2001, 68, 920–940

There were no impartial neutral experts to help Judge Jackge nor to advise file appeals Court Judges. Unfortunately, the Appeals Court Judges relied on the expertise of antitrust experts who they thought were impartial. but were actually hired by Microsoft's competitors. Jackson admitted to being completely completely about technology and the economies behind any any, dies. There is little doubt he had much to do with the Findings of Fact or with the Conclusions of Law fudge Jackson admitted frequently he was not competent m technology issues nor in economic issues involved in any remedies. In other words, Jackson was "technologically and economically, challenged. He admitted that his secretaries would explain certain issues to him. Jackson just rubber stamped the remedy submitted by the Government, who consulted heavily with Microsoft's competitors. The government in turn accepted what Microsoft's competitors gave them, they in turn got ProComp and SIIAA and CIIAA to do their work. Even the Appeals Court judges admitted their ignorance of basic technologicalological issues which were essential to the essence of this case.

THE COURT: I mean I have to say that I have only done downloading of these things with the help of much more skilled people. So I took seriously the proposition that that was a big harrier. But 60 million people just downloaded it? The Appeals Court judges in Microsoft's appeal were astonished to learn that 160 million copies of Netscape browsers were distributed overall, and that their user base doubled to 33 million 1998 when Microsoft's competitors were accusing Microsoft of foreclosing competion. The Appeals Court judges vacated Jackson's finding of attempted monopolization; they remanded the issue of tying to be decided under new standards, (even thouugh they categorically dismissed the charges of lying during the Oral arguments. (They indicated they were told (by Microsoft's competitors, no doubt) that they used the wrong standards. The only finding they accepted, and not on all of the original counts was fixer of illegal monopoly maintenance. Curiously, this theory of monopoly maintenance was created by Susan Creighton in the original White Paper about Netscape in 19977 Susan Creighton has been a diehard foe and "card-carrying anti-Microsoft agitator" of Microsoft from the early "90's. More curiously, Susan Creighton is now tile deputy director for the P-TC. I hope she has recused herself from any involvement in this case.

The judges unknowingly relied on at least one economist's novel theories—whose theories were apparently created just for fills case. Derails Carlton was an original participant in Project Sherman. "The Truth, The Whole Truth, and Nothing But The Truth" http://www.wired.com/wired/archive/811/microsoft.html

Mike Morris was counsel for Sun Micros)stems. "Morris had been in contact with Joel Klein (in 1998) as part of a three-way effort to nudge the government toward a case against Microsoft" "for the past nine months." Wired 11/2000 Page 280. The other two parties were Netscape's Roberta Katz and Sabre's counsel, Andy Steinberg. Together they had founded ProComp, "Now Morris was plotting a solo mission: to put together a sort of private blue-ribbon commission of nationally renowned antitrust lawyers and economists, have them draw up an outline of the kind of Sherman Act case that would make sense for the DOJ to file, including a discussion of possible remedies, and then present the whole firing to Klein and his people. "According to the article, Joel Klein thought this would be useful. From Wired 1112000 Page 280.

"The political sensitivity of Project Sherman was, needless to say, extremely high, for here was one of Microsoft's most ardent competitors bankrolling a costly endeavor to influence the DOJ—an endeavor undertaken with the department's encouragement." "So began a project that would span three months and consume $3 million of Sun's money: Project Sherman." "Morris look care to select people with impeccable credentials;—mainstream credentials, establishment credentials; the kind of people who spoke Joel Klein's language; the kind who might appear reasonably objective despite the fact that Sun was paying them $600 to $700 an hour." (From Wired Magazine, 11/2000, p 280)

"The "superstar" cast included economists from the firm of Lexecon; an attorney from Arnold & Porter: a Strafford economist and a former FTC counsel who handles Surfs antitrust work m Washington. "Members of Project Sherman met every two weeks for three months and then Morris got Gary Reback to assemble industry figures for a hush hush meeting, not knowing they had been paid by Sun. (From Wired Magazine, l 1/2000, p 280) "Apart from MeNeatey, Morris informed almost no one at Sun, and the other participants were sworn to strict confidentiality." (page 280, Wired November 2000).

According to Heilemann, Reback and Creighton lobbied the FTC, the Senate Judiciary Committee, the European Commission, other Attorney Generals and anyone who would listen. A few others who helped out were Mike Hirshland, Republican Senate aid to Senator Orrin Hatch; Jim Clark and Jamcs Barksdate from Nescape, and Venture Capitalist John Doer. "A few weeks later, Morris and his "team" flew to Washington to meet with the DOJ attorneys: Jocl Klein, Melamed, Rubinreid, Malone, Boise for many hours. "Morris's team "proceeded to outline the case they believed the DÓJ should file." The charges were straight from the Netscape White Paper written by Susan Creighton "illegal monopoly maintenance arid monopoly extension; a violation of Section 2 of the Sherman Act" They addressed the question of so called "harm to consumers;" the so called "damage to innovation" and "then the talk turned to remedies" and a range of conduct remedies" was presented as well as the "case for a structural remedy" (From Pages 282–283 of Wired Magazine, November 2000)

"In 1975 Microsoft had 3 employees and revenues of $16,000. Over the next 25 years they grew to 36,000 employees and revenues of $20 billion by obsessively figuring out what computer users needed and delivering it to them." "Over the) years Gates and his colleagues made a lot of people mad, especially their competitors. Some of those competitors delivered a 222-page white paper in 1996 to loci Klein, head of the Justice Department's antitrust division, and urged him to do to Microsoft in court what they couldn't do in the marketplace. (Susan Creighton wrote that White Paper).

Another peculiarity of this case is the presence of U.C. Berkeley Haas Business School Professor Michael L. Katz as chief economist of the DOJ antitrust division Apart from his strong support for government regulation, Katz. wrote papers iii support of the DOJ case against Microsoft; including one co-written with Carl Shapiro, the economic counsel to the States Attorney Gencrals .... hmmmm...

Curiously, the Department of Justice worked closely with the competitors like Sire Microsystems for four years, often showing sentences or paragraphs in drafts of the department's plans and soliciting their approval. The politics of the case is a far cry from th?? Platonic ideal of rigorous economists devising the best possible antitrust rules and wise, disinterested judges carefully weighing the, evidence." Microsoft's competitors have used the Department of Justice to try to take not just their money but their intellectual pt, well. From "The Theft of Microsoft" by David Boaz. http://www.cato.org/dailvs/07–27–00.html

I cannot imagine that Project Sherman was a legal undertaking, and wonder if the Appeals Court judges were aware of Joel Kleins meeting with reporter John Heileman. I wonder if the DOJ would have brought the case if it was publicly acknowledged at the time that they were listening to testimony from hired experts paid handsomely by Microsoft's.

During these difficult times, it is vital to do all we can to boost our economy. Restricting Microsoft will not accomplish this. This country is at war with a world wide network of Islamic extremists intent on destroying us. The Department of Justice needs to focus on "fixing" the FBI and improving the security of our nation and protecting American citizens against more terrorist attacks. Has this short passage of time since September 11 dulled memories so quickly that we are back to the old games of using lawyers and politicians and the Department of Justice to squash competitors? Are things really back to normal? I don't think so...until the next terrorist attack. . .

Antitrust laws are not meant to protect competitors against their inability to compete in the marketplace due to their own incompetence...Look who is suing? AOL, Sun Microsystems, Oracle, IBM are multibillion corporations... not more and pop outfits threatened by a bully...The antitrust laws were meant to protect consumers and to allow fair competition. Consumers are not complaining. However antitrust laws are now being used to protect competitors, and to make trial lawyers even richer,,,at the expense of consumers and the economy, How many companies have been forced into bankruptcy now by trial lawyers over asbestos? 20? 30? 50?

AOL, Time Warner, IBM, Sun Microsystems, Oracle, etc have contributed heavily to politicians for years...long before Microsoft was forced to play tiffs game, as a result of their persistent efforts to prosecute and persecute Microsoft.

Should the DOJ continue to "work" on behalf of Attorney Generals who are receiving large contributions and specific instructions from Microsoft's competitors via ProComp and other such organizations? After all, it was Sun Microsystems" who paid antitrust experts like Dennis Carlton to "produce" antitrust charges which would appear credible to the DOJ. Reputable antitrust experts like Carlson produced novel antitrust theories of harm from incomplete exclusionary conduct. Almost all of the violations upheld by the Appeals Court were based on Carlton's "novel" theories. Others were based on "novel" theories developed by Susan Creighton, an ardent Microsoft foe.

I would think that the Enron scandal would make politicians and regulators more wary of the dangers involved from large contributors... I was surprised to learn the extent of Euron's contributions. They gave $50,000 to Paul Krugmnan, from the New York Times, who writes about economic matters, and not too surprisingly, Krugman apparently wrote positive articles in the past about Enron ....

It was a complaint from Sum Microsystems that lead the European Union to launch an antitrust case against Microsoft by the EU. There is something about certain American companies that run to other countries to crush their competition .if they can't get the DO/or FTC to do it... It is telling that Sun Microsystems has 200 lawyers in their legal department, more than many large firms, even in Washington. I think their shareholders might prefer they spent more on improving their products and competing...as their stock contire, es to decline.

Microsoft was consistently been rated one of the top corporations to work for and one of the most admired companies by Fortune until the trial lawyers and AG and MSFT's competitors started their hatchet jobs and made Microsoft into an "unsympathetic target." http://www.tcchcentralstation.cont/1051/techwrapper.jsp?PLD=1051-250&CID=1051-012901A

Microsoft's competitors lobbied politicians for years before Microsoft was finally forced to join their game and forced to pay this "protection money." "For about 20 years Gates and his colleagues just sat out there in "the other Washington" creating and selling. As file company got bigger, Washington DC, politicians and journalists began sneering at Microsoft's political innocence. A congressional aide told the press, "They don't want to play the 1). C. game, that's clear, and they've gotten away with it so far. The problem is, in the long run they won't be able to." Politicians told Bill Gates, "Nice little company ya got there. Shame if anything happened to it." And Microsoft got the message" If you want to produce something in America, you'd better play the game. In 1995, after relocated assaults by the Federal Trade Commission mid the Justice Department, Microsoft broke down and started playing the Washington game. It hired lobbyists and Washington PR firms. Its executives made political contributions. And every other high-tech company is getting the message, too, which is great news for lobbyists and fundraisers." (but not for consumers or innovators or successful companies..) From "The Theft of Microsoft" by David Boaz. http://www.cato.org/dailvs/07-27-00.html

"What lesson should they draw? The antitrust laws are fatally flawed. When our antitrust laws are used by competitors to harm success fid companies, when our most innovative companies are under assault from the federal government, when lawyers and politicians decide to restructure the software, credit, card and airline industries, it's time to repeal the antitrust laws and let firms compete in a free marketplace.

Microsoft's competitors and these phony front groups are using their influence over the media, and their power from contributions to politicians to give the appearance that they are concerned with consumers, when they are only advancing their own agenda, which is harmful to most of us. Microsoft's competitors claim to have the interest of consumers at heart, when in reality their own incompetence lead to their loss of market share. AOL 5 was such a terrible product that even computer experts could not deal with the changes it made to the computer. It changed your default settings and took over. Mossberg from the Wall Street Journal. who has never been a fan of Microsoft, acknowledged this at the tune and there were lawsuits over this which somehow failed to make the news. Anyone who has ever used AOL knows about their inferior products and their poor customer service.

Nonetheless, it is time to end this case that should have never been. and to stop being influenced by Microsoft's competitors who have been behind the case from the beginning of Microsoft's persecution by the Department of Justice, starting in the early "90's. This settlement is the perfect means to end this dispute. Microsoft will remain together and continue designing and marketing their innovative software, while fostering competition and making it easier for other companies to compete. Microsoft has pledged to share more information about Windows operating system products and has agreed to be monitored for compliance.

I sincerely hope the Department of Justice accepts this settlement and puts an end to this mess and turns their attention to real threats to the Nation- the terrorists who want to destroy the West. Caving into Microsoft's major competitors who are behind the Attorney Generals hurt consumers and the economy further. Let them innovate like Microsoft does, rather than litigate.

Thank you for your attention.

Sincerely.

Helen B. Gamsey

Helen Gamsey

MTC-00030623

Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington DC 20530-0001

Dear Mr Ashcroft,

I am writing to you about the Microsoft settlement as is permitted under the Tunney Act. I am now retired following a 40 year career in banking. I followed the daily reporting of the hearing before Judge Thomas Penfield Jackson and read his entire opinion by downloading it from the internet. The press reporting during the trial led me to certain conclusions, One, the judge was biased against Microsoft during the trial. This was born out when the press characterized one of the expressions of this judge as a look of incredulity such as "can you really believe this guy" when David Boles was examining a Microsoft executive during the case. In my opinion this bias carried over and influenced his findings of fact and proposed remedies. Secondly, the judge erred in suggesting harm to the consumer by Microsoft pricing practices

But the purpose of this letter is not to rehash the origina; trial. The Federal Court of Appeals has ruled and remanded the case back for remedies The Department of Justice has a settlement now before the court. I believe that the Department of Justice's most recent decision to end the antitrust case is truly the right one Several states have agreed with thai decision. The remaining recalcitrant states, and that is my term, are defending not the consumer but vested interests of competitors of Microsoft

During the 1980's, various competitors of Microsoft (Sun, Oracle, DEC, iBM) formed a consodium to ostensibly create standards for Personal Computer Operating Systems. It was reported in all of the computer trade journals from the mid 1980's on. As 1 recall they had several meetings over a period of a couple of years, before it broke down. and IBM then proceeded to create their own OS/2 operating system

Dunng the 1950's IBM was the dominant force in large Main Frame Operating systems. This did not deter Burroughs, National Cash Register (NCR), Wang Systems, Digital Equipment and others from creating competing operating systems. Sun Computers had a high-priced engineering operating system in the 1980's and trade journals all reported that Scott McNeely desired to develop a competitor system to Microsoft for Personal Computers. There was only one problem. He could not develop a mass market, few priced system

This fact has been lost in the case against Microsoft It has saddened me to see our courts and some politicians being used as a referee to reward certain competitors, not in the market place of commerce and ideas, but in the courts P.B2

I am retired and do a bit of financial consulting on the side. I use computers quite regularly and would be hard-pressed to find a better set of software products than those created by Microsoft. My first personal computer in 1984 was a Macintosh and I enjoyed it very much. The only problem with it however was that most of the software created by others was buggy and would sometimes crash. I am reminded particulary of some Oracle software which was very buggy and was continually a problem. There was a spreadsheet program however, created by a little company that I had never heard of callled Microsoft, and if worked seamlessly on the Macintosh. I made the conversion to PC's in [he early 90's and would never look back, The affordability and stability of Microsoft products convinced me.

Please express my views to the judge. As a retired business person and a consumer of computer software, f would ask the court to affirm the Department of Justice settlement agreed to by nine states and reject the continued attempts by certain other states to reward the competitors of Microsoft.

Continued litigation will only threaten the Computer software and hardware industry and consequently, the entire economy. I ask that you please stop these lawsuits and let Microsoft concentrate on the business of business once again,

I would greatly appreciate your reflecting my views, or a summary of them to the judge.

Thank you for your time and thoughtful consideration of this matter.

Cordially.

Gerald G Lacey

cc: Senator Strom Thurmond

cc: Senator Fritz Hollings

MTC-00030624

January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to let you know that I am in favor of the Department of Justice ending its antitrust case against Microsoft. I believe that Microsoft is operating under fair business practices, and that the terms of the settlement agreement reached in November are reasonable. Microsoft will now share information with its competitors about Windows, which will allow them to place their own programs on the operating system.

Ending the case against Microsoft will allow them to concentrate on developing new technologies and services, and their continued success is beneficial to the overall economy. Their concessions in the settlement agreement will allow them to continue innovating the technology industry.

Please support finalizing the settlement under the current conditions.

Sincerely,
Jack Westbrooks 16590 Heim Road
Chelsea, MI 48118
Jack Westbrooks
Network Consultant
MCT, MCSE, CNE, CCNA

MTC-00030625

ATT: RENATA B. HESSE
ANTITRVST DIVISION
MICROSOFF SETTLENT
5645 Lord Cecil Street San Diego, CA 92122
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The settlement of the antitrust case appears to me to be fair, workable, in the best interests of America. The new judge from the Federal District Court who was assigned to the case, and who assigned the mediator, should approve it.

The settlement will change Microsoft is many ways, even beyond the scope of the original litigation. The use of exclusive marketing agreements with companies that build computers will be banned. A uniform price list, with only discounts for large volume shipments, will be instituted with large computer makers, instead of individual negotiations. A committee of experienced software engineering experts will see that the agreement is enforced. This settlement seems like it will be in the best interests of the country, because the technology sector has been slumping. The end of the litigation will help. The increased flexibility and cooperation within the industry will also help.

Let's see this settlement approved as soon as legally possible. Let's see
America strong again.
Thank you for your help.
Sincerely,
Alvaro Munevar

MTC-00030626

Robert Sylvester . 135 Claridge Drive . Moon Twp, PA 15108
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I understand the Department of Justice is accepting and publishing public comments for the first time since the antitrust suit was brought against Microsoft more than three years ago. Here are some of my views on what I'd like to see happen.

Microsoft has been cooperative throughout this lawsuit. They have agreed that if a third party's exercise of any options provided for by the settlement would infringe any of Microsoft's intellectual property rights, Microsoft will provide the third party with a license to use the necessary intellectual property on reasonable and nondiscriminatory terms. Microsoft has also agreed to the establishment of a technical committee that will monitor Microsoft's compliance with the settlement and assist in resolving disputes.

I urge you to do your part in ending this lawsuit. We've already reached an agreement. Let's move forward and deal with some of the more pressing issues, such as rebuilding the technology sector so that we can revive this economy.

WAYNE E. QUINTON
The Highlands
January 23, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to tell you what I think of the Microsoft Case. This case is certainly not serving the public interest; it wasn't even brought on by the public. It was brought on because of their competitors" influence and is now being paid for with tax money. This case is a ridiculous waste of tax money. People are suing Microsoft because they can't compete. I think there is something wrong when the law allows that.

Microsoft is passing on their technology secrets to their competitors and has even promised not to retaliate when competitors create products from that technology that would compete with Microsoft. If that's not fair, then 1 don't see what would be. Breaking up the company would be disastrous to our country's economy.

This settlement is long past due and needs to be accepted immediately. Accepting this settlement is the right way to end this mess. Thank you for your time.

Sincerely,
Wayn Quinton
The Highlands
Seattle, WA 98177

MTC-00030627

Date: Monday, January 28, 2002
To: Attorney General John Ashcroft
Company: U.S. Department of Justice, Washington, D.C
Fax Phone #: +1 (202) 307–1454
CC:
From: Lucille M. Mcculley
Subject: Microsoft Antitrust Settlement
Total # of Pages (including cover): 1

Memo: Dear Mr. Ashcroft:

I am writing to express support for the Microsoft antitrust settlement. It seems like a good plan and a fair way to resolve what has beeen a lengthy and unnecessary inuiry into Microsoft's business dealings. The settlement's terms are very generous to Microsoft's competitors, and giving them access to Windows programming codes will enable them to make their programs more compatible with Microsoft's operating system.

Forgoing further exclusivity agreements with computer manufacturers will also diversify the market more than it already is. The settlement should give both the government and Microsoft what they want to ultimarly put the situation to rest. Please finalize the settlement without further delay.

Sincerely,
Lucille M. McCulley, 221 East 78th Street, NY NY 10021

If all pages were not received, please call back immediately:
Jacobo Kravec
21011 NE 34th Place
Miami, FL 33180–3585
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

The settlement that has been reached between the US Department of Justice and Microsoft is harsh to Microsoft, but should be implemented because it is in the best interests of the American public. Microsoft is one of our nation's strongest assets and we cannot afford to have them sitting on the sideline when there is a technological race for superiority in the Technology Industry. Microsoft's innovation has standardized the IT sector and has served as the leader in development for America's tech sector.

Yes, Microsoft's marketing tactics have been heavy-handed at times, but the terms of the settlement should serve to appease all competitors, as Microsoft will be disclosing for their use interfaces that are internal to Windows operating system products—a first in an antitrust case settlement. Microsoft will also be granting computer makers broad new rights to configure Windows so that nonMicrosoft products can be more easily promoted.

Please use your influence to finalize the settlement. It is in the best interests of the American public, IT sector, and our economy to end the dispute and allow Microsoft to focus on business, not politics.

Sincerely,
Jacobo Kravec

MTC-00030628

Carl Lochen
30010 Rancho California Road
Apartment 124
Temecula, CA 92591–2952
January 28, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

As an independent developer and supporter of Microsoft, I write you in regard to the recent Microsoft Settlement. After three years of negotiations, it seems strange that there may even be more delays in the implementation of this plan. The process was extremely well thought out and well monitored throughout. Because of this, the terms that were reached benefit all involved. As we go through these economically stressful times, it is crucial that we support our technology at all levels. By holding up this settlement, we take a backseat in the global market. Our entire technology industry needs to get back to business, and because of the agreement, we are ready to do so. Let us support our IT sector and allow the terms to speak for themselves, including antiretribution and retaliation acts, and the sharing of selected intellectual property.

Splitting up Microsoft

Specifically the non-Windows platform community has attacked Microsoft for adding to much functionality to its OS, and therefore stifling competition. They argue splitting up Microsoft, would make it easier to compete with Microsoft. This ignores the large amount of developers and companies that have made available more than 100 000 programs available on the Windows platform. Splitting up Microsoft, will for them mean disrupting the dynamics of developing cutting edge technology for Windows.

Windows Building blocks

Splitting up Microsoft into pieces, will create smaller companies developing solutions/libraries that will not be included in Windows and therefore be keeping secrets from other independent developers who will have to develop their own incompatible solutions. Splitting up Microsoft, destroys Windows's ability to offer solutions for connecting together building blocks with the latest technology. Solutions that are now incorporated in Windows and documented for everyone, will end up as proprietary solutions outside Windows. Making it less feasible for smaller developers to keep up with the latest in technology.

Microsoft is giving us pre-tested building blocks guaranteed to be interchangeable and compatible with each other. Developers using these building blocks for their own designs, know that their programs will be compatible with combinations of future designs trying to link up with or work together with their designs. Think of the many millions of errors windows is getting rid of for current and future developers of software...

Whenever building blocks are rewritten with new interfaces, previous interface(s) are still available to let older designs work as building blocks change. This is true of COM+ and any of the API's that come with Windows. It beats trying to design applications to hook up to zillions of applications not using support from the OS.

The Internet building blocks

Internet technology built into Windows, assists applications using various Windows technologies in communicating and sharing data with each other over the Internet. This degree of integration between applications/components is only possible by having these technologies built into the platform they are running on. Internet Explorer built into Windows facilitates in building web browsers. Any developer can build their own Web Browser with their own customized controls. In less than a day they can design their own Web Browser that is equal in power to Internet Explorer. Just download the MFCIE project from Microsoft Developer Network (has been available a couple of years). In less than a day you implement remaining Internet Explorer Functions through the OLE/COM+ interface. In a matter of days any organization can design their own Internet portals that access primarily sites of their own choosing.

Documentation for developing software

Microsoft develops the functionality and the building blocks needed for applications and distributed components to interact with each other on the Windows platform. Microsoft also provides Documentation and Developer information for all developers to take advantage of these features. Preventing Microsoft from freely expanding these features to provide the latest technologies, will damage the industry's ability to develop comprehensive integrated software solutions for the Windows platform. Instead you will end up with incompatible proprietary solutions and a less versatile Windows platform.

I urge you to support our economy at this time, and help this settlement go through as it stands. I thank you for your support.

Sincerely,
CJ
Carl Lochen
cc: Representative Darrell Essa

MTC-00030629

25010 42nd Avenue S Kent, WA 98032
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am of the opinion that the antitrust lawsuit against Microsoft is unnecessary. I do not believe that Microsoft was guilty of antitrust violations in the first place. As a computer user I want an operating system that is complete, and a system that does not include an Internet browser is incomplete. Microsoft wants to be able to provide the best, most complete, products on the market. The addition of Internet Explorer is the natural progression of the Windows operating system. The grounds of this suit are faulty, and in my opinion the best resolution to this case is the dismissal of the charges.

On the other hand I feel that this case needs to come to an end, and the quickest way to accomplish this is to accept the terms of the settlement that was reached in early November. I feel that this settlement is a bit harsh, however Microsoft has committed themselves to the terms and are willing to make the necessary sacrifices to get this litigation finished, and themselves back to business. The terms require that Microsoft disclose information pertaining to the internal interface of the Windows operating system so that other companies can create products that work within the system. This term of the settlement in particular is extreme. It requires Microsoft to reveal information that was formerly known and kept as a trade secret. Terms of this nature have never been included in an antitrust settlement before, and its inclusion in this one is not necessary, however Microsoft has agreed to the settlement and therefore it should stand.

Thank you for all of the work that you have done to bring this suit to a close. Please continue to support American business and free enterprise in the future.

sincerely,
Douglas Harper

MTC-00030630

www.microsoft.com/freedomtoinnovate/
www.usdoj.gov/atr/cases/ais-settle.htm
The letter follows:
January 28, 2002
Attorney General John. Ashcront
Department of Justice
950 Pennsylvania Avenue
Washington. DC 20530–0001

Dear Mr. Ashcroft:

My name is Ruth Burke, I am a resident of Fenton. Missount. My reason for writing is to let you know that I support the Justice Department's proposed settlement with Microsoft and that I appreciate your bringing this matter to at least a partial close.

I do not feel that this case should drag on when a fall agreement has been reached. I am sure that people will have gripes with particular provisions of the settlement, but the agreement, when taken as a whole, is beneficial to the all involved.

By agreeing to a more level playing held in the are as of pricing, distribution, and software combetition, Microsoft has opened the door to both increased competition and ch??e. As I understand it, that is the goal in any antitrust litigation. It is time for everyone involved to get out of Court and get back to work.

Sincerely,

MTC-00030631

01/29/02 TUE 01:05 FAX 2024085200
STEVENS DAVIS
MILLER MOS 001
To :
From:
VIA FACSIMILE ONLY TO 202–307–1545
Renata B. Hesse, Esq.
U.S. Department of Justice
Antitrust Division
601 D Street, NW
Suite 1200
Washington, DC 20530
Telecopier: 202–307–1545/202–616–9937
Telephone: 202–514–8276
Peter Peckarsky, Esquire
1615 L Street, NW
Suite 850
Washington, DC 20036
Telecopier: 202–408–5200
Telephone: 202–785–0100
Re: U.S.v. Microsoft, Civil Action No. 98–1232
Date: January 28, 2002
No. of pages (including this sheet):
01/29/02 TUE 01:05 FAX 2024085200
STEVENS DAVIS
MILLER MOS
002
January 28, 2002
Renata Hesse, Esq.
Trial Attorney
Antitrust Division
U.S. Department of Justice
Suite 1200
601 D Street NW
Washington, DC 20530
Facsimile: 202–616–9937 or 202–307–1545
E-mail: microsoft.atr@usdoc.gov
The Honorable John Ashcroft
Attorney General of the United States
U.S. Department of Justice
Room 4400
950 Pennsylvania Avenue, NW
Washington, DC 20530 (without exhibits or attachments)
The Honorable Charles A. James
Assistant Attorney General
Antitrust Division
U.S. Department of Justice
901 Pennsylvania Avenue, NW
Washington, DC 20530 (without exhibits or attachments)

Mary Braden, Director
Departmental Ethics Office
U.S. Department of Justice
Room 6642
950 Pennsylvania Avenue, NW
Washington, DC 20530 (without exhibits or attachments).
Re:
Comments of Relpromax Antitrust Inc. with respect to the Revised Proposed Final
Judgment dated November 6, 2001, and filed in U.S.v. Microsoft,
Civil Action No. 98–1232, United States District Court for the District of Columbia

Dear Ms. Hesse:

Defendant Microsoft has been found liable for multiple violations of Section 2 of the Sherman Act, 15 U.S.C. 2. A proposal for a consent judgment (in the form of a Revised Proosed Final Judgment ("RPFJ") dated November 6, 200l, and signed for the United States by Charles A. James, Assistant Attorney General, Antitrust Division, United States Department of Justice) has been submitted in the captioned civil action. As will be made clear below and has beer made clear by others who have submitted comments, the RPFJ does not meet the requirement,, of law and makes a mockery of the judicial power.

Assistant Attorney General James freely concedes that one of the products at issue is one of the necessaries of modern life. As Mr. James recently wrote:

[The case] involves the signature product of the digital age, the Windows operating system, through which the vast majority of computer users worldwide interne; with what has become a basic appliance in human life.

The Act was named for Senator John Sherman (R.—Ohio). The following is what Senator Sherman told the Senate about concentrated economic power controlling the necessaries of life during the debate that led to the passage of the Sherman Act:

If the concentered [concentrated] powers of [a trust] are intrusted to a single man, it is a kingly prerogative, inconsistent with our fore1 of government, and should be subject to the strong resistance of the State and national authorities. If anything is wrong this is wrong. If we will not endure a king as a political power we should not endure a king over the production, transportation, and sale of any of the necessaries of life. If we would not submit to an emperor we should not submit to an autocrat of trade, with power to prevent competition and to fix the price of any commodity.

INTRODUCTION

I am the President of Relpromax Antitrust Inc. I am an economist by education and experience. I received a Ph.D. in economics from Princeton University and an A.B. in economics

See, among others, the Comment (dated January 17, 2002) of Robert E. Litan, Roger D. Noll, and William D. Nordhaus on the Revised Proposed Final Judgment: and the letter (dated January 24, 2002) on behalf of the American Antitrust Institute by Albert A. Foot, Robert H. Lande, Norman W. Hawker, and Oded Pincas.

Charles A. James. The Real "Microsoft" Case and Settlement, l6 Antitrust 58 (ABA Fall 2001) (a copy of the article is attached as Exhibit 12). Congressional Record, Senate, March 21, 1890, page 2457.

01/29/02 TUE 01:05 FAX 2024085200 STEVENS DAVIS MILLER MOS from the University of California at Davis. I taught economics at Cleveland State University, Central Michigan University, and Kansas State University. I was a post-doctoral research fellow at Wayne State University. At Kansas State University, I was a Visiting Assistant Professor and taught a course in industrial organization economics. I have worked as an economic analyst at the Illinois Commerce Commission which regulates public utilities.

EXECUTIVE SUMMARY

1. My analysis of the competitive impact of the RPFJ using a computerized model demonstrates that the law requires a structural remedy splitting Microsoft into at :least two (2) competing companies if the compensation for the executives of these companies is based on relative profit maximization (RPM). A re-structuring into at least three (3) competing companies if the compensation for the executives of these firms is based on absolute profit maximization (APM).

2. The conduct of the United States Department of Justice and Microsoft with respect to the RPFJ since about September, 200l, has demonstrated contempt for the Court and the statutory rights of all Americans.

3. The RPFJ affirmatively declares that it creates no rights for Original Equipment Manufacturers (OEMs), Covered OEMs, Interact Access Providers (IAPs), Internet Content Providers (ICPs), Independent Hardware Vendors (IHVs), or Independent Software Vendors (ISVs).

4. The RPFJ will not stop Microsoft's violations of the antitrust laws, prevent a recurrence, restore competition to the market, or deny Microsoft the fruits of its illegal conduct.

5. To avoid a conflict of interest or the appearance of impropriety, the Attorney General, the Assistant Attorney General in charge of the Antitrust Division, and all other political nominees or appointees of the current Administration should recuse themselves from any further involvement in matters related to Microsoft; the authority to continue to represent the United States should be delegated to a non-political career trial attorney of the Antitrust Division of the Justice Department pursuant to 28 U.S.C. 510 by a career employee of the Justice Department acting as the delegatee of the Attorney General.

DISCUSSION

A. The Violations of Law and What The Remedy Must Do By Law

The Antitrust Procedures and Penalties Act (Tunney Act) governs this court's consideration of the RPFJ.

The Tunney Act was signed on December 21, 1974, to remedy one of the remy abuses of power which led to the adoption of the second of three Articles of Impeachment of the President by the Committee on the Judiciary of the United States House of Representatives on July 27, 1974. and to the only Presidential resignation in the history of our nation on August 9, 1974. The Tunney Act is not merely some procedural nicety.

The Tunney Act was intended to protect all Americans against an abuse of the antitrust settlement power. See Exhibit 10 hereto, pages 13–22.

In a unanimous 7–0 decision, the United States Court of Appeals for .'.:he District of Columbia Circuit found Microsoft liable for multiple violations of 15 U.S.C. 2 due to unlawful maintenance of a monopoly. U.S.v. Microsoft, 253 F.3d 34 (DC Cir. 2001).

The violations of law related to anti-competitive restrictions on OEMs, the, integration of Internet Explorer with Windows, exclusionary agreements with IAPs, anti-competitive agreements with ISVs, dealings with Apple Computer, First Wave agreements with ISVs, the fraudulent deception of software developers using Java, and threats to Intel.

By law, the remedy must stop the violations, prevent a recurrence, restore competitive conditions in the market, and deny to Microsoft the fruits of its statutory violation.

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Given that the United States won a judgment sufficient to support these remedies, it is not in the public interest for this Court to rubber stamp its approval on a sweetheart dea?? to protect a campaign contributor to both the Attorney Genera/and the President who put the Attorney General and Assistant Attorney General in charge of the Antitrust Division in their current offices. See Exhibit 10 hereto, pages 16–18, 21, and 25, and Attachments I and 9–43 to the Dautch Declaration which is Exhibit A to Exhibit 10 of this letter.

The Court of Appeals suggests, U.S.v. Microsoft, 253 F.3d 34, 107 (DC Cir. 2001) that: If the Court on remand is unconvinced of the causal connection between Micro sort's exclusionary conduct and the company's position in the OS market, it may well conclude that divestiture is not an appropriate remedy.

It follows that if the Court is convinced of the causal connection, the Court may conclude that divestiture is an appropriate remedy.

Pursuant to 15 U.S.C. 16(e), this Court must make a determination that entry of the RPFJ is in the public interest. The statute provides, in pertinent part, that for the purpose of making a decision on whether entry of the RPFJ is in the public interest, the court may consider:

(1) the competitive impact of such judgment, including terrains*ion of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial. limited to the The Court may consider other issues it deems relevant also

and is not considerations set forth in the statute. Some of these issues are discussed below.

1. The Model After the United States Failed to comply with its legal obligation sunder the Tunney Act to provide an analysis of the competitive impact of the RPFJ, 1 prepared a computerized model for the analysis of the competitive impact of the RPFJ. The model is described in derail in Exhibit A hereto.

This economic model considers and calculates the effects on competition of both conduct- only remedies and structural remedies. The model calculates, in dollar terms, the competitive impact of alternative remedies under various sets of assumptions. The model calculates the dollar value of such important economic quantities as consumer surplus, profits of Microsoft and competitors, and total surplus. The main conclusions arc 1) only a structural remedy fully repair the economic damage which Microsoft has caused, and 2) most structural remedies require additional measures to reduce or eliminate the "fruits" of Microsoft's unlawful "victories."

2. The Conduct of the United States and Microsoft Has Been Contumacious As discussed in Exhibits 10 and 11 hereto, both the United States and Microsoft have defied the court and denied the public the information they are stautorily entitled to have to assess the RPFJ.

3. Tile RPFJ Explicitly Denies Any Protection To Third Parties After purporting to create rights and protections for OEMs, ISVs, IHVs, ISPs, and ICPs, among others, the RPFJ takes it oil away in the last section (section VIII) which states: Nothing in this Final Judgment is intended to confer upon any other persons any rights or remedies of any nature whatsoever hereunder or by reason of this Final Judgment. Entry of the RPFJ would make a mockery of the judicial power.

There are a host of other problems with the RPFJ, some of which are due to a lack of econoic analysis.

For example, paragraph 2 of the Revised Proposed Final Judgment says, "IT]his Final

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Judgment does not constitute any admission by any party regarding any issue of fact or law." This provision is not in the public interest, and is partial evidence that this consent agreement is a sweetheart deal. Microsoft has been duly convicted of serious antitrust violations, and many of these convictions were upheld by the Appeals Court. The Appeals Court for the District of Columbia is widely perceived to be more conservative on antitrust issues than the Supreme Court.

There is virtually no chance that the Supreme Court will overturn those cornvictions which the Appeals Court has upheld.

The failure to obtain an admission of guilt, under these circumstances, is really quite remarkable. It requires some explanation for why it is in the public interest to accept: an agreement with no admission of guilt. The Competitive Impact Statement provides no such explanation. Also no estoppel against Microsoft for private parties.

Another example is the proposed set-up is that the work of the TC is completely secret. Section IV.B.9. requires that the TC's work be kept secret. Section IV.B,10. prohibits the TC members from making public statements. Section [V.D.4.d. requires that everything the TC does must be kept secret, and that TC members may not testify about their work. Section:IV.B.8.g. does allow TC members to communicate to third parties "how their complaints or inquiries might be resolved," but requires confidentiality of all information obtained from Microsoft. The work of the TC, whether good or bad, is not subject to any public check or verification. Such secrecy allows a corrupt DOJ to hide the fact that no enforcement actions against violations by Microsoft are being undertaken. All this secrecy gives no confidence to the public, or to potential complainants, that their complaints will be resolved fairly or expeditiously. This is especially so, giver the widespread perception among Microsoft's would-be competitors that this agreement is essentially a sweetheart deal.

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By way of further example of lack of economic analysis in the Competitive impact Statement, consider the following.

A thorough reading of both the Stipulation and the Competitive Impact Statement indicates that neither document contains any substantive economic analysis of any kind whatsoever. Nor is there any reference to may document which does contain any substantive economic analysis. This is a very serious omission, which is not permitted with respect to other types of proposed government regulation. This omission prevents both the Court and the public from having any genuine basis by which to declare this agreement to be in the public interest. Accordingly, for this reason alone, review of the proposed agreement should be postponed, at least until such time as the Department of Justice revises its Competitive Impact Statement to provide such analyses.

The very words, "Competitive Impact Statement," suggest an attention to,the economic impacts of competition or lack of competition. The nature of these possible impacts is well knower.

There can be competitive impacts on prices, sales quantities, costs, quality of products or service, number of competitors, market shares of competitors, the number and variety-of products, and other impacts of competition, imperfect competition, or no competition. There is a whole field of economics, "industrial organization," which is specifically devoted to analyzing these impacts. Many of the economists who are . employed by the Antitrust Division of the Department of Justice have studied industrial organization. The Department of Justice has access to numerous consulting economists. It is therefore quite surprising, indeed quite incongruous, that the D(c)J would issue a "Competitive Impact Statement" in the very major case before us; which is so completely devoid of any substantive economic analysis.

In accordance with well-established practice, the Court should require prier publication of a substantive economic analysis as part of the government's "Competitive Impact: Statement" and allow 60 days for public comments thereafter.

Certainly, there needs to be a quantitative assessment of the likely competitive impacts of the various remedy alternatives. Whether this quantitative assessment should be called cost-benefit analysis or something else is not the primary issue. The primary issue is whether the quantitative analysis of potential remedies illuminates the equity criteria enunciated by the Supreme Court for the resolution of antitrust cases. One important equity criterion is whether a proposed remedy eliminates the "public injury" from unlawful conduct. This requires a quantitative assessment of past and prospective injuries, and a quantitative assessment of how particular remedies reduce or eliminate that injury. Another important equity criterion is whether the monopolist has been deprived of the fruits of an unlawful victory. This requires a quantitative measure, of how large those "fruits" are and how effective each remedy would be in reducing or eliminating such fruits.

The government provides no economic analysis at all. There are no facts, figures. statements, tables, or economic models concerning Microsoft's costs, prices, revenues, or profits. There is no projection of costs, prices, revenues, profits, or consumer surplus under various alternative scenarios or remedies. Nor is there any economic analysis of any other competitive impacts, real or imagined, which might flow from this proposed remedy or alternative remedies. There is, in short, no genuinely substantive "Competitive Impact Statement" which the public may either approve or critique.

Without an economic analysis, there can be no substantive statement of competitive impacts. 15 U.S.C. 16@) requires filing a competitive impact statement. Clause (3) requires " explanation of the proposal .... including..the anticipated effects on competition of such relief."

There are areas (1) where an economic analysis would have been useful, but was not provided, and (2) where weakness in the agreement suggests that the whole agreement is, and was perhaps intended to be, essentially a sweetheart deal, For example, Microsoft's predatory acts were undertaken for the purpose of maintaining its highly profitable monopoly. Microsoft's profit from these acts may be counted in the billions of dollars. Only multi-billion dollar fines on Microsoft for failure to obey the terms of the consent agreement can fully deter rational disobedience. The Competitive Impact Statement provides no indication that the settling Plaintiffs contemplate fines of this magnitude, nor is there my economic analysis in the CIS which shows that fines of this size are not needed. If' fines in the billions of dollars are contemplated, the DOJ ought to say so. We may presume that Microsoft will gladly pay its attorneys even as much as $100 million to avoid a multi-billion dollar fine. Continued litigation by Microsoft is virtually assured. If fines of this magnitude are not contemplated, how does the DOJ intend to enforce this agreement?

By way of further example, the only "penalty" specified in the consent agreement for disobedience to the agreement is to extend the term of the agreement for an additional two years (Section V.B.). However, it would seem to be common-sense economics that if five years of an ineffective regime is insufficient to deter unlawful behavior, then an additional two years of the same ineffective regime is unlikely to deter the unlawful behavior. A more sensible "penalty" would be a five-year extension, renewable indefinitely, not just once. In addition, real penalties for disobedience should be instituted. For example, a fine equal to triple the value of expected profits from uncaught disobedience might be imposed. The proposed "penalties" of this agreement also constitute partial evidence that, in reality, this is a "sweetheart" agreement which the political leadership of the DOJ has no intention of seriously enforcing.

By way of yet further example, section III.B. requires Microsoft to post and publicize uniform licensing terms. This affirmative obligation is all well and good. However there are some puzzles here, which the Competitive Impact Statement does little to elucidate.

First, Section III.B.2. allows the schedule to "specify reasonable volume discounts." However, neither the agreement nor the Competitive Impact Statement specifies what constitutes a "reasonable" volume discount. Can there exist any set of" volume discounts which is "unreasonable"? If the answer is yes, presumably the DOJ can provide examples of "unreasonable" volume discounts, and a methodology (presumably based on economics) for determining whether volume discounts are either "reasonable" or "unreasonable." However, the Competitive Impact Statement (pages 27–29) provides neither examples nor methodology. If the answer is no, what is the purpose of this term "reasonable"? This is one place where an economic analysis is indicated, if only to clarify the meaning of this agreement.

Second, Section III.B.3.a. makes a distraction between the top ten Covered OEMs, and the second ten Covered OEMs, and allows two different uniform schedules. Since the uniform schedules already permit "reasonable volume discounts," what is the purpose of further distinguishing the size of the OEMs? This additional and unneeded flexibility simply gives Microsoft further opportunities for discrinination and retaliatron If Microsoft is especially. interested in punishing one particular firm, Microsoft may punish ten firms, while falsely daiming to be nondiscriminatory. While this opportunity to discriminate may not be especially J valuable, why offer this opportunity in the first place? Uniform schedules for everyone is the better approach.

Third, Section III.B. only applies to 20 Covered OEMs. Section VI.D. define:; these Covered OEMs as those manufacturers of personal computers who had the largest purchases of Windows Operating System Products during the previous fiscal year. However, why are these uniform schedules applicable only to the top 20 OEMs? Why not simply apply the uniform schedules to anybody who wishes to purchase Windows Operating Systems, whether an OEM or not? Also, why should these uniform schedules apply only to OEMs who previously purchased Windows Products? It is the essence of non-discrimination that OEMs should not be penalized for using non-Microsoft products. Yet, if an OEM uses a competitor's product, it may find itself in the group of non- Covered OEMs. This does not aid the professed goal of preventing discrimination a, and retaliation.

Explanations for these various oddities are required. An economic analysis of these oddities would be even better. What is the past and projected market share of the top ten OFMs? What is the past and projected market share of the second ten OEMS? What is the past and projected market share of all remaining wholesale and retail purchasers of Windows products? What differences in competitive outcomes does the DOJ expect for the various possible rules concerning the uniform schedules? This economic analysis should have been provided as part of" the Competitive Impact Statement.

Another example is as follows: Section III.D. requires Microsoft to disclose A PIs and related documentation to all its Windows Operating System Products and its Microsoft Middleware. This affirmative obligation is also well and good. Again, however, there are some puzzles, which the Competitive Impact Statement does little to elucidate.

First, there are the timing differences on when these disclosures must be made. In the case of Microsoft Middleware, it is the "last major beta test release," which is not farther defined. Presumably, the last beta test release could be a mere few weeks before the commercial sale of the product, which is not much advance notice to developers and competitors. For a: new Windows Operating System Product, these disclosures must occur in a "Timely Manner," which is further defined as the first beta test version that is distributed to 150,000 or more beta tester's. Is it possible that Microsoft might therefore choose to beta test future versions o fits operating systems with fewer that 150,000 beta testers? The Competitive Impact Statement (pages 33–35) provide's no explanation for these differences in timing. Nor does it provide any economic analysis concerning whether Microsoft will henceforth have an incentive to "game" these restrictions to avoid the intended competitive impact on its future behavior. Nor has the DOJ provided any economic analysis of how possible changes in the timing of API disclosures would affect the competitive impacts.

Second, there is the timing of disclosures for Windows X. This disclosure midst occur upon release of the first Service Pack, or within twelve months, whichever is earlier. It is not explained whether or why Microsoft needs twelve months to provide its disclosures. If this amount of time is not needed, a lesser time interval should have been provided. However, if several months time is needed, then this necessarily delays Microsoft's issuance of Service Pack 1.

Recent newspaper accounts indicate that Windows XP (and some prior products) has a very serious bug which can allow a malicious hacker to take control of thousands of computers running Windows XP. This circumstance would ordinarily imply that Microsoft is under very serious pressure to issue its first Service Pack on an emergency, expedited basis. However, if the required disclosures take too much time to prepare, then Section III.D. harms both Microsoft and the public. If a proper economic analysis had been performed, this oddity of the agreement likely would have been exposed and corrected before being submitted to the public. In any case, without a published economic analysis, it is difficult to decipher why the DOJ thought this provision made good sense.

Yet another example of missing information arises from section VI.J. which provides a confusing definition for "Microsoft Middleware." In the consent agreement, the !four conditions within the definition are combined with the word "and." However, the Competitive Impact Statement (pages 17–19) explains this term in a manner which suggests that these four conditions ought to be combined with the term "or," not "and." The Competitive Impact Statement (pages 18–19) discusses the situation where Microsoft might choose to divide up its redistributables in such manner that the fourth condition is not met, or even not provide a redistributable, yet the Competitive Impact Statement suggests that such non-qualifying software code is included under the definition. Either all four of the conditions must be present to qualify as "Microsoft Middleware" (an "and" requirement) or only some of the four conditions need be present (an "or" requirement). If the Competitive Impact Statement is correct, then the language of the Stipulation requires revision (or vice versa). Very, likely, if the Competitive Impact Statement is correct, then the language of the Stipulation needs to be more extensively revised than simply replacing "and" with "or."

Since this defined term "triggers Microsoft's obligations" (page 17 of the,. Competitive Impact Statement), it is important that the public and the Court be provided with a clear conception of what this term means, it is difficult for me, or any other member of the public, t comment on the suitability of an agreement which might mean one thing, or might mean another thing. In view of this apparent error regarding a key matter, I would suggest that the DOJ revise the Stipulation, revise the Competitive Impact Statement, or both, and resubmit to the public for further comment.

Section VI.T. provides a definition of "Trademarked" as used in the consent agreement. Pages 22–23 of the Competitive Impact Statement elucidate this definition further. The Competitive Impact Stateroom makes much of the supposition that Middleware is Trademarked, or if not Trademarked then it is not Middleware. Is this a distinction with a difference, or that will make a difference? Here is one place where an economic analysis would be useful, both to clarify whether this is a substantive part of the agreement, and if it is substantive, the likely competitive impacts of this provision of the agreement.

Obviously, there are many other provisions of this consent agreement for which an economic analysis of competitive impacts would have been useful. Such economic analysis, would have been useful, both to clarify the meaning of the agreement, and to help educate the Court and the public on the expected or intended competitive impacts of the agreement. In addition, such economic analyses would have provided a framework upon which the public, in its commentary on the alleged competitive impacts, might accept, modify, or reject. As it is, the public is left with many questions and no answers; the public is given the unfair burden of developing its own economic models for

4, The RPFJ Does Not Meet The Minimum Requirements Of Law

As many commentators have noted, the RPFJ does not accomplish the four goals of antitrust remedies.

Further, by not entering an admission of guilt, Microsoft is presumably free to. engage ha the same anti-competitive practices enjoined by the agreement, after the five (or sever:) year term is completed. This means that if Microsoft continues these anti-competitive practices, after the term of the agreement is finished, the antitrust authorities must prove anew that these: are unlawful practices. Since there is no assurance that a competitive market will be restored within five years, and no assurance that Microsoft will no longer be the dominant firm in these markets, renewal of these practices would be detrimental to the public. Also, the expectation that these practices may be renewed at the end of the five-year term puts a damper on competitors" beliefs that Microsoft is truly enjoined from retaliation, since Microsoft can simply wait before retaliating. This consent agreement essentially throws away Microsoft's conviction.

The proposed five-year term is by no means long enough. A Final Judgment was entered in 1995 and expires on February 21, 2002. Exhibits 2, 3, and 4 hereto explain the problems with the prior FJ. From the Declaration of grain Dautch attached hereto as Exhibit 5, it appears that Microsoft may still be engaging in the banned per processor licensing. In any event: the prior FJ did not restore competition to the market for operating systems.

Microsoft has maintained its dominant monopoly position for a period of over ten years. There is no reason to suppose that Microsoft's dominant position will suddenly evaporate as a result of this consent agreement. So long as Microsoft remains the dominant firm, restrictions on its conduct will continue to be necessary. A far better approach for the conduct remedy is to institute a ten-year term, renewable indefinitely at ten-year intervals. If during the term of the conduct remedy Microsoft no longer has dominance in the industry (e.g., has less than 30% market share), Microsoft may petition the Court for relief from the conduct restrictions.

Further, even assuming that the notion of setting up a Technical Committee to investigate complaints is inherently justifiable, there are obvious problems with this particular proposed set-up. The first problem is that Microsoft is allowed to choose half the investigators (Section IV.B.3.). Microsoft's appointment of an internal Compliance Officer (Section 1V.C.), as well as its own regular attorneys, should be sufficient protection for Microsoft; Microsoft does not need to appoint half the investigators. I am unaware of any administrative agency for investigating, discrimination and retaliation complaints which is set up in such a manner that the accused discriminator or retaliator is allowed to choose half the investigators. This provision by itself constitutes partial evidence that this is a corrupt, sweetheart deal between DOJ and Microsoft. Microsoft should play no role in the selection of TC members,

Further, with regard to discrimination, the consent agreement appears deficient, because it does not overflow with objectively verifiable, affirmative obligations upon Microsoft. In the whole of Section Ill, "Prohibited Conduct," only sub-sections III.B. and III..D. require any affirmative obligation by Microsoft. The remaining sub-sections of Section III either do not impose obligations (Sub-section J) or are suffused with anti-discrimination and anti-retaliatory language (Sub-sections A, C, E, F, G, I-t, and I). In the absence of considerable amounts of trust and goodwill by both Microsoft and its competitors, such provisions may prove either unenforceable or enforceable only after extensive litigation. The delays inherent in a) first having a TC investigation, and b) perhaps followed by litigation, provide cold comfort to any competitor or would-be competitor who may experience or fear discrimination or retaliation by Microsoft.

Labor economists have analyzed discrimination for decades. One economic proposition concerning discrimination is that its effects are likely to be worse in monopoly markets roan in competitive markets. If a monopolist discriminates, one must suffer the discrimination, because there is no one else to do business with. However, if one of many competitors discriminates, one may still attempt to do business with the others. Even if half of all employers discriminate, minorities may still find employment on favorable terms with the other half of the employers.

This simple economic proposition has a clear application in this case. If :toe's primary concern is to prevent discrimination and discriminatory retaliation by Microsoft, the best way to achieve this objective is through a structural remedy: Break up Microsoft into two or more firms. Eliminate the monopoly, and the threat of discrimination and retaliation loses its fearsome power, and also becomes mostly unprofitable. Not performing a structural remedy means that discrimination and retaliation is both profitable for Microsoft and fearsome to Microsoft's would-be competitors. This consent agreement fails to use the most efficacious means to achieve its primary objective. The most likely result of the consent agreement is continued fear, continued discrimination, continued retaliation, continued litigation, and continued monopoly.

Labor economists also know that under a wide variety of economic assumptions and circumstances, discrimination against minority workers is an unprofitable activity for employers. 4 In a competitive market, the result is segregation of minority workers into separate firms, but not lower wages, assuming equal skill by the minority workers.

The outlawing of unprofitable activities is easier to enforce than the outlawing of profitable activities. Even though the laws against discriminatory motives are inherently difficult to enforce, their enforcement is aided by the fact that employment discrimination is normally not profitable. This is not the circumstance for discriminatory acts by Microsoft.

5. Appearance Of A Conflict Of Interest

Microsoft has made an investment of about $23 million in politicians from 199:7 to 2001. See Exhibit A (Dautch Dec. and attachments) to Exhibit 10 hereto.

Given an estimated value of AOL's private antitrust suit against Microsoft in the neighborhood of $20 billion, Microsoft may be about to earn close to a 1000 to I on just the AOL suit.

The Attorney General and Assistant Attorney General along with the Other political nominees or appointees of the current Administration should consider recusing themselves and leaving further consideration of this matter to the career employees of the Antitrust Division.

LIMITED COPYRIGHT LICENSE

For the sole purpose of allowing the United States (including all three branches of the government) to analyze these comments, to publish these comments in the Federal Fegister and to file a copy of these comments with any courts it deems appropriate (including the: United States District Court for the District of Columbia), I hereby grant the United States a time-limited non-transferable royalty free non-exclusive license without the right to sublicense and without the right to enforce limited to the purposes stated herein to make such copies of the copyrighted material as are necessary; 1) to publish the copyrighted computer programs submitted as part of these comments in the Federal Register; 2) to make such copies of the computer programs as are necessary to: file a copy of these comments with the United States District Court for the District of Columbia; and, 3) to run and modify only the inputs and source code to the computer programs for the purpose of preparing a response to these comments or for the purpose of analyzing these comments (no license to create a derivative work is granted by his license).

The limited copyright license granted hereby terminates one day after the last possible clay to file any appeal in any court from the entry of the RPFJ or termination of consideration of the RPFJ in U.S.v. Microsoft, Civil Action No. 98–1232, presently pending in the U.S. District Court for the District of Columbia.

B. The Public Interest The Public interest is in seeing that the laws are fairly and fully enforced by mpartial law enforces without regard to the political or other connections of the alleged violators of the law. Entry of the RPFJ is not in the public interest for many reasons as discussed above and by many of the other commentators on the RPFJ such as

Drs. Litan, Nell, and Nordhaus and the American Antitrust Institute. The RPFJ will not stop the antitrust violations. The RPFJ will not prevent a recurrence of the current violations or very similar violations. The RPFJ will not unfetter the market from predatory anti-competitive conduct. The RPFJ will not deny to Microsoft the flints of it illegal conduct.

The RPFJ, if entered, will make a mockery of the judicial power. The RPFJ may send a clear message to all Americans that if you violate the law and then contribute enough money to the party in power, you may be able to operate outside the law indefinitely and profitably. ".[he RPFJ may undermine public confidence in the fairness and agility of the Department of Justice It is not in the public interest to achieve the ends set forth in this paragraph.

Entry of file RPFJ is not in the public interest. The court should refuse to approve or enter the RPFJ. in order to avoid a conflict of interest or the appearance of impropriety due t,) the massive amount of campaign contributions by Microsoft to the current Administration and its leaders, the Attorney General and the other nominees or appointees of the current President or Attorney General should recuse themselves from any further consideration of this matter and delegate further consideration to career lawyers in Antitrust Division all of whom should be protected by this Court in advance (in addition to any statutory rights they may have) against reprisals by the political nominees and appointees.

While many issues are raised by these comments, we hereby specifically request a response to questions and issues including, but not in any way limited to, the following:

1. Does Attorney General Ashcroft intend to recuse himself from any further involvement in matters involving Microsoft and, in particular, U.S.v. Microsoft, Civil Action No. 98–1232, presently pending before the U.S. District Court for the District of Columbia? If so, when? if not, why not?

2. Does Attorney General Ashcroft intend to recuse (or remove) any political appointees serving under him in the Department of Justice from any further involvoment in matters involving Microsoft and, in particular, U.S. v. Microsoft, Civil Action No. 98–1232, presently pending before the U.S. District Court for the District of Columbia? If so, which appointee or appointees? If so, when? If not, why not?

3. Does Assistant Attorney General James intend to recuse himself from any further involvement in matters involving Microsoft and, in particular, U.S.v. Microsoft, Civil Action No. 98–1232, presently pending before the U.S. District Court for tile District of Columbia? If so, when?

If not, why not?

4. If he remains involved in U.S.v. Microsoft, does Assistant Attorney G moral James who has personal "knowledge that a non-counsel of record (e.g. Charles f'. Rule, Esq.) engaged in undisclosed written and/or oral communications on behalf of Microsoft with officers and/or employees of the United States (specifically officers and/or employees of the Department of Justice) concerning or relevant to the RPFJ (including negotiations leading to agreement on the terms of, and the signing of, the RPFJ) intend to sign and file with the United States District Court for the District of Columbia a certification of compliance (as ordered by the Court on November 8, 2001) with the requirements of the Antitrust Procedures and Penalties Act (Turnkey Act).: 15 U.S.C. 16(b)-(h)? If he remains involved in U.S.v. Microsoft and Microsoft does not amend !he Microsoft Description and Assistant Attorney General James does not sign and file a certificate of compliance himself, does he intend to order or allow one of his subordinates to sign and file such a certificate of compliance? Why did Assistant Attorney General James sign the Stipulation and RPFJ (both dated) November 6, 2001, but not the CIS?

5. Does the United States intend to amend and publish in the **Federal Register** an amended Competitive Impact Statement ("CIS")? If so, when? If not, what is the basis for the United States" position that the current CIS complies with 15 U.S.C. 16(b)(3), (4), and (6!I?

PROTEST AND RESERVATION OF RIGHTS

This letter including the exhibits, attachments, and enclosures to and with this letter all of which are hereby incorporated fully by reference herein constitute the comments by Relpromax Antitrust Inc. ("Relproma") pursuant to the notice published by the United States at Fed. Reg. 59452, Vol. 66, No. 229 (Nov. 28, 2001) and pursuant to 15 U.S.C. 16@) with respect to the Revised Proposed Final Judgment dated November 6, 2001, and filed in U.S.v. Microsoft, Civit Action No. 98–1232, presently pending before the United States District Court for the District of Columbia.

Relpromax has filed with the United States District Court for the District of Columbia two motions related to these comments, certain statutory deadlines, and a court Order related to these comments. The first motion seeks, among other things, an order to compel Microsoft to meet its disclosure obligations under 15 U.S.C. 16(g). A copy of the brief (including exhibits and attachments) in support of the first motion ("Memorandum Of Points And Authorities in Support Of The Motion Of Relpromax Antitrust Inc. For Limited Participation As An Amicus Curiae And For An Extension Of Time") is attached hereto as Exhibit 10 and incorporated herein fully by reference. The second motion seeks, among other things, an order to compel the United States of America ("United States") to meet its obligations with respect to a Competitive Impact Statement ("CIS") under 15 U.S.C. 16@). A copy of the brief in support of the second motion ("Memorandum Of Points And Authorities In Support Of The Motion Of Relpromax Antitrust Inc. For Limited Participation As An Amicus Curiae And For An Extension Of Time On The Grounds That The United States Has Not Provided A Competitive Impact Statement In Compliance With The Requirements Of 15 U.S.C. 16(b) ") is attached hereto as Exhibit 11 and incorporated herein rally by reference.

The failures of the United States and Microsoft to comply fully with the requirements of the Antitrust Procedures and Penalties Act ("Tunney Act"), 15 U.S.C. 16(b)-(h), have kept Relpromax and the public generally from receiving all the information that is required by statute to be provided no less than sixty (60) days (in the case of the CIS) and fifty (50) days (in the case of Microsoft's disclosures) before the deadline for filing these comments. Accordingly, these comments are filed under protest, with a full reservation of all rights available to Relprornax, and must be viewed as preliminary and subject to amendment or expansion if and when additional public disclosures are made by the United States or Microsoft or by third parties making available information which should have been made available by either the United States or Microsoft.

We look forward to receiving the response of the United States to the foregoing and to the publication of all of these comments (including the exhibits and attachments submitted herewith all of which are again incorporated by reference) in the **Federal Register** and to the submission of these comments to the court by the United States.

Thank you very much for your attention to this matter.

Sincerely,

President

Relpromax Antitrust Inc.

Exhibit 1

Exhibit 2

Exhibit 3

Exhibit 4

Exhibit 5

Exhibit 6

Exhibit 7

Exhibit 8

Exhibit 9

Exhibit 10

Exhibit 11

Exhibit 12

Exhibit 13

EXHIBIT LIST

Discussion of computerized model, data inputs to model, and computer source code for model for analysis of competitive impact of the RPFJ consisting of:

a. Explanation, model inputs, and intermediate outputs used as inputs to final calculations: Attachments A-l, A-2, B-F, and R-S

b. Results: Attachments G-J

c. Source code for model: Attachments K-Q

d. Article by Carl Lundgren, Review of Industrial Organization, Volume 1 I, Number 4, August 1996, pp. 533–550: Attachment T

Proposed Final Judgment dated on or about July 15, 1994, in U.S. v.Microsoft, Civil Action No. 94–1564, U.S. District Court for the District of Columbia

Competitive impact Statement dated July 27, 1994 Memorandum Of Amici Curiae In Opposition To Proposed Final Judgment, signed by Gary L. Reback and dated January 10, 1995

Declaration of Brian Dautch dated January 27, 2002

Declaration of Paul M. Romer (Redacted Public Version) dated April .27, 2000

Declaration of Carl Shapiro dated April 28, 2000

Affidavit of former Senator John Tunney dated January 22, 2002

Letter dated August 9, 2001, from 88 Members of Congress to The Honorable John Ashcroft (Attorney General of the United States), Steven Ballmer (Chief Executive Officer of Microsoft), and The Honorable Tom Miller (Attorney General of Iowa) Memorandum Of Points And Authorities In Support Of The Motion 05 Relpromax Antitrust Inc. For Limited Participation As An Amicus Curiae And For An Extension Of Time Memorandum Of Points And Authorities In Support Of The Motion Of Relpromax Antitrust Inc. For Limited Participation As An Amicus Curiae And For An Extension Of Time On The Grounds That The United States Has Not Provided A Competitive Impact Statement In Compliance With The Requirements Of 15 U.S.C. 16(b)

Charles A. James, The Real "Microsoft" Case and Settlement,

16 Antitrust 58 (ABA Fall 2001)

Dan Eggen, Enron Executives Contributed to Ashcroft Campaign, The/Washington Post, January 11, 2002, p. A7

EXHIBIT 1 TO THE COMMENTS OF RELPROMAX ANTITRUST INC.

ATTACHMENT A- 1

ECONOMIC MODEL FOR ANALYSIS OF COMPETITIVE IMPACT OF THE RPFJ

A. THE MODELING PROBLEMS CAUSED BY THE SHORTCOMINGS OF THE COMPETITIVE IMPACT STATEMENT

As indicated above, the Competitive Impact Statement provides no economic analysis or economic modeling of any kind. The Competitive Impact Statement does not even provide raw economic data upon which an economic analysis might be made. It provides no information concerning revenues, costs, profits, quantities, or product qualities of Microsoft, its competitors, or potential competitors which might usefully be incorporated into an economic model. The CIS does not indicate the United States reviewed or considered any such items (i. e. revenues, costs, profits, quantities, or product qualities of Microsoft, its competitors, or potential competitors) in connection with the RPFJ or the CIS. The DOJ's "Competitive Impact Statement" may be a "statement" of sorts, but it is clearly not a statement of "competitive impacts," about which the statement truly says nothing at all.

This places a heavy burden on the public. Members of the public who wish to critique the consent agreement, must not only devise their own economic models and collect their own economic data, they can only guess at what economic models and economic analysis the DOJ is hiding from the public.

Accordingly, a member of the public who wishes to comment is forced to devise her own economic models and collect her own economic data. In the case of this model, the work has been performed by a professional economist. It would be preferable to use or critique the DOJ's own economic models of the software -industry. However, the DOJ has provided no such economic models and no analysis of the competitive impact of the Revised Proposed Final Judgment.

B. How an Economist Analyzes Competition

To an economist, an assessment of the competitive impacts of a remedy proposal requires an assessment of the factors impacting on competition. Competition can be measured or understood in a variety of ways. One paradigm that is often used by economists is the Structure-Conduct-Performance paradigm. The Structure of an industry concerns such matters as the number of firms in a market and the market shares of firms in a market. For example, if an industry has twenty business firms, and no firm has more than a twenty percent market share, the industry is probably competitive. If the industry has only two firms, and one of the firms has an eighty percent market share, the industry is probably not competitive.

The Conduct of an industry refers to the behavior of business firms within an industry. How do they conduct business? Are they actively colluding? Do they frequently share price information? Does one firm normally set prices, while the other firms simply set the same price in response? These are all behaviors which may indicate lack of competition. Some of these behaviors may also be a violation of the antitrust laws.

Finally, the Performance of an industry refers to how well the industry serves the interests of consumers (or society generally). For example, are prices high or low relative to the costs of production? Is the quality of goods and services high or low relative to the cost of producing quality, and relative to what consumers are willing to pay for quality? Is the variety of goods and services high or low relative to the value which variety and choice have for consumers, and relative to the extra costs (if any) associated with producing and selling that variety?

Economists typically measure the interests of consumers using a concept called "consumer surplus" ("CS"). Consumer surplus is a dollar measure of the value which consumers receive by being able to purchase goods at a low price rather than a high price, by being able to purchase goods they want, and by obtaining good quality from what they purchase. For example, if a consumer would have been willing to pay $200 for an operating system, but only paid $50, then that consumer receives a consumer surplus of $150. If a second consumer would have been willing to pay $75, but only pays $50, then the second consumer receives a consumer surplus of $25.

Economists also typically evaluate the performance of an industry using a related concept called "total surplus" ("TS"). Total surplus is simply the sum of "consumer surplus" and "producer surplus" ("PS"). Producer surplus is a dollar measure of the value which producers receive by being able to sell their land, labor, or capital at a higher price rather than a lower price. For example, if a worker would have been willing to sell his labor for $35,000 a year, but is paid $50,000 a year, that worker receives a producer surplus of $15,000 a year. If a capitalist is willing to lend or invest his money for a 10% return, but receives a 25% return, that capitalist receives a producer surplus of 15%.

When an industry is competitive, its performance in terms of "total surplus" will be at a maximum. Its performance for consumers will also be near a maximum. When an industry is competitive, the only way to improve consumer surplus is to lower prices still further, but this would cause producers to suffer losses. Hence, when an industry is competitive, consumer surplus is at a practical maximum, because there must either be government subsidies or unhappy producers, if consumer surplus is to be ..increased still further.

When an industry is not competitive, its performance in terms of total surplus is reduced. When an industry is not competitive, prices are higher and output is lower, than what would occur if the industry were competitive. Because prices are higher, consumer surplus is lower, but producer surplus is higher. However, the total surplus is reduced, because the producer surplus is increased by less than the amount by which consumer surplus falls, so the sum of the two surpluses is reduced. Hence, whether we measure industry performance by the metric of "consumer surplus" or by the metric of "total surplus", more competition is better than less competition.

C. How an Economic Analysis Impacts this Case

Industry performance can be poor, either because the industry structure is bad, because the industry conduct is bad, or because both structure and conduct are bad. A well-designed competition policy would attempt to remedy or prevent both bad structure and bad conduct.

However, the antitrust law as it is presently formulated is not a well-designed competition policy. The antitrust law attacks bad conduct, but does not attack bad structure per se. A monopoly is usually a bad industry structure, which frequently leads to bad competitive performance, but a monopoly as such is not illegal under the antitrust laws. A monopoly is only illegal if it is acquired or maintained through anti-competitive conduct. Hence, even though Microsoft is a monopoly, if Microsoft never does anything illegal, Microsoft is perfectly free to record its monopoly profits at the expense of consumers.

However, Microsoft did act unlawfully.

It is, of course, the primary aim of the antitrust laws to protect consumers and competition, not competitors as such. Naturally, competition requires competitors, and consumers are better off when competitors are protected from certain types of anti-competitive conduct. Nevertheless, the interests of consumers are paramount when fashioning a remedy. The interests of competitors are of secondary importance. A disinterested economic analysis will always keep this goal in mind when comparing remedies for the Court's consideration.

D. Preliminary Data for the Economic Model

In order to be useful, an economic model must have as close a relationship to reality as possible given the constraints inherent in any model. An economic model cannot mimic economic reality entirely, because economic reality is too complex to model in its entirety, many aspects of economic reality are not humanly known, and such an exacting economic model would be far too complex for either humans or computers to calculate in a reasonably timely fashion. Hence, all economic models (like all scientific models) are a simplification of reality.

The first consideration is the basic economic data and assumptions. The primary data of interest are costs, revenues, profits, and market shares for each of Microsoft's three monopolies. These three monopolies are the Windows operating system monopoly, the Internet Explorer browser monopoly, and the Office (e.g., word processing, spreadsheet, and database) software monopoly. Each of these three monopolies is implicated in antitrust violations committed by Microsoft. The Windows operating system monopoly is especially implicated in these violations. There is the question of whether we should model all three monopolies, or only one monopoly, for purposes of corrective action. This problem is solved by running one version of the model for Platform revenues only and another version of the model for all types of product revenue.

Neither Microsoft nor the DOJ has provided data on costs, revenues, and profits for each of Microsoft's three monopolies, or for any of them. The DOJ has not provided such data as part of its Competitive Impact Statement, nor has Microsoft provided such data on its Investor Relations website. However, Microsoft does provide data for revenues for various business units since July 1997. These business units are "Desktop Platforms", "Desktop Applications", "Enterprise Software and Services", and a few other miscellaneous units. The "Platforms" unit corresponds most closely to Microsoft's operating system monopoly. The "Applications" unit corresponds most closely to its Office, and possibly its browser, monopoly. It is unclear at this time whether, and to what extent, the "Enterprise Software" unit corresponds to either competitive or monopoly markets, including operating systems for server markets, the browser market, or commercial services based on the Internet.

Hence, as initial data for the economic model, four sets of revenue figures for Microsoft's monopolies were used. The first set of revenue figures is based solely on Microsoft's Platform Revenues, which most closely conforms to a narrow vision of Microsoft's monopoly. The second set of revenue figures is a summation of Platforms & Enterprise Software. The third set of revenue figures is a summation of Platforms & Applications. The fourth set of revenue figures is a summation of Platforms, Applications & Enterprise Software. The revenue figures are arranged in increasing order of size, with the first set of figures being the smallest, and the fourth set of figures being the largest. This information is shown in Attachment A-2 which immediately follows this Attachment A-1.

As it turns out upon analyzing the results produced by the model, the qualitative conclusions of the economic model are basically unaffected by whether the model uses Platform revenues as a base or essentially all product revenues as a base. Quantitative results will change, of course, because the fourth set of figures roughly triples the calculated values compared with the first set of figures. Nevertheless, the qualitative conclusions remain the same. In order to place these historical figures into useful format, the revenue figures are projected backwards in time through calendar year 1995. This is done by computing quarterly revenues for each business unit as a percentage of total revenues. A statistical regression on these percentages was used to determine if these percentages were growing or shrinking. These statistical tests indicated modest, but statistically significant, changes in these percentages over the time interval July 1997 through September 2001. Hence, similar percentage changes were used to determine the missing historical data for January 1995 through June 1997. These projected percentage changes for the three business units were multiplied by Microsoft's reported total quarterly revenues for the quarters of these prior years to obtain estimated values for the revenues of each of Microsoft's three main business units for each such quarter.

These data were converted from nominal dollars to real dollars. Nominal dollars are simply the actual reported dollars, without any adjustment for changes in purchasing power due to inflation. Real dollars are nominal dollars as of a given year, but adjusted for inflation for years other than the base year in which the real dollars are being reported. In order to convert the nominal dollars into real dollars, the U.S. Bureau of Labor Statistics" (BLS) Consumer Price Index (CPI) for "All Urban Consumers (Current Series)" was used. This is the most commonly used inflation index. The nominal dollars were converted to real dollars using 2001 as the base year.

Next, the real quarterly revenues were projected into the future. For each of the three business units, the 1995–2001 historical growth rates were calculated using log-linear statistical regressions. Revenue growth rates were very high, 19.8% annual growth for Platforms, 18.5% annual growth for Applications, and 28.9% for Enterprise Software, all expressed in real dollars. However, revenues did falter a bit in the last year of data. Hence, I used the average of the last four quarters of the data available to me as the baseline to estimate the last quarter of revenue data for calendar year 2001.[5] Upon this baseline estimate of revenue for the fourth quarter of 2001, I projected all future growth.

In order to project future growth, I assumed that software Downloaded December 5, 2001 from the BLS's CPI web page, available at http://stats.bls.gov/cpi/home.htm . The average CPI for 2001 was computed as the eight- month, mid-year average for 2001. Since the last two months of 2001 were not yet available, the first two months were dropped for symmetry.

Microsoft's accountants use a fiscal year which differs from the calendar year. I re-dated all Microsoft figures to their true calendar years. production would eventually become a "mature" industry. As a mature industry, real growth rates are unlikely to exceed some modest figure, such as 3% per year. However, computer software has not yet reached this stage of maturity. Software growth is very much driven by the phenomenal growth in computer hardware capabilities. The growth rate of computer hardware capacity is unlikely to taper off anytime soon, even if we restrict our attention to foreseeable technological developments.

However, revenue growth rates for software are unlikely to be sustained indefinitely into the future at annual rates of 18%-30%, no matter how amazing these future developments in computer hardware may be. Accordingly, I project that the current rapid growth in monopoly revenues will gradually slow down to the more modest growth rate of 3% a year. In my projections, I allow the historically-observed, rapid growth rates to converge towards the slower "mature industry" growth at the convergence rate of 5% per quarter. That is, if the growth rate in quarter I is 20%, then the growth rate in quarter 2 is assumed to be (20% x 0.95) + (3% x .05) = 19.15%. Alternative projections for Microsoft's future monopoly revenues may also be reasonable. However, it is unlikely that alternative projections will fundamentally alter the qualitative conclusions.

These quarterly estimates and projections for Microsoft's revenues by business division were then summed into annual figures for each calendar year from 1995–2025. Attachment A-2 provides the real revenue figures and projections which were used in the computerized economic model.

The next main piece of data is data on costs. Data on costs were also obtained from Microsoft's Investor Relations website. Data on Microsoft's expenses are available for the company as a whole, but do not appear to be available by business division. Hence, the only option is to take an average across business divisions as being representative of Microsoft's three main business divisions.

Microsoft's spreadsheets available on the microsoft website list their expense items as a percentage of revenue for each microsoft Fiscal Year. The percentages from the last ten fiscal years were used to compute ten-year averages for each expense item as a percent of revenue. These 10-year averages are listed in Attachment B.

These expense items were then classified as either short-run costs or long-run costs. Microsoft's profit and loss sheet does not show capital expenses as such. However, it does show Research and Development (R&D) expense. It is assumed that R&D for its software products is Microsoft's main long-term cost. "General and administrative" expense is also classified as a long-term cost. The other expenses I classify as short-run costs. According to this classification, Microsoft spends 41.01% of its revenue on short-term costs, and 18.55% of its revenue on long-term costs. These percentages have held fairly steady over the years, with some variations.

To the extent that long-term costs take time to develop their respective revenues, and to the extent that Microsoft's revenues are growing, these long-term costs as a percent of revenue are probably overstated. For example, if Microsoft's revenue in Year I is $100, and its R&D expense in Year 1 is $20, that is 20% of revenue. However, suppose that it takes 4 years for Microsoft's R&D expenditure to pay off. Suppose that in the same 4 years Microsoft's revenue has doubled to $200. Microsoft's $20 R&D expenditure in Year I has helped to create $200 of revenue in Year 5. This is a percent of revenue of only 10%, not 20%.

However, to the extent that investors require a positive return on their capital investments, these long-term costs as a percent of revenue may be understated. For example, if investors require a return of 50% on their capital over a 4-year period, then an investment of $20 in Year I will require repayment of $30 in year 5. If Microsoft's revenues had remained at $100 in Year 5, this would be a percent of revenue of 30%, not 20%. If Microsoft's revenues rose to $200 in Year 5, this would be a percent of revenue of 15%, and not 10%, 20%, or 30%.

For purposes of the computerized economic model, it is assumed that these two effects offset each other, and accordingly the model uses the raw percentage, 18.55%, as Microsoft's long-term cost of production. These two effects will exactly offset each other only if investors" required return on capital exactly matches Microsoft's growth rate. This is unlikely to happen exactly. It is most likely that the investors" required real rate of return on capital investment is less than Microsoft's phenomenally rapid growth rates in revenue. Hence, Microsoft's long-term cost of production is probably somewhat less than 18.55%.

Finally, we consider Microsoft's market share. In the Findings of Fact, Judge Jackson indicated that Microsoft's market share in operating systems was over 90% for over a decade.7 More recent market share data indicates that Microsoft has approached or Finding of Fact number 35. U.S. v. Microsoft, 84 F.Supp.2d 9, 19 (D.DC 1999) exceeded a 90% market share in all three of Microsoft's monopolies: Since the beginning of the trial, Microsoft's share of the web browser market has increased from less than %5% to more than B7%, its position in the desktop operating system market has risen to 92% (a 3% increase in the last year) and its market share for business productivity applications, such as word processing and e- mail, is now over 96%.

E. Equations for the Economic Model

An economic model must model both the demand side and the supply side of the markets in question. However, to keep the model simple and tractable, it is best to use equations that are fairly easily solved and calculated. For the demand side, I assume that the product being produced is "homogenous". This means that the product is essentially the same, in the eyes of the consumer, whether the product is produced by one firm or another firm.

Software products produced by different firms are probably not completely homogenous, either because a firm's reputation, or its product quality, or other product features may differ across firms. However, the assumption of product similarity across firms is often & true enough for modeling purposes. In addition, even though product quality may differ, a simple reinterpretation of the model can handle such situations. To the extent that people are willing to pay more for higher quality, we can interpret this situation as if the higher quality is equivalent to higher quantity.

Another simplifying assumption for the demand side is that the industry demand curve (graph of the price of a product vs. quantity of a product demanded at each price) is linear. A demand curve is unlikely to be linear (that is, it is unlikely to be a straight line). However, the only range of prices worth considering for the competitive analysis is the prices and outputs that lie between the monopoly price and output and the competitive price and output. Over a small range of prices and outputs, the demand curve is likely to be close to a straight line. Therefore, it is unlikely that assuming curvature or lack of curvature in the demand curve will play any significant qualitative role in the conclusions of such a competitive analysis.

Accordingly, the demand side assumes that products are homogenous and that demand curves are linear, according to the equation:

$P = A - bQ \quad (1)$

Where P=Price (same for all firms), Q=Industry Output Quantity, and A and b are positive parameters (intercept and slope of the demand curve).

We now turn to the supply side. Technically, only competitive firms have supply curves (graph of the price of a product vs. quantity of a product supplied at each price). Monopoly firms have only marginal cost curves. In this industry, we assume that firms are few in number, either one or a very few firms. Hence, the industry at all times is either a monopoly or an oligopoly. Standard textbook theory tells us how to analyze the production decisions of a monopoly firm. However, there is no single textbook model for how to analyze an oligopoly. This is because there are multiple ways in which an oligopoly industry might behave.

In order to analyze the production decisions of either a monopoly or an oligopoly, it is necessary to posit the nature of the cost curves which they face. It is assumed that different firms may have different costs of production. However, for simplification, it is assumed that each firm (subscripted i for each firm i, where i = 1, 2, 3 ....) has both a fixed cost (Fi) and a marginal cost (Ci). It is assumed the marginal cost is constant (but different) for each firm. Since the fixed cost has an effect only on entry decisions, exit decisions, and shut-down decisions, rather than pricing decisions, it is assumed that the fixed cost is the same for all firms (Fi=F for all i). These simplifying assumptions are unlikely to have a significant qualitative impact on the conclusions.

Hence, the total cost or cost curve for each firm is assumed to be:

$TCi = Fi + QiCi \quad (2)$

Where TCi = Total Cost for firm i, Fi = Fixed Cost for firm i, Qi = Quantity of output for firm i, and Ci is the constant marginal cost for firm i. In addition, we assume that Fi = F for all firms which are producing and Fi = 0 for all firms which are not producing.

For a monopoly firm, it is sufficient to know the cost side and the demand side to obtain a prediction for the production decision. The monopolist's profit is:

$Profiti = TRi - TCi$

$= PQi - (Fi + QiCi)$

$= PQi - QiCi - Fi \quad (3)$

Where TRi = Total Revenue for firm i = PQi, and TCi comes from equation (2).

Assuming that the fixed cost is not so high as to make production not profitable, the monopolist finds it most profitable to produce at the output level where marginal cost (MC) equals marginal revenue (MR). On a graph showing a plot (or curve) of dollars of profit per unit vs. the quantity of units produced, this output level (where MC = MR) is the highest point on the curve. The eye can determine this point at a glance.* To determine this output -level by computer, calculus is used and this output level is determined by obtaining the partial derivative of Profits with respect to the firm's choice of Qi and setting these derivatives equal to zero:

$(d\ Profiti / d\ Qi) =$

$(d\ P / d\ Qi)Qi + P - Ci = 0$

$bQi + P - Ci = 0 \quad (4)$

Where we substitute (d P / d Qi) = b from the derivative of the demand curve in equation (1).

For an oligopoly firm, we must make a choice from many possible oligopoly models, a model which is reasonable for the situation at hand. A standard oligopoly model, first developed by a French economist named Cournot over 150 years ago, is still frequently used by economists today because it is fairly easy to compute. The Cournot model assumes that each oligopoly firm makes its output decision under the assumption that rival firms will not change their output in response to its own change in output. The Cournot model yields an oligopoly price and output which is intermediate between competition and monopoly. Also in the Cournot model (when firms have the same marginal cost), an increase in the number of firms causes prices to fall and output to rise. When there are a very large number of firms, the Cournot model predicts competitive pricing, which is what we would expect.

When all firms attempt to maximize their absolute level of profits, the profit-maximizing equations for each firm under the Cournot model are:

$Profiti = PQi - QiCi - Fi \quad (4)$

$(d\ Profiti / d\ Qi) =$

$(d\ P / d\ Qi)Qi + P - Ci = 0$

$bQi + P - Ci = 0 \quad (5)$

The Cournot model is reasonable for the circumstances of this industry. Given a fairly significant level of fixed costs for this industry, it is unlikely that more than two or three firms can survive as major players in this industry. Fixed costs for software production (i.e., for research and development) require that firms must have significant sales simply to break even. This limits the number of firms which can survive as major players in the industry.

Microsoft's long-run costs appear to be about 18.55% of revenues. If all of these costs are fixed costs, then no more than five firms can exist in the industry, because fixed costs for six firms would eat up 18.55% × 6=111.3% of the industry's total revenue. This is unviable. In addition, there are also the short- run costs that must be covered. Furthermore, when there are two or more firms in the industry, we expect prices to fall, which allows firms to sell more, but only at a lower profit margin.

Computer results from a preliminary economic model, which allowed up to five firms in the industry, indicated that if fixed costs are either 75% or 100% of the long-run costs, then only two firms can survive in this industry. If fixed costs are either 25% or 50% of the long-run costs, then only three firms can survive in this industry. If fixed costs are 0% of the long-run costs (i.e., all long-run costs are variable costs), then it is possible for four or five firms to survive in this industry. Accordingly, the computer model was revised to consider a maximum of three firms in the industry.

Given that only two or three firms can successfully survive, under Cournot assumptions, we may ask if the Cournot model is a reasonable description. Alternative oligopoly models do exist, and these may suggest either higher prices or lower prices than what the Cournot model would predict.

Under the circumstances of an industry structure with only two or three firms, it is more reasonable to assume that prices may be higher than the Cournot model would predict. This is so for two reasons. First, software products are likely to be somewhat differentiated, rather than homogenous, as the computer model assumes. If products are differentiated, then consumers see the products of different firms as being somewhat different from each other, albeit also similar to each other. For example, Corel WordPerfect and Microsoft Word have their differences, as well as their similarities. Within a small range of prices, each software product can act as a kind of "mini-monopolist" with respect to its own product price.

Second, when there are only two or three firms, tacit collusion which raises prices is easier to implement, and difficult to prove. Moreover, unlawful conspiracies to raise prices are less easily discovered. However, it is the general experience that oligopolies with very few firms rarely collude by means of unlawful conspiracies (which could net jail time), presumably because tacit collusion is so much easier.

For both these reasons, it is substantially more likely that oligopoly prices would be higher than what the simple Cournot model would predict, than that the oligopoly prices would be lower. If we assume that prices would be higher, this means that more firms can survive in the industry. For example, if the Cournot model would predict that only one firm can be profitable, it may be that two firms can be profitable. If the Cournot model predicts only two firms can survive, it may be that three firms can survive. And so forth.

Hence, the Cournot model is probably a bit cautious in its predictions about how many firms can actually compete and survive in this industry. This is probably a good thing. One of the issues in this case, at least implicitly, is whether or not Microsoft is a "natural monopoly." If Microsoft is a natural monopoly, someone might argue, then Microsoft caused little or no harm by keeping out the competition, since the competitors could not have survived anyway. The computerized model does not in any way lend support to this type of argument. Hence, the Court should not be reluctant to consider structural remedies which divide Microsoft into two or more firms.

F. Equations For a Relative Profit Maximizing Firm

One of the options for a structural remedy is to change the incentives of the business managers of the successor firms to Microsoft when Microsoft is re-structured. The incentives of the business managers can be altered by changing the method of compensation for the officers of the business firm. A method of incentives for preventing collusion is further explained in a paper published in a refereed academic journal.

For purposes of this comment and the computer economic model, attention is restricted to the simplest possible methods for implementing this incentive system. More complex methods for implementing the incentive system are certainly possible, and some of these more complex implementations may even be better or more effective than the simple implementation discussed here. In its purest implementation, the incentive scheme sets up a zero-sum game for two or more firms in an industry. In the zero-sum game, there is no incentive for all firms in the industry to engage in any type of collusion. The method even prevents tacit collusion, which may be hard to detect, and difficult or impossible to prosecute. The method accomplishes this amazing feat simply by changing the financial incentives of business managers, not by passing strict new antitrust laws with draconian penalties.

The method sets up a set of incentives called Relative Profit Maximizing (RPM) incentives. Business firms whose managers are motivated by these incentives may be called Relative Profit Maximizing (RPM) firms. Each business manager is assumed to be motivated by at least some desire to increase his wealth. In a well-run business firm, managers are normally paid in a manner which motivates them to increase their wealth by increasing the profits of their firm. RPM incentives alter these common methods of financial compensation by additionally motivating the manager to maximize the firm's profits relative to competing firms' profits.

In its most general form, the goal of the RPM manager is to maximize his profits relative to the profits of rival firm(s). It is only be achieving this goal that the RPM manager can attain maximum financial satisfaction, because that is how the manager is being paid. In its simplest form, the goal functions for two rival RPM farms look as follows:

$$Goal1=Profit1-z(Profit2)$$

$$Goal2=Profit2-z(Profit1)$$

When $z=1.0$ in the above two goal functions, we set up the pure zero-sum game. In the zero-sum game there is no incentive to collude. If instead, $z = 0.0$ in the above two goal functions, then both firms are motivated by Absolute Profit Maximizing (APM) incentives. APM incentives are simply the incentives we normally expect to find in business firms. Absolute Profit Maximizing (APM) firms simply try to maximize their own level of profits, regardless of the level of other firms" profits. APM firms-which are the most common type of business firm in a capitalist economy—do have an incentive to collude, if an opportunity arises.

In simple terms in a two firm industry using RPM incentives, if a manager increases his firm's annual profits by 10% which is equivalent to $1 billion he only gets a bonus (or salary in the case of absolute dependence on RPM) if the profits of the other firm in the industry increase by less than 10%. In a two firm industry using APM incentives, the manager would get a bonus for the extra $1 billion even if his firm's profits increased less than the other firm's profits in terms of annual percentage gain.

The parameter z in the above goal functions can also take on additional values. For example, if z is set less than zero, the two firms would have Joint Profit Maximizing (JPM) incentives. JPM incentives would likely create less vigorous competition between the two business firms than would otherwise occur with APM incentives.

If z in the above goal functions is between 0.0 and 1.0, this creates an impure system of relative profit maximizing incentives. For example, if $z=0.3$, this creates a mixture of two incentive schemes which might be described as "30% RPM plus 70% APM." An impure RPM incentive scheme partially reduces the incentive for collusion, but does not completely eliminate the incentive for collusion. An RPM firm, even one with an impure RPM incentive, can normally be expected to compete more vigorously than an APM firm. For this reason, the Court should consider using RPM incentives as part of an overall structural remedy.

For purposes of illustration with the computerized economic model, only values of z between -0.3 and 0.9 are used. Generally, z is in the range of 0.0 to 0.9 in the model and no preferred solution has z less than 0.0. The value of 1.0 (pure RPM) is avoided, because with this simple illustrative model (with no mechanism for avoiding losses), pure RPM would practically guarantee that one or both firms will lose money. This is because if the industry has little or no product differentiation, pure RPM causes prices to be set to the average of marginal costs. If in addition, software firms have high fixed costs, pure RPM practically guarantees that at least one firm, and possibly both firms, will be unable to recover their fixed costs of production. Pure RPM may still be useful and beneficial, but only if additional mechanisms are instituted to avoid this outcome.

The goal-maximizing outputs for the goal functions listed in equations (6) and (7) are:

$$(d\,Goall / d\,Q1)$$

$$(d\,P / d\,Q1)Q1 + p-C1 + (d\,P / d\,Q1)Q2 = 0$$

$$bQ1 + p-C1 + bQ2 = 0 \quad (8)$$

$$(d\,Goal2 / d\,Q2) =$$

$$(d\,P / d\,Q2)Q2 + p-C2 + (d\,P / d\,Q2)Q1 = 0$$

$$bQ2 + p-C2 + bQ1 = 0 \quad (9)$$

G. Basics of Scenario Analysis

The purpose of a scenario analysis is to provide a projection of a range of possible futures. The basic parameters of an economic model are usually not known, although they can often be estimated (through empirical or theoretical analysis). These estimates may be arrived at with a greater or lesser degrees of confidence, accuracy, and reliability. Additionally, even if the basic parameters of an economic model were known with certainty, most economic models allow for uncertainty in how those basic parameters will vary for particular firms or individuals. For example, even if it were known with certainty that the probability of bankruptcy for a particular firm in a particular industry was exactly 3% a year, this would not tell us whether that particular firm will be bankrupt in twenty years.

In a well-done scenario analysis, one should vary the parameters through a reasonable range of values, including both moderate values and extreme values. In addition, the fate of individual firms (given the assumed parameters for a particular scenario) is varied according to the laws of probability governing that particular scenario.

There are two basic ways of conducting a scenario analysis. One way is to compute all the possibilities (appropriately weighted by probabilities) for a limited number of parameters that are allowed to vary through a small number of reasonable values for each parameter, including both moderate and extreme values. The second method is called a "Monte Carlo" study. The Monte Carlo study allows a large number of parameters to be varied, randomly, through a large set of possible values. The Monte Carlo study necessarily uses random numbers, which are available in many computer packages. The first type of study might or might not use random numbers.

The computer model used for these comments employs the first method of scenario analysis. Probabilities for every scenario are exhaustively computed and assigned. No random numbers or random number generators were used in the analysis.

The computer model computes probabilities and outcomes for two distinct types of scenarios. One type is a static scenario. The static scenario occurs at a particular period of time, within a single transition period. These transition periods (for a change or transition from one short run cost level to another as is discussed further in section H below) are assumed to have a length of three, five, or eight years.

The other type is a dynamic scenario, which is a path that links two or more static scenarios occurring in two or more time periods. For each set of initial conditions and basic parameters, the computer starts with a single scenario in transition period zero. The computer then calculates the probability that various additional static scenarios will be reached in transition periods one through ten. The probability that one static scenario will turn into another static scenario depends on how similar or dissimilar are the two scenarios. The computer calculates the outcomes for every static scenario, and weights those outcomes by the probability that the static scenario will occur in each of the eleven transition periods (periods zero through ten).

H. Details of Static Scenarios

The static scenarios assume that firms differ only by level of cost. The computerized economic model assumes that there are three firms and five levels of short-run cost. These five levels of cost are level one (lowest cost), level two, level three, level four, and level five (highest cost). These five levels of cost are assumed, over the long run, to have differing probabilities of occurrence. In particular, the probability of cost level one (lowest cost, 10% chance) is assumed be lower than the probability of cost level five (highest cost, 30% chance). This reflects the plausible assumption that it is easier to be a high-cost firm than a low-cost firm.

All possible combinations of the five cost levels for three firms are computed. These possible combinations are organized into 35 static scenarios. Whenever a static scenario has the same cost level for two or more firms, the costs of each firm are adjusted slightly so that no two firms have the same level of cost. A list of the cost levels associated with each static scenario is shown in Attachment C. The weighted average of cost levels over all firms and scenarios is 3.5.

The basic parameters for static scenarios are varied along two dimensions. The first dimension is the cost spread for short- run costs. The cost spread is defined as the ratio of cost level one to cost level five. For example, if the lowest cost level is twice as efficient as the highest cost level, then the cost spread is 50%. Five different ratios for the cost spread were chosen for the analyses. These cost spread ratios were 25%, 33%, 40%, 50%, and 67%.

The second dimension for variation is the portion of long-run cost which is allocated to fixed cost. The portion of long-run cost which is actually a fixed cost is open to some question or interpretation. The mere fact that a software firm has spent $X billion on software development does not mean that the whole expenditure was necessary to develop the software in question. Five different values for the fixed-cost portion of long-run costs were computed. These percentages were 0%, 25%, 50%, 75%, and 100%. In all cases, the remainder of the long-run cost was classified as a variable cost.

Thus, twenty-five static variations on the basic parameters were computed. For each of these variations, the computer programs computed the prices, quantities, profits, and consumer surplus outcomes for each of the thirty-five static scenarios. These static numbers were applied to the probabilities computed for each static scenario for each of the eleven transition periods. The computer model uses the static figures and the associated probabilities for each transition period to compute the expected profit and consumer surplus outcomes for each transition period.

I. Details of Dynamic Transitions

The basic parameters for determining the probabilities of transition effectively vary along only one dimension: The speed with which transitions occur from one cost level to another. This speed variable is implemented in two different ways.

The first method is relatively straightforward. The length of time for the transition periods is allowed to vary. A three-year length for the transition period implies a fast transition speed. A five-year length implies moderate transition speed, and an eight- year length implies a slow transition speed.

The second method influences the speed of transition by determining the extent by which one static scenario may change into another static scenario, from one transition period to the next transition period. For all transition speeds, the model assumes that one static scenario is more likely to change to another static scenario, the more similar are the two scenarios. The measure of similarity or dissimilarity between two scenarios is determined by how similar or dissimilar the short-run costs are for each firm in the industry.

In the slow speed for transition, the second method presumes that a firm's short-run cost cannot change more than one level at a time. For example, a firm whose cost level is four, can change to cost levels five or three, and it can stay at cost level four, but it cannot move to cost levels one or two in only one period of transition. In the slow transition, the firm is more likely to stay at the same cost level, from one transition period to the next, than to move to the cost level above or below.

In the moderate speed for transition, the second method presumes that a firm's short-run cost cannot change more than two levels at a time. For example, a firm whose cost level is four, can change to cost levels two, three, or five, and it can stay at cost level four, but it cannot move to cost level one in only one period of transition. In the moderate speed transition, the firm is more likely to move only one cost level, rather than two cost levels, from one transition period to the next.

In the fast speed for transition, the second method presumes that a firm's short-run cost can change as many as four levels at a time. For example, a firm whose cost level is one, can change to cost levels two, three, four, or five, and it can also stay at cost level one. In the fast transition, a firm is more likely to move only one cost level than two cost levels, more likely to move two levels than three levels, and more likely to move three levels than four levels, from one transition period to the next.

The computer model also causes the exit of firms from the industry when their short-run costs become too high. If a firm's short-run costs reach the adjusted cost level of five or greater, the firm is presumed to exit the industry. This is because an experienced firm which cannot keep its costs down (or quality up) has no competitive advantage over potential competitors, and has presumably lost its ability to compete profitably. The model presumes that the exiting firm is replaced by a new firm which is equally high cost. The new firm then has the opportunity to reduce its cost in future transition periods. Hence, all new entrants to the industry are presumed to enter with high short-run costs.

The computer model starts transition period zero, either with Microsoft as a monopoly, or with Microsoft divided into two or three firms. If Microsoft starts as a monopoly, Microsoft is presumed to start at cost level three. Cost level three is midway between cost level one (lowest cost) and cost level five (highest cost). Cost level three is slightly more efficient than the long- term average cost level of three and a half. Although some may argue that Microsoft acquired its monopoly because it was so much more efficient than its competitors, that monopoly acquisition happened at least ten years ago and was probably due to the arguably per processor licensing which was the subject of a prior consent judgment (attached as Exhibit 2 to this comment letter). There is no reason to suppose, today, that Microsoft has anything other than about average efficiency for an incumbent firm.

If Microsoft is split into two or three firms, we may suppose that there could be some cost-efficiency losses due to initial disorganization. To see this possibility in extremis, suppose that the Court ordered Microsoft divided into ten competing firms. We might consider ourselves lucky if three of the ten firms were equally efficient as Microsoft is today. However, we should not exaggerate the likely cost-inefficiency impacts of dividing a very large company into two or three very large companies. If Microsoft is split into two firms, the model assumes that one of the Microsoft successor firms starts at cost level three, while the other starts at cost level four. If Microsoft is split into three firms, the model assumes that one of the Microsoft successor firms starts at cost level three, while the other two successor firms start at cost level four.

The computerized economic model also treats the initial period (period zero) differently from the subsequent transition periods. In the initial period, potential competitors do not produce; only Microsoft or Microsoft's successors produce. In subsequent periods, both Microsoft and competitors can produce. This is because, at least initially, major competitors do not exist, because their entry has been blocked by anti-competitive acts. However, under the presumption that an effective conduct or structural remedy creates the opportunity for entry, competitors can produce in subsequent transition periods.

J. Construction and Computation of Remedy Alternatives

The computerized economic model developed for these comments is best suited for analyzing structural remedies. Nevertheless, the model can be applied to analyze conduct remedies, albeit with some caveats.

The model computes several alternative basic outcomes for the industry. The first basic alternative is "no remedy". If there is no remedy, it is assumed that Microsoft is a monopoly in all years from 1995 through 2025.

The second basic alternative is a 100% effective conduct remedy, starting in 2002. To calculate the results in terms of CS, TS, and the profits of Microsoft and its competitors in the case of a 100% effective conduct remedy, the model assumes all barriers to entry are removed and there is no anti-competitive conduct in the market. Under the assumption that there are no barriers to entry into the market, Microsoft starts as a monopoly in 2002, but is subject to entry from competitors thereafter. The choice of an early date for a conduct remedy is due to the timing of the negotiated conduct remedy, or alternatively the timing of the conduct remedy offered by the Litigating States. Hence, either conduct remedy can go into effect almost immediately.

In practice, no conduct remedy is likely to be 100% effective. The Litigating States'' strong conduct remedy may be perhaps 60% to 80% effective as a conduct remedy. The DOJ's weak conduct remedy may be about 20% effective. If we optimistically assume that the DOJ has hidden all the convincing and persuasive evidence which should have been in the Competitive Impact Statement, the DOJ might someday provide evidence to the public and the Court that the negotiated agreement with Microsoft may be 40% effective.

The model does not specifically compute the effects which any particular provision of a conduct remedy may have on future competition. Rather, it is up to the Court or the analyst to subjectively assess the overall effectiveness of a particular proposed conduct remedy, and to judge it accordingly. The computer model simply combines the two basic alternatives, "no remedy" and "100% effective conduct remedy" to compute estimated outcomes for conduct remedies with only partial effectiveness. For example, to compute a "60% effective conduct remedy" the program computes a weighted average of the two basic remedies, with a 60% weight on "100% effective conduct remedy" and a 40% weight on "no remedy."

The outcomes in the case of other partially effective remedies are calculated in a similar manner.

The third set of basic alternatives is a structural remedy in which Microsoft is divided into two or three competing firms. If we accept the DOJ's pessimistic appraisal, no structural remedy can reasonably go into effect before 2005. More optimistically, if the Court follows the road maps laid out by the Appeals Court and the Supreme Court, there is at least a 50% chance that a structural remedy could take effect in 2003, without such remedy being overturned or stayed.

In any case, the computer model pessimistically assumes that a structural remedy is not available before 2005. This time delay somewhat disadvantages the structural remedy, but the structural remedy is sufficiently superior to the conduct remedy, that it is not much of a disadvantage. Without the time delay, a structural remedy would always be superior to a conduct remedy.

The model computes several variations on a structural remedy. The first main variations are the division of Microsoft into two or three absolute profit maximizing (APM) firms. An APM firm is simply the conventional profit-maximizing firm that we see everyday in the business world. This type of division of Microsoft into two or more firms has been advocated by several economists, including four economists who filed an amicus brief before this Court.

The second main variations are the use of relative profit maximizing (RPM) incentives after Microsoft is split up into two firms. A primary advantage of the RPM incentives is that competition can be maintained even if there are only two RPM firms in the industry. RPM incentives can be applied to two firms, three firms, or even more firms, but this computer model only applies RPM incentives to two Microsoft successor firms. The RPM incentives are assumed to be An effect so long as both Microsoft successor firms are still in the industry. If either RPM firm exits the industry, the goal function of the remaining Microsoft successor firm returns to the usual APM incentives.

The computer model also prints out estimates for the two- monopolies remedy previously proposed by the Plaintiffs in this case. If Plaintiffs'' remedy worked as planned, it would be akin to a conduct remedy with enhanced effectiveness. In addition to removing the applications barrier to entry, the proposal would possibly introduce some measure of extra competition, because the two monopolists might decide to compete with each other. The computer model does not specifically analyze this remedy, but simply estimates its value as being a third of the distance between a "100% effective conduct remedy" and a 2-firm APM structural remedy. This is calculated as a weighted average of these two basic remedies, with a 2/3 weight on the "100% effective conduct remedy" and a 1/3 weight on the 2-firm APM structural remedy.

Finally, the model computes what might have happened along a "Lawful Path." The lawful path assumes that Microsoft starts as a lawful monopoly in the year 1995, and commits no antitrust violations at any time. Although some private lawsuits allege antitrust violations which occurred before 1995, this case does not concern those allegations. This case concerns anti-competitive acts committed by Microsoft in the browser wars, which did not start until 1995. To simulate the lawful path, Microsoft starts as a monopoly in 1995, but is subject to potential competition in 1996 and later years.

The purpose of calculating the "Lawful Path" is to serve as an equity standard for evaluating alternative remedies. The Lawful Path tells us what Microsoft likely would have earned, if Microsoft committed no violations. To the extent that Microsoft's profits exceed those lawful earnings, we may refer to those excess earnings as the fruits of its unlawful actions. Likewise, to the extent that consumer surplus exceeds (or falls short) of what would occur along the Lawful Path, this is the extent to which consumers benefit (or remain harmed) as a result of a particular remedy. K. Weighting of Alternative Scenario Parameters

The computerized economic model computes and weights 225 sets of scenarios, which differ by the basic parameters assumed for each scenario. These differ along four dimensions. Not all scenarios are equally likely. Hence, in the reporting of results, they are weighted by their likelihood of occurring. Attachment D shows the four basic parameters, the sixteen parameter values, the point values of their weighting, and their implied probability of occurring.

The first dimension of parameter variation is the cost-spread for short-run cost. Five different ratios for the cost spread were used: 25%, 33%, 40%, 50%, and 67%. In Attachment D these are labeled "Cost-Spread Ratio."

Studies of production efficiency between firms suggest that some firms can be only half as efficient as other firms. So that cost-spread ratios of 50% and 67% are certainly within the realm of plausibility. In addition, the short-run cost variable is doing double duty as a stand-in for possible differences in software quality between firms. If we assume similar ratios for differences in quality, then a 25% cost spread is certainly possible, though less likely. Such a cost spread implies that the inefficient firm has both double the costs and half the quality; it is an unlucky combination of extremes that is therefore less likely. Hence, I weight the 25% and 33% cost-spread ratios with a point value of 1, and weight the 40%, 50%, and 67% ratios with a point value of 2.

The second dimension of parameter variation is the portion of long-run cost which is allocated to fixed cost. Five different percentages for the fixed-cost portion were used: 0%, 25%, 50%, 75%, and 100%. In Attachment D these are labeled "Fixed-Cost Portion of Long-Run Cost." At this point, there is no particular reason to suppose that one allocation of the fixed-cost portion is better than another. Hence, I assume a uniform distribution over the interval, 0% to 100%. This implies assigning point values of 1 to the two extremes (0% and 100%) and a point value of 2 to the in-between values (25%, 50%, and 75%).

The third and fourth dimensions for parameter variation are the speed of transition and the length of transition periods. In Attachment D "Transition Speed" takes on values of 1.5 (slow), 2.5 (moderate), and 4.5 (fast). In Attachment D, the length of transition periods is given by "Transition Length" of 3 years (short), 5 years (moderate), or 8 years (long). Extremes may either amplify each other (e.g., slow and long) or offset each other (e.g., slow, but short). Hence, even if we do not weight these values further, moderate combinations are more likely than genuinely extreme combinations. Hence, all transition speeds and transition length receive the same point value of 1.

Finally, for each of the 225 combinations of parameters, the points assigned to each parameter value are multiplied together. This yields a total of 576 points. Based on these point values, the computer model assigns each combination of parameter values an assumed probability of occurrence. These probabilities are used to weight the outcomes of the various calculations when reporting the final results, which we come to shortly.

L. Method of Computing Remedy Alternatives

For each remedy alternative, dollar values for costs, revenue, profits, and consumer surplus are calculated by the model in real dollars for each of the years, 1995–2025. These dollar values are calculated in real terms, in dollars of constant purchasing power, as of the year 2001.

It is generally standard practice to assume that money has at least some time value. That is, a dollar now is preferable to a dollar ten years from now, even if both dollars otherwise have the same purchasing power. One reason people prefer the dollar now is that money can be invested and earn interest. Another reason is that people are impatient.

In regulatory analysis of U.S. government regulations (e.g., under Executive Order 12886), it is standard practice to use a 7% real discount rate. This discount rate is somewhat akin to an interest rate. This means that future dollars will be discounted compared with present dollars, while past dollars will accumulate interest compared to present dollars.

Attachment E provides an example of how the 7% real discount rate can be applied to Microsoft's real monopoly revenues. In Attachment E it can be seen that Microsoft's revenues for its Windows monopoly were rather small, compared to what they will be if Microsoft operating systems continue to be a rapidly growing monopoly. In 1995 Microsoft's revenues for its Windows monopoly were only $3.0 billion in 2001 dollars. In 2002 they were estimated at $9.1 billion. In 2025 they are projected to be $34.1 billion in 2001 dollars.

When we apply the 7% discount factor, the picture changes somewhat. Revenues for 1995 "earn interest" of 50% when brought to 2001, while revenues from 2025 are discounted 80.3% from the value of equivalent purchasing power in of 2001. Discounted revenues for 1995 become larger ($4.5 billion) while discounted revenues for 2025 become smaller ($6.7 billion). The projected undiscounted revenues always grow, but the discounted revenues are projected to reach a peak in 2008, with $17.1 billion in undiscounted revenues and $10.65 billion in discounted revenues.

This illustrates an important cause of one of the more interesting results which emerge from the economic analysis: Because Microsoft's monopoly revenues are growing rapidly, we may anticipate worse damage to consumers in the future than what has already occurred in the past. Attachment F provides some comparisons for the Windows operating system monopoly which illustrate this result.

In Attachment F, the values for consumer surplus, competitors" profits, Microsoft's profits, and for the sum of these, total surplus, are provided for the past (1995–2001), the future (2002- 2025), and in total (1995–2025). The top half of the Attachment shows the aggregated values of these quantities. The bottom half shows how these quantities compare with the same quantities along the Lawful Path. All quantities from the past earned interest at 7% per year, while all quantities from the future are discounted at the rate of 7% per year back to 2001 dollars.

Looking at the top half of Attachment F, we see both past and future values for "No Remedy," a "100% Effective Conduct Remedy," and a "3-firm APM Structural Remedy." In all cases, the future values for consumer surplus, Microsoft profits, and Total Surplus are substantially larger in the future, than in the past. In all these cases, the future values are more than double the size of the past values, even though the future is discounted and the past is inflated.

In the middle of Attachment F, we see the aggregated values for Lawful Path. Again all the future values are at least double the past values. If Microsoft had always pursued the Lawful Path, its profits would be lower, both in the past and in the future. Even on the Lawful Path, Microsoft's future profits are more than double its lawful past profits. Again, this is true even though past profits are inflated and future profits are discounted.

In the bottom half of Attachment F, the various aggregates in the top half of the Attachment are compared with the Lawful Path. If we compare "No Remedy" with the Lawful Path, we see very interesting differences between past and future. These differences are on the order of 10 to 1. Consumers in the past lost $4.1 billion in consumer surplus, but are scheduled to lose $35.0 billion in the future. Competitors lost $2.6 billion profit in the past, but are scheduled to lose $31.5 billion profit in the future.

Microsoft, by contrast, does extremely well. Microsoft gained $6.7 in unlawful extra profit in the past, but is scheduled to receive $60.4 billion in unlawful extra profit in the future. These numbers should give the Department of Justice and the Court some pause before adopting any settlement which effectively endorses continued extraction of profits from consumers due to anti-competitive conduct by Microsoft.

We may compare these numbers with what may happen under two alternative remedies. In the past (which no remedy can change), consumers lost $4.1 billion. In the future, they will lose an additional $4.7 billion under a 100% effective conduct remedy, but only an additional $0.3 billion under a 3-firm structural split-up of Microsoft Corporation.

Under a 100% effective conduct remedy, competitors in the future will still lose $8.7 billion while Microsoft gains $9.1 billion, relative to the Lawful Path. By contrast, under the 3-firm structural remedy, competitors lose $26.4 billion in the future, while Microsoft gains $26.5 billion in the future, relative to the lawful path. In other words, competitors benefit more from a 100% effective conduct remedy, while both consumers and Microsoft gain more from a structural remedy. This is an amazing result, which has some startling implications for how best to resolve this case.

This result does not appear to be an artifact of making peculiar assumptions in the economic model. The result is most likely due to the limited space available in the market for more than two or three firms. If Microsoft remains intact, competitors have room to enter the market and earn profits. However, if Microsoft is split into two or three firms, there is less room in the market for competitors to enter. Accordingly, under a structural remedy, the Microsoft successor firms all presumably initially owned by current Microsoft shareholders earn much of the profits which competitors might otherwise be able to take away.

This does not mean, as a practical matter, that competitors are necessarily better off with a conduct remedy than with a structural remedy. In actual practice, a pure conduct remedy cannot be 100% effective. A weak conduct remedy might be worse for competitors, while a strong conduct remedy may be better for competitors, as compared with a structural remedy. Likewise, Microsoft is not necessarily worse off with a conduct remedy than with a structural remedy. In comparison with a structural remedy, Microsoft may fare better with a weak conduct remedy than with a with a strong conduct remedy

M. Analysis of Computed Remedy Alternatives

Attachments G, H, I, and J provide a summary of the computations for several remedy alternatives. These summaries provide estimates of consumer surplus, profits for both Microsoft and its competitors, and total surplus. Total surplus is simply the sum of consumer surplus and the profits of all firms in the industry. These figures are aggregated for all the years, 1995- 2025. They are expressed in real dollars, as of 2001. They are also appropriately discounted to the year 2001 at the standard 7% real discount rate which is commonly used in the analysis of United States government regulations.

The first page of each of these Attachments provides the total values for each of the quantities, Consumer Surplus, Competitors'' Profits, Microsoft's Profits, and Total Surplus. These figures are computed and summarized for each of the alternative circumstances. These circumstances are "No Remedy," conduct remedies with various levels of effectiveness, thirteen structural remedies which split Microsoft into two or more firms, and the "Lawful Path" in which Microsoft never disobeyed the antitrust laws.

The second page of each of these attachments compares each of the alternative circumstances with the Lawful Path. These numbers are calculated by subtracting the total quantities under the Lawful Path from the total quantities available under each alternative circumstance.

For example, in Attachment G Consumer Surplus under the Lawful Path is $105.9 billion, but under "No Remedy" the Consumer Surplus is only $66.7 billion. On the second page of the Attachment these two numbers are subtracted, so that we can see that consumers were/will be deprived of $39.2 billion in consumer value, if there is no remedy. Likewise, Microsoft has obtained/will obtain $108.5 billion under "No Remedy", but would have obtained only $41.3 billion under Lawful Path. The difference of $67.2 billion in profit is shown on the second page of the Attachment. This figure is representative of the unjust gain (the fruits of Microsoft's unlawful conduct) that Microsoft has obtained or will obtain if there is no remedy.

Attachments G and I calculate the remedy alternatives under the assumption that the only monopoly of concern is the Operating System ("Desktop Platforms") monopoly. Attachments H and J calculate the remedy alternatives under the assumption that all of Microsoft's monopolies ("Platforms" + "Applications" + "Enterprise Software") are of concern. The figures in Attachments H and J are approximately three times as large as the figures in Attachments G and I.

Clearly, "No Remedy" is not an option for this Court. These attachments also provide bottom line information on various conduct and structural remedies which the Court is entitled to consider. The first eight remedies are conventional remedies of a conduct or structural variety. In all four attachments, it may be seen that "APM, 3-firms" is the best of the conventional (non-RPM) remedies in the sense that best means maximum CS or TS. The "APM, 3-firms" remedy is simply a split-up of Microsoft Corporation into three competing successor companies, of the ordinary absolute profit maximizing (APM) variety.

The three-firm split-up is similar to what other economists have advocated.

We may confirm this conclusion by reading the first nine entries in the columns for "Consumer Surplus" and in the columns for "Total Surplus," on either the first or second page of each attachment. Of the first nine entries, the 3-firm APM remedy always has the largest consumer surplus, and also has the largest total surplus. It may also be noted that this 3-firm remedy restores most, but not all, of the consumer surplus and total surplus that would otherwise be wrongfully taken by Microsoft.

This may be seen by the negative numbers for this remedy on the second page of each attachment.

Also of note for the 3-firm structural remedy is that Microsoft profits considerably from its unlawful acts, relative to the Lawful Path. This may be seen from the large positive numbers for Microsoft's Profits for this remedy on the second page of each attachment. For Attachments G and I, Microsoft achieves an unlawful gain of $33.2 billion, even with the 3-firm split up. For Attachments H and J, Microsoft achieves an unlawful gain of $96.2 billion. Most of these remaining unlawful profits come from the pockets of competitors and would-be competitors (many of whom are not identifiable) who were excluded or deterred from competition by Microsoft's anti-competitive acts.

The consideration of structural remedies involving relative profit maximizing (RPM) incentives is as follows. In all cases, the RPM remedy is applied to only two Microsoft successor farms, after Microsoft is split into two competitors. These are shown in the attachments as "RPM, z=0.000" through "RPM, z=0.900". "z" is the value of the parameter z in the RPM firm's goal function. "z" tells us the extent to which a firm's business managers are financially motivated to maximize the relative profits of their business firm, rather than absolute profits. If z=0.0, there is no RPM incentive. If z=1.0, managers are solely motivated to maximize relative profits. For purposes of these comments, only the outcomes for values of z generally between 0.0 and 0.9 are illustrated. However, in the scenarios shown on Attachments I and J which allow a change in z (referred to as zbump=0.3) some percentage of all scenarios listed as having z values from 0.0 to 0.2 will have a z value of less than 0.0.

Attachments G and H assume that the value of z remains fixed, and that it does not respond to changing circumstances. In both attachments, consumer surplus is maximized when z=0.4 and total surplus is maximized when z=0.5. In Attachment G, the RPM solution can improve consumer surplus by $2.9 billion, and can improve total surplus by $4.6 billion over the 3-firm split up, which is the best conventional remedy. In Attachment H, the RPM solution can improve consumer surplus by $8.6 billion, and can improve total surplus by $13.5 billion over the 3-firm split up.

Attachments I and J assume that the value of z is more flexible, and can change in response to changing circumstances.

The circumstance to which z is allowed to respond is the circumstance where one (or both) RPM firms are experiencing losses.

These losses, of course, should not simply be short-term or even annual losses, but losses that are more chronic or long-term. In these computer runs, z is allowed to vary through a small range of values. In these attachments, z was allowed to range from the indicated value of z down to the smaller value of z which is 0.3 lower.

In Attachments I and J, consumer surplus is maximized when z=0.6, but this line includes some scenarios which can range down to z=0.3 due to the effect of a change in z as large as 0.3 (i.e., zbump = 0.3). Total surplus is maximized when z=0.8, but can range down to z=0.5 in the same manner due to a change in z as large as 0.3. In Attachment I, the RPM solution can improve consumer surplus by $9.3 billion, and can improve total surplus by $5.2 billion over the 3-firm split up, which is the best conventional remedy. In Attachment J, the RPM solution can improve consumer surplus by $27.2 billion, and can improve total surplus by $15.2 billion over the 3-firm split up.

In each of the Attachments, the 2-firm RPM remedy also reduces Microsoft's unlawfully acquired profits by a few billion dollars, relative to what Microsoft would obtain from the conventional 3- firm APM remedy. Hence, in all respects, whether measured in terms of increasing consumer surplus, increasing total surplus, or in the diminution of Microsoft's unjust fruits of its unlawful conduct, the RPM incentive system is capable of doing better than the best of the conventional economic remedies (APM).

N. Equity Analysis in Light of the Economic Analysis

The primary objectives of the antitrust laws, expressed in economic terms, is either to maximize consumer surplus or to maximize total surplus (or perhaps both, though it may not be possible to maximize both simultaneously). The Court should select a remedy according to whichever objective best fits the equity requirements of the antitrust law. According to the economic analysis just provided, a structural remedy combined with an RPM incentive, is better than any conventional structural or conduct remedy. Among the conventional remedies, the 3-firm split-up is better than any conceivable conduct remedy, including even a 100% effective conduct remedy. And, of course, among the conduct remedies, a strong conduct remedy (such as the Litigating States have proposed)is better than the weak conduct remedy which the DOJ has proposed.

A secondary objective is to assure that Microsoft does not gain extra profit in the future as a result of the future effect of its past (and continuing) unlawful behavior.

The computerized economic model (whose source code is attached as Attachments K-S) only models the price effects of Microsoft's anti-competitive acts. An additional harm caused by Microsoft in this case includes losses of innovation in the software industry.

Due to the failure of the United States to address this issue analytically in the CIS resource constraints precluded modeling these additional losses in consumer surplus and total surplus. It is possible that the dollar value of this damage to the consuming public (in the form of innovation which did not occur) caused by Microsoft's unlawful conduct exceeds the unlawful profits calculated by the model. Thus, it is unlikely that consumers and the public will ever regain that to which they are entitled as a matter of equity.

ATTACHMENT A-2.—MICROSOFT CORPORATION, ANNUAL REVENUE BY BUSINESS DIVISION, REAL 2001 DOLLARS

[In billions] Platforms,

Calendar Year	Desktop Platforms	Platforms & Enterprise	Platforms & Applications	Platforms, Applications & Enterprise
1995	3.003532	4.207892	6.855180	8.059541
1996	3.727131	5.347350	8.480443	10.080662
1997	5.035883	7.458570	11.217205	13.639892
1998	6.454595	9.391382	14.204543	17.141330
1999	7.693463	12.210871	17.149630	21.667036
2000	8.186612	13.192271	17.729841	22.735500
2001	7.204304	11.348110	16.786433	20.930239
2002	9.142475	14.955194	19.792872	25.605591
2003	10.586836	17.711490	22.821122	29.943776
2004	12.001410	20.453823	25.771053	34.223466
2005	13.364562	23.136215	28.613009	38.384662
2006	14.670118	25.728773	31.332338	42.390993
2007	15.915669	28.215390	33.925832	46.225553
2008	17.102945	30.590792	36.398387	49.886235
2009	18.236419	32.857597	38.760186	53.381363
2010	19.322209	35.023736	41.024499	56.726025
2011	20.367255	37.100384	43.206070	59.939200
2012	21.378745	39.100399	45.319994	63.041648
2013	22.363742	41.037214	47.380985	66.054457
2014	23.328943	42.924094	49.402933	68.998085
2015	24.280557	44.773678	51.398672	71.891793
2016	25.224251	46.597717	53.379885	74.753351
2017	26.165138	48.406960	55.357103	77.598925
2018	27.107806	50.211128	57.339763	80.443086
2019	28.056353	52.018953	59.336296	83.298896
2020	29.014438	53.838247	61.354226	86.178035
2021	29.985331	55.675990	63.400283	89.090942
2022	30.971962	57.538426	65.480504	92.046967
2023	31.976974	59.431156	67.600333	95.054514
2024	33.002757	61.359227	69.764708	98.121178
2025	34.051497	63.327217	71.978146	101.253866

Source: Computed from spreadsheet data provided on Microsoft's Investor Relations website (downloaded December 5, 2001 from http://www.microsoft.com/msft/history.htm) and CPI indices from the BLS website (Downloaded December 5, 2001 from http://stats.bls.gov/cpi/home.htm).

ATTACHMENT B.—MICROSOFT CORPORATION, PROFIT & LOSS ITEMS, AS A PERCENT OF REVENUE, TEN-YEAR AVERAGE OF PERCENTAGES (MICROSOFT FISCAL YEARS 1992–2001) & CLASSIFICATION OF EXPENSE ITEMS INTO SHORT-RUN AND LONG-RUN COST

[FY 1992–2001 ten-year average]

Profit & Loss Item	As a Percent of Revenue	Categorized as
Revenue	100.00%	
Operating expenses:		
Cost of revenue	18.51%	Short-Run Cost
Research and development	14.73	Long-Run Cost
In-process R&D	0.19	Long-Run Cost
Sales and marketing	22.14	Short-Run Cost
General and administrative	3.63	Long-Run Cost
Other expenses	0.36	Short-Run Cost
Total operating expenses	59.59	
Total Short-Run Cost	41.01%	
Total Long-Run Cost	18.55%	
Operating income	40.41%	
Losses on equity investees and other	−0.55	
Investment income	6.04	
Noncontinuing items	−0.27	
Income before income taxes	45.97	
Provision for income taxes	15.67	
Net income	30.29	

Source: Computed from spreadsheet data provided on Microsoft's Investor Relations website (downloaded December 5, 2001 from http://www.microsoft.com/msft/history.htm).

ATTACHMENT C.—ADJUSTED AND UNADJUSTED COST LEVELS FOR FIRMS IN 35 STATIC SCENARIOS AND LONG-RUN PROBABILITY OF SCENARIO

Static Scenario	Long-Run Propability	Unadjusted Cost Levels Firm	Adjusted Cost Level			Firm 1	Firm 2
			Firm 1	Firm 2	Firm 3		
1	2.7000%	5	5	5	4.7500	5.0000	5.2500
2	6.7500%	4	5	5	4.0000	4.8333	5.1667
3	5.6250%	4	4	5	3.8333	4.1667	5.0000
4	1.5625%	4	4	4	3.7500	4.0000	4.2500
5	5.4000%	3	5	5	3.0000	4.8333	5.1667
6	9.0000%	3	4	5	3.0000	4.0000	5.0000
7	3.7500%	3	4	4	3.0000	3.8333	4.1667
8	3.6000%	3	3	5	2.8333	3.1667	5.0000
9	3.0000%	3	3	4	2.8333	3.1667	4.0000
10	0.8000%	3	3	3	2.7500	3.0000	3.2500
11	4.0500%	2	5	5	2.0000	4.8333	5.1667
12	6.7500%	2	4	5	2.0000	4.0000	5.0000
13	2.8125%	2	4	4	2.0000	3.8333	4.1667
14	5,4000%	2	3	5	2.0000	3.0000	5.0000
15	4.5000%	2	3	4	2.0000	3.0000	4.0000
16	1.8000%	2	3	3	2.0000	2.8333	3.1667
17	2.0250%	2	2	5	1.8333	2.1667	5.0000
18	1.6875%	2	2	4	1.8333	2.1667	4.0000
19	1.3500%	2	2	3	1.8333	2.1667	3.0000
20	0,3375%	2	2	2	1.7500	2.0000	2.2500
21	2,7000%	1	5	5	1.0000	4.8333	5.1667
22	4,5000%	1	4	5	1.0000	4.0000	5.0000
23	1,8750%	1	4	4	1.0000	3.8333	4.1667
24	3,6000%	1	3	5	1,0000	3.0000	5.0000
25	3,0000%	1	3	4	1.0000	3.0000	4.0000
26	1,2000%	1	3	3	1.0000	2.8333	3.1667
27	2.7000%	1	2	5	1.0000	2.0000	5.0000
28	2.2500%	1	2	4	1.0000	2.0000	4.0000
29	1,8000%	1	2	3	1.0000	2.0000	3.0000
30	0.6750%	1	2	2	1.0000	1.8333	2.1667
31	0,9000%	1	1	5	0.8333	1.1667	5.0000
32	0.7500%	1	1	4	0.8333	1.1667	4.0000
33	0.6000%	1	1	3	0.8333	1.1667	3.0000
34	0.4500%	1	1	2	0.8333	1.1667	2.0000
35	0.1000%	1	1	1	0.7500	1.0000	1.2500

Source: Adapted from file "CostList.txt" generated by the computer program "MS1File.bas".

ATTACHMENT D.—POINT VALUES AND EQUIVALENT PROBABILITIES FOR THE WEIGHTING OF ALTERNATIVE BASIC PARAMETERS FOR THE SCENARIO ANALYSES.

	Point Values	Equivalent Probability
Cost-Spread Ratio (Low Cost/High Cost):		
25.00%	1	12.5%
33.33%	1	12.5%
40.00%	2	25.0%
50.00%	2	25.0%
66.67%	2	25.0%
Fixed-Cost Portion Point Equivalent Of Long-Run Cost:		
0.00%	1	12.5%
25.00%	2	25.0%
50.00%	2	25.0%
75.00%	2	25.0%
100.00%	1	12.5%
Transition Speed (Allowed Cost Level Jumps):		
1.5	1	33.3%
2.5	1	33.3%
4.5	1	33.3%
Transition Length (Number of Years):		
3	1	33.3%
5	1	33.3%
8	1	33.3%

ATTACHMENT E.—MICROSOFT'S REAL MONOPOLY REVENUES BY YEAR DISCOUNTED AT 7% RATE PER YEAR, REAL 2001 DOLLARS

[In billions]

Year	Undiscounted Revenues	Discount Factor	Discounted Revenue
1995	3.003532	1.500731	4.507492
1996	3.727131	1.402552	5.227496
1997	5.035883	1.310796	6.601017
1998	6.454595	1.225043	7.907158
1999	7.693483	1.144900	8.808247
2000	8.186612	1.070000	8.759675
2001	7.204304	1.000000	7.204304
2002	9.142475	0.934579	8.544368
2003	10.588836	0.873439	9.248699
2004	12.001410	0.816298	9.796724
2005	13.364562	0.762895	10.195759
2006	14.670118	0.712986	10.459589
2007	15.915869	0.666342	10.605279
2008	17.102945	0.622750	10.650851
2009	18.236419	0.582009	10.613758
2010	19.322209	0.543934	10.509997
2011	20.367255	0.508349 1	0.353674
2012	21.378745	0.475093	10.156882
2013	22.363742	0.444012	9.929763
2014	23.328943	0.414964	9.680676
2015	24.280557	0.387817	9.416412
2016	25.224251	0.362446	9.142423
2017	26.165138	0.338734	8.863031
2018	27.107806	0.316574	8.581630
2019	28.056353	0.295864	8.300855
2020	29.014438	0.276508	8.022728
2021	29.985331	0.258419	7.748772
2022	30.971962	0.241513	7.480127
2023	31.976974	0.225713	7.217616
2024	33.002757	0.210947	6.961821
2025	34.051497	0.197146	6.713130

Source: Adapted from the "Rev—Disc.txt" file generated by the "MS6Summ.bas" program using RevStream=1 (Microsoft's Platform-only revenues) and the data in Attachment A.

ATTACHMENT F.—CONSUMER SURPLUS & PROFITS FOR PAST (1995–2001) & FUTURE (2002–2025) TIME INTERVALS, COMPARISONS FOR SELECTED REMEDIES AND LAWFUL PATH

Time Interval	Consumer Surplus	Competitor Profits	Microsoft Profits	Total Surplus
Aggregates for No Remedy Path				
Past	12.1839999	0.0000000	19.8218227	32.0058226
Future	54.4862867	0.0000000	88.6422783	143.1285650
Total	66.6702866	0.0000000	108.4641010	175.1343876
Aggregates for 100% Effective Conduct Remedy				
Past	12.1839999	0.0000000	19.8218227	32.0058226
Future	84.8797426	24.7805427	37.2686222	146.9289075
Total	97.0637425	24.7805427	57.0904448	178.9347301
Aggregates for 3-firm APM Structural Remedy				
Past	12.1839999	0.0000000	19.8218227	32.0058226
Future	89.2098711	5.1158769	54.7189826	149.0447305
Total	101.3938710	5.1158769	74.5408053	181.0505532 **Aggregates for Lawful Path**
Past	16.3216726	2.6242527	13.0930073	32.0389326
Future	89.5353459	31.5087389	28.2007864	149.2448711
Total	105.8570185	34.1329915	41.2937937	181.2838037

ATTACHMENT F.—CONSUMER SURPLUS & PROFITS FOR PAST (1995–2001) & FUTURE (2002–2025) TIME INTERVALS, COMPARISONS FOR SELECTED REMEDIES AND LAWFUL PATH—Continued

Time Interval	Consumer Surplus	Competitor Profits	Microsoft Profits	Total Surplus
Comparing: No Remedy minus LawfulPath				
Past	−4.1376727	−2.6242527	6.7288153	−0.0331101
Future	−35.0490592	−31.5087389	60.4414920	−6.1163061
Total	−39.1867319	−34.1329915	67.1703073	−6.1494161
Comparing: 100% Effective Conduct Remedy minus LawfulPath				
Past	−4.1376727	−2.6242527	6.7288153	−0.0331101
Future	−4.6556032	−6.7281961	9.0678358	−2.3159636
Total	−8.7932759	−9.3524488	15.7966511	−2.3490736
Comparing: 3-firm APM Structural Remedy minus LawfulPath				
Past	−4.1376727	−2.6242527	6.7288153	−0.0331101
Future	−0.3254747	−26.3928620	26.5181963	−0.2001404
Total	−4.4631474	−29.0171147	33.2470116	−0.2332505

Source: Adapted from output file "AGGRWTD8.txt" from Lundgren's six computer programs, where revstream=1 in "MS6Summ.bas".

ATTACHMENT G.—SUMMARY OUTPUT OF ALTERNATIVE REMEDIES FOR MICROSOFT

[Total Aggregates for Alternative Remedies]

Remedy	Consumer Surplus	Competitor Profits M	icrosoft Profits	Total Surplus
No-Remedy:	66.6702866	0.0000000	108.4641010	175.1343876
20% Conduct:	72.7489789	4.9561086	98.1893712	175.8944587
40% Conduct:	78.8276711	9.9122172	87.9146414	176.6545298
60% Conduct:	84.9063629	14.8683262	77.6399093	177.4145984
80% Conduct:	90.9850527	19.8244345	67.3651770	178.1746642
100% Conduct:	97.0637425	24.7805427	57.0904448	178.9347301
2-Monopolies:	97.2443831	20.0995342	61.7667505	179.1106678
APM, 2-firms:	97.6056643	10.7375170	71.1193619	179.4625432
APM, 3-firms:	101.3938710	5.1158769	74.5408053	181.0505532
RPM, z=0.000:	97.6056643	10.7375170	71.1193619	179.4625432
RPM, z=0.100:	100.0494922	10.5198190	70.1711669	180.7404781
RPM, z=0.200:	101.7502572	10.2983154	70.2577918	182.3063644
RPM, z=0 300:	104.1852610	10.0963259	69.3834217	183.6650087
RPM, z=0 400:	104.3235767	9.9646972	70.6687936	184.9570675
RPM, z=0 500:	103.6437601	9.8490147	72.1858682	185.6786430
RPM, z=0 600:	100.2265622	9.7727729	75.5755929	185.5749280
RPM, z=0 700:	95.5628679	9.7447668	79.3962211	184.7038557
RPM, z=0 800:	89.8870594	9.7966324	83.5152687	183.1989605
RPM, z=0 900:	84.3841146	10.0564241	87.0578989	181.4984376
Lawful Path:	105.8570185	34.1329915	41.2937937	181.2838037

Revenue Stream = Platforms only.
The value of z in the RPM scenarios is fixed as indicated.
Figures are in billions of real 2001 dollars (7% discount rate).
Figures are aggregated for the years 1995–2025.
Figures are a weighted average of all computed scenarios.

ATTACHMENT G—COMPARING REMEDIES: EACH REMEDY MINUS LAWFUL PATH:

Remedy	Consumer Surplus	Competitor Profits M	icrosoft Profits	Total Surplus
No-Remedy: 39.1867319	−34.1329915	−67.1703073 D −6.1494161		
20% Conduct:	−33.1080412	−29.1768834	−6.8955769	−5.3893477
40% Conduct:	−27.0293505	−24.2207753	−46.6208465	−4.6292793
60% Conduct:	−20.9506588	−19.2646663	−36.3461144	−3.8692107
80% Conduct:	−14.8719674	−14.3085576	−26.0713827	−3.1091422
100% Conduct:	−8.7932759	−9.3524488	−15.7966511	−2.3490736
2-Monopolies:	−8.6126354	−14.0334574	−20.4729568	−2.1731359
APM, 2-firms:	−8.2513542	−23.3954745	−29.8255682	−1.8212605
APM, 3-firms:	−4.4631474	−29.0171147	−33.2470116	−0.2332505
RPM, z=0.000:	−8.2513542	−23.3954745	−9.8255682	−1.8212605
RPM, z=0.100:	−5.8075263	−23.6131726	−28.8773732	−0.5433256
RPM, z=0.200:	−4.1067613	−23.8346762	28.9639981	1.0225607

ATTACHMENT G—COMPARING REMEDIES: EACH REMEDY MINUS LAWFUL PATH:—Continued

Remedy	Consumer Surplus	Competitor Profits M	icrosoft Profits	Total Surplus
RPM, z=0.300:	-1.6717575	-24.0366656	-28.0896281	2.3812049
RPM, z=0.400:	-1.5334418	-24.1682943	-29.3749999	3.6732636
RPM, z=0.500:	-2.2132584	-24.2839768	-30.8920745	4.3948392
RPM, z=0.600:	-5.6304563	-24.3602186	34.2817992	4.2911243
RPM, z=0.700:	-10.2941506	-24.3862248	38.1024274	3.4200520
RPM, z=0.800:	-15.9699591	-24.3363591	-42.2214750	1.9151568
RPM, z=0.900:	-21.4729039	-24.0765674	45.7641052	0.2146339

Source: Adapted from output file "AGGCWTD8.txt" from Lundgren's six computer programs, where zbump=0.0 in "MS5TranR.bas" and revstream=l in "MS6Summ.bas".

ATTACHMENT H.—SUMMARY OUTPUT OF ALTERNATIVE REMEDIES FOR MICROSOFT

[Total Aggregates for Alternative Remedies]

Remedy	Consumer Surplus	Competitor Profits	Microsoft Profits	Total Surplus
No-Remedy	193.2538681	0.0000000	314.3995869	507.6534549
20% Conduct	211.1377498	14.6052416	284.1619090	509.9049004
40% Conduct	229.0216116	29.2104832	253.9242510	512.1563459
60% Conduct	246.9054718	43.8157260	223.6865862	514.4077840
80% Conduct	264.7893265	58.4209665	193.4489212	516.6592142
100% Conduct	282.6731812	73.0262070	163.2112562	518.9106443
2–Monopolies	283.2511215	59.2815132	176.9034834	519.4360981
APM, 2-firms	284.4070022	31.7921257	204.2878778	520.4870056
APM, 3-firms	295.4965492	15.1737142	214.5194539	525.1897174
RPM, z=0.000	284.4070022	31.7921257	204.2878778	520.4870056
RPM, z=0.100	291.5721057	31.1496067	201.5156026	524.2373169
RPM, z=0.200	296.5683886	30.4958291	201.7670167	528.8312345
RPM, z=0.300	303.7018786	29.8995957	199.2199956	532.8214701
RPM, z=0.400	304.1242099	29.5110516	202.9787968	536.6140583
RPM, z=0.500	302.1262579	29.1695256	207.4368322	538.7326159
RPM, z=0.600	292.1012489	28.9444187	217.3834949	538.4291624
RPM, z=0.700	278.4197409	28.8617920	228.5928304	535.8743633
RPM, z=0.800	261.7511839	29.0150366	240.6874245	531.4536450
RPM, z=0.900	245.5925757	29.7822425	251.0843904	526.4592086
Lawful Path	307.5699061	99.8842184	118.3262301	525.7803546

Revenue Stream = Platforms+Applications+Enterprise.
The value of z in the RPM scenarios is fixed as indicated.
Figures are in billions of real 2001 dollars (7% discount rate).
Figures are aggregated for the years 1995–2025.
Figures are a weighted average of all computed scenarios.

ATTACHMENT H.—COMPARING REMEDIES EACH REMEDY MINUS LAWFUL PATH

Remedy	Consumer Surplus	Competitor Profits	Microsoft Profits	Total Surplus
No-Remedy	-114.3160180	-99.8842184	196.0733368	-18.1268996
20% Conduct	-96.4321609	-85.2789783	165.8356771	-15.8754620
40% Conduct	-78.5483037	-70.6737381	135.5980175	-13.6240244
60% Conduct	-60.6644435	-56.0684854	105.3603526	-11.3725863
80% Conduct	-42.7805842	-41.4632534	75.1226894	-9.1211483
100% Conduct	-24.8967249	-26.8580114	44.8850261	-6.8697102
2–Monopolies	-24.3187846	-40.6027052	58.5772333	-6.3442565
APM, 2-firms	-23.1629040	-68.0920927	85.9616478	-5.2933489
APM, 3-firms	-12.0733569	-84.7105042	96.1932238	-0.5906372
RPM, z=0.000	-23.1629040	-68.0920927	85.9616478	-5.2933489
RPM, z=0.100	-15.9978005	-68.7346098	83.1893726	-1.5430376
RPM, z=0.200	-11.0015175	-69.3883893	83.4407867	3.0508799
RPM, z=0.300	-3.8680276	-69.9846227	80.8937657	7.0411155
RPM, z=0.400	-3.4456962	-70.3731668	84.6525667	10.8337037
RPM, z=0.500	-5.4436482	-70.7146926	89.1106021	12.9522613
RPM, z=0.600	-15.4686572	-70.9397997	99.0572648	12.6488078
RPM, z=0.700	-29.1501652	-71.0224264	110.2666003	10.0940087
RPM, z=0.800	-45.8187223	-70.8691818	122.3611945	5.6732904
RPM, z=0.900	-61.9773304	-70.1019759	132.7581603	0.6788540

Source: Adapted from output file "AGGCWTD8.txt" from Lundgren's six computer programs, where zbump=0.0 in "MS5TranR.bas" and revstream=4 in "MS6Summ.bas".

ATTACHMENT I.—SUMMARY OUTPUT OF ALTERNATIVE REMEDIES FOR MICROSOFT

[Total Aggregates for Alternative Remedies:]

Remedy	Consumer Surplus	Competitor Profits	Microsoft Profits	Total Surplus
No-Remedy	66.6702866	0.0000000	108.4641010	175.1343876
20% Conduct	72.7489789	4.9561086	98.1893712	175.8944587
40% Conduct	78.8276711	9.9122172	87.9146414	176.6545298
60% Conduct	84.9063629	14.8683262	77.6399093	177.4145984
80% Conduct	90.9850527	19.8244345	67.3651770	178.1746642
100% Conduct	97.0637425	24.7805427	57.0904448	178.9347301
2–Monopolies	97.2443831	20.0995342	61.7667505	179.1106678
APM, 2-firms	97.6056643	10.7375170	71.1193619	179.4625432
APM, 3-firms	101.3938710	5.1158769	74.5408053	181.0505532
RPM, z=0.000	97.6178004	10.7375170	71.0922687	179.4475861
RPM, z=0.100	100.0792119	10.5200355	70.1142454	180.7134929
RPM, z=0.200	102.4749421	10.3041911	69.0645211	181.8436543
RPM, z=0.300	105.5117884	10.1207266	67.4459993	183.0785144
RPM, z=0.400	107.9097123	10.0131836	66.0581453	183.9810414
RPM, z=0.500	109.3712929	9.9176811	65.7228881	185.0118620
RPM, z=0.600	110.6707337	9.8362632	65.0862391	185.5932361
RPM, z=0.700	109.3070756	9.7864170	67.0511494	186.1446421
RPM, z=0.800	106.7436886	9.7342133	69.7748845	186.2527864
RPM, z=0.900	101.4498564	9.7168714	74.5723925	185.7391203
Lawful Path	105.8570185	34.1329915	41.2937937	181.2838037

Revenue Stream = Platforms only.
The actual value of z in the RPM scenarios varies between the indicated z and z-0.3.
Figures are in billions of real 2001 dollars (7% discount rate).
Figures are aggregated for the years 1995–2025.
Figures are a weighted average of all computed scenarios.

ATTACHMENT I.—COMPARING REMEDIES: EACH REMEDY MINUS LAWFUL PATH

Remedy	Consumer Surplus	Competitor Profits	Microsoft Profits	Total Surplus
No-Remedy	−39.1867319	−34.1329915	67.1703073	−6.1494161
20% Conduct	−33.1080412	−29.1768834	56.8955769	−5.3893477
40% Conduct	−27.0293505	−24.2207753	46.6208465	−4.6292793
60% Conduct	−20.9506588	−19.2646663	36.3461144	−3.8692107
80% Conduct	−14.8719674	−14.3085576	26.0713827	−3.1091422
100% Conduct	−8.7932759	−9.3524488	15.7966511	−2.3490736
2–Monopolies	−8.6126354	−14.0334574	20.4729568	−2.1731359
APM, 2-firms	−8.2513542	−23.3954745	29.8255682	−1.8212605
APM, 3-firms	−4.4631474	−29.0171147	33.2470116	−0.2332505
RPM, z=0.000	−8.2392181	−23.3954745	29.7984750	−1.8362176
RPM, z=0.100	−5.7778066	−23.6129560	28.8204517	−0.5703108
RPM, z=0.200	−3.3820764	−23.8288004	27.7707274	0.5598506
RPM, z=0.300	−0.3452300	−24.0122649	26.1522056	1.7947106
RPM, z=0.400:	2.0526938	−24.1198077	24.7643516	2.6972377
RPM, z=0.500:	3.5142744	−24.2153105	24.4290944	3.7280583
RPM, z=0.600:	4.8137152	−24.2967263	23.7924455	4.3094323
RPM, z=0.700:	3.4500571	−24.3465745	25.7573557	4.8608383
RPM, z=0.800:	0.8866701	−24.3987783	28.4810908	4.9689827
RPM, z=0.900	−4.4071621	−24.4161201	33.2785988	4.4553166

Source: Adapted from output file "AGGCWTD8.txt" from Lundgren's six computer programs, where zbump=0.3 in "MS5TranR.bas" and revstream=I in "MS6Summ.bas".

ATTACHMENT J.—SUMMARY OUTPUT OF ALTERNATIVE REMEDIES FOR MICROSOFT

[Total Aggregates for Alternative Remedies]

Remedy	Consumer Surplus	Competitor Profits	Microsoft Profits	Total Surplus
No-Remedy	193.2538881	0.0000000	314.3995669	507 6534549
20% Conduct:	211.1377498	14.6052416	284.1619090	509 9049004
40% Conduct:	229.0216116	29.2104832	253.9242510	512 1563459
60% Conduct:	246.9054718	43.8157260	223.6865862	514 4077840
80% Conduct:	264.7893265	58.4209665	193.4489212	516 6592142
100% Conduct:	282.6731812	73.0262070	163.2112562	518 9106443
2-Monopolies:	283.2511215	59.2815132	176.9034634	519.4360981
APM, 2-firms:	284.4070022	31.7921257	204.2878778	520.4870056
APM, 3-firms:	295.4965492	15.1737142	214.5194539	525.1897174
RPM, z=0.000:	284.4427827	31.7921257	204.2079998	520.4429082

ATTACHMENT J.—SUMMARY OUTPUT OF ALTERNATIVE REMEDIES FOR MICROSOFT—Continued

[Total Aggregates for Alternative Remedies]

Remedy	Consumer Surplus	Competitor Profits	Microsoft Profits	Total Surplus
RPM, z=0.100:	291.6597578	31.1502485	201.3477301	524.1577365
RPM, z=0.200:	298.6895994	30.5131724	198.2740901	527.4768619
RPM, z=0.300:	307.5955291	29.9716086	193.5330233	531.1001609
RPM, z=0.400:	314.6358118	29.6541255	189.4628042	533.7527415
RPM, z=0.500:	318.9329183	29.3722039	188.4709348	536.7760570
RPM, z=0.600:	322.7383754	29.1318953	186.6145056	538.4847762
RPM, z=0.700:	318.7571699	28.9848037	192.3609534	540.1029270
RPM, z=0.800:	311.2289728	28.8306843	200.3597163	540.4193734
RPM, z=0.900:	295.6928896	28.7794391	214.4391657	538.9114945
Lawful Path:	307.5899061	99.8842184	118.3262301	525.7803546

Revenue Stream = Platforms+Applications+Enterprise.
The actual value of z in the RPM scenarios varies between the indicated z and z-0.3.
Figures are in billions of real 2001 dollars (7% discount rate).
Figures are aggregated for the years 1995–2025.
Figures are a weighted average of all computed scenarios.

ATTACHMENT J.—COMPARING REMEDIES: EACH REMEDY MINUS LAWFUL PATH

Remedy	Consumer Surplus	Competitor Profits	Microsoft Profits	Total Surplus
No-Remedy:	−114.3160160	−99.8842184	196.0733365	−18.1268996
20% Conduct:	−96.4321609	−85.2789783	165.8356771	−15.8754620
40% Conduct:	−78.5483037	−70.6737381	135.5980175	−13.6240244
60% Conduct:	−60.6644435	−56.0684954	105.3603526	−11.3725863
80% Conduct:	−42.7805842	−41.4632534	75.1228894	−9.1211483
100% Conduct:	−24.8967249	−26.8580114	44.8850261	−6.8697102
2-Monopolies:	−24.3187846	−40.6027052	58.5772333	−6.3442565
APM,2-firms:	−23.1629040	−68.0920927	85.9616478	−5.2933489
APM, 3-firms:	−12.0733569	−84.7105042	96.1932238	−0.5906372
RPM, z=0.000:	−23.1271235	−68.0920927	85.8817698	−5.3374464
RPM, z=0.100:	−15.9101483	−68.7339699	83.0215001	−1.6226181
RPM, z=0.200:	−8.8803067	−69.3710460	79.9478600	1.6965073
RPM, z=0.300:	0.0256230	−69.9126099	75.2067932	5.3196063
RPM, z=0.400:	7.0659057	−70.2300929	71.1365742	7.9723870
RPM, z=0.500:	11.3630122	−70.5120145	70.1447047	10.9957024
RPM, z=0.600:	15.1684692	−70.7523231	68.2882755	12.7044217
RPM, z=0.700:	11.1872638	−70.8994147	74.0347234	14.3225724
RPM, z=0.800:	3.6590666	−71.0535341	82.0334862	14.6390188
RPM, z=0.900:	−11.8770165	−71.1047793	96.1129357	13.1311399

Source: Adapted from output file "AGGCWTD8.txt" from Lundgren's six computer programs, where zbump=0.3 in "MS5TranR.bas" and revstream=4 in "MS6Summ.bas".

Documentation for BASIC Programs to Simulate Antitrust Remedies for Microsoft Case.

This document, "MS—Sim—Doc.txt", simply describes and documents six programs for the Microsoft antitrust remedy simulations.

These six programs are named:

MS1File.bas (0.2 seconds)
MS2ProbA.bas (10.3 minutes)
MS3ProbR.bas (18.1 minutes)
MS4TranA.bas (1.6 minutes)
MS5TranR.bas (24.9 minutes)
MS6Summ.bas (1.7 minutes)

The programs should be run in the order indicated, since files generated by one program are used by subsequent programs. The running times are approximate, based on the running times for a 1.6 GHz home computer. The programs were coded and run in Microsoft QuickBASIC. The programs may require some recoding, if it is desired to run them in other versions of the BASIC computer language.

Below is a summary description of what each program does. Each program has its own more detailed description.

Program MS1File.bas: This program generates files needed by subsequent programs. The program generates the "COSTLIST.txt" file, which details the assumed cost levels for each scenario. For 3 firms and 5 levels of cost, 35 cost scenarios are generated. The program also generates the "Ordering.txt" and "OrderRPM.txt" files.

These files generate the permutations by which the ranking of firms can be reordered. For 3 firms, there are 6 permutations. "OrderRPM.txt" allows the "MS3ProbR.bas" program to track the rankings of two Microsoft successor firms simultaneously.

Program MS2ProbA.bas:

This program computes the probabilites associated with each scenario, as the industry transitions from a particular starting point, and gradually converges towards a long-run stochastic equilibrium. This program assigns probabilities for equilibria consisting only of Absolute Profit Maximizing ("APM") firms. The starting point varies by the number of Microsoft firms (msfirms) in period zero. If msfirms=1, Microsoft starts as a monopoly. If msfirms=2, Microsoft is split into two firms.

ATTACHMENT K

PAGE 2 OF 4

If msfirms=3, Microsoft is split into three firms. The program uses three different speeds (speed=1,2,3) for the transition. Probability files are outputted for each msfirms=1,2,3 starting point, and each speed=1,2,3 for the transition speed.

Program MS3ProbR.bas:

This program is similar to "MS2ProbA.bas", since it computes probabilites associated with each scenario, as the industry transitions from a particular starting point, and gradually converges towards a long-run stochastic equilibrium. This program differs from "MS2ProbA.bas", because it assigns probabilities for equilibria consisting of two Relative Profit Maximizing ("RPM") firms, along with such APM firms as may be involved in the transitions. The equilibria automatically convert to APM equilibria if one or both RPM firms exits the industry.

The program uses three different speeds (speed=1,2,3) for the transition.

Probability files are outputted for the one starting point (msfirms=2), and each speed=1,2,3 for the transition speed. This program is more complex than "MS2ProbA.bas" because it must simultaneously track the rankings of two Microsoft-successor firms simultaneously. Program MS4TranA.bas:

This program uses the probability data computed by "MS2ProbA.bas" to compute Consumer Surplus and Profits for both Microsoft and Microsoft's competitors. These are determined for transition period zero (iter=0) under the assumption that Microsoft has no competitors in period zero. In transition periods one through ten, Microsoft is assumed to have (at least potentially) one or more competitors. This program only calculates APM equilibria.

The 225 outputted transition (TRAN .... txt) files are computed for three speeds of transition (speed=1,2,3), five cost ratios for short-run cost (cratio=1,2,3,4,5), five assumptions concerning the portion of long-run costs allocated to fixed costs (port=0,1,2,3,4), and three starting points (msfirms=1,2,3).

ATTACHMENT K

PAGE 3 OF 4

Program MS5TranR.bas:

This program uses the probability data computed by "MS3ProbR.bas" to compute Consumer Surplus and Profits for both Microsoft and Microsoft's competitors. These are determined for transition period zero (iter=0) under the assumption that Microsoft has no competitors in period zero. In transition periods one through ten, Microsoft is assumed to have (at least potentially) one or more competitors. This program calculates both RPM and APM equilibria.

The 750 outputted transition (TRPM .... txt) files are computed for three speeds of transition (speed=1,2,3), five cost ratios for short-run cost (cratio=1,2,3,4,5), five assumptions concerning the portion of long-run costs allocated to fixed costs (port=0,1,2,3,4), and ten starting points (z = 0.0, 0.1, 0.2, 0.3, 0.4, 0.5, 0.6, 0.7, 0.8, 0.9).

The starting point always has Microsoft divided into two RPM firms, where the goal functions for the two firms are:

Goal1 = Profit1—z * Profit2

Goal2 = Profit2—z * Profit1

An additional feature of the program allows the value of z to change in response to circumstances. If zbump=0.0, then z is fixed, and does not change in response to circumstances. If zbump > 0, then z changes in response to circumstances. In the program, z responds to the circumstance that one of the RPM firms is not producing, because it is achieving negative absolute profit.

In this circumstance, the program automatically "bumps down" the value of z for both RPM firms by the amount of zbump. For example, if z=0.7 and zbump=0.4, then if one or both RPM firms would shut down, then the value of z is automatically bumped down to z=0.3.

In many circumstances, this allows both RPM firms to continue producing.

Program MS6Summ.bas:

This program computes and summarizes the data produced by prior programs, including both "MS4TranA.bas" and "MS5TranR.bas" The program produces data summarized for particular scenarios in files marked "AGGC .... txt", "AGGR .... txt", and "YEAR .... txt". The "AGGC .... txt" files (which are most user friendly) summarize all past and future data, appropriately discounted, into a single set of figures which may be compared across remedy proposals. The "AGGR .... txt" files categorize the aggregate data into past and future amounts of consumer surplus, profits, and total surplus for each remedy proposal, and how these amounts compare with the same amounts along the lawful path. The "YEAR .... txt" files (which are least user friendly) output the calculated amounts, by year, for each remedy proposal and the lawful path.

ATTACHMENT K

PAGE 4 OF 4

ATTACHMENT L

PAGE 1 OF 10

Attachment L.

"BASIC Program "MS1File.bas".

```
"Program Number 1 in a series of six
    programs "designed to simulate
    alternative antitrust "remedies for the
    Microsoft software industry. "Copyright,
    January 23, 2002, Carl Lundgren. "This
    program, "MS1File.bas", generates files
    "needed by the subsequent computer
    programs "for the Microsoft antitrust
    remedy simulations. "This program
    generates the "COSTLIST.txt" file,
    "which details the assumed cost levels
    for each scenario. "For 3 firms and 5
    levels of cost, 35 cost scenarios are
    generated. "This program also generates
    the "Ordering.txt" "and "OrderRPM.txt"
    files. These files generate the
    "permutations by which the ranking of
    firms can be reordered. "For 3 firms,
    there are 6 permutations. "The file
    "OrderRPM.txt" allows the
    "MS3ProbR.bas" program to track "the
    rankings of two Microsoft successor
    firms simultaneously.
DEFDBL A-Z
DIM broadscen(1023), class(5), cost(5)
DIM weight(50), newclass1(50),
    newclass2(50), newclass3(50)
DIM newclass4(50) , newclass5(50)
DIM c1(50), c2 (50), c3 (50), c4(50) , c5(50)
DIM pv(50, 3), finprob(50)
DIM new(5), ORDER(6, 3), 0RDERRPM(6, 15)
timex = TIMER
CLS
GOSUB GENERATE:
GOSUB COLLAPSE:
GOSUB COSTIT:
GOSUB PVASSIGN:
GOSUB FINALPROB:
GOSUB PRINTCOST:
GOSUB ORDER:
GOSUB PRINTORDER:
GOSUB PRINTORDERRPM:
```

MTC-00030631—0105

ATTACHMENT L

PAGE 2 OF i0

```
PRINT TIMER—timex END GENERATE:
"Submodule to generate possible scenarios.
FOR scennum = 0 TO 215
broadscen(scennum) = 0
NEXT scennum FOR firm1 = 1 TO 5
FOR firm2 = 1 TO 5
FOR firm3 = 1 TO 5
GOSUB CLASSIFY:
NEXT firm3
NEXT firm2
NEXT firm1
RETURN
"*****END of Generate Submodule*****
CLASSIFY:
"Submodule of Generate submodule" to
    classify the generated scenarios.
class (1) = 0
class (2) = 0
class(3) = 0
class (4) = 0
class (5) = 0
class(firm1) =
class(firm1) + 1
class(firm2) = class(firm2) + 1
class(firm3) = class(firm3) + 1
scennum = 256 * class(l) + 64 * class(2) + 16
    * class(3) + 4 *
class(4) + class(5)
broadscen(scennum) = broadscen (scennum)
    + 1
RETURN
"*****END of Classify Submodule*****
COLLAPSE:
"Submodule to collapse the number of
    scenarios" to a more manageable
    number.
newnum = 0
FOR class1 = 0 TO 3
FOR class2 = 0 TO 3
```

ATTACHMENT L

PAGE 3 OF 10

```
FOR class3 = 0 TO 3
FOR class4 = 0 TO 3
FOR class5 = 0 TO 3
scennum = 256 * class1 + 64 * class2 + 16
    * class3 + 4 *
class4 + class5
broadnum = broadscen(scennum)
IF broadnum > 0 THEN
newnum = newnum + 1 weight(newnum) =
    broadnum
newclass1(newnum) = class1
newclass2(newnum) = class2
newclass3(newnum) = class3
newclass4(newnum) = class4
newclass5(newnum) = class5
END IF
NEXT class5
NEXT class4
NEXT class3
NEXT class2
NEXT class1
newtot = newnum
RETURN
"*****END of Collapse Submodule*****
COSTIT:
"Submodule to assign cost levels to firms,"
    with lowest-cost firms ordered first.
FOR scen = 1 TO newtot
```

```
n1 = newclass1(scen)
n2 = newclass2(scen) + n1
n3 = newclass3(scen) + n2
n4 = newclass4(scen) + n3
FOR n = 1 TO n1
cost(n) = 1
NEXT n
FOR n = n1 + 1 TO n2
cost(n) = 2
NEXT n
FOR n = n2 + 1 TO n3
cost(n) = 3
NEXT n
FOR n = n3 + 1 TO n4
cost(n) = 4
```

ATTACHMENT L

PAGE 4 OF 10

```
NEXT n
FOR n = n4 + 1 TO 3
cost(n) = 5
NEXT n
c1(scen) = cost(1)
c2(scen) = cost(2)
c3(scen) = cost(3)
NEXT scen
RETURN
"*****END of Costit Submodule*****
PVASSIGN:
"Submodule to assign point values for firm
    cost levels, with lowest-cost firms
    ordered first. The point values are 60
    times the cost level, with some
    adjustment in point values, when two or
    more firms share the same cost level.
FOR scen = 1 TO newtot
pv(scen, 1) = c1(scen) * 60
pv(scen, 2) = c2(scen) * 60
pv(scen, 3) = c3(scen) * 60
NEXT scen FOR scen = I TO newtot
n1 = newclass1(scen)
n2 = newclass2(scen) +
n1 n3 = newclass3(scen) + n2
n4 = newclass4(scen) + n3
"Assign point values to level one costs.
ns = 0
nc = newclass1(scen)
IF nc = 2 THEN
pv(scen, ns + 1) = pv(scen, ns + 1)—10
pv(scen, ns + 2) = pv(scen, ns + 2) + 10
END IF
IF nc = 3 THEN
pv(scen, ns + 1) = pv(scen, ns + 1) 15
pv(scen, ns + 3) = pv(scen, ns + 3) + 15
END IF
"Assign point values to level two costs.
us = ns + nc
nc = newclass2(scen)
IF nc = 2 THEN
pv(scen, ns + 1) = pv(scen, ns + 1) 10
```

ATTACHMENT L

PAGE 5 OF 10

```
pv(scen, ns + 2) = pv(scen, ns + 2) + 10
END IF
IF nc = 3 THEN
pv(scen, ns + 1) = pv(scen, ns + 1)—15
pv(scen, ns + 3) = pv(scen, ns + 3) + 15
END IF
Assign point values to level three costs.
ns = ns + nc
nc = newclass3 (scen)
IF nc = 2 THEN
pv(scen, ns + 1) = pv(scen, ns + 1)—10
pv(scen, ns + 2) = pv(scen, ns + 2) + 10
END IF
IF nc = 3 THEN
pv(scen, ns + 1) = pv(scen, ns + 1)—15
pv(scen, ns + 3) = pv(scen, ns + 3) + 15
END IF
"Assign point values to level four costs.
ns = ns + nc
nc = newclass4(scen)
IF nc = 2 THEN
pv(scen, ns + 1) = pv(scen, ns + 1)—10
pv(scen, ns + 2) = pv(scen, ns + 2) + 10
END IF
IF nc = 3 THEN
pv(scen, ns + 1) = pv(scen, ns + 1)—15
pv(scen, ns + 3)—pv(scen, ns + 3) + 15
END IF
"Assign point values to level five costs.
ns = ns + nc
nc = newclass5(scen)
IF nc = 2 THEN
pv(scen, ns + 1) = pv(scen, ns + 1) 10
pv(scen, ns + 2) = pv(scen, ns + 2) + 10
END IF
IF nc = 3 THEN
pv(scen, ns + I) = pv(scen, ns + 1)—15
pv(scen, ns + 3)—pv(scen, ns + 3) + 15
END IF NEXT scen
RETURN
"*****END of PVassign Submodule*****
```

ATTACHMENT L

PAGE 6 OF 10

```
FINALPROB:
"This submodule computes the final
    probability "for each scenario—the
    probability toward which "each scenario
    tends to converge over the long run.
"cost(s,f) = short-run marginal cost of firm f
    in scenario s.
"finprob(s) = final probability assumed for
    scenario s.
"weight(s) = number of permutations of
    scenario s.
"finprob is computed as weight(s) * assumed
    probabilities
for each cost level:
Prob(cost level one) = 10% (low cost)
Prob(cost level two) = 15% (low-middle cost)
Prob(cost level three) = 20% (middle cost)
Prob(cost level four) = 25% (middle-high
    cost)
Prob(cost level five) = 30% (high cost)
FOR scen = I TO newtot fprob = weight(scen)
L1 = newclass1(scen)
L2 = newclass2 (scen)
L3 = newclass3 (scen)
L4 = newclass4 (scen)
L5 = newclass5 (scen)
IF L1 > 0 THEN fprob = fprob * .1#
IF L1 > 1 THEN fprob = fprob * .1#
IF L1 * 2 THEN fprob = fprob * .1#
IF L2 * 0 THEN fprob = fprob * .15#
IF L2 * 1 THEN fprob = fprob * .15#
IF L2 * 2 THEN fprob = fprob * .15#
IF L3 * 0 THEN fprob = fprob * .2#
IF L3 > 1 THEN fprob = fprob * .2#
IF L3 > 2 THEN fprob = fprob * .2#
IF L4 > 0 THEN fprob = fprob * .25#
IF L4 * 1 THEN fprob = fprob * .25#
IF L4 > 2 THEN fprob = fprob * .25#
IF L5 > 0 THEN fprob = fprob * .3#
IF L5 > 1 THEN fprob = fprob * .3#
IF L5 > 2 THEN fprob = fprob * .3#
finprob (scen) = fprob
NEXT scen
RETURN
"***** END OF FinalProb SUBMODULE
    *****
PRINTCOST:
"Submodule to print out the collapsed
    scenarios
```

ATTACHMENT L

PAGE 7 OF 10

```
"and the ordered cost assignments
"as part of file "CostList.txt".
costs = ":\basic\ms—sim\costlist.txt" "Output
    cost list
OPEN costs FOR OUTPUT AS #1
PRINT #1, "Scen"; "L1 L2 L3 L4 L5"; "Wgt";
    "Fin-Prob";
PRINT #1, "C1 C2 C3"; "PV1 PV2 PV3"
FOR scennum = 1 TO newtot
PRINT #1, USING "##"; scennum;
PRINT #1, "";
PRINT #1, USING "###";
    newclass1(scennum);
PRINT #1, USING "###";
    newclass2(scennum);
PRINT #1, USING "###"; newclass3
    (scennum);
PRINT #1, USING "###";
    newclass4(scennum);
PRINT #1, USING "###";
    newclass5(scennum);
PRINT #1, USING "#####";
    weight(scennum);
PRINT #1, USING "###.######";
    finprob(scennum);
PRINT #1, "";
PRINT #1, USING "###"; c1(scennum);
PRINT #1, USING "###"; c2(scennum);
PRINT #1, USING "###"; c3(scennum);
PRINT #1, "";
PRINT #1, USING "####"; pv(scennum, 1);
PRINT #1, USING "####"; pv(scennum, 2);
PRINT #1, USING "####"; pv(scennum, 3);
PRINT #1, NEXT scennum
CLOSE #1
RETURN
"*****END of PrintCost Submodule*****
ORDER:
"Submodule to compute all possible
    orderings" of three firms (six
    permutations total).
ordernum = 0
FOR o3 = 5 TO 1 STEP −1
FOR o2 = 5 TO 1 STEP −1
FOR o1 = 5 TO 1 STEP −1
GOSUB TESTORDER:
NEXT o1
NEXT o2
NEXT 03
ordertot = ordernum
RETURN
```

MTC-00030631 0111

ATTACHMENT L

PAGE 8 OF 10

```
"*****END of Order Submodule*****
TESTORDER:
"Submodule of Order submodule to test"
    whether proposed ordering is acceptable.
IF o1 + 02 + 03 <> 6 THEN RETURN
IF o1 * o2 * 03 <> 6 THEN RETURN
ordernum = ordernum + 1
ORDER(ordernum, 1) = o1
ORDER(ordernum, 2) = o2
ORDER(ordernum, 3) = o3
GOSUB ORDERRPM:
RETURN
"*****END of Order Submodule*****
```

```
ORDERRPM:
Submodule to provide ordering information to track location of two MS firms among five firms, for purpose of determining costs of such two firms for calculating RPM remedy.
There are six basic permutations of three firms, among which the rankings of two firms must be tracked simultaneously.
new(O) = 0
FOR old = 1 TO 3
new(old) = ORDER(ordernum, old)
NEXT old
FOR old1 = 0 TO 3
FOR old2 = 0 TO 3
oldnum = old1 * 4 + old2
new1 = new(old1)
new2 = new(old2)
newnum = new1 * 4 + new2
ORDERRPM(ordernum, oldnum) = newnum
NEXT old2
NEXT old1
RETURN
"*****END of OrderRPM Submodule*****
PRINTORDER:
"Submodule to print out the 6 permutations
```

MTC-00030631 0112

ATTACHMENT L

PAGE 9 OF 10

```
" in which 3 firms can be ordered.
"Printing is to the file ,,Ordering.txt".
ORDERS = ,,c:\basic\ms—sim\ordering.txt" "Output ordering list
OPEN ORDERS FOR OUTPUT AS #1
PRINT #1, ,'Onum"; "o1 o2 03"
FOR ordernum = 1 TO ordertot
PRINT #1, USING "###"; ordernum;
PRINT #1, "";
PRINT #1, USING "###"; 0RDER(ordernum, 1);
PRINT #1, USING "###"; ORDER(ordernum, 2);
PRINT #1, USING "###"; ORDER(ordernum, 3);
PRINT #1,
NEXT ordernum
CLOSE #1
RETURN
*****END of PrintOrder Submodule*****
PRINTORDERRPM:
"Submodule to print out the 6 permutations in which 3 firms can be ordered, with further information to track two firms simultaneously, for further use in later programs to calculate the effects of RPM firms.
Printing is to the file ,,OrderRPM.txt"
ORDERRPM$ = "c: \basic\ms—sim\orderrpm.txt" "Output RPM ordering
list
PEN ORDERRPM$ FOR OUTPUT AS #1
  PRINT #1, "Onum"; "o00 o01 o02 o03";
PRINT #1, "o10 o11 o12 o13";
PRINT #1, "020 o21 022 023";
PRINT #1, "o30 o31 032 o33";
PRINT #1,
FOR ordernum = 1 TO ordertot
PRINT #1, USING "###"; ordernum;
PRINT #1, "";
FOR oldnum = 0 TO 15
PRINT #1, USING "####"; 0RDERRPM(ordernum, oldnum);
NEXT oldnum
PRINT #1,
NEXT ordernum
CLOSE #1
RETURN
*END of PrintOrderRPM Submodule*
```

ATTACHMENT L

PAGE 10 OF 10

END OF Program "MS1File.bas".

ATTACHMENT M

PAGE 1 OF 14

```
Attachment M.
"BASIC Program "MS2ProbA.bas"
"Program Number 2 in a series of six programs "designed to simulate alternative antitrust "remedies for the Microsoft software industry. "Copyright, January 23, 2002, Carl Lundgren.
  This program, "MS2ProbA.bas", computes the probabilites associated with each scenario, as the industry transitions from a particular starting point, and gradually converges towards a long-run stochastic equilibrium.
  This program assigns probabilities for equilibria consisting only of Absolute Profit Maximizing ("APM") firms. The starting point varies by the number of
"Microsoft firms (msfirms) in period zero:
If msfirms=1, Microsoft starts as a monopoly.
If msfirms=2, Microsoft is split into two firms.
If msfirms=3, Microsoft is split into three firms.
"The program uses three different speeds (speed=1,2,3) for the transition.
"Probability files are outputted for each starting point (msfirms=1,2,3),
"and for each transition speed (speed=1,2,3).
  The parameters controlling the transition speed (pvmax in submodule InitProb10) are supplied by the user.
  The program reads in 35 possible cost structures for the industry, each with 3 firms.
  The program assigns probabilities for each scenario, and for whether a Microsoft firm (either Microsoft or a successor to Microsoft after divestiture) is ranked as firm 1, 2, or 3, or is firm 0 (with zero market share).
DEFDBL A–Z
DIM pvtot0(35, 3), pvtot1(35, 3), pvtot2(35, 3)
DIM pvtot3 (35, 3)
DIM prob2 (35, 3)
DIM diff(3, 3)
DIM finprob (35)
```

ATTACHMENT M

PAGE 2 OF 14

```
" CONTROL MODULE
CLS
timex—TIMER
"This section calls the main module 3 times.
"This control module chooses speed for cost shifts:
"speed = 1 "Slow speed for cost shifts.
"speed = 2 "Moderate speed for cost shifts.
"speed = 3 "High speed for cost shifts.
FOR speed = 1 TO 3
GOSUB MAINMODULE:
NEXT speed
PRINT TIMER—timex
END
MAINMODULE:
GOSUB FILENAMES: "Assign file names to input/output files.
PRINT "Computing transition weights (deviation):,,
GOSUB INITIALIZE0: "Initialize transition weights.
endcomp = 0
FOR iter = 1 TO 100
GOSUB TRANSCOMP: "Iterate transition weights.
IF endcomp = 1 THEN 99
NEXT iter
99 GOSUB PRINTPROBT: "Print last computed transition weights.
CLOSE #2
PRINT "Computing transitions from MS=1 APM firm:"
msfirms = 1
iter = 0
GOSUB INITIALIZE1: "Microsoft starts as monopoly.
iter = 1
GOSUB TRANSIT0:
GOSUB PRINTPROB:
FOR iter = 2 TO 10
GOSUB TRANSFERPROB:
GOSUB TRANSIT1:
GOSUB PRINTPROB:
NEXT iter
CLOSE #2
PRINT "Computing transitions from MS=2 APM firms:"
msfirms = 2
```

ATTACHMENT M

PAGE 3 OF 14

```
iter = 0
GOSUB INITIALIZE2: "Microsoft split into 2 firms.
iter = 1
GOSUB TRANSIT0:
GOSUB PRINTPROB:
FOR iter = 2 TO 10
GOSUB TRANSFERPROB:
GOSUB TRANSIT1:
GOSUB PRINTPROB:
NEXT iter
CLOSE #2
PRINT "Computing transitions from MS=3 APM firms:"
msfirms = 3
iter = 0
GOSUB INITIALIZE3: "Microsoft split into 3 firms.
iter = 1
GOSUB TRANSIT0:
GOSUB PRINTPROB:
FOR iter = 2 TO 10
GOSUB TRANSFERPROB:
GOSUB TRANSIT1:
GOSUB PRINTPROB:
NEXT iter
CLOSE #2
CLOSE
RETURN
"***** END OF MAIN MODULE *****
FILENAMES:
costs = "c:\basic\ms—sim\costlist.txt" "Input scenario costs
orders = "c:\basic\ms—sim\ordering.txt" "Input firm re-orderings
prob0$ = "c:\basic\ms—sim\out\prob00.txt" "Output iwgt
convergence
prob1$ = "c:\basic\ms—sim\out\prob10.txt" "Output 1-firm APM
transition probs
prob2$ = "c:\basic\ms—sim\out\prob20.txt"
```

```
"Output 2-firm APM
transition probs
prob3$ = "c:\basic\ms—sim\out\prob30.txt"
"Output 3-firm APM
transition probs
IF speed = 1 THEN sp$ = "1"
IF speed = 2 THEN sp$ = "2"
```

ATTACHMENT M

PAGE 4 OF 14

```
IF speed = 3 THEN sp$ = "3"
replaces = sp$
MID$(prob0$, 26, 1) = replaces
MID$(prob1$, 26, 1) = replaces
MID$(prob2$, 26, 1) = replaces
MID$(prob3$, 26, 1) = replaces
RETURN
"***** END OF FileNames SUBMODULE *****
INITIALIZE0:
"Submodule to find transition weights.
GOSUB SCENREAD: "Read in scenario list.
GOSUB ORDERREAD: "Read in ordering list.
GOSUB INITPROB10:
iter = 0
GOSUB TRANSCOMP: "Computes transition weights to scenarios.
OPEN prob0$ FOR OUTPUT AS #2
RETURN
"***** END OF Initialize0 SUBMODULE *****
INITPROB10:
"This submodule sets the prob1 variables to zero," and then sets initial values for non-zero prob1.
DIM prob1(35, 3), cost(35, 3), herf(35)
DIM iwgt(35), iwgt0(35)
"****User supplies pvmax, which controls transition speed.****
IF speed = I THEN pvmax = 1.5 "Slow speed for cost shifts.
IF speed = 2 THEN pvmax = 2.5 "Moderate speed for cost shifts.
IF speed = 3 THEN pvmax = 4.5 "High speed for cost shifts.
FOR scen1 = 0 TO 35
FOR firm1 = 0 TO 3
prob1(scen1, firm1) = 0
NEXT firm1
NEXT scen1
"This section sets initial values to reflect" distribution of final probabilites.
FOR scen1 = I TO 35
prob1(scen1, 0) = finprob(scen1)
iwgt(scen1) = finprob(scen1)
NEXT scen1
RETURN
"***** END OF InitProb10 SUBMODULE *****
```

ATTACHMENT M

PAGE 5 OF 14

```
TRANSCOMP:
Submodule to compute transition weights.
Transitions are from any scenario (scen1)
to any same or different scenario (scen2).
Goal is to find transition weights (iwgt) such that if prob1 is set at final probabilities, then computed prob2 also reflects final probabilities. The transition weights are iteratively adjusted, until there is convergence. Such convergence means that the long-run distribution of scenarios will reflect the final probabilities selected.
GOSUB INITPROB2: "Initialize prob2 variables.
PRINT speed; iter; "*";
FOR scen1 = 1 TO 35
PRINT "";
iprob0 = prob1(scen1, 0)
iprob1 = prob1(scen1, 1)
iprob2 = prob1(scen1, 2)
iprob3 = prob1(scen1, 3)
FOR scen2 = 1 TO 35
GOSUB PVADD:
NEXT scen2
GOSUB PVADJUST:
NEXT scen1
devtot = 0
itotal = 0
FOR scen = 1 TO 35
iwgt0(scen) = iwgt(scen)
iwgt(scen) = iwgt(scen) * prob1(scen, 0) / prob2(scen, 0)
itotal = itotal + iwgt(scen)
dev = prob1(scen, 0)—prob2(scen, 0)
devtot = devtot + ABS(dev)
NEXT scen
FOR scen = 1 TO 35
iwgt(scen) = iwgt(scen) / itotal
NEXT scen
IF devtot < .000001 THEN endcomp = 1
PRINT USING###"; devtot
RETURN
This submodule finds transition weights (iwgt) to each scenario,
that cause convergence to the assumed final probabilities
(FinProb)
attached to the various possible market outcomes
```

ATTACHMENT M

PAGE 6 OF 14

```
" in a very long-run stochastic equilibrium.
"***** END OF TransComp SUBMODULE *****
INITIALIZE1:
"Submodule to initialize Microsoft starts as monopoly.
GOSUB INITPROB11:
OPEN prob1$ FOR OUTPUT AS #2
GOSUB PRINTPROB0:
RETURN
"***** END OF Initializel SUBMODULE *****
INITPROB11:
"This submodule of Initialize1 sets the prob1 variables to zero,
" and then sets initial values for non-zero prob1.
FOR scen1 = 0 TO 35
FOR firm1 = 0 TO 3
prob1(scen1, firm1) = 0
NEXT firm1
NEXT scen1
"This section sets initial scenario to
" Microsoft is a monopoly,
" Scenario 5, Cost levels 3(MS), 5(comp), 5(comp).
scen0 = 5
prob1(0, 1) = 1
FOR firm = 1 TO 3
cost(O, firm) = cost(scen0, firm)
NEXT firm
RETURN
"***** END OF InitProb11 SUBMODULE *****
INITIALIZE2:
"Submodule to initialize splitting Microsoft into two firms.
GOSUB INITPROB12:
OPEN prob2$ FOR OUTPUT AS #2
GOSUB PRINTPROB0:
RETURN
"***** END OF Initialize2 SUBMODULE *****
INITPROB12:
"This submodule sets the prob1 variables to zero,
```

ATTACHMENT M

PAGE 7 OF 14

```
and then sets initial values for non-zero prob1.
FOR scen1 = 0 TO 35
FOR firm1 = 0 TO 3
prob1(scen1, firm1) = 0
NEXT firm1
NEXT scen1
This section sets initial scenario to
Microsoft is split into two equal-sized firms,
Scenario 6, Cost levels 3(MS-1), 4(MS-2), 5(comp).
scen0—6
prob1(0, 1) = 1# / 2#
prob1(0, 2) = 1# / 2#
FOR firm = 1 TO 3
cost(0, firm) = cost(scen0, firm)
NEXT firm
RETURN
"***** END OF InitProb12 SUBMODULE *****
INITIALIZE3:
"Submodule to initialize splitting Microsoft into three firms.
GOSUB INITPROB13:
OPEN prob3$ FOR OUTPUT AS #2
GOSUB PRINTPROB0:
RETURN
"***** END OF Initialize3 SUBMODULE *****
INITPROB13:
"This submodule sets the prob1 variables to zero,
" and then sets initial values for non-zero prob1.
FOR scen1 = 0 TO 35
FOR firm1 = 0 TO 3
prob1(scen1, firm1) = 0
NEXT firm1
NEXT scen1
"This section sets initial scenario to
" Microsoft is split into three equal-sized firms,
" Scenario 7, Cost levels 3(MS–l), 4(MS–2), 4(MS–3).
scen0 = 7
prob1(0, 1) = 1# / 3#
prob1(0, 2) = 1# / 3#
prob1(0, 3) = 1# / 3#
FOR firm = I TO 3
```

MTC–00030631—0121

ATTACHMENT M

PAGE 8 OF 14

```
cost(0, firm) = cost(scen0, firm)
NEXT firm
RETURN
"***** END OF InitProb13 SUBMODULE *****
SCENREAD:
"This submodule reads in the scenario costs list.
OPEN costs FOR INPUT AS #1
LINE INPUT #1, dummy$
"cost(s,f) = short-run marginal cost of firm f
```

```
    in scenario s.
"finprob(s) = final probability assumed for
    scenario s.
"wgt(scen) = number of permutations of
    scenario s.
FOR scen = 1 TO 35
INPUT #1, scen2, L1, L2, L3, L4, L5, wgt,
    finprob(scen)
IF scen <> scen2 THEN PRINT "Scenario
    mismatch", scen, scen2
INPUT #1, c1, c2, c3
FOR firm = 1 TO 3
INPUT #1, ctemp
cost(scen, firm) = ctemp / 60#
NEXT firm
NEXT scen
CLOSE #1
RETURN
"***** END OF ScenRead SUBMODULE
    *****
ORDERREAD:
"This Submodule reads in the ordering list,
" which is a list of 6 permutations by which
    firms 1–3
" may become firms 1–3 in the same or a
    different order.
OPEN orders FOR INPUT AS #1
LINE INPUT #1, dummy$
"ordnum = number of ordering.
"order(o,f) = ordering number o for firm f,
" the firm number which firm f becomes in
    ordering o.
DIM order(6, 3)
FOR ordnum = 1 TO 6
INPUT #1, ordnum2
IF ordnum <> ordnum2 THEN PRINT "Order
    Number mismatch",
ordnum, ordnum2
FOR firm = 1 TO 3
INPUT #1, order(ordnum, firm)
NEXT firm
```

ATTACHMENT M

PAGE 9 OF 14

```
NEXT ordnum
CLOSE #1
RETURN
"***** END OF OrderRead SUBMODULE
    *****
TRANSIT0:
"This submodule controls the initial
    transitions.
" Transitions are from scenario zero (scen1)
" to the other possible scenarios (scen2).
GOSUB INITPROB2: "Initialize prob2
    variables.
PRINT speed; iter; ,,*,,;
scen1 = 0
PRINT -.-;
iprob0 = prob1(scen1, 0)
iprob1 = prob1(scen1, 1)
iprob2 = prob1(scen1, 2)
iprob3 = prob1(scen1, 3)
FOR scen2 = 1 TO 35
GOSUB PVADD:
NEXT scen2 GOSUB PVADJUST:
GOSUB MSEXITS:
PRINT
RETURN
"***** END OF Transit0 SUBMODULE
    *****
TRANSIT1:
"This submodule controls the subsequent
    transitions.
"Transitions are from any scenario (scen1)
" to any same or different scenario (scen2).
GOSUB INITPROB2: "Initialize prob2
    variables.
PRINT speed; iter; "*",;
FOR scen1 = 1 TO 35
PRINT ".,,;
iprob0 = prob1(scen1, 0)
iprob1 = prob1(scen1, 1)
iprob2 = prob1(scen!, 2)
iprob3 = prob1(scen1, 3)
IF iprob0 + iprob1 + iprob2 + iprob3 = 0
    THEN 10
FOR scen2 = 1 TO 35
GOSUB PVADD:
NEXT scen2
```

ATTACHMENT M

PAGE 10 OF 14

```
GOSUB PVADJUST:
10 NEXT scen1
GOSUB MSEXITS:
PRINT
RETURN
"***** END OF Transit1 SUBMODULE
    *****
INITPROB2:
"This submodule of TRANSIT sets the prob2
    variables to zero.
FOR scen2 = 0 TO 35
FOR firm2 = 0 TO 3
prob2(scen2, firm2) = 0
NEXT firm2
NEXT scen2
RETURN
"***** END OF InitProb2 SUBMODULE
    *****
PVADD:
This submodule adds up point values (pv) for
    transition from a single scenario (scen1)
    to a single scenario (scen2).
pvtot0(s,f) = point value for probability of
    transition from scenario with
    Microsoft=firm 0 (zero market share), to
    scenario s and to Microsoft=firm f.
"pvtot1(s,f) = same, but from Microsoft=firm
    1.
"pvtot2(s,f) = same, but from Microsoft=firm
    2.
"pvtot3(s,f) = same, but from Microsoft=firm
    3.
FOR firm1 = 1 TO 3
FOR firm2 = 1 TO 3
diff(firm1, firm2) = ABS(cost(scen1, firm1)
    cost(scen2, firm2))
NEXT firm2
NEXT firm1
FOR firm2 = 0 TO 3
pvtot0(scen2, firm2) = 0
pvtot1(scen2, firm2) = 0
pvtot2(scen2, firm2) = 0
pvtot3(scen2, firm2) = 0
NEXT firm2
sprob = iwgt(scen2)
sprob3 = sprob / 6#
```

ATTACHMENT M

PAGE 11 OF 14

```
GOSUB PVADD3:
RETURN
"***** END OF PVadd SUBMODULE *****
PVADD3:
"This submodule of PVADD adds up point
    values for transition from a single
    scenario (scen1) to a single scenario
    (scen2), where scen1 and scen2 both
    have 3 firms.
FOR o = 1 TO 6
o1 = order(o, 1)
o2 = order(o, 2)
o3 = order(o, 3)
pv = 1
pvtemp = pvmax—diff(1, o1)
IF pvtemp < 0 THEN pvtemp = 0
pv = pv * pvtemp
pvtemp = pvmax—diff(2, o2)
IF pvtemp < 0 THEN pvtemp = 0
pv = pv * pvtemp
pvtemp = pvmax—diff(3, o3)
IF pvtemp < 0 THEN pvtemp = 0
pv = pv * pvtemp
pvtot0(scen2, 0) = pvtot0(scen2, 0) + pv *
    iprob0 * sprob3
pvtot1(scen2, o1) = pvtot1(scen2, o1) + pv *
    iprob1 * sprob3
pvtot2(scen2, 02) = pvtot2(scen2, 02) + pv *
    iprob2 * sprob3
pvtot3(scen2, o3) = pvtot3(scen2, 03) + pv *
    iprob3 * sprob3
NEXT o
RETURN
"***** END OF PVadd3 SUBMODULE
    *****
PVADJUST:
"This module adjusts computed point values
    (pv)
" to reflect true probability measures (prob2).
pvtota10 = 0
pvtotal1 = 0
pvtota12 = 0
pvtota13 = 0
FOR scen = 1 TO 35
FOR firm2 = 0 TO 3
pvtota10 = pvtota10 + pvtot0(scen, firm2)
pvtotal1 = pyrotal1 + pvtot1(scen, firm2)
```

ATTACHMENT M

PAGE 12 OF 14

```
pvtota12 = pvtota12 + pvtot2(scen, firm2)
pvtota13 = pvtota13 + pvtot3(scen, firm2)
NEXT firm2
NEXT scen
ratio0 = 0
ratio1 = 0
ratio2 = 0
ratio3 = 0
20 IF pvtota10 = 0 THEN 21
ratio0 = prob1(scen1, 0) / pvtota10
21 IF pvtotal1 = 0 THEN 22
ratio1 = prob1(scen1, 1) / pyrotal1
22 IF pvtota12 = 0 THEN 23
ratio2 = prob1(scen1, 2) / pvtota12
23 IF pvtota13 = 0 THEN 24
ratio3 = prob1(scen1, 3) / pvtota13
24 REM
FOR scen = 1 TO 35
FOR firm2 = 0 TO 3
pvtemp = pvtot0(scen, firm2) * ratio0
pvtemp = pvtemp + pvtot1(scen, firm2) *
    ratio1
pvtemp = pvtemp + pvtot2(scen, firm2) *
    ratio2
pvtemp = pvtemp + pvtot3(scen, firm2) *
    ratio3
prob2(scen, firm2) = prob2(scen, firm2) +
    pvtemp
NEXT firm2
NEXT scen
RETURN
"***** END OF PVadjust SUBMODULE
    *****
MSEXITS:
"This submodule determines which
```

```
prob2(s,f) and cost(s,f)
numbers imply zero market share for Microsoft.
Where this occurs for f>0 (MS still in market),
the probability values are transferred
to f=0 (Microsoft not in market).
The criterion for exit is that the firm in question
has very high short-run costs.
FOR scen = 1 TO 35
FOR firm = 1 TO 3
IF cost(scen, firm) > 4.999 THEN
```

ATTACHMENT M

PAGE 13 OF 14

```
prob2(scen, 0) = prob2(scen, 0) + prob2(scen, firm)
prob2(scen, firm) = 0
END IF
NEXT firm
NEXT scen
RETURN
"***** END OF MSexits SUBMODULE *****
PRINTPROBT:
"This submodule prints the last iteration (presumed convergence)
" computed for the the transition weights for each scenario.
PRINT #2, "Iter "; "Scen ";
PRINT #2, "Init-weight(0) "; "Prob1(target) "; "Prob2(result)
"; "Init-weight(1) "
FOR scen= 1 TO 35
PRINT #2, USING "#####"; iter; scen;
PRINT #2, USING ;###" iwgt0(scen); prob1(scen, 0); prob2(scen, 0); iwgt(scen)
NEXT scen
RETURN
"***** END OF PrintProbT SUBMODULE *****
PRINTPROB0:
"This submodule prints the probabilities for scenario zero.
PRINT #2, "Iter "; "Scen ";
PRINT #2, "Prob(firm0) "; "Prob(firm1) "; "Prob (firm2)
PRINT #2, "Prob(firm3)
scen = 0
PRINT #2, USING "#####"; iter; scen0;
FOR firm = 0 TO 3
PRINT #2, USING #"; prob1(scen, firm);
NEXT firm
PRINT #2,
RETURN
"***** END OF PrintProb0 SUBMODULE *****
PRINTPROB:
"This submodule prints the probabilities for each subsequent
" scenario and MS firm number.
FOR scen= 1 TO 35
```

ATTACHMENT M

PAGE 14 OF 14

```
PRINT #2, USING "#####"; iter; scen;
FOR firm = 0 TO 3
PRINT #2, USING #####"; prob2(scen, firm);
NEXT firm
PRINT #2,
NEXT scen
RETURN
"***** END OF PrintProb SUBMODULE *****
TRANSFERPROB:
"This submodule transfers the prob2 values to prob1,
" so that the next transition iteration can proceed.
FOR scen = 0 TO 35
FOR firm = 0 TO 3
prob1(scen, firm) = prob2(scen, firm)
NEXT firm
NEXT scen
RETURN
"***** END OF TransferProb SUBMODULE *****
"**********END OF Program "MS2ProbA.bas" .**********
```

ATTACHMENT N

PAGE 1 OF 11

```
Attachment N.
"BASIC Program .MS3ProbR.bas".
"Program Number 3 in a series of six programs
"designed to simulate alternative antitrust
"remedies for the Microsoft software industry.
"Copyright, January 23, 2002, Carl Lundgren.
" This program, "MS3ProbR.bas", computes the probabilites
"associated with each scenario, as the industry transitions
"from a particular starting point, and gradually converges
"towards a long-run stochastic equilibrium.
"This program assigns probabilities for equilibria consisting
"of two Relative Profit Maximizing ("RPM") firms, along with
"such Absolute Profit Maximizing "APM" firms as may be involved
"in the transitions. The equilibria automatically convert to
"APM equilibria if one or both RPH firms exits the industry.
"The program uses three different speeds (speed=1,2,3) for the transition.
"Probability files are outputted for the one starting point
"(msfirms=2), and each transition speed (speed=1,2,3).
" This program is similar to "MS2ProbA.bas",
"since it computes probabilites associated with each scenario,
"for a total of 11 transition periods.
"This program differs from "MS2ProbA.bas",
"because it assigns probabilities for equilibria consisting
"of both RPM and APM firms, rather than APM firms only.
"This program is more complex than "MS2ProbA.bas"
"because it must simultaneously track the rankings
"of two Microsoft-successor firms simultaneously.
" This program calculates transition probabilities
"where Microsoft starts as two firms, and simultaneously
"tracks the outcomes and rankings for both firms.
" The parameters controlling the transition speed
"(pvmax in submodule InitProb10) are supplied by the user.
"The program reads in 35 possible cost structures
"for the industry, each with 3 firms.
"The program assigns probabilities for each scenario,
"and also tracks whether Microsoft #1 is ranked as
"firm 1, 2, or 3, or is firm 0 (with zero market share).
```

ATTACHMENT N

PAGE 2 OF 11

```
"Likewise, the program tracks whether Microsoft #2 is
"ranked as firm 1, 2, or 3, or is firm 0.
DEFDBL A-Z
DIM pvtot(35, 15), prob1t(35, 15), prob2r(35, 15)
DIM diff(3, 3), iwgt(35), cost(35, 3)
"CONTROL MODULE
CLS
timex = TIMER
"This section calls the main module 3 times.
"This control module chooses speed for cost shifts:
"speed = 1 "Slow speed for cost shifts.
"speed = 2 "Moderate speed for cost shifts.
"speed = 3 "High speed for cost shifts.
FOR speed = 1 TO 3
GOSUB MAINMODULE:
NEXT speed
PRINT TIMER—timex
END
MAINMODULE:
IF speed = 1 THEN pvmax = 1.5 "Slow speed for cost shifts.
IF speed = 2 THEN pvmax = 2.5 "Moderate speed for cost shifts.
IF speed = 3 THEN pvmax = 4.5 "High speed for cost shifts.
GOSUB FILENAMES: "Assign file names to input/output files.
GOSUB SCENREAD: "Read in scenario costs.
GOSUB ORDERREAD: "Read in ordering list.
GOSUB ORDERRPMREAD: "Read in orderRPM list.
GOSUB READIWGT: "Read in values for transition weights.
PRINT "Computing transitions from MS=2 RPM firms:"
msfirms = 2
iter = 0
GOSUB INITIALIZER: "Microsoft split into 2 RPM firms.
iter = 1
GOSUB TRANSITOR:
GOSUB PRINTPROBR:
FOR iter = 2 TO 10
GOSUB TRANSFERPROBR:
GOSUB TRANSITIR:
GOSUB PRINTPROBR:
```

ATTACHMENT N

PAGE 3 OF 11

```
NEXT iter
CLOSE #2, #3
CLOSE
RETURN
"***** END OF MAIN MODULE *****
FILENAMES:
costs = "c:\basic\ms—sim\costlist.txt" "Input scenario costs
orders = "c:\basic\ms—sim\ordering.txt" "Input firm re-orderings
orderrpm$ = "c:\basic\ms—sim\orderrpm.txt" "Input RPM firm-pair
re-orderings
prob0$ = "c:\basic\ms—sim\out\prob00.txt"
```

```
“Input 2 RPM firms I- weight probs
probr$ = “c:\basic\ms—sim\out\probr0.txt”
“Output 2 RPM firms
transition probs
IF speed = 1 THEN sp$ = “1”
IF speed = 2 THEN sp$ = “2”
IF speed = 3 THEN sp$ = “3”
replaces = sp$ MID$(prob0$, 26, 1) = replaces
MID$(probr$, 26, 1) = replaces
RETURN
“***** END OF FileNames SUBMODULE
    *****
READIWGT:
“This submodule reads in the transition
    weights (iwgt)
” previously computed by the
    “MS2ProbA.bas” program.
OPEN prob0$ FOR INPUT AS #1
LINE INPUT #1, temps
FOR scen = 1 TO 35
INPUT #1, iter2, scen2, iwgt0, prob1scen,
    prob2scen,
iwgt(scen)
IF scen2 <> scen THEN PRINT “Scenario
    mismatch:”; scen; scen2
NEXT scen
CLOSE #1
RETURN
“***** END OF ReadIwgt SUBMODULE
    *****
INITIALIZER:
“Submodule to initialize Microsoft split into
    2 RPM firms.
```

ATTACHMENT N

PAGE 4 OF 11

```
GOSUB INITPROB1R:
OPEN probr$ FOR OUTPUT AS #2
GOSUB PRINTPROBOR:
RETURN
“***** END OF InitializeR SUBMODULE
    *****
INITPROB1R:
“This submodule sets the prob1r variables to
    zero,
” and then sets initial values for non-zero
    prob1.
FOR scen1 = 0 TO 35
FOR pair1 = 0 TO 15
prob1r(scen1, pair1) = 0
NEXT pair1
NEXT scen1
“This section sets initial scenario to
“Microsoft is split into two RPM firms,
” Scenario 6, Cost levels 3(MS-1), 4(MS-2),
    5(comp).
scen0 = 6
firm1 = 1
firm2 = 2
pair = firm1 * 4 + firm2
prob1r(0, pair) = 1
FOR firm = 1 TO 3
cost(0, firm) = cost(scen0, firm)
NEXT firm
RETURN
“***** END OF InitProb12 SUBMODULE
    *****
SCENREAD:
“This submodule reads in the scenario costs
    list.
OPEN costs FOR INPUT AS #1
LINE INPUT #1, dummy$
“cost(s,f) = marginal cost of firm f in scenario
    s.
“finprob = final probability assumed for
    scenario s.
“wgt = number of permutations of scenario
    s.
FOR scen= 1 TO 35
INPUT #1, scen2, L1, L2, L3, L4, L5, wgt,
    finprob
IF scen <> scen2 THEN PRINT “Scenario
    mismatch”, scen, scen2
INPUT #1, c1, c2, c3
FOR firm = 1 TO 3
INPUT #1, ctemp
cost(scen, firm) = ctemp / 60#
```

ATTACHMENT N

PAGE 5 OF 11

```
NEXT firm
NEXT scen
CLOSE #1
RETURN
“***** END OF SCENREAD SUBMODULE
    *****
ORDERREAD:
“This Submodule reads in the ordering list,
“which is a list of 6 permutations by which
    firms 1–3
” may become firms 1–3 in the same or a
    different order.
OPEN orders FOR INPUT AS #1
LINE INPUT #1, dummy$
“ordnum = number of ordering.
“order(o,f) = ordering number o for firm f,
“the firm number which firm f becomes in
    ordering o.
DIM order(6, 3)
FOR ordnum = 1 TO 6
INPUT #1, ordnum2
IF ordnum <> ordnum2 THEN PRINT “Order
    Number mismatch”,
ordnum, ordnum2
FOR firm = 1 TO 3
INPUT #1, order(ordnum, firm)
NEXT firm
NEXT ordnum
CLOSE #1
RETURN
“***** END OF OrderRead SUBMODULE
    *****
ORDERRPMREAD:
This Submodule reads in the orderRPM list,
    which is a list of 6 permutations by
    which firms 1–3 may become firms 1–3
    in the same or a different order.
The orderRPM list simultaneously tracks the
    cost rankings of two RPM firms.
OPEN orderrpm$ FOR INPUT AS #1
LINE INPUT #1, dummy$
ordnum = number of ordering.
orderrpm(o,f) = ordering number o for pair of
    firms p,
the firm-pair number to which the firm-pair
    p
becomes in ordering o.
p is firm-pair where p=4*firm1+firm2.
Firm1 and firm2 take on values (0, 1, 2, 3).
```

MTC-00030631—0133

ATTACHMENT N

PAGE 6 OF 11

```
DIM orderrpm(6, 15)
FOR ordnum = 1 TO 6
INPUT #1, ordnum2
IF ordnum <> ordnum2 THEN PRINT “Order
    Number mismatch”,
ordnum, ordnum2
FOR pair—0 TO 15
INPUT #1, orderrpm(ordnum, pair)
NEXT pair
NEXT ordnum
CLOSE #1
RETURN
“***** END OF OrderRPMread
    SUBMODULE *****
TRANSITOR:
This submodule controls the initial
    transitions.
Transitions are from scenario zero (scen1)
to the other possible scenarios (scen2).
GOSUB INITPROB2R: “Initialize prob2
    variables.
PRINT speed; iter; “*”;
scen1 = 0
PRINT “.”;
FOR pair1 = 0 TO 15
iprob = prob1r (scen1, pair1)
IF iprob = 0 THEN 10
FOR scen2 = 1 TO 35
GOSUB PVADDR:
NEXT scen2
GOSUB PVADJUSTR:
10 NEXT pair1
GOSUB MSEXITSR:
PRINT
RETURN
***** END OF Transit0R SUBMODULE
    *****
TRANSIT1R:
This submodule controls the subsequent
    transitions.
Transitions are from any scenario (scen1)
to any same or different scenario (scen2).
GOSUB INITPROB2R: “Initialize prob2
    variables.
PRINT speed; iter; “*”;
FOR scen1 = 1 TO 35
PRINT “.”;
```

MTC-00030631—0134

ATTACHMENT N

PAGE 7 OF 11

```
FOR pair1 = 0 TO 15
iprob = prob1r(scen1, pair1)
IF iprob = 0 THEN 11
FOR scen2 = 1 TO 35
GOSUB PVADDR:
NEXT scen2
GOSUB PVADJUSTR:
11 NEXT pair1
NEXT scen1
GOSUB MSEXITSR;
PRINT
RETURN
***** END OF Transit1R SUBMODULE
    *****
INITPROB2R:
This submodule of TRANSIT sets the prob2r
    variables to zero.
FOR scen2 = 0 TO 35
FOR pair2 = 0 TO 15
prob2r(scen2, pair2) = 0
NEXT pair2
NEXT scen2
RETURN
***** END OF InitProb2R SUBMODULE
    *****
PVADDR:
This submodule initializes the variables in
    preparation
for submodule PVADD3R,
which adds up point values (pv) for
    transition
from a single scenario (scen1) and firm pair
    (pair1)
to a single scenario (scen2) and multiple
```

```
pairs (pair2).
pvtot(s,p) = point value for probability of transition
from current scenario and current MS firm pair
to scenario s and to MS firm pair p.
FOR firm1 = 1 TO 3
FOR firm2 = 1 TO 3
diff(firm1, firm2) = ABS(cost(scen1, firm1)—cost(scen2,
firm2) )
NEXT firm2
NEXT firm1
FOR pair2 = 0 TO 15
pvtot(scen2, pair2) = 0
```

ATTACHMENT N

PAGE 8 OF 11

```
NEXT pair2
sprob = iwgt(scen2)
sprob3 = sprob / 6#
GOSUB PVADD3R:
RETURN
***** END OF PVaddR SUBMODULE *****
PVADD3 R:
This submodule of PVADDR adds up point values for transition from a single scenario (seen1) and firm pair (pair1) to a single scenario (scen2) and multiple firm pairs (pair2).
FOR o = 1 TO 6
o1 = order(o, 1)
o2 = order(o, 2)
o3 = order(o, 3)
pv = 1
pvtemp = pvmax—diff(1, o1)
IF pvtemp < 0 THEN pvtemp = 0
pv = pv * pvtemp
pvtemp = pvmax—diff(2, o2)
IF pvtemp < 0 THEN pvtemp = 0
pv = pv * pvtemp
pvtemp = pvmax—diff(3, o3)
IF pvtemp < 0 THEN pvtemp = 0
pv = pv * pvtemp
orpm = orderrpm(o, pair1)
pvtot(scen2, orpm) = pvtot(scen2, orpm) + pv * iprob * sprob3
NEXT o
RETURN
***** END OF PVadd3R SUBMODULE *****
PVADJUSTR:
This module adjusts computed point values (pv) to reflect true probability measures (prob2).
pvtotal = 0
FOR scen = 1 TO 35
FOR pair2 = 0 TO 15
pvtotal = pvtotal + pvtot(scen, pair2)
NEXT pair2
EXT scen
```

ATTACHMENT N

PAGE 9 OF 11

```
ratio = 0
20 IF pvtotal = 0 THEN 21
ratio = prob1r(scen1, pair1) / pvtotal
21 REM
FOR scen= 1 TO 35
FOR pair2 = 0 TO 15
probtemp = pvtot(scen, pair2) * ratio
prob2r(scen, pair2) = prob2r(scen, pair2) + probtemp
NEXT pair2
NEXT scen
RETURN
***** END OF PVadjustR SUBMODULE *****
MSEXITSR:
This submodule determines which prob2r(s,f) and cost(s,f) numbers imply exiting the industry for Microsoft or a Microsoft successor.
Where this occurs for firm1>0 (MS #1 still in market) or for firm2>0 (MS #2 still in market), the probability values are transferred respectively to firm1=0 (Microsoft #1 not in market) or to firm2=0 (Microsoft #2 not in market).
The criterion for exit is that the firm in question has very high short-run costs.
FOR scen = 1 TO 35
FOR firm1 = 1 TO 3
FOR firm2 = 0 TO 3
pair = firm1 * 4 + firm2
IF cost(scen, firm1) > 4.999 THEN
pair0 = firm2'firm1=0
prob2r(scen, pair0) = prob2r(scen, pair0) + prob2r(scen,
pair)
prob2r(scen, pair) = 0
END IF
NEXT firm2
NEXT firm1
FOR firm1 = 0 TO 3
FOR firm2 = 1 TO 3
pair = firm1 * 4 + firm2
IF cost(scen, firm2) > 4.999 THEN
pair0 = firm1 * 4 "firm2=0
```

ATTACHMENT N

PAGE 10 OF 11

```
prob2r(scen, pair0) = prob2r(scen, pair0) + prob2r(scen, pair)
prob2r(scen, pair) = 0
END IF
NEXT firm2
NEXT firm1
NEXT scen
RETURN
***** END OF MSexitsR SUBMODULE *****
PRINTPROB0R:
This submodule prints the probabilities for each firm-pair number for scenario zero.
PRINT #2, "Iter "; "Scen "; "Firm ";
PRINT #2, "Prob(firm0) "; "Prob(firm1) "; "Prob(firm2) ";
PRINT #2, "Prob(firm3) "
seen = 0
FOR firm1 m 0 TO 3
PRINT #2, USING "#####"; iter; scen0; firm1;
FOR firm2 = 0 TO 3
pair = 4 * firm1 + firm2
PRINT #2, USING
"##.#############"; prob1r(scen, pair);
NEXT firm2
PRINT #2,
NEXT firm1
RETURN
***** END OF PrintProb0 SUBMODULE *****
PRINTPROBR:
This submodule prints the probabilities for each MS firm-pair number for each subsequent scenario.
FOR scen= 1 TO 35
FOR firm1 = 0 TO 3
PRINT #2, USING "#####"; iter; scen; firm1;
FOR firm2 = 0 TO 3
pair = 4 * firm1 + firm2
PRINT #2, USING ###.#############";
prob2r(scen, pair);
NEXT firm2
PRINT #2,
NEXT firm1
```

ATTACHMENT N

PAGE 11 OF 11

```
NEXT scen
RETURN
***** END OF PrintProb SUBMODULE *****
TRANSFERPROBR:
This submodule transfers the prob2 values to prob1, so that the next transition iteration can proceed.
FOR scen = 0 TO 35
FOR pair = 0 TO 15
prob1r(scen, pair) = prob2r(scen, pair)
NEXT pair
NEXT scen
RETURN
***** END OF TransferProbR SUBMODULE *****
**********END OF Program "MS3ProbR.bas".**********
```

ATTACHMENT O

PAGE 1 OF 14

Attachment O.

BASIC Program "MS4TranA.bas".

Program Number 4 in a series of six programs designed to simulate alternative antitrust remedies for the Microsoft software industry.

Copyright, January 23, 2002, Carl Lundgren.

This program, "MS4TranA.bas", uses the probability data computed by "MS2ProbA.bas" to compute Consumer Surplus and Profits for both Microsoft and Microsoft's competitors.

In transition period zero (iter=0), Microsoft (and its successor firms after divestiture) are assumed to have no competitors.

In subsequent transition periods (iter=1 to 10), Microsoft has (potentially) one or more competitors.

This program only calculates Absolute Profit Maximizing ("APM") equilibria.

The program uses the computed probabilities for each scenario that was previously outputted by the "MS2ProbA.bas" program as various "PROB....txt" files.

This program outputs as "TRAN....txt" files the computed transition factors for several alternative timepaths for the software industry, under several alternative assumptions.

These transition factors are computed as a fraction of the revenues which Microsoft would earn if it remained a monopoly. The assumptions for the transitions are:

(Tran1) Strong conduct remedy & Lawful Path: Microsoft is not broken up, but competitive conditions start in transition period zero. A companion program, "MS6Summ.bas", uses the transition factors to compute the lawful path (starting in 1995) and a conduct remedy (starting in 2002).

Tran2-Tran3) APM Structural remedies: Microsoft is broken up into two or three competing APM firms, beginning in transition period zero. The companion program uses these transition factors to compute the effects of structural remedies starting in 2005.

```
The 225 outputted transition (TRAN....txt) files are computed for three speeds of transition (speed=1,2,3).
```

ATTACHMENT O

PAGE 2 OF 14

```
five cost ratios for short-run cost (cratio=1,2,3,4,5), five assumptions concerning the portion of long-run costs allocated to fixed costs (port=0,1,2,3,4), and three starting points (msfirms=1,2,3).
DEFDBL A-Z
DIM prob1(35, 3), herf(35), mshare(35, 3), pnum(35)
DIM quant(35, 3), cost(35, 3), pv(35, 3), price(35)
DIM pims(35, 3), picomp(35, 3)
CONTROL MODULE
CLS
timex = TIMER
GOSUB SCENREAD:
This section calls the main module 225 times.
This control module chooses market tendency:
cratio=1 Ratio for low/high short-run cost is 0.2500 (1/4.0).
cratio=2 Ratio for low/high short-run cost is 0.3333 (1/3.0).
cratio=3 Ratio for low/high short-run cost is 0.4000 (1/2.5).
cratio=4 Ratio for low/high short-run cost is 0.5000 (1/2.0).
cratio=5 Ratio for low/high short-run cost is 0.6667 (1/1.5).
This control module chooses speed for market share shifts:
speed = 1 Slow speed for market share shifts.
speed = 2 Moderate speed for market share shifts.
speed = 3 High speed for market share shifts.
This control module chooses # of msfirms at iteration zero.
msfirms = 1 Microsoft starts as a monopoly.
msfirms = 2 Microsoft split into 2 APM firms.
msfirms = 3 Microsoft split into 3 APM firms.
This control module chooses proportion of long-run cost which is assumed to be a fixed cost.
port = 0 Fixed cost is 0% of long-run cost.
port = 1 Fixed cost is 25% of long-run cost.
port = 2 Fixed cost is 50% of long-run cost.
port = 3 Fixed cost is 75% of long-run cost.
port = 4 Fixed cost is 100% of long-run cost.
```

ATTACHMENT O

PAGE 3 OF 14

```
FOR cratio = 1 TO 5
FOR speed = 1 TO 3
FOR port = 0 TO 4
FOR msfirms = 1 TO 3
GOSUB MAINMODULE:
NEXT msfirms
NEXT port
NEXT speed
NEXT cratio
PRINT TIMER—timex
END
MAINMODULE:
GOSUB FILENAMES: "Assign file names to input/output files.
GOSUB INITIALIZE:
FOR iter = 1 TO 10
GOSUB PROBREAD:
GOSUB PRINTTRAN:
NEXT iter
CLOSE
RETURN
***** END OF MAIN MODULE *****
FILENAMES:
prob$ = "c:\basic\ms—sim\out\prob00.txt" "Input transition probabilities
trans = "c:\basic\ms—sim\out\tran0000.txt" "Output transition factors
IF cratio = 1 THEN crt$ = "1"
IF cratio = 2 THEN crt$ = "2"
IF cratio = 3 THEN crt$ = "3"
IF cratio = 4 THEN crt$ = "4"
IF cratio = 5 THEN crt$ = "5"
IF speed = 1 THEN sp$ = "1"
IF speed = 2 THEN sp$ = "2"
IF speed = 3 THEN sp$ = "3"
IF msfirms = 1 THEN msf$ = "1"
IF msfirms = 2 THEN msf$ = "2"
IF msfirms = 3 THEN msf$ = "3"
IF port = 0 THEN prt$ = "0"
IF port = 1 THEN prt$ = "1"
```

ATTACHMENT O

PAGE 4 OF 14

```
IF port = 2 THEN prt$ = "2"
IF port = 3 THEN prt$ = "3"
IF port = 4 THEN prt$ = "4"
replacep$ = msf$ + sp$
replacet$ = msf$ +crt$ + sp$ + prt$
MID$(prob$, 25, 2) = replacep$
MID$(tran$, 25, 4) = replacet$
PRINT replacet$; "";
RETURN
***** END OF FileNames SUBMODULE *****
INITIALIZE:
Submodule to perform various initialization tasks.
OPEN prob$ FOR INPUT AS #2
OPEN trans FOR OUTPUT AS #3
GOSUB ZEROPROB:
GOSUB PROBREAD0:
GOSUB SCENREAD: "Read scenario list.
GOSUB COSTCOMPUTE: "Compute costs.
GOSUB PQZERO: "Iteration 0 prices, quantities, profits & Consumer
Surplus.
GOSUB PQCOMPUTE: "Compute prices, quantities, profits & Consumer Surplus.
GOSUB HHI: "Compute HHI and market shares.
GOSUB PROFITS: "Assign profits to MS and competitors.
GOSUB PRINTTRAN0: "Print transition files.
RETURN
***** END OF Initialize SUBMODULE *****
ZEROPROB:
This submodule sets the prob1(0, .) and mshare(0, .) variable values to zero.
FOR firm1 = 0 TO 3
prob1(0, firm1) = 0
NEXT firm1
RETURN
***** END OF ZEROPROB SUBMODULE *****
SCENREAD:
This submodule reads in the scenario costs list.
```

ATTACHMENT O

PAGE 5 OF 14

```
costs = "c:\basic\ms—sim\costlist.txt" "Input scenario costs
OPEN costs FOR INPUT AS #1
LINE INPUT #1, dummy$
cost(s,f) = short-run marginal cost of firm f in scenario s.
finprob(s) = final probability assumed for scenario s.
wgt(scen) = number of permutations of scenario s.
FOR scen = 1 TO 35
INPUT #1, scen2, L1, L2, L3, L4, L5, wgt, finprob
IF scen <> scen2 THEN PRINT "Scenario mismatch", scen, scen2
INPUT #1, c1, c2, c3
FOR firm = 1 TO 3
INPUT #1, pv(scen, firm)
NEXT firm
NEXT scen
CLOSE #1
RETURN
***** END OF SCENREAD SUBMODULE *****
COSTCOMPUTE:
Submodule to compute short-run costs, long-run costs, and assumed elasticity of demand.
This section computes parameters for long-run costs under the assumption that each firm has the same long-run cost function.
Assume that one portion of Microsoft's long-run cost (LRC) is a long-run fixed cost (FC), while the other portion is a long-run variable cost (VC), which is proportional to output.
1rc = .1855 "computed as MS long-run cost divided by MS monopoly revenue.
IF port = 0 THEN portion = 01!
IF port = 1 THEN portion = .25
IF port = 2 THEN portion = .5
IF port = 3 THEN portion = .75
IF port = 4 THEN portion = 1!
fc = 1rc * portion
vc = 1rc * (1—portion)
This section computes elasticity of demand (Elas) at monopoly profit maximum, as a function of marginal cost, which is composed of short-run marginal cost (SRC)
```

ATTACHMENT O

PAGE 6 OF 14

```
plus long-run variable cost (VC).
src = .4101 "computed as MS short-run cost divided by MS monopoly revenue.
mc= src + vc
elas = 1/(mc—1)
elasminus = elas—1
elasplus = elas + 1
A = elasminus / elas "Intercept of linear demand curve with price axis.
b = -1/elas "Slope of linear demand curve.
cbase = src "Base level of short-run marginal cost (cost level 2).
logcbase = LOG(cbase / (A—vc—cbase)) "Cbase converted to log-ratios.
This section computes short-run costs and marginal costs for a given cost spread.
IF cratio = 1 THEN cspread = .950980935#
IF cratio = 2 THEN cspread = .748669813#
IF cratio = 3 THEN cspread = .622288438#
IF cratio = 4 THEN cspread = .469161475#
IF cratio = 5 THEN cspread = .273626703#
FOR scen = 1 TO 35
FOR firm = 1 TO 3
pvtemp = (pv(scen, firm)—180) / 120
logpv = logcbase + pvtemp * cspread
pvratio = EXP(logpv)
```

```
cost(scen, firm) = vc + (A—vc) * pvratio / (1 + pvratio)
NEXT firm
NEXT scen
RETURN
***** END OF CostCompute SUBMODULE *****
PQZERO:
Submodule to compute prices, quantities, profits, and consumer surplus for selected scenarios, for iteration zero, where 1, 2, or 3 Microsoft APM firms are assumed initially to have no competitors.
Pi(s,f) is long-run profit for firm f within scenario s.
CS(s) is Consumer Surplus parameter for scenario s.
DIM cs(35), pi(35, 3)
num = msfirms
```

ATTACHMENT O

PAGE 7 OF 14

```
costsum = 0
FOR firm = 1 TO num
cost(0, firm) = cost(scen0, firm)
costsum = costsum + cost(0, firm)
NEXT firm
price = (A + costsum) /(num + 1)
qtot = 0
FOR firm = 1 TO num
qtemp = (price—cost(0, firm)) / b
qtot = qtot + qtemp
quant(0, firm) = qtemp
pitemp = (price—cost(0, firm)) * qtemp
pitemp = pitemp—fc
pi(0, firm) = pitemp
NEXT firm
FOR firm = num + 1 TO 3
quant(0, firm) = 0
pi(0, firm) = 0
NEXT firm
cs(0) = qtot * (A—price) / 2
pdummy = 1 "Is last firm producing?
IF quant(0, num)< 0 THEN pdummy = 0
IF pi(0, num) < 0 THEN pdummy = 0
IF pdummy = 0 THEN scen = 0
IF msfirms = 3 THEN GOSUB PQSUB2:
IF msfirms = 2 THEN GOSUB PQSUB1:
IF msfirms = 1 THEN GOSUB PQSUB0:
END IF
price(0) = price
pnum(0) = num
RETURN
***** END OF PQzero SUBMODULE *****
PQCOMPUTE:
Submodule to compute prices, quantities, profits, and consumer surplus for each scenario.
Pi(s,f) is long-run profit for firm f within scenario s.
CS(s) is Consumer Surplus parameter for scenario s.
FOR scen = 1 TO 35
num = 3
costsum = 0
```

ATTACHMENT O

PAGE 8 OF 14

```
FOR firm = 1 TO num
costsum = costsum + cost(scen, firm)
NEXT firm
price = (A + costsum) /(num + 1)
qtot = 0
FOR firm = 1 TO num
qtemp = (price—cost(seen, firm)) / b
qtot = qtot + qtemp
quant(scen, firm) = qtemp
pitemp = (price—cost(scen, firm)) * qtemp
pitemp = pitemp—fc
pi(scen, firm) = pitemp
NEXT firm
cs(scen) = qtot * (A—price) / 2
pdummy = 1 "Is last firm producing?
IF quant(scen, num) < 0 THEN pdummy = 0
IF pi(scen, num) < 0 THEN pdummy = 0
IF pdummy = 0 THEN GOSUB PQSUB2:
price(scen) = price
pnum(scen) = num
NEXT scen
RETURN
***** END OF PQcompute SUBMODULE *****
PQSUB2:
Submodule of PQcompute/PQsub4/PQsub3 submodule, to compute prices and quantities when fewer than 3 firms are producing.
num = 2
quant(scen, num + 1) = 0
pi(scen, num + 1) = 0
costsum = 0
FOR firm = 1 TO num
costsum = costsum + cost(scen, firm)
NEXT firm
price = (A + costsum) /(num + 1)
qtot = 0
FOR firm = 1 TO num
qtemp = (price cost(scen, firm)) / b
qtot = qtot + qtemp
quant(scen, firm) = qtemp
pitemp = (price—cost(scen, firm)) * qtemp
```

ATTACHMENT O

PAGE 9 OF 14

```
pitemp = pitemp—fc
pi(scen, firm) = pitemp
NEXT firm
cs(scen) = qtot * (A—price) / 2
pdummy = 1 "Is last firm producing?
IF quant(scen, num) < 0 THEN pdummy = 0
IF pi (scen, num) < 0 THEN pdummy = 0
IF pdummy = 0 THEN GOSUB PQSUB1:
RETURN
.***** END OF PQsub2SUEMODULE *****
PQSUB1:
"Submodule of PQcompute/PQsub4/PQsub3/PQsub2 submodule, "to compute prices and quantities " when fewer than 2 firms are producing.
num = 1
quant(scen, hum + 1) = 0
pi(scen, hum + 1) = 0
costsum = 0
FOR firm = 1 TO num
costsum = costsum + cost(scen, firm)
NEXT firm
price = (A + costsum) / (hum + 1)
qtot = 0
FOR firm = 1 TO num
qtemp = (price- cost(scen, firm)) / b
qtot = qtot + qtemp
quant(scen, firm) = qtemp
pitemp = (price—cost(scen, firm) ) * qtemp
pitemp = pitemp fc
pi (scen, firm) = pitemp
NEXT firm
cs(scen) = qtot * (A—price) / 2
pdummy = I "Is last firm producing?
IF quant(scen, num)< 0 THEN pdummy = 0
IF pi(scen, num)< 0 THEN pdummy = 0
IF pdummy = 0 THEN GOSUB PQSUB0:
RETURN
"***** END OF PQsub1 SUBMODULE *****
PQSUB0:
```

ATTACHMENT 0

PAGE 10 OF 14

```
"Submodule of PQcompute/PQsub4,3,2,1 submodules, " to compute prices and quantities " when no firms are producing.
num = 0
quant(scen, hum + 1) = 0
pi(scen, hum + 1) = 0
price = A
cs (scen) = 0
RETURN
"***** END OF PQsub0 SUBMODULE *****
HHI:
"Submodule to compute Herfindahl-Herschmann Indices "for each given cost spread.
FOR scen = 0 TO 35 qtot = 0
FOR firm = 1 TO 3
qtot = qtot + quant(scen, firm)
NEXT firm
IF qtot = 0 THEN
HHI = 10000
mshare(scen, 1) = 1
mshare(scen, 2) = 0
mshare(scen, 3) = 0
GOTO 333
END IF
HHI = 0
FOR firm = 1 TO 3
mtemp = quant(scen, firm) / qtot
mshare(scen, firm) = mtemp
HHI = HHI + mtemp * mtemp * 10000
NEXT firm
herf(scen) = HHI
333 NEXT scen
RETURN
"***** END OF HHI SUBMODULE *****
PROFITS:
"This submodule assigns the previously computed " long-run business profits for each firm " to Microsoft and Microsoft's competitors.
```

ATTACHMENT O

PAGE 11 OF 14

```
"PIMS(s,f) = Microsoft's profit in scenario s, "assuming that Microsoft is firm f.
"PiComp(s,f) = Competitors" profits in scenario s, "assuming that Microsoft is firm f.
"If f=0, Microsoft has zero market share.
FOR scen = 0 TO 35
pitot = 0
FOR firm = 1 TO 3
pitot = pitot + pi(scen, firm)
NEXT firm
pims(scen, 0) = 0
picomp(scen, 0) = pitot
FOR firm = 1 TO 3
pitemp = pi (scen, firm)
pitemp = pitemp * msfirms
pins(scen, firm) = pitemp
picomp(scen, firm) = pitot pitemp
NEXT firm
NEXT scen
"Microsoft profit (pitemp) is multiplied by the number of Microsoft firms.
"When MSfirms=1, all profit calculations are accurate. "When MSfirms=2 or 3, pims is accurate, but picomp is not accurate
```

```
    for "particular scenario/firm #, because
    this APM program "does not
    simultaneously track more than one
    Microsoft firm.
"However, probability-weighted averages
    over all firm #s "for a given scenario are
    an accurate average for both pims and
    picomp.
RETURN
"***** END OF PROFITS SUBMODULE
    *****
PRINTTRAN0:
"This submodule prints the transition factors
    for iteration zero, including average
    consumer surplus, average profits for
    Microsoft and its competitors, average
    market share for Microsoft, the industry-
    wide Herfindahl-Hershman Index (HHI),
    and the average number of main firms in
    the industry.
"These transition factors must be multiplied
    by Microsoft's "annual monopoly
    revenues to determine dollar values.
cstot = 0
```

ATTACHMENT O

PAGE 12 OF 14

```
pimstot = 0
picomptot = 0
mktshare = 0
herfindahl = 0
firmnum = 0
scen = 0 "Choose scen=scen0 to assume
    competitors in period 0.
FOR firm = 0 TO 3
tempprob = prob1 (0, firm)
cstot = cstot + cs(scen) * tempprob
pimstot = pimstot + pims(scen, firm) *
    tempprob
picomptot = picomptot + picomp(scen, firm)
    * tempprob
mktshare = mktshare + mshare(scen, firm) *
    tempprob
herfindahl = herfindahl + herf(scen) *
    tempprob
firmnum = firmnum + pnum(scen) *
    tempprob
NEXT firm
PRINT #3, "Iter";
PRINT #3, "ConsumerSurpls ";
PRINT #3, "Profit (MS) ";
PRINT #3, "Profit(comp) ";
PRINT #3, "MktShare(1-MS)";
PRINT #3, "MktShare (n-MS) ";
PRINT #3, "Herfindahl ";
PRINT #3, "# firms
PRINT #3, USING "###"; 0;
PRINT #3, USING "###.############,,;
    cstot; pimstot; picomptot;
PRINT #3, USING "####.##########,,;
    mktshare * 100; msfirms *
mktshare * 100;
PRINT #3, USING "######.########.;
    herfindahl;
PRINT #3, USING "##.############.;
    firmnum
RETURN
"***** END OF PRINTTRAN0 SUBMODULE
    *****
PRINTTRAN:
This submodule prints the transition factors
    for each subsequent iteration, including
    average consumer surplus, average
    profits for Microsoft and its competitors,
    average market share for Microsoft, the
    industry-wide Herfindahl-Hershman
    Index (HHI), and the average number of
    main firms in the industry.
These transition factors must be multiplied
    by Microsoft's annual monopoly
    revenues to determine dollar values.
cstot = 0
```

ATTACHMENT O

PAGE 13 OF 14

```
pimstot = 0
picomptot = 0
mktshare = 0
herfindahl = 0
firmnum = 0
FOR scen = 1 TO 35
FOR firm = 0 TO 3
tempprob = prob1(scen, firm)
cstot = cstot + cs(scen) * tempprob
pimstot = pimstot + pims(scen, firm) *
    tempprob
picomptot = picomptot + picomp(scen, firm)
    * tempprob
mktshare = mktshare + mshare(scen, firm) *
    tempprob
herfindahl = herfindahl + herf(scen) *
    tempprob
firmnum = firmnum + pnum(scen) *
    tempprob
NEXT firm
NEXT scen
PRINT #3, USING "###,,; iter;
PRINT #3, USING "###.############,,;
    cstot; pimstot; picomptot;
PRINT #3, USING "####.##########,,;
    mktshare * 100; msfirms *
mktshare * 100;
PRINT #3, USING "######.########,,;
    herfindahl;
PRINT #3, USING ,,##.############,,;
    firmnum
RETURN
"***** END OF PRINTTRAN SUBMODULE
    *****
PROBREAD0:
"Submodule to read iteration 0 transition
    probabilities.
LINE INPUT #2, temps
INPUT #2, iter2, scen0
IF 0 <> iter2 THEN PRINT "Iteration 0
    mismatch:,; 0, iter2
FOR firm = 0 TO 3
INPUT #2, prob1(0, firm)
NEXT firm
RETURN
"***** END OF PROBREAD0 SUBMODULE
    *****
PROBREAD:
"Submodule to read subsequent iteration
    transition probabilities
FOR scen = 1 TO 35
INPUT #2, iter2, scen2
IF iter <> iter2 THEN PRINT "Iteration S
    mismatch:,,; iter,
```

ATTACHMENT O

PAGE 14 OF 14

```
iter2
IF scen <> scen2 THEN PRINT "Scenario S
    mismatch:,; scen;
scen2
FOR firm = 0 TO 3
INPUT #2, prob1(scen, firm)
NEXT firm
NEXT scen
RETURN
"***** END OF PROBREAD SUBMODULE
    *****
"**********END OF Program
    "MS4TranA.bas,,.**********
```

ATTACHMENT P

PAGE I of 21

Attachment P.

```
"BASIC Program "MS5TranR.bas". "Program
    Number 5 in a series of six programs
    "designed to simulate alternative
    antitrust "remedies for the Microsoft
    software industry.
"Copyright, January 23, 2002, Carl Lundgren.
" This program, "MS5TranR.bas", uses the
    probability data "computed by
    "MS3ProbR.bas" to compute Consumer
    Surplus and "Profits for both Microsoft
    and Microsoft's competitors.
"In transition period zero (iter=0), Microsoft
    (and its "successor firms after
    divestiture) are assumed to have no
    competitors.
"In subsequent transition periods (iter=1 to
    10), "Microsoft has (potentially) one or
    more competitors.
"This program calculates both Relative Profit
    Maximizing ("RPM") "and Absolute
    Profit Maximizing ("APM") equilibria.
" The program uses the computed
    probabilities for each "scenario that was
    previously outputted by the
    ""MS3ProbR.bas" program as various
    "PROB .... txt" files.
" This program outputs as "TRPM .... txt"
    files the "computed transition factors for
    several alternative timepaths "for the
    software industry, under several
    alternative assumptions.
"These transition factors are computed as a
    fraction "of the revenues which
    Microsoft would earn if it remained "a
    monopoly.
" This program computes transition factors
    "for alternative timepaths for the
    software industry, "under the
    assumption that Microsoft is split into
    two firms, "and these two firms adopt
    relative profit maximizing (RPM)
    "incentives in either a pure or impure
    form.
"The goal functions for the two RPM firms
    are:
Goal1 = Profit1—z * Profit2
Goal2 = Profit2 z * Profit1
"All other (non-Microsoft, competitor) firms
    are assumed "to have absolute profit
    maximizing (APM) incentives.
"The assumed values for z in the transitions
    are:
" TRPM0) The value of z=0.0 "Same as
    Absolute Profit
```

ATTACHMENT P

PAGE 2 of 21

```
Maximizing (APM).
TRPM1) The value of z=0.1 "10% RPM, 90%
    APM.
TRPM2) The value of z=0.2 "20% RPM, 80%
    APM.
TRPM3) The value of z=0.3 "30% RPM, 70%
    APM.
TRPM4) The value of z=0.4 "40% RPM, 60%
    APM.
TRPM5) The value of z=0.5 "50% RPM, 50%
    APM.
```

```
TRPM6) The value of z=0.6 “60% RPM, 40% APM.
TRPM7) The value of z=0.7 “70% RPM, 30% APM.
TRPM8) The value of z=0.8 “80% RPM, 20% APM.
TRPM9) The value of z=0.9 “90% RPM, 10% APM.
This program differs from the MS4TranA.bas program in that it considers only two successor firms for Microsoft, and simultaneously tracks the rankings of both firms.
The 750 outputted transition (TRPM .... txt) files are computed for three speeds of transition (speed=1,2,3), five cost ratios for short-run cost (cratio=1,2,3,4,5), five assumptions concerning the portion of long-run costs allocated to fixed costs (port=0,1,2,3,4), ten different values of z
(z = 0.0, 0.1, 0.2, 0.3, 0.4, 0.5, 0.6, 0.7, 0.8, 0.9).
“The starting point for the transitions in this program “always has Microsoft divided into two RPM firms (msfirms=2). “An additional feature of the program allows the value of z to “change in response to circumstances. If zbump=0.0, then z is fixed, “and does not change in response to circumstances. If zbump > 0, “then z changes in response to circumstances. In the program, “z responds to the circumstance that one of the RPM firms “is not producing, because it is achieving negative absolute profit.
“In this circumstance, the program automatically “bumps down” the value “of z for both RPM firms by the amount of zbump. For example, “if z=0.7 and zbump=0.3, then if one or both RPM firms would shut down, “then the value of z is automatically bumped down to z=0.4.
“In many circumstances, this allows both RPM firms to continue producing.
“The user determines the value of zbump as part of the control module.
DEFDBL A-Z

ATTACHMENT P

PAGE 3 of 21

DIM problr(35, 15), herf(35, 15), sharems(35, 15), pnum(35, 15)
DIM qtotal(35, 15), cost(35, 3), pv(35, 3), price(35, 15)
DIM pims(35, 15), picomp(35, 15)
DIM cs(35, 15), pi(35, 15)
“CONTROL MODULE
CLS
timex = TIMER
“*****User Determines amount by which z should be bumped down, if RPM firm2 is not producing when z=zhold(zcount).*****
zbump = 0! “*****User determines zbump.*****
“*****If zbump=0, then z is fixed and never changes.
“*****zbump >= 0. Recommended value is zbump=0.3.****
GOSUB PRINTZCOUNT:
GOSUB SCENREAD:
“This section calls the main module 750 times.
“This control module chooses market tendency:
“cratio=1 “Ratio for low/high short-run cost is 0.2500 (1/4.0) .
“cratio=2 “Ratio for low/high short-run cost is 0.3333 (1/3.0).
“cratio=3 “Ratio for low/high short-run cost is 0.4000 (1/2.5) .
“cratio=4 “Ratio for low/high short-run cost is 0.5000 (1/2.0).
“cratio=5 “Ratio for low/high short-run cost is 0.6667 (1/1.5).
“This control module chooses speed for market share shifts:
“speed = 1 “Slow speed for market share shifts.
“speed = 2 “Moderate speed for market share shifts.
“speed = 3 “High speed for market share shifts.
“In this program, # of msfirms at iteration zero is always two.
msfirms = 2
“This control module chooses z (weight on rival firm's profits).
zcount=0     “z = 0.0
zcount=1      z = 0.1
zcount=2      z = 0.2
zcount=3      z = 0.3
zcount=4      z = 0.4
zcount=5      z = 0.5
zcount=6      z = 0.6
zcount=7      z = 0.7
zcount=8      z = 0.8

ATTACHMENT P

PAGE 4 of 21

“zcount=9     “z = 0.9
“This control module chooses proportion of long-run cost ” which is assumed to be a fixed cost.
“port = 0   “Fixed cost is 0% of long-run cost.
“port = 1   “Fixed cost is 25% of long-run cost.
“port = 2   “Fixed cost is 50% of long-run cost.
“port = 3   “Fixed cost is 75% of long-run cost.
“port = 4   “Fixed cost is 100% of long-run cost.
FOR cratio = 1 TO 5
FOR speed = 1 TO 3
FOR port = 0 TO 4
FOR zcount = 0 TO 9
GOSUB MAINMODULE:
NEXT zcount
NEXT port
NEXT speed
NEXT cratio
PRINT TIMER—timex
END
PRINTZCOUNT:
“This submodule assigns values of z to each zcount, ” and prints these z values for transfer to ” the subsequent “MS6Summ.bas” program.
DIM zhold(9)
zcount$ = “c:\basic\ms—sim\out\zcount.txt” “Output zcount data.
OPEN zcount$ FOR OUTPUT AS #1
PRINT #1, “Zcount Z”
FOR zcount = 0 TO 9
IF zcount = 0 THEN z = 01
IF zcount = 1 THEN z = .1
IF zcount = 2 THEN z = .2
IF zcount = 3 THEN z = .3
IF zcount = 4 THEN z = .4
IF zcount = 5 THEN z = .5
IF zcount = 6 THEN z = .6
IF zcount = 7 THEN z = .7
IF zcount = 8 THEN z = .8
IF zcount = 9 THEN z = .9
zhold(zcount) = z
PRINT #1, USING “######”; zcount;
PRINT #1, USING “###.######”; z

ATTACHMENT P

PAGE 5 of 21

NEXT zcount
CLOSE #1
RETURN
“***** END OF PrintZcount SUBMODULE *****
MAINMODULE:
z = zhold(zcount)
GOSUB FILENAMES: “Assign file names to input/output files.
GOSUB INITIALIZE:
FOR iter = 1 TO 10
GOSUB PROBREAD:
GOSUB PRINTTRAN:
NEXT iter
CLOSE
RETURN
“***** END OF MAIN MODULE *****
FILENAMES:
prob$ = “c: \basic\ms—sim\out\probr0. txt” “Input RPM transition
probabilities
tran$ = “c:\basic\ms—sim\out\tRPM0000.txt” “Output RPM transition factors
IF cratio = 1 THEN crt$ = “1”
IF cratio = 2 THEN crt$ = “2”
IF cratio = 3 THEN crt$ = “3”
IF cratio = 4 THEN crt$ = “4”
IF cratio = 5 THEN crt$ = “5”
IF speed = 1 THEN sp$ = “1”
IF speed = 2 THEN sp$ = “2”
IF speed = 3 THEN sp$ = “3”
IF zcount = 0 THEN zc$ = “0”
IF zcount = 1 THEN zc$ = “1”
IF zcount = 2 THEN zc$ = “2”
IF zcount = 3 THEN zc$ = “3”
IF zcount—4 THEN zc$ = “4”
IF zcount = 5 THEN zc$ = “5”
IF zcount = 6 THEN zc$ = “6”
IF zcount = 7 THEN zc$ = “7”
IF zcount = 8 THEN zc$ = “8”
IF zcount = 9 THEN zc$ = “9”
IF port = 0 THEN prt$ = “0”
IF port = 1 THEN prt$ = “1”

ATTACHMENT P

PAGE 6 of 21

IF port = 2 THEN prt$ = “2”
IF port = 3 THEN prt$ = “3”
IF port = 4 THEN prt$ = “4”
replacep$ = sp$
replacet$ = zc$ + crt$ + sp$ + prt$
MID$(prob$, 28, 1) = replacep$
MID$(tran$, 25, 4) = replacet$
PRINT replacet$; “”;
RETURN
“***** END OF FileNames SUBMODULE *****
INITIALIZE:
“Submodule to perform various initialization tasks.
OPEN prob$ FOR INPUT AS #2
OPEN tran$ FOR OUTPUT AS #3
GOSUB ZEROPROB:
GOSUB PROBREAD0:
GOSUB SCENREAD: “Read scenario list.
GOSUB COSTCOMPUTE: "Compute costs.
GOSUB PQZERO: "Iteration 0 prices,
    quantities, profits a Consumer Surplus.
GOSUB PQCOMPUTE: "Compute prices,
    quantities, profits & Consumer Surplus.
GOSUB PRINTTRANO: "Print transition files.
RETURN
"***** END OF Initialize SUBMODULE
    *****
ZEROPROB:
"This submodule sets the prob1r(0, .)
" variable values to zero.
FOR pair = 0 TO 15
prob1r(0, pair) = 0
NEXT pair
RETURN
"***** END OF ZeroProb SUBMODULE
    *****
SCENREAD:
"This submodule reads in the scenario costs
    list.
cost$ = "c:\basic\ms—sim\costlist.txt" "Input
    scenario costs
OPEN costs FOR INPUT AS #1
LINE INPUT #1, dummy$
ATTACHMENT P

PAGE 7 of 21

"cost(s,f) = short-run marginal cost of firm f
    in scenario s.
"finprob(s) = final probability assumed for
    scenario s.
"wgt(scen) = number of permutations of
    scenario s.
FOR scen = 1 TO 35
INPUT #1, scen2, L1, L2, L3, L4, L5, wgt,
    finprob
IF scen <> scen2 THEN PRINT "Scenario
    mismatch", scen, scen2
INPUT #1, c1, c2, c3
FOR firm = I TO 3
INPUT %1, pv(scen, firm)
NEXT firm
NEXT scen
CLOSE #1
RETURN
"***** END OF ScenRead SUBMODULE
    *****
COSTCOMPUTE:
"Submodule to compute short-run costs,
    long-run costs, " and assumed elasticity
    of demand.
"This section computes parameters for long-
    run costs "under the assumption that
    each firm has "the same long-run cost
    function.
"Assume that one portion of Microsoft's
    long-run cost (LRC) is a long-run fixed
    cost (FC), while the other portion is a.
    long-run variable cost (VC), which is
    proportional to output.
lrc = .1855 "computed as MS long-run cost
    divided by MS monopoly revenue.
IF port = 0 THEN portion = 01
IF port = 1 THEN portion = .25
IF port = 2 THEN portion = .5
IF port = 3 THEN portion = .75
IF port = 4 THEN portion = 1!
fc = lrc * portion
vc = lrc * (1—portion)
"This section computes elasticity of demand
    (Elas) at monopoly profit maximum, as a
    function of marginal cost, which is
    composed of short-run marginal cost
    (SRC) plus long-run variable cost (VC).
src = .4101 "computed as MS short-run cost
    divided by MS monopoly revenue.
mc = src + vc
ATTACHMENT P

PAGE 8 of 21

elas = 1 / (mc—1)
elasminus = elas 1
elasplus = elas + 1
A = elasminus / elas "Intercept of linear
    demand curve with price axis.
b = -1 / elas "Slope of linear demand curve.
cbase = src "Base level of short-run marginal
    cost (cost level 2).
logcbase = LOG(cbase / (A—vc—cbase))
    "Cbase converted to log- ratios.
"This section computes short-run costs and
    marginal costs "for a given cost spread.
IF cratio = I THEN cspread = .950980935#
IF cratio = 2 THEN cspread = .748669813#
IF cratio = 3 THEN cspread = .622288438#
IF cratio = 4 THEN cspread = .469161475#
IF cratio = 5 THEN cspread = .273626703#
FOR scen = 1 TO 35
FOR firm = 1 TO 3
pvtemp = (pv(scen, firm)—180) / 120#
logpv = logcbase + pvtemp * cspread
pvratio = EXP(logpv)
cost(scen, firm) = vc + (A—vc) * pvratio / (1
    + pvratio)
NEXT firm
NEXT scen
RETURN
"***** END OF CostCompute SUBMODULE
    *****
PQZERO:
"Submodule to compute prices, quantities,
    profits, and consumer surplus for
    selected scenarios, for iteration zero,
    where two Microsoft RPM firms are
    assumed initially to have no competitors.
This program assumes that the two MS firms
    use relative profit maximizing (RPM)
    incentives, according to the goal
    functions for each firm:
Goal(firm1)=profit(firm1)-z*profit(firm2)
Goal(firm2)=profit(firm2)-z*profit(firm1)
scen = 0
firm1 = 1
firm2 = 2
pair1 = firm1 * 4 + firm2
ATTACHMENT P

PAGE 9 of 21

pair2 = firm2 * 4 + firm1
FOR firm = 1 TO 2
cost(0, firm) = cost(scen0, firm)
NEXT firm
FOR firm = 3 TO 3
qtemp(firm) = 0
pitemp(firm) = 0
cost(0, firm) = A
NEXT firm
bump = 0 "Dummy variable to determine if
    z should be bumped down.
z = zhold(zcount)
GOSUB RPMSUB0:
IF bump = 1 THEN
z = z—zbump
GOSUB RPMSUB0:
END IF
GOSUB ASSIGN:
RETURN
"***** END OF PQzero SUBMODULE *****
PQCOMPUTE:
"Submodule to compute prices, quantities,
    profits, " and consumer surplus for all
    scenarios and firm pairs.
FOR scen = 1 TO 35
FOR firm1 = 0 TO 3
firm2 = 0
pair1 = firm1 * 4 + firm2
pair2 = firm2 * 4 + firm1
delfirm = 0
bump = 0 "Dummy variable to determine if
    z should be bumped
z = zhold(zcount)
GOSUB APMCOMPUTE:
GOSUB ASSIGN:
NEXT firm1
FOR firm1 = I TO 3
FOR firm2 = 1 TO 3
IF firm2 <= firm1 THEN 357
pair1 = firm1 * 4 + firm2
pair2 = firm2 * 4 + firm1
bump = 0 "Dummy variable to determine if
    z should be bumped down.
z = zhold(zcount)
ATTACHMENT P

PAGE 10 of 21

GOSUB RPMCOMPUTE:
IF bump = I THEN
z = z—zbump
GOSUB RPMCOMPUTE:
END IF
GOSUB ASSIGN:
357 NEXT firm2
NEXT firm1
    NEXT scen
    RETURN
"***** END OF PQcompute SUBMODULE
    *****
ASSIGN:
"Submodule to assign computed numbers for
    each scenario " and combination of
    firms.
qtotal(scen, pair1) = qtot
price(scen, pair1) = price
pnum(scen, pair1) = tnum
cs(scen, pair1) = cstemp
qtotal(scen, pair2) = qtot
price(scen; pair2) = price
pnum(scen, pair2) = tnum
cs(scen, pair2) = cstemp
IF qtot = 0 THEN
share (1) = 1
share(2) = 0
share(3) = 0
GOTO 333
END IF
FOR firm = 1 TO 3
share(firm) = qtemp(firm) / qtot
NEXT firm
333 pitot = 0
herf = 0
FOR firm = I TO 3
pitot = pitot + pitemp(firm)
herf = herf + share(firm) * share(firm)
NEXT firm
herf = herf * 10000
herf(scen, pair1) = herf
herf(scen, pair2) = herf
ms1share = share(firm1)
ms2share = share(firm2)
ATTACHMENT P

PAGE 11 of 21

msavgshare = (ms1share + ms2share) / 2
sharems(scen, pair1) = msavgshare
sharems(scen, pair2) = msavgshare
mspi1 = pitemp(firm1)
mspi2 = pitemp(firm2)
```

```
IF firm1 = 0 THEN mspi1 = 0
IF firm2 = 0 THEN mspi2 = 0
mspitot = mspi1 + mspi2
comppitot = pitot—mspitot
pims(scen, pair1) = mspitot
ims(scen, pair2) = mspitot
picomp(scen, pair1) = comppitot
picomp(scen, pair2) = comppitot
ms1goal = mspi1—z * mspi2 "Firm 1's RPM goal function.
ms2goal = mspi2—z * mspi1 "Firm 2's RPM goal function.
RETURN
"***** END OF Assign SUBMODULE *****
RPMCOMPUTE:
"Submodule to compute prices, quantities, profits, and consumer surplus for each RPM scenario. This submodule assumes that two RPM firms choose to produce.
anum = 1 "anum = number of producing APM firms.
num = anum "hum = last producing APM firm.
IF num = firm1 THEN num = hum + 1
IF num = firm2 THEN num = num + 1
IF num = firm1 THEN num = num + 1
tnum = anum + 2 "tnum = total number of producing firms.
FOR firm = I TO 3
qtemp(firm) = 0
pitemp(firm) = 0
NEXT firm costsum = 0
FOR firm = I TO num
IF firm <> firm1 AND firm <> firm2 THEN
costsum = costsum + cost(scen, firm)
END IF
NEXT firm
costsum = (A + Costsum) * (1—z)
costsum = costsum + cost(scen, firm1) + cost(scen, firm2)
price = costsum / (3—anum* z + anum—z)
qtot = (A—price) / b
ATTACHMENT P
PAGE 12 of 21
qapm = 0
FOR firm = 1 TO num
IF firm <> firm1 AND firm <> firm2 THEN
qtemp(firm) = (price cost(scen, firm)) / b
qapm = qapm + qtemp (firm)
pitemp = (price cost(scen, firm)) * qtemp(firm)
pitemp(firm) = pitemp—fc
END IF
NEXT firm
qrpm = qtot—qapm
qgap = (cost(scen, firm2)—cost(scen, firm1)) / b / (1 + z)
qtemp(firm1) = (qrpm + qgap) / 2
pitemp = (price cost(scen, firm1)) * qtemp(firm1)
pitemp(firm1) = pitemp—fc
qtemp(firm2) = (qrpm—qgap) / 2
pitemp = (price—cost(scen, firm2)) * qtemp(firm2)
pitemp(firm2) = pitemp—fc
cstemp = qtot * (A—price) / 2
    "Must choose which firm (if any) to shut down,
" based on quantities and profits.
    "First, test for negative quantities.
    aq = 1 "quantity dummy for APM firm.
IF qtemp(num) < 0 THEN aq = 0
rq = 1 "quantity dummy for RPM firm.
IF qtemp(firm2) < 0 THEN rq = 0
    IF aq = 0 AND rq = I THEN
GOSUB RPMSUB0:
RETURN
END IF
IF aq = 1 AND rq = 0 THEN
IF bump = 0 THEN
bump = 1
RETURN
END IF
delfirm = firm2
GOSUB APMCOMPUTE:
RETURN
END IF
IF aq = 0 AND rq = 0 THEN
IF firm2 > hum THEN
IF bump = 0 THEN
bump = 1
RETURN
END IF
ATTACHMENT P
PAGE 13 of 21
delfirm = firm2
GOSUB APMCOMPUTE:
RETURN
END IF
IF firm2 < num THEN
GOSUB RPMSUB0:
RETURN
END IF
END IF
"Second, test for negative profits.
api = 1 "profit dummy for APM firm.
IF pitemp(num) < 0 THEN api = 0
rpi = 1 "profit dummy for RPM firm.
IF pitemp(firm2) < 0 THEN rpi = 0
IF api = 0 AND rpi = 1 THEN
GOSUB RPMSUB0:
RETURN
END IF
IF api = I AND rpi = 0 THEN
IF bump = 0 THEN
bump = 1
RETURN
END IF
delfirm = firm2
GOSUB APMCOMPUTE:
RETURN
END IF
IF api = 0 AND rpi = 0 THEN
IF pitemp(firm2) < pitemp(num) THEN
IF bump = 0 THEN
bump = 1
RETURN
END IF
delfirm = firm2
GOSUB APMCOMPUTE:
RETURN
ELSE
GOSUB RPMSUB0:
RETURN
END IF
END IF
"If program reaches here, then all firms are producing.
RETURN
"***** END OF RPMcompute SUBMODULE *****
ATTACHMENT P
PAGE 14 of 21
RPMSUB0:
Submodule of RPMcompute submodule, to compute prices and quantities when zero APM firms are producing.
num = 0
anum = hum "anum = number of producing APM firms
tnum = anum + 2 "tnum = total number of producing firms
FOR firm = 1 TO 3
qtemp(firm) = 0
pitemp(firm) = 0
NEXT firm
qtemp(num + 1) = 0
pitemp(num + 1) = 0
costsum = 0
costsum = (A + costsum) * (1—z)
costsum = costsum + cost(scen, firm1) + cost(scen, firm2)
price = costsum / (3—anum * z + anum—z)
qtot = (A—price) / b
qapm = 0
qrpm = qtot—qapm
qgap = (cost(scen, firm2)—cost(scen, firm1)) / b / (1 + z)
qtemp(firm1) = (qrpm + qgap) / 2
pitemp = (price—cost(scen, firm1)) * qtemp(firm1)
pitemp(firm1) = pitemp—fc
qtemp(firm2) = (qrpm—qgap) / 2
pitemp = (price—cost(scen, firm2)) * qtemp(firm2)
pitemp(firm2) = pitemp fc
cstemp = qtot * (A—price) / 2
r2dummy = 1 "Is RPM firm2 producing?
IF qtemp(firm2) < 0 THEN r2dummy = 0
IF pitemp(firm2) < 0 THEN r2dummy = 0
IF r2dummy = 0 THEN
IF firm1 = 1 THEN
IF bump = 0 THEN
bump = 1
RETURN
END IF
delfirm = 0
GOSUB APMSUB1:
RETURN
END IF
IF firm1 = 2 THEN
IF bump = 0 THEN
ATTACHMENT P
PAGE 15 of 21
bump = 1
RETURN
END IF
delfirm = 1
GOSUB APMSUB2:
RETURN
END IF
END IF
"If program reaches here, then both RPM firms are producing.
RETURN
"***** END OF RPMsub0 SUBMODULE *****
APMCOMPUTE :
" Submodule to compute prices, quantities, profits, "and consumer surplus for each APM scenario.
"The delfirm variable is used to determine whether to "delete one of the firms from the APM scenario.
If delfirm=0, no firms are deleted from the computation.
If delfirm=1, then firm 1 is deleted from the computation.
If delfirm=2, then firm 2 is deleted from the computation.
" If delfirm—3, then firm 3 is deleted from the computation. num = 3
IF delfirm s num THEN GOTO APMSUB2:
anum -num ,anum z number of producing
```

```
      APM firms.
IF delfirm > 0 THEN
IF delfirm <= num THEN anum =num—1
END IF
tnum—anum "tnum = total number of
      producing firms
FOR firm = 1 TO 3
qtemp
(firm) = 0
pitemp (firm) = 0
NEXT firm costsum = 0
FOR firm = 1 TO hum
IF firm <> delfirm THEN
costsum—costsum + cost(scen, firm)
END IF
NEXT firm
price = (A + costsum) / (anum + 1)
qtot = 0
FOR firm = 1 TO num
IF firm <> delfirm THEN
qtemp(firm) = (price- cost(scen, firm)) / b
```

ATTACHMENT P

PAGE 16 of 21

```
qtot = qtot + qtemp (firm)
pitemp = (price- cost(scen, firm)) *
      qtemp(firm)
pitemp(firm) = pitemp—fc
END IF
IF firm = delfirm THEN
qtemp(firm) = 0
pitemp(firm) = 0
END IF
NEXT firm
cstemp = qtot * (A—price) / 2
pdummy = 1 "Is last firm producing?
IF qtemp(num) < 0 THEN pdummy = 0
IF pitemp(num) < 0 THEN pdummy = 0
IF pdummy = 0 THEN GOSUB APMSUB2:
RETURN
"***** END OF APMcompute SUBMODULE
      *****
APMSUB2:
"Submodule of APMcompute submodule, "
      to compute prices and quantities " when
      fewer than 3 firms are producing.
num = 2
IF delfirm =num THEN GOTO APMSUB1:
anum =num "anum = number of producing
      APM firms.
IF delfirm > 0 THEN
IF delfirm <5 num THEN anum = hum—1
END IF
tnum = anum "tnum = total number of
      producing firms
FOR firm = 1 TO 3
qtemp(firm) = 0
pitemp (firm) = 0
NEXT firm costsum = 0
FOR firm = 1 TO num
IF firm <> delfirm THEN
costsum = costsum + cost(scen, firm)
END IF
NEXT firm
price = (A + costsum) / (anum + 1)
qtot = 0
FOR firm = 1 TO num
IF firm <> delfirm THEN
qtemp(firm) = (price—cost(scen, firm)) / b
```

ATTACHMENT P

PAGE 17 of 21

```
qtot = qtot + qtemp(firm)
pitemp—(price—cost(scen, firm)) *
      qtemp(firm)
pitemp(firm) = pitemp—fc
END IF
IF firm = delfirm THEN
qtemp(firm) = 0
pitemp(firm) = 0
END IF
NEXT firm
cstemp = qtot * (A—price) / 2
pdummy = 1 "Is last firm producing?
IF qtemp(num) < 0 THEN pdummy = 0
IF pitemp(num) < 0 THEN pdummy = 0
IF pdummy = 0 THEN GOSUB APMSUB1:
RETURN
"***** END OF APMsub2SUBMODULE
      *****
*
*
APMSUB1:
"Submodule of APMcompute/APMsub2
      submodules, " to compute prices and
      quantities " when fewer than 2 firms are
      producing.
num = 1
IF delfirm -num THEN GOTO APMSUB0:
anum = hum "anum = number of producing
      APM firms.
IF delfirm > 0 THEN
IF delfirm <= num THEN anum =num—1
END IF
tnum = anum "tnum = total number of
      producing firms
FOR firm = 1 TO 3
qtemp(firm) = 0
pitemp(firm) = 0
NEXT firm costsum = 0
FOR firm = 1 TO hum
IF firm <> delfirm THEN
costsum = costsum + cost(scen, firm)
END IF
NEXT firm
price = (A + costsum) / (anum + 1)
qtot = 0
FOR firm = 1 TO num
IF firm <> delfirm THEN
qtemp(firm) = (price- cost(scen, firm)) / b
qtot = qtot + qtemp(firm)
pitemp = (price—cost(scen, firm)) *
      qtemp(firm)
pitemp(firm) = pitemp—fc
END IF
IF firm = delfirm THEN
qtemp(firm) = 0
pitemp(firm) = 0
END IF
NEXT firm
cstemp = qtot * (A—price) / 2
pdummy = 1 "Is last firm producing?
IF qtemp(num) < 0 THEN pdummy = 0
IF pitemp(num) < 0 THEN pdummy = 0
IF pdummy—0 THEN GOSUB APMSUB0:
RETURN
"***** END OF APMsub1 SUBMODULE
      *****
APMSUB0:
"Submodule of APMcompute/APMsub2,1
      submodules, to compute prices and
      quantities when no firms are producing.
hum = 0
anum =num "anum = number of producing
      APM firms.
tnum t anum "tnum—total number of
      producing firms
FOR firm—1 TO 3
qtemp(firm)—0
pitemp(firm) = 0
NEXT firm
price = A
cstemp = 0
RETURN
"***** END OF APMsub0 SUBMODULE
      *****
PRINTTRAN0:
This submodule prints the transition factors
      for iteration zero, including average
      consumer surplus, average profits for
      Microsoft and its competitors, average
      market share for Microsoft, the industry-
      wide Herfindahl-Hershman Index (HHI),
      and the average number of main firms in
      the industry.
"These transition factors must be multiplied
      by Microsoft's "annual monopoly
      revenues to determine dollar values.
```

ATTACHMENT P

PAGE 19 of 21

```
cstot = 0
pimstot = 0
picomptot = 0
mktshare = 0
herfindahl = 0
firmnum—0
scen = 0 .Choose scen=scen0 to assume
      competitors in period 0.
FOR firm1 = 0 TO 3
FOR firm2—0 TO 3
pair = 4 * firm1 + firm2
tempprob = problr(scen, pair)
cstot = cstot + cs(scen, pair) * tempprob
pimstot = pimstot + pims(scen, pair) *
      tempprob
picomptot = picomptot + picomp(scen, pair)
      * tempprob
mktshare s mktshare + sharems(scen, pair) *
      tempprob
herfindahl—herfindahl + herf(scen, pair) *
      tempprob
firmnum = firmnum + pnum(scen, pair) *
      tempprob
NEXT firm2
NEXT firm1
PRINT #3, "Iter";
PRINT #3, . ConsumerSurpls ";
PRINT #3, "Profit(MS) ";
PRINT #3, "Profit(comp) ";
PRINT #3, . MktShare(l-MS)";
PRINT #3, . MktShare(n-MS)";
PRINT #3, "Herfindahl ";
PRINT #3, .. # firms "
PRINT #3, USING "###"; 0;
PRINT #3, USING
"###.############"; cstot; pimstot;
      picomptot;
PRINT #3, USING "####.##########";
      mktshare * I00; msfirms *
mktshare * I00;
PRINT #3, USING "######.########";
      herfindahl;
PRINT #3, USING "##.############";
      firmnum
RETURN
,***** END OF PrintTran0 SUBMODULE
      *****
PRINTTRAN:
"This submodule prints the transition factors
      for each subsequent iteration, including
      average consumer surplus, average
      profits for Microsoft and its competitors,
      average market share for Microsoft, the
      industry-wide Herfindahl-Hershman
      Index (HHI), and the average number of
      main firms in the industry.
```

ATTACHMENT P

PAGE 20 of 21

```
"These transition factors must be multiplied
    by Microsoft's " annual monopoly
    revenues to determine true dollar values.
cstot = 0
pimstot—0
picomptot = 0
mktshare—0
herfindahl = 0
firmnum = 0
FOR seen = 1 TO 35
FOR firm1—0 TO 3
FOR firm2 = 0 TO 3
pair—4 * firm1 + firm2
tempprob = problr(scen, pair)
cstot = cstot + cs(scen, pair) * tempprob
pimstot = pimstot + pims (scen, pair) *
    tempprob
picomptot = picomptot + picomp(scen, pair)
    * tempprob
mktshare—mktshare + sharems (scen, pair) *
    tempprob
herfindahl—herfindahl + herf(scen, pair) *
    tempprob
firmnum = firmnum + pnum(scen, pair) *
    tempprob
NEXT firm2
NEXT firm1
NEXT scen
PRINT #3, USING "###"; iter;
PRINT #3, USING
"###.###########
m;#"; cstot; pimstot; picomptot;
PRINT #3, USING
"####.##########"; mktshare * i00; msfirms
    *
mktshare * 100t
PRINT #3, USING "######.########";
    herfindahl;
PRINT #3, USING "##.############";
    firmnum
RETURN
"***** END OF PrintTran0 SUBMODULE
    *****
PROBREAD0 :
LINE INPUT #2, temps
FOR firm1 = 0 TO 3
INPUT #2, iter2, scen0, firm
IF 0 <> iter2 THEN PRINT "Iteration
    mismatch:"; 0; iter2
IF firm <> firm1 THEN PRINT "Firm1
    mismatch:"; firm1; firm
FOR firm2 = 0 TO 3
pair = firm1 * 4 + firm2
INPUT #2, problr(0, pair)
NEXT firm2
NEXT firm1
RETURN
```

ATTACHMENT P

PAGE Z1 of 21

```
"***** END OF ProbRead0 SUBMODULE
    *****
PROBREAD:
FOR scen- 1 TO 35
FOR firm1 = 0 TO 3
INPUT #2, iter2, scen2, firm
IF iter <> iter2 THEN PRINT "Iteration
    mismatch:"; iter;
iter2
IF scen <> scen2 THEN PRINT "Scenario
    mismatch:"; scen;
cen2
IF firm <> firm1 THEN PRINT "Firm1
    mismatch:"; firm1; firm
"FOR firm2—0 TO 3
pair = firm1 * 4 + firm2
INPUT #2, problr(scen, pair)
NEXT firm2
NEXT firm1
NEXT scen
RETURN
,***** END OF ProbRead SUBMODULE
    *****
"**********END OF Program
    .MS5TranR.bas".**********
```

ATTACHMENT Q

PAGE 1 of 24

Attachment Q.

```
"BASIC Program "MS6Summ,bas".
"Program Number 6 in a series of six
    programs "designed to simulate
    alternative antitrust "remedies for the
    Microsoft software industry.
"Copyright, January 23, 2002, Carl Lundgren.
" This program, ,,MS6Summ.bas", computes
    and summarizes the data "produced by
    prior programs, including both
    "MS4TranA.bas" "and "MS5TranR.bas".
" This program summarizes in the form "of
    aggregates and comparisons the
    economic meaning "of the transitions
    data that were outputted by "the
    "MS4TranA.bas and "MS5TranR.bas"
    programs. "This program reads in the
    various "TRAN .... txt" "and "TRPM ....
    txt" files produced by the prior programs
    "in order to create summary files for the
    aggregates:
```

(0) No remedy at all, continued monopoly by Microsoft.

(I) 100% effective conduct remedy starting in 2002.

(la) Intermediate conduct remedies, varying in effectiveness: 20%, 40%, 60%, 80%.

(1b) Structural two-monopolies remedy, computed as having outcomes equivalent to one-third value of 2-firm competitive APM structural remedy and two-thirds value of 1004 conduct remedy.

(2) Structural 2-firm APM remedy starting in 2005.

(3) Structural 3-firm APM remedy starting in 2005.

(4–15) Structural 2-firm RPM remedies for z=0.1 through z=0.9, starting in 2005.

(16) Lawful behavior since 1995. and for the comparisons:

(17) Aggregates for all the above alternatives, minus the aggregates for the lawful path.

The program uses the transition data to estimate consumer surplus and profits in each of the years 1995–2025. Transitions are assumed to take place over a period of 3, 5, or 8 years each. Years in between the transition years are linearly interpolated. These four time paths are aggregated and compared for three sums over three time periods: I) Sum of consumer surpluses.

(2) Sum of non-Microsoft profits.
(3) Sum of Microsoft profits.
(4) Sum of total surpluses.
(A) Time period 1995–2001.
(B) Time period 2002–2025.
(C) Time period 1995–2025.

The program reads in data for Microsoft's monopoly revenues by year, multiplies them by the relevant factor multipliers given by the Transition files (TRAN & TRPM), and computes interest or discounts at 7% real annual interest rate to billions of year 2002 real dollars.

The program produces data summarized for particular scenarios in files marked "AGGC .... txt", "AGGR .... txt", and "YEAR .... txt".

The "AGGC .... txt" files (which are most user friendly) summarize all past and future data, appropriately discounted, into a single set of figures which may be compared across remedy proposals.

The "AGGR .... txt" files categorize the aggregate data into past and future amounts of consumer surplus, profits, and total surplus for each remedy proposal, and how these amounts compare with the same amounts along the lawful path.

The "YEAR .... txt" files (which are least user friendly) output the calculated amounts, by year, for each remedy proposal and the lawful path.

```
  DEFDBL A-Z
DIM aggcs(16, 3), aggcomp(16, 3), aggms(16,
  3), aggts(16, 3)
Aggregates
DIM compcs(16, 3), compcomp(16, 3),
  compms(16, 3), compts(16, 3)
Comparisons
DIM aggcsmin(16, 3), aggcompmin(16, 3),
  aggmsmin(16, 3),
aggtsmin(16, 3) ,Minimums
DIM compcsmin(16, 3), compcompmin(16,
  3), compmsmin(16, 3),
comptsmin(16, 3) "Minimums
DIM aggcsmax(16, 3), aggcompmax (16, 3),
  aggmsmax(16, 3),
aggtsmax(16, 3) "Maximums
DIM compcsmax(16, 3), compcompmax(16,
  3), compmsmax(16, 3),
comptsmax(16, 3) "Minimums
DIM aggcsavg(16, 3), aggcompavg(16, 3),
  aggmsavg(16, 3),
aggtsavg(16, 3) ,Averages
DIM compcsavg(16, 3), compcompavg(16, 3),
  compmsavg(16, 3),
IF port >= 0 THEN "Always true; change to
    restrict statistics gathering.
pvtotal—pvtotal + pvtemp
avgtotal—avgtotal + 1
FOR p = 0 TO 14
FOR t = 1 TO 3
First put numbers into temporary variable
    slots.
  aggcstemp = aggcs (p, t)
  aggcomptemp—aggcomp(p, t)
  aggmstemp = aggms(p, t)
  aggtstemp = aggts(p, t)
  compcstemp—compcs (p, t)
  compcompttemp = compcomp(p, t)
  compmstemp = compms(p, t)
  comptstemp = compts(p, t)
Second compute minimum values
  IF aggcstemp < aggcsmin(p, t) THEN
    aggcsmin(p, t) = aggcstemp
  IF aggcomptemp < aggcompmin(p, t) THEN
    aggcompmin(p, t) aggcomptemp
  IF aggmstemp < aggmsmin(p, t) THEN
    aggmsmin(p, t) = aggmstemp
  IF aggtstemp < aggtsmin(p, t) THEN
    aggtsmin(p, t) = aggtstemp
  IF compcstemp < compcsmin(p, t) THEN
    compcsmin(p, t) compcstemp
  IF compcompttemp < compcompmin(p, t)
     THEN compcompmin(p, t) =
     compcompttemp
  IF compmstemp < compmsmin(p, t) THEN
     compmsmin(p, t) = compms temp
  IF comptstemp < comptsmin(p, t) THEN
     comptsmin(p, t) = comptstemp
Third compute maximum values
  IF aggcstemp * aggcsmax(p, t) THEN
     aggcsmax(p, t) s aggcstemp
  IF aggcomptemp * aggcompmax(p, t) THEN
     aggcompmax(p, t)— aggcomptemp
  IF aggmstemp * aggmsmax(p, t) THEN
     aggmsmax(p, t) -aggmstemp
  IF aggtstemp * aggtsmax(p, t) THEN
     aggtsmax(p, t) = aggtstemp
  IF compcstemp * compcsmax(p, t) THEN
     compcsmax(p, t) = compcstemp
  IF compcompttemp * compcompmax(p, t)
     THEN compcompmax(p, t) =
     compcompttemp
  IF compmstemp * compmsmax(p, t) THEN
     compmsmax(p, t)— compmstemp
  IF comptstemp > comptsmax(p, t) THEN
     comptsmax(p, t)— comptstemp
Fourth compute average values
comptsavg(16, 3), Averages
DIM aggcswtd(16, 3), aggcompwtd(16, 3),
     aggmswtd(16, 3), aggtswtd(16, 3)
     "Weighted Averages
DIM compcswtd(16, 3), compcompwtd(16,
     3), compmswtd(16, 3), comptswtd(16, 3)
     ,Weighted Averages
CONTROL MODULE
CLS
timex = TIMER
  ystart = 1995 "Start year for antitrust
     analysis.
  yend—2025 "End year for antitrust
     analysis.
  cstart = 2002 "Year to start conduct
     remedies.
  sstart = 2005 "Year to start structural
     remedies.
GOSUB PVSETUP:
  revstream = 1 ,****User chooses revenue
     stream = 1,2,3,4.
GOSUB READREVENUES : "Read in
     Microsoft" s revenues by year.
GOSUB READZCOUNT:
This control module calls the main module
     75 times.
  FOR cratio—1 TO 5
  FOR speed = 1 TO 3
  FOR port—0 TO 4
GOSUB MAINMODULE :
NEXT port
NEXT speed
NEXT cratio
GOSUB PRINTSTATS: "Print Macro
     Statistics
PRINT TIMER—timex
END
f
MAINMODULE:
GOSUB FILENAMES1: "Assign file name to
     input & output files.
GOSUB TRANSREAD: "Read in transitions
     data.
FOR length = 1 TO 3
  Tyears—Number of years between
     transitions.
  This program chooses Tyears=3, 5, or 8.
IF length—1 THEN tyears = 3
IF length = 2 THEN tyears = 5
IF length—3 THEN tyears z 8
GOSUB NOREMEDY: ,Compute outcomes for
     unlawful monopoly path.
GOSUB LAWFUL: ,Compute outcomes for
     lawful competitive path.
GOSUB CONDUCT: "Compute outcomes for
     conduct remedy path.
GOSUB STRUCTURAL: "Compute outcomes
     for structural remedy paths.
GOSUB PRINTYEARS: ,Compute and print
     year data into files.
GOSUB AGGREGATE: "Aggregate years for
     each path.
GOSUB COMPARE: ,Compare aggregates
     between paths.
GOSUB MACROSTATS: "Compute averages,
     weighted averages, minimums,
     maximums.
GOSUB PRINTAGGCOMP: "Print individual
     aggregates and comparisons.
GOSUB PRINTAGGSHORT: "Print one-page
     individual aggregates and comparisons.
GOSUB PRINTAGGSUMM: "Print summary
     of all aggregates & comparisons
NEXT length
RETURN
***** END OF MAIN MODULE *****
PVSETUP:
Submodule to open file and set initial values
   for MACROSTATS submodule.
pvfile$ = "c:/basic/ms __sim/PointVal.csv"
     Input Point Values for weighted
     averages.
OPEN pvfile$ FOR INPUT AS #21
LINE INPUT #21, temps
pvtotal = 0
avgtotal = 0
FOR p = 0 TO 14
FOR t =I TO 3
  Initialize minimum values at high number.
  aggcsmin(p, t) = 999999999999#
  aggcompmin(p, t)—999999999999#
  aggmsmin(p, t) = 999999999999#
  aggtsmin(p, t) = 999999999999#
  compcsmin(p, t) = 999999999999#
  compcompmin(p, t) = 999999999999#
  compmsmin(p, t) = 999999999999#
  comptsmin(p, t)—999999999999#
  Initialize maximum values at low number.
  aggcsmax(p, t) = -999999999999#
  aggcompmax(p, t) m-999999999999#
  aggmsmax(p, t) —999999999999#
  aggtsmax(p, t) = -999999999999#
  compcsmax(p, t) = -999999999999#
  compcompmax(p, t) = -999999999999#
  compmsmax(p, t) = -999999999999#
  comptsmax(p, t) —999999999999#
Initialize average values at zero.
  aggcsavg(p, t)—0
  aggcompavg(p, t) = 0
  aggmsavg(p, t) = 0
  aggtsavg(p, t) = 0
  compcsavg(p, t) , 0
  compcompavg(p, t) = 0
  compmsavg(p, t) = 0
  comptsavg(p, t) = 0
Initialize weighted average values at zero.
  aggcswtd(p, t) —0
  aggcompwtd(p, t) = 0
  aggmswtd(p, t) —0
  aggtswtd(p, t) -0
  compcswtd(p, t) = 0
  compcompwtd(p, t) = 0
  compmswtd(p, t) = 0
  comptswtd(p, t) -0
NEXT t
NEXT p
RETURN ,***** END OF PVsetup
     SUBMODULE ***** READREVENUES:
Read in Microsoft's revenues by year.
  Revenues should only pertain to the
     monopoly portions of Microsoft's
     revenues.
Revenues should be converted to real dollars
     (relative to general prices) prior to input.
     Future revenues are projections, under
     the assumption that Microsoft remains a
     monopoly. rev$ = .c:/basic/ms__sim/
     ms__rev.csv" "Input revenues data.
DIM rev(30), discount(30)
"First read in revenue data.
OPEN rev$ FOR INPUT AS #1
FOR n = 1 TO 5
  LINE INPUT #I, temp$
NEXT n
FOR year—ystart TO yend ysub = year—
     ystart
  INPUT #I, year2, rev1, rev2, rev3, rev4
  IF year2 <> year THEN PRINT "Year
     mismatch for revenue data:";
year; year2
IF revstream = 1 THEN rev(ysub) = rev1
IF revstream = 2 THEN rev(ysub) = rev2
IF revstream = 3 THEN rev(ysub) = rev3
IF revstream = 4 THEN rev(ysub) = rev4
NEXT year
CLOSE #I
"Second compute adjustments to revenue
     data for computing aggregates.
, adjustment uses 7% per annum real
     interest/discount rate,
, adjusted to 2002 (cstart) dollars.
adjust = 1
  ysub = (cstart—1)—ystart
  discount(ysub) = adjust
FOR year = cstart—2 TO ystart STEP -1
  ysub = year—ystart
  adjust—adjust * 1.07
  discount(ysub) = adjust
NEXT year
  adjust = 1
FOR year = cstart TO yend
  ysub = year—ystart
  adjust = adjust / 1.07
  discount(ysub) = adjust
  NEXT year
"Third (optional) output adjusted revenue
     data.
rev2$—,,c:/basic/ms__sim/out/
     disc__rev.txt"Output adjusted revenues
     data.
OPEN rev2$ FOR OUTPUT AS #I
FOR year—ystart TO yend ysub = year—
     ystart
  PRINT #1, USING "####"; year;
  PRINT #1, USING "#####.######";
     rev(ysub);
  PRINT #1, USING "#####.######";
     discount(ysub);
  PRINT #1, USING "#####.######";
     rev(ysub) * discount(ysub)
NEXT year
CLOSE #I
RETURN
***** END OF ReadRevenues SUBMODULE
     *****
READZCOUNT:
Submodule to read in the relationship
     between
  zcount and z from previous program,
     "MS5TranR.bas".
  DIM zpath(14)
  zcount$ = "c:/basic/ms sim/out/zcount.txt"
     "Input zcount data.
```

```
OPEN zcount$ FOR INPUT AS #I
LINE INPUT #I, temps
FOR zcount = 0 TO 9
INPUT #1, zcount2, zpath(zcount + 4)
IF zcount2 <> zcount THEN PRINT
  "Zcount mismatch"; zcount;
zcount2
NEXT zcount
CLOSE #I
RETURN
,***** END OF ReadZcount SUBMODULE
  *****
f
f
FILENAMES1:
tran1$ = ,,c:/basic/ms—sim/out/
  tranl000.txt" "Input 1-firm
transition summary
tran2$ = ,,c:/basic/ms—sim/out/
  tran2000.txt" Input 2-firm
transition summary
tran3$ = "c:/basic/ms—sim/out/
  tran3000.txt" Input 3-firm
transition summary
tran4$ = ,,c:/basic/ms—sim/out/
  tran4000.txt" Input 4-firm
transition summary
tran5$ = ,,c:/basic/ms—sim/out/
  tranS000.txt" Input 5-firm
transition summary
trpm0$ = .c:/basic/ms—sim/out/
  trpm0000.txt" Input z=0.0 RPM
transition summary
trpm1$ = "c:/basic/ms—sim/out/
  trpml000.txt" Input z=0.1 RPM
transition summary
trpm2$ = .c:/basic/ms—sim/out/
  trpm2000.txt" Input z=0.2 RPM
transition summary
trpm3$ = .c:/basic/ms—sim/out/
  trpm3000.txt" Input z=0.3 RPM
transition summary
trpm4$ = .c:/basic/ms—sim/out/
  trpm4000.txt" Input z=0.4 RPM
transition summary
trpm5$ = ,,c:/basic/ms—sim/out/
  trpmS000.txt" Input z=0.5 RPM
transition summary
trpm6$ = ,,c:/basic/ms—sim/out/
  trpm6000.txt" Input z=0.6 RPM
transition summary
trpm7$ = .c:/basic/ms sim/out/
  trpmT000.txt" Input z=0.7 RPM
transition summary
trpm8$ = .c:/basic/ms—sim/out/
  trpmS000.txt" Input z=0.8 RPM
transition summary
trpm9$ = .c:/basic/ms—sim/out/
  trpmg000.txt" "Input z=0.9 RPM
```

MTC-00030631—0182

ATTACHMENT Q

PAGE 8 of 24

```
transition summary year3$ = ,,c:/basic/
  ms—sim/out/year0003.txt" "Output 3-
  year factors by year
year5$ = "c:/basic/ms—sim/out/
  year0005.txt" "Output 5-year factors by
  year
year8$ = ,,c:/basic/ms—sim/out/
  year0008.txt" "Output 8-year factors by
  year
aggr3$ = ,,c:/basic/ms sim/out/
  aggr0003.txt" "Output aggregate 3- year
  factors
aggr5$ = .c:/basic/ms—sim/out/
  aggr0005.txt" "Output aggregate 5- year
  factors
aggr8$ = ,,c:/basic/ms—sim/out/
  aggr0008.txt" "Output aggregate 8- year
  factors
aggc3$ = ,,c:/basic/ms—sim/out/
  aggc0003.txt" "One-page aggregate 3-
  year factors
aggc5$—.c:/basic/ms—sim/out/
  aggc0005.txt" "One-page aggregate 5-
  year factors
aggc8$ = .c:/basic/ms sim/out/
  aggc0008.txt" "One-page aggregate 8-
  year factors
IF cratio = 1 THEN crt$ = "1"
IF cratio = 2 THEN crt$ = "2"
IF cratio = 3 THEN crt$ = "3"
IF cratio—4 THEN crt$—"4"
IF cratio = 5 THEN crt$ = "5"
IF speed = 1 THEN sp$ = "1"
IF speed = 2 THEN sp$ = "2"
IF speed = 3 THEN sp$ = "3"
IF port = 0 THEN prt$ = "0"
IF port = 1 THEN prt$ = "I"
IF port = 2 THEN prt$ = "2"
IF port = 3 THEN prt$ = "3"
IF port = 4 THEN prt$ = "4"
replaces =crt$ + sp$ + prt$
MID$(tran1$, 26, 3) = replace$
MID$(tran2$, 26, 3) = replace$
MID$(tran3$, 26, 3)—replace$
MID$(tran4$, 26, 3)—replace$
MID$(tran5$, 26, 3) = replace$
MID$(trpm0$, 26, 3) = replace$
MID$(trpm1$, 26, 3)—replace$
MID$(trpm2$, 26, 3)—replace$
MID$(trpm3$, 26, 3) = replace$
MID$(trpm4$, 26, 3) = replace$
MID$(trpm5$, 26, 3)—replace$
MID$(trpm6$, 26, 3) = replace$
MID$(trpm7$, 26, 3) = replace$
MID$(trpm8$, 26, 3)—replace$
MID$(trpm9$, 26, 3) = replace$
MID$(year3S, 25, 3) = replace$
MID$(year5$, 25, 3) = replace$
MID$(year8$, 25, 3) = replace$
MID$(aggr3$, 25, 3) = replace$
MID$(aggr5$, 25, 3)—replace$
MID$(aggr8$, 25, 3) = replace$
MID$(aggc3$, 25, 3) . replace$
MID$(aggc5$, 25, 3) = replace$
MID$(aggc8$, 25, 3) = replace$
PRINT replace$; "";
RETURN
"***** END OF FileNames1 SUBMODULE
    *****
TRANSREAD:
,Submodule to read in transitions data for
    time paths:
" 1) Microsoft starts as monopoly.
" 2) Microsoft starts as two APM firms.
" 3) Microsoft starts as three APM firms.
" 4–13) Microsoft starts as two RPM firms (z
    varies).
FOR p = 1 TO 13
IF p = 1 THEN filein$—tran1$
IF p = 2 THEN filein$ = tran2$
IF p = 3 THEN filein$ = tran3$
IF p = 4 THEN filein$ = trpm0S
IF p = 5 THEN filein$ = trpm1$
IF p = 6 THEN filein$—trpm2$
IF p = 7 THEN filein$—trpm3$
IF p = 8 THEN filein$ = trpm4$
IF p—9 THEN filein$ = trpm5$
IF p = I0 THEN filein$—trpm6$
IF p = ii THEN filein$ = trpm7$
IF p = 12 THEN filein$—trpm8S
IF p = 13 THEN filein$ = trpm9$
OPEN filein$ FOR INPUT AS #30
LINE INPUT #30, temp$
DIM cstot(15, ii), pimstot(15, 11),
    picomptot(15, 11), herf(15, 11)
F0R iter = 0 TO I0
  INPUT #30, iter2, cstot(p, iter), pimstot(p,
    iter), picomptot(p, iter)
  INPUT #30, mktshare1, mktshare2, herf(p,
    iter), firmnum1
  IF iter <> iter2 THEN PRINT "Iteration
    mismatch #", p, iter, iter1
NEXT iter
CLOSE #30
cstot(p, ii) = 0
pimstot(p, ii) E 0
picomptot(p, 11) = 0
herf(p, 11) = 0
NEXT p
RETURN
***** END OF TransRead SUBMODULE
    *****
NOREMEDY:
Submodule to compute outcomes for
    unlawful monopoly path, where
    Microsoft begins as monopoly in 1995,
    and continues as a monopoly through
    2025. (Path p=0)
DIM csy(30, 14), pimsy(30, 14), picompy(30,
    14), hhi(30, 14)
FOR year—ystart TO yend
  ysub = year—ystart
  tsub = 0
  csy(ysub,.0) = cstot(l, tsub)
  pimsy(ysub, 0) -pimstot(l, tsub)
  picompy(ysub, 0) = picomptot(l, tsub)
  hhi(ysub, 0) = herf(l, tsub)
  NEXT year
  RETURN
  ***** END OF NoRemedy SUBMODULE
    *****
  LAWFUL:
  Submodule to compute outcomes for
    lawful competitive path, where
    Microsoft begins as monopoly in 1995,
    but competitive conditions exist
    whereby competitors are free to enter.
    (Path p=14)
  plaw = 14
FOR year—ystart TO yend
  ysub = year—ystart
  tsub—ysub / tyears
  tsub1 = INT(tsub)
  tsub2 = tsub1 + 1
  tfrac1 = tsub—tsub1
  tfrac2 = tsub2 tsub
  csy(ysub, plaw) = cstot(l, tsub1) * tfrac2 +
    cstot(l, tsub2) *
  tfrac1
  pimsy(ysub, plaw) = pimstot(l, tsub1) *
    tfrac2 + pimstot(1, tsub2) * tfrac1
  picompy(ysub, plaw) = picomptot(l, tsub1)
    * tfrac2 + picomptot(l, tsub2) * tfrac1
  hhi(ysub, plaw) = herf(1, tsub1) * tfrac2 +
    herf(l, tsub2) * tfrac1
NEXT year
RETURN
***** END OF Lawful SUBMODULE *****
CONDUCT:
Submodule to compute outcomes for conduct
    remedy path, where Microsoft exists as
    a monopoly in 1995–2001, but
    competitive conditions begin in 2002
    (cstart) whereby competitors are free to
    enter. (Path p=1)
FOR year = ystart TO cstart—1
  ysub = year—ystart
  tsub = 0
  csy(ysub, I) = cstot(l, tsub)
  pimsy(ysub, I) = pimstot(l, tsub)
  picompy(ysub, 1) = picomptot(1, tsub)
  hhi(ysub, 1) = herf(l, tsub)
NEXT year
  Cstart1—cstart—1
FOR year = cstart TO yend
  ysub = year—ystart
  tsub = (year—cstart1) / tyears
  tsub1 = INT(tsub)
  tsub2 = tsub1 + 1
  tfrac1= tsub—tsub1
  tfrac2 = tsub2—tsub
  csy(ysub, I) = cstot(l, tsub1) * tfrac2 +
    cstot(l, tsub2) * tfrac1
  pimsy(ysub, I) = pimstot(1, tsub1) * tfrac2
    + pimstot(1, tsub2) * tfrac1
  picompy(ysub, 1) = picomptot(1, tsub1) *
    tfrac2 + picomptot(l, tsub2) * tfrac1
  hhi(ysub, 1) = herf(l, tsub1) * tfrac2 +
    herf(l, tsub2) * tfrac1
NEXT year
```

MTC-00030631 0186

```
RETURN
***** END OF Conduct SUBMODULE *****
STRUCTURAL:
Submodule to compute outcomes for
    structural remedy paths, where Microsoft
    exists as a monopoly in 1995–2004, but
    Microsoft is divided into 2 or 3 firms in
    2005 and competitive conditions exist
    thereafter.
  Path p=2, Microsoft divided into 2 APM
    firms.
  Path p=3, Microsoft divided into 3 APM
    firms.
  Paths p=4 thru p=13, Microsoft divided
    into 2 RPM firms, where z is allowed to
    vary.
  FOR p = 2 TO 13
  FOR year = ystart TO sstart—1
  ysub = year—ystart
  tsub = 0
  csy(ysub, p) = cstot(l, tsub)
  pimsy(ysub, p) = pimstot(1, tsub)
  picompy(ysub, p) = picomptot(l, tsub)
  hhi (ysub, p) = herf (I, tsub)
  NEXT year
FOR year = sstart TO yend
  ysub = year—ystart
  tsub = (year—sstart) / tyears
  tsub1 = INT(tsub)
  tsub2 = tsub1 + 1
  tfrac1 = tsub—tsub1
  tfrac2 = tsub2—tsub
  csy(ysub, p) = cstot(p, tsub1) * tfrac2 +
    cstot(p, tsub2) * tfrac1
  pimsy(ysub, p) = pimstot(p, tsub1) * tfrac2
    + pimstot(p, tsub2) * tfrac1
  picompy(ysub, p) = picomptot(p, tsub1) *
    tfrac2 + picomptot(p, tsub2) * tfrac1
  hhi(ysub, p) = herf(p, tsub1) * tfrac2 +
    herf(p, tsub2) * tfrac1
NEXT year
NEXT p
RETURN
***** END OF Structural SUBMODULE
    *****
PRINTYEARS:
```

MTC-00030631—0187

```
  Submodule to compute and print the data
    by year into files.
  Computed data consists of consumer
    surplus (cs), profits for Microsoft (pims),
    profits for competitors (picomp), and
    Herfindahl-Hershman Index (HHI).
  Data is computed for several time paths:
No remedy (continued monopoly) path=0;
Perfect conduct remedy starting in 2002
    (path=l);
Structural remedies starting in 2005
    (paths=2–13);
Lawful path (competitive behavior) since
    1995 (path=f4).
First adjust year factors by multiplying with
    revenue data.
The computed year data is expressed in real
    terms, but is not adjusted for 7%
    interest/discount rate.
FOR year = ystart TO yend
  ysub = year—ystart
  FOR path = 0 TO 14
  csy(ysub, path) = csy(ysub, path) *
    rev(ysub)
  pimsy(ysub, path) = pimsy(ysub, path) *
    rev(ysub)
  picompy(ysub, path) = picompy(ysub,
    path) * rev(ysub)
  NEXT path
NEXT year
Second (optional) print the year data into
    files.
IF tyears = 3 THEN OPEN year3$ FOR
    OUTPUT AS #6
IF tyears = 5 THEN OPEN year5$ FOR
    OUTPUT AS #6
IF tyears = 8 THEN OPEN year8$ FOR
    OUTPUT AS #6
FOR year = ystart TO yend
  ysub = year—ystart
  PRINT #6, USING "####"; year;
  FOR path = 0 TO 14
  PRINT #6, USING "#####.#########";
    csy(ysub, path);
  NEXT path
  PRINT#6,
NEXT year
  PRINT #6,
FOR year = ystart TO yend ysub = year—
    ystart
  PRINT #6, USING "####"; year;
  FOR path = 0 TO 14
  PRINT #6, USING "#####.#########";
    pimsy(ysub, path);
  NEXT path
  PRINT #6,
NEXT year
  PRINT #6,
FOR year = ystart TO yend
  ysub = year—ystart
```

MTC-00030631—0188

```
PRINT #6, USING "####"; year;
FOR path = 0 TO 14
  PRINT #6, USING "#####.#########";
    picompy(ysub, path);
NEXT path
PRINT #6,
NEXT year
PRINT #6,
FOR year = ystart TO yend ysub = year—
    ystart
PRINT #6, USING "####"; year;
FOR path = 0 TO 14
  tstot = csy(ysub, path) + pimsy(ysub, path)
    + picompy(ysub, path)
PRINT #6, USING "#####.#########"; tstot;
NEXT path
PRINT #6,
NEXT year
PRINT #6,
FOR year = ystart TO yend ysub = year—
    ystart
PRINT #6, USING "####"; year;
FOR path = 0 TO 14
PRINT #6, USING "######.########";
    hhi(ysub, ;
NEXT path
PRINT #6,
NEXT year
CLOSE #6
RETURN
***** END OF PrintYears SUBMODULE
    *****
AGGREGATE:
  Submodule to aggregate years for each
    path.
  Agg.. (p,t) is the aggregate for path p, time
    period t.
  p=0, no remedy path;
  p=1, 1-firm conduct remedy path;
  p=2, 2-firm structural remedy path.
  p=3, 3-firm structural remedy path.
  p=4 to p=13, 2-firm RPM structural remedy
    path.
  p=14, lawful path;
  t=1, 1995–2001; t=2, 2002–2025; t=3,
    1995–2025.
  AggCS = Aggregate for consumer surplus.
  AggComp = Aggregate for non-Microsoft
    profits.
  AggMS = Aggregate for Microsoft's profits.
```

MTC-00030631—0189

```
  AggTS = Aggregate for total surplus.
  First adjust the year data for 7% discount/
    interest rate.
FOR year = ystart TO yend
  ysub = year—ystart
FOR path = 0 TO 14
  csy(ysub, path) = csy(ysub, path) *
    discount(ysub)
  pimsy(ysub, path) = pimsy(ysub, path) *
    discount(ysub)
  picompy(ysub, path) = picompy(ysub,
    path) * discount(ysub)
NEXT path
NEXT year
  Second aggregate the data for the three
    time periods.
FOR path = 0 TO 14
  cstemp = 0
  picomptemp = 0
  mstemp = 0
FOR year = ystart TO cstart—1
  ysub = year—ystart
  cstemp = cstemp + csy(ysub, path)
  picomptemp = picomptemp +
    picompy(ysub, path)
  mstemp = mstemp + pimsy(ysub, path)
NEXT year
  aggcs(path, 1) = cstemp
  aggcomp (path, 1) = picomptemp
  aggms (path, 1) = mstemp
  aggts(path, 1) = cstemp + picomptemp +
    mstemp
  cstemp = 0
  picomptemp = 0
  mstemp = 0
FOR year = cstart TO yend
  ysub = year ystart
  cstemp = cstemp + csy(ysub, path)
  picomptemp = picomptemp +
    picompy(ysub, path)
  mstemp = mstemp + pimsy(ysub, path)
NEXT year
  aggcs(path, 2) = cstemp
  aggcomp(path, 2) = picomptemp
  aggms(path, 2) = mstemp
  aggts(path, 2) = cstemp + picomptemp +
    mstemp
  aggcs(path, 3) = aggcs(path, I) + aggcs(path,
    2)
  aggcomp(path, 3) = aggcomp(path, 1) +
    aggcomp(path, 2)
  aggms(path, 3) = aggms(path, 1) +
    aggms(path, 2)
  aggts(path, 3) = aggts(path, I) + aggts(path,
    2)
NEXT path
RETURN
```

MTC-00030631—0190

```
END OF Aggregate SUBMODULE *****
COMPARE:
  Submodule to compare aggregates between
    different time paths.
  Comp.. (c,t) is comparison c for time period
    t.
  c=0, no remedy path minus lawful
    competitive path.
  c=1, 1-firm conduct remedy path minus
    lawful competitive path.
  c=2, 2-firm structural remedy path minus
    lawful competitive path.
  c=3, 3-firm structural remedy path minus
    lawful competitive path.
  c=4, 4-firm structural remedy path minus
    lawful competitive path.
  c=5, 5-firm structural remedy path minus
    lawful competitive path.
  t=1 1995–2001; t=2, 2002–2025; t=3, 1995–
    2025;
  CompCS = Comparison for consumer
    surplus.
  CompComp = Comparison non-Microsoft
    profits.
  CompMS = Comparison for Microsoft's
    profits.
  CompTS = Comparison for total surplus.
FOR c = 0 TO 13
FOR t = 1 TO 3
  compcs(c, t) = aggcs(c, t) -aggcs(plaw, t)
  compcomp(c, t) = aggcomp(c, t)
    aggcomp(plaw, t)
  compms(c, t) = aggms(c, t) -aggms(plaw, t)
  compts(c, t) = aggts(c, t)—aggts(plaw, t)
NEXT t
NEXT c
RETURN
***** END OF Compare SUBMODULE
    *****
MACROSTATS:
  Submodule to compute averages, weighted
    averages, minimums, maximums.
INPUT #21, cratio2, speed2, port2, tyears2,
    pvtemp
  IF cratio <> cratio2 THEN PRINT "Cost-
    ratio mismatch:"; cratio; cratio2
  IF speed <> speed2 THEN PRINT "Speed
    mismatch:"; speed; speed2
  IF tyears <> tyears2 THEN PRINT "Tyears
    mismatch:"; tyears; tyears2
  IF port <> port2 THEN PRINT "Portion
    mismatch:"; port; port2
```

MTC-00030631—0191

```
  IF port >= 0 THEN "Always true; change
    to restrict statistics gathering.
  pvtotal = pvtotal + pvtemp
  avgtotal = avgtotal + 1
FOR p = 0 TO 14
FOR t = 1 TO 3
  First put numbers into temporary variable
    slots.
  aggcstemp = aggcs(p, t)
  aggcomptemp = aggcomp(p, t)
  aggmstemp = aggms(p, t)
  aggtstemp = aggts(p, t)
  compcstemp = compcs(p, t)
  compcompttemp = compcomp(p, t)
  compmstemp = compms(p, t)
  comptstemp = compts(p, t)
  Second compute minimum values
  IF aggcstemp < aggcsmin(p, t) THEN
    aggcsmin(p, t) = aggcstemp
  IF aggcomptemp < aggcompmin(p, t) THEN
    aggcompmin(p, t) = aggcomptemp
  IF aggmstemp < aggmsmin(p, t) THEN
    aggmsmin(p, t) = aggmstemp
  IF aggtstemp < aggtsmin(p, t) THEN
    aggtsmin(p, t) = aggtstemp
  IF compcstemp < compcsmin(p, t) THEN
    compcsmin(p, t)— compcstemp
  IF compcompttemp < compcompmin(p, t)
    THEN compcompmin(p, t) =
    compcompttemp
  IF compmstemp < compmsmin(p, t) THEN
    compmsmin(p, t) = compmstemp
  IF comptstemp < comptsmin(p, t) THEN
    comptsmin(p, t) = comptstemp
  Third compute maximum values
  IF aggcstemp > aggcsmax(p, t) THEN
    aggcsmax(p, t) = aggcstemp
  IF aggcomptemp > aggcompmax(p, t)
    THEN aggcompmax(p, t) = aggcomptemp
  IF aggmstemp > aggmsmax(p, t) THEN
    aggmsmax(p, t) = aggmstemp
  IF aggtstemp > aggtsmax(p, t) THEN
    aggtsmax(p, t) = aggtstemp
  IF compcstemp > compcsmax(p, t) THEN
    compcsmax(p, t) = compcstemp
  IF compcompttemp > compcompmax(p, t)
    THEN compcompmax(p, t) =
    compcompttemp
  IF compmstemp > compmsmax(p, t) THEN
    compmsmax(p, t) = compmstemp
  IF comptstemp > comptsmax(p, t) THEN
    comptsmax(p, t) = comptstemp
  Fourth compute average values
```

MTC-00030631—0192

```
  aggcsavg(p, t) = aggcsavg(p, t) + aggcstemp
  aggcompavg(p, t) = aggcompavg(p, t) +
    aggcomptemp
  aggmsavg(p, t) = aggmsavg(p, t) +
    aggmstemp
  aggtsavg(p, t) = aggtsavg(p, t) + aggtstemp
  compcsavg(p, t) = compcsavg(p, t) +
    compcstemp
  compcompavg(p, t) = compcompavg(p, t) +
    compcompttemp
  compmsavg(p, t) = compmsavg(p, t) +
    compmstemp
  comptsavg(p, t) = comptsavg(p, t) +
    comptstemp
  Fifth compute weighted average values
  aggcswtd(p, t) = aggcswtd(p, t) + aggcstemp
    * pvtemp
  aggcompwtd(p, t) = aggcompwtd(p, t) +
    aggcomptemp * pvtemp
  aggmswtd(p, t) = aggmswtd(p, t) +
    aggmstemp * pvtemp
  aggtswtd(p, t) = aggtswtd(p, t) + aggtstemp
    * pvtemp
  compcswtd(p, t) = compcswtd(p, t) +
    compcstemp * pvtemp
  compcompwtd(p, t) = compcompwtd(p, t)
    + compcompttemp * pvtemp
  compmswtd(p, t) = compmswtd(p, t) +
    compmstemp * pvtemp
  comptswtd(p, t) = comptswtd(p, t) +
    comptstemp * pvtemp
NEXT t
NEXT p
END IF
RETURN
"***** END OF MacroStats SUBMODULE
    *****
PRINTAGGCOMP :
"Submodule to print aggregates and
    comparisons.
IF tyears = 3 THEN OPEN aggr3$ FOR
    OUTPUT AS #7
IF tyears = 5 THEN OPEN aggr5$ FOR
    OUTPUT AS #7
IF tyears = 8 THEN OPEN aggr8$ FOR
    OUTPUT AS #7
"First print aggregates.
FOR path = 0 TO 14
  IF path = 0 THEN PRINT #7, "Aggregates
    for
No Remedy Path: "
  IF path = 1 THEN PRINT #7, "Aggregates
    for
Conduct Remedy: "
  IF path = 2 THEN PRINT #7, "Aggregates
    for
APM, 2- firms Remedy : "
  IF path = 3 THEN PRINT #7, "Aggregates
    for
APM, 3 -firms Remedy: "
  IF path >= 4 AND path <= 13 THEN
  PRINT #7, "Aggregates for RPM, z=";
  PRINT #7, USING "#.###"; zpath(path);
  PRINT #7, "Remedy: "
  END IF
```

MTC-00030631—0193

```
  IF path = 14 THEN PRINT #7, "Aggregates
    for
  Lawful Path: "
  PRINT #7, "Time "; "CS "; "nonMSpi ..;
    "
MSpi "; "TS "
  FOR t = 1 TO 3
  IF t = 1 THEN PRINT #7, "Past: ";
  IF t = 2 THEN PRINT #7, "Future: ";
  IF t = 3 THEN PRINT #7, "Total: -;
  PRINT #7, USING "#####.#######..;
    aggcs(path, t) ; aggcomp(path, t) ;
    aggms(path, t) ; aggts(path, t)
NEXT t
PRINT #7,
NEXT path
  "Second print comparisons.
FOR c = 0 TO 13
  IF c = 0 THEN PRINT #7, "Comparing No
    Remedy minus LawfulPath: "
  IF c = 1 THEN PRINT #7, "Comparing
    Conduct minus LawfulPath: "
  IF c = 2 THEN PRINT #7, "Comparing
    APM, 2-firms minus LawfulPath: "
  IF c = 3 THEN PRINT #7, "Comparing
    APM, 3-firms minus LawfulPath: "
  IF c >= 4 AND c <= 13 THEN
  PRINT #7, "Comparing RPM, z=" ;
  PRINT #7, USING "#.###"; zpath(c);
PRINT #7, "minus LawfulPath: "
END IF
PRINT #7, "Time "; "CS "; "nonMSpi "; ..
```

```
MSpi "; "TS "
FOR t = 1 TO 3
   IF t = 1 THEN PRINT #7, "Past: ",;
   IF t = 2 THEN PRINT #7, "Future: ";
   IF t = 3 THEN PRINT #7, "Total: ";
   PRINT #7, USING "#####.#######.;
      compcs(c, t); compcomp(c, t); compms(c,
      t); compts(c, t)
NEXT t
PRINT #7,
NEXT c
CLOSE #7
RETURN
"***** END OF PrintAggComp
      SUBMODULE *****
```

MTC-00030631—0194

```
PRINTAGGSHORT:
   "Submodule to print one-page summary of
 . "aggregates and comparisons.
IF tyears = 3 THEN OPEN aggc3$ FOR
      OUTPUT AS #7
IF tyears = 5 THEN OPEN aggc5$ FOR
      OUTPUT AS #7
IF tyears = 8 THEN OPEN aggc8$ FOR
      OUTPUT AS #7
"First print totals for alternative remedies.
PRINT #7, "Total Aggregates Remedies:"
PRINT #7, "Remedy "; "CS "; „
MSpi "; "TS "
FOR path = 0 TO 14
   IF path = 0 THEN PRINT #7, "No-Remedy:
      ";
   IF path = 1 THEN GOSUB AGGSUB:
   IF path = 1 THEN path = 2
   IF path = 2 THEN PRINT #7, "APM, 2-
      firms: ,;
   IF path = 3 THEN PRINT #7, "APM, 3-
      firms: ";
   IF path >= 4 AND path <= 13 THEN
   PRINT #7, "RPM, z=";
   PRINT #7, USING "#.###"; zpath(path);
   PRINT #7, ": ";
END IF
IF path = 14 THEN PRINT #7, "Lawful Path:
      ";
PRINT #7, USING "#####.#######";
      aggcs(path, 3); aggcomp(path, 3);
      aggms(path, 3); aggts(path, 3)
NEXT path
PRINT #7,
   "Second print comparisons.
PRINT #7, "Comparing Remedies minus
      Lawful Path:"
PRINT #7, "Remedy "; "CS "; "nonMSpi ,,;
      "
   MSpi "; "TS "
FOR c = 0 TO 13
   IF c = 0 THEN PRINT #7, "No-Remedy: ";
   IF c = 1 THEN GOSUB COMPSUB:
   IF c = 1 THEN c = 2
   IF c = 2 THEN PRINT #7, "APM, 2-firms:
      ";
   IF c = 3 THEN PRINT #7, "APM, 3-firms:
      ";
   IF c >= 4 AND c <= 13 THEN
   PRINT #7, "RPM, z=";
   PRINT #7, USING "#.###"; zpath(c);
   PRINT #7, ": ";
   END IF
   PRINT #7, USING "#####.#######";
      compcs(c, 3); compcomp(c, 3);
   Alternative
nonMSpi "; "
```

MTC-00030631—0195

```
compms(c, 3); compts(c, 3)
NEXT c
CLOSE #7
RETURN
"***** END OF PrintAggShort SUBMODULE
      *****
AGGSUB:
   "Submodule of PRINTAGGSHORT
      Submodule,
   " to print out variations on conduct
      remedy.
   temp0cs = aggcs(0, 3)
   temp0comp = aggcomp(0, 3)
   temp0ms = aggms(0, 3)
   temp0ts = aggts(0, 3)
   temp1cs= aggcs(l, 3)
   temp1comp = aggcomp (1, 3)
   temp1ms = aggms(l, 3)
   temp1ts = aggts(l, 3)
   temp2cs = aggcs(2, 3)
   temp2comp = aggcomp(2, 3)
   temp2ms = aggms(2, 3)
   temp2ts = aggts(2, 3)
GOSUB PRINTSUB:
RETURN
"***** END OF AggSub SUBMODULE
      *****
COMPSUB:
"Submodule of PRINTAGGSHORT
      Submodule,
   " to print out variations on conduct
      remedy.
   temp0cs = compcs(0, 3)
   temp0comp = compcomp(0, 3)
   temp0ms = compms(0, 3)
   temp0ts = compts(0, 3)
   temp1cs = compcs(1, 3)
   temp1comp = compcomp(l, 3)
   temp1ms = compms(1, 3)
   temp1ts = compts(l, 3)
   temp2cs = compcs(2, 3)
   temp2comp = compcomp(2, 3)
   temp2ms = compms(2, 3)
   temp2ts = compts(2, 3)
GOSUB PRINTSUB:
RETURN
```

MTC-00030631—0196

```
"***** END OF CompSub SUBMODULE
      *****
PRINTSUB:
"Submodule of two submodules of the
      PRINTAGGSHORT
   " submodule, to print variations on
      conduct remedy.
"Compute and print 20% effective conduct
      remedy. PRINT #7, "20% Conduct:";
PRINT #7, USING "#####.#######"; temp0cs
      * .8 + temp1cs * .2;
PRINT #7, USING "#####.#######";
      temp0comp * .8 + temp1comp * .2;
PRINT #7, USING "#####.#######";
      temp0ms * .8 + temp1ms * .2;
   PRINT #7, USING "#####.#######";
      temp0ts * .8 + temp1ts * .2
"Compute and print 40% effective conduct
      remedy. PRINT #7, "40% Conduct:";
PRINT #7, USING "#####.#######"; temp0cs
      * .6 + temp1cs * .4;
PRINT #7, USING "#####.#######";
      temp0comp * .6 + temp1comp * .4;
PRINT #7, USING "#####.#######";
      temp0ms * .6 + temp1ms * .4;
   PRINT #7, USING "#####.#######";
      temp0ts * .6 + temp1ts * .4
"Compute and print 60% effective conduct
      remedy. PRINT #7, "60% Conduct:";
PRINT #7, USING "#####.#######"; temp0cs
      * .4 + temp1cs * .6;
PRINT #7, USING "#####.#######";
      temp0comp * .4 + temp1comp * .6;
PRINT #7, USING "#####.#######";
      temp0ms * .4 + temp1ms * .6;
   PRINT #7, USING "#####.#######";
      temp0ts * .4 + temp1ts * .6
"Compute and print 80% effective conduct
      remedy. PRINT #7, "80% Conduct:";
PRINT #7, USING "#####.#######"; temp0cs
      * .2 + temp1cs * .8;
PRINT #7, USING "#####.#######";
      temp0comp * .2 + temp1comp * .8;
PRINT #7, USING "#####.#######";
      temp0ms * .2 + temp1ms * .8;
   PRINT #7, USING "#####.#######";
      temp0ts.* .2 + temp1ts * .8
"Compute and print 100% effective conduct
      remedy. PRINT #7, "100% Conduct:";
PRINT #7, USING "#####.#######";
      temp1cs;
PRINT #7, USING "#####.#######";
      temp1comp;
PRINT #7, USING "#####.#######";
      temp1ms;
PRINT #7, USING "#####.#######"; temp1ts
"Compute and print the two-monopolies
      structural remedy. PRINT #7, "2-
      Monopolies:";
PRINT #7, USING "#####.#######"; temp2cs
      / 3 + temp1cs * 2 / 3Q;
```

MTC-00030631—0197

```
PRINT #7, USING "#####.#######-;
      temp2comp / 3 + temp1comp * 2 / 3;
PRINT #7, USING "#####.#######";
      temp2ms / 3 + temp1ms * 2 / 3;
PRINT #7, USING "#####.#######"; temp2ts
      / 3 + temp1ts * 2 / 3
RETURN
"***** END OF PrintSub SUBMODULE
      ***** t
PRINTSTATS :
   "Submodule to print averages, weighted
      averages, minimums, maximums.
CLOSE #21
"First print out minimums.
MID$(aggr8$, 25, 3) = "MIN"
MID$(aggc8$, 25, 3) = "MIN"
FOR p = 0 TO 14
FOR t = 1 TO 3
   aggcs(p, t) = aggcsmin(p, t)
   aggcomp(p, t) = aggcompmin(p, t)
   aggms (p, t) = aggmsmin (p, t)
   aggts(p, t) = aggtsmin(p, t)
   compcs(p, t) = compcsmin(p, t)
   compcomp(p, t) = compcompmin(p, t)
   compms(p, t) = compmsmin(p, t)
   compts(p, t) = comptsmin(p, t)
NEXT t
NEXT p
GOSUB PRINTAGGCOMP :
GOSUB PRINTAGGSHORT :
"Second print out maximums.
MID$(aggr8$, 25, 3)—"MAX"
MID$(aggc8$, 25, 3) = "MAX"
FOR p = 0 TO 14
FOR t = 1 TO 3
   aggcs(p, t) = aggcsmax(p, t)
   aggcomp(p, t) = aggcompmax(p, t)
   aggms(p, t) = aggmsmax(p, t)
   aggts(p, t) = aggtsmax(p, t)
   compcs(p, t) = compcsmax(p, t)
   compcomp(p, t) = compcompmax(p, t)
   compms(p, t) = compmsmax(p, t)
```

```
  compts(p, t) = comptsmax(p, t)
NEXT t
```

MTC-00030631—0198

```
NEXT p
GOSUB PRINTAGGCOMP :
GOSUB PRINTAGGSHORT:
MID$(aggr8$, 25, 3) = "AVG"
MID$(aggc8$, 25, 3)—"AVG"
FOR p = 0 TO 14
FOR t = 1 TO 3
  aggcs(p, t) = aggcsavg(p, t) / avgtotal
  aggcomp(p, t) = aggcompavg(p, t) / avgtotal
  aggms(p, t) = aggmsavg(p, t) / avgtotal
  aggts(p, t) = aggtsavg(p, t) / avgtotal
  compcs(p, t) = compcsavg(p, t) / avgtotal
  compcomp(p, t) = compcompavg(p, t) / avgtotal
  compms(p, t) = compmsavg(p, t) / avgtotal
  compts(p, t) = comptsavg(p, t) / avgtotal
NEXT t
NEXT p
GOSUB PRINTAGGCOMP :
GOSUB PRINTAGGSHORT:
"Fourth print out weighted averages.
MID$(aggr8$, 25, 3) = "WTD"
MID$(aggc8$, 25, 3) = "WTD"
FOR p = 0 TO 14
FOR t = 1 TO 3
  aggcs(p, t) = aggcswtd(p, t) / pvtotal
  aggcomp(p, t) = aggcompwtd(p, t) / pvtotal
  aggms(p, t) = aggmswtd(p, t) / pvtotal
  aggts(p, t) = aggtswtd(p, t) / pvtotal
  compcs(p, t) = compcswtd(p, t) / pvtotal
  compcomp(p, t) = compcompwtd(p, t) / pvtotal
  compms(p, t) = compmswtd(p, t) / pvtotal
  compts(p, t) = comptswtd(p, t) / pvtotal
NEXT t
NEXT p
GOSUB PRINTAGGCOMP:
GOSUB PRINTAGGSHORT:
RETURN
,***** END OF PrintStats SUBMODULE *****
"**********END OF Program ..MS6Summ.bas".**********
.**********LAST OF SERIES OF SIX PROGRAMS**********
```

MTC-000361—0199

Attachment R.

Contents of File "MS—Rev.csv".

The "MS—Rev.csv" file is a needed input file for the "MS6Summ.bas" computer program.

```
Microsoft Corporation,,,,
"Real Annual Revenue, 2001 dollars (billions)." ....
,,,,"Platforms,"
Calendar,Desktop,Platforms &,Platforms &,Applications
Year,Platforms,Enterprise,Applications,& Enterprise
1995, 3.0035316, 4.207892342, 6.855180159, 8.059540901
1996, 3.727131393, 5.347349902, 8.460443423, 10.08066193
1997, 5.035883236, 7.458570139, 11.21720468, 13.63989158
1998, 6.454595209, 9.391381895, 14.2045433, 17.14132999
1999, 7.693463232, 12.21087139, 17.14963014, 21.6670383
2000, 8.186611784, 13.1922708, 17.72984147, 22.73550048
2001, 7.2043035, 11.34811009, 16.7864329, 20.93023949
2002, 9.14247463, 14.95519357, 19.79287211, 25.60559105
2003, 10.58883605, 17.7114904, 22.8211218, 29.94377615
2004, 12.00140966, 20.45382314, 25.77105291, 34.22346639
2005, 13.36456237, 23.13621511, 28.61300897, 38.38466171
2006, 14.67011841, 25.72877347, 31.33233776, 42.39099283
2007, 15.91566918, 28.21539046, 33.92583204, 46.22555332
2008, 17.10294472, 30.59079228, 36.39838725, 49.88623481
2009, 18.23641933, 32.85759662, 38.760186, 53.38136329
2010, 19.3222093, 35.02373565, 41.02449912, 56.72602548
2011, 20.36725465, 37.10038404, 43.20607024, 59.93919963
2012, 21.3787453, 39.10039929, 45.31999424, 63.04164823
2013, 22.36374177, 41.03721389, 47.38098491, 66.05445702
2014, 23.32894261, 42.92409405, 49.40293308, 68.99808453
2015, 24.28055711, 44.77367791, 51.39867211, 71.89179291
2016, 25.22425072, 46.59771715, 53.37988484, 74.75335127
2017, 26.1651381, 48.40695999, 55.35710303, 77.59892492
2018, 27.107806, 50.21112823, 57.33976344, 80.44308567
2019, 28.05635302, 52.01895334, 59.33629582, 83.29889613
2020, 29.01443792, 53.83824715, 61.35422596, 86.17803519
2021, 29.98533062, 55.6759901, 63.40028299, 89.09094247
2022, 30.97196248, 57.5384259, 65.48050406, 92.04696748
2023, 31.97697372, 59.43115563, 67.60033258, 95.05451449
2024, 33.002757, 61.35922702, 69.76470794, 98.12117797
2025, 34.0514965, 63.32721672, 71.97814598, 101.2538662
2026, 35.1252027, 65.3393044, 74.24481019, 104.4589119
2027, 36.22574276, 67.39933867, 76.56857413, 107.74217
2028, 37.35486715, 69.51089508, 78.95307569, 111.i091036
2029, 38.51423258, 71.67732649, 81.40176416, 114.5648581
2030, 39.70542191, 73.90180714, 83.91794075, 118.114326
```

MTC-00030631—0200

Attachment S.

Contents of File "PointVal.csv".

The "PointVal.csv" file is a needed input file for the "MS6Summ.bas" computer program.

```
Cost-ratio,Speed,Portion,T-years,Point Values
1,1,0,3,1
1,1,0,5,1
1,1,0,8,1
1,1,1,3,2
1,1,1,5,2
1,1,1,8,2
1,1,2,3,2
1,1,2,5,2
1,1,2,8,2
1,1,3,3,2
1,1,3,5,2
1,1,3,8,2
1,1,4,3,1
1,1,4,5,1
1,1,4,8,1
1,2,0,3,1
1,2,0,5,1
1,2,0,8,1
1,2,1,3,2
1,2,1,5,2
1,2,1,8,2
1,2,2,3,2
1,2,2,5,2
1,2,2,8,2
1,2,3,3,2
1,2,3,5,2
1,2,3,8,2
1,2,4,3,1
1,2,4,5,1
1,2,4,8,1
1,3,0,3,1
1,3,0,5,1
1,3,0,8,1
1,3,1,3,2
1,3,1,5,2
1,3,1,8,2
1,3,2,3,2
1,3,2,5,2
1,3,2,8,2
1,3,3,3,2
1,3,3,5,2
1,3,3,8,2
1,3,4,3,1
1,3,4,5,1
1,3,4,8,1
```

MTC-00030631–0201

```
2,1,0,3,1
2,1,0,5,1
2,1,0,8,1
2,1,1,3,2
2,1,1,5,2
2,1,1,8,2
2,1,2,3,2
2,1,2,5,2
2,1,2,8,2
2,1,3,3,2
2,1,3,5,2
2,1,3,8,2
2,1,4,3,1
2,1,4,5,1
2,1,4,8,1
2,2,0,3,1
2,2,0,5,1
2,2,0,8,1
2,2,1,3,2
2,2,1,5,2
2,2,1,8,2
2,2,2,3,2
2,2,2,5,2
2,2,2,8,2
2,2,3,3,2
2,2,3,5,2
2,2,3,8,2
2,2,4,3,1
2,2,4,5,1
2,2,4,8,1
2,3,0,3,1
2,3,0,5,1
2,3,0,8,1
2,3,1,3,2
2,3,1,5,2
2,3,1,8,2
```

2,3,2,3,2
2,3,2,5,2
2,3,2,8,2
2,3,3,3,2
2,3,3,5,2
2,3,3,8,2
2,3,4,3,1
2,3,4,5,1
2,3,4,8,1

MTC–0003061–0202

3,1,0,3,2
3,1,0,5,2
3,1,0,8,2
3,1,1,3,4
3,1,1,5,4
3,1,1,8,4
3,1,2,3,4
3,1,2,5,4
3,1,2,8,4
3,1,3,3,4
3,1,3,5,4
3,1,3,8,4
3,1,4,3,2
3,1,4,5,2
3,1,4,8,2
3,2,0,3,2
3,2,0,5,2
3,2,0,8,2
3,2,1,3,4
3,2,1,5,4
3,2,1,8,4
3,2,2,3,4
3,2,2,5,4
3,2,2,8,4
3,2,3,3,4
3,2,3,5,4
3,2,3,8,4
3,2,4,3,2
3,2,4,5,2
3,2,4,8,2
3,3,0,3,2
3,3,0,5,2
3,3,0,8,2
3,3,1,3,4
3,3,1,5,4
3,3,1,8,4
3,3,2,3,4
3,3,2,5,4
3,3,2,8,4
3,3,3,3,4
3,3,3,5,4
3,3,3,8,4
3,3,4,3,2
3,3,4,5,2
3,3,4,8,2

MTC–00030631—0203

4,1,0,3,2
4,1,0,5,2
4,1,0,8,2
4,1,1,3,4
4,1,1,5,4
4,1,1,8,4
4,1,2,3,4
4,1,2,5,4
4,1,2,8,4
4,1,3,3,4
4,1,3,5,4
4,1,3,8,4
4,1,4,3,2
4,1,4,5,2
4,1,4,8,2
4,2,0,3,2
4,2,0,5,2
4,2,0,8,2
4,2,1,3,4
4,2,1,5,4
4,2,1,8,4
4,2,2,3,4
4,2,2,5,4
4,2,2,8,4
4,2,3,3,4
4,2,3,5,4
4,2,3,8,4
4,2,4,3,2
4,2,4,5,2
4,2,4,8,2
4,3,0,3,2
4,3,0,5,2
4,3,0,8,2
4,3,1,3,4
4,3,1,5,4
4,3,1,8,4
4,3,2,3,4
4,3,2,5,4
4,3,2,8,4
4,3,3,3,4
4,3,3,5,4
4,3,3,8,4
4,3,4,3,2
4,3,4,5,2
4,3,4,8,2

MTC–00030631–0204

5,1,0,3,2
5,1,0,5,2
5,1,0,8,2
5,1,1,3,4
5,1,1,5,4
5,1,1,8,4
5,1,2,3,4
5,1,2,5,4
5,1,2,8,4
5,1,3,3,4
5,1,3,5,4
5,1,3,8,4
5,1,4,3,2
5,1,4,5,2
5,1,4,8,2
5,2,0,3,2
5,2,0,5,2
5,2,0,8,2
5,2,1,3,4
5,2,1,5,4
5,2,1,8,4
5,2,2,3,4
5,2,2,5,4
5,2,2,8,4
5,2,3,3,4
5,2,3,5,4
5,2,3,8,4
5,2,4,3,2
5,2,4,5,2
5,2,4,8,2
5,3,0,3,2
5,3,0,5,2
5,3,0,8,2
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Using Relative Profit Incentives to Prevent Collusion

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1212 W. Jefferson, Apt. A, Springfield, IL 62702, U.S.A. Abstract. This paper describes a new economic method for preventing oligopoly collusion. The method eliminates incentives for collusion by making managerial compensation depend on relative profits rather than absolute profits. This alteration of managerial incentives sets up a zero-sum game among the firms in an industry, yielding the result that firms no longer have incentive to collude, either actually or tacitly, with regard to prices or outputs. The method also ameliorates the imperfectly competitive outcomes which can result from even noncooperative oligopoly interactions.

Key words: Oligopoly, collusion, relative profits, zero-sum game, managerial incentives. Introduction The purpose of this paper is to present an alternative method for preventing collusion,[1] The method eliminates incentives for both actual and tacit collusion, and ameliorates the imperfectly competitive outcomes which can result from even noncooperative oligopoly interactions. The method prevents exploitation of oligopoly power, but is not a general cure for the market power problems of either strict monopoly or monopolistic competition.

Section I introduces and verbally describes the basic method of providing relative profit maximizing incentives for owners and managers of business firms. Section I/reviews some related literature. Section HI illustrates the method using a particular mathematical example. Section IV discusses some practical concerns related to implementing the method. Section V focuses on how firm owners can be prevented from making management stress absolute profits over relative profits. Section VI concludes. Three mathematical appendices derive: (A) the optimal weighting of rival firms'' profits under a relative profit incentive scheme; 03) short-run equilibrium; and ((2) Bertrand equilibrium for differentiated products.

ldquo;The author would like to thank numerous individuals for their comments on previous versions of this paper.

I. Basic Method

In an industry structure with only a few firms, collusion is a serious possibility, even when it is illegal. Tacit collusion, which does not require illegal communication among conspirators, can also occur.

The basic concept which underlies this proposed method is the perception that causing managers of firms to participate in a zero-sum game, or its equivalent or near-equivalent, will hinder or prevent cooperation or collusion among the managers of different firms. In a zero-sum game it is possible for one firm's manager to gain only if another firm's manager loses, since there is only a fixed quantity of rewards to go around. In a nonzero-sum game it is frequently possible for everyone to gain through cooperation (collusion) as opposed to noncooperation, since cooperation may increase the total quantity of rewards available to go around.

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[1] NOTICE OF PATENT PENDING: This paper describes a method of economic regulation for preventing collusion upon which the author and inventor has applied for a patent. A patent on this invention, if such should be granted, would only restrict actual use of the described invention; it would not restrict in any way the verbal or written discussion, description, or criticism of that invention.

A zero-sum game for industry may be instituted by forcing firms as a whole to participate in a zero-sum game and/or by arranging zero-sum compensation arrangements for the managers of different firms. When the goal of firms is maximizing profits, instituting a zero-sum game in profits means that firms are motivated to maximize relative profits rather than absolute profits. That is, firms attempt to maximize the difference of their own firm's absolute profits relative to an average of other firms'' absolute profits. Alternatively and equivalently, firms attempt to maximize the difference of their own firm's absolute profits relative to the average absolute profits era group of competing firms, of which group the firm is a member.

A good way to institute a zero-sum game among firms in an industry is by motivating managers to seek relative profits rather than absolute profits. The usual way to motivate managers to pursue a particular goal is to pay managers in accordance with success in achieving that goal. If the goal is to maximize absolute profits, managers should expect to receive more compensation, the higher profits turn out to be. By altering the rules for managerial compensation in the appropriate way, we can make sure that managers are motivated to maximize relative profits rather than absolute profits.

The key to understanding this method rests upon the seemingly trivial observation that successful collusion increases the absolute profits of firms, but does not increase the relative profits of firms. When firms collusively raise prices, the relative profits of each firm cannot increase on average. Only one of two things can happen: Either (1) absolute profits of each firm rise equally and relative profits of each firm stay the same, or (2) the absolute profits of each firm do not rise equally, in which case some firms gain relative profit and some firms lose relative profit. If the second case holds true, any firm which loses relative profit from the collusive agreement will want to cheat (assuming it seeks relative profit), since it gains relative profit in the short run by cheating and it gains relative profit in the long run by breaking up the collusive agreement. If the first case holds true, no firm gains relative profit by maintaining the collusive agreement in the 13ng run, and every farm gains relative profit by cheating in the short run. In a relative profit maximizing industry there is no incentive for all the firms to enter into or maintain any collusive agreement. Competitive behavior must result,

Setting up a zero-sum game in profits does not in any way require placing any cap or limitation on the amount of absolute or relative profit which any individual firm may earn. Rather, there is simply a definitional change in the type of profit which a firm or firm manager is expected to maximize. The main difference between absolute profit maximizing (APM) firms and relative profit maximizing (RPM) firms is that RPM firms are not motivated to collude. In the absence of collusion, absolute profit and relative profit are very similar. RPM firms are just as strongly motivated as APM firms to seek other sources of profit, such as reducing costs of production or improving product quality. RPM firms are not deliberately inefficient nor do they try to slow down technical progress. They merely refuse to collude, even tacitly.

Government is assumed able to observe costs and revenues ex post, but is not assumed able to observe either demand curves or cost functions. The proposed regulation is not heavy-handed. Price controls, profit controls, central command and the like are no part of the proposal. Under the relative profit scheme of regulation, firms are perfectly free to try to make as much profit as they can, set whatever prices they wish, sell whatever Products they wish, and to enter or exit industries and product lines as they please. Application of the RPM regulatory scheme need not extend beyond those firms which are most likely to collude (i.e., the ?? firms within an oligopoly industry). Competitive industries, of course, do not ?? to be included (though no harm would come if they were).

II. Review of Some Related Literature

Only in Donaldson and Neary (1984) does there first appear a suggestion that the principles of relative profit maximizing might be put to practical use by altering the incentives of firms or managers. Donaldson and Neary suggest that relative profit maximizing managers in a "socialist industry" composed wholly of govern?? owned firms can achieve efficient outcomes with a minimum of administrative supervision by a central planner. They also prove numerous game theory propositions in this connection. Although they indirectly allude to the anti-?? features of the incentive scheme, they never directly state this property outright. Consequently, they appear to have overlooked the possibility of extending the scheme to prevent collusion in Privately-owned or "capitalist" industries. Also, they appear to impose the unwarranted restriction that each manager must be paid dollar-for-dollar for each dollar of relative profit which a firm earns (p. 102).

Two basic propositions in the Donaldson and Neary (1984) paper are worth special mention. The first is that RPM firms producing multiple or joint products will tend to produce at minimum cost and price efficiently (pp. 104–5, 109–10). This means that the incentive scheme is capable of being applied, not only to single-product firms and industries, but also to multi-product firms and industries.

Secondly, RPM firms, unlike their APM counterparts, have little or no strategic incentive to increase their market shares in a cost-inefficient manner by installing excess capital (pp. 105, 107–9).

The theoretical suggestion that firms with absolute profit incentives might under certain (presumably rare) circumstances try to behave as if they desired to maximize relative profits appears to have been made as early as 1960. Bishop (1960), describing the alleged "warfare" of oligopolists in the absence of collusion, Shubik and Levitan (1980), describing "beat-the-average" games, and Jones (1980), describing the outcome era classroom game, each derive first-order conditions for a constant-sum game in relative profits. Jones also derives second-order conditions. Two reasons are suggested for such behavior: (I) Businessmen might be naturally rivalrous, caring more about relative position than absolute position, or (2) bus/- nessmen may be carrying out threats in order to elicit more favorable collusive agreements from their rivals in the future. These three works do not suggest any practical application for the mathematical principles of relative profit maximizing.

Although they do not anticipate the present subject matter, several other papers are worth mentioning. Holmstrom (1982) and Aron (1988) explore the use of relative performance evaluations for the quite distinct purpose of attempting more accurate evaluations of managerial performance. Gibbons mad Murphy (1990) ask whether, in fact, managers tend to be paid according to relative performance. Fouraker and Siegel (1963) and Vickers (I 985) consider relative profit goals and incentives of a different type, namely maximization of the difference between absolute profits of own firm and total absolute profits of rival firms, rather than average absolute profits of rival firms. Fershtman and Judd (1987) and Sklivas 0987) also consider alternative managerial incentives, but not relative profit incentives. Shleifer (1985) and Tam (1986) describe what may be the best currently known alternatives for regulating oligopoly markets, aside from antitrust enforcement or structural reform. Both of these alternatives require the regulation of prices, whereas the present method does not.

In summary, none of the previous literature suggests that relative performance incentives can be used as a general method for preventing collusion.

III. An Illustrative Example

Let G be some statistic which describes something about a firm. If the firm's managers arc rewarded for achieving higher levels of G, then maximizing G will be the firm's goal or objective.

For purposes of this example, assume that there are N (N —> 2) identical firms. Each firm produces a single, homogenous product at a constant marginal cost of C. The market demand is linear, with P = A—bQ, where Q = ??Qi and Qi is firm output. Assume that each firm pursues an identical goal function, which has a coefficient of unity in own firm profits and a coefficient of W in rival firm profits. The goal function for firm i and rival firm(s) j looks as follows:

Gi=??i+W????j
J??1
=??i+W(N-1)??
= (PQi-CQi)+ W(N-1)(PQj-CQj)

If W = 0, then the firm's goal is simply to maximize its own economic profit. This is the absolute profit maximizing (APM) goal. If W = 1, then the firm has a joint profit maximizing (JPM) goal. If all N firms have JPM goals, the industry will surely collude.

On the other hand, if W = -1/(N—1), then the firm has a relative profit maximizing (RPM) goal. The RPM goal is calculated by stetting with own firm profits and subtracting off a weighted average of the N—1 rival firm profits.

If we assume noncooperative behavior and Cournot conjectures, firm i maximizes its goal function by choosing Qi such that:

?Gi/??Qi = (P-C)+(??P/??Qi)[Qi+ w(N- 1)Qj = 0
= (A-bQi-b(N- 1)Qj-C)
-b(Qi + W(N—1)Qj) = 0
(2)

For a symmetric, noncooperative equilibrium, assume that Qn = Qi = Qj. Define WM = 1 + W(N—1). We can calculate the following quantities, price-cost margins, absolute profits, and goal fulfillments for each firm:

(A-C)/[b(N + WM)]
(A-C)W/(IV + Wm)]
(A-C)2W2M/[b(N + WM)2]
(l- C)'-W2m/[b(N + WM)2]
(3)

Now, assume instead that each firm pursues a collusive ("monopoly") equilibrium, in which each firm attempts to maximize its goal function under the assumption that all firms cooperate by setting the same level of output (QM) and receiving the same level of profit (??M). The goal function takes the form: .

GM—[1 + W(N- 1)]??M = WM??M
= WM(PQM—CQM)
(4)

When W > -1/(N—1), WM > 0, so that joint goal fulfillment is equivalent to maximizing joint absolute profits. When W <—1 / (N—I), WM < 0, j cint goal fulfillment requires the minimization of joint absolute profits, or the maximization of joint losses. When W = -1/(N—1), WM = O, we have a zero-stun game in relative profits. When WM—O, collusion can in no way improve the sum of relative profits for all N firms, since these must always add to zero. When WM = 0, there is no incentive for all N firms to collude either to raise prices or m lower prices from the prices that would exist in a noncooperative equilibrium.

In what follows, assume that W >—. -1/ (N—1), so that WM >— 0 and joint maximization of absolute profits is a (weakly) plausible goal of collusion. (When WM = 0, firms are collectively no better off, but neither are they collectively worse off, from collusion.) Then the collusive equilibrium has the following solution:

??GM/??QM = WM(P—C).+ (??P/ ??QM)WMQM "- 0
= WM(A—bNQM—C)- bNWMQM = 0
QM= (A—e)/[2bN]
PM-c = (A-c)/2
??M = (A—C)2/[4bN]
GM =(A—C)2WM/[4bN]
(5)

We now consider the one-period incentive for a firm to cheat on a collusive agreement. This can be calculated under the assumption that a single firm chooses its output to maximize its own goal function, taking as given that rival firms choose the agreed-upon collusive output level:

This has solution:

(6)

= (P—C) + (??P/??Qi)(Qi + W(N—1)QM) = 0
= (A-bQi-b(N-1)QM-C) b(Qi+W(N-1)QM)=O
Qc = (A- c)(N + 2- WM)/[4bN]
Pc—c = (A c)(N + WM)/[4N]
- C)2(N + 2- WM)(N + WM)I[16bN2
- C) 2(N + WM)//[8bN2]
-C)2(N +WM)21[16bN2]
??c = (A
??j = (A
Gc = (A
(7)
..
??
k.
L
*

The reward to a firm which colludes in a repeated game with its rivals is:

CO
R?? = GM + ?? GM/(1 + r)t = GM + GM/r (8)
t=l

The value of r depends not simply on the cost of capital and risk premia, but also includes the probability that collusion may break down, perhaps because of industry changes or government intervention. The length of the time period, t, depends on the time it takes for rivals to discover that cheating has occured, after which collusion breaks down. The shorter the time period needed to detect cheating, the lower the value of r. The reward to a firm which cheats in period t = 0 and sees the noncooperative equilibrium in subsequent periods is:

Rc = Gc + ?? Gn/(l + r)t = Gc +Gn/r (9)

RM > RC (so that collusion is sustainable) whenever the collusion/cheating ratio shown below exceeds r:

(GM—Gn)/(Gc—GM) = 4NWM/(N + WM)2 > r (I0)

For a given N within the relevant range, this ratio reaches its maximum value of 1 when WM = N (JPM) and reaches its minimum value of 0 when WM = 0 (RPM). The ratio rises monotonically when WM increases from 0 to N. As aright be expected, when WM = 1 (APM), this ratio falls (i.e., collusion is harder to sustain) when the number of firms (N) increases.

To summarize, when firms are given RPM incentives and placed in a zero-sum game, the incentive to collude is eliminated, but the incentive to cheat on collusion is maintained. No collusive agreement can benefit all firms in a zero-sum game, and any such agreement would in any case be subject to overwhelming incentives for most or all firms to cheat. This was shown verbally in Section I and is illustrated in this section using a particular mathematical model. The details of a mathematical model can be varied endlessly, but the qualitative conclusion will always be the same, given the verbal proof in Section I.

IV. Practical Implementation

Economists traditionally present theory and presume (sometimes unrealistically) that the manner of its practice will be immediately apparent. With respect to many practical concerns which some economists and laymen have raised, some brief answers are indicated below.

1. Would government regulators need extensive and expensive data to enforce the proposed scheme? No. The only data needed are data on costs, revenues, profits, and managerial compensation. Since this data must be collected in any case, either by government for tax purposes, or by accountants as a prudent way for managers and stockholders to keep tabs on a firm's activities and cash flows, it follows that the method can be implemented at little or no extra cost.

This data is readily observable, so governmental omniscience is not required to implement the method. In particular, it is not assumed that government can observe either cost functions or demand curves, nor is it assumed that government can calculate optimal prices, profits, or output levels. Hence, the RPM method can be practiced, even if government is unable (because of information lira/tat ions) to set optimal prices or quantities directly.

2. Would the use of accounting data to measure costs, revenues, and profit's cause economic distortions? Perhaps, but a more relevant question might be, would such distortions be any greater under RPM than under APM? The purpose of the method is to prevent collusion, not to calculate true economic costs or profits. Even under current arrangements, inability to measure true economic cost prevents stockholders from motivating managers with proper incentives to maximize absolute profits. Whatever may be (for motivational purposes) the most accurate way to measure absolute profits can also be used as a good way to measure relative profits. Regardless of whether profits are calculated using accounting data or other imperfect data, collusion will be prevented, and there is unlikely to be any significant incremental effect in causing additional misallocation of resources.

3. How does one measure "relative profit"? Aside from accounting measures, one way to estimate absolute profit is to look at changes in the value of a firm's total outstanding stock over a period of t/me and make adjustments at an appropriate interest rate for dividends paid or new stock shares issued over the same period of time. Since changes in both short-term and long-term profit potential affect the firm's value, this method of ascertaining profit gives managers the least incentive to manipulate accounting procedures, or to manipulate events in response to mistaken accounting rules. To calculate relative profits by this method, one simply looks at the change in value for one firm and subtracts off a ' weighted average of the change in value for rival firm(s).

alternative method for measuring relative profit makes use of a new forecasting method, described by Lundgren (1995). This method provides efficient incentives for unbiased human forecasts of any variable value, including the future absolute profits or relative profits of any firm or any subcomponent of a firm, and such forecasts can be made as free of accounting biases as stock values. An advantage of the forecasting method is that it can be used to separate out the industry-specific profits of a conglomerate-operating in several industries.

4. How does one apply the relative profit concept to industries which contain multi-industry conglomerates? Most multi-industry conglomerates adopt the multi-division form of organization, in which each industry

division is operated essentially as a separate profit center, with separate accounting for each industry of operation. If the conglomerate operates/I1 unrelated industries, there is unlikely to be any economy of scale or scope that would be wasted if the conglomerate were required to break itself into single-industry parts. If a break-up is deemed undesirable because of economies of scale or scope, and if it is infeasible to issue separate securities for each industry subsidiary of the firm, then one can either use accounting techniques or use the forecasting technique described in Lundgren (1995). If a firm simply produces multiple (but closely related) products, the firm is best understood as producing in a single industry—a circumstance which requires no special treatment, as shown in Donaldson and Neary (1984, pp. 104–5, 1O9–110).

5. How does one define the "market" or "'industry" for purposes of imposing the zero-sum game? Since it is not the purpose of the scheme to determine legal culpability for monopolization, but simply to eliminate incentives for collusion, it is not necessary to answer the tricky question of how broadly or narrowly the market should be defined. It is generally preferable to define the industry/market rather narrowly, so that only a very few, very similar firms are placed in each zerosum game. That is, if there is a broadly defined industry with several firms, it is generally preferable to impose more than one zero-sum game on the several firms, by grouping the firms into more narrowly defined sub-industries, and imposing a zero-sum game on each of the smaller groups. Unlike under current antitrust law, it is not necessary to inquire whether more distantly related firms are actually part of the same "market".

6. How does one sustain incentives for innovation and technological progress ? Innovations may be either costless or costly, and may be either patentable or unpatentable. If innovations are costless, we may presume that relative profit maximizers will adopt them, since profit maximization implies cost minimization. If innovations are costly, but patentable, the patent law provides incentive for innovation. Since RPM incentives are designed to induce competition, they should not be applied to situations where monopoly, and hence absolute profit maximizing, is the preferred public policy. Fortunately, both absolute profit and relative profit are measured in compatible money units, so there is nothing to prevent the institution of APM incentives for patented activities and RPM incentives for unpatented activities, even with respect to the same manager in the same firm.[2]

If innovations are costly, but unpatentable, RPM firms still have an incentive to reduce costs, if gains from innovation can be captured for a period o t" time until competitors follow suit. This incentive is proportional to firm output. The conventional Schumpeterian "wisdom" that a competitive industry is less innovative than an oligopolistic industry confounds the influence of firm size with the competitive/noncompetitive nature of firm interaction. It is mainly the size of firm output, not the size of a collusive price-cost margin, which determines the size of the incentive to reduce unit costs.

7. How does one prevent RPM industries from sustaining chronic losses? Chronic losses would occur only if marginal cost lies consistently below average cost for a particular industry. In such case, the industry can be made viable by offering an industry lump-sum subsidy in the exact amount of the industry's economic losses. Lump-sum subsidies may be distributed equally to all firms in a zero-sum group without affecting relative profits, and hence without inducing behavior to manipulate the size of the subsidy. Financing the subsidy through general revenues yields marginal cost pricing. Financing through a special industry tax yields average cost pricing.

8. How does one ensure that RPM firms do not sabotage rival firms "operations? Since relative profits rise when rival firm profits fall, there is arguably an increased incentive to sabotage rival firm operations. An increased incentive to cause sabotage need not imply a significant increase in actual sabotage. A situation of mutual sabotage can only arise if legal penalties are very weak, since rival firms have incentive to investigate, report, and prosecute sabotage activities which reduce their levels of profit.

Nevertheless, even if we were to suppose that serious sabotage problems would arise from an unmodified RPM incentive scheme, it is possible to modify the incentive scheme slightly so as to eliminate the sabotaging incentives. This modification would require a deduction in managerial compensation which offsets (or further penalizes) any gain in managerial compensation resulting from any gain in relative profits due to sabotage occurring in rival firms, even if legal culpability for the sabotage cannot be established. In other words, one may convert the zero-sum game into a negative-sum game, if sabotage is observed. (One can apply the same reasoning to lawsuits.)

9. How does one ensure that corporate managers will not evade the regulation of salary policies? The regulation of managerial compensation has nothing to do with the total amount of the salary and bonuses, but only the methods)f their calculation. Even if we suppose that the value of relative profits is lower, on average, than the value of absolute profits, the noncontingent salary component of a manager's compensation can always be raised to compensate. No reduction in the average levels of managerial compensation is required. For the same level of risk and expected compensation, managers do not care whether bonuses are contingent on relative profit or absolute profit.

10. Does the scheme represent an unwarranted intrusion into managerial compensation policies which have heretofore been unregulated? The proposal does not actually require government to determine the managerial incentive schemes. It simply requires that the contingent part of any managerial incentive scheme must be based on relative firm performance, rather than absolute firm performance. In order to prevent the incentive for managerial collusion, it is not necessary that government determine the overall level of managerial compensation, nor is it necessary that government determine and implement any, particular method for measuring relative firm performance. The minor intrusion, if it be such, is justified by the important public purpose at stake: Preventing collusion.

11. How does one prevent collusion among managers to reduce managerial effort levels? Instituting a zero-sum game in managerial income does not mean instituting a zero-sum game in managerial effort levels, so collusion to reduce managerial efforts is at least conceivable. However, collusion to reduce effort levels is not a serious threat, since a) managers of firms typically work in separate locations, and b) the work of managers consists mainly of mental efforts. Therefore, since managerial effort is essentially unobservable, any agreement to reduce effort levels cannot be easily monitored or enforced by colluding managers.

However, Simply for argument's sake, suppose that managerial effort is actually (at least partly) observable. For example, suppose effort can be measured based on hours spent "on the job". In that case, one can pay managers based both on absolute effort and on relative performance. If the compensation rate for effort is made high enough, managers will no longer have incentive to collude to reduce effort levels, even if such collusion could be made perfectly enforceable.

12. How does one ensure that firm owners will not find ways of making man- agement stress absolute profits over relative profits? This is the subject of the next section.

V. Owners, Managers, and Incentives

There are at least two ways of instituting relative profit incentives for firms First, top management (including the board of directors) can be given long-tern< compensation contracts based on relative performance. Secondly, one can impose the zero-sum game in profits on whole firms (owners), and not just managers. Government may adopt only the first set of measures, only the second set, or both sets simultaneously.

The second method can be implemented by 100% taxing (subsidizing) the combined economic profits (losses) of an industry and allocating the tax (subsidy) equally to each firm. The tax (subsidy) would be on industry profits, not individual firm profits. As a result of the industry tax/subsidy scheme, after-tax profits to owner-shareholders are equivalent to pre-tax relative profits, which means owners will try to maximize relative profits rather than absolute profits. Although this method appears economically viable, it may not be politically palatable, given the potential for redistributions of income between stockholders and the government.

In firms or industries where owners and managers are one and the same these two methods are essentially equivalent. No choice is possible. However, most important oligopoly industries are probably composed of large corporatiotions which maintain a separation between ownership and direct managerial control. This well-known aspect of the internal structure of the modern corporation presents an interesting avenue by which government can enforce antitrust policy. Rather than impose relative profit incentives directly upon owners through taxes end subsidies, government can influence firm behavior simply by altering the incentives of management.

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[2] There are various ways this can be done. For example, if firm A has a patent and firm B is a rival, any royalty payment from firm B to firm A would not be counted against either firm p. or firm B in the calculation of relative profits. A complete exposition would require a separate paper.

However, if owners are not made the direct subjects of taxes and subsidies which impose relative profit incentives, this raises the issue of whether absolute wealth maximizing stockholders can somehow reimpose APM incentives on RPM managers. The current state of corporate affairs is that managers, not stockholders, basically control the large corporation. Managers effectively appoint the boards of directors, to whom they are ostensibly responsible. Indirectly, through their choice of board members, managers set their own salaries. Managers have no incentive to change this state of affairs.

Stockholders are numerous and dispersed. Individually, most stockholders do not have enough votes to unseat management. Obtaining collective action to unseat management requires significant expense, which most stockholders find too costly to undertake. Controlling management is a "public good" for all stockholders, which most stockholders find rational to "free ride" upon by not attempting to provide it. The only stockholders who might have an incentive to undo management policies are the largest or principal stockholders. The remaining stockholders are of no consequence, except as voters who might side with the principal stockholder in any fight against management.

Consider, therefore, an industry in which the top two, three, or four firm s have been placed into a zero-sum game in terms of managerial incentives. Each firm has a different principal owner. If the same person or entity is a principal owner in two or more of the top firms in an oligopoly industry, this should be regarded as an antitrust violation, just the same as interlocking directorates are so regarded. Hence, we assume different principal owners. Any conspiracy to undo the relative incentive scheme must involve the principal owners, since the managers themselves have no such incentive.

To be effective, the conspiracy must convert all or most managers from relative profit goals to absolute goals. To convert only one manager to absolute profit goals would not generate the kind of collusion among business firms which could substantially raise prices and profits, and thereby make the conspiracy (with its attendant risks) worthwhile from a private perspective. The conspiracy must therefore involve the principal owners of different firms acting in combination. The principal owners, being already wealthy, will not rationally risk jail time simply to increase their wealth still further. Suppose, nevertheless, that the principal owners attempt a conspiracy. What means would they use to influence management?

There are basically only two avenues by which the principal owners might try to influence management: compensation and employment. Either avenue may be pursued overtly or covertly.

First consider overt operations. The principal owner persuades stockholder voters to alter the conditions of employment or compensation. For example, the principal owner might use the annual stockholder meetings to directly hire or fire the manager, according to whether the manager pursued or failed to pursue collusive policies alongside other firms. Alternatively, the annual meetings might be used to raise or lower the base salary for future employment in a manner designed to undo the relative profit incentives paid in previous years.

Use of the annual stockholder meetings for either purpose would be an unusual or abnormal business practice. Use of the annual meetings for these purposes by an RPM firm would clearly be a suspect practice, prompting an antitrust investigation. More simply, use of a stockholder meeting to directly determine managerial employment or compensation might be made a per se antitrust violation, when performed by an RPM firm.

Thus, the following is recommended for instituting RPM incentives on management: Both the managers and the boards of directors are given long-term contracts containing relative performance incentives, which are not altered from year to year in a manner that might allow owner to undo the RPM incentives. Any part of the compensation (including stock holdings or stock options) which is contingent on the firm's performance must be based on relative performance, not absolute performance. All compensation and compensation arrangements of managers and directors of RPM firms are disclosed to the antitrust authorities. Managerial employment is determined by the board of directors (all of whom are paid according to RPM incentives), not by either stockholders or principal owners, unless the principal owners have been converted to RPM incentives. The directors have overlapping terms, and are not all elected at once.

In situations where a principal owner (or other stockholder) wishes to have an active role in management or on the board of directors of an RPM firm, such owner or stockholder must have his stockholdings convened into assets which provide RPM incentives. This can be accomplished either by shorting the stock of rival RPM firms, and/or by imposing a tax/subsidy on the stockholder which mirnicks the change in value of the stock in rival RPM firms. If the principal stockholder desires to be a passive investor, this change in incentive is not required.

Consider now possible covert operations. Assume that the principal owner has not acknowledged any active interest in the corporation, and has not been converted to RPM incentives. How can a principal owner with APM incentives undo the RPM incentives of firm managers? There are only two possibilities: threats and bribes. Threats are particularly likely to be reported to the antitrust authorities, could result m extra jail time, and will presumable not be resorted to. This leaves bribery

The rich stockholder may choose to bribe either the manager or the directors. The manager might be bribed to behave collusively. The directors might be bribed to hire and fire managers based on willingness to collude. Bribing the directors is likely to be cheaper, but also less effective and more likely to be reported. Even if successful, bribing the directors to fire a manager is particularly likely to be reported by the manager. This leaves only bribing the manager directly.

A conspiracy by principal owner(s) will not stop at trying to institute ??M incentives on RPM managers. Rather, the rational goal would be to attempt to institute joint-profit maximizing (JPM) incentives on the managers. Bribing the managers of all the important firms in the industry to institute JIM incentives is the only procedure that would guarantee collusion. Re-instituting APM incentives merely provides the opportunity for collusion, but does not guarantee its occurrence.

The possibility that principal owner(s) might bribe the manager(s) of APM firms to collude, or provide them with JPM incentives exists even today. Yet one rarely (or never?) hears of principal owner(s) attempting to bribe or covertly pay firm managers in this manner. If such behavior does not happen when firm managers are paid according to APM incentives, why should it happen if managers are paid according to RPM incentives?

In short, an illegal conspiracy of stockholders to re-impose absolute profit incentives onto firm managers is unlikely. The small stockholder has little influence and insufficient incentive to launch such a conspiracy. The large stockholder is too wealthy to want to risk jail time. Any such conspiracy would have to be explicit (and therefore detectable), not merely tacit.

VI. Conclusion

It has been shown that institution of a zero-sum game among a group of firms by means of relative profit maximizing incentives is capable of reducing or eliminating incentives for firms to collude, either actually or tacitly. This mild change in managerial incentives can be imposed at essentially zero public or private cost, yet it reaps potentially huge benefits.[3]

Appendix A. Optimal Weighting of Goal Functions

This appendix derives the conditions for goal functions needed to achieve a zero-sum game with desirable long-run properties. Suppose there are N (N ?? 2) firms in an industry. Let ??1, ??2,..., ??N be the profits earned by these firms; and let G1, G2, ..., GN be the goal functions for these firms. Let be the weight placed on firm j's profits infirm i's goal function, and let Ki be an arbitrary constant which adjusts firm i's goal satsifaction upwards or downwards (e.g., a fixed salary component in managerial pay). Goal functions which are linear in profits have the form:

N

j=l

for all i E [1, N], where all w's and K's are fixed constants.

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[3] One famous estimate of the deadweight cost of monopoly power (including oligopoly) is between 1/2% and 2% of G.N.P. (Scherer and Ross, 1990, p. 667).

The zero-sum conditions require:

N
??, wi.i = 0, (A.2)
i=1

Suppose each firm sells a standardized product and that price depends solely on industry output: P = P(Q), where Q = ??Qi. Assume further (which is likely in the long run) that cost functions are identical for each firm: TCi = C(Q1). Hence,

??i = POi—C(Oi), so that we obtain:

N
Gi = ?? wij(PQj—c(Qj)) + Ki
j=1
(A.3)

Define aji = ??Qj/??Qi as any arbitrary conjecture which firm i entertains about the reaction function of firm j (aii= 1). Thus:

N N
(??Gi/??O,) = ?? ajiwij[P- c'(Qj)] + p(O)
??wijQj = o
j=1 j=1
(A.4)

Assuming that N firms in the industry is a given and that marginal cost is increasing, then the optimal industry outcome occurs only when firm outputs are identical (Qj = Q/N) and price equals marginal cost [P—C'(Qj) = 0] for each firm. These conditions are met only when the weights on profits meet the following conditions:

N
?? to0" = 0 (A.5)
j=1

These N conditions for long-run industry optimality are in addition to 1tie N conditions in (A.2) on weights needed to insure the zero-sum nature of the game. Short-run effects[4] not analyzed here may perhaps place additional restrictions on the optimal values for weights in the goal functions of firms.

Appendix B. Short-run Cost Differences

This appendix employs a 2-firm game to model the consequences of short-run cost differences between firms. Let G1(Q1) and C2(Q2) be the cost functions of firms 1 and 2, and let a12 -" ??Q1/??Q2 and o121—??Q2/0QI be any arbitrary conjectures which each farm entertains about the reaction functions of the other firm. The problem itself may be stated thus:

G1 = ??l—7o2 = p(Q)Q1- C1(Q1)- p(Q)Q2 + C2(Q2),
(B.1)
G'2 = r2—??1 = p(,Q)Q2—C2(Q2)—p(Q)Q1+ C1(Q1). 03.2)

The first=t order conditions are:

??G1/??Q1- p'(Q)(1 + a21)(Ql-Q2) + p(Q)(I-a21)
-C1(Q1) + a21C12(Q2) = o
03.3)
??G2/??Q2 = p'(Q)(1 + a12)(Q2—Q1) + p(Q)(1—a12)
-C(Q2) + al2c'1(Qt) = 0
03.4)

It can be shown that the only solution which satisfies Equations 03.3) at,d (B.4) has the form:

p(Q) = C1(Q??) + ?/Q,)
2
03.5)
(Q,—Q??) = ??Q??)—c(O2)
2f(Q) 03.6)

Equation 03.5) tells us that price will be set equal to the average of the marginal costs of the two firms. Equation (B.6) tells us that the more efficient firm will produce morn output than the less efficient firm, since f(Q) < 0.

Appendix C. Differentiated Products

This appendix models what happens when products are differentiated and firms compete in prices ('Bertrand conjectures). Let the demand structure for the two firms be defined in terms of quantities demanded as a function of two prices: Q I = Ql(Pl, P2) and Q2 = Q2(Pi, P2). It is reasonable to assume (??Qj/??Pj) < 0 and (??Qi/??Pl) > 0 for all i and j, j ?? i, The problem is stated thus:

G1 = ??1—??2 = Q1(P1, P2)P1—C1(Q1(Pl, P2))
-Q2(P1, P2)P2 + C2(Q2(P1,P2))
G2 = ??c2—??1 = Q2(P1,P2)P2—C2(Q2(P1,P2))
-Q1(P1,P2)P1 + C1(Q1(P1,P2))

The first-order conditions are:

(C.2)
I,
(??G1/??P1) = Q1 + P1(??Q1/??P1)—C1(Q1)(??Q1/P1)
-P2(??Q2/??P1) + C2(Q2)(??Q2/??P1) = 0
(c.3)
(??G2/??P2) = Q2 + P2(??Q218P2)—C(Q2)(??Q2/??P2)
-P1(??Q1/??P2)+C1(Q1)(??Q1/??P2)=0 (c.4)

We may rearrange these conditions as expressing the determinants of ??.cost margins:

-Q1 + [/>2—C2(Q2)](??Q2/??P1) C.5)
P1- C1(Q1) = (t)Q,l??P1)
-Q2 + [P1—Ci(Q1)](aQ1/aP2) (c.6)
P2—C2(Q2) = (??Q2/??P2)

The corresponding conditions for APM firms with Bertrand conjectures are:

-Q1 (c.7)
P1—C1(Q1) = (??Q1/??P1)
-Q2 (c.8)
P2—C2(Q2) = COO21or,??)

Suppose we have a situation where two monopolistically competitive finns satisfy equations (12.7) and ((2.8) because both firms are maximizing absolute profits. Assume that both firms have positive price-cost margins. Now suppose that one (or both) of the firms is converted into being a relative profit maximizer. If firm one is so converted, its price-cost margin is reduced, because the difference between the fight-hand-side terms in equations ((2.5) and (C.7) is negative:

[P2 -C2(Q2)](??Q2/??P1) < 0 (C.9)
(??Qt/??P1)

Similarly, if firm 2 is convened m relative profit maximizing (assuming firm 1 maintains a positive price-cost margin), it too will wish m reduce its price-cost margin by expanding output and lowering price: Bertrand competition is absolutely the most competitive behavior which it is reasonable to postulate about APM firms, yet RPM firms compete even harder.

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EXHIBIT 2
TO THE COMMENTS
OF RELPROMAX ANTITRUST INC.
i
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA,
Plaintiff,
V.
MICROSOFT CORPORATION,
Defendant.
CIVIL ACTION NO. 94–1564 (SS)
FINAL JUDGMENT

WHEREAS Plaintiff, United States of America, having filed its Complaint in this action on July 15, 1994, and Plaintiff and Defendant, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law; and without this Final Judgment constituting any evidence or admission by any party with respect to any issue of fact or law;

NOW, THEREFORE, before any testimony is taken, and without trial or adjudication of any issue of fact or law, and upon consent of the partial

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[4] These short-ran effects include possible incentives for pair-wise or subset collusion, or possible concerns about distribution of output among firms, if short,run costs differ significantly among firms and there are three or more firms ih the same zero-sum game.

ORDERED, ADJUDGED AND DECREED a:

I. JURISDICTION

This Court has jurisdiction of the subject matter of this action and of the person of the Defendant, Microsoft Corporation ("Microsoft"). The Complaint states a claim upon which relief may be granted against the Defendant under Sections 1 and 2 of the Sherman Act, 15 U.S.C. 1,2.

II. DEFINITIONS

(A) "Covered Product(s)" means the binary code of (1) MS-DOS 6.22, (2) Microsoft Windows 3.11, (3) Windows for Workgroups 3.11, (4) predecessor versions of the aforementioned products, (5) the product currently code-named "Chicago," and (6) successor versions of or replacement products marketed as replacements for the aforementioned products, whether or not such successor versions or replacement products could also be characterized as successor versions or replacement products of other Microsoft Operating System Software products that are made available (a) as stand-alone products to OEMs pursuant to License Agreements, or (b) as unbundled products that perform Operating System Software functions now embodied in the products listed in subsections (1) through (5). The term "Covered Products" shall not include "Customized" versions of the aforementioned products developed by Microsoft; nor shall it apply to Windows NT Workstation and its successor versions, or Windows NT Advanced Server.

(B) "Customized" means the substantial modification of a product by Microsoft to meet the particular and specialized requirements of a final customer of a computer system. It does not include the adaptation of such a product in order to optimize its performance in connection with a Personal Computer System manufactured by an OEM.

(C) "Duration" means, with respect to a License Agreement, the period of time during which an OEM is authorized to license, sell or distribute any of the Covered Products.

(D) A "License Agreement" means any license, contract, agreement or understanding, or any amendment thereto, written or oral, express or implied, pursuant to which Microsoft authorizes an OEM to license, sell or distribute any Covered Product with its Personal Computer System(s).

(E) A "Minimum Commitment" means an obligation of an OEM to pay Microsoft a minimum amount under a License Agreement, regardless of actual sales.

(F) "Lump Sum Pricing" means any royalty payment for a Covered Product that does not vary with the number of copies of the Covered Product that are licensed, sold or distributed by the OEM or of Personal Computer Systems distributed by the OEM.

(G) "New System" means a system not included or designated in a Per System License.

(H) "NDA" means any non-disclosure agreement for any pre-commercial release of a Covered Product that imposes any restriction on the disclosure or use of any such pre- commercial release of any Covered Product or any information relating thereto.

(I) "OEM" means an original equipment manufacturer or assembler of Personal Computer Systems or Personal Computer System components (such as motherboards or sound cards) or peripherals (e.g., printers or mice) that is a party to a License Agreement. MTC–00030631 0227

(J) "Per Copy License" means any License Agreement pursuant to which the OEM's royalty payments are calculated by multiplying (1) the number of copies of each Covered Product licensed, sold or distributed during the term of the License Agreement, by (2) a per copy royalty rate agreed upon by the OEM and Microsoft, which rate may be determined as provided in Section IV (H).

(K) "Per Processor License" means a License Agreement under which Microsoft requires the OEM to pay Microsoft a royalty for all Personal Computer Systems that contain the particular microprocessor type(s) specified in the License Agreement.

(L) "Per System License" means a License Agreement under which Microsoft requires the OEM to pay Microsoft a royalty for all Personal Computer Systems which bear the particular model name(s) or number(s) which are included or designated in the License Agreement by the OEM to Microsoft, at the OEM's sole option and under the terms and conditions as set forth herein.

(M) "Personal Computer System" means a computer designed to use a video display and keyboard (whether or not the video display and keyboard are actually included) which contains an Intel x86, or Intel x86-compatible microprocessor.

(N) "Operating System Software" means any set of instructions, codes, and ancillary information that controls the operation of a Personal Computer System and manages the interaction between the computer's memory and attached devices such as keyboards, display screens, disk drives, and printers.

III. APPLICABILITY

This Final Judgment applies to Microsoft and to each of its officers, directors, agents, employees, subsidiaries, successors and assigns; and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV. PROHIBITED CONDUCT

Microsoft is enjoined and restrained as follows:

(A) Microsoft shall not enter into any License Agreement for any Covered Product that has a total Duration that exceeds one year (measured from the end of the calendar quarter in which the agreement is executed). Microsoft may include as a term in any such License Agreement that the OEM may, at its sole discretion, at any time between 90 and 120 days prior to the expiration of the original License Agreement, renew such License Agreement for up to one additional year on the same terms and conditions as those applicable in the original license period.

The License Agreement shall not impose a penalty or charge of any kind on an OEM for its election not to renew all or any portion of a License Agreement. In the event that an OEM does not exercise the option to renew a License Agreement as provided above, and a new License Agreement is entered between Microsoft and the OEM, the arm's length negotiation of different terms and conditions, specifically including a higher royalty rate(s), will not by itself constitute a penalty or other charge within the meaning of the foregoing sentence.

The Duration of any License Agreement with any OEM not domiciled in the United States or the European Economic Area that will not be effective prior to regulatory approval in the country of its domicile may be extended at the option of Microsoft or the OEM during the time required for any such regulatory approval.

License Agreement provisions that do not bear on the licensing or distribution of the Covered Products may survive expiration or termination of the License Agreement.

(B) Microsoft shall not enter into any License Agreement that by its terms prohibits or restricts the OEM's licensing, sale or distribution of any non-Microsoft Operating System Software product.

(C) Microsoft shall not enter into any Per Processor License.

(D) Except to the extent permitted by Section IV (G) below, Microsoft shall not enter into any License Agreement other than a Per Copy License.

(E) Microsoft shall not enter into any License Agreement in which the terms of that agreement are expressly or impliedly conditioned upon:

(1) the licensing of any other Covered Product, Operating System Software product or other product (provided, however, that this provision in and of itself shall not be construed to prohibit Microsoft from developing integrated products); or

(2) the OEM not licensing, purchasing, using or distributing any non-Microsoft product.

(F) Microsoft shall not enter into any License Agreement containing a Minimum Commitment. However, nothing contained herein shall prohibit Microsoft and any OEM from developing non-binding estimates of projected sales of Microsoft's Covered Products for use in calculating royalty payments.

MTC–00030631 0230

(G) Microsoft's revenue from a License Agreement for any Covered Product shall not be derived from other than Per Copy or Per System Licenses, as defined herein. In any Per System License:

(1) into any License Agreement, or for purposes of applying any volume discount, or otherwise, that any OEM include under its Per System License more than one of its Personal Computer Systems;

(2) Microsoft shall not charge or collect royalties for any Covered Product on any Personal Computer System unless the Personal Computer System is designated by the OEM in the License Agreement or in a written amendment. Microsoft shall not require an OEM which creates a New System to notify Microsoft of the existence of such a New System, or to take any particular actions regarding marketing or advertising of that New System, other than creation of a unique model name or model number that

the OEM shall use for internal and external identification purposes. The requirement of external identification may be satisfied by placement of the unique model name or model number on the machine and its container (if any), without more. The OEM and Microsoft may agree to amend the License Agreement to include any new model of Personal Computer System in a Per System License. Nothing in this clause shall be deemed to preclude Microsoft from seeking compensation from an OEM that makes or distributes copies of a Covered Product in breach of its License Agreement or in violation of copyright law;

(3) The License Agreement shall not impose a penalty or charge on account of an OEM's choosing at any time to create a New System. Addition of a New System to the OEM's License Agreement so that Covered Products are licensed for distribution with such New Microsoft shall not explicitly or implicitly require as a condition of entering System and royalties are payable with respect thereto shall not be deemed to constitute a penalty or other charge of any kind within the meaning of the foregoing sentence;

(4) All OEMs with existing Per System Licenses, or Per Processor Licenses treated by Microsoft under Section IV (J) as Per System Licenses, will be sent within 30 days following entry of this Final Judgment in a separately mailed notice printed in bold, boxed type which shall begin with the sentence "You are operating under a Microsoft Per System License," and shall continue with the language contained in the first four quoted paragraphs below. All new or amended Per System Licenses executed after September 1, 1994 shall contain a provision that appears on the top half of the signature page in bold, boxed type shall begin with the sentence "This is a Microsoft Per System License," and which shall continue with the language contained in the first four quoted paragraphs below. "

As a Customer, you may create a Hew System" at any time that does not require the payment of a royalty to Microsoft unless the Customer and Microsoft agree to add it to the License Agreement."

"Any New System created may be identical in every respect to a system as to which the Customer pays a Per System royalty to Microsoft provided that the New System has a unique model number or model name for internal and external identification purposes which distinguishes it from any system the Customer sells that is included in a Per System License. The requirement of external identification may be satisfied by placement of the unique model name or model number on the machine and its container (if any), without more."

"If the customer does not intend to include a Microsoft operating system product with a New System, the Customer does not need to notify Microsoft at any time of the creation, use or sale of any such New System, nor does it need to take any particular steps to market or advertise the New System." "Under Microsoft's License Agreement, there is no charge or penalty if a Customer chooses at any time to create a New System incorporating a non- Microsoft operating system. If the Customer intends to include a Microsoft operating system product with the New System, the Customer must so notify Microsoft, after which the parties may enter into arm's length negotiation with respect to a license to apply to the New System."

In the case of OEMs with Per Processor Licenses treated as Per System Licenses pursuant to Section IV (J), the notice shall include the following paragraph at the beginning of the notice:

"All models covered by your Per Processor License are now treated as subject to a Per System License. You may exclude any such model from being treated as subject to a Per System License by notifying Microsoft in writing. Such notice to Microsoft must include the model designation to be excluded from the Per System License. Such exclusion shall take effect on the first day of the calendar quarter next following Microsoft's receipt of such notice."

(H) Microsoft may not use any form of Lump Sum Pricing in any License Agreement for Covered Product(s) executed after the date of this Final Judgment. It is not a violation of this Final Judgment for Microsoft to use royalty rates, including rates embodying volume discounts, agreed upon in advance with respect to each individual OEM, each specific version or language of a Covered Product, and each designated Personal Computer System model subject to the License Agreement.

(I) OEMs that currently have a License Agreement that is inconsistent with any provision of this Final Judgment may, without penalty, terminate the License Agreement or negotiate with Microsoft to amend the License Agreement to eliminate such inconsistent provisions. An OEM desiring to terminate or amend such a License Agreement shall give Microsoft ninety (90) days written notice at any time prior to January 1, 1995.

(J) If an OEM has a License Agreement that is inconsistent with any provision of this Final Judgment, Microsoft may enforce that License Agreement subject to the following:

(1) If the License Agreement is a Per Processor License, Microsoft shall treat it as a Per System License for all existing OEM models that contain the microprocessor type(s) specified in the License Agreement except those models that the OEM opts in writing to exclude and such exclusion shall take effect on the first day of the calendar quarter next following Microsoft's receipt of such notice; and

(2) Microsoft may not enforce prospectively any Minimum Commitment.

(K) Microsoft shall not enter into any NDA:

(1) whose duration extends beyond (a) commercial release of the product covered by the NDA, (b) an earlier public disclosure authorized by Microsoft of information covered by the NDA, or (c) one year from the date of disclosure of information covered by the NDA to a person subject to the NDA, whichever comes first; or

(2) that would restrict in any manner any person subject to the NDA from developing software products that will run on competing Operating System Software products, provided that such development efforts do not entail the disclosure or use of any Microsoft proprietary information during the term of the NDA; or

(3) that would restrict any activities of any person subject to the NDA to whom no information covered by the NDA has been disclosed.

(L) The form of standard NDAs will be approved by a Microsoft corporate officer and all non-standard language in NDAs that pertains to matters covered in Section (K) above will be approved by a Microsoft senior corporate attorney.

(M) Within thirty (30) days of the entry of this Final Judgment, Microsoft will provide a copy of this Final Judgment to all OEMs with whom it has License Agreements at that time except for those with licenses solely under the Small Volume Easy Distribution (SVED) program or the Delivery Service Partner (DSP) program. V.

connection with its monitoring or securing of compliance with any Undertaking by or Decision against Microsoft that relates to Microsoft's licensing of any Covered Product. In addition, Defendant shall not object to disclosure to Plaintiff by DG-IV of any other information provided by defendant to DG-IV, or to cooperation between DG-IV and Plaintiff in the enforcement of this Judgment, provided that Microsoft shall receive in advance a detailed description of the information to be provided and the Plaintiff will accord any Microsoft information received from DG-IV the maximum confidentiality protection available under applicable law. Specifically, Plaintiff will treat Microsoft information that it receives from DG-IV as "confidential business information" within the meaning of the Freedom of Information Act, 5 U.S.C. §552, with Microsoft deemed a "submitter" of the information under the statute. Plaintiff shall take precautions to ensure the security and confidentiality of Microsoft information provided in electronic form.

(E) If at the time information or documents are furnished by Defendant to Plaintiff, Defendant represents and identifies in writing the material in any such information or document to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Defendant marks each pertinent page of such material "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten days notice shall be given by Plaintiff to Defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Defendant is not a party.

VI. FURTHER ELEMENTS OF JUDGMENT

(A) This Final Judgment shall expire on the seventy eighth month after its entry.

(B) Jurisdiction is retained by this Court over this action and the parties thereto for the purpose of enabling any of the parties thereto to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

VII. PUBLIC INTEREST

Entry of this Final Judgment is in the public interest.

Entered:

UNITED STATES DISTRICT JUDGE
EXHIBIT 3
TO THE COMMENTS
OF RELPROMAX ANTITRUST INC.
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA,
Plaintiff,
V.
MICROSOFT CORPORATION,
Defendant.
COMPETITIVE IMPACT

Pursuant to Section 2(b) of the Antitrust ?? (h), the United States submits this Competitive Impact

Civil Action No. 94–1564 (SS)

Competitive Impact Statement

Judgment submitted for entry with the consent of defen

antitrust proceeding.

NATURE AND PURPOSE OF T

On July 15, 1994, the United States filed a civil antitrust Complaint to prevent and restrain Microsoft Corporation ("Microsoft") from using exclusionary and anticompetitive contracts to market its personal computer operating system software, in violation of Sections 1 and 2 of the Sherman Act, 15 U.S.C.[1],[2]. As alleged in the Complaint, Microsoft has used these contracts to restrain trade and to monopolize the market for operating systems for personal computers using the x86 class of microprocessors, which comprise most of the world's personal computers. As used herein, "PC" refers to personal computers that use this class of microprocessor.

The Complaint alleges that Microsoft has used its monopoly power to induce PC manufacturers to enter into anticompetitive, long-term licenses under which they must pay Microsoft not only when they sell PCs containing Microsoft's operating systems, but also when they sell PCs containing non-Microsoft operating systems. These anticompetitive, long-term licenses have helped Microsoft to maintain its monopoly. By inhibiting competing operating systems" access to PC manufacturers, Microsoft's exclusionary licenses slow innovation, raise prices, and deprive consumers of an effective choice among competing PC operating systems.

The Complaint also alleges that in connection with pre-release testing of a new Microsoft operating system code-named "Chicago," Microsoft sought to impose unreasonably restrictive and anticompetitive non-disclosure agreements on a number of leading developers of applications software products. These non-disclosure agreements would have unreasonably restricted the ability of software developers to work with competing operating systems or to develop competitive products or technologies.

The Complaint seeks to prevent Microsoft from continuing or renewing any of the anticompetitive practices alleged to violate the Sherman Act, and thus to provide fair opportunities for other firms to compete in the market for PC operating systems.

The United States and Microsoft have agreed that the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act.1 Entry of the Final DESCRIPTION OF THE PRACTICES INVOLVED IN THE ALLEGED VIOLATIONS

If this case were to proceed to trial, the United States would prove the following: Microsoft develops, licenses, sells, and supports several types of software products for personal computers, including operating systems and applications. An operating system is software that controls the basic operations of the personal computer. Applications software, such as word processing programs and spread sheets, runs "on top of" an operating system to enable the computer to perform a broad range of useful functions. Operating systems are designed to work with specific microprocessors, the integrated circuits that function as the "brain" of the computer. Most of the personal computers in the world today use the x86 class of microprocessors, originally designed by Intel, and now including microprocessors manufactured by other companies that use a substantially similar architecture and instruction set. Original equipment manufacturers ("OEMs") that sell PCs and customers who buy such machines cannot use operating systems written for other microprocessors.

In 1981, Microsoft introduced a PC operating system called the Microsoft Disk Operating System ("MS-DOS"), the original version of which Microsoft licensed to IBM for use in IBM's PC. As IBM's PC experienced considerable commercial success, other OEMs also used MS- DOS in order better to emulate the IBM PC. In 1985, Microsoft introduced "Windows," a more sophisticated PC operating system product designed for use in conjunction with MS-DOS. Windows allowed users to give instructions with a "mouse" or similar device and also to run more than one application at a time. Microsoft quickly gained a monopoly in the market for PC operating systems worldwide. For almost a decade, Microsoft's market share has consistently exceeded 70%.[2]

Development, testing, and marketing of a new PC operating system involves considerable time and expense. A new operating system faces additional barriers to entry, including the absence of a variety of high quality applications to run on the system; the small number of people trained on and using the system, which discourages customers from buying it and software companies from writing applications to run on it; and, since the overwhelming majority of PCs are sold with a pre-installed operating system, the difficulty of convincing OEMs to offer and promote the system.

Microsoft has used exclusionary and anticompetitive contract terms to maintain its monopoly. OEMs believe that a substantial portion of their customers will want a PC with MS- DOS and Windows, and therefore feel that they must be able to offer their customers MS-DOS and Windows. With thin profit margins, OEMs want to obtain these products at the lowest possible cost.

Beginning in 1988, and continuing until July 15, 1994, Microsoft induced many OEMs to execute anticompetitive "per processor" licenses. Under a per processor license, an OEM pays Microsoft a royalty for each computer it sells containing a particular microprocessor, whether the OEM sells the computer with a Microsoft operating system or a non-Microsoft operating system. In effect, the royalty payment to Microsoft when no Microsoft product is being used acts as a penalty, or tax, on the OEM's use of a competing PC operating system. Since 1988, Microsoft's use of per processor licenses has increased. In fiscal year 1993, per processor licenses accounted for an estimated 60% of MS-DOS sales to OEMs and 43% of Windows sales to OEMs.[3] Collectively, the OEMs who have such per processor contracts are critical to the success of competing operating system vendors, but those OEMs effectively are foreclosed to Microsoft's competitors.

Microsoft has further foreclosed the OEM channel through the use of long-term contracts with major OEMs, some expiring as long as five years from their original negotiation date. In some cases, these contracts have left OEMs with unused balances on their minimum commitments, which Microsoft can allow to be used if the contract is extended, but which would be forfeited if the OEM does not extend the contract. These practices have allowed Microsoft to extend the effective duration of its OEM contracts, further impeding the access of PC operating system competitors to the OEM channel.

In addition to using anticompetitive OEM licenses, Microsoft has also employed anticompetitive restrictions in certain of its non-disclosure agreements ("NDAs"). Microsoft

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[1] The proposed Final Judgment that was filed with the Complaint on July 15, 1994 contained several omissions and inconsistencies in the numbering of paragraphs and sub-paragraphs. With the Defendant's consent, a corrected version of the Final Judgment is being filed with this Competitive Impact Statement. See Attachment. Paragraph and sub-paragraph numbers in this Competitive Impact Statement refer to the numbers used in the corrected version of the Final Judgment.

[2] Judgment will terminate this civil action, except that the Court will retain jurisdiction for further proceedings that may be required to interpret, enforce, or modify the Judgment, or to punish violations of any of its provisions.

[2] In 1993, Microsoft's MS-DOS operating system constituted approximately 79 % of the operating systems sold to PC manufacturers. PC-DOS accounted for approximately 13 % of such sales, OS/2 constituted approximately 4 %, DR-DOS constituted approximately 3 %, and Unix operating systems constituted approximately 1%. A chart showing these market shares is attached as Exh. 1.

[2] In 1993, Microsoft's MS-DOS operating system constituted approximately 79 % of the operating systems sold to PC manufacturers. PC-DOS accounted for approximately 13 % of such sales, OS/2 constituted approximately 4 %, DR-DOS constituted approximately 3 %, and Unix operating systems constituted approximately 1%. A chart showing these market shares is attached as Exh. 1.

[3] 3 Per processor licenses accounted for an increasing proportion of Microsoft's operating system sales in the 1988—1993 period. Twenty per cent of all units of MS-DOS that were sold to OEMs in FY 1989 were sold pursuant to per processor licenses. That percentage increased to 22 % in FY 1990; 27 % in FY 1991; 50 % in FY 1992; and to 60 % in FY 1993. A chart showing this increasing use of per-processor licenses is attached as Exh. 2.

MTC-00030631 0242

anticipates commercially releasing Chicago, the next version of Windows, in late 1994 or early 1995. In preparation for its release, Microsoft has allowed certain third parties, including independent software vendors ("ISVs") who write applications, to have access to pre-release versions of Chicago, a process known in the software industry as "beta testing." This permits Microsoft to receive feedback from the beta testers, and the ISVs to begin writing applications for Chicago prior to its release.

In connection with beta testing Chicago, Microsoft employed, as it has in prior beta tests, NDAs prohibiting disclosure of confidential information. In this instance, however, Microsoft sought to impose on certain leading software companies far more restrictive NDAs than it had previously used. These NDAs would have precluded developers from working on competitive products and technologies for an unreasonably long period of time.

Through these practices, Microsoft has excluded competitors by unreasonable and anticompetitive means, thereby lessening competition and maintaining a monopoly in the PC operating system market. Microsoft's licensing practices deter OEMs from entering into licensing agreements with operating system rivals and discourage OEMs who agree to sell non-Microsoft operating systems from promoting those systems. By depriving rivals of a significant number of sales that they might otherwise secure, Microsoft makes it more difficult for its rivals to convince ISVs to write applications for their systems, for OEMs to offer and promote their systems, and for users to believe that their systems will remain viable alternatives to MS-DOS and Windows.

Microsoft's exclusionary contracts harm consumers. OEMs that sign Microsoft's exclusionary licenses but offer consumers a choice of operating systems may charge a higher price, in order to cover the double royalty, for PCs using a non-Microsoft operating system. Even consumers who do not receive a Microsoft operating system still pay Microsoft indirectly. Thus, Microsoft's licensing practices have raised the cost of personal computers to consumers.

Microsoft's conduct also substantially lengthens the period of time required for competitors to recover their development costs and earn a profit, and thereby increases the risk that an entry attempt will fail. In combination, all these factors deter entry by competitors and thus harm competition. By deterring the development of competitive operating systems, Microsoft has deprived consumers of a choice of potentially superior products. Similarly, the slower growth of competing operating systems has retarded the development of applications for such systems.

EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The proposed Final Judgment will end Microsoft's unlawful practices that restrain trade and perpetuate its monopoly power in the market for PC operating systems. In addition, the proposed Final Judgment contains provisions that are remedial in nature and designed to assure that Microsoft will not engage in the future in exclusionary practices designed to produce the same or similar effects as those set forth in the Complaint.

In particular, Sections IV (A), (C), and (F) prohibit Microsoft's use of the specific exclusionary practices alleged in the complaint—"per processor" contracts, lengthy terms, and minimum commitments—that foreclose competing PC operating system vendors from much of the OEM channel. Sections IV (K)–(L) prohibit the use of anticompetitive non-disclosure agreements in conjunction with Microsoft's distribution of pre-commercial releases of operating system software products. Sections IV (B), (E), (G), and (H) impose prohibitions that go beyond the alleged exclusionary practices in order to ensure that Microsoft's future contracting practices—not challenged here because not yet used—do not unreasonably impede competition. Sections IV (J) and (M) are designed to bring existing contracts into immediate compliance with the proposed Final Judgment.

Scope of the Final Judgment

The injunctions in Section IV generally apply to "covered products" which are defined, in Section II (A), as the binary code of MS–DOS 6.22; Microsoft Windows 3.11; Windows for Workgroups 3.11; predecessor versions of those products; the product currently code-named "Chicago" (the planned successor to Microsoft Windows 3.11); and other successor versions of or products marketed as replacements for the aforementioned products. This definition includes all Microsoft's PC operating system products in which the defendant currently possess a substantial degree of market power. The definition does not encompass, and specifically excludes, Windows NT Workstation and Windows NT Advanced Server, neither of which has a significant share of a relevant market at this time.

The definition of "covered product" was drafted with the recognition that Microsoft will continue to modify its operating system products throughout the duration of the Final Judgment. The prohibitions in the decree will apply to the successor and replacement products of those existing operating system products that have substantial market power. The decree will govern the licensing of such products if they are made available as stand-alone products to OEMs pursuant to license agreements, or as unbundled products that perform operating system software functions now embodied in the specifically listed existing products. Moreover, the decree will govern the licensing of successor versions of or products marketed as replacements for MS-DOS 6.22, Microsoft Windows 3.11, Windows for Workgroups 3.11, and "Chicago," even if such successor or replacement products could also be characterized as successors or replacements of operating system software products that are not covered, such as Windows NT Workstation or Windows NT Advanced Server.

Prohibition of the Licensing Violations

The three anticompetitive features of Microsoft's license agreements that are challenged in the complaint—the excessive duration of those agreements, the requirement of royalty payments on a "per processor" basis, and large minimum commitments—are addressed principally in Sections IV (A), IV (C) and IV (F) of the Final Judgment.

Duration: Section IV (A) limits the duration of Microsoft's license agreements with OEMs to one year, with OEMs having the option to renew a license for one additional one year term on the same terms and conditions as in the first year. This limitation on the duration of license agreements, along with the safeguards provided in Section IV (G), will ensure that vendors of competing operating systems will have regular and frequent opportunities to attempt to market their products to OEMs. Absent such opportunities, Microsoft's competitors might be unable to reach the level of market penetration needed for profitable operation in a reasonable period of time, even if they are offering products that are deemed superior by those customers who have an opportunity to buy them. Per Processor Licenses: Section IV (C) prohibits the use of per processor licenses.[4] Section II (K) defines per processor licenses as licenses that require the OEM to pay a royalty for all personal computer systems that contain specified microprocessors. As noted above, the requirement to pay a royalty to Microsoft on the sale of a PC that has a non-Microsoft operating system is comparable, in its economic effect, to the imposition of a "tax" on the competing operating system. Per processor licenses are also very similar to exclusive dealing or requirements contracts; the OEM in effect is obtaining the right to use Microsoft's operating system, and is paying an operating system royalty, for all of its operating system "requirements" for use on PCs using the designated microprocessors.

Minimum Commitments: Section IV (F) will bar Microsoft from entering into any license agreement containing a minimum commitment.[5] While minimum commitments are not in and of themselves illegal, they can be used to achieve a similar effect as that accomplished through per processor licenses or exclusive dealing contracts. If the minimum commitment is greater than the number of units of Microsoft software that the OEM expects or would otherwise desire to use at any time during the term of the contract, the minimum commitment creates a disincentive for an OEM to make incremental purchases of non-Microsoft operating systems. In that context, the minimum commitment also operates in effect to require a royalty payment to Microsoft, even for PCs that use a non-Microsoft operating system. This effect will be ended by Section IV (F).

Restoring Competition To The Market Through Prophylactic Additional Relief The proposed Final Judgment not only bans Microsoft's unlawful practices, but also contains additional provisions which are prophylactic in nature, and are intended to ensure that the anticompetitive effects of those practices are not replicated through use by Microsoft of other exclusionary practices.

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[4] Section IV (J) (1) converts all per processor licenses to per system licenses, except those models which an OEM excludes, which will thereafter be subject to the limitations imposed on Microsoft by Section IV (G).

[5] Section IV (J) (2) prohibits Microsoft from prospectively enforcing minimum commitments in existing license agreements.

Microsoft Prohibited From Limiting OEM Sales of Competing Operating System Products: Section IV (B) bars Microsoft from entering into license agreements that prohibit or restrict an OEM from licensing, selling, or distributing competing operating system products. In addition, Section IV (E) prohibits Microsoft from expressly or impliedly conditioning its licenses of operating systems on the licensing, purchase, use or distribution not only of other covered products, but also any other Microsoft product, or non-Microsoft product. Without these provisions Microsoft could force OEMs to purchase covered products and thus accomplish anticompetitive effects similar to those achieved through its unlawful licensing practices, or attempt to extend or protect its monopoly in any covered product by conditioning its licenses on the licensing, purchase or use of other products.

Microsoft Limited to Per Copy and Per System Licenses: Sections IV (D) and IV (G) require Microsoft to use either "per copy" or "per system" licenses. Per copy licenses, if used in conjunction with pro-competitive volume discounts, pose few competitive concerns. Per system licenses, if not carefully fenced in, could be used by Microsoft to accomplish anticompetitive ends similar to "per processor" licenses. However, if an OEM easily can designate models not subject to a per system license, it can use non-Microsoft operating systems on those models without incurring a royalty obligation to Microsoft. If an OEM need not pay a royalty to Microsoft for anything but the number of copies of the Microsoft operating system that it actually uses, that OEM will not be deterred from licensing, purchasing or using competing operating system products.

Restrictions on Per System Licenses: The Final Judgment also places restrictions on the use of per system licenses to ensure that they are not used in an exclusionary manner. In particular, Section IV (G) specifies that per system licenses must allow the licensee to create "new systems" that can be sold without incurring a royalty obligation to Microsoft if they do not utilize a Microsoft product. Under Section IV (G), an OEM need only designate a new model name or number to create a "new system." Microsoft may not require the OEM even to notify Microsoft of the creation of a new system; nor may Microsoft impose requirements relating to the marketing or advertising of a new system, or penalize an OEM for creating a new system.

Section IV (G) (4) requires Microsoft to notify within 30 days following entry of this Final Judgment all existing OEM licensees under per system licenses and all OEM licensees with per processor licenses who choose to let them be converted to per system licenses (a provision discussed below) of their rights to create new systems that will not be subject to any existing per system license. This notice provision ensures that existing licensees promptly know of their rights to avoid royalty payments under per system contracts if they choose to create new systems.

Microsoft Prohibited From Using Lump Sum Pricing: Section IV (H) also serves a prophylactic function, prohibiting the use of lump sum pricing in license agreements for covered products. As defined in Section II (F), lump sum pricing is any royalty payment that does not vary with the number of copies of the covered product (under per copy licenses) or the number of personal computer systems (under per system licenses) that are licensed, sold, or distributed by the OEM. This restriction, like the prohibitions on minimum commitments and requirements contracts, restricts conduct that could be used by Microsoft to achieve effects comparable to the effects of the conduct challenged by the government, and for that reason is enjoined.[6]

Neither Section IV (H) nor any other provision of the proposed Final Judgment prohibits the use of royalty rates, including rates embodying volume discounts, agreed upon in advance with respect to each individual OEM, each specific version or language of a covered products, and each designated personal computer system model. Nothing in the Final Judgment, however, in any way sanctions Microsoft structuring any volume discount whose purpose or effect is to impose de facto requirements contracts or exclusive arrangements on the OEM. As discussed below in connection with alternatives to the proposed Final Judgment, given Microsoft's monopoly power in operating systems, such practices can violate the antitrust laws.

Transition Rules

In the Stipulation consenting to the entry of the proposed Final Judgment, Microsoft agreed to abide by the provisions of the proposed Final Judgment immediately upon the filing of the Complaint, i.e., as of July 15, 1994. Among other things, the transition provisions described herein will require Microsoft to abide by the foregoing limitations and prohibitions when entering into any license agreements with OEMs after July 15, 1994. Certain additional provisions of the proposed Final Judgment also apply to existing license agreements that are inconsistent with the proposed Final Judgment's requirements for new license agreements.

Under Section IV (I), existing OEM licensees may terminate or negotiate with Microsoft to amend their agreements to make them consistent with the requirements of the Final Judgment.

Section IV (J) provides that if an OEM chooses not to exercise either of these options, Microsoft must abide by the following rules. First, under Section IV (J) (1), a per processor license must be treated as a "per system" license; OEM models that contain the microprocessor(s) specified in such a per processor license will be considered to be covered by the "per system" license unless the OEM opts in writing to exclude such model from coverage. As already noted, OEMs may freely sell PCs with non-Microsoft operating systems, and avoid any obligation to pay royalties to Microsoft under a per system license, simply by designating such PCs as a new system with a separate model number or name. Second, under Section IV (J) (2), Microsoft may not enforce any minimum commitment in an existing license agreement.

These provisions further two consistent goals. Opportunities for competition in the PC operating system market are fostered by a rapid end to the unlawful practices embodied in existing licenses. At the same time, the transition rules avoid creating hardships for OEMs by not unnecessarily disrupting established commercial relationships with Microsoft. Indeed, OEMs are not required to terminate or amend their existing contracts with Microsoft; the choice to do so is theirs alone. Microsoft, however, may not enforce the per processor or minimum commitment features of any existing contract. Providing OEMs with this choice minimizes the costs of the transition from existing license agreements that are inconsistent with the decree to new license agreements, while ensuring that any unavoidable transition costs be borne largely by Microsoft.

To ensure that existing licensees learn of their rights under the proposed Final Judgment, Section IV (M) requires Microsoft to provide a copy of the Final Judgment to all OEMs with which it has license agreements, except for those who have licenses only under Microsoft's Small Volume Easy Distribution program or the Delivery Service Partner program.

Non-Disclosure Agreements

Finally, the proposed Final Judgment contains provisions that prevent Microsoft from imposing unlawfully restrictive NDAs on developers of applications software.

Sections IV (K) (1) limits the duration of any NDA to the earliest of (a) the commercial release of the product covered by the NDA, (b) an earlier public disclosure of the information covered by the NDA, or (c) one year after the information is disclosed to the person subject to the NDA. Section IV (K) (2) provides that NDAs may not restrict subject parties from developing software products that will run on competing operating systems, if such development does not entail the use or disclosure of Microsoft proprietary information during the term of the NDA.

In combination, these provisions recognize that whatever Microsoft's legitimate interest in protecting the confidentiality of proprietary information covered by the NDAs, the need for any such protection must be balanced against the competitive consequences of any restriction imposed on others concerning disclosure and use of the information. The proposed Final Judgment ensures that any NDA imposed by Microsoft will not extend beyond the point that the requirements of the Antitrust Procedures and Penalties Act have been satisfied. The Court then must determine whether the proposed decree is in the public interest, pursuant to Section 5 (e) of the Clayton Act, 15 U.S.C. 16 (e).[7]

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[6] If a license agreement established a minimum commitment greater than the OEM's requirements for operating systems (an agreement that would be prohibited under this decree), the minimum commitment would constitute, in effect, a lump sum payment. Regardless of the number of copies distributed by the OEM, its royalty payment to Microsoft would not vary. A lump sum pricing arrangement imposed by a monopolist that allowed unlimited use of the licensed product for a single fee calibrated to the anticipated total operating system needs of a particular OEM would also produce a similar economic effect as a requirements contract or a per processor license: the OEM would owe the same royalty to Microsoft whether it chose to use a Microsoft operating system on all of the PCs it sold, or only on some of the PCs it sold, and would, in effect, "pay twice" if it chose to purchase a non-Microsoft operating system for some of its PCs.

ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

In addition to the remedies provided in the proposed Final Judgment, the Department also considered whether to require limitations on the manner in which Microsoft could structure volume discount pricing arrangements for covered products. While the Department recognizes that volume discount pricing can be and normally is pro-competitive, volume discounts also can be structured by a seller with monopoly power (such as Microsoft) in such a way that buyers, who must purchase some substantial quantity from the monopolist, effectively are coerced by the structure of the discount schedule (as opposed to the level of the price) to buy all or substantially all of the supplies they need from the monopolist. Where such a result occurs, the Department believes that the volume discount structure would unlawfully foreclose competing suppliers from the marketplace—in this case, competing operating systems—and thus may be challenged.

The Department ultimately concluded that it would not require provisions in the Final Judgment to attempt to proscribe in advance the various means by which Microsoft could attempt to structure volume discounts as a means to thwart competition rather than as a means of promoting competition. The Department reached this conclusion because it does not have evidence that Microsoft has, to date, in fact structured its volume discounts to achieve anticompetitive ends. The Department did, however, communicate to Microsoft its concern and stated its intent to initiate an investigation and antitrust enforcement proceeding, if warranted, should Microsoft adopt anticompetitive volume discount structures in its future license agreements. Given the procompetitive impact of the provisions of the proposed Final Judgment, the normally procompetitive nature of volume discount pricing, and the absence of any evidence that Microsoft has used volume discounting in an anticompetitive manner to date, the Department believes that this resolution is appropriate on the record at this time.

Another alternative to the proposed Final Judgment would be a full trial of this case. The Department of Justice believes that such a trial would involve substantial cost to the United States and is not warranted since the proposed Final Judgment provides all of the relief that the United States seeks in its Complaint and includes substantial additional prophylactic measures as well.

Determinative Materials and Documents

No materials or documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), were considered in formulating the proposed Final Judgment.

Dated: July 27, 1994

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EXHIBIT 4
TO THE COMMENTS
OF RELPROMAX ANTITRUST INC.

MTC-00030631—0256

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA UNITED STATES

Plain vs. ?? No. 94–1564 (SS) MICROSOFT COR?? FILED Defend FEB 14 1995 Clerk U.S. District Court District of Columbia.

MEMORA?? The economic arguments in ?? were prepared m extensive consultation with the following economists. However, because of the shortness of time, counsel retained complete responsibility for the contents of this document.

Garth Saloner
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Magowan Professor of Economics Citibank Professor and Strategic Management Santa Fe Institute and and Associate Dean for Morrison Professor of Academic Affairs Population Studies and Graduate School of Business Economics Stanford University Stanford University

TABLE OF CONTENTS

Page

I INTRODUCTION AND SUMMARY 3
II THE PERMISSIBLE SCOPE OF THIS COURT'S REVIEW 14
III THE ECONOMIC CHARACTERISTICS OF THE SOFTWARE INDUSTRY 20
  A. Market And Technology Background 21
    1. The Business Desktop 24
    2. The Intrabusiness Server 28
    3. The Home-to-Business Server 31
    4. Home Computer Market 32
    5. OLE 33
    6. Windows 34
      a. Desktop 35
      b. Server 35
  B. Free Market Forces in Increasing Return Industries 36
IV MICROSOFT'S TACTICS AND PROSPECTS FOR SUCCESS 43
  A. Microsoft's Strategy 44
    1. The Business Desktop 50
      a. Effect of the Monopoly on Operating Systems 51
      b. Effect of the Monopoly on Applications 52
      c. Unfair Early Access 55
      d. Predatory Bundling 59

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[7] In making this public interest determination, "[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "within the reaches of the public interest."' United States v. Bechtel Corp., 648 F.2d 660,666 (9th Cir.), cert. denied, 454 U.S. 1083 (1981) (citations and internal omitted). Accord United States v. Western Electric Co., 993 F.2d 1572, 1576 (D.C. Cir. 1993); United States v. American Tel. and Tel. Co., 552 F. Supp. 131,151 (D.D.C. 1982), aff'd suc nom. Maryland v. United States, 460 U.S. 1001 (1983).

TABLE OF CONTENTS—Continued

Page
e. Predatory Unbundling 62
f. Other Uses of Leverage 62
2. The Intrabusiness Server 64
3. The Home-to-Business Market (Server and Client) 65
a. Predatory Bundling 66
b. Unfair Use of Information 68
c. Unfair Head Start 69
V MICROSOFT'S NETWORK-WIDE MONOPOLY 73
A. Leverage of the Installed Base by Competitors 74
B. Alliances 75
C. "Tiered" Monopoly 77
D. Efficiencies of Integration 80
VI ANTITRUST ENFORCEMENT 83
A. Deficiencies of the Proposed Judgment 84
B. Comparable Consent Decrees 87
1. Parke, Davis Decree (Pharmaceuticals) 87
2. International Business Machines Corp. (Computers) 88
3. American Telephone and Telegraph (Telecommunications) 89
C. Case Law 90
VII PROPOSED PROCEDURES UNDER SECTION 16(f) 91

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TABLE OF CONTENTS—Continued

Page

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TABLE OF CONTENTS—Continued

Page

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The Department of Justice has determined that from 1988 through July 1994, a period during which the number of personal computers in the United States virtually exploded. Microsoft Corporation successfully used a variety of unlawful and "anticompetitive" practices to maintain its monopoly position in the market for "operating systems" for use with personal computers. As a result of these unlawful practices, Microsoft has been able to preclude any meaningful competition in the market while increasing the installed base of Microsoft operating systems from well under 20 million in 1988 to approximately 120 million in 1994.

This memorandum [1] will show that under established economic theory, this now-massive installed base will enable Microsoft, if unchecked, both to maintain its monopoly in the operating systems market, and to leverage its installed base to dominate and monopolize the markets for applications and other software products. This brief also will show that the Department's proposed decree completely fails to address the consequences of the huge increase in installed base that Microsoft has procured through illegal practices. Instead, the Department simply proposes to shut the barn door now that the horse has already gone.

Under established economic theory, it is clear that the proposed decree will neither result in an increase in competition in the operating systems market, nor prevent Microsoft from monopolizing the remainder of the software industry. These amici accordingly urge the Court to require further submissions from the Department, both by way of expert affidavits and the production of documents, to explain how permitting Microsoft to profit from its illegal conduct not just by continuing, but by expanding, its monopolization of the software industry can be argued to be in the "public interest."

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[1] This memorandum amici curiae is submitted by Wilson, Sonsini, Goodrich & sati on behalf of certain clients that prefer to retain their confidentiality. Hence, they are not identified in this submission.

Introduction and Summary

This Court has been asked to endorse the proposed Consent Decree between the Department of Justice and Microsoft without being provided with any of the information upon which a meaningful determination under the Tunney Act could be based. Thus, for example, the Department's investigation ostensibly inquired regarding "alleged false product preannouncements" by Microsoft. 59 Fed. Reg. 59,426, 59,427 (Nov. 17, 1994). At the September 29, 1994 hearing on this matter, the Court referred to this issue, noting that in the book Hard Drive,:[2] Microsoft was said "time after time" to predatorially preannounce products "th the intent [to] freeze other people from coming out with their product." Tr. of Status Call, Sept. 29, 1994, at 16:21–22. The following colloquy then took place between Microsoft's counsel and the Court:

> The Court: [H]ow do you answer those charges?
>
> Mr. Urowsky: Those charges we believe are entirely false.
>
> The Court: In other words, the vaporware charge is false?
>
> Mr. Urowsky: That's correct.

Id. at 15:7–12, 16:18–17:1.

Microsoft's representations, however, are belied by Microsoft's own documents, produced to the Government during the course of its investigation. (Examples of such documents are attached hereto at Appendix Exs. 21 and 22.)[3] Thus, for example, a Microsoft manager was involved in spearheading two product preannouncements during one six-month period. In one instance, the manager wrote that in response to "Borland's announce[ment of] TurboBASIC at the November Comdex," he simultaneously worked "to develop a [Microsoft] spec[ification] that could beat TurboB," while also formulating a promotional campaign "that could hold our position until [QB3, the Microsoft product] hit the market."[4] He stated that he "reviewed [this] promotion plan with Bill G. before implementation." Id. The Microsoft documents state that Steve Ballmer, one of Microsoft's top executives, favorably commented on this strategy, saying that the "best way to stick it" to Borland was such a "QB3 preannounce to hold off Turbo buyers."[5]

In the same document, the Microsoft manager wrote that Microsoft was "not as far along on the response to [Borland's] Turbo C," a second product, because Microsoft was "further from product announcement." According to the Microsoft document, the Microsoft manager: developed a rollout plan for [Microsoft's products] QuickC and CS that focused on minimizing Borland's first mover advantage by preannouncing with an aggressive communication campaign.[6]

The manager was given the highest possible rating on his performance review (a "5-") for his "public relations" handling of this "C preannouncement."[7]

Perhaps even more striking than the incongruence between Microsoft's representations and its own documents is the silence by the Department, both in its written submissions and in its oral presentation to the Court, regarding its findings on this and other matters: The Department has not taken the position (nor, presumably, could it, without some explanation of the documents that have been submitted to it) that Microsoft has not engaged in practices such as predatory, preannouncements, or the seeding of what are referred to as "undocumented calls" (secret elements in an operating system that make a competitor's applications program operate less well than a rival Microsoft program),[8] Instead, the Department simply has asserted that it had determined that "no further action was warranted" on these matters—presumably a conclusion that it asks this Court to take completely on faith, since it has provided the Court with literally no explanation for its decision.

Most remarkable of all, however, is the absence of any information in any of the Department's submissions regarding the adequacy of its proposed remedy for Microsoft's illegal monopolistic conduct. Based on the Department's own allegations, from 1988 to 1994 Microsoft used a variety of illegal tactics to maintain its monopolistic share in the rapidly growing operating systems market—and thus increased the size of its installed base through the use of illegal tactics from no more than 18 million[9] to approximately 120 million users.[10] Having acknowledged that Microsoft thus illegally acquired its massive installed base, the Department nonetheless has failed to proffer any basis for concluding that simply prohibiting these practices in the future will remedy the unassailable position that Microsoft has gained as a result of its unfair and illegal practices.

Certainly no one in the industry believes that the Department's proposed remedies will have the slightest effect in unseating Microsoft from the position that it now illegally occupies. As one competitor observed after the consent decree was announced, "[t]he consent decree seems to have set [Microsoft] free .... Now, they are running rampant over everything."[11] Microsoft entirely agrees. As Bill Gates observed in his response to the proposed decree:

> None of the people who run [Microsoft's seven] divisions are going to change what they do or think or forecast. Nothing. There's one guy in charge of [hardware company] licenses. He'll read the agreement.—Elizabeth Corcoran, Microsoft Deal Came Down to a Phone Call, Washington Post, July 18. 1994, at Al (Ex. 42).

Nor have events since the decree was proposed provided the slightest basis for believing that the Department's proposed remedy will have any effect. In a nationally televised press conference on July 16, 1994, Attorney General Janet Reno predicted that the Department's settlement with Microsoft would have two results: it "will save consumers money [and] enable them to have a choice when selecting operating systems."[12] In fact, however, in the six months since the proposed settlement was announced, press reports indicate that Microsoft has literally doubled the price of its operating system to computer manufacturers.[13]

Moreover, far from the decree leading to an increase in competition in the operating systems market, a key competitor in that market, the maker of DR DOS, has subsequently withdrawn from the market. The competitor observed in withdrawing from the market that "the battle for the desktop is over and MS DOS and Windows have won."[14] The withdrawal of DR DOS from the market is of particular note since it was DR DOS that the authors of Hard Drive pointed to as providing the most likely source of meaningful competition to Microsoft in the operating systems market. See Hard Drive, supra, at 398.[15]

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[2] James Wallace & Jim Erickson, Hard Drive: Bill Gates and the Making of the Microsoft Empire (1992).

[3] Exhibit numbers refer to selected supporting documents which have been included in the Appendix to this Memorandum of Amici, filed herewith. For the Court's convenience, documents in the Appendix have been organized alphabetically by publication title.

[4] Microsoft Corp. Employee Performance Review, dated May 4, 1987, at 3 (Ex. 21). (Although this review has become a public document, these amici have redacted the review to safeguard the employee's privacy interests.)

[5] Microsoft Corp. Employee Performance Review, dated Nov. 2, 1987, at 8 (Ex. 21). (Although this review has become a public document, these amici have redacted the review to safeguard the employee's privacy interests.)

[6] Id. at 6.

[7] Microsoft Corp. Employee Performance Review, dated May 4, 1987, supra, at 3 (Ex. 21).

[8] Examples of such "undocumented calls" will be described in Section IV, infra.

[9] According to industry consultant Jerry Schneider, Microsoft's installed base in March 1988 was only nine to twelve million. Dump DOS? No Way, Not Yet, Computer Decisions, March 1988 at 50 ("between nine and twelve million DOS machines"). Indeed, according to Business Week, no more than twelve million PCs had been sold by April 1988. Will Sun Melt the Software Barrier, Business Week, April 18, 1988, at 72 ("Sun aims to coax a portion of the 12 million owners of PCs and clones into the UNIX camp.") The more expansive measure taken by industry analysts at International Data Corp. indicated there were "approximately 18 million IBM PCs and compatibles worldwide," in March 1988. Alan Radding, IBM PC Orphans Hang On To A Good Thing, Computerworld, March 7, 1988, at 81. Therefore, even under the assumption that Microsoft's operating system software had been installed in every IBM PC or compatible sold by 1988, Microsoft's installed base at that time was no larger than eighteen million. Cf. Christopher O'Malley, The New Operating Systems, Personal Computing, October 1988, at 181 ("better than 95 percent [of then-existing] PC's and compatibles use] Microsoft's disk operating system.").

[10] Amy Cortese, Next Stop, Chicago, Business Week, Aug. 1, 1994, at 24 C120 million MS-DOS customers (including 55 million Windows users)"). See also OS Overview, Computer Reseller News, Aug. 22, 1994, at 223 (International Data Corporation table) (DOS and Windows installed base of 110.1 million).

[11] Amy Cortese, No Slack for Microsoft Rivals, Business Week, Dec. 19, 1994, at 35 (Ex. 5).

[12] Attorney General Janet Reno, Department of Justice Press Conference Transcript Microsoft Settlement (July 16, 1994) at 2 (Ex. 12).

[13] Amy Cortese, Business Week, Dec. 19, 1994, supra, at 35 (Ex. 5) ("Computer makers have been startled to learn that they will be asked to swallow a huge price hike for their use of Windows 95—to as much as $70 per PC, vs. roughly $35 today.").

Having failed to explain how its proposal will remedy Microsoft's illegal acquisition of its massive installed base in the operating systems market, the Department's submission does not even touch on Microsoft's use of that illegally acquired installed base to leverage into—and acquire market power in—other software markets. In analyzing the strength of the Department's case against Microsoft, Hard Drive identified Microsoft's weakness in application programs as the principal reason (apart from the competition provided by products such as DR DOS) why Microsoft's dominant position arguably would not hurt consumers. With respect to application programs, the authors in 1992 argued that Microsoft does not come close to dominating the Big Three of applications—word processing, databases and spreadsheets. WordPerfect is far ahead of Microsoft Word, Lotus 1-2-3 is still ahead of Excel, and Microsoft has nothing to compete against Ashton-Tate's dBASE.

Larry Campbell, Novell to Introduce SuperNOS Strategy, South China Morning Post, Sept. 20, 1994, at 1 (Ex. 37) (quoting Robert Frankenburg speech to Networld + InterOp "94 conference). See also Bob Lewis, Ten Troublesome Trends in Computing That Are Sure to Spook You, InfoWorld, Oct. 31, 1994, at 82 ("Let's all admit that NextStep and QNX should have all of the market if there was any justice," but Microsoft's "Windows and DOS have more than 80 percent market share, so the wax is over! "). Nor has the irony of this withdrawal been lost on the computer industry. As one observer noted: "July [of 1994] saw Microsoft in full agreement with the Justice Department. Microsoft agreed to withdraw the "per processor" option that most PC suppliers found the cheapest way to buy DOS [in order to] encourage firms to offer alternatives to Microsoft's operating systems. Shortly afterward, Novell announced that it was stopping development of DR-DOS." Jack Schofield, Computing 94: Processor Wars and Rumors of Delays, Guardian, Dec. 29, 1994, at T14.

What a difference three years can make—at least when, like Microsoft, a company can leverage its installed base in operating systems, and finance early losses in applications with monopoly profits from operating systems. Under the headline "MICROSOFT'S DOMINATION," Dataquest Inc. has reported the 1994 market revenue and share figures for the applications market:

"Lotus 1-2-3, WordPerfect, dBASE, Paradox and Harvard Graphics once dominated their respective categories," said Dataquest analyst Karl Wong. "Today, Microsoft products have replaced each of these one-time product category leaders." Microsoft's Domination, San Jose Mercury News, December 21, 1994, at 1F (Ex. 35).

Microsoft did not achieve its dominant position in operating systems and applications through free and open competition on a level playing field. Rather, it used the illegal tactics challenged in the Government's complaint to create a huge installed base in operating systems. Then, it took unfair advantage of its installed base to give its own applications group a head start and its programs a performance advantage over applications competitors—precisely the concern voiced in Hard Drive[17] and echoed by this Court.[18]

Indeed, in 1990 Microsoft began to bundle its application products together into so-called "suites." These mites are the fastest growing segment of the applications market, and Microsoft commands more than 85% of the suite market. See Personal Computing Software Worldwide, Dataquest, June 27, 1994, at 20 (selected pages at Ex. 11) (unit shipments of suites grew more than 350% in 1993); id. at 27 (Microsoft's 1993 market share for suites is 85.4%); Doug VanKirk, Integrated Office Suites, InfoWorld, Feb. 7, 1994, at 51 ("Microsoft owns a 90 percent share of the suite market .... ").

"Microsoft has never had a hit among its MS-DOS applications programs."[19] Yet, in the past few years, Microsoft has come from nowhere to provide the lion's share of business application programs.[20]

As explained in this brief, Microsoft achieved that result by the illegal tactics charged by the Government, and by illegal tying techniques, monopoly leveraging, and otherwise predatorially exploiting its monopoly position in one market to achieve market power in other markets. Because of the type of economic forces that prevail in these markets, rigorous economic analysis predicts that, unless restrained by Government action, Microsoft will succeed in using its dominance in operating systems to monopolize all other aspects of transaction software, from desktop applications to online systems. Microsoft's goal is to identify and control every "strategic component," "choke point" or "leverage point" in the information economy.[21] And Microsoft is already close to achieving a complete lock-in in desktop applications.

This Memorandum of Amici argues that the Proposed Final Judgment is not in the public interest and should not be entered by this Court. Indee??conomically impossible to achieve the stated goals of greater choices and lower prices for operating systems without (1) addressing the increase in installed base that Microsoft has procured through illegal practices and (2) restraining Microsoft's use of that installed base to dominate the markets for applications and other software products.

This Memorandum of Amici is divided into seven sections. This first section provides a summary and overview of the brief. The second section addresses the scope of investigation and power of this Court under the Tunney Act. In particular, the second section argues that, under 15 U.S.C. 16(e), the Court not only can but should consider the effect of the proposed decree beyond the operating systems market. The section further argues that the Department's submission falls far short of providing the Court with an adequate record upon which to act, and provides no factual predicate for concluding that the decree's remedy is even arguably within the "public interest" under Section 16(e). The remainder of the brief explains that the Government cannot effectively restore and maintain competition—even in the operating systems market—without addressing both the consequences of the "installed base" that Microsoft increased through illegal means, and the use of Microsoft's resulting market power more broadly. Section III describes the markets and technologies in which Microsoft operates and lays a foundation for an understanding of Microsoft's conduct and strategic direction. The section begins by describing the interrelationships among complicated software technologies and demonstrates that the various markets in which Microsoft competes are parts of a large network that can be entered by a competitor's product through a few key gateways, the principal gateway being the desktop operating system. Using economic analysis, the section then argues that the economic characteristics of the technologies and markets at issue differ markedly from other, more conventional industries, in that these products (software products) and markets (networks) exhibit "increasing returns," also sometimes called "network effects." The section discusses the underlying characteristics of the technology that gave rise to these conditions and the likely consequences that these circumstances will produce.

Section IV of the brief explains Microsoft's strategy and evaluates Microsoft's prospects for complete domination of all of the interconnected software markets. The section begins by explaining that Microsoft increased its "installed base" in operating systems through the illegal practices charged in the Government's complaint. The section then explains and documents the fact that Microsoft pursues a strategy of leverage from "gateway" markets, like the desktop operating system in which it is dominant, to strategic markets in which its competitive position is weak (as was the case in applications). Microsoft targets such strategic markets, establishes marketing and technological links to those markets from established monopolies in gateway markets, and leverages its power to monopolize the target markets. In other words, it transfers the installed base of a gateway market it dominates to create an installed base in the strategic target market. The section focuses primarily on the desktop market, describing in some detail the method by which Microsoft (according to the Government's Tunney Act filing) used illegal activities to increase its installed base in operating systems and then leveraged its monopoly over the operating system to dominate applications. In particular, the section describes Microsoft's tactics of bundling and unbundling functions into and out of its operating system to disadvantage its competitors in the applications market.

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[17] Hard Drive, supra, at 398–99.

[18] Tr. of Status Call, Sept. 29, 1994, at 25–28.

[19] Ron White, Microsoft Gives the New Word, PC Week, Oct. 20, 1987, at 95.

[20] See. Eg., Brent Schlender, Bill. Gates: What Doesn't He Want, Fortune, Jan. 16, 1995, at 36.

[21] Id. at 47.

Section V of the Memorandum of Amici applies "increasing returns" economics to suggest that Microsoft likely will achieve a monopoly position for its products throughout the entire personal computer network unless restrained by Government action. The section rejects various arguments that could be put forward to justify such monopolization, including the arguments (1) that alternative networks created by alliances of competitors will provide competition, and (2) that the benefits derived from integration of a single product line are worth the cost in loss of free competition throughout the network. The section concludes by suggesting that absent meaningful governmental intervention, the American software industry will be monopolized by Microsoft, with the only competition coming from protected markets and competition abroad.

Section VI evaluates the possibilities and prospects for governmental intervention from the legal "perspective. The section begins with an evaluation of the proposed Final Judgment, observing that the Government's Tunney Act filing concedes that Microsoft. through the use of illegal practices, has acquired an enormous installed base that constitutes an overwhelming barrier to entry. The only sanction proposed by the Government, requiring Microsoft to cease the behavior that permitted it to acquire this entrenched installed base, will have no effect in diminishing the installed base, easing barriers to entry, or otherwise precluding Microsoft from using the illegally acquired installed base to monopolize the operating system market or other markets. The section considers specific strategies for relief adopted by previous Administrations in comparable situations and analyzes legal precedents supporting such strategies. Finally, Section VII of the brief proposes procedures this Court may wish to adopt in order to exercise its appropriate role in Tunney Act proceedings. The section urges the Court to order the production of key Microsoft documents and to require the Government to produce detailed and predictive economic models of the type previously employed to support consent decrees adopted through Tunney Act procedures.

The Permissible Scope of This Court's Review

In 1974 Congress enacted the Antitrust Procedures and Penalties Act ("APPA"), also known as the "Tunney Act." 15 U.S.C. §§ 16(b)-(h) (1994), out of concern with "prior practice, which gave the [Justice] Department almost total control of the consent decree process, with only minimal judicial oversight." United States v. American Tel. & Tel., 552 F.Supp. 131. 148 (D.DC 1982) ("AT&T"), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983). To remedy this practice, Congress sought to eliminate "judicial rubber stamping" of such consent decrees,[22] providing that "[b]efore entering any consent judgment ... the court shall determine that the entry of such judgment is in the public interest." 15 U.S.C. 16(e). Circuit Judge Aldrich, sitting by designation in United States v. Gillette Co., 406 F.Supp. 713 (D. Mass. 1975) (cited by both the Department and Microsoft), observed upon reviewing the legislative history of the Act:

> The legislative history shows clearly that Congress did not intend the court's action to be merely pro forma, or to be limited to what appears on the surface. Nor can one overlook the circumstances under which the act was passed, indicating Congress" desire to impose a check not only on the government's expertise—or at the least, its exercise of it—but even on its good faith.——Id. at 715.[23]

Despite this clear statutory intent, the oral and written submissions in the present case have suggested that the Court's review should be circumscribed in ways not supported either by the statute or by existing case law. First, the submissions may be taken as suggesting that the Court should look only to the impact of the proposed decree on the operating system market in determining whether the decree is in the public interest. See, e.g., 59 Fed. Reg., at 59,429. The law, however, plainly is otherwise. For example, in United States v. BNS Inc., 858 F.2d 456 (9th Cir. 1988),—a case relied upon by the Department—the Court observed that "the statute suggests that a court may, and perhaps should, look beyond the strict relationship between complaint and remedy in evaluating the public interest." 858 F.2d at 462 (quoting United States v. Bechtel Corp., 648 F.2d 660, 666 (9th Cir.), cert. denied, 454 U.S. 1083 (1981)). While the court's public interest determination may not be based on a different market from the one identified in the complaint, the Ninth Circuit emphasized that this did not mean that only effects on that market can or should be considered:

> [T]he statute clearly indicates that the court may consider the impact of the consent judgment on the public interest, even though that effect may be on an unrelated sphere of economic activity. For example, the government's complaint might allege a substantial lessening of competition in the marketing of grain in a specified area. It would be permissible for the court to consider the resulting increase in the price of bread in related areas.—Id. at 463 (emphasis added).

Under the Department's own authority, therefore, the Court's inquiry is not limited to the effect of the proposed judgment on the operating system market. To the contrary, the Court can (and, it is submitted, should) determine the effect of the proposed judgment on other areas impacted by Microsoft's monopolistic conduct. As will be discussed in more detail in Section IV, infra, for example, Microsoft has used its illegally acquired market position to leverage into and acquire a monopoly in other related markets. The failure of the decree to "break up or render impotent [this] monopoly power found to be in violation of the Act." AT&T, 552 F. Supp. at 150—indeed, its tacit decision to leave Microsoft free to profit from its unlawful market power by leveraging into other software markets—is something that the Court should consider in evaluating the public interest served (or disserved) by the proposed decree.

MTC-00030631—0283

A second limitation implied in the submissions to the Court also is without authority in the case law, namely, that the Court is limited to considering those matters that the Department has identified in its complaint. That is not the law. See, e.g., BNS, 858 F.2d at 462 ("a court may consider matters not discussed in the complaint"); Gillette, 406 F.Supp. at 715 ("Congress did not intend the court's action to be... limited to what appears on the surface"). Indeed, simply accepting at face value the Department's analysis—and even its good faith—amounts to precisely the kind of "rubber stamping" that the APPA expressly rejects. The Court is required, in evaluating the Department's proposed decree, to determine whether it "meets the requirements for an antitrust remedy—that is, if it effectively opens the relevant markets to competition and prevents the recurrence of anticompetitive activity." AT&T, 552 F. Supp. at 153. If the Department has determined not to address a practice—for example, Microsoft's "bundling" of operating and applications programs, discussed in more detail in Section IV, infra—which forecloses any meaningful chance of competition in the operating systems market, that fact must be considered by the Court in assessing the adequacy of the decree as a remedy for the charged violations. That is so regardless of whether the Department has chosen to turn a blind eye to the consequences of such bundling on the effectiveness of its proposed decree.

Finally, prior submissions to the Court have emphasized that in assessing whether the decree is in the "public interest" under Section 16(e), the Court should not "determine whether the resulting array of rights and liabilities is the one that will best serve society, but only to confirm that the resulting settlement is within the reaches of the public interest." United States v. Western Electric Co., 900 F.2d 283, 309 (DC Cir. 1990), cert. denied, 498 U.S. 911 (1990) (citations and quotations omitted; emphasis in original). This standard clearly is correct. but the parties" further assertion—that the submissions already made by the Department are sufficient to satisfy this standard—equally clearly is not.

A comparison of the information provided in those cases relied upon by the Department, with that provided here, highlights just how far short the Department has fallen in providing this Court with an adequate record upon which to act. For example, the Department relies heavily upon the Court of Appeals" decision affirming a modification of the consent decree in United States v. Western Electric Co., Inc., 993 F.2d at 1572. See 59 Fed. Reg. at 59,429.[24] However, in finding that there was a sufficient "factual foundation for the judgment call made by the Department of Justice and to make its conclusion reasonable," 993 F. 2d at 1582, the Court of Appeals in that case expressly pointed to the "array of prominent economists (including two Nobel laureates, Stigler and Arrow)," who had submitted affidavits in the record that supported the Department's position. These affidavits provided detailed support for the factual predicates underlying the Department's proposal, including the view that the Bell operating companies would not be able to discriminate or engage in cross-subsidization: that government oversight would be effective in regulating their behavior; and that the proposal would enhance competition in the relevant markets. See id. at 1578–82.

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[22] As the sponsor of the Act, Senator Tunney, declared: "Specifically, our legislation will . . make our courts an independent force rather than a rubber stamp in reviewing consent decrees, and it will assure that the courtroom rather than the backroom becomes the final arbiter in antitrust enforcement." The Antitrust Procedures and Penalties Act: Hearings on S. 782 and S. 1088 before the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary, 93rd Cong., 1st Sess. (1973).

[23] Accord AT&T, 552 F. Supp. at 148 (Congress had "found that consent decrees often failed to provide appropriate relief, either because of miscalculations by the Justice Department or because of the "great influence and economic power" wielded by antitrust violators").

This Court, by contrast, has not been provided with the affidavit of any economist, or for that matter of anyone else, that would provide a factual predicate for any of the matters that it must decide in reviewing the adequacy of the proposed decree. The Department has provided no factual basis (other than its say-so) for believing that the remedies proposed in the decree would be sufficient to "pry open to competition" the operating systems market, AT&T, 552 F. Supp. at 150; that Microsoft's other anticompetitive practices (undocumented calls, predatory preannouncements, anticompetitive bundling and unbundling, early disclosure to Microsoft applications programmers) will not undermine the effectiveness of the decree; and so forth. Although this case involves an industry of unquestioned significance to the future of the American economy—one of comparable importance to AT&T itself &mdash; the Department has in fact given this Court nothing to go on other than the purest ipse dixit. Indeed, it is hard to imagine how the Department could claim that its request for approval of the decree amounts to anything but a request for a "rubber stamp" when it has so notably failed to say anything other than "trust us."

Nor does the Department's submission compare favorably with the information available to other courts in cases cited by the Department. In Gillette, for example, which first formulated the "reaches of the public interest" standard, see 406 F. Supp. at 716, Judge Aldrich concluded that he was able to make an independent determination regarding the adequacy of the proposed decree because "the record [in the case] is both open and extensive." Id. at 715. Here, the record is neither. Indeed, the transcripts of the hearings on September 29, 1994 and November 2, 1994 are replete with inquiries by the Court regarding matters inextricably tied to the adequacy of the proposed remedy—inquiries that repeatedly failed to yield any information at all, or (even worse) information that is at odds with the record.

The example of preannouncements already has been discussed above: despite Microsoft's unequivocal denial, and the Department's silence, the documentary record shows that such predatory preannouncements in fact are used by Microsoft. Nor is this the only example highlighted by the transcript. Equally striking is the Court's effort to ascertain whether the Department had concluded that a "Chinese Wall" exists between Microsoft's operating system and applications divisions. Noting the discussion of this point in Hard Drive, the Court may have been left with the impression during the hearing that such a "Chinese Wall" in fact exists. See Tr. of Status Call, Sept. 29, 1994, at 27:11–28:1. Certainly that is the impression that Microsoft previously has sought to convey, dating all the way back to 1983.[25] Indeed, throughout the spring and summer of 1991, after the FTC announced its investigation of Microsoft in March 1991, Microsoft persisted in its claim that the company's applications and systems development groups were separated.[26]

Now, however, at the end of a long footnote in its written submission, Microsoft disavows that any such "Chinese Wall" exists—and, indeed, derides the idea as "irrational." See Microsoft Mem. at 7 n. 12. The Department, again, has been silent. Was its determination that "no further action [is] warranted" on this issue, 59 Fed. Reg. at 59,427, based on Microsoft's earlier representation that a "Chinese Wall" in fact exists? Was it based on the conclusion that there is no "Chinese.Wall," but it does not matter? If not, why not'.)

The answers to these and other questions may remain unanswered because no satisfactory answer is available. As shown in Sections III through VI, infra, the Government cannot effectively restore competition in the operating systems market without addressing the consequences of Microsoft's illegally-acquired "installed base," and its broader use of its acquired market power. The Government's proposed consent decree, however, fails to do either.

The Economic Characteristics of the Software Industry

Section III is divided into two parts. Subsection A provides background by describing the structure of the software industry and how it has changed over time in response to Microsoft's prior conduct in the market. Subsection B describes the economic characteristics of the technologies and markets at issue here.

A. Market And Technology Background

The relevance of much of the material in this section, particularly the schematic diagrams, is fleshed out and explained to a great extent in the subsequent sections. If the Court is unfamiliar with these markets, the Court may find it useful at this point to read The Economist[27] article, and the Harvard Business Review[28] article, both found in the Appendix.

At the outset, two characteristics of these markets and technologies should be emphasized. First, the products at issue are software products, composed almost entirely of intellectual property content. Because of the nature of software, there can be greater flexibility in the formation of vertical relationships than often is present with respect to more conventional products. Unlike a pipeline, for example, many competitors can vertically link their software, through software compatibility, to products in the markets above and below them. So, for example, a number of different companies can make word processing application programs that work equally well with Microsoft's operating system so long as they all have the same technical information on a timely basis. It is not necessary for Microsoft to bundle—or literally tie together—its operating system and word processing program in order to ensure that the two programs work well together. With software, the efficiency benefits of vertical integration can be achieved without foreclosing access to competitors.

Second, the Stipulated Complaint and Final Judgment in this case focus on the Personal computer operating system and the applications that run on top of it. Together, the personal computer operating system and the applications that run on it are sometimes known as the "business desktop." But the desktop is really only an interrelated component of a network that contains desktops (or "clients") and "servers." These software networks bear many of the characteristics that economists have associated with networks in other industries, including "increasing returns" or "network effects," as described in Subsection B. Indeed, software networks manifest increasing returns, or demand-side economies of scale, more strongly than networks in more conventional industries.

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[24] An initial difference between that case and the present one, of course, is that the initial decree in that case was entered after the District Court had already heard approximately 11 months of trial testimony from roughly 350 witnesses. See AT&T, 552 F. Supp. at 140.

[25] See, e.g., A Fierce Battle Brews Over the Simplest Software Yet, Business Week, November 21, 1983, at 114 (Ex. 2) (quoting Microsoft executive Steve Ballmer) ("There is a very clean separation between our operating system business and our applications business... It's like the separation of church and state").

[26] See, e.g., Paul Andrews, Can Microsoft Just Do It?, Seattle Times, March 18, 1991, at B1 (Microsoft "repeatedly" asserted "that a "Chinese Wall" exists between its applications and systems divisions"); Microsoft and IBM Under Investigation by FTC, Technical Computing, Apr. 1, 1991 ("Microsoft maintains that it does not take unfair advantage of advance knowledge of operating systems in designing its consumer products. It says there is a "Chinese Wall" between systems and applications"); Michael Stroud, ITC Widens Probe of Microsoft Dominence, Investor's Daily, Apr. 15, 1991, at 1 ("Microsoft maintains that it keeps a "Chinese Wall" between its operating system and applications divisions to prevent such an unfair advantage from occurring"); Sean Silverthorne, AMD Files $2 Billion Antitrust Suit Against Intel, Investor's Daily, August 30, 1991, at I (Microsoft responds to charges that its application developers receive "inside knowledge" about the company's operating systems by claiming that Microsoft "has erected a "Chinese Wall" between the two operations. ").

[27] The Computer Industry Survey: Reboot System and Start Again, The Economist, Feb. 27-Mar. 5, 1993, at 3 (Ex. 14). 28 Charles R. Morris and Charles H. Ferguson, How Architecture Wins Technology Wars.

[28] Harv. Bus. Rev., Mar. 1993, at 86 (Ex. 16).

The network at issue here has four components, two on the "business" side and two on the "home" side. On both the home and business sides, there is a desktop, or "client," component, and a "server" component that links the desktop into a broader network. The network as a whole can be diagramed as follows:

BOX 1
HOME CLIENT
Applications
Multiple Layers
Connected to Server
by Windows 95
Home-to-Business
("On Line Services")
Home-to-Business
Server
8 Layers
Connected to Home
Client and
Intrabusiness Server
by Windows NT
HOME-TO-BUSINESS
BOX 2
BOX 4
INTRABUSINESS CLIENT
Applications
5 Layers
Connected to Server by
Windows 95"
Intrabusiness
(Enterprise Server)
Intrabusiness Server
8 Layers
Connected to
Intrabusiness Client
and Home-to-
Business Server by
Windows NT
ENTERPRISE SERVER
BOX 3
Figure I

The following description attempts to provide some explanation for each of these boxes: the intrabusiness client, which runs on the "desktop"; the enterprise "server," meaning the hardware and software applications that run on a more centralized computer and that link the clients together; the home "client;" and the home-to-business server, that similarly links home personal computers ("PCs") into a larger network. This brief then discusses two particular technologies that play a critical role in understanding Microsoft's strategy: OLE and Windows.

1. The Business Desktop

The personal computer or "PC" was initially devised as a stand-alone device, but today it is usually used as part of a network. This is certainly the case in business, and will increasingly be the case in the home.[29] The PC, both stand-alone and as part of a network, is often referred to as "the desktop." The FTC investigation and the DOJ investigation of Microsoft have focussed on the desktop.

Prior to Microsoft Windows, the intrabusiness "client side" or desktop could have been thought of as having four layers.

Level	Name	Examples
4	Applications	Lotus 1-2-3, dBASE, WordPerfect. Harvard Graphics
3	Development Tools	Basic, Pascal, C
2	OS	Apple, CPM, MS DOS, DR DOS
1	Hardware	IBM, Apple, Kaypro

Today, the market looks more like Figure 3 below. It reflects two principal changes, each of which will be explained in Section IV, infra. First, Microsoft succeeded in forcing the market to migrate to a new operating system or "OS" (Windows), thereby inserting a new layer, the "graphical user interface" (GUI) layer (layer 3), between the operating system and the applications. Second, using its leverage in layers 2 and 3, it has become dominant as well in development tools (layer 4) and business applications (layer 5).[30]

Level	Name	Examples
5	Applications	(a) Desktop applications (e.g., Lotus 1-2-3, dBASE, MS Word, MS Excel, WordPerfect) The Microsoft Office is a bundle of these applications made exclusively by Microsoft. (b) Client applications as part of a network (e.g., Oracle Financials, SAP, Peoplesoft, D&B Software. etc.)
4	Development	Basic, Pascal, C, Borland C + +, Tools Powersoft
3	GUI and/or	MS Windows OS Services
2	Operating System	DOS, Apple, OS2/WARP, UNIX
1	Hardware	IBM, Apple, Compaq, Dell

Figure 3

The Justice Department investigation of Microsoft has focussed primarily on operating systems (Levels 2 and 3 in Figure 3),—but the Government's Tunney Act submission also considers the applications layers (Levels 4 and 5) insofar as they impact competition in operating systems. In order to evaluate the proposed Final Judgment, a slightly more detailed understanding of the operating system layer is necessary.

The Government's complaint defines the market as operating systems that run on the Intel chip set (known as "X86" chips). 59 Fed. Reg. at 42.847 (Complaint "[13). There were formerly three principal operating system vendors for this market—Microsoft (MS DOS and Windows), Novell (DR DOS) and IBM (PC-DOS and OS/2). Novell, as indicated above, has withdrawn from this market, and Microsoft is unquestionably a monopolist, currently enjoying a greater than 90% market share.[31] Software written for the current version of Windows (v. 3.1) and prior versions will also run on the IBM OS/2 operating system. However, software written expressly for Microsoft's next release of Windows (Windows 95), due out in August of 1995, will not run on the IBM OS/2 operating system. Don Clark and Laurie Hays, Microsoft's New Marketing Tactics Draw Complaints, Wall St. J., Dec. 12, 1994, at B6 (Ex. 41).

There are a few other competing desktop operating systems that run on different chip sets. For example, Apple's Macintosh operating system runs on a Motorola chip set. And the UNIX operating system generally runs on a specially designed chip, such as the "RISC" (reduced instruction set) chip designed by Sun Microsystems. See also

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[29] See, e.g., All Things Considered (NPR broadcast, Nov. 17, 1994) ("if there's a sub-theme to this whole [Comdex] conference, it's networking, and Microsoft is the company that wants to connect all those different boxes that are going to be in your house. "); Elizabeth Corcoran, —Microsoft Heads Home: Software Giant Targets Huge Consumer Market With a Host of High-Tech Innovations, Washington Post, Nov. 13, 1994, at H1 (Ex. 44).

[30] 30 Layer 5 has been broken out into two parts to reflect the development of what are known in the industry as "client-server" applications: applications that run partially on the desktop, and partially on server hardware connected to the desktop by a computer network.

[31] PC Week, Feb. 21, 1994, at 39 (Paine Webber, Inc. Table) (excluding sales of Macintosh—which does not use X86 chips—Microsoft's 1994 market share was 92.4%).

Computerworld, Dec. 6, 1993, at 99 (International Data Corp. Table) (Microsoft 1992 market share is 92.5%).

Even including these other operating systems in the same market as those that run on the Intel chip, Microsoft has an overwhelming market share, with well over 85 %. As the Government's Complaint correctly points out, applications software written for an Intel chip operating system will not run on the Apple Macintosh or Sun RISC workstation without significant modification—known as "porting." Frequently, porting application software to a new chip set and operating system entails a significant re-engineering of the software. Hence. the Government does not include operating systems for the different chip sets within the same antitrust market.

However, the Government fails to point out that the only companies in the market for developing business application software for the operating systems sold by Apple and Sun, for example, are also the business application vendors on the Windows platform—e.g., Novell/WordPerfect, Lotus, Borland, etc., and Microsoft, itself, of course. The significance of this fact is discussed in greater detail infra. The point here, however, is that if Microsoft were able to monopolize the market for business applications software, it would severely inhibit competition from vendors of operating systems that run on other chips but nevertheless compete with the Microsoft operating system (e.g., Apple and Sun).[32] Figure 4 shows what the intrabusiness client side probably will look like once Microsoft's strategy of vertical integration of markets within the client is completely executed.

It shows the completion of Microsoft's leverage from layers 2 and 3 to further its domination of all aspects of layers 4 and 5.

Level	Name	Examples
5	Applications	Desk-top Applications, e.g., Microsoft Word, Microsoft Excel, Microsoft Access, and Client Server Applications
4	Development Tools	MS Basic, MS C, MS C + +, Microsoft Visual Basic, Microsoft Visual C + +, OLE
3	Graphical User Interface	MS Windows
2	Operating System	MS DOS
1	Hardware	X86 PC Hardware and Other Hardware in Figure 3

Figure 4

2. The Intrabusiness Server

The "server" is the direct lineal descendant of the mainframe computer. Prior to the advent of the personal computer, companies operated using a mainframe, to which "dumb" terminals were connected. Personal computer technologies now allow many computing functions to be performed on the desktop by an individual worker, but workers within a business still need to share information with each other and access a body of data simultaneously. The "server," a dedicated hardware platform with its own server operating system, allows this to happen. Indeed, increasingly, workers within a business will want simultaneous access to several bodies of data and several different application programs, so that, for example, textual documents containing spreadsheets can be prepared by a number of employees working at the same time.

There are two basic components of the server markets. The intrabusiness server is the backbone of business. Microsoft has projected that there will be 300 million servers in the business community, running everything from phone systems, to copying systems, to cash registers. J. William Semich, The Long View From Microsoft: Component DBMSs. Datamation, Aug. 1. 1994, at 40 (Ex. 10). If a Single company controls all business server markets and applications, that company has far greater market power in various sections of the economy than, say, mere control of the desktop would bestow. The second server component. home-to-business, will be described in a subsequent section.

Today, the "server" side of the intrabusiness environment has approximately eight layers. It would unnecessarily complicate this brief of amici to describe the intrabusiness server markets in great detail. There are, however, three important points about the intrabusiness server markets that are relevant for this Court's consideration. First, the most important layer in the server market is the operating system level. The two leading competitors in this market at present are Novell's "Netware" product and Microsoft's NT product." The operating system is important because the other products in the server market run on top of the server operating system in much the same way as desktop applications run on top of Windows. The operating system level is also important because it is the level through which the server is connected to the business desktop and (through on-line services) to the home client.

Second, as was the case on the desktop four years ago, competition is vigorous at all levels of the server market. At each of the eight levels, there are a number of competitors, each striving to make better products at cheaper prices. This condition represents a significant (and welcome) departure from the state of the computer industry prior to the advent of personal computer and server technology. In an earlier period, there were only a few vertically integrated companies in the computer industry, such as IBM, DEC and Wang. These companies attempted to supply all aspects of computer technology—from the underlying chips and operating systems, to applications, to distribution, and even including service and support of previously sold computers. Generally speaking, consumers have benefitted enormously by the fragmentation of the industry into horizontal layers characterized by vigorous competition. Consumers have been able to choose the technologically superior and most cost effective product at each level and combine those products into a system that addresses the consumers" needs. The pro-competitive benefits of the industries" current horizontal alignment is discussed in some detail in the Economist article (Ex. 14).[33]

Finally, Microsoft is pursuing a vertical integration strategy on the intrabusiness server side similar to that pursued on the business desktop side. This strategy is only briefly discussed elsewhere in this paper. The Court can get further information concerning Microsoft's strategy, goals and prospects for success from the following articles found in the Appendix: Stuart J. Johnston and Ed Scannell, Server Suite Could Squeeze Market, Computerworld, Oct. 10, 1994, at 4 (Ex. 7); How Microsoft's Server Strategy Will Change The Industry—Parts I & II, Report by Summit Strategies Inc.; J. William Semich, Datamation, Aug. 1, 1994, supra, at 40 (Ex. 10). Obviously, after complete execution of this strategy, Microsoft products would be dominant or exclusive on each of the server layers.

3. The Home-to-Business Server

The second aspect of server technology is the home-to-business server market, sometimes known as "online services." Today, most online services run off mainframe computers the way LEXIS and NEXIS do. Businesses will increasingly need to sell directly into the home through online services in order to remain competitive. Control by a single company of the home-to-business server market would have significant economic ramifications.

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[32] The situation with respect w UNIX is slightly more complex, but in the final analysis, the situation is the same. UNIX has a strong following among technical engineering (as opposed to business) users of computers. There are companies that have written technical engineering application programs (such as "computer aided design" programs) to run on UNIX. But, as with Apple, the business applications vendors for the UNIX platform are the same companies that write applications for Windows. Hence, by controlling business desktop application programs, Microsoft can keep UNIX from penetrating the business desktop market.

[33] 33 Laura DiDio, NetWare, NT Server to Divide Lion's Share, Dec. 26, 1994, at 77 ("The network operating system arena looks like a two-horse race in 1995, with Novell, Inc.'s NetWare 4.1 and Microsoft Corp. "s Windows NT Server 3.5 locked in a battle for first place. ").

Although there is a vigorous online services market in place, the home-to-business server does not yet exist, except in Microsoft's plans. It can be readily assumed that the home-to-business server would look much like the intrabusiness server, with only Microsoft products being vertically integrated.

Level	Name	Examples
8	Vertical Applications	Home banking, home shopping, news, product support, portfolio management, plus other "Marvel"
7	Horizontal Applications	(the Microsoft online service) applications
6	Development Tools	Same as Intrabusiness Server, plus Blackbird (OLE-based development tools; see InfoWorld 10/24/94)
5	Server Applications	Microsoft EMS E-mail; Microsoft Tiger Video Distribution
4	Database Services	Microsoft SQL Server (bundled with Marvel)
3	OS Services	Windows NT (bundling MS Services)
2	OS Networking	Windows NT (with Marvel Server Code)
1	Hardware	Intel or Alpha (DEC) chip

Figure 5

4. Home Computer Market

The home computer market is in its incipiency. The most important applications programs on the home client are "home banking" (also sometimes known as "personal finance") and tax preparation.[34] The most successful company in this market, Intuit, Inc., makes the largest selling home banking ("Quicken") and tax preparation ("TurboTax") programs. The only substantial competition to Intuit's products comes from Microsoft. Yet, despite a very substantial commitment in marketing staff and resources, Microsoft has gained only a 10% share. Microsoft has therefore elected to take over the home finance market by purchasing the leading software developer, Intuit, rather than by making better products to compete against it. The Microsoft acquisition of Intuit was announced on October 13, 1994 and is still under review by the Department of Justice. It is the largest acquisition in the history of the industry with Microsoft paying twice as much for Intuit as that company was worth in the stock market.[35]

The Microsoft acquisition of Intuit is highly strategic. It is a key element in Microsoft's plans to dominate all of information processing and will be discussed in a subsequent section. If the Microsoft-Intuit deal is consummated, it is not difficult to project what the home client will look like given Microsoft's recent announcement concerning "Marvel" (described in a subsequent section).

MTC-00030631 0300

Level	Name	Examples
5	Applications	Microsoft Works, Quicken (Intuit), TurboTax, Encarta, etc.
4	Development Tools	For example, language features of Microsoft Excel
2–3	GUI/OS/Networking	Windows 95 with Marvel Client Code
1	Hardware	PC Hardware

Figure 6

In summary, in each of the four components of the software industry, Microsoft's overall business approach and strategy is based on the creation of technological linkages between layers within the same market (e.g., DOS to Windows on the desktop) and between layers in one market and corresponding layers in another market (e.g., Windows NT to the Microsoft Network to Windows 95 on the home client). To fully understand Microsoft's strategy and its economic implications, however, it is necessary to understand two additional strategic Microsoft technologies: OLE and Windows. This Memorandum of Amici will address each in turn.

5. OLE

OLE (object linking and embedding) is a strategic technology for Microsoft on both the client and server side. It is the Microsoft-imposed standard for sharing information both among applications, and between applications and the operating system. During the Justice Department investigation, desktop application companies complained that Microsoft seeded OLE to its own application developers before giving it to ISV's (independent software vendors), thereby giving its own applications a lengthy head start over the competition.[36] As set forth in a subsequent section, these charges are supported by ample evidence and constitute the clearest examples of Microsoft's use of operating system information and specifications to achieve an unfair head start in the application markets. This is precisely the issue raised by this Court.[37]

Even more striking is the fact that Microsoft continues to exercise the very same strategy on the server side. See, e.g., J. William Semich, Datamation, Aug. 1. 1994, supra, at 40, 41–44 (Ex. 10) ("If you think OLE is everywhere in the future, the answer is yes"). Microsoft has made it clear that OLE will be strategic technology for the home-to-business server market, but Microsoft has not provided sufficient specifications to independent database server providers to enable them to release equally well-behaved products on the same time schedule as Microsoft's own products.[38]

6. Windows

The business desktop connects to the server through the Windows operating system ("OS") and the home-to-business server ("online services") also connect to the home computer through the Windows operating system. Microsoft has several different Windows products that provide OS, GUI and networking capabilities. A brief (and superficial) description of these products is included at this point to avoid confusion.[39]

a. Desktop

Microsoft's first Windows products were targeted for the desktop and were built on top of Microsoft's dominant desktop operating system MS-DOS. Because of their DOS legacy, these products are unable to take full advantage of the capabilities of the 32-bit microprocessors they run on. Microsoft's current product in this area is Windows 3.1, which. due in part to the illegal per-processor licensing challenged by the Government, is pre-installed on most desktop systems presently sold.

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[34] See, e.g., Michelle Flores, Probe of Microsoft is Extended—Justice Dept. Asks For More Information, Seattle Times, Nov. 22, 1994, at B11 (electronic banking is the "killer app. of the "90s").

[35] Prior to rumors of the acquisition, Intuit's stock traded at 40 3/4. John Eckhouse, Giant Microsoft Buys Intuit for $1.5 Billion, San Francisco Chronicle, Oct. 14, 1994, at A1, A19. Each Intuit share is to receive 1.336 Microsoft shares at the closing. Id. Based on Microsoft's January 3, 1995 closing price of 60 3/16, each Intuit share receives over $80.

[36] See Brian Livingston, Undocumented Windows Calls, InfoWorld, Nov. 16, 19922, at 98 (Ex. 19); Doug Barney and Ilan Greenberg, ISVs Dampen Microsoft Furor for OLE, InfoWorld, July 18, 1994, at 1.

[37] 37 Tr. of Status Call, Sept. 29, 1994, at 25–28.

[38] Microsoft has made numerous presentations around the country that specifically make this point and written documentation from these presentations has been provided to the Justice Department.

[39] For a more thorough discussion, see Miles B. Keyhoe, The Winds of Change, HP Professional, Aug. 1994, at 40 (Ex. 17). See also Microsoft Corporation, Microsoft Windows NT and Client-Server Computing, May 1993. ,

Microsoft plans to proliferate Windows 95 (also known in the press as "Chicago" or "Windows 4.0") widely next year as the successor to Windows 3.1. Windows 95 is a true 32-bit operating system, but it is being targeted to the mainstream personal computer market. It also includes advanced networking features.

Windows NT was Microsoft's first true operating system for 32-bit microprocessors. NT's principal use is in the server market (discussed below) but Microsoft has also targeted its NT marketing to power users running high-end personal computers or workstations.

b. Server

Windows NT can also be used as an operating system for a network server. Microsoft markets a version of NT with advanced server capabilities, called Windows NT Advanced Server, as an enterprise-wide computing solution. Microsoft offers a suite of applications for Advanced Server called "BackOffice" that includes database services, electronic mail, systems management, and connectivity to mainframe and minicomputers. Microsoft's vision for enterprise computing is being marketed through its plans for a replacement for Windows NT currently code-named "Cairo." Cairo brings object-oriented technology into the file server and operating system. Microsoft already controls object standards through it OLE specification, discussed in the next subsection. See J. William Semich, Datamation, Aug. 1, 1994, supra., at 41–44 (Ex. 10).

B. Free Market Forces in Increasing Return Industries

In some industries, companies generally compete on a "level playing field." In such industries, diminishing returns to scale ensure that the forces of the free market will naturally gravitate toward an equilibrium point which maximizes the production of goods and services and results in the most efficient allocation of resources. Under such conditions, antitrust enforcers as well as business executives can count on the fact that superior products will necessarily prevail in free and open competition.[40]

Free market forces in other industries—including those at issue here—do not exhibit such qualities. Rather, they exhibit "increasing returns." In such industries, there is more than one equilibrium point and there is no reason to expect the free market to reach equilibrium at a point that most efficiently allocates resources.[41] The markets in such industries can easily be manipulated by a company with a large "installed base,"[42] with the result that superior products of competitors are not likely to prevail in the free market.[43] Indeed, in "increasing returns" industries, there is every reason to believe that consumers will get "locked into" the first product that appears on a new platform, even if the product is technologically inferior.[44] Similarly, a company with a large installed base in one market can give its inferior product in a second market an insurmountable advantage over competitors in the second market by integrating the products from the two markets together technologically.[45]

Some of the early economic research in the area focused on perceived anomalies — particular standards that became locked in, notwithstanding their obvious inferiority. Stanford economist Paul David identified several such examples, the most famous of which is the layout of the common typewriter keyboard, known as the "QWERTY" configuration because of the order of the keys in the second row of the keyboard.[46] Primitive typewriters were unreliable mechanical devices and the QWERTY keyboard, at least according to the folklore, was therefore deliberately designed to be dysfunctional so that typists would not strike the keys so rapidly that the device would jam. Obviously. modem software and computers can process keystrokes far more quickly, yet consumers are locked into the QWERTY standard. There are even allegations "that the combination of constant repetitive motion and inefficient finger movements that QWERTY requires is the ticket to the most well-known [repetitive stress injury.] RSI. carpel tunnel syndrome." yet we go right on teaching it in elementary schools.[47] Superior keyboard layouts were developed years ago but were unsuccessful in dislodging the clearly inferior design that established itself as an early standard.[48]

By the late 1980's, economic analysis was finally able to explain such situations more clearly. Economists at Stanford and the University of California at Berkeley published " leading articles demonstrating that market characteristics long viewed as anomalous were, in fact, widespread in high technology industries.[49] By the mid-1990's, increasing returns economics has become widely accepted as mainstream economic analysis.[50] There is now extensive theoretical literature with direct empirical application to many leading industries, including telecommunications, broadcasting, computers, and ATMs.[51]

Increasing returns are present in industries throughout the economy, but two high technology market situations, in particular, give rise to increasing returns. First, users of high technology products are frequently electronically connected in a network. Networks exhibit and produce certain important economic results. Because the purpose of a network is to enable communication with others, the value of the network increases with the total number of users who join the network.[52] Consequently, once a network such as a telephone network is in place. a competing network would have to enter the market with at least as large a number of nodes in order to displace (or even compete meaningfully with) the first network.[53]

A second factor that gives rise to increasing returns is referred to as "compatibility" in the economic literature. Unlike more conventional industries, the value of the technology to end users in increasing returns industries increases with the number of users who use compatible technology. While the "network" feature draws its force from physical interconnection, the "compatibility" factor arises from a dependency of mutual use by consumers without regard to actual physical interconnection.[54] For example, although manual typewriters were not connected in a physical network, new users adopted the QWERTY keyboard because it was in wide use by others.[55]

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[40] W. Brian Arthur, Positive Feedback in the Economy, Scientific American, Feb. 1990, at 92, 93 (Ex. 36).

[41] Id. at 92 (Ex. 36).

[42] "Installed base" in the economic literature "means the number of owners of a good who may be dependent on the manufacturer of the good for the provision of complementary goods." Joseph Katten, Market Power in the Presence of an Installed Base, 62 Antitrust L.J. 1, 4 (1993).

[43] Joseph Farrell and Garth Saloner, Installed Base and Compatibility: Innovation, Product Pre-Announcements, and Predation, Amer. Econ. Rev., Dec. 1986, at 940; Janusz A. Ordover and Garth Saloner, Predation, Monopolization, and Antitrust, in Handbook of Industrial Organization 537, 565 (R. C. Schmalensee and R. Willis eds., 1989).

[44] W. Brian Arthur, Scientific American, Feb. 1990, supra, at 92–93 (Ex. 36).

[45] See, e.g., Garth Saloner, Economic Issues in Computer Interface Standardization, Econ. Innov. New Tech., 1990, at 140–142.

[46] See, e.g., Paul A. David, Clio and the Economics of QWERTY, Amer. Econ. Rev., May 1985, at 332; David A. Harvey, Ergonomic Issues Have Taken a Backseat to Performance, Resulting in a Growing Tide of Computer-Related Injuries. Change is Needed—Now!, Byte, Oct. 1, 1991, at 119.

[47] See David A. Harvey, Byte, Oct. 1, 1991, supra, at 120.

[48] Joseph Farrell & Garth Saloner, Amer. Econ. Rev., Dec. 1986, supra, at 942; Jean Tirole, The Theory of Industrial Organization at 405, n.40 (1988).

[49] W. Brian Arthur, Scientific American, Feb. 1990, supra, at 93.

[50] See W. Brian Arthur, Increasing Returns & Path Dependence in the Economy, 1994, at ix (forward Kenneth J. Arrow).

[51] For the theoretical literature see, for example, the recent Symposium on Network Externalities in the Journal of Economic Perspectives, Spring 1994, the Symposium on Compatibility, edited by Richard Gilbert in the Journal of Industrial Economics, March 1992, and the survey by Paul David and Shane Greenstein in the Economics of Innovation and New Technology, 1990. For an application to telecommunications, see Stanley Besen and Garth Saloner, The Economics of Telecommunications Standards, in Changing the Rules: Technological Change, International Competition, and Regulation in-Communications 177 (1989); for applications to broadcasting, see Stanley Besen and Leland Johnson, Compatibility Standards, Competition, and Innovation in the Broadcasting Industry (1986); for applications to ATMs, see Garth Saloner and Andrea Shepard, forthcoming in the Rand Journal of Economics, and Steven Salop, Deregulating Self-Regulated Shared ATM Networks, Econ. of Innov. and New Tech., 1990; and for computers, see Garth Saloner, Econ. Innov. New Tech., 1990, supra.

[52] This "network effect" has been described by numerous authors. In a recent Symposium in the Journal of Economic Perspectives, Michael Katz and Carl Shapiro write, "Consequently, as has long been recognized, the demand for a network good is a function of both its price, and the expected size of the network." See also Jeffrey Rohlfs, A Theory of Interdependent Demand for a Communications Service, Bell J. of Econ., Spring 1974, for an early reference, as well as Michael Katz and Carl Shapiro, Network Externalities, Competition, and Compatibility, Amer. Econ. Rev., June 1985; Joseph Farrell and Garth Saloner, Amer. Econ. Rev., Dec. 1986, supra: and other papers cited in Michael If, am and Carl Shapiro, Systems Competition and Network Effects, J. of Econ. Perspectives, Spring 1994.

[53] See Julio J. Rotemberg and Garth Saloner, Interfirm Competition and Collaboration, Strategic Options, 1991, for an example of the power of network size.

Economic analysis demonstrates that superior products do not necessarily prevail in markets and technologies that exhibit increasing returns. Rather, these markets are easily susceptible to "tipping"—once moved off of equilibrium by an event, the market tends quickly toward a single standard that dominates the market:

> [N]etwork markets are "tippy': the coexistence of incompatible products may be unstable, with a single winning standard dominating the market. The dominance of the VHS videocassette recorder technology and the virtual elimination of its Betamax rival is a classic case.

Creating a large installed base is the key to dominating such an increasing returns market.

> Because of the compatibility and network benefits, all else equal, a new user prefers a vendor with a larger total installed base of users. Thus installed bases have a tendency to be self-perpetuating: they provide the incentive for the provision of products (software and hardware) that is compatible with the installed base which in turn attracts new users to the installed base further swelling its ranks ....

Garth Saloner, Econ. Innov. New Tech., 1990, supra, at 140. Indeed, "de novo entry into a market occupied by vendors with large installed bases is exceedingly difficult." Id. at 140.

The self-perpetuating nature of an installed base in an increasing returns industry causes particular products to become "locked-in." W. Brian Arthur, Scientific American, Feb. 1990, supra, at 99 (Ex. 36). The costs to a consumer of using or switching to a different system are so high that the vendor with the installed base has a substantial advantage over competitors and can, once the base is established, charge consumers supracompetitive prices.[56]

Because increasing returns markets are particularly susceptible to "tipping," a company with a monopoly in one market that faces competition in a second market can use the locked-in installed base of the first market to wipe out competition in the second market by "tipping" the second market. The monopolist might achieve this result by releasing a "predatory preannouncement" with regard to a product in the second market. In markets that feature increasing returns, users will want to be on the same standard as other users, so expectations (what users believe will happen) dominate user choice in the second market—as opposed, for example, to the inherent technological quality of competing product offerings.[57]

> [A] preannouncement can sometimes secure the success of a new technology that is socially not worth adopting, and that would not have been adopted absent the preannouncement.

Similarly, a monopolist that is cash rich from monopoly profits in the first market might also "buy off" early adopters to create a "band wagon effect" in favor of its product in the second competitive market.[58] This technique of predation is known in the economic literature as "penetration pricing."

> An installed base advantage might also be achieved by "penetration pricing," the technique of offering low prices to early customers so as to build up an installed base and influence the choice of later adopters. Penetration pricing seems a natural strategy in network industries, and appears prominently in the theory.

Finally, a monopolist with a large installed base in one market might "tip" a second competitive market in favor of his product in that market by technologically linking the two products, or by outright bundling of the functionality of the second product into the first product, thereby eliminating the need for the competitor's product in the second market. For example, by subtly altering the tying product so that rival products in the tied market become incompatible with the monopolist's "standard," the monopolist can quickly dominate the second market.[59]

The Justice Department's complaint in this case recognizes the critical importance of an "installed base." The complaint alleges that the "lack of a sizable installed base of users" constitutes a "substantial barrier to entry" for Microsoft's operating system competitors. 59 Fed Reg. at 42,847 (Complaint 15). The complaint also alleges that Microsoft used "anticompetitive contracting practices" including "per processor licenses" starting as early as 1988 to "significantly increase the already high barriers to entry." Id. at 42,847, 42,848 (Complaint 18, 20, 26). The complaint appears to assume that Microsoft's monopoly was lawfully acquired. Id. at 42,847 (Complaint 19). But since Microsoft's installed base of operating system users has increased six-fold since 1988, it must follow that the "anticompetitive licensing practices" with which Microsoft is charged had the result of increasing its own installed base at the same time it impeded the development of competitors" installed bases. As set forth in the next section, Microsoft has used its installed base both to preclude competitive entry into the operating system market, and to stifle competition in related markets.

Microsoft's Tactics and Prospects for Success

This section of the Memorandum of Amici will examine Microsoft's overall strategy, the tactics that Microsoft has used in pursuing that strategy, and the likelihood that Microsoft will accomplish its aims. Microsoft, by the admission of its own Chief Executive Officer, intends to dominate all of data and information processing. There's no

> level of performance or specific application of corporate information systems that we don't intend to go after... [and] there won't be anything we won't say to people to try and convince them that our way is the way to go. That's because this new, electronic world of the information highway will generate a higher volume of transactions than anything to date, and we're proposing that Windows be at the center, servicing those transactions.

Brent Schlender, Fortune, Jan. 16, 1995, supra, at 40 (emphasis in original).

To accomplish these aims, Microsoft has pursued licensing practices that the Government has denominated as "anticompetitive," and has engaged in classic predatory behavior by using its monopoly in one market to achieve monopolies in other markets. This section applies increasing returns economic analyses to Microsoft's behavior and concludes that, unless restrained by Governmental intervention, it is highly likely that Microsoft will achieve its goal of dominating the entire national information infrastructure.

A. Microsoft's Strategy

Even if Microsoft's initial monopoly was lawfully obtained, its enormous market power (and particularly the power to leverage into related markets) comes from its installed base in operating systems. That installed base, according to the Complaint, was procured as a result of anticompetitive practices. Indeed, Microsoft's installed base of operating system users has increased more than six-fold (from 18 to 120 million) since 1988, when the company began its anticompetitive practices. Microsoft has used its monopoly and its installed base in a classically predatory manner. It has used its monopoly revenues in one market to drive competitors out of other markets. It has also used its operating system installed base in a predatory manner to "tip" adjacent competitive markets in the direction of its own product in those markets, to the detriment of competitors.

Microsoft's strategy at any particular point on the network (for example, at the home client or at the business desktop) can only be understood and evaluated in the context of Microsoft's overall strategy. Microsoft pursues a strategy of leverage from product markets in which it is dominant, to markets in which its competitive position is weak. It targets particular markets, establishes marketing and, in particular, technological links to those markets from established monopolies, and then leverages its power to monopolize the target markets.

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[54] See Stanley M. Besen and Joseph Farrell, Choosing How to Compete, J. of Econ. Perspectives, Spring 1994, at 118; see also Michael Katz and Carl Shapiro, J. of Econ. Perspectives, Spring 1994, supra, at 106. Once a market is "tipped" in favor of a particular competitor, it would take truly massive forces to return the market to a state of equilibrium (i.e., competition). See, e.g., W. Brian Arthur, Increasing Returns and Path Dependence in the Economy, supra, at 2, 10–11.

[55] For early examples in the economics literature, see Joseph Farrell and Garth Saloner, Standardization, Compatibility, and Innovation, Rand J. of Economics, Spring 1985 and Michael Katz and Carl Shapiro, Amer. Econ. Rev., supra; Jean Tirole, supra, at 405. 55 Jean Tirole, supra, at 404–406.

[56] Garth Saloner, Econ. Innov. New Tech., 1990, supra, at 137–138; Joseph Farrell and Carl Shapiro, Dynamic Competition with Switching Costs, Rand J. of Econ., Spring 1988, at

[57] Joseph Farrell and Garth Saloner, Amer. Econ. Rev., Dec. 1986, supra, at 942.

[58] See Stanley M. Besen and Joseph Farrell, J. of Econ. Perspectives, Spring 1994, supra, at 122; see also Janusz A. Ordover and Garth Saloner, Predation, Monopolization, and Antitrust, supra.

Stanley M. Besen and Joseph Farrell, J. of Econ. Perspectives, Spring 1994, supra, at 118; Joseph Farrell and Garth Saloner, Amer. Econ. Rev., Dec. 1986, su0ra, at 946.

Joseph Farrell and Garth Saloner, Rand J. of Econ., Spring 1985, supra; Joseph Farrell and Garth Saloner, Amer. Econ. Rev., Dec. 1986, supra.

[59] See Garth Saloner, Econ. Innov. New Tech., 1990, supra, at 141–142.

As used in this brief, "leverage" means that Microsoft uses the installed base in a market it dominates (for example, the operating system) to create an installed base in a new market (for example, desktop applications). It uses predatory subsidization, and both marketing and technological linkages, to accomplish leverage, as explained in greater detail in the succeeding pages. For the sake of easy example, Microsoft's horizontal tie-ins within, a single layer represent the most trivial example of its marketing strategy. Thus, Microsoft has trundled for sale a number of desktop applications (under the name, the "Microsoft Office"), putting companies like Lotus, WordPerfect and Borland at a competitive disadvantage. Carole Patton, Bundles Are Bad News, Computerworld, Nov. 14, 1994, at 57 (Ex. 8). Microsoft is executing the same tactic on the server side by bundling its "BackOffice" products to foreclose meaningful competition at the "server applications" layer. See Stuart J. Johnston and Ed Scannell, Computerworld, Oct. 10, 1994, supra, at 4 (Ex. 7). Microsoft also pursues other tactics. In particular, Microsoft derives leverage from its control of Windows products and logo; from its use of a consistent graphical user interface; and from its tight technical integration between interconnected machines through the control of standards such as OLE. After establishing market power on one level, Microsoft will target an adjacent layer, subsidize the creation and sale of products at that layer from the monopoly it derived on the first level, establish proprietary technological linkages to the target layer, and then leverage its market power to establish market power in the next layer. Two examples of this within the desk-top side are DOS to Windows, and Windows to desktop applications. In addition, Microsoft uses its market power from one side of the network (server or client) to leverage to the other side, again by establishing linkages. Microsoft is already attempting to leverage its control of the desktop into a control of servers. It will also use its market power in the PC-based financial and text software market, through the acquisition of Intuit, to leverage into the server.[60]

Obviously, control of certain layers in the various markets of the network create greater potential for leverage than control of other layers. In particular, there are a few "gateway" layers into the network. Control of these layers represents the most effective platform for leverage (i.e., moving the installed base). Generally speaking, the operating system layers in each box represent the most powerful platforms for both horizontal and vertical leverage.[61] For example, Microsoft has already leveraged control of operating systems to desktop applications. It can also leverage control of the desktop operating system (Windows 95) to the server operating system (Windows NT).

Control of the "gateway" layers provides greater possibilities for leverage because control of the architecture at those levels effectively controls all higher vertical levels, and also provides significant power at the horizontal interface between the client operating system and the server operating system. This brief uses the term "architecture" in the same way as that term is used in the Morris and Ferguson Harvard Business Review article—namely, the complex of standards and rules that define how programs and commands will work and how data will move around the system. Charles R. Morris and Charles H. Ferguson, Harv. Bus. Rev., Mar. 1993. supra, at 88 (Ex. 16).

By owning the installed base at a gateway, Microsoft can control not only the architecture at that level but also at all higher vertical levels. For example, by controlling the desktop operating system architecture, Microsoft can easily obsolete or render inoperable Lotus 1–2–3, merely by making a minor change to the architecture. Microsoft can pretextually or otherwise claim the change to be an "upgrade" or a "bug fix," but it is the effect of the power to control architecture that is more important than Microsoft's subjective intent.

If Microsoft controls the architecture at a "gateway," it can loudly proclaim its system to be "open" while in truth its architecture remains closed. Thus, for example, Microsoft can claim that its desktop operating system will continue to work with Lotus 1–2–3 or that its server operating system will continue to work with the database products offered by Microsoft competitors (and, to that extent, its system is "open"). Because Microsoft can easily obtain competitive advantage over (or outright displacement of) vertically related competitors by upgrades to the architecture, however, its nominally "open" system does not provide for effective competition on higher vertically related levels.[62]

All companies try to use leverage to some extent,[63] but Microsoft has a powerful advantage over its competitors. It has used "anticompetitive" licensing practices to acquire a huge installed base and it uses the power of this installed base against competitors in adjacent markets. Microsoft employs multiple linkages and leverage from the different markets (and, in particular, from the gateways) it controls into a single target market, so as to completely outflank and overrun existing competitors in that market.

In the beginning (for our purposes), IBM had a monopoly in computers and the market for computer products was, generally speaking, vertically integrated. (This necessary background is explained in The Economist, supra, at 3–18 (Ex. 14).) How IBM got this monopoly was the subject of much conjecture and years of litigation, but is irrelevant for our purposes. What is relevant is the fact that IBM, in its rush to get out a personal computer, did not leverage its own power from mainframes. Rather, it procured chips from Intel and an operating system from Microsoft ("DOS"), thereby transferring its market power to them as the market for personal computers expanded to displace mainframes and IBM's imprimatur established a standard. In short, IBM empowered Microsoft and Intel to control the architecture for the next generation of computers, and has been playing catch-up ever since. See Charles R. Morris and Charles H. Ferguson, Harv. Bus. Rev., Mar. 1993, supra, at 86, 92 (Ex. 16). See. also Elizabeth Corcoran. Washington Post, Nov. 13, 1994, supra, at H6 (Ex. 44).

Bill Gates, the founder of Microsoft, secured control of the personal computer market by riding IBM's coattails. The success of the IBM PC opened a lucrative market for compatible computers, or "clones." At the time, Microsoft was the sole source for a compatible operating system. Accordingly, Microsoft was able to license the operating system ("DOS") to compatible makers at significantly higher rates than those charged to IBM. Hence, as the Government's Complaint (¶ 19) explains, "Microsoft quickly dominated and gained a monopoly in the market for PC operating systems." 59 Fed. Peg. at 42,847. More precisely,

DOS would have been worth relatively little had Gates not retained the right to license its use to IBM's rivals. This arrangement—the source of Gates" wealth and power—became clearer as IBM set the standard for the burgeoning PC market. By the mid 1980's every rival except Apple computer felt that the only way to compete against IBM was to sell a clone of IBM's PC. Making a clone required, among other things, licensing DOS from Microsoft. Over time DOS became a kind of annuity for Microsoft: buying DOS was the price of admission for entering the PC business.

See G. Pasquel Zachary, Showstopper: Breakneck Race To Create Windows NT and the Next Generation at Microsoft, 27 (1994).

As new technologies overcame the old mainframe market, the market for computer products formed into a number of horizontal markets that are vertically related to each other. Charles R. Morris and Charles H. Ferguson, Harv. Bus. Rev., Mar. 1993, supra, at 8 (Ex. 16). There are many competitors at each level that aggressively compete with each other to develop more powerful products at lower prices. Generally speaking, consumers have benefitted from the formation of horizontal markets. Consumers can put a system together using the best and most cost effective products at each level, even if the products are made by different manufacturers. But by using its installed base in operating systems to "tip" each of these markets in favor of its own products, Microsoft undermines the competitive process. From the initial monopoly bestowed on it by IBM and the huge installed base secured by anticompetitive practices, Microsoft has leveraged and linked a series of powerful monopolies with the intent of forming a new verticality on the market. After establishing several monopolies with enormous leverage potential, the positive feedback from the verticality imposed by Microsoft will in short order eliminate competition on all horizontal layers within the server and online markets, just as it is eliminating competition in the horizontal layers on the desktop.

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[60] For a detailed review of Microsoft's server strategy, see How Microsoft's Server Strategy Will Change The Industry, supra, (Ex. 38).

[61] There was clearly the potential for at least some leverage from the chip or hardware level, when the OS level was more fragmented. This possibility is not treated in this brief for a number of reasons, including the widely publicized alliance between Microsoft and Intel that makes separate treatment of the hardware layer irrelevant.

[62] The operating system gateways are the most effective layers for leverage. But the system can also be leveraged from other access points as to which strong network externalities attach. For example, on the home client, Intuit has leverageable power from the strong network externalities that have attached to that product at the computer-human interface. (This is described in greater detail elsewhere in this brief.)

[63] In many respects Microsoft's strategy of targeting, linking and leverage is little different from that employed by MITI and Japanese keiretsus to target and capture American markets. Microsoft's leverage comes from technical ties in markets it dominates, while Japanese companies" leverage comes from the installed base of buyers it creates in Japan. In both cases, the leverage can be applied by forward-pricing into the target market to damage competition in that market. Cf., L. D. Tyson, Who's Bashing Whom.? Trade Conflict in High-Technology Industries, at 55–57, 99–101 (1992).

1. The Business Desktop

The Justice Department's Tunney Act filing alleges that Microsoft has monopolized "the market for PC operating systems worldwide" for "almost a decade." 59 Fed. Reg. at 42,850. As noted previously, in 1988 Microsoft had an installed base of approximately 18 million operating system users? In 1988, Novell (formerly Digital Research, Inc.) entered the X86 operating system market with a competitive product, DR DOS, and it was in response that Microsoft began the "anticompetitive licensing practices" identified by the Government. Microsoft continued these practices through mid-1994, and, as noted previously, it was during this period that Microsoft was able to increase its installed base by more than 100 million

See supra note 9.

users.[65]65 the preceding section explains, it is the size of Microsoft's installed base, rather than merely its market share, that determines the company's true market power. Accordingly, through practices that the Government has identified as "anticompetitive," Microsoft has increased its market power many fold.

Having gained this market power, Microsoft has used it both to maintain its monopoly in operating systems (described in subsection (a) immediately below) and to obtain a monopoly in desktop applications (subsection (b)). The remainder of this section (subsections (c) through (f)) describe how Microsoft has used its market power to engage in other predatory, conduct in the desktop markets.

a. Effect of the Monopoly on Operating Systems

Microsoft's strategy, which was based at the outset on an installed base created in part through anticompetitive licensing practices, succeeded in monopolizing the desktop OS and threatening desktop applications. Once Microsoft had control of the operating system, which is the key architectural technology for desktop computing, it was able to maintain its share, even with an inferior product. The introduction of DR DOS from Novell showed that Microsoft had failed to keep MS DOS abreast of leading technology.[66] Yet Novell's compatible offering in the DOS market (DR DOS) stopped selling when Microsoft made it clear that Microsoft would create versions of Windows that were incompatible with DR DOS. It is common for "better" products to fail if a competitor controls the architecture in which the product operates. See Charles R. Morris and Charles H. Ferguson, Harv. Bus. Rev., Mar. 1993, supra, at 89–91 (Ex. 16).

Microsoft was also able to raise prices for its operating system, as its monopoly position continued to solidify and its installed base increased. In the early 1980's, Microsoft licensed MS DOS for $2—$5 per copy. By 1988, the price was up to $25 to $28. Once Microsoft drove DR DOS out of the operating system market, it was able to double the price it charged, with recent press reports indicating that it is demanding as much as $70 per copy of the forthcoming version of its operating system.[67]

Overall, Microsoft's strategy has been enormously successful in maintaining its monopoly in operating systems while expanding its installed base. Microsoft's share of all desktop operating systems is a staggering 85 %. See supra note 32. Microsoft's share of the operating system market that runs on X86 chips is even larger—more than 90%. See id.

b. Effect of the Monopoly on Applications

Having entrenched its operating systems monopoly, Microsoft has aggressively leveraged this monopoly to gain a monopoly in business applications. In 1991, Microsoft's senior vice-president Mike Maples expressly stated the company's intention to monopolize the software applications market:

If someone thinks we're not after Lotus, and after WordPerfect and after Borland, they're confused... My job is to get a fair share of the software applications market, and to me that's 100 percent.

See Jane Morrissey, Microsoft's Application Unit Seeks Market Dominance, PC Week, Nov. 18, 1991, at 1.

Microsoft used the monopoly revenues from licensing the operating system to fund the development of applications to run on DOS, in competition with software vendors which had no operating system control (for example, Lotus, Borland, and WordPerfect). But because of the relatively open nature of DOS, competitors like Novell could make "compatible" operating systems—operating systems that would run applications written for Microsoft's MS DOS without modification.

Therefore, Microsoft could not exercise sufficient control to give its own applications a strong competitive advantage over the application programs of competitors. The competitors" products were the first developed on DOS and had therefore acquired significant installed bases, as to which powerful network externalities had attached. In order to displace these competitors, Microsoft needed to create a new operating system platform so that its own applications would reach the market on the new platform before its competitors" products.

Microsoft "solved" this problem by (1) developing a new operating environment (Windows) that it totally controlled, (2) targeting a function performed in the application layer that it could either embed in the operating system (for example, the "graphical user interface" or "GUI" feature) or link with the operating system, and (3) using its power over DOS to migrate users to Windows. Microsoft thereby got more control over the OS, added value to the OS it controlled, and forced independent application publishers to rewrite all of their applications twice (once for Windows and a second time for OLE, as described below). The forced migration that Microsoft effected with the GUI and Windows may be depicted as follows:

DOS
BEFORE (See Figure 2)
GUI/Applications
GUI/Applications I
GUI/Applications
AFTER (See Figure 3)
DOS/Windows GUI
Applications

Figure 7

Microsoft, in effect, added a new layer to the architecture of the desktop, moving the industry, from Figure 2 to Figure 3 above. Controlling architectures is the key to dominating competition. See Charles R. Morris and Charles H. Ferguson, Harv. Bus. Rev., Mar. 1993, supra (Ex. 16).

Microsoft leveraged its control over the operating system to control desktop applications, following a carefully crafted plan that utilized the market power of its installed base. First, Microsoft emulated the application program of the market leader in that application (e. g., Lotus, WordPerfect or Borland), breaking the network externality of the installed base by providing file and keystroke compatibility. Microsoft funded the development, marketing, and below-market pricing of its applications from the profits it reaped on the six-fold increase in the installed base of its operating system.

Microsoft's stronghold in operating system software . . . financed Microsoft's push into applications software.

Victor F. Zonana, $.l. 4-Million Deal Microsoft Buys Software Competitor, L.A. Times, July 31, 1987, at 4? For years, Microsoft funded "many versions" of applications programs before they "were good enough to grab substantial market share. ,,[68]But [b]ecause Windows gives Microsoft a

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[65] Amy Cortese, Next Stop, Chicago, Business Week, Aug. 1, 1994, at 24 C 120 million MS-DOS customers (including 55 million Windows users)"). See also OS Overview, Computer Reseller News, at 223 (DOS installed base of 110.1 million).

[66] See Start Miastkowski, Digital Research Creates a Better DOS, Byte, Nov. 1991, supra, at 68.

[67] See Amy Cortese, Business Week, Dec. 19, 1994, supra, at 35 (Ex. ——) ("Computer makers.., have been startled to learn that they will be asked to swallow a huge price hike for their use of Windows 95—to as much as $70 per PC vs. roughly $35 today.").

[68] See also O. Casey Corr, IBM vs. Microsoft—Software Superbowl—IBM to Kick Off New Version

Continued

"pervasive presence on any desktop that matters, Microsoft can subsidize its loss leaders [in applications] and leverage its desktop heritage".

Barbara Darrow, Developers Brace for Shakeout, Computer Reseller News, Feb. I, 1993 at 28 (quoting Don DePalma, senior industry analyst for Forrester Research).

ACCESS, Microsoft's database program, is a case in point. It cost a staggering $60 million to develop .... By contrast, the [entire 1992 development] budget at Borland was $50 million. At Lotus, it was $35 million. That's not all. Microsoft also had the money to offer an introductory price of $99 for ACCESS—less than one-third the retail price for similar packages. Result: Microsoft sold 700,000 copies in just three months. The entire market in 1992 was only 1.2 million units.

Kathy Rebello, et al., Business Week, March 1, I993, supra, at 88.[69]

c. Unfair Early Access

Moreover, because of Microsoft's installed base in operating systems, it was able to provide an unfair advantage to its applications in a variety of other ways, as well. For example, Microsoft based its own application programs on components m the operating system that it had unique or early access to. Microsoft claimed it was "open," but actually used hidden features and functions to gain a competitive advantage. Brian Livingston. InfoWorld, Nov. 16. 1992, supra, at 98 (Ex. 19). That is, Microsoft provided a proprietary architecture with a supposedly "open" system. See Charles R. Morris and Charles H. Ferguson, Harv. Bus. Rev.. Mar. 1993. supra. The most well-known such example involves Microsoft's "OLE" (object linking and embedding) standard.

Microsoft created interoperability among its own applications, and between its applications and its operating system, by creating a new standard, OLE, which copied functionality from Hewlett-Packard's product New Wave. Stuart J. Johnston, Dangerous Liasons, InfoWorld, April 8, 1991, at 44. With market power on both sides of the interface (i.e., in both the applications and the operating system), Microsoft easily displaced the existing standard in favor of OLE. It embedded OLE functionality into both its operating system and applications, and it heavily marketed this new functionality using profits from its market position in operating systems.[70]

During the very same time period that the Government contends Microsoft was using "anticompetitive licensing tactics" to harm OS competitors, applications competitors repeatedly complained that Microsoft was using its knowledge of new operating system features to give its own applications programs a head start and performance advantage over applications competitors. As stated in Section II of this memorandum, throughout the 1980's and early 1990's Microsoft responded to this criticism by asserting that it had erected a "Chinese Wall" between its operating system developers and applications developers. According to Steve Ballmer, the senior vice-president for Microsoft's system divisions:

[T]here is a very clean separation between our operating system business and our applications business .... It's like the separation of church and state.

Business Week, Nov. 21, 1983, supra, at 114 (Ex. 2).

In the face of mounting criticism, Microsoft executives adhered to the party line. For example, in 1989, Steve Ballmer again disputed "the charge that his people gave their counterparts in applications previews of their upcoming systems products."[71] Microsoft executives repeatedly told the press that a "Chinese Wall" was in place. See, e.g., Laurie Flynn and Rachel Parker, Infoworld, Aug. 7, 1989, supra, at 43. Indeed,

Gates insisted that Microsoft kept the playing field level by erecting an imaginary barrier between the company's operating systems group and its applications division.

Hard Drive, supra, at 308. Even into early 1991, Microsoft executives were claiming that the company had an "ISV-independent program" that treated Microsoft applications "the same as any other ISV [independent software vendor]."[72] Although the FTC began investigating Microsoft in 1990, Microsoft continued to maintain that it had a "Chinese Wall" well into 1991.[73]

But Microsoft's head start in using OLE in 1991 to the detriment of applications competitors put the lie to such claims. Microsoft incorporated OLE into its Windows operating system and shipped its first completed application incorporating OLE, Excel 3.0, in February. of 1991. at the very same time it was releasing a "beta version" of OLE—not suitable for commercial distribution—to ISV's. Indeed, the February 1, 1991, issue of Byte Magazine reports the two events in the same issue.[74] Microsoft's applications competitors suffered delays of many months as they were forced to rewrite their own applications to make them perform under Windows as well as Microsoft's Excel, which had a head start in using OLE. It was not until many months later that the first third-party implementation of OLE appeared on the market.[75]

Microsoft's unfair advantage obtained from prior knowledge of operating system functionality created a significant head start for its own applications on the new Windows platform. As the prior economic analysis demonstrates, the advantage of being first to market in an "increasing returns industry" is enormous—it permits a competitor to begin to generate an installed base, reap the benefits of "positive feedback," and otherwise drive its own products to "lock in" before competitors even reach the market. Microsoft used its operating systems information to secure these unfair benefits for its applications.

Confronted with their obvious untruths, Microsoft executives did an abrupt corporate-wide about-face at the end of 1991. Microsoft senior executive Mike Maples stated in December of 1991:

There is no Chinese Wall. We don't want there to be a Chinese Wall, and I don't think we've ever claimed that there is a Chinese Wall. Microsoft is a single company .... We don't try to pretend that there is a Chinese Wall ....

Stuart J. Johnston, "No Chinese Wall" at Microsoft, Infoworld, Dec. 30, 1991, at 107 (Ex. 18). And since early 1992, Microsoft has freely and openly given its applications developers an advantage over ISVs. In November of 1992:

at least half a dozen cases in which Microsoft allegedly withheld information on its DOS or Windows functions from outside developers, for periods ranging from six months to several years. During these periods, Microsoft's own developers appear to have used these functions in applications or utilities that competed with those eventually developed by independent software vendors, according to programmers who have examined the code.

[I]n each case, the lack of documentation of the functions may have given Microsoft applications a time-to-market lead of six months or more before similar features could be incorporated into competing developers" applications ....

Brian Livingston, InfoWorld, Nov. 16, 1992, supra, at 98 (Ex. 19).

d. Predatory Bundling

Since dropping all pretense of a "level playing field," Microsoft has increasingly used the power of its operating system installed base to gain advantages over applications competitors. It has attempted to monopolize the market for the development tools (also known as programming languages) used to create applications by predatorially preannouncing its products (as documented in the introduction to this brief) and by bundling versions of its own programming language products into its operating systems so that users will have a powerful disincentive to purchase a competitor's programming language separately.[76]

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of OS/2, but will Microsoft Make Winning Goal, Seattle Times, March 29, 1992, at C1 (system sales are "the cash cow that has fueled Microsoft's aggressive entry into nearly every field of personal computing"); id. ("DOS, which comes installed on computers at the factory, has provided profits to finance Microsoft's development of applications such as the Excel spreadsheet and Word, a writing program."); Laurie Flynn & Rachel Parker. Extending its Reach, InfoWorld, August 7, 1989, at 43 ("the Microsoft strategy has been to fund expensive applications development and marketing with its profits from the recurring DOS royalties it receives. ").

[69] Kathy Rebello, et al., Is Microsoft Too Powerful, Business Week, March 1, 1993 at 88 (Ex. 4).

[70] See Cara A. Cunningham, IBM and Microsoft Wage Open Doc vs. OLE Find, InfoWorld, Aug. 15, 1994, at 25 (Microsoft has an "army of evangelists.., that goes out and sells the [OLE] technology and swarms over developers").

[71] Richard Brandt, Microsoft Is Like an Elephant Rolling Around, Squashing Ants, Business Week, Oct. 30, 1989, at 148 (Ex. 3).

[72] Ray Weiss, Windows Stars at SD 91, Electronic Engineering Times, Feb. 18, 1991 (Ex. 15).

[73] 73 See supra note 27.

[74] Compare Andrew Reinhardt, First Impressions: New Extras for Excel, Byte, Feb. 1, 1991, at 136 with Microbytes, Byte, Feb. 1, 1991, at 20.

[75] See, e.g., Start Levine, Lotus Embraces "Competition As It Aims for Identity, LAN Times, June 17, 1991.

[76] Ethan Winer, BASIC, Yes; Feeble, No, PC Magazine, Oct. 30, 1989, at 187 (Because "the BASIC [programming language] interpreter [is] bundled with DOS... at no extra cost, [it] is known

Microsoft has also conducted a lengthy "campaign" to bundle business software applications into the operating system so that it can "mop up competitors that sell stand-alone applications, resulting in more limited user choice down the road." [77] Microsoft has steadily increased the price of its operating system to cover its own loss of revenue from the diminished sales of free-standing applications that it bundles into the operating system. Although free-standing applications generally cost more than Microsoft's increases in operating system licensing fees, the unit sales of each application are far fewer than the number of users that upgrade to each new release of the OS—because of the huge installed base that Microsoft has procured by "anticompetitive practices." Hence, even a modest increase in operating system fees more than offsets Microsoft's loss of revenue from diminished applications sales.

Applications competitors, of course, do not fare as well—when Microsoft bundles the functionality of their products into the operating system, they lose their only source of revenue. After the competitors go out of business, Microsoft is free to unbundle the applications from the operating system and charge, in the absence of competition, whatever price the market will bear. Microsoft initiated this strategy with the introduction of Windows, by bundling word processing, calculations, communications and "paint" business applications software directly into the operating system.[78]

Microsoft has even bundled technology into its operating system that it misappropriated from its competitors. When Microsoft wanted to add data compression capabilities to DOS, for example, it approached Stac Electronics, developer of the industry's leading data compression software. Microsoft demanded a worldwide license to use Stac's software as part of DOS, but "steadfastly refused . . . to pay Stac any royalty for [its] patented data-compression technology." [79] When Stac refused Microsoft's demand, Microsoft simply incorporated Stac's intellectual property directly into DOS. Id. Stac brought suit and a federal jury found Microsoft guilty of infringing Stac's data compression patents and awarded Stac $120 million in damages.[80] Microsoft thereafter settled the case by acquiring a 15 % interest in Stac, and obtained a license to Stac's vital data compression technology for a fraction of the jury's verdict.[81] Because Microsoft's conduct in the Stac case "underscore[s] the sort of allegations that have kept the [Government's antitrust investigation] alive for years," some observers have suggested that the timing of Microsoft's settlement with Stac m late June 1994 was calculated to "remove [Stac president Gary] Clow as a hostile witness in the Justice investigation."[82]

e. Predatory Unbundling

Microsoft has also unbundled technology from its operating system in order to render other companies" products uncompetitive. For example, the DOS operating system contained, in version after version, a portion of code known as the "debug kernel." Both Microsoft and competitors like Borland created development tools that used the functionality of the debug kernel in order to run.

With the introduction of Windows 3.1 in April, 1992, Microsoft removed the debug kernel from the operating system and bundled it with its own language application program. If a user wanted to run the competitive Borland program, it had to buy the debug kernel separately from Microsoft, at a price Microsoft set to make the Borland product less competitive. Microsoft even conspicuously advertised the fact that its own product was cheaper than the Borland product because the user had to buy the debug kernel separately from Microsoft. Byte, May 1992, at 159 (Ex. 6). Whatever pro-competitive benefits Microsoft might advance to justify its bundling of new functionality into the operating system, it is difficult to imagine any justification for unbundling operating system technology, other than harming competition.

f. Other Uses of Leverage

Microsoft further exploited its leverage, both vertically and horizontally. Horizontally, within the desktop applications layer, Microsoft introduced additional applications, touting and exploiting the benefits and advantages of its vertical linkage (to the operating system): for example, word processing ("Word"), database ("Fox Pro" and "Access"), and presentations ("Power Point"). Microsoft also employed horizontal leverage in the applications layer through its marketing practice of bundling a group of applications into a "suite," which is sold at low price points. And, all the while, Microsoft used its profits from its monopoly position in OS for (1) massive marketing to promote the linkage features of the OS. and (2) sustaining a protracted battle with independent applications vendors in a new market that. without the profits from the leveraged market, could not be sustained.[83]

As noted in the introduction to this brief, Microsoft has been spectacularly successful in leveraging its installed base in the operating system market to dominate the business applications market. In four years, Microsoft "went from an also ran in the business applications market to the industry leader." Inside Telecom, Sept. 26, 1994. Although Microsoft has not yet fulfilled Mike Maples" goal of "100 percent" market share, it is by far the leading supplier in each individual applications product category. Microsoft Domination, San Jose Mercury News, Dec. 21, 1994, supra, at 1F (Ex. 35). Moreover, suites are the fastest growing category of business applications software and Microsoft accounts for an astounding 85% of all suites sold. See supra note 16. Microsoft's success in monopolizing business applications is, absent effective Government intervention, only a taste of things to come. Having succeeded in dominating the desktop operating system and applications markets, Microsoft has begun to leverage its installed base to monopolize both the intrabusiness server and on-line systems, as set forth m subsequent sections.

2. The Intrabusiness Server

Microsoft intends to displace all of the competition on the enterprise server, just as it did on the desktop, by employing multiple linkages and leverage. Its leverage will come from the large installed base of the PC operating system monopoly. Using this base, Microsoft will employ three strategies: (a) vertical linkages similar to those that worked in the desktop markets, (b) horizontal linkages from desktop to intrabusiness server, and (c) horizontal linkages from home-to-business server to intrabusiness server.

Microsoft began the implementation of its strategy by creating a new server OS ("Windows NT") that horizontally leverages from the monopoly position of DOS/Windows in the client market. Microsoft has increasingly placed server functionality into Windows and Windows applications (for example, with the Microsoft products, Access, Fox Pro, and Excel). With NT, Gates seeks to extend his software dominion from desktop software, which he monopolizes, to the network. In the 1980's, Microsoft's DOS and Windows systems software defined the way most people worked with computers. In the 1990's, the company aims to define the software that electronically ties together workers and businesses, customers and homes. Zachary, Showstopper, supra, at 3.

In addition, Microsoft is nakedly leveraging its market power in the desktop operating system market to the enterprise server by requiring software developers who want to use the logo for "Windows 95," the forthcoming version of Microsoft's desktop operating system, to make their desktop application products also run on "Windows NT" (Microsoft's server operating system).

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and used by more people than any other programming language for personal computers.").

[77] Michael Csenger & Adam Griffin, Microsoft Free At Last?, Ruling Still Lets Firm Incorporate Apps Into Its OS'es, Network World, July 25, 1994, at 4 (Ex. 23); see also John Markoff, Microsoft", Future Barely Limited, N.Y. Times, July 18, 1994, at D1 (Ex. 24) (describing Microsoft's 14 year "campaign[] to expand the definition of what computing functions belong inside the computer operating system.").

[78] Paul Andrews, Windows Is No JFK, But Its Visual Appeal Is Outstanding, Seattle Times, May 22, 1990, at C2 ("Windows 3.0 comes with a suite of mini-applications including Write, Paintbrush, Clock, Recorder (a macro utility), and Terminal (telecommunications). ").

[79] O. Casey Corr, A Look Behind Stac Deal, Seattle Times, June 26, 1994, at FI (quoting Stac's complaint).

[80] Id.; Charles McCoy, Microsoft to Pay Stac Judgment of $120 Million, Wall St. J., Feb. 24, 1994, at A4.

[81] Stuart J. Johnston, Microsoft Settles for Piece of Stac, Computerworld, June 27, 1994, at 30 (Microsoft paid $39.9 million for 155'o of Stac, and an additional $43 million over 43 months for a license to Stac's data compression technology); Doug Barney, Micros. oft, Stac Resolve Dispute; Microsoft Finally pays Up, InfoWorld, June 27, 1994, at 14.

[82] O. Casey Corr, A Look Behind Stac Deal, supra, at Fl.

[83] As explained in Section V.C., infra, the superficially irrational behavior of undermining the application vendors that produce programs that run on Microsoft's operating system is logical specifically because Microsoft has an independent economic incentive to monopolize the market for business application programs.

See William Brandel, Developing for Next Generation of Windows May Mean Running on NT, Computerworld, November 18, 1994, at 4. There is no technical reason to require an application to run on both Microsoft's desktop and server: indeed, a user would not even expect (nor perhaps even want) a "Windows 95" application program to run on the server. Microsoft's requirement is simply another way of leveraging:

The NT requirement seems like nothing more than an attempt to leverage Microsoft's control over the upcoming Windows 95 market to assist its lackluster Windows NT product.

Brian Livingston, Will "Windows" Compatible Really Mean What It Says?, InfoWorld, November 14, 1994, at 40 (Ex. 20) (quoting Andrew Schulman, Unauthorized Windows 95). Microsoft is using its operating system power to force independent application vendors to establish the linkage between the desktop and the server that Microsoft has been trying to establish through its own products. In affect, Microsoft is using independent software vendors to establish Microsoft's power in servers.

Microsoft also enhances its power in the server applications layer by horizontally bundling these products into a suite (the "BackOffice") in the same way Microsoft bundled desktop applications into a suite. Just as with the desktop applications, there is also vertical leverage to enforce the horizontal bundle by making all server applications OLE-enabled. See Stuart J. Johnston and Ed Scannell, Computerworld, supra, Oct. 10, 1994, at 4 (Ex. 7); J. William Semich, Datamation, Aug. 1, 1994, supra, at 4144 (Ex. 10).

3. The Home-to-Business Market (Server and Client) Increasingly, business will need to communicate with personal computers in homes in order to sell products or services and in order to provide information, for work or other purposes. Obviously, businesses that exploit this channel will have a strong advantage over competitors that do not, with the result that all businesses will seek entry. This market is currently known as "online services." There are three principal competitors in this market— America Online, CompuServe and Prodigy.

Control of the home-to-business market by a single company would produce an enormous windfall. First, of course, the monopoly would be able to extract a toll for a large percentage of consumer financial and product transactions. More strategically, a company that controlled the home-to-business market could leverage that control back to the intrabusiness, or enterprise, server market. Control of both sides of the server market, intrabusiness (enterprise) and home-to-business, would place enormous power (financial services, information, education, etc.) in the hands of a single company. Microsoft has this power within its grasp. Microsoft is pursuing its policy of targeting, linking and leverage from the operating system installed base to seize control of the architecture of the home-to-business market, just as Microsoft gained domination of the desktop.

On November 14, 1994, Microsoft announced its own online service known as "Marvel" or the "Microsoft Network." Microsoft will use Windows NT as the home-to-business server for the Network. Adam Gaffin & Peggy Watt, Microsoft, Lotus Baffle Shifting to On- Line Services, Network World, Nov. 21, 1994, at 1. More importantly, Microsoft will use the market power from its" installed base in operating systems in a number of ways to displace existing on-line competitors and dominate the home-to-business market.

a. Predatory Bundling

First, Microsoft intends to leverage its installed base in operating systems to give its own on-line service an unfair advantage over existing competitors. Microsoft has already announced that the next upgrade of its PC operating system, Windows 95 (due out later this year), will have a connection to the Microsoft Network already bundled in. According to Bill Gates, "We'll give you access to [the Microsoft Network] with Windows 95... If (the software notices you have a modem, it will ask you if you want to register."[84]

This tactic will instantly displace existing on-line competition. Windows 95 will be pre-installed on virtually every PC sold in the United States in the coming year85 and approximately 20 million copies will be in use within a year of its release. Amy Bernstein. Microsoft Goes Online, U.S. News & World Report, Nov. 21, 1994, at 84. This "potent plan for spreading Marvel" will dwarf the competition. Id. America On-Line, by comparison, has an installed base of 1.25 million subscribers. Elizabeth Corcoran, Washington Post, Nov. 12, 1994, supra, at H6.

Industry analysts and commentators have repeatedly raised concerns that Microsoft's bundling of its own on-line service "tilts the playing field in its direction," likening Microsoft's bundling practice to the utility company selling appliances or the local phone company automatically connecting the user up with AT&T's long distances[86]

In essence, OEMs will be forced to distribute MSN [The Microsoft Network] if they want to access Windows 95—even if that distribution is to the OEM's detriment.

s, Elizabeth Corcoran, Washington Post, Nov. 12, 1994, supra, at H6. Amy Cortese, Business Week, Dec. 19, 1994, supra, at 35 (HP, Compaq and other big U.S. PC makers plan to bundle Windows 95 into their machines).

Jesse Bent, Microsoft's On-Line Rivals Could End Up In 'Cyberia', PC Week, Dec. 12, 1994, at 120 (Ex. 30). Microsoft's conduct is a textbook example of an attempt to use market power in one market (operating systems) to "tip" a competitive adjacent market (online systems).•

b. Unfair Use of Information

Microsoft is also using its power over the operating system installed base to dominate the content of the home market—CD ROMs—the same way it used leverage from the operating system installed base to dominate business applications. For example, as a condition to obtaining information about how to run on the multimedia portions of Microsoft's operating system, independent CD ROM developers were required to fill out a form, designated "Microsoft Confidential." In other words, in order to obtain necessary operating system information, the form required Microsoft's CD ROM competitors to disclose to Microsoft confidential business information necessary to make successful CD ROM products. This form is a remarkably glaring example of the open exercise of market power. It required, inter alia, the following disclosures:

Please describe your company's important business relationships (distribution, venture capitalists, etc.) Provide proposed product areas.

Current key software products (in order of market share and importance to your company).

Who is the target audience for your products?

What is the price of your products?

What is your supply date for retail distribution?

What competition do you perceive for this product?

How will you differentiate this product from its competition?

How is this project funded? (The "Microsoft Confidential" form is found in the Appendix as Ex. 22.) Armed with all of this confidential information about its competitors plans and products, Microsoft has successfully entered the CD ROM business itself, and is "churning out about one new CD ROM title per week." Washington Post, Nov. 13, 1994, supra, at H6 (Ex. 44).

c. Unfair Head Start

Microsoft will also ensure domination of the content of on-line services by using OLE-based tools as the standard for business developers and users to create object-oriented documents that can be transmitted over the Microsoft Network. Mary Jo Foley, Microsoft Lays Foundation For On-Line Network, PC week, Nov. 14, 1994, at 1; Doug Barney, Microsoft to Announce New On-Line Service at Comdex, InfoWorld, Oct. 24, 1994, at I, 140. According to a PC Week article, the Microsoft network employs OLE technology and uses the "standard Microsoft Exchange E-mail client included with Windows 95....[87] "In short, "Microsoft Network's on-line services are well-integrated into the Windows 95 user interface." Eamonn Sullivan & Matt Kramer, Microsoft Marvel Beta Leverages WIN 95 Desktop, PC Week, Nov. 7, 1994, at 169 (Ex. 28).

And, as if Microsoft's use of leverage to dominate the home and on-line markets is not sufficient, Microsoft announced on October 13, 199487 its intention to buy Intuit. Inc., paying a 100% premium to market. See supra note 36. Intuit publishes the personal finance and tax planning software programs that dominate their respective markets. Intuit's product controls 80–85% of the personal finance markets.[88]

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[86] See Lawrence J. Magid, Microsoft: Not So Marvelous, Bay Area Computer Currents, Dec. 1, 1994, at 98, 101 (Ex. 1); Carole Patton, Computerworld, Nov. 14, 1994, supra, at 57 (Ex. 8).

[87] Lee Gomes, Microsoft to Acquire Intuit, San Jose Mercury News, Oct. 14, 1994, at 1D.

[88] Don Clark, Microsoft to Buy Intuit In Stock Pact, Wall St. J., Oct. 14, 1994, at A3 (86% of retail store sales); Karen Epper, Software Deal Shakes Up

Personal financial software is generally regarded as the "killer app[lication] of the 90's" for the home computing market.[89] Personal financial software has broad consumer appeal in that everyone has a bank account. It requires the integration of several sources of data including bank accounts, brokerage accounts, and credit information. Because of Intuit's commercial success, there is a strong network externality ("lock in") attached to a user's viewing his personal financial information through the Intuit user interface. Accordingly, Intuit provides tremendous leverage into the home banking market.

The Intuit acquisition is currently under Justice Department scrutiny. If the deal is consummated, Microsoft can be expected to leverage Intuit's installed base to further lock in its own products. For example, Microsoft will bundle Intuit's products with its next release of the operating system to increase the number of users who will upgrade to Windows 95.[90] Microsoft can also provide an enormous market edge to its own on-line service by making Intuit available exclusively (as among on-line services) on the Microsoft Network, See Michael J. Miller, The World According to Microsoft, PC Magazine, Jan. 24, 1995, at 80 (Ex. 25).

Domination of home banking and personal finance provides the optimum platform from which to dominate other on-line services, including, for example, shop-at-home. Businesses that want to provide financial information to Intuit users, or who want to provide other on-line services, will want to choose server software for interacting with the Microsoft Network. Microsoft will be able to use all of its vertical integration skills developed in the desktop and enterprise server marketplace to ensure that businesses choose Microsoft home-to- business server software.

Based on the leverage potential from its operating system installed base, Microsoft has been able to consummate deals that will ensure that Microsoft Network dominates the market. For example, on November 8, 1994, Microsoft and VISA (the credit card company) announced the provision of a standard and secure method "for executing electronic bankcard transactions across global public and private networks." Visa News Release, Nov. 8, 1994 (Ex. 39). In the question and answer session following the press release, the VISA spokesperson said that the driving force in VISA's decision to do the deal with Microsoft was the fact that Microsoft had an installed base of 60 million copies of Windows. The significance of Visa's agreement with Microsoft is not lost on industry observers. See, e.g., Elizabeth Corcoran, Washington Post, Nov. 12, 1994, supra, at H6. Nor is it likely to be the last such agreement: the Post reported, for example, that "four telecommunications companies are expected to announce on Monday [November 14, 1994] that they are working with Microsoft to make dialing into Marvel a local call for many subscribers." Id. And, on December 21, 1994, Microsoft announced that Tele-Communications, Inc. purchased a 20% stake in the Microsoft Network for $125 million. The deal implies a value of $625 million for an on-line service that doesn't exist yet .... "Jim Carlton & G. Pascal Zachary, Microsoft Sells A 20% Interest In Planned Unit, Wall St. J., Dec. 22, 1994. Once again, Microsoft is controlling the architecture and using a nominally open standard.

If Microsoft is successful in establishing the standard for the home-to-business market, it will be able to leverage into the enterprise server market both from the desktop, which it already controls, and the home market. Once a business decides that it should use the Microsoft server to communicate with customers, there is no point in having a different. probably incompatible, server for intrabusiness needs. After all, the operating system for the server side of Microsoft's home-to-business server is Windows NT. Why have a different business server operating system? This connection between the home server and the business server is clearly in Microsoft's contemplation because Microsoft has already announced that Marvel (the Microsoft network) will connect directly to a company's server. Doug Barney, Microsoft to Announce New On-Line Service at Comdex, InfoWorld, Oct. 24, 1994, supra, at I.

The inevitable result of Microsoft's monopoly leverage will be to transform Microsoft into a "middleman" or rent collector for every transaction processed in an all- encompassing information economy. Whether writing a letter, placing an order, or paying a bill, every consumer and business connected to the information highway will pay Microsoft's toll. As noted in Fortune, "[t]his isn't just a gleam in Bill Gates" eye—[by purchasing Intuit, entering a joint venture with Visa, and bundling the Microsoft Network]—its already starting to come together, and in Microsoft's typically orchestrated fashion.[91]

MICROSOFT'S NETWORK-WIDE MONOPOLY

It is readily apparent that Microsoft's strategy of targeting, linking and leveraging from the desktop operating system has been successful in seizing control of the business desktop. It is also apparent that Microsoft is leveraging from the business desktop to the business server and is vertically integrating within the business server so as to seize control of the critical server operating system gateway. The Intuit acquisition is intended to control the gateway on the home computer and leverage toward the home-to-business market.

Application of "increasing returns" economic analysis would reasonably predict that, given the present situation, Microsoft will succeed in monopolizing the entire information infrastructure (just as it has monopolized the desktop) and that the monopoly will remain in place for a very long period of time.[92] Indeed, the monopoly on the enterprise and home-to-business server markets is likely to be so vast that Microsoft will be able to extract monopoly rents on not only financial transactions, but also the transmission of information and data.

Some fear that as the digital future of the information superhighway emerges, an unchallenged Microsoft and Intel will wind up in total, undisputed control of the technology upon which the country's citizens and economy will depend . . . "Increasingly, I'm believing it's all over, and we're going to be locked into Microsoft and Intel forever," said Dataquest analyst Kimball Brown.

Rory J. O'Connor, Microsoft, Intel Set to Define Technology, San Jose Mercury News, Nov. 13, 1994, at 1-A. (Ex. 34).

Notwithstanding the Government's conclusion that Microsoft has increased its installed base in operating systems six-fold using "anticompetitive practices," and ample evidence that Microsoft has leveraged that installed base to attempt to monopolize business applications (as well as other markets), the Government's Tunney Act filing does not require divestiture of any part of its operating system installed base, nor does it prevent Microsoft from using that installed base to monopolize other markets, including business applications. The Government has articulated no economic rationale to justify its failure to act in the face of such clear evidence of anti-competitive intent and effect. These Amici can identify four possible economic justifications for the Government's inaction, but none of the four is persuasive.

A. Leverage of the Installed Base by Competitors

Although the Government has not articulated an economic rationale for its position, the Justice Department may have concluded that a monopoly of the X86 operating system market by Microsoft is inevitable—either because MS DOS is already locked-in or because an "increasing returns" market will cohere around a standard in any case. Following this approach, the Government may have concluded that the best hope for competition in the operating system market is through an operating system program compatible with MS DOS, but made by a Microsoft competitor. Arguably, a vendor of such a program could tap into Microsoft's huge

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Home Banking, Amer. Banker, Oct. 17, 1994, at 1; 25 (80–85%).

[89] Michelle Flores, Probe of Microsoft is Extended—Justice Dept. Asks For More Information, Seattle Times, Nov. 22, 1994, at B11; Michael Schrage, Microsoft Can Make Lots of Money; Can It Shape the Management of It?, Washington Post, Oct. 21, 1994, at B3; Brent Schlender, Fortune, Jan. 16, 1995, supra, at 36.

[90] Gina Smith, Merger Misgivings: Will Intuit Go "Soft?, S.F. Chronicle, Dec. 4, 1994, at B5, B14.

[91] Brent Schendler, Fortune, Jan. 16, 1995, supra, at 4748; see also, Michael I. Miller, PC Magazine, Jan. 24, 1995, supra, at 80 (Ex. 25) ("Microsoft could require just a small service charge on each transaction. Or it could make money on the float—the interest in the few seconds it takes to move money from one place to another. Or both.").

[92] For example, leading industry analyst Rick Sherlund of Goldman Sachs predicted that with the settlement, Microsoft "should dominate the market for desktop software for the next 10 years." And another leading analyst, Richard Shaffer concluded that "[t]he operating system wars are over—Microsoft is the winner .... Microsoft is the Standard Oil of its day." Andrew Schulman, Microsoft's Grip On Software Tightened By Antitrust Deal, Dr. Dobb's Journal of Software Tools, Oct. 1994, at 143 (Ex. 13).

installed base and attempt to displace Microsoft by "migrating" users to subsequent versions of the competitor's operating system. If such was ever in the Government's contemplation, events since the announcement of the settlement between the Justice Department and Microsoft have shown that such a scenario is unrealistic. Novell has withdrawn its MS DOS compatible operating system from the market entirely. See, supra note 14. And Microsoft's market is so strong that IBM selected Microsoft's MS DOS program for pre-installation on a new line of IBM personal computers, instead of IBM's own PC-DOS (compatible) program—notwithstanding the fact that IBM's product is technologically superior to MS DOS and is less expensive.[93]

IBM's [93]technologically advanced OS/2 is faring no better. OS/2 is capable of executing both DOS and Windows 3.1 applications, and according to Microsoft executive Steve Ballmer, IBM is "offering computer makers OS/2 for free and may be even paying some to take it."[94] However, Microsoft's market power has resulted in IBM getting few if any takers, even on these terms. As one potential customer, a computer manufacturer, stated:

> Microsoft can kill us ..... I worry more about my dealings with
>
> Microsoft than I do about my competitors.[95]

B. Alliances

Alternatively, the Government may have concluded that other operating system competitors might combine with application developers in alliance-type combinations to prevent Microsoft from extracting monopoly rents from the business desktop. But alliances among companies rarely work in the best of circumstances—i.e., in more conventional markets. Here, the alliances would have to produce or blend complex software technologies in order to make a competitive offering equally useful and reliable to that marketed by a single vertically integrated competitor, which is better able to guarantee seamless integration.[96] Similarly, from the economic perspective, the possibilities of real competition from an alliance-based product line are highly remote, at best. Microsoft's installed base and share of the applications market is so large that its products are "locked-in" and true competition can be restored only through truly massive forces or structural relief. See, e.g., W. Brian Arthur, Increasing Returns and Path Dependence in the Economy 2, 10–11 (1994).

Most importantly, although there are companies that make operating systems that run on different chips, no Microsoft competitor or group of competitors controls the operating system gateway to the network in the way that Microsoft does. Control of the "human interface" gateway on the home computer through the acquisition of Intuit will only heighten Microsoft's control throughout the market. In short, the prospects of an alliance to compete effectively with Microsoft, in the current market where the gateways are controlled by Microsoft, are extremely remote. Competitors would have to produce a competing information infrastructure through a different paradigm (e.g., cable television), something that is years, if not decades, away. Microsoft is, moreover, already committing substantial resources—reportedly 500 employees by next June—in anticipation of this paradigm shift. See Elizabeth Corcoran, Washington Post, Nov. 13, 1994, supra, at H6 (Ex. 44). It therefore is clearly preparing now to be in a position to control this new paradigm as well.

C. "Tiered" Monopoly

Third, the Justice Department might have concluded that, although Microsoft has achieved a monopoly in the operating system market, there is no need for governmental intervention because Microsoft would prefer competition in business and home applications software. In other words, the Government might argue that Microsoft has no economic incentive to monopolize the applications market intentionally and has acquired its dominant position in the market only because of superior products. According to this approach, although Microsoft has a monopoly on X86 operating systems, it would actually prefer that the applications (and development tools) market be fully competitive in order to maximize monopoly profits from the operating system market. A schematic representative of the "desktop," Figure 3, is reproduced below for reference:

Level	Name	Examples
5	Applications	(a) Desktop applications (e.g., Lotus 1–2–3, dBASE, MS Word, MS Excel, WordPerfect) The Microsoft Office is a bundle of these applications. (b) Client applications as part of a network (e.g., Oracle Financials, SAP, Peoplesoft, D&B Software, etc.)
4	Development Tools.	Basic, Pascal, C, Borland C + +, Powersoft
3	Gill and/or OS Services	MS Windows
2	OS	Apple, DOS
1	Hardware	IBM, Apple, Compaq, Dell

Figure 8

This type of economic thinking would suggest that if Microsoft truly had a monopoly at the second level (operating systems), it would prefer competition at all higher levels so as to maximize its ability to extract monopoly profits through the operating system level. And, according to this economic argument, there would be no point in Microsoft expending the resources to monopolize applications (level 5), since it would derive the same benefit by monopolizing the operating system (level 2).

Indeed, according to this approach, because of the presence of demand side economies of scale, there would be a need for Microsoft to control the X86 operating system (level 2). There is a network externality that must be solved by a single firm with control of both level 2 and all of the levels above it (3–5). All other factors being equal, according to this argument, consumers would be better off with the greatest possible variety of level 5 competition and the greatest possible adoption of one operating system standard.[97] Hence, if Microsoft controls the operating system, it would have an incentive to price it low because it could extract the profits through the applications (level 5). (Or, alternatively, Microsoft might price the applications low and take the profits out through the operating system.) Indeed, Microsoft might be willing to price below cost.

On the other hand, according to this economic approach, if a Microsoft competitor gained control of applications, Microsoft and the competitor would fight over the division of profits. This would be wasteful, would lead to higher total costs for the system because of "double marginalization" and would not lead to as great adoption of the overall system. Given that Microsoft controls the X86 operating system, so the argument would go, its profits would be maximized if the market for applications were made as large as possible. Hence, it would follow that Microsoft would want to control applications to make this market as large as possible and would do this by pricing applications at a low level, and by making the interconnection between its applications and operating system as efficient as possible.

This economic approach is unpersuasive for three reasons. First, although Microsoft monopolizes the market for operating systems that run on the X86 chip, there are competitive operating systems that run on other chips—Apple and UNIX, for example. These competitive operating systems, like the Microsoft operating system, run business applications. Hence, so long as these competitive operating systems exist, Microsoft can extract "monopoly rents" by monopolizing a layer above operating systems—business applications.

Second, as the Government's complaint in this case points out, there must be "a variety of high quality applications" that run on an operating system if that operating system is to be successful. 59 Fed. Peg. at 42,847 (Complaint 16–18). Accordingly, control of applications enables Microsoft to maintain and increase barriers to entry in the operating system market, thereby solidifying and maintaining Microsoft's operating system monopoly.

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[93] See John M. Goodman, The DOS Heavyweights Go Another Round, InfoWorld, Aug. 29, 1994, at 87 (rating PC-DOS version 6.3 above MS-DOS version 6.22) and Earle Robinson, DOS-version Madness? Integration Coping with DOS, Windows Sources, Oct. 1994, at 163 ("my choice would be the IBM . . . it's cheaper") and Yael Li-Ron, PC DOS 6.3: DOS and DOS: Separated At Birth, PC-Computing, July 1994, at 94 (IBM's Ambra computers ship with MS-DOS).

[94] Don Clark & Laurie Hays, Microsoft's New Marketing Tactics Draw Complaints, Wall St. J., Dec. 12, 1994, at B6 (Ex. 41).

[95] Id.

[96] All of these problems are discussed in Rory O'Connor, San Jose Mercury News, Nov. 13, 1994, supra, at 1A, 28A (Ex. 34).

[97] See Michael Katz and Carl Shapiro, Systems Competition, supra.

Finally, control of the application layer enables Microsoft to price discriminate more effectively, thereby maximizing its monopoly returns. For example, because Microsoft also monopolizes business applications, it has the ability to selectively bundle some word processing functionality into operating systems, while at the same time offering a higher priced, more fully functional word processing program to users who need greater functionality. This enables Microsoft to extract greater revenues than would be possible merely by uniform operating system prices—i.e., if Microsoft only monopolized operating systems, but not applications.

In short, Microsoft has ample economic incentive to monopolize business applications. To the extent Microsoft is concerned at all about actual or potential competition for operating systems, gaining control of applications will ensure overall control of the desktop, regardless of what might transpire in the future with respect to operating systems.

A complete comparison of consumer welfare in a world with uniform dominant-firm pricing in operating systems and competition in applications on the one hand, with monopoly price discrimination on the desktop (operating system and application together), on the other hand, is beyond the scope, of this Memorandum. However, economic theory would strongly suggest that with respect to pricing, competition in applications, coupled with imperfect competition in operating systems—or at least the presence of potential competition in operating systems—is preferable to monopoly of the entire desktop. Moreover, in terms of technology, it is considerably more likely that the best technology will emerge in applications if there is open competition for the technology, rather than if it is dominated by the firm that monopolizes operating systems. That is especially true if the reason that Microsoft is able to monopolize applications is because it can leverage its operating systems monopoly and not because of any superiority of its technology.

D. Efficiencies of Integration

Finally, the Government might justify its failure to act on the belief that the benefits Microsoft is providing by vertical and horizontal integration outweigh any anti-competitive effects. Microsoft will point out that it seamlessly integrates new technologies into new markets, and it will argue that unless it is permitted to link and leverage, these markets will not be opened in a way meaningful for consumers. It will further argue that if markets are opened by less efficient alliances, the services are bound to cost more because Microsoft competitors will not enjoy the efficiency benefits of integration. Indeed, according to this argument, allowing Microsoft to leverage Windows from one market to the other amortizes the research and development costs over a broader base of potential customers, with the result that Microsoft can charge less for the product in the first instance.

Furthermore, Microsoft presumably will argue that because these markets and technologies exhibit increasing returns, they will gravitate toward a standard (i.e., a monopoly) anyway. According to this argument, it would be economically wasteful to require two networks that do the same thing. And, if there is only going to be one standard, that standard should be chosen by the market, as opposed to by Government intervention.

There are two important responses to this argument. First, software is not similar to many conventional products in an important way. With software it is possible to achieve virtually all of the benefits of integration without excluding competitors. There is no reason why an application developed by an ISV cannot work just as well with the operating system as a Microsoft application, provided Microsoft provides necessary information to application competitors on a timely and complete basis.

Second, while there are benefits to vertical and horizontal integration that Microsoft will point out, there are also very substantial costs. The enterprise server market, for example, is currently organized into a number of horizontal layers, each of which is characterized by strong competition. Generally speaking, consumers prefer this horizontal competition. See, e.g., The Economist, Feb. 27-Mar, 5, 1993, supra, at 11 (Ex. 14). Microsoft is attempting to impose a verticality on the enterprise market so that it can extract monopoly rents. e"

Benefits of vertical integration, as opposed to horizontal competition at each layer, both on the desktop and the server, should be evaluated on the basis of product quality and incentive to innovate, as well as product cost. It is clear that vertical integration will allow Microsoft to displace even superior technologies. As PC Magazine recently observed:

> Since Microsoft is in a position where its operating system is dominant . . . [i]n order to be successful, Microsoft Network doesn't even have to be the best on-line service; it just needs to be good enough and the most convenient.

Michael J. Miller, PC Magazine, Jan. 24, 1995, supra, at 79–80 (Ex. 25). Similarly, if Microsoft controls the operating system gateway layer, its vertical integration will permit the displacement of superior products at the applications (and development tools) layer merely because of the vertical integration. The displacement of superior products is clearly a cost that should be evaluated, offsetting Microsoft's claim that its products would be lower-priced to the consumer.[98]

Moreover, once Microsoft achieves dominance in a market, it has little incentive to innovate[99] So the negative effects of vertical integration include both the displacement of superior products, as well as the diminution of the incentive to advance technology that has become a standard. The latter cost should be evaluated as well. Nor is it altogether clear that vertical integration will necessarily produce efficiencies (that translate into lower prices) over, say, horizontal competition at each layer.

There is not yet empirical research on point, but there is certainly theoretical research suggesting that there are benefits to horizontal competition in the vertical layers.[100] Hence, while there is theoretical literature that documents the efficiency of the horizontal competition model, the real challenge is maintaining the horizontal model in the world. Increasing return economics indicates that there is no reason to believe that the market, as currently structured, will choose the "best" product at a particular level. Rather, there is every reason to believe that Microsoft, through leverage from control of the operating system, will be able to impose verticality, with its associated costs—notwithstanding the fact that users appear to desire the benefits of horizontal competition. See, e.g., The Economist, Feb. 27-Mar. 5, 1993, supra (Ex. 14). In short, Government intervention is necessary merely to provide a sufficiently level playing field for the horizontal model to have a reasonable chance of succeeding.

VI ANTITRUST ENFORCEMENT

This section of the brief identifies the deficiencies of the proposed Final Judgment and compares the relief sought by the Government in this case to the relief sought by the Government in comparable situations involving pharmaceutical, computer and telecommunications monopolies. Finally, the section analyzes the relevant case law that would support similar relief in this case, particularly a preclusion on the use of leverage from an installed base that was procured by "anticompetitive practices."

A. Deficiencies of the Proposed Judgment

Manifestly, the proposed judgment has failed to achieve its stated purposes. Instead of saving consumers money and providing them with greater operating system choices as the Attorney General promised, the settlement has permitted Microsoft to run yet another competitor out of the operating systems market (Novell) and raise its own prices to resellers. From an economic perspective, this was to be expected. The relief proposed by the Government will neither maintain nor restore competition in the operating systems market. More ominously, the settlement clears the way for Microsoft to use its unfairly acquired installed base to run competitors out of other software and networking markets, as well.

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[98] Joseph Farrell and Garth Saloner, Installed Base, supra; Paul David, Amer. Econ. Rev., May 1985, supra.

[99] Indeed, Microsoft's operating system "lock-in" has permitted it to bring demonstrably inferior products to market (products that did not enjoy any appreciable consumer acceptance) without negative consequences to the company. See Michael Morris, Microsoft Deal: Too Little, Too Late, S.F. Examiner, July 24, 1994, at C-5. (Ex. 33)

[100] Joseph Farrell, Hunter K. Monroe and Garth Saloner, The Vertical Organization Of Industry and Systems Competition Versus Component Competition, October 1994 (working paper).

According to the Government's complaint, Microsoft used anticompetitive licensing practices from at least 1988 to 1994. As noted earlier, during that period, Microsoft maintained its greater than 90 % share of the X86 operating system market.[101] thereby increasing its installed base six-fold.[102] Contrary to the assertions of the Assistant Attorney General, the relief proposed by the Government, a cessation of further anticompetitive practices, will not restore competition to the X86 operating system market because of the "network effects" present in the market.

Because Microsoft now has a huge installed base and an overwhelming market share of X86 chip operating systems, thousands of applications have been written for the Microsoft operating system. Microsoft products, in economic jargon, are "locked in." New purchasers of computers with X86 chips have every incentive to demand Microsoft operating systems—and no incentive to demand the operating systems of its competitors. Given the huge installed base, OEM's will therefore preinstall the Microsoft operating system in order to meet consumer demand—whether Microsoft continues to pursue "per processor" licenses or not.

This conclusion is demonstrable from the economic literature cited in earlier sections. It is also obvious to the journalists, analysts and commentators who follow the computer industry. For example, following announcement of the settlement, PC Week wrote:

According to computer manufacturers, industry analysts and end users, the outlook is grim for Novell's DOS and IBM's PC-DOS and OS/2. They say there is not much motivation for PC manufacturers to preinstall a competing product, since Windows has millions of users and thousands of software applications.

See Jeff Bertolucci, Microsoft Settles: Business As Usual, PC World, Oct. 1994, at 72 (Ex. 31).[103] Furthermore, Microsoft has adopted new marketing incentives that violate the spirit if not the letter of the consent decree by rewarding OEMs for activities designed to prevent them from doing business with competing operating system vendors. Don Clark & Laurie Hays, Wall St. J., Dec. 12, 1994, supra, at B6. In short, Microsoft's new practices achieve substantially the same effect as those banned by the Judgment.

More importantly, Microsoft remains free to leverage its installed base— apparently with the Government's blessing—to put competition out of business in scores of new markets: business applications, entertainment software, personal finance software, on-line systems, server technologies, etc. This key issue is simply not mentioned in the Government's Tunney Act filings, but, as with "lock-in," the significance of the issue is not lost on the industry:

The settlement did not specifically address what many competing companies consider the antitrust issue. Microsoft, they say, has used its control of DOS and Windows to extend its hold on the software sector.

See David Einstein, Microsoft Unscathed by Settlement, S.F. Chronicle, July 18, 1994, at A1 (Ex. 32).[104] As explained in Section V.C., supra, Microsoft's use of leverage against equipment manufacturer] pricing, but they don't need it anymore.")

Indeed, even Microsoft's supporters concede that, "[a] year from now, [the proposed decree] will be" no more than "a blip on the radar screen of computing history." William Casey, Let's Stop Beating On Microsoft, Washington Post, July 25, 1994, at F15. "Issued five years ago, the ruling would have had an effect.., users were open to alternative environments, even if it meant migrating from [Microsoft's products]." Id. ldquo;Those choices, and the years in which they could have been made freely, are ancient history .... It's a fact that [today] the operating environment of choice on Intel-based processors is DOS and Windows." Id. application competitors damages competition in the operating systems market, the very market the Government purports to address.

The pernicious use of leverage is well known to the Justice Department. Decrees sought by the Antitrust Division in comparable circumstances over the past forty years have prohibited leveraging of monopoly power to dominate related markets.

B. Comparable Consent Decrees

It is hardly aberrational for the Department of Justice to settle monopolization cases in high technology industries by securing consent judgments that prohibit the use of leverage from a monopolized market to a market in which competition is present. Some of the largest monopolization cases in history were settled on such a basis.

1. Parke, Davis Decree (Pharmaceuticals)

The decree entered in United States v. Parke, Davis and Co. and Eli Lilly and Co., 1951 Trade Cas. (CCH) <20> 62,914 (E.D. Mich. 1951), prevented Parke, Davis and Eli Lilly from using their market power in the primary market for pharmaceuticals to exert leverage into the secondary market for gelatin capsules (used to contain individual doses of particular drugs). The decree did not foreclose the defendants from competing in the capsule market, but it imposed severe restrictions designed to ensure competition:

No Acquisitions of Stock in Companies in the Secondary— Market:

Defendants were prohibited for ten years from acquiring any interest in any business engaging in the manufacture or sale of capsules, capsule manufacturing equipment, or capsule filling equipment unless they applied to the court and made an affirmative showing that such acquisition would not substantially reduce competition. (An equivalent Microsoft decree would prohibit Microsoft from acquiring any interest in any company making or selling application programs (e.g., Intuit).) Mandatory Licensing of Patents Pertaining to Secondary Market: Defendants were required to grant to "any applicant" (except the other defendant) royalty-free, unrestricted licenses under all Defendants" existing capsule-related patents. Defendants also were required to grant licenses to all of their future capsule-related patents in return for a "reasonable and non-discriminatory royalty." (An equivalent Microsoft decree would require, at minimum, that Microsoft grant royalty-free licenses on all its existing application and server software patents.)

Publication of Documentation to Enable Competition in Secondary Market: Defendants were required for five years to provide to all applicants "a written manual.., describing the methods, processes, materials and equipment used by [Defendants]" in the commercial manufacture of capsules. (A provision that would have the same effect in the Microsoft decree would require, at minimum, that Microsoft immediately provide all competitors or potential competitors all operating systems documentation and specifications necessary to create a well-behaved application program. Going forward, Microsoft would have to provide the information necessary to place each of its competitors in the applications program market on an equal footing with Microsoft itself.) This decree remained in effect until 1987. See United States v. Parke, Davis and Co. and Eli Lilly and Co., 1987–2 Trade Cas. (CCH) §thnsp;67,834 (E.D. Mich. 1987).

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[101] See, e.g., supra, note 32. (Microsoft presently holds greater than 90% of the X86 operating system market share); Christopher O'Malley, Personal Computing, October 1986, supra, at 181, 183 ("Microsoft's operating system" has "better than 95 percent" share of the X86 systems.)

[102] Department of Justice Press Conference (July 16, 1994), at 3–11 (by Asst. Attorney General Anne Bingaman).

[103] See also Stuart J. Johnston, Decree: Deal or Dodge?, Computerworld, July 25, 1994 ("Interviews with PC hardware vendors last week indicated few are likely to switch to a competing system any time soon. "Customers have already voted with their dollars in a very strong way for DOS and Windows. I don't see that changing," said Howard Elias, a vice president at AST Research, [a leading OEM].") Jane Morrissey, DOJ Accord Fosters "Too Little, Too Late" Perception, PC Week, July 25, 1994, at 1 ("[O]bservers doubt the consent decree agreed on will have much effect on the company or its competitors," because it is "too little, too late. "); Jesse Berst, Behind The Smoke: Microsoft Wins Again, PC Week, July 25, 1994, at 106 ("Does the agreement really change anything? No .... If the decree had come five years ago, when there were viable MS-DOS clones, it might have had some immediate impact. Now, in a world where MS-DOS is on the way out and Windows has no real clones, it will have no short-term impact") (Ex. 27); Andrew Schulman, Dr. Dobb's Journal of Software Tools, Oct. 1994, supra, at 143 ("the change from per-processor to per-copy licensing probably comes about four years too late"); Claudia Maclachlan, Software Makers Mull Over Microsoft Legal Challenge, National Law Journal, Aug. 1, 1994, at B1 ("They can't do [original

[104] See also John Markoff, N.Y. Times, July 18, 1994, supra, at D1 (Ex. 24) ("The agreement leaves untouched what many computer industry executives say is Microsoft's principal advantage—that it develops both the basic operating system software that makes personal computers run.., and applications software.., that performs specific tasks."); id. ("The other important issue not specifically addressed in the consent decree is whether Microsoft has been able to leverage its virtual monopoly in operating systems into domination of applications software—a far bigger and more lucrative market"); Claudia Maclachlan, National Law Journal, Aug. 1, 1994, supra, at B1 ("As long as [Microsoft has] a dominant position in operating systems ... it allows them to leverage that into applications. This agreement does nothing to the sums quo.") (internal quotation omitted).

2. International Business Machines Corp. (Computers)

In 1956, the Justice Department settled its monopolization case against IBM with the entry of a comprehensive decree, United States v. International Business Machines Corp., 1956 Trade Cas. (CCH) §thnsp;68,245 (S.D.N.Y. 1956). That decree still remains in effect.

The IBM decree prevents IBM from utilizing its power in a primary market (the market for "tabulating systems" and "electronic data processing systems") to create a monopoly in secondary markets (the markets for service on IBM machines). Unlike the Microsoft settlement, however, the IBM decree makes a comprehensive effort to prevent leveraging of the primary market monopoly. Rather than prohibiting a small number of specific practices (e.g., per-processor licensing), the IBM decree fundamentally restructured IBM's method of operation in the primary market to eliminate leverage opportunities.

A similar decree against Microsoft would have included (at minimum) provisions requiring that Microsoft: (1) train its customers and competitors in the use and structure of Windows, (2) disclose to all developers, customers and competitors the same details about Windows that it discloses to its own employees and at the same time, (3) make public Microsoft technical documentation and tools used in Windows development, and (4) create a separate corporation for developing application programs, with a true "Chinese Wall" between the applications and operating system development personnel.

3. American Telephone and Telegraph (Telecommunications)

In January of 1982, the Department of Justice filed a Final Judgment breaking up the AT&T monopoly. In its response to comments on the proposed final judgment, the Government explained that it sought broad relief to prevent the type of leverage that Microsoft is currently employing:

> The theory of both the Western Electric and AT&T cases was that, as a rate base/rate of return regulated monopolist, AT&T has had both the incentive and the ability, through cross-subsidization and discriminatory actions, to leverage the power it enjoys in its regulated monopoly markets to foreclose or impede competition in related, potentially competitive markets.

47 Fed. Reg. 23,320, 23,335 (1982). Microsoft is not a regulated monopolist, but its monopoly in operating systems is no less thorough and its use of leverage to dominate related markets no less pervasive. Yet according to newspaper interviews given by the Assistant Attorney General following announcement of the settlement with Microsoft, the Justice Department "never considered" breaking up Microsoft. Viveca Novak, Antitrust's Bingaman Talks Tough in Microsoft Case, Wall St. J., July 19, 1994, at B5.

C. Case Law

Had the Justice Department sought to prevent Microsoft from leveraging its installed base of "locked-in" operating system users, its position would have found support in the case law. Cases in which leveraging claims have been denied involve factual situations in which the plaintiff conceded that monopolization of the target market was impossible, even with the leveraging. See, e.g., Alaska Airlines, Inc. v. United Airlines, Inc., 94.8 F.2d 536, 54.6 (9th Cir. 1991), cert. denied, 112 S. Ct. 1603 (1992).

This is not such a case. Here, both Microsoft and the Government concede that Microsoft has a monopoly in the operating system market and that Microsoft used "anticompetitive practices" to increase its installed base in operating systems six-fold. Microsoft then clearly expressed its intention to monopolize the business application market and thereafter succeeded by leveraging. Now, Microsoft's executives have clearly expressed their intention to monopolize every "specific application of corporate information systems." Brent Schendler, Fortune, Jan. 16, 1995, supra, at 40, Microsoft's tactics, coupled with the economics of the markets at issue, would lead inexorably to the conclusion that Microsoft will succeed.

A number of courts, including the Supreme Court, have evaluated conduct in one market based upon conditions in an adjacent, related market. Relevant decisions have reflected increasing returns-type analyses. For example, in Eastman Kodak Co. v. Image Technical Services, Inc., 112 S. Ct. 2072 (1992), the Supreme Court held that factual issues regarding consumer "lock-in" in the after-market for replacement parts constituted a proper basis on which to deny motions for summary judgment in a tie-in case. Similarly, a plaintiff's use of leverage in lock-in situations has frequently been cited in the lower courts as a principal basis for the denial of summary judgment motions in both tie-in and monopolization situations.[105]

One good example of such thinking is Grappone, Inc. v. Subaru of New England. Inc., 858 F.2d 792 (1st Cir. 1988). There the First Circuit (Breyer, C. J.) provided what it referred to as a more "refined analysis" for tie-in situations. This analysis begins to consider the anti-competitive consequences of actions that require competitors to enter the market on two levels (rather than a single level) of business. Id. at 795–96.

VII PROPOSED PROCEDURES UNDER SECTION 16(f)

Reflecting its emphasis on the importance of court review of decrees agreed to by the Justice Department, Congress in 15 U.S.C. § 16(f) has expressly authorized a wide variety of procedures that the Court may use in making its determination regarding the public interest. These procedures include, inter alia, taking the testimony of Government officials or experts, or other expert witnesses (§ 16(f)(1)); appointing a special master or court expert (§ 16(f)(2)); examining documentary materials (§ 16(f)(3)); or "taking such other action in the public interest as the court may deem appropriate" (§ 16(f)(5)).

In this action, some information is relatively well-documented in the public record, and hence is less pressing significance to the Court's ability to engage in a meaningful public interest analysis. By way of comparison, in United States v. Yoder, 1989–2 Trade Cas. (CCH) § 68.723, at 61,797 (N.D. Ohio 1986), the Department provided the court with an affidavit identifying the number of competitors, distributors and customers in the industry, whom it had contacted about a proposed modification to a consent decree, and described the responses and concerns of those contacted. See id. at 61,797 n. 10. Here, the Department has simply asserted orally that "by and large I think we got positive feedback" from competitors and customers, then adding (in response to a comment by the Court) "there were clearly some people who wished that we had done more." Tr. of Status Call, Sept. 29, 1994., at 13:16–22. These observations certainly do not give the Court the full flavor of industry concerns, but critical reports in the media amply document the true reaction in the industry to the proposed decree.[106] It is, therefore unnecessary to further burden the Court with affidavits or the testimony from those in the industry, regarding these concerns.

Similarly, the nature of the allegations regarding Microsoft's conduct are well-established. Media reports, publications such as Hard Drive, this brief, and the Government's own submissions all document what the alleged illegal conduct is claimed to be: undocumented calls; early disclosure of operating systems information to Microsoft's own applications engineers; predatory preannouncements; predatory bundling and unbundling of operations and applications functionality; restrictive licensing practices; and the use of subsidized pricing to leverage into the applications market using monopoly profits from operating systems. See supra text at notes 69–70. It would therefore appear unnecessary to hold hearings in which various independent software vendors, OEM manufacturers, and other industry participants recount particular instances of such alleged conduct.

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[105] See, e.g., Digidyne Corp. v. Data General Corp., 734 F.2d 1336, 1340–43 (9th Cir. 1984), cert. denied, 473 U.S. 908 (1985); (software); Ortho Diagnostic Systems, Inc. v. Abbott Laboratories, Inc., 822 F. Supp. 145, 155–56 (S.D.N.Y. 1993) (blood screening technology); Viacom International, Inc. v. Time Inc.,, 785 F. Supp. 371,377 (S.D.N.Y 1992). See also Lee v. Life Ins. Co., 829 F. Supp. 529, 537–39 (D.R.I. 1993), aff'd, 23 F.3d 14 (1st Cir.), cert. denied, 1994 U.S. LEXIS 7596 (1994).

[106] See, e.g., David Einstein, S.F. Chronicle, July 18, 1994, supra, at A1 (Ex. 32) (Ernie Simpson, president of a software company which develops programs for use with Windows, called the decree "a waste of time"); Quote of the Week, InformationWeek, Aug. 1, 1994, at 10 (Reacting to the proposed decree, Gordon Eubanks, CEO of software firm Symantec Corp., said simply, "That's it?"); John Markoff, N.Y. Times, July 18, 1994, supra, at D1 (Ex. 24) (quoting Martin Goetz, cofounder of Applied Data Research, the nation's first software company, as saying of the decree, "The Justice Department hasn't listened to the cries of the software companies"); Jane Morrissey, PC Week, July 25, 1994, supra, at 1 (Ex. 26) (quoting Mitchell Kertzman, chairman of Powersoft Corp., as saying the proposed decree will have "close to zero impact," and that "to the extent that Microsoft's behavior prevented other operating systems from succeeding, the war is over ... DOS is it and Windows is it"); Andrew Schulman, Dr. Dobb's Journal of Software Tools, Oct. 1994, supra, at 143 (Ex. 13) (quoting spokesman for Compaq as saying "Windows is the standard—not much will change"). See also David Einstein, S.F. Chronicle, July 18, 1994, supra, at A1 (Ex. 32) (quoting a leading industry analyst as concluding that "[t]he operating system wars are over—Microsoft is the winner ... Microsoft is the Standard Oil of its day"); Claudia Maclachlan, National Law Journal, Aug. 1, 1994, supra, at B1 ("As long as [Microsoft has] a dominant position in operating systems ... it allows them to leverage that into applications. This agreement does nothing to the status quo") (internal quotations omitted).

Instead, these amici submit that what is missing from the record before the Court are two categories of information, neither of which should require unduly protracted hearings, but which together should provide the Court with a sufficient record to make a determination under Section 16(e). First, in the course of its investigation, the Government has reviewed large quantities of documents from Microsoft, and these amici believe that a very small group of these documents have been identified by the Government as "key" documents. These documents largely should answer questions regarding Microsoft's intent and use of various illegal practices. They should be turned over to the Court for its review.

Second, the Government should be required to submit affidavits from its economic experts that set forth in detail what those experts anticipate the operating systems and applications software markets will look like in five years, assuming that the present proposed decree were implemented. Such a submission should indicate whether, under the present decree, the Government's experts anticipate that competition will have been restored in the operating systems market by that time. If the Government's experts believe that competition is not likely to have returned to the market by that time, they should be required to indicate what effect different alternative proposals might have on restoring competition to the market. And, if they believe under "increasing returns" theory that it is simply too late to restore competition—that the operating systems market "runs to scale," and having been permitted to establish dominance through its illegal practices, that Microsoft cannot now practically be unseated—the Government should be required to indicate what alternatives it has considered to minimize adverse consumer consequences resulting from this monopoly.

These amici submit that the affidavits from the Government's economists also should address the extent to which they anticipate that Microsoft will have been able to leverage

its operating systems monopoly into secondary software markets. Because Microsoft's installed base monopoly (and the resulting monopoly profits) were illegally acquired, the Government's economists should explain why it is unnecessary from an economic point of view to implement provisions such as those present in the IBM and Eli Lilly consent decrees. This analysis would include, for example, the effect of alternatives such as prohibiting Microsoft from acquiring stock in companies that make or sell application programs (Eli Lilly); spinning off its applications division into a separate subsidiary, and enjoining it from giving any benefit to the subsidiary, that is not also provided to third-party applications providers (IBM); and making public Windows technical documentation and tools used in Windows development (IBM). In the event that such alternatives were not viewed as sufficient to ensure a "level playing field" in the applications markets, given Microsoft's now-dominant installed base, the economists should address whether divestiture (such as in AT&T) is the appropriate remedy.

Based upon the information made available to the Court as a result of this analysis, these amici believe that the Court would be in a position to accept or reject the Government's current proposed decree, or to identify those modifications that would be necessary to bring the decree within the public interest standard. Cf. AT&T, 552 F. Supp. at 153 & n.95, 212–13. At a minimum, such submissions would provide a factual record which the Court's own economist expert could review in considering the economic issues raised by the proposed decree, or to which economists could respond on behalf of other interested parties.

Given the extreme importance of these proceedings to the future of the American software industry, and hence to the economy as a whole, the Government should be permitted to do no less. As documented in previous Sections, economic theory predicts that, even without resort to its ongoing (and unchecked) illegal practices, Microsoft would very likely be able to

leverage its unlawfully acquired installed base in operating systems to monopolize the entire business and home software network in the United States. The Government's decision to do nothing to restrain Microsoft's ability to engage in such monopoly leveraging, or even to curtail Microsoft's use of blatantly predatory and unlawful practices in furtherance of that end, requires explanation. Absent such explanation, these amici submit that the Court has no choice but to reject the proposed consent decree as plainly outside the bounds of the public interest.

Dated: January 10, 1995

Respectfully submitted,

WILSON, SONSINI, GOODRICH & ROSATI

By—————————————

Gary L. Reback

PROOF OF SERVICE BY OVERNIGHT COURIER

I, Sharon S. Kelly, declare:

I am employed in the City of Palo Alto, County of Santa Clara, State of California. I am over the age of 18 years and not a party to the within entitled cause. I am readily familiar with Wilson, Sonsini, Goodrich & Rosati's practice for collection and processing of correspondence for overnight delivery by courier. In the ordinary course of business, correspondence would be consigned to a messenger service on this date.

On January 9, 1995, I served the attached NOTICE OF MOTION, MOTION, AND MEMORANDUM IN SUPPORT OF MOTION TO FILE MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT and MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT as well as the APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT on the parties listed below by placing the documents described above in an envelope addressed as indicated below, which I sealed. I consigned the envelopes to an overnight courier service by placing it/them for collection and processing this day following ordinary business practices at Wilson, Sonsini, Goodrich & Rosati, 650 Page Mill Road, Palo Alto, California 94304–1050, to be personally served on the following:

Honorable Stanley Sporkin
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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Plaintiff, vs. Civil Action No. 94–1564 (SS)
MICROSOFF CORPORATION, FILED
Defendant. FFB 14 1995
FILED
FEB 14 1995
Clerk, U.S. District Court
District of Columbia

APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT

INDEX

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TAB1

TO

APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT IN CIVIL ACTION NO. 94–1564 (SS) SIGNED BY GARY REBACK

PAGE 98 BAY AREA COMPUTER CURRENTS DECEMBER 1— DECEMBER 12, 1994 USER OUTLOOK

Microsoft:

Not So Marvelous

BY LAWRENCE J. MAGID

Microsoft Chairman Bill Gates didn't get to be the richest person in America by being modest or by playing patsy with his competitors. So it came as no surprise to hear Gates belittle his competition and exaggerate the value of his offerings at the recent Comdex trade show.

Gates was introducing the Microsoft Network. Preliminary reports on this online service, code-named "Marvel," have been circulating for months.

Like everything Gates announces, The Microsoft Network is purported to be the greatest thing since individually wrapped cheese slices. In introducing the service, Gates made some not-so- subtle digs at current online providers. "There is an opportunity to bring innovation into this market," said Gates, adding that existing services "take print material and move it over." GOOD, NOT REVOLUTIONARY

Due that's not entirely true, While the three big online services (CompuServe, Prodigy, and America Online) each offer online magazines, newspapers, and other print material, they also offer interactive forums, live chat rooms, shareware libraries, online technical support, and other information and interactive services that you can't get from your local newspaper. All three services are also experimenting with sound and graphics, and all plan to introduce animation and full motion video when communications technology (i.e., ISDN) lets them get around the limits of today's phone system. Bill Gates and his team of developers may be smart, but they have an exaggerated opinion of themselves when compared to the rest of the world.

Besides, what did Gates show when he demonstrated the service! An icon pointing to an online edition of USA Today. This is creative? To be fair, Gates also demonstrated some interesting new technology, including an online prototype of Microsoft Bookshelf, the company's multimedia reference guide. Most commercial online services offer online encyclopedias and other reference works, but none currently include graphics as a routine part of the deal.

Gates also showed how the Microsoft Network will be integrated with Windows 95. Users will be able to drag icons directly from the service to their Windows desktop. In theory at least, information that's online will be as easy to locate as information on your computer's hard disk. Of course, your modem will have to dial into the network to ??rieve the information, at least until we're all hard wired into cyberspace.

I was also impressed by the way the Microsoft Network will display complex graphics like color photos. When you enter an area that uses images, graphics will quickly reveal themselves in low-resolution form, then become sharper and more vivid as data streams over the modem. This gradual display of graphics is necessa because the Microsoft Network will initially suffer the same phone-line and modem limitations that other online services do.

As interesting as Microsoft's service may be, it's hardly revolutionary. Prodigy, CompuServe, America Online, and Interchange (Ziff-Davi??'s forthcoming service) are all capable of offering similar features. The Microsoft Network won't be available to the public for at least eight months; its See USER OUTLOOK, page 101 94–1564 ??

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FEB 14 1995
Clerk, U.S. District Court
District of Columbia

USER OUTLOOK

USER OUTLOOK, from page 98 competitors will have plenty of time to catch up, if not move beyond Microsoft's plans.

Three basic issues affect the popularity of online services— interface, price, and content. Prodigy, CompuServe, and America Online can compete quite successfully on all three fronts. All three have plenty of time to tweak their interfaces, all can adjust their prices, and they all have a head start when it comes to content. Prodigy will announce a major interface overhaul in early 1995, and has had several years to build up its online content. CompuServe is reportedly working on easier-to-use software and, after nearly 15 years, is a leader in online databases, shareware, and more. America Online, though lacking the content of its two major competitors, leads the way with online editorial offerings and is generally regarded as being easy and pleasant to use.

Ziff-Davis's Interchange is every bit as up-to-date as Microsoft's Network. The only advantage Microsoft has is its ability to build its online software into Windows 95. And therein lies my biggest concern.

A RIGGED PLAYING FIELD

By making its network part of the operating system, Microsoft tilts the playing field in its direction. Microsoft clearly has the right to enter the online business, but ?? question whether it's fair to the other players if the Microsoft Network—and only the Microsoft Network—is part of Windows 95.

Imagine that utility companies said appliances. You've just moved into an empty house and after turning on the power, the power person says she has a great refrigerator in the truck that she'd be happy to install for you. "It's as cheap as any you'll get in town and you don't have to make any payments until after you've used it for a while. Besides, our refrigerator is optimized to work best with our electricity." That utility company would sell a lot of refrigerators—and every other appliance vendor would rightly cry foul. This would never happen in real life, because utilities are regulated monopolies. Microsoft, despite the Justice Department's recently rulings, is a virtual monopoly, controlling nearly 80 percent of the personal computer operating system business.

Gates claims that his bundling the Network with Windows 95 is no different than IBM's bundling Prodigy software with some of its machines. And IBM does own half of Prodigy. But IBM also offers America Online on some of its machines. More germane, IBM controls only a fraction of the personal computing market. Nobody, except Microsoft, has a grip on more than about 10 percent of the market.

Microsoft's bundling scheme has caused America Online president Steve Case to cry foul, accusing Microsoft of creating an "unlevel playing field." Others in the online industry agree. Robert D. Mainor, vice president of Product Marketing for CompuServe, didn't go as far as Case in criticizing the Microsoft announcement, but he did say that "Microsoft enjoys a distribution model that no one else has access to." He added that his service, in business for about 15 years, is in a good position to compete with Microsoft. If CompuServe's claim of 2.4 million members is accurate, it is currently the largest online service.

Prodigy's president, Ross Glatzer, said that Microsoft's entry will help expand the total online market.

However, he agrees that Microsoft has its thumb on the scale. Glatzer would welcome the opportunity to include Prodigy and other online service software with Windows 95 so that users would have free choice of services.

I think Microsoft is a great company. It produces some excellent programs and it improves America's trade imbalance. But it doesn't have the right to run roughshod over the entire computer industry. Microsoft's practices affect its competitors and, ultimately, its customers. The computer industry needs competition and a balance of power. Right now, that power is tilting toward Redmond, WA. It's time for the folks in the other Washington—the one between Maryland and Virginia—to wake up and start taking a hard look at Microsoft's anti-competitive behavior. * ?? 1994 Lawrence J. Magid. All rights reserve.

Larry Magid is the author of Cruising Online: Larry Magid's Guide to the New Digital Highways (Random Housc. 1994) and The Little PC Book: A Gentle Introduction to Personal Computers (Peachpit Press. 199J). He is also an internationally syndicated columnist for the L.A. Times. You can reach Larry on the Internet at magid@la??imes.com, via CompuServe at 75.100,2105. via Prodigy at KPVN58A, via America Online as LarryMagid, or care of Computer Currents.

TAB 2

TO

APPENDIX TO MEMORANDUM OF AMICI CURIAE

IN OPPOSITION TO PROPOSED FINAL JUDGMENT

IN CIVIL ACTION NO. 94–1564 (SS)

SIGNED BY GARY REBACK

1ST STORY of Level I printed in FULL format.

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Business Week

November 21, 1983

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District of Columbia

SECTION: INFORMATION PROCESSING; Software; Pg. 114

LENGTH: 1565 words

HRADLING: A FIERCE BATTLE BREWS OVER THE SIMPLEST SOFTWARE YET

BODY:

The all-out fight for supremacy among the hardware makers—Apple, Digital Equipment, IBM, and 150 others—has been getting the headlines recently in the mushrooming personal computer market. But while it may never attract as much attention, an equally important battle is about to explode among the leading companies that write software for the small machines. Prompting this latest free-for-all is the emergence of an entirely new class of product called "environment" software Environment software has no specific application such as word processing or financial analysis. It is designed to make such jobs easier for users who are not technically trained—a group that is rapidly becoming the majority of personal computer users. The new generation of software, which was pioneered with such machines as Xerox Corp.'s Star and Apple Computer Inc.'s Lisa, splits the computer screen into sections, or "windows." Users can run different applications software simultaneously in each window. Normally, a computer displays only one program at a time.

The new software more or less replicates tne desktop on the computer screen. In effect, a business executive or professional can put the equivalent of a letter, financial spreadsheet, or Rolodex file in the different windows on the computer display, or electronic desk.

The software battle pits three leading developers—Microsoft, Digital Research, and VisiCorp—against one another. Each wants its product to become the industry standard. The competition is especially fierce, because windowing programs are expected to be standard on every personal computer—a market potential of as many as 5 million units in 1984 alone. "Environments used to feature, but now they have become a fundamental part of the [personal comter] system," says Esther Dyson, president of Rosen Research Inc.

In the fight to get their new software running on the largest variety of computer brands, the competitors are wooing the hardware makers for endorsements. The outcome will shape not only the future of the current $1.5 billion annual market for personal computer programs but also sales of the equipment itself, since the machines tnat run the most popular software will be among the best sellers. As a result, leading hardware makers—most notably Apple and International Business Machines Corp.—are being drawn into the fray.

The battle lines are forming rapidly. On Nov. 10, Microsoft Corp. was expected to announce that 23 computer makers—including Apple, Digital Equipment Honeywell, Tandy, and Texas Instruments—have signed up to muse its LEXIS??-NEXIS??LEXIS??-NEXIS??LEXIS-NEXIS??

Services of Mead Data Central, Inc.

1983 McGraw-Hill, Inc., Business Week, November 21, 1983 version of the new software, which it says will be ready by April. Meanwhile, VisiCorp, the first software company to offer this next-generation product to the industry, is racing to get its VisiOn program out the door (page 115). Not to be left out, Digital Research Inc., which has not yet demonstrated its product, is leaking word that it will begin delivering its version of environment software to as many as 10 computer makers before the end of the year. "It's a real battle of the software developers," says Steven A. Ballmer, a vice-president at Microsoft.

Competition will be fierce because there is not enough room in the personal computer marketplace to support several versions of environment software. Applications programs for specific tasks such as word processing and financial analysis will have to be rewritten to work with each environment package.

"The battle is to establish whose [environment software] is going to win, because software developers don't want to write programs for 18 different systems," says Rosen Research's Dyson. Adds Moize Adney, manager of internal software development at Texas Instruments Inc.: "The pressure to standardize will be there."

INDUSTRY STANDARD. Companies racing to market environment software are placed in something of a catch-22 situation. They must convince computer makers that many writers of applications software will develop useful programs to operate with their environment packages. But they must convince the software writers at the same time that their environment programs will be used on the largest number of machines.

Microsoft hopes to parlay the popularity of its MS/DOS operating system— the housekeeping software that controls the basic functions of a computer— into a marketing edge. Its new environment program, Microsoft-Windows, is actually just an extension of its operating system. An impressive 40% of personal computers sold—including the best-selling IBM PC—are controlled by the Bellevue (Wash.) company's operating system software. This penetration, Microsoft maintains, provides a ready market for Windows. If every computer that runs Microsoft's operating system adds Windows, Microsoft is well on its way toward becoming an industry standard, says the company's Ballmer.

"CHURCH AND STATE." On the other hand VisiCorp is stressing its success in applications programs. The San Jose (Califcompany, which was made famous by the VisiCalc financial modeling and spreadsheet program, has developed a set of applications for its VisiOn environment package. "What will make a windowing system successful is the quality of the applications under it," says Danie Fylstra, VisiCorp chairman.

While archrival Digital Research has not formally announced its environment package, the company is working hard to line up applications software companies to write programs for use with its new windowing software. Digital Re search says its environment package is the safest choice, because the company does not write applications software. "We're not in the applications business like VisiCorp or Microsoft," says Digital Research President John R. Rowley. "We do not present a threat."

Rowley contends that competitors can use their own environment software to bring out applications packages before anyone else can. Microsoft, for one, denies that offering an environment program gives its own applications programs an advantage. "We have shown in the past that there i8 a very clean separation LEXIS??-NEXIS??LEXIS??-NEXIS??LEXIS-NEXIS??

Services of Mead Data Central, Inc. between our operating system business and our applications software," says Ballmer. "It's like the separation between church and state. Axed if you don't play it straight, you can't expect to get the business." Microsoft is expected to hit sales of $70 million this year, double its figure for 1982.

Some applications software writers are concerned, however, that Rowley may be right. "VisiCorp is a competitor," says Fred M. Gibbons, president of Software Publishing Corp., which sells personal computer applications software. "Why should I trust them?" To cover their bets, some powerful independents could decide to go with more than one environment package. "There are many valid reasons to support more than one environment and let the marketplace decide," says Mitchell D. Kapor, president of Lotus Development Corp., which for now has gone with Microsoft for 1–2–3, its popular integrated spreadsheet and graphics package.

One variation on the environment theme is Quarterdeck Office Systems, a small Santa Monica (Calif.) startup. By the end of the year, Quarterdeck will begin shipping a $399 environment package called DESQ. But instead of persuading software writers to modify their programs, the company has designed DESQ for use with several existing applications programs. "With DESQ you just buy it and run it totally without having anything modified," says Therese E. Myers, president and founder.

PREEMINENT POSITION. As the battle begins to heat up, no company has produced the supporter that could carry the day: IBM. "IBM has established such a preeminent position in the marketplace that the supplier that has its environment on IBM will have the greatest success," says John R. Keifer, senior analyst at InfoCorp. Since the IBM PC was introduced in 1981, the computer giant has won more than 26% of the market. As many as 75% of personal computers, industry observers agree, are expected to follow the IBM PC design by 1985 (BW—Oct. 3).

Few are willing to predict IBM's strategies in this key software market. "I don't expect IBM to endorse one environment in the near term," says Rosen Research's Dyson. "It will probably make them all available." But some observers say IBM will bring out its own environment software, and it is not clear where such a move would leave the independent software companies. IBM already has shown some of its own windowing software on an enhanced version of the PC, and there are reports of another IBM environment program, called Glass, that is being considered as a product. "With IBM's announcement of its own windowing capability, it looks to us that the big guy is starting his own standard," says Dennis V. Vohs, executive vice-president of Management Science America Inc., which owns Peachtree Software Inc., a personal computer software company.

The victors in the battle over environment software may not be obvious for a year or more. Despite an impressive array of endorsements, Microsoft will not begin shipping Windows until April. At that time, VisiCorp and Digital Research will have had their products on the market for only a few months. "There will be a lot of bandstanding and claiming victory," says Digital research's Row- ley. "But you won't really know what will happen for at least 6 to 12 months."

GRAPHIC: Picture, MICROSOFT'S BALLMER AND A DISPLAY DIVIDED INTO

"WINDOWS"

LANGUAGE: ENGLISH

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services of Mead Data Central, Inc.

TAB 3

TO

APPENDIX TO MEMORANDUM OF AMICI CURIAE

IN OPPOSITION TO PROPOSED FINAL JUDGMENT

IN CIVIL ACTION NO. 94–1564 (SS)

SIGNED BY GARY REBACK

Information Processing

SOFTWARE

"MICROSOFT IS LIKE AN ELEPHANT ROLLING AROUND, SQUASHING ANTS"

As the company's dominance grows, so have the complaints of other suppliers of software. There's no doubt about it. Microsoft Corp. wants to dominate the world—the personal computer software world, that is. And it isn't very far from doing so: It already supplies the core software for just about all of the world's 25 million-plus IBM PCs and their clones. It has done well, too, in many sectors of the huge market for PC applications programs—spreadsheets, word processors, and the like. All in all, it's the leader in total PC software sales—Wall Street expects revenues of $1.1 billion for the year ending next June, up 40% from the year before.

Now, Microsoft is beginning to suffer the slings and arrows that often come with such fortune. Other suppliers of PC software are downright angry over its dominance. The company, they say, is just too powerful and its products too pervasive. Its virtual monopoly-in PC operating systems—the software life-support systems that all other programs call upon for access to the PCs memory, disk drives, and display screen—means that Microsoft's even" technical change, strategy shift, or mistake can adversely affect, producers of applications soft ware. They argue, moreover, that Microsoft is abusing its systems software edge to put them at a disadvantage— and win greater control of the market. INTIMATE TIES. This, critics say, will make it harder for Microsoft's small competitors to prosper. And that hints at less innovation in software, the one part of the world computer market in which U.S. companies still hold an unassailable edge. Says Fred M. Gibbons, president of $100 millionplus Software Publishing Corp.: "Microsoft is like an elephant roll ing around, squashing ants."

William H. Gates III, Microsoft's CEO, argues that such fears are misplaced. He contends that his company is so in fluential simply because it knows more than any other about how the pieces of a PC fit together, from chips to other com ?? to software. Microsoft's inti ??s with leading companies such as IBM, Compaq, and Intel bode well for the U.S. computer industry, he argues. By virtue of those relationships, Micro soft can establish coherent technical standards—in graphics, communications, or computer languages, for instance— that if followed by everyone would speed up the process of writing new pro grams. Those would help sell machines, fulfilling Gates's vision of a PC on every desk and in every home.

What worries other software makers is where they fit into this vision. While tightening its grip on the $1.4 billion systems software market, where its MS-DOS and OS/2 operating systems are king, Microsoft has pushed harder than ever into the $4.4 billion market for applica tions packages. Its Microsoft Word text processing program, Excel spreadsheet, and other such products now account for 47% of total revenues—almost equal to its systems business. And competitors say they're getting squeezed.

Recently, for example, Microsoft stopped providing them with lists of cus tomers that use Windows, its graphical extension to MS-DOS. Instead, it offered to place ads for their Windows-compatible software in a booklet shipped with each copy of Windrows. Competitors suspected that Microsoft's own applications group was still getting the lists. So they complained—and got the lists back.

VOCAL CRITIC. More unsettling are suspi cions that Microsoft doesn't keep its systerns and applications groups as sepa rate as it promises—that church and state tend to ming??. Competitors figure that if Microsoft's applications people" get peeks at unanmounced systems software, they should, too. Otherwise, they're at a disadvantage. Microsoft" fuels suspicions by sometimes-shifting workers between its groups. And it Agenda 90, a recent trade conference 148 BUSINESS WEEK/OCTOBER 30, 1989 INFORMATION PROCESSING

outsiders were angered to see an Excel specialist demonstrating new operating system features that they hadn't been briefed on. Apple Computer Inc. solved such conflicts in 1987 by spinning off its applications group into an independent company, called Claris Corp. Gates says that's not necessary at Microsoft.

Micrografx, a tiny graphics software company, might disagree. Recently, it approached Microsoft with a program it thought the larger company might want to use. But it showed it only to Microsoft's applications developers—not to its systems people, who it ??eared would copy its proprietary ideas. Micro ?? President J. Paul

Grayson says that one person who saw his program was soon transferred to Microsoft's systems division. Eventually, Gates placated Grayson with a crossli ??ensing deal, which Microsoft concedes was unusually generous. Still, Grayson says he was "manipulated by Micro soft," which insists it did nothing wrong. ??NFUL P.S. Whatever the case, Microsoft's tactics have strained relations even with partners. This fall, John War ??ock, chief executive of Adobe Systems Inc., had an emotional, public falling out with Gates. Adobe's top product called Postscript, is a key program for desktop publishing. Earlier this year, Apple, Ado he's best customer, said it would replace Postscript in Apple computers. Microsoft continued to do business with Adobe.

Then, in September, Apple and Microsoft surprised Warnock by an nouncing at an industry conference that they would collaborate in competing with Adobe. Says Warnock: "We used to be a strong ally of Micro soft." Now, "it's easier to help their competitors."

The biggest gripes have been with Micro soft's moves in operating systems. Like Microsoft, its competitors use those basic programs as "platforms" upon which to construct applications software. But if the platform is shaky, late to market, or just not selling well, writing software for it can be risky—as the tale of Win dows shows.

Starting in early 1983, Microsoft tried to supplement MS-DOS with Windows, a program that makes PCs act much like Apple's Macintosh. But outside develop- era were wary of writing programs for Windows, which was 16 months late to market, because of its many early technical problems. They say Microsoft also gave them mixed signals: It positioned Windows as a program mainly for low- end PCS, while it worked on a more ad vanced—but incompatible—operating system called OS/2 for more powerful computers. And IBM threw its weight be hind OS/2.

Much to the industry's surprise, how ever, OS/2 has caught on slowly. And Windows has taken off. Microsoft has shipped 2 million copies of it, compared with only 150,000 of OS/2. And next year, it will bring out a major revision of Windows that will be easier to program and more functional than the original— enough so, in fact, to do many of the same jobs that OS/2 was supposed to handle. Windows, says David G. Bayer, an analyst at Montgomery Securities, "has become the platform of choice." DUPLICITOUS? Guess which company is poised to exploit that platform? While most competitors concentrated on writ ing for OS/2, Microsoft has been ready ing a slew of applications for Windows as well. They include a fancy new word processor, a project management program, and a long-rumored dam-base program called Omega. That's leading companies such as Lotus Development and Software Publishing to call Microsoft duplicitous. They charge that Microsoft enhanced Windows just to help its own applications group. And, they claim, the more powerful Windows will further hurt OS/2 "It's irresponsible of Micro soft to do that," says Software Publish ing's Gibbons.

Even discounting the effect of a revived Windows, Microsoft has disappointed those counting on OS/2. Introduced in 1987, that program still can't do all it promised, such as use all the power of Intel Corp.'s popular 80386 chip Worse, perhaps, is that Microsoft still offers no aids for modifying Windows programs to work with OS/2. A recent poll shows that software executives don't expect OS/2 to really catch on until 1993—two years later than what they predicted last year. Gates's answer: Microsoft is devoting the maximum feasible engineering talent to OS/2 and Windows, favoring neither.

"SLIDEWAR" On top of all this are wilder accusations—for instance, that Microsoft peddles nonexistent products to scare off competition. Michael J. Maples, the company's vice-president of applications software, shows slides at trade shows that list the software markets Microsoft intends to enter—programs for desktop presentations, for instance. One competitor calls that "slideware. They have slides saying they're going to be involved in every conceivable area of innovation five years from now," he says. "It slows the pace of innovation" by intimidating smaller competitors.

Gates laughs off the idea of software companies quaking in their boots. "So what are they doing instead, starting fast-food restaurants?" he quips. "I've never heard anyone say, "we're chicken, we can't compete with you." WordPerfect Corp., for example, is beating Microsoft in word processing, with a 40% share of the market, up from 16% three years ago. And companies such as Micrografx and Atlanta-based Samna Corp. have drawn technical praise for their applications programs for Windows.

In fact, many of Microsoft's critics helped create their own problems when they ignored its pleas to develop applications for Windows. "Even when Gates makes a mistake, people turn it into a Machiavellian plot," says Gordon E. Eubanks Jr., president of software house Symantec Corp. And Steven A. Ballmer, senior vice-president for Microsoft's systems division, disputes the charge that his people give their counterparts in applications previews of their upcoming systems products.

Since Microsoft earns more from systems than from applications programs, Ballmer says, he would be foolish to jeopardize his market just to boost applications sales. Indeed, he recounts an occasion when Microsoft's developers of Excel accosted him in the company cafeteria for revealing their work to Lotus, which confers often with Microsoft on FORMATION PROCESSING BUSINESS WEEK/OCTOBER 30, 1989 149

Information Processing changes in its operating systems. "Telling me is as good as telling Lotus," he says, as if to prove his independence.

So, qthe tension mounts. But what can Microsoft's rivals do? Their dependence on its PC operating systems puts them at a disadvantage. But no company—not even ISM—has been able to avoid that. They might try to subvert Microsoft's efforts to win control over every critical software standard in the PC market. "If people are feeling mishandled, they're going to look for other [partners]," warns Lotus CEO Jim P. Manzi. A likely one would be the group of suppliers backing American Telephone & Tele graph Co.'s Unix operating system, which rivals OS/2 in scope and function.

But Unix" base of existing customers is minuscule compared with MS-DOS's. And Microsoft already has the best-sell ing version of Unix for personal comput ers, called Xenix. Perhaps, for competi tots, there's just one choice: Learn to dance with the elephant.

By Richard Brandt in San Francisco WHAT NOT DOING WINDOWS COSTS LOTUS

It's enough to drive Lotus Development Corp. to whining. Lotus spent three frustrating years and millions of dollars to bring out two versions of its 1–2–3 spreadsheet program that Can work with Microsoft Corp.'s OS/2 Presentation Manager, the basic software, or operating system, that was supposed to turn every PC into a Macintosh. But OS/2 isn't selling well. And Microsoft, unexpectedly, is selling loads of an alternative called Windows, an earlier program that has lots of Presentation Manager's easy-to-use graphics.

Microsoft wins no matter which program takes off. Its own spreadsheet, called Excel, works with both. But Lotus isn't so lucky. Its advanced new 1–2–3, called Release 3.0, won't work with Windows. As Excel makes inroads, "Lotus has found that there's this large installed base of Windows users that it decided to ignore," says analyst David Readerman at Shearson Lehman Hutton Inc: LATEST WOE. That has led to some public griping. For software companies, "choosing an operating system" to write programs for "should not be equivalent to betting on a horse race," Lotus CEO Jim P. Manzi told some of his peers in a recent speech. "Windows is like a horse that was about to be put to pasture but was then revitalized."

Indeed, corporate buyers such as Eastman Kodak Co. and BankAmerica Corp., which want to upgrade pro ?? like 1–2–3 and use Windows us we??used. Less powerful ver sions of 1–2–3 work with Windows, but they can't take advantage of many of its graphical features. Lotus probably will solve that problem: "We're not naive," says Frank A. Ingari, vice-president of its PC spreadsheet division. But analysts say the revised program could take a year to produce.

The Windows flap is just the latest woe for seven-year-old Lotus. True, customers are buying more of 1–2–3 than competing products, giving Lotus 65% of the $600 million world market for PC spreadsheets. But so far, Re lease 3.0 may not be doing as well as its other new version, called Release 2.2, which runs on less powerful PCs. Some customers even are sticking with Release 2.01, now more than three years old. At Soft sel Inc., a software distributor, Release 2.2 is outselling 3.0 by 3 to 2. Corporate Software Inc. says its ratio is more than 2 to 1. Lotus disputes such numbers, claiming that 2.2 and 3.0 are selling about the same.

The split means a lot to Lotus, which gets two-thirds of its profits from spreadsheets. Next year, it will lift 3.0's list price to $595, some $100 higher than other versions. That might add $20 million or more to Lotus" overall revenues in 1990. But it might not: "The question is, does Lotus see a fall-off after this initial upgrade bubble?" says Richard G. Sherlund, an analyst at Goldman Sachs & Co.

Profits dipped while Lotus struggled to get 3.0 out the door. But it now expects to finish this year with strong earnings. Its spreadsheet sales have returned to historical levels of about 110,000 units a month. And sales of 2.2 and 3.0 will boost revenues by $30 million this year. Now, all Lotus needs is one more product—so it can bet on two Microsoft horses at once.

By Keith H. Hammonds in Boston

COMPUTERS A HEAVYWEIGHT LIGHTWEIGHT

Compaq's new laptop may win big Rod Canion keeps his word—eventually. For years, the president Compaq Computer Corp. promised that his company would build a laptop computer as soon as it could do so without compromises such as eliminating floppy disks. Lately, with Zenith Data Systems Corp. and Japanese rivals selling laptops with all the customary PC features, Canion's pledge began sounding hollow. Even Compaq's first battery-powered PC, although a runaway success, had drawbacks: At a time when the Japanese were pushing down the size weight, and price of laptops, the Compaq machine came in at a hulking 14 pounds—and with a $5,400 base price.

Now, Canion has kept his promise with a pair of laptops that weigh only 6 pounds, fit in a briefcase, and don't cost a lot more than competing PCs. These are the first "notebook" models (8 1/2 by 11 by 1 7/8 inches) to incorporate a full size floppy disk. An optional hard disk, storing 20 million or 40 million characters of data, boosts the weight to only 6.7 pounds. Starting at $2,400, the basic LTE is aimed at NEC Corp.'s Ultralite and Zenith's Minisport, the leading notebook PCs. The competing models don't have a standard floppy disk drive and can't accommodate a built-in hard disk. A second Compaq LTE model, based on the faster Intel 80286 microprocessor, starts at $3,899. "These are breakthrough systems," says Peter J. Tiege, an analyst at market researcher InfoCorp. ??. Some breakthroughs came from Japan s Citizen Watch Co., which will build LTEs for the European market. Citizen also worked on manufacturing problems. "We benefited from their miniaturization experience," says Canion.

On Wall Street, the laptops were an instant hit. Rumors of their debut sent Compaq's stock to a record 107 on Oct. 10. The Oct. 16 announcement pushed the stock back to 103 3/4 on Oct. 17, up from 98 after the market dove on Friday the 13th. Predicting that Compaq can sell 190,000 LTES by the end of next year, Prudential-Bache Securities Inc. analyst Kimball H. Brown has boosted 1990 earnings estimates by 20??, to $9.80 per share. That should make Compaq's lightweight laptops worth the wait.

By Geoff Lewis in New York 152

BUSINESS WEEK/OCTOBER 30, 1989

INFORMATION PROCESSING

TAB4

TO

APPENDIX TO MEMORANDUM OF AMICI CURIAE

IN OPPOSITION TO PROPOSED FINAL JUDGMENT

IN CIVIL ACTION NO. 94–1564 (SS)

SIGNED BY GARY REBACK

Special Report

IS MICROSOFT ??

It's a chilly November night in Las Vegas, but 10,000 technoids are in full fever pitch. They're in town for 1992's Fall Comdex, the computer world's biggest convention cure celebration. Tonight is the annual Chili Cook Off, a charity event for the National Center for Missing & Exploited Children. Each year, the crowd pours in for kegs of beer, vats of chili, and live music. For one night, archrivals in the industry are expected to put aside their bitter feuds and just goof off.

But not this year. The Grayson brothers, Paul and George, founders of software house Micrografx Inc. and organizers of the event, are thanking companies that ponied up money. Each gets a round of applause. That is, until one of the hosts offers "a special thanks to Bill Gates and Microsoft," donors of $30,000. The crowd's reaction: scattered cheers, drowned out by a round of boos. BIG GREEN. The fear and loathing on display in Las Vegas—as well as envy and a grudging respect—are the natural responses to Microsoft Corp. these days. Long a power in personal computer software, Microsoft has now emerged as clearly the most important single force in the entire computer industry. Where Microsoft leads, computer makers and customers follow. Where it stakes a claim, rivals steer clear. And as it springboards from its dominance in operating systems into a commanding position in applications programs, Microsoft leaves less and less territory for its software rivals. Many venture capitalists these days troy they won't consider funding a software startup that looks like it might wind up competing on Microsoft's expanding turf.

Such a concentration of clout and power has not been seen in the computer industry, since the glory days of IBM. Even Intel Corp., whose microprocessors are as pervasive as Microsoft's software. does not have the leverage of Microsoft, in part because Intel now must respond to chip clones (page 86). Some software executives refer to Microsoft, headquartered amid the evergreen trees of Redmond, Wash., as "Big Green." Says Ale?? K. McAdams, the chief economist in the Justice Dept.'s fruitless antitrust suit against IBM in the 1970s: It sure sounds familiar. Microsoft: is using its power in ways that are just like IBM's."

But does that mean Micros?? powerful: Does its dominance ?? WHY ALL THE FUSS? THE POINTS OF CONTENTI?? EARLY PRODUCT ANNOUNCEMENTS CHARGE To preempt competing products, rivals say, Microsoft sometimes announces products years before they actually exist. Even if a rival's product already has the features" that Microsoft promises, many customers are reluctant to buy it, preferring instead to wait for the "safe choice"—Microsoft RESPONSE Microsoft says it is important to let outside software developers know Microsoft's directions in system software so they can develop application programs. In fact, software developers demand it. And. Microsoft says. it is important to let customers know where it's headed so they can plan accordingly

INSIDE KNOWLEDGE ??RGE Makers of applications programs allege that Microsoft's applications programmers have advance details of its operating system software, and the company is slow to share vital information. They say Microsoft uses this edge to bring out better applications sooner. This, rivals complain, is a big reason Microsoft has more than 60% of the market for programs that work with Windows RESPONSE Microsoft says it freely shares its knowledge with the industry and enjoys no substantial advantage in developing applications that work with its operating systems. The company says its software sells well because it's good

THE DOS TAX

CHANGE Rivals say that the way?? crosoft licenses MS-DOS and W?? dows to major PC manufacture?? makes it nearly impossible for ?? to compete. Under some Micros?? censing contracts, PC makers pa?? fee to Microsoft for every PC th?? ship, even if they don't install th?? crosoft software on each mach?? Because of this. PC makers are ?? likely to substitute a competing ?? ating system RESPONSE Microsoft says PC ?? can. and do. choose several diff?? ways to license MS-DOS. The co?? versial "per processor" licensing rangement offers a lower price ?? higher volume

82 BUSINESS WEEK/MARCH 1, 1993

SPECIAL PER??

MTC–00030631—0382

POWERFUL? HOW THE INDUSTRY'S LEADER IS WIELDING ITS CLOUT

hibit competition in the software market, and does it hamper advancement of the computer industry, itself?. And, perhaps most worrisome, will it ultimately lead to fewer competitors and less innovation in an industry founded on the latest, the greatest, and never-before-thought-of? Those questions are critical because computer software has become one of the driving forces in the economy. Not only is the software industry, a key area for job creation, but it also pro duces the tools other industries need to boost productivity. Is such a vital industry best served by having a single dominant company?

FTC PRO??E. Microsoft's competitors answer no. Software rivals insist that Microsoft's hyperaggressiveness—its use of every trick at its disposal to gain an edge, enter a new segment, or eke out one more iota of market share—has started to edge out innovation itself as the force that determines the shape of the industry. Microsoft Chairman William H. Gates III says such charges are ridiculous. "Our success is based on only one thing: good products. It's not very BETWEEN MICROSOFT AND COMPETITORS PRICING

CHARGE Microsoft can offer low-ball prices in two ways: by including extra programs with its operating systems and by using profits from operating system sales to support low pricing of applications programs. For instance, because it has not made much headway so far. against Novel?? in sales of networking software, Microsoft is now building networking into Win dows and MS–DOS

RESPONSE Microsoft says it is an industrywide trend that. as operating system software is improved, more features, such as networking, communications and graphics, are included to make computing more seamless for customers

THE F.U.D. FACTOR

CHARGE As the dominant force in PC software, Microsoft uses its unique position to spread "fear. uncertainty, and doubt" about its rivals to stop customers from buying rival products. Microsoft, competitors say, warns buyers that if they buy IBM's OS/2 or Novell's DR-DOS— both of which claim advantages over Microsoft's operating systems—-they will be throwing away their money be cause those products may wind up in compatible with Windows or may not be around in a few years

RESPONSE Microsoft says customers ask for advice on many products, and, when it comments it is just respond ing to questions

BRAIN-PICKING

CHARGE Several companies charge that Microsoft has, in effect, stolen their ideas in the course of exploring collaborative agreements. Go Corp., for example, says that Microsoft expressed interest in writing applications for Go's operating system for pen-based computers. After Microsoft programmers examined Go's technology, however, Microsoft said it was no longer interested, Go says. Then, Microsoft announced plans for a competing system, developed, in part. by those who visited Go RESPONSE Microsoft says it is upsetting that companies accuse it or imply it stole from them. Microsoft says it always honors nondisclosure pacts ?? BUSINESS WEEK/ MARCH 1, 1993 83

Complicated." he says. "We're not pow erful enough to cause products that are not excellent to sell well." Still. com plaints from other software makers helped spur a 2 and 1/2-year investigation by the Federal Trade Commission into Microsoft's tactics. FTC sources say the nonpublic probe was completed at the close of 1992 and focused on allegedly unfair tactics used to squelch competi tion (table). According to a confidential outline obtained by BUSINESS WEEK, the FTC investigated practices ranging from the way Microsoft prices software to the way it allegedly uses tying arrange ments to force customers who want one Microsoft product to also buy others. Sources close to the investigation say that FTC staffers recommended a number of actions, including a preliminary. court injunction, ordering Microsoft to cease the offending practices immediate ly, pending the outcome of the case.

NECESSARY EVIL? That they would even contemplate such an injunction—rather than wait for the outcome of a commis sion proceeding—is an indication of how serious the situation appears to the FTC staff, says Terry Calvani, a former FTC commissioner. "The reason the staff went into this uncharted area was the concern that there are companies in business today that may no longer be" by the time the FTC could finish trying a case against Microsoft, he says. But an injunction was only one staff recommen dation among many and, so far. the FTC commissioners have not acted. On Feb. 5, they considered the recommendations and split 2–2 on what action, if any, to take. They are expected to meet again in a few weeks, but Calvani says the tie does not bode well for competitors who were hoping to see dramatic action.

Even if the FTC does nothing, the dom inance of Microsoft will remain a maelstrom of controversy. Interviews with more than 60 industry executives and customers and a review of still secret FTC documents point" to one overriding concern: Microsoft's methods and its growing control over the computer in dustry could choke the life out of any company that stands in its way. Steven P. Jobs, chairman of NeXT Computer Inc. and an outspoken critic of Microsoft. has publicly called for the breakup of Microsoft into two companies: one for operating systems and one for applications pro grams. That move—considered, then rejected by the FTC staff—would keep

Microsoft from using its operating-sys tems business to give its applications business an extra edge, as now alleged.

For the most part, customers can't see what all the fuss is about: Most seem happy with what they're getting and with what they're paying for it. And even if computer makers grouse about how much influence Microsoft now exerts over their business plans, they concede that the standards Microsoft sets are helping to keep their industry vi brant. Says an executive with a top-tier PC maker: "Microsoft is not just a neces sary evil at this point. It's necessary for the industry to proceed."

For many customers. Big Green has already taken on the role that had been Big Blue's. The saying among computer managers used to be: "Nobody ever got fired for buying IBM." Now. says the information-technology manager of a major French manufacturer. "If you put all your marbles in the Microsoft hat, you're safe—like the old IBM."

Even Gates, who pooh-poohs comparisons with the mighty IBM of the 1970s, agrees that his company has partially taken on the leadership role Big Blue has lost. "Who's there to fill that vacuum? Microsoft, more than anyone else," he says. Adds Roger McName??, a partner in technology investors Integral Capital Partners: "Microsoft has been anointed the industry tsar. When that happens, people make it very, very rich." WINDOWS AND ORPHANS. Rich indeed. Microsoft's MS-DOS operating system is used by 81% of the 22 million IBM-compatible PCs built every year, according to Sanford C. Bernstein & Co. Microsoft Windows, which gives MS-DOS a graphical "look and feel," is selling an the rate of 1 million copies a month. Anal because it has been first to market with top-notch applications packages for Windows, Microsoft is now the king of that white-hot growth segment. Lot??s Development Corp., the king of spreadsheets in the MS-DOS world, has just 20% of the $756 million Windows spreadsheet market, while Microsoft's Excel now claims 73%, says market researcher Dataquest Inc. In word processing, the MS-DOS leader, Wordperfect, has 31% of the Win

BIG BLUE MEETS BIG GREEN

As IBM ruled the 1970s with its mainframe hardware, Microsoft dominates today with its operating system software Microsoft used IBM's own tactic against it: By "preannouncing" Windows NT, it stalled sales of Big Blue's OS/2, Version 2 84 BUSINESS WEEK/MARCH 1, 1993 S??CIAL REPORT

Special Report ly, he adds: "I hope they don't kill us." Novell can afford to joke. For now, it still holds 70% of its market. But the rest of the industry, isn't laughing. Rival software companies give Microsoft credit for building good products and marketing them cleverly. But many software executives also are fuming about what they say are Microsoft's unnecessarily tough, sometimes downright mean-spirited tactics. Says the CEO of a rival software company: "If you were in my shoes, you would probably want to go and shoot them. It's not a level playing field. IBM was the most opportunistic and ruthless in the 1970s. And that's exactly what Microsoft is today." VAPOR TIGERS. Indeed, industry veterans say there's a striking parallel between how Big Blue behaved back then and how Microsoft acts now. Computer executives say that just like the IBM of yore, Big Green bullies partners, withholds vital information, disparages competitors, and stalls the market by announcing products long before they're ready. Microsoft denies such charges. While such tactics are in the playbooks of many competitors, in the hands of the richest and most powerful player, they can be lethal.

Take IBM's classic move of announcing a product long before it was ready to ship—a tactic known as "preannouncing." In software, such products are called "vaporware" and no one pays much attention—unless the company promoting vapor holds a dominant position. In that case, tire market freezes. Facing upstart Control Data Corp. in the 1960s, IBM paralyzed the market for scientific mainframes by announcing it was working on machines that would be far faster than CDC's.

These paper tigers, as they came to be known in a subsequent antitrust trial, prevented CDC from winning a single order in 18 months.

Microsoft preannouncements now have a similar effect. Take the case of Adobe Systems Inc., maker of software that controls how computer printers produce typefaces. In September, 1989, Microsoft and Apple Computer Inc. said they would jointly develop a rival product. Adobe's stock fell 20% in one day, and for the next nine months the company spent 90% of its time answering customer's questions and "fighting vaporware," says Chairman John E. Warnock. As it turned out. Apple backed off and Microsoft did not ship its competing product, TrueImage, for two years.

Microsoft has turned this Big Blue weapon on IBM itself. Just as IBM was getting OS/2 Version 2.0 off the ground in mid-1991. Microsoft announced plans for Windows NT. Like the IBM product, NT would be a 32-bit operating system, meaning that it would tap all the powers of Intel's fastest chips. Customers could buy the 32-bit system from IBM then or wait at least 18 months for NT. POWER PITCH. Guess what? Most of the market is waiting for the leader. An executive at a top PC company tells of one customer that felt the squeeze after committing to buy 36,000 copies of OS/2. The way the exec tells it, Microsoft came and pitched NT, and the buyer put the OS/2 order on hold. "It used to be IBM could put orders on hold," says the executive. "Now it happens with Microsoft."

And NT? It's the toast of the tech world even though it's still not ready.

After a six-month delay, it's now scheduled for shipment by June—two years after it was announced. It could be a big FOR INTEL, ONE GOOD FRIEND ISN'T ENOUGH Microsoft isn't the only standard-bearer in the computer business. Software alone does not a computer make, and when it comes to standard PC hardware, the world looks to Intel Corp. Its microprocessors are at the heart of most IBM-Compatible personal computers.

But Intel's power isn't rock-solid. For starters, unlike Microsoft, it has lost share in its core business. Clonemakers Advanced Micro Devices Inc. and Cyrix Corp. have already snagged 62% of the market for Intel's aging 386 chips and are getting ready to sell clones of the 486 as well. Their presence has forced Intel to adjust its marketing plans in the past two years, accelerating the shift from 386 to 486 chips. "SIMPLICITY." Intel could be in for more adjustments as Microsoft, its partner since the dawn of the ISM PC in 1981, spreads out. Windows NT, scheduled to appear this June, will be the first Microsoft operating system to run on chips other than those that are Intel-compati-Microsoft's Gates and Intel's Grove: Intel needs Microsoft, but the reverse is becoming less and less true ble. For starters, NT will also run on the Alpha AXP chip from Digital Equipment Corp. and the R4000 line from MIPS Computer Systems Inc., now owned by Silicon Graphics Inc. These are RISC (for reduced instruction-set computing) chips, the type of speedy design that since 1985 has been challenging Intel's dominance.

Microsoft says the RISC deals are to satisfy, customer requests and don't indicate a change in the relationship with Intel. "Our cooperation with Intel is far more advanced than it is elsewhere," 86 BUSINESS WEEK/ MARCH 1 1993 SPECIAL PEPORT MTC-00030631—0385 dows market, compared with 539 for Microsoft Word.

In short. Microsoft is cleaning up big time—at the expense of its smaller rivals. While other software makers were announcing shrinking market share, losses, or lay-offs in 1992. Microsoft tacked on $975 million in calendar-year revenues—more than 90% of all the revenue growth in the PC software industry, according to preliminary Data-quest figures. Microsoft's share of the world desktop PC software industry reached 44% last year. Dataquest figures. And if. as analysts project, Microsoft sales rise 36%, to $3.75 billion, in the fiscal year ending June 30, Micro-soft will have more revenues than its seven closest publicly held rivals combined. And at nearly $1 billion, it will have more than twice their net income (chart).

All that money, rivals fear, will soon translate into even greater power for Microsoft. Without healthy profits, other software makers may find it impossible to fund new development or finance up-grades of complex programs such as data bases, which comprise millions of lines of code. Borland International Inc. Chairman Philippe Kahn blamed pressure from Microsoft's forey into Borland's data-base turf when he laid off 150 of his 2,200 workers in December. Borland then reported a $61.3 million loss for the quarter and put on the back burner a word processing project that had been two years in development. Gates says Borland suffered mainly because its products were late to market. Lotus, once No. 1 in PC applications programs, had its first-ever layoffs in 1992. Now, it's concentrating its resources where Microsoft isn't—yet: Programs such as Notes, which helps groups of workers collaborate. "TOTAL UNDERDOG." Such a sharp contrast between one have and many have-nots worries industry executives. They fear there will be few major players, more consolidation, and less money for everybody except Microsoft. They also warn of a chill on software startups. John M. Grillos, who manages technology investing for Robertson Stephens" venture-capital arm, says that there are still new Opportunities for startups and scores are on the drawing boards—in promising new areas such as multimedia. But he has a long list of phone numbers at Microsoft and checks the behemoth's plans before going ahead with an investment. Does he call very often? "You bet," he says. "I'm not crazy." 'Microsoft is extremely aggressive in using everything they can to their advantage"

PIERLUIGI
ZAPPACOSTA
Logitech

Gates, the billionaire mastermind of the Microsoft empire, says such worries are nonsense. Is Microsoft too powerful? "The answer is simply no," he says. He points out that Microsoft still lags in some important markets. "Take networking. We're the total underdog." And. he asserts, in markets such as spreadsheets and word processing, Microsoft's presence has prodded the competition to im prove their wares.

Gates also points out that his commanding position does not guarantee him success in the next generation of software: operating systems that will let networks of personal computers take on the big computing jobs now done by mainframes, minicomputers, and workstations. Microsoft's entry, Windows NT, will square off with Novell's UnixWare, Sun Microsystems" Solaris, IBM's OS/2, and NeXT's NextStep.

Still. none of those competitors has the momentum that Microsoft gets from Windows. That should help Gates reach his stated goal of selling 1 million copies of NT the first year. But he insists that doesn't mean NT is already the winner. "This is a hypercompetitive market," Gates says. "Scale is not all positive in this business. Cleverness is the positive in this business."

To be sure, competitors such as Lotus and Borland have contributed to the myth of Microsoft's invincibility through their own less than clever moves. Equally true, there are examples of software companies that have kept well ahead of Microsoft. Many, such as Intuit Inc., a maker of personal finance software, are masters of lucrative niches (page 88).

The biggest player to successfully fend off Microsoft so far has been Novell Inc., the $933 million Provo (Utah) maker of networking software. But Microsoft is aiming for this key software market by building some features similar to Novell's NetWare into Windows NT. Says Kanwal S. Rekhi, a Novell executive vice-president: "Microsoft will keep us on our toes." Then, half-joking-hit. Even Borland is developing software for it. Says CEO Kahn: "There's no choice. The issue is not whether NT is good or bad. The issue is NT is being pushed by Microsoft."

And Microsoft is already talking about an operating system beyond NT. It's called Cairo, and it's due by 1995. The company says that package will match features of Novell's most advanced networking programs and the object-oriented programming features of NextStep and Pink, the operating system due by 1995 from Taligent. the joint venture between IBM and Apple. F.U.D. MISSILES. Gates says Microsoft preannounces systems software because customers and outside developers need details to plan ahead. And once Microsoft tells developers, word spreads fast. "We tell 100 developers," Gates says. "And believe me. that is out in the press the next day."

Whatever the legitimate purpose, preannouncing is part of a larger strategy computer makers say IBM used effectively for years. It's called F. U. D.—for fear" uncertainty, and doubt—and it really works only for the big guy. It's essentially a whispering campaign suggesting it would be terribly unsafe to bet on a competitor. Gates snorts at the notion Microsoft uses F.U.D. as a weapon. "We have a whole department in charge of F. U. D.," he jokes. Seriously, he adds that Microsoft simply gives its opinions and expects customers to judge for themselves. "We're giving our honest view of how wise it is to buy these products." he says.

Where any discussion of Microsoft's power gets dead serious is when rivals-and the

FTC—consider the power stemming from Microsoft's dominance in operating software. Like IBM, whose aggressive tactics for preserving its dominance in mainframes led to the Justice Dept.'s 1969 antitrust suit, Microsoft seems most bareknuckled when perpetuating its position in operating sytems.

Microsoft's most controversial tactic IS a "per-processor" discount plan for MSDOS, which it offers to the highest-volume PC makers. On average, PC makers pay $13 to $14 per copy. For the steepest discounts, the PC maker must agree to pay for a copy of MS-DOS for each PC it ships, whether or not the software is actually installed. That makes it "undesirable for a manufacturer to ship anything but MS. DOS," says a PC executive. Microsoft hays that PC makers are offered a number of ways to buy MS-DOS. But with other plans the discounts are smaller, and PC makers locked in a bloody price war can ill afford to pass up the steepest discounts. DOS & DON'TS. When, pricing isn't inducement enough, Microsoft allegedly uses other means. One PC maker says it told Microsoft that it planned to ship DR.DOS, Novell's clone of MS-DOS, on about 10% of its machines. By shipping MS-DOS on 90% of its PCs, the company figured it would still get the best discount. Microsoft's response: It doubled that customer's price on MS-DOS, which quickly forced the PC maker to drop the idea of offering a choice to customers. Says a company executive: "In my opinion, any monopoly situation is not good for the customer." A senior Microsoft executive says he wasn't aware of this charge but says it would not be common practice.

Such alleged tactics may seem a tad over the top, but maintaining dominance in PC operating systems is critical. Like IBM's dominance in mainframes, it gives Microsoft an extremely reliable, enormously profitable revenue stream. "Microsoft's mainframe is its operating system," says one software executive.

Analysts estimate that between 1989 and 1992, MS-DOS and Windows generated revenues of $2.3 billion, with $998 million of that in 1992 alone. Net profits on those sales last year were $278 million; according to Sanford C. Bernstein & Co. Such profits have helped fund forays into almost every major software market. Microsoft's new data-base program, Access, cost. a staggering $60 million to develop—and it was just one of a dozen products Microsoft brought to market last year. By contrast, last year's entire R&D budget at Borland was $50 million. At Lotus, it was $85 million.

That's not all. Microsoft also had the money to offer an introductory price of $99 for Access—less than one-third the retail price for similar packages. Result: Microsoft sold 700,000 copies in just three months. The entire market in 1992 was only 1.2 million units.

Gates shrugs off the notion that operating systems are his cash cow. "That's the biggest joke I ever heard." he snaps and points out that products such as ??vs Carl Stork, the Microsoft manager ??works with hardware makers. For ??anee, Microsoft still designs its operting system fastest on Intel chips.

For his part, Chief Executive Officer ??ndrew S. Grove points out that Intel is ?? completely dependent on Microsoft ??oftware, either. OS/2 and Unix are al??eady available on Intel chips and NeXT ?? Inc.'s NextStep and Sun's So?? soon will be. And, says Ronald J. ??hittier, vice-president and general manager of Intel's software technology group, most customers aren't likely to switch to RISC hardware for NT because that would require buying all-new applications programs instead of keeping existing programs as owners of Intel-based NT systems will be able to do. "The thing Corporate America wants is simplicity," he says.

??. Where Intel could be vulnerable, however, is in the market for network servers, a key objective for Windows Nr. These machines, which feed centralized information to personal computers over a network, are replacing minicomputers and mainframes in corporations. And that means they're replacing large computer software, not desktop software. In that market, Intel has no advantage, and buyers can look for the best performance. That means RISC chips, which generally run about 50% faster than Pentium, Intel's most powerful chip yet, due out this March. "Would we look at other platforms in the future? Sure," says Edward F. Driscoll, an assistant vice-president at CIGNA Systems, which buys computers for the insurer. "The key is what happens at the server end."

If the RISC chips start to invade Intel's turf on servers running Windows NT, they could soon move toward desktops. And that could shake Intel's hold on the computer market. Microsoft, on the other hand, would still be selling software for all those machines.

By Richard Brandt in San Francisco

Word and Excel are his most profitable. Yet in the next sentence, as he elaborates on the returns from operating systems. he says: "If you just took the cash cow business and did not factor in [the development costs of] NT and Cairo, yes, you'd get a huge profitability."

Gates is accurate when he points out that his applications business now generates more profits—about 50% of net income—than operating software. But it took years to reach that point—years during which Microsoft funded many versions of Word before it was good enough to grab substantial market share. Only when the Windows 3.0 version appeared, in 1990, did it take off.

The operating system business does more than spin" profits. Competitors charge that because Microsoft writes operating systems, it also has an unfair edge in writing the applications programs that work with them. They say Microsoft's applications developers get a pe??k at the inner workings of new operating systems early so they can write programs to take advantage of new features first. In the FTC document, investigators referred to this as Microsoft's "fake Chinese Wall" and listed a dozen "MICROSOFT IS GOOD, BUT IT'S NOT GOD" Scott Cook was stunned by a phone call in late 1990. It was a senior Microsoft Corp. executive telling Cook, the co-founder and chief executive of tiny Intuit Inc., that the software goliath was about to enter Intuit's market—programs for check writing and household budgeting. Because the two companies had once talked about collaborating on a finance program for Windows, the executive said he felt obliged to let Cook know.

Small consolation. After their talks had broken off, Cook shelved plans for a Windows package, and he thought that Microsoft had abandoned its efforts. Now, Cook had little choice: He had to have a Windows version of Quicken in a hurry. In just 10 months, the Menlo Park (Calif.) company was done, just three weeks after Microsoft launched Money. "The advantage we were counting on was lost," says Bruce Jacobsen, general manager of the Microsoft unit that sells Money.

Then, the real battle began. Both products got good reviews, and both carried a list price of $70. Cook cut wholesale prices so dealers could undercut Microsoft's $45 retail price. He also began advertising on TV. All told, Intuit managed to hold on to its 60% market share. Jacobsen concedes that Microsoft was caught off guard.

The episode illustrates that Microsoft is not invincible. And although Microsoft loses only rarely, its performance with Money is not an isolated case. Says Robertson, Stephens & Co. analyst Peter J. Rogers: "Microsoft is good, but it's not God."

Some software makers have even taken back markets that Microsoft dominated. Until a year ago, Microsoft's Works program had close to 90% of the $50 million market for integrated software for Macintosh computers. Such packages combine basic word processing, spreadsheet, communications, and data-base functions. But Claris Corp., Apple's software subsidiary, figured it could build a better product. Its ClarisWorks arrived in late 1991 and within a year had 77% of the market, leaving Microsoft with 20%.

Sometimes, Microsoft's aggressiveness backfires. When it comes to creating multimedia CD-ROM disks, for instance, Microsoft often insists on buying rights to the content of the disks. That can scare off book publishers who worry about losing control in the new medium. Comptons NewMedia, a San Diego-based unit of Encyclopaedia Britannica Inc., on the other hand, helps publishers create and distribute new works for CD-ROM without buying content rights. Result: Comptons now distributes more than 40% of all retail CD-ROM titles in the U.S., while Microsoft only has five titles on the market. Says Link Resources Inc. Cook pulled out the stops to market a Windows version of Quicken in time to spoil Microsoft's picnic analyst Steve Reynolds: "The Comptons approach will be more prevalent." FOLLOWED HOME. If Microsoft has a consistent weakness, it may be in consumer products. Microsoft dominates the corporate market for PC software, which requires building relationships with computer managers and giving volume discounts. The home market, on the other hand, is based on catchy in-store promotions, direct marketing, and meticulous attention to making software easy to use.

That's where Intuit has excelled. A former Procter & Gamble Co. manager, Cook has built his company from about $6 million in 1988 to $84 million in 1992 by studying how ordinary people manage their finances. He has even had product developers follow customers from the store to their homes to see what difficulties they encounter when loading and using Quicken.

Of course, Microsoft isn't throwing in the towel. To finally win some mar ket share from Intuit, Microsoft now has dealers selling Money for $15, com pared to Quicken's typical retail price of $35. "Microsoft is relentless," says Cook. "It never gives up."

By Evan L Schwartz in New York other ways Microsoft allegedly abuses its position. Microsoft denies any unfair crossover or inside knowledge.

Software developers also complain that Microsoft is slow or even reluctant to deliver needed information about operating systems. Perhaps the most ironic such charge comes from Claris Corp., Apple's software subsidiary, Executives there say they tried for a year to get information for writing Windows applications from Microsoft, to no avail. Claris says Microsoft was worried there were cracks in the Chinese Wall between Claris and Apple's operating system team—just what rivals say occurs at Microsoft. But after executive meetings and assurances of no cracks, the situation was resolved. Microsoft's head of developer relations says he wasn't aware of the Claris problem but does "Microsoft is the IBM of the "90s and uses exactly the same marketing toctics IBM used to" PHILIPPE KAHN Borland International concede a general "concern about giving information to our operating system competitors." Microsoft says it's doing its best to get information out to thousands of companies and that it doesn't withhold information to favor itself. Says Pat Bellamah, a manager in Microsoft's developer group: "It's ironic to us that people feel they're having a hard time getting information when that's all we're putting out there." Gates estimates Microsoft spends $80 million a year dissemihating information to developers.

One reason Microsoft draws so much criticism is simply that wherever it com petes, it seems to play a particularly hard-core game of hardball. Take its dealings with Logitech Inc. Until last June, Logitech had a license to buy Microsoft Windows 3.0 at a discount, then sell it together with Logitech's mice. But Microsoft abruptly canceled the deal, saying that it was losing money on such "bundles" involving inexpensive hardware. according to Logitech President Pierluig?? Zappacosta. Only Microsoft still continued to sell Windows bundled with its own mice—for about $10 more than Logitech had been charging.

After Zappacosta publicized his situation in September, Microsoft relented. But there was a catch: The new license fee would be 30% higher. Zappacosta says that priced him out of the market, depriving his company of about $20 million annually. Microsoft continues to sell its Windows-and-mouse bundle. Says Zappacosta: "Microsoft is extremely aggressive in using everything it can to its advantage." Microsoft denies that it forced Logitech out of the market but declines to discuss its pricing. STAC ATTACK. Occasionally, Microsoft's hardball tactics have resulted in civil suits. The latest was filed in January by Stac Electronics, a maker of data-compression software. In its suit, Stsc claims that Microsoft violated its patent by including Stac's technology in test versions of MS-DOS 6.0 without permission. Stsc says it was negotiating with Microsoft to license the technology, but talks broke down when Microsoft did not offer a sufficient royalty. The suit claims that Microsoft executives then showed Stsc a spreadsheet, detailing the "adverse impact on sales of Stacker" if Microsoft opted for another company's technology. Microsoft denies the claim. saying it bargained in good faith and offered "real money" for a license.

As the stories multiply, it also becomes clear that Microsoft long ago became everybody's favorite whipping boy.

There's certainly resentment on the part of bright young software entrepreneurs who may never see millions, much less Gates's billions. And for all the companies that grouse about their dealings with the industry giant, there are dozens that are ardent admirers. Says Morton H. Rosenthal, CEO of software distributor Corporate Software: "We all live in a Microsoft-centric world. Working with Microsoft is like skiing behind the Queen Mary. It's a good ride. But getting up is a little rocky."

Indeed, with Big Blue's waning influence, there's a genuine need for a leader. Customers want good software and good prices. They also want a relationship with a software maker that's going to be around for the long run. They want a new IBM. "If I were a software company, I'd be complaining about Microsoft, too," says Greg Chetel, director of systems planning and research at Gillette Co. "But I don't care who wins. I just want quality products."

In the end, that may be the key to assessing whether Microsoft does indeed have too much power. Software makers are right to cry foul when they think Microsoft's practices have been anticompetitive. They have done so. and the FTC has listened. But as long as Microsoft's dominance stems from keeping customers like Gillette satisfied, it is hard to argue that its power, per se, is harmful.

The danger is that Microsoft will start to use the power of its position, rather than the appeal of its products and services, to stay on top. "If Microsoft runs out of bandwidth," says McNamee of Integral Partners, "then there will be a problem." That's when there will be reason to fear that competition will be stifled mad innovation squelched.

If the history of Big Blue is a guide, Microsoft's dominance will be in danger of waning long before it can distort the market with nefarious practices. When the Justice Dept. began its antitrust suit in 1969, IBM's hold on the mainframe market made it seem invincible. By the time federal prosecutors withdrew their suit in 1982, however, the market had taken care of the problem: New technologies such as minicomputers and PCs had made IBM'S near-monopoly in mainframes largely irrelevant.

History could repeat itself: Says Joe Guglielmi, a former IBM executive, now CEO of Taligent: "Today, everyone is in fear of Microsoft." "But in the end, everyone will compete. There are thousands of Bill Gateses out there who will find pieces of this market and win them." Just the way Microsoft won its place in the sun.

By Kathy Rebello in Redmond, Wash., with Evan I. Schwartz and John W. Verity in New York, Mark Lewyn in Washington, Jonathan Levine in Paris, and bureau?? reports

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TAB 5

SPECIAL REPORT TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT IN CIVIL ACTION NO. 94–1564 (SS) SIGNED BY GARY REBACK

SOFTWARE NO SLACK FOR MICROSOFTS RIVALS

They complain it hasn't been reined in at all by Justice When Microsoft Corp. signed a consent decree in July with U.S. Justice Dept. trustbusters, it emerged virtually unscathed from the feds" five-year probe. Still, the investigation was a protracted—and expensive—headache for Chairman William H. Gates III. And the settlement banned some of Microsoft's most aggressive licensing practices. The experience, rival executives figured, surely would leave Microsoft chastened. No such luck. "The consent decree seems to have set [Microsoft] free," gripes Robert J. Frankents it hasn't strayed from the bounds of normal licensing practices There is little doubt that Microsoft is competing aggressively: Even while the software giant presses its market-share advantages in operating systems and applications programs, it is bolting into new consumer markets with its own on-line service and a plan to buy Intuit Inc., the top maker of personal-finance software. The $1.5 billion deal requires approval of Justice, and rivals once again are regaling Justice staffers with tales of Microsoft's alleged anticompetitive behavior. WINDOWS PAIN. What really stirs fresh fear and loathing in the computer business, however, is Windows 95. Microsoft plans to begin shipping the upgrade of Windows by mid-1995, and the industry already is complaining about the software giant's pricing and marketing plans for the software. Computer makers, for example, have been startled to learn that they will be asked to swallow a huge price hike for their use of Windows 95—to as much as $70 per PC, vs. roughly $35 today. At the same time, Microsoft has established more rigorous technical requirements for hardware and software makers who want to claim their products are compatible with Windows. "Prices are going up and terms are becoming more restrictive," says John B. Landry, senior vice-president at Lotus Development Corp.

There are ways PC makers can lower their costs—if they agree to shipment goals and marketing tactics designed to give Windows 95 an early boost. Indeed. a new "Market Development Agreement" that Microsoft has distributed to PC makers spells out a dozen ways to cut the Windows 95 license fee. For example, a company can save $3 per system by preloading Windows 95 on at least 50% of its personal computers in the first month Windows 95 is available. In a business with evershrinking margins, that's a deal many PC makers can't afford to pass up, ensuring Microsoft lots of promotional help.

In Europe, where Windows" grip on the market isn't as firm as it ms in the U.S., Microsoft's pricing has prompted a minirebellion. Vobis Microcomputer, the No. 1 PC maker in Germany, announced in late

November that it plans to bundle IBM's 0S/2 operating system, rather than Windows, with its machines starting Jan. 1. Says Theo Lieven, Vobis" CEO: "Every penny counts."

CONTINENTAL DRIFT. Lieven contends his rebellion already is working. He says sales have jumped since mid-November, when Vobis began effering 0S/2 in addition to Windows, and "we think OS/2 helped" contribute to the increase. Other European computer makers, including Peacock computer. have also quietly begun shipping 0S/2 on their machines.

U.S. PC makers aren't likely to follow the Vobis lead—partly because the American market is less receptive to OS/2. But that doesn't mean they're all happy about the Windows 95 pricing. Hewlett-Packard Co. executives, for example, say they are comcerned that the higher cost of Windows 95 may cause a pricing differential between Windows PCs and those equipped with 0S/2. Still, says a spokesman, HP expects to bundile Windows 95—and not OS/2—into its machines. And other big U.S. PC makers also remain loyal. "We plan to move to Windows 95 as quickly as we can." says Lorie L. Strong, a vice-president at Compaq Computer Corp.

Still, with Microsoft on thin offensive again, some rival software companies believe the Justice Dept. should use the Intuit inquiry to look once again at broad questions about Microsoft's dominance of the soft ware market. Indeed, rivals say Justice has been asking them probing questions about Microsoft's potential dominance of new distribution channels much as on-line services. But others call another move from Justice wishfull thinking. "We're just going to need to slug it out in the marketplace," says a resigned Frankenberg at Novell. The way things are going, that's just going to get tougher and tougher.

By Amy Cortese in New York, with Richard Brandt in San Francisco. Gail Edmundson in Pa??, and bureau reports

TAB 6

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT IN CIVIL ACTION NO. 94–1564 (SS) SIGNED BY GARY REBACK

BYTE May 1992 Volume 17, Number

Introducing Microsoft C/C + +.

Microsoft Borland*

Windows Class Libraries C/C++7.0 BC++3.0
Covers entire Windows API Y N
Menu support Y N
GDI support Y N
OLE 1.0 support Y N
Exception handling Y N
Diagnostiucs support Y N
Code Generation: DES
Encryption Test C/C++7.0 BC++3.0
EXE size 5K 7.3K
Execution time 820 sec 1500 sec
BYTE Build Test C/C++7.0 BC++3.0
Using fast compile 300 sec 420 sec
pre-compiled headers
Optimized EXE size 162.4K 202.6K
Compiler Features C/C++7.0 BC++3.0
Code in pre-compiled headers Y N
Inline any C/C++ code Y N
Auto-inclining Y N
P-code Y N
Windows Tools C/C++7.0 BC/++3.0
Windows resource Y Y
editors tolls
Profiler for Windows Y Y
& MS-DOS
Windows setup builder Y N
Total documentation 5408pp 4038 pp
Windows 3.1 Y $199
debug hernel extra
Total Price* $495 $948+

By almost any measure, new Microsoft C/C++ Version 7.0 development system for Windows" is the best way to create all your applications for the Windows and MS-DOS operating systems.

With better code generation and precompiled headers, you'll have all the tools you need to write better code, faster.

And because the Microsoft Foundation Classes have the most complete framework for Windows, you'll use the same building blocks for your products that we use for ours.

C/C++ 7.0 also includes the Windows 3.1 debugging kernel which can help you find the bugs. Plus, all the tools you'll ever need to edit your resources, compile the help fries and even build your very own graphical setup programs for Windows.

Judge for yourself. Try new Microsoft C/C++ 7.0 and, as a Microsoft, Borland or Zortech customer, you'll be able to upgrade for just $139'- and for a limited time, you'll get a free copy of Qualitas" 386MAX?? in the box!

So call your local reseller now, or call Microsoft at (800) 541–1261, Department Z71. Get your tools from the people who make Windows, because we've been building Windows tools longer. ??

The best C/C++ tools for Windows are from the company that makes Windows.

TAB 7

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT IN CIVIL ACTION NO. 94–1564 (SS)

SIGNED BY GARY REBACK

The Newspaper of information Systems Management October 10, 1994, Vol. 28. No. 41. 168 Pages. $.??opy, $48/Year

COMPUTERWORLD

News

Server suite could squeeze market

Microsoft product linking plans point to another bid for dominance

By Sluarl J. Johnsion and Fal Seannett

Microsoft Corp.'s recently announced BackOffice server sidle is the first step in an evolution designed to ac complish much tighter integration during the next few years between the company's enterprise building blocks of servers and its operating systems.

lit fact. by the time Microsoft's Cairo version of Windews NT arrives in late 1995, the fit may be so tight that a competitor's knife blade will not fit between the blocks.

Problems could arise for competitors if Microsoft shares information only with its own developers on how to tightly integrate with the object-oriented Cairo file system, suggested Warren Smith, a certified public at??tant and certified information systems auditor in Pac??e Bell's auditing department.

If Microsoft puts shortents into Cairo that turn out to be better than the industry standard implementation of Cairo, Smith said the situation could be a return to the .days when other third-party vendors complained about Microsoft using application programming interfaces "that no one else knew about in some of their applications."

At least one other observer agreed.

"All of this is an inevitability," predicted Jerry Sehneider. president of Sehneider Associates, Inc., a consul taney in Burke, Va., and former president of the Capitol PO User Group. "The [operating system] is always go ing to be getting more, and more aggressive. No one is sate anymore."

The very thought may further unhinge competitors, some of which are still smarting from the recent ,Justice Department antitrust settlement with Microsoft. However, many large users do not appear concerned. In fact, sonic said they welcome a model along the lines of the old IBM that positions Microsoft as the new empire builder.

"Where Microsoft is at right now reminds me of where IBM was in the t970s and 1980s, [and] if it continues to do things right, the users will benefit," said Scott Piper, a network analyst at Public Service Co. of Colorado in Denyet.

"Generally, I don't find Microsoft's proprietary elements to be an impediment, [and] by]; taking life simpler, it's going to be positive," said Colin Carpi, president and founder of Churtwell Advisory Services, Inc. ill Penn Valley, Pa., which is developing a large on-line financial services system.

"Big is usually good [for users] because if you're gotug to have things work, their you [must] have standards, and that lakes one [dominant] company," said Briscoe Stephens, coordinator for splice ?? in the Advanced Scientific information Systems Group at NASA in Huntsville, Ala.

Enhancing that vision of dominance are recent acknowledgments by Microsoft officials that over time, the line between server applications and systems software will begin to blur. The first step will be to provide tighter integration among tile components in Microsoft's recently announced BackOffice server suite.

A major jumping-off point will come. however, when Microsoft ships tile next major release of Windows NT, code-named Cairo, which will include a new file system that will store information as objects instead of files.

Total control

Cairo's Object File System well provide many core fun??tions that users currently think of as database fun?? lions—functions that can become part of a standard computing architecture that Microsoft controls from top to bottom Cairo Is scheduled to ship late next year, but many analysts and industry observers said they do not believe it will be out until 1990, at the earliest.

By the time the entire strategy unfolds, users may depend on Microsoft for virtually all their computing needs, which Amy Wohl, editor of the "TrendsLetter" industry newsletter in Narberth, Pa., suggests may not be a good thing.

"Microsoft is becoming[like] IBM, land I tit,, downside for users is the more they do that, the less open they're going to be [so that] it becomes harder to swap in your favorite database," Wohl said.

Microsoft officials deny their plans will make their systems more closed. Many timers agree, arguing that competitors will always he able to come up with innova tive products to help keep the systems open.

TAB 8

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT

IN CIVIL ACTION NO. 94–1564 (SS)

SIGNED BY GARY REBACK

Desktop Computing Carole Patton Bundles are bad news Windows 95 is not just in operating system. When it arrives next spring, this tour de force from Microsoft will replace nit those (formerly) separate utilities you probably have on your PC right now. such as fax software. E-mail and communications capabilities. Especially neat here is that all these built-in Windows applications will be ?? integrated into a single common interface and even a central database of names and addresses.

In fact, Windows 95. the next generation of Windows. is such a complete operating environment that you may never have to purchase another Windows utility again. Nice for you. Not so nice for software developers such as Lotus. Delrina or Symlmtec, whose Windown products are about to become "buggy whips" in the name of progress. Microsoft is even including a somewhat feature-limited version of its best-selling suite. Microsoft's Office. in Windows 95.

This strut??y is a prescription for destroying the Windows service appications market and damaging (if not terminating) the market for core business software. For example, what if you buy a laptop preloaded with Windows 95 and Microsoft's Office. Will you then go out and buy SmartSuite from Lotus or PerfectOffice from Novell? Probably not. Consumers aren't interested In replacing "good enough" with "great." Most new car buyers keep the standard radio their car came with. Only a handful are willing to shop around and pay a prem??um for better audio quality. Bundle bandwagon Microsoft is not alone in pursuing a bundling strategy. IBM's OS/2 Wurp Verston 3.0 ships with a Bonus Pak that includes a word processor and a spreadsheet (IBM Works), plus a host of third-party software.

These "free" goodies help sell the product and un?? those vendors whose software is bundled—"It's in there: it must be good." users think. But such a strategy also leaves out in h cold any vendor whose software was overlooked. While bundling is arguably anticomp??ive, the issue has expanded with Windows 95. IBM's Warp cannot claim the same high le??t of integration of Microsoft's standards. such as the internal communitarians process embodied in Object Linking and Embedding (CLE). Tuke, for instance. Lotus" SmartSuite 3.0 for Windows. released in September. For all intents and purposes SmartSuite is an office in a box. You get a word processor (Ami Pros. Lotus famed 1–2–3 spreadsheet. a database (Approach). a calendar program called Organizer and Freelance Graphics presentation software. Lotus" SmartCenter tool for switching among these applications is nifty.) However. Lotus SmartSuite programmers were able to provide support for only part of the OLE 2.0 specification: the drag-and-drop among 1–2–3. Approach and SmartCenter. Microsoft's Office. on the other hand, supports OLE 2.0 across the board. (It is Microsoft's standard. after all.) It is so ??ghtly integrated with Windows 95 that removing it to make room for SmartSuite may not be practical.

I've long thought that by selling both systems and applications. Microsoft would gain advantages that could eventually terminate competition among Windows vendors. This is especially evident now. With hardware prices dropping so fast. Windows (and Windows applications) could become "disposable" thanks to Windows 95. You won't ever have to replace or upgrade programs. Just buy a new PC that comes complete with all the software anyone is ever likely to need. Seen their side I can't blame Microsoft or IBM for trying to create a complete operating environment. We are ??ing the era when users cured about software and took the time to learn a variety of different packages and understand the differences. Most computers today are being bought by novice PC users. and these newcomers requires software that is easy to use. They want Windows point-and-click software, not arcane commands.

But I believe competition is, for all practical purposes. "locked out" when operating systems developers can m??grate their own applications and so much "free" third-party software in a single, seamie?? package. If this doesn't raise a red flag in the offices of the U.S. Justice Department, then our regulators are asleep at the switch.

Here's the bottom one: Will you be better off five years from now without Lotus" SmartSuite Windows? Without PerfectOffice? Without WinFax? Without any choice?

Patton is chief analyst at the ?? Technology Group at Mend?? N.J. and publisher of "Windows Letter." a ?? better for corporate decision-maters Her book. US/? Gold??, will be available ?? Van Nostrand Heihold in March. Contact ??

COMPUTI[RWORLO NOVEMBER In. 199& 57

TAB 9

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT

IN CIVIL ACTION NO. 94–1564 (SS)

SIGNED BY GARY REBACK

Developing for next generation or Windows may mean running on NT ??

TAB 10

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT

IN CIVIL ACTION NO. 94–1564 (SS)

SIGNED BY GARY REBACK

Can Microsoft get SQL Server on everything from big iron to steam irons? If you think OLE everywhere is the future, the answer is yes.

By J. William Semich

The LONG VIEW from Microsoft: Component DBMSs THEY JUST DON'T GET IT. Informix, Oracle, Sybase- all the top database-system companies. They watch in a dither for a year while Microsoft messes up their space with its dirt-cheap SQL Server For NT database technologies. and they think that Microsoft is being random (as Bill Gates might put it) with pricing that just doesn't make sense. Dangerously random. But the UNIX database oligopoly is only haft right. They got the danger part right. Because it turns out Microsoft has a plan. When the company announced its future SQL Server 95 last June. the SQL Server crew had its three-year strategy all mapped out. 'Course, they didn't show that map at the announcement—only Micros offs top management had seen and approved it. But we got an in-depth look after hours, and we'd like to share it with you.

Microsoft is taking a three-pronged strategy with its SQL Server technology. For symmetry's sake. We'll label the prongs "Three Hundred Million Servers." "Three Hundred Processors," and "Three Hundred Objects." If Microsoft succeeds ma all three fronts, the face of computing will change, and so will the trajectories of the high-flying database vendors.

THREE HUNDRED MILLION SERVERS

First. there's the Three Hundred Million Servers strategy. That's basically a price strategy. Microsoft thinks it can push the price of the powerful database server software central to enterprisewide distributed computing so low that all your future computing systems will be based on database servers running on super powerful, cheap boxes. This is no: a "servers attack the mainframe" strategy, though, cautions Microsoft's director of enterprise computing. David Vaskevitch. It's more of a "servers run the business: approach.

"There are 11 million places of business in the U.S. alone. They're "all doing things right now that servers could help them do better." Vaskevitch explains. "And there are other things they never dreamed of being able to do; servers can make those things happen, too." That blue-sky approach means, for example, that SQL servers could run your phone system, copying system, cash registers, all that stuff. Not hard to get to 300 million that way, eh?

This won't happen overnight, adds Vaskevitch. but he sees it as inevitable over the long term.

THREE HUNDRED PROCESSORS

Second. there's Microsoft's high-end corporate-computing strategy. By this time next year. when Microsoft ships the next upgrade of SQL Server For NT (code-named SQL Server 95, now officially named Microsoft SQL Server)," its data-base server will be able to run on the most powerful mainframe-class multiprocessor computers and virtually match the power. Features. and functions of the latest multiprocessor and parallel-processing products From the UNIX vendors.

You could call this the Three Hundred Processors Strategy and you'd not be half wrong. Well. maybe not 300 processors-at least not right away.

The Three Hundred Processors Strategy. is actually one way Microsoft plans to become a major player in large-scale, mission-critical computing technologies. Microsoft recently restructured itself to better Focus resources on making it happen.

Last year. prior to restructuring, Microsoft sold just under S5 billion worth of PC software in a market that totals barely S10 billion. With its high-end corporate strategy, Microsoft intends to move into the S?0 billion+ market for business software, so it can grow lickety split to something like $20 billion.

"We'll need to be selling into a $100 billion software market to Bet to that S20 million," says Richard Tong, marketing director for Microsoft's new IS-focused Business Systems Division.

Of course, sitting squarely in the middle of that enterprise computing market are the likes of Computer Associates. Oracle. Sybase-you know the names. They won't let on that they're really concerned about the competition From Microsoft. They say Microsoft's big talk is just smoke. So how does Microsoft intend to prove them wrong?

Early prowess toward the long-term Three Hundred Million Servers kraal will help Microsoft achieve its aggressive revenue growth forecast, but performance improvements will help more.

By 1996. when Microsoft ships its even more advanced SQL Server For Cairo. it expects it to actually outperform Informix-Online Dynamic Server 6.0. Oracle7.1. and Sybase System l0 (see "MS-SQL,

MS—$QL Server: Good Today, Better Tomorrow Think you'll ever seriously consider swapping your mission-critical DB2-based financial management system, or oracle 7-based airline reservation system, or even your Sybase SQL Server 10-based loan approval system for a realty complex Excel spreadsheet with a SQL Server engine? Hah!

But Bill Gates is betting the company that you will. Not exactly an Excel spreadsheet, of course—but a whole new kind of mission-critical, high-availability, heavy-duty, object-oriented, component-based enterprise system that includes the next generations of Microsoft's Windows NT operating system (dubbed Calro), the new SQL Server 95 (and the w??announced SQL Server For Calro), and its coming distributed OLE technology. All this will happen in the next year or two, a not-so-distant future that Microsoft internally refers to as "the Calro timeframe." At right is the techno-time line Microsoft hopes will turn into reality:

Server: Good Today, Better Tomorrow").

THREE HUNDRED OBJECTS

Third, there's the Three Hundred Objects prong of Microsoft's strategy, the component-software-system pieces. In order to build enterprise-computing systems From reusable mix-and-match software components, you need more than the object-oriented operating system Cairo, distributed OLE, and the Visual Basic enterprise development tool technologies. You need a technology that turns desktops and servers into peers when it comes to storing, sharing, and finding objects.

To help make this happen. Microsoft is moving SQL Server technology down- The Metamorphosis of Microsoft SQL Server 1994

SQL Server 4.21s ?? 1996 scale, onto the desktop.

The plan is to use pieces of MS-SQL Server technology to rebuild desktop apps like Microsoft Access and Excel so desktops and server components can talk to each other. "There's this huge mismatch, in terms of semantics, between the big server-based database systems and the tools that run on the desktop." saves Gary Voth. ?? The SQL Server NT Decision: One Insider's Advice

By an anonymous lilac resort technology partner You'd be crazy not to start looking seriously at Microsoft s SQL Server 95 technology. But you'd also be crazy-OK, not crazy, just adventuresome—to commit your company today to Microsoft's component enterprise-computing plan lock, stock, and betel.

Even so, rye looked at SQL Server 95 and 96 up close and undressed, sort of, and it is something really slick. Microsoft recently demonstrated an early, early version to my company In the hopes that we would port our apps to SQL Server For NT. I can't tell you my company's name, but it's one of the leading midrange manufacturing packaged software application vendors.

First off, I was surprised and impressed at the level of the technology they're showing in SQL 95 and SQL 96. Microsoft looks like it's paying attention to the issues that are Important to making SQL Server an enterprise-quality database management system.

They seem to be building In a scalabilary capability for symmetric multiprocessors, and they're leveraging the multithreaded capability of the NT operating system. That gives them leg up on the other database products, which rely on different versions of UNIX. Some versions of UNIX don't support multi-threading, so everything goes through a single queue. Microsoft isn't constrained by that.

SQL Server 95's new system administration toolsets [Starfighter] are very impressive. Microsoft is plying a lot of attention to things like ease of use and the kinds of data replication issues that are necessary to manage performance and backup, and necessary for bet-back-up capabilities, parlor. mange monitoring, and job scheduling. The SQL 95 job scheduler is integrated into NT. That technology alone shows that Microsoft is trying to listen to enterprisewide needs. I don't see SQL 96 as a scaled-down version of Sybase System 10 at all. It appears to have the same robust capability that Sybase has.

That said, I still chose Sybase System 20 for the next version of my company's packaged software. Why? Because my customers can buy it today, and I know it works and works well. And if I were a CI0 or CTO at a large enterprise, I would do the same thing.

SQL Server 96 is an "NT only" solution—whatever advanced functionality Microsoft's building into it now is predicated on the success of fir. That's still an open question.

Besides, Microsoft's track record on delivering both functional and technical quality products out of the box isn't what I'd like it to be for k kinds of solutions I'm trying to still. I'm net soiling spreadsheets and wad processors. Plus, Microsoft has no track record celling enterprise systems ?? applications. It's a gamble.

My recommendation ?? don't bet your job or your company on Microsoft SQL Server and NT Server to. Let Microsoft's existing dedicated INT users do that instead.

Software systems across geographically dispersed servers with stuff like drag-and-drop replication, automated restore and restart. The tools, which Microsoft previously code-named Starfighter but has officially named Enterprise Administration Tools For SQL Server 95. are "all OLE objects. Starfighter lets users build their own database management scripts using a new 32-bit version of Visual Basic. SQL Server 95 itself is. in effect. an OLE automation server for these OLE tools and scripts.

In other words. Microsoft is rebuilding SQL Server so that it can contain and manage software components. When SQL Server For Cairo is shipping, Microsoft's world of computing will become a world of OLE objects-components that a developer can link together using OLE's APIs into an application. Then SQL Server won't just store data-it will contain components.

Explains Casey Kiernan. Microsoft's program manager for SQL Server tools: ?? "All of our server apps-SQL Server. Systems Management Server. Information Exchange Server, and SNA Server—will have this single integrated model in Cairo," he explains. n

The company is serious about this, too, Vaskevitch says. No matter how long it takes, or h6w much work has to be done to make the technology compelling to commercial users, the company is committed to making its NT-based SQL Server the enterprise launching pad for its Cairo component-computing system.

"We've already invested three years in the planning process for SQL Server. and it doesn't bother us if it takes five. even eight years to Let to where we want to be—we don't give up." says Vaskevitch. It probably doesn't hurt to have deep pockets. either.

THE FUTURE Of TECHNOLOGY & PRICING

So there it is-the future of enterprise computing according to Microsoft. the world's richest software company. And where will "all the UNIX database companies be, come Cairo time? Today, at least, they still act like they don't have a due.

They still think they can advance the technology by making their database systems into bigger, better, faster (and pricier) versions of what they've been selling for the past decade and a half-with, of course, the magic sobriquet "open" pasted onto it "all

They may think that. But according to Microsoft's plan, all these big. distributed UNIX megaliths will soon seem just as rigid, overpriced, oversized, and outdated

TAB 11

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENTIN OPPOSITION TO PROPOSED FINAL JUDGMENT

IN CIVIL ACTION NO. 94–1564 (SS)

SIGNED BY GARY REBACK

Preface

The year 1993 was one of dramatic change in the PC software industry. This report will highlight the major events of 1993 in personal computing software. We analyze the positioning and directions of the top 10 vendors, dissect our data, and then analyze applications by category., operating system, and region. We conclude with our forecast of future trends in the industry.

Data included in this report is listed as needed for our discussion. For a comprehensive list of our historical data and forecasts, refer to the Persona/ Computing Software Worldwide Market Statistics, a series of three reports published in June 1994 (product codes: PCSW–WW–MS–9401, –9402, and –9403).

Dataquest's PC Software service tracks all major PC software business productivity applications running on the DOS, Windows, Macintosh, OS/2, and Windows NT operating systems and environments. Other services concentrate on other areas of the software market our Multi-media service tracks entertainment and education .software; our Client/Server service tracks development tools and server databases; and our Digital Documents and Operating Systems services complete the offerings.

In Appendix A, we define our market coverage boundaries. In Appendix B, we discuss the methodology used to arrive at our decisions. We hope that you find this information useful Please contact us if you have any questions regarding the data or analysis.

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Clerk, U.S. District Court

District of Columbim

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Personal Computing Software Worldwide

Figure 4–2

1993 Unit Shipments Growth by Category

Analysis of Each Category

This section will analyze the 1993 results for each category. Future trends for each category will be discussed in Chapter 7. For a definition of each category, see Appendix C.

Accounting

Intuit, a new entry in the accounting market in 1992, jumped to the top spot in revenue in 1993 (see Table 4–1). Realworld, Peachtree, and Great Plains all ship products that have a higher ASP than Intuit; however, revenue for all four companies is very closely matched in the U.S.$20 million range. A slow transition to thin Windows platform. contributed to the revenue decline in I993.

Communication

The communication market exploded in 1993. Bundling arrangements with modem OEMs contributed significantly to the 167 percent growth in unit shipments (see Table 4–2)). Revenue increased by an impressive 47 percent. Delrina's WinFax: Pro and Datastorm's Procomm Plus led the charge. The growth of the laptop market also spurred unit sales. There is still room for growth in this (market, but 1993 will be remembered as the year this market really took off.

PCSW-WW—MT-9401 (c)1994 Dataquest Incorporated June 27, 1994

TABLE 4–12.—TOP VENDORS IN THE SPREADSHEET MARKET

[Revenue in Millions of U.S. Dollars]

	1993 Revenue	1992 Revenue	1993 Market Share (%)	Revenue Change (%)
Lotus	445.9	502.2	46.1	−11.2
Microsoft	357.0	484.4	36.9	−26.3
Borland	69.5	121.4	7.2	−42.8
Total Spreadsheet—Market	968.0	1,262.3	100.0	−23.3

Source: Dataquest (May 1994)

TABLE 4–13.—TOP VENDORS IN THE SUITES MARKET

[Revenue in Millions of U.S. Dollars]

	1993 Revenue	1992 Revenue	1993 Market Share (%)	Revenue Change (%)
Microsoft	821.2	213.0	85.4	285.5
Lotus 114.8	16.1	11.9	612.7	
Borland 17.7	0	1.8	NA	
Total Suite Market 961.5	229.1	100.0	319.7	

NA* Not applicable
Source: Dataquest (May 1994)

Utilities/Application

WordPerfect's Grammatik for both DOS and Windows were the two leading applications in 1993. WordPerfect garnered a 36 percent market share based on revenue in 1993 (see Table 4–14). This is a small market that involves small companies able to find a niche market. This is not a market where we will likely see one or two vendors dominate.

TABLE 4–14.—TOP VENDORS IN THE APPLICATION UTILITIES MARKET

[Revenue in Millions of U.S. Dollars]

	1993 Revenue	1992 Revenue	1993 Market Share (%)	Revenue Change (%) (1992–1993)
WordPerfect	24.1	0	36.2	NA
Wordstar	5.8	9.2	8.5	−36.5
Adobe	4.9	5.7	7.3	−14.0
T/Maker	4.0	3.7	6.0	8.8
Total Application—Utilities Market	66.6	69.8	100.0	−4.6

NA = Not applicable
Source: Dataquest (May 1994)

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TAB 12
TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT
IN CIVIL ACTION NO. 94–1564 (SS)
SIGNED BY GARY REBACK
FILED FOR IMMEDIATE RELEASE
SATURDAY, JULY 16, 1994
Clerk, U.S. District Court
District of Columbia AT
(202) 616–2771
TDD (202) 514–1888

MICROSOFT AGREES TO END UNFAIR MONOPOLISTIC PRACTICES

WASHINGTON, DC—Microsoft, the world's largest and dominant computer software company, agreed to end its illegal monopolistic practices after the Department of Justice charged that the company used unfair contracts that choked off competition and preserved its monopoly position.

The company agreed to settle the charges with a consent decree that will prohibit Microsoft from engaging in these monopolistic practices in the future.

Microsoft, which makes the MS-DOS and Windows operating systems used in more than 120 million personal computers, was accused of building a barricade of exclusionary and unreasonably restrictive licensing agreements to deny others an opportunity to develop and market competing products.

Attorney General Janet Reno said, "Microsoft's unfair contracting practices have denied other U.S. companies a fair chance to compete, deprived consumers of an effective choice among competing PC operating systems, and slowed innovation.

(MORE)

Today's settlement levels the playing field and opens the door for competition."

"Microsoft is an American success story but there is no excuse for any company to try to cement its success through unlawful means, as Microsoft has done with its contracting practices," said Anne K. Bingaman, Assistant Attorney General in charge of the Antitrust Division.

The settlement is the result of close coordination between the Department of Justice and the competition enforcement authorities of the European Commission, which has been investigating Microsoft since mid-1993, and which also initiated an undertaking containing essentially the same terms. This complaint and settlement marks the first coordinated effort of the two enforcement bodies in initiating and settling an antitrust enforcement action.

Bingaman, praised the Commission, noting that, "This unprecedented, historic cooperative action sends a powerful message to firms around the world that the antitrust authorities of the United States and the European Commission are prepared to move decisively and promptly to pool resources to attack conduct by multinational firms that violate the antitrust laws of the two Jurisdictions."

The civil complaint and consent decree were filed last night, July 15, in U.S. District Court in Washington, DC The consent decree, if approved by the court, would settle the suit.

Until approved, Microsoft has agreed in a stipulation filed with the court to abide by the terms of the decree.

The Department alleged that Microsoft used the following unfair practices:

Exclusionary Per Processor Licenses—Microsoft makes its MS-DOS and Windows technology available on a "per processor" basis, which requires PC manufacturers to pay a fee to Microsoft for each computer shipped, whether or not the computer contains Microsoft operating system software. The complaint alleges that this arrangement gives Microsoft an unfair advantage by causing a manufacturer selling a non-Microsoft operating system to pay at least two royalties—one to Microsoft and one to its competitor— thereby making a non-Microsoft unit more expensive.

Microsoft has used its monopoly power, in effect, to levy a "tax" on PC manufacturers who would otherwise like to offer an alternative system," said Bingaman. "As a result, the ability of rival operating systems to compete has been impeded, innovation has been slowed and consumer choices have been limited." She noted that Microsoft has maintained the price of its operating systems while the price of other components has fallen dramatically. Since 1988, Microsoft's share of the market has never dropped below 70 percent.

Unreasonably Lonq Licenses—The Department further alleged that Microsoft's contracts are unreasonably long. By binding manufacturers to the purchase of Microsoft products for an excessive period of time, beyond the lifetime of most operating system products, the agreements foreclose new entrants from gaining a sufficient toe-hold in the market.

Restrictive Non-Disclosure Agreements—The Department also charged that Microsoft introduced overly restrictive non- disclosure agreements to unreasonably restrict the ability of independent software companies to work with developers of non- Microsoft operating systems. Microsoft sought the agreements from companies participating in trial testing of the new version of Windows, to be released later this year. The terms of these agreements preclude applications developers from working with Microsoft's competitors for an unreasonable amount of time.

The settlement ends these practices and will help to rectify the effects of Microsoft's past unlawful conduct. In particular, the settlement prohibits Microsoft from:

—Entering into per processor licenses.

—Obligating licensees (manufacturers of personal computers) to purchase any minimum number of Microsoft's operating systems;

—Entering into any licenses with terms longer than one year (although licensees may renew for another year on the same terms).

—Requiring licensees to pay Microsoft on a "lump sum" basis.

—Requiring licensees to purchase any other Microsoft product as a condition for licensing a particular Microsoft operating system.

—Requiring developers of applications software to sign unlawfully restrictive non-disclosure agreements.

The settlement is effective immediately and will be in effect for six and a half years.

Bingaman said "this settlement resolves the competitive problems created by Microsoft's unlawful conduct quickly and effectively."

Microsoft's main corporate office is in Redmond, Washington.

94–387

ORIGINAL
DEPARTMENT OF JUSTICE PRESS CONFERENCE
With Attorney General Janet Reno and Assistant Attorney General Anne Bingaman
Regarding the Microsoft Settlement
Saturday, July 16, 1994
(Transcribed from a provided audiotape.)
ALDERSON REPORTING COMPANY, INC.
(202)289–2260 (800) FOR DEPO
1111 FOURTEENTH STREET, NW SUITE 400 / WASHINGTON, DC 20005

PROCEEDINGS

ATTORNEY GENERAL RENO: Good afternoon.

The Justice Department has charged Microsoft, the world's largest software company, with using unfair marketing and contracting practices to choke off competition to preserve its monopoly position. Microsoft has agreed, yesterday, to settle the charges with a consent decree that will prohibit the company from continuing to engage in monopolistic practices in the future.

While the company fairly and lawfully climbed to the top of the industry ladder, it used unfair and illegal practices to maintain its dominant position, and kept honest competition from other U.S. companies.

The Justice Department has taken an action that is critical to the personal computer industry and the efforts to make it competitive. This settlement will save consumers money, enable them to have a choice when selecting PC operating systems, and it will stimulate innovation in this critical market.

Today's settlement is the result of close coordination between the Department of Justice and the Competition Enforcement Authorities of the European Commission, which, today, also has indicated an undertaking containing essentially the same terms.

This complaint and settlement marks the first coordinated effort of the two enforcement bodies in initiating and settling an antitrust enforcement action.

I want to thank and to recognize Anne Bingaman and the fine staff of the Antitrust Division, who have worked through long hours of negotiations to resolve quickly this significant case, and achieve the best results for the consumers of America.

And now I would like to ask Anne——

MS. BINGAMAN: Thank you.

We are proud of the achievement that the settlement filed in Federal District Court in Washington, the District of Columbia, at 9:30 last night represents. It is a significant—in fact, historic—breakthrough for the software industry, for innovation, for the competitiveness of the American economy.

Let me describe for you briefly what the case we filed is about and what the settlement achieves, because they are significant.

Number one, the settlement will open the playing field; it will level the playing field for Microsoft's competitors in the operating system software market, to enter this important market, to bring down prices to consumers, to innovate, to produce better products.

Microsoft, for years, and has today, monopoly Dower in the software—operating system software market AS this chart shows, Microsoft has 79-plus percent of that market. Its competitors are other American companies who have been struggling for years to enter this market to provide better, cheaper products to American consumers, and Microsoft's contracting practices, which are challenged in this lawsuit and which are ended by the settlement we achieved, have prevented those competitors from entering the market. They have deprived consumers of choice. And they have stopped innovation—slowed innovation in this important market.

Let me describe to you the four major things that Microsoft did and which this settlement ends. Number one, the per-processor license, I'll describe in a moment.

Number two, contracts of extraordinarily long duration which blocks the market. Number three, huge, 100 percent minimum commitments for years, which amounted to take-or-pay contracts, which blocked the market.

And, four, restrictive non-disclosure agreements for software writers which prevented them from writing for other software companies in some cases. Let me turn first to the per-processor license, what that is and what this settlement does to stop it. Number one, the settlement bans it outright. That is first. What the per-processor license has done until last night at 9:30 was to lock up 60 percent of this market in the United States in per-processor contracts which Microsoft began using in 1988. Per-processor contracts are contracts which Microsoft imposed by virtue of its dominant monopoly position on computer manufacturers, such as Dell, Compaq, Gateway, you name it, the OEM's they are called in the business, the computer makers, who have to license from Microsoft because it has had this monopoly position and the products are demanded in the marketplace.

Nothing wrong with that, but rather than simply sell those products fair and square on the merits and on price, in 1988, Microsoft invented a form of contracting called the per-processor license, under which it required the computer manufacturers—induced them with extremely low prices to pay for every processor they shipped of a certain type not just to Microsoft, but to the competitors. So it worked this way: Under a per-processor license, which 60 percent of the industry has had until last night, Microsoft got paid for every processor shipped by a computer maker, whether or not that processor had a Microsoft operating system loaded on it.

Now, if you are a competitor of Microsoft and you wanted to sell your competing product to a consumer, you do that through these computer manufacturers. But they had to pay Microsoft.

NOW, if Microsoft—take this hypothetical— operating system was $15, and you came in with a better operating system or cheaper, it worked just as well, hypothetically $10—these numbers are lower than average, but for ease—under the per-processor license, the computer manufacturer pays Microsoft 15 and the competitor 10 for a total of $25 on what really is a $10 item.

The result, computer manufacturer were reluctant 10—extremely reluctant—to buy from competitors. And that was the purpose and the effect of the per-processor license. It's obvious what it does. It drives prices up to consumers. It raises prices. It locks out competitors. And it slows innovation.

So, this settlement stops the per-processor license.

Two, Microsoft used contracts of three to five years in an industry that was rapidly turning over. These extraordinarily long contracts made it very difficult for competitors to get in. The settlement we achieved today reduces contract lengths to one year, with one, one-year extension on the same terms and conditions which the computer manufacturer, in its sole option, can elect.

So, we have 9one to one-year contracts, banning of per-processor.

The third important feature of this settlement is abolishing minimum commitments. Microsoft's third way to lock up this market was to say to the computer makers who had to deal with it, We will give you a lower price if you estimate a large volume.

Nothing inherently wrong with that volume discounting. The problem is Microsoft quoted these low prices in conjunction with 100 percent minimum commitments —i.e., you get that price only if you sign on the dotted line to pay us every cent regardless of whether you actually ship our product or not—a take-or-pay contract. You pay no matter what.

Well, what does that mean? Over a long-term contract, what that means is if the computer manufacturer's business has not gone quite as well as it thought, it is locked into Microsoft no matter what because it owes them this minimum commitment, even if it has not sold any machines. So, minimum commitments was a third way that Microsoft locked up this market, locked out competitors, and minimum commitments are abolished. They are zero in the settlement we achieved yesterday. Finally, NDA's, non-disclosure agreements, were restrictive agreements which Microsoft, this winter, imposed in a manner that had never been done before in the software industry on certain applications writers. It would have—the NDA's challenged in this lawsuit and which Microsoft in the consent decree agrees to stop would have prevented applications writers from discussing Microsoft's operating systems for as long as three years after public disclosure of the operating system.

The effect could take those application writers, the software writers, forever out of business, in effect, except for Microsoft. It is another way to, in effect, lock up the market—this time by locking up the important software applications writers.

Microsoft itself has said these NDA's were a mistake. It has agreed in this consent decree to never engage in such practices while this consent decree is in effect. And that also is a significant achievement of this settlement.

The last thing the settlement does is prohibit the use of lump-sum contracts, which would have been another way that Microsoft could have locked up this market. They had not needed to use them in the past because they had these other methods, but looking forward, our concern was that they might. And so the settlement also bans lump-sum contracts.

This settlement is everything we could have hoped for in a fully litigated case and possibly more. It is an historic achievement. I tell you, the charts we have prepared today were prepared for the lawsuit we planned to file yesterday. The lawsuit was not filed because of the settlement. We filed instead a complaint with a settlement. We are extremely proud of this result.

And the last point that the Attorney General noted, I think, deserves mention. This is the first time in history that the Competition Authorities of the European Commission and the Department of Justice have cooperated closely in investigating a major worldwide company, whose anti-competitive practices affected important markets both in Europe and the United States.

we took this under a letter—the EC and I and the Department of Justice asked Microsoft last October to waive any confidentiality restrictions under our respective statutes so that we could work together and think about the case we were jointly—not jointly to them—but that we had each initiated. Microsoft agreed to that in writing. We worked with the EC throughout the winter. We shared documents. We worked closely with them. We settled this together on terms that are substantially identical. We negotiated in Brussels the week of July 4th with Microsoft. We negotiated this week at the Department of Justice with EC officials here. And this also is a truly historic aspect of this settlement.

So, we are extremely proud of this. We are gratified that it concluded with a consent decree which achieves the really 100 percent results that any lawsuit could have achieved, and possibly more. And I want to especially note that this was the ultimate team effort. We had a group of lawyers, led by Sam Miller, who is here today, and Don Russell, who is on his way back from Brussels —he has been in Brussels all week coordinating this hour by hour with the EC over there—we have had extraordinary people on this case. We had a team of lawyers I would put against anybody, and I would feel for the other side.

And I want to simply state the names on the complaint we filed last night, because I am so proud to have been part of this group. The complaint was signed by Sam Miller, Don Russell, Joyce Bartu, Bob Zastrow, Dick Irvin, Peter Gray, Justin Dempsey, Gil O'Hana, and Larry Frankel. And there were more, and we had a paralegals. And this was an effort of a remarkable, extraordinary, incredible group of lawyers that I am so proud to have been part of. And I am proud of our partnership with the EC.

So, with that, what can I tell you about any questions you have?

QUESTION: What kind of room does this give Microsoft's competitors—(inaudible)—civil actions?

MS. BINGAMAN: That is up to the competitors. I do not actually believe this case changes the legal status of any competitor's suit, because, by settling, Microsoft has admitted to no facts. It has consented to entry of the decree that was filed with our complaint. But facts are not established of record by a settlement, the way they are by a litigated case to conclusion, with a jury trial. So, my own horseback impression is that the action, as such, does not change the legal status. But, as far as private suits by competitors, it has enormous impact for competitors in opening the market. This is exactly what has been needed for years and years in the software industry. And I think, in the market-opening respects and for innovation, prices to consumers, it will have tremendous impact.

QUESTION: Why has this taken so long, and why is there no monetary penalty? And I notice it says that—you say in the press release that it bans these practices in the future, but then says it only lasts six-and-a-half years.

MS. BINGAMAN: Okay. You have got several questions there. Number one, we have had this case for a little less than one year. The FTC had it for, I think, two-and-a-half or three years before that. As everyone knows, or a lot of people, the FTC deadlocked two to two. We took the case acting as a fifth commissioner. We have looked carefully at this case because it is an important case, and we wanted to understand it fully ourselves.

So, I have no concerns whatsoever about a one-year action by the Justice Department that ends these practices.

There are no monetary penalties because they are not provided by any law and never have been. When the Justice Department settles a civil case, the Antitrust Division—the antitrust laws do not provide for civil penalties, period.

We obtain adjunctive reliefs to open the market. Under the American legal system, private actions obtain any monetary damages, and that is just the way it is in all of our cases. They are no different. You had a third aspect.

QUESTION: The length of time, you say—

MS. BINGAMAN: Oh, the six-and-a-half years. Our decrees normally last 10 years. We negotiated long and hard with Microsoft over the length of the decree. The EC's decrees last four-and-a-half years. We obtained immediate effect of this decree. That was a crucial aspect of the decree. And we believe we added, in effect, three to three-and-a-half years on the front end of the decree because the contract duration stops right now. The per-processor stops as of last night.

The illegal practices that had locked up the market are ended. And they do not have to wait for contracts now in effect to run out.

And it was our belief that based on all of those facts, plus the EC's practice of four-and-a-half year decrees, that this was a fair balance under the circumstances.

Let me mention something. I neglected to thank—and it was a major oversight on my part and I want to correct it—Henry Kawati is sitting here, who worked long and hard on this case, he is an economist with our Economic Section; Rich Gilbert, who is head of that section, was in Brussels with me; and Mark Schecter, who killed himself on the case, along with Bob Lighten, but I want to thank Henry Kawati and Ken Hire and Rich Gilbert, because the economics aspect of this case, as you can imagine, was critical. We had outstanding outside economists who Henry worked with tirelessly for many, many months. And he was a critical part of it, as was Rich Gilbert and Ken. So, I wanted to say that.

QUESTION: Can you estimate how much these practices may have cost consumers over the years?

MS. BINGAMAN: We have not. Because we do not bring damage actions, we do not put efforts into trying to figure out monetary total impact. But I can, to illustrate, tell you this. If you were a consumer and wanted to buy a competing operating system, and despite Microsoft's practices, there have been, in fact, four major competitors in this market to Microsoft, who have clawed and grabbed and have managed to obtain some market share, if you bought one of those competing companies, and 20 percent of the American public does, and you were under a per-processor license, and many of these licenses, as we saw, are per-processor, you paid not just Microsoft anywhere from $15 to $50 for its operating system, you paid the competing price on top of that.

And so Microsoft, in effect, taxed every consumer who bought a competing operating system and bought it from a maker who had one of these per-processor contracts, or a similar one. And so it's not insignificant. We have not, as I said, made any effort to quantify it, but it is— there are millions and tens of millions of PC's shipped every year, and it is a major amount of money. We can try to come up with some numbers after the press conference. But with all the other things we have done, that has not—our focus has been opening the market, truly, and obtaining the relief we needed.

QUESTION: To follow that up, do you have any estimate of how many computers were shipped under these agreements that would have been effected?

MS. BINGAMAN: I can come up with numbers on that. We have not tried to. It is in the tens of millions. There are 120 million total computers with Microsoft operating systems on them. Many, many were shipped with this—under these kinds of practices. And it has been a major market problem for competitors, and has restricted choice for consumers.

Let me tell you why else this is so important to the American economy. We are about innovation and competition in this economy. That is what we are for. And Microsoft has its shot at the market. No problem. All we are saying is others should have their shot at the market, fair and square, a level playing field. That is the American way.

And they may have a better mousetrap. They may not. But what we are saying is people should get a chance to judge it fairly on quality and price and the other factors. And that is what this case is about. It levels the playing field, opens the door.

And if a competitor has a better product that can run computers faster, run them better, support better applications, build a base, cut into Microsoft's market share so that applications writers will write for it, that could have profound consequences for the American economy. What we are about is precisely that—promoting competition, innovation, better products at cheaper prices, and letting the market take care of whatever happens. We are not about driving the market; we are about letting the market operate freely.

QUESTION: Had this settlement not been reached, what broader or further action could Microsoft have been subjected to? And, a second question is, had there been any serious consideration about splitting Microsoft into two?

MS. BINGAMAN: I cannot discuss our internal considerations as such. I can tell you that we looked at every possible legal theory and at all the facts throughout the course of a long, tough winter, that the legal team I mentioned went through. And it was our conclusion at the end of that that the case to be filed was the case we did file. We did not bargain off any case in exchange for a settlement. This was the case that was there after thousands of hours of work. And it needed to be brought, and it was brought.

And that is really as much as I think confidentiality permits me to talk about specifics.

QUESTION: Potentially, had this gone into litigation, what could we have seen perhaps in terms of time and cost?

MS. BINGAMAN: Had this been litigated, we hoped to conclude it within a year. We planned to file it in a district in which the dockets are not crowded and we could have obtained a quick resolution, because the markets need to be open. This needed to get done. But it would have been a minimum of a year at the very best. It undoubtedly would have been appealed. And the key point is, after all that, two to two-and-a-half years at best through appeal, we could not have achieved one thing more than we got in this settlement.

And, frankly, I am not sure we would have gotten as much. I do not know, because I do not know what a judge would have done. But this settlement is 100 percent of what we would have gotten with a lawsuit.

QUESTION: Can you tell us more about the EC cooperation, how and when was that initiated? And wasn't there a British investigation as well?

MS. BINGAMAN: No, there was no British investigation. It was the European Commission. It was a result, actually—last September, I went to Europe for consultations, which are annual consultations with the EC that we have done for years, the Antitrust Division—it's a mutual cooperative thing—and Klaus Ailerman, the head of the Competition Directorate said to me, What are you doing about Microsoft, because we have a Microsoft case, too, you know, and I am very interested to talk to you about it?

And I looked at him and I said, Klaus, I do not think I can say a word to you about Microsoft. Everything I know is under confidential documents. I am forbidden from talking about it. I can't speak to you.

And he said, Well, what a great pity, because we've got, as far as I can tell from press reports, the same case.

And I said, Well, it is a great pity. And I came back to the United States—that was the end of September—and 10 days or two weeks later, it just hit me out of the blue one day, we should ask Microsoft to waive confidentiality so that we could cooperate and decide whether in fact there is a case and coordinate remedies.

And the coordination of remedies is really crucial for a company in Microsoft's position, which operates worldwide, literally, in—I do not know—tens of countries in the world. They need, for their own business reasons, to have the same contracting practices. It would be terribly disruptive—and I called the EC. We asked Microsoft. Microsoft, for its own reasons, said that would actually—they didn't have a problem. They waived confidentiality. And that is how it began last October, and it has continued since then.

QUESTION: How is the Justice Department going to monitor the new agreements, the new contracts that Microsoft will sign with its OEM's? And what guarantees are there that Microsoft isn't going to turn around and say, you know, if we cannot do the kinds of volume deals that we have done in the past, we are going to charge 5, 10, 15 percent for the operating system than we have in the past?

MS. BINGAMAN: If they charge more for their operating system, the competitors are there, without question, with comparable products. And the market should take care of that. That is the whole idea of this settlement. The market should take care of it. We are allowed, in the monitoring provisions of this decree, which you should have, to request documents from Microsoft, to inspect their contracts, to talk to their people. We are further—the decree specifically provides we can cooperate with the EC in this monitoring, so we will continue our cooperation and close work with them. And we are watching. We are very much on the case.

QUESTION: A question about the per-processor issue. From your presentation it wasn't entirely clear to me, but it sounds as though Microsoft main pressure on computer companies was that they got—they would offer huge, huge discounts to the companies that would accept a per-processor kind of agreement. That being the case, it seems to me that, on one level, the sin is that Microsoft is simply charging too little for the operating system. And, to follow up on that, to follow up on that, it seems to me that the marketplace situation may not be a whole lot different, because Microsoft can continue, it seems to me, to charge that same low, low price.

MS. BINGAMAN: Ed, you been talking to Microsoft? That is their line. They are not telling you right. If that was so easy, why did they have per-processor licenses? They are the only company in the industry that did. Why did they have three- to five-year contracts? They are the only company that in the industry that did. Why did they have 100 percent minimum commitments? They are the only company in the industry that enforced that.

If this was so simple, why were they locking up the market with practices which every computer manufacturer despised and which the competitors despised and which Microsoft hung tough through four years of Government investigation to hang on to? Do you think that is because it did not matter to them? That is the story they are putting out.

You are darned right they are trying to spin it their way. That is not right. And let me tell you. Volume discounts, of course they can volume discount. No question. There is nothing wrong with volume discounting. It is done in all kinds of industries, in all kinds of situations. And the decree does not address volume discounts as such. The problem with Microsoft's practices is that they were using volume discounts to lock up the market with per-processor contracts and 100 percent minimum commitments, which then were like iron. You could not get out of. You could not escape.

To get those low prices, you had to sell your soul and never leave Microsoft. And that is what this decree changes.

Microsoft can compete on the basis of low price. We have no problem with that. That is good. We want that. What we do not want is competing on the basis of low price and then using that to impose contract terms which exclude every other competitor.

And, Ed, the reason they were able to do that is because of their monopoly position in this market. I mean, this is an important question you are asking, because they are going to try to claim that this decree changes nothing. That is wrong. That is a lie. And people need to understand that.

Because volume discounting, in and of itself, is not a problem. There are ways volume discounting can be abused. I have discussed those ways with Microsoft and Bill Gates. We are watching. We are watching closely what they do with volume discounts. They know it. I know it. And we are going to see what happens here.

But volume discounting, in and of itself, is not a problem. There can be problems in how you structure them, whether you force—it's a technical discussion. But, in any event, believe me, they did not hang tough on this for so long, right to the brink of a joint lawsuit by the U.S. and the EC yesterday because these practices" were so harmless and meaningless and so forth. But I can see why they say it.

(Laughter.)

QUESTION: Is there going to be an immediate effect that we will notice for consumers?

MS. BINGAMAN: I hope consumers, within a short period of time, will have more choice of operating systems, genuine choice, more innovation in computers. Certainly, the prices will lower for consumers who already buy competing operating systems. Any of these companies in the market right now can now sell just for their price, not for this double tax that Microsoft has gotten.

So, I think prices will immediately lower, and I think, over the medium to long range, this will, I hope and believe, have profound market opening impacts. It will help innovation, help the competition give us better products. You may be using a different operating system three years from now because of this—maybe. And if you are, great. If you still want whatever, great. But the point is you should have a choice. Everyone should have a choice. And the companies that compete with Microsoft should be able to offer you that choice fairly and evenly.

VOICE: Thank you.

QUESTION: Microsoft's competitors in applications have complained about the access that they have had to all kinds of information about the operating system code. Did the Justice Department not find that Microsoft had unfairly restricted applications developers to various aspects of the software?

MS. BINGAMAN: The nondisclosure agreement, the so-called NDA part of the case, focused on nondisclosure agreements required—are you talking about something else?

QUESTION: I mean, certainly the NDA has been part of it, but other companies—

MS. BINGAMAN: The so-called interoperability?

QUESTION: Yes, yes, hidden calls and all of the charges that have been raised over the past few—

MS. BINGAMAN: I can tell you we have looked closely at all aspects of this case. We have examined it closely. And I think all that I can say, because of the strictures of confidentiality and the law, is that we have looked at it and this is the case we chose to bring because this is the case that is there and needed to be brought. And I think that is all I should say. VOICE: Okay. Thank you.

VOICE: Thank you.

MS. BINGAMAN: Okay. Thank you.

VOICE: Thank you very much.

(End of proceedings.)

TAB 13

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT

IN CIVIL ACTION NO. 94–1564 (SS)

SIGNED BY GARY REBACK

Microsoft's Grip on Software Tightened by Antitrust Deal

94–1564

Clerk, U.S. District Court District of Columbia

Andrew Schulman

On Friday, July 15. Microsoft signed a consent decree with the Antitrust Division of the U.S. Department of Justice (DoJ), ending a four-year investigation by U.S. antimonopoly agencies-first the Federal Trade Commission (FTC) and later the DoJ—into Microsoft's trade practices. At the same time, Microsoft signed a nearly identical settlement with the Directorate-General for Competition of the European Commission. The judgment lasts for six and a half years in the U.S., four and a half in Europe.

Microsoft agreed to immediately abandon several arrangements for licensing the MS-DOS and Windows operating systems to PC hardware vendors. It also agreed to halt some "unnecessarily restrictive" clauses in its nondisclosure agreements (NDAs) for the forthcoming "Chicago" version of Windows. The consent decree explicitly excludes Windows NT.

The consent decree is still subject to a 60-day public review. The full text of the DoJ's July 15 complaint against Microsoft for violations of sections 1 and 2 of the Sherman antitrust act. the U.S. District Court final judgment in U.S. v. Microsoft, and the

"Stipulation" signed by the DoJ and Microsoft consenting to the final judgment. are available via Internet Gopher from the DoJ's Gopher server. Who Won?

The consent decree was first viewed as a victory for the DoJ and Microsoft's competitors. The New York Trines (July 17) cartied the front-page headline. "Microsoft's Grip on Software Loosened by Antitrust Deal," and crowed that "the pact could reshape the world of computing .... The accord could undermine Microsoft's near total control of tile market for operating systems." The Boston Globe's headline was equally enthusiastic: "Microsoft Accord to Greate Competition in US. Europe."

Indeed. the consent decree sounds at first as if it should cramp Microsoft's style, and lead to more competition in PC software. For years. Microsoft tins provided PC hardware manufacturers (original equipment manufacturers, or OEMs) with per-processor licenses to MS-DOS and Windows. in which the vendor pays Microsoft based on the number of machines it think it will ship, rather than the number of copies of DOS or Windows it actually uses. In 1993, such per-processor agreements accounted for about 60 percent of MS-DOS OEM sales, and 43 percent of Windows OEM sales. According to the DoJ, "Microsoft's per processor contracts penalize OEMs. during the Life of the contract, for installing a nonMicrosoft operating system. OEMs that have signed per processor contracts with Microsoft are deterred from using competitive alternatives to Microsoft operating systems."

The consent decree put an immediate stop to this practice, leading to the hope that non-Microsoft operating systems would now have a shot at the desktop.

But the morning after, nearly everyone realized that. in fact, U.S. v. Microsoft is a victory, for Microsoft. Directly contradicting the previous day's headline, a New York Times (July 18) news analysis by John Markoff spoke of "Microsoft's Barely Limited Future": "Rather than reining in the Microsoft Corporation, the consent decree... frees the company to define compurer industry's ground rules through the rest of the decade." The Wall Street Journal had a similar take: "A Winning Deal: Microsoft Will Remain Dominant Despite Pact In Antitrust Dispute." According to the Journal Gates -has just won big again, this time by letting the Justice Department rake in a small pot while his company retains the power to dominate the nation's desktops.

In the Fast day of trading after the settlement. Wall Street made its statement on the consent decree: Microsoft stock rose $1.87, to $50,50. Rick Sherlund, an analyst for Goldman Sachs, stated that with the settlement. Microsoft "should dominate the market for desktop software for the next 10 years." Another frequently quoted analyst. Richard Shaffer, announced that -The operating system wars are over—Microsoft is the winner .... Microsoft is the Standard Oil of its day." But how could a ban on an important Microsoft trade practice be viewed as cementing Microsoft's hold on the industry? First. to achieve the DoJ's goals, the change from per-processor to per-copy licensing probably comes about four years too late. Despite some brave words from IBM and Novell after the consent decree. it seems unlikely that the change will lead to a larger presence for OS/2 or Novell DOS. As a spokesman for Compaq (which already offers OS/2 to its customers) noted, "Windows is the standard—not much will change."

Nor does the consent decree address the key questions about Microsoft's role in the PC software industry. Companies such as Lotus and Borland that compete with Microsoft in application areas such as word processors and spreadsheets have long asserted that Microsoft "leverages" its control of the operating system to benefit its applications—particularly the Microsoft Office "suite," which bundles together Microsoft Word. Excel, Access, Mail, and PowerPoint—at the expense of applications and suites from other vendors. Grabbing the Whole Pie More and more. Microsoft's applications seem like part of the operating system. Many PCs today come. not only with MS- DOS and Windows preinstalled on the hard disk, but also with Microsoft Office. The forthcoming "Chicago" release of Windows will include numerous features once considered the province of dried-party applications developers. Microsoft not only has a near-monopoly on the operating system. but is constantly expanding the definition of what belongs in the operating system.

Some commentators see these increasing ties, and the DoJ's apparent refusal to touch them, as a good thing. For example, Steward Alsop was quoted in the New York Times (July 18) as saying, "If you really care about improving the personal computer, you want Microsoft to take over all the pieces of the pie."

There is a certain logic in this. For example, one reason the Apple Macintosh was for so long far easier to use than a PC was that Apple had a closed architecture and completely dominated the market, guaranteeing that almost everything carne from a single vendor. Monopoly has some clear benefits. In certain situations. such as public utilities, monopoly may he the only viable industry structure, leading to a so-called "natural monopoly."

Dr Dobb's Journal, October 1994

Interestingly. the superb biography Gates, by Stephen Manes and Paul Andrews Doubleday, 1993). quotes a 1981 statement by Microsoft chairman Bill Gates where he noted that volume and standards in PC software can lead to a "natural monopoly" But companies in such a favored position usually are forced to make an Important trade-off: so-called natural monopolies are generally regulated, are prevented from expanding their monopoly into new areas, and so on. Microsoft continues to deny that it monopolizes the PC software industry Microsoft already has MS-DOS installed on about 120 million PCs in the and Windows on about 50 million. With the DoJ consent decree, Microsoft can move even more rapidly toward its goal of becoming an unregulated, nonpublic utility providing total, one-stop shopping for all your software needs.

Exposing Microsoft's Monopoly Microsoft continues to deny that it monopolizes the PC software industry. Nor has it admitted to any guilt by consenting to the court's final judgment. The consent is explicitly "without trial or adjudication of any issue of fact or law: and without this Final Judgment constituting any evidence or admission by any party with respect to any issue of fact or law."

Nonetheless. the PC software industry has been treated to some puzzling denunciations of Microsoft trade practices from high government officials. After the signing of the consent decree. U.S. Attorney General Janet Reno said. "Microsoft's unfair contracting practices have denied other U.S. companies a fair chance to compete, deprived consumers of an effective choice among competing PC operating systems, and slowed innovation."

The Assistant Attorney General for Antitrust. Anne Bingaman, noted that 'Microsoft is an American success story but there is no excuse for any company to try to cement its success through unlawful means, as Microsoft has done with its contracting practices."

'Microsoft has used its monopoly power, in effect, to levy a 'tax" on PC manufacturers who would otherwise like to offer an alternative system." said Binga??an. "As a result, the ability of rival operating systems to compete has been impeded. innovation has been slowed and consumer choices have been limited." According to a DoJ press release. Bingaman noted that Microsoft has maintained the price of its operating systems even while the price of other components has fallen dramatically, and that. since 1988. Microsoft's share of the market has never dropped below 10 percent.

The Road Not Taken

No matter what else it says, the fact remares that the consent decree addresses only a narrow issue: OEM sales represent less than 25 percent of Microsoft revenue. The complaint notes that "At least 50,000 applications now run on MS-DOS and over 5000 have been written to run on Windows. Microsoft sells a variety of its own very successful and profitable applications." But that is all it has to say about applications!

The complaint also notes that "All versions of Windows released to date require the presence of an underlying operating system, either MS-DOS or a close substitute." but says nothing about alleged tying arrangements between Windows and MSDOS (see "Examining the Windows AARD Detection Code" DDJ. September 1993).

Similarly, the complaint mentions 'critical information about the interfaces in the operating system that connect with applications—information which the ISVs need to write applications that run on the operating system"—yet doesn't address the issue of whether or not Microsoft unfairly withholds some critical information. trying to give its developers exclusive use of undocumented interfaces.

Likewise, the DoJ was well aware of. and quite interested in. the Issues surrounding Microsoft's ownership of the vastly Important DOS and Windows standard, Yet none of this is addressed in the consent decree, which ends up looking quite similar to what Microsoft probably could have got from the

FTC a year ago. Even Bill Gates, who was apparently in the habit of denouncing even the mildest FTC and DoJ questions as "communistic" and "socialistic," had to admit that the final settlement was no big deal saying, after years of investigation, that "this us what they came up with" (Wall Street Journal, July 18).

Why So Little?

Why did the DoJ settle for so little? How could they seemingly ignore the entreaties of so many PC software vendors? One theory is that the Clinton administration views Microsoft as a "national treasure," and put pressure on DoJ to leave Microsoft alone. The press made much of a May 25 meeting between Bill Gates anti Clinton's chief economic advisor. Robert Rubin. The date is significant because j?? one week later. Gates testified under a

Dr. Dobbs Journal. October too.

(continued from page 144)

before the DoJ. According to one anonymous source. Gates pointed out to Rubin that Microsoft is responsible for a substantial portion of U.S. software exports (Information Week. June 27).

Frankly. I don't buy Clinton administration pressure as an explanation for the DoJ's limited settlement. Microsoft may be highly visible, but it simply isn't that important to the U.S. economy, at least when compared to companies such as IBM or GM that make tangible goods. Microsoft, remember, produces software. While software is a crucial part of the modern world economy, consider that even "giant" Microsoft has only about 15,000 employees and that its quarterly" sales are about $1.25 billion, compared to $13.3 billion for IBM. or even $2.5 billion for Apple.

What makes Microsoft different is its incredibly low costs. This is very nice for Microsoft, but it's hard to see what it does for the U.S. economy, especially when 45 of Microsoft's stock is owned by insiders. Had it wanted, the DoJ could have made a moderately plausible case to the American public that Microsoft. far from being a 'national treasure," is simply a grossly profitable monopolist, with few employees and few stockholders, that gives back little to the public.

Another explanation is that DoJ feared a repeat of U.S. v. IBM, which dragged on for 13 years, only to be dropped as "without foundation." While you could easily imagine lawyers for the DoJ not wanting to stake their careers on a losing battle, you have to wonder whether U.S. v. IBM was such a complete washout, after all. Even though the case was eventually dropped, for years it had a serious effect on IBM. You could even argue that it was this supposedly unsuccessful case that caused IBM to unbundle software from hardware, thereby opening the way to an independent software market, making room for software upstarts, including a company called Microsoft. In many cases, Microsoft was a beneficiary of U.S. v. IBM, and "the next Microsoft" could have been a beneficiary of a U.S. v. Microsoft case.

Ultimately, I think that the DoJ didn't push for more against Microsoft for the very simple reason that they felt they couldn't win anything else. Responding to widespread criticism of the settlement as a DoJ sell-out, Anne Bingaman protests, "folks, we looked at every aspect of this. We brought the case that was there to bring." According to the DoJ, the Microsoft settlement was "everything we could have hoped for in a fully litigated case. and possibly more." This is probably true. Law like politics. is an "art of the possible." While the settlement gives the Microsoft steamroller the green light, at the same time it's hard to see what the DoJ could have done differently. The DoJ's job is to enforce the antitrust laws. not to make industries more competitive—and the two are not the same.

Market Share (Perc??nt)

OPERATING SYSTEMS. WORD PROCESSORS SPREADAHEETS

Microsoft	66	47	52
Novell/WordPerfect	14	35	—
Lotus	—	3	37
IBM	17	—	—
Apple	2	—	—
Borland	—	—	5

What all this means is that those Microsoft practices studied by the DoJ, but not covered in the settlement, are either not illegal, or would be too difficult to prove illegal.

Where To Now?

While there might be some private antitrust action from Novell, Lotus, or Borland. and while the terms of the settlement are subject to public review, Microsoft must be feeling emboldened by the limited scope of the consent de cree. Microsoft should be able to go fullsteam ahead with its plans to greatly expand the operating systems dimensions in Chicago. Microsoft Office will increasingly seem like an essential part of Windows. With policies such as its new. heavy, requirements for using the "Windows Compatible" logo (see "How to Adapt an App for Chicago: Requirements for the New Windows Logo." Microsoft Developer Network News, July 1994). Microsoft is raising the Windows development bar ever higher.

The PC-software industry is rapidly headed in the same direction as many other technology-based industries before it: rapid consolidation to a handful of vendors. There once were hundreds of U.S. car manufacturers: now there are just a few. With Novell's ?? of WordPerfect and parts or the Bor??and product line, with Symante??s acquisition of Central Point, and Microsoft's purchasing a minority share in Stac Electronics, we are already seeing the same (,probably inevitable) process occurring in software. As Table I shows, market More and more, Microsoft's applications seem like pan of the operating system shares reflect an already highly concentrated industry.

On most scales. Microsoft is about twice the size of its two nearest competitors combined. Lotus had 4450 employees and Novell also had 4450; Microsoft has 14,450. In 1993, Lotus sales were $981 million and Novell sales were $1.123 billion; Microsoft sales were $3.753 billion.

Given that the DoJ could apparently do very little about this increasing concentration in the software industry, what are software developers and vendors to do?

It is probably stating the obvious, but there is Little point in trying to compete with Microsoft over productivity apps and office suites. These are rapidly becoming a quasi part of Windows itself, and even Novell and Lotus probably have little chance in this area. Microsoft Office is everywhere and everything. Perhaps there is still some room in databases, desktop publishing, and personal-finance software.

As always, another interesting area is plugging holes in Microsoft's own offerings: add-ins to Microsoft Office, remedying the inevitable temporary problems in Chicago, and so on.

The best bet is to find areas where Microsoft doesn't have a product, and where there is a chance of a several-year window of opportunity before it does have a product. On the other hand, the only market I've ever heard of that Microsoft didn't want to get into was pornographic screen savers and related multimedia titles. As one company employee told me, "We looked carefully at adult software. and decided to leave that money on the table."

TAB 14

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT

IN CIVIL ACTION NO. 94-1564 (SS)

SIGNED BY GARY REBACK

The Economist

A survey of the computer industry

Trade's new diplomats

FILED FEB 14 1995

Clerk, U.S. District Court

District of Columbia

94-1564 SS

THE COMPUTER INDUSTRY

FOR three decades the computer industry seemed to epitomise the marriage of technological wizardry and business acumen. Led by IBM. the industry masterfully exploited a pace of technological change that would have left managers m most other industries gasping. It grew through boom and bust, and revolutionised the way nearly all other businesses worked. Best of all, it consistently made enormous profits.

Computer executives saw themselves as both innovators and adventurers. Some pioneered new ways to manage armies of highly educated, independently minded employees. A few left the security and prestige of a corporate career, or went straight from the university classroom, to start comDames from scratch. Naturally some computer firms failed. But the industry, as a whole was largely immune to the travails that periodically beset more mundane businesses. For many people, computers were the quintessential industry of tomorrow. Tomorrow has arrived and it is not a pretty sight. For the past two years the computer industry has been in turmoil: plummeting profits, flat sales, tens of thousands of jobs lost, vicious price wan. The industry's reversal of fortune has been so abrupt that it has left many of its leading comparues floundering. IBM, the biggest computer maker and long one of the most successful companies in the world, lost $4.9 billion in 1992, one of the biggest corporate losses in history. In January John Akers. Its boss, resigned. Last year the company shed 40,000 of its 340,000 employees in an effort to control costs (which still look hopelessly bloated). Its stockmarket value is now about the same as Microsoft, a firm which employs only 12,000 people. And the once-mighty Big Blue is not alone, DEC, the world's second-biggest computer firm, ousted its founder and chairman in 1992 and lost a whopping $2.8 billion. Olivetti, Siemens-Nixdorf. Groupe Bull, Fujitsu, Hitachi and NEC have all seen profits collapse over the past two years. Wang, a high flier until the early 1980s, ended up in a bankruptcy court.

Clearly computers are no longer recession-proof. But global recession is not the only, or even the primary, cause for the industry's recent tribulations. Recession has simply accelerated changes that have been reshaping the industry anyway. Un?? the mid-1980s the computer business was dominated by a handful of large firms—foremost among them IBM—whose marketing and technological prowess let them educate, reassure and control the corporate customers who bought most computers. Smaller compantes often introduced the latest technology to the market; but usually their innovations were not widely accepted until they, got the im?? of Big Blue. These smaller firms seldom posed much of a threat.

The invention of the personal computer (PC) in the late 1970s brought in a motley collection of brash, new firms. At first the growing popularity or PCs had little effect on me fortunes of the inqustry's leading firms. Indeed. IBM itself became the world's biggest manuracturer of PCS, and its marketing clout helped their sales to soar. For 20 wars IBM had skilfully coped with technological advances that appeared to be far more radical, or disruptive, than the personal computer. Few people inside or outside the company thought that mere relatively any and rather simple machines were much of a threat to IBM's hegemony or to the stability of the industry as a whole.

Getting personal

They, were spectacularly wrong, in the past few years, personal computers and the microprocessor chips on which they, are based have upturned the economics of the business. This has happened so quickly that many computer executives are bewildered. Their industry has become one of con fusing extremes, In any large industry the fortunes of different firms will vary. But in today's computer industry the differences are stark.

While many computer firms sacked thousands of workers and last huge amounts of money last year, others thrived despite price wars and recession. On the day in August 1992 that Wang filed for chapter-11 bankruptcy, Dell, a personal-computer maker, reported quarterly sales up 129% and net profits up 77%. In 1992 some companies, such as Apple and Compaq, which looked doomed because of the price wars ravaging the PC market, staged stunning comebacks (though they too had to cut)obs and other costs). Price-cutting spread from hardware to software. And yet profits at Microsoft, the world's biggest personal-computer software company, leapt 53%. The computer business still boasts many of the world's fastest-growing and mast profitable firms. But it now has some of the change is sweeping away the established computer industry. Firms are scrambling to find their place in the new industry that will replace the old. But even for those that survive, the turmoil will continue. David Manasian reports Disappearing profits Return on sates* world's biggest loss-makers too. Today's industry · offers other remarkable contrasts. Despite the fact that its overall profitability has fallen so sharp??y (see chart 1). hordes of new competitors continue to enter almost every part of it. And far from slowing the pace of innovation, as might be expected, hard times seem to have quickened it. An unprecedented number of new products came to market last year. This stream is about to become a flood. With chip technology improving faster than ever, a plethora of new products will reach the market over the next few years: pen-based PCs, hand-held computing and communication devices, ever more powerful versions of today's desktop and notebook computers, sophisticated network and database software. cheaper and fancier supercomputers.

Moreover, a growing part of the computer market shows many of the classic characteristics of a commodity business: there are few discernible differences between products except price, low bamers to entry and razor-thin profit margins. This is a novelty for such a high-tech, inventive business. The large amount of intellectual property contained in computer products, and their complexity, ought to make it easy for companies to keep out new ovals, differentiate their products and command fat matins. Instead, even in many esoteric niches of the industry, growing competition is eroding margins.

Equally remarkable is the web of collaborative deals that spans the industry. As competition has become fiercer, the number of joint ventures, alliances and mahatma agreements has multiplied rapidly, although this has done nothing to soothe the growing ferocity of competition. Nearly every firm, whether small or large, now has a vanity of ties with dozens of others. Confusingly, many alliances seem designed to compete with other alliances containing some of the same firms, as companies place multiple bets on new technologies or market wends. Although these agreements are often between companies with complementary products, many are between once-bitter rivals, such as Apple and IBM, who stress that their collaboration does not rule out tough competition between them now or in the future.

Perhaps one of the most puzzling things about the computer industry is that, for all its vitality, its glory days of high growth and gushing profits are probably over. In a recent report on the industry. McKinsey, a management-consulting firm, predicts that the industry's sales will grow by 6% or less 3 year—scarcely more than me nominal growth rate for me world economy as a Whine. "Just surviving will be a struggle and even many of today's healthy companies could become extinct," says Michael Nevens, one of the report's authors. Others agree with this gloomy assessment. IBM predicts that software and services will grow at some 11–13% a year between now and 1997; but sales of hardware will lag well behind economic growth.

Evangelical fervor One reason is that the cost of computing power continues to drop by 30% or more a year, became of advances in chip technology that show no signs of slowing. This inexorable improvement has now begun to outstrip the demand for more computing power from customers. Another reason for stow growth is that, with more than $300 billion in sales, the computer industry is now so large that it probably cannot expect to capture a much bigger chunk of corporate or consumer spending. Most businesses, laboratories and classrooms already have some type of computer, Many are crammed with them. Because of the rocketing popularity of notebook and laptop computers, so are many, briefcases.

A barrage of new products will be needed just to keep spending at current levels. In fact, the amount spent on computers per white-collar worker (the biggest users of computers) has been flat in America since 1983, and has recently levelled off in Europe and Asia as well (see chart 2). The total stock of hardware and software in developed economies is also set to level off in the next few years, according to many forecasters.

Even if the industry must learn to live with humdrum growth, there will be nothing dull about the computer business itself. This survey will spend little time on the myriad ways computers are used or how they are changing lives. Instead it will try to examine the peculiar economics of computers, and to make sense of the blizzard of news the industry generates every day. Why does it present in many conundrums? And why has no shakeout yet ended what, compared with most other large industries, looks like intolerable instability?

The growing number of competitors and the pace of technological change are raising the level of uncertainty, for both computer firms and that customers. As a result, the bosses of most computer companies are no longer the smug technologists or buttoned-down managers of a decade ago. They are preachers fervently trying to sway customers, suppliers, investors, employees—and often themselves—with their vision of the future. One of the industry's favorite verbs is to "evangelicise." This is an odd choice for sober-suited managers carefully investing billions of dollars. But it is all too appropriate to the opportunists or true believers now best equipped to survive in the computer business.

THE COMPUTER INDUSTRY SURVEY'S

Personal best

TO UNDERSTAND how drastically those little personal computers have changed the industry, and why they have suddenly left it in such a fragmented state, a little history is needed. Until the late 1970s, nearly all computers were large machines used to grind through mind-numbing calculations and routine book-keeping chores. Computers were especially useful in making the administration of large organizations more efficient. Outside laboratories, they were bought in the greatest numbers by large companies, which could afford to pay their hefty prices and to employ the professional programmers and technicians needed to keep the temperamental machines from breaking down.

Machines came in various sizes, the two broadest categories being mainframes and minicomputers. Both types could have several users at once, who sat at terminals to put data into the machines or to take it out. Mainframes soon stood at the heart of most of the world's biggest companies. Smaller and less expensive (though still quite pricey; minicomputers were often used by the divisions of the same firms, or by medium-sized firms which could not justify spending enough to buy a mainframe.

IBM bestrode the industry, accounting in 1980 for 38% of the industry's revenues and 60% of its profits. Even if IBM had not become such a dominant firm, a small group of large firms would probably have controlled the industry in any case. There are two reasons for believing this. First, computers were the most complicated machines ever made, in Pact, they were so complicated that even individual machines were called "systems". And second, though the Industry was large in revenue terms, relatively few machines were sold each year. As recently as 1980, fewer than 10,000 mainframes and 105,000 minicomputers were sold worldwide each year. Such volumes are significant for suppliers of capital equipment, but they are minuscule compared with those of the car or other consumer industries. Customers were reluctant to buy these cranky machines from anyone but large, established suppliers. So newcomers had a hard time breaking into the lousiness.

The complexity of computers produced another crucial characteristic of the industry; it virtually ensured that computer makers would opt for vertical integration—that is, to make most of the parts of the machines themselves, with the software to run them, rather than buying parts from outside suppliers, and to do most of their own marketing, distribution, sales and service as well. A few of the smaller firms could not manage this. They, either specialized in supplying pieces of equipment, such as terminals, tape drives or printers, which were attached to computers, or they, bout hr what they could from outside suppliers. This put them at a huge disadvantage, for the simple reason that there were so few independent suppliers for the many components needed to build a computer. So the bit computer firms built their own machines from the ground up.

The resulting structure of the industry looked something like the diagram above. Customers cared little about the various layers identified in this diagram, because they almost always bought all the layers in a stogie package from one supplier. It is useful to pause here to define these terms, because they will loom large later on.

Basic circuitry refers to the thousands of wires, transistors and other electronic bits which were mall computers. In the 1970s and 1980s most of these bits and bobs were gradually replaced with integrated circuits printed onto small pieces of silicon—ie, microchips. This allowed some specialized chip firms, such as Intel. Motorola and Texas instruments, to become parts suppliers to computer makers. But many of the biggest computer makers, most notably IBM and Japan's Fujitsu, NEC and Hitachi, made their own chips.

Computer platforms refers to the assembled machines. These were useless without operating system software, the programs needed to make the machines do anything but hum. Once the operating system enabled the machine to respond to vanous commands, application software told the machine what to do: compile the payroll, store data, solve abstruse equations, perform word-processing or whatever. Several applications usually ran on the same computer. As the diagram shows, firms did most of their own distribution, although some machines were sold through computer-leasing firms or "systems integrators".

One more point must be made: all computer makers used "proprietary" standards both to build their hardware and write their software. Except for a few firms which tried to mimic IBM's standards, no firm's software worked with any other firm's software, or ran on any other firm's machine. This locked customers into a single computer supplier.

As a customer's investment in computers grew, the more dependent on his supplier he became. The cost of scrapping all of a firm's existing hardware or application software (which big firms sometimes wrote themselves) to switch to another supplier became prohibitive. Occasionally a customer became restless, especially if a supplier was charging too much, fell too far behind the rest of the industry technologically or failed to service hrs machines properly. A few small, specialized firms sprang up to engineer so-called "gateways", bits of hardware Days of yore, when IBM was king and software that would allow machines from different companies to work together.

For the most part, though, customers had to commit the bulk of their spending on computers to a stogie supplier. The safest thing to do for anyone who had to make this purchasing decision—in big companies usually the data-processing manager— was to buy from the biggest supplier, no matter what the cost And that, by a long way, was IBM.

Chips with everything From its inception, the personal-computer market assumed a different pattern from the established industry. PCs became possible only because chip manufacturers had managed to cram a simple version of a computer's central processing unit, the circutes that did most of the actual computing, on to a single chip. Appropriately, this was called a microprocessor. Around a stogie microprocessor, a small, cheap machine could be assembled from readily available parts used to supply the consumer-electronics industry. So most personal-computer makers were never vertically integrated. Separate groups of firms supplied pare, fully assembled machines (platforms), operating-system software and application software.

Personal computers were primitive compared with mainframes and minicomputers. But they, could perform simple tasks such as word processing, keeping mailing lists or playing games, and they proved surprisingly popular. To grab some of the revenue from this small but burgeoning market, IBM launched its own PC in 1981. Because it wanted to do this quickly, it assembled its machine from off-the-shelf components made by firms which were also supplying other Pc: makers. It arranged to buy the two most important parts of the machine—the microprocessor and the operating-system soft ware—from (respectively) Intel and a small Seattle-based company called Microsoft.

With IBM's backing, personae-computer sales skyrocketed. At first this was great news for IBM. which had the ?? share of sales and considered Pc revenues simply a welcome supplement to its mainstream computer business. Thousands of small software companies ocean writing application programs for IBM's machines, boosting demand for mere still further.

Still, from several points of view IBM had badly miscalculated. Buying the key parts of its machines from Intel and Microsoft, without demanding any kind of exclusive deal, effectively left control of the technical standards in these companies" hands. Scores of other firms, many of them new ones such as Compaq, quickly learnt to "clone" copies of IBM'S machines using Intel chips and Microsoft's MS-Dos operating system. Their machines also ran all the software written for IBM's machines. To the user, therefore, there was no real difference between them. Users began buying the machines primarily on the basis of price. As demand for the machines took off (see chart 3), hundreds of small, low-cost producers jumped into the market. Prices began to collapse, even while the growing power of microprocessors rapidly boosted the capabilities of PCS.

Until the mid-1980s, many PCs were sold customers—individuals, schools, small businesses, professional firms—who would never have been reached by tram or other established computer makers. But when big corporate customers began tying the mast powerful PCs together into networks as alternatives to minicomputers and mainframes, IBM became alarmed. In 1987 it belatedly tried to gain control of the personal-computer market with new models containing a patented technology called Microchannel, which rivals could not copy and which made IBM's machines incompatible with everyone else's. Competitors aptly dubbed these machines "clone killers". But by then it too late. The PC market had slipped beyond IBM's grasp and the Microchannel machines flopped. Big Blue, like any other manufacturer, had to make its machines fit the industry's standards. Three were now set by millions of personal-computes users and owned by. Intel and Microsoft.

In only a few wars, before IBM or the other established computer makers had realized what was happening, an entirely new computer industry had grown up next to the old one.

Harsh new world

The companies which made a comfortable living for so long in the old computer industry face a challenge rather like switching from making battleships to rowingboats in just a few years. Almost every defining feature of the old industry, has been reversed in the new one. Instead of selling thousands of expensive machines to an easily identifiable set of corporate and institutional customers, the new industry, sells tens of millions of cheap machines each war to individuals, businesses of any size and sham, and every type of organization imaginable. Unlike mainframes or minicomputers, personal computers need little maintenance. And most of their software can be bought off-the-shelf, like a can of beans, rather than custom-designed for each user by teams of expert programmers. As a result, even in large corporations the computer-purchasing decisions are now made by hundreds of people with little technical knowledge, instead of just one or two computer nerds. Instead of the proprietary hardware and operating-system software of the old industry, "open" standards now prevail. These permit the products of a growing number of computer firms to work together, which has opened the door to thousands of new firms that now compete at every link of the "value chain", from chips to distribution. Peter Shavoir. IBM's chief business strategist, estimates that 2,500 firms took some pan in the computer industry of 1965, but that 50,000 jostle for business now. Most of the new ones entered the industry, m the 19805 along with the personal computer.

Despite this upheaval, the old computer industry will survive for some time yet. And mainframes, in particular, may never entirely disappear. Lame organizations will need to process huge mountains of data quickly and store it securely in a single, central machine for a long time to come. "Some customers will always require robust, bullet-proof, bet-your-business kind of applications. These really do belong on a mainframe," argues Nick Dono??io, head of IBM's mainframe unit.

However, sales of such big machines are shrinking. Networking, the fastest-growing segment of the new computer industry, strikes at the heart of the old. At first PCs were strung together in networks to allow the users of individual machines to send information to one another. In the industry's jargon this is known as "peer-to-peer" computing. Some peer-to-met users no longer needed to be connected to a larger computer to communicate.

More ominously for the makers of big machines, the honest trend in the industry is now the much more sophisticated "client-serve" network. In this type of network, a large number of personal computers ("clients") are connected to a central personal computer ("the server") which, at a fraction of the cost, does many of the things a minicomputer or mainframe once did, such as storing data, managing the flow of information between users and enabling them to work on the same documents. Many of these networks are built around a powerful type of personal computer called a work-station, based on a microprocessor called a RISC chip. Pioneered by Sun Microsystems, work, stations were first used by, engineers. Now they are being used by, businesses for a variety, of tasks and have become one of the fastest growing, and most fiercely contested, pans of the computer market.

The rapid growth of client-server networks is eliminating the need for big computers in many organizations. Companies like IBM and DEC, which sell big machines, reply that in many cases big machines themselves will function as the server for a host of "client" PCS. Nevertheless, with spending on hardware unlikely to grow, some class of machine must suffer, and higher-cost mainframes and minicomputers seem the most likely losers.

Even if demand for bill machines holds up longer than expected, the creation of the new computer industry, has wreaked havoc with the economics of the old. Spoilt by the convenience, choice and ever-falling paces offered by personal computers, buyers have demanded the same low mature, nance, open standards and price reductions from large machines. The growing use of microprocessors in mainframes and minicomputers has enabled the old-style computer makers to provide some of what their customers want. But this has also left them adrift with armies of surplus salesmen, service staff and factory workers, which accounts for the thousands of layoffs in the past year. Today all firms need a niche

SURVEY THE COMPUTER INDUSTRY

Less is more

?? or PC computing power views If microprocessor technology continues to advance as rapidly as it has clone in the past (see chart 41— and everyone in the industry expects, it to do so-by me end of the 1990s even mainframes could be the size of PCs. They might be just as cheap too.

Well before mat happens. It is likely that the new industry will have swallowed the old one. Because it represents the future, and is airea?? where most of the action takes place, the rest of this survey will concentrate on the new computer industry and refer to the old only in passing.

Horizontal desires

Discerning a clear structure in the new industry is hard, but the diagram below is one attempt to do it. Like any such diagram. It is a simplification: technology and competition could soon change it. And yet it is a useful guide to the industry today, so will be used as the map for the rest of this survey. Begin by comparing it with the much simpler diagram on page 9 of the old computer industry. The most stoking thing is that the new industry Is a series of horizontal layers, each containing many companies, rather than the vertical, single-company towers of the old industry. Each layer represents a distinct market. The barriers to entry, for new firms vary from layer to layer: but in no layer are they as high as they were for the old computer industry as a whole, in which any new firm hoping to challenge the established computer companies head-on had to build an entire vertical tower of its own. As a result, competition in every layer of the new industry is much fiercer than it ever was in the old. This explains why profits for the entire industry have dropped since 1998

The diagram is borrowed from Andy Grove, the boss of a successful American chip maker, Intel. It is easy to see why he is fond of it." For us. who deal in the fundamental technology, it's wonderful." he says. Intel's dominance of the microprocessor level (layer 1) is matched only by Microsoft's hegemony in the client/stand-alone operating-system software level (layer 3) two steps above. Barriers to entry in both these layers are relatively high, because Intel and Microsoft have established de facto industry standards with their products. Supplanting them would be hard but (more on this shortly) neither Intel nor Microsoft is unassailable.

Layer 2, computer platforms, includes assembled personal computers of every size and shape— desktops, workstations, laptops and notebooks. Largely because Intel's dominance of microprocessors has established an industry standard in this layer, barriers to entry are minimal. Any technician who can buy intel, or intel-standard, chips land intel sells to anyone Jean ??oit together a respectable desktop PC from readily available components. So. predictably, this layer is where competition is fiercest. The continual newspaper and television advertising of computers which most people see, and the brutal price war which has captured so much attention in the business press over the past two years, come from firms competing in this layer.

The next layer, operating-system software, is divided between the basic software needed to operate the central server of a network and the software needed to run diem machines in the same network or stand-alone PCs. The top half of the layer is much bigger than the bottom half—some 90m machines run these operating systems compared with just a few million functioning as servers. But the bottom layer is growing fast and is highly profitable. For the purposes of this diagram, their relative sizes are not relevant and so they are shown as equivalent.

Layer 4. applications software, is the arena in which Microsoft, Lotus, WordPerfect, and Borland battle for marker share. This layer projects into a third dimension because a few of the biggest application categories—spreadsheets, word processing, database management and graphics—are distinct markets in themselves, although all fit into the layer. Barriers to entry for any new firm hoping to grab business in one of these categories are somewhat higher than to computer platforms, became writing such complicated programs is time-consuming and expensive. The need for a strong brand name, and the ability to market and distribute such general, purpose software packages also act as barriers to newcomers. But tens of thousands of small firms compete in the application layer outside these areas with specialized software packages.

The layer above that is probably the most competitive of all, as firms scramble to find the most efficient way to reach customers with machines and software. In recent years, some of the industry's biggest winners and losers have been here. Dell grew from nothing in 1984 to just over $2 billion in sales in 1992 because It invented a new, lower-cost way to distribute personal computers: mad order sales backed by telephone hot-lines offering technical advice. The barriers to entry, in this layer are low. Dell already has a host of imitators snapping at its heels, though this has yet to slow the firm.

Parts of the industry are left out of this map. They include memory chips, which work with microprocessors, and other components such as disk drives: peripherals such as printers and modems, and services, a fast-growing part of the industry. Services come in various forms: "outsourcing" (performing all the data-processing chores for a corporate or institutional customer); consulting (advising customers on how to reorganize their businesses to take advantage of computers): and systems integration (making a customer's computers work together).

One reason why such services are growing so quickly is that big corporate customers are confused by all the products being offered by the new computer industry. Every lame company from the old computer industry—IBM. DEC. Bull, Unisys and others—is now hoping to win much of the service business by exploiting the large marketing and service operations which they built to support the sale of their large machines.

Although memories, peripherals and services are sizable and growing segments of the computer industry, they are supplements to its core, represented in the diagram, where most of the strategic choices must be made and the technology is moving fastest. This is where me industry's crucial competitive Battles are being fought, and where firms will emerge as either victors or victims.

Do it my way

THE noisiest of those competitive battles wall be bout standards. The eyes of mast sane people tend to glaze over at the very mention of technical standards. But in the computer industry, new standards can be the source of enormous wealth, or the death of corporate empires. With so much at stake. standards arouse violent passions. Much of the propaganda pumped out by individual firms is aimed at convincing customers and other firms that their product has become a "standard".

It is for the customer's sake that standards matter. All industries need them, simply because so many things made by different companies must fit together to be of any use. Standards can either be a set of specifications and practices, or they can be embodied in a single product, without some standards or other, no new industry can get off the ground. In its first two decades, the car industry Fought fiercely over standards for everything from the size of nuts and bolts to whether vehicles would have steering wheels or boat-like tillers. Eventually, car makers managed to establish standards for enough key features and components to reach a mass market. But even in today's cat industry, not everything is standardized, as anyone who has fumbled with the controls of an unfamiliar rental car will know.

The world is full of standards that are entirely neutral, belong to nobody and simply make life easier (sliced bread fits mast toasters). But standards, and who owns them, have always been a critical competitive issue in the computer industry. In the old industry, standards were mealy set, and owned, by, vertically integrated manufacturers and used to lack in customers and lack out competitors. By contrast, the new computer industry has rejected, at least rhetorically, such proprietary standards in favour of "open" standards to which all firms have access. Customers like open standards so much that they have resisted the old computer industry adopt them as well. Mainframe and mini-computer makers now declare themselves keen advocates of openness, although mast of their products still do not connect easily to those of rivals.

Once established, open standards offer what economists call "network economies", which can entrench standards even when they are not the best available or abreast of the latest technology. In the case of personal computers, such network economies were enormous. Customers had strong reasons to buy machines built to the standard because they felt confident that large amounts of software would be available to run on them, and that most other machines would be compatible. Conversely, even tiny software firms suddenly had what promised to be a huge market at which to aim. Firms like Lotus, WordPerfect and Borland racked up hundreds of millions of dollars-worth of sales from a stogie hit product. A "virtuous cycle" had been created. As mote software was written for IBM-compatible personal computers, more people wanted these machines. AS more machines were sold, demand for software increased.

And yet open standards represent a trade-off for both computer firms and that customers. If the standard is embodied in a component that contains much of the value of the finished product—as it was in Intel's microprocessor—firms which use that component can find it difficult to differentiate their products without violating the standard. The result in personal computers has been brutal price competition. And any standard, open or not, eventually becomes an obstacle to technological progress. With both microprocessor and software technology changing so rapidly, this conflict is especially acute in the computer industry. As a result, even agreed standards tend to be undermined by new technologies within a few years, compelling companies to pay the high costs of abandoning the old standard, and sparking a struggle among firms to establish a new one.

Open standards have become the religion of the new computer industry, to which everyone pays obeisance, so perhaps it is not surprising that schismatic wars have broken out over the meaning of the term. All firms now claim that their products are open, but that those of their competitors are not.

"The eskimos have 21 words for snow. These guys need 21 words for 'open'," says Tim Bresnahan, an economist at Stanford University. Generally there are two ways to set open standards: through negotiations by several firms or by the adoption of a standard established by a single firm.

There have been repeated efforts to establish multi-firm standards, especially for operating-system software. Most of these have been based around an operating system first developed by AT&T called Unix. different versions of which can run on every size of machine from mainframes to personal computers. AT&T pledged to license the basic programming code of Unix to any other company at minimal cost. But most multi-firm efforts have failed for the simple reason that the participating firms cannot trust each other. There are now many rival versions of Unix sponsored by various firms from IBM to Sun Microsystems, all of which are, to a significant degree, incompatible with one another, although all are promoted as open.

Standard-bearers

In fact, widespread adoption of a single firm's product is the only way truly open standards have been established in the new computer industry. "The irony of open standards is that they have to be based on a monopoly, which then earns enormous amounts of money for whatever firm owns it, observes Todd Hixon, a technology analyst with the Boston Consulting Group. The most famous—some industry executives would say infamous-example ?? Microsoft's MS–DOS operating-system software, which now runs on 80m PCs.

Any firm in Microsoft's position has to make some difficult decisions. Owning a standard product is like possessing any monopoly; it is worthless unless a firm can derive income from it. But if a firm charges too much, other firms will rebel, and either try to copy the product or pay the cost of switching to another as a standard. Microsoft has played this delicate game with consummate skill. It has charged too little for MS–DOS to spark much rebellion, while assiduously encouraging other software firms to write application programmes which run on it. As the power of microprocessors grew, the company was also careful to develop new versions which took advantage of the new chips, but which were compatible with all earlier versions, so that users never had to scrap all their old software when they bought a new personal computer. Today nearly all PCs, except workstations and Apple's machines (which use Apple's proprietary operating system), come with MS–DOS already installed. Nevertheless, even MS–DOS's days are numbered, because of technological advances.

Every firm in the computer industry, no matter what layer it competes in, now dreams of repeating Microsoft's triumph. "Even as late as 1988 no one in the industry really understood how lucrative owning a standard could be," says David Yoffie, a professor at Harvard Business School and a board member at Intel. "Now everyone sees it. As a result no one is willing to let another company establish it. That is what makes the prospects for profitability so problematic in this industry."

A huge battle is shaping up in operating-system software. Microsoft has a big lead with a product called Windows, which runs on MS–DOS machines and mimics the easy point-and-click icons of Apple's computers. It has already sold more than 20m copies. But IBM is heavily promoting OS/2, its rival to Windows. In network operating-systems, which run on the machines at the centre of client-server networks, Novell has scored a success similar to Microsoft's. Its netware has become the standard. Netware's dominance is unlikely to last a decade, as Microsoft's MS–DOS has done. By the middle of next year. Microsoft has promised to launch a product called Windows NT (for "new technology") to compete with Netware.

Meanwhile Taligent, a joint venture established by Apple and IBM, is also working on an operating system that will run both on networks and on stand-alone machines. And many people in the industry believe that some version of Unix will ultimately prevail. In December Novell bought Unix Systems Laboratories from AT&T and 11 minority shareholders, with the obvious intent of making Unix an alternative standard to whatever is offered by Microsoft. The battle over operating systems will produce the most spectacular fireworks over the next few years. Nonetheless, scores of similar struggles to establish and control "open" standards are occurring in every cornet of the computer industry.

Decisions, decisions

MANAGING any business, from a fruit stall to an oil company, is a complicated task. Demand and price go up and down, competitors disrupt the most carefully laid plans, interest rates fluctuate, laws change, employees blunder. The list of possible calamities is long, that of opportunities lamentably short. And yet for most businesses the rules of the game, and so tile types of calamities or opportunities to be faced, stay much the same for years, or even decades, at a time.

For computer companies, the rules of the game itself keep changing, which multiplies all the normal complexities and risks of running any firm. There are a number of reasons for this. First, the basic technologies of the computer business—micro-processors, memory chips, screens and software—continue to change quickly, creating new products and altering both the capabilities and pricing of existing products in every layer of the industry, which has knock-on effects in all the other layers.

Second, these technologies are so widely dispersed that predicting which firms will succeed with a new technology, or suddenly spring up as a new competitor, is far more difficult than in most other industries. A vast corps of electronics engineers and programmers have been trained over the past two decades. Their job mobility and willingness to take risks are legendary. Firms have little difficulty recruiting talent, and lots of new companies are formed every year. Even in microprocessors—a capital-intensive, specialized business—intel now faces competition from a small, Texas-based firm called Cyrix, started by two engineers in 1988, in the late 1980s Toshiba, a distant also-ran in personal computers, shocked the industry when its laptop models, not those of the industry's established leaders, became a hit everywhere. Toshiba, in its turn, was shocked when its early lead was eroded by a wave of imitators, most of them American.

Third, far more often than most companies, computer firms are not selling their products to an established market, but trying to create demand for an entirely new product. This involves a lot of sheer guesswork. In 1991 many firms expected pen computers to take the industry by storm (these allow people to enter information by writing with a stylus on an electronic notepad rather than using a keyboard). Since then, sales have been disappointing. Pen computers are now seen as a niche product with limited potential.

Technological change is not unique to the computer industry. But its pace, and the fact that it is happening in so many areas at once, may be. So to succeed, or even to survive, computer firms now have to put an inordinate amount of effort into doing three things:

Collaborating. The multi-layered structure of the new computer industry and the large number of firms it now contains, mean that any single firm. no matter how powerful, must work closely with many others. Often this is in order to Detain access to technology or manufacturing expertise. A web of thousands of joint ventures, cross-equity holdings and marketing pacts now entangles every, firm in the industry. Even firms with a revolutionary product need to create a "community" of other firms to exploit it, argues James More, of Geo Partners, a computer-industry consultant. "A firm has to attract help from all others in the value chain and deny it to competing communities of firms."

Successful alliances are notoriously tricky to achieve in any business. An added complication in most computer-industry deals is that few alliances are exclusive. Firms usually retain the right to do business, or strike a similar alliance, with other firms. And alliances are often between firms that compete fiercely in other areas. Apple and IBM are jointly developing new chips, operating systems and multi-media products, all critical to both firms" future. But Apple, like much of the rest of the new computer industry, also remains determined to steal business from IBM's corporate customers.

Given so many uncertainties, many of the grandest computer alliances predictably fail. The most spectacular break-up has been between Microsoft and IBM. The two spent wars and hundreds of millions of dollars jointly developing OS/2, an operating system to replace MS–DOS. When an early version of OS/2 sold poorly in 1990, Microsoft threw most of its marketing efforts behind its own Windows operating system. IBM felt betrayed. It has since signed marketing pacts with Microsoft's rivals. Novell and Lotus.

Watching other firms. Firms must keep a close eye on the actions of others, even those with whom they have no formal alliance or do not compete. Most firms depend on those In other layers of the industry, to succeed. If a firm stumbles in one layer, it can deal a mortal blow to firms in other layers. In the 1980s Compaq owed much of its extraordinary success in the market for assembled PCs to Intel's willingness to provide it with early supplies of its latest microprocessor. But when new RISC micro-processors designed by Run and others looked as if they would leave Intel's chips Par behind. Compaq had no choice but to join Microsoft, and 19 other firms whose products depended on Intel's chips, a consortium tailed ACE assembled to search For an alternative. Alarmed. Intel accelerated plans to bring out a new generation of microprocessors and eventually persuaded ACE's members that it could keep up with RISC technology. In late 1992 ACE was disbanded. Similarly. Lotus bet that IBM would succeed with OS/2 after its split with Microsoft. When sales of Windows took off and those of OS/2 sputtered. Lotus was not prepared with a Windows version of 1–2–3, its popular spreadsheet program. As a result, Lotus lest market share to the Windows version of Excel. Microsoft's own spreadsheet. Lotus is still scrambling to catch up.

Monitoring technology. Like any type of company, computer firms must track their direct competitors to avoid being caught off guard by a technological breakthrough. However, technology is changing so fast in the computer Industry that just watching competitors is not enough. Our map of the industry on page 18 will probably be completely redrawn in a few years. New technologies promise to blur the boundaries between today's layers, pitting supplier against customer and turning firms which now happily co-operate into competitors. Chip makers are learning to put more and mote of the electronic bits in complete machines on to a single piece of silicon along with the microprocessor. This is a direct threat to assemblers of personal computers, who are already struggling to find ways to add value to machines and so earn profits.

In the next few years, microprocessors themselves will become so powerful that they will incorporate many of the functions of current operating-system software, or run "emulations" which allow them to operate with software written for other types of microprocessors. There is disagreement about whether such emulations will be efficient enough to be invisible to the user, or whether they, will slow computers down. If they prove efficient and invisible, the implications for the microprocessor and software markets are difficult to fathom.

It could prove a blow to Microsoft, Novell and others which sell operating systems. Or it could liberate them from specific chip makers. Microsoft has said that Windows NT will run on a venery of RISC microprocessors, as well as on Inters chips. If all operating systems can run on all microprocessors. then the latter could become a commodity, like memory chips, sold primarily on price. On the other hand. emulation may also allow operating systems to mimic each other. Which would mean that software written for MS–DOS or Windows could run easily on Unix. Apples operating system, and any others may come along. This, in turn could make operating systems indistinguishable commodities.

Microsoft's boss, Bill Gates, dismisses any such idea as really, rea?? wrong. It ignores the idea that there is incredibly innovative work going on in operating systems." That is just the problem, complain many application-software firms. They worry that Microsoft will incorporate so many functions into its new operating systems that there MR be hitie Opportunity for them to Innovate and acid value. Though Microsoft is a big application-software firm itself, it is wary of alienating other application firms because it does not want them to devote their best efforts to writing software for rival operating systems. On the other hand, the intensely competitive Mr Gates finds it difficult not to seize an opportunity, sitting right under his nose.

Meanwhile Lotus is attempting to appropriate some of the functions, and value, of the layer below the application-software layer where it normally competes with a product called Notes, which allows users on large networks of personal computers to communicate easily and share databases. Though ostensibly an applications program—it runs on various operating systems—Notes is also something of an operating system itself. Lotus is encouraging other firms to wine applications which, in rum. exploit the capabilities of Notes. Already industry pundits are calling Notes "middleware". an entirely new industry layer between operating systems and applications. Microsoft plans to incorporate many of the same features offered by Notes into its new server operating-system. Windows NT. when it appears this year, which might promptly squeeze middleware out of existence.

Given all these risks, one question companies must continually ask themselves is whether or not they should be operating in the layer above or below their main business—in other words, how vertically integrated should they be? There is no single answer to this: and, because of technological changes, whatever answer looks right today may be wrong tomorrow. Apple and Sun Microsystems claim that being in both hardware and software is an advantage for making both work together, though they are now devoting the bulk of their R&D efforts to software. Mr Gates says being in both hardware and software is too risky, though he sees an advantage in being in both operating systems and application software. IBM, which is in every layer and every, market, is floundering.

MOST of the computer companies mentioned in this survey art American. That is no oversight. The industry's direction has been set in America, which is also where most of the innovation occurs. Although large, the European and Japanese computer industries are rooted in their home markets. During the past two difficult veal. European companies have lost market share even at home to American rivals. Japanese companies have fared better. Their lead in memory-chip production and their skills at low-cost manufacturing have brought them modest gains in the share of world hardware sales. But at home they are facing an onslaught from American and other companies in the personal-computer market. And they have yet to make much of a dent in software.

Japanese firms could play a bigger role, especially if mobile, hand-held computers become as big a nit as many people predict. Until that nappens, however, strategic choices made by American firms will determine the direction of the industry This article examines the strategies of four or tile most significant American firms.

As the leader of the old computer industry. IBM faces enormous challenges finding its place in the new industry. Its efforts to do so will be one of the great dramas in modern corporate history. For IBM. 1992 was a disastrous year. Even worse, it capped a precipitous slide in the company's fortunes. Since 1985 its share of the total computer market, including hardware, software and services. has slid from 30% to less than 19%. Its market capitalisation has dropped like a stone, from a peak of $106 billion to 1987 to $27 billion.

IBM has already, made wrenching changes, cutting its workforce by a quarter to 300,000 and reducing manufacturing capacity by 40% since 1986. This year it is cuing another 25.000 people. It has also reorganised its business five times over the same period. In December 1991 it announced the most drastic reorganisation of all. the division of the company into 13 autonomous businesses, each with its own balance sheet, profit and loss account and financial targets. These businesses are supposed to establish an internal marks, with prices equivalent to those offered by outsiders, which should expose hidden subsidies and obvious laggards. Whether it will make ISM as a whole more competitive is debatable. "Markets and companies are very different things," says David Teece, a professor at Haas School of Business at the University of California's Berkeley campus. "ISM may not get the full benefits of either."

Despite its troubles, IBM remains huge. Its sales are more than three times the computer sales of Fujitsu, the world's second-biggest computer company. And amid the carnage of the past few years, it has scored some remarkable successes. Its mintcomputers and workstations, two markets which it entered years too late. have said well.

Today technology is coming out of IBM'S vast R&D establishment much more quickly, producing a wave of new products in 1992. It has also launched a range of low-cast personal computers and copied the direct marketing and telephone technical support pioneered by Dell. The inadvertent creator of the new computer industry, IBM has now had to adopt the new industry's ethos, pledging to make all its products connect easily to those of other companies. It has collaborative deals with thousands of firms, including many of those whose success has done so much to destroy its hegemony. Lotus, Novell. Apple and others are all too happy to let IBM's huge salesforce flog their products to large corporate customers. Whether Big Blue gets much out of this is Itself difficult to say. The company's top managers say they are now determined to give customers whatever they want, even if that means selling someone else's product, or helping a customer scrap an expensive ISM mainframe in fayour of a cheaper network of workstations and personal computers.

If it is to remain a single entity. IBM has no choice but to adopt this strategy of being all things to all customers. But IBM IS competing against thousands of specialised firms aiming at every cor''or of its market and every lover of its value-added chain. Even if its mainframe patrimony, still its piggest business, survives longer than sceptics suggest. IBM may not be able to remain either so vertically integrated or so ubiquitous in an industry which is fragmenting quickly. IBM executives seem at a loss about what to do next. A new boss at the company may break it up.

Cool operator

Microsoft has replaced IBM as the industry's most feared and admired company. Its financial performance has been spectacular, largely because of its near-monopoly in PC operating systems, which account for 40% of its sales. Other firms in the industry. are gunning for Microsoft. Complaints by rivals of anti-competitive behaviour have sparked an investigation of the firm by America s Federal Trade Commission. which could cause Microsoft big headaches m the future. IBM's alliances with Apple. Novell and Lotus are clearly designed to deny Microsoft dominance of the next generation of operating systems, whether on stand-alone machines or the servers at the heart of client-server networks. Sun Microsystems aims to do the same thing. Mr Gates shrugs off criticisms from other firms. "Custamers don't care much about whaler other companies in the industry are comfortable with us," he says. "Who gives a damn? He rubbishes rival products. IBM'S OS/2 operating system, he states flatly, will be dead in two years.

Behind the outward taunting, Mr Gates has dis. played great skill and determination in building Microsoft into a powerhouse. Ironically, in the 1980s the firm's application programs for its own

TAB 15
TO
APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT
IN CIVIL ACTION NO. 94–1564 (SS)
SIGNED BY GARY REBACK
Electronic Engineering
TIMES
February 18, 1991
Windows stars at SD91
BY RAY WEISS

Santa Clara. Calif.—The tenor of last week's System Development Conference was clear evidence that Microsoft Corp.'s Win. dows is well on its way to becoming the dominant operating-software platform for personal computers. SD91. here. was essentially a Windows show: More than one-third of the vendors in attendance had Windows-related products. Developers flocked to see Windows products, while software vendors launched the second wave of Windows 3.0 development software.

A typical reaction was that of Craig A. Snow. manager, software engineering, at Sophia Systems Inc. (Palo Alto. Calif.): "Everybody is going to Windows. It's inevitable. Everybody is looking for the right tool or vehicle to build Windows products."

Microsoft's dominance of Windows development tools was cha??lenged by a number of tool vendors. Archrival Borland International debuted its next- generation Borland C + + product for Windows. which can build Windows programs without the heretofore required Microsoft System Development Kit (SDK). Jenson & Partners Inc. (JPI) announced its integrated set of Top-speed compiler/tools for Windows and DOS. JPI's tools, too. are complete Windows tool kits.

But Microsoft (Redmond. Wash.) is fighting back by preparing a new set of tools for release this year. To hold the fort in the meantime. Microsoft integrated its SDK and C6.0 C compiler, and dropped the combined price by 25 percent.

Breakthrough product Borland's C + + is considered by many Windows programmers to be a breakthrough product—easier and faster to use than the older Microsoft C6.0 and SDK tools.

"This is the tool I've been looking for." said B.J. Safdie. a technology analyst with Sony Corp.

(Woodcliff. N.J.).

Borland C + + has a fully integrated development environme, nt. including the Turbo Debugger, which can run in a DOS window in Windows" standard protect mode. The package includes the interactive WhiteWater Group Resource Toolkit. with which to build Windows applications resources (bitmaps, fonts, dialog boxes, etc.)— a job normally handled by the Microsoft SDK resource editors. Many developers welcome Borland's offering.

The new C + + package supports Windows code. Users can build Windows programs, including DLLs (dynamic linked libraries). Additionally, Borland C + + minimizes compilation time by precompiling program header (.h) files. This saves tune. for some .h files, like Windows??h ??used in all Windows programs), have more than 20.000 lines of code.

Interestingly. as Borland Challenges Microsoft. Borland itself is being challenged by Jensen & Partners. a sp??off of Borland International. Its CEO. Niels Jensen, was one of the cofounders of Borland.

JPI's Topspeed Professional Techkit targets Borland's traditional strength: Turbo Pascal. "Unlike our competitors." said Jensen. "our Pascal compilers are ISO compatible, as is our C compiler." Microsoft is fighting back by preparing a new set of tools for release.

The new compilers announced by JPI at SD91 brought a new tack to PC software tools. JPI debuted four compilers for Windows development: C. C + +. Modula-2 and ISO Pascal. Unlike any other PC compilers, all of these run in a single environment (as DLLs)-and share a common code generator Users can buy and add as many compilers as they want. Addition. ally. they can compile mixed code concurrently, and the libraries are shared, i.e.. C or Pascal programs can access Pascal or C library procedures/functions.

What's more. the JPI compilers feature some technical break. throughs, including virtual pointers (typed pointers, which, when de-referenced, cause a function to be called) and DOS-based dynamic linking with DLLs (an overlay manager that uses the Windows DLL format). Also included with the languages is a pre-emptive. multitasking kernel that runs on top of DOS.

'We'll be there" Microsoft is busily working on its own advanced tool sets. "You can bet that we will be there with nextgeneration tools," said Fred Gray. Languages general manager at Microsoft. The company is working at both better Windows development tools and a C + + compiler. Additionally, the company already has a 32-bit compiler as part of the new SDK for OS/2.

Many analysts expect Microsoft to field that 32-bit compiler for Win. dows, undercutting Borland and JPI. whose compilers are still 16-bit architectures, despite the fact that many developers are now running on 32-bit 386 and 496 machines.

Microsoft actually helped Borland in getting its Windows product out. "We have a tool-independent program," said Gray, "that treats our own languages group the same as any other ISV (independent software vendor). Microsoft is out to get Windows accepted and will help compeutors like Borland. In fact. we get Windows and other operating system releases the same tune as do the ISVs."

Other vendors at SD91 presented products that support the emerging Windows development market. These include 32-bit compilers from Zortech (C + +) and Warcom (C). as well as Windows GUI (graphical user interface) builders, such as Professional WindowsMaker from Blue Sky Software Corp. (Las Vegas. Nev.) and VZ Programmer for Windows.

Additionally, two key Windows products bowed that fill critical needs for Windows developers: Pcsteam, a hardware ICE for Windows that monitors 386 systems out to 33 MHz with a fully compliant Code View debugger, and Distinct, the first TCP/IP package for Windows—it includes Berkeley Sockets. RPC/X.DR and NFS, Linking Windows applications to the Unix networking world.

Getting attention

Windows is attracting a lot of attention. "Windows provides a full graphics environment," said Isadore Sobkowski, principal. Knowledge Associates Ltd. (Riverdale. N.Y.). "It's a perfect base for our new generalized expert system. ACE."

Another company. Expert-Ease Systems Inc., is moving its process-control software to Windows. "People want Windows—it's a nstrig market." said Dave Kuhlman. senior software engineer. ExpertEase (Belmont. Calif.). "But I will continue to develop using OS.2— you can just do a lot more with 0S,2 than with Windows."

Many programmers accept Windows as inevitable. "Windows has the market attention." said Sony's Safdie. "But it's a lot like those kits people used to buy and put on a Volkswagen. making it look like a Maserati or some luxury car. Under the hood is still a Volkswagen."

Ronald Surratt, principal, C Carp Designs (Laytonville, Calif.), plans to use Windows as a user-interface for software tools. "Windows is here and accepted. It Lakes care of the graphical user interface as well." Surratt will combine Windows with Small for development. "You can do an awful lot with a small amount of Smalltalk code: with Windows it minimizes development time," he said.

But there are others that cannot iive with Windows internals. "Win. dows is not deterministic." said Christopher Bajorek, president of Telephone Response Technologies Inc. "We do real-time voice systems and have built a pre-emptive multitasking operating system on top of DOS for our needs." Bruce Wallace. a development engineer at Quantum Institute, at the University of California at Santa Barbara, uses OS/2 for real-time controt of a free electron laser.

TAB 16

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT

IN CIVIL ACTION NO. 94–1564 (SS)

SIGNED BY GARY REBACK

Inventing-and reinventing the proprietary architectures for open How Architecture Wins Tech??

by Charles R. Morris and Charles H. Ferguson

The global computer industry is undergoing radical transformation. IBM, the industry's flagship, is reeling from unaccustomed losses and is reducing staff by the tens of thousands. The very survival of DEC, the industry's number two company, is open to question. A roll call of the larger computer corn. panies—Data General, Unisys, Bull, Olivetti, Siemens, Prime-reads like a waiting list in the emergency room.

What's more, the usual explanations for the industry's turmoil are at best inadequate. It is true, for example, that centralized computing is being replaced by desktop technology. But how to explain the recent troubles at Compaq, the desktop standard setter through much of the 1980s? Or the battering suffered by IBM's PC business and most of the rest of the desktop clone makers, Asian and Western alike?

And the Japanese, for once, are unconvincing as a culprit. The fear that Japanese manufacturing prowess would sweep away the Western computer industry has not materialized. True, Japanese corn. panies dominate many commodity markets, but they have been losing share, even in products they were expected to control, like laptop computers. Earnings at their leading electronics and computer companies have been as inglorious as those of Western companies.

Explanations that look to the continuing shift in value added from hardware to software, while containing an important truth, are still too limited. Lotus has one of the largest installed customer bases in the industry. Nevertheless, the company has been suffering through some very rough times. Meanwhile, Borland continues to pile up losses.

Nor are innovation and design skills a surefire recipe for success. LSI Logic and Cypress Semiconductor are among the most innovative and wellmanaged companies in the industry, yet they still lose money. Design-based "fabless," "computer. less" companies such as MIPS have fared very hadly too. MIPS was saved from bankruptcy only by a friendly takeover. And Chips and Technologies is m dire straits.

Government protection and subsidies are no panacea either. The European computer industry is the most heavily subsidized in the world but still has no serious players m global computer markets. Charles R. Morns is a partner in Devonshire Partners. a Cambridge. Massachusetts technology consulting and financial advisory firm. Charles H. Ferguson. an MIT Ph.D. and former MIT researcher, is an independent consultant, also in Cambridge, This article is based on their book Computer Wars: How the West Can Min in ??ost IBM World which was lust published by Fimes Books.

Scale, friendly government policies, world-class manufacturing prowess, a strong position in desktop markets, excellent software, top design and innovative skills-none of these, it seems, is sufficient, either by itself or in combination with each other, to ensure competitive success in this field.

A new paradigm is required to explain patterns of competitive success and failure in information technology. Simply stated, competitive success flows to the company that manages to establish proprietary architectural control over a broad, fastmoving, competitive space.

Architectural strategies have become of paramount importance in information technology because of the astonishing rate of improvement in microprocessors and other semiconductor components. The performance/price ratio of cheap processors is roughly doubling every eighteen months or so, sweeping greater and greater expanses of the information industry within the reach of ever-smaller and less expensive machines. Since no single vendor can keep pace with the deluge of cheap, powerful, mass-produced components, customers insist on stitching together their own local system solutions. Architectures impose order on the system and make the interconnections possible.

An architectural controller is a company that controls one or more of the standards by which the HARVARD BUSINESS REVIEW March-April 1993 entire information package is assembled. Much current conventional wisdom argues that, in an "open-systems" era, proprietary architectural control is no longer possible, or even desirable. In fact, the exact opposite is true. In an open-systems era, architectural coherence becomes even more necessary. While any single product is apt to become quickly outdated, a well-designed and open-ended architecture can evolve along with critical tech. nologies, providing a fixed point of stability for customers and serving as the platform for a radiating and long-lived product family.

Proprietary architectures in open systems are not only possible but also indispensable to competitive success—and are also in the best interest of the consumer. They will become increasingly critical as the worlds of computers, telecommunication, and consumer electronics continue to converge.

Architectures in Open Systems

In order to understand architecture as a tool for competitive success in information technology, consider first the many components that make up a typical information system and the types of companies that supply those components.

Take the computer configuration in a typical Wall Street trading or brokerage operation. Pow??ul workstations with 50 MIPS millions of instructions per second)—comparable to the power of standard mainframes-sit on every desk. The workstations are connected in a network so they can communicate with each other or with several others at a time. Teams of workstations can be harnessed together to crunch away on a truly big problem. Powerful computers called servers support the network and manage the huge databases-bond pricing histories, for instance—from which the workstations draw.

Such a modern network will be almost entirely open, or externally accessible by other vendors; critical elements, from perhaps as many as a hundred vendors, plug interchangeably into the network. The workstations themselves are from companies like Sun Microsystems, Hewlett-Packard, and IBM, or they may be powerful personal computers from Apple or any of a number of IBM-compatible PC manufacturers. IBM and Hewlett-Packard make their own workstation microprocessors; most workstation or personal computer makers buy microprocessors from companies like Intel, Motorola, Texas Instruments. LSI Logic, AMD, and Cyrix. Almost all the display screens are made in Japan by Sony, NEC, and many other companies; the disk drives come from American companies like Seagate or Conner Peripherals. The memory chips are made in Japan or Korea. The network printers will typically have laser printing engines from Japan or, if they are high-performance printers, from Xerox or IBM; the powerful processors needed to control modern printers will come from AMD, Motorola, or Intel. The rest of the standardized hardware components on the network, like modems, accelerator boards, coprocessors, network interface boards, and the like, will be made by a wide variety of Asian and American companies.

The network will have many layers of software, most of it "shrink-wrapped" from American companies. The operating system-the software that controls the basic interaction of a computer's corn. ponents-may be a version of AT&T's UNIX, specially tailored by the workstation vendor, as with Sun and IBM, or it may come from a third party, like Microsoft. Many vendors, like Lotus and Borland will supply applications software. The complex software required to manage the interaction of the servers and workstations on the network will, in most cases, be supplied by Novell The software that converts digital data into instructions for printer engines is sold by Hewlett-Packard. Adobe. or one of their many clones. Each smaller element in the system, like a modem or video accelerator, will have its own specialized software, often supplied by a vendor other than the manufacturer.

It is possible to construct open systems of this kind because for each layer of the network there are published standards and interface protocols that allow hardware and software products from many vendors to blend seamlessly into the network. The standards define how programs and commands will work and how data will move around the system the communication protocols and formats that hardware components must adhere to, the rules for exchanging signals between applications software and the operating system, the processor's command structure, the allowable font descriptions for a printer, and so forth. We call this complex of standards and rules an "architecture."

A small handful of the companies supplying components to the network will define and control the system's critical architectures, each for a specific layer of the system. The architectural standard setters typically include the microprocessor designer (such as Sun or Intel); operating system vendors (possibly Sun or Microsoft); the network system (usually Novell); the printer page-description system (Adobe or Hewlett-Packard); and a small number of others, depending on the nature of the network. Each of these is a proprietary architecture; although the rules for transmitting signals to an Intel processor, for example, are published openly for all vendors, the underlying design of the processor is owned by Intel, just as the design of Sun's operating system is owned by Sun, and so on for Microsoft's Windows/DOS, Novell's Netware, or Adobe's PostScript.

Companies that control proprietary architectural standards have an advantage over other vendors. Since they control the architecture, they are usually better positioned to develop products that maximize its capabilities; by modifying the architecture. they can discipline competing product vendors. In an open-systems era, the most consistently successful information technology companies wall be the ones who manage to establish a proprietary architectural standard over a substantial competitive space and defend it against the assaults of both clones and rival architectural sponsors.

It has been conventional wisdom to argue that users, and the cause of technological progress, are better served by nonproprietary systems architectures. This is emphatically untrue. There are many examples of nonproprietary architectures, like the CCITT fax standard or the NTSC television standard, most of them established by government bodies or industry groups. Because they are set by committees, they usually settle on lowest-common-denominator, compromise solutions. And they are hard to change. The NTSC has been upgraded only once (for color) in a half-century; committees have been squabbling over an improved fax standard for years. Proprietary architectures, by contrast, because they are such extremely valuable franchises, are under constant competitive attack and must be vigorously defended. It is this dynamic that compels a very rapid pace of technological improvement.

Architectural Competitions

The computer industry has been competing on architecture for years. Take the example of the product that established IBM's dominance in the mainframe computer business-the IBM System/360. The 360 was arguably the first pervasive, partially open, information technology architecture. In the late 1960s, once the System/360 became the dominant mainframe solution, IBM began to unbundle component pricing and selectively open the system, in part because of government pressure. Published standards permitted competitors and component suppliers to produce a wide range of IBM-compatible products and programs that were interchangeable with, and sometimes superior to, IBM's own. By licensing its MVS operating system to Amdahl, for example, IBM made it possible for Fujitsu, Amdahl's partner, to produce clones of the IBM mainframe. Much of what was not licensed away voluntarily was acquired anyway by the Japanese through massive intellectual property theft.

Hundreds of new companies selling IBM-compatible mainframe products and software placed in HARVARD BUSINESS REVIEW March-April 1993 tense competitive pressure on IBM. But they also assured that the IBM standard would always be pervasive throughout the mainframe computing world. As a result, even today IBM controls some two-thirds of the IBM-compatible mainframe market and an even higher share of its profits, not only for central processing units but also for disk drives, systems software, and aftermarket products like expanded memory. Because they have no choice but to maintain compatibility with the IBM standard, competitors must wait to reverse-engineer IBM products after they are introduced. Typically, by the time competitive products are on the market, IBM is well down the learning curve or already moving on to the next generation. And as the owner of the dominant architecture, IBM can subtly and precisely raise the hurdles whenever a particular competitor begins to pose a threat. For over 20 years, in generation after generation, IBM has played this game brilliantly and won every time.

Ironically, IBM badly fumbled an equivalent opportunity in desktop computing, handing over the two most critical PC architectural control points-the systems software and the microprocessor-to Microsoft and Intel. Since any clone maker could acquire the operating system software from Microsoft and the microprocessor from Intel, making PCs became a brutal commodity business. As a high-cost manufacturer, IBM now holds only about l 5 % of the market it created.

In a related error, Compaq made the mistake of assuming that IBM would always control the PC architectural standard. On that premise, the company geared its cost structure and pricing policy to IBM's, only to find itself almost fatally vulnerable when the savage PC price wars of the early 1990s exposed the commoditized character of PC manufacturing. Tellingly, while IBM and Compaq struggle to eke out profits from their PC businesses, Microsoft and Intel are enjoying after-tax margins of about 20%, on sales of more than $4 billion and $6 billion respectively, and together they have more cash than IBM.

For a similar example, consider the case of Lotus. Lotus got its start in a market-spreadsheet software—where products are complex and featurerich, hardly commodities. And over the years, the

3. Successful architectures are proprietary, but open. Closed architectures do not win broad tranchises. Choosing the right degree or openness is one or the most subtle and difficult decisions in architectural contests. IBM opened its PC architecture too broadly—it should have, and could have, retamed control of either or both the operating system and microprocessor standard. Apple made the opposite mistake of bundling the Mac operating system too closely to its own hardware. Sun, in contrast to Apple, opened its SPARC RISC architecture very early, both to software developers and processor cloners; it has the lead position in workstations, and its broad base of third-party software support has helped maintain customer loyalty though a series of technical stumbles. Autodesk's computer-aided design (CAD) software for builders is open to add-on third-party packages, like kitchen design tools, and its broad base of supporting software has given it control of a small but very profitable franchise.

4. General-purpose architectures absorb special-purpose solutions. Architectures that cannot evolve to occupy an ever-broader competitive space are dead ends. Wang's lucrative word processor franchise was absorbed by general-purpose PCs. Special-purpose CAD workstations from Daisy, Applicon, and others were absorbed by more general-purpose desktop machines. Special-purpose game machines will, in all likelihood, be absorbed by more general-purpose consumer systems.

5. Low-end systems swallow high-end systems. Minicomputers poached away huge chunks of mainframe territory and were assaulted in turn by workstations and networks. Workstations are under pressure by increasingly high performance PCs. Traditional supercomputers and very high-end mainframes are vulnerable to parallel arrays of inexpensive microprocessors. High-end data-storage systems are similarly under attack from arrays of inexpensive, redundant disks. Although IBM helped create the personal computer revolution, it steadfastly refused to recognize its implications. Until relatively recently, it even called its desktop products division "Entry Systems," ignoring the fact that today's microprocessor-based machines are a replacement for traditional computers, not an entry point or way station to them.

However, managers must keep in mind that even those companies that best follow these principles are not necessarily guaranteed continued success in the marketplace Architectural contests typically move through a number of different phases and only those companies that successfully Architectures that cannot evoke to occupy an everbroader competitive space are dead ends.

navigate them all, maintaining their pace and direction in the fluid environment of rapidly evolving technologies, emerge as winners over the long term. It's a delicate balancing act, and one that requires ever-increasing flexibility as the technologies mature.

There are five principal phases to architectural competition:

Commitment. Architectural challenges usually emerge from the early-stage chaos of competing point products. Before the IBM PC, personal computers were rigid, closed systems that tended to bundle their own operating systems and applications software. Compaq had the insight that by purchasing a Microsoft operating system identical to that of the PC, it could ride the wave of the PC's success. Microsoft then insisted that all subsequent clone makers buy the same operating system and so seized the critical PC software architectural standard. Microsoft's insight was to realize that it was in an architectural contest and to take the appropriate steps, including steadily expanding the generality and scope of its systems to come out the winner.

Diffusion. Large proms come from broad franchises. Open architectures are successful because they can be broadly diffused. Xerox's Interpress page-description software, which converts digital data into printer instructions, is excellent but can be purchased only with Xerox high-end printers. Adobe, by contrast, has widely licensed its PostScript language and has become the industry standard setter. Intel widely licensed the early versions of its xx86 processors, then sharply restricted licensing of its 386 chip after the Intel standard had become firmly entrenched. IBM, on the other hand. has long resisted diffusing its mainframe and minicomputer software. Of course, diffusion decisions are not without risk. Once again, balance and timing are essential. For example, Philips licensed its compact disc technology to Sony to increase market penetration. But Sony outperformed Philips and Took, half the market. Philips's standard was a static one that it never developed further.

Lock-to. A company has a "lock" on an architecture when competitors are trained to wait until the architectural leader introduces each new product generation. Intel and Microsoft, at least temporarily, seem to have achieved this position in PC markets. Sun was on the verge of a locked in franchise in workstations but may have fallen short; the performance of its SPARC RISC processor design has been lagging behind the competition, and the company neglected to solidify its franchise by moving rapidly down to lower end platforms.

But lock-in is sustainable only when a company aggressively and continuously cannibalizes its own product line and continually and compatibly extends the architecture itself. This is a strategic choice that many companies find difficult to make. Often, managers become overprotective of the products that brought them their original success. IBM, for example, has frittered away a powerful lock on back-office transaction processing and operating systems. In a misguided effort to protect hardware sales, It has refused to release products, long since developed internally, that would adapt Its best-selling AS400 minicomputer software to the RS6000 workstation. Such reflexive self-protecnon simply hands over a valuable franchise to the Microsofts and other vendors storming up from the low end.

Harvest. Of course, the ultimate objective of architectural competition is to win a market leader's share of the profits, lust to give one dramatic example, profit margins on Intel's xx86 family of chips are m the 40% to 50% range and account for well over 100% of the company's earnings. But no locked-in position is ever completely safe, and companies must be careful when they harvest not to rest on their previous successes. Indeed, Intel may have harvested too aggressively, drawing out spirited recent attacks by clone makers such as AMD and Cyrix.

Obsolescence and Regeneration. lust as products must be cannibal??zed, so must architectures themselves. The better the architecture. the longer its lifespan: but sooner or later every architecture, no matter how well designed becomes obsolete. And before it does, the market leader must be prepared to move ahead, to do away with the old and introduce the new. Industry, leaders often fall to cannibalize their old architectures, but although nothing IS more painful, to do so is absolutely necessary. Otherwise, competitors quickly move to create and introduce rival franchises, and these eventually dominate the industry. IBM's failure to cannibalize Its mainframe and minicomputer franchises provides a stark example of the catastrophic effects of waiting too long.

DEC provides another example. The company developed outstanding RISC products very early. But DEC declined to cannibalize its profitable VAX-VMS architecture because its VMS operating system, the source of its franchise, was tightly integrated with its aging VAX hardware. Predictably, DEC was beaten out by vendors such as Sun Microsystems and Microsoft, which didn't hesitate to move in with their newer, more powerful alternatives. (The main developer of DEC's advanced systems, Dave Cutler, IS now In charge of developing NT for Microsoft.)

There are three lessons here. First, with better architecture DEC could have kept VMS alive longer. If VMS had been "portable," that is, not restricted to VAX hardware, DEC could have ported VMS to other vendors" hardware, making VMS an industry standard. Indeed, the company could have used RISC technology itself without losing its VMS franchise. Second, DEC would have been better off cannibalizing itself, rather than waiting to be cannibalized by others.

The third lesson, though, is the most important. As DEC's experiences with VMS and IBM's mistakes with the mainframe and minicomputer franchises show, the cultural and organizational structures useful for managing traditional, closed, integrated businesses will not work for companies that intend to compete with architectural strategy. In fact, we believe that architectural competition is stimulating the development of a new form of business organization.

This new structure, which we call the Silicon Valley Model, has major implications both for information technology and for many other indusfeedback, at levels ranging from individuals to business units. At Microsoft, team members rate each other periodically In peer reviews. Outstanding performers are rewarded; laggards are warned, then fired. Technical expertise is required for a large fracnon or senior management, and communication occurs directly between the relevant parties, unbuffered by hierarchy.

By contrast, performance ratings in traditional bureaucracies are determined by managers at higher levels, and compensation is rarely based on longterm corporate performance. The process is often heavily politicized; dissent is suppressed, and incompetence goes unpunished.

Architectural competition also exposes Silicon Valley Model firms to another form of peer review— product competition. To succeed as industry standard setters, firms must license their architectures to competitors, while also developing critical products themselves. As a result, each layer of the firm land of the architecturel is exposed to direct competition and market feedback. Hence although Microsoft controls Windows, application groups still compete individually: Excel against Lotus and QuattroPro, Word against WordPerfect and AmiPro, and so forth. Architectural leadership provides an advantage, but prevents a cover-up. Silicon Valley Model firms are structured so that excellence is the only defense.

3. Clean boundaries, both internal and external. In architected corporate structures, organizations can create and dissolve alliances rapidly, both internally and externally. Organizations are very flat, and development groups have simple, clean interfaces to each other determined by architectural boundaries. Architecture and point products can be Silicon Valley Model firms take an additional step: the structure of the firm itself mirrors the technical architectures it uses.

kept apart. Moreover, products can invisibly incorporate architected "engines" developed by other organizations, including competitors. For example, a start-up called InfoNow has organized alliances involving itself, Microsoft, publishers, computer vendors, and other software companies. InfoNow packages software products, together with reviews and samples of them, which are preloaded for free on computers, the software products, however, are enHARVARD BUSINESS REVIEW March-April 1993 crypted. Users can sample them. read reviews, and then purchase them by telephone, which triggers electronic decryption. Adding new software packages is trivial.

4. Internal proprietary control of architecture and critical implementations, externalized commodities and niches. Silicon Valley Model firms seek to externalize the maximum possible fraction of their total system, while carefully controlling those at. eas required to establish and hold an architectural franchise. Thus core development of the general purpose architecture is always internally controlled. So usually are critical product implementations, which cover the broadest markets and are required either for early diffusion or later harvesting.

Broad, cost-sensitive markets are the strategic high ground, if covered by proprietary architectures. Silicon Valley firms also carefully manage their dependencies, so as not to become unilaterally deigndent on architectural competitors.

On balance, however, Silicon Valley Model firms are much less autarkic than traditional large firms. Niche products, commodity components, and at. chitectures controlled by others are outsourced, and/or relegated to licensees. In fact, Silicon Valley firms actively seek to commoitize regions not under their control.

This yields several benefits. For one, companies can focus on what they do best and on the efforts critical to architectural success. For another, broad outsourcing and licensing create competition among suppliers and licensees, which broadens the market and benefits the architectural leader. PC pricee wars delight Intel, Microsoft, and Novell; IBM and Compaq take the heat.

Interestingly, this contradicts the 1980s conventional wisdom that firms should avoid broad, costsensitive markets in favor of high-price niches. In fact, the broad market is the strategic high ground, if it is covered by a proprietary architecture. Niche product vendors can make profits, but they will remain minor players.

5. Migration and evolution over time. Just as architectures evolve and eventually become obsolete, so too with organizations. Thus the firm's internal structure and external alliances evolve along with its architecture and market position. As new layers are added to an existing architectural position (Windows on top of DOS, then NT underneath Windows), new organizations are created: a similar situation occurs when an architecture must be cannibalized. Some Silicon Valley Model firms will soon face cannibalization; it will be interesting to see how they do.

Broader Implications of the Silicon Valley Model

The Silicon Valley Model is very much a product of a few companies in the computer sector, just as mass production was invented by Ford and just-intime production by Toyota. And as in those cases, we believe that the Silicon Valley Model will diffuse throughout the broader information technology sector as the computer, telecommunications, information services, and consumer electronics industries merge.

In addition, however, as industrial competition in all industries becomes more complex and technological change accelerates, the model may have important effects upon many other fields. We think that it provides a framework that allows proprietary leaders in general to have the greatest span of control and profitability with the least complexity and smallest size. In fact, we think that the model is appropriate for small and large companies alike; it does, however, penalize unnecessary size. (Microsoft, with fewer than 15,000 employees, has a market capitalization equal to IBM's.) We will therefore close with an example of how architectural strategy and the Silicon Valley Model could have been used more than a decade ago, by Xerox.

Xerox became a large, global company through a single proprietary technology-xerography. Xerographic "marking engines" are the core of photocopiers, printers, and facsimile machines, all or which Xerox invented. But Xerox chose to exploit its control of xerography using the traditonal strategy of integrated companies.

Where Xerox felt it could not develop products profitably itself, it simply left the market vacant. As a result, when the company's patent position eroded, Japanese competitors took the bulk of the blossoming low-end markets for personal copiers, laser printers, and fax machines. Xerox's market share declined from nearly 100% to about 30%.

Instead, Xerox could have developed an architecture for a broad family of machines and control systems, including interfaces for scanners, document handlers, and "finishers" for collating, stapling, and binding. It could have licensed its technology to other firms, and/or sold them xerographic engines. It could have developed products for core markets, leaving others to niche companies.

Every few years, the company could have changed or enhanced its architectures to improve its products and competitive position. The result could have been a Microsoft-like position, with Xerox holding the lion's share of the profits in a highly competitive, dynamic market-yet one under its own effective control. We think that similar strate- gies are available to companies in other complex industries-aerospace and machine tools, among others. If so, the information sector's strategic and organizational innovations might prove as interest- ing as its technology.

TAB 17

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT

IN CIVIL ACTION NO. 94–1564 (SS)

SIGNED BY GARY REBACK

CornOuter Select, October 1994

HP Professional

HP Professional August 1994 v8 n8 040(2)

The winds of change.

(Microsoft readying three 32–13it operating systems) (PC Tips)

Author

Keyhoe, Miles B.

bstract

Microsoft is readying three new 32-bit operating systems, each of which includes powerful new features and backward compatibility with prior operating systems. Windows NT 3.5, code-named Daytona, features powerful, flexible networking capabilities that will enable Win NT systems to fit anywhere in an organization. Version 3.5 is Windows-based, although MS-DOS can be used if necessary. Windows 4.0, code-named Chicago, will provide the desktop with full 32-bit computing. Version 4.0 does not depend on MS-DOS and the eight-character limit for file names has been eliminated. Files will be referred to as objects. Some of the "power user" features, such as the Windows Recorder, will be missing in the first version of Chicago. Microsoft is also developing the replacement for Windows NT, code-named Cairo, but it is not expected to be available until 1996.

Full Text

Change looms on the horizon. By this time next year, most of us will have first-hand experience with at least two of three new major Microsoft operating system releases. Representing a bold leap in technology, all three releases—code named Daytona, Chicago and Cairo—feature full 32-bit implementation, backward compatibility and some powerful new enhancements.

WINDOWS NT COMES OF AGE

Windows NT, the first 32-bit operating environment from Microsoft, has been shipping for almost a year. Although it brings a powerful platform to the enterprise, it is severely limited because it relies on MS-DOS as its foundation. Consequently, it has inherited all of the limitations we've been frustrated with for years: eight character file names, relatively slow and inefficient file systems, and a 16-bit architecture.

The next release of Windows NT (version 3.5), aka Daytona, marks what I believe is Microsoft's first "professional quality" release of NT. It features powerful and flexible networking capabilities that let Win NT systems fit anywhere in a corporation. And, with its Advanced Server edition it's primed to serve as an engine for enterprise computing.

Like its predecessor, Daytona can use MS-DOS as its foundation; but unlike earlier versions, Daytona doesn't require MS-DOS—it is finally a Windows operating system. However, giving up MS-DOS doesn't mean giving up MS-DOS compatibility. An important feature of Daytona is its ability to emulate MS-DOS to execute existing applications.

While Microsoft continues to position Daytona as shared resource or file server for networked Windows systems, it offers a great opportunity for power users and programmers to begin experimenting with 32-bit

or multithreaded applications right away.

NEW YEARS IN CHICAGO

After spending a New Year's holiday in Chicago, I know I'd rather be anyplace but on the Lake Michigan shoreline in winter. But by December the direction of the computer winds will be turned toward Chicago. Not the city, of course, but the new Windows client software. Although some people have called the Chicago release "Windows 4," I've heard rumors that the product will be marketed as "Windows 95."

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Page 1

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Clerk, U.S. District Court

District of Columbia

Computer Select. October 1994

No matter what it's called, Chicago will finally bring full 32-bit computing to the desktop. Unlike Daytona and other Windows NT releases, Chicago is intended to replace Windows 3.1 and Windows for Workgroups 3.11 on everyone's desk. Those of you who have used New Wave will feel right at home with Chicago.

In fact, the first time I saw Chicago working, it had the same dark green desktop that I've known in New Wave for years. Documents and applications are represented by icons. You can drag-and-drop documents onto applications or just double-click the document icons.

Because Chicago does not depend on MS-DOS, file names are no longer limited to eight characters. However, using a scheme similar to New Wave, Chicago maps long file names into unique eight character file names when you use existing Windows and MS-DOS applications.

Speaking of file names, you're likely to hear what we now call files referred to as objects in Chicago— more shades of New Wave. However, Chicago will store file extensions, or file types, along with the visible document name and the operating system will use a scheme much like the existing Registration Database to map applications to document types.

In the first release of Chicago, Microsoft will be giving up some of the traditional "power user" features. The Windows Recorder is likely to be missing, as well as a variety of other applications. Help will be much improved, with hypertext links between the help screen and the system utilities. For example, help on setting the system time will include a link to the Date and Time module of the Control Panel to change the time directly. This should make things easier for novices as well as for those of us who support them.

LOOKING FORWARD

Even further away from Chicago is Cairo, the eventual replacement for Windows NT. Don't expect to see this release until 1996. Cairo is to Windows NT what Chicago is to Windows. Like Chicago, it will feature a brand new user interface (probably one like Chicago). But like Windows NT, it will be the workgroup. system that most individuals don't use at their desks. Because its release is so distant, it's hard to know just what will be included. But one thing is for certain—we'll probably wonder how we got by with plain old Windows 3.1.

Type

Column

Company

Microsoft Corp.

Product

Microsoft Windows 95 (Operating system)

Microsoft Windows NT (Operating system)

Topic

Operating System

Product Development

32-Bit

Record # 16 227 640

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SIGNED BY GARY REBACK

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HEADLINE: Maples: No "Chinese Wall" at Microsoft

Clerk, U.S. District Court

BODY: District of Columbia

After spending nearly 20 years at IBM, Mike Maples several years ago became head of the applications division at Microsoft Corp. Then-Microsoft-president Jon Shirley said hiring the guy from Big Blue was the riskiest move of his Microsoft career. Well, the risk eventually paid off, because Maples is still guiding Microsoft's applications strategy and even had extra time recently to joust with InfoWorld Seattle bureau chief Stuart J. Johnston.

Johnston: How will modular applications work in the future using 0LE?

Maples: First let me explain that our applications were just getting too big. Word 1.0 had about 37,000 lines of code, while Word for Windows 1.0 had 408,000 lines of code. I didn't want to be here when they built a 4-million-line word processor, so I talked to a number of people at universities about moving to object-oriented programming. "First fire all your programmers," they said. "Then throw away all your programs, because however you got started isn't good for object-oriented programming." That wasn't exactly what I had in mind.

So we came up with a way to break applications down into shared components. We developed an architecture, which we call OLE, that allowed these objects to be arbitrarily linked together. Then we took the drawing code from PowerPoint and the charting code from Excel out of the products and built these larger objects. That lets you use a charting function from one development effort across multiple products. It's good for the user because it allows them to have absolute consistency.

Johnston: I understand that the OLE spec is actually being driven by the systems side of the house, but a lot of the coding is done by applications.

Maples: The original code wad done only for apps as an internal development. Then we decided it was a generic thing that was valuable to give other vendors. We could have kept it proprietary but didn't. So we gave the responsibility for managing that to systems, which works with ISVs.

Johnston: But wasn't 0LE codeveloped with Lotus, Aldus, and WordPerfect?

Maples: The No. 1 participant was Aldus. Aldus had another specification, so we decided to resolve a single spec. But that was just two app companies trying to make their lives easier.

Johnston: Other companies are saying privately, "These are systems issues but they are coming from the apps division, so there really isn't a Chinese Wall over there, and that's what scares us in competing with Microsoft."

Maples: There is no Chinese Wall. We don't want there to be a Chinese Wall, and I don't think we've ever claimed that there is a Chinese Wall. Microsoft is a single company. We have a single management executive in Bill. We don't try to pretend that there is a Chinese Wall, any more than there is at IBM or Apple or any other company.

Johnston: Yet I recall Steve Ballmer using the term Chinese Wall. He said the apps division got the information about beta code and new systems designs at the same time as the people outside and that they were, in fact, two separate companies.

Maples: I never heard that. I wouldn't argue that somebody said that, but I can tell you that I've never said that.

The bigger issue would be, if we were using secrets or undocumented things, and we very consciously avoid that. A long time ago, when Windows was barely being strapped together, there were cases where things were added to make [the applications division's] life easier, but they were added for other apps developers too. But right now, to my knowledge, there isn't a single undocumented thing in Windows that is used by a Microsoft application.

Johnston: Yet this issue was evidently in the Federal Trade Commission's mind after they did the first round of interviews with third parties then expanded their probe of Microsoft.

Maples: The only things that I've ever seen reported was that the FTC got a number of complaints that they were investigating. People can make up complaints about anything. I don't see that we are doing anything illegal, immoral or irrational, and it is certainly in our interest to have a lot of Windows ISVs. As soon as the ISVs believe the playing field's not level they'll pick another platform.

Johnston: At the Applications Horizon meeting last month there was a lot of hoopla attributed to you by The Wall Street Journal about how Microsoft, despite the FTC investigation, is trying to conquer the entire market. Maples: That was very much out of context. The question was about market share on the Mac and how happy would you be if you had that share of Windows? It's fair to say that we want to compete vigorously, but we're doing that based on good products and good service. Every vendor would like world domincation and to have 100 percent market share, but to translate that as a goal is a real stretch of the imagination. Windows is on probably 30 to 40 percent of the machines being sold today. If you took the number of Windows sold as a percentage of the installed base, it's probably 8 percent, 10 percent. To dominate the market, Windows would have to triple its sales rate and you'd have to get every Windows app sale.

Johnston: But at that same conference, Steve Ballmer—or maybe it was Bill Gates—said by two years from now they expect most of the installed base to have migrated to Windows.

Maples: I listened to every speech and I didn't hear that. To believe that Windows in the next year or two could penetrate the installed base would be a very difficult situation.

Mike Maples
Senior V.P. of Applications
Microsoft Corp.
Redmond, Washington
Age: 49
GRAPHIC: Picture, no caption
LANGUAGE: ENGLISH
TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT IN CIVIL ACTION NO. 94–1564
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Notebooks See page ??
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We may never know the true status of the Federal Trade Commission's investigation of Microsoft Corp. units the agency decides to go public with its case. But based on accounts by davelapel3, a composite of the FTC's potential casa against Microsoft Can be drawn.

Research and interviews by InfoWorld have revealed at least half a dozen cases in which Microsoft allegedly withheld information on its DOS or Windows functions from outside developers, for periods ranging from six months to several years. During these periods. Microsoft's own developers appear to have used these functions in applications or utilities that competed with those eventually developed by Independent software vendors, according to programmers who have examined the code,

In only one case (involving a version Of Microsoft Excel) do the undocumented functions appear to have saver a Microsoft application a performance advantage. But. in each case, the lack of documentation Of the functions may have given Microsoft applications & Lime-to-market lead of six months or more before similar features Could be incorporated into competing developers" Undocumented Windows calls

Deciphering the charges leveled at Microsoft By B?? ??

Applications, say cri?? of the Redmond, Wash. firm.

?? litVigilS1110& The FTC refers to comment on pending cases (or even confirm that Microsoft is the subject of an investigation). Lacking hard facts, observers have assumed that the FTC is interested in possible anticompetitive be?? that Microsoft may have angagged to when marketing MS-DOS. OS/2. and Windows.

The tone of recent interviews sponsored by the FTC. however, suggests that the inve??tion has moved into a ?? different area: enforcing federal laws against unfair competion.

Microsoft enjoys at lent a near, ?? in W market for its two main products: DOS and Windows, market analysts indicate that Microsoft controls more than 60 percent of the market worldwide for DOS-compa??ble operat)all systems, with most of the rest accounted for by Novell Inc.'s DR DOS (mainly in Europe and Asia). Microsoft's shipments of Windows amount to 100 heroine of the market for Window 3.1-compatible operating systems. Whether this market dominance has been taken advantage of by Microsoft is hotly disputed between Microsoft and its critics in the software Industry.

Federal antitrust laws do not ?? one company from "benignly achieving an overwhelming share of a market," according to Gerry Elman, CEO of Elman & Will a Philadelphia law firm that represents software companies. The Federal Trade Commission Act. however. does prohibit "unfair methods of competition." This includes improper activities by companies that have a monopoly on a particular market, says Elena, who worked for six years m the ?? division of the U.S. Department of Justice.

Because the relevant act is broad, the U.S. Supreme Court m 1972 clarified the definition of unfair competition. The Court upheld an FTC policy against practices that are: 1. prohibited by "common law, statutory, or other established ?? of unfairness"; ". "immoral, unethical, oppressive, or ??": or 3. cause "substantial injury to consumers (or competitors or other businessmen)."

This definition Is still quite broad
NOVEMBER 16. 1992

"The court interpreted congressional intent as granting the FTC wide discre ??on in identifying unfair behavior m the marketplace." Elman says.

OPERATING SYSTEM DEFINMON. Soft ware developers do not complain about

Microsoft reserving functions of its oper ating systems solely for the internal use of those systems. An operating system must. m fact. keep a certain number o?? functions to itself. Otherwise. applications using these functions could mike the system unstable, It is only when Microsoft's utilities and applications use those "undocumented" functions that combating vendors complain.

Software vendors often make substantial amounts of revenue by selling utilities that supplement Microsoft's. Prod ucts such ns the Norton Utilities. Mace Utilities. and PC Tools have been tremendous financial successes. Vendors use these revenues to fund the development of other applications, which may compete with Microsoft more directly. If Microsoft uses undocumented functions, which outside vendors cannot easily obtain, it would cut off a vital flow of cash for software development.

Consider MS-DOS The DOS operating system consists of two hidden files that are installed on a PC's hard disk. In DOS 5.0. these files are called ??.SYS and MSDOS.SYS. These files provide the core services needed for Disk Operating System functionality.

Microsoft also sells utilities, such as COMMAND.COM, which act as "shells" for DOS but are not the operating system itself. COMMAND.COM is replaceable and competes with 4DOS, by J.P. Soft ware: NDOS. a part of the Norton Utilities (which is based on 4DOS): and several other DOS shells.

Similarly. other Microsoft utilities. such as FORMAT.COM. are not the operating system, but use services of the 0peraline system. These "external" utilities compete with Novell's DR DOS and other vendors trying to sell operating systems compatible with MS-DOS.

Windows, which Microsoft markets as an operating system, also has operating. system components and utilities. The operating system consists of three components: USER.EXE. GDI.EXE, and KRN L.X86.EXE. Shells, such as Program Manager and File Manager. are not part of the Windows operating system. These shells can be replaced by other shells, which are run by Windows" three essen. tial components. Program Manager and File Manager compete with Norton Desktop for Windows, WinTools, and numerous other products.

The distinction between the kernel of an operating system and utilities that are bundled with that operating system is often unclear, even within Microsoft. "What are the areas that third patties can and should market?" asks Cameron Myhrvold, product manager for the Windows Software Development Kit (SDK). "The shell is not something we have encouraged a lot of people to replace, because of the importance of a consistent interface."

But DOS and Windows. like most computer operating systems, are clearly made up of an essential OS kernel and simple but useful utilities that use the functions of that kernel. "Every operating system works that way," says Steve Gibson. the developer of SpinRite and other utilities. "You have a core operating system, and utilities that can't function without that core." ENTERPRISE COMPUTING

On top of its two operating systems. and the utilities bundled with them. Microsoft develops and sells applies. irons. These applications usually compete with those of other vendors, who would like to make money selling similar or superior products.

If Microsoft withholds information about important features of its operating systems, then uses these features in applications or utilities that compete with other vendors, is it practicing unfair competition or merely managing its business well?

Developers themselves are of different minds. "My attitude toward the undocumented functions is it's a sort of a witch hunt." says Paul Yap. who leads Power Programming workshops for International Systems Design of Bellevue. Wash. "Yes, there are undocumented calls. At the end of one chapter of my book [Chapter 5 of Peter Norton's Windows .t. 0 Power Programming Techniques, by Peter Notion and Paul Yap. Bantam. 1990], there is a statement not to use these calls." Yao believes developers who use these functions run the risk of their applications not working under a later version of the operating system.

With all these legal and technical issues, what is the FTC looking for in its investigation of Microsoft? The following details could influence a possible FTC challenge to Microsoft. according" to statements from Microsoft competitors. DID MICROSFT USE UNDOCUMENTED DOS PEATURES? To understand the roots of the current controversy, it is necessary to go back to the release of DOS 2.0.

To a programmer, the behavior of DOS 2.0's PRINT.COM utility was unusual. A user was able to type a command, such as "Print Bigfile.txt." and almost immediately return to the DOS prompt . Users could start and run another program. such as Lotus 1–2–3 or WordStar. while DOS sent Bigfile.txt to the printer in the background. PRINT.COM knew how to terminate, vet stay resident m DOS—it was the first TSR program.

The function calls that allowed PRINT COM to multitask were not described m Microsoft's reference books on DOS. In fact. many other function calls were not documented either.

Since it is a highly desirable feature for a program to be able to work m the background, programmers outside Microsoft began to puzzle out how this marc was accomplished. One result was a TSR called SideKick, released m 1984 by a troy company now known as Borland International Inc.

SideKick. a personal information manager, was a remarkable success and was soon imitated by other programmers. Unfortunately. Because Microsoft had not documented several functions necessary to write a reliable terminateand-stay-resident program, many of these TSRs left out important safeguards. They crashed when more than one was loaded, or worse, they inter. fared with normal, foreground applications.

Under fire from Borland and other companies. Microsoft representatives m 1986 began to discuss publicly some of the secret functions. But the effort was too late. Swamped with mysterious problems, many PC managers adopted policies forbidding the use of TSR programs, Other than SideKick. no TSR became a best-seller.

Yet Microsoft released its own utilities that depended on undocumented TSR function calls. For example. Microsoft's CD ROM Extension program. MSCDEX. EXE. released in,.1987, allows files on a compact disc to appear in the standard DOS file system Microsoft ?? live To?? Rizzo said in The ?? 1987 Microsoft Systems Jour?? ?? grammers magazine currentl?? pu?? by M&T Publishing of Sar Mate Calif. that Ms??d?? used something called the DOS "network redirect??- But this capab?? remained un?? mented and unavailable to developer of competing file??system pro?? (Technically speaking. Ms?? used undocumented Function 1; of DOS Interrupt 2F.)

Undocumented functions were also used In Microsoft ?? including Debug and CodeView. These debugger, call Interrupt 21. Function 4B. Sun- function 01. Microsoft ?? documentation for DOS listed only Subfunctions 00 and 03 until recent?? Knowing the missing sub??unction is a requirement for any company trying to write a competing debugging environment for programmers DID MICROSOFT USE UNDOCUMENTED FEATURES IN EXCEL? Today. Microsoft Excel is by far the No. 1 selling graph??- cal spreadsheet. Lotus 1–2–3 ??or Windows did not appear on the market until 18 months after Windows 3.0. and Quattro Pro for Windows shipped just last month.

With its now dominant place in the market. it's easy to forget that Excel originally did have stiff competition Under Windows 2.x. Excel had to face well-financed spreadsheet rivals such as Wingz by Wingz Software. and Full Impact from Ashton-Tate.

The failure of these products was widely attributed to their slower performance compared with Excel. Numerous published reviews from that era show Wingz and Full Impact lagging behind Excel

Tim Paterson. the author of DOS 1.0 Critics of Microsoft accuse the company of using undocumented features of DOS and Windows in applications and utilities like the ones that independent software vendors also want to sell. The following are some examples of the controversy:

Function Use by Microsoft Discussion
Microsoft CD-ROM Extensions
Undocumented DOS "network
redirector"
Debug and CodeView
Microsoft Excel
Quick C for Windows
Windows 3.0 SDK
compiler (1989)
INT 2F Funtrim1 11
INT 21 Function 48 01
" Define??e Table
GetTaskQueue and
Directed Yield
.InitApp, InitTask,,
WaitEvent
. OLE 1.0 ?? PowerPoint
Drag-and-Drop File Manager 3.1
Server API
<. NT DLL functions Pview
function also used for drive remapping
Undocumented but required to write
debugging environments for compilers

Windows 2.x function, undocumented until made obsolete by Winnows 3.0 Windows 3.0 functions; DirectedYield was documented in Windows 3.1 SDK, but not GetTaskQueue, which Microsoft descnbes as useless Functions necessary to compile Windows applications, released to independent compiler vendors in April 1991.

Critics charge PowerPoint was released with OLE support six months before 0LE specs were released to competing vendors Not available to outside developers until after Windows 3.1 shipped.

Win32 developers claim Microsoft's processor-view utility uses functions they cannot access for their own utilities revealed an important reason for this difference in a two-pan article, "Managing Multiple Data Segment Under Microsoft Windows." published in the February and March 1990 issues of Dr. Dobb's Journal (M&T Publishing). Paterson and fellow programmer Steve F??enniken described undocumented function calls in Windows 2.x that allowed Excel to access large amounts of extended memory rapidly.

Specifically, Excel used undocumented functions of Windows 2.x named Define Handle Table. Without these functions, Paterson and Flenniken wrote, an application's data was limited to "not more than 300K under the best conditions." However, they wrote. "Micro- sows own Windows applications use all of the techniques discussed here ... to build Windows applications with virtually unlimited data capacity."

The Define Handle Table functions in Windows 2.x were documented by Microsoft in the Windows 3.0 SDK. But developers charge that this was too late, as the functions are no longer needed m Windows 3.0's protected mode.

DID MIC??OSOFT USE UNDOCUMENTED FEATURES IN QUICk C7 On August 31, 1992. Microsoft released an eight-pale statement and a In-page white paper on 16 undocumented Windows 3.0 functions used by Microsoft applications.

These functions were raveled earlier that month in Undocumented Windows (Addison-Wesley, Reading, Mass.), a book by Andrew. Schulman (a former software engineer at Phar Lap Systems), David Maxey (a former Lotus developer), and Matt Pietrek (a California developer).

In its statement, Microsoft says. "Microsoft applications derive no unfair advantage from the few undocumented APIs that they call." Additionally, "Microsoft has also provided at least 26 ISVs [independent software vendors] with the information on undocumented calls in Windows."

Regarding some of the undocumented functions used by Microsoft applications, the white paper describes four of these functions as "documented m the Windows Software Development Kit (SDK), Version 3.1." six as obso??eted by Windows 3.1. and six more as undocumented but "with documented equivalents" or "entirely useless."

For example, the white paper describes the Windows 3.0 function GetTaskQueue as "undocumented," with "no equivalent, but useless." Another Windows 3.0 function call, DirectedYield. is described as being documented m the Windows 3.1 SDK.

Undocumented Windows coauthor Schulman charges, "It's disbonest for Microsoft to tag as "Documented in SDK" functions that have only recently been documented in the 3.1 SDK, but that Microsoft [and others] were using long before .3.1. Timing is everything in this industry."

Schulman says that the GetTaskQueue and DirectedYield functions are essential to the working of Microsoft's Quick C for Windows and are, in fact, "crucial to writinc an integrated development environ. ment or debugger for Windows."

By disassembling OCWIN.EXE, the main executable file m Quick C for Windows, Schulman says he found at least three m-stances of the following code:

if (GetTaskQ??) ?? Directed??

The first line of code determines whether a C apple, application running in Quick C's development environment Juts set up a =task queue" for massages.

If so, the second line posts a message to that queue. Finally, Quick C yields control to the application so it can process the message. This routine is necessary because sending a me. hate to an appli. cation before it's ready can cause strange system crashes.

"We needed five undocumented to write debugging devices for Windows 3.0." says one developer for a major software firm, who spoke to Info World only on condition of anonymity. "Meanwhile, Microsoft came out with these devices. and it wasn't until sue months after the release of their [Microsoft's] debuggers that Microsoft provided the information."

?? ??

SAUCE"? According to Undocumented Windows, several undocumented cells known among developers as the secret sauce were used to compile Windows programs using Microsoft's own Windows 3.0 SDK, which Microsoft began selling m 1989. Competitors such as Borland. Zortech/ Symantec, and other C language vendors] could not create their own stand-alone Windows compilers, which did not require Microsoft's SDK. without conducting project to disassemble Windows and discover these se. crets.

After much criticism by competitors, several of these crucial, undocumented functions—including InitApp, InitTask, and WaitEvent—were finally unveiled by Microsoft. Most Of information came out April 9. 1991. in Microsoft's "Open Tools" binder, as weft as being documented in the Windows 3.1 SDK later that year.

Unfortunately for Microsoft's cornpetitors in the heated C-language mar. ketplace, Microsoft bad already shipped more than 48,000 copies of its SDK compiler by the tune the Open Tools release took place. Critics of Microsoft argue that this lave the Redmond company a tremendous lead with corporate and commercial programmers, who were actively purchasing tools to create Windows applications.

Microsoft's Cameron Myhrvold argues that, fat from giving Microsoft an advantage, the extra effort that Zortech find Borland put into their compilers increase their market share, at Microsoft's expanse. "Zortech C was the first [stand-alone] compiler to ship for Windows in August of 1990, then Borland," says Myhrvold. "The first Microsoft C compiler that didn't need the SDK didn't ship until eround Windows 3.1." As result, Myhrvold says, Borland and Zortech now outsell Microsoft in C language compilers.

??

??A hot new feature of Windows 3.1 is Object Linking and Embedding (OLE), feature that allows users to place text or graphic from one application into another and have it dynamically updated. Microsoft's documentation of the OLE 1.0 specification was released to developers m December 1990.

But Microsoft PowerPoint 2.0, which was shipping to paying customers six months earlier, already had support for OLE between its graphing and display modules, developers point out. PowerPoint had OLE hard-coded into it. rather than relying on external OLE libraries, as became possible later. "I don't know how to call that one." Myhrvold says. "PowerPoint [developers] went ahead and shipped something before it was final, probably Version 0.8 or something like that." He explained that Microsoft is trying to work more closely with independent software vendors on the upcoming OLE 2.0 specification, beta copies of which were shipped to several dozen vendors two weeks ago.

DID MIC??OSOFT ?? OF ?? Windows 3.1 allows users to drag file names from the File Manager window and "drop" them onto other applications. The applications then automatically open or print the dropped documents.

Microsoft documented how a "client" application should respond to a file being dropped on it. But, despite repeated requests from ISVs, Microsoft pointedly refused to distribute any information about how the Windows 3.1 File Manager acts as a "server" for file names dragged out of its window, preventing developers of competing file managers from releasing upgrades with the release of Windows 3.1 on April 6, 1992.

The information needed for competing vendors to develop ,her own drag-and-drop servers remained undockmented until an article by Jeffrey Richter— the author of Windows 3.1: A Developer's Guide (M&T Publishing. 1991)—appeared m the May-June 1992 issue of the Microsoft Systems Journal. Even then, the information appeared only after attempts by Microsoft officials to suppress the article and after another publication threatened to run it.

"The Microsoft Systems Journal article by Jeffrey Richter was star[led by Microsoft for months because of resistance in the company to publishing this article," says Undocumented Windows coauthor Schulman. Richter confirmed this saying. "It was held up by Windows 3.1 product manager," whom he declined to identify.

"There were number of vendors who figured out drag-and-drop." Myhrvold says. "With certain issues, we aren't going to sue Norton [Desktop] or stop them. but we're not going to assist them in doing a shell" Server drag-and-drop "wasn't implemented robustly in Windows 3.1, and we wanted to improve it [in later version]. It's important for consistency for the user."

??Outside developers have found parts of Windows NT that ate undocumented but are being used in Microsoft utilities that compete with utilities they would like to sell. Although NT is still in beta tearing. several vendors are already selling NT development toolkits to numerous commercial and corporate sites.

Microsoft's Win32 Software Develop ment Kit (required [or developing NT applications) includes a utility calie??

Pview. This tool lets developers look. a: the tasks assigned to one of more processors. The utility uses functions such as NtQuerySystemInformation.

QueryPerformanceCounter, and NT. QueryInformationThread, according to Schulman. These functions, although contained in?? (which will be included in the shipping version of NT). are all undocumented.

"If NT is to be successful." Schulman says, "won't it need the same rind of active third party-utilities market that DOS and .Windows have? So won't developers need to be able to write their own utilities, such as Pview?"

Microsoft ?? to provide this information to developers. Myhrvold says. "We're going to document the NT API. Some of it is in the NT DDK [Device Driver Kit]." which shipped to developera last week. "We're also looking at producing technical reference, or putting it m the MSDN [Microsoft Developer Network CD ROM]. That will be forthcoming near or just alter NT ships."

?? of undocumented functions m applications and utilities that compete with independent software vendors something that developers (or the FTC) should complain about? Or is it ?? good business?

For whatever reasons, Microsoft has become by far the world's largest software company. In the last four quarters (ending September 30). it had sales of S3.0 billion add net income of $773 million.

Microsoft's sales represent 7 percent of all sales made by U.S. companies in the =computer software and data processing" category, according to Media General Financial Services, a market analysts firm. But Microsoft's net, income represents 25 percent of all profits made by those same firms— fact that causes resentment among other developers.

Whether its share of the operating systoms market has given Microsoft an unfair advantage in marketing DOS and Windows applications is open to dispute. What is certain is that Microsoft is now selling more than 60 percent of all Windows applications, according to Jesse Berst, editor of the Windows Watcher newsletter m Redmond, Wash.. which tracks software sales.

Because of this dominance, some vendors argue that Microsoft should be broken into separate companies responsible for systems, languages, and applications. These "Baby Bills," like the "Baby Bell" telecommunications companies that resulted from the 1984 breakup of AT&T, would presumably improve competition.

Only history will tell d this is whet the FTC seeks. Since the present FTC investigation of Microsoft will wind slowly through the courts— if the agency takes any action at all—it may be years before anyone knows the final outcome. Brian Livingston is a contributing editor at Infoworld and the author of Windows 3.1 Secrets ??DG Books).

Jeanette Borzo, Jim Hammett, Doug Barney, David Cours??y, and Stuart Johnston contributed to this report.

In bus new book. unauth??- ?? Windows 95 (IDG Books. (800) 762–2974 ?? [415] 312–06500. Schulman lists these new requirements

Aside from the tea??res an appl?? cation ar??uably needs to qualif?? as "Windows 95 compatible"—it must be a 32-but application. It must handle filenames longer than eight characters, and so on— there are several requirements that have nothing to do with Windows 95 companbility Quoting from Microsoft Developer network News, July 1994 issue:

?? It must run on Windows NT 3.5

?? It must have OLE 2.0 contamer and/or object and OLE 2.0 drag-and-drop support

?? It must include a Send or Send Ma?? command on the File menu land support the Common Messaging Call API). Although Microsoft allows some exceptions to the last two rules for applications that don't deal with files (such as games), all three of these new requirements have raised eyebrows with developers.

???

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SOFTWARE

WINDOW MANAGER.BRIAN LIVINGSTON

Will 'Windows compatible" really mean what it says?

ADEVELOPER WITH WIDE -RANDING experience in Windows programming will announce a new book on Nov. 15 that will reveal many of the undocumented features Microsoft's Windows 95 shell takes advantage of.

Along the way, Andrew Schulman (coauthor of Undocumented DOS and Undocumented Windows. Addision-Wesley. (800√ 822-6339 or √6√7√ 944–3700) shows who will benefit from the release of Windows 95 and who will be hurt. In particular. Schulman points to those developers who will be handicapped by some of the new requirements that Microsoft Corp, has tacked onto its "Windows-compatible" logo, which it licenses to vendors of shrink-wrap software.

???

???

In his forthcoming book. Schu??man w?? "Microsoft is simply raising the cost of developing Windows applications, and not necessarily in ways that will benem end-users."

As examples, he c??es the requirements to support NT and OLE. "The NT requirement seems like nothing more than an attempt to leverage Microsoft's control over the upcoming Windows95 market to assist its lackluster Windows NT product. The OLE 2.0 requirement is odd, given that Microsoft itself hasn't used OLE for the Windows 95 shell."

That new shell is an application called EXPLORER.EXE. In recent betas o Windows 95, the line SHELL+EXPLORER.EXE appears in the SYSTEM.INI file, rather than SHELL=PROGMAN.EXE as in Windows 3.x.

In Unauthorized Windows 95. Schulman reveals that this shell application uses several as-yet-undocumented features of the new operating system. These calls include such intriguing-sounding func?? as Register-ShellHook. FSNotif?? ??, and SHFindFiles. These ?? (and how they work) might be of no signincance, except th?? many developers have expressed interest in selling improved shells to Windows 95 users.

It's easy to switch shells. Simply change the SHELL=line in SYSTEM.INI for in the new Registry database, which will likely be the repository of this kind of information by the time Windows 95 is released??. But developers will need to get or create documentation on these functions in order for their products to emulate Microsoft's own shell.

The NT requirement particularly bothered several developers 1 spoke with. As it turns out. NT differs from Windows enough that supporting both environments can be a fulltime job. Some API tunctions use different parameters, some th?? that work in one environment don't work in the other, and so on. I'd say the "Windows 95" logo is going to be meaningless in determinine the real com?? ibility of new programs. I'll have more on this next week.

Brtan Livingston is the author of Windows ?? Secrets and More Windows Secrets and co-author of Windows ?? Books). Send ups to ?? infowori??.com. or tax: (206) 282–1248

FEB 14 1995

Clerk, U.S. District Court

District of Columbia

MICROSOFT CORPORATION PERFORMANCE REVIEW FORM FOR EXEMPT EMPLO.YEES

NAME:

GROUP: Languages Marketing.

EDACTED

POSITION TITLE: Group Protract Marketing Mann.,

REVIEW PERIOD: April 87—Sept 87

Instructions to the Manager:

1. Give the review form to the employee for their evaluation of work performed since the review.

2. Once completed, determine your own evaluation and ratings of the employee's performs Discuss these with the employee.

3. Finally, f√11 out the final overall rating below and jointly establish objectives and pertir performance factors for the next review period.

Instructions to the Employees:

1. In one or two sentences, describe the overall function or purpose of your position.

2. Complete both sections entitled: Major Activity/Objectives and Performance Factors evalua your performance since the last review.

3. Return the review form to your manager for his/her rating, and once completed, dis??ss ratings and pertinent performance factors for you and your position, and future objectives.

RATING DEFINITIONS: Ratings should be given in 0.5 increments. For example, 3.5 is a valid rating, but 3.7 is not.

(5) EXCEPTIONAL PERFORMANCE; Consistently exceeds all position requirement; v consistently exceeds quantity, quality, cost,, and time standards. Consistently meets big standards of excellence.

(4) EXCEEDS PERFORMANCE STANDARDS: Consistently exceeds most position requirements expectations. Work exceeds most standards often; meets high standards of excellence.

(3) MEETS PERFORMANCE STANDARDS: Consistently meets requirements and job standards; require assistance with complex or new assignments. Work regularly meets standards of competent performance.

(2) NEEDS IMPROVEMENT: Does not meet standards of the job consistently; may need additi?? time-in-job, further training of more than normal supervision; may meet some posi?? requirements but possess one or more Performance deficiencies in critical job areas.

(I) UNSATISFACTORY: Falls short of minimum requirements in critical aspect of job.

FINAL.OVERALL NUMERICAL RATING (to be completed by manager):.

This retting should be a composite of the Major Activity/Objective and Performance Factor sections.

Remember that 5 is high and I is low.

FILED ??TED

(Your signature does not?? mean that you agree, but affirms that this review has been liscussed in detail with you.)

MANAGER: EDACT?? Of Columbia DATE:

APPROVING MANAGER: DATE: 15 6 4

MICROSOFT CORPORATION

PERFORMANCE REVIEW FORM FOR EXEMPT EMPLOYEES

REDACTED

NAME:

CROUP: Languages

CON??

POSITION TITLE.: Group Product Manager

REVIEW PERIOD: 11/86—5/87

Instructions to the Manager:

Give the review Form to the cmployee for their evaluation of work performed since the last review.

Once. completed, determine your own evaluation and ratings of the employee's performance

Discuss these with the employee.

Finally, fill out the final overall rating below and jointly establish objectives and 0erriaes performance factors for the next review period.

RATING DEFINITIONS:

Ratings should be given in 0.5 increments. For example, 5.5 is a valid rating, but 3.7 is not.

(??)

EXCEPTIONAL PERFORMANCE: Consistently exceeds all position requirements; wor?? consistently exceeds quantity, quality, cost, and time standards. Consistently meets highe?? standards of excellence.

EXCEEDS PERFORMANCE STANDARDS: Consistently exceeds most position requirements an expectations. Work exceeds moor standards often; meets high standards of excellence.

MEETS PERFORMANGE STANDARDS: Consistently meets requirements and job standards: m: require assistance with complex or new assignments. Work regularly me=is standards of rule competent performance.

NEEDS IMPROVEMENT: Does not meet standards of the job consistently; may need addition time-in-job, Further :raining or more than normal supervision; may meet some positi?? requirements but possess one or more performance deficiencies in critical job areas.

UNSATISFACTORY: Falls short of minimum requirements in critical aspects of job.

FINAL OVERALL NUMERICAL RATING (to be completed by manager):

This rating should be a composite of the Major Activity/Objective and Performance Factor sections.

Remember that 5 is high. and I is low.

REDACTED

EMPLOYEE:

agree, but affirms that this review has been not nee?? mean that you

??

MANAGER REDACTED

APPROVING MANAGER: DATE:

?? ACTIVITY/OBJECTIVE: Compete with Borland y most important activity is to be sure that Microsoft competes effectively with Borland. This includes

??ecting intelligence about Borland activities and products. making sure that our products are competitive.

// building awareness among end users and gateskeepers about how we compare with Borland products.

MPLOYEE EVALUATION:

??all/ I did a very good job in the BASIC market and my work in C has been fair but not outstanding.

Then Borland announced TurboBASIC at the November Comdex. I collected information about his product and moved quickly to formulate a response strategy. My strategy involved a rapid product response to ?? that could hold out position until QB4 (then called QB3) hit the market.

?? QB3 instend of QB2.5 in order to make the release sound more significant. I worked with LenO and TomC ?? develop a QB3 spec that could bent TurboB. In addition to mobilizing development. I flew to Dallas to attend a region manager's meeting where we formulated a retail promotion strategy intended to fill the channels with QB before TurboB shipped. I reviewed he promotion plan with BillG before implementation began. I also flew to L?? to meet with KDP about the QB3 ad. In that meeting we decided that to compete ?? Borland's inside-front-cover advertising, we would need to use a big media unit with heavy paper. I also ??tioned QB against TurboB for the ad. Rayka and I-met-with CorpCom and came up with the idea of QB ??ters. I have also been working with the press to be sure that comparisons are not made against QB2 (see press objective section). My rapid response strategy was correct: we would be in a very poor position today ?? QB3 were not available (the Byte article bears that out). I was able to mobilize development. retail, and ?? media unit and my positioning of QB3 are sound. The results of the spiff promotion have been spotty, ??ew distributors have had success with it.

We are not as far along on the response to TurboC because we are further from product announcement. I developed a rollout plan for QuickC and CS that focused on minimizing Borland's first mover advantage by preannouncing with an aggressive communication campaign. I determined that we should preannounce in ??ty June because that is when editorial should be light and it is when BillG speaks at BCS. At SteveSn's suggestion. I worked with KathrynH to make the BCS announcement a rent extravaganza. I also proposed a new early beta program for QuickC that would help us to get press coverage sooner after shipment. I chaired a meeting with BillG. JonS. and steveB to run through the plan. While we were well prepared to discuss QuickC they were more interested in discussing how we would protect our high end product.

This meeting would have gone better if I had met with Bill first to determine an appropriate agenda. We still need to figure out how to protect the high end product from price cutters. We should be prepared to offer a stripped town high-end conipiler (i.e., no CodeView, and no QuickC) at a lawer price point if TurboC begins to cannibalize the high end.

MANAGER'S EVALUATION AND RATING: 44

did a very good job shaping our product direction in response to the Turbo Basic product announcement. Alternative strategies were formulated, evaluated, and a decision was reached swiftly. role in this was highly analytical; in the future, should strive to play a more active role in driving the decision process.

The marketing response to Turbo Basic was mixed. did a good job working with the press— although, the final results remain to be seen. Also, she User Group program appears to be going well.

Never, other promotional programs were haphazard at best—and our educational thrust is virtually ?? existant. More creativity is needing in developing marketing programs, and better follow-through is required to implement.

played an important role in Turbo C product response, although the contribution was not as significant as Quick Basic. We all missed the boat on the key marketing issue—a preliminary discussion with Jons would have prevented this. Again, needs to be more pro-active in driving

?? ACTIVITY/OBJECTIVE: Public relations is my responsibility to get coverage for our language products, and to be sure that the coverage is fair and curate. My activities include press planning, tours. issueing press releases with followup, and working with ??iewers.

MPLOYEE EVALUATION:

have made some strides with the press in terms of getting them to use our benchmarks. I am working th PcMag to help them develop a set oj benchmarks for testing BASIC and C compilers. They also ??cted Its before printing their QB benchmarks. We identified problems in their tests and worked with em to correct the problems before the article was run.

press trips for FORTRAN got us news coverage in InfoWorld. and PC Week. We will also see feature ticles in Computer Languages. PC Tech. Dr. Dobbs. and probably Byte. For this trip put together a esentation and materials that emphasised the connection between FORTRAN and C. and defined our longer ?? strategy for optimization. That approach was very well received by the press because C is hot and cause of the long term strategic implications of tile optimization work.

have been working with PC Tech. PcMag. and Computer Languages on QB3. They have held off on their ??parison articles until version three, but they have all said they would not wait for version four.

??

?? to release a QB3 has proven to be correct. also formulated the PR strategy with Waggener for FORTRAN. QB3. QB4. and the C preannouncement.

hese plans have all been approves and I think have some exciting elements.

I think that our relationships with the press have been very good with the notable exception of Byte.

: is my goal over the next six months to turn that relationship around.

IANAGER'S EVALUATION AND RATING: 5-

Agreed. The only thing I would add is to continue to improve your listening skills during visits with

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT IN CIVIL ACTION NO. 94–1564

SIGNED BY GARY REBACK
94–1564
Multimedia Systems
Development Partner Program
FILED FEB 14 1995
Clerk, U.S. Cio?? Court
District of Columbia
Program Application
Please return signed copy to: Submitted by:
Cornelius Willis

———

Microsoft Corporation Company
Multimedia Systems Group.
One Microsoft Way
Redmond. WA 98052–6399

———

Signature

———

Name

———

Title (CEO . President or Key Manager with overall responsibility for this project)

Microsoft Confidential

The Multimedia Systems Development Partner program exists to provide developers with necessary and appropriate resources, education, and support to ensure the successful and timely implementation of their projects.

Microsoft views Development Partners as essential parts of ou?? multimedia business plan. This application will help us understand your company's ideas and qualifications. It will also help us to assess your product's development and introduction schedule so that Microsoft may determine your level of interest and commitment.

Qualifying for this development program may later entitle you to participate in a marketing support program. Please fill it out as completely as possible and return it, along with all requested materials, to the address indicated on the cover. Microsoft looks forward to your participation in what we expect to be an extremely successful multimedia marketplace.

Developer

———

Information Company Name

———

Address

———

City State Zip

———

Telephone FAX Telex

———

Development Contact Title Phone

———

Marketing Contact Title Phone.

Please describe your company's important business relationships (distributors, venture capitalists, etc.) on a separate sheet.

———

Company

Background Type of company:

———

Publicly held If publicly hem please

———

Privately held include annual report

———

Subsidiary

———

Name of parent (if subsidiary)

———

Number of employees

———

Primary business activities:

——— business software
——— consumer information
——— productivity software
——— business information
——— education software
——— CD-ROM publisher
——— entertainment software
——— on-line information provider
——— productivity software
——— other electronic info publisher
——— development tools
——— magazine, newspaper publisher
——— other software publisher
——— broadcast media producer

Product Proposed product areas (check all that apply):

Information

Applications: Toots:

——— adult
education ——— animation editing
——— business productivity
——— authoring/scripting tools
——— business information
——— image processing
——— consumer information
——— music editing
——— entertainment/games
——— programming tools
——— home business
——— search / retrieval engines
——— home management
——— sound processing
——— K-I2 education
——— storyboarding/prototyping
——— music
——— other data preparation
——— on-line services
———
——— personal creativity
——— personal development
——— other programming tools
——— publishing
———
——— reference
——— other applications
——— other tools Current Current key software products (in order of market share and importance to your com- Products pany):

Product name Description Supported Platforms

———

———

Product name Description Supported Platforms

———

———

Product name Description Supported Platforms

———

Product name Description Supported Platforms

Please include any appropriate product descriptions or brochures with this application.

Developer What is the extent and nature of your group's relevant technical experience, particularly

Qualifications in the areas of multimedia production, Microsoft Windows or other windowing systems programming, or new technology implementation in general?

———

Microsoft Confidential

??cept Please provide a short conceptual description of your product(s). Description How will you enrich your application so that it is compelling, make: use of this machine, and helps to define multimedia personal computing?

(Please respond to the following questions on experience?

Describe a typical user session with this product. What will a user separate sheets).

List a "table of contents" for this product. If it consists of only one thing (such as "?? game") then list its components as appropriate.

Is this product bated on an exiting application? If so:

On which product is it based ?

What is the history of this product?

———

Market Who is the target audience for your product?

Analysis Explain why you think this is an important product for the machine introduction.

What is the proposed price of your product?

What competition do you perceive for this product? How will you differentiate this product from its competition?

———

Product What is your expected shipping date for retail distribution?

———

Development When do you project that you will reach these project milestones?

———

Software Design Complete Date

———

Alpha Level Code Date

———

Beta Level Code Date

———

———

Final product available for shipment Date

Do you perceive any other critical milestones in your development schedule?

———

If any of the above milestones are contingent on external events, please indicate below:

____

How it this project funded ? (Please answer on a separate sheet).

Microsoft

August 1990

Multimedia Windows Pre-Release Program

This paper will give you important information about Microsoft's plans for the Multimedia

Windows Pre- Release Program and information on how to use it most efficiently.

Multimedia Windows Pre-Release Program Objectives

1. Distribute pre-release software and documentation to qualified developers.

2. Relay information and schedules to multimedia developers in a timely, efficient manner.

3. Educate hardware and software developers on the capabilities of Multimedia Windows.

4. Obtain valuable feedback about Multimedia Windows that will continue to enhance and improve it

The success of Multimedia Windows system software and its applications depend upon effective communication between Microsoft and the hardware and software communities. Microsoft is committed to this mutually beneficial relationship.

Requirements for Participation

To participate in the Multimedia Windows Pre-Release Program, your company must meet all of the following requirements:

1. Sign the enclosed Pre-Release Program Non-Disclosure Agreements

Enclosed you will find a non-disclosure agreement for the Multimedia Windows Pre-Release Program. By signing this agreement, you agree to participate in the program under confidential restraints, meaning that you will not discuss any information that you receive from Microsoft about this Windows product, with anyone outside of your company. This requirement will be in place until Multimedia Windows is publicly announced. Enclosed you will also find a master Non-Disclosure Agreement A completed copy of this Agreement must be on file at Microsoft and covets additional confidential information you may receive as a participant in the Multimedia Windows Pre-Release Program.

2. Submit a program application to participate in future support programs and to include your company in the Multimedia Windows Hardware and Software Directory database.

By submitting the program application, you become eligible to participate in future technical seminars or marketing programs that Microsoft may offer to Multimedia Developers. Furthermore, this application allows our staff to build an accurate database of active developers and vendors involved in this program so that we can beater track your interests and your needs. This tracking system will become even more important as the program grows.

When Microsoft announces its plans for Multimedia Windows, we may publish a directory of company names and product summaries derived from this database. Until that time, the list will only be available to developers in the Pre-Release program.

3. Include a check or P.O. for $495 to Microsoft

This fee enrolls you in the Pre-release program and covers the cost of technical support until product release. A majority of the support for the Pre-Release program will be conducted via Microsoft OnLine, our electronic technical support service. Microsoft will use this communication service to inform participants of plans, changes, and updates. We may also provide incremental software release, via OnLine, which you can download at your convenience. Any feedback or problems you encounter with the product must be reported through Microsoft OnLine.

This special OnLine account will allow your development staff to ask questions about Windows 3.0, the Windows 3.0 SDK, Multimedia Windows MDK and DDK, and the Microsoft languages and tools that support multimedia software development under Windows 3.0. It will also provide them access to all Microsoft product information in the OnLine Knowledge Base.

4. Sign the signature block at the end of this letter, and return the entire package.

By signing this letter, you indicate that you have read and understand this letter and ague to abide by the Pre-Release Program objectives and intentions.

What you can Expect from the Multimedia Windows Pre-Release Program

If you meet all of the above requirements, you will become an on-going member of the Multimedia Windows Pre-Release Program. After Microsoft receives the signed agreements, and application, your Microsoft OnLine account will be activated or modified and your company and product summary entered in the Multimedia Windows database.

Microsoft Online Account

When you return your signed OnLine Agreement, you will receive a Microsoft OnLine access ID number that can be used to access Multimedia Windows we-release information. OnLine documentation and software will also be sent to all new subscribers.

If you already have an active OnLine Account, a special Multimedia Windows-specific OnLine account will be set up for you. The Multimedia Windows Pre-Release access number for Microsoft OnLine will be dissolved at the termination of the Pre-Release program. You may continue to use the existing account until your Microsoft OnLine subscription terminates. Renewal of your OnLine account will be at the standard price of $795.00.

If you would like to change the billing name and address for that account please fill out the information below:

____

Yes, please change billing name/address for Windows Pre-Release OnLine access ID number

____

Billing contact name

____

Billing company name

____

Billing address

____

City State/Country Postal Code

International Developers:

International developers are not required to obtain a Microsoft OnLine account instead, please contact your local Microsoft Subsidiary for information on their support programs.

check here if you will be obtaining support from a Microsoft Subsidiary

2. Review/Sign/Copy/Return the enclosed Non-Disclosure Agreement As stated earlier, them agreements allow us to disclose confidential information about our product development plans without compromising marketing plans that we have. If you have any questions about the agreement, please state them in a letter and send to Multimedia Windows Product Marketing address listed below. Since there is no signature block for Microsoft. your copy of each agreement is all that is needed for your records.

If there is a business reason for you to communicate information to another company, please outline your needs/reason and the contact information for that company and return this letter to the Multimedia Windows Product Marketing address given at the end of this letter. You will be notified of the outcome of your request.

3. Complete and return the enclosed Development Program Application

If you are currently working on a Multimedia Windows product but would prefer not to be listed in the distributed directory, your information will be kept confidential until you notify us otherwise. Please mark your preference on the application.

If your company is considered a Corporate Account and are using Multimedia Windows as an end-user product only, it is not necessary to complete this step.

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

5–3–02
Vol. 67 No. 86
Friday
May 3, 2002

Book 11 of 12 Books

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Part II—Continued

Department of Justice

Antitrust Division

United States v. Microsoft Corporation; Public Comments; Notice

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT IN CIVIL ACTION NO. 94–1564

SIGNED BY GARY REBACK

2ND STORY of Level I printed in FULL format. Copyright 1994 Network World, Inc. Network World July 25, 1994 94–1564

FILED FEB 14 1995

SECTION: TOP NEWS; Pg. 4

LENGTH: 724 words

HEADLINE: Microsoft free at last?;

Ruling still lets firm incorporate apps in its OSes.

Clerk, U.S. District Court
District of Columbia

BYLINE: Michael Csenger and adam Gaffin

BODY:

Washington, DC

The antitrust settlement Microsoft Corp. reached with the Justice Department skirted an issue central to network users, paving the way for the software giant to continue integrating applications with its desktop and network operating systems.

The consent decree, announced July 16, focused almost entirely on the way Microsoft sold operating systems to hardware vendors. But it does not prevent the company from integrating applications into the operating system itself.

Competing software vendors such as Lotus Development Corp. had long alleged that Microsoft's applications division received unfair information from its operating systems division that gave the company a leg up on the competition.

Some analysts and users said the decree, which also poses stricter controls on the royalties Microsoft can collect from personal computer vendors, leaves the path clear for Microsoft to mop up competitors that sell stand-alone applications, resulting in more limited user choice down the road.

SKEPTICISM

But others said Microsoft has yet to prove to the market that it has operating systems and networked applications worth betting a business on. "A lot of its networking products are either futures or first-generation products," said Jamie Lewis, president of The Burton Group, a Salt Lake City consulting firm. The company faces entrenched and growing user bases for both Novell, Inc.'s NetWare operating systems and Lotus" Notes groupware applications, he said. Users also expressed skepticism.

"Microsoft promises Chicago and Cairo and a whole lot of networking, but the question is, will it work before they run out of cities to name these things after?" quipped a network manager whose major brokerage house network runs on Unix.

windows NT is not a truly open environment, he said, "Because if Gates doesn't have it then neither do you, and I'd rather not put myself in his hands. That's why we've standardized on Unix for our trading floor."

Frank Caro, technology transition team leader for Otis Elevator Co. in Farmington, Conn., cited interoperability problems with Microsoft's current Windows implementation of Transmission Control Protocol/Internet Protocol as an example of the company's network shortcomings.

"We've been trying to get into the networking capability of Microsoft's products and find there's one con, non theme: NETBIOS," Caro said. Microsoft does not yet support native TCP/IP, but uses NETBIOS or NETBEUI encapsulated within TCP/IP, he said.

"we're totally uninterested in any approach like this; it can't handle a network of more than 50 users and is terrible over the wide area," Caro said.

And Windows NT has proved unable to handle the applications that Otis wants to take off its mainframe system, because Windows NT is not a multiuser environment.

But Caro respects Microsoft's ability to change course as necessary and awaits the promised native TCP/IP support in Chicago.

"That one feature alone is going to cause dramatic change in network connectivity," said Nick Lippis, principal at Strategic Networks Consulting, Inc. in Rockland, Mass., referring to Windows" TCP/IP.

Native TCP/IP support for Chicago could help Microsoft cut into Novell's installed NetWare client base by providing an alternative to Novell's Internetwork Packet Exchange (IPX) protocol. If the desktop operating systems supported TCP/IP directly, "why continue with IPX?" Lippis asked.

NOVELL NOT WORRIED

"I laugh when I hear people say it's all over for Novell now, we should pack up and go home," said David Bradford, vice president and general counsel for Novell.

"Microsoft has come against Novell [several] now with their networking products, and we've beat them every time," Bradford said.

Bradford also noted that this consent decree does not close Microsoft's books forever. "They will be monitored, perhaps even more so than before," he said. "The industry and consumers have an ally in the Justice Department."

Frank Dzubeck, president of Communications Network Architects, Inc., in Washington, DC, agrees that the case may not yet be closed.

"If Microsoft gets very aggressive and starts burying things in their operating systems, then this whole issue will be revisited, he said. But it will require that another company first go bankrupt."

LANGUAGE: ENGLISH

LOAD-DATE-MDC: July 27, 1994

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT IN CIVIL ACTION NO. 94–1564

SIGNED BY GARY REBACK

Business Day

M??

The New Work Times

Microsoft's Barely Limited Future

By JOHN MARKOFF

??

SAN FRANCISCO, June 17—Rath?? than reining in the Microsoft Corporation, the consent deeree that the Justice Department announced over the weekend with Microsoft. the world's largest software publisher, frees the company to define the computer mudstry's ground ?? through the rest of the decade.

The agreement leaves ??intouched what many computer in??justry executives say is Microsoft's ?? advantage—that it devel??ps both the basic operating-system ??oftware that makes personal com??ters run, known as MS-DOS. and ??pphactons software, like word-pro??essing programs or spreadsheets, ??nat perform spec?? ??

"Microsoft s whole empire is based in the interlocking nature of their ??perating-system and application oftware." said William Joy, a ??ounder of Sun Microsystems, and the ??uthor of one version of the Unix Perating system.

??Vol a Central Issue Microsoft officials said Saturday ??nal issues related to the relationship ?? their operating software and their ??ppicaons programs had not been ??ocus of their ?? nego??anons with us??ce Department officials.

MS-DOS and the Windows proram, which makes DOS easier to ?? are installed in millions of com. ?? worldwide White the Jusuce ??epartiment has decided that Micro?? does have a monopoly in opera?? ?? systems, it ?? that the ?? changes the c??unsent decree spells ??ut provide a remedy.

Yet many Microsoft compet??nors ??ce a broader problem, as well: the ??ne between where the operating system ends and the applications pro??las start is increasingly being ??lurred by advances in technology. ??Smaller compe??tors with innovave ideas in businesses as diverse as ?? man. ?? compression,

?? creates more storage space on disk, and screen savers, which pre?? ent damage to mounors, are finding ?? their business is evaporating because Microsoft keeps adding such programs to ?? operating system as ?? periodically brings out an updated version.

A Microsoft's operating system scheduled for release next year, called Chicago, will acceler?? the process The program will mer??e DOS and Windows and will include electronic mail, remote access, filesearching functions and screen savers. Since introducing MS-DOS in 1981.

Microsoft has continually campaigned to expand the ?? of what computing functions belong inside the computer operating system.

The early vers?? of DOS were small programs that did ?? more than control the storage and ?? of data and start and stop applications programs. But in the 14 years that followed, Microsoft's ??rating systems have greatly expanded the servtees they provide to users and programmers The other important issue not specifically addressed in the consent decree is whether Microsoft has been able to leverage us virtual monopoly ?? operating systems into domination of applications software—a far bigger and more lucrative market This matter is of great concern to companies like Lotus Development.

Boarland International and Novell, and its recently acquired Wordperfect—which specialize in applications software. About half of the 50 million computers that run Windows, for example use Microsoft's word processor, called Word, and its spreadsheet, Excel.

It was for that reason that lawyers at the Federal Trade commission toyed two years ago with the idea of breaking Microsoft into two companies, More recently, Justice Department investigators are believed to have studied ways of creating some sort of "Chinese wall" that might limit the information traveling between the two sides of the business. Anne K. Bingaman, Assistant Attorney General in charge of annt??rust matters, refused to comment on the issue. But in response to a question whether, the department had considered trying to split Microsoft, she said Sa??day that her lawyers, bad looked at "every possible legal th?? ory ?? Linkage Is Seft-Pedaled??

In an interview today, Ms. Bingsman: acknowledged that the decre?? was silent about any linkage ?? ?? Microsoft's power in operating systems and its, growth, in applications software. But she also said the Justice Department had decided against pursuing a "second range of issues" that had been raised by the F.T.C.'s earlier investigation.

"All I can tell you is we filed the complaint based on what we decided were the problems that needed to be corrected," she said.

What the consent decree announced on Saturday did achieve was this: Microsoft agreed to change the way it deals with the companies that make the hardware for personal computers, freeing them to offer customrs a choice of operating systems.

Microsoft will also alter its softwarelicensing policies and the way it gives information to software developers.

The expectation is that personal computer makers like Compaq. Dell and others will now be more receptive to the operating systems made by Novell, international Business Machines and Sun Microsystems.

Software companies will be able to develop versions of their programs for Microsoft's operating systems without making exclusive commitments to Microsoft, leaving them free to create applications for operating systems that other companies have designed.

Yet while the consensus is that Microsoft's influence will continue to increase, computer industry executives are divided over whether its power and influence will be good or bad for consumers.

"Microsoft has become the I.B.M. of the 1990's" said J. Paul Gravson chairman and chief executive of Mr. crogra??, a software publisher it Richardson. Tex "There are issues for anyone who wants to participa?? in this market because of their size and scope. Anything the Government does to slow them down would be welcome."

Believes Bigger Is Better But others in the industry believe that Microsoft's strategy is benefiting consumers.

"If you really care about improving the personal computer, you wan Microsoft to take over all the pieces of the pre," said Stewart Alsop, edito?? of Infoworld, a weekly computer-in dustry newspaper.

Competitors like Novell, which were otherwise pleased by the agreement obtained by the Justice Department, said they were disappointed that the Government had not forced Microsoft to disclose ??formation about new versions of its operating systems in ways that would level the playing field for developers who are competing with Microsoft applications.

The company's competitors have argued that Microsoft has gained a special advantage for its applications programs by using hidden operating-system features and providing earlier access to technical information for its programmers.

Microsoft officials said the Government had found no evidence that such a special advantage existed. "We don't think this is market power in the traditional an??trust sense." Said William h. Neukom, the company's vice president for law and corporate affairs. "Anyone can come in and upset you with better technology. We think it's a ferociously competitive business."

While the agreement may aid some companies like Novell, which makes a Microsoft-compatible operating system, it will not affect Microsoft's power with respect to smaller software developers.

"Microsoft will continue to be very powerful," said Martin Goetz, a cofounder of Applied Data Research, the nation's first software company "The Justice Department hasn't ?? to the cries of the software companies."

Michael J. Miller

The World According to Microsoft FILED

If you think Microsoft is too dominant in today's computer industry, a quick look at where the Bill Gates juggernaut is headed may prove disheartening. Already the leading provider of operating systems and office productivity applications, Microsoft wants to carry its success over to other areas, ranging from interactive television to financial services. With its recent announcements, acquisitions, and introductions. Microsoft is making its goal clear: It aims to become a ubiquitous part of tomorrow's information infrastructure.

THE RIGHT TOOLS

While Intel seems to face more competition than ever, Microsoft's position in the operating-system market has gotten stronger. The reason for this continued success is twofold. Confusion and a lack of focus from OS competitors—such as IBM and Apple—certainly helped, but Microsoft also gave itself quite a boost by developing tools like Visual Basic and Visual C++.

Not too long ago, Borland surpassed Microsoft in the quality of its tools. But more and more, the big firms I talk to are moving to Microsoft tools. This kind of support gives Microsoft the ability to decide which technologies to push and which platforms to support, as well as which technologies to license and which to keep for itself. For instance, Microsoft was first on the market with products that really supported OLE 2.0. Now that it wants OLE 2.0 to be widely supported, it has done a very nice job of making OLE support easier by providing Wizards in its Visual C++ package.

Microsoft wants OLE to be the object standard, and wants to establish it before OpenDoc or Taligent gets off the ground. Microsoft even wants to control object standards on other platforms, hence its introduction of tools that make it easier for developers to take Windows applications and move them to other platforms, such as Macintosh, with built-in support for OLE. Not only does this I by Mans Bishofs kind of accommodation push Microsoft's APIs. it also makes it easy for vendors to use Windows as their primary development platform, regardless of what their target system might be. This will, of course, lead to code that is optimized for Windows. (Okay. Microsoft is a bit confused here. This is because part of the company wants to protect the rights of its Word and Excel teams by insisting on special terms for using the cross-platform code for people who write word processors or spreadsheets.)

TIE RIGHT NETWORK

The dominance in tools, applications, and operating systems may be just the beginning. Consider Microsoft's recent announcements, such as Microsoft Network, a new on-line service that will be bundled with Windows 95.

Microsoft Network, once code-named Marvel, may well be the first thing users see when they start the new operating system and it may be the best way to get Microsoft support. If users choose to subscribe to Microsoft Network, the company could wind up getting a steady stream of $4 to $5 a month from everyone on its operating system, and that could mean several hundred million dollars a year.

Microsoft isn't the only one with this idea. IBM is doing the same thing with OS/2 Warp by bundling in Internet access through its Advantis service, which then sets up a continuing monthly fee. In fact, you can almost view these two operating systems as loss leaders for their suppliers" on-line services. Since Microsoft is in a position where its operating system is dominant, however, users will be more likely to try its network service first. In order to be successful. Microsoft Network doesn't even have to be the best on-line service; it just needs to be good enough and the most convenient. And including Microsoft Network with windows 95 will certainly help.

Now take Microsoft's recent plans to acquire Intuit with its Quicken personal finance program (which links to a check-paying system), and add that to the likelihood of Microsoft Network's success. Because of its size. Microsoft is in a better position to work out relationships with large banks and other financial players. Imagine how Microsoft could extend electronic banking onto an online service such as Microsoft Network.

Microsoft could require just a small service charge on each transaction. Or it could make money on the float—the interest in the few seconds it takes to move money from one place to another, or both.

Microsoft's success in one area helps it extend its success in other areas. Because Windows is so successful, developers must develop for it. If Microsoft Network becomes successful, more developers and content publishers will support it. The same reasoning will apply to Microsoft's Tiger systein for delivering video and other content to set-top boxes, or even to the far-off plan of developing wallet PCs with access to financial information.

UNCHARTED WATERS

All this may sound inevidtable, but it isn't. First of all, no one—not even Bill gates—is successful with every product he introduces. Just think about Microsoft Money. And does anyone out there remember the first Microsoft Access, the abortive Crosstalk competitor? Not too many folks, obviously, or Microsoft couldn't have recycled the name for use on its database.

Microsoft still has a lot of strong competitors who envision a different future. Novell, for instance, is still the clear leader in network operating systems and has recently announced plans with General instruments, the leader in cable set-top boxes.

To date, Microsoft's track record in communications products is less than stellar, Lotus's cc: Mail and Notes have a larger marcompetitor in the world to come. Micro?? is getting into areas where it will face ?? competition, in addition to its ?? software competitors, from banks to tel?? sion and cable companies. in many ca?? these firms have unique relatiónships ?? customers or content that Microsoft ca?? easily duplicate.

This more Microsoft focuses on pushi?? its existing platforms and operating system?? the more likely it is that there will be so?? outside force, some new technology, th?? Microsoft either won't see or won't comm?? to quickly enough. This would leave roo?? for new competitors. Remember, it was?? too long ago that IBM. Digital Equipme?? Corp., and Wang were the dominant infor?? mation companies, and look what happene?? when the technology changed.

Still, if you're worried about Micros ?? dominance today, you have good reason. ?? may foreshadow a future where Microsoft has a hand in every area of your life—from communications to entertainment to pay?? ing your bills. the road to this future woo?? be easy, but Microsoft is very determined and is certainly in a better position tha?? inevitable storms.

There are 3,462 chances to make a mistake in this document.

(Typing it in is number one.)

If the ?? office is here. how come people keep handling you pieces of ?? paper, ?? faxes. photo-cop?? and newspaper ?? for you to ?? in your report? Even ?? to type if out in is a mistake. But it's got to be done one way or ??.

That's where WordScan Plus 3.0 from C??ro, can help. You see. WordScan Plus uses the ?? 32-bit Adaptive Recognition Technology so its accuracy rate is unparalleted— ?? when coupled with the enhanced image capabilities of any Hewlett-Packard scanner.

In fact, Hewteff-Packard's AccuPage 2.0 technology—including ?? image ?? that lets you read text on colored backgrounds, small text support, and ??-zoning—makes WordScan Plus ?? for complex mixed-media Input ?? well as straight forward type recognition And WordScan Plus's ?? features like de-skew, the Pop-up Proofer. ?? ?? defina?? page set-up and One?? OCRTM ?? its as simple to use as it is accurate, it even integrates ?? with your Windows ?? ?? thanks to ?? Chameleon Tool ??Tm, e-mail and direct fax Capabilities.

So stop by your local ?? to see for yourself just how quick. ?? and ?? WordScan Plus is.

It could stop mistakes for good.

PCWEEK

THE NEWSPAPER OF CORPORATE COMPUTING ?? JULY 25, 1984 VOLUME 11 NUMBER 29 S3.05

DOJ accord fosters "too little, too late" perception

NEWS ANALYSIS "Chinese wall" sidestepped, but some see new opportunities

BY JANE MORRISSEY

The justice Department and the European Commission won ?? concessions from Microsoft Corp., but ?? doubt the consent decree ?? agreed on will ?? much effect on the company or ?? competitors. The ?? got Microsoft to ?? up per-processor ?? and other business ?? ?? and will ?? us compliance for ?? and a half years, bus left ?? its ability to ?? share opera?? ??lern ?? with its application ??.

The consent decree will be open for public comment within the ?? 60 day, after which a federal judge will offer a final ruling. Legal experts expect the court to uphold the decree.

Although the government could take further action and Microsoft could face lawsuits from competitors, mo?? observer?? said both are unlikely because of the time and expense involved. Microsoft com?? ma?? ?? to live with the outcome, ?? mans are not ??.

"Anyone who said this decision went far enough isn't in touch with the industry." said Ed Zander, president of SunSoft Inc., Sun Microsystems Inc, software unit. "Of the three or four issues [the DOJ] could have worked on. they picked the least contentions. The 'Chinese wall" is more subtantive."

But Microsoft officials, citing legal precedents to back them up. said ?? were able to convince the government that such exclusionary sharing ?? ?? is managers take sides; despits?? the agreement, the government's Anne Bingaman and Microsoft's Will??am Neukom still don't sea eye-to-eye; Microsoft financ??als, meanwhile, are strong. in their rights. "We encourage our systems people to talk with the apps people about potential new operating-systems fea??" said Chairman Bill Gates

Operating-system makers such as IBM. Novell Inc.. Taligent inc.. (?? and Sun Soil said they were were encouraged that Justice took the actions it did on per-processor licensing practices,

"We're going to jump all over Otis," said Lee Reiswing president of IBM's Personal Sof??are Prod?? division, in Austin. Texas. "It means a level playing field for us for the first time. We have the op?? to hit the OEMs.

"It will help us in the future in not disadvantaging us with a pricing mechanism," said .Joseph (??. chairman anti CEO of Taligent, in Santa Clara, Calif.

But some said it is too little, too lair". "To the extent [Microsoft's behavior] prevented other operating systems from succeeding. that war is over," said Mitchell ??, chairman of Powersoft Corp., in Concord, Mass. "DOS is it and Windows is it: The ?? has close to zero impact

Novell. one of the insugaors of tile government ??. the decree is a good first step m addressing its concerns. The Provo. Utah. firm will discuss at an upcoming board meeting whether to submit objections or ?? litigation.

"Sure. I am somewhat disappointed." said Novell (?? Counsel David Bradford. "Nevertheless. I understand how the justice Department and the EC got to where they did .... They did all in their power, wen the political and legal environment."

Bradford expects the decree to help Novell fight the nextgeneration operating-system battle. "The 32-bit OS market has not been won by anybody." he argued. "This decree will al. low for freer competition."

A major disincentive, to bringing its own charges against Microsoft is Novell's recent desire to forge a better relationship with Microsoft. Novell CEO Bob Frankenberg met earlier this month with (ales to re-establish ties that had broken off under Novell Chairman Ray Noorda.

"Noorda called us Nazis and. so far. Frankenberg hasn't engaged in that type of thing." (axes said. declining to ?? rate on any new accords. "We're not going to conduct this phase in a fishbowl."

Additional reporting ?? Mary Jo Fol??. Norvin Leach. and Sam W?? OEM licensing practices

?? no per-processor licensing deals

?? no minimum volume commitments required from OEMs

?? no contracts longer than one year: no penalty for non-renewal

?? no restrictions on OEM's licensing or sale of non-Microsoft operating systems

?? no requirement mat OEMs license DOS to gain a license for Windows

Non-disclosure agreements

?? duration not to exceed the products release, public disclosure by Microsoft, . or one year, whichever comes first

?? cannot restrict third parties from developing software that runs on competing operating systems.

THE CONSENT DECREE DOES NOT ADDRESS:

?? Microsoft benefiting from operating-system knowledge to develop applications, such as Microsoft applications group getting advance notice on operating-system advancements, and the use of undocumented APIs

?? Microsoft acquiring technology from third Datives under guise of making a deal

BUSINESS

Jesse Berst

Berst

Mode

Behind the smoke, Microsoft wins again

I know you've all heard about the settlement between Microsoft and the justice Department. But I thought I'd tell ?? some made information that hasn't made it into the press releases and official statements.

?? ?? MICROSOFT REALLY DECIDE TO SETTLE? Because the Justice Department and the European Commission both said they would ??ue unless Microsoft agreed by July 11.

W?? DID THE JUSTICE DEPARTMENT REALLY DECIDE TO SET- TI.E.? Because it got to wave the flag and talk in its most grown-up voice about protecting consumers without the risk of lengthy litigation—litigation it probably would have lost.

DOES THE AGREEMENT REALLY CHANGE ANYTHING? No, Microsoft has always let hardware manufacturers make other kinds of deals. But the price for those deals was so much higher that no one could afford to use them. Everybody ended up making per- processor arrangements whereby they ultimately paid Microsoft rovalues for every machine shipped. There were always escape clauses. It's just that nobody could afford to take them. Now those escape clauses have been codified into the agreement. Because of the economics, however, few will use them, at least not in the short term. As for non-disclosure agreements. Microsoft was in the middle of creating a new standard agreement an??.

How pathetic to see Janet Reno prattling on about "lower prices immediately."

WILL CONSUMERS REALLY SEE LOWER PRICES? How pathetic to see At- Torne?? General Janet Reno prauling on about lower prices m??ed??cly. If the decree had come five years ago, when there were viable MS-DOS clones, it might have had some immediate impact. Now, in a world where MS-DOS is on the way out and Windows has no real clones, it will have no short-term effect.

WHAT CHANGES WILL REALLY COME ABOUT BECAUSE OF THE SETTLEMENT?

Very few. It will be slightly easier for computer firms to sell Net- Ware-rea?? s??ers without incurring financial penalties from Microsoft. In the long term, it may be slightly easier for a firm to introduce a new operating system.

WHO'S THE REAL WINNER? Microsoft. It gets two governmental bodies off its back. And it does so without admitting that it was wrong, without being forced to divest or break up, and without paving a cent in fines or restitution.

Best of all, it has the opportunity to restore us mage just when it needs it most. Microsoft wants to be a dommant plaver in the c??terpri??e market. To do that, it must convince global corporations that it is a trustworthy long-term partner. That job would have been much harder it governments on two contments were filing lawsuits. The company might as well have changed its slogan to "Microsoft—the most antitrusted name in the business."

HOW DO MICROSOFT'S COMPETITORS REALLY FEFL ABOUT THE SETTLEMENT? They feel like schoolboys who complained about a bully stealing their lunch money and the teacher let the bully keep taking money for four more years while "investigating"—and then ?? him off with a token promise to be a good boy from now on. And the even got to keep the money he had collected.

Still, I think the announcement will ??mately benefit the rest of the m??ustry. It frees them from their silly fantasy that the government was going to come riding to their rescue. Now they can get back to competing on the basis of better products and features, not better lawyers and lobbvis??s. ??

?? ??SSF BEFST IS DIRECTOR OF THE WINDOWS SOLUTIONS CONFER-

?? EXPOST??. IF YOU WANT ?? TO YOUR ?? CREES. CONTACT ?? (JBERST?? OR ??

PC WEEK JULY 25, 1994

NOVEMBER 7, 1994 PC WEEK NEWS ??

Microsoft's Marvel beta leverages Win 95 desktop ?? ?? ?? AND ?? ??

The Microsoft Network. Microsoft Corp.'s new on4ine service. is taking the first steps toward ??ing the ranks of more established services such as CompuServe and America Online by tv- ??g itself into Windows 95's navi- ??tional tools.

Also known by the code name Marvel. Microsoft Network will reach beta testers in large numbers as part of the sec- and major beta version or Windows 95. due this week PC Week L??bs took a look at the on-line service on a late-release candidate of the second beta.

Microsoft Network's on-line services are well-integrated into the Windows 95 user interface. The content is very sparse at this ??ge. but once populated with ??rmation service providers.

Microsoft Network may prove to be a valuable information source for Windows 95 users. The information that is available is well-organized into a hierarchy of folders and icons.

Navigating discussion groups and chat areas was similar to navigating local titles and folders. Windows front ends to America Online and CompuServe, in contrast. are separate applications. With Microsoft Network, we were able to create a link (called a Shortcut) to a discussion group and place the link on the Windows 95 desktop, where it appeared like any other folder. When we double-clicked on the discussion group. Windows 95 automatically re-established our connection before opening the icon.

Shortcut icons can be embedded as Object Linking and Embedding 2.0 objects, allowing usors to distribute them.

Messaging services are just as well-integrated. We could use the standard Microsoft Exchange E-mail client included with Windows 95 to compose and send messages. ??

PCWEEK

THE NATIONAL NEWSPAPER OF CORPORATE COMPUTING * NOVEMBER 21, 1994

VOLUME 11, NUMBER 95 ??.95

PC vendors allege undue pressure from Microsoft

?? IBM, OEMs contend strong-arm tactics

BY MANY JO FOLSY AND LISA DICARLO

LAS VEGAS—IBM and other major hardware OEMs are complaining that Microsoft Corp. is unfairly pressuring PC vendors to refrain from bundling OS/2 and PC-DOS with their PCs.

Also last week. Microsoft disclosed to hardware OEMs at Comdex here the Windows 95 MDA (Market Development Agreement), outlining proposed licensing fees, incentives, and compliance criteria.

Concerning OS/2, the hardware makers claimed that Microsoft officials threatened to delav, if not withhold entirely, delivery of Windows 95 code: reduce market-development funds: and withhold sales and support training for vendors that offer IBM's OS/2 or PC-DOS preloaded on their systems, sources said.

Sources said IBM and the hardware vendors have held periodic discussions with the Department of Justice about the alleged unfair Microsoft practices. IBM, the Justice Department, and the vendors declined official comment.

"The [Justice Department] has turned into a Better Business Bureau for anvone who wants to shoot off a complaint against Microsoft." said David Williams, group manager of Microsoft's Personal Operating Systems Division, in Redmond, Wash. "We've got some salespeople who sometimes can go too far." Williams said he was unaware of any new filings regarding Microsoft with the Jusuce Department.

"The playing field is not level.

SEE BUNDLJNC, PAGE 138

Bundling from page ??

and we have a problem with that." said an executive with a hardware maker, who requested anonvmity. Other hardware vendors, fearful of reprisals from Microsoft, also requested an?? nymity.

One Microsoft customer said further complaints to the Justice Department against the company would not affect any business dealings. "We've been through this DOJ stuff with the ?? IBM?? said Pete Bavoso, vice president of information systems with The Darby Group Co., a medical supplier and PC Week Corporate Partner in Westbury, N.Y.

As for the MDA, several hardware makers complained about the high rovalties that could hike PC prices as well as the stiff provisions for preloading.

However, they also said the licensing figure is a mere trial balloon floated by Microsoft, with Windows 95 not scheduled to ship until mid-1995.

Also at Comdex, several PC vendors claimed to have been discouraged by Microsoft from demonstrating IBM's OS/2 Warp at the show. Hewlett-Packard Co. and Packard Bell were among the companies that decided at the last minute against showing OS/2 as a result of implied and suggested retaliation from Microsoft, according to several sources close to the companies.

Officials with HP, of Palo Alto, Calif., and with Packard Bell, in Chatsworth. Calif., declined to comment. Dell Computer Corp. and Toshiba America Information Systems Inc. showed OS/2 Warp in their booths.

"Microsoft has been very aggressive about staving off the IBM assault," said another OEM source. "There were indications that the smoothness and flexibility of bundling Windows 95 would have been jeopardized" if the vendor showed systems running Os/2 Warp, said the source.

"There's about 15 things in there where you get $3, $2, or $1 off if you do things like put the Win 95 logo in national advertising," said another OEM.

"There are strong merchandising incentives [in the MDA]," said Steve Lair. Toshiba vice president of marketing, adding that he didn't see anything in the agreement that overtly demanded exclusivity to Microsoft's products.

In the weeks leading up to Comdex. Microsoft made it clear to OEMs that it could make the transition to Windows 95 a costly and bumpy move, according to one of the sources.

Hardware and operating-system vendors complained privately that despite the proposed justice Department consent decree—which required Microsoft to alter its OEM licensing and non-disclosure agreement practices—Microsoft has done little to modify its behavior.

With the MDA, "we are not doing per-system incentives for OEMs. That would be in violation of the consent decree," said

Microsoft's Williams. "Instead, we're offering incentives for OEMs who go that extra mile in marketing Windows 95," he said, specifying financial, training, and joint promotional incentives. ??

Additional reporting by Neal Boud??. Dan Farber, and John Dodge

BUSINESS

Jesse Berst

Berst

Mode

Microsoft's on-line rivals could end up in 'cyberia" Microsoft has promised to bundle an on-line service called The Microsoft Network ?? Windows ?? next summer on tall. If that occu??s, I pre?? that competing on-line services will be sentenced to a long, cold w?? of discontent. Microsoft's service will have an ??beatable edge over Comp??Serve. Prod?? America Online, and other rivals.

I'm no an export ?? an?? law, so I don't know whether this ?? ??. But I do know it feels unfair. It feels like Microsoft is ??ing a monopoly in one area to gain a monopoly in another, Microsoft may change its terms and conditions before the final tele??. But as I understand it right now. OEMs will be ?? to include MSN What's more ?? will not be informed they have a??

Let's ?? XYZ Co. makes a deal to ?? ??pecial Pro?? package w?? ?? computer. It even goes to the trouble of ??ing for a Pro?? sign-on screen to appear the first time the ?? book up.

When XYZ ships its Win 95 PCs, it will have to include The Microsoft Network sign-on XYZ may not ?? to ?? MSN. It may have given money ?? consideration to Pro?? in ?? not the bundle. Yet, as far as I know, XYZ won the able to turn off the built-in MSN screen.

In essence. OEMs will be forced to distribute MSN if they want to access Windows 95—even it that distribution is to the OEM's detriment.

I also worry that consumers won't real??e they have options. It's as if your local phone company were to automatically sign you up for AT&T's long-distance service without letting you know that you have other choices. And I worry that Microsoft will use the MSN "registration" procedure to read information about customers computer configurations and send that information to a Microsoft da??base. At least one other compa??s (Delrina) has used on-line registration to scan and store configuration info.

Now, that would be a competitive advantage—if Microsoft knew the names of millions of Windows users and knew exactly what hardware and software they owned

GULAG ??IBROGLIO. I have no evidence that Microsoft intends to secretly capture and store contiguration info. But the fact that I worry about it points up how Microsoft creates problems for itself.

These fears are feeding the mounting opposition to Microsoft's Int?? purchase and to The Microsoft Network. The Justice Department is being press??ed to open another investigation—pressured by the same competitors that Microsoft cavalierly dismisses is "wh??ers" ?? quote a Microsoft exec). Luck??ly for Microsoft, it has no much money in can alford to waste millions in legal fees. It looks like it will get a chance to do just that very soon.

RESPONSE OF THE WEEK: From system Anal??st Jim Ga??nor of Columbus. O??io:

"The likelihood of a Big Crash on the Internet decreases ??ail??. Links between one portion of the net and another may tempora??y go down, but the Internet is genes??s was in a Department of Delense project to create a data network capable of withstanding a ??clear attack. Truly crashing the Internet for an extended period would require a bankrolled effort on the level of the most professional modern terrorism. However, I agree that the tourists will start leaving. While Mosa?? may be pretty, interaction requires both action and thought, foreign concepts to the pas??ve?? entertained masses." ??

?? JESSE BERST IS THE ?? ?? FOR

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Top of the News

Microsoft Settles: Business as Usual

Now that Microsoft's licensing agreements for MS-DOS and Windows have been deemed "unfair" and "monopolistic" by the Department of Justice, will other operating systems have a fighting chance on the desktop?

According to computer manufacturers. industry analysts, and end users, the outtook is grim for Novell's DOS and IBM's PC-DOS and OS/2. They say there's not much motivation for PC manufacturers to preinstall a competing product, since Windows has millions of users and thousands of software applications. And since Microsoft's upcoming version of Windows Code-named Chicago) won't require DOS, the demand for all flavors of DOS is likely to plummet.

Has the train for Chicago already left the station? "I think the world of OS/2." says Jerry Williams. vice president of data operations for Eglin Federal Credit Union in Fort Walton Beach. Florida. "It's a good operating system. However, I think the momentum has swung in Windows favor. If you go with OS/2. you're kind of stepping off the ladder."

"DOS is starting to go away and Windows is taking over everything." says Gary Shurman, president of the New Orleans Personal Computer Club. "Unless somebody comes up with something earthshattering. I don't think there's a serious challenger to Microsoft."

Despite the skepticism. Microsoft's competitors may have their best chance in years to challenge Bill Gates's desktop domination. After a lengthy investigation by the U.S. Department of Justice and the European Commission (the executive body that governs the European Community), Justice Department officials announced in July that Microsoft had agreed to end its "illegal monopolistic practices" and stop using "unfair contracts that choked off competition and preserved its monopoly" in the PC operating system market.

Terms of the Decree

Under the terms of the consent decree, Microsoft must change its licensing contracts with PC manufacturers (called OEMs). It can no longer make "per processor" agreements that require OEMs to pay a royalty to Microsoft for each PC shipped—regardless of whether the preinstalled operating system is from Microsoft or a competitor. The company also can't require OEMs to purchase a minimum number of Microsoft operating systems or sign a license with terms longer than one year (although the OEM can renew the license for an additional year).

Perhaps most optimistic about the Justice Department ruling is IBM. Which little success in convin??ing OEMs to preinstall its OS/2 operating system. "This has really opened the door. We've ??ut proactively, contacting, hundreds of PC manufacturers already." says John ?? detector of IBM's Personal Software Products division in Austin. Texas. While So??ing expects some "major North American manufacturers" to pre??stall OS/2?? so far Big Blue's ??tories have been in Europe. Soyring says that

German PC makers Vobis and Escom already preinstall OS/2—and Escom expects to ship 440.000 ??tems with OS/2 over the next 12 months.

Despite the ruling from Justice, Micro soft's influence over PC manufacturers remains immense. Most of the leading OEMs contacted for this article had little or no comment on the Justice Department ruling, other than to say that their relationship with Microsoft would stay the same (in other words, they'd still preinstall Windows). And many industry pundits sec the consent decree as a weak slap on Microsoft's wrist. "I think Microsoft is thrilled with the settlement." says Tim Bajarin. president of Creative Strategies in San Jose, California. Of course, if Microsoft is too aggressive, it is likely to find itself in the sights of regulators once again. That's a position even Bill Gates wants to avoid.

Jeff Bertolucci

Jan ??rancisco ??ronicle

THE ?? DAILY CIRCULATION IN HO??THE?? CA??FORMIA

MONDAY, JULY 18, 1994

Microsoft Unscathed By Settlement

Antitrust pact a slap on wrist for software giant

By Da??id E??ste??

Ch?? Staff Writer

Although the government claimed victory in its antitrust battle against Microsoft, it appears as if the world's largest software maker suffered little damage and in fact should continue to steamroller the rest of the industry.

By agreeing to halt some supposedly monopolistic practices, Bill Gates" giant company has left the door open ever so &lightly for competitors to grab some piece of the market for operating systems that run moat of today's personal computers. It is a market Microsoft dominates with its MS-DOS and Windows programs, currently installed on more than 120 million computers worldwide.

But sometime late this year of early next. Microsoft intends to brush away its rivals once again when it introduces Chicago, the next generation of Windows. If PC users flock to Chicago as expected.

Gates actually could increase hit hold on the industry he helped create in the early 1990s.

There had been speculation that the Justice Department, which took over the Investigation from the Federal Trade Commission last year, might have gone so far as to break up Microsoft Just as AT&T was split up In 1984.

But ns the government closed the case late Friday, however, it was with a mere slap on the wrist. Microsoft admitted no guilt over allegations of monopolistic practices, and faces no fines or financial penalties. Its revenues, now over $4 billion a year, probably will not suffer.

No wonder Microsoft officials were happy with the terms of the settlement. "It preserves our ability to do business In a way that IS effective," said Bill Neukom, vice president of law and corporate affairs.

But Attorney General Janet Reno professed satisfaction with the outcome of the first major antitrust case of the Clinton administration, saying the settlement "levels the playing field and opens the door for competition" by curbing Microsoft's "monopollstic practices."

Reno talked tough, adding that "while the company fairly and lawfully climbed to the top of the industry ladder, It used unfair and illegal practices to maintain its dominant position."

But the settlement did not address what many competing companics consider the real antitrust issue. Microsoft, they say, has used its control of DOS and Windows to extend lb hold on the software sector.

In fact. during the nearly four years the government Investigated Microsoft, the Redmond, Washbased behemoth managed to be the major player In the market not only for operating systems, but also for major applications such as word processing and spreadsheet software. And even as the consent decree goes Into effect, Microsoft is trying to tighten the screws on its major competitors by asking smaller software developers to adopt a standard that would make their programs dovetail with Microsoft's best-selling "Office" suite of applications. U??

Friday's consent decree, which steers the company and the government clear of the courts, includes an agreement to change the way Microsoft licenses its operating system. That Issue the government felt was its best chance to beat Microsoft had the antitrust case gone to court.

Microsoft no longer will offer PC makers steep discounts on volume purchases of DOS and Windows In return for royalities from every PC said—whether or not the Microsoft system was actually Installed on them. That "per-processor" licensing strategy had discouraged manufacturers from buying rival products such a Novell's version of DOS or IBM's OS/2 operating system, since they already were paying for Microsoft's version.

Novell's general counsel, David Bradford, saw the consent decree as a clear victory. "This has been a long effort by many companies for many years." he said, "and this decision will provide consumers with Increased choices and more innovative products."

But the euphoria may wear off quickly. Microsoft's Chicago program reportedly will not require an underlying operating system, leading Industry experts to predict the irrelevancy or death of DOS once Chicago catches on. Industry Standard P??ts

Competitors may benefit more from Microsoft's agreement to" loosen restrictions on its nondisclosure agreements—Industry. standard pacts that software companics must sign to get advance copies of new products such as Chicago. Microsoft In the past has forced companies to agree not to work with other operating systems in return for access to lb programs.

That may help large companies 'ike Novell, which is updating its popular WordPerfect and Quattro Pro programs. But smaller companies still may find themselves ti??t- ing at windmills in trying to take on Microsoft.

Ernie Simpson. president of The Wizard Co. in Denton, Texas, called the settlement "a waste of time."

"Microsoft will continue to do as they have been doing, only they'll word their contracts a little differently." said Simpson, whose company develops software for some major Windows programs. "Microsoft Is the de facto industry standard for operating systems, and they will continue to control the industry to the advantage of Microsoft and the detriment of everyone else."

Microsoft had Insisted It would never settle antitrust charges out of court. Gates was positively adamant about it, complaining that the Justice Department was hounding him unreasonably, in the end, however, with antitrust charges looking more and more possible, the company decided to cut a deal. Judging from the first reviews, Gates appears to have done quite well by It.

Chronicle wiry ser??c?? to this report.

Sunday, July 24, 1994 C–5

San Francisco Examiner

COMPUTERS & TECHNOLOGY

Microsoft deal: too little, too late

A few days after the Department of Justice announced the settlement of its antitrust investigation of Microsoft, Bill Gates told the Wall Street Journal, "I intend to defy gravity."

Thanks to the nature of that settlement, it is likely that he will.

The Justice Department press release announcing the settlement quoted Attorney General Reno as saying, "Microsoft's unfair contracting policies have denied other U.S. companies a fair chance to compete, deprived cop- ??mers of an effective choice ??ong competing PC operating systems, and alowed innovation." True enough.

She went on to state, "Today's settlement levels the playing field and opens the door for competition."

Unfortunately, it is unlikely to do either.

It is telling that in describing the harm caused to competition and innovation by Microsoft's practices, the attorney general used the past tense. The particular practices the settlement addressed were unquestionably key factors in Microsoft's rise to dominance in the 1980s.

Among other things, Microsoft required PC manufacturers to pay a license fee for its MS-DOS and Windows operating system software on every PC shipped with an Intel microprocessor under long-term agreements—whether or not those PCs actually contained that software—and unreasonably restricted independent software companies from working with Microsoft compatitors. In so doing, Microsoft managed to insinuate its technology into the heart and soul of 85 percent of the world's PCs.

By 1985, these practices had already had their intended effect: making Microsoft's operating system the de fact?? PC standard. The present source of Microsoft's domination in the PC world derives from the status as the standard-holders, not the practices the Justice Department condemned and which will now be prohibited under the settlement.

Microsoft, understands this perfectly well, which, of course, is why Bill Gates let the settlement happen. Nothing in the proposed settlement is likely to have anything other than the most marginal effect on Microsoft's future.

Inherent in the nature of software technology is the concept of dependence.

Operating systems are useless without application programs and vice versa. Neither has discrete, stand-alone value.

But of the two, operating systems software must come first and clearly provides the most potential for leverage. To its credit, Microsoft understood this earlier than everyone else and exploited its insight relentlessly. So technically dependent in the PC industry on Microsoft operating system software, that Microsoft could afford the luxury of a five-year period in which to perfect. Windows after its initial introduction in 1986.

When Apple introduced the Macintosh "graphical user interface," which replaced ob??cure and hard-to-remember keyboard commands with easy-to-learn and easy-to-use screen icons and a mouse, it marked a watershed in the development of consumer-friendly computing. In response, Microsoft introduced Windows, which was supposed to provide Macintosh-like ease-of-use.

[See VIEWPOINT, C–6]

??VIEWPOINT from C–1

Too little, too late

But the first several versions of Windows were so poorly designed that very few people wanted them, preferring even the archaic DOS with its incredibly difficult keyboard commands. It wasn't until 1990, five years after its introduction, that Microsoft finally produced a version of Windows that was ready for prime.

Now, one would think that if genuine competition existed in PC operating systems, this five-year gap would have been exploited by one or more competitors of Microsoft. Indeed, it's hard to conceive that any company could have taken as long as Microsoft did to get a basic technology right and still survive.

Yet, Microsoft not only survived during this period, it prospered. The reason is that it was virtually impossible to shake free of MS–DOS, even when clearly better alternatives were available. The consumer investment in application programs that could only run on the Microsoft system was too large and the cost of switching to an alternative technology—even a clearly better one—too great.

While this was obvious to everyone by 1985 or 1986, Bill Gates understood it in 1980.

Almost 10 years later, PC manufacturers, consumers and software developers are even more tightly bound to Microsoft operatins system technologies. The ties that bind are not contractual, they are technical, which is why the Jus- rice Department settlement will be ineffective.

And while controlling this standard, Microsoft is free to compete on applications based on the standard. Companies that develop competing spreadsheet, word processing and other such programs have complained for years that Microsoft programmers have the unfair advantage of knowing changes to the operating system specifications well before anyone else.

The fact is Microsoft owns— and closely guards—the de facto standard for desktop computers, a critical part of our information infrastructure. And at least three steps could be taken to ensure fair competition. Microsoft could be required to:

??Publicly disclose its operating system interface specifications so that designers of competing operating systems could have assurance that application programs written for MS-DOS or Windows would run efficiently with their operating systems. Microsoft should update its specifications in a periodic and timely manner.

San Jose Mercury News

Se??ng Northern Cal?? Since 1851

?? NOVEMBER 13, 1994

Microsoft, Intel set to define technology

?? Duopoly: Apple, IBM, Motorola mounting last-ditch attempt to make PC alternative. BY RORY J. O'CONNOR

Merr??ry News Staff Writer

Tomorrow, when Silicon Valley's brain trust arrives in Las Vegas as part of a 200,000-strong crowd at the computer industry's largest trade snow, conversation will almost certainly center on one topic: Can anything stop Microsoft and Intel from controlling everything?

Some fear that as the digital future of the information superhighway emerges, an unchallenged Microsoft and Intel will wind up in total, undisputed control of the technology upon which the country's citizens and economy will depend. And few believe that a recently announced alliance between Apple and IBM will prove an effective roadblock.

Who will control COMPUTING'S FUTURE? First in an occasional series.

Today, Microsoft Corp. makes the world's most popular software for personal computers, operating systems that control 85 percent of the machines in use. Intel Corp.'s microprocessor chips are the brains in 75 percent of all the computers made.

But the personal computer is rapidly becoming a home appliance, and the PC is poised to expand from word processing and spreadsheets to controlling a myriad of other jobs in our everyday work and personal lives. The companies that control personal-computer technology are in a position soon to dominate much, much more.

From video telephones to intelligent fax machines, from office to home, from providing digital information and entertainment to managing credit-card and other financial transactions, Microsoft and Intel are already extending their reach far beyond traditional personal computing.

Both companies have deep pockets to back the technology— and their unofficial partnership is an effective duopoly that could let the companies dictate the price of technology, minimize consumer choices and slow the pace of technical progress.

In short, many believe, little stands between the two comparoes and technical control of the future.

"Increasingly, I'm believing it's all over, and we're going to be locked into Microsoft and Intel forever." said Dataquest analyst Kimball Brown.

In the 13 years since IBM transformed the PC from hobbyist toy to business tool. control of the industry has shifted from IBM and Apple to their once-tiny corn- petitors. Now, Apple and IBM, despite their combined annual revenues of nearly $75 billion, are the underdogs.

Except for Apple, whose research and development spending remains large despite a $100 million cutback in the past year, few PC companies invest significant sums in new technology research. The bulk of such money is spent by Intel to develop chips and Microsoft to further its lead in software.

Many people in the industry decry this state of affairs, but lack the money, the marketing or the technology to force meaningful competition. Even the federal government has declined to step in, punishing Microsoft with a slap on the wrist after a four-year investigation into what Attorney General Janet Reno called "illegal, monopolistic" practices.

Perhaps the only force large enough to change anything is an infant agreement announced last week by Apple, IBM and Motorola to build a new kind of personal computer, one that would neither use Intel microprocessors nor fea ture Microsoft operating systems.

The timing of their agreement, one week before the largest annual gathering of technology power brokers in the world, is no accident.

Even though the alliance will not produce a product until 1996, IBM and Apple need every ounce of momentum they can muster for what is probably the last- ditch attempt to topple Intel and Microsoft t or even to hope to play a role in defining the technical future.

But most analysts insist that Apple and IBM are waging the wrong war. "The desktop operating system war is over," said venture capitalist Ann Winblad, whose Emeryville firm specializes in software companies. "Microsoft has won."

Instead. Apple and IBM should be looking to the information superhighway for opportunities to sell new technology, expand their business and regain the power to force technical competition, said Richard Shaffer, publisher of the Technologic Letter in New York.

That's because there is a potentially more lucrative market in the future, one that uses both the personal computer and its technology.

It goes by the catch-all term of information superhighway, but it encompasses a host of major changes in the role of personal computers at work and at home.

Some of the latest home, computers are already touted as being able to replace nearly everything in a small office except the coffee pot.

Phones and fax machines are becoming smarter, thanks to more-powerful computer brains. And when people are away from their home or office in the future, they may well carry portable devices that combine today's cellular phone with ready information access, offering yet another umbilical cord to the PC.

Over the next decade, even television is poised to become interactive, offering far more choices, two-way video and fountains of information on demand—activities that require heavy use of computer chips and sophisticated operating systems and other software. Computers will manage nearly all financial transactions, and will even be a citizen's primary conduit to the government.

Some experts envision a single intelligent box in the home, one that would use the functions of a personal computer to connect the home to information and communications lines through phone-company wires or cable-television hookups.

There's little doubt that each of these areas will be the site of intense competition. In almost every case, Microsoft and Intel's dominance of the PC business would give them a crucial advantage.

If they succeed in controlling key technology in any or all of these areas, they will be able to determine much of how the devices work, and could even control how people receive information or make purchases. And the closer the digital world moves to merging control into just one or two boxes connected to monolithic networks, the better the chance Intel and Microsoft have to dominate them as they have PCs.

But Apple insists it is not blind to the digital future, despite initial failure in one new market— that for personal digital assisrants—and a very slow start for its E-World on-line service.

"Clearly, there's a feeling at Apple that these other technologies are very exciting areas," said Rick LeFaivre, the head of the company's Advanced Technology-Group. "But at the same time we're making sure not to take our eye off the PC and say it's dead. ... The PC side of our business will be by far the dominant side for a long, long time."

At the same time, Apple's partner is struggling to regain power it has lost in nearly every area of its business. Internally, it is replacing top managers, revamping its structure, changing key technology, laying off workers and trying to figure out how it fits into a world it once controlled. Externally, critics say they can't fathom the company's strategy, especially in personal computing, where it is unclear what software and hardware technology IBM considers strategic—and, there, fore, safe for customers to buy.

The problem for Apple and IBM, according to analysts, is that they probably have little" hope of competing effectively in the digital future unless they can quickly establish their new computer as a viable mauve.

But to become a PC alternative. the companies must overcome a host of difficulties, from wrenching changes in their corporate cultures to damaged balance sheets to the improbability of the partnership they began with Motorola more than three years ago.

"The whole plan in 1991 was daring, kind of like chemotherapy," stud Shaffer. "The therapy might kill the patient, but the al ternative is certain death."

Few believe that Apple, IBM and Motorola can thrive against the Microsoft-Intel duopoly short of a move even more unlikely than the original IBM-Apple partnership.

"Without the merger of Apple and IBM into one corporate entity, they are executing separate strategies, no matter what they say," Winblad said. "So while some people have called this the David and Goliath story, with Microsoft as Goliath, there is no David—perhaps a Tom, Dick and Harry."

Not everyone believes that a world where two companies control most of the technology is a cause for alarm, however. "What's wrong with there being just one operating system? It's supposed to be transparent to the user," said analyst Doug Kass of the Viewpoint Group in Aptos. "I don't think that will lead to huge increases in price. It's not competition among vendors, but what the market will bear in terms of price. Consumers look for what works, not the cutting edge. If some new (software) is priced beyond the glass ceiling of what consumers are comfortable paying, it won't sell."

Not surprisingly, Microsoft officials share that view

"Things are very competitive now," said Brad Chase, general manager of Microsoft's personal operating systems division. "Apple is certainly not an uncompetitirive company. IBM is a very aggressive company. And the thing about technology is you can't rest on your laurels. If you don't keep aggressive, your leadership will melt like butter."

Tomorrow in Business Monday: How far can Microsoft go?

San "Jose Mercury News," Wednesday, December 21, 1994

MICROSOFT'S DOMINATION

Microsoft's revenues in the world market for personal computer business grew more in 1994 than revenues in the market as a whole, according to preliminary estimates by Dataquest Inc. Total revenues grow by more than $550 million, while Microsoft's related revenue grew by more than$650 million. "Lotus 1–2–3. WordPerfect. dBase.

Paradox and Harvard

Graphics once dominated their respective categories." said Dataquest analyst Karl Wong. "Today, Microsoft products have replaced each of these one-time product category leaders." (Figures are in millions.)

"94 1993 "93-'94 "94 "94 market

Rink Company Revenue % chg. ,Revenue, share (%)

1 Microsoft $2.221 +29.4 $2.873

34.7 District of Columbia.

2 Lotus 986—1.8 968 1

I. 7 3 Novell 698 -11.6 617

7.5 4 Adobe 197 +28.1 253 3.1 5 Symantec 207 +15.2 238

2,9 6 Clans 160 -t-9.3 175

2.1 7 Borland 360 -52.8 170

2.1 8 Intuit 104 +56.9 163

2.0 9 Corel 105 +41.6 148

t.8 l0 Delrina 65 +43.1 94

1.1 Others 2.617 -1.7 2.573

31.0 Total 7.720 +7.2 8.272

100.0

Source: Dataquest Inc

MERCURY NEWS

Positive Feedbacks

in the Economy

A new economic theory elucidates mechanisms whereby small chance events early in the history of an industry or technology can tilt the competitive balance Conventional economic theory is built on the assumption of diminishing returns. Economic actions engender a negative feedback that leads to a predictable equilibrium for prices and market shares. Such feedback tends to stabilize the economy because any major changes will be offset by the very reactions they generate. The high oil prices of the 1970's encouraged energy conservation and Increased off exploration, precipitating a predictable drop In prices by the early 1980's. According to conventional theory, the equilibrium marks the "best" outcome possible under the circumstances: the most efficient use and allocation of resources.

Such an agreeable picture often does violence to reality. In many parts of the economy, stabilizing forces appear not to operate. Instead postitive feedback magnifies the effects of small economic shifts; the economic models that describe such effects differ vastly from the conventional ones. Diminishing returns imply a single equilibrium point for the economy, but positive feedback—increasing rerums—makes for many possible equilibrium points. There is no guarantee that the particular economic outcome selected from among the many alter-

W. BRIAN ARTHUR is Morrison Professor of Population Studies and Economics at Stanford University. He obtained his Ph.D ??om the University of California. Berkeley, In 1973 and holds graduate degrees In operations research, economics and mathematics. Until recently Arthur was on leave at the Santa Fe Institute, a research institute dedicated to the study of complex systems. There he directed a team of economists, physicists, biologists and others investigating behavior of the economy as an evolving. complex system. by W. Brian Arthur natives will be the "best" one. Furthermore. once random economic events select a particular path, the choice may become locked-in regardless of the advantages of the alternatives. If one product or nation in a competitive marketplace gets ahead by "chance." it tends to stay ahead and even Increase its lead. Predictable, shared markets are no longer guaranteed.

During the past few years I and other economic theorists at Stanford University, the Santa Fe Institute in New Mexico and elsewhere have been developing a view of the economy based on positive feedback. Increasing-returns economics has roots that go back 70 years or mote. but its application to the economy as a whole is largely new. The theory has strong parallels with modem nonlinear physics (instead of the pre-20th-century physical models that underlie conventional economics), it recluses new and challenging mathematical techniques and it appears to be the appropriate theory for understanding modem high-technology economies.

The history of the videocassette recorder furnishes a simple example of positive feedback. The VCR market started out with two competing formats selling at about the same price: VHS and Beta. Each format could realize Increasing returns as its market share Increased: large numbers of VHS recorders would encourage video outlets to stock more prerecorded tapes in VIIS format, thereby enhancing the value of owning a VIIS recorder and leading mote people to buy one. (The same would, of course, be true for Beta-format players.) In this way, a small gain in market share would Improve the competitive position of one system and help it further increase its lead.

Such a market is initially unstable. Both systems were introduced at about the same time and so began with roughly equal market shares; those shares fluctuated early on because of external circumstance, "luck" and corporate maneuvering. Increasing returns on early gains eventually tilted the competition toward VHS: It accumulated enough of an advantage to take virtually the entire VCR market.

Yet it would have been Impossible at the outset of the competition to say which system would win, which of the two possible" equilibria would be seleered. Furthermore, if the claim that Beta was technically superior Is true, then the market's choice did not represent the best economic outcome.

Conventional economic theory offers a different view of competition between two technologies or products performing the same function. An example is the competition between water and coal to generate electricity. As hydroelectric plants take more of the market, engineers must exploit more costly dam sites, thereby increasing the chance that a coal-fired plant will be cheaper. As coal plants take more of the market. they bid up the price of coal (or trigger the imposition of costly pollution controls) and so tip the balance toward hydropower. The two technologies end up sharing the market in a predictable proportion that best exploits the potentials of each, in contrast to what happened to the two video-recorder systems.

The evolution of the VCR market would not have surprised the great Victorian economist Alfred Marshall one of the founders of today's conventional economics. In his 1890 Principles of Economics, he noted that if firms" production costs fall as their market shares Increase, a rum that simply by good fortune gained a high proportion of the market early on would be able to best its rivals; "what. ever firm first gets a good start" would corner the market. Marshall did not follow up this observation, however. and theore??cal economics has until recently largely ignored it.

Marshall did not believe that mcreasing returns applied everywhere; agriculture and mining—the marestays of the economies of his time— were subject to diminishing returns caused by limited amounts of fer??le land or high-quality ore deposits. Manufacturing, on the other hand. enjoyed increasing returns because large plants allowed improved organization. Modern economists do not see economies of scale as a reliable source of increasing returns. Sometimes large plants have proved more economical; often they have not.

I would update Marshall's insight by observing that the parts of the economy that are resource-based (agriculture. bulk-goods production, mining) are still for the most part subject to diminishing returns. Here conventional economics rightly holds sway. The parts of the economy that are knowledge-based, on the other hand. are largely subject to increasing returns. Products such as computers, pharmaceuticals, missiles, aircraft, automobiles. software, telecommunications equipment or fiber optics are complicated to design and to manufacture. They require large initial investments in research, development and tooling. but once sales begin, incremental production is relatively cheap. A new airframe or aircraft engine, for example. typically costs between $2 and $3 billion to design, develop, certify and put into production. Each copy thereafter costs perhaps $50 to $100 million. As more units are built, unit costs continue to fall and profits increase.

Increased production brings additional benefits: producing more units means gaming more experience in the manufacturing process and achieving greater understanding of how to produce additional units even more cheaply. Moreover. expenence gained with one product or technology can make it easier to produce new products incorporating similar or related technologies. Japan-for example, leveraged an initial investment in building precision instruments into a capacity for building consumer electronics products and then the integrated circuits that went into them.

Not only do the costs of producing high-technology products fall as a company makes more of them. but the benefits of using them increase.

Many items such as computers or telecommunications equipment work m networks that require compatibility; when one brand gains a significant market share, people have a strong incentive to buy more of the same product so as to be able to exchange information with those using it already.

If increasing returns are important. why were they largely Ignored until recently? Some would say that complicated products-high technology-for which increasing returns are so Important. are themselves a recent phenomenon. This is true but is only part of the answer. After all, in the 1940's and 1950's. economists such as Gunnar K. Myrdal and Nicholas Kaldor identified positive-feedback mechanisms that did not revolve technology. Orthodox economists avoided increasing returns for deeper reasons.

Some economists found the existence of more than one solution to the same problem distasteful—unscientific. "Multiple equilibria." wrote Joseph A. 5chumpeter in 1954, "are not necessarily useless, but from the standpoint of any exact science the existence of a uniquely determined equilibrium is, of course, of the utmost Importance. even if proof has to be purchased at the price of very restrictive assumptions; without any possibility of proving the existence or [a] uniquely determined equilibrium— or at all events, of a small number of possible equilibria—at however high a level of abstraction, a field of phenomena is really a chaos that is not under analytical control."

Other economists could see that

ALL A

RANDOM WALK on a convex surface illustrates increasing-returns competition between two technologies. Chance determines early patterns of adoption and so influences how fast each competitor improves. As one technology gains mort adherents (corresponding to motion downhill toward either edge of the surface), further adoption is increasingly likely.

SCIENTIFIC AMERICAN February 1990 93

FLORENCE CATHEDRAL CLOCK has hands that move "counterclockwise" around its 24.hour dial When Paolo Uccello designed the clock in 1443. a convention for clockfaces had not emerged. Competing designs were subject to increasing returns: the more clockfaces of one kind were built, the more people became used to reading them. Hence. it was more likely that future clockfaces would be of the same kind. After 1530. "clockwise" designs displaying only 12 hours had crowded out other designs. The author argues that chance events coupled with positive feedback. rather than technological superiority, will often determine economic developments. theories incorporating increasing returns would destroy theft familiar world of unique, predictable equilibria and the notion that the market's choice was always best. Moreover, if one or a few firms came to dominate a market, the assumption that no firm is large enough to affect market prices on its own (which makes economic problems easy to analyze) would also collapse. When John R. Hicks surveyed these possibilities in 1939 he drew back in alarm. "The threatened wreck. age." he wrote. "is that of the greater part of economic theory." Economists restricted themselves to diminishing returns, which presented no anomalies and could be analyzed completely.

Still others were perplexed by the question of how a market could select one among several possible solutions. In Marshall's example, the firm that is the largest at the outset has the lowest production costs and must inevitably win in the market. In that case. why would smaller firms compete at all? On the other hand. if by some chance a market started with several identical firms, their market shares would remain poised in an unstable equilibrium forever.

Studying such problems in 1979, I believed I could see a way out of many of these difficulties. In the real world, if several similar-size firms entered a market at the same time, small fortuitous events—unexpected orders, chance meetings with buyers, managerial whims—would help determine which ones achieved early sales and, over time, which firm dominated. Economic activity is quantized by individual transactions that are too small to observe, and these small "random" events can accumulate and become magnified by positive feedbacks so as to determine the eventual outcome. These facts suggested that situations dominated by increasing returns should be modeled not as static, deterministic problems 94 SCIENTIFIC AMERICAN February 1990 as dynamic processes based on ??ndom events and natural positive feedbacks, or nonlinear??ties

With this strategy an increasingreturns market could be re-created in a theoretical model and watched as its corresponding process unfolded again and again. Sometimes one solution would emerge, sometimes (under identical conditions) another. It would be impossible to know in advance which of the many solutions would emerge in any given run. Still, it would be possible to record the particular set of random events leading to each solution and to study the probability that a particular solution would emerge under a certain set of initial conditions. The idea was simple, and it may well have occurred to economists m the past. But making it work called for nonlinear random-process theory that cud not exist in their day.

Every increasing-returns problem need not be studied in isolation; many rum out to fit a general nonlinear probability schema. It can be pictured by imagining à table to which balls are added one at a time; they can be of several possible colors—white, red, green or blue. The color of the ball to be added next is unknown, but the probability of a given color depends on the current proportions of colors on the table. If an increasing proportion of balls of a given color increases the probability of adding another ball of the same color, the system can demonstrate positive feedback. The question is. Given the function that maps current proportions to probabilities, what will be the proportions of each color on the table after many balls have been added?

In 1931 the mathematician George Polya solved a very particular version of this problem in which the probability of adding a color always equaled its current proportion. Three U.S. probability theorists, Bruce M. Hill of the University of Michigan at Ann Arbor and David A. Lane and William D. Sudderth of the University of Minnesota at Minneapolis. solved a more general nonlinear version in]980. In 1983 two Soviet probability theorists. Yuri M. Ermoliev and Yuri M. Kaniovski, both of the Glushkov Institute of Cybernetics in Kiev, and I found the solution to a very general version. As balls continue to be added, we proved, the proportions of each color must settle down to a "fixed point" of the probability function—a set of values where the probability of adding each color is equal to the proportion of that color on the table. Increasing returns allow several such sets of fixed points.

This means that we can detern the possible patterns or soluti?? of an increasing-returns problem by solving the much easier challenge of finding the sets of fixed points of its probability function. With such tools economists can now define increasing-returns problems precisely, identify their possible solutions and study the process by which a solution is reached. Increasing returns are no longer "a chaos that is not under arialytical control."

In the real world, the balls might be represented by companies and their colors by the regions where they decide to settle. Suppose that firms enter an industry one by one and choose their locations so as to maximize profit. The geographic preference of each firm (the intrinsic benefits it gains from being in a particular region) vanes; chance determines the preference of the next firm to enter the industry. Also suppose, however, that firms" profits increase if they are near other firms (their suppliers or customers). The first firm to enter the industry picks a location based purely on geographic preference. The second firm decides based on preference modified by the benefits gained by locating near the first firm. The third firm is influenced by the positions of the first two firms, and so on. If some location by good fortune attracts more firms than the others in the early stages of this evolution, the probability that it will attract more firms increases. Industrial concentration becomes self-reinforcing.

The random historical sequence of firms entering the industry deter. mines which pattern of regional setdement results, but the theory shows that not all patterns ate possible. If the attractiveness exerted by the presence of other firms always rises as more firms are added, some region will always dominate and shut out all others.

If the attractiveness levels off, other solutions, in which regions share the industry, become possible. Out new tools tell us which types of solutions can occur under which conditions.

Do some regions in fact amass a large proportion of an industry because of historical chance rather than geographic superiority? Santa Clara County in California (Silicon Valley)'is a Likely example. In the 1940's and early 1950's certain key people m the U.S. electronics industry—the Varian brothers, William Hewlett and David Packard. William Shockley-set up shop near Stanford University; the local availability of engineers, supplies and components that these early firms helped to create made Santa Clara County extremely attractive to the or so firms that followed. If these eatly entrepreneurs had preferred other places, the densest concentration of electronics in the country might well be somewhere else.

On a grander scale, if small events m history had been different, would the location of cities themselves be different? 1 believe the answer]s yes. To the degree that certain locations are natural harbors or junction points on rivers or lakes, the pattern of Ones today reflects not chance but geography. To the degree that industry and people are attracted to places where such resources are already gathered, small early chance concentrations may have been the seeds of today's configuration of urban centers. "Chance and necessity," to use Jacques Monod's phras??ract. Both have played crucial ro?? the development of urban centers ?? the U.S. and elsewhere.

Self-reinforcing mechanisms other than these regional ones work in international high-tech man. ufacturing and trade. Countries that gain high volume and experience in a high-technology industry can reap advantages of lower cost and higher quality that may make it possible for them to shut out other countries.

For example, in the early 1970's, Japanese automobile makers began to sell significant numbers of small cats in the U.S. As Japan gained market vol. tune without much opposition from Detroit. its engineers and production workers gained experience, its costs fell and its products improved. These factors, together with improved sales networks, allowed Japan to increase FERROMAGNETS AND REGIONAL RAIL GAUGES become ordered in much the way. As a disordered magnetic material is cooled (left% the atomic dipoles inside it exert tortes on one another, causing neighboring dipoles to align. Eventually all the dipoles in a sample line up, but the direction they all take (up or down) cannot be predicted beforehand. Similarly, as Douglas Puffert of Swarthmore College has shown, neighboring private railroads (right) hs the past century adopted the same gauge to extend their range mole easily. Eventually all (or most) railroads used the Same gauge. Similar equations describe the behavior of these two system.5. SCIENTIFIC AMERICAN February 1990 95 its share of the U.S. ?? as a resuit. workers gained ?? expert. ence, costs fell further and quality improved again. Before Detroit responded seriously, this posture-feedback loop had helped Japanese companies to make serious inroads into the U.S. market for small cars. Similar sequences of events have taken place m the markets for television sets. rotegrated circuits and other products.

How should countries respond to a world economy where such rules apply? Conventional recommendations for trade policy based on constant or diminishing returns tend toward lowprofile approaches. They rely on the open market, discourage monopolies and leave issues such as R&D spending to companies. Their underlying assumption is that there is a fixed world price at which producers load goods onto the market, and so interference with local costs and prices means of subsidies or tariffs is unp?? ductive. These policies are appropriate for the diminishing-returns parts of the economy, not for the technology-based parts where increasing rerums dominate.

Policies that are appropriate to success in high-tech production and international trade would encourage industries to be aggressive in seeking out product and process improvements. They would strengthen the national research base on which hightech advantages are built. They would encourage rums in a single industry to pool their resources in joint ventures that share up-front costs, marketing networks, technical knowledge and standards. They might oven foster strategic affiances, enabling comparues in several countries to enter a complex industry that none could NONLINEAR PROBABILITY THEORY can predict the behavior of systems subject to Increasing terns. in this model. balls of different colors are added to a table; the probability that the next ball will have specific color depends on the current proportions of colors (top). increasing term-ns occur in A (the graph shows the two-color case: arrows indicate likely directions of motion): a red ball is mote likely to be added when there is already a bi fib proportion of" red halls. This case has two equilibrium points: one at which almost all balls are red; the other at which very few are red. Diminishing terns occur in B: a higher proportion or red balls lowers the probability of adding another. There is a single equilibrium point. A corn. bination of increasing and diminishing returns (C) yields many equilibrium points. 98 SCIENTIFIC AMERICAN February 1990 tackle alone. Increasing-returns theory also points to the Importance of timing when undertaking research initiatives in new industries. There is little sense in entering a market that is already close to being locked-in or that otherwise offers Little chance of success. Such policies are slowly being advocated and adopted in the U.S.

The value of other policies, such as subsidizing and protecting new industries—bioengineering, for example-to capture foreign markets, Is debatable. Dubious feedback benefits have sometimes been cited to justify goveminent-sponsored white elephants. Furthermore, as Paul R. Krugman of the Massachusetts Institute of Technology and several other economists have pointed out, if one country pursues such policies, others will retaliate by subsidizing their own high-technology industries. Nobody gains The question of optimal industrial and trade policy based on increasing returns is currently being studied In. tensely. The policies countries choose will determine not only the shape of the global economy in the 1990's but also its winners and its losers. Increasing-returns mechanisms do not merely tilt competitive balances among nations; they can also cause economies-even such successful ones as those of the U.S. and Japan-to become locked into inferior paths of development. A technology that improves slowly at first but has enormous long-term potential could easily be shut out, locking an economy if. to a path that is both inferior and difficult to escape.

Technologies typically improve u more people adopt them and firms gain experience that guides further development. This link is a positive-feedback loop: the more people adopt a technology, the mote it improves and the more attractive it is for further adoption. When two or more technologies (like two or more products) compete, positive feedbacks make the market for them unstable. If one pulls ahead in the market, perhaps by chance, its development may accelerate enough for it to comet the market. A technology that improves more rap. idly as mote people adopt it stands a better chance of surviving—it has a "selectional advantage." Early superiority, however, is no guarantee of long-term fitness.

In 1956, for example., when the U.S. embarked on its nuclear, power program. a number of designs were proposed: reactors cooled by gas, light water, heavy water, even liquid sodi

COMPANIES CHOOSE LOCATIONS to maximize profits, which are determined by intrinsic geographic preference (shown by color) and by the presence of other companies, in this computer-generated example, mast of the first few companies set. de in the green region, and so all new companies eventually settle there. Such clustering might appear to imply that the green region is somehow superior. In other runs of the program, however, the red and blue regions dominate instead. urn. Robin Cowan of New York University has shown that a series of trivial circumstances locked virtually the en??e U.S. nuclear industry into light water. Light-water reactors were originally adapted from highly compact units designed to propel nuclear submarines. The role of the U.S. Navy in early reactor-construction contracts, efforts by the National Security Council to get a reactor—any reactor— working on land in the wake of the 1957 Sputnik launch as well as the predilections of some key officials all acted to favor the early development of Light-water reactors. Construction experience led to improved light-water designs and. by the mid-1960's, fixed the industry's path. Whether other designs would, in fact, have been superior in the long run is open to question, but much of the engineering literature suggests that high-temperature, gas-cooled reactors would have been better.

Technological conventions or standards, as well as particular technologies, tend to become locked-in by positive feedback, as my colleague Paul A. David of Stanford hes documented in several historical instances. Although a standard itself may not improve with time, widespread adoption makes it advantageous for newcomers to a field—who must exchange information or products with those already working there—to fall in with the standard, be it the English language, a high-definition television system, a screw thread or a typewriter keyboard. Standards that ate established early (such as the 1950's-vintage computer language FORTRAN) can be hard for later ones to dislodge, no matter how superior would-be successors may be.

Until recently conventional economics texts have tended to portray the economy as someflung akin to a large Newtonian system, with a unique equilibrium solution preordained by patterns of amoral resources, geography, population, consumer tastes and technological possibilities. In this view, perturbations or temporary shifts—such as the oil shock of 1973 or the stock, market crash of 1987—are quickly negated by the opposing forces they elicit. Given future technological possibilities, one should in theory be able to forecast accurately the path of the economy as a smoothly shifting solution to the analytical equations governing prices and quantities of goods. History, in this view, is not terribly important; It merely delivers the economy to its inevitable equilibrium.

Positive-feedback economics, on the other hand, finds its parallels in modern nonlinear physics. Ferromagnetic materials, spin glasses, solid-state lasers and other physical systems that consist of mutua?? elements show the same properties as the economic examples I have given.

They #phase lock" into one of many possible configurations; small perturbations at critical tunes influence which outcome is selected, and the chosen outcome may have higher enerr/(that Is, be less favorable) than other possible end states.

This kind of economics also finds parallels in the evolutionary theory of punctuated equilibrium. Small events the mutations of history) are often averaged away, but once in a while they become all-important in tilting parts of the economy into new structures and patterns that ate then proserved and built on in a fresh layer of development.

In this new view, initially identical economies with significant increasing. returns sectors do not necessarily select the same paths. Instead they eventually diverge. To the extent that small events determining the overall path always remain beneath the resolution of the economist's lens, accurate forecasting of an economy's future may be theoretically, not just practically, impossible. Steering an economy with positive feedbacks into the best of its many possible equilibrium states requires good fortune and good timing—a feel for the moments when beneficial change from one pattern to an. other is most possible. Theory can help identify these states and times, and it can guide policymakers in applying the right amount of effort (not too little but not too much) to dislodge locked-in structures.

The English philosopher of science Jacob Bronows??d once remarked that economics has long suffered from a fatally simple structure imposed on it in the 18th century. I find it exciting that this is now changing. With the acceptance of positive feedbacks, economists" theories are beginning to portray the economy not as simple but as complex, not as deterministic, predictable and mechanistic but as process-dependent, organic and always evolving.

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SCIENTIFIC AMERICAN February 1990 99

BYLINE: From LARRY CAMPBELL in Atlanta District of Colum??ia

BODY:

NETWORK computing industry leader Novell is bailing out of a number of its existing markets and terminating several product lines—including Novell DOS 7 to concentrate on new "technology initiatives" and usher in an era of "pervasive computing"

Novell is initially pulling out of the personal computer operating system business by stopping production of Novell DOS 7, a product it acquired as part of its take-over of Digital Research.

"The battle for the office desktop is over and MS-DOS and Windows have won," Novell chairman and chief executive Robert Frankenberg said at last week's Networld+Interop "94 conference in Atlanta, Georgia, in the United States.

"We will support Novell DOS, but we will not enhance it."

"Novell has as much DOS marketshare as Microsoft has network marketshare," said Novell executive vice-president John Edwards.

"we are focusing on strong areas."

Novell used Networld+Interop "94 to introduce these strong areas, which are part of its vision of the future of computing.

Novell sees networking as it is today evolving to encompass a much wider, global concept. It envisages everyone now owning a computer will use networking technology—through the global information superhighway, among other things.

It also expects a growing number of people using computers for the first time in future will also need to connect to information hubs to share and exchange information.

"Our goal is to take people one step at a time," Mr Edwards said.

"The future is pervasive computing: connecting people to allow them to work anytime they want—any way."

The term "Pervasive computing" is one Novell has chosen to define its

South China Morning Post, September 20, 195 vision for the future. To usher it in, the company is turning its attention to a range of new products—encompassing operating systems and user interfaces—and services.

Top of the list is SuperNOS, a planned killer operating system that will see the best of Novell's existing NetWare network operating system being combined with the best of UnixWare—its UNIX counterpart.

There are an estimated 40 million NetWare users on four million local area networks (LANs) worldwide—more than double the number of users of all other network operating systems combined.

In addition, there are about 30 million users of UNIX applications around the world.

It is this formidable market that Novell aims to capture with SuperNOS, according to Mr Frankenberg.

"The time has come for NetWare NOS to provide all the services of an operating system," he said.

"This is why we are evolving a SuperNOS with NetWare and UNIXWare on a common Novell microkernel.

"We have left the world of the mainframe. Organisations have many servers. By ensuring that NetWare and UNIXWare work perfectly together, we allow our customers to chose which technology they need on which servers."

Novell planned to make both products run on a single set of hardware, or "as a single system image on multiple hardware sets" on a network.

"You get the best of both and a progressive, evolutionary path from today's specialised, robust backend," he said.

"All applications, trained programmers, tools, interoperability, support, and network services continue on without change. Perhaps best of all, we build on success, adding functionality rather than simply re-writing the old." SuperNOS is still a "concept", according to Mr Edwards.

"(It is a) codename for a technology initiative to bring the best of UNIX and NetWare together in a common system"

When complete, the system would be open to licensing and would be provided on a wide range of platforms, he said.

In addition to its focus on the network operating system market, Novell is also looking at the client side of the business.

Last week Mr Frankenberg unveiled plans for an "advanced Novell client interface that will make it compelling to be connected networks"

Featuring a graphical three-dimensional user interface with a "world metaphor", the system would make network navigation simple for the first time, he said.

South China Morning Post, September 20, 199.,

However, it would not be a new operating system in its own right, Mr Edwards said.

Instead, it would be built on existing systems such as Windows 95.

"We will see over four to six months of demonstrating and customer testing of this system (before it is brought to market)," he said.

"It will browse the Internet, NetWare and NCS networks and live in MS Windows, Chicago, UNIXWare and other desktop operating systems," Mr Frankenberg said.

"It will bring not only these end user services, but also compelling consistent NAPIs (network application programmer interfaces) for Windows, UNIX and other developers to unlock the power of the network from client applications."

These new areas of focus do not just see Novell pulling out of the desktop operating system market—which was itself a move the market "welcomed", Mr Frankenberg said.

In addition, Novell is pulling out of the database business, up to a point. Having sold off Btrieve, its database product, the company is now only working with partners in the database area.

It will steer clear of creating vertical applications and, while working with information service providers as part of its networking technology initiative, it will not become an information service provider itself, or attempt to provide communications infrastructure.

"This frees up a considerable number of people who are now making the network fulfil our vision," Mr Frankenberg said.

Hardware would also be an area that Novell would abstain from dabbling in, he said.

"(Former Novell chairman and chief executive) Ray Noorda got us off hardware in the "80s. I will keep us on the wagon in the "90s," he said.

Microsoft's Operating System and Application Strategy for Servers Fine-Tuning Microsoft's Server Strategy

Microsoft competitors have taken great pleasure in the slow acceptance of the much hyped NT. Some of this gloating is certainly well deserved. After a long period of anticipatory eulogies for competitive operating systems, NT barely shipped 400,000 units in its first full year of availability. This is one-sixth the number of OS/2 shipments and only marginally higher than Solaris" 1993 shipments (see Figure I). Moreover. the majority of NT shipments axe either free copies or axe being used for development or evaluation.

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Figure 1: Licenses of 32-Bit Operating Systems Shipped in 1993 (thousands of units)

Are competitive OS vendors beginning their celebrations too soon? After all, consider how much solace Apple took in the slow acceptance of Windows. Just as importantly, many NT cynics are finding their evidence in the wrong places. They axe looking at the small number of total NT units, the minimal acceptance on the desktop and the technical deficiencies of the operating system. Many of those competitors who view NT as a server operating system are focusing on comparisons with and difficulties in displacing NetWare.

Those who want to objectively assess the prospects for NT should instead examine the positioning, capabilities and increasingly high-profile endorsements of NT as an application server operating system. While NT's acceptance as a desktop and file server OS has been slow. a growing number of large, leading-edge corporate customers see tremendous potential for NT as an application server in department-sized environments. More importantly, Microsoft has optimized NT's server capabilities by segmenting its development focus between desktop and server versions and by introducing a broad range of complementary server offerings.

Meanwhile, most of the leading server application vendors—including those introducing client/server versions of applications that had been available only on minicomputers and mainframes— have selected NT as one of their first server operating systems, and the one offering the largest market potential. What are NT's real prospects as a server operating system': How can one capitalize on its potential without making their company's future too dependent on Microsoft and ,'OT?

Windows NT: The Rumors of its Death Are Premature

Make no mistake. Windows NT and its successors are Microsoft's strategic operating system. As Microsoft Executive Vice President Mike Maples states. "by the end of the 1990s there will be one Microsoft operating system—NT— but there will be three of them: NT Advanced Server, NT Advanced Workstation and Windows NT" (see Figure 2) Microsoft views the slow initial acceptance of NT as only a relatively minor delay in its quest for global software domination.

As discussed in Summit Strategies" report, Profiting from the Transition from Personal Desktops to Enterprise Desktops, initial NT desktop acceptance will Figure 2: Future of the Windows Architecture be limited primarily to engineering, publishing, software development, trader workstation and a few other specialized applications with particular performance. security and reliability requirements. This will begin to change as developers write applications to Win32. Most of these applications will be optimized for Chicago. but they also will provide hative performance on NT Workstation and. then, on Cairo.

The story is very different for NT Server. NT Server is Microsoft's future. It is THE FOUNDATION of all of Microsoft's target growth markets— workgroup, department, enterprise. advanced consumer and information highway. Microsoft, however, has little or no experience or credibility in those markets. It must develop them essentially from scratch.

Microsoft recognizes these limitations and is dedicating extensive commitment and resources to its efforts to establish NT as a standard server operating system. It has carefully studied the factors that made other enterprise and server operating systems successful and has developed a strategy that combines some of the most important of these factors with Microsoft's own unique twists. NT Server as the Foundation for Microsoft's Solution Platform Microsoft's most obvious work on NT is in the form of Daytona, which will be more formally known as Windows ,NT 3.5. Daytona will deliver higher performance with smaller memory and will provide better reliability, robustness. SMP support and connectivity than version 3.1.

It will be divided into two optimized versions—one for advanced desktop users (NT Workstation) and one for servers (NT Server). This division will mark the beginning of separate, but still binary compatible code bases that are targeted at separate markets. Daytona also will provide a migration path to Cairo I NT version 4.0), the scaleable, object-oriented OS that Microsoft plans to release by the end of 1995.

However. as important as all of these operating system enhancements may be, they are only the foundation of a much broader Microsoft server strategy. This strategy is based on a broad range of server applications that Microsoft is developing to run on top of NT Server and which will tailor the OS for use in specific functions.

Microsoft plans to ship five server applications that will run on top of NT Server. some of which are already shipping: SQL Server. SNA Server. Systems Management Server. Exchange Server. and "Tiger" Video Server.

These server applications will likely be joined by others, including a search and navigation engine, server versions of many of its client-based Microsoft Ofrice applications and. possibly, some "diagonal" server-based business applications, such as accounting, human resources management and sale, automation. Microsoft is also developing an online service t code-named Marve?? that ,a ill generally compete with Prodigy and America Online.

Although these server applications are very different from each other, all share at least two important factors: They are designed as general, extensible frameworks on which partners are encouraged to write their own specialized applications: and each is available on and optimized for use with NT Server and is designed to work seamlessly with all other Solution Platform tools and applications.

The combination of these factors will make NT Server a unique, very formidable server operating environment. Creating a Consistent, Universal Server Environment Each Microsoft server applications competes with some third-party offerings. SQL Server. for example. competes with Oracle7 and Sybase System 10. Exchange competes with Lotus Notes and Novell GroupWise.

,Microsoft. however, is positioning each of these applications as generalized. extensible platforms on top of which smaller, more specialized and verticallyfocused applications can be when.

Like Oracle and Sybase. Microsoft is attracting third-party developers to write specialized applications on top of its own generalized platforms. Unlike Oracle and Sybase, however, Microsoft will not develop these applications itself. It will leave this add-on market exclusively to third-party partners and has developed a number of large, well-funded cooperative technical, marketing, distribution and consulting programs to help these partners enter and expand their markets. .Microsoft has already attracted more than 600 partners to write applications on top of SQL Server. more than 25 to write for Systems Management Server. and 70 partnets to write for Exchange Server. SQL Server applications, for example, range from diagonal accounting and document management through vertical applications for insurance and health care.

This base of third-party applications will help make the generalized Microsoft Server Platform a viable foundation for a broad range of highly specialized applications. In and of itself, however, this is not different from what is provided by competitive OSs (i.e., NetWare and Unix), databases (such as Oracle7) and groupware environments (such as Notes). Microsoft. though, takes a giant step beyond these competitive environments by:

Optimizing its applications for, and integrating them closely into its OS to provide fast performance, permit the application to take full advantage of all operating system capabilities (without duplicating them) and provide the basis for integrating important application capabilities directly into future versions of the OS.

Providing a common set of development tools and integration protocols that allow third-party applications to be easily integrated into and take full advantage of the operating system and all Microsoft server applications and to integrate closely with Microsoft desktop OSs and applications.

This integration is critical to Microsoft's entire server strategy, it provides developers with a single set or" APIs and communications protocols with which they can develop to all Microsoft desktop and server OSs and integrate with all compliant Microsoft and third-party applications. It provides customers with a modular, comprehensive. "easy-toown" server environment.

Microsoft also is laying out a road map under to make this integration closer and deeper. As a result, data semantics and query technology will be common across both desktop and server components and communications will be facilitated between them.

More importantly, the OLE object model—already supported by all Microsoft and a small, but growing number of third-party applications—will form the foundation of Microsoft's next-generaLion Cairo operating system. In addition. many new Microsoft products are based on a technology that will be used in Cairo. This will simplify the upgrade path to Cairo and will allow the new OS to take over many of the capabilities of previously distinct applications.

Since Cairo will be a pure object-based OS, it will be highly modular. Components will be easily added, deleted or replaced, making it relatively easy for resellers or customers to customize the operating system and incorporate traditionally distinct functions into it. In fact, since all Microsoft server applications will fit into a single, integrated Cairo model, it will be almost impossible to distinguish between the operating system and the applications.

Redefining Server Industry Rules to Match Microsoft Strengths Microsoft's approach promises to make NT Server a much more comprehensive. integrated server environment than is available from any other client/server operating system, relational database or messaging backbone vendor. In fact. NT Server will approach the level of integration that previously had been available only in proprietary mainframe and minicomputer environments.

In and of itself, this integration will be attractive to large numbers of customers. application developers. OEMs and resellers, but Microsoft plans to go even further. It will offer these capabilities in a new way that no other competitor can directly match. It will combine capabilities that had traditionally been available only as high-priced, customdeveloped solutions on expensive platforms with price levels and distribution channels that were available only for basic PC-level solutions. In other words. Microsoft plans to redefine the rules of competition in the server operating system and applications market.

It will rewrite these rules in a way that builds on its existing business model and makes it difficult, if not impossible, for other vendors to follow.

Summit Strategies believes that Microsoft will execute this strategy gradually and in a way that permits the incremental extension of its traditional low-overhead, product-oriented, virtual company business model.

It will establish this presence in e niche in which there is very little entrenched competition—department-level, decision support application servers (see Figure 4). It will position the NT server environment as a more functional, scalable application platform than NetWare and a less expensive, easier-to-own alternative to Unix. While Microsoft plans to ultimately replace NetWare and Unix, initially it will coexist with them by emphasizing connectivity with Unix and its use as an application server within existing NetWare file server environments.

Enterprise Application Server
??
File/Print
Workgroup Application Serve,
Unix Core Market
?? Server
Core Market Core Market
1993
2000
Source: Su?? Strategies, Inc.

Figure 4 : Microsoft's Trojan Horse Strategy

Microsoft will use this market as a beachhead from which to expand gradually into complementary segments, such as department-level and branch transaction servers, workgroup application servers. file and print servers and eventually, into some division-level environments. Summit Strategies expects this strategy to allow Microsoft to grow NT's position in the network server operating system market from about 2.5 percent in 1993, to almost 15 percent by 1997. It will play much larger roles in the application server market and. especially, in the lowend to midrange of that market. Obstacles to Microsoft's Dominating the Application Server—

Part I

Microsoft is certainly well-positioned to establish a strong position in the application server market. Its success, however, is far from assured. The company still faces a number of strong competitors and must overcome a number of self-imposed obstacles. These obstacles fall into two primary categories: some are product-based while the others are a result of the company's business model. Microsoft's productbased obstacles are:

The perceived unreliability of

Microsoft server solutions Everybody recognizes the limitations inherent in the Windows desktop environment. Most customers are willing to put up with these Limitations in return for the benefits of low cost, application availability and standardization. Customers, however, are much less willing to accept such limitations in application server environments, particularly when they are using the servers to run business-critical applications that had previously been entrusted only to mainframes and mini-computers.

On one ban". NT is relatively robust for a Version 1.0 operating system. However. it is still immature, unproven and lacks many of the complementary tools that will be required for acceptance in business-critical environments. Microsoft does promise more robust upgrades to its operating system. RDBMS and communications software, new versions of needed system management and messaging software, and improved fault tolerance and recoverability. However. its continual missed shipment deadlines do not instill great confidence.

The limited openness and scalability of the Microsoft solution

Although Microsoft operating systems may be standards, they are not open. This creates a risk, since customers who adopt them will have a difficult time migrating to another operating systems, should the need arise. This problem will be particularly acute for customers who buy into Microsoft's server applications. since these applications will be available exclusively on NT Server and will be integrally linked to it.

This lock-in could be particularly dangerous for customers who require that their applications be highly scaleable, up through enterprise environments. Microsoft solutions currently support symmetric multiprocessing and will support clustering and be portable to all major processors. However, NT Server is currently tuned for single and dual processing. Its next implementation is only likely to scale to four processors. which is far below the 16- to 30-CPU tuning of a number of versions of Unix. There are, however, mitigating factors for each of these concerns. Consider robustness. While Microsoft has missed deadlines in shipping virtually all of its key products, once they do ship. they are reasonably stable and deliver on most of the company's promises. When push comes to shove, most customers would prefer to receive a stable product late. than a buggy product on time. But. regardless of when Microsoft ships. computing environments with overwhelming needs for proven, reliable server environments are unlikely to select Microsoft products, at least for the next several years.

As for openness and portability, it is largely a question of target markets and tradeoffs. Generally speaking, large corporate MIS departments are most likely to demand that their server environments be open, flexible and scalable. Most of these MIS groups have the capabilities or the resources required to configure. develop for and administer these solutions. In contrast, many small businesses and department-level customers will be willing to trade off such benefits in return for solutions that are easier and less expensive to buy, configure and manage, and for which off-the-shelf applications are generally available.

The percentage of the market that will fall into each camp is certainly debatable. While everyone says that they want open, scalable and robust solutions, when it comes time to make a final decision. Summit Strategies believes that many more customers will choose easy, cheap and standard.

Obstacles to Microsoft's
Dominating the Application
Server—Part II

The other, and more difficult obstacles to Microsoft's success in the server market are more dependent on the company's business model and style of operation, than on its technology. Summit Strategies sees three primary. obstacles in this category.

Microsoft's penchant for making enemies

Microsoft has always had a way of making enemies due to such factors as its sheer market power, position as industry upstart, cockiness, and the ruthless way in which it often deals with competitors and partners alike. On one hand. vendors have no choice but to cooperate with a company that is dominant in the market in which they wish to participate (as Microsoft is on the desktop). On the other hand. vendors can avoid, or actively help to defeat those companies which do not yet have market dominance.

Microsoft's lack of an enterprise marketing and support organization Microsoft developed its business model around a product-focused, low-overhead. indirect sales and support model. This model was well-suited to the company's initial goal of selling high volumes of low-cost, non-mission-critical products into low levels of business organizations.

However, Microsoft is now targeting with its server products towards the business solutions market, which developed around a totally different business model. Its customers, therefore, have very different requirements. Microsoft does not have or plan to develop the type of direct sales. Implementation consulting or 7124, heterogeneous, on-site support capabilities that many business customers expect from their key system software vendors. While Microsoft is enhancing its direct marketing, consulting and support capabilities, it will rely on third-party partners to provide most of these capabilities. There is no evidence to suggest that its new target market is ready for this type of "virtual company" model.

Microsoft's confusing market messages

Microsoft doesn't seem to know what it wants to be when it grows up. On one hand, it insists that it is preparing to become an enterprise solutions vendor.

It claims that NT Server and its accompanying applications will provide the robustness, scaleability, reliability, capabilities and features of traditional enterprise solutions. On the other hand, its product releases, actions and distri bution and support programs suggest that Microsoft is really targeting department- level markets. These mixed messages are extremely confusing to customers and partners, and damages Microsoft's credibility as a business systems provider. Summit Strategies believes that Microsoft will ultimately recognize that its most natural and responsive customer base, its partner franchise, and its largest potential, most strategic market lies in department-level and branch environments. It will focus its product development, its marketing resources and its partnership programs at this segment.

Once it captures a dominant and sustainable position in this core market, it will expand in both directions—downward into file server and workgroup markets and upward into enterprise-level markets.

Microsoft, however, must address a number of other issues before it can nope to effectively address even these department-level and branch application server markets. It must build the type of in-house infrastructure required to establish credibility in these markets and attract the type of application, distribution, integration and support partners that can address these customers" real needs.

As fully discussed in the next report m this series, Microsoft's Market. Channel and Partner Development Strategy for Servers. Microsoft recognizes many of these requirements and is making more progress in addressing them than is generally recognized.

In summary, Microsoft will certainly be a force to be reckoned with in the application server market. Anyone who hopes to play in this market must understand where Microsoft is going and how the company will change the rules of competition to its own advantage. Only by understanding these critical factors can a company decide whether they will partner or compete with Microsoft and what they must do to survive this competition or premiership.

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How Microsoft's Server Strategy Will Change the Industry Part II: Microsoft's Market, Channel and Partner Development Strategy for Servers

Microsoft's goal is to establish NT Server as the AS/400 of the client/server world. It is developing a seamless, optimized, easy-to-use and administer environment that will provide access to a broad range of packaged, business-critical applications.

The server platform will be sold to the same types of customers who have bought

IBM's AS/400-based business solutions— a combination of small and midsized businesses and departments of larger corporations.

Similar to the AS/400 which comes standard with its own specially tuned and optimized operating system, database and management tools, Microsoft is developing a complete suite of base-level server applications that axe available exclusively on and optimized for bit Server. Microsoft, however, cannot provide the type of bundled solution that IBM is offering. NT Server must run on multiple off-the-shelf servers and must accommodate databases. communications, management and other tools from a large number of competitive vendors.

Novell is another network operating system vendor who has successfully sold into small and midsized business and departments of larger corporations. As with Microsoft, Novell relied on partners and third-party partners for distribution and support and had to integrate NetWare into heterogeneous environments. However, Microsoft will face more difficult challenges than Novell did since NetWare is primarily a file server operating system. In general, file server LANs are easier to configure and manage and do not require the level of integration, earring or solutions- oriented sales capabilities that client/server networks do.

Although Microsoft must provide the value of supporting a broad range of platforms and accessory software, it recognizes that too many options lead to the same type of confusion that has restrained the growth of Unix. Microsoft. therefore, is taking something of a middle path by providing customers with the choice to purchase its server operating system and applications either as:

Separate, standalone products that can be integrated with any other vendors" NT Server products or as

A single, integrated bundle (called Back Office), which includes the server operating system and Microsoft server applications as a preconfigured, integrated set of tools designed to work together. Pricing for this package is 40 percent less than if all packages were bought separately. As discussed in the first report of this series, Microsoft's Operating System and Application Strategy for Servers, all Microsoft server products share a number of important factors. Each is:

Available exclusively on, and optimized for use with NT Server,

Designed for use with a common set of Microsoft development tools and integration protocols;

Designed to work seamlessly with all other Solution Platform tools and applications:

Positioned as a generalized, extensible framework on which partners are encouraged to write their own specialized applications.

This commonality and integration is critical to Microsoft's server strategy. The goal is to attract large numbers of developers, resellers and administrators to the broad Microsoft environment, facilitate the availability, of hundreds of specialized, packaged server applications and to provide customers with a modular, comprehensive, easy-to-own server environment. Microsoft plans to offer capabilities that have traditionally been available only as high-priced, custom- developed solutions on expensive platforms, at price points and through channels that were previously associated with PCs. The company also will provide migration paths from PCs.

Thus, Microsoft will redefine the rules of competition in the server operating system and applications market. If it succeeds, many of Microsoft's competitors will find it difficult—if not impossible—to compete.

Building a Business-Critical Solutions Infrastructure Microsoft faces a number of challenges in its bid to enter these new markets. Its corporate infrastructure was well-suited to the marketing and support needs and the economic mandates of the PC industry. It had a small direct marketing organization to promote desktop productivity, products to storefront computer dealers and a small telephone-based support staff to answer questions. It did not have, however, a large customer direct sales force, a consulting or integration group, or comprehensive support capabilities to which MIS managers and CIOs are accustomed. It could not hope to compete with vendors such as IBM, Hewlett-Packard and Oracle in selling bet-your-business server products to large corporations. Microsoft, therefore, has begun to build new marketing, integration and support infrastructures that are intended to improve its credibility and more effectively address the needs of new customers. The company built a:

3,000-person direct marketing organization, 40 percent of whom are dedicated to addressing the needs of large corporate customers:

500-person consulting and systems integration group to help large corporate customers plan, design and implement sophisticated client/server business solutions around Microsoft products:

3,000-person, around-the-clock support group, 400 of whom are trained specifically on the complexities of server operating systems and heterogeneous networking, Premier customers get access to higher-level support people, an accelerated escalation procedure, a dedicated manager who will help them with proactive planning and, in, some instances, access to on-site support capabilities.

Microsoft also formed a new marketing group, the Organization Customer Unit, that is responsible for developing and managing ongoing relationships with business organizations. This unit is divided into two primary groups: one to manage large corporate customers, the other to build sales into small and midsized companies. The Organizations Unit is responsible for: Managing the company's Select volume licensing program, which is intended to make it easier for large corporations to buy from Microsoft and to build ongoing relationships with them;

Recruiting and managing relationships with client/server application developers and systems integrators who will be most important to Microsoft's efforts to sell client/server solutions into large corporate accounts;

Responsibility for the Microsoft's value-added Solution Providers programs. It recruits and manages resellers who will be capable of selling Microsoft server products and client/ server solutions and other partners who are specially qualified to train customers on and support these new implementations.

The Organization Customer Unit also owns Microsoft's Industry Marketing group which targets vertical markets that can potentially generate large sales of Microsoft-based client/server solutions.

Defining a New Client/Server Business Model

Microsoft's direct work with corporate accounts, through its newly enlarged direct sales force, consulting services and support arm, is somewhat similar to that provided by traditional enterprise system and software vendors. But there are two major differences between Microsoft's approach and those of enterprise vendors. Under the Microsoft program:

Third parties handle all product delivery and much of the implementation and actual support requirements. All Microsoft product sales, even those under the Select program, are fulfilled by third parties. Microsoft's consulting and support groups will typically refer customers to third-party partners or bring these partners into a project themselves, with the goal of having the partner handle the implementation and most of the follow-up work.

The primary goal in working directly with customers is to transfer Microsoft's knowledge to its customers, not to actually do the work themselves. For example, the company generally confines consulting work to fast-in/fast-out projects where it defines architectural requirements, plans transitions and trains or supervises customer employees and third parties to provide the actual implementation work and to fully handle future projects themselves.

Virtually all aspects of these services have the ultimate goal of helping third-party partners address the needs of corporate customers without direct involvement by Microsoft. While all product fulfillment is handled exclusively through third parties. Microsoft is trying to involve appropriate partners directly in the demand creation process.

Microsoft's consulting and support organizations have even more formal structures for training and for bringing partners into accounts. MCS consultants. for example, dedicate approximately ten percent of their total billable hours to helping Microsoft Solution Providers (SP) and count on partners for providing more than half of all their billable hours in some of its practices.

This cooperation with SP partners also carries through Microsoft's support and training organizations. For example, Microsoft Education Services no longer deliver training directly to end users. The company has two new channels, Authorized Training Centers and Technical Education Centers, that it established specifically to deliver courses on Microsoft products and to certify partners who have completed specialized training.

The company's support group, meanwhile, provides only very limited support for

Microsoft products" connections into heterogeneous environments. One class of partners, Authorized Service Centers, have been authorized to provide such capabilities. Furthermore, the company provides very little on-site work and will not even go on-site without a Solution Provider. If the customer does not have an SP, Microsoft will help it select one and then bring the Solutions Provider up-to-speed on the customer's environment.

Developing Partnerships to Enable Microsoft's Virtual Company Model: Phase One

Every vendor, irrespective of the degree of its horizontal integration, relies on partners to help sell its products.

Microsoft's virtual company model will require much closer partnerships with many more types of partners than most other companies" models.

Various partners will play different roles in the Microsoft server business model, but these roles will change significantly as the market for client/server solutions matures. During the earliest stages of the market, Microsoft must work most closely with solutions-oriented systems vendors, systems integrators and software developers. After all:

Systems vendor partners such AT&T GIS and Digital Equipment and systems integrators such as Andersen and Business Systems Group work directly with large corporate customers to help define the need for, develop, implement and support custom solutions;

Infrastructure software developers will provide the capabilities required for more demanding and sophisticated applications such as enterprise transaction processing;

Application vendors develop the solutions that will be required to attract customers who cannot or do not want to develop their own applications. Microsoft has already gained commitments from vendors of leading client/server accounting, MRP, groupware, document management, and customer management applications;

Relational database vendors will play particularly important roles in the early stages of this market. RDBMSs are critical client/server infrastructure technologies and most of the vendors have their own solution-based sales, consulting, application development and support capabilities. Moreover, once an RDBMS is ported to an operating system, it is relatively easy for all of the applications written to these RDBMSs to be ported.

Microsoft will always want to play a role in the type of large, corporate, custom implementations that are handled by large system vendors SI. RDBMS and application partners. Therefore, it will have a continuing need to work with these first- generation client/server partners. However, Microsoft will be ready to shift its primary emphasis to a new group of partners once client/server computing (especially Microsoft's approach to it) becomes more widely understood and accepted and a critical mass of applications become available for NT Server.

Developing Partnerships to Enable Microsoft's Virtual Company Model: Phase Two

Microsoft's primary strength is in selling large quantities of standard products to smaller companies and individual customers through large numbers of third-party channels. It will attempt to apply this same business model to its server business.

A number of Microsoft partners are already established in and committed to this type of business.

Microsoft is encouraging current server vendor partners (everyone from AST through Tricord) to bundle NT Server and the Back Office application suite with some of their servers. Some partners such as Compaq and Informix will play critical roles as "bridge vendor" partners, helping to "repackage" the capabilities developed and lessons learned from direct sales of client/server solutions into third-party channel programs. (Summit Strategies" report, The New Age of Client/Server Applications, contains a full examination of the roles of bridge venders.)

Microsoft already has signed up almost 6,000 third-party Solution Provider resellers, and plans to grow this number to about 15,000 resellers by rind- 1995. The company is focusing SP recruiting efforts primarily at established, successful resellers of products including the AS/400.

Novell NetWare. Sun workstations, Unix RDBMSs and vertical and diagonal applications. It is targeting resellers who are best situated to address Microsoft's targeted verticals in geographies that lack adequate coverage. Microsoft also is devoting extensive efforts to training and generating business for these partners. For example, it is:

Establishing large, formal programs (e.g., DevCast, BusCast, TechNet and Microsoft Partner Network) to educate and train these channels:

Passing large numbers of leads to these channels, and is developing vehicles (e.g., trade shows, road shows and seminars) to generate demand;

Using Microsoft consultants and support engineers to train partners to perform functions currently provided by Microsoft personnel, and to actively bring these partners into accounts; Actively helping high-end, traditionally direct sales system vendors (e.g., AT&T GIS and Digital), database vendors (e.g., Oracle and Sybase) and application vendors (e.g., SAP and D&B Software) to develop and offer their own products through third-party channels;

Encouraging distributors and aggregators to provide built-to-order, custom-configured server bundles (that combine Back Office back-end, Vertical Office front-end, and specialized third-party applications) to their resellers.

Microsoft plans to use its market position, vendor partnerships and aggressive channel development programs to build a broad, third-party, client/server distribution and support channel well before its competitors. It will then try, to lock these channels into Microsoft solutions by ensuring that they are familiar and comfortable with Microsoft products. Microsoft will do this by providing the best technical and marketing support, by using its marketing muscle to generate more sales than competitors (with less effort and resources from SPs), and by promising never to directly compete with its partners (as proprietary and Unix vendors often do).

Microsoft's Prospects for Success in the Client/Server Market

Unix vendors will most likely offer client/server server solutions that are more open, robust, flexible and scalable than those offered by Microsoft IBM will most likely offer AS/400 solutions that are more turnkey and easier to manage. Novell will most likely offer solutions that are lower priced. Microsoft, however, will combine some of the best of all of these capabilities with a number of its own unique advantages. For example, it will offer:

The largest base of binary compatible servers and off-the-shelf applications of any server environment;

Access through the broadest range of distribution channels in the industry;

Probably, the lowest cost, best price/performance application servers in the industry (due to a combination of Microsoft's aggressive software pricing, availability on all hardware platforms and broad distribution);

A turnkey solution (based on Back Office and Vertical Office) in which all of the components will integrate seamlessly with each other and support the same APIs (e.g., OLE, ODBC and MAPI);

A strong development platform to which custom and packaged application developers can write using a broad range of Microsoft and third-party tools:

Strong scalability ranging from uniprocessor 486-based PC servers to 30 CPU Sequent servers and a broad range of uni- and multiprocessor RISC servers; and

Systems and software that provide reliability, availability, manageability, security and robustness that will be suitable for all but the most demanding applications and environments.

Given the strategic importance of the server market to Microsoft's future, the company can be expected to compete ferociously, and offer the largest, best- funded partner recruitment, training, advertising and marketing programs in the industry. However, as discussed in the first report of this series on Microsoft's NT Server strategy. Microsoft's Operating System and Application Strategy for Servers, the company will still be hampered by factors such as:

Novell's strong established position in the channel and in the file server and low-end database server markets;

Unix's perceived (and in many instances, real) advantages in areas such as reliability, scalability and openness;

Microsoft's reputation for ruthlessness and for competing with its software partners in a segment of the market in which partnerships are critical; and

Whether the market or channel is prepared for the virtual company model on which Microsoft is staking its future. Summit Strategies views this last issue as the single most important, most open question in assessing Microsoft's prospects for success in this new market. Will customers who are accustomed to a single vendor solution really accept such a diffuse, nontraditional chain of responsibility for support of mission-critical, line-of- business solutions?-Will Microsoft's partners be able to address the demands that this model will place on them?

As discussed in a number of our previous reports. Summit Strategies believes that this model will work and that Microsoft is building the type of infrastructure that is required to support it. But even if the virtual company model works, there is still a question as to when it will work.

While the virtual company model will almost certainly succeed when client/ server technologies and markets become more mature, how suitable is it during the early stages of the market? After all, few people currently understand how to design, develop or maintain client/server solutions, the tools are immature and most configurations are still custom developed.

Microsoft's initial reliance on the virtual company model has the potential of effectively locking the company out of the market before its business model has a chance to prove itself. This, however, is not likely to occur. After all, Phase One partners such as AT&T GIS, Digital Equipment Sequent, Andersen, EDS and SAP typically assume full responsibility, for their solutions.

Ultimately, customers anti partners must rely on Microsoft rather than on system vendors for the stability of the operating system and the foundation server applications. However, this should not be much of a problem since no systems integrator or vendor (including IBM) assumes full responsibility for every component of a solution. Although it may cause some consternation, everybody uses some type of third-party products. While the risk may still be greater for a Microsoft- based solution than for a vendor-specific Unix system, the level of risk will decline as Microsoft's server products mature (as with bit Server 3.5) and as implementations of leading reference accounts become proven.

Overall. Summit Strategies is quite optimistic about the prospects for NT Server. As fully discussed in the first report Of this series, we expect NT Server to account for a rapidly growing share of the network operating system market, growing from about 2.4 percent in 1993 to 14 percent in 1997.

More important than the raw numbers, are the segments in which NT Server will experience its greatest acceptance.

Penetration will be relatively low in file server and enterprise application server markets, yet NT Server is likely to dominate the large, highly strategic midrange (large workgroups, departments and branch office) application server markets. As shown in Figure 1, this entry, will provide a perfect vehicle by which Microsoft will be able to extend its penetration downward into the file server and workgroup application server markets, and gradually upward into the division and enterprise application server markets.

Opportunities and Threats for- Microsoft Partners and Competitors

Microsoft's likely success in the application server market presents some significant opportunities for partners. Each phase of the market will offer significant revenue and profit opportunities, but the opportunities will vary greatly by type of partner and over time.

During Phase One, turnkey solutions partners who can define, develop, implement and support custom applications will have a great advantage. In Phase Two, as NT Server and applications become more es- tablished in the market, and as client/server solutions become poised to enter broader markets and channels, Microsoft will shift its attentions to "bridge vendors" who can help translate the capabilities and lessons of Phase One-implementations into the type of "cookbook" approaches and solutions that will spur broad market, third-party sales. When the market enters Phase Three, the lowest cost producers with access to the broadest, most effective distribution channels will be best situated.

Divisional Application Server Unix Core Market

Enterprise Application Server

Source: Summit Strategies, Inc.

Figure 1: Microsoft's Server Market and Expansion Strategy

By this time. Phase One partners will have to either:

Evolve their business models to play by Phase Three rules:

Adapt their value-add to ever more specialized, demanding, and narrower segments of the market such as distributed, object-based transaction processing environments;

Find another market such as global, enterprise Unix solutions; or

Go out of business.

All types of partners—hardware vendors, software vendors and resellers—will be susceptible to this type of shake-out.

Microsoft is using its unique product line and market position to change the rules of competition in these markets. It is optimizing its applications for its NT Server operating system, providing the type of bundling incentives and using the type of pricing approaches that few, if any, competitors will be able to follow.

Even though Microsoft currently is competing only with vendors of the broadest server foundation applications, all partners need to beware. As the client/server market grows, previously specialized applications will become increasingly mainstream. As discussed in previous reports such as Developing and Leveraging Client/Server into Broad Markets and Channels. Summit Strategies believes that diagonal applications such as accounting and sales automation will become just as broad and strategic in the client/server age as data-base and presentation graphics were in the personal computer age. If Microsoft decides to enter these markets, some server application vendors may face the same types of options in competing with Microsoft that server operating system vendors will face over the next several years,

If Microsoft does succeed in changing the rules of competition, few will be able to go head-to-bead with Microsoft products.

They will be faced with a choice of one of two primary strategies: either focus their product and market development efforts on segments of the market m which they have a clear advantage and can establish a reasonably defensible position; or introduce highly focused products that are optimized for a market niche that is too narrow to attract the direct (or at least focused) attention of Microsoft.

In summary,, partnering with Microsoft may be as dangerous as competing with it. Partners can protect themselves by continually adapting their value-add to provide capabilities that Microsoft will require during different stages of its server products" life cycle.

Vendors still have about a three-year window of opportunity before Microsoft establishes the level of market power that will make it difficult or impossible to compete head-to-head in its core market.

Even after Microsoft attains this level of power, competitors will have many opportunities to "hit Microsoft where it isn't" by targeting segments where Microsoft and its solutions are weak or by focusing on niches that are too small or specialized to draw Microsoft's focus (future Summit Strategies" reports will address this and related issues in greater detail).

Although partners and competitors will always have plenty of opportunities. every vendor and reseller in the server mar- ket will have to learn to play by new rules.

These rules will be generally defined by Microsoft, around the vendor's own capabilities, channel strengths and business model. For better or worse, the rules of the application server market will come to look increasingly like those that currently shape the personal computer market.

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MICROSOFT AND VISA TO PROVIDE SECURE TRANSACTION TECHNOLOGY FOR ELECTRONIC COMMERCE

Secure Transactions Across Networks Mean Lower Costs, Expanded Markets

PARIS, France, November 8, 1994—Microsoft Corporation and Visa International today announced that the have signed a letter of intent to jointly provide a standard, convenient and secure method for executing electronic bankcard transactions across global public and private networks. Their secure solution will held expand the market for electronic commerce by providing new opportunities for consumers, merchants and Visa member financial institutions.

The secure transaction technology will consist of software that supports both the cardholder and merchant sides of a transaction and works with the visaNet payment system to authenticate buyers and sellers and to secure transactions for clearing and settlement. Microsoft and visa wil1 publish specifications that make secure transaction technology available to other software vendors and card systems to implement themselves or license from Microsoft.

The technology will be developed initially for the Microsoft?? Windows.TM operating system family and is scheduled to be available in 1995. It will include extensive encryption capabilities based on technology from RSA(r) Data Security, Inc.

"The technological leadership of Microsoft, along with the global financial reach of visa, allows :he consumer to make payments over networks worldwide as easily and safely as payments made in person." said William L. Chenevich, group vice president. Visa International. "Our relationship with Microsoft will held to accelerate the growth of commerce over electronic networks and will open up new opportunities for our member institutions, merchants and cardholders worldwide. As the information highway becomes defined, we must look at a variety of alliances and a variety of ways to protect :he financial relationships of our members and their cardholders." Chenevich also indicated that the two companies welcomed the interest and support of other parties.

"Right now, we're all street people on the information highway; we can't protect our privacy and information: we can't prove who we are; we can't buy anything," said Nathan Myrhvold, senior vice president of Advanced Technology at Microsoft. The Microsoft-Visa technology solves these problems by using public- key technology Co assure safety and privacy, and easy-to-use client software which allows consumers to use their existing bankcards co pay for goods and services across multiple applications and merchants."

Will F. Nicholson, Jr., chairman of the board of directors of Visa U.S.A. and president and CEO of Colorado National Bankshares, Inc., added that U.S. financial institutions were facing new challenges in a changing payments environment to provide their customers with service and support, "with Microsoft, we have an opportunity to bring together :ethnology and banking, as consumers explore alternative methods of purchasing at new points of transactions." he said.

Founded in 1975, Microsoft is the worldwide leader in software for personal computers. The company offers a wide range of products and services for business and personal use, each designed with the mission of making it easier and more enjoyable for people co cake advantage of the full power of personal computing every day. Microsoft is headquartered in Redmond, Washington, U.S.A.

Visa, the world's largest consumer payment system, has more than I1 million acceptance locations. Visa member financial institutions have issued more than 357 million cards worldwide including more than 185 million in the U.S. Visa also has the leading global ATM network. Visa, headquarters in the U.S., has offices An London (Europe region), Tokyo (Asia Pacific region), Toronto, (Canada region) and Miami (Latin America region). Microsoft is a registered trademark and windows is a trademark of Microsoft Corporation.

RSA is a registered trademark of RSA Data Security, Inc.

. . . THE WALL STRRET JOURNAL MONDAY. DECEMBER 5. 1994,

Trade Group's Board Cancels Hearing On Microdot's Plan to Acquire Intuit

BY VIVECA NOVAK

And DON CLARK

Staff Reporters of THE WALL STREET JOURNAL

WASHINGTON-An unusual trade-group hearing on Microsoft Corp.'s pending acquisition of Intuit Inc., scheduled to take place today, was canceled after Microsoft successfully" pressed for an eleventh-hour meeting of the group's board.

Mike Maples, a Microsoft executive vice president, said the Information Tech- nology Association of America board voted overwhelmingly Friday to cancel the hearing, after he invoked his right as a director to call a board meeting. "It wasn't a Microsoft-driven decision," he said.

But he complained in an interview that scheduled speakers at the hearing were all opponents of the Intuit deal who are believed to be talking to the Justice Department's antitrust division. That division is reviewing the transaction.

News of the cancellation reverberated. "It's pretty apparent that Microsoft squelched it," said Dan Schley, former lead of a tax software firm who was ??cheduled to give his views at the session. The Industry is clearly up in arms about this." ITAA's 325 members include such giants as International Business Machines Corp. and General Motors Corp.'s Electronic Data Systems Corp., as well as Microsoft.

"I'm very disappointed," said Bernard Goldstein, a former chairman of ITAA, "It was very obvious Microsoft was unhappy with this process, but this really is, for the industry, a very large issue. It's worthy of venting. . ."

ITAA chairman Jim Mann, who formed the committee last month, said he believed the group's diverse membership would make for a range of opinions.

Instead of holding today's hearing, the committee will broaden its inquiry to evaluate Microsoft's overall impact on the information technology industry.

Rick Crandall, an ITAA board member and chairman of Comshare, a software company in Ann Arbor, Mich., said a larger look is needed. "The question is, where does the industry stand with regard to Microsoft, what are its competitive "tactics, and are they illegal or unhealthy for the industry?"

The latest developments add to the intensity surrounding the review. Justice Department staff are being inundated with The views-mostly negative-of companies and individuals about the impact of the deal beyond the ?? software market that it most directly affects.

Stephen Case, chief executive of America Online, was to speak at the ITAA event today. Two on-line service pro- viders—Compuserve Inc., a unit of H & R Block Co.; and Prodigy Services Co., a joint venture of International Business Machines Corp. and Sears, Roebuck & Co.—have talked to the antitrust division about the Microsoft deal.

Mr. Schley has been a key source of information about the personal financial software industry for antitrust division staff. He said that in a conference call with seven lawyers and eight economists from the division a couple of weeks ago, he told the staff that he didn't believe that Microsoft's plan to sell its personal finance package, Money, to rival Novell Inc., will lead to real competition for Intuit's much more popular Quicken program. Microsoft hopes the divestiture will allay govern- ment concerns about any anticompetitive effects of its Intuit acquisition.

B6 THE WALL STREET JOURNAL MONDAY. DECEMBER 12. 1994

Microsoft's New Marketing Tactics Complaints

Hard Push to Get Commitments to Windows 95 May Hurt"

By DON CLARK And LAURIC HAYS

Staff Reporters of TICZ WALL ?? JOURNAL

Five months after a controversial settlement with the Justice Department. Microsoft Corp. is using aggressive new marketing tactics that have angered some key customers.

The software powerhouse is seeking more money and more marketing support from personal-computer companies for Windows 95. a fundamental rewrite of the operating system used on more than 100 million personal computers. Microsoft's proposed licensing terms have caused a eborus of complaints from PC maters, who are under severe pressure to lower their own prices.

Microsoft's terms include an extensive list of marketing incentives to get PC makers to quickly commit to the new program . which could bring more than 81 billion in sales in its first 12 months.

Windows 95 also could help Microsoft further undermine International Business 1Fdichines Corp.'s 0S/2 program, which has about 5% of the market compared with Microsoft's 80%.

Some computer makers contend the new terms raise an unfair barrier to their offering 0S/2 and may violate the spirit of Microsoft's consent decree with the Justice Department. Vobis Microcomputer AG. Germany's biggest personal-computer maker, also has publicly com. plained about Microsoft's proposed licensing terms for its previous operating systems and announced plans to start loading machines with 0S/2.

Microsoft insists it is operating strictly within the guidelines of the settlement. Several large computer makers, including Compaq Computer Corp. and Packard lieu Electronics Inc, also said they see no unfair anticompetitive bias m the market. ing incentives.

Still. the harsth response to its biggest. ever selling job suggests that even mighty Microsoft has to tread carefully in prod- cling the industry toward a major modernization effort. A serious misstep could wind up boosting 0S/2, which IBM is promoting heavily to take advantage of delays in shipping Windows 95. There are signs that Microsoft already has begun backing away from a major price increase for the product.

"Now is not a sane time to be unreasonable," said Steven Ballmer. Microsoft's executive vice president of sales and support. "IBM has never been thumping the drum harder for OS/2 than they are :. now ....I don't think they're going to be successful, but you don't gamble the company on it."

Microsoft doesn't disclose its terms for PC maters. Several PC maters said Microsoft representatives mentioned possible prices from $55 to S75 before discounts for Windows 95. an increase that could be more than 100% over the estimated average for the combination of its existing DOS and Windows programs.

But Michael Culver. senior director of product management at Acer Inc.'s PC unit in San Jose. Calif., said Microsoft more recently dropped the proposed price sharply and reduced the size and number of marketing discounts offered.

"The ultimate goal is to have a similar price as what we are paying for DOS and windows now," Mr. Culver said. "In the end, whether they've been forced to be more accommodating, or it's just negotiating strategy, I think in the end. it's going to work."

After the haggling, some analysts believe Microsoft will wind up settling for a 'Microsoft can kill us," the chairman of one PC maker said. "I worry more about my dealings with Microsoft than I do about my competitors." rice increase of 15% to 2% over earlier operating systems. Rick Sherlund. an analyst at Goldman. Sachs & Co. estimated that computer makers would wind up paying about $43 a machine for windows 95.

The flap is just the latest reverberation from the advent of Windows 95. which replaces both DOS and Windows and is scheduled to be shipped in the second quarter of next year.

The stakes are equally high for IBM. which is batting to build acceptance for its latest version of OS/2, called Warp. IBM's operating system is based on DOS and Windows. and runs application programs written for them. But Warp won't run rams tailored for windows 95 unless IBM makes some major changes to the program, a process that Microsoft expects could take years. The new software gap could remove a prop keeping IBM's softwere on the market Microsoft believes.

Mr. Ballmer asserted that IBM is offering computer makers 0S/2 for free and may be even paying some to take it. An IBM .spokeswoman denied both contentions: she wouldn't disclose exact pricing, but conceded that IBM is "going for market share." IBM said it has sold 500.000 copies of Warp in five weeks, and the spokeswoman added that the company viewed the recent friction between Microsoft and computer maters as "an opportunity."

Complaints about Microsoft's latest tactics come as the Justice Department prepares for a final appearance before a federal judge on the consent decree this week. Robert Litan. deputy assistant attorhey general in the department's antitrust division, declined to comment on specific allegations against the company but said he has continued to talk to rivals about Microsoft's actions.

The consent decree, signed in July, ended Microsoft's practice of "per-processor" licenses, which Justice contended excluded competitors by forcing computer makers to pay for every PC: they shipped that contained particular microprocessor chips. It also prohibited "minimum commitments," under which computer makers were compelled to pay for a set number of copies of Microsoft's programs, regardless of whether they sold the estimated number of computers or not.

Mr. Ballmer said Microsoft's new marketing incentives for Windows 95 were designed to take the place of minimum commitments while accelerating the move to the new product. According to a draft of one of the "market development agree menus." PC maters can choose among a series of "milestone" steps that can reduce theft royalty payments as much as S20 a machine.

For example. PC makers can get a L3 discount a system if they agree to install Windows 95 on at least 50% of their desktop systems within 30 days of the time it appears on the market. They can earn another $2 if they sign a license agreement by March 1, another S3 by completing a certification program to earn a Windows 95 logo by next April 1. plus $2 more for putting that logo on PC cases and keyboards.

But some PC maters contend they have little choice but to sign the agreements. Executives at these companies, who requested anonymity because of potential retaliation from Microsoft, said they could face prices for Windows 95 that will put them at a disadvantage against competitors if they don't sign up.

"Microsoft can kill us." the chairman of one company added. "I worry more about my dealings with Microsoft than I do about my competitors.*"

Some exectives said promoting Windows 95 and designing systems to win certification for its logo program reduces the money they have to spend promoting other operating systems. An executive at one PC mater said it already has cut back on his 0S/2 Warp support after agreeing to tile Microsoft marketing steps. He said his understanding with Microsoft prohibits him from exhibiting Warp at a trade show booth alongside Windows, although that restriction isn't explicitly stated in the contract.

"We have to sit there and swallow it. What else do we do?"* said the computer executive. He added in a reference to activities permitted under the consent decree, "Microsoft ham just found a new way to skin the cat."

Microsoft's Mr. Ballmer rejected such assertions, stating that the incentives are entirely voluntary and don't discrete against other operating systems. 'The amount of work isn't a strenuous set of activities." he said. "If there isn't a payback. you lust don't do them."

Vobis, the German PC maker, claims that Microsoft insisted on computing discounts for its existing" operating systems based on Vobis's total PC shipments. In August. just after the consent decree was signed. Microsoft proposed a contract to Vobis that estimated its annual ship-merits of 88 models at around 475.000 and quoted a Windows price of 528 a copy based on that total.

Theo Lieven. chairman of Vobis, said he wanted a discount based on lower estimated sales. so that he could accommodate customers that may ask for 0S/2. But Microsoft Wouldn't quote him a price based on a smaller number of computer shipments, he said. Instead. in oral negotiations. Microsoft said Vobis would have to pay S63 for each machine under a so-cailed per-copy license, a more costly licensing scheme that doesn't use estimated sales.

The consent decree permits volume discounts and says they may be based on estimates of future sales. Microsoft's Mr. Ballmer said Mr. Lieven wasn't being required to put windows on every machine he shipped in order to receive the S28 price. Vobis would pay that price only on copies it used; if the number wound up to be less than 475,000, the royalty rate would be renegotiated next year. he said.

But Mr. Lieven insisted that once he agreed to a price based on total shipments. he would be forced to use Windows on that many machines, regardless of what customers ended up wanting. Microsoft "is doing exactly the same u before" the consent decree, Mr. Lieven charged.

"I have everyday negotiations with Microsoft, but it's difficult for them to understand that this decade of monopolism has ended. We want a choice of operating systems," he said.

4TH STORY of Focus printed in FULL format.

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July 18, 1994, Monday, Final Edition
SECTION: FIRST SECTION; PAGE A1
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HEADLINE: Microsoft Deal Came Down to a Phone Call; With Bill Gates on the Line, Justice Dept. Ends a Lengthy Probe
SERIES: Occasional
BYLINE: Elizabeth Corcoran, Washington Post Staff Writer

BODY: By last Friday afternoon, the dozen lawyers gathered in a conference room at the Justice Department were exhausted. They had spent the past day and a half wrangling over the terms of a settlement that—if signed—would close the most extensive antitrust investigation of a software company in history.

"Get Bill Gates on the phone," demanded Anne K. Bingaman, the department's assistant attorney general for antitrust.

After almost five years of investigation, the Justice Department was on the verge of settling its charges of monopolistic practices with software giant Microsoft Corp. But not near enough to sign an agreement. Two previous negotiating sessions had broken off each time in a stalemate.

Bingaman believed she had to talk to the man at the top, Gates, the 38-year-old co-founder and chairman of Microsoft. Over the course of 19 years Gates had turned a simple software program into a company with $ 4.5 billion in annual sales. For much of the industry, he didn't just run the company, he was the company.

Soon Gates came on the line. Bingaman recalled that after an hour's back-and-forth over details of Microsoft's licensing practices, Gates said the words she wanted to hear: "I can live with this."

Meeting with reporters on Saturday, Bingaman said the settlement would end a virtual monopoly by Microsoft with its MS-DOS and Windows "operating system" software, which controls the basic functions of personal computers. It would mean lower prices and greater choice for consumers, she said.

Microsoft, at its own press conference here an hour later, offered a different assessment: "I'm going to invite your attention back to the facts and cut the rhetoric," Microsoft general counsel William Neukom said. The company had settled a costly, bothersome suit; Microsoft's business would not be affected by the changes.

The following reconstruction was based on interviews with Bingaman, Gates and others involved in the negotiations.

After a long winter of studying evidence, Bingaman was convinced that Microsoft's licensing practices for its operating system were unfair. In mid-June, she informed her boss, Attorney General Janet Reno, that she thought there was enough evidence to sue. As as a matter of course, Bingaman's office then contacted the company.

Bingaman asked Microsoft if it was interested in settling. Neukom said the company was willing to listen. Microsoft was fed up with the investigation, which had begun in 1989 with an inconclusive Federal Trade Commission inquiry. The Justice Department picked up the case last August.

Although Microsoft had provided what Gates described as "millions of documents and every piece of e-mail," or electronic mail, for more than four years, it never knew precisely what the government was trying to prove, he said. News reports floated ideas such as breaking up the company.

"In some ways, a lawsuit would have been a more just environment," Gates said yesterday, because Microsoft could have publicaly aired its side of the case. "Things were just so random."

Gates had once been proud about having virtually nothing to do with Washington politics. But in the past year he had become a more frequent visitor to the nation's capital, hiring a local public relations firm and calling on journalists and administration officials to discuss the software industry, the information highway, foreign trade—and the investigation.

When Bingaman and Neukom finally met in late June, the assistant attorney general laid out a narrower case than many of the press reports had suggested.

The Justice Department wanted Microsoft to change licensing practices that the department contended unfairly discouraged computer makers from buying operating systems from Microsoft's competitors. She broached terms for a possible settlement.

A day or so later Neukom responded. Microsoft was willing to negotiate. He requested, however, that the European Commission, which was investigating similar charges against Microsoft in Europe, be part of the negotiations. According to Neukom, Microsoft did not want to finish one battle in the United States, only to face another overseas.

Bingaman and the European Commission agreed to negotiate jointly with Microsoft in Brussels.

Bingaman had a vacation coming up, the week of July 4, which she traditionally spent in Silver City, N.M, the hometown of her husband, Sen. Jeff Bingaman (D-N.M). But this year, she would miss it. She told only a handful of key staff members she and a team were heading across the Atlantic.

For a week, nine people—three each from the Justice Department, Microsoft and the commission—spent hours at a time discussing licensing minutia in conference rooms at the commission's headquarters in Brussels. "I'd say the discussions were very civilized," said Neukom, who headed the Microsoft team.

"There was a lot of information to be exchanged."

For a week the negotiators met several times a day, often picking up again late in the evening so they could cover new information or terms that had been faxed from Microsoft headquarters in Redmond, Wash., which was nine hours behind Brussels. By Friday, they had reached an impasse—the Americans flew home. In interviews, neither side would say what had caused the breakdown.

They had agreed to a telephone conference on July 11, but Bingaman was not betting on a happy ending. "I had to play out the hand," she said. "I figured, if it works, great; and if not, we gave it our best try."

In the conference call, the parties agreed to return to the bargaining table. This time the date was set by the Europeans, who could not arrive in the United States until late the next day. They agreed to convene again last Thursday morning. Although the European delegation was down to two, a few more Justice Department lawyers had joined the talks.

Bingaman had not officially threatened a suit, she said, but she was ready to file. On Thursday a Justice Department attorney had flown to a district where Bingaman wanted to file, a place, she later said, "where the dockets are thin—" If the negotiations fell irreparably apart, all Bingaman needed was a final okay from her boss, Reno.

Neukom was uncertain if Bingaman would take Microsoft to court. "People negotiate in lots of different ways," he said. "But we were confident of our position and felt the courts would agree with us."

By about 4 a.m. Friday the talks had stalled. Bingaman suggested that a call to Gates to try to resolve some of the disputed terms. The conversation was brief—and futile. The lawyers quit the offices, convinced that their differences were widespread.

Yet one more phone call from the Justice Department to the Microsoft people drew the negotiators back to the table later on Friday. By early afternoon, with only a few points unresolved, Bingaman again asked to speak to Gates. "He's the ultimate decision maker," she said. "I just wanted to get this settled with him."

For the next hour or so, Gates talked via speakerphone with Bingaman and a small team of Justice lawyers, along with representatives from the European Community and Microsoft. They gathered near the speakerphone in Bingaman's office, occasionally leaving in small groups to debate a point in private.

"I sat on the phone for a long time," Gates recalled. "People seemed to be coming in and out of the room" where Bingaman was talking.

Then came the breakthrough, according to Bingaman. "Bill finally said, "I can live with this," and I said the same thing." The representative from the European Commission also agreed.

"She asked me if Neukom had the authority to sign for me and I said, 'Yeah,' " Gates added.

The lawyers scrambled to turn dog-eared pages with scribbles in the margins into a single document. They finished the set for the European Commission first, so the representatives could make the last flight back to Brussels, which left at just before a p.m. Friday.

By 9:30 p.m. the signed settlement was filed in the U.S. District Court in the District of Columbia, which must now decide whether it will be implemented.

"I just went home," Bingaman said. "It was a weird feeling. Even after 4 o'clock [and the discussion with Gates] I wasn't clear it was going to happen."

Gates said: "It's over. I like to work on products. This could have been a distraction, we've settled it in a way that doesn't affect our business."

Gates pointed out that the company has seven divisions that work on a variety of products. "None of the people who run those divisions are going to change what they do or think or forecast. Nothing. There's one guy in charge of [hardware company] licenses. He'll read the agreement."

And when Microsoft signs future licensing agreements with hardware makers, Bingaman promised, "we'll be watching."

TAB 43

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT

IN CIVIL ACTION NO. 94–1564 (SS)

SIGNED BY GARY REBACK

SECTION: FINANCIAL; PAGE C1

94–1564

FILED

LENGTH: 663 words

HEADLINE: Microsoft's Plan To Buy Intuit Raises Concern; Trade Group Calls 2 Hearings To Get Industry Opinion on Deal

SERIES: Occasional

BYLINE: Elizabeth Corcoran, Washington Post Staff Writer

BODY: The reach of software giant Microsoft Corp. has so vexed some in the computer industry that a major trade association is convening two meetings to talk about it.

Yesterday, the Arlington-based Information Technology Association of America (ITAA) said it was asking companies throughout the industry to voice their opinions on Microsoft's latest proposed conquest—Intuit Inc., the leading maker of personal finance software. Microsoft announced on Oct. 13 that it planned to buy Intuit for stock worth $ 1.5 billion.

"This is a dramatic acquisition by a very elite and powerful company," said Bernard Goldstein, who will chair a special ITAA committee to solicit industry comments on the deal. "We want to understand why many firms in the information technology industry are agitated by this proposed transaction."

The ITAA, which represents 325 software and hardware companies, plans to turn over relevant comments to the Justice Department, which is reviewing whether the proposed deal might squash competition. The agency must give approval before the deal can be consummated.

To gather comments, the ITAA plans to host two industry hearings, one in Washington and another in San Francisco, in early December. The ITAA also will accept written comments submitted by Dec: 2.

In hopes of skirting criticism that the deal might inhibit competition, Microsoft plans to transfer its own personal finance software package, called Microsoft Money, to Novell Inc. of Provo, Utah. As payment, Novell would give Microsoft royalties on every copy of Money it sells for a fixed period.

Microsoft is clearly trading up. Intuit's software, called Quicken, is estimated to have 6 million customers while Microsoft Money has only about 700,000. Among other points, observers suggest that the Justice Department will weigh the market strength that Money would have in Novell's hands and whether it would continue to offer real competition to Quicken.

Sources said that about 10 days ago, Justice Department representatives met with Microsoft to request additional details on the proposed deal. Once the department receives that information, law requires that it spend only a few weeks finishing its analysis.

In the course of its review, the Justice Department would be likely to interview industry representatives. But some industry players have suggested that few are willing to criticize the software giant publicly because so many must work with Microsoft to ensure that their software applications will run smoothly on top of Microsoft's DOS or Windows operating systems, software that is used in most personal computers.

By offering to accept written comments and promising to keep some names confidential, the ITAA hopes to loosen a few tongues. "I guess we'll find out how inhibiting a factor that [concern] is," said Jim Mann, who chairs the ITAA. If no one offers criticism of the Microsoft-Intuit deal, he suggested, "it would be responsible to conclude that would be due to business relationships with Microsoft. We know there's concern."

Other software associations have chosen not to get involved in the issue. But the ITAA has not shirked such issues in the past. The association offered comments during the government's investigation of the business practices of International Business Machines Corp. during the 1970s. Within the past year, the association also voiced concerns about whether IBM was still honoring the conditions of a consent decree it had signed with the government. Both IBM— and Microsoft—belong to the ITAA.

In July Microsoft tentatively settled another Justice Department inquiry by agreeing to end certain licensing practices that the Justice Department alleged were anti-competitive. Last week, the department released the public comments it had received on the proposed settlement, along with its response. The department received only five letters, including one arguing that the government should leave the company alone.

TAB 44

TO APPENDIX TO MEMORANDUM OF AMICI CURIAE IN OPPOSITION TO PROPOSED FINAL JUDGMENT

IN CIVIL ACTION NO. 94–1564 (SS)

SIGNED BY GARY REBACK

The Washington Post

Sections

No 343

SUNDAY, NOVEMBER 13, 1994

Microsoft Heads Home

Software Giant Targets Huge Consumer Market With a Host of High-Tech Innorations

REDMOND, Wash.

Behind tall. wooden doors, in a modest building on the grounds of software giant Microsoft Crop., visitors can take a peek at the company's vision of the future. The doors swing open to a suite of subtly elegant rooms—a model home-of-the-future—dubbed "the Taj" by those at Micro-soft. The Taj is filled with familiar icons of modern, upper-middle-class life: plush chairs in the living room, crayon drawings on the refrigerator, grungy sneakers kicked under a table.

Yet technology has seeped into every corner. In the living room, just to the left of the hearth, is a huge video screen. Another screen is above the kitchen counter. A children's corner has its own computer. The screen in the dining room glows with what could be modern art. The home office is ready for a video conference. Lights, temperature and music are controlled by central nervous system. Microsoft—whose software lions of offices—wants to. Not just to the homes of a few, but to as many of the nation's million homes as possible. It wants to ofter as a of images and information that will fly across screens in every room. And it wants to build the invisible software web that will make such systems work.

Microsoft Seeks Pump Streams of Information Into Homes

"Tomorrow in Las Vegas, at the intrade show known as Microsoft will offer a of one part of this new con-on-line service. rode-named "Marvel." As with existing on-line services such as America Online or CompuServe. Marvel customers will use their computers and modems to tap into a range o[discussion groups, as well as products and services from Microsoft and others. But Microsoft promises its service will be a show-stopper. To woo customers, Micro-soft plans to include access to Marvel in every copy of its next operating system, Windows 95.

Gates's Vision

The new world according to Microsoft will be sketched tomorrow morning, when the company's chairman, Bill Gates, delivers a state-of-cyberspace keynote address at Comdex. tie will describe life in a world where people work in "virtual offices," collaborating with colleagues around the world via portable computing and communications devices. They will use on-line services to get medical advice anywhere at anytime. tour the world's art galleries without leaving their sofas, and pay for goods and services with "electronic currency."

Yet when Gates describes the future. Ins images do not have the scientific fuzziness that eventually grounded that other high-flying visionary, former Apple Computer Inc. chairman John Sculley. The difference is that Gates's audience knows—sometimes from hitter experience—that he can turn it into a Winning business.

"I'm taking a 10-year horizon, hut everything will be within use [in] live years," Gates said m a telephone interview on Friday. "We want to be one of the companies that's going to make that happen."

Gates's hard-nosed pragmatism scares his competitors.]'hey snipe that even though Microsoft now employs some of the country brightest software engineers. ,Is work lacks the originality and wh??sy of Apple. Such comments irritate Gates. But he can lake comfort m the belief that runs through the core of Microsoft: Business isn't about formenting cultural revolutions, it's about selling products.

With the thoroughness of an engineering corps, Gates and his team of executives have mapped out a strategy that they hope will make Micro-soil products as familiar to consumers .is Ivory soap.

This is no tentative effort. Gates has said lie i.-, willing to invest more than a billion dollars over I0 years to develop consumer products, lie has committed $100 million to an advertising campaign to bolster Micro-soft's brand name so that consumers will remember its products. And Gates has just hired a chief operating officer—Richard J. Herbold, a former Procter & Gamble Co. senior vice president, who is credited with revising P&G's pricing strategy to keep it competitive. Tapping the Market

For Microsoft, the consumer market is tantalizingly large. Microsoft is already the biggest computer soft-ware company in the world, with revenue of $46 billion in fiscal 1994. But that looks puny measured against such consumer products giants as Procter & Ga??ble. which had more than $30 billion in sales last year, or even video game maker Nintendo Co.. whose estimated worldwide revenue will total about $9 billion ties year.

To get into the consumer market, Microsoft is applying the lessons it learned in the computer software business. Gates got his start by honing the layer of software called the "operating system," which controls the basic functions of the machine and also shapes the look of the "applications," or programs such as spreadsheets and word processors, that run on top of it.

When International Business Machines Corp. decided to use Gates's disk operating system, or DOS, on its personal computers, his software became essential to millions of consumers. Over time, Microsoft tightened its hold on the market with the "Windows" operating system, which gave DOS a face that was easier to use.

Microsoft has used tills base to vault into the lucrative business o[building applications, such as Microsoft Word [or word processing and Excel for spreadsheets. These and other applications now generate a big share of the company's revenue.

Microsoft's market lead bothers others. "it's like a greyhound race, and the CEOs are all greyhounds." said Scott McNealy, chairman of Sun Microsystems Inc., in Mountain View. Calif. "This guy [Gates] caught the bunny. He's driving the damn bunny cart.... No one's supposed to be driving that cart."

Microsoft executives shrug off such criticisms. "There are competitors of ours who don't like us. who are envious of our success, said Nathan Myrhvold, a senior vice president. "And they've gone to great lengths trying to claim that our success is not due to something fair."

But. he said, "In every forum that's been raised, it's been formally decided that no. that isn't the case."

He pointed to the Justice Department's decision m July to close its investigation of Microsoft's business

Microsoft Seeks to Pump Streams of Information Into Homes No Slowing Down

Even the tussle with the Justice Department hasn't slowed Micro-soft's plans lot growth. "We said. a computer on every desk sad m every home." (;ales said. And indeed. the company seems poised to make that slogan a reality.

Michael Maples. executive vice president for products, reels off a strategy (or the company's future. Continue the current businesses and grow two other divisions, namely, the "consumer" division (which is now churning out about one new CD-ROM title per week) and the "business systems division." which is building software for corporate computers. When those businesses are maturing lout or bye years from now, Maples predicted. Microsoft's investments in future consumer products will begin to "hit their stride."

The company's forthcoming online service. Marvel. will he a key part of the strategy. What will be different about Marvel.) "We think you have to create an economic model where it's worth creating content." Gales said.

To do so, Microsoft plans to offer content providers, such as newspapers, the tools to build all(active displays (or their on-line products and then, effectively price their wares as they please. Subscribing to Marvel The software giant is developing a wide range consumer products and services with many partners. Among the initiatives:

NON-LNE SERVICE: Code-named "Marvel," details of Microsoft's plan to take on Prodigy, CompuServe and America Online are to be announced tomorrow Four telecommunications companies me expected !o be partners, along with "content providers" such as newspaper publishers.

MICROSOFT'S WORLD

FINANCIAL SERVICES: Proposed acquisition of ?? Inc . maker of Quicken personal finance software, would enable on-line banking.

CREDIT CARD SERVICES: Deal announced with Visa International seeks to refine the technology for ensuring the privacy of financial information transmitted over networks.

BOOK$ ON-LINE: Microsoft's consumer division is generating about one new CD-ROM book per week. Hall of these are done with partners Many are aimed at children, such as "Free Artist" and "Creative Writer" Plans are m the works to put some of these on-line

BROADBAND SERVICES: To create the Technologies lot "broadband" interactive television and computer networking Microsoft would write the software Partners would provide the computer hardware lot sending the information, consumer devices for receiving and skills to make it work together Tele-Communications Inc and General Instruments are major partners.

UNLITY SERVICES: Plans to develop technologies, with partners such as Pacific Gas & Electric, that would respond automatically to consumers" energy and other needs.

Microsoft Chairman Bill Gates Microsoft Seeks to Pump Streams of Information Into Homes Phone charges may also be low, as four telecommunications companies are expected to say on Monday that they are working with Microsoft to make dialing into Marvel a local call for many subscribers.

When subscribers peruse on-line magazines, they will be charged by those journals. Like the owner of a mall, Microsoft will exact a percentage front what content providers earn via the network. Microsoft is not yet saying who those content providers might be.

The company also has a potent plan for spreading Marvel. "We'll give you access to it with Windows 95." Gates said. "If (the software) notices you have a modern, it will ask you if you want to register electronically."

Rick Sherlund, an analyst at Goldman Sachs & Co. in New York, estimates that as many as 14 million people may upgrade their software to Windows 95 in the first year it ships them. In contrast. America On-line Inc. was boasting last month that it had 1.25 million subscribers. Even if Microsoft includes other on-line services in Windows 95, the Microsoft brand name could lure customers to Marvel.

A Wary Word

Steve Case, president of America Online in Vienna, is wary of Gates's plans. Computer operating systems are becoming the "dial tone of the computer age." he said. Just as the government regulates telecommunications, be suggested, the country may need new policies to ensure that consumers can easily reach any company's products or services through the dominant operating system.

"Ultimately, customers will prefer broad range of content, with an engaging presentation and offered at an affordable price," Case said. "There's not yet evidence that Microsoft will offer consumers something that they'll want." he added.

Meanwhile, Microsoft is fitting other elements of its on-line strategy into place. Last week, Microsoft and Visa International said they were working on ways to protect on-line information, such as credit card numbers. That security will prove handy as people begin to use Marvel to buy products on-line.

Microsoft has other plans for helping people check their bank accounts or pay bills remotely. In mid-October. Microsoft made a bid to buy Intu?? Inc., the biggest maker of personal finance software, for $1.5 billion in stock. Microsoft's homegrown package, called Microsoft Money, has only won about 700,000 users since it went on sale three years ago. About 6 million people use Intuit's Quicken.

""Money" is really quite a good product." Maples said. But he explained that Quicken's broader customer base would acce??te Microsoft's entry into electronic commerce. One hurdle Microsoft must clear, though, is a Justice Department investigation into the possible anticompetitive effects of the merger.

Microsoft has other products it would like to see go live as well. Its 660-person consumer division, for example, hopes to deliver CD-ROMs via communications networks at some point. But to pump information-rich video into consumers" home will take faster and more powerful networks than those Mar vel will use.

Getting Organized

Microsoft is working to develop these superhighway-size, broad-band networks, through its Advanced Consumer Technology group, headed by Vice President Craig Mundie. By next June, the group will employ more than 500 people, working on the technologies that will turn Gate's Comdex address into reality: everything from interactive television and utilities that "know" when a house is too hot or cold, to personal gadgets such as a "wallet PC," which could automatically update a bank account, or show a video of the kids. For two days in late October,

Mundie's group covened about 65 companies from around the world for an information "summit." In effect, this was a meeting of construc tion crews. Behind closed doors. Microsoft executives laid out their plans for pumping streams of information into consumers" homes by way of their personal computers, in late 1996 or early 1997, and eventually through their television sets. More than a dozen companies have pledged to work with Microsoft to develop—and commercialize— the technology. They include Alcatel Alsthom SA, Anderson Consulting, Deutsche Bundespost Telekom, General Instruments Corp., Hewlett-Packard Co., Nippon Telegraph & Telephone Corp. and US West Inc.

According to Mundie, the "rollout" of advanced networks will begin in the Seattle area late next year. By the end of 1996 or early 1997, Mundie hopes the technology will be ready to be "cloned" throughout the country. Ultimately, if consumers like what they see, every room in a home could have a connection to the information highway, much like Microsoft's Taj, he believes. "Our view is that in the long run this is a very risky but potentially very rewarding business activity." Myrhvold said. He recalls that it look about five years before Microsoft's current operating system. Windows, became a hit. "I assert it was a good idea to have done Windows." he said. "Today, that is a no-brainer."

EXHIBIT 5

TO THE COMMENTS OF RELPROMAX ANTITRUST INC.

) CIVIL ACTION NO. 98–1232 (CKK)

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA UNITED STATES OF AMERICA) Plaintiff,)) v.)) MICROSOFT CORPORATION,)) Defendant.)

) CIVIL ACTION NO. 98–1233 (CKK)

STATE OF NEW YORK ex rel.) Attorney General ELIOT SPITZER, et al.,) Plaintiffs,) v.)) MICROSOFT CORPORATION,)) Defendant.)

DECLARATION OF BRIAN DAUTCH

My name is Brian Dautch. I am a law clerk for Peter Peckarsky, Esq. I have personal knowledge of the facts testified to below and if called as a witness could testify to those facts. I am over the age of twenty-one (21) years old.

2. On January 25, 2002, I placed a telephone call to 800–915–3355 to contact the Dell Computer Corporation ("Dell"). I spoke with Ray at extension 61468. Ray refused to state his last name. I asked what the price was for a Dell Dimension Model 8200 desktop personal computer. Ray said the price was $1,577. I asked what operating system was on the machine at that price. Ray said the operating systems was a Microsoft Windows XP operating system and advised that I could have the Home or Professional versions of the operating system. I asked whether I could buy the same desktop computer from Dell with any other operating system. Ray said that Dell would sell its desktop personal computers only with a version of the Microsoft Windows XP operating system (Home or Professional). Ray said that Dell would not sell a desktop personal computer without an operating system. If Dell were willing to sell me a desktop personal computer without an operating system I would be able to endeavor to arrange to use an operating system made by a software vendor other than Microsoft on the Dell desktop personal computer.

3. On January 27, 2002, I placed a telephone call to 800–915–3355 to contact Dell again. I spoke with Jack at extension 58680. Jack refused to state his last name. I asked what the price was for a Dell Inspiron Model 8100 laptop personal computer. Jack said the price was $1,379. I asked what operating system was on the machine at that price. Jack said the operating system would be my choice of either a Microsoft Windows XP operating system (Home or Professional version) or a Microsoft Windows 2000 operating system. I asked whether I could buy the same laptop computer hardware from Dell with any other operating systems. Jack said that Dell would sell its laptop personal computers only with a version of the Microsoft Windows XP operating system (Home or Professional) or Windows 2000. Jack said that Dell would not sell a laptop personal computer without an operating system. If Dell were willing to sell me a laptop personal computer without an operating system I would be able to endeavor to arrange to use an operating system made by a software vendor other than Microsoft on the Dell laptop personal computer.

4. On January 25, 2002, I placed a telephone call to 800–888–0220 to contact the Compaq Computer Corporation ("Compaq"). I spoke with Bob at extension 21679. Bob refused to state his last name. I asked what the price was for a Compaq Presario Model 8000 desktop personal computer. Bob said the price was $1,510. I asked what operating system was on the machine at that price. Bob said the operating systems was a Microsoft Windows XP operating system and advised that I could have the Home or Professional versions of the operating system. I asked whether I could buy the same desktop computer from Compaq with any other operating system. Bob said that Compaq would sell its desktop personal computers only with a version of the Microsoft Windows XP operating system (Home or Professional). Bob said that Compaq would not sell a desktop personal computer without an operating system. If Compaq were willing to sell me a desktop personal computer without an operating system I would be able to endeavor to arrange to use an operating system made by a software vendor other than Microsoft on the Compaq desktop personal computer.

5. On January 27, 2002, I placed a telephone call to 800–888–0220 to contact Compaq again. I spoke with Tim at extension 5249. Tim refused to state his last name. I asked what the price was for a Compaq Presario Model 2700 laptop personal computer. Tim said the price was $1,299. I asked what operating system was on the machine at that price. Tim said the operating system would be my choice of either a Microsoft Windows XP operating system (Home or Professional version) or a Microsoft Windows 2000 operating system. I asked whether I could buy the same laptop computer hardware from Compaq with any other operating systems. Tim said that Compaq would sell its laptop personal computers only with a version of the Microsoft Windows XP operating system (Home or Professional) or Windows 2000. Tim said that Compaq would not sell a laptop personal computer without an operating system. If Compaq were willing to sell me a laptop personal computer without an operating system I would be able to endeavor to arrange to use an operating system made by a software vendor other than Microsoft on the Compaq laptop personal computer.

6. On January 25, 2002, I placed a telephone call to 888–999–4747 to contact the Hewlett-Packard Company ("HP"). I spoke with Ann at extension 3721. Ann refused to state her last name. I asked what the price was for an HP Pavilion Model 7966 desktop personal computer. Ann said the price was S 1,999.99. I asked what operating system was on the machine at that price. Ann said the operating systems was a Microsoft Windows XP operating system and advised that I could have the Home or Professional versions of the operating system. I asked whether I could buy the same computer hardware from HP with any other operating system. Ann said that HP would sell its desktop personal computers only with a version of the Microsoft Windows XP operating system (Home or Professional). Ann said that Dell would not sell a desktop personal computer without an operating system. If HP were willing to sell me a desktop personal computer without an operating system I would be able to endeavor to arrange to use an operating system made by a software vendor other than Microsoft on the HP desktop personal computer.

7. On January 27, 2002, I placed a telephone call to 888–999–4747 to contact HP again. I spoke with Jackie at extension 3707. Jackie refused to state her last name. I asked what the price was for an HP Pavilion Notebook Model N53 10 laptop personal computer. Jackie said the price was S 1,349. I asked what operating system was on the machine at that price. Jackie said the operating systems was a Microsoft Windows XP operating system (either Home or Professional version or Microsoft Windows Millenium or Microsoft Windows 2000 or Microsoft Windows 98. I asked whether I could buy the same computer hardware from HP with any other operating system. Jackie said that HP would sell its desktop personal computers only with a version of the Microsoft Windows XP or Microsoft Windows Millenium or Microsoft Windows 2000 or Microsoft Windows 98 operating systems. Jackie said that HP would not sell a laptop personal computer without an operating system. If HP were willing to sell me a laptop personal computer without an operating system I would be able to endeavor to arrange to use an operating system made by a software vendor other than Microsoft on the HP laptop personal computer.

8. On January 25, 2002, I placed a telephone call to 888–746–7426 to contact International Business Machine ("IBM"). I spoke with Andy at extension 37229. Andy refused to state his last name. I asked what the price was for an IBM Model M67922EU desktop personal computer. Andy said the price was $1,289. I asked what operating system was on the machine at that price. Andy said the operating systems was a Microsoft Windows XP operating system and advised that I could have the Home or Professional versions of the operating system. I asked whether I could buy the same computer hardware from IBM with any other operating system. Andy said that IBM would sell its desktop personal computers only with a version of the Microsoft Windows XP operating system (Home or Professional). Andy said that IBM would not sell a desktop personal computer without an operating system. If IBM were willing to sell me a desktop personal computer without an operating system I would be able to endeavor to arrange to use an operating system made by a software vendor other than Microsoft on the IBM desktop personal computer.

9. On January 27, 2002, I placed a telephone call to 888–746–7426 to contact International Business Machine ("IBM"). I spoke with Jim at extension 37289. Jim refused to state his last name. I asked what the price was for an IBM Thinkpad Model 265620U laptop personal computer. Jim said the price was $1,099. I asked what operating system was on the machine at that price. Jim said the operating system was a Microsoft Windows XP operating system (Home or Professional versions) or Windows 2000. I asked whether I could buy the same laptop computer from IBM with any other operating system. Jim said that IBM would sell its laptop personal computers only with a version of the Microsoft Windows XP operating system (Home or Professional) or Windows 2000 operating system. Jim said that IBM would not sell a laptop personal computer without an operating system. If IBM were willing to sell me a laptop personal computer without an operating system I would be able to endeavor to arrange to use an operating system made by a software vendor other than Microsoft on the IBM laptop personal computer.

I declare under penalty of perjury that the foregoing is true and correct, executed in Washington, DC, on January 27, 2002.

Brian Dautch

MTC-00030631 0255

EXHIBIT 6

TO THE COMMENTS OF RELPROMAX ANTITRUST INC.

HTC-00030631 0594

HTC-00030631 0595 Civil Action No. 98–1232 (TPJ)

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA UNITED STATES OF AMERICA, Plaintiff, v. MICROSOFT CORPORATION, Defendant. STATE OF NEW YORK, ex rel. Attorney General ELIOT SPITZER, et al.,

Plaintiffs and Counterclaim-Defendants, V. MICROSOFT CORPORATION, Defendant and Counterclaim-Plaintiff. Declaration of Paul M. Romer

I, Paul Michael Romer, declare as follows:

I. Qualifications and Scope of Testimony

1. I am the STANCO 25 Professor of Economics at the Graduate School of Business, the Dean Witter Senior Research Fellow at the Hoover Institution, and the Ralph Landau Fellow in the Stanford Institute for Economic Policy Research, all at Stanford University. I have also held the position of Assistant Professor in the Economics Department at the University of Rochester and Professor in the Economics Departments of the University of Chicago and the University of California at Berkeley. I received my B.S. degree in Physics in 1977 and my Ph.D. degree in Economics in 1983, both from the University of Chicago. I am a Fellow of the Econometric Society, a Research Associate at the National Bureau of Economic Research and a former member of the Executive Committee of the American Economics Association.

2. My 1983 Ph.D. thesis and my subsequent papers revitalized the study of economic growth and were the foundation for a body of work known as "new growth theory." My contribution was to formalize a theory in which the rate of technological change is determined by incentives created in the marketplace. This kind of theory lets one trace the effects that social institutions in general, and legal institutions in particular, have on incentives, and thereby on the rate of technological change. Over time, small changes in this rate cumulate into large differences in standards of living. As a result, decisions about the law, and especially about antitrust law as it applies to high technology industries, can be among the most important economic policy decisions that a society makes.

3. The Court's decision in this case will profoundly affect the information industry, the most technologically dynamic sector in our economy. Because technological change has been the central concern in my work, the Department of Justice has asked me to evaluate the economic effects of its proposed remedy.

II. Summary of the Analysis

4. In its Findings of Fact, the Court found that Microsoft has a monopoly in the market for PC operating systems that is protected by the applications barrier to entry. By exposing to applications developers APIs which were independent of the Windows operating system and thereby eroding the applications barrier to entry, Netscape's browser and Sun's implementation of Java posed a direct threat to this monopoly. In response to this threat, Microsoft engaged in a series of anticompetitive acts designed to stifle the technological progress and market success of Netscape and Sun. These acts directly harmed consumers by, among other things, denying them the choice of a browserless operating system, foreclosing opportunities by OEMs to make PCs more user friendly, making it more difficult for consumers to obtain competing browsers, and by preventing some software innovations (Intel's platform-level NSP software) from reaching the market. FOF 410.

5. Most importantly, these acts have interfered with the process of innovation in three distinct ways. First, consumers did not get the innovative products that the technology being developed by Netscape and Sun might have delivered. Second, Microsoft's predatory acts had a chilling effect on innovative efforts by all people who might have developed other software technologies that Microsoft found threatening.

Third, Microsoft harmed the innovative process because it limited competition, and competitive markets are, on balance, the best mechanism for guiding technology down a path that benefits consumers.

6. The government's proposed remedy will prevent these harms from recurring. The most important element of the remedy is a reorganization that creates independent applications and operating systems companies. It will deprive the operating systems company of some of the tools that Microsoft used to limit competition. It will also create an applications company with the incentive and the ability to lower the applications barrier to entry in the operating system market. The applications company can do this by porting its key applications to competing operating systems and by providing new middleware that other applications developers can use. This could further increase the number of applications available on the competing operating systems and thereby lower the applications barrier to entry. By lowering the barriers to entry, the creation of a separate applications company increases the likelihood of entry in the PC operating system market. Even if actual competition in the market for PC operating systems does not emerge, the increased potential for entry will limit the strategic options available to the operating system monopolist. Furthermore, the presence of this powerful applications company will lead to larger expected payoffs for other innovators in the software industry by providing two independent distribution channels. The presence of these two independent distribution channels will also increase the likelihood that users can choose among alternative technologies on the merits. For all these reasons, a reorganization that introduces a significant competitor will dramatically reduce the likelihood that the harmful acts identified in this case will recur.

7. This reorganization returns the software industry part way toward the competitive environment that prevailed before Microsoft took its illegal actions. There is no way to revive the threat posed by the specific technologies that Netscape and Sun were developing, nor to recover the innovative efforts that were deterred by Microsoft over the last five years. The market has moved on. Consumers and applications developers have made investment decisions that are irreversible. This remedy does, however, return us to a point where an important software firm outside of the control of the operating system monopolist has an incentive to lower the applications barrier to entry and to develop new middleware technologies with cross-platform capabilities. This was the state of the software industry in the mid 1990s with the entry and early successes of Netscape.

8. In support of the basic strategy of creating independent companies, the remedy prohibits specific acts that could frustrate the creation of the separate companies or undermine their independence. It also prohibits acts that Microsoft has used and that the new operating systems company could use to exclude potential competitors. Until the reorganization is completed and the applications company has had a chance to change the structure of the operating systems market, the operating systems monopoly will persist. The company that controls this monopoly could limit the access to final users by the new applications company or any other software developer. These prohibitions apply only for a limited period of time. Ultimately, the remedy relies on the market forces created by the reorganization to curb anticompetitive behavior.

9. When I evaluate the potential costs and benefits of this remedy, my overriding concern is the effect that it will have on the rate of innovation. Information processing is a pervasive activity in our economy. Even small changes in the rate of innovation in this area can, over time, lead to large productivity gains and big improvements in the standard of living. Because of the rapid progress in microprocessors, memory chips, data storage systems, and communications networks, the hardware infrastructure for information processing is vastly more powerful than it was just ten years ago. It takes innovative software products like the browser to harness this power and put it to use throughout the economy. By creating conditions that encourage increased competition in the operating system market, this remedy will increase the rate of innovation in the software industry and thereby increase the rate of growth for the economy as a whole. The lasting stream of benefits that can be expected to follow from this remedy will substantially outweigh any temporary costs that it might involve.

10. My detailed analysis of the remedy is divided into four sections. The next section, Section III, expands on the harm to innovation caused by Microsoft's actions. Section IV looks in detail at the effects that the reorganization will have on the incentives and behavior of the successor companies and on competing firms. Section V shows how the conduct provisions of this remedy support the independence of the two successor companies and prevent specific anticompetitive acts identified in this case from recurring. Section VI examines the benefits and costs of the remedy both for society as a whole and for Microsoft's

shareholders. Section VII presents my conclusion.

III. How Microsoft Has Undermined Innovation

11. The Court identified a reduction in the rate of innovation as the most serious harm that flowed from Microsoft's illegal acts. FOF 411–412. This reduction can take several forms. The first type of harm arises because consumers were deprived of new types of software or received them only with a lag. Innovative efforts at Netscape and Sun were directly impeded by Microsoft's actions. As a result, applications developers who could have written programs that were complements with the Netscape browser or Java also faced substantially reduced incentives to do so. It is impossible to know with certainty the types of applications that might have developed had innovation continued with full force on both fronts. We do know, however, that some types of applications forecast by the advocates of the browser and the Java virtual machine are finally emerging. For example, companies are only now bringing to market server-based applications accessed via a browser that substitute for traditional desktop productivity applications. In the absence of Microsoft's actions, it is likely that this class of applications would be farther down its development path.

12. The second type of harm springs from the message Microsoft sent to developers of potentially competitive software. In the browser wars, Microsoft showed that it had the power to reduce the return Netscape and Sun earned on their investments in innovative technologies and that it was willing to use this power. This reduces the expected profits that outside innovators can expect to earn from developing technologies that threaten to create additional competition for Microsoft's operating system monopoly.

13. Historically, people working outside of the dominant firms in the software industry have been responsible for the development and commercialization of many of its most important innovations. Notable examples include email, the electronic spreadsheet, the word processor, the window based-graphical user interface, the web browser, user friendly handwriting recognition on a handheld device, and instant messaging. This pattern is not unique to software. In many industries, new entrants are a critical source for the innovations that take technology in fundamentally new directions. Although they may not innovate themselves, dominant firms sometimes learn how to exploit the new innovations that do arise.1 Because outsiders are such an important source of innovative energy, Microsoft's threatening message reduced the rate of innovation in the software industry as a whole.

14. The third and final type of harm is the most familiar and fundamental. Microsoft has harmed the innovative process because it has limited competition, and competitive markets are, on balance, the best mechanism for guiding technology down a path that benefits consumers. No system of comprehensive central planning, neither one controlled by a government, nor one controlled by the managers of a single firm, can hope to be as robust and reliable a mechanism as competition among many actual and potential firms for purchases by final users. Before the breakup of AT&T, engineers described the advantages of having a single firm that produced all the telephone desksets that connected to the telephone network. Since the breakup, consumers have benefited from the wider range of choice and more rapid innovation in the handsets that competition made possible.

1 According to one Microsoft insider, this has been the pattern at the company: "and let's face facts, innovation has never been microsoft's strong suite, we're much better at ripping off our competitors. For example, we did not invent either ASP [active server pages] or IE, we bought them!" RX8

IV. Analysis of the Reorganization

A. General Characteristics of the Proposed Reorganization

15. The proposed remedy creates two companies that sell different types of software (operating systems and applications) with minimal overlap in the product lines that each company would offer immediately after the reorganization takes effect. Over time, however, each company would be free to develop any new type of software product, including the types of software products supplied by the other company.

16. The internet browser is the most important product in the initial overlap in the product lines. To handle this case, the government's proposal gives the applications company the intellectual property associated with Internet Explorer and the developers who worked on it. However, because Microsoft has placed code that supports browsing in operating system files that contain code that supports non-browsing features of the operating system, the operating system company will receive a license to use and distribute the parts of the code for Internet Explorer that are shipped with the Windows operating system product. FOF 164.

17. The reorganization creates two powerful software companies with roughly similar strategic assets. They will each have annual revenue of more than $8 billion and annual profits of more than $3 billion. 2 This is much larger than the revenues and profits for 2 To be specific, according to Microsoft's 1999 10K filing, the Windows Platforms division, which corresponds roughly to the proposed operating systems company, had revenue of $8.5 billion. The Productivity Applications and Developer division and the Consumer, Commerce and Other division together had revenue of $11.2 billion. Total profit for the entire company was $7.8 billion. Microsoft does not publish profit figures by division, but as a very rough guide, we can assume that profits are proportional to revenue. This would imply profits of $3.4 billion for the Windows Platforms division and $4.4 billion for the remaining units. other companies that specialize in selling software for the PC. For comparison, Novell, Adobe, Intuit, Symantec, Rational Software, Corel, and Macromedia together had total revenue of $3.8 billion and total profit of $0.9 billion in the most recent year. As the Court has found, the Windows operating system has a market share that has been increasing over time and that has reached the level of 95% in recent years. FOF 35. They also have a comparable presence among users. According to one market analyst, Microsoft's Office suite captures 95% of the revenue in the office productivity suite business. RX37. Microsoft's CEO Steve Ballmer recently claimed that about 80% of all the electronic information in most companies is stored in Microsoft Office documents. RX14.

18. After the reorganization is fully implemented, the operating systems company will control the Windows user interface. The applications company would control the user interfaces presented by the Office applications. Hence, each company has a powerful means of presenting final users with choices about new software products. For example, if they were promoting alternative browsers, the operating system company could put an icon that starts its browser on the desktop. The applications company could put a choice on its View menu that lets a user view a document using its browser.

19. Each company will have products that present applications programming interfaces that can be used by ISVs. The operating systems company can continue to offer all of the APIs presented by its desktop and server operating systems. On the desktop, the applications company will control the APIs supported by Internet Explorer and by Office. These APIs are already widely used. Declaration of E. Felten, 36. For example, Microsoft claims that there are 2.5 million developers who use Office as a platform for building applications. RX38. On the server, the programs controlled by the applications company expose APIs and communications interfaces that let them be linked together as building blocks in large server side applications. For example, a corporate developer building an e-commerce application can have the application company's web server application, IIS, capture data from a customer and then transfer it to its database application, SQL Server.

B. The Emergence of Competition in the Operating System Market

20. By freeing the applications company, this remedy will reduce the barrier to entry faced by a new operating system company. As separate entities, the applications and operating systems companies will each have an incentive to compete with the other, or at least to encourage other firms to do so. The applications company will perceive both the opportunity to take revenue away from the operating system company and the threat that the operating system company will take revenue away from it. This opportunity and threat will create incentives for the applications company to write versions of its applications that run on other operating systems. By itself, this will lower the applications barrier to entry protecting the Windows operating system. The opportunity and the threat will also create incentives for the applications company to develop its products into full- featured, cross-platform middleware products that other applications developers can use to develop programs that run on multiple operating systems. This will further reduce the barrier to entry.

21. This reorganization places the operating system monopolist in a competitive

situation comparable to that which prevailed in the mid 1990s. At that time, Netscape had access to a large fraction of desktops and had an incentive to develop its browser into a critical piece of middleware on the PC. The reorganization recreates this situation with the applications company in the role played by Netscape.

22. To see why incentives drive these two companies toward this outcome, even though they start from positions where they are not direct competitors, it is useful to look in more detail at the threats and opportunities that each company will perceive when they are separate.

23. The best outcome for the operating systems company would be one in which it maintains a dominant position in the operating systems market and also captures some (or all) of the profits from the sales of applications. If the operating systems company cannot achieve this goal, the next best outcome would be to retain its dominance of the operating systems market and to induce enough competition in the Windows applications business to increase innovation in applications. This will increase demand for the operating system because, as the Court found, applications are critical complements to the operating system. FOF 37. To complete this three-way classification, the worst possible outcome for the operating systems company would be one in which it faces direct competition from companies offering alternative operating systems and in which the applications company maintains a dominant position as an applications vendor for the various operating system platforms.

24. The ranking of outcomes for the applications company is exactly the reverse. It understands that the operating system company has an interest in driving down prices for Windows applications and trying to capture some of the revenue from the applications business. The applications company will therefore recognize that it would be a risky strategy for it to continue to write applications only for the Windows operating system.

25. One of the key advantages protecting the application company's $10 or $11 billion stream of revenue are the switching costs that users would face if they tried to adopt a competing set of applications. These users would have to learn the new interfaces presented by any new applications. They would also have to convert the large amounts of data that are stored on desktops and on servers in Microsoft Office file formats. See Declaration of E. von Simson, 4a. Right now, any user who wanted to switch operating systems would have to incur the large costs of switching applications. If, however, the new operating system runs the applications that the user currently uses, the costs of switching to the new operating system will be relatively low compared to the costs of switching applications. Hence, the applications company will have an incentive to write versions of its applications that run on an alternative operating system. It will also want the providers of complementary applications to support the alternative operating system. To reduce the porting costs for ISVs, the applications company will have an incentive to develop its applications into middleware that ISVs can use and to sell tools that programmers can use to write cross-platform software.

26. The applications company's defensive strategy of porting its applications and developing them into full-featured middleware products can be converted into an offensive strategy that takes revenue from the Windows operating system company. Just as the operating systems company can gain by encouraging innovation in applications, the applications company can gain by encouraging innovation in a critical complement that it does not own, the operating system. It can do this by offering its own operating system or by supporting an open source operating system such as Linux.

27. Among all existing or potential applications vendors, the newly created applications company would be uniquely positioned to implement the kind of strategy outlined above. From a defensive point of view, it has a much stronger incentive to take acts that protect its current revenue stream. In principle, the newly created applications company should be willing to spend up to the present discounted value of this stream, a sum that could be worth anywhere from $40 to $100 billion dollars, if doing so would successfully protect this income stream from attack. In addition, the existing applications already possess much of the functionality that would be required for these applications to serve as middleware that offers a complete set of APIs to developers. No other applications vendor has such a powerful combination of assets—an incentive to protect its existing revenue stream, wide availability on user desktops, and existing middleware functionality—for bringing competition to PC software.

C. Advantages of a Second Company Even in the Absence of Operating System Competition

28. Even if the inherent rivalry between the operating systems company and the applications company does not lead to actual competition in the operating system market, the threat that each company poses to the other will profoundly change the dynamics in the software industry. To illustrate this point, it is useful to consider how events might have turned out if the separation into an operating system company and an applications company had taken place just before Netscape commercialized the web browser. Imagine that neither company had yet taken any steps to threaten the other. In particular, the applications company had not yet written versions of its products for other operating systems; the applications barrier to entry into the operating system market had not been reduced; no competition in this market had materialized.

29. Imagine that in this hypothetical scenario, Netscape is initially able to distribute its browser freely and achieves wide market penetration. Then, both the operating system and the applications company perceive the threat presented by the Internet and the browser. The key difference in this scenario is that this new threat is superimposed on top of the underlying threats and opportunities that the applications and the operating system companies present to each other.

30. In this situation, it is likely that one company would work with the new entrant in an attempt to gain an advantage over the other. Either company could consider forming an alliance with Netscape, giving it an important distribution channel that reaches many final users. This strategy might be well worth adopting if it increased the likelihood that one incumbent would be able to displace the other. The applications company could use the Netscape browser as part of its strategy for developing full-featured cross platform middleware.3 The operating system company could use the Netscape browser as a way to 3 There is evidence that Office developers were required to support IE preferentially over competing browsers. In a January 1997 email, Bill Gates made clear his priorities: "In one piece of email people were suggesting that Office had to work equally well with all browsers and that we shouldn't force Office users to use our browser. This is wrong and I wanted to correct this." GX351 Later, in July 1997, Paul Maritz noted in an email to Gates and other executives that the Office group (consistent with Gates" comment in January 1997) was going to target certain features of Office for IE, but "this was hard decision for them (based on IE's current market share)." GX514. move quickly to a position where it is the dominant vendor of a new type of applications suite that relies on more server-side computing or a user interface based on the browser.

31. Looking ahead from today, rivalry between the two companies will be particularly important when transforming new technologies like the browser arise. In coming years, portable devices, wireless communications and voice recognition may obsolete many deeply embedded assumptions about when, where, and how users access digital information. At the same time, improvements in the bandwidth of fiber optic data communications networks and the extension of these networks ever closer to the desktop may narrow the gap between the capacity of the pipe that connects two different computers and the pipe that connects components located inside the case of a single computer. Either one of these developments, and especially the two of them together, could lay the foundation for new software innovations as powerful as the browser and the Web.

32. Take for example, the Palm operating system, the first operating system that could recognize handwriting and run for an acceptable period of time on a small battery powered handheld device that fit comfortably in a shirt pocket. This new product, which was not developed by any of the leading players in the computer industry, has already brought very significant benefits to consumers. As it evolves wireless links with the Internet and tighter links with mobile phones, an entirely new window of opportunity opens up. As voice recognition software becomes more powerful, the window opens up into an entirely new world of unexplored possibilities.

33. As an integrated company that controls both the Windows operating system and the Office productivity suite, Microsoft has a powerful set of tools that it is using to

influence the path of competition in this new space. It is developing a substitute operating system, Windows CE, that competes with the Palm operating system. It has further indicated a willingness to change the details of its Office applications to favor devices that run Windows operating systems, even if doing so disadvantages its customers who now rely on the Palm Pilot. "

REDACTED

"RX1 (Bill Gates to senior Microsoft executives, July 11, 1999).

34. If the companies were separate, the applications company would try to meet consumer demand rather than support the strategic goals of the operating system company. It might form an alliance with providers of handheld computing devices rather than aid the operating systems company in its effort to handicap and defeat them. For example, it could develop a client application that runs on the Palm Pilot and that communicates efficiently with Exchange, the server program that stores email, calendaring, and task scheduling information. Because of the popularity of the Palm handheld, these features would further solidify the position of Office and Exchange. Doing so would also offer larger potential rewards to the developers of the Palm platform, and would thereby encourage other new entrants to strive to develop equally innovative new products.

35. The separation might also change the dynamics of the competition that is taking place in the server market. Right now, Microsoft is using security protocols that discourage the use of non-Microsoft servers in enterprises that install Windows 2000 on the desktop. See Declaration of R. Henderson, 49, 119–120; Declaration of E. Felten, 78–79. If the applications company is successful in creating a viable alternative on the desktop—a competing operating system, a version of Office that runs on it, and a complementary set of applications—these enterprises will have the choice of switching away from the Windows desktop operating system instead of switching to the Windows server operating system.

36. In fact, the discriminatory security features would increase the chances that the competing operating system succeeds. When the operating systems company makes Windows 2000 less attractive to enterprises with non-Microsoft server operating systems, it increases the demand for an alternative desktop operating system. The applications company would therefore see a larger payoff from porting its applications to the alternative. Other applications developers might then try to get an early seat on the new bandwagon. The resulting increase in available applications would further encourage the adoption of the new operating system.

37. Working back, we see that if a separate applications company existed, the operating system company might refrain from introducing these discriminatory security features in the first place. In a world where there is no separate applications company, the discrimination features increase sales of Windows server operating systems without decreasing sales of desktop operating systems. In a world with a separate applications company, this strategy could lead to significantly decreased sales of desktop systems.

38. This counterfactual scenario about the development of the browser and the forward looking hypothetical scenarios about handheld computing and security protocols between the desktop and the server suggest several general points. First, the separation of the applications and operating systems developers into different organizations could increase the rate of innovation that emerges from just these developers alone. The threat that the incumbents pose to the other could induce technological races that spur the rate of innovation achieved on both sides, just as the race with Netscape spurred innovation within Microsoft. FOF 135.

39. Second, the separation would also increase the expected returns to outside innovators. It would create two distinct paths or channels that a technologically successful new entrant could use to reach and maintain contact with final users. Competition between these two organizations would give a new entrant like Netscape or Palm much more bargaining power than it has when it faces a single, monolithic organization. By playing one of the incumbents against the other, the new entrant could therefore expect to extract a much higher return from its innovative effort and early market successes.

40. Finally, even an increased possibility of competition in the market for operating systems could deter an existing monopolist from engaging in some anticompetitive tactics. This benefit arises from the mere creation of the independent applications company. To the extent that the competition becomes real competition instead of potential competition, the monopolist will face even stronger incentives not to engage in socially harmful anticompetitive practices.

V. Effects of the Conduct Provisions

41. In addition to the reorganization, the proposed remedy puts in place a number of prohibitions directed at specific types of conduct. These prohibitions can be separated into two categories—provisions that support the reorganization and provisions that keep the company that controls the operating systems monopoly from engaging once again in the specific types of illegal behavior that Microsoft used before, and that the successor company might use again, to limit entry, restrict competition, depress the rate of innovation, and distort the operation of the market.

A. Provisions Designed to Make the Separation Effective

42. The proposed remedy includes several specific provisions that are designed either to maintain the feasibility of a separation or to ensure that this separation is a true separation into organizations with independent economic interests.

43. Because its most important assets are software and people, Microsoft could take steps that would frustrate the ability of the Court to implement a division of these assets. Microsoft has already demonstrated to the Court its willingness to impose technical linkages on its software code without technical justification in order to achieve certain strategic goals (e.g. binding the browser to the operating system). FOF 175–77. Between now and the time when the reorganization is implemented, Microsoft could use these kinds of tactics to present the court with a fait accompli that makes it technically impossible to separate existing applications from the operating system. Thus, Provision 1 d of the proposed remedy requires Microsoft to maintain the separation between the operating system business and the applications business that exists on the date of entry of the Final Judgment. It further provides that Microsoft should take no action that makes the separation more difficult.

44. Once the companies exist as legally separate entities, it is important that their managers operate them as economically independent entities. Trivially, this requires that one company be prohibited from buying the other (Provision 2b). The covered shareholder provision has the same intent. It ensures that a dominant shareholder cannot force the managers of one company to support the financial interests of the other (Provision 2a). For the two companies to be economically independent, they must not be able to enter into any legal agreement that would require or facilitate collusion between them. The proposed remedy therefore requires that the operating systems company and the applications company file any agreements between them with the Department of Justice (Provision 2c). It also specifically prohibits the two companies from entering into special agreements concerning distribution, discriminatory disclosure of technical information, or discriminatory terms for one to license the other's products (Provision 2b). The Court has found that Microsoft has used these specific acts to limit competition by other firms or to induce other firms to participate in its schemes to limit competition by other firms. FOF 79, 83–89, 95–103.

B. Provisions Designed to Prevent Continued Exploitation of Monopoly Power in the Market for Operating Systems

45. The reorganization that is proposed here will create conditions that make it possible for operating system competition to emerge, but it does not guarantee that this will happen. For some period of time that extends beyond the implementation of the reorganization, the operating systems company will continue to be a monopolist in the market for Intel-based desktop operating systems. The proposed remedy therefore includes specific provisions designed to prevent the operating systems company from engaging in the same anticompetitive acts that it used against Netscape's browser and the Java technology to undermine their competitive potential.

1. Provisions relating to OEMs

46. The Court found that Microsoft used its monopoly control of the operating system market to induce OEMs to participate in its attempts at limiting competition. Among the specific illegal measures taken by Microsoft were:

- making access to technical support or information about new programs contingent on an OEM's support in Microsoft's attempts at limiting competition (FOF 128- 129);
- offering reductions in the royalty price for Windows 95 in exchange for this kind of support. (FOF 64, 139, 230–241);

. threatening withdrawal of its Windows license to OEMs if it failed to offer this kind of support. (FOF 203–208);

. refusing to allow OEMs to reconfigure the start-up sequence or the PC in ways that give competitors access to final users. (FOF 209–227);

. binding Internet Explorer to the operating system in order to make it impossible for an OEM that wanted to support a single browser to select a product other than IE. (FOF 175–77, 191,192).

47. Because OEMs will be a critical distribution channel for the separate applications company in the early years of its existence, the operating systems company will be tempted to use the same kinds of tactics to limit potential competitors, the most important of which will be the newly formed applications company. If the operating systems company could succeed in these efforts, it would undermine the reorganization that is at the heart of this remedy.

48. For this reason, the remedy prohibits, for a limited period of time, specific types of conduct by Microsoft and the successor operating system company. All of these provisions are designed to protect the freedom of an OEM to choose the applications and middleware that it ships with a Windows operating system in response to consumer demand. The first provisions prohibit financial threats and inducements. Provision 3aii (Uniform Terms for Windows Operating System Products Licensed to Covered OEMs) keeps the operating systems company from using changes in the price for an operating system license as a means of punishing an OEM that distributes a product supplied by another firm or from rewarding the OEM for refraining from distributing such a product. Provision 3ai (Ban on Adverse Actions for Supporting Competing Products) keeps the operating systems company from using marketing programs or technical support to achieve the same end.

49. The next set of provisions frees OEMs to configure the PCs that they sell. Provision 3f (Ban on Contractual Tying) prevents the operating systems company from writing licenses for the operating system that require OEMs to distribute any other software products. Provision 3aiii (OEM Flexibility in Product Configuration) lets the OEMs undo choices about such things as the boot sequence, location of icons, and menu choices that the operating system company might use to force the OEM to feature, and therefore to support, applications or middleware supplied by the operating systems company. Provision 3g (Restriction on Binding Middleware Products to Operating Systems) requires that OEMs and end users have the ability to remove end user access to any middleware that the operating system company has included with its operating system software. Provision 3i (Continued Licensing of Predecessor Version) gives the OEMs an alternative way to configure its PCs. It lets them license older versions of the Windows operating system and add new features by adopting software from independent vendors.

2. Provision regarding other distribution partners

50. Microsoft also used its monopoly power to interfere with distribution channels other than OEMs. Among the actions taken by Microsoft were:

. giving valuable consideration (e.g. placement on the Windows desktop, free licenses to software for customizing IE) at no charge to Internet Access Providers (IAPs) who agreed to distribute and promote IE and restrict distribution and promotion of competing browsers (FOF 242–310);

. giving Windows promotion to Internet Content Providers (ICPs) such as Intuit who agreed to restrict distribution of Navigator and payments to Netscape (FOF 311–335);

. threatening to withhold MacOffice from Apple unless Apple distributed IE as the default browser on Macintosh PCs (FOF 341–356).

51. Provision 3e (Ban on Exclusive Dealing), which applies to any contracts with third parties, is intended to prohibit these and similar acts. In particular, it prohibits any agreement that limits the distribution of competing middleware or operating system products.

3. Provisions regarding developers and competitors

52. The Court also found that Microsoft used its monopoly power to undermine competing middleware products such as Sun's Java technology and Intel's platform level NSP software. Actions taken against Java include efforts to create incompatibility between its implementation of the Java virtual machine and the Sun implementation (FOF 387–394), inducements to ISVs to refrain from using use or distributing non-Microsoft Java technologies (FOF 395–402), and impeding expansion of Java class libraries (FOF 404–406). Microsoft also threatened to withhold support for Intel's next generation of microprocessors unless Intel agreed to stop developing platform-level interfaces like NSP that might draw support away from interfaces exposed by Windows. FOF 94–103.

53. The Court's findings demonstrate how varied Microsoft's anticompetitive behavior has been in the past. Since the trial, new and unexpected acts such as the discriminatory security protocol built into Windows 2000 (described earlier in paragraph 35) have already come to light. This reaffirms how many possible anticompetitive tactics are available and how difficult it will be to anticipate the precise form of future tactics. Therefore, the proposed remedy includes two provisions that prohibit anticompetitive behavior in general terms. Provision 3f (Ban on Contractual Tying) lays down a blanket prohibition against contracts that are designed to limit competition. Provision 3c (Knowing Interference with Performance) prohibits actions that are designed to degrade the performance of competing middleware on the Windows platform.

54. The remedy also contains a provision that makes it possible for ISVs, OEMs, and independent hardware vendors (IHVs), to uncover and ameliorate a wide range of illegal acts. Provision 3(b) (Disclosure of APIs, Interfaces and Technical Information) requires that Microsoft disclose to these third parties all interfaces they need to make their products interoperate effectively with the Windows operating system.

55. Finally, if the operating system company could use these kinds of agreements with third parties to discriminate against hardware and software vendors who support the middleware strategy of the new applications company or any other middleware vendor, it could impede the development of operating system competition. Provision 3d (Developer Relations) prohibits them from doing so.

4. General comments

56. Under the proposed remedy, all of these conduct provisions apply only for a limited period of time. Specifically, they are in force until three years after the reorganization becomes effective, roughly the time it would take for one of the successor companies to complete one product cycle. This limitation is appropriate because the most reliable and most effective mechanism for preventing anticompetitive acts is market competition that erodes, or at least threatens to erode, the monopoly power that lies at the heart of the problems identified in this case. The conduct provisions support the reorganization in its vulnerable early years of life. They raise the probability that the reorganization will introduce competition into the market for operating systems. This means that the conduct provisions will have a social value that is much higher if they are used in combination with the reorganization than if they are used alone.

VI. Costs and Benefits of the Proposed Remedy

A. Benefits of the Remedy

1. More innovation

57. As the discussion has already suggested, the most important benefit for society that will be created by this remedy will come from faster innovation. Some of the benefit will arise because constraints will be lifted from the creative developers working in the applications group. They will no longer be under the control of an operating system monopolist whose highest priority is to maintain this monopoly. See above footnote 3. The reorganization will free them to respond to consumers and adopt new technologies even if they encourage competition for the desktop operating system.

58. Some of the additional innovation will arise because of the race that threatens to breakout between the applications and operating systems companies. Much of this innovation may be of an incremental form, but it can still be very valuable to consumers. This kind of race will spur the developers in both the successor companies, just as the threat from Netscape spurred innovation at Microsoft as a whole. FOF 135.

59. Finally, this remedy will significantly increase the returns that outside innovators, the potential new entrants, can hope to earn if they develop and commercialize a powerful new technology like the browser. Because outsiders have been a critical source of innovative energy for the software industry, this change in expected returns has the potential to generate large benefits for society. One of the key lessons from the economics of technological change is the recognition that even in an undistorted market, innovators earn a private return on their efforts that is lower than the social

return. As a result, too little innovation takes place. This problem becomes much worse when a powerful player like Microsoft further depresses the return to outside innovators through the tactics that it uses to maintain its monopoly.

2. Price changes

60. If competition emerges in the market for operating systems, this should have the usual effect of reducing the price for the operating system. Symmetrically, more competition for office productivity applications, which could emerge, should also lead to reductions in prices for these products.

61. These price changes will reduce the extent to which consumers are exploited by Microsoft. If so, they will lead to a large gain for consumers and to a corresponding reduction in the profits Microsoft derives from its exploitation. One of the purposes of the antitrust laws is to prevent sellers from using monopoly power to achieve this kind of transfer of wealth from producers to consumers.

62. We also know that monopoly pricing leads to reductions in social welfare to the extent that it causes some people who might be willing to pay more for a good than it costs to produce it are deterred from making a purchase. In a market where a monopolist can charge different consumers different prices, few such buyers may be deterred. In practice, we know that Microsoft currently charges different prices for academic institutions, small and large businesses, people who do and do not buy the Access database program as part of the Office suite, who do or do not buy the operating system as part of a package from an OEM, who do or do not buy the program as an update to a competitive program, who use the Office productivity suite instead of the less complete Microsoft Works package, and who do or do not buy a Microsoft provided technical support contract, to name just a few examples. As a result, there is reason to believe that the reduction in output resulting from Microsoft's monopoly pricing may, on net, be relatively small. Moreover, current changes in technology mean that in the future, software vendors will be better able to use fine-tuned pricing mechanisms such as software rental or purchases of specific services from an application service provider. In competitive markets these mechanisms could bring important benefits to consumers. In markets that are under monopoly control, they may further reduce the number of willing buyers who are deterred but increase the exploitation of consumers.

B. Costs of the Remedy

63. There are several potential types of cost associated with this remedy. The costs that concern us most are costs to society. However, to assess whether the remedy is disproportionately punitive, one must also look at the costs from the point of view of Microsoft shareholders.

1. Corporate reorganization

64. There are real costs such as legal fees, moving expenses, marketing and promotional expenses that are associated with a corporate reorganization that creates independent business units. In the ordinary course of business, firms voluntarily incur such costs. Any reasonable calculation of these one-time costs will show that these are very small compared to the value to society of the increased innovation that can reasonably be expected to follow from the reorganization.

65. This reorganization does means that people who used to work for the same legal entity now work for different legal entities. However, any communication that could take place between two people when they worked for the same firm can still take place when they work for different firms. If, for example, close communication between operating systems developers and applications developers is critical to the success of each, both the operating systems company and all of the applications companies, not just the new one created by this reorganization, will have an incentive to make sure that this communication still takes place. Whether this takes direct phone or email contact, or face-to-face meeting in one person's workplace, or even in offsite retreats, the companies involved will have a large incentive to make sure that these lines of communications remain in place. The only change, and this presumably is a change that will benefit society as a whole, is that the information flows back and forth to applications developers will now treat all developers symmetrically and will remove any preferential treatment that Microsoft applications developers may now receive.

2. Conduct provisions

66. With two major exceptions, the conduct provisions do not force Microsoft to undertake any act. These exceptions aside, the conduct provisions prohibit Microsoft and the successor companies from breaking the law, from taking actions that made it easier for it to break the law in the past, or from taking actions that could be used to conceal illegal acts in the future. Assuming that Microsoft and the successor companies intend to comply with the law, these prohibitions should not impose undue costs on their legitimate business activities.

67. The first exception is the mandate that Microsoft continue to license, on the original terms, the previous operating system product after the release of a major new operating system product. See Provision 3i. The direct cost to society from this provision is virtually zero because the code already exists. If there are additional costs associated with technical support for users of the old operating system, Microsoft is free to charge for any technical support that it, rather than the OEM, provides.

68. The second exception is the requirement that Microsoft disclose all the information about APIs and interfaces that other developers need to be able to interoperate with its operating systems. Microsoft has extensive experience with the process of designing interfaces to its operating system in ways that make them useful and easy to understand for outside developers but that still protect any intellectual property associated with the internal workings of the operating system. Based on this experience, it should, at reasonable cost, be able to provide this information about all the interfaces that it uses.

3. Costs imposed on Microsoft shareholders

69. A reasonable benchmark for estimating the costs of this remedy to Microsoft shareholders is to compare what their wealth will be after the remedy has been imposed to the wealth that they would have possessed if the company had never engaged in any illegal acts. By this standard, this remedy may not impose any costs at all on the shareholders. In the mid 1990s, the Netscape browser and the Java virtual machine posed a very serious threat that the stream of monopoly profits that Microsoft collected from its operating system business would be lost. Because it did break the law, it was able to preserve and increase these profits up until the present. If it had obeyed the law, some of this profit might have been lost to operating system competition. The company could therefore be worth less than the combined companies will be worth after the reorganization. Said another way, even if the top executives at Microsoft had known that the course of action that they were about to undertake would lead, with certainty but also with a delay of between five and eight years, to the imposition of the remedy outlined here, they may still have elected to follow their anticompetitive course of action. The gains from defeating the immediate threat and from postponing the emergence of operating system competition by five or more years would have exceeded the low costs to shareholders associated with the eventual imposition of this remedy.

70. Of course, the position of the Microsoft shareholders would be better still if the company were able to violate the antitrust laws. However this additional gain to shareholders imposes large costs on society as a whole. It is precisely these social costs that antitrust law is intended to prevent.

VII. Conclusion

71. In any assessment of the net costs and benefits associated with this proposed remedy, one simple fact stands out. Because it will raise the rate of innovation for the economy as a whole, the remedy creates a stream of benefits that will persist and grow far into the future. There is genuine uncertainty about the exact magnitudes of the benefits and any costs. But any reasonable calculation shows that the expected benefits overwhelm the costs.

72. Because it will encourage competition and innovation in the vitally important software industry, it is my opinion that this remedy will have a profoundly beneficial effect on our economy.

I declare under penalty of perjury that the foregoing is true and correct. on April 27, 2000 in Washington, DC

Executed

Paul M. Romer

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Paul M. Romer

TO THE COMMENTS OF RELPROMAX ANTITRUST INC. UNITED STATES

DISTRICT COURT FOR THE DISTRICT OF COLUMBIA, UNITED STATES OF AMERICA, Plaintiff, V. MICROSOFT CORPORATION, Defendant.

STATE OF NEW YORK, ex rel. Attorney General ELIOT SPITZER, et al., Plaintiffs and Counterclaim-Defendants, V. MICROSOFT CORPORATION, Defendant and Counterclaim-Plaintiff.

Declaration of Carl Shapiro

April 28, 2000

TABLE OF CONTENTS

Page No.

II. ....

A. ....

B. ....

C. ....

D. ....

III. ....

A. ....

B. ....

C. ....

D. ....

Qualifications and Scope of Testimony 1

General Approach to Remedy and Ultimate Goals 1

The Court's Findings and Remedy Objectives 1

Enabling Competition to Windows 3

Lessons about Entry from Other Markets with Network Effects 5

Evaluation of the Economic Effects of Plaintiffs'' Proposed Remedy 8

Proposed Reorganization—1, 2 9

Lower Entry Barriers into Operating Systems 9

Lessons from the Relationship Between Intel and Microsoft 11

Added Competition in Browsers 14

Costs of Reorganization 14

IV. Interim Conduct Remedies—3 16

A. No Exclusionary Contracts—3(a), 3(d), 3(e), 3(h) 17

B. Disclosure of Interface Information—3(b) 21

C. OEM Flexibility in Product Configuration—3(a)(iii) 24

D. No Performance Degradation for Rival Middleware—3(c) 24

E. Contractual Tying and Binding—3(f), 3(g) 25

F. Licensing of Legacy Code—4(i) 26

Gonclusions 29

I. Qualifications and Scope of Testimony

I am Carl Shapiro, the Transamerica Professor of Business Strategy at the Haas School of Business at the University of California at Berkeley where I have taught for ten years. I also am Director of the Institute of Business and Economic Research at U.C. Berkeley. I have served as the Editor of the Journal of Economic Perspectives, a leading economics journal published by the American Economic Association. I am also a Senior Consultant with Charles River Associates, an economics consulting firm.

I am an economist who has been studying antitrust, innovation, and network industries for roughly twenty years. My recent book with Hal R. Varian, Information Rules.'' A Strategic Guide to the Network Economy, discusses competitive strategy in the information economy, emphasizing the pricing of information, the creation of multiple versions of information products such as software, the switching costs and lock-in associated with information technology, and network economics.

I have considerable experience in the application of economics for the purposes of enforcing the antitrust laws. I served during 1995 and 1996 as the Deputy Assistant Attorney General for Economics in the Antitrust Division of the Department of Justice. I have served on several occasions as an expert witness or consultant to the Antitrust Division or the Federal Trade Commission. Over the years I have also consulted or served as an expert witness on numerous antitrust matters for private companies in a range of industries, including several companies in the hardware and software business. My curriculum vitae is attached to this Declaration. In this proceeding I have been asked by the Plaintiffs to offer an economic analysis of the likely effects of the Plaintiffs'' proposed remedy on competition, innovation, and ultimately consumers.

II. General Approach to Remedy and Ultimate Goals

A. The Court's Findings and Remedy Objectives

The Court has found that Microsoft engaged in illegal and anti-competitive conduct to maintain its monopoly in the market for Intel-compatible PC operating systems ("operating systems").

(Conclusions of Law at 9, 21) The Court also has found that Microsoft attempted to monopolize the market for browsers. (Conclusions of Law at 24) Consistent with these findings, the three primary measures by which I am evaluating the proposed remedy are: (1) creating conditions conducive to entry into the market for operating systems (or expansion by small firms already in that market); (2) preventing Microsoft from using its monopoly over operating systems to gain control over adjacent markets, as it has attempted to do in browsers; (3) restoring competition in browsers. I also consider whether the proposed remedy is likely to create inefficiencies that might diminish the benefits it generates to competition and innovation.

Objective (1) is directly driven by the finding that Microsoft illegally maintained its monopoly and raised barriers to entry into the market for operating systems. Objective (2) flows from the fact that entry into the market for operating systems is more difficult if Microsoft, the monopolist in that market, also controls products complementary to its Windows monopoly, especially complementary products such as the browser that it views as strategic threats to its Windows monopoly. Objective (2) also follows from the finding that Microsoft used its operating systems monopoly to distort competition in browsers. Objective (3) follows from the finding that Microsoft has attempted to monopolize the browser market and has attained its current position in that market using anticompetitive means.[1]

Remedy is directed towards future competition and innovation, so all of my analysis is done on a forward-looking basis, even as it is informed by historical experience drawn from this and other markets. Microsoft has emphasized repeatedly that the computer industry is very fast moving and subject to ongoing technological change. I quite agree, and for just this reason I urge the Court to embrace a remedy that puts in place a market structure conducive to competition and innovation, so that consumers can rely as much as possible on market forces rather than court orders to serve their interests. Likewise, in this fast-moving industry any conduct provisions imposed by the Court should be broad enough to prevent Microsoft from engaging in a number of categories of anticompetitive tactics in the future, precisely because the specific tactics that Microsoft might employ in the future are hard to predict today in the face of changing products and technology. So, for example, several of the provisions of the proposed remedy apply to the category of "middleware," not just to the specific types of middleware that were featured in this case, such as the browser or the Java Virtual Machine. Finally, I take as a working principle that the remedy should operate in a dual manner: first, to prevent a recurrence in the future of conduct by Microsoft akin to its past anti-competitive behavior, and second to affirmatively bolster competition, which Microsoft has stifled.

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[1] As of April 2000, Microsoft's Internet Explorer had achieved a browser market share of at least 69%. See RX23 and the Declaration of Rebecca Henderson.

B. Enabling Competition to Windows

Given the goal of enabling, but not compelling, competition to Windows in the market for operating systems, it is important to identify, as best we can, the likely sources of such competition in the foreseeable future, both to make sure that Microsoft cannot blockade operating systems rivals, and to inform any remedial provisions designed positively to foster operating system competition.

Following the traditional steps used by antitrust economists, I consider first the current competitors in operating systems, and then inquire into barriers to entry and the most likely sources of entry into the operating systems market. As the Court found, current competition in operating systems is virtually non-existent. In addition to Apple, the most promising alternative to Windows today is the Linux operating system. Linux, while increasingly popular as a server operating system, has limited popularity on the desktop for two primary reasons: (1) Linux still is regarded as overly difficult to use for many consumers, and (2) many of the most popular applications on Windows, including especially Microsoft Office, are not available on the Linux platform. [2] In other words, Linux suffers from the applications barrier to entry emphasized by the Court in its Findings. And the ability of Linux to challenge Windows is limited by the fact that Microsoft controls Office, making the barrier to entry even higher than it would be if Office were owned separately from Windows.

Moving from actual to potential competitors, and looking farther into the future, challenges to the Windows monopoly may come from various directions, some of which we surely cannot anticipate today. But we can illustrate the principle of "enabling entry" by looking at two examples of possible challenges that can currently be seen on the horizon. [3] One promising entry path into the market for operating systems is via cross-platform middleware. If such middleware becomes widely used, more and more applications may be written to that middleware, making it far easier for new operating systems to run many popular applications. I do not believe it is possible to identify today with any confidence the specific middleware that will play this role in the next several years. Therefore, the remedy chosen by the Court should broadly prevent Microsoft from blocking the emergence or widespread distribution of middleware. Establishing an entity with strong middleware assets and broad distribution that is independent of Windows will clearly help support this mode of entry. Another promising route by which entry could occur into operating systems, especially in the corporate setting (as opposed to residential users), is through the increased use of "thin clients" or "network computers" working in conjunction with servers. Microsoft has pointed to such client/server architectures as a potential threat to Windows. (Direct Testimony of Richard Schmalensee at 151–153.) Under this approach, network computers running non-Microsoft operating systems would be linked to servers, many of which run versions of the UNIX operating system. Although the network computer has failed to live up to its promise so far, network computers could displace at least some PCs if they ran the applications desired by businesses. And such applications could run in whole or in part on servers, placing less burden on the client computer. All of this suggests that entry into operating systems will be encouraged if applications are made available to run both on servers and on the thin clients themselves. [4] Another way in which entry into the market for operating systems may occur is that operating systems for handheld devices could be modified to become substitutes for desktop operating systems. Microsoft also has noted this source of potential competition in the desktop operating systems market. (Direct Testimony of Richard Schmalensee at 154–156.) Again, this type of entry will be promoted if key applications are made available to run on these "thin" operating systems outside Microsoft's control.

Consistent with the Court's findings regarding barriers to entry into the market for operating systems, the key to success for all of these possible entrants is their ability to run many popular applications currently available on desktop machines running Windows. As I discuss below, splitting off Microsoft's Applications Business from its Operating Systems Business will create incentives for the resulting Applications Company to make important applications such as Office available to run on rival operating systems, thereby significantly lowering barriers to entry.

C. Lessons about Entry from Other Markets with Network Effects

We can learn a great deal about entry barriers in network markets, and how they are overcome, from historical experience in other markets with network effects in which dominant firms have been successfully challenged. Consider the following examples: Nintendo vs. Atari in Video Games: Atari was the dominant firm in video games during the early 1980s. Nintendo displaced Atari as the dominant firm by the late 1980s. Nintendo based its challenge on its strengths in two complementary products: games designed originally for arcades (rather than home machines) and the provision of video game systems in Japan. [5]

Microsoft Word vs. WordPerfect in Word Processing Software: WordPerfect was the leading supplier of word processing software for personal computers during the provision of programming tools and leadership in object-oriented programming. [9]

The common lesson from these and other such episodes is this: While network monopolies can be very strong, they are most vulnerable to attack by firms with a strong position in the provision of a widely-used complementary product. In the current case involving Microsoft, this principle implies that the strongest threat to Windows is likely to come from a company with a strong position in widely-used applications software for PCs, middleware that runs on Windows, hardware for PCs, and/or operating systems for devices other than PCs. Indeed, the liability phase of this case focused on the threat posed to the Windows monopoly by one extremely popular complementary middleware product running on Windows, namely the Netscape browser. What distinguishes the Windows story of ongoing monopoly from the examples above of successful entry is that Microsoft engaged in anti-competitive conduct to fend off the threat posed by Netscape, the dominant browser company circa 1995–96. Microsoft is keenly aware of the principle that companies providing these complementary products tend to pose the most immediate threat to their Windows monopoly. Indeed, Microsoft has long recognized that the best way to avoid or defuse challenges to its desktop dominance is by controlling more and more functionality surrounding its desktop operating system and to limit the development and popularity of non-Microsoft middleware. [10]

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[2] Microsoft has stated that "Linux as a desktop operating system makes no sense. A user would end up with a system that has fewer applications, is more complex to use and manage, and is less intuitive." See "Linux Makes No Sense at the Desktop," p. 4 of "Linux Myths," available at www.microsoft.com/NTServer/nts/news/msnw/LinuxMyths.asp.

[3] The fact that we cannot confidently predict today the most significant modes of entry in the future supports the structural relief proposed by the plaintiffs, which will serve to create a strong new entity (the Applications Company) with the economic incentives to promote or support entry into the market for operating systems, from whatever source such entry arises.

[4] See the Declaration of Rebecca Henderson for a further discussion of how the availability of applications on servers would promote entry in to the market for operating systems.

[5] Some years ago I studied competition in the video game market during the 1980s as part of my work on behalf of Atari Corporation in its antitrust case against Nintendo.

[9] I studied competition in the market for database software as part of my work in the early 1990s on behalf of Borland in connection with its acquisition of Ashton-Tate.

[10] Findings 68 ("Microsoft was apprehensive that the APIs exposed by middleware technologies

It follows that the Court can greatly facilitate entry and competition in operating systems by creating an independent company with a strong set of widely-used Windows applications, middleware, and other complements to Windows. The Applications Company will be most impressive in these respects, with its unmatched complex of Windows applications. Put differently, the Applications Company will possess assets sufficient to threaten the Windows monopoly, the earlier threat from Netscape and Sun having been eliminated through anti- competitive means. In addition, the Court can enable entry into operating systems by preventing Microsoft from using its Windows monopoly to gain control of other complementary products, especially server operating systems, "thin" operating systems, and middleware for the Windows operating system.

D. Evaluation of the Economic Effects of Plaintiffs" Proposed Remedy

With these economic principles in mind, I turn now to an evaluation of the likely economic effects of the Plaintiffs" proposed remedy. I emphasize the role played by the various provisions of the proposed remedy in lowering the barriers to entry into the market for operating systems. I also consider whether the proposed remedy will inhibit pro-competitive conduct or integration. demolish Microsoft's coveted monopoly power. Alerted to the threat, Microsoft strove over a period of approximately four years to prevent middleware technologies from fostering the development of enough full-featured, cross-platform applications to erode the applications barrier. In pursuit of this goal, Microsoft sought to convince developers to concentrate on Windows-specific APIs and ignore interfaces exposed by the two incernations of middleware that posed the greatest threat, namely, Netscape's Navigator Web browser and Sun's implementation of the Java technology. Microsofts campaign succeeded in preventing—for several years, and perhaps permanently—Navigator and Java from fulfilling their potential to open the market for Intel-compatible PC operating systems to competition on the merits.") Findings 409 ("Microsoft also engaged in a concerted series of actions designed to protect the applications barrier to entry, and hence its monopoly power, from a variety of middleware threats, including Netscape's Web browser and Sun's implementation of Java. Many of these actions have harmed consumers in ways that are immediate and easily discernible. They have also caused less direct, but nevertheless serious and far-reaching, consumer harm by distorting competition.") See also Findings 411 ("It is clear, however, that Microsoft has retarded, and perhaps altogether extinguished, the process by which these two middleware technologies (Netscape's Navigator and Sun's Java) could have facilitated the introduction of competition into

Although the proposed remedy must be evaluated as a package, for the purposes of exposition I first discuss the reorganization and then the conduct provisions.

HI. Proposed Reorganization—1, 2

The proposed remedy (1, 2) calls for a reorganization of Microsoft into two separate companies, an Applications Company containing the Applications Business and an Operating Systems Company containing the Operating Systems Business. The key economic features of the proposed reorganization are that each company be operated independently of the other, and that the two companies continue to develop, distribute, license and sell their products independently.

My analysis of the proposed reorganization focuses on how the economic incentives of these two companies will differ from the economic incentives facing a combined company controlling both applications and operating systems. Based on these altered incentives, and on the limitations under which the two companies will operate (2(b)), we can use economic principles to make some general predictions about how the proposed reorganization will affect competition and innovation. I also consider legitimate ways in which the two companies may need to cooperate to offer improved products at lower prices, and whether the limitations imposed upon them in 2(b) of the proposed remedy will prevent them from achieving such pro-competitive ends.

A. Lower Entry Barriers into Operating Systems

The overarching economic effect of the reorganization is to create a strong company, the Applications Company, that will have the ability and incentive to make its offerings more "cross- platform." For example, the Applications Company will have a greater incentive to make Microsoft Office available to run on non-Windows platforms, and to enhance the value of Microsoft's Visual Studio suite of developer tools for ISVs seeking to develop programs for non-Windows operating systems. The improved availability of the Application Company's products as complements to rival platforms will thus help those actual and potential rivals to Windows to overcome the applications barrier to entry that currently protects the Windows monopoly.

The Applications Company unquestionably will have greater incentives to facilitate entry and expansion by rivals to Windows by virtue of its independence from the Operating Systems Company. Currently, Microsoft considers the loss of revenues and profits from its Windows monopoly when considering whether its Applications Business should cooperate in various ways with actual and potential rivals to Windows. After the reorganization, the Applications Company will no longer have any incentive to protect the monopoly profits associated with Windows. Therefore, to the extent that the Applications Business can facilitate or frustrate entry into the operating systems market, such entry will be easier and more likely as a result of the reorganization.

Indeed, after the reorganization, the Applications Company will positively benefit from the improved quality and lower price of operating systems that can be expected to result from lower entry barriers into the market for operating systems. This follows from a well-known economic principle: the supplier of one product (here, Office) benefits if a complementary product (here, Windows) is improved or made less expensive as a result of enhanced competition for the complementary product.

As a tangible example of the pro-competitive effects of the reorganization, I expect that an independent Applications Company today would have an incentive to port at least some aspects of Office to Linux. Corel has already ported its Perfect Office suite to Linux. There is already a sizeable installed base of Linux users. The Applications Company could begin by porting over those aspects of Office that are easiest to port and/or have the greatest demand on Linux, e.g., Excel and Word. And the Applications Company could offer Linux users file compatibility between Office on Linux and Office for Windows, a very valuable feature indeed given the size of the installed base of Office users.[11]

Another example of how the Applications Company will have incentives to facilitate entry by rivals to Windows relates to Microsoft's popular Visual Studio suite of programming tools, which includes Microsoft's Java development tools, Visual J++. My understanding is that these tools are familiar to, and widely used by, developers writing to the Windows platform. An independent Applications Company will have a greater incentive than does Microsoft today to make these tools more valuable for developers writing to rival platforms or to cross-platform middleware.

As a final example of how entry barriers will be lowered by the reorganization (and one that is especially fitting given Microsoft's antitrust violations found by the Court), the Applications Company will have a greater incentive than does Microsoft today to make its browser work well with operating systems other than Windows. So, the reorganization will help promote the original promise first offered by Netscape Navigator, namely cross-platform browsing functionality offered by a

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would attract so much developer interest, and would become so numerous and varied, that there would arise a substantial and growing number of full-featured applications that relied largely, or even wholly, on middleware APIs. The applications relying largely on middleware APIs would potentially be relatively easy to port from one operating system to another. The applications relying exclusively on middleware APIs would run, as written, on any operating system hosting the requisite middleware. So the more popular middleware became and the more APIs it exposed, the more the positive feedback loop that sustains the applications barrier to entry would dissipate. Microsoft was concerned with middleware as a category of software; each type of middleware contributed to the threat posed by the entire category.") Conclusions at 9 ("In this case, Microsoft early on recognized middleware as the Trojan horse that, once having, in effect, infiltrated the applications barrier, could enable rival operating systems to enter the market for Intel-compatible PC operating systems unimpeded.

[11] GX 514 gives one example of how Office has been used by Microsoft to protect the Windows monopoly by favoring Internet Explorer in Microsoft's battle with Netscape. This 1997 e-mail by Paul Maritz explains that he told the Office group "that they will target their XL and Access publishing features only at IE4. this was hard decision for them (based on IE's current market share)" but was done to promote the major goal of getting browser share up to 50% or more.

firm that is financially independent of Windows.

B. Lessons from the Relationship Between Intel and Microsoft

I believe we can learn a great deal from the relationship between Intel and Microsoft about how competition is engendered through the healthy tension that exists between two companies that are dominant in their respective complementary products, [12] One can think of the reorganization as creating a relationship between the Applications Company (with Office) and the Operating Systems Company (with Windows) comparable to that which has existed for a number of years between Microsoft (with Windows) and Intel (with its microprocessors such as the Pentium). Therefore, lessons from the Intel/Microsoft relationship should be very valuable in understanding how the proposed reorganization will affect competition.

The key point is that Intel has repeatedly taken actions to strengthen operating systems that hold out the promise of one day becoming an alternative to Windows. The most significant example is Intel's strong support for Linux. More specifically, Intel Capital, the group within Intel that

I am invests in technology complementary to Intel's microprocessor products, has made significant investments in Red Hat Software, Inc., TurboLinux, Inc, and VA Linux Systems, Inc. [13] All of these companies market versions of the Linux operating system. Following the mission statement for Intel Capital, these investments were made to "create and expand new markets for [14] In addition to investing in Linux companies, Intel also writes software drivers for Linux. [15] Beyond Linux, Intel is supporting a broad array of operating systems on its new 64-bit family of microprocessors, known as IA-64 chips. Intel is working with: HP to enable HP-UX as an operating system on IA-64 chips; a number of companies through the Trillian Project to ensure that Linux is available on IA–64 chips; Novell to assist in the writing of a new operating system (Modesto) on IA-64 chips; IBM and Santa Cruz Operation to create an enterprise-class UNIX operating system on IA-64 chips; and Microsoft for the Windows 2000 operating system on IA–64 chips. [16] In other words, Intel is following its own self interest in working with multiple operating systems. In similar fashion, the Applications Company will have incentives to be "platform neutral" following the reorganization, rather than favoring the Windows platform. We see the same tendency on Microsoft's part to do an "end run" around Intel, i.e., to cooperate with Intel's rivals and thus encourage competition in microprocessors and reduce Microsoft's not currently doing any work on behalf of Intel, and am not relying in this Declaration on any confidential Intel information reliance on Intel chips. More specifically, Microsoft has repeatedly provided support for technologies competitive to the Intel Architecture. For example, Windows NT was written to run on Digital's Alpha processor soon after the release of Windows NT Advanced Server 3.1. [17] Microsoft expressed its continued support for the Alpha architecture in 1998, with its Alliance for Enterprise Computing with Digital. This support included concurrent releases of Microsoft server-based products for Alpha and Intel systems, as well as the development of a complete set of Microsoft C++, Visual Basic, and Visual Studio tools on Alpha-based systems. [18] Microsoft also has provided support for AMD microprocessors. For example, in designing its DirectX 6.0 software development kit, Microsoft "optimized implementations of the geometry and lighting pipeline for Pentium II, MMX instructions, and the new AMD 3Dnow! Instruction set."[19] In fact, Microsoft recognized that it had an incentive to support AMD's new instruction set even though this would likely be adverse to Intel's interests. [20]

A final key lesson from the Intel/Microsoft relationship is that Intel, based on its strong market position and technical skills, can play a special leadership role in promoting new technologies that can at least potentially threaten Microsoft. In network markets, where consumer confidence can be self-fulfilling and endorsements by industry leaders are so valuable, credible leaders can play a critical role in breaking down entry barriers. I am very hopeful that the Applications Company will, like Intel, be strong enough to play such a leadership role and help overcome the chicken and egg problem faced by potential entrants into the market for operating systems. In fact, Intel and the Applications Company may choose to team up in various ways to help promote Linux, or some other partial or complete substitute for Windows.

C. Added Competition in Browsers

The proposed reorganization also will lead to somewhat greater competition in the browser market, by creating two companies immediately capable of offering browsing functionality. The Operating Systems Company can continue to offer the browsing functionality already included in Windows (so long as it does not violate the anti-binding provision, 3(g)), and is free to develop its own browsing software in the future. The Applications Company will own Internet Explorer itself, and will have incentives to improve Internet Explorer and to support cross-platform capabilities so that Internet Explorer will work well on multiple operating systems.

D. Costs of Reorganization

The benefits from the reorganization to competition in operating systems and in browsers can in principle be weighed against the costs of reorganization, which come in two general forms: (1) one-time costs associated with implementing the reorganization, and (2) possible ongoing costs resulting from the separation of Microsoft into two business entities.

I focus here on any ongoing costs, especially costs that might cause a reduction in the rate of innovation or an increase in the cost of developing software. [21] In classic economic terms, we can ask whether there are significant and genuine efficiencies associated with the integration of the Operating Systems Business and the Applications Business within a single company. For the reasons described immediately below, there are good reasons to believe that the collaboration necessary between those developing operating systems and those developing applications to achieve pro-competitive ends can take place across corporate boundaries, so the reorganization will not significantly impede the development of either applications or operating systems. First, one can ask whether development of applications at the Applications Company will be impeded by separating applications development from the development of operating systems. This does not appear to be a major issue, since Microsoft has indicated repeatedly that the Windows platform is "open" and that Microsoft provides the information necessary for ISVs to develop innovative applications on the Windows platform. [22] Conversely, one can ask whether the development of operating systems will be impeded by the separation of operating systems and applications. Again, Microsoft has stated that its operating systems development teams are fully capable of incorporating suggestions from ISVs into their development process for Windows.[23] This gives me some assurance that the most important

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[12] I consulted and testified for Intel during 1998 and 1999 in the antitrust case brought by the Federal Trade Commission against Intel regarding Intel's intellectual property practices.

[13] See Intel Capital Investments as of April 1, 2000 as listed on http://www.intel.com/capital/portfolio/cspt.htm (downloaded 26 April 2000). Intel's investments include owning 5% of Red Hat Software at the time Red Hat went public (See Form S- 1 for Red Hat Software filed June 4, 1999), owning 10.4% of VA Linux Systems, Inc. at the time VA Linux went public (See Form S–1 for VA Linux Systems filed October 8, 1999), and an undisclosed investment in the private company TurboLinux.

[14] See http://wwwintel.com/capital/about/goals.htm downloaded 26 April 2000.

[15] For example, see Intel Press release "Intel announces new Linux driver for its family of 10/100 megabit-per-second network adapters and LAN on motherboard products" dated March 15, 2000, available at http://wwwintel.com/network/tech bulletins/lin pro 100.htm

[16] See "The Intel IA-64 Processor Family: A Multi-Operating System Architecture" for a description of these projects, available at http://developer.intel.com/software/idap/media/pdf/esp/IA-64 OSWP Rev2.pdf

[17] See "A Brief History of the Windows NT Operating System" available at http://www.microsoft.com/PressPass/features/1998/winntfs.htm

[18] See Microsoft Press Release "Digital and Microsoft Announce Expanded Alliance to Accelerate Adoption of Windows NT Across the Enterprise" dated January 28, 1998, available at http://www.microsoft.com/PressPass/press/1998/ian98/digallpr.asp.

[19] See "A Look at DirectX 6.0, Fahrenheit, and the Future of Microsoft's Multimedia API's" released September 4, 1998, available at http://msdn.microsoft.com/library/Welcome/dsmsdn/msdn torborg.htm

[20] See GX 290, in which Jim Alchin says he would like to support AMD's new instruction set for its K6 processor even while noting that Intel will be opposed to such support.

[21] I would expect the one-time reorganization costs to be modest in comparison with the market value of Microsoft or the magnitude of commerce involved in the operating systems market.

[22] Bill Gates has written that "Windows is a piece of intellectual property whose "facilities" are totally open to partners and competitors alike. Windows programming interfaces are published free of charge, so millions of independent software developers can make use of its built-in facilities (e.g., the user interface) in the applications they design." See "Compete, Don't Delete," The Economist, June 13, 1998, p. 19.

Microsoft also states: "Microsoft does not simply disclose Windows APIs to third party software developers. Rather, it actively "evangelizes" the Windows APIs to software developers. In fact, Microsoft devotes about $100 million per year and 2,000 employees (nearly 10% of the Microsoft workforce) to developer support. No other computer company provides anything like this level of support to the developer community. As part of this developer support, Microsoft offers a free, dedicated Web Site where developers can access information, technical support and Software Development Kits. These tools and support all help developers create software that can run on the Windows platform. Microsoft takes the extra step to have dedicated staff designated to help developers quickly absorb and utilize new technologies, and other resources such as seminars, training sessions and speakers to communicate the information needed to develop the most innovative software." See "Competition in the Software Industry," January 1998, p. 10, available at www.microsoft.com/PressPass/doj/1–98whitepaper.htm

Microsoft also states that: "Microsoft runs an elaborate program—far and away the most extensive in the industry—to solicit input from the computer industry about the development of Windows APIs. (Traditionally, third party software developers played little role in the development of operating systems; their contribution essentially being limited to testing for bugs.) Microsoft solicits input and feedback from other software developers from the earliest stages of the development process. The Win32 APIs, which are the basis for Windows 95 and Windows NT, provide a good example. Windows NT, the first operating system to implement the Win32 APIs, was released in 1993. But Microsoft had provided initial specifications for the Win32 APIs to 25 third party software developers three years earlier, in November 1990, and obtained valuable feedback from them in a series of meetings that followed. During 1991 input from applications developers to those writing new versions of operating systems or fixing bugs in operating systems can take place across corporate boundaries. Moving from product development to pricing, there is a theoretical concern that Microsoft today has an incentive to set a lower price for Windows and Office together than will the Operating Systems Company and the Applications Company setting those prices independently immediately following the reorganization.[24] For the reasons articulated above, as a theoretical matter this concern is very likely outweighed by the lowering of entry barriers into operating systems that the reorganization will cause, especially when one considers non-price as well as price considerations, specifically the innovation that will be stimulated by the reorganization.[25] In any event, companies selling complementary products commonly find ways to solve the "complementary monopolies" problem when necessary, and I expect as well the Operating Systems Company and the Applications Company would be able to overcome this problem if it proved to be commercially significant.

IV. Interim Conduct Remedies— 3

The proposed conduct remedies will lower entry barriers into the market for operating systems until the reorganization of Microsoft has been accomplished and the Applications Business has Microsoft provided updates to the Win32 APIs to more than 300 third party software developers. By January 1992, the Win32 APIs were posted on CompuServe, America Online and the Internet, and in March 1992 the Win32 APIs were published by Microsoft Press. By the time Windows NT was commercially released in 1993, the Win32 APIs were the most thoroughly reviewed set of APIs in history, ensuring quality and increasing the likelihood that the APIs would be widely used. Updates of the APIs continued through the release of Windows 95 and to date." See "Competition in the Software Industry," January 1998, p. 9, available at www.microsoft.com/PressPass/doj/1–98whitepaper.htm. had some time, namely three years, to help enable competitors to Windows. These interim conduct remedies thus serve two related purposes: (1) to force Microsoft to halt anti-competitive conduct of the type that the Court has already found until the reorganization takes place; and (2) to expressly prohibit the Operations System Company from resuming such activity during the delicate period following the reorganization when it is especially vital that there be no artificial entry barriers into the market for operating systems.

For all of these reasons, I am confident that any costs to consumers associated with the proposed reorganization plan will easily be outweighed by its pro-competitive benefits.

A. No Exclusionary Contracts—3(a), 3(d), 3(e), 3(h)

Microsoft has employed a wide range of contracts that to a varying degree are "exclusive," in the sense that they prohibit companies dealing with Microsoft from also dealing with Microsoft's rivals, or provide financial disincentives to doing so. As the Court has found, these contracts have had a significant exclusionary impact.[26] As the trial record shows, exclusivity has taken many forms, and Microsoft has applied pressure to a wide range of companies, including OEMs, ISVs, IAPs, and ICPs, as well as Apple and Intel. Examples of the behavior that the Court found include: (1) Exclusionary agreements with the most important distribution channels for browsers;[27] (2) Conditioning ISV access to key

10. ("The core of this strategy was ensuring that the firms comprising the most effective channels for the generation of browser usage would devote their distributional and promotional efforts to Internet Explorer rather than Navigator. Recognizing that pre-installation by OEMs and technical information on exclusive use of Microsoft technology through "First Wave" agreements;[28] (3) Exclusive agreements with ICPs in exchange for coveted placement on the "Channel Bar;"[29] and (4) Conditioning

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[23] Microsoft's economics expert, Richard Schmalensee, has testified that Microsoft "talks to [independent] developers about what features they would like in view [new] versions." (Trial Testimony of Richard Schmalensee, June 22, 1999, p.m. Session at 59) Michael Devlin, the President of Rational Software Corporation, a Windows ISV, testified at trial (Direct Testimony of Michael T. Devlin, at 17) that "Microsoft often seeks input from ISVs and other sectors of the software and computer industry when it develops new APIs."

[24] This theoretical possibility is known as the "complementary monopolies" problem, or as the problem of "double marginalization."

[25] So, for example, consumers stand to benefit as a cheaper operating system, namely Linux, becomes more attractive.

[26] Findings 410 ("...by enticing firms into exclusivity arrangements with valuable inducements that only Microsoft could offer and that the firms reasonably believed they could not do without, Microsoft forced those consumers who otherwise would have elected Navigator as their browser to either pay a substantial price (in the forms of downloading, installation, confusion, degraded system performance, and diminished memory capacity) or content themselves with Internet Explorer.") See also Findings 296 (concluding that the "marked increase" in the proportion of AOL subscribers using AOL software that included Internet Explorer (from 34% to 92%) "resulted in no small part from AOL's efforts to convert its existing subscribers to the newest version of its client software" following agreements entered into between AOL and Microsoft), and Findings 309 (stating that Internet Explorer's weighted average share of shipments of browsing software by ISPs who agreed to make Internet Explorer their default browser was 94% by the end of 1997, compared to 14% share for ISPs who made no such agreement).

[27] Findings 230–38 and Conclusions at 11 ("Microsoft used incentives and threats to induce especially important OEMs to design their distributional, promotional and technical efforts to favor Internet Explorer to the exclusion of Navigator.") and Findings 143 and Conclusions at

[28] Findings at 401–02 and Conclusions at 19 ("...Microsoft impelled ISVs, which are dependent upon Microsoft for technical information and certifications relating to Windows, to use and distribute Microsoft's version of the Windows JVM rather than any Sun-compliant version.") and Findings 339–40 (stating that Microsoft promised "preferential support, in the form of early Windows 98 and Windows NT betas, other technical information, and the right to use certain Microsoft seals of approval, to important ISVs that agree to certain conditions. One of these conditions is that the ISVs use Internet Explorer as the default browsing software for any software they develop with a hypertext-based user interface. Another condition is that the ISVs use Microsoft's "HTML Help," which is accessible only with Internet Explorer, to implement their applications" help systems. By exchanging its vital support for the agreement of leading ISVs to make Internet Explorer the default browsing software on which their products rely, Microsoft has ensured that many of the most popular Web-centric applications will rely on browsing technologies found only in Windows and has increased the likelihood that the millions of consumers using these products will use Internet Explorer rather than Navigator.")

[29] Findings 311–36.

continued development of the Mac Office Suite on Apple's making Internet Explorer the default browser in Mac OS software releases.[30] Exclusivity in network industries can be especially pernicious, given the importance of complements and the self-fulfilling aspects of expectations: consumers can easily lose confidence in a new product that is denied access to critical complements, and this loss of confidence can then become self-fulfilling, creating a vicious cycle of decline or disrupting a virtuous cycle of increasing adoptions.[31] Netscape's browser faced this threat as a consequence bundling with the proprietary software of IAPs led more directly and efficiently to browser usage than any other practices in the industry, Microsoft devoted major efforts to usurping those two channels.")

The specific provisions in the proposed order relating to exclusive dealing all serve to insure that complements are indeed available to those offering Platform Software that is competitive with Windows. These complements include distribution through OEMs, preserved by preventing Microsoft from striking exclusive relationships with OEMs, as well as applications software, preserved by preventing Microsoft from striking exclusive relationships with ISVs. Nothing in the proposed order prevents Microsoft from competing on the merits to make it attractive for OEMs, ISVs, IHVs, IAPs, or other companies doing business with Microsoft to support, use, or promote Microsoft software, or to develop complements to Microsoft software. Nor is Microsoft enjoined from making investments in ISVs in order to provide them with the resources to develop software that works well with Microsoft's software. The purpose of these provisions is simply to prevent Microsoft from denying rival Platform Software access to complements.

1. OEMs— 3(a)

With respect to OEM relations, 3(a)(i) prevents Microsoft from providing financial incentives that discourage any OEM's action to "use, distribute, promote, license, develop, produce or sell any product or service that competes with any Microsoft product or service." Clearly, this provision is closely linked to the anti-competitive conduct in which Microsoft has already engaged. Microsoft has proven that it can apply enormous pressure to OEMs, including IBM, a very large and strong OEM, to prevent OEMs from supporting rival software. Industries," Antitrust Division, U.S. Department of Justice, March 1996, available at usdoj.gov/atr/public/speeches/shapir.mar.

The requirement of 3(a)(ii) that Microsoft offer uniform terms for Windows to the top 20 OEMs, i.e., the requirement of "transparent pricing," prevents Microsoft from punishing a large OEM for supporting rival software. This provision should improve the enforcement of the "no retaliation" rule embodied directly in 3(a).

2. ISVs and IHVs—3(d), 3(h)

Section 3(d) of the proposed remedy prohibits Microsoft from providing financial incentives that discourage an ISV from developing or supporting software that either is competitive to Microsoft software or works with non-Microsoft platform software. This provision will prevent Microsoft from making promising software or hardware unavailable to work with rival Platform Software, and thus will prevent Microsoft from continuing to raise entry barriers into the market for operating systems.

Section 3(h) of the proposed remedy prohibits Microsoft from inducing any actual or potential Platform Software competitor to refrain from offering software competitive with Microsoft platform software. This provision operates together with Section 3(d) to prevent Microsoft from using its significant resources to pay a potential competitor to refrain from challenging Microsoft's Platform Software.

The proposed order permits Microsoft to offer financial incentives for ISVs or IHVs to develop software or hardware that works with Microsoft's Platform Software, e.g., by helping to fund independent development efforts or by taking minority ownership stakes in software or hardware development houses. Such investments can easily be pro-competitive, so long as the ISV or IHV retains the right to make products that work with non-Microsoft Platform Software.

3. General Prohibition on Exclusive Dealing—3(e)

Microsoft has employed exclusionary contracts with a range of companies besides OEMs and ISVs, including IAPs, ICPs, and Apple. Section 3(e) of the proposed remedy, which is a general ban on exclusive dealing, will prevent Microsoft from interfering with the availability of complements for non-Microsoft Platform Software. Since Microsoft has dealings with a wide range of companies, and since it is difficult to predict precisely which trading partners Microsoft might otherwise seek to tie up under exclusive arrangememts in the next several years, a general ban on exclusionary contracts will serve to lower entry barriers more effectively than would more limited provisions directed at specific categories of trading partners.

B. Disclosure of Interface Information—3(b)

Interfaces typically play a critical role in industries subject to network effects. Challengers often seek to interconnect with the dominant network to achieve compatibility as a way of overcoming barriers to entry based on network effects. For example, interconnection has long been important to the survival of smaller firms in transportation and communications networks, from railroads to telephones to the Internet. In the software industry, Borland sought to make its Quattro Pro spreadsheet software compatible with the then-dominant Lotus 1–2–3 spreadsheet software during the 1980s, and Microsoft made it as easy as possible for WordPerfect users to transfer their WordPerfect files and training to Microsoft Word when Microsoft was attacking WordPerfect's strong position in the market for word processing software.[32] Interface information about Windows[33] is extremely valuable to a wide range of ISVs, IHVs, and OEMs. As a result, Microsoft can exert a great deal of influence over the success or failure of products that are complementary to Windows by virtue of its control over such interface information. Indeed, the Court has found that Microsoft strategically withheld interface information to stave off competition from platform software that Microsoft regarded as a threat to Windows.[34]

To prevent Microsoft from disadvantaging rival platform software, the proposed remedy requires Microsoft to disclose to ISVs, IHVs, and OEMs the information they need to interoperate effectively with Windows. The operative principle is equality of disclosure between Microsoft's own developers of middleware and applications, on the one hand, and outside companies seeking that information on the other hand.

This disclosure requirement directly addresses the Court's core concern about barriers to entry by non-Microsoft Platform Software in two ways, which I now discuss in turn.

1. Enabling Non-Microsoft Software to Work Efficiently with Windows

Mandatory disclosure of interface information will prevent Microsoft from disadvantaging rival software by denying it the ability to interoperate as effectively with Windows as does Microsoft software. As noted above, delay or denial of interface information is one method Microsoft has employed to discourage the widespread adoption of non-Microsoft middleware, and thus raise entry barriers into the market for operating systems.

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[30] Findings 351, quoting Apple's Technology Agreement with Microsoft ("While Apple may bundle browsers other than Internet Explorer with such Mac OS system software releases, Apple will make Internet Explorer for Macintosh the default selection in the choice of all included internet browsers (i.e., when the user invokes the "Browse the Internet" or equivalent icon, the Mac OS will launch Internet Explorer for Macintosh).")

[31] For a further discussion of how exclusive agreements can raise entry barriers in network industries, see Carl Shapiro, "Exclusivity in Network Industries," 7 George Mason Law Review 673; David A. Balto, "Networks and Exclusivity" Antitrust Analysis to Promote Network Competition," 7 George Mason Law Review 523, and Carl Shapiro, "Antitrust in Network of Microsoft's stratégy to deny Navigator access to OEMs and IAPs. The economic implication is that an effective remedy should assure new entrants into the market for operating systems of access to complements (OEMs, ISVs, IAPs, and IHVs) by including a broad ban on exclusive dealing by Microsoft. The need for a ban on exclusionary contracts is accentuated because Microsoft has already established a pattern of employing exclusionary tactics to blockade rival software that threatens its Windows monopoly.

[32] For an extended discussion of compatibility, interconnection, and interfaces in network markets, see Chapters 7, 8, and 9 in Information Rules.

[33] See the proposed order for a more precise definition of "APIs," "Communications Interfaces," and "Technical Information." From an economic (rather than technical) perspective, interface information encompasses all information used by Microsoft's own applications and middleware to interoperate with Windows. The operative economic principle is that ISVs, IHVs, and OEMs should be placed on equal footing to Microsoft's own developers for the purposes of developing, licensing, and supporting products that interoperate with Windows.

[34] Microsoft delayed release of the "Remote Network Access" API in Windows 95 to Netscape for three months while trying to convince Netscape to limit the APIs exposed to software developers. Findings 91 ("Despite Netscape's persistence, Microsoft did not release the API to Netscape until late October, i.e., as Allard had warned, more than three months later. The delay in turn forced Netscape to postpone the release of its Windows 95 browser until substantially after the release of Windows 95 (and Internet Explorer) in August 1995. As a result, Netscape was excluded from most of the holiday selling season.")

2. Preventing Microsoft from Anti-Competitively Controlling Complements

Mandatory disclosure of interface information also will prevent Microsoft from using its Windows monopoly power to gain control of complementary applications and middleware. Such anti-competitive conduct not only raises entry barriers, but denies consumers choice of complementary products and stifles innovation surrounding the Windows platform. Two especially important software products today that are complementary to the Windows operating system on personal computers are operating systems on handheld devices and operating systems on servers. As many observers have noted, and as Microsoft has pointed out, ongoing hardware improvements, along with the increased networking of computers, combined with the increased use of wireless technologies, are greatly expanding the possibilities for both handheld devices and client-server architectures. Thus, PCs running Windows are increasingly communicating with servers and handheld devices.

As a result of these shifts in the technology of computing and communications, Microsoft can greatly advantage its own operating systems for servers (Windows 2000 Server) and for handheld devices (Windows CE) by introducing proprietary links between Windows on the desktop and Windows for servers or Windows for handheld devices.[35] In this context, and looking forward to competition over the next several years, the disclosure by Microsoft of interface information called for specifically in 3(b)(iii) of the proposed remedy is vital to prevent Microsoft from using the power associated with its Windows monopoly on the PC to gain control over two critical adjacent software products: operating systems for servers and/or operating systems for handheld devices. Indeed, a good case can be made that the most significant threat to Windows in the next several years will come from client/server architectures. Making sure that Microsoft cannot subvert this threat using undisclosed proprietary interfaces is thus central to an effective remedy in this case. Provision 3(b)(iii) in particular will operate to prevent such anti-competitive conduct by Microsoft.

3. Feasibility and Enforcement of Mandatory Disclosure

As I noted above, Microsoft has clearly stated that its APIs are "open," i.e., disclosed to ISVs, and Microsoft has well-established procedures for the release of APIs and the provision of associated technical support to ISVs. Therefore, Microsoft will not need to construct a new business regime to implement API disclosure, and mandatory disclosure of APIs should not impose any significant burden on Microsoft. Having said this, I do not expect a regime of mandatory disclosure of interface information to be free of disputes and difficulties, especially since timeliness and completeness of Microsoft's disclosures are very important to ISVs. There is a very real and practical danger that Microsoft will strategically delay disclosure, or disclose only part of the information needed by ISVs. For just this reason, I regard the secure facility provided for in 3(b) of the proposed remedy as very helpful for the purposes of insuring the Microsoft meets its disclosure obligations.

C. OEM Flexibility in Product Configuration—3(a)(iii)

Microsoft has used its monopoly power to control the boot sequence and the user interface offered by OEMs. These restrictions have made it more difficult for rival middleware to gain presence on the desktop and thus compete more effectively with Microsoft middleware. The Court has found that these restrictions go beyond the protections afforded to Microsoft as a result of its Windows copyright.[36]

By insuring that OEMs have much greater flexibility to configure their products than Microsoft has permitted them in the past, 3(a)(iii) of the proposed remedy will stop Microsoft from blocking or impeding the OEM distribution channel for non-Microsoft software. The result will surely be greater choice for consumers in terms of the look and feel of their computers, and greater opportunity for innovative software to reach consumers and thus face a market test undistorted by the exercise of Microsoft's monopoly power.

D. No Performance Degradation for Rival Middleware—3(c)

Microsoft has demonstrated its ability and incentive to hinder the adoption of rival middleware through a variety of exclusionary tactics such as it employed against Netscape's browser. Once Microsoft is enjoined from employing the tactics it has already used, Microsoft will have an incentive to switch to new, substitute tactics having the same effect. One such tactic is to intentionally degrade the performance of rival middleware interoperating with Windows)7 Section 3(c) of the proposed remedy will make it more difficult for Microsoft to evade the proposed remedy by degrading the performance of rival middleware. Given the danger that Microsoft might repeat this conduct, but recognizing that some such degradation may be difficult . Professor Henderson, are an excellent example of how Microsoft is able to use Windows proprietary interfaces strategically.

E. Contractual Tying and Binding—3(f), 3(g)

1. Ban on Contractual Tying—3(f)

Microsoft has anti-competitively tied middleware to Windows by contract, both to defend its Windows monopoly and in an attempt to monopolize the market for browsers. (Findings of Fact § 159–60) Section 3(f) of the proposed remedy prohibits such tying, and thus forces Microsoft's products to compete directly on the merits with rival software products. This provision should enhance OEM and consumer choice of software, and encourage innovation in software categories complementary to Windows.

2. Restrictions on Binding Middleware to Operating Systems—3(g)

There has been a great deal of talk about "technological tying" in this case. Microsoft has argued strenuously that its right to improve its operating system should not be compromised. Holding aside the specifics of how Microsoft added browser functionality to Windows, I accept the proposition that innovation often takes place in the computer industry through the integration of various capabilities or functions into a single piece of hardware or software. However, if such integrated capabilities are indeed beneficial to consumers, there is no need to force users to adopt all of the functions offered in an bundled product.

I believe that 3(g) strikes an excellent balance between the consumer benefits that can arise when Microsoft adds functionality to its operating system and the benefits that consumers enjoy when new and improved software is developed independently of Microsoft, especially if that software may serve a role in eroding Microsoft's monopoly position. By allowing OEMs to choose whether to make Microsoft's Middleware Products or rival software directly available to end users, OEMs will have the incentive to experiment to best serve consumers" interests. If a particular piece of Microsoft software is superior to rival offerings, OEMs will simply load on their machines a version of Windows that includes End-User Access to that software. If some consumers prefer the Microsoft software and others do not, OEMs can configure their machines to suit the tastes of their customers, or allow customers to configure their own machines using add-remove utilities. And if the non-Microsoft software is clearly superior, OEMs will presumably insist that Microsoft provide them a version of Windows in which End-User Access to the Microsoft software can be removed, and offer End-User Access to the superior, non-Microsoft product. This is competition at work.

I understand that requiring Microsoft to offer a version of Windows in which all means of End-User access to middleware can be readily removed by OEMs and by end users will not impose any significant costs on Microsoft or prevent Microsoft from adding new capabilities to its Operating System Products.[38]

In my opinion, 3(g) will clearly promote innovation. It should be evident that this provision will increase the incentives of ISVs to develop middleware, knowing that OEMs will have an incentive to adopt their middleware if it offers superior performance to Microsoft's competitive Middleware Product. At the same time, Microsoft will have an even stronger incentive to innovate if it is forced to compete to provide new functionality to users. Plus, Microsoft is not prohibited from making improvements by integrating more capabilities into the operating system if that integration serves consumer interests. Ultimately, Microsoft will be pushed to make better software because it will be forced to compete to win consumer adoptions of its Middleware Products. Provision 3(g) is pro-competition and pro-innovation.

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[35] For more information on Microsoft's incentives to use its Windows monopoly to prevent threats emerging from software running on servers and handheld devices, see the Declaration of Rebecca Henderson. Microsoft's recent tactics regarding Kerberos, which are described by

[36] Conclusions at 13 ("Microsoft has presented no evidence that the contractual (or the technological) restrictions it placed on OEMs" ability to alter Windows derive from any of the enumerated rights explicitly granted to a copyright holder under the Copyright Act.")

[38] See the Declaration of Edward W. Felten.

F. Licensing of Legacy Code—4(0

Microsoft has asserted that it must continue to innovate to compete effectively against its own installed base. (Direct Testimony of Richard Schmalensee, (60) To date, competition between Microsoft and its own installed base of Windows has been modest at best since most Microsoft Windows sales are for new machines.[39] Clearly, buyers of a new PC require an operating system for that machine, and Windows licenses do not permit the user to transfer the O/S from a previous machine.[40] We also observe that Microsoft raises the price and/or reduces the availability of previous versions of Windows when a new version is released.[41]Through this pricing and distribution strategy, Microsoft can be assured that the functions it offers in its latest release of Windows are widely used and distributed, whether or not consumers prefer the newest version of Windows with those features to a prior version of Windows, perhaps used in conjunction with rival middleware that Microsoft is attempting to displace. Section 3(i) of the proposed remedy requires Microsoft to continue licensing the predecessor version of Windows (without raising the royalty rate) when a major new version is released. This provision will give OEMs, and thus consumers, the choice of using the predecessor version, perhaps in conjunction with rival middleware, or the newest Microsoft operating system. This provision will encourage innovation in two ways.

First, 3(i) will encourage software developers to create middleware that is complementary to Windows: the return to such development activities is increased by the assurance that the current version of Windows will continue to be available for OEMs and consumers to load onto new PCs for at least three years, and even after Microsoft introduces a major new operating system release that incorporates some of the functionality offered by the software developer. As a bonus, these

An OEM typically installs a copy of Windows onto one of its PCs before selling the package to a consumer under a single price.") See Direct Testimony of Frederick R. Warren-Boulton at n. 7, citing Appendix B to Microsoft's Responses to Interrogatories, March 23, 1998 ("In 1997, 87.6% of all copies of the Microsoft's [sic] Windows 95 operating system product were installed by OEMs, while 7.3% were sold through retail channels as upgrades. Windows 95 is available at retail only as an upgrade from a Microsoft licensed operating system.")

Second, 3(i) also will encourage innovation by Microsoft, since Microsoft will have to add valuable new functionality to support an increase in the price of Windows: unless the new release of Windows offers new functions that consumer truly value, consumers will simply pick the predecessor version of Windows at the prevailing price. Effectively, Microsoft has enhanced incentives to improve its Windows product to compete against its own predecessor version. Finally, this legacy code provision should make it more difficult for Microsoft to use its Windows monopoly power to gain control over adjacent markets: if a new version of Windows favors Microsoft's complementary products, OEMs and consumers will at least have the choice to use the predecessor version, perhaps in conjunction with non-Microsoft complementary products.[42]part, by increasing the price to OEMs of older versions of Windows when the newer versions are released.")

V. Conclusions

The remedy entered by the Court in this matter will have a major influence on the nature of competition and the path of innovation in the information technology sector of the economy. In my opinion, the primary objective of the remedy should be to lower entry barriers into the market for PC operating systems and thus start to remedy the harm to competition caused by Microsofl's anti-competitive conduct. As explained above, there are strong reasons to believe— based on economic principles and based on the experience of this and other industries—that the proposed reorganization of Microsoft into separate applications and operating systems businesses will lower entry barriers, encourage competition and promote innovation.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 28, 2000 in Washington, DC

V. Conclusions

The remedy entered by the Court in this matter will have a major influence on the nature of competition and the path of innovation in the information technology sector of the economy. In my opinion, the primary objective of the remedy should be to lower entry barriers into the market for PC operating systems and thus start to remedy the harm to competition caused by Microsoft's anti-competitive conduct. As explained above, there are strong reasons to believe— based on economic principles and based on the experience of this and other industries—that the proposed reorganization of Microsoft into separate applications and operating systems businesses will lower entry barriers, encourage competition and promote innovation.

I declare under penalty of perjury that the foregoing is true and correct. Executed on April 28, 2000 in Washington, DC

EXHIBIT 8

TO THE COMMENTS OF RELPROMAX ANTITRUST INC.

AFFIDAVIT OF JOHN V. TUNNEY

STATE OF CALIFORNIA)) SS:
COUNTY OF LOS ANGELES)

JOHN V. TUNNEY, being first duly sworn upon his oath, deposes and says:

1. The following facts are known to me of my own personal knowledge and, if called as a witness, I could and would competently testify thereto.

2. From 1971 to 1977, I represented the State of California as a United States Senator in Congress.

3. While serving as a member of the Judiciary Committee of the United States Senate during the 93rd Congress, I authored that certain bill described below, and acted as the Floor Manager of the legislation during its consideration by the full Senate. That legislation was passed by Congress and signed into law by the President of the United States. That portion of the law to which I refer below is codified as Section 2(g) of the Antitrust Procedures and Penalty Act, 15 U.S.C. 16(g), arid is a subsection of the law now commonly referred to as the "Tunney Act." This legislation was signed into law December 21, 1974.

4. I authored the following language, which was included in the final version of the legislation:

Not later than 10 days following the date of the filing of any proposal for a consent judgment under subsection (b), each defendant shall file with the district court a description of any and all written or oral communications by or on behalf of such defendant, including any and all written or oral communications on behalf of such defendant, or other person, with any officer or employee of the United States concerning or relevant to such proposal, except that any such communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice alone shall be excluded from the requirements of this subsection. Prior to the entry of any consent judgment pursuant to the antitrust laws, each defendant shall certify to the district court that the requirements of this subsection have been complied with and that such filing is a true and complete description of such communications known to the defendant or which the defendant reasonably should have known.

5. Recently, I was asked to review the Tunney Act and certain public documents on

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[39] Findings 10 ("The largest part of its MS-DOS and Windows sales, however, consists of licensing the products to manufacturers of PCs (known as "original equipment manufacturers" or "OEMs'), such as the IBM PC Company and the Compaq Computer Corporation ('Compaq').

[40] Findings at 57 ("The license for one of Microsoft's operating system products prohibits the user from transferring the operating system to another machine, so there is no legal secondary market in Microsoft operating systems.")

[41] Findings at 62 ("...Microsoft raised the price that it charged OEMs for Windows 95, with trivial exceptions, to the same level as the price it charged for Windows 98 just prior to releasing the newer product.") and Findings at 57 ("Microsoft takes pains to ensure that the versions of its operating system that OEMs pre-install on new PC systems are the most current. It does this, in enhanced incentives to develop middleware will tend to lower the entry barriers into the market for operating systems and make it more likely that successful cross-platform middleware will emerge in the years ahead.

[42] For example, consumer choice would be enhanced, and Microsoft's opportunities for using its desktop monopoly power to gain control over server operating systems using Windows 2000. would be diminished, if Microsoft were required to continue to license Windows NT 4.0 for three years after the release of Windows 2000.

file in the case of the United States vs. Microsoft Corporation, Civil Action No. 98–1232 (CKK), in the United States District Court for the District of Columbia. Among the documents I reviewed was one filed by Microsoft Corporation entitled, "Defendant Microsoft Corporation's Description of Written or Oral Communications Concerning The Revised Proposed Final Judgment and Certification of Compliance Under 15 U.S.C. Sec. 16(g)," purportedly to comply with the provision set forth in paragraph 4, above.

6. With respect to this provision of the Antitrust Procedures and Penalties Act, it is clear that Congress intended that there should be full disclosure of all communications by a defendant or on behalf of a defendant with any officer or employee of the United States, except for communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice. It is equally clear that by "government official," Congress meant "members of the Executive, Legislative, and Judicial branches of government". Congress specifically intended to cover communications by officers of a defendant corporation, lawyers of such corporation, lobbyists of such corporation, or anyone else acting on behalf of such corporate defendant. If I had not been satisfied this was the plain meaning of the statute, I, as the principal author of the legislation, would not have pressed the legislation through to final passage. I am satisfied that the clear language of the statute ensures disclosures of the type described in this paragraph. The legislative history and intent of its author buttress these conclusions.

7. In my opinion, it is essential that all discussions between the defendant corporation and the government (with the specific exception noted in paragraph 6, above) in an antitrust case that might have led to a proposed settlement decree be disclosed. If a defendant corporation did not have to disclose any contacts or communications with the government until such-time as there is an actual decree, the very purpose of the disclosure would be defeated. The Tunney Act was never intended to allow for a situation where, in theory, prolific lobbying could be conducted by the defendant prior to the time the presiding judge has ordered settlement negotiations, without public disclosure. If allowed, the Tunney Act would not have reformed the practices utilized in settlement of the ITT case, which in significant fashion demonstrated the need for the legislation in the first instance. The disclosure provisions were designed to help ensure that no defendant can ever achieve through political activities what it cannot obtain through the legal process. Failure to comply with these provisions raises an inference or, at a minimum, an appearance of impropriety.

8. Contrary to some press reports, the Tunney Act was not intended in any way to prevent the Department of Justice from entering into settlements in antitrust suits, especially before trial where litigation risk is generally present. The Act in fact recognized the propriety of such settlements, and merely proscribed procedures to ensure that such settlements were reached on the merits.

9. The legislative history and plain language make clear that Congress intended that a judge make an independent assessment of whether any such settlements are in the public interest, precisely because the policy objective was to ensure that lobbying contacts did not influence the law enforcement function of the Antitrust Division of the Department of Justice. I remain convinced that the policy objective was correct.

10. The language of the Act was clearly drawn and was intended to be inclusive and not exclusive. In my opinion, the filing of "Written or Oral Communications" by Microsoft Corporation, referred to in paragraph, 5, above, is inadequate to satisfy the clear language and intent of the Tunney Act.

FURTHER, AFFLANT SAYETH NAUGHT.

SUBSCRIBED AND SWORN to before this day of .2002.

NOTARY PUBLIC in and for said County and State ELEANOR McKENNA Natary Public, State of New York; No. 31–4973011 Qualified in New York County. Commission Expires October 40459139.1

EXHIBIT 9

TO THE COMMENTS OF RELPROMAX ANTITRUST INC.

Congress of the United States
Washington, DC 20515
August 9, 2001

The Honorable John Ashcroft
U.S. Attorney General
Department of Justice
Tenth Street and Constitution Avenue, NW
Washington, DC 20530

Mr. Steve Hallmer
Chief Executive Officer
Microsoft Corporation
ONe Microsoft Way
Redmond, WA 98052

The Honorable Tom Miller
Iowa Attorney General
Department of Justice
1305 E. Walnut Street
Des Mones, IA 50319

Dear Sirs:

Following the recent Court of Appeals decision, we are pleased that all sides in the Microsoft antitrust litigation have begun settlement discussions. Today we write to encourage these discussions with the hope that a settlement can be reached at the earliest possible date and on reasonable terms that support competition and innovation. Antitrust enforcement should be about protecting the American consumers, not deciding ?? and loacers among wealthy competitors. Now is the time for all parties to the litigation to address the remaining issues and provide some finality that protects consumers and allows the American high-tech industry to innovate an prospect. This industry offers extraordinary promise to ?? exciting new technologies to the American consumer and the global marketplace, and the resolution of this protracted litigation will greatly serve to further that goal.

While not expressing a view on the merits, we respectfully urge all parties to reach a just and speedy conclusions to this case.

Best Regards,

Signatories Of Letter In Favor Of Settlement

Jennifer Dunn -R
Jay Inslee -D
Dick Armey—R
Henery Hyde -R
Anna Eshoo -D
Stephen Horn—R
Charles Taylor—R
Charles Norwood—R
Thomas Petri—R
Sonny Callahan—R
Timothy Johnson—R
Deborah Pryce—R
Mark Green- R
Ernle Fletcher—R
Pat Toomey—R
Anne Northup—R
Phil English—R
George Nethercult Jr.-R
Greg Walden- R
Eric Cantor -R
J.C. Watts-R
Rick Keller-R
Ron Kind -R
Tim Holden- D
Maurice Hichey-D
Barney Frank—D
Louis Gtierrez-D
Cal Dooly—D
Mike Ross-D
Lane Evans—D
Henry Waxman—D
Robert Matsui—D
Michael McNulty- D
Gene Green—D
Bud Kramer—D
Norman Dicks—D
Baron Hill—D
Wm Lacy Clay- D
Virgil Goods- I
Joel Hefley—R
Richard Porabo—R
Mark Foley—R
Melissa Hart—R
Kay Granger- R
Jim Gibbons—R
Dave Hobson—R
Jim Greenwood—R
John Shadegg—R
Henry Bonilla—R
Alicee Hastings—D
John Doolittle—R
Bob Goodlatte- R
Steve Buyer—R
Charlie Bass—R
Sam Farr—D
J. Randy Forbes—R
Shelley Moore Capito -R
Roy Blunt—R
Steve Chabot—R
Chip Pickering -R
C.L. Otter—R
Earl Blumenauer-D
Ted Strickland-D
Eddie Bernice Johnson- D
Gary Ackerman- D
David Phelps-D
John Sprati- D
Mike McIntyre -D
Jim Moran—D
Tammy Baldwin-D
Allen Boyd-D
Steny Hoyer- D
John Lewis -D
Jim Matheson-D
Jim McDermott-D
Rick Larsen-D

Gregory Mecks-D
Elijah Cummings-D
James Harcia-D
John Oliver-D
Nancy Pelosi-D
Bill Detahunt -D
Patrick Kennedy-D
Martin Frost-D
Tom Sawyer-D

EXHIBIT 10

TO THE COMMENTS OF RELPROMAX ANTITRUST INC., IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA UNITED STATES OF AMERICA) Plaintiff,) v.) MICROSOFT CORPORATION,) Defendant.) Filed: January 24, 2002

CIVIL ACTION NO. 98–1232 (CKK)

STATE OF NEW YORK ex rel. Attorney General ELIOT SPITZER, et al., Plaintiffs, V. MICROSOFT CORPORATION, Defendant.

CIVIL ACTION NO. 98–1233 (CKK)

Next Court Deadline: March 4, 2002) Prehearing Conference

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THE MOTION OF RELPROMAX ANTITRUST INC. FOR LIMITED PARTICIPATION AS AN AMICUS CURIAE AND FOR AN EXTENSION OF TIME

TABLE OF CONTENTS

TABLE OF CONTENTS ii
TABLE OF CASES AND AUTHORITIES iv
I. INTRODUCTION 1
II. FACTUAL AND PROCEDURAL BACKGROUND 2
III. ARGUMENT 7
A. THE TUNNEY ACT REQUIRES FULL DISCLOSURE BY MICROSOFT 7.
1. Mr. Rule's Undisclosed Conversations Prior To November 15, 2001 Are Not Exempted From Disclosure 9
a. Mr. Rule Was Not Counsel Of Record For Microsoft Prior To November 15, 2001 9
b. Mr. Rule Was Not Counsel Of Record For Microsoft Even After November 15, 2001 11
2. The Undisclosed Conversations Of Microsoft's Other Lobbyists With Executive Or Legislative Branch Officials Are Not Exempted From Disclosure 13
3. Additional Undisclosed Conversations May Have Caused A Predawn Telephone Call From A Senior Aide To The Attorney General To A Lobbyist 16
B. THE TUNNEY ACT WAS INTENDED TO PREVENT AN ABUSE OF POWER IN THE CURRENT SITUATION 18
1. The Lawful $200,000 ITT Pledge Related To One Of The Impeachable Abuses Of Power In The Early 1970's Was Equivalent To About $650,000 In 2001 Dollars Which Amount Is Vastly Exceeded By Over $23 Million Microsoft Has Lawfully Spent On Federal Campaign Contributions And Lobbying Since 1997 18
a. The ITT Litigation and the Kleindienst Nomination 18
b. The Impeachment Resolution 20
c. Since 1997 Microsoft Has Spent Over $23 Million On Federal Lobbying And Campaign Contributions 21
2. The Tunney Act Was Intended To Protect The Consuming Public From The Type Of Forces At Work Today In Connection With The RPFJ 21
C. ON THE PRESENT RECORD THE UNITED STATES WILL NOT BE ABLE TO COMPLY WITH THE COURT ORDER OF NOVEMBER 8, 2001, REQUIRING CERTIFICATION BY THE UNITED STATES OF COMPLIANCE WITH TUNNEY ACT PROCEDURES 23
D. THE COURT SHOULD AGAIN ODER FULL DISCLOSURE, ALLOW FULL DISCOVERY OF HE NECESSARY FACTS, AND EXTEND THE TIME FOR COMMENTS OR TERMINATE CONSIDERATION OF THE RPFJ 23
E. IF THE COURT DOES NOT ORDER FULL DISCLOSURE NOW, ENTRY OF THE RPFJ COULD BE REVERSED ON APPEAL FOR THAT REASON ALONE; HOWEVER, IF THE COURT ORDERS ADDITIONAL DISCLOSURE AND THEN ENTERS THE RPFJ, THERE WOULD BE A LOWER POSSIBILITY OF REVERSAL DUE TO DEFENDANT'S FAILURE TO COMPLY WITH THE DISCLOSURE PROVISIONS OF THE TUNNEY ACT 24
F. RELPROMAX AS THE ONLY PARTY OR PROPOSED AMICUS CURIAE WITH AN EXPRESSED INTEREST IN OBTAINING FULL DISCLOSURE FROM MICROSOFT SHOULD BE GRANTED THE RIGHT TO LIMITED PARTICIPATION AS AN AMICUS CURIAE IN THE TUNNEY ACT PROCEEDINGS 24
REQUEST FOR ORAL HEARING 27
EXHIBIT LIST 28

TABLE OF CASES AND AUTHORITIES.

CASES.
U.S. v. Microsoft, 84 F.Supp.2d 9 (D.DC 1999) 14
U.S. v. Microsoft, 87 F.Supp.2d 30 (D.DC 2000) 14
U.S. v. Microsoft, 97 F.Supp.2d 59 (D.DC 2000) 14
STATUTES.
2 U.S.C. § 1602(9) 3
2 U.S.C. § 1603 (Section 4 of the Lobbying Disclosure Act of 1995) 3
2 U.S.C. § 1603(a)(2) 3
2 U.S.C. § 1604 (Section 5 of the Lobbying Disclosure Act of 1995) 4, 13
15 U.S.C. § 16(b)-(h) (Antitrust Procedures and Penalties Act (Tunney Act)) 1, 7, 8, 15, 18, 20,21, 23–26
15 U.S.C. § 16(b) 2, 8
15 U.S.C. § 16(d) 8
15 U.S.C. § 16(e) 8

TABLE OF CONTENTS—Continued

* 15 U.S.C. § 16(f)(3) 26
15 U.S.C. § 16(f)(5) 27
* 15 U.S.C. § 16(g) 2, 4–6, 8–10, 23–24
RULES.
Federal Rule of Civil Procedure 5 15
Federal Rule of Civil Procedure 7(a) 5, 12
* Local Civil Rule 83.6(a) 12
OTHER AUTHORITIES.
Cong. Rec., Senate, July 18, 1973, pp. 24597–8 22
Cong. Rec., Senate, July 18, 1973, p. 24599 27
Cong. Rec., Senate, December 9, 1974, p. 38585 21
Statement Of Information, Hearings Before The Committee On The Judiciary House Of Representatives, Ninety-Third Congress, Second Session, Pursuant To H.Res. 803, Book V, Part I, Department Of Justice ITT Litigation—Richard Kleindienst Nomination Hearings 18
House Report 93–1305, August 20, 1974, pp. 139–183 20

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA) Plaintiff, v.
MICROSOFT CORPORATION,) Defendant.
CIVIL ACTION NO. 98–1232 (CKK) Filed: January 24, 2002
STATE OF NEW YORK ex rel. Attorney General ELIOT SPITZER, et al.,) Plaintiffs,
MICROSOFT CORPORATION,) Defendant.
CIVIL ACTION NO. 98–1233 (CKK)
Next Court Deadline:
March 4, 2002
Pre-hearing Conference

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THE MOTION OF RELPROMAX ANTITRUST INC. FOR LIMITED PARTICIPATION AS AN AMICUS CURIAE AND FOR AN EXTENSION OF TIME

I. INTRODUCTION

The Antitrust Procedures and Penalties Act (Tunney Act) was signed on December 21, 1974, to remedy one of the many abuses of power which led to the adoption of the second of three Articles of Impeachment of the President by the Committee on the Judiciary of the United States House of Representatives on July 27, 1974, and to the only Presidential resignation in the history of our nation on August 9, 1974. The Tunney Act is not merely some procedural nicety. The Tunney Act is discussed in greater detail below (see section III.B., pp. 18–22, The Tunney Act Was
Intended To Prevent An Abuse Of Power In The Current Situation").

Defendant Microsoft Corporation ("Microsoft") has not complied with the disclosure requirements of the Tunney Act, specifically 15 U.S.C. § 16(g), or this Court's Order dated November 8,2001. Pursuant to 15 U.S.C. § 16(b) and (g), anyone has the statutory right to comment on the Revised Proposed Final Judgment ("RPFJ") in captioned Civil Action 98–1232 for fifty (50) days after Microsoft complies with 15 U.S.C. § 16(g). Relpromax Antitrust Inc. ("Relpromax") hereby asserts its statutory right, which is also the statutory right of all Americans, to consider for fifty (50) days a true and complete disclosure by Microsoft pursuant to 15 U.S.C. § 16(g) and then to file with the United States such written comments as it deems appropriate with respect to the RPFJ in light of the information disclosed pursuant to 15 U.S.C. § 16(g).

Accordingly, Relpromax seeks an order:

1) granting Relpromax status as an amicus curiae with the right of limited participation in proceedings so it can assist, if necessary, in obtaining, inter alia, the statutorily required (and Court ordered) disclosure;

2) compelling Microsoft to comply with the statute and the November 8, 2001, order; and,

3) extending the time for comments to provide Relpromax and all interested parties with their statutory rights.

II. FACTUAL AND PROCEDURAL BACKGROUND

From 1993 through 1996, Microsoft contributed a total of about $366,000 to federal parties and candidates) Declaration of Brian Dautch ("Dautch Dec."), 2- 3 and Attachments 1 and 2. (A copy of the Dautch Declaration is attached hereto as Exhibit A.)

The total includes contributions directly to candidates or political action committees reported as made by individuals who listed Microsoft as an employer.

On May 18, 1998, these civil actions were filed.

From 1997 through July 31, 2001, Microsoft contributed a total of over $6.8 million to federal parties and candidates. Dautch Dec., 2, and Attachment 1.

From 1997 through June 30, 2001, in addition to about $6.8 million in contributions Microsoft spent an additional $17.6 million on lobbyists who contacted many federal agencies and Members of the House and Senate seeking support for Microsoft's antitrust policies. Dautch Dec., 2, and 8–42 and Attachments 1, and 9–43. Given that Microsoft contributed to the campaigns of 38 U.S. Senators and 124 U.S. Representatives in 2001 alone (a non-election year), it is even possible that some of the federal legislators contacted by Microsoft about its antitrust problems had received, and/or may have been seeking, Microsoft campaign contributions. Dautch Dec., 2 and Attachment 1.

On July 6, 1998, Charles F. Rule, Esq., became a registered lobbyist for Microsoft. From approximately 1986 to 1989, Mr. Rule was the Assistant Attorney General in charge of the Antitrust Division of the United States Department of Justice. Dautch Dec., 4, and Attachment 7. In 1998, Mr. Rule was a partner with the lobbying firm 2 of Covington & Burling of Washington, DC On July 6, 1998, Covington &Burling filed a Lobbying Registration, pursuant to 2 U.S.C. § 1603(a)(2), indicating that Mr. Rule was among the firm's "employees" who had acted or expected to act as lobbyists for Microsoft Corporation.3 On page 2 of the Lobbying Registration, Covington & Burling reported that the lobbyists expected to lobby on issues including [c]ompetition matters affecting See 2 U.S.C. § 1602(9).

3. The Lobbying Registration (dated June 29, 1998) is known as Form LD-1 which is required to be filed by 2 U.S.C. § 1603 (Section 4 of the Lobbying Disclosure Act of 1995). The Lobbying Registration was filed with the Office of the Clerk of the U.S. House of Representatives. A copy of this Lobbying Registration is Attachment 4 to the Dautch Dec.

computer industry software."

On August 12, 1999, Covington & Burling filed a mid-year 1999 Lobbying Report (Form LD-2) indicating that for the period from January 1, 1999, through June 30, 1999, the firm received $40,000 from Microsoft for lobbying. On page 6 of the form, Covington & Burling reported that Charles F. Rule lobbied the U.S. House of Representatives and the U.S. Senate for Microsoft on "[c]ompetition issues affecting computer software industry."

On September 28, 2001, this Court docketed an order requiring the parties to engage in intensive settlement negotiations until November 2, 2001. A copy of the order is attached hereto as Exhibit B.

From on or about October 1, 2001, to November 6, 2001, according to written unsworn testimony by lobbyist Rule, he was one of the principal representatives for Microsoft in the negotiations with respect to the RPFJ. Dautch Dec., 4 and Attachment 3.

On November 6, 2001, the United States and Microsoft filed a Stipulation and attached form of Revised Proposed Final Judgment. The Stipulation was signed on behalf of the United States by Charles A. James, Assistant Attorney General in charge of the Antitrust Division of the United States

Department of Justice. (A copy of the Stipulation is attached hereto as Exhibit C.) In the Stipulation, Microsoft agreed to make the disclosure required by 15 U.S.C. § 16(g). Stipulation, 3.

The Lobbying Report (dated August 10, 1999) is on a form known as Form LD-2 which form is required to be filed by 2 U.S.C. § 1604 (Section 5 of the Lobbying Disclosure Act of 1995). The Lobbying Report was filed with the Secretary of the United States Senate. The Lobbying Report is Attachment 23 to the Dautch Dec.

The Stipulation was also signed on behalf of certain plaintiffs in the companion Civil Action No. 98–1233 (i.e., the States of Illinois, Kentucky, Louisiana, Maryland, Michigan, New York, ,North Carolina, Ohio, and Wisconsin) (hereinafter referred to as "Settling States").

On November 8, 2001, this Court ordered Microsoft to make the disclosure required by 15 U.S.C. § 16(g) "within ten days of the publication of the proposed Final Judgment in the Federal Register." (A copy of the Court's Order dated November 8, 2001, is attached hereto as Exhibit D.)

On November 15,2001, lobbyist Charles F. Rule, Esq., apparently attempted to become a counsel of record for Microsoft in Civil Action No. 98–1232 pending before this Court. On November 15,2001, a document titled "Notice Of Entry Of Appearance" for Charles F. Rule was filed with this Court and is recorded as electronic docket entry number 29 in Civil Action No. 98–1232. (A copy of the Notice Of Entry Of Appearance is attached hereto as Exhibit E.) According to the court docket for Civil Action No. 98–1232, the Notice Of Entry Of Appearance for Mr. Rule was signed and filed by Bradley Smith and not by Mr. Rule. According to the official docket, no document filed on behalf of Microsoft in this civil action (or Civil Action No. 98–1233) from November 15, 2001, through January 18, 2002, has been signed by Mr. Rule on behalf of Microsoft.

On November 16, 2001, an item appeared on the front page of The Wall Street Journal which item stated in full:

LEGAL LOOPHOLE: Microsoft tries to shield its top Washington lawyer, Charles F. Rule, from having to reveal some contacts with the administration before the negotiated the company's controversial antitrust settlement. He was formally named a counsel of record yesterday, exempting him from disclosures otherwise demanded under a 1974 law requiring court review of antitrust deals.

There is no indication in the electronic docket, which is the only docket available for this stage of Civil Action No. 98–1232, that Mr. Rule has signed any pleading described in Rule 7(a), F.R.Civ.P., in ink and then caused the document to be filed electronically by someone else with the Court.

(A copy of the item from The Wall Street Journal, November 16, 2001, page 1, is Attachment 5 to the Dautch Dec.)

On November 28, 2001, the RPFJ was published in the **Federal Register** along with a copy of a document titled "Competitive Impact Statement which was filed with this Court on November 15, 2001.

On December 10, 2001, Microsoft filed Defendant Microsoft Corporation's Description Of Written Or Oral Communications Concerning The Revised Proposed Final Judgment And Certification Of Compliance Under 15 U.S.C. § 16(g) ("Microsoft's Description"). (A copy of Microsoft's Description is attached hereto as Exhibit F.) The Description purported to reveal "any and all written or oral communications by or on behalf of" Microsoft "with any officer or employee of the United States concerning or relevant to" the RPFJ with the exception only of "communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice alone [emphasis added]." Microsoft Description, pp. 1–2. Microsoft's Description reveals only: 1) that unnamed "counsel for Microsoft" (n.b. as opposed to "counsel of record for Microsoft") met with plaintiffs" representatives and mediators from September 27, 2001, through November 6, 2001, and that a Mr. William Poole of Microsoft participated in some of the meetings from October 29, 2001, through November 2, 2001; and, 2) that at an October 5,2001, meeting, technical questions were discussed by Ms. Linda Averett, and Messrs. Michael Wallent, Robert Short, and Chad Knowlton (all of Microsoft) with plaintiffs" representatives and plaintiffs" technical expert Professor Edward Felten. Microsoft certified that with the submission of the Microsoft Description, Microsoft "has complied with the requirements of 15 U.S.C. § 16(g) and that this submission is a true and complete description of such communications known to Microsoft."

Microsoft's Description was electronically signed by John Warden, Esq., of the law firm of Sullivan & Cromwell. The name of Charles F. Rule appears on the document apparently as Counsel for Microsoft. There is no signature line on the document for Mr. Rule's signature. Other than the appearance of Mr. Rule's name well below and to the left of Mr. Warden's name, there is no mention of Mr. Rule by name in the Microsoft Description or of any communications Mr. Rule had on behalf of Microsoft with any officer of employee of the United States concerning or relevant to the RPFJ (for example, oral or written communications or promises during the course of the intensive month-long negotiations which led to the RPFJ or drafts of proposed language for the RPFJ).

On December 12,2001, Mr. Rule appeared (along with Assistant Attorney General Charles

A. James and others) and submitted written testimony (not under oath) on behalf of Microsoft concerning the RPFJ before the Committee on the Judiciary of the United States Senate. Dautch Dec., 4, Attachment 3. In this testimony concerning the captioned civil actions, Mr. Rule (referring to the RPFJ as "PFJ") stated (p. 1, sentences 3–4):

"As this committee is aware, I am counsel to Microsoft in the case [n.b. Civil Action Nos. 98–1232 and 98–1233] and was one of the principal representatives for the company in the negotiations that led to the proposed consent decree. The PFJ was signed on November 6th after more than a month of intense, around-the-clock negotiations with the Department and representatives of all the plaintiff states."

III. ARGUMENT

A. THE TUNNEY ACT REQUIRES FULL DISCLOSURE BY MICROSOFT

The relevant portions of the Tunney Act are now codified as Title 15 U.S.C. § 16(b)-(h).

The Tunney Act applies to the current proposal for a consent judgment (RPFJ) by the United States in captioned Civil Action No. 98–1232 which was brought by the United States under the antitrust laws. 15 U.S.C. § 16(b). To cast sunlight on any potential abuse of power, to provide the public with information necessary both to understanding the full context of the RPFJ and to providing as insightful comments as possible (as allowed by 15 U.S.C. § 16(d)), and to provide the Court with information the Court must have prior to determining whether entry of the RPFJ is in the public interest (as required by 15 U.S.C. § 16(e)), Microsoft must make the disclosures required by 15 U.S.C. § 16(g) which provides in full that [emphasis added below]:

"Not later than 10 days following the date of any proposal for a consent judgment under subsection (b) of this section, each defendant shall file with the district court a description of any and all written or oral communications by or on behalf of such defendant, including any and all written or oral communications on behalf of such defendant, or other person, with any officer or employee of the United States concerning or relevant to such proposal, except that any such communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice alone shall be excluded from the requirements of this subsection. Prior to the entry of any consent judgment pursuant to the antitrust laws, each defendant shall certify to the district court that the requirements of this subsection have been complied with and that such filing is a true and complete description of such communications known to the defendant or which the defendant reasonably should have known."

Both the Tunney Act and this Court's November 8, 2001, Order setting forth the schedule to be followed to comply with the Tunney Act in this case clearly grant the public fifty (50) days to prepare and file comments on the RPFJ after defendant's true and complete disclosure of all communications specified by 15 U.S.C. § 16(g).

As is shown below, the Microsoft Description of December 10, 2001, did not meet the requirements of 15 U.S.C. § 16(g).

There are at least five broad categories of communications which should have been disclosed: 1) oral or written communications by or on behalf of Mr. Rule acting in any capacity for Microsoft; 2) oral or written communications in Mr. Rule's presence (these communications were not made by counsel of record alone); 3) oral or written communications which may have induced the Deputy Chief of Staff to the Attorney General of the United States (David Israelite, who recused himself from any involvement with Microsoft matters due to a conflict of interest) to place a predawn telephone call on October 9, 2001, to a lobbyist for a Microsoft competitor complaining about the competitor's support for the retention of independent private counsel by the States suing Microsoft in Civil Action No. 98–1233; 4) oral or written communications or promises by Microsoft lobbyists (other than Mr. Rule) or Microsoft personnel to officers or employees of the United States; and, 5) communications made at Microsoft's request or suggestion to officers or employees of the United States (e.g., communications by Members or employees of either House of Congress to officers or employees of the Executive Branch).

1. Mr. Rule's Undisclosed Conversations Prior to November 15, 2001 Are Not Exempted from Disclosure

a. Mr. Rule Was Not Counsel Of Record For Microsoft Prior to November 15, 2001

The statute, 15 U.S.C. § 16(g), exempts from disclosure only two types of oral or written communications with any officer or employee of the United States. First, the statute exempts communications between counsel of record and the Attorney General alone (i.e., outside the presence of Microsoft personnel and other Justice Department officers or employees). Second, the statute exempts communications between counsel of record and employees of the Department of Justice alone (i.e., outside the presence of Microsoft personnel and non-employees of the Justice Department). The statute does not provide for a lobbyist (or other person who is not counsel of record) to conduct negotiations with the Attorney General and/or Justice Department employees and then, after reaching agreement on a consent judgment, convert from a lobbyist into a counsel of record in order to shield from disclosure communications and negotiations conducted when he was not counsel of record.

At a minimum, the term "officer or employee" in 15 U.S.C. § 16(g) should include any officer or employee of the Executive Branch. It is clear that offices and employees of the Executive Branch are within the scope of the statute because the two classes of exclusions are of officers or employees of the Executive Branch (i.e., the Attorney General and employees of the Department of Justice). Arguably, the term "officer or employee" in 15 U.S.C. § 16(g) could also include any "officer or employee" of the Legislative Branch. The precise scope of the term "officers and employees" within the meaning of 15 U.S.C. § 16(g) appears to be a matter of first impression in this Court. Given the control of the Justice Department budget by the Congress, the importance of disclosing communications by Microsoft with Members of Congress or their staff concerning or relating to the RPFJ is manifest. In any event, the statute makes clear that any communication concerning or relating to the RPFJ made on behalf of Microsoft (whether by Microsoft, a Senator, or anyone else) to an Executive Branch officer or employee must be disclosed under 15 U.S.C. § 16(g).

Mr. Rule was not a counsel of record prior to November 15,2001. Accordingly, any oral or written communications made by him, or on his behalf, concerning or relevant to the RPFJ to any officer or employee of the United States must be disclosed. Clearly, communications made in the negotiations which resulted in the RPFJ both concern the RPFJ and are relevant to the RPFJ.

Mr. Rule was the Assistant Attorney General in charge of the Antitrust Division long after the Tunney Act became the law. While the disclosure requirements of 15 U.S.C. § 16(g) would apply to Mr. Rule's client even if Mr. Rule were totally unfamiliar with antitrust law, the disclosure requirements should be applied strictly given that Mr. Rule was the principal law enforcement officer of the United States charged with enforcing this precise statute for about three (3) years.

If Mr. Rule's testimony to the effect that he was a principal negotiator on behalf of Microsoft of the RPFJ is accurate, then there are clearly undisclosed communications made by Mr. Rule or in his presence.

Typically, a principal representative in negotiations would have made oral comments to the negotiators for the United States. Further, the principal negotiator would have submitted written drafts of language (whether in electronic, magnetic, or paper form) to be used in the RPFJ.

Also, there is the matter of Lobbyist Rule's contacts with the Administration which contacts were reported by The Wall Street Journal. What precisely does Microsoft want to conceal? Why does Microsoft want to conceal these communications? Discovery (or a true and complete disclosure under 15 U.S.C. § 16(g)) is needed to provide the American people and this Court with the answer to these questions.

b. Mr. Rule Was Not Counsel Of Record For Microsoft Even After November 15, 2001

If Microsoft's position is that Mr. Rule's communications prior to and during settlement negotiations did not have to be disclosed because on the date the Microsoft Description was filed Mr. Rule was a counsel of record, that position is both untenable and, as discussed above, contrary to the plain language of the statute.

Local Civil Rule 83.6(a) governs the process by which an attorney becomes a counsel of record and provides in full that:

> "An attorney eligible to appear may enter an appearance in a civil action by signing any pleading described in Rule 7(a), Federal Rules of Civil Procedure, or by filing a written notice of the entry of an appearance listing the attorney's correct address, telephone number and bar identification number."

As mentioned above, as of the date of this Memorandum, Mr. Rule has not in connection with the captioned civil actions signed any pleading described in Rule 7(a) of the Federal Rules of Civil Procedure (i.e., basically, various types of complaints and answers).

The typical written notice of entry of an appearance is signed by the attorney entering the appearance. For example, when appearances were entered by Douglas Davis, Esq., Steven Kuney, Esq., and Brendan Sullivan, Esq., each of these attorneys signed and filed a written notice of appearance containing the necessary information. (Copies of the notices of appearance for Messrs. Douglas, Kuney, and Sullivan are attached hereto as Exhibits G, H, and I, respectively.) Mr. Rule did not sign or file what purports to be his written notice of entry of appearance. The written notice attempting to enter an appearance for Mr. Rule was signed and filed by Bradley Smith, Esq., of Sullivan & Cromwell.

As noted above, Mr. Rule has not, in connection with the captioned Civil Actions, signed any pleading described in Federal Rule of Civil Procedure 7(a).

Thus, arguably Mr. Rule was not a counsel of record even when the Microsoft Description was filed on December 10, 2001. Accordingly, any oral or written communications Mr. Rule had with officers or employees of the United States concerning or relating to the RPFJ must be disclosed.

2. The Undisclosed Conversations of Microsoft's other Lobbyists With Executive Or Legislative Branch Officials Or Employees Are Not Exempted From Disclosure

Even if Mr. Rule's testimony to the effect that he was a principal negotiator on behalf of Microsoft of the RPFJ were inaccurate and even if Mr. Rule had absolutely no oral or written communications at any time of any type, kind, or description with any officer or employee of the United States (whether in the Executive or Legislative Branch), it is still likely that there were other undisclosed oral or written communications made by or on behalf of Microsoft concerning or relevant to the RPFJ.

In addition to Mr. Rule, Microsoft has a substantial number of other inside and outside federal lobbyists who were paid on the order of $17,645,000 from 1997 through June 30, 2001.

A partial list of some known lobbying expenditures and contacts includes the following:

1. From January 1, 1999, through June 30,2001, according to the official reports required by Section 5 of the Lobbying Disclosure Act of 1995, 2 U.S.C. 1604, the lobbying firm of Barbour Griffith & Rogers, Washington, DC, reported receiving $1,380,000 from Microsoft for lobbying the House and Senate concerning issues including "the Justice Department's Antitrust inquiry." Dautch Dec., ¶¶ 8–12 and Attachments 9–13.

2. The official reports show that from July 1, 1997 to June 30, 2001, the lobbying firm of Clark & Weinstock, New York, New York, received $1,480,000 from Microsoft for lobbying the House and Senate concerning issues including Microsoft's position on the Department of Justice antitrust suit against Microsoft. Dautch Dec., ¶¶ 13–19 and Attachments 14–20.

3. The official reports show that from January I, 1998 to June 30, 1999, the lobbying firm of Covington & Burling received $140,000 from Microsoft for lobbying the House and Senate concerning, inter alia, competition issues affecting the computer software industry. Dautch Dec., ¶¶ 20–22 and Attachments 21–23.

4. The official reports show that from July 1, 1997, to June 30, 2001, the lobbying firm of Downey Chandler, Inc. (at times known as

Downey McGrath Group), received $560,000 from Microsoft for lobbying the Office of the Vice President, the Departments of Justice, State, and Commerce, and the House and Senate concerning issues including the Department of Justice's antitrust suit against Microsoft. Dautch Dec., ¶¶ 23–30 and Attachments 24–31.

5. From July 1, 1999 to June 30, 2001, the official reports show that McSlarrow & Associates, at times known as McSlarrow Consulting, L.L.C., received $200,000 from Microsoft for lobbying the House and Senate concerning issues including competition in the software industry. Dautch Dec., ¶¶ 32–35 and Attachments 33–36.

6. From January 1, 2000 to June 30, 2000, the official report shows that Microsoft itself spent $3,340,000 on lobbying the National Security Agency, Federal Bureau of Investigation, Senate, House, the Departments of Justice, Commerce, and Defense concerning issues including competition in the software industry.[7] Dautch Dec., ¶¶ 36 and Attachment 37.

7. From July 1, 1997 to June 30, 2001, the official reports show that Preston Gates Ellis & Rouvelas Meeds received $1,380,000 from Microsoft for lobbying the White House, the Vice President, the National Security Agency, the Central Intelligence Agency, the National Security Council, the Office of Science and Technology Policy, the Federal Bureau of Investigation, the U.S. Trade Representative, the National Economic Council, the Office of Management and Budget, the Departments of Justice arid Commerce, and the House and Senate concerning issues including competition in the software market. Dautch Dec., ¶¶ 37–42 and Attachments 38–43.

The massive amount of money spent on lobbying raises a number of issues relevant to the Tunney Act disclosure Microsoft should have made including, but not limited to, those mentioned below.

First, given that Microsoft was ably represented by accomplished in-house counsel and the distinguished law firm of Sullivan & Cromwell upon whom all opposing parties were required to serve all documents pursuant to Federal Rule of Civil Procedure 5, why was it necessary to spend over $1.3 million for Barbour Griffith & Rogers to monitor the same civil action? Where did the money really go? What did the money really buy? Did Barbour Griffith & Rogers discuss the Microsoft antitrust litigation with any officer or employee of the United States while the RPFJ was being negotiated?

Second, as of June 30, 2001, Microsoft, its employees, and its outside lobbyists had spent upwards of $20,000,000 over several years lobbying, and where possible making campaign contributions, to many officers and employees of the United States. It is difficult to believe that when negotiations intensified and were conducted around-the-clocks in October, 2001 not one of the legions of Microsoft lobbyists in whom the company invested millions made a single call to any officer or employee of the United States concerning or relevant to the RPFJ. In particular, it is difficult to imagine that no United States Representative and no United States Senator was asked to contact the Executive Branch in support of Microsoft.

3. Additional Undisclosed Conversations May Have Caused A PredawnTelephone Call From A Senior Aide To The Attorney General To A Lobbyist

The New York Times of November 2, 2001, reported ("States Biding for Time to Study Microsoft Settlement Plan" by Stephen Labaton, pp. C1 and C4) that:

"Some of Microsoft's largest competitors voiced bitter disappointment about the terms of the proposed deal and asserted that the company had used its political influence with a Republican administration to try to quickly put an end to the case."

"The rivals said that during court hearings that will be required on the proposed settlement, they intended to provide evidence of what they say was an improper discussion between a senior aide to Attorney General John Ashcroft who had been a top official in the Republican Party and a Republican lobbyist for AOL—Time Warner that demonstrated Microsoft's political muscle. In a statement issued today, Representative John Conyers Jr., Democrat of Michigan, also indicated that he would be examining that incident, word of which has been circulating widely in recent days among lawyers, lobbyists and executives following the case?"

"The aide to Mr. Ashcroft, David Israelite, had been the political director of the Republican National Committee, which received hundreds of thousands of dollars from Microsoft during the 2000 presidential campaign. Mr. Israelite, now Mr. Ashcroft's deputy chief of staff, has recused himself from any involvement in the Microsoft antitrust case because he owns 100 shares of Microsoft stock."

"The lobbyist involved in the discussion was said to be Wayne Berman, who is also a top Republican fundraiser."

"According to the notes of a person briefed about the conversation on Oct.

9, the day it is said to have occurred, Mr. Israelite called Mr. Berman."

"Are you guys behind this business of the states hiring their own lawyers in the Microsoft case?" Mr. Israelite asked Mr. Berman in the predawn conversation, according to the notes. "Tell your clients we wouldn't be too happy about that."

". . .According to people who were later briefed on the conversation by an AOL executive, Mr. Israelite then complained that AOL, a leading Microsoft rival, had been trying to "radicalize" the states to oppose a settlement." (A copy of the article from The New York Times of November 2, 2001, is Attachment 8 to the Dautch Declaration.)[9]

Given the impact of the RPFJ on an important sector of the economy and the over-riding importance of maintaining public confidence in the integrity of both public officials and the judicial process, it would be reasonable to inquire of both Messrs. Israelite and Berman either at a hearing before the Court or at a deposition whether any conversation such as that set forth in the article published on November 2, 2001, by The New York Times ever occurred. The conversation, if it occurred, was not privileged. Because Mr. Israelite is recused from taking official action with respect to Microsoft, the inquiry would also not require any intrusion into the reasons for any of his authorized official actions. If the conversation occurred at the request of Microsoft, this Court and the public have a statutory right to know that fact.

B. THE TUNNEY ACT WAS INTENDED TO PREVENT AN ABUSE OF POWER IN THE CURRENT SITUATION

1. The Lawful $200,000 ITT Pledge Related To One Of The Impeachable Abuses Of Power In The Early 1970's Was Equivalent To About $650,000 In 2001 Dollars Which Amount Is Vastly Exceeded By Over $23 Million Microsoft Has Lawfully Spent On Federal Campaign Contributions and Lobbying Since 1997

a. The ITT Litigation and the Kleindienst Nomination

In 1969, the United States filed three civil antitrust actions against the International Telephone and Telegraph Corporation ("ITT") challenging the acquisition by ITT of three corporations (Canteen Corporation, Hartford Fire Insurance Company, and Grinnell Corporation).

Statement Of Information, Hearings Before The Committee On The Judiciary House Of Representatives, Ninety-Third Congress, Second Session, Pursuant To H. Res. 803, Book V, Part I, Department Of Justice ITT Litigation—Richard Kleindienst Nomination Hearings ("Statement Of Information" or "OI"), pages 3–4. (A copy of the basic statement of facts in the Statement Of Information is attached as Attachment 45 to the Dautch Declaration.)

Attorney General John Mitchell was recused because his former law firm had represented an ITT subsidiary; Deputy Attorney General Richard Kleindienst acted as Attorney General in connection with the litigation and sought and received approval from Counsel to the President John

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[7] On November 5, 1999, this Court entered Findings of Fact adverse to Microsoft. U.S. v. Microsoft, 84 F.Supp.2d 9 (D.DC 1999). On April 3, 2000, this Court entered Conclusions of Law holding Microsoft to be in violation of the antitrust laws. U.S. v. Microsoft, 87 F.Supp.2d 30 (D.DC 2000). On June 7, 2000, this Court entered an order requiring Microsoft to devise a plan to split itself into an operating systems business and an applications business. U.S. v. Microsoft, 97 F.Supp.2d 59 (D.DC 2000).

[8] Statement of Charles F. Rule to the Committee on the Judiciary, US. Senate, December 12, 2001 (Dautch Dec., Attachment 3, ¶¶ 2).

[9] In addition to the Microsoft stonewall, the Justice Department is apparently stonewalling the ranking minority member of the House Judiciary Committee, Rep. John Conyers, Jr., concerning the reported Israelite-Berman predawn conversation. On Nov. 6, 2001, Rep. Conyers wrote a letter to the Attorney General inquiring about the alleged conversation. (A copy of a press release containing the text of the letter from Rep. Conyers is Attachment 44 to the Dautch Dec.) As far as can be determined, no response had been received by Rep. Conyers from the Attorney General as of January 22, 2002.

Ehrlichman before filing the first civil action. SO1, p. 3.

On December 31, 1970, ITT won a judgment in the Grinnell case after a trial. SOI, p. 13.

From April to June, 1971, a substantial amount of political pressure was applied by the President and his assistants to Deputy Attorney General Kleindienst and Assistant Attorney General in charge of the Antitrust Division Richard McLaren to convince them to forego an appeal and settle the ITT cases. SOI, pp. 17–31.

On July 21, 1971, ITT-Sheraton pledged up to $200,000 to bring the 1972 Republican National Convention to San Diego, California. SOI, p. 32. There is no suggestion that this contribution by itself was illegal.

On July 31, 1971, a settlement of the ITT litigation was announced. SOI, p. 34.

On February 15, 1972, the President nominated Richard Kleindienst to be Attorney General. SOI, p. 36.

On February 29, March 1 and March 3, 1972, three columns by columnist Jack Anderson were published alleging a connection between the ITT-Sheraton pledge and the ITT antitrust settlement and alleging the involvement of Messrs. Mitchell and Kleindienst. SOI, p. 39. (Copies of the Anderson columns and a memorandum allegedly written by an ITT lobbyist, Ms. Dita Beard, all of which were included in the evidentiary material supporting the Statement Of Information are attached as Attachment 46 to the Dautch Declaration.) As a result of publication of the first two Anderson columns, Mr. Kleindienst asked that his confirmation hearings be re-opened. SOI, p. 39.

At the hearings in 1972 on his nomination to be Attorney General, Mr. Kleindienst denied talking to all the President's men other than casually about the ITT matter and also denied receiving any suggestions from them about the action the Justice Department should take in the ITT cases. SOI, p. 42.

On June 12, 1972, Richard Kleindienst became Attorney General. SOI, p. 61.

On May 16, 1974, Richard Kleindienst pleaded guilty to one count of refusing or failing fully to respond to questions propounded to him by the Senate Committee on the Judiciary during the hearings in 1972 on his nomination to be Attorney General. SOI, p. 66.

On August 9, 1974, the President resigned.

b. The Impeachment Resolution

The second Article of Impeachment (adopted by a vote of 28–10 in the House Judiciary Committee on July 27, 1974) charged the President with using the powers of his office in violation of his constitutional oath, disregarding his constitutional duty to take care that the laws be faithfully executed, and repeatedly engaging in five (5) types of conduct violating the constitutional rights of citizens, impairing the due and proper administration of justice and the conduct of lawful inquiries, or contravening the laws governing agencies of the executive branch and the purpose of those agencies.

The specification of the fourth type of allegedly improper conduct stated in full with respect to the President that (emphasis added):

"He has failed to take care that the laws were faithfully executed by failing to act when he knew or had reason to know that his close subordinates endeavoured to impede and frustrate lawful inquiries by duly constituted executive, judicial and legislative entities concerning the unlawful entry into the headquarters of the Democratic National Committee, and the cover-up thereof, and concerning other unlawful activities including those relating to the confirmation of Richard Kleindienst as Attorney General of the United States, the electronic surveillance of private citizens, the break-in into the offices of Dr. Lewis Fielding, and the campaign financing practices of the Committee to Re-elect the President."

House Report 93–1305, August 20, 1974, pp. 139–183.

(the Tunney Act), Senator Tunney said:

"The genesis of this legislation came during the hearings held by the Senate Judiciary Committee on the nomination of Richard Kleindienst, the hearings which quickly became known as the ITT hearings, because the major issue involved allegations that a massive behind-closed-doors campaign resulted in halting the Justice Department's prosecution of the ITT case and its hasty settlement favorable to the company. During these hearings, I became concerned with the apparent weaknesses of the consent decree process, which could allow this kind of corporate pressures to be exercised." Cong. Rec. Senate, December 9, 1974, page 38585.

c. Since 1997 Microsoft Has Spent Over $23 Million On Federal Lobbying And Campaign Contributions

As mentioned above, since 1997, Microsoft has spent in excess of $23,000,000 on federal campaign contributions and lobbying with substantial effort devoted to lobbying concerning the captioned civil actions. The ITT pledge of $200,000 in 1971 is the equivalent of about $650,000 in 2001 dollars. Dautch Dec., ¶ 43.

There is no suggestion that any of Microsoft's expenditures by themselves are illegal.

In the instant matter, the Justice Department won at trial and on appeal. The Department has agreed to what some have characterized as a "sweetheart" settlement negotiated behind closed doors by a lobbyist for Microsoft which, so far, has not revealed information the Tunney Act (and this Court's order) require it to reveal.

2. The Tunney Act Was Intended To Protect The Consuming Public From The Type Of Forces At Work Today In Connection With The RPFJ

The point is not that an unfortunate chapter in our nation's history has repeated itself or might repeat itself precisely but rather that the same type of economic forces at work in connection with the ITT litigation are at work today. In the United States, the presence of strong economic forces tends to bring about the involvement of political forces.

In 2001 dollars, the amount ITT pledged to buy influence and access in 1971 is greatly exceeded by the amount spent by Microsoft in the last few years on lobbying and campaign contributions. The impact ITT had on the 1971 economy while substantial pales in comparison to the impact Microsoft and its products have on the 2002 economy. The forces at work today may be stronger than those in play thirty years ago.

The problem was aptly summarized in the following quotations (by Senator Tunney during Senate debate) from testimony before the Senate Judiciary Committee by United States Circuit Judge J. Skelly Wright, Chief Judge of the United States Court of Appeals for the District of Columbia Circuit:

"By definition, antitrust violators wield great influence and economic power. They often bring significant pressure to bear on government, and even on the courts, in connection with the handling of consent decrees. The public is properly concerned whether such pressure results in settlements which might shortchange the public interest . . . Because of the powerful influence of antitrust defendants and the complexity and importance of antitrust litigation, the public reasonably asks in many instances whether in reaching a settlement, the government gave up more than it need have or should have. Some response to this public concern is desirable, in my opinion, not only to ensure that the compromise struck by the Justice Department is fair from the public's point of view, but also to alleviate fears which, even if unfounded, are unhealthy in and of themselves."

Cong. Rec. Senate, July 18, 1973, pp. 24597–24598.

C. ON THE PRESENT RECORD THE UNITED STATES WILL NOT BE ABLE TO COMPLY WITH THE COURT ORDER OF NOVEMBER 8, 2001, REQUIRING CERTIFICATION BY THE UNITED STATES OF COMPLIANCE WITH TUNNEY ACT PROCEDURES

On November 8, 2001, this Court ordered the United States to file, when appropriate, a certification of compliance with the Antitrust Procedures and Penalties Act (Tunney Act). Given the apparent failure of Microsoft to comply with the Tunney Act and the United States'' knowledge of this apparent compliance failure, it would appear to be difficult, if not impossible, for the United States to provide the required certification in good faith. This difficulty provides another reason for the Court to order compliance by Microsoft with the terms of 15 U.S.C. § 16(g).

D. THE COURT SHOULD AGAIN ORDER FULL DISCLOSURE, ALLOW FULL DISCOVERY OF THE NECESSARY FACTS, AND EXTEND THE TIME FOR COMMENTS OR TERMINATE CONSIDERATION OF THE RPFJ

Even if Microsoft chooses to amend the Microsoft Description in an attempt to comply with a second court order (after defying the first court order) with respect to 15 U.S.C. § 16(g), the Court should consider allowing limited discovery by Relpromax Antitrust Inc., as an amicus curiae, into the communications revealed and into the issue of whether all communications were in fact revealed in order to avoid the prospect that Microsoft's initial reticence infects a disclosure which purports to be in accord with the terms of a second disclosure order.

Alternatively, in the interests of judicial economy, the Court may terminate all consideration of the RPFJ at this time and deny entry of the RPFJ on the grounds that the Court has not been provided with the information the statute requires the defendant to provide as a condition precedent to approval of a consent judgment in these circumstances.

E. IF THE COURT DOES NOT ORDER FULL DISCLOSURE NOW, ENTRY OF THE RPFJ COULD BE REVERSED ON APPEAL FOR THAT REASON ALONE; HOWEVER, IF THE COURT ORDERS ADDITIONAL DISCLOSURE AND THEN ENTERS THE RPFJ, THERE WOULD BE A LOWER POSSIBILITY OF REVERSAL DUE TO DEFENDANT'S FAILURE TO COMPLY WITH THE DISCLOSURE PROVISIONS OF THE TUNNEY ACT

Given the procedural history of this case (i.e., Judges Sporkin and Jackson were removed from this case or its predecessors by the Court of Appeals), it would indeed be unfortunate if the Court were to allow Microsoft to withhold information to which the public has a statutory right, determine that entry of the RPFJ is in the public interest, and then be reversed on appeal due to the failure of Microsoft to comply with 15 U.S.C. § 16(g) (necessitating re-commencement of the Tunney Act procedures with respect to the current RPFJ several years from now). Alternatively, if the Court were to order full compliance with the Tunney Act now, the delay would be minimal (on the order of sixty (60) days) and (assuming Microsoft made a true and complete disclosure) any decision to enter the RPFJ could not be reversed due to Microsoft's failure to comply with its disclosure obligations under the Tunney Act.

F. RELPROMAX AS THE ONLY PARTY OR PROPOSED AMICUS CURIAE WITH AN EXPRESSED INTEREST IN OBTAINING A FULL DISCLOSURE FROM MICROSOFT SHOULD BE GRANTED THE RIGHT TO LIMITED PARTICIPATION AS AN AMICUS CURIAE IN THE TUNNEY ACT PROCEEDINGS

Clearly, Microsoft, the United States, and the Settling States have little or no interest in inquiring into the communications Microsoft should have disclosed pursuant to 15 U.S.C. § 16(g) or into the adequacy of the Microsoft Description. Their only interest (explicitly expressed so far) is in obtaining Court approval of the RPFJ as fast as possible. In particular, the United States Department of Justice presumably already has knowledge, at a minimum, of certain undisclosed communications made to the Justice Department by Microsoft lobbyist Charles F. Rule from on or before October 1,2001, through November 6, 2001.

The Litigating States10 (the governments which did not settle in Civil Action No. 98–1233) are not parties to Civil Action No. 98–1232. While they and their citizens of course have Tunney Act rights, the Litigating States have, so far, expressed little interest on the record of Civil Action No. 98–1232 in obtaining for their citizens" consideration during the comment period the information from Microsoft to which the public is entitled under the Tunney Act.

Given his responsibility for the Antitrust Division and his signature on the Stipulation filed with the RPFJ on November 6, 2001, the Assistant Attorney General in charge of the Antitrust Division knew, or in the exercise of reasonable care should have known, that lobbyist Rule was one of Microsoft's principal representatives during the negotiations which led to the RPFJ and was not, at the time, counsel of record for Microsoft. As far as can be determined from the public court record of this case, the United States has not exerted itself in any way to obtain a proper disclosure from Microsoft or to encourage Microsoft to amend the Microsoft Description.

The attitude of the Justice Department has changed under the leadership of Attorney General John Ashcroft.[11] The Department's attitude toward this civil action was perhaps best expressed by Assistant Attorney General James at the December 12,2001, Senate Judiciary Committee hearing.

Due to a roll call vote, Mr. James was given just a few moments for his opening remarks of the day.

The Litigating States are the District of Columbia, California, Connecticut, Florida, Iowa, Kansas, Massachusetts, Minnesota, Utah, and West Virginia.

The first point he chose to make was "some argue that the case never should have been filed."[12]

Another reason for the statutory requirement of fifty (50) days to consider the defendant's communications is that the significance of any individual communication in light of the RPFJ may only be apparent to one person or a few persons. The consideration time allows interested persons either to consult with others or experts or to conduct additional informal or (with the Court's approval) formal inquiries into the facts in order to be able to advise both the United States and the Court of the full implications of the disclosures in light of the RPFJ. Given the carefully crafted statutory arrangement, the Congress realized that the Court on its own can not be expected either to uncover or understand all the implications of Microsoft's communications for the RPFJ without the assistance of persons at least interested enough in the RPFJ, the nule of law, and/or the avoidance of another impeachment inquiry due to, inter alia, an abuse of the antitrust settlement power to devote their time to the public interest in this matter.

Given that Relpromax is an interested person and, in particular, interested in obtaining the information to which it has a statutory right pursuant to 15 U.S.C. § 16(g), it would be appropriate and in the public interest for the Court to enter an order, pursuant to 15 U.S.C. § 16(f)(3), in the form submitted herewith authorizing limited participation by Relpromax in proceedings before the court.

The Court has extended itself to make all of Microsoft's communications available to the entire nation by instituting electronic filing for the captioned civil actions. This means that anyone anywhere with Internet access and a PACER ("Public Access to Court Electronic Records") account is able to read Microsoft's Description of its communications concerning and relevant to the RPFJ without having to travel all the way from one end of the country to the courthouse.

The full preliminary transcript is attached as Attachment 49 to the Dautch Dec. The remarks referred to appear on page 10.

It is now time for Microsoft to comply with the statute.

In Senate debate which preceded adoption of the Tunney Act, Sen. John Tunney quoted the words of Supreme Court Justice Louis Brandeis to sum up the meaning and purpose of the Act: "Sunlight is the best disinfectant."[13]

REQUEST FOR ORAL HEARING

The Court may order an oral hearing on this motion pursuant to 15 U.S.C. § 16(0(5) which provides in full that:

"In making its determination under subsection (e) of this section, the court may— . . (5) take such other action in the public interest as the court may deem appropriate." It is in the public interest that the proper statutorily required disclosure be made. It is further in the public interest that the public be allowed their statutory right to consider the full ramifications of the RPFJ for fifty (50) days after a true and complete disclosure by Microsoft of all non-exempt communications with officers or employees of the United States concerning or relevant to the RPFJ.

Accordingly, pursuant to 15 USC sec. 16(f)(5), movant requests an oral hearing on this motion at the Court's earliest convenience.

Respectfully submitted

January 24, 2002

Peter Peckarsky (DC Bar No. 266171)
1615 L Street, NW, Suite 850
Washington, DC 20036
Telephone: (202) 785–0100
Telecopier: (202) 408–5200
Attorney for Relpromax Antitrust Inc.

13 Cong. Rec. Senate, July 18, 1973, p. 24599.

EXHIBIT LIST

Exhibit A	Declaration of Brian Dautch dated January 23, 2002
Exhibit B	Order docketed September 28, 2001
Exhibit C	Stipulation dated November 6, 2001
Exhibit D	Order dated November 8, 2001
Exhibit E	Notice Of Entry Of Appearance for Charles F. Rule dated November 15, 2001
Exhibit F	Defendant Microsoft Corporation's Description Of Written Or Oral Communications Concerning The Revised Proposed Final Judgment And Certification Of Compliance Under 15 U.S.C. ¶ 16(g) dated December 10, 2001
Exhibit G	Appearance of Douglas Lee Davis dated December 12, 2001
Exhibit H	Appearance of Steven R. Kuney dated November 1,2001

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[11] David Israelite, Mr. Ashcroft's Deputy Chief of Staff, reportedly owns 100 shares of Microsoft stock worth about $6,610 at the close of trading on January 18, 2002. Dautch Dec., 44 and Attachment 8. David Israelite recused himself from any involvement in the antitrust suit against Microsoft. The President's campaign, his Inaugural fund, Attorney General Ashcroft, and his various campaign committees received about $180,000 in contributions from Microsoft and its employees in 1999 and 2000. Dautch Dec., ¶ 2 and Attachment 1. Mr. Ashcroft has not recused himself from any involvement in the antitrust suit against Microsoft.

Exhibit I Appearance of Brendan V. Sullivan, Jr. dated November 1, 2001

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA
CIVIL ACTION NO. 98–1232 (CKK)
Plaintiff, V. MICROSOFT CORPORATION, Defendant.
STATE OF NEW YORK ex rel.
Attorney General ELIOT SPITZER, et al.,
Plaintiffs, v. MICROSOFT CORPORATION, Defendant.
CIVIL ACTION NO. 98–1233 (CKK)
Next Court Deadline:
March 4, 2002
Pre-hearing Conference

DECLARATION OF BRIAN DAUTCH

1. My name is Brian Dautch. I am a law clerk for Peter Peckarsky, Esq. I have personal knowledge of the facts testified to below and if called as a witness could testify to those facts.

2. Attached hereto as Attachment 1 is a copy of an article dated September 6, 2001 and titled "Microsoft Antitrust Case: An Update on the Company's Lobbying and Campaign Contributions" and related information which was downloaded from the website (www.opensecrets.org) of The Center For Responsive Politics ("CRP"). The chart on page 2 of Attachment 1 shows that Microsoft an its employees contributed about $6.8 million to national political parties and federal candidates from 1997 through July 31,2001. The chart on page 3 of Attachment 1 shows that Microsoft spent about $17.1 million on federal lobbying from 1997 through December 31, 2000. The CRP reported it had found $161,250 in contributions from Microsoft or its employees to the Bush campaign or the Bush-Cheney Inaugural Fund. The CRP also reported it had found $19,250 in contributions in 1999 and 2000 to the campaign of Attorney General Ashcroft and to the Ashcroft Victory Committee. The listings and dates for $19,000 of these contributions are shown in Attachment 1 hereto.

3. Attached hereto as Attachment 2 is a copy of a copy of the mission statement of the Center For Responsive Politics which was downloaded from the website (www.opensecrets.org) of The Center For Responsive Politics.

4. Attached hereto as Attachment 3 is a copy of the unsworn Statement of Charles F. (Rick) Rule, presented on December 12,2001, to the Senate Judiciary Committee. Attached hereto as Attachment 4 is a copy of a Lobbying Registration for registrant Covington & Burling dated June 29, 1998. Attached hereto as Attachment 7 is a copy of Charles F. "Rick" Rule's resume, which I obtained from the website of Fried, Frank, Harris, Shriver, and Jacobson (www.friedfrank.com).

5. Attached hereto as Attachment 5 is a copy of an item from the front page of the A section of The Wall Street Journal, dated November 16, 2001.

6. Attached hereto as Attachment 6 is a copy of the preliminary transcript of the December 12,2001 Senate Judiciary Committee hearing concerning the proposed settlement of the Microsoft antitrust case.

7. Attached hereto as Attachment 8 is a copy of an article titled "States Biding for Time to Study Microsoft Settlement Plan" by Stephen Labaton which appeared in The New York Times, November 2, 2001, on pages C1 and C4.

8. Attached hereto as Attachment 9 is a copy of Form LD–2 dated August 5, 1999, in which Barbour, Griffith, and Rogers ("BGR") reported that during the first half of 1999, it received $300,000 from Microsoft for lobbying.

9. Attached hereto as Attachment 10 is a copy of Form LD–2 dated February 13, 2000, in which BGR reported that during the last half of 1999, it received $320,000 from Microsoft for lobbying.

10. Attached hereto as Attachment 11 is a copy of Form LD–2 dated August 12, 2000, in which BGR reported that during the first half of 2000, it received $300,000 from Microsoft for lobbying.

11. Attached hereto as Attachment 12 is a copy of Form LD–2 dated February 14, 200 I, in which BGR reported that during the last half of 2000, it received $240,000 from Microsoft for lobbying.

12. Attached hereto as Attachment 13 is a copy of Form LD–2 dated August 14, 2001, in which BGR reported that during the first half of 2001, it received $220,000 from Microsoft for lobbying.

13. Attached hereto as Attachment 14 is a copy of Form LD–2 dated February 6, 1998, in which Clark and Weinstock ("CW") reported that during the last half of 1997, it received $80,000 from Microsoft for lobbying.

14. Attached hereto as Attachment 15 is a copy of Form LD–2 dated August 4, 1998, in which CW reported that during the first half of 1998, it received $160,000 from Microsoft for lobbying.

15. Attached hereto as Attachment 16 is a copy of Form LD–2 dated February 11, 1999, in which CW reported that during the last half of 1998, it received $220,000 from Microsoft for lobbying.

16. Attached hereto as Attachment 17 is a copy of Form LD–2 dated August 9, 1999, in which CW reported that during the first half of 1999, it received $220,000 from Microsoft for lobbying.

17. Attached hereto as Attachment 18 is a copy of Form LD–2 dated August 11, 2000, in which CW reported that during the first half of 2000, it received $280,000 from Microsoft for lobbying.

18. Attached hereto as Attachment 19 is a copy of Form LD-2 dated February 9, 2001, in which CW reported that during the last half of 2000, it received $280,000 from Microsoft for lobbying.

19. Attached hereto as Attachment 20 is a copy of Form LD-2 dated August 9, 2001, in which CW reported that during the first half of 2001, it received $240,000 from Microsoft for lobbying.

20. Attached hereto as Attachment 21 is a copy of Form LD-2 dated August 4, 1998, in which Covington & Burling ("CB") reported that during the first half of 1998, it received $40,000 from Microsoft for lobbying.

21. Attached hereto as Attachment 22 is a copy of Form LD-2 dated February 4, 1999, in which CB reported that during the last half of 1998, it received $60,000 from Microsoft for lobbying.

22. Attached hereto as Attachment 23 is a copy of Form LD-2 dated August 10, 1999, in which CB reported that during the first half of 1999, it received $40,000 from Microsoft for lobbying.

23. Attached hereto as Attachment 24 is a copy of Form LD-2 dated February 13, 1998, in which Downey Chandler, Inc. ("DCI") reported that during the last half of 1997, it received $60,000 from Microsoft for lobbying.

24. Attached hereto as Attachment 25 is a copy of Form LD-2 dated August 7, 1998, in which DCI reported that during the first half Of 1998, it received $80,000 from Microsoft for lobbying.

25. Attached hereto as Attachment 26 is a copy of Form LD-2 dated February 16, 1999, in which DCI reported that during the last half of 1998, it received $60,000 from Microsoft for lobbying.

26. Attached hereto as Attachment 27 is a copy of Form LD-2 dated July 30, 1999, in which DCI reported that during the first half of 1999, it received $80,000 from Microsoft for lobbying.

27. Attached hereto as Attachment 28 is a copy of Form LD-2 dated February 14, 2000, in which DCI (now called Downey McGrath Group, Inc., or "DMG"), reported that during the last half of 1999, it received $100,000 from Microsoft for lobbying."

28. Attached hereto as Attachment 29 is a copy of Form LD-2 dated August 11, 2000, in which DMG reported that during the first half of 2000, it received $80,000 from Microsoft for lobbying.

29. Attached hereto as Attachment 30 is a copy of Form LD-2 dated February 14, 2001, in which DMG reported that during the last half of 2000, it received $40,000 from Microsoft for lobbying.

30. Attached hereto as Attachment 31 is a copy of Form LD-2 dated August 14, 2001, in which DMG reported that during the first half of 2001, it received $60,000 from Microsoft for lobbying.

31. Attached hereto as Attachment 32 is a copy of Form LD-2 dated August 14, 2000, in which Lackman & Associates, L.L.C., ("L&A") reported that up to June 30, 2000, it received $17,500 from Microsoft for lobbying.

32. Attached hereto as Attachment 33 is a copy of Form LD-2 dated January 21, 2000, in which McSlarrow & Associates, L.L.C. ("MA") reported that during the last half of 1999, it received $40,000 from Microsoft for lobbying.

33. Attached hereto as Attachment 34 is a copy of Form LD-2 dated August 10, 2000, in which MA (now known as McSlarrow Consulting, L.L.C., or "MC") reported that during the first half of 2000, it received $40,000 from Microsoft for lobbying.

34. Attached hereto as Attachment 35 is a copy of Form LD-2 dated February 2, 2001, in which MC reported that during the last half of 2000, it received $60,000 from Microsoft for lobbying.

35. Attached hereto as Attachment 36 is a copy of Form LD-2 dated August 12, 2001, in which MC reported that during the first half of 2001, it received $60,000 from Microsoft for lobbying.

36. Attached hereto as Attachment 37 is a copy of Form LD-2 dated August 11, 2000, in which Microsoft reported that during the first half of 2000, it spent $3,340,000 for lobbying.

37. Attached hereto as Attachment 38 is a copy of Form LD-2 dated February 17, 1998, in which Preston, Gates, Ellis, & Rouvelas Meeds, L.L.P. ("PGERM") reported that during the last half of 1997, it received $220,000 from Microsoft for lobbying.

38. Attached hereto as Attachment 39 is a copy of Form LD-2 dated August 14, 1998, in which PGERM reported that during the first half of 1998, it received $360,000 from Microsoft for lobbying.

39. Attached hereto as Attachment 40 is a copy of Form LD-2 dated February 14, 2000, in which PGERM reported that during the last half of 1999, it received $200,000 from Microsoft for lobbying.

40. Attached hereto as Attachment 41 is a copy of Form LD-2 dated August 14, 2000 in which PGERM reported that during the first half of 2000, it received $220,000 from Microsoft for lobbying.

41. Attached hereto as Attachment 42 is a copy of Form LD-2 dated February 14,2001, in which PGERM reported that during the last half of 2000, it received $260,000 from Microsoft for lobbying.

42. Attached hereto as Attachment 43 is a copy of Form LD-2 dated August 14, 2001, in which PGERM reported that during the first half of 2001, it received $120,000 from Microsoft for lobbying.

43. On January 14, 2001, I called the Bureau of Labor Statistics to inquire about changes in the Consumer Price Index. The BLS advised me that a Consumer Price Index of 100 on January 1, 1972 would equate to a CPI of 326 on January 1, 2001.

44. According to the Wall Street Journal of January 21,2002, p. C8, the closing price of Microsoft common stock on January 18, 2002 was $66.10 per share.

45. Attached hereto as Attachment 44 is a copy of a press release dated November 6, 2001, from Congressman John Conyers, Jr., which appears to contain the text of a letter dated November 6, 2001, from Rep. Conyers to The Honorable John Ashcroft, Attorney General of the United States.

46. Attached hereto as Attachment 45 is a copy of the basic statement of facts in the Statement Of Information, Hearings Before The Committee On The Judiciary House Of Representatives, Ninety-Third Congress, Second Session, Pursuant To H. Res. 803, Book V, Part I, Department Of Justice ITT Litigation—Richard Kleindienst Nomination Hearings.

47. Attached hereto as Attachment 46 are copies of pages 614–615, 634–636 from the Supporting Evidence in Statement Of Information, Hearings Before The Committee On The Judiciary House Of Representatives, Ninety-Third Congress, Second Session, Pursuant To H. Res. 803, Book V, Part II, Department Of Justice ITT Litigation—Richard

Nomination Hearings. A two (2) page memorandum dated June 25, 1971, from D. D. Beard to W. R. Merriam is on pages 614–615. Columns by Jack Anderson dated February 29, 1972, March 1, 1972, and March 3, 1972, appear on pages 634–636, respectively.

I declare under" penalty of perjury that the foregoing is true and correct, executed in Washington, DC, on January 23, 2002.

Brian Dautch

ATTACHMENT 1
TO THE
DECLARATION OF BRIAN DAUTCH

News Alert 9/6/01: Microsoft

The Who's Who's Get News and
NOME √ DONATE
Basics Giving Getting Local! Issues
SEARCH
Tracking the Payback √ Issue Profiles
Alerts √ Press Releases
Newsletter √ Publications
Online I
Publications for Sale MONEY I POLITICS
A; Sept. 6, 20 Vol. 6, No.

Alerts: Current Congress, Alert List Signup, Alerts: 106th Congress, Alerts: 105th Congress Alerts: 104th Congress Holly Bail 202–857-202–857

Microsoft Antitrust Case: An Update on the Company's Lobbying and Campaign Contributions After more than three years of investigations, litigation and intensive lobbying, the Justice Department today announced it Prepared would no longer seek a break-up of the computer giant Microsoft, ending one aspect of a landmark case that sent the company's campaign contributions soaring and formally introduced the computer industry to Washington politics.

FORMAT TO PRINT

E-MAIL TO A FRIEND

The decision by the Bush administration to vacate the lawsuit that was first initiated in 1998 by the Clinton Justice Department is considered a major victory for Microsoft, which nearly tripled its campaign contributions and more than doubled its lobbying expenditures during its fight against the antitrust case.

THE CENTER FOR RESPONSIVE POLITICS

During the 1999–2000 election cycle, Microsoft contributed more than $4.7 million in soft money, PAC and individual contributions to federal candidates and parties—almost three times what the company contributed during the previous three election cycles combined. More than half that money went to Republicans.

The Bush campaign reported $61,250 in contributions from Microsoft employees during 1999–2000. Attorney General John Ashcroft, a former U.S. Senator from Missouri, reported just $9,250 in contributions from Microsoft during the last elections, though the company did contribute $10,000 to the Ashcroft Victory Committee, a soft money account run jointly by the Ashcroft campaign and the National Republican Senatorial Committee.

But that's not all the money that Microsoft has thrown around Washington in recent years. During the calendar year 2000 alone, Microsoft spent almost $6.4 million to lobby Congress and the Clinton administration, according to reports filed with the U.S. Senate. That's a significant increase over the $4.9 million in lobbying expenditures the company reported in 1999. And Microsoft also was a major contributor to the Bush-Cheney Inaugural Fund, donating $100,000 to the gala last January.

Just months into the 2001–02 election cycle, Microsoft already ranks as a significant contributor, giving just over $700,000 to federal parties and candidates, split almost evenly between the two major parties. (This includes contributions reported to the FEC through the end of July.)

However, the lawsuit's most significant impact on campaign finance extends beyond Microsoft itself. The antitrust lawsuit proved to be a major turning point in the tech industry's involvement in Washington politics.

News Alert 9/6/01: Microsoft Page 2 of 2

Shortly after the Justice Department launched its lawsuit, Microsoft became one of the first computer companies to open lobbying offices in Washington and was one of the first to contribute major soft money dollars to the political parties. By the year 2000, computers and Internet companies ranked No. 7 on the list of the biggest industry givers on the federal level, contributing more than $39.7 million. Since 1997, Microsoft has been the industry's biggest contributor.

Click here for a look at Microsoft's contributions to:

Members of the House in 1999–2000
Members of the House in 2001
Members of the Senate in 1995–00
Members of the Senate in 2001

And click here for the company's lobbying expenditures dating back to 1997.

Microsoft Soft Money, PAC & Individual Contributions to Federal Parties and Candidates, 1993–2001* ??

*Based on FEC data downloaded 9/1/01. The totals for the 2002 election cycle "including fund-raising numbers reported to the FEC through July 31,2001.

Microsoft Antitrust Case

MICROSOFT LOBBYING EXPENDITURES, 1997–00*

Calendar year	Lobby total
1997 $2,120,000.	
1998 $3,740,000.	
1999 $4,860,000.	
2000 $6,360,000.	

*Based on filings with the US Senate.

CONTRIBUTIONS TO THE SENATE, 2001*

Name	Total
Wayne Allard (R-Colo)	$1,500
Max Baucus (D-Mont)	1,000
Evan Bayh (D-Ind)	2,000
Robert F. Bennett (R-Utah)	1,000
Joseph R. Biden Jr (D-Del)	1,000
Maria Cantwell (D-Wash)	35,250
Jean Carnahan (D-Mo)	1,000
Max Cleland (D-Ga)	1,000
Hillary Rodham Clinton (D-NY)	1,000
Thad Cochran (R-Miss)	3,000
Susan Collins (R-Me)	2,000
Larry E. Craig (R-Idaho)	2,000
Pete V. Doreen c (R-NM)	2,000
Byron L. Dorgan (D-ND)	1.000
Richard J. Durbin (D-Ill)	1,000

CONTRIBUTIONS TO THE SENATE, 2001*—Continued

Name	Total
Michael B. Enzi (R-Wyo)	1,000
Phil Gramm (R-Texas)	1,000
Charles E. Grassley (R-Iowa)	1,000
Chuck Hagel (R-Neb)	2,000
Tom Harkin (D-Iowa)	1,000
Tim Hutchinson (R-Ark)	4,000
James M. Inhofe (R-Okla)	1,000
Daniel K. Inouye (D-Hawaii)	500
Tim Johnson (D-SD)	2,000
Mary L. Landrieu (D-La)	3,500
Patrick J. Leahy (D-Vt)	250
Carl Levin (D-Mich)	3,000
Blanche Lambert Lincoln (D-Ark)	1,000
Mitch McConnell (R-Ky)	9,750
Patty Murray (D-Wash) (	3,000)
Jack Reed (D-RI)	1,000
Pat Roberts (R-Kan)	1,000
John D. Rockefeller IV (D-WVa)	1,000
Jeff Sessions (R-Ala)	3,000
Gordon Smith (R-Ore)	4,000
Robert C. Smith (R-NH)	1,000
Deborah Ann Stabenow (D-Mic??)	1,000
Ted Stevens (R-Alaska)	6,000

*Based on FEC data downloaded 9/1/01.

CONTRIBUTIONS TO THE SENATE, 1995–00.

Name	Total
Patty Murray (D-Wash) $48,236.	
John McCain (R-Ariz)	47,449
Maria Cantwell (D-Wash)	25,350
Conrad Burns (R-Mont)	20,250
Edward M. Kennedy (D-Mass)	15,000
Bill Frist (R-Tenn)	12,500
Dianne Feinstein (D-Calif)	12,000
Jon L. Kyl (R-Ariz)	2,000
Jeff Bingaman (D-NM)	12,000
Rick Santorum (R-Pa)	11,000
Joseph I. Lieberman (D-Corn□	10,500
John Ensign (R-Nev)	10,000
Mike OeWine (R-Ohio)	10,000
Max Baucus (O-Mont)	10,000
Olympia J. Snowe (R-Maine)	10,000
Deborah Ann Stabenow (D-Mich)	8,250
Patrick J. Leahy (D-Vt)	7,150
Ron Wyden (D-Ore)	6,000
Ernest F. Hollings (D-SC)	6,000
Trent Lott (R-Miss)	6,000
George Allen (R-Va)	5,500
Kent Conrad (D-ND)	5,500
Max Cleland (D-Ga)	5,250
Mary L. Landrieu (D-La)	5,000
Ben Nelson (D-Neb)	5,000
Hillary Rodham Clinton (D-NY)	5,000
Charles E. Schumer (D-NY)	5,000
Tom Daschle (D-SD)	5,000
Robert C. Smith (R-NH)	4,500
Christopher J. Dodd (D-Conn)	4,000
Kay Bailey Hutchison (R-Texas)	4,000
Phil Gramm (R-Texas)	3,800
Jack Reed (D-R??)	3,500
Michael D. Crapo (R-Idaho)	3,500
James M. Jeffords (R-Vt)	3,250
Sam Brownback (R-Kan)	3.000
Zell Miller (D-GA)	3,000
Mitch McConnell (R-KY)	3,000
Richard G. Lugar (R-Ind)	3,000
Lincoln D. Chafee (R-R??)	3,000
Byron L. Dorgan (D-ND)	2,500
Daniel K. Akaka (D-Hawaii)	2,500
Gordon Smith (R-Ore)	2,500
Arlen Specter (R-Pa)	2,500
Tim Hutchinson (R-Ark)	2,000
Barbara Boxer (D-Calif)	2,000
Evan Bayh (D-Ind)	2,000
Chuck Hagel (R-Neb)	2,000
Ted Stevens (R-Alaska)	2,000
Richard J. Durbin (D-Ill)	2,000
Pete V. Domenici (R-NM)	2,000
John D. Rockefeller IV (D-WVa)	2,000
Jeff Sessions (R-Ala)	2,000
Charles E. Grassley (R-Iowa)	2,000
Robert F . Bennett (R-Utah)	2,000
Jim Bunning (R-Ky)	1,500
George V. Voinovich (R-Ohio)	1,500
Robert C, Byrd (D-WVa)	1,500
Blanche Lambert Lincoln (D-Ark)	1,500
Thomas R. Carper (D-Del)	1,500
John Kerry (D-Mass)	1,250
Carl Levin (D-Mich)	1,250
Bill Nelson (D-Fla)	1,000
Christopher S. Bond (R-Mo)	1,000
Fred Thompson (R-Tenn)	1.000
John B. Breaux (D-La)	1,000
Bob Graham (D-Fla)	1,000
Strom Thurmond (R-SC)	1,000
Larry E, Craig (R-Idaho)	1,000
Paul S. Sarbanes (D-Md)	1,000
Don Nickles (R-Okla)	1,000
Peter G. Fitzgerald (R-Ill)	1,000
Robert G. Torricelli (D-N))	1,000
Frank H. Murkowski (R-Alaska)	1,000
Tim Johnson (D-SD)	1,000
Wayne Allard (R-Colo)	1,000
Judd Gregg (R-NH)	1,000
Craig Thomas (R-Wyo)	1,000
Ben Nighthorse Campbell (R-Colo)	1,000

*Based on FEC data downloaded 9/1/01.

CONTRIBUTIONS TO THE HOUSE, 2001*

Name	Total*
Dick Armey (R-Texas)	$2.500
Spencer Bachus (R-Ala)	1,000
Joe L. Barton (R-Texas)	1,500
Xavier Becerra (D-Calif)	500
Ken Bentsen (D-Texas)	1,000
Howard L. Berman (D-Calif)	1,000
Michael Bilirakis (R-FIB)	1,000
Henry Bonilla (R-Texas)	1,000
Mary Bono (R-Calif)	1,000
Rick Boucher (D-Va)	1,500
Kevin Brady (R-Texas)	500
Sherrod Brown (D-Ohio)	500
Ed Bryant (R-Tenn)	1,000
Richard M. Burr (R-NC)	1.500
Steve Buyer (R-Ind)	2,500
Lois Capps (D-Calif)	1,000
Steve Chabot (R-Ohio)	1,500
Barbara Cubin (R-Wyo)	2,000
Randy "Duke" Cunningham (R-Calif)	1,500
Jim Davis (D-FIB)	500
Thomas M. Davis III (R-Va)	500
Diana Degette (D-Colo)	1,000
Peter Deutsch (D-FIB)	1,000
Norm Dicks (D-Wash)	4.000
John D. Dingell (D-Mich)	1,000
Cal Dooley (D-Calif)	4,500
Jennifer Dunn (R-Wash)	2,000
Chet Edwards (D-Texas)	1,000
Robert L. Ehrlich Jr (R-Md)	1,000
Jo Ann Emerson (R-Mo)	500
Anna G. Eshoo (D-Calif)	2,000
Bob Etheridge (D-NC)	1,000
Sam Farr (D-Calif)	1,000
Mike Ferguson (R-NJ)	500
Mark Foley (R-FIB)	1,000
J. Randy Forbes (R-Va)	1,000
Harold E. Ford Jr (D-Tenn)	52,000
Vito J. Fossella (R-NY)	1,000
Martin Frost (D-Texas)	1,000
Elton Gallegly (R-Calif)	1,000
George W. Gekas (R-Pa)	500
Richard A. Gephardt (D-Mo)	5,000
Jim Gibbons (R-Nev)	500
Benjamin A. Gilman (R-NY)	1,000
Robert W. Goodlatte (R-Va)	1,000
Bart Gordon (D-Tenn)	1,000
Lindsey Graham (R-SC)	4,500
Sam Graves (R-Mo)	2,000
Mark Green (R-Wis)	1,500
Jane Harman (D-Calif)	500
Melissa A. Hart (R-Pa)	1,500
Dennis Hastert (R-Ill)	1,000
David L. Hobson (R-Ohio)	1,000
Rush D. Holt (D-NJ)	1,500
Mike Honda (D-Calif)	1,000
Amo Houghton (R-NY)	2,000
Steny H. Hoyer (D-Md)	1,000
Kenny Hulshof (R-Mo)	1,000
Jay Inslee (D-Wash)	20,500
John H. Isakson (R-Ga)	500
Sheila Jackson Lee (D-Texas)	1,000
William J. Jefferson (D-La)	1,000
Nancy L. Johnson (R-Conn)	2,000
Sam Johnson (R-Texas)	1,000
Ric Keller (R-Fla)	1,000
Mark Kennedy (R-Minn)	500
Patrick J. Kennedy (D-RI)	1,000
Jim Kolbe (R-Ariz)	1,500
Rick Larsen (D-Wash)	15.500
John B. Larson (D-Conn)	500
Sander M. Levin (D-Mich)	3,000
berry Lewis (R-Calif)	1,000
Zoe Lofgren (D-Calif)	1,000
William P. "Bill" Luther (D-Minn)	500
Robert T. Matsui (D-Calif)	2,000
Jim McDermott (D-Wash)	2,000
Scott Mc??nnis (R-Colo)	1,000
Gregory W. Meeks (D-NY)	1,000
George Miller (D-Calif)	1,000
Dennis Moore (D-Kan)	1,000
James P. Moran (D-Va)	1,000
Sue Myrick (R-NC)	1,000
George Nethercutt (R-Wash)	2,000
Bob Ney (R-Ohio)	2.000
Jim Nussle (R-Iowa)	1,000
Douglas A. Ose (R-Calif)	1,000
C. L. "Butch" Otter (R-Idaho)	1,000
Michael G. Oxley (R-Ohio)	1,500
Nancy Pelosi (D-Calif)	1,000
Charles W. "Chip" Pickering Jr	1,000
(R-Miss)	....
Earl Pomeroy (D-NO)	1,000
David E. Price (D-NC)	1,000

CONTRIBUTIONS TO THE HOUSE, 2001*—Continued

Name	Total*
Deborah Pryce (R-Ohio)	1,000
Jim Ramstad (R-Minn)	500
Denny Rehberg (R-Mont)	500
Harold Rogers (R-Ky)	1,000
Mike Rogers (R-Mich)	500
Ed Royce (R-Calif)	300
Paul D. Ryan (R-Wis)	3,000
Max Sandlin (D-Texas)	500
Tom Sawyer (D-Ohio)	2,000
F. James Sensenbrenner Jr (R-Wis)	1,000
John Shadegg (R-Ariz)	1,000
John M. Shimkus (R-Ill)	1,000
Adam Smith (D-Wash)	10,500
Lamar Smith (R-Texas)	1,000
Cliff Steams (R-Fla)	1,000
Charles W. Stenholm (D-Texas)	1,000
John E. Sununu (R-NH)	3,500
John Tanner (D-Tenn)	500
Ellen O. Tauscher (D-Calif)	2,000
W. J. "Billy" Tauzin (R-La)	2,500
Todd Tiahrt (R-Kan)	500
Edolphus Towns (D-NY)	2,000
Fred Upton (R-Mich)	2,000
Greg Walden (R-Ore)	1,500
J. C. Watts Jr (R-Okla)	1,000
Henry A. Waxman (D-Calif)	1,000
Anthony Weiner (D-NY)	500
Jerry Weller (R-Ill)	1,000
Edward Whitfield (R-Ky)	1,000
Heather A. Wilson (R-NM)	1,000
Frank R. Wolf (R-Va)	1,000
Don Young (R-Alaska)	1,000

*Based on FEC data downloaded 9/1/01.

CONTRIBUTIONS TO THE HOUSE, 1999–00*

Name	Total*
Jay Inslee (D-Wash)	$131,600
Brian Baird (D-Wash)	$39,900
Rick Larsen (D-Wash)	$35,600
Adam Smith (D-Wash)	$31,750
Jennifer Dunn (R-Wash)	$15,450
Cal Dooley (D-Calif)	$12,500
Robert W. Goodlatte (R-Va)	$11,750
George Nethercutt (R-Wash)	$10,000
Richard "Doc" Hastings (R-Wash)	$9,500
Norm Dicks (D-Wash)	$7,500
Ellen O. Tauscher (D-Calif)	$7,500
Anna G. Eshoo (D-Calif)	$7,000
Roy Blunt (R-Mo)	$7,000
Charles B. Rangel (D-NY)	$7,000
Barbara Cubin (R-Wyo)	$6,500
Robert T. Matsui (D-Calif)	$6,500
James P. Moran (D-Va)	$6,500
Steve Chabot (R-Ohio)	$6,000
Martin Frost (D-Texas)	$6,000
Dick Armey (R-Texas)	$5,000
John T. Doolittle (R-Calif)	$5,000
Tom DeLay (R-Texas)	$5,000
Richard A. Gephardt (D-Mo)	$5,000
Bart Gordon (D-Tenn)	$5,000
John Conyers Jr (D-Mich)	$5,000
Carolyn McCarthy (D-NY)	$5,000
Zoe Lofgren (D-Calif)	$5,000
Ed Bryant (R-Term)	$5,000
Thomas M. Davis III (R-Va)	$4,500
John D. Dingell (D-Mich)	$4,500
Jim Kolbe (R-Ariz)	$4,500
Henry J. Hyde (R-Ill)	$4,000
George W. Gekas (R-Pa)	$4,000
Tim Roamer (D-Ind)	$4,000
Charies W, "Chip" Pickering Jr (R-Miss)	$4,000
Heather A. Wilson (R-NM)	$4,000
Bob Etheridge (D-NC)	$4,000
James E. Clyburn (D-SC)	$4,000
Howard Coble (R-NC)	$4,000
David Vitter (R-La)	$4,000
Christopher R. Cannon (R-Utah)	$3,500
Lois Capps (D-Calif)	$3,500
Harold E. Ford Jr (D-Tenn)	$3,500
Paul D. Ryan (R-Wis)	$3,500
Adam Putnam (R-Fla)	$3,500
Ed Schrock (R-VB)	$3,500
Jim McDermott (D-Wash)	$3,500
Nancy L. Johnson (R-Corm)	$3,500
Anne Northup (R-Ky)	$3,500
Jim McCrery (R-La)	$3,000
Rick Boucher (D-Va)	$3,000
Martin T. Meehan (D-Mass)	$3,000
Howard L. Berman (D-Calif)	$3,000
Ken Bentsen (D-Texas)	$3,000
William P. "Bill" Luther (D-Minn)	$3,000
Spencer Bachus (R-Ala)	$3,000
Mary Bono (R-Calif)	$3,000
Richard M. Burr (R-NC)	$3,000
Steve Buyer (R-ind) S3,000.	
Chris John (D-La)	$3,000
Ralph M. Hall (D-Texas)	$3,000
Mark Green (R-Wis)	$3,000
Bud Cramer (D-Ala)	$3,000
Philip M. Crane (R-Ill)	$3,000
Jim Gibbons (R-Nev)	$3,000
Randy "Duke" Cunningham (R-Calif)	$3.000
Diana Degette (D-Colo)	$3,000
Elton Gallegly (R-Calif)	$3,000
Vito J. Fossella (R-NY)	$3,000
Ron Kind (D-Wis)	$3,000
John Shadegg (R-Ariz)	$3,000
Edward Whitfield (R-Ky)	$3,000
Edolphus Towns (D-NY)	$3,000
Bennie Thompson (D-Miss)	$3.000
Bill Thomas (R-Calif)	$3,000
W. J. "Billy" Tauzin (R-La)	$3,000
John Tanner (D-Tenn)	$3,000
E. Clay Shaw Jr (R-Fla)	$3,000
Lindsey Graham (R-SC)	$2,750
F. James Sensenbrenner Jr (R-Wis)	$2,749
Xavier Becerra (D-Calif)	$2.500
Harold Rogers (R-Ky)	$2,500
Melvin Watt (D-NC)	$2.500
Jim Davis (D-Fla)	$2,500
Cliff Steams (R-Fla)	$2,500
Darrell Issa (R-Calif)	$2,500
Mike Honda (D-Calif)	$2,500
Kenny Hulshof (R-Mo)	$2,500
Tom Sawyer (D-Oh(o)	$2,500
Porter J. Goss (R-Fla)	$2,500
Sam Farr (D-Calif)	$2,500
Melissa A. Hart (R-Pa)	$2,500
Constance A, Morella (R-Md)	$2,500
Dennis Hastert (R-Ill)	$2,500
C. W. Bill Young (R-Fla)	$2,500
Gene Green (D-Texas)	$2,000
Ric Keller (R-Fla)	$2,000
Robert Ademolt (R-Ala)	$2,000
Thomas Gerard Tancredo (R-Colo)	$2,000
William J. Jefferson (D-La)	$2,000
Sheila Jackson Lee (D-Texas)	$2,000
Eddie Bemice Johnson (D-Texas)	$2,000
Felix J. Grucci Jr (R-NY)	$2,000
Mark Kennedy (R-Minn)	$2,000
Charles W. Stenholm (D-Texas)	$2,000
Steny H. Hoyer (D-Md)	$2,000
Darlene Hooley (D-Ore)	$2,000
Chet Edwards (D-Texas)	$2,000
Jane Harman (D-Calif)	$2,000
Jeff Flake (R-Ariz)	$2,000
Robin Hayes (R-NC)	$2,000
Mark Foley (R-Fla)	$2,000
Bobby L. Rush (D-Ill)	$2,000
Henry A. Waxman (D-Calif)	$2,000
Tammy Baldwin (D-Wis)	$2,000
Joe L. Barton (R-Texas)	$2,000
Dennis Moore (D-Kan)	$2,000
Gary G. Miller (R-Calif)	$2,000
Dan Miller (R-Fla)	$2,000
Richard W. P0mbo (R-Calif)	$2,000
Earl Pomeroy (D-ND)	$2,000
Michael Bilirakis (R-Fla)	$2,000
David E. Bonior (D-Mich)	$2,000
Adam Schiff (D-Calif)	$2,000
Patrick J. Kennedy (D-RI)	$2,000
J. C. Watts Jr (R-Okla)	$2,000
Ron Lewis (R-Ky)	$2,000
H. James Saxton (R-NJ)	$2,000
Bob Clement (D-Tenn)	$2,000
Sander M. Levin (D-Mich)	$2,000
Fred Upton (R-Mich)	$2,000
Steve Largent (R-Okla)	$2,000
Jim Langevin (D-R??)	$2,000
Christopher Cox (R-Calif)	$2,000
Don Young (R-Alaska)	$2,000
Douglas A. Ose (R-Calif)	$2,000
Richard E. Neal (D-Mass)	$2,000
Donald L. Sherwood (R-Pa)	$1,500
Pete Sessions (R-Texas)	$1,500
Greg Ganske (R-Iowa)	$1,500
Robert L. Ehrlich Jr (R-Md)	$1,500
Vemon J. Ehlers (R-Mich)	$1,500
John E. Sununu (R-NH)	$1,500
Jo Ann Davis (R-Va)	$1,500
Bamey Frank (D-Mass)	$1.500
Ander Crenshaw (R-Fla)	$1,500
C. L. "Butch" Otter (R-Idaho)	$1,500
Greg Walden (R-Ore)	$1,500
Henry Brown (R-SC) 51,500.	
Michael G. Oxley (R-Ohio)	$1,SOO
Charles Bass (R-NH)	$1.500
Charlie Norwood (R-Ga)	$1,500
Rush D. Holt (D-NJ)	$1,500
Jim Ryun (R-Kan)	51.500
Amo Houghton (R-NY)	$1.500
Scott Mc??nnis (R-Colo)	$500
J. D. Hayworth (R-Ariz)	$1.500
Loretta Sanchez (D-Calif)	51,500
iron Paul (R-Texas)	51,250
Saxby Chambliss (R-Ga)	51,000
Edward J. Markey (D-Mass)	$1.000
Dan Burton (R-Ind)	$1,000
Jim Ramstad (R-Minn)	$1.000
Ken Lucas (D-Ky)	$1,000
Eric Cantor (R-Va)	$1.000
Maxine Waters (D-Calif)	$1,000
Deborah Pryce (R-Ohio)	$1,000
John Lewis (D-Ga)	$1,000

CONTRIBUTIONS TO THE HOUSE, 1999–00*—Continued

Name	Total*
Todd Akin (R-Mo)	51,000
William "Lacy" Clay (D-Mo)	$1,000
Jerry Lewis (R-Calif)	51,000
Iledna Ros-Lehtinen (R-Fla)	$1,000
Mark Udall (D-Colo)	$1.000
Jim Turner (D-Texas)	$1.000
Brad Carson (D-Okla)	$1,000
Roger Wicker (R-Miss)	$1,000
Thomas M. Barrett (D-Wis)	$1,000
John P. Murtha (D-Pa)	$1,000
Albert R. Wynn (D-Md)	$1,000
Mike Pence (R-Ind)	$1,000
Frank R. Wolf (R-Va)	$1,000
Jack Quinn (R-NY)	$1,000
David E. Price (D-NC)	$1,000
Leonard L. Boswell (D-Iowa)	$1,000
Henry Bonilla (R-Texas)	$1,000
Karen McCarthy (D-Mo)	$1,000
Mike Ross (D-Ark)	$1,000
Sue Myrick (R-NC)	$1,000
Bob Ney (R-Ohio)	$1,000
James A. Barcia (D-Mich)	$1,000
Marion Berry (D-Ark)	$1,000
Bill Jenkins (R-Term)	$1,000
Lamar Smith (R-Texas)	$1,000
Vic Snyder (D-Ark)	$1,000
Jo Ann Emerson (R-Mo)	$1,000
Baron P. Hill (D-Ind)	$1,000
David L. Hobson (R-Ohio)	$1,000
John M. Spratt Jr (D-SC)	$1.000
Gary A. Condit (D-Calif)	$1.000
Jack Kingston (R-Ga)	$1.000
Mike Ferguson (R-NJ)	51.000
Lincoin Diaz-Balart (R-Fla)	$1.000
Lane Evans (D-Ill)	$1,000
John M. Shimkus (R-Ill)	$1,000
Bart Stupak (D-Mich)	51,000
Nancy Pelosi (D-Calif)	$1,000
John Thune (R-SD)	51.000
Frank Pallone Jr (D-NJ)	$1,000
:Charlie Gonzalez (D-Texas)	51,000
Marge Roukema (R-NJ)	51,000
Peter Deutsch (D-Fla)	51,000
John Culberson (R-Texas)	$1,000
Lucille Roybal-Allard (D-Calif)	$1,000
David R. Obey (D-Wis)	$1,000
Brian D. Kerns (R-Ind)	$1.000
Sam Johnson (R-Texas)	$1.000
Jim Nussle (R-Iowa)	$1.000
Nathan Deal (R-GB)	$1,000
John L. Mica (R-FIB)	$500
Paul E. Gillmor (R-Ohio)	$500"
Lynn Woolsey (D-Calif)	$500
Max Sandlin (D-Texas)	$500
Wally Herger (R-Calif)	$500
Sanford D. Bishop Jr (D-Ga)	$500
Robert Wexler (D-FIB)	$500
Anthony Weiner (D-NY)	$500
John H. Isakson (R-Ga)	5500
Dave Camp (R-Mich)	5500
Benjamin L. Cardin (D-Md)	$500
Eva Clayton (D-NC)	$500
Joseph Crowley (D-NY)	$500
Brad Sherman (D-Calif)	$500
Peter T. King (R-NY)	5500
Lloyd Doggett (D-Texas)	500
David Wu (D-Ore)	5250

*Based on FEC data downloaded 9/1/01.

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Recipient Bush, George

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SAMPLE, WILLIAM J, MICROSOFT, 7/14/1999, $1,000 Bush, George, REDMOND, WA 98053

MICROSOFT DAVID, MICROSOFT, 7/14/1999 $1,000 Bushs' George, SEATTLE, WA 98112

KOSS, MICHAEL C, MICROSOFT, 7/14/1999, $1,000 W, BOTHELL, WA 98052

EMANUELS, BRIAN D, Bush, George, MERCER ISLAND, WA 98040, MICROSOFT, 8/17/1999, $1,000

BRUNTON, DEBORAH, MICROSOFT, 7/21/1999, 51,000 Bush, George, KIRKLAND, WA 98033

HURLBUT, CLARK K, MICROSOFT, 6/24/1999, 51,000 Bush, George, RENO, NV 89511

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SPENCER, WILLIAM A, MICROSOFT/MARKETING MANAGER, 11/8/1999 $1,000 Bush, George REDMOND, WA 98052

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WORLEY, TERENCE MR, PLEASANTON, CA 94566, MICROSOFT/SOFTWARE, ENGINEER, 5/17/2000, $1,000 Bush, George W

BARON WERNER MR, MICROSOFT, Bush, George, REDMOND, WA 98052, CORPORATION/MARKETING, 2/28/2000, $800

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Bush, George,

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WOODINVILLE, WA, MICROSOFT CORP, 7/27/1999, $500 Bush George, 98072

BERENSON, HAROLD & BUSH GEORGE, MR MICROSOFT CORP./ENGINEER, 1/20/2000, $500 W, WOODINVILLE, WA, 98072, I

HERBOLD, ROBERT J, MICROSOFT CORP./EXECUTIVE VP & I Bush, George MR CO0, 1/12/2000, $5O0, I, w

BELLEVUE, WA 98015, SHAUGHNESSY, Bush, George MICROSOFT CORP./PRODUCT & 7/14/2000, $500 W

WILLIAM T MR, BUSINESS, REDMOND, WA 98052, Bush, George, SHAUGHNESSY, MICROSOFT CORP./PRODUCT & 2/29/2000, $500 W

WILLIAM T, MR BUSINESS, REDMOND, WA 98052

KESTER, CHARLES G, MR MICROSOFT CORP./TEAM MANAGER, 3/8/2000, $500 Bush, George, LAKE FOREST PARK, W, WA 98155

MCEACHRON, BRIAN L MICROSOFT CORPORATION, 7/14/1999, $500 ! Bush, George, REDWOOD, WA 98052, W

Nest set of records 2000 cycle data downloaded from FEC on November 1, 2001.
Date of request: January 2, 2002

WORLEY, TERENCE, PLEASANTON, CA, MICROSOFT, 6/30/1999, $1,000 Bush, George W, 94566, Bush, George

SPIX, GEORGE A, MICROSOFT CORP, 7/14/1999, $1,000 W, REDMOND, WA 98052

SANDERSON, JEFFREY, P, MICROSOFT CORP, 8/12/1999, $1,000, Bush, George W, BELLEVUE. WA 98004

PIMENTEL, ALBERT, Bush, George, MONTE SERENO, CA, MICROSOFT CORP, 7/8/1999, $1,000, W, 95030

MURPHY, R BARRY, MICROSOFT CORP, 7/13/1999, $1,000 Bush, George, REDMOND, WA 98052 W

HARTNECK, RALF, MICROSOFT CORP, 8/11/1999, $1,000 Bush, George, SEATTLE, WA 98144 W

FIRMAN, THOMAS R, MICROSOFT CORP, 7/14/1999, $1,000 Bush, George, BELLEVUE, WA 98005, W

ASHMUN, D STUART, MICROSOFT CORP 8/10/1999, $1,000 W, SEATTLE, WA 98177

BERENSON, HAROLD, Bush, George, MR MICROSOFT CORP./ENGINEER, 6/15/2000, $1,000 W, WOODINVILLE, WA 98072

HARTENECK, RALF MR, MICROSOFT CORP./VICE PRESIDENT, 5/11/2000, $1,000 Bush, George, SEATTLE, WA 98144 W

BOYLE, MICHAEL P, MICROSOFT CORPORATION, 7/21/1999, $1,000 Bush, George, BELLEVUE, WA 98005, W

DERMODY, CHARLES W, MR MICROSOFT CORPORATION/ENGINEER, 6/26/2000, I, $1.000 Bush, George, w, REDMOND, WA 98052.

PIMENTEL, ALBERT, MR MICROSOFT, MONTE SERENO, CA, 7/31/2000, $1,000 Bush, George, CORPORATION/ EXECUTIVE, W, !95030
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BLANKENBURG, ERIC P, Bush, George, MR MICROSOFT/CONSULTANT, 2/24/ 2000, $1,000, W, ! CARNATION, WA 98014
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W, 98072
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DOUGLAS, DEDO, MR' MICROSOFT/ MARKETING, MANAGER, 3/30/2000, $1,000, Bush, George, REDMOND, WA, 98053, W,

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BRIAN, MCEACHRON, I Bush, MICROSOFT, CORPORATION, 4/14/1999, $500, George, W, J!REDWOOD', WA 198052,
PEASE, MATTHEW, Bush, M MICROSOFT INC, 9/30/1999, $500, George, W, WALNUT, CREEK, CA 94595
KELLY, JOHN, MR, Bush, KIRKLAND, WA, MICROSOFT/ATTORNEY, 2/29/2000, $500, 98033, George, W
NIELSEN, TOD, MR, Bush, REDMOND, WA, MICROSOFT/DEVELOPING/ MARKETING, 12/23/1999, 5500, George, W .98_53o,
RAVANI, ANTHONY, Bush, MR MICROSOFT/EXECUTIVE, 2/29/2000, $500, George, W
NIXON, TOBY, L, MR, KIRKLAND, WA, MICROSOFT/MANAGER, 2/29/2000, S500, Bush, George, W, 98034
YANG, LIANMR, WOODINVILLE, WA, MICROSOFT/SOFTWARE, DESIGN ENGINEER, 112412000, $500, Bush, George, W, 98072
JAKSTADT, ERIC, MR, Bush, WOODINVILLE, WA, MICROSOFT/ SOFTWARE DEVELOPER, 3/7/2000, $500, George, W, 98072 ....., I, I
JAKSTADT, ERIC J, MR MICROSOFT/ SOFTWARE DEVELOPER, I, 1/31/2000, $500, Bush, WOODINVILLE, WA, George W, 98072
GREGG, DIANNE L, 'Bush, SUDBURY, MA, MICROSOFT INC, 9/14/1999, $400, George, W, 01776
HOKE, STEVE J, :Bush, tKIRKLAND, WA, MICROSOFT, 6/30/1999, $300, George W, 98034 I
!HARRISON, Bush, ARTHUR, B, MR MICROSOFT/SOFTWARE ENGINEER, t, 2/29/2000, $300 I, George W, CHARLOTTE, NC 28277, MICROSOFT CORP/ENGINEER, Bush
LINDELL, STEVE MR, 10/11/2000, $250, BELLEVUE, WA, George W j98008
WARD, I MR JAMES I, CHARLOTTE, NC, MICROSOFT CORPORATION/ TECHNICAL MAN, 3/8/2000, $250 Bush, 28270, George W
REMALA, RAO V, Bush, WOODINVILLE, WA, MICROSOFT INC, 9/30/1999, $250 !98072, George W
WURDEN, $250 Bush, FREDERICK L MR, MICROSOFT/MANAGER, 2/29/2000, REDMOND, WA, jGeorge W, J98053, I
NIXON, TOBY L MR, KIRKLAND, WA, MICROSOFT/MANAGER, 4/13/2000, $200 J Bush, 98034, J George W
MASTERS, JERRY R, MR MICROSOFT/ FINANCE, 9/18/2000, –$500 Bush, WOODINVILLE, WA :George W, 198072
EISLER, CRAIG,
Bush, REDMOND, WA, MICROSOFT, 8/4/ 1999, –$1,000, 98053, George W
MATHEWS, MICHELLE J, MICROSOFT CORP, 8/12/1999, –$1,000, Bush, BELLEVUE, WA, George W, 98004
BERENSON, HAROLD MR Bush, MICROSOFT CORP., 8/1/2000, –$1,000, WOODINVILLE, WA, George W, 98072
PETERS, G CHRISTOPHER Bush, MICROSOFT CORPORATION, 8/18/ 1999, –$1,000 MEDINA, WA, George W, 98039
FERNANDEZ, ROLANDLMR, Bush, MICROSOFT CORPORATION/ ENGINEER, 4/21/2000, –$1,000, WOODINVILLE, WA,George W, 98072
BRESEMANN, JOHN,] Bush, REDMOND, MR WA MICROSOFT/SOFTWARE ENGINEER, 11/6/2000, –$1,000, George W 98053
NIELSEN, TOD MR J, REDMOND, WA, MICROSOFT/VICEPRESIDENT, :2/2/ 2000, –$1,000, Bush, t George W, 98053

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Opensecrets.org—PAC Contributions to John Ashcroft (R)

THE CENTER FOR RESPONSIVE POLITICS
2000 CYCLE I 2002 CYCLE

John Ashcroft (R) 1999–2000 PAC Contributions: $2,025,323

Based on data released by the FEC on Thursday, November 01, 2001.

Agribusiness $154,937
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Telephone Utilities $60,450
Telecom Services & Equipment $26,450
Electronics Mfg & Services $6,000
Computer Equipment & Services $37,500
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Amazon.com $1,000
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Cable & Wireless USA $1,000
Ceridian Corp $2,00C
Compaq Computer $1,000
Computer Sciences Corp $2,00,(2
EDS Corp $1,00c
Gateway Inc $4,50C
Intel Corp $3,00C
Microsoft Corp $9,00C
3/2/1999 $1,00C
6/16/1999 $1,00C
6/28/1999 $1,0,0C
9/29/1999 $1,000
12/9/1999 $1,00*
2/9/2000 $1,006
5/12/2000 $1,000
6/20/2000 $1,00C
9/712000 $1,00C
Oracle Corp $1,000
Storage Technology Corp $1,000
Sun Microsystems $2,000
Technology Network
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Construction
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Energy/NatResource
Finance/Insur/RealEst
Health
Lawyers 8, Lobbyists
Transportation
Misc Business
Labor
Ideology/Single-Issue
Other
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$3,00(;
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$17,000
$210,550
$329,208
$140,00(;
$69,023
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$304,666
$9,000 $251,89C I $1,10C $1,00

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MICROSOFT

WASHINGTON, DC, 4/16/2001, $15,000, DNC/Non-Federal Corporate 20036
612712000, $100,000, RNC/Repub National State, REDMOND, WA 98052 Elections Crate
3/31/2000, $55,000, NRSC/Non-Federal, REDMOND, WA 98052
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RNC/Cmte to Preserve, 4/12/2000, $5,000, Eisenhower Ctr, REDMOND, WA 98052
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10/13/2000, $20,000, RNC/Repub National State, REDMOND, WA 98052 Elections Crate
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3110/1999, $10,000, DCCC/Non-Federal Account 1, REDMOND, WA 98052
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RNC/Repub National State, "2/1512001, $10'000 Elections Crate, REDMOND, WA 98052
WASHINGTON, DC 20036, 6/27/2001, $10,000; DNC/Non-Federal Corporate

MICROSOFT CORP

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6/712000, $321, National Abortion Rights Action League, REDMOND, WA 98052
1012612000, $25,000, NRSC/Non-Federal REDMOND, WA 98052
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WASHINGTON, DC 20036, 7/11/2000, $200, NRSC/Non-Federal
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1/18/2001, $250, DSCC/Non-Federal Mixed, REDMOND, WA 98052
2/12/2001, $250, DSCC/Non-Federal Mixed, REDMOND, WA 98052
5/23/2001, $40,000, 2001 President's Dinner/Non-Fed Trust, REDMOND, WA 98052
8/21/2001, $50,000, RNC/Repub National State, Elections Crate, REDMOND, WA 98052
3/30/2001, $50,000, DSCC/Non-Federal Corporate, REDMOND, WA 98052

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DSCC/Non-Federal, REDMOND, WA 98052, 61812001, $50,000, Corporate
NRCC/Non-Federal, WASHINGTON, DC 20036, 6/16/1999, $350, Account
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REDMOND, WA 98052, 4/11/2000, $33,690, NRSC/Non-Federal
4/4/2000, $30,000, 2000 Republican HIS, REDMOND, WA 98052, Dinner Trust Non-Fed
1999 Republican S/H, 7/26/1999, $30,000, Dinner Trust Non-Fed, REDMOND, WA 98052
REDMOND, WA 98052, 12/31/1999, $5,000, Ashcroft Victory Cmte, Non-Federal
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DSCC/Non-Federal, 11/29/1999, $25,000, Corporate, WASHINGTON, DC 20036
DSCC/Non-Federal, 11/3/1999, $25,000, Corporate, REDMOND, WA 98052
DCCC/Non-Federal, 8/2/2000, $2,500, Account 1, REDMOND, WA 98052
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4/21/2000, $698 : NRSC/Non-Federal, REDMOND, WA 98052
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DSCC/Non-Federal, REDMOND, WA 98052 4/17/2000, $40,000 Corporate
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I NRCC/Non-Federal, 3/27/2000, $15,000 I Account, WASHINGTON, DC 20036
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5/24/2000, $8,985, 2000 Republican HIS, REDMOND, WA 98052, Dinner Trust Non-Fed
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1/16/2001, $10,000, NRCC/Non-Federal Account, WASHINGTON, DC 20005
5/11/2001, $10,000, DNC/Non-Federal, Corporate RICHMOND, WA 98052
6/18/2001, $10,000, DCCC/Non-Federal, Account 1, REDMOND, WA 98052

MICROSOFT CORPORATION PAC

PAC 5/11/2001, $1,000 New Democrat Network ARLINGTON, VA

MICROSOFT EXCEL

NRCC/Non-Federal, FAIRVIEW, NC 28730 7/27/1999, $500, Account

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ATTACHMENT 2

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Washington, DC 20005–5635
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ATTACHMENT 3 TO THE DECLARATION OF BRIAN DAUTCH

MTC-00030631 0753

Statement of Charles F. (Rick) Rule
Fried Frank Harris Shriver & Jacobson
Counsel for Microsoft Corporation
Before the Committee on the Judiciary.
United States Senate
December 12, 2001

Mr. Chairman and members of the Committee, good morning. It is a pleasure to appear before you today on behalf of Microsoft Corporation to discuss the proposed consent decree or Revised Proposed Final Judgment (the "PFJ") to which the U.S. Department of Justice and nine of the plaintiff states have agreed. As this committee is aware, I am counsel to Microsoft in the case and was one of the principal representatives for the company in the negotiations that led to the proposed consent decree.

The PFJ was signed on November 6th after more than a month of intense, around-the-clock negotiations with the Department and representatives of all the plaintiff states. The decree is currently subject to a public interest review by Judge Kollar-Kotelly under the Tunney Act. Because we are currently in the midst of that review and because nine states and the District of Columbia have chosen to continue the litigation, t must be somewhat circumspect in my remarks. However, what I can — indeed, must—stress is that, in light of the Court of Appeals" decision last summer to "drastically" reduce the scope of Microsoft's liability and in light of the legal standards for imposing injunctive relief, the Department and the settling states were very effective in negotiating for broad, strong relief. As the chart in the appendix depicts, ever since the Department and the plaintiff states first filed their complaints in May 1998, the case has been shrinking. What began with five claims, was whittled down to a single monopoly maintenance claim by a unanimous Court of Appeals. Even with respect to that surviving claim, the appellate court affirmed Judge Jackson's findings on only about a third (12 of 35) of the specific acts which the district court had found support that claim.

Given that history and the law, there is no reasonable argument that the PFJ is too narrow or that it fails to achieve all the relief to which the Department was entitled. In fact. as these remarks explain. the opposite is true—faced with rough, determined negotiators on the other side of the table, Microsoft agreed to a decree that goes substantially beyond what the plaintiffs were likely to achieve through litigation. Quite frankly, the PFJ is the strongest, most regulatory conduct decree ever obtained (through litigation or settlement) by the Department. Why then, one might ask, would Microsoft consent to such a decree? There are two reasons.

First. the company felt strongly that it was important to put this matter behind it and to move forward constructively with its customers, its business partners, and the government. For four years, the litigation has consumed enormous resources and been a serious distraction. The constant media drumbeat has obscured the fact that the company puts a premium on adhering to its legal obligations and on developing and maintaining excellent relationships with its partners and customers. Litigation is never a pleasant experience, and given the magnitude of this case and the media attention it attracted, it is hard to imagine any more costly, unpleasant civil litigation.

Second. while the Department pushed Microsoft to make substantial, even excessive concessions to get a settlement, there were limits to how far the company was willing or able to go (limits, by the way, which the Department and the settling states managed to reach). Microsoft was fighting for an important principle—the ability to innovate and improve its products and services for the benefit of MTC-00030631—0754 consumers. To that end, Microsoft insisted that the decree be written in a way to allow the company to engage in legitimate competition on the merits. Despite the substantial burdens the decree will impose on Microsoft and the numerous ways in which Microsoft will be forced to alter its conduct, the decree does preserve Microsoft's ability to innovate, to improve its products, and to engage in procompetitive business conduct that is necessary for the company to survive.

In short, at the end of the negotiations, Microsoft concluded that the very real costs that the decree imposes on the company are outweighed by the benefits, not just to Microsoft but to the PC industry and consumers generally.

The Court of Appeals" "Road Map" for Relief In order to evaluate the decree, one must first appreciate the h/story of this case and how drastically the scope of Microsoft's liability, was narrowed at the appellate level. When this case began with the filing of separate complaints by the Department and the plaintiff states in May of 1998, it was focused on Microsoft's integration of browsing functionality, called Internet Explorer or lie into Windows 98, which the plaintiffs alleged to be an illegal tying arrangement.

The complaints of the Department and the states included five separate claims: (1) a claim under section 1 of the Sherman Act that the tie-in was per se illegal; (2) another claim under section 1 that certain promotion and distribution agreements with Internet service providers (ISPs), Internet content providers (ICPs), and on-line service providers (OSPs) constituted illegal exclusive dealing; (3) a claim under section 2 of the Sherman Act that Microsoft had attempted to monopolize Web browsing software; (4) a catch-all claim under section 2 that the alleged conduct that underlay the first three claims amounted to illegal maintenance of Microsoft's monopoly in PC operating systems; and (5) a claim by the plaintiff states (but not part of the Department's complaint) under section 2 that Microsoft illegally "leveraged" its monopoly in PC operating systems. As discovery got underway, the case dramatically expanded as the plaintiffs indiscriminately began identifying all manner of Microsoft conduct as examples of the company's illegal efforts to maintain its monopoly. But then, the case began to shrink.

"In response to Microsoft's motion for summary judgment, the district court dismissed the states" Monopoly leveraging claim (claim 5). "After trial, Judge Jackson held that the plaintiffs failed to prove that Microsoft's arrangements with ISPs, ICPs, and OSPs violated section 1 (claim 2). "Judge Jackson did, however, conclude that the plaintiffs had sustained their claims that Microsoft illegally tied IE to Windows (claim 1), illegally attempted to monopolize the browser market (claim 3), and illegally maintained its monopoly (claim 4), basing his decision on 35 different actions engaged in by Microsoft.

"In a unanimous decision of the Court of Appeals sitting en banc. the court reversed the trial court on the attempted monopolization claim (claim 3) and remanded with instructions that judgment be entered on that claim in favor of Microsoft. "The unanimous court also reversed Judge Jackson's decision with respect to the tie-in claim (claim 1). The appellate court held that. in light of the prospect of consumer benefit from integrating new functionality into platform software such as Windows. Microsoft's integration of IE into Windows had to be judged under the rule of reason rather than the per se approach taken by Judge Jackson.

The Court of Appeals refused to apply the per se approach because of "our qualms about redefining the boundaries of a defendant's product and the possibility of consumer gains from simplifying the work of applications developers [by ensuring the ubiquitous dissemination of compatible APIs]." The court's decision did allow the plaintiffs on remand to pursue the tie-in claim on a rule of reason theory; however, shortly after the remand, the plaintiffs announced they were dropping the tie-in claim.

"With respect to the only remaining claim (monopoly maintenance—claim 4), the Court of Appeals affirmed in part and reversed in part the lower court and substantially shrank Microsoft's liability. After articulating a four-step burden-shifting test that is highly fact intensive, the appellate court reviewed the 35 different factual bases for liability and rejected nearly two-thirds of them. e In the case of seven of those 35 findings (concerning such conduct as Microsoft's refusal to allow OEMs to replace the Windows desktop, Microsoft's design of Windows to "override the user's choice of a default browser," and Microsoft's development of a Java virtual machine (JVM) that was incompatible with Sun's JVM), the appellate court specifically reversed Judge Jackson's decision. c The Court of Appeals dismissed sixteen of the remaining findings by reversing Judge Jackson's holding that Microsoft had engaged in a general "course of conduct" that amounted to illegal monopoly maintenance—the so-called "monopoly broth" theory.

* With respect to the remaining twelve findings (concerning such things as Microsoft's refusal to allow PC manufacturers (OEMs) to remove end-user access to IE, Microsoft's exclusive arrangements with ISPs, and its "commingling" of software code to frustrate OEMs ability, to hide access to IE), the court did affirm Judge Jackson's findings as not being "clearly erroneous." And even as to those twelve, a number were practices—for example, the arrangements with ISPs— that Microsoft had already ceased.

As a result, when the case was remanded to the district court and reassigned to Judge Kollar-Kotelly, four-fifths of the original claims were all but gone. With respect to the sole surviving claim, nearly two-thirds of the supporting findings had been rejected by the Court of Appeals. In the words of the Court of Appeals, its decision "drastically altered the scope of Microsoft's liability."

The Relevance of the Drastic Narrowing of Liability

The Court of Appeals" decision makes clear the critical significance of the drastic reduction in the scope of Microsoft's liability in terms of the relief to which the plaintiffs are entitled. As the court noted in instructing the lower court on how the remand for remedy should be handled. "A court.., must base its relief on some clear "indication of a significant causal connection between the conduct enjoined or mandated and the violation found directed toward the remedial goal intended." 3 PHILLIP E. AREEDA & HERBERT HOVENKAMP, ANTITRUST LAW 653(b), at 91- .92 (1996). In a case such as the one before us where sweeping equitable relief is employed to remedy multiple violations, and some—indeed most—of the findings of remedial violations do not withstand appellate scrutiny, it is necessary to vacate the remedy decree since the implicit findings of causal connection no longer exist to warrant our deferential affirmance .... In particular, the [district] court should consider which of the decree's conduct restrictions remain viable in light of our modification of the original liability decision."

At the time Judge Kollar-Kotelly ordered the parties into intensive negotiations, she clearly recognized the importance of the drastic alteration to the scope of Microsoft's liability. The judge informed the government that its "first and most obvious task is going to be to determine which portions of the former judgment remain appropriate in light of the appellate court's ruling and which portions are unsupported following the appellate court's narrowing of liability." The judge went on to note that "the scope of any proposed remedy must be carefully crafted so as to ensure that the enjoining conduct falls within the [penumbra] of behavior which was found to be anticompetitive." The judge also stated that "Microsoft argues that some of the terms of the former judgment are no longer appropriate, and that is correct. I think there are certain portions where the liability has been narrowed."

Before discussing the negotiations and the decree itself, I would like to make three other points about the crafting of antitrust remedies that also are relevant to considering the relief to which the plaintiffs were entitled. First, the critics of the PFJ routinely ignore the fact that the Department has long acknowledged that Microsoft lawfully acquired its monopoly position in PC operating systems. Indeed, the Department retained a Nobel laureate in the first Microsoft case in 1994 to submit an affidavit to the district court opining that Microsoft had reached its position in PC operating systems through luck, skill, and foresight. It is tree of course that Microsoft has now been found liable for engaging in conduct that amounted to illegal efforts to maintain that position: however, there is precious little in the record establishing any causal link between the twelve illegal acts of "monopoly maintenance" and Microsoft's current position in the market for PC operating systems. Thus, contrary. to the critics" overheated rhetoric, there is no basis for relief designed to terminate an "illegal monopoly."

Second, decrees in civil antitrust cases are designed to remedy, not to punish. All too often, the critics of this decree speak as though Microsoft was convicted of a crime. It was not. This is a civil case, subject to the rules of civil rather than criminal procedure. To the extent the plaintiffs tried to get relief that could be deemed punitive, that relief would have been rejected.

Third, a decree must serve the purposes of the antitrust laws, which is a "consumer welfare prescription." I realize we are in the "season of giving," but an antitrust decree is not a Christmas tree to fulfill the wishes of competitors, particularly where that fulfillment comes at the expense of consumer welfare. Calls for royalty-free licensing of Microsoft's intellectual property, or for imposing obligations on Microsoft to distribute third party, software at no charge, or for Microsoft to facilitate the distribution of an infinite variety of bastardized versions of Windows (and make sure they all run perfectly) are great for a small group of competitors who know that such provisions will quickly destroy Microsoft's incentives and ability to compete (not to mention violate the Constitution's proscription against "takings"). Such calls, however, are anathema to consumers" interests in a dynamic, innovative computer industry. Twenty. years ago, my old boss and antitrust icon, Bill Baxter, warned about the anticompetitive consequences of antitrust decrees designed simply to "add sand to the saddlebags" of a particularly fleet competitor like Microsoft. it's a warning the courts would certainly heed today.

To their credit, the negotiators for the Department and the settling states understood these three fundamental antitrust principles. While we may have had to remind the other side of these principles from time to time. we did not have to negotiate for their adherence to them. Taxpayers and consumers can be proud that their interests were represented by honorable men and women with the utmost respect for the rule of law. For others to insinuate that. by agreeing to a decree that honors these three fundamental principles, the Department and the settling states "caved" or settled for inadequate relief is as offensive as it is laudable.

The Negotiations

It is against the background I have sketched that. on September 27th, Judge Kollar-Kotelly ordered the parties into intensive, "around the clock" negotiations. Microsoft had already indicated publicly its strong desire to try to settle the case, and so it welcomed the judge's order. As has been widely reported, all the parties in the case took the court's order very seriously. Microsoft assembled in Washington, DC, a core team of in-house and outside lawyers who have been living with this case for years; and who spent virtually all of the next five weeks camped out in my offices down the street.

Microsoft's top legal officer was in town during much of the period directing the negotiations. Back in Redmond, the company's most senior executives devoted a great deal of time and energy to the process, and we were all supported by a large group of dedicated lawyers, businesspeople, and staff.

From my vantage point, the Department and the states (at least those that settled) made an equivalent effort. As the mediator v. Tote after the process ended, "No part" was left out of the negotiations .... Throughout most of the mediation the 19 states (through their executive committee representatives) and the federal government (through the staff of the antitrust division) worked as a combined "plaintiffs" team." Jay Himes from the office of the New York Attorney General Eliot Spitzer and Beth Finnerty from the office of the Ohio Attorney General Betty Montgomery, represented the states throughout the negotiations, putting in the same long hours as the rest of us. At various points Mr. Himes and Ms. Finnerty were joined by representatives from other states, including Kevin O'Connor from the office of Wisconsin Attorney General James Doyle.

The negotiations began on September 28th and continued virtually non-stop until November 6th. During the first two weeks, we negotiated without the benefit of a mediator. As the□" say in diplomatic circles, the discussions were "full and frank." The Department lawyers and the state representatives in the negotiation were extremely knowledgeable, diligent, and formidable.

Microsoft certainly hoped to be able to reach a settlement quickly and before a mediator was designated. However, the views on all sides were sufficiently strong and the need to pay attention to every sentence, phrase, and punctuation mark so overwhelming that reaching agreement proved impossible in those first two weeks. Eric Green, a prominent mediation specialist, was appointed by the court and with the help of Jonathan Marks spent the next three weeks helping the parties find common ground. As Professor Green and Mr. Marks wrote after the mediation ended. "Successful mediations are ones in which mediators and parties work to identity and overcome barriers to reaching agreement. Successful mediations are ones in which all the parties engage in reasoned discussions of issues that divide them, of options for settlement, and of the risks. opportunities, and costs that each part), faces if a settlement isn't reached. Successful mediations are ones in which, settle or not. senior representatives of each party have made informed and intelligent decisions. The Microsoft mediation was successful."

Working day and night virtually until the original .November 2 deadline set by the judge. Microsoft and the Department agreed to and signed a decree early on November 2. The representatives of the states also tentatively agreed, subject to an opportunity from November 2 until November 6 to comer with the other states that were more removed from the case and negotiations. During that period, the states requested several clarifying modifications to which Microsoft (and the Departmet) agreed. From press reports, it appears that during this period the plaintiff states also were being subjected to intense lobbying by a few of Microsoft's competitors who were desperate either to get a decree that. would severely cripple if not eventually destroy Microsoft or at least to keep the litigation (and the attendant costs imposed on Microsoft) going. Notwithstanding that pressure, New York, Wisconsin, and Ohio—the states that had made the largest investment in litigating against Microsoft and in negotiating a settlement—along with six other plaintiff states represented by a bipartisan group of state attorneys general signed onto the Revised PFJ on November 6.

The Proposed Final Judgment

Throughout the negotiations, Microsoft was confronted by a determined and tough group of negotiators for the Department and the states. They made clear that there would be no settlement unless Microsoft went well beyond the relief to which, Microsoft believes, the Court of Appeals opinion and the law entitles the plaintiffs. Once that became clear, Microsoft relented in significant ways, subject only to narrow language that preserved Microsoft's ability to innovate and engage in normal, clearly procompetitive activities. Professor Green, the one neutral observer of this drama has noted the broad scope of the prohibitions and obligations imposed on Microsoft by the PFJ, stating during the status conference with Judge Kollar-Kotelly that "the parties have not stopped at the outer limits of the Court of Appeals" decision, but in some important respects the proposed final judgment goes beyond the issues affirmed by the Court of Appeals to deal with issues important to the parties in this rapidly-changing technology."

I do not intend today to provide a detailed description of each provision of the PFJ; the provisions speak for themselves. It may come as something of a surprise in light of some of the uninformed criticism hurled at the decree, but one of Microsoft's principal objectives during the negotiations was to develop proscriptions and obligations that were sufficiently clear, precise and certain to ensure that the company and its employees would be able to understand and comply with the decree without constantly engendering disputes with the Department. This is an area of complex technology and the decree terms on which the Department insisted entailed a degree of technical sophistication that is unprecedented in an antitrust decree. Drafting to these specifications was not easy, but the resulting PFJ is infinitely clearer and easier to administer than the conduct provisions of the decree that Judge Jackson imposed in June 2000.

If, as one might suspect would be the outcome in a case such as this, the PFJ were written to proscribe only the twelve practices affirmed by the Court of Appeals, the decree would be much shorter and simpler. The Department and settling states, however, insisted that the decree go beyond just focused prohibitions to create much more general protections for a potentially large category of software, which the PFJ calls "middleware." But even these expansive provisions to foster middleware competition were not sufficient to induce the Department and the states to settle; rather, the?" insisted that Microsoft also agree to additional obligations that bear virtually no relationship to any of the issues addressed by the district court and the Court of Appeals. And lastly they insisted on unprecedented enforcement provisions. I will briefly describe each of these three sets of provisions.

1. Protections for "Middleware"

The case :hat the plaintiffs tried and the narrowed liability, that survived appellate review all hinged on claims that Microsoft took certain actions to exclude Netscape's Navigator browser and Sun's Java technology from the market in order to protect the Windows operating system monopoly. The plaintiffs successfully argued that Microsoft feared that Navigator and Java, either alone or together. might eventually include and expose a broad set of general purpose APIs to which software developers could write as an alternative to the Windows APIs. Since Navigator and Java can run on multiple operating systems, if they developed into general purpose platforms, Navigator and Java would provide a means of overcoming the "applications barrier" to end, and threaten the position of the Windows operating system as platform software.

A person might expect that a decree designed to address such a monopoly maintenance claim would provide relief with respect to Web-browsing software and Java or, at most, to other general purpose platform software that exposes a broad set of APIs and is ported to run on multiple operating systems. The PFJ goes much further. The Department insisted that obligations imposed on Microsoft by the decree extend to a range of software that has little in common with Navigator and Java. The decree applies to "middleware" broadly defined to include, in addition to Web-browsing software and Java. instant messaging software, media players, and even email clients—software that, Microsoft believes, has virtually no chance of developing into broad, general purpose platforms that might threaten to displace the Windows platform. In addition, there is a broad catch-all definition of middleware that in the future is likely to sweep other similar software into the decree. This sweeping definition of middleware is significant because of the substantial obligations it imposes on Microsoft. Those obligations—a number of which lack any correspondence to the monopoly maintenance findings that survived appellate review—are intended to create protections for all the vendors of software that fits within the middleware definition. Taken together, the decree provisions provide the following protections and opportunities: "Relations with Computer Makers. Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system. "Computer Maker Flexibility. Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with features of Windows. Computer makers will now be free to remove the means by which consumers access important features of Windows, such as Internet Explorer, Windows Media Player, and Windows Messenger. Notwithstanding the billions of dollars Microsoft invests developing such cool new features, computer makers will now be able to" replace access to them in order to give prominence to non-Microsoft software such as programs from AOL Time Warner or RealNerworks. (Additionally. as is the case today, computer makers can provide consumers with a choice —that is to say access to Windows features as well as to non-Microsoft software programs.)

"Windows Design Obligations. Microsoft has agreed to design furore versions of Windows, beginning with an interim release of Windows XP, to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. The mechanism will make it easy to add or remove access to features built in to Windows or to non-Microsoft software. Consumers will have the freedom to choose to change their configuration at any time.

"Internal Interface Disclosure. Even though there is no suggestion in the Court of Appeals" decision that Microsoft fails to disclose APIs today and even though the Court of Appeals" holding on monopoly power is predicated on the idea that there are tens of thousands of applications written to call upon those APIs. Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows operating system products.

"Relations with Software Developers. Microsoft has agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows. "Contractual Restrictions. Microsoft has agreed not to enter into any agreements obligating any third part?, to distribute or promote any Windows technology exclusively or in a fixed percentage, subject to certain narrow exceptions that apply to agreements raising no competitive concern. Microsoft has also agreed not to enter into agreements relating to Windows that obligate any software developer to refrain from developing or promoting software that competes with Windows.

These obligations go far beyond the twelve practices that the Court of Appeals found to constitute monopoly maintenance. One of the starkest examples of the extent to which these provisions go beyond the Court of Appeals decision relates to Microsoft's obligations to design Windows in such a way as to give third parties the ability, to designate non-Microsoft middleware as the "default" choice in certain circumstances in which Windows might otherwise be designed to utilize functionality. integrated into Windows. As support for his monopoly maintenance conclusion, Judge Jackson had relied on several circumstances in which Windows was designed to override the end users" choice of Navigator as their default browser and instead to invoke IE. The Court of Appeals, however, reviewed those circumstances and reversed Judge Jackson's conclusion on the ground that Microsoft had "valid technical reasons" for designing Windows as it did. Notwithstanding this clear victory, Microsoft acceded to the Department's demands that it design future versions of Windows to ensure certain default opportunities for non-Microsoft middleware.

2. Uniform Prices and Server Interoperability

Nevertheless, agreeing to this ,side range of prohibitions and obligations designed to encourage the development of middleware broadly defined was not enough to get the plaintiffs to settle. Instead, the?" insisted on two additional substantive provisions that have absolutely no correspondence to the findings of monopoly maintenance liability that survived appeal. "Uniform Price List. Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers (who collectively account for the great majority, of PC sales) on identical terms and conditions, including price (subject to reasonable volume discounts for computer makers who ship large volumes of Windows).

"Client/Server Interoperability. Microsoft has agreed to make available to its competitors, on reasonable and non-discriminatory terms, any protocols implemented in Windows desktop operating systems that are used to interoperate natively with any Microsoft server operating system. In the case of the sweeping definition of middleware and the range of prohibitions and obligations imposed on Microsoft, there is at least a patina of credibility to the argument that the penumbra of the twelve monopoly maintenance practices affirmed by the Court of Appeals can be stretched to justify those provisions, at least as "fencing in" provisions. There is no sensible reading of the Court of Appeals decision that would provide an□" basis for requiring Microsoft to charge PC manufacturers uniform prices or to make available the proprietary protocols used by Windows desktop operating systems and Windows server operating systems to communicate with each other. Nevertheless. because the plaintiffs insisted that they would not settle without those two provisions. Microsoft also agreed to them.

Before mining to the enforcement provisions of the PFJ, I want to say a word about the few provisos included in the decree that provide narrow exceptions to the various prohibitions and obligations imposed on Microsoft. Those exceptions were critical to Microsoft's willingness to agree to the sweeping provisions on which the plaintiffs insisted. Without these narrowly tailored exceptions, Microsoft could not innovate or engage in normal procompetitive commercial activities. The public can rest assured that the settling plaintiffs insisted on language to ensure that the exceptions only apply when they promote consumer welfare. For example, some companies that compete with Microsoft for the sale of server operating systems apparently have complained about the so-called "security carve-out" to Microsoft's obligation to disclose internal interfaces and protocols. That exception is very narrow and only allows Microsoft to withhold encryption "keys" and the similar mechanisms that must be kept secret if the security, of computer networks and the privacy of user information is to be ensured. In light of all the concern over computer privacy and security, these days, it is surprising that there is any controversy, over such a narrow exception.

3. Compliance and Enforcement

The broad substantive provisions of the PFJ are complemented by an unusually strong set of compliance and enforcement provisions. Those provisions are unprecedented in a civil antitrust decree. The PFJ creates an independent three-person technical committee, resident on the Microsoft campus, with extraordinary powers and full access to Microsoft facilities, records, employees and proprietary technical data, including Windows source code, which is the equivalent of the "secret formula" for Coke. The technical committee provides a level of technical oversight that is far more substantial than any provision of any other antitrust decree of which I am aware. At the insistence of the plaintiffs, the technical committee does not have independent enforcement authority; rather, reports to the plaintiffs and, through them, to the court. The investigative and oversight authority of the technical committee in no way limits or reduces the enforcement powers of the DOJ and states: rather, the technical committee supplements and enhances those powers. Each of the settling states and DOJ have the power to enforce the decree and have the ability to monitor compliance and seek a broad range of remedies in the event of a violation.

Microsoft also agreed to develop and implement an internal antitrust compliance program, to distribute the decree and educate its management and employees as to the various restrictions and obligations. In recent years, Microsoft has assembled in-house one of the largest, most talented groups of antitrust lawyers in corporate America. They are already engaged in substantial antitrust compliance counseling and monitoring. The decree formalizes those efforts, and quite frankly adds vet?" substantially to the in-house lawyers" work. As we speak, that group, together with key officials from throughout the Microsoft organization, are working to implement the decree and to ensure the company's compliance with it.

As with the substantive provisions, Microsoft agreed to these unprecedented compliance and enforcement provisions because of the adamance of the plaintiffs and because of the highly technical nature of the decree. Microsoft, the Department, and the settling states recognized that it was appropriate to include mechanisms—principally, the technical committee—that will facilitate the prompt and expert resolution of any technical disputes that might be raised by third parties, without in any way derogating from the government's full enforcement powers under the decree. Although the enforcement provisions are unprecedented in their stringency and scope, they are not necessitated or justified by any valid claim that Microsoft has failed to comply with its decree obligations in the past. In fact. Microsoft has an exemplar?." record of complying with the consent decree to which the company and the Department a agreed in 1994. In 1997, the Department did question whether Microsoft's integration of IE into Windows 95 violated a "fencing in" provision that prohibited contractual tie-ins, but Microsoft was ultimately vindicated by the Court of Appeals. Microsoft has committed itself to that same level of dedication in ensuring the company's compliance with the PFJ.

Conclusion

The PFJ strikes an appropriate balance in this complicated case, providing opportunities and protections for firms seeking to compete while allowing Microsoft to continue to innovate and bring new technologies to market. The decree is faithful to the fact that the antitrust laws are a "consumer protection prescription," and it ensures an economic environment in which all parts of the PC- ecosystem can thrive.

Make no mistake, however, the PFJ is tough. It will impose substantial new obligations on the company, and it will require significant changes in the way Microsoft does business. It imposes heavy costs on the company and entails a degree of oversight that is unprecedented in a civil antitrust case.

For some competitors of Microsoft, however, apparently nothing short of the destruction of Microsoft — or at least the ongoing distraction of litigation—will be sufficient. But if the objective is to protect the interests of consumers and the competitive process, then this decree more than achieves that goal.

Finally, for all those who are worried about the furore and what unforeseen developments may not be covered by this case and the decree, remember that the Court of Appeals decision now provides guideposts, which previously did not exist, for judging Microsoft's behavior, and that of other high technology companies, going forward. Those guidelines, it is true, are not always easy to apply ex ante to conduct; however, now that the Court of Appeals has spoken, we all have a much better idea of the way in which section 2 of the Sherman Act applies to the software industry. In short, what antitrust law" requires of Microsoft is today much clearer than it was when this case began. We have all learned a lot over the last four years, and Microsoft has every incentive to ensure that history does not repeat itself.

ATTACHMENT 4

Secretary of the Senate
Clerk of the House of Representatives
LOBBYING REGISTRATION
Lobbying Disclosure Act of 1995 (Section 4)
Check if this is an amended registration []
For Official Use

REGISTRANT

1. Name of Registrant Covington & Burling
Address 1201 Pennsylvania Avenue, NW
City Washington, State DC, Zip 20004

2 Principal place of business (if different from line 1) City Same State/Zip (or Country)

3. Telephone number and contact name (202) 662–6000 Contact Stuart Stock

4. General description of registrant's business or activities Law Firm CLIENT A lobbying firm is required to file a separate registration for each client An organization employing in-house lobbyists will indicate "Self" on line 5 and proceed to line 8.

5. Name of Client Microsoft Corporation
Address One Microsoft Way
City Redmond State WA Zip 98052

6. Principal place of business (if different from line 5)
City Same State/Zip (or Country)

7. General description of client's business or activities Computer software company

REGISTRANT EMPLOYEES

8. Name and title of each employee of the registrant who has acted or is expected to act as a lobbyist for the client identified on line 5. Indicate any employee who served as a "covered executive branch official" or "covered legislative branch official" within 2 years before the date that the employee first acted or will act as a lobbyist for the client, and state the executive or legislative branch position(s) in which the employee served. Attach Lobbying Registration Addendum if necessary.

E. Jason Albert, Associate
Victoria A. Carter, Associate
Charles F. Rule, Partner
Laurie C. Self, Of Counsel

Form LD-1 (1/96)

LOBBYING ISSUES

9. General lobbying issue areas (select applicable codes, listed in instructions and on reverse side of Form 1.D-l, page])
CPI CPT TRD

10. Specific lobbying issues (current and anticipated)

* Protection of intellectual property rights, including copyrights,
* Electronic commerce matters.
* Competition matters affecting computer software industry.

AFFILIATED ORGANIZATIONS

11. Name, address, and principal p□ace of business of any entity other than the" client that contributes more than $10,000 to the lobbying activities covered by this registration in a semiannual period, and in whole or in part plans, supervises, or controls the registrant's lobbying activities. If none, so state.

Name
Address
Principal place of business
(city and state or country)
None

FOREIGN ENTITLES

12. Name, address, principal place of business, amount of ,'my contribution of more than $10,000, and approximate percentage of equitable ownership in the client of any foreign entity that:

a)
b)
c)

holds at least 20% equitable ownership in the client or in any organization identified on line 11 ; or directly or indirectly, in whole or in major part, plans, supervises, controls, directs, finances or subsidizes the activities of the client or any organization identified on line 11; or is an affiliate of the client or any organization identified on line 11 and has a direct interest in the outcome of the lobbying activity. If none, so state.

Name
Address Principal place of business
Amount of contribution
Ownership
(city and state or country)
for lobbying activities
percentage
in client
None
Signature
Date 6/29/98
Printed Name and Title Stuart C. Stock, Partner

ATTACHMENT 5

WALL STREET JOURNAL.
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FRIDAY, NOVEMBER 16, 2001

The Northern Alliance battled 31,000 Taliban and allied fighters encircled in the northern Afghan city of Kunduz, while Pashtun fighters fought to control Kandahar in the south. Mullah Omar, the Taliban leader, spoke by satellite phone with the BBC and vowed to fight to the death and seek America's "extinction." The British marines are to secure Bagram airport for an expected growing deployment of foreign troops. Tim U.S. also prepared to insert more soldiers to aid in the hunt for Osama bin Laden. New in- telligence on his possible whereabouts, as well as chilling data on the weapons he was hoping to develop, came to light. (Articles in Column 1 and on Pages A3, A8, A9 and A10)

The Northern Alliance wants credit for securing the release of eight foreign aid workers, including two Americans, the Taliban was holding. So does Libya. An airport-security deal was sealed as Bush blessed an accord reached by House and Senate negotiators on the issue of federalizing screening workers. Alter a one-year transition, the government is to take over that job. Meanwhile, airlines braced for the first Thanksgiving under tightened secu- rity procedures. (Articles on Pages A3 and B1)

?? investigators are looking into the ??libility that Flight 587 pilots may A Haggler's Christinas From small boutiques to Saks, a surprising number of stores are letting some customers name their price. How to get in on the holiday deals. When Every Show's a Survivor This fall, bad ratings aren't enough to sink new shows. Why "Emeril" is still cooking.

'Harry Potter" Arrives

Will the Wizard of Hoywarts fly on the big screen? Joe Morgenstern's review.

Nations Supporting Jihads of Yesteryear Now Close Borders Yemen, for One, Won't Let Men Bent on Joining the Fight Go Off to Wage a "Holy War" By YAROSLAV TROFIMOV Staff Reporter of "rife WALL STREET JOURN?? SANA, Yemen-Asked what he th?? about the war in Afghanistan, Abdu??

Washington Wire
A Special Weekly Report From
The Wall Street Journal's
Capital Bureau

DIRECTOR DANIELS gets GOP votes for "worst ever" relations with Congress. Sen. Stevens, the Senate Appropria- tions Committee's top Republican, says so publicly of Bush's budget chief; others complain privately to the White House that they can't deal with Daniels. They charge he is trying to score political points at Con- gress's expense, to aid a run for the Senate from Indiana later.

Ire erupts after Interviews in which Daniels belittles Congress. Cheney goes to the Capitol to rescue a $40 billion emer- gency-spending bill-and soothe House Ap- propriations Chairman Young. Danieis's office says it asked Cheney to go; Republi- cans say that is because Daniels wasn't welcome. With deputy Scan O'Keefe mov- ing to head NASA, long)free GOP budget staffer Bill" Hoagland rejects overtures about the job.

With Congress still in town, in speeches Daniels quotes the song, "How can I miss you ii you won't go away?" PENTAGON PLANS for big Increases, but hasn't enlisted the budget office.

The services are told to build increases of about $15 billion annually into their plans for the budgets of the next two years. Such rises, inconceivable before Sept. 11, would drive overall military spending to $360 billion by 2004. On the ish list: intelligence-gathering sensors and spy drones-in high demand in Af- ghanistan but low supply.

Last Call?
Under Rising Pressure;
AT&T's CEO Tries
To Hold On to an leon
Loaded Down With Debt,
Hit by Competition, Firm
* May Be Sold Off in Pieces
A Losing Battle With the Bells
. By DEBORAII SOLOMON

,Staff Reporter of THE WALL STREET JOURNAL NEW YORK-C. Michael Armstrong has spent four years of furious deal making in a bid to push AT&T Corp. beyond its long-distance roots and back on top of the telecommunications landscape.

Now, the chief executive and his top lieutenants are working frantically just to keep control of the company's destiny. Publicly, they insist that AT&T is better off than most of its peers struggling to survive the telecom meltdown. But privately, amid 16-hour days crisscrossing the nation in corporate jets, even they acknowledge that the end of an independent AT&T may well be in sight. Paced with a massive debt load and a deteriorating cash position, AT&T is on the verge of selling parts or all of the business icon. That could Include the two cable companies Mr. Armstrong spent $100 billion ??ulre in hopes of building an altern cy spending. (Articles on Pages A2 and A14)

Weaknesses remain in the health system's preparations for terrorist attacks, administration officials told Congress. Meanwhile, lawmakers unveiled a $3.2 billion plan to fight bioterrorism. A top FBI official said recent Pennsylvania raids are unlikely to aid the anthrax inquiry. (Article on Page A6) * * * .

Ararat called for Israeli withdrawal from the West Bank, Gaza Strip and east Jerusalem in a speech on the 13th anniversary of his declaration of Palestinian independence. Israeli raids left a Palestinian dead as Arafat's police freed two militants detained after the assassination of all Israeli cabinet minister.

Serb police guarded government buildregs after a mutinous secret-police unit, angry at Belgrade's dealings with the Hague, refused to accept civilian control. Separately, Kosovo votes tomorrow in a first, ii symbolic, step toward independence from Serbia.

Macedonia's parliament approved constitutional reforms underpinning a peace deal. The vote came after a long period of pressure by Western envoys to codify new rights for ethnic Albanians after rebels disbanded.

A federal judge dismissed all remaining charges against two former Utah Olympic officials accused of buying votes to win the 2002 Winter Games for Salt Lake City. The judge had thrown out four key counts in July.

* * *

Cancer researchers have developed a method of encapsulating single atoms of radioactive material in injectable molecules that can find and destroy tumor cells. Human trials may begin soon. (Article on Page B3)

Two freight trains collided head-on about 25 miles northwest of Detroit, killing two crewmen, injuring two others and forcing nearby evacuations. Investigators focused on a switching malfunction or bad weather. * * *

Peace Corps workers were recalled from Zimbabwe after the government refused to issue permits for new volunteers. Harare 0.77; 2.2179 has been reducing the presence of international agencies ahead of elections next year.

might end up in Afghanistan. Pakistan, once a welcoming gateway for Arab mujahedeen, has also closed Afghan frontier crossings in recent weeks and carefully screens all Arab visa applicants, submitting their names to local security agencies.

Across the Middle East, hundreds of presumed jihad organizers, who openly worked out of mosques and even government offices to send fighters to Afghanistan in the 1980s and Bosnia-Herzegovina in the 1990s, have been rounded up since the Sept. 11 killings in New York and Washington. "Back in the past; going to jihad in Afghanistan was a big thing, something to be celebrated by everybody," explains Jareal Khashoggi, a Saudi newspaper editor who frequently met Mr. bin Laden in Afghanistan while covering the war in the 1980s. "Now, if you're a Saudi and you're going to fight there for the Taliban, you're joining the enemy."

In part, that's because few Arab governments want to upset the U.S. and end up a target in the Bush administration's war on terrorism. More important, the Afghan jihad campaign against the Soviets badly boomeranged on its Middle Eastern sponsors. Returning Afghan veterans such as Mr. bin Laden have helped destabilize much of the Arab world, fueling terrorist groups such as Egypt's Islamic Jihad, Algeria's GIA and the Aden Abyan Islamic Army in Yemen.

FIRST LADY Laura Bush will sub for her husband in tomorrow's national radio address, to kick off a campaign highlighting the Afghan Taliban's abuse of women. Also involved: Jay Leno's wife, Mavis, and Britain's Cherie Blair. Yesterday, at the Bush ranch, Russia's President Putin agreed the women need help, but the "end result" must not be that "a lady would turn into a man."

TERRORISTS" FUNDS are Treasury Secretary O'Neilrs target in Ottawa today, as he presses the G-20 group of nations to form money-laundering surveillance units. The units would join the global Egmont Group intelligence exchange; among G-20 nations that don't belong are Saudi Arabia, China, Germany, Indonesia and India. Countries meeting in Canada have agreed to an antiterrorism agenda but not to specific actions.

JOB REFERENCE: The White House as early as today may grant Senate Majority Leader Daschle's wish and name his aide, Jonathan Adelstein, to one of two Democratic seats on the Federal Communications Commission. The vacancy has left the FCC with a 3–1 GOP edge.

LEGAL LOOPHOLE: Microsoft tries to shield Ill; top Washington lawyer, Charles F. Rule, from having to reveal some contacts with the administration before he negotiated the company's controversial antitrust settlement. He was formally named a counsel of record yesterday, exempting him from disclosures otherwise demanded under a 1974 law requiring court review of antitrust deals.

GOP'S GILMORE is safe through 2002, White House advisers say.

. The party chairman will stay on through the critical midterm elections, they are telling Republicans; many are unhappy about the GOP's loss last week of the governorships in New Jersey and

Gilmore's Virginia.

Democrats gloat they have won "the main event" in redistricting after a federal court panel approves a plan favorable to Texas's majority-Democratic House delegation. GOP Leader Delay of Texas had predicted gains of as many as eight seats; the party still says it can add two.

Republicans urge ex-Rep. Lazio, who lost a Senate race to Hillary Clinton. to seek his old House seat back phone companies enter the long-distance market at a rapid clip, AT&T faces the prospect of heavy new competition.

The situation AT&T now finds itself in "is a little bit like Gen. Cornwallis surrendering to Revolutionary forces," says Tom Evslin, chief executive of Internet telephony firm ITXC Corp. and a former AT&T executive. The Parts or the Whole?

While many have speculated whether Mr. Armstrong would ultimately be removed from the helm of AT&T, il appears instead that AT&T is slowly being taken away from him. The company's directors, and Mr. Armstrong himself, had reluctantly come to the realization that AT&T is worth more in pieces than as a struggling whole when they announced a plan to break it into four pieces a year ago. Now, it appears the company will not be able to hold on to those different parts. "Times have changed," says a person close to Mr. Armstrong. Now, the thinking is, "If you're going to break up, why not just sell the pieces and get some long-term value for shareholders?"

With several trips to Washington a month, Mr. Armstrong, the 63-year-old former head of General Motors Curp.'s Hughes Electronics, is pleading with regulatots to order relief. Taking an even more visible role is the company's chief financial ofricer, Charles Noski, who is trying to juggle the various credit-rating agencies, the equity and debt markets, AT&T's board and Wall Street as well as heading negotiations for the company's cable-TV unit.

Mr. Armstrong argues AT&T is better off today than it was when he took over, pointing to the building of wireless and cable franchises. "In 1997 we didn't know if AT&T had a future. But today we've got the assets, we've got the businesses, we've got the management team. We've got a future," says Mr. Armstrong. Hopes of Keeping It Together

He and other AT&T officials hold out the possibility of keeping the empire together. But he acknowledges that AT&T may not stay intact: "If it's In a form of stand-alone companies or in the form of further industry consolidation, those assets and those people and those customers will still be AT&T/"

Some of AT&T's woes reflect those across the telecommunications industry, which is imploding in the wake of a massive glut of capacity and retrenchment of once-abundant investment dollars. But AT&T's plight was aggravated b?? s of deals struck by Mr. Armstron. I-

ATTACHMENT 6

COMMITTEE: SENATE JUDICIARY COMMITTEE

HEADLINE: U.S. SENATOR PATRICK LEAHY (D-VT) HOLDS HEARING ON "THE MICROSOFT SETTLEMENT: A LOOK TO THE FUTURE."

SPEAKER: U.S. SENATOR PATRICK LEAHY (D-VT), CHAIRMAN

LOCATION: WASHINGTON, DC

WITNESSES: CHARLES JAMES, ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVISION, U.S. DEPARTMENT OF JUSTICE JAY HIMES, ANTITRUST BUREAU CHIEF, OFFICE OF THE ATTORNEY GENERAL CHARLES RULE, COUNSEL, MICROSOFT CORPORATION LAWRENCE LESSIG, PROFESSOR, STANFORD LAW SCHOOL MARK COOPER, DIRECTOR OF RESEARCH, CONSUMER FEDERATION OF AMERICA JONATHAN ZUCK, PRESIDENT, ASSOCIATION OF COMPETITIVE TECHNOLOGY MATTHEW SZULIK, PRESIDENT AND CEO, RED HAT, INC. MITCHELL KERTZMAN, PRESIDENT AND CEO, LIBERATE TECHNOLOGIES

BODY:

U.S. SENATE JUDICIARY COMMITTEE HOLDS A HEARING ON THE MICROSOFT SETTLEMENT

SPEAKERS:

U.S. SENATOR PATRICK J. LEAHY (D–V–F) CHAIRMAN

U.S. SENATOR EDWARD M. KENNEDY (D–MA)

U.S. SENATOR JOSEPH R. BIDEN JR. (D–DE)

U.S. SENATOR HERBERT KOHL (D–WI)

U.S. SENATOR DIANNE FEINSTEIN (D–CA)

U.S. SENATOR RUSSELL D. FEINGOLD (D–WI)

U.S. SENATOR CHARLES E. SCHUMER (D–NY)

U.S. SENATOR RICHARD DURBIN (D–IL)

U.S. SENATOR MARIA CANTWELL (D–WA)

U.S. SENATOR JOHN EDWARDS (D–NC)

U.S. SENATOR ORRIN G. HATCH (R–UT) RANKING MEMBER

U.S. SENATOR STROM THURMOND (R–SC)

U.S. SENATOR CHARLES E. GRASSLEY (R–IA)

U.S. SENATOR ARLEN SPECTER (R–PA)

U.S. SENATOR JON KYL (R–AZ)

U.S. SENATOR MIKE DEWINE (R–OH)

U.S. SENATOR JEFF SESSIONS (R–AL)

U.S. SENATOR SAM BROWNBACK (R–KS)

U.S. SENATOR MITCH MCCONNELL (R–KY)

LEAHY: I just want to do a little housekeeping here. I want to make sure the chairman and ranking member of the Antitrust Subcommittee are here—Senator Kohl and Senator DeWine — both of whom have done a superb job for years in handling antitrust matters.

I told Senator DeWine earlier—now this would probably cause a recall petition for the Republican Party in Ohio, but what a terrific job he did as chairman and what a terrific job Senator Kohl has done as chairman on antitrust matters in pointing out that they're issues of great complexity, very important to everybody here in the Senate. I've look at the proposed settlement the Department of Justice and nine states have transmitted to the District Court. The reason that they planned for the conclusion of what has really been a landmark antitrust litigation. But now, it's going to pass the legal test set out in the Tunney Act if it's going to gain court approval. That test is both simple and broad, and requires an evaluation of whether the proposed settlement is in the public interest.

There is significant difference of opinion over how well the proposed settlement passes this legal test. In fact, the states participating in the litigation against Microsoft are evenly split— - nine states joined in the proposed settlement and nine non-settling states presented the court with an alternative remedy.

As the courts wrangle with the technical and complex legal issues at stake in the case, this committee is conducting hearings to educate ourselves and to educate the public about what this proposed settlement really means for our high-tech industry and for all of us who use computers at work, at school, and at home.

Scrutiny of the proposed settlement by this committee during the course of the Tunney Act proceeding is particularly important. The focus of our hearing today is to examine whether the proposed settlement is good public policy and not to go into the legal technicalities. The questions raised here and views expressed may help inform the court. I plan with Senator Hatch to forward to the court the record of this hearing for consideration as the court goes about the difficult task of completing the Tunney Act proceedings and the remedy solved by the non-settling states.

I am especially concerned that the District Court takes the opportunity seriously to consider the remedy proposal of the nonsettling states but to consider them before she makes her final determination on the other parties" proposed settlement.

The insights of the other participants in this complicated and hard-fought case are going to be valuable additions to the comments received in the Tunney Act proceeding. I would hope that it would help inform the evaluation whether the settlement is in the public interest, a matter of which for many people is still an open question.

The effects of this case extend beyond simply the choices available in the software marketplace. The United States has long been the world leader in bringing innovative solutions to software problems, in creating new tools and applications for use on computers and the web, and in driving forward the flow of capital into these new and rapidly growing sectors of the economy.

This creativity is not limited just to Silicon Valley. My own home area, Burlington, Vermont, ranks seventh in the nation in terms of patent filings. Burlington has 38,000 people. It's in a county of about 130,000 people. It is not per capita. This is actual filings—seven in the nation.

So, whether the settlement proposal will help or hinder this process, and whether the high tech industries will play the important role that they should in our nation's economy, is a larger issue behind the immediate effects of this proposal. So, with that in mind, I intend to ask the representatives of the settling parties how their resolution of this conflict will serve the ends that the antitrust laws require.

Our courts have developed a test for determining the effectiveness of a remedy in a Sherman Act case: The remedy must end the anti-competitive practices, it must deprive the wrongdoer of the fruits of the wrongdoing and it must ensure that the illegality never recurs.

The Tunney Act also requires that any settlement of such a case serve the public interest. These are all high standards, but they are reasonable ones and people have dealt with them for years. In this case, the DC Circuit, sitting en banc and writing unanimously, found that Microsoft had engaged in serious exclusionary practices, to the detriment of their competitors and, thus, to all consumers. So, we have to satisfy ourselves that these matters have been addressed and redressed, or if they have not, why not. I have noted my concern that the procedural posture of this cas

e not jeopardize the opportunity of the non-settling states to have their day in court and not deprive the District Court of the value of their views on appropriate remedies in a timely fashion. In addition, I have two basic areas of concern about the proposed settlement.

First, I find many of the terms of the settlement to be either confusingly vague, subject to manipulation, or worse, both. Mr. Rule raised an important and memorable point when he last testified before this committee in 1997 during the important series of hearings that were convened by Senator Hatch on competition in the digital age, hearings that have shaped a lot of thinking in the Senate.

Testifying about the first Microsoft-Justice Department consent decree, Mr. Rule said, quote: "Ambiguities in decrees are typically resolved against the government. In addition, the government's case must rise or fall on the language of the decree; the government cannot fall back on some purported "spirit" or "purpose" of the decree to justify an interpretation not clearly supported by the language."

LEAHY: So, we take seriously such counsel, and would worry if ambiguity in the proposed settlement would jeopardize its enforcement.

Secondly, I am concerned that the enforcement mechanism described in the proposed decree lacks the power and the timeliness necessary to inspire confidence in its effectiveness. Particularly in light of the absence of any requirement that the decree be read in broad remedial terms, it is especially important that we inquire into the likely operation of the proposed enforcement scheme and its effectiveness.

Any lawyer Who has litigated cases, and Mr. James, I would certainly include you, any business person knows how distracting litigation of this magnitude can be and appreciates the value that reaching an appropriate settlement can have not only for the parties but also for consumers, who are harmed by anti-competitive conduct, and the economy. I'm the first one to say that we'd like some finality, so everybody involved, all companies, can know what the standards are and all consumers can know what they are.

Because of that, I do not come to this hearing prejudging the merits of this proposed settlement but instead as one who is ready to embrace a good settlement that puts an end to the merry-go-round of Microsoft litigation over consent decrees.

But the serious questions that have been raised about the scope, enforceability and effectiveness of this proposed settlement leave me concerned that, if it's approved in its current form, it may simply be an invitation for the next chapter of litigation. I want an end to this thing. I think everybody wants at end to it, but we want an end to it where we know what the rules are going to be. If we don't know what the rules are going to be, as sure as the sun rising in the East, we're going to face these issues again.

On this point, I share the concern of Judge Robert Bork, who warns, in his written submission, that the proposed settlement "contains so many ambiguities and loopholes as to make it unenforceable, and likely to guarantee years of additional litigation".

I look forward to hearing from the Department of Justice and the other witnesses here. I will put into the record a series of letters, one, a letter to myself and Senator Hatch from James Barksdale, another letter to Assistant Attorney General James and Senator Hatch and a letter to Senator Hatch from Assistant Attorney General James, letters to myself and Senator Hatch and Robert Bork, a letter to myself and Ralph Nader with two enclosures, written testimony of the Computing Technology Industry Association; written testimony of Catfish Software, Inc.; and written testimony of Mark Havicek (ph) of Digital Data Resources, Inc.

I yield to Senator Hatch who has been such a support of hearings on this issue earlier.

HATCH:

Thank you,

Mr. Chairman.

As you know, we conducted a series of hearings, as you've mentioned, in this committee in 1997 and 1998 to examine the policy implications of the competitive landscape of the then burgeoning hightech economy and industry, which was about to explode with the advent of the Internet.

Those hearings focused on competition in the industry, in general, and, more specifically, complaints that Microsoft had been engaged in anti-competitive behavior that threatened competition and innovation to the detriment of consumers. Our goal was, and I believe today is, to determine how best to preserve competition and foster innovation in the hightechnology industry.

Although the committee, and I, as its chairman—then chairman, was criticized by some, I strongly believed then, and continue to believe now, that in a robust economy involving new technologies, effective antitrust enforcement today would prevent the need for heavy-handed government regulations of business tomorrow.

My interest in the competitive marketplace in the high-technology industry was animated by my strong opposition to regulations of the industry, whether by government, or by one or few companies.

As we may remember, the hearings before the Judiciary Committee developed an extensive record of Microsoft's conduct, and evidenced various efforts by the company to maintain and extend its operating system monopoly.

These findings, I would note, were reaffirmed by a unanimous, and ideologically diverse Court of Appeals. The Microsoft case—and its ultimate resolution—present one of the most important developments in antitrust law in recent history, certainly in my memory. As I have emphasized before, having a monopoly is not illegal under our laws. In fact, in a successful capitalist system, striving to be one should be encouraged, as a matter of fact. However, anti-competitive conduct intended to maintain or extend this monopoly would harm competition and could possibly be violative of our laws. I believe no one would disagree that the DC Circuit Court's decision reaffirmed the fundamental principle that a monopolist— even a monopolist in a high-tech industry like software—must compete on the merits to maintain its monopoly, which brings us to today's hearing. We are here to examine the policy implications of the proposed settlement in the government's antitrust litigation against Microsoft.

Mr. Chairman, rather than closing the book on the Microsoft inquiry, the proposed settlement appears to be only the end of the latest chapter.

The settling parties are currently in the middle of the so-called Tunney Act process before the court. And, the non-settling parties have chosen to further litigate this matter and last week filed their own proposed settlement.

This has been a complex case with significant consequences for Microsoft, high-tech entrepreneurs and the American public as well. The proposed settlement between Microsoft and the Justice Department and nine of the plaintiff state attorneys general is highly technical.

We have all been studying it, and its impact, with great interest. Each of us has heard from some, including some of our witnesses here today, that the agreement contains much that is very good. Not surprisingly, we have also heard and read much criticism of the settlement. These are complex issues, and I would hope today's hearing will illuminate the many questions that we have.

I should note that about two weeks ago, I sent a set of detailed and extensive questions about the scope, interpretation, and intended effects of the proposed settlement to the Justice Department, naturally seeking further information on my part.

First, I want to commend the department for getting the responses to these questions to me promptly. We received them yesterday. I think the questions, which were made public, and the Department's responses, could be helpful to each member in forming an independent and fair analysis of the proposed settlement.

To that end, and for the benefit of the committee, Mr. Chairman, I would like to make both the questions and the department's answers part of the record for this hearing, so I would ask unanimous consent that they be made part of the record.

As I noted in my November 29 letter to the department, I have kept an open mind regarding this settlement, and continue to do so. I have had questions regarding the practical enforceability of the proposed settlement and whether it will effectively remedy the unlawful practices identified by the DC Circuit, and restore competition in the software marketplace. I am also cognizant of both the limitation of the claims contained in the original Justice Department complaint by the DC Circuit, as well as the standards for enforcement under settled antitrust law.

I believe that further information regarding precisely how the proposed settlement will be interpreted, given DC Circuit case law, is necessary to any full and objective analysis of the remedies proposed therein. I hope that this hearing will result in the development of such information that would supplement the questions that I put forth to the Department.

Mr. Chairman, one important and critical policy issue that I would hope we can address today, and that I would like all of our witness to consider as they wait to be empaneled so that they can discuss, is the difficult issue of the temporal relation of antitrust enforcement in new high-technology markets.

It cannot be overemphasized that timing is a critical issue in examining conduct in the socalled "new economy". Indeed, the most significant lesson the Microsoft case has taught us is this fact. The DC Circuit found this issue noteworthy enough to discuss in the first few pages of its opinion. And I will quote from the unanimous court:

"What is somewhat problematic is that just over six years have passed since Microsoft engaged in the first conduct plaintiffs alleged to be anti-competitive. As the record in this case indicates, six years seems like an eternity in the computer industry. By the time the court can assess liability, firms, products, and the marketplace are likely to have changed dramatically. This, in turn, threatens enormous practical difficulties for courts considering the appropriate measure of relief in equitable enforcement actions." The Court goes on to say that "Innovation to a large degree has already rendered the anti-competitive conduct obsolete, although by no means harmless" unquote.

This issue is one that is relevant for this committee to consider as a larger policy matter, as well as how it relates to this case and the proposed settlement we are examining today. Let me just say that one of things that worries me is what are the enforcement capabilities of this settlement agreement? It was only a few years before these matters arose that Microsoft had agreed to a consent decree—to a conduct decree that many feel that they did not live up to.

I think it's a legitimate issue to raise as to how well the agreement that the Justice Department has worked out with Microsoft and nine of the plaintiffs, how will it be enforced if anticompetitive conduct continues.

In that regard, let me just raise Mr. Barksdale's letter which I believe you put into the record.

LEAHY: I did, I did.

HATCH: Let me raise it, because he does make some interesting comments in his letter and if I can read them, I think they might be—at least part of opening up the questions in this matter. I'll just quote a few paragraphs.

He says: "These developments have stiffened my resolve to do all I can to ensure that competition and consumer choice are reintroduced to the industry. It is vitally important that no company can do to a future Netscape that Microsoft did to Netscape from 1995 to 1999. It is universally recognized that the 1995 consent decree was ineffective. I respectfully submit that the proposed final judgment, PFJ, is the subject of the hearing would be even less effective, if possible, than the 1995 decree in restoring competition and stopping anticompetitive behavior. Accordingly, Senator Leahy, I'm going to follow your suggestion that I help the committee answer one of the central questions. If the PFJ had been in effect all along, how would it have affected Netscape? More important, how will it affect future Netscapes?"

He describes the impact on future Netscapes as follows and let me just read a couple of paragraphs in this regard: "As discussed in the attached document, the unambiguous conclusion is that the PFJ agreed upon last month by Microsoft and the Department of Justice had been in existence in 1994, Netscape would have never been able to obtain the necessary venture capital financing. In fact, the company would have not come into being in the first place. The work of Mark Andresson's team at the University of Illinois in developing the Mosaic browser would likely have remained an academic exercise. An innovative, independent browser company simply could not survive under the PFJ and such would be the effect on any company developing the future technologies as innovative as the browser was in the mid-1990s."

He goes on to characterize whether or not Microsoft could have developed itself, but let me just read the last two paragraphs of this letter: "If the PFJ's provisions are allowed to go into effect, it is unrealistic to think that anybody would ever secure venture capital financing to compete against Microsoft. This would be a tragedy for our nation. It makes a mockery of the notion that the PFJ is, quote, "good for the economy", unquote. If the PFJ goes into effect, it will subject an entire industry to dominance by an unconstrained monopolist, thus snuffing out competition, consumer choice and innovation in perhaps our nation's most important industry. And worse, it will allow them to extend their dominance to more traditional businesses, such as financial services, entertainment, telecommunications and perhaps many others.

Four years ago, I appeared before committee and was able to demonstrate, with the help of the audience, that Microsoft undoubtedly had a monopoly. Now it has been proven in the course that Microsoft not only having a monopoly, but they have illegally maintained that monopoly through a series of abusive and predatory actions. I submit to the committee that Microsoft is infinitely stronger in each of their core businesses than they were four years ago, despite the fact that their principal arguments have been repudiated eight to zero by the federal courts. Now, if you'll keep these thoughts in mind during your hearing, let me send a more detailed analysis of my views as followed".

Well, the importance of that letter is basically, Barksdale was one of the original complainants against Microsoft and was one of the very important witnesses before this committee in those years when we were trying to figure out what we're doing here. And I don't think you can ignore that, so these questions have to be answered that he raises, plus the questions that I had given as well.

So, that's the—you put that letter in the record?

LEAHY: I have and also I understood you wanted those letters (inaudible).

HATCH: I appreciate it.

Let me just say, Mr. Chairman, I'm grateful that you're continuing the committee's important role in high technology policy matters, and I as I would expect you to do, because I know that you take a great interest in these matters, as do, I think, every individual person on this committee and as does every individual person on the committee.

HATCH: I certainly look forward to hearing our witnesses today and I'm going to keep an open mind on where we're going here and hopefully they can resolve these matters in a way that is beneficial to everybody, including those who are against Microsoft and Microsoft itself.

Thank you,

Mr. Chairman.

LEAHY: Thank you.

Senator Kohl?

KOHL: Mr. Chairman, we thank you for holding this hearing here today. This is a crucial time for competition in the high tech sector of our economy. After spending more than three years pursuing its groundbreaking antitrust case against Microsoft, the government has announced a settlement.

But the critical question remains, will this settlement break Microsoft's stranglehold over the computer software industry and restore competition in this vital sector of our economy. I have serious doubts that it will.

An independent federal court, both a trial court and a court of appeals found that Microsoft broke the law and that its violation should be fixed. This antitrust case was as big as they come.

Microsoft crushed a competitor, illegally tried to maintain its monopoly and stifled innovation in this market. Now, after all these years of litigation, of charges and countercharges, this settlement leaves us wondering, "Did we really accomplish anything?" Or, in the words of the old song, "Is that all there is?"

Does this settlement debate a Supreme Court mandate that it must deny the antitrust violator the fruits of its illegal conduct? It seems to me and to many, including nine of the states that joined the federal government in suing Microsoft, that this settlement agreement is not strong enough to do the job to restore competition to the computer software industry, It contains so many loopholes; qualifications and exceptions that many worry that Microsoft will easily be able to evade its provisions.

Today, for the vast majority of computer users, the first thing they see when they turn on their machine is the now familiar Microsoft logo placed on the Microsoft start menu. And all of their computer operations take place through the filter of Microsoft's Windows operating system.

Microsoft's control over the market is so strong that today, more than 95 percent of all personal computers run under Windows operating system, a market share high enough to constitute a monopoly under antitrust law.

Its share of the Internet browsing market is now over 85 percent and reported a profit margin of 25 percent in the most recent quarter, a very high number in challenging economic times. Microsoft has the power to dictate terms to manufacturers who wish to gain access to the Windows operating system and the ability to leverage its dominance into other forms of computer software. Microsoft has never been shy about using its market power.

Are we here today really confident that in five years, this settlement will have had any appreciable impact on these facts of life in the computer industry? I am not.

We stand today on the threshold of writing the rules of competition in the digital age. We have two options. One option involves one dominate company controlling the computer desktop facing minor restraints that expire in five years, but acting as a gatekeeper to 95 percent of all personal computer users.

The other mile is the flowering of innovation and new products that resulted from the breakup from the AT&T telephone monopoly nearly 20 years ago. From cell phones to faxes, from long distance price wars to the development of the Internet itself, the end of the telephone monopoly brought an explosion of new technologies and services that benefit millions of consumers every day. We should insist or nothing less in this case.

In sum, any settlement in this case should make the market for computer software as competitive as the market for computer hardware is today. While there is nothing wrong with setting, of course, we should insist on a settlement that has an immediate, substantial and permanent impact on restoring competition in this industry.

I thank our witnesses for testifying today and we look forward to hearing your views.

LEAHY: Thank you.

Senator DeWine? DEWINE: Mr. Chairman, thank you very much for holding this very important hearing concerning the Department of Justice's proposed final judgment in its case against Microsoft.

Mr. Chairman, as we examine this judgment and attempt to imagine what it will mean for the future of competition in this market, we must keep in mind the serious nature of this case. According to the DC Circuit Court, Microsoft did, in fact, violate our antitrust laws. Their behavior hurt the competitive marketplace. This is something that we must keep in mind as we examine the proposed final judgment.

This hearing is particularly important at this time, because federal law does require the District Court to examine the proposed settlement and determine if it is, in fact, in the public interest.

Federal law clearly allows the public to be heard on such matters. I believe that this forum today will further that process of public discussion.

The Court of Appeals in this case, relying on established Supreme Court case law, explained when appropriate remedy in antitrust case, such as this one, must seek to accomplish. It should unfetter the market and anti-competitive conduct, terminate the illegal monopoly and deny the defendant the fruits of its violations.

It's important, Mr. Chairman, that we examine where the proposed decree would, in fact, accomplish these goals. There seems to be a great deal of disagreement about what the competitive impact of the decree will be. While the proposed settlement, correctly, I believe, focuses primarily on the market for middleware, there has been a great deal of concern raised about the mechanism for enforcing such a settlement. Specifically, I think we need to discuss further whether the public interest would be better served with a so-called special master or some sort of administrative mechanism or whether the Justice Department can be more effective in enforcing the decree on its own.

In addition to the Department of Justice's proposed final judgment, we also have the benefit of another remedy's proposal which has been submitted to the court by nine states that did not join with the antitrust division's proposal. I would like to hear from our witnesses about the role they believe this alternative proposal should play in the ongoing Tunney Act proceedings.

As I mentioned early, Mr. Chairman, the Court of Appeals directed that any remedies should seek to deny Microsoft the fruits of its illegal activities. One clear benefit Microsoft derives from its violations was the effective destruction of Netscape as a serious competitor and a decrease in Java's market presence.

It's obviously impossible to go back in time and resurrect the exact market structure that existed, but it is important to discuss how the proposed settlement deals with this problem. I'd also like to note for the record that Microsoft will be represented today by one of their outside counsel, Rick Rule, rather than an actual employee of the company. Mr. Rule is an outstanding antitrust lawyer. He is well qualified to testify on this issue and we certainly look forward to hearing his testimony today.

However, Mr. Chairman, I must say that I am disappointed that Microsoft chose not to send an actual officer of the company because it does not appear to represent, frankly, the fresh start that I think we're all hoping to begin today.

Finally, I would like to thank you, Mr. Chairman, Ranking Member Hatch and Antitrust Subcommittee Chairman Kohl for all of your hard work in putting this hearing together and all of your work on this issue generally, over the last year.

I look forward to the testimony of our witnesses today and the committee's continuing oversight of this very important issue.

LEAHY: Mr. James, there's a vote on the floor. I think there's about two or three minutes left in the roll call vote. We're going to suspend while we go to vote, but I think...

JAMES: I have a really brief statement. Could I make that before you adjourn?

LEAHY: You can.

JAMES: Let me just say that at this hearing and the accompanying media spectacle indicate that Microsoft case is a subject of significant public interest and debate. Some argue that the case itself never should have been filed to begin with. Now, after nearly four years of litigation, Microsoft, the Department of Justice and nine states, have reached a settlement. I just want to commend the parties for their tireless effort and countless hours in reaching the compromise. Settlement is nearly always preferable to litigation and regulation by the market is nearly always better than regulation by litigation or the government, for that matter.

As far as what the public thinks, just this week a nationwide survey indicated U.S. government and Microsoft agreed to settle the antitrust case, however, nine state AGs argued that the antitrust case against Microsoft should continue. Which statement do you agree with?

U.S. economy and consumers would be better off id the issue where we settle as soon as possible, 70 percent; the court should continue to investigate whether Microsoft should be punished for its business activities, 24 percent. Not that the public is always determinative, but I thought that would be an interesting observation to add.

Thank you very much, Mr. Chairman.

LEAHY: I think, Mr. James, I think you'd know from the comments that we're across the board here. Everybody, or the majority of the people favor a settlement, but I must say that I don't think the majority of the people favor any settlement. They favor a good settlement and that's what the questions will be directed at and that's why nine attorneys general have expressed concern. Nine agreed with the settlement, nine disagreed with the settlement.

These are all very good, very talented people.

So, in your testimony when we come back, you've heard a number of the questions that have been raised and we look forward to you responding to them.

We'll stand in recess while we vote.

(RECESS)

LEAHY: Sorry for that.

LEAHY: Mr. James, I should put on for the record, Mr. James has served as the assistant attorney general for the antitrust division since June 2001. He previously served as deputy assistant attorney general for the Antitrust Division for the first Bush administration from 1989 to ''92. He served as acting assistant attorney general for several months in ''92. He was then the head of the antitrust practice of Jones Day Reavis & Pogue in Washington. Not knowing what the Senate schedule might be, Mr. James, we'll put your whole statement in the record, of course. I wonder if you might summarize it, but also with some reference to the charge made in the letter to Senator Hatch and myself by Mr. Barksdale, who said, had this been the ground rules—we never would have been able to get Netscape off the ground had it been the ground rules at the time they began Netscape, they would have never been able to create Netscape. If that is accurate, of course, we've got a real problem.

So, Mr. James, it's all yours.

JAMES:

Thank you,

Senator Leahy and good morning to you and members of the committee. I'm pleased to appear before you today to discuss the proposed settlement of our still pending case against Microsoft Corporation.

With me today are Deborah Majoris (ph), my deputy, and Phil Malone (ph), who has been the lead staff lawyer on the Microsoft case from the very beginning. I note their presence here because they were the ones who responded to the judge's order that we negotiate around the clock and I think they've recovered now.

As you know, on November 2, the department and nine states entered into the proposed settlement. We're in the midst of the Tunney Act period, as you know, and that will end at the end of January at which point the District Court will determine whether the settlement is in the public interest. We think that it is.

I'm somewhat limited in what I can say about the case because of the pendency of the Tunney Act proceeding, but of course, I'm happy to discuss this with the committee for the purpose of public explication.

When thinking about the Microsoft case, from my perspective, it's always important to distinguish between Microsoft, the public spectacle and Microsoft, the actual legal dispute. We look, in particular, to what the department alleged in its complaint and how the court ruled on those allegations.

The antitrust division complaint had four counts: attempted monopolization of browser market in violation of Section II; individual and competitive acts; and a course of conduct to maintain the operating system monopoly in violation of Section II of the Sherman Act; tying it's own browser to the operating system in violation of Section I; and exclusive dealing in violation of Section I.

I would note that a separate monopoly leveraging claim brought by the states was thrown out prior to trial and that the states at one time had alleged in their complaint monopolization of Microsoft Office market and that was eliminated by the states through an amendment.

There was, of course, a trial before Judge Jackson, at the conclusion of which Judge Jackson found for the government on everything but exclusive dealing and ordered Microsoft to be split into a separate operating system and applications businesses after a one year transitional period under interim conduct remedies.

On appeal, however, only the monopoly maintenance claims survived unscathed. The attempt at monopoly claim was dismissed. The time claim was reversed and remanded for further proceedings under a much more rigorous standard and the remedy was vacated with the court ordering remedial hearings before a new judge to address the fact that liability findings had been, in their words, drastically curtailed.

Even the monopoly maintenance claim was cut back in the Court of Appeals decision. The Court of Appeals found for Microsoft on some of the specific practice and rules against the government on the so-called "course of conduct theory" of liability.

I recount all of this history to make two basic points that I think are important as we discuss the settlement.

First, the case, even as initially framed by the Department of Justice, was a fairly narrow challenge. It was never a direct assault on the acquisition of the operating system monopoly itself.

Second, and perhaps much more important, the case that emerged from the Court of Appeals was much narrower, still focusing exclusively on the middleware threat to the operating system monopoly and specific practices, not a course of conduct found to be any competitor. The Court of Appeals decision determines the reality of the case as we found it in the department when I first arrived there in June as you noted. The conduct found to be unlawful by the court was the sole basis of relief.

It's probably worth talking just briefly about the monopoly maintenance claim. The claim alleges that Microsoft engages in various anti-competitive practices, the NT, the development of rival web browsers and Java. These products came to be known as middleware and was thought to pose a threat to the operating system monopoly because they had the potential to become platforms for other software applications.

The court noted that the middleware threat was nascent, that is to say that no one could predict when, if ever, enough applications would be written to middleware for it to significantly displace the operating system monopoly.

A few comments about the settlement itself. In general terms, our settlement has several important points that we think fully and demonstrably remedy the middleware issues that were at the heart of the monopoly maintenance claims.

In particular, are our decree contains a very broad definition of middleware that specifically includes a forms of platform software that have been identified as potential operating system threats today and likely to emerge as operating system threats in the future, in the broadest terms types of contractual restrictions and exclusionary arrangements the Court of Appeals found to be unlawful.

The defense is in those prohibitions where the appropriate nondiscrimination and non-retaliation provisions and it creates an environment which middleware developers can create programs that compete with Microsoft on a function—like function basis to a regime of mandatory API documentation and disclosure.

The most simple terms we believe our remedy will permit is the development and deployment of middleware products without fear of retaliation or economic disadvantage. That is what we believe and what the court found that consumers actually lost through Microsoft's unlawful conduct and that is what we think the consumers will gain through our remedy. With specific reference to what Mr. Barksdale said, if I may. I've not reviewed Mr. Barksdale's letter. I know that in this particular situation with so much at stake in this particular settlement that I've seen lots of hyperbolic statements. I certainly wouldn't necessarily characterize his in that vein without having read it in some detail.

I would note, however...

LEAHY: Mr. James, we're going to give you an opportunity to do that, because I want you to look at it. You can feel free to call it hyperbolic or however, but I would ask that you and your staff look at his letter, which does raise some serious questions and I would like to see what response you have for the record.

JAMES: I will be happy to do so.

And with that, I'd be happy to answer your questions.

LEAHY: Did you have more you wanted to say on the letter before you...

JAMES: No, sir. I'm happy to respond to what you folks want to talk about.

LEAHY: The Department of Justice has been involved in litigation against Microsoft for more than 11 years. I am one of those who had hoped throughout that that the parties might come to some conclusion. I think that it's in the best interest if you can have a fair conclusion; it's the best interests of the consumers, the government, Microsoft, competitors and everybody else.

I have no problem with that, but that presupposes the right kind of settlement. Over the course of those 11 years, the parties entered into one consent decree and that just ended up with a whole lot more litigation over the terms of that consent decree.

I mention that because you take this settlement and its already being criticized by some for the vagueness of its terms and its loopholes. Judge Robert Bork warned that it's and I think I'm quoting him correctly, "likely to guarantee years of additional litigation".

Now, what kind of assurances can you give or what kind of predictions can you give that if this settlement is agreed to by the courts, that we're going to see an end to this litigation, we're going to have to stop this kind of merry go round of Microsoft litigation concerning compliance or even the meanings of the consent decrees. I notice a lot of people in this room on both sides of issue. I have a feeling they are here solely because of their interest in government and not because and not because the meter is running.

A lot of us would like to see this thing end, but why do you feel that this decree, this settlement is so good that it's going to end?

JAMES: Well, Senator, that's certainly a legitimate question and I understand the spirit in which it was asked. One, I think, the facts of life is that one of the reasons we have so many antitrust lawyers and perhaps why there are so many of them in this room, is that firms with substantial market positions very often are the subject of appropriate antitrust scrutiny and so it is with Microsoft and so it should be.

Our settlement here is a settlement that resolves a fairly complex piece of litigation. It, by it's terms, is going to be a complex settlement in as much as it does cover a broad range of activities and has to look into the future prospectively in a manner that benefits consumers. Some of that consumer benefit certainly will come from the development of competing products. Some of that consumer benefit, however, will come from competition from Microsoft as it moves into other middleware products, et cetera.

We think that the terms of the decree are certainly enforceable. I think so much of what has been called a loophole are things that are carve-outs necessary to facilitate pro-competitive behavior and we certainly think that the enforcement power embodied in this decree, I would say an unprecedented level of enforcement power, three tiers of enforcement power, are sufficient to let the Department of Justice...

LEAHY: But keep in mind that usually these kinds of decrees, if it's not specifically laid out, the courts tend to decide the vague questions against the government, not for. Fortune Magazine called it and said even the loopholes have loopholes, a pretty strong statement from a very pro-business magazine.

The settlement limits the types of retaliation Microsoft can take against PC manufacturers that want to carry or promote non-Microsoft software, but some would say that gives a green light to other types of retaliation.

Now, I don't know why doesn't the settlement ban all types of retaliation. It has no—the Court of Appeals, it said twice you commingle the browser and operating system code you violate Section II of the Sherman Act. The proposed settlement contains no prohibit on commingling code. There is no provision barring the commingling of browser code with the operating code.

So, you've got areas where they can retaliate. You don't have the barring of this commingling of code. I mean, are these—Fortune Magazine, Judge Bork and others justified in thinking there are too many loopholes here, notwithstanding the levels of enforcement.

JAMES: Let me take your points in order—first on the subject of retaliation.

Retaliation is a defined term in this decree. It's a term that we are using to define a sort of conduct that Microsoft can engage in when it engages in ordinary commercial transactions. I don't think that there is any scope in the bounds of this case to prohibit Microsoft from engaging in any form of collaborative conduct with anyone in the computer industry. Certainly, the types of collaborative conduct that are permitted, the so-called "loopholes", are the type of conduct that is permitted under standard Supreme Court law embodied in decisions like broadcast music and NCAA, also embodied in the Federal Trade Commission-Department of Justice joint venture guidelines that sanction forms of conduct, so that we think that antitrust lawyers certainly can understand these types of issues and that we think the courts can understand these types of issues.

JAMES: Secondly, with regard to your more particular point about commingling code—it's certainly the case that the Court of Appeals following upon the District Court decision found that Microsoft had engaged in an act of monopolization in that it commingled code for the purpose of preventing the Microsoft browser from being removed from the desktop. That's certainly the finding of the Court of Appeals.

Now, in the process of going through my preparations for this hearing, I went back and looked at the Department of Justice position with regards to this throughout the course of the case and even in the contempt proceeding involving the former (inaudible), it has always and consistently been the Department of Justice's contention that it did not want to force Microsoft to remove code from the operating system. They said that over and over again in every brief that's been filed in this case.

What the Department of Justice wanted was an appropriate as a remove functionality that would give consumers the choice between middleware functionalities. That is exactly the remedy we have here and we think it's an effective remedy.

We've gone beyond that particular aspect of this by including into our decree a specific provision that deals with the question of defaults, in other words, the extent to which a Microsoft middleware—a non-Microsoft middleware product can take over and be (inaudible) both automatically in place of a Microsoft middleware product. That's something that was not in the earlier decree. It's a step beyond what was included in Judge Jackson's order.

We think that we have addressed the product integration aspects of the Microsoft monopoly made in this claim in exactly the terms that the department has always pursued with regard to that particular issue and we're completely satisfied with that aspect of the relief.

LEAHY: Well, I will have a follow up on—as you probably expect that my time is up and I want to yield to Senator DeWine. Actually, I have a follow up on the retaliation also, but I do appreciate your answer.

Senator DeWine?

DEWINE: Thank you, Mr. Chairman.

This case has certainly been very controversial and inspired a great deal of discussion regarding the effectiveness of the antitrust laws, especially within the high tech industry. Netscape, for example, vocally opposed Microsoft during this litigation and many of Netscape's complaints really were validated by the courts. And yet, Netscape ended up losing battle.

This sort of result has led some to question whether our antitrust laws can be effective in this particular industry and I personally believe the antitrust laws are essential to promoting competition within the industry and throughout the country.

But I would like to hear what your views are on this subject. What lessons do you think this case teaches us in regards to that and what do we say to people like Netscape?

JAMES: Well, it's certainly the case that our judicial system very often can provide a crude tool for redressing particular issues quickly. I would note that this particular case was litigated on a very fast track and the people at the Department of Justice ought to be really commended for pushing this case along at even the speed that it's taken, considering the comparable speed of other cases.

I think, however, that the case stands for an important proposition and that is that the Department of Justice is up to meeting the challenge, that it has the tools at its disposal to investigate unlawful conduct, to understand and appreciate the implications of what complex technical matters involve, to bring the resources to bear in order to litigate these cases to a successful conclusion and, where appropriate, to reach a settlement that's in the public interest.

One of the things that I think is an important issue to note here is that there is certainly a time difference between litigating a matter of individual liability and litigating a matter involving compliance with a term of a decree.

We think that the enforcement powers that are involved here are appropriate ones. We think that enforcement by the Department of Justice is the appropriate way to proceed in these matters and we're confident that this provides the sort of best mechanism for dealing with a complex matter in complex circumstances.

DEWINE: One provision of the proposed final judgment requires Microsoft to allow consumers or computer manufacturers to enable access to competing products. However, to qualify for these protections, it must have had a million copies distributed in the United States within the previous year.

This would seem to me to run contrary to traditional antitrust philosophy promoting new competition. Why are these protections limited to larger competitors?

JAMES: I'm actually glad you asked that question, Senator, because that's one of the prevailing, I think, misconceptions of the decree.

The provisions of the decree that require Microsoft to allow a OEM placed middleware product on the desktop apply without regard to whether or not that product has been distributed to 1 million people. That is an absolute requirement.

The million-copy distribution provision relates solely to the question of when Microsoft must undertake these affirmative obligations to create defaults, for example, for a middleware product, to provide other types of assistance to someone who has developed that product. The fact of the matter is that this is something that requires a great deal of work, particularly these complex matters of setting defaults, which is very important to the competitive circumstances here. It would be very difficult to impose upon Microsoft the responsibility for making these alterations to the operating system and making them for every subsequent release of the operating system to be automatic in the case of any software company that shows up and says, "I have a product that competes".

But I want to be very clear here, Senator. Every qualifying middleware product without regard to how many copies its distributed, an OEM can place that product on the desktop immediately without regard to this 1 million threshold. And quite frankly, in today's world, 1 million copies distributed is not a substantial matter. I think in the last year I might have gotten 1 million copies of AOL 5.0 in the mail.

So, I don't think that that's really a very large impediment.

DEWINE: Can I ask one last question?

You've mentioned in a number of provisions the settlement will (inaudible) beyond the four corners of a case. But Microsoft agreed to these conditions anyway. What are they and what is the goal of these provisions?

JAMES: Well, I think one of the most important one is the default provision. As of the time of our original case, these middleware products were fairly simple, operating in a fairly simple way. You went—you clicked onto that product, you evoked that product and then you used it in whatever way was appropriate.

In today's world, software has changed. We see what they call a more "seamless user interface user experience", and it's necessary for people to operate deeply within the operating system on an integrated basis.

There were allegations that Microsoft overrode consumer choice in these default mechanisms in the case. With regard to each and every one of those instances alleged by the Justice Department, the Justice Department lost. The court found that count for Microsoft. Notwithstanding that as a matter of fencing in and improving the nature of this decree, we have included into this issue the subject of defaults.

Another important area, I think, is a question of server interoperability and that's a very, very important issue as we see going forward. If you go back and read the complaint in this case, you will find the word "server" almost virtually never appears. There's no sort of very specific allegations that go to this.

We thought that this was an important alternative platform issue. We thought it was important to stretch for relief in this area and we did so and got, I think, relief that is very effective in preserving this as people go into an environment of more distributive web processing.

So, we think that that's a very powerful thing and I think these are two issues that the Department of Justice would have had a very, very difficult time sustaining in court to the extent that the court was inclined to limit us to the proof that we put forward, so I think these are very positive manifestations of the settlement.

DEWINE: Thank you, Mr. Chairman.

LEAHY: We're checking one—and I mentioned this to Senator Kohl and Senator Sessions and Senator Cantwell (inaudible) been here to answer questions. We're finding out from the floor (inaudible) there may have been a (inaudible). Any senator has a right under Senate rules to object to committees meeting more than two hours after the Senate goes in session. We're on the farm bill and a number of appropriations and other central matters so that I've been told that a senator has objected, as every senator has a right to do, to its continuance. And as a result, the good senator said they want us to, contrary to what is going on in the Senate floor, we have to respect the rules of the Senate. I do, and we're going to have to recess this hearing at this time. I'm going to put into the record the statements of all those who have come here to testify.

Senator Hatch and I will try and find a time we might reconvene this hearing because both Senator Hatch and I feel this is a very important hearing. Statements will be placed in the record. The record will be open for questions that might be submitted.

I apologize to everybody. We did not anticipate this. With 100 senators, every so often somebody exercises that rule. I emphasize, senators have the right to exercise that rule, especially when we're in the last three weeks of the session. I think we're going to break for Christmas Day, but we're in the last three weeks of this session and I think senator (inaudible) wants to make sure senators pay attention to (inaudible).

HATCH: Mr. Chairman?

LEAHY: Senator Hatch, we really technically out of time.

HATCH: Mr. Chairman, we are out of time. Any Senator can invoke a two-hour rule and a senator has done that. Fortunately, I think it was against the finance committee markup today, but we reported out to bill anyway right within the time constraint. That's where I went.

But both Senator Leahy and I apologize to the witnesses who put such an effort in being here today, because this is an important hearing. These are important matters for both sides, to all sides, I should say. There are not just two sides here, and these matters have a great bearing on just how positively impactful the United States is going to be in these areas. So, I hope that we can reconvene within a relatively short period of time and continue this hearing, because it is a very, very important hearing and we apologize to you that this happened.

LEAHY: It's out of our hands, but I would normally recess until tomorrow, but tomorrow we have this time for an executive committee meeting of the Judiciary Committee to do as we've done many times already, to vote out a large number of judges.

So, with that, we stand recessed.

(UNKNOWN): Mr. Chairman, just a matter of procedure. I am troubled by what I understand to be a decision to send this transcript to the court as an official document from Congress in the middle of a litigation that's ongoing. I would think that anybody's statement that they gave could be sent to the court. Any senator can write a letter to the court.

LEAHY: I appreciate—we need to be...

(UNKNOWN): I haven't studied it fully, but as a (inaudible) it troubles me to have a...

LEAHY: That record is open to anybody who wants to send anything in. Senator Hatch and I have made that decision and that will be the decision of the committee.

We stand in recess.

(UNKNOWN): I will be recorded as objecting. END NOTES:

????—Indicates Speaker Unknown

——Indicates could not make out what was being said. off mike—Indicates could not make out what was being said.

PERSON: PATRICK J LEAHY (94%); EDWARD M KENNEDY (72%); JOSEPH R BIDEN (57%); DIANNE FEINSTEIN (56%); RICHARD J DURBIN (55%); HIKE DEWINE (55%); ORRIN G HATCH (54%); STROH THURMOND (54%); JOHN EDWARDS (54%); ARLEN SPECTER (53%); JON L KYL (53%); JEFF SESSIONS (52%); HITCH MCCONNELL (51%); HERB KOHL (50%); RICHARD MICHAEL DEWINE (50%);

ATTACHMENT 7

FRIED FRANK HARRIS SI??RIVER & JACO??SON

Alphabetical Attorney Listing

Attorney D??

Charles F. (Rick) Rule is a partner resident in Fried Frank's Washington, DC and New York offices and head of the firm's antitrust practice. He joined the firm in 2001.

Mr. Rule's practice focuses on providing U.S. and international antitrust advice to a variety, of high-profile corporations. counseling, structuring joint ventures (including business-to- business exchanges) and representing major corporations in connection with investigations by the U.S. Department of Justice, the Federal Trade Commission and the European Commission. Mr. Rule has represented clients such as Eli Lilly & Company, Microsoft Corporation, US Airways Inc., WorldCom, Inc., the National Basketball Association, Goodyear Tire and Rubber Co., and Air Products and Chemicals, Inc. He has also been involved in the antitrust clearance of some of the highest-profile mergers in recent years, including advising NYNEX in its merger with Bell Atlantic (now known as Verizon Communications) and serving as Exxon's lead counsel in its successful merger with Mobil Oil Corporation (now known as ExxonMobil Corporation).

Mr. Rule served as William Baxter's special assistant, in 1982, in the Antitrust Division of the Department of Justice. He served as acting head of the Division for almost half of 1985 and was appointed to the job permanently in late 1986, becoming the youngest person ever to be confirmed to the position of Assistant Attorney General in charge of the Antitrust Division. Mr. Rule continued as the Assistant Attorney General through the remainder of the Reagan Administration and for the first several months of the George Bush, Sr. Administration. He received the Edmund J. Randolph Award from the Department of Justice in 1988. Following his departure from the Justice Department in 1989, Mr. Rule was a partner and head of the antitrust practice at the Washington, DC law firm of Covington & Burling.

Mr. Rule has served as a distinguished adjunct professor of law at American University's Washington College of Law. He was the inaugural chair of the Corporations; Securities and Antitrust Practice Group of the Federalist Society, and, from 1989–91, was chair of the Economics Committee of the ABA Antitrust Section. He is currently a member of the Advisory Board of BNA's Antitrust & Trade Regulation Report and also a member of the advisory boards of the Washington Legal Foundation and the Landmark Legal Foundation.

Mr. Rule is included among the world's leading antitrust lawyers in the Chambers Global 2000–2001 listing. His biography appears in Who's Who in America. Who's Who in the East. Who's Who in American Law and similar publications.

Mr. Rule has written extensively and is a frequent lecturer on a variety, of antitrust and regulatory topics, and he contributes a regular column on antitrust issues to the Daily Deal. (See attached publications list.)

Mr. Rule received his JD in 1981 from the University of Chicago Law School and his BA, summa cure laude, in 1978 from Vanderbilt University. He served as a law clerk for Chief Judge Daniel M. Friedman of the old United States Court of Claims (now the Court of Appeals for the Federal Circuit). He is on the Visiting Committee for the University of Chicago Law School. He is admitted to the bar in the District of Columbia.

ATTACHMENT 8

The New York Times

FRIDAY, NOVEMBER 2, 2001

By STEPHEN LABATON

WASHINGTON, Nov. 1—The 18 states involved in tile government's landmark antitrust lawsuit against Microsoft rebuffed repeated request," today by Microsoft and the Justice Department to join the tentative settlement they reached a day earlier.

Concluding a series of meetings in Washington and cross-country telephone calls, the slate prosecutors instead agreed among themselves to ask the federal judge overseeing tile case for time to examine the details of the proposed deal.

The judge, Colleen Kollar-Kotelly of Federal District Court for the District of Columbia, has ordered the lawyers In the case to appear before her on Friday morning to report progress in the mediation proceedings that she set up five weeks ago.

Today Microsoft and senior Justice Department officials engaged with a mediator in shuttle diplomacy, vigorously pressing the states to adopt the agreement, people involved in the case said.

Under that pressure, leaders of the group struggled to hold together a fragile alliance that was being led from Washington by Tom Miller, the attorney general of Iowa, and Richard Blumenthal, the attorney general of Connecticut. Working from the headquarters here of the National Association of Attorneys General, the two were Joined by lower-level lawyers from * other states, including New York and California.

After a conference call this afternoon, the states agreed to have their newly hired lawyer, Brendan Sullivan, ask the judge for more time to consider tile request. The decision was described as unanimous. Pressing hardest for the delay were representatives from California, Connecticut, Massachusetts, Ohio and Wisconsin, according to one lawyer Involved in the case.

Participants described the state officials as wary of accepting a deal before scrutinizing the text of any proposed consent decree, particularly in light of the history of the case. "The last time I saw a public policy issue as important and difficult as Microsoft decided under impossible time constraints and without a chance for adequate public review was when California passed its electricity deregulation bill," said Bill Lockyer, the California attorney general. "I'm not about to stand by and see that happen again."

It was an inartfully drawn consent decree in 1994 that became the center of the initial lawsuit filed by the Justice Department against Microsoft. In that case, Microsoft was accused of violating the terms of the decree by integrating its Internet Explorer browser software into its Windows operating system. The company replied that it had done nothing improper because the decree did not explicitly constrain it from such integration.

The state prosecutors today faced a difficult legal calculation. Several of them were described as being skeptical of the proposed deal but also uncertain whether they would be able to proceed as a group at odds with the federal government.

A break between the states and the Justice Department would throw the cas?? uncharted and .possibly ?? legal waters. No agreement ca?? effect without the approval of a??ral judge, and it is impossible to predict how Judge Kollar-Kotelly might react to the concerns of the states.

Nor is it certain whether her approval of a settlement would prevent the states from proceeding with their own antitrust lawsuit against Microsoft To approve the proposed deal struck with the Justice Department, Judge Kollar-Kotelly would have to find that it was in the public interest.

Today's developments capped a remarkable week of behind-the scenes negotiations in Washington. For Microsoft, the main negotiator has been Charles F. Rule of Fried, Frank, Harris, Shriver & Jacobson, a former assistant attorney general in charge of antitrust during the Reagan administration, where he got to know a young colleague working on antitrust issues at the Federal Trade Commission named Charles" A. James. Mr. James, the current head of the antitrust division, is leading the federal government's effort to settle the case.

News of the proposed settlement between Microsoft and the Justice Department propelled the company's stock and contributed to a broader rally in the markets. Microsoft shares rose 6.4 percent, or $3.69, to $61.84.

Some of Microsoft's largest competitors voiced bitter disappointment about the terms of the proposed deal and asserted that the company had used its political influence with a Republican administration to try to quickly put an end to the case.

The rivals said that during court hearings that will be "required on the proposed settlement, they intended to provide evidence of what they say was an improper discussion between a senior aide to Attorney General John Ashcroft who had been a top official in the Republican Party and a Republican lobbyist for AOL-Time Warner that demonstrated Microsofts political muscle. In a statement issued today, Representative John Conyers Jr., Democrat of Michigan, also indicated he would be examining that incident, word of which has been circulating widely in recent days among lawyers, lobbyists and executives following the case.

The aide to Mr. Ashcroft, David Israelite, had been the political director of the Republican National Committee, which received hundreds of thousands of dollars from Microsoft during the 2000 presidential campaign. Mr. Israelite, now Mr. Ashcroft's deputy chief of staff, has recused himself from any involvement in the Microsoft antitrust case because he owns 100 shares of Microsoft stock.

The 1obbyist involved in the discussion was said to be Wayne Berman, who is also a top Republican fundraiser.

According to the notes of a person briefed about the conversation on Oct. 9, the day it is said. to have occurred, Mr. Israelite called Mr. Berman.

"Are you guys behind this business of the states hiring their own lawyers in the Microsoft case?" Mr. Israelite asked Mr. Berman in the predawn conversation, according to the notes. "Tell your clients we wouldn't be too happy about that."

Mr. Israelite purportedly told the AOL lobbyist that the Supreme Court would probably deny a Microsoft appeal later in the day, as the court in fact did, clearing the way for the Justice Department to push hard for a settlement with the company. According to people who were later briefed on the conversation by an AOL executive, Mr. Israelite then complained that AOL, a leading Microsoft rival, had been trying to "radicalize" the states to oppose a settlement.

In recent interviews, both Mr. Israelite and Mr. Berman denied that they had had any conversations about the Microsoft case or that they had talked at all that day.

"I find it offensive if someone has suggested that I violated the terms of my recusal, because I'take that very seriously," Mr. Israelite said.

But an AOL executive said he was notified by Mr. Berman about his conversation with Mr. Israelite on Oct. 9, the day it was said to have occurred. Nevertheless, this executive and others at AOL said that upon re-examination of Mr. Berman's initial description of the conversation with Mr. Israelite, the company concluded that the account of the conversation might not have been reliable enough to justify filing an ethics complaint.

But other industry executives and lobbyists said they thought the conversation had occurred and would ask Judge Kollar-Kotelly to order an inquiry. Today Edward J. Black, president of the Computer and Communications Industry Association, a trade group whose members include many of Microsoft's corporate adversaries, said he and other groups would be raising the incident as part of a court proceeding to consider the merits of the settlement.

"Something is very rotten here," Mr. Black stud. "Israelite is a recused official. He holds Microsoft stock. He raised a lot of money from Microsoft. He steered money into critical states that helped win the election. And then he takes action to help facilitate getting Microsoft out of trouble in an enforcement action."

Alter more than three years of litigation, repeated courtroom setbacks and failed settle- ly on whether an appeals court ruling m June was interpreted broadly or narrowly.

Some Legal scholars pointed to the precedents establishing the standard that monopoly remedies should eliminate the monopoly, deny with innovation."

The tentative settlement would prohibit Microsoft from entering into pricing deals and contracts with personal computer makers that effectively force them to favor Microsoft prod-

ATTACHMENT 9

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Secretary of the Senate
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232 HartBuilding
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Washington, DC 20510
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City State/Zip (or Country)
4. Contact Name Will Milligan
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E-mail (optional) wmilligan@bgrdc.com
5. Senate ID # 5357-416
6. House ID # 31564040
7. Client Name Self Microsoft Corporation
TYPE OF REPORT
8. Year 1999 Midyear (January 1-June 30) ?? OR Year End (July I-December 31) ??
9. Check if this filing amends a previously filed version of this report ??
10. Check if this is a Termination Report
Termination Date
11. No Lobbying Activity ??
INCOME OR EXPENSES—Complete Either Line 12 OR Line 13
12. Lobbying Firms
INCOME relating to lobbying activities for this reporting period was: Less than $10,000 $10,000 or more $300,000.00
Income nearest $20,000)

Provide a good faith estimate, rounded to the nearest $20,000 of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).

13. Organizations
EXPENSES relating to lobbying activities for this reporting period were: Less than $10,000
Expenses (nearest $20,000)
14. REPORTING METHOD. Check box to indicate expense accounting method. See instructions for description of options.
Method A. Reporting amounts using LDA definitions only
Method B. Reporting amounts under section 6033C0)(8) of the Internal Revenue Code
Method C. Reporting amounts under section 162(e) of the Internal Revenue Code signature
Date 8/5/99
Printed Name and Title G.O. Griffith, Jr. Managing
Page 1 of 2
Registrant Name: Barbour Griffith & Rogers Client Name: Microsoft Corporation LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
* 15. General issue area code CPI (one per page)
16. Specific Lobbying issues
H.R. 775, Y2K Act,
S.314, Small Business Year 2000 Readiness Act,
In connection with the Justice Department's Antitrust inquiry. 17. House(s) of Congress and Federal agencies contacted ID Check if None
House of Representatives
Senate
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)
New	
Barbour, Haley	No
Griffith, Jr., G.O.	No
Monroe, Loren	No
Rogers, Ed	No
Thompson, Brent	No

19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Printed Name and Title G.O. Griffith, Jr. Managing Partner
Date 8/5/99

ATTACHMENT 10

Clerk of the House of Representatives
Legislative Resource Center
B-106 Cannon Building

Washington, DC 20515
Secretary of the Senate
Office of Public Records
232 Hart Building
Washington, DC 20510
LOBBYING REPORT
Lobbying Disclosure Act of I995 (Section 5)—All Filers Are Required to Complete This Page
1. Registrant Name Barbour Griffith & Rogers
2. Registrant Address
Check if different than previously reported Address
1275 Pennsylvania Avenue, NW Tenth Floor
City Washington state/zip (or Country) DC 20004
3. Principal Place of Business (if different from line 2)
City State/Zip (or Country)
4. Contact Name Evan Rikhye
Telephone 202–333–4936
E-mail (optional)
5. Senate ID # 5357–416
7. Clint Name Self Microsoft Corporation 31564040
TYPE OF REPORT
8. Year 1999 Midyear (January 1–June 30)
9. Check if this filing amends a previously filed version of this report
10. Check if this is a Termination Report Termination Date
OR
Year End (July 1–December 3 I)
11. No Lobbying Activity
INCOME OR EXPENSES—Complete Either Line 12 OR Line 13
12. Lobbying Firms
INCOME relating to lobbying activities for this reporting period was:
Less than $10,000
$10,000 or more $
$320,000.00
Income (nearest 520,000)

Provide a good faith estimate, rounded to the nearest $20,000 of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).

Signature
Printed Name and Title G.O. Griffith, Jr.—Managing Partner
13. Organizations
EXPENSES relating to lobbying activities for this reporting period were:
Less than $10,000
$10,000 or more $
Expenses (nearest $20,000)
14. REPORTING METHOD. Check box to indicate expense accounting method. See instructions for description of options.
Method A. Reporting amounts using LDA definitions only
Method B. Reporting amounts under section 6033(bX8) of
the Internal Revenue Code
Method C. Reporting amounts under section 162(e) of the
Internal Revenue Code
Date 01/13/2000
Registrant Name: Barbour Griffith & Rogers
Client Name: Microsoft Corporation
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code LAW (one per page)
16. Specific Lobbying issues
H.R. 775, Y2K Act,
S.314, Small Business Year 2000 Readiness Act,
In connection with the Justice Department's Antitrust inquiry.
17, House(s) of Congress and Federal agencies contacted
Check if None
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)
New	

19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Printed Name and Title G.O. Griffith, Jo.—Managing Partner
Date 01/13/2000

ATTACHMENT 11

Clerk of the 11ouse of Representatives
Secretary of the* Senate
Legislative Resource Center
Office of Public Records
B–106 Cannon Building
232 Hart Building
Washington, 20515
Washington. DC 20510
LOBBYING REPORT
Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required to Complet??
1. Registrant Name Barbour Griffith & Rogers, Inc.
2. Address
Check if different than previously reported 1275 Pennsylvania Avenuc, NW, Tenth Floor, Washington DC 20004
3. Principal Place of Business (if different form line 2)
/Zip (or Country)
4. Contact Name Evan Rikhye
Telephone 202–333–4936
E-mail (optional)
Client Name Self Microsoft Corporation
5. Senate ID# 5357416
6. House ID #. 31564040
TYPE OF REPORT
8. Year 2000 . Midyear (January 1–June 30) OR Year End (July 1–December 31)
9. Check if this filing amends a previously filed version of this report
10. Check if this is a Termination Report ?? ?? Termination Date
11. No Lobbying Aetivity
INCOME OR EXPENSES—Complete Either Line 12 OR Line 13
12. Lobbying Firms
INCOME; relating to lobbying activities for this reporting period was:
Less than $10,000
$10,000 or more $300,000.00
Income (nearest $20,000)

Provide a good faith estimate, rounded to the nearest $20,000 of all lobbying related income from the client (including all payment to the registrant by any other emily for lobbying activities on behalf of the client).

13. Organizations
EXPENSES relating to lobbying activities for this reporting period were:
Less than $ 10,000
$10,000 or more $
Expenses (nearest $20,000)
14. REPORTING METHOD. Check box to indicate expanse accounting method. Sec instructions for description of options.
Method A. Reporting amounts using LDA definitions only
Method B Reporting amounts under section 6033(b)(81 of the Internal Revenue Code
Method C. Reporting amounts under section 162(c)of the Internal Revenue Code
Signature—
Primed Name and Title G.O. Griffith, Jr.—Chief Operating Officer
Dale 8/12/20(10
Registrant Name: Barbour Graffity & Rogers, Inc.
Client Name: Microsoft Corporation
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. Gelleral issue area code IMM (one per page)
16. Specific Lobbying issues
H.R. 3767, Visa Waiver Permanent Program Act,
17. House(s) of Congress and Federal agencies contacted
Check if None
Ilouse of Representatives
Senate
18. Name cfr each individual who acted a lobbyist in this issue area
Griffith, Jr., G.O.
Rogers, Ed.
Barbour, Ilnley
Monroc, Loren
Thompson, Brent
Covered Official Position (if applicable)
19. Interest of each foreign entity in the specific issues issue on line.. 16 above ??
Check if None
Signature
Printed Name and Title —G.O. Griffith, Jr..-Chief Operating Officer
Date 8/12/2000
Registrant Name: Barbour Griffith & Rogers, Inc.
Client. Name: Microsoft Corporation
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code LAW (one per page)
16. Specific Lobbying issues Monitor The Justice Department's Antitrust inquiry.
17. House(s) of Congress and Federal agencies contacted
Check if None
House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered official Position (if applicable)
New	
Griffith, Jr., G.O.	No
Rogers, Ed	No
Barbour, Haley	No
Monroc, Loren	No
Thompson, Brent	No

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature

Printed Name and Title G.O. Griffith, Jr.—Chief Operating Officer

Date 8/12/2000

Registrant Name: Barbour Griffith & Rogers, Inc.

Client Name: Microsoft Corporation —.

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TRD (one per page)

16. Specific Lobbying issues

H.R. 4444, US. China Trade Relations Act of 2000,

17. House(s) of Congress and Federal agencies contacted .

Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in Otis issue area

Name	Covered Official Position (if applicable)
Griffith, Jr. G.O.	No
Rogers, Ed	No
* Barbour, Haley	No
Thompson, Brent	No

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature

Printed Name and Title G.O. Griffith, Jr.—Chief Operating Officer

Date 8/12/2000

ATTACHMENT 12

Clerk of the House of Representatives

Secretary of the Senate

Legislative Resource Center Office of Public Records

B–106 Cannon Building Washington, DC 20515

232 Hart Building Washington, DC 205 10

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required to Complete This Page

1. Registrant Name Barbour Griffith & Rogers, Inc.

Address 1275 Pennsylvania Avenue, NW, Tenth Floor Washington DC 20004

Check if different than previously reported

Principal Place of Business (if different from line 2)

City State/Zip (or Country)

4. Contact Name Evan Rikhye

Telephone 202–333–4936

E-mail (optional)

5. Senate ID # 5357–416 6. House ID # 31564040

7. Client Name Self Microsoft Corporation

TYPE OF REPORT

8. Year 2000 Midyear(January 1–June30) Year End(July 1–December31)

OR

9. Check if this filing amends a previously flied version of this report

10. Check if this is a Termination Report Termination Date

11. No Lobbying Activity

INCOME OR EXPENSES—Complete Either Line 12 OR Line 13

12. Lobbying Firms

INCOME relating to lobbying activities for this reporting period was:

Less than $10,000

$10,000 or more $ $240,004).00

Income (heart $20.000)

Provide a good faith estimate, rounded to the nearest $20,000 of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).

13. Organizations

EXPENSES relating to lobbying activities for this reporting period were:

Less than $10,000

$10,000 or more $

Expenses (nearest $20,000)

14. REPORTING METHOD. Check box to indicate expense accounting method. See instructions for description of options.

Method A. Reporting amounts using LDA definitions only

Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code

Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature

Date 2/14/2001

Printed Name and Title G.O. Griffith, Jr.—Chief Operating Officer

Registrant Name: Barbour Griffith & Rogers, Inc.

Client Name: Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code LAW (one per page)

16. Specific Lobbying issues Monitor the Justice Department's Antitrust inquiry.

17. House(s) of Congress and Federal agencies contacted

Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)
Griffith, Jr. G.O.	No
Rogers, Ed	No
Barbour, Haley	No
Monroe, Loren	No
Thompson, Brent	No

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if None

Signature

Printed Name and Title G.O. Griffith, Jr.—• Chief Operating Officer

Date 2/14/2001

Registrant Name: Barbour Griffith & Rogers, Inc.

Client Name: Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in Which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TRD (one per page)

16. Specific Lobbying issues

H.R. 4444., US-China Trade Relations Act of 2000,

17. House(s) of Congress and Federal agencies contacted

Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)
New	
Griffith: Jr., G.O.	No
Rogers, Ed	No
Barbour, Haley	No
Thompson, Brent	No

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check None

Signature

Printed Name and Title G.O. Griffith, Jr. -Chief Operating Officer

Date 2/14/2001

Registrant Name: Barbour Griffith & Rogers, Inc.

Client Name: Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TRD (one per page)

16. Specific Lobbying issues

H.R. 4444, US-China Trade Relations Act of 2000,

17. House(s) of Congress and Federal/agencies contacted

Check if None

House of Representatives

Senate
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)
New	
Griffith: Jr., G.O.	No
Rogers, Ed	No
Barbour, Haley	No
Thompson, Brent	No

19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Printed Name and Title G.O. Griffith, Jr.—Chief Operating Officer
Date 2/14/2001

ATTACHMENT 13

Clerk of the House of Representatives
Legislative Resource Center
B–106 Cannon Building
Washington, DC 20515
Secretary of the Senate
Office of Public Records
232 Hart Building
Washington, DC 20510
LOBBYING REPORT
Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required to Complete This Page
1. Registrant Name Barbour Griffith & Rogers, Inc.
2. Registrant Address
Check if different than previously reported Address 1275 Pennsylvania Avenue, NW, Tenth Floor
City Washington State/Zip (or Country) DC 20004
3. Principal Place of Business (if different from line 2)
City State/Zip (or Country)
4. Contact Name Evan Rikbye
Telephone 202–333–4936
E-mail (optional)
5. Senate ID # 5357–416
6. HOUSE ID # 31564040
7. Client Name Self Microsoft Corporation
TYPE OF REPORT
8. Year 2001 Midyear (January 1-June 30) OR Year End (July 1–December 31)
9. Check if this filing amends a previously filed version of this report
10. Check if this is a Termination Report Termination Date No Lobbying Activity
INCOME OR EXPENSES—Complete Either Line 12 Or Line 13
12. Lobbying Firms
13. Organizations INCOME relating to lobbying activities for this reporting
EXPENSES relating to lobbying activities for this reporting

period was:	period were:
Less than $10,000	Less than $10,000
$10,000 or more $ $220,000.99.	$10,000 or more $

Income (nearest $20,000)
Expenses (nearest $20,000)

Provide a good faith estimate, rounded to the nearest METHOD. Check box to indicate expense $20,000 of all lobbying related income from the client Sec instructions for description of options. (including all payments to the registrant by any other entity Reporting amounts using LDA definitions only for lobbying activities on behalf of the client). amounts under section 6033(b)(8) of
14. REPORTING accounting method. Method A. Method B. Reporting the Internal Revenue Code Method C. Reporting amounts under section 162(c) of the Internal Revenue Code
Signature
Date 8/14/2001
Printed Name and Title G.O. Griffith, Jr.—Chief Operating Officer

ATTACHMENT 14

Registrant Name: Barbour Griffith & Rogers, Inc.
Client Name: Microsoft Corporation
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
5. General issue area code LAW (one per page)
16. Specific Lobbying issues
Monitor the Justice Department's Antitrust inquiry.
17. House(s) of Congress and Federal agencies contacted Check if None
House of Representatives
Senate
18. Name of each individual who acted as a lobbyist in this issue area
Name
Barbour, Haley
Griffith, Jr.,
Monroe, Loren
Rogers, Ed
Thompson, Brent
Covered Official Position (if applicable)
New
No
N0
Yes
No
No
19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Printed Name and Title G.O. Griffith, Jr.—Chief Operating Officer
Date. 8/14/2001
SECRETARY OF THE SENATE
CLERK OF THE HOUSE OF REPRESENTATIVES
LOBBYING REPORT
Lobbying Disclosure Act (Section 5)
1. Year 1997
2. Report type (check all that apply) Midyear(January 1–June 30)
Year End(July 1–December 31)
Amended report
Termination report
No activity (registration to remain In effect) ??
REGISTRANT
3. Name of Registrant Clark & Weinstock
4. Telephone number and contact name (212) 953–2550 Contact Anthony Ewing
CLIENT Lobbying firms file separate reports for each client. An organization employing in-house lobbyists indicates "Self."
5. Name of Client Microsoft Corporation
INCOME OR EXPENSES Answer line 6 or line 7 as applicable.
6. LOBBYING FIRMS. Income from the client during the reporting period other than income unrelated to lobbying activities, was:
Less than S10,000
$10,000 or more ??
If $10,000 or more, provide a good faith estimate, rounded to the nearest $20,000, of all income from the client during this reporting period. Include any payments by any other entity for lobbying activities on behalf of the client. Exclude income unrelated to lobbying activities.
Income $, 80,000
Total for year (if Year End report) $ 80, 000
7. ORGANIZATIONS EMPLOYING IN-HOUSE LOBBYISTS. Expenses incurred in connection with lobbying activities during the reporting period were:
Less than $10.000
$10.000 or more

If S 10,000 or more, provide a good faith estimate, rounded to the nearest $20,000, of the total amount of all lobbying expenses incurred by the registrant and its employees during this reporting period.

Expenses $
Total for year (if Year End report) $
Optional Expense Reporting Methods

A. Registrants that report lobbying expenses under section 6033COX8) of the Internal Revenue C may provide a good faith estimate of the applicable amounts that would be required to be disclosed under section 6033COX8) for the semiannual reporting period, and may consider as lobbying activities only those defined under section 4911(d) of the Internal Revenue Code If selecting this method, check box and (i) enter estimated amounts on the "Expenses" line above; or (ii) attach a copy of the IRS Form 990 that includes this reporting period. ??

B. Registrants subject to section 162(e) of the Internal Revenue Code may make* a good faith estimate of all applicable amounts that would not be deductible under section 162(e) for the semiannual reporting period, and may consider as lobbying activities only those activities the costs of which arc not deductible pursuant to section 162(e). If selecting this method, check box and enter estimated amounts on the "Expenses" line above. ??

Clark & Weinstock
Registrant Name
Client Name Microsoft Corporation

LOBBYING ISSUES. On line 8 below, enter me code for one general lobbying issue area In which registrant engaged in lobbying activities for the client during this reporting period (select applicable code from list in the instructions and on the reverse side offers LD-2, page I). For that general issue area only, complete lines 9 through 12. If the registrant engaged in lobbying activities for the client in more than One general issue area use one Lobbying Report Addendum page for each additional general issue

8. General lobbying issue area code (enter one) CPI

9. Specific lobbying issues (include bill numbers and specific executive branch actions) Support for Microsoft's position across a wide range of issues, including intellectual property rights,., taxes, encryption, and other matters * affecting the computer-software industry.

10. Houses of Congress and Federal agencies coasted

U.S. House of Representatives

U.S. Senate

11. Name and title of each employee who acted as a lobbyist

Via Weber, Partner "

Andrew Goldman, Managing Director

Deirdre Stach, Director

Ed Kutler, Managing Director

Kent Knutson, Director

12. For registrants identifying foreign entities in the Lobbying Registration (Form LD-1 line 12) or any updates: Interest of each such foreign entity in the specific lobbying issues listed on line 9 above

This report includes Addendum pages.

Printed Name and Title Harry W. Clark III, Managing Partner

ATTACHMENT 15

MTC–00030631—0817

SECRETARY OF THE SENATE

CLERK OF THE HOUSE OF REPRESENTATIVE LOBBYING REPORT Lobbying Disclosure Act (Section 5)

1. Year 1998

2. Report type (check all that apply) Midyear (January 1–June 30) Year End (July 1–December 31)

Amended report ??

Termination report

No activity (registration to remain in effect) ??

REGISTRANT

3. Name of Registrant Clark & Weinstock Inc.

4. Telephone number and contact name

(212)953–2550

Contact Anthony Ewing

CLIENT Lobbying firms file separate reports for each client. An organization employing in-house 1obbyists indicates "Self."

5. Name of Client Microsoft Corporation

INCOME OR EXPENSES Answer line 6 or line 7 as applicable.

6. LOBBYING FIRMS. Income from the client during the reporting period, other than income unrelated to lobbying activities, was:

Less than $10,000

$10,000 or more

If $10,000 or more, provide a good faith estimate, rounded to the nearest $20,000, of all income from the client during this reporting period. Include any payments by any other entity for lobbying activities on behalf of the cheat Exclude income unrelated to lobbying activities.

Income $ 160. 000

Total for year (if Year End report) $

7. ORGANIZATIONS EMPLOYING IN-HOUSE LOBBYISTS. Expenses incurred in connection with lobbying activities during the reporting period were:

Less than $10,000 ??

$10,000 or more ??

If $10,000 or more, provide a good faith estimate, rounded to the nearest $20,000, of the total amount of all lobbying expenses incurred by the registrant and its employees during this reporting period.

Expenses S

Total for year (if Year End report) $.

Optional Expense Reporting Methods

A. Registrants that report lobbying expenses under section 6033(bX8) of the Internal Revenue Code may provide a good faith esti of the applicable amounts that would be required to be disclosed under section 60330oX8) for the semiannual reporting period, may consider as lobbying activities only those defined under section 491 l(d) of the Internal Revenue Code. If selecting this method, check box and (i) enter estimated amounts on the "Expenses" line above; or (ii) attach a copy of the IRS Form 990 that includes this reporting period. ??

B. Registrants subject to section 162(e) of the Internal Revenue Code may make a good faith estimate of all applicable amounts that would not be deductible under section 162(o) for the semiannual reporting Period, mad may consider as lobbying activities only those activities the costs of which are not deductible pursuant to section 162(e). If selecting this method, check box and e?? estimated amounts on the "Expenses" line above. ??

MTC–00030631—0818

Registrant Name Clark & Weinstock Inc.

Client Name Microsoft Corporation

LOBBYING ISSUES. On line 8 below, eater the coat for one general lobbying area in which the registrant engaged in lobbying activities for the client during this reporting period (select applicable code from list in the instructions and on the reverse side of Form LD-2, page 1.). For that general issue area only, complete lines 9-through 12. If the registrant engaged ha lobbying activities for the client in more than one general issue area, use one Lobbying Report Addendum page for each additional general issue area—

8. General lobbying issue area coda (enter one) , CPI

9. Specific lobbying issues (include bill numbers and specific executive branch actions)

Support of Microsoft's position across a wide range of issues, including intellectual property rights, taxes, encryption, and. other matters affecting the computer software industry;."

(HR3736, S.1723, S.2107)

(HR2368, HR2372, 'HR2991)

10. Houses of Congress and Federal agencies contacted

U.S. House of Representatives

U.S. Senate

11. Name and fide of each employee who acted as a lobbyist

Vin Weber, Partner

Andrew Goldman, Managing Director

Ed Kutler, Managing Director

Deirdre Stach, Director

Kent Knutson, Director

Mimi Simoneaux, Director

12. For registrant identifying foreign entities in the Lobbying Registration (Form LD-I, line 12) or any updates: Interest of each foreign entity in the specific lobbying issues listed on line 9 above

This report includes Addendum pages.

Signture

Printed Name and Title Harry W. Clark, Managing Partner

MTC–00030631—0819

ATTACHMENT 16

MTC–00030631—0820

Clerk or the House of Representatives

Secretary of the Senate ??

Legislative Resource Center

Office of Public Records

B-106 Cannon Building

232 Hart Building ??

Washington, DC 20515

Washington, DC 20510

LOBBYING REPORT //

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This Page

1. Registrant Name

Clark & Wainstock Inc.

2. Address Check if different than previously reported

1775 I Street, NW, Washington, DC 20006

3. Place of Business (if different from line 2)

City: New York

State/Zip (or Country) NY

4. Contact Name

Tel(plume

E-mail (optional)

5. Senate ID

Anthony Ewing

(212) 953–2550

9443–381

6. House ID #

7. Client Name Self

Microsoft Corporation

31608027

TYPE OF REPORT

8. Year 1998 Midyear (January l-June 30) [] OR Year End (July l-December 31)

9. Chk if this filing amends a previously filed version of this report XX

10. Check if this is a Termination Report Termination Date

11. No Lobbying Activity

INCOME OR EXPENSES—Complete Either Line 12 OR Line 13

12. Lobbying Firms

13. Organizations

INCOME relating to lobbying activities for this reporting

EXPENSES relating to lobbying activities for this reporting period was: period were:

Less than $10,000

$10,000 or more

Less than $ 10,000

$10,000 or more $ 220,000

Expenses

(nearest ??20.000)

Income (nearest S20.000☐

14. REPORTING METHOD. Check box to indicate expense accounting method. See instructions for description of options. of all lobbying related income from the client (including all

Provide a good faith estimate, rounded to the nearest $20.000,

Method A. Reporting amounts using LDA definitions only payments to the registrant by any other entity for lobbying activities on behalf of the client).

Method B. Reporting amounts under section

6033(b)(S)of the Internal Revenue Code

Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature

Printed Name and Title

MTC–00030631—0821

Registrant Name Clark & Wainstock Inc.

Client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CPI (one per page)

16. Specific lobbying issues

Support of Microsoft's position across a wide range of issues, including intellectual property rights, taxes, encryption, fast track trade authority, normal trade relations, internet tax freedom, and other matters affecting the computer software industry. (HR. 3736, 2368, 2372, 2991, 695, 947, 1689; S. 2067, 405, 1260, 507, 1723; House/Senate Treasury Appropriations Act of 1999; Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1999; Department of Commerce, Justice and State, The Judiciary and Related Agencies Appropriations for FY 1999)

17 House(s) of Congress and Federal agencies contacted

[] Check if None

Senate

House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)
Ed Kutler	8/95—8/97, Assistant to the Speaker of the House Of Representatives, Rep. Newt Gingrich(R-GA)
Mimi Simoneaux	1/96–1/97, Legislative Asst. for Rep. Billy Tauzin(R-LA) for Rep.
Andrew Goldman	1/97–2/98

Deirdre Stach

Vin Weber

19 Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature

Date

Printed Name and Title

MTC–00030631_0822

Registrant Name Clerk f Weinstock Inc.

Client Name Microsoft Corporation

Information Update Page. Complete ONLY where registration information has changed.

20. Client new address

21. Clienit new principical of business (if different from line 20)

City

State/Zip (or Country)

22. New general description of client's business or activitis

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as alobbyist for the client

Kent Knutson

ISSUE UPDATE

24. General lobbying issues previously reported that no longer pertain

AFFLIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Name

Address

Pricipal Place of Business

(city and state or country)

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

FOREIGN ENTITIES

27 Add the following foreign entities

Name

Address

Principal place of business

Amount of contribute Ownership

(city and since or country)

for lobbying activities

percentage in

client

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the restraint, client e:

affiliated organization

Name and Title Harry W. Clark III, Managing Partner

MTC–00030631—0823

Registrant Name Clark & Weinstock Inc.

Client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested, Attach additional page(s) as needed.

15. General issue area code IMM (one per page)

16. Specific lobbying issues

Support of Microsoft's position across a wide range of issues, including intellectual property rights, taxes, encryption, fast tract trade authority, normal trade relations, internet tax freedom, and other matters affecting the computer software industry. (HR. 3736, 2368, 2372, 2991, 695, 947, 1689; S. 2067, 405, 1260, 507, 1723; House/Senate Treasury Appropriations Act of 1999; Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1999; Department of Commerce, Justice and State, The Judiciary and Related Agencies Appropriations for FY 1999).

17. House(s) of Congress and Federal agencies contacted

Check if None

Senate

House of Representatives

18. Name of each individual who acted as lobbyist in this issue are

Name	Covered Official Position (if applicable)
Ed Kutler	8/95—8/97 Assistant to the Speaker of the House of Representatives, Rep. Newt Gingrich (R–GA)
Mimi Simoneaux	1/96—1/97 Legislative Asst. for Rep. Billy Tauzin (R–LA)
Andrew Goldman Deirdre Stach. Vin Weber.	1/97–2/98

19 Interest of each foreign entity in the specific listed on line 16 above

Check if None

Signature

Date

Printed Name and Title

Registrant Name Clark & Weinstock Inc.

Client Name Microsoft Corporation

Information Update Page—Complete ONLY where registration information has changed.

20 Client new address

21. Client new principal place of business (if different from line 20)

City State/Zip (or Country)

22. New general description of client's business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client

Kent Knutson

ISSUE UPDATE

24. General lobbying issues previously reported that no longer pertain

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Name

Address

Principal Place of

Business

(city end state or country)

26 Name of each previously reported organization that is no longer affiliated with the registrant or client

FOREIGN ENTITIES

27 Add the following foreign entities

Name

Address

Principal place of business

Amount of contribution Ownership

for lobbying activities

percentage

(city and state or country)

client

28 Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the register, client e: affiliated organization

Name and Title: Harry Clark III, Managing Partner

Registrant Name Clark & Weinstock Inc.

Client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TAX (one per page)

16. Specific lobbying issues

Support of Microsoft's position across a wide range of issues, including intellectual property rights, taxes, encryption, fast track trade authority, normal trade relations, internet tax freedom, and other matters affecting the computer software industry. (HR. 3736, 2368, 2372, 2991, 695, 947, 1689; S. 2067, 405, 1260, 507, 1723; House/Senate Treasury Appropriations Act of 1999; Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1999; Department of Commerce, Justice and State, The Judiciary and Related Agencies Appropriations for FY 1999).

17. House(s) of Congress and Federal agencies contacted

Check if None

Senate

House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable
Ed Kutler	8/95–8/97 Assistant to the Speaker of the House Of Representative, Rep. Newt Gingrich (R–GA)
Mimi Simoneaux	1/96–1/97 Legislative Asst. for Rep. Billy Tauzin (R–LA)
Andrew Goldman	1/97–2/98 Legislative Dir. for Rep. Billy tauzin (R–LA)
Deirdre Stach	
.... Vin Weber	

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if

None

Signature

Date

Printed Name and Title

Registrant Name Clark & Weinstock Inc. Client Name Microsoft Corporation

Information Update Page—Complete ONLY where registration Information has changed.

20 Client new address

21. Client new principal place of business (if different from line 20)

State/Zip (or Country)

22. New general description of client's business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for [,he client

Kent Knutson

ISSUE UPDATE

24. General lobbying issues previously reported that no longer pertain

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Name

Address

Principal Place of Business

(city and state or country)

26 Name of each previously reported organization that is no longer affiliated with the registrant

or client

FOREIGN ENTITIES

27. Add the following foreign entities

Name

Address

Principal place of business

Amount of contributio

Ownership

(city and share or country)

for lobbying activities

percentage is

client

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client o: affiliated organization

Name and Title harry

aging: Partner

Registrant Name. Clark & Weinstock Inc.

Client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code

TRD .. (one per page)

16. Specific lobbying issues

Support of Microsoft's position across a Wide range of issues, including intellectual property rights, taxes, encryption, fast track trade authority, normal trade relations, internet tax freedom, and other matters affecting the computer software industry. (HR. 3736, 2368, 2372, 2991, 695, 947, 1689; S. 2067, 405, 1260, 507, 1723; House/Senate Treasury Appropriations act of 1999; Foreign Operations, Exporting Financing, and Related Programs Appropriation Act of 1999; Department of Commerce, Justice and State, The Judiciary and Related Agencies Appropriations for FY 1999).

17. House(s) of Congress and Federal agencies contacted

[2] Check if None

Senate

House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable
Ed Kutler	8/95–8/97 Assistant to the Speaker of the House Of Representative, Rep. Newt Gingrich (R–GA)
Mimi Simoneaux	1/96–1/97 Legislative Asst. for Rep. Billy Tauzin (R–LA)
Tauzin (R–LA)	1/97–2/98 Legislative Dir. for Rep. Billy
Andrew Goldman	
Deirdre Stach	
Vin Weber	

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if None

Signature

Date

Printed Name and Title

Registrant Name Clark & Weinstock Inc.

Client Name Microsoft Corporation

Information Update Page—Complete ONLY where registration information has changed.

20. Client new address

21. Client new principal place of business (if different from line 20)

City

State /Zip (or Country)

22. New general description of client's business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client

Kent Knutson

ISSUE UPDATE

24. General lobbying issues previously reported that no longer pertain

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Name

Address

Principal Place of Business

(city and state or country)

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

FOREIGN ENTITIES

27. Add the following foreign entities

Name

Address
Principal place of business
Amount of contribute: Ownership
(city and since or country)
for lobbying activities
percentage in
client

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client e:

affiliated organization
gnature..
Date
dd Name and Title
Clark III, Managing Partner
..??-2 (Rev. 6/98)

Registrant Name Clark & Weinstock Inc.
Client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested, Attach additional page(s) as needed.

15. General issue area code BUD (.one per page)

16. Specific lobbying issues

Support of Microsoft's position across a wide range of issues, including intellectual property rights, taxes, encryption, fast track trade authority, normal trade relations, internet tax freedom, and other matters affecting the computer software industry. (HR. 3736, 2368, 2372, 2991, 695, 947, 1689; S. 2067, 405, 1260, 507, 1723; House/Senate Treasury Appropriations Act of 1999; Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1999; Department of Commerce, Justice and State, The Judiciary and Related Agencies Appropriations for FY 1999).

17. House(s) of Congress and Federal agencies contacted
?? Check if None
Senate
House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)
Ed Kutler	8/95—8/97
Mimi Simoneaux	1/96—1/97 Legislative Asst. for Rep. Billy Tauzin(R–LA
Andrew Goldman	1/97—2/98 Legislative Dir. for Rep. Billy Tauzin (R–LA)
Deirdre Stach	
Vin Weber	

19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Date
Printed Name and Title
MTC-00030631 0830
Registrant Name Clark & Weinstock Inc.
Client Naméo Microsoft Corporation

Information Update Page—Complete ONLY where registration information has changed.

20. Client new address

21. Client new principal place of business (if different from Line 20)
City
State/Zip (or Country)

22. New general description of client's business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client
Kent Knutson

ISSUE UPDATE

24. General lobbying issues previously reported that no longer pertain

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)
Name
Address
Principal Place of Business
(city end state or country)

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

FOREIGN ENTITIES

27 Add the following foreign entities
Name
Address
Principal place of business
Amount of contributio?? Ownership
(city and state or country) for lobbying activities percentage i??
client

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the register, client e: affiliated organization

ed Name and Title Harry
Clark III, Managing Partner
0–2 (Rev. 6/98)

ATTACHMENT 17

MTC-00030631 0832
RECEIVED
??ATIVE.??
99 AUG 11 AM 10:51

Clerk of the House of Representatives Secretary of the Senate Legislative Resource Center

Office of Public Records, B-106 Cannon Building, 232 Hart Building, Washington. DC 20515 Washington. DC 20510

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This Page

1. Registrant Name
Clark & Weinstock

2. Address Check if different than previously reported
1775 I Street, NW Suite 700, Washington, DC 20006

3. Principal Place of Business (if different from line 2)
City: New York
State/Zip (or Country) NY 10017

4. Contact Name
Telephone
E-mail (optional)

5. Senate D #
Cheryl Faunce (202) 261–4005
cfaunce@cwd.com 9443—381

7. Client Name Microsoft Corp "316–98027

TYPE OF REPORT

8. Year 1999 Midyear (January 1–June 30) ?? OR Year End (July I-December 31)

9. Check if this filing amends a previously filed version of this report

Check if this is a Termination Report ?? ?? Termination Date.

11. No
Lobbying Activity ??

INCOME OR EXPENSES—Complete Either Line 12 OR Line 13.

12. Lobbying Firms

13. Organizations

INCOME relating to lobbying activities for this reporting

EXPENSES relating to lobbying activities for this reporting period was: period were: Less than $10,000 [] Less than $10,000

$10,000 or more ?? ?? $
$10,000 or more ?? ?? $ 220,000.00 Expenses (nearest $20,000)
Income (nearest $20,000)

14. REPORTING METHOD. Check box to indicate expense

Provide a good faith estimate, rounded to the nearest $20,000, accounting method. See instructions for description of options. of all lobbying related income from the client (including all

Method A. Reporting amounts using LDA definitions only payments to the registrant by any other entity for lobbying activities on behalf of the client).

Method B. Reporting amounts under section 6033(b)(8)of the Internal Revenue Code

Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature
Printed Name and Title Vic Fazio—Partner
??-2 (REV, 6/98)
MTC-00030631 0833
Registrant Name Clark &—Weinstock
Client Name Microsoft Corp.

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code. provide information as requested. Attach additional page(s) as needed.

15. General issue area code BUD (one per page)

16. Specific lobbying issues

H.R. 2490, Treasury and General Government Appropriations Act, 2000,

H.R 2606, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000, H.R. 850, Security And Freedom through Encryption (SAFE) Act,

S. 1217, Departments of Commerce, State, and Justice, the Judiciary and Related Agencies Appropriations Act, 2000.

S. 1234, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000,

S. 1282, Treasury and General Government Appropriations Act, 2000,

Support of Microsoft's position across a wide range of issues, including intellectual property rights, taxes, encryption, fast track trade authority, normal trade relations, Internet tax freedom, and other matters affecting the computer software Industry.

17. House(z) of Congress and Federal agencies contacted
Check if None
House of Representatives
Senate
White House
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable) New
Bainwol Mitch	Ch of Staff, Sen. Mack
Goldman, Andrew	Ch of Staff, Sen. Rep. Conf
Kutler, Ed	Asst. to the Speaker, U.S. House
Simoneaux	Dir of Rep. Tauzin
Stach, Deirdre	
Stuart, Sandi	Asst. Sec. of Defense (DOD)
Weber, Vin	
Fazio, Vic (Exec. Branch Only).	Member, U.S. House of Reps.

19. Interest of each foreign entity in the specific issues listed on fine 16 above
Check if None
Signature
Date 8/9/99
Printed Name and Title for vic Fazio—partner
MTC–00030631—0834
Registrant Name Clark & Weinstock
Client Name Microsoft Corp.
LOBBYING ACTIVITY. Select as many code as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code. provide information as requested. Attach additional page(z) as needed.
15. General issue area code CPI (one per page)
16. Specific lobbying issues

H.R. 2490, Treasury and General Government Appropriations Act—2000,

H.R. 2606, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000,

H.R. S50, Security And Freedom through Encryption (SAFE) Act,

S. 1217, Departments of Commerce, State, and Justice, the Judiciary and Related Agencies Appropriations Act, 2000,

S. 1234, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000,

S. 1282, Treasury and General Government Appropriations Act, 2000,

Support of Microsoft's position across a wide range of issues, including intellectual property rights, taxes, encryption, fast track trade authority, normal trade relations, internet tax freedom, and other matters affecting the computer software industry;

17. House(s) of Congress and Federal agencies contacted House of Representatives
?? Check if None
Senate
White House
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable) New
Bainwol, Mitch	Ch of Staff, Sen. Mack
Goldman, Andrew	Ch of Staff, Sen. Rep. Conf
Kutler, Ed	Asst. to the Speaker, U.S. House
Simoneaux Mimi	Leg Dir for Rep. Tauzin
Stach, Deirdre	
Stuart, Saudi	Asst. Sec. of Defense (DOD)
Weber, Vin	
Fazio, Vic (Exec. Branch Only).	Member, U.S. House of Reps

19. Interest of each foreign entity in the specific issues listed on line 16 above
?? Check if None
Signature
Date 8/9/99
Printed Name and Title Vic Fazio—partner
MTC–00030631 0835
Registrant Name Clark g Weinstock
Client Name Microsoft CORP.
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code TAX (one per page)
16. Specific lobbying issues

H.R. 2490, Treasury and General Government Appropriations Act, 2000,

H.R. 2606, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000,

H.R. 850, Security And Freedom through Encryption (SAFE) Act,

S. 1217, Departments of Commerce, State, and Justice,.the Judiciary and Related Agencies Appropriations Act, 2000,

S. 1234, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000,

S. 1282, Treasury and General Government Appropriations Act, 2000,

Support of Microsoft's position across a wide range of issues, including intellectual property rights, taxes, encryption, fast track trade authority, normal trade relations, Internet tax freedom, and other matters affecting the computer software Industry.

17. House(s) of Congress and Federal agencies contacted
Check if None
House of Representatives
Senate
White House
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable) New
Bainwol Mitch	Ch of Staff, Sen. Mack
Goldman, Andrew	Ch of Staff, Sen. Rep. Conf

Name	Covered Official Position (if applicable) New
Kutler, Ed	Asst. to the Speaker, U.S. House of Reps.
Simoneaux, Mimi	Dir for Rep Tauzin
Stach, Deirdre	
Stuart, Sandi	Asst. Sec. of Defense (DOD)
Weber, Vin	
Fazio, Vic (Exec. Branch Only).	Member, U.S. House of Reps.

19. Interest of each foreign entity in the specific issues listed on fine 16 above

Check if None

Signature

Date 8/9/99

Printed Name and Title Vic Fazio—Partner

Registrant Name Clark & Weinstock

Client Name Microsoft Corp.

LOBBYING ACTIVITY. Select as many code as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code. provide information as requested. Attach additional page(z) as needed.

15. General issue area code CPI (one per page)

16. Specific lobbying issues

H.R. 2490, Treasury and General Government Appropriations Act, 2000,

H.R. 2606, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000,

H.R.S50, Security And Freedom through Encryption (SAFE) Act,

S. 1217, Departments of Commerce, State, and Justice, the Judiciary and Related Agencies Appropriations Act, 2000,

S. 1234, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000,

S. 1282, Treasury and General Government Appropriations Act, 2000,

Support of Microsoft's position across a wide range of issues, including intellectual property rights, taxes, encryption, fast track trade authority, normal trade relations, internet tax freedom, and other matters affecting the computer software industry:.

17. House(s) of Congress and Federal agencies contacted

Check if None

House of Representatives

Senate

White House

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable) New
Bainwol, Mitch	Ch of Staff, Sen. Mack
Goldman, Andrew	Ch of Staff, Sen. Rep. Conf
Kutler, Ed	Asst. to the Speaker, U.S. House of Reps,
Simoneaux, Mimi	Leg Dir for Rep Tauzin
Stach, Deirdre	
Stuart, Saudi	Asst. Sec. of Defense (DOD)
Weber, Vin	
Fazio, Vic (Exec. Branch Only).	Member, U.S. House of Reps

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if None

Signature

Date 8/9/99

Printed Name and Title Vic Fazio—Partner

Registrant Name Clark g Weinstock Client Name Microsoft CORP.

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TAX (one per page)

16. Specific lobbying issues

H.R. 2490, Treasury and General Government Appropriations Act, 2000,

H.R. 2606, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000,

H.R. 850, Security And Freedom through Encryption (SAFE) Act,

S. 1217, Departments of Commerce, State, and Justice, the Judiciary and Related Agencies Appropriations Act, 2000,

S. 1234, Foreign Operations, Expert Financing, and Related Programs Appropriations Act, 2000,

S. 1282, Treasury and General Government Appropriations Act, 2000, Support of Microsoft's position across a wide range of issues, including intellectual property rights, taxes, encryption, fast track trade authority, normal trade relations, interact tax freedom, and other matters affecting the computer software Industry.

17. House(s) of Congress and Federal agencies contacted

Check if None

House of Representatives

Senate

White House

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable) New
Bainwol, Mitch	Ch of Staff, Sen. Mack
Goldman, Andrew	Ch of Staff, Sen. Rep. Conf
Kutler, Ed	Asst. to the Speaker, U.S. House of Reps.,
Simoneaux, Mimi	Leg Dir for Rep Tauzin
Stach, Deirdre	
Stuart, Sandi	Asst. Sec. of Defense (DOD)
Weber, Vin	
Weber, Vin	
Fazio, Vic (Exec. Branch Only).	Member, U.S. House of Reps.

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if None

Signature
Date 8/9/99
Printed Name and Title Vic Fazio—Partner
Registrant Name Clark & Weinstock Client Name Microsoft Corp,
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code TMM (one per page)
16. Specific lobbying issues

H.R. 2490, Treasury and General Government Appropriations Act, 2000,

H.R. 2606, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000,

H.R. 850, Security And Freedom through Encryption (SAFE) Act,

S. 1217, Departments of Commerce, State, and Justice, the Judiciary and Related Agencies Appropriations Act, 2000,

S. 1234, Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000,

S. 1282, Treasury and General Government Appropriations Act, 2000, Support of Microsoft's position across a wide range of issues, including intellectual properly rights, taxes, encryption, fast track trade authority, normal trade relations, internet tax freedom, and other matters affecting the computer software industry.

17. House(s) of Congress and Federal agencies contacted ?? Check if None
House of Representatives
Senate
White House
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable) New
Bainwol, Mitch	Ch of Staff, Sen. Mack
Goldman, Andrew	Ch of Staff, Sen. Rep. Conf
Kutler, Ed	Asst. to the Speaker, U.S. House of Reps
Simoneaux, Mimi	Leg Dir for Rep Tauzin
Stach, Deirdre	
Stuart, Sandi	Asst. Sec. of Defense (DOD)
Weber Vin	
Weber, Vin	
Fazio, Vic (Exec. Branch Only).	Member, U.S. House of Reps.

19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature Date 8/9/99
Printed Name and Title Vic Fazio—Partner
ATTACHMENT 18
Legislative Re-source Center
Office of Public Records
B-106 Cannon Building 232 Hart Building
Washington. DC 20515 Washington, DC 20510
LOBBYING REPORT
Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required to Complete This Page??
1. Registrant Name Clark & Weinstock
2. Address ?? Check if different than previously reported
1775 1 Street NW, Ste 700 Washington, DC 20006
3. Principal Place of Business (if different from line 2)
City of New York, State/Zip (or Country)
City of New, State/Zip (or Country) NY 10017
4. Contact Name Lisa Simpson Microsoft Corp
Telephone 202–261–4025 316–98027
E-mail (optional) lisa@cwdc.com
5. Senate ID # 9443.381
"YPE OF REPORT 8. Year 2000 Midyear(January l-June30) ?? OR Year End(July l-December31) ??
Check if this filing amends a previously flied version of this report ??
10. Check if this is a Termination Report ?? >> Termination Date 11. No Lobbying Activity
INCOME OR EXPENSES—Complete Either Line 12 OR Line 13
12. Lobbying Firms 13, Organizations
INCOME relating to lobbying activities for this reporting
EXPENSES relating to lobbying activities for this reporting period was: Less than $10,000 ?? period were: Less than $10,000 ??
$10,000 or more ?? >>$
$280,000.00
$10,000 or more 7'1 >>$
Income (nearest S20.000)
Expenses (nearest S20,000)
REPORTING METHOD. Check box to indicate expense
Provide a good faith estimate, rounded to the nearest accounting method. See instructions for description of options.
$20,000 of all lobbying related income from the client (including all payments to the registrant by any other entity
?? Method A. Reporting mounts using LDA definitions only for lobbying activities on behalf of the client).
?? Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code
?? Method C. Reporting amounts under section 162(e) of the Internal Revenue Code
Signature
Date 8/11/2000
Dated Name and Title Vin Weber-Partner
MTC–00030631—0840
Registrant Name: Clark & Weinstock
Client Name: Microsoft Corp
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying On behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code CPI (one per page)
16. Specific Lobbying issues See attached page.
17. House(s) of Congress and Federal agencies contacted
Check if None
House of Representatives
Senate
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Kutler, Ed	No.	
Simoneaux, Mimi	No.	
Stach, Deirdre		No
Weber, Vin		No
Fazio, Vic Member,	U.S. House of Representatives	No
Stuart, Sandi	Asst. Sec. of Defense, Legislative Branch Only	No

19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Date 8/11/2000
Printed Name and Title Vin Weber- Partner

Page 2 of 7
MTC–00030631—0841
Registrant Name: Clark & Weinstock
Client Name: Microsoft Corp
Description Data
16 Lobbying Issues

Lobbied the following legislation dealing with digital signatures:

* H.R. 1572, To require the adoption and utilization of digital signatures by Federal agencies and to encourage the use of digital signatures in private sector electronic transactions.

* H.R. 1685, To provide for the recognition of electronic signatures for the conduct of interstate and foreign commerce, to restrict the transmission of certain electronic mail advertisements, to authorize the Federal Trade Commission to prescribe rules to protect the privacy of users of commercial Internet websites, to promote the rapid deployment of broadband Internet services, and for other purposes.

* H.R. 1714, To facilitate the use of electronic records and signatures in interstate or foreign commerce.

Educated members of Congress regarding Microsoft's position on instant messaging.

Educated members of Congress regarding various Internet privacy issues, Lobbied the following legislation dealing with clarifying hyperlinks to the Internet:

* S. 247, A bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

* H.R. 768, To amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

* H.R. 1027, To provide for the carriage by satellite carriers of local broadcast station signals, and for other purposes.

* H.R. 1554, To amend the provisions of title 17, United States Code, and the Communications Act of I934, relating to copyright licensing and carriage of broadcast signals by satellite. Page 3 of 7

MTC–00030631—0842
Registrant Name: Clark & Weinstock
Client Name: Microsoft Corp

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant ??ngaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code GOV (one per page)

16. Specific Lobbying issues Informed members of Congress regarding Microsoft's position on the Department of Justice's antitrust suit.

17. House(s) of Congress and Federal agencies contacted ?? Check if None House of Representatives Senate

8. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Kutler, Ed		No
Simoneaux, Mimi		No
Stach, Deirdre		No
Weber, Vin		No
Fazio, Vic	Member, U.S. House of Representatives	No
Stuart,	Sandi Asst. Sec. of Defense, Legislative Branch Only	No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None ??ignature Date 8/11/2000
??tinted Name and Title Vin Weber-Partner
MTC–00030631—0843
Registrant Name: Clark & Weinstock
Client Name: Microsoft Corp

??OBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant ??gaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code IMM (one per page)

16. Specific Lobbying issues Lobbied the following legislation dealing with H1-B visas:

* S. 1563, A bill to establish the Immigration Affairs Agency within the Department of Justice, and for other purposes.

* H.R. 2687, To amend the Immigration and Nationality Act to establish a 5-year pilot program under which certain aliens completing a postsecondary degree in mathematics, science, engineering, or computer science are permitted to change nonimmigrant classification in order to remain in the United States for a 5.year period for the purpose of working in one of those fields.

* H.R. 3983, To amend the Immigration and Nationality Act to promote a fairer and more efficient means for using highly skilled workers, to improve the collection and use of H-1B nonimmingrant fees, and for other purposes.

17.

House(s) of Congress and Federal agencies Contacted
?? Check if None
House of Representatives
Senate

Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Kutler, Ed		No
Simoneaux, Mimi		No
Stach, Deirdre		No
Weber, Vin		No
Fazio, Vic	Member, U.S. House of Representatives	No
Stuart,	Sandi Asst. Sec. of Defense, Legislative Branch Only	No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None
??gnature
Date 8/11/2000
??rated Name and Title Vin Weber- Partner
Page 5 of 7
MTC–00030631—0844
Registrant Name: Clark & Weinstock
Client Name: Microsoft Corp

??OBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant ??gaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TRD (one per page)

16. Specific Lobbying issues

Lobbied the following legislation dealing with Permanent Normal Trade Relations (PNTR) with China:

* H.J. Res. 57, Disapproving the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the People's Republic of China.

* S. 2115, A bill to ensure adequate monitoring of the commitments made by the People's Republic of China in its accession to the World Trade Organization and to create

new procedures to ensure compliance with those commitments.

17. House(s) of Congress and Federal agencies contacted

?? Check if None

House of Representatives

Senate

Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Kutler, Ed		No
Simoneaux, Mimi		No
Stach, Deirdre		No
Weber, Vin		No
Fazio, Vic	Member, U.S. House of Representatives	No
Stuart,	Sandi Asst. Sec. of Defense, Legislative Branch Only	No

??Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None ??nature

Date 8/11/2000

??nted Name and Title Vin Weber- Partner Page 6 of 7

Registrant Name: Clark & Weinstock

Client Name: Microsoft Corp

??formation Update Page , Complete ONLY where registration information has changed.

20. Client new address

21. Client new principal place of business (if different from line 20)

City State/Zip (or Country)

22. New general description of client's business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client

Bainwol, Mitch

ISSUE UPDATE

24. General lobbying issues previously reported that no longer pertain

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Principal Place of Business

Name

Address (city and state or country)

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

FOREIGN ENTITIES

27. Add the following foreign entities

Principal Place of Business

Amount of contribution for lobbying activities

Ownership % in client

Name

Address (city and state or country)

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client, or affiliated organization

??gnature

Date 8/11/2000

??nted Name and Title Vin Weber- Partner Page 7 of 7

ATTACHMENT 19

01 Fed-9 PM 2:46

Clerk of the House of Representatives, Legislative Resource Center, B-106 Cannon Building, Washington, DC 20515

Secretary of the Senate??, Office of Public Records?? 232 Hart Building?? Washington, DC 20510

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required to Complete This Page

1. Registrant Name

Clark & Weinstock 2. Registrant Address

?? Check if different than previously reported

Address 1775 I Street NW, Ste 700

city Washington, Staler/Zip (or Country) DC 20006

3. Principal Place of Business (if different from line 2) City New York, State/Zip (or Country) NY 10017

4. Contact Name Telephone E-mail (optional) 5. Senate ID #

Lisa Simpson 202–261–4025 lisa@cwdc.com 9443–381

7. Client Name ?? Self

Microsoft Corp316–98027

TYPE OF REPORT 8. year 2000 Midyear (January 1-June 30) ?? OR Year End (July 1-December 31)

Check if this filing amends a previously filed version of this report ??

?? Check if this is a Termination Report ?? >> Termination Date 11. No Lobbying Activity 71

INCOME OR EXPENSES-Complete Either Line 12 OR Line 13

12. Lobbying Firms

13. Organizations

INCOME relating to lobbying activities for this reporting

EXPENSES relating to lobbying activities for this reporting period was: period were:

Less than $10,000 ?? Less than $10,000 ??

$10,000 or more ?? >> $ $280,000.00

$10,000 or more ?? >> $

Income (nearest $20,000) Expenses (nearest $20,000)

14. REPORTING METHOD. Check box to indicate expense Provide a good faith estimate, rounded to the nearest accounting method. See instructions for description of options. $20,000 of all lobbying related income from the client (including all payments to the registrant by any other entity

?? Method A. Reporting amounts using LDA definitions only for lobbying activities on behalf of the client). ?? Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code

?? Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature

Date 2/9/01

??Name and Title Vin Weber-Partner Page 1 of 7

Registrant Name: Clark & Weinstock

Client Name: Microsoft Corp

??OBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant ??gaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide iformation as requested. Attach additional page(s) as needed.

15. General issue area code CPI (one per page)

16. Specific Lobbying issues See attached page,

17. House(s) of Congress and Federal agencies contacted ?? Check if None House of Representatives Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Fazio, Vic	Members, U.S. House of Represenatives	No
Kutler, Ed		No
Simoneaux, Mimi		No
Stach, Deirdre		No
Stuart, Sandi	Asst. Sec. of Defense, Legislative Branch	No
Urban, Anne	Legislative Director, Sen. Robert Kerry	Yes
Weber, Vin		No

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature Date 2/9/01

Printed Name and Title Vin Weber- Partner Page 2 of 7

Registrant Name: Clark & Weinstock
Client Name: Microsoft Corp
Item Description Data
Lobbying Issues Lobbied the following legislation dealing with digital signatures:

* H.R. 1572, To require the adoption and utilization of digital signatures by Federal agencies and to encourage the use of digital signatures in private sector electronic transactions.

* H.R. 1685, To provide for the recognition of electronic signatures for the conduct of interstate and foreign commerce, to restrict the t miss on of certain electronic mail advertisements, to authorize the Federal Trade Commission to prescribe rules to protect the privacy of users of commercial Internet websites, to promote the rapid deployment of broadband Internet services, and for other purposes.

* H.R. I714, To facilitate the use of electronic records and signatures in interstate or foreign commerce.

Educated members of Congress regarding Microsoft's position on instant messaging.
Educated members of Congress regarding various Internet privacy issues.
Lobbied the following legislation dealing with clarifying hyperlinks to the Internet:

* S. 247, A bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

* H.R. 768, To amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

* H.R. 1027, To provide for the carriage by satellite carriers of local broadcast station signals, and for other purposes.

* HR. 1554, To amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite.

Educated members of Congress on the competition In the software market. Page 3 of 7

Registrant Name: Clark & Weinstock Client Name: Microsoft Corp

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed. 15. General issue area code GOV (one per page)

16. Specific Lobbying issues

Informed members of Congress regarding Microsoft's position on the Department of Justice's antitrust suit.

17. House(s) of Congress and Federal agencies contacted ?? Check if None House of Representatives Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Fazio, Vic Member,	U.S. House of Representatives	No
Kutler, Ed		No
Simoneaux, Mimi		No
Stach, Deirdre		No
Stuart, Sandi	Asst. Sec. of Defense, Legislative Branch Only	No
Urban, Anne	Legislative Director, Sen. Robert Kerrey	Yes
Weber, Vin		No

9. Interest of each foreign entity in the specific issues listed on line 16 above ?? Check if
None
Signature
Date 2/9/01
Printed Name and Title Vin Weber—Partner Page 4 of 7
Registrant Name: Clark & Weinstock
Client Name: Microsoft Corp

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant ??engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide iformation as requested. Attach additional page(s) as needed.

15. General issue area code IMM (one per page)

16. Specific Lobbying issues

Lobbied the following legislation dealing with H1-B visas:

* S. 1563, A bill to establish the Immigration Affairs Agency within the Department of Justice, and for other purposes.

* H.R. 2687, To amend the Immigration and Nationality Act to establish a 5-year pilot program under which certain aliens completing a postsecondary degree in mathematics, science, engineering, or computer science are permitted to change nonimmigrant classification in order to remain in the United States for a 5-year period for the
purpose of working in one of those fields.

* H.R. 3983, To amend the Immigration and Nationality Act to promote a fairer and more efficient means for using highly skilled workers, to improve the collection and use of H-1B nonimmigrant fees, and for other purposes.

17. House(s) of Congress and Federal agencies contacted

?? Check if None House of Representatives Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Fazio, Vic Member,	U.S. House of Representatives	No
Kutler,		Ed No
Simoneaux, Mimi		No
Stach, Deirdre		No
Stuart, Sandi	Asst. Sec. of Defense, Legislative Branch Only	No
Urban, Anne	Legislative Director, Sen. Robert Kerrey	Yes
Weber, Vin		No

19. Interest of each foreign entity in the specific issues listed on line 16 above ?? Check if None
Signature Date 2/9/01
Printed Name and Title Vin Weber- Partner Page 5 of 7
Registrant Name: Clark & Weinstock
Client Name: Microsoft Corp

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant ngaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide formation as requested. Attach additional page(s) as needed.

15. General issue area code TRD (one per page)

16. Specific Lobbying issues

Lobbied the following legislation dealing with Permanent Normal Trade Relations (PNTR) with China:

* H.J. Res. 57, Disapproving the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of the People's Republic of China.

* S. 2115, A bill to ensure adequate monitoring of the commitments made by the People's Republic of China in its accession to the World Trade Organization and to create new procedures to ensure compliance with those commitments.

17. House(s) of Congress and Federal agencies contacted ?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Fazio, Vic Member,	U.S. House of Representatives	No
Kutler, Ed		No
Simoneaux, Mimi		No
Simpson, Lisa		No
Stach, Deirdre		No
Urban, Anne	Legislative Director, Sen. Robert Kerrey	Yes
Weber, Vin		No

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if

None

Signature Date 2/9/01

??inted Name and Title Vin Weber—Partner

Registrant Name: Clark & Weinstock

Client Name: Microsoft Corp

Information Update Page—Complete ONLY where registration information has changed.

20. Client new address

21. Client new principal place of business (if different from line 20) City State/Zip (or Country)

22. New general description of client's business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client

Simoneaux, Mimi

ISSUE UPDATE

24. General lobbying issues previously reported that no longer pertain

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s) Principal Place of Business Name Address (city and state or country)

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

FOREIGN ENTITIES

27. Add the following foreign entities

Principal Place of Business (city and state or country)

Amount of contribution for lobbying activities

Ownership% Name Address in client

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client, or affiliated organization

Signature

Date 2/9/01

Printed Name and Title Vin Weber—Partner

ATTACHMENT 20

Clerk of the House of Representatives Legislative Resource Center, B-106 Cannon Building, CENTER, Washington, DC 20515

Secretary of the Senate, Office of Public Records, 232 Hart Building LEGISLATIVE-RESOURCE Washington, DC 20510

??2001 AUG 13 AM 11:48

LOBBYING REPORT ??

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required to Complete This Page

1. Registrant Name

Clark & Weinstock

2. Registrant Address

Check if different than previously reported

Address 1775 I Street NW, Ste 700

City Washington, Sate/Zip (or Country) DC 20006

3. Principal Place of Business (if different from line 2)

City New York, State/Zip (or Count) NY 10017

Contact Name Lisa Simpson Telephone 202–261–4025 E-mail (optional) lisa@cwdc.com 5. Senate ID # 9443–381

7. Client Name Microsoft Corp ?? ?? Self 6 House ID #

TYPE OF REPORT 8. Year 2001

Midyear (January 1-June 30) ?? OR Year End (July 1-December 31) ??

9. Check if this filing amends a previously filed version Of this report ??

10. Check if this is a Termination Report ?? >> Termination Date 11. No Lobbying Activity ??

INCOME OR EXPENSES—Complete Either Line 12 OR Line 13

12. Lobbying Firms

113. Organizations

INCOME relating to lobbying activities for this reporting

EXPENSES relating to lobbying activities for this reporting period was: period were: Less than $10,000 ?? Less than $10,000 ??

$10,000 or more ?? >>$ $240,000.00 $10,000 or more ?? >>$

Income (nearest $20.000)

Expenses (nearest $20.000)

14. REPORTING METHOD. Check box to indicate expense

Provide a good faith estimate, rounded to the nearest accounting method. See instructions for description of options.

$20,000 of all lobbying related income from the client (including all payments to the registrant by any other entity

?? Method A. Reporting amounts using LDA definitions only for lobbying activities on behalf of the client).

?? Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code

?? Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature Date 8/9/01

Printed Name and Title Vin Weber—Partner Page 1 of 9

Registrant Name: Clark & Weinstock

Client Name: Microsoft Corp

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CPI (one per page)

16. Specific Lobbying issues

See attached page.

17. House(s) of Congress and Federal agencies contacted ?? Check if None

Department of Commerce

Department of Treasury

Executive Office of the President

House of Representatives

Office of the Vice President

Senate

18. Name of each individual who acted as a lobbyist in this issue area Name Covered Official Position (if applicable)

Name	Covered Official Position (if applicable)	New
Bieron, Brian	Policy Director, House Rules Committee	Yes
Fazio, Vic		No
Gribben, Dave		Yes
Kutler, Ed		No
Matthews, Jim		Yes
Morrison, Timonthy	Associate Director, Presidential Personnel	Yes
Stach, Deirdre		No

19. Interest of each foreign entity in the specific issues listed on line 16 above ?? Check if None

Signature
Date 8/9/01
Printed Name and Title Vin Weber—Partner

Registrant Name: Clark & Weinstock
Client Name: Microsoft Corp

Item	Description	Data
16	Lobbying Issues	Help develop strategy and company policies on privacy law, including matters related to Windows XP and .NET and instant messaging through the following legislation: H.R. 1017, Anti-spamming Act of 2001, to prohibit unsolicited e-mail know as spam S. 2606, Consumer Privacy Protection Act S. 197, Spyware Control Privacy Protection Act, to provide for the disclosure of the collection of information through computer software and for other purposes Intellectual Properties issues—providing cyber and intellectual property enformement: Senate Report 107–42 S. 1215, Departments of Commerce, Justice, State, Judiciary and related Agencies Appropations Act 2002 H.R. 2500, Departments of Commerce, Justice, State, Judiciary and related Agencies Appropations Act 2002 H. AMDT. 192 Walters Amendment, to provide that none of the funds designated for the Office of the U.S. Trade Representative may be used to initiate a proceeding in the WTO challenging any law or policy of a developing country that promotes access to HIV/AIDS, pharmaceuticals or medical technologies to the population of the country H. AMDT. 194 Walters Amendment 2, to prohibit use of funds to initiate a proceeding in the WTO challenging any law of a country that is not a member of the OECD H. AMDT. 193 Kucinich Amendment, prohibits the use of funds in the bill to initiate a proceeding in the WTO challenging any law of a country that is not a member of the OECD relating to HIV/AIDS pharmaceuticals.

Registrant Name: Clark & Weinstock Client Name: Microsoft Corp

Item	Description Data	
18a	Lobbyist Name	Stuart, Sand??
18b	Covered Official Position	
18c	New Lobbyist	No
18a	Lobbyist Name	Urban, Anne
18b	Covered Official Position	Legislative Director, Sen. Robert Kerrey
18c	New Lobbyist	No
18a	Lobbyist Name	Weber, Vin
18b	Covered Official Position	
18c	New Lobbyist	No

Registrant Name: Clark & Weinstock
Client Name: Microsoft Corp
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code GOV (one per page)

16. Specific Lobbying issues Informed members of Congress regarding Microsoft's position on the Department of Justice's antitrust suit.

17. House(s) of Congress and Federal agencies contacted ?? Check if None
House of Representatives
Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Bieron, Brian	Policy Director, House Rules Committee	Yes
Fazio, Vic		No
Gribbin, Dave		Yes
Kutler, Ed		No
Mathews, Jim		Yes
Morrison, Timothy	Associate Director, Presidential Personnel	Yes
Stach, Deirdre		No

19. Interest of each foreign entity in the specific issues listed on line 16 above ?? Check if None

Signature
Date 8/9/01
Printed Name and Title Vin Weber- Partner

Page 5 of 9
Registrant Name: Clark & Weinstock
Client Name: Microsoft Corp

Item	Description	Data
18a	Lobbyist Name	Stuart, Sandi

Item	Description	Data
18b	Covered Official Position	
18c	New Lobbyist	No
18a	Lobbyist Name	Urban, Anne
18b	Covered Official Position	Legislative Director, Sen. Robert Kerrey
18c	New Lobbyist	No
18a	Lobbyist Name	Weber, Via
18b	Covered Official Position	
18c	New Lobbyist	No

Registrant Name: Clark & Weinstock
Client Name: Microsoft Corp.
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code TRD (one per page)
16. Specific Lobbying issues
Lobbied the following legislation dealing with Trade Promotion Authority Act of 2001
* H.R. 2149, To extend trade authorities procedures with respect to reciprocal trade agreements
17. House(s) of Congress and Federal agencies contacted ?? Check if None House of Representatives Senate
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Bieron, Brian	Policy Director, House Rules Committee	Yes
Fazio, Vie		No
Gribbin, Dave		Yes
Kutler, Ed		No
Mathews, Jim		Yes
Morrison, Timothy	Associate Director, Presidential Personnel	Yes
Stach, Deirdre		No

19. interest of each foreign entity in the specific issues listed on line 16 above ?? Check if None
Signature
Date 8/9/01
Printed Name and Title Vin Weber- Partner
Page 7 of 9
Registrant Name: Clark & Weinstock
Client Name: Microsoft Corp

Item	Description	Data
18a	Lobbyist Name	Urban, Anne
18b	Covered Official Position	Legislative Director, Sen. Robert Kerrey
18c	New Lobbyist	No
18a	Lobbyist Name	Weber, Vin
18b	Covered Official Position	
18c	New Lobbyist	No

Registrant Name: Clark & Weinstock
Client Name: Microsoft Corp
Information Update Page . Complete ONLY where registration information has changed.
20. Client new address
21. Client new principal place of business (if different from line 20) City State/Zip (or Country)
22. New general description of client's business or activities
LOBBYIST UPDATE
23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client
ISSUE UPDATE
24. General lobbying issues previously reported that no longer pertain
IMM
AFFILIATED ORGANIZATIONS
25. Add the following affiliated organization(s)
Principal Place of Business
Name
Address (city and state or country)
26. Name of each previously reported organization that is no longer affiliated with the registrant or client
FOREIGN ENTITIES
27. Add the following foreign entities
Principal Place of Business (city and state or country)
Amount of contribution
Ownership % in client
Name for lobbying activities
Address
28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client, or affiliated organization
Signature
Date 8/9/01
Printed Name and Title Vin Weber—Partner
Page 9 of 9
MTC-00030631—0864

ATTACHMENT 21

RECEIVED
Clerk of the House of Representatives
B-106 Cannon Building 232 Hart Building
98 AUG -7 am 9:51
Legistive Resource Center, B-106 Cannon Building, CL?? Washington, DC 20515
Office of Public Records, 232 Hart Building, Washington, DC 20510
LOBBYING REPORT
Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This Page
Lobbying
1. Registrant Name
Covington & Burling
2. Address ?? Check if different than previously reported
1201 Pennsylvania Avenue, NW
3. Principal Place of Business (if different from line 2)
City: Washington
State/Zip (or Country) DC 20004
4. Contact Name Stuart C. Stock
Telephone 202–662–5384
E-mail (optional)
5. Senate ID # 11195–672
7. Client Name ?? Self ??
31827064
Microsoft Corporation
TYPE OF REPORT 8. Year 1998 Midyear (January 1-June 30) ?? OR Year End (July 1-December 31) ??
9. Check if this filing attends a previously filed version of this report ??
10. Check if this is a Termination Report ?? ?? Termination Date
11. No Lobbying Activity ??
INCOME OR EXPENSES—Complete Either

Line 12 OR Line 13
12. lobbying Firms
13. Organizations
INCOME relating to lobbying activities for this reporting lobbying activities for this reporting period was: Less than $10,000 ??
EXPENSES relating to period were: Less than $10,000 ??
$10,000 or more ?? ??
$10,000 or more ?? ?? $ 40,000
Expenses (nearest $20, 000)
Income (nearest $20,000)
14. REPORTING METHOD. Check box to indicate expense accounting method. See instructions for description of options.

Provide a good faith estimate, rounded to the nearest $20,000, of all lobbying related income from the client (including all

?? Method A. Reporting amounts using LDA definitions only payments to the registrant by any other entity for lobbying activities on behalf of the client).
?? Method B. Reporting amounts under section 6033(b)(8)of the Internal Revenue Code
?? Method C. Reporting amounts under section 162(e) of the Internal Revenue Code
Signature
Printed Name and Title Stuart C. Stock, Partner
LD-2 (REV. 6/98)
Registrant Name Covington & Burling
Client Name Microsoft Corporation
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant ??ngaged hi lobbying on behalf of the client during tile reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code CPI (one per page)
16. Specific lobbying issues
Competition issues affecting computer software industry.
17. Houses) of Congress and Federal agencies contacted
?? Check if None Senate
18. Name of each individual who acted as a lobbyist in this issue area

Name Covered	Official Position (if applicable)	New
Charles F. Rule		

19. Interest of each foreign entity in the specific issues listed on line 16 above
?? Check if
None
Signature Date August 4, 1998
Printed Name and Title Stuart C. Stock, Partner
Form LD-2 (Rev.6/98) Page 2 of 4
Registrant Name Covington & Burling
Client Name Microsoft Corporation
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code TRD (one per page)
16. Specific lobbying issues

Electronic commerce matters relating to international electronic signature proposals.
17. House(s) of Congress and Federal agencies contacted
?? Check if None
Department of Commerce
18. Name of each individual who acted as a lobbyist in this issue area
19. Interest of each foreign entity in the specific issues listed on line 16 above ??
Check if None Signature Date August 4, 1998
Printed Name and Title Stuart C. Stock, Partner
Form LD-2 (Rev.6/98)
MTC–00030631—0868
Registrant Name Covington & Burling
Client Name Microsoft Corporation
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide ??formation as requested. Attach additional page(s) as needed.
15. General issue area code CPT (one per page)
16. Specific lobbing issues
—Protection of intellectual property through proposed federal action.
—Protection of intellectual property in World Bank lending programs.
17. Houses) of Congress and Federal agencies contacted
?? Check if None Senate
House of Representatives
Department of Commerce
Department of Treasury
Office of Management and Budget
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
E. Jason Albert Laurie C. Self		

19. Interest of each foreign entity in the specific issues listed on line 16 above ??
Check if None
Signature
Date August 4. 1998
??rinted Name and Title Stuart C. Stock, Partner
Form LD-2 (Rev.6/98)
MTC–00030631—0869

ATTACHMENT 22

MTC–00030631—0870
(Clerk of the House of Representatives, Legislative Resource Center,
Secretary of the Senate, Office of Public Records, 232 Hart Building, Washington, DU 20510 10 M 9:07 B-106 Canon Building, Washington, DU 20515
LOBBYING REPORT
Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This Page.
1. Registrant Name
Covington & Burling
2. Address ?? Check if different than previously reported.
1201 Pennsylvania Avenue, NW
3. Principal Place of Business (if different from line 2)
City: Washington
State/Zip (or Country) DC 20004
4. Contact Name Stuart C. Stock
Telephone 202–662–5384
Email (optional)
5. Senate ID # 11195–672
7. Client Name ?? Self
6. House ID # 31827064
Microsoft Corporation
.... 318
TYPE OF REPORT 8. Year 1998 Midyear (January 1–June 30) ?? OR Year End ??
9. Check if this filing amends a previously filed version of this report ??
10. Check if this is a Termination Report ?? ?? Termination Date 11. No Lobbying Activity ??
INCOME OR EXPENSES—Complete Either Line 12 OR Line 13
12. Lobbying Firms
13. Organizations
INCOME relating to lobbying activities for this reporting period was: Less than $10,000
EXPENSES relating to lobbying activities for this reporting period were: Less than $10,000
$10,000 or more $60,000
$10,000 or more $
Income (nearest $20,000)
Expenses (nearest $20.000)

Provide a good faith estimate, rounded to the nearest $20,000, of all lobbying related income for the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client.)

14. REPORTING METHOD. Check box to indicate expense accounting method. See

instructions for description of options.
Method A. Reporting amounts using LDA definitions only
Method B. Reporting amounts under section 6033(bX8) of the Internal Revenue Code
Method C. Reporting amounts under 162(e) of the Internal Revenue Code
Signature
Date
Printed Name and Title Stuart C. Stock, Partner
MTC-00030631—0871
Registrant Name Covington & Burling
Client Name Microsoft Corporation
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested, Attach additional page(s) as needed.
15. General issue area code CPI (one per page)
16. Specific lobbying issues
Competition issues affecting computer software industry.
17. House(s) of Congress and Federal agencies contacted
Check if None
House of Representatives
Senate
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered official Position (if applicable)	New
Charles F. Rule		

19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Date
Printed Name and Title Stuart C. Stock, Partner
MTC-00030631—0872
Registrant Name Covington & Burling
Client Name Microsoft Corporation
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code ———TRD (one per page)
16. Specific lobbying issues
Electronic Commerce matters relating to international electronic signature proposals.
17. House(s) of Congress and Federal agencies contacted
Check if None
Department of Commerce
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered official Position (if applicable)	New
E. Jason Albert		

19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Date
Printed Name and Title Stuart C. Stock, Partner
MTC-00030631—0873
Registrant Name Covington & Burling
Client Name Microsoft Corporation
LOBBYING ACTIVITY, Select as many codes as necessary to reflect tile general issue areas in which the registrant engaged in lobbying on behalf the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code ———CPT (one per page)
16. Specific lobbying issues
- Protection of intellectual property through proposed federal action and implementation of Computer Software Piracy Executive Order.
- Protection of intellectual property in World Bank lending programs.
17. House(s) of Congress and Federal agencies contacted
Check if None
Department of Commerce
Department of Treasury
Office of Management and Budget
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered official Position (if applicable)	New
E. Jason Albert Stuart C. Stock Laurie C. Self		

19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Date
Printed Name and Title Stuart C, Stock, Partner
MTC-00030631—0874
Registrant Name Covington & Burling
Client Name Microsoft Corporation
Information Update Page—Complete ONLY where registration information has changed.
20. Client new address
21. Client new principal place of business (if different from line 20)
City
State/Zip (or Country)
22. New general description of client's business or activities
LOBBYIST UPDATE
23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client
Victoria A. Carter
ISSUE UPDATE
24. General lobbying issues previously reported that no longer pertain
AFFILIATED ORGANIZATIONS
25. Add the following affiliated organization(s)
Name
Address
Principal Place of Business (city and state or country)
26. Name of each previously reported organization that is no longer affiliated with the registrant or client
FOREIGN ENTITIES
27. Add the following foreign entities
Name
Address
Principal place of business (city and state or country)
Amount of contribution for lobbying activities
Ownership percentage in client
28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client or affiliated organization
Signature
Date
Printed Name and Title Stuart C. Stock, Partner
ATTACHMENT 23
Back
LOBBYING REPORT
Signature
Date August 10, 1999

Printed Name and Title Stuart C. Stock, Partner
Back
Signature
Date August 10, 1999
Printed Name and Title Stuart C. Stock, Partner
Back
Signature
Date August 10, 1999
Printed Name and Title Stuart C. Stock, Partner
Back
Signature
Date August 10, 1999
Printed Name and Title Stuart C. Stock, Partner

ATTACHMENT 24

Secretary of the Senate
Clerk of the House of Representatives
LOBBYING REPORT
Lobbying Disclosure Act of 1995 (Section 5)
1. Year 1997
For Official Use
2. Report type (check all that apply) Midyear (January 1-June 30)—Year End (July 1-December 31)
Amended report
Termination Report
No Activity (registration to remain in effect)
REGISTRANT
3. Name of Registrant DOWNEY CHANDLER, INC.
4. Telephone number and contact name
202 789 1110
Contact Kathleen Tynan McLaughlin
5. Name of Client Microsoft Corporation
31805008
INCOME OR EXPENSES Answer line 6 or line 7 as applicable
6. LOBBYING FIRMS. Income from the client during the reporting period, other than income unrelated to lobbying activities, was:
Less than $10,000
$10,000 or more
If $10,000 or more, provide a good faith estimate, rounded to the nearest $20,000, of all income from the client during this reporting period. Include any payments by any other entity for lobbying activities on behalf of the client. Exclude income unrelated to lobbying activities.
Income $ $60,000
Total for year (if Year End r epor0 $ 140,000
7. ORGANIZATIONS EMPLOYING IN-HOUSE LOBBYISTS. Expenses incurred in connection with lobbying activities during the reporting period were:
Less than $10,000
$10,000 or more
If $10,000 or more, provide a good faith estimate, rounded to the nearest $20,000, of the total amount of all lobbying expenses incurred by the registrant and its employees during this reporting period.
Expense $
Total for year (if Year End report) $

A. Registrants that report lobbying expenses under section 6033(b)(8) of the Internal Revenue Code may provide a good faith estimate of the applicable amounts that would be required to be disclosed under section 6033(b)(8) for the semiannual reporting period, and may consider as lobbying activities only those defined under section 4911(d) of the Internal Revenue Code. If selecting this method, check box and (i) enter estimated amounts on the "Expenses" line above; or (ii) attach a copy of the IRS Form 990 that includes this reporting period.

B. Registrants subject to section 162(e) of the Internal Revenue Code may make a good faith estimate &all amounts that would not be deductible under section 162(e) for the semiannual reporting period, and may consider as lobbying activities only those activities the costs of which are not deductible pursuant to section 162(e). If selecting this method, check box and enter estimated amounts on the "Expenses" line above.

Form LD-2 (1/96) Page
Registrant Name DOWNEY CHANDLER, INC.
Client Name Microsoft Corporation 31805008
LOBBYING ISSUES. On line 8 below, eater the code for one general lobbying issue area in which the registrant engaged in lobbying activities for the client during this reporting period (select applicable code from list in the instructions and on the reverse side of Form LD-2, page 1). For that general issue area only, complete lines 9 through 12. If the registrant engaged in lobbying activities for the client in more than one general issue area, use one Lobbying Report Addendum page for each additional general issue area.
8. General lobbying issue area code (enter one) CPT
9. Specify lobbying issues (include bill numbers and specific executive branch actions)
Intellectual Property Rights
Patent Reform
Internet issues
Encryption
Immigration
Anti-trust issues
10. Houses of Congress and Federal agencies contacted
U.S. House of Representatives
U.S. Senate
Office of the Vice President
Department of Justice
11. Name and title of each employee who acted as a lobbyist
Thomas J. Downey, Chairman
Rod Chandler, President
Daniel T. Bross, Vice President
Margaret M. McCloud, Director
12. For registrants identifying foreign entities in the Lobbying Registration (Form LD-1, line 12) or are/updates: Interest of each such foreign entity in the specific lobbying issues listed on line 9 above
NA
This report includes 0 Addendum pages.
Signature
Printed Name and Title Thomas J. Downey Chairman
Form LD-2 (1/96)

ATTACHMENT 25

Clerk of the House of Representatives
Secretary of the Senate Legislative Resource Center, Office of Public Records, B-106 Cannon Building, 232 Hart Building, Washington, DC 20515, Washington, DC 20510
LOBBYING REPORT
Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This Page
1. Registrant Name
2. Address
?? Check if different than previously reported
3. Principal Place of Business (if different from line 2)
4. Contact Name
Telephone
E-mail (optional) 5. Senate ID #
6. House ID #
7. Client Name ?? Self
TYPE OF REPORT 8. Year 1998 Midyear (January 1-June 30) ?? OR Year End (July 1-Decembe 31) ??
9. Check if this filing amends a previously filed version of this report
10. Check if this is a Termination Report—Termination Date
11. No
Lobbying Activity
INCOME OR EXPENSES—Complete Either Line 12 OR line 13
12. Lobbying Firms
13. Organizations
INCOME relating to lobbying activities for this reporting activities for this reporting period was Less than $10,000
EXPENSES relating to lobbying period were: Less than $10,000
$10,000 or more
10,000 or more
(Income (nearest $20,000)
Expenses (nearest $20,000)
14. REPORTING METHOD. Check box to indicate expense

Provide a good faith estimate, rounded to the nearest $20,000, accounting method. See instructions for description of options of all lobbying related income from the client (including all ??

Method A.Reporting amounts using LDA definitions only payments to the registrant by any other entity for lobbying activities on behalf of the client).

Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code

Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature
LD-2 (REV. 6/98)
Registrant Name
Client Name
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code (one per page)
16. Specific lobbying issues
17. House(s) of Congress and Federal agencies contacted
Check if None
18. Name of each individual who acted as a lobbyist in this issue area
Name
Covered Official Position (if applicable)
New
19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if None
Signature Dale
Printed Name and Tide
Form LD–2 (Rev.6/98)
Registrant Name
Client Name
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
5. General issue area code— (one per page)
6. Specific lobbying issues
17. House(s) of Congress and Federal agencies contacted
Check if None
18. Name of each individual who acted as a lobbyist in this issue area
Name
Covered Official Position (if applicable)
New
19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Date
Printed Name and Title
Form LD–2 (Rev. 6/98)
Registrant Name
Client Name
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code_(one per page)
16. Specific lobbying issues
17. House(s) of Congress and Federal agencies contacted
Check if None
18. Name of each individual who acted as a lobbyist in this issue area
Name
Covered Official Position (if applicable)
New
19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Date

ATTACHMENT 26

Clerk of the House of Representatives, Legislative Resource Center, B–106 Cannon Building, Washington, DC 20515
Secretary of the Senate, Office of Public Records, 232 Hart Building, Washington, DC 20510
LOBBYING REPORT
Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This Page
1, Registrant Name
2. Address
Check if different than previously reported
3. Principal Place of Business (if different from line 2)
City:
State/Zip (or Country)
4. Contact Name
Telephone
E-mail (optional)
5. Senate ID #
6. House ID #
7. Client Name Self
TYPE OF REPORT
8. Year_Midyear (January 1-June 30)—OR Year End (July 1-December 31)
9. Check if this filing amends a previously filed version of this report
10. Check if this is a Termination Report—Termination Date
11. No Lobbying Activity
INCOME OR EXPENSES—Complete Either Line 12 OR Line 13
12. Lobbying Firms
13. Organizations
INCOME relating to lobbying activities for this reporting activities for this reporting period was: period were: Less than $10,000
EXPENSES relating to lobbying Less than $10,000
$10,000 or more
$10,000 or more
Income (nearest $20,000) (Expenses (nearest $20,000)
14. REPORTING METHOD. Check box to indicate expense accounting method. See instructions for description of options.
Provide a good faith estimate, rounded to the nearest $20,000, of all lobbying related income from the client (including all using LDA definitions only payments to the registrant by any other entity for lobbying activities on behalf of the client).
Method A. Reporting amounts
Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code
Method C. Reporting amounts under section 162(e) of the Internal Revenue Code
Signature Date
Printed Name and Title
Form LD-2 (Rev. 6/98)
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code ———— (one per page)
16. Specific lobbying issues
17. House(s) of Congress and Federal agencies contacted
Check if None
18. Name of each individual who acted as a lobbyist in this issue area
Name
Covered Official Position (if applicable)
New
19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Date
Printed Name and Title
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code ——— (one per page)
Specific lobbying issues
17. House(s) of Congress and Federal agencies contacted
Check if None
18. Name of each individual who acted as a lobbyist in this issue area
Name
Covered official Position (if applicable)
New
19. Interest of each foreign entity in the specific issues, listed on line 16 above
Check if None
Signature
Date
Printed Name and Title
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
15. General issue area code [MM (one per page)
Specific lobbying issues
17. House(s) of Congress and Federal agencies contacted
Check if None
18. Name of each individual who acted as a lobbyist in this issue area
19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
21. Client new principal place of business (if different from line 20)
City
State/Zip (or County)
Z. New leaera4 description of client's business or activities
LOBBYIST UPDATE
23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client
ISSUE UPDATE
24. General lobbying issues previously reported that no longer pertain
AFFILIATED ORGANIZATIONS
25. Add the following affiliated organization(s)
Name
Address
Principal Place of Business (city and state or country)
26. Name of each previously reported organization that is no longer affiliated with the registrant or client
FOREIGN ENTITLES
27. Add the following foreign entities
Name for lobbying activities
Address (city and state or country)
Principal place of business
Amount of contribution Ownership percentage in client
28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client or affiliated organization
Date 2–16–99
Printed Name and Title
Form LD-2 (Rev. 6/98)

ATTACHMENT 27

RECEIVED
Clerk of the House

Legislative Resource Center, B-106Cannon Building, Washington, DC 20515
Office of Public Records, 232 Hart Building, Washington, DC 20510
99 JUL 30 PH 4:28
OFFICE OF TIE CLERK
U.S. HOUSE OF REPRESENTATIVES
LOBBYING REPORT??
bying Disclosure Act Of 1995 (Section 5)—All Filers Are Required To Complete This Page
Registrant Name
DOWNEY CHANDLER, INC
2. Address
Check if different than previously reported
1225 I STREET NW SUITE 350
3. Principal Place of Business (if different from line 2)
cid: Washington
State/Zip (or Country) DC 20005
4. Contact Name
Telephone
E-mail (optional)
5.
Senate ID #
Kathleen Tynan McLaughlin
202 789 1110
12573–253
7. Client Name
Self 6.
House ID ID # 31805
Microsoft Corporation
TYPE OF REPORT 8. Year 1999 Midyear (January I -June 30) ?? OR Year End (July I -December 31) ??
9. Check if this filing amends a previously filed version of this report
10. Check if this is a Termination Report 1–11 * Termination Date
11 I. No
Lobbying Activity %62
I
INCOME OR EXPENSES—Complete Either Line 12 OR Line 13
12. Lobbying Firms
13. Organizations
INCOME relating to lobbying activities for this reporting activities for this reporting period was: Less than S10,000 ??
EXPENSES relating to lobbying period were: Less than $10,000 ??
$10,000 or more ?? = $
$10,000 or more ??—$80,000
Expenses (nearest $20,000)
Income (nearest $20,000)
14. REPORTING METHOD. Check box to indicate expense
Provide a good faith estimate, rounded to the nearest $20,000, accounting method. See instructions for description of options.. of all lobbying related income from the client (including all ?? Method A. Reporting amounts using LDA definitions only payments to the registrant by any other entity for lobbying activities on behalf of the client).
Method B. Reporting amounts under section 6033(b)(g)of the Internal Revenue Code
Method C. Reporting amounts under section 162(e) of the Internal Revenue Code
Signature
Printed Name and Tide
Registrant Name DOWNEY CHANDLER, INC
Client Name Microsoft Corporation
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying 6n behalf of the client during the reporting period. Using a separate page for each code, provide ??nation as requested. Attach additional page(s) as needed.
1??neral issue area code TEC (one per page)
16. Specific lobbying issues
Broadband
Information Technology
17. House(s) of Congress and Federal agencies contacted
Check if None
U.S. Senate
U.S. House of Representatives
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Emerick Tom Downey Rod Chandler Thomas P. Scott		

19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Date
Printed Name and Title
Registrant Name DOWNEY CHANDLER, INC
Client Name Microsoft Corporation
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.
General issue area code CPI (one per page)
16. Specific lobbying issues
antitrust
education technology
communications issues
patent reform
Microsoft trial
intellectual property
encryption
R & D tax credit
17. House(s) of Congress and Federal agencies contacted
Check if None
U.S. Senate
U.S. House of Representatives
Office of the Vice President
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Emerick Tom Downey Rod Chandler Thomas P. Scott		

19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Date
Printed Name and Title
LD-2(Rev. 6/98)
Registrant Name??
Information Update Page—Complete ONLY where registration information has changed,
20. Client new address
Client new principal place of business (if different from line 20)
State/Zip (or Country)
22. New general description of client's business or activities
LOBBYIST UPDATE
23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client
Rod Chandler
ISSUE UPDATE
24. General lobbying issues previously reported that no longer pertain
AFFILIATED ORGANIZATIONS
25. Add the following affiliated organization(s)
Name
Address
Principal Place of Business (city and state or country)
26. Name of each previously reported organization that is no longer affiliated with the registrant or client
FOREIGN ENTITIES
27. Add the following foreign entities
Name
Address

Principal place of business (city and state or country) for lobbying activities
Amount of contribution
Ownership percentage in client
28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client or affiliated organization

ATTACHMENT 28

RECEIVED
Clerk of the House of Representatives,
Secretary of the Senate,
Legislative Resource Center, B-106 Cannon Building, Washington, DC 20515
Office of Public Records, 232 Hart Building, Washington, DC 20510
LOBBYING REPORT
Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This Page
V
I. Registrant Name
DOWNEY McGRATH GROUP, INC.
2. Address ?? Check if different than previously reported
1225 ISTREET NW SUITE350
3. Principal Place of Business (if different from line 2)
City: Washington
State/Zip (or Country) DC 20005
4 Contact Name Kathleen Tynan McLaughlin
Telephone 202 789 1110
E-mail (optional)
5. Senate ID 12573-253
7. Client Name ?? Self
6. Microsoft
House ID # 31805008
TYPE OF REPORT s. Year 1999 Midyear (January 1 -June 30) ?? OR Year End (July 1 -December 31)
9. Check if this filing amends a previously filed version of this report ??
0. Check if this is a Termination Report ?? * Termination Date
11. No Lobbying Activity ??
INCOME OR. EXPENSES—Complete Either Line 12 OR Line 13
12. Lobbying Firms
13. Organizations
INCOME relating to lobbying activities for this reporting activities for this reporting period was: Less than $10,000 ??
EXPENSES relating to lobbying period were: Less than$10,000 ??
$10,000ormore ?? * $
$10,000 or more ?? * $100,000
Expenses (nearest S20,000)
Income (nearest $20,000)
14. REPORTING METHOD. Check box to indicate expense
Provide a good faith estimate, rounded to the nearest $20,000, accounting method. See instructions for description of options of all lobbying related income from the client (including all
Method A. Reporting amounts using LDA definitions only payments to the registrant by any other entity for lobbying activities on behalf of the client).
Method B. Reporting amounts under section 6033(b)(g)of the Internal Revenue Code
Method C. Reporting amounts under section 162(e) of the internal Revenue Code
Signature
Printed Name and Tide
LD-2 (REV 6/98)
Registrant Name DOWNEY McGRATH GROUP, INC.
Client Name Microsoft
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant ??aged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide ??rmation as requested. Attach additional page(s) as needed.
General issue area code TEC (one per page)
16. Specific lobbying issues
Broadband
Information Technology
business issues
Satellite Home Viewer Act
17. House(s) of Congress and Federal agencies contacted
Check if None
U.S. Senate
U.S. House of Representatives
Small Business Administration
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Kelli Emerick Tom Downey Ray McGrath Thomas P. Scott		

19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Date
Printed Name and Title
??m LD-2 (Rev. 6/98)
Registrant Name DOWNEY McGRATH GROUP, INC.
Client Name Microsoft
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant ??gaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide ??rmation as requested. Attach additional page(s) as needed.
General issue area code CPI (one per page)
16. Specific lobbying issues
antitrust
Digital signatures
education technology
Technology changes
communications issues
Digital Divide
Microsoft trial
intellectual property
encryption
R & D tax credit
17. House(s) of Congress and Federal agencies contacted
Check if None
U.S. Senate
U.S. House of Representatives
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
??m Downey Ray McGrath Kelli Emerick Thomas P. Scott		

19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Signature
Date
Printed Name and Title
??-2 (Rev.6/98)
MTC-00030631_0907
Registrant Name DOWNEY McGRATH GROUP, INC. Client Name Microsoft
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant ??gaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide formation as requested. Attach additional page(s) as needed.
General issue area code LBR (one per page)
16. Specific lobbying issues
Digital Divide
17. House(s) of Congress and Federal agencies contacted
??Check if None
U.S. Senate
U.S. House of Representatives
18. Name of each individual who acted as a

lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
?? am Scott		

19. Interest of each foreign entity in the specific issues listed on line 16 above ?? Check if None

Signature ??

??nted Name and Title Thomas J. Downey, Chairman

??LD–2 (Rev 6/98)

ATTACHMENT 29

Clerk of the House or Representatives, Secretary of the Senate, Legislative Resource Center, Office of Public Records, B–106 Cannon Building, 232 Hart Building, Washington, DC 20515, Washington, DC 20510

HAND DELIVERED

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This Page

I. Registrant Name

DOWNEY McGRATH GROUP, INC.

2. Address

Check if different than previously reported

1225 I STREET NW SUITE 350

3. Principal Place of Business (if different from line 2)

City. Washington State/Zip (or Country,) DC 20005

4. Contac! Name Telephone E-mail (optional)

5. Senate ID #

7 Client Name ?? Self

Microsoft (31805008)

TYPE OF REPORT 8. Year 2000 Midyear (January 1—June 30) ?? OR Year End (July I—December 31) ??

9. Check if this filing amends a previously filed version of(his report

10. Check if this is a Termination Report ?? * Termination Date I 1. No Lobbying Activity ??

INCOME OR EXPENSES—Complete Either Line 12 OR Line 13

12. Lobbying Firms

13. Organizations

INCOME relating to lobbying activities for this reporting period was: Less than $10,000

EXPENSES relating to lobbying activities for this reporting period were: Less than $10,000

$10,000 or more * $

$10,000 or more ?? * S 80,000

Expenses (nearest S20,000)

Income (nearest $20.000)

14. REPORTING METHOD. Check box to indicate expense

Provide a good faith estimate, rounded to the nearest $20,000, accounting method. See instructions for description of options.. of all lobbying related income from the client (including all ?? Method A. Reporting amounts using LDA definitions only payments to the registrant by any other entity for lobbying activities on behalf of the client).

[?? Method B. Reporting amounts under section 6033(b)(8)of the Internal Revenue Code

?? Method C. Reporting amounts under section 162(c) of(he Internal Revenue Code

Signature

Printed Name and Tide

LD–2 (REV. 6/98)

Registrant Name DOWNEY McGRATH GROUP, INC.

Client Name Microsoft

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

5. General issue area code CPI (one per page)

16. Specific lobbying issues

antitrust

communications issues

intellectual property

encryption

R&D tax credit

digital signatures

digital divide

privacy

17. ??louse(s) of Congress and Federal agencies contacted

!'-I Check if None

U.S. Senate

U.S. House of Representatives

Office of the Vice President

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
K??lli Emerick m Downey Ray McGrath Thomas P. Scott E??aine Acevedo		

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date

Printed Name and Title

Form LD–2 (Rev. 6/98)

Registrant Name DOWNEY McGRATH GROUP, INC.

Client Name Microsoft

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

5. General issue area code IMM (one per page)

16. Specific lobbying issues

II–IB Visas

17. l louse(s) of Congress and Federal agencies contacted

I"1 Check if None

U.S: House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
Kelli Emerick homas P. Scott		

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if

None

Signature

Date

Printed Name and Title

Form LD–2 (Rev.6/98)

Registrant Name DOWNEY McGRATH GROUP, IN

Chent Name Information Update Page—Complete ONLY where registration information has changed.

20. Client new address

Client new principal place of business (if different from line 20)

State/Zip (or Country)

22. New general description of client's

business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client Kelli Emerick

ISSUE UPDATE

24. General lobbying issues previously reported that no longer pertain

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Name

Address

Principal Place of Business (city and state or country)

26. Name of each previously reported organization that is no longer affiliated with the registrant or client t!

FOREIGN ENTITLES

27. Add the following foreign entities

Name

Address

Principal place of business (city and state or country) for lobbying activities

Amount of contribution

Ownership percentage in client

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client or affiliated organization

ATTACHMENT 30

Clerk of the House of Representatives, Legislative Resource Center, B-106 Cannon Building, Washington, DC 20515

Secretary of the Senate, Office of Public Records, 232 Fart Building, Washington, DC 20510

ATIVE RESOURCE CENTER

2001 FEB 14 AM 2:23

LOB B YIN

Lobbying Disclosure Act Of 1995 (Sections 5)—All Filers Are Required To Complete This Page

I. Registrant Name DOWNEY McGRATH GROUP, INC.

2. Address

Check if different than previously reported

1225 I STREET NW SUITE 350

3. Principal Place of Business (if different from line 2)

City: Washington

State/Zip (or Count) DC 20005

4. Contact Name

Telephone 202–789–1110

E-mail (optional)

5. Senate ID # 12573–253

Kathleen Tynan McLaughlin

7. Client Name Self

Microsoft

TYPE OF REPORT s. Year 2000 Midyear (January 1–June 30) OR Year End (July 1–December 31)

9. Check if this filing amends a previously filed version of this report

10. Check if this is a Termination Report, Termination Date

11. No Lobbying Activity

INCOME OR EXPENSES—Complete Either Line 12 OR Line 13

12. Lobbying Firms

13. Organizations

INCOME relating to lobbying activities for this reporting activities for this reporting period was: Less than $10,000

EXPENSES relating to lobbying period were:

Less than S10,000

$1 0,000 or more

$10,000 or more $40,000

Expenses (nearest $20,000)

income (nearest $20,000)

14. REPORTING METHOD. Check box to indicate expense

Provide a good faith estimate, rounded to the nearest $20,000, accounting method. See instructions for description of options of all lobbying related income from the client (including all Method A. Reporting amounts using LDA definitions only payments to the registrant by any other entity for lobbying activities on behalf of the client).

Method B. Reporting amounts under section 6033(b)(8)of the Internal Revenue Code

Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature

Printed Name and Tide

LD–2 (REV. 6/98)

Registrant Name DOWNEY McGRATH GROUP, INC.

Client Name Microsoft

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

General issue area code CPI (one per page)

16. Specific lobbying issues

antitrust

17. House(s) of Congress and Federal agencies contacted

Check if None

U.S. Senate

U.S. House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name	New
Covered Official Position (if applicable)	
Thomas P. Scott Tom Downey	

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if None

Signature

Date

Printed Name and Title

LD–2 (Rev.6/98)

Registrant Name DOWNEY McGRATH GROUP, INC. Client Name Microsoft LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

General issue area code TRD (one per page)

16. Specific lobbying issues

Permanent Normal Trade Relations with China

17. House(s) of Congress and Federal agencies contacted

F1 Check if None

U.S. Senate

U.S. House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name	New
Covered Official Position (if applicable)	
Scott	

19. Interest of each foreign entity in the specific issues listed on line 16 above Check if

None

Signature

Date

Printed Name and

Title

LD–2 (Rev.6/98)

Registrant Name DOWNEY McGRATH GROUP, INC

Client Name Microsoon Corporation

Information Update Page- Complete ONLY where registration information has changed.

20. Client new address

21. Client new principal place of business (if different from line 20)

City

State/Zip (or Country)

22. New general description of client's business or activities

LOBBYIST UPDATE

23. Name of each previously reported

individual who is no longer expected to act as a lobbyist for the client
Thomas P. Scott
Ray McGrath
Elaine Acevedo
ISSUE UPDATE
24. General lobbying issues previously reported that no longer pertain
AFFILIATED ORGANIZATIONS
25. Add the following affiliated organization(s)
Name
Address
Principal Place of Business (city and state or country)
26. Name of each previously reported organization that is no longer affiliated with the registrant or client
FOREIGN ENTITIES
27. Add the following, foreign entities
Name
Address
Principal place of business (city and state or country)
Amount of contribution for lobbying activities
Ownership percentage in client
28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client or affiliated organization
Signature
Date February 14, 2001
Printed Name and Title Thomas J. Downey, Chairman
Form LD–2 (Rev. 6198)

ATTACHMENT 31

01 AUG 1 0 AH 10:00
Clerk of the House of Representatives, Legislative Resource Center, B–106 Cannon Building, Washington. DC 205 IS
Secretary of the Senate, Office of Public Records, 232 Hart Building, Washington. De 20510
LOBBYING REPORT
Lobbying Disclosure Act of 1 995 (Section 5)—All Filers Are Required To Complete This Page
1. Registrant Name
DOWNEY McGRATH GROUP, INC.
2. Address
Check if different than previously reported
1225 I STREET NW SUITE 350
3. Principal Place of Business (if different from line 2)
City: Washington
State/Zip (or Country) DC 20005
4. Contact Name Senate ID #
Telephone 202–789–1110
E-mail (optional) 5.
Kathleen Tynan McLaughlin
12573–253
Client Name Self
6 House ID # d 31805008'2
7. Microsoft
TYPE OF REPORT s. Year 2001 Midyear (January 1–June 30) OR Year End (July 1–December 31)
9. Check if this filing amends a previously filed version of this report
10. Check if this is a Termination Report, Termination Date
11. No Lobbying Activity
INCOME OR EXPENSES—Complete Either Line 12 OR Line 13
12. Lobbying Firms
13. Organizations
INCOME relating to lobbying activities for this reporting activities for this reporting period was: Less than S10,000
EXPENSES relating to lobbying period were: Less than $10,000 El
$10,000 or more
$10,000 or more $60,000
Expenses (nearest S20.000)
Income (nearest $20.000)
14. REPORTING METHOD. Check box to indicate expense
Provide a good faith estimate, rounded to the nearest S20,000, accounting method. See instructions for description of options of all lobbying related income from the client (including all Method A. Reporting amounts using LDA definitions only payments to the registrant by any other entity for lobbying activities on behalf of the client). 6033(b)(8)of the Internal Revenue Code
Method B. Reporting amounts under section
Method C. Reporting amounts under section 162(e) of the Internal Revenue Code
Signature
Printed Name and Tide LD–2 (REV. 6/98)
Registrant Name DOWNEY McGRATH GROUP, INC.
Client Name Microsoft
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide formation as requested. Attach additional page(s) as needed.
General issue area code CPI (one per page)
16. Specific lobbying issues
Internet privacy
intellectual property issues
Microsoft case—Department of Justice antitrust suit
R & D tax credit
17. House(s) of Congress and Federal agencies contacted
Check if None
U.S. Senate
U.S. House of Representatives
18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
hn Olinget Tom Downey		

19. Interest of each foreign entity in the specific issues listed on line 16 above
Check if None
Printed Name and Title Thomas J. Downey, Chairman
Form LD–2(Rev.6/98)

ATTACHMENT 32

Clerk of the House of Representatives Washington, DC 20515
Secretary of the Sea
THE SENATE
00 AUG 14 PH 27
LOBBYING REPORT
Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This Page
Registrant
7. Client Name Self
6. H ID
TYPE OF REPORT 8. Year 2000 Midyear (January 1–June 30) OR Year End (July1–December
9. Check if this filing a previously filled version of this report
10. Check if this is a Termination Report, Termination Date
11. No Lobbying Acti
INCOME OR EXPENSES—Complete Either Line 12 OR 13
12. Lobbying Firms
INCOME relating to lobbying activities for this reporting period was:
Less than $10,000
$10,000 or more
Provide a good faith estimate, rounded to the nearest $20.000 of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).
13. Organizations
EXPENSES relating to lobbying activities for this reporting period were:
Less than $10,000
$10,000 or more
14. REPORTING METHOD. Check box to indicate expense accounting method. See instructions for description of options.
Method A Reporting amounts using LDA definitions only
Method B. Reporting amounts under section 6033(b)
Method C. Reporting amounts under section 162(c) of
LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the regist engaged in lobbying on behalf of the client during the reporting period. Using a separate page far each code, pro information as requested. Attach additional page(s) as needed.
15. General issue area code———— (one per page)
16. Specific lobbying issues
17. House(s) of Congress and Federal agencies contacted
?? Check if None
18. Name of each individual who acted as a 1obbyist in this issue area
19. Interest of each foreign entity in the specific issues listed on line 16 above
?? Check if None
Printed Name and Title

ATTACHMENT 33

Clerk of the House of Representatives Secretary of the Senate Legislative Resource Center, Office of Public Records, B-106 Cannon Building 232, Hen Building, Washington, DC 20515 Washington, DC 20510

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This Page

1. Registrant Name

McSlarrow & Associates, L.L.C.

2. Address ?? Check if different than previously reported

14842 North 18th Place, Phoenix, Arizona 85022

3. Principal Place of Business (if different from line 2)

City:

State/Zip (or Country)

4. Contact Name Alison H. McSlarrow

Telephone (602) 482–3150

E-mail (optional)

5. Senate ID # 48703–12

Microsoft Corporation

34541 002 /

TYPE OF REPORT 8. Year 1999

Midyear(January l-June30) ?? OR Year End(July t-December31)

9. Check if this filing amends a previously filed version of this report

10. Check if this is a Termination Report Termination Date

11. No Lobbying Activity

INCOME OR EXPENSES—Complete Either Line 12 OR Line 13

12. Lobbying Firms

13. Organizations

INCOME relating to lobbying activities for this reporting period was: Less than $10,000 ??

EXPENSES relating to lobbying activities for this reporting period were: Less than $10,000 ??

$10,000 or more ?? ?? $

S10,000 or more ?? ?? $ 40,000

Expenses (nearest $20,000)

Income (??rest $20,00)

14. REPORTING METHOD. Check box to indicate expense of all lobbying related income from the client (including all payrolls to the registrant by any other entity for lobbying activities on behalf of the client).

Method A. Reporting amounts using LDA definitions only

Provide a good faith estimate, rounded to the nearest $20,000, accounting method. See instructions for description of options.

Method B. Reporting amounts under section 60330o)(8)of the Internal Revenue Code

Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature

Printed Name and Title

LD.2 (REV. ??98) PAGE t or 4

Registrant Name McSlarrow & Assoc.

Client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code COM (one per page)

16. Specific lobbying issues

S. 247, Satellite Home Viewers Improvements Act, provisions relating to video streaming

H.R. 1554, Satellite Copyright, Competition, and Consumer Protection Act, provisions relating to video streaming

17. House(s) of Congress and Federal agencies contacted

Check if None

U.S. Senate

U.S. House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable	New
Majority Leader Trent Lott		

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if, None

January 21 2000

Signature

Date

Printed Name and Title

Alison H. McSlarrow, President

Form LD-2 (Rev.??/98)

Registrant Name McSlarrow & Assoc.

Client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CPI (one per gage)

16. Specific lobbying issues

Competition in the software industry

17. House(s) of Congress and Federal agencies contacted

Check if None

U.S. Senate

U.S. House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable	New
Alison H. McSlarrow	Deputy Chief of Staff to Senate	Majority Leader Trent Lott

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if None

Signature

Date

Printed Name and Title

Form LD-2 (Rev.??98)

Registrant Name McSlarrow & Assoc.

Clint Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CSP (one per page)

16. Specific lobbying issues

S. 761, Millenium Digital Signature Commerce Act, all provisions

H.R. 1774, Electronic Signatures in Global and National Commerce Act, all provisions

H.R. 775/S. 96 (P.L. 106–37), Year 2000 Readiness and Responsibility Act, all provisions

17. House(s) of Congress and Federal agencies contacted ?? Check if None

U.S. Senate

U.S. House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official

Position (if applicable)

New

Alison H. McSlarrow, Deputy Chief of Staff to Senate

Majority Leader Trent Lott

— ————————

— ————————

— ————————

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature ??

Printed Name and Title __—Alison H. McSlarrow, President

Form LD–2 (Rev ??/98)

ATTACHMENT 34

TO THE

DECLARATION OF BRIAN DAUTCH

Clerk of the House of Representatives Secretary of the Senate

Legislative Resource Center Office of Public Records

B–106 Cannon Building 232 Hart Building, Washington, DC 20515 Washington, DC 20S 10

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This Page

1. Registrant Name

Mcglarrow Consulting L.L.C. (formerly McSlarrow & Associates L.L.C.)

6551 Kristina Ursula Court, Falls Church, Virginia 22044

3. Principal Place of Business (if different from line 2)

City: State/Zip (or Country)

4. Contact Name

Telephone

E-mail (optional)

5. Senate

ID #

Alison H. McSlarrow (703) 658–0138 48703–12

6. House ID #

7. Client Name ?? Self

Microsoft Corporation??34541002??

TYPE OF REPORT

8. Year 2000 Midyear(January 1-June30)?? OR Year end (July 1 December 31)??

9. Check if this filing amends a previously filed version of this report ??

10. Check if this is a Termination Report ?? ?? Termination Date

11. No

Lobbying Activity ??

INCOME OR EXPENSES—Complete Either Line 12 OR Line 13

12. Lobbying Firms

13. Organizations

INCOME relating: to lobbying activities for this reporting

EXPENSES relating to lobbying activities for this reporting

period was:

period were:

Less than $10,000 [2:]

Less than S10,000 ??

$10,000 or more ?? ?? $

S10,000 or more ?? ?? $40.000

Expenses (nearest $20,000)

Income (nearest $20.000)

14. REPORTING METHOD. Check box to indicate expense

Provide a good faith estimate, rounded to the nearest $20,000, accounting method. See instructions for description of options. of all lobbying related income from the client (including all ?? Method A. Reporting amounts using LDA definitions only payments to the registrant by any other entity for lobbying activities on behalf of the client)

Method B Reporting amounts under section 6033(b)(8)of the Internal Revenue Code

Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature.

Printed Name and Title

I.D.2 ??

Registrant Name McSlarrow Consulting

Client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CPI (one per page)

16. Specific lobbying issues Competition in the software industry

17. House(s) of Congress and Federal agencies contacted

Check if None

U.S. Senate

U.S. House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New]

Alison H. McSlarrow

Deputy Chief of Staff to __ * Senate Majority

Leader Trent Lott

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature

Date

Printed Name and Title

form LD-2 (Rev.6/98)

McSlarrow Consulting

Microsoft Corporation

Registrant Name

Client Name

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CSP (one per page)

16. Specific lobbying issues

S. 761, Millenium Digital Signature Commerce Act, all provisions

H.R. 1714, Electronic Signatures in Global and National Commerce Act, all provisions

17. House(s) of Congress and Federal agencies contacted

Check if None

U.S. Senate

U.S. House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New /

Alison H. McSlarrow; Deputy Chief of Staff to __ Senate Majority Leader Trent Lott

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature

Date

Printed Name and Title

LD-2 (Rev.??/98)

Registrant Name McSlarrow Consulting

Client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code IMM (one per page)

16. Specific lobbying issues

S. 2045, American Competitiveness in the 21st Century Act, all provisions

H.R. 3983, Helping Improve Technology Education and Achievement Act, all provisions

H.R. 4227, Technology Worker Temporary Relief act, all provisions

17. House(s) of Congress and Federal agencies contacted ?? Check if None

U.S. Senate

18. Name of each individual who acted as a lobbyist in this issue area

Senate Majority Leader Trent Lott

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature

Date

Printed Name and Title

Form LD-2 (Rev ??/98) Page 4 of 5

Registrant Name McSlarrow Consulting

Client Name Microsoft Corporation

Information Update Page- Complete ONLY where registration information has changed.

20. Client new address

21. Client new principal place of business (if different from line 20)

City

State/Zip (or Country)

22. New general description of client's business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client

ISSUE UPDATE

24. General lobbying issues previously reported that no longer pertain

COM

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Name

Address

Principal Place of Business

(city and state or country)

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

FOREIGN ENTITLES

27. Add the following foreign entities

Name

Address

Principal place of business

Amount of contribution Ownership

(city and state or country)

for lobbying activities percentage in

client

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client or affiliated organization

Signature

Date August 10, 2000

Printed Name and Tile Alison H. McSlarrow, President

Form LD-2 (??ev. 6/98)

ATTACHMENT 35 TO THE DECLARATION OF BRIAN DAUTCH

LEGISLATIVE RESOURCE CENTER

I 2001 FEB 15 PM 3:26

Clerk of the House of Representatives Secretary of the Senate; OFFICE OF THE CLERK

Legislative Resource Center; Office of Public Records; U.S. ?? REPRESEHTATIVES; B-106 Cannon Building Washington, De20515

232 Hart Building Washington, DO20510

FEB 12 2001

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This

Page

1. Registrant Name

McSlarrow Consulting L.L.C.

2. Address ?? Check if 4liferent than previously reported

6551 Kristina Ursula Court, Falls Church, Virginia 22044

3. Principal Place of Business (if different from line 2)

City:

State/Zip (or Country)

4. Contact Name

Telephone

E-mail (optional)

5. Senate ID #

Alison McSlarrow 703–658–0138

48703–12

Microsoft Corporation (

34541002 2

TYPE OF REPORT

8. Year 2000 Midyear(January l-Seine30) ?? OR Year End(July 1-December31)

9. Check if this filing amends a previously filed version of this report O

10. Check if this a Termination Report ?? ?? Termination Date 11 No Lobbying Activity [-'1

INCOME OR EXPENSES—Complete Either Line 12 OR Line 13

12. Lobbying Firms

13. Organizations

INCOME relating to lobbying activities for this reporting EXPENSES relating to lobbying activities for this reporting

period was:

period were:

Less than $10,000 ??

Less than $10,000 ??

$10,000 or more ?? ?? $

$10,000 or mor3 ?? ??

$60,000

Expenses (nearest $20,000)

Income (nearest $20,000)

14. REPORTING METHOD, Check box to indicate expense

Provide a good faith estimate, rounded to the nearest $20,000, accounting method. See instructions for description of options.. of all lobbying related income from the client (including all ?? Method A. Reporting amounts using LDA definitions only payments to the registrant by any other entity for lobbying activities on behalf of the client).

Method B. Reporting amounts under section 6033(b)(8)of the Internal Revenue Code

Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature

Printed Name and Title

LD-2 (REV. 6/981

Registrant Name McSlarrow Consulting Client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CPI (one per page)

16. Specific lobbying issues

Competition in the software industry 17. House(s) of Congress and Federal agencies contacted ?? Check if None U.S. Senate U.S. House of Representatives 18. Name of each individual who acted as a lobbyist in this issue area Name Covered Official Position (if applicable) Alison McSlarrow Deputy Chief of Staff to ?? Senate Majority Leader Trent Lott 19. Interest of each foreign entity in the specific issues listed on line [6 above ?? Check if None Signature Date February 2, 2001 Printed Name and Title Alison H. McSlarrow, President Form LD-2 (Rev.O/q8) Page 2 of 4

Registrant Name McSlarrow Consulting Client Name Microsoft Corporation LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed. 15. General issue area code IMM (one per page)

16. Specific lobbying issues

S. 2045, American Competitiveness in the 21st Century Act, all provisions

H.R. 3983, Helping Improve Technology Education and Achievement Act, all provisions H.R. 4227, Technology worker Temporary Relief Act, all provisions

17. House(s) of Congress and Federal agencies contacted ?? Check if None U.S. Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name Covered official Position (if applicable) New [?/ Alison H. McSlarrow Deputy Chief of Staff to Senate Majority Leader Trent Lott

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature Date P

rinted Name and Title

Form I.D-2 (Rev.6/98)

Page 3 of 4 7'' ""

Registrant Name McSlarrow Consulting Client Name Microsoft Corporation LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TEC (one per page)

16. Specific lobbying issues

Interoperability of instant messaging

17. House(s) of Congress and Federal agencies contacted ?? Check if None U.S. Senate

18. Name of each individual who acted as a lobbyist in this issue area Name Covered Official Position (if applicable) New Alison H. McSlarrow Deputy Chief of Staff to Senate Majority Leader Trent Lott

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature Date February 2, 2001

Printed Name and Title Alison H. McSlarrow, President

Form LD-2 (Rev. 6/98)

Page 4 of 4

ATTACHMENT 36 TO THE DECLARATION OF BRIAN DAUTCH

AUG 14 2001

Clerk of the House of Representatives Secretary of the Senate

LEGISLATIVE RESOURCE CENTER

Legislative Resource Center Office of Public Records B-106 Cannon Building 232 Hart Building 2001 AUG 13 PM 12:58 Washington, DC 20515 Washington, DC 20510 ??

U.S. ??REPRESENTATIVES LOBBYING REPORT —"

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This Page 6

1 Registrant Name

McSlarrow Consulting L.L.C.

2. Address ?? Check if different than previously reported

6551 Kristina Ursula Court, Falls Church, Virginia 22044

3. Principal Place of Business (if different from line 2)

City: Stale/Zip (or Country)

4. Contact Name Telephone E-mail (optional)

5. Senate ID #

Alison McSlarrow 703–658–01 38 48703–12

7. Client Name ?? Self 6.

House ID #— Microsoft Corporation 34541 002??

TYPE O17 REPORT 8. Year 2001 Midyear (January [-June 30) ?? OR Year End (July 1-December 31) ??

9 Check if this fling amends a previously filed version of this report ?? t0. Check if this is a Termination Report ?? Termination Date 11. No Lobbying Activity ??

INCOME OR EXPENSES- Complete Either Line 12 OR Line I3

12. Lobbying Firms 13. Organizations

INCOME relating to lobbying activities for this reporting EXPENSES relating to lobbying activities for this reporting period was: period were: Less than $10,000 ?? Less than $10,000 ?? $10,000ormore ?? ?? $ $10.000 or more ?? ?? $ 60,000 Expenses (nearest $20,000) Income (nearest S20.000) 14. REPORTING METHOD. Check box to indicate expense Provide a good faith estimate, rounded to the nearest $20,000, accounting method. See instructions for description of options. of all lobbying related income from the client (including all ?? Method A. Reporting amounts using LDA definitions only payments to the registrant by any other entity for lobbying activities on behalf of the client). ?? Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code ?? Method C Reporting amounts under section 162(e) of the Internal Revenue Code Signature Printed Name and Tide LD-2 (REV. 6/98) PAGE 1 of 5

McSlarrow Consulting Client Name Microsoft Corporation Registrant Name

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CPI (one per page)

16. Specific lobbying issues Competition in the software industry

17. House(s) of Congress and Federal agencies contacted ?? Check if None

U.S. Senate

U.S. House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name Covered Official Position (if applicable) New Alison.—.. McSlarrow ??

19. Interest of each foreign entity in the specific issues listed on line 16 above ?? Check if None Signature Date Printed Name and Title Form LD.2 (Rev.6/98) Page 2 of

17. House(s) of Congress and Federal agencies contacted ?? Check if None

U.S. Senate

U.S. House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

Alison McSlarrow; Deputy Chief of Staff to Senate Majority Leader Trent Lott

19. Interest of each foreign entity in the specific issues listed on line [6 above

Check if None

Signature

Date February 2, 2001

Printed Name and Title Alison H. McSlarrow, President

Form LD-2 (Rev.O/q8)

Registrant Name McSlarrow Consulting Client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code IMM (one per page)

16. Specific lobbying issues

S. 2045, American Competitiveness in the 21st Century Act, all provisions

H.R. 3983, Helping Improve Technology Education and Achievement Act, all provisions

H.R. 4227, Technology worker Temporary Relief Act, all provisions

17. House(s) of Congress and Federal agencies contacted ?? Check if None

U.S. Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered official Position (if applicable)

New

Alison H. McSlarrow; Deputy Chief of Staff to

Senate Majority Leader Trent Lott

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if None

Signature

Date

Printed Name and Title

Form I.D-2 (Rev.6/98)

Registrant Name McSlarrow Consulting Client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TEC (one per page)

16. Specific lobbying issues Interoperability of instant messaging

17. House(s) of Congress and Federal agencies contacted ?? Check if None

U.S. Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered

Official Position (if applicable)

New

Alison H. McSlarrow; Deputy Chief of Staff to

Senate Majority Leader Trent Lott

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature

Date February 2, 2001

Printed Name and Title Alison H. McSlarrow, President

Form LD-2 (Rev. 6/98)

ATTACHMENT 36

TO THE DECLARATION OF BRIAN DAUTCH

AUG 14 2001

Clerk of the House of Representatives Secretary of the Senate

LEGISLATIVE RESOURCE CENTER

Legislative Resource Center, B-106 Cannon Building, Washington, DC 20515

Office of Public Records, 232 Hart Building, Washington, DC 20510

2001 AUG 15 PM; 12:58

U.S. ??REPRESENTATIVES

LOBBYING REPORT —"

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This

1 Registrant Name

McSlarrow Consulting L.L.C.

2. Address 6551 Kristina Ursula Court, Falls Church, Virginia 22044

Check if different than previously reported

3. Principal Place of Business (if different from line 2)

City:

Stale/Zip (or Country)

4. Contact Name

Telephone

E-mail (optional)

5. Senate ID #

Alison McSlarrow 703–658–01 38

48703–12

7. Client Name ?? Self 6.

House ID #__

Microsoft Corporation

34541 002??

TYPE O17 REPORT 8. Year 2001 Midyear (January [-June 30) ?? OR Year End (July 1-December 31) ??

9. Check if this fling amends a previously filed version of this report ??

10. Check if this is a Termination Report ?? Termination Date

11. No

Lobbying Activity ??

INCOME OR EXPENSES- Complete Either Line 12 OR Line I3

12. Lobbying Firms

13. Organizations

INCOME relating to lobbying activities for this reporting

period was: period were:

EXPENSES relating to lobbying activities for this reporting

Less than $10,000 ??

Less than $10,000 ??

$10,000ormore ?? ?? $

$10.000 or more ?? ??

$60,000 Expenses (nearest $20,000) Income (nearest S20.000)

14. REPORTING METHOD. Check box to indicate expense

Provide a good faith estimate, rounded to the nearest $20,000, accounting method. See instructions for description of options. of all lobbying related income from the client (including all

Method A. Reporting amounts using LDA definitions only payments to the registrant by any other entity for lobbying activities on behalf of the client).

Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code

Method C Reporting amounts under section 162(e) of the Internal Revenue Code

Signature

Printed Name and Tide

LD-2 (REV. 6/98)

McSlarrow Consulting Client Name Microsoft Corporation

Registrant Name

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CPI (one per page)

16. Specific lobbying issues

Competition in the software industry

17. House(s) of Congress and Federal agencies contacted

Check if None

U.S. Senate

U.S. House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

Alison._.. McSlarrow

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature

Date

Printed Name and Title

Form LD.2 (Rev.6/98) Page 2 of

Registrant Name McSlarrow Consulting Client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CPT (one per page)

16. Specific lobbying issues Software piracy, counterfeiting, and protection of intellectual property rights

17. House(s) of Congress and Federal agencies contacted ?? Check if None

U.S. Senate

U.S. House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

Alison H. McSlarrow

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature

Date

Printed Name and Title

Form LD-2 (Rev. 6/98)

Registrant Name McSlarrow Consulting client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period, Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CSP (one per page)

16. Specific lobbying issues

Internet privacy

S. 803, E-government Act of 2001, all provisions

17. House(s) of Congress and Federal agencies contacted

Check if None

U.S. Senate

U.S. House of Representatives

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered

Official Position (if applicable)

New

Alison H. McSlarrow

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature

Date

Printed Name and Title

Form LD-2 (Rev.6/98)

Registrant Name McSlarrow Consulting Client Name Microsoft Corporation

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TAX (one per page)

16. Specific lobbying issues

S. 532, Internet Tax Moratorium and Equity Act, all provisions

S. 589, A bill to make permanent the moratorium on the imposition of taxes on the Internet, all provisions

S. 664, New Economy Tax Fairness Act, all provisions

S. 41, To amend the Internal Revenue Code of 1986 to permanently extend the research credit, all provisions

H.R. 1836, Economic Growth and Tax Relief Reconciliation Act of 2001, research and development tax credit provisions

17 House(s) of Congress and Federal agencies contacted

Check if None

U.S. Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

Alison H. McSlarrow

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if None

Signature

Date August 12, 2001

Printed Name and Title Alison H. McSlarrow, President

Form LD-2 Rev.6/98)

ATTACHMENT 37

TO THE DECLARATION OF BRIAN DAUTCH

B.106 C?? B??, Washington, DC 20?? 15

?? H?? Building, Washington, DC 20510

AUG

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required To Complete This Page

Microsoft Corporation

2.1 D??nt Circle, NW, 5th Floor, Washington, DC 20036

City: Redmond

state/Zip ?? WA 98052

Jack ??rumholtz

202–263–5900 25204–12

7. Ciieat Name ?? Se??

6. House ID # 31174000

TYPE OF REPORT 3. Year 2000 Midyear (January 1-June 30) ?? OR Year End (July 1-December

9. Check it this filing amends a previously filed version of ibis report

10. Check if this is a Term??ation Report ?? ?? Ter??nation Date

I l, No Lobbying A??

INCOME OR EXPENSES-Complete Either Line 12 OR Line 13

12. Lobbying Fie?? 13.

Organizations

INCOME relating to lobbying activities for this reporting

EXPENSES relating to lobbying activities for this reporting

period was:

period were:

Less than $10.000 ??

Less than $10,000 ??

$10.000 or more ?? ?? $3,340,000

I??come ?? $20,000

14. REPORTING

??IETHOD, Check box to indicate expen??

Provide a good ??ith estimate, rounded to the nearest $20,000. accounting method. See instructions for description of options of all lobbying related income from the client (including all

Method A. Reporting amounts using LDA definitions o?? payments to the registrant by any other en??y for ??obbying activities on behalf of the client??.

Method B. Reporting amounts under section 6033(b)(8)C Internal Reve??oe Code

Method C. Reporting amounts under section 162(e) of th Internal Revenue Cod???

Signature

Printed Name and Title Jack Krumholtz, Director of Federal Government Affairs,

Registrant Name Microsoft Corporation Client Name Se??

LOBBYING ACTIVITY". ?? as many codes as necessary to reflect, the general issue areas in which the Regis?? engaged in lobbying on behalf of the client during the reposing period. Using a separate page for each code prov?? information as requested. Attach additional page(s) as needed,

General issue area code IMM (one per page)

16. Specific l??bbying issues

H.R. 3983, Helping Co Improve Technology Education and Achievement Act of 2000

H.R. 4227, T??chnology Worker Temporary Relief Act

S. 2045, American Competitiveness in the Twenty-first Century Act of

17. House(s) of Congress and Federal agencies contacted

Check if None

Senate

House of Representatives

Department of Commerce

National Economic Council

Office of the President

18. Name of each individual who acted as a lobbyist in this issue area

Jack Krumholtz

Eric Koenig

Chief of Staff

Kent Knutson, Deputy Asset. Sec. for Intergovernme??

Tom Jurkovich, Affairs(. US Dept. of Commerce

John Sampson, Associate Director, Senate Democrat

James Houton, Steering, and Coordination Committe??

Ira Rubinstein

Julie Inman

19. Interest of each foreign entity in (he specific issues listed on line 16 above

Check if None

Printed Name and Title Jack, Associate General Counsel

Regis?? Name Microsoft Corporation Client Name Self

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the regist?? engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code. ?? information as requested. Attach additional page(s) as needed.

15. General issue code CPT (one per pace☐

16, Specific lobbying issues

H.R. 354, Collections of Information Antipiracy Act

H.R. 4690, Departments of. Commerce, Justice and State, the Judiciary, and Related Agencies Appropriations Act, 2001, relating to copyright and patent issues

House Amendment 889 to H.R. 4690, Amendment to increase funding for US Patent and Trademar?? offices "

Software Piracy, Counterfeiting and Copyright Protection

17. House(s) of Congress and Federal agencies con??acted

Cheek if None

Senate

House of Representatives

Nabions1 Economic Council

Office of the Vice President

Department of Commerce

Department" of State

United States Trade Representative

??Department ??

18. Name of each individual who acted as a lobbyist in this issue area

Covered Official Position (if applicable)

Jack Krumholtz

Eric Koenig

Chief of Staff

Kerry Knott

House Majority Leader Richard Ar??

Kent Knutson

Tom Jurkovich, Affairs,. US Dept. off Commerce ,.

-John Sampson Associate Director, senate Democrat

19. ?? of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Printed Name and Title Jack "??

Director of Federal Government Affairs, Associate General Counsel.

Registrant Name Microsoft Corporation Cli?? Name Self

LOBBYING ACTIVITY- Select as many codes as necessary to reflect the general issue ar?? in which the re?? engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code. prov?? Information as requested. Attach additional page(s) as needed.

15. ??

Filing Images

Microsoft Corporation

General Issue Area: TAX :

Foreign Sales Corpora=ion Dispute Pending at %/TO

Name of each individual who acted as a lobbyist in this issue ar??

Marc Berejka

Julie Inman

Bill Sample

http://sopr.senate.gov/cgi-win/opr—gifviewer.exe?

Filing Images

Associate General. Counsel

http://sopr.senate.gov/cgi-win/oprgifviewer.exe?

Filing Images

?? Name Microsoft Corporation ?? Name Self

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the regist?? engaged in lobbying on behalf of the client ?? the reporting period. Using a separate page for each code, prov information as requested. A?? additional page(s) as needed.

15. General issue area code CPI (one per page)

16. Specific lobbying issues

H.R. 4246, Cyber Security Information Act

S. 2448, Internet Integrity and Critical Infrastructure Protection Act of 2000

competition in the Software Industry

Promoting Protection of Critical Infrastructures

7. House(s) of Congress and Federal agencies contacted ??

Check if None

S??nate

House of Represe??tatives

Department of Justice

National Security Agency

Federal Bureau of Investigation

Department of Commerce:

Department of Defense

18. Name of each individual who acted as a lobbyist in this issue area

C?? Official Pos?? (if ??)

Jack Krumho??

Eric Koenig

Chief of Staff Kerry Knott House Majority Leader Richard Arm

Kent Knutson

Deputy Asst. sec. for Intergovernme??

Tom Jurkovich, Affairs, US Dept. of Commerce:

John Sampson

Associate Director, Senate Democrat

James Houton

??

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Printed Name and Title J?? Director of Fe?? fairs,

Associate General

Counsel

http://sopr.senate.gov/cgi-win/opr—gifviewer.exe?

Filing Images

Microsoft Corporation

General Issue Area: CPI

Name of each individual who acted as a lobbyist in this issue are;

Marc Berejka

Bill Guidera

Ira Rubinstein

Mike Egan

John Kelly

Ed Tobin

Filing Images ??

?? Name Microsoft Corporation Client Name Se?? LOBBY??G ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the regist?? engaged in lobbying on behalf of the client during the reporting period. ??sing a separate page for each code, prov?? information as requested, Attach additional page(s) as needed.

15. General issue area code CSP (one per page)

16. Specific lobbying issues

H.R, 1714, ELectronic Signatures in Global and National Commerce Act.

S. 761, Millennium Digital Commerce Act (Digital Signatures)

S. 2063:; Secure Online Communication enforcement. Act of 2000

S. 854, Electronic Rights for the 21st ?? Century Act

S. 2448, Internet Integrity and Critical Infrastructures Protection Act. of 2000

S. 2606, Consumer Privacy Protection Act:.

H.R. 4049, Privacy Commission Act

H.R. 1685, Internet Growth and Development Act

17. House(s) of Congress and Federal agencies contacted ?? Check if None

Senate??

House of Representatives

White House

Department of Commerce

Federal Communications Commission

Federal Trade Commission

Department of state

18. Name of each individual who acted as a lobbyis?? in this issue area ??

Jack Krumholtz

Eric Koenig

Chief of Staff

Kerry Knot t, House Majority Leader Richard Arm??

Kent Kn??tson Deputy Asst. Sec. for Intergovernme??

Tom Jurlovich Affairs, US Dept. of Commerce

John Sampson, Associate Director, Senate Democrat

James Houton Steering and Coordination Committes

19. Interest of each foreign ??ity in the Specific issues listed on line 16 above

?? Check if None

Signature Date

Printed Name and Title Jack ??umholtz, Director of Federal Government Affairs,

Associate General Counsel

http://sopr.senate.gov/cgi-win/opr—gifviewer.exe?

Filing Images ??

Microsoft Corporation

General Issue Area: CSP

Specific lobbying issues

International Online Consumer Protection, Privacy and

Jurisdictional Issues

Name of each individual who acted as a lobbyist in this issue are

Marc Berejka

Bill Guidera

http://sopr.senate.gov/cgi-win/opr—gifviewer.exe?

Filing image ??

Registrant Name Microsoft Corporation Client Name Se??

LOBBYING ACTIVITY. Select as many codes as necessary co reflect the general issue arena in which the regist?? engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each tacit, prov?? information as requested. Attach additional page(s) as needed.

15. General issue area code LBR (one per page)

16. Specific lobbying issues

H.R, 3462, Wealth through the Workplace :Act of 1999

H.R. 1102, Comprehensive Retirement Security and Pension Reform Act

17. House(s) of Congress and Federal agencies contacted

?? Check if None

Senate

House of Representatives

Department of Labor

18. Name of each individual who acted as a lobbyist in this issue area

Jack Krumholtz

Eric Koenig

-Kerry Knott Chief of Staff

Kent Knutson

Deputy Asst. Sec. for Intergovernme??

Tom Jurkovich Affairs,. US Dept. of Commerce

John Sampson

Associate Director, Senate Democrat

James Houton Steering and Coordination Committe??

Julie Inman

Bill Sample

19. I?? of each foreign entity in the specific issues listed on fine [6 above ?? Check if None

Associate General Counsel

http://sopr.senate.gov/cgi-win/opr—gifviewer.exe?

ATTACHMENT 38

TO THE DECLARATION OF BRIAN DAUTCH SECRETARY OF THE SENATE CLERK OF THE HOUSE OF REPRESENTATIVES

LOBBYING REPORT 31355019

Lobbying Disclosure Act (Section 5)

For Official Use

1. Year 1997

2. Report Type (check all that apply)

Midyear(January l-June30) ?? Year End (July 1-December 31)

Amended report ?? Termination report ??

No activity (registration to remain in effect) ??

REGISTRANT

3. Name of Registrant PRESTON GATES ELLIS & ROUVELAS MEEDS LLP [

4. Telephone number and contact name

(202) 6282–1700 Contact Rosanne Phillips

CLIENT Lobbying firms file separate reports for each client. An organization employing in-house lobbyists indicates "Self."

5. Name of Client MICROSOFT CORPORATION

INCOME OR EXPENSES Answer line 6 or line 7 as applicable.

6. LOBBYING FIRMS. Income from the client during the reporting period, other than income unrelated to lobbying activities, was:

Less than $10,000 ?? S10,000 or more ??

IFS10,000 or more, provide a good faith estimate, rounded to the nearest $20,000, of all income from the client during this reporting period. Include any payments by any other entity for lobbying activities on behalf of the client. Exclude income unrelated to lobbying activities.

Incomes 220.000.00 Total for year (if Year End report) $ 380.000.00

7. ORGANIZATIONS EMPLOYING IN-HOUSE LOBBYISTS. Expenses incurred in connection with lobbying activities during tile reporting

period were:

Less than $10,000 ?? $10,000 or more ??

If $10,000 or more, provide a good faith estimate, rounded to the nearest $20,000, of the total amount of all lobbying expenses incurred by the registrant and its employees during this reporting period.

Expenses $

Total for year (if Year End report) $

Optional Expense Reporting Methods

A. Registrants that report lobbying expenses under section 6033(bX8) of the Internal Revenue Code may provide a good faith estimate of the applicable amounts that would be required to be disclosed under section 6033(b)(8) for the semiannual reporting period, and may consider as lobbying activities only those defined under section 491l(d) of the Internal Revenue Code. If selecting this method, check box and (i) enter estimated amounts on the "Expenses" line above; or (ii) attach a copy of the IRS Form 990 that includes this reporting period. ??

B. Registrants subject to section 162(e) of the Internal Revenue Code may make a good faith estimate of all applicable amounts that would not be deductible under section 162(e) for the semiannual reporting period, and may consider as lobbying activities only those activities the costs of which are not deductible pursuant to section 162(e). If selecting this method, check box and enter estimated amounts on the "Expenses" line above, ??

Form LD-2 (1/96)

Registrant Name PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name MICROSOFT CORPORATION

LOBBYING ISSUES. On line 8 below, enter the code for one general lobbying issue area in which the registrant engaged in lobbying activities for the client during this reporting period (select applicable code from list in the instructions and on the reverse side of Form LD-2, page 1). For that general issue area only, complete lines 9 through 12. If the registrant engaged in lobbying activities for the client in more that one general issue area, use one Lobbying Report Addendum page for each additional general issue area.

8. General lobbying issue area code (enter one) CPI

9. Specific lobbying issues (include bill numbers and specific executive branch actions)

Bills:

H.R.695; Security and Freedom Through Encryption (SAFE) Act;

S.377; Promotion of Commerce On-Line in the Digital Era (Pro-CODE) Act of 1997;

S.909; Secure Public Networks Act; Congressional Issues: Competition in the Software Market

10. Houses of Congress and Federal agencies contacted

House of Representatives

Senate

11. Name and title of each employee who acted as a lobbyist

HELM, BRUCE—ATTORNEY

BRANDT, WERNER—GOVT. AFFAIRS COUNSELOR

CARLSON, AMY—ATTORNEY

STEPHENS, DENNIS—GOVT. AFFAIRS ANALYST

GARVIE, PAMELA—ATTORNEY

MOSHER, SOL—SR ADV. FOR FED. AFFAIRS

BERGER, AMY—Attorney

12. For registrants identifying foreign entities in the Lobbying Registration (Form LD-I, line 12) or any updates: interest of each such foreign entity in the specific lobbying issues listed on line 9 above

NONE

Printed Name and Title TIM PECKINPAUGH—ATTORNEY

Date 2117/98

Form LD-2 (1/96)

ATTACHMENT 39

TO THE DECLARATION OF BRIAN DAUTCH ??

Clerk of the House of Representatives, Legislative Resource Center, I3–106 Cannon Building, Washington, DC 20515

Secretary of the Senate, Office of Public Records, 232 Hart Building, Washington, DC 20510

96 AUG 14 PM 3:33

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required to Complete This Page

1. Registrant Name

PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

2. Address ??Check if different than previously reported 1735 NEW YORK AVENUE, SUITE 500, NW WASHINGTON DC 20006–5209

3. Principal Place of Business (if different from line 2)

City

State/Zip (or Country)

4. Contact Name

Telephone

E-mail (optional) 5.

Senate ID #

ROSANNE PHILLIPS 202–628–1700 313355019

7. Client Name ?? Self

MICROSOFT CORPORATION

TYPE OF REPORT 8. Year 1998

Midyear(January l-June 30) ?? OR Year End (July

l-December 31) ??

9. Check if this filing amends a previously filed version of this report ??

10. Check if this is a Termination Report ?? >> Termination Date 11. No

Lobbying Activity??

INCOME OR EXPENSES—Complete Either Line 12 OR Line 13

12. Lobbying Firms

13. Organizations

INCOME relating to lobbying activities for this reporting

EXPENSES relating to lobbying activities for this reporting

period was:

period were:

Less than $10,000 ??

Less than $10,000 ??

$10,000 or more ?? >> $ $360,000.00

$10,000 or more ??>> $

Income (nearest $20,000

Expenses (nearest $20.000)

14. REPORTING METHOD. Check box W indicate expense

Provide a good faith estimate, rounded to the nearest accounting method. See instructions for description of options.

$20,000 of all lobbying related income from the client (including all payments to the registrant by any other entity ??

Method A. Reporting amounts using LDA definitions only for lobbying activities on behalf of the client). ??

Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code ??

Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature

Date 8/14/98

Printed Name and Title EMANUEL ROUVELAS—ATTORNEY

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide ??nformation as requested. Attach additional page(s) as needed.

15. General issue area code CPI (one per page)

16. Specific Lobbying issues

H.R.695, Security and Freedom Through Encryption (SAFE) Act, all sections

S.2067, Encryption Protects the Rights of Individuals from Violation and Abuse in Cyberspace

(F-PRIVACY) Act, all sections

S.376, Encrypted Communications Privacy Act of 1997, all sections

S.377, Promotion of Commerce On-Line in the Digital Era (Pro=CODE) Act of 1997, all sections

S.909, Secure Public Networks Act, all sections Senate Judiciary Committee Hearings on Competition in the Software Market.

17. House(s) of Congress and Federal agencies contacted ??

Check if None

House of Representatives

OSTP NSC USTR DOJ FBI NEC DOC CIA OMB NSA

Senate

Vice President

White House

18. Name of each individual who acted as a lobbyist in this issue area

Name

Coveted Official Position (if applicable)

New

O'NEIL, MICHAEL,

Gen. Counsel, CIA -Chief of Staff-CIA

No

SLOMOWITZ, ALAN

Adm. Asst. -Rep. Robert Borski

Yes

WALKER, FRANKLIN

Yes

MILDER, BENJAMIN, Leg. Corres.—Sen. Hatfield

Yes

HEIMAN, BRUCE

No

BRANDT, WERNER

No

CARLSON, AMY

No

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if

None

Signature Date 8/14/98

Printed Name and Title EMANUEL ROUVELAS—ATTORNEY Page 2

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LIP

Client Name: MICROSOFT CORPORATION

Item	Description	Data
18a Lobbyist Name.	STEPHENS, DENNIS..	
18b	Covered Official Position.	xl
18c	New Lobbyist ...	No.
18a	Lobbyist Name	MOSHER, SOL.
18b	Covered Official Position.	xl
18c	New Lobbyist ...	No.
18n	Lobbyist Name	BERGER, AMY.
18b	Covered Official Position.	xl
18c	New Lobbyist ...	No.
18a	Lobbyist Name	ABRAMOFF, JACK.
18b	Covered Official Position.	xl
18c	New Lobbyist ...	No.
181	Lobbyist Name	MASHBURN, JOHN.
lab	Covered Official Position.	LEG. DIR. SEN. JOHN ASHCROFT.
18c	New Lobbyist ...	No.
18a	Lobbyist Name	PIZZELLA, PATRICK.
18b	Covered Official Position.	xl
18c	New Lobbyist ...	No.
18a	Lobbyist Name	PECKINPAUGH, TIM.
18b	Covered Official Position.	xl
18c	New Lobbyist ...	No.
18a	Lobbyist Name	JARRELL, WILLIAM.
18b	Covered Official Position.	Deputy Chief of Staff- Pep. Tom DeLay.
18c	New Lobbyist ...	No.
18a	Lobbyist Name	ROUVELAS, EMANUEL.
18b	Coveted Official Position.	xl
I8c	New Lobbyist ...	No.

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CPT (one per page)

16. Specific Lobbying issues

H.R. 2281, WIPO Copyright Treaties Implementation Act, all provisions

S.2037, Digital Millennium Copyright Act of 1998, all provisions

17. House(s) of Congress and Federal agencies contacted ?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name Coveted Official Position (if applicable)

New

WALKER, FRANKLIN

Yes

MILDER, BENJAMIN Leg. Corres.—Sen. Hatfield

Yes

HEIMAN, BRUCE

No

MASHBURN, JOHN LEG. DIR. SEN. JOHN ASHCROFT

No

PIZZELLA, PATRICK

No

CARLSON, AMY

No

ROUVELAS, EMANUEL

No

19. Interest of each foreign entity in the specific issues listed on line I6 above ?? Check if

None

Signature

Date 8/14/98

Printed Name and Title EMANUEL ROUVELAS—ATTORNEY

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

Item	Description	Data
18a	Lobbyist Name	BRANDT, WERNER
18b Covered Official Position.		
I8c	New Lobbyist ...	No
18a	Lobbyist Name	STEPHENS, DENNIS
18b	Covered Official Position.	
18c	New Lobbyist ...	No
18a	Lobbyist Name	JARRELL, WILLIAM
18b	Covered Official Position.	Deputy Chief of Staff- Rep. Tom DeLay
18c	New Lobbyist ...	No

Page 5

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code IMM (one per page)

16. Specific Lobbying issues

H.R.3736, Workforce Improvement and Protection Act of 1998, all provisions relating to the

H1-B visa program.

S.1723, American Competitiveness Act, all provisions rebating to the H1-B visa program.

17. House(s) of Congress and Federal agencies contacted ?? Check if None

House of Representatives

Senate

IS. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

HEIMAN, BRUCE

No

CARLSON, AMY

No

BRANDT, WERNER

No

ROUVELAS, EMANUEL

No

O'NEIL, MICHAEL Gen. Counsel, CIA -Chief of Staff-CIA

Yes

STEPHENS, DENNIS

No

JARRELL, WILLIAM Deputy Chief of Staff-Rep. Tom DeLay

No

19. Interest of each foreign entity in the specific issues listed on line 16 above ?? Check if

None

Signature

Date 8/14/98

Printed Name and Title EMANUEL ROUVELAS—ATTORNEY

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

Item	Description	Data
18a	Lobbyist Name	MASHBURN, JOHN.
18b	Covered Official Position.	LEG. DIR. SEN. JOHN ASHCROFT.
18c	New Lobbyist ...	No.
18a	Lobbyist Name	SLOMOWITZ, ALAN.
18b	Covered Official Position.	Adm. Asst. -Rep. Robert Borsk??
18c	New Lobbyist ...	Yes.
18a	Lobbyist Name	PECKINP AUGH, TIM
18b	Covered Official Position.	xl
18c	New Lobbyist ...	Yes
18a	Lobbyist Name	PIZZELLA, PATRICK
18b	Covered Official Position.	xl
18c	New Lobbyist ...	No
18a	Lobbyist Name	WALKER, FRANKLIN
18b	Covered Official Position.	xl
18c	New Lobbyist ...	No
18a	Lobbyist Name	MILDER, BENJAMIN
18b	Covered Official Position.	Leg. Corres.-Sen. Hatfield
18c	New Lobbyist ...	Yes

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TAX (one per page)

16. Specific Lobbying issues

H.R.1054, Internet Tax Freedom Act, all provisions

H.R.4105, Internet Tax Freedom Act, all provisions

S.442, Internet Tax Freedom Act, all provisions

17. House(s) of Congress and Federal agencies contacted ?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name Covered Official Position Of applicable)

New

MASHBURN, JOHN LEG. DIR. SEN. JOHN ASHCROFT

No

PIZZELLA, PATRICK

No

WALKER, FRANKLIN

yes

BRANDT, WERNER

No

CARLSON, AMY

No

STEPHENS, DENNIS

No

19. Interest of each foreign entity in the specific issues listed on line 16 above ?? Check if

None

Signature Date 8/14/98

Printed Name and Title EMANUEL ROUVELAS- ATTORNEY

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TEC (one per page)

16. Specific Lobbying issues

17. House(s) of Congress and Federal agencies contacted ?? Check if

None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name Covered Official Position (if applicable) New

BRANDT, WERNER

No

CARISON, AMY

No

HEIMAN, BRUCE

No

STEPHENS, DENNIS No

JARRELL, WILLAM, Deputy .Chief of Staff-Rep. Tom

DeLay

No

MASHBURN, JOHN, LEG. DIR. SEN. JOHN ASHCROFT

No

SLOMOWITZ, ALAN, Adm. Asst. -Rep. Robert Borski

Yes

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature

Date 8/14/98

Printed Name and Title EMANUEL ROUVELAS—ATTORNEY

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

Item	Description	Data
18a	Lobbyist Name	PIZZELLA, PATRICK.
18b	Covered Official Position.	xl
18c	New Lobbyist ...	No.
18a	Lobbyist Name	PECKINPAUGH, TIM.
18b	Covered Official Position.	xl
184	New Lobbyist No.	xl
18a	Lobbyist Name	ROUVELAS, EMA??.
18b	Covered Official Position.	xl
1Be	New Lobbyist No.	xl
18a	Lobbyist Name	BERGER, AMY.
18b	Covered Official Position.	xl
18c	New Lobbyist ...	No.
18a	Lobbyist Name	WALKER, FRANKLIN.
18b	Covered Official Position.	xl
18c	New Lobbyist ...	No.
18a	Lobbyist Name	MILDER, BENJAMIN.
18b	Covered Official Position Leg. Corres.—Sen. Hatfield.	
18c	New Lobbyist ...	Yes.
16	Lobbying Issues.	

Carriage of the Transmission of Digital Television Broadcast Stations, FCC Dkt, 98–120

Access to Telecommunications Services and Equipment for Persons with Disabilities, FCC Dkt 96–198

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

Information Update Page—Complete ONLY where registration information has changed.

20. Client new address

21. Client new principal place of business (if different from line 20) State/Zip (or Count)

22. New general description of client's business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client

MEEDS, LLOYD

ISSUE UPDATE

24. General lobbying issues previously reported that no longer pertain

SCT

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Principal Place of Business

Name

Address (city and state or country)

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

FOREIGN ENTITIES

27. Add the following foreign entities

Principal Place of Business Amount of contribution Ownership %

Name

Address (city and state or country) for lobbying activities In client

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client, or affiliated organization

Signature

Date 8/14/98

Printed Name and Title EMANUEL ROUVELAS—ATTORNEY

ATTACHMENT 40

TO THE DECLARATION OF BRIAN DAUTCH ??

Clerk of the House of Representatives, Legislative Resource Center, 13–106 Cannon Building, Washington, DC 20515

Secretary of the Senate, Office of Public Records, 232 Hart Building, Washington, DC 20510

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required to Complete This Page

1. Registrant Name

PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

2. Registrant Address ?? Check if different than previously reported

Address 1735 NEW YORK AVENUE, NW SUITE 500 City WASHINGTON State/Zip (or Country) DC 20006–5209

3. Principal Place of Business (if different from line 2)

City

State/Zip (or Country)

4. Contact Name

Telephone

E-mail (optional)

5. Senate It) #

ROSANNE PHILLIPS, 202–628–1700, 32098–366

7. Client Name ?? Self

6. House

ID #

MICROSOFT CORPORATION

313550i9 %

TYPE OF REPORT

s. Year 1999 Midyear(January 1-June 30) ?? OR Year End (July I-December 31)

9. Check if this filing amends a previously filed version of this report ??

10. Check if this is a Termination Report ?? >> Termination Date .... 11. No Lobbying Activity??

INCOME OR EXPENSES—Complete Either Line 12 OR Line 13

12. Lobbying Firms

13. Organizations

INCOME relating to lobbying activities for this reporting EXPENSES relating to lobbying activities for this reporting period was:

period were:

Less than $10,000 ??

Less than $10,000 ??

$10,000 or more

?? >> $

$200,000.00

$10,000 or more El >> $

Income (newest $20,000)

Expenses (nearest $20,000)

14. REPORTING METHOD. Check box to indicate expense

Provide a good faith estimate, rounded to the nearest

accounting method. See instructions for description of options. $20,000 of all lobbying related income from the client (including all payments to the registrant by any other entity

?? Method A. Reporting amounts using LDA definitions only for lobbying activities on behalf of the client). F1 Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code

?? Method C. Reporting amounts under section 162(e)of the Internal Revenue Code

Signature ??

Date 02/14/2000

Printed Name and Title JONATHAN BLANK- PARTNER

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CPI (one per page)

16. Specific Lobbying issues

H.R.3194, Consolidated Omnibus Appropriations Act, relatig to patend and copyright issues.

H.R.775, Year 2000 Readiness & Responsibility Act,

H.R.850, Security And Freedom through Encryption (SAFE) Act,

S.314, Small Business Year 2000 Readiness Act,

S.6998, Y2K Act.

S.798, Promote Reliable On-Line Transactions to Encourage Commerce and Trade (PROTECT) Act of 1999, competition in software industry

17. House(s) of Congress and Federal agencies contacted ?? Check if None

House of Representatives

Senate

White House

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BERGER, AMY

Yes ....

BRANDT, WERNER

No

FUNDERBURK, DAVID

CONGRESSMAN

Yes

PIZZELLA, PATRICK

No

ROUVELAS, EMANUEL

No

VALENTINE, STEVEN Leg. Dir & Gen. Counsel Sen. Bob

Smith

Yes

WALKER, FRANKLIN

No

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature ??

Date 02/14/2000

Printed Name and Title JONATHAN BLANK- PARTNER

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code —CPT—— (one per page)

16. Specific Lobbying issues

H.R.1761, Copyright Damages improvement Act of 1999,

H.R.1858, Consumer and Inventors Access to Information Act of 1999,

H.R.1907, American Inventors Protection Act of 1999, (engrossed).

H.R.2654, American Inventors Protection Act of 1999,

H.R.354, Collection of Information Antipiracy Act,

S. 1257, Digital Theft Deterrence and Copyright Damages Improvement Act of 1999,

Software piracy and count??rfiting.

17. House(s) &Congress and Federal agencies contacted ?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area Name—Covered Official Position (if applicable) New

BRANDT, WERNER

No

* HEIMAN, BRUCE

No

PIZZELLA, PATRICK

No

ROUVELAS, EMANUEL

No

WALKER, FRANKLIN

No

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Printed Name and Title JONATHAN BLANK- PARTNER

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CSP (one per page)

16. Specific Lobbying issues

1t.R.1714, Electronic Signatures in Global and National Commerce Act,

S.761, Third Millennium Digital Commerce Act,

S.809, Online Privacy Protection Act of 1999,

17. House(s) of Congress and Federal agencies contacted ?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BRANDT, WERNER

No

PIZZELLA, PATRICK No

WALKER, FRANKLIN

No

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature Date ??

Printed Name and Title JONATHAN BLANK- PARTNER

Registrant Name: PRESTON CATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code IMM (one per page)

16. Specific Lobbying issues

H.R.2687, Bringing Resources of Academia to Industry Act,

H.R.2968, S.1440, New Workers for Economic Growth Act,

S.1645, Helping Improved Technology Education (HITECH),

S. 180, 21st Century Technology Resources and Commercial Leadership Act,

17. House(s) of Congress and Federal agencies contacted ??

Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name Covered Official Position (if applicable)

New

BRANDT, WERNER .

No

HEIMAN, BRUCE

No

PIZZELLA, PATRICK ——

No

ROUVELAS, EMANUEL

No

WALKER, FRANKLIN

No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TAX (one per page)

16. Specific Lobbying issues

H.R. 2488, S. 1429, Taxpayer Refund Act of 1999,

H.R. 3194, Consolidated Omnibus Appropriations Act,

H.R. 835, To amend the Internal Revenue Code of 1986 to permanently extend the research credit and to adjust the alternative incremental credit rates,

S.542, New Millennium Classrooms Act,

S.680, To amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes,

17. House(s) of Congress and Federal agencies contacted ?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BRANDT, WERNER

No

HEIMAN, BRUCE

Yes

WALKER, FRANKLIN ....

19. Interest preach foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature ...??

Date—02/14/2000

Printed Name and Title JONATHAN BLANK- PARTNER

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TEC (one per page)

16. Specific Lobbying issues

H.R. 1554, Satellite Copyright Competition Protection Act of 1999,

H.R. 1685, Internet Growth and Development Act of 1999,

H.R. 1686, Internet Freedom Act,

H.R.2420, Internet Freedom and Broadband Development Act of 1999,

S.877, Broadband Internet Regulator)" Relief Act,

17. House(s) of Congress and Federal agencies contacted

?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BRANDT, WERNER

HEIMAN, BRUCE

No

PIZZELLA, PATRICK

No

ROUVELAS, EMANUEL

No

WALKER, FRANKLIN —.——

No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature—

Date—

02/1—4/2——.—000 .....

Primed Name and Title JONATHAN BLANK- PARTNER

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TRD —— (one per page)

16. Specific Lobbying issues

Normal Trade Relations with China WTO provisions of The Agreement on Trade-Related 1PR (TRIPs) Seattle WTO Ministerial Meeting (1999) and related issues.

17. l louse(s) of Congress and Federal agencies contacted

Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

BRANDT, WERNER

No

HEIMAN, BURCE

PIZZELLA, PATRICK

19. Interest of each foreign entity in the specific issues listed on line 16 above

Check if None

Signature

Date. 02/14/2000

Printed Name and Title JONATHAN BLANK- PARTNER

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

Information Update Page—Complete ONLY where registration information has changed.

20. Client new address

21. Client new principal place of business (if different from line 20)

City

State??.ip (or Country)

22. New general description of client's business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client

JARRELL, WILLIAM

STEPHENS, DENNIS

O'NEIL, MICHAEL

WALKER, FRANKLIN

ISSUE UPDATE

24. General lobbying issues previously reported that no longer pertain BUD, SCI

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Principal Place of Business

Name

Address

(city and state or country)

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

FOREIGN ENTITIES

27. Add the following foreign entities

Principal

Place of Business Amount of contribution Ownership %

Name

Address (city and state or country☐ for lobbying activities in client

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client, or affiliated organization

Signature

Date 02/14/2000

Printed Name and ?? JONATHAN BLANK—PARTNER ....

ATTACHMENT 41

TO THE DECLARATION OF BRIAN DAUTCH

Clerk of the House of Representatives

Secretary of the Senate, Legislative Resource Center, Office of Public Records, B–106 Cannon Building Washington DC 20515, 232 Hart Building, Washington, DC 20510

HAND DELIVERED

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required to Complete This Page

1. Registrant Name

PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

2. Address

Check if different than previously reported 1735 NEW YORK AVE, NW, SUITE 509, WASHINGTON DC 20006

Principal Place of Business (if different from line 2)

City

State/Zip (or Country)

4. Contact Name

Telephone

E-mail (optional)

5. Senate ID #

ROSANNE PHILLIPS 202–628–1700 32098–366

7. Client Name ?? Self

6. House ID #

MICROSOFT CORPORATION

TYPE OF REPORT

Year 2000

Midyear(January 1-June 30) ?? OR Year End (July 1-December 31) ??

9. Check if this filing amends a previously filed version of this report ??

19. Check if this is a Termination Report ?? >> Termination Date

11. No Lobbying Activity??

INCOME OR EXPENSES—Complete Either Line 12 OR Line 13

12. Lobbying Firms

13. Organizations

INCOME relating to lobbying activities for this reporting

EXPENSES relating to lobbying activities for this reporting

period was:

period were:

Less than $10,009 ??

Less than $10,000 ??

$10,090 or more

?? >> $ $229,000.00

$19,900 or more ?? >> $

Income (nearest $20,000)

Expenses (nearest S20,000)

14. REPORTING METHOD. Check box to indicate expense

Provide a good faith estimate, rounded to the nearest accounting method. See instructions for description of options.

$20,000 &all lobbying related income from the client (including all payments to the registrant by any other entity

??Method A. Reporting amounts using LDA definitions only for lobbying activities on behalf of the client☐. ?? Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code

?? Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature

Date 08114/2900

Printed Name and Title STEVEN VALENTINE-OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CPI (one per page)

16. Specific Lobbying issues

S. 2448, Internet Integrity and Critical Infrastructure Protection Act of 2000,

H.R. 4246, Cyber Security Information Act, Competition in the software industry.

17. House(s) of Congress and Federal agencies contacted ??

Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BRANDT, WERNER

No

PIZZELLA, PATRICK

No

ROUVELAS, EMANUEL

No

VALENTINE, STEVEN Leg. Dir & Gen. Counsel Sen. Bob Smith

No

BERGER, AMY

No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date 08/14/2000

Printed Name and Title STEVEN VALENTINE-OF COUNSEL Page

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CPT (one per page)

16. Specific Lobbying issues

H.R. 354, Collection of Information Antiprivacy Act,

H.R. 4690, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, relating to copyright and patent issues. House Amendment 889 to H.R. 4690, to increase funding for the U.S. Patent and Trademark Offices.

17. House(s) of Congress and Federal agencies contacted E3

Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

PIZZELLA, PATRICK

No

BRANDT, WERNER

No

VALENTINE, STEVEN Leg. Dir & Gen. Counsel Sen. Bob Smith

Yes

HEIMAN, BRUCE

No

ROUVELAS, EMANUEL

No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature ??

Date

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CSP (one per page)

16. Specific Lobbying issues

S. 854, Electronic Rights for the 21st Century Act,

S. 2448, Internet Integrity and Critical Infrastructures Protection Act of 2000,

S. 2063, Secure Online Communication Enforcement Act of 2000,

S. 761, Third Millennium Digital Commerce Act,

H.R. 1714, Electronic Signatures in Global and National Commerce Act,

17. House(s) &Congress and Federal agencies contacted ?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BRANDT, WERNER

No

PIZZELLA, PATRICK

No

VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

Yes

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature

Date 08/14/2000

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the-client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code IMM —— (one per page)

16. Specific Lobbying issues

S. 2045, American Competitiveness in the Twenty-first Century Act of 2000,

H.R. 4227, Technology Worker Temporary Relief Act,

H.R. 3983, Helping to Improve Technology Education and Achievement Act of 2000,

17. House(s) of Congress and Federal agencies contacted

?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BRANDT, WERNER

No

PIZZELLA, PATRICK

No

SLOMOWITZ, ALAN

No

VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

Yes

HEIMAN, BRUCE

No

ROUVELAS, EMANUEL

No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature Date 08/14/2000

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code LBR (one per page)

16. Specific Lobbying issues

H.R. 3462, Wealth Through the Workplace Act of 1999,

17. House(s) of Congress and Federal agencies contacted ??

Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BRANDT, WERNER

Yes

PIZZELLA, PATRICK

Yes

VALENTINE, STEVEN Leg. Dir & Gen. Counsel Sen. Bob Smith

Yes

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date 08/14/2000

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TAX (one per page)

16. Specific Lobbying issues

S. 2775, Internet Tax Moratorium and Equity Act,

S. 2401, New Economy Tax Simplification Act (NETSA),

H.R. 4462, Fair and Equitable Interstate Tax Compact Simplification Act of 2000,

H.R. 4460, Internet Tax Simplification Act of 2000,

H.R. 4267, Internet Tax Reform and Reduction Act of 2000,

H.R. 3709, Internet Nondiscrimination Act of 2000,

17. House(s) of Congress and Federal agencies contacted

?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

PIZZELLA, PATRICK

No

BRANDT, WERNER

No

VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

Yes

HEIMAN, BRUCE

No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature ??

Date 08/14/2000

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TEC (one per page)

16. Specific Lobbying issues

H.R. 1686, Interact Freedom Act,

H.R. 1685, Internet Growth and Development Act of 1999,

FCC Dkt. No. 99–168, Service Rules for the 746–765 and 776–794 MH Bands and Revisions to Part 27 of the Commission's Rules.

17. House(s) of Congress and Federal agencies contacted ??

Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered

Official Position (if applicable)

New

BRANDT, WERNER

No

PIZZELLA, PATRICK

No

VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

Yes

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date 0811412000

Printed Name and Title STEVEN VALENTINE- OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TRD (one per page)

16. Specific Lobbying issues

S. 2277, To terminate the application of title IV of the Trade Act of ! 974 with respect to the People's Republic of China,

S. 2645, China Nonproliferation Act,

H.R. 4444, To authorize extension of nondiscriminatory treatment (normal trade relations treatmen0 to the People's Republic of China, World Trade Organization (a) Agreement on Trade-Related Intellectual Property Rights (b) Post-Seattle WTO Ministerial Meeting related commerce and trade issues.

17. House(s) of Congress and Federal agencies contacted

Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BRANDT, WERNER

No

PIZZELLA, PATRICK

No

SLOMOWITZ, ALAN

Yes

VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

Yes

19. Interest of each foreign entity in the specific issues listed on line 16 above ??

Check if None

Signature

Date 08/14/2000 Printed Name and Title STEVEN VALENTINE- OF COUNSEL

ATTACHMENT 42

TO THE DECLARATION OF BRIAN DAUTCH

Clerk of the House of Representatives, Secretary of the Senate, Legislative Resource Center, Office of Public Records, B–106 Cannon Building, Washington, DC 20515 232 Hart Building, Washington, DC 20510

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5)—All Filers Are Required to Complete. This Page

1. Registrant Name PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

2. Registrant Address ?? Check if different than previously reported Address 1735 NEW YORK AVE, NW, SUITE 500, City WASHINGTON State/Zip (or Country) DC 20006

3. Principal Place of Business (if different from line 2)

City State/Zip (or Country)

4. Contact Name

Telephone

E-mail (optional)

5. Senate ID #

ROSANNE PHILLIPS, 202–628–1700, 32098–366

7. Client Name ?? Self

6. House ID # 31355019

MICROSOFT CORPORATION

TYPE OF REPORT 8. Year 2000 Midyear (January l-June 30) ?? OR Year End (July l-December 31)

9. Check if this filing amends a previously filed version of this report ??

10. Check if this is a Termination Report ?? >> Termination Date

11. No Lobbying Activity ??

INCOME OR EXPENSES—Complete Either Line 12 OR Line 13

12. Lobbying Firms

INCOME relating to lobbying activities for this reporting period was:

Less than $10,000 ??

$10,000 or more ?? >> $ $260,000.00

Income (nearest $20,000)

Provide a good faith estimate, rounded to the nearest $20,000 of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).

13. Organizations

EXPENSES relating to lobbying activities for this reporting period were:

Less than $10,000 ??

$10,000 or more ?? >> $

Expenses (nearest $20,000)

14. REPORTING METHOD. Check box to indicate expense accounting method. See instructions for description of options.

?? Method A. Reporting amounts using LDA definitions only

?? Method B. Reporting amounts under section 6033COX8) of the Internal Revenue Code

?? Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature

Printed Name and Title

STEVEN VALENTINE—OF COUNSEL

Date 02/14/2001

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CPI (one per page)

16. Specific Lobbying issues

H.R.4246, Cyber Security Information Act,

H.R. 5024, Federal Information Policy Act of 2000,

H.R.5658, Treasury and General Government Appropriations Act, 2001,

S.2448, Internet Integrity and Critical Infrastructure Protection Act of 2000, Competition in the software industry.

17. House(s) of Congress and Federal agencies contacted ?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BERGER, AMY

No

BRANDT, WERNER

No

IVEY, GLENN

Yes

PIZZELLA, PATRICK

No

ROUVELAS, EMANUEL

No

STEPHENS, DENNIS

Yes

VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date 02/14/2001

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CPT (one per page)

16. Specific Lobbying issues

H.R.354, Collection of Information Antipiracy Act,

H.R.4690, Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, relating to copyright and patent issues. House Amendment 889 to H.R. 4690, to increase funding for the U.S. Patent and Trademark Offices.

17. House(s) of Congress and Federal agencies contacted

?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BRANDT, WERNER

No

HEIMAN, BRUCE

No

P1ZZELLA, PATRICK

No

ROUVELAS, EMANUEL

No

VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

No

19. interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date 02/14/2001

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CSP (one per page)

16. Specific Lobbying issues

H.R. 1685, Internet Growth and Development Act of 1999,

H.R.4049, Privacy Commission Act,

S.2063, Secure Online Communication Enforcement Act of 2000,

S.2448, Internet Integrity and Critical Infrastructures Protection Act of 2000,

S.2606, Consumer Privacy Protection Act,

S.2928, Consumer Internet Privacy Enhancement Act,

17. House(s) of Congress and Federal agencies contacted

?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BRANDT, WERNER

No

PIZZELLA, PATRICK

No

VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date 02/14/2001

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code IMM (one per page)

16. Specific Lobbying issues

H.R.3983, Helping to Improve Technology Education and Achievement Act of 2000,

H.R.4227, Technology Worker Temporary Relief Act,

S.2045, American Competitiveness in the Twenty-first Century Act of 2000,

17. House(s) of Congress and Federal agencies contacted

?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BRANDT, WERNER

No

HEIMAN, BRUCE

No

PIZZELLA, PATRICK

No

ROUVELAS, EMANUEL

No

SLOMOWITZ, ALAN

No

VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

Yes

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date 02/14/200I

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code LBR (one per page)

16. Specific Lobbying issues

H.R.1102, Comprehensive Retirement Security and Pension Reform Act,

H.R.3462, Wealth Through the Workplace Act of 1999,

17. House(s) of Congress and Federal agencies contacted

[13 Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BRANDT, WERNER

No

PIZZELLA, PATRICK

No

VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date 02/14/2001

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TAX (one per page)

16. Specific Lobbying issues

H.R.3709, Internet Nondiscrimination Act of 2000,

H.R.4267, Internet Tax Reform and Reduction Act of 2000,

H.R.4460, Internet Tax Simplification Act of 2000,

H.R.4462, Fair and Equitable Interstate Tax Compact Simplification Act of 2000,

S.2401, New Economy Tax Simplification Act (NETSA),

S.2775, Internet Tax Moratorium and Equity Act,

17. House(s) of Congress and Federal agencies contacted

I-1 Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

BRANDT, WERNER

No

HEIMAN, BRUCE

No

P1ZZELLA, PATRICK

No

VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

No

19. interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date 02/14/2001

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. Genera

Position (if applicable)

New

IVEY, GLENN

Yes

STEPHENS, DENNIS

Yes

VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date 08/14/2001

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Regisitrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide ??nformation as requested. Attach additional page(s) as needed.

15. General issue area code CSP (one per page)

16. Specific Lobbying issues

H.R.2458 and S.803, E-Government Act of 2001, relating to Internet privacy.

17. House(s) of Congress and Federal agencies contacted

?? Check if None

Department of Justice

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

IVEY, GLENN

Yes

STEPHENS, DENNIS

Yes VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date 08/14/2001

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TAX (one per page)

16. Specific Lobbying issues

H.R. 2526, Internet Tax Fairness Act of 2001,

H.R. 1410 and S.512, Internet Tax Moratorium and Equity Act,

H.R. 1552 and S.288, Internet Tax Nondiscrimination Act,

H.R.2421, Jurisdictional Certainty Over Digital Commerce Act,

S.245, A bill to make permanent the moratorium on the Federal imposition of taxes on the Internet.,

S.246, A bill to extend the moratorium on the imposition of taxes on the Internet for an additional 5 years.,

S. 41, A bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit and to increase the rates of the alternative incremental credit,

S.89, A bill to make permanent the moratorium on the imposition of taxes on the Internet.,

S.664, NET FAIR Act,

17. House(s) of Congress and Federal agencies contacted

?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

IVEY, GLENN

Yes

STEPHENS, DENNIS

Yes

VALENTLNE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date 08/14/2001

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

Item	Description	Data
	Lobbying Issues	S.777, Internet Tax Non-discrimination Act

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TEC (one per page)

16. Specific Lobbying issues

FCC Dkt. No. 99–168, Service Rules for the 746–765 and 776–794 MH Bands and Revisions to Part 27 of the Commission's Rules.

17. House(s) of Congress and Federal agencies contacted

?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

New

IVEY, GLENN

Yes

STEPHENS, DENNIS

Yes

VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date 08/14/2001

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TRD (one per page)

16. Specific Lobbying issues

H.R.2149 and S.$99, Trade Promotion Authority Act of 2001, Permanent Normal Trade Relations (PNTR) of China.

17. House(s) of Congress and Federal agencies contacted

?? Check if None

House of Representatives

Senate

18. Name of each individual who acted as a lobbyist in this issue area

Name

Covered Official Position (if applicable)

Now

IVEY, GLENN

Yes STEPHENS, DENNIS

Yes

VALENTINE, STEVEN, Leg. Dir & Gen. Counsel Sen. Bob Smith

No

19. Interest of each foreign entity in the specific issues listed on line 16 above

?? Check if None

Signature

Date 08/14/2001

Printed Name and Title STEVEN VALENTINE—OF COUNSEL

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

Information Update Page—Complete ONLY where registration information has changed.

20. Client new address

21. Client new principal place of business (if different from line 20)

State/Zip (or Country)

22. New general description of client's business or activities

LOBBYIST UPDATE

23. Name of each previously reported individual who is no longer expected to act as a lobbyist for the client

PIZZELLA, PATRICK
ABRAMOFF, JACK
BRANDT, WERNER
SLOMOWITZ, ALAN

ISSUE UPDATE

24. General lobbying issues previously reported that no longer pertain

AFFILIATED ORGANIZATIONS

25. Add the following affiliated organization(s)

Name

Address

Principal Place of Business

(city and state or country)

26. Name of each previously reported organization that is no longer affiliated with the registrant or client

FOREIGN ENTITIES

27. Add the following foreign entities

Principal Place of Business Amount of contribution Ownership % Name Address (city and state or country) for lobbying activities in client

28. Name of each previously reported foreign entity that no longer owns, or controls, or is affiliated with the registrant, client, or affiliated organization ??inted Name and Title STEVEN VALENTINE—OF COUNSEL 08/14/2001 Page 9 of 10

Registrant Name: PRESTON GATES ELLIS & ROUVELAS MEEDS LLP

Client Name: MICROSOFT CORPORATION

Item Description Data

Lobbyist Update

BERGER, AMY

Page I0 of 10

ATTACHMENT 44 TO THE DECLARATION OF BRIAN DAUTCH

PRESS RELEASE

Congressman John Conyers, Jr.
Fourteenth District, Michigan
Ranking Member, Committee on the Judiciary
Dean, Congressional Black Caucus

FOR IMMEDIATE RELEASE: CONTACT: November 6, 2001 Dena Graziano: (202) 226–6888

CONYERS OBJECTS TO REPORTS OF INFLUENCE AND IMPROPRIETY IN THE PROPOSED MICROSOFT SETTLEMENT, SEEKS INFORMATION FROM ASHCROFT

Today, Congressman John Conyers, Jr., Ranking Member of the House Judiciary Committee sent a letter to Attorney General, John Ashcroft complaining of reports of political influence and impropriety by Justice Department employees in the proposed settlement of the U.S. v. Microsoft case. A copy of the letter follows.

November 6, 2001

The Honorable John Ashcroft
Attorney General of the United States
U.S. Department of Justice
10th Street and Constitution Avenue, NW
Washington, DC 20530

Dear Mr. Attorney General:

I am writing to express my very se?? concerns regarding reports of po?? inflnence and impropriety by Justice Department employees in the proposed ?? of the U.S. v. Microsoft case. I am also deeply troubled by your office" s ?? to respond to my earlier requests for ??on set forth in my September 6, 2001 letter to you.

As I am sure you are aware, a number of reservations have been raised with the proposed settlement by consumer groups, trade associations, ?? attorneys general, and antitrust experts. I too am very concerned the proposed agreement represents a weakling in our go??ment's resolve to protect competi??, preserve consumer welfare, and foster continued ??on, particularly given the res??ng and clear cut Legal ??s achieved by your predecessor in office. Wherever one comes out on the merits or demerits of the proposed settlement, I do not believe the Department is at all served by continuing to stonewall inquiries into legitimate and credible allegations of political impropriety raised by the press and the public. I would therefore encourage your office to respond to my ealier letter and the additional questions raised in this correspondence by no later than November 23, 2001.

At the outset, let me note that my earlier expressed concerns about inappropriate political influence have only been heightened by recent media reports fiat your own Deputy Chief of Staff David L??, cone cared with outside 1obbyists in an effort to convince them to alter their clients" views regarding the role of the states in the case. This inappropriate and possibly illegal contact is reported to have occurred after Mr. Israelite had recused himself from the case because of co?? of interest concerns. AS a result, I would like to receive an itemization of any and all contacts between Mr. Israelite and any representatives of any outside party (including representatives of AOL/Time W??) having any interest in the Microsoft case, as well as a detailing of any b?? or other "communications" (meant to include all notes, e-mails, documents, memoranda, phone records and any other types of ??, audio, or ??ions) involving the Microsoft case which are in any way associated with, w??en to or sent from Ms. Israelite. If the allegations reported by the media are true, such active ?? by a focused public official could violate federal conflict of interest laws ?? Executive Branch employees.

Among other things, Mr. Israelite would be ?? from taking any significant action if the matter will have a "direct and predictable" effect on his interest In a similar r??, I am troubled by the po?? that additional staff who have ?? recused from the Microsoft case have been and will continue to be called onto offer services and judg?? which implicate the case.

For example, it has been reported that Mr. W??asky, who has previously written, amicus curiae legal briefs supporting Microsoft's legal position and opposing the Department has been appointed to be Deputy Attorney General for International A?? Given that one of his principal responsibilities will be d?? with the European Union, which is itself in the midst of a ?? antitrust ?? Microsoft, it would seem difficult, if not ?? for him to discharge Iris ?? without in some way taking an action impacting Microsoft. ?? we eau only consider and scrutinize these conflicts if we learn of the persons in the Department who have ??eroselves, This is why I am so troubled ?? Four office has refused to turn over a list of political ??ees at the Dep??t who have re?? the M?? case.

??, the press has also reported that many career attorneys and staff at the Depa??t were either cut out of the final negotiations or raised objections to it that were over??. As a ?? I would also like to receive copies of any and all "communications" (as denned above), by any Department employees or consultants regarding a possible settlement or proposing any suggestions or differing terms than those you agreed to. I am also concerned that political appointees within the Department may have threatened career employees far failing to "toe the company line" in this mallet and support the settlement As a result, I would also like to receive copes afar "co??s" between any political appointees and career staff regarding file Microsoft case which could in any way be seen as th??g or inti??. Given the thousand upon thousands of hours devoted by career staff at the Department, I believe it is counterproductive to totally subordinate their considerable efforts and input at this critical stage in the pro??g. Surely, public disclosure of these matters will contr??e w the public's knowledge and understanding of this matter. Thank you for your time and attention to this matter.

Sincerely,

cc: lion. F. James Sensenbrenner, Jr.
Mr. Daniel Bryant

John Conyers, Jr.
Ranking Member 107–97

See 18 U.S.C. § 208(a); 5 C.F.R 2635.401–403. See also, Ethical Rules for U.S. Attorneys, Sections 3–2.170–171, 3–2.220.

ATTACHMENT 45 TO THE DECLARATION OF BRIAN DAUTCH

By Hon. Peter W. Rodino, Jr., Chairman, Committee on the Judiciary

On February 6, 1974, the House of Representatives adopted by a vote of 410–4 the following House Resolution 803: RESOLVED, That the ?? on the Judiciary acting as a whole or by any sub??tee thereof appointed by the Chairman for the purposes hereof and in accordance with the Rules of the Co??ttee, is authorized and directed to investigate fully and completely whether sufficient grounds exist for the House of Represe?? to exercise its constitutional power to impeach Richard M. Nixon, President of the United States of America. The co??ttee shall report to the House of Representatives such resolutions, articles of i??peach??, or other reco?? it deems proper.

Beginning in November 1973, ?? under resolutions referred to the Co??ittee by the Speaker of the House and with a special appropriation, I had be??n to organize a special staff to inv??e set, otto charges ?? the President of the United States.

On Kay 9, 1974, as Che??n of the Co??ittee on the Judiciary, I convened the Con. tree for hearings to re?? the results of the lup?? ??ry staffs i??ation. The staff began its initial presentation the ?? day, in executive session, pursuant to the Com??ee's I??chent Inquiry Procedures adopted on May 2, 1974.

By Ju?? 21, the Inquiry staff had concluded its initial presentar. ion.

On J?? 25, the Co??ittee voted to eke public the initial presentation ?? substantially all of the supporting ??

(III)

presented at the hearings. The Co??ittee also voted to make public the President's response, which was presented to the Committee on June 27 and June 28 in the same form and manner u the Inquiry staff's initial pre??.

Statements of information and supporting evidentiary material were compiled by the Inquiry staff in 36 notebooks and furnished in this form to each Member of the Co??ittee. The notebooks presented material on several subjects of the Inquiry: the Watergate break-in and its after??h, III, dairy price supports, domestic ??e, abuse of the IRS, and the activities of the Special Prosecutors. In each notebook a statement of information relating co a par?? phase of the investigation was I??diately followed by supporting evidentiary ??, which included copies of documents and testiBony (much already on public record), transcripts of ?? conversations and affidavits.

The staff also presented to the C??tee written reports on President N?? intern tins, Presidential inpoun??nt of funds appropriated by Congress, and the bombing of C??n.

Book V, presented to the Commitee under the general heading of "??," dealt with two areas of the Inquiry. First, material van presented ??h respect to the possible relation ??een the 1971 settlement of three antitrust cases filed against III and IIIs pledge of financial assistance to the San Dingo Convention and Tourist Bureau for expenses related Co the 1972 Repub?? ??onal Convention. Second, material no presented rich respect to the testimony of

Every effort was lade to preclude inferences in the presentation of this ??. A de??e and scrupulous abstention from conclusions, even by ??, was observed.

With respect to the Presidential recorded conversations, the ?? ?? Co hear the recorded conversations in their entirety. The Presidential recorded conversations were neither paraphrased nor ?? by the Inquiry staff. Thus, no inferences, or conclusions Were drawn for the Cou??ee. During the course of the hearings, Members of the Co??ttee heard each recurding and s??aneously followed transcripts prepared by the Inquiry staff. Each of these transcripts is reprinted under the appropriate Statement of Infor??ion.

During the course of the hearings, the Co??ttee found it necessary to issue a ?? to President Richard ??on requiring Cape recordings of 19 Presidential conversations related Co the ITT ??atters before the C??ttee. The Committee also subpoenaed the President's copies of daily news statuaries which were co??iled by ??e House staff ??bers, from February 22, 1972 through June 9, 1972. The President has not yet responded co this subpoena.

Prior to the Co??ttee's, issuance of the subpoena on June 24, 1974, the President furnished to the Co??ttee an edited transcript: of a meeting he held rich H. R. Halde??n and John Mitchell on April 4, 1972 at: which the Kleindienst no??nation bearings were discussed.

(v)

In few instances, ?? Me??ber Mr. Hutchinson and I determined, pursuant to authority granted us by the Co??ttee, to defer the release of evidentiary ??ater?? or to delete it for one of the following reasons:

l) Because the public interest in making the material public was out??hed by the potential prejudice to the rights of defendants under ??g trill.

2) Because the infor??tion was classified or otherwise required confidential treatment,

3) Because the ??aterial was only ??rginally pertinent and was considered to be def??tory, degrading or e??barr??ing, or,

4) Because the ?? ns not pertinent to Presidential respoas??y ??u the outer ??iits of an i??peachable offense within. the meaning of the Constitution.

The Co??ttee on the Judiciary is working to follow faithfully itc mandate "to investingate fully and completely" whether OF not sufficient grounds exist to reco??end chat the House exercise its constitutional power of ??.

I believe Chat the readers of Chase volumes will see chat the Co??ittee's effort in carrying out its ??ndate has been to obtain an objective, impartial presentation which will enable each Me??ber of the ?? to make an infor??ed Judgment in fulfilling his or her con??titutional responsibility.

(VI)

also believe that the publication of the record of these hear- ?? ?? provide readers with a clear idea of the particulars of the inves??ion and that the prox?? of the evidence will assure them that no s?? of information is offered without supporting evidentiary ??terial. July 1974

(vii)

1. By ?? urn dated April 23, 1969 from Deputy Attorney Genera ?? Kleindienst, acting as Attorney General*, mid A??tant Attorney General Richard ??aren, head of the Antitrust Division, to John Ehrlich??, Counsel Co the President, Kleindienst and McLaren urged approval of the co?? of an antitrust action against the International Telephone and Telegraph Corporation (ITT) challenging its acquisition of Canteen Corporation. Co??ent of the stoic no approved and on April 28, 1969 the suit was begun in the United States District Court for the Northern District of Illinois.

*Because Attorney General John Mitchell's former law firm had represented an ITT subsidiary, Mitchell recused hi??elf and Deputy Attorney General Kleindienst acted u Attorney General in connection ?? the litigation.

N??rand?? from ?? and Richard NeL??u Co John ??, April 23, 1969 with attached draft complaint (received from White Home) .... Page 7O

1.2 ?? from Richard McLaren to Richard Kleindisuse, April 25, 1969, 3 Kleindienst Confirmation Hearings (KCH) 1237 88

1.3 United States v. International Telephone and Talegraph Corporation, Civ. No. 69c-924, Docket, 1–2 89

1.4 ??hard Kleindienst testimony, 2 KCH 96. 91

1.5 John Mitchell testit??y, 2 KCH. 539–40 92

(s)

2. On August 1, 1969 two ??t suits s?? to the Canteen suit were ?? in the United States D??ct Court for the ??ct of Connecticut challenging ITT's acquisition of the Hartford Fire Insurance Company and Grinnell Corporation..

2.1 Page.

United States v. International Telephone end Tele?? Co oration and Grinnell Co??, Civ. No. 13319, Docket, 1–2 102

2.2

United States v. International Telephone and Telegraph Corporation and Hartford Fire Insurance ?? Civ. No. 13320, Docket, 1–2 104

2.3

?? from Richard McLaren for the Attorney General, June 20, 1969 (received from Department of Justice) 106

2.4

??orandum from Richard McLaren for the Deputy Attorney General, approved July 25, 1969 (received from Department of Justice), ... 120

3. During 1969, 1970 and 1971, Harold S. Geneen, President of ITT, ?? on numerous occasions with White House staff members, other Administration officials and members of both houses of Congress to discuss various hatters, including international monetary policy, the Office of Foreign Direct Investment policy, antitrust policy, balance of payments, revenue sharing and expropriation by foreign governments. During the sunsnet of 1969 Geneen sought a personal meeting with the President to discuss the ITT antitrust cases. His request was denied because the President's advisers thought that such a meeting was inappropriate..

3.1 Harold Geneen testimony, 2 KCH 776–80 132

3.2 Memorandum from Hugh Sloan to John Ehrlichman, June 30, 1969 (received from White House) 137

3.3 Me??orandum from Dwight Chapin to Peter Flanigan, July 16, 1969 (received from White House) 138

3.4 White House "White Paper," The ITT Anti-Trust Decision, January 8, 1974, 1, 3 139,

(5)

During September 1969 Colonel J??s Hughes, Military Assistant to the President, spoke with Dita Beard, an ITT lobbyist, about the pending antitrust suit. Hughes reported on the conversation in a memo- randum to Ehrlich??n dated September 19, 1969. .... 4.1

?? from James Hughes to John Ehrlichman, September 19, 1969 (received from White House) 142 (6)

In August 1970 officials and representatives of ITT held five with Administration officials, including Vice President Spiro Secretary of Commerce Maurice Scans, Assistant Attorney General and White House counsel John Ehrlichman and Charles Colson to cuss antitrust matters in general and the ITT antitrust litigation particular. In another meeting, Geneen and Attorney General Mitchell to discuss overall antitrust policy with respect to conglomerates. these meetings and in subsequent letters and memoranda ITT officials bought to persuade Administration officials that McLaren's antitrust views, as reflected in his conduct of the ITT litigation, were ill-advised and inconsistent with the Ad??ration's antitrust policy. ....

5.1 Memorandum from Tod Hullin to John Ehrlichman, August 4, 1970 (received from White House) 145

5.2 Letter from Richard McLaren to Tod Hullin, July 30, 1970, with attached memorandum from Richard McLaren to John Ehrilchman (received from White House) 147

5.3 Memorandum from Richard McLaran to Tod Bullin, August 3, 1970, with attachment] (received from White House) 153

5.4 Letter from "Ned" [Edvard Gerrity] to Vice President Spiro Agnew, August 7, 1970, with attached memorandum (received from House Interstate and Foreign Commerce Committee) 163

5.5 Memorandum from John Poole to Files, August 7, 1970 (received from Department of Justice) 166

5.6 M??randum from Tod Hullin to Richard McLaren, August 10, 1970 (received from White House) 168

(8) ....

5.7 Letter from Thorns Casey to Charles Colson, August 7, 1970, with attach??nt (received from White House) ....

5.8 M??orandum from Charles Colson to John Ehrlichman, August 10, 1970 (received from White House) 177

5,9 ?? from Ted Hullin to John Mitchell, August 11, 1970 (received from White House) 178

5.10 John ?? testimony, 2 KCH 540, 542–43, 546, 549–50 179

5.11 ??orandum from Edward Gerrity to John Ryan, August 10, 1970 (received from ??el Mitchell).. .... , ... 185!

5.12 ??dum from John Ryan to William Merr??, Aug?? 24, 1970, House Interstate and Foreign Commerce ??, Special Subco??tee on Investigations, Hearings on Legislative Overoish?? of SEC: Inquiry into Withholding and Transfer of Agency Files Pertaining to ITT, 154–56 .... 186 (6)

6. On September 15, 1970 the trial in ITT-Grinnell began. In ??oranda dated September 17, 1970 from ?? to Attorney General Mitchell and October l, 1970 from Colson to Ehrlichman, the ITT litigation was discussed. Ehrlichman and Colson stated their concern that McLaren's conduct of the ITT cases constituted an attack on "bigness per se" contrary to the Administration's expressed antitrust policy. ....

6.1 United States v. International Telephone and Telesraph Corporation and Grinnell Corporation, Civ. No. 13319, Docket, 5 190

6.2 Memorandum from John Ehrlicman to John Mitchell, September 17, 1970 (received from White House) 192

6.3 Memorandum from Charles Colson to John Ehrlichman, October 1, 1970, with attachment (received from White House) 193 (9)

7. The trial of ITT-Grinnell was completed on October 30, 1970 and the case was taken under advisement. A Judgment for ITT on the merits was rendered on December 31, 1970. A notice of appeal was filed on March 1, 1971. ....

7.1 United States v. International Telephone and Telegraph Corporation and Grinnell Corporation, Civ. No. 13319, Docket, 1,6–7 214

7.2 United States v. International Telephone and Telegraph Corporation, Opinion, December 31, 1970, 324 F. Supp. 19 217

8. On March 3, 1971 at ITT's request Geneen and Willis Merriam, ITT Vice President and Director of Washington Relations, met with Ehrlichman to discuss antitrust matters. 8.1 John Ehrlichman log, March 3, 1971 (received from SSC) 256

8.2 Letter from William Nerriam to John Ehrlichman, March 4, 1971 (received from White House) 257

8.3 William Merriam testimony, 3 KCH 951 258

9.0 On March 20, 1971, on the motion of Solicitor General Erwin Gziswold, the time for the government to perfect ice appeal in ITT-Grinnell by filing its Jurisdictional statement was extended from March 31, 1971 to April 20, 1971. 9.1 United States v. International Telephone and ??h to ration, Application for Extension of Time and Order of the Supreme Court, March 20," 1971, and letter from the —Deputy Clerk of the Supreme Court to Solicitor General Erwin Griswold (received from Department of Justice) 260

9.2 On March 30, 1971 Merriam sad Thom Casey, ITT Director of 9.3 Planning, met with Peter Peterson, Assistant to the President 10. ??ational Economic Affairs, to discuss a wide range of subjects ?? antitrust matters. ....

10.1 Peter Peterson affidavit, April 29, 1974. .... 266.

10.2 Letter from William Merriam to Peter Peterson, April 7, 1971 (received from Peter Peterson) 271

11. It the request of Ehrlichman who said he spoke for the President, Peterson met with Geneen ond Merriam on Friday, April 16, 1971. They discussed various subjects relating to economic policy, including overall antitrust policy related to bigness. At the end of the meeting, Geneen and Merriam discussed ITT's specific antitrust problems, including the fact that the deadline for the government to perfect the ITT-Grinnell appeal was the following Tuesday, April 20. After the meeting Peterson telephoned Ehrlichman and reported on the meeting including the discussion of the ITT-Grinnell appeal. Ehrlichman indicated to Peterson that action was under way to postpone the appeal. The following week Peterson reported to the President on the meeting and his subsequent telephone call to Ehrlichman. ....

11.1 Peter Peterson affidavit, April 29, 1974 276

11.2 Memorandum from Peter Peterson to the President, April 23, 1971 (received from. White House) 281

12 Also on April 16, 1971 Lawrence Walsh, a member of a law firm had lens represented ITT, telephoned Deputy Accorue? General Klein- ....

11.4 Pursuant to that telephone conversation Walsh caused to be ....

11.5 to Kleindienst a letter and memorandum urging that before the of Justice decided to pursue the ITT-Grinnell appeal to the Court it should undertake a review by all interested federal of the economic consequences of a Supreme Court decision favor??ble to the government. Copies of the rajah letter and memorandum were later that day to Peterson and Ehrlichman. ....

12.1 Richard Kleindienst testimony, 2 KCH 250 284

12.2 Lawrence Walsh testimony, 3 KCH 1038–39 285

12.3 Letter from Lawrence Walsh to Richard Kleindienst, April 16, 1971 rich attached ??orandum of (received from white House; reprinted at 2 KCH 26S-.68... 287

12.4 Memorandum from William Merriam to Peter Peterson, April 16, 1971 rich attached letter (received from Peter Peterson) 304

Letter from William Merriam to John Ehrlichman, April 16, 1971 rich attached letter and memorandum of Law (received from White House) 305

13. On Monday morning, April 19, 1971 Kleindienst told Walsh by telephone that Kleindienst did not think the ITT-Grinnell appeal would be delayed, In a memorandum dazed April 19, 1971 to Kleindienst, McLaren disputed the position taken by Walsh in his letter and memorandum of April 16 and urged that the ITT-Grinnell appeal not be delayed..

13.1 Lawrence Walsh testimony, 3 KCH 1039 308

13.2 Memorandum from Richard McLaren to Richard Kleindienst, April 19, 1971 (received from Department of Justice) 309

14. Beginning at 3:03 p.m. on the afternoon of April 19, 1971 the President met with Ehrlichman and George Shultz, Director of the Office of Management and Budget. The antitrust actions against ITT were among the subjects discussed. Ehrlichman said that the deadline for the ITT-Grinnell appeal was the following day and he reported that, despite his attempts to give the Justice Department "signals," the appeal was being pursued. The President then telephoned Kleindienst and ordered him to drop the appeal. After the telephone conversation the President expressed his concern that McLaren's actions with respect to conglomerates were contrary to the Administration's antitrust policy..

14.1 Tape recording of conversation among the President, John Ehrlichman and George Shultz, April 19, 1971, 3:03—3:3& p.m., and House Judiciary Committee transcript thereof 312

14.2 Tape recording of telephone conversation between the President and Richard Kleindienst, April 19, 1971, 3:04—3:09 p.m., and House Judiciary Com- mittee transcript thereof 346

15. After the President's telephone call Kleindienst met with McLaren and Solicitor General Erwin Griswold and directed that the Solicitor General apply to the Supreme Court for another extension of time. At 4:30 p.m. Kleindienst telephoned Walsh and informed him that the Solicitor General was arranging for an extension of time for the government to perfect its appeal..

15.1 Richard Kleindienst testimony, 2 KCH 250 350

15.2 Richard McLaren testimony, 2 KCH 252 351

15.3 Ervin Griswold statement, 2 KCH 242–43 352

15.4 Erwin Griswold testimony, 2 KCH 373, 378–80 354

15.5 Lawrence Walsh testimony, 3 KCH 103g 358

16. on Tuesday, April 20, 1971, on the motion of Solicitor General Griswold the time for the government to perfect its appeal in ITT–Grinnell by filling its Jurisdictional statement was extended from April 20, 1971 to May 20, 1971..

16.1 United States v. International Telephone and Telegraph Corporation Application for Extension of Time filed by the Solicitor General and Order of the United States Supreme Court, April 20, 1971, with letter from the Deputy Clerk of the Supreme Court to Solicitor General Ervin Griswold (received from Department of Justice) 360

16.2 United States v. International Telephone and Telegraph Corporation, Supreme Court Docket Apr/1 19 20 1971 365

17. Also on April 20, 1971 Felix Rohatyn, an investment banker who was a director of ITT, met with Kleindienst to discuss the economic and financial fabrications of divestiture of the Hartford Fire Insurance Company by ITT. At the meeting Rohatyn asked to present these arguments to McLaren, and such a presentation was later arranged for April 29. 17.1 Richard Kleindienst testimony, 2 KCH 96–97 368

17.2 Felix Rohatyn testimony, 2 CKCH 114 370

18, On April 21, 1971 the President met with Attorney General Mitchell and discussed, among ocher things, the ITT-Grinnell appeal. The President said that he did not care about the aeries of the case but that the business community believed that the Administration was being even rougher on it in antitrust matters than had previous admin- istrations. Mitchell argued that it was a political mistake to inter- fete with the appeal. The President agreed to heed Mitchell's advice to permit the appeal to be perfected..

18.1 Tape recording of the end of a meeting between the President and John Mitchell, April 21, 1971, 4:18—6:13 p.m., and House Judiciary Committee transcript thereof 372

19. During the 1eat ten days of April 1971 Geneen and Merriam of ITT wrote four letters to Administration officials — one to Secretary of the Treasury John Connally and three to Peter Peterson—containing references to antitrust matters. Two of the letters commented favorably on the ITT-Grinnell appeal delay..

19.1 Memorandum from William Merriam to Peter Peterson, April 22, 1971, with attached letter from Harold G??neen to Peter Peterson, April 22, 1971 (received from Peter Peterson) 378

19.2 Letter from William Neff/am to 3ohu Connally, April 22, 1971 (received from white House) 386

19.3 Memorandum from Peter Peterson to John Ehrlichman Dick [sic] Krogh, April 27, 1971, with attached letter from William Merriam to Peter Peterson, April 26, 1971 (received from White House) 388

19.4 Memorandum from Peter Peterson to John Ehrlich??an sad Dick [sic] Krogh, May 3, 1971, with attached letter from William Merriam to Peter Peterson, April 30, 1971 (received from White House 391

20. On April 28, 1971 Ehrlichman wrote a memorandum to the President criticizing McLaren for failure to follow the Administration's antitrust policy, then under study by a Domestic Council Task Force, and recom- mending action to be taken. The President approved Ehrlichman's recon- ??dations..

20.1 Memorandum from John Ehrlichman to the President, April 28, 1971 (received from White House) 20.2

Memorandum from John Ehrlichman to Members of the Domestic Council, February 19, 1971 (received from Department of Justice) 20.3

Memorandum from Egil Krogh to Richard McLaren, Apr11 30, 1971 (received from White House) 20.4

Memorandum fro.- John Ehrlichman to John Connally, John Mitchell, George Shultz, Paul McCracken, Peter Peterson, and Peter Flanigan, September 14, 1971 (received from Department of Justice) 21.

On April 29, 1971 Rohatyn accompanied by four ITT representatives ??et with Kleindienst, McLaren and Antitrust Division and Treasury Depart- ment staff members. The ITT representatives presented ITT's position that there would be adverse economic and financial consequences if the divestiture of Hartford were required. Following the meeting McLaren caused these arguments to be submitted to the Treasury .Department and to Richard Ramsden, an independent financial consultant who had previously rendered advice to the Antitrust Division..

21.1 Richard Kleindienst testimony, 2 KCH 98 404

21.2 Richard McLaren test , 2 KCH 102–03,	405
21.3 Felix Rohatyn testimony, 2 KCH 114–16	407
21.4 Richard Kleindienst notes of Apr11 29, 1971 meeting (received from Department of Justice)	410
21.5 Letter from Felix Rohatyn to Richard McLaren, Nay 3, 1971 (received from Department of Justice)	419
22. Beginning in April 1971 Mitche11, Haldeman, Lawrence Higby, Gordon Strschan, William Timmons, Jeb Magruder and Robert Odle participated in the initial planning of the 1972 Republican National Convention and began to consider San Diego as a possible site. A memorandum from Higby to Strachan dated April 29, 1971 states that Haldeman discussed the pos- sibility of a San Diego convention with California's Lt. Governor, Ed Reinecke. The memorandum states that Reinecke would, as a result of his discussion with Haldeman, cause a proposal for San Diego to be the con- vention size to be made to the Republican National Committee..	
22.1 Memorandum from William Timmons to H. R. Haldeman, April 20, 1971 (received from White House)	425
22.2 Memorandum from Lawrence Higby to H. g. Haldeman, April 20, 1971 (received from White House)	426
22.3 Memorandum from Gordon Strachan to H. R. Haldeman, April 21, 1971 (received from White House)	427
22.4 Memorandum from Gordon Strachan to H. "R. Haldeman, April 23, 1971 (received from White House)	428
22.5 Memorandum from Lawrence Higby to Cordon Strachan, April 29, 1971 (received from White House)	429
22.6 Memorandum from Gordon Strachan to H. R. Haldemam, Nay 11, 1971 with attached memorandum from William Tim??ons to H. R. Haldeman, Hay 6, 1971, and attached report (received from White House)	430
22.7 Memorandum from Robert Odle to Jet) Magruder, Hay 19, 1971 (received from White House)	448
22.8 Memorandum from Robert Odle to William Timmons, May 20, 1971 (received from White House)	454
22.9 Letter from Ed Reinecke to Will/me Timmons June 2, 1971 (received from White House)	455
22.10 Memorandum from Robert Odle to Jab Magruder, June 15, 1971 (received from White House)	456
22.11 Memorandum from Gordon Strachan to H. R. Haldeman, June 23, 1971 with attached memorandum from Robert Odle to Jab Hagruder, June 22, 1971, and attached memorandum from William Timmons to H. R. Haldeman, June 21, 1971 (received from White House)	458
22.12 Memorandum from Cordon Strachan to H. It. Haldeman, June 25, 1971 (received from White House)	464
22.13 Memorandum from Cordon Strachan to H. R. Haldeman, June 29, 1971, with attached memorandum from Jeb Magruder and William Timmons to John Mitchell and H. R. Haldeman, June 26, 1971, and attachments (received from White House)	465
23. In a memorandum dated Hay 5, 1971 Ehrlichman informed Mitchell that he desired to meet with McLaren about the ITT cases to achieve the agreed-upon ends discussed by the President and Mitchell. 23.1 Memorandum from John Ehrlichman to John Mitchell, Hay 5, 1971 (received from White House)	526
24. On May 12, 1971 ITT President Geneen discussed rich Congressman Bob Wilson, whose district included part of San Diego, the possibility of ITT financial support for a San Diego convention bid. 24.1 Harold Geneen testimony, 2 KCH 647–48	528
24.2 Bob Wilson testimony, 3 KCH 866–67	530
25. On May 17, 1971 the government's appeal in ITT–Grinnell was perfected by the filing of a Jurisdictional statement..	
25.1 United States v. International Telephone and Telegraph Corporation, Notice of Docketing of Appeal, United States Supreme Court, Hay 17, 1971 (received from Department of Justice)	534
26. By report dated Nay 17, 1971 Richard Ra??sden reported his findings on the ITT position with respect to the financial ramifications of divesti- ture of Hartford..	
26.1 Ramsden Report, International Telephone and Telegraph Corporation, May 17, 1971, 2 KCH 103–10	538
26.2 Richard McLaren testimony, 2 KCH 103, 110	546
27. On June 17, 1971 McLaren recommended to Kleindienst that the ITT suits be settled. His proposed settlement included the requirement that 1TT divest itself of Grinnell, Canteen, and certain other ITT subsidiaries, but per??tted ITT to retain Hartford Fire Insurance Company, The basic terms of the settlement offer were put to ITT on a take it or leave it basis and were accepted. Details of the settlement Were then negotiated among ITT and Antitrust Division lawyers,.	
27.1 Memorandum from Richard McLaren to Richard Kleindienst, June 17, 1971 (received fro,, Department of Justice)	550
27.2 Richard McLaren testimony, 2 KCH 110–13	553
27.3 Felix Rohatyn testimony, 2 KCH ll5	557
27.4 Richard Kleindienst testimony, 2 KCH 98–99	558
28. San Diego's convention bid was authorized by the San Diego City Council on June 29, 1971. On July 21, 1971 ITT-Sheraton's President, Howard James, confirmed by telegram his company's commitment to the San Diego Convention and Tourist Bureau of $100,000 for convention- related expenses plus an additional $100,000 if and when $200,000 was raised by the Bureau from other non-public sources. The pledge was subject to the condition that the Sheraton Harbor Island Hotel, then under construction, be used as Presidential convention headquarters. The decision for San Diego to be the convention site was made within the Administration and transmitted to the Republican National Committee. On July 23, 1971 the Republican National Committee selected San Diego as the 1972 convention site..	
28.1 San Diego City Council resolution, June 29, 1971 (received from San Diego City Council)	563
28.2 Memorandum from Jeb Magruder to John Mitchell, June 30, 1971 (received from White House)	568
28.3 Memorandum from Herbert Klein to H. R. Haldeman, June 30, 1971 (received from White House)	569
28.4 Memorandum from William Timmons to Job Magruder, July 3, 1971 (received from White House)	574
28.5 Memorandum from Herbert Klein to the President, July 19, 1971 (received from White House)	575
28.6 Memorandum from William Timmons to the President, July 19, 1971 (received from White House)	576
28.7 Memorandum from Jo Good to Robert Dole, July 19, 1971 (received from White House)	578
28.8 Memorandum from Jeb Magruder Co 3ohm Mitchell, July 28, 1971 with attached memorandum from Robert Odle to Jeb Magruder, ,July 27, 1971 (received from White House)	582
28.9 Telegram from Howard James to Bob Wilson, July 21, 1971, 2 KCH 678–79	588
28.10 Harold Geneen testimony, 2 KCH 648–49	590
28.11 Resolution on Selection of the Site for the 1972 Republican National Convention, July 23, 1971	592
29. On July 31, 1971, after riff and Antitrust Division lawyers had negotiated details of the settlement of the ITT litigation, the settlement no announced..	
29.1 Richard NcLaren testimony, 2 KCH 110–14	596
29.2 Pelix Rohatyn testimony, 2 KCH 115	601

29.3 Richard Kleindienst testimony, 2 KCH 99 502

30. A Sheraton Harbor Island Corporation check for $100,000 dated August: 5, 1971 and representing the non-contingent portion of ITT's pledge yes delivered to r. he San Diego Convention and Tourist Bureau..

30.1 Photograph of check from Sheraton Harbor Island Corporation to the San Diego Convention and Tourist Bureau printed in Washington Post. March 16. 1972..
A13 604

31. On February 15, 1972 the President no??inated Richard G. Kleindienst to be Attorney General Co succeed John Mitchell who yes leaving the Department of Justice and who later became Campaign Director of the Committee for the Reelection of the President. The Senate Committee on the Judiciary held hearings on the nomination and reco??endation on February 24, 1972 that the nomination be confirmed,.

31.1 Announcement of President's Intention Co Nominate Richard Kleindienst to be Attorney General, 8 Presidential Documents 440, 448 606,

31.2 Letter from President Nixon Co John Mitchell, February 15, 1972, 8 Presidential Decuments 439 608

31.3 S. Exec. Rept. 92–19, Nomination of Richard Kleindienst, 92d Cong., 2d Sess. (1972) 609

31.4 Chicago Tribune, February 25, 1972, Section 2A, l 612

32. On February 22, 1972 columnist Jack Anderson obtained from an ITT source a memorandum dated June 25, 1971 purportedly written by ITT lobbyist Dita Beard addressed to ITT Vice President Merriam regarding the ITT-Sheraton convention pledge and settlement of the ITT antitrust cases. Anderson's investigative reporters contacted first Dita Beard Co discuss and confirm the memorandum's validity sad then ITT and Administration officials co discuss and attempt to confirm the events reported in the memorandum. On February 24, 1972 ITT personnel destroyed documents in the Washington office files..

32.1.
32.2.
32.3.
32.&.
32.5.
32.6.

Purported memorandum from Dita Beard to William Merriam, June 25, 1971, (received. from White House) reprinted in 2 KCH 447–48 614

Jack Anderson Testimony, 2 KCH 449 618

Brit Hume testimony, 2 KCH 408–14 619

Felix Rohatyn testimony, 2 KCH 115–16 626

Washington Post, March 3, 1972, D15 628

Howard Aibel testimony, 2 KCH 704–05 629

33. In a February 28, 1972 Department of Justice press release Mitchell said he had met Dita Beard only once, at a party given by Governor Louis Nunn of Kentucky in May 1971, Mitchell denied allegations that he had discussed the ITT antitrust cases with her. He also denied in the press release that he had discussed the ITT matter with the President..

33.1 John Mitchell statement, Department of Justice press release, February 28, 1972 (received from Department of Justice) 632

On February 29, March 1 and March 3, 1972 there were published three columns by Jack Anderson based in part on the Beard memorandum. The articles alleged a connection between the ITT-Sheraton pledge and the ITT antitrust settlement and purported Co involve both Mitchell and Kleindienst. As a result of the publication of the first two articles Kleindienst asked that his confirmation hearings be reopened..

34.1 Washington Pose, February 29, March 1, March 3, 1972 634

34.2 Washington Post, March 1, 1972, Al 637

35. General, Mitchell again denied talking to the President about ITT or any other antitrust case, On March 1, X972 during his final press conference as Attorney.

35.1 John Mitchell press conference, Hatch 1, 1972, 1–2 (received from SSC) .... 6&0

On or about March 1, 1972 a member of the staff of the SEC that ITT produce documents in the files of ITT's Washington, D.C. office. The SEC staff member contended that production of the documents was called for by subpoenas previously issued In connection With SEC proceedings. Attorneys for ITT collected documents believed to be included in the SEC demand..

36.1 Michael Mitchell affidavit submitted to House Judiciary Committee, Hay l, 197&, with attachments 646

37. On Thursday 14arch 2, 1972 pursuant to Kleindienst's request the confirmation hearings resumed and Kleindienst, testifying under oath, denied talking other than casually to the White House and White House staff about the ITT matter. He denied receiving any suggestions from the White House as to the action that the Justice Department should take in the ITT cases..

37.1 Richard Kleindienst testimony, 2 KCH 95–96, 157 678

On the same day an ITT attorney delivered copies of one or more of the documents collected by ITT attorneys from ITT's Washington office files to White House aide Wallace H. Johnson. The document or documents were the conveyed by Johnson to John Mitchell. During the following week copies of other documents taken from the ITT Washington office which mentioned the ITT antitrust suits and contacts between ITT and administration officials were delivered by ITT attorneys to Johnson..

38.1 Michael Mitchell affidavit, submitted co House Judiciary Committee, May 1, 1974, with attach-mats, ... 682

38.2 Wallace Johnson affidavit, April 25, 1974, ... 713

38.3 John Mitchell log, March 2, 1972 (received from SSC) 717

39. On the evening of Hatch 2, 1972 Dita Beard, having spent two days at the ITT offices in New York City, left Washington by airplane for Denver, Colorado en route to West Yellowstone, Montana. During the flight she became ill and on the evening of Hatch 3, 1972 she was admitted to a Denver hospital..

39.1 Dita Beard statement, 2 KCH 741–42 720

39.2 Edward Gerrity testimony, 3 KCH 1167 722

39.3 United Air Lines passenger ticket, issued to D. Beard for Flight 175, Hatch 2, 1972 (received from United Air Lines) 723

39.4 Stewardess report on passenger illness of Mrs. Beard, occuring on Flight 175, March 2, 1972 (received from United Air Lines) .. 72&

39.5 Letter from J. Edgar Hoover to Chairman James o. Eastland, March 5, 1972, 2 FCH 213 725

39.6 Medical Report by Dr. Joseph Snyder, Hatch 13, 1972, 2 KCH 637–39 726

On Friday, March 3, 1972 Kleindienst, in his testimony before Senate Committee on the Judiciary, denied consulting with, reporting or getting directions from anybody at the White House about the ITT trust cases, He also testified that he did not recall why on April1971 the Department of Justice requested a delay in the appeal of the ITT-Grinnell case Co the Supreme Court. 40.1 Richard Kleindienst testimony, 2 KCH 95, 181, 191, 203–04 D / 0.

On the afternoon of Sunday, March 5, 1972, the President and Haldeman returned to Washington, DC from Kay Biscayne. On Monday, March 6, 1972 the President had conversations with Haldeman, Ehrlichman and Colson. At about 1:30 p.m., shortly after leaving the President's office, Ehrlich?? met with SEC Chairman Casey..

41.1 John Ehrlichman log, March 6, 1972 (received from SSC) 736

41.2 Meetings and conversations between the President and John Ehrlichman, March 6, 1972 (received from White House) 737

41.3 Meetings and conversations between the President and H. R. Haldeman, March 1, March $ and March 6, 1972 (received from White House) 739

41.4 Meetings and conversations between the President and Charles Colson, March 6, 1972 (received from White House) 741

41.5 John Ehrlichman log, March 21, 1972 (received from SSC) 742

41.6 William Casey testimony, House Interstate and Foreign Commerce Committee, Special. subcommittee on Investigations, Hearings on Legislative Oversight of SEC: Agency Independence and the ITT Case, Jun 27, 1973, 261–64, 309–30 7&3

41.7 William Casey calendar, March 6, 1972 (received from U.S. Attorney, Southern District of New York) 749

42. On Tuesday, March 7, 1972 in a prepared statement given under oath before the Senate Committee on the Judiciary, Kleindienst described the circumstances surrounding the request for an extension of time to appeal ITT-Grinnell. He omitted mention of the President's order to drop the case made during their telephone conversation o April 19, 1971..

42.1 Richard Kleindienst testimony, 2 KCH 95, 249–50 752

43. On March 8, 1972 Kleindienst testified before the Senate Committee an the Judiciary and denied again that he was interfered with, pressured, importuned or directed by anybody at the white House in connection rich the discharge of his responsibilities in the ITT cases,.

43.1 Richard Kleindienst testimony, 2 KCH 95, 323, 353 756

In early March 1972 a White House cask force, consisting of Khrlichman, Colson, Moore, Dean, Fielding, Johnson, Assistant Attorney General Robert C. Mardian and others, was established Co follow the Kleindienst hearings; its activities continued throughout the month. was given the responsibility of reviewing White House files and collecting all documents relating to ITT, which he proceeded to do..

44.1 Charles Colson testimony, House Interstate and Foreign Commerce Committee, Special Subcommittee on Investigations, Hearings on Legislative Oversight of SEC: Agency Independence and the ITT Case, 218 760"

44.2 Richard Moore testimony, 5 SSC 1947–48 761

44.3 Wallace Johnson affidavit, April 25, 197& 763

44.4 Robert Mardian testimony, 6 SSC 2348 767

44.5 John Dean testimony, House Interstate end Foreign Commerce Committee, Special Subcommittee on Investigations, Hearings on Legislative Oversight of SEC: Agency Independence and the ITT Case, 66, 6& 768

On March 14, 1972 John Mitchell appeared before the Senate Committee on the Judiciary and trice denied under oath that he talked to the President about the ITT antitrust litigation or any antitrust litigation. On the evening of March 14, 1972 the President and Mitchell had a telephone conversation which, according to Mitchell's logs, was their only telephone conversation during the month..

45.1 John Mitchell testimony, 2 KCR 539, 552, 571 772

45.2 John Mitchell log, March 14, 1972 (received from SSC).

On March 15, 1972 E. Howard Hunt met rich Colson. Johnson and It was determined that Hunt should interview Hoe. Beard the authenticity of the purported Beard memorandum. Hunt flew to Denver and interviewed Mrs. Beard in her hospital room. On March 17, after his return Co Washington, he ?? a detailed e??ary of the interview..

46.! Charles Colson calendar, March 15, 1972 (received from SSC) 778

46.2 ??. Howard Hunt testimony, 9 SSC 3734–35, 3752–53 780

46.3 Charles Colson testimony, House Interstate and Foreign Commerce Committee, Special Subco??ee on Investigations, Hearings on Legislative Oversight of SEC: Agency Independence and the ITT Case, 201–03 784

46.4 Memorandum regarding Dita B?? March 17, 1972 (received from White House) 787'

47. "ITT" is written on Colson's calendar for the morning of March 18, 1972. Colson had three telephone conversations with ??he during the morning. That afternoon the Pre??ent and Colson met for more than two hours..

47.1 Charles Colson calendar, Hatch 18, 1972 (received from SSC) 796

47.2 John Mitchell log, March 18, 1972 (received from SSC) 797

47.3 Meetings and conversations between the President and Charles Colson, Hatch 18, 1972 (received from White House) 798

8. On March 24, 1972 the President held his only news conference during the period of the ??eindienst nomination hearings. He stated that nothing had happened in the Senate hearings that shook his confidence in Kleindienst as an able, honest wan fully qualified to be Attorney General. He also praised the actions of Richard McLaren, and the ??, in having moved effectively to stop the growth of ITT..

48.1 President Nixon news conference, March 24, 1972, 8 Presidential Documents 673 75 * 800

49. On the morning of Hatch 30, 1972 Colson, Haldeman and NacGregor met. That afternoon Colson sent a memorandum to Haldeman stating that certain factors should be taken into account in determining whether to continue co support, or to withdraw, Kleindienst's nomination, including the possibility that documents would be revealed tending to show that the President yes involved in the ITT situation in 1971 and contradicting statements made by Mitchell under oath during the hearings. Haldeman and Colson each had several conversations with the President on that day..

49.1 Memorandum from Charles Colson to H. R. Haldeman, Hatch 30, 1972, 55C Exhibit No. 121, 8 S5C 3372–76 805

&9.2 Letter from William Merriam to John Connally, April 22, 1971 (received from White House) 810

49.3 Letter from William Merriam to Peter Peterson, April 30, 1971 (received from White House) 812

49.4 Letter from "Ned" [Edward Gerrity] to Vice President Spiro Agnew, August 7, 1970, with attached memorandum (received from House Interstate and Foreign Commerce Committee) 813

49.5 Memorandum from John Ryan to William Merriam, August 24, 1970, House Interstate and Foreign Commerce Committee, Special Subcommittee on Investigations, Legislative Oversight of SEC: Agency Independence and the IT? Case, 154–56, and partial handwritten copy of memorandum (received from White House) 816

49.6 Memorandum from Herbert Klein to H. R. Haldeman, June 30, 1971 (received from White House) 820

49.7 Memorandum from Richard Kleindienst and Richard McLaren to John Ehrlichman, April 23, 1969 (received from White Home) 821

49.8 Memorandum free Ted Hullin to Richard McLaren, August 10, 1970 (received from 9hire Home) 827

49.9 Memorandum from ??ohn Ehrlichman to John Mitchell, September 17, 1970 (received from White Home) 828

49.10 14urnrandom from John Ehrlichman to John Mitchell, May 5, 1971 (received from White House) 829

&9.11 Memoranda "from John Ehrlichman to the President, April 28, 1971 and Nay 3, 1971 (received from White House) 830

49.12 a. R. Haldeman testimony, 8 SSC 3216, 3218–19 834

49.13 H. R. Haldeman calendar, March 30, 1972 (received from SSC) 837

49.14 Meetings and conversations between the President and H. R. Haldeman, March 30, 1972 (received from White House) 838

49.15 Meetings and conversations between the President and Charles Colson, March 30, 1972 (received from White House) 839

50. On April 4, 1972 Mitchell returned co his office after about two weeks in Florida. That afternoon he met with the President and Haldeman at the White House. According to Haldeman's testimony before the Senate Select Committee on Presidential Campaign Activities, notes Oaken during the meeting indicate that the Kleindienst hearings were discussed..

$0.1 John Mitchell log, March 21—April 4, 1972 (received from SSC) 842

50.2 Meetings and conversations between the President and H. R. Haldeman, April 4, 1972 (received from White House) 845

50.3 H. R. Haldeman testimony, 7 SSC 2866, 2881 846

On April 27, 1972, the final day of the Kleindienst confirmation, Kleindienst, referring co his earlier testimony about commin-with persons at the White House, testified that if someone had him to instruct him on the handling of the ITT case, he would such a call. Kleindienst said that no such conversation.

51.1 Richard Kleindienst testimony, 2 KCH 95, 3 KCH 1673. 1682 850

51.2 Richard Kleindienst statement, October 31, 1973, reprinted in New York Times, November 1, 1973, 33 853

$2. The press provided extensive news coverage and frequent editorial commentary on the Kleindienst confirmation hearings. John Mitchell's denials that he discussed the ITT cases with President Nixon were reported. Richard Kleindienst's descriptions of his role in the ITT-Grinnell appeal and settlement were also reported; these descriptions omitted reference to the President's order that the appeal be dropped..

52.1 Newspaper articles from The New York Times and The Washington Poet, February 25—June 28, 1972, regarding hearings on the Nomination of Richard Kleindienst to be Attorney General 856

52.2 The Washington Post, March 10, 1972, A–l, A–12 857

52.3 The New York Times, March 15, 1972, 1, 34 858

52.4 The Washington Post, April 27, 1972, A–l, A–7 859

52.5 The Washington Post, April 28, 1972, A–l, A–6 860

By letter dated April 25, 1972 from Senator Eastland, Chairman the Senate Committee on the Judiciary, co SEC Chairman William Casey, Eastland requested access co ITT documents in the possession of SEC. This request was denied by Chairman Casey. If* Chairman Casey complied with the Senate Judiciary Committee's request the SEC would the Committee with, along ocher things, the following not obtained by the Comic tee during the course of the Kleindienst hearings:.

1. Letter dated April 22, 1971 from Harold Geneed Co Peter Peterson concerning their April 16, 1971 nesting rich memorandum on antitrust policy attached..
2. Letter dated April 22, 1971 from William Merriam co John Connally relenting to the ITT antitrust litigation..
3. Letter dated April 26, 1971 from William Merriam ??o Peter Petersou referring to planned antitrust legislation..
&. Letter dated April 30, 1971 from William Merriam to Peter Peterson referring to Solicitor General Griswold's request for am extension of time Co perfect the ITT-Grinnell appeal. Letter dated August 7, 1970 from Thomas Casey of ITT co Charles Colson discussing the pending ITT antitrust litigation..
6. Letter dated August 7, 1970 from "Ned" [Edward Gerrity] Co Vice President Spiro Agnew with memorandum about ITT antitrust ??gat/on attached..
7. ITT Later-corporate memorandum dated August 10, 1970 from Edward Gerrity co John Ryan discussing, among ocher things, Richard McLaren and the Admini-aeration's merger policy..
8. ITT inter-corporate memorandum dated August 24, 1970 from William Merriam to John Ryan discussing, among other things, the ITT antitrust litigation, Richard McLaren and contacts with the Administration..

53.1 Letter from Senators Kennedy, Bayh, Hart, Burdick and Tunney to Chairman James Eastland, April 19, 1972, 3 KCH 1664 865

53.2 Letter from William Casey to Chairman James Eastland, April 26, 1972, 3 KCH 1664 866

53.3 Letter from Edward Kennedy to Chairman Harley Staggers, December 13, 1972, House Interstate and Foreign Commerce Committee, Special Sub-committee on Investigations, Hearings on Legislative Oversight of SEC: Inquiry into Withholding and Transfer of Agency Files Pertaining to ITT,.

28–29 867

53.4 Michael Mitchell affidavit, submitted to House Judiciary Committee, May 1, 1974, with attachmute 869

On June 8, 1972 the Senate confirmed Kleindienst's nomination. On June 12, 1972 he became Attorney General. 154.1.

54.2.

Congressional Record, June 8, 1972, S9114–15 902

President Hixon remarks at swearing-in ceremonies for Richard Kleindienst as Attorney General, June 12, 1972, 8 Presidential Documents 1024 904

(61).

55. On three occasions in September 1972 Congressman Harley Staggers, Chairman of the House Interstate and Foreign Commerce Committee, Special Subcommittee on Investigations, requested from SEC Chairman William Casey access to material received from ITT by the SEC in connection with the SEC's investigation of ITT. Chairman Casey discussed Chairman Staggers" request with Mitchell, Dean and Colson. By letters to Chairman Staggers, Chairman Casey refused the requests. The ITT material was transferred by the SEC to the Department of Justice on October 6, 1972. In addition, an envelope containing other documents obtained from ITT which reflected contacts in 1970 and 1971 between representatives of ITT and Administration officials was delivered separately by the SEC to the office of Deputy Attorney General Erickson..

55.1 Letter from Chairman Harley Staggers to William Casey, September 21, 1972, House Interstate and Foreign Commerce Committee, Special Subcommittee on Investigations, Hearings on Legislative Oversight of SEC: Inquiry into Withholding and Transfer of Agency Files Pertaining to ITT, 5 907

55.2 Chairman Harley Staggers statement, House Interstate and Foreign Coerce Committee, Special Subcommittee on Investigations, Hearings on Legislative Oversight of SEC: Inquiry into Withholding and Transfer of Agency Files Pertaining to ITT, 23 908

55.3 Letter from Chairman Harley Staggers to William Casey, September 28, 1972, House Interstate and Foreign Commerce Committee, Special Subcommittee on Investigations, Hearings on Legislative Oversight of SEC: Inquiry into Withholding and Transfer of Agency Files Pertaining to ITT, 6–8 909

55.4 William Casey testimony, House Interstate and Foreign Commerce Committee, Special Subcommittee on Investigations, Hearings on Legislative Oversight of SEC: Agency Independence and the ITT Case, 230, 235, 241, 250–51, 260–62 922

(62).

55.5 Letter from William Casey to Chairman Harley Staggers, September 26, 1973, House Interstate and Foreign Commerce Committee, Special Subcommittee on Investigations, Hearings on Legislative Oversight of SEC: Inquiry into Withholding and Transfer of Agency Files Pertaining to ITT,.

5–6 920

55.6 Letter from William Casey to Chairman Harley Staggers, October 6, 1972, House Interstate and Foreign Commerce Committee, Special Subcommittee on Investigations, Hearings on Legislative Oversight of SEC: Inquiry into Withholding and Transfer of Agency Files Pertaining to ITT,.

8–9 922

55.7 Letter from William Casey to Ralph Erickson, October 5, 1972, House Interstate and Foreign Commerce Committee, Special Subcommittee on Investigations, Hearings on Legislative Oversight of SEC: Inquiry into Withholding and Transfer of Agency Files Pertaining to ITT,.

135–36 924

55.8 Charles Mallory testimony, House Interstate and Foreign Commerce Committee, Special Subcommittee on Investigations, Hearings on Legislative Oversight of SEC: Inquiry into Withholding and Transfer of Agency Files Pertaining to ITT,.

86–89 928

55.9 Ralph Erickson testimony, House Interstate and Foreign Commerce Committee, Special Subcommittee on Investigations, Hearings on Legislative Oversight of SEC: Agency Independence and the ITT Case, 128–30, 149–64 930

In 8 letter dated October 17, 1972 Chairman Staggers requested from Deputy Attorney General Erickson access to the ITT materials referred to the Department of Justice by the SEC. Erickson denied the request on the grounds that disclosure might prejudice any future criminal proceedings..

56.1 Letter from Chairman Harley Staggers to Ralph Erickson, October 17, 1972, House Interstate and Foreign Commerce Committee, Special Subcommittee on Investigations, Hearings on Lagislative Oversight of SEC: Inquiry Into With holding and Transfer of Agency Files Pertaining to ITT, 9–10 950

56.2 Letter from Ralph Erickson to Chairman Harley Staggers, October 26, 1972, House Interstate and Foreign Commerce Committee, Special Subcommittee on Investigations, Hearings on Legislative Oversight of SEC: Inquiry Into Withholding and Transfer of Agency Files Pertaining to ITT, 10–11 952

57. On January 8, 1974 the Office of the White House Press Secre-issued a "White Paper" entitled, "The ITT Anti-Trust Decision," describing the President's role in the ITT antitrust cases and their settlement..

57.1 White House "White Paper", The ITT Anti-Trust Decision. January 8, 1974 956

58. On May 16, 1974, Richard Kleindienst pleaded guilty to one count of refusing or failing fully to respond to questions propounded to him by the Senate Committee on the Judiciary on March 2, 3, 7, and 8 and April 27, 1972.

58.1 United States v. Kleindienst information, May 16, 1974, with attached Watergate Special Prosecution Force press release 966

58.2 Letter from Leon Javorski to Herbert J. Miller, May 10, 1974 (received from Watergate Special Prosecution Force) 969

PURPORTED DITA BEARD MEMORANDUM, JUNE 25, 1971,

PERSONAL AND CONFIDENTIAL

Washington Office
1707 L Street, NW
Washington, DC 20036
Tel. (202) 296–6000

To: W.R. Merriam
Date: June 25, 1971
From: D.D. Beard
Subject: .San Diego Convention

I just had a long talk with EJG. I'm so sorry that we got that call from the White House. I thought you and I had agreed very thoroughly that under no circumstances would anyone in this office discuss with anyone bur participation in the Convention, including me. Other than permitting John Mitchell, Ed Reinecke, Bob Haldeman and Nixon (besides Wilson, of course) no one has known from whom that 400 thousand committment had come. You can't imagine how many queries I've had from "friends" about this situation and I have in each and every case denied knowledge of any kind. It would be wise for all of us here to continue to do that, regardless of from whom any questions come; White House or whoever. John Mitchell has certainly kept it on the higher level only, we should be able to do the same.

I was afraid the discussion about the three hundred/four hundred thousand committment would come up soon. If you remember, I sug- geared that we all stay out of that. other than the fact that I told you I had heard Hal up the original amount.

* Now I understand from Ned that both he and you are upset about- the decision to make it four hundred in services. Believe me, this is not what Hal said. Just after I talked with Ned, Wilson called me, to report oh his meeting with Hal. Hal at no time told Wilson that our donation would be in services ONLY. In fact, quite the contrary, There would be very little cash involved, but certainly some. I am convinced, because of several conversations with Louie re Mitchell, that our noble committment has gone a long way toward our negotia- tions on the mergers eventually coming out as Hal wants them. Cer- tainly the President has told Mitchell to see that things are worked out. fairly. It is still only McLaren's mickey-mouse we are suffering.

We all know Hal and his big mouth.* But this is one time he cannot tell you and Ned one thing and Wilson (and me) another! I hope dear Bill. that all of this can be reconciled—between Hal and Wilson—if all of us in this office remain totally ignorant of any committment ITT has made to anyone. If it gets too much publicity. you can believe our negotiations with Justice will wind up sho?? down. Mitchell is definitely helping us, but cannot let it be known. Please destroy this, huh??

EXHIBIT B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA, Plaintiff,
Civil Action No. 98–1232 (CKK)
V.
MICROSOFT CORPORATION, Defendant.
Civil Action No. 98–1233 (CKK)
STATE OF NEW YORK, et al., Plaintiffs V.
MICROSOFT CORPORATION, Defendant.

ORDER

In light of the recent tragic events affecting our Nation, this Court regards the benefit which will be derived from a quick resolution of these cases as increasingly significant. Accordingly, to avoid the expenditure of the parties'' financial resources on litigation costs which will surely be incurred if these cases continue to be litigated, the Court will order the parties into settlement for a fixed period of time, commencing as of the date of this Order and expiring on November 2, 2001. The Court expects that during this time the parties and counsel will fully expend and concentrate all of their resources upon resolving these cases through a fair settlement for all parties. If the cases have not been fully resolved through settlement by November 2, 2001, then the Court will proceed with the scheduling order to be addressed at the September 28, 2001, scheduling conference and entered immediately thereafter.

The parties have indicated that if the cases are to be settled they can best resolve these cases without the assistance from a mediator. It has been three months since the appellate court rendered its decision with no resolution reached by the parties. The Court will give the parties until October 12, 2001, to settle the cases on their own. However, if at the end of that time, they have not been fully successful, the parties shall submit to Chambers, on October 12, 2001, the name of an agreed-upon individual to act as facilitator/mediator to assist the parties in their efforts. If the parties cannot agree upon an individual, then the Court will appoint such an individual to act as their facilitator/mediator. Any payment due the facilitator/mediator shall be borne equally among the three parties. At ten-day intervals, without disclosing or discussing the contents of the settlement discussion, the parties Shall participate in a conference call to apprize the Court of their progress in settling the cases. The Court will not entertain any requests for extensions of the deadlines.

The Court cannot emphasize too strongly the importance of making these efforts to settle the cases and resolve the parties'' differences in this time of rapid national change. The claims by Plaintiffs of anticompetitive conduct by Microsoft arose over six years ago, and these cases have been litigated in the trial and appellate court for over four years. As the Court of Appeals has noted, the relevant time frame for this dispute spans "an eternity in the computer industry." The Court expects that the parties will act in good faith and will engage in an all-out effort to settle these cases, meeting seven days a week and around the clock, acting reasonably to reach a fair resolution.

Based on the foregoing, it is this day of September, 2001, hereby

ORDERED that all proceedings in the above captioned cases are stayed until November 2, 2001; and it is further

ORDERED that during this time, counsel shall focus all of their attention on the settlement of these cases; and it is further

ORDERED that the parties shall be permitted to proceed without a facilitator/mediator until October 12, 2001, and thereafter until a facilitator/mediator is appointed; and it is further

ORDERED that if no resolution is reached by October 12, 2001, on that date, the parties shall submit to Chambers the name of an agreed-upon individual to serve as a facilitator/mediator;

if the parties axe unable to agree upon such an individual, the Court will appoint such an individual to serve as a facilitator/mediator; and it is further

ORDERED that the parties shall participate in a conference call to Chambers on October 12, 200 I, and on October 22, 2001, wherein the parties shall report the status of their negotiations to the Court.

SO ORDERED.

COLLEEN KOLLAK-KOTELLY

United States District Judge EXHIBIT C

IN THE UNITED STATES DISTRICT COURT

FOK THE DISTRICT OF COLUMBIA

Civil Action No. 98–1232 (CKK)

UNITED STATES OF AMERICA, Plaintiff, vs.

MICROSOFT CORPORATION, Defendant.

STATE OF NEW YORK ex rel.

Filed: 6, 2001

Civil Action No. 98–1233 (CKK)

Attorney General ELIOT SPTTZER, et al., Plaintiffs, vs.

MICROSOFT CORPORATION, Defendant.

Next Court Deadline: November 6, 2001

Status Conference

STIPULATION

Ptaintiffs United States of America ("1.Trilled Stales") and the Slates of New York, Ohio, Illinois, Kentucky, Louisiana, Maryland, Michigan, North Carolina and Wisconsin and Defendant Microsoft Corporation ("Microsoft"), by and through their respective attorneys, having agreed to the entry of this Stipulation, it [.s hereby stipulated and agreed that:

A Final Judgment in the form attached hereto may be filed and entered by the Court. upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act. 15 U.S.C. * 16, and without further notice to any party or other proceedings, provided that the United States has not withdrawn its consent, which it may do at any time before the entry of the revised proposed Final Judgment by serving notice thereof on Microsoft and by filing that notice with the Court.

2. Unless otherwise provided in the revised proposed Final Judgment, Microsoft shall begin complying with the revised proposed Final Judgment as it was in full force and effect starting on December 16, 2001. Subject to the foregoing, Microsoft agrees to be bound by the provisions of the revised proposed Final Judgment pending its entry by the Court. If the United States withdraws its consent, or if (a) "the revised proposed Final Judgment is not entered pursuant to the terms of the Stipulation, (b) the time has expired, for all appeals of any Court ruling declining to enter the revised proposed Final Judgment, and (c) the Court has not: otherwise ordered continued compliance with the terms and provisions of the revised proposed Final Judgment, then all of the parties shall be released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any parry in this or any other proceeding. 3. Pursuant to 15 U.S.C. § 16(g), within ten (10) days of the submission of the revised proposed Final Judgment, Microsoft will file with the Court a description of any and all written or oral communications by or on behalf of Microsoft, or other person, with any officer or employee of the United States concerning or relevant to the revised proposed Final Judgment, except that any such communications made by counsel of record alone with the Attorney General or the employees of the United States Department of Justice alone shall be excluded from this requirement.

4. Pursuant to 15 U.S.C. § 16(b), on or before November 16, 2001, the United States will file with the Court a Competitive Impact Statement explaining the terms of the revised proposed Final Judgment. The United States will publish the revised proposed Final Judgment and Competitive Impact Statement in the **Federal Register**.

5. The United States will publish a notice informing the public of the revised proposed Final Judgment and public comment period in the Washington Post and the San Jose Mercury News, for seven days over a period of two weeks commencing no later than November 15, 2001.

6. Members of the public may submit written comments about the revised proposed Final Judgment to a designated official oft he Antitrust Division of the United States Department of Justice for a period of 60 days after publication of the revised proposed Final Judgment and Competitive Impact Statement in the **Federal Register**.

7. Within 30 clays after the close of the 60-day public comment period, the United States will file with the Court and publish in the **Federal Register** any comments it receives and its response to those comments.

8. Once the aforementioned procedures have been compiled with, the United States viii file with the Court a certification of compliance with the requirements of 15 U.S.C. § 16, and a Motion for Entry of Revised Proposed Final Judgment, unless it withdraws its consent to entry of the revised proposed Final Judgment pursuant to paragraph 2, above. At any time thereafter, and at the conclusion of any further proceedings ordinal by the court pursuant to 15 U.S.C. § 16(f), the Court may then enter the revised proposed Final Judgment, provided that the Court determines that entry of the revised proposed Final Judgment will serve the public interest.

DATED this 6th day of November, 2001

FOR PLAINTIFF THE UNITED STATES OF AMERICA:

Antitrust Division
United Slates Department of Justice
901 Pennsylvania Avenue, NW
Washington DC 20530
(202) 514—2,401

FOR PLAINTIFFS THE STATES OF NEW YORK, OHIO, ILLINOLS, KENTUCKY, LOUISIANA. MARYLAND, MICHIGAN, NORTH CAROLNA AND WISCONSIN:

Eliot Spitzer.
Attorney General of New York
120 Broadway
New York, New Yolk 10271
(212) 416–8282

FOR. DEFENDANT MICROSOFT CORPORATION: ??

?? & Cromwell
123 Broad Street
New York. NEW York 10004
(212) 558–4000

EXHIBIT D

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

Civil Action No. 98–1232 (CKK)

UNITED STATES OF AMERICA, Plaintiff, V.

MICROSOFT CORPORATION, Defendant.

Civil Action No. 98–1233 (CKK)

STATE OF NEW YORK, et al., Plaintiffs V.

MICROSOFT CORPORATION, Defendant.

ORDER

Pursuant to the status hearing held on November 6, 2001, it is this eighth day of November, 2001, hereby

ORDERED that the above-captioned cases shall proceed on two independent tracks:

"Track I" is the label the Court shall use to refer to the Court's review, pursuant to the Antitrust Procedures and Penalties Act (Tunney Act), 15 U.S.C. 16(b)-(h), of the proposed Final Judgment which reflects a settlement of Civil Action No. 98–1232 in its entirety and a partial settlement of Civil Action No. 98–1233.

"Track II" is the label the Court shall use to refer to the remaining litigation between the States proceeding to litigation and Microsoft concerning an appropriate remedy in Civil Action No. 98–1233.

Accordingly, with regard to Track I, it is hereby

ORDERED that the States choosing to join the settlement shall inform the Court not late than November 9, 2001, of the identity of the individual(s) who will serve as their representative(s) in future proceedings before the Court; [1] and it is further

ORDERED that the United States shall inform the Court of the anticipated date of publication of the proposed Final Judgment and Competitive Impact Statement in the Federal Register as soon as such date is available; and it is further

ORDERED that, pursuant to 15 U.S.C. 16(b), the proposed Final Judgment, in its final form, and Competitive Impact Statement shall be filed with the Court not later than November 15 2001; and it is further

ORDERED that, pursuant to 15 U.S.C. 16(g), within ten days of the publication of the proposed Final Judgment in the **Federal Register**, Microsoft shall file with the Court a description of any and all written or oral communications by or on behalf of Microsoft, or other person, with any officer or employee of the United States concerning or relevant to the proposed Final Judgment, except that any such communications made by counsel of record alone with either the Attorney General or the employees of the United States Department of Justice shall be excluded from this requirement; and it is further

ORDERED that, pursuant to 15 U.S.C. 16(c), the United States shall publish in the Washington Post, the San Jose Mercury News, and the New York Times a notice containing a

summary of the terms of the proposed Final Judgment, a summary of the Competitive Impact Statement, and a list of materials and documents which the United States shall make available for purposes of meaningful public comment and the place where such materials and documents are available for public inspection. Such publication shall continue for seven days over a period of two weeks, commencing not later than November 15, 2001; and it is further

ORDERED that members of the public may submit written comments concerning the proposed Final Judgment to a designated official of the Antitrust Division of the United States Department of Justice for a period of 60 days following publication of the proposed Final Judgment and Competitive Impact Statement in the **Federal Register**; and it is further

ORDERED that, within thirty days after the close of the 60-day public comment period, the United States shall file with the Court and publish in the **Federal Register** its responses to any comments received; and it is further

ORDERED that, simultaneous with the filing of its response to the comments of the public, the United States shall file any appropriate legal briefing with the Court; and it is further

ORDERED that upon completion of the above procedures, the United States shall file with the Court a certification of compliance with the requirements of the Antitrust Procedures and Penalties Act (Tunney Act), 15 U.S.C. 16(b)-(h).

As discussed at the November, 6, 2001, hearing, following the close of the 60-day public comment period, the Court will hold a status conference wherein the parties shall address the nature and need for a hearing concerning the proposed final judgment.

With regard to Track II, it is hereby

ORDERED that any and all motions in limine shall be filed not later than February 22, 2002; and it is further

ORDERED that a Pre-heating Conference shall be held on March 4, 2002, at 9 a.m.

SO ORDERED.

As discussed at the hearing on November 6, 2001, following the filing of the parties" proposals for remedial relief in early December, the Court will require the parties proceeding along Track II to file a Joint Status Report which addresses any remaining issues concerning the nature of the remedy hearing. Thereafter, the Court will set a date for a status conference.

COLLEEN KOLLAR-KOTELLY United States District Judge

EXHIBIT E

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Action No. 98–1232 (CKK)
UNITED STATES OF AMERICA, Plaintiff,
vs.
MICROSOFT CORPORATION, Defendant.
Civil Action No. 98–1233 (CKK)
STATE OF NEW YORK ex. rel.
Attorney General ELIOT SPITZER, et al., Plaintiffs, vs.
Next Court Deadline: March 4, 2002 Status Conference
MICROSOFT CORPORATION, Defendant.

NOTICE OF ENTRY OF APPEARANCE

Please enter the appearance of Charles F. Rule (Bar No. 370818) as counsel for defendant Microsoft Corporation.

Respectfully submitted,
Charles F. Rule (DC Bar #370818)
Fried, Frank, Harris, Shriver & Jacobson
1001 Pennsylvania Avenue, NW Suite 800
Washington, DC 20004–2505
Telephone No. 202–639–7300
Dated: November 15, 2001
Attorney for Defendant
Microsoft Corporation

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
Civil Action No. 98–1232 (CKK)
UNITED STATES OF AMERICA,
Plaintiff,
V,
MICROSOFT CORPORATION, Defendant.
STATE OF NEW YORK ex. rel. Attorney General ELIOT SPITZER, et al., Plaintiffs,
Civil Action NO. 98–1233 (CKK)
V.
Next Court Deadline: March 4, 2002 Status Conference
MICROSOFT CORPORATION, Defendant.

DEFENDANT MICROSOFT CORPORATION'S DESCRIPTION OF WRITTEN OR ORAL COMMUNICATIONS CONCERNING THE REVISED PROPOSED FINAL JUDGMENT AND CERTIFICATION OF COMPLIANCE UNDER 15 U.S.C. 16(g)

In conformance with Section 2(g) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16(g), defendant Microsoft Corporation ("Microsoft") respectfully submits the following description of "any and all written or oral communications by or on behalf of" Microsoft "with any officer or employee of the United States concerning or relevant to" the Revised Proposed Final Judgment filed in these actions on November 6, 2001. In accordance with the requirements of the APP& this description excludes only "communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice alone."

Following the Court's Order dated September 27, 2001, and continuing through November 6, 2001, counsel for Microsoft met on a virtually daily basis with counsel for the United States and the plaintiff States in Washington, DC After the Court appointed Professor Eric Green of Boston University School of Law as mediator on October 12, 2001, Professor Green and his colleague Jonathan Marks participated in many of those meetings. From October 29, 2001 through November 2, 2001, Will Poole, a Microsoft vice president, also participated in some of the meetings.

On October 5,2001, counsel for Microsoft met with representatives of the United States and the plaintiff States in Washington, DC to answer a variety of technical questions. Linda Averett, Michael Wallent, Robert Short and Chad Knowlton of Microsoft attended this meeting, as did Professor Edward Felten of Princeton University, one of plaintiffs" technical experts.

Microsoft certifies that, with this submission, it has complied With the require- ments of 15 U.S.C. § 16(g) and that this submission is a true and complete description of such communications known to Microsoft.

Dated: Washington, DC
December 10, 2001
Respectfully submitted,
William H. Neukom
Thomas W. Butt
David A. Heiner, Jr.
Diane D'Arcangelo
Christopher J. Meyers

---

[1] While the Court is aware that the requirements of the Antitrust Procedures and Penalties Act (Tunney Act) apply only to proposals for "consent judgment[s] submitted by the United States," 15 U.S.C. 16(b), the Court presumes that the States which have chosen to enter into a settlement agreement with Microsoft will play an active role in advocating the entry of the consent judgment proposed in this case.

MICROSOFT CORPORATION
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Redmond, Washington 98052
(425) 936–8080
Dan K. Webb
WINSTON & STRAWN
35 West Wacker Drive
Chicago, Illinois 60601
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Charles F. Rule (Bar No. 370818)
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John L. Warden (Bar No. 222083)
Richard J. Urowsky
Steven L. Holley
Michael Lacovara
Richard C. Pepperman, II
Ronald J. Colombo
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Bradley P. Smith (Bar No. 468060)
SULLIVAN & CROMWELL
1701 Pennsylvania Avenue, NW
Washington, DC 20006
(202) 956–7500
Counsel for Defendant
Microsoft Corporation

EXHIBIT G

AO 458 (Rev. 8/98 DC) .APPEARANCE

United State District Court for the Distri??t of Columbia

CASE NUMBER: 98–1233 (CKK)

STATE OF NEW YORK ex rel. Attorney General ELIOT SPITZER, et al., Plaintiffs,

V.

MICROSOFT CORPORATION, Defendant.

APPEARANCE

To the Clerk of this court and all parties of record:

Enter my appearance as counsel in this case for

The State of West Virginia
by Attorney General Darrell V. McGraw, Jr.
W. Va. 5502 Douglas Lee Davis
BAR IDENTIFICATION NO. Print Name
P.O. Box 1789
Address
Charleston, WV 25326
City Sate Zip Code
(304) 558–8986
Phone Number

US DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

RENEWAL APPLICATION

(PLEAS PRINT OR TYPE)

Name
Last * Davis First Douglas
Middle Lee Generation (Jr., Sr., etc.)
DC/Federal Bar Identification Number
Social Security Number 286–56–8106
(If Federal. Bar, please state name of court):
Address
Firm Office of the West Virginia Attorney General
Building & Suite P. O. Box 1789
Street 812 Quarrier St., 4th Floor
City Charleston State WV
Zip 25326 Phone (304) 558–8986
Unit (within firm or agency) Consumer Protection and Antitrust
Status
Criminal Justice Act Attorney (Yes) (No)
* U.S. District Court Admission Date Sept. 25, 1990, S.D.W.Va.
Employed by the United States Government (Yes) (Not X

GOVERNMENT ATTORNEYS who practice and file pleadings before the US District Court should complete this form. Renewal Fees may be waived.

CHANGE OF ADDRESS:

This form may serve as written notification to the Clerk's office of address change under the requirements of Local Rule 706(c). However, this notification fulfill the PRAECIPE requirement of the Ride. 706(c) requires that, "(t)he attorney shall also within 10 days file a praecipe reffecting such change in each case which the attorney has pending before this Court serving a copy upon each of the attorneys in these cases."

FAILURE TO RENEW

An attorney who fails to file the??and pay the renewal fee will be provisionally removed from the list of members in good standing, The name of the attorney will be restored to the list of members in good standing: upon the filing of the required certificate and payment of the delinquent fee within five years after the done date. At the end of the five years from the dues date, the attorney's name will be permanently removed from the roll, without prejudice to an application for admission as a new member [??Rule.701.1(c)].

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of December, 2001, copies of my Notice of Appearance was served upon the following by first-class mail. postage prepaid, to:

Brendan V. Sullivan, Jr., Esquire
Williams & Connolly, LLP
725 Twelfth Street, N.W.
Washington, D. C. 20005
John L. Warden, Esquire
Sullivan & Cromwell
125 Broad Street, 31st Floor
New York, NY 10004–2498
Bradley P. Smith, Esquire
Sullivan & Cromwell
1701 Pennsylvania Avenue, N.W., 7th Floor
Washington, D.C. 20006–5805
William H. Neukom, Esquire
Law and Corporate Affairs
Microsoft Corporation, Building 8
One Microsoft Way
Redmond, WA 98052–6399
Dan K. Webb, Esquire
Winston & Strawn,
35 West Wacker Drive
Chicago, IL 60601
Charles F. Rule, Esquire
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Philip S. Beck, Esquire
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Antitrust Division
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Kevin J. O'Connor, Esquire
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P. O. Box 7857
123 West Washington Avenue
Madison, WI 53703–7857
Beth Finnerty, Esquire
Office of the Attorney General of the State of Ohio
140 East Town Street, I2th Floor
Columbus, OH 43215
Blake Harrop, Esquire
Office of the Attorney General of the State of Illinois
100 West Randolph Street, 12th Floor
Chicago, IL 60601
Douglas L. Davis
Assistant Attorney General
State of West Virginia

EXHIBIT H

AO 458 (Rev. 6/98 DC)—APPEARANCE

United States District Court for the District of Columbia

CASE NUMBER: 98–1233 (CKK)

STATE OF NEW YORK, et al., Plaintiffs,

V.

MICROSOFT CORPORATION, Defendant.

APPEARANCE

To the Clerk of this court and all parties of record:

Enter my appearance as counsel in this case for

Plaintiff States New York, California, Connecticut, F1orida, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, North Carolina, Ohio, Utah, Wisconsin and the District of Columbia

November 1, 2001
253286 Steven R. Kimey,
BAR IDENTIFICATION NO. Print Name
Williams & Connolly LLP.
725 Twelfth Street, NW
Washington, DC 20005
202–43&—5000

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of November, 2001, copies of Notices of Appearance for Brendan V. Sullivan, Steven R. Kuney and John E. Schmidtlein were served by facsimile and first-class marl, postage prepaid, to:

John L. Warden, Esq.
Sullivan & Cromwell
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New York, NY 10004–2498
Bradley P. Smith, Esq.
Sullivan & Cromwell
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Miscrosoft Corporation
Building 8
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Redmond, WA 98052–6399
Counsel for Defendant Microsoft

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Bartlit Beck Herman Palenchar & Scott
Courthouse Place
Suite 300
54 West Hubbard Street
Chicago, IL 60610
Renata B. Hesse, Esq.
United States Department of Justice
Antitrust Division
601 D Street, NW
Suite 1200
Washington, D.C. 20530
Counsel for Plaintiffs
John E. Schmidtlein

EXHIBIT 1

United States District Court
for the District of Columbia
CASE NUMBER: 98–1233 (CKK)
STATE OF NEW YORK, et al., Plaintiffs,
v.
MICROSOFT CORPORATION, Defendant.

APPEARANCE

To the Clerk of this court and all parties of record:

Enter my appearance as counsel in this case for Plaintiff States New York, California, Connecticut, Florida, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, North Carol, Ohio, Utah, Wisonsin and the District of Columbia

November 1, 2001
12757 Brendan V. Sullivan, Jr.
Williams & Connolly LLP
725 Twelfth Street, NW
Washington, D.C. 20005
202–434–5000

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of November, 2001, copies of Notices of Appearance for Brendan V. Sullivan, Steven R. Kuney and John E. Schmidtlein were served by facsimile and first-class mail, postage prepaid, to:

John L. Warden, Esq.
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Counsel for Defendant Microsoft
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Renata B. Hesse, Esq.
United States Department of Justice
Antitrust Division
601 D Street, NW
Suite 1200
Washington, D.C. 20530
Counsel for Plaintiffs
John E. Schmidtlein

EXHIBIT 11

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA Plaintiff,
V.
MICROSOFT CORPORATION, Defendant.
STATE OF NEW YORK ex rel.)
Attorney General ELIOT SPITZER, et al., Plaintiffs,)
v.
MICROSOFT CORPORATION, Defendant.
CIVIL ACTION NO. 98–1232 (CKK)
Filed: January 28, 2002
CIVIL ACTION NO. 98–1233 (CKK)
Next Court Deadline: March 4, 2002 Prehearing Conference

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION OF RELPROMAX ANTITRUST INC. FOR LIMITED PARTICIPATION AS AN AMICUS CURIAE AND FOR AN EXTENSION OF TIME ON THE GROUNDS THAT THE UNITED STATES HAS NOT PROVIDED A COMPETITIVE IMPACT STATEMENT IN COMPLIANCE WITH THE REQUIREMENTS OF 15 U.S.C. 16(b)

Plaintiff, the United States of America, has not complied with the disclosure requirements of the Tunney Act, specifically 15 U.S.C. 16(b), or this Court's Order dated November 8,2001.

Pursuant to 15 U.S.C. 16(b), anyone has the statutory right to comment on the Revised

Proposed Final Judgment ("RPFJ") in captioned Civil Action 98–1232 for sixty (60) days after the United States complies with the requirement for a Competitive Impact Statement ("CIS") set forth in 15 U.S.C. 16(b). Relpromax Antitrust Inc. ("Relpromax") hereby asserts its statutory right, which is also the statutory right of all Americans, to consider for sixty (60) days a CIS which meets the requirements of 15 U.S.C. 16(b) and then to file with the United States such written comments as it deems appropriate with respect to the RPFJ in light of the information disclosed in the CIS pursuant to 15 U.S.C. 16(b).

Accordingly, Relpromax seeks an order:

1) granting Relpromax status as an amicus curiae with the right of limited participation in proceedings so it can assist, if necessary, in obtaining, inter alia, the statutorily required (and Court ordered) CIS;

2) compelling the United States to comply with the statute and the November 8, 2001, order; and,

3) extending the time for comments to provide Relpromax and all interested parties with their statutory rights.

II. FACTUAL AND PROCEDURAL BACKGROUND

On November 15, 2001, the United States filed a CIS.

On November 28,2001, the CIS was published in the **Federal Register**.

III. ARGUMENT

The Tunney Act, 15 U.S.C. 16(b)(3), (4), and (6) requires in pertinent part a CIS which provides:

"(3) an explanation of the proposal for a consent judgment, including an explanation of any unusual circumstances giving rise to such proposal or any provision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief;

(4) the remedies available to potential private plaintiffs damaged by the alleged violation in the event that such proposal for the consent judgment is entered in such proceeding; and

(6) a description and evaluation of alternatives to such proposal actually considered by the United States."

In violation of 15 U.S.C. 16(b)(3), the CIS does not contain anything approaching an analysis of the effects of the RPFJ on competition.

In violation of 15 U.S.C. 16(b)(4), the CIS does not analyze or explain the effect of the RPFJ on private litigants.

In violation of 15 U.S.C. 16(b)(6), the CIS does not contain a full evaluation of all alternatives to the RPFJ actually considered by the United States. The CIS mentions, but does not evaluate, numerous other alternatives.

Further, no documents considered determinative in formulating the RPFJ throughout the negotiation process were disclosed as required by 15 U.S.C. 16(b).

Accordingly, entry of an order in the form submitted herewith is respectfully requested.

REQUEST FOR ORAL HEARING

An oral hearing on this motion is requested pursuant to 15 U.S.C. 16(0(5).

Respectfully submitted,
January 28, 2002
Peter Peckarsky
1615 L Street, NW, Suite 850
Washington, DC 20036
Telephone: (202) 785–0100
Telecopier: (202) 408–5200
Attorney for Relpromax Antitrust Inc.

EXHIBIT 12

TO THE COMMENTS OF RELPROMAX ANTITRUST INC. ARTICLES AND FEATURES

The Real Microsoft Case and Settlement

BY CHARLES A. JAMES

United States v. Microsoft, the first major monopolization case of the 21st century, has transformed antitrust from an [1] legal discipline into a broad public dialogue about the role of competition in our society and our national tolerance for economic power. The case has all of the trappings of a media event. It involves the signature product of the digital age, the Windows operating system, through which the vast majority of computer users worldwide interact with what has become a basic appliance in human life. It pits the power of the U.S. government against one of the country's most successful corporations, led by one of its wealthiest and most visible citizens. It became a contest between one of the nation's most skilled and flamboyant trial lawyers and a company with the resources to purchase all the legal talent money could buy. Additionally, the case became a contest between Microsoft and the other lions of the information technology industry. Never before in the history of the Antitrust Division have competitors of a firm under prosecution invested so heavily in the outcome of one of our cases. By virtue of its control over the operating system, Microsoft enjoys distinct advantages in competition for adjacent markets. With huge amounts of money on the line, Microsoft's competitors hired scores of lawyers and lobbyists to press their views of the case and to insist that the remedy be crafted so as to advance their interests.

---

[1] United States v. Microsoft Corp., 253 F.3d 34 (DC Cir. 2001).

Finally, Microsoft was the first major antitrust case to be tried in the age of 24-hour news and, as such, came to be covered like the Super Bowl, complete with play-by-play reporting, color commentary, player interviews, and endless expert analysis. Antitrust lawyers and academicians suddenly became television personalities, providing blow-by-blow commentary on every development in the litigation. A nine-hour court of appeals arguments was broadcast live over the Internet, and, miraculously enough, ordinary people listened to lawyers debating the finer points of technology trying and market definition. The general public actually formed opinions about the appropriate outcome of an antitrust case.

Under the circumstances, it was very easy for the antitrust case itself to become mere substext—i.e., to become completely submerged beneath the show business, pontification, and self-interested advocacy. Antitrust, after all, is about the application of technical legal principles to highly complex economic circumstances. The types of issues that actually matter in antitrust analysis are far less glamorous and intriguing than the issues usually discussed in connection with the Microsoft case. One bedrock principle of antitrust law—that a firm might lawfully obtain a monopoly and exercise the power it affords—is almost counter-intuitive to the American psyche and presents difficult line-drawing exercises even for the antitrust cognoscenti. Thus, care must be taken to distinguish between "Microsoft, the antitrust case" and "Microsoft, the public spectacle." The two have developed quite differently.

In this article, I address what I consider to be the real Microsoft case—the antitrust dispute fought out in the courts. In particular, I wish to refocus attention on the legal allegations charged in the complaint, how those allegations were resolved in the courts, and the remedies in the proposed Final Judgment presently undergoing Tunney Act review (the "proposed decreed"). That the Microsoft litigation that emerged from the court of appeals was a far narrower antitrust case than was originally brought seems to have gone largely unnoticed. Viewed purely as an antitrust matter, we believe the remedy presently under consideration by the district court fully and demonstrably resolves the monopoly maintenance finding that the court of appeals sustained. Underlying the monopoly manintance claim was proof that Microsoft took actions, among other things, to discourage the development and deployment of rival Web browsers and Java technologies, in an effort to prevent them from becoming middleware threats to the operating system monopoly. The settlement extends the product definition to all manner of present and future middleware products, prohibits in the broadest terms the practices found to be unlawful, deprives Microsoft of the means of disciplining firms that might develop or deploy competing middleware products, and requires disclosure of proprietary interfaces and protocols so that rival firms may create middleware that can compete on a function-by-function basis with Microsoft's integrated products. The prescribed relief is supported by an unprecedented level of enforcement power, including a full-time, on-site, independent compliance team and the power to extend the decree in the event of serious violations. In strict antitrust terms, by any serious reading of the court of appeals ruling, the settlement represents a big win for the government.

Charles A. James is the Assistant Attorney General in charge of the Antitrust Division of the U.S. Department of Justice. The Antitrust Division commenced its case against Microsoft on May 18, 1998. A coalition of 19 states and the District of Columbia, with New York as the lead plaintiff ?? their lawsuit on the same day, and the two cases were consolidated and prosecuted jointly. Nice estates, including New York, have joined with the United States in propesing a settlement. The views expressed herein are the author's and relate to the Antitrust Division's case and settlement and do not purport to represent the views of any state plaintiff.

The Real Microsoft Case

A dose of reality is in order. Microsoft occupies a critical place in the the worldwide computer industry. Its proprietary Windows operating system exists as the de facto standard for the entire realm of IBM-compatible peronal computers. In rough terms, operating systems perform certain basic computing functions—drawing a box, opening a file, executing print commands, etc. These functions are accessed by software running on the operating system through application programming interfaces (APIs). The operating system is said to "expose" APIs. To facilitate the development of programs that run on the Windows operating systems, Microsoft discloses some, but not all, of those APIs to the software development community. Tens of thousands of software programs are written to the Windows operating system, a fact that has become a seemingly self-perpetuating basis for Microsoft's monopoly over the operating system market. Because computer users want their operating system to be a stable platform for present and future applications programs, new operating systems, whatever their technological merits, have difficulty gaining patronage. This is a "applications badrrier to entry."

The Microsoft operating system monopoly, fortified by the applications barrier to entry, is very durable, and gives Microsoft distinct advantages in competing in downstream markets for applications software, hardware, and Internet services. These has never been any serious contention, however, that Microsoft obtained its operating system monopoly through unlawful means, but rather that it unlawfully maintained it. Thus, under our antitrust laws, the existence of the operating system monopoly is not subject to direct attack and was not challenged in this case.[2]

In 1998, the Antitrust Division, nineteen states, and the District of Columbia commenced their respective antitrust cases against Microsoft.[3] The complaints alleged: (1) that Microsoft engaged in a series of anticompetitive acts to maintain its monopoly position in the market for operating systems designed to run on Intel-compatible personal computers, in violation of Section 2 of the Sherman Act; (2) that Microsoft attempted to monopolize the Web browser market, also in violation of Section 2; (3) that Microsoft illegally tied its Web browser, Internet Explorer (IE), to its operating system, in violation of Section 1; and (4) that Microsoft entered into exclusive dealing arrangements that also violated Section 1. After a full trial on the merits, the district court sustained all claims save for exclusive dealing.[4] The court of appeals, however, narrowed the liability findings, sustaining only the monopoly maintenance claim, but with fewer anti-competitive actions than the district court had found.[5] The court of appeals reversed with respect to eight of the twenty anticompetitive acts the district court had sustained as elements of the monopoly maintenance claim. The court of appeals reversed the attempted monopolization and tying conclusions, remanding the latter claim for further proceedings under the more rigorous rule of reason standards.[6]

And, of course, the court of appeals vacated the Final Judgment that had set forth the break-up remedy and interim conduct remedies.[7]In its own words, the court of appeals "drastically altered the District Court's conclusions on liability."[8]

The surviving portion of the case focused primarily on the so-called "browser war" and allegations that Microsoft engaged in various anticompetitive pratices to maintain its operating system monopoly. For all of its claimed technological prowess and industry foresight, Microsoft had fallen behind in the race to commercialize Web browser technology. An upstart company called Netscape had beaten the mighty Microsoft to the punch and quickly gained a respectable market share as the preferred technology for navigating the then-burgeoning Internet. More importantly, Netscape proponents were touting the prospect of a new world of Internet computing that would make operating systems less relevant, if not virtually irrelevant. Netscape touted its Web browser as a new category of software that came to be known as "middleware," a form of software that, itself, exposed a broad range of APIs to which software developers could write applications. Assuming that Netscape Navigator could become fairly ubiquitous, that large numbers of developers wrote programs to it, and that Netscape, itself, ran on multiple operating systems, operating systems other than Windows could become viable. In this sense, the browser was a "nascent" threat to the operating system monopoly.

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[2] Even the structural remedy proposed by the government and ordered by Judge Jackson would have permitted Microsoft to retain its operating system monopoly.

[3] 3 United States v. Microsoft Corp., Civil Action No. 98–1232 (D.DC ?? May 18, 1998); State of New York v. Microsoft Corp., Civil Action No. 98–1233 (D.DC ?? May 18, 1998).

[4] (United States v. Microsoft Corp., 87 F. Supp.2d 30, 56–57 (D.DC 2000).

[5] Microsoft, 253 F.3d at 50–80.

[6] Id. at 96. The Court also held that although if it pursued the tying claim the tying government had the burden to show an anticompetitive effect in the browser market, it was precluded from arguing any theory of harm that depends on a precise definition of browsers or barriers to entry ....? Id. at 95.

[7] Id. at 119.

[8] Id. at 105.

Microsoft took this middleware threat seriously. The trial record disclosed a corporate preoccupation with thwarting Netscape and displacing the Netscape Navigator with IE as the prevailing Web browser in the industry. This campaign featured a host of strong-arm tactics aimed at various computer manufacturers, Internet access providers, and independent software developers. Even the decision to integrate its own browser into the operating system—in effect, giving it away for free—had an element of impeding the growth of Netscape and once was described as taking away Netscape's oxygen. Microsoft went so far as to make it more difficult to remove its browser from Windows in the apparent recognition that computer manufacturers would fear that the presence of two Web browsers on the desktop would cause consumer confusion and prompt expensive service calls.

The government's case against Microsoft focused heavily on the browser war—and a relatively narrow aspect of that war—the consumer's experience the very first time he or she boots up a brand new computer. a consumer with some basic level of computer knowledge and a small amount of effort, could elect to use the Netscape browser. Just like any form of computer software, alternate browsers were available through download and other forms of retail distribution. The underlying assumption of the browser war, however, was that most consumers become wedded to the first products to which they are exposed and those the computer manufacturer makes it easiest to deploy. Thus, desktop placement and other forms of "first-sighting" were important market movers.

The district court based its monopoly maintenance liability finding on the government's proof that Microsoft had engaged in a series of exclusionary acts. Those acts involved, in sum, the integration of IE into Windows, while closing off access for Netscape; various dealing with original equipment manufacturers, independent software providers, Internet access providers, and Internet hardware providers; effort to thwart Java technologies; and a course of conduct as a whole.[9] While Judge Jackson had sustained the government on most of the claims, the court of appeals was a bit more selective. It ruled that certain of Microsoft's practices—for example, Microsoft's practice of preventing computer manufacturers from substitution their own user interfaces for the Windows interface supplied by Microsoft—were justified and thus lawful.[10] The court of appeals also explicitly rejected the course of conduct theory.[11] Under that theory, we, in effect, argued that the whole was greater than the sum of the parts—that Microsoft's individual practices, rather than being judged on their individual merits, should be evaluated as part of a grander scheme of monopolization, providing an independent basis for monopolization liability.

Thus, we found ourselves victorious on the monopoly maintenance claim, albeit with less underlying conduct to remedy. The attempted monopolization count was gone and, based on the court of appeals'' decision and the need to move to the remedy phase as quickly as possible, we dropped the tying claim. Those two claims had been a direct assault on Microsoft's ability to compete outside of the operating system—in particular, its ability to integrate new functions into Windows. But the court of appeals had made it clear that, albeit with some limits, Microsoft could lawfully integrate new functions into the operating system and use the advantages flowing from its knowledge and design of the operating system to compete in downstream markets. What was left in the case was a series of individual practices directed against competing browser developers and others, which the court of appeals found to be unlawful because of their potential to protect the operating system monopoly. That was the conduct to be remedied; not the existence of the Microsoft operating system monopoly itself and not the prospect that Microsoft might come to dominate other downstream markets for reasons unrelated to its conduct protecting the operating system franchise.

Dropping the Structural Remedy. Having taken the helm of the Antitrust Division just weeks before the court of appeals decision, for me the prior history of the case had to be just that history. The court of appeals decision was the new reality. It set forth the rules of the game. Judge Jackson's order to separate Microsoft's operating system business from the appliations business had received a chilly reception, at best, in the court of appeals decision.[12] By admonishing that a structural remedy would only be appropriate if the government proved a more direct causal connection between Microsoft's exclusionary practices and maintenance of the operating system monopoly (a connection that Judge Jackson said he could not find), it was clear that a structural remedy was not favored.[13] Moreover, even in the absence of the court of appeals'' cautionary language about a structural remedy, its adverse conclusions on the tying and attempted monopolization claims undercut any real basis for separating the operating system and applications businesses. After all, the court of appeals declined to hold that Microsoft could not lawfully integrate appliations functions into the operating system. Given what was left in the case—essentially a series of heavy-handed contracting practices with computer manufacturers and software developer, unlawful when undertaken to protect the operating system monopoly—a conduct remedy seemed all that could be secured, let alone justified.

Eliminating structure from the remedial picture was also an important tactical issue as we moved into a remedy hearing before a new judge. The new judge obviously would take into account the court of appeals not-so-subtle message regarding structural relief, and likely would have little patience for some quixotic effort to press for that remedy, even as a mere bargaining chip. Moreover, the question of structural relief would have greatly complicated the remedy phase of the case. Microsoft would have been entitled to raise a raft of issues regarding the impact of such relief. This would have substantially protracted the discovery phase of the remedy proceeding, eliminating any prospect for a quick resolution, either in the district court or otherwise. Even if we had persuaded the trial court to impose structural relief, we would have found ourselves right back before the court of appeals, which already had said that it would review structural relief with considerable skepticism and under stringent legal k standards. Finally, from my own personal perspective, the structural remedy that Judge Jackson had ordered, i.e., a break-up into two companies without ongoing line-of-business restrictions—might have been a hollow, short-lived solution. Without the types of continuing line-of-business restrictions found to be hopelessly complicated and regulatory in the AT&T decree, Microsoft easily could have kept its operating system monopoly and reasonabled its appliations businesses through acquistion and internal development in a matter of years, if not months. Presenting the case for line-of0business restrictions would have been yet another complication. Taking structural relief off the table at the outset of the remedy proceeding before the new judge enabled us to get favorable procedural rulings that were essential to moving quickly to a prompt resolution.

The Conduct Remedy

An antitrust remedy for a Section 2 violation must stop the offending conduct, prevent its recurrence, and restore competition. While prohibiting the exact conduct found to be unlawful in the court of appeals decision would be relatively simple work, addressing the broader questionof monopoly maintenance was more difficult. Preventing recurrence must involve proactivesteps to address conduct of a similar nature. Restoration requires prospective relief to create lostcompetition and may involve actions to disadvantage the antitrust offender and/or favor its rivals. The relief, however, must have its foundation in the offending conduct. The monopoly maintenance finding, as sustained by the court of appeals, was not a mandate to range broadly across the computer industry purporting to solve unproven problems unrelated to the middleware threat to the operating system. Indeed, Judge Kollar-Kotelly stated in open court that she expected the government's proposed remedy to reflect the fact that portions of the government's case had not been sustained.

At the outset of the remedies proceedings, we stated that our proposed relief would be modeled upon the interim conduct provisions of Judge Jackson's (now-vacated) Final Judgment. Those provisions were "interim" because they were intended to remain in place only during the year in which Microsoft was preparing to be broken into two companies. the government itself had proposed those interim remedies, and thus they provided a base from which to develop appropriate remedies. We were cognizant, however, that those remedies provided relief based on Judge Jackson's liability findings, including the attempted monopolization and tying claims and portions of the monopoly maintenance claim that were not upheld by the appellate court. In addition, because those remedies had never been subjected to the rigors of an adversarial proceedings, and had been prepared without any meaningful consultation with Microsoft, certain practical issues had never been fully vetted. This was a real danger, because the remedies had to be fully capable of being put into practice, anything else would be an enforcement nightmare.The interim remedies had also been based upon a trial record developed largely in 1998 and 1999. The industry had changed significantly since then. Among other things, by most accounts, Microsoft had essentially won the browser war, relief to revive Netscape Navigator as a middleware threat may have too little, too late. In addition, the character of potential middleware platforms had largely changed. It is unclear whether another general middleware threat like the browser will ever again emerge. The middleware war of today appears to focus on more specialized types of software, such as instant messaging systems and media players-systems that might be platforms for families of related functions, but whose potential to be a platform for a broad range of application remains to be seen. Today, one would not necessarily predict that a software developer would write a financial services program, for example, to run on either a messaging system or a media player. Finally, and perhaps most importantly, the operating system world has changed. At the time the case was filed, the browser was designed to sit on top of the operating system like any other application that had to be "opened" manually. In the ensuingyears, the technology evolved so that browser functions increasingly were integrated into the operating system and invoked automatically to create a more seamless user experience. This made middleware products easier for consumers to use, but placed greater demands on competitors to create products that could function as seamlessly as Microsoft's.

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[9] Id. at 58.

[10] Id. at 50–80.

[11] Id. at 78.

[12] See id. at 105–06

[13] Id.

Enjoining the Unlawful Conduct. There was no question that any proposed Final Judgment had to include prohibitions to enjoin the offending conduct that the district court had found and the court of appeals had sustained. I must note, however, that the affirmative prohibitions contained in the proposed decree go considerably beyond the literal findings of the court of appeals. The decree broadly bans exclusive dealing, gives computer manufacturers extensive control of the desktop and initial boot sequence, and prohibits a broad range of retalitory conduct. There can be no question that Microsoft must fundamentally change the way in which it deals with computer manufacturers, Internet access providers, software developers, and others under the proposed decree.

The middleware definition was a very complex issue and would have been fought hard in a litigated remedy proceeding. The team has no accepted industry or technical meaning, and one might reasonably distinguish between products that might function as middleware (i.e., an intermediate software program between an operating system and an application) and products that actually might threaten the operating system monopoly. At the time of trial, the term middleware was used to describe software programs that exposed APIs. In today's world, by virtue of the extensive degree to which software programs interact with each other, a very broad range of programs—large and small, simple and complex—expose APIs. Obviously, all software that exposed APIs could not qualify as middleware for purposes of the case.

As middleware is defined in the proposed decree, it captures, in today's market, Internet browsers, e-mail client software, networked audio/video client software, and instant messaging software. On a going forward basis, it also provides guidelines for what types of software will be considered middlewares for purposes of the decree. These guidelines are critical because, while it is important that future middleware products be captured by the proposed decree, those products will not necessarily be readily identified as such.

Preventing Recurrence. Having addressed the basic prohibitions, the more formidable tasks of addressing recurrence, restoration, and enforcement confronted us. Because of the critical role Microsoft's Windows operating system plays within the computer industry, the company has at its disposal a broad array of potential means of projecting its will upon manufacturers anddevelopers. Many in the computer industry believe that Microsoft can influence product development and deployment decisions by other firms through a variety of carrots and sticks, and there was evidence in the trial record that Microsoft had used a number of such tactics to impede the emergence of competing Web browsers. By the same rocken, not all forms of collaborationbetween Microsoft and other industry participants are anticompetitive, and some actually benefit competition and consumers. To cover the broad range of potential strategies Microsoft might deploy, we sought to address the recurrence issue through the broad concepts of non-discrimination and non-retaliation, rather than by simply enumerating a list of specific prohibitions that we can identify today.

Restoring Lost Competition. With regard to restoration, we had to begin from the premise that the middleware threat to the operating system monopoly was a nascent one. It is said that some 70,000 applications currently run on Windows, making the applications barrier to entry quite formidable. At the very peak of our advocacy in the case, unfortunately not even we could hypothesize a point at which so many applications would be written to middleware APIs that there would be a meaningful threat to the Windows operating system, and the fact was noted in the court of appeals decision. Thus, the task in the restoration aspect of the decreed was to restore the potentiality of middleware. As had been the case in the mediation before Judge Posner and in Judge Jackson's order, our preferred approach was to ensure that middleware developers had access to the technical information necessary to create middleware programs that could compete with Microsoft in a meaningful way. This would have been a difficult undertaking in the earliest phases of the case, and it became even more difficult with the evolution of operating systems toward more integrated and seamless functionality.

API disclosure apparently had been a very difficult obsta??e to resolution of the case at every stage. Press reports of the mediation before Judge Posner indicated that the scope of API disclosure was the sticking point that doomed earlier efforts to settle. There had never been any allegation in the case that Windows was an essential facility, the proprietary technology for which had to be openly shared in the industry. Further, failure to disclose APIs sufficient to create interoperable software was not a critical underpinning of the case; after all, we argued successfully that the 70,000 applications written to Windows contributed so the strength of the monopoly. That is not to say that disclosure had not been used selectively by Microsoft, the government showed that Microsoft had sought agreements with middleware developers to refrain from developing competing products in exchange for preferential access to proprietary technical information. Such agreements, however, would have been facially unlawful, without regards to Microsoft having some inherent legal obligation to disclose APIs. Technical support, in that sense, was merely consideration for an otherwise unlawful agreement. There is a duality in Microsoft's position on API disclosure. The company frequently argues thatit has strong incentives to make broad disclosures of APIs and other technical information because it wants developers to write applications programs to its operating system. Nonetheless, the company is forced to acknowledge that many important Windows functions rely upon undisclosed APIs. Moreover, it seemed fairly clear that Microsoft's reluctance to disclose those APIs was based upon more than a concern about the burden of administering the disclosure regiment. The simple fact is that certain of the undisclosed APIs relate to cutting-edge functions and applications, many of them integrated deeply into the operating system, that could be meaningful points of differentiation between Windows middleware products and those offered by third parties. Thus, we believed that we were on strong legal ground in seeking to require Microsoft to disclose its undisclosed APIs as a means of restoring competition in the middleware industry.

The decree's provisions for API disclosure will be critical in enabling independent developers to match Windows" functionality in their middleware products. Simply stated, if Microsoft middleware products rely on an API, that API must be disclosed. API disclosure of this type has become all the more critical as the operating system has evolved to include more deeply integrated functions that are invoked automatically in connection with other applications. But for detailed API disclosure, many middleware functions offered in third-party software would be more difficult to implement than Microsoft's integrated functions. Independent middleware vendors also will be aided by the decree's provisions that require Microsoft to create and preserve"default" settings, such that certain of Microsoft's integrated middleware functions will not be able to over-ride the selection of a third-party middleware product. This is yet another respect in which changes in the technology required us to go beyond the relief contemplated in Judge Jackson's order. By giving middleware developers the means of creating fully competitiveproducts, requiring the creating of add/delete functionality that will make it easier for computer manufacturers and users to replace Microsoft middleware functionality with independently developed middleware, and making it absolutely clear that computer manufacturers can, in fact, replace Microsoft middleware, the decree will do as much as possible to restore the nascent threat to the operating system monopoly that browsers once represented.

The disclosure of communications protocols for servers was another matter entirely. Very clearly this was a by-product of the negotiated resolution of the case that would have been highly contentious and by no means a certainty had the remedy been fully litigated. In recent years, Microsoft has moved aggressively into the network server market, competing with firms, such as IBM, Novell, and other. Servers tend to communicate through fairly standard communications protocols. Nonetheless, all server manufacturers have implemented their own proprietary communications technologies, working in tandem with the standard protocols, that each server line employs to differentiate itself from other brands ad models in terms of features and performance. In network computing, these proprietary technologies are implemented through software code residing at both ends of the communications link, i.e., on the desktop operating system or "client" and on the server itself. Anyone who has ever worked in a network computing environment it familiar with the process of the network administrator loading new software in the form of annoying updates, downloads and overnight system changes. While other server manufacturers must load all of their client software independently, Microsoft ships some of its client-server interoperability technology on Windows itself.

Competing server manufacturers complain that Microsoft has an inherent advantage in server competition in that it has a superior knowledge of the operating system and possesses the ability to embed within the operating system secret technology that gives its servers more features and better performance than servers offered by other. Although these claims have never been fully discovered or litigated, it seems intuitively correct that Microsoft would behave in this manner. Yet there is a clear body of case law that a vertically integrated firm, even one that is a monopolist, might rationally and lawfully gain a competitive advantage in one market from its strength or monopoly power in another. In other words, there is no legal rule of antitrust law requiring distinct businesses within a single firm to act as though they are complete strangers to each other. The connection between the "secret sauce" argument in the server market and the monopoly maintenance claim in this case may not be obvious. To establish the connection on even the theoretical level, one must hypothesize a number of circumstances concerning the future economic course of the server market. To use the Berkeley School "econo-phrase," Microsoft's practices of embedding secret technology in the Windows operating system would have to cause the server market to "tip" in its favor, such that competing servers would no longer provide a platform threat to the desktop operating system.

Further, this issue developed primarily since the trial—it was barely raised and never litigated in the proceedings before the district court. Indeed, the word, "server" never appeared in the complain and was mentioned only a handful of times in the findings of fact—in those instances mostly in the context of discussing the browser as a component in network computing. In fact, the most cogent statement of the server theory appears in a series of proposed findings of fact we submitted that actually were not adopted by Judge Jackson. 15 Undoubtedly, Microsoft would have argued strenuously in the remedy proceeding that server issues had never been litigated in the case and provided no basis for relief.

Notwithstanding any difficulties the government might have faced in pursuing server relief in the remedies proceeding, the potential competitive consequences in this area are substantial. If it is true, as many seem to believe, that serverbased applications might be the next important threat to the operating system monopoly, this would be an area in which it is important to stretch for relief, whether or not the issue was fully fleshed-out in the liability phase of the case. The proposed decree, therefore, requires Microsoft to disclose communications protocols embedded in the operating system, but preserves for the company the ability to deploy proprietarycommunications technology provided separately. Though this does not fully negate Microsoft's inherent advantages as the designer of the operating system, it requires Microsoft to compete as other server manufacturers do by separately providing client-side communications technology. Enforcement. It has been suggested that no "conduct" remedy could be effective because Microsoft is a defiant company that cannot be trusted to comply with an antitrust decree. Our practice with regard to enforcement, however, is never influenced by the extent to which we "trust" a defendant. Rather, the decree must stand on its own as an enforcement vehicle. Thesettlement in this case contains some of the most stringent enforcement provisions ever contained in any modern consent decree. In addition to the ordinary prosecutorial access powers, backed up by civil and criminal contempt authority, this decree has two more aggressive features. First, it requires an independent, full-time, on-site compliance team—complete with its own staff and the power to hire consultants—that will monitor compliance with the decree, report violations to the Department, and attempt to resolve technical disputes under the disclosure provisions. The compliance team will have complete access to Microsoft's source code, records, facilities, andpersonnel. Its dispute resolution responsibilities reflect the recognition that the market will benefit from rapid, consensual resolution of issues, more so than litigation under the Department's contempt powers. The dispute resolution process complements, but does not supplant, ordinary methods of enforcement. Complainants may bring their inquiries directly to the Department if they choose.

The decree also contains a provision under which the team may be extended by up to two years in the event that the court finds serious, systematic violations. Assuming that Microsoft will want to get our from under the decree's affirmative obligations and restrictions as soon as possible, the prospect that it might face an extension of the decree should deter violations and provide an extra incentive to comply. We opted for this three-part compliance regime, not because of the assumption that Microsoft would act in bad faith, but rather because of the inherent complexity of the decree, which seeks to address Microsoft's interactions with firms throughout the computer industry. Under the circumstances, ongoing supervision backed up by tough penalties was in order.

Reaction to the Settlement. In our view, the proposed decree fully remedies the violations upheld in the court of appeals decision. No conceivable remedy could guarantee that middleware products will emerge as a palpable threat to the operating system monopoly. However, the decree, if entered, creates an environment in which Microsoft will have to compete on the merits and will be prevented from using anticompetitive means to impede the emergence of competing middleware products. In the short term, computer manufacturers will be able to offer consumers choices with respect to popular middleware programs free of interference from Microsoft. To the extent that the decree prevents Microsoft from unduly influencing the natural propagation of middleware technologies, it will have accomplished an important purpose, whether or nor any particular middleware product ultimately grows into a meaningful threat to the operating system. Not surprisingly, the settlement has its critics. Some of the criticism, however, heartfelt and passionate, can be dismissed as failing to reflect a real appreciation for the underlying law.

Generalized claims that Microsoft's operating system monopoly should have been taken away as "punishment," or that the government should have obtained monetary relief, will not be seriously debated in antitrust circles. The remaining critics tend to fall into two categories. The loudest and most vocal critics, understandably, are Microsoft's competitors—some of which hoped the case would bring about a wholesale emasculation of Microsoft, while providing their own companies specific strategic, technological, and financial advantages. A second group, which again includes competitors, raises questions as to whether a remedy of this scope and complexity reasonably can be expected to correct the unlawful conduct in which Microsoft has been found to have engaged. Questions of that nature are entirely appropriate and we hope will be raised and addressed in the Tunney Act process.

The Microsoft case is unique in the level at which competitors have sought to assist in andinfluence the government's liability and remedial determinations. From the very outset of thelitigation, virtually every significant player in the computer industry, directly or through coalitions, hired a team of antitrust lawyers (and sometimes lobbyists) to advance their views ofthe case. Support from competitors was extremely helpful to us during the liability phase, in thatit gave the government ready access to discovery materials, technical expertise and otherassistance. This support also was helpful in conceptualizing the remedy and testing the likely competitive effects of various remedial approaches.

Nonetheless, the government still had to make judgments based upon its own assessment of the marketplace, rather than solely or even predominantly from the perspective of competitors. Onceliability had been established, a sense of entitlement set in among some firms that had rendered assistance. Firms in the industry became very aggressive in pressing for all manner of relief,whether or not it had anything to do with the antitrust liability that had been established.[16] The Specter of the Microsoft operating system monopoly overhangs every level of the information technology industry and very clearly imposes serious challenges upon firms seeking to compete in adjacent markets. One can easily hypothesize any number of governmental actions constraining Microsoft or bestowing advantages upon its rivals that might be said to "level the playing field" upon which Microsoft must compete with other firms. The Antitrust Division,however, has no mandate to "regulate" competition divorced from remedying specific antitrust violations. Thus, from a law enforcement perspective, the relief had to be tailored to proven violations; it could not be a laundry list of unrelated requirements competitors might find useful.In this regards, it is useful to consider some of the principal concerns expressed publicly by competitors and others, in light of both the court of appeals decision and the proposed decree.Probably the single most widely, publicly expressed criticism relates to the questions of product bundling and commingling of software code. Firms in adjacent markets very clearly wanted the decree to restrict, if not prohibit, Microsoft from competing outside of the operating system market. That is one of the reasons that the structural remedy was so popular among competitors.Rules prohibiting Microsoft from integrating products into the operating system would benefit competitors. The court of appeals, however, refused to establish a rule of antitrust law that outlaws Microsoft's integration of new functions or products into the operating system. We had to accept that we had lost on that issue in the context of four separate claims; the contempt proceeding under the 1995 decree, and in the monopoly leveraging, tying, and attempted monopolization claims of this case. Given the manner in which the courts have treated this issue,it is surprising that there has been any suggestion that the settlement is deficient because it does not restrict bundling.

Equally surprising is the public criticism that the proposed decree should have required Microsoft to sell a la carte versions of Windows with the middle ware priced separately. As an initial matter,this would have been a remedy most appropriate for the tying claim, rather than for monopoly maintenance. Even more fundamentally, where is the consumer benefit in this relief proposal?Computer manufacturer tout the fact that their products include the Windows operating system,and consumers reasonably expect that a Windows operating system will include the Windows features. The proposed decree provides the computer manufacturer the option of featuring alternative middleware products, which consumers might accept or reject as they see fit. We saw no public benefit in depriving consumers of that choice.

Similar issues have been raised with regard to the commingling of code. At trial, the government challenged Microsoft's actions to prevent removal of its browser—in particular, eliminating the browser from the list of programs that could be removed by the computer manufacturer or end user with the add/remove function, and making it impossible to remove the Microsoft browser without removing related operating system code and thereby losing necessary operating system function. Our proposed decree addresses both issues by requiring that Microsoft redesign windows to include an effective add/remove function for all Microsoft middleware products and to permit competing middleware to take on a default status that will override middleware functions Microsoft has integrated into the operating system. In tandem, these provisions provide an unimpeded choice to select an alternative middleware product. We have never read the court of appeals decision with regard to commingling to be an attempt by the court to articulate an affirmative rule of software design under which all commingling would have been prohibited.This aspect of the court's opinion very clearly addressed the subject of consumer choice, which has been fully addressed in the proposed decree. Those seeking a broad ban on commingling appear to be seeking to reduce consumer choice, not increase it.

Public critics also express concern that the proposed decree does not address Microsoft's incursions into new markets and services, such as e-commerce, Internet services, or content.They contend that, left unabated, Microsoft will unfairly gain control over those markets from its base in operating systems. Given Microsoft's market power in operating systems, its movement into adjacent markets will almost always merit careful antitrust scrutiny. That said, the rulings in this case provided no basis for attempted monopolization or monopoly leveraging remedies that would proscribe Microsoft actions that do not have the purpose and effect of protecting the operating system monopoly. Once again, with the monopoly maintenance claim as the only surviving basis for relief, the remedy has to focus on middleware or middleware-type treats to the operating system, nor the prospect that Microsoft might come to dominate other markets.It has been reported that critics also claim that the proposed decree is riddled with "loopholes,"particularly with respect to carve-outs from the exclusive dealing and non-retaliation provisions.Those carve-outs, which are stated in phraseology borrowed from well-established Supreme Court joint venture law, afford Microsoft a limited ability to engage in collaborative conduct that would be plainly lawful under the established precedents. We can understand why some would prefer that Microsoft be prevented from engaging in any collaborative conduct. Among other things, such relief would constrain Microsoft in its ability to more into new technologies,products, and markets, isolating the company into a world of internal product development. But we never alleged that all of the scores of types of agreements into which Microsoft routinely enters contributed to illegal maintenance of the operating system monopoly. Indeed, many developers actually benefit from their collaborations with Microsoft and the prospect that their products might be commercialized through, or with, Microsoft. Consumers benefit to the extent that such collaborations bring such new products and services to the market. A flat prohibition would have prevented such collaborations without regard to their potential procompetitive benefits. It might also have prevented Microsoft, for example, from offering a promotional allowance in connection with a new product to one developer unless it provided the allowance to all. Requiring Microsoft to provide those allowances to firms that did not even sell the product would have been nonsensical. For these reasons, an absolute ban on collaborative activity would have been overkill under the circumstances of this case.

Many competitors and others in the industry strongly favored a remedy that required Microsoft to disclose its source code in its entirety. There is within the computer science community,particularly among devotees of other platforms, a generalized notion that Microsoft unfairly foists inferior software upon the public by maintaining the protected proprietary quality of its operating system. Proponents of that view believe that innovation would accelerate, and Microsoft itself would be forced to compete on the merits, if Windows could be transformed into an open source code platform.[17]

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[17] For ??, in a recent Washington Post article, Sun Microsystems is reported to have argued that all of Microsoft's formats and all of its communications protocols should be "turned into open, published standards," U.S. Settlement Leaves Microsoft More??, WASH.Post. Nov. 9, 2001, at E1.

While competitor demands for access to source code are often stated in terms of interoperability,there is no question that such access would benefit competitors in other ways, as well. Access to the source code would provide competitors free access to Microsoft's programming approaches and innovations, allowing firms to imitate, copy, or clone products and services Microsoft offers.The proposed decree assures disclosure without providing an easy way for competitors or even hackers to misappropriate intellectual property and trade secrets for themselves. To the extent that the secure facility provided in Judge Jackson's order was to ensure adequate disclosure and documentation under the decree, we elected the effective but less intrusive approach of providing the compliance team, a group of computer science experts, with access to the source code. If a developer believes that there has been a failure of the disclosure regime, the compliance team will be able to determine quickly whether Microsoft has met its obligations under the decree. If it has failed, it may either cure the problem or risk contempt sanctions. There being no basis under the court of appeals decision to order Microsoft to disclose its intellectual property to undermine the operating system monopoly, it would have been a significant stretch to require open access simply to police a restorative provision. Our proposed decree provides an effective mechanism for developers to receive source code assistance, consistent with our remedial goals, without the danger of misappropriation of Microsoft's intellectual property.

With regard to compulsory licensing to computer manufacturers, again, the court of appeals ruling is a constraining factor. Judge Jackson ordered this disclosure upon the assumption that the tying and attempted monopolization decisions had been sustained, providing a basis for separating middleware products from the operating system. Those findings, of course, were reversed by the court of appeals, calling into question whether computer manufacturers could lawfully reconfigure Windows by stripping out Microsoft middleware products in their entirety.Moreover, one would have to question the practicality of having computer manufacturers redesigning Windows for their own purposes. As it is, the proposed decree provides the computer manufacturer considerable control over the Windows desktop at initial boot-up and beyond.Requiring Microsoft to design effective add/delete and default functions into new versions of windows would seem far superior to inviting computer manufacturers to create do-it-yourself versions. Last, a compulsory licensing regime would have raised many of the same security concerns as the secure facility.

In sum, it is understandable why competitors would want Microsoft to unbundle its integrated products, refrain from all collaborative activity, and widely disseminate its proprietary intellectual property. Those requirements, however, are largely beyond the scope of the court of appeals decision or otherwise do not advance public goals. The antitrust laws protect competition, not competitors. We believe that the relief we have negotiated fully addresses the legitimate public goals of prohibiting Microsoft's unlawful conduct and restoring competition.

EXHIBIT 13

TO THE COMMENTS OF RELPROMAX ANTITURST INC., THE WASHINGTON POST

Enron Executives contributed to Ashcroft Campaigns

By Dan EGGEN

Washington Post Staff Writer

One week before John D. Ashcroft suffered he biggest defeat of his political career, a $25,000donation arrived at the Ashcroft Victory Committee, one of the Missouri senator's fundraising committees for the 2000 race.

The donor was Kenneth L. Lay, head of a rapidly growing Houston energy company called EnronCorp., whose executives contributed more than $50,000 to Ashcroft's Senate campaign in 1999and 2000.

The contributions prompted Ashcroft to recuse himself yesterday from a criminal investigation into Enron's collapse by the Justice Department, which he heads s attorney general.Ashcroft's decision was based on "the totality of the circumstances of the relationship between Enron and the attorney general," and Ashcroft "has not been involved in any aspect of initiating or conducting any investigation involving Enron," the Justice Department said in a statement.Chief of Staff David Ayres, who ran Ashcroft's failed reelection bid, also will divorce himself from the Enron probe, officials said. In Houston, U.S. Attorney Michael Shelby said his entire office has removed itself from any matter involving Enron because he and other prosecutors have relatives affected by the company's collapse. The Justice Department had named Houston on Wednesday as one of three U.S. attorney's offices that would participate in the investigation.Ashcroft and his aides have determined that no other top Justice officials in Washington,including several who have played prominent roles in Republican politics, had direct involvement with Enron, officials said.

Deputy Chief of Staff David Israelite and new Communications Director Barbara Comstock came to Justice after working at the Republican National Committee, which received more than$700,000 from Enron and its executives in 1999 and 2000, records show.

"It was determined that all the people [from] RNC, including David and Barbara, had no involvement with Enron," an official said.

The Ashcroft campaign received $57,499 in 1999 and 2000 from Enron and its executives,according to records compiled by the Center for Responsive Politics, a campaign finance watchdog group.

Rep. Henry A. Waxman (DCalif.), in a letter to Ashcroft yesterday, complained that Lay's$25,000 gift "was many times greater than the maximum allowable contribution by individuals to federal candidates" and said the gift may have "thwarted the intent of election laws."The Ashcroft Victory Committee, like many similar committee formed by parties and candidates in the last election, was structured to avoid rules that limit individual contributions to $20,000and bar corporate donations.

The Enron probe will be overseen by Deputy Attorney General Larry Thompson and the Justice Department's criminal division chief, Michael Chertoff, officials said.

MTC-00030632

Sent By: zambeel; 510 9790314; Dec-19-01 10:36AM; Page l/l Peter van der Linden 185 West Portola Avenue, Los Altos, CA 94022 Dec 19, 2001 Dear Madam,

I have worked in the computer industry for 25 years, and I have seen first hand the adverse effects on the industry and consumers of Microsoft's monopoly on desktop operating systems. For example, for at least six years, it has not been possible to get venture capital funding for any technoloqy ideas in areas that Microsoft considers its own "turf". Microsoft meets regularly with venture capital companies to tell them areas that it considers it "owns".

Microsoft has been found guilty of serious antitrust violations stretchinq over several years, and the finding has been upheld by a Federal appeals court. The proposed settlement does nothing to remove Microsoft's "ill-gotten gains". It does nothing to redress competitors like Netscape, Sun Microsystems, Apple Computer, and Intel who were hurt by Microsoft. The settlement does practically nothing to prevent future abuses by Microsoft, such as their recent attempt to lock out the competitive Opera browser from its web site.

Any remedy must as a starting point do the following:

1. Ship the Java language from Sun with every Microsoft desktop OS.
2. Make public the specifications of the present and future file formats of all Microsoft products.
3. Make public, and subject to IETF approval, all Microsoft network protocols. IETF is an independent public interest network industry technical body.

As Microsoft has said, the national interest is involved here. That interest demands that a single company within a critical industry not be allowed to dominate and restrict available products by continuing to abuse its monopoly.

Yours faithfully,

Peter van der Linden

To: Renata Hesse, Trial Attorney, Suite 1200, Antitrust Division, Department of Justice, 601 D Street NW, Washington, DC 20530; (by fax 202-616-9937)

MTC-00030633

Dec 17 01 03:04p Richard S. Vann 336-722-2895 p.1 Rhoades Contracting, Inc Fax Cover Sheet

To: Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
From: Dewitt Rhoades
Rhoades Contracting
Subject: Microsoft Settlement

Dec 17 01 03:04p Richard S. Vann 336-722-2895 p.2 From the Desk of Dewitt

Rhoades Renata Hesse Trial Attorney Antitrust Divisions Department of Justice 601 D Street NW, Suite 1200 Washington, DC 20530

Dear Ms. Hesse,

I am writing today to urge Judge Kollar Kotelly to approve the settlement, which has been struck between the U.S. Department of Justice and Microsoft in their anti-trust case. I am pleased that the attorney general of my home state of North Carolina has signed the settlement agreement and will subject the taxpayers of our state to no further pain. I am hoping that the judge will do the same on the national level.

As a member of the board of trustees of Forsythia Technical Community College for 17 years, I am familiar with legal cases involving government entities and the private individuals or companies, From my experience, it is always best when litigation is settled and parties may get on with the business they do best whether it is government, private companies or educational institutions. Even though my experience with the federal government is limited to serving on the National Advisory of the Small Business Administration, I am convinced it is in the best interest of all concerned on the federal level when parties settled. That is because litigation in federal courts, particularly when the federal government is involved, tends to go on endlessly, sometimes for years. That is definitely in no one's best interest.

I know that in any settlement that both sides get a bit of what they want and some of what they do not want. That is why from what I have read that this settlement is fair both to Microsoft and to the U.S. Department of Justice as well as to the attorneys general who signed it. It is unfortunate that certain of Microsoft's competitors continue in the media to be critical of this settlement. Their purpose, I believe, is to gain through government fiat what they have not been able to achieve in the marketplace. Please do not be misled by such attempted misdirection.

Thank you for your kind consideration of my remarks.

Sincerely,

ss

Dewitt Rhoades

4587 Old Winston Road, Kernersville, NC 27284

MTC-00030634

From: Prigan by arrangement
To: Trial Attorney, Renata Hesse
Date: 12/17/01 Time: 2:04:56 PM Page 1 of 1 5649 Great Woods Blvd. Columbus, OH 43231-3173 Tel-D 523-2120 prigan@core.com December 17, 2001 Renata Hesse, Trial Attorney Suite 1200—Antitrust Division Department of Justice 601 D Street NW Washington, DC 20530 RE: NO!!! to Microsoft Settlement Proposal

I am writing to strenuously oppose the proposed settlement with the Microsoft Corporation. I think that it is extremely unwise, after a judgement that Microsoft has indeed abused its monopoly power, to then turn around and reward Microsoft by giving them a way out of responsibility which furthers their penetration of the academic market.

This generosity to Microsoft is ludicrous. It would be much more just were Microsoft to be required to establish an enormous trust fund from which schools could draw funds to purchase hardware, services, and software of their own choosing. Further, allowing Microsoft to "give" in-kind contributions of their own software allows Microsoft to arbitrarily determine the "value" of what they give out undoubtedly at a factor of many times their actual expense, so that the "value" of the settlement can be inflated for public relations purposes.

At this time there are many more cost-effective (and democratic) possibilities for software in academic settings. Linux and the BSDs are better operating systems, created in a collaborative manner that is more in tune with ideal academic and democratic principles. The choices presented by these alternatives are needed to stimulate the creativity of the next generation of cyber scholars and programmers. The manner in which they are developed models the community-minded creativity we want from young citizens. Should we really just surrender to the Microsoft monopoly? More may be at stake here than just "where do you want to go today!"

In the long struggle between the Department of Justice (representing the American people!) and Microsoft, Microsoft has relied on the rapid nature of change in technology to outrun their responsibility for abuse of their monopoly power, employing delaying tactics and legal shenanigans coupled with well-funded misinformation. Many superior software products have been destroyed, sometimes even in very subtle ways such as by changing underlying code in ways that causes the competitor's programs to crash or suffer display problems. Two of my favorites, Netscape, and Word Perfect are superior software that is now headed for oblivion. (Although ironically Netscape may rise from the dead in the free Mozilla project!) Quicken, Palm and Java are on MS's hit list. MS seeks as well to leverage their OS monopoly to control the internet through such devices as NET and C#. And now that MS has determined open source to be a threat one encounters in the press almost daily misinformation concerning open source alternatives to MS.

It is time to call Microsoft to be responsible, not through corporate welfare by way of giving them assistance in taking over the schools market; but through going back to the good fight to achieve a fair judgement or settlement that will help our nation, and not just reward Microsoft's arrogance at the expense of the future competitiveness of American technology. It is important to keep in minds that Microsoft has actually invented very little, dating back to their fist DOS. They have generally squeezed out and overtaken the competition. A corporation employing these kinds of tactics is definitely not who we want to be in charge of our nation's agenda for computing innovation.

Sincerely,

Rev. R. Scott Prigan

MTC-00030635

DEC-17-01 14:36 FROM:KINKOS LACUNA NIGUEL ID:9493621957 PAGE 1/2 DECEMBER 17,2001 FAX TO: UNITED STATES ASSISTANT ATTORNEY GENERAL CHARLES JAMES

202 307-1454 202 616-9937 202-616-2645 FAX FROM: NATHANNA GODFREE P.O. BOX 2584 MISSION VIEJO, CALIFORNIA 92690

DEAR ASSISTANT ATTORNEY GENERAL JAMES

I AM (E PLURIBUS UNUM) OF MR. & MRS. UNITED STATES OF AMERICA AND AS SUCH I AM PERSUADED THAT WE THE PEOPLE BY THESE TRUTHS WHICH ARE SELF EVIDENT THAT OUR UNITED STATES FEDERAL GOVERNMENT IS OF THE PEOPLE, FOR THE PEOPLE, BY THE PEOPLE.

OUR UNITED STATES DEPARTMENT OF JUSTICE AND ALL OTHER GOVERNMENT DEPARTMENTS WHO SPEAKS FOR AND ON BEHALF OF ALL THE PEOPLE, REPRESENTING ALL UNITED STATES PEOPLES AND COUNTRYMEN HAS SPENT A TREMENDOUS AMOUNT OF DEDICATED TIME, ENERGY AND MONEY—TAXPAYER MONEY REPRESENTING US ALL TO (THE LETTER OF THE LAW) HAS ALREADY RESOLVED AND SETTLED THE MICROSOFT CORPORATION ANTITRUST CASE.

ANY AND ALL OTHER ADDITIONAL PENALTIES ARE PURELY POLIITICAL BUREAUCRACY, PERSONAL AND DRIVEN BY CORPORATE PERSONAL ENDEAVOURS AND OPINIONS. OUR UNITED STATES FEDERAL GOVERNMENT SETTLEMENT OF THE MICROSOFT ANTITRUST CASE IS (NOT) A "CONFUSINGLY VAGUE, SUBJECT TO MANIPULATION OR BOTH" AS CHAIRMAN SENATOR PATRICK LEAHY PERSONALLY OPINIONATED IN THE USA TODAY NEWSPAPER THURSDAY DECEMBER 13,2001 ON PAGE 2B. HIS WORDS IN ESSENCE PUTS IN QUESTION THE STATE OF MIND,

DEC-17-01 14:36 FROM:KINKOS LACUNA NIGUEL ID:9493621957 PAGE 2/2 THE INTEGRITY, PROFESSIONALISM AND CHARACTER OF YOU OUR GOVERNMENT OFFICIALS. CONTINUE: DECEMBER 17,2001 FAX TO: UNITED STATES DEPARTMENT OF JUSTICE ASSISTANT ATTORNEY GENERAL FOR ANTITRUST CHARLES JAMES 202 307-1454 202 616-9937

CONTINUE FROM PAGE 1:

IF ANYONE SHOULD TAKE HIS WORDS FOR TRUTH THEY WOULD ALSO QUESTION: IF THE SETTLEMENT IS INDEED CONFUSINGLY VAGUE, SUBJECT TO MANIPULATION OR BOTH, IT WOULD STAND TO REASON THE GOVERNMENT IS ALSO CONFUSINGLY VAGUE, SUBJECT TO MANIPULATION OR BOTH.

ALL UNITED STATES FEDERAL GOVERNMENT EMPLOYEES PERSONNEL ARE DEDICATED PROFESSIONALS FROM THE LEAST TO THE GREATEST, FROM THE SUPREME COURT TO THE JANITORS. IT IS WITH THIS CONFIDENCE THAT OUR UNITED STATES GOVERNMENT, ELECTED OFFICIALS, DULY SWORN WARDS OF OUR COURTS AND JUDICIAL SYSTEM THEY WILL ON BEHALF OF THE PEOPLE FOR THE PEOPLE AND BY THE PEOPLE, LET THE MICROSOFT ANTITRUST SETTLEMENT STAND (AS IS) WHAT IS

ALREADY RESOLVED AND SETTLED. PLEASE REMEMBER THIS CASE IS ALREADY PAID FOR BY THE TAXPAYERS AND THOSE NINE OTHER STATES TAXPAYERS ARE PAYING TWICE (FOR WHO'S BENEFIT ?)

THANK YOU,
NATHANNA GODFREE
NG

MTC-00030636

DEC-14-2001 14:48
CHASE IT DEPT 216 479 2573 P.01 FAX
TRANSMITTAL SHEET TO FAX NUMBER:
202-616-9937
TO: Renata Hesse, Trial Attorney
PHONE NUMBER:
LOCATION: Antitrust Division, Dept. of Justice
REMARKS: Please consider this Public comment on the US vs. Microsoft Anti-trust case.
FROM: Cvetan Pavloski
FAX NUMBER: 216-479-2573
DATE: 12/14/01
PHONE NUMBER: 216-479-2500 x5016

TOTAL NUMBER OF PAGES 3 INCLUDING THIS PAGE. IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE AT THE ABOVE LISTED NUMBER.

THANK YOU. DEC-14-2001 14:48 CHASE IT DEPT 216 479 2573 P.02

I've been reading some rather disturbing articles centered on the great US vs. Microsoft debate. While I agree with the decision of overturning their breakup, I do believe that stiffer penalties than the current settlement need to be considered. As much as a necessity to today's economy as Microsoft is, I believe they are a threat to many of the values that we as American's stand for.

Part of being an American is the freedom to choose. With Microsoft in control of the software there is no freedom to choose what operates your computer anymore (at least on the PC side). Microsoft has gained some of this monopoly through some innovation, but has gained far more through things that the general public never sees. Its new operating system represents a great step toward the future of computing, but also harbors many unseen pieces that force customers to register their computer configurations with Microsoft, and apply for a "passport" (Microsoft's idea for a one login for everything system). The storing of computer configurations is used for Microsoft's new product activation feature. While it will curb piracy, it doesn't seem like Microsoft explored all of the options for curbing said piracy. Intel made similar claims with its processor serial number they release in early Pentium III chips, but the general public rebuked Intel and what was perceived as a way to track average individuals. I could go on for a long time about the things that Microsoft does to keep it's position as a monopoly, but that's not the main reason I'm writing.

A recent development stems from an article I read yesterday on www.news.com. It involves Microsoft having its Windows Media Technology put into the chips of several major manufacturers to drive windows media from DVD disks and regular compact discs. This move alone needs to looked at closely especially from an anti-trust point of view. I can't see how this will benefit a consumer at all, as current DVD players already play regular CDs and DVDs legally. Windows media on a DVD player can only be another way that Microsoft makes inroads to the home. We have computers which are run by Microsoft, now a Gaming console from Microsoft (Xbox), a Digital Video Recorder (Ultimate TV), and now they will be invading DVD players, too?

I would ask you to consider these facts. Windows Media is behind in use compared to the MP3 standard, which is an open standard that supports Fair Use. If Microsoft were able to allow their Windows Media into home DVD players, most companies may not choose to include MP3 support in the future in favor of the Windows Media. The reason for that is that Windows XP now only encodes windows media at the highest quality. MP3 recording in Windows XP only records at half the quality needed for good recordings. Once again Microsoft is leveraging their position in the market to get people to switch to their supported technology. People didn't choose Microsoft Internet Explorer over Netscape because it was better; they chose it because Microsoft made it convenient. That is not a bad thing for a consumer, but now businesses need to buy Microsoft's server software to take full advantage of Internet Explorer. Now the average consumer will think that Windows Media is better than MP3 because of the way that Microsoft cripples the format in Windows XP. This is unfair and dirty politics. This fact would cause manufacturers to choose the proprietary Windows Media for DVD players instead of MP3, the fair and open standard, A move that would cause Microsoft to have more control of another piece of hardware in your living room. A motive that they have stated publicly for some time now. They want control over your entire home, from the TV to the microwave.

It is in Microsoft's best interest to do this, as that is what they want, and of course they make more money from their licensing schemes. Please don't let Microsoft get away with something like this. The penalties need to occur now in order to stop them from going so far out of control that we may never be able to reign them in.

Thank you,
Cvetan Pavloski
5686 Broadview Rd. #2617
Parma, OH 44134

MTC-00030637

12/14/01 FRI 00:57 FAX 3103016032 BIGFISH 001

Thomas A. Johnson
8336 Westlawn Avenue
Los Angeles, CA 90045
December 14, 2001
Renata Hesse Trial Attorney
Suite 1200
Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530
(facsimile) 202-616-9937
(telephone) 202-307-1545
(email) microsoft.atr@usdoj.gov

Dear Ms. Hesse.

As a professional in the computer industry, who began writing code for Internet applications in 1984, and the founder and Chief Scientist of an Internet Security Service company, I have followed the Microsoft case very closely over the last several years. Microsoft's antics during the original anti-trust trial were comical to those of us who understand the truth behind their technology and competition claims, But I was encouraged by the government's ability to sort through the majority of these games and, to prevail in the original judgment.

But I have been quite upset by the current governments seeming lack of interest in imposing any meaningful remedies in this case. The proposed settlement leaves loopholes big enough for even the most amateurish company to drive a truck through, and we all know that Microsoft is far from an amateur when it comes to exploiting these sorts of situations.

Microsoft's proposal to quell the class-action lawsuits by donating hardware and software to schools makes me shudder. Education is one of the last arenas where Microsoft's monopoly is less secure. Providing Microsoft software to these schools will, in effect, lock them into this platform. California Attorney General Bill Lockyer was right when he said "It's a little like Big Tobacco being found guilty of selling cigarettes to minors, and the remedy is for them to agree to give them free cigarettes." The proposed settlement is very weak, and will do little to reduce the control that Microsoft holds over this industry. I join Matthew Szulik, the CEO of RedHat, Inc., in my astonishment that a firm with a 96% market share, who has a terrifying track record for destroying competitors, and whose guilt has already been established is being offered the improved terms of this proposed settlement.

I believe that any settlement that hopes to remedy the issue before us must at minimum:

1. Provide a guarantee that all Microsoft networking and client/server protocols be published in a full and complete manner, and verified by an independent third party, and further, be provided to the public at the time it is provided to their own internal programmers and application developers.

2. Microsoft should not be able to offer incentives or threaten punishment to computer manufacturers or resellers that results in Microsoft software being included by default in all system purchases, In the past, I have purchased equipment that was bundled with MS software—a request to unbundled the software resulted in absolutely no price difference, or at most a few dollars. This must stop to encourage competition. 12/14/01 FRI 00:58 FAX 3103016032 BIGFISH December 14.2001

3. All Microsoft document file formats (present and future) must be public and complete, to allow other operating systems and software to read and write files in these formats.

4. Microsoft must not the party that is allowed to determine what software is part of the Windows operating system.

5. Microsoft must provide all information and specifications, not just to commercial entities, but to the public at large, to enable the creation of compatible or competitive software and systems by open-source proponents, and non-profit corporations or organizations, as well as individual programmers working on their own. For example, the requirement that to qualify as a middleware product under the terms of the settlement, the competitor must have distributed at least 1 million copies of the software in the previous year. This allows Microsoft to annihilate start-up companies and individual developers at will.

6. The settlements provision that Microsoft need not "disclose or license to third parties: (a) portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of which would compromise the security of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria", provides them with another one of those truck-sized loopholes.

It is well known and accepted in the academic and open-source world that peer review of code and protocols results in more secure systems. This is a blatant attempt by Microsoft to create a loophole that will allow them to stifle competition.

7. The definition that an ISV is "is engaged in the development or marketing of software products designed to run on a Windows Operating System Product" allows Microsoft to deny rights to those of us who develop systems for other operating systems such as Linux, which require access to the APIs and code that should be made public.

In summary, I have to believe that a settlement that is truly good for the industry and good for America would place a real remedy above expediency.

Sincerely,
Thomas A. Johnson

MTC-00030638

Dec 14 1 04:09p Richard S. Vann 336-722-2895 P. 1
OEM Sales Corporation
336-924-0090
Fax Cover Sheet
To: Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
Washington, DC
Fax No: 202-616-9937
From: William Miller, Owner
OEM Sales Corporation
Dec 14, 01 04:lOp Richard S. Vann
336-722-2895 P-2
OEM Sales Corporation
Renata Hesse
Trial Attorney
Antitrust Divisions
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As a small businessman many of whose clients are in the business of making computers, I want to commend to Judge Kollar Kotelly the settlement which has been reached in the Microsoft case.

First of all, it is my believe that there has never been any consumer harm by any action taken by Microsoft and that so many of that company's innovations have led to big benefits both to users at home and in businesses. During the prosecution of the case, it was very clear that Microsoft's competitors played a major hand in trying to work against Microsoft's position with members of Congress, the media and tried to move the verdict against Microsoft. That battle actually cost taxpayers $30 million which is far too much. Because the economy is in the shape it is in, the last thing that we need is more litigation, expensive court fights and endless funds wasted on attorneys. Both the industry and the government attorneys need to focus on other matters, in my opinion. As chairman of the Republican Party of Forsyth County, the fourth largest in the state, I tend to hold those views strongly.

As I view the elements of the settlement, I believe it to be fair to both side with Microsoft guaranteeing certain provisions and the government getting enforcement provisions never before seen in an anti-trust settlement. I hope that Judge Kollar Kotelly approves this settlement.

William P. Miller
President
5640 Clinedale Court, Pfafftown, NC 27040

MTC-00030639

To:
From:
Subject:
Date:
Pages:
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
Fax: 202-307-1545
Charles Jenkins
112 Nasson LN
Oak Ridge, TN 37830
Fax: 865-675-1241
Comments on the Remedy Phase of the Microsoft Antitrust Trial
December 14, 2001

I'm submitting this letter to you for inclusion in the public comments, as provided for by the Tunney Act, on the proposed settlement of the United States of America vs. Microsoft, I sent a copy of these comments via postal mail before I learned that fax or email comments are preferred; I'm now sending this copy via fax in order to comply with the request that appeared in the **Federal Register**. I have also corrected some omissions, so if you would, please accept this version of my letter instead of the one sent through the Postal Service.

The point of illegal, monopolistic behavior is to frustrate consumer choice. Competitors suffer as a side-effect. I believe that the goal of an antitrust remedy should be to restore consumer choice. If the settlement focuses on punishing Microsoft or giving some kind of boost to its competitors, the long-term effect will be negligible and the anti-competitive situation will remain.

The fundamental flaw in the remedy proposed by the Department of Justice is that it puts mild restrictions on Microsoft's behavior, with plenty of loopholes to allow Microsoft to escape the few provisions—like revealing Windows Application Program Interfaces (API's) to competitors—that could make some difference. This is especially egregious because the biggest threat facing Microsoft comes from open-source and free software, and Microsoft has been allowed to negotiate a remedy that defines its competitors in terms of sales revenue—thus allowing it to escape disclosing Windows API's to the real competitors who have the best chance of providing alternatives to Microsoft's monopoly. Basically, it seems to me that the overwhelming majority of companies that could meet this remedy's definition of a competitor are Microsoft's corporate partners!

Since Microsoft has been found guilty of illegally maintaining its monopoly in the market for computer operating systems, a verdict reaffirmed on appeal, I believe that now is the time to go forth cautiously, carefully crafting a remedy with the overt goal of restoring consumer choice,

The lynchpin of Microsoft's operating system dominance is the link between Microsoft Office and Windows. New personal computers come preloaded with Windows, and Office is usually included "free" or for a small, fee. I was formerly the network administrator at my company, and I have seen first-hand the deleterious effect of this situation.

Microsoft Office programs use proprietary file formats that change with each new version of Office, I believe Microsoft makes changes to these formats for three reasons: To add new features; to frustrate competition by preventing competitors" efforts to develop up-to-date "import filters" that will allow their software interpret Office files and thus exchange data gracefully with users of Microsoft Office; and to make it difficult for an individual company to standardize on an older version of Office which cannot read new versions of the files. This wouldn't be such a problem, except that businesses automatically become "infected" with new versions of Office as computers are upgraded. A Corporate Information Systems (IS) department simply must to learn to support new versions of Office, because there is no way to keep them out.

Microsoft Office takes over, because companies are faced with the choice of getting Office "free" or paying for competing products. Even if competing products are extremely low-cost or free themselves, IS has to support Office because they can't keep it out of the door. In this environment, how can a company justify spending money supporting and retraining for a second office suite to be used in parallel? In the end, only companies with anti-Microsoft zealots in powerful positions can avoid becoming dependent upon Office, and therefore upon Widows.

Restoring Choice

Microsoft Office and Windows are linked in two ways: By technical links and by artificial links.

The technical links exist because Office is written to run on Windows, This is reasonable and appropriate.

The artificial links traditionally have included discounts, benefits, and even punishments offered to personal computer manufacturers to encourage them to bundle Office on new computers. They also include things like Microsoft licensing and support agreements that lump operating system software and business software together for the companies who purchase those agreements.

It is these artificial links that stifle consumer choice and software competition, and therefore, the remedy for Microsoft's illegal behavior should be to sever these artificial links as thoroughly and permanently as possible.

In a nutshell, whether sold separately or together as Microsoft Office (or by any other name), Microsoft's business software should be sold to every end user for the same price, whether purchased in conjunction with a computer or not. (And any "home" or "personal" version of business software should be treated the same way.) CompUSA should pay the same per-copy price; for the Microsoft business software that they stock on their shelves as Dell pays to pre-load it on new PC's, Also, Microsoft should not be able to offer/threaten any discount, benefit, or punishment to computer sellers in order to encourage them to purchase or pre-load Microsoft business software, Microsoft should not be allowed to "integrate" business software into the operating system and sell it as one product.

Support and upgrade/licensing agreements for the Microsoft operating system and business software product lines should be kept entirely separate, with no discounts or incentives for customers who purchase agreements for multiple product lines. These restrictions should either be in effect permanently, or until a healthy level of competition is achieved in both the business and operating systems software markets. Consumers should not become dependent upon Microsoft Office because it comes with the monopoly operating system, and they should not be forced to use Microsoft Windows because they need it to run the monopoly office suite.

This will force the Microsoft business software applications, whether sold together or separately, to compete based on price and performance.

How will this restore choice? On the face of it, these restrictions appear to do no more than add to the end user's cost, but the fact is, if everyone has to pay the same price for Office, we are likely to see that price drop dramatically, as Microsoft will suddenly have to face real competition. The corporate Chief Information Officer will have to justify expenditures on Microsoft Office, weighing real costs and benefits against competing software, instead of simply facing the inevitability of supporting Office.

Companies and individuals who purchase computers will no longer receive Office by default; if they want it preloaded on a new PC, it will be an add-on option that costs the same as going down to Wal-Mart and buying Office separately. This gives the consumer the option to perform a cost-benefit analysis, If Office is no longer "free," is it worth what we pay? Are there other products that might serve us better? This will restore competition for business software, and also restore competition to the operating system market as well: Companies and individuals who choose not to use Office are likely to find that they are no longer locked in to Windows, either.

At the same time, this solution would not put an undue burden on Microsoft, There are indeed many customers who are happy with things pretty much the way they are now, and who don't realize how the ordinary consumer is injured by Microsoft's monopoly. If they had to pay a retail price for Office instead of receiving it "free" on new computers, they would choose to do just that in order to continue using a familiar product whose shortcomings they've learned to accept. This situation is fine; in fact, it is desirable. If it turns out that Windows and Office can compete well against other platforms in an environment of real consumer choice, then they deserve all the market share they can get. I and a great many others would like to see the result of that experiment; We would like to exist in an environment with real consumer choice.

In Conclusion

On December 12, forgetting that Brer Rabbit is supposed to say "please don't throw me into that briar patch," Microsoft filed a motion vigorously supporting the remedy being considered by the court. I know that the law is a complex matter, and that this case is especially difficult, but I think it is a telling point that the defendant company, having been found guilty of illegal acts, now loudly and enthusiastically supports a remedy that they (Microsoft) are happy with, a remedy that they helped to create.

I respectfully ask the court to implement a remedy that will go much farther toward restoring consumer choice than does the one currently under consideration, and I ask that the final remedy be written without loopholes that would allow Microsoft to escape its provisions-especially in regard to open-source software systems that need to interoperate gracefully with Microsoft operating systems and business software in order to become viable alternatives.

Sincerely

Charles Jenkins

MTC-00030640

Renata Hesse, Trail Attorney
Suite 1200
Antitrust Division Department of Justice
601 D Street NW
Washington, DC U.S.A. 20530
Anthony J. Kocurko
23 Burling Crescent
St. John's. Newfoundland
Canada A 1 E 5H3
Officer Phone: 709–737–8898
Office FAX : 709–737–2589
E-mail : akocurko@mun.ca

Dear Ms. Hesse:

As a U.S. citizen living in Newfoundland and employed as a systems manager in a research department of a university, I have a keen interest in the Microsoft antitrust case. To be succinct. I believe that the complete details of the formats, including syntax and lexical interpretation, of both the data files and the network communications protocols of Microsoft products should be made public. That is the short of it.

Here is the long of it, although not very long. It is not uncommon for me to be asked by researchers. who do not happen to be using Microsoft operating systems, to help in deciphering e-mail attachments sent to them from colleagues or institutions using Microsoft products. (In fact. amazingly, there have been instances of researchers, who do use Microsoft operating systems. receiving e-mail text attachments and being unable to read them because they do not have the same Microsoft program that produced them.) Most often, we end up asking the sender to recreate the attachment in an open format such as Rich Test Format, for example, for which there are available readers for non-Microsoft computer systems. On the networking side, if it were not for the existence of the Samba software (http://www.samba.org). we would have a very hard time sharing our research data among our Microsoft and non-Microsoft systems. My fear, as a systems manager of a heterogeneous facility, is that Microsoft will use the proposed terms of the settlement to make it impossible for third parties to produce open source software that will allow the fluent interchange of data between Microsoft and non-Microsoft products.

In thinking about this issue, I usually return to several situations to which almost anyone could relate. At the moment. I can pick up my phone and talk to a person anywhere in the world, regardless of the manufactures of the phones and regardless of any fancy extensions that either phone may have. Similarly, I will be able to FAX this note to you without wondering whether the company that made your facsimile machine has so arranged things that only a FAX machine by the same company can send to yours. Again, I can make a recording on my VHS VCR and not have to concern myself with the VHS system on which it is re-played. Now, one may argue that no company would be so foolish as to create a phone that only phones of the same manufacturer can call, but, if that phone manufacturer controlled 90% of the phone market, it could well be tempted to do just such a thing.

It is my opinion that what goes on within the strict confines of a computer is up to that computer's operating system, but when the produce of that software leaves the computer, either as e-mail or a data file or a network transmission, then it has entered the public airways, so to speak, and its format should be readable by anyone on that airway. To put it in an almost ridiculously simple form, it is one thing to write a program that adds two numbers, but it is quite another to write such a program with an interface that requires that the two numbers be supplied to the program in some secret proprietary language.

Sincerely Yours,

MTC-00030641

To: Renata Hesse
From: Kevin Walsh
Fax: 202–616–9937 Pages: 1
Phone:
Date: 12/14/2001
Re: Mircrosoft Settlement CC:

I believe that the proposed Microsoft settlement is a travesty of justice. The settlement does not address any of the pertinent issues such as: The specifications of Microsoft's present and future document file formats Microsoft's networking protocols Microsoft's operating system monopoly

I propose that at least the following recommendations be taken into account

- Any remedy seeking to prevent an extension of Microsoft's monopoly must place Microsoft products as extra options in the purchase of new computers, so that the user who does not wish to purchase them is not forced to do so. This means that for the price differential between a new computer with Microsoft software and one without a computer seller must offer the software without the computer (which would prevent computer makers from saying that the difference in price is only a few dollars). Only then could competition come to exist in a meaningful way.
- The specifications of Microsoft's present and future document file formats must be made public, so that documents created in Microsoft applications may be read by programs from other makers, on Microsoft's or other operating systems. This is in addition to opening the Windows application program interface (API, the set of "hooks" that allow other parties to write applications for Windows operating systems), which is already part of the proposed settlement
- Any Microsoft networking protocols must be published in full and approved by an independent network protocol body. This would prevent Microsoft from seizing de facto control of the Internet I then point out that if the national interest is at issue, as I believe it is and as the judge has suggested it is, it is crucial that Microsoft's operating system monopoly not be extended, and in this I quote the study released a year ago by the highly respected Center for Strategic and International Studies, which pointed out that the use of Microsoft software actually poses a national security risk. In closing, I say that all are surely in agreement that the resolution of this case is of great importance, not just now but for many years to come. This suggests a careful and deliberate penalty is far more important to the health of the nation than is a hasty one.

Thank you,
Kevin C. Walsh

MTC-00030642

DEVELOPERS CHOICE
"Southeastern Michigan's Internet Provider"
December 14, 2001
Renata B. Hesse
Aintitrust Division
US.Derpartment of Justice
601 D Street NW
Suite 1200
Washington, DC 2O530-0001
Via Fax (202) 616-9937
Renata B. Hesse Esq.

First of all I would like to offer my support for the candidacy of Steve Satchell for the Microsoft Anti-Trust Compliance Committee. Mr. Satchell seems to, have all of the requisite experience and, knowledge to do the job along with intestinal fortitude to take on Microsoft if need be, I don't believe there is a better choice!.

Secondly I would like to voice my objections, to the proposed settlement offer. This offer is a basically a capitulation to Microsoft. There is no effective barrier in the agreement to Microsoft continuing their current practices. Let me explain.

Microsoft argues that they must be allowed to continue to integrate their applications into their operating system. What will the ultimate result of this be? Microsoft's complete domination of the software business both, operating systems and applications. This will be accomplished by incorporating all of the Microsoft applications into the operating system. Since most non-technical users have little idea how to eliminate programs from their computers the mere ability is not enough—the user should have the options presented to them in a forthright and direct manner forcing the customer to make choices—either Microsoft or someone else. I am currently forced to use Microsoft to be compatible with the rest of the world—I would rather use something else as I dearly hate the way the program works. Alas, I can't as Microsoft has become the default word-processor of the world with the notable exception of banks and law firms it would seem. How did this happen—whenever you bought a new computer a few years ago Microsoft Office was nearly offered as a no or low-cost option—nearly everyone took it . The result is that Microsoft no longer has any effective competition in the "productivity" software arena and Office is no longer free—in fact it is quite expensive. Do you think they will back off from this type of business tactic—not as long as the sun shines and the birds chirp!

Another issue I have with the proposed settlement is the restrictions that are placed on the entities, with which Microsoft must share their API's. In the explanations I have seen of the proposed settlement these entities are restricted "commercial" ventures, implying for—profit status. This is simply wrong and way too restrictive, I believe that to be truly effective the parties with whom Microsoft should share their API's and the like should broadly defined, maybe something like "any party or entity that could potentially benefit from such information". In other words this information should essentially be in the public damain.

I could go on and on, about the questionable and underhanded tactics Microsoft has used, over the years to further their monopoly but I think you see my point. This a company that will stop at nothing to completely dominate the software industry—and now they have their sights set on my industry—the Internet. It would indeed be a shame if this opportunity to rein in this out-of-control behemoth were squandered. The Justice Department fought a good fight until the proposed settlement—please don't make the same mistake that former President Bush made in Iraq and stop the war before its objective has been reached. March on Redmond and don't stop until the scoundrels are cornered and say uncle! Then you need to keep a close eye on them to make sure that they mind their p's and q's.

Yours truly,
David DeFord, C.P.A.
Chief Financial Officer
Gateway Online

MTC-00030643

Sent By: TRACEANALYSIS;
14 Dec'Ol 12:46; Job 628;Page 1/2
Trace Analysis, Inc.
6701 Aberdeen Avenue, Suite H Lubbock, Texas 79424 800 378 1296 806 794 1296 FAX 806 794 1296
4725 Ripley Avenue, Suite A El Paso, Texas 79977 800 588 3443 915 585 3443 FAX 915 585 3443
E-Mail:lao@traceanalysis.com
TRACE ANALYSIS,INC
A Laboratory For Advanced Environmenal Research and Analysis
FAX COVER SHEET
TO: Renata Hesse
COMPANY: Dept. of Justice
DATE: 12-14-2001
FAX NO: 202-616-9937
202-307-1545
NO OF PAGES FOLLOWING: 1
FROM: Steve Rudeseal
MESSAGE: Comments on Microsoft Antitrust Settlement

Important: This message is intended for the use of the individual or entity to which it is addressed and may contain information that is privileged. confidential and exempt from disclosure under applicable law. If the reader of this message is not the recipient or the employee, or an agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via regular postal service.

Thank you.
Environmental Research and Analysis
Sent By: TRACEANALYSIS; 7941298; 14 Dec'01 12:47; Job 628;Page 2/2

Requiring that Microsoft donate software to schools does nothing to remedy their illeqal business practices. What it does in fact, is allow Microsoft an unfair advantage in a market in where Apple is competing successfuly. The proposed final judgement does nothing to address the fact that Microsoft is guilty of attempting to maintain its monopoly.

Microsoft has become a de facto standard through both legal and illeqal means. Therefore, they bear the burden of ensuring interoperability with other systems. Microsoft's competitors consist of both businesses and communities of individuals. Companies like Apple, Sun, Netscape and Red Hat compete directly with Microsoft in the buisness arena. But, there is also the open source and free software communities which are not related directly to any given company. Open source projects like the Apache server and Samba file server have been very successful in competing with Microsoft. The proposed remedy does nothing to ensure that these Open Source competitors will be able to compete in the future.

To ensure that both companies and open source communities are able to compete fairly with Microsoft, two measures must be taken. First off, Microsoft must not be allowed to pre-install and bundle its software onto new systems. The consumer should be allowed to choose what software they want on their system. Microsoft would still be able to offer volume pricing to vendors, but would not be allowed to attach restrictions on how the software is used by the vendor. Secondly, to ensure that there is other software available, Microsoft should be compelled to release the documentation on their protocols, APIs and file formats. Doing so would allow other competitors, both companies and communities, to compete on a level playinq field. This solution would not require Microsoft to open up its source code, but it would ensure interoperability with competitors products.

Steve Rudestal, Programmer, Administrator.

Justin Shepherd, System Administrator.

MTC-00030644

11 Dez 01 22:lO lain Brodie
+49 89 4358 9382 s. 1
To/An: Antitrust Division
US Department of Justice
Washington, DC 20530–0001
FAX COVER SHEET
From/Von:
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Baumkirchner Str. 22 Home/Privat: +49 (0)89 43 1 5792
8 1673 Muenchen Fax: +49 (0)89 4358 9382
Germany Email: iain@who.net
Date/Datum: 11. Dec. 2001
Ref./Betr.: Microsoft Settlement
No. of Pages (incl. cover sheet) 1
/Anzahl der Seiten (inkl. Deckblatt):

Dear Sirs:

I am afraid that the "penalties" currently proposed will not prevent Microsoft enacting future misdemeanors.

Yours faithfully,

Iain Brodie

MTC-00030645

NOV-14-2001 12:14
VIA FAX 202 616–2645
DOJ/ANTITRUST DIV.
202 514 0306 P.01/01
Thomas C. Willcox Post it
Attorney-At-Law Fax Note R7673
601 Indiana Avenue, NW To Renata Hesse
Suite 500 Fax# 7–1454
Washington, DC 20004 From Dave Wates
Office: (202) 638–7541 Phone# 5–3055
Fax: (202) 628–2881
Member, District of Columbia
Pennsylvania Bars
November 13, 2001
VIA FAX 202 616–2645
United States Department of Justice
Antitrust Division
950 Pennsylvania Avenue, N. W.
Washington, DC 20530
Re: Microsoft Settlement

Dear Sirs/Madams:

I submit this letter pursuant to the Tunney Act as a comment on the Microsoft settlement.Based on the comments discussed in more detail below that I heard Antitrust Chief CharlesJamesoffer in mid-October, in my opinion, the court should not approve the settlement.

I am an antitrust lawyer and solo practitioner in the District of Columbia. On October 16 ofthis year, in the late afternoon, I lunched at a table outside the Manhattan Deli, just north of theNavyMemorial on Pennsylvania Avenue. As I sat, I noticed Antitrust Chief James in conversationwithanother gentleman, about fifteen feet away from me. I heard Mr. James express some frustrationabout the Microsoft case, although I did not hear his exact words on that topic.

Then, I heard him say "It is going to take years to undo the damage done by Klein andPitofsky." I was stunned by this comment Antitrust Chief James seemed to be saying his plans for theAntitrust Division include not just relaxing antitrust enforcement, but subvertingaccomplishmentssuch as last summer's ruling by the District of Columbia Circuit Court of Appeals that Microsofthadabused its monopoly power. Such a philosophy clearly contradicts the testimony offered by ChiefJames during his confirmation hearings.

Two Fridays ago, less than a month later, Antitrust Chief James announced a settlement ofthe Microsoft case. In my view, given the attitude towards antitrust enforcement I heardexpressedlast month, he should recuse himself from the case, and career Justice lawyers should determineitsfuture.

Sincerely yours

Thomas C. Willcox

MTC-00030646

PO1
Australian Union of Students
P.O. Box 123
Roma Street
BRISBANE Qld. 4003
Telephone: (07) 3321 3069
facsimille: (07) 3311 2090
Email: Info@sfudents.org.eu
November 17. 2001
Renata Hesse
Trial Attorney
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Sir/Madam,

I refer to the case against Microsoft Corporation in the UnitedStates District Court for the District of Columbia, referenceCivil Action No. 98–1232 and No. 98–1233. In accordance withthe Antitrust Procedures and Penalties Act, the United StatesGovernment is required to consider submissions from members ofthe public about its proposed settlement with MicrosoftCorporation. Please take into consideration the accompanyingsubmission of our association, which we are making on behalfof our members who are United States citizens.

Cordially,

Geoff Bird

National President

SUBMISSION IN RESPONSE TOTHE PROPOSED SETTLEMENT OF THE ANTITRUST CASEAGAINST MICROSOFT CORPORATIONAUSTRALIAN UNION OF STUDENTSNOVEMBER 2001

EXECUTIVE SUMMARY

1.The proposed settlement will not end litigation against Microsoft, as it neglects to punishMicrosoft for unlawful conduct and compensate those affected.

2.If the proposed settlement goes ahead, it will deprive the United States Government ofinfluence over the settlement that Microsoft will ultimately reach with the EuropeanUnion.

3.Accordingly, our association, on behalf of our members who are American citizens,wishes to propose an alternative settlement.

4.Microsoft should be required to publish the source code for its operating systems.

5.Microsoft should be required, by way of a punishment, to set up a venture capitalcorporation, and to transfer a proportion of its assets to this corporation,

6.The assets which Microsoft should be required to transfer should be equal to thestockholders'' equity in Microsoft, less the stockholders'' equity that Microsoft would haveif it had complied with the law.

7.The venture capital company should be required to invest in business start-ups in acountry in proportion to the amount that residents of the country have spent onMicrosoft products.

8.Stockholders in Microsoft should be issued with stock in the venture capital company inproportion to their holding in Microsoft.

9.The United States Government should be required to use its best efforts to persuadeforeign governments to enact legislation excusing Microsoft for any illegal actioncommitted prior to 2002.

10.If a government of a foreign country does not enact the legislation, the venture capitalcorporation should not be required to invest in the country.

SUBMISSION

The United States Government has brought an anti-trust action against MicrosoftCorporation. Following the election of President Bush with the assistance of donationsfrom Microsoft, the Justice Department has reached a settlement with Microsoft.According to the Antitrust Procedures and Penalties Act, the details of the settlement haveto be published in the "**Federal Register**". Members of the public have sixty days to makewritten submissions on the proposed settlement. This submission is being made inaccordance with the statute.

Our association, the Australian Union of Students, has standing to make a submission onthe following basis. We have a number of United States citizens as members. Under theconstitution of our association, we have the power to make representations togovernments on behalf of our members, without necessarily consulting the membersbeforehand. Accordingly, this submission should be treated as though it was made byAmerican citizens. We could, if necessary, provide to the United States Government, inconfidence, the names and addresses of the members concerned.

We are against the proposed settlement. It is not that we are unsympathetic to Microsoft.The management of Microsoft are very much respected in Australia, and are held out by our association as examples who young people in Australia should copy. Nevertheless,the proposed settlement will be of limited usefulness to Microsoft, and will not settle existing litigation by American states, and proposed litigation by European Union countries. This litigation will go ahead, and there will in time be settlements or judgments,which may not be beneficial to Microsoft or the United States.

From the point of view of the United States Government, Microsoft has been held to have broken the law, and to have gained substantial financial benefits as a result. The Justice Department is of the view that it would be undesirable to break up Microsoft into smaller corporations, or to require that Microsoft pay fines. We agree with this. At the same time,Microsoft should have to make up for its illegal actions in some way, so as to discourage other corporations from breaking the law.

The advantage of an out-of-court settlement is that Microsoft can be made to do things that it otherwise cannot be made to do. A court is limited in what it can order. But an out-of-court settlement can contain anything within reason. As an example, an out-of-court settlement could contain a requirement that Microsoft executives must wash their hair each day. An out-of-court settlement should be a "wish list" of things that Microsoft should. The Justice Department has not been imaginative enough in formulating its "wish list".The Justice Department's "wish list" must meet two requirements. First, it must end the illegal conduct by Microsoft. Secondly, it must compensate the people adversely affected by Microsoft's actions. The Justice Department should be asking the question, 'What can Microsoft do that would be most beneficial to users of its operating systems?" This should not necessarily be limited to things that Microsoft can do in its capacity as a supplier of operating systems, but should include anything that Microsoft can do.

For example, an out-of-court settlement could include Microsoft making donations to charities. No distinction should be made between a donation made by Microsoft and a donation made by its stockholders. Past charitable donations certainly go some way to making up for Microsoft's actions, and should be taken into account in deciding whether to accept an out-of-court settlement.

To end the illegal conduct by Microsoft, we propose that Microsoft should publish the source code written by its programmers, that is used to compile its operating systems,from DOS up to and including Windows XT. This should include comments by programmers put in to explain what the code does. But it should not include code for functions that are for national security purposes.

The publication of the source code would not make piracy of Microsoft operating systems any easier, The software can already be copied illegally. Anyone compiling the operating system from the source code, and using the software without paying a royalty could still be prosecuted.

The advantage of publishing the source code would be that software developers could produce operating systems that are functionally equivalent to Microsoft operating systems.If Microsoft refused to allow its distributors to bundle software with its Windows operating systems, Microsoft would run the risk that a distributor would use an equivalent operating system from some other software developer.Microsoft operating systems have a similar status to human DNA. The information is essential for everyday life. It is surely unsatisfactory that information that is essential for everyday live should be controlled by Microsoft. Certainly Microsoft developed the information, at great expense, so is entitled to a royalty. But they should not be able to prevent further development and improvement of the information.

In formulating its out-of-court settlement, the Justice Department appears to have thought that Microsoft can best compensate consumers for its illegal actions by continuing to develop operating systems. We disagree. We think Microsoft's talent can be used to greater effect in the field of Venture Capital. Of course, if Microsoft was complying with the law, it would be up to them how they use their resources. But since they have broken the law, it is up to the government. The terms of an out-of-court settlement are up to the government.

We propose that Microsoft should be required by a settlement to set up a venture capital corporation. This corporation would invest in and provide advice to business start-ups.Microsoft would be required to transfer a large part of its assets to this corporation. Its Stockholders would be issued with stock in the new corporation, in proportion to their holding in Microsoft. The corporation would be required by its charter to invest an amount in each country that is proportional to the amount that has been spent in that country on Microsoft products. This would be advantageous to the European Union, and so they would be likely to agree to such a settlement.

To make sure they do, the United States Government should lobby the European Union and other countries on Microsoft's behalf for legislation to excuse Microsoft from any illegal action committed prior to 2002. It should be included in the out-of-court settlement that the government must use its best efforts to secure such legislation. Such legislation should be a pre-requisite for the venture capital corporation being required to spend any money in a country.

The amount that Microsoft should have to invest in the venture capital corporation would be set so as to compel Microsoft to down size to the size they would have reached if they had complied with the anti-trust statute. In other words, their stockholders" equity should be reduced to a level that it would be if they had complied with the statute. Microsoft will as a result have to scale down the extent of its activities and lay off staff. These people will be able to set up businesses in areas of Information Technology that Microsoft was previously involved in. Hence there will be greater competition.

We are suggesting that the Justice Department try to compel Microsoft to transfer its capital into the Venture Capital Industry. This is based on a number of considerations.Microsoft has expertise in taking an industry which is disorganized, and organizing it. The Information Technology Industry was disorganized in 1975, but after Microsoft released its Windows 98 operating system, it became organized on a comparable basis with other industries. In our view, it is a waste of resources for Microsoft to continue being exclusively involved in this area. Cars made in 2001 are not much better than cars made in 1971, and Windows XP is not much better than Windows 98.

There are a number of industries which are disorganized compared to other industries.The Venture Capital Industry is disorganized in most countries, and is organized only on the West Coast of the United States. Other industries that are particularly disorganised are the Entertainment Industry, the Property Development Industry, and the Genetic Engineering Industry. By getting involved in Venture Capital, Microsoft can bring its organizational ability to bear on helping set up businesses in Information Technology,Entertainment, Property Development, and Genetic Engineering. This will be of incalculable benefit to consumers. Microsoft already acts as a venture capital corporation,so it has staff who can be transferred to the proposed corporation.

The Justice Department's proposed solution certainly prevents future breaches of the anti-trust statute by Microsoft. But it is not as imaginative and beneficial as our proposed solution. Of course, the staff of the Department of Justice work under great pressure, in circumstances that are not conducive to imagination. That is why the United States Congress made provision for the Department of Justice to consider public submissions, in order to arrive at a more imaginative solution. We hope our submission is of some assistance.

Our telephone number including country code is +61 7 3321 3059, and our facsimile number is +61 7 3311 2090, while our e-mail address is info@students.org.au, and our postal address is Australian Union of Students, P.O. Box 123, Roma Street, Brisbane4003, Queensland, Australia.

MTC-00030647

Sent By: Century 21 Three Rivers;
559 561 3169;
Nov-25-01 18:ll;
Page 1/2
November 25, 200l
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
Fax 202-307-1454 or 202 616-9937
Microsoft Settlement

Dear Renata B. Hesse:

Attached please find a comment to the proposed settlement. If there are any questions, please contact me at 559 284-2704 or e-mail me at pvg1@hotmail.com.

Thank you,
Pete van Gilluwe
43275 Kaweah River Drive
Three Rivers, CA 93271
Sent By: Century 21 Three Rivers;
Comments on the Proposed Settlement between the United States and Microsoft

I have read the details of the proposed settlement and note that only 14%of students in schools receive any benefit from this proposed settlement.As an technology coordinator in a small K-8 school in Central California, it is my opinion that all students, whether disadvantaged or not, have the same opportunities to learn and succeed once they enter a public school.In reality, they shed their socio-economic status at the school gate and are treated like all other students.

There are currently many federal (and state) programs that give assistance to 'disadvantaged" schools, including Title l/2/4/6 funds, free and reduced rate breakfasts and lunches, EIA funds, SIP funds, as well as the E-Rate program and others. Many private foundations, such as the Bill and Melinda Gates Foundation and the Packard Foundation give funds to'disadvantaged" schools and programs.

Many schools, both disadvantaged and non-disadvantaged have technology needs that are not met by any federal or local grant, particularly in the software area. Schools that have small numbers or no students in the'disadvantaged" category do not receive any special funding that puts them ahead of other schools, and in fact, many 'non-disadvantaged" schools are falling behind in the technology area due to programs like E-Rate.My recommendation regarding this settlement is to request that the Microsoft Company institute an ongoing program to give operating systems, educational and productivity software and use licenses to all K-12schools, thus giving all students the tools needed to progress and succeed in the world of technology. This is a win-win answer for students, schools and the marketplace.

Pete van Gilluwe
43275 Kaweah River Drive, Three Rivers, CA 93271
559 561–3168
pvgl@hotmail.com

MTC-00030648

Mathemaesthetics Inc. 3034400504
1140 Linden Ave.
Boulder CO 80304
November 27th, 2001
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
By Fax: 1–202–307–1454 or l-202–616–9937
Number of Pages: 1

Re: Microsoft Anti-trust Comments

The recent proposed Microsoft settlement is ridiculous in its lack of accountability for Microsoft,in its advantageousness to their court-declared monopoly and in the minimal nature of the penalty for their illegal behavior. Their "punishment" of giving their software to schools is nothing but a standard marketing expenditure that fortifies their monopoly position.

The entire proposal flies in the face of the very point of the trial, which they were held to be a monopoly for illegal tactics that were specifically meant to increase their market share, for bundling to increase market share, and for illegally blocking others" products in order to maintain or increase Microsoft's market share. But now, a good portion of settlement specifically increases their market shares of both the OS and their bundled products.

Where in this settlement is there any incentive for Microsoft to change its behavior in the future?The proposed settlement directly harms competition in the computer industry, which competition of course is what the anti-trust laws and the and the various Attorney Generals whose jobs are to enforce those laws, are there to protect in the first place.

The current settlement proposal does not serve justice. I believe Microsoft's settlement offer should be declined.

Sincerely,
Douglas M. McKenna

MTC-00030649

11/28/2001 13:56 8183660370 Postal Plus Page 01
PostalPlus
Fax Cover Page
Date: 11–28–01
To: Judge Renata B. Hesse—Antitrust Div.
US Dept. of Justice
601 "D" St. NW. Ste 1200
Washington, DC 20530–0001
From: Sheila Small
Fax Number: (202) 616–9937 or (202) 307–1454

Message: Dear Judge Hesse:

I am writing to you to request that you do not destroy Microsoft. As an "end user" of Microsoft as well as a student, and as a member of the public, I want you to know that I use their products because they are the only ones that are up to a usable standard. If I had any complaint, I would change, or complain, etc. The fact that Microsoft has grown from nothing to the largest on earth is caused from the superiority of their products as well as the useless and amateur products being produced by its competitors. (The plaintiffs in this case have to use an attack on Microsoft to gain market share because they have nothing else to depend on.

They are a bunch of greedy no-talent frauds that are hoping they can intimidate and fool you into thinking they are telling the truth.

I have read the trial transcript and attempted to use the plaintiffs" products and I am confident that what I am saying is true. Microsoft has done nothing to the business world except make the best product in its field. These people are responsible for their own failure and I hope you will keep that in mind. I am praying with all my heart that my tools won't be hurt by your decision.

Sincerely,
Sheila Small
Granada Hills, CA

MTC-00030650

11/29/01 09:55 FAX 01
cc: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Fax: l-202–307–1454 or l-202–616–9937
E-Mail: microsoft.atr@usdoj.gov
cc: U.S. District Judge Colleen Kollar-Kotelly
Tel: (202) 354–3340
November 28, 2001
Tunney Act—Submission of Public Opinion
Civil Action Nos. 98–1232 and 98–1233

Please file these comments in the Federal Registry as pursuant to the Tunney Act.After thoroughly reading the Microsoft vs. Department of Justice settlement, I find it to be a political settlement that is not at all in the public's interest. As the US Department of Justice takes the side of Microsoft, and not the side of the American entrepreneur it is publicly endorsing Microsoft's unethical, predatory,illegal and monopolistic behavior. Microsoft has already been found to be guilty of these things in a US Court of Appeals, and the Department of Justice completely overlooks this.

The US Department of Justice's settlement will make things worse for competitors of Microsoft, like myself, because it says, "Microsoft's behavior does not warrant serious action and does not matter." The Department of Justice is painting a model of acceptable business ethics in the outline of Microsoft's behavior and it is accepting, endorsing, and condoning such behavior.

According to the DoJ's Competitive Impact Statement, the DoJ settlement aids in:Creating the opportunity for software developers and other computer industry participants to develop new middleware products that compete directly with Microsoft by requiring Microsoft to disclose all of the interfaces and related technical information that Microsoft's middlewareuses to interoperate with the Windows operating system.

I am a software developer competing directly with a Microsoft product (Microsoft Operations Manager", and I am unsure what "software developers" the DoJ is referring to, because it certainly isn't me.

Microsoft's fundamental powers reside in the following principals:

1. Microsoft's core business model is the "embracing and extending" of third party or publicly originated standards, ideas, designs, and technologies.

2. Through court described "monopoly maintenance," Microsoft has been able to create and maintain several monopolies in software markets including operating system software and office suite software.

3. Microsoft can sit around and wait for new things to happen. They wait for others to do the hard work of inventing, proving, and designing a concept.Microsoft then copies and integrates these features into one of its monopoly products. A typical entrepreneur has to spend 3 years or more proving anew product before it can get to even 10% market share. By virtue of it's existing monopoly, Microsoft can copy someone else's work, and have a monopoly in that new market within 6 months. It is this case that the Sherman Act was created, and it is this problem that a US Court of Appeals Found Microsoft guilty on all major counts.

Microsoft most certainly does not innovate, develop, or create original concepts or ideas. Not one of Microsoft's successful products was invented or created by the company. Consider the word processor, spreadsheet, presentation software,command prompt, operating system, publisher, e-mail client scheduler, webbrowser, mouse, window, GUI, database, SQL Server, or any of the other Microsoft tools you may use. Microsoft didn't invent even a single one of these.They copied the ideas from other companies. The patent system is supposed to protect entrepreneurs from this kind of thing, but it is failing miserably in this case.

The reality is, most entrepreneurs in the software industry have a mutual respect for each other and their work. They want their work to be appreciated and respected and they sometimes copy each other ideas, but never to the breadth,depth, and scale that Microsoft does.

After agreeing to the settlement with the Department of Justice, Microsoft's Chairman, Bill Gates, went on camera and promised to "act more responsibly"with partners and competitors.

I wish to illustrate the problems with Microsoft a software entrepreneur has by focusing on an existing fact, and an existing problem we are having with the company. For the benefit of the judge and the public I will try to make this example issue as simple and clear as possible. First, a description of the problem:In Windows NT 3.5, Microsoft allowed networking software to have up to 100network connections waiting on "backlog". The number of backlog connections is critical in determining how well a given piece of networking software can work.

With the release of Windows NT, 2000, and XP, Microsoft made the number of allowed connections on Workstation (Desktop) versions of its software 5. And Server versions of the software can have up to 200 backlogged connections. The following picture shows this:

Microsoft product	Number backlog connections
Windows NT 3.5	100
Windows 95x	5
Windows NT 4.0 Workstation.	5
Windows NT 4.0 Server	200
Windows 2000 Professional	5
Windows 2000 Server	200

This in and of itself is actually quite harmless. It seems like a perfectly fine way to try and differentiate your products. Buy the more expensive server products and you get better backlog connections and you can create better network software,right?

First let me explain that there is no difference in programming an operating system that supports 5 or 200 backlog connections. It is simply a number that you change and it may use a little bit more memory but there is no technical or labor related issue to change this number.

The troubling part becomes visible when you ask yourself, how does Microsoft networking software on Workstation, 95x, and other operating systems create these kinds of connections? These products, when running on workstation/desktop versions must be subject to the same limits, correct? We setup, as a trial case, IISon Windows 2000 Professional (Workstation version with a backlog limit of 5)and we hammered it with parallel requests. We could take bring the IIS down, but it was far beyond the limit of 5 backlogged connections. Our product, which uses the connection backlog, in its most simple test case, can barely handle a single user session before starting to drop connections (kind of like when you visit a website that is down□.

So the troubling question is, if our software is limited to 5 connections on Workstation versions of Microsoft software, why isn't Microsoft's competing software limited to the same?

I am an open-minded person and wanted to give Bill Gates the benefit of the doubt. So the week of November 20, 2001 several weeks after his "we will work better with everyone" public statement, I contacted Microsoft. In fact I contacted Microsoft Premium Support Services and opened a paid, premium incident based on my troubling example issue. Maybe it is just our software I kept thinking?Microsoft wouldn't intentionally block our software from running well, while allowing Microsoft software to work well would they?

I told premium support services that if they find a solution, I would happily pay the price to provide me with it. Most software companies would be thrilled to be treated as well as I was treating Microsoft. This is an absolutely real case. The support incident was assigned SRXO11114602 in Microsoft Windows 2000Premium Support Services. After spending three quarters of a day on hold,working through 14 people in Microsoft support I did eventually reach peoples killed enough to at least understand the problem. Once I reached these people, the"Technical Router" (the person responsible for the incident) said that more senior people had agreed to take up the incident, and they won't be charging me for it.He marked it closed, even though I was being very clear that it wasn't.Microsoft's Premium Support Service response was the following:They acknowledge the limit, and that my software was subject to it.They don't know how their web server is able to avoid the backlog limit on Workstation software, and if they did know, they wouldn't tell me.They said the API I was using was the lowest level API that Microsoft was willing to provide me with.

I followed up the next day and got an arrogant response from the Technical Router "I can't give you contact information to the person helping you."The person that was providing information said they would get back to me on it. It's more than a week later now, and not a peep.

The net effect is that Microsoft can sell networking software that runs on Workstation versions of their platform that cost $200, but my networking software, by virtue of the enforced backlog limit, and the limited API they are providing, requires a Server version of Windows, costing $1000 or more. By virtue of its monopoly and by virtue of blocking the APIs from us Microsoft has added $800 to the cost of my product and I am forced to compete with Microsoft with this monopoly created, anti-competitive, and unavoidable cost disadvantage.

This is one specific example of many problems we have with Microsoft, on an ongoing basis. We have many ways around this, and are working with our customers to make special concessions in order to insure the cost of a Server license doesn't impact them. Some of them have been absolutely wonderful and offered to purchase Server versions outright, and I thank them and solute them. There is a wonderful team spirit in the world outside of Microsoft that works to handle and deal with the problems and issues it creates.

I submit that the Department of Justice's settlement does not even remotely address these issues in an effective manner. We have many other such problems with Microsoft. Microsoft does not understand what it means to be an ethical,effective, and responsible member of the business community. It doesn't understand how to be an asset to society. These are very basic values that my engineering professors taught me at the University of Florida. It is a shame Bill Gates didn't finish college, as I am sure his professors at Harvard would have taught him the same.Because his education in working ethically and in fairness with people fell short, it is up to the government to correct the problems he has created.Some of the possible solutions to the Microsoft monopoly:

1. A complete, unrestricted release of the Windows source code to any competing third party ISV that requests it, including the right to create derivative works from the source (but not necessarily to create a new operating system, just to make our applications work better), or
2. A break-up of the company into two companies, and Application company and an Operating System company, or
3. The creation of a new intellectual property mechanism that can protect entrepreneurs in the software market while their software comes to life, they win investment, and they develop the market. This mechanism should allow start-ups to compete amongst themselves, but companies with monopolies like Microsoft should not be allowed to develop for or enter these markets for an extended amount of time (I recommend a period of 7 years).

In solution 1, this would solve the problems without a structural remedy. There is a rumor that Windows may include unlicensed or ambiguously obtained source code, such as source code from projects created at universities (without obtaining permission from the university), and source code licensed under the GPL. This is a totally unsubstantiated claim, and I would be surprised if it is true, but I have heard it talked about. True or not, it does represent one plausible explanation as to why Microsoft is so protective of it's source and why it is unwilling to make it easier for third parties to create great applications on their platform.Solution 2 would also actually help level the playing field as application developers would no longer have to be in bed working with their biggest ally at the same time as divulging everything to their biggest competitor.

Solution 3 is what I favor, because all of us entrepreneurs are smart, we just need a little shelter in the open market for a time before Microsoft can come in and steal our ideas from us. We need a fighting chance to get to the up phase of start-up.The one solution we can't have is the Bush Administration's political settlement.The Swiss cheese like settlement the Bush administration made with Microsoft will make things worse. I feel it is also important to disclose that I have heard rumors that George Bush owns a great deal of Microsoft stock. This raises interesting questions. But more importantly it means the Bush Administration's settlement is colored and born of a huge conflict of interest.

I would like to take this opportunity to thank the many state attorney generals and members of the Department of Justice that did not sign on to the settlement. I want you to know that we appreciate the hard work and time spent trying to truly solve this very real problem. I am sorry the Bush administration has turned it's back on America's software entrepreneurs, I won't be voting for them again.

I am not seeing the America I grew up as a kid in Bar Harbor, Maine believing in.the America I know is a country of fairness, free enterprise, and the reasonable availability of opportunity. We need to restore competition, free enterprise, and the reasonable availability of opportunity in the software market if we wish America's high tech industry to continue to be great.

If we don't, we will become an America, without an American Dream.

Kyle Lussier, lussier@autonoc.com
President, AutoNOC
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htttp://www.AutoNOC.com

MTC-00030652

November 29, 200 1
U.S. Department of Justice
Antitrust Division
Washington, DC
Re: Microsoft Settlement
Comments under the Tunney Act

We believe that the U. S. Department of Justice and the Attorneys General of the various states, in particular, California and Connecticut, have abused their power by misleading the American public. Under the guise of "protecting the American consumer"from the monopolistic practices of Microsoft, their real aim has been to protect Microsoft's competitors, particularly Sun Microsystems, Oracle Corporation and AOLTime Warner. It is appalling that the U.S. government has wasted its resources and taxpayer dollars trying to destroy a successful American company. The above competitors through their lobbying efforts, have successfully used the government for their own gains. The government should be more forthright and declare their real purpose in pursuing Microsoft.

We wholeheartedly support the recent November, 2001 settlement with the U.S.Department of Justice. The economy and the entire technology sector, including Microsoft's competitors, large and small, will be aided by Microsoft's strength in the marketplace. A rising tide lifts all boats, and as we have seen, a falling tide has done just the opposite, hurting innovation in the entire tech sector, including small, upstart tech firms, many of which have gone out of business.

The American people have been harmed more by the drop in the stock price of Microsoft Corporation and, as an indirect result, the subsequent drop in the prices of various technology companies" stock over the last 20 months, than by any possible overcharge by Microsoft. Many Americans would have preferred to spend an extra amount of money on a Microsoft product, than lose thousands and millions of dollars in their portfolios and 401 K plans. Microsoft is a premier American company and the leader of American technology companies. The drop in its stock price has affected many others on the NASDAQ. It is core holding of many institutional funds and a core holding in many American's 401 K plans and personal portfolios.

Average Americans have lost trillions of dollars of wealth in the last 20 months,much of it in technology stocks. Some of this loss can be in part attributed to the Government's relentless pursuit of Microsoft, and the subsequent precipitous drop in the stock prices of many other technology companies. Also, Fed Chairman Greenspan's desire to quell the "irrational exuberance" of stock market investors by raising rates in2000, even as the market had already started to fall on its own, did additional damage to the financial markets. The government is not doing the consumer "any favors" by interrupting the natural free flow of the capital markets. (The government did not help Microsoft in its fledgling existence in an Albuquerque strip mall from the vagaries of IBM corporation, did it? Microsoft managed to become a great American company on its own.

Most importantly, the government's actions actually impeded innovation and competition in technology by hurting the stock prices of technology companies nationwide. Many of these new companies" stock has fallen 90, 95, even 99%. Even the prices of established technology companies have fallen to prices of 3–5 years ago, before the recent "tech bubble". Many small innovative companies have gone bankrupt, or if they are still in business, cannot raise the capital necessary to continue as going concerns.The market capitalization of these companies have fallen so precipitously that not only they cannot raise capital, but many American citizens are having liquidity problems. In summary, the government should be more concerned about the severe impact of the lack of capital spending by businesses, which precipitated the severe drop in stock prices. This abrupt halt in. capital spending by businesses and the inability of companies to raise capital have resulted in layoffs of millions of American workers. The stock portfolios of American citizens have fallen 50—90% and more. Americans are having nervous breakdowns, are losing or selling or mortgaging their homes to raise cash necessitated by the severe losses suffered in the stock market and loss of jobs. Formerly wealthy individuals cannot afford to spend and provide jobs to lower income individuals,which, in turn, hurts their families. Americans have been more harmed by these issues than by Microsoft possibly overcharging.

Some of the State Attorney Generals are holding out on the settlement, preferring to go to court, and wasting still more taxpayer dollars. Why not put this to a vote of every American citizen? Let each and every American decide, instead of letting their elected officials pursue their own interests under the guise of "protecting" the American consumer.

Carol H. and Dennis F. Buss
3 19 Ravine Park Drive
Lake Forest, Illinois 60045
(847) 234-l 119

MTC-00030653

CASTLEBERRY FOOD CO
PAGE 01
'Subj: Lets go On !!
Date: 11/30/2001 IO:41:49 AM Pacific Standard Time
From: Clamguy300
To: microsoft.atr@usdj.gov

Haven't you spent enough of your taxpayers money on this case, lets get off Microsoft and get on a positive horse that will benefit the economy. This has gone way too far and hasn't produced one positive since this case began.Let me decide what I want, IF I MONT WANT A MICROSOFT PRODUCT I WONT BUY IT!Please let the consumer decide! ! Not your court

Mike Wieltschnig
Issaquah,Wac.
Friday, November 30, 200l America
Online: Clamguy300

MTC-00030654

Phone Tools
I
Phone: 206 529–9336
Fax: 206 529–9336
Message :
re: Microsoft Proposed Settlement

Please accept these reasoned views under consideration in drafting a revised settlement offer.The security of the United States can be tied to settlement in which relief is provided by opening the source code to the public,an action which will result in effective competition whereby the consumer will benefit by increased customization, far more value than a $10 rebate to every Californian or a copy of Linux to every school wastebasket. Not responding publically to these suggestions, and others, has exposed the Justice Department to deserved criticism, unintended no doubt, but criticism that should be addressed.

Thank you,
Karel Lambert, MS MT(ASCP)
CTO, Chimerex Inc
From: Chimerex.com
To: Department of Justice
Karel J Lambert MS MT(ASCP) Antitrust Counsel

MTC-00030655

Dec-01–01 12:23P Dick Marble
425–453–5029
RICHARD A. MARBLE
9937 LAKE WASHINGTON BLVD. NE
BELIVUE, WA 98001
Ms. Renata Hesse
Antitrust Division
US Department of Justice
601 D Street Suite 1200
Washington, DC
Fax 202–616–9937
Fax 202–302–1454

Comments re Microsoft Anti Trust Case

I would like to comment on the DoJ/ Microsoft settlement of the Microsoft

AntiTrust Case As a consumer of Microsoft product I strongly endorse the agreement This case has been manuvered from the start by Microsoft's competitors in a very sophisticated manner, staring with Joel Klein's visit lo Pallo Alto at the invitation of Scott McNealy and other competitors of Microsoft in that area to plan an attack on Microsoft. Very little has ever been said from the consumers standpoint. They have expressed their support by buying the Microsoft products which have set today's standard of computer usage. I am attaching letters sent to Business Week Magazine of December 10th in response to an article Business week had run on Scott McNealy and his vendetta against Microsoft I have included all of these consumer letters and they all support Microsoft.

The States' cases against Microsoft are a crass money grab based on the amazing change that their citizens have been charged too much for their computer products. It IS hard to imagine someone fairly establishing what Microsoft should have charged. The consumer.again has had alternative choices lot most of his needs and has supported Microsoft by his purchases of their products.

The opportunity to comment on this case and it's ramifications is appreciated. I would urge the court to accept your settlement plan and remove this distraction from the industry.

DECEMBER 10, 2001

What Mankind Needs: Less Whining from Scott McNealy

Sun Microsystems CEO Scott G. McNealy thinks mankind needs a break from MicrosoftCorp. ("Face-off," Cover Stony, Nov. 19). What mankind really needs is a break from McNealy'sincessant whining,. Many people and businesses complain about Microsoft's monopoly None has bothered to offer a superior product Instead,they have used the government as a strategic weapon to cover their inability to develop something better. Microsoft may have a monopoly with Windows and Office, but it hasn't come close to the same level of domination on the Web. If it had, America Online Inc. wouldn't still be around.

Technology writers from many publications have pointed out many flaws,weak areas, poor designs, and glitches in Microsoft products. What does it say about the rest of the software industry that Microsoft was able to achieve a monopoly with such imperfect products'? Innovation won't happen just because the government suppresses Microsoft

William A. Kirsten

Gaylord, Mich.

We have been reading Scott McNealy's "trash talk" for years. I would suggest he start concentrating on his own company's failings.

W. Donald Sally

Lake Forest, Ill.

If McNealy could just hold on for a few years, perhaps he could find another Administration like that of Bill Clinton. He could again donate heavily to the Democratic Party and again get them to shackle his competition.

What Mankind Needs Less Whining from Scott McNealyto work full-time. We in the industry hope that McNealy got the message

Jonathan Zuck

Association for

Competitive Technology

Washington

What if that softie [antitrust chief] Charles James limited what Business Week could charge at the newsstand?

Patrick M. Code

Alpena, Mich.

What Mankind Needs: Less Whining from Scott McNealy

Come on McNealy. Suck it up, and compete like a big boy!

Joe R Donathan

Centennial, Colo.

Scott McNealy's outlandish attacks on Bill Gates and Microsoft, and his sophomoric humor, make one wonder why Sun Microsystems stockholders put up with this overgrown child

Write the Right Laws to Rein in Software Makers

Animals that prey on others are usually successful only against the old and the lame That is all that Microsoft has done ("Settlement or sellouts?"Cover Story, Nov. 19) WordPerfect failed to innovate, so Word won Lotus failed to innovate, so Excel won. Netscape never stood a chance as a stand-alone, so Internet Explorer won Microsoft had nothing with which to compete when it took these entities on, so it beat them fair and square.

Microsoft has nor beaten Real Audio, Adobe Systems, Intuit, Norton, and many others, because those companies innovated and improved their products. We the consumers and users have only stood to gain by letting the better innovator vanquish the lesser. Microsoft should use everything in its arsenal to compete. That is inherent in our economic system

Richard S. Mimick

Highland Park. N.J

It'lawmakers had made software developers accountable for the operation of their wares, the Microsoft debacle could have been avoided Microsoft would have had to recall products that crashed. It would have been less tempted to develop "bloat ware" and bundle others" products into its own,lest it cause crashes. Taxpayers would have saved a. lot of money.

Tony Payne

Hong Kong

"Slapping Microsoft's wrist" (Editorials, Nov. 19) relies heavily on Scott McNealy's constant mischaracterizations of the Microsoft settlement. The piece recites the vague and sometimes blatantly inaccurate complaints about the settlement that are often cited by Microsoft's largest rivals Coming after three years of litigation, the settlement between the Justice Dept. and Microsoft should finally allow the software industry to get back http://www.businessweek.com/magazine/content/01_5O/c3761023.htm

MTC-00030650

Dec 04 01 01:43p

Ben and Virginia Riva 1-425-454-5188

FAX COVER SHEET

Microsoft Settlement

SEND TO:

Company name:

I— mm I

U.S. Dept. of Justice

Attention: R.B. Hesse, Antitrust Division

Office location: Washington, DC

Fax number: 1-202-307-1454 Virginia Riva

Date: 12/4/01 location: Bellevue, WA

Phone number: 425-454-5180

December 4, 2001

As a 'Consumer" in the United States vs. Microsoft action, I feel compelled to comment on the proposed settlement, an opportunity provided by the Tunney Act. I am a Consumer because my husband and I purchased a Hewitt-Packard computer with Windows 95 software, a monitor, printer, etc. in 1997. We did not feel that we paid too much at that time, nor have we felt that we were overcharged since. In fact, we have been very happy with Windows and all of our Microsoft products. In fact, we are now considering upgrading with XP.

However, we feel that we hove been severely damaged, not by Microsoft, but by the Justice Department's suit against Microsoft in general and by Judge Thomas Penfield Jackson's very clearly biased rulings in particular. You see, we are retired. We are both in our 70s and are both very active, both mentally and physically, for which we are very grateful. We have raised a large family and have worked hard all of our lives, looking forward to the "Golden Years" of retirement. Well, the Justice Department (under Janet Reno) and Judge Jackson managed to tarnish these years for us in a big way. You guessed it—our IRAs and retirement finds containing our "nest egg" were heavily weighted with tech stocks, especially Microsoft. Joel Klein and Judge Jackson managed to destroy our financial security that was supposedly sufficient to see us through another 15—20 years, God willing, without "damage to consumers" by Microsoft ever having been proven as nearly as we or any of our tech-savvy acquaintances can find.

What kind of JUSTICE is that? The Appeals Court apparently upheld Judge Jackson's finding that Microsoft is a monopoly. But it is our understanding that it is not illegal to be a monopoly. We are now admittedly in a recession and are also a nation at war. The lives of all Americans have changed in the last few months. The settlement proposed now by the Justice Department (under Attorney General Ashcroft) appears to be a very adequate punishment for whatever Microsoft's misdeeds have been. Isn't it now time to GET OVER IT and GET IT OVER WITH and move ahead with matters of far greater importance to the country at this time? Those States still dragging their heels and withholding approval appear only to be trying to hang onto a "Cash Cow" and, possibly, make some more trial lawyers even richer, at our expense. We owned and operated our small business for over 25 years and we had to Compete to make good We did not, and could not, rely on the government to make us successful. In fact, the government made it more difficult for us to compete with affirmative action laws in effect at that time. Our biggest competitor's owner was classified as a Minority and, as such, was entitled to contracts that we could not even bid on or be awarded. The fact that he was retired from the NFL and was also benefitting from a very sizeable NFL pension was irrelevant. But we did manage to compete by providing good work and good service. Microsoft's competitors should be encouraged to succeed in that same way. Let's hear it for "INNOVATION over LITIGATION", accept the proposed settlement, and let all of us get on with our lives and, hopefully, put a little life back into the retirement funds of ordinary hard-working citizens. And for all the computer users out there, you'll find that the options and choices are already endless— no need to struggle through further class action suits to be rewarded in the end by a payoff of an estimated $5.00 per person.

Respectfully Submitted,

MTC-00030659

CREATIVE BEGINNINGS
December 5,2001
Attorney Renata Hesse
Division of Antitrust
US Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Submitted bu Fax,

Dear Attorney Hesse:

I believe the proposed attachment in the case U.S.v Microsoft is a good idea and hope it will be approved. This company's technical advances have led to great efficiences in the workplace and at home. Given that the antitrust laws were passed to protect consumers, it is obvious that the government is persuading a company whose actions have only benefited consumers. I urge you to approve this settlement as quickly as possible. Thank you for your attention in this important matter.

Sincerely,
MJ Marcucci
President

MTC-00030660

MYOR ROSEN
Myor Rosen
12800 Oak Knoll Drive
Palm Beach Gardens, FL 33418
5 December 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am writing to voice my support for the November 2, 2001 settlement in the antitrust case between Microsoft and the Justice Department. The time for litigation is over, and I feel the settlement should be completed and no further action should be promoted.

Under the settlement, Microsoft is not getting preferential treatment. The company Will share more information with competitors; furthermore, it will open up space'on its operating system software that allows competitors to place their components on the system. Never before has a software company been forced to give so much information and access to its competition. I hope your office will end this case with the November 2, 2001 settlement and allow the information technology industry to focus on business and not litigation.

I appreciate your efforts this year concerning this case. Please work hard to make sure this suit finally ends so that the American technology sector can get back to what it does best: being number one in the world.

Sincerely,
Myor Rosen

MTC-00030661

PENCOM SYSTEMS
TEL: 212 227 1854
40 Fulcon Street, 19th Floor
New York, NY 10038
Phone: 212.513.7160
Fax: 212.513.7001
TO: Attorney General Ashcroft
From: Joe Sabrin
Fan: (202) 307-1454
Phone:
Date: 12/6/2001
RI: Microsoft Settlement cc;
Urgent For Review Please Comment Please Reply Please Recycle Comments:
40 Fulcon Street, 19th Floor
New York,NY 10038
Tel: 212.513.7160
Fax 212.513.7001
December 5, 2001
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am writing to comment briefly on the settlement that was reached between the Justice Department and Microsoft in the antitrust case. It is in America's best economic interest, and it will help get Microsoft's focus back where it belongs—on technology.

This case has kept Microsoft tied up with litigation for three years. It does not make economic sense to do this to someone who is guilty only of offering the best, most innovative product to the marketplace. The settlement has been carefully negotiated, and addresses the concerns of competitors who felt that they were unfairly shut out of the market.

it is time for the country to get back on track economically. Lawsuits and litigation are not the way to achieve this goal.

MTC-00030662

James M Cox
516-399-8166
44 Carlin Drive
Mastic, NY 11950
December 6, 2001
Attorney General John Ashcroft
United States Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am writing to express my sentiments regarding the Microsoft settlement. I feel that your office has reached a fair settlement that will finally provide certainty about the new rules imposed on the IT sector. I do not see any benefit in pursuing further litigation at the federal level; I am happy to see that your office will be free to pursue the more urgent matters affecting our nation.

I feel that this lawsuit has had a direct impact on both the federal and states' budgets. These budgets are presently challenged, and it doesn't make sense to spend scarce resources on a battle that has already been won. In short, it is time to move on. We must ensure that the technology industry returns its focus to innovation rather than litigation. The longer this battle lasts, the better the chance that we may lose our competitive advantage in the world technology market.

The settlement will benefit all sectors of the economy. Resumption of competition will stimulate our economy and give consumers more choices. As far as the competition is concerned, Microsoft will change the way it develops, licenses, and markets its software in order to accommodate independent vendors. We don't need more federal litigation to keep Microsoft in check. Under the settlement, competitors can sue Microsoft if they don't think the company is complying with the terms of the agreement. The complaints that brought about the lawsuit have been addressed, and your office has set up protocol on how to handle future problems. The Justice Department has done its job. Now it is time to let businesses compete in the marketplace, not special interests in the Senate. I want to let you know that I approve of your settlement, and I appreciate your taking the time to hear my opinions on the matter.

Sincerely,

MTC-00030663

2477 Fairgrove Court
Cincinnati, OH 45244
December 6,2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to thank you and all those with whom you worked for your successful efforts at settling the lawsuit against Microsoft. I realize that there are some who disagree with your decision for bringing this lawsuit to a close, but there are also many of us who appreciate the simpler, more integrated way that software works in the Windows environment.

There are some who laugh at the Microsoft "freedom to innovate" slogan. However, I remember the days of the text only "green screen" when IBM was the provider of PC operating systems. Microsoft did indeed "bet the company" on development and marketing of its Windows operating system. The company is truly a "&lsquo&rsquo;David defeats Goliath" story. You can only do this if you provide a quality product at a reasonable price and you are a very strong competitor. Perhaps, Microsoft became an overzealous competitor, but if we had yielded to some of the punishments requested by the Microsoft competitors then we would have set legal precedents that could extinguish the innovate entrepreneurial spirit that brought us the Windows OS and the Internet.

I hate to think of the potential ramifications had this suit ultimately broken Microsoft into smaller pieces. The software market that depends on Microsoft established standards would have been in chaos, and many typical computer users, such as myself, would have suffered.

Because of your foresight, however, this eventuality will not happen. For this I am thankful.

Sincerely
Lewis Stepp

MTC-00030664

TO:
FROM : ALBERT & RHU KIGHT
FAX: 913–851–8521
TEL: 913–897–9709
COMMENT:
ALBERT & RHU KIGHT
12613 Flint Street Overland
Parka KS 66213
December 6, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you this letter today to express my support for the Microsoft anti-trust settlement. After three long years of tedious court battles it is time to move on. This settlement is fair and reasonable it will change the way that Microsoft does business by giving other companies greater opportunities in the IT field, but at the same time Microsoft will be allowed to continue providing quality products to American consumers.

The U.S. economy is on shaky ground, and I feel that this settlement will help give it a much-needed boost. We need to focus our time and resources on matters of greater necessity. I feel that the decision of some of the states to continue this litigation was imprudent especially when you consider the deficits that have been projected in many of these states.

I would like to applaud the foresight that you have demonstrated in your decision to settle this case on the federal level. Thank you for all the hard work and diligent deliberation that you have put into this case.

Sincerely,
Albert Kight

MTC-00030665

TO: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
FROM: Robert J. Berger UltraDevices, Inc.
257 Castro Street, Suite 223 Mt. View CA. 94041
Email: rberger@ultradevices.com http://www.ultradevices.com
Voice: 650–237–0334 Fax: 408–490–2868

SUBJECT: Comments on Microsoft Settlement (Don't be like Brer FOX) It is critical that the current wording in the settlement that wording in the settlement that requires Microsoft to only deal with commercial companies for some of the remedies needs to be opened up to non-commercial, open source and governmental entities as well. For instance, Microsoft's greatest single threat on the operating system front comes from Linux—a non-commercial product—and it faces a growing threat on the applications front from Open Source and freeware applications.

Section III(J)(2) contains some very strong language against not-for-profits. Specifically, the language says that it need not describe nor license API, Documentation, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business: "...(c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, ..."

Section III(D) takes this disturbing trend even further. It deals with disclosure of information regarding the APIs for incorporating non-Microsoft "middleware." In this section, Microsoft discloses to Independent Software Vendors (ISVs), Independent Hardware Vendors (IHVs), Internet Access Providers (IAPs), Internet Content Providers (ICPs), and Original Equipment Manufacturers (OEMs) the information needed to inter-operate with Windows at this level. Yet, when we look in the footnotes at the legal definitions for these outfits, we find the definitions specify commercial concerns only.

With this wording, the government is shut out, too. NASA, the national laboratories, the military, the National Institute of Standards and Technology—even the Department of Justice itself—have no rights. SO YOU can see that the current wording actually helps to reinforce Microsofts Monopoly. Please don't let Microsoft use the "Brer Rabbit Briar Patch" trick (http://www.otmfan.com/html/brertar.htm if you are not already familiar with it) to get exactly what they want. —

MTC-00030666

Microsoft Antitrust Settlement

As a consumer I would like to think that there exists adequate protection from both State and Federal government to ensure that we are not subject to the whims and abuse of the marketplace bully.

In today's transportation highway a virtual monopoly exists in the oil industry. We have seen no alternative that has succeeded in the marketplace dominated by such friendly competitors. Choice is a sad joke in this area.

We cannot afford to allow the same mistake to happen on the information highway. We have seen Microsoft market defective products and charge us for patches to correct them . We have seen them bully their way and intimidate potential innovators to either sellout or enter niches that tag on to their monopoly.

Apple's existence is at Microsoft's pleasure. It serves them to have the lame dog still in the dog race. We need remedies in place to ensure that real competition and choice develops. One would think that the taunting and ridiculous self-serving proposals that Microsoft has offered would be sufficient to convince the DOJ that any handcuffs or self -monitoring. punishments are nothing but a joke to Microsoft. They feel that the laws were not written for them and so far they have been right.

What is needed are forceful punishments such as forfiture of sales, not profits, obtained through non-compliance plus a fine sufficient enough to jar the share price. This is the only action that Microsoft understands. Anything less is like trying to placate a carnivore with tofu.

We have spent a great deal of PUBLIC money to arrive at a finding that Microsoft engages in monopolistic activities. The public deserves a significant return on its investment. Anything less is making a mockery of the process and will fuel the further disconnect of the people from their government.

I believe that Microsoft is well able to compete in a leveled playing field and I will continue to buy their products as I have in the past. My only fear is that without forceful government oversight and expensive damages for abusive behavior my interest in their products will move from a decision of minuscule choice to a decision of no-choice.

I urge you to fight this battle, figuratively speaking, till your last breath for the benefit of all of us.

Respectfully,
Jack G. Simke

MTC-00030667

From :
Phone : (925) 933–6569
Robert F. Andrews
Fax : (925) 933–8991
To : UD DOJ Antitrust Division Phone
Renata B Hesse Fax : 1–202–307—1454
Date : 12/08/2001
Time : 15: 15

Attached are my comment regarding the proposed settlement of the Microsoft Lawsuit

Bob Andrews
1864 Castle Oaks Court
94595 Walnut Creek
Robert F. Andrews
1864 Castle Oaks CT.
Walnut Creek, CA 94595
925–933–6569
December 8, 2001
Ms. Renata B. Hesse
Antitrust Division
US Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Comments regarding the Microsoft Settlement

I support the current settlement with Microsoft by the Department of Justice and half of the states involved in this lawsuit.

I do not think any more severe penalties are warranted. Microsoft probably deserved a little hand slapping because of the way they dealt with the computer manufacturers. But the issue surrounding the operating system improvements and add on's is frivolous. The Internet Explorer was a needed part of the operating system and add on's such as these should be allowed. It was also very easy for others to use Netscape if they wanted to. Bottom line is that Internet Explorer wound up being the best browser. I believe that a large part of the fuss on this issue is being made by Microsoft's competitors who have wound up second and third best and have tried to compensate for their under performance by supporting the antitrust law suit against Microsoft. I believe that a major motivating force for the hold out states is purely political as it relates to companies in their area and political contributions. As a consumer, I believe that Microsoft has been good to us. They have provided outstanding products at reasonable and decreasing prices.

Some states would prefer that consumers buy all of the add on's and that could be big down the road. Where Microsoft has been dominate in a particular software application, prices have fallen. I also believe that Microsoft has contributed mightly to the US economy. They have probably been the biggest contributor in the last 10 years. They should not be punished for being good to consumers and the economy. I might also add that Microsoft is a good corporate citizen.

It is time to settle this suit as the Department of Justice and Microsoft have proposed. The more harsh remedies that are being proposed by the non agreeing states should be rejected.

Sincerely
Robert F. Andrews

MTC-00030668

From My Plumber
Sun Dec 9 04:51:37 2001
FACSIMILE TRANSMISSION
Please deliver this facsimile to:
US DEPT. OF JUSTICE
Page 1 of 2
From: bakewad@space.com
From MyPlumber
Sun Dec 9 04:51:37 2001

The Microsoft settlement does NOT go far enough. Microsoft should be divided into at least 2 separate companies—operating system and applications, or 3 companies—languages, operating system, applications.

I was a programmer/system designer. Given this settlement, there will soon be no way to survive as an independent software producer (if indeed there is a way now—especially not-for-profit organizations like the U.S. GOVERNMENT which Microsoft can deny access to the APIS)

Steve Satchell, a pioneer from the Arpanet days, should be appointed to the 3 person oversight committee, even if the above remedies are not implemented.

John D. Gleason
Livonia MI
309–416–5842

MTC-00030669

12/9/2001 11:27 FM FROM: Fax TO: 1-202–307–1454 PAGE: 001 OF 001
Commerce & Administration Students'' Association
L'Association des etudiants et etudiantes en commerce et en administration
DATE: December 9, 2001
TO: U.S. Department of Justice Antitrust Division (fax:1–202–307–1454)
FROM: Nicolai Michel, CASA computer lab manager
SUBJECT: Microsoft Settlement

Like many others in the IT industry, I think Microsoft got off far too easily in this case. Why have they not been punished for violating previous agreements? Why is the settlement full of loopholes?

Rather than repeating what has already been said, I refer you to more informed and eloquent critics, such as Ralph Nader, Robert X. Cringely, and eWeek Magazine. To me, this outcome is typical of what happens in Washington, where lobby groups and big business have far too much influence. The only beneficiary of this weak ruling is Microsoft. Who is standing up for everyone else, including those of us outside the US?

Concordia

MTC-00030670

17817350581 2001–12–10 05:33:38 (GMT), page 1
FAX COVER SHEET
TO
COMPANY
FAX NUMBER
FROM
1–202–307–1454
markus diersbock
DATE 2001–12–09
RE Microsoft Settlement
COVER MESSAGE
Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Greetings,

Microsoft is like the greedy kid at the birthday party who sits at the table and grabs all the other kid's cake. He doesn't grab all the pieces because he's hungry, he just doesn't want anyone else to eat. So birthday party after birthday party Billy kid steals the cake while the others kids stare.

Some people will say, "But who cares that little Billy steals everyone's cake, he gives a couple of pieces to the poor.''

Well what about the other kids at the table? This analogy has played on throughout the life of Microsoft. With a stranglehold on PC manufactures to sign exclusionary OS contracts they lockout their competition, not only in the OS market, but any other market that can be reduced to an icon sitting on the consumer's desktop.

So the OEMs are forced to bundle unrelated products together to sell to the consumer. The padded price is then funneled to Redmond. Those don't comply get "punished" through jacked-up pricing or non-renewal of their contracts.

"Protection fee"—isn't this what the mob does?

I'm a programmer and have used computers since the Apple][+. And I REALLY LOVE Microsoft development tools, but here's the rub.

Microsoft told the development community in the late 80's "Come write for Microsoft Windows, look at all the great things you can do, blah, blah, blah." The reason being that more applications you have for an OS the more people want the OS and thus greater adoption of Windows over other OS's.

But Microsoft didn't want ONLY their OS PIECE of Cake they wanted the WHOLE cake. After Windows was pretty well-entrenched Microsoft turned around and started writing their own competing applications using secret hooks (Undocumented APIs) that gave their applications better power then the 3rd party developers they had been courting years earlier.

They ran company after company out of business going after one market then the next. They were pretty successful in crushing everyone except AOL in online and Intuit in personal finance software. Basically giving the birthday party, inviting everyone in, and when the presents arrived, booted everyone out with no cake.

So there those same people are again, "Well Microsoft gives money to the Poor, blah, blah, blah." Well what about the employee's families of the companies that Microsoft ran out of business?

Microsoft has NO friends. They screw everyone. The developers, their partners, even the customers. How many in the tech community came to their aid during these court proceedings? Probably just as many who came to the aid of Standard Oil. So here we are again, years later. Billy has cake frosting all over his face, he didn't get a spanking for his past misdeeds and he's on his way to the next birthday party. Hmmm, wonder if he'll be better behaved THIS time?

Markus Diersbock
Contract Programmer
http://www.crowdshare.com/profile.asp

MTC-00030671

10 December 2001
Plaza Mikado Bldg. 303
2–14–5 Akasaka
Tokyo, Japan 107–0052
Renata B. Hesse
Antitrust Division
US. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Attorney Hesse:

We are three American citizens writing to express our dissatisfaction with the Proposed Final Judgment of the Microsoft anti-trust case. The current wording allows Microsoft to exclude Open Source and Free Software projects and organizations from the list of groups to whom they must disclose the information needed for interoperability. Like many small software companies, we depend on Open Source and Free Software to leverage our development resources against larger competitors.

Specifically, Section III(J)(2) says that Microsoft need not describe nor-license API, Documentation, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business.

Section III(D) says that Microsoft must disclose to several types of organizations the information needed to inter-operate with Windows. However, the legal definitions for these organizations specify commercial concerns only.

We urge you to correct this oversight.

Sincerely,
D. Silver Egg Technology
Leif Mortenson, Chief Architect
Silver Egg Technology
Silver Egg Technology

MTC-00030672

December 10, 2001
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
re: Microsoft Settlement

The proposed Microsoft settlement Is a ghastly piece of work that:

Does not serve the public good, Does not punish Microsoft for its past transgressions (for which it was found guilty), Does not provide adequate remedies to prevent future illegal and/or monopoly activities

- Actually has the potential to increase Microsoft's dominance of the marketplace. I urge you to discard the current proposed settlement and start over with something that more properly addresses the court's concerns, creates opportunities for other companies to compete against Microsoft, and provides better protection for non-profit Open Source

Sincerely,

Andrew Michael Cohill, Ph.D.

Director

MTC-00030673

To: Justice Department of U.S.

Subject: Microsoft Settlement

From: Earl Sapp, 2010 Glennridge Drive, Tallahassee, Fl. 32308

Fax # 850477-7484 Telephone #850-877-5581

I protest what several states have done to try to block the Microsoft settlement with the Justice Department. Their demands are unreasonable and not in the best interests of consumers. It is obvious that what they call for is the opposite to the intention and whole purpose of anti-trust laws. What the States want seems to destroy and devastate the competitive spirit of the great company that built the platform for the Internet. This is overkill! This is a shot that aims at the central theme of the whole American free enterprise system, fair competition. Antitrust laws should try to protect not to disrupt fair and reasonable competition. WHAT THE STATES WANT SEEMS TO BE TO PROTECT MICROSOFT 'S COMPETITORS FROM THE RESPONSIBILITY OF INVENTING BETTER TECHNOLOGY TO BETTER COMPETE. I notice that the location of the states that won't sign off on the settlement seems significant.

The Justice Department settlement was a recognition that this case has dragged on too long. This has already hurt the American economy and non-settlement will continue to harm the already weakened economy. Ultimately if it hurts the economy, it will weaken the "War on Terrorism."

I have never been convinced of the accusation that Microsoft has ever charged too much for its products. I have never heard any consumer accuse Microsoft of this; only competitors have accused them. I am confident that the new Judge who presides over this case will recognize this as well. It appears to me that competitors are trying to become guilty of the very same error for which they blame Microsoft, seeking an unfair advantage.

I strongly urge the Justice Department to stand FIRMLY and STEADFASTLY on the adequate agreement already hammered out by the two parties in the present settlement. If you do this, the Justice Department, the free enterprise system and the American consumer will be the winners.

MTC-00030674

Dec 12 01 09:11am David Updegraff 218 529 9475

P. 1

From: Dave Updegraff, 5130 Washburn Rd, Duluth, MN 55803, [dave@toimi.com 1

Re. : Microsoft Settlement, Public Comment.

To: 202-616-9937 / 202-307-1545

Renata Hesse, Trial Attorney

suite 1200,

Antitrust Division

Department of Justice

601 D Street NW

Washington, DC 20530

Greetings.

Please register my strong objection to the current (as of Dec. 2001) settlement reached with Microsoft regarding its anti-competitive behavior(s).

My objections are :

1. That when purchasing new consumer grade computers the presumption of a need for a Microsoft operating system remains so entrenched that no opportunity exists to permit real competition nor even to make the consumer aware that any options exist. In my view it is very important that the licensing fees for these operating systems be both optional and also appear as explicit line items such that the consumer is aware of what they are buying.

2. That the extent of the Microsoft monopoly not be effectively extended and legitimized by the very terms of the settlement: i.e. by Microsoft being given a special channel to supply public schools with the software of its choice. Public schools—more than any other place— should be places where we learn of many options, thence to make our own choices more intelligently.

Microsoft operating systems—as I'm sure you can guess from this note— are not my own choice for computing tools. I believe that Microsoft's aggressive anti-competitive behavior warrants that any settlement at least TRY to make consumers more aware of the choices they are making: that those choices exist at all! The argument for not doing so can only be that consumers "needn't worry their pretty little heads.." or that they may actually avail themselves of other choices.

Please craft a settlement that really boils down to simple truth in labeling. Consumers do actually read. Make sure consumers know what they are buying, what it is costing, and—most Importantly for an educated choice—what alternatives may exist.

Thanks for your time.

MTC-00030675

12/12/2001 14:27 FAX 678 375 3436

CHECKFREE CORPORATION

Engineering

4411 East Jones Bridge Road

Norcross, Georgia 30092

(678) 375.3000 Corporate Direct

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www.checkfree.com

CHECKFREE CORPORATION

12 December 2001

Renata Hesse

Antitrust Division

Department of Justice

Washington DC

Ms. Hesse:

I write to you as a computer professional of twenty-five years experience to comment on the proposed settlement in the Microsoft case per the Tunney Act provisions.

After being found guilty of anti-competitive behavior, the settlement as described does not seem to impose any onerous penalties on the company, nor noticeably restrict their ability to leverage their position to dominate other markets. In fact, on this date the computer trade press is trumpeting a deal between Microsoft and numerous manufacturers of DVD players to have those units support Microsoft's streaming media format in future models. I'm sure Real Networks and Apple's Quicktime division are less than thrilled with this, but they lack Microsoft's clout.

Microsoft has traditionally used 'hidden" programming features in Windows to give their own applications, such as Office, an edge over competitors" products. In fact, the original plan to split Microsoft would have broken this information pipeline between system and application programmers. Developers of third-party software packages must reverse-engineer the interfaces to and from Windows to provide compatible packages for other environments, such as the Macintosh or the increasingly popular Linux system.

Along the same line, Microsoft has used their dominant position in the office software market to pull consumers into a unending cycle of upgrades. A new version of Office emerges, with subtle differences in the format of documents created. One user at a company upgrades, which drives colleagues to follow along to be able to exchange files with one another, This has been referred to in the trade press as 'viral upgrading'. It also forces competitors in the office software market to lose time chasing the latest updates since, because of its monopoly position, any competing products must maintain Microsoft compatibility.

The proposed settlement makes some effort to open up Microsoft's protocols to the public, but loopholes in the provisions make its impact questionable. For example, the SAMBA project is an open-source, volunteer-staffed software package to provide file-and-print services to Windows desktops, using servers running on the open-source Linux operating system. To do this, they had to reverse-engineer the protocols for logging into Windows servers, remote disk mounts, etc. It would appear at first glance that the DoJ settlement would ease this problem. However, in an open letter to the development community, the Samba team leaders made these comments:

The Samba Team would welcome Microsoft documenting its proprietary server protocols. Unfortunately this isn't what the settlement stipulates. The settlement states:

"E. Starting nine months after the submission of this proposed Final Judgment to the Court, Microsoft shall make available for use by third parties, for the sole purpose of interoperating with a Windows Operating System Product, on reasonable and non-discriminatory terms (consistent with Section III.I), any Communications Protocol that is, on or after the date this Final Judgment is submitted to the Court, (i) implemented in a Windows Operating System Product installed on a client computer, and (ii) used to interoperate natively (i.e., without the addition of software code to the client or server operating system products) with Windows 2000 Server or products marketed as its successors installed on a server computer."

Sounds good for Samba, doesn't it. However, in the "Definition of terms" section, it states :

"Communications Protocol" means the set of rules for information exchange to accomplish predefined tasks between a Windows Operating System Product on a client computer and Windows 2000 Server or products marketed as its successors running on a server computer and connected via a local area network or a wide area network. These rules govern the format, semantics, timing, sequencing, and error control of messages exchanged over a network. Communications Protocol shall not include protocols used to remotely administer Windows 2000 Server and products marketed as its successors. "

If Microsoft is allowed to be the interpreter of this document, then it could be interpreted in a very broad sense to explicitly exclude the SMB/CIFS protocol and all of the Microsoft RPC calls needed by any SMB/CIFS server to adequately interoperate with Windows 2000. They would claim that these protocols are used by Windows 2000 server for remote administration and as such would not be required to be disclosed. In that case, this settlement would not help interoperability with Microsoft file serving one bit, as it would be explicitly excluded.

This hardly seems to fit the intent of the settlement. The alternative settlement proposed by the dissenting state attorneys general would appear to offer more stringent provisions to assure inter-operability between Windows and competing products. I would suggest the following provisions to keep Microsoft from squeezing out their competitors:

(a) The alternative settlement proposes that Microsoft license the source code for Office to allow its adaptation ("porting") to other operating platforms. This simply spreads the problem noted above of "viral upgrades" to these other platforms, What would make more sense is to compel Microsoft to document, FULLY, all file formats used in Office, and to require a reasonable (3–6 months?) notice of changes to allow competitors time to update their products accordingly.

(b) Addressing the issue above of communications protocols, Microsoft should be compelled to disclose ALL programming interfaces and protocols used between Windows desktops and servers. This would, again, allow competitors to build compatible products for alternate platforms without the need to 'chase" changes by Microsoft. Given the current spate of security issues that have arisen with Microsoft products, this disclosure could in fact assist in "hardening" their products by allowing a wider audience to examine the interfaces for security gaps. In the current climate, this is definitely called for.

These provisions should be enforced by requiring Microsoft to release the source code for any product they fail to fully document. This documentation must exist in Microsoft's facilities for their own staff to use in development. It should be straightforward enough to make this documentation available for others to scrutinize. The plethora of "Windows Secrets" books available on the market suggest that the public and internal documentation of Windows interfaces have some differences. Given their confirmed monopoly status, it seems reasonable they should demonstrate a higher level of transparency in their business dealings.

Thank you for the opportunity to comment on these proceedings, I remain,

Robert K Halloran III
892 Trinidad Rd
Jacksonville FL 32216 004
Phone 904–723–5520
e-mail rkh@mediaone.net

MTC–00030676

December 12, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Let me begin by saying that the period of public comment is a wonderful nay to let everyday people express their opinions on topics usually handled by career politicians. Three years of Microsoft antitrust dispute has been long enough. It is time to let Microsoft return their focus to innovation, rather than litigation. Your office has produced a just settlement that has positive implications for software publishers, consumers, and the rest of the IT industry. I am grateful for this.

Our economy has suffered from this lawsuit, and I hope that no more federal funding is allocated to this inane case. State budgets are also hurting, and yet proceedings continue in some states. We must allow the IT industry to resume its former pace. The longer this lawsuit drags on, the more likely it is that our country may lose its lead in the world technology market.

The Justice Department's settlement is the best solution. Competitors are protected under your agreement, and consumers will find better software compatibility. Further pursuit of litigation benefits no one.

Our country and our economy need stability. Settling this case now is just one step in achieving that. I would like to thank your office for the comprehensiveness of the agreement, and to thank you for considering my thoughts on the subject.

Sincerely,

Adelaide W. Revnyak
27398 Cottonwood Trail
North Olmsted, OH 44070

MTC–00030677

2001/12/12 21:49 John D. Hardin (+1 360 668 5342) —) 1–202–307–1454 p. 1/2
17014 Broadway ave.
Snohomish, WA 98296–8031
(360) 668–5342
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Fax: 1–202–307–1454/1–202–616–9937
Email: microsoft.atr@usdoj.gov

Ms. Hesse:

I am writing you to register my comments on the proposed settlement in the Antitrust case of U.S. v. Microsoft. I hope they will be considered. First off, I want to gently remind you that Microsoft has been found guilty in a court of law of committing crimes, in that they repeatedly violated the Antitrust laws and engaged in many acts of illegal anticompetitive behavior. Please do not lose sight of this fact when considering the settlement.

Microsoft has violated the law, and as such, they must be punished. Punishment ifivolves causing the criminal SO much discomfort and pain that they regret having committed their crimes, and do not wish to repeat them. Otherwise it is not punishment. Any settlement where Microsoft does not squeal loudly and publicly about how unfair it is, is not punishment. Thus I find it disheartening that the Justice Department is even talking to Microsoft about what form the punishment shall take: "Will this hurt too much? Oh, sorry. Okay, how about this. 7"— would this be done with any other criminal?

Where is the justice for the public in this? Please don't forget you are on my side, defending my rights, not Microsoft's The terms of the current settlement do little or nothing to punish Microsoft. In effect, Microsoft is being given an opportunity to spend a small portion of their enormous cash reserves to gain a powerful entry into and lock on a new market (that of disadvantaged schools), and is in the process being given protections against the competitors that do the most to threaten their business. How does this punish them?

Any solution to the problem of Microsoft's anti-competitive behavior must strike at the roots of that anticompetitive behavior: their constant and recurring exclusionary practices. These most often take the form of dictating OEM behavior and engaging in gratuitous blocking of software interoperability. The current proposed settlement does not effectively address these practices. Charles James" comment that the proposed settlement 'will fully and demonstrably resolve" all problems is the worst kind of wishful thinking, and shows that he is not acting in the public's best interest.

(1) Microsoft must not be permitted to dictate what software OEMs may or may not install on the computers they build and sell, including most importantly Operating Systems. OEMs must be able to build and ship so-called "Boot" systems without incurring any penalties or punishment from Microsoft. OEMs must also be able to ship computers without any Microsoft operating system at all without incurring any penalties or punishment from Microsoft.

(2) Microsoft must be required to publicly, freely and completely document the Application Programming Interfaces (APIs), communications protocols and data storage formats (file formats) used by all products they offer (for example, Microsoft Word and Microsoft Windows itself). In this manner, competing products, including those created by non-commercial sources, will be able to interoperate with Microsoft products. This documentation must be published well

before the release of any new product or upgrade, and must be freely available without fee or registration or restriction on use.

It is vitally important that there be no restrictions on the use of this documentation, for if there are any restrictions at all, Microsoft will find a way to use those restrictions to their advantage to stifle fair competition. See Section III(J)(2) and Section III(D) for their current attempt to do this; these sections would have the effect of allowing Microsoft to determine who they deign to provide interoperability information to. Remember, your goal is to punish Microsoft. Let them compete based on the quality of their products, not the obscurity of their APIs, communications protocols and file formats. Microsoft's ubiquity and ability to produce de-facto "standards" demands that their software interfaces be fully, publicly and freely documented. This is the price of their having a monopoly.

(3) Microsoft's products must be held to their documented interfaces. If a Microsoft product is found to use an undocumented extension to an API, communications protocol or file format, then the extension must immediately be documented under the above terms, and Microsoft must be fined and the offending product removed from sale until the documentation has been updated or the use of the extension removed. The same punishment should apply if a product is found to use a wholly undocumented interface.

In conclusion, The current proposed settlement is a very light slap on the wrist to Microsoft, and if it is enacted then in five years we will be right back where we are now all over again, just as we are now going through yet another penalty phase of yet another anticompetitive practices trial today because of the weak Consent Decree imposed in the mid-1990s.

The only difference is in five years Microsoft will be yet larger, more arrogant, and harder to effectively punish. I hope that the Justice Department will inflict meaningful punishment upon Microsoft. I hope that the currently proposed settlement is not enacted; it seems to me to be nothing more than Public Relations window dressing intended to hide the fact that the Justice Department cannot effectively enforce the law upon a wealthy company.

Please don't prove yet again that Money Talks, and that Microsoft is above the law.

Thank you for your time and attention.

Sincerely,
John Hardin
jhardin@impsec.org
CC: mail, email, fax

Renata Hesse, Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

Microsoft is being amply reprimanded and reigned in with the settlement reached. It is our understanding that under the Tunney Act, the public has 60 days to provide input for consideration by the parties involved regarding this settlement.

While we appreciate the idea of the government looking after the best interest of its citizens, nearly four years, $35 million dollars and the terms of the settlement are enough. It is more than time for this issue to be put to rest.

We strongly urge you to support the settlement. Please take the actions necessary to keep the process rolling to get the settlement through all the channels and put in place.

Sincerely,
Lou Gomez, Executive Director
Kern County Hispanic Chamber of Commerce
1401 19th Street, Suite 110
Bakersfield, CA 93301
661–633–5495
Mailing Address: P.O. Box 1121.
Bakersfield, CA 93302–1121
FAX 661–633–5499

MTC–00030679

DEC-12-01 13:56 FROM:KINKOS LAGUNA NIGUEL ID:9493621957
PAGE 1/7
FAX TO: EXECUTIVE: RENATA B. HESSE:
ACCEPTING PUBLIC RESPONCES OF MICROSOFTANTITRUST CASE RESOLVED
202, 307–1454
202, 616–9937
UNITED STATES DEPARTMENT OF JUSTICE (ANT/TRUST DIVISION)
FAX FROM: NATHANNA GODFREE
P.0. BOX 2584
MISSION VIEJO, CALIFORNIA 92690

DEAR EXECUTIVE HESSE & ANTITRUST DEPARTMENT

I AM (E PLURIBUS UNUM) OF MR. & MRS. GENERAL PUBLIC AND AS SUCH I HUMBLY WANT YOU TO KNOW THE QUESTIONS OF MY THOUGHTS.

ON NOVEMBER 6, 2001 ON TELEVISION NEWS AS I UNDERSTOOD IT TO BE THAT MY HOMELAND THE GREAT AND SWEET STATE OF CALIFORNIA WOULD BE PERSUING A CASE AGAINST THE MICROSOFT CORPORATION EVEN THOUGH THE UNITED STATES FEDERAL GOVERNMENT CASE IS ALREADY BEEN RESOLVED. FOR OUR OWN UNITED STATES FEDERAL GOVERNMENT ON THE BEHALF OF ALL UNITED STATES RESIDENCE AND PEOPLE HAS VIGOROUSLY SPENT A TREMENDOUS AMOUNT OF DEDICATED TIME, ENERGY AND MONEY—TAXPAYER MONEY RESPRESENTING ALL AND HAS RESOLVED THIS CASE.

I FAXED AND CERTIFIED A LETTER TO MY GREAT GOVERNOR GRAY DAVIS AND MY UNITED STATES SENATOR DIANNE FEINSTEIN WITH THESE QUESTIONS; THAT OUR GREAT STATE IS YET IN PROCESS OF RECOVERING FROM ELECTRICITY SHORTAGES AND BLACK-OUTS WHILE RECCESSION IS PROGRESSING AND OUR COUNTRY IN THE STATE OF WAR; MY QUESTION IS IT PRUDENT TO AND IN THE BEST INTEREST OF CALIFORNIANS TO PERSUE SUCH WHICH IS ALREADY RESOLVED. MY QUESTION TO YOU—

DEC—12–0
1 13:57 FROM:KINKOS LACUNA NIGUEL ID:9493621957
PAGE 2/7
(PAGE2)
FAX TO: EXECUTIVE: RENATA B. HESSE
UNITED STATES DEPARTMENT OF JUSTICE
ACCEPTING PUBLIC RESPONCES OF THE MICROSOFT
CORPORATION ANTITRUST CASE.
202, 307–1454
202, 616–9937 FAX FROM: NATHANNA GODFREE P.O. BOX 2584 MISSION VIEJO, CALIFORNIA 92690 CONTINUE.

TO YOU UNITED STATES DEPARTMENT OF JUSTICE EXECUTIVES, IS IT PRUDENT AND IN THE BEST INTREST OF THE UNITED STATES PEOPLES THAT WE THE TAXPAYERS PAY IN EFFECT TWICE. EACH STATE WHO IS DISSATISFIED WITH THE RESOLVEMENT OF THE MICROSOFT CASE IS PUTTING THE LUXURY OF ITS TAXPAYERS TO FOOT THE BILL OF THESE PROCEEDURES HOW EVER LONG THEY MAY BE WHICH HAS ALREADY BEEN PAID FOR BY THE PEOPLE FOR THE PEOPLE.

IT IS WITH THIS CONFIDENCE IN YOU OUR GREAT GOVERNMENT AND ELECTED LEADERS THAT YOU WILL AGREE TO LET STAND WHICH IS ALREADY RESOLVED WITHOUTANYMORE HESITATION AND SAVE TAXPAYER DOLLARS. I AM FAXING WITH THIS LETTER A COPY OF THE FAX TO MY GOVERNOR GRAY DAVIS AND HIS RESPONSE ALSO A COPY OF MY LETTER TO MY UNITED STATES SENATOR DIANNE FEINSTEIN AND POSTAL CONFIRMATION.

NATHANNA GODFREE
NG

MERRY CHRISTMAS & HAPPY NEW YEAR DEC-12-01 13:57 FROM:KINKOS LAGUNA NIGUEL ID:9493621957 PAGE 3/7 FAX TO: GOVERNOR GRAY DAVIS 916, 445–4633 STATE CAPITOL FAX TO: UNITED STATES DEPT. OF JUSTICE SACRAMENTO, CALIFORNIA 95814 ANTITRUST DIVISION EXECUTIVES RENATA B. HESSE FAX FROM: NATHANNA GODFREE 949,362–1957 202 307–1454 202 616–9937

DEAR GOVENOR DAVIS

MAY I FIRST SAY THANK YOU FOR YOUR GREAT DILIGENCE AND HARD WORK IN CONTINUING SOLVING OUR GREAT STATE 'S 'ELECTRICITY SHORTAGE CRISIS AS TO MY UNDERSTANDING OF IT.

I FEEL IT IS TRUE THAT WE THE GENERAL PUBLIC DOES NOT THANK OUR ELECTED OFFICIALS HARDLY ENOUGH, BUT I AND MY SON, WE THANK YOU. WITH THIS IN MIND AND OTHER CONCERNS OF WHICH ON TELEVISION NEWS YESTERDAY—THEY ARE SAYING AS I UNDERSTAND IT, THAT OUR STATE WILL BE SPENDING TAX PAYER DOLLARS TO PURSUE AN SEPARATE CASE AGAINST THE MICROSOFT CORPORATION AFTER THE UNITED STATES GOVERNMENT CASE HAS ALREADY BEEN RESOLVED. IN OVER STATE'S CURRENT, YET STILL IN PROGRESS RECOVERING OF ELECTRICITY SHORTAGES AND THE RECESSIONARY INDICATORS LOOMING ECONOMIC RECESSION,—MY QUESTION IS—IS IT

PRUDENT AND IN THE BEST INTEREST OF CALIFORNIANS AND OUR GREAT STATE TO PURSUE AND BE IN SUCH A POSITION AS THAT ? AND WHAT IS THE GREATER PROFIT OF SUCH FOR ALL CALIFORNIANS (DOLLAR FOR DOLLAR) ? AND WHAT CALIFORNIANS WILL AGREE TO SUCH A MEASURE FOR TAXPAYER DOLLARS TO BE SPENT WITH NO CLEAR GAIN ? IT IS WITH THIS CONFIDENCE IN YOU OUR GOVERNOR AND OUR ELECTED LEADERS, AS GREAT SOLVERS OF GREAT ISSUES THAT YOU ALL WILL LOOK PRUDENTLY AT THIS EXPENSE AND AGREE TO SAVE OUR TAXPAYER DOLLARS.

THANK YOU,

NATHANNA GODFREE

NG

MAILING ADDRESS: P.O. BOX 2584, MISSION VIEJO, CALIFORNIA 92690 DEC-12-01 13:57 FROM:KINKOS LAGUNA NIGUEL ID:9493621957 PAGE 4/7 OFFICE OF THE GOVERNOR December 4, 2001 FAX TO: THE UNITED STATES DEPARTMENT OF JUSTICE—ANTITRUST DIVISION EXECUTIVES: RENATA B. HESSE 202 307–1454 202 616–9937 Ms. Nathanna Godfree Post Office Box 2584 Mission Viejo, California 92690

Dear Ms. Godfree:

Thank you for sharing your views.

Please be assured that your opinions will be taken into consideration. As Governor, my job is made easier when citizens take the time to share any thoughts regarding issues of importance to them.

Again, thank you for writing. Government works best when people remain active and express their views to elected officials.

Sincerely,

GOVERNOR GRAY DAVIS

SACRAMENTO, CALIFORNIA 95814—(916) 445–2841 CALIFORNIA FAX TO: UNITED STATES SENATOR UNITED STATES DEPT. OF JUSTICE ANTITRUST DIVISION EXECUTIVES DIANNE FEINSTEIN RENATA B. HESSE 202 307–1454 202 616–9937 DISTRICT OFFICE IIII SANTA MONICA BLVD., SUITE 915 LOS ANGELES, CALIFORNIA 90025

DEAR SENATOR FEINSTEIN

ON TUESDAY NOVEMBER 6, 2001 ON TELEVISION BUSINESS NEWS TO MY UNDERSTANDING, IS THAT OUR STATE WILL BE SPENDING TAX PAYER DOLLARS TO PURSUE AN SEPARATE CASE AGAINST THE MICROSOFT CORPORATION AFTER THE UNITED STATES GOVERNMENT CASE HAS ALREADY BEEN RESOLVED.

IN THE WAKE OF THAT WE CALIFORNIANS HAVE A SERIOUS ELECTRICITY SHORTAGE IN PROGRESS AND IS STILL IN THE PROCESS OF RECOVERING AS SUCH. THIS BEING SAID, MY QUESTION IS—IS IT PRUDENT AND IN THE BEST INTEREST OF CALIFORNIANS AND OUR GREAT STATE TO PURSUE AND BE IN SUCH A POSITION AS THAT? AND WHAT IS THE GREATER PROFIT OF SUCH FOR ALL CALIFORNIANS (DOLLAR FOR DOLLAR) ? AND WHAT CALIFORNIANS WILL AGREE TO SUCH A MEASURE FOR TAX PAYER DOLLARS TO BE SPENT WITH NO CLEAR GAIN WITH RECESSIONARY INDICATORS LOOMING ECONOMIC RECESSION ?

IT IS WITH THIS CONFIDENCE IN OUR GOVERNOR AND YOU OUR SENATOR AND ELECTED LEADERS AS GREAT SOLVERS OF GREAT ISSUES THAT YOU WILL LOOK PRUDENTLY AT THIS EXPENSE AND AGREE TO SAVE OUR TAX PAYERS DOLLARS.

THANK YOU.

NATHANNA GODFREE

NG

MAILING ADDRESS: P.O. BOX 2584, MISSION VIEJO, CALIFORNIA 92690

TEM. TEL: 949,347–8520, ext. 313

WITHOUT SOUNDING TOO "CORNNY" I HAVE GOT TO SAY, YOU INSPIRE ALL CALIFORNIA WOMEN GREATLY. "THANKS" MTC-00030680 12–12–2001 3:11PM FROM WSFO BIRMINGHAM AL 205 664 7821 P.1 Facsimile Transmission from NATIONAL WEATHER SERVICE 465 Weathervane Road, Calera, AL 35040 (205) 664–3010 FAX: (205) 664–7821

Date:

To: Dept of Justice Location: Microsoft anti-trust Fax Number: 202 616 9937

From:

To whom it may concern,

I am an IT Officer with NOAA. We use open source software a lot and feel the DOJ/Microsoft settlement has loopholes that Microsoft can use to eradicate its only real competition right now...the Open Source Software Movement.

FIRST:

There are certain file and document saving protocols Microsoft uses to save documents. These documents are deciphered into human readable text by Microsoft products. These document formats should be published and open so anyone can write an application to read them and display and manipulate them. By closing the document format Microsoft has a lock on the sole application that can read them. This is bad and perpetuates Microsoft's natural monopoly. By opening these document formats, competitors whether open source or commercial vendors, can all write software to read these document files. Some examples of Microsoft applications that create closed format document files are: Microsoft Office, Microsoft Word and Power Point and there are others such as spread sheets etc. The main issue here is the software can remain closed and protected and can compete based on its usability, functionality and security aspects... but NOT on its file format... which should not be a legally patentable entity in a competitive environment.

ACTION: Force Microsoft and any future companies writing proprietary closed software to publish file and document formats, for current and future applications, to the extent that ANY software developer whether for profit or non-profit could write an application to view and modify that document and resave it in the same format.

BENEFITS: This prevents natural monopolies from forming in the first place. Forces microsoft to write better and more secure software; because, if the does not (since the doc formats are opened up) someone else will. Competition and choice is open up and playing field is level. Other software writers can have access to the file formats and can focus more on writing good software instead of trying to figure out how Microsoft document files are saved. This will naturally eliminate Microsoft's monopoly in the Office applications environment and will stop or significantly reduce what are surely national security risks in Microsoft Outlook email software by bringing real competition to this now proprietary (Microsoft) product.

SECOND:

We often buy computers and put "non-Windows" operating systems on them. This is a very technical office and expertise in UNIX and computing in general. Finding a supplier that sells an OEM computer with a "non-Windows Operating System" or "no operating system" as you could do in the early and mid 90's... is impossible today. Microsoft essentially demands OEM's to include Windows on every machine they ship out the door. This also perpetuates Microsoft's natural monopoly. We as an organization need a choice when we buy an OEM computer. I would like to see a scenario much like the early and middle 90s" where you purchased the computer and Operating System separately. This eliminates all the back rubbing and hidden costs that go into today's OEM computers from Dell, Compaq and others.

ACTION: Make it illegal for an Operating System developer to bundle or require any OEM computer supplier to bundle their operating system with any OEM computer. Leave it only to retailers or consumers to install the operating system of choice. OEM's shall not be involved in operating system installation. This is a conflict of interest and a road block to competition in the market place. Much like you choose which cell phone you choose to use with your provider, or which TV you choose to watch your cable service with.

BENEFITS: Again brings competition back to the computer operating system market. The operating system will have to stand on its own merits based on consumer perceptions of reliability, usability for a specific purpose, security and costs. This also allows upstarts to get a foothold in the marketplace by dis-allowing Microsoft the ability to "force" OEMS to install Windows on all computers. 12–12–2001 3:12PM FROM WSFO BIRMINGHAM AL 205 664 7821 P.4

THIRD:

Networking protocols!!! This is a biggie. This is the future of not just the internet but e-commerce of the future. No company and I mean NO COMPANY should be able to patent or close any networking protocol to block out other competitive Operating Systems. Networking protocol should be approved by and independent body and be published so that any computer operating system can communicate with any other computer operating system at the most fundamental level. Right now microsoft has their own internal networking protocol that is closed. This is to prevent rival operating systems from communicating with the Windows operating system. This locks corporations, organizations and businesses into the Microsoft platform. There is a project called SAMBA which is a not for profit organization that has tirelessly and painfully tried to figure out how Microsoft's networking protocol works so that other computer operating systems like HP-Unix and Linux can communicate and exchange information with Windows and NT servers and desktops. The DOJ solution does not insure that Microsoft will publish these networking protocols and will essentially give Microsoft LEGAL means to kill the SAMBA project which our organization depends on to function. We also need Apache the free web server used by most of the Internet Service Providers. The lack of strong working in the DOJ solution give Microsoft new LEGAL grounds to shut down apache servers and put into their place... Microsoft products. This certainly does not halt the Microsoft monopoly but instead perpetuates it!

ACTIONS: Force Microsoft and any rival operating system they create to release networking protocol for review by an official body of experts and publish this protocol so any software developer whether commercial or not for profit can use this information to write networking software that is more secure and more functional that Microsoft's that will fully communicate with Microsoft products and services and allow them to work with rival operating systems. BENEFITS: Opens up competition in the server and networking environment. Allows all software vendors access to the operating systems core communication network protocol so more secure and stable server and networking software can be written.

I hope these additions can be added to the DOJ solution to the Microsoft trial. I feel at the present rate of expansion of Microsoft products and, the severe lack of competition, is leading to national security nightmare. Microsoft is not being held accountable for huge security loop holes simply because there is no competition. This lack of competition allows Microsoft to slack off on refinement of essential networking and software issues that are so central to security. By incorporating these changes into the settlement, we can have real competition in the Operating System market place and will again see progress made in the computer market. The days of closed formats is over. Protecting the software with patents is fine... writing and re-writing core networking, communication and file format protocol and patenting that to lock out competition is wrong and is against all the principles this country was founded on. Microsoft will continue to change its file formats and networking protocol and will force users to upgrade to lock out competitors unless these issues are addressed. Please consider them.

Gregory Machala
Information Technology Officer,
National Oceanic Atmospheric Administration
404 Savannah Cove Calera, AL 35050

MTC-00030681

12-12-2001 04:lOpm
From-WESTMINSTER THEOLOGICAL SEMINARY
+2158875404 T-827 P.OOl/OOl F-267
Dec. 12,2001
fax: 202-6 16-9937
Renata Hesse, Trial Attorney
Suite 1200 Antitrust Division,
Department of Justice
601 D Street NW
Washington, DC 20530

Dear Attorneys:

I am responding to the invitation for public response in the Microsoft antitrust case. As an experienced user of Microsoft Windows, Microsofti Office, and Internet Explorer, and one with some acquaintance both with Microsoft practices and with other operating systems, I must say that I am greatly disappointed with the terms being offered in the proposed settlement. The court has pronounced Microsoft guilty of practices involving maintaining monopoly position.

Yet the proposed penalties have virtually no teeth. All computer desktop users could benefit from more open competition yet the proposed settlement allows Microsoft to go its own way at crucial points.

At a minimum, the settlement should stipulate the following: Microsoft must publish in full the API for the Windows operating system, making it available for free to all, not just available to those who meet its own criteria

Microsoft must publish full descriptions of its file formats (e.g., for Word, Excel, PowerPoint). It is well known that the secrecy of these formats helps Microsoft preserve monopolist control of the Office market. Microsoft must publish full descriptions of network interfaces. Without these, Microsoft uses it current dominant position to make incompatibilities that push firms into using nothing but Microsoft operating systems on every computer in the network. Microsoft must have sales arrangements with computer wholesalers and retailers that allow them to sell their computers without a windows operating system as well as with it. And the price differential must be the same as what it would cost to obtain the windows operating system without the hardware. This alone assures a level playing field, in which Microsoft does not use its market dominance to bully computer companies into offering no other options than Windows.

Ongoing compliance must be monitored by an independent group not containing Microsoft employees.

These moves are fair penalties that specifically target monopolistic practices. They would, moreover, strengthen the U.S. computing market by allowing genuine competition. And they would in the long run encourage Microsoft itself to do better by making better products rather than using its resources and ingenuity to produce more unfair practices.

Vern S. Poythress, Ph.D.
510 Twickenham Rd.
Glenside, PA 19038-2033

MTC-00030682

Dec-12-01 09:06P
Debora Millson
770-414-8206
To: Renata Hesse, Trial Attorney, DOJ
From Michael G. Millson
Dec-12-01 09:07P Debora Millson
Phone: 770-414-8206
AableTech Solutions, Inc.
December 12, 2001
Renata Hesse
Trial Attorney
Suite 1200
Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530
REF: U.S. v. Microsoft Corporation Proposed Settlement

To the Department of Justice;

As the CEO of AableTech Solutions, Inc. and a Web Systems Engineer with 7 years of Internet experience and 20 years of programming experience, I am very familiar with the technologies and issues at hand in the Microsoft antitrust case. I have witnessed firsthand the negative impact that Microsoft's monopoly has had on our industry, and the proposed settlement is not an adequate response to the antitrust violations that Microsoft has committed.

Microsoft has already been found guilty of maintaining an illegal operating system monopoly, and now should be the time to enforce a penalty that accounts for Microsoft's past illegal activities and prevents further monopolistic behavior. However, I find the proposed settlement contains no substantial penalties and will only serve to advance Microsoft's operating system monopoly.

I believe a just penalty would contain the following remedies:

Microsoft's operating system should not be allowed to be coupled with computer hardware. Instead, the operating system should be an additional charge. Consumers should be able to purchase a computer without an operating system at a lower price than a computer with an operating system, and they should be allowed to choose the operating system that is installed.

Microsoft should not be allowed to bundle non-operating system related software such as Web browsers, e-mail programs, and media players with the operating system. These products should be offered as stand-alone products at a cost above and beyond the operating system to prevent Microsoft from continuing to use its operating system monopoly to take over new markets.

Microsoft should be forced to FULLY publish all its networking protocols and file formats in addition to publishing its operating system APIs to allow competitors to build products that will interrupt with Microsoft's software and prevent Microsoft from seizing control of the Internet.

Microsoft should have to pay monetary damages to the companies such as Netscape, IBM, and countless others that have suffered or been driven out of business as a result of illegal activity. Microsoft has unjustly filled its coffers, and a percentage of this money should be distributed to the companies and individuals who have been wronged.

I do not believe the current state of the tech economy should be interpreted as a signal to enforce a light penalty on Microsoft. In fact, it is crucial to the national interest that Microsoft's operating system monopoly not be extended. In the report entitled "Cyber Threats and Information Security: Meeting the 21st Century Challenge," the Center for Strategic and International Studies concluded that use of Microsoft software actually poses a national security risk.

Microsoft's activities over the last 10 years have substantially stunted the growth of the computer industry. Without any real competition, the software that Microsoft has produced has been riddled with security holes and productivity sapping bugs, and many truly innovative companies have been driven out of the marketplace. Consumers have been left with no other choice but a blase fare of sustaining, yet hardly remarkable products from Microsoft.

I support and commend the 9 states that have refused to agree to the proposed settlement. In order to breath new life into the technology sector and safeguard the future of the United States and the computer industry, stricter penalties and restrictions must be placed on Microsoft.

Sincerely, Michael G. Millson CEO Web Systems Engineer AableTech Solutions Inc. http://www.atsga.com/ 3658 WINDY CT . TUCKER. GA 30084 PHONE (770) 414-8834 FAX (770) 414-8206

MTC-00030683

the Kompany.com
Renata Hesse, Trial Attorney
Suite 12001
Antitrust Division Department of Justice,
601 D Street NW
Washington. DC 20530
(facsimile) 202-616-9937 or 202-307-I 545

Dear Renata Hesse:

I'm writing you to submit my comments with regard IO the Microsoft penalty currently under consideration. Let me provide you some brief background to establish my credentials for commiting. I have been developing software for 23 years now. my experience with Microsoft goes back to the very early I. days. I had an experience as a beta tester of Windows 3.1 using DR DOS instead of MS DOS. this worked tine during the beta. but in the final release wouldn't work at all, turned out that Microsoft had put code in specifically to disable it working with DR DOS. Microsoft recently paid out a settlement of about $ 150 Million to Caldera to satisfy this claim. I'm sure you've heard the old stories that use to go around Microsoft that "DOS isn't done till Lotus won't run". I can assure you that this was indeed the case.

For the last several years I've been running a software company whose primary business is on the Linux peraring system. We also support MS Windows and Mac OS. but the MS environment is so inherently unstable and full of security holes. we prefer to not we that environment if at all possible. Now the recently proposed penalty is in fact nothing of the sort, there is no penalty here that causes any fundamental change. As a Limux software enthusiast I am forced to build computer systems because it is almost impossible to buy a PC that doesn't have Windows on it. and I don't want to pay For Windows as I'm not going to use it. The only equitable way to deal with this is have hardware manufactures, offer hardware at a reduced price without Windows. This price should be the same price that I can buy Windows from them for. So if they are going to discount only SI0 to remove Windows. then I should be able lo go back and buy Windows from them for S10.

Microsoft needs to open up their file formats and API to Windows so that everyone has a fair chance to compete. As someone that has to develop import filters for Microsoft tile formats, I can tell you that the constantly changing versions and forced march to purchase upgrades is simply an expensive and manipulative nightmare.

To sum up. I don't believe that Microsoft should be broken up, but they have an unhealthy stranglehold on the computing industry that is causing enormous problems now (look at all the worms and viruses over the last few years,) and it will only get worse and more dangerous if this is allowed to continue.

MTC-00030684

Chester A. Barr
11722 31st Dr. S.E.
Everett, WA. 98208-6117
Nov 20, 2001
Reneta Hesse, Trial Attorney
Antitrust Division
U. S. Department of Justice
601 D. St., Suite 1200
Washington, DC 20530

Dear Honorable Hesse,

I am an ordinary American citizen whose use of the computer is for home use and a treasurer for a church. I have been watching with much interest the unfolding of the Antitrust Case with Microsoft from the newspaper reporting. I am greatful for the privilege to add my feeling over what I see as a sell out of the American people to Microsoft by our Justice Department.

In family life when you have a child bent on doing wrong, even crime, parents have a responsibility to do all possible to correct that wayward child If the child continues in his wayward crimes, he usually becomes a case for public correction, and at the cost to the public. This is the way I see Microsoft. To this day Microsoft do no accept that they have exercised monopoly power over their competitors to the harm and denial to those of us who use computers desiring to see more innovative software and more control over their own computers.

I respectfully disagree with the U.S. Department of Justice's settlement with Microsoft. First, because in the name of "U.S. economy" and pressure from the Bush Administration is not reason to pat Microsoft's hands and turn them loose again to continue their monopoly practices. They have been found guilty of exercising monopoly power, so how can our government and our Justice Department, for the sake of money, to improve the economy, justify to turn them loose with only a tap of the hand. If our government and Justice Department, who are charged to meat out justice, act for reasons not fitting the crime, how then can the American public feel they have representation?

I have observed Microsoft officials using their money power to buy their way with legislators and with those holding high office, meeting with them, dining with them, contributing to their political interest. I ask the question, how can the consumers in this industry compete for hearing, seeing such money flowing, and our politicians reaching for the grab.

Eighteen of our State Attorney Generals have come forth representing Microsoft competitors. Believe nine of them have agreed to accept the Justice Department's deal with Microsoft. Some of them have given in to avoid time and expense that their respective state I governments deem they cannot afford. I praise the other nine State Attorneys who have stayed the course for justice and for more realistic restrictions on Microsoft.

I note Bob Lade, an antitrust expert at the University of Baltimore allegedly said, "it's odd that the Justice Department—at the end of the filing—outlined stricter remedies that it had considered without explaining why those remedies were not pursued" and continued by saying, "This is, of course, the case of the generation so I would have expected more".

I do not believe for a moment that the settlement the Justice Department has arrived at with Microsoft will remedy the monopoly power. As earlier stated Microsoft have not recognized that they have been a monopoly or acted with monopoly power over their competition so why would they change course.

In closing if fair and competitive opportunities are going to be available, the deal that has been cut will not do it, and I urge stricter remedies, that will give equal opportunities for all and customers have a choice what is on their computers.

Respectfully submitted,

MTC-00030685

10/28/2001 05:02 3157881018
ROBERT DELL PAGE
01 946 Franklin St.,
Watertown, NY 13601-3858
(315) 788-2417
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mail to: reply.letter@northern-ny.net
Renata Hesse, Trial Attorney
Suite 1200
Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530
December 13,200l

As an individual with over twenty years experience in the personal computer industry, I would ask you to consider my comments on the case U.S. v. Microsoft. The proposed settlement does not remedy the antitrust violations of which Microsoft has been found guilty, and in fact could extend their monopoly.

A proper settlement would create competition in the operating system market and impose a real penalty on the defendant without, however, forcing significant disclosure of intellectual property. Microsoft's domination of the operating system market began with their Windows 3.1 product. With the release of Windows 95 and then with Windows 98, their monopoly was secure.

Microsoft no longer ships or supports Windows 3.1 and Windows 95. Their present products, Windows 2000 and Windows XP, use what they call 'New Technology" and are a significant departure from the earlier products Microsoft has recouped all development costs for Windows 3.1 and

Windows 95, and has, as a result of their monopoly, made very significant profits from these products.

A settlement that would mandate a transfer to the public domain all source code for Windows 3.1 and Windows 95 would allow competition in the operating system market and penalize Microsoft.

Although the defendant may argue that the loss of this intellectual property will significantly impair the present and future viability of the products they develop, such a statement cannot be considered with any credence.

Any settlement must address both competition in the operating system market, and a penalty Shipping free goods that increases the future dependence on the monopolist IS NOT a penalty. Allowing limited access to some source code. so that more products may be developed that can only be used with the monopolists products, is not a penalty I beg the court to consider that the key to a just and equitable settlement is increasing competition in the operating system market. The people are being held hostage by Microsoft and are suffering for it

Sincerely yours,

MTC-00030687

DEC-14–01 FRI 12:06 AM
RKFD PROCESS CONTROL FAX NO,
8159662026 P. 01
Attorney Renata Hesse
Suite 1200
Antitrust Division
Department of Justice
601 D Street NW Washinqton, DC 20530

Ms. Hesse;

I would like to submit some comments regarding the issue of the proposed settlement of the U.S. v. Microsoft antitrust case.

I am an Information Systems professional and I have very grave concerns about the proposed settlement. The Microsoft Corporation has been found guilty of violating certain parts of the Sherman Act, yet the settlement proposed does almost nothing to curb future violations by this illegal monopoly and nothing at all to punish them for their past illegal actions. In fact it is a commonly considered opinion among those in my profession that the proposed settlement gives Microsoft license to continue their monopoly with impunity. As I see it, the Microsoft Corporation will continue to unfairly control and extend their monopoly if tho terms of this settlement are accepted. I would like to propose the following modifications to the settlement:

* The sale of Microsoft products must be placed on a level playing field with their competitors. Forbidding Microsoft from requiring exclusive contracts from new computer manufacturers and resellers is a start. But to be truly Competitive, Microsoft products must be offered as extra cost items just ,as any other competitive software or hardware product in a new computer sale. Not only should consumers have a choice of software products installed on new computers,they must also be presented with the true cost of their selection.

* Microsoft has: a monopolistic lock on the use of desktop office applications. This lock is extended by the use of proprietary file formats that prohibit documents created with their products from being effectively read or modified by competitive products. Until this strangle hold is stopped there can be no effective competition in the area of desktop office applications. Forcing Mircosoft to open the APIs (Application Program Interfaces) more fully is a start, but the proposed settlement seems to allow Mircosoft the choice of who gets the benefit from this. Microsoft should be forced to fully release the specifications for all of their current. and future proprietary file formats used in desktop office applications.

* The method that Microsoft employed to establish their proprietary formats in the area of desktop office applications is also being used to create proprietary network protocols. Already the use of proprietary extensions to network protocols by Microsoft is threatening to extinguish the open standards that the Internet was built upon and substitute proprietary standards useable only by Microsoft products. In fact Microsoft has already admitted this as a strategy to eliminate competition (www.opensource.org//halloween/halloween1.html). If this continues, Microsoft will have wrested control of the Internet and established their products as the de facto standard. To prevent Microsoft from leveraging their monopoly in this way they must be required to submit all proposed networking protocols to an independent network protocol body for approval, complete with details that will allow competitors to use those protocols effectively.

I have read comments from various sources that indicate that the proposed settlement should be accepted as a matter of national interest. Though this is a legitimate reason to settle the case, it is not a legitimate reason to accept this settlement. The Microsoft Corporation has shown that it will settle for nothing less than complete domination of the software industry and all that it entails. Further, they have demostrated that they are willing to use illegal means to achieve that end. It is in the national interest that no single entity be allowed to control something so important as our nation's information systems infrastructure. The capitalistic model that our country's economic system is built upon requires competition and the proposed settlement does little to encourage future competition with the current monopolist. Though it may be tempting to accept the proposed settlement in these economic times, the long range effect will benefit Microsoft's interests above those of the nation.

Respectfully submitted,
CLaude Horsman
616 E. Jackson St.
Belvidere, IL. 61008
December 13, 2001

MTC-00030688

12/13/01 THUR 11:O7 FAX 858 452 4410
COMPUTER ASSOCIATES
DOJ
Michael Bergknoff
Computer Architect
3655 Caminito Carmel I Landing
San Diego. CA 92130
December 13. 2001
Judge Colleen Kollar-Kotelly
United States District Court for the District of Columbia
333 Constitution Avenue. NW
Washington DC 2OOl

Dear Judge Kollar-Kotelly.

I wish to add my voice co many others in disagreement with the proposed settlement. Rather than repeating the arguments you have assuredly read many times I will just point to one of the first commentaries I read that. I was in agreement with. It was written by Ralph Nader and James Love on November 5, 2001. It is available at the web address http://www.cptech.org/at/ms/doj12kollar/kotelly/nov5.html

In addition Nader's commentary I have a few additional items that I feel strongly about.

Any remedy seeking to prevent an extention of Microsoft's monopoly must place Microsoft products as extra-cost options in the purchase of new computers. so that the user who does not wish to purchase them is not forced to do so. This means that for the price differential between a new computer with Microsoft software and one without. a computer seller I must offer the software without the computer (which would prevent computer makers from saying that the difference in price is only a few dollars). Only then could competition come to exist in a meaningful way.

The specifications of Microsoft's present and future document file formats must be made public so that documents created in Microsoft applications may be read by programs from other makers on Microsoft's or other operating systems. This is in additton to opening the Windows application program interface (API. the set of "hooks" that. allow other parties to write applications for Windows operating system), which is already part of the proposed settlement.

Any Microsoft networking protocol must be published in full and approved by an independent network protocol body. This would prevent Microsoft from seizing de facto control of the internet. Microsoft should not be allowed to dictate which parties have access to the specifications.

Sincerely.

MTC-00030689

12/ 14/ 01 09:54
FAX 9133108348
JOHN DEERE IT
December 14, 2001
Renata Hesse
Trial Attorney
Suite 1200
Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530

Dear Department of Justice,

I wish to make some comments on U.S. v. Microsoft. I work in the computing industry as a progammer. I have been a programmer for 22 years. I don't -think the settlement as proposed adequately remedies the antitrust violations of which Microsoft has been found guilty. I would propose the following additional features to the settlement.

1. Make all Microsoft products as extra-cost options in the purchase of new computers.

Publicize that users are not forced to buy Microsoft products. The price difference between a computer with Microsoft products and without Microsoft products must be the same as the extra-cost options above.

2. Microsoft must make public all document file formats both now and in the future. A prime element of Microsoft maintaining their monopoly has been the secret nature of their file formats. By publicizing these formats in a clear, easy-to-read manner, it would allow other companies and individuals to develop competing software.

3. Any Microsoft networking protocols must be published in full. Also, these protocols should be reviewed and approved by an independent network protocol body. This will prevent Microsoft from controlling the Internet with proprietary protocols. In addition, it will allow competing software to be written to replace Microsoft's software seamlessly on individual's computers. I believe these recommendations that I have outlined would help to contain Microsoft's illegal anticompetitive behavior both now and in the future.

Donald W. Price
12114 Bluejacket
Overland Park, KS 66213

MTC-00030690

12/14/2001 10:34
ADVICEFRAMEWORKS
12826169937PP2418 NO. 35701
December 14, 2001
Renata Hesse, Trial Attorney
Antitrust Division,
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FAX: (202) 616–9937
RE: Public Comment AGAINST Microsoft Proposed Settlement

I am writing this comment to express my voice AGAINST the proposed Microsoft settlement. I am a Microsoft Certified Solution Developer, one of the first 500 certified under their new track, one of the fit 5000 Microsoft Certified Professionals, and one of the first 300 Microsoft Certified Professionals + Site Building. Because of my background as a software developer using Microsoft technologies, I am uniquely qualified to express an insiders point of view on the efforts Microsoft takes in preventing competition. It is from that experience that I URGE THE COURT TO DISAPPROVE the proposed settlement.

Although Microsoft's domination of the desktop operating system market was earned, they continue to USC this monopoly to channel upon consumers sub-standard, insecure applications. IF A CONSUMER PRODUCT GAINS A NEAR MONOPOLY MARKET POSITION, IT MUST. BE EARNED, NOT INHERITED. As a software developer focused on integrating data from multiple platforms and multiple companies, I am constantly frustrated by the bottlenecks that Microsoft has put in place deliberately to enhance their position at the expense of other products that are superior to theirs.

This cut-rent proposed settlement relies upon Microsoft's integrity as it deals with the Court. When has Microsoft ever demonstrated integrity with the Court? Take for example (one of many) the case in which they were ordered by the Court to ship me Java Native Interface with Internet Explorer and they deliberately disobeyed it with the excuse that it made download time longer. Hence, THE COURT CANNOT TRUST MICROSOFT to honor its obligations. IT MUST BE FORCED as was proposed in the solution that broke apart Microsoft's operating systems groups from the applications groups.

Microsoft has become an expert at maintaining their tyranny through manipulation of our legal system. It is time to bring this institutional evil to an end. Hence, THE COURT MUST DISAPPROVE the proposed settlement and pursue one that correctly separates their operating system monopoly from their applications domain.

n Charles Walker, MCSD, MCP+SB, MCP
6614 Ronda Ave
Charlotte NC 28211
(704) 367–9341

MTC-00030691

To Whom It May Concern:

I would like to express my concern over the latest settlement proposed by the Department of Justice in the Microsoft Antitrust case. As introduction, I am a software developer who builds applications primarily for the Windows platform.

One of my primary concerns with the proposed settlement is that it ignores the damages done by Microsoft's anti-competitive behavior to rival technologies. While I am pleased that Microsoft's future actions are to be regulated by the settlement, I feel that much of the damage has already been done. Simply enforcing certain prohibitions on Microsoft's business practices will not repair many of the companies that have suffered because of Microsoft's predatory activities. Granted, it would be a difficult task to quantify all the damages done by Microsoft to every company, but the fact that so many companies have been affected suggests that the current settlement is not appropriate. While I will not propose specific alternative settlements, I do suggest measures that will impose damages on Microsoft tantamount to those it imposed on its competitors.

I take greatest exception to the idea that a quick settlement will be in the interest of the people. Its monopoly in the Operating System market has allowed Microsoft to expand to new areas such as Internet retailing, broadcasting, and entertainment. Given that the current settlement amounts to a slap on the wrist, Microsoft will have no impediment to extending its stranglehold to these new domains.

Thank you for your attention.
good@ pare.xerox.com
589 Oak Street
Mountain View, CA 94041

MTC-00030692

Russell Cage
1615 Morton
Ann Arbor MI 48104
14 December 2001
Renata Hesse, 'Trial Attorney
Suite 1200, Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530
202–616–9937 FAX
microsoft.atr@usdoj.gov

It is my understanding that the Department of Justice has reached a proposed settlement with Microsoft in the matter of the recent anti-trust suit. Despite the established guilt of Microsoft, this settlement calls for only a token cash outlay, no fines, few conduct penalties and great freedom on the part of Microsoft to continue doing business as it wishes.

In my humble opinion, such a settlement is unconscionable. Not only does it fail to remedy the effects of past monopolistic behavior or prevent the same or worse in the future, it leaves the victims of the monopoly without a remedy. Worst of all, it may present a threat to national security.

Certain terms of the proposed settlement, such as the provision of $900 million in Microsoft software to schools, do nothing to ameliorate the damage done by previous monopolistic behavior. It has been argued that this would only extend the monopoly into an area where Microsoft is currently weak. This should not be allowed. By all means allow Microsoft to make up some of the damage the company has done to schools with its marketing practices, but make them do it in cash. The disposition of the cash should be overseen by people charged with getting the most benefit to the schools; benefit to Microsoft should not be a consideration. For this reason stock is inferior to cash; the value of the stock can be affected by the purchasing decisions of the schools, and Microsoft's welfare should not be a factor in the decision.

Other terms leave much to be desired. Microsoft has been proven to ignore conduct restrictions imposed on it by consent agreements. What is to prevent Microsoft from doing what it pleases regardless of the terms of this settlement? For this reason, I believe that the court was premature in ruling out a structural remedy.

But the most important issue may be national security. Microsoft's dominance in desktop operating systems means that most businesses run it on most or all of their computers. The vulnerability of Windows and other utilities such as the Outlook mail agent to viruses, worms and Trojan horse software has made both the global Internet and company intranets subject to being swamped with traffic and even crashed.

Even crude viruses such as the Love Bug required eradication efforts amounting to billions of dollars world-wide. This vulnerability is almost entirely due to Microsoft's "integration" of unwanted functionality into Windows and its related utilities. Once such functionality is "integrated", users and companies alike have few ways to remove or disable it if it becomes a liability. If an intelligent and determined enemy were to exploit many such liabilities, the cost to the USA could be far greater than the September 11 disaster.

For this reason, any settlement must stop Microsoft from "integrating" utilities and "middleware" with the operating system. Microsoft should be required to package, sell, install and remove software functionality in distinct, related units. If functionality such as an insecure web browser can he removed and replaced, the damage from an attack on that utility's vulnerability 'is limited. The effect on competitors to Microsoft may be one of the smaller issues; if such functionality cannot be removed and replaced because it is "integrated" by Microsoft, the entire Internet can potentially be shut down by a single security flaw.

Thank you for your attention to this pressing matter.

MTC-00030693

STERLING GILLILAND
(408) 377–6374
Fax to: (202) 616–9937
Renate Hess
Trial Attorney: Antitrust Division
U.S. Department of Justice
601 D. St. NW Suite 1200
Washington, DC 20530
Subject: Microsoft Penalty

Gentlemen I am a 'home' computer user that uses Microsoft's Windows 98 for eMail, snail mail correspondence, and occasional web browsing. I am not an accomplished high-tech user. However, I was pleasantly surprised by the recently published recommendations of the various dissenting states, for solution of the Microsoft case. The particular part that interests me, and I would imagine would interest others, is the following:

'Have Microsoft offer a lower-cost, striped-down version of the Windows Operating system without Microsoft's multi-media software, Internet Explorer Browser or email program.'

I choose to use other sources for these parts of my computing, but am interfered with by the Windows parallel programs. I am not qualified to comment on other recommendations of the dissenting states.

I would also hope that Judge Colleen Kollar-Kotelly applies some stringent restraints to Microsoft to eliminate the scorn that Microsoft's management has shown for U.S. antitrust laws.

743 Briar-wood Way
Campbell, CA 95008–5527
408–369–9487
Fax 408–377–6374

MTC-00030694

December 15, 2001 II:11 AM
From: Software Marketing
Fax #: 614–459–1790
Software Marketing Center, LLC
4149 Winfield Road
Columbus, OH 43220
December 15, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I believe that it was a tremendously important and beneficial decision for the Department of Justice to have settled the case against Microsoft. Having spent the past twenty years in the software business, I can attest to the positive impact that Microsoft and other innovative companies have had in contributing to the remarkable productivity gains which helped to generate a robust national economy for many years. Without this leadership and technological advantage, our country would be far less able to succeed in an increasingly competitive global marketplace.

I think that the current settlement is fair to both sides. I was happy to learn that The State of Ohio is ready to settle the case. Further litigation and congressional hearings would benefit no one but Microsoft's competitors.

Sincerely,
Donald Bogart
President
Software Marketing Center, LLC

MTC-00030695

December 6, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a user of Microsoft, I fully support the current settlement in the Microsoft Antitrust case, Microsoft has endured three long years of legal action, and it is time that legal action against Microsoft is stopped.

I am following the economic recession, and am concerned that continued legal action against Microsoft would only foster the current economic climate. We need Microsoft to get back to business and out of the courts.

Stopping this legal action is best for the economy, the consumer and the software industry, Thank you.

Sincerely,

MTC-00030697

Dec 18 01 10:25a
Richard S. Vann
336–722–2895
Fred F. Steen III
Town of Landis, NC
December 18, 2001
Fax Cover Sheet
To: Renata Hesse
Trial Attorney
Department of Justice
From: Fred Steen
Mayor of Landis, NC
Fred F. Steen, IX, Mayor
Town of Landis, NC
Rennet Hess
Trial Attorney
Antitrust Divison Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse

I would like to urge that Judge Kollar-Kotelly approve the settlement that the U.S. Department of Justice has worked out with Microsoft as well as nine other attorneys general including our attorney general in North Carolina As an elected official, I have always been wary of government lawsuits against private business and I was an opponent of this particular lawsuit from the start. But now that the parties have come to an agreement, I think it is important for everyone to move on particularly considering the state of our economy.

There can be nothing gained by continuing on with a trial against one of the finest companies in America, which makes the products that, just about every computer user in the country benefits from. I cannot see where there has ever been any consumer harm because of Microsoft since their prices have not gone up greatly and on some products and the price has actually gone down. I am saddened that nine states will continue to press their case even though I believe in the end that Microsoft will prevail

MTC-00030698

November II, 2001
Renata Hesse, Trial Attorney
325 7th Street, NW
Suite 500
Washington, DC 20530

Dear Renata,

I would like to express my concern over the proposed settlement in the DOJ—Microsoft case. I understand I may not be getting the whole story, but from what I understand, there are no provisions for anti-competitive pricing on the part of Microsoft. No matter how 'open" the market is to other middleware developers, if Microsoft can just bundle their middleware in with the operating system, how likely is it that a consumer will have the know-how or inclination to remove a bundled piece of software such as instant messaging or a web browser, and then have to shop around and purchase a competing product. It is a well-known fact that com- puter users get comfortable with products and don't change them often unless they are causing some kind of problem: If competing products are only on-par or even just a little better, there is no real incentive for some- one to spend money on a competing product.

The only way I can see this deal working is that Microsoft cannot be allowed to give away products that com- peting companies have to charge for. If Microsoft software is as good as they say it is, consumers will have no problem paying for it. Each piece of software Microsoft makes should be able to stand on its own. If the only reason, people: are-using it, is because it was free and 'not that bad" in comparison to the competition, then this whole lawsuit was. for nothing except to waste taxpayer money.

I am also concerned that people are talking about the technology market sector as being a factor in settling this case. The law is the law, and money is money The idea behind having laws is to protect the public good. If Microsoft broke the law then they should be punished and no amount of money should be able to change that, including the stability of the stock market. The market goes up and down as the economy does. No matter how large Microsoft is, they are not the sole factor in the stock market's health. The only thing that should be of concern is. if justice is being served.: the law is supposed to be the great equalizer, where everybody is the same. If the law treats this case differently because of financial concerns, then Justice is not being served.

Citizen and avid computer user

MTC-00030699

Trevor Carlson
132 North Valley bad
Naselle, WA 98638

I have personally felt the heavy oppression of Microsoft's monopoly, forced to buy

Windows, unable to get a program that can perfectly interpret Word files, and unable to remove Internet Explorer; and therefore I followed with interest the Microsoft Anti-Trust case. I am disappointed with the proposed settlement however, and was glad to learn I could give suggestions.

In order to allow competition to flourish, three features must be included in the antitrust agreement. Each is meant to address the Microsoft monopoly in one area.

1. Windows must be included as an extra-cost option in all computers.

People who do not want to purchase Microsoft Windows are still forced to do so because of agreements between Microsoft and computer manufacturers. As it stands now, the perceived cost of Windows to consumers buying a computer is exactly nothing, giving an incredible burden to anyone who dares to compete with Microsoft in the area of Operating Systems. In order, to restore competition in this area, computers will need to be offered without Windows.

That means that Microsoft cannot sign exclusive deals with computer manufacturers, the cost of the operating system must be visibly included with computers, and the operating system must be available at that price without having to buy a computer.

2. Windows file formats must be available for people to copy.

There are people who are forced to buy Microsoft Word, not because it is the best software for the job, but because everyone else has it. They do not want to loose business just because they cannot understand a file that was sent to them by a customer. While almost every Word replacement includes a converter to get information from Word files, they do not work all that well because Microsoft has not revealed how Word files are stored, forcing them to use guesswork to determine the format. Of course, if people have to buy Word anyway, they have no need to buy a product that does the same thing as Word.

Forcing Microsoft to reveal the file format used in their products would let their products compete on merits, not on market share

3. The third and final features is not meant to address a current monopoly, but one that may develop in the future and must be prevented.

If Microsoft were to change networking protocols, (the language used to communicate between computers) they could force everyone on the Internet to choose a side; between Microsoft and their protocol and everybody else. This would almost certainly force everybody to bow to Microsoft in order to communicate to anybody else, allowing Microsoft to seize complete and utter control over the Internet.

The solution to this is to force Microsoft to reveal networking prtocols, and to keep them from changing unless approved by au independent network protocol governing body. These three features will destroy Microsoft's grip on the computing world if implemented. Although they may seem radical, they must be the only moves that will stop Microsoft.

MTC–00030700

American Homeowners
Grassroots Alliance
December 18, 2001
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW., #1200
Washington, DC 20530
By fax and Email: microsoft.atr@usdoj.gov

Dear Ms. Hesse:

We are writing to comment on issues in the settlement of the Microsoft antitrust case. We also wish to commend the Department of Justice for negotiating a fair and reasonable Revised Proposed Final Judgment in the case, and to urge the Department to resist efforts of Microsoft competitors to undermine the proposed settlement of the case.

The American Homeowners Grassroots Alliance is the national advocacy organization representing, along with its sister foundation, the nation's 70 million homeowners since 1983. Our interest in this case comes from the fact that nearly 60% of homes have one or more computers. Those tools are increasingly important to homeowners who depend on them as tools for personal and business communications, financial management and planning, adult and children's education, and also to manage the rapidly growing number of home-based businesses. In the early history of the personal computer industry there were many choices for operating systems, much as there are in cellular telephones in the U.S. today. The utility of personal computers was undermined by the inability of software written for one operating system to work on a different operating system, just as the incompatibility of today's cellular telephone operating systems is a limiting factor in their value to consumers. Over time the development of many types of software for the Windows operating system lead more and more consumers to select the Windows operating system. Consumer preference for a wide variety of software applications, convenience, and ease of use also lead to a consumer preference for the integration of software applications into the Windows operating system,

The evolution of the Windows operating system into an industry standard through consumer choice is the most valuable consumer benefit of Windows. Actions taken to address Microsoft behavior should, in no case, undermine the current right of consumers to select Microsoft operating systems and popular arrays of integrated software applications. We believe the revised proposed final judgment strikes the right balance in effectively addressing Microsoft's unacceptable practices and also preserves consumer choice. The agreement calls for uniform pricing and allows computer makers flexibility to configure Windows and promote non-Microsoft programs. Both interfaces and protocols necessary for other software to work with Windows must disclosed, and both retaliation and exclusive agreements are prohibited. An independently appointed permanent technical committee will monitor compliance and assist with dispute resolution. The U.S. or any of the states have a right to inspect all Microsoft documents and all source code for any Microsoft program, interview any Microsoft employee, and order Microsoft to prepare any report under oath regarding any issues relating to the final judgment. Any person may complain regarding noncompliance to the Justice Department, the states and/or the technical committee and the plaintiffs can immediately initiate proceedings to hold Microsoft in contempt. We see no loopholes in this remedy.

Our members have not urged us to support more stringent sanctions against. Microsoft. In fact we believe there is little or no consumer opposition to the revised proposed final judgment. We oppose many of the suggestions of Microsoft competitors, directly or through their influence of federal legislators, state attorney generals, or third party organizations, for settlement provisions designed to increase their market share. These companies do not represent consumers, and consumers have made their preference for the Windows operating system known by their actions in the marketplace.

We thank you for the opportunity to present our views on this case.

Sincerely,
Beth Hahn
President

MTC–00030701

Dec 19 01 04:26p Richard S. Vann 336–722–2895 p.1
Vernon Robinson
South Ward Alderman
Winston-Salem, North Carolina
Fax Cover Sheet
To: Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
Microsoft Case Comment for Federal Register
Dec 19 01 04:27p Richard S. Vann 336–722–2895 p.2
Vernon Robinson
South Ward Alderman
Winston-Salem, North Carolina
Renata Hesse
Trial Attorney
Antitrust Divisions
Department of Justice
601 D Street NW., Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As an elected official who represents taxpayers, I am pleased that Judge Kollar Kotelly has before her a settlement agreement, which has been reached between Microsoft and the U.S. Department of Justice. I hope that this agreement will be signed off on soon.

As one who has urged fiscal restraint in all matters and less government involvement in people's lives and businesses where possible, I have been displeased with what I believe to have been the unwarranted pursuit of Microsoft, not to mention the $30 million in taxpayers money used to prosecute this case which was so quickly overturned by the Court of Appeals.

However, since the U.S. Department of Justice and Microsoft plus several attorneys general have sought to end this sad affair, I would certainly endorse this settlement rather than pushing on year after year and devouring even more taxpayer dollars. I know that in any settlement, both sides will get what they think are victories but not get everything they want. That is also true of compromises which come up at the city level upon which I must vote each month.

As an alderman, there is one thing I have learned about endless litigation. It is not good for anyone. When our city is sued, it takes time and resources that should definitely be spent on other matters. It often means hiring of outside counsel which is expensive. Eventually, if the city is plagued with too many lawsuits, it begins to affect our budget and brings about increased need for higher taxes.

I encourage approval of settlement in this case for the sake of the taxpayers.

Sincerely yours,
Vernon Robinson
South Ward Alderman
2713 Edinburg Drive, Winston-Salem, NC 27103

MTC-00030702

19/19/01 15:04
FAX 330-678-1007
KINKO'S KENT OH 002
1026 H Allerton St.
Kent, OH 44240
December 19, 200l
Renata B. Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW., suite 1200
Washington, DC 20530

Dear Mr. Hesse,

The American ideal is to have products thrive in an open market where competition fosters improvements and new technologies. Microsoft has been found guilty of violating this ideal by illegally maintaining a monopoly on its Windows operating system. To remedy this situation I feel that Microsoft should be compelled to do the following:

- Microsoft should be required to make Microsoft 0ffice available on at least five other non-Microsoft operating systems without price differences between the Microsoft and non-Microsoft versions.
- Microsoft's present and future document file formats must be made public so that documents made in Microsoft applications can be read by other applications on other operating systems.
- The Microsoft networking protocols and Windows application program interface (API) should be made publicly available.
- Microsoft should not be allowed to retaliate against computer manufacturers that sell personal computers with a non-Microsoft operating system. Microsoft has been found guilty of illegally maintaining its monopoly and the current phase in the lawsuit is to determine Microsoft's penalty. Any settlement must be punitive and insure Microsoft's cooperation in the American ideal.

Sincerely,
Dennis Jarecke

MTC-00030703

Sent By: NORDIC SERVICES INC:
2065249014: Dec-19-01 9:51AM:
Pane ½

CD CHUCK BATIS, PC
December 17, 2001
Reneata Hesse, Trial Attorney, Suite 1200
Antitrust Division, Department of Justice
601 D Street NW.,
Washington, DC 20530
Re: Microsoft vs. Public

To Whom It May Concern:

I am writing to express my frustrations which again today have been piqued by the United States Government

I would like to suggest three parts of of what I think should be included in my effective remedy: (1) Enjoin the U.S. Government and governmental agencies from requiring us to use Microsoft products to conduct business in the Unites States;

(2) Prohibit maufacturers from preloading any operating system on these products;

(3) Include ALL offenders in the remedy.

As for part one. We are required by the Congress to file taxes with the IRS electronically. The only viable provision the IRS has made to accomplish this feat requires us to use Windows. Additionally, today I received notice from the U.S. Postal Service that they will no longer publish the national zip code directory in hardcopy but we can order an electronic version—of course the electronic version (of which all businesses will require at least one copy) only works on Windows.

This amounts to a direct U.S. Government subsidy of Microsoft and requires all business to "invest" in Microsoft crapware—supporting that monopolistic empire. The court should put a stop to this nonsense by requiring U.S. and said governmental agencies to release all software in form that is free of dependence upon the presence of the Windows API-software that can run on a variety computing platform. If the Government wants to use Microsoft products that is up to the people the Government has to make those decisions. But government employees should not be allowed to require those of us in business to use Microsoft products if we citizens choose to use other computing environments. No use of the Windows API should be allowed in governmental software release. Please require the government to release all future applications for multiple platforms and retrofit all current applications within a period of two years to eliminate calls so the Windows API.

Part two: I manufacturers were required to ship their product "naked" a whole new economic boom would. Third parties would spring up to in still the customer's choice of operating system and software applications. There is certainly for this in the IBM antitrust settlement of past decades. This would mean all software application developers would have an equal opportunity to market share through value added resellers. Furthermore, I can think of no other single section which would give an much improved usability of both hardware and software components. If either hardwre or software were difficult to use resellers would choose to install alternative components other providers. This would stimulate competition in the marketplace like no other option than I have heard suggested. Microsoft would have to compete on an even playing field with all other providers.

Finally, the manufacturers were the other side of the equation! IBM, Compaq, Gateway, Dell and Micron (and all the others) all knew the licensee were illegal but chose to sign anyway. They were complicit in the illegal activities of Microsoft and should share in the pain. They should be at least required to refund, to any customers who requests that retail value of the Windows licenses they forced unwilling customers to purchase in order to other hardware products. This action would put businesses (a legal position expense and promoted by Congress at every session).

Please include in the settlement whatever it takes to allow business to be conducted in the United States with both federal and state governmental agencies the Microsoft -free environment. The government should not be allowed to require businesses Microsoft products in order to conduct business in the United States. Currently the U.S. Government is schricopherenic—one segment ones Microsoft for monopolies tactics while the rest of the government requires us to purchase Microsoft products. Only the Government can possibly be that disoriented!

Thank you for any relief you choose to provide U.S. based businesses.

Very truly yours,
Chuck Davis, CPA

MTC-00030704

Attn Charles A. Jones

this letter pertains to the ownership and lawsuit with microsoft. I own microsoft. I have no understanding how you can file lawsuit against the co. without me representing the co. or making sure the co is properly reprresented. I don't understand how you can file lawsuit against this co. Did you investigate any to know who owns microsoft. I've called you people and told you this more than once. I would like a reply.

Kevin Olland W6763 Co. Rd A
Spooner, Wi. 54801
715-635-8837 10pm-2pm
Mon-Fri

MTC-00030705

12/20/01 THU 10:20 FAX 001
December 19, 200l
Renatta Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street, NW., Suite 1200
Washington, DC 20530

Dear Ms. Hesse;

I am writing this letter to you in support of the Consent Decree proposed by the Department of Justice in the case of US v. Microsoft and pursuant to the Tunney Act, which allows public comment on such matters. I believe the settlement proposed by the Department of Justice is fair and should be accepted by the court.

I work in the technology industry and have watched this case very closely since it first began some three years ago. Though I didn't agree with all of the assertions made by Microsoft's competition, there was some validity to their position. It was important to have the issue heard in a court of law and allow the facts to come out. But when Judge Jackson pushed for breaking up Microsoft and the hi-tech industry started a rapid decline, I felt the case had gotten out of hand. It is now time to resolve the matter and move forward.

The settlement proposed by the Department of Justice should be accepted because it is fair. The remedies proposed in the settlement will address future issues and are adept at fixing any challenges which may arise from rapid technological innovation. It ensures competition by forcing Microsoft to disclose information on the operating system. They can no longer enter into agreements of exclusivity and they cannot retaliate against manufacturers for helping to develop competing software.

The current agreement proposed by the Department of Justice will remedy past violations by Microsoft while ensuring the technology industry remains innovative and competitive. Solutions being suggested by Microsoft's competitors will not make the industry more competitive.

Though I realize closure is not the issue for the courts, I do hope they will take into account what settling the case against Microsoft will mean to the technology industry. As this case drags on, so does the insecurity of the hi-tech industry. I currently work for a dot-com company. Since the day Judge Jackson ordered a break up, things have not been the same. Because many in our industry are nervous about the impact to Microsoft, our ability to plan for the future is difficult. If US v. Microsoft is settled, we will get back some sense of security in our industry. It is the sort of boost we desperately need right now.

As I mentioned before, the case against Microsoft may have been justified in the beginning. But Judge Jackson, the break up, and the extreme politicizing practiced by competitors has caused the issue to get completely out of hand. The settlement is a fair and prudent one, I hope the courts will accept it and the case so we in the hi-tech. industry can restart the expansion where it left off.

Brenda J. Zamzow
Senior Vice President
Internet Directories USA, Inc.
2461 Santa Monica Boulevard, Suite 408
Santa Monica, CA 90404
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www.idusa.com

MTC–00030706

DEC 20 "01 18:24 FR BROADCOM
949 450 0244 TO 12023071454
P. 01/03

To DOJ,

I'm writing to express my anger over Microsoft and the current state of Microsoft anti-trust lawsuit. The US government is too easy on Microsoft. Microsoft must be much more severely punished to bring a more competitive marketplace into the software industry. There are more examples than I can write to demonstrate the harms Microsoft have done to the software industry and consumers. I will only list a few here:

1. Before Microsoft Outlook email software, it is SIMPLY IMPOSSIBLE to spread virus through emails. There have been at least two serious virus spread (Melissa, etc.) through Microsoft Outlook software. Due to the extremely unthoughtful construct of their email software and operating system, a third party software that is attached in the email can easily gain control of the desktop systems. To my personal knowledge, no other email software/platform can spread and get virus except Microsoft Outlook.

2. Microsoft has repeatedly demonstrated their incompetence in writing secure and bug-free software. The latest release of Window XP has such a serious security flaw that a hacker can gain the control of the personal computer as soon as the personal computer gets onto internet (http://dailynews.yahoo.com/h/nf/20011220/tc/15458 l.html. Unfortunately this is not the first serious problem, nor probably won't be the last. The number of patches to their different versions of operating systems have been just endless. Without bringing in a more fair competition into the operating system marketplace, and software in generally, we would wait in eternity for Microsoft to improve on their quality of product.

3. The stronghold on operating system by Microsoft has enabled this shameless company to expand into one software market after another. In the last few years, I have personally witnessed the disappearance of other great software company one after another. By withholding critical documentation and information on their operating system, Microsoft was able to produce much better products than its competitors. Since all other software must interface with the operating systems to do anything with the computer screen or keyboard or mouse or any devices, in general it is close to impossible to write software without sufficient documentation on a certain operating system. Throughout the years, I have seen the dwindling or disappearance of WordPerfect (word processor), Borland (software compilers), Lotus 1-2–3 (spreadsheets) companies. In every case, I have witnessed that these companies were not able to provide a fancier graphics on the screen or easier controls at the same time as Microsoft put their products out. It is simply an outrage when Microsoft compilers won over Borland compilers with inferior constructs, but better graphics. I will not elaborate on the technical details, but to simply state that Microsoft initial compiler products on C++ language is close to a joke.

This Microsoft company created such a laughable product that basically shows their ignorance on C++ language.

Even after so many generations (Win 2.0, Win 3.0, Win 3.1 Window 3.2, Win 95, Win 98, Win ME, Win XP) of their operating systems, their operating systems still hang without notice. I don't know when it would be the time that I don't need to unplug my notebook battery to be able to reset my notebook simply because my Win 98 hangs. The lost time and wages to maintain faulty systems of Microsoft is just unimaginable. Now that Microsoft wants to settle this lawsuit by donating 1 billion dollar of their faulty product (which will cost them only 140 million according to their latest financial report), and plus that they probably get a tax write-off of 1 billion dollar. At their -30% tax bracket, it would translate into 300 million tax saving. And would they end up with 160 million dollars gain after settlement? Even if the tax write-off is calculated using 140 million, their out-of-pocket expense would only be 60% of the 140 million which is 84 million. So is US government telling their citizens that Microsoft will be punished with a paltry 84 million dollars or even 160 million gain in another calculation, after all of those? With this donation, Microsoft would obviously be making a lot of inroads so swiftly into the education market which was/is entrenched by Apple company, and that the schools will probably end up paying so much more for Microsoft monopoly.

Till this day, the price of every single component inside a PC has gone down by probably more than 80%, except Microsoft operating system and its software. Microsoft is the only company that still enjoy a gross margin of more than 80%. Only when there are meaningful competitions, we can start to see any price erosions. And the worst of the worst about the Microsoft monopoly is that we the consumers will pick up their faulty products without any choice and suffer all the inconveniences.

Sincerely yours,
Sean Lee
seanlee@broadcom.com
** TOTAL PAGE.03 **

MTC–00030707

12/21/01 01:31 714 368 6610
UNIT 1 OPERS A72
001/001
December 21, 2001
Renata Hesse
Trial Attorney, Suite 1200
Antitrust Division

I have a few comments I would like to express regarding the proposed final settlement of the U.S. vs. Microsoft Corp. case.

Microsoft Corp. has been found guilty of "illegally maintaining an operating system (OS) monopoly." The function of the court is to now determine the penalty for the crime. The current proposed settlement does nothing to prohibit Microsoft from continuing their campaign of monopolizing the computer software market.

I was amazed to see the Microsoft proposal that they be "punished" by giving away their software to schools. As Mac/Apple has long been the OS of choice in US schools, this punishment is nothing more than a Microsoft attempt to gain a larger share of school exposure. This and they will be able to write off the cost of this "punishment" to further their monopoly. I find it laughable that the guilty party is allowed to "suggest" their punishment. Any true punishment to Microsoft must limit their ability to continue their monopoly. In order to do this I propose the following as a just and reasonable penalty;

Microsoft products must be made an extra-cost option in the purchase of new computers, so that the user who does not wish to purchase them is not forced to do so. There are several viable OS's now on the market. The industry (Microsoft) should no longer be allowed to choose which OS is installed for you. In order to make the playing field even, allow the end user to decide which OS they desire. Allow market conditions (price/value) of the OS dictate which one an end user purchases.

Installing Microsoft Internet Explore must be made optional. Not pre installed in any sense of the word. Remove all links which attempt to make this the Browser of choice (default) after loading it. Allow equal access to other Internet Browsers without favor.

I realize this is a very complex issue and you are not treating it lightly. However, this decision will impact the future of the entire computer industry. Microsoft has created many valuable innovations in the industry. That does not give them to right to dictate history. That is the role of the court.

Thank you for taking the time to understand my point of view.

Doug Lahann
26633 Guadiana
Mission Viejo, CA.
92691–5904

MTC-00030708

Dec-24-2001 02: 58pm From-
T-557 P.001/002 F-482
Trial Attorney Renata Hesse
Suite 1200
Anti-Trust Division
Department of Justice
601 D Street NW.,
Washington, DC 20530
Jens Gecius
53 Sherwood Drive
Larchmont. NY 10538
FAX 202–307–1454—two pages

Dear Trial Attorney Renata Hesse:

I am writing you today in response to the invitation of public comment on the proposed Settlement of the Mircrosoft Anti-Trust case.

I am an amateur systems application developer and enthusiastic computer user, familiar with many aspects of programming and administering a computer system as well as following the development of the computer Industry.

I have also been following the Microsoft Anti-Trust case and like to take the opportunity to comment on the case. I cannot see that the proposed settlement is a remedial action for the illegal maintenance of a monopoly Microsoft has been found guilty of. I do not see any penalties in the proposed settlement for Microsoft, actually, even enhancing the current monopoly Microsoft has been found guilty of maintaining Monopolies have never proved to benefit the public and national interest.

As a minimum of a remedial action, I would see four penalties:

1. Full disclosure of all Windows Application Program Interfaces (API) and other specification documents for Microsoft products to the public using a license to enable everybody to write applications, system-drivers, and API and such, to enable third parties to develop any such program, driver, or API being compatible with Microsoft's current, former and future products. Such a license has to be free of royalties and discrimination of any kind. Microsoft must be prohibited to extend any such API or other specification without proper publication.

2. Necessity to show the Microsoft operating system as an extra-cost option for buyers of a new computer. This would facilitate buyers of a new computer to choose an operating system themselves, or buy a computer without an operating system, using an existing license or another operating system. Futhermore, it would enable buyers of a new computer system to make an informed decision about which operating system to buy or use, using all information available in regard of stability, security and compatibility.

3. Networking protocols and protocols for new applications of Microsoft must be published to the public and approved by an independent protocol body. This would prevent Microsoft to extend its existing monopoly by seizing other areas and enable users of other operating systems to use such enhancements.

4. Forcing Microsoft to open all current and future patents involved in the operating system business to the public and to grant a public license free of royalties and discrimination on such patents. Nowadays in the computer business, patents are the perfect tools to monopolize any future developments in that industry, preventing enhancements by other developers. This would prevent Microsoft to extend its current monopoly into areas of future computer industry development, be it Hardware or Software.

Finally. I would like to point out that this Anti-Trust case is in the national interest, and that I believe that it is crucial that Microsoft's monopoly will not be extended. Even the highly respected Center for Strategic and International Studies recently pointed out that the use of Microsoft software actually poses a national security risk. The latest serious security flaw in Windows XP shows once again how ruthlessly Microsoft acts. It is outright declining to send a simple email reminder to its customers, hence putting at risk computers of their own customers as well as other computers world-wide due to "hijacked" computers running this again insecure version of Windows.

Microsoft would be more diligent to get all affected computers fixed if it would not be a monopoly In conclusion, everybody agrees that the resolution of this case is of great importance, not only for now but also for many years to come. Therefor, I suggest a careful and deliberate decision is worth far more for the national interest than a hasty one.

Thank you for considering my comment.

Yours sincerely,
Jens Gecius
53 Sherwood Drive
Larchmont, NY 10538

MTC-00030709

insario 14354 Morht Frank Lloyd
Wright Blvd
Suite 21
Scottsdale, AZ 85280
480–281–1582
December 21, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530

Dear Mr. Ashcroft:

Like many other people. I have often felt that Microsoft's anti-competitive stance may have been a little restrictive, but I am not sure that it has really ever risen to the level of a lawsuit. The computer technology business is largely comprised of people who would rather see a freer exchange of information. Microsoft plays a little closer to the vest and this annoys some. However, I have always believed that a lawsuit like this will end up just as harmful for the entire technology market as it ever would for any one company.

This is why I believe that the settlement between the Department of Justice end Microsoft is a good one and should be sustained throughout this public comment and review period.

I am hoping that we can all get through this review period without initiating any further action. Any such action will most certainly hurt the entire computer technology market even more than it has already been hurt. Our country is only now beginning a slow recovery back to relative normalcy. I would hope that our national and state leaders would do nothing untoward to dampen this recovery.

Josh Kewley
VicePresident

MTC-00030710

Claude David Baldwin
1212 Haig Circle
Virginia Beach, VA 23456–1613
December 19,2001
Renata Hesse, Trial Attorney
Suite 1200
Antitrust Division
Department of Justice
601 D Street NW.,
Washington, DC 20530

Dear Renata Hesse:

I am writing to express my opinions on the proposed settlement between the Department of Justice and Microsoft Corporation.

Microsoft Corporation was found guilty at trial of having maintained an illegal operating system monopoly and of having illegally tied its Internet Explorer to its monopoly operating system. When Microsoft appealed the appellate court threw out the guilty verdict as pertains to the browser but said yes, Microsoft did in fact illegally maintain an operating system monopoly. In light of the appelllate court finding I feel the proposed settlement between the Department of Justice and Microsoft Corporation is lacking in several key areas.

If the purpose of the sertlement is to remove barriers illegally maintianed by Microsoft to competition then I feel the following changes need to be made to the proposed settlement:

1. Any remedy seeking to prevent an extension of Microsoft's monopoly must place Microsoft products as extra cost options in the purchase of new computers, so that the user who does not wish to purchase them is not forced to do so. This means that for the price differential between a new computer with Micrsosocft software and one without, a computer seller must offer the software without the computer (which would prevent computer makers from saying that

the difference in price is only a few dollars). Only then could competition come to exist in a meaningful way. In my career I have purchased many computers each of which came supplied with Microsoft products although I do not and have not for some time use Microsoft products I was given no option to purchase the computer hardware without the Microsoft products installed. Thus I paid Microsoft for products I had no intention of using. A "hidden" tax that went directly to Microsoft.

2. The specifications of Microsoft's present and future document file formats must be made public so that documents created in Microsoft applications may be read by programs from other makers on Micorsoft's or other operating systems. By keeping these file formats secret and changing them frequently, Microsoft stifles competing programs.

3. Opening the Windows application program interface (called the API, the set of "books" that allow other parties to write applications for Windows operating systems), which is already part of the proposed settlement. Microsoft has in the past only provided this information to its internal staff and close development partners thereby putting all other software developers at a disadvantage. Only by opening this interface will true competition be possible.

4. All Microsoft networking protocols must be published in full and approved by an independent and inter-national network protocol body. Bodies such as the Internet Engineering Task Force (IETF), ECMA, or the World Wide Web Consortium(W3W) are examples of such bodies. This would prevent Microsoft from seizing de facto control of the Internet.

In addition to these comments I would like to add that Microsoft has, in the past, agreed to certain restraints on its behavior and failed to do so. In any settlement there must be immediate and severe enforcement remedies to insure compliance with the terms of agreement.

Thank you for the opportunity to comment on the proposed settlement between the Department of Justice and Microsoft. I hope you will take my comments into consideration. A level playing field is the only way this country can contribute to innovate in the computer software industry and insure continued economic and national success.

Sincerely

Claude David Baldwin

PS: In light of the events of September 11, 2001 and the subsequent anthrax attacks via the United State Post Office I am also sending this letter by email to insure that you will receive it prior to the end of the comment period. I will send the email with my PGP signature. You may verify my signature a any of the public PGP keyservers, e.g. http://certserver.pgp.com/

MTC-00030711

12/25/01 TUE 18:05 FAX 617-258-6321
WHITEHEAD INST. 4TH FL
Jonathan Singer
19 Wyatt St
Somerville, MA 02143
Renata Hesse,
Trial Attorney
Suite 1200, Antitrust Division, Department of Justice,
601 D Street NW., W
Washington, DC 20530
202-616-9937

Dear MS Hesse,

I am writing in reference to the proposed Department of Justice settlement with Microsoft. While I am not hostile to Microsoft (I am writing this in Microsoft Word), I am concern that the proposed settlement is far too weak. Despite the fact that the company has been found to have abused a monopoly position, it is effectively being let off with no punishment and minimal oversight to avoid future violations. This is all the more troubling since a previous deal was struck several years ago, and Microsoft brazenly flouted it.

I am not in favor of the proposed breakup of the company's software operations. I do support policies along the following lines:

* Microsoft networking protocols must be published in full and approved by an international standards body.

* Past and future Microsoft document formats must be published in full.

* Microsoft Internet content and service properties should be broken into a separate business.

Finally, it must be made clear that any portion of the settlement that requires information to be made available requires that it be made available to all requesters. That includes independent software developers and hobbyists, not only corporate entities.

Thank you,

Jonathan Singer

MTC-00030712

25736 Yucca Valley Rd.
Valencia, CA 91355
21 December 2001
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
FAX: 202-307-1454 or 202-616-9937

To the Public Servants of the Department of Justice:

I wish to share with you a prediction of Microsoft's plan for the Internet. I wish you to ask yourselves if the settlement to the United States v. Microsoft anti-trust case could prevent such a scenario.

As you may be aware, in the mid- 1990s Apple Computer was in a difficult financial position. Microsoft aided Apple Computer with a large purchase of non-voting stock. In exchange for this stock purchase, Apple Computer was required to make Microsoft's Internet Explorer the default Macintosh browser application.

You are also aware that Microsoft's illegal anti-competitive behavior captured dominance in the network browser application market from Netscape Navigator.

I predict that Microsoft will eliminate Sun Microsystems" Java through the use of its monopoly strength and browser application. Because a network browser is the primary interface between Java and the computer, this is feasible. I believe they will do this through the deployment of the C# (C Sharp) programming language, which has elements to replace Java.

Microsoft has used their monopoly strength to establish their network browser as the default for both Windows and Macintosh computers. There is strong evidence that Microsoft designs elements into their operating system and applications to disadvantage users of non-Microsoft products.

I predict that Microsoft will use its Internet Explorer browser application to disadvantage users of Java. Microsoft will then subsequently offer its C# language to users who are frustrated with Java's problems under Internet Explorer.

Do you believe that the settlement of the United States v. Microsoft anti-trust case can prevent such a scenario? If not, the settlement stands in need of revision.

Sincerely,

Mark Wilkinson

cc: Michael H. Morris, General Counsel, Sun Microsystems, Inc.

MTC-00030713

MIS-On-Call, Inc.
P.O. Box 5746 Santa Clara, CA 95056-5746
December 21, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Since 1982 I have used computer software regularly for work, school, and personal reasons. During this time I witnessed most major changes in software products by Microsoft, IBM, Lotus, and Corel. In an effort to address my needs for the best product over a period of ten years, I had switched back and forth from one company's product to another company's product. Around 1992 I had settled in with most of Microsoft's product lines and have used them continuously ever since. My reason for choosing Microsoft's product is truly because Microsoft's products offer what I need and in most cases more than what I could ever use. With this in mind I know Microsoft has invested and added value in their products beyond what consumers could have received from Microsoft's competitors.

I have very quickly concluded that this lawsuit against Microsoft by our government has been a great injustice. Since the great industrial revolution period there were various other such antitrust actions that have occurred throughout the years, and this is a prime example of creating a public crisis out of good. I know our nation must balance economic concerns with social concerns and I believe Microsoft understands these concerns and know their value as well.

I am relieved to see that the government and Microsoft have agreed to a settlement of this suit. The settlement appears fair, I suppose, from the government's standpoint. I am hoping that this period of public comment will sustain the settlement so that we can put this entire unfortunate business behind us.

Throughout this entire process, I am at least appreciative of the current leadership at the Department of Justice that has seen fit to settle this thing. I am certainly hopeful that no further federal action will be taken.

Sincerely,

Joseph Hanlon, CPA, CIS, MCP, A+
President and Chief Executive Officer.

MTC-00030714

Dec 21 01 03:12p p.1
Michael Green
811 Chicago Ave. #508
Evanston IL 60202
December 14,2001
Renata Hesse, Trial Attorney
Suite 1200, Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530;
(facsimile) 202-616-9937

Dear Sir or Madam:

I am a computer programmer and consider myself knowledgeable of the computer industry. I am writing concerning the proposed Microsoft settlement with the Department of Justice. Since Microsoft has already been found guilty, I consider the existing settlement to be severely lacking in several areas.

As it is currently written, the settlement will not prevent Microsoft from continuing their anti-competitive behavior. Also, it provides no penalty for Microsoft's past behavior. A meaningful settlement needs, at a minimum, the following:

•Both the Windows API and Microsoft document formats (MS Word, MS Excel, etc) must be made freely available to anyone who wants them.

•Microsoft networking protocols must be standardized by a standards body. This will prevent Microsoft from using their private, proprietary protocols to seize control of new applications used on the Internet.

•Microsoft products should be provided only as extra-cost options on personal computers,

The software should also be available for the same price as the difference between a computer loaded with Microsoft products, and one without any Microsoft products. This will prevent Microsoft from "bundling" an entire kitchen sink of applications with Windows, increasing the price of Windows (either directly or indirectly), and preventing competition.

Sincerely,
Michael J. Green
Concerned, Informed Citizen

MTC-00030715

12/21/2001 18:02 2023314212
AGRI WASHINGTON
PAGE 01
Ms. Renata Hesse, Esq.
Antitrust Division
U.S. Department of Justice
601 D Street NW (Room 1200)
Washington, DC 20530
10732 Hampton Road
Fairfax Station, VA 22039
20 December 2001
F : 202-616-9937

Dear Ms. Renata:

As I express views following, please do not misconstrue them as personal but directed toward larger issues of government's role in national affairs. I am not a particular admirer of Microsoft and find fault with many of their practices. But it was a sad day for America when Department of Justice intruded into the private sector with intent to coerce Microsoft into an inferior position. Federal penchant for control and intervention has cost our country dearly.

Harassment by Justice shook Microsoft so that public investors lost money in that protracted process, Great public expense is accrued as Justice continues the process of "negotiating a settlement", an exercise that keeps federal lawyers employed at taxpayers" expense. This DOJ exercise is especially egregious because it does not add to national wealth or benefit and is a net decrement because federal employees do not pay taxes, only recycle taxes revenues originated solely by the private, profit-making sector.

Most federal employees do not know how the private sector works but insist on policies to inject government into private affairs causing harm to the US economy and offense to taxpayers, most of whom are not dependent on government. My view of you and the Antitrust Division is similar to my urgings to former President Clinton and his retinue; GO AWAY ! Stop doing harm to my country and taxpayers who are coerced to support frivolous federal behavior.

Sincerely
R. Barry Ashby

MTC-00030716

December 21,2001
Renata Hesse
Department of Justice
Fax (202) 616-9937
Rc: US v. Microsoft Settlemcnt

To Ms. Hesse:

The settlement in the case of US v. Microsoft should be accepted by the courts and I am writing to express my support.

My letter comes to you as a professional female executive, mother, and (most importantly) civic activist. I have been extremely involved in the Orange County, California community. First, as the regional representative for Governor Pete Wilson and now, as the President of a company specializing in local community relations. My business serves the needs of numerous ethnic communities including Hispanic, Chinese, and Vietnamese.

Over the last five years, I have seen the financial stability of many in these ethnic communities rise to levels unimaginable before the technology boom. New jobs were created, wages increased, and quality of life dramatically improved. Many in the second and third generations of these communities are now training for jobs in the technology industry. But, in the last six months, their financial stability has begun to erode. The technology companies in Orange County have stopped hiring. Wages are beginning to go down. Many members of the different ethnic communities are concerned and beginning to look for financial assistance they didn't need just one year ago, Why am I saying all this in a letter about the case against Microsoft? Because settling the case against Microsoft, in my opinion, is going to give a shot of adrenaline back into the economy. It will also free up some resources for the assistance needed by many of the people I work with.

In my discussions with some corporate clients, I have learned that many of the technology companies are waiting for a settlement before making new investment decisions. Computer training centers across Orange County are turning out hundreds of Microsoft certified technicians who won't find work until the case is settled. The examples of the economic impact of this case are endless.

As you are also aware, California is facing a budget deficit. I don't think it is fair that the schools attended by many in these ethnic communities may go without books, yet the government is considering spending millions more on the case against Microsoft.

I support settling the case against Microsoft from two differing perspectives. As an executive, I believe the case is damaging to our economy. More importantly, as a civic activist working with ethnic communities, I know this case is having a negative impact. I hope the case will be settled.

Sincerely,
Suzanna Tashiro-Choi

MTC-00030717

12/26/01 WED 15:46 FAX 704 541 0259
FAX 001
Thomas Paul Weldon, PhD, P.E.
9026 Roseton Lane
Charlotte, NC 28277
December 26, 2001
Renata Hesse, Trial Attorney,
Suite 1200, Antitrust Division,
Department of Justice,
601 D Street NW,
Washington, DC 20530;
Fax 202-616-9937 or 202-307-1545;
e-mail microsoft.atr@usdoj.qov

I must vigorously oppose the Department of Justice settlement in the Microsoft antitrust case, since I feel that the remedies are woefully insufficient.

I ask that the Department of Justice and Judge consider the long history of abuse of Microsoft's monopoly, even though this long history may not have been included as part of the trial. The long list of innovative companies and products that have been eliminated, primarily due to Microsoft's monopoly on their operating system include word processing (Word-Perfect), spreadsheets (Lotus 123), web browsers (Netscape), etc. It is somewhat ridiculous that Microsoft presents itself as an innovator, when the initial commercial success of these product areas was driven by the aforementioned companies. It is now clear that the demise of these companies was primarily accomplished through monopolistic power in the operating system, and not by any superior innovation at Microsoft.

In light of the unfortunate history of Microsoft in abusing its monopoly, it is imperative that the department of justice seek real remedies that subdivide microsoft into separate units and that provide forced supervision of internal practices, with legal power and sanctions to prevent and penalize future abuses. Too much of the current settlement is vague, leaves much to interpretation, and allows Microsoft to determine its own level of compliance.

The situation is all the more critical as Microsoft enters the internet arena. We cannot afford to have the same monopolistic abuses stifle competition on the internet, since the internet will play a very important role in the economic future of our nation.

It seems to me that the settlement will also encourage future monopolies to abuse their power, when they see that Microsoft got less than a slap on the wrist. Finally, the government has seemed to be influenced by the financial institutions and investors with great sums of money invested in Microsoft. Unfortunately, the government is not considering the great many investors whose investments were lost due to Microsoft monopolistic practices. What about the people who lost their investments in Lotus 123, Word-Perfect, Netscape, etc? Who will speak for those who were unfairly deprived of their investment and those who were unfairly deprived of their entrepreneurial opportunity? The department of Justice MUST speak for them, loudly. Thomas

Paul Weldon, PhD, PE
NC Licensed Professional Engineer 023548
North Carolina
Professional Engineer
Thomas Paul Weldon Seal
Q23648

MTC-00030718

12/27/01 THU 12:27 FAX 617 258 6321
WHITEHEAD INST. 4TH FL 001
Jonathan Singer
19 Wyatt St Somerville,
MA 02143
Renata Hesse,
Trial Attorney
Suite 1200, Antitrust Division, Department of Justice,
601 D Street NW, W
Washington, DC 20530 202-616-9937

Dear Ms Hesse,

I am writing in reference to the proposed Department of Justice settlement with Microsoft. While I am not hostile to Microsoft (I am writing this in Microsoft Word). I am concerned that the proposed settlement is far too weak. Despite the fact that the company has been found to have abused a monopoly position, it is effectively being let off with no punishment and minimal oversight to avoid future violations. This is all the more troubling since a previous deal was struck several years ago, and Microsoft brazenly flouted it.

I am not in favor of the proposed breakup of the company's software operations. I do support policies along the following lines:

- Microsoft networking protocols must be published in full and approved by an international standards body.
- Past and future Microsoft document formats must be published in full.
- Microsoft Internet content and service properties should be broken into a separate business.

Finally, it must be made clear that any portion of the settlement that requires information to be made available requires that it be made available to all requesters. That includes independent software developers and hobbyists, not only corporate entities.

Thank you,
Jonathan Singer

MTC-00030719

FROM : CASH FAX NO. : 434 384 6614 Dec. 27 2001 12:55PM Pl
December 27,2001
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC. 20530

Dear Ms. Hesse:

I understand that public comments on the Microsoft settlement are to be brought to your attention. I offer the following:

For Microsoft, for consumers, and for thousands of information technology businesses that rely upon the Windows platform, this settlement offers the chance to get back to work. It's regrettable that this settlement goes beyond the issues upheld on appeal. In addition, we may all regret having a committee and the Court supervise the future of software design. Nevertheless, this settlement would bring to an end the most disruptive competitor-driven antitrust campaign in our nation's history, and that, more than anything else, is something for everyone to celebrate.

Let me close by saying that given that the economy is now in recession, the last thing we need is more litigation and regulation of the high-tech industry.

Sincerely yours,
Mary-Margaret P. Cash
201 Colonial Court
Lynchburg, VA. 24503

MTC-00030721

12-28-2001 9:36AM FROM 000000000000
CREDIT CAR AMERICA 001
12-28-2001 8:48AM FROM 000000000000
CREDIT CAR AMERICA December 27, 2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to offer comments on the Microsoft case settlement. As I understand it, under the proposed settlement, all new Microsoft operating systems, including Windows XP, would have to include a mechanism that readily allows end users to remove or re-enable Microsoft's middleware products. Those include the Internet browser, instant messaging tools, media player, and email utilities. While end users can already remove Microsoft middleware from Windows XP, this settlement would make it easier for users to switch end compare among competing middleware products. As an end user. I feel that this provision guarantees me flexibility.

May I also add that settlement of this case is in everyone's best interests—the technology industry, the economy and consumers.

Sincerely yours,
John E. Mohrman
7300 Brook Road
Richmond, Virginia 23227

MTC-00030722

12-28-2001 9:21AM FROM 000000000000
December 27,2001
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Regarding the Microsoft settlement, Microsoft's largest rivals were disappointed when the Appeals Court took breakup off the table. However, you may be assured that they will find ways to use this settlement to inhibit Microsoft from competing in markets they dominate today, (like Internet access, high-end servers, and instant messaging.) The enforcement provisions of this settlement agreement would make it effortless to slow innovation and delay product launches by filing multiple complaints, much like these competitors attempted to do with Window XP. For AOL Time Warner, Oracle, and Sun, opportunities abound to hinder Microsoft by abusing the settlement agreement. There has been no consumer harm as a result of any actions taken by Microsoft. In fact, Microsoft's innovation has led to tremendous benefits for consumers, such as better products and lower prices. Antitrust law is supposed to be about consumer harm, and on that key issue, the government has failed to show any harm whatsoever.

Yours truly,
Goy Martin

MTC-00030723

12/28/01 07:23 714 368 6610
UNIT 1 OPERS A72
001/001
December 27,2001
Renata Hesse
Trial Attorney, Suite 1200
Antitrust Division

I have a few comments I would Like to express regarding the proposed final settlement of the U.S. vs. Microsoft Corp. case. Microsoft Corp. has been found guilty of "illegally maintaining an operating system (OS) monopoly." The function of the court is to now determine the penalty for the crime. The current proposed settlement does nothing to prohibit Microsoft from continuing their campaign of monopolizing the computer software market.

I was amazed to see the Microsoft proposal that they be "punished" by giving away their software to schools. As Mac/Apple has long been the OS of choice in US schools, this punishment is nothing more than a Microsoft attempt to gain a larger share of school exposure. This and they will be able to write off the cost of this "punishment" to further their monopoly. I find it laughable that the guilty party is allowed to "suggest" their punishment.

Any true punishment to Microsoft must limit their ability to continue their monopoly. In order to do this I propose the following as a just and reasonable penalty:

Microsoft products must be made an extra-cost option in the purchase of new computers, so that the user who does not wish to purchase them is not forced to do so. There are several viable OS's now on the market. The industry (Microsoft) should no longer be allowed to choose which OS is installed for you. In order to make the playing field even, allow the end user to decide which OS they desire. Allow market conditions (price/value) of the OS to dictate that choice.

Installing Microsoft Internet Explore must be made optional. Not pre installed in any sense of the word. Remove all links which attempt to make this the Browser of choice (default) after loading it.

Allow equal access to other Internet Browsers without favor.

I realize this is a very complex issue and you are not treating it lightly. However, this decision will impact the future of the entire computer industry. Microsoft has created many valuable innovations in the industry. That does not give them to right to dictate history. That is the role of the court.

Thank you for taking the time to understand my point of view.

Doug Lahann
26633 Guadiana
Mission Viejo, CA.
92691–5904
douglah@yahoo.com

MTC–00030724

DEC-28-2001 11:43 OVERFELT 573 636 6846 P. 01/01

Post Office Box 1336
Missouri Retailers Association
(573) 636–5128
Jefferson City, MO 65102
The Voice of Retailing
Fax (573) 636–6846
E-mail: moretailer@aol.com
December 28,2001
Renata Hesse
Trial Attorney-Anti Trust Division
Department of Justice
601 D Street Northwest, Suite 1200
Washington DC, 20530

Dear Ms. Hesse:

I am writing in support of the recently reached settlement between Microsoft and the United States Department of Justice.

The agreement is pro-consumer helping the technology sector of our economy contribute new and better jobs at this time of economic uncertainty This settlement brings to an end the most disruptive competitor-driven antitrust campaign in our nation's history. This is something all consumers can celebrate.

Dave S. Overfelt
President
TOTAL P.01

MTC–00030725

12/28/01 10:56 FAX
KINKOS GOLDEN
001
501 Golden Circle #103
Golden, CO 80401
December 23, 2001
Renata Hesse, Trial Attorney
Suite 1200
Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530

To Renata Hesse,

As a US citizen, and in accordance with the invitation posted in the **Federal Register** (Vol. 66, No. 229, p. 59452), I wish to have my comments concerning the proposed final judgment in the United States v. Microsoft Corporation case added to the **Federal Register**.

First, I think it is important to re-state the gist of the of case: Microsoft Corporationhas been found guilty of illegally maintaining a software (operating systems) monopoly inviolation of section 2 of the Sherman Act. This judgment has be reaffirmed upon appealand now stands.

Given this judgment, I think any reasonable individual would find the terms of the pro-posed settlement wholly inadequate. The proposed restrictions (including opening of APIs,formation of an independent review board, and some requirements for licensing) do little ornothing to address the underlying problem-that Microsoft continues to illegally maintainand extend their monopoly position.

In the trial, the term "barrier to entry" was often used to describe this effect and the detailsbear further discussion. Microsoft continues to trap both users and software developersthrough a "web of software dependencies" that is, for many, nearly impossible to escape.The "web of software dependencies" that I refer to is the combined effect of:

1. secretive, restrictive, and anti-competitive licensing policies;

2. intentionally undisclosed, incompatible, and ever-changing specifications for file formats, network protocols, and APIs; and

3. destructive "embrace and extend" strategies designed to corrupt existing formats andprotocols.

Once users and developers employ Microsoft products, they generally find that their data,time, and effort becomes locked within, for example, file formats which they cannot effec-tively access through non-Microsoft software or on non-Microsoft platforms.

These dependency problems are pandemic. As the trial demonstrated; the vast majority ofpersonal computer users in the United States (both companies and individuals) are alreadyensnared. And even as the court considers options to remedy the situation, Microsoft hascontinued their practices and released new operating systems (the "Windows XP" family)that seek to further extend their exclusionary control. One of the most brazen of theseactions is Microsoft's current attempt (called ".NET My Services") to become the solegateway for authentication and payment systems for all on-Line transactions.In summary, the proposed settlement does little or nothing to fix the illegal and damagingbehavior that has been clearly and repeatedly outlined during the case. What is needed isa court-ordered remedy that truly solves the problem. Here, I propose three requirementsthat any final remedy must include. These restrictions would immediately and directlybenefit the US citizens and intuitions that have been victimized by the defendant's illegalactions. They are as follows:

1. Any remedy seeking to prevent an extension of Microsoft's monopoly must place Mi- crosoft products as extra-cost options in the purchase of new computers. Thus, a buyer who does not wish to purchase Microsoft products with new computer hardware is not forced to do so. This requirement will have the effect of ending some of Microsoft's restrictive and anticompetitive licensing policies for new computer sales. And it has the added benefit of clearly itemizing the cost of the Microsoft products for consumers which would prevent Microsoft or computer sellers from claiming that any differences in price are insignificant. The ending of anti-competitive Licensing terms for new computer sales is a critical and illegal choke-hold on the market that must be broken if competition is to flourish.

2. The specifications of Microsoft's present and future document file formats must be made public so that documents created in Microsoft applications may be read by programs from other makers, on Microsoft's or other operating systems. This is in addition to opening the Windows application program interface (API, the set of "hooks" that allow other parties to write applications for Windows operating systems), which is already part of the proposed settlement. This would help put an end to the trap of intentional incompatibilities and forced upgrades that Microsoft currently perpetrates.

3. All networking protocols used by current and future Microsoft products must be pub- lished in full and approved by an independent network protocol body. This is both a reasonable and workable requirement. The Internet was built and has famously flour- ished upon free and open standards and protocols. This requirement would prevent Microsoft from further extending its software monopoly by seizing de facto control of the Internet through proprietary protocols and through corruption (eg. incompatibleextensions) of existing open protocols and standards.

The effect of these restrictions would be the commoditization of many kinds of software. Likeother mature markets which support healthy competition, Microsoft and any competitorswould be driven to produce compatible products. Strategies would turn from the currentwasteful processes of intentional incompatibility and proprietary lock-in towards competitionbased primarily upon the quality, price, and timeliness of the competitors" implementations.All parties wronged by the current lopsided monopoly situation would benefit as competitionflourishes.

In view of the ever-increasing dependence of our country upon software for commerce, health,communication, transportation, and security, I urge the court to take a firm stance. Mi-crosoft continues to demonstrate that it cannot be trusted to obey the law. Their continuedgrowth into new markets creates an unhealthy software mono-culture which, as demon-strated by recent events, poses a significant risk to national security. Therefore, the courtshould take this opportunity to prevent future problems by reigning in Microsoft's monopolyand enforcing the antitrust laws that are in the best interest of this country.I wish to thank the court for consideration of these recommendations.

Sincerely,

Edward H. Hill III, Ph.D.

MTC-00030726

DIRECTORS
Edmundo Alire
TDW Construction
Armando Solis
Solis Chiropractic
Julio Correa
Vision Latino Magazine
Mike Martin
RMC Enterprises
December 28, 2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Dear Ms. Hesse,

Microsoft is being amply reprimanded and reined in with the settlement reached. It is ourunderstanding that under the Tunney Act, the public has 60 days to provide input forconsideration by the parties involved regarding this settlement.

While we appreciate the idea of the government looking after the best interest of itscitizens, nearly four years, 35 million dollars and the terms of the settlement are enough.It is more than time for this issue to be put to rest.

The Hispanic Chamber of Commerce of Contra Costa County, California, strongly urgesyou to support the settlement. Please take the actions necessary to keep the process rollingto get the settlement through all the channels and put in place.

Sincerely.
Pedro E. Babiak
Vice-President
Web Page: www.h5c.org
E-Mail: info@h5c.org

MTC-00030727

FROM:
FAX NO. :
Jun. 26 2001 03:25AM P1
December 17,2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937
Dear Ms. Hesse:

I write to register my hope that the government will work in a productivefashion with Microsoft and other technology interests in crafting a positiveworking relationship. I felt as though the federal government's positionagainst Microsoft was excessive and anti-business.

After all, without Microsoft, what would the American workplace look like?How would it function without their useful products? Things would be lessfunctional, and less efficient.

Microsoft is the market leader, and other companies sought to gain bypromoting additional legal action against Microsoft. Lawyers and lobbyistsfrom other companies ought not determine the shape of the tech industry,consumers should.

The provisions of the settlement make it easy for other companies to havemarket access. Every new Microsoft operating system will have to include amechanism that readily allows end users to remove or re-enable Microsoft'smiddleware products.

While end users can already remove Microsoft middleware from Windows XP,this settlement would make it easier for users to switch and compare amongcompeting middleware products,

I sincerely hope that Judge Kollar Kotelly approves the settlement.

Regards,
Mark Fleming
Executive Director
Wake Forest
Chamber of Commerce

MTC-00030728

FROM :
FAX NO. :
Jun. 26 2001 03:27AM P1
Harnett Tractor Company
1500 South Clinton Avenue
Dunn, NC 28335
December 17, 2001
Renata Hesse
Trial Attorney
Antitrust Division,
Department of Justice
601 D St. NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937
Dear Ms. Hesse:

Many of us don't realize how many people benefit from Microsoft's products since so manypeople use them at home and at work. Therefore, when the government comes down hard on acompany that is so important to everyone, it has a substantial effect on the economy.

In Fact, announcement of the first judgement against Microsoft and the sudden decline in thatstock traces almost exactly to the large declines in the NASDAQ as a whole, according toeconomistsand brokers.

There has not been any consumer harm as a result of Microsoft's business practices. In fact,Microsoft's innovationhas led to tremendous benefits for consumers, as a better product andlower prices. Antitrust law is supposed to be about consumer harm, and on that key issue, the government has failed to show any harm whatsoever.

The last thing the technology industry needs are government lawyers, bureaucrats and judgeswatching over the industry, attempting to micromanage it—which is exactly what Microsoft'srivalslobby for on a regular basis.

I realize that tech is "the new frontier" of American business, but that shouldn't givecompanies license to "muddy the waters" regarding Microsoft's impact of consumers on aperpetualbasis. I hope that Judge Kollar Kotelly will approve the settlement, and that all tech firms canworkon developing new products to make businesses operate more efficiently in the twenty-firstcentury.

Thank you,
David R. Leewis, CEO

MTC-00030729

TECH5 CORPORATION
MARK HILTON, PARTNER
Renata Hesse
Trial Attorney
Antitrust Divisions
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937
Ms. Hesse:

As a tech professional, I am pleased that the United States Justice Department is settling with Microsoft. We use Microsoft products everyday to enhance our business services, and I am relieved to know that wewill be able to continue to purchase these products at a fair price.The tech industry ought to be operated by highly creative techprofessionals, not government bureaucrats. With over $30 million intaxpayer funds having been spent on the case, I sincerely hope we'veseen the last of this issue.

I serve in the North Carolina Legislature, and believe that North Carolinians would be better off if this federal tax money came back to the states.

At least consumers and IT businesses that rely upon the Windowsplatform can get back to work. It's regrettable that this settlement goesbeyond the issues upheld on appeal.

I have no question that Microsoft's competitors have lobbied to cause Microsoft much grief throughout this unfortunate process.

I hope Judge Kollar Kotelly approves the settlement.

Regards,
Mark Hilton
Representative Mark Hilton

MTC-00030730

FROM :
FAX NO. :
Jun. 26 2001 11:15AM P2
Mason Properties Company
December 17,2001
Renata Hesse
Trial Attorney
Antitrust Divisions
Department of Justice
601 D street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937
Dear Ms. Hesse,

I am pleased with the settlement of the Microsoft case because I believe that the terms ofthe agreement will benefit the United States tremendously.It seems to me that Anti-trust laws were intended to protect consumers, not to protectcompanies from legitimate market competition. It's high time that tech companies otherthan Microsoft work on building their products up, rather than tearing down Microsoft'squality products.

AOL Time Warner, Oracle and other companies will have many opportunities to hinderMicrosoft by abusing the settlement agreement. These competitors were disappointedwhen the Appeals Court took breakup off the table, but they'll find ways to use thissettlement to inhibit Microsoft from competing in markets they dominate today, likeInternet access, high-end servers, and instant messaging.

The enforcement provisions of this settlement agreement could enable these companies toslow innovation and delay product launches by filing multiple complaints. Enough already!

With the economy in bad shape, now is not the time for more litigation over this issue. I request that Judge Kollar Kotelly approve the proposed settlement, and I hope thatMicrosoft's competitors will act in good faith under its terms.

Sincerely,
Ronald Earl Mason
Former State Representative

MTC-00030731

MARVIN V. ANDERSEN, M.D.
7 Perth Drive
Wilmington, DE 19803
Phone: (302) 478-3115 Fax: (302) 478-5528
e-mail: mva@del.net
December 29,2001
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue NW,
Washington, DC 20530.

Dear Mr. Ashcroft:

I am in awe every time I think of how our society has been transformed bycomputers. Truly, the world is a completely different place than it was from eventen years ago because of computers. This great innovation has been led by a greatAmerican company, Microsoft. Thanks to them, computers have become anaccessible technology for many millions of people. The efforts and innovation ofMicrosoft should be applauded rather than punished.

The antitrust lawsuit has plagued the technology industry and disturbed furtherinnovation in technology. Like many computer users, I believe that the motivationfor the lawsuit has been greed and jealously on the part of Microsoft's competitorsand the government. The proposed settlement is fair, it penalizes Microsoft forthe times that they have crossed the line, and it will provide more competition inthe long run.

That is why I would like to see an end to the lawsuit as soon as possible. The economy cannot afford to have one of its biggest players not participating at fullstrength. As soon as the suit is finally settled, the technology industry can returnto normal and life can move on. Please accept the settlement and let us move on tomore important issues facing our great country.

Sincerely,
Marvin V. Andersen MD.

MTC-00030732

Dec.31 2001 11:12AM ATRA DATA No.2030 P. I
DENNIS MICHAELREE
P.O.Box 1720
Lake Ozark, MO. 65049
December 31,2001
Ms. Renta Hesse
Trial Attorney
Anti-Trust Division
Department of Justice
601 D Street Northwest, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to you to voice my support for the recent settlement between Microsoft andthe United States Department of Justice.

I believe it is time to stop the litigation against Microsoft and proceed with what appearsto be a fair compromise.

The many innovations that have been made over the years by Microsoft have been ofgreat benefit to consumers. Let's bring this matter to a close by proceeding with thesettlement between the Justice Department and Microsoft and end the court proceedings.

Sincerely,
Dennis Michaelree

MTC-00030734

Dec 31 01 01:20p Edward Zimmerman 937-878-9622 p.1
EDWARD ZIMMERMAN
1448 POPLAR DRIVE o FAIRBORN o OHIO o 45324
December 29,2001
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

As a voting constituent, I have great concern about the Microsoftantitrust case. I feel that after three long years of court battles, it is time toallow the company to get back to software innovation. The settlement is fair,and it should be finalized.

Our economy is in a recession. It is companies like Microsoft that fuelthe success of our nation's economy. Pursuing further government action, atthe federal level, against Microsoft will only foster the economic downturn. Microsoft's willingness to agree to terms that extend beyond termsinitially in question, in conjunction with the physical during of this suit, is morethan enough reason to settle at this point. Please continue to work to convince others about the appropriateness of this settlement.

Sincerely,
Edward Zimmerman

MTC-00030735

AtFreeWeb.com AtFreeWeb.com
801 Calle Mar Vista
Oxnard, CA 93030
Tel: 805 278 9548
Fax: 805 278 9554
http://www.atfreeweb.com
December 31, 2001
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
CC: Representative Elton Gallegly

Dear Mr. Ashcroft,

I write this letter in accordance with the Tunney Act expressing my support of the settlementbetween Microsoft and the Justice Department. I believe that this settlement will be beneficial toboththe IT industry and the consumer, but continuing on with more court nuisance is a fleecing of theAmerican taxpaying citizen. To prevent this from continuing any further, the D.O.J. shouldfinalize thesettlement as soon as the Tunney Act comment period is over.

This settlement is fair and reasonable. If anything, Microsoft was treated a little spitefully. Afew terms of the agreement follow, which should underscore the severity of this settlement: theDOJ willestablish an Independent technical committee, monitoring Microsoft's compliance with thesettlement;Microsoft also cannot retaliate against computer makers that may ship software that wouldcompetewith the Windows operating system; and Microsoft will open up their vault of secrets concerningsystemInteroperability to competition.

Even though the settlement prevents laissez-faire economics, the right thing to do is to settlethe suit now and work to ensure that the industry and the economy can move forward again.Microsoftmust be allowed to return to innovation, rather than litigation.

Sincerely,
Alex H. Qu
President

MTC-00030736

DEPT OF JUSTICE 1/6
LEAVE MICROSOFT ALONE. LET FREE ENTERPRISE WORK AND BE ENCOURAGE
Joseph Bona
117 52 9597
BCSS Owner
407 925-3508 Cell
767-7472 Hm
JoeBona@EARTHLINK.NET

MTC-00030737

From MyPlumber
Sun Dec 30 21:27:51 2001

I think that, in the settlement of the U.S. vs Microsoft federalcase, the example of the settlement criteria proposed by another suitbrought by 7 states in a class action action against Microsoft should befollowed. This would be more like what a settlement should be, with amore significant penalty for violations Microsoft has been found guiltyof.

In addition, since the software is free, Microsoft softwaredevelopers should be required to work closely with developers of Linux.Especially the Linux developers working on WINE, the Windows emulator forLinux. More of the economically disadvantaged would get a better break ifLinux could run Windows programs.

Frank Starr
13014 N. Dale Mabry
#204
Tampa, Florida 33618

MTC-00030738January 2, 2002

Bryan Carey
11700 Fairgrove Industrial Blvd.
Maryland Heights, MO. 63043
Ms. Renta Hesse
Trial Attorney
Anti-Trust Division
Department of Justice
601 D Street Northwest, Suite 1200
Washington, D. C. 20530

Dear Ms. Hesse:

As President of a St. Louis area company, I am in full support of the settlement that hasbeen reached between the Justice Department and Microsoft.

Microsoft is a very important part of the technology sector of our economy and we mustdo everything possible to strengthen all parts of the American economy. Further litigation will accomplish nothing to stimulate the economic growth that we need. Competition has helped to create an American economy that is the envy of the world. We must seek to increase competition in our economy because that is the key toincreased demand for our products and services. Continued legal action against Microsoft will not increase competition.

Further litigation against Microsoft should cease.

Very truly yours,
Bryan Carey

MTC-00030739

613 Andover Road
Wilmington, DE 19803
December 29, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC, 20530

Dear Mr. Ashcroft,

This Microsoft lawsuit has dragged on long enough. I understand thatwe are now in the public comment period of this lawsuit and, hopefully, oncethat is done, this ill-advised lawsuit will be as well.

I have heard that there are various Microsoft detractors that want thislawsuit continued on the federal level and so will try to find some way to derailthe settlement. I am respectfully asking that you resist these efforts, stay thecourse for the Justice Department, and continue to guide this settlement to asuccessful end.

Microsoft has no doubt done many things that have rankled theircompetitors, but these are not enough to have brought about the wrath of theentire federal judicial system. Now that this settlement has been reached, weshould accept it and move on. There simply are too many other moreimportant issues that need our attention than this. Thank you.

Sincerely,
John Allabashi

MTC-00030740

HEALTH CARE
January 2, 2002
Renata Hesse
Trial Attorney—Anti-Trust Division
Department of Justice
601 D Street Northwest, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am writing in support of the recently reached settlement between Microsoft and the United States Department of Justice.

The agreement is pro-consumer helping the technology sector of our economy contribute new and better jobs at this time of economic uncertainty.This settlement brings to an end the most disruptive competitor-driven antitrust campaign in our nation's history. This is something all consumers can celebrate.

Sincerely,
Stephen B. Hoven
Vice President
Public Affairs
SH/jmm
SSM Health Care Missouri Quality Award
477 N. Lindbergh Blvd.
St. Louis, MO 63141-7832
www.ssmhc.com
(314) 994 7800 phone
(314) 994 7900 fax

MTC-00030741

Representative Kitty Rhoades
30th Assembly District
Phone: (608) 266-1526 * Toll Free: 1-888-529-0030 * Fax: (608)282-3630 * E-mail:
Rep.Rhoades@legis.state.wi.us
Fax Cover Sheet
To: Renata Hesse
From: Rep. Kitty Rhoades
Fax: 202-616-9937 Pages: 2 (including Cover Sheet)
Phone:
Date: January 2, 2002
Re: CC:
Urgent For Review Please Comment Please Reply Please Recycle
Comments
Dear Ms. Hesse:
Please contact my office (608-266-1526) should you have any questions.
Kitty Rhoades
1-2-02 : 10:16AM : Wisconsin Assembly : 608 266 2133 #2 2
State Representative 30th Assembly District
Kitty Rhoades
State Representative
January 2, 2002
Renata Hesse
Trial Attorney
Antitrust Division
DOJ
601 D Street NW, Suite 1200
Washington, DC.

Dear Ms. Hesse:

I am writing to voice my support of the recent Microsoft settlement, and encourage you to approve the settlement as soon as possible.

Under the terms of the settlement, Microsoft will provide over one billion dollars in computer related assistance, which will open numerous doors and opportunities for all American students. This is an unprecedented opportunity for both our country as well as our education system, and should be approved as soon as possible.

Furthermore, I believe that it is time to put this legal wrestling to a close. With our nations economy struggling, making sure that companies based in the technological sector are free to develop and advance new products, in the overall hopes of bringing new life, to an economy that has been tarnished by the terrorist acts of September 11th.

Thank you in advance for your time and thoughtful consideration on this very important issue.

Sincerely,
Kitty Rhoades
State Representative
30th Assembly District
P.O. Box 8953 * Madison, Wisconsin 53708-8953 * (608)266-1526 * Toll-Free: (888) 529-0030
* Rep.Rhoades@egrs.state.wi.us
Home: 708 4th Street o Hudson, Wisconsin 54016 o (715) 386-0660

MTC-00030742

Brandon Galbraith
380 South Hickory Avenue
Bartlett IL 60103
December 14, 2001
Reneta B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington DC 20530-0001

Dear Madam:

This letter is to the proposed Microsoft settlement. In reading through the settlement, I noticed that provisions are made to help commercial competitors of Microsoft get the information they need to write applications for the WindowsTM operating system. Whil this is a step in the right direction, specific language needs to be added to the settlement agreement to allow not-for-profit competitors of Microsoft the same access to Microsoft intellectual property as commercial competitors. The reason for this is that some of the fiercest competition to Microsoft software comes from open source software being developed by not-for-profit organizations. One example of this is the Apache web server. The Apache web server, which is an open source software package, dominates the Internet server market. It is also a direct competitor of Microsoft's IIS or Internet Information server (which is also a web server).

For there to be a level playing field between Microsoft and its competitors, not-for-profit groups who develop open source software that competes with Microsoft products should be given the same access to Microsoft's intellectual property as commercial competitors of Microsoft. Without this provision in the Microsoft settlement, not-for-profit groups would be effectively cut out of the picture, which would be a devastating loss.

Sincerely,
Brandon Galbraith
System Administrator

MTC-00030743

FROM : AMERICAN FINANCIAL ADVISORS
PHONE NO. : 530 223 2230
Jan. 02 2002
10:23AM P1
To: The Department of Justice
From: Dorothy Palfini
Date: January 2, 2002
RE: Microsoft Settlement

The Department of Justice should settle the case of Microsoft ASAP. The government should not penalize a company that is successful and has helped the economy roar. If government does not interfere, the market place will decide what company offers the best and most efficient product. Competitors will compete and eventually find a way to excel in the business.

The lingering litigation has caused havoc with the US economy and the effects have been felt overseas as well. We need to get the economy going fast, so let's get on with business at hand.

Sincerely,
Dorothy Palfini
3011 Victor Avenue
Redding, CA 96001
530-223-2195

MTC-00030744

PRESERVATION WORCESTER
Preserving Neighborhoods For People
December 31, 2001
Renata Hesse
Trial Attorney

Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FACSIMILE

Dear Attorney Hesse:

I would like to comment on the impending settlement in the Microsoft suit. It is imperative that the government reaches a settlement in this case as soon as possible. Our economy is in tough shape and we don't need this lingering case to drag us down further.

I believe that the settlement will be beneficial to small non-profit community organizations such as the one I head. The potential donation of computers and software will be invaluable. The money we save with this potential donation will free us to spend more in our community.

I urge the Justice Department to settle this matter as soon as practical.

Sincerely your,
James W. Igoe
Executive Director
10 Cedar Street * Worcester, Massachusetts 01609 * (508)754–8760 Fax (508)798–0693

MTC–00030745

DESIGN DEVELOPMENT
Innovative Green Architecture
DATE 01/02/02
PROJECT
CONTACT Narendra Patel, A. I. A.
69–730 Highway 111, Suite 118
Rancho Mirage, CA 92270–2873
Ph #: 760–328–8221 Fx #: 760–328–8887
WebSite: www.patelarchitect. com
FACSIMILE TRANSMISSION
DEPARTMENT OF JUSTICE
ATTENTION TUNNEY ACT MICROSOFT.ATR@USDOJ.GOV
PHONE#
DESTINATION FAX # 1–202–307–1454
PAGES TO FOLLOW 1–202–616–9937
SUBJECT MICROSOFT SETTLEMENT
PURPOSE PLEASE REVIEW
—PLEASE REVIEW AND CALL BACK—AS REQUESTED—FOR YOUR RECORD—URGENT
COMMENTS Dear Justice Department, Please call if you have any questions.

We fully support Micorsoft's position in this issue of Tunney Act. Department of Justice needs to stop all allegation and release MICROSOFT from alleged charges

SUBMITTED BY
69–730 Highway 111, Suite 118, Rancho Mirage, CA 92270–2873
TEL. 760–328–8221 FAX. 760–328–8887 www.patelarchitect.com
DESIGN DEVELOPMENT
Innovative Green Architecture
Subj: USDOJ Comments
Date: 10/9/01 1:21:17 PM Pacific Daylight Time
From: PatelARCH
To: AskDOJ@usdoj.gov
CC: secretary@state.gov

Dear Justice Department,

Can some one please think logical and get off the Microsoft's case and get after the real terrorists in our country. I simply do not understand why our justice department is wasting so much time on punishing a great company like microsoft who has contributed immensely to the growth of US economy as well as raising standards of human life to a much higher level. There are thousands of Bin Ladin's followers in this country to go after and punishing them. This does not take a PHD to figure out.

We are very upset with the way Justice department is going after Microsoft and the effect it has on the stock market. This needs to stop immediately. Our country has suffered enough as result of neglecting the real threat from the terrorists since they first attacked WTC in 1993.

Narendra Patel
Proud US citizen
69–730 Highway 11 1, Suite 118, Rancho Mirage, CA 92270–2873
TEL. 760–328–8221 f A X. 760–328–8887 www.patelarchitect.com
JAN–01–2002 12:20 P.03 DESIGN DEVELOPMENT
Innovative Green Architecture
Subj: Jutice Department
Date: 10/10/01 7:14:09 AM Pacific Daylight Time
From: PatelARCH
To: president@whitehouse.gov

Dear Mr. President,

Can you please have some one in your department stop our Justice Department from punishing Microsoft. As you well know, It will take all of the staff from Justice Department and more to track down terrorists in our own country. We do not have a luxury to stabb our own company like Microsoft in times like this or for ever.

They should be rewarded for all the contribution they have done to bring our country to a cutting edge in technology.

Narendra Patel. Proud US citizen
780 328 8221
Forwarded Message:
Subj: USDOJ Comments
Date: 10/19/01 1:21:17 PM Pacific Daylight Time
From: PatelARCH
To: AskDOJ@usdoj.gov
CC: secretary@state.gov

Dear Justice Department,

Can some one please think logical and get off the Microsoft's case and get after the real terrorists in our country. I simply do not understand why our justice department is wasting so much time on punishing a great company like microsoft who has contributed immensely to the growth of US economy as well as raising standards of human life to a much higher level. There are thousands of Bin Ladin's followers in this country to go after and punishing them. This does not take a PHD to figure out.

We are very upset with the way Justice department is going after Microsoft and the effect it has on the stock market. This needs to stop immediately. Our country has suffered enough as result of neglecting the real threat from the terrorists since they first attacked WTC in 1993.

Narendra Patel
Proud US citizen
69–730 Highway 111, Suite 118, Rancho Mirage, CA 92270–2873
TEL. 760–328–8221 FAX. 760–328–8887 www.patelarchitect.com
TOTAL P.03

MTC–00030746

Lewis Stepp
From: Lewis Stepp [lstepp@cinci.rr.com]
Sent: Wednesday, January 02, 2002 3:30 PM
To: Microsoft.atr@usdoj.gov"
cc:senator—dewine@dewine.senate.gov"
Subject: Microsoft Settlement
2477 Fairgrove Court
Cincinnati, OH 45244
January 2, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

I am writing you to submit comments about the antitrust settlement against Microsoft (United States v. Microsoft Corp., Civil No. 98–1232) pursuant to the Tunney Act. I am a retired US citizen and a software user whose only links with Microsoft are 400 shares of stock in my IRA retirement account. Before retirement, I was an information technology consultant for Computer Sciences Corporation and Spherion Corporation.

I appreciate the excellent operating system and office software that Microsoft has created and how their products have contribution to jobs in the information technology sector and to increased efficiency throughout the business sector. Microsoft was not known as a monopolist when they introduced the Windows operating system. Indeed, they had some formidable competitors and they "bet the company" on development and marketing of an innovative new operating system and other office software. They won the market because they offered "world class" software at an affordable price with consumer benefits and features that no one else matched. For several years, I was a subscriber to the Microsoft Developer Network (MSDN) which, as a systems consultant, provided me with lower cost software and better training than was available from any other software vendor.

Microsoft customers and stockholders have been the beneficiaries of Microsoft's success. Microsoft competitors and some of their customers may have suffered, but that is the nature of our enterprise system. It is not something for which Microsoft should now be punished. Indeed, Microsoft is deserving of public respect for developing and providing a low cost "standard" operating system that has enabled large numbers of software developers to bring significant networking and productivity improvements to our lives and to our economy.

In a recent meeting of the Senate Judicial Committee, the court rulings were interpreted to say that Microsoft "did in fact violate anti-trust laws and did hurt the market place". It may be true that Microsoft was an "overzealous competitor" who, in a very competitive situation, did harm its competitors to an extent that violated some laws, but it is obvious to most software users that they did not hurt the software market place. Indeed, Microsoft's development of an advanced and broadly accepted PC operating system brought swift changes to the software market and grew the market. The improvements that they brought to PC operating systems are remarkable compared to the much less friendly and text oriented PC operating systems previously introduced by IBM and others. As a result, almost everyone today is able to be a computer and software user.

Based on a misguided interpretation of the court rulings, a member of the Senate Judicial Committee stated that Microsoft actions resulted in the effective destruction of Netscape and Java, Yet Netscape was sold to AOL for billions of dollars and Java is still a popular programming language supported by many major vendors such as Borland and Sun. A version of the Netscape browser was always available for free. In its formation years, Netscape developed many competitors who also offered their products for free. Every operating system eventually included a free browser. It is reasonable for the court and public to question if there ever was a true browser market. The district judge in the Microsoft case said that there was no evidence that Java would be successful as an alternative "platform" to the Windows operating system, Indeed, time may prove that Java was a flawed concept. The prophecy of competitors should not be considered fact.

The Judicial Committee questioned if the settlement was in the public interest. Certainly the public wants to see this case settled. The current district judge asked the parties to work night and day to reach a settlement. Mr. James, from the Justice department, has indicated that the settlement goes beyond the court rulings to include other restraints on Microsoft that would not prevail in a court decision since they were not considered in the trial. These include restraints on server operating systems for which Microsoft does not possess monopoly power. Only Microsoft competitors, not the public, want more.

The Justice Department and Microsoft have reached a fair settlement in this case. Microsoft needs to move forward and to continue serving its customers and stockholders. There is no justification for the courts to continue to investigate and punish Microsoft when there are other companies and market place problems that need greater attention in our legal system, such as the Enron debacle.

The court made a wise decision not to dismantle Microsoft. According to a recent Wall Street Journal article, the US Postal Service revenues are more than those of Microsoft, McDonald's and Coca Cola combined. No one wants to dismantle the US Postal Service simply because it operates as a monopoly or protects its monopoly. We need a universal standard operating system for our computers in much the same way that we need a universal standard mail service for our homes and business. I hope that this case can conclude without destruction of one of the most innovative and successful American companies. We only wish that the US Postal Service was equally innovative and efficient.

Sincerely,
Lewis Stepp

MTC-00030747

Farm
Family
Glenmont, NY
David S. Wyman
Senior Agent
117 Highbridge St
Fayetteville, NY 13066
Bus: (315) 637–0284
Fax: (315)637–0822
Claim: (800) 871–3326
Res: (316)682–3540
January 2, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Division
601 D Street NW, Suite 1200
Washington, DC 20530
Re: U.S. v. Microsoft

Dear Ms. Hesse,

I am in support of the settlement of the above captioned case and for the following reasons; I hope you will be as well.

The antitrust laws of this country were put in place to protect consumers, not other corporations who do not like the way Microsoft does business. The fact that my business and industry are more efficient and competitive in the marketplace can be directly linked to computer innovation and products like Microsoft sells. In addition, no direct consumer harm can be linked to Microsoft. In my twelve years in business, I have personally seen computer technology in every sense of the word, become less expensive while doing more for my bottom line. Microsoft certainly deserves as much credit as any other business for that. In conclusion, I would hope that the agreed upon settlement would be left in place. Further litigation will only cost the taxpayers more money and likely provide no better solution.

Thank you for your time and consideration.

Sincerely,
David S. Wyman

MTC-00030748

Eugene J. Michael
1327 West 28th Street
Lorain,OH 44052–4504
PH: (440) 282–8377
FAX (440) 960–5976
January 2, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft,

I am writing to urge you to continue supporting the settlement that was reached on November 2, 2001 between Microsoft and the Justice Department. I believe this settlement is fair and that no further legal action should be taken on the federal level. The settlement has teeth and requires Microsoft to make significant concessions. For example, computer manufacturers were granted new rights to configure systems with access to various Windows features. And to ensure compliance, the government created an ongoing technical oversight committee to test Microsoft on whether they are meeting the agreement's requirements.

This settlement is good for our economy, consumers, and the computer industry. After three years of litigation, it is time to move forward and support the settlement. On a personal note, I'd also like to say I think you're doing a superior job as Attorney General and I strongly support your point of view and value system. Keep up the good work and God Bless.

Sincerely,
Eugene Michael
1327 W 28th Street
Lorain, OH 44052

MTC-00030749

Renata Hesse, Trial Attorney
325 7th Street NW, Suite 500
Washington, DC 20530

Dear Renata Hesse,

I am pleased that an agreement has been finally made with Microsoft Corporation. For disclosure purposes, I am not a shareholder of Microsoft, nor have I ever been. However, I find in the agreement that was posted at http://www.usdoj.gov/opa/pr/2001/November/01 at 569.htm on November 2, 2001 did not carry enough teeth at the end of the agreement. I have cut and pasted the portion I do not agree with and believe that if this agreement remains intact the way it was written you will have accomplished nothing to deter Microsoft.

"The proposed Final Judgment will be in effect for a five year period and may be extended for an additional two-year period if the Court finds that Microsoft has engaged in multiple violations of the proposed Final Judgment."

The portion that I strongly disagree with is in the last part of this sentence. "... if the Court finds that Microsoft has engaged in multiple violations of the proposed Final Judgment." This portion should read, and I might add, would put some teeth into the agreement, "if the Court finds that Microsoft has engaged in any violations of the proposed Final Judgment." The word that precedes this statement MAY still may remain as MAY [...and may be extended....] which give you the out to pursue or not. However, and finally, with out the changing of this word from multiple to any allows Microsoft "the ability" to continue to violate antitrust laws with the vague assurance that nothing will happen if they do.

This is my 2 cents worth.

Sincerely,
Stephen A. Frlekin
28608 Montereina Drive
Rancho Palos Verdes, CA 90275

MTC-00030750

01/02/2002 01:57
From: Robert J Sobon
FAX
189 Old Ashley Loop
Pawleys Island, SC 29585
January 2, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

As a resident of South Carolina, I am concerned about further Capitol Hill involvement in the Microsoft antitrust case. It is clear that Microsoft has agreed to a fair and reasonable settlement; the settlement should be final, and further federal action against the company represents nothing short of anti-business posturing by the government.

As you know, the economy is in a recession. Microsoft is a major contributor to the nation's economy, and it is imperative that the company is allowed to innovate in the software industry. Any further action would be negative for the consumer and the IT industry.

I appreciate your support in ending this legal action, and putting this case behind us.

Sincerely,
Robert Sobon
cc: Senator Strom Thurmond

MTC-00030751

FROM : HOWARD A WILCOX JP
PHONE NO. : 9127570907
Jan. 02 2002 09:48AM p1
Subj: Settlement
Date: 1/2/02 2:50:18 PM Eastern Standard Time
From: Popedo711
To: Microsoft.atr@usdoj.gov

It is hoped that those people in official capacity positions realize that our economy started slipping around the time President Clinton's jealous liberal Government paid team members first attacked Microsoft. Damage is felt by every voter and tax payer in our United States.

Let the current settlement stand and get back to free enterprise practices that built our great nation in the first place.

Thank you in advance for listening to one little self employed renovation contractor in Macon, Georgia USA.

Howard A Wilcox, Jr. Voter, tax payer, Christian, husband, parent, step parent, grandparent.

MTC-00030752

WAINWRGHT INDUSTRIES
WAINWRIGHT INDUSTRIES, INC.
17 Cermak Boulevard St.
Peters, Missouri 63376
636-278-5850 Fax:636-278-8806
www.wainwrightindustries.com
January 2, 2002
Renata Hesse
Trial Attorney—Anti-trust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC, 20530

Dear Ms. Hesse:

Enough is enough when it comes to all the hoops Microsoft has had to jump through even in the wake of the recent settlement reached through extensive negotiations with the Department of Justice. The high-tech industry must get back to normal in order to help small businesses utilize technology to open new markets and to better serve their customers—many of which are the largest job creators across the nation.

I ask your help in ending this prolonged regulatory debate that is denying workers the technology necessary to do their jobs in the best way possible.

Microsoft and their competitors should go toe-to-toe in the marketplace—not in the courtroom. A thriving high-tech sector of our economy is a key to future business development and the key to a stronger economy and better jobs.

I support the reached settlement between the DOJ and Microsoft.

Very truly yours,
Arthur D. Wainwright
Chairman/CEO

MTC-00030753

Date: 1/2/02 12:56:07 PM Central Standard Time
From: MAILER-DAEMON@usdoj.gov (ShellUser MAILER-DAEMON)
To: LEEMES@aol.com -
Date: Wed, 2 Jan 2002 13:55:34 EST
Subject: Microsoft Settlement
To: microsoft.atn@usdoj.gov

From all that I have read concerning the Microsoft Settlement, the judgment rendered by the various courts are in my opinion, more than fair. Because of a few unhappy competitors who want to upset the settlement without legitimate reason, other than greed. seems to me to be most unfair. Microsoft is one of the finest and best run companies in the USA, known world wide for it's innovation and useful output and whose foreign as well as domestic sales add millions to the GNP. Now some less efficient and less innovative companies want Microsoft penalized further, so they can take advantage of the very market created by Microsoft. And the States that want more money need to stop their own inefficiencies and not try to balance an out of kilter budget be getting a freebie from some other entity, while they fritter away on boondoggles, the taxes they receive.

Sheldon L. Mesirow
leemes@aol.com
I tried it!!
So Here It is

MTC-00030755

Herbert Maar
801 Augusta Road
Wilmington, DE 19807
December 29, 2001
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have been extremely concerned over the regrettable lawsuit against Microsoft; I believe that Microsoft has been—and still is—one of the most instrumental American businesses to drive and sustain the longest running and strongest economic expansion in recent memory. I also believe that unless there is some real threat to the American free enterprise system, the government should always refrain from interfering in business. There seem to be two diametrically opposed guiding principles at work: On the one hand, the government seems to do its best to provide free (tax-supported) services to any it can find, while the American business ethic demands quality and efficiency. Mixing the two—as was done with this lawsuit—only results in havoc and confusion.

More specifically, where the American consumer is greatly aided in Microsoft's efforts to integrate its software with its operating system, the government—no doubt spurred on by less successful Microsoft competitors—sees a phantom threat of "monopolization." For those of us that actually spend our hard-earned money on the necessary hardware and software needed to be even a little productive in this computer age, you had better believe that we look for integration rather than confusion.

I am writing this letter as a citizen invoking the Tunney Act, and I would like to respectfully request that you continue to do everything that is possible to protect the terms of this settlement. Do not let those parties, looking for excuses to derail it, succeed. We as consumers deserve better than that. Thank you.

Sincerely,
Herbert Maar

MTC-00030756

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Douglas B. Schaper
3 10 East 44th Street; #1509
NYC, NY 10017
Judge Colleen Kollar-Kotelly
C/O Attorney General Richard Blumenthal
MacKenzie Hall
110 Sherman Street
Hartford, CT 06105-2294

Dear Judge Kollar-Kotelly,

My introduction to computer software came in the winter of 1973 when I narrated a media presentation for BASIC computer language.

Since that time I have used many softwares for many purposes personal and professional, some commercial some proprietary.

I am writing you this letter to decry the recent agreement between the DOJ and Microsoft, and in support of the actions of the nine states before you.

President Kennedy, in 1961, proposed that we land on the moon with our science. Eight years later We achieved that goal.

By way of comparison Microsoft went public in 1986—fifteen years ago, and software is still in the dark ages. Every single day that I use Microsoft product I curse its inefficiencies. I recently asked a computer salesman at J&R Computers in NYC about an alternative to Microsoft product. He looked at me like I was sprouting wings and new heads on the moment.

I worked in venture capital for a company in New York City—there are no funds for competition to Microsoft product. This says a lot about a tax regulatory environment reinforcing competition to Microsoft product—a situation these nine states are attempting to address. It also says a lot—particularly in light of our moon exploration—about Microsoft's pursuit of "quality" product.

Microsoft has not pursued quality product-at least not from the standpoint of the consumer. Quality to Microsoft has meant quality of its control over the marketplace, which until this opportunity to open it up has been absolute-all because of one sale to IBM and the company's ensuing determination, successful until now (we hope), To maintain control over that marketplace. Look around you. What alternative to Microsoft is there? Standardizing product, in light of 110 volt electricity for the home, 220 for heavy machinery, 12 volts the car, 3/8 inch pipe for plumbing, #2 pencils, size 8s for women and so many other examples in manufacturing, design and service, comes out of pressure from the consumer and the marketplace—not from one company exercising control over that marketplace and any competition.

Microsqft product is an abomination in terms of its quality for the consumer and since there is no real alternative to it there can be no argument about that fact or the control-from somewhere-of both the product and the market. You must know that if we had a competitive marketplace arena for software, Microsoft product would be much better and there would be alternatives to it The company's primary focus has been not on quality—but on control. And in this, and in this alone, it has been successful.

I deeply. nay—more than deeply, hope you will help everyone—including Microsoft—by ruling in favor of these nine states. I am desperate for better software—we ALL are.

DBS

MTC-00030757

QSE—Quality Software Engineering, Inc.
Quality Software Engineering, Inc.
10820 Sunset Office Drive
Suite 302
St. Louis, Missouri 63127
(314) 965-7800
December 31,2001
Attorney General John Ashcroft
The Justice Department
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft:

After three strange years of court, Microsoft andthe Department of Justice have reached a settlement. Both the IT industry and the consumer will benefit from it, and as such, it's best if we work to put this issue behin us, and consider the future instead.

Even though the settlement steps a bit outside of the notion of free enterprise, settling the case now is the right thing to do to help the industry and the economy move ahead. This agreement is pragmatic and reasonable even employing a mediator at the end to negotiate the final details.

The abuse of the American tax-dollars has gone on long enough. To prevent this from continuing any further, all action that is taking place at the federal level must be stopped at the end of the comment period. It is time to let Microsoft go back to innovation, rather than litigation.

Sincerely,
Donald R. Kossman
President
cc: Representative Dick Gephardt
10820 Sunset Office Drive Phone: (314) 965-7800
Suite 302 FAX: (314) 965-7802
St. Louis, MO 63127-1037 e-mail qse@qse.com

MTC-00030758

From: Patrick Settle
Note: DOJ—202-616-9937
Jan-02-02 14:13 From-WORLDWATCH INSTITUTE
+2022967365
T-846 P.02/03 F-566
Patrick Settle
5221 42nd Street NW Apt. B
Washington, DC 20015
Friday, December 28, 2001
Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Greetings,

As an Information Technology professional, and user of Microsoft products, with over six years of professional experience in the computer industry, I have seen the negative impacts to the computer industry brought upon it by Microsoft. Their unethical business practices which allowed them to evolve into a monopoly, and their current attempts to maintain that monopoly has stifled a great deal of technology innovations, along with damaging business opportunities for other companies.

I cannot see how the settlement that is proposed even pretends to remedy the antitrust violations for which Microsoft has been found culpable. Microsoft has already been found in violation, and this is the penalty phase of the case, but the settlement contains no penalties and actually advances Microsoft's operating system monopoly.

A just penalty, would at barest minimum include three additional features:

* Any remedy seeking to prevent an extension of Microsoft's monopoly must place Microsft products as extra-cost options in the purchase of new computers, so that the user who does not wish to purchase them is not forced to do so. This means that for the price differential between a new computer with Microsoft software and one without, a computer seller must offer the software without the computer (which would prevent computer makers from saying that the difference in price is only a few dollars). Only then could competition come to exist in a meaningful way.

* The specifications of Microsoft's present and future document file formats must be made public, so that documents created in Microsoft applications may be read by programs from other makers, on Microsoft's or other operating systems. This is in addition to opening the Windows application program interface (API, the set of "hooks" that allow other parties to write applications for Windows operating systems), which is already part of the proposed settlement.

* Any Microsoft networking protocols must be published in full and approved by an independent network protocol body. This would prevent Microsoft from seizing de facto control of the Internet.

As the judge has suggested the national interest is at issue here, therefore it is crucial that Microsoft's operating system monopoly not be extended. Allowing Microsoft's Monopoly to stand weakens our national security by the creation of an information monoculture. As Paul A Strassmann states, "Info-terrorists and criminals will continue to take advantage of the ever-growing proliferation of flaws in the gigantic Microsoft system, consisting of hundreds of millions of lines of failure-prone code." In closing, the outcome of this case will affect us not only to day but the future of information technology, and the nation. A thorough and though out penalty is far more important to the health of the nation than is a hasty one.

Thank you for your time,
Patrick Settle
5221 42nd Street NW Apt.B
Washington, DC 20015
202-321-7370
hyrcan@sneakeasy.net

MTC-00030759

To: U.S. Department of Justice
Company: United States Government
City: Washington, DC
Fax Number: 202-307-1454
Phone Number
From Virginia C. Sullivan
Direct Dial Phone 312-558-5337
Client/Matter Number 7325378-00043
Document Description

Message

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Virginia C. Sullivan
88 W. Schiller St., Apt. 2503 Chicago, IL 60610
January 2, 2002
United States Department of Justice
10th Street and Constitution Avenue NW
Washington, DC 20530
Re: Microsoft Settlement

Dear Honorable Justices:

I believe it is in the public interest to settle the Microsoft case with the settlement that is being proposed now and upon which the Department of Justice is requesting public comment between now and January 28, 2002.

I am a legal secretary who has been working for 40 years. I started out with an IBM electric typewriter. I have used over the years six different word processing systems—none of them Windows-based, all of them difficult. In all my 40 years of working one thing stands out above all else and that is the great contribution Microsoft has made to the workplace. I have the greatest respect for Microsoft. I love to use their products, e.g., Word 97, Excel 2000, and PowerPoint. I am sure millions of other people feel the same. The product that they have developed in the Microsoft Office Suite is of the highest merit and has had a positive impact on the life of millions over the years, making their work easier and even pleasurable. As far as Windows is concerned, I want to use the Windows operating system for the rest of my life. To me, it is one of the greatest inventions of all time. I believe that if Microsoft will provide for other companies, e.g., Netscape Navigator, to be an option in regard to internet browsers they will have come a long way toward equal opportunity for internet navigation.

I just wanted you to know that I will always have the deepest gratitude and highest regard for the Microsoft company. Please help to make sure that no more money is wasted on litigating this matter. Microsoft deserves our thanks, not our condemnation. Thank you very much.

Respectfully yours,
Virginia C. Sullivan

MTC-00030760

ARCHIVES/MUSEUM
Fax: 1–617–825–3613
Jan 2 2002 15:36
The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth Archives Facility
FAX TRANSMITTAL
Date: 1–2–02
To: Dept. of Justice
FROM:
PHONE NUMBER: 617–727–9150
FAX NUMBER: 617–825–3613
TIME:
Message: Re: Microsoft
THIS FAX CONTAINS 2 PAGES INCLUDING COVER SHEET.
220 Morrissey Boulevard, Boston. Massachusetts 02125. (617) 727–9150
ARCHIVES/MUSEUM
Fax: 1–617–825–3613
Jan 2 2002 15:36 P.02
The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth Archives Facility
January 2, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FACSIMILE

Dear Attorney Hesse:

I would like to urge the Justice Department to expeditiously reach an equitable settlement in the Microsoft lawsuit.

According to what have read about this case, over $30 million in taxpayer money has already been spent on this case. This has caused more harm to American taxpayers than anything Microsoft may have done. It is time to end this folly.

Let's allow Mcrosoft to do what it does best-create jobs and move the hi-tech industry and the American economy forward. With the economy so fragile, now is not the time to selectively pursue American business.

I urge the Court and the Justice Department to support the settlement in this case.

Yours truly,
Richard M. Sundstrom
Director, Massachusetts State Archives
220 Morrissey Boulevard, Boston, Massachusetts 02125—(617) 727–9150

MTC-00030761

Kelly Jones
1008 Telegraph Station Lane
Glen Allen, Virginia 23060
December 28, 2001
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW. Suite 1200
Washington. DC 20530

Dear Ms. Hesse:

I wish to give you some comments on the Microsoft settlement, In terms of Microsoft's compliance with the settlement. the agreement provides adequate resources, access, and authority to quickly respond to camplaints about Microsoft's compliance. In addition, it creates an independent Technical Committee with the power to hire unlimited staff, on-site at Microsoft's campus and entirely at Microsoft's expense. While the agreement positions the U.S. Justice Department us the sole enforcement authority, the state Attorneys General may insist on being able to escalate complaints to the Court. Therefore. for those who doubt Microsoft would comply with the settlement agreement, they need only look at the unprecedented enforcement) mechanism.

It is a shame. however, that rather than competing in the marketplace, Microsoft's rivals felt compelled to use their lawyers and lobbyists to petition the government to intervene and regulate the high-tech industry. Thank you for the opportunity to present my views.

Sincerly,
Kelly Jones

MTC-00030762

JAN–02–2002 16:08 ROSS
312 527 4166 P. 01/01
Real Estate
154 West Hubbard
Suite #2OO
Chicago, IL 60610
312–527–4747
312–527–4166 Fax
17–18 Old Bond St.
London WIX 3DA
01–493–1613
Telex: 28407
*FACSIMILE TRANSMITTAL FORM *
DATE: 1/2/02
ADDRESSEE: Microsoft@USdoj.gov
COMPANY:
FAX NUMBER: 202–307–1454
SENDER: Frederick B. Rolison
TITLE: Executive Vice President
NUMBER OF PAGES BEING TRANSMITTED: 1

Operator:

Please deliver this document IMMEDIATELY to addressee. If there is any problems with this transmission, please notify the sender at (312) 527–4747. Thank you.

Comments: I believe the Microsoft Settlement is fair and just. For all parties concerned.

Thank you,
Fred Rolison

MTC-00030763

FROM : SUZANNA TASHIRO CHOI AND ASSOC PHONE NO. : 9496535713 Jan. 01
2002 01:42PM P1
Vietnamese—American Political Action Committee
PO. BOX 836 . GARDEN GROVE. CALIFORNIA 92642—0836
TELEPHONE : (714) 286–7710
REC ID # 00028198—STATE ID # 923472
KY NGO , CHAIRMAN
January 2, 2002
Department of Justice, Antitrust Division
Attn: Renata Heese
601 D Street, NW Ste. 1200
Washington, DC 20530
Fax (202) 616–9937
The Justice Department vs. Microsoft

Dear Ms. Hesse and Whom It May Concern:

I have been following the antitrust case against Microsoft for a number of years and understand we are close to a settlement. It has been brought to my attention we are within the Tunney Act's 60-day deadline to submit public comments and I'd like to extend my support of the proposed consent decree.

Yes, it is true the courts have ruled Microsoft engaged in violation of the Sherman Act. But it is also true The Justice Department vs. Microsoft can't go on forever, as some of Microsoft's competitors may wish.

Our nation is now officially in a recession. The significance of accepting this decree can't be emphasized enough. Millions of dollars and time have already been spent on this case. A proposed consent decree has been submitted. It is now in our national interest to accept this settlement and move forward.

For the Vietnamese community in particular, this issue is of great concern. Many are employed in everything from programming to distribution. Over the years of this case, we have seen thousands of jobs lost and distribution numbers drastically reduced. While the outcome of this case remains pending, so does our economy and livelihood. In addition, the success of the hi-tech industry has a ripple effect which opens the door for other good people from Vietnam to come to the United States. Many in our community believe settling this case and allowing the technology industry to continue its growth will be extremely positive for all of us (here or abroad).

It is my opinion the settlement is fair and benefits consumers. I encourage you to accept this settlement.

Sincerely,
Ky Ngo

MTC-00030764

FROM: DICK ELDER CPA PHONE NO.: 425 653 0840 Jan. 02 2002 02:13PM P1
MEMO FROM DICK ELDER R.H. ELDER, CPA—Small Business Consultant 5372 Highland
Dr. S.E. Bellevue, WA 98006 Voice (425) 643 8522 FAX: (425) 653.0840 Wireless (425) 442.0376 Email: ELDERDICK@AOL.COM
To: Dept of Justice Date Jan 2, 2002 Time: Telecom#: 202/307–1454
US GOVT. MICROSOFT SETTLEMENT

I believe the best interests of the American People and the economics of Free Enterprise, and Capitalism, which we have chosen, is best served by ending the litigation with Microsoft quickly. The settlement reached is fair and further litigation and stalling tactics by competitor corporations is unfair. Please have the District Court confirm the settlement agreement.

Richard H. Elder

MTC-00030765

TIM A.VANCE
838 GREEN DRIVE
COSHOCTON, OHIO 43812
(740) 622-5883
(740) 622-8311—OFFICE
TIM A. VANCE
January 2, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft.

I am writing to encourage your continued support for the settlement recently reached between Microsoft and the Department of Justice. It would seem in the best interest of Microsoft users, the Department of Justice, and Microsoft to discontinue any further legal action against the company.

Microsoft is an innovative leader in the computer software industry and as such the company has brought many benefits to computer users. I believe Microsoft, if given the opportunity, will continue to accrue benefits for every computer user and others in the computer and software industries. I do not believe further litigation against this company will be of any benefit to the American taxpayers. Please let the free enterprise system work without undue government intervention.

As a taxpayer and user of Microsoft products, I think everyone would be better served if the settlement reached between Microsoft and the Department of Justice is supported. Thank you for all the work you do on behalf of the citizens of the United States.

Sincerely,
Tim A Vance

MTC-00030766

330 376 7886
12846 Troyer Ave.
Uniontown, OH 44685
December 29, 2001
Atty. Gen. John Ashcroft
US DoJ
950 Penna. Ave, NW
Washington, DC 20530

Dear Mr. Ashcroft:

After three long years of court battles Microsoft and Department of Justice have reached an agreement regarding the antitrust suit. This settlement will be beneficial to both the IT industry and the consumers alike. It is necessary that those who are involved in the suit put aside their differences and work to put this issue behind them. This settlement will help strengthen the economy during this difficult time and ensure that the industry continues to deliver advanced technology to the market. Your office has thus done well in offering a reasonable settlement, and I think you should see it through to the end. I appreciate the hard work you have done on this case.

It is time for you to stop all action taking place at the federal level regarding this case.

Let Microsoft get back to innovating and stop wasting its time litigating. Your settlement offer is fair and balanced, please don't back out on it now.

Sincerely,
Jerry Parker

MTC-00030767

January 2, 2002
Deptment of Justice
Washington, DC

I'm very disappointed at the prolong case against Microsoft and that 9 states are still fighting the case even though I thought an agreement had been reached. The only winners here are the lawyers as they have won in so many cases at the expense of the consumer. Not only are they paid endorsement fees, but the CONSUMER made up the LOSER! Eventually all cost of defending the cases are passed on to the CONSUMER!

From what I can determine with the information available the settlement is FAIR!!!!

Please let's not have another IBM fiasco, where alot-of-money was spent and the case was dismissed. Let's move on with this case and force the states to accepted the agreement so that business can go on.

Sincerely,
Gene Pizzato
6007 E. Harvard Street
Scottsdale, Az 85257

MTC-00030768

Microsoft Corporation
One Microsoft Way
Redmond, WA 98052-6677
UNITED STATES OF AMERICA
Phone: (425) 882-8080
Fax: (425) 93MSFAX (936-7329)
Internet: http://www.microsoft.com
MSFACSIMILE
TRANSMITTAL FORM
To:
From: Don Holtzinger
Fax Number:
Company: Dept Of Justice
Phone Number:
Date: Wednesday, January 02, 2002
Time: 11:25:43 PM
Pages: 1
Subject: Microsoft Settlement
Note:

Dear Department Of Justice.

I'm very proud of the way you and Microsoft have worked to find a solution to the Anti-Trust case, and I think the solution promotes competition while letting the industry move forward with standards that will ensure another 20 years of continued technology growth. This settlement is tough, but I believe it's reasonable and fair to all parties involved.

Please don't let this lawsuit get sidetracked by special interest groups or Attorney's Generals who are trying to keep their names in the public spotlight.

Thank you
Sincerely,
Don Holtzinger
17605 NE 101st Court
Redmond, WA 98052

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MTC-00030769

Wednesday, January 02, 2002 7:55 PM
CHARLES E. KESSLER 206 725 3279 P.01
Attention:
Date: 1/2/02
Company: DEPARTMENT OF JUSTICE
Number of Pages: 2
Fax Number: 1-202-307-1454
Voice Number:
From: CHARLES E. KESSLER
Company:
Fax Number: 2067253279
Voice Number: 2067253279
Subject:
Comments:
Wednesday, January 02, 2002 7:55 PM
CHARLES E. KESSLER 206 725 3279
FAX
January 2, 2002
Department of Justice
FAX 1-202-307-1454
Subject: Microsoft Settlement

Gentlemen,

My family or I have never worked for or had any connection to the Microsoft Co. and I do not own any Microsoft stock. My only connection is that I have a personal computer that uses Microsoft software.

It has always been my opinion that to penalize Microsoft for improving its software for the benefit of its customers is crazy. The freedom to innovate and provide better software should be rewarded not penalized.

The only reason for these lawsuits is to benefit the attorneys and the politicians who support Microsoft's competitors.

Sincerely,
Charles E. Kessler
3000 S Graham St.
Seattle, WA 98108
206-725-3279

MTC-00030770

WED, JAN-02-02 9:24PM SHIRLEY KRATZER 6109656132 P.01
3324 Berger Street
Allentown, PA 18103
January 2, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
cc: Senator Rick Santorum

Dear Mr. Ashcroft:

After three long years of legal battles, Microsoft and the Department of Justice thankfully reached a settlement in their antitrust dispute. This settlement is going to be very good for both American industry and American consumers. It offers something for everybody, and fosters the kind of competition that creates jobs and better products that cost less. Therefore, it is necessary that all those involved in the suit work to enact this historic settlement.

This settlement is fair. At the end of the negotiations, a mediator worked to finalize the details at the government's behest. But not only is this settlement fair; it will also help strengthen the economy, and ensure that the industry continues to deliver advanced technology to the market.

The flagrant abuse of American taxes needs to be ended. All action that is taking place at the federal level must be stopped. It is time that Microsoft went back to focusing on innovation, rather than litigation. Thank you for your work in bringing this settlement about. Now we can finally get our economy back on target.

Sincerely,
Shirley Kratzer

MTC–00030771

January 2, 2002
To Whom It May Concern:
RE: The Microsoft Anti-trust settlement

I am an independent computer consultant in the Chicago area. My client base includes several small to medium-size companies that have the need for a computer consultant, however, do not have the need to hire a full time staff member dedicated for their IT solutions. I have over 14 years experience working with computers (mainframes, servers, workstations, and desktop computers) with a variety of operating systems.

Working with small to medium-size companies, I receive the entire spectrum of requests for computer support: building computer systems, installing operating systems, installing application software, networking computers together for local and wide area, making software recommendations, designing and writing custom built software applications. From my clients'' direction, the two most required features of an operating system for a computer solution is price and reliability. Price is obvious: the lower the cost, the better for the client. The more reliable a computer system is, the less maintenance time the client will have (which directly lowers the total cost of the computer solution).

For my clients, I have purchased and installed open source software for the operating system and file/print services (i.e., Linux and Samba). Though many of my customers use Microsoft Windows based desktop on the client side, Linux and Samba comprise the server side. With regards to the small to medium-size company, below are my grievances with the proposed Microsoft Anti-trust settlement.

1. Microsoft application developers will still be able to practice unfair competition. Windows Application Programming Interface (API) allows Microsoft applications to integrate seamlessly with Microsoft operating systems. Competitive products do not integrate well with a new release of Microsoft operating systems. Rather competitive products must go through an upgrade to work with a new Microsoft operating system. The root cause is that Microsoft application developers have access Windows APIs (both documented and undocumented). To remedy this problem, Microsoft should be split into three companies: application software, operating system software and network services (i.e. MSN). All Windows APIs must be revealed to the competition, as well as Microsoft application developers. Only at the time of a new operating system release will application developers (Microsoft application developers and the competition) get access to the new/updated Windows API details.

2. Network protocol interfaces must be completely released and the ability for non-Microsoft entities to integrate their network protocols into the same Windows API as Microsoft network protocols. By revealing the network protocols, Microsoft Windows desktops can be easily integrated into non-Microsoft servers (i.e., Linux and Samba). By providing the ability for non-Microsoft entities to integrate their network protocols into Microsoft operating systems, competition for better network communication protocols will benefit Microsoft operating system desktop users.

3. File formats of all Microsoft application software need to be disclosed and changes to the file format released at their product release. Interoperability of Microsoft software and competitive software needs to be maintained, such that, when Microsoft releases a new version of their software, competition's software has the ability to read Microsoft file formats. Without file formats being detailed, the competition's software may not access files created by Microsoft applications, thus, requiring Microsoft applications to also be installed to access the information contained within (and again, eliminating the competition).

4. Recent deployment of Windows XP and the resulting security breach clearly identifies that Microsoft cannot be an operating system company, an application company and a network services company. A convicted monopoly must insure that the security and efficacy of their operating system does not jeopardize the network computing community. If security is breached when a new Microsoft operating system is released, then Microsoft should pay a fine. The message to Microsoft is simple: Pay for your research and development up front or pay for it in the back as a fine. Consumers are not your test bed for under developed operating systems.

5. With the release of Windows XP, Microsoft is still up to its monopolistic practices of integrating similar competitive applications into its operating system releases to eliminate competition. Two products that have been added to the latest Windows operating system are: remote administration ability and CD-RW ability (burn CDs). Both of these products were available from the competition, however, by bundling these features into the operating system Microsoft again eliminates its competition, similar to what Microsoft did when it bundled its Internet Explorer browser into its operating systems. The Anti-trust settlement does not go far enough to stop the predatory practice.

6. The actual cost of the bundled software when purchasing a computer system must be listed on the computer invoice, and must be permitted to purchase the same computer without the software (unbundled). Currently, when a computer consumer goes to purchase a new computer, only Microsoft operating systems are bundled with the computer. A special order computer must be made to purchase a computer without a Microsoft operating system.

7. Microsoft should pay, in the form of a fine, for the time to register and activate its new operating system and application software releases. Why should users pay the bill to register and activate an operating system feature that users never requested? I realize Microsoft is trying to reduce or eliminate software piracy, however that should not encroach on the user's time or expense to provide this service to Microsoft without being compensated. When trying to activate operating systems or application software on 25, 50 or over 100 desktops, this cost becomes large. Microsoft, the initiator of the act, should be burdened for the time and expense.

8. In October of 2001, Microsoft owned and operated web sites would only work with Internet Explorer. The Anti-trust settlement does nothing to insure that non-Microsoft browsers will be locked out of Microsoft owned web sites. Again, another predatory tactic of Microsoft to insure their monopoly by eliminating any non-Microsoft browser from connecting to their web sites.

9. Developing web sites that put Microsoft in a negative light is not allowed in the license agreement the user must acknowledge when using Front Page 2001, a Microsoft web site development tool. If this type of licensing is permitted (and enforceable), then the government is acting as a subsidiary of Microsoft Corporation, and allowing violation of the Freedom of Speech by a convicted monopoly. The Anti-trust settlement does not address this issue.

10. Microsoft's direction to annually tax for the use of their operating system and its application software means user's work developed today may not be accessible in the future, if the Microsoft annual fee is not paid. This amounts to extortion. The Anti-trust settlement does not curtail this Microsoft practice. If this practice is allowed, then it must clearly be labeled before a user purchases a Microsoft product to decide whether or not the terms are acceptable. If the terms of the agreement are not disclosed before opening the software box, after opening the software, often the user is not allowed to return the software.

11. I chose the words entities and competition throughout this list of grievances, because I advocate that competition does not solely come from for-profit companies. However, competition does also appear in the form of open source solutions as well (i.e., Linux and Samba). The current Anti-trust settlement favors Microsoft by eliminating the requirement to share its Windows API, networking protocols, file formats, and any information detailed in the settlement with open source groups or non-profit organizations.

12. Historically, the government has split monopolies up to insure competition and protect the people from abuse of the monopoly. I strongly think Microsoft should be split into three companies: applications software, operating system software, and network services. Since Microsoft is convicted of being and acting as a monopoly, yet the government does not want to split Microsoft up, I think a new remedy must be

imposed on Microsoft. That remedy is Microsoft must list the words "A Monopoly" with all their Microsoft brandings of their products, services, web sites, etc. Anywhere Microsoft lists the words Microsoft Corporation, the clause "A Monopoly" must also be listed.

In my humble opinion,
Kenneth Cobler 9943 Drury Lane
Westchester, IL 60154

MTC-00030772

FROM: STENGEL BROS INC
FAX NO.: 6104331793
Jan. 03 2002 09:50AM Pl
213 Shelf Street # B12
Lower Paxton, PA 17109
January 2, 2002
Attorney General John Ashcroft
The U.S. Department of Justice
950 Pennsylvania Ave.
Washington, DC, USA 20530

Dear Attorney General Ashcroft,

I am writing to express my thoughts on the Microsoft antitrust case. The settlement was hammered out after negotiating with a court-appointed mediator, and was apparently good enough for nine states to approve. Microsoft is currently working with the remaining states to reach a resolution to the lawsuit. I support the settlement, and I encourage you to continue working to enact it.

The settlement allows competitors to sue Microsoft if they feel that it is not complying with the terms of the agreement, and the government created a technical oversight committee to review Microsoft's codes and books. The federal budget is tight, and it is a bad idea to spend scarce resources on a problem that has already been solved. In short, three years has been long enough I ask that you work to allow the settlement the time to prove itself.

Sincerely,
John Stengel
cc: Senator Rick Santorum
Representative George W. Gekas

MTC-00030773

ELITE PERSONNEL AGENCY 202 353 8856 No. 955 P.01
FAX COVER SHEET
ELITE PERSONNEL AGENCY
940 The Terminal Tower Phone-(216)771-7810
50 Public Square Fax.(216)348-7086
Cleveland, Ohio 44113
e-mall: elltepa@aol.com
Check us out on the Web/: www.elltepersonnelinc.com
0 Urgent 0 Reply ASAP 0 Please comment O Please review 0 For your information
Comments:
Re: Tunney Act

Please accept the following letter as my opinion regarding the Microsoft case

Sincerely
Valeri Stephens-Ellis
1444 West 10th Street Apartment 401 Cleveland, Ohio 44113
December 20, 2001
Sen. Mike DeWine
United States Senate
Washington, DC 20510

Dear Senator DeWine:

As a resident of Ohio, I am writing to express my relief that the government has finally settled its case against Microsoft. I am sorry that the case was ever brought against them in the first place but now that it has been resolved, I hope that it will not be long before they will able to get back to business.

I have supported Microsoft from the beginning because of the influence it has on our economy. As a major player in the stock market, any boon to Microsoft will be a good windfall for the rest of the market and the IT industry as a whole.

I hope that you will listen to the opinions of your constituents on this matter and support Microsoft and the Department of Justice's decision. Thank you for your time and I look forward to hearing back from you on this matter.

Sincerely,
Valeri Stephens-Ellis

MTC-00030774

JAN. 3. 2002 8:04AM HIVNET STATS CENTER
NO. 1451 P. 1
Renata Hesse, Trial Attorney,
Suite 1200, Antitrust Division,
3 Department of Justice,
601 D Street NW,
Washington, DC 20530
re: United States of American v. Microsoft Corporation, Civil Action No. 98-1232
To whom it may concern:

I am writing as a private citizen to express my concerns about the revised proposed Final Judgment, Stipulation and Competitive Impact Statement which has been filed with the United States District Court for the District of Columbia in United States of America v. Microsoft Corporation, Civil Action No. 98-1232.

It is my opinion that nothing in the above referenced proposal addresses the unfair advantage Microsoft has gained by being the creator of both operating systems and application software. In 1990, Lotus 1-2-3 was a dominant spreadsheet package and Word Perfect a widely used Word Processor. dBASE was a widely used database and Novell was beginning its rise as a way to network individual PCs. None of these companies has been able to complete with Microsoft. Why? They had to wait for Microsoft to release an new operating system before they could adapt to it. By the time they had adapted to Windows 3.1, Microsoft was getting ready to release Windows 95 and by the time Microsoft got to Windows 98, they were dead or dying. Users had little interest in software that was a step behind the cutting edge.

About the time Apple released the Macintosh operating system, it also released Word Processing and database software. Few others even tried to complete. The market was small and anyone could see the significance of Apple's advantage in it. By contrast, Microsoft never tied to sell application software of any sort until MS-DOS was well-established in the marketplace, and its initial entries were not well-received. Other companies had already done a good job of creating software for a character-based interface. But, when Microsoft began to pair its applications with a graphical user interface, both the operating system and the application software quickly overwhelmed all competition.

There is no way any maker of application software will ever compete successfully with a company that also makes both applications and operating systems. As long as Microsoft is allowed to sell both operating systems and application software, it will continue to enjoy monopoly power no matter what other remedies the court might impose.

I ask the court to give serious consideration to a remedy which separates Microsoft's operating system and applications development, such as that proposed by California, Connecticut, Florida, Iowa, Kansas, Massachusetts, Minnesota, Utah, West Virginia and the District of Columbia. Nothing less will give any other maker of operating systems or applications a chance to erode Microsoft's 90% plus share of the software marketplace.

Sincerely,
Phillip L. Kirsch
20421 SE 157th Street
Renton, WA 98059-9041

MTC-00030775

Admiral Integration
8564270600
01/03/02 11:39A P.OO1
Admiral Integratian, Inc.
1950 Old Cuthbert Rd.
Suite L
Cherry Hill,NJ 08034
Phone (856) 429-6700 Fax (856) 427-0800
December 31, 2001
Attorney General John Ashcroft
US Department of Justice; 950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Now that this regrettable suit against Microsoft has been settled, I am hoping that the public comment portion will indeed sustain the wisdom of the settlement. I do not believe that any further federal action would do anything more than to further fragment our nation's business community and further erode any economic progress now under way.

There are times where it is a good thing to have our government possess the power to radically alter a large, monopolistic company so that it becomes more responsive to the American consumer. But this case against Microsoft was not one of those times. Microsoft has been extremely responsive to customers, and that is exactly why it has been successful. Microsoft is not an ossified giant. While Microsoft may well have exhibited tendencies toward safeguarding its technology, this is and of itself did not, in my opinion, approach the level of federal intervention.

With so many other more important issues facing our country today, this sort of thing ought to be the last on our growing list of priorities.

Sincerely,
Mike McEntee
General Manager
mike@dmint.com

MTC-00030776

CARPET & INTERIORS UNLIMITED

602 SLATER STREET
KINGS MOUNTAIN,NC 28086
704/739/7234
FAX COVER SHEET
TO: DOJ
FAX#: 1–202–307–1454
FROM: Carpet + Interior
DATE: 1/3/01
TOTAL PAGES (INCLUDING COVER SHEET): 2
MESSAGE:
CARPET & INTERIORS UNLIMITED
602 SLATER STREET
KINGS MOUNTAIN,NC 28086
(704)739–7234

I think all states should settle with Microsoft ASAP—Will be good for folks

HA

MTC–00030777

FROM : JERRY R MODRE
PHONE NO. : 205 822 2960
Jan. 03 2002 11:32AM P1/1
Jerry R. Moore
513 Lansdowne Place
Vestavia Hills, AL 35226
(205) 822–2960
January 2, 2002
Attorney General John Ashcroft
The Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Cc: Representative Spencer Bachus

Dear Mr. Ashcroft:

As a big fan of Microsoft, I write you in reference to the recent settlement between Microsoft and the Department of Justice. I am pleased to see that a settlement has been reached; I encourage any action by the government that would put this issue behind us.

Being an "old dog" trying to learn new tricks, I found Microsoft very helpful in making me comfortable with using a computer. Thanks to their "point and click" instructions, I felt right at home, as were many of my friends. It is technology such as this that we need to support. During these times of financial troubles, our country has to support the competitive process, and let our technology industry continue to grow.

Since this settlement is beneficial to consumers, the IT sector and our economy as a whole, it seems foolish to waste scarce resources in reexamining a settled case. Let us support the growth of our technology Industry, and put a stop to any further hearings against the Microsoft settlement.

Thank you for taking the time to hear my positive outlook: on the settlement.

Sincerely,

Jerry R. Moore

MTC–00030778

Date: January 3, 2002
From: Henry Balboni
1329 Doylin Dr.
Cary, NC 27511-5844
To: U. S. Department of Justice
Washington, DC
Re: Microsoft Settlement

It is time to end this case and allow one of the nation's finest companies to get back to business. I am retired now but worked for a competitor of Microsoft. It was common knowledge in my company—and others in the computer industry—that Microsoft got to where they were because they had the vision to see the future, its potential, and the talent to get them there.

The government is certainly in no position to tell anyone how to run a business. And if you look at the damage that DOJ has caused to some of our major industries over the last 70 years it raises serious questions about the value of DOJ to the United States. For example: The U.S. had one of the world's best shoe industries in the early 1900's. The USMC (United Shoe Machinery Corporation) was the reason for it. Complaints from other countries—who found it difficult to compete in the U.S. against the USMC caused the DOJ to bring a "Monopoly" suit against them, which, among other things, forbid them to lease their equipment. This put most of our shoe manufacturers out of business, and, eventually, drove the great USMC out of existence. We no longer have a shoe industry or a shoe machinery industry.

The ill-conceived suit against IBM (because they were too good at creating and building THEIR OWN industry) cut the company's value and stopped their growth cold. They nearly went out of business. It forced them to do things no other competitor had to do—announce their new products 6 months in advance, give competitors DRAWINGS and hookup information 6 months in advance, prevented bundling of services and products, etc. No one else had to play by these rules. I don't know how they survived.

The breakup of AT&T is another example. This is the company founded by Alexander Graham Bell—the INVENTOR of the telephone. If the FCC did their job they could have directed lower rates to consumers (like they need to do now to the cable companies) and the 'reason' for the breakup would have disappeared. Of course, that would be too quick and too efficient—words not known to the Federal Government.

Yours truly,

Henry A. Balboni

MTC–00030779

Max Sperry
52 Sunset Drive
Ottsville, PA 18942
January 2, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing you to encourage our government to agree to the proposed settlement of the Microsoft case. The current settlement was reached after much deliberation and effort. It calls for changes in Microsoft's business practices, creating new rules that allow for more competition in the IT sector. I see no need for federal hearings and lawsuits when the states have already had their say. Big-Brother government should keep its nose out of business and concentrate on fighting our wars.

I have had extensive experience in dealing with Microsoft, working for years in the broadband communications industry, I am currently retired but do some engineering consulting, whereby all of the software I use is integrated with Microsoft's internal systems (e,g. MS office tools, etc). I agree that some of their practices are designed to keep their business rolling, but what business isn't looking out for their future interests? If people or businesses do not like their practices or products, they can simply choose not to buy or use them. It is not the government's job to determine individuals' preferences or best interests. Our country's economy is based on capitalism, and should continue in the same fashion by leaving Microsoft alone. Again, I ask that you please continue the Justice Department's present course of action and enact the settlement. Thank you.

Sincerely,

Max Sperry

CC: Senator Rick Santorum

MTC–00030780

M & T PROPERTIES
602 SLATER STREET
KINGS MOUNTAIN, NC 28086
(704) 739–2756
FACSIMILE TRANSMITTAL
NAME: DOJ
FAX#: 1–202–307–1454
FROM: M&T Properties
DATE:
NUMBER OF PAGE BE FAXED: 2
MESSAGE:
M & T PROPERTIES
602 SLATER STREET
KINGS MOUNTAIN, NC 28086
(704)739–2756

I Think All States Should Settle With Microsoft it Fair An Good For Folk

DR

MTC–00030781

J. Frederick Laucius M.D.
1025 Arboretum Road
Wynote, PA 19095–2109
Department of Justice

Dear Sir or Madam:

January 3, 2002
RE Microsoft Settlement

I believe the settlement negotiated by the United States Department of Justice is fair. Further litigation is a waste of the country's resources to benefit only a few. The current products provided by Microsoft have proved productive in my practice of medicine. I believe that the distraction thus far has been disruptive. I hope this information is helpful to you in your decision.

Sincerely yours,

J. Fredcrick Laucius M.D.

MTC–00030782

WISCONSIN EDUCATION ASSOCIATION COUNCIL
January 3. 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D. Street NW
Suite 1200
Washington, DC 20530–0001
VIA FACSIMILE: 1–202–307–1454

Dear Ms. Hesse:

The Wisconsin Education Association Council represents the public policy, labor and professional interests of its 92,000 members. WEAC is a strong voice, advocating for Great Schools for its members and for the 800,000 children in Wisconsin public schools. Every child deserves to attend schools that are wired and equipped with technology and to have teachers trained to effectively use technology in the classroom. WEAC supports the goals set forth in the proposed Microsoft class action settlement agreement to establish an independent foundation comprised of educators that will distribute technology funds, computers and software to the country's poorest schools and provide for teacher training.

These funds will be critical to Wisconsin, especially schools in our poor, small rural districts and some of our larger urban areas. Overall, Wisconsin falls below the national average in the categories of the percentage of fourth-grade and eighth-grade students in schools that make computers available in all classrooms and hours of training for teachers, according to "Technology Counts 99", a report issues by Education Week. In addition, a 1999 survey of our members showed that only about half believe they receive sufficient training to run the computers and software in their districts and only 40 percent get sufficient help from their district to integrate the new technology into curriculum.

The proposed settlement will address both needs—to get computers into the classrooms and to train teachers on how to integrate them into the curriculum. WC encourage the Department of Justice to accept the proposed settlement. Every child deserves a Great School, a school that is wired for the future.

Sincerely,

Stan Johnson President

Wisconsin Education Association Council

Stan Johnson, President

Michael A. Butera, Executive Director

33 Nob Hill Drive PO BOX 8003 Madison, WI 53708–8003 (608) 276–7711 (800) 362–8034

MTC–00030784

William McDonough
384 Waltham Street
West Newton, MA 02465
January 3, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse,

It is my understanding that you are accepting public comment with regard to the MICROSOFT ANTITRUST case, and the settlement proposal now before Judge Colleen Kollar Kotelly. I would like to express my hope that the Settlement is accepted and that this case can end. I do not know the intricacies of antitrust law, but I can infer from what I read that much of this is subjective in nature: more gray area than black and white. As such, I believe the settlement process is an appropriate way to settle the case and get this out of the counts.

If I might be somewhat optimistic at this point, I think much good can come of this. consider the Justice Department achieves a means to regulate and monitor Microsoft's activity; microsoft be allowed to continue the business model that has worked so well for them; the other companies bringing complaint receive some measures of remedy; the public, especially investors and those in related industries, get some much-needed certainty in the settlement; and ideally the national economy will take the settlement as something of a spark to get us out of the recession.

Perhaps I am too hopeful, but I would guess not. This settlement proposal is evidence that disagreeing parties in the corporate and legal worlds can reach accommodation at times. And that in itself is good news. I hope the settlement is approved, and with dispatch.

Thank you for taking the time to consider my opinion on this matter.

Very truly yours,

William McDonough

MTC–00030785

Hydratecs Injection Equipment Inc.
430 Morgan Avenue
Akron, Ohio 44311 USA INTERNET
www.rubberworld.com/hic
Phone (330) 773–0491
Fax No. (330) 773–3800
January 3, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

This letter is to express support for the settlement to the antitrust dispute negotiated by Microsoft and the Justice Department. I think it is in the best interest of everyone involved if the District Court Judge accepts the agreement, and this case is brought to closure.

The settlement is sensible, just, and addresses many of the problems that people had with Microsoft to begin with. Important steps will be taken to ensure that others have reasonable access to the market. At the same time, it recognizes the contributions that Microsoft has made to the computer industry and the U.S. economy. For example, Microsoft will still be able to sell licenses to computer makers, but only at a set standard price, meaning that Microsoft can't play favorites or retaliate if another company's software is also being put on a computer. The settlement also allows Microsoft to continue to use the integrated technology that has made it a world leader. Other firms will also be able to access this technology, so computers will become even more integrated, and consumers will end up with even more creative choices.

Thank you for allowing me to comment on this. I hope that the settlement will be final.

Sincerely,

Carl Chiofolo

President

MTC–00030786

526 Doral Drive
Bethany Beach, Delaware 19930
January 3, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Thanks for settling the antitrust case against Microsoft. The settlement is fair for all parties involved. We are all fortunate to have this case behind us. In my opinion Microsoft conceded more than they initially intended, but the state of our Nation's economy was more important to Microsoft than the stipulations agreed upon. The new rules now require that Microsoft turn over information to their competitors about how they, Microsoft, design their Windows operating systems. In essence, Microsoft has agreed to give-up its intellectual property to competitors who are neither as smart nor technologically advanced.

Hopefully we can now move on to issues that are vitally important to the safety and security of our nation—as opposed to those issues directed at undermining America's business competitiveness. Again, thanks for your prudence in settling this matter.

Sincerely,

Charles Hatch

MTC–00030787

724–746–7012 Sherwood Valley Pools
672 P01
1943 Route 980
Canonsburg, Pennsylvania 15317
January 2, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I feel that the settlement between Microsoft and the Justice Department is fair and should be accepted by all eighteen of the original suing states. It is my opinion that the government should leave well enough alone, and let Microsoft get back to business. I do not feel that this is, or ever has been, a government issue. It is matter of business, and since we are a society built upon the ideals of free enterprise and hard work, business should be the last of the government's worries.

Microsoft owns the rights to some of this country's greatest technologies, and now other companies are jealous. Instead of creating products that can compete with Microsoft's, these other companies have aligned themselves with outside interest groups. I have four PC's at home and use Microsoft products daily. I am free to use whatever software I choose, and Microsoft simply provides me with the most consistent quality.

Microsoft is one of this nation's largest employers, and it is truly one of America's greatest corporate assets. As such, it should be allowed to continue doing business the way business was intended to be in America, free of government control and interference.

Thank you for settling this case; I appreciate your belief in free enterprise.

cc: Senator Rick Santorum

Sincerely,

Darlene Barni

MTC–00030788

CINCINNATI INSURANCE
65 Twin Lakes Drive
Fairfield, OH 45014
January 3, 2002
Attorney General John Ashcroft
U.S. Justice Department
950 Pennsylvania Avenue
Washington, DC 20530–0001

Dear Mr. Ashcroft,

It recently came to my attention that the Justice Department is accepting public comment on the Microsoft antitrust case for a 60-day period. The settlement reached between Microsoft and the Department of Justice makes a lot of sense, and it should be implemented as soon as the formality of the comment period is over.

It appears to me that the problems that brought about the lawsuits in the first place have been addressed, and that guides are in place to protect smaller companies from future injustices. There is no need for more wasted time on the federal level. Personally, I think the issues in question were non-issues to begin with.

In short, it is time to move on our country has more serious matters to deal with then the practices of Microsoft. Although new government guidelines w-ill be placed on the IT sector, this settlement will provide certainty about the new rules and bring stability to the industry, This will ensure that our country can continue to introduce advanced American technology to the world market. I thank you for taking the time to consider my thoughts, and I wish you luck with the other matters your office is handling.

Sincerely,
Tom Lupinetti

MTC–00030789

ANDOVER STRATEGIC ALLIAN 978 470 4800
Unit 2 Cromac Wood
Ormeau Road
BELFAST
Tel: 028 9051 2000
Fax:028 9051 2080
January 2,2002

Please accept these comments in support of the settlement proposal in the Microsoft antitrust case. I support the arrangement agreed to by the government attorneys and Microsoft to end the litigation, and impose certain sanctions and competitive protections. I do not support any further intrusion into the private marketplace as is sought by Microsoft's competitors. The agreement serves the public interest: the increased (illegible) only serve special interests.

Millions of us in private industry, as well as consumers at home, use and appreciate Microsoft product. We are also not unaware of the competitive nature of the information technology business. Microsoft no doubt play:; rough, but so do its many competitors. It does not seem to me that any monopolistic force is at work in that very volatile market. The free-market system appears alive and well.

The antitrust laws are an important protection for American consumers and the economy as a whole. It is good that the Justice Department acts when it perceives a violation. And it is even better when they recognize it is time to compromise and settle. That time is now.

Sincerely,
Patricia (illegible)
Canal Street, Lawrence, Massachusetts 01843
Tel: (978) 686–2907

MTC–00030790

Arthur J. McCabe & Associates, P.C.
Attorneys and Counselors at Law
January 2, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse,

Under the provisions of the Tunney Act, I offer my comment in support of the settlement agreement reached in the case United States v. Microsoft. As an attorney and small businessperson involved in economic development projects, I believe this to be a fair and reasonable settlement of the complaints brought forward in federal court. To the extent that Microsoft violated law, this seems to be an equitable settlement for consumer and competitor alike. And in the interests of the business community as a whole, a decisive resolution is a very welcome prospect.

Microsoft and the information technology sector as a whole have contributed a great deal to daily life, and to the growth of the national economy. A resolution of this case as detailed in the settlement agreement will allow that beneficial growth and development to continue.

I appreciate your time in considering my opinion in this matter.

Sincerely,
Arthur J. McCabe
One Elm Square, P.O. Box 990, Andover, MA 01810 tel978–470–0200—fax 978–470

MTC–00030791

William J. Cunningham
January 2, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse,

I would like to go on record in support of the settlement negotiated between the Justice Department and Microsoft to settle their ongoing antitrust case. Too much time, energy and money have been expended in pursuit of this case already, and it is clearly time to end things now. Whatever perceived public interest there might have been in litigating this case certainly is achieved in the terms of the settlement, Microsoft is punished for its apparent wrongdoings, and the high-tech sector of the economy is now to be more closely monitored.

It is hard to imagine what further public good would be achieved by more stringent measures than those outlined in the agreement, but sadly that is what Microsoft's competitors are seeking. I believe it would be a dangerous precedent for the government to assume a role of daily arbiter in the workings of an industry that by its nature needs freedom to innovate. The Justice Department should hold its ground and seek to end this case: it is not the purpose of antitrust litigation to reward competitors in an industry.

Please accept my thanks for your work in resolving this case, and for considering my input. I hope Judge Kollar Kotelly will act with dispatch and see the wisdom in this settlement.

Sincerely,
William Cunningham
P.O. Box 1992—Andover, MA 01810—Telephone 978–475–3444—Fax 978–948–5135 wcunningham@capital-partners.com

---

MTC–00030792

PAUL GLAVEY
LITTLETON SELECTMAN
January 3, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse,

As a local official serving a community with many high-tech employees, I would like to take this opportunity during the public comment period to offer my thoughts on the proposed Microsoft settlement. The region where I am from is home to many high-tech companies, both established and start-ups, and so I am able to see the ramifications of the two-plus year case against Microsoft as it is manifest in the local economy. The litigation is certainly not the only factor, but it is decidedly a big factor in the evident slow down in the information and related technology sectors.

I support the settlement because I believe the case was misguided, because I think it was bad for the economy, and because I think it is a sensible time to end all this with a compromise. I believe it was wrong to prosecute Microsoft for antitrust violations because everything my own experiences tell me say that the information tech industry is nothing if not volatile, and that the end product of that volatility has been inexpensive and efficient products. I think the case has been bad for the economy because the nature of the industry is that freedom to evolve is essential, and the litigation portends a more restricted marketplace for ideas and technology. And I think it is best to settle now because a settlement has been reached between two opposing forces (Microsoft, and the DOJ) at a time when the economy could use some good news.

All this suggests to me that the calls for a more stringent set of conditions are unwise and fraught with risk. I urge the Department of Justice attorneys to stick to your position and urge the Judge to accept the proposed settlement. Thank you.

Sincerely,
Paul J. Glavey

MTC–00030793

VALLERIS
Phone: 310–473–2858
Fax: 310–388–1240
www.valleris.com
Technology Solutions for Business
January 2,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing this letter per Tunney Act criteria expressing my support of the Department of Justice settlement reached against Microsoft. I also hold the view that this being a free country, everyone has the right to free enterprise, and that government involvement should be as minimal as possible in such cases as the antitrust suit. The settlement that was reached will be beneficial to the entire IT industry, not to mention end users of Microsoft's—and other IT companies''—products,

There need not be any more restrictions imposed upon Microsoft. The settlement is fair and reasonable, and, more than anything else, it is comprehensive. The establishment of a "Technical Committee," which will monitor compliance to the settlement, will also arrange enforcement of the settlement. Microsoft cannot retaliate against any computer-makers that may ship software that would compete with the programs that compete with Microsoft products. In light of this extremely punitive settlement, the company deserves a break from spending more time in the courtroom.

Even though settlement seems to curb free enterprise, it is necessary to settle the case now to help strengthen the economy and end this tax-funded witch-hunt. This has been a real misuse of American taxes and a federal settlement will demonstrate what it means to do the right thing. Thank you for your effort in bringing about the settlement, and please continue to see it through to fruition.

Microsoft CERTIFIED Partner

Sincerely,

Shahin Kohan

CTO

11040 santa monica boulevard, los angeles, ca 90025

MTC-00030794

Systems Integration
Network Synergy
126 Monroe Turnpike, Trumbull CT 06611
Phone (203) 261-2201 Fax (203) 261-2935
31 December 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Dear Mr. Ashcroft,

Like many others in the high technology business, I have sometimes found Microsoft's business dealings a bit protective and overzealous. However, I am not sure that this attitude should have ever warranted the strong-arm government intervention of the kind that we have seen over this federal lawsuit against Microsoft. Of course, one of the greatest fears in the IT community has been a back-of-the-mind fear that if the government's case against Microsoft had succeeded with the enthusiasm once considered, that other companies within the IT community would soon find themselves subsequent targets, as well.

Now that a reasonable settlement has been reached, it is my hope that it will be upheld through the review process, and that we can all get on with the obviously more important issues facing the nation this new year.

I am writing this letter to voice my support for the settlement. I hope that others will follow. Thank you.

Sincerely,

Dana Gargano

President

MTC-00030795

Joseph and Ann Rosenthal
4712 Meadowview Boulevard
Sarasota, Florida 34233
January 3,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support for the settlement that was reached between Microsoft and the Department of Justice last November. I am glad to see that this case is finally coming to a close.

Microsoft has agreed to grant its competitors new rights that will allow computer makers to configure the Windows operating system so that non-Microsoft software can be promoted within Windows. The company has also stated that it will not retaliate against any hardware or software developer that develops products that compete with Windows. Microsoft has even agreed to let a three person technical committee oversee its business operations to ensure that the company complies with all terms of the current settlement. These tenets all combine to guarantee a fair and workable settlement that will address the concerns of all involved parties.

I support the settlement between Microsoft and the United States Department of Justice. It is a reasonable solution to a legal battle that has been draining resources for too long.

Sincerely,

Joseph Rosenthal 1/3/02

MTC-00030796

Folks:

Re: Microsoft Inc.

Get Off Their Backs- Get our economy on track— If not for Microsoft, MEL Many more people would not find it easy to use a computer !! They are the Best ! Stop Holding Them Back With

New Ideas !!

Thank You

P.S.

Winners Admire Other Winners—

Losers Resent Winners !!

Marvin Epstein
234 Uxbridge
Cherry Hill, NJ 08034

MTC-00030797

RENET CONSULTING, INC
10175 SW Barbur Blvd.
Suite 201B
Portland, OR 97219
Phone: 503–517–0472
Fax: 503–517–0474
Email: support@renetusa.com
We Help You Find a Way In a Labyrinth of Technology
Microsoft CERTIFIED Partner
January 3, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am writing to express my support for the recently negotiated settlement between the Department of Justice and Microsoft. I am of the opinion that this lawsuit had been generated more because of Microsoft's direct competitors, rather than from any sense of altruistic justice that the government was hoping to achieve. In fact, when the courts erroneously suggested that carving Microsoft up into littler, more manageable pieces was a good idea, any concept of justice had long since departed the discussion.

At long last, there is a fair and equitable settlement in sight. It obliges Microsoft to program successive versions of Windows with a mechanism to promote non-Windows products on Windows, and gives hardware companies flexibility with what software they want to ship on their computers to dealers and purchasers. The settlement will force improved interoperability between Windows and non-Microsoft programs as well, so the settlement includes and affects every company in the IT community. It is my hope that this settlement will ultimately prevail, and that all of us can turn our collective attention back upon the task of re-strengthening our faltering economy.

Sincerely,

Alexander Altotsky

President

MTC-00030798

FROM : Respondus, Inc.
FAX NO.: 425–861–3839 Jan. 03 2002
O5:20PM P1
Respondus
17127 NE 83rd Ct., Redmond, WA 98052
Phone: 425–497–0389—Fax: 435–881–3329
Email: info@respondus.com—
www.respondus.com
January 3, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I wanted to let you know that my colleagues and I were pleased with the settlement that was reached between Microsoft Corporation, the Department of Justice, and several States. I believe that the settlement addresses the key issues that are of concern to consumers and most software development companies. Moreover, I think it is in the best interest of the software development industry, if not the nation, to put this matter behind us. The entire technology community has lacked direction and has had to deal with a great amount of uncertainty for the past two years. I think this settlement is the best way to end this lawsuit and to put the technology industry back on track.

Sincerely,

David J. Smetters

President

Testing, Assessment, and Survey Applications for the e-Learning Market

MTC-00030799

CHANGE
NEW YORK
TELEPHONE: (518) 383–2696
FAX: (518) 383–2841
FAX TRANSMISSION

TO: Renata Hesse
Antitrust Division, U.S. Dept. of Justice
FAX #: 202–616–9937
FROM: Bennard T. Brooks
TOTAL NUMBER OF PAGES (including this cover sheet): 2
COMMENTS:
NOTE: If you experience any problem with this transmission,
please call the CHANGE NY office at (518) 383–2696 immediately.
Thank you
P.O. Box 720, Clifton Park, New York 12065
CHANGE
NEW YORK
January 3, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
SENT VIA FAX:202–616–9937

Dear Ms. Hesse,

As New York State's largest taxpayer organization, CHANGE-NY encourages Judge Kollar Kotelly to adopt the settlement as proposed in the case of the United States v. Microsoft. We believe that such a settlement now would benefit New York, one of the states that was a party to the original lawsuit.

Taxpayers have been forced to foot the bill for the case against Microsoft while surveys of New Yorkers show that 64 percent support a settlement or dropping the case altogether.

Thank you.

Sincerely,
Bernard J. Brooks
Statewide Coordinator
P.O. Box 720—Clifton Park, New York 12065—618–383–2696

MTC–00030800

Sent By: Ultra Inc;
502 241 2535;
Jan-4–02 11:09AM;
FAX TRANSMISSION COVER SHEET
Date: January 4, 2002
To: Mr. John Ashcroft, Attorney General
Fax #: 1–202–307–1454
From: John Swinney
Number of pages (including this form): 2
If you have not received all of the pages, or if transmission has been faulty, please call (502) 241–2530.
Message: Regarding the Microsoft settlement
Sent By: Ultra Inc;
Jan-4–02 11:lOAM;
John Swinney
6813 W Highway 22—Crestwood, KY 40014
January 3,2002
Mr. John Ashcroft, Attorney General
The Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft,

I wanted to express my appreciation for your support toward Microsoft in the antitrust suit battle between the Department of Justice and Microsoft.

The three year long battle has finally ended, only to find out that those parties who are still trying to hold up the process. It is obvious many of Microsoft's competitors are trying to utilize the legal system to gain some sort of competitive edge. I am opposed to these tactics.

Since there are many more important issues currently facing our country it is important to enact the settlement and support our technology industry by letting the process move forward and by allowing the competitive process to take hold. The people being harmed by this delay include not only those in the IT sector, but also consumers and our economy as a whole.

I urge you to continue your support of the settlement, and help make sure that no more action is taken against this agreement. Let us move forward and allow the American consumer to fully benefit from the high-end technology that we can surely provide, with a settlement that improves business practices as well as design improvements in Windows and other Microsoft programs.

Sincerely,
John Swinney

MTC–00030801

Jan 04 02 09:58a
FrankVan Overstraeten 864 944 7146 p.1
22 Cardinal Point
Salem, SC 29676
January 3, 2002
Attorney General John Ashcroft, US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

It has come to my attention that the Department of Justice (DOJ) has finally settled its antitrust lawsuit against Microsoft with a strong and binding agreement that will permanently change the software industry. I applaud the decision to end this lengthy lawsuit, because our economy needs a break, and Microsoft is a big part of the economy.

This settlement is a common-sense compromise, and court-appointed mediators worked with the DOJ and Microsoft around the clock to make this settlement work. It grants all sorts of privileges to Microsoft competition concerning business dealings and trade-secret protection. In my opinion, it would be a waste of America's tax dollars to pursue this case in court beyond this agreement.

The settlement grants computer makers broad new privileges to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows. Computer makers will now be free to remove the means by which consumers access various features of Windows. They can also replace access to those features with access to non- Microsoft software.

On top of that, Microsoft has also agreed to design future versions of Windows XP to make it easy for computer makers, consumers and software developers to do these non-Microsoft promotions within Windows. The new Windows version will make it easy to add or remove access to features built in to Windows or non-Microsoft software. Consumers will have the freedom to choose to change their configuration at any time.

What else could Microsoft's competitors want? Enough is enough. My hope is that the DOJ will not get involved in any more lawsuits against Microsoft after this agreement. I hope the DOJ will work on the obviously more pertinent issues it faces in this world.

Sincerely,
Frank Van Overstracten
cc: Senator Strom Thurmond
Representative Lindsey Graham

MTC–00030802

TO. Administrator
COMPANY: Department of Justice
FAX NUMBER: 202–307-1454
Or 202–616–9937
FROM: James W. Bushee
DATE: 01/04/02
NUMBER OF PAGES 1
SENDER'S FAX NUMBER: 703–281–2931
RE: Microsoft Settlement YOUR REFERENCE NUMBER:
x URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE
Notes/Comments:

Gentlemen;

I was pleased that a settlement with Microsoft was worked out by your Department. While the terms weren't as permissive as Microsoft would have chosen, they obviously weren't as onerous as Microsoft's competitors would have chosen. I fully support the settlement and hope we, as a Nation, can get on to more productive (than making lawyers rich by litigating) issues.

Jim Bushee
315 EAST STREET, NORTHEAST
VIENNA, VIRGINIA 22180–3619
E-MAIL: JBUSHEE@ATTGLOBAL.NET

MTC–00030803

249 Beverly Road
Chestnut Hill, MA 02467
January 4, 2002
Re: Microsoft Settlement

Sirs:

My personal feelings about the Microsoft case are: The case is drawn out too long. We need the economy to move in positive directions as all indicators are now leaning to. MSFT has done much for the American economy. Put the issue to bed The settlement is more than fair. Lets move the American economy forward to benefit all Americans and all people.

Yours truly,
Elaine Ross

MTC–00030804

GOLIATH NETWORKS
THINK BIG
January 4th, 2002
Attorney General John Ashcroft, US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing this letter to lend my support to the settlement reached between Microsoft and the Department of Justice. This lawsuit is just a way for competitors of Microsoft to feel good about their lack of success and block any further achievements of Microsoft. Even though I believe this suit should not have been brought about, it is better to resolve this issue and move ahead, rather than spending another three years in court.

Microsoft has earned its success along the way. It has provided its consumers with quality care and service, which has tremendously helped in its worldwide accomplishments. Microsoft opponents have suggested terms that appear to stifle trade, such as uniform licensing price agreements. Even so, Microsoft has acknowledged the terms so that it can move on.

This waste of American tax dollars is pointless. To stop this from continuing any further, all action that is taking place at the federal level be brought to an end.

Sincerely,
Tareq Saddiq
Senior Network Architect
Goliath Networks Inc.
cc: Representative Tammy Baldwin
goliath.com
1966 South Stoughton Rd
Madison, WI 53716
tel: 608.278.7866
fax: 608.224.0788
1110 N. Old World Third St
Milwaukee, WI 53203
tel: 414.272.0265
fax: 414.278.6019
2071D Lawrence Dr
DePere, WI 54115
tel: 920.964.640
fax: 920.964.1046

MTC-00030805

JAN-04-02
FRI 12:15
CURT LONG
RICHARD ZAHNER
10101 Howe Street
Leawood, KS 66206
January 4, 2002
Ms. Renta Hesse
Trial Attorney—Anti-Trust Division
Department of Justice
601 "D" Street Northwest
Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I have been involved in the management of various aspects of the construction industry for many years in the Kansas City Area. Technology is playing a very significant role in our industry today.

We must do everything possible to promote the continued growth of technology. I believe we must end the litigation against Microsoft and proceed with the terms of the recent agreement between the Department of Justice and Microsoft. This agreement will promote fair competition and serve the best interests of consumers throughout our country.

Sincerely,
Richard Zahner

MTC-00030806

WATNE'S
EMELTZER'S
BIKE SUPERSTORE
2714 Erie Blvd. E. Syracuse, NY 13224
www.waynesbikes.com
P (315) 446-6816 F (315) 446-1156
January 4, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, D.C 20530

Dear Ms. Hesse:

I am the owner of one of the largest bicycle stores in Syracuse, NY. My business has been family-owned for more than thirty years, and has been able to thrive because of our reliance upon affordable and up-to-date technology.

Currently, Wayne's and Mellzer's Bike Superstore operates solely on Micrsoft software. We depend on our software capabilities to handle everything from billing to inventory control. Many of our vendors such as Trek, Schwinn, Raleigh and Giant require us to do business with them using the latest technology.

The antitrust laws meant to protect consumers, not for powerful companies to protect themselves from market competition. ProComp, AOL, Time Warner, Sun and Oracle should stop encouraging the government to fight their battles for them in court and fight in the marketplace. where this battle belongs.

Our national economy is currently in a State of recession and the last thing business owners need is to have the price of technology and software skyrocket due to litigation and regulation of the high-tech industry.

Sincerely,
Daniel W. Venditti
Owner

MTC-00030807

JAN-05-2002 12:33 AM
RAY. RICHARD&ASSOCIATES
954 435 8629 P.01
Helen L. Richard
17415 NW 10th St
Pembroke Pines, Fl. 33029
04 January, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinion regarding the settlement reached in the Microsoft antitrust case in early November. I believe the government should focus its attention on more important matters rather than filing claims against Microsoft and prolonging unnecessary litigation. Contrary to popular belief the terms of this settlement were more than reasonable. The company agreed to terms that go beyond the products and procedures at hand as well as several product developments that were not found to be unlawful by the Court of Appeals. This demonstrated the willingness of Microsoft to comply with the standards set forth in order to prevent future antitrust violations.

As in the AT&T case, I sincerely believe that the government has wasted time and money on litigation. We have not had a decent, understandable phone system since the breakup of AT&T. Therefore, I urge that the government devote itself to ridding the United States of terrorists and threats of terrorist attacks.

Thank you for your time and willingness to hear comments from the public.

Sincerely,
Helen L. Richard

MTC-00030808

01/04/2002 12:47 6165383444
PARIS MOTORS INC.
PAGE 01
PARIS MOTORS INC.
Honest Value Since 1960
James Niewiek
4112 S. Division
Grand Rapids, MI 49548
January 3, 2002
Attorney General John Ashcroft,
Dept of Justice
950 Pennsylvania Avenue,
Washington, DC 20530

Dear Attorney General Ashcroft,

As a small business owner, I write you in support of the recent Microscft settlement. After more than three years of court battles, I am happy to hear that the Department of Justice and Microsoft have finally reached an agreement. Microsoft agreed to terms that extend way beyond the products and procedures that were actually an issue in the suit in the first place. Under the terms of the agreement, Microsoft has agreed to subject itself to constant review by the government, and will license out protocols, codes, and interfaces for Windows and other software so that other software companies can compete more effectively. I fail to see how anyone could purloin anything else from Microsoft.

Owning my own business makes me very aware of the recession our nation is going through. The IT industry needs to move on and get the competitive process rolling. It is time for our economy to prosper, by getting back to business as usual.

Sincerely,
James Niewiek
4112 South Division Grand Rapids, MI 49548 Phone (616) 538-9220 Fax (616) 538-9444

MTC-00030809

FACSTORE TM
354 North Avenue
East Cranford, NJ 07016
Tel .: (908) 653-4500
Fax (908) 653-4511
E-Mail: drjws@cybernex.net
31 December 2001
Attorney General John Ashcroft
US Dept. of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Democracy functions best when our elected representatives are responsive to the perceived majority demand from our nation, rather than the well-financed voice of those who are special interest groups. We have seen a bit of a breakdown of this principle regarding the Microsoft lawsuit instituted by the Department of Justice. Here, we experienced a handful of Microsoft's most ardent competitors and critics attempting to use the power of the federal government to scale back the effectiveness of one of our country's most successful and innovative companies. I

agree that oftentimes it appears as if Microsoft takes an extreme anti- competitive position regarding their closest-held trade secrets, but this is only prudent and certainly has never risen to the level of federal lawsuit status. At long last, this regrettable suit has been settled. I am hopeful that this will bring to an end one of the saddest chapters in American business, with no further federal action contemplated. Now is the time to look to our nation's leaders to strengthen our country's businesses, rather than listening to the special interest groups" desire to tear them apart. Thank you for you attention to this matter.

Sincerely,
Jeffrey Schram
President Jan-04-02 02:08P FACSTORE, INC 906534511 P.01

MTC-00030810

JAN. 4. 2002 12:21PM
NO. 4637 P.1/2
January 4, 2002
FACSIMILE TRANSMISSION
To: Renata Hesse
Fax Number: 202.616.9937
From: Kim Lambert
user: 3035
Code: 999100-0100
xxx.xxxxxx.xA
JAN. 4.2002 12:21PM NO. 4637 P. 2/2
KIM M. LAMBERT
5311 Forest Lawn Circle
McFarland, WI 53558
January 4,2002
Renata Hesse
Trial Attorney
Department of Justice-Antitrust Division
601 D Street, NW, #1200
Washington, DC 20530

Dear Attorney Hesse:

I am writing to express my full support of the Microsoft Settlement recently reached with the Department of Justice.

There has been no consumer harm as a result of any actions taken by Microsoft. Consumers have enjoyed tremendous benefits due to Microsoft's innovation. The government has failed to show any ham to consumers.

I believe this case has continued far too long. With over $30 million already spent by our taxpayers, it is time to stop the litigation. Thank you for you attention to this urgent matter.

Sincerely,
Kim M. Lambert 003.336576.1

MTC-00030811

JAN. 4.2002 12:21PM
NO.4638 P. 1/2
January 4, 2002
FACSIMILE TRANSMISSION
To: Renata Hesse
Fax Number: 202.616.9937
From: John Matthews
User: 3035
Code: 999100-0100
XXX.XXXXXX.XA
JAN. 4.2002 12:21PM NO.4638 P.2/2
JOHN W. MATTHEWS
4238 Savannah Court
Middleton, Wisconsin 53562
January 4,2002
Renata Hesse
Trial Attorney
Department of Justice-Antitrust Division
601 D Street, NW, #1200
Washington, DC 20530

Dear Attorney Hesse:

I am writing to express my full support of the Microsoft Settlement recently reached with the Department of Justice.

The settlement is appropriate in scope because it addresses only those items upheld by the courts. It is now in the best interest of the technology industry, our fragile economy and our consumers to finally resolve this case, which has cost our taxpayers over $30 million.

Thank you for your concern in this important matter.

Sincerely,
John W. Matthews 003.334570.1

MTC-00030812

JAN-04-2002 15:57
VERIZON PA PRESIDENTS OFC
215 466 8515 P.01/01
January 2,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Finally, after three protracted years of legal battles, Microsoft and the Department of Justice settled their increasingly tedious antitrust dispute. The settlement reached will benefit the IT industry as well as the American consumer, not to mention the stability it will bring to our tenuous economy. This case has been a gross misuse of American tax dollars, and I hope that this settlement will bring this nonsense to a close after the public comment period.

This legal battle has seriously damaged the IT industry as well as the U.S. economy in general. The settlement will help strengthen the economy, and ensure that the IT sector will continue to deliver cutting-edge technology to the market. This settlement is fair, and should appease all parties involved in the dispute. Only those companies who feel that they cannot succeed without the help of the government would still be pursuing this case in the face of this settlement.

I am ardently opposed to any further legal action against Microsoft. Microsoft needs to focus on delivering innovative products to the market. As for the government, I am sure that there are other issues to focus on. Thank you for the work that you have done to ensure that this case is brought to a swift end. I look forward seeing it completely resolved.

Sincerely,
Daniel J. Whelan 247 S. 7th Street
Philadelphia, PA 19106
cc Senator Rick Santorum
TOTAL P.O1

MTC-00030813

Syracuse Fitness
2716 Erie Boulevard East
Syracuse, NY 13214
P (315) 446-4136
F (315) 446-1156
www.syracusefitness.com
January 4, 2002
Ms. Renata Hesse, Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC. 20530

Dear Ms. Hesse:

I am writing to you in regards to U.S. vs. Microsoft. I'd like to take a moment your time to tell you why I am in favor of the settlement of this case. The national economic recession we are currently dealing with will not be helped with continuing litigation against Microsoft, as well as regulation of the high technology industry Our economy needs the high-tech sector to be strong and prosperous in order to aid in economic recovery.

I firmly believe that there has been no harm done to consumers as a result of any action, taken by Microsoft. Being a sole proprietor, I can safely say that in my experience Microsoft's innovation has led to tremendous benefits for consumers, such as improved products with lower price tags.

I urge Judge Kollar Kotelly to be an advocate of business and economic recovery by supporting the settlement of this case.

Thank you.
Respectfully yours,
Andrew Venditti
Owner
Syracuse Fitness 3154465611 16:16 01/04/2002 01/04/2002 16:16 3154465611 PAGE01

MTC-00030814

02/19/1995 01:39 3156877564
LBD ENTERPRISES PAGE 01
1174 Fylor Rd.
Kirkville, NY 13082
LBD Enterprises
January 4, 2000
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
Re: U.S. vs. Microsoft

Dear Ms. Hesse,

As an entrepreneur who has grown his business exponentially throughout the past ten years, I can say that my business would not have been able to thrive if I had not had affordable access to Microsoft software. As the founder and President of a successful waste management business and the owner of 4 farms throughout upstate New York, I can personally say that operating a successful business during a time of economic recession can be challenging. Continuing further litigation against Microsoft will only hurt business owners by adversely affecting the economy and driving up the price of software that is essential to the operations of numerous companies.

Over $30 million dollars in taxpayer trends have been spent on U.S. vs. Microsoft Agreeing to the settlement of this case is in the best interest of the technology industry, the economy, and consumers.

Thank you.
Sincerely,
Louis B. DeMario
President

MTC-00030815

01/84/2002 14: 14:18 3156824992
OLEARY LAW PAGE 01/01
Robert P. O'Leary, P.C.
ATTORNEY AT LAW
104 Pleasant Street—Post Office Box 57
Manlius, New York 13104
Telephone: 315-682-9131
Fax: 315-682-4992
Admitted to practice law in New York and Florida
January 4, 2002

Renata Hesse, Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Re: U.S. vs. Microsoft

Dear Renata:

In light of recent developments I thought it beneficial to write you in regard to the referenced matter.

I believe settlement of this case is in everyone's best interest. The settlement being reviewed by Judge Kollar Kotelly while entirely satisfying to none, includes something for everyone. Given that the economy is now running at a much slower pace the last thing we need is more litigation and regulation of the high-tech industry.

I believe that the break-up of America's most successful company is not in the best interest of consumers, the economy or the future of technology development. Microsoft's innovation has led to tremendous benefits for the public, such as better products and lower prices. Antitrust law is supposed to be about consumer harm, in my opinion the government has failed to show any harm at all.

Thank you for your time and interest.

Very truly yours,
Robert P. O'Leary

MTC-00030816

JAN-04-02 FRI 13:20
CURT LONG
314 636 6919 P. 01
RICHARD ZAHNER
4200 Gardner
Kansas City, MO. 64120
January 4, 2002
Ms. Renta Hesse
Trial Attorney—Anti-Trust Division
Department of Justice
601 "D" Street Northwest
Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I have been involved in the management of various aspects of the construction industry for many years in the Kansas City Area. Technology is playing a very significant role in our industry today.

We must do everything possible to promote the continued growth of technology. I believe we must end the litigation against Microsoft and proceed with the terms of the recent agreement between the Department of Justice and Microsoft. This agreement will promote fair competition and serve the best interests of consumers throughout our country.

Sincerely,
Richard Zahner

MTC-00030817

JAN-04-2002 13:28
COLORADO TECH SF
1 605 361 5954 P.01/03
FAX TRANSMITTAL FORM
Date: 1/4/02
Company Name: Dept of Justice
Fax Number: 202-616-9937
Please Deliver
To: Renata Hesse
Number of Pages (including cover sheet): 3
Sender: Clark Cutler
Colorado Technical University—Sioux Falls
3901 W. 59th Street
Sioux Falls, SD 57108
(605) 361-0200
Fax (605) 361-5954
www.colotechu.edu
JAN-04-2002 13:28
COLORADO TECH SF
1 605 361 5954 P.02/03
Joni M. Clark Cutler, Attorney at Law
3901 W. 59th Street
Sioux Falls, SD 57108
605-361-0200 x114
Fax 605-361-3954
January 2, 2002
Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

This letter is to address the proposed settlement agreement in U.S. v. Microsoft, and to express my support for it as an advocate for children and families, and as an educator and attorney in South Dakota. Microsoft has been a responsible partner for strengthening our nation's economy, as well as for the development of information technologies in our state's effort to wire its public schools and buildings for high-speed internet access. One of the Bill and Melinda Gates Foundation's many contributions to children and education was a $670,000 matching grant to our state to foster IT education in our state's school systems. The Microsoft Corporation, I believe, has been a responsive company by delivering software products which make access to information technologies affordable and easier to use for consumers, and that has had a tremendous affect on our nation's economy. If an anti-trust case is designed to protect consumers, I think it's important to note that there has been no consumer harm proven in this case which involved any of Microsoft Corporation's actions.

Microsoft has been a creative and aggressive company in exploring and developing new and better software technologies to empower the American consumer, breaking down the barriers of cost and function for users. As a result, the company is a major factor in our nation's economic strength because it has been so successful meeting and anticipating the needs of American consumers and consumers throughout the world. I believe the anti-trust case has fully run its course and continuation of it seems to serve no useful purpose to consumers nor to fairness to the IT industry as a whole. I believe the settlement, which has been sought by the Justice Department and nine of the states.
JAN-04-2002 13:28
COLORADO TECH SF
1 605 361 5954 P.03/03
Joni M. Clark Cutler
Attorney at Law
3901 W. 59th Street
Sioux Falls, SD 57108
605-361-0200 x114
Fax 605-361-3954
involved in the anti-trust suit is fair and highly beneficial to our nation, to the cause of better education and to our children's futures. Most importantly, the settlement does address the issues, which have been upheld by the courts as being valid. It is time this case is declared finished. A sensible agreement is at hand which is fair and highly beneficial to everyone, despite the nagging wishes of Microsoft's corporate enemies who want to achieve an unearned advantage by keeping this case active.

Our nation's economy needs to move ahead, and Microsoft and the rest of the technology industry need to move forward and help our nation's economy rebuild. Thank you for your consideration of my views on this case.

Sincerely,
Joni Clark-Cutler

MTC-00030818

P. 1
December 31, 2001
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

There are a great many important issues that we as Americans and our nation "s leadership are dealing with today that are virtually unprecedented As time moves on toward the new year, we are all struggling with issues of our national economy, our national security, and our ability to emerge from a slight economic downturn.

With all of these critically important tasks, I am hoping that we do not unnecessarily slow ourselves down with the playthings of yesterday, such as this ill- advised lawsuit against Microsoft. There is, I believe, an excellent settlement at hand, and it would benefit us all for this settlement to be accepted, with no further action against Microsoft.

Microsoft did employ aggressive tactics at protecting both its position as a technology leader, as well as its proprietary Windows coding, but this only makes good business sense, despite the fact that Microsoft's competitors may have sobbedfor their relative lack of similar innovative leadership. Blaming Microsoft for these shortcomings is a bit excessive; convincing the federal government to institute a federal lawsuit is just plain vengeful. Let's be done with this, Let's move on. Let's accept the settlement and hope that we can all play better together.

Sincerely,
Eric Speer
President 917-576-1537

MTC-00030819

Sanford Krasnoff
417 South Broad Street
New Orleans, Louisiana 70119
504.822.4877
Office 504.822.3407-Fax
FAX COVER SHEET
To: Renata Hesse
From: Sanford Krasnoff
Date: 1-4-2002 Pages Including Cover: 2
Phone: Fax:
Message:.
CONFIDENTIALITY NOTICE

This facsimile transmission (and/or the documents accompanying it) may contain confidential information belonging to the sender. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone to arrange for return of the documents.

Jan. 4 2002 3:57 PM No. 0820 P.1
Jan 04 02 02:56p
SANFORD KRASNOFF
OFFICES OF SANFORD KRASNOFF
417 SOUTH BROAD STREET
NEW ORLEANS, LA 70119
Telephone: (604) 822–4877
Fax #: (604) 821–4853
January 2, 2002
VIA FAX: (202) 616–9937
Renata Hesse, Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
RE: Settlement of U.S. v. Microsoft

Dear Ms, Hesse:

It is time we settle this case once and for all, Over thirty million tax dollars have been spent and it is time that we move on to closing this case and letting the technology industry compete openly again.

Microsoft is a great American success story and its competitors need to fight with them in the marketplace and not in the courtroom. Our economy could use some help and ending this drawn out and expensive case would sent the right signal. Protect consumers and keep the market place open by approving the settlement.

Sincerely,

SANFORD KRASNOFF SK/blb Jan. 4, 2002 3:57PM No. 0820 P.2

MTC-00030820

212–1238 Seymour St.
Vancouver, BC, V6B 3N9 Canada
January 4, 2002
Renata Hesse, Trial Attorney
Suite 1200
Antitrust Division, Department Of Justice
601 D Street NW,
Washington, DC 20530

Dear Renata Hesse, Trial Attorney

As a self-employed PC user, many aspects of my livelihood depend on the smooth functioning of my home computer and my freedom to choose the appropriate software to meet the needs of my business. Microsoft's actions have caused undue frustrations and increased workload on my part in its efforts to illegally maintain monopoly power in the PC operating system market. For example, by binding its Internet Explorer Web Browser with its Windows operating system, Microsoft has forced me, the consumer, to take extraneous measures to exercise my right to choose the appropriate browser software for my needs. The Court has found that Microsoft has not acted in this way to benefit the consumer, or even to competitively increase revenues, but to illegally maintain its monopoly power. in effect, Microsoft has illegally victimized consumers for its own preponderance. I find this infuriating and in direct contradiction to the laws and basic principles of the competitive free market that has made the United States of America what it is today.

As an international consumer of products originating in the United Stats, I feel I speak for my peers in expressing deep concen that the lenient sentence passed on to Microsoft will allow Microsoft to continue to rob consumers of their right to choose and to illegally propogate its monopoly as it has freely done so. Moreover, a monopoly of this kind will, as it has in the past, result in retardation of technological advancement and economic turmoil due to inflated prices and unhealthy market conditions. The consumer is the lowest common demoninator in the entire economic system, as we know it today. If this lenient sentence is ratified, it will sacrifice the rights of consumers worldwide; and that is a trajedy that will have grave consequencs for years and years to come.

I urgently plead for a much more stern, much more responsible and appropriate sentence in the case of the United States v. America v. Microsoft Corporation.

Sincerely,

Yee Jee Tso 014/04/2002 14:11 6046826668 INTERNET COFFEE PAGE 01

MTC-00030821

01/04/02 17:3 0
FAX 7854840191
THE SOURCE 01 THE Source maximum creativity
FAX TRANSMITTAL #PAGES: 2 (including cover)
TO: Renata Hesse
COMPANY: USDOJ
FAX#: 202–307–1454
FROM: K. Van Meteron
DATE: 1/4/02
MESSAGE: See Attached Letter
PO BOX 2034
TOPEKA, KS 66601
PH.905.484.0192
FAX.785.464.0194
01/04/02 17:30 FAX 7854840194 THE SOURCE 02
SOURCE
January 3, 200l
Judge Kollar Kotelly
Attn: Renata Hesse
U.S. Department of Justice Antitrust Division
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge Kollar Kotelly:

The time has come to bring closure to the Microsoft case. Thankfully, President Bush's Department of Justice has come to an agreement with the Microsoft Corporation that settles this case and addresses the concerns of the complaint.

The costs of this case to the American taxpayers have been astronomical. To date the federal government has, spent in excess of $35 million dollars chasing Microsoft and this figure does not include the millions that the states have invested in this lawsuit. Taxpayer dollars were spent needlessly on a case in which the government has yet to prove consumer harm. Rather than be harmed, Americans have benefited in their use of the world's most advanced and affordable software. At this moment in history, our nation is faced with serious economic concerns on both the national and state levels. It is crucial that all taxpayer dollars are spent in the most responsible manner. The continued prosecution of this case is not, in my opinion, an example of responsible use of government revenues.

Based on reports that I have read, the proposed settlement offers an evenhanded resolution to this case. This, combined with today's economic realities, argues strongly for your approval of this settlement. As an independent businessman and taxpayer, I encourage you to accept this settlement.

Sincerely,

Kristen D. Van Meteron, General Partner
POST OFFICE Box 2034 TOPEKA KANSAS 66601–2034 PHONE 785.484.0192
FAX.785.484.0194
INFO@MAXIMUMCREATIVITY.COM
www.MAXIMUMCREATIVITY.COM

MTC-00030822

01/02/2002 16:21
COVER PAGE
TO:
FAX: 12023071454
FROM: SUMMIT GROUP INC
FAX: 5044862317
TEL: 5044862317
COMMENT :
0l/02/2002 16:21 5044862317 SUMMIT GROUP INC PAGE 01
Summit Consulting Group Inc.
614 N St. Patrick Street
New Orleans, LA 70119
January 2, 2002
Attorney General John Ashcroft POST-IT FAX NOTE:7671 DATE:1/4/02 # of Pages 1–1
US Department of Justice TO: ATTORNEY GENERAL FROM: Ben Claassen
950 Pennsylvania Avenue, NW CO/DEPT: CO: SCG1
Washington, DC 20530 PHONE#: PHONE#
FAX#: 202 307 1454 FAX#: 504 486–2317

Dear Mr. Ashcroft:

I write you to make you aware of my support for the recent settlement regarding Microsoft and the Department of Justice. I was happy to hear that the case had been settled. We need to let this settlement move forward and let our technology industry continue to provide us with the high quality products that help small businesses to compete.

Furthermore, this settlement seems to be quite reasonable. The terms not only allow other software manufacturers to have access to various Windows interfaces, but allow other companies to access new licensing and marketing terms. All of this will promote the use of non-Microsoft programs within the Windows operating system.

As a small business owner involved in electric utility consulting, I strongly value Microsoft's place in our economy. Since I am pro-competition, I see Microsoft actions inviting more competition to the IT industry. This was the original goal in the anti-trust suit, and now we that we have achieved this goal we should forward,

Sincerely,

Ben Claassen

MTC-00030823

FROM : FAX NO. : 8037763093 Jan. 06 2002 01:52PM Pl

104 Emerald Lake Road
Columbia, SC 29209–4243
January 5, 2002
Attorney Geneful John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to express my happiness upon hearing the DOJ has ended its three- year antitrust lawsuit against Microsoft with a strong settlement. I support Microsoft and am anxious to see this agreement between Microsoft and the government finalized. I believe this settlement is more than fair to both Microsoft and its competition, and I really do hope that there will be no further action taken against Microsoft at the federal level.

This settlement has been reached after extensive negotiations. This settlement allows Microsoft to continue designing and marketing its innovative software, while benefiting the technology industry as a whole. Among other regulations, under the settlement Microsoft will be unable to take retaliatory measures against hardware companies for putting Microsoft software on a computer that also has non-Microsoft programming on it. This way, hardware makers can be more responsive to their clientele.

Microsoft has pledged to carry out all provisions of this agreement, and the government has created a technical oversight committee to test Microsoft compliance.

I believe that this settlement will benefit the economy, the computer industry, and consumers. I believe that it will be most productive to allow Microsoft to devote its resources to innovation, rather than litigation. Please see to it that the settlement is finalized and enacted as soon as possible.

Sincerely,
Wilbur Goodwin
cc: Senator Thurmond

MTC–00030824

12/29/2001 03:55 0015832224 Haskell Prochnow PAGE 01
7108 Killyons Canyon Lane
Salt Lake Citv, Utah 84108
January 4, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in support of the settlement that has been reached between Microsoft and the Department of Justice and want to take this opportunity to comment on this issue. It is time for this suit to come to an end. From an economic standpoint, the suit is costing taxpayers money at a time when we should promote our economy. Under the terms of the agreement Microsoft will drastically change the way they do business, they have agreed to disclose information about the internal interfaces of their Windows operating system, and they have agreed to make Windows compatible with non-Microsoft software.

If there is any fear that Microsoft will infringe on antitrust laws, or that they will not comply with the terms of the settlement, the appointed government oversight committee will certainly take care of it. We need to move on.. There are issues of greater importance that we should concentrate our efforts on such as economic stimulus. Thank you in advance for your decision to settle this case as more litigation would, at this point, be imprudent. I appreciate your time and hard work in Washington.

Sincerely,
Janet Haskell

MTC–00030825

From: Duncan McGregor
To: Attorney Genera Ashcroft
Date: l/6/2002 Time: 9:58:36 AM Page 1 of 1
Duncan D. McGregor—ddml@shtc.net
313 Curtis Road—Chesterfield, SC 29709—1043—USA—Phones: Home & Office: (843) 623–2597 Fax: (843) 623–3123
January 6, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I wish to express my happiness upon hearing about the Department of Justice (DOJ) decision to end its antitrust lawsuit against Microsoft. This decision will be a boost to Microsoft which will benefit our economy at a time that when it's greatly needed.

The DOJ and Microsoft have been involved in this case for more than three years now. After much consideration, the parties agreed to settle. The settlement has many heavy sanctions against Microsoft, but is simply not enough for those that wish to harm Microsoft for more than just antitrust reasons.

The settlement requires Microsoft to document and disclose, for use by its competitors, various interfaces that are internal to Windows' operating system products—a first in an antitrust settlement. It also forces Microsoft to make available to its competitors any protocols in Windows'' operating system products that are used to interoperate natively with any Microsoft server operating system. These will make other companies'' products run more efficiently on Windows, increasing competition.

Now that all of this is finally over, the government should let this agreement fall in to place. In my opinion, the federal government needs not take any more action against Microsoft beyond this settlement.

Sincerely,
Duncan D. McGregor
cc: Senator Strom Thurmond

MTC–00030826

Jan 06 02 12:43a Sandi Wiemers 1–785–632–6240
721 Franklin
Clay Center, KS 67432
January 5, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft,

I find the possibility that the Department of Justice could revive its case against Microsoft to be ridiculous. Millions of dollars have been spent on this case and a reasonable settlement has been crafted; pushing this case on would be rather excessive.

There is no reason to extend this expensive and time-consuming case.

Once again I ask that you please support the Microsoft settlement agreed to on November 2,2001. Your restraint and good judgment in this case is appreciated.

Sincerely,
Sandra Wiemers

MTC–00030827

Jan 05 02 06:48p Arthur W. Miller 425 316–0306 P.1
3309 97th Place SE
Everett, WA 98208–4371
January 5, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I wanted to let you know that I am in favor of the settlement that Microsoft and the Justice Department agreed to recently.

Government should not be getting involved in business disputes in private enterprise. This was simply a nuisance suit that should never have been brought in the first place. It frankly reminds me of the tobacco suits where some states were able to extort money from private enterprise.

Continued litigation is bad for business and bad for investors. Microsoft needs to be able to innovate. This is what has made them the flagship of the U.S. computer industry, which is second to none in the world. The settlement is reasonable, and it will allow independent companies to promote their software within the Windows operating system. Because there will be a three-person technical committee to oversee Microsoft and restrict the company from any further behavior that hinders competition, it is my opinion that this case has been won by the government and should not be pursued past this point.

Thank you for letting me explain my position, and I look forward to a hasty end to this matter.

Sincerely,
Arthur W. Miller

MTC–00030828

Jan 05 02 06:46p Arthur W Miller 425 316–0306 P.1
Arthur Miller
3309 97th Place SE
Everett, WA 98208
December 10, 2001
Senator Maria Cantwell
United States Senate
Washington, DC 20510

Dear Senator Cantwell:

I wanted to let you know that I am opposed to the Senate Judiciary Committee holding hearings on the fairness of the Microsoft antitrust settlement. It is my hope that you will be able to have these hearings canceled. The Government should not become involved in a business dispute, especially when the suit should never have been brought forth in the first place.

This is primarily a nuisance suit reminiscent of the tobacco suits, where several states were out to extort as much money as they could by filing frivolous law suits against the tobacco companies. This type of law suit stifles creativity which not only hurts the industry but drives up cost to consumers. Continuing this antitrust litigation is bad for all American businesses, for Microsoft, for the consumer and for the country. Microsoft must be allowed to innovate. This is what has made them the flagship of the U.S. computer industry, which is second to none in the world.

Thank you for letting me voice my opposition to these hearings.

Sincerely,
Arthur Miller

MTC-00030829

@A
From: ROLAND OLAF PETERSON
To: Attorney General John Ashcroft
Date: 2002/01/05
Time: 8:13:22 PM Page 1 of 1
22 Ravenswood Road
Waltham, Massachusetts 02453
2002 January 5
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

I am writing you today to express my feelings on the settlement that was reached on 2001 November 2, between Microsoft and the Department of Justice. I believe that this settlement is fair and reasonable, and I am anxious to see this dispute resolved.

This settlement allows Microsoft to devote its resources to designing and marketing its innovative software, rather than litigation. At the same time, Microsoft has pledged to engage in activities that will benefit competing companies, such as: sharing more information and giving consumers more choices. An oversight committee will be assigned by the federal government to monitor Microsoft's compliance with the settlement, and competitors have the option to sue Microsoft if they feel Microsoft is not complying with the settlement.

After three long years of litigation, I believe it is time to allow Microsoft to devote its resources to creating advances in technology, rather than litigation. Thank you for your support.

Sincerely,
Roland Peterson

MTC-00030831

10/17/2001 07:43 9419230154 SCOTT GOLDBERG PAGE 01
Sharon Doyle
4021 Las Palmas way
Sarasota, Florida 34238
January 5, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: I am writing to express my support for the settlement that was concluded in November between Microsoft and the Justice Department. This settlement represents the best opportunity to move forward. The settlement will require 'Microsoft to make significant changes in they way they operate. In a first for an antitrust settlement, Microsoft has agreed to disclose for use by its competitors various interfaces that are internal to Windows' operating system products.

To assure its compliance with the settlement, Microsoft has agreed to be monitored by a Technical Committee. The Technical Committee will be comprised of three experts in software engineering. Thereafter, if any third party believes Microsoft is not complying with the settlement's terms, that party can lodge a complaint with the committee. Most importantlv, the speed with which the new cultures of technological development, entrepreneurship and global competition are progressing mav require new governance however this is a larger legislative issue and not Microsoft specific. The damage done to Microsoft and its investors should have been avoided. The competitive delay caused by this suit was damaging to our overall economy in mv opinion.

In summary, this settlement is the right choice for the federal government at this time. It is also in the best interest of citizens and consumers like myself. I hope you will continue supporting this settlement and commend your office for the efforts so far to bring this case to a close.

Sincerely,
Sharon Doyle
000TT@AOL.com

MTC-00030832

FROM: VELCO ENGINEERING INC PHONE NO. : 281 398 3741 P01 VELCO ENGINEERING INC.
FAX TRANSMITTAL COVER SHEET
To: U.S. Department of Justice FAX No. 1–202–307–1454
From: M. A. Vela PE No. of Pages incl. cover 2

Comments:

As a personal and business user of Microsoft products for about twenty years I agree completely with the editorial page article in the Jan 4 Houston Chronicle article attached. Microsoft: products are generally low priced consumer products aimed at the home user. Competitors such as Oracle, Sun and others are higher priced producers targeting large corporations. I shudder to think what prices would be like if Microsoft had not been around and the absence of standards would further compound the users problems.

I have been a practicing Consulting Chemical Engineer for about 25 years.

M.A. Vela
VELCO Engineering, Inc.
64 Kelliwood Courts
Circle Katy, Texas 77450

FROM : VELCO ENGINEERING INC. PHONE NO. : 281 398 3741 P02

Competition is best way to regulate Microsoft DESPITE the settlement between Microsoft and the Justice Department, nine states continue to seek stronger restrictions and penalties. We advise the states'' attorneys general to settle and not waste more public money on further legal efforts. Their fight for additional legal regulations outlooks the extensive evidence that Microsoft must continue to innovate or it will lose its leading position.

The case against Microsoft is based on the belief that market leaders are entrenched, self-serving monopolies that stymie superior products of smaller rivals. This belief is supported by elaborate augments but scant empirical evidence.

In contrast, our decade-long research of 66 markets refutes the prevailing logic about the entrenched position of market leaders.

Consider how often market leadership has changed in just a few categories. In video games, market leadership changed from Magnavox to Atari to Nintendo to Sega and now to Sony.

Similarily, in personal computers, market leadership changed from Apple to Tandy to IBM to Compaq and now to Dell. In on-line service providers, market leadership switched from CompuServe to Prodigy to America Online.

Some of these changes came quickly. Their frequency indicates that a market leader cannot easily hold its position. What triggers these changes? In most cases, it is the superior quality or the substantially lower price offered by innovative companies.

Many people attribute the success of Microsoft's software applications to the domi nance of its Windows operating system. However, the the facts support an alternative explanation.

Word, Excel and PowerPoint were all unsuccessful when first released, even though they were tied to Microsoft proprietary operating system. They became successful only through relentless innovation to produce better versions.

Even the Internet browser market, which triggered the case against Microsoft, demonstrated the same pattern. Before Netscape, Mosaic was the dominant browser. However, Netscape's superior speed and features enabled it to quickly overtake Mosaic.

Microsoft's initial release of Internet Explorer did not succeed because of its poor performance. Persistent improvements in features won the endorsement of reviewers and led to its market leadership. In our research, we did not find a single market where a non-innovative leader was able to maintain its dominance.

Many people assume that market Pioneers or first movers will be enduring market leaders. Instead, we found that such companies lead in only six of the 66 markets studied, and innovation is essential to their sustained leadership and prof itability.

For example, Intel and Sony maintain their leadership in microprocessors and CD players by regularly introducing inno vative products, even when they cannibalize still-successful older prpducts. Coca-Cola Sustains its lead in the cola market by seizing new distribution channels and continually updating its advertisings. In the other 60 markets, innovation toppled established leaders.

In 1959, Kodak and 3M led the copier market. Analysts believed Xerox (then the Haloid Corp.) had almost no chance to succeed. Yet its revolutionary copier was an immense success and propelled Xerox to market dominance.

Even in the mundane category of disposable diapers, Johnson & Johnson's

Chux brand was overtaken by the superior features and lower price of Procter & Gamble's Pampers. Then Kimberly Clark's further im improvements enabled Huggies to wrest market leadership from Pampers. In all of these markets, costly and distracting antitrust actions were unnecessary. Innovative competitors discovered better ways to serve customers with improved products and lower prices. The results were unequivocal, they cost the public nothing and they were more exacting than legal remedies.

So it will continue to be for Microsoft and ocher market leaders. They too will begin their own demise the day they cease to innovate. Nimble, innovative rivals at the gate, ready to administer the law of the market far more effectively than the Justice Department or states can prosecute antitrust cases.

MTC-00030833

Sent By: FULCRUM PROPERTIES; 111 1111; Jan-5-02 3:00PM;
Page 1/1
145 Scottsdale Square
Winter Park, Florida 32792
January 5, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
BY FAX 202-307-1454

Dear Mr. Ashcroft:

I want to say that I don't feel that the settlement is as fair toward Microsoft as it should have been. Microsoft has had to make many concessions that I think are unreasonable in this whole matter. It will have to be reviewed by a technical committee, and share critical software code information with its competitors, for example. Nevertheless, I am pleased to see that the Justice Department has finally resolved this case.

While the case should never have come against Microsoft in the first place, I'm glad to see that after three years, the government has finally come to it's senses. I hope that it will think twice before pursuing hard working, American companies simply for being successful in the future.

I appreciate you hearing my opinion on this matter and I hope that you will take it into account before finalizing the terms of the settlement.

Sincerely,
Patricia Andrews
cc: Representative Ric Keller
BY FAX 202-225-0999

MTC-00030834

Jan 05 02 11:36a
Michael H. Brannon 864-281-1360
Michael H. Brannon, M.D.
7 Foxglove Court
Greenville, SC 29615-5505
January 5, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to express how happy I am to hear that the Department of Justice has ended its antitrust lawsuit against Microsoft with a strong agreement. Microsoft has been a leader in technology and innovation for at least the past decade, and I see no reason for the federal government to punish them for that. America's economy was founded upon the competitive free enterprise system. Government involvement in the day-to-day workings of a company completely undermines this country's economic foundation. The agreement calls for Microsoft to document and disclose for use by its competitors various interfaces that are internal to Windows' operating system products—a first in an antitrust settlement. Microsoft has also agreed to design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. The mechanism will make it easy to add or remove access to features built in to Windows or to non-Microsoft software. Consumers will have the freedom to choose to change their configuration at any time.

Enough is enough What more could Microsoft's competitors want? My hope is that the federal government takes no further action against Microsoft beyond this agreement, so that it can work to tackle the truly pressing-issues of the day.

Sincerely,
Michael H. Brannon, M.D.
cc: Senator Strom Thurmond

MTC-00030835

10/18/2001 09:01 802-896-9766 JERRY CAILOR PAGE 01
P.O. Box 162
West Wardsboro, Vermont 05360
January 4, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to give my utmost support to Bill Gates and Microsoft. My husband and I live in Wardsboro, Vermont, a town with a total of 500 registered voters. If you blink, you miss our town. WC had a goal of making our town library into something special. The library was bequeathed a house by a resident, so we had the space, but we had no computer capabilities. We applied to the Gates Foundation, figuring all we could lose from doing so would be a piece of paper and the cost of postage. To our surprise, Mr. Gates gave us a grant; a complete software on-line integration package, printer connectivity, and on-site software training for our librarian. People are now lined up to use our computers.

Bill Gates did not have to do this. He did not have to establish his foundation. Yes, he makes millions of dollars, but he gives away millions of dollars to those who desperately need funds to provide computer capability to their small towns. Everyone lauds small towns, but very few are there when those small towns need financial help. Bill Gates stepped in when no one else would. We are now on our way to having a viable, working library, making it an integral part of the community, and giving our children a place to go and learn.

Microsoft is taking a big hit with this lawsuit, but it is willing to accept a lot of restrictions in order to settle. How many businesses would be willing to share their sensitive information with their competitors like Microsoft is doing with the internal interfaces of Windows under this settlement? Microsoft and Bill gates were there for Wardsboro. Now I support Microsoft by supporting the antitrust settlement.

Sincerely,
Joyce Cailor

MTC-00030836

Jan 04 02 07:00p Gunnar Sevelius 650-366-4115 P.1
58 Austin Avenue
Atherton, California 94027
January 2, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am very pleased that the Justice Department has reached an agreement with Microsoft and has finally settled it's three year long antitrust dispute with the company. It is my strong personal belief that the suit against Microsoft should never have been brought against them in the first place. I feel the finalization of this settlement will provide a boost to the struggling national and global economies. The settlement is both fair and reasonable, and it is in the best interest of the American public.

I appreciate your attention to this matter and I hope you do will continue to make decisions that will benefit the United States of America. Thank you for your time and consideration.

Sincerely,
Gunnar Sevelius

MTC-00030837

3280 Sportsman Club Road
Bourbonnais, Illinois 60914
January 5, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania: Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

I would like to take some time to express my opinion about the settlement that was reached between, the Department of Justice and Microsoft last November. The settlement brought an end to the three-year antitrust dispute, and was fair and just. I also hope that there will be no further legal action against the Microsoft Corporation.

I simply do not understand why American taxpayer dollars have been misused in the pursuit of litigation against Microsoft. Now more than ever, America needs to spend its money more carefully. The economy is still suffering from the beginning of this whole dispute, and the stock market is in disrepair. Microsoft has done so much for the economy, providing jobs, and has completely changed the face of the computing and technology industries. They need to be allowed to continue with innovation and bringing new and useful products to the marketplace. Even with restrictions like having to share its software information and allowing being reviewed by a government committee, Microsoft can still be a powerful economic force.

I appreciate your time and consideration with this issue. I am happy with the settlement that was reached in the beginning of November. I believe this settlement will benefit all of us.

Sincerely,

Donald Burlison

01/07/2002 08:27 FAX SHORT MILLING 001/001

MTC–00030838

01/05/2002 16:17 FAX 513 421 0244 STUDIO ART SVCS p.1

613 Main Street Cincinnati, Ohio 45202 (513) 421–8040 FAX (513) 421–0244

Friday, January 4, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We are writing to express our feelings in regards to the Microsoft settlement issue. We support Microsoft in this dispute. We have seen the great positive impactful benefit that Microsoft has had on American Business with our own eyes... by adding to business productivity.

We are writing you today to urge you to do your part to stop further action against Microsoft at the federal level.

Specifically, Microsoft has agreed to be monitored by a technical committee to ensure its compliance with the settlement. In our opinion, this is the most important term of the agreement. Additionally, Microsoft will share information and parts of its software coding with competitors to increase compatibility with its Windows operating system, and revamp its marketing and licensing practices to increase competition. We sincerely hope that there will be no further action against Microsoft at the federal level. Please support the Microsoft settlement. Thank you for your attention to this matter.

We wish you and yours a prosperous New Year.

Respectfully,

Philip Holt

Jillian Chamberlain Holt

cc: Representative Steve Chabot

MTC–00030839

JAN–5–02 11:10 AM 1 510 794 8797 P.01

Waste Watcher Inc
P.O. Box 3535
Premont, California 94539
Alameda Phone (510) 794–8797
Fax (510) 894–0486
Email rgahern@aol.com
Member Northern California Coalition for Limited Government

January 5, 2002

Ms. Renata Hesse
Trial Attorney-Antitrust Division
Department of Justice

Ms. Hesse:

This letter is to indicate the support. of my organization for the settlement of US v, Microsoft. I understand the settlement being proposed by the Department of Justice is waiting for public. comment and I would like this letter to be included with 1 those comments. Our organization, WASTE WATCHERS INC. is a grou of citizens from Northern California working to ensure our government is NOT wasting taxpayer money, Because of our location and proximity to the Silicon Valley, our membership is very familiar with the technology industry and details surrounding the Microsoft case. It is our firm belief that the United States government have spent far too much time and money on the case against Microsoft case. It is estimated that the states and federal government have spent at least $37 million on this issue. With a settlement on the table, the country finally has an opportunity to end this extremely costly endeavor. $37 million is really only a fraction of what US v. Microsoft has cost the American people. Since the day the case began, we have seen the technology industry plummet. The domino effect of the tech crash went from the Nasdaq to the New York Stock exchange and almost brought our entire economy to a grinding halt. For our organization, the greatest reason for concern is the budget deficits now being faced by most states. In California, we are going to be billions of dollars short of reaching the budget for the next year. That shortfall, when combined with competing political needs, wil inevitably result in tax increases. We already pay among the highest taxes in the country, and the Fiasco of the Davis Adminstration in our state embelishes the whole mess. It is important also realize that housing prices have not come down and thousands of our neighbors are losing their jobs because of the tech crash.

Tax Action Network Affiliate of Council of Citzens Against Government Waste 1301 Connecticut Ave, NW Suite 400 Washington, DC 20036 1–800–BE–ANGRY—http://www.cagw.org JAN–05–02 11:10 AM 1 510 794 8797 P.02

Ms. Renata Hesse

All of this does not add up to strong financial conditions, We are not arguing that settling the Microsoft case will end our economic woes and fill California's coffers up again. That will require a fically "sane" administration and legislature in Sacramento. But we are saying that it is time for our Country to begin taking steps which help the economy grow and expand. Settling the Microsoft case is one step closer to the sort of economic environment we need to create. And may we also add that we think it about time, yes long overdue, for the Government to stop their crusade of "punishing" the successful and damning innovation and hard work, It is organizations such as Microsoft that provide the jobs and the work places for earning power of we—the citizens, who ultimately pay the taxes that fund this government in the final analysis.

The settlement proposed in US v. Microsoft is good. More importantly, it is time to stop wasting millions of dollars to continue this case. Our economy is no longer strong enough to withstand litigation over innovation.

The facade being used by many politicians to paint organizations such as Microsoft as the "bad" guys must come to an end. As said before, these "bad" guys PROVIDE millions of jobs and millions of pay checks to purchase homes, groceries, cars and etc. These things do not come from "government." The "government needs to get out of the way and let us get on with the business of providing all the things mentioned above for millions of "citizens"!

Sincerely,

Kenneth D. Steadman, President

Richard Ahern, Vice President

MTC–00030840

01/04/2002 06:27 +000000000 PAGE 01

JAN–03–2002 09:25AM Carrie McKinley 916 441 6857 P.02

Carrie McKinley
Fundraising and Event Planning
821 (illegible) Street Suite D
Sacremento, CA 09814
Phone (916) 441–0865
Fax (916) 441–6857

Renata Hesse

December 29, 2001

Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

The last things that our economy and the technology industry needs right now are government lawyers, bureaucrats and judges watching over the industry and attempting to micromanage it. The federal government and Microsoft have reached a fair agreement that addresses the majority of the antitrust charges and complaints.

Now that a fair settlement has been reached, it is time for the federal government to focus its attention and its limited resources on other issues. I urge you to join me in supporting the settlement.

Yours truly,

Carne McKinley

MTC–00030841

01/04/2002 06:25 +000000000 PAGE 01

MSI Mailing Systems Inc
THE DIRECT MAIL EXPERTS
P.0. Box 429 o Rancho Cordova, California 95741
o Phone (916) 631–7400
o Fax (916) 916–7488
o e-mail: si@msimail.net—website:www.msimail.net

January, 2 2002

Renata. Hesse
Trial Attorney Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to express my opinion regarding the antitrust case with Microsoft. I believe that this case should be settled and that the remedies proposed are in the public good.

Seeing that the economy is currently in recession, a strong technology sector led by Microsoft could lead us back to the prosperity we recently experienced. The last thing we need is for this case to drag on and lead to more regulation of our high tech industry. In short, I feel the settlement proposed is good for the country.

Sincerely,

Doug Muraki
CFO

MTC-00030842

01/04/2002 06:22 +000000000 PAGE 01
FROM: FAX NO: JAN.03 2002 07:34PM P1
Tracy Pillows
December 29, 2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
605 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I can't believe this anti-trust case is still going on. The government has spent over $30 million dollars of the taxpayers' money on this case. I can think of many important programs that could be funded with that money, especially during this time of economic uncertainty since the country is currently facing a recession and a huge budget deficit.

I am glad to see that the federal government has finally agreed to a settlement. Settling this case is in the best interest of all involved, the technology industry, the economy and most importantly, the consumers.

I urge you to please approve the settlement so that all of the parties involved can move on.

Cordially,
Tracy Pillows
8006 Pocket Road, Apt. 226
Sacramento, CA 95831
916/424-5652

MTC-00030843

ALLIED PRINTING CO.
Renata Hesse, Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

This letter is in following the Tunney Act and the opportunity for the public to offer an opinion on the settlement reached between the government and Microsoft. These lawsuits have gone on for so long and become so mired down in political agendas that it is a difficult and arduous task for the public to follow. It bothers me that the general public, for whose protection this whole lawsuit was started has been squeezed out of the process. I feel strongly enough to write this letter.

Microsoft is a successful company. They didn't utilize fair business practices to attain that success and will pay the consequences for that and be monitored for years to come to make sure that from here on out, they do 'play fair'.

Now the only hold up is getting the settlement through the channels. Please take this letter and the sentiments behind it into consideration and support the settlement on the table.

Thank you for your time on this matter.

Respectfully,
Matt Zellmer
1912 '0' Street Sacramento, CA 95814
Ph.(916) 442-1373 FAX 442-7655 email
4allied@cwo.com
Ph. (916) 442-1373
FAX 442-7655

MTC-00030844

01/04/2002 06:19 +000000000 PAGE 01
Leading Edge
Data Services
P.O. BOX 6008 o Stockton. CA 95206
Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Why is the federal government still spending our tax dollars trying to break up Microsoft? Please accept the settlement that has been reached between all of the parties and stop wasting tax payer's money.

With everything going on overseas and with our own economy in a recession, isn't there something more important that we could be spending our tax dollars on?

I support ending the class action lawsuits against Microsoft and urge you and the Department of Justice to do the same.

Sincerely,
Jess Cervantes
(800) 390-3233 o (209) 948-6232—Fax
(209) 466-9260

MTC-00030845

Wyman Design Graphics
2830 Audubon Circle
Davis, California 95616
Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington. DC 20530

Dear MS. Hesse,

The Microsoft lawsuit and the money and time pouted into it have served their purpose. The government sought to protect the consumer from unfair business practices by Microsoft. The settlement reached by the federal government, nine of the states and Microsoft is an acceptable compromise to all parties. It's time now to turn our attention to more pressing priorities. The recession, the war, problems with our education system (especially in California) call for both immediate and focused efforts.

Please support the settlement between the government and Microsoft. Thank you for your time on this important matter.

Cordially,

MTC-00030846 01/04/2002 18:56 6053328722 DAKOTA NETWORKS PAGE 01

Patsy Henry Butler, M.Ed., NCC
School Counselor, Patrick Henry Middle School
316 E, 32nd Street, Sioux Falls, SD 57105
January 2, 2002
Trial Attorney Renata Hesse
Antitrust Division
U.S. Department of Justice
Washington, DC 20530

Dear Ms. Hesse:

I have served as a counselor for many years at Patrick Henry Middle School in Sioux Falls, South Dakota, where the neighborhood is financially well-to-do and where internet access at home is fairly common. As an educator and counselor, I am concerned with students in other parts of Sioux Falls and in South Dakota where incomes are low and children are disadvantaged when it comes to internet access, particularly outside of the school systems. For that reason, I am very pleased with the provisions in the Microsoft antitrust settlement which will target these kids and their schools for software and hardware support and enable them to compete with school systems all over the nation.

Microsoft Corporation has been a helpful partner in the development of information technologies in South Dakota's public schools. The state a few years ago began a program to make the state the "most wired state" per capita than any other state in the nation. Governor Janklow's "wiring the schools" program linked schools of all sizes and income types to the internet. Microsoft pitched in with a large grant to help the education portion of the comprehensive project. As a result, the settlement will be an additional advancement for the students whose schools have been wired for high-speed access.

My knowledge of the antitrust case is from the news media. What I have learned about the issues involved in the case seem to have been resolved in the settlement agreement. What is most important, I believe, is the fact that the issue of consumer harm was never established in this case, which makes me wonder why an antitrust issue was pursued so vigorously and for so long. It seems appropriate after all of this time and the taxes spent on this case that it has reached a settlement. I hope that the settlement is allowed to go through, and that schools and students will soon appreciate the benefits.

Thank you very much for your attention.

Sincerely,
Patsy Henry Butler

MTC-00030847

TO:
FROM : DAKOTA NETWORKS
FAX: 6053328722
TEL: 6053316937
COMMENT :

MTC-00030848 01/04/02 17:28 FAX 7854840194 THE SOURCE 01

Post Office Box 626
Topeka, Kansas 66601-0626
(785) 484-0195
(785) 484-0194 fax
hq@ks-ra.org
WWW.ks-ra.org
January 4, 2001
Judge Kollar Kotelly
Antitrust Division
U.S. Department of Justice
601 D Street NW Ste 1200
Washington, DC 20530

Dear Judge Kollar Kotelly:

I understand that you are currently considering the merit of the United States Department of Justice's proposed settlement of its antitrust case against Microsoft. I am aware chat federal law allows for a period of public comment before you make your final ruling and appreciate the opportunity to share my thoughts on this important issue. I recently wrote an opinion editorial in my home state of Kansas in which I outlined several reasons why I am opposed to the continuation of this case by either state or federal entities. I clearly state in this editorial my disappointment that Kansas Attorney General Stovall has nor chosen to settle this case.

I have no doubt that this settlement is in the best interest of all involved. Even Microsoft opponents have to admit that this agreement finds remedies for the complaints of the lawsuit. For example, Microsoft will be required to share technical information and requires absolute flexibility of all new Microsoft operating systems. This settlement even creates an enforcement mechanism that Microsoft must answer to if a complaint is filed stating that the company is not following the provisions of the settlement.

There appears to be no reason that this settlement should not be approved particularly in light of our current economic condition. With the current state of our national economy we do not need the threat of more unreasonable government regulations and litigation hanging over the high tech sector which, as you know, has become such an important part of our economy.

Please carefully consider my comments when you are making your decision about this important settlement.

Sincerely,
James W. Mullins, President
Kansas Republican Assembly

MTC-00030849

Jim & Joan Harvey
PO Box 461 Isle of Palms, SC 29451
Yahoo! Mail for jimrv@yahoo.com Yahoo!-My Yahoo! Options-
Sign Out-Help
Mail
Attachment View—Powered-by Isle of Palms, SC, 29451
Back to Message
P.O. Box 461
Isle of Palms, SC 29451 "
January 5, 2002
Attorney General John Ashcroft, Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530–0001
Dear Mr. Ashcroft:

I wanted to drop a quick letter to you congratulating you on the settlement that was reached between Microsoft and the Department of Justice. It was more than fair, and I do not want or need to see any more action against Microsoft at the federal level. Please move forward with the terms that have been agreed to in the settlement. The agreement calls for Microsoft to document for its competitors various interoperability protocols inherent in the Windows" operating system. That incredible amount of disclosure alone should revitalize the competitive energies of many companies, since it could theoretically make all products work equally well on any computer with Windows. America is in the middle of a recession, and hampering Microsoft's abilities, as well as other firms" abilities, to bring innovative products to the marketplace is not the way to save our economy.

This whole mess started when the suit was brought against Microsoft three years ago, and now we have passed the point of return. Allowing Microsoft to get back to business as usual, while abiding by the terms of the settlement, is the best way to rescue America's economy. The legal actions by the government have affected more people than was anticipated, and it is time to right that wrong. Thank you for your time and consideration, and please allow the terms of the settlement that was reached between Microsoft and the DOJ to fall in to place. It will prove wise in the long run.

FROM : RV CONSULTING INC
1 WINU! IVIUll
FAX NO. :
Jan. 06 2002 05:52PM P2
James Harvey
cc: Senator Strom Thurmond

MTC-00030850

01/(06/02 SUN 19:03 FAX 5323785 Perry L. Staley 001
Perry L. Staley
411 Orchard Street
Ironton, OH 45638
January 5, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530
Dear Mr. Ashcroft,

It is unfortunate that there had to be this lawsuit between our government and Microsoft. I am sure that Microsoft had been aggressive in their business practices, but I am not so sure that the line was crossed so as to have made them a target of a suit like the antitrust case. In any case, after plenty of wrangling and even more posturing there is finally a settlement that will end this case. I am writing to ask that you keep sustaining your support for settlement.

The suit will profoundly restrict Microsoft's business practices. Microsoft cannot demand exclusivity of Microsoft products from computer manufacturers installing software before shipping the computers to dealers or customers. They cannot seek retribution from software companies that develop software designed to compete with Microsoft, which should be a cornerstone of a successful business.

Enough damage to our economy has been accomplished by all this court action and time-consuming legal work. After an ample amount of expense and worrying, both sides are finally ready. I hope you will see that the settlement reached in early November 2001 is brought to completion by your office. I sincerely thank you for your time and effort in seeing this through to its end.

Respectfully yours,
Perry Staley

MTC-00030851

@A
From: ROLAND OLAF PEIERSON
To: John Ashcroft
Date: 2002/01/06 Time: 6:57:30 PM PAGE 1 of 1
22 Ravenswood Road
Waltham, Massachusetts 02453
2002 January 6
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft: I am writing you today to express my feelings on the absurdity of continuing the war against certain drugs. A free America will never be a drug-free America, as any reasonably intelligent person knows. America is becoming a terrorist nation because of the property forfeiture laws and other laws associated with the drug war. I know you know this. The time is ripe for a change of policy.

Sincerely,
Roland Peterson

MTC-00030852

01/06/02 sun 18:50 FAX 5323782 Perry L. Staley 001
January 6, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft

It is unfortunate that the Enron melt down took place at this time, when the news of 911 obscures the facts .

I feel that you should put this on the front burner of all your investigations. For a few insiders to take as much money as they did is criminal and to not investigate at once is in my opinion an abuse of your powers, I am writing to ask that you use the power of your office to see that justice is done in a swift and final manner.

I sincerely thank you for your time and effort in seeing this through to its— end.

Respectfully yours,
Perry L. Staley
411 Orchard Street
Ironton, Ohio 45638- 1166

MTC-00030853

Jan-07–02 10:37A Tatum Bros Lumber Co 904 782–1448 P.01
Tatum Bros. Lumber Co., Inc.
P.O. Drawer A Lawtey, Florida 32058–0701
(904) 782–3690 Fax (904) 782–1448
January 7, 2002
Attorney General John Ashcroft, Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Dear Mr. Ashcroft:

The lawsuit that was filed against Microsoft was, quite frankly, crazy. It never should have happened in the first place, and I am so glad that it was finally resolved just last November. The Justice Department does not need to waste time and resources, which the taxpayers have to foot the bill for, any further on this pursuit. There is a resolution and it is a resolution that addresses all of the key issues and even ones not mentioned in the original lawsuit.

This agreement stipulates that Microsoft cannot retaliate against any computer company that promotes or distributes non-Microsoft software, which helps to increase competition. It also provies a uniform pricing list for companies that would enter into licensing contracts with Microsoft, which provides economic protection from smaller computer manufacturers. The Microsoft settlement even goes so far as to require Microsoft to provide interface data to its competitors, which is a first in antitrust settlements. This is a settlement that addresses all of the issues at stake here and more.

Therefore, it is time that the litigation is stopped. As I said, this entire lawsuit was crazy to start with. Well, it's time the craziness ended. I urge you to make no further changes. Microsoft has been penalized. I hope you will do what is good for the economy. The buck stops with you.

Sincerely,

Linda Tatum

MTC-00030854

Stanley Kneppar
8IO9 Hibiscus Circle
Tamarac, FL 33321
January 7, 2002
Attorney General John Ashcroft
US Department of Justice, 950
Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This letter is to express my support for the settlement in the Microsoft case.

This is a balanced agreement, painstakingly negotiated with a court appointed mediator. Microsoft will have to make some critical concessions, while being allowed to use the technology that has made it the gold standard for computer innovation.

I am convinced that Microsoft's success comes from the simplicity and superiority of its product, I briefly used the Netscape Navigator before switching to the Microsoft Internet Explorer, and I found the latter to be very preferable. The company does not deserve to be punished with litigation just for being a success. I anticipate that as Microsoft is forced to open up its codes for Windows to improve interoperability, we will see the competition and Microsoft improve such soft ware as browsers and media players. In turn, that is good for consumers.

I sincerely hope the District Court Judge deems the settlement to be in the public's best interest.

Sincerely,

Stanley Kneppar

cc: Representative Robert Wexler

MTC-00030855

P. 0. Box 23093
Anchorage, KY 40223
January 5, 2OO2
Attorney General John Ashcroft
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

In accordance with the Tunney Act, I am writing in regards to the DOJ settlement with Microsoft. I am sorry that there was a case to begin, with but I'm happy that there's finally a settlement in this whole matter. It's a good settlement "tough but fair" nature. The penalties for not abiding by the terms are strong; contempt of court is a very serious charge, and there are many different ways that the suit might be broken. Every facet of Microsoft's operation, from licensing to marketing to software design is affected by the settlement in some way.

I am happy to see that Microsoft will finally be able to get back ho business and help out our economy in this recess ion.—They are an example of a good American company and have unfortunately been persecuted for outdoinq their competitors with a better product.

I hope that you consider my opinion as well as those of other people who write in to you supporting Microsoft and please pass on our opinions as well as the terms of your settlement to the nine states and the DC government, who still refuse to settle their case against Microsoft.

Sincerely,

Stanley Kimmel

MTC-00030857

SENT BY: 1-5-02; 9:32 PM. JERRY MARTIN ASSOC. 202 353 8856; # 1
21 Edgewater Alley
Isle of Palms, South Carolina 29451
January 5 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to voice my opinion concerning the Microsoft antitrust case that was recently settled with a strong and binding settlement I urge you to please stop any further Federal government intervention beyond this settlement There have already been settlements reached between various states and Microsoft, all of which involved mediators and a great deal of negotiation. The settlement forces Microsoft to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products—a first in an antitrust settlement. Microsoft has agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows.

I am retired, but have previously been involved in "big business." I see the hardships Microsoft is facing on the side of a businessman and an everyday computer user. It seems to me that this drawn-out lawsuit has become a victim of politics and money lust Microsoft has contributed much to this country, creating jobs, bringing technology and donating a great deal of products to schools and other charities.

Don't allow our economy to drift further into recession. Please allow Microsoft to get back on their feet again.

Sincerely,

Jerry Martin

MTC-00030858

JAN-06-2002 08:20 PM BERT MCLACHLAN 800 213 4181 P.01 Bert McLachlan
3524 West 97th Place
Leawood, Kansas 66206
1-800-213-4181 bertmclachlan@msn.com
January 7, 2002
Department of Justice
Re: Microsoft Settlement
Fax: 1-202-307-1454 (Four pages total)

Beyond a doubt, it is time to settle the Microsoft case and get it over with, not letting it be dragged on and on just because of a few obstinate state attorneys general. Don't let the tail (the state AGs) wag "the dog" (this case). As one lawyer said, "the issues in this case have been beaten to death by people who are worn out." There is no case, so be done with it.

This was a political case from the beginning: Senator Orrin Hatch and his buddy, Joel Klein, helping Novell and other software companies (from Hatch's state) try to accomplish through the courts what they couldn't accomplish in the marketplace with their products. It is a case against one of the most customer-beneficial business successes ever. The case would never have been brought by a Bush Administration, and the Bush Administration does not want it pursued. Neither does the worldwide public, which is the very happy beneficiary of everything that Microsoft has done for our lives and our economies. Judge Jackson made the case a ridiculous circus. It has cost people billions already. Settle this misguided suit. Get it over with. Move on to something relevant. The two accompanying fax pages, (1) a Wall Street Journal editorial of March 1, 2001, "The Microsoft Appeal", and (2) a September 7, 2001 article, "Justice Bows to Reason", both express my views on this. Particularly in the latter, please note that "the (DC Circuit's) opinion includes important admonitory language about the grave problems of pursuing antitrust claims in quickly evolving industries, such as software and other high-tech industries, which neither the prosecutors nor the courts know much about."

JAN-06-2002 08:20 PM BERT MCLACHLAN 800 213 4181

The market takes care of these things. Learn a little something from the federal government's decade or more of earlier similar misguided efforts with IBM.

A Consumer,

Bert McLachlan

JAN-06-2002 08:21 PM BERT MCLACHLAN 800 213 4181 P.02

THE WALL STREET JOURNAL THURSDAY, MARCH 1, 2001

The Microsoft Appeal

For a while you couldn't sit down with a Japanese or German or British CEO without them wanting to shake their heads over the spectacle of the U.S. government seeking to destroy one of America's most successful and important companies. The further you got from American political culture. The weirder the Microsoft lawsuit seemed.

Most Of the local Washington press bought it, thought, because Joel Klein was a shrewd judge of the reach of his Permission slip in beat up the world's richest man. His hireling David Bojes has gone on to represent Napster; Mr. Klein has joined Bertelsmann, the German media and music giant that struck a deal with Napster. And their Mi. crosoft case this week basically collapsed.

Lawyers for both sides left the appeals Court knowing there would be no breakup, andl probably not much of a case once the appeals bench gets done throwing out everything that was unproved, counterfactual or lacking in coherence. The telling remark was Chief Judge Harry Edwards's comment about "sleights of hand" over whether Microsoft was accused of trying to create a browser monopoly (for a product it was giving away free? Or seeking to protect its Windows monopoly (how does making a better browser and distributing it free protect Windows?).

Let us confess some sympathy for Judge Jackson. Who was knocked around by the appeals panel for his apparent bias as trial judge. With every action since the start he seemed to betray reservation about whether the matter really belonged in court. Why this came to be projected into resentment of Microsoft and Bill Gates is a question for his memoirs. He called Mr. Gates "Napoleonic." which might be accurate if he meant someone who had achieved a great deal at a young age. And what a group of DC drug peddlers. The Newton Street Crew, did to merit comparison to Microsoft we'll never know. But Microsoft's real offense was clear: It declined to cop a plea so everyone could go home and brag about the big trophy for the rest of their lives. Instead, the company kept insisting it had done nothing wrong. By the time he got around to offering the most drastic remedy imaginable for Microsoft's alleged wrongs, dismemberment of the company, Judge Jackson was hilariously agnostic on whether the end result would he good or bad, saying the question wasn't even worth taking testimony on: I'm outta here. Then he blabbed to the press. Surely these actions served their purpose: Whatever the appeals bench decides. U.S. v. Microsoft most likely won't be coming back to Judge Jackson's courtroom.

The puck now has been slapped to a new Administration. NYU economist Lawrence J. White, a former chief economist of Justice's antitrust division, proposed in a New York Times oped that the Bushies "save face" by letting Microsoft go with a $10 billlion fine. Huh? Mr. Bush has no need to save face. He didn't bring this misguided lawsuit. This was Clintonera handiwork, a vestige of a weird time when the White House and senior Justice officials had unhealthy stakes in each other. Mr. Klein had been Mr. Cliton's deputy White House counsel. His boss. Janet Reno, didn't have much to look forward to beyond her job as attorney General. Mr. Clinton was keen not to be investigated for campaign finance scandals. They found a modus vivendi, and Microsoft was collateral damage.

Events this week seal the case for withdrawing whatever is left or the original lawsuit when the appeals court gets done with it. The best way for the government to "save face" is to pronounce this sorry adventure a mistake to begin with.

JAN–06–2002 08:21 PM BERT MCLACHLAN 800 213 4181 P.04

THE WALL STREET JOURNAL FRODAY SEPTEMBER 7, 2001 JUSTICE BOWS to REASON

By George L. Priest

The Justice Department has decided to drop its further prosecution of Microsoft and this will come as no surprise to those who examined with care the opinion of the U.S. Court of Appeals in June. After all, thr DC Circuit's unanimous ruling provided a virtual road map to thw lower court to find that Microsoft's tying of its browser to Windows was unobjectionable, and that a breakup of the company could not be justified.

So, put bluntly, the Justice Department yesterday dropped the tying claim, as well as the breakup remedy, because it faced a zero chance of success. Thus, what has been widley dubbed as the greatest antitrust case of the last 50 years ends with a whimper.

Antitrust Jurisprudence Quoting the Supreme Court, the DC Circuit had stated that "it is far too late in the history of our antitrust jurisprudence to question the proposition that certain tying arrangements pose an unacceptable risk of shifting competition." But in the next sentence, the appeals court added, "But there are strong reasons to doubt that the integration of additional software functionality into an OS [operating system] falls among those arrangements." Still later, the court instructed that "because of the prevasively innovative character of platform software markets, tying in such markets may produce efficiencies that courts have not previously encountered."

The D.C. Circuit was equally clear about the inappropriateness of the breakup remedy. It cautioned the lower court that a break up was generally an effective remedy only for monopolies that had been created by the merger of former competitors, and not for the unitary companies like Microsoft. In addition, the court severely questioned whether there was any casual connection between Microsoft's exclusionary conduct and its monopoly market share, adding that "If the casual connection between Microsoft's exclusionary conduct and the company's position in the OS market, it may well conclude that divestiture is not an appropriate remedy."

Where does this leave the case? In its press release yesterday, announcing that it was dropping the tying anf breakup charges, the Justice Department stated that it would seek an order "modeled after the interim conductrelated provisions" of U.S. District Court Judge Thomas Penfield Jackson's Final Judgement. Some of these rememdies, through less damaging than a breakup, were nonetheless draconian. Among other remedies, Judge Jackson would have required Microsoft to disclose portions of its source code, to provide price discounts to Original Equipment Manufacturers (or OEMs) according to how many of Windows" features they deleted, and to generally treat all vendors and customers equally, regardless of their actions.

But there is no basis in the Court of Appeal's opinion for conduct remedies of this nature, and the lower court is not likely to approve them. According to the Court of Appeals, the only justifiable conduct remedies are an injunction prohibiting Microsoft from entering various exclusive dealing contracts and compelling it to redesign Windows to allow a customer to delete the browser if there are any customers who would want such a thing. Remedies of this nature will not affect Microsoft's operations in any significant way, and, indeed, were largely accepted by Microsoft prior to trial.

The Justice Department also hinted that it wanted discovery to determine whether there are any violations associated with the forthcoming introduction of Windows XP. The statement was only a hint, but it may prove troublesome if either the Justice Department or any of the state attorneys general still in the case choose to take the matter seriously. According to the DC Circuit's analysis of tying, the full integration in Windows XP of features such as Media Player or Instant Messaging should be perfedctly permissable. The court's opinion, however, contains one cryptic conclusion regarding "code commingling" that may make the outcome unclear. Though it may take some time, if the lower court carefully works through the DC Circuit's basic analysis, there are unlikely to be any serious obstacles to Windows XP.

Does this mean that the entire Microsoft prosecution was a waste? Surely, it has caused substantial harm. Many have pointed out that the collapse of the dotcom industry dated almost exactly from the release of Judge Jackson's, "Findings of Fact," most have which have been vacated. Microsoft's decline, in market capitalization was accelerated by Jude Jackson's "Conclusions of Law," among all of which have been vacated. There have been millions of hours of hours of academic analysis, with a cast volume of litigation still in the wings. The claim of waste is hard to reject.

Important Analysis But some rays of light have resulted. The DC Circuit's opinion, through unsupported and weakly defended on exclusive dealing, contains an important analysis of tying arrangements and bundling that substantially advances the laew beyond the current jurispreudence of the Supreme Court. In addition, the opinion includes important admonitary language about the grave problems of pursing antitrust claims in quickly evolving industries, such as software and other hightech industries, which neither the prosecuters not the courts know much about. The Justice Department's action yesterday acknowledges the truth and significance of these warnings.

Finally, the Court of Appeals opinion and the Justice Department's retreat should serve as a cautionary guide to actions against Microsoft threatened by the European Commission ____ to may ____ who may ____ stubborn on ____ These are small benefits and are hardly worth the accumulated social cost ——— as wasteful ____ been, if ____ still can be ____ if prosecutors learn ____ not to bring such ____ in the future.

Mr. Priest teaches law and economics at Yale Law School and has served as a consultant for Microsoft.

MTC-00030859

January 7, 2002
United States Department of Justice
Re: Microsoft Settlement

Isn't it about time Washington caught up with the rest of America? Perhaps those within the Beltway haven't heard President Bush. We are at War. Accordingly, let's put to bed this case against Microsoft. All have had their opportunity to spend their "day in court." As we see it, no one won. Politics being what it is, those who have never worked to meet a payroll, would like this ease to drag out for the benefit of their own private agendas. If the green envious competitors of Microsoft have better to offer, let us hear form them. The silence has been deafening.

It appears that some attorneys at the State level think they will benefit from delaying closure on this matter. You know what Shakespeare said about the legal profession!

Henry and Eleanor Langworthy
CC: Microsoft

01/07/2002 12:40 718–667–7135
Langworthy Investor PAGE 01

MTC–00030860

01/06/2002 00:25 5152431028 DDR PAGE 01/01

MARK ALAN HAVLICEK
1513 Sixty Sixth Street + Windsor Heights, Iowa 50311 United States of America
Phone 515–243–3622; Fax 515–243–1282 + Home Phone 515–274–3582 + Email
ScanMan@ddrinfo.com
Hon. Judge Kolar Kottely
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530
Attention: Renata Hesse

Dear Hon. Judge Kolar Kottely:

I am the President of Digital Data Resources in Des Moines, Iowa. I have been involved in the technology industry for several years, and it is my hope that the Microsoft case, will be settled. The fiscal outlook for 2002 is grim. From coast to coast, revenue growth has slowed, spending is exceeding budgeted levels, and many states are looking at large budget cuts. After September 11, we saw a plunge in the technology sector. Instead of being tied up in court, technology entrepreneurs should at work developing products and charting new territory with never before imagined products and services.

Giants like Apple, IBM, and Microsoft provide the stable atmosphere for the myriad small firms to create, develop, and release new cutting-edge technologies. The small companies work in concert, and competition at times, with these giants. This mutually dependent relationship is the lifeblood of the industry.

Over the past 20 years, we have seen computers go from the size of a refrigerator to the size of a deck of cards. And in tandem with those leaps forward, we have seen declining prices, better and faster technology, and increasingly more efficient methods of delivery to consumers. It takes a competitive spirit to survive in this exceptionally aggressive industry of ours, especially in the case of small or emerging businesses. We spend our days watching competitors, finding markets, and keeping a watchful eye on the economy. And it seemed the storm has passed, both figuratively and in the eyes of the stock market, when a settlement was announced last year.

But the states which remain involved have argued for tougher enforcement provisions, including a court-appointed "special master" to oversee Microsoft's compliance. And we have found through experience that there is no remedy discrete to Microsoft when it's the nucleus of a tech sector that operates as its own economy.

The states, including my own state of Iowa, are not right to push ahead for further prosecution of Microsoft. The proposed settlement goes the distance in addressing the concerns of business people like me who are in the technology industry. The time to take a hard line is over. The hold-our states are holding out to the detriment of their state economies and out national economy at a time when actions like this are not at all useful. It is a frightening prospect to see another dollar of precious development resources diverted to paying attorneys'' fees instead of rippling through our industry. Money that could have launched a new product or created new opportunities for a small business on the brink in has disappeared into the abyss of this lawsuit. The settlement is a positive step in putting it all behind us and opening a new chapter in the life of the technology industry.

I applaud Assistant Attorney General Charles James for his role in bringing the case this far. The settlement agreement is a strong one. It will have an enormous impact on the future of the entire software industry.

Sincerely,
Mark Havlicek
President
DIGITAL DATA RESOURCES, INC.
Des Moines, Iowa

MTC–00030861

Jan–07–2002 12:50pm From: HMH PHARMACY + 2707061768 T–299 P 001/001
F–719
HMH
Hardin Memorial Hospital
A Regional HealthCare Center
January 7,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to comment on the settlement with Microsoft. While I am sorry that any suit was brought against Microsoft in the first place, I am happy that this situation is resolved.

I hope that the rest of the states will fall in line and get behind your settlement. It's fair and reasonable and should solve everyone's problems with Microsoft. Microsoft will share information regarding the internal workings of Windows, and computer makers will be able to use this information to more easily install their own software on Windows based operating systems. I hope that they really are in it not just to make money off of Microsoft's hard work.

Thank you for taking the time to listen to me concerning this matter. I appreciate your settling this matter and for hearing the public's opinion on this case, especially considering the huge impact Microsoft has on the average American.

Sincerely,
John Sandusky
913 N. Dixie Avenue o Elizabethtown, KY 42701–2599 o Phone: 502–737–1212

MTC–00030862

7–22–1995 3:56 AM FROM P. 1
To: The Department of Justice January 7, 2002
From James D. Murphy
7725 La Cosa Dr.
Dallas TX 75248
ofc 972 774 1603
fax 972 774 9975
email texmur01@interserv.com
Regarding Microsoft Settlement
Summation of My View

The settlement should be left as is and not changed as being sought by 9 states.

Comments

I have been a stockholder of IBM, Oracle, Computer Associates and Microsoft over the past 15 to 20 years. I invested in this area of technology because I believed that U.S. industry could compete in software, but would find it almost impossible in hardware due to countries like Japan and China and Korea having significant advantages in the hardware arena. (I have done well, and as it turns out, I may also have done well in U.S. hardware, but software was my plan, and I stayed with it.) My view of the software baffle is that IBM lost, my view I repeat is Microsoft did not win. IBM lost—

The reasons IBM lost were of IBM'S doing . . . can you believe a monster monopolist manufacturer who bought LOTUS in order to defeat Microsoft—and they lost, and then figured out the only way to get back in was the Government. In my view those involved in the software wars of that past time period continue to view IBM's mistakes as unbelievable and those mistakes resulted in Microsoft becoming, I guess, what the court has decided is a monopoly. But not a monopoly created illegally, and in my view not a monopoly created by Microsoft.

Nobody liked Microsoft then anymore then than they do today, but it turned out that we valued IBM's product even less.

Does anybody remember who IBM put in charge of LOTUS.

As we proceed on from those past days to the more current events surrounding the vast worldwide communications arena, I am at a complete loss as to how Microsoft can be judged to be acting illegally because it is a monopoly but that it would not be so judged if it were not a monopoly. What other country in the world, past or present, would view such a performing asset as a monopoly, if it were their own, and try to inhibit its growth and aggressiveness.

And I suggest that the court somehow make all aware that just making a finding yesterday that Microsoft was a monopoly last year does not make it so this year or even yesterday. And so in that legal tangle, I suggest that if one can become a "monopoly" without prior legal notice then the opposite must also be true and, so since in my view today Microsoft is not a monopoly, it should now conduct it's business in that manner, no, it must conduct it's business in that manner.

In the overall world of business, my charts show Microsoft ranks 125th in Revenue, and in it's competitive world it is not even a third of IBM, and less than half of AT&T. It is not a fourth of GE. It seems to mush around the likes of Brit Telecom, Dell Computer, Compaq, France Telecom, Telecom Italia, Telefonica, and is a third of Siemens, Verizon, and half of SBC, and maybe some 70% of Nokia and AOL.

Is there some belief that these corporations are not competitive—it seems to me Microsoft is the little guy in the schoolyard being punished because he does his homework. Aha, someone says, the gauge should not be Revenue, it should be EBITDA. Well I suggest the court make all aware of the gang ahead of Microsoft in that category. Number one is NTT, proud owner of

DoCoMo, some five times Msoft size and good old GE three times, and even struggling IBM a third larger. All larger and with competitive WEB intent are VERIZON, ATT, SBC and close by are BELL SOUTH, TELEFONICA, and the French and Italians.

I believe these bigger guys are trying to push Microsoft on down the communications pile and intend to hold themselves on top, and since it is unlikely that the prior court decision will be reversed let us end it now, and let little old Microsoft continue to compete in the world marketplace.

Repectfully
James D. Murphy

MTC-00030863

File No. 869 01/07 "02 14:19 ID: FAX: PAGE 1
Date: 1–7 02
To: John Ashcroft Fax: 1–202–307–1454
Company:
From: Diana Kilgure Phone:
Re: Microsoft Settlement
Total Pages (including cover page): 2 O Urgent O For Review O Please Reply
Comments:
File No.869 01/07/02 14:19 ID: FAX: PAGE 2
MAIL BOXES ETC.
19885 Detroit Road, Rocky River, OH 44116
PH: 440.333.4810 FX: 440.333.4812
21011 Maplewood Avenue
Rocky River, OH 44116
January 3,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to express my support for the settlement that was reached in the Microsoft antitrust case, which I consider to be very reasonable. Microsoft must now make significant changes in its business model, such as uniform prices for hardware dealers, and provide more information to competitors. Further litigation at this point is a waste of money and serves only to hobble a company that some consider too successful.

As part of the settlement, Microsoft will have to share information making it easier for competitors to use non-Microsoft software with the Windows program. This includes disclosure of various interfaces internal to the Windows operating system. The settlement will result in more options for consumers as well as more access for competitors.

I hope you will see tit to approve the settlement and allow everyone involved to get back to the computer business.

Sincerely,
Diana Kilgore

MTC-00030864

Jan 07 02 12:25p Gary Pearce 9197878031 P. 1
8282522437 McGuire Wood 875 P02 JAN 02 "02 12:10
McGUIRE, WOOD & BISSETTE, P.A.
ATTORNEYS AND COUNSELLORS AT LAW
DRUMOR BUILDING
48 PATTON AVENUE 20001
RICHARD A. WOOD, JR. POST OFFICE BOX 2180 RICHARD A.
W. LOUIS BISSETTE, JR. ASHEVILLE, NORTH CAROLINA 28802–3180, FREDERICK S. HARBOUR, DOUGLAS O THIGDEN, JOHN N. FLEMING & GAI JOSEPH P. McGUIRE INC & GAI HARBOUR, DORIS PHILLIPS LOOMIS, TELEPHONE: (828) 284–8800, SARAH SPARBOE THORNBURG &
M. CHARLES CLONINGER, FACSIMILE. (828) 252–2438, HEATHER WHITAKER GOLDSTEIN
THOMAS C., e-mail, DOUGLAS JAMES TATE, T. DOUGLAS WILSON, JR INC & CAI WEB SITE WWW.MWBAVI.COM, MARY E. FULER INC & ALI
JANUARY 2, 2002
Via Facsimile—(202) 616–9937
Ms. Renata Hesse
Trial Attorney, Antitrust Division
Departrncnt of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
microsoftatr@usdoc.gov

Dear Ms. Hesse:

As an attorney and a former three-term member of the Asheville City Council, I have had an invaluable opportunity to see both the good and the bad that can result from government action. As a result, I have been concerned for some time about the impact of the antitrust suit that the federal government and a number of states were pursuing against Microsoft I am glad to see now that a settlement has been tentatively reached. I was also heartened by the decision of North Carolina's Attorney General, Roy Cooper, to remove our state from the suit. He looked long and hard at the issue, and he obviously concluded that the settlement deals adequately with Microsoft's misdeeds and provides sufficient remedies to prevent future misdeeds.

According to reports I have seen on the proposed settlement agreement, Microsoft could not penalize computer manufacturers that distribute competing software. and the manufacturers would be free to install or promote non-Microsoft products and services. This seems to me to protect against anti-competitive behavior and make the settlement extremely fair and reasonable. At a time when our nation is at was with terrorism and our economy is in recession, it would be wise to reach a settlement in this matter. Both the public and private sectors must get about the business of rebuilding a vital. growing economy. I sincerely hope that the federal courts will approve this settlement and put this matter behind us
Jan 07 02 12:25p Gary Pearce 9197878031 P.2
82522437 MCGUIRE WOOD 875 P03 JAN 02 '02 12:10
MCGUIRE WOOD & BISSETTE, P.A.
Ms. Renata Hesse
January 2, 2002
Page 2
Thank you for your attention.
Sincerely,
M. Charles Cloninger
MCC:es

MTC-00030865

P.O. Box 670, 6881 COURT STREET ROAD
SYRACUSE, NY 13206
TEL: 315–463–0062 FAX: 315–463–3352
www.countrybest.com
January 7,2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department f Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As the Plant Manager for County Best, located in Syracuse, NY, I am writing to YOU in regards to U.S. vs. Microsoft, I'd like to take a moment of your time to tell you why I am in favor of the settlement of this case. Currently, the technical operation of Country Best depends on the latest technology, much of which has been developed by Microsoft. We depend on the software we useb to handle the critical coordination of produce shipments from all areas of the nation, in and out of our facility. Not only are Microsoft's products vital to our business, but the continued innovation of these products is essential to our company, as well.

I encourage Judge Kollar Kotelly to consider the national economic climate of the United States and the negative impact that allowing further litigation against Microsoft will have. The settlement of this case will by far be in the best interest of all businesses throughout New York State.

Thank you for your time,
Sincerely,
James Giuffre
Plant Manager
Country Best
JAN–07–2002 12:03 PM COUNTRY BEST 315 463 4432 P.01

MTC-00030866

FROM: FAX NO.: Jan. 07 2002 11: 16AM P1
KEHOE-FRANCE
SCHOOL-CAMP-CHILDREN CENTER
DEO-PATRIAE-DISCIPLINE
720 ELISE AVENUEoMETAIRIE, LA 70003
(504) 733–0472oFAX (504) 783–3446
January 7, 2002
Renata Heese
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
FAX: 202–616–9937
RE: U.S. v. Microsoft

It is my understanding that Judge Kelly will be reviewing comments on the proposed Microsoft settlement. Please know that my feeling is that this settlement is in the best interest of the economy and consumers. The technology sector needs a boost and so does our economy. This case has gone on long enough and plenty of our dollars have been spent on it. We need to encourage competition but we don't need the courts so involved in an industry that it discourages growth and innovation.

Let's settle this and encourage more companies to get out there and compete. It is Microsoft's rivals that want to see this go on and on. As for consumers we like our choices.

Sincerely,
KYLE M. FRANCE
KMF:rl
"Now in our second generation."

MTC–00030867

01/06/2002 00:24 5152431028 DDR PAGE 01/ 01

Mark Alan Havlicek
1513 Sixty Sixth Street +Windsor Heights. Iowa 50311 + United States of America
Phone 515–243–3822 + Fax 515–243–1262 + Home Phone 515+274–3582 + Email
scanMan@ddrinfo.com

Hon. Judge Kolar Kottely
Antitrust Division
U.S. Department of Justice
601 D Street, NW., Suite 1200
Washington, DC. 20530
Attention: Renata Hesse

Dear Hon. Judge Kolar Kottely:

I am the Pesident of Digital Data Resources in Des Moines, Iowa. I have been involved, in the technology industry for several years, and it is my hope that the Microsoft case will be settled. The fiscal outlook for 2002 is grim. From coast to coast, revenue growth has slowed, spending is exceeding budgeted levels, and many states are looking at large budget cuts. After September 11, we saw a plunge in the technology sector. Instead of being tied up in court, technology entrepreneurs should at work developing products and charting new territory with never before imagined products and services.

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Over the past 20 years, we have seen computers go from the size of a refrigerator to the size of a deck of cards. And in tandem with those leaps forward, we have seen declining prices, better and faster technology. and increasingly more efficient methods of delivery to consumers. It takes a competitive spirit to survive in this exceptionally aggressive industry of ours, especially in the case of small or emerging businesses. We spend our days watching competitors, finding markets, and keeping a watchful eye on the economy. And it seemed the storm has passed both figuratively and in the eyes of the stock market, when a settlement was announced last year. But the states which remain involved have argued for tougher enforcement provisions, including a court-appointed "special master" to oversee Microsoft's compliance. And we have found through experience that there is no remedy discrete to Microsoft when it's the nucleus of a tech sector that operates as its own economy.

The states, including my own state of Iowa, are not right to push ahead for further prosecution of Microsoft. The proposed settlement goes the distance in addressing the concerns of business people like me who are in the technology industry.

The time to take a hard line is over. The hold-out states are holding out to the detriment of their state economies and our national economy at a time when actions like this are not at all useful. It is a frightening prospect to see another dollar of precious development resources diverted to paying attorneys'' fees instead of rippling through our industry. Money that could have launched a new product or created new opportunities for a small business on the brink instead has disappeared into the abyss of this lawsuit. The settlement is a positive step in putting it all behind us and opening a new chapter in the life of the technology industry.

I applaud Assistant Attorney General Charles James for his role in bringing the case this far. The settlement agreement is a strong one. It will have an enormous impact on the future of the entire software industry.

Sincerely,
Mark Havlicek
President
DIGITAL DATA RESOURCES, INC.
Des Moines, Iowa

MTC–00030869

Jan 07 02 12:28p Gary Pearce 9197878031 p.1
12/27/2001 13:48 919–676–1536 BRACHMAN ASSOCIATES PAGE 01

BRACHMAN ASSOCIATES
8605 Devishire Drive
Raleigh NC 27615
(919) 870–1982 (919) 676–7536 fax

December 27, 2001

Renata Hesse
Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Suite 1200 Washington, DC 20530
Fax 202–616–9937
microsoft.atr@usdoc.gov

Subject: Support for Microsoft Settlement

Dear Ms. Hesse:

For the last 30 years as a senior management consultant to such companies as IBM, Kodak, Xerox, Burger King, Glaxo,

Federal Express and others I have had the opportunity to work side by side with our corporate leaders to build a stronger US economy. In the last 10 years, I have seen that economic base erode due to our government's priority focusing on international trade, free enterprise, and deregulation. The result has been a significant decline or near collapse in the US in our transportation industry, our steel industry, our textile industry, our utilities industry, and others. The most successful and greatest era of growth in the last 10 years has been in the information and communications industry that has provided the foundation for increased productivity, consumer and business knowledge, military intelligence and millions of new jobs in almost every industry from finance to healthcare. The one company that has contributed the most to the US leadership in the world through its establishment of technology standards and integration of functionality has been Microsoft Corporation.

Now our Government leaders at both the Federal and State leaders are ready to undermine the one company who has provided this country that global leadership position through lawsuits and constraints that will undoubtedly allow foreign companies once again to gain a competitive advantage in our own country. I see Asian-based companies building a foundation that will dominate the hardware sector of our information industry. I see European companies doing the same in telecommunications. Microsoft Corporation's continuing expansion of its integrated technologies and application platforms allow companies of all sizes from the smallest to the largest to benefit from that leadership role and strategy. I know because those companies are my clients in the pharmaceutical, biotechnology, and other sectors of our business economy.

Please reflect on what our government has done in the past 10 years and do what you can to make the next decade one in which our government leaders support those companies like Microsoft Corporation who is doing its best to maintain a global leadership position for the good of our nation and its people. Do not let the lobbyists, the politically motivated, and the Microsoft competitors drive our government legislators and attorney generals to prosecute and persecute the one company that is still the brightest star in our economic arsenal fighting to maintain our economic survival in the ever growing world of foreign-based terrorism and protectionism.

The proposed settlement agreement that is now before the federal courts will provide adequate protections to all involved in this industry—Microsoft itself, its competitors, computer manufacturers, information technology providers and, most important of all, the consumer and end-user. It is time to accept this agreement, as the State of North Carolina has wisely done, and move forward.

Fred Brachman
President, Brachman Associates, Inc.

MTC–00030870

Jan 07 02 12:29p Gary Pearce 9197878031 p.1
12/20/01 FRI 14:40 FAX 704347408080 AON CONSULTING 002

AON CONSULTING
EMPLOYEE BENEFITS
CONSULTING GROUP

Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202–61 6–9937
microsoft.atr@usdoc gov

Dear Ms. Hesse:

One of the fantastic things about being an American is the ability to take a venture you started in your garage, a creation you built in your backyard or an idea you formalized your apartment and transform it into the largest, most profitable business in the world. It is this promise of fortune that led most of our ancestors to this great country in the first place. This reward of innovation has inspired and driven our most successful entrepreneurs to craft inventions that have revolutionized our world and make our lives better.

This very ideal of freedom and innovation has been under attack in the federal government's lawsuit against Microsoft. At one point, Microsoft was the whimsical dream of an ordinary American. But through keen strategy, tireless effort and enormous risk, it blossomed into the most successful software company in history. As we see with our financial markets daily, with risk comes reward, and Microsoft reaped the benefits. But the federal government has been trying to step in and limit that growth. This intervention not only has been needless, but also a waste of taxpayers" money. Aren't there more important issues to address, such as combating global terrorism, providing quality education to our children and taking care of our senior citizens?

I am writing to urge you our government to end its lawsuit and its efforts to regulate Microsoft's software products. Neither the already weakend economy nor the innovative spirit of America needs to be stifled by a continuation of this litigation. I have seen an analysis of the proposed consent decree, an analysis prepared by the Association for Competitive Technology. It appears that the settlement guarantees flexibility for computer manufacturers, guarantees to information technology providers access to technical specifications, guarantees flexibility to users and guarantees everyone involved the chance to get out of the courtroom and back to work It is time to do JUSt that.

Sincerely,
Brook Seaford
AON CONSULTING, INC.
101 South Tryon Street Suite 2550
Charlotte, North Carolina 28280 tel (704) 347-4080 fax (704) 347-2375

MTC-00030871

Jan 07 02 01:59p Gary Pearce 9197878031 p.1
Lisa Pace
319 Yadkin Drive
Raleigh, NC 27609
December 31, 2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202-6 16-993 7
microsoft.atr@usdoc.gov

Dear Ms. Hesse:

For many months, I have carefully followed the progress of the U.S. government's lawsuit against Microsoft Corporation. As a business consultant and active community volunteer, I work with a broad range of businesses and organizations that depend heavily on computer hardware and software, I have seen first-hand the importance of affordable and usable technology.

Microsoft, clearly has been an aggressive competitor in the marketplace. But Microsoft's products and services have made an invaluable contribution to the growth and success of many small businesses and organizations. It appears that the proposed consent decree in this matter strikes the proper balance between punishing Microsoft and providing remedies for computer manufacturers, Microsoft's competitors, IT providers and—most important of all—business and residential end-users.

It does not help Microsoft, its customers or our economy to continue this costly and time-consuming legislation. Our nation faces a security crisis and an economic crisis, and it is time to put all of our efforts to meeting these two challenges. A settlement in this matter now would be a blessing to all concerned. I am pleased that North Carolina's Attorney General, Roy Cooper, saw fit to agree to the settlement that had been negotiated. He is a leader of rare intelligence and integrity, and I have great confidence in his judgment, I hope that the presiding judge in this matter will bring it to a quick close. Thank you for your consideration.

Sincerely,
Lisa Pace

MTC-00030872

Jan 07 02 02:03p Gary Pearce 9197878031 p. 1
FROM : FAX NO. : Dec. 26.2001 01:01PM P2
Jane Lentz
344 Tyler Lane
Boone, NC 28607
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

I am writing in support of the proposed settlement agreement in U.S. v. Microsoft. The proposal presents a good compromise between Microsoft and its competitors. While it does not provide remedies that are completely satisfactory, it does allow flexibility and some middle ground for each side.

Microsoft's competitors will be allowed access to have technical information so that software developers, service providers and hardware vendors are not penalized In developing or selling products that. compete with the Windows operating system.

The other remedies provided in the suit will allow the technology industry to focus on developing innovative products thus getting the economy back on track. Consumers will benefit from the renewed competition.

Sincerely,
Jane Lentz

MTC-00030873

Jan 07 02 02:2lp Gary Pearce 9197878031 p.1
Sent by: CORPOHATE MEDIA SVC 7043772905 12/17/01 12:43 Job 726 Page 1/ 1
CMS
December 17 2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse

I am writing to comment on the settlement of the Microsoft case. As a small business owner I believe the settlement will start rebuilding our economy and at the same time allow a significant investment in educating children. Microsoft has benefited consumers and business owners by providing an integrated software system that is easy to use. Our economy depends on competition and ongoing innovation that is not discouraged by litigation and regulation. A settlement will allow Microsoft and other companies to again focus their efforts on developing technology that will provide new opportunities for consumers and the technology industry. The settlement will also provide much needed training and software for our schools.

Sincerely,
Bob Summers
President
Corporate Media Services
632 West Summit Avenue,
Charlotte, NC 28203
Phone (704) 377-1601 FAX (704) 377-2905, email info@corporatemedia.com
Visit our website at www.corporatemedia.com

MTC-00030874

1-07-2002 3:09PM FROM 000000000000 P.1
:98486007 #2/2
Norma J. Smith
9367 Brighter Tower Court, #1304
Glen Allen, Virginia 23060
January 3, 2002
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite
1200 Washington, DC 20530

Dear Ms. Hesse:

Whenever there is a settlement agreement to a court case, the question arises how the terms of the agreement will be enforced. With the Microsoft case there should be no doubt on this question. An independent Technical Committee is being created that has the power to hire unlimited staff. They will be on-site at Microsoft Corporation their expenses will be paid for by Microsoft. The agreement specifies the U.S. Justice Department as the sole enforcement authority, In short, the settlement agreement provides resources, access, and authority to quickly respond to complaints about Microsoft's compliance. This is an enforcement mechanism with teeth. It should put to rest any doubts about compliance.

I am glad that this case looks like it is well on the road to being settled, Our economy is now in a recession and the high-tech industry can hopefully lead us on the road to recovery.

Sincerely yours,
Norma J. Smith

MTC-00030875

JAN-07-2002 13:40 BIXBY TELEPHONE CO. 918 366 6610 P.01/01
ED GUSTAFSON
P.O. Box 98
BIXBY, OK 74008
January 3, 2002
Attorney General John Ashcroft
The Department of Justice,
950 Pennsylvania Av, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I am writing this letter in accordance to the Tunney Act to express my opinion in support of the settlement reached between Microsoft and Department of Justice regarding the antitrust suit. This settlement will finally bring a close to the more than three years of dubious court actions. It pleases me to see the Justice Department settle this case, and I hope the settlement is enacted promptly after the comment period.

This settlement was arrived at after extensive negotiations with a court-appointed mediator present. Microsoft is not getting the sweet-deal settlement that its competitors say it is getting. It is being scrutinized at all times by an independent committee to guarantee adherence to the settlement, and any time a competitor believes that Microsoft has overstepped its bounds, they can sue.

Even though I have reservations about the settlement's anti-entrepreneur bias, it is far preferable to breaking the company up. The decision to finalize the settlement and put this suit behind us is agreeable to me. Microsoft needs to be allowed to return to innovation.

Sincerely,
Ed Gust&on
cc: Senator Don Nickles
TOTAL P.01

MTC-00030876

January 4. 2002
Ms. Renata Hesse
Trail Attorney
Department of Justice
Antitrust Division
601 D Street N W, Suite 1200
Washingron, DC 20530

Dear Ms. Hesse:

As a business executive who represents 103 small business owners in the Dallas, Texas area, I'm writing this letter to illustrate my support of the proposed Microsoft settlement. I could write a letter with all the "fancy words and phrases" that would describe how unfortunate this entire situation with Microsoft and its competitors has come about and precisely why US government should end its pursuit of Microsoft However, I chose to simply state what I believe is reality in this case:

I believe our government...and Microsoft's competitors who apparently can't compete for whatever reason..have forgotten about the "rights of American business" to pursue and operate their business in the spirit of a free enterprise system. That's the bottom-line on this whole affair,.. Let's end this pursuit of Microsoft Ms. Hesse. Our government has spent more than enough of the taxpayer's dollar in its quest to satisfy competitors who lack the knowledge to understand customer needs in the marketplace, Rule 1 in Marketing 101.

Thank you.
Sincerely,
W.J. Thomas

MTC-00030877

The Rockford Group
718 Brentwood Lane Richardson TX 75080
Phone: 214–478–1028 Fax: 972–669–1017
December 27, 2OOl
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Over the course of the next 30 days, you will receive comments from both sides of the Microsoft settlement issue. Many will ask that you continue efforts to dismantle or seriously disrupt Microsoft Corporation's advantage in the marketplace, I think that would be a mistake. I have read an analysis of the settlement and find that it seems to answer most if not all of the questions raised by the lawsuit. Though the settlement does not completely satisfy Microsoft's competitors, it does appear to be crafted in a way that will let the market continue to produce innovative products with minimal government regulation. And, perhaps most important of all, the consumer will benefit the most. As a concerned citizen and consumer of high tech products, I ask that you accept the terms of this settlement and put an end to lengthy and wasteful, pursuit of Microsoft Corporation.

Sincerely,
Tom Parris

MTC-00030878

ABC Coin
8524 Fifth St,
Frisco, TX 75034
800–752–7277 972–377–7100 FAX 972–335–3960
WWW.ABCCOIN.COM
ABCCOIN@AIRMAIL.NET
December 27, 2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

With the announcement by the United States Department of Justice that it will not continue to pursue antitrust litigation against Microsoft, it is time for government lawyers and state attorneys general to put this entire episode behind us. A recent poll by Americans for Technology leadership shows that the overwhelming majority of the American people want this case to come to an end Nearly 75% believe the case should be resolved quickly.

I am writing because I believe that a settlement is the most efficient remedy for this case. Further litigation or regulation would result in fewer choices and higher prices. Small and minority business would be unable to afford new innovative products thus leaving them at a great disadvantage in the market place. individuals and home pc users would shift their already declining resources elsewhere, American industry would no longer be the preeminent leader in globe1 technology. This is not the vision I have of America's technology future. I. am disturbed by the misguided attempt to interfere with the advancement of American technology. That is why I am writing in support of the settlement negotiated between Microsoft and the Department of Justice. I think that the voices of American consumers should be heeded.

Sincerely,
Sharon Fox

MTC-00030879

Jan-04-02 03:31P cc I Ik-cc I Jk 972 503 2545 P.01
CCLIK-Computer Certification Learning Institute of Knowledge
972–934–2545 FAX
972–503–2545 www.ccik.com
3961 Beltline Road Addison, Texas 75001–4306 OPPORTUNITY DOESN'T KNOCK IT CCLIK'S A+, MCSE, CNE, CCNA
December 27, 2001
Renanta Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D street NW, Suite 1200
Washington DC 20530

Dear Ms. Hesse:

I applaud the recent decision by the Department of Justice to drop the monopoly and tying lawsuit against Microsoft. Now, it is time to settle the remaining issues and move on. The harm done to the technology industry by ever expanding litigation and that threat of government regulation will soon be felt by every consumer or high-tech products. Microsoft has invested tremendous resources to develop products like the new XP operating system. It is unfortunate that some competitors think it is more valuable to lobby the government in an attempt to gain market advantage rather than focus on developing innovations, such as xp.

For the sake of the American consumer and our preeminence in the global marketplace. I am writing in support of the settlement negotiated by the Department of Justice. It is time to settle all remaining issues and let healthy competition return to the high-tech industry.

Sincerely,
H.N. Symonds
CEO

MTC-00030880

COMPLETE TECHNICAL REPRESENTATION, Inc.
CTR INC.
January 4, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse.

I have been an executive in the aerospace business for the past 37 years and I do not see that a continuation of the Microsoft lawsuit will do any more than spend many additional dollars of the taxpayer's money. The settlement, as it now stands, may not completely satisfy, all parties involved, but it appears that the most logical and certainly the most cost savings to the taxpayer would be accomplished if the present settlement were accepted. There comes a time when the continuation of a lawsuit destroys the foundation of the United States business approach in that it does away with compensation to the innovative individual or company that designs, produces and markets their product. I propose that you accept the terms of the Microsoft settlement thus saving future unnecessary taxpayer's dollars.

Sincerely,
H. N. Symonds
CEO
8304 Esters Blvd., Suite 880 o Irving, TX 75063 o Metro (972) 621–1111 . Fax (972) 621-1616
o E-mail: ssymo 12312@aol.com

MTC-00030881

Pintail Technologies, Inc.
January 7, 2002
Renata Hesse

Trail Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

The case against Microsoft has gone on too long, cost taxpayers too much money and inflicted too much harm on the economy It is time for this entire case to come to an end accepting the recently negotiated settlement.

The last thing country needs is government run high-tech. I am. writing to ask that the Department of Justice and the courts let the market continue to produce low-cost, high quality innovative produces. No one is forced to buy a contain brand. there are plenty of choices. Let the consumer be the best judge of high-tech products—not the government

Sincerely,
Jeff Bibbee
CEO—President
3700 GRANITE PKWY—SUITE 320
PLANO, TX 75024 EMAIL:
INFO@PINTAILTECHNOLOGIES.COM
EMAIL:
SALES@PINTAILTECHNOLOGIES.COM
PHONE: (972) 464–5830 FAX: (972)-464–5835

MTC–00030882

14645 Woodland Road
Athens, AL 35613
To: Mr. John Ashcroft Fax: l-202–307–1454
From: Mrs. Adair McCook
Date: 01/03/02
Re: Microsoft Settlement Page: 1 plus cover
cc:
Urgent For Review Please Comment Please Reply Please Recycle
Confidential
FROM: FAX NO.: 2562337505 Jan.07 2002 04:10 PM P1
14645 Woodland Road
Athens, Alabama 35613
January 2, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this letter is to show my support for the settlement that was reached between Microsoft and the Department of Justice in November. The agreement has teeth, It requires Microsoft to design future versions of Windows to make it easier to install non-Microsoft software and to disclose information about certain internal interfaces in Windows. It also requires significant changes in the way Microsoft develops licenses and markets its software, as well as new ways of working with independent software vendors. This agreement changes the software industry permanently. The government's settlement is more than fair. A technical oversight will monitor Microsoft to ensure that it adheres to the settlement's terms. For these reasons, I support the settlement.

Sincerely,
Adair McCook
FROM: FAX NO.: 2562337505 Jan. 07 2002 04:10 PM P2

MTC–00030883

JAN-07–2002 04:36 IVS COMPUTER TECHNOLOGY 6618358619 P.01
3839 Stockdale Highway
Phone (661) 831–3900
Fax: (661) 835–8819
IVS COMPUTER TECHNOLOGY
To: Attorney General John Ashcroft
From: Pamela Quattlebaum
Fax: l-202–307–1454 or Pages: 2
Phone.
Date: 01/07/2002
Re: Proposed Microsoft Settlement cc:
Urgent For Review Please Comment Please Reply Please Recycle
o Comments
JAN-07–2002 04:36 I IVS COMPUTER TECHNOLOGY
6618358619 P.02
3839 Stockdale Highway
Bakersfield, California 93309
(661) 588–2904 Fax: (661) 835–8639
IVS Computer Technology
Partnerships That Provide Solutions
January 7, 2002
Attorney General John Ashcroft
U.S. Justice Department
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

One of my greatest concerns over this Microsoft lawsuit is that we—and all Microsoft customers and partners—will lose a degree of technical support if this antitrust case is pursued. In our business, support is very important. We serve the educational community and deal with people who invariably do not have the computer proficiency that any number of software engineers would have. In our 10 years in the industry we have realized the value of strong companies that over time have a successful track record in innovative products and services.

It is therefore important for me—and my clients—to rely on the expertise of technical support among all our software solutions providers. I am hoping that the recently negotiated settlement will be sufficient and will be supported throughout this review process. After all, the settlement is realistic, and will benefit the software companies that we work with. They will be able to develop more effective programs, since Microsoft has agreed to redesign Windows, and disclose its internal interfaces, which will help software companies come up with creative programs that offer more options and function better on the Windows OS.

I am appreciative of having this opportunity to voice my support of this settlement, and further hope that no further federal action will be required. Thank you.

Sincerely,
Pamela Quattlebaum
Vice President Marketing and Business
TOTAL P. 02

MTC–00030884

Sent By: ccc; 408 776 3451 Jan-7–02 5:47 PM; PAGE 1/2
Coyote Creek
Consulting
50 Airport Parkway. San Jose CA 95110
Office:408–451–8410 Fax 408–351–9525
To: John Ashcroft
From: Michael R. Faster
Fax 202–307–1454 Pages: 2 including cover sheet
Phone: Date 1/7/2002
Re: Microsoft cc:
Urgent For Review Please Comment Please Reply Please Recycle
Comments:

Dear Mr. Ashcroft,

Please see the attached letter regarding the Microsoft Settlement.

Thanks,
Michael R. Faster
President
Sent By: ccc; 408 776 3451; Jan-7–02 5:47PM; Page 2/2
Coyote Creek
Consulting
January 7, 2002
Attorney General John Ashcroft, U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

It is a better alternative to have this Microsoft lawsuit settled than having it drag on in the federal courts. Ultimately, I believe that any anticipated break-up of Microsoft anticipated by the federal prosecutors would have had serious repercussions on the Information Technology business at large. At the very least, most would have to retool the way they had done business with Microsoft. This would have distracted businesses from concentrating on servicing their client bases and expanding their businesses. In the IT business, this distraction can have serious consequences.

Ultimately, I am no sure what benefit the terms of the settlement will have on most IT businesses. The hardware manufacturers and the software publishers may benefit by virtue of the fact that the terms of the settlement are centered around either freeing up more of the Windows code. or creating greater flexibility among the various OEMs as to pre-installing the Microsoft OS.

In start the settlement is basically a good thing and hopefully will be sustained throughout this review process. Thank you.

Sincerely,
Michael Faster
President
CC: Representative Zoe Lofgren
50 Airport Parkway San Jose, CA 95110
Voice (408) 451–8410 Fax (408) 351–9525
Microsoft
GOLD CERTIFIED
Partner

MTC–00030885

From: Robert Elmore
To: Attorney General John Ashcroft
Date: 1/7/2002 Time: 10:21:12 PM
FACSIMILE COVER PAGE
To: Attorney General John Ashcroft
From: Robert Elmore
Sent: l/7/2002 at 10:21:10 PM Pages: 2 (including Cover)
Subject: Microsoft Settlement
From: Robert Elmore
To: Attorney General John Ashcroft
Date: 1/7/2002 Time: 1O:21:12 PM
5604 West Pages Lane
Louisville, Kentucky 40258
January 7, 2002
Attorney General John Ashcroft
US Department of Justice

950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I write to you in support of your settlement with Microsoft in the ongoing antitrust case. I am happy to see that you have all agreed on a resolution after three long years and I hope that the other states can be brought into line as soon as possible.

Microsoft has done a lot for our economy and for the IT industry as a whole. I hope now that it will be able to continue to do the same after this settlement and I wish Microsoft well. The settlement thankfully did not require it to break up, but it will, I think, be enough to convince Microsoft's competitors that it did not get off easy.

Thank you for hearing me out and taking my opinion into consideration. I support the settlement and hope to see it finalized soon.

Sincerely,
Robert Elmore

MTC-00030886

JAN 08 2002 08:51 FR ENGINEERING/OSB 321 867 2167 TO 82026169937 P. 01/01

January 7, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

In November, the long-fought battle between Microsoft and the Justice Department finally saw a resolution. It was a resolution that was long overdue. Vast time and resources were spent to reach this resolution, and I see no need to continue further litigation.

The provisions in the resolution were extensive and included items that were not even a factor in the original lawsuit. The settlement also has some terms that are unprecedented for this type of lawsuit. For example, the Microsoft settlement requires Microsoft to provide to its competitors interface information about its own software. To enhance market competition, there are terms in this settlement that restrict Microsoft from entering into any agreements with computer manufacturers that would stifle competition. This will mean that hardware makers can install other products, keeping Microsoft responsive to the market for more efficient products.

The November settlement is plenty good enough, and I see no need to spend more taxpayer money further litigating this suit. I urge you to leave the suit as is. The economy would benefit the most if this issue was finally resolved. I thank you for your time and am sure that you will do what is best for all parties involved.

Sincerely,
Michael Payne
3402 Caraway Street
Cocoa, FL 32926

MTC-00030887

1-07-2002 7:36PM FROM 000000000000 P. 1

DIANE DODD-McCUE, D.B.A.
January 2, 2OOl
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing you about the Microsoft settlement.

I find that the Microsoft settlement goes beyond the issues upheld on appeal, which may result in questionable future outcomes to individual users, companies, and industry. I find it hard to comprehend having a committee and the Court supervise the future of software design. The software industry, like many in our nation's long history of business successes, has-soared because of the free market system, entrepreneurial spirit, and innovation, "Supervised" development could likely hinder this spirit and innovation in the future. Consumers have not been harmed by Microsoft's actions. To the contrary, innovations by Microsoft have given us better products and lower prices.

With 2002 comes reason for optimism as a nation, after the horrors of September, and optimism for the economy. The Microsoft settlement, while limited by the previously mentioned factors, still may serve as an impetus to move forward as opposed to remain bogged down in lengthy court actions. We all need to get back to work.

Yours truly,
Diane Dodd-McCue
8107 University Drive Richmond, VA 23229 (804) 673–9723 E-Mail HADDODD@hsc.vcu.edu

MTC-00030889

Jan-08–02 04:20A U. S. Postal Service—P1 706 562 1786 P.01 4521 Hedingham Lane Columbus, GA 31907

January 8, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft,

I am disappointed at the delays arising from more talk and less action about the Microsoft settlement. I cannot understand how a few special interest can manage to clog up the process indefinitely. To me, the settlement is demonstratively fair, and if anything, it is unfairly casligatory is Microsoft.

Microsoft is already abiding by the terms, and has been since November 16th, so I'm sure that we'll get to see the influence of the settlement soon. This means that the even though the settlement hasn't been enacted, even while Microsoft's competitors benefit from such measures as interest services and licensing changes, they can still actively work to destroy Microsoft altogether in fits of jealousy.

It is (illegible) that this charade has gone on long enough. The government must stop action at the federal level. Now what the proverbial cat is out of the bag, and Microsoft is directly giving up its intellectual property, the company should be allowed to return to business.

Sincerely,
Jeffrey Gittings

MTC-00030890

01/08/2002 01:12 2158226040 WETHERBEE PAGE 01

Charles D. Wetherbee
19 Farber Drive
Chalfont, PA 18914–1472
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a concerned American citizen, I am writing to voice my displeasure regarding the antitrust case between the Justice Department and Microsoft Corporation. I believe that Microsoft should not have had to endure three years of litigation for alleged antitrust violations. I support the products that Microsoft has developed and will continue to develop.

Their products are of high quality and are user friendly. It is in the best interests of the Justice Department to settle with Microsoft, and not continue with litigation against them. This case has been ongoing for there years. It is time for all parties to move onto other matters.

Furthermore, the settlement is both fair and reasonable to all parties. Microsoft will be making specific changes in response to the settlement. These changes include the following: computer makers can replace access to Windows Media Player, Windows Messenger, and Internet Explorer with access to non- Microsoft software.

Sincerely,
Charles D. Wetherbee
cc: Senator Rick Santorum
Senator Arlen Specter
Rep. James Greenwood

MTC-00030891

Jan 07 02 08:04p Larry Goldrstein 215 4894046 p.1

Goldstein Educational Technologies
Mathematics and Technology in Higher Education
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a father of a Microsoft employee and an avid supporter of Microsoft products and services, I am writing to express my support of the recent settlement in the antitrust case between Microsoft and the US Department of Justice. I had disagreed with the government's interference and am glad that it will finally be over. From my knowledge of the concessions Microsoft has agreed to make, I see that they will be disclosing Interfaces to competitors, licensing its windows operating system products, increasing computer maker flexibility, and easing retaliations against computer makers.

These actions reflect a more than adequate compromise and should be seen by Microsoft's opponents as indications of Microsoft's desire to do whatever is necessary to facilitate technology growth and aid a faltering American economy and injured technology sector.

I look forward to Microsoft's growth in the future and feel confident its presence will remain a powerful force for our economy and a positive example for others to follow.

Sincerely,
Dr. Larry Joel Goldstein
President
Goldstein Educational Technologies
cc: Senator Rick Santorum
4 Bittersweet Dr. Doylestown, PA 18901
Phone (215)-489-4045
FAX (215)-489-4046 e-mail
lgolt@erols.com

MTC-00030892

Jan 07 02 06:07p JW 3602634403 p.1
31103 NW 18th Avenue
Ridgefield, Washington 98642
January 3, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The settlement pending in the Microsoft antitrust case currently represents the best available solution to this case. It is time to stop wasting resources on a battle that has already been resolved.

Under the settlement, Microsoft has agreed to be watched closely by an oversight committee that will make sure it complies with all of the terms of the agreement. Some of these terms include Microsoft designing future versions of Windows to provide a mechanism to make it easy for computer makers and software developers to promote non-Microsoft software within Windows, disclosing information about how Windows works, and not retaliating against its competitors" lawsuit. This will provide more choices for consumers, and stronger competition within the industry. The result will be beneficial to the IT industry.

I support this settlement and hope it is finalized in the very near future.

Sincerely,
Joseph Walker

MTC-00030893

From Edward S. Barba to l-202-307-1454 at l/7/2002 6:07 PM Pg 001/0
304 Franklin Avenue
Phoenixville, Pennsylvania 19460
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to support the antitrust settlement between Microsoft and the US Department of Justice. The settlement was reached after many long hours of negotiation, and represents the best viable solution to the antitrust dispute. I think it is a waste of resources and time for any states to oppose such a settlement and hope that Microsoft is allowed to focus on making a positive contribution to the technology sector as soon as possible without being harassed further by politicians and lawmakers.

Some may say that the settlement goes too easy on Microsoft. This is simply not the case. Microsoft will have to share information about internal interfaces within Windows, allowing the companies to tinker with Windows and install their own software on the operating system. Additionally, Microsoft will be prevented from retaliating against companies that distribute or promote products made by Microsoft's competitors. It is for all these reasons and more that I support the settlement and hope to see it implemented soon.

Sincerely,
Edward S. Barba
cc: Senator Rick Santorum

MTC-00030894

FROM : STARCOM FAX NO. :214 821-7137
Jan 05 2002 04:24PM P4
Dallas
LNESC
National Educational
Service Centers, Inc.
1527 W. Colorado Blvd. Dallas, TX 78208
fax: (214)821-7137
Renat Hcsse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

The U.S. Department of Justice and nine state attorneys general decided to settle the Microsoft antitrust case. A recent survey done by Americans for Technology Leadership, a broad-based coalition of technol- ogy professionals, found that 70 percent of American consumers agreed with that decision. Yet the pursuit of Microsoft continues. It seems that a handful of Microsoft's competitors have pre- vailed upon the remaining nine state attorneys general to reject any settlement—be it reasonable or not—and continue to chip away at Microsoft. Their eventual goal seems to be leveling the playing field by bringing Microsoft down to their level.

If Microsoft's competitors think this will result in consumers rushing to buy their products. maybe they should examine some additional results from this survey. Of the 1001 individuals contacted in early November, 82 percent said that Microsofts competitors should compete by creating new products rather than lobbying for the government to stop Microsoft's new products. American leads the world in technological innovation thanks in large part to Microsoft. Let's not lose that advantage because we're afraid to let one corporation get too far ahead in the market place. I say, settle this case quickly and let's get back to what made America great—competition.

Sincerely,
Renato De Los Santos Director

MTC-00030895

1-07-2002 5:49PM FROM 000000000000 P.1
JAN-02-2002 09:25 NANCY MILES MAUPIN 804 353 4496 P.01
NANCY MILES MAUPIN
1514 PARK AVENUE
RICHMOND, VIRGINIA 23220
December 31, 2001
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

It is my understanding that the public is allowed to comment on the Microsoft settlement. What follows are my comments on this proposed agreement.

I understand that the agreement specifies that Microsoft would have to promptly disclose technical information that enables any Windows operating system to communicate with Microsoft servers and with all Microsoft middleware products. To encourage more non-Microsoft middleware, the settlement forces Microsoft to license any intellectual property rights that others might need to compete with Microsoft. And as with computer manufacturers, Microsoft could not penalize any software developer, service provider, or hardware vender that develops or sells products that compete with Windows and Microsoft middleware. The net result is that all information technology providers, including Microsoft's competitors, are guaranteed access to technical specifications.

I would add that the antitrust laws were meant to protect consumers, not for certain powerful companies to protect themselves from market competition. ProComp, AOL Time Warner, Sun and Oracle should stop encouraging the government to fight their battles for them in court and tight in the marketplace, where this battle belongs.

Yours truly,
Nancy M. Maupin
TOTAL P.O1

MTC-00030896

FROM : STARCOM
FAX NO: :214 821-7137
Jan. 05 2002 03:44PM P2
Starcom Consultants, Inc.
Communications—Marketing—Government Relations
January 4, 2002
Renata Hesse Trail Attorney
Antitrust Division
Department of Justice
601 D. Street NW, Suite 1200

Dear Ms. Hesse,

Despite all the hoopla over the announcement that the Microsoft case had been settled, it is my understanding that it still has to be approved by a judge. I am writing as an avid user of Microsoft products and a supporter of the settlement. I oppose the efforts of the nine state attorneys general who want no part of the settlement preferring instead the complete dismantling of Microsoft. To his credit, Texas Attorney General John Cronyn wisely" declined to drag our state into this technological boondoggle. In hindsight, Cornyn's decision could benefit Texas.

A quick look at the proposed settlement should make Texans anxious to move forward. The settlement avoids long g costly litigation. It will restore healthy competition to the technology industry which is growing rapidly in Texas. Terms of the settlement will allow computer manufacturers flexibility with desktop configurations, an unprecedented concession on proprietary materials. But perhaps most important of all, the consumer will have access to Microsoft's innovative products with the option to switch easily to other products.

What more can you possibly ask for? This settlement appears to be in everyone's best interest. It is time to accept it and move on.

Sincerely,

Jake Fuller
President
4314 North Central Expwy—Dallas, TX 75206
(214) 821-7002—fax (214) 821-7137—email: starcomc@swhell.net

MTC-00030897

FROM : STARCOM FAX NO. : 214 821-7137
Jan. 05 2002 04:23PM P2
LEAGUE OF UNITED LATIN AMERICAN CITIZEN Councilivo . Dallas, Texas
January 4, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Four years ago, the U.S. Department of Justice and 18 state Attorneys General brought suit against Microsoft claiming their preeminence in the software market created an unfair advan tage over their competitors. Now, after millions of wasted taxpayer dollars and countless attempts to halt the technological advances of Microsoft, the Department of Justice and 9 attorneys general have agreed to settle the case. So whats the hold up?

Could it be that Microsoft "s competitors are shaking in their corporate boots because they have not kept up with the rapidly moving technology market and are doing everything they can to bring Microsoft down to their level by thwarting a settlement? It is ironic that Microsoft's competitors are leveling charges of unfair market practices when it is they who are practicing the worst kind of anti-competitive tactics. Instead of using their money to create new innovative products for the American consumer, they are throwing millions of dollars into lobbying efforts to bring innovation to a halt until they have time to "catch-up".

As a high-tech consumer, I find it disgusting that corporations who regularly oppose any type of government regulation by hiding behind the "free market" banner are suddenly calling for more government intervention I have a simple solution. Stop your whining. Get back to work producing new and innovative products that consumers want to purchase. That's what Microsoft has done. It seems to work for them.

Sincerely,
Joe R. Campos
President
4314 N. Central Expressway—Dallas, TX 75206—fax(214) 821-7137—email: lulacl00@yahoo.com.com
Members
Joe Alcantaz
Patricia Asip
Michelle Bahadillo
Adelfa Callejo
Bill Callejo
Joe Campos
Roseanna Costillo
Gil Chavez
Frank Cortes
Del Cruz
Mary Devile
Ken Fleischer
Steve Fleischer
Hector Flores
Jake Fuller
Alex Garcia
Guillermo Golindo
Gilbert May
Gil Herrera
Alex Jimenez
Tom Lazo
Lena Lavario
Rene Martinez
Michael Manoya
Brenda Reyes
Dr. Jim Rodriguez
Jim Salinas
Richard Saminano
Gloria Torres

MTC-00030898

JAN-08-2002 10:09 P. 01/01
1101 East First Street
Sanford, Florida 32771
January 5, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to take a moment to write that I support the settlement that was reached between Microsoft and the Justice Department. I believe ending this litigation is in the best interest of consumers and the consumer industry. Although I did not support commencing this litigation in the first place, it is time to move forward. The agreement incorporates many of the changes Microsoft's competitors desired. This includes granting computer makers broad new rights to configure Windows so as to promote non-Microsoft software that compete with programs included within Windows.

I have been in the computer industry for forty years and understand the importance of Microsoft and their products. The industry would still be extremely inefficient if not for the leadership of Microsoft. Freeing Microsoft to concentrate on bringing the latest technology to the market will continue making the computer industry a powerful engine to our economy.

Hopefully this settlement will be one of the last steps in bringing this entire affair to a conclusion. Thank you for the opportunity to have my voice heard.

Sincerely,
Bill Allen
IT Administrator
Seminole County Tax Collector
TOTAL P. 01

MTC-00030899

Jan-08-02 09:02A
Lewis Larsen 312-861-0831 p.01
Lewis G. Larsen
175 North Harbor Drive, Suite #3205
Chicago, IL 60601-7346
Tel: (312) 861-0115 Fax: (312) 861-0831
E-mail: lewisglarsen@cs.com
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Via Facsimile to 202-307-1454

Dear Mr. Ashcroft:

After years of litigation, I was pleased to hear that the government has made the wise decision to settle with Microsoft in regards to the antitrust lawsuit. I hope that no further litigation will be pursued in the future. I feel that this settlement is fair and reasonable, considering it was arrived at after extensive negotiations with a court appointed mediator. While new government regulation will be imposed on the IT sector, this settlement will provide greater certainty about the new rules and thereby ensure that our industry can continue delivering advanced technology to the marketplace. Microsoft will, for example, be required to share information about the internal workings of Windows with its competitors so they can more easily place their own software on Windows-based systems.

With other pressing national priorities, it does not make any sense to spend scarce DOJ resources and taxpayer dollars on further litigation with Microsoft. As a participant in the software industry, I am well aware of Microsoft's hyper-competitive, hard-nosed business tactics. If anything, Microsoft has been guilty of being a super-competitor; its market dominance is a direct result of strong management talent, incredibly focused business tenacity, and an enormous willingness to keep pouring money into its products until it "gets them right" for its customers. By contrast, a predatory super-monopolist attempts to minimize capital spending and uses its market dominance to maintain or raise the prices of its products.

Microsoft's behavior has never met the definition of a monopolist — adjusted for inflation and major increases in useful features that are embedded in Windows, the price of Microsoft operating system software has never been lower than it is right now! Furthermore, Microsoft's software has made immeasurable contributions to the growth of the U.S. economy over the past 15 years and made our country the undisputed world leader in computer technology. Punish Microsoft for that? You have to be kidding me. It makes no sense. Thanks to you and your DOJ team for making the choice to settle—in doing that you are truly protecting the interests of our country's consumers and citizens.

Sincerely,
Lewis G. Larsen

MTC-00030900

01/08/2002 09:55 18173550882 GATTEN PAGE 01
1108 El Camino Real Apt. 233
Euless, Texas 76040
January 7,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Last November finally saw the resolution of the three-year long antitrust lawsuit filed against Microsoft. Much time and many resources were spent to get to this final resolution, and I believe that no more needs to be spent. The resolution that was reached in November is just fine the way it is. It includes provisions to protect the smaller software companies trying to compete with the much larger Microsoft. It has provisions within it to keep the competition strong and healthy in the information technology market. Some of these beneficial provisions are as follows. Microsoft will now issue unified pricing lists so that companies entering into licensing contracts with Microsoft will all receive the same treatment. Microsoft has agreed to not include in any new contractual restrictions that would limit competitors" ability to promote software. This settlement even has a provision that would require Microsoft to disclose any interface information to a software company that would require such interfaces to work with Windows. These extensive provisions are quite enough.

As I said, enough time has already been spent resolving this issue. Therefore, I urge you to leave the current settlement in place with no substantial changes. I thank you for your time.

Sincerely,
Jerry Gatten

MTC-00030901

LEKTRONIK DEVICES CO.
1712 Poinciana Ln.
Plano, Tx 75075
972-423-2028
Fax: 972-423-6088
January 8, 2002
Renata Hesse
Trial Attorney
Antitrust Division
department of Justice
601 D Street NW, suite 1200
Washington, DC 205030

Dear Ms. Hesse:

Please do all that you can to get the responsible court to accept the Microsoft agreement to settle the lawsuit brought by the Department of Justice. Our high-tech industry has suffered greatly, partly due to the millions of dollars spent on legal wrangling over this suit that, in my opinion should not have occurred. The suit was brought in part by HP and Sun Microsystems who had developed systems using software that was not user friendly; even engineers found it difficult to use. The simplicity of the Microsoft software propelled their products to the top of the market.

The proposed settlement, as I understand it, would require Microsoft to disclose technical information to its competitors, guarantee flexibility to computer manufacturers for desktop configuration, and make it easier for consumers to switch to non -Microsoft software. This seems to me to be more than fair for any competitor who believes success lies in the power of his/her ideas rather than through litigation.

Let's bring this wasteful pursuit of Microsoft to an end, so that the money can be spent on innovation rather than litigation. Innovation helps our nation; litigation helps only a few trial lawyers to the detriment of our nation. END IT NOW!

Yours truly,
Bruce Leake

MTC-00030902

JAN-07 02 15:28 FROM:MAREK R MOLDAWSY 4198910315
TO: 202 353 8856
PAGE: 01
662 Centerfield Drive
Maumee, OH 43537
January 8, 2002
Attorney General John Ashcroft
The Justice Department
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in support of the settlement reached with Microsoft two months ago. This settlement is fair and reasonable. I am relieved that this three- year- long dispute is resolved.

I am an instructor at a community college, and am very familiar with Microsoft products. Microsoft has provided simplicity and standardization to America's computer industry, and the company is the primary reason that we set the standard in this field. The settlement will allow for even more standardization. It will obligate Microsoft to disclose interoperability protocols to their competitors, so that non- Microsoft software will be more effective on a Windows platform, and hardware makers can install non-Microsoft programs onto their computers before shipping them to dealers and customers without fear of retaliation from Microsoft.

This settlement will strengthen our economy by allowing Microsoft to devote its resources to creating its innovative software. Thank you for settling with Microsoft; keep up the good work as Attorney General.

Sincerely,
Marek Moldawsky

MTC-00030903

Jan 08 02 04:25p AMS-JWS/NAPLES 941-593-1646
JACK W. SUMLIN
2289 Arbour Walk Circle, Apt. 322
Naples, FL 34109
January 8, 2002
US DOJ, Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to show my support for ending the litigation, and enacting the Microsoft antitrust settlement, Having been a very avid supporter of AT&T in the past, I strongly oppose further interference from the government in this case. Like AT&T, Microsoft was an excellent company with an even more impressive product. In AT&T's case, Americans paid dearly for it, so it is important that we don't allow Microsoft and its customers to end up the same way. The government has interfered in the software industry long enough, and it is time for Microsoft to be done with this settlement so that they can move forward with developing new products.

Given the terms of the settlement, I am positive that these constraints and commitments will be sufficient to foster the software market back to fair competition. Microsoft has included in this agreement grants to makers to configure Windows as to promote non-Microsoft software programs that compete with programs included within Windows. Microsoft has also agreed to share protocols native to the Windows" operating system in order to promote compatibility.

In addition, I hope the government and any disagreeing parties will be comforted by the agreement to establish the Three-Person Technical Committee that will monitor Microsoft's compliance with the settlement and will be expected to lodge a complaint should any part of the agreement be violated. Microsoft has clearly been checked in all facets of this lawsuit, and thus further litigation would be a waste of time and money. The only beneficial solution for the public is the end of this settlement.

Thank you for your time and consideration on this lengthy matter.

Sincerely,
Jack Sumlin

MTC-00030904

01-08-2002 03:51PM FROM SAEED FALLAH 203-431-3413 TO12023071454 P.01
32 Banks Hill Place
Ridgefield, Connecticut 06877
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Under the Tunney Act, the DOJ is required to accept comments on antitrust settlements for a period of 60 days, and I am submitting my opinion. I support the settlement that was reached last November between Microsoft and the Department of Justice.

The federal government should have never gotten involved with Microsoft in the first place, and I am glad to see that the issue is coming to an end. Microsoft actually had to concede more than they would have liked, but with the best interests of the economy in mind, they settled as soon as possible. Now the company will share information about the internal workings of Windows, and will let its competitors install their own software on Windows-based system. Let's not forget that the whole economic downturn began when the antitrust suit against Microsoft was launched.

I appreciate your time, and again, am going on record that I support the Microsoft antitrust settlement.

Sincerely,
Saeed Fallah
TOTAL P.01

MTC-00030905

01/08/2002 14:34 513332655529 CINCINNATI PAGE 01/02
ICX CORPORATION
11260 Chester Road Suite 305
Chester Road
Cincinnati, OH 45246
513.326.5520—Voice
513.326.5529—Fax
Fax
To: Atty Gen. John Ashcroft From: Gary Gross
Fax: 20/307-1454
Phone:
Re:
Pages: 2
Date:
Cc:
Urgent For Review
Please Comment
Please Reply
Please Recycle

See attached letter.
01/08/2002 14:34 513332655529
CINCINNATI
PAGE 02/02 8290
Farwick Court
Cincinnati, OH 45249
January 3, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As the stipulations of the Tunney Act mandate, I am writing to express my unwavering backing for the antitrust settlement against Microsoft. The settlement is eminently fair, and there should not be any reason as to why the government should pursue any further action against Microsoft. I am therefore going on record as supporting the settlement.

The proposed agreement requires significant changes in the way Microsoft develops and licenses its software. The settlement requires the uniform allocation of licensing agreements to the top twenty computer manufacturers, and is charged with redesigning Microsoft Windows XP to be more accommodating to non-Microsoft products. While new government regulation will be imposed on the IT sector, this settlement will provide certainty about the new rules and thereby ensure that our industry can continue delivering advanced technology to the marketplace.

I fully support the settlement that was reached between Microsoft and the Department of Justice. Thank you for your time, and I appreciate this comment opportunity.

Sincerely,
Gary Gross

MTC-00030906

an 08 02 12:58p (817□ 927 1605 p.1
David B. McReynolds, M.D.
1500 S. Main Street, Fort Worth, Texas 76104
(817) 927-1171
Fax
TO: Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
FAX: (202) 616-9937
FROM: David B. McReynolds, M.D.
PHONE: (817) 927-1171
an 08 02 12:58p (817) 927 1605 p.2
David B. McReynolds, M.D.
1500 S. Main Street, Fort Worth, Texas 76104
(817) 927-1171
December 27,2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to express my concern that the government is trying to take too big a role in the technology industry. For the past several years, the Department of Justice and some state Attorneys General have tried to prove that Microsoft was a monopoly. In the process, they have cast a pall over the entire industry with the specter of government regulation.

It would appear to me that the best approach is to settle all remaining issues and quickly remove the government from interfering with the market. If this is not done expeditiously, I fear the consumer will soon pay the price for higher cost software, less efficient operating systems and increased incompatibility among competitors. True competition in the market will allow continued innovation which in turn will mean increased efficiency and lower costs. After reviewing terms of the Microsoft settlement, I have come to the position that it is in the best interest of our nation's technology industry and consumer s to accept the negotiated terms and get on with business of real competition.

Sincerely,
David B. McReynolds, M.D.

MTC-00030907

Jan 08 02 12:53p 00000000 p.1
AMISTAD TEXAS LLC
Fax
To: Renata Hesse
From: Reinaldo Rosas
Fax: (202)616-9937 Pages: 2
Re: Microsoft Settlement Cc:
204 W. Central Av. o Fort Worth TX 76106
o 817.705.1018 o
rrosas@amistadtexas.com
Jan 08 02 12:53p 00000000 p.2
AMISTAD TEXAS LLC
January 4, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse: Microsoft just released its new XP operating system. If some competitors had their way, this new innovative product would have been tied up in federal court and never released. It is really unfortunate that the United States government, and one or two envious competitors, are plotting to stifle innovation within the high-tech industry. When new products are placed on the market, consumers will be the ultimate beneficiaries as they gain greater access to new and emerging technology. Consumers always win when they are given innovative products that give them more choices and more control of their computing experience. Settling the Microsoft case will force technology companies to get back to work and create new and innovative products that will compete for a share of the market. If the negotiated terms of the settlement are not accepted, the result will be millions of industry and taxpayer dollars being directed toward litigation instead of innovation. This will only serve to diminish the superior quality of American technology.

It is time to settle all remaining issues before any more harm is done to the industry.

Sincerely,
Reinaldo Rosas,
President 204 W. Central Av. * Fort Worth TX 76106 * 817.706.1018 * rrosas@amistadtexas.com

MTC-00030908

01/08/2002 TUE 13:59 FAX 3217295605
SYSTEMS 001
INTERSIL
intersil
KARL McCALLEY
Vice President
Phone:(321)729-5709
Fax: (321)729-5605
(321)729-1104
Date: January 7,2002
To: Attorney General John Ashcroft
Fax: (202)307-1454
From: Karl McCalley
Phone: (321)724-7386
Number of pages to be sent including cover page Two (2) Comments:
01/08/2002 TUE 14:00 FAX 3217295605
SYSTEMS 002
intersil Karl McCalley
Vice President, IT
2401 Palm Bay Road
MS-53-225
Palm Bay, FL 32905
January 5,2002
Attorney General, John Ashcroft
US Department of Justice 950
Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Like most consumers of technology products, I was happy to learn that Microsoft and the Department of Justice have finally come to a settlement agreement that can forever end the antitrust lawsuit at the federal level. The premise that Microsoft exercised monopoly power was flawed from the start. In a monopoly environment, the consumer is hurt. In the IT industry, the consumer only benefited from Microsoft's size and large market share. Microsoft's competitors, not their consumers, were hurt. In any other industry, what Microsoft did would be called savvy business practices, not a monopoly.

In the end, the government's involvement in the affairs of Microsoft will hurt consumers of technology products. Microsoft has already been hurt enough by having to share information about the internal interfaces in Windows and not being able to react when a company promotes non-Microsoft products. I support the settlement that is currently on the table. The IT industry and the American people deserve an end to this lawsuit.

Sincerely,
Karl McCalley
Vice President
Intersil Corp.

MTC-00030909

From: Richard Rubin
To: Renata B. Hesse Date: 18/2002 Time: 10:03:50 AM Page 1/2
FACSIMILE COVER PAGE
To: Renata B. Hesse
Sent: 1/8/2002 at 10:03:48 AM
From : Richard Rubin
Pages : 2 (including Cover)
Subject : Microsoft penalty: one users experiences
From: Richard Rubin To: Renata B. Hesse Date: 1/8/2002 Time: 10:03:50 AM Page 2 of 2

One captive users comments re:Microsoft (Sent to Microsoft)

ONCE AGAIN I must purchase the OVERPRICED Full Install of a Microsoft

Windows product (XP) because my previous OEM install of Windows (Me, with "free upgrade to Xp" offered by Compaq, but never received) has DEGRADED, despite my cautious grooming and care, to become a WORLD OF MALFUNCTIONS and CRASHES.

To "Upgrade", even "for free" would be to import your broken soft-machinery from the past. And the corporate claim is, once again that Xp is more stable than YOUR OWN OLD PRODUCT, which therefore, I infer, had a stability problem? And you have strong-armed your Compaq OEM contract to provide no relief on your DEFECTIVE PRODUCT. Little-Me will let my thoughts be known to appropriate ears in the penalty decisions pending for your creative, but overaggressive and undergenerous corporation.

Richard Rubin
10407 McClemont Ave
Tujunga, CA 91042
818–951–0255
ri.rubin@verizon.net

MTC–00030910

The Computer Department, Inc.
510 East Allen Street Phone: (217) 788–8234
Springfield, IL 62703 Fax: (227) 788–8121
tcdinfo@computer-dept .com
http://www.computer-dept.com
fax
facsimile
To: 'Mr. John Ashcroft'
Company:
Fax Number: +1 (202) 616–9937
Business Phone:
From: Ed Russell
Fax Number: +1 (217) 788–8121
Business Phone:
Home Phone:
Pages: 2
Date/Time: 1/8/02 11:23:34 AM
Subject:

CONFIDENTIALITY NOTICE

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The Computer Department, Inc.
Programming Networks Systems Consulting Internet Help
January 7,2002
John Ashcroft, Attorney General, U.S. Department of Justice
950 Pennsylvania Avenue NW, Washington, DC 20530–0001

Dear Mr. Ashcroft:

There is no real, clear consensus among those in the IT industry as to what impact would there have been had this lawsuit against Microsoft proceeded to the end. It would have taken years for the full effect of the lawsuit "remedies" to have been felt, but this much is immediately clear: As soon as any breakup of Microsoft would have taken effect, there would most certainly have been wide-ranging disruption in both services and support. Additionally, even before any breakup, there would have been a serious depression in software and services sold as most people would have adopted a "wait-and-see" attitude.

All this, however, is both speculative and unnecessary, now that this settlement has been reached. The settlement will benefit consumers with its many provisions concerning Microsoft's relinquishing of intellectual property to competitors and the government. It will mean that hardware makers will be able to install non-Microsoft software more conveniently on computers with a Windows OS, and furthemore, they can do so with impunity, knowing that Microsoft is forbidden to coerce them to do otherwise.

I am hoping that this settlement prevails through the review process. As it is now, the entire IT business, along with the rest of the country's economy, is experiencing slower growth. I would expect that, at least insofar as the IT industry is concerned, once this settlement is affirmed, these doubts will be banished and hopefully the IT business community will recover to once again lead our country's economy out of this recession.

I am appreciative of this opportunity to express my opinion in this way. Thank you.

Sincerely,
Ed Russell
President
610 East Allen—Springfield, IL 67763—P# 217–788–TCDI (8234)—Fx 217–788–8121—www.computer-dept.com

MTC–00030911

Sent By: DICOM Financial, 972 562 9931
Jan-8-02 10:08AM; Page 1/1
DiCom
Providing Solutions Since 1969
Renata Hesse, Trial Attorney Antitrust Div
Deparment of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Re: Microsoft Settlement

Ms.Hesse

Our company uses Microsoft software products on all of our computing systems. These systems allow our small business to serve our customers with the same high quality and efficiency offered by much larger competitors in our marketplace. Microsoft products enable our employees to do their tasks with inexpensive and highly reliable tools, once only available at tremendous costs through specialized programming experts.

I wholeheartedly believe In the old saying "build a better mousetrap and the world will beat a path to your door". (Microsoft has done just, that and should not be penalized by the government, but judged In the free narktplace where they will succeed or fail on their merit and practices—supported or not by their customers. Antitrust laws are designed to protect consumers, yet at no time has the government shown that any consumer were hurt by Microsoft's size or marketing. It is time to put an end to this costly and competitor-driven lawsuit. I cannot imagine what the effect on American technology would be if the federal government micromanages this market, but I can envision having my high-tech needs serviced by the same attitude that serves me at the driver license bureau! Please consider the small businessperson's position as you go forward. Our survival hinges on our ability to serve our customers effectively. Micorsoft has pionerred the products and tools that allow us to provide the highest quality service today and I believe in the future.

Sincerely,
Paul K. Haubrich
President
PKHl/ict
DiCom Financial Corporation .
2204 St. Andrews Court.
McKinney, Texas 75070
Phone: 972 578 0118.
Fax 972 562 9931.
E-mail: DiComFinancial.com

MTC–00030912

Toon & Associates
1727 Carllsie
Irving, TX 75052
January 7, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Madam:

I am writing this letter in support of the Microsoft settlement. It is my opinion that to continue the vast resources of Microsoft will benefit no one except a handful of envious competitors. Ending the case will benefit the American consumer. Doesn't it make more sense to put the vast resources of Microsoft to productive use rather than mete out punishment that will at best force the company to offer rebates to software purchasers?

I for one would rather see Texas high tech industry continue to have access to innovative products produced by corporations like Microsoft than to have innovation quashed by greedy competitors and taxpayer funded lawsuits. They act like we have limited resources in this country. I implore you to convince the Court to accept the terms of the settlement and let Microsoft begin implementing the full terms of this historic agreement.

Sincerely,
David Douglas Toon, Esquire

MTC–00030913

Jan 07 02 (illegible) Sterling Commerce BSD 972 716 3201 P.01
William W. Hymes
President
January 7, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Let's finalize the Microsoft settlement as proposed. I am opposed to the government "pursuing extensive remedies" after finally agreeing to a settlement. The government should find other things to do besides trying to destroy Microsoft.

Sincerely,
William W. Hymes
President, Banking Systems Division
Sterling Commerce (Northern America), Inc.
15301 Dallas Parkway, Suite 400, Addison, Texas 75001–4687

MTC-00030914

JAN–08–02 TUE 12:05 P–01
8024 SE Double Tree Drive
Hobe Sound, Florida 33455
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to voice my opinion in regards to the settlement that was reached in November between Microsoft and the federal government. I feel this settlement is fair and reasonable, and I am relieved that this issue has been resolved.

Microsoft has contributed an enormous amount to the technology sector and the economy. At the present time when our economy is struggling, it would be in the best interest of the public to end this case permanently and stop restricting Microsoft. The settlement punishes Microsoft enough, requiring the company to share key information about how Windows works and forcing it to agree to non-retaliation clauses against companies that promote non-Microsoft products. These restrictions are more than enough.

This settlement will benefit the economy and consumers. This settlement needs to be finalized. I wholeheartedly support it.

Sincerely,
Samuel H. Hochman

MTC-00030915

January 4, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I have just become aware of the terms of the proposed Microsoft settlement. It is clear to me that most, if not all, competitor complaints have been addressed and resolved. Microsoft is willing to give up proprietary information on their operating system, allow computer manufactures discretion over desktop configuration, and make it easier for consumers to remove or switch Microsoft products for competitor software. These are tremendous concessions to their competitors and valuable offers to the general consumer! Why would anyone balk at this sort of proposal from one of our nation's premier high-tech companies?

A recent news story cited a plantiffs" attorney as saying that if the settlement is rejected and the lawsuit if pushed forward, the most anyone will benefit from the judgment would be $10. Who in their right mind would trade these unprecedented offers for ten bucks? Doesn't it make more sense to make Microsoft's money work for us rather than offer a token rebate to the estimated 65 million Microsoft software purchasers? I ask the Court to dismiss the remaining lawsuits and clear the way for the full acceptance of the proposed settlement. It is time to move on.

Sincerely,
Personnel
Decisions
International
Ann Johnston
Client Relations Representative
Suite 1700, LB 142
600 East Las Celinas Boulevard
Irving, Texas 73639
Direct 972 407 8130
Phone 972 407 3190
Fax 972 407 3193
www.personnelvisions.com

MTC-00030916

01/08/2002 02:46 8647180602 KATHLEEN KOJIS PAGE 01
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

While I am not happy that the federal government took three years to sue Microsoft in court, I am happy to see that the Attorney General has put an end to the case with a strong and binding agreement. I wholeheartedly applaud this decision.

Since a settlement was finally reached after three years of protracted and extremely costly court battles, it should be accepted and finalized as soon as possible. The agreement requires Microsoft to make its protocols and access mechanisms available to competitors; these are the protocols used in Windows' operating system products, and the mechanisms are used to encourage non-Microsoft products. The company also agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows.

Microsoft's tremendous contribution to the United States' economy, and that of the entire world for that matter, goes without saying and requires no elaboration. Not only will the settlement help our economy escape from its current slump, but it will also give Microsoft's competition a hand up. This is why the federal government should not pursue any litigation beyond this agreement. The company should now be left alone once and for all.

Sincerely,
Fred Kojis
35 Lighthouse Way
Salem, SC 29676
cc: Senator Strom Thurmond
Representative Lindsey Graham

MTC-00030917

January 8, 2002
10:55 PM
From: Bill Schoenherr
Fax #: (330) 425–9223 Page 1 of 1
January 8, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing you to explain my defene of the Microsoft settlement. It is more than adequate, and I wish to be on record as believing such. Years of litigation and millions of dollars in court-related costs have sufficiently chastised the corporation and the proposed settlement agreement will more than adequately right the supposed wrongs of Mr. Gates and company. The settlement will force Microsoft to open itself and its systems up to access by its competiton. It establish, as you know, an oversight committee to assure the company does not foreswear its obligations It will no doubt open up the industry to more marketplace competition to the benefit of consumer and the entire industry. Why then would anybody not support it?

With a declining economy, thousands of industry jobs lost and more in jeopardy, the country does not need to further constrain a vital corporation like Microsoft. I fully support the settlement. Thank you for you time and hard work on this isuue.

Sincerely,
Bill Schoenherr

MTC-00030918

FROM : GPR FLORIDA PHONE NO. : 305 936 1401 Jan. 08 2002 11:15AM P1
Gerald Rosenberg
3530 Mystic Pointe Drive, # 2115
Aventura, FL 33180–4541
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing you to voice my opinion in regards to the Microsoft settlement issue. I support the settlement that was reached on November 6th. I feel that this settlement is fair and reasonable, and I am relieved that this issue is resolved.

Due to this settlement, Microsoft has pledged to share more information with other information tech companies, Microsoft will follow procedures to make it easier to install non-Microsoft software and will disclose information about software codes in order to do this, and a Technical Committee (TC) will enforce the provisions at Microsoft's expense.

This settlement will make it easier to compete with Microsoft. I have been a user of Windows since the inception. From a personal standpoint, I want to say that no supplier of software to the computer gives better support to their customers. If you read the on line responses from users around the country you would see that the vast majority of negative comment about Microsoft only comes from their competition. Any one that offers a better program will capture the market. Let me enjoy my computer in peace and let Microsoft be there for me and others..

Sincerely,

MTC-00030920

JAN–08–02 11:29 PM Waters Office 610 469 0699 P.01
Alice H. Waters and S. Collar Waters
1320 Warwick Furnace Road
Pottstown, PA 19465
January 5, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my dismay over the government's crackdown on Microsoft and state my relief in the settlement that was reached in November.

At a time when a substantial amount of commerce and industry has been lost lo overseas venues, Microsoft is a hugely successful US company in which the country should take pride, not attempt to crush it.

In particular, it occurs to me that Microsoft has achieved this success in a competitive, but honorable manner. Unlike certain other highly profitable US firms, Microsoft has not made its profit on the backs of underpaid and marginally legal labor nor has it poisoned the environment or gouged the sick and elderly to make its profit.

Isn't it about time that we, as a county, reward this US success story instead of those who would manipulate the legal system to generate windfall profits for themselves and state governments.

The US should be proud of Microsoft and support its growth, I look forward to the continued success of Microsoft both as a user and fan of US technological growth.

Very truly yours,
Alice Waters
CC: Senator Rick Santorum

MTC-00030921

2100 Indian Creek Blvd East, Apt. A-119
Vero Beach, Florida 32966
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We are now in a new year, one that, I know, all of us wish to be one of peace and forward progress. We are progressing in our quest to end terrorism but now, I think, we need to re-establish our economic footing. Microsoft and the Department of Justice recently ended the three-year long antitrust case brought by the Department of Justice. My sentiments on the correctness of this suit are not relevant; suffice it to say, I am glad it is over. I believe the settlement, while not easy for Microsoft, was fair. Microsoft acquiesced to demands that were not even at issue in the suit. It is time to move on.

Which is why I am writing to you now. I am urging you, as an American anxious to get this country going again, to let stand the settlement reached by Microsoft and the Department of Justice. To nitpick every little thing in this settlement is very counter-productive. There has already been established a "Technical Committee" that will monitor Microsoft's compliance. Additionally, any third party may lodge a complaint with an Internal Compliance Officer at Microsoft, or the Department of Justice, if they believe Microsoft is not complying with any provision of the settlement.

What more can be asked? Are to cave in to every demand by those whose only desire is to cripple Microsoft, not by any innate desire for justice? Bill Gates has carried the technological explosion on his shoulders for far too long. Those questioning this decision wish only to drag him and Microsoft down. Do not give in to such pettiness. I urge you to finalize this settlement.

Sincerely,
Gertrude Gross

MTC-00030922

Jan 08 02 11:15a Computer Zone 712-362-5532 p.1
COMPUTER ZONE
January 7, 2002
Attorney Gerneral John Ashcroft
The U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

It is my opinion that it is monumentally absurd for our government to try itsits dead level best to shut down one of our country's most successful companies. Everyone seems to have an opinion as to whether they think that Microsoft is too big, or too bureaucratic, or too unresponsive. But these are all complaints that would have probably ironed themselves out as Microsoft. found that its marketlplace was becoming more competitive. What this really boils down to is that a handful of Microsoft's fiercest competitors convinced an unsympathetic government to punish Microsoft for its successes, utilizing arcane laws and overzealous government lawyers to attempt what amounts to a government takeover of an independent, private business. Thankfully, this folly has been ended by a proposed settlement, which appears more than fair for Microsoft's competitors. They should take it and be grateful. The settlement gives computer makers and vendors the opportunity to preinstall non-microsoft software on Windows without fear of reprisal from Microsoft, and the company will redesign Windows so that non-microsoft products can be installed easier well. I am hoping that this settlement marks the end of hostilities between our government and the American business community.

Sincerely,
Tom Lynch
President/owner
622 Central Avenue—
Estherville, Iowa 613342241
712-362-7808 o 888-527-1106.
FAX: 712-362-5532
1609 18th Street—
Spirit Lake, Iowa 51360-1023
712-336-3030 o 888-891-3359 o
FAX: 712-336-3131

MTC-00030923

01/08/2002 14:28 FAX
001 4177 Eastway Road, Cleveland, OH 44121
January 8, 2002
John Ashcroft, Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I am extremely disturbed when I see all of the time and money that has been spent in gratuitous pursuits like the Microsoft antitrust lawsuit. This suit has been injurious to both the American economy and the technology industry. The settlement that has been reached in this case must be upheld, and I am writing to go on record as supporting the settlement.

Frankly, this case is mind-boggling; I do not understand the rationale behind this suit. In my option, Microsoft has never done anything to harm its consumers. Microsoft's competitors have brought this case, not consumers. Indeed, all of the consumers that I have spoken with love what Microsoft stands for, it is honorable in its business endeavors, and has an incredible outreach program in the community. This company is being penalized for being successful, and this suit flies in the face of everything that we believe as Americans. The settlement will give the government oversight of Microsoft's business dealings, and ensure that Microsoft avoids unfair retaliatory measures against companies that engage in competition against Microsoft.

I think that the government should be spending the taxpayers" money helping Americans rather than wasting it in the unwarranted pursuit of this case. I support this settlement.

Sincerely,
Victor Bendersky

MTC-00030924

Jan 08 02 12:56p 0107020 p.1
Fernando Garcia, M.D., P.A.
December 27, 2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Sent via fax to (202) 616-9937

Dear Ms. Hesse:

Please accept this letter as my comment in support of the proposed Microsoft settlement. The government recently came out and said that they plan to pursue extensive remedies against Microsoft for its illegal "monopoly maintenance" activities. In my opinion, this could only mean that the consumer will be asked to pay higher prices, accept poorer quality and be deprived of innovations.

It is time to drop the government's quest to destroy Microsoft. The Department of Justice recently said they could find no harm done to the consumer by Microsoft's practices. Now, there is talk of pursuing "extensive remedies" which could only mean more government regulation of the high-tech sector.

Consumers are hungry for new technology. The last thing we need to do is bring more action against companies that are developing cutting-edge products. This whole thing smacks of competitor envy. These industry complainers need to begin determining what the consumer wants, not preventing the consumer from getting what they need.

Sincerely,
Fernando Garcia. M.D., PA P.O.
Box 2373 Fort Worth, TX 76133 (817) 927 0003

MTC-00030925

FROM :
FAX NO. :

Jan. 08 2002 01:10PM Pl
24 Cambridge Road
Freehold, New Jersey 07728
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter today so that I may be able to go on record and give my support to the settlement that was reached between Microsoft and the Department of Justice. It had been a long time coming, but both sides finally agreed to terms, which would end the three-year antitrust lawsuit. I can remember the days before Microsoft came out with the Windows operating system, and computing was a debacle. Now, computers all over the globe can communicate with one another, and Microsoft is responsible. If it hadn't been for Microsoft, there is a great chance that I would not be able to send this letter out as easily as I have.

I fully support the settlement between Microsoft and the Department of Justice, and hope to see it finalized and implemented soon.

Sincerely,
Cosmo Lamacchia

MTC-00030926

HP
To: U.S. Department of Justice
Fax: 202.616.9937
Attention: Attorney General John ashcroft
From: Michael Levy
Date: January 8, 2002
Re: Microsoft Settlement
Pages: 2
fax memo
Michael Levy
Vice President
Healer Products, Inc.
120 South Columbus Avenue
Mt. Vernon, NY 10553
Phone: 800.223.5795
Fax: 888.289.5162
E-Mail: mievy@healerprod.com
January 8, 2002
HP
Healer Products, Inc.
120 South Columbus Avenue
Mount Vernon, NY 10553
Voice:
800.2235765
Fax:
888.289.5162
Email:
custserv@healerprod.com
Internet:
http://www.healerprod.com
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Attorney General Ashcroft,

As a concerned businessman, I am writing to express my opinion towards the recent Microsoft settlement. I have supported this settlement in the past, and it concerns me to see that its execution is being further delayed.

As I have followed the progress of this settlement, it seems that all parties involve benefit from its terms. Because Microsoft has agreed to disclose information about certain internal interfaces in Windows, and to design future versions of Windows for easier installation of non-Microsoft software, this settlement ensures that the technology Industry—including other software companies—can move forward.

During this time of recession, we cannot afford any delays in economic advancement. At the same time, we cannot allow our scarce resources to be spent on delaying a case that has already been settled, It is time to let things move forward and let the years of extensive negotiations speak for themselves. This country's technology industry has been delayed long enough and is ready to advance as a team. I strongly urge that we do not allow for any more delays.

Sincerely,
Michael Levy
Vice President

MTC-00030927

JAN-08–02
TUE 05:29 PM
R0LAC C0NTRACTING INC
FAX NO. 7018396581 P. 01/01
Ronald R. LaCount
P.O. Box 1872
Minot, North Dakota 587O2
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to go on record to express my satisfaction with the settlement that ends the antitrust lawsuit between the Department of Justice and the Microsoft Corporation. I feel that the settlement goes a little further in placing restrictions on Microsoft than it should have, but all in all, I am happy with the results.

Microsoft did not get off easy. The settlement was arrived at after extensive negotiations with a court-appointed mediator. Microsoft agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit, sharing software information and accepting government oversight, for example. This was done just to get all or the litigation over with, and now allows Micorsoft to divert all of their resources to producing innovative products and improving the economy.

The settlement is good for all parties involved. Thank you.

Sincerely
Ronald Lacount
cc: Senator Byron Dorgan

MTC-00030928

01/08/2002 15:53 9416246954
AMERICAN EXPRESS PAGE 01
Heather M. Forte
812 Tamiami Trail #3
Port Charlotte, Florida 33953
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support of the recent settlement between the federal government and Microsoft. I genuinely hope that no further action is being considered at the federal level. Taking into account the terms of the agreement, Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products. This is a first in an antitrust settlement. Microsoft has also agreed to make available to its competitors, on reasonable and non-discriminatory terms, any protocols used by Windows" operating system products when they interact with programs of non-Microsoft origin. With the many terms of the agreement, I feel that pursuing any further litigation would be a waste of time and money.

Sincerely,
Heather M. Forte

MTC-00030929

01/08/2002 28:18 7176567794 JP PAGE 01
To: Department of Justice
Reference: Tunney Act Comments—
Microsoft Settlement
January 8, 2002

With respect to the Microsoft antitrust settlement, I believe that the idea that the consumer has suffered is a false premise. I consider myself a consumer having used a computer at work and at home.

I purchased my first IBM computer at home and used the IBM computers at work. My initial computer had two floppies drives with limited date storage, no memory manager, no graphics, no modem and poor software uniformity.

I used several software programs at work such as MultiMate, Display Writer, Word Perfect and Lotus 1 2 3. Each of our company plants had their own favorite software and communication and exchange of data and reports were difficult.

Our company was purchased by a foreign company and the new owner had a policy of using Microsoft software programs within the company. The hodgepodge of software programs and poor communications ended.

Standardization made our company more efficient and more profitable. For this improvement the DOJ must punish Microsoft for making our company successful.

I have retired and I find that my pension plan is under attack by the DOJ and several states seeking additional punishment of Microsoft. The decline of the value of Microsoft stock and the computer related industries can be traced to the DOJ finding that Microsoft is a monopoly. To this date my pension plan has not recovered because of the continuing legal cloud over Microsoft and the threat of the government controls over the computer industry.

In the meantime there are many monopolies in the United States that are more harmful to consumers when compared to Microsoft.

The postal service, ground transportation at airports, teacher unions and civil servant are harmful to consumers because of poor service end costs. These monopolies do not promote efficiency, reduce costs or compete globally.

Microsoft made standardization efficient, profitable and created the Internet.

I read in the paper that the DOJ cost for pursuing the Microsoft litigation is over 30 million dollars. I have no idea how much money was used by the states. All the dollars used were from taxpayers. Are not the taxpayers in the real world consumers?

Please reach a settlement that will allow our computer industries do their work without interference from Silicon Valley lobbyists, Congress and ambitious state politicians for the good of our nation.

Joseph J. Piascinski
305 Pleasant Valley Drive
Leola, PA 17540

MTC-00030930

Hiteq
Computer Systems
Jan-08-02 04:46P M.K. "GAZ" GAZIANI
January 7, 2002.
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 2053

Dear Ms. Hesse:

As the owner of small technology business, I am writing to express my concern about the government's ongoing pursuit of Microsoft.• In my opinion, the case should be settled as soon as possible. I am encouraged by the recent announcement that the monopoly and tying aspects of the lawsuit have been dropped and proposed settlement has been worked out between Microsoft and the U.S. Department of Justice. Now it is time to bring this episode to an end and ratify a11 the terms of the settlement.

A settlement would be in the best interest of all concerned-not just small businesses but the individual consumer as well. Let's also not regulate ourselves out of the competitive edge we now have in the global market.

Please add my voice to those who want to continue the innovative advances made by the companies like 'Microsoft over the past decade.

Sincerely,
M.R., "GAZ" GAZIANI
Vice President, Sales & Marketing
Hiteq Computer Systems
13440 T.I. Blvd.,
Suite 4
Dallas, Texas 75243-1500*Ph
972.437.0637F
AX 972.437.3836

MTC-00030931

January 8, 2002
Renata Hesse
Trial Attorney
Department of Justice Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms Hesse:

This letter is to urge settlement of the Microsoft case as soon as possible.

I am the president and sole stockholder of this company; I founded this business 24 years go and have been somewhat successful. However, the; Microsoft/DOJ battle battle has hurt my business. I'm not taking sides but I can assure you that prompt settlement will allow that portion of our business to Improve. The event of Sept 11 has further deteriorated business; I am convinced that putting the Microsoft case behind us will allow full attention to be devoted to the business at hand.

My business has prospered under technical leadership and unification of standards provided by Microsoft. Let us get on with business by settling now.

Sincerely,
Charlott A. Ladd, President
Clone Computer Corporation
14839 Inwood Road
Addison, Texas.75001-3721
Sales: 972-934-2200
TollFree: 800-388-6636
Service: 972-934-2219
Fax: 972-991-2003
e-mail: ccc@clonecomputer.com

MTC-00030932 Page 1 of 2

From: Morriss Davis To: John Ashcroft
Date: 1/8/O2 Time: 10:28:40 PM
DCS Davis Computer Services
P.O. Box 527
Iola, Texas 77861
936-394-6102 Fax 936-394-1738
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Like most people in Texas who follow the IT industry, I was pleased to hear that a settlement has been reached between the Department of Justice and Microsoft. I believe that the PC as we know it can be largely attributed to Microsoft and its products. The great success experienced by Microsoft is well deserved and has become the envy of the IT industry. Because of Microsoft's unprecedented success, it has been an easy target for their many competitors and the federal government.

The settlement shows that Microsoft has been unfairly treated as a business. The federal government should never be party to punishing an American business for being successful, yet, that has been the case from the start in this lawsuit.

I support Microsoft's position in the suit and hope that the proposed settlement becomes a reality as soon as is legally possible. The Department of Justice owes Microsoft and the American people a quick resolution to this lawsuit, and that resolution can come by formalizing the settlement agreement.

Sincerely,
Morris Davis
President.

MTC-00030933

01/08/02 23:36
BUSINESS DEVELOPEMENT 2025149082
NO.301 P001
15508 Fairfield
Livonia, MI 48154
Ph: 248-624-5200 x 1971 (day)
Fax: 248-669;5018
To: Renata Hesse
From: David P. Hudyma Jr.
Fax: 202-307-1454
Pages: 2
Phone:
Date: 01/08/02
Re: Microsoft Settlement Comment CC:
Urgent For Review Please Comment Please
Reply Please Recycle . Comments:

The attached letter expresses my opposition to the currently proposed DOJ settlement in the Microsoft anti-trust case.

01/08/02 23:36
BUSINESS DEVELOPEMENT 2025149082
NO. 301 P002
David P. Hudyma Jr.
15508 Fairfield
Livonia, MI 48154
dhudyma@williams-int.com
January 8, 2002
Renata Hesse, Trial Attorney
Suite 1200
Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530

I am writing to comment on the proposed settlement in the U.S. vs. Microsoft anti-trust case.

After reading the proposal and the opinions of those with a more complete understanding of the legal issues involved, I can do nothing but oppose the settlement. It amounts to a token punishment without any real enforcement and worse it may serve as tools for Microsoft expand their monopolies through creative interpretation of the clauses as they did with the original DoJ agreement.

Any remedy to Microsoft's anti-competitive behavior must disable the ability to leverage their monopolies in desktop operating systems and office software. The most attention needs to be given to the areas of application programming interfaces (API's), communications protocols and file formats. In addition, the chosen remedies must be strictly enforced and include full public disclosure. First, Microsoft must publicly disclose all Windows and related API's; Changes to the API's need to be released six months before the software and should be administered by an independent standards body. This will prevent Microsoft from disabling competing software through careful manipulation and changes to the Windows API's; It is critical that all of this information be released publicly to ensure that anyone; from corporations to individuals, can write fully compatible Windows software.

Second, the use of proprietary communications protocols by Microsoft must be prevented. This is something they have done often in the past. They are doing it again by creating proprietary XML, and Kerberos formats in support of their .NET initiative. This potentially puts control of the flow of information online into the hands of a single corporation already convicted of illegal practices. Therefore, Microsoft should only be allowed to use industry standard communications and authentication protocols as established by an independent standards body.

Finally, due to the nearly universal adoption of MS Office products by home and business users these products have resulted in their own standard communications format embodied by the .doc, .xls and .ppt files generated by the applications. To communicate effectively by computer in business and even at home one is required to own the latest copy of Office. Therefore, the details of the file format used by Word, Excel and PowerPoint must be released to the public domain and be monitored by an independent standards body. This allows the development of competing, 100% compatible office products and offers the best chance of restoring competition to a market stifled by Microsoft.

Sincerely,
David P. Hudyma Jr.
15508 Fairfield
Livonia, Ml 48154
dhudyma@williams-int.com

MTC-00030934

JAN–9–02
WED 7:56 AM
TZANGAS, PLAKAS &
MANNOS FAX NO. 330 455 2108 P.1
3914 Willowdell Drive, NE
Canton, OH 44714
January 8, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

As a supporter of Microsoft, I write you regarding the recent settlement. I feel that the settlement between Microsoft and the Department of Justice is the best thing that could have happened under the circumstances.

The terms of this agreement are not only fair, but truly benefit all parties involved. By agreeing to these terms, stipulating such orders as avoiding its alleged practice of retaliation against hardware firms that wanted to include non-Microsoft programs on a Windows platform, Microsoft is helping to open up the competitive market. This practice helps our technology industry to continue to grow. It is time to let these terms speak for themselves, and allow the IT sector to move forward and help our economy grow.

The settlement has obviously been well thought out, and can only benefit consumers, the IT sector and our country's economy as a whole I support this settlement.

Sincerely,
Chung Lee

MTC-00030935

JAN–9–02 WED 7:57 AM
TZANGAS, PLAKAS & MANNOS FAX NO>
3304552108
Tzangas,Plakas,
Mannos&Recupero
Attorneys and Counselors at Law
George I. Tzangas January 7, 2002
Lee. L. Makas
James G. Mannons
James R. Recupeto
Elizabeth A. Rajes
James M. McHugh
Gary A. Conolo
David L. Dungwell
Christopher M. Huryn
DeNise K. Houston
Cheryl S. Lee
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Canton Office
454 Stark Country Building
110 Central Plaza South
Canton, Ohio 44702
350–455–5466
Akron Office
2500 First National Tower
106 South Main Street
330–784–5466
Akron, Ohio 44306
FAX 330–455–2108
www.lawlion.com
e-mail lawlion@rage.com

As an attorney and a supporter of Microsoft, I write to you to give my support to the recent Microsoft settlement. Using both Professional XP, and Home XP, I can only praise the work that Microsoft has done to make the technology industry so accessible. Not only has Microsoft been beneficial to both consumers and the IT sector alike, but it has also been beneficial to our economy as a whole. I would truly welcome any support towards the recent agreement, in hopes that we can allow our technology industry to move on.

After three long years of court battles, it seems that It is time to let this well thought out settlement move forward. The terms of the agreement are fair and benefit all parties involved. Since Microsoft and the Department of Justice have agreed upon terms that will open up the competitive market, I think it is time to let the terms, information sharing, non-retaliation agreements, government oversight, etc. speak for themselves.

I fully support the settlement between Microsoft and the Department of Justice, and hope to see it implemented soon. Thank you.

Sincerely,
Cheryl S Lee

MTC-00030936

01/08/2002 19:52 2038748093 COMPASS
PAGE 01
167 Cherry Street # 404
Milford, CT 06460
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinion that the US Government should never have gotten involved with taking legal action against Microsoft.Nevertheless, I am happy to see that the settlement in the antitrust case has occurred and I hope that the concessions Microsoft will be making will turn out to be in the best interest of the American public.Microsoft has been the leading innovator of technology for over a decade now and has set the standards for product and service development in the industry. They should not be penalized, but rather praised for their efforts and vision.

I sincerely hope that no further litigation comes against them and that Microsoft is able to focus on business, and not forced to spend time on legal strategy.

Sincerely,
Wally Hauck

MTC-00030937

Sent By:;
801 76O 8753;
Jan-9–02 12:30AM;
Page l/l
Michael J. Nelson
11861 Abercorn Court
Reston, Virginia 20191
mtnelson95@a01.com
January 8, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue. NW
Washington, DC 20530

Dear General Ashcroft:

I write to express my opinion in regards to the settlement that was reached between Microsoft and the United States. This case has gone on long enough, anti embrace this long overdue settlement.

This agreement not only allows Microsoft to remain together and continue designing innovative software, but it also will benefit other companies andentrepreneuurs that yearn to compete. Microsoft must disclose never-before-seen technical information other companies and must be monitored by a government committee for compliance. It also must change its licensing methods vis-&-visother companies.

Microsoft should not be penalized for doing its job well and bring successful. Thank you.

Sincerely,
Michael S. Nelson

MTC-00030938

01/08/2002 21:28 9413833574
PATRICK
PAGE 01
350 Gulf of Mexico Drive, Apt. 223
Longboat Key, Florida 34228
January 8, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It has recently come to my attention that the Department of Justice and Microsoft have reached a settlement in the antitrust case. Microsoft is making a good faith effort to reach an end to this suit, and the terms of the settlement are more than just a slap on the wrist.

Under this settlement Microsoft has agreed to disclose internal interfaces, which were formerly top secret for Microsoft. By doing this, Microsoft will allow competitors to create better software and more openness in the IT industry. An IT company has never agreed to such a drastic disclosure. Sadly, opposition to the settlement exists, and they believe that this new openness by Microsoft is not enough. The opposition to the settlement consists mainly of those with an anti-Microsoft bias. But more than three years in court have damaged Microsoft touch already, it is time for this antitrust case to end.

Thank you for taking the time to consider my views on these matters. Once again,I support this settlement, and look forward to seeing it implemented soon.

Sincerely,
Stephanie Patrick

MTC-00030940

JAN 9, 2002 9:04AM CHESTNUTT,

CLEMMONS & THOMAS PA
NO. 7574 p.1
FACSMILE TRANSMISSION
TO: US Dept. of Justice/Antitrust Div.
ATTN: Ms. Renata B. Hesse
FAX: 202–307–1454
DATE: 1–9–02 TIME: 9:14
FROM: Senator Scott Thomas
CLIENT: N/A
RE: Microsoft Settlement
NO. PAGES, INCLUDING COVER SHEET: 2
MESSAGE:
ORIGINAL TO FOLLOW? X YES NOin mail today

This facsimile is intended ONLY for the person whose name appears above. If you have received this transmission in error, please contact us at the phone number below immediately.

CHESTNUTT, CLEMMONS & THOMAS, P.A.
P.O. BOX 12530
225–C BROAD STREET
NEW BERN, N.C. 28561
TELEPHONE: 919–633–6868
FAX: 919–637–2460
JAN. 9.2002 9:04AM CHESTNUTT, CLEMONS & THOMAS PA NO. 7574 P. 2
North Carolina General Assembly
Senate Chamber
SENATOR SCOTT E. THOMAS
3RD DISTRICT
RALEIGH: 622 LEGISLATIVE OFFICE BUILDING
RALEIGH, NC 27601–2808
(919) 733–6275
(919) 838–0209 FAX
E-MAIL: SCOTTT@NCLEG.NET
DISTRICT: PO BOX 12530
NEW BERN. NC 28961
(252) 633–6868
≤(252) 637–2450 FAX
COMMITTEES:
JUDICIARY II (VICE CHAIR)
APPROPRIATIONS
JUSTICE & PUBLIC SAFETY SUBCOMMITTEE
AGRICULTURE ENVIRONMENTAL/ NATURAL RESOURCES
EDUCATION/HIGHER EDUCATION
INSURANCE & CONSUMER PROTECTION
REDISTRICTING
RURAL DEVELOPMENT
TRANSPORTATION
January 9, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Via facsimile: (202) 307–1454
Re: Support for Microsoft Settlement

Dear Ms. Hesse:

I am writing to express my support for the settlement that the Department of Justice and several states, including north Carolina, have reached with Microsoft.

I will be pleased to see this matter resolved because it will be a boost for the technology sector, a larger force in the North Carolina economy. I believe that the certainty of the settlement will promote new investment in technology and will enhance competition in all aspects of the technology industry which will benefit consumers.

With this litigation settled, the technology industry can continue its recovery and growth.The settlement represents a reasonable compromise that has earned bipartisan support. I urge the department of justice and the court to approve this settlement.

Sincerely,
Senator Scott Thomas
ST/cbj

MTC–00030941

01/09/2002 18:20 7033231582 FOREMAN AND ASSOC PAGE 01
Rhythm & Cheer Studios
8350 Alban Road, Suite 500 Springfield, Virginia 22150 703.866.2318
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington DC 20530

Dear Ms. Hesse

I am a strong supporter of the Microsoft and Government settlement.

Like many, I have followed the case the federal government has pursued against Microsoft for quite some time. For years now, the government and the state attorney generals have filed legal action after legal action to penalize this high tech leader and their efforts have caused great harm to the high tech industry.

Instead the state attorney generals have only succeeded in ushering in a downturn in our economy, which is heavily reliant lately on a strong technology sector. It's time to bring an end to this case and this sort of litigation.

Sincerely
Sheryl Olecheck

MTC–00030942

JAN–9–02 WED 18:53 P.01
7426 Granny Valley Road
Gloucester, VA 23061
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you to express my opinion on the Microsoft settlement issue. I feel that this settlement is long overdue. This settlement is both fair and reasonable, and keeping Microsoft together will serve in the best public interest.

Under this agreement, Microsoft must share more information with other companies and give consumers more choices. Microsoft must disclose information about certain internal interfaces in Windows, as well as software books and codes. Microsoft must also design future versions of Windows to make it easier to install non- Microsoft software. This will make it easier for companies to compete.

Most importantly, I feel this settlement is beneficial, because it ends three years of litigation. Microsoft's precious resources should go towards more fruitful activities. Thank you for settling with Microsoft.

Sincerely,
Harvey Herring

MTC–00030943

Jan-09-2002 07:28am From-NCR
+8584852032
T–549 P. 001/001 F–700
Teradata A division of NCR
Teradata Test Engineering
17095 Via del Campo
San Diego, CA 92127–1711
January 8, 2002
Attorney General John Ashcroft, The Justice Department
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

There has been much discussion and controversy generated over this Microsoft lawsuit. What I find amazing is that the idea that Microsoft's success has so offended a few of its competitors in the IT community that these competitors actually successfully prevailed upon our government to file this suit to begin with. It is a good thing that this settlement has been reached. Our legal system and our country will be spared the inevitable embarrassment of picking apart one of our country's most successful companies.

I am writing to voice my support for this settlement. Whatever might bethought of Microsoft's attitude, it cannot be said that their products are being forced upon anyone who does not want them. What's more, the settlement ensures that there is no way for Microsoft use its Windows OS to unfairly get an advantage for its programs. It is important for us as a country to refocus our priorities upon more important issues than this.Let's put an end to this lawsuit by accepting the settlement. Let's move on.

Sincerely,
Steven L Smith
Software Engineer

MTC–00030944

01/09/2002 11:18 2033342610 JOE MANCINI PAGE 01
487 Stratfield Road
Fairfield, CT 06432
January 8,2002
Attorney General John Ashcroft
Department of Justice
950 Pennsylvania Ave.
Washington, DC 20530

Dear Mr. Ashcroft,

When I heard that I had the opportunity to express my opinion about the Microsoft antitrust case resolution, I was quite excited. The resolution that was reached was a fair and equitable one that I think is beneficial to all parties involved, and I would like to that resolution become the final result of the three year long litigation.

Many things within this settlement make it beneficial. First, it provides equal terms, conditions, and prices to all hardware companies dealing with Microsoft. It Also prevents Microsoft from taking retaliatory measures against any company that promotes software other than Microsoft software. This settlement even requires that Microsoft provide interface information to companies in order that the technology playing field may be more level. No more guidelines could possibly be levied without becoming unhealthy.

Therefore, I urge you to leave the resolution as is, change it no further. The Current settlement will provide all the protection needed to the smaller companies while still preserving competition to the utmost.

Sincerely,

Joseph Mancini

MTC-00030945

JAN 09 02 11:34AM UMD ASTRONOMY P.1/5

University of Maryland at College Park
Department of Astronomy
Fax Transmission from 301–314–9067
To: Renata B. Hesse
Fax No: 1–202–307–1454
Date: 9 January 2002
From: Nicholas L. Chapman

Number of Pages (including cover sheet): 5

Message/Note: Public Comment on the proposed settlement of the Antitrust Lawsuit against Microsoft Corporation.

JAN 09—02 11:34AM UMD ASTRONOMY P. 2/5

4508 Fordham Lane, APT 6
College Park, MD 20740
January 9, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

To Whom It May Concern:

I am deeply disappointed by the proposed settlement of the antitrust lawsuit against Microsoft Corporation. It has been proven and upheld on appeal that Microsoft holds a monopoly in operating systems and that it has illegally maintained that monopoly in flagrant violation of the Sherman Antitrust Act. Despite this, the proposed settlement with Microsoft is a farce. It is weak, ineffectual, and does not address the best interests of consumers.Any settlement that would be truly just and beneficial to consumers should accomplish two things:

1. Microsoft should be denied the benefits of their lawbreaking.

2. Competition in the marketplace must be restored for the present and for the future.

The current settlement does nothing to punish Microsoft for its actions. This is not about revenge, merely common sense. Without punishment, Microsoft has no incentive to obey the law in the future. If Microsoft actually benefits from its lawlessness, what is to prevent them, or other corporations, from doing the same thing again?

The settlement needs to address this problem by: 1) requiring an admission of guilt from Microsoft, 2) imposing monetary fines on Microsoft, and 3) im-posing other non-monetary punishments. Without these sorts of sanctions,Microsoft will surely continue is lawless behavior. Massachusetts Attorney

JAN 09 02 11:35AM UMD ASTRONOMY P. 3/5

General Thomas F. Reilly commented on this settlement saying, "Five minutes after any agreement is signed with Microsoft, they'll be thinking of how to violate the agreement. They're predators. They crush their competition.They crush new ideas. They stifle innovation. That's what they do≥l. I have no doubt in my mind this is exactly what Microsoft will do if they are not punished.

For years, Microsoft has used its monopoly to block or inhibit middle ware products that could potentially threaten the Windows monopoly. The cur-rent settlement agreement is an attempt to curtail many of these abusive tactics. However, the proposed remedies are full of loopholes meaning little,if any, real change will occur. Senator Patrick Leahy voiced his concern for the proposed settlement: "I find that many of the terms of the settlement are either confusingly vague, subject to manipulation or both. Second, I am concerned that the enforcement mechanism described in the proposed decree lacks the power and timeliness necessary to inspire confidence in its effectiveness" 2. Some of the dubious remedies that concern me are:

The settlement attempts to give OEM's3 control of the middleware included on the computers they sell. However, several loopholes prevent real competition from resulting.

—Microsoft is prohibited from non-monetary retaliation against OEM's who include non-Microsoft middle ware. Monetary rewards for using Microsoft middleware, however, are allowed. With Microsoft's huge cash reserves, they could easily outspend their competitors,preventing them from gaining a significant hold on the desktop market.

—The settlement only protects middle ware made by third parties that competes with an existing Microsoft product. If you create a new product before Microsoft does, they can still exclude you from the desktop since Microsoft does not yet compete with you.

—Additionally, middleware is only protected if the company distributed one million copies in the last year. This means that small, independent software developers (who are most in need of protection) do not get any.

1 Speech given by Matthew Szulik before the U. S. Senate, 12 December 2001

2 The New York Times, 12 December 2001

3 Original Equipment Manufacturer of personal computers

Jan 09 "02 11:35am UMD Astronomy P.4/5

—Under the settlement, OEM'S may change the default middleware application launched when a Microsoft alternative would normally run. However, if a particular requirement is not met by the alternative, the Microsoft middleware will still be launched. I can imagine Microsoft adding new features that require Microsoft's middleware to run properly. Sounds farfetched? Recently, Microsoft blocked many browsers made by third parties from accessing msn.com claiming these browsers could not provide the fulluser experience.

—Under the settlement Microsoft must disclose its API's4 to developers-provided developers have a reasonable need for them. Who gets to determine what is reasonable need? Microsoft. Even worse, if a developer actually uses Microsoft's API's, they must submit the program for approval by Microsoft. In effect, Microsoft gets free reign to use any innovation created by a third party developer.

—Microsoft does not have to release its own API's until the last beta stage on a product is reached. This gives Microsoft's developers a hugehead start over third party developers, resulting in significant time-to-market advantages.

—Microsoft chooses, in part, the Technical Committee set up by the settlement. to police Microsoft. As a result, the overall effectiveness of this committee is doubtful.

Competition is the cornerstone of the free market system. This competition drives innovation and productivity, while reducing costs to consumers.The goal of any settlement should be to restore competition in the software industry. The proposed settlement does not meet this goal. In 1994, the justice Department entered into an agreement with Microsoft. It was the violation of this agreement that lead to the current antitrust litigation in1998. History tells us that Microsoft will violate this new decree, leading to future litigation. Senator Leahy worries about the same thing. ""The serious questions that have been raised about the scope, enforceability and effectiveness of this proposed settlement leave me concerned that, if approved in its4 Application Programming Interfarescurrent form, it may simply be an invitation for the next chapter of litigation" 5. The government won the case. Microsoft used its monopoly power to crush competition and harm consumers. The government should press for a true settlement, not this ineffectual decree.

Sincerely,

Nicholas L. Chapman

5 The New York Times, 12 December 2001

JAN 09 02 11:36AM UMD ASTRONOMYP.5/5

MTC-00030946

01/09/02 WED 10:36 FAX 806 371 5370 001
AMARILLO COLLEGE ADMIN
6713 Admiral Ct.
Amarillo, Texas 79124
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you in support of Microsoft and the settlement you have reached. I think that the settlement is reasonable to both parties and answers many of the problems that Microsoft's competitors had with outputting too much of a strain on Microsoft. Microsoft will, for example, not adhere to a uniform price list when licensing Windows out to the 20 largest computer makers in the United States.

I'm glad to see this since Microsoft is such an important part of our economy and most American's daily lives. Many people and small businesses depend on their products for various aspects of their lives and it's nice to see that they can continue to do so.

I would like to thank you for taking the time to hear my option on this matter and I hope that you will take it into account, along with others who feel the same, regarding the settlement.

Sincerely,

Brant Hatler

MTC-00030947

Anna M. Hudock
540 N Franklin Street
Wilkes Barre, Pennsylvania 18702
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you today to express my strong opinions in regards to the Microsoft antitrust issue. I support Microsoft in this dispute, and I also am in favor of the settlement that was reached on November 6, 2001. This settlement ends a dispute that I feel has drawn on for long enough.

This settlement contains provisions that not only will allow Microsoft to get back to the business of innovative software design, but it will also make it easier for competing companies to conduct business. Microsoft must design future versions of Windows to make it easier to install non-Microsoft software and must disclose more information about certain internal interfaces in Windows.

This settlement comes at a time when we are having economic difficulties. We must do all we can to boost our lagging economy. I support the Microsoft settlement and hope to se it finalized soon.

Sincerely,
Anna M. Hudock
cc: Senator Rick Santorum

MTC-00030948

Jan 08 02 05:37P Strategic Software Technologies Inc. p.1
1414 E. Young
Temple, TX 76501
254/791-5191
FAX 254/791-5192
January 8, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Dept. of Justice
601 D St.NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am writing in regards to the Microsoft settlement. I know I am only one voice out of many but I do have an opinion that I wish to express. Being a software developer, Microsoft products are part of my arsenal of tools, as are IBM products, that I must use and rely on everyday when trying to develop business solutions for my clients. Although I am sure that Microsoft leveraged its strength in every way possible and probably exceeded some ethical boundaries, I do not believe the punishment should be a breakup of the company or even a disruption of business. You may not remember in the late 80's and early 90's how terribly convoluted the software industry was. Nothing worked together and many vendors were involved when trying to create a suite of tools to work with. I applaud Microsoft for FINALLY getting most of that behind us. And as a developer, I know that in order to accomplish it successfully, many of those pieces had to be closely tied to the operating system. I also know that if you want to install another product in place of a Microsoft product you can. Anyway, to be brief, I would recommend acceptance of the-negotiated settlement, and let things get rolling again.

Sincerely,
Bill Lewis
President

MTC-00030949

TEXAS EAGLE FORUM
January 9, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D. Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

The government should cease its open-ended pursuit of the high-tech industry.

The previous administration was misguided in its attempt to break up Microsoft Corporation. Even though the lawsuit was dropped, an even more ominous threat would be for the government to regulate the entire industry.

This attempt is misguided because Microsoft was and still is competitor driven. No consumer or end user of Microsoft products is a party to this attempt to quash innovation and interfere with market-driven competition.

It is past time to settle all remaining issues between Microsoft and the government and let the technology industry get back to the business of providing high quality products to the American consumer in a FREE MARKET, SMALL GOVERNMENT way.

Thank you for considering my request.

Sincerely,
Cathie Adams, President
P.O. Box 795354
Dallas, TX 75379
Phone 972-250-0734
Fax 972-380-2853
email
TORCH@texaseagle.org
web page
texaseagle.org

MTC-00030950

01/09/2002 12:00 5024951409 FRANK ARKFELD PAGE 01
Frank Arkfeld
2612 Carterton Way
Flower Mound, TX 75022
972-355-7283 (Voice)
972-355-2683 (Fax)
To: Attorney General Ashcroft Fax: 1-202-616-9937
From: Frank Arkfeld
Date: 1/9/2001
Re: Microsoft Settlement
Pages: 2
CC:
Richard Armey
Fax: 202-226-2028
01/09/2002 12:00 5024951409
FRANK ARKFELD
PAGE 02
Voice: (972) 355-7283
2612 Carterton Way
Fax: (972) 355-2683
Flower Mound, TX 75022 (972)
E-mail: farkfeld@attbi.com
January 9, 2002
Attorney General John Ashcroft
The DOJ
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

It has recently come to my attention that there has been a settlement reached in the case against Microsoft by the Justice Department. I agree with this settlement wholeheartedly, and I ask you to finalize it at the end of the comment period.

This case has been ongoing for the past three years. The Justice Department should end its persecution of Microsoft based on its worldwide success. It serves no useful purpose to continue on with the case, since doing so would waste a vast amount of time, tax dollars, and human resources, all of which can be better spent on the current needs of the country. The settlement is fair, and changes many of Microsoft's business practices, especially those found unsavory by competitors and consumers alike, such as retribution against companies that tack non-Microsoft software onto Windows before shipping a computer to the customer. I ask that the government resolve to put an end to this lawsuit by deciding to take no further action against Microsoft.

Sincerely,
Frank Arkfeld
cc: Representative Richard Armey

MTC-00030951

Jan 09 02 01:06p Irlando
(817) 535 6656 p.1
GIANINA M. IRLANDO
4218 Kenwood Court
Fort Worth, TX 76103
817.535.4593 Fax 817.535.6656
To: RenataHesse
From: Gianina Irlando
Fax: (202) 616-9937
Pages: 2
Phone:
Date:
1/9/2002
Re: Microsoft Settlement
CC:
Jan 09 02 01:06p Irlando
(817) 535 6656
P.2
GIANINA M. IRLANDO
4218 Kenwood Court
Fort Worth, TX 76103
817.535.4593 Fax 817.535.6656
January 8, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

It is my understanding that the federal antitrust settlement agreed upon between Microsoft Corporation and the US Department of Justice is currently under review by the U.S. Court of Appeals. I am writing this in order to register my support for the settlement and ask the Court to rule accordingly.

For three years, this case has been disputed without any reasonable legal remedies. The proposed settlement effectively eliminates the need for further litigation-which would be at tremendous expense to taxpayers-and offers a fair and reasonable compromise.

Microsoft is a leading innovator of high tech products. Their products have made business computing simple, effective and productive. It is because of their continued pursuit of excellence in the market and ongoing quest for consumer satisfaction, that they have become such a giant in the industry. It would be a shame to sanction them for their cutting-edge innovations.

My quick review of the settlement terms persuaded me to write. Microsoft has shown good faith in this agreement. In fact, I would say they have gone beyond what should be required of any business operating in our so-called "free market". It is time to accept the settlement and move on.

Sincerely,
Gianina Irlando

MTC-00030952

JAN-09-2002 17:38 TRIBUTE INC
3306563464 P. 01/01
Tribute Software for Successful Distributors
January 9, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing to express my support for the Microsoft the settlement. I feel strongly that any American business ought to have the right to release to its competitors as much or as little of its proprietary trade secrets as it feels appropriate, rather than to have our government dictate disclosure through the courts.

I certainly feel that Microsoft should have done a better job with both industry and government relations regarding such disclosures. Indeed, failure to release "source code" appropriately would be a strategic mistake for Microsoft. Our industry has grown on cooperation and sharing of innovations. However, our industry's health also depends on the safeguarding of intellectual property. As such, the final decision regarding release of "source code" to competitors should have Microsoft's, and not that of a federal judge.

I realize that this is only one of many issues in this case, but this issue is the one that has me most concerned because of the potential impact on the efficacy of intellectual property rights. I am therefore pleased that this settlement has been reached, and that Microsoft was not forced into any involuntary disclosure.

Sincerely,
Timothy Reynolds
President
TOTAL P.01

MTC-00030953

FROM: Parts & Fasteners FAX No.: Jan. 09 2002 03:48PM P1
3956 La Hacienda Drive
San Bernardino, CA 92404-2041
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530

For more than three years now Microsoft and the Department of Justice have engaged in an expensive, time consuming, and drawn out antitrust case. Thankfully a settlement has been reached. I am writing to state my support for the settlement and opposition to any continuation of this case.

The Government and Microsoft have spent millions of dollars and thousands of hours on this case. The settlement that has been reached will allow both entities to get back to important matters that this case has distracted them from. This settlement places some rather severe restrictions on Microsoft, but nevertheless Microsoft supports the settlement because it would like to return to get back to business.

Your support of the settlement in the Microsoft antitrust case is greatly appreciated. Allow our technology industry to once again have as its main concern technological development and not expensive court conflict.

Sincerely,
Mary Lou Hays

MTC-00030954

6545 Lansdowne Avenue
Philadelphia. PA 19151-3317
Phone 215.477.0384 Fax 215.477.3246
E-mail Iatesta@gis.net
www.iaestaimports.com
Iatesta Imports
January 7, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC. 20530-0001

Dear Mr. Ashcroft:

As a concerned United States citizen, I would like to voice my thoughts on the settlement between the Justice Department and Microsoft Corp. I believe that Microsoft was treated unfairly by having to defend itself in court for alleged antitrust violations, when it was simply putting out a good product. However, I,do believe that the settlement is in the best interests of all parties involved, including the American public. This case has been in litigation for three, years now. It should be brought to a close so everyone involved can attend to the more'immediate needs that are affecting our great nation currently. The terms of this settlement are reasonable, and require a number of specific changes from Microsoft. For example, computer makers will have the option to remove the means by which the consumer can have access to features of Windows such as Internet Explorer, Windows Media Player, and Windows Messenger. They will then be able to replace them with access to products like Netscape's browser, or AOL IM. Furthermore, a "Technical Committee" will monitor Microsoft's compliance with the settlement. These changes should be sufficient to end any future litigation from the federal government and individual states.

Sincerely,
Anthony Iatesta
CC: Senator Rick Santorum

MTC-00030955

01/09/2002 14:28 FAX 7023621675
RICHARD C HANSEEN 001
C H RICHARD C. HANSEEN, CPA
Management & Financial Solutions
Businesses & Individuals
January 9, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

As a Microsoft user and shareholder, I am writing to express my opinion of the recent antitrust case settlement between Microsoft and the U.S. Department of Justice. I have felt all along that the government should keep out of this matter and let free enterprise take its course.

Microsoft has been instrumental in creating a powerful business that has been innovative and vision-oriented. Microsoft's work has set standards for the industry and has proved that the tech sector is a formidable force that is here to stay. Unfortunately, Microsoft has been hindered in the past three years by litigation, which in many cases is unjustified. The settlement corrects the alleged wrongs from the alleged lawsuit, and enables companies to sue Microsoft if they feel that it is taking liberties with the settlement. Moreover, the government-run Technical Committee will also help to ensure that Microsoft refrains from retaliatory or predatory actions that would undermine the settlement.

I hope that no further litigation is brought to suit and that the best interests of the American public are served by the government's future action against Microsoft.

Sincerely,
Richard C. Hanseen, CPA, PFS
cc: Senator Harry Reid
2820 W. Charleston Blvd., Ste. 28 o Las Vegas, Nevada 89102 o 702.362.3123 o Fax 702.362.1675
rch@hanseen-cpa.com www.hanseen-cpa.com

MTC-00030956

01/09/2002 13:04 9496614830 JUNE PLACE PAGE01
33751 Windlass Drive
Monarch Beach, CA 92629
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

It is nice see that the trust and loyalty I have placed in this government for many years have been merited. Thank you for coming to a formal agreement with Microsoft. It does not make sense to revisit this issue.

It is necessary for us to work more efficiently during a very difficult period in the country. It is wise to allocate our funds to improve morale and boost the private and public sector. We only need to turn on the nightly news to see that the unemployment rate is at an all time high. There is no need to drag this issue out any further. Microsoft is willing to compromise to reach a good settlement.

I support the settlement, and look forward to seeing it in place soon.

Sincerely,
June Place

MTC-00030957

1-9-02; 3:45PM; Raw Materials ;6106942063 #1/1
1721 Millard Street

Bethlehem, Pennsylvania 18017
January 6, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I believe the government has no business interfering with Microsoft in its pursuit of success. The concessions Microsoft is making are too harsh and unjustified.

Microsoft worked hard to create new technology and ideas. They have brought new products and services to market that outshone all their competitors. They should not be penalized for their superior performance, but instead praised. Instead, Microsoft is forced to share information about critical interfaces with Windows with its competitors, crippling its ability to compete, and will be made subject to a government oversight committee, putting the company's every action under intense scrutiny.

I hope that no further litigation is brought against Microsoft and I look forward to the IT sector making a comeback which can only happen if Microsoft is allowed to pursue business interests, not politics.

Sincerely,
Patricia Felix
cc: Senator Rick Santorum

MTC-00030958

Doherty
TEL:1-215-736-8959 Jan 09'' 02 15:26 No. 001 P.01
707 Ardsley Court
Yardley, PA 19067
January 9, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter to you today so that my opinion may become public record.

I am very happy that a settlement was finally reached in regards to the Microsoft antitrust lawsuit. Three long years of litigation have finally produced a settlement that I believe is going to be very advantageous to all parties, 2002 involved. For the smaller computer manufacturing companies there are guarantees that Microsoft will not take any kind of retaliatory measures against them for promoting software from Microsoft's competitors. There is also a provision that restricts Microsoft from entering into any kind of contractual agreement that would retard the development of competitors'' software or the competitors'' ability to compete with Microsoft. There is even a provision in this settlement that requires Microsoft to disclose Windows interface information to other software developers if requested. This provision is a first for a settlement of its kind. Truly, this settlement is uniquely tailored to this situation.

No further changes to the settlement need be made. If Microsoft and the Justice Department are both happy with this settlement, and it is my understanding that they are, then we should leave it as is. I support the settlement, and hope to see it finalized soon.

Sincerely,
Leonard Doherty
cc: Senator Rick Santorum

MTC-00030959

Minority Educational Resource Center Inc. (M.E.R.C.I.)
Telephone/FAX (972) 874-3996 E-mail: ehudspith@yahoo.com
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing this letter to express my support for the recently negotiated settlement of the Microsoft case. For the past several months, I have watched as the Department of Justice and several state Attorneys General have relentlessly pursued a frivolous antitrust lawsuit against Microsoft. As a user of Microsoft products, I think it is time to bring this issue to a conclusion.

The threat of government regulation has caused tremendous harm to the industry, consumers and the entire economy. At a time when the economy is heading into difficult times, the last thing the technology industry needs is more litigation and government regulation.

Further litigation will not improve quality or increase innovation. On the contrary, attempts to place limits on any part of the tech sector-not just Microsoft—will inhibit innovation, increase costs, and place America's technology at a disadvantage in the global market.

I think it is time to settle this matter and let the industry, and Microsoft, continue to develop affordable, innovative products.

Sincerely,
J. Edwin Hudspith

MTC-00030960

JAN-09-2002 WED 03:52 PM
FAX NO.
P.01
Robert D. Corsaro
Home (301) 705-7586
5921 Walleye Court,
Office (202) 767-3537
Waldorf, MD 20603
Rcorsaro@RADIX.net
Corsaro@NRL.Navy.mil
January 9, 2002
Renata Hesse, Trial Attorney,
Suite 1200, Antitrust Division,
Department of Justice,
601 D Street NW, Washington, DC 20530;
(facsimile) 202-616-9937.

As a personal computer user for over 30 years, both at home and work, I have witnessed or experienced adverse effects of Microsoft's antitrust violations. In my opinion the settlement that is proposed will nether remedy nor discourage future antitrust violations of the type for which Microsoft has been found culpable.

The company has repeatedly and blatantly operated as a monopoly using unfair practices to eliminate competitors. It has already been found in violation. Yet I am dismayed to find that the "penalty" proposed actually enables Microsoft to advance its operating system monopoly. I am particularly concerned with the level of intrusion and personal data-gathering afforded by the close coupling of Microsoft's operating system and its Web dominance. If appropriate action is not taken at this time, I am convinced that the public interest and privacy will suffer for many years to come. The most appropriate remedy is to fully separate the "system" and "software" operations into separate and independent companies, where networking software is assigned to the latter. Even then, rigorous oversight would be required to ensure that there is no collusion. While this would be severe, I feel that Microsoft has not earned the very basic level of public trust that any other solution would require.

Sincerely

MTC-00030961

01/09/2002 01:56 9722220013 GLORIANA JOHNSON PAGE 01
Gloriana Johnson
Shannon Road
Mesquite, Texas 75181
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to inform you of my opinion in regards to the Microsoft settlement that was reached on November 6. I feel this settlement is fair and reasonable, and I am a strong Microsoft supporter.

I believe Microsoft has accomplished a great deal in the last decade. Microsoft offers quality products to consumers at reasonable prices. Microsoft will now allow itself to be monitored by a technical oversight committee created by the settlement in order to ensure that Microsoft doesn't engage in any anti-competitive behavior. The technological boom we have experience is due to Microsoft for the most part. This company should not be punished for being successful at what they do.

I support the settlement and hope to see it in place soon. Thank you for your time and consideration.

Sincerely,
Gloriana Johnson

MTC-00030962

Jan. 09 2002 2:46PM Foundation for Economic E 9896879088 P.1
James E. Kostrzewa
2698 North Peterson Drive
Sanford, Michigan 48657
(989) 687-9555
FAX Cover Sheet
To: United States Department of Justice
Fax number: 202-307-1454
Pages to follow: 0
Date: January 9, 2002
Subject: Settlement of Microsoft Case

Dear Department of Justice,

Please settle the Microsoft case! Every day I hear jokes about the fact that the U.S. Government is spending exponentially more on useless programs like trying to control American businesses than it spends on real threats like terrorism. But it is no joke—you are! Please stop.

Please listen to our founding fathers like Thomas Jefferson who said, "The government that governs least governs best." I, like our founding fathers, am a "Classical Liberal." I believe in self-reliance, limited government, respect for private property and individual liberty, and the rule of law. I urge you to take a lesson from the state of Michigan from 1851 when the Michigan state legislators amended the state constitution to "get out of the business of business." This public policy change is what lead to businesses flocking to the cold climate of Michigan to make it one of the manufacturing Mecca's of the world, Please leave business to the free market and we will all be infinitely more prosperous—including you.

Respectfully,

MTC-00030963

01/09/02 WED 15:1? Fax 1 954 771 2223
HORNER EQUIPMENT ADMIN. 001
Tandy Garay—IT Director
Horner Equipment of Florida, Inc.
5755 Powerline Road
Fort Lauderdale, Florida 33309
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my feelings on the Microsoft settlement that was reached in November. I believe this agreement will have long-term beneficial effects on our lagging economy. For this reason, I feel this agreement will be in the best interest of the public.

This agreement contains provisions that will foster competition.

Microsoft has pledged to share more information with other companies about Microsoft software codes and books. Microsoft must also make it easier to install non-Microsoft software. These steps will give third party vendors more opportunity for growth and allow consumers a greater choice in applications. This is a win-win situation all around.

These provisions and many others will have a positive impact on the technology industry and is a great victory for consumers as well. Thank you for settling this suit with Microsoft.

Sincerely,
Tandy Garay

MTC-00030964

P–01
Jose Navarro
1814 Brookside Avenue
Oxnard, CA 93035–3319
2 January 2002
Attorney General John Ashcroft
U.S. Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I appreciate the opportunity granted by the Tunney Act to express my opinion about the recent Microsoft settlement. I am fully in support of the settlement. It is realistic and reasonable, and it allows increased monitoring to ensure fair competition.

In this current state of economic downturn, it is absolutely critical that the government stops litigation against Microsoft. Microsoft adds productivity and innovation to the economy and should be allowed to participate in a free market. Stopping litigation against Microsoft is best for the economy and consumers.

Thank you for orchestrating this settlement; it is truly the best thing for the America of today, and the America of tomorrow.

incerely,
Jose Navarro
cc: Representative Elton Gallegly

MTC-00030965

Jan 09 02 01:00p
YesterTec Design Company 610–838–1937 p.1
David W. Beer
1490 Spring Valley Road
Bethlehem, Pennsylvania 18015
January 9,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have been following litigation for the last three years against Microsoft and am happy to see that the matter was settled in November in the antitrust case. I am happy to see that Microsoft is not being broken up, and that true innovation can continue. This business simply cannot be regulated in any way that discourages innovation, especially since the business models change so frequently.

Microsoft has been a huge asset to my business and particularly to our country through product and service development, employment, education, and philanthropy. It is our opinion that Microsoft has done much more good for our nation's economy than bad.

Because of their contributions they should be rewarded, and they have been monetarily rewarded in the past, but I hope the penalties address only the practice of business and not the practice of innovation. In this context, penalties should be enforced for malicious law breakers, and not for aggressive but law abiding business practices.

I am particularly annoyed with Sun Microsystems. We all have competitors, and they have, in the long run, benefited from the competition. I hope the nine states in opposition to settlement will end their quarrels and let private enterprises return to focusing on business, innovation, and not politics.

Sincerely,
David Beer

MTC-00030966

Jan–09–02 11:47A Dick Ross 16102507809 P.01
Richard Ross
1607A Briarwood Lane
Bethlehem, Pa. 18017
January 9,2002
Attorney General John Ashcroft, U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC, 20530

Dear Mr. Ashcroft:

After three years of litigation in federal court, a settlement agreement that can end the Department of Justice's lawsuit against Microsoft is more than welcome. After three years, all the issues surrounding the case have been considered and all the involved parties have been able to express their points of view on the matter. After three years, the settlement is more than fair to the Microsoft's competitors and to the federal government. It gives the red-carpet treatment to software developers that wish to create software that works in a Windows operating system.

Considering all the points of the settlement, such as allowing hardware makers to reconfigure parts of Windows, it is obvious that Microsoft will lose some of its market share when the settlement is formalized. The issue at stake now is whether the consumer will benefit from the proposed settlement or not.

The enormous cost that the suit has been on Microsoft and on the entire IT industry will inevitably be absorbed by the consumer in the form of artificially higher prices for years to come. If the suit is not settled now, the cost to the IT industry and Microsoft can only increase, which means that the cost to consumers in the end can only increase. This is most certainly not in the public interest.

Now is the time to end the suit and allow the IT industry and Microsoft to return to their functions as innovators and service providers to the millions consumers of technology products. For the good of all involved parties, I urge you to see that the proposed settlement become formal as soon as possible. Sincerely,

---

MTC-00030967

01/09/02 12:28 404 952 1558 MICROSOFT CORP. 01
Eric Cobaugh
6909 Rainwater Road
Raleigh, NC 27615
January 3, 2002
Attorney General John Ashcroft
The U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I respect the leadership in this country. Especially now, when challenges our facing this nation as never before, those in national leadership should set an example of cooperation and high-minded action.

I believe the recently reached settlement between Microsoft and the Department of Justice embodies this ideal of high-minded cooperation. The settlement is fair, and it would be tragic to allow the government to continue its ill-advised campaign to fragment and effectively render irrelevant one of our nation's greatest and most productive companies.

The settlement affects the health of the entire information technology industry. Manufacturers and designers of hardware and software must be able to rely on Microsoft and it's competitors to incorporate technology innovations into their products as rapidly as commercially viable. This is best accomplished through unfettered competition NOT by government committees choosing winners and losers.

I am hopeful that the Department of Justice will endorse the terms of the settlement to the other branches of government and will stem any further pursuance of this matter.

Sincerely,
Erie Cobaugh

MTC-00030968

1-09-2002 3:12PM
FROM 000000000000 P.1
10:24 GARDNER GROUP
804 741 3344 P.01/01
THE GARDNER GROUP
January 9, 2001
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms Hesse:

As a small businesswoman and a Microsoft investor, I was most pleased to learn, that a proposed settlement is under consideration. I have been advocate for an end to this litigation for a number of months, so I was pleased to hear that the end may be near and all concerned can expend their energies elsewhere.

I have absolutely no doubts that this suit has negatively impacted my investment in the Company. From the news reports I have read on this issue, the case seemed to be driven by some of Microsoft's competitors. The economy has been backsliding for months now, and the September 11 and subsequent events have weakened it furhter. We need to take every action possible to spur the economy, not the opposite. As President Bush has said, we all need to spend money and travel. When it comes to the technology sector, people will spend money on new and innovative products. Costly lawsuits, take up a company's time and energy—time and energy that could be spent on more productive endeavors. The proposed settlement should put concerns of competitors to rest. I understand that future versions of Windows will have a simple way for computer and software makers to promote non-Microsoft software within Windows. I don't know how much more fair you can get.

Thank you for the opportunity to bring my views to your attention. Sincerely yours,

Kay Gardner
Meeting Management form Concept to Conclusion
152 W. Square Place, Richmond , Virginia 29233
(804) 784-5111

MTC-00030969

JAN-09-02 02:13 PM P.01
Rebecca G. Waugh
P.O.BOX 402
New Ipswich, NH 03071
FLOWERSANTIQUES
(603)878-4279
January 8,2002
Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC, 20530

Dear Attorney Hesse,

I would like to contribute my opinion during the public comment period for the draft settlement in the Microsoft antitrust case. I support the settlement as a much-needed end to this drawn out court case. Microsoft has hurt neither its competitors nor the consumers with its actions, In fact their products, which continually Improve at affordable prices, are a great benefit to small businesses such as my own.

The Justice Department must have more important things to do in this day and age, and I'm sure the millions spent on prosecution can be better spent elsewhere. There is a recession going on in this country, and we need companies like Microsoft to be focused on creating jobs and wealth in order to bounce back.

I hope the Judge sees the wisdom in the settlement offer, and that this opportunity to get things back on the right track is not missed.

Thank you for entertaining my opinion on this case.

Very truly yours,
Rebecca Waugh

MTC-00030970

Jan 09 02 01:09p
817 428 6599 p.1
MAIEVE GALLUP
5792 FALL CREEK DRIVE, FORT WORTH, TX 76137 (817) 428-6590
January 9,2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Sent via fax to (202) 616-9937

Dear Ms. Hesse:

Last November, Microsoft Corporation and the Department of Justice reached an historic settlement of what has been a protracted and expensive lawsuit. It is now time for the Court to dismiss all remaining complaints against Microsoft and let the consumer be the final judge as to whether Microsoft has harmed them.

The choice seems to be clear. Either the Court accepts the settlement and competitors continue to innovate, or the Court orders the continuation of the lawsuits and competitors continue to litigate. If the latter course is taken, Microsoft will not be the big loser-it will be the consumer. What is the motivation to continue the lawsuit? Is it driven by competitors who haven't been as innovative as Microsoft and are afraid of losing their share of the market? Shouldn't the legal eye of the Court and the remaining 9 state attorneys general be trained at the market tactics of Microsoft's competitors? Surely, you will find some unsavory market practices in their portfolios, if nothing else, they most certainly appear guilty of "obstructing" the advancement of technology in America's marketplace.

I encourage the Court to stop this costly charade by Microsoft's competitors and let them all get back to true competition where it counts most-in the marketplace.

Sincerely,
Maieve Gallup

MTC-00030971

JAN-09-2002 WED 14:01 ID:KINKOS TEL: 972 964 0412 P:01
Fax Cover Sheet kinko's
2301 Preston Rd., Ste. B
Plano, Texas 75093
Tel: (972) 964-0801
Fax: (972) 964-0412
Comments:
Date: 9 Jan 02
To: Attorney Gernal Ascroft
Company: Gox
Fax: 202 307 1454
From: Ed O'Donnell
Company:
Tel: 972 407-1076
Number of pages including this one:
Jan-09-2002 WED 14:01 ID:KINKOS
TEL:972 964 0412 P:02
1413 Mockingbird Drive
Plano, Texas 75093
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express to you my support of the settlement that was agreed upon between Microsoft and the federal government. I sincerely hope that this is the end of any more litigation on the federal level.

Taking into account the terms of the agreement, Microsoft certainly did not get off with just a warning. In fact, Microsoft is now left to make several significant changes in the way that they handle their business. For example, Microsoft has agreed to make available to its competitors any protocols implemented in Windows" operating system products that are used to interoperate natively with any Microsoft server operating system. Microsoft has also agreed to disclose and document for use by its competitors various interfaces that are internal to Windows" operating system products. That alone is a first in an antitrust settlement.

With the many terms of the agreement, there should be no reason for the government to consider pursing further litigation on any level.

Sincerely,
Ed O'Donnell

MTC-00030972

01/10/2002 09:43 5703562366
ABRACZINSKAS NURSERY PAGE 01
Susan
ABRACZINSKAS
346 NUMID IA DRIVE,
CATAWISSA PA 17820
HONE(570)356-2323
FAX(570)356-2366
TO: Attorney General FROM:
COMPANY
DATE:
FAX NUMBER:
TOTAL NO. OF PAGES INCLUDING COVER:
RE:
URGENT
FOR REVIEW
PLEASE COMMENT PLEASE REPLY
PLEASE RECYCLE
01/10/2002 09:43 5703562366
ABRACZINSKAS NURSERY
PAGE 02
Susan Taddeo Abraczinskas
739 Mifflinville Mainville Road
Nescopeck, PA 18635
January 9,2002

Attorney General John Ashcroft, USDOJ
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

My father died last July. He came from Italy when he was young; he worked hard every day all his years to make a better life for himself and his family. His was the quintessential American success story. To make sure his grandchildren had a base for their lives, he invested in Microsoft. My children lost thousands of dollars that would have been used for their education. I put the blame for this at the feet of former President Clinton. He evidently believes that anyone who works hard and makes a success of his life should be punished. Government should not exist to stifle success.

The lawsuit against Microsoft was unfathomably groundless. It should be over. Microsoft has made numerous concessions to computer manufacturers, such as changing the ways Microsoft licenses its software and its software's configurations. There is even a technical committee that will oversee Microsoft's adherence to the settlement. I wonder if the other firms would do as much. But they are not as successfu1 as Microsoft and hence, immune from such demands.

What I ask of you is to leave the decision reached between Microsoft and the Department of Justice stand. Are we to cater to everyone and anyone who does not like a particular judicial decision? We need to concentrate on our economy now, and letting Microsoft get back to business is one way to do this.

Thank you.
Sincerely,
Susan Taddeo Abraczinskas
Cc: Sen. Rick Santorum

MTC-00030973

1-10-2002 9:19AM
FROM 000000000000
ARTHRITIS FOUNDATION
PAGE 01
January 9, 2001
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

With regards to the Microsoft proposed settlement: The technology industry is extremely competitive. Some of the very best minds in the country are involved in the technology sector. Some of those minds work for Microsoft. I believe that the ability that allowed this company to become a leader in its industry will also help them comply with the terms of this agreement. They will have to be more flexible and more open to the needs of other firms. But moving beyond this lawsuit will allow the company to continue to provide innovative products like they have in the past. The settlement seems to be very equitable. For example, the provision that the 20 largest computer makers will be able to obtain Windows under the same terms conditions and price is a very fair provision. The time has come to settle this case. I look forward to hearing that good news in the near future.

Yours truly,
Lydia E. Grammer
3131 Hanover Ave. #12
Richmond, VA 23221

MTC-00030974

JAN.10.2002 8:50AM
GUY CARPENTER OF PA. 215 864 3798 NO. 243 P. 1/1
≤GUY CARPENTER
Guy Carpenter & Company of Pennsylvania
Two Logan square Telephone (215) 864-3600
Philadelphia, Pennsylvania 19103 Facsimile (215) 636-9929
January 10,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing concerning the settlement negotiated between Microsoft and the Justice Department.

After three long years of litigation, this settlement represents an opportunity to move forward.

The entire IT sector is ready to move on and get back to business, but it seems that there are those who still want to hold up the process.

This settlement is very strong and requires Microsoft to make many changes. For example,

Microsoft will be required to disclose information concerning certain internal interfaces in Windows.Microsoft's competitors will also be free to sue Microsoft if they feel the company is not complying with the agreement. Beyond that, Microsoft has agreed to be monitored throughout the entire process to ensure that they are following proper procedure.

The concessions that Microsoft has made speak volumes to the fact that they want to help the IT sector get back to business. Let us help support the agreement by letting the terms speak for themselves.

Let us help not only our technology industry, but all industries which utilize technology such as insurance and finance, move forward and help get our economy back on track.

Sincerely,
Kenneth Sherman, CPCU, ARe
Senior Vice President
cc: Senator Rick Santorum

MTC-00030975

01/09/2002 21:48 HOUSE SPEAKER- JIM BLACK 82023071454 NO.210 01
NORTH CAROLINA GENERAL ASSEMBLY
SPEAKER OF THE HOUSE
JAMES B. BLACK
RALEIGH 27601-1096
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
Via facsimile: (202) 307-1454
Re: Support for Microsoft Settlement

Dear Ms. Hesse,

I am writing to express my support for the settlement that the Department of Justice and several states, including North Carolina, have reached with Microsoft. The settlement is reasonable and has bipartisan support. I believe that Microsoft has agreed to make many significant changes in their business practices and that the company is committed to becoming a more responsible industry leader.

The technology industry is a vital force in our North Carolina economy. Settling this lawsuit will allow the industry to continue to rebound and expand. I urge the Department of Justice and the court to approve this settlement.

Sincerely,
James B. Black, Speaker
North Carolina House of Representatives
JBB/jg
0066360.01
LIB:
STATE LEGISLATIVE BUILDING o RALEIGH, NORTH CAROLINA .27601-1096 o TEL (919) 733-3451 o FAX (919) 715-0772

MTC-00030977

JAN 10 "02 02:14 D.L. CURTIS CO.
17023232885
TO:
202 353 8856 PO1
Dennis Curtis
185 Brooktrail Drive
Reno, NV 89509-2180
January 7,2002
Attorney General John Ashcroft, USDOJ
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to articulate my support in regards to the antitrust settlement between Microsoft and the US Department of Justice. As a conservative Republican, I know free enterprise should be given more freedom to operate and innovate, instead of being pulled under the reign of the federal government, as has happened with the antitrust case. At any rate, I am happy to see that the issue is being settled and I really hope that no further action is brought against Microsoft, particularly as the settlement opens the door for increased competition. The settlement will make non-Microsoft software more efficient on a Windows platform as programmers become more familiar with the aspects of the Windows operating system that were a secret up until now.

I also look forward to future product growth and development from Microsoft as well as its competitors. I believe this settlement will facilitate that end. Thank you for your time, and the work you have done to bring this about. This administration is like a breath of fresh air and I believe you are doing a great job. Thanks!

Sincerely,
Dennis L. Curtis
cc: Senator John Ensign
cc: Senator Larry Reid

MTC-00030978

FROM :
FAX NO. :
Jan. 09 2002 10:43PM P1
105 Zernich Drive
Aliquippa, Pennsylvania 15001
January 9,2002
Attorney General John Ashcroft

US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft

I am writing you today to express my feelings in regard to the recent settlement between Microsoft and the Department of Justice. I am a staunch supporter of Microsoft, and I feel this settlement is fair and reasonable. After three years of court battles, I would truly like to see this dispute resolved.

This settlement contains provisions that are beneficial to the entire technology industry. Under this agreement, Microsoft must design future versions of Windows to make it easier to install non- Microsoft software.Microsoft must also disclose information about certain internal inter faces in Windows. With all of this, Microsoft has even agreed to be monitored during this entire process to make sure that they are following procedure.In my opinion, Microsoft and Bill Gates have contributed positively to our economy and country. During these difficult times, one of our highest priorities should be to improve our lagging economy. Allowing Microsoft to devote its resources to innovation, rather than litigation, will help our economy a great deal. Thank you for your support.

Sincerely,

MTC–00030979

JAN-9–2002 10:35P FROM:E J ALPIN CO 215 943 2336
TO:12023071454
P:l/l
E.J. ALPIN & ASSOCIATES
January 9,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter to take advantage of the Tunney Act, and have my opinion go on record. I was not in favor of any litigation against the Microsoft Corporation in the first place, but since a settlement has finally been reached, we need to move on. The settlement is as fair as it could be, and I wish to see no further legal action taken against Microsoft.

There are still nine states that are continuing with litigation against the Microsoft Corporation, and they are just wasting their budgets and angering their citizens. I was relieved to see that the Department of Justice and Microsoft could agree to terms, but wish it never had to come to that in the first place. The settlement was actually reached after extensive negotiations with a court-appointed mediator, and Microsoft agreed to terms that extend way beyond what was at issue in the lawsuit.

A settlement has been reached and it is time to put this behind us.

Sincerely,
Gene Alpin
cc: Senator Rick Santorum
16 Limewood Road, Levittown,·PA 19056
215/547–5678 FAX: 215/943–2336

MTC–00030980

01/09/2002 19:05 480–513–4638 GORSKI PAGE 01/01
16420 N. Thompson Peak Parkway Unit 2141
Scottsdale, Arizona 85260
January 9,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support for the recent settlement between Microsoft, the Department of Justice and nine of the participating states. While I did not agree with the original litigation against Microsoft, deeming it frivolous and an unnecessary persecution of a successful company, this settlement has the interest of competition and fair business practices at heart. The terms of the settlement are broad, and go beyond the scope of what the original grievances filed by the government.

This settlement contains a series of provisions that do nothing but increase the sharing of information with the expected result of increasing knowledge, innovation and industry advancement. One of these terms require Microsoft to license intellectual property instead of vigorously protecting it, doing this in order to ensure that Microsoft does not monopolize key technology. Additionally, Microsoft has now agreed to a uniform pricing standard for computer manufactures, and to allow software distributors to enhance, change or remove Microsoft products from the software without the threat of retaliatory business practices. Perhaps most importantly is Microsoft's willingness to submit to a government appointed technical oversight committee that will work to ensure that the company is complying with all of the above terms of the settlement.

For these reasons, I support the settlement and hope to see it implemented soon.

Sincerely,
Mike Gorski

MTC–00030981

JAN–10–2002 14:06508 799 1015 P.O1
Facsimile Cover Sheet
To: Renata Hesse
Company Department of Justice
Phone
Fax: 202–616–9937
From: Andrea Glass
Office of the City Council
City:Hall-Room 112
455 Main Street
Worcester, MA 01608
Phone: 508–799–l049
Fax: 508–799–1015
Date: 1/3/02
Pages including this cover page: 2
Letter from Councillor-at-Large Dennis Irish.

The Information contained in this facsimile message is privileged or confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination,distribution or copying of this communication is neither a11owed nor intended. If you have received this communication in error, please immediately notify us by telephone at the above number, and return the original message to us at the above address via the U.S.Postal Service or Federal Express, at our cost. Thank You**

JAN–10–2002 14:06 508 799 1015 P.02
CITY OF Worcester
MASSACHUSETTS
DENNIS L. IRISH
COUNCILLOR-AT-LARGE
36 Server Street
Worcester, MA 01609
Telephone
Home: (508) 798–5729
Office: (508) 799–1049
Fax: (508) 799–1015
E-mail:council@ci.worcester.ma.us
January 10,2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FACSIMILE 202–616–9937

Dear Attorney Hesse:

I would like to comment regarding the proposed settlement in the Microsoft lawsuit.As a City Council, I represent an older city, which is the second largest city in Massachusetts.I would like to add my voice to the proposed settlement in the Microsoft lawsuit. I fully support the Agreement's approach of directing part of the settlement towards public schools. Scores of children attend schools with scant resources, which undermine the educational process.

We have all heard about the digital divide that exists along socio-economic lines. This divide has an adverse effect on public education. Recent research claims that 82% of classrooms in higher income communities have Internet access while classrooms in poorer communities have a 60% connection rate.

I support the aims of the Settlement Agreement that has been proposed, for these reasons.This agreement will provide some of our poorer students with access to technology. The]agreement, which calls for Microsoft to provide 200,000 computers to eligible schools at almost no cost, will be a great resource to older school districts.

I urge the Court to approve the proposed Agreement.

Sincerely yours,
Dennis L. Irish
Councillor-at-Large
DLI/alg TOTAL P 02

MTC–00030982

Sent By: Town of Littleton;
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC, 20530
978 952 2718; Jan-10–02 13:59;
OFFICE OF THE
BOARD OF SELECTMEN
January 8.2002
Page 1

Dear Attorney Hesse,

I would like to take this opportunity under the federal Tunney Act review provisions to voice my opinion regarding the pending Microsoft antitrust case. It is my understanding that Judge Colleen Kollar Kotelly is presently considering the merits of a settlement agreement to end the case that has been reached between Microsoft and the government lawyers. It is also my understanding that this settlement is opposed by Microsoft's industry competitors. Let me state my support for the proposed agreement,and my hope that it is adopted.

My perspective is twofold in that I work in the finance department of a small software company, and I also serve on the Finance Committee of my hometown, a community whose economy is very much effected by the information technology sector.From both these vantage points, I am able to see the negative impact of the case, or more importantly the potential positive impact of its conclusion. The industry at present is tentative in many ways, high tech companies having suffered disproportionately the effects of the current recession. The promise of an even greater government presence in the market does not help, even if it is Microsoft who is being targeted.

The prospect of a settlement however could have a very positive impact on the psyche of the high-tech world: not only would Microsoft, and her competitors be free to get back to business, but the threat of more regulation would be abated, encouraging more entrepreneurship. I believe the outcome would be profoundly beneficial to the industry and to the economy as a whole.

It is for these reasons that I ask that the Justice Department recommit itself to settling the case.

Sincerely,
William Ingham

MTC-00030983

Sent By: Town of Littleton;
978 952 2718;
Jan-10-02 13:57;
Page 1/1
John S. Adams
31 Snow Drive
Littleton, Massachusetts
01460
Trial Attorney Renata Hesse
Dept. of Justice / Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse,

I am a senior citizen, and an investor who is upset with the actions of our government in the Microsoft case. I know what antitrust law is there for, and I don't believe harassing one of our most important companies at the behest of their competitors is the reason.

I hope that judge Colleen Kollar Kotelly sees the wisdom in ending the case. The proposed agreement is a great chance to stop this errant mission, and give the economy a chance to recover. I support the settlement, and I ask those of you in the decision-making process to consider the needs of retirees such as myself who have invested in America, and are depending on pensions and stocks to get by.

I am grateful for the opportunity to have my opinion heard in this debate.

Regards,
John Adams

MTC-00030984

Sent By: Town of Littleton;
978 952 2718;
Jan-10-02 13:56;
Page 1'FP-2≤J &.P CONSTRUCTION COMPANY
JOEL PRUITT, President P.O. BOX 293, SUDBURY, MA 01776
TELEPHONE: (508) 443-0260, (617) 243-7530
January l0,2002
Attorney Renata Hesse
Antitrust Division
Department of Justice
610 D Street NW, Suite 1200
Washington DC 20530
Re: Microsoft antitrust case

Dear Attorney Hesse,

It is my understanding that the Justice Department is now taking publiccomments regarding the Microsoft antitrust case, and the settlement agreement that has been worked out. Let me say that I am in full support of the settlement agreement, and am opposed to continuing the case any further.

My small business like many others uses products made by Microsoft and other companies, I have always found that the industry is competitive and innovative. There is never any shortage of options or new ideas, and the competition is evident in the increased efficiency that has come along with attractive prices. It doesn't seem clear where the monopoly is; I think it looks like a lot of other companies trying to get the government to do their bidding.

What this country needs is not a bigger role for the government in picking sides in the software industry. What it needs is for Microsoft and everyone else to get back to making products, and growing the economy. Believe it or not, it really effects small construction outfits like mine.

I hope the Justice Department will stick to their proposal, and urge the judge to accept the deal to end the court battle.

Sincerely,
Joel Pruitt

MTC-00030985

JAN-10-02 12:33 PM DAMICO 5087999810 P. 01—
Gerard D'Amico
358 Salisbury Street
Worcester, MA 01609
January 10,2002
Renate Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FACSIMILE 202-616-9937

Dear Attorney Hesse:

I would like to add my comments to the record regarding the impending settlement in the Microsoft lawsuit.

As a Former State Senator, who was chairman of the Senate Education Committee and Director of the Massachusetts Literacy Campaign, I saw the effects of the digital divide first hand. Scores of children attend schools with scant resources, which undermine the educational process. Unfortunately, the digital divide also effects working class parents as well.

I would like to ad my voice to the proposed settlement in the Microsoft lawsuit. I fully support the Agreement's approach of directing part of the settlement towards public schools. We have all heard about the digital divide that exists along socio-economic lines. This divide has an adverse effect on public education. Research States that 82% of classrooms in higher income communities have Internet access while only 60% of classrooms in poorer communities are connected.

This inequity is creating two classes of people, those with computer skills and those without. In this day and age we cannot afford to have students or workers whose computer skills are lacking.For this reason, I support the aims of the Settlement Agreement that has been proposed. This agreement will provide students with access to technology. The agreement calls for Microsoft to provide200,000computers to eligible schools at almost no cost.

I urge the Court to approve the proposed Agreement.Sincerely yours,Gerard D'Amico

MTC-00030986

FROM : HILL TAX
PHONE NO.: 715 834 7383
Jan. 09 2002 01:10PM P1
January 10. 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my feelings in regards to the Microsoft settlement issue. I feel that this settlement is fair and reasonable, and I am anxious to see this dispute resolved. I believe it will be in the public interest to stop litigation against Microsoft.

As an IRS Enrolled Agent, I have been using Microsoft products since the early 80's. Have been very satisfied with the quality of Microsoft software. Interference from the government on this issue will result in lesser benefits to myself as a consumer. This settlement will allow Microsoft to devote its precious resources to designing innovative software, rather than paying court fees. Microsoft has offered to grant its competitors access to information on Windows, and it will not retaliate if other independent companies promote their software within Windows. There will be an oversight committee that will ensure Microsoft complies with all of the agreed upon terms of the current settlement. This will benefit the economy, the technology industry, and consumers.

I support this settlement and hope the federal government will discontinue litigation against Microsoft at the federal level. Please do your part to look out for consumers,Thank you for your support.

Sincerely

MTC-00030988

9206 Tiverton Way
Louisville, Kentucky 40242
January 7,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want you to know that I support Microsoft and think that it's high time that you all leave that company alone. I hope that the Justice Department sticks to their settlement and can do whatever it can to get the rest of the states to agree to it as well. Microsoft will help its competitors use Windows with non-Microsoft software, and will be subject to the review of a governmental oversight committee, and that's enough for any company.It's good that Microsoft can use its time and resources on more important matters, like improving their current products. And since they have such a direct impact on our economy, it will be nice to have them back to help in this recession.

Thank you for taking time to hear the public's opinion in this matter. I think that more people should hear what the average person has to say about issues like this and not just their legislators.

Sincerely,

Jon Borie

01/10/2002 13:34 FAX 502 933 7490 P&P SOUTHWEST 001

MTC-00030989

Joshua Virkler
1431 Bullis Rd.
Elma, NY 14059–6956
January l0,2002
Attorney General
John Ashcroft
950 Pennsylvania Ave NW
Washington, DC 20530

Attorney General Ashcroft:

I am writing to let you know that I support the settlement being considered in the MicrosoftAntitrust case.It is my understanding that you are taking comments from consumers on how this will affectthem, since this case is theoretically being brought on behalf of us. I have been opposed to the case against Microsoft from beginning, and now I feel strongly that it is in the best interest of everyone to make this whole thing go away as soon as possible.

Consumers have been harmed far more by the prosecution of this antitrust case than anything]Microsoft could have done to harm them. The only true monopoly in this country is the Federal Government. It is the only entity that can enforce it's will with force. Every business in this nation must provide a product or service that people want, at abetter price than anyone else,in order to have any influence upon anything. The same cannot be said about government.

Thank you for your time and consideration. Also, thank you very much for the way you have conducted yourself in office so far. You have been a model of integrity, and have very closely mirrored my views on issues that you have faced. Keep up the good work!

Sincerely,

Joshua Virkler

MTC-00030990

JAN–10–2002 01:03PM PATRICIA A ARNOLD
212 862 1306
P. 01
P.O. Box 8064
New York, NY 10116–8064
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Attorney General Ashcroft:

Your stellar decision to finally end the Clinton Administration's antitrust lawsuit against Microsoft is much appreciated. In my opinion, no more action should be taken at the federal level.

The settlement makes quite a difference. Under the agreement,computer manufacturers are granted new rights to configure systems with access to various Windows features. Also, Microsoft is required to design future versions of Windows to make it easier to install non-Microsoft software and to disclose information about certain internal interfaces in Windows.

Your leadership is exemplary. Your decision is correct, After all,competitors can also sue Microsoft if they don't think the company is complying with the agreement. Taxpayers'' money should be spent for better causes.

Sincerely yours,

MTC-00030991

Jan 10 02 10:50a BUSY BEE PRINTERS
5206251022
p.1
Bob & Vi Greene
108 E. El Viento
Green Valley AZ 85614
(520)393–0635
bobnvi@aol.com
January 10,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am happy to hear that a settlement has been reached between Microsoft and the Department of Justice. This settlement was reached after three years of litigation and with the assistance of a court appointed mediator and should be allowed to pass through public review.Microsoft, in my view, has agreed to more than enough, and has compromised more than any other company has ever been asked to. Microsoft has agreed to share even more information about their software design. In addition,Microsoft has agreed to be under the constant monitoring of a government created technology committee, which will review Microsoft's software codes and books. This committee will ensure that Microsoft abides by the agreement.Our federal government and Microsoft have been in battle for three years.Allowing Microsoft to create and innovate, not litigate, would be a huge step in that direction. Beyond the good of Microsoft, this settlement is in the public interest, allows the fostering of competition across the entire industry and sets a positive benchmark for future similar issues.

Sincerely,

Robert Greene

MTC-00030992

01/10/2002 13:27 5704769235 GEORGE ANDREWS
PAGE 01
*P.O. Box 8A*East Stroudsburg*Pennsylvania*18301*
January 9,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have been asked so submit my opinion regarding the Microsoft litigation.I thoroughly believe that litigation against Microsoft in the antitrust case was unjustified and not in the best interest of the American public. I am happy to see that Microsoft will not be broken up which could have lead to another Ma Belldebacle. However, it still makes concessions to its opponents to bring an end to the suit.

Microsoft should have not to document and disclose various interfaces that arc internal to its Windows'' operating system with out receiving a fee from the prospect wanting to run on Microsoft's platform. Microsoft worked long and hard to create this technology and owns the rights to it. Microsoft should not be aloud to prevent manufactures from promoting competitive products nor should Microsoft be bared from negotiating agreements that are exclusive to them. It is not the government's place to force a business to not take part in promotions that will compete for market share. This would be to tie the hands of a companies sales and marketing efforts.

These are concessions that seem to go against many of the principles on which the free enterprise system was founded. As restrictive as the concessions may be if Microsoft supports the settlement, then I guess I can too. However I believe it sets a bad precedent

Sincerely,

George Andrews

cc: Senator Rick Santorum

MTC-00030993

01/10/2002 12:22 7327872166
GWSCLACEY
PAGE 01
91 Beacon Boulevard
Keansburg, NJ 07734
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to go on record as being a supporter of the settlement that was reached last November between Microsoft and the Justice Department, which brought an end to the antitrust lawsuit.

For three long years the Department of Justice and Microsoft engaged in costly litigation, and finally a settlement was reached. Although the restrictions that have been placed on Microsoft are harsh and undeserving, I am just glad to see this come to an end. I hope that the settlement will encourage the states that have yet to settle to change their minds.

I appreciate your time, and again, I support the settlement between Microsoft and the Justice Department.

Sincerely,

Suzanne Lacey

MTC-00030994

FROM : Panasonic FAX SYSTEM
PHONE NO. : 650 588 9176
Jan. 10 2002 10:45AM P1
150 Minorca Way
Millbrae, California 94030
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a supporter of Microsoft, I write to you with appreciation of the settlement that has been reached in the antitrust battle between this company, and the Department of Justice. After three years of negotiating, it seems that all voices have been heard, and the agreement is beneficial to all involved.

During this time of strained economy, it is evident that we need to support our industry, and let business get back to business. The stage has been set for the competitive process to take hold, and it is time to let the IT sector get back to work. Our Technology Industry needs our support so that it may continue to hold its position in the world marketplace. By further reviewing the terms of the agreement we delay the process even longer.

Why should we use our precious resources on an issue that is been over-discussed? Thank you for letting us support our technology industry, and our economy as a whole, by making sure that no more legal action is taken against Microsoft.

Sincerely,
Russell Beardsley

MTC-00030995

FROM : Panasonic FAX SYSTEM
PHONE NO. : 650 588 9176 Jan. 10 2002 10:46AM P2
150 Minorca Way
Millbrae, California 94030
January 8, 2002
Dear Mr. Ashcroft:
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW Washington, DC 20530

I wanted to write to thank you for the work that you have done in the Microsoft antitrust dispute, and for the role that you played in reaching the long overdue settlement that finally came to fruition.

Since the anti-trust suite has been settled in the interest of all parties I hope there will be no further legal action taken against Microsoft. After all, the terms of the settlement Were well thought-out and are very reasonable, including increased government- oversight of Microsoft's business practices and uniform rules for licensing Windows to computer makers.

Our economy has suffered a great deal, and it is time to support it by letting our technology industry get back to business. This agreement will benefit both consumers as well as the IT sector as a whole. I support this settlement, and hope to see it implemented soon.

Sincerely,
Helen Beardsley

MTC-00030996

TO JAN-10-2002 12:54
FROM WAYTEK INC
Waytek, Inc.
January 10, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

It must be agreed by all that Microsoft has always maintained an attitude of arrogance with respect to its OEMs and to software developers. but this attitude should never, in my opinion, have facilitated an actual lawsuit against them by our government. Certainly, as the IT community matures, there will be enough competitive pressure brought to Microsoft to have forced them into a position of greater cooperation.

It is my belief that these kinds of issues do not fall under the purview of our government.

This lawsuit has created a tremendous amount of anxiety and uncertainty within the IT community that it has been responsible, in part, for the recession that is with us even today.

This settlement, however, signals the end of the government's hostility towards Microsoft and will aid the entire IT community by dispelling the uncertainty. It will improve licensing and contractual agreements, so that they cannot be used as leverage against other companies.

Moreover, the settlement will be enforced by a Special Technical Committee, whose sole purpose is to watch Microsoft. I am hopeful that this review process will vindicate the settlement.

Sinerely,
Daniel Safeer
P.O. Box 10,
West Berlin, NJ 08091
(856) 346-9310
Fax (856) 346-0557

MTC-00030997

MASTECK
Corporate Office
1340 Reynolds Avenue
Suite 105
Irvine, CA 92614.5502
949.851.2279
800.248.6279
Fax 949.851.1779
www.MastechInc.com
Houston Branch
12602 Pine Bough Ln
Cypress,TX 77429-2241
281.373.5759
Fax281.373.9501
January 9,2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

Much has been said about this lawsuit between the Department of Justice and Microsoft. Now that it has reached a settlement stage, it is my hope that we can put this entire unfortunate episode behind us.

There is a public perception that Microsoft may well have been a bit too protective of both its software and its use by its OEM customers. This may be true, but the terms of the settlement adequately address this. OEMs are well-protected by this settlement, since the settlement requires Microsoft to design Windows so that OEMs can easily reconfigure Windows to add access features to non-Microsoft software. They are also protected by the new licensing arrangement.

It is time to turn our attentions to more relevant and important issues facing us today. It's time to put this behind us.

Sincerely,
Greg Marone
IT Director
Jan. 10. 2002 12:25PM
MASTECH9498511779 No.2341 P. 1

MTC-00030998

FORM : Panasonic FAX SYSTEM
PHONE NO. : 7042589930
Jan. 10 2002 03:55PM P1
556 Crowfields Lane
Asheville, North Carolina 28803
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you to thank you for allowing Microsoft to get back to work.

The settlement plan for Microsoft's antitrust case is more than an adequate remedy to the complaints of Microsoft's competitors and critics. Microsoft will share information with its competitors about Windows, and this will allow them to more easily install their own software on the operating system. Ultimately this will benefit all of the technology industry.

At a time of a weakening economy I think it is only sensible to end this controversy. Further sanctions for or restrictions on Microsoft will prove to be counterproductive. This country needs this company to continue to thrive and to lead the Information Technology Industry into this new and dangerous century.

I thank you for supporting this company and for reaching a fair and just settlement.

Sincerely,
Gerd Smith

MTC-00030999

FROM : HILL TAX
PHONE NO. : 715 834 7383
Jan. 10 2002 08:59AM P1
Randal J Hill
811 Garden St
Eau Claire WI. 54703
715 834 7379
January 10, 2002

I am writing you today to express my feelings in regards to the Microsoft settlement issue. I feel that this settlement is fair and reasonable, and I am anxious to see this dispute resolved. I believe it will be in the public interest to stop litigation against Microsoft.

As an IRS Enrolled Agent, I have been using Microsoft products since the early 80's. I have been very satisfied with the quality of Microsoft software. Interference from the government on this issue will result in lesser benefits to myself as a consumer. This settlement will allow Microsoft to devote its precious resources to designing innovative software, rather than paying court fees. Microsoft has offered to grant its competitors access to information on Windows, and it will not retaliate if other independent companies promote their software within Windows. There will be an oversight committee that will ensure Microsoft complies with all of the agreed upon terms of the current settlement. This will benefit the economy, the technology industry, and consumers.

I support this settlement and hope the federal government will discontinue litigation against Microsoft at the federal level. Please do your part to look out for consumers.

Thank you for your support.

Sincerely,

Randall Hill

MTC-00031001

JAN-11-2002 09:13 AM
REP. VINCENT A. PEDONE
508 791 7400 P.01
VINCENT A. PEDONE
STATE REPRESENTATIVE
ROOM 540
TEL: (617)722-2080
The Commonwealth of Massachusetts
House of Representatives
State House, Boston 02133-1020
Committees:
Ways and Means
Energy
Housing and Urban Development
January 11, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FACSIMILE

Dear Attorney Hesse:

I would like to add my comments to the record and add my voice to those in support of the proposed settlement in the ongoing Microsoft lawsuit.

As a State Representative from Worcester, Massachusetts who represents an older urban district, including some of the poorest areas of the city, I felt it is important for me to offer some thoughts regarding the proposed settlement.

The Commonwealth of Massachusetts has made educating our children the top priority. Over the past seven years, the Massachusetts legislature has redoubled its efforts relative to funding of the public education system in the state.

This was in response to a commitment by the legislature to bring the Massachusetts Public School System into the 21st" century.

With this in mind, we have also made available capital funds and grants to upgrade our schools computer systems and school technology. However, because of new and innovative advances in computer systems software and internet connections, systems that were purchased just five years ago are obsolete. Staying ahead of the technology curve is attainable, but very costly.

Although I am not familiar with the intricacies of the agreement, I do know that there is one component of the agreement that will help scores of school children in the city of Worcester: Microsoft will provide 200,000 computers to eligible schools at almost no cost. I applaud the Agreement's approach of directing part of the settlement towards public schools.

We have all heard about the digital divide that exists along socio-economic lines. This divide has an adverse effect on public education. Research states that 82% of classrooms in higher income communities have Internet access while only 60% of classrooms in poorer communities are connected.

For this reason, I support the aims of the Settlement Agreement that has been proposed. This agreement will provide students in my district, as well as throughout the Commonwealth, with access to technology that has been to costly for communities to purchase.

Thank you for your time and consideration on this manner.

Sincerely yours,

Vincent Pedone

State Representative

MTC-00031003

Jan.10. 2002 11:13AM 7144450201 EMS
No.3169 P. 1/1
7026 Via Ostiones
Carlsbad, CA 92009-6614
January 11, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft

The antitrust lawsuit leveled against Microsoft by the Federal Government was completely unfounded and totally unjustified. However, since a settlement was reached between the parties, it should be accepted and finalized by the courts as soon as the public comment period ends. I personally feel the main tenets of the settlement go too far, are not fair to Microsoft and hurt the ideals of free enterprise and capitalism. Microsoft could easily go on fighting this thing out in the courts for years. However, Microsoft has very nobly agreed to accept and abide by the terms of the settlement instead of wasting millions of taxpayer dollars in round after round of court battle with the Federal Government.

For all intents and purposes the Federal Government won this case and should be very pleased with the outcome. The fact that Microsoft will now be forced to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included in Windows is proof that the Federal Government has met its objective. Additionally, Microsoft will be forced to document and disclose its various interfaces that are internal to Windows" operating system products—a first in an antitrust settlement. Furthermore, Microsoft must make available to its competitors any protocols implemented in Windows" operating system products that are used to interoperate natively with any Microsoft server operating system. Finally, Microsoft has agreed to a three-person Technical Committee that will monitor Microsoft's compliance with the settlement and assist with dispute resolution. The government did the same thing to Bell Telephone Company back in the late 1970's. The results were tragic and I fear that the government did not take into account the future impact and this too will have a tragic effect on technology and the entire world. It appears that the Federal Government, at taxpayer's expense, won't stand for progress and will do everything it can to penalize or destroy the guy "out front," such is the case with Microsoft. Microsoft has transformed the face of the planet for the better and should be left alone once and for all. Please finalize this settlement as soon as possible. Thank you.

Sincerely,

Steven Golden

MTC-00031004

Jan 11 02 10:06a p.1
FAX COVER SHEET
LINDA AND JERRY LEADS
722 POMELO DRIVE
VISTA, CA 92083
(760) 724-3433
fax (760) 724-7749
SEND TO
Company name ATTORNEY GENERAL
From
JERRY LEADS
Attention
MR. JOHN ASHCROFT
Date
1/11/02
Office location
WASHINGTON DC
Office location
VISTA, CALIFORNIA
Fax number
1202-3071454
Phone number
760 724-3433
Urgent Reply ASAP Please comment X Please review For your information
Total pages, including cover: 2
COMMENTS

I strongly URGE you to cease all Federal action against Microsoft now that a settlement has been reached. Thank you for your help in this matter

Sincerely

Jerry Leads

Jan 11 02 10:09a
P.2
LEADS
Linda and Jerry Leads
722 Pomelo Drive
Vista, California 92083
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
January 10, 2002

Dear Mr. Ashcroft;

As a user of Microsoft's software and component product, and as a supporter of their mission and phi-losophy, I strongly urge you to oppose any additional federal action against Microsoft now that a settlement has been reached. After three+ years of dealing with frivolous litigation, Microsoft and the department of Jus- tice have come to an agreement that is fair, judicious, and reasonable, and should be allowed to stand on its own merits. I passionately disagree with any attempt by any government official to delay the implementation of this settlement agreement or to enter into any further litigation with Microsoft. While Microsoft continues to innovate the premier operating system and office productivity software in the industry, this settlement an- swer many, if not all, of the government's concerns with Microsoft's business practices. the agreement pro- vides for a government technical oversight committee, which will be responsible for monitoring the company's business, marketing and licensing practices.

Additionally, the settlement's terms require Microsoft to allow computer manufacturers to configure their systems individually and forces Microsoft to design future software versions so that non-Microsoft soft- ware can be easily added to the computers. Perhaps most importantly, this settlement allows Microsoft's competitors, including Apple, SUN Microsystems and IBM to sue Microsoft if they believe that the company is not abiding by the terms of the settlement.

This antitrust settlement provides the ability for Microsoft to continue to innovate and to lead the in- dustry, while at the same time correcting some of the perceived wrongs committed in the past.

During this time of shaky economies, and an unstable international environment, I am glad that you and your colleagues will now be concentrating on greater national priorities besides the legal dealings of a successful corporation.

Thank you for not supporting any federal intervention into this settlement.

Sincerely
Jerry Leads
Phone: (760) 724-3433
Fax:(760)724-7749

MTC-00031005

01/11/11/2002 13:03 7274460170 DATA MANAGEMENT
PAGE 01/01
DATA MANAGEMENT SYSTEMS INC.
Solutions You Can Depend Upon
1051 Cephas Drive o Clearwater, FL 33765
Tel. 727.443.4700 o Fax. 727.446.0170
www.dmsus.com
e-mail: info @dmsus.com
January 10, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I believe that Microsoft has done much to advance and yet simplify the information age, not for just this country, but worldwide. It is a shame to see the government interfere with Microsoft's freedom to innovate and Microsoft's ability to continue to improve its products Moreover, The Justice Department is causing harm to the entire Information Technology industry by trying to break up a "world class" company that has done so much to make this country the dominant technological leader of the world. Fortunately, Microsoft has reached a settlement with the Department of Justice regarding the antitrust suit.

This settlement will tackle the issues involved in the original suit as well as others that arose over the past three years. The settlement states that Microsoft must not enter any contracts that may prevent software developers from developing or promoting software that competes with Microsoft. For hardware makers, Microsoft has agreed to provide rights to its Windows operating system to the 20 largest at equal terms and conditions, including the price.

It is necessary that those who are involved, in the suit put aside their differences and work to resolve this issue swiftly. The government has intervened in this case for too long; it is time to stop all action at the federal level and get back to the business of innovation.

Sincerely,
Gerald Riddle Ph.D.
Vice President

MTC-00031006

From Michael H. Ohl 610.837-3157 To John Ashcroft
Date 1/11/02—Time 10:49:56AM
Page 1 of 1
Vectors & Layers
Tel. (610) 837-7409
Fax (610) 837-7409
508 HILLDALE DRIVE, BATH, PA 18014-9143
January 10,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in response to the outcome of the antitrust suit between Microsoft and the Department of Justice. As both a home and workplace user of Microsoft products I am anxious to see a final resolution to the antitrust case. I understand that although a settlement has been reached it is still up for debate as to whether or not it will be permanent. I am in agreement with the current settlement, and do not wish to see any further action taken against Microsoft.

As a user of both Microsoft and their competitors" products I have on the whole been greatly satisfied with the quality and flexibility of Microsoft products over others. In fact, my business is having problems with other companies Windows peripherals, such as Netscape Communicator not being able to read HTML content sent through Outlook Express.

Legal action against Microsoft affects a lot of people outside Microsoft itself. Right now more than ever we need a strong economic backbone in the IT industry. That is why I fully support the current antitrust settlement.

Sincerely,
Michael H. Ohl
Owner, Vectors & Layers
cc: Senator Rick Santorum
508 HILLDALE DRIVE o BATH, PA o 18014-9143
PHONE: (610) 837-7409 o FAX: (610) 837-3157

MTC-00031007

Jan 11 02 10:43a
John M. Gorman
732 922 0636
p. 1
John M. Gorman
14 Red Fox Court
Tinton Falls, New Jersey 07753
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I was recently informed that there might be even further action against the Microsoft settlement. Three years of well thought out negotiations should prove themselves. Microsoft has bent over backwards to accommodate other software companies, and is still being dragged through the mud. It is time to let the system move forward. Let the terms of the agreement speak for themselves.

During this time of economic strain, we must work together to focus on our economy. Companies have to work together to keep our place in the global market. Let's not tear our IT sector apart, by encouraging war between these companies. Let us support our technology industry in its time of need. Please help support this settlement and encourage our technology industry to work together. We need to make sure that no further action is taken against this agreement. I am counting on your support.

Sincerely,
John Gorman

MTC-00031008

01/11/02 FRI 11:34 FAX 440 895 1566 NEITZEL LUKE ASSOC. 001
MARK NEITZEL
3790 E Surrey Court
Rocky River, OH 44116
January 10, 2002
Attorney General John Ashcroft, U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I feel very strongly that the government has unduly and unfairly prosecuted Microsoft for supposed antitrust violations. This ordeal has gone on long enough and I am writing to give my support and endorsement to the settlement that was proposed between Microsoft and the Justice Department.

The states that do not support the federal settlement should not be allowed to undermine it, nor should Microsoft's business adversaries. The settlement is fair and reasonable, even making Microsoft give up trade secrets concerning its interfaces and protocols to the competition, and forcing Microsoft to be straitjacketed into a stringent licensing agreement. If the competitors have problems, they can file more lawsuits, which I understand they intend to do. Therefore, the states that settled should be allowed to move forward with it. It is their right to do so and should not be hindered by politics.

It goes without saying that settlement is preferable to litigation and that this lawsuit has had a very negative impact on the country's economy as well as the technology sector. This is a fact. It is also very ironic because the government's presumed objective of breaking up Microsoft in order to help the "little guy" who couldn't compete successfully against Microsoft has had the opposite effect, and everyone is now suffering.

I support the settlement that was reached. It is good for the economy, the IT industry, and consumers.

Sincerely,
Mark Neitzel

MTC-00031009

FROM : eHIRE
FAX NO. : 2126790704
Jan. 11 2002 10:38AM P1
eHire
40 Fulton Street 19th Floor
New York, NY 10038
Tel. 212.513.7160
Fax: 212.513.7001
January 10, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, N. W.
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing to comment briefly on the settlement that was reached between the Justice Department and Microsoft in the antitrust case. It is in America's best economic interest, and the public interest to execute this settlement and move on. This case has kept Microsoft tied up with litigation for three years. It does not make economic sense to do this to someone who is guilty only of offering the best, most innovative product in the marketplace. The settlement has been carefully negotiated by court appointed moderator, and goes beyond addressing the concerns of competitors and the government who felt unfairly shut out of the market.

It is time for everyone in the computer industry to stop spending their resources on litigation, to accept this settlement as nine good states have, and get back to the business of innovation for American leadership.

Sincerely,
Joe Sabrin

MTC-00031010

01/11/2002 11:23 6144519599 LORMS AND BELFRAGE PAGE 01/01
Morris
Real Estate Service
1900 Crown Park Court
Columbus, Ohio 43235 P 614.536.2628 F 614.451.9599 E
info@morriscompany.com
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter to express my satisfaction of the fact that the Justice Department finally settled the antitrust suit with Microsoft. The dispute lasted much too long, and in that time, the economy went from thriving to stagnant and stuck in a recession. I would like to go on record as supporting this long overdue settlement.

I have worked in the Real Estate business for 35 years, and run my own commercial agency. Microsoft has been invaluable to my employees and me by simplifying and standardizing computing. Windows is an outstanding operating system offered at a very reasonable price that any small business can easily afford. If Microsoft's competitors are not capable of or unwilling to produce a comparable system that is competitively priced why should consumers like me be penalized? It seems to me this is why they have spent more money and time on lobbying legislators than on research and development. This has obviously worked since one of the terms in the settlement is that Microsoft is going to have to turn over source code and information about the design of Windows.

I appreciate the fact that my opinion can go on record, and again, I fully support the Microsoft settlement.

Sincerely,
Tom Morris

MTC-00031011

01/11/2002 11:23 7046678312 G
PAGE 01
002
Dee Ann Henderson
21 Fairfield Drive
Candler, North Carolina 28715
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I was pleased to hear that the Department of Justice had settled its antitrust case against Microsoft. The case had gone on for far too long, and the nation had suffered for it. There is no need to waste taxpayer dollars on this topic anymore, especially when there are many other important issuer at hand. I fully support the settlement that has been reached.

Some of Microsoft's critics may say the settlement isn't hard enough on Microsoft, but they would be incorrect. Under the settlement, Microsoft will share information with its competitors, which will allow them to more easily place their own software on Microsoft's operating system. This measure alone would greatly immense competition in the technology market, but Microsoft has agreed to even more. Microsoft will also agree to adhere to a uniform pricing list when licensing Windows out to the twenty largest computer manufacturers in the country, forgoing standard market pricing mechanisms. Additionally, Microsoft will be monitored full time by a technical review committee to ensure that it follows the dictates of the settlement.

For these reasons, I am in full support of the settlement, and I look forward to seeing an end to this lawsuit.

Sincerely,
Dee Ann Henderson

MTC-00031012

95 Ordale Boulevard
Pittsburgh, PA 15228–1523
412) 343–1572 e-mail
dzubay2@adelphia.com
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 8, 2002

Dear Mr. Ashcroft:

I am writing you today to express my feelings about the recent antitrust settlement between Microsoft and the US Department of Justice. I feel that this settlement is fair and is in the best interest of the public. I strongly support the end of this litigation.

Under this agreement, Microsoft must share more information with other companies to make it easier to compete. Microsoft must also be monitored closely for compliance to this agreement. This settlement also allows Microsoft to devote its resources and time to designing innovative software, rather than litigation which will benefit all of us.

During these difficult times, one of our highest priorities should be improving our slowing economy. Restricting Microsoft will not achieve this but also waste valuable time and resources. Thank you for settling with Microsoft. cc: Senator Rick Santorum

Sincerely,
Egon Dezubay Sc. D., P.E.

MTC-00031013

01/11/2002 13:59 7245377806
CLAUDE G MYERS
PAGE 01/01
Horace Mann
Insuring America's Educational Community
Retirement Annulzies and
Life, Auto, Homeowners and Group Insurance
The Horace Mann Companies
721 Spring St.
Latrobe, PA 15650–2023
Bus./Fax (724) 637–7806
Claude G. Myers, Representative
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my feelings in regards to the settlement that was reached on November 6, 2001, between Microsoft and the Department of Justice. I believe this settlement is fair and reasonable, and I am anxious to see this dispute resolved. I sincerely hope that there will be no further action against Microsoft at the Federal level.

This settlement contains provisions that foster competition and are beneficial for the technology industry. Microsoft has pledged to share more information with other companies, create more opportunities for other companies, and give consumers more choices. Under this agreement, Microsoft must design future versions of Windows to make it easier to install non- Microsoft software and must disclose information about certain internal interfaces in Windows.

During these difficult times, one of our highest priorities should be boosting our lagging economy. Restricting Microsoft will not achieve this end. Please do not punish Microsoft for pursuing the American dream. Thank you for your support.

Sincerely,
Claude Myers
Representative
cc: Senator Rick Santorum
www.horacemann.com

MTC-00031014

JAN 11 2002 (FRI) 02:31

EXEC OFFICE 724 656 4171 PAGE l/l
Robert Wushinske
Rural Route 2
New Wilmington, Pennsylvania 16142
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this is to address the Department of Justice and Microsoft settlement. This was settled after a long, litigious battle costing both parties time and money. I do not believe Microsoft was culpable of any antitrust practices. The lawsuit is more a product of envious competitors than actual misdeeds. Microsoft did acquiesce to demands by the Department of Justice, opening up their source codes to computer manufacturers and competitors, giving more flexibility to computer makers to install non-Microsoft programs, expanding Windows" operating system products, and even allowing a technical committee to monitor Microsoft adherence to the settlement. This is far more than any other firm would have done.

But the history behind the case is no longer relevant. A decision has been reached and I do not want to second-guess decisions reached by both parties. Microsoft had very good counsel; an equitable agreement was reached. It is now time to move on. We should not get into the habit of criticizing judicial decisions simply because they do not please everybody. It sets a bad precedent and undermines any future decisions.

Sincerely,
Robert Wushinske
cc: Senator Rick Santorum

MTC-00031015

FROM : CHUCK PHONE No. : 12086228700
Jan. 11 2002 10:17Am P1
P.O. Box 212
Sun Valley, Idaho 83353
January 11, 2002
Attorney General John Ashcroft
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

This letter is to add my support to the Department of Justice and Microsoft settlement. I applaud the ending of what, to me, was a great injustice done to Mr. Gates. Mr. Gates is a very successful man, who created a very successful company. He has made a great deal of money, but he has given a great deal of money away. Mr. Gates is someone who this country should be very proud of; unfortunately, the petty jealousy of his competitors have accomplished what they could not do on their own—that of damaging both his company and him in an antitrust suit. The suit was settled, with Microsoft giving away far too much. What company would allow computer makers to configure their product to promote another product? This is what Microsoft has done, allowing computer makers to promote non-Microsoft software programs within Windows and even agreeing to design future software programs in a way as to make it easier for computer makers and programmers to promote non-Microsoft software. I wonder if any other firm in another industry would so willingly give away its secrets. Yet, Microsoft agreed to this in order to end the lawsuit, wanting to get on with business. I admire Microsoft for dealing with a very bad situation and trying to go forward, putting this case behind them. Which is why I am writing to ask that you do also.

Microsoft is but one of the thousands of companies that have made this country. He has merely succeeded too well. But I wonder what effect this lawsuit will have on future entrepreneurs, people who have a dream or vision of their own, but are afraid to pursue for fear of having the government breathing down their necks if they become too successful. It would be such a shame if we clip our children's wings even before they are given a chance to fly.

Support the agreement reached between the Department of Justice and Microsoft.

Thank you.

Sincerely,
Karen Bohlke
Charles R. Bohlke
cc: Senator Larry Craig

MTC-00031016

Jan. 11. 2002 11:12AM No. 7089 P. 1/1
January 11, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FAX

Dear Attorney Hesse:

I would like to add my comments, regarding the proposed settlement in the Microsoft lawsuit.

Presently, it appears that our economy is either in a recession or quickly heading in that direction. Consumer spending and consumer confidence is down. The one thing we should not be doing right now is putting roadblocks in the way of American industry. Microsoft and America's Hi-tech industry have been able to prosper and create much-needed jobs, because they are innovative and competitive. What they don't need right now is government interference, over-regulation and being forced to spend money on lawsuits. That money could be better spent creating new products.

These new products would benefit American consumers in a couple of ways. First, they would make our jobs easier and improve productivity. Secondly, they would create new jobs in the technology sector of our economy.

Let's put a quick end to the lawsuits. Let's get America back to work. Yours truly,

Bernard Whitmore
Worcester, Massachusetts

MTC-00031017

JAN-11-2882 10:46 PM P.01
Linda Tomlinson
December 20, 2001
Renata Hesse, Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Subject: United States v. Microsoft Corporation

Dear Attorney Hesse:

According to the American Electronics Association, New Hampshire has the highest concentration of high-tech workers in the nation. We also have a tradition of placing the uppermost priority on limited government involvement in the market place. Also, Money Magazine cites many of our cities as the "best places to live" in the nation.

It is for these reasons that I feel passionately about the Microsoft case and believe that acceptance of the proposed settlement is in everyone's best interest. My state is a shining example of how limited government, combined with high technology, can create an extraordinary environment for consumers to live, work and raise a family.

High technology is forever changing and evolving. For the federal government to attempt to analyze its operations and punish the company because of its success is just not reality. Unfortunately, the federal government gave too much credence in the first place to Microsoft's competitors -who prefer to use lobbyists and bureaucrat intervention to make up for their inability to compete in the marketplace.

Over $30 million in taxpayer funds have already been used on this case alone! It's time to settle and remove the federal government from the equation. It is only then that the marketplace can thrive and adequately fulfill consumer needs.

Sincerely,
Linda Tomlinson
209 Lower Straw Road Hopkinton New Hampshire 03229

MTC-00031018

From 336–922–1214 to 1/11/2002 10:15 AM 001/001
Russell L. Smith, Jr.
4216 Thorn Ridge Road
Winston Salem,North Carolina 27106
336–922–1214 jdrsmith@aol.com
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express to you my views regarding the antitrust lawsuit against Microsoft. After years of legal battles, I'm happy to see a settlement was finally agreed upon. Spending any more time and effort on this issue is not only a waste of taxpayers money, but a waste of time that should be spent moving forward in the future of technology.

Prior to my retirement, I worked in the IT sector of the manufacturing industry and saw the advances that Microsoft has been able to create with its innovative technology. It is unfortunate that Microsoft was punished for its capabilities.

The settlements terms, sharing code, changing licensing practices, allowing oversight, etc., are definitely fair and reasonable. I support your decision to settle, as well as the agreed upon terms and sincerely hope that no further action will be taken at any level against Microsoft related to this lawsuit.

Sincerely,
Russell Smith

MTC-00031019

JAN-11-2002 08:53 PM P.01
Andrew M. Hoffman, DVM
74 Mount Vernon St.
Boston, MA
01208
December 28, 2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse,

It has come to my attention that the government is now accepting public comment in the case of U.S. v Microsoft. I'm writing to express my support for this settlement. Millions of dollars have now been spent to arrive at this settlement. Although it was beneficial to the American people to investigate the business practices of such a large company, no harm to consumers was elucidated. It is now time to stop spending taxpayers'' money and let the decision be final.

Over the past several months Americans have suffered great losses. These losses have been both emotional and financial. Although the government cannot help us with much of what has been lost, it can help us to get the economy back on track. Punishing Microsoft for contributing to the American economy and tying up the courts'' time is not the way to accomplish this.

Allowing Microsoft to continue to be a leader in innovative technological products will help immensely in getting this country back on it's feet. Recession is a difficult time for all of us. Microsoft's contribution to the economy should not be seen as antagonistic to each of our financial goals but rather as complementary and beneficial.

Sincerely,
Andrew M. Hoffman

MTC-00031020

JAN-11-2002 08:50 PM P.02
Elizabeth T. Marcucci
December 27, 2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse,

I support the settlement proposed in the case of U.S. v. Microsoft. As a consumer, I feel it is time for the government to stand back and allow the Microsoft settlement to stand as is. Much time, effort and money has been spent reaching this settlement. Further money and time can be better spent elsewhere, especially in these difficult times. It is now necessary for the government to allow Microsoft to expend its energies producing first quality and innovative products. Microsoft's business is technology, not harming consumers. Microsoft should not be continually subject to antitrust legislation. With the current economic situation in mind, the government should support American business. It should work towards helping the American people and economy become strong once again. This necessitates supporting large companies such as Microsoft and allowing them to help consumers and contribute substantially to the economy.

Sincerely,
Elizabeth T. Marcucci
One Winthrop Street Hamilton, Massachusetts 01982-1325

MTC-00031021

JAN-11-2002 08:50 PM P.01
December 28, 2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FACSIMILE

Dear Attorney Hesse,

I am writing in support of the Microsoft settlement. At this time the country needs to support large and small businesses alike. Penalizing Microsoft and spending more time and money in the court system is not helping the economy or individual consumers. Microsoft's contribution to the economy and technology is enormous and should not be thwarted because of a perceived harm to the American people. This is not the purpose of antitrust laws, As an American consumer of Microsoft and other computer products, I appreciate Microsoft's contribution to the computer and technology industries. Microsoft has supplied us with excellent products and service. It is not logical to use inferior technology at higher prices merely for the sake of compliance with well-meaning but misguided legislation.

Please stop spending American dollars needlessly and allow the Microsoft settlement to stand. Our tax dollars are too valuable to be spent in this manner especially considering the events of the last few months.

Sincerely,
Seth Ross
30 Spruce St.
Acton, MA 01720

MTC-00031022

JAN-11-2002 8:07AM RAID INC NO.146 P.1/1
RAID
INCORPORATED
January 2, 2002
Renate Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530

Dear Attorny Hesse:

I would like to take this opportunity under the public comment period of the Tunney Act provisions to offer my support for the settlement of the Microsoft anti-trust case presently before the court.

This case should never have been pursued in the first place, as the basic conditions of anti-trust violation were never met. The information technology industry that Microsoft supposedly monopolized continues to thrive, with new companies and technologies emerging nearly every day. And the consumer, on whose behalf the case was theoretically brought, has benefited enormously from Microsoft and only stands to lose if the company is regulated to death.

I am a small businessman who understands the great advances Microsoft has brought not only to the national economy, but also to the abilities of thousands of small businesses to prosper independently. I am not sure that those who seek Microsoft's demise appreciate the harm it would do to small businesses like mine. We depend on the affordable, universally-integrated, and innovative products that Microsoft delivers. I have little sympathy for her complaining competitors, who are every bit as aggressive in the marketplace, and less successul.

Please use this time period to reiterate the Justice Departments call for settlement, and urge Judge Kollar Kotelly to accept the agreement reached in November. I thank you for the opportunity to voice my opinion in this matter.

Very truly yours,
/mjd/
Marc DiZoglio

MTC-00031023

1681 NE 10th Avenue
Oak Harbor, WA 98277-4805
January 10, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing you today to express my feelings in regards to the settlement that was reached early last November between Microsoft and the Department of Justice. I feel this settlement is fair and reasonable, and I would like to go on record as supporting the settlement.

Under this agreement, Microsoft has agreed to share more information with other companies, create more opportunities for them, and give consumers more choices. Microsoft must disclose information about certain internal interfaces in Microsoft and must share software codes and books with a technical oversight committee created by the government for review.

During these difficult times, one of our highest priorities should be to boost our lagging economy. Restricting Microsoft will not achieve this. I fully support the settlement between Microsoft and the Department of Justice.

Sincerely,
Bill Meche
From: NORTHWEST BOARD PHONE No.: 360 675 3753 Jan.10 2002 10:46PM P01

MTC-00031024

JAN-10-02 THU 08:30 PM DALOIA 913 437 3723 P.01
Trackside
John D'Aloia, Jr.
311 West Alma Street o St. Marys, KS 66536 o Phone/Fax 785-437-3723
January 10,2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice

601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

Settling the Microsoft anti-trust case is of great importance to our economy and the principles of justice. The Clinton Administration decided to sue Microsoft for anti-trust violations.

I always assumed that a necessary element for such a suit is evidence of consumer harm. So far, there has been no evidence that Microsoft's business practices have caused consumer harm, rather, the case has become an example of excessive government interference in the market place.

I suspect that this is one of the reasons the Department of Justice settled with Microsoft. I was very disappointed when Kansas Attorney General Carla Stovall refused to sign on with the proposed settlement. Stovall's unwillingness to agree to this settlement is purely political, a tax-payer funded publicity play to keep her name in the press while she runs for governor. She and the others who are continuing to pursue this case are apparently more interested in making headlines at the expense of the taxpayer then doing what is right for their constituents and for the vitality of the economy. I have written Attorney General Stovall to let her know that I was adamantly opposed to her wasting taxpayer dollars while gaining for Kansas an anti-business reputation.

It would appear that the business climate is getting better and the economy shows signs of shaking off the recession. I urge the Department of Justice to accept the settlement and so recommend to Judge C. Kollar-Kotelly.

Sincerely,

MTC–00031025

01/11/2002 08:34 8647180602 KATHLEEN KOJIS PAGE 01

January 10, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

While I am not happy that the federal government took three years to sue Microsoft in court, I am happy to see that the Attorney General has put an end to the case with a strong and binding agreement. I wholeheartedly applaud this decision.

Since a settlement was finally reached after three years of protracted and extremely costly court battles, it should be accepted and finalized as soon as possible. The agreement requires Microsoft to make its protocols and access mechanisms available to competitors; these are the protocols used in Windows'' operating system products, and the mechanisms are used to encourage non-Microsoft products. The company also agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows.

Microsoft's tremendous contribution to the United States'' economy, and that of the entire world for that matter, goes without saying and requires no elaboration. Not only will the settlement help our economy escape from its current slump, but it will also give Microsoft's competition a hand up. This is why the federal government should not pursue any litigation beyond this agreement. The company should now be left alone once and for all.

Sincerely,
Kathleen Kojis
35 Lighthouse Way
Salem, SC 29676
cc: Senator Strom Thurmond
Representative Lindsey Graham

MTC–00031026

01/11/2002 10:13 616–659–8824 RGB NETWORK SERVICES PAGE 01/01

RGB
Network Services, Inc.
903 North Clay, Suite E
Sturgis, MI 49091
Phone: 616.651.9037
Fax: 616.659.8824

January 10, 2002

Attorney General John Ashcroft, Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

It is a shame that the government has attacked Bill Gates for following his vision and the American Dream. If you recall, he basically started Microsoft in a garage on nothing more than a wish and a promise. And because he worked very hard to develop, produce and market an outstanding operating system his company grew to become the standard and leading technology innovator in the world.

I am totally opposed to the governments'' actions against Microsoft, for they were unjust, misguided and politically motivated. However, the fact that a settlement was ultimately reached is a very positive development because settlement is preferable to years of continued litigation, especially in this matter.

One aspect of the settlement that strikes me as profound is Microsoft's agreement to disclose for use by its competitors various interfaces that are internal to Windows'' operating system products. I understand this is unprecedented in an antitrust settlement.

This alone should end all claims that Microsoft monopolizes the industry. If that weren't enough, Microsoft has also agreed to make available to its competitors, additional codes implemented in Windows. Anyone who thinks Microsoft escaped any serious measure of punitive retribution is remiss.

Continued litigation will only serve to further distract the technology industry from innovating. Please finalize this settlement as soon as possible.

If you want to go after an industry that is corrupt than investigate the large oil companies.

Sincerely,
Gary Black Owner, President

MTC–00031027

FROM: UPT Consulting PHONE NO.: 281 480 2414 P01

Richard and Beverly Stroud
14515 Wisteria Hollow Lane
Houston, TX 77062

January 9, 2002

Attorney General John Ashcroft
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

It is high time we wrap up this lawsuit between Microsoft and the Justice Department. It has dragged on for three years now and it is time that we saw its resolution. A settlement is now on the table and only needs to be agreed upon by all parties. I see no reason that this settlement should be changed.

There are several very good provisions within this settlement. One of the most beneficial provisions included within the settlement is one that prevents Microsoft from taking any kind of retaliatory measures against a company that would promote software not developed by Microsoft. This greatly enhances competition in the market and also helps the smaller software companies compete. Furthermore, there are provisions that prevent Microsoft from entering into any contracts that would restrict or hinder competition in the market by forcing a computer manufacturer from only promoting Microsoft software with their product. These are provisions that will benefit the information technology market.

I worry that any more restrictions will begin to hinder the market and the ability of companies to operate freely. In addition, the next step in restrictions could very well be the break up of the Microsoft Corporation, which is no way a good thing. Therefore, I urge you to leave the settlement in its current form. There is no reason to alter it. It does what needs to be done and nothing more. I thank you for your time and I am sure you will do what is best for this country.

Sincerely,
Richard and Beverly Stroud

MTC–00031028

01/11/02 FRI 08:08 FAX 215 822 0813 GIS Environmental 001

35 Douglass Road
Lansdale, Pennsylvania 19446

January 9, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

After three long years of legal battles, Microsoft and the Department of Justice have come to a settlement regarding the antitrust suit. I believe this settlement will be beneficial to both the IT industry and our economy as a whole. The only thing this suit has done is cause the misuse of American tax-dollars, and it has severely affected Microsoft stockholders and brought down the value of the stock market itself.

Microsoft's products are by far more innovative than any competitors—comparing Windows to Linux is like comparing the 21st century to the dark ages—there is no comparison for the average consumer or small businesses. The various suits have been distracting to consumers and Microsoft alike. As shareholders (small and large) we have been punished enough. The continuation of these suits is not good for business, consumers or Microsoft.

This settlement is fair and reasonable, and was reached after extensive negotiations with a court-appointed mediator. Even though the agreement goes further than what Microsoft would have liked, it believes that settling the case now would be the right thing to do to help the industry and economy move forward. By delaying the practice of this settlement, we only harm our place in the global market.

All action that is being taken at the federal level needs to stop. It is about time Microsoft went back to innovating rather than litigating.

Sincerely,
Ron Graves
cc: Senator Rick Santorum

MTC-00031029

Jan-11-02 08:llam From- T-266 P.Ol/Ol F-187
Michele Meyers
6090 Shepherd Hills Avenue
Allentown, Pennsylvania 18106
January l0, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Subject: Microsoft Settlement

Dear Mr. Ashcroft:

I was happy to learn that the Justice Department has decided to settle its antitrust case against Microsoft. The legal battle has drained the country's resources for more than three years now, and it is time to get our national focus back on more important issues.

The settlement is eminently fair, and should address the concerns of all involved parties. Any criticism of the settlement coming from Microsoft's competitors stems purely from their own self-interest. Microsoft has given more than what was asked by the Department of Justice. First, Microsoft has agreed to increase competition in the marketplace by granting their competitors access to information about the internal workings of Windows. With this information, the competitors will be able to install their own programs on the Windows operating system, enabling them to compete with Microsoft on Microsoft's "own turf." Additionally, Microsoft will agree not to take any action against any company that sells, uses, or promotes products made by non-Microsoft companies. I wonder if any of Microsoft's competitors would be as generous.

This settlement gives us a viable opportunity to get past this messy legal conflict and move on to more pressing issues. I support it, and hope it is implemented soon.

Sincerely,
Michele Meyers
cc: Senator Rick Santorum

MTC-00031030

01/10/2002 22:23
TO:
FROM : PHILIP W ICE
FAX: 8085236089
TEL: 8085236089
COMMENT :
01/10/2002 22:23 8085236689 PHILIP W ICE
PAGE 01
Philip Ice
1325 Wilder Avenue, #13 Makai
Honolulu, HI 96822
January 10, 2002
Attorney General John Ashcroft
c/o The U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Mr. Ashcroft:

From the beginning of US vs. Microsoft three years ago, I have thought the suit against Microsoft has been an embarrassment to American business. Punishing Microsoft for alleged monopoly power was a rediculous, unfair, and unequal act. In the United States, there are other companies and industries that have practiced for years, truly predatory pricing and market power. The airlines are a classic and glaring example. For years it has been common knowledge, that they have actively lowered prices in areas where smaller airlines are operating to crush competition, then raise their own prices after their competition is eliminated. By ignoring these and other examples, it is quite evident to me that the Department of Justice chose to pick on Microsoft for reasons other than actions that could be be construed as predatory, or because of restraint of trade. I can see no equality of treatment or justice for all in this action.

The proposed settlement is a way for the IT industry and Microsoft to recover from three years of unnecessary government attack. For starters, it will prevent Microsoft retaliation if a computer manufacturer decides to install a competing company's software before shipment, and will allow the computer companies to configure the Windows operating system to promote non-Microsoft software products.

I hope that the Department of Justice sees the damage it has done to the IT industry and the economy by pursuing Microsoft. If the Department of Justice is honest with itself and its actions, it will see that a speedy end to the lawsuit is needed. I urge the Department of Justice to formalize the settlement and move onto more pressing matters.

Sincerely,
Philip Ice

MTC-00031031

FILE No.553 01/10 '02 21:23
ID: FUHER AND ASSOCIATES FAX:
PAGE 1
Powering the (Insurance) Industry
XDimensional Technologies, Inc.
January 10,2002
Attorney General John Ashcroft
USDOJ, 950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am the CEO of a firm that works with Microsoft to develop software that is used in the insurance industry. I believe that continuing litigation because of the antitrust suit against Microsoft may be detrimental not only to my firm but also to several companies across the nation. The settlement reached between Microsoft and the Department of Justice is a well-designed accord that will be beneficial to both the IT industry of which we are a part, and consumers alike.

The past three years spent in court battles have encouraged the government to reach into taxpayers" pockets. The suit has harmed an already staggering economy, and rendered an entire industry dormant. The settlement obligates Microsoft to make all future versions of Windows to be able to easily have computer makers, and consumers integrate non-Microsoft software into Windows. Microsoft has also agreed not to return fire on software and hardware developers that may ship products that compete with the Windows operating system.

I suggest that you work to conclude this settlement, so that our business and the IT industry can begin to rebound and create jobs to help revive the economy. Microsoft has made the technological progress for our country possible and has been a key to our success as a small business for the past seven years. It is time to get back to business as usual; no more time and money should be wasted.

Sincerely,
Craig W. Fuher
Chairman & CEO
XDimensional Technologies, Inc.
145 S State College Blvd. Suite 160 Brea, CA 92821 (800) 789-2567 Fax (714) 672-8908
www.xdti.com

MTC-00031032

Jan-10-02 05:42p Benard Riechers 724-941-1196 p.1
130 Scenery Circle
Canonsburg, PA 15317
January 8, 2002
Attorney General John Ashcroft
U.S. Justice Department
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As an avid supporter of Microsoft products and services and a proponent of free market enterprise, Microsoft should be exonerated of all wrongdoing. I am happy to see that Microsoft will not be broken up, but I do believe the concessions they are making are too harsh. It is unfair that Microsoft is obligated to disclose intellectual property, such as interfaces and protocols to just to serve another software company. However, if Microsoft can tolerate the settlement, I support them.

Over the last decade, Microsoft has been the leading innovator in technology products and services. They have forced their own people and competitors to grow at unprecedented rates. Even in a faltering American economy, Microsoft has proven that it can maintain its vision.

I look forward to no further litigation against Microsoft and hope that the IT sector will be allowed to focus on business, which is in the best interest of the American public.

Sincerely,
Bernard Riechers
Cc: Senator Rick Santorum

MTC-00031033

Jan 10 02 05:25p p.1
FRONTIERS OF FREEDOM INSTITUTE
12011 LEE JACKSON MEM. HWY. 3rd FLOOR
FAIRFAX, VIRGINIA 22033

Phone(703)246–0110 * (888)8–RIGHTS
Fax(703)246–0129 * www.ff.org
US. Senator Malcolm Wallop (ret.)
Chairman

January 10, 2002

To whom it may concern:

There is real and credible evidence that the Congress and our representative democracy are under attack—not from anthrax or some other terrorist plot. This is a different kind of enemy—one that is aimed at destroying our cherished democratic institutions. This plot is not carried out by terrorists or bombs, but by greedy and power hungry lawyers who seek to essentially over throw our representative democracy and the rule of law and install in their place a system governance by litigation—with lawyers and unelected judges as our rulers. Under their plan, litigation is used to effectively enact legislation, promulgate regulations, and impose new taxes. This has been the trend since the tobacco litigation. Now we see the same modus operandi in the Microsoft litigation. The nine states and the District of Columbia who insist that the Justice Departments settlement with Microsoft isn't tough enough, continue to base all of their expectations and all of their arguments on the trial judge's rulings, which were resoundingly overturned on appeal.

The fact is the settlement is like virtually every other settlement. Each party got something it wanted and each party had to give-in to things that it did not want. So why do they continue to claim they cannot support the settlement? Why do they continue to misstate the law and the facts? Why do they continue to pretend to be protecting consumers? Its all about money. Justice has nothing to do with it.

Americans are already taxed to the hilt so new taxes are not popular. Thus when politicians go on pork spending sprees, they are often afraid to raise taxes any higher to pay for their excesses. Therefore, free spending states often opt for an alternative revenue source—shaking down deep-pocketed industries or companies through litigation. Hence, taxation through litigation.

Taxation through litigation is a favorite way for states to cover large budget deficits. It is no coincidence that the states that persist in suing Microsoft all have large projected budget deficits—totaling more than $11 billion. Despite the fact that the vast majority of states either settled their claims along with the federal government or opted not to get involved in the first place, a few states spend taxpayer money pursuing continued litigation in hopes that Microsoft, like the tobacco industry, will become their next cash cow. Its all about money! We are slowly surrendering our constitutional representative democracy to a cancerous system of lawyer-run governance. Our forefathers pledged their lives, fortunes, and sacred honor to obtain freedom and throw off the shackles and unjust burdens of an unelected, life-tenured king. Did General Washington and his army make those sacrifices merely to have trial lawyers and unelected, life tenured judges take the king's place, sack the rule of law, and turn our representative democracy into governance by litigation? I think not.

Sincerely,
George C. Landrith,
President,
Frontiers of Freedom Institute

MTC–00031034

From: Thomas Klinect
To: Attorney General John Ashcroft
Date: 1/10/2002 Time: 2:05:48
PM Page 1 of 2
TPI Inc.
2650 Jamacha Rd. #147–13
El Cajon, CA. 92019
Tel: 619–303–3292
Fax: 619–670–6157
FACSIMILE COVER PAGE
To: Attorney General John Ashcroft
From: Thomas Klinect
Fax#: 1–202–307–1454
Fax #: 619–670–6157
Tel #: 619–303–3292
Company: United States
Subject: Microsoft Settlement
sent: 1/10/2002 at 2:05:46 PM
Pages: 2 (including cover)
MESSAGE:

Sir,

The following letter discusses TPI's views, in general, on the remidies for the Microsoft settelment. Please take some time to review and take a small business mans point of view into your final decision on this matter. v/r

Thomas J. Klinect
TPI Inc.
619–303–3292
tklinect@tpi-inc.com

This fax is strictly confidential and intended solely for the addressee. It may contain information which is covered by legal, professional, or other privilege. If you are not the intended addressee you must not use, disclose, or copy this transmission.

From: Thomas Klinect
To: Attorney General John Ashcroft
Date: 1/10/2002
Time: 2:05:48 PM Page 2 of 2
TPI, Incorporated
2650 Jamacha Road #147, PMB 13
EL Cajon, CA 92019
FAX: 619–670–6157
January 7, 2002
Attorney Gerneral John Ashcroft, US Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing to express my concerns regarding the Justice Department lawsuit against Microsoft. If this lawsuit had succeeded to the extent envisioned by government lawyers, Microsoft's competitors, and some on the federal bench, the real penalty would have devolved to the entire IT industry, and thus to the American economy and people. Just because Microsoft's competitors have been unable to develop products that are comparable with Microsoft's products in value to the consumer, it does not follow that the government should step in and, in effect, "dumb down" Microsoft in an effort to make those less innovative companies more competitive with Microsoft. We have seen this principle tried with regard to our national educational policies, and it simply does not work.

It is good for a company like Microsoft to stand on a principle of unapologetic excellence. If its products and innovations are better than anyone else's then that is its reward for it's work ethic, perserverance, and technical excellence. No laws are violated when a company develops superior products. Similarly, if Microsoft's products and innovations slip into second, or third place, then that is where Microsoft deserves to be. That is the essence of the competitive marketplace. To have the government attempt to subvert the role of these competitive forces can serve only to upset the natural dynamic of the marketplace.

The settlement now in place, one in which Microsoft has agreed to an equal pricing stucture for licensing preinstalled software to hardware makers, provides a reasonable basis for closure of this matter, and I urge the Department of Justice to seek acceptance by all parties. I believe that this will best serve the interests of the American people.

Sincerely,
Thomas Klinect
Chief Executive Officer
PMB 13 2650 Jamacha Rd. #147 El Cajon, CA 92019–4319
phone 619.303.3292 fax 619.670.6157
www.tpi-inc.com

MTC–00031035

01/10/2002 17:24 9089640304 STEPHEN J. LA MONT PAGE 01
01/10/02 THU 16:38 FAX 800 641 2255
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

I must say that I am not surprised to learn that the settlement between Microsoft and the Department of Justice is being delayed even further. Not only was the suit ridiculous to begin with, but now that a settlement has been reached, there are those who still want to hold up the process. I think it is time we let things move forward, and let the agreement speak for itself.

During these times of economic strain, it seems foolish to waste valuable resources on fighting another court battle, particularly one that has been settled. Microsoft has not only agreed to rework licensing and marketing agreements, but has agreed to design future versions of Windows for even easier installation of non-Microsoft software. At this point, Microsoft has made many concessions to open up the competitive market, but the process is being delayed. Let us help get the technology industry back on track, by having this agreement move forward.

I urge you to support this settlement as it is, and help stop any further action against it. Let us help the IT sector get back to business, by letting the terms of this agreement speak for themselves.

Sincerely,
Stephen Lamont
Stephen Lamont
988 Stuyvesant Avenue
Union, NJ 07083–6906

MTC–00031036

1–10–2002 4:07PM
FROM EHD 717 291 1154 P.1.

TO: Attorney General John Ashcroft
TOTAL # OF PAGES INCLUDING COVER 2
FROM: Engle Hambright & Davies Realtors
2122 Marietta Avenue, Lancaster, PA 17603
Phone: 717-291-1041
Fax No: 717-291-1154
As you requested
X For your information
Please complete
Please return
Please handle
J. Scott Ulrich
Name
1/10/02
Date
COMMENTS:
1-10-2002 4:07PM FROM EHD 717 291 1154 P. 2
J. Scott Ulrich
2122 Marietta Avenue
Lancaster, Pennsylvania 17603
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a concerned citizen of this great nation, I would like to inform you about my thoughts regarding the settlement between the Justice Department and Microsoft. I support the settlement that has been reached by all of the parties involved.

From what I have read in the newspapers, the settlement seems to be both reasonable and fair. It should be able to bring the three-year case against Microsoft to a close this year. Microsoft's critics would try and lead you to believe that Microsoft is getting off easy with this settlement. I do not believe this to be the case. Microsoft will be making changes in their business practices and its product development.

For example, Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows operating system products. Also, a three person technical committee will be established to monitor Microsoft's compliance with the settlement. I urge that no more legal action take place by the federal government against Microsoft.

Thank you for your consideration in this matter.

Sincerely,
J. Scott Ulrich
cc: Senator Rick Santorum

MTC-00031037

Jan 11 02 02: 59p (502) 243-9035 p.1
K
January 10, 2002
Attorney General John Ashcroft
The Justice Department
950 Pennsylvania Avenue
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I have always had a great deal of respect for those who have undertaken the heavy burdens of serving in public office, particularly at the federal level. Naturally, there are times when those so situated in government make decisions with which I simply do not agree. Our government's decision to bring this shortsighted lawsuit against Microsoft was one of those times.

It is true that the larger and more successful that Microsoft got, the less responsive and consumer-oriented they became. While this attitude may have been regrettable, it certainly did not warrant action—especially by our government. The Justice Department never let market forces get even half a chance to act.

There seems to be a happy ending here. The recently negotiated settlement is fair and reasonable. It is my hope that it will survive the public comment part of the lawsuit, and that no further federal action will be brought against Microsoft. I think that they have learned their lesson. After all, the settlement already forces Microsoft to be more accountable to the government and the competition by virtue of a new "Technical Committee" designed to make sure that Microsoft maintains its licensing agreements with hardware makers, and, more importantly, its design obligations. These obligations open up Windows codes for the competition so that competitors" products will run faster and more efficiently on the Windows platform.

Thank you for your continuing defense of the settlement.

Sincerely,
Kevin Landgrave
Chairman/Chief Executive Officer
KOINONIA COMPUTING
10001 Linn Station Road, Suite 205 o Louisville, KY 40223
Phone: (502) 243-9227 o FAX: (502) 243-9035
www.koincompute.com o e-mail: solutions@koincompute.com
Microsoft
CERTIFIED
Partner
CITRIX
GREAT PLAINS PARTNER

MTC-00031038

01-10 02 15:53 DIETRICH T:6102967217 P:01
David Dietrich
2070 Saint Andrews Dr.
Berwyn, PA 19312-1972
David Dietrich
2070 Saint Andrews Dr.
Berwyn PA 19312-1972
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It pleased me to hear last November that a settlement was reached between Microsoft and the Department of Justice in its antitrust case. I am writing you today to express my sincere opinion that this settlement be implemented, any further litigation dropped, and most importantly, that this whole matter be resolved quickly and without further delay.

It seems to me that, although Microsoft certainly did not get off easy, it is fair and reasonable, and seems more than adequate to accomplish the stated goals of the antitrust case: namely to increase competition within the IT Industry. The broad series of restrictions and obligations that Microsoft has agreed to under the settlement will definitely reduce anti-competitive behavior and allow its competitors to more easily market software that competes with Windows operating systems. All this will be verified and by a technical committee.

Therefore it seems to me that this settlement is sufficient, and any further litigation will counter-productive. In today's slowing economy, progress and innovation within the IT industry will be vital. I believe that we should allow Microsoft to get back to work, and that the whole issue be resolved forgotten. Please approve the November settlement and do not waste America's time and money with unnecessary federal action.

Sincerely,
David Dietrich
cc: Senator Rick Santorum

MTC-00031039

01/10/2002 15: 45 319-435-2157 HARVEY W FASCHER PAGE 01/01
1/10/2002 1:43 PM
FROM: fax TO: 13194352157,,,,,131.
PAGE: 003 OF 003
5680 N Highway 13
Coggon, Iowa 52218
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft anti-trust issue. I believe the settlement that was reached on November 2, 2001, is fair and reasonable. I support Microsoft and am pleased to see this dispute resolved. In the past months our economy has taken quite a hit, and I think that this settlement will really jump-start the technology industry, which would in turn help the entire economy. The concessions that Microsoft has made, information sharing, non-retaliation agreements and the like, are certainly sufficient for a settlement, and I hope that this case has really come to an end.

Continuing on with this case is a waste of the government's momey and Microsoft's money, and I think funds would be better spent on other issues. Thank you for ending this three-year-long dispute

Sincerely,
Bonnie Fascher

MTC-00031040

Jan 10 02 03:OOp Gary Pearce 9197878031 p.2
Mary L. Kurek
Personal Coach
P.O. Box 1962
Atlantic Beach, NC. 28512
252-726-7648
January 2, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202-616-9937
microsoft.atr@usdoc.gov

Dear Ms. Hesse:

I write to support the proposed settlement of the Microsoft antitrust case and to urge the judge in this matter to approve it. The agreement not only provides guarantees for computer manufacturers and information technology providers who want to use products that compete with Microsoft, but also establishes an unprecedented enforcement mechanism to deal with any complaints that Microsoft is engaging in anticompetitive behavior. I doubt any corporation in our nation's history has been subject to such strict competitive constraints.

Over $30 million in taxpayers'' money has been spent on this case, and no harm to the consumer has ever been proven. It is clear that the lawsuit was filed at the instigation of Microsoft's competitors, and I believe it has been not only a waste of money, but also a dangerous distraction to our nation and a hindrance to our economy. Given all that is happening in the world and in our nation in this time of crisis and recession today, it is vitally important that our government focus on building for the future, not settling scores for business competitors. I am certain that AOL Time Warner, Sun, Oracle and the other companies that have lobbied so hard to continue this litigation will make themselves heard, but I hope that our government will listen just as closely to the taxpayers and consumers who believe it is time to end this proceeding and get on with business.

Thank you for your consideration.

Sincerely,

MTC-00031041

Jan 10 02 03:OOp Gary Pearce 9197878031 p.1
FROM: FAX NO.: Dec. 14 2001 04:17PM P2
Coaching Perspective, Inc.
7913 Fairlake Drive
Wake Forest, NC 27587
December 14, 2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

I am writing to comment on the settlement of the Microsoft case. As a small business owner I believe the settlement will start rebuilding our economy and at the same time allow a significant investment in educating children. Microsoft has benefited consumers and business owners by providing an integrated software system that is easy to use. Our economy depends on competition and ongoing innovation that is not discouraged by litigation and regulation.

A settlement will allow Microsoft and other companies to again focus their efforts on developing technology that will provide new opportunities for consumers and the technology industry.

Sincerely,

JoAnn Feligno

MTC-00031042

FROM : FAX NO. : 7537804 Jan. 10 2002 11:54AM P1
Joseph M. Capone
592 Franklin Street
Worcester, Massachusetts 01604
January 10, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FAX

Dear Attorney Hesse

It is my understanding that the Justice Department is seeking input, regarding the proposed settlement in the Microsoft lawsuit.

As a small businessman, I understand competition. Competition is healthy for the American economy. I use Microsoft products in my business and they have been a great help to me. They have allowed me to better serve our clients and to manage our business.

I believe that the settlement in this case is in everyone's best interest. It would certainly help consumers. But, it is also my understanding, that Microsoft is being generous in the settlement and will make computers available to public school students throughout the country. Our business is in an older industrial city. This donation will be a great benefit to our inner city schools.

I urge a quick settlement in this case.

Sincerely yours,

Joseph M. Capone

MTC-00031043

01/10/2002 10:45 FAX 804 7866310 VA HOUSE OF DELEGATES 001
Virginia House of Delegates
VIRGINIA HOUSE OF DELEGATES
FAX COVER SHEET
To: Ms. Reneta Hesse
Organization: Department of Justice
FAX Number: (202) 616–9937 Phone Number: ( )
Local
Long Distance
Number of Pages including this cover sheet: 2
From: Delegate Albo
Room Number: 527 Telephone Number: (804) 698 1042
Comments:
If you have any problems with this transmission, please call the House Fax Center at: (804) 698–1558
Our Fax Number is (804) 786–6310
01/10/2002 10:45 FAX 804 7866310 VA HOUSE OF DELEGATES 002
Reneta Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am strongly supportive of the settlement the federal government and Microsoft reached and I feel it was a step in the right direction for continuing growth and prosperity in the high technology sector of the United States. Consumers will benefit greatly from the provisions in the settlement that allows only Microsoft and not the government to decide which products and features to provide to the public and how to price them. It would be unjust for the government to interfere with Microsoft's business because of their success over other competitors. The high tech industry will receive a boost from the release of the Windows XP operating system, which should increase computer sales in the next year. In addition to providing a boost in the technology sector, there will be a felt improvement in the economy.

I strongly feel that the Microsoft Antitrust case was unnecessary. It is not Microsoft's fault that they make a better product than other smaller business and have prospered and grown because of the products. It is just easier to use the Microsoft applications than other applications. As a user of the programs, I hope that the various states cease their suits against Microsoft so they can better serve the public. I appreciate you for the opportunity to present my views on this case.

Delegate Dave Albo

MTC-00031044

01/10/2002 11:06 5084863455 GLAVEY AND GLAVEY PAGE 04
FAX NO. P. 02
GOODMAN INDUSTRIAL EQUITIES MANAGEMENT GROUP, L.L.C.
Real Estate Management & Development
January 9, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530

Dear Attorney Hesse,

I would like to add my voice to those who have called for an end to the federal government's case against Microsoft. The case has gone too far and too long. I support the settlement agreement reached as a means to end this regrettable action as soon as possible.

Many small business people such as myself feel that Microsoft and its products have brought great benefit to individual businesses and to the economy as a whole. And as one who must outperform competitors daily, I have little sympathy for the ''aggrieved'' competition. They have every opportunity to succeed if they sell quality products.

Although I am no expert in antitrust law, I can't believe it was written to allow government regulatory agencies to pick one company over another in a competitive market, or to stymie the forces of freedom.

Let's get businesses back to business, and settle the case. We will all be better for it.

Sincerely,

Steve Goodman

133 Pearl Street Suite 400 Boston MA 02110 (617) 292 0101 tel (617) 292 0130 fax

MTC-00031045

01/10/2002 11:06 5084863455
GLAVEY AND GLAVEY PAGE 03
Liz Chase Marino
109 Savin Street
Malden, MA 02148
January 2, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 29530

Dear Attorney Hesse,

I am respectfully submitting my opinions regarding the Microsoft antitrust case in accordance with the Tunney Act public comment period. I support the settlement agreement that has been reached between Microsoft and the government, and urge the Judge in the case to accept the Justice Department recommendation. As both a consumer and a businesspeson, I can attest to the great efficiencies and freedoms that Microsoft and its products have created. I for one do not see the great injustice that supposedly has been visited upon the consuming public. All I see are falling prices new products, a variety of vendors, and a heathy competition. Perhaps a reconsideration of how the antitrust statutes are prosecuted is in order. In any event I trust the American public will use this opportunity to speal out and let the court know what it feels. My feelings are strong and unambiguous: the nation would be best served if the settlement is accepted and the case is ended.

I truly appreciate this chance to express my opinion on this matter.

Very truly yours,

Liz Chase Marino

MTC-00031046

01/10/2002 11:06 5084863455 GLAVEY AND GLAVEY PAGE 01

Marie P. Sweeney
51 Fiske Street
Tewksbury MA 01876
January 2, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

I would like to offer my opinion during the public comment period for the Microsoft antitrust case. I wholeheartedly support the settlement agreement that has been negotiated between the Justice Department and Microsoft and encourage Judge Kollar Kotelly to accept the proposal. I have been an active citizen, both in the private sector and in public life. I fully support the use of antitrust statutes by the DOJ to protect public interests I also recognize that industries which rely on innovation need the freedom to act more or less unhindered. Microsoft must play by the rules of commerce the same as any other company, but they shouldn't be subjected to conditions set by their rivals. The agreement reached works in this spirit; the more stringent terms sought by the competitors does not.

I'm sure I am like a lot of Americans when I say that I think enough is enough. The case has gone on too long, and cost too much. Now we need to put it behind us, and move forward. The economy and the country in general both need to have the case settled, so that everyone involved can get back to business, I appreciate your consideration of my thoughts on the issue.

Respectfully,

Marie P. Sweeney

MTC-00031047

JAN.-10 "02 (THU) 11:O1 LEGG MASON—LANC. TEL: 717 560 0100 P.001

206 Granite Run Drive, Suite 150
Lancaster, PA 17601-6805
Ph # 717-560-6800 or 1-800-873-0990
Fax # 717-560-0100
LEGG MASON
FAX
To: Attorney General John Ashcroft
From: Doug Trower
Fax: 202-307-1454 Pages: 2
Phone:
Date: Re: CC:

Urgent For Review Please Comment Please Reply Please Recycle

Comments:

JAN.-10'02(THU) 11:01 LEGG MASON—LANC. TEL:717 560 0100 P.002

1934 Northbrook Drive
Lancaster, Pennsylvania 17601
January 8, 2000
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want you to know that I back Microsoft's position in the antitrust matter. Why they are being persecuted for being successful, I really don't know, but I hope that this case will finally be ended with this settlement. I would ask you to stress the terms of the settlement to the states who still haven't settled their cases yet and get them to join in, I feel that they are in it simply trying to get a buck out of Microsoft, which I don't agree with at all. Since most people depend on Microsoft, they would agree with the decision you have reached. The compromises made by Microsoft in the settlement, information sharing regarding Windows and uniform price listing when licensing software, are more than enough for me to lend my support to this settlement.

Sincerely,

Douglas Trower

cc: Senator Rick Santorum

MTC-00031048

JAN-10-2002 10:55 FROM: IMPERIUM SOLUTIONS 2032211330 TO:202 353 8856 P.001

IMPERIUM
January 10, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
VIA FACSIMILE

Dear Mr. Ashcroft;

It is in the best interest of the country, the economy and the IT sector generally for the settlement between Microsoft and the government to be accepted and finalized by the court as soon as possible. Continued litigation will only serve to further harm all of the aforementioned.

Settlement is a far better alternative to continued litigation and the goal of some who are pushing very hard to have Microsoft broken up by the government. The settlement should make even Microsoft's biggest adversaries concur because it includes many things that go well beyond the scope of the original lawsuit. On a more basic level it systematically addresses and resolves all of the major grievances of Microsoft's adversaries. For example the settlement insures that Microsoft will grant computer makers extensive new rights to reconfigure Windows so as to promote non-Microsoft software programs. This should make Microsoft's competitors ecstatic. I will refrain from going through each section of the settlement, as I am confident you are aware of its terms. However, please know that most people believe it is fair and equitable.

The sooner the settlement is finalized, the sooner technological innovation can get back on track and the U.S. economy can begin to recover. Thank you

Sincerely,

Marshall C. Harrison
Chairman, CEO
164 Kings Highay North Westport,CT 06880 Tel 203.221.1500 Fax 203.221.1330

MTC-00031049

FROM : KOHN PIRRI JR
PHONE NO. : 864 379 2454
JAN. 10 2002 10:35AM Pl
Dr. John Pirri, Jr.
1204 Greenville Church Road—Donalds, South Carolina 29638
Tel/Fax 864-379-2454
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue. NW
Washington, DC 20539

Dear Mr. Ashcroft:

The Department of Justice has already worked out an antitrust lawsuit agreement with Microsoft. The company is still trying to work out an acceptable agreement with many of the states. I think it's high time that the federal government allows this agreement to fall into place and let Microsoft get back to business.

Microsoft is being punished for pursuing the American Dream. Bill Gates has worked hard and deserves what he has. Microsoft has a direct impact on many small businesses that make up a large part of this country's economy. By continuing to distract Microsoft, you are only driving this country deeper into recession.

The settlement has enough stipulations to remedy any qualms by competitors and is fair to both the government and Microsoft. It requires Microsoft not to retaliate against computer makers who ship software that competes with anything in its Windows operating system. It also forces Microsoft to design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. Additionally, the company had to make numerous other compromises.

As a good loyal Republican please work to finalize the Department of Justice's settlement and let Microsoft get back to business.

Sincerely,

Dr. and Mrs. John Pirri, Jr.

cc: Senator Strom Thurmond
Congressman Lindsay Graham

MTC-00031050

Danny Young/FLO/NA/ESAB@ESAB
12/17/00 10:07 PM
To: Danny Young/FLONAESAB@ESAB
cc:
Subject: Data posted to form 1 of http://www.esab.com/html/drequest.html

Full Name: Steve sandstrom
Company: sandstrom services inc.
Street: 90 lexington st
City: bristol
State: ct
Zip:
Phone: 860 584 9920
Fax: 860 589 3218
Reply To: smsandstrom@snet.net
Country:
Date: 12/17/00
Time: 10:07:43 PM
Remote Name: 64.252.5.219
Remote User:
HTTP User Agent: Mozilla/4.75 [en] (Win98; U)
FROM: TIMMONSVILLE POST OFFICE 29161 FAX NO.: 8433467581 Jan. 10 2002
09:21AM P1
Letter illegible
FROM: TIMMONSVILLE POST OFFICE 29161 FAX NO. : 8433467581 Jan. 10 2002
09:21AM P2

MTC-00031051

TBA
ENTERTAINMENT CORPORATION
NASHVILLE/LONDON/LOS ANGELES/NEW YORK/DALLAS
CHICAGO/PHOENIX/SAN DIEGO/SALT LAKE CITY/ATLANTA
INDIANAPOLIS/OMAHA/SEATTLE
a business unit of TBA Entertainment Corporation (AMEX: TBA)
1100 JORIE BLVD., STE. 300/OAK BROOK, IL 60523
TEL (630) 890-2500/FAX (630) 990-0594
TO
COMPANY Attorney General John Ashcroft
PHONE #
FAX# 202-307-1454
SENT BY Robert Sheridan
EMAIL rsheridan@tbaent.com
TIME 3:17 PM
DATE January 11, 2002
NUMBER OF PAGES INCLUDING COVER SHEET 2
01/11/2002 16:15 6309900457
TBA CHICAGO PAGE 01/02
Robert M. Sheridan
3909 Rugen Road
Glenview, IL 60025
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you today to voice my opinion in regards to the Microsoft settlement case. I feel the settlement that was reached in November is a complete and thorough agreement. After three years of litigation, it is time we move on and face other pressing issues.

This settlement not only allows Microsoft to remain together, but it also contains provisions that will foster competitive activity. Microsoft has pledged to carry out all provisions of this agreement, including: sharing more information with other companies and being monitored by a technical oversight committee. Microsoft has in good faith agreed to terms that go beyond the original issues of the lawsuit, for the sake of resolution.

Again I support this settlement and sincerely hope this issue will be permanently resolved. Thank you for your support.

Sincerely,
Robert M. Sheridan
01/11/2002 16:15 6309900457
TBA CHICAGO PAGE 02/02

MTC-00031052

01/11/02 FRI 15:14 FAX 801 227 9016
GENEVA FINANCE 001
GENEVA STEEL
P.O. BOX 2500, PROVO, UTAH 84603
PH. (801) 227-9166
FAX.(801)227-9016
To: ATTORNEY GENERAL JOHN ASHCROFT
DATE: 1/11/02
FAX: (202) 307-1454
RE:
SENDER: JOSEPH A. CANNON
GENEVA STEEL COMPANY
YOU SHOULD RECEIVE 2 PAGE(S), INCLUDING THIS COVER SHEET.
IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL LORI PETERS @ (801) 227-9054
PLEASE DELIVER IMMEDIATELY

Confidentiality and Privilege Notice. This facsimile (including attachments) (1) contains confidential informaiton, (2) may be protected by the attorney-client privilege or other privileges, and (3) constitutes non-public information intended to be conveyed only to the designated recipient(s).

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Geneva Steel Company
10 South Geneva Road
Vineyard, UT 84058
Telephone: (801) 227-9054
Facsimile (801) 227-9016
Email: lpeters@geneva.com
01/11/02 FRI 15:15 FAX 801 227 9016
GENEVA FINANCE 002
GENEVA STEEL
P.O. BOX 2500
TELEPHONE: (801) 227-9000
PROVO, UTAH 84603
FAX: (801) 227-9090
January 10, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

Congratulations on successfully completing the negotiations between your department and the Microsoft Corporation. Finding the balance and fairness for both the Microsoft Company and their competitors was difficult and technical. It seems that if Microsoft can accept the parameters your have given them, the industry will be ready to move ahead with innovations and new products.

Everyone knows that the future is information, and information needs aggressive technology. Our economy and businesses rely on technology for communication and data management systems to manage their products. It is good timing to settle the issue and define the acceptable marketing practices for not only Microsoft but also other potential leaders in the technology industries.

Again, I support your department and their efforts to settle this lawsuit. Thank you for bringing the issue to closure.

Sincerely,
Joseph A. Cannon
Chairman
Geneva Steel Company
JC:lp
\Faxgate \ Users \LPeters \USER \Managers\General John Ashcroft Ltr-Joe Cannon.doc
EQUAL OPPORTUNITY—AFFIRMATIVE ACTION EMPLOYER

MTC-00031053

JAN.-11'02 (FRI) 16:39
LEGG MASON
TEL:412 833 9106 P.001
2589 Washington Road
Suite 420
Pittsburgh, PA 15241-2566
January 10, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I want to use this short letter to express my support for the settlement reached between Microsoft and the Department of Justice. I believe the settlement is a good decision and will be a good development for consumers.

The agreement requires significant changes in the way Microsoft conducts its business. The changes include agreeing that if a third party's exercise of any options provided for by the settlement would infringe any Microsoft intellectual property right, Microsoft will provide the third party with a license to the necessary intellectual property on reasonable and non-discriminatory terms. Like many of the other terms in this agreement, this is a significant concession. The government should view this as a good agreement for Americans.

The settlement will also be good for the American economy. It will provide some certainty to the computer industry and give consumers more freedom in choosing the products they desire. So I believe this agreement is good for the public and should have continued support at the federal level.

Sincerely,
Dean Mack in
cc: Senator Rick Santorum

MTC-00031054

01/11/2002 16:44 502-561-5154
TARC IT DEPT PAGE 01/01
1918 Palatka Road
Louisville, KY 40214
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a computer programmer and Microsoft user, I am writing to express my opinion of the recent antitrust case settlement between Microsoft and the US Department of Justice. Although I am happy to see that Microsoft will not be broken up, I do think the settlement as it stands is too harsh.

Microsoft has been the leading innovator of technology in the tech industry over the last decade, They have created and refined systems that have benefited the whole industry. While I do think that Microsoft should maintain better relations with computer makers and software developers, they should not have to disclose the secrets of their technology.

I am happy to know that this matter is being settled and I hope that no further litigation will be brought against Microsoft.

Sincerely,
Wanda Doherty

MTC-00031055

Jan 11 02 03:09p Don Read
610–970–5567 p.1
Evergreen Consignment Company, Inc
810 Spruce Street
Pottstown, PA 19464–4218
610–970–9925
January 11, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

It is in the best interest of the American public for the Department of Justice to finalize settlement with Microsoft in the antitrust case and for your office to urge the none states in opposition to settle as soon as possible.

A number of the concessions violate Microsoft's rights in a free market. For instance, to restrict Microsoft from entering into third party agreements for exclusive or fixed percentage distribution inhibits their ability to compete. Service companies such as Pepsi and Coca-Cola rely on these third party agreements to gain market share.

I also believe that Microsoft should be rewarded for its innovation in the tech sector. Much time and money has been spent on redeveloping Microsoft's superior products and services and to have to disclose that information violates their intellectual property rights. Microsoft is also one of the few companies who constantly updates and improves it software. I have a whole shelf of software from other companies that they are either impossible to get a hold of or was just interested in selling you the initial program. I know my Microsoft products are going to be usable and upgradeable for a while.

Our nation's government should be focusing on ways to ensure security for our people and help us lift out of recession. Hindering our industrial powerhouses will only hurt our economic recovery. I urge your office to do the right thing and suppress opposition and finalize the settlement.

I also want to thank you for your services to this Country during these unprecedented times and Americans fully support your efforts.

Sincerely,
Don Read President
cc: Senator Rick Santorum

MTC-00031056

Jan 11 02 01:14p Richard Woodrow 970–945 7114 p.1
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Fax 1–202–307–1454

Dear Mr Attorney General:

It seems like only yesterday you were in the United States Senate and we both lived on Justice Court across from the Hart Senate Building. I was a staffer then for Senator Stevens of Alaska. Unable to chat going and coming from work now, I am writing this letter instead.

I am one of the many Americans who believe that the antitrust case against Microsoft should have never been initiated or brought to trial. However, now that Microsoft has accepted the settlement in this case, I trust you will continue to support the settlement and end this case.

In my view the settlement creates more openness and competition in the IT industry by giving competitors greater access to Microsoft designs and codes. Microsoft's disclosures to competitors under this settlement are unprecedented. Nevertheless, anti-Microsoft forces may try to derail the settlement and have the base brought back to trial. Considering the expense and unfairness of this case from beginning, I hope you won't allow this to happen and will see the settlement completed.

Again, I ask that you do your best to end the federal case against Microsoft.

With best wishes and congratulations for the fine job you are doing with the President.

Shirley Woodrow
401 W Yale Circle
Glenwood Springs, Co
81601–2851

MTC-00031057

01/11/2002 13:23 6304430047
NOVIX NET SPEC INC PAGE 01
NOVIX
NETWORK SPECIALISTS INC.
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to voice my opinion in regards to the Microsoft settlement issue. I am happy to see your office reach a settlement after such little time given the preceding administrations actions.

Microsoft has generated standards where there were none. The United States would not be the dominant player that it is in this arena without the de facto standards created by Microsoft.

Although the remedies in the settlement may not be perfect, breaking this company up would is the wrong answer. Uniform pricing requirements (please!) and non-retaliation agreements beat dissolution any day. I believe we should let this company move forward and focus on business. Let the cry babies work instead of relying on an inherently inefficient system to help them compete.

I feel it will serve in the best public interest to end litigation against Microsoft. Thank you for your support.

Sincerely,
Erich Schoen
cc: Representative J. Dennis Hastert
P. 0. Row 149. Geneva, IL 60134 Phone (630) 443–0036
FAX: (630) 443–0047

MTC-00031058

01/11/02 FRI 11:21
FAX 801 994 7991
UPP 001/001
Rob Bishop
January 10, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

This letter comes to you in support of the settlement proposal for the Microsoft anti-trust lawsuit. Good Republican principles allow businesses to seek their own markets and compete fairly. The settlement appears to address concerns from AOL, Sun Microsystems, Oracle, IBM, and Apple. These companies should be pleased with the work you have done.

Your office is doing a great job in behalf of America's citizens.

Thank you,
Rob Bishop
Former Utah Republican Party Chair
74 North 300 East
Brigham City, Utah 84302

MTC-00031059

01/11/02 FRI 15:02
FAX 801 994 7991
COMMUNICATIONS 001/001 W
January 10, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I want to take this opportunity during the open public comment period to forward my support for the settlement the department negotiated with the Microsoft company on the anti-trust lawsuit. Intervention by the federal government into the information technology industry has slowed the American economy and unfortunately caused financial losses to major investors. Bringing the case to closure will be greatly appreciated in the financial community. The points of agreement have given fairness to the industry and have defined how information technology companies can market their products. We live in an information age and transferring and using this information is reliant on the superior computer technology products we enjoy.

Ending this lawsuit will allow product developers and marketers to move into the future with a new understanding of the laws that govern their industry.

Again, I urge your support for the settlement.

Sincerely,
Jeff Wright
President
W Communications

MTC-00031060

Sent by: Ron and Dee Stephens
757-523-7003
1/11/2002 5:04 PM
Page 1 of 1
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

In regards to the settlement that was reached in November between Microsoft and the government, I feel this settlement is fair and reasonable, and I believe it is time to finally end this dispute. It will benefit the technology industry and consumers.

Microsoft is a company that has impacted our society and lives in the last fifteen years. Thanks to innovative design and persistence, Microsoft has gone from a fledgling company to a giant enterprise. Microsoft should not be penalized for this. To end this litigation, Microsoft has agreed to provisions that go way beyond the original issues of the lawsuit.

It is time to allow Microsoft to focus its energies on more productive activities than litigation. Please do your part to ensure there will be no further action against Microsoft at the federal level.

Sincerely,
Ron Stephens
641 E Fox Grove Court
Virginia Beach, VA 23464

MTC-00031061

JAN-11-2002 02:45 P.01
BLANKENSHIP CONSTRUCTION, INC.
POST OFFICE BOX 460—BUTTE, MONTANA 59703
Telephone (406) 494-3450 Fax (406) 494-3960
January 11, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing you today to voice my opinion in regards to the settlement that was reached with Microsoft on November 2, 2001. I believe this settlement is fair and complete, and I am happy to see this dispute come to an end.

I do not feel that Microsoft got off easy on this settlement. In fact, Microsoft agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit, for the sake of wrapping up this suit and being allowed to get back to business as usual.

This settlement will benefit the technology industry, the economy, and consumers. After three long years of litigation, it will be refreshing to see Microsoft's resources and time go to innovation, rather than litigation. Thank you for your support.

Sincerely,
Bernice Blankenship
P.O. Box 460
Butte, MT 59703
TOTAL P.01

MTC-00031062

Jan 11 02 04:35 p
TIMS INC 4404605424 p.1
T. I. M. S.
digITal business works
301 Alpha Park
Highland Hts. OH 44143
phone: 440-461-8467
fax: 440-460-5424
www.timsol.com
January 11, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing because I am concerned about the status of the settlement reached between Microsoft and the federal government. I understand nine states and DC were party to the lawsuit, but refuse to join the settlement, and that they and Microsoft's business adversaries are trying to scuttle it in order to continue suing Microsoft. To allow this to happen would be a miscarriage of justice as well as cause a potentially devastating impact on the technology industry.

The government went too far -when it filed charges against Microsoft and the lawsuit should have never taken place. However, the settlement is a much better alternative to continued, protracted, and costly litigation at the taxpayers' expense. Settling this matter will also allow Microsoft to re-focus its attention.

Interestingly enough, the issues at hand are out of date because Microsoft had already taken steps to improve its relationships with its vendors and OEM's. In spite of this, Microsoft's adversaries proceeded with the lawsuit. Their intentions were not pure and consequently led to a three-year-long court battle that negatively impacted the technology industry with respect to innovation.

The settlement is totally fair and should be accepted by all of the parties involved. It addresses and resolves all of the complaints against Microsoft. In fact, it goes above and beyond the scope of the original complaints. I urge you, as a member of the IT Industry, to move forward with finalizing the settlement.

Sincerely,
Jeffrey Kirk
Project Manager
100 OUTSTANDING GROWTH COMPANY
North Coast ORACLE Resource Service
Microsoft CERTIFIED Partner Cleveland
Chicago

MTC-00031063

01/14/2002 19:32
9133419697
WARSHAWSKY PAGE 01
Susan M. Warshawsky
8101 Nall Avenue
Prairie Village, KS 66208 4946
January 14, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am concerned that the antitrust settlement reached between Microsoft and the Department of Justice is not yet concrete. Nine states now, including Kansas, are actively seeking to overturn the terms of agreement and bring further litigation against the Microsoft Corporation. Our American IT industry has come to a standstill while this decision has been drawn out.

Sir, as you are well aware, Microsoft and the Department of Justice came to this agreement after a long process of negotiation overseen by a court-appointed mediator. The terms of this settlement are equitable, both from the standpoint of Microsoft and its competitors. Microsoft has agreed to a broad range of terms, including, but not limited to, the disclosure of various integral line code, protocols, and interfaces within the Windows operating system, as well as reasonable, non-discriminatory licensing of applicable intellectual property rights.

I do not believe it is necessary to keep the case open any longer. I am satisfied that justice has been done. For the good of the American economy and the American IT industry, I urge you to let the settlement be approved.

Sincerely,
Susan Warshawsky

MTC-00031064

01/11/2002 17:53 2152421475
FORDE G AND J PAGE 01
George S. Forde, Jr.
[215] 242-1475 (facsimile)
[215] 242-8332 (voice)
georgeforde@home.com
PA Atty. ID # 02820
Fax
To: Department of Justice
Office of the Attorney General
Fax: 202-307-1454 Pages 3 (including cover sheet)
Phone
Date: Friday, 11 January, 2002
Re: Microsoft Settlement
cc: Hon. Rick Santorum
MS Freedom to Innovate Network
—Urgent—for Review
—Please Comment
—Please Reply
—Please Recycle
Comments:
See Attached
01/11/2002 17:53 2152421475
FORDE G AND J PAGE 02
8401 Seminole Street PHILADELPHIA, PA 19118-3725
[215] 242-8332 (voice)
[215] 242-1475 (facsimile)
[215] 284-1739 (cellular)
georgeforde@HOME.COM
PA Atty. ID # 02820
FACSIMILIE & E-Mail 1
Friday, 11 January, 2002
Honorable John Ashcroft
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear General Ashcroft,

Public opinion regarding the settlement of the antitrust case between Microsoft and the US Department of Justice has been solicited. I offer this opinion as one who has been an interested user of computers for personal and business purposes since 1978 (before there was a Microsoft). This has made me a bit of a student of industry and, eventually, an investor in technology. So, I must admit to significant [for me] holding in MSFT—as well as in companies that might be considered to be its antagonists in this matter. Still, I am not an apologist for Microsoft and believe that, on balance, I must agree with the presentation of this settlement made to the Judiciary Committee by Mr. James of your office on 12 December.

Microsoft is a monopoly. Paradoxically, I believe it got there, in part, with the help of competitors like Apple, 2 IBM 3 and others who just failed to properly market sometimes superior product. Contrary to its claims, 4 the company is not particularly innovative, and its first offerings of its [E.g., MultiPlan, DOS, Windows, Excel, Explorer, and so on] have been acquired and, at first, poorly implemented compared to others [Such as VisiCalc, Lotus, or Resolve; CP/M and MacOS; Netscape...].

However, Microsoft rather than being anti-competitive is hyper-competitive. It learns from its mistakes and is increasingly better at execution of the ideas, whatever the source, and it continually improves on them. It delivers what the consumer demands [eventually] at a [hopefully] reasonable cost. For it own good, Microsoft cannot afford to have the rivals all go away, though many have. Neither the Department nor the defendant got all the marbles at end of

* Note: Due to the Excite@Home bankruptcy, this address will be inoperative after 2/28/02, from 3/1/02 forward (possibly earlier), please use georgeforde@Comcast.NET.

1 Signed original available on request

2 Which bundled the MS spreadsheet "MultiPlan" with the first Macs.

3 Which opened the PCJr to DOS

4 But do really like Mr. Gates, based on a couple of brief encounters at a local users' group and more distant observation over the years. He and Microsoft have done a great deal for all computer users.

01/11/2002 17:53 2152421475

FORDE G And J PAGE 03 this case. That's the nature of a legal settlement. What has been crafted seems, to me, to serve the best interests of the public and the industry.

One thing to remember is that, while the focus of the case has been the "Wintel World," and allegations of maintenance of the OS monopoly; however, the market is much larger than that. For example, while I use both Widows and MacOS, I very much prefer the latter, but I use the same Microsoft applications [I.E. and Office] on both platforms.

I am concerned, therefore, that a separate settlement by the non-joining states—if it follows the path offered to them by Microsoft—would actually weaken the effect of this settlement by making those states accomplices in plan to cannibalize the Apple [and other] share of the education market. No need to spell out the obvious here, but, if the states want compensation, it should be paid outright or in the form of grants to technological projects and spending not defined by the defendant. If possible, those states should not be allowed to make a separate peace that would undermine this one.

Sincerely,

George S. Forde, Jr.

cc: Senator Rick Santorum (facsimile only)

Microsoft's Freedom to Innovate Network (facsimile only)

MTC-00031065

1/11/2002 2:48 PM FROM: Fax TO: +1 (202) 307-1454 PAGE: 001 OF 001

JRE CONSULTING, INC.
Computer & Software Sales—Small Business Specialists
216 N. Tillamook St., Portland, OR 97227
(503) 281-3291
FAX (503) 288-3087
Email jre@jre.com
WomanBusiness Enterprise, SBA Hubzone

January 11, 2002

John Ashcroft, Attorney General
US Justice Department
Washington, DC 20530

Dear Mr. Ashcroft,

I understand how many could assume that Microsoft has been a bit overprotective regarding its software, and this may have led to the perception that Microsoft was trying to monopolize the market. However, much that has been said regarding their so-called "monopolistic" tendencies is simply rhetoric. What Microsoft has done to protect its proprietary products is both prudent and reasonable.

I therefore believe that the origins of this lawsuit are more because of Microsoft's competitors' efforts at using our legal system to force Microsoft to give up part of its own product code, rather than from any actual unfair monopoly. This is but one area that the recent settlement addresses.

While I have not had the time nor the motivation to pore over every detail of this settlement, at first blush it appears to cover all the points of the lawsuit—and then some. If anything, the settlement may have gone too far, but since both parties have agreed to it, then it is better to get on with it. I am therefore writing this letter to urge its final acceptance.

Sincerely,

Joseph Engel—President

MTC-00031066

From Charles W Harris to 1-202-307-1454 at 01/11/2002 6:26 PM Pg 002/002

2303 Chatam Avenue Southwest
Decatur, AL 35603-1815

January 11, 2002

Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I write you regarding the recent Microsoft settlement. Just when I thought that it was settled, I find out that the settlement is being further investigated. It seems that after three years of court battles, that the fairness of this settlement is still being questioned. This seems to simply be delaying the process.

Since the settlement requires Microsoft to disclose information about Windows interfaces, as well as restructure both licensing and marketing campaigns, it seems that it can only be beneficial to all involved. By allowing this settlement to stand, as is, our technology industry can continue to grow, and help get our economy back to normal.

It seems foolish to spend scarce resources on delaying the enactment of this, well thought out, settlement. As we continue to delay the competitive process, we continue to delay the growth of our IT sector. Let us support the technological growth of our country by allowing the market to move on. Let us make sure that no more action be taken against the settlement so that we can allow our technology industry to focus on business today. Thank you.

Sincerely,

Charles Harris

MTC-00031067

GREGORY BEDNAR TEL NO. 330-493-4843 Jan 11.02 20:15 P.01

3728 Edgehill Circle NW
Canton, Ohio 44709-2232 U.S.A.
Voice/Fax 330-493-4843
E-mail: gbednar@neo.rr.com

January 11, 2002

Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue. NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I support the settlement of the antitrust litigation against Microsoft. Continuation of this suit does not serve the best interests of consumers or the economy. I would appreciate your consideration of the following items.

I am a retired police lieutenant. As I am retired, I spend a great deal of time on the computer, and on the internet. I have used Microsoft software since the early days of DOS. Microsoft has continually produced quality, user-friendly products. As a result of Microsoft's innovations, consumers have had available to them the very best technology. Over the years, other companies, such as IBM and Linux, have produced software, which simply cannot compete with Microsoft's products. Microsoft's success has resulted in the government's needless meddling in our free market. The problem is not that Microsoft has engaged in predatory business practices. Rather, this suit was brought as a result of the failure of other companies to compete at the same level as Microsoft.

The antitrust case should not have been brought against Microsoft in the first place, I believe political factors, more than merit, played an integral role in the initial decision to file this suit. During this time of economic recession and the threat of terrorism, the government's resources should be allocated to pursuits other than needless litigation. Similarly, Microsoft's should be free to engage in what it does best—innovation of new and better products for its consumers. When this happens, the economy will surely benefit.

Thank you for considering these comments.

Sincerely,

Gregory Bednar

MTC-00031068

01-11-02 18:22 From—FINANCIAL PACIFIC 9166303889 T-300 P.O1/O1 F-914

FINANCIAL PACIFIC
Direct Dial Direct Facsimile
(916) 386-3833 (916) 386-3889

January 8, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington; DC 20530–0001

Dear Mr. Ashcroft:

Even though the effects of this Microsoft lawsuit would not have had any immediate effect upon my company, eventually public confidence in the entire computer industry could have eroded to the point where most software developers would have been distracted from their core business of new software development and forced to concentrate on marketing and sales concerns.

As such, the settlement is an important decision. I ask you to continue to support it through the comment period, and preserve the spirit of free enterprise and the pragmatism of consumer confidence. The settlement clarifies what constitutes unfair behavior in the marketplace, and Microsoft has agreed to end its retaliatory actions toward software companies that write programs that compete with Microsoft's, and toward hardware companies that load non-Microsoft software onto their computers before shipping.

The IT industry has led our national economy through one of the longest running periods of economic expansion in our country. I am looking forward to the settlement as a signal that once again, our economy can recover with the IT industry leading the way. I support this settlement, and I hope that no further federal action will be contemplated against Microsoft.

Sincerely,
Timothy N. Blaede
Vice President, Information Services
FINANCIAL PACIFIC INSURANCE COMPANY
P.O. Box 292220
Sacramento; California 95829–2220

MTC–00031069

JAN 11, 2002 5:48 PM SUMC STRUCTURAL BIO NO. 8502 P.1

STANFORD
SCHOOL OF MEDICINE
Stanford University Medical Center
DEPARTMENT OF STRUCTURAL BIOLOGY
10 January 2002

To whom it may concern:

The following is a comment on the proposed settlement in the United States vs. Microsoft case.

The intent of our statement is to bolster the comments of the alternative software camps, such as the Open Source Movement, the Free Software Foundation, Linux, the Samba group, et. al. We wish to support the issues and suggestions that these groups will present to this court.

We are scientists who use computers to investigate fundamental questions of molecular biology. In our work we use a wide range of computers and operating systems. However, the overwhelming majority of our experiments are done on UNIX operating systems, such as Linux, IBM's AIX, Compaq's Tru64 and SGI's Irix. Linux clusters are the workhorses of our research. Using Microsoft products to crunch genetic codes would not be a question of cost, it would simply be impossible. Microsoft and Microsoft products severely restrict the users' ability to access low-level system functions necessary to develop large-scale scientific applications. These restrictions are completely understandable from a business perspective, and we are not expecting the situation to change, Microsoft Windows and Microsoft products are targeted to businesses and consumers, and not to a relatively narrow but important community of scientists who crunch numbers and run molecular and genetic simulations. Our needs are met very well by the proprietary Unix variants, as well as by a vast collection of programs copyrighted under the Gnu Public License and its related variants.

We are worried, however, that in its quest for dominance in new and emerging markets, Microsoft will severely endanger the very survival of the solutions mentioned in the preceding paragraph. If our tools are forced out of existence through increasing isolation and propriatorization of standards. We will have no replacement, and science will be greatly harmed as a result. Our case quite different from, say, Microsoft Word displacing Word Perfect as the dominant word processor with help of superior programming or better business marketing. The issue that Open Source software should be protected by the First Amendment (although an important one) is not entirely on point to this litigation. In this comment we would like to point out that some of Microsoft's business practices can and will degrade the ability of alternate software solutions to communicate with each other and with the vast majority of the worlds computers running Microsoft Windows. We are especially concerned with the continuing ability for different computer systems to coexist and share resources, such as file systems, Internet protocols, printing, programming languages, data formats.

Sherman French Building
Stanford CA 94895–5128
659 723 6791
800 723 9124
http://structuralbiology/stanford.edu

JAN 11, 2002 5:48 PM SUMC STRUCTURAL BIO NO. 8502 P.2

STANFORD SCHOOL OF MEDICINE
Stanford University Medical Center
DEPARTMENT OF STRUCTURAL BIOLOGY

We do not know which of the possible outcomes of this lawsuit will serve the scientific community best. We simply want to remind the court to consider our interests in any remedy that it shall prescribe.

This statement is not intended to list the exact technical issues that would threaten the software solutions that are important to our research. Rather, we request that the court listen to suggestions from the following groups on the settlement:

Free Software Foundation http://www.fsf.orq Samba Group http://www.samba.org.

IBM Corporation http://www.ibm.com SGI (Silicon Graphics) http://www.sgi.com Red Hat Corp. http://www.redhat.com

SuSE http://www.suse.com

Sincerely,
Boris Fain PhD bfain@stanford.edu
Michael Levitt michael.levitt@stanford.edu
David Saunders dsslaw@earthlink.net
Patrice Koehl PhD koehl@csb.stanford.edu
Chris Summa csumma@stanford.edu
Nizar Batada nbatada@Stanford.edu
Computational Structural Biology group, Stanford University http://csb.stanford.edu
Sherman French Building Stanford CA 94895–5128
659 723 6791 800 723 9124 http://structuralbiology/stanford.edu

MTC–00031070

01/15/1995 19:31 216400 CAROL WHITE Page 01

1–11–02

Justice department should leave Microsoft alone. A good settlement for this company is in the best interest for America. This Company provides good jobs & is run by good people. It's time to do the right & good things for our country.

Carol L. White
Everett, Wa. 98203

MTC–00031071

Friday, January 11, 2002 8.24 PM John O'Flaherty 360 825 0302 p.01

FAX
ATTN. Mr. John Ashcroft
Fax Number 12023071454
Phone Number
FROM John O'Flaherty
Fax Number 360 825 0302
Phone Number 360 825 2977
Number of Pages 2
Date 1/11/2002
MESSAGE:

Friday, January 11, 2002 8.24 PM John O'Flaherty 360 825 0302 p.02

DOROTHY O'FLAHERTY
42822 257th PLACE SE
ENUMCLAW, WA 98022
January 11, 2002
Attorney General John Ashcroft
United States Justice Department
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing to you today to express my support of the settlement reached last November. Three years have past in which Microsoft has been subjected to legal harassment at both the state and federal level. I believe that the settlement is beneficiary in that it will allow Microsoft to focus on business.

The lifting of contractual restrictions under the terms of this settlement will have a major impact on the technology industry. Microsoft has agreed not to enter into any contracts with vendors or manufacturers that would favor Windows technology exclusively or at a fixed percentage. In addition, Microsoft will not enter into contracts that would obligate software developers to develop only Microsoft software.

These agreements should appease Microsoft competitors. I am just happy to see an end to this nonsense.

Sincerely,
Dorothy O'Flaherty

MTC–00031072

From PETER HOLDEN to 1–202–307–1454 at 1/11/02 10:45 PM Pg 001/001

19312 East Eldorado Drive
Aurora, Colorado 80013

January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Microsoft and the Justice Department have come to an agreement in the antitrust case. This agreement has led to a settlement that could finally put this case to rest. It is my hope that you will strongly support the settlement and ensure it is put into put into place so this case can end at the federal level.

I have worked in the software industry since the early 1980's and saw the popularity of Microsoft products raise not because of monopolistic practices but because of their ease of use. Because of Microsoft millions of average persons are able to use computers, and not just hobbyists and professionals. The settlement is on the table will help to alleviate any concerns about competitiveness in the IT industry. What is most beneficial about the settlement is that it will end this case and allow the IT industry to start focusing on software and not court cases.

I support this settlement, and look forward to seeing the case resolved.

Sincerely,
Peter Holden

MTC–00031073

JAN–1–12–02 12:00 AM 728 32746 510 429 0968 P. 02
FAX MESSAGE
To To ATTNY General John Ashcroft From From Pat Faria
Tel. 510–429–0968
Fax. 510–489–3214
Number of pages (including coversheet 2
Date Jan. 11, 2002 Time 10:30 Am
Message box
Attached is letter re: Microsoft
Please read

This fax was generated and transmitted by computer using software from Trio Information Systems

MTC–00031074

FROM: the Parks FAX NO.: +1–650–369–3291 Jan. 11 2002 11:34PM P1
3149 Page Street
Redwood City, California 94063
10 January 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW., Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement

Dear Ms. Hesse,

As a home and office computer user, I'm writing to express several concerns with the proposed settlement. The "PLAINTIFF LITIGATING STATES" RE-MEDIAL PROPOSALS" dated December 7, 2001, are excellent; I would focus on a few points.

My first concern is in article III (Prohibited Conduct) section B, paragraph 3: "market development agreements". Did not such market development agreements provide the means by which Microsoft illegally leveraged its operating systems monopoly into other areas?

A second concern is in III,J,1, where Microsoft is excused from disclosing anything that might compromise "security". This is far too broad an exemption! You may be aware that Microsoft altered the Kerberos security protocol in undocumented ways. Does not this clause allow them to keep those modifications hidden in the name of security? In fact, this exemption would allow them to continue excluding non-Microsoft servers.

Indeed, as CNET News analyst John Borland says, Despite those restrictions, the agreement would not force Microsoft to change its own software-a critical omission that critics say makes the deal relatively toothless. The provision would allow the new XP operating system to remain as is, and it would allow Microsoft to continue to add new features that compete with independent companies" products, such as audio and video players, instant messaging, or voice telephony features. That means Microsoft would retain its platform for putting virtually any software function only a mouse-click away from consumers.

Finally, having read through Judge Jackson's Findings of Fact, and the order from the Court of Appeals, I find it offensive in the extreme that "this Final Judgment does not constitute any admission by any party regarding any issue of fact or law" (preamble of Proposed Final Judgment). The Appellate court upheld Judge Jackson's findings of fact, and they also agreed unanimously that Microsoft illegally leveraged their monopoly power in Operating Systems into other areas.

Thank you for your attention.

Very truly yours
Collin Park
Reply fax
360–351–0021

MTC–00031075

JAN–12–02 12:00 AM 728 32746 510 429 0968 P. 01
372 Tropicana Way
Union City, CA 94587–4122
January 10, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW.,
Washington, DC 20530–0001

Dear Mr. Ashcroft:

After three long years of court battles, Microsoft and the government have settled an antitrust lawsuit that has profound implications for all software publishers, the rest of the Information Technology industry and consumers. The settlement they came up with is more than fair and reasonable, and was arrived at after extensive negotiations with a court-appointed mediator.

Under the agreement, computer manufacturers were granted new rights to configure system with access to various Windows features. Microsoft must design future versions of Windows to make it easier to install non- Microsoft software and to disclose information about certain internal interfaces in Windows. The government created an onqoing technical oversight committee to review Microsoft software codes and books, and to test Microsoft compliance to ensure that Microsoft abides by the agreement.

Microsoft made many more compromises that will significantly benefit its rivals. Further federal litigation against Microsoft would be considered by many as nothing more than harassment. It's time for the government to let the settlement fall into place.

Sincerely,
Pat Farin

MTC–00031076

01/12/02 10:16 516 360 2176 ROGER TEURFS P. 01
Roger Teurfs
7 Partridge Lane
P.O. Box 477
Saint James, New York 11780
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement that was reached in November. I feel this settlement is adequate to address the issues of this anti-trust dispute. It is time to let drop this issue and move on to more pressing concerns facing us today.

The settlement was reached after extensive negotiations and is complete. Microsoft has agreed to carry out all provisions in this document, including: disclosing more information to competing companies, being closely monitored for compliance with the terms of the settlement, using uniform pricing when licensing Windows, and non-retaliation agreements with vendors.

This settlement will benefit the economy and do a lot of good. I sincerely hope there will be no further action against Microsoft at the federal level. Thank you for your attention to this matter.

Sincerely,
Roger Teurfs

MTC–00031077

01/12/2002 09:31 217–536–5250 JAMES R BOND PAGE 01
P.O. Box 954
Effingham, Illinois 62401
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530

Dear Attorney General Ashcroft:

I wanted to let you Know what I thought of the case against Microsoft, This case was totally unnecessary, and I am writing you today to express my opinion on the Microsoft settlement issue. I feel the settlement that was reached on November 2. 2001, is fair and reasonable. I am glad this three-year-long dispute is finally resolved.

Microsoft is a company that has done much for our economy and has made many contributions to the technology industry This company should not be punished for being successful and creating quality products. Microsoft should be able to devote its time and resources to creating and marketing its innovative software, rather than litigation.

I am very pleased with your decision to settle with Microsoft This decision is a step in the right direction towards an improved economy Thank you for your support

Sincerely,
James Bond

MTC-00031078

FROM : Fred Marklund FAX NO. :
0000000000 Jan. 12 2002 07:18 AM P1
Fred Marklund
263 North Shore Rd
Lake Oswego, OR 97034-3807
January 12, 2002
RENATA B. HESSE
ANTITRUST DIVISION
US DEPT. OF JUSTICE
601 D STREET, NW., #1200
WASHINGTON DC 20530
Re: Microsoft

To Whom It May Concern:

The federal government won the case and then just "pissed" it away in the last couple of months.

Microsoft is a true monopoly. The company is a reflection of its corporate officers. There are no morals, ethics, integrity, or sense of fair play. Those boys and girls reflect the motto, "He who dies with the most toys wins."

Windows" source code needs to be in the public arena. Microsoft is entitled to payment for the source code each time it is used, but their products cannot have secret "hooks" into Windows that no other company has. It needs to run Java, too.

Management of Microsoft has nothing but contempt for the rule of law. They have abused the first court case a number of years ago. You can be darn certain they will abuse this decision.

I think Windows, NT, and Internet Explorer need to be broken off into a separate entity with a strong master overseeing every move they make. Again the leadership of Microsoft is totally and irrefutably unscrupulous. They are the Mafia of the software industry. Would you trust the Mafia?

Sincerely,
Fred Marklund
CC: Bob Williams at EFF

MTC-00031079

01/12/02 SAT 11:17 FAX 800 641 2255 001
To: Renata B. Hesse
202-307-1454
Microsoft Antitrust Settlement
0l/12/02 SAT 11:17 FAX 800 641 2255 002
3705 Purks Court
Alexandria, Virginia 22309
January 11, 2002
Attorney General John A&croft
US Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter so that I may go on record as supporting the settlement that was reached between Microsoft and the Department of Justice. Although I am not happy with all of the details in the settlement, I am glad to see that the antitrust suit has been terminated. Microsoft should have never have had to go to court and defend itself against ridiculous charges of antitrust violations. Apparently three years back, the Department of Justice had nothing better to do than to chase after Bill Gates and his successful corporation. Microsoft has been extremely beneficial to America. They helped give us the most successful economy in history, only to have it derailed by the DOJ. Remember, the economy started to slide when the lawsuit was announced, and now we are in a recession. Now that there is a new administration, please correct the wrongs that were committed against us by the Clinton years and approve the settlement as soon as possible.

Microsoft has been incredibly beneficial to America, and this settlement will help them get back to where they used to be. A healthy Microsoft equals a healthy economy, which equals a healthy America.

Sincerely,
Adrian Sobie

MTC-00031080

Douglas P. Fields
100 Midwood Road
Greenwich, CT 06830
TEL: (203)661-2978
FAX: (203)661-2996
DPFEagle@msn.com
By Fax: 1 202 307 1454 or 1 202 616 9937
By Email: microsoft.atr@usdoj.gov
January 12, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I believe that the antitrust case against Microsoft was inappropriate from its very inception and that the government should not have interfered with one of our country's most successful and innovative private businesses on the basis represented by the antitrust suit. I am pleased that the Justice Department has finally decided to reach a settlement in this case. It has been three long years.

Microsoft has given up a lot in this settlement. It has agreed to make future versions of Windows easier to use non-Microsoft software, and it has agreed to disclose a lot of information on the internal operating system, which is a first as far as I know.

I am certainly happy that government has decided to limit its involvement in Microsoft's business affairs, at least for now. I hope that continues to be so. Thank you for taking the time to read my opinion on this matter.

Sincerely,
Douglas P. Fields
JAN-12-2002 11:14 PSC/TDA
GREENWICH OFFICE 2036612996 P.01/01

MTC-00031081

The McClure Company, Inc.
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement reached in November. This settlement is fair and reasonable, and I for one am tired of this on-going debate. It is time to end this litigation and deal with more pressing concerns.

I am a believer in free enterprise, and I do not believe Microsoft should be punished for doing its job successfully. This settlement was reached after extensive negotiations. Microsoft has agreed to all terms of the agreement; terms that extend well beyond the issues of the original lawsuit, all for the sake of moving on from this continued litigation. Microsoft will, for example, share information with its competitors regarding the nature of Windows, which will all them to place their own programs on the operating system.

We are facing economic difficulties at the present time, and it would not be productive to waste our time on this issue. We must do all we can to boost our economy. Restricting Microsoft will not accomplish this. This fight should have never been started. But now that it has, let's end it and go forward.

Thank you,
George McClure
P.O. Box 1231
Woodstock, GA 30188
(770) 591-1808
FAX (770) 924-6246

MTC-00031082

Jan 12 02 11:07a James M Cox 516-399-8166
p.1
James M Cox
44 Carlin Drive
Mastic, NY 11950
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530

Dear Attorney General Ashcroft:

I am writing to express my sentiments regarding the Microsoft settlement. I feel that your office has reached a fair and reasonable agreement that will provide certainty about the new rules imposed on the IT sector. I do not see any benefit in pursuing further litigation at the Federal level, and am happy to see that your office will be free to pursue more urgent matters affecting our nation.

The settlement will benefit all software publishers, the IT industry as a whole, and consumers. The resumption of competition will stimulate our economy, while giving the consumers more choices. As far as the competition is concerned.

Microsoft will change the way it develops, licenses, and markets its software in order to accommodate independent vendors. Furthermore, Microsoft is required to make available its technology to a competitor, should that competitor infringe on its intellectual property.

We don't need more federal litigation to keep Microsoft in check. Under your settlement, competitors can sue Microsoft if they don't think the company is complying with the terms of the agreement. I think that the complaints that brought about the lawsuit have been addressed, and that your office has set up protocol on how to handle future problems. Your office has done its job, and now it is time to let businesses compete. I want to let you know that I approve of your settlement agreement, and I appreciate your taking the time to hear my opinions on the matter.

Sincerely,

James Cox

MTC–00031083

Jan 12 02 12:09p milt ackerman 954–763–1244 p.1
Richard Ackerman
140 Elm Drive, Roslyn, New York 11576
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530

Dear Mr. Ashcroft:

As a business owner, I am quite familiar with how nonproductive expenses can hurt your business and, in turn, your customers. The amount of money that has been wasted on the Microsoft vs. US suit escapes reason. Both the federal government and Microsoft have spent millions of dollars on the suit; money that could have been better spent, in the case of the Department of Justice pursuing true criminals and in Microsoft's case, creating better technology products for the consumer. The problem that the federal government has created in the economy and in the IT industry with this lawsuit will take years to repair.

Like many residents of New York, I am relieved that the lawsuit may have finally found a resolution at the federal level. The end to this entire matter cannot come soon enough. The suit has become a burdensome ordeal for all the involved parties. For Microsoft, the task of having to defend itself as a business before the federal government for working in the same way any other business might is an embarrassment to the American way of doing business. It is time that the Department of Justice ends this suit once and for all. The terms of this settlement allow for the public interest to be represented. Please move on and end this judicial debacle.

Sincerely,
Richard Ackerman

MTC–00031085

1/10/02 THU 15.44 FAX 800 641 2255 002
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW.,
Washington. DC 20530

Dear Mr. Ashcroft:

I was very glad to see that after three long years of legal battles, Microsoft and the Department of Justice came to a settlement on the anti- trust suit. The current agreement requires Microsoft to compromise on many issues while still allowing for a competitive market. While Microsoft may be giving up a great deal, it believes that to settle the suit now would be beneficial to the IT industry.

Those that continue to seek further litigation are only spending tax dollars on a battle that has already been won. This settlement is fair and reasonable to Microsoft competitors and consumers alike. Microsoft will allow its competitors access to sensitive coding and software information. This access will make it easier for computer manufacturers to remove Microsoft programs from Windows and replace them with other companies" products. The settlement will create an oversight board that will ensure Microsoft complies with the settlement.

It is apparent that Microsoft isn't getting off easy with this settlement. I support the agreement, and hope it is implemented as quickly as possible so that Microsoft can reclaim its leadership role in the information technology sector.

Sincerely,
John Harland
6850 Old US Highway 45 S
Paducah, KY 42003

MTC–00031086

Jan 12 02 03:19p Carl Associates 860–763–2110 p.1
Harry R. Plander II
24 Still Meadow Lane
Somers, CT 06071
January 8, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am extremely happy to see that there has finally been a settlement between the U.S. Department of Justice and Microsoft in regards to the antitrust case. The government had no right to file suit in first place, and I only hope that the concessions Microsoft will be making will ultimately turn out to be in the best interest of the public.

The settlement certainly forces Microsoft to make ample concessions. Microsoft will need to redesign XP—and other versions of Windows—to be more accommodating to non-Microsoft products. Even end users will find it easier to configure and reconfigure their desktops, as their circumstances change. Microsoft will also have to make concessions to hardware manufacturers; regardless of what programs are put on the Windows platform, there will only be one regulated price for licensing for all hardware manufacturers.

I support Microsoft in many ways and believe that their products and services have greatly influenced al of our lives in positive ways. I sincerely hope no further legislation is brought against Microsoft and that they are allowed to focus on business—instead of politics—in the near future.

Sincerely,
Harry Plander
"Let's Roll America"

MTC–00031087

JAN-12–02 TUE 02:37 PM MARK COLLINS 504 277 0221 P. 01
3220 Corinne Drive
Chalmette, LA 70043–3841
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to you today to express my support of the settlement reached between Microsoft and the Department of Justice. As a Microsoft supporter, I have followed the litigation process closely. I believe that Microsoft has made many concessions during this process. I am glad to finally see the end, so that Microsoft can return to focusing on what it does best-information technology.

Again, Microsoft has made several concessions under this settlement. Most striking of which is Microsoft's agreement to have a technical oversight committee regulate their compliance with settlement policies. This inclusion of a third party watchdog agency assures Microsoft's commitment to the settlement.

Microsoft has done more for the American economy than any other corporation in our nation's history to date It is time we allow Microsoft to return to business.

Sincerely,
Mark Collins

MTC–00031088

JAN-12–2002 12:49 PM DIGITAL INTELLIGENCE 520 579 3448 P.01
8301 N. Westcliff Drive
Tucson, AZ 85743
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my strong approval of the recent settlement in the three-year antitrust dispute between Microsoft and the federal government. After three long years of litigation and three intensive months of negotiation with a court appointed moderator, this settlement offers the country the chance to end this messy affair.

The terms of the settlement were fair and reasonable. The new government regulations being imposed will hinder Microsoft, but the settlement will allow Microsoft to get back to innovation and the development of technology for the future. These new regulations include forcing Microsoft to submit to a three person, government appointed technical oversight committee, whose role it is to ensure Microsoft's compliance with this settlement agreement. Furthermore, the agreement requires Microsoft to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows. This provision will allow consumers to have the freedom to choose to change their software configuration at any time.

As a computer professional with 22 years of experience in the computer field, and with Bachelor's and Master's degrees in computer science, I am very aware of the technical and business issues involved in the case and the settlement. I firmly believe that continuing to protract this case will have an adverse effect on the PC industry and other segments that depend on it. I also feel it would be a waste of time and taxpayer money to do anything at this point other than to implement the terms of the settlement and move forward.

With the current state of our economy, we don't need to be hamstringing one of the strongest companies in the nation. This settlement will allow Microsoft to focus on business, rather than legal strategy, and for that reason, I support it.

Sincerely,
Kenneth S. Gregg

MTC–00031089

01/12/2002 15:35 3014241545 ALPHA SIDING INC PAGE 01

11501 Alcinda Lane
North Potomac, MD 20878–2400
January 12, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

This letter is to address the issue of the settlement between the Department of Justice and Microsoft. I want to give my support to this agreement.

I also understand that Microsoft has not gotten off very easy. I do not believe the initial lawsuit was justified, but Microsoft has conceded to the Department of Justice's demands, agreeing to, among other things, to design future versions of Windows to make it easier for computer makers, computer programmers and others to promote non-Microsoft software within Windows. Further, Microsoft has agreed to disclose—for use by their competitors—various source codes that are internal to Windows" operating system products. This could be a first in antitrust settlements. Microsoft has gone far beyond what was demanded in the initial suit.

I urge you to approve this settlement and allow us go forward.

Thank you.

Sincerely,
Clio Koutzoumis

MTC–00031090

64209 E Greenbelt Lane
Tucson, AZ 85739–1205
January 10, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW.,
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I write you in reference to the recent Microsoft settlement, and to express my concern with its delay. This is a settlement that is the result of three months of intense negotiations, mediated by a court appointed moderator. The settlement contains provisions that extend beyond the government's original grievance list. In fact, this settlement agreement forces Microsoft to submit to a government appointed, three-person, technical oversight committee whose responsibility it is to ensure Microsoft's compliance. Additionally, Microsoft is forced to document and disclose the various interfaces of Windows" operating system to its competitors, a requirement that is a fit in anti-trust litigation. This settlement appeases ail parties.

The settlement that has been reached, speaks to the restoration of a competitive market and continued growth in our technology industry. The IT sector has been ready to move on, while the government has been delaying the process. Not only does our technology Industry benefit from this settlement, but our economy as a whole. Just when our country needs support, we are holding it back from further development.

Let us not waste our resources in further delaying a settlement that has already been agreed on. Help support this settlement and our economy by making sure that no further action is taken.

Sincerely,
Ernie Levy

MTC–00031091

Fred C. Buhler
8095 Fernwood Dr.
Augusta, Michigan 49012
Attorney General John Ashcroft
U.S. Justice Department
Washington, DC

Dear Mr. Ashcroft,

My purpose in writing is to address the antitrust settlement reached between Microsoft and the Justice Department, I am in agreement with the current settlement and I wish to see Microsoft freed of further legal wrangling. Bringing a swift end to the antitrust case is of the utmost importance given our current economic situation. We have already poured a great deal of resources into these proceedings and now is the time to move forward, not continue rehashing a three-year-old issue.

The terms of the settlement with the Department of Justice seem both punitive and reasonable. Microsoft will have to open relevant portions of its Windows code to software suppliers and competitors, permit computer makers to configure Windows with other software and give competitive browsers a more equal footing. I believe that future computer users are being awarded protections from the violations that were raised as issues in this proceeding.

I have been opposed to this proceeding from the start. It troubles me to see companies like Microsoft have their competitive edge dulled by interminable antitrust intrusion. Nevertheless, I now sense that the settlement is a correct course of action. We need to put this unfortunate episode behind us and hope that Microsoft can get back to the challenge of creating new and better products rather than languishing in court.

Sincerely,
Fred C. Buhler

MTC–00031092

01/12/02 SAT 17:54 FAX 800 641 2255 001
FAX COVER SHEET
DATE: 1/12/02
TO: Renata Hesse
FAX: 1–202–307–1454
FROM: Todd Benjamin
PHONE: 703–243–4002
Number of pages including cover sheet: 2
Comments: Microsoft Settlement
1/12/02 SAT 17:54 FAX 800 641 2255 002
Todd Benjamin
844 North Frederick Street
Arlington, Virginia 22205
January 12, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530

Dear Attorney General Ashcroft:

I support the settlement between Microsoft and the Department of Justice. The antitrust case has gone on for too long, and it has drained significant resources on each side. The settlement offers an opportunity to put this mess behind us, and we need to take that opportunity.

Critics of Microsoft say that the settlement is too weak, but that is not the case. The settlement, unlike many antitrust settlements before it, has real enforcement power. Under the settlement, Microsoft will be forced to share code with its competitors. Armed with the knowledge of how Microsoft operates, other companies will be able to place their programs on the operating system, and compete with Microsoft on its on "turf." Additionally, the tenets of the settlement will be enforced by a technical review committee. This committee will monitor Microsoft full time, making sure that the company's business practices do not stray come anywhere close to being anti-competitive.

The settlement strikes me as being overly big-brotherish, but if Microsoft is willing to accept these terms, then I am as well. I support the settlement, and look forward to the day when this lawsuit is no longer an issue.

Sincerely,
Todd Benjamin

MTC–00031093

FROM : ED AND Z KIRDAR
PHONE NO. : 602 838 1953
Edib Kirdar Associates
EK ASSOCIATES
1725 E. La Jolla Dr.
Tempe, AZ 85282–5780, USA
E-Mail: EKIRDAR97@aol.com
Telephone. (480) 838—1953
Facsimile: (480) 775–2539
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW.,
Washington, DC 20530–0001
January 10, 2002

Dear Mr. Ashcroft:

I am writing this letter in support of the November 2, 2001 settlement reached by the US Department of Justice and Microsoft. However, I would like to state that I continue to be opposed to the antitrust case itself. I feel that Microsoft's operations didn't warrant the lawsuit. But, I am very pleased that a settlement has finally been reached.

Microsoft has provided a new vision for the technology industry. In addition, Microsoft has given a new and greater understanding of computers to the public. I can't begin to imagine what the government found wrong with the way Microsoft conducts its business. I feel the government was wrong to target Microsoft and also for trying to break apart this company. Our government should spend its time and resources, which are funded by taxpayers like myself. on matters that directly affect the public. Making Microsoft share its programming information with competitors by disclosing their internal interface codes, and being under the constant eye of the Federal government with a three-person monitoring committee is totally unnecessary.

In our great country, we shouldn't penalize individuals or companies that make strides above the rest. In fact, our government should do the exact opposite, and encourage more growth and innovation from private businesses, This will only strengthen our weakened economy. Microsoft has the ability to provide our country with endless innovation.

Please allow them to do so

cc: Representative Jeff Flake

Sincerely,
Edib Kirdar

MTC-00031094

Beryl Lerner
23 Stone Pine Court
Pikesville, Maryland 21208
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in support of the settlement reached between Microsoft and the federal government. Microsoft went beyond what was required or initially sought by the government in this settlement.

For example, Microsoft will provide third parties with a license to the necessary intellectual property should said third party want to design a program that will interact with Windows. Its decision not to enter into any agreements obligating any third party to distribute or promote any Windows exclusively and not to retaliate against computer makers who ship software that competes with programs in its Windows operating system show that Microsoft is willing to compromise.

In closing, this settlement provides consumers with additional safeguards, while helping Microsoft's competitors in the process. I hope this is the last chapter in the government's playbook, and that Microsoft can get back to business. I support the settlement, and look forward to the end of this case.

Sincerely,
Beryl Lerner

MTC-00031096

Mary Douglass Brown
641 North Woodlawn, #55
Wichita, Kansas 67208
January 10, 2002
Judge Kollar-Kotelly
c/o Renata Hesse
U.S. Department of Justice
601 "D" St., NW
Suite 1200
Washington, DC 20530

Dear Judge Kollar-Kotelly,

Over the last several years I have watched with interest as the federal government and others have sued the Microsoft Corporation for various reasons. I greatly appreciate that your court has opened the door for comment on the proposed settlement of the Microsoft anti-trust case.

In December I wrote a letter to your colleague in Maryland, Judge Motz encouraging him to approve a settlement reached by Microsoft and the Product Pricing Class Action suit. I am encouraging you to accept the settlement of this anti-trust case for many of the same reasons I outlined in my letter to Judge Motz.

This agreement brings to an end an anti-trust case that is already over four years old and if it is not settled soon threatens many more years of unnecessary litigation. This would be a continued drain our already overloaded court system. From what I have read the Bush Department of Justice, the nine states that approved the settlement and Microsoft all consider this settlement to be a fair one. I understand that it addresses those items of the lawsuit which have been upheld other courts.

As one who was surprised by the federal and state government decision to go after Microsoft in the first place and I am further surprised that some are not satisfied with this settlement. If this settlement is approved Microsoft will be required to share its intellectual and technological property. Additionally, a committee will be in charge of making sure that Microsoft is complying with all aspects of this settlement.

The settlement of this case is long overdue and it appears that the agreement on the table is the best for all involved. I urge you to support this settlement.

Sincerely,
Mary Douglass Brown, Former Member
Kansas Sate Board of Education

MTC-00031097

Link Logic Craft 2002-01-13 02:56:18 (GMT), page
5719 Narcissus Avenu
Baltimore, MD 21215-3551
Fax 410-510-1212
January 12, 2002
Attorney General John Ashcroft
United States Department of Justice
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am in favor of the current settlement between Microsoft and the government. There are some rare instances in which the government needs to step in and level the playing field when one of the players of our free market economy both becomes exaggeratedly strong and uses its strength abusively to destroy its competition. Even in cases in which the government needs to level the playing field, the government must be careful not to make companies afraid to come out with the best products and services at the best prices.

My concern is that Microsoft, like IBM and other companies that experienced government intervention will not be as innovative as they can due to fear of being declared monopolistic. When I did some software contract work inside IBM, I saw for myself how law-suit phobic IBM became. Today, IBM never has the best laptop or best desktop computer. Their computers always lag the market late and are a little slower and have slightly less memory, etc., than competing brands. I am sure that IBM does this deliberately. This is a result of their corporate experience with IBM competitors using the government to suppress IBM.

I've read that in the current settlement, Microsoft agrees not to enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively or in a fixed percentage; not to retaliate against computer makers who ship software that competes with anything in its Windows operating system; or against software of hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows.

Mr. Ashcroft, when I buy Windows and other Microsoft products, no one is holding a gun to my head to force me to buy Microsoft. I keep looking for alternative products. These days, Microsoft simply has the best products.

The government should do only enough to make sure companies compete based on products, services, and price, and that companies do not eliminate competitors by abuse of strength. I think the current settlement is enough. Requiring more would go overboard.

I think your approving this settlement will level the playing field without Microsoft becoming afraid to be the best. I urge you to accept it after the public comment period is concluded.

Sincerely,
Ron Lewis

MTC-00031098

JAN-12-02 07:19 PM COLLETT 714 8320869 P.01
6353 W Hill Lane
Glendale, Arizona 85310
January 9, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to support the current proposed settlement between Microsoft and the Department of Justice, in hopes of expressing the views of the general public. While I have never supported the federal government's attempts to bring litigation against Microsoft, this proposed settlement goes above and beyond what Microsoft needed to do. It provides for increased competition and accountability where none had existed before and should be allowed to be executed at the federal level. As a result of several months of intense court mandated negotiations; the settlement that was reached is fair, judicious and reasonable.

The terms of this settlement include a system of accountablity and competition fostering provisions that go beyond the scope of the government's original grievances. The key parts of this settlement include: Microsoft's licensing of its intellectual property instead of allowing Microsoft to pursue intellectual property protection Additionally. the settlement requires Microsoft to change its relationships with computer and software manufacturers in order to allow these companies to install non-Microsoft products and change the Windows operating system without Microsoft enacting discriminatory or retaliatory clauses in a contract. Perhaps most importantly, this settlement creates a three-person technical oversight committee to ensure that Microsoft is complying with all parts of the settlement

After several years of litigation and three months of negotiations, this settlement represents the best chance for an end to this judicial debacle This agreement represents the public interest and that no further federal action should be taken.

Sincerely,
Horace Pereira

MTC-00031099

FROM: THE MAC'S FAX NO. : 2636323 Jan. 12 2002 07:43PM P2
131 Popoia Road

Kailua, HI 96734–3166
January 12, 2002
Attorney General John Ashcroft
U.S. Department of Justice
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

From the start of the U.S. vs. Microsoft lawsuit, three long years ago, I have been confused as to why our federal government would choose to pursue and punish one of the most beneficial companies in America today. Microsoft has done more for the world of computing than any other single entity in the world. Without their products, the enormous marketplace for IT products that exists today would simply not be around—not at all

Included in the proposed settlement are many points that are punitive towards Microsoft. One point requires Microsoft to open its proprietary software interfaces to other software manufacturers. This is an amazing affront to Microsoft and its lifetime investment in its own product, and a first in an antitrust lawsuit. Yet, Microsoft is willing to renounce this and many others of its fair business practices to see an end to this unfortunate lawsuit.

For the millions of Microsoft stockholder and consumers of Microsoft products, an end to the suit cannot come soon enough. For many, the government's prolonging the suit has already hurt financially. In the end, I wonder who will benefit from all of this wrangling. The Department of Justice owes all involved parties an end to this suit. Thank you.

Sincerely,
Anne Marie

MTC–00031100

JAN 13 2002 8:12AM HP LASERJET 3200 p.1
Art Blumenthal
11 Stoneybrook Lane
Malvern, PA 19355
January 9, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing to express my opinion in the tentative antitrust case settlement between Microsoft and the U.S. Department of Justice. Although I believe the government has gone a little too far in bringing litigation against Microsoft, I am happy to see that some concessions will be made to keep Microsoft in check.

Microsoft should not be broken up by any means, but its lack of relations with software developers and computer makers does inhibit the industry from growing at a rate that it is capable of. That is why I believe in some of the pressure being put on Microsoft to keep them under check. This is what this settlement intends to and will do by making licensing rates equal and giving guarantees to software companies that Microsoft will not take any drastic action against them for designing products intended to compete with Microsoft products.

At any rate, I think the American Government must look out for the best interests of the public; at this time it is necessary to settle this thing quickly and efficiently and to allow Microsoft and other IT industry leaders to go back to focusing on business instead of political quarrels. Thank you for your time.

Sincerely,
Art Blumenthal
cc: Senator Rick Santorum

MTC–00031101

01/13/2002 23:05 630–548–9497 ROSEMARY ZURAW PAGE 01
1448 Heatherton Drive
Naperville, IL 60563–2251
January 12, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing this letter because I would like to go on record, per the Tunney Act, as being in favor of the Microsoft settlement. Last November, the Justice Department and Microsoft finally agreed to a settlement that would end the three-year antitrust lawsuit. This settlement stands to benefit the technology industry and the economy.

Competition in the IT industry will foster, resulting in an improved economy because of this settlement. Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows. Computer makers will now be free to remove the means by which consumers access various features of Windows. This will encourage competition in the IT industry and bolster the economy. What more could anyone ask for? The settlement that was reached last November between Microsoft and the Department of Justice is fair and reasonable, and I support it 100%.

With sincere regard for justice,
William Zuraw

MTC–00031102

Jan 13 02 12:14p Robert Wentzel 6104390926 p.1
1650 Honeysuckle Lane
Allentown, Pennsylvania 18103
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This letter is to address the recent settlement between Microsoft and the Department of Justice. I applaud this decision. I believe the decision was fair and equitable. Microsoft has broadened its accessibility, allowing computer makers to add or subtract Microsoft software, allowing competing software to be installed, and giving consumers a wide choice of software from which to choose. Microsoft has even agreed to disclose its source code for Windows" operating system products. Microsoft has more than compensated for any alleged unfair business-practices.

I hope this settlement stands. We do not need to revisit the decision, nor do we need to split up Microsoft. We split up AT&T and our phone system has been a mess ever since. The consumer is pretty much left to his or her own devices to figure out just what exactly they want. People today pretty much have to be a mini-expert in every field today. Bill Gates explained computers. He made software easy to understand. You did not have to be a computer programmer to install a Microsoft software package. Which was nice.

Sincerely,
Robert Wentzel
cc: Senator Rick Santorum

MTC–00031103

Dec 14 01 12:55p Mrs. Debra J. Seretean 561–883–2592 p.1
Debra J. Seretean
8724 Via Ancho Rd.
Boca Raton, Fl. 33433
561–852–1650
fax: 561–883–2592
email: seretean@aol.com
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530

Dear Mr. Ashcroft:

I was very disappointed when the Justice Department brought Microsoft to court three years ago in the antitrust case. I do not believe that Microsoft is a monopoly; it is simply a company that has made superior products.

Nevertheless I was pleased to hear a settlement has been reached in this case that will finally bring this litigation to an end. I fear that groups that stand against Microsoft may try to interfere with the settlement process. The settlement will create many changes in IT, despite their contentions that the settlement is flawed. This settlement stipulates that Microsoft will disclose its internal interfaces to competitors that is something never been done before. With this disclosure and many other major disclosures, competitors will have the ability to compete with Microsoft on an equal basis. Most importantly this settlement will end this case and get the legal system off Microsoft's back.

Please show definitive backing of this settlement and conclude this case.

Sincerely,
Debra Seretean cc: Representative Robert Wexler

MTC–00031104

01/13/2002 13:42 14073022170 PAGE 01
Jack L. Sperry y
Loretta M. Sperry
1575 Stone Trail
Enterprise, FL 32725
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr Ashcroft:

I have to say that I'm relieved that his whole antitrust case is almost at and end. I can'tunderstand why the government ever felt it was their responsibility to go after Microsoftfor being successful. I just hope that they never try it again with other businesses.Microsoft did not get away easy, as most people think. Though they didn't have to splitup, they still had to open up a great deal of their products for use by their competitors, inorder to increase the level of Windows compatibility in many programs.

I hope that more people are made aware of the terms of this settlement so they can seejust how much Microsoft gave up. I know that many people will be happy to see the casefinally over.

Sincerely,
Jack & Loretta Sperry
Phone: 407–324–4056
Fax: 407–302–3170
E-mail: jlsperry@worldnet.att.net

MTC–00031105

Sadler's Cove Farm
Jose and Patricia Martin
9160 Quail Run road, Saint Michaels, Maryland 21663
Main house: 410 745 6049 (Voice) 410 745 3799 (Fax)
jvmartin@friendly.net
Property Caretakers: Al & Marjorie Henckle 410 763 8558
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

In reference to the legal actions that have transpired against Microsoft, I am afirm believer that Microsoft should never have gone to Court. Although Microsoft'ssuccess has been accompanied by a notable amount of wealth, I find it necessaryto mention the generous donations to public schools. The Gates foundation hasdone a lot for the education of our children and it is disconcerting that Microsoftshould be punished for its contribution to the community as well as the advancedtechnologies it has introduced to our society.

It is for these reasons that I support Microsoft's antitrust settlement bedone as soon as possible.

The terms reached in the settlement are more than fair and reasonable asthey encompass a large range of issues both related to the case as well as issuesthat were not found unlawful by the Court. Microsoft has agreed to change anumber of business methods that include making it easier to reconfigure Windowsfor all users. In this way, Microsoft will enable the competitor to be promoted withinthe software program.

Included in the settlement are also terms that address future anticompetitivebehavior. These terms require to a promise not to retaliate against competitors aswell as the establishment of a Technical committee that will make sure thatMicrosoft does not stray from the settlement's terms.

Sincerely,
Jose and Patricia MartinFROM: JOSE FAX NO. :4107453799 Jan. 13 2002 02:04 PM P1

MTC–00031106

Jan-13–02 11:32A DON TRANDUM 206–746–1049 P.01
17413 NE 10th. Street
Bellevue, WA 98008–3811
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing to express my opinion that I support for the recentantitrust settlement between Microsoft and the US Department of Justice.Not only has the case dragged on too long, but also, millions of taxpayerdollars have been wasted on these lawsuits.

The terms of the settlement are harsh and so should be more thanenough to satisfy lawmakers and politicians. Microsoft is offering uptechnology on internal interfaces and server interoperability that will allowcompetitors to create products that are compatible with Microsoft. Theyare also forming three-person team to monitor compliance with thesettlement. These terms show Microsoft's willingness to compromise andare more than necessary concessions to an already flawed lawsuit.

Ever since litigation began, the American IT sector and the economystarted turning sour. I am not saying there is a direct correlation, but it isapparent to me that before Microsoft and the IT sector see the growth theydid over 3 years ago, all litigation must end. These lawsuits have sloweddown the industry, so it is in the best interest of the American public andthe economy for the settlement to be finalized.

Sincerely,
Don Trandum

MTC–00031107

Margaret Kuhnemund
P.O. Box 181
Ligonier, PA 15658
January 12, 2002
Attorney General John Ashcroft, U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I believe the litigation against Microsoft should have ended long ago.Microsoft is a victim of political interest groups that have little bearing on oureconomy, and these special interests put their agenda above the public good. I amglad to see under the terms of the settlement that Microsoft will not be broken up, butI do think most of the penalties imposed are extremely unwarranted.

Microsoft spent a huge amount of money and time to develop the technologythey did. They should be rewarded for the innovation they brought to thetechnology industry instead of punished. Bill Gates lived the American Dream andonly worked by the rules our free market economy set for him. The fact thatMicrosoft must disclose internal interfaces to their competitors and create a uniformprice list with computer makers is absurd.

I want to see this settlement, although flawed, become a reality as soon aspossible so that our IT sector and economy can return to normal. Thank you foryour time.

Sincerely,
Margaret Kuhnemund
cc: Senator Rick Santorum

P.S. Bill Gatesrepresents whatAmerica offers tothose with a goodmind. How darewe try to punishhim, his company,and our country for hisbeing bright enough to besuccessful?

From Ed Grenzig
Fax: +1(631)366–5215
To AGO John Ashcroff Fax (202)307–1454
Page 2 of 2 Sunday, January 13, 2002 2.49 PM
15 Michael Place
Nesconset, NY 11767–1039
January 11, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I would like to tell you how I feel about the Microsoft antitrust case. I am veryglad to see that a settlement has finally been reached in this seemingly endless andmoney-wasting lawsuit. However, given that there were court-appointed mediatorsinvolved in the settlements, I don't see how there is even an issue that the settlementdoes not serve the public interest. I think Microsoft has served the public interest fromthe very beginning. 99 percent of America's computer users use Microsoft products andare happy with them. With the settlement, people who are not happy with Microsoftproducts will have more freedom to use other products. If that is not serving the publicinterest, I don't know what is.

Granted, Microsoft did dominate the market, but that happened because theirproducts were better than any others'' available. Under the settlement, competitors willreceive the internal interfaces to Microsoft's Windows operating system, and be able tomodify Windows to promote non-Microsoft products. The way the settlement is now,Microsoft is already handing over too much to their undeserving competitors in order to''serve the public interest''.

I am retired and extensively use computers at home. I use Microsoft software innearly all of my computer activities. However, I am glad to see that the settlement willmake it easier for people to use non-Microsoft products if they so desire. This lawsuithas been going on for too long a time and this settlement is a good end. Pleasemaintain the settlement and allow our economy and the IT industry to move forward.Enough is enough already.

Sincerely,
Edward W. Grenzig

MTC–00031109

Jan 13 02 01:21p Don/Tina Leahy
777–882–6057 p.1
120 Lotus Circle
Carson City, Nevada 89703
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Microsoft and the DOJ have finally reached a settlement in the three-year oldantitrust case. I am pleased to see that you have accepted the settlement andare prepared to end this costly and time-consuming case.

Regrettably some special interests would like this case to be continued, and theywould like this settlement to be thrown out. Despite the misgivings of specialinterests this is a good settlement. This agreement will require Microsoft todisclose its top-secret internal interfaces to competitors. Competitors will createbetter software do better in the marketplace with this provision. Also, thesettlement will create a technical oversight committee to make sure thatMicrosoft complies with the terms of the settlement.

Your steadfast support of the settlement is key to ending this case. I thank youfor considering my views on this issue.

cc: Senator Harry Reid

Sincerely,

Don Leahy

MTC-00031110

Jan-13-02 03:42P David Sargent520–544–5616P01

January 2, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Although I opposed the antitrust lawsuit filed by the US Department of Justiceagainst Microsoft, I would like to state that I am in favor of the proposedsettlement and against further litigation against Microsoft. I strongly feel that toomuch time and too much money, from taxpayers, went into this lawsuit. In myopinion Microsoft didn't break any laws and jealous competitors are targeting itfor persecution.

Three years and millions of taxpayers" dollars have been wasted on this antitrust case against Microsoft. The very last action our struggling economy needs is for more time, money and resources spent on its downfall. Our government needs to listen to the people and take actions that will lead our country to a secure a prosperous future. Hindering one of the largest innovating companies in the U.S. simply will not help this cause.

Reopening an unfair lawsuit that will use more tax dollars just can't be allowed to happen. I urge you to allow Microsoft to get out of the courtroom. I support the settlement and hope it is quickly adopted.

Sincerely,

David Sargent
DAVID F. SARGENT
7501 N. Calle Sin Desengano
TUCSON, AZ 85718

MTC-00031111

RICHARD E DAVIS
105 763 3360
385 Nascar Drive
Lincoln, Alabama 35096
January 13, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support for Microsoft in light of recent litigation against them. I strongly believe that the Government's interventions have done much to damage the stability of the technology industry and I trust that such interventions will soon cease so that Microsoft may continue to manufacture quality products.

Microsoft's varied initiatives to honor the terms of the agreement have not gone unnoticed. These initiatives have included cooperation with competitors, new software programs that encourage competition, and the formation of a technical committee to handle dispute resolution.

I appreciate the avenue to voice my opinion that the Tunney act has afforded me. I am looking forward to the prompt resolution of this matter.

Sincerely,

Richard Davis

MTC-00031112

JAN 13 2002 16:01 FR MICROSOFT RECEP # 30 425 936 7329 TO 912023071454 p.01/01

605 175th Place NE
Bellevue, WA 98008
(425) 830–3961

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Fax 1-202–307–1454 or 1-202–616–9937

Dear Mr. Ashcroft:

I am writing to you today to express my support for the settlement reached between Microsoft and the Department of Justice last November. I believe the settlement is in the best interests of consumers, taxpayers, and the IT industry.

The settlement is fair in that it will benefit consumers and contains provisions that will preclude anticompetitive behavior. The settlement includes concessions that are unprecedented in antitrust litigation. Microsoft has agreed to disclose the application programming interfaces that are internal to the Windows" operating system. This information will now be available to Microsoft competitors.

Throughout this process, Microsoft has gone to great lengths to resolve this situation. I believe it is time that the issue is finally laid to rest.

Sincerely,

George Taniwaki

P.S. As a disclosure, I have been a long-time shareholder of Microsoft. I recently became an employee of the company as well.

MTC-00031113

Jan. 13 2001 03:51PM P2

Donald E. Dennis
32727 30th Avenue Southwest
Federal Way, WA 98023–2763
January 13, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I'm writing to express my opinion that the antitrust case against Microsoft has been flawed from the start. Microsoft has not infringed upon any rights of American people and has just operated within the confines by which we set up our free market economy. I have yet to hear complaints from consumers about Microsoft's prices or practices. In fact I feel that their prices permitted me to have a PC at home with software that I could afford and most people I know feel the same way. It seems the only complaints are from their competitors because they can't keep up.

Under the terms of the settlement Microsoft will be forced to not enter into any third party agreements for exclusive distribution rights. That is ridiculous. This is the same as telling Pepsi they cannot sign an exclusive agreement with Wendy's. Also, creating a uniform price list with the 20 largest computer makers is essentially setting up the framework for a monopoly. In fact many of the concessions create situations that do violate antitrust laws instead of appeasing them.

It's in the best interest of the American public to end this litigation now. Microsoft is a leading innovator of technology and we need their growth and leadership to lift the IT sector out of its current state. Microsoft has done what other competitors could not do, but now it's time to let them play it out in a free market, which is what our society, is based upon, not the government intervention that has occurred in this case. I urge your office to make the settlement a reality.

Thank you.

Donald E. Dennis
Home & Fax (253) 838–0155
Ce11(253)569–8979
donaldedennis@attbi.com

MTC-00031114

Jan 13 02 11:42p COURTNEY PHILLIPS [732] 297–3390 p.1

61 Lynn Court
North Brunswick, NJ 08902
January 14, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Early in last November, the Department of Justice and the Microsoft Corporation came to an agreement in the three-year-old antitrust lawsuit. I believe that the terms of the settlement are reasonable, and I am therefore lending my support to the agreement that puts an end to this lengthy and extremely costly litigation.

Microsoft did not get just a slap on the wrist, as evidenced by the fact, that the company has been forced to turn over substantial portions of its intellectual property to its competitors. Microsoft will share with its competitors, information about how Windows interacts with other programs and will not retaliate against vendors who sell or use non-Microsoft products. Furthermore, as part of the settlement, Microsoft will be supervised by a technical committee, consisting of three software engineers who will test Microsoft's compliance with certain aspects of the agreement.

I understand also, that other terms were agreed upon that were never even an issue in the antitrust lawsuit. Microsoft, however, accepted those terms based on the view that the United States economy is far more important than pursuing arguments over less significant details.

I completely support the settlement, and would like to go on record as doing so.

Sincerely,

Courtney G. Phillips

MTC-00031115

Jan 14 02 07:24a FORESTLAND P.1
15 Partridge Lane
Burlington, CT 06013–2400
January 13, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I appreciate the Justice Department finally coming to terms on the Microsoft antitrust case. I feel that the settlement, which has taken at least three years to hash out, should pretty much be acceptable to everyone. So hopefully, both Microsoft and the government can move on to more important matters.

Considering that now Microsoft can't retaliate against the companies that don't make Windows software or work on other operating systems, and that they are required to be reviewed by a federal panel to make sure they are complying with the settlement, I feel that along with the other terms of the settlement, most people should be happy with it.

I think that this whole matter should be put behind us and that we should move on. I appreciate you considering my thoughts on this matter and I hope that you take it into account.

I have also communicated my opinions to Attorney General of Connecticut, Richard Blumenthal, as I did several years ago when the original anti-trust action began.

Sincerely,
James Gillespie

MTC-00031116

01/13/O2 19:55 FAX 8472947194 ANI ATCT 001
1970 Birchwood Avenue
Des Plaines, IL 60018
facsimile transmittal
To: Mr. John Ashcroft
Fax: 202–307–1454
From: Sam Wong
Date: 01/14/02
Re: Microsoft Settlement
cc: Henry Hyde

Attached is a letter of my opinion of Microsoft settlememnt. We should finalized the settlement and move forward.

01/13/02 19:55 FAX 8472947194
ANI ATCT 002
Sam Wong
1970 Birchwood Avenue
Des Plaines, Illinois 60018
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinion of the recent antitrust settlement between Microsoft and the US Department of Justice. I think the settlement is fair and should be finalized as soon as possible.

A number of terms in the settlement are particularly effective in reducing Microsoft's ability to strong-arm its opponents. First, agreeing to design future Windows versions so that computer makers and software developers can promote their own products is a very fair concession. Also, the fact that Microsoft has agreed to form a three-person team that will monitor accordance with settlement shows Microsoft's willingness to appease all parties. And finally, Microsoft's disclosure of internal interfaces will allow competitors to have the ability to create products compatible with Windows and therefore eliminate Microsoft's ability to keep out the competition.

I think it is in best interest of the states to settle now too as soon as possible especially since our economy is ailing and our IT sector's growth has slowed to turtle's crawl. I urge your office to take a proactive stand on this and let Microsoft be on it way.

Sincerely,
Sam Wong
cc: Representative Henry Hyde

MTC-00031117

01/14/02 04 : 53
ARTBA-> 001
From the Desk of: Christopher J. Akins
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington. DC 20530

Dear Mr. Ashcroft:

I'm writing to voice my strong support for the Microsoft settlement. Microsoft has agreed to terms that are not only unfair to Microsoft, but I feel, could quite possibly have negative consequences for Microsoft, a company that has revolutionized the software industry and provides thousands of jobs. Any further legal action by the states or the federal government is only frivolous and punitive.

In the settlement, Microsoft has already agreed to grant rights to computer-makers so that they may configure Windows to remove Microsoft products so the computer manufacturer can install its own competitive programs or programs from other software makers, such as RealNetworks or AOL's Instant Messenger.

Microsoft has also agreed to make it easier for computer manufacturers, consumers, and software developers to promote non-Microsoft products within Windows. Microsoft has further agreed to not retaliate against any software or hardware developers who develop software that directly competes with Windows or other Microsoft products. In a move that limits its own competitiveness. Microsoft will give the necessary license for its own intellectual property rights to a third party when that third party exercises options within the settlement that infringe on Microsoft intellectual property rights.

For these reasons, I support this flawed settlement in hopes the federal government and many states will not pursue any further punitive and frivolous legal action that will only result in the destruction of intellectual property and the demise of a business that has built the existing computer and software industry.

Sincerely,
Chris Akins
7507 Woodside Lane, Apt. #24
Lorton, VA 22079–2013
Phone/FAX: 703–339–7244
Cell Phone: 202–425–4837
E-mail: akinschristopher@netscape.net

MTC-00031118

3457 Marbella Court
Bonita Springs, Florida 34134
January 13,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I was happy to hear a settlement has been reached in the Microsoft antitrust lawsuit. Bringing this case to a close will benefit consumers and our economy alike.

The terms of the settlement agreement appear to be fair. Mechanisms to ensure Microsoft does not engage in anticompetitive acts will be implemented. If the settlement is approved, Microsoft will no longer enter into agreements obligating computer manufacturers or distributors to promote Windows exclusively. This will promote competition in the industry, and will result in more choices for the consumer. Microsoft has also agreed to make it easier for computer manufacturers to remove features of Windows from their computers so they will be able to use the competitions" software if they so choose. I believe these concessions are fair and reasonable.

Wrapping up this case has been long overdue. I appreciate your efforts to ensure the rapid resolution of this matter.

Dena Sklaroff

MTC-00031119

FROM: DDSI Phone No.: 724 745–0902 Jan. 14 2002 09:23M P1
209 Roth Street
Houston, PA 15342–1147
January 11, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

The recent antitrust case settlement has been dragged out way too long. I am glad to see that Microsoft will not be broken up, because that would be detrimental to the country's tech sector. I think many of the concessions Microsoft will be making violate other laws.

Prohibiting Microsoft from entering into exclusive third party agreements will inhibit their ability to gain market share. All companies try to force distributors into exclusive agreements whereby they promote one product or another. That is how Pepsi and Coca- Cola operate.

The best interests of the American public will be served when the government stops messing with the private sector and allows Microsoft to focus on innovation of new technology instead of political warfare. I urge your office to take corrective steps in this matter.

Sincerely,
Norman Nardo
cc: Senator Rick Santorum

MTC-00031120

From: Penny Temeles
FAX NO. : l-412–4342
Jan. 14 2002 09:28AM P1

Emporium Group Inc.
Sales Marketing Consulting
100 Oxford Drive #302
Monroewille, Pennsylvania 15146
Ph/Fax: (412)373.4342
email:ptemeles@aol.com
January 9, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this letter is so that I may go on record as being a supporter of the settlement that was reached between Microsoft and the Department of Justice last November. The two sides had been battling in court for more than three years, and I am glad to see that this issue has finally been put to rest at the federal level.

Microsoft did not get off easy, but I feel that the settlement is fair enough. They have agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows. They have also agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system.

The settlement is fair, and the time has come to move on to much more important issues. I support the settlement, and look forward to the conclusion of this case.

Sincerely,
Penny Temeles
cc: Senator Rick Santorum

MTC–00031121

JAN-14-2002 10:16 MERRILL LYNCH 248 647 2503 P.01/01
24130 Broadview Street
Farmington, Michigan 48336
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am very happy about the recent settlement between the DOJ and Microsoft. Though the opponents of Microsoft have made varied efforts to make it appear as though Microsoft has gotten off easy, I completely disagree. In fact, Microsoft has agreed to honor obligations that extend to products and technologies that were not even at issue in the lawsuits. Though these areas were not initially at issue, Microsoft has agreed to comply to these broad terms in order to bring the case to a conclusion and to allow the Company to move forward with the development of new products.

In addition to Microsoft compliance with the broaden terms of the settlement, they have also agreed to document and disclose various interfaces that are internal to Windows" operating system products. If I may add, this is a first in an antitrust settlement. This is just a small indication of the strides that Microsoft has taken to satisfy the requirements of this settlement.

The Tunney Act has provided a very solid avenue to voice my opinion on this issue and I am very pleased to know that my opinion on this issue matters to you. I support the settlement and look forward to the conclusion of this case.

Sincerely,
Carol Markey

MTC–00031122

01/14/02 06:46 2087730884
POST FALLS MIDDL
405 East 19th Avenue
Post Falls, Idaho 83854
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

After three long years the Department of Justice has finally concluded its antitrust suit against Microsoft. A charge, I believe, that was wrong in the first place. I am the computer expert in our family and I use Microsoft, but I didn't always. I started out with AOL, and then switched to Microsoft. I had Windows '95, '98, and now '2000. At no time was I coerced to use Microsoft. I had complete freedom of choice; therefore, I do not understand the charges against Microsoft for monopolizing the market.

I do not know why a suit was brought against a company for providing a good product. Would we be suing Henry Ford for dominating the auto industry, or Macintosh for being the best in computer graphics programs? I think there should be recognition of what Microsoft has accomplished. Microsoft has provided enormous technical expertise to this country, not to mention, income. Bill Gates invented the computer revolution and made the global village possible. Globalization is heralded, yet no one seems to recognize just how and why this happened. Think back before Microsoft.

The settlement between the Department of Justice and Microsoft is now done. It was hard. Even the judge lost patience, ordering round-the-clock negotiations to bring about closure. Perhaps, she knew when enough is enough. Which is what I am saying. It is time to move on, Give your support to this agreement.

Sincerely,
Cheri Mitton cc: Senator Larry Craig

MTC–00031123

01/14/2002 09:31 PIFER OFFICE SUPPLY -> 12023071454 NO.598 0001
Germaine Frame Gallery
UNIQUE FRAMING
120 W. GERMAIN STREET
WINCHESTER, VIRGINIA 22601
PHONE 662–5846
January 11, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing you today to voice my opinion in regards to the Microsoft settlement issue. I feel the Microsoft settlement is a complete and thorough agreement that will benefit the technology industry and the economy. This agreement was reached after extensive negotiations. Microsoft has fully agreed to carry out all provisions of this agreement and will be monitored by a technical oversight committee for compliance. Competing companies can sue Microsoft if they feel this company is not complying. I am a believer of free enterprise, and I oppose restrictions placed on Microsoft. Please end this litigation. Thank you for your support.

Sincerely,
Wallace Wiener

MTC–00031124

01/14/2002 11:12 3192329363
SCOTTS ELECTRIC INC. PAGE 02/02
Steve Jordan
581 Sheridan Road
Waterloo, Iowa 50301
January 10, 2002
Judge Kollar-Kotelly
Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge Kollar-Kotelly:

I am writing to share my support for the proposed settlement reached by Microsoft with the Justice Department.

The great thing about our free market system is that it allows all participants to play on a level playing field at the mercy of consumers. The consumers can choose the products and services they prefer. Like it or not, Microsoft has clearly won this battle. One of the reasons the Microsoft's critics have never been able to demonstrate consumer harm is because American consumer use and like Microsoft products. Plus the successes of Microsoft have resulted in more accessible and cheaper technology for Americans.

Bringing a conclusion to this case is long overdue. The impact this case has had on the technology industry has been devastating. We have found that when the government attacks an industry leader the ripples are felt far and wide. Computer and software sales across the board have been hurt throughout the prosecution of this case. Please approve the settlement reached by the Justice Department and Microsoft.

Sincerely,
Steve Jordan

MTC–00031125

Dixie L. Holtz
ATTORNEY AT LAW
13547 VENTURA BOULEVARD
SHERMAN OAKS, CA 91413
AREA CODE (818)981–1383
January 14,2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530–0001

Dear Mr. Ashcroft:

In writing to you today I wish to express my concern regarding the Microsoft settlement. The Department of Justice is now reviewing the settlement. I deeply hope that at the end of this review, the decision is made that this settlement is in the best interest of the nation. I believe this settlement is extensive. Microsoft has made many concessions that will inhibit future anticompetitive behavior. Foremost among these concessions is the term that guarantees the creation of a third-party technical review board. The job of this board is to ensure that Microsoft complies with the terms of this settlement.

As I believe this settlement to be equitable. I ask that the Department of Justice implement the settlement quickly. Thank you.

Sincerely,
Dixie Holtz

MTC–00031126

SENT BY: HEWLETT-PACKARD;
480 315 9239;
JAN-14–02 8:25AM; PAGE 1/1
7525 The Greens # 179
Scottsdale, Arizona 85258
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support for Microsoft's settlement of its antitrust issue with the federal government. Its unfortunate that they had to be put through this process, but this settlement looks more than reasonable.

I am especially thrilled to see Microsoft take the lead and really go above and beyond the products and procedures that were actually at issue in the suit. I understand that they have agreed to not retaliate against computer makers who ship software that competes with anything in its Windows operating system, or against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows, and has agreed not to enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively or in a fixed percentage.

I can only say in closing Mr. Ashcroft that we can agree that no other company Microsoft's size would have been so generous in a settlement. This is a fair and reasonable settlement and should be approved.

Sincerely,
Yvonne Cahill

MTC–00031127

OFFICE OF COMPLIANCE REVIEW
Mary Lou Smith, Director
Jackson County Courthouse
415 E. 12th Street, 2nd Floor
Kansas City, Missouri 64106
COUNTY LEGISLATURE
JACKSON COUNTY, MISSOURI
(816) 881–3302
FAX (816) 881–3340
January 11, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, D. C. 20530–0001
Faxed to 1–202–307–1454

Dear Justice Hesse:

For the last two days I have attended a business seminar in the state of Kansas aimed at getting minorities and women into business and keeping them afloat once they have set up. With the today's economy this is a major task and extremely hard for minorities and women.

I am writing to you today to convey my support for the Microsoft settlement. The United States as well as Kansas is currently going through some hard economic times and it is twice as bad for small business owners that are minorities or women. Numerous businesses and companies are losing money and having to lay-off employees. On today's news it was announced that as many as 1.6 would be unemployed at the end of 2002. An important factor in bringing about a recovery is to allow new and innovative products to stimulate growth.

The Microsoft Corporation is a leading pioneer in technology. Microsoft is currently spending billions on new, inventive technology and is working to stay competitive. These innovations spread economic growth throughout the entire nation. Direct results of technological advances have been market expansion, job creation, and the production of wealth and capital. These are not easy times for our nation; our government should do everything in its power to encourage growth and economic expansion. That is why I am sending you my support for the recent settlement of the Microsoft case, I understand that Microsoft agrees to share its intellectual property and creates new relations with hardware and software developers. It was the right thing to do and Americans from all walks of life will be better off.

Thank you for taking the time to read this letter.

Sincerely, Mary Lou Smith
Director
JACKSON COUNTY LEGIS

MTC–00031128

01/14/2001 10:40 3522719742 PAGE 01
CompTIA CIW Authorized Training Provider
New Horizons Computer Learning Centers
Microsoft Certified Partner Authorized
PROMETRIC Testing Group
January 10,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

The suit against Microsoft has dragged for the last three years. The suit has brought a drop in the stock market, an ambiguity in the industry, and challenged governmental budgets at the state and federal levels. All of this has been paid for by either the consumer on Microsoft's side, or the taxpayer on the government's side. In many cases, people end up paying twice! The suit was brought about to benefit American consumers and give them more choices; in reality, the suit has been a burden.

I support the settlement reached between Microsoft and the Department of Justice. It addresses the issues very clearly. Microsoft has agreed to disclose information regarding the setup of Microsoft products, and the company must change its licensing agreements with individual computer-makers—even if one of them ships software that would compete with the Windows operating system. There have been enough financial resources spent on this case. It is vital that this is prevented and the settlement is finalized. The quicker the settlement is confirmed, the faster the industry can get back to focusing on innovation. Sincerely,

Tim Broom President PO Box 357685 Gainsville, FL 32635 main (352) 376–8007 fax (352) 371–9964
www.nhgainsville.com

MTC–00031129

FROM: NWTILLERS
FAX NO.: 15092483818
Jan. 14 2002 08:41AM P1
Northwest Tillers, Inc.
P.O. Box 10932
Yakima. WA 98909
(509)575–1950
1–800–204–3122
Fax (509) 452–1588
www.nwtillers.com
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in support of the settlement in the Microsoft antitrust suit. I would like to see this case concluded as soon as possible. As a small business owner, I am concerned by the fact this case was brought against Microsoft at all. Microsoft has been an innovative, competitive company. Companies, especially those engaged in high-tech endeavors, must remain competitive to remain in business. I do not agree with punishing Microsoft for its ability to remain competitive.

I do, however, believe the case should be settled as rapidly as possible. To achieve this end, Microsoft has made a variety of concessions that go above and beyond the scope of the lawsuit. I do not necessarily agree with the concessions made, as they appear to be overly restrictive. For example, the creation of a technical oversight committee, which will monitor Microsoft's business practices, seems overly intrusive to Microsoft.

Despite my belief that Microsoft is doing more than should be required, I support its decision to make such concessions so this case will settle. I appreciate your review of my comments, and hope to see this case settle as quickly as possible.

Sincerely,
Ted Marquis
President / CEO

MTC–00031130

FROM: MAGNET COM
FAX NO. : Oct. 25 2001 01:12PM P1
Jeffrey R. Hoener
P.O. Box 210334
Montgomery, AL 36121–0334
January 13, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing today to express my support of the Microsoft settlement. The settlement that was reached is equitable. I believe that Microsoft has been more than generous in the interest of resolving this issue.

Microsoft's generosity is evident in the new design of future versions of the Windows system. The new design that will appear in the interim release of Windows XP has a new mechanism. This mechanism will enable users to remove and add different aspects of the system at their discretion. Users will now be able to remove Media Player from their system if they so choose. This is a first for consumers and represents Microsoft's generosity.

The settlement is fair. The Justice Department should enact the settlement as quick as possible. Thank you.

Sincerely,

Jeffrey R. Hoener

MTC-00031131

Jan-14-02 09:22A P.01
Karen and Dave Polen
4460 E. Cortez St.
Phoenix, AZ 85028-2319
January 12, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

I am writing to express my support and encouragement for the recent settlement agreement between Microsoft and the Department of Justice. This was a settlement that was reached after three months of intense negotiation, following three years of what I viewed as an unnecessary lawsuit. These negotiations were mediated by court appointed individual who allowed both sides to come to a reasonable conclusion. This statement should stand on its own merits and I believe has the public interest in mind.

The settlement contains several provisions designed to increase competition in the marketplace as well as to keep Microsoft accountable to the federal government. This agreement contains a provision that requires Microsoft to not retaliate against computer makers who ship software that competes with anything in its Windows operating system. There is a similar provision relating to software developers, where Microsoft may not retaliate against developers who develop or promote software that competes with Windows or that runs on software that competes with Windows. Perhaps most importantly, however, is that Microsoft has agreed that if a third party's exercise of any options provided for by the settlement, would infringe on any Microsoft intellectual property right, Microsoft will provide the third party with a license to the necessary intellectual property on reasonable, and non-discriminatory terms. This is important because it shows that Microsoft is completely willing to increase competition.

This is a settlement that goes beyond the original government interests, and shows Microsoft's commitment to diversity in the industry. I strongly urge your office to move on this settlement and to take no further federal action.

Sincerely,

Karen Polen

MTC-00031132

1/14/2002 3:53 PM FROM: Fax UpdateThis.com
To: 1-202-337-1454 PAGE: 002 OF 002
William McCahey
155 W 20th Street Apt. 6K
New York, NY 10011
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It is in the best interest of the American Public to end the Microsoft lawsuits as soon as possible. Our economy is in recession and our IT sector has never returned to normal since lawsuits began. We need our government to focus their energy, time, and money elsewhere on issues that they can have positive affect on

The terms of the settlement are more than fair and I do not understand why nine states want to continue litigation. Microsoft has agreed to disclose interfaces, form three-person team to monitor compliance with settlement, improve relations with computer makers and software developers, and design future Windows versions so that competitors can market their products on its operating systems.

In my judgment the settlement will be good for IT sector and the American economy. I urge your office to finalize it as soon as possible and I thank you for your time.

Sincerely,

Bill McCahey

cc: Representative Jerrold Nadler

MTC-00031133 Jan 14 02 03:42p

Daniel & Jackie Hsieh 261 8034 p.1
138—32 68th Drive, Apt. 1C
Flushing, NY 11367
Jan 14, 2002
The Honorable Charles E. Schumer
United States Senate
Washington, DC 20510

Dear Senator Schumer

As a voting constituent, I would like to express my opinion about the Microsoft antitrust case. I have followed this story in the New York Times and feel that after three long years of court battles, it is time to stop legal action against the company. I think that the settlement is fair and should be final.

I am concerned about the economic recession we are experiencing as a nation as well. The IT industry has been one of the sectors of the economy that has been the hardest hit in the past several months. It is important that we allow Microsoft to get back to business and lead the IT industry once again

Your strong support on this matter is greatly appreciated I urge you to put this case behind us.

Thank you,

Ching Hsieh

MTC-00031134

Jan-14-2002 03:26 PM don senften 755 4339 P.01
January 13, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, District of Columbia 20530-0001

Dear Attorney General Aschroft:

I am writing to support the settlement with Microsoft. Enough is enough. It is time to allow the IT industry to get back to business. The settlement is fair and reasonable, and will protect us from future anticompetitive behavior.

The settlement imposes many restrictions on Microsoft. One example is that Microsoft has agreed to grant computer makers broad new rights to set up Windows so that software by other developers can be introduced to any computer. Also, Microsoft has agreed to license its Windows operating system producst to the 20 largest computer makers on identical terms, including price. Plus, Microsoft has also agreed to the "Technical Committee" that will monitor Microsoft's compliance with the settlement. Clearly, these, along with the other restrictions will maintain a fair competitive balance.

It is important to let technology sector move forward with developing new products as soon as possible. This settlement is in the best interest of both the public and the economy. Thank you for reading my letter.

Sincerely,

Donald Senften P.O. Box 20895,
Bradenton, FL 34294-0005

MTC-00031135

Jan-14-2002 03:26 PM
don senften
755 4339 P.01
January 13, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, District of Columbia 20530-0001

Dear Attorney General Aschroft:

I am writing to support the settlement with Microsoft. Enough is enough. It is time to allow the IT industry to get back to business. The settlement is fair and reasonable, and will protect us from future anticompetitive behavior.

The settlement imposes many restrictions on Microsoft. One example is that Microsoft has agreed to grant computer makers broad new rights to set up Windows so that software by other developers can be introduced to any computer. Also, Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers on identical terms, including price. Plus, Microsoft has also agreed to the "Technical Committee" that will monitor Microsoft's compliance with the settlement. Clearly, these, along with the other restrictions will maintain a fair competitive balance.

It is important to let the technology sector move forward with developing new products as soon as possible. This settlement is in the best interest of both the public and the economy. Thank you for reading my letter.

Sincerely,

Virginia Senften
P.O. Box 20895,
Bradenton, FL 34294-0005

MTC-00031136

Jan-14-02 03:53 P.01
4201 Tanglewood Drive
Allison Park, Pa. 15101
January 14, 2002
Attorney General John Ashcroft

US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Today, I am writing you to express my support of the recent settlement reached between Microsoft and the Department of Justice. I am a long time supporter of the Microsoft Corporation. Thus, I would be happy to see the litigation against Microsoft come to an end. As a republican I believe in free enterprise and can't imagine an administration for which I voted choosing to damage a company that has added so much to the economy and growth of our country.

As a senior citizen, Microsoft has personally impacted my life. A few years ago, I was what they call "computer illiterate" as I did not grow up learning how to "surf the web" or send electronic mail. I do not think that I would have bothered to learn how to use a computer, it is weren't for the Microsoft Corporation. Microsoft's products are so user-friendly that I was able to master computer applications and thus enjoy the age of technology.

It is these innovations that have enabled Microsoft to rise to the top of the technology industry and is my belief that Microsoft has earned its position as a leader in its field. It is ridiculous for the federal government to punish Microsoft for producing high quality products. Please let the settlement stand as it is written. { An educational bill was just passed and yet you want Microsoft not to supply technology to students who most need assistance to participate in todays world. That sounds like leaving 'a child behind'. Microsoft must be allowed to focus on creating innovative software to assist our country continue to lead the world in technology.

Very truly yours,
Mary M. Hembrock
cc Rick Santorium

MTC-00031137

01/14/02 15:54 8149428694 CR CASHMAN 001
149 Elm Street
Hollidaysburg, PA 16648–2930
(814)695–9398
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 8, 2002

Dear Mr. Ashcroft:

I don't feel that the government has been fair to Microsoft from the start. I think the government should keep its nose out of the affairs of business and leave Tree enterprise alone. In my opinion there are many more important issues for the government to spend their time and taxpayer money on.

Microsoft does a lot for this country, giving charity, and providing jobs. The government should reward companies that do so well, not attack them for simply making a better product. I hope that the settlement of this case will discourage government from doing things like this from now on. Nonetheless, the terms of the settlement are fair especially considering Microsoft is conceding much more than necessary in my opinion. They should not have to disclose internal interfaces and give away other technological information as they have agreed to do.

I appreciate you taking the time to read this and it's nice to know that my opinion will be counted, along with the many others that support Microsoft and want to see the government stay out of business affairs.

cc: Senator Rick Santorum
Sincerely
Clifford Cashman

MTC-00031138

Albert W. Veit
32 Dogwood Lane
Grove City, PA 16127
Phone: (724) 458–4096
fax: (724) 458–4096
e-mail: dogwood@telerama.com
Jan. 14 2002 02:46PM P1
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I urge your office to suppress all opposition to the recent settlement between the Department of Justice and Microsoft. This case never should have been brought to court.

The settlement, though as it is, is in the best interests of the IT industry and the economy. Microsoft did not get off easy, but the settlement is fair and reasonable, and it will clearly benefit consumers and preclude future anticompetitive behavior. To increase competition, Microsoft has agreed to allow competitors to place their programs on Microsoft's Windows operating system. This will be achieved by Microsoft making available to other companies information regarding the internal interfaces of Windows. The recession has had a devastating effect on state budgets and the federal budget, and it is important that the technology industry be allowed to concentrate on business now.

I sincerely hope no further legislation is brought against Microsoft and look forward to a revival of out IT sector.

Sincerely,
Albert Veit
cc: Senator Rick Santorum

MTC-00031139

Sent by: Jan-14–02 03:50pm From 61052628869202 353 8856 page 1/1
Pamela J. Dvorak
612 Woodleave Road
Bryn Mawr, PA 19010–2921
610–526–2216 / fax 610–526–2886 /pjdl90@hotmail.com
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530–0001
January 14, 2002

Dear Mr. Ashcroft

I am pleased that the Microsoft Antitrust case has finally nearing completion. After three years of litigation. it is time Microsoft can once again focus on what it does best-product development driving a successful business

The broad range of the settlement [restrictions and obligations on Microsoft that extend products and technologies not even at issue in the original lawsuit] represents Microsoft's willingness to bend backward to see this case rectified and settled With Windows XP, Microsoft has already carried out modifications listed within the agreement, making it easier for computer makers software developers and consumers to reconfigure their Windows setup at any time. In addition to that Microsoft has also agreed to supply to the competition its protocols used to operate Microsoft's server operating system, allowing opposing software companies to make their products compatible should they choose to do so

Microsoft's compliance will be monitored carefully thus precluding future violations. This may be preaching to the choir", but I never felt that the company should have been punished for being competitive- and doing well. The American way is for the market to judge the value of the product Not everyone can be on top. From my view this Operating System made this technology user-friendly and accessible to a great segment of the population.

Thank you in advance for your support of this [dare I hope] final settlement

Sincerely,
Pamela J. Dvorak
cc: Senator Rick Santorum; Senator Arlen Specter

MTC-00031140

Bruce Wynn 9728852507 01/14/02 01:25P P.001
8371 Christie
Frisco, TX 75034–3708
January 11,2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–000 1

Dear Mr. Ashcroft:

I am writing to inform you of my thoughts regarding the recent settlement between the Justice Department and Microsoft. I support the settlement 100%.

It is in the best interests of all parties involved to have this case settled so that Microsoft can continue to develop products, and the government can focus on the more pressing needs of our country. I believe that Microsoft is getting a raw deal in this case. Microsoft has agreed to divulge its hard earned intellectual property in its Windows operating system internal interfaces, grant third parties flexibility to modify its well-crafted Windows program to promote non-Microsoft programs, and license its intellectual property on an open, non-discriminatory basis.

The terms of the settlement are more then fair and reasonable for the government to accept. Please leave Microsoft alone, and not pursue any further action against them.

Sincerely,
Joyce Wynn
cc: Representative Richard Armey

MTC-00031141

JAN-14–2002 03:19P FROM:
TO:12023071454
ANDERSON COLUMBIA CO., INC.
P.O. Drawer 38—Old Town, FL 32680
(352) 542–7942—Fax # (352) 542–3417
January 12,2002

Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania
Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

It has come to my attention that both the Justice Department, and Microsoft have reached a settlement in the three-year antitrust case. I am happy to hear about the settlement, and I support it 100%.

This settlement will allow computer makers the means to remove access to various features of Windows, such as Microsoft's Internet Explorer web browser, windows Media Player, and Windows Messenger. Also, Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system.

In fact, Microsoft has even agreed not to retaliate against software developers who develop or promote software that competes with Windows. I would like to see this case settled as quickly as possible, since further delay would end up hurting the American economy. Do not prosecute Microsoft any further!

Thank you.
Truly American,
Cynthia T. anderson

MTC-00031142

01/14/02 MON 15:08 FAX 7176240432
CLIFFORD G ROSBOROUGH
80 Matthew Drive
New Oxford, Pennsylvania 17350
January 9,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinion of the recent antitrust settlement between Microsoft and the US Department of Justice. I am happy to see that the case is being settled because I believe it has dragged out long enough, to the detriment of the IT sector and the American Economy.

Bill Gates created an innovative and vision-oriented giant that has done wonders for our nation. Microsoft should not be punished for being successful. It is my opinion that there is a direct correlation between the economies woes of the nation and the litigation between the government and Microsoft. Under this settlement, Microsoft will share information about the internal workings of Windows with its competitors, and will allow them to place their own software and programs on the Windows operating system. The settlement represents the best available solution to this seemingly interminable lawsuit. Therefore, I support the settlement, and look forward to a day when this case is a distant memory.

Sincerely,
Clifford Rosborough
cc: Senator Rick Santorum

MTC-00031143

Jan-14-02 10:15A P01
103 Harmony Lane
Port Angeles, WA 98362-8141
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania
Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am happy to hear the government has decided to settle the Microsoft case. I don't believe Microsoft should have been sued in the first place. However, I think it is in everyone's best interest that this case settle, so that Microsoft may continue doing what it does best—and that is producing quality products. The settlement agreement appears to be fair, and well thought out. I am particularly in favor of the creation of the technical oversight committee. The existence of an oversight committee should be able allay Microsoft's competitors'' fears that Microsoft will not abide by the settlement once it is finalized. Additionally, the settlement will allow computer manufacturers more flexibility to run software that competes with Windows. Microsoft has really agreed to terms beyond what is required of them.

I strongly support all parties'' efforts to resolve this case and resent the nine states that maintain opposition. Thank you for your efforts in this regard.

Sincerely,
Agnes Anderson

MTC-00031144

JAN-14-2002 01:41 PM IRWIN EAGLE 410
363 7640 P.01
201 Berry Vie Drive
Owings Mills, MD 21117
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20503

Dear Mr. Ashcroft:

I am a retired businessman I had my own successful interior decorating firm for over thirty five years. It was done by working hard and staying ahead of the competition. One such company is Microsoft that succeeded in this manner and because of its success was targeted by the Department of Justice for an antitrust lawsuit. The lawsuit has now settled and I am writing to you to ask that you give your approval to this settlement. I was against the suit from the start and never have never been able to understand the reasoning behind it. To me, Microsoft is a shining example for this great country. Here is a man who had a good idea, worked hard and succeeded. He is to be commend for his innovation and the way he does business, he keeps jobs and people working in this country not go overseas for cheap labor. His competitors could not keep up and cried foul, succeeding in clipping his wings to some extent, since they could not keep up on an even playing field. No one took Henry Ford to court for being to smart.

Do not let small mind prevail in this matter. Give your support to the Microsoft settlement and let's get back to business.

Thank you.
Sincerely,
Irwin Eagle

MTC-00031145

Sent By: JESKELL INC.
408 744 0603;
Jan-14-02 10:24;
Page 1 /1
TrainSoft
6559 Old Meadow Court, San Jose, CA 95135
(408) 223-6034 hasanzr@msn.com
January 12,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I readily admit that Microsoft could have handled itself better regarding concessions to allow competitive browsers on its Windows OS a lot sooner with a lot less fuss. However, the response by our government to this and other complaints about Microsoft were far too severe, especially when breaking up Microsoft was under serious consideration. Fortunately, the threat of this eventuality has been dissipated by this settlement. I am pleased by your efforts to bring it about, and I would urge you to go further and work with Attorney General Lockyer to have this unpleasant situation in California settled as well, since the settlement remedies the question of bundling Internet Explorer with Windows, as well as addressing many other concerns, such as interoperability.

While this settlement forces Microsoft into certain concessions not envisioned by the original lawsuit, it does have the distinct advantage of ending the suit. This is a welcome end, in that we can all put this behind us and work towards rebuilding our nation's economy through the IT business community itself without fear that this lawsuit could yet to more damage.

I am therefore writing to suggest my support of this settlement, as well as share my hope that this sort of thing will not happen again.

Sincerely,
Hasan Z. Rahim
President
cc: Representative Zoe Lofgren

MTC-00031146

Jan 14 02 12:32p
FOWLER AGENCY CORP
616 452-1333 p.1
DAVID E. FOWLER
3120 MADISON SE.
GRAND RAPIDS, MICHIGAN 49348
January 12,2002
Attorney General John Ashcroft
U.S. Department of Justice
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

As an avid Microsoft supporter, I write to express my support for the Microsoft settlement. I have written previously to express my gratitude that the issue was finally reached in November. I write again to express my support during this period of public comment. I trust that at the end of this sixty-day period, the Justice Department will conclude that this settlement is in the best interests of the economy and the technology industry.

Without doubt, the technology has suffered during this litigation. IT industry supporters also know the lengths to which Microsoft has gone to appease their competitors. Microsoft has agreed to design Windows applications so that computer producers have increased rights when designing computers. The configurers can now install competing programs within Windows. Computer makers will now be able to remove the means by which consumers access various features of the Microsoft programs. Thus, producers can eliminate aspects such as Explorer or Media Player from the system. This is evidence of the generosity of the Microsoft Company.

In all, I hope that this period of public comment ends with the enactment of this settlement into practice.

Sincerely,

MTC-00031147

JAN-15-2002 12:17 AM KELLEY CONSULTS 334 885 6111 P.01

January 13,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I truly believe that the litigation against Microsoft is in total opposition to the concept of free enterprise. I also think that it is unfair to penalize Microsoft for its successful attempts at surpassing the innovation of its competitors. I am therefore writing to ask that the Department of Justice seriously consider putting this whole matter to rest right away. I think that this lawsuit has done much more harm than good.

A close look at Microsoft's handling of the settlement thus far will reveal nothing but compliance. Microsoft has been true to the terms of the settlement in every sense of the word. Microsoft has done much recently to enable its competitor's access to Windows. They have also agreed to document and disclose various interfaces that are internal to Window's operating system products.

Let's stop the litigation and reinvest in technology. I do hope that my views and opinions will be helpful in establishing closure in this matter.

Sincerely,
Leonard Kelley
65561 Highway 22
Roanoke, AL 36274
(334) 885–6111

MTC-00031148

01/14/2002 12:21 718–634–3208 GENE SACHSENMAIER PAGE 01

The Business Automation Group
www.tmsgroup.com
HOME OFFICE
404 Bayside
Breezy Point, NY 11697
Tel: (866) 592–2100
Fax: (718) 634–3208
e-mail: productivity@tmsgroup.com
MIDWEST OPERATIONS
21535 West 179th Street
Olethe, Kansas 66062
Tel: (913) 582–2100
Fax:(913) 592–3509
e-mail: productivity@tmsgroup.com
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take this opportunity to let you know that I strongly urge you to support the recent settlement in the Microsoft antitrust case. This case has been going on for years and it is high time that we stop wasting taxpayers money. Letting Microsoft get back to business would help get this country back on track.

I am a software consultant and I use Microsoft's and other companies" products. Microsoft's "monopolistic" influence certainly didn't stop me from using other companies" software. I chose to simultaneously use both products, due mainly to Microsoft's ease of integration. I see free enterprise as a valued ideal in our society.

This settlement contains provisions and requirements that go well beyond the government's original grievances and work to ensure fair, honest and responsible competition. This agreement between Microsoft and the federal government require Microsoft to submit to a three person, government appointed, technical oversight committee. Furthermore, this settlement forces Microsoft to give up its intellectual property to its competitors and partners in exchange for a fair and reasonable license fee. This provision alone will advance technology vastly and improve competition tremendously. This settlement is the result of intense negotiations over a three-month period, helped along by a government appointed moderator. I support the settlement, and look forward to seeing the end of this case.

Sincerley,
Gene Sachsenmaier
cc: Representative Anthony David Weiner

MTC-00031150

Jan-14-02 11:54 Tim Rauscher P01

Carol Rauscher
5132 NW 74th Court
Coconut Creek, FL 33073
January 7,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am a computer user. I believe the "technological revolution" has allowed greater creativity and innovation than ever previously thought, and the one person most responsible for this revolution is Bill Gates. Through his hard work and own personal vision, he has allowed this country to move faster and farther than any previous "industrial" revolution. And, unfortunately, he is being punished for it. I am talking of the antitrust suit brought against Bill Gates by the Department of Justice. My feelings with regard to this action is that it was brought by those who were not, and are not, as smart or innovative as Bill Gates, and only through such an action as an antitrust filing were they able to hinder Microsoft's progress. I think it is very tragic that we, in this country, allow so readily the destruction of a successful company. But the suit has ended. An agreement was reached. Microsoft has allowed, among other things, computer makers to install whichever software they wish. I now have a choice. Of course, I had a choice before, also. I was able to choose whatever software I wanted. I just had to go to ten different programs to get what I could get with one Microsoft package. Bill Gates, through Microsoft, made software and computers affordable. He kept prices down. Software and computers do not cost near what they did ten, fifteen years ago. Bill Gates brought the "computer revolution" into the living room of the average person, myself included.

That is why I am writing to urge you to give your support to the Microsoft settlement. It has been reached after three long, hard years. It is really time to move on. Do not give in to the demands of those who still are not satisfied, and will not be. We have moved forward from the tragedies of 2001, help us move forward in our economy as well. Thank you.

Sincerely,
Carol Rauscher
Cc: Representative Robert Wexler

MTC-00031151

JAN 14 2002 12: 09 FR DREYFUS 516 338 3330 TO 912023071454

Dreyfus Service Corporation
35 Seacoast Terrace—Apartment 9W
Brooklyn, New York 11235
January 11,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support the settlement of the government's antitrust lawsuit against Microsoft. I am a computer programmer for Dreyfus, a mutual funds company. I am also a participant in the stock market. As an investor, I have observed the devastating impact of the antitrust suit on our economy. The stock market has plummeted, and as a result the technology industry as a whole has suffered.

This case should settle for economic reasons, but I also believe the terms of the agreement itself are fair and will promote better competition among IT companies. I am especially in support of Microsoft's agreement to not retaliate against computer manufacturers who use or promote software other than Microsoft's. I also support the establishment of a technical oversight committee to monitor Microsoft's compliance with antitrust laws. In fact, I believe the guidelines Microsoft will be subject to should be applied not only to Microsoft, but also across the board to Microsoft's competitors.

This lawsuit has hurt our economy. Ending the litigation will benefit consumers, and will strengthen the technology industry as a whole. I ask your support in ensuring a swift conclusion to this case.

Sincerely,
Grigory Libo
cc: Representative Anthony David Weiner

MTC-00031152

FROM : ST Sanford Computer FAX NO.: 6312247183 Jan. 14 2002 04:29PM P1

TEKNOWLOGY, Inc.
Phone: (631) 224–9450 X. 111
FAX: (631)224–7183
http://www.teknowology.com
January 14,2002
Attorney General John Ashcroft

U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I suppose an argument can successfully be advanced that throughout the years Microsoft has become a bit proud and defensive regarding its software products. These traits, while not laudable, are not reason enough to drag a company like Microsoft into federal court. Threatening a company like Microsoft with breaking it up does not fill any but the most ardent of Microsoft's critics with any measure of confidence.

Ultimately, it is far better that this suit has ended with a settlement. While I leave it to others to decipher the specifics of the settlement's terms on such things as software licensing and Microsoft's relationships with other IT companies, any settlement that is reasonably acceptable to both sides is far better than dragging this case through the courts.

For this reason, I am writing in support of the settlement. I am also expressing my desire to see this entire episode concluded so that we can all put this behind us. Thank you.

Sincerely,
Scott Sanford
President

MTC–00031153

01/14/2002 02:17 +000000000 PAGE 01
January 14, 2002
Renate Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to urge you to support the proposed settlement of the antitrust lawsuit against Microsoft. While I believe that many of the allegations raised by the lawsuit against Microsoft may have merit, it is time to shift the focus of the Department of Justice and our tax dollars to other priorities.

While the proposed settlement is not a home run for any of the interested parties, it does have a little bit of something in it for everybody while maintaining its overall balance. One way that you can tell that the settlement is balances is the fact that nobody is very happy with the proposed settlement.

Please contact me if you have any questions, or if you would like more information.

Thank you,
J. J. Eglin JJ/sem
4100 Atlas Ct.,
Bakerfield, CA 93308
(616)327–1918
www.bclabs.com

MTC–00031155

1—15—2002 4:26AM
FROM J P ROUTHIER 978 7725528 P.1
Routhier + Sons, Inc.
January 8, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

Please support the settlement agreement reached between Microsoft and the Justice Department lawyers. This case has gone on too long, and wasted too much of the taxpayers money. With a recession and international crises going on, it should be obvious that our government has better things to do that harass a company that has created thousands of jobs and billions of dollars in wealth.

My company is decidedly low-tech but we use the products of Microsoft and its competitors on a daily basis. I cannot for the life of me see how anyone can see antitrust activity anywhere in that industry. No sector of the economy could be more fluid, changing and open to new ideas and businesses. I understand why the Justice Department must regulate the business world to prevent abuses, but they need to do so with a little more common sense. This settlement proposal provides a very convenient opportunity to end this case, once and for all, so that those in the high-tech industry and us in the low-tech industries can get back to the business of creating jobs and growing the economy.

Thank you for your consideration.

Sincerely,
Paul Routhier
J.P. Routhier & Sons, Inc
256 Ayer Road,
Littleton, MA 01460–1010
Recycling (978) 772–4251
Transportation (978) 772–0141
FAX (978) 772–5528

MTC–00031156

BODE, CALL & STROUPE,L.L.P.
ATTORNEY AT LAW
3105 GLENWOOD AVENUE, SUITE 300
RALEIGH, NORTH CAROLINA
(919)882–0338
TELECOPIER (919)881–9543
JOHN T. BODE
W. DAVIDSON CALL
ROBERT V. BODE
OTIS L. STROUPE, JR
V. LANE WEARTON, JR
S. TODD KEMPHILL
DEANA EVANS RICKETTS
JAMES N. JOSGREEN
CHRISTIE M. POPELAND
JOHN V. HUNTER III
OF COUNSEL
DAVID F. GREEN
(1945–1985)
MAILING ADDRESS
POST OFFICE BOX 6338
RALEIGH, NORTH CAROLINA 27628–6338
Post Office Box 6331
Raleigh, North Carolina 27612–6334
January 10, 2002
Via Facsimile (202)616–9937
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I appreciate the chance to share my thoughts on the Microsoft matter as part of the Department of Justice's comment process. I don't represent Microsoft or its affiliates and I am not a Microsoft shareholder, so the views expressed are simply those of an interested American.

I didn't agree with the Justice Department when it began this process. DOJ's market analysis appeared to be static when the product, product mix and alleged anticompetitive behavior were all evolving on a dynamic matrix. From a consumer protection standpoint, which is the basis for antitrust action, the result of those behaviors provided reduced costs to consumers from a product that became user-friendly efficient. No evil consequences—only good results.

But the results of the government's actions against Microsoft have not been good. The DOJ has been unable to show that the action will improve software, decrease costs or expand services. In fact,the government's heavy-handed action has had a chilling effect on investment and on innovation.

The settlement that has been proposed provides wide-ranging protections against anticompetitive behavior by Microsoft—protections that probably go much further than needed. Wisely, the State of North Carolina is no longer a party to this proceeding, a recognition of the effectiveness of the settlement provision.

Given the economic uncertainty threatening our nation today, there is no better time and no better way to bring this over-long and over-expensive proceeding to a close. I sincerely hope the court will do so.

Thank you
Best Wishes.
Sincerely,
John T. Bode

MTC–00031157

Bruce Wynn 9723352507 01/14/02 01:12P P. 001
8371 Christie
Frisco, TX 75034
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a concerned citizen of this country, I am writing to voice my opinions on the recent settlement between Microsoft and the Justice Department. I support the settlement that has been reached by both parties. It is in the best interest of the government to accept this settlement so they can move onto the more pressing needs on the country. Furthermore, continued pursuit of this case would only be a waste of tax dollars, time, and human resources.

Microsoft is not getting off easy in this case. They are making specific changes to their product development, and with their business practices as well. For example, Microsoft has agreed to allow computer makers to reconfigure Windows so as to promote Non-Microsoft software programs. Also, let me remind you that there will be an establishment of a three-person technical committee to monitor Microsoft's compliance with the settlement.

I urge that the government accept the settlement, and not pursue any further action on the federal level.

Sincerely,

Bruce Wynn

MTC-00031158

FROM : H&S HOSE&
SUPPLY FAX NO. :6613274683
Jan. 14 2002 12:09 P1
H & S HOSE SUPPLY
January 14, 2002
Renate Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to urge you to support the proposed settlement of the antitrust lawsuit against Microsoft. While I believe that many of the allegations raised by the lawsuit against Microsoft may have merit, it is time to shift the focus of the Department of Justice and our tax dollars to other priorities.

While the proposed settlement is not a home for any of the interested parties, it does have a little bit of something in it for everybody while maintaining its overall balance. One way that you can tell that the settlement is balances is the fact that nobody is very happy with the proposed settlement.

Please contact me if you have any questions, or if you would like more information.

Thank you,
P.O. Box 40308
5959 Rosedale Highway
Bakersfield, California 93384
(661) 327–HOSE (4673)
Fax (661) 327–4683 —

MTC-00031159

Sent By: JESKELL INC; 408 744 0603;
Jan-14–02 10:27;
Page 1/1
TrainSoft
6559 Old Meadow Court
San Jose, CA 95135
(408) 223–6034
hasanzr@msn.com
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I readily admit that Microsoft could have handled itself better regarding concessions to allow competitive browsers on its Windows OS a lot sooner with a lot less fuss. However, the response by our government to this and other complaints about Microsoft were far too severe, especially when breaking up Microsoft was under serious consideration. Fortunately, the threat of this eventuality has been dissipated by this settlement. I am pleased by your efforts to bring it about, and I would urge you to go further and work with Attorney General Lockyer to have this unpleasant situation in California settled as well, since the settlement remedies the question of bundling Internet Explorer with Windows, as well as addressing many other concerns, such as interoperability.

While this settlement forces Microsoft into certain concessions not envisioned by the original lawsuit, it does have the distinct advantage of ending the suit. This is a welcome end, in that we can all put this behind us and work towards rebuilding our nation's economy through the IT business community itself without fear that this lawsuit could yet to more damage.

I am therefore writing to suggest my support of this settlement, as well as share my hope that this sort of thing will not happen again.

Sincerely,
Hasan Rahim
President
cc: Representative Zoe Lofgren

MTC-00031160

Jan-14–02 10:30 JIM SCHAAF & ASSOC. 913 663 2146 P.01
JIM SCHAAF
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Attorney General:

I am writing to you as a concerned citizen regarding the recent Microsoft settlement. How can this three year long negotiation still be on hold? This well thought out, well-monitored process yielded a fair and reasonable settlement for all parties involved. It is time to let the terms of this agreement speak for themselves. Under the agreement, Microsoft has agreed to:

1. Turn over its internal interfaces for its Windows operating system to its competitors,
2. License its intellectual property to its competitors,
3. Make it easier for non-Microsoft products to be added to Windows by its competitors, and
4. Have a technical committee grade it for compliance and accepting complaints, even by their competitors.

What more could Microsoft's competitors reasonably expect from a fair settlement? As we sit and spend more of our Country's precious resources on more litigation the global market continues to produce outstanding results. Our innovative industry should be able to concentrate on the same without worrying about further legal battles. Let us allow our technology industry to move forward and work together to maintain our place in the global market.

Please help us to stop any further litigation against this settlement. Let us move forward and allow our technology industry to prosper. I thank you of your support.

Sincerely,
James M. Schaaf

MTC-00031161

01/14/2002 11:18 FAX 4078592305
REDS MARKET
001
FRESHPOINT
January 14, 2002
Renata Hesse
Antitrust Division
Department of Justice
Fax: 202–616–9937
Fax: 202–307–1454

Dear Ms. Hesse:

Being informed and involved in the issues of our community has always been a priority for me. Business leaders need to ensure the stability and growth of their businesses, as well as that of the local community and nation.

In this time of economic uncertainty, we need to be creating jobs and improving the education our children. Our efforts need to be focused on issues and activities that will strengthen our economy and position us for growth in the global market. I believe that the government's settlement with Microsoft is needed in order to facilitate this type of productive activity.

From what I've read, I believe the recent settlement is encouraging and fair to non-Microsoft software programs. Companies that make computers will have the freedom to remove Microsoft features with no consequences against them. Moreover, Microsoft will not retaliate against companies that develop or promote software that competes with Windows.

This settlement is just and fair. It's a fitting end to this legal drama that has played itself out for over two years now,

Thank you for your attention to my thoughts.

Sincerely,
Kent Shoemaker
Executive Vice President
Eastern Region
FreshPoint, Inc.
8801 Exchange Drive
Orlando, FL 32809
Telephone 407 858–0020
Fax 407 888–9179

MTC-00031162

FROM : SHOOK
FAX NO. : 3525435623
Jan. 14 2002 11:13AM P1
1655 Heron Lane
Ceda Key, Florida 32625
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As much as is possible, American companies should not have to face extended litigation on a permanent basis. That is why I was pleased to hear that you have agreed to settle with Microsoft in the anti-trust case. Making sure the settlement is completed will be even better news for our economy and American business.

Regrettably certain interest groups, many with anti-Microsoft bias, may attempt to derail this settlement. They argue that the settlement is not harsh enough against Microsoft. This however is not the case. This settlement ends any contractual restrictions Microsoft could place on competitors, and opens up Microsoft's formerly confidential code to competitors; an action never before taken by a software firm. Without a doubt this settlement is sufficient. Detractors simply have an anti- Microsoft prejudice and should be more open-minded.

Maintaining strong support for the settlement is critical to ending this case.

Sincerely,
Joseph Shock

MTC-00031163

01/14/02 04:53 ARTBA-> 001
From the Desk of:

hristopher J. Atkins
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I'm writing to voice my strong support for the Microsoft settlement. Microsoft has agreed to terms that are not only unfair to Microsoft, but I feel, could quite possible have negative consequences for Microsoft, a company that has revolutionized the software industry and provides thousands of jobs. Any further legal action by states or the federal government is only frivolous and punative.

In the settlement, Microsoft has already agreed to grant rights to computer-makers so that they may configure Windows to remove Microsoft products so the computer manufacturer can install its own competitive programs or programs from other software makers, such as RealNetworks or AOL's Instant Messenger.

Microsoft has also agreed to make it easier for computer manufacturers, consumers, and software developers to promote non-Microsoft products within Windows. Microsoft has further agreed to not retaliate against any software or hardware developers who develop software that directly competes with Windows or other Microsoft products. In a move that limits its own competitiveness, Microsoft will give the necessary license for its intellectual property rights. For these reasons, I support this flawed settlement in hopes the federal government and many states will not pursue any further frivolous legal action that will only result in the destruction of intellectual property and the demise that has built the existing computer and software industry.

Sincerely,
Chris Atkins
7507 Woodside Lane, Apt. #24
Lorton, VA 22079-2013
Phone/FAX: 703-339-7244
Cell Phone: 202-425-4837
E-mail: akinschristopher@netscape.net

MTC-00031164

JAN-13-2002 07:46 PM
DAVERUSH 9413661670
FROM : David L. Rush
2705 Bruce Lane
Sarasota, Florida 34237
Telephone: 941,366-4781
FAX: 941, 366-1670
January 12, 2002
Attorney General John Ashcroft
United States Department of Justice
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am a partner in a telecommunications company. I use Windows in my business, and believe Microsoft has consistently created superior products. I would be unable to conduct my business in today's world without Microsoft's innovations. As a businessman, I am obviously interested in having the most advanced technology available to me, at the lowest cost. The Microsoft antitrust lawsuit clearly gets in the way of both of these goals.

I have been totally against this lawsuit from the get-go. If a corporation lies, cheats, or steals, the government should become involved in that corporation's affairs, and perhaps a lawsuit should ensue. On the other hand, a corporation, such as Microsoft, should not be subjected to antitrust litigation merely because it develops superior products through hard work and innovation of its research and development team.

I strongly believe the terms of the settlement agreement go too far. Specifically, I am not in favor of the provision of creating a technical oversight committee. I am oppossed to watchdog groups in a free enterprise system. However, I do support Microsoft making this concession in the interest of getting the case settled. I am also concerned about some of the other concessions Microsoft is making. For example, Microsoft has agreed to make it easier for computer manufacturers to remove features of Windows from computers so that competing software programs may be installed. However, I do support Microsoft's agreement to these terms if it will prevent setting a precedent for disgruntled Microsoft competitors to challenge Microsoft at will whenever they believe Microsoft has created a better product. Clearly, Microsoft has gone far beyond what should be expected of it in the interest of bringing this matter to a close.

I stongly support approval of the settlement to the end to this needless litigation. Thank you for your consideration of my comments.

Sincerely,
David L. Rush

MTC-00031165

JAN-11-2002 12:27
CHARLES STINSON 9637833
P. 01/01
Charles B. Stinson
Lighthouse Road P.O. Box 62
Prospect Harbor, Maine 04669-0062
Tel 207/963-2677
Email ckelp@acadia. net
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am in support of the current settlement between Microsoft and the Department of Justice at the federal level. Microsoft has produced some of the best products for the computer, which accounts for their vast success and status as an industry leader. There have been some instances in the past where making a choice in peripheral Windows components was overly difficult, which is one of the reasons I am in favor of the current settlement. I understand that from this time forward Microsoft products will be much more accommodating to the use and integration of competitors software peripherals. This is definitely a step forward, because I believe above all else the consumer should have the right to choose, to mix and match software as they see fit.

Another important reason for ending the antitrust proceedings swiftly is the strain, which our economy is currently under. The information technology industry is one of the biggest in the United States, and the antitrust suit has hurt this industry. Not only Microsoft has felt the burden of these proceedings, commercial retailers who sell MS products, employees of said retailers, Microsoft affiliated companies, stock holders, and the American tax payers have all been impacted by the antitrust suit. Given the current down turn in our nations economy, now is not the time to be wasting our resources in the court room when they could be better utilized elsewhere. Therefore I support the antitrust settlement, and urge you to do the same.

Sincerely,
Charles Stinson

MTC-00031166

Douglas P. Fields
100 Midwood Road
Greenwich, CT 06830
TEL. (203) 661-2978
FAX: (203) 661-2996
DPFEagle@msn.com
By Fax: 1 202 307 1454 or 1 202 616 9937
By Email: microsoft.atr@usdoj.gov
January 12, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft: I believe that the antitrust case against Microsoft was inappropriate from its very inception and that the government should not have interfered with one of our country's most successful and innovative private businesses on the basis represented by the antitrust suit. I am pleased that the Justice Department has finally decided to reach a settlement in this case. It has been three long years.

Microsoft has given up a lot in this settlement. It has agreed to make future versions of Windows easier to use non-Microsoft software, and it has agreed to disclose a lot of information on the internal operating system, which is a first as far as I know.

I am certainly happy that government has decided to limit its involvement in Microsoft's business affairs, at least for now. I hope that continues to be so. Thank you for taking the time to read my opinion on this matter.

Sincerely,
Douglas P. Fields

MTC-00031167

01/12/2002 08:31 5413440403
JOHN KNUTSON
PAGE 01
2105 Stonecrest Drive
Eugene, Oregon 97401
January 11, 2002
Attorney General John Ashcroft
US Department. of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support of the recent settlement between Microsoft and the federal government. I sincerely hope that no further action is being taken at the federal level.

Taking into consideration the terms of the agreement, Microsoft did not get off at all. In fact, Microsoft is left to make some significant changes to the way that they handle business. For example Microsoft has agreed to not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows.

With all of the terms of the agreement, I see no reason to pursue further litigation on any level. I support the settlement, and hope to see it enacted soon.

Sincerely,
John Knutson.

MTC-00031168

Jan 11 02 06:40p
De Byerly 641-421-1100
1725 So. DELAWARE AVE
MASON CITY, IA 50401
JANUARY 10, 2002
Judge Kollar Kotelly
c/o Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Judge Kollar Kotelly,

In November of last year it was announced that a settlement had been reached in antitrust case brought by the United States against the Microsoft Corporation. I am writing today to ask you to support this proposed settlement.

After over two long years of litigation the Department of Justice and nine State Attorney Generals have found a reasonable way to settle this case. Despite what critics may say this settlement is equitable because it only addresses the complaints of the case that have been upheld by the courts.

It is also important to note that this agreement also created a mechanism by which Microsoft will be scrutinized to ensure it is following the agreement to the letter. Under this settlement, a completely independent commission will serve as watchdog. The facts seem simple enough. This settlement represents a workable solution to a tough situation. additionally, it removes the specter of unnecessary government interference out from over the technology industry. If the high tech industry is allowed to grow and flourish there is no doubt the benefit will flow into all American's pocketbooks eventually.

Sincerely,
De Byerly

MTC-00031169

1-11-2002 5:53PM
FROM000000000000 001
January 5, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As a mother of three school-aged children, I appreciate the opportunity to comment on the proposed settlement with the Microsoft Corporation. Quite frankly, I think it is past time to settle this case. With our economy in recession and State government sadly lacking in enough revenue to fund budgetary needs, the last thing we need to be spending taxpayer dollars on is law suits. I understand that more than $30 million dollars have been spent on this case. That money would have been well-spent on education.

Sincerely yours,
Jerinda F. Mohrmann
18280 Beaverdam Road
Beaverdam, Virginia 23015

MTC-00031170

JAN-12-2002 05:31AM P.01/03
State of New Hampshire
House of Representatives
Concord
January 11, 2002
Renata Hesse
Trial Attorney
Anti trust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Via Fax

Dear Attorney Hesse:

I understand that public comment is now being accepted in the case of U.S. v Microsoft and I want to express my support

The government and this company have been tied up in litigation for years now. Millions and millions of taxpayer dollars have already been spent over this long time period and a good agreement has been designed and agreed upon by both parties. Aren't we long overdue to settle this case and move on?

As a state representative, I truly believe that government should only intervene in the affairs of the marketplace on a very limited basis. The government's treatment of Microsoft has gone on too long and needs to come to an end. This company has made significant gains and should be rewarded, rather than punished, for their innovation and creativity. Too much of the taxpayer time and money has already been spent on this case.

Please approve this settlement as quickly as possible.

Sincerely
Saghir Tahir
State Representative, Hillsborough 38

MTC-00031171

FROM: THE ESTERLINGS
Fax NO.: 541 745 4422
Jan. 11 2002 02: 29PM P1
Robert E. Esterling
Esterling Vineyards
6826 NE Elliott Circle
Corvallis, OR 97330-9407
January 11, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

For those who follow technology and business news, the two have been unfortunately linked through the US vs. Microsoft suit. The decline of the NASDAQ and the teetering technology market both have the instability of Microsoft in this suit as their source.

The longer that the suit continues, the more damage will be done to the economy and to the world of technology. Special interests have kept this suit alive for much longer than needed. It is time now for the Department of Justice to put the needs of the consumer first by ending this suit. Microsoft has agreed to more than any company should be asked to do, such as opening up its intellectual property rights to the internal interface of its Windows operating system to its competitors, and agreeing to be monitored by a Technical Committee to which any third party may file a complaint against Microsoft.

This period of public comment is a great opportunity for the Department of Justice to know that many people in America support Microsoft and want to see it succeed for the good of the economy and for the good of American business. The Department of Justice owes the American people an end to this suit and an end to its meddling into American business. I urge you to see that the proposed settlement be formalized as soon as is legally possible.

Sincerely,
Robert E. Esterling

MTC-00031172

Jan-11-02 05:02P P.01
OTL Consulting
January 10, 2002
Judge Kolar Kottely
c/o Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Judge Kottely,

As an independent business owner, I want to say that settling the Microsoft case is just the right thing to do! I understand that Microsoft agreed to new computer-maker flexibility and new Windows design obligations. Microsoft has been a remarkable American success story; its innovations have literally changed the way we live. Microsoft has created opportunities that make our lives easier and more efficient. Our government should not punish innovation by attacking companies for being successful! AOL has spent millions to influence the government's action from which they alone stand to benefit. Innovators should be rewarded for their hard work and the risks they take in creating growth. That growth means new jobs for our communities! Let's send America a strong message and settle these suits. By doing so, I believe we are supporting fair play and free enterprise.

Thank you for your valuable time!

Sincerely,
Michael T. St.Clair
1406 NW Greenwood St.
Anleny IA 50021
515 975 2155
mstclair@quxret.net

MTC-00031173

JAN-12-2002 03:49 AM
Granite State Enterprise
January 10, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse,

The government has done its job. Years ago, complaints were brought against Microsoft which turned into one of our country's biggest, most ominous, and wide-ranging anti-trust lawsuits. The Justice Department and state attorneys general saw the case through the gauntlet and now Judge Colleen Kollar-Kotelly has worked with both sides to negotiate a settlement proposal.

The fiscal outlook for this year is grim. Unemployment is up. Wages are falling. Sales are down across the board. Americans have battened down the hatches. One of the most significant pieces of housekeeping we can take care of is the U.S. versus Microsoft case.

The continued success of the technology industry is one of the best things we've got going here in America. It employs thousands of people and every day new innovations are brought to fruition. The long-term health of the tech sector is one of the most important components of our economy, with more than one-third of America's economic growth between "95 and "00 coming from IT alone.

Instead of trying to knock Microsoft to its knees so that its competitors get a leg up, why not let everyone flourish in a competitive marketplace? Microsoft has been tried. Now is the time to close this case and move on. I hope the settlement agreement will be adopted. Thank you.

Sincerely,
Timothy P. Buckley
Executive Director
287 Canal Street, Suite One
Manchester, NH 03101
603-668-5772

MTC-00031174

01/11/2002 03:01 8046981803 HOUSE APPROPRIATIONS PAGE
COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND
VINCEMT F. CALLAHAN JR
BANKING
6220 NELWAY DRIVE
P.O. DRAWER 1173
MCLEAN, VIRGINIA 22101
THIRTY-FOURTH DISTRICT
COMMITTEE ASSIGNMENTS:
APPROPRIATIONS (CO-CHAIRMAN)
PRIVILEGES AND ELECTIONS
CORPORATIONS INSURANCE AND RULES
January 11, 2002
Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am a strong supporter of the settlement the government and Microsoft reached and hope you will resist the efforts of the competitors to try to continue their efforts to destroy this great company.

Microsoft's crime is that they have been successful and apparently a few Attorney Generals and competitors want to curtail this success.

The centerpiece of Virginia's economy is the Northern Virginia regions high-tech industry. A sad message is being sent to them that they had better watch out and don't become too successful or their own enterprise is in peril.

One would be naive to think all of the business practices of Microsoft are without blemish. It is just as incomprehensible to think that a foxed attempt to destroy one of the most successful companies on this planet would be anything less than criminal in and of itself.

I believe the settlement is a fair and reasonable compromise. Furthermore, settlement is good for the consumers, for high-tech industry and for our economy overall, If you have any questions, please do not hesitate to contact me.

Sincerely,
Vincent F. Callahan, Jr.
DISTRICT: (703) 356.1925
FAX (703) 356-9614
RICHMOND (804) 698-1034

MTC-00031175

AGAPE
In Home Care, Inc.
Quality Christian Assisted Living
January 14, 2002
Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW,
Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to urge you to support the proposed settlement of the antitrust lawsuit against Microsoft. While I believe that many of the allegations raised by the lawsuit against Microsoft may have merit, it is time to shift the focus of the Department of Justice and our tax dollars to other priorities.

While the proposed settlement is not a home run for any of the interested parties, it does have a little bit of something in it for everybody while maintaining its overall balance. One way that you can tell that the settlement is balanced is the fact that nobody is very happy with the proposed settlement.

Please contact me if you have any questions, or if you would like more information.

Thank you,
Sandra Oxford
Founder, Agape In Home Care, Inc
4800 District Blvd., Suite A,
Bakersfield, CA 93313
(661) 835-0364
FAX (661) 835-1561

MTC-00031176

Jan 14 02 07:00p
337 234 5535
SENATE
State of Louisiana
P.O. Box 86372
Lafayette, LA 70598-0872
Telephone (337)262-1332
Fax. (337) 233-4610
Vice-Chairman-Commerce
Judiciary A
Natural Resources
Mike Michot
District 23
January 14, 2002
Renata Hesse
Trial Attorney—Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
FAX: 202-616-9937
RE: Settlement of U.S. v. Microsoft

Dear Ms.Hesse:

It's my opinion that the technology of our economy had a greater impact in the past two decades than any other sector. The competition and innovation resulted in great strides in health care, business, government and many other important areas.

After a slight dip, our economy seems to be on the move again. A settlement in this ongoing case would be another step in that important recovery. The settlement is appropriate as it addresses those items upheld by the courts and provides for fair and equitable remedies. We do not need governements lawyers, bureaucrats and judges watching and micro managing the technology industry. We should encourage Microsoft and its competitors to take the fight to the consumers and let them decide.

I appreciate your consideration of my views on this matter.

Sincerely,
Michael J.Michot Louisiana State Senate—District 23

MTC-00031177

JAN-14-2002 16:53 SENATOR FOSTER 573 526 1384 P.01/01
MISSOURI SENATE
JEFFERSON CITY
BILL FOSTER
SENATE POST OFFICE
1328 County RD 442
POPULAR BLUFF, MO 63901
STATE CAPITOL, ROOM 328
JEFFERSON CI-W. MISSOURI 65101
TELEPHONE (573) 751-3859
FAX (573) 526-1384
TDD (573) 751-3969
TOLL FREE (877) 291-5584
E-MAIL: bill_foster@senat.state.mo.us
January 15, 2002
1328 County Rd 442
POPLAR BLUFF, MO 63901
≤Renata Hesse
Trial Attorney—Anti-Trust Division
Department of Justice
601 D Street Northwest, Suite 1200
Washington DC, 20530

Dear Ms. Hesse:

I am writing in support of the recently reached settlement between Microsoft and the United States Department of Justice. The agreement is pro-consumer helping the technology sector of our economy contribute new and better jobs at this time of economic uncertainty. This settlement brings to an end the most disruptive competitor-driven antitrust campaign in our nation's history. This is something all consumers can celebrate.

Sincerely,
Senator Bill Foster

MTC-00031178

01/14/02 16:45
FAX 8476472225 DDI INC 01
1721 Mission Hills Road
Northbrook, Illinois 60062
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a supporter of Microsoft, I write you concerning the recent developments in the antitrust suit settlement. I am thoroughly aggravated to find that, after three years of negotiations, the agreement is still being delayed. Not only was the negotiation process well thought out, but was extremely well monitored. The results are fair and reasonable and should be used as the guideline for moving our technology industry forward.

Not only has Microsoft agreed to rework licensing and marketing agreements, but also it has agreed to design future versions of Windows that will better accommodate non-Microsoft software. In fact, the terms of this agreement do a great deal to promote non-Microsoft software. This is certainly proof that Microsoft is acting in the interest of the entire technology industry.

Adopting this settlement, in its current form can only be beneficial to the consumer, the IT sector, and the economy as a whole. I urge you to help stop any further litigation against this agreement.

Sincerely,
John M. Mack

MTC-00031179

Jan-14-02 04:59P Rep. Maurice Lawson
573 522 5025 P.01
CAPITOL ADDRESS
State Capitol
201 West Capitol Avenue
Jefferson City, MO 65101-6806
Tele: 573-751-9460
FAX: 573-522-5O75
mlawson@services.state.mo.us
HOME ADDRESS
3109 Christie Lane
St. Joseph, M0 64504
COMMITTEES
Chairman: Environment and Energy
Member: Appropriations-Transportation; Conservation State Parks and Mining; Fiscal Review and Government Reform; Tourism Recreation & Cultural Affairs
MISSOURI HOUSE OF REPRESENTATIVES
MAURICE LAWSON
State Representative
District 29
Disrict Contacts:
Helen Weigman
Adminstrative Assistant
Tele/Fax: 816-640-5337
Craig Carver
Legislative Liaison
816-640-5757
14 January 2002
Ms. Renata Hesse
Trial Attorney, Anti-Trust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As a member of the Missouri Legislature, I want to express my support for the Microsoft settlement.

I have continued to monitor this case from the beginning and have been fairly critical of the case against Microsoft. Based upon my personal opposition, I believe this agreement is a reasonable and fair compromise for both Microsoft and Department of Justice. Microsoft has been extremely innovative and productive in addressing consumer needs, which have spurred billions in economic growth over the last decade. Given the current downturn in the U.S. economy, we should be encouraging companies like Microsoft to set new goals and achievements. For this reason, I hope you will agree to this reasonable settlement.

Sincerely,
Maurice Lawson
State Representative
District 29

MTC-00031180

Jan-14-02 04:58P
Rep. Maurice Lawson 573 522 5025 P.01
CAPITOL ADDRESS
State Capitol
201 West Capitol Avenue
Jefferson City, MO 65101-8806
Tele: 573-751-9460
FAX: 573-527-5025
E-Mail: mlawson@services.state.mo.us
HOME ADDRESS
3709 Christie Lane
St. Joseph, MO 64504
COMMITEES
Chairman: Environment and Energy
Member: Appropriations—Transportation; Conservation, State Parks and Mining; Fiscal Review and Government Reform; Tourism, Recreation & Cultural Affairs.
MISSOURI HOUSE OF REPRESENTATIVES
MAURICE LAWSON
State Representative
District 29
District Contacts:
Helen Weigman
Administrative Assistant
Tele/Fax: 816-640-5337
Craig Carver
Legislative Liaison
816-640-5757
14 January 2002
Ms. Renata Hesse
Trial Attorney, Anti-Trust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As a member of the Missouri Legislative, I want to express my support for the Microsoft settlement. I have continued to monitor this case from the beginning and have been fairly critical of the case against Microsoft. Based upon my personal opposition, I believe this agreement is a reasonable and fair compromise for both Microsoft and Department of justice. Microsoft has been extremely innovative and productive in addressing consumer needs, which have spurred billions in economic growth over the last decade. Given the current downturn in the US. economy, we should be encouraging companies like Microsoft to set new goals and achievements. For this reason, I hope you will agree to this reasonable settlement.

Sincerely,
Maurice Lawson
State Representative
District 29

MTC-00031181

Kern County Hispanic Chamber of Commerce
Renata Hersse, Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

Microsoft is being amply reprimanded and reigned in with the settlement reached. It is our understanding that under the Tunney Act, the public has sixty days to provide input for consideration by the parties involved regarding this settlement.

While we appreciate the idea of the government looking after the best interests of its citizens, nearly four years, $35 million dollars and the terms of the settlement are enough. It is more than time for this issue to be put to rest.

We strongly urge you to support the settlement. Please take the actions neccessary to keep the process rolling to get the settlement through all the channels and put in place.

Sincerely,
Lou Gomez, Executive Director
Kern County Hispanic Chamber of Commerce
1401 19th St., Suite 110
Bakerfield, CA 93301
661-633-5495

MTC-00031182

CHAMBER
October 25, 2001
The Honorable Barbara Boxer
United States Senate
1700 Montgomery Street Suite 240
San Francisco, CA 94111

Dear Senator Boxer:

The Greater Bakersfield Chamber of Commerce, an organization that represents 1,500 businesses and over 53,000 employees in the Bakersfield area would like to express our concerns with the on-going litigation against Microsoft Corporation. Microsoft has revolutionized the way America, and the world does business.

In particular view of the current downturn in the economy at a national level it seems reasonable to assume that the Federal Government would be supportive of a company that is contributing so significantly in terms of economic stability. Punative measures now being directed towards Microsoft can only deplete their resources and ability to produce and compete in the global market.

The business community has always cooperated with and worked in conjunction with government to serve the best interests of this nation. We ask that you take our concerns into consideration when negotiating terms that ultimately could be detrimental to not only Microsoft, but also the entire business community at large.

Sincerely,
Chris Frank
President/CEO
Greater Bakersfield Chamber of Commerce

We are members of the Chamber, but disagree w/their position.

1725 Eye Street
P.O. Box 1947,
Bakersfield, CA 93303
Tel 661.327.4421

Fax 661.227.8751
http://www.bakersfield.org/chamber – send email

MTC-00031183

I beleive you should keep prosectuing MICROSOFT. Stop Spending Our Tax Dollars! Antitrust law shouldn't be abused! The pursuit of Microsoft through antitrust and class action lawsuits is no way fragile economy.

The federal government has spent $35 million tax dollars with their lawsuit against Microsoft. During these turbulent times, we should focus our attention on other priorities.

Keep it up.

Join your chamber & others around the state. Copy the attached letter on your letterhead and send your letter to:

Renata Hesse, Trial Attorney
Antitrust Divison, Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202–616–9937

Fax my thoughts to her

Please fax a copy to PG Communications/ATL at (916) 737–1809

Phil Gaskill
GASKILL CUSTOM HOMES

MTC-00031184

FROM: LIBERTY CONSTRUCTION
FAX NO. : 3253135
Jan. 14 2002 03:55PM P1
734400 Mamalahoa Hwy.
Kailua Kona, HI 96740–9191
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530–0001

Dear Mr. Ashcroft:

For three years, I have been absolutely befuddled as to why the federal government is so interested in attacking American free enterprise. Microsoft is a company that makes a product that benefits the lives of practically every person in America, and every person on the Earth. Their great contribution tothe world of computers knows no rival, and they have been duly rewarded for their market and technical genius.

The case against Microsoft never should have come to trial. It has been an embarrassment to both the American judicial system and to American business for three long years. People everywhere are getting wise to the fact that the case against Microsoft was motivated by greed and jealously and envy and sloth more than anything remotely substantial.

Forcing Microsoft to do all the tedious parts of the proposed settlement i.e. making retaliation against competitors impossible will only serve to slow progress in the IT industry. Microsoft and its competitors must all be on a level playing field as a result of this suit. Unfortunately, that won't be the case. The government is stripping Microsoft of rights needed for business survival, including competing.

The Department of Justice must close this case before any further damage can be done to Microsoft, and ultimately, the economy. American business deserves a speedy end to these three years of painful litigation. Thank you.

Sincerely,
Julie Hayward

MTC-00031185

Jan 15 02 10:33a 9416430207 p.1
181 West Street
Naples, FL 34108–2907
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

Why should litigation still be pursued against the Microsoft Corporation despite the fact that a settlement has been reached? There is no good reason.

Microsoft has been neither too harshly nor too lightly punished. Tithe complaints of its competitors have been addressed and dealt with. Microsoft, for example, has agreed to reformat future versions of Windows so that its competitors will be able to introduce non-Microsoft software into the Windows operating system. In addition, Microsoft has agreed to make available to its competitors any protocols used in the Windows operating system and its related products to interoperate natively with any Microsoft server. I believe this is a fair settlement. Microsoft does not need to be examined any further in regards to antitrust violations. I believe that the Department of Justice has done its duty in the Microsoft antitrust case and that no additional measures need be taken on the federal level. Nine states are actively seeking to overturn the agreement once the review is over. I do not believe such a course of action is necessary.

Thank you.

Sincerely,
Zorina Wrenn

MTC-00031186

TROUTMAN SANDERS MAYS & VALENTINE LLP—ATTORNEYS AT LAW,
A LIMITED LIABILITY PARTNERSHIP
1111 EAST MAIN STREET
RICHMOND. VIRGINIA 23219
www.troutmansanders.com
TELEPHONE: 804–697–1200
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MAILING ADDRESS
P.O. BOX 1122
RICHMOND. VIRGINIA 23218–1122
Mark L. Earley
mark.earley@troutmansanders.com
Direct Dial: 804–697–1212
January 7,2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D. Street NW—Suite 1200
Washington, DC 20530–0001
Re: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

Having served as Attorney General of the Commonwealth of Virginia from January of 1997 until June of 2001, I watched the Government's case with Microsoft unfold and progress through the court system. I write to let you know that I believe that the current settlement pending is in the best interest of the nation, the best interest of the industry, and the best interest of consumers. The settlement strikes a balance between placing sanctions on Microsoft while preserving the company and its ability to innovate and market its products. The sanctions chosen will protect consumers and give them greater choice when they purchase and enhance their computers yet at the same time foster greater competition within the software industry. I believe it is a just and fair resolution to all parties concerned.

I write to express my support of the Department of Justice and the Attorneys General for their efforts to finally put an end to this case and agree to a settlement that is in our nation's best interest.

Sincerely yours,
Mark L. Earley
1263/451/1020628

MTC-00031187

LAWRENCE G. TOWNSEND, Attorney at Law
Intellectual Property and Unfair Competition Law
455 MARKET STREET, 19TH FLOOR
SAN FRANCISCO, CALIFORNIA 94105
(415) 882–3288
Fax (415) 882–3299
email lgt@lgt-law.com
December 14, 2001
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement: United States v. Microsoft

Dear Ms. Hesse:

Taking up the public's right to comment on the Microsoft Settlement (as required by the Tunney Act), I write in three capacities: (1) an intellectual property attorney, (2) a consumer of software products, and (3) a novelist. As to the latter, I've written a novel entitled Secrets of the Wholly Grill (publication February 2002, Carroll & Graf)[1] on the subject of a software monopolist's behavior and the consequences if that behavior is not adequately checked. Based on my experience, a review of the Proposed Final Judgment and having given considerable thought to the behavior of a software monopolist,[2] I believe that a License Committee, similar in nature to the Technical Committee, should be created and implemented, all as is more fully explained below.

In the novel-which in hindsight can stand in as an amicus brief-a hypothetical company by the name of ThinkSoft monopolizes the market for operating systems and software for artificial intelligence called "reason ware" that is used by everyone for all manner of decision-making. It then leverages its market power to expand into a new market-outdoor cooking information systems (whose predecessor market was backyard barbecue grills). In so doing, ThinkSoft engages in a wide range of anti-competitive,high-handed and sharp practices that harm consumers financially, physically and emotionally.

---

[1] Subtitled A Novel About Cravings, Barbecue, and Software; additional information, including excerpts, may be found at www.whollygrill.com (January 2002).

[2] The value of novelists in assisting the legal system in gauging justice, especially where human behavior is at issue, cannot be underestimated. Examples abound. When our nation and lawmakers adopted the Thirteenth Amendment, no amount of data or reports from slave trade analysts came close to the distilled accuracy of Uncle Tom's Cabin.

There are many illuminating parallels between Microsoft and ThinkSoft. By way of example, the following events in the story should be self-explanatory. In entering the new market, ThinkSoft bundles its trade secret-protected barbecue sauce with the hardware, and consumers are forbidden under the strict end user license agreement from using any other sauce. Competitors don't stand a chance. When an end user bastes with another sauce or attempts to use the proprietary sauce on a competitive grill, not just a crash occurs; rather, physical violence, among other harms, is visited upon the end user.

In moving aggressively into new and unanticipated markets-the latter being a hallmark of the software industry-ThinkSoft proves to be a mindless market-eating machine. Thus, in expanding into the outdoor cooking market, ThinkSoft metes out punishment to its competitors and abuses ever-hungry consumers, all with the design and effect of capturing, maintaining and exploiting its ill-gotten dominance in that market.

The centerpiece of ThinkSoft's abusive conduct is its licensing practices. The Wholly Grill End User License Agreement is attached to the amicus brief as Exhibit A,pages 335 to 336. Here follows a telling excerpt:

1. The Company grants you a non-exclusive worldwide perpetual license, unless sooner terminated as provided herein, to use and operate the Information System, but only as delimited by this License Agreement.

2. You will only use the Information System when connected by the Information System modem to the proprietary outdoor cooking information and control server hosted by the Company, namely, the Wholly WAN(Wide Area Network) Optimization of Research and Development ("the Wholly WORD"). In no event shall the Company be responsible for your inability to connect with the Wholly WORD or any interruption of service you may experience, including loss or spoliation of meats, fish anther perishables.

3. You agree to use Wholly Grill Outdoor Cooking Information System Barbecue Sauce with Smoke Crystals("the Information Sauce") and only the Information Sauce in connection with your operation of the Information System and no other sauce or marinade,whether purchased or homemade. Use of any sauce other than the Information Sauce, or use of the Information Sauce on any system other than the Information System, could result in injury or death for which the Company cannot be held responsible.

ThinkSoft requires its end users to obtain grill control server services from ThinkSoft's proprietary Wholly WORD; the latter (analogous to a Microsoft Middleware Product as defined in the Judgment albeit a service, not a product) switches on and calibrates the cooking process. The end user is not permitted to obtain those services from any other provider. Is the Wholly WORD an integral part of a seamless outdoor cooking information system, or is it part of an illegal tying arrangement? And what about the bundling of the sauce with the system? Such questions require a great deal of factual analysis and are no doubt subject to numerous claims and defenses, especially in a technologically dynamic market (as all agree exists in the Microsoft case). But what, if anything, in the Final Judgment gives plaintiffs the teeth to prevent currently unforeseen but abusive licensing practices of the type intended to be controlled by the Judgment?

The point is that at least one major component of Microsoft's licensing scheme-its end user license agreement-is entirely omitted from regulation by the Final Judgment. The only licenses affected by the proposed settlement are those with OEMs,IAPs, ICPs, ISVs and IHVs as those businesses are defined in the Final Judgment.

The settling parties would claim that unlawful tying has not been determined, and that the issue of whether Microsoft unlawfully tied Internet Explorer with Windows was remanded to the trial court for further trial proceedings. Except for the limited controls placed on Microsoft's dealings with those listed above, Microsoft has virtually unfettered discretion, by and through its end user agreements, to require contractual terms such as those found in the ThinkSoft license-terms that are exclusionary and that may serve to artificially maintain its operating system monopoly while allowing it to unfairly leverage into new markets. Microsoft has been and will continue to be endlessly inventive in the way it advantageously and unfairly licenses its products and services.

Hence, in addition to the Technical Committee described in the Final Judgment, I propose a License Committee to be formed much like the Technical Committee and that would have oversight of any licenses or license terms inconsistent with both the letter and the spirit of the Final Judgment. The License Committee would investigate complaints from competitors, industry and consumers, consider Microsoft's permissible business objectives, and then proceed in a manner analogous to the Technical Committee. It would help prevent Microsoft from accomplishing indirectly through its end user agreements (or any other licenses) that which it is expressly forbidden from doing with the licensees specified in the Judgment. The License Committee could never interfere with any activity Microsoft characterizes as innovation. Creative licensing that effects an end-around the Final Judgment isn't innovation; it's legal weaseling.

Another reason to form a License Committee is to at least have the semblance of punishment for the pernicious conduct found to have occurred. Microsoft is a predator, an impermissible monopolist in the software market, yet the Final Judgment proposes no punishment. If Microsoft perceives this as punishment, then all the better; it is far less and avoids the complexities of a structural remedy. Oversight from a License Committee is not much punishment, but Microsoft has demonstrated that on the unlevel playing field it alone unlawfully created, a "playground supervisor" is needed. Otherwise, make-nice behavioral controls, promulgated by well-meaning Microsofties, will once again prove to be bootless. Stated differently, a remedy that includes no punishment is no remedy at all;its remedial effect is a fiction that, if written into a novel, would be dismissed as implausibly lenient.

Respectfully submitted,

Lawrence G. Townsend

cc: Thomas W. Burt; John Warden, Esq.; State Attorneys General of New York, California, Connecticut, DC, Florida, Illinois, Iowa,Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, New Mexico,North Carolina, Ohio, South Carolina, Utah, Virginia and Wisconsin

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MTC-00031188

3803 Drexel Court
Louisville, KY 40241
December 9, 2001
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Person:

I oppose the proposed Microsoft antitrust settlement for the following reasons.

(1) Microsoft is guilty of monopolistic practices, yet the settlement encourages the extension of that monopoly into schools-one of the few areas where Microsoft still has non-trivial competition.

(2) The settlement is not punitive. The cost of providing software is negligible to Microsoft and,in the end, they will probably profit by eventually charging the schools upgrade fees for their "free"software.This is a variation on the scheme they used to corner the spreadsheet, word processing and browser markets.

(3) The settlement does nothing to correct the wrong created by Microsoft's criminal actions, and does little to keep them from doing the same things in the future.

Sincerely,

Lee Larson

MTC-00031189

North Pathology Associates, PLLP
North Mem la, Medical Center
3300 Oakdale Avenue North
Robbinsdale, MN 55422-2900
768-520-5525
Pathologists:
Virginia Dale, M.D.
Peter J. Benson, M.D.
Sue Schlafmann. M.D.
Laura Schmitz M.D.
Brad Brown M.D.
Betty Olivares-Pakzad M.D.
Eric Kehrberg M.D.
November 21, 2001

Re: the proposed Microsoft antitrust settlement

Dear Sirs,

I am taking the time to write to express my deepest concern regarding the proposed settlement between the Justice Department and Microsoft Corporation. To get right to the point, the settlement which has been proposed is a conduct remedy (and a backward-looking, weak one at that) which is inappropriate and wholly inadequate for a company which has only shown contempt and disregard for similar conduct restrictions in the past.I need not remind you that Microsoft signed a consent decree in 1995 that prohibited them from tying application software to their monopoly operating system software, which they promptly and completely disregarded in their efforts to drive a smaller and genuinely innovative competitor (Netscape)out of business.They did so knowingly and unrepentantly, and despite being found in violation of antitrust law by both the district and appellate courts for this, they now astoundingly face no penalty of any sort for their actions.——

With this history, why on earth would anyone expect Microsoft to abide by the new conduct restrictions in the proposed settlement? What reason has the Department of Justice given Microsoft to fear disregarding these new restrictions in the very same way they ignored the previous ones? Indeed, they have already pressed forward,trying even more of their own proprietary application software into WindowsXP than ever before, while excluding popular formats (such as MP3) and middleware (such as Java).

The argument that this is somehow the best that the Department of Justice can hope for given it's limited resources is either disingenuous or deeply disturbing. The Court of Appeals did not say that the remedy of splitting Microsoft into two companies was inappropriate, only that it needed to be reexamined by the district court in light of apparent prejudice by Judge Jackson. Such a remedy has been amply demonstrated in earlier cases(such as Standard Oil and AT+T) to be remarkably effective in curbing monopolistic practices while allowing competition as well as the divided monopolist to flourish. If the Department of Justice,representing the very people of the United States, truly cannot persevere through one more stage of this case for financial or political or any other reasons, then the rule of law itself is at risk.

Let me make clear that I have no financial interest in the outcome of this case; I am not a disappointed competitor of Microsoft, nor has this letter been drafted by some PR firm for me to sign. I am simply a citizen who knows and enjoys computers and who appreciates true innovation and fair competition, both of which I feel will be greatly imperiled in the future under the conditions of this wholly insufficient proposed settlement.

If you would like to contact me for any reason, please feel free to do so at the telephone number or address above.

Sincerely yours,

Peter Benson MD

MTC-00031190

JAN 15 2002 12:21PM HILTON, INC. 850-230-4092 p.1

Paradise Found

RESORTS HOTELS

11127 Front Beach Road * Panama City Beach, FL 32407

Office (850) 233-4824 * FAX (850) 235-0888

January 14, 2001

Ms. Renata Hesse

Antitrust Division

Department of Justice

Fax: 202-616-9937

Fax: 202-307-1454

Dear Ms. Hesse:

As a business owner, suffering through a serious recession, I am writing to let you know that I support the Microsoft settlement. The business community I operate in has been suffering due to a weak economy. Too many jobs have been lost and scores of business owners have had to close down. A significant reason among others this is taking place is due to the troubled tech sector.

When the technology industry fell on difficult times, it passed on to other sectors and affected many people. Microsoft, a company that was in the forefront during the great economic expansion, also suffered because of this decline, and the lawsuit against them did not help at all. The settlement that has been reported in the news seems to be even and balanced; it builds new relations with software developers and creates a new, uniform price list.

I strongly believe that the troubled tech sector as well as our economy will better rebound because of this agreement.Thank you for taking the time to read my letter.

Sincerely,

Julie K. Hilton

MTC-00031192

JAN-15-2002 12:10 GUILD OF ST. AGNES 508 754 2026 P.01

Administrative Offices

133 Granite Street * Worcester, MA 01604

(508) 755-2238 fax: (508) 754-2026

www.guildofstagnes.org

GUILD OF ST. AGNES

CHILD CARE PROGRAMS

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January 15, 2002

Renata Hesse

Trial Attorney

Anti-Trust Division

Department of Justice

601 D. Street NW, Suite 1200

Washington, DC 20530

Dear Attorney Hesse,

I would like to comment on the proposed settlement in the Microsoft caseAs the Executive Director of a non-profit childcare agency, I use Microsoft products daily and they have been of great help to me and my staff. They have allowed my staff to become more self-sufficient.

The fact is that the proposed settlement will benefit groups like mine who would qualify to receive Microsoft products if the settlement survives in its present state.In my opinion I have not been harmed by any actions taken by Microsoft. In fact,Microsoft's innovations have helped many small agencies such as mine.

I hope that we end this lawsuit and approve the settlement.

Sincerely Yours,

Edward P. Madaus

Executive Director

Center Locations: Ayer * Bellingham * Gardner * Granite Street, Worcester * Grove Street,Worcester * Lincoln Street, Worcester

Family Child Care Location: Devens * Spencer * Whitinsville * Worcester

---

MTC-00031193

1-15-2002 12:12PM FROM 000000000000 P. 1 NO.067 P001/001

POWER GOVERNMENT AFFAIRS —> 000000000000

Christopher B. Rivers

2100 Stuart Avenue

Richmond, VA 23220

Ms. Renata Hesse

Antitrust Division

Department of Justice

601 D Street NW, Suite 1200

Washington, DC 20530

Dear Ms. Hesse:

I have read through the list of settlement provisions with regard to the Microsoft case, and find several of them quite compelling. For Example;

—The agreement to license Windows to the 20 largest computer manufacturers at the same terms, conditions and price;

—The agreement that consumers will have the freedom to choose to change their Windows configuration at any time and will be ableto add non-Microsoft software if they wish; and

—The agreement that to monitor compliance, a three-personTechnical Committee will be established.

I find these provisions to be good examples of why this settlement will be one that works.

Sincerely yours

Christopher Rivers

MTC-00031194

JAN-15-2002 10:21 M B I WORCESTER 508 799 4039 P.01/01

MBI (MASSACHUSETTS BIOMEDICAL INITIATIVES)

January 14, 2002

Atty. Reneta Hesse

Antitrust Division

Department of Justice

601 D Street NW, Suite 1200

Washington, DC 20530

Re: Microsoft Case

Via Fax: 202-616-9937

Dear Attorney Hesse:

I am writing to express my support for the goal set forth in the proposed settlement of theMicrosoft antitrust case,

As part of that settlement, Microsoft is proposing the donation of approximately 200,000computers to public school students throughout the country. Recent research suggeststhat the digital divide that exists along economic lines have an adverse impact onstudents, schools and educational opportunity. Currently, 82% of schools in affluentcommunities are connected to the Internet. That number drops to 60% of the classroomsin poorer communities.

The New York Times recently reported that 88% of households whose income is $75,000or higher had a computer. This number drops dramatically for households with incomebelow $25,000. The need is documented and in my opinion can be partially remediedwithin this particular case settlement. Thus, my support of the specific goal of thesettlement which will provide students and teachers within these lower income areasaccess to both technology and computers.

Our Biomedical industry is fueled by brainpower along with the technology "know how"to create life science products. This particular settlement agreement I believe goes a longway in helping us continue to accomplish this goal. Thank you for your careful reviewand hopeful consideration.

Sincerely,
Kevin O'Sullivan
Vice President Development
25 Winthrop Street.
Worcester, MA 01604
Tel: 508–797–4200
Fax: 508–799–4039

MTC–00031195

JAN 15'02 10;45AM CATALINA SPA P.l
KEITH D. & SUZANNE S. DODGE
125 RAINBOW DRIVE, #2507
LIVINGSTON, TEXAS 77399–1025
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20330

Dear Mr. Ashcroft

Like many people in Texas, I am happy that a settlement agreement has beenreached between the Department of Justice and Microsoft. The suit has taken atoll on the IT industry and on consumers of technology products.

The settlement agreement is fair to all the parties in the case and is the result ofyears of expensive litigation. Information sharing and non-retaliation agreementsshould be enough to satisfy even Microsoft's harshest critics. Unfortunately,opponents of Microsoft would like to see the lawsuit continue and even bereopened for further action. Three years of litigation have already disturbed the ITindustry and the economy too much. Reopening the suit and continuing litigationwill only serve to harm the IT industry and the economy.

Now is the time to end the suit and move on. Surely, the Department of Justicehas more important issues to deal with and Microsoft needs to move on as well. Ihope that the settlement is finalized as soon as possible.

Sincerely,
Suzanne Dodge

MTC–00031196

From : FULL CIRCLE BUILDING SERVICES FAX NO. : 812–945–2637
Jan. 15 2002 02:33PM Pl
Full Circle
Building Services
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing because I would like to see your officesettle its ongoing antitrust case against Microsoft. Thematter has dragged on too long, and the current settlementagreement seems fair to all involved parties.

Rather than bowing down to pressures by competitorswho are acting like crybabies, the Justice Departmentshould recognize that the settlement promotes healthycompetition and will allow Microsoft to focus on itsbusiness again, which is especially important given thecurrently depressed economy. The case continues to costAmerican taxpayers a lot of money with little result, andit is time to move on to more important problems.

The settlement really holds Microsoft's feet to the fire.Microsoft, in a first for any antitrust settlement, willrelease the internal interfaces to its Windows operatingsystem. Microsoft will make available to competitors anyprotocols for native interoperation with any Windows serveroperating systems. These are the keys to the kingdom,Attorney General Ashcroft. In order to get this casebehind it, and get on, Microsoft agreed to these generousterms.

I am in favor of settling your office's suit againstMicrosoft. It will let everyone get back to business assoon as possible.

Sincerely,
Thomas Barbercheck
1687 Terry Lane
New Alabny, Indiana
(812) 945–2637

MTC–00031197

MONTGOMERY COLLEGE
Germantown Campus
Student Development/Counseling Center
20200 Observation Drive
Germantown, MD 20876
301-353–7734
Phone: 202 307–1454
Fax phone: 301–353–1985
REMARKS: Urgent For your review Reply ASAP Please comment
RICHARD L. BERGLUND
129 Lynnmoor Drive
Silver Spring, MD 2O90l-1516
Telephone 301–681–8153
Rberglund@aol.com
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

After considerable time and money, the Department of Justice and Microsoft havereached an agreement ending the three-year-long antitrust case against Microsoft. Iwant to give my support to this agreement and ask that you do also.

Personally, I do not think the case against Microsoft was warranted. The suit in myopinion, was the only way left for Microsoft's competitors to "clip" Microsoft's wings,having failed to compete successfully with the Microsoft in the open market. I useMicrosoft, but when I walk into a store and make a choice, I do so freely. I can chooseother software packages, but choose Microsoft because it works.

Anyone who is in the computer industry today has to be very quick and very smart.Bill Gates was simply smarter and quicker. Technology today changes so quickly; aprogram is obsolete by the time it gets on the shelf. What will the competitors ofMicrosoft do if some other firm out-performs them. Will every successful company befaced with a lawsuit from their competitors as a way to keep them in line? If this is so,I would image the Department of Justice will be kept pretty busy.

The agreement reached did not let Microsoft off easy. Microsoft has to configure theirWindows" software programs as to permit the insertion of non-Microsoft programs;Microsoft has also agreed to disclose source codes for their Windows" operating systemproducts. Microsoft has even agreed to a technical committee to monitor futureactions.

Frankly if I were Bill Gates I would move the entire Microsoft operation to BritishColumbia. Perhaps he would then have a governmental/ legal system that realizes thebenefit to the national economy of Bill Gates and Microsoft.

Do not punish success. Give your support to this agreement. Thank you.

Sincerely,
Richard L. Berglund

MTC–00031198

FROM : KAY LOPATA FAX NO. : Jan. 15 2002 02:22PM P1
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
January 12, 2002

Dear Mr. Ashcroft.

As a supporter of Microsoft, I am writing you with concern over therecent settlement between Microsoft and the Department of Justice. I wassurprised to find out that, after three years of negotiations. there may be evenmore delays in the process. After such a well thought out, well monitorednegotiation process, one would think that it is time to move on. Let us getour technology industry back to business and allow the government to focuson more important issues.

As our economy suffers, our technology industry takes a back seat inthis highly competitive global market. Awaiting more scrutiny of thissettlement, only delays our IT sector in getting back to business with theany concessions that Microsoft has made, all parties of the IT sector areready to move forward, but there are those who are still trying to hold upthe process. Let us not step on our own toes. Let us support the settlementthat we have been trying to make happen for so long.

I urge you to not hold up this process any longer. Help us support thisagreement as it is, so we can move on and get back to business.

Sincerely,
Kay Lopata
P.O. Box 233
Wycombe, PA 18980
cc: Senator Rick Santorum

MTC–00031199

12023071454 p.01
RELCOMInc.
2221 Yew Street
Forest Grove, OR
FROM: Mr. Maris Graube
97116 USA
TO: Attorney General John Ashcroft
COMPANY: Department of Justice
Tel: 503–357–5607 x102
Fax: 503–357–0491
maris.graube@relcominc.com
DATE: 15-Jan-02
FAX: 202–307–1454
No. of pages 1

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in favor of the Microsoft antitrust case settlement. From my perspective, the sooner thelitigation isconcluded, the better. I work in the technology industry. In my business, we benefit daily fromproductinnovations made by Microsoft and the standards they set in how we communicate via ourcomputer software. Iwould like to see this matter resolved so Microsoft is able to continue developing superiorproducts as they haveconsistently done in the past. It makes little sense to continue to burden the court system andMicrosoft with thislitigation. It appears to me that the parties have participated in extensive negotiations, and havearrived at asettlement agreement that is fair.

The agreement calls for many concessions on Microsoft's part. Microsoft will not retaliate againstthose whopromote or distribute Microsoft's competitors" software. They have also agreed not to enforcetheir intellectualproperty rights. Additionally, a three person technical committee will monitor Microsoft'scompliance with theterms of the agreement. The agreement goes well beyond what is necessary to address thecomplaints made byMicrosoft's wanna-be competitors. No further delay in the settlement process is warranted orjustified.

I believe Microsoft has been a force for public good. Where else can you buy millions of lines ofcomputer codefor as little as they charge? Who else has the ability to effectively set computer standards?Without Microsoft,we would still be in the dark ages when it was not possible to exchange computer documents orvarious datawithout employing a legion of programmers.

Sincerely,
Maris Graube
President
2221 Yew Street
Forest Grove, OR 97116

MTC-00031200

01/15/02 12:48 FAX 908 771 1985 BOC MURRAY HILL EDI SVCS 001
39 Mayflower Drive
Basking Ridge, New Jersey 07920
January 12, 2002
Attorney General John Ashcroft, US. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

The settlement reached between Microsoft and the DepartmentJustice is welcome, in that it allows Microsoft to return to business theway it should be. After three years of litigation, the technologyindustry and the economy have felt the impact of this litigation. Withthe current recession, it is of apparent and great importance that thisissue be resolved with great haste.

The settlement contains many concessions on behalf ofMicrosoft. Microsoft has agreed to disclose to its competitors theinternal interfaces of its operating system. Further, Microsoft hasagreed to grant computer makers rights to configure Windows as topromote non-Microsoft programs that compete with programsincluded within Windows.

Obviously, Microsoft has gone to great lengths to settle thisissue. It is time that this issue is finally laid to rest.

Sincerely,
Kathleen West

MTC-00031201

Jan 15 02 12:llp LANSOURCE INC 9725781061 P. 1
SOURCE
704 East Central Parkway, Suite 1218
Plano, Texas 75074
Tel (972) 612-1690
Fax: (972) 578-1061
January 15, 2002
Attorney General. John Ashcroft, USDOJ
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

After three years of litigation, The Justice Department has attempted to close thelong, drawn-out saga of the antitrust suit against Microsoft. Microsoft reached asettlement regarding the suit that is more than fair. To carry on any further litigation willonly slow the delivery of advanced technology to the market. The reality of thetechnology sector right now is that it needs to be motivated so we all can get back tobusiness.

It is necessary to settle this suit to gain back consumer confidence. Thesettlement instructs Microsoft to provide some concessions for its competitors. Microsofthas agreed to the establishment of a three-person "Technical Committee" that willmonitor its observance of the settlement. Microsoft must also provide information aboutthe development of its products.

It is necessary to realize that this country is based on a free market and capitalism,and by settling this suit we can get back to this. The technology industry has alreadybeen delayed for to long from moving ahead. Stop all action at the federal level and workto finalize this agreement.

Sincerely,
Clifford M. Ward
President

MTC-00031202

DDI INC
DDI, Inc.
6201 W. Howard Street
Niles, Illinois 60714
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a supporter of Microsoft, I write you concerning the recent developments inthe antitrust suit settlement I am thoroughly aggravated to find that, after three years ofnegotiations, the agreement is still being delayed. Not only was the negotiation processwell thought out, but was extremely well monitored. The results are fair and reasonableand should be used as the guideline for moving our technology industry forward.

Not only has Microsoft agreed to rework licensing and marketing agreements, butalso it has agreed to design future versions of Windows that will better accommodatenon-Microsoft software. In fact, the terms of this agreement do a great deal to promotenon-Microsoft software. This is certainly proof that Microsoft is acting in the interest ofthe entire technology industry.

Adopting this settlement, in its current form, can only be beneficial to theconsumer, the IT sector, and the economy as a whole. I urge you to help stop anyfurther litigation against this agreement.

As a software developer, Microsoft products have certainly helped us to expandour own offerings and should not be penalized for being successful for what they do.The computer industry would be lightyears behind without user friendly products such asthe Windows operating system.

Sincerely
Judith A Mack
President

MTC-00031203

Melody Prichard
5806 Stonecrest Midland Texas 79707
January 14, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I write today to express my opinion regarding the Microsoft antitrust case.As a Microsoft supporter, I support the settlement reached in November. Years of litigation served to cripple the technology industry. I believe that a resolution will be beneficial in rebuilding confidence in the industry.

As a Microsoft supporter, I understand the cost of the terms Microsoft agreed to. Microsoft decided to give up many of its personal information regarding Windows. Microsoft will now disclose the internal interfaces of the system to developers. In addition, Microsoft is creating a new version of Windows that will allow users to delete or add different programs into the Windows system. Microsoft has given up this information in an attempt to resolve the antitrust suit once and for all.

I believe it is time we do just that. Enact the settlement at the end of January.

Sincerely,
Melody Richard

MTC-00031204

12024 211th Place SE
Snohomish, WA 98296-3944
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

January 10, 2002

As a member of the IT industry, I feel that it is extremelyimportant that the current Anti-Trust case against Microsoft be resolved as soon as possible. Though I have not agreed with the suit from the beginning, it is my opinion that now is the best opportunity to reach this goal. The settlement reached in November of last year seems satisfactory for all involved. In today's economy we must allow the tech industry and its leading innovator to get back to work. Continuing this fiasco with more legal wrangling will only prove counterproductive.

The settlement reached last November should satisfy the government as well as Microsoft's main competitors.Microsoft did not get off easy. In fact, they have agreed to terms that extend well beyond the original scope of the suit, for the sake of wrapping it up as soon as possible.Under these terms, Microsoft must relinquish source codes and interfaces that are internal to Windows'' operating system products. Additionally, Microsoft has agreed to design future versions of Windows to make it easier for consumers, computer makers, and software developers to promote non-Microsoft applications. These and many more restrictions and obligations will be monitored for compliance by a Technical committee. It seems to me that this settlement is more than fair, and thus should be implemented without further delay.

Now is the time for this country to move past this issue and concentrate on more important matters. I ask that you concentrate your efforts towards realizing the current settlement and ignoring any requests for more litigation.

Thanks for your time and consideration.

Sincerely,
Bonnie Carpenter

MTC-00031205

Jan 15 02 11:48a Tk and Judi 316-733-6058 P. 1
January 15, 2002
Subject: Microsoft Settlement

To whom it may concern:

Our government needs to protect our economy, and not to be derailed by attempts to benefit certain companies'' interest. It is unfortunate that the remaining states that rejected the agreement have strong support from Microsoft's competitors, in which they reside. Those state representatives have no choice but to support their prime resident companies, and their counter proposal is only to benefit those resident companies.

The focus of this case should be based on whether Microsoft has indeed hurt the consumers and our economy. If Microsoft has not taken a lead in consolidating computer operating systems, and offer compatible/integrated software, we would have induced significant inefficiencies throughout the country, and the world.

I highly encourage our government to move forward and bring this case to a closure that would benefit our crippled economy. There are other major elements that we all need to focus on, instead of continuing to deplete our valuable resources on this case.

Microsoft is now fully aware of its boundaries, in terms of "anti-competitive behaviors," and shall continue to offer more useful software tools that ultimately benefit us all.

Sincerely yours,
Takaaki Hayashi
839 Bramerton
Andover, KS 67002

MTC-00031206

MITCHELL OIL CO
Bill Mitchell
PO Box 680599
Fort Payne, AL 35968
Jan. 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am concerned with the length of time that the Microsoft settlement is taking. This has drug on for too long already, and enough money has been wasted in legal fees to pay the settlement. In the interest not only of Microsoft, but of business and technology both in the U.S. and the global market, it is time to move on or else be left behind.

I would appreciate your working to end any further litigation and end the waste,foot-dragging, and criticism of Microsoft. Thank you for your time.

Sincerely,
Bill Mitchell

MTC-00031207

JAN 15 2002 11:54AM SALEM HEIGHTS CLC 7249351351
Irene M. Wheeler
436 Elizabeth Avenue
MC Kees Rocks, PA 15136-2156
(412) 331-8876
January 8, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to express my interest and support for the settlement of the Microsoft Antitrust case. First and foremost, I am pleased to hear about the recent proposed settlement that was reached in early November of last year. The terms of the settlement were reached after much discussion and are reasonable to all that are involved. Microsoft has agreed to a number of terms that encompass a wide range of issues addressed in the case as well as those aspects of Microsoft's business that were not found unlawful by the Court. Microsoft has agreed to these terms in attempt to end the case so that the company may move forward with the development of new technologies.

Included in the settlement are a number of requirements that Microsoft has agreed to in order to resolve the infringements on the antitrust laws. Microsoft has agreed to permit computer makers the right to remove consumer access to features of Windows such as Microsoft Internet Explorer web browser, Media Player, and Messenger. These features can be replaced with access to the Microsoft competitive software products. This is demonstrated in the interim release of Windows XP that will make it easy for consumers to change their configuration at any time.

Microsoft has also agreed to terms that ensure Microsoft's adherence to the guidelines in the settlement. A technical committee will be established, and will consist of three experts in software engineering. Any third party who believes Microsoft is not complying with the agreement will be encouraged to file a complaint.

This settlement was reached as a result of much loss to Microsoft as an advancing software company. Without Microsoft, we would be without much of the technologies we have today, and it is important that we finalize this settlement and allow this company to move onto new product development and growth.

Irene M. Wheeler
cc: Senator Rick Santorum

MTC-00031208

FROM: FAX NO.: Feb. 15 2001 07:31AM P1
Lucretia Whitehurst
P.O. Box 308
Bridgeton, NC 28519
January 14, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

A three-year-old antitrust case against Microsoft by the Justice Department has finally reached a settlement. Sadly, there are those that are still opposed to this settlement and are seeking to revive this case. I write to you to ask that you support the settlement and a quick end to this case.

The Department of Justice has decided to settle, and Microsoft has agreed to the settlement as well. This should be the end of the story but it is not. Unspecified interests are seeking to have the settlement withdrawn and Microsoft forced back into court. This is unfortunate because the settlement would end any anticompetitive behavior. In fact, the settlement has very tough sanctions against Microsoft, such as are worked licensing agreement, and includes full time supervision of Microsoft under the creation of a third-party technical review committee.

Your consideration of my views is appreciated. I would like to repeat my request that you enact this settlement at the end of January.

Sincerely,
Lucretia Whitehurst

MTC-00031209

TOTAL PAGE.01
Gerald Hodgins
133 North Main Street
Boonton, New Jersey 07005
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I was recently surprised to hear that the settlement between Microsoft and the Department of Justice might be even further delayed. After three years of negotiations, it is hard to believe that there are some groups that still want to delay the execution of this well thought out agreement. The settlement is not only fair and reasonable, but is in the interest of all parties involved.

Let's help to support this settlement by stopping any further actions against the agreement. The terms of the agreement focus on promoting non-Microsoft software and, in fact, take a bold step toward a more unified technology industry.By working as a team, the IT sector can focus on maintaining our place in the global market. By maintaining our place in the global market, and continuing to focus on innovation, we help to strengthen our economy as a whole.

Let us not be the ones to thwart the exact process that we initiated. Let's stop any further litigation and allow our IT sector to get back to business.

Sincerely,
Gerald Hodgins
Jan 15 02 11:14 FR PAINEWEBBER 1 201 902 6861 TO 912023071454 P.01/01

MTC-00031210

FROM : JOHN CORCORAN FAX: 507-553-5226 Jan. 15 2002 11:01AM P1
56784 108th Street
Wells, Minnesota 56097
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue. NW
Washington. DC 20530

Dear Mr. Ashcroft:

After three long years of litigation, I am pleased to be notified that a settlement was finally reached in the Microsoft Antitrust case. Microsoft did not go unpunished as many people may think The details of this settlement were finalized after three years of scrutiny and dispute and thus have been considered for an extended amount of time. In the best interest of both the government and Microsoft, this settlement should be the end of the antitrust case, as further litigation won't benefit anyone except for the lawyers.

Microsoft's antitrust settlement requires that computer makers will now be free to remove certain Windows features and replace them with the competitor's software programs. Additionally, Microsoft will provide competitors with necessary interfaces that are internal to Windows" operating system products. This part of the agreement has already been implemented in the release of Windows XP. Included within the software is a mechanism that enables the consumer the software makers and computer makers to change the configuration at any time they wish to do so. To ensure that Microsoft complies with the terms of this settlement, a thee-person Technical committee will be expected to monitor Microsoft's business practices. In addition to that, Microsoft also had to agree not to retaliate against its competitors.

Clearly this settlement covers many concerns of the government the industry as well as the public. To my best knowledge, I feel that this settlement offers reasonable solutions to all of the parties involved.

Sincerely,
John Corcoran

MTC-00031211

01/15/2002 11:38 19414376299 MACKINAC GROUP PAGE 01
RALPHLOCKE
12765 YACHT CLUB CIRCLE
FORT MYERS, FL 33919
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530

Dear Mr. Ashcroft,

The lawsuits against Microsoft at the state and federal levels have gone on too long and reflect the government's desire to showcase their political agendas against the best interests of the public. Our economy needs help, and for our government to persist with jealousy battles against our industry's leaders shows their ineptitude about what will help our economy.

While I think the settlement is to harsh and violates many of the rules in a free market economy, I want the settlement to come to fruition, because that is better for our country than for litigation to carry on. Under terms of settlement, Microsoft has agreed to many hard concessions, such as disclosure of internal interfaces and protocols, as well as agreeing to not enter into third party distribution agreements that would guarantee that Microsoft products represent a certain cut of the total.

Let's settle this matter as soon as possible and make sure that these types of lawsuits do not occur in the future. Free enterprise can for the most part run effectively without constant intervention from government officials who are not proponents of a capitalist society in the first place.

Sincerely,
Ralph Locke

MTC-00031212

04/06/1997 13:22 8032723634
11 Chapin Circle
Myrtle Beach, SC 29572-4404
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I would like to see the Microsoft case finalized as soon as possible. The American public interest will be best served when the judge approves the settlement agreement.

I support the efforts of the Department of Justice, Microsoft, and the nine states that have agreed to settle the case. The terms of the settlement agreement are fair, and even go beyond what should be required of Microsoft. The agreement will result in greater flexibility for computer manufacturers who will be able to add or remove programs from Windows, without fear of retaliation. Microsoft will release its intellectual property on non-discriminatory, reasonable terms. Microsoft will also release the internal interfaces to Windows and server protocols. Which will help safeguard against the violation of any antitrust laws.

Thank you for working toward a resolution of this lawsuit.

Sincerely yours,
Robert. B. Hurley
cc: Senator Strom Thurmond

MTC-00031213

Jan. 15. 2002 11:19AM FOMBORO TREASURY No. 8292 P.1
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to express my fullest support for the settlement reached between Microsoft and the Department of Justice in November. This case has gone on for too long and a settlement is the best option at this point.Although I felt this case was unwarranted from the beginning, I understand Microsoft's desire to wrap this suit up. That explains the company's decision to accept many terms that extend well beyond the products and procedures that were actually at issue in the suit. That includes agreeing to disclose to competitors various interfaces that are internal to Windows"operating system products. Indeed, this is a first for an antitrust settlement.

As someone who has worked in the high tech world for many years, I honestly believe that Microsoft and their products has helped raise the standard of living for people across all socioeconomic levels. So there is no doubt in my mind that the settlement is in the public interest and no further action should be taken on the federal level.

Sincerely,
Mary Kinsella
33 Commercial Street, B52-2J
Foxboro, MA 02035
Invensys Intellectual Property Department
33 Commercial Street B52-1J Foxboro MA 02035 USA
Telephone +1 508 549 6853 Facsimile +1 508 549 6295 www.invensys.com

MTC-00031214

UNITED SOLUTIONS
PHONE: 770/506/1100
FAX: 770/506/1188
DATE: 1/15/02
FROM: KEN WADDELL
E MAIL: KDWADDELL@MSN.COM
FAX: 1-202-307-1454
01/15/2002 10:48 7705061188 UNITED SOLUTIONS GRP PAGE 01
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am writing to you today to express my support of the recent settlement reached between the Department of Justice and Microsoft. The settlement comes at a time of decision for our nation. Given the recent recession, the end of this litigation will untie necessary funds to be allocated to more pressing issues. This settlement is in the best interests of our American economy.

The settlement includes many concessions on behalf of Microsoft. Microsoft has agreed to the creation of a third party technical review committee. This committee will review Microsoft's actions to ensure that the terms of the settlement are followed.

Obviously Microsoft is willing to resolve this issue, I hope that the JusticeDepartment is of the same position.

Thank you for your strength and wisdom.

With sincerest regards,
Ken Waddell
200 Andrew Dr.
Stockbridge, GA 30281
01/15/2002 10:48 7705061188 UNITED SOLUTIONS GRP

MTC-00031215

FROM : MULTI COMPUTER PRODUCTS PHONE NO. : 931 526 9097 Jan. 15 2002 09:25AM P1

Multipro Computers
Address: http.//www.multipro.com
January 11, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington. DC 20530

Dear Mr. Ashcroft,

It has been a bit disturbing to me that our government can be so quick to file a lawsuit against one of this country's most innovative and successful companies as it did with this suit against Microsoft. I would agree that there have been certain things that Microsoft may have done to estrange its competitors, but this should never have gone so far as court.

I am pleased that this suit was stopped from going any further because of the recently achieved settlement, but even the settlement reflects some rather unfair terms to Microsoft. I am specifically referring to that portion of the settlement that deals with the release of some of Microsoft's source code. This is something that has resulted from years of development and hundreds of millions of dollars in investment capital. Source code to a software company is as sacred to them as the patented formula for a medication is to a pharmaceutical company.

Nevertheless, as long as both Microsoft and the Department of Justice are in agreement over the terms of this settlement, than this review process should endorse it. I hope that it will be so that this can finally reach its conclusion.

Sincerely,
Marsha Farley
Service Operations Manager
Multipro Computers
127 N. Oak Ave.
Cookeville, TN 38501
931.528–7777
1–800–467–6584
www.multipro.com

MTC–00031216

Jan-14-02 09:33P P.01
3920 Reiniger Road
Hatboro, Pennsylvania 19040
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This letter is intended to express my concern over the delay in the settlement of the Microsoft case. This federal antitrust action is nearly four years old and the object of near continuous litigation and negotiation. The present settlement proposal, reached through mediation, has been accepted by the main parties and all but the most virulent of Microsoft's adversaries. I think it's high time to lay this matter to rest.

The present plan calls for Microsoft to open up its Windows systems to more ready use by non-Microsoft software and computer manufacturers. Microsoft will have to license its Windows systems products to the major computer manufacturers at uniform terms. Microsoft has also agreed to share some of its technology with competitors. And Microsoft has agreed to submit its future activities to review by a new government oversight committee. In short. Microsoft is willing to substantially change its operating philosophy. In return, Microsoft will remain one corporate entity.

We need Microsoft in one piece, on its feet and fighting to reinvigorate our economy and lead the crucial IT industry. Please support this agreement.PS: Remember where Microsoft started, in a garage in The United States of America. Does not matter how much Bill gates made; he also made the computer easy to use. Which not only employs a lot of people at Microsoft, but how about every one in the industry that sell computers & work on them? Bill Gates should be given. a medal instead of a slap in the face! This crap about Microsoft is all about jealousy, as an American as a X-Serviceman USN ,and a retired Police Officer I back up Microsoft

Sincerely,
Rudolph Muller

MTC–00031217

Jan-15-2002 08:35AM WASHBURNE 273 0660 P.01
15 January, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing because I fear that further litigious action against Microsoft is a mistake. The technology industry has suffered because the suit has dragged out, and I believe the Justice Department has been tied up unnecessarily for too long. Microsoft and the Department of Justice have reached a satisfactory agreement, and I do not see the need for further litigation.

The settlement satisfies the requirements of antitrust laws without being too harsh on Microsoft or taking the complaints of its competitors too lightly. Microsoft will essentially facilitate the efforts of its technological competitors in gaining a more secure foothold in the market by allowing them access to protocols, interfaces, and line code integral to the Windows operating system, and also by reformatting later versions of Windows to support non-Microsoft software.

I do not believe that further litigation will accomplish anything.In fact, it may be detrimental to the economy, the consumer, and the IT industry. I support the settlement, and urge you and your office not to bring further suit against Microsoft.

Sincerely,
W. K. Washburne
1580 Harbour Club Drive
Ponte Vedra Beach, FL 32082

MTC–00031218

10176 Baltimore National Pike
Suite 207A
Ellicott City, Maryland 21042
Office 410–203–9900 * Fax 410–203–9966
January 13, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am the owner of my own realty and contracting firm. When I was first starting out and needed to set up an accounting system for payroll and accounts payable,I looked into a software system to handle my needs. I was quoted $11,000. I couldn't afford that. With Microsoft, I could get a software package doing the same thing for $1500. Bill Gates, through Microsoft, has revolutionized the computer software industry, making software programs easier to understand and more affordable. No other firms did this. For his reward, Bill Gates was hauled into court. I was, and still am, opposed to the antitrust lawsuit brought against Microsoft. Bill Gates took risks and succeeded. This country is where it is today because there were people who took risks and succeeded. What is different today, is that we punish success. We allow success, but only so much.If it goes beyond what government thinks "proper" the company is hauled into court.

Microsoft is very important to this country. It is the engine that drives technological innovation. Microsoft provides thousands of jobs directly, and thousands more with the spin-off of their technological expertise. I support this settlement, and look forward to the end of this persecution of Microsoft.

Sincerely,
Christopher Carlyle

MTC–00031219

01/15/02 TUE 09:43 TEL 6104550871 Holox 001
MHB
305 Addison Place
West Chester, PA 19382–7249
(610) 399–3027
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 15, 2002
Via Fax (202–307–1454)

Dear Attorney General Ashcroft:

I would first like to express my opposition to the anti-trust lawsuit filed by the Department of Justice against Microsoft three years ago. There was no justification for this attack. I am a firm believer that government shouldn't involve itself with the private business sector unless public safety or the environment is in jeopardy. In the antitrust case filed against Microsoft, neither of these issues was in question. So why did our government, at both the state and federal levels, find it necessary to sue Microsoft?

Microsoft has agreed to make many changes in the way that it will conduct business. This fact,coupled with constant monitoring of Microsoft by a government created committee, should be enough to ensure that Microsoft will continue to operate in a fair manner. I feel Microsoft has been more than generous in appeasing the demands of the Department of Justice. Microsoft is even still vulnerable to future lawsuits by its competitors if they feel Microsoft isn't fully complying with all the points of the proposed settlement.Our country and our economy need this lawsuit settled. This country has been through some difficult times. The absolutely last action we need is to see our Federal government continue this pursuit of Microsoft: it is an absolute waste of tax dollars. Our nation knows that our economy is ailing.Yet we go after and persecute the one company that has been a pivotal force in our country's economic growth.

Please let's put an end to this, and allow Microsoft to continue its innovation and help to revitalize our economy.

Sincerely,
Mark H. Bodenstab
cc: Senator Rick Santorum (Fax: 202–224–1229)

MTC–00031220

Deborah J. Swartz.
643 Potts Hill Road
Lewisberry, PA 17339–9594
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530–0001

Dear Mr. Ashcroft:

The Microsoft case has been going on for some time now. I sincerely hope that this settlement will be respected and the case can truly be ended. America is a free country. Successful companies like Microsoft should not be punished for running a profitable business. It seems their competitors have used their status as underdogs to claim that Microsoft has an unfair advantage. But fair or not, Microsoft came up with the technology and changed our lives and the entire computer industry. The public is FREE to choose Microsoft or a competitor for computer technology so I ask, should a company being aggressive in marketing and technology PAY for success?

The proposed settlement adequately addresses the issues that Microsoft was having problems with. They've pledged to change their aggressive marketing strategies and share their technology information and server protocols with their competitors. This settlement is quite reasonable and will restore competition to our American computer industry.Please make sure that the settlement is upheld. Our economy cannot withstand further damage. Thank you.

Sincerely,
Deborah Swartz
djswartz@mindspring.com
cc: Senator Rick Santorum

MTC–00031221

01/15/2002 07:55 FAX 419 423 6583 DOW CHEMICAL ZETABON FND 001
January 14 ,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to use this opportunity to convey my support for the settlement reached between Microsoft and the Department of Justice last year. This settlement is definitely in the public's interest and should continued to be backed by the federal government.

The settlement is far-reaching and requires many changes by Microsoft.Microsoft will design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. Under this provision,consumers will have the freedom to choose to change their computer's configuration at any time. And to assure compliance, Microsoft will be monitored by a Technical Committee comprised of three experts in software engineering.Moving forward and concluding this case will give both sides the opportunity to shift resources to other needs. Microsoft can focus on new software development while the government can focus on national security and fighting the recession. I commend your office's efforts to this point in settling this case and hope your support of the settlement continues.

Sincerely,
Ramiro Villarreal
1209 Van Buren Street
Fostoria, OH 44830

MTC–00031222

Jan 14 02 10:21p John Berthoud 703–841–9528
National Taxpayers Union & National Taxpayers Union Foundation
John Berthoud, President
108 North Alfred Street
Alexandria, Virginia 22314
Phone: 703–683–5700
Fax: 703–683–5722
Email: jberthoud@aol.com
www.ntu.orgJan 14 02 10:21p John Berthoud 703–841–9528 p.2
NATIONAL TAXPAYERS UNION
www.ntu.org
January 14, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FAX # 202–307–1454

Dear Ms. Hesse:

On behalf of the 335,000 members of the National Taxpayers Union, I am writing to comment on the Proposed Final Judgment in United States v. Microsoft.

As you may know, it is our position that this case was brought to protect Microsoft's competitors—not competition itself. Furthermore, we remain concerned that many state Attorneys General continue to push the suit forward for ideological and political reasons.

We are, however, pleased to see that after four years the parties are prepared to settle a case that has produced many unfortunate results. Taxpayers have been forced to underwrite the litigation to the tune of at least $35 million. Microsoft was compelled to shift considerable resources into the legal battle that would normally have been spent on product innovation, and also faces a tangle of private antitrust-spawned litigation. And as BTU Foundation research has shown, the government litigation has imposed billions of dollars worth of stock market losses on millions of American investors.

The Proposed Final Judgment contains many references to "consumers." Indeed, theantitrust authorities have insisted from the beginning that this case was about consumer welfare.Yet the original purpose of the suit against Microsoft was to enjoin the company from including Internet Explorer as part of its Windows operating system, which the plaintiffs deemed to be a grievous threat to Netscape (later purchased for $5 billion by Internet giant AOL, a Microsoft competitor). In a suit supposedly brought on behalf of consumers, we remain puzzled as to how it would have helped consumers to make them pay for an Internet browser they could otherwise get for free.

Consumers place a high value on the ability to use a standardized, integrated operating system. In fact, public opinion polls taken throughout the Microsoft antitrust trial showed that sizable majorities of the public viewed Microsoft and its products favorably.

The Proposed Final Judgment's emphasis on "network effects" as a "barrier to entry" for Microsoft competitors in many senses disregards consumers" demonstrated preference for standardized software. The government's suit was premised upon a fundamental misunderstanding of the way in which consumer markets operate: Microsoft did not build up its large market share through anti-competitive practices; instead Microsoft became the nation's largest software company by providing consumers with the products they prefer.

Several state Attorneys General are refusing to sign the Proposed Final Judgment on the grounds that it is not strong enough. However, the agreement appears to provide the plaintiffs with exactly the type of relief they were seeking.

The settlement gives each of the settling states and the Department of Justice the power to enforce the decree and to seek a broad range of remedies in the event of a violation. An Independent Technical Committee that reports to the plaintiffs would be afforded full access to Microsoft's facilities, employees, records, and even the Windows source code. And the settlement binds Microsoft to provide information to its competitors so that their programs will be Windows-compatible. Based on the strength of these remedies and the fast pace at which the software industry is evolving, we believe that the five-year duration of the decree—as opposed to the customary ten-year period—is appropriate.

The antitrust laws do not exist to preserve specific products or specific competitors.They exist to preserve competition itself, and we believe that consumers freely chose Microsoft's products—which provided a standardized, integrated operating system that revolutionized personal computer use. The results included a huge jump in desktop computer usage, much-improved efficiency, and robust growth in the software industry throughout the 1990s. Thus, we believe that this case constituted unnecessary, and harmful, government interference with the private sector. Rather than a victory for competition, we believe the Microsoft case represents a defeat for taxpayers, consumers, and investors.

With the economy in recession, Americans simply cannot keep paying the high price of governmental attempts to dictate winners and losers in the marketplace. We welcome settlement of this regrettable case.

Sincerely,
John Berthoud
President

MTC–00031223

FROM: BENNETT APPRAISAL GROUP Jan.

14 2002 10:26PM P1
RANDY BENNETT
5012 Wood Valley Drive
Raleigh
North Carolina 27613
January 14, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I believe in free enterprise. Economics has taught us that markets work efficiently when they are open. Therefore, I disagree with government involvement in business. The Justice Department's persecution of Microsoft is unmerited.

Nonetheless, I am pleased that the issue is finally resolved.Microsoft has agreed to many terms under the settlement in the interests of getting back to business. Microsoft has agreed to the formation of a technical review board. This board will review Microsoft's actions and determine if there are any violations of the settlement. This board will also ensure that the terms of the settlement are carried out. Microsoft has also agreed to changes in its licensing methods and design of Windows, as well as refraining from what might be characterized as hostile action toward other companies, so the settlement is clearly comprehensive.

This settlement should be enacted at the end of January. It is in the best interest of our economy.

Sincerely,
Randy Bennett

MTC–00031224

JAN-14-2002 09:27 PM 444466333999 201 8020408 P. 01
Date: January 14,2002
Attention To: Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Fax: l-202-307-1454 / l-202-616-9937
From: Ay-Vin Akiner
140 Rose Ave, Woodcliff Lake, NJ 07677
Fax: 201–802–0408 E-mail: avakiner@cs.com
Re: Microsoft Settlement

Dear Attorney General Ashcroft:

Microsoft and the Department of Justice have reached a settlement, which serves the government interest, the American technology industry, and most importantly, the American public interest. This agreement, reached after negotiations with a court appointed moderator, is fair, reasonable and judicious. I strongly urge you to continue your support for this matter. One of the key provisions of this agreement is the requirement that Microsoft submit its books, and software products to a technical oversight committee. This committee is made up three government appointed officials and will work to ensure compliance with the agreement.

The above-mentioned provisions, and the rest of the settlement, will encourage innovation and foster competition. I hope you continue to support it and take no further federal action.

Let us show the world once again what the American technology industry can do! Thank you.

Sincerely,
Ay-Vin Akiner

MTC–00031225

Jan 14 02 09:39p Randall K. Wright 5703681091 P.1
Randall K. Wright
698 Walnut Street
Montoursville, PA 17754
January l0, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing you today to express my opinion that the settlement reached last November between Microsoft and the Department of Justice be implemented without further delay. Though, I think that the federal government's actions against Microsoft during the last three years were unnecessary. I nevertheless think that the best course of action at this point is simply to impose this settlement. The IT community has been struggling enough and needs no further government medalling.

Microsoft has not gotten off easy in this settlement. The settlement imposes a broad series of restrictions and obligations on Microsoft, which are focused on reducing anti-competitive behaviors. I believe it is adequate to accomplish this task. Furthermore, a Technical Committee is slated to oversee Microsoft's compliance to these measures. Thus, the federal government has accomplished what it intended to do with its case three years ago. There is no need to waste time and money with tedious and wasteful litigation on this matter will prove harmful to everyone, including the consumer.

It is time that the government allow Microsoft, and the rest of industry get back to work, try to make a profit and get the stock market back where it belongs.

If you really want to prosecute someone, go after Enron and their accountants.

cc: Congressman Don Sherwood; Senator Rick Santorum

Phone/Fax: (570) 368–1091
Cell (570) 772–0662
E-Mail rkw@uplink.net

MTC–00031226

JAN 14. 2002 9:40PM NO.1109 P.1
FROM: Frank A. Wright
PHONE NUMBER: 703–641–3323 FAX NUMBER: 703–645–2209
NOTES/COMMENTS: Microsoft Settlement
3170 FAIRVIEW PARK DRIVE
MAIL CODE 345
FALLS CHURCH, VIRGINIA 22042
6526 Hidden Beach Circle
Orlando, Florida 32819
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: I am writing you today to express my opinion in regards to the settlement that was reached on November 6, 2001 between Microsoft and the government. I feel that this issue has drawn on long enough, and I was extremely relieved to see this case finally settled. I feel this settlement will serve in the best interest of the public.

Under this agreement, Microsoft must share more information with other companies and make it easier for them to install non- Microsoft software. Microsoft has agreed to share intellectual capital with competing corporation. I can assure you that some of the Corporation backing this litigation against Microsoft would not agree to these terms. Not only will this settlement make it easier to compete with Microsoft, but it also allows Microsoft the ability to once again fully devote its resources and time to designing innovative software, rather than litigation. In addition, a lot of corporations will have access to intellectual capital that Microsoft spent millions of dollars on for free.

I feel this settlement will be beneficial to all. Thank you for your support.

Sincerely,
Frank A. Wright

MTC–00031227

FROM: David/Linda Hoyle
PHONE NO).: 704 922 1561
Jan. 14, 2002 08:57PM P1
Linda Summey Hoyle
604 Queens Dr.
P.O. Box 533
Dallas, North Carolina 28034
January 14, 2002
Attorney General John Ashcroft
U S Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Re: Microsoft Settlement

Dear Attorney General Ashcroft:

The purpose of my letter is to voice my opinion regarding the Microsoft settlement. I believe this settlement is fair and this dispute should be resolved with no further litigation against Microsoft.

As a businessperson and former manager of a small family owned business, I strongly believe in free enterprise. I don't believe in punishing Microsoft for being innovative and successful. I cut my teeth with the user-friendly Apple computers but gave up on them years ago because they were not compatible with the rest of the computer world. They made their choice and in my opinion it worked against them. No one should be penalized if they have played by the rules.

In my opinion Microsoft has been good to all of us. Apparently those pushing for litigation are competing companies that are trying to do the same thing that Microsoft is doing, be successful. They could probably do just that if they would get on with "their" business.

I understand that Microsoft has agreed to all terms of the settlement and has pledged to share more information with other companies to create more opportunities for them. It is my understanding that Microsoft has also agreed to not retaliate against software or hardware developers who develop or promote software that competes or runs on software that competes with windows. This settlement will benefit all of us. Lets move forward and help to get our economy on the road to recovery. Thank you for your time and consideration of this settlement.

Sincerely,
Linda Summey Hoyle

MTC-00031228

Jan 14 02 07:2lp Linda Buchanan
3368416822 P.1
665 Merry Hills Drive
High Point, NC 27262–8368
January 14, 2002
Attorney General John Ashcroft
US department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to express my support in the recent settlement between the federal government and Microsoft. I strongly urge that no further action be taken on the federal level in pursuance of this case. This settlement is fair and reasonable to all sides involved. Microsoft has made significant concessions in this settlement, including changes in the way they license its software. To assure the settlement's terms are met, Microsoft also agreed to be reviewed by a technical oversight committee. It is time for the federal government to move forward. The American government's resources which I believe, as a matter of personal political philosophy are the American people's resources, can be put to better uses than continuing this litigation. I hope you will agree. Thank you.

Sincerely,
Jerry Buchanan
cc: Representative Howard Coble

Jan 14 02 07:2lp Linda Buchanan
3368416822 P.2
665 Merry Hills Drive
High Point, NC 21262–8368
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am writing to express my support in the recent settlement between the federal government and Microsoft. I strongly urge that no further action be taken on the federal level in pursuance of this case.

This setttlement is fair and reasonable to all sides involved. Microsoft has made significant concessions in this settlement, including changes in the way they license its software. To assure the settlement's terms are met, Microsoft also agreed to be reviewed by a technical oversight committee.

It is time for the federal government to move forward. The American government's resources, which I believe, as a matter of personal political philosophy are the American people's resources, can he put to better uses than continuing this litigation. I hope you will agree. Thank you.

Sincerely,
Jerry Buchanan
cc: Representative Howard Coble

MTC-00031229

Jan 14 02 06:llp Patricia Ann Kazmar
(610)777–5583 P.1
Patricia Ann Kazmar
3070 Welsh Road
Mohnton, PA 19540–8850
(610)777–5583
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 11, 2002

Dear Mr. Ashcroft:

In addressing the U.S. vs. Microsoft case, I am confident that the recent settlement reached in November of last year serves the interests of the state, the IT industry, and the economy. Microsoft has played a large role in the well being of our economy and the resurgence of Microsoft back into the economy can only make things better. The Department of Justice will be free to focus on more pressing matters, Microsoft will concentrate on product development, and the public can be rest assured that their best interest is being taken into consideration.

Included in the agreement are restrictions that extend to several issues addressed in the case as well as those that were not found unlawful in the Court of Appeals. These restrictions were reached after a great deal of effort over the course of three years, and thus each detail of the settlement is fair and reasonable. Microsoft has granted to computer makers the right to replace features of Windows with non- Microsoft software programs. Microsoft has already begun changes in their business practices as demonstrated by the release of Windows XP: a new version of Windows that promotes the competition.

Furthermore, Microsoft will be monitored by a Three-person Technical committee that will ensure that Microsoft follow the restrictions and obligations stated in the settlement.

Clearly, this settlement proves to contain reasonable and fair solutions. I hope that my opinion has helped to finalize the last course of action in this case. Thank you.

Sincerely,
Patricia Ann Kazmar
CC: Senator Rick Santorum

MTC-00031230

JAN-14-2002 06:01 PM GARY DAVIS 215
412 7183 P. 01
Gary Davis
224 Red Haven Drive
North Wales, PA 19454- 1439
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

The litigation between Microsoft and the Department of Justice has gone on for far too long. Over the last three years, the only positive we have seen from all of this is Microsoft's willingness to cooperate with the demands of the settlement. In my estimation, Microsoft's resilience was tried and proven true during this very taxing time. They are stronger and more determined as a result.

Microsoft has also agreed to take measures that will increase competitors” access to Windows. Such measures include allowing computer makers to remove the means by which consumers access various features within the Windows environment. These features include Microsoft Internet Explorer web browser, Windows Media Player and Windows Messenger. This is done by allowing computer makers to replace access to those features with access to non-Microsoft software such as programs from AOL or RealNetworks.

Please do your part in putting Microsoft back in high production mode as quickly as possible. Microsoft has done a lot for our economy and for the productivity of people in our workforce. Let us not do anything that will further hinder Microsoft's innovation. Let's get this thing behind us once and for all. Thank you for your time.

Sincerely,
Gary Davis
cc: Senator Rick Santorum

MTC-00031231

FROM: FAX NO: 504 7990619
Jan.14 2002 07:52PM P1
4500 Woodland Avenue
Metairie, Louisiana 70002
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft

I am writing to you today to express my support of the Settlement reached last November between the Department of Justice and the Microsoft Corporation Although I believe the litigation was unwarranted to begin with, I believe that this settlement is in the best interests of the technological industry and our economy.

Microsoft deserves it place at the forefront of the technology industry. Microsoft has earned this position through its constant production of innovative products. In return, these products have afforded, to economies around the word, increased productivity in the technological realm.

Microsoft will give up much under this settlement. For example, it will use a uniform price list when licensing Windows out to computer makers. Microsoft is willing to accept this and other stipulations, however harsh they may be, in order to end this lawsuit. Thus, I am support the settlement, as it allows Microsoft to concentrate on business.

Sincerely,
Leslie Perschal

MTC-00031233

01/14/2002 17:31 13415940724 PAGE 01
5219 Hawkesbury Way
Naples, Florida 34119
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I can't understand why the government would want to punish Microsoft in the first place. Microsoft makes not only a huge contribution to our economy, but also to many charities as well. I know that this settlement will mean that no further action will take place at the federal level.

Considering how well the settlement answers many of the problems that its competitors had, I know that many people will accept it and choose to move on. With elements that increase interoperability between programs and let computers manufacturers choose what they want to put in, many consumers and people who depend on Microsoft products daily will be pleased.

Microsoft's competitors certainly should be; they will now be better able to place their own software on Windows-based operating systems. Microsoft has worked hard to end this case and I hope the Department of Justice works equally hard to keep it that way. I support the settlement, and look forward to seeing this case come to an end.

Sincerely,
Linda Yeagley

MTC-00031234

01/14/2002 15:57 FAX 410 5614905 001/001
CIGNAL CORP
Joseph V. Maranto
8 Graveswood Court
Baltimore, MD 21234-1451
January 14, 2002
BY FAX 1-202-307-1454
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft

I am writing to ask that you give your immediate approval to the agreement reached between Microsoft and the Department of Justice. I believe this settlement is fair and equitable for the country and for business alike. Microsoft has done as much for the computer trade and its users as Goodyear has done for auto production. Microsoft is the wheels and fuel that make computers work.

With all due respect, I believe the antitrust suit brought against Microsoft was unnecessary and unfounded. Personally, I use Microsoft Windows out of choice because Microsoft's soft-ware programs are the best on the market. It is my understanding that Microsoft has agreed in tie settlement to assist the computer industry by opening up its intellectual property rights to its Windows internal interfaces, and license its property on a nondiscriminatory basis. This is bound to stimulate the economy and do great things for the entire industry.

In conclusion, I am asking you to allow Microsoft to get back to business without this cloud and legal case as a major distraction to its daily business of developing the best software in the world.

Respectfully yours
Joseph V. Maranto
VP Cignal Mortgage Corp

MTC-00031235

Jan 14 02 03:55p Daniel & Jackie Hsieh 261 8034 p. 1
138—32 68th Drive
Apt.1C
Flushing, NY 11367-
(718)261-8034
January 14, 2002
Attorney General John Ashcroft US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

I am penning this letter to express my support for the settlement that was reached between Microsoft and the Department of Justice. I have followed this story in the New York Times and feel that after three Long years of court battles, it is time to stop legal action against the company. I think that the settlement is fair and should be finalized as soon as possible. I am concerned about the economic recession we are experiencing as a nation.

The IT industry has been one of the sectors of the economy that has been the hardest hit in the past several months. It is important that we allow Microsoft to get back to business and lead the IT industry once again. The terms of the settlement are fair and just and seem to offer competitors the ability to promote their own products and services within Windows operating systems.

I was ecstatic to see that a settlement has been reached; and I hope it is approved as soon as possible because I emphatically believe that it is in the best interest of the American public.

Sincerely,
Ching Hsieh

MTC-00031237

01/15/2002 14:44 FAX 4213984 Daniel R Benoit 01
DANIEL R BENOIT & ASSOCIATES ARCHITECTURE URBAN DESIGN
January 14, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FAX: 202-616-9937

Dear Attorney Hesse:

It is my understanding that the Justice Department is seeking input, regarding the proposed settlement in the Microsoft lawsuit.

Given the state of our economy right now, we should do everything possible to spur growth, not hinder it.

As a small businessman, I understand competition. Competition is healthy for the American economy. I use Microsoft products in my business and they have been a great help to me. They have allowed me to better serve my clients and to manage my business. As far as I can tell there has been no consumer harm as a result of any actions taken by Microsoft. Microsoft's innovations have, in fact, helped many small businesses, such as mine grow.

An additional benefit in the settlement, is the proposed donation of over 200,000 computers to our nation's public schools. I whole-heartedly endorse this provision, which will help erase the digital divide.

I urge a swift settlement.

Sincerely yours,
PHONE 5 0 8 4 2 1 3 9 0 0 FAX 5 0 8 4 2 1 3 9 8 4
287 PARK AVENUE WORCESTER MA 01609

MTC-00031238

JAN. 15'02(TUE) 11:06 P. 001/001
Sacramento Office
STATE CAPITOL ROOM 2187
SACRAMENTO, CA 95814
TEL (916) 445-9781
FAX (916) 447-9008
DISTRICT OFFICE
6800 INDIANA AVENUE
SUITE 130
RIVERSIDE, CA 92506-4280
TEL (909) 782-4111
FAX (909) 276-4483
SENATOR HAYNES@SEN.CA.GOV
California State Senate
SENATOR RAYMOND N. HAYNES THIRTY-SIXTH SENATORIAL DISTRICT
REPUBLICAN WHIP
CHAIR CONSTITUTIONAL AMENDMENTS
VICE-CHAIR JUDICIARY HEALTH & HUMAN SERVICES
PUBLIC EMPLOYMENT & RETIREMENT COMMITTEES
BUDGET AND FISCAL REVIEW EDUCATION
JOINT LEGISLATIVE AUDIT COMMITTEE
3000 NATIONAL CHAIRMAN AMERICAN LEGISLATIVE EXCHANGE COUNCIL
January 11, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse:

I understand that the pending settlement in the case of US v. Microsoft is currently going through a Tunney Act review and you are collecting public comment. Please accept this letter as an expression of support for the settlement being proposed by the Department of Justice.

As a State Senator from California, I am very concerned about the amount of money Attorney General Bill Lockyer has wasted on this case. Our state has a budget deficit of over $6 billion. To even consider spending millions more on the case against Microsoft is unconscionable. How can we continue using taxpayer dollars on this issue when we are trying to find ways to cut spending everywhere else?

The remedies being proposed in the settlement are more than adequate. The national economy has been damaged enough. It is time that we, as leaders, take the steps necessary to ensure this country is given an opportunity to rebound from recession, Refusing the settle the case against Microsoft and wasting even more money on the issue is irresponsible.

Once again, I hope the settlement in the case against Microsoft is accepted and the case is brought to a close.

Sincerely,
RAYMOND N. HAYNES
California State Senator

MTC-00031239

Jan 15 02 10:08a 425-427-5665 P.1
TOWER EQUIPMENT COMPANY
385 Front St. North,Suite 201
Issaquah, WA. 98027
Fax: : 425-427-5665
Ph: 425-427-1996
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue. NW
Washington. DC 20530-0001
January 11, 2002

Dear Mr. Ashcroft:

I support the Microsoft antitrust settlement agreement. I applaud the efforts made toward settling the lawsuit. I am disappointed, however, that some of the states have unreasonably decided to continue the litigation.

I am a strong supporter of Microsoft. As a small business owner and a participant in the stock market. I have directly observed the impact Microsoft has had on our economy. Microsoft's innovation resulted in the creation of jobs, a healthy stock market, and the production of superior quality products. The lawsuit has been detrimental to our economy, and should be concluded as soon as possible.

It is in the best interest of our economy, as well as everyone involved, that this case be resolved. The terms of the settlement are fair, and even go beyond what was even at issue in the lawsuit. For example, Microsoft has made such concessions as agreeing to not retaliate against computer manufacturers who produce computers containing software that competes with the Windows operating system. Microsoft has agreed to alter its business practices to better comply with the antitrust laws. Continuing the litigation in light of these changes simply does not make sense.

Thank you for your efforts in ensuring the prompt resolution of this unnecessary litigation.

Sincerely,

Tri-Cities,Wa. (509) 545–9309 . Oregon (503) 241–3765

MTC-00031240

DLL Solutions, Inc. 603 537 2099
DLL
DLL Solutions, Inc.
Custom Applications for Process Industries
01/15/02 01:54P P.001
Dennis K. Kilgore, President
January 14, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

As you are aware, the lawsuit between Microsoft, the federal government and certain states caused much nervousness throughout the entire technology industry and had the undesired affect of suppressing innovation and investment within the industry.

I am sure this was not the government's intention and am glad to know that many of the parties to the suit agreed to settle the matter out of court. Your leadership on reaching a settlement is to be commended, as I am sure the political aspects of this matter are burdensome.

The settlement is fair and will allow Microsoft and everyone else in the technology field to get back to business—including its opponents—as unhappy as they are about the fact that Microsoft was not broken up by the courts. The settlement requires Microsoft to divulge its internal code for the Windows operating system to its competitors.

While Microsoft has good reason to be unhappy about this, it should make its competitors very happy. And since Microsoft fully accepts this term among many others, everyone else should too.

Sincerely.
DLL Solutions Inc.
Dennis Kilgore
President
Microsoft
CERTIFIED Partner
816 Elm Street, #417
Manchester, NH 03101
Phone: (603) 637–2086
FAX (603) 537–2098
Email: dennis@dllsolutions.com

MTC-00031241

01/15/2002 12:57 FAX 8132533280
610 S. BOULEVARD
001
Robert Watkins Company Certified Public Accountants
January 15, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530
Via Fax #202–307–1454

Dear MS Renata:

As a concerned mother and business professional, I would like to lend my support to the Microsoft settlement. We as a country are in an economic downturn. Because of the legal problems and many legal battles fought by Microsoft in the past several years. Microsoft was taken it on the chin as far as its public image is concerned. I am of the opinion that if Microsoft is guilty of anything it has been of helping the citizens of the United States recover from the September 11th attacks.

Microsoft is responsible for The Red Cross Family Registration Web site, which has not only helped locate more than 1,100 people who were lost because of the September 11th attacks but has united hundred of families who would have otherwise not known how to get in touch with their loved ones. This was the first time in history that people were able to register online and let friends and family know they were okay. Microsoft's New York district even set up a command center on the 18th floor of its building to help authorities create a DNA database to identify victims as well as offering various other areas of technical expertise. Microsoft has united with the American people and transformed itself into a disaster relief center where they have worked with several non-profit organizations to offer their services wherever they were needed.

As a practicing CPA whose client base lies in small business, I can attest to the extraordinary impact Microsoft has had on the economic development of our country. I believe there is a direct correlation between the development and promotion of technology based on the innovations of Microsoft and the unprecedented economic boom this country has seen since the founding of this company. Small business is the very foundation of our recent prosperous era and would never have achieved the efficiency it has without Microsoft innovation. Further, only after the ill conceived and baseless attack on Microsoft by our Justice Department has this economy faltered. I believe there is a direct correlation between these two events and hold the Justice Department at least partly accountable for the economic times I, my clients and the entire country find themselves in today.

01/15/2002 12:58 FAX 8132533280
610 S. BOULEVARD, Suite 100—Tampa, Florida 33606—813–254–3360
Ms. Renata B. Hesse
U.S. Justice Department
January 15, 2002
Page 2

As both a professional and a mother, I commend Microsoft for their business expertise and their profound compassion. Thank you for your time and I look forward to helping out in any way that I can to conclude this case.

Sincerely,
Nancy H. Watkins, C.P.A.

MTC-00031242

30 Norway Hill
Hancock, NH 03449
Phone: 603.525.3820
Fax: 603.525.3819
New Hampshire Homeowner/Main Street Alliance
Fax
To: Renata Hesse
From: Laureen Carney
Fax: 202/616–9937 Date: 1/15/01
Phone: Pages:
Re: Microsoft Settlement CC:
Urgent For Review Please Comment Please Reply Please Recycle
*Comments:
Tuesday,January 15, 2002 1:55PM Philip A.Gehman 2156437646 p.01
815 Montgomery Avenue
Fort Washington, Pennsylvania 19034
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support for the Department of 'Justice and Microsoft settlement. This agreement, I believe, was reasonable and fair. Microsoft was reprimanded for what was considered unfair trade practices and Bill Gates has opened up his company far more than I, personally, would have done. However, an agreement was reached, ending a three-year litigation case coating both parties time and money.

I believe it is time to move on and ask that you give your support to the decision.

I know there will probably be those who wish to exact more of a punishment, expressing their thought that Microsoft "got off easy", but there will always be those who are never satisfied. In truth, the settlement is very hard on Microsoft.

The company will have to share coding with its competitors, allowing them to place their own software packages on Windows. Additionally, Microsoft will agree not to retaliate against companies that use or sell non-Microsoft products. We need to get our economy moving, not look back to something that has already been decided. Microsoft has helped transform our planet into the "global village". Support the agreement reached. Thank you.

Sincerely,
Philip Gehman
cc: Senator Rick Santorum

MTC-00031243

JAN-15-02 TUE 01:34 PM DAVID GUIDOS

803 444 4087
P.01
2824 Key Largo Circle South
Myrtle Beach, South Carolina 29577
January 5, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to express my opinion that there should be no further government action against Microsoft. The company has agreed to a fair and reasonable settlement, and it should be finalized.

Given the current state of the economy, it is important that Microsoft is able to use its capital for software innovation instead of legal expenditures. Your decision to stop legal action against the company is best for the consumer, the Information Technology industry and the economy in general.

The agreement grants new rights to computer makers to configure Windows to better promote non-Microsoft software programs within Windows. They will now be free to remove the means by which consumers access various features of Windows. They can replace access to those features with access to non-Microsoft software.

My hope is that the federal government will now let the settlement fall in to place. In my opinion, the government need not taken any more action against Microsoft.

Sincerely,
David Guidos
cc: Senator Strom Thurmond

MTC-00031244

Jan 15 02 01:58p Interactive Payer Network 4407200702 P. 1
Interactive Payer Network
Interactive Payer Network
Landerbrook Corporate Center II
5910 Landerbrook Drive
Suite
110 Cleveland, OH 44124
Phone: 440-720-0700
888-292-1009
Fax: 440-720-0702
January 14, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I decided to take time out of my schedule today to write to you concerning the importance of the recent U.S. vs. Microsoft settlement. The settlement will benefit consumers and the public interest, and therefore no further action should be taken against Microsoft.

Although there are some terms in the settlement which I feel go too far and would not accept, I understand Microsoft's desire to wrap this suit up and move forward. The settlement itself is strong, requiring, for example, Microsoft to possibly disclose intellectual property rights. This could arise if a third party wants to exercise its settlement options. If it is determined that doing so would infringe on a Microsoft intellectual property right, Microsoft will provide the third party with a license to the necessary intellectual property. The settlement actually supercedes Microsoft's property rights. Further, compliance with these terms will enforced in part by a Technical Committee to be created under the settlement. T

his agreement gives Microsoft the freedom to focus exclusively on what they do best, that is, developing new and advanced technology that consumers like myself have come to expect, whether it is at home or work.

Sincerely,
Nicholas Rosenstein, Ph.D.
President

MTC-00031245

01/16/02 04 : 58 : 17 NC GENERAL ASSEMBLY->
202 353 8856 Renata Hesse
Page 001
THE GENERAL ASSEMBLY OF
NORTH CAROLINA
FACSIMILE TRANSMITTAL SHEET
DATE: 01/15/02 15:27:33
TO:
Renata Hesse
Department of Justice
FROM: Rep. Russell Tucker
RE:
microsoft settlement
NUMBER OF PAGES SENT: 2
(includes transmittal sheet)
COMMENTS:
FAX: 82023071454
FAX: (919)715-7586
IF THERE HAVE BEEN PROBLEMS WITH THIS TRANSMISSION, PLEASE CALL
(919)733-6834.
01/16/02 04:58:30 NC GENERAL ASSEMBLY-> 202 353 8856 Renata Hesse
Page 002
THE GENERAL ASSEMBLY OF
NORTH CAROLINA
FACSIMILE TRANSMITTAL SHEET
DATE: 01/15/02 10:54:18
TO:
Renata B. Hesse
US Department of Justice
FROM: Rep. Russell Tucker
RE:
Microsoft settlement support
NUMBER OF PAGES SENT: 2
(includes transmittal sheet)
COMMENTS:
FAX: 82023071454
FAX: (919)715-7586
IF THERE HAVE BEEN PROBLEMS WITH THIS TRANSMISSION, PLEASE CALL
(919)733-6834
01/16/82 04:58:44 NC GENERAL ASSEMBLY-> 202 353 8856 Renata Hesse
Page 003
North Carolina General Assembly
House of Representatives
State Legislative Building
Raleigh 27601-1096
January 15, 2002
REPRESENTATIVE RUSSELL E TUCKER
10th DISTRICT—Duplin. Jones and Onslow Counties
OFFICE ADDRESS 417-C Legislative Office Building
RALEIGH. NC 27601-1096
TELEPHONE (919)715-3015
FAX (919)754-3225
EMAIL: Russell@ncleg.net
HOME ADDRESS 464 N. NC HWY 11
Pink Hill, NC 28572
EMAIL Russellt@duplinnet.com
Ms. Renata B Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
COMMITTEES
Chair—Appropriations Subcommittee on Information Technology
Vice-Chair—Education Subcommittee on Pre-School. Elementary & Sccondary Education
Agriculture
Appropriations
Education
Environment & Natural Resources
Science & Technology
Via facsimile, (202)307-1454
Re:
Support for Microsoft Settlement

Dear MS. Hesse

I am writing to express my support for the settlement that the Department of Justice and several states, including North Carolina, have reached with Microsoft The settlement represents a reasonable compromise that has obtained bipartisan support I understand that Microsoft is committed to becoming a more responsible industry leader and has agreed to make many significant changes in its business practices.

As co-chairman of the House Appropriations Subcommittee on Information Technology, I will be pleased to see this matter resolved because it will be a boost for the technology sector, a large force in the North Carolina economy. I also believe that the settlement will be positive for consumers by enhancing competition in all aspects of the technology industry

I urge the Department of Justice and the court to approve this settlement.

Sincerely,
Russell Tucker

MTC-00031246

SID RICHARDSON CARBON CO.
Corporate Office:
201 Main Street, Suite 3000, Fort Worth, Texas 76102
Telephone: 817/390-8638, Fax: 817/339-7394
FAX
To: ATTORNEY GENERAL JOHN ASHCROFT Company: US DEPT.of JUSTICE
From: CHUCK O'FARRELL
Date: JANUARY 15, 2002
Fax Number: 202-307-1454
No.of Pages in Transmission Pages 2
MESSAGE:
Jan. 15, 2002 2:30PM ADMIN/R&D
NO. 205 P. 2/2
SID RICHARDSON
CARBON CO.
Charles P. O'Farrell, PHD.
Vice President
Research & Development
201 MAIN STREET. SUITE 1000
FORT WORTH, TEXAS 76102-3131
January 14,2002

CPO-03-02
Attorney.General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Today our nation faces many tough issues. We are plagued with terrorist scares. Our economy is in recession. And many Americans are facing layoffs in their workplace. I fail to see how Microsoft's supposed anti-competitive behavior qualifies as a tough issue that should be addressed.

Finally after three years of litigation, the issue has been resolved. Resolution in this issue is fair to all involved. Microsoft has agreed not to retaliate against computer manufacturers that market competing software. This frees up relationships between manufacturers and developers.Further, licensing rights will be equal for the twenty largest producers of PCs. This further eases relationships among manufacturers.

While, I do not believe there was any justification for the anti-trust suit, the terms of the agreement are fair. It should be enacted with haste.

Sincerely,
Charles P.O'Farrell

MTC-00031247

JAN-15-02 03:41 PM CC/MHLU
9374292929
P. 01
2935 Stone Mill Court
Dayton, Ohio 45434
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft.

The recent settlement between the U.S. Department of Justice and Microsoft is fair and should be finalized. Litigation has gone on now for over three years, which is much too long, and will start to be detrimental to our economy if it continues.

The terms of the settlement are fair, as Microsoft has agreed to disclose internal interfaces and protocols as well as not retaliate against computer makers who ship software that competes with anything in its Windows operating system. The terms should appease all opposition as they force Microsoft to give away much of their technological secrets.

I ask your office to tell the nine states that want to continue litigation that it is neither in the public's best interest nor good for our economy. I support the settlement, and anticipate the end of this case. Thank you for your time.

I think that Microsoft has developed significant contributions to high technologies during the last twenty years for this country. The economical prosperity this country enjoyed for the last decade resulted largely from the Microsoft contributions.

The settlement between DOJ and Microsoft should be finalized as soon as possible. The other nine states should also accept the terms of the settlement.

Sincerely,
Chaw Lu

MTC-00031248

01/15/02 TUE 16:21 FAX 803 734 2925 LEGISFAX 001
Teddy Norman Trotter
First Vice-Chairman
Jimmy Charles Bales
Listen D. Barfield
J. Gresham Barrett
James A. Battle, Jr.
Grady A. Brown
Converse A. Chellis III
Tracy R. Edge
Helen Ann S. Thrower
Staff Counsel
Harry E. Cato
Chairman
Labor, Commerce and Industry Committee
House of Representatives
P.O. BOX 11867 TELEPHONE: 734-3015
407 Blatt Building
Columbia, SC 29211
Thomas M. Danizler
Second Vice-Chairman
Shirley R. Hinson
James N. Law
Robert W. Leach, Sr.
Brenda Lee
Olin R. Phillips
William E. Sandifer III
Daniel L. Tripp
Danny Wilder
Dottie N. Nidiffer
Administrative Assistant
January 15, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW—Suite 1200
Washington, DC 20530-0001
Via Facsimile -to 1-202-307-1454

Dear Ms. Hesse:

I believe the Attorney General of the United States and, under his direction, the United States Department of Justice, acted correctly in negotiating a tough settlement with Microsoft.

I am informed that the settlement will impose new requirements on Microsoft, and that violations of the settlement would subject the company to punishment as contempt of court. Settlement pursuant to the agreed terms will be good for the economy, good for consumers and will encourage market competition in the software and related industries. I hope the settlement will be approved and implemented as soon as possible.

With kind regards, I am
Sincerely,
HARRY F. CATO
Chairman
HFC:dnn

Post-it Fax Note 7671 Date 1/15/02 # of Pages
To Renata Hesse From Rep Harry Cato
Cc/Dept. Suite 1200/Antitrust Div Co SC House of Rep
Phone# Phone# 803 734-3015
Fax# 202-307-1454 Fax# 803 734-2925

MTC-00031249

JAN-15-02 TUE 15:19
3015304220
P-01
4720 Edgefield Road
Bethesda, MD 20814-4016
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I work for a software development company and use Microsoft products in the office and at home. As I have seen, it is no mystery that Microsoft has employed some overly aggressive marketing techniques. However, as part of the settlement, Microsoft has pledged to tone things down and restore fair competition to the computer industry.Microsoft will be sharing more of their interface design and systems protocol with their competitors. Microsoft has also made it easier to run non-Microsoft programs within windows, allowing computer makers to pre-install non-Microsoft software. A technical committee will monitor Microsoft and field complaints. To the software industry, these settlement terms have gone a long way to address concerns about Microsoft.

Personally, I think the settlement is fair. Our country is a free enterprise system and Microsoft has been punished for creating innovative products that have changed our American computer industry forever. Please do not allow this to continue. Microsoft has helped our economy innumerous ways. Please uphold this settlement and help maintain our American edge in the international marketplace. Thank you.

Sincerely,
Eugene Wathen

MTC-00031250

01/15/2002 16:19
COVER PAGE
TO:
FAX: 12023071454
FROM: MAHDAVIN
FAX: 2125460990
TEL: 2125469058
COMMENT: URGENT
01/15/2002 16:19 2125460990 MAHDAVI N PAGE 01
430 E 56th Street # 5C
New York, NY 10022
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

Thank you for settling the Microsoft case. I greatly appreciate your willingness to get our economy back on the right track. The settlement is adequate, and no more action should be taken in this case.

Under the settlement agreement. Microsoft has made numerous concessions and compromises in its efforts to bring this matter to a close. The highlight of this agreement is Microsoft's submission to a government appointed, three person technical oversight committee which will have oversight over the company's engineering and business practices. Furthermore, Microsoft, as a result of this settlement, has given up its right to intellectual property protection by agreeing to license any technology, which may be called into question by a competitor.Another major concession by Microsoft is its willingness to adopt a uniform pricing and licensing agreement with its partner computer manufactures and software competitors. This concession will force Microsoft to end its favored agreements with companies and disallow it from engaging in retaliatory pricing with companies that do not carry its software.

This is a settlement agreement that was completed after three years of litigation,and several months of intense negotiations with a court appointed moderator.

This should be the final federal action on this matter. I look forward to a swift end of this case.

Sincerely,
Nahid Mahdavi

MTC–00031251

JAN-15-2002 02 : 16 PM MOTOR HOME SPECIALIST 817 783 6395
P. 01
Sharon O'Banion
5611 South I-35W
Alvarado, TX 76009–5941
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am often amazed at how people want to punish a creative and innovative company such as Microsoft. Microsoft has just endured three long years of litigation and public battle over the antitrust lawsuit. Last November the lawsuit was finally settled and a resolution was reached that all parties could agree on.

The settlement agreed upon included many good provisions that will help to stimulate growth and competition while still offering protections for the smaller and newer companies in the market. Unified pricing lists are now required for Microsoft to provide the same terms, conditions, and prices to all companies that enter into licensing contracts with Microsoft. Microsoft has also been restricted from entering into any kind of contractual agreement with a computer manufacturer that would impede competition from other software companies. As I said, there are protections for the smaller companies, and protections for the competition in the market.

This is a good settlement. and there is no need to drag this litigation on further.

The time has come to stop the public beating of a good company. Microsoft has done nothing but provide exceptional products and services. They have paid enough with this settlement. The next step could only be the breakup of the company. Do not let that happen. Leave the settlement in its current form. Thank you.

Sincerely,
Sharon O'Banion

MTC–00031252

Jan 15 2002 11:14 FR MICROSOFT RECEP #3 425 936 7329 TO 912023071454
P. 01/01
Date: 01.15.02
Subject: Microsoft Settlement

Come on, guys. It is time America gets back to work and the continued legal machinations against Microsoft are not helping.

Let's settle this caseso we can all get on with our lives.

Stephen Quinn
chaos effect@hotmail.com

MTC–00031253

JAN 15, 2002 01:50 PM JACK SCHOFIELD 717 757 9140 P.01
3710 Starview Drive
York, PA 17402
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I, like many, were very sorry to see a case brought against Microsoft. I felt the company was being punished for being successful. That sure is not an incentive for being a entrepreneur in a capitalistic society.

Having said that, I feel the settlement is fair and covers many of the complaints brought against Microsoft in the first place.Microsoft has to disclose a lot of information about the inner workings of their software and make a lot of deals that benefit their competitors.

Many people depend on Microsoft products and services in their day to day lives. I believe most people will be happy with the settlement and hope that things will move along quickly.

Sincerely,
Jack H. Schofield, PE
Former Member of The
New Hampshire House
cc: Senator Rick Santorum

MTC–00031254

FROM : FAX NO. :
Jan. 15 2002 04:43PM P1
Emily M. Ballance, M.Ed.
Counselor and Consultant
1100 Navaho Drive, Suite 103, Raleigh, NC 27609 (919) 878–1685
January 11, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse

I don't often write letters to government officials. As a small business owner, I have become concerned about the impact the litigation against Microsoft might have on my access to integrated software products. It appears that the proposed settlement to the lawsuit will allow me continued access to these products while at the same time satisfying the concerns of computer manufacturers, software designers and other consumers.

Under the agreement, Microsoft will allow computer manufacturers to configure the Windows system so that other software programs that compete with Microsoft can be used. New versions of Windows will make it easier to add or remove access features built into Windows. The provisions relating to contractual restrictions and intellectual property rights provide additional assurances to Microsoft competitors.

The settlement seems to be a fair compromise for all concerned. It promotes competitive technology environment and ends the three-year lawsuit, allowing computer and software companies to get back to building a stronger economy for our nation.

Sincerely,
Emily Ballance

MTC–00031255

JAN.15.2002 4:29PM CLARK UNIVERSITY NO. 039 P. 1/3
Clark University
Trustee's Office
950 Main Street
Worcester, MA 01610–1477
Fax: (508) 793–8831
Phone: (508) 793–7614
To: Attorney Renata Hesse
Fax: (202)616–9937
From: Jack Foley
Date: 1/15/02
Re:
Pages: 3
cc:
O Urgent
O For Review
O Comment
O Reply
O Please
Recycle
JAN.15.2002 4:29PM CLARK UNIVERSITY NO. 039 P.2/3
CLARK UNIVERSITY
1887
John L. Foley
Executive Assistant to
the President
950 Meln Street
Warcostor, MA Ol6lO-1477
(508)793–7441 Phone
506)793–8831 Fax
foley@clarku.edu
www.clarku.edu
January 16, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FACSIMILE: 202–616–9937

Dear Attorney Hesse:

I would like to comment with regard to the impending settlement in the Microsoft lawsuit.

As a School Committee member from an older industrial city, I see the problems of the"digital divide" in our school system. Scores of children attend schools with scant resources, which undermines the educational process.

I fully support the Agreement's approach of directing part of the settlement towards public schools, We have all heard about the digital divide that exists along socio-economic lines. This divide has an adverse effect on public education. Research states that 82% of classrooms in higher income communities have Internet access while only60% of classrooms in poorer communities are connected. In my work with the families of low to moderate income in schools in the Clark University neighborhood, I can attest to the tremendous need for the opportunities that access to technology will provide.

The New York Times recently reported on the differences in computer ownership along economic lines. In households whose income was $75,000 or more, 88% had computers.That number dropped dramatically for households whose family income was below$25,000. If this problem is not remedied then students from lower income families will continue to suffer. They will have distinct disadvantages in the pursuit of higher education and future employment opportunities.

CHALLENGING CONVENTION,
CHANGING OUR WORLD
JAN.15.2002 4: 29PM CLARK UNIVERSITY
NO. 039 P.3/3
Page 2
January 16, 2002

For this reason, I support the aims of the Settlement Agreement that has been proposed.This agreement will provide students with access to technology. The agreement calls for Microsoft to provide 200,000 computers to eligible schools at almost no cost.

I urge the Court to approve the proposed Agreement.

Sincerely yours,
John L. Foley
Member, Worcester School Committee

MTC-00031256

JAN-15-2002 TUE 02:37 PM DATAHOUSE, INC.
FAX NO. 2059729290 P.01
Datahouse
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530 0001

Dear Mr. Ashcroft,

This is to inform you that I support the settlement between Microsoft and the Department of Justice and believe that it will be advantageous to all concerned. To continue litigation would not be in the best interest of our country and our economy. This suit may have already contributed to the slowing of the economy, and to continue litigation could cause further harm.

As I understand the terms of the agreement, the settlement seems to be good for the parties involved and good for the country. This suit has been a nuisance to the technology sector from its conception. We cannot allow continuing, litigation because it has consistently drained millions of dollars of government money, This suit has gone on for long enough,and it must be put to rest. I urge you confirm this settlement and let all of us get back to work.

Sincerely,
Rod Yates
V.P. of Operations
Cc: Representative Spencer Bachus

One (illegible) Park South, Suite 100 South—Birmingham, Alabama 33243 2342 T 205 972 9292
F 205 972 9290 BIRMINGHAM
www.datahouse.com
1965 Lake Park Drive, Suite 210—Atlanta, Georgia 30280 8845 T 773 436 5757 F 770 436 5882
ATLANTA
301 (illegible) Park Drive, Suite 100—Nashville, Tennessee 37213-3128 T 615 315 5200 F 615
781 4243 NASHVILLE

MTC-00031257

JAN-15-2002 14:57
BRALEY & WELLINGTON INS.
508 755 4178 P.01
INSURANCE AGENCY
January 11, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FAX: 202-616-9937

Dear Attorney Hesse

It is my understanding that the Justice Department is seeking input, regarding the proposed settlement in the Microsoft lawsuit.

As a small businessman, I understand competition. Competition is healthy for the American economy. I use Microsoft products in my business and they have been a great help to me. They have allowed me to better serve my clients and to manage my business.As far as I can tell, there has been no consumer harm as a result of any actions taken by Microsoft. Microsoft's innovations have, in fact, helped many small businesses, such as mine grow.

Given the state of our economy right now, we should do everything possible to spur growth, not hinder it.

An additional benefit in the settlement, is the proposed donation of over 200,000computers to our nation's public schools. I whole-heartedly endorse this provision, which will help erase the digital divide in our public schools.

I hope that the government will reach a settlement in this case.

Sincerely yours,
John P. Brissette

MTC-00031258

1-15-2002 2:51PM FROM 000000000000 P.1
Esther Vassar 001
Esther H. Vassar
Esther H. Vassar Enterprise
1548 Winthrope Drive
Newport News, Virginia 23602
January 15, 2002
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW. Suite 1200
Washington, DC 20530

Dear Ms. Hesse

I am pleased to have the opportunity to comment on the Microsoft case proposed settlement.

I understand that Microsoft has agreed, as part of the settlement, to document and disclose various interfaces that are internal to Windows operating system products. They will disclose this information to their competitors. If that is what it takes to settle this lawsuit, then I am in favor of such disclosure and sharing of information.

I use Microsoft software in my business. Small businesses like mine are able to start up quickly with software like Windows. My computer system came with the software already downloaded and ready to go. I believe that products like Windows allow more individuals like me to start their own businesses, often working from their homes. In places like Richmond and Tidewater telecommuting will help ease horrendous traffic conditions.

The events of September 11 and after have depressed the US economy, particularly the technology sector. We need actions by our government that stimulates new business, not the opposite. I am hopeful that the provisions like the one cited above can bring an end to this costly and time-consuming case.

Sincerely yours,
Esther H. Vassar

MTC-00031259

1-15-2002 2:37PM FROM 000000000000
CORP COMMUNICATIONS 93644236 P. 1
No.646 002
Irene Thomaidis Cimino
3125 Park Avenue
Richmond, VA, 23221
January 8, 2001
Ms. Reneta Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC. 20530

Dear Ms. Hesse:

I'm a Microsoft shareholder and, quite frankly, I want nothing more than for Bill Gates to be able to make as much money as possible for his shareholders. That is his job. In addition, I don't believe the judicial system or the federal government should be penalizing him or his company for being smarter than anyone else.

Needless to say, I am more than pleased that a settlement is in the works. From what I have been able to glean from news reports, all parties have worked very hard to come up with this agreement. I know, for example, that other software companies will be able to access various Windows features. I hope that part of the agreement, as well as others will end this litigation. Let's get out of the courtroom and back to our desks! Sincerely, Irene Thomaidis Cimino

MTC-00031260

JAN-15-2002 14:45
THE MCCAULEY GROUP
508 831 7558 P. 01/01
THE MCCAULEY GROUP
444 Cambridge Street
Worcester, MA 01610
508-795-7000
January 11, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FAX: 202-616-9937

Dear Attorney Hesse:

It is my understanding that the Justice Department is seeking input regarding the proposed settlement in the Microsoft lawsuit.

Given the state of our economy right now, we should do everything possible to spur growth, not hinder it.

As a small businessman, I understand competition. Competition is healthy for the American economy. I use Microsoft products in my business and they have been a great help to me. They have allowed my to better serve our clients and to manage our business.

There has been no consumer harm as a result of any actions taken by Microsoft. Microsoft's innovations have, in fact, helped many small businesses such as mine grow.

An additional benefit is the proposed donation of over 200,000 computers to our nation's public schools. I whole-heartedly endorse this provision.

I urge a swift settlement.

Sincerely,
Robert F. McCauley
TOTAL P. 01

MTC-00031261

JAN-15-2002 12:11 PM Joe Presley
520 393 1348 P. 01
Clyde J. Presley
4723 South Prairie Hills Drive
Green Valley, Arizona 85614
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my full support of the recent antitrust case settlement between Microsoft and the US Department of Justice. This case has dragged on long enough and will serve no good purpose if the current settlement is not finalized.

Under the terms of the settlement Microsoft did not get off easy. Microsoft is being forced to disclose internal interfaces and protocols as well as not retaliate against computer makers who promote other products within Windows. These are not the only concessions, but most of these constitute a breach of free market principles. Even though I do not agree with government's interference with free enterprise, I must agree with ending this settlement. Our IT sector and our economy will greatly benefit from Microsoft being allowed to return to business and innovate the way they always have in the past. Please help to suppress the opposition and quell the state's personal vendettas against Microsoft.

Microsoft's competitors, through their respective Attorneys General, are pushing continued litigation for their own self interest. They are not concerned about the public getting improved technology at reasonable prices. They would prefer the consumer to buy separate applications rather than the intergrated software that Microsoft sells.

Sincerely,

MTC-00031262

JAN-15-02 06:40 PM.J>C BUCZEWSKI I
610 767 5520 P. 01
Joseph Buczewski
P.O. Box 269
Neffs, Pennsylvania 18065-0269
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I have been following the Microsoft antitrust dispute on and off for some time now. I understand that there is now a period of time allotted to examine the fairness of the settlement reached between Microsoft and the Justice Department. As one of your constituents, I urge you to please accept the proposed settlement. This settlement will restore fair competition, as Microsoft has agreed to tone down their marketing practices. They have agreed to share technology information with their competitors. Also, computer distributors will now be able to install non-Microsoft products on Windows. All of this is more than reasonable. There is no question that the settlement is pursuant to the public interest.

Unfortunately, there are many companies and people out there who are trying to take advantage of Microsoft's success. If those companies put as much effort into innovating products as they do into pursuing Microsoft, all of this mess would be a dead issue. Microsoft has helped our American economy to get where it is today and has charged the technology industry forever.

America's economy cannot withstand any more problems. This settlement will allow Microsoft to get back in the market and help out our economy. Please respect this settlement and let Microsoft to continue their business. It means a lot to me, Pennsylvania, and America. Thank you for your time.

Sincerely,
Joseph Buczewski
cc: Senatoe Rick Santorum

MTC-00031263

BELZON, INCORPORATED
190 LIME QUARRY ROAD,
SUITE 211,
MADISON, AL 35758
WWW.BELZON.COM
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter to inform you that I believe that the settlement reached between Microsoft and the Department of Justice regarding the antitrust suit will have positive impact on the economy. The suit has been detrimental to the economy, driving costs of software up and driving the stock market down. To top it all off, taxpayers are footing the bill for all this. If this suit is to continue, it will continue to have an unfavorable effect on the economy.

The proposed settlement will be beneficial to both the IT industry and the consumers alike. Microsoft has agreed to the establishment of a three-person "Technical Committee" that will monitor its compliance to the settlement, and assist in dispute resolution. Microsoft has also agreed not to retaliate against any computer makers that may ship non-Microsoft software.

The settlement is fair and reasonable, and was arrived at after extensive negotiations with a court-appointed mediator present. It would be a shame to continue litigation and waste all the time and money spent on drawing up the settlement. I urge you to confirm the settlement and help the nation get on the road to recovery.

Sincerely,
Rich McAdams

MTC-00031264

JAN. 15.2002 4:35PM NO.6427 P. 1/2
FOLEY:LARDNER
ATTORNEYS AT LAW
VEREX PLAZA
150 EAST GILMAN STREET
MADISON, WISCONSIN 53703-1491
POST OFFICE BOX 1497
MADISON, WISCONSIN 53701 1497
TELEFHONE: 608.257.5035
FACSIMILE: 414.319.7002
www.FOLEYLARDNER.COM
FACSIMILE TRANSMISSION
Total # of Pages 2 (including this page)
TO: Renata Hesse PHONE#: FAX#: 202-307-1454
From: Scott Klug
Date: 1-15-02
Client/Matter No:
User ID No:
MESSAGE:
If there are any problems with this transmission or if you have not received all of the pages, please call 608.258.4252.
Operator:
Time Sent:
Return Original
To:

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Cover Page 1 of 1
FOLEY & LARDNER
JAN.15.2002 4:35PM NO.6427 P.2/2
Scott Klug
5694 Kilkenny Place
Fitchburg, WI 53711
Reneta Hesse
Trial Attorney
Department of Justice-Antitrust Division
601 D. Street, NW, #1200
Washington, DC 20530

Dear Attorney Hesse:

I am writing to express my full support of the recent settlement between Microsoft and the Department of Justice. From the outset the federal government's legal attack on Microsoft was questionable. Consumers were never harmed as a result of actions taken by Microsoft. Rather, Microsoft's innovation has led to tremendous benefits for consumers, such as better products and lower prices.

Antitrust laws were meant to protect consumers, not for certain powerful companies to protect themselves from the market competition.

I strongly urge the Department of Justice to uphold this settlement and put this entire issue behind us.

Thank you for your attention to this matter

Sincerely

Scott Klug

003.336634.1

MTC–00031265

01–15–02 17:33 MITCHELL

T: 5167651944

P.01

3985 Wells Road

Peconic, NY 11958–1738

January 14, 2002

Attorney General John Ashcroft

US Department of Justice, 950 Pennsylvania Avenue, NW

Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing in support of the settlement with Microsoft. The required changes in Microsoft's business practices will restore fair competition and prevent future antitrust violations.

The settlement mandates many specific changes on Microsoft's part. For instance, Microsoft has agreed to make available to its competitors any protocols implemented in Windows" operating system products that are used to interoperate natively with any Microsoft server operating system. Plus, Microsoft has agreed not to enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively or in a fixed percentage. Also, Microsoft has agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows.

This settlement is in the best interests of the American public and the American economy. The recession has had a devastating effect on state budgets and the Federal budget. It is important that the American technology industry be allowed to concentrate on business again as soon as possible.

Thank you for your wise leadership.

With sincere regards,

Robert Mitchell

MTC–00031266

Jan-15–02 01:38P

Graham Tash (253) 474–7159 P. 01

Rick W. Bauer

P.O. Box 1308

Graham, WA 98338

Attorney General John Ashcroft

US Department of Justice

50 Pennsylvania Ave. NW

Washington, DC 20530

Dear Mr. Ashcroft,

I am a proponent of this settlement. Needless resources have been expended over the course of this litigation. I strongly urge the Department of Justice to put an end to unneccesary waste of resources. This lawsuit should not have been brought in the first place. The case lacks merit, and was brought only as a result of pressure exerted by Microsoft's competitors in Silicon Valley and with the help sympethetic interest groups. As you know, some of those groups were in the highest levels of elected office.

Mr. Ashcroft, history already proves when and where the the breaking point in the stock market was. It was March 1999 when Judge Jackson made his decision against Microsoft. That was the straw that broke the camals back. Our economy went into a downhill slide and has never recovered. Then Sept. 11,2001, and now Enron enter the picture. How much more can our economy withstand, especially With Sen. Daschel holding our economy hostage to achieve his own personal agenda. I believe that you are the Attorney General that is able to understand the political and economic impact of this situation better than any before you. The reason being that you are not so far removed from the process that you have had time to forget.

The terms of the settlement agreement are quite reasonable, and should be approved without delay. Microsoft has agreed to the establishment of a technical oversight committee, has agreed to share its internal information with its competitors, and has agreed to change its business practices to better comply with antitrust laws. Nothing more should be asked of this corporation. I whole heartedly support the Microsoft settlement, and hope to see a rapid conclusion to this case. Thank you.

Sincerely,

Rick W. Bauer

Hm. 253–875–4785

Wk. 253–475–4151

rick99now@yahoo.com

MTC–00031267

Jan 15 '22 16:00 P.01

William H. Wiggins

604 North Pontiac Ave.

Dothan, Alabama 6303–3970

Fax: 334–794–4314

January/15/2002

Attorney General John Ashcroft

US Department of Justice

950 Pennsylvania Avenue, NW

Washington, DC 20530

Mr. Ashcroft:

AS a supporter of Microsoft, I write you concerning the recent settlement between the Department of Justice and Microsoft. Three years of negotiations should be ample for a well thought out settlement. The concessions that Microsoft has made speak to all parties involved and are beneficial to the entire information technology sector.

As our economy weakens, we must pay careful attention to our technologies. By delaying the enforcement of this settlement, we cause our technology industry to lag behind and jeopardize our position in the global market. Let us help support the industry by making sure that no more actions are taken against the settlement, By allowing our information technology sector to focus on innovation we, the consumer, benefit as well as the IT sector and the economy as a whole.

Even before the Microsoft suit it has been my perception for some time now that industry can succeed only to a point before the government steps in and discourages capable companies like Microsoft to do what they do best. They want them to stagnate rather than take advantage of their investment in research and create more employment. I urge you to help support this settlement and ask you to help stop any action against it. I thank you for your help.

Respectfully,

William H. Wiggins

P.S. I own no Microsoft stock. I am just interested in encouraging entrepreneurs to have incentive to do their thing and have a vibrant economy in this country

MTC–00031268

01/15/02 16:48 FAX 9067793702

LTI

LTI

Laydon Technology, Inc.

1005 Pinewood Court

Iron Mountain, MI 49801–4464

January 12, 2002

Attorney General John Ashcroft

US Department of Justice, 950 Pennsylvania Avenue, NW

Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am happy that a settlement has been reached with Microsoft. The terms of the agreement are fair and reasonable. In addition, the required changes in Microsoft's business practices will restore fair competition and prevent future antitrust violations.

The settlement requires a number of specific changes. For example, Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system. Also, Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price. In addition, Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products—a first in an antitrust settlement. These changes along with the others in the settlement will result in a competitive balance in the technology sector. This settlement is in the best interest of the public and the economy. The current recession has had a devastating effect on state budgets and the Federal budget, and it is important that the IT industry be allowed to concentrate on business as soon as possible. Thank you.

I am directly involved in the development of software solutions for sale to small and medium size companies. I am a survivor having been involved in this business since 1981. One thing that has always been a problem in the industry is incompatibility. When Microsoft began to "monopolize" the industry it became so much easier to develop software for microcomputers since we knew what was on the users machine and how it reacted. When I began developing for the internet I found, and still find, the same problems.

Netscape supports certain things that MS Internet Explorer doesn't and vice-versa. Since I am a small business trying to survive, writing similar code in duplicate to support both browsers has become almost unbearable. Finally, through no fault of Microsoft's, I had to choose. I chose to support Microsoft and place a note on my web site that linked to Microsoft so users could download Internet Explorer. The thing is that Microsoft has a better product in Windows and Internet Explorer and forcing users to go through great pains to get the better product is not good for American business. Although I am happy Microsoft has reached an agreement with you, I am VERY DISAPPOINTED, that it has come to this. Forcing competitive products on the industry and users just because others have not been able to compete on their own is a sin. I am a conservative Republican and am very disappointed in my party for not making this issue "go away" after the election.

Sincerely in Favor of revived American Innovation,

Jim Laydon

President

MTC-00031260

JAN 15 '02 16:21
ILAPANCOHEN 7459446 PH P. 1/1
Martin A. Cohen, CLU, inc.
1732 Arnold Street
Philadelphia, PA 19152
(275) 745–6094 (phone) (215) 745–9446 (fax)
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The recent settlement between Microsoft and the US Department of Justice is long overdue. Although I think the settlement is too harsh and violates even more laws than the initial lawsuit against Microsoft considered, it is in the best interests of the public.

First off, Microsoft should not be forced to disclose internal interfaces. They have put a lot of time and money into creating their own technology that is far superior to competitors. What company in the world would agree to offer up their technological secrets? If they did, they lose all ability to compete in a free market. The second concession I think is ludicrous deals with contractual restrictions. If Microsoft cannot enter into agreements with vendors to exclusively distribute their products, then they are limited in their ability to gain market share. I see Airlines, Sodas, and Liquor Distributors all entering into these agreements. Why will such agreements be precluded from the tech sector?

At any rate, it is time for this issue to be settled and for our economy to go back to normal. This will only occur when the nine states in opposition drop their suits and Microsoft can start to focus on business.

Sincerely,

Glenda Cohen

cc: Senator Rick Santorum

MTC-00031270

Jan 15 02 04:15p W N Meloon
407 851 6591
January 15, 2002
Renata Hesse
Antitrust Division
Department of Justice
Fax: (202) 616–9937
Fax (202) 307–1454

Dear Ms. Hesse:

I am very concerned with the never-ending saga of lawsuits against Microsoft Inc. One day we're having lawsuits against tobacco and then the gun industry and now the Federal Government is seeking to break up a company that epitomizes the American success story!

This is why I am encouraged by the settlement and hope we can continue to see more of them. Frankly, I just do not see the point in such a suit when there is so much competition in the technology industry. This is an industry where products and service change so very quickly that the stock market fluctuates depending on what new and ingenious product is offered to consumers on any given day!

In addition to the changing times, there is now way for us to tell who is competing with whom. Companies like AOL Time Warner and Microsoft have so many facets, it is just not plausible to suggest that just any one company is dominating in all areas. Who is to say that next week there will not be a new merger that will offer consumers with a choice that is twice the size of Microsoft?

Please continue with the settlements. I know that you understand the importance of a free market and competition. As a business owner myself, I ask that you please continue to speak out against this frivolous litigation and encourage the settlements to continue to take place.

I appreciate the time you have taken to read my concerns on this issue.

Sincerely,

Walter N. Meloon

President/CEO

WNM/arp P. 1

Correct Craft o Est. 1925

6100 South Orange Avenue—Orlando, Florida 32809—407.855.4141—Fax 407.851.7844—

www.nautiques.com

MTC-00031271

Tuesday, January 15, 2002 4:08 PM
Gil Koedel 4129670244
P.01
441 Forest Highlands Drive
Pittsburgh, Pennsylvania 15238
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in favor the Department of Justice's wise decision to settle the Microsoft antitrust case.

The settlement agreement is fair, and it achieves the goals of those who believe Microsoft has engaged in anticompetitive behavior. Dragging the case through the courts will serve no good purpose. Especially since there is really no better remedy than what the settlement agreement provides.

Microsoft has agreed to disclose its internal Windows operating information to its competitors. They have also agreed to make it easier for computer manufacturers to remove features of Windows and to replace them with other software programs. By doing these things, they are essentially leveling the playing field in the technology world.

The approval of the settlement agreement is the best course of action. Thank you for your attention to these comments.

Sincerely,

Gilbert Koeder

cc: Senator Rick Santorum

MTC-00031272

1–15–2002 5:49PM
FROM 000000000000 TRANS COMMUNITY BANK SHARES P. 1
Jan-15 2002 3:32PM No. 0746 P.2
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As a supporter of the Microsoft Corporation, I wish to offer my comments on the settlement that is on the table. I believe that the provisions that relate to "windows design obligations" and "computer-maker flexibilty" demonstrate Microsoft's good faith in wanting to put an end to this litigation.

Let me elaborate.

Microsoft has agreed to design future versions of Windows, beginning with an interim release of Windows XP, to make it easy to add or remove access to features built in to Windows or to non-Microsoft software. Consumers can change their configuration at any time.

Microsoft has also agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows.

For the good of the economy and the high tech industry, I look forward to hearing that this case has been settled.

Yours truly,

9025 Forest Hill Avenue P.O. Box 36197

Richmond, VA 23235 Phone: 804–3119–6000 FAX: 804–320–6024

www.transcommunitybankshares.com

TOLL Free. 1–800–806–0946

MTC-00031273

1–15 2002 5:33PM FROM 000000000000 P.01
1/15/2002 9:10PM FROM: 804–359–6425
TO: (804) 364–4236 PAGE 001 OF 001
Electronic Cottage Industries —
Human & Computer Systems Integration
Muriel Johnson Murray
January 15, 2002
Ms. Renata Hesse
≤Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I have followed the developments in the Microsoft case with interest. Events are leading to what appears to be a good chance for a settlement in this case. That is the reason for my letter.

I understand that the settlement imposes a number of restrictions and obligations on Microsoft, which extend to products and technologies that were not at issue in the lawsuit. In addition, these restrictions also encompass aspects of Microsoft's business and product development that were not found to be illegal by the Court of Appeals.

In order to bring this case to a conclusion, Microsoft has agreed to these broad terms I am certain they look forward to moving on and developing new products. I also understand that any violations of the settlement are punishable as contempt of court and that Microsoft's compliance with the settlement will be monitored by a three-person Technical Committee established under the settlement, by the Department of Justice and by those state plaintiffs that are party to the settlement.

The terms of this settlement sound like they are more than adequate to bring this case to conclusion. For the good of the economy and to prevent a further waste of taxpayers'' money, I truly hope that to be the case.

Very truly yours,
Muriel Johnson Murray
MJM/moo P. 1
2325 Hanover Avenue, Richmond VA 23220.3403 o phone 804–358–4809 9 fax 804–359–6425 o mobile 804–928–4809
e-mail mjmurray@electcottage.com o web site http://www.electcottage.com

MTC–00031274

FROM: MUP CONST. EQ. CO.
PHONE NO.: 3038418373
Jan. 15 2002 10:12AM P1
MOUNTAIN, VALLEY, PLAINS
CONSTRUCTION EQUIPMENT COMPANY
713 AMANDA PINES DRIVE
PARKER CO 80138
CONSTRUCTION EOUIPMENT CO.
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

When I purchased my first computer in 1997 I was able learn programs quickly because of the easy format, which Microsoft had made. Although microcomputers have been around since the 1970's it has not been until recently that millions of people have been able to use computers, in part because of the innovations of Microsoft to make computers easier to use. This country would be many years behind with out Microsoft leading the pack. The other companies just want your power so they can become the leaders. This is all wrong.

I was saddened when I heard a while back that Microsoft had been brought to cow-t in an antitrust suit, especially after all that they have done to improve computers. But now I understand a settlement has been reached in this case. I think it should be a high priority of your office to make sure that this settlement is completed and this case is over at the federal level. Settlement calls for Microsoft to share more information with competitors, and to give competitors more opportunities. (This is crinimal) Clearly, the settlement is fair.

I support the settlement, and look forward to seeing the end of this case.

Microsoft should be allowed to return to innovating and should not be held in court any longer than is absolutely necessary.

Sincerely,
Jule Larrabee
SALES OF NEW AND USED EQUIPMENT AND PARTS

MTC–00031275

Tuesday, January 15, 2002 1:24 PM p.01
Inspection Technology 19096263540
Kermit Skeie
1245 W.Cienega Ave. # 85
San Dimas, CA. 91773
Phone: 909 592 6676
Fax: 909 592 6647
whitefrog@uia.net
1/15/02
Attn: Renata B. Hesse
To Whom It May Concern:
Re: MICROSOFT

In my career of more than 50 years, I encountered a similar situation shortly after WWII when a firm had enjoyed a robust business throughout this period, because of patents granted. Two firms having? essentially 'back-engineered'' products. complained to the US government alleging unfair practices and restraint of trade.

The impact on the company for which I then worked, had top management tied up tied ten years fighting, and at least management decisions were colored by the lawsuit Legal fees became a significant budget item, using moneys that should have been directed at new products. After 10 years the case was dismissed for lack of sufficient evidence!

My sympathies have since been entirely with defendants. Of course, these situations were not parallel in magnitude, but in principle. Why should innovators, and entrepreneurs be penalized for their monetary success?

Bill Gates, and party should be honored for starting a new direction in the nation's business. I purchased a PCI upon my retirement after selling the company I had headed to the British. I gave up on it without an operating system suitable to a non-professional. The a rebuilt Packard Bell 486, with some education, and with a local ISP was on my way, thanks to Bill Gates and party. I am on my 4th upgrade which plays well since I cannot play golf anymore, and have over 150 e-mail addresses.

His efforts should be lauded, not censured! I have a small business operated on my HP Pavilion. I bought my secretary a word processor in 1978 at $14,4000. I saw one today for $199. Thanks to Steve Job and Bill Gates for starting this revolution.

It's too late for me, having retired as President of 2 companies, but in total sympathy with innovators, having headed a company manufacturing diagnostic ultrasound instrumentation in 1964, about 5 years before anyone in the US! No venture capitalists in those days, so I liquidated for the benefit of creditors, and turned to industrial.

Kermit Skeie

MTC–00031276

JAN-15–2002 16:19 P.01/01
Paul F. CANTIANI
Insurance Agency, Inc.
January 14, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FAX: 202–616–9937

To Whom It May Concern:

It is my understanding that the Justice Department is seeking input, regarding the proposed settlement in the Microsoft lawsuit.

As a small business owner, I understand competition and know that it is healthy for our economy. I use Microsoft products daily in my business and they have been a great help to me. They have allowed me to better serve my customers clients, to manage our business and to actually expand.

There has been no consumer harm as a result of any actions taken by Microsoft. Microsoft's innovations have, in fact, have helped many small businesses like mine grow. I hope that we can end this lawsuit and that the Court approves the settlement.

Sincerely yours,
Paul F. Cantiani
Celebating Over 30 Years of Business Total P.01

MTC–00031278

FROM: Nittany Mountain Exc. Inc.
PHONE NO : 8143641296 Jan. 16 2002 09:49AM P1
145 huey Lane Spring Mills, PA 16875–9130
January 10,2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I write you today to express my opinion that the settlement reached last November be implemented without further delay. It is my sincere opinion that this issue should be resolved with all expediency and efficiency. Thus, no more federal action against Microsoft should be instigated.

This settlement has imposed many broad restrictions and obligations on Microsoft forcing it to drastically change its products and business practices. By no means has Microsoft gotten off easy in this deal. The settlement will reduce anti-competitive behavior within the IT industry. It is imperative for the sake of the economy that Microsoft and its competitors get back to producing innovative products. Any further litigation pertaining to this issue would be unnecessary and indeed harmful.

I ask that you continue your hard work in working towards the resolution in this matter. I only hope that it comes quickly. Moving past this issue is vital since more important matters are currently facing this country.

Sincerely,
Kathleen Huey
cc: Senator Rick Santorum

MTC–00031279

JAN–16–2002 08:27 AM JOSH—POTTER
12522491844
P.01
661 Hardison Drive
Arapahoe, NC 28510—9660
January 15, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

My name is Josh Potter. I live in Arapahoe, NC. I am pleased to hear that a settlement has been reached between Microsoft, the Justice Department, and some of the other parties involved with the lawsuit. I am writing to express my support for the settlement.

I was opposed to the Microsoft lawsuit from the beginning. The computer industry would still be in the dark ages without Bill Gates and Microsoft. However, as I understand the settlement, it allows for greater competition without seriously damaging Microsoft as a competitive entity. Now, under the settlement Microsoft has to reveal its intellectual property in its Windows internal interfaces and server interoperability protocols.

Under the circumstances, and considering other proposals to settle this matter, the settlement you have reached are in the best interest of the public, the tech industry, as well as, the economy.

In closing, I support the proposed settlement. I feel it will benefit American industry and consumers alike. Thank you for your time and consideration.

Sincerely,
Josh Potter

MTC-00031280

16–2002 6:29AM FROM P. 1
6586 153rd Avenue Southeast
Bellevue, Washington 98006
January 14,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

In November of 2001 Microsoft and the Justice Department reached a settlement in the antitrust case that had been in progress for more than three years. I am contacting you to let you know I was pleased to see that this settlement was reached, as were many other Americans.

I am concerned that special interests with anti Microsoft leanings will try to derail this settlement. They will tell the public that this settlement will change nothing and Microsoft should be compelled back to court. However this settlement will create many changes as well as end this expensive case. This settlement will give computer makers flexibility to install non- Microsoft software. Additionally, this settlement will compel Microsoft to reveal an unprecedented amount of secret design code to competitors. Without a doubt this settlement will bring fundamental change to the IT industry. Furthermore this settlement will end this case at the federal level.

Sincerely,
Alicia Mariano

MTC-00031281

JAN–16–2002 08:20A
FROM: =201 444 4591 TO: 12023071454 P:1
414 Radcliffe Street
Wyckoff, New Jersey 07481
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am outraged by the Justice Department's harassment of Microsoft on anti-trust issues. The Microsoft Corporation never engaged in the anticompetitive behavior that they have been accused of by their competitors. At any rate, I am pleased to see this issue come to a resolution with the settlement reached last November. Maybe now everyone can move on to more important issues.

Anyone who thinks Microsoft got off easy in this deal is mistaken. Microsoft has agreed to many terms that go beyond the scope of the case. Microsoft will now disclose the internal interface of its operating system so that software developers will be able to promote their software from within the Windows system.,

Clearly Microsoft wants this issue resolved. As a Microsoft supporter, I too hope this settlement is quickly resolved.

Sincerely,
Carol DiPalma

MTC-00031282

Jan–16–02 06:27A Calderazzo 9624563 P.01
Dominick Caldcrazzo
14614 Village Glen Circle
Tampa, Florida 33624
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington. DC 20530

Dear Mr Ashcroft

I am writing to exercise my right under the Tunney Act to voice my support for Microsoft in light of recent litigation against then. I am extremely dissatisfied with the way this entire matter has been dealt with. In my opinion. this lawsuit was very unfair to Microsoft and has done much to damage the stability of the Information technology Industry. Despite the unfair treatment, Microsoft has been more than cooperative from the very beginning. They have even agreed to restrictions and obligations that were not even at issue in the lawsuit. The have even made efforts to restructure aspects of Microsoft's business and product development that were not found to unlawful by the Court of Appeals. This was all in effort to bring the case to a conclusion and achieve unhindered development of new products

If that were not enough Microsoft has also agreed to allow computer makers to make it easier for non-Microsoft software, such as programs from AOL Time Warner and RealNetworks to be accessed by consumers.

Though this is just a small example of Microsoft's efforts, competitors of Microsoft are still actively trying to undermine the settlement during this review period This iS why I am writing. I am grateful that you value my input and trust that my views and those of others Will impact positively on the case against Microsoft.

Respectfully yours,
Dominick Calderazzo

MTC-00031283

16–JAN–2002 14:29 DASSAULT FALCON JET SPORE 65 4688023 P.01/01
US Department of Justice, INTERNET:microsoft.atr@usdoj.gov.
From: 110641,1542
Re: Microsoft Settlement

Dear Sirs

Having followed the government's and several states's case against Microsoft, I urge you to conclude the matter as decided by the courts ASAP so that everyone can get back to business. It seems like the case with Microsoft has been in process 4 years or more, about the same length of time as our effort in WWII and if our government needs more time to defeat a software company that it did Nazi Germany and Japan, something is wrong. I use Microsoft software on my computer, most people probably do, and would like to see emphasis on other issues take the fore. For one, the economy needs attention. I have the impression that the continuing attacks on Microsoft serve the Interests of some of their competitors who failed to compete successfully and want the government and stales to beat Microsoft since they could not. This is contrary to business practice in the marketplace. The courts have had their say, let the competitors adjust and adapt to new strategies. Please conclude this case and move on to more pressing issues such as the Enron debacle.

Michael J. Fies
235 Arcadia Road
07–04 Argos
Singapore

MTC-00031284

0 1/ 15/02 11:02 Fax 978–688–7705 JOHN PRESSMAN 01
Merrimack
COLLEGE
North Andover, Massachusetts 01845,. 976–837–5000
Department of Modem Languages
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Since the start of the Department of Justice filed suit against Microsoft three years ago, the IT industry and the economy have been unnecessarily disrupted. The enormous cost this lawsuit has been on the federal government and the IT industry will be inevitably passed onto the consumer through higher prices on technology products for years to come. This cost can only increase as the suit remains in the hands of the court.

Microsoft has agreed to contract changes with distributors, and to opening parts of its proprietary code to competitors among other things. The settlement overcompensates Microsoft's competitors for any substantive infractions it may be guilty of and will surely mitigate Microsoft's market power in the future.

This suit must end. The government has proven that it can effectively disrupt an entire industry with ambiguous results for the consumer in the end. For this and the above reasons, I support this settlement and desire an end of this case. sincerely;

John & Sylvia Pressman
245 Osgood Street
North Andover, MA 01845

MTC-00031285

JAN–15–2002 09:13 PM Emily White/ Tom Simone 01 727 596 1285 P. 01
1621 Gulf Boulevard, Apt. 807
Clearwater Beach, Florida 33767
January 15, 2002

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

From the beginning, I have thought that the suit against Microsoft should be thrown out of court. Microsoft has done more good for technology in the world than any other entity. Microsoft rose to its market position through providing a quality product at a price that consumers can afford. The enormous economic rewards that Microsoft reaped due to their business savvy is still the envy of the IT industry. Unfortunately, instead of Microsoft's competitors attempting to create a product that was able to compete well with Microsoft's, they tried to use the court as a tool of greed rather than one of Justice.

The proposed settlement is more than fair to the plaintiffs in the case, and punishes Microsoft far past any substantive infractions of which they may be guilty. Microsoft will share information about the internal workings of Windows, and will design future versions of Windows so that non-Microsoft programs can operate within it and suffer no drop-off of efficiency.

The time is long passed for this matter to be put behind us. The incredible cost that Microsoft and the other litigants have spent on the case will take years to pay off.

Sincerely,
Emily J. White

MTC-00031286

FAX 4067783538 BAKERAIR SERVICE PO1
Baker Air Service, Inc.
P.O. Box 979 Baker, MT 59313 (406)778–3508
January 14, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

The fact that this settlement had to be reached at all, in my view is a ridiculous caricature of our American values and spirit. In my view, Microsoft and its success should be viewed as a success story and an enterprise to be celebrated. not one that should be persecuted by its own government. This being said, the recent settlement is the best way to end this matter and to allow the company, the industry and the government to move on.

The provisions of the settlement agreement ensure competition, foster innovation and allow for increased competition. The settlement requires Microsoft, on top of competition building measures, to submit to a government appointed three-person technical committee. This committee's responsibility is to ensure Microsoft's compliance with the agreement and to mediate disputes about the settlement.

It is high time that this process is over and that we as a country are allowed to move on. Let us make the approval of this settlement the final federal action taken on this matter. Thank you.

Sincerely yours,
Roger Meggers, President
cc: Mr. Bill Gates /Microsoft

MTC-00031287

2098 Mt. Laurel Road
Fleetwood, PA 19522–8711
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashçroft:

I am writing to express my opinion that the lawsuits that have been brought against Microsoft should have never occurred in the first place. Now, I hope that the tentative settlement is confirmed and that the nine states that still opposed will end their lawsuits. As a user and consumer, I do not feel that my rights have been infringed upon in any way. I own and use some of Microsoft's products and services as well as some of their competitors and do not feel as though I've been harmed in any way as to my ability to make my own choices for these products and services. In many cases the products and services of Microsoft are far superior to any other vendors and their prices are in line with the technology they deliver. In the settlement Microsoft has agreed to open the intellectual property of its internal Windows interface to its competitors, to promote interoperability with non-Microsoft software, and even have a full-time three-person technical committee monitor its own compliance. I personally, don't believe they should have to do these things; but I assume Microsoft is willing to do so, so that we can all move on and put an end to these senseless lawsuits. Microsoft represents a free enterprise success that should be a model for our country's entrepreneurs to follow. Microsoft should not be plinished for being successful.

In the best interest of the public, I urge you to expeditiously make an end of matter so that you can focus your office on real issues, such as international security tax issues. Thank you.

Sincerely,
Don Kiesling
cc: Senator Rick Santorum

MTC-00031288

Packaging Store
The Packaging & Shipping Experts
7129 Citrine Lane Southwest
Lakewood, WA 98498–5013
January 12, 2002
Attorney General John Ashcroft
US Depatymrnt of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing you to suggest that a just outcome for the Microsoft anti-trust case and the surrounding controversy would be the prompt acceptance by the federal government of the proposed settlement plan. This plan is the product of four years of negotiation, mediation and litigation. The parties have accepted it. The court has indorsed it. It's time for all to get out of court and back to work.

The plan directs Microsoft to grant other computer makers rights to configure Windows to promote their and others'' software. It constrains Microsoft from non-completive practices in licensing and other areas. It prohibits any kind of future retaliatory market practices. It puts the company under the eye of a new government review committee. It opens up the company to more competition.

What more does the government want? We need Microsoft back on top of its form. The settlement should be accepted now.

Thank you for your leadership.

Sincerely,
Bill Young
5471 Steilacoom Blvd., SW * Tacoma, WA 98499
(253) 504–7464 o (253) 504–7499 (FAX)

MTC-00031289

PhoneTools
BVRP
Software
Phone:
Fax: .
Message :
I urge you to accept the proposed settlement of the Microsoft anti-trust case. Please see my attached letter.
Thank You
Henry S. Williams
1304 Adams Ave.
Toppenish, WA 98948
From: Dell Computer Corporation
To: Attorney General John Ashcroft
Preferred Customer
Attorney General John Ashcroft
Henry S. Williams
1304 Adams Ave.
Toppenish, WA 98948
E-Mail: stein nanwilliams@msn.com
Phone: 509–865–2915
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave., NW
Washington DC 20530

Dear Mr. Ashcroft:

I am writing in regard to the proposed settlement of the Microsoft anti-trust case. As a user of Microsoft products I have found their products to be of high quality and value priced. Consumer complaints with Microsoft are few, unfortunately competitor complaints have driven this "anti-trust" matter. As a resident of Washington State, as well as a stock holder, let me tell you this unreasonable litigation has cost our State millions of dollars and my wife and I thousands of dollars.

I believe the proposed settlement is more than fair. I urge you to accept this settlement and put an end to this long drawn out litigation.

The proposed settlement requires Microsoft to make serious concessions to its competitors as Windows systems will have to be made to accept non-Windows software. If fact a government appointed oversight committee would now monitor Microsoft's business practices and insure it abide by the settlement terms.

Clearly this settlement is more than just a slap on Microsoft's wrist. The terms should be more than enough to appease the harshest critics of Microsoft, and it will certainly increase competition in the technology marketplace. At this time of National economic uncertainty we need this great corporation at work. Please support this settlement.

Sincerely.
Henry S. Williams

MTC-00031290

Structure Computer Services
10136 Hickory Ridge Dr.
Brocksville, OH 44141-3636
440-526-2776 e-mail: Itstrong@
January 15, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I am in favor of that antitrust case against Microsoft settling. The litigation against Microsoft has been extended out far too long.

I am a comptuter consultant. As a consultant, I have directly observed the negaitve impact the suit has had on the IT community, and on our economy. Uncertainty has been created industry-wide. As a result, business has suffered. Drawing out the lawsuit further will only result in creating even greater uncertainty in the industry.

The terms of the settlement agreement are reasonable, and are in the public interest. In fact, Microsoft has offered concessions that go beyond the scope of the lawstiit. For example, Microsoft agreed to the creation of a Technical Committee to act as a watchdog over its business practices. I support concessions that wil ensure compliance with the antitrust laws. However, I do not not believe concessions should include the ability to interfere with Microsoft's business operations. While I believe some of Microsoft's concessions are not particularly fair to Microsoft, I support the company's willingness to go beyond what is at issue to bring this case to a rapid conclusion.

I urge you to support the settlement. Bringing closure to this issue is best for everyone, and so I thank you for taking the time to consider my point of view.

Sincerely,
James T. Strong

MTC-00031291

Gordon and Diane Hanford
7900 Skylineview Drive
Mentor, Ohio 44060
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We have always believed in capitalism and free trade. We feel that the antitrust lawsuit that has been brought against Microsoft is in direct violation of these ideals, and that the settlement that has been reached between Microsoft and the Department of Justice is fair. We simply do not wish to see this issue go any further, and as such, we support the settlement. Please do not penalize Microsoft's success, which has come from offering a superior product.

Quite frankly, I am befuddled by the government's pursuit of this case. Microsoft never forced consumers to buy their software, and people buy Microsoft because they make quality products, which they now market for less than those originally offered. How does putting the best product on the market for less make a company a monopoly? Obviously, this consumer feels that this suit is inappropriate. Finally, we would like to say how pleased we are that you were finally confirmed as Attorney General. There are people in our society that want to attack success at every opportunity. Your reelection bid as Senator showed to what great lengths they will go to, to defeat and smear your outstanding and successful career.

Thank you and God bless!

Sincerely,

MTC-00031292

BAKERAIR SERVICE P01
P.O. Box 979 Baker, MT 59313
(406) 778-3508
January 14, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

The fact that this settlement had to be reached at all, in my view is a ridiculous caricature of our American values and spirit. In my view, Microsoft and its success should be viewed as a success story and an enterprise to be celebrated, not one that should be persecuted by its own government. This being said, the recent settlement is the best way to end this matter and to allow the company, the industry and the government to move on.

The provisions of the settlement agreement ensure competition, foster innovation and allow for increased competition. The settlement requires Microsoft, on top of competition building measures, to submit to a government appointed three-person technical committee. This committee's responsibility is to ensure Microsoft's compliance with the agreement and to mediate disputes about the settlement.

It is high time that this process is over and that we as a country are allowed to move on. Let us make the approval of this settlement the final federal action taken on this matter. Thank you.

Sincerely yours,
Roger Meggers, President c: Mr. Bill Gates /Microsoft

MTC-00031293

Erika Summers
5119-306 Cooper Ridge Dr.
Durham, NC 27707
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Re: Microsoft Case

Dear Ms. Hesse:

The proposed settlement agreement in the United States v. Microsoft case offers a workable compromise for Microsoft, software designers, computer manufacturers and consumers. Having recently completed college and now working in the private sector, I know the importance of having a good integrated software system. I can also understand the need for some flexibility in configuring other products with the Windows system.

Microsoft's products and services are user friendly and have been valuable to consumers with little software and computer experience. The proposed consent decree provides the proper balance between punishing Microsoft and providing remedies for its competitors, computer manufacturers and consumers. Competitors and manufacturers will have the option of dismantling or removing some Windows features. Microsoft has agreed that it will not retaliate against computer makers that provide software that competes with the Windows operating system.

Ensuring a competitive environment is an important part of the United States economy. This agreement will allow competition while at the same time encouraging innovation at a time when we need to get our economy moving.

Thank you for your attention to this matter.

Sincerely,
Erika Summers

MTC-00031294

Danny Cline
1354 Leland Court
York, SC 29745-7562
January 15, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I appreciate the job you have been doing in the wake of September 11, 2001. As a stock holder in Microsoft I also appreciate your support of the settlement that was reached in the Microsoft antitrust case. Your continued support is needed to make certain that this case is actually settled. Opposition forces with anti-Microsoft agendas may try to derail this settlement and have this case returned to court.

The opposition to this settlement claims that it is not hard enough on Microsoft. Yet a detailed reading of the settlement will show this is not the case. This settlement forces Microsoft to end any contractual restriction that would hold back competitors from placing their software on MS operating systems. Moreover this settlement requires Microsoft to divulge design code to competitors so that they compete more competently with Microsoft.

The concessions made by Microsoft in this settlement are extraordinary. There is no need for a re-trial or continuation of this case at the federal level.

Sincerely,
Danny Cline
cc: Senator Strom Thurmond

MTC-00031295

THE SENATE OF SOUTH CAROLINA
S. C. SENATE
SENATECLERK
FAX # (803)222-6299
DATE: January 16, 2002
TO: Renata B. Hesse
FROM: Senator John C. Land, III
FAX NUMBER: 202-307-1454
PAGES: 1 of 2 (Including this page)
IF YOU DO NOT RECEIVE ALL OF THE SHEETS INDICATED,
PLEASE CONTACT THE SENATE CLERK'S

OFFICE: (803)212–4200
JAN–16–2002 WED 09:29 AM FAX NO P. 02
JOHN C. LAND, III
January 15, 2002
FAX: 1–202–307–4454
Ms. Renata B. Hesse
Anti trust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
RE: Proposed Settlement of Department of Justice Antitrust Action Against Microsoft

Dear Ms. Hesse:

I support the decision of the Attorney General of the United States to negotiate a settlement of the Department of Justice antitrust action against Microsoft. I understand that nine of the eighteen suing states have also decided to join in the proposed settlement.

The parties negotiated intensively over a long period of time. They agreed to a settlement that will protect consumers and encourage competition and growth in the technology sector of our economy. It is time to end the litigation and the uncertainty and to bring this case to a conclusion.

Yours truly,
John C. Land, III
Chairman, Senate Democratic Caucus

MTC–00031296

37 Maple Avenue
Madison, New Jersey 07940
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This letter is intended to express my views on the proposed settlement that was reached between the Department of Justice and the Microsoft Corporation. I am all in favor of this settlement, and would like to see it approved as soon as possible. There is no reason to continue with litigation against Microsoft, especially if you consider the current state of our economy.

According to the settlement, Microsoft has agreed not to enter into any agreements obligating any third party to distribute or promote and Windows technology exclusively or in a fixed percentage, subject to certain narrow exceptions where no competitive concern is present. They have also agreed not to enter into agreements relating to Windows that obligate and software developer to refrain from developing or promoting software that competes with Windows.

This settlement is great for competition, the IT industry, and the American economy. I fully support the settlement and hope that it is implemented as soon as possible.

Sincerely,
Daniel Meaney

MTC–00031297

110 Seagull Lane
Sarasota, FL 34436–1606
January 14, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I support Microsoft's antitrust settlement with the federal government. They have done this county a great service by not prolonging this to another day. I think the American taxpayers would like to see the money spent in other ways in these trying times.

I think Microsoft was extremely generous in the settlement. I understand they have granted computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows, not retaliate against computer makers who ship software that competes with anything in its Windows operating system, and document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products-a first in an antitrust settlement.

I think Microsoft has proven it takes these matters very seriously. I also think the American consumers are pleased to see that Microsoft could soon be finished with this entire ordeal. I urge you to approve this settlement, and let Microsoft get back to work.

Thank you.
Sincerely,
Donald Morfee

MTC–00031298

January 16, 2OO2
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing in support of ending the antitrust case against Microsoft. The Microsoft settlement is a just and prudent conclusion to a madding trial, and should be final. Any further federal or state action against Microsoft should be stopped.

Microsoft has been a major contributor to the national economy, which is especially important during market doldrums like the one we currently endure. It is imperative that Microsoft uses its resources to innovate in the software industry, instead of spending money on unwarranted litigation. The concessions the corporation is making in the settlement will promote fair competition. The changes in licensing agreements alone will strongly augment the power of computer hardware manufacturers to sell their machines, since they will be able to tailor every customer's computer for his or her optimal needs.

I strongly urge your support of ending all action that hinders Microsoft's progress and ability to innovate. Please work to convince Attorney General Stovall of Kansas of the wisdom of this settlement.

Sincerely,
Patricia Maca
2505 Nevada Street
Hutchinson, KS 67502

MTC–00031299

JOHN G. RYAN
1432 HICHWOOD DRIVE
MCLEAN, VIRGINIA 22101
January 16, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street, NW
Suite 1200
Washington, DC 20530

Dear Ms. Renata:

As a Microsoft stockholder and resident of Northern Virginia, I am writing to encourage you to approve the settlement agreement in the case of United States v. Microsoft.

The settlement would he important to my state's economy and to Northern Virginia in particular, as it would help to ensure our continued growth and future prosperity in this Information Age. In addition, such a settlement would allow the marketplace to remain an important factor in the development of technology.

This proposed settlement represents a reasonable compromise between Microsoft and the plaintiffs in the anti-trust case against it.

Thank you for considering these views.

Sincerely,
John G. Ryan JGR/bc

MTC–00031300

2179 Sunny Slope Dr. #4
Dubuque, IA 52002–2258
January 15, 2002
Ms. Renata Hesse
Trial Attorney—Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FACSIMILE (202) 616–9937

Dear Ms. Hesse:

As a resident of the state of Iowa, I have been closely following the antitrust case pitting the state attorneys general, including Iowa Attorney General Tom Miller, and the federal government against Microsoft Corporation. I am writing to express my support for an end to this already lengthy and costly case.

Since nine of the states and the U.S. Department of Justice reached settlement on this case, it is time to put the issue to bed. The settlement is fair and was reached in good faith. Millions of tax dollars have already been spent fighting a battle that in my opinion didn't even need to be fought. I believe that the timing of the government's case against Microsoft came at an inopportune time for our technology economy. The lawsuit against Microsoft, a company known for creating and improving products that make our personal and business lives easier and more efficient, stunted the growth and development of new and improved products that end users like me crave.

I suspect that our Department of Justice has bigger fish to fry in the months and years ahead in our war on terrorism. Microsoft was and continues to be successful because of the form of government and economy that in recent months has made us so proud and patriotic. I encourage the federal government and the attorneys general to finally put an end to this case.

I appreciate your consideration of this letter. I welcome your response.

Sincerely,

Daniel E. Walsh

MTC-00031301

The TRIANGLE
Lifestyle Magazine
January 14, 2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I support the proposed settlement agreement in the United States v. Microsoft case—or, at least, my understanding of it. As a consumer, small business owner and publisher, I believe this proposal with result in more competition and greater innovation among computer makers and software developers.

There are important remedies in the settlement such as the establishment of a Technical Committee and a uniform price list. Consumers and software developers can use non-Microsoft software within Windows, making it easier to add or remove Windows software. They can also remove features such as the Internet Explorer web browser, Windows Media Player and Windows Messenger. These and other options do net totally satisfy all of those concerned about the litigation, but they are a good compromise that will allow Microsoft and its competitors flexibility end encourage new product development.

My own business has been impacted by current economic slowdown as has the computer industry. It is past time to end the litigation and get technology companies back to developing new products—developing and then advertising them! Innovation and competition will return our nation to a strong position in the global economy.

Sincerely,
Margaret Watub
Publisher
Post Office Box 12826 Raleigh North Carolina 27605 919–839–0785 fax 919–836–8203

MTC-00031302

Rock financial
A QUICKEN LOANS COMPANY
From The Desk of: KENNY BELL
kenny.bell@rockloans. com
Phone: (248) 427–3345
Fax: (734)805–8962
****
ROCK FINANCIAL
530 S. Edison Street
Royal Oak, Michigan 48067
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in support of the settlement the Department of Justice has reached with Microsoft in its antitrust case. I like Microsoft products and use them all the time, and I don't want anything, further to happen to the company.

The concessions Microsoft is making in the settlement are fair. There should be increased competition as a result, which will allow consumers to continue making the most informed decisions they can. Microsoft will, for example, allow their competitors to place non-Microsoft software on the Windows operating system, letting them compete on Microsoft's turf. Additionally, Microsoft has agreed not to retaliate against companies that sell or promote non-Microsoft programs.

I want to see this matter ended once and for all. The settlement should be finalized once the public comment period ends.

Sincerely,
Kenneth Bell

MTC-00031303

January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support the government's decision to settle the Microsoft antitrust case. I believe Microsoft was unduly attacked in this lawsuit, and I support the government doing what is necessary to stop this needless waste of government resources.

By prosecuting Microsoft, the government has unduly punished one of the great innovators of our time. I liken Bill Gates to Thomas Edison, not to the monopolist he has been made out to be. His work has resulted in the production of excellent products, and has strengthened our strong economy. Now Microsoft will be required to use a uniform pricing list when licensing Windows, and will be prevented from taking retaliatory measures when vendors sell or promote non-Microsoft products.

The terms of the settlement agreement are fair, and are in the public's interest. For the good of our economy, I hope the Department of Justice takes whatever steps are necessary to ensure that this settlement goes through.

Sincerely,
Clarys Holliday
119 Cliffside Commons
Rocky River, OH 44116

MTC-00031304

E C Pataki Consulting Services
Information Technology Services for the AS/400
596 McKinley Street
Hazelton, Pennsylvania 18201
(570) 459–1514
Fax: (570) 459–5262
January 16, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing you today to express my opinion in regards to the Microsoft settlement that was reached in November. I feel this issue has gone on long enough. I support Microsoft in this debate and am anxious to see this dispute resolved.

This settlement contains provisions that will not only allow Microsoft to remain together, but will also benefit competing companies and computer makers. According to the settlement text, Microsoft has agreed to design future versions of Windows, beginning with the interim release of Windows XP, to provide a mechanism on the desktop to make it easy for computer makers or consumers to promote non-Microsoft software within Windows. Microsoft has also promised not to retaliate against computer makers who ship software that competes with anything in its Windows operating system.

This settlement is complete and thorough. It will serve in the best public interest.

Thank you for your time.

Sincerely,
Elaine Pataki
cc: Senator Rick Santorum

MTC-00031305

SOUTH CAROLINA HOUSE OF REPRESENTATIVES
OFFICE OF THE SPEAKER PRO TEMPORE
DOUG SMITH
FACSIMILE TRANSMITTAL SHEET
TO: Renata Hesse
FAX NUMBER: (202)307–1454
FROM: Doug Smith
DATE: 1/16/02
This is page 1 of a 2 page transmission.
Comments:
For return Fax, dial (803) 734–9488.
Post Office Box 11867
Columbia, South Carolina 29211
(803) 734–2701
1/16/2002 12:23 8037349488 SPEAKERS OFFICE PAGE 02
STATE OF SOUTH CAROLINA
STATE HOUSE
P. 0. BOX 11867
Columbia 29211
DOUG SMITH
HOME ADDRESS
PO DRAWER 5097
SPARTANBURG, SC 29304
January 16, 2002
Via Fax
Renata Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Re: Antitrust Action Against Microsoft

Dear Ms. Hesse:

I am writing to express my support for the settlement that the Justice Department negotiated with Microsoft. This settlement is in the best interests of consumers, as it will put new restrictions on Microsoft while encourage Microsoft and other companies to continue to compete and innovate. I expect that bringing an end to the uncertainty of this legal action will be a plus for the national economy.

Accordingly, it is my hope that the proposal settlement will be approved and implemented as soon as possible.

Sincerely,
Doug Smith
Speaker Pro Tempore

MTC-00031306

COLLINS COMMUNICATIONS INC
3795 Collins Road
Gillette, Wyoming 82718
January 10, 2002
Attorney General John Ashcroft
US Department of Justice

950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to voice my opinion in regards to the settlement that was reached in November between Microsoft and the government. I feel this settlement was reached after extensive negotiations and after three years; I am relieved to see a settlement has been reached. I never thought that Microsoft was a monopoly or a threat to the free enterprise system.

Maybe now Microsoft can stop focusing on litigation and begin fully devoting their resources and time to conducting business. As a business owner myself, I know the importance of hard work and diligence to run a business and prosper. I do not believe Microsoft should be punished for being successful at what they do. Is that not what every working American strives for?

Again, I support Microsoft and the settlement. I sincerely hope there will be no further action against Microsoft at the federal level.

Sincerely,
Rod Thornton

MTC-00031307

FROM: Tingen & Associates Insurance
1224 Crooked Creek Drive
Hartsville, South Carolina 29550
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Your work to end the Microsoft antitrust case is appreciated. I was delighted to see you offered Microsoft a settlement and would like to see this settlement put in place and this case ended.

Both Microsoft and the Justice Department have spent large amounts of money and time in this case. Both parties have more important priorities, and that is one important reason this case should be concluded. Furthermore this settlement is equitable. Under this settlement Microsoft has agreed to share vital code information with competitors, allowing competitors to compete more effectively. Microsoft has also agreed to end any contractual restriction that was perceived as anti-competitive.

With these concessions by Microsoft there is no reason for this case to be continued. The settlement is fair, and should be the final action in this case.

Sincerely,
Glenn Milsap
cc: Senator Strom Thurmond

MTC-00031308

Wagner Printing Company
1–9 East Spring St., Freeport. IL 61032
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The antitrust suit brought against Microsoft was recently settled. Bill Gates made a good product; he took software and standardized it, making it understandable and comprehensible to the average layperson. Further, he made it affordable. Bill Gates, more than anyone, has been responsible for this country's technological dominance in the world. For this he has engendered jealousy from those firms who were not quite as good. This was the real basis for the antitrust case brought against Bill Gates, not any devious business dealings. But an agreement has been reached between Microsoft and the Department of Justice and I want to give my support to this agreement. Microsoft, additionally, has agreed to a great many demands by the Department of Justice. Microsoft has opened up its source codes to its Windows program to competitors. Microsoft has agreed to design future versions of Windows to accommodate non-Microsoft software, the company has even agreed to a technical committee to monitor future activities.

Our country needs to get back to business. I support the settlement, and look forward to seeing it swiftly implemented.

Sincerely,
Gerald Burkhalter

MTC-00031309

13 Caisson Crossing. Savannah. GA 31411-1302
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 16, 2002

Dear Mr. Ashcroft:

Let me first say how absolutely delighted I am that you hold the critical office of Attorney General!

As a retired businessman who spent most of his career either directly or indirectly involved in "the computer business", I am writing to voice my thoughts on the settlement between Microsoft and the Justice Department. I think the settlement is a good one and should be accepted by the government.

During most of my career, IBM was "the big bad wolf" and during which time, there was a constant "hue and cry" to break up IBM and otherwise to hobble its operations under the guise of increasing competitiveness within the computer industry. And, I might add that IBM's position of dominance of the computer industry was much more pervasive than is Microsoft's in today's world.

The point of bringing up IBM is to make the point that, in the end, it was market forces (including the success of Microsoft) that brought them from complete dominance to where they are today. And I might further add that, in my opinion, the potential threats to Microsoft's position are more far-reaching and numerous than those IBM faced during it's period of dominance.

It seems to me that in agreeing to license its Windows operating systems and protocols included in those systems, (decisions that must have been very hard to make!) Microsoft has taken steps that are fair and reasonable. I urge you to accept this settlement and stop Justice Department prosecution of Microsoft for the reasons stated above.

Sincerely,
Edward E. Hale

MTC-00031310

8158 Dinsmore Street
Brooksville, Florida 34613
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The lawsuits against Microsoft have dragged on too long. I am in full support of the settlement between Microsoft and the Department of Justice because it is in the bets interest of the American public. Microsoft has agreed to make concessions that are more than fair. They will be disclosing internal interface codes and protocols So that competitors can develop products compatible with Windows" operating systems. They will also be forming three-person team to monitor compliance with settlement. Microsoft has been a cornerstone of the IT industry and must be allowed to focus on innovation instead of politics. Our country and our economy need their leadership in this time of recession. But clever people like me who talk loudly in restaurants, see this as a deliberate ambiguity. A plea for justice in a mechanized society.

I support this settlement and look forward to seeing its implementation soon. Thank you for your time.

But is suspense, as Hitchcock states, in the box. No, there isn't room, the ambiguity's put on weight.

Sincerely,
Richard Gray

MTC-00031311

LAW OFFICES
WILLIAM E. LEVIN & ASSOCIATES
200 West Madison Street
Suite 505
Chicago. Illinois 60606–3412
William E Levin
312/372–6544 Fax: 312/372–8456
FACSIMILE TRANSMITTAL
DATE: January 16, 2002
TO: United States Department of Justice
FAX NO. 202/307–1454
FROM: William E. Levin
RE: Microsoft Settlement

REMARKS: As a Consumer of Microsoft products, I strongly support the settlement reached between Microsoft Corporation and DOJ and nine states. Microsoft is one of the most innovative companies in the world and, without doubt, has eased and made life more efficient for the vast majority of people in this country and throughout the world. The settlement that has been reached imposes significant restrictions on Microsoft and the time has come to put an end to the antitrust litigation. I strongly urge approval of the settlement.

William E. Levin

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MTC-00031312

26 Sandhurst Lane
Buffalo, NY 14221–3153
(716) 631–0995
Fax: (716) 631-0995
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 11, 2002

Dear Mr. Ashcroft:

I believe that the case against Microsoft has no merit. The government has no right to take the action it has for the past three years. Nevertheless, it is time that this matter be resolved and Microsoft be allowed to continue its innovative work within the information and technology industry. At the end of this month, the November settlement should be implemented, and this issue should be forgotten.

The terms of this settlement extend well beyond the products and procedures that were actually at issue in the lawsuit. Microsoft agreed to these terms for the sake of wrapping up the suit. It is quite evident after one studies this matter that in the current settlement the government accomplished what it initially set out to do; namely to inhibit monopolistic behavior. There is no more need to pursue further legal action because Microsoft has agreed to disclose internal interfaces and server interoperability technology to its competitors.

Therefore, I ask that you work towards implementing the settlement that is on the table for the sake of both business and consumers. The longer the delay, the more counter-productive the government's actions will be.

Thanks for your time and effort.
Sincerely,
Lita Tsung

MTC-00031313

William G. Newsome Sr.
227 Rolling Hill Road
Elkins Park, PA 19027
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Microsoft and the Department of Justice have reached a settlement in the antitrust case, which is currently in review. I find the settlement to be fair both to Microsoft and it competitors. Unfortunately, there are nine states on the review board whom do not feel the same. These states wish to continue litigation against Microsoft—to bring Microsoft to its knees, so to speak. I do not believe this is in the best interest of the economy, the consumer, or the IT industry.

Microsoft is the life- blood of the IT industry. It is very unfair to penalize them for their accomplishments within our free enterprise system. The terms of the settlement, however, would appear to allow for a great deal of rapid progress once implemented. Microsoft is willing to allow its competitors a great deal of access to the Windows operating system and pertinent intellectual property rights. Microsoft and non-Microsoft software producers will be able to interact and intertwine their technologies. Where there was division before, there can be growth and unity now. In other words, the government is asking Microsoft to kiss their ass and they are willing to do it!

I do not believe that any good can come of a prolonged suit against Microsoft. It has gone on long enough already. I urge you not to allow the tools of the federal courts to be misused and wasted.

Sincerely,
William G. Newsome Sr.
Veteran, Citizen, Registered Republican
cc: Senator Rick Santorum

MTC-00031314

20 Washington Avenue South, Minneapolis, MN 55402
TO: Renata B. Hesse
Telephone:
Fax: 202–616–9937
CC:
From: Bill Fritts
Telephone:
Fax: 612–342–7531
Date: 1/16/02
Re: Microsoft

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AMERICAS
ING US LEGAL SERVICES
Ms. Renata B. Hesse
Antitrust Division
United States Department of Justice
Suite 1200
601 D Street NW
Washington, DC 20530–0001

Dear Ms. Hesse:

I'm sending this letter to voice my opinion as a concerned member of our nation's business community. Throughout my professional career, I have learned to greatly appreciate and value the significance of an open market and a level playing field. During these times of economic unrest, it is best to allow the free flow of trade and commerce. In fact, it is a free and unfettered market that is ultimately the engine of growth. That is why I support the Microsoft settlement. By removing this case, Microsoft will be allowed to operate freely and provide a much-needed inflow of capital and resources to businesses across the country.

Thank you for the opportunity to express my opinion. The settlement was the right and just outcome.

Sincerely,
William D. Fritts, Jr.
Minneapolis Site
20 Washington Avenue South
Mineapolis, MN 55401
ING North America Insurance Corporation

MTC-00031316

the national tax limitation committee
151 N. Sunrise Avenue
Suite 901
Roseville, CA 95661
(916) 786–9400
FAX (916) 786–8163
January 16, 2002
VIA FAX 202–616–9937
Kenata Hesse, Trial Attorney
Antitrust Division
Department of Justice
Washington, DC
Re: Support of proposed settelement in US vs. Microsoft

Dear Ms. Hesse:

The cost to taxpayers of pursuing Microsoft has run into the tens of millions of dollars. The settlement proposed by the Department of Justice, if accepted, will finally stop this fiscal hemorrhaging.

Our current recession requires that we use all our productive people and resources to get the wheels of commerce turning again. If the federal suit against Microsoft helped precipitate an economic downturn and a slide in the stock market—as some economists have suggested ending the suit might solidify a turnaround and help lead us out of this cycle. Because national polls reveal that most citizens do not support the case against Microsoft, settlement of this action will send a positive signal that the federal government will let the marketplace work for the people once again.

On behalf of our tens of thousands of supporters across America, we encourage you to accept the settlement against Microsoft.

Sincerely,
LEWIS K. UHLER

OFFICERS & DIRECTORS: Lewis K. Uhler, President: Diane Sekofetz. Secretary-Treasurer; Robert B. Carleson; Wm. Craig Stubblebine. FOUNDERS & Sponsors: C. Austin Barker, Robert B. Carlson. George Champion, David Y. Copeland, M. Stanton Evans, Milton Friedman, Allan Grant, James M. Hall. Vern I McCarthy, William A. Niskonen, Frank Shakespeare, Wm. Craig Stubblebine, Donald L Totten, Lewis K. Uhler.

MTC-00031317

Sent by:-WOODFIN SUITE HOTELS
Ronald Nehring
1015 Old Mountain View Road
El Cajon, CA 92021
January 16, 2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
VIA FACSIMILE
(202) 616–9937

Dear Ms. Hesse:

I have followed the Microsoft case for some time now and truly believe the settlement being offered is fair and positive. This letter is meant as an expression of my support for the consent decree currently on the table.

I believe both sides in this case have constructed a settlement which adequately addresses all the issues of concern. Judge Kollar-Kotelly did a tremendous job working with all parties to ensure the process was just. I believe her recommendation should be seriously considered.

The settlement goes in and corrects whatever competitive advantage Microsoft may have had previously. Source codes are now open, a monitor has total access to Microsoft's products, and the watchful eye of the Federal Government will ensure the playing field is level.

Some competitors will gripe. They will want more. Of course they will want more...it helps their company. I am writing to say that this agreement does enough. It should be approved of the technology industry should get back to business as usual.

Sincerely,
Ron Nehring
Project for California's Future

MTC-00031318

1100 Cova Ciega Isle
St. Pete Beach, FL 33706
January 11, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am glad that this Microsoft lawsuit has been settled. Aside from the obvious problems that the lawsuit had to begin with, it is certainly an unwanted distraction now that more important events in our nation have virtually eclipsed the lawsuit's importance. Besides, it's a fair settlement in its own right, yielding concessions to both hardware and software companies, including disclosure to both groups of interfaces and protocols within Windows.

The settlement makes it so that Windows can be altered to suit hardware companies more effectively if they want to sell non-Microsoft Software with the Windows operating system preinstalled. This will be especially possible now, because Microsoft must redesign Windows to make it more accommodating to non-Microsoft applications, particularly sophisticated multi-media applications like RealAudio or QuickTime.

Our national efforts should now be invested in issues like rebuilding our economy, creating jobs and strengthening our national security. We should not spend any more time continuing our self-inflicted damage to our country's business community by proceeding with any further action against one of our country's most successful buisnesses like Microsoft.

I am hoping that this settlement will stand, and we can move on to more important priorities.

Sincerely,
Rita Bane
1-FAX 202-616-9937

MTC-00031319

COMMUNICATIONS REPORT

Date/Time Function	NO. Destination	Duration PGS	Status
JAN. 14 17:14 RCV	920	8312247183 0' 01' 05' 001	OK
17:53 RCV	921	573 522 5025 0'00' 38' 001	OK
17:54 RCV	922	573 522 5025 0'01' 34' 001	OK
18:17 RCV	923	8476472225 0'00' 41' 001	OK
18:39 RCV	924	573 526 1384 0'00' 28' 001	OK
19:45 RCV	925	337 234 5535 0'00' 51' 002	OK
20:02 RCV	926	6618351561 0'01' 01' 002	OK
21:22 RCV	927	9133419697 0'00' 44' 001	OK
21:39 RCV	928	3253135 0' 00' 51' 001	OK
21:52 RCV	929	0' 01' 21' 004	OK
JAN. 15 11:15 RCV	930	9416430207 0' 00' 35' 001	OK
11:47 RCV	931	508 799 4039 0' 00' 34' 001	OK
12:50 RCV	932	000000000000 0' 00' 38' 001	OK
12:54 RCV	933	508 754 2026 0' 00' 32' 001	OK
13:02 RCV	934	8476472225 0' 00' 40' 001	OK
13:04 RCV	935	850 230 4092 0' 00' 44' 001	OK
13:30 RCV	936	0' 00' 39' 002	OK
13:47 RCV	937	8132533280 0' 01' 02' 002	OK
13:53 RCV	938	603 537 2099 0' 00' 30' 001	OK
13:55 RCV	939	425 427 5665 0'00' 39' 001	OK
14:01 RCV	940	0' 00' 34' 001	OK
14:23 RCV	941	4213984 0' 00' 35' 001	OK
15:03 RCV	942	520 393 1348 0' 00' 54' 001	OK
15:09 RCV	943	508 831 7558 0'00' 32' 001	OK
15:14 RCV	944	000000000000 0' 00' 38' 001	OK
15:29 RCV	945	000000000000 0' 00' 41' 001	OK
15:47 RCV	946	508 755 4178 0' 00' 36' 001	OK
16:24 RCV	947	2059729290 0' 00' 30' 001	OK
16:26 RCV	948	5087938831 0' 00' 46' 003	OK
16:26 RCV	949	0' 00' 51' 001	OK
17:02 RCV	950	407 851 6591 0'00' 39' 001	OK
17:06 RCV	951	0'00' 28' 001	OK
17:19 RCV	952	19096263540 0' 00' 40' 001	OK
17:43 RCV	953	3038418373 0'01' 00' 001	OK
18:10 RCV	954	000000000000 0' 00' 45' 001	OK
18:26 RCV	955	000000000000 0' 00' 40' 001	OK
19:45 RCV	956	0' 00' 53' 001	OK
21:21 RCV	957	4067783538 0'00' 49' 001	OK
JAN. 16 10:14 RCV	958	0' 00' 53' 001	OK
10:26 RCV	959	5635571591 0'00' 34' 001	OK
10:37 RCV	960	0' 00' 27' 001	OK
10:54 RCV	961	5086422252 0' 00' 36' 001	OK
11:17 RCV	962	515 386 4509 0'00' 41' 001	OK
11:54 RCV	963	515 296 3015 0'00' 33' 001	OK
12:24 RCV	964	515 382 7336 0'00' 34' 001	OK
13:21 RCV	965	0' 00' 38' 001	OK
13:41 RCV	966	0' 01' 00' 002	OK
13:44 RCV	967	0' 00' 40' 001	OK
13:45 RCV	968	0' 00' 40' 001	OK

COMMUNICATIONS REPORT—Continued

Date/Time Function	NO. Destination	Duration PGS	Status
13:48 RCV	969	0' 00' 27' 002	OK

MTC-00031320

01/16 "02 01:47 NO.511 02/02
01/16 "02 01:47 NO.511 01/02
Fax 202-616-9937 or 202-307-1545

MTC-00031321

Home Address
2315 Route M
Jefferson City, MO 65101
(573) 636-8285
Capitol Address
Capitol Building
Jefferson City, MO 65101
(573) 751-0665
Fax (573) 526-4766
W. W. (Bill) Gratz
MISSOURI HOUSE OF REPRESENTATIVES
113TH DISTRICT
Committees
Correctional and State Institutions (Chair)
House Travel (Chair)
Appropriations—
General Administration
Agriculture
Environment and Energy
Administration and Accounts
January l6, 2002
Renata Hesse
Trial Attorney—Antitrust Division
Department of Justice
6O1 D Street Northwest, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Over the years, I have found that when negotiations result in a little something for everyone, the negotiations were successful. This is exactly the result of the recent negotiations between Microsoft and the US. Department of Justice. The settlement allows Microsoft to create new generation products that can help the economy grow and help businesses better communicate with their customers and clients. Additionally, the needs and concerns of Microsoft's competitors were taken into account in the final agreement.

I support the recent agreement between the Justice Department and Microsoft. I regret that a Committee and the court system have had a hand in developing the future of software design instead of the free market. At the same time, this entire process was an effort on the part of competitors to cripple Microsoft and eliminate competition.

Point-of-sale should be the true test of competition. Either your product is marketable or it is not. The courts and regulatory agencies have no role in this important process when job creation and small business development is at stake.

Sincerely,
W. W. (Bill) Gratz
WG/lh

MTC-00031322

Home Address
2315 Route M
Jefferson City, MO 65101
(573) 636-8285
Capitol Address
Capitol Building
Jefferson City, MO 65101
(573) 751-0665
Fax (573) 526-4766
W. W. (Bill) Gratz
MISSOURI HOUSE OF REPRESENTATIVES
113TH DISTRICT
Committees
Correctional and State institutions (Chair)
House Travel (Chair)
Appropriations—
General Administration
Agriculture
Environment and Energy
Administration and Accounts
January 16, 2002
Renata Hesse
Trial Attorney—Antitrust Division
Department of Justice
601 D Street Northwest, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Over the years, I have found that when negotiations result in a little something for everyone, the negotiations were successful. This is exactly the result of the recent negotiations between Microsoft and the U.S. Department of Justice. The settlement allows Microsoft to create new generation products that can help the economy grow and help businesses better communicate with their customers and clients. Additionally, the needs and concerns of Microsoft's competitors were taken into account in the final agreement.

I support the recent agreement between the Justice Department and Microsoft. I regret that a Committee and the court system have had a hand in developing the future of software design instead of the free market. At the same time, this entire process was an effort on the part of competitors to cripple Microsoft and eliminate competition.

Point-of-sale should be the true test of competition. Either your product is marketable or it is not. The courts and regulatory agencies have no role in this important process when job creation and small business development is at stake.

Sincerely,
W.W. (Bill) Gratz
WG/lh

MTC-00031323

chroma cad
palette imaging
47 South Street Norwood, NJ 07648
January 15, 2002
Renata Hesse, Trial Attorney
Suite 1200, Antitrust Division
Department of Justice
601 D Street NW.,
Washington, DC 20530

Dear Ms. Renata Hesse:

I own a small software development company in New Jersey. I feel impelled to write this letter because,as a software developer, I am appalled by the remedies proposed by the U.S. Justice Department. From a software developer's point of view, those remedies don't address the real issues of the Microsoft monopoly at all.

Developers need alternative platforms to Microsoft Windows on which they can develop programs for the IBM PC. The alternative platforms must be permanently established on most PC's for the next fifteen to 20 years in order for software companies to make the considerable investment in time and money that modem programs require. Developers cannot depend on the vagaries of manufacturers to include of not include alternative platforms at their will.

I feel strongly that the court should, at the very least, require Microsoft to continue including Java within Windows. As we all know. Microsoft included Java in Microsoft Windows 5 years ago. At the time, they indicated that Java would be a permanent part of future versions of Microsoft Windows.

Collectively, millions of hours and millions of dollars of programmers" time and money have been spent on learning Java across the country. Simply taking a trip to Barnes and Noble and viewing the large number of books devoted to the Java language can easily verify this. Microsoft has now summarily dropped the Java platform from Windows XP. This was done in spite of the fact that they surely knew that this action would cause huge losses and problems in the programming community.

In addition, there are now more than 9 million web pages that contain Java applets. Consumers who purchase Windows XP and access those pages are going to have to endure a long and arduous wait while a software plug-in is installed on their machine over the Internet. It is obvious that Microsoft cares little for problems they cause in the programming community or in the consumer community at large.

Ideally, Microsoft should be required to include the next two most popular programming platforms—Java and Linux, along with Microsoft Windows. Both platforms are available free to Microsoft.

There is no reason why they should not be included except, of course, that they are a direct threat to the Microsoft monopoly. Microsoft Windows is an excellent product, but it cannot accomplish some things that Java can accomplish easily. The same is true of Linux. All of these platforms have different strengths and weaknesses. These platforms should be included in such a manner that they cannot be altered or deleted by manufacturers (thereby averting Microsoft pressures). This would give programmers a choice of three reliable long-range programming platforms and would stimulate a competitive environment. We would surely see prices of development software drop and the software quality of all the platforms improve competitively. Most users of personal computers are aware of the poor record that Microsoft has in making Windows a reliable trouble-free product. The reason for this is quite likely that they assign few engineers to the job of maintaining a monopoly product that people are forced to buy anyway. Competition would undoubtedly force them into assigning more engineers to making their own product more reliable.

I am sure that, from the point of view of most software developers, any resolution of the Microsoft case that does not, at the very least, require Microsoft to continue supporting the latest versions of Java would be viewed as a complete collapse to Microsoft. It would simply serve to institutionalize, by government decree, their platform monopoly on the PC. As a software developer, I feel strongly that forcing Microsoft to vend other popular competitive development platforms along with their own platform should be the very first priority in resolving this case. Remedies involving Microsoft's contractual relations with manufacturers are of secondary importance.

Software developers need alternative platforms that are stable, fixed and long term and we need to know that these platforms are installed on all machines and will remain on all machines that Microsoft Windows is installed on. If this were accomplished we would have the confidence to spend time and money on developing new applications under new platforms for the PC. In time, this would effectively end most of the problems caused by the Microsoft monopoly, not just put a band-aid on the symptoms.

Respectfully yours,
Marver Seamen
President
Palette Imaging Inc.

MTC-00031324

CAPITAL OFFICE
State Capitol
201 West Capitol Avenue
Jefferson City, MO 65101-6806
Tele: 573-751-1347
Fax: 573-522-9179
E-Mail:rmille01@services.state.mo.us
HOME ADDRESS
P.O. Box 5
Stockhull, MO 65046
Tele: 417-276-3343
RONNIE MILLER
State Representative
District 133
January 16, 2002
Renata Hesse
Trial Attorney-Anti-Trust Division
Department of Justice
601 D. Street Northwest, Suite 1200
Washington, DC., 20530

Dear Ms. Hesse:

I believe the settlement between the Justice Department and Microsoft is fair. As I understand between $25 and 35 million dollars of taxpayer money has already been spent on this anti-trust case. Please keep the taxpayer in mind, I really feel the last thing we need is more litigation and regulation of high-tech business's during this time of challenges of economy and our nation at war. Microsoft's innovations has lead to great benefits for the customer. You must agree we have better products at lower prices.

Sincerely,
Ronnie Miller
State Representative
District 133

MTC-00031325

David D. Jamison
Story County Treasurer
3244 Cameron School Road
Ames, IA 50014
Judge Kolar Kottely
c/o Renata Hesse
Trial Attorney
U.S. Department of Justice-Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Dear Judge Kottely,

Here in Iowa, like much of the nation, we are facing some difficult times. The economy is stagnant, countless jobs are being lost, and there is no one clear answer to fix all our problems. A recovery will take time, patience and sound judgment. One event that will undoubtedly help the economy is the Microsoft settlement. This agreement builds new relations with Microsoft and the computer makers; it is fair to all parties and our economy will benefit from it.

As far back as the 1980s, Microsoft was an integral part of this country's economic expansion.

The arrival of Microsoft did many things it created jobs, produced an abundant number of businesses and companies, and a great deal of wealth and capital was made available to people. By choking Microsoft with harassing legal proceedings, a recovery from the current recession was made all the more impossible. This recent settlement, however, was a step in the right direction for our economy and the millions of Americans who depend on a healthy economy to support their families.

This is a challenging time for our nation. It was the right thing to do when the Justice Department and the nine states settled the Microsoft case. I strongly support that, and believe it will help our economy rebound.

Your consideration is very much appreciated.

Sincerely,
David Jamison
Story County Treasurer

MTC-00031326

From the Desk of Kevin Kimle
3227 Lettie Street
Ames, IA 50014
(515) 293-2502 (w)
(515) 293-3845 (h)
kkimle@qwest.net
January 14, 2002
Judge Kolar Kottely
c/o Renata Hesse
Trial Attorney—Antitrust Division
U.S. Department of Justice
601 D Street NW., Suite 1200
Washington, DC 20530

Dear Judge Kottely,

I hope that no one in this country takes for granted that we have countless opportunities to be successful! If people from other nations recognize and respect the "American Dream" and have even come here to achieve it, then why have we prosecuted a company that has been such a good representation of the American Dream?

I am speaking of the Microsoft case. Microsoft has been legally pursued for too long, and the recent settlement provides a fair and just ending with nine prosecuting states. The settlement was fair for a number of reasons: Microsoft agrees not to punish companies that do not promote their products, and they go even further by sharing their intellectual property when it is necessary. I am glad to see a settlement was reached and support the agreement completely.

As someone who has spearheaded two startup companies in the technology industry here in Iowa I understand the investments that have to be made and the risks that have to be taken. Microsoft has taken the risk, made billions of dollars in investments, and contributed a great deal to the technology industry. It was high time that we brought this lawsuit to a proper ending.

Thank you for your attention to my thoughts.

Sincerely,
Kevin Kimle

MTC-00031327

Guy W. Richardson
705 W. Sunset Road
Jefferson, Iowa 50129
515-386-2220
January 16, 2002
Judge Kolar Kottely
c/o Renata Hesse
Trial Attorney—Antitrust Division
U.S. Department of Justice
601 D Street NW., Suite 1200
Washington, DC 20530

Dear Judge Kottely,

I am a Greene County Supervisor and own a small business here in Iowa. I am intimately aware that our nation is enduring some serious problems. One thing that will give a boost to all of America is the settlement of the Microsoft case. This was a fair and reasonable ending to a complicated problem.

The idea of continuing litigation against Microsoft was simply a bad idea, and the nine states that decided to settle, made the right decision. The settlement permits other companies to use Microsoft's intellectual property and is a good settlement for everyone.

Our nation's economy is bleak enough, and the removal of this lawsuit will help all of us. Thank you for taking time out from your busy day to read my point of view.

Sincerely,
Guy W. Richardson

MTC-00031328

Kenneth Simoncini
Commerce Park,
420 Boston Tpke.,
Shrewsbury, MA 01545
(508) 845-1559
FAX (508) 842-2252
Member of: National Society of Tax
Professionals
National Association of Income Tax
Preparers

January 11, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW., Suite 1200
Washington, DC 20530
VIA FAX: 202–616–9937

Dear Attorney Hesse

It is my understanding that the Justice Department is seeking input, regarding the proposed settlement in the Microsoft lawsuit.

As a small businessman, I understand competition. Competition is healthy for the American economy. I use Microsoft products in my business and they have been a great help to me. They have allowed me to better serve my clients and to manage my business.

As far as I can tell, there has been no consumer harm as a result of any actions taken by Microsoft. Microsoft's innovations have, in fact, helped many small businesses, such as mine grow.

Given the state of our economy right now, we should do everything possible to spur growth, not hinder it.

An additional benefit in the settlement, is the proposed donation of over 200,000 computers to our nation's public schools. I whole-heartedly endorse this provision, which will help erase the digital divide in our public schools.

I hope that the government will reach a settlement in this case.

Sincerely yours,
Kenneth Simoncini

MTC–00031329

JULIE SCHWARTZ
3111 STONE OAK DRIVE
LOS ANGELES, CALIFORNIA 90049
PHONE: 310–471–4732 FAX: 310–471–8091
FAX TRANSMISSION
DATE 1–16–02 TIME 3:30 PM
TO DEPT OF JUSTICE FAX 1–202–307–1454

RE Microsoft Settlement

Enough already!

Whats wrong with giving to poor & disadvantaged.

You are listening to competitors.

TRANSMITTED BY Julie Schwartz

MTC–00031330

January 16,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to express my opinion that the antitrust settlement is flawed, but ultimately in the best interest of the American public. The problem is that the lawsuits from the start have not addressed the real problem, which is Microsoft's heavy-handed marketing tactics. Instead it focused on giving competitors an edge that they did not have before,

For instance, under the terms of the settlement, Microsoft will be disclosing internal interfaces and protocols that are part of their Windows" operating system products. They will also be granting computer makers broad new rights to configure Windows so as to promote non-Microsoft software. These concessions as you can see do nothing to protect consumer.

Even with the flawed settlement in place, I think it is in the best interest of the IT sector, our economy, and the public for the settlement to come to fruition. Microsoft needs to be able to focus on business and the government should be putting its muscle into more pertinent issues instead of interfering with software design. I urge your office to take a firm stance on this and help discontinue any opposition to settlement. Thank you.

Sincerely,
Scott Garvey

MTC–00031331

229 Windmere Trail
Moneta, Virqinia 24121
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530

Dear Mr. Ashcroft;

I am writing you today to express my feelings in regards to the Microsoft settlement that was reached on November 2, 2001. I fully support Microsoft, and I am relieved to see this dispute settled and resolved.

Under this agreement, Microsoft must share more information with other companies, such as, disclosing information about certain internal interfaces in Windows. Microsoft must also design future versions of Windows to make it easier to install non-Microsoft software. Additionally, Microsoft will adhere to a uniform pricing list when licensing Windows out to the twenty largest computer companies in the United States.

I support Microsoft in this dispute and feel that this settlement will benefit the economy, the technology industry, and consumers. Thank you for ending this litigation.

Sincerely,
George Burnop

MTC–00031332

Greywolf Technologies, Inc.
PO Box 126,700 Main St.
Willimantic, CT 06226
January 16, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530

Dear Mr. Ashcroft,

For all the critics and detractors that Microsoft has had, lost in that clamor is the fact that Microsoft was, in large measure, responsible for driving our economy during the longest period of economic expansion that our country has experienced in a long time. Prior to that economic expansion, a few brave souls were huddled around the 286's slogging through DOS. Then Microsoft came along with a vast improvement called Windows and suddenly the IT business was opened up to virtually anyone who could plink down a few hundred bucks for a PC. Prior to the mid-1980's business was terrorized by a lack of technology standards, incompatible equipment, high costs, and slow development.

Microsoft was the sheriff who tamed that chaos.

This began the economic expansion and continued with Windows 95, 98, 2OOO and the rest.

Suddenly half the country was computer proficient and had purchased a PC, along with Internet access, software packages, printers, scanners and all the other goodies that they wanted. Behind this, all the while, was Microsoft—along with Compaq, Toshiba, Gateway, Apple, Electronic Arts and all the others. Windows has been named on some lists the most important tool of the 20th century.

For this, we want to haul Bill Gates to the hoosegow.

This recently negotiated settlement at least has the advantage of ending this litigation, even though it forces Microsoft to do some things not envisioned in the lawsuit, such as divulging its interoperability protocols. It is better for all concerned with this suit to settle it and be done with it. I support the settlement and dearly hope that this sort of thing does not happen again.

Kevin C Donohue, President
Greywolf Technologies, Inc.
Microsoft CERTIFIED Partner
Voice 860 456 3322 fax 860 423 9133
kevin@greywolftech.com
www.greywolftech.com

MTC–00031333

January 16, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing this letter so that I may give my support to the settlement that has been reached between the Microsoft Corporation and the Department of Justice. For well over two years, the American economy has been doing poorly, Americans have been losing their jobs and now we are in a recession. The antitrust suit against Microsoft has had a bad affect on our economy.

Microsoft has been extremely beneficial to America, but for the past several years they have had to spend their time and resources on legal battles with their own government. Microsoft has been responsible for providing jobs to thousands of people, donating millions of dollars to charities, and simplifying the American computing industry. It seems to me that government interferes too much with business. Competition and capitalism are good for Americans and the American economy. Forcing a corporation to turnover their intellectual property is not right.

The government should not force Microsoft or any other company to share what they develop.

The case against Microsoft should be settled immediately.

Sincerely,
Nancy Nottonson
171 Marlborough Street
Boston, MA 02116–1887

MTC–00031334

Christopher Durant
Mail: P.O. Box 57978
Sherman Oaks CA 91413
Work Phone: (818) 562–2627

Home Phone: (818) 994–8513
E-mail (work): ChrisDu@FirstHealth.com
E-mail (home): ChrisDurant@Yahoo.com
January 16, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
RE: Microsoft Settlement

Dear Mr. Ashcroft:

I believe strongly that the Microsoft Corporation is one of America's greatest assets. It is a company that provides constantly improving products that help make tens of millions of people more productive, happier, and richer.

We live in an increasingly global economy. When the U.S. Government attacks and tries to cripple a domestic company that has become "too" successful, there is no shortage of foreign competition that will gladly step in to take market share, unencumbered by governments with beliefs in forced "equality" between corporations, regardless of the value or contributions that the companies make.

Microsoft has never harmed me. Its products have enhanced my life tremendously. If Microsoft is a monopoly, why does it continually improve its products and lower its prices?

For the good of the American economy and consumers everywhere, please settle with Microsoft as soon as possible. Doesn't the U.S. Government have better things to do than fight one of the best things that has ever happened to this country?

Sincerely,
Christopher Durant

MTC–00031335

January 16, 2002
Hon. Colleen Kollar-Kotelly
U.S. District Court, District of Columbia
c/o Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Judge Kollar-Kotelly:

The proposed settlement between the Department of Justice and Microsoft in U.S. v. Microsoft falls far short of what is needed to put an end Microsoft's pattern of predatory practices.

Its enforcement provisions are vague and unenforceable. The five-year time frame of the proposed settlement is much too short to deal with the antitrust abuses of a company that has maintained and expanded its monopoly power through fear and intimidation.

This proposed settlement clearly fails to meet the standards clearly laid out by the appellate court. In fact, the weak settlement between Microsoft and the Department of Justice ignores key aspects of the Court of Appeals ruling against Microsoft. For example, the proposed settlement permits Microsoft to define many key terms, which is unprecedented in any law enforcement proceeding.

The weak enforcement provisions in this proposed deal leave Microsoft free to do practically whatever it wants.

A three-person technical committee will be appointed, which Microsoft appointing one member, the Department of Justice appointing another, and the two sides agreeing on the third. This means that Microsoft gets to appoint half of the members of the group watching over its actions.

The committee is supposed to identify violations of the agreement. But even if the committee finds violations, the work of that committee cannot be admitted into court in any enforcement proceeding. This is like allowing a football referee to throw as many penalty flags as he likes for flagrant violations on the field, but prohibiting him from marching off any penalties.

2700 Westown Parkway o Suite 200 o West Des Moines, Iowa 50266

Phone 515–453–9590 o Fax 515–222–0565

E-mail info@CRGpros.com o Web CRGpros.com

Sent by: Executive Offices 5152513919; 01/17/02 4:26AM;JetFax #418;Page 3/3 Finally, Microsoft must comply with the lenient restrictions in the agreement for only five years. This is not long enough for a company found guilty of violating antitrust law.

Sadly, the proposed final judgment by Microsoft and the Department of Justice has the potential to make the competitive landscape of the software industry worse, contains so many ambiguities and loopholes that it may be unenforceable, and is likely to lead to years of additional litigation.

The end result is that this proposed settlement allows Microsoft to preserve and reinforce its monopoly, while also freeing Microsoft to use anticompetitive tactics to spread its dominance into other markets.

After more than 11 years of litigation and investigation against Microsoft, surely we can—and we must—do much better than this flawed proposed settlement between the company and the Department of Justice.

Thank you for your time.

Sincerely,
tom Keating
President
Career Resources Group
2700 Westown Parkway, Suite 200
West Des Moines, IA 50266

MTC–00031336

14 War Admiral Lane
Media, PA 19063–6238
January 16, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

After three long years of costly court battles, the federal government has settled its antitrust lawsuit against Microsoft. This settlement will have profound implications for all software publishers, the rest of the American Information Technology industry and American consumers.

Under the agreement, Microsoft is forced to grant computer makers new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows. The companies will now be free to remove the means by which consumers access various features of Windows. They can now replace access to those features with access to non-Microsoft software.

Microsoft has also agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows—as well as computer makers who ship software that competes with anything in its Windows operating system.

Enough is enough. No more litigation against Microsoft is needed on the federal level. Thank you.

Sincerely,
Adelia Ockerbloom
cc: Senator Rick Santorum

MTC–00031337

SmartSoft Custom Software Engineering for Microsoft Operating Systems
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to urge the Department of Justice to move forward expeditiously with its proposed settlement with Microsoft. I have followed this antitrust lawsuit very closely after working for Microsoft from 1989 through 1994. I currently work as an independent software engineer helping hardware and software manufactures bring innovative products to the American public.

I feel the proposed settlement is a fair proposal. The terms of the settlement show Microsoft's desire to correct what the government feels are improper practices. Stiffer terms would punish Microsoft for operating successfully within our free enterprise system. The nine states agreeing to the settlement terms are encouraging innovation, strengthening the economy and the tech industry both at state and national levels. These terms give companies the ability to develop Windows based software applications faster, utilizing far less resources, which keeps development costs down and ultimately benefits consumers by allowing them to spend less for better applications.

In conclusion, I fully support having the proposed settlement put into force without delay. This will greatly benefit innovation in the tech industry, benefit consumers, and spur state and national economic growth.

Sincerely,
John Hensley
12421 Hardee Road o Raleigh, NC 27614–9234
Tel (919) 846–1741
Fax (919) 846–1585

MTC–00031338

Carl T. Bowen
6715 Hempstead Court
Suwanee, GA 30024
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

The settlement with Microsoft has my full support. We must allow a return to business for the tech industry as soon as possible.

There are many changes required by the settlement. For instance, Microsoft has agreed to a "Technical Committee" that will monitor Microsoft's compliance to the settlement. Also, Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers on identical terms, including price. Plus, Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system. Clearly, these changes will benefit both consumers and the economy.

The settlement will not only be fair and reasonable but also will prevent future anticompetitive behavior. In addition, the recession has had a big effect on the economy, and this settlement may spark a new upswing.

Sincerely,
Carl T. Bowen

MTC-00031339

105 Stirrup Lane
Thornton, Pennsylvania 19373
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

The lawsuits pending against Microsoft by the US department of Justice and the states have gone on long enough. I am happy to see a tentative settlement has occurred between Microsoft and the US Department of Justice, but I am concerned that nine states are continuing litigation.

During this time of economic recession, we must rely on our industries Microsoft is the leading technology industry company with unprecedented growth rates over the last decade The suits which are being filed against Microsoft could be filed against any other company in the country and I honestly do not think that any business would be able to operate if they were forced to take on the restrictions that Microsoft will have to. For example, Microsoft will have to ignore intellectual property rights and share, with other companies, critical information about how the Windows operating system works.

The system is allowing rich cry-babies like Scott McNeil and others to use the anti-trust laws for furthering their own businesses. A careful scrutiny of their business practices would also reveal similar so-called anti-trust laws. Also, to allow each state to individually sue is also calling for 50 additional individual biases. Is this justice?

I urge the US Government to discontinue its meddling in private affairs and focus on other more important issues. The best interests of the American Public will be served only when these lawsuits are dropped and Microsoft is allowed to focus on business, not politics.

Sincerely,
Vinod Rao
cc: Senator Rick Santorum

MTC-00031340

TO. Attorney General John Ashcroft
CC Sen. Rick Santorum
RE: Microsoft Settlement
Nicholas J. Olson
3311 Powelion Avenue Apt 3R
Philadelphia, PA 19104–2731
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 11, 2002

Dear Mr. Ashcroft:

After a three year legal dispute between the federal government and Microsoft, I was pleased to hear that a settlement was finally reached. I sincerely hope that no further action is being considered at the federal level.

Considering the terms of the agreement, Microsoft did not get off easy. In fact, Microsoft is now left to make several significant changes to the ways that they handle their business. For example. Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs within Windows. Computer makers will now be free to remove the means by which consumers access various features of Windows. Computer makers can replace those features with access to non-Microsoft software.

With the many terms of the agreement, there should be no reason to pursue further litigation on any level against Microsoft. Microsoft represents the best of the American economy and the American ideal of success through hard work and innovation. The government should never have interfered to begin with, and there should not be any further action.

cc: Senator Rick Santorum
Sincerely,
Nick Olson

MTC-00031341

From: Bert McLachlan
3524 West 97th Place
Leawood, Kansas 66206
Re: Microsoft Settlement
Wall Street Journal 1–16–02
Another Pound of Microsoft

In a perfect world, Microsoft's anti-trust headaches would have ended in November when it settled with the Justice Department. But a perfect world wouldn't have nine state attorneys general who still object to the deal and plaintiffs" lawyers whose main job is to shoot the wounded.

Such imperfection is why we are today faced with yet another strange Microsoft settlement. This one is over the more than 100 class-action lawsuits filed by consumers who claim Microsoft's "monopolistic" pricing policies meant they were overcharged for Windows software.

Reasonable people might wonder how Microsoft could be guilty both of undercutting competitors" prices (a government claim) and charging con- sumers too much. But if the only goal here is for class-action attorneys to ex- act their own pound of flesh, the claims make perfect sense.

Microsoft agreed to settle the lot by donating more than $1 billion in cash. software, computer equipment and support to 14,000 impoverished schools; as the opposing attorneys put it, this provided a "social benefit." This latest humbling was under way when Apple Computer complained that the deal was anticompetitive. U.S. District Judge Frederick Motz agreed and last week quashed the settlement-though holding out hope it might be revived at a higher price.

What a spectacle. It's understand- able that Microsoft wants to end years of litigation and get on with life as a software company. But the truth is that this latest act of penance will serve no one but the legal firm of Corporate Shakedown & Artists.

Microsoft probably won't gain by go- ing forward. The company may have seen this as a way to score some public relations points while concluding the litigation. Instead, Apple did its own PR job, making it look as though Mi- crosoft was using the settlement to mo- nopolize the schools market.

Nor are schools benefiting. Studies show that simply adding computers to Failing environments doesn't help. These are some of the most disadvantaged facilities in the country; what they need are real curriculums, devoted teachers and (we might add) competition, not the latest version of Microsoft Oulook.

And then there's the judicial branch, which once again finds itself drawing lines in the sandbox between Microsoft and its competition. In retrospect, what motivated the government's own case was Microsoft's competitors-Netscape, Oracle- which used the courtroom to accomplish what they couldn't in the marketplace. Judge Motz now faces the similarly unpleasant task of apportioning tech markets.

Finally, there's the matter of the plaintiffs. Ridiculous as the suits are (America's cheap technology prices are the envy of the world), these people expected something. Instead, their lawyers realized that parceling out a settlement would mean each of the 65 million consumers who had "overpaid" get the grand sum of $10 and crafted the school option instead.

Someone benefits, of course.

Tucked into the bottom of the settlement was a line stating that, in addition to the school gift, Microsoft would be reponsible for "reasonable" attorney fees to be determined by the court. Seeing as how the plaintiffs" attorneys in question are Michael Housfeld and Stanley Chesley-the class action wizards who have sued cigarette makers, gunmakers, IBM, Goodyear, Texaco, well you get the picture- "reasonable," in their minds is a percentage; these guys tend to get a bare minimum of 10% to 15%.

So consumers get a "social benefit" and the lawyers could get a cool $150 million.

We have seen this so many times, it is like a bad cable movie. Microsoft, too knows how the story goes. Whether the lawsuits are frivolous or not, its options are the same: The company can chance years of litigation in dozens cases, or it can simply sign over one big, hundred-million dollar payoff to the plaintiffs" bar. Sooner or later the US political system has to come to grips with this kind of legal extortion.

MTC-00031342

THE GREAT SEAL OF THE STATE OF NORTH CAROLINA
North Carolina General Assembly
Senate Chamber

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Raleigh 27601–2808
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COMMITTEES:
APPROPRIATIONS
NATURAL AND ECONOMIC RESOURCES
COMMERCE
EDUCATION/HIGHER EDUCATION
FINANCE
RURAL DEVELOPMENT—VICE CHAIR
RULES & OPERATIONS OF THE SENATE
TRANSPORTATION
WAYS & MEANS
January 16, 2002
Ms. Renata B. Hesse
U.S. Department of Justice
Antitrust Division
601 D. Street NW, Suite 1200
Washington, DC 20530–0001
Transmitted Via Fax (202) 307–1454
Re: Support for Microsoft Settlement

Dear Ms. Hesse:

This letter is to express my support for the settlement that the U. S. Department of Justice and several states, including North Carolina, have reached with Microsoft.

Resolution of this matter will boost the technology sector, which represents a large segment of the North Carolina economy and, for that reason, it will be well to have this matter resolved. I feel this settlement will promote new investment opportunities in technology, as well as enhance competition in all aspects of the industry and this will greatly benefit consumers.

It is my opinion that this settlement represents a reasonable compromise that has earned bipartisan support. I strongly urge approval of this settlement by both the Department of Justice and the court.

Cordially,
A.B. Swindell, IV
ABS:mmh

MTC–00031343

From: Charles W. Reid
110 Tutty Loop
Houma, La. 70363
PH: 985–868–8307
To: Attention: Renata B. Hesse
microsoft.atr@.usdoj.gov

Dear Renata B. Hesse:

I read an article in the Houma Courier that I can voice my opinion on the Microsoft settlement.

At first I was on Microsoft's side and though they were getting a bad rap for "their "product. AS of now, I am not so sure. My recent experience with Windows XP turned my view against them.

Why???? First off, Microsoft came out with Windows XP and said it was great and a fabilious upgrade and we should purchase it and it would solve all out compatablility problems. What they didn't tell us was that all out software and hardware that ran in Windows 98 2nd Edition or Milinium would not run with XP unless approved by Microsoft. All hardware and software running A-OK in 98 and ME would not run in XP. I paid $99.00 + tax to install it and register it and after a week of trying to get my recently purchase software and hardware to work but not work with XP, I cannot get a refund because I opened the package and registered it, but it is now sitting on a shelf by my computer and I will not use it. So far, the companies I have purchased hardware and software are not putting out updates. "I have to purchase new equipment or software to use my already owned equipment in Windows XP".

Microsoft did not tell me I would have to purchase new software or hardware to use XP, but I do!!!! Microsoft should not have come out with XP until all 3rd party companies that have software and hardware (printers, scanners, cameras) running in Microsoft's operating system come up with updates to go with the Windows XP CD.

Did you know that with Microsoft's basic patch they offer for Hewlett Packer printers to let them work in Windows XP, will only do "basic" printing. Why not the full feature that runs in 98? Even the basic patch has bugs. It is automatically set to print the last page first in multi pages, but the setting is actually set for first page first. You have fool the printer into thinking it is printing last page first by selecting last page first to get it to print first page first.

I now believe that Microsoft is out to make all the money they can and not 1.) get the bugs out before release, 2.) care about providing support, 3.) make their system users spend more money on each upgrade. Have you tried to get support about a problem? I can't.

And if I happen to get through, they cannot fix it!!!!!

Thanks for listening.
(Charles W. Reid)

MTC–00031344

Human Resources by design
January 16, 2002
VIA FACSIMILE
(202) 616–9937
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste 1200
Washington, DC 20530

Ms. Hesse,

I am extremely troubled by the idea of the courts rejecting the settlement currently on the table in US v. Microsoft I believe a rejection of the settlement will have a seriously negative impact on the research and development coming out of the technology industry right now.

Microsoft, as a company, invests more resources than any other company in the software industry on research and development. They fund companies across the world with their research and development efforts as well. Because of this case and the insecurity it has caused in the technology industry and among Microsoft brass, money being infused into research and development is considerably less than it should be.

I am very confident that, should the settlement be accepted, resources will continue to flow back into research and development. It is that research and development which fuels the growth of the technology industry.

The courts decision on this matter has the potential to affect the software and technology world for years. I hope that you will accept the settlement and clear the way for the computer industry to get back to business.

Sincerely,
Deborah Krause
President / CEO
510 First Avenue, Suite 405
San Diego, California 92101
Phone: (858) 566–4950/(619) 255–6931
Toll-Free: (877) 861–8880 Fax: (858) 566–4674/(619) 269–7192
Website: www.hrbydesign.net Email: info@hrbydesign.net

MTC–00031345

Power to know. Power to Grow FAX
Re: Microsoft Settlement
Date : 1/16/02
From: R. Rusty Harder
Commwnts:
1606 Golden Aspen Drive Suite 108
Ames, IA 50010
Phone (515) 233–8720
Fax: (515) 956–9388
www.e-markets.com
January 15, 2002
Judge Kolar Kottely
c/o Renata Hesse
Trial Attornwy
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Judge Kottely,

This letter is in regard to the Microsoft settlement. As a company founder and vice president of E-markets, I have to make tough decisions every day. Sometimes I have to make a quick judgment with little information to go on and other times it is a long, drawn-out process with reams of data to analyze and no particular time limit. Based on the information I've seen, the Microsoft settlement is a good deal and should be accepted by all parties.

Microsoft agrees to a host of new provisions that provide for a fair settlement; they established new relations with computer manufacturers, and agree to share intellectual property. It seems to me that Microsoft has already done a lot of good with the money it has made, and this agreement is worth accepting. One of the details I read about in the news, and it seems very fair, states that Microsoft consents to the establishment of a "Techncal Committee" that will monitor Microsoft's compliance with the settlement.

Anyone who believes that Microsoft is not complying with the settlement will be free to lodge a complaint with an "Internal Compliance Officer" at Microsoft (established by the settlement), the Department of Justice or any of the state plaintiffs that are parties to the settlement.

I support this settlement. Thank you for hearing my opinion.

Sincerely,
R Rusty Harder
Cofounder, Director and VP of Client Solutions

E-Markets, Inc.

MTC-00031346

January12, 2002
Department of Justice
Washington DC
Re: MICROSOFT SETTLEMENT!

I'm very disappointed at the prolong case against Microsoft and that 9 states are still fighting the case even though I thought an agreement had been reached. The only winners here are the lawyers as they have won in so many cases at the expense of the consumer. Not only are they paid exuberant fees, but the CONSUMER ends up the LOSER! Eventually all cost of defending the cases are passed on to the CONSUMER!

From what I can determine with the information available the settlement is FAIR!!!!

Please let's not have another IBM fiasco, where alot of money was spent and the case was dismissed. Let's move on with this case and force the states to accepted the agreement so that business can go on.

Sincerely
Gene Pizzato
6007 E. Harvard Street
Scottsdale, AZ 85257

MTC-00031347

THE GREAT SELA OF THE STATE OF NORTH CAROLINA
North Carolina General Assembly
House of Representatives
State Legislative Building
Raleigh 27601-1096
REPRESENTATIVE LYONS GRAY
39TH DISTRICT
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JUDICIARY
SCIENCE & TECHNOLOGY
UNC BOARD OF GOVERNORS
CONGRESSIONAL REDISTRICTING
ENVIRONMENT & NATURAL RESOURCES
January 17, 2002
Renetta Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW. Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As a former chairman of the Finance Committee in the North Carolina House of Representatives, I was asked many times to approve compromises which had been worked out between various legislators even thought the legislators came into the process with widely divergent views. Now, Judge Kollar-Kotelly faces a similar task with the settlement agreement worked out between Microsoft, the Department of Justice and nine attorneys general in an effort to clear up the government's case against the world's largest software company.

As I did for those years, I would urge the judge to move forward and approve the settlement for many reasons.

First, the settlement was approved by our attorney general in North Carolina and now the taxpayers of our state no longer have to fund that activity. Second, I believe that when a fair compromise can be reached, it is best to do so as quickly as possible. Otherwise, cases get dragged out in our system for many years, sometimes ultimately coming to settlement years later. Meantime, more taxpayers" money is consumed as was $30 million in the federal case against Microsoft As a legislator who is concerned about economic development and education in our state, I believe it is not in the best interest of anyone to have such lawsuits lingering over a major corporation. This is especially true of Microsoft which has a facility in North Carolina. What lawsuits can do to the economy is not good. Several years ago when initial negotiations in the lawsuit broke down, the downturn among Microsoft and other tech stocks had a great negative impact on the market and the financial accounts of millions of individuals. Even though such ups and downs are inevitable, I believe that the market causes, not government intervention should be the cause.

Even though I am not an attorney, it seems that both Microsoft and the federal government have come out with both positive and negative.

Sincerely,
Lyons Gray

MTC-00031348

7 Riverwoods Drive
Exeter, New Hampshire 03833
January]4, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530

Dear Mr. Ashcroft:

I strongly support the decision to put an end to the Microsoft antitrust litigation. Enough damage has been done. Our economy has obviously been adversely impacted, and it is time for everyone to move on.

In my opinion this case was brought by the various state attorneys general as a result of greed. This was merely an attempt to bring down a successful company so that the states could each have a piece of the Microsoft pie. I do not believe the plaintiffs would ever be able to prove Microsoft engaged in anticompetitive behavior.

Notwithstanding these beliefs, I am in favor of the Court approving the settlement agreement. The terms of the settlement agreement go far beyond what was initially at issue in the suit. For example, Microsoft has agreed to make it easier for computer manufacturers to remove features of Windows and replace them with non-Microsoft software. Additionally. Microsoft has agreed to not retaliate against software or hardware developers who promote software that competes with Windows, and to not enter into agreements obligating third parties to exclusively distribute or promote Windows. These concessions are more than reasonable, and I support the settlement.

Sincerely,
Gareth Dunleavy

MTC-00031349

Christopher Durant
Mail: P.O. Box 57978
Sherman Oaks, CA 91413
Work Phone: (818) 562-2627
Home Phone: (818) 994-8513
E-mail (work): ChrisDu@FirstHealth.com
E-mail (home): ChrisDurant@Yahoo.com
January 16, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
RE: Microsoft Settlement

Dear Mr. Ashcroft:

I believe strongly that the Microsoft Corporation is one of America's greatest assets. It is a company that provides constantly improving products that help make tens of millions of people more productive, happier, and richer.

We live in an increasingly global economy. When the U.S. Government attacks and tries to cripple a domestic company that has become "too" successful, there is no shortage of foreign competition that will gladly step in to take market share, unencumbered by governments with beliefs in forced "equality" between corporations, regardless of the value or contributions that the companies make.

Microsoft has never harmed me. Its products have enhanced my life tremendously. If Microsoft is a monopoly, why does it continually improve its products and lower its prices?

For the good of the American economy and consumers everywhere, please settle with Microsoft as soon as possible. Doesn't the U.S. Government have better things to do than fight one of the best things that has ever happened to this country?

Sincerely,
Christopher Durant

MTC-00031350

PACIFIC ENERGY CONSULTANTS, INC.
993 OAK LANE
ESCONDIDO. CA. 92029
(760)746-5193
eMail Tom@Hinrichs.org
January 16, 2002
Renata Hesse Trial Attorney
Antitrust Division. Department of Justice
601 D Street NW. Ste. 1200
Washington DC 20530
VIA FACSIMILE
(202) 616-9937

Dear Ms. Hesse:

The settlement in the case of US v. Microsoft should be accepted and ratified as soon as possible. This letter is being written to the courts to not only to ask you to accept the settlement—but to do so as quickly as possible.

The Microsoft case has been an awful constraint on the national economy. I am sure the courts have heard this argument articulated by many an academic who understands the economy better than I. But, let me assure the courts, the argument is much more than academic. Small business is feeling this case in a very real way.

From what I understand, the settlement in this case will become law as soon as it is accepted by the courts. Therefore, the sooner you can ratify the settlement, the better. Business affected by the case will see positive change right away (as opposed to the next fiscal year or some business related time period). Essentially, I am asking the courts to accept the settlement and work to expeditiously set the wheels in motion for the settlement to be executed. Doing this will allow business to move forward again

Sincerely,
Tom Hinrichs President

MTC-00031351

FROM: AH HA FAX NO. 919-363-8789 Jan. 16 2002 03:09 PM P1
AH HA! LTD
facilitation & consulting
January 15, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202-616-9937
microsoft.atr@usdoc.gov

Dear Ms. Hesse:

The U.S. Department of Justice antitrust lawsuit against Microsoft has now gone on for over three years, at a cost of many millions of dollars to taxpayers. The cost in lost productivity, unrealized innovation and underused economic resources is far greater. It is time to bring this matter to a close.

Even here in the Research Triangle, one of the most dynamic areas of the country, the information technology industry is hurting. Now, of all times, it is vitally important to settle this pending litigation and get both Microsoft and its competitors back to work on what they do best: develop and market new products and services for consumers. The proposed settlement insures that Microsoft will not engage in illegal and anticompetitive behavior Microsoft must agree not to retaliate against computer makers that ship its competitors" software and take other steps to guarantee that its current market position will not be used unfairly.

I hope the courts will see fit to accept this settlement, just as the State of North Carolina has done, and help restore this industry and our economy to the growth and progress we enjoyed over the past decade.

Sincerely,
Warren Miller

MTC-00031352

Mike Davis Public Relations, Inc.
PUBLIC RELATIONS COMMUNICATIONS
P.O. Box 27646 Raleigh, NC 27611
Phone: 919-821-3928 Fax: 919-821-9135
January 16, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
Fax 202-616-9937
microsoft.atr@usdoc.gov

Dear Ms. Hesse: It is time to bring an end to the too-long and too-expensive Microsoft antitrust case. In November 2001, our Attorney General here in North Carolina, Roy Cooper, agreed to the settlement that has been proposed. I hope that the federal judge will now approve the settlement also.

It is difficult for a layperson such as myself to understand what misdeeds Microsoft has committed. It appears to me and my three teenage, computer-savvy children, that Microsoft has made information technology more accessible, more usable and more affordable. No consumer harm is apparent to me. I was under the impression that the purpose of antitrust laws is to protect consumers, not competitors. Whatever Microsoft's misdeeds, however, I believe the proposed settlement offers more than enough protection in the future. I have read that Microsoft will be required—and has agreed to abide by a strict set of rules and regulations governing its relationships with computer maker and software providers. An independent committee will oversee the company's behavior. More information about Microsoft's products and practices will be made public—and made available to its competitors. Enough is enough. It is time to accept a settlement that appears to be fair and reasonable to both sides in this matter. Put my name down as one citizen who thinks it is time to take all possible steps to returning everyone's attention to restoring the strength of our nation's economy, rather than bleeding an important industry dry in the courtroom.

Thank you for your attention and the opportunity to comment.

Sincerely,
F. Michael Davis President

MTC-00031353

Bernard A. Streeter
Mayor
City of Nashua
January 16, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse: In response to the Court's request for public comment on the proposed settlement in the case U.S. v Microsoft, I am forwarding my support for the settlement to the District Court and hope it will made part of the case's record.

As Mayor of the City of Nashua, I wish to respectfully express my support for the remedies and settlement laid out by Microsoft, the U.S. Department of Justice, and nine of the state plaintiffs The small business community of Nashua has long supported a speedy and reasonable settlement to this case, and we believe that the proposal before the court meets both requirements.

After more than four years of waiting for this case finally be resolved, the high technology, community in our area and around the country has seen the protraction of it do much more harm than good. Profits investments, and new jobs are down, while the pace of innovation and, therefore, demand, has fallen off. The current state of the economy-a full-fledged recession—in our view makes immediacy an even more important factor in settling the case than ever before. No longer is the drag on the high tech sector not noticeable. It is a major factor in the loss of jobs and lack of investment in the technology industry. I believe the cultivation of this industry is vital to the success of any economic recovery and hope the court sees this settlement, as we do, as a step toward that goal.

I hope my comments have helped illuminate the public impact of the proposed settlement, at least in our community, and hope also that you approve the proposal.

Thank you,
Bernard A. Streeter
Mayor

MTC-00031354

MISSOURI HOUSE OF REPRESENTATIVES
CAPITOL OFFICE
State Capitol Room 115-B
201 West Capitol Avenue
Jefferson City, MO 65101-6806
Tele: 473-751-2076
HOME ADDRESS
311 Constitution
Jefferson City, MO 65109
573-893-7647
CARL M. VOGEL
114TH DISTRICT STATE REPRESENTATIVE
January 14, 2002
Renata Hesse
Trial Attorney-Anti-Trust Division
Department of Justice
601 D Street Northwest, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Given that the economy is now in recession, the last thing we need is more litigation and regulation of the high-tech industry. Already over $30 million in taxpayer funds have been spent on the Microsoft anti-trust case at a time when money should be kept in the pockets of consumers, thus helping our fragile economy grow. The settlement reached between the Justice Department and Microsoft is appropriate.

I favor free-market solutions to the problems facing businesses today. Competition—and the will to succeed as a result of this competition—has given this nation the strongest business enviroment in the world. There has been no consumer harm as a result of any actions taken by Microsoft. In fact, Microsoft's innovation has led to tremendous benefits for consumers, such as better products and lower prices.

Sincerely,
Carl M. Vogel
State Representative
114th District

MTC-00031355

To: Renata Hesse, Trial Attorney
Suite 1200
Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530
Fax: 202-616-9937
From: Kai Hintze
Senior Systems Programmer
Albertsons
(Voice) 801-961-3146
Subj: Antitrust Settlement—U.S. v Microsoft
Summary: Please go back and do it right.

16 January 2002
Renata Hesse, Trial Attorney
Suite 1200
Antitrust Division
Department of Justice
601 D Street NW
Washington. DC 20530
Fax: 202–616–9937

Dear Ms Hesse. In the matter of US v. Microsoft: I do not believe that "punishing" a company convicted of illegally maintaining a monopoly by offering it a chance to extend that monopoly into one of the few markets it does not already control will prove an effective deterrent. In my opinion, any penalty which might impede Microsoft's illegal monopoly growth must include at least the following elements:

1) Microsoft must publish all specifications to all its file formats. Much of Microsoft's power arises from the fact that its Office suite has been bundled with new computers so much that it is a defacto standard. Other word processors and spreadsheets try to build conversion routines so that they can read and write Microsoft files, but they depend on reverse-engineering to try to find out what the file format is, so they have limited success. A published specification would allow Microsoft its precious right to innovate, but would permit other developers to make truly compatible software. This way Microsoft would have to compete on usefulness and not on obfuscating their files.

2) Microsoft must publish all Application Programming Interfaces (API's) exposed by its operating systems. Programs written using operating system API's are usually. easier to write and usually run faster. Microsoft has been shown in the past to publish most of their API's so that third party software can be written, but reserve some knowlege of API's so that third party software won't run quite as well as Microsoft software.

3) Microsoft must publish its price structure. Said price structure cannot penalize vendors who sell non-Microsoft products and operating systems. From the purchaser's point of view, when vendors sell a computer with Windows located the vendor must include the cost of the operating system as a line item.

I believe this is the most extreme penalty. Pricing is usually considered a trade secret, but Microsoft has been shown in too many instances to set prices for a specific contract not according to volume or any other objective measure. but purely to reward its friends and punish its enemies. This will also allow consumers to compare the price they pay for various operating systems that can run on their computers.

4) Microsoft must use independently published networking protocols. If Microsoft wishes to extend a networking protocol it must submit the extension to an independent body such as IEEE for approval. One of Microsoft's common practices to discourage competition is called "embrace and extend". In other words, take something that works for everyone, and make it so that it only works with Windows. One recent example of this is the Windows 2000 implementation of the published Kerberos security protocol. It looked a lot like something that would work with other Kerberos clients and servers, but was just different enough that it didn't, thereby requiring organizations that wished to use Kerberos authentication for their Windows 2000 boxes to have a Windows 2000 Kerberos server, even if they had an existing Kerberos server they had been using for years for other platforms that ran well.

5) Microsoft must be prohibited from pursuing legal action against people helping to enforce penalties 1 through 4, and people who publish reviews and comparisons unfavorable to Microsoft.

Penalty 5 is required because Microsoft has a history of attempting to suppress reviews that find that other products out perform the Microsoft product by threat of legal action. Microsoft claims that involving their product in "unsanctioned" evaluations is a violation of the license terms. Thus this penalty is required both to allow legitimate journalistic and evaluatory functions and specifically to protect individuals and groups engaged in the research necessary to monitor penalties 1, 2, and 4. This behavior is particularly loathsome when Microsoft attempts to sweep security flaws under the table, as they usually do. (See their recent Security Through Obscurity program, formally known as the Microsoft Certified Security Partner Program.) If Microsoft is allowed to continue business as they have in the past they will only increase the risk to business and national security that they are now. Penalty 3 is a matter for accountants. It is obnoxious but straightforward to monitor. Penalties 1, 2, and 4 would be most easily monitored by providing a bounty (to be paid by Microsoft) for individuals or groups who examine Microsoft's products and find instances where Microsoft has failed to comply.

In addition to the bounty for those who find violations, Microsoft should be required to pay a substantial fine for each violation. Perhaps this fine could be applied to some existing educational fund.

Please note that I have not requested that Microsoft reveal any of its code, only the interface to use the code. Neither have I suggested that Microsoft not be allowed to innovate, only that they should stop trying to skew the playing field so that others can innovate as well.

The damage to consumers created by Microsoft as a monopoly was demonstrated during the recent trial, but I will provide three specific damages, and one instance of each:

1) Microsoft only innovates (or buys innovation to include with its products) where it has competition.

When Lotus l-2–3 was the dominant spreadsheet Excel received frequent and noticeable enhancements, to the point where it became the clearly superior choice. Now Excel has obliterated the competition, and I cannot recall the last useful function added to it

2) Microsoft lowers prices where it has competition and raises them where it does not.

When WordPerfect and other word processors offered serious competition to Microsoft Word the list price for Word was US $99.00 and I could have bought it for $59. Today the list price for Word is US $399 and the lowest price C-Net can find is $275.

3) Microsoft has a history of trying to stifle other innovators. Microsoft has a current lawsuit against Lindows.com Inc.. claiming that their name will confuse buyers. But Lindows is the most reasonable name for the company, given that their stated goal is to be able use Linux to run programs written for Windows. It looks to me like Microsoft prefers litigation to innovation. I hope that you will see that the published settlement proposal only benefits Microsoft (and that only in the short run), and demand that they return to the table to create a settlement that will benefit everyone.

Thank you for your attention.

Please note that this letter is my opinion only, and may or may not represent the view of my company. However I included my title as evidence that I am familiar with the computer industry, and that my opinions are reasoned and backed by experience.

Sincerely,
Kai G. Hintze
Senior Systems Programmer
Albertson's
(Home address)
3087 W 7140 S
West Jordan, Utah 84084

MTC–00031357

Jan 16 02 03:03p Gary Pearce 9197878031 p.1

TRC Triangle, Inc.
P.O. Box 41087
Raleigh, North Carolina 27629
Telephone 919–828–3150
Facsimile 919–828–1977

January 11, 2002

Renata Hesse
Trial Attorney
DEPARTMENT OF JUSTICE
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse: In November 2001, North Carolina Attorney General Roy Cooper joined with other states" attorneys general from across the nation in agreeing to a settlement with Microsoft Corporation in the ongoing antitrust litigation against that company. I believe our state's attorney general made the correct decision, and I am writing to urge the federal courts to agree to that settlement. North Carolina and, especially, the Triangle area have enjoyed remarkable economic growth thanks in great measure to the advances of the information technology industry. Events at home and abroad now jeopardize our prosperity-and that of the entire nation. It is more important now than ever to remove any obstacle to economic recovery, and I sincerely believe this prolonged Microsoft matter is just such an obstacle. By accepting the proposed settlement, Microsoft has demonstrated that it will abide by strict constraints on its behavior in the marketplace. The settlement provisions protect Microsoft's competitors and, more importantly, the consumer, while preserving for Microsoft the essential ability to innovate and introduce new products.

Thank you for your consideration.

Sincerely,
C. Thomas Hendrickson
President

MTC–00031358

Jan 16 02 03:Olp Gary Pearce 9197878031 p.1

SMITH HELMS MULLISS & MOORE. L.L.P.
Attorneys at Law
2800 Two Hannover Square
Raleigh. Norrh Carolina 27601
PO Box 27525 (27611)
(919) 755–8700
direct: 919–755–8726
fax: 919–755–8800
Dennis.Wicker@smithhelms.com
January 16, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse: I believe that the proposed settlement in the Microsoft case is a fair and reasonable compromise. It was arrived at after extensive and intensive negotiations, through the leadership of a court- appointed monitor. I hope it will now receive the approval of the federal court. Under the agreement, Microsoft will be forced to make significant changes in its operations. It must work in new ways with software developers and computer makers. It must communicate better with other companies, share more information, create more opportunities for other companies and offer more choices to consumers. Microsoft must also accept the oversight of a special committee that will monitor implementation of the lawsuit.

These are extraordinary steps for a company to take, and Microsoft has stated publicly that it will accept and abide by the terms. So I strongly believe it is time, especially given the uncertain condition of our economy today, to close the books on this matter and enable Microsoft—and its competitors -to go back to doing what they can and should do best: find new ways to enhance the productivity of America.

Sincerely,
SMITH HELMS MULLISS & MOORE, L.L.P.
Dennis A. Wicker

MTC–00031359

JAN-16-2002 13:54 MO HOUSE OF REPS 473 751 5123 P.01
DANIEL J. HEGEMAN
STATE REPRESENTATIVE DISTRICT 6
State Capitol—Room 101D
Jefferson City, MO 65101–6806
TELE: (573) 751–0246
FAX: (573) 525–7740
E-Mail: dhegeman@services.state.mo.us
MISSOURI HOUSE OF REPRESENTATIVES
DISTRICT ADDRESS
18739 County Road 294
Cosby. MO 64436
(816) 662–2645
January 14, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202–616–9937
microsoft.atr@usdoc.qov

Dear Ms. Hesse As a state legislator in the Missouri General Assembly, I want to express my support for the proposed settlement between the United States Department of Justice and Microsoft. As a legislator that is constantly involved in negotiating and compromising, I am firmly convinced that this proposed settlement is fair and equitable to both parties. Now is the time to put this case behind us and allow the technology industry to move forward. As you know, Microsoft has been a leader in innovation throughout the industry. All facets of our economy have benefited because of the leadership and technology advances made by Microsoft. Stewards of government should encourage these types of industry successes instead of placing roadblocks in front of them. I hope you stop the litigation and accept this reasonable settlement.

Sincerelv.
Daniel Hegeman
District 5 State Representative

MTC–00031360

linda c. ashendorf 6040 jester lane charlotte nc 28211
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202–616–9937
microsoft.atr@usdoc.gov
Re: Microsoft case

Dear Attorney Hesse: As a business owner and comsumer, I am writing in support of the proposed settlement in the U.S. v. Microsoft case. The agreement to the three year-old antitrust suit is a compromise that contains rules and regulations on how Microsoft will develop and license software. At the same time it allows Microsoft to continue efforts to develop new software that will benefit consumers. Computer manufactures will have the flexibility to configure Windows so non-Microsoft programs can be integrated into the set up and have the ability to remove certain Windows features such as the internet Explorer and replace it with another web browser. Microsoft has also agreed to provide a uniform price list to the 20 largest manufacturing computer makers. This settlement reaches a middle ground for both sides and will ultimately benefit consumers, the technology industry and the economy. It is time to end the litigation and promote opportunities lo get our economy and technology industry moving again.

Sincerely,
Linda Ashendorf
public affairs consultant

MTC–00031361

Hillsborough County Republican Committee
January 10, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse: I am writing to submit my public comment in support of the current settlement proposed in the case of the United States v Microsoft. I have been following the case in the news and believe that its end is long overdue. Haven't we spent enough of the taxpayers'' money on this case? The company should be allowed to get back to work on more important matters, like creating new products and focusing on their customers' needs. During this economic downturn and as national security concerns rise, your efforts should be focused on prosecuting criminals that have a detrimental effect on the American people and our economy. Government should be encouraging companies like Microsoft by allowing the marketplace to police them, rather than subjecting them to government interference.

I am certain that the agreements reached in this settlement will ease the government's concerns about Microsoft. After all, if a number of the parties involved in this case can agree, doesn't that show that it is a good agreement? To continue litigation against Microsoft at this time would be unnecessary and ultimately harmful to the American people. I urge you to approve this settlement quickly so we can all get back to work.

Sincerely,
Maurice Goulet
Chairman
48 Ministerial Branch Bedford, New Hampshire 03110

MTC–00031362

Clendenin Bird & Company
CERTIFIED PUBLIC ACCOUNTANTS
1300 Tenth Street, Suite C
Modesto, California 95354
Telephone (209) 526–3091 Facsimile (209) 526–2287
Gerald L. Clendenin, CPA
Constance Hillas Bird, CPA
Albert A. Avila, CPA
James O. Armstrong, CPA
Patricia A. Retting, CPA
Claire L. Schendel, CPA
Wendy I. Prather, CPA
January 16, 2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530

Dear Ms. Hesse: I am writing this letter to the court to support the settlement that is proposed in the case of US v. Microsoft. From what I understand, nine of the states and the federal government have come to an agreement and the court is asking for public comment as to whether that agreement should be accepted. I have read the arguments made by both sides on this case-by Microsoft and by the competitors who called for the suit in the first place. These competitors of Microsoft have made the argument that Microsoft's anticompetitive actions have brought harm to the technology industry. That argument is no longer valid. Since the day this case against Microsoft first began, the technology industry went into a steady decline. You don't need to look any further than the NASDAQ-our strongest tech market indicator-over the last three years. Those competitors and their allies who arc arguing to the court that a settlement will harm the technology industry are totally wrong.

The original goals of this case may have been justified. I don't believe that question is still relevant. I believe the relevant question now is "is the settlement fair and is it time to end this case?" To those questions, I think I speak for the majority of Americans by telling the court that the answer is a resounding "yes."

Thank you very much.

Sincerely,

CLENDENIN BIRD & COMPANY

MTC-00031363

January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: I would like to express my feelings about the Microsoft antitrust case. I sincerely hope that this settlement will be the end of the lawsuits. This is supposed to be free enterprise but Microsoft is being punished for running a successful company and inventing technologies that have changed our lives. I work for the government as a Chemical Engineer, and I use Microsoft products every day. Microsoft is not forcing anyone to use their, products; consumers want the ease of using compatible products. Please uphold this settlement, Microsoft is conceding far more than what has even been asked for. For example, Microsoft will now share its proprietary information with competitors, allowing them to more easily place their own programs on Microsoft's Windows operating system. It is a very reasonable settlement and will restore fair competition to the computer industry. Thank you for your time.

Sincerely,
Federico B. Santa Cruz
506 Saybrooke View Drive
Gaithersburg, MD 20877

MTC-00031364

FROM : PHONE NO. : 8472952092 Jan. 17 2002 08:38AM P1
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: Microsoft has been involved with the federal courts in an antitrust lawsuit for approximately three years now. Last November, a settlement was reached that seemed to mark the beginning of the end. I thought that the struggle would soon be over. That appears not to be the case. Nine states remain litigious, and they have used the past several weeks to sling mud at Microsoft and gather support to overturn the settlement. In light of the recent terms agreed to under the settlement, I do not see why these states believe Microsoft remains in violation of antitrust laws. Microsoft has agreed not to retaliate against any software producer that introduces software onto the market that is in direct competition with Microsoft products. Moreover, Microsoft has agreed not to enter into any agreement that would require a third party to endorse Microsoft products either exclusively or at a fixed percentage. I do not believe terms such as these are too lenient with Microsoft nor do I believe that the issues raised by Microsoft's competitors have been dealt with lightly.

It seems as though every time Microsoft is attacked, the whole market collapses. This duration of this case has had a derogatory effect on the economy and the IT industry. No good can come of further litigation. In my opinion, the case should remain settled. I see no reason for the suit to be reopened and the settlement overturned. I urge you and your office not to take further action against Microsoft in the federal courts.

Sincerely,
Mary McAndrew
432 E Alexander Palm Road
Boca Raton, FL 33432

MTC-00031365

Date: Thursday, January 17, 2002 Time: 3:19 AM
To: Renata Hesse
Company: United States Department of Justice
Fax Number: 2026169937
From: Robert Trujillo
Subject: Microsoft Antitrust Settlement
71 Faragut Ave
Tonawanda, N.Y. 14150
January 17, 2001
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington DC 20530–0001
Renata B. Hesse:

As someone familiar with computing and the computer industry, and the adverse effects of Microsoft's monopolies in these areas, I cannot see how the settlement that is proposed even pretends to remedy the antitrust violations for which Microsoft has been found culpable. The company has already been found in violation and this is the penalty phase of the case, but the settlement contains no penalties and actually advances Microsoft's operating system monopoly. A just penalty would at barest minimum include these additional features: Any remedy seeking to prevent an extension of Microsoft's monopoly must place Microsoft products as extra-cost options in the purchase of new computers, so that the user who does not wish to purchase them is not forced to do so. This means that for the price differential between a new computer with Microsoft software and one without, a computer seller must offer the software without the computer (which would prevent computer makers from saying that the difference in price is only a few dollars). Only then could competition come to exist in a meaningful way. The specifications of Microsoft's present and future document file formats must be made public, so that documents created in Microsoft applications may be read by programs from other makers, on Microsoft's or other operating systems. This is in addition to opening the Windows application program interface (API, the set of "hooks" that allow other parties to write applications for Windows operating systems), which is already part of the proposed settlement. Any Microsoft networking protocols must be published in full and approved by an independent network protocol body. This would prevent Microsoft from seizing de facto control of the Internet.

Any Microsoft software that is bundled with Microsoft's operating system, software such as Internet Explorer and Windows Media Player, should be removable from the Operating System. Thus if the user chooses a competitors product and no longer desires to use Microsoft's product. the user can then remove that application and all files pertaining to that application. This should be made retroactive, i.e. older versions of the Windows operating system should be made to comply with action. Microsoft and or O.E.M.s should be compelled to include Sun MicroSystems Java virtual machine. Microsoft has decided to discontinue shipping Sun MicroSystem Java virtual machine in it's future release of its operatin system, this includes the currently shipping Windows XP. Microsoft had in the past shipped Sun MicroSystems Java virtual machine with its products but after its settlement with Sun MicroSystem has decided against this action. This action is quite harmful to users and developers who use the Java programming language and applications developed from this product. This action unfairly penalizes users and developers alike. Note Microsoft's Visual Basic components continue to ship with their operatin system giving Microsoft's Visual Basic product an unfair advantage. I believe these changes listed above would go along way in improving the proposed settlement.

Sincerely,
Robert Trujillo

MTC-00031366

MARK S. PULLLIAM
SAN DIEGO, CALIFORNIA 28101
January 16, 2002
VIA FACSIMILE (202/616–9937)
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530

Dear Ms. Hesse: It is probably safe to assume that as part of the Tunney proceedings the court is receiving numerous letters arguing that the Microsoft settlement does not go far enough. Microsoft's competitors have long held the belief that all of their shortcomings in the marketplace might be resolved by the courts. I would like to publicly state that the settlement does more than enough to remedy the case of US. v. Microsoft, this issue has gone on far too long, and accepting the settlement will bring closure which is long overdue. A settlement in a case like this is just that-a settlement, Individuals and companies will spend extensive amounts of time and money trying to point out every single flaw or shortcoming they perceive to be a part of this settlement. But the case against Microsoft is not about trying to make sure those who abhor Microsoft get every single thing they ask for. The settlement is about working to remedy a previously bad situation in a manner that is fair to both sides.

The settlement more than adequately punishes Microsoft. Forcing codes to be opened, placing monitors in their business, and removing any perceived leverage will bring fairness to all the companies trying to gain an advantage from the settlement. Hundreds of hours and countless individuals have worked to craft this settlement. I hope the courts will consider this in their ruling while also recognizing the self interest which motivates many of the letters pouring in against the settlement.

Sincerely,
Mark S. Pulliam

MTC–00031368

3289 Pear Point Road
Friday Harbor, WA 98250
Phone: 360–378–6845
Fax. 360–378–5042
To: Attorney General John Ashcroft
From:Steven A Cotton
Fax: 202–307–1454
Date January 17, 2002
Re:Microsoft Anti-Trust Case
Comments:
3289 Pear Point Road
Friday Harbor, WA 98250
January 16, 2002
Attorney General John Ashcroft
United States Department of Justice, 950 Pennsylvania Avenue, NW
Washington, District of Columbia, 20530–0001

Dear Mr. Ashcroft, I am writing today to encourage you and the Department of Justice to accept the Microsoft antitrust settlement. The suit has been dragged out for over three years now, and it is time to put it behind us. Microsoft and the industry as a whole needs move forward and focus their attention on business at hand; otherwise the economic climate within the tech industry may never rebound.

Many people believe that Microsoft got off easy; in fact, the opposite is true. Microsoft agreed to terms that extended well beyond the products and procedures that were actually at issue in the suit, with the express reason that it will al1 be over soon. The company also agreed to a three-person technical committee that will monitor Microsoft's compliance with the settlement A fair settlement and a fair way to make sure that the settlement is followed were reached The only thing left is to see that the government accepts its own settlement. In these economic hard times we need to allow business to move ahead. As long as this suit is hanging around, the technology industry will not be able to move further. Please accept the Microsoft antitrust settlement and let us get on with the people's business.

Sincerely,
Steven Cotton

MTC–00031369

January, 2002
Department of Justice
Washington, D. C.

To Whom It May Concern: I am for settling the Microsoft Case. I believe that it was wrong in the first place to bring this to court. The company is not perfect—but what they have done incorrectly does not merit a case being brought against them. This company and Mr. Gates has done more for many in this country than any other company. They have helped many schools and many, many charities, and many, many people when other companies would not even lift a hand.

Also—We have obligations to move beyond this. We have a war with terror going on right now. Let us begin to resolve the problems in this country—illegal immigration—let us begin to pull together and solve existing problems. President Bush is on the right track to work together—not divide this country. I love the windows operating system as it enabled, me a novice, to begin to use the computer. I think we should thank Mr. Gates rather than drag him into court. He was head and shoulders above everyone else in inventing a way for all to compute—he should have the freedom to continue to invent new ways to work. Our economy is in shambles. Let us put this behind us—I think it is time to accept Microsofts proposal and put this behind us. Many, many people are out of work in this country—we need to grow up and move on.

Thank you
Mary E. Wenger
Washington State

MTC–00031370

From. Myrna-Sue Shimberg
To: Attorney General John Ashcroft
Date: 1/16/2002
Subject : Microsoft settlement

Dear Mr. Ashcroft:

Microsoft has succeeded because it has made products that are easier to use and more effective than its competitors. I was pleased to learn that a settlement was recently reached in the antitrust case that was begun more than three years ago by the Justice Department. I hope it will finally bring an end to this case. Microsoft should be allowed to function and compete without excessive government intervention. The settlement that was reached this November could conclude the federal case if it is put in place. Sadly some opponents of the settlement may try to undermine the settlement because they feel it is too undemanding. However the reality is that this settlement is very comprehensive. The settlement requires Microsoft to end any contractual restriction that could be interpreted as harmful to competitors. Additionally, this settlement compels Microsoft to share proprietary code with competitors, to an unprecedented extent. Undoubtedly this settlement should be the end of this case, despite what the Microsoft opponents may contend.

Sincerely,
Myrna-Sue Shimberg
11068 N. Mountain Breeze Drive
Tucson, AZ 85737

MTC–00031371

225 Castle Drive
West Mifflin, PA 15122–2958
January 16, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement issue. I support Microsoft and believe this settlement is fair. Microsoft is an American company that has impacted our daily lives. Microsoft has brought American computer technology into our businesses and homes. This company has done so much in the past that it should not be stifled or restricted. This settlement allows this company to remain together. This settlement also contains provisions that will foster competition. Microsoft has agreed to share more information with other companies and has agreed to be monitored by a technical oversight committee. Competing companies may also opt to sue if they feel this company is not complying with this agreement. Again, I support this settlement and feel it will serve in the best public interest of America. Please support this settlement. Thank you for your time.

Sincerely,
Suzanne Cunningham
cc: Senator Rick Santorum

MTC–00031372

Iowa Special Events Group, Inc.
Specialists in Sound & Communications
Dale Blair, CEO E.E.
January 16 ,2002
Judge Kolar Kottely
c/o Renata Hesse, Trial Attorney
U.S. Department of Justice—Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Judge Kottely, I am writing in hopes to encourage the settlement with Microsoft. Most analysts agree that the suit is a wasteful use of taxpayer dollars; this case has a chilling effect on innovation, and is making it harder for entrepreneurs to raise capital. Beaten in the market by better Microsoft products and services, competitors like Netscape (since acquired for billions by AOL) somehow talked the federal government into attacking Microsoft as an anti-competitive monopoly guilty of predatory practices. Remarkably enough, I read that AOL-Time Warner began lobbying the government against a competitive Microsoft product before it was even released! It's quite disturbing to think that a corporation such as AOL-Time Warner has such influence over our states' legal decisions.

It has been AOL-Time Warner, created as a result of AOL's merger with Time Warner, whose existence has raised real hackles about potential monopoly power. For its part, Oracle has left no stone unturned in trying to undermine Microsoft. What disturbs me the most is that the government's attack on Microsoft may well have been motivated by a desire to assert control over the fastest growing and most independent industry in the country. That's a horrible philosophy if we want people to invest in new technologies and products that mean new jobs and growth for our future. All this being said, I think the settlement is acceptable and it's time to move on. Thank you for your time, as I know it is very valuable.

Sincerely,
Dale Blair
P.O. Box 815—Des Moines, Iowa 50304—Phone: 515–277–2002

MTC–00031373

8 Pansy Court
Newtown, Pennsylvania 18940
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW

Washington, DC 20530

Dear Mr. Ashcroft: I would like to express my support for the settlement that was negotiated in November between Microsoft and the Justice Department. I believe the settlement is sound and in the best interests of our economy.

Although Microsoft probably conceded more than was warranted, the company believes it is time to move forward. As an example, Microsoft agreed that if a third party's exercise of any options provided for by the settlement would infringe any Microsoft intellectual property right Microsoft will provide the third party with a license to the necessary intellectual property on reasonable and non-discriminatory terms. I believe this is a significant concession and should show the government that this is indeed a good deal for them.

Both sides of this dispute showed much courage in sticking with the tenuous negotiations this agreement required. Your office has made the right decision in supporting this settlement and I hope you will continue your support.

Sincerely,
Arthur Millevoi
cc: Senator Rick Santorum

MTC-00031374

Professional Performance
DEVELOPMENT GROUP, INC
January 16, 2002
Attorney General John Ashcroft, US
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft, I believe that the settlement reached between Microsoft and the Department of Justice regarding antitrust suit is more than fair. We live in a free-market society; it does not make sense to submit to so much government intervention. Carrying on litigation will have an adverse effect on the industry and prevent the advancement of technology.

It is necessary to settle the suit so the economy may a get a much- needed boost. I do not understand why a company must provide its competitors with information pertaining to its products, but Microsoft has agreed to give the rights to computer makers to configure the different Windows operating systems so they can run non-Microsoft software within them even easier. Microsoft has also agreed to license Windows to the 20 largest computer makers on equal terms and conditions, including price.

The suit has managed to drop the value of the stock market, raise software costs, and have taxpayers dig deeper into their pockets. If this suit continues, the economy may not be able to get the much-needed boost that it needs. I urge you to make certain that this settlement is confirmed and Microsoft is allowed to return to innovation.

Sincerely,
Klaus Schonfeld
Vice-President
4241 Woodcock Road,Suite A125, SAN ANTONIO, TEXAS 78228
TEL. 210–615–1117 FAX 210–415–1158
WWW.PPDG.COM

MTC-00031375

01/16/2002 19:25 630–325–0260 GREG SMITH
10 South 336 Hampshire Lane East
Hinsdale, Illinois 60527
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: Finally, after three long years. the Department of Justice has decided to end its antitrust lawsuit against Microsoft. This is good news for the business community and the economy as a whole, because Microsoft affects so much of the economy.

Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system. Microsoft has also agreed to disclose and document! for use by its competitors, various interfaces that are internal to Windows' operating system products—a first in an antitrust settlement. Microsoft did not get off easily. The settlement was arrived at after extensive negotiations with a court-appointed mediator.

The company agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit—for the sake of wrapping up the suit. Enough is enough. I support the settlement, and anticipate a swift end to this lawsuit.

Sincerely,
Greg Smith

MTC-00031376

1705 E West Highway
Apt. 409
Silver Spring, MD 20910
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to thank the Justice Department for agreeing to settle the Microsoft Anti Trust case. This case has dragged on for years and it's great that there is an end in sight. However, I hope that the government will be able to fend off the advances from Microsoft's competitors and allow the proposed settlement to be finalized. This settlement is more than reasonable, especially given Microsoft's contribution to consumers and small businesses. Their company is conceding a lot more than called for so that they can concentrate on their business again.

I am a private researcher and use Microsoft products daily for my research and personal use. Consumers would suffer greatly if it weren't for the Microsoft products that keep people connected to their PCs. There is a reason that most people use Microsoft over their competitors; in most cases their products have proved far superior to others'. However, this settlement will allow more competition in the computer industry, as Microsoft has agreed to share more of their coding information and interface design. They have also made it easier for PC users to use non-Microsoft products on Windows by allowing computer makers to pre-install their competitors' software on Windows.

Please do not allow further scrutiny of this settlement. It is a good way to end the lawsuits and allow the computer industry and the economy to get back on its feet.

Sincerely,
Timothy Baker, Ph.D.

MTC-00031377

25 Valley View Court
Westford, Vermont 05494
January 16, 2002
Attorney General John
US Department of Justice
Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinion that the three-year lawsuit against Microsoft was unjustified and wrong. I do not think that Microsoft has infringed on consumer rights or violated antitrust laws. In fact, their innovation has brought so much to our country's technological growth that we owe Bill Gates a huge "thank you". I thought it ludicrous that giving away software was considered by some to hurt the consumer!

Under the terms of the settlement, I am glad to see Microsoft will not be broken up, but the concession Microsoft will be making are unfair to them as a private firm. For one, they should not be forced to disclose internal inter-faces and protocols to their competitors. They should also not be restricted form entering into third party agreements for exclusive distribution rights.

Even though the settlement is flawed, our economy and the IT sector in particular, cannot take any more wounds. Finalizing the settlement is in the best interests of the American public and we look forward to the end of the suit.

Sincerely,
Howard Dachs

MTC-00031379

Michael D. Fleming, CFP
Senior Financial Advisor
CERTIFIED FINANCIAL PLANNER
practitioner
American Express
Financial Advisors Inc.
IDS Life Insurance Company
suite 109
Jackson Plaza
503 Jackson Avenue
Elk River, MN 55330
Bus 763 241 9696
Bus 877 241 9696
Fax 763 241 1039
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft: I am writing in support of Microsoft's antitrust settlement with the federal government. I think it was fair and reasonable.

I also think Microsoft's willingness to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows, and their willingness not to retaliate against computer makers who ship software that competes with anything in its Windows operating system, or against software of hardware developers who develop that also competes with Windows or that runs on software that competes with Windows, is was a huge concession by Microsoft.

In closing, I hope this settlement will be approved so Microsoft can get back to the business of innovation. Thank you very much. With sincere regards for an innovative American future.

Michael Fleming, CFP

MTC-00031380

3314 Waterwood Drive
Florida 33872
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: United States business history shows that the less the government is involved in private businesses, the more prosperous we are as a nation. That said, I am glad to know that we are at a point in which the federal government is stepping away from the private affairs of Microsoft once and for all. The Government is far too involved in the world of business and further government involvement in the IT industry will only serve to further damage current technology and future innovation.

Under the proposed settlement, Microsoft will share information with its competitors, allowing them to more easily install their own software on the Windows operating system. Additionally, Microsoft will agree not to reiterate any competitors that sell, uses, or promotes non-microsoft software. A swift end to the suit is in order so that Microsoft and the economy may recover from the extended lawsuit. I support the settlement as it now stands so that the entire (illegible) can be put to rest.

Sincerely
Robert F. Swault

MTC-00031381

North Carolina Citizens for business & Industry
P.O. Box 2508, Raleigh, NC 27602 225 Hillsborough Street, Suite 460, Raleigh, NC 27603*
Telephone: (919) 836–1400 *Fax: (919) 836–1425
Executive Committee:
*William Cavanaugh III
Raleigh
*William A. Coley
Caharlotte
*John A Forlines Jr.
Granite Falls
*David P. Huskins
Linville Falls
*Darleen m. Johns
Raleigh
*Kelly S. King
Winston-Salem
*George W. Little
Southern Pines
*Henry E. Miller Jr.
Wilmington
*Stephen P. Miller
Asheville
*R.V. Owens
Nags Head
*Suzanne D. Sartelle
Jacksonville
*Pope Shiford
Hickory
*Will B. Spence Jr.
Charlotte
*Dr. Patricia Sullivan
Greensboro
*C. Avery Thomas
Burlington
*N. Bradley Thompson Jr.
Charlotte
*Dr. Julianne Still Thrift
Winston-Salem
*Edward L. Weisiger Jr
Charlotte
*Paul M. Wiles
Winston-Salem
Chairman Emeriti:
*L.M. Baker Jr.
Winston-Salem
*Edwin B. Borden
Goldsboro
*Thomas W. Bradshaw Jr
Raleigh
*Richard L. Daugherty
Raleigh
*Malcolm E. Everett III
Charlotte
*John O. McNairy
Kinston
*Earl N. Phillips Jr
High Point
*Sherwood H Smith Jr
Raleigh
*G. Smedes York
Raleigh
*Charles E. Zeigler Jr
Gastonia
*Stephen P. Zelmak Jr
Raleigh
Presidents Emeriti:
*Ivic L Clayton
*Edward Rankin Jr.
January 11, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse: As president of North Carolina Citizens for Business and Industry, I would like to heartily endorse the settlement that has been reached and signed off on in the Microsoft case. With the Department of Justice, nine state attorneys general and Microsoft in agreement, I hope that Judge Kollar-Kotelly will approve it as soon as possible.

The group that I head is the largest business association in the tenth largest state in America. For many years, North Carolina has been rated as one of the top states in which to do business. One of the chief goals of our organization is to continue to improve that situation so that industry will move into our state and provide jobs for all our citizens. That is also why NCCBI has worked on many programs in education and job training as well.

One of our key growth industries has been high technology. Even Microsoft itself has a facility in Charlotte that provides high-paying jobs to more than 1,000 technical workers in the area. And that is why, from the beginning, we believe that the lawsuit filed by the Department of Justice was not in the best interest of our state.

However, now that there is a settlement on the table, I would hope that it would go through quickly so that Microsoft can be freer to keep innovative products flowing into the marketplace. Our state has suffered a great deal because of the downturn in our traditional core industries and now is feeling the effects of cutbacks in high tech and telecommunications. The last thing we need is further government intervention into this marketplace, holding up economic progress.

I was highly pleased when our own attorney general Roy Cooper withdrew the state's lawsuit against Microsoft and signed on to the national settlement. This is the kind of positive move that I hope will influence this case to come to settlement.

Sincerely,
Phillip J. Kirk, Jr.

MTC-00031382

Georgia R. Short Route 1, Box 330 Columbia, VA 23038 434.842.5189
January 16, 2002
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse: I am writing to comment on the Microsoft settlement.

Not too long ago I was the victim of a costly and unnecessary computer crash that was partially attributable to a non-Microsoft software clash with my computer's Windows operating system. As a consumer I am particularly impressed with the approach the settlement takes to ensure competition and promote the best interests of the consumer public.

With regard to Microsoft's compliance with the settlement, the agreement appears to provide adequate resources, access and authority to quickly respond to any complaints about noncompliance. The independent Technical Committee's power to hire unlimited onsite staff at Microsoft's campus and at that company's expense is also an important and welcome settlement feature.

While the agreement positions the U.S. Justice Department as the sole enforcement authority, the fact that state Attorneys General may take steps to escalate complaints to the Court appears to add a further measure of protection that is important to consumers and the computer industry as a whole.

I appreciate the opportunity to provide my comments.

Sincerely,
Georgia R. Short

MTC-00031383

SENT BY: ALASKAN OIL INC : 1–17–2:10:45AM: SYRACUSE, NY-2025149082;# 1/1
ALASKAN OIL INC.
2020 LeMoyne Street
* P.O. Box 533
* Syracuse, NY 13211
* 315–471–8490
* Fax 315–479–6698
www.alaskanoilinc.com

January 16, 2002
Department of Justice
Antitrust Division
Ms. Renata Hesse, Trial Attorney
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I would like to express to you and Judge Kollar-Kotelly my support for a settlement between the United States government and Microsoft. I am the owner of Alaskan Oil, Inc., a company employing 125+ people located in upstate New York. Being involved in a highly regulated business, I am all too accustomed to the high pressures of doing business within an industry permeated with government regulation. I believe we do not need to add the high-tech sector to the list of over-regulated industries. The last thing the current economy needs are government lawyers and bureaucrats micromanaging the high-tech sector. It is my understanding that the antitrust laws were designed to protect consumers, not for some powerful companies to protect themselves from market competition. Microsoft competitors such as AOL Time Warner and Oracle should stop encouraging the government to fight their battles for them in court and fight in the marketplace instead.

Sincerely,
Richard A. Neugelauer
President

MTC-00031384

FROM: OFFICE DEPOT
FAX NO.: 864 587 2709 Jan. 17 2002
10:37AM P2
806 Thackston Drive
Spartanburg, SC 29307-2534
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Subject: Microsoft Settlement

Dear Attorney General Ashcroft:

We are writing to ask that you strongly advocate approval of the Justice Department's settlement with Microsoft at the close of the public comment period. It is important to the American economy that this matter be resolved, and that Microsoft be allowed to move forward with its business. It is our understanding that the settlement reached will allow for additional competition in the computer market without requiring Microsoft to operate from a competitive disadvantage. The formation of an oversight committee to monitor the settlement will also help avoid future unnecessary litigation. We appreciate being afforded the opportunity to address this important issue.

Thank you.
Sincere regards,
Robert D. and Aline Soutter
cc: Senator Strom Thurmond

MTC-00031385

John E. Echlin Jr.
321 Tom Fripp Rd.
St. Helena Island
South Carolina, 29920
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

This letter is to express my support for the settlement reached between Microsoft and the Justice Department. Enough damage has been done to the company by the pursuit of an unjust law suit that should not have ever happened. Microsoft has taken steps that give competitors a lot of what they wanted, although to some it is not enough. Further pursuit could damage Microsoft beyond recovery.

Not only has Microsoft been forced to give up proprietary products, it has cost the company and the shareholders money and has distracted management from its primary goal of managing the company.

Cordially,
John E. Echlin Jr.
cc: Senator Strom Thurmond

MTC-00031386

Barbara Thompson
8907 E Douglas
Wichita, KS 67207-1207
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I support the Justice Department's current settlement agreement with Microsoft. I feel that the case is being furthered by jealous competitors, much like the trouble AT&T incurred years ago. Microsoft should be allowed to get on with business.

I'm not a technical-minded person, but I think that Microsoft is a great company that offers innovative products. The terms of the settlement are fair, and Microsoft's concessions will allow for fair business competition. The increased consumer flexibility in selecting different program options will ensure that.

In addition, I feel that Bill Gates has contributed greatly, both financially and with his time, to charitable, cultural, educational, and community organizations. It seems that, proportionate to other companies, his generosity has far exceeded that of other CEOs. I particularly reference foreign automakers following the 9/11 tragedy. His record of giving, T believe, makes a significant and positive impact on every American. I urge you to settle the Microsoft case as quickly as possible. Thank you.

Sincerely,
Barbara Thompson

MTC-00031387

Michelle D. Blount
906 Manhattan Drive
Columbia, Missouri 65201
January 17, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D. Street NW, Suite 120
Washington, DC 20530

Dear Ms. Hesse:

As a technology management person for a large insurance company, I frequently deal with issues related to computer hardware and software. In addition to my professional involvement with computer technology, and perhaps more important, is my interest as a general consumer being represented by the Justice Department. Due to my involvement with technology, I've followed with interest the Microsoft settlement and am compelled to express my opinion on this issue. Keeping in mind the basic foundation for this lawsuit, which was for me protection of the average consumer, it is my opinion that to accomplish this there must be a quick resolution of the matter. This settlement has been far from expedient and has been very costly. The lawsuit has clogged up our federal legal system and it is time to agree to a settlement for the benefit of all. Again, keeping in mind the well-being of consumers, would it not be to the benefit of all for our school systems to receive free computer systems from Microsoft? While I have considered a competitor's opposition to this, their position is ancillary to the issue. The lawsuit was brought on my behalf, not to the benefit of companies that in some cases created their own failures by their own limited technology. Further, to consider a break-up of a company such as Microsoft would not be to any consumers benefit, A break-up of the company would be costly, confusing, and would ultimately harm the consumers. To act on my behalf, the Justice Department needs to resolve this issue immediately, agreeing to a settlement that benefits those it claims to have in it's best interest. This would be to put the rewards of the settlement back into the hands of the consumers via the education of our children.

Sincerely,
Michelle D. Blount
Manager—Technical Support Services

MTC-00031388

Sue French Lewis
PRESIDENT
COMMUNICATIONS
January 17, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am pleased to have the opportunity to comment on the Microsoft case settlement. It is my understanding all new Microsoft operating systems would have to utilize a mechanism that readily allows users to remove Microsoft's products—including the Internet browser, instant messaging tools, media player, and email utilities. In my opinion, this settlement would make it easier for users to switch and compare among competing products. I feel this part of the settlement provides end users like myself with the flexibility I prefer.

Sincerely yours,
Sue F. Lewis, President
Imagine Communications
313 Saint David's Lane
Richmond, Virginia 23221
504-213-053
FAX 804-213-3018

MTC-00031389

TIMOTHY J. DONOVAN

1081 Crosspoint Court
San Jose, California 95120
(408) 268–8288
January 17, 2002
VIA FAX
TO: DEPARTMENT OF JUSTICE
Re: PROPOSED MICROSOFT SETTLEMENT
(i.e., Tunney Act Review)

Gentleperson:

I recommend that the settlement between the Justice Department, Nine States and Microsoft be immediately approved, without reservation. From the outset the lawsuit brought against Microsoft was politically motivated. The lawsuit wrecked the economy and triggered the worst recession in the history of the United States. I believe the settlement is fair and just to all parties concerned. It is about time we stopped playing "politics" with the United States Economy and settle this lawsuit which will be a catalyst for a full recovery of our economy. Otherwise, you do not have to be a rocket scientist to conclude that if this settlement is rejected, it will trigger a deeper and broader recession.

Sincerely,
TIMOTHY J. DONOVAN

MTC–00031390

FROM: RICHARDS
117 Kingswood Drive
Florence, Alabama 35630
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It is a firm opinion that the past three years of litigation with Microsoft has been very damaging to the economy on a whole. I truly hope that this litigation process will come to end soon. My reason for writing to you is to express my support for the Microsoft settlement. I do not blindly support Microsoft. I am a very happy Microsoft user and have had no major problems with the services rendered. I am also extremely pleased with Microsoft's initiative to distribute software and services to school. This is a very impressive and well-needed effort. In following this case, I am also satisfied with Microsoft's strides to adhere to the guidelines of the settlement including their development of Windows XP to promote non-Microsoft software within Windows. As this entire issue has been dragged on for quite some time now, it is my hope that my input and that of others will help in the litigation process.

Sincerely,
Nolan Richards

MTC–00031391

THE ESSENTIAL FACILITY CONNECTION
January 7, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I would like to begin by stating that the scheme of breaking Microsoft should not have even been brought up. Since the conception of this suit, there has been an uncertainty of job security in the IT industry. It is vital that Microsoft and the DOJ work to push this issue through.

As you know, this settlement was arrived at after extensive negotiations with a court-appointed mediator present. In accordance to the settlement, Microsoft has agreed not to enter any agreements that would obligate any third party to distribute or promote any Windows technology exclusively or in a fixed percentage. Microsoft has also has agreed not to retaliate against computer makers that may ship software that would compete against the Windows operating system. This will make consumers happy, and ensure that competition reigns supreme.

I believe that it is too early to feel comfortable regarding this settlement. But, it is also necessary to resolve this issue so that the economy and the industry may continue to move forward during this stagnant time in our Nation's history. It is time to allow Microsoft to return to innovation.

Sincerely,
Randall Jarrel
Webmaster
5030 First Avenue South, Seattle, WA 98134
Tel: (206)268–9800 Fax: (206) 268–9801
Email: info@essention.com

MTC–00031392

379 Rattlesnake Road
Ridgeway, South Carolina 29130
January 17, 2002
Attorney General Ashcroft
US Department of Justice
Washington, DC 20530

Dear Mr. Ashcroft

I am writing to you regarding the Microsoft case. To me, Microsoft symbolizes what America stands for—free enterprise. They should not be punished for their ability to lead the industry and their competitors" inability to follow even closely behind. Ever since its inception, Microsoft has been an incredible act to follow. The company's software has been released with relatively few glitches, has been very affordable, and has made the professional and personal lives of its users much more convenient. I use Linux on several of my machines and think it is great but it is not suitable to the average consumer, only Microsoft fits that bill.

I also believe that the States that remain in opposition of Microsoft have not given close enough consideration to Microsoft's impact on the economic well being of this nation. With the country in a recession and at war, this is no time to negatively impact the economic backbone of the technology industry.

I know that when closure is brought to this matter, it will do a world of good for the economy and the industry. Thank you for doing your part to recreate this stability.

Sincerely.
John M. McSwain
cc: Senator Strom Thurmond
Congressman John Spratt

MTC–00031393

Michael D. Kania
724–935–3237
mikekania@prodigy.net
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support for the settlement between Microsoft and the US Dept. of Justice. The settlement will satisfy the desires of all involved parties, and should be allowed to proceed.

I do not think Microsoft has a monopoly. In fact, I believe Microsoft's innovation has benefited the country's growth. Not only, does Microsoft epitomize all the aspects of a successful business in a free market economy, but it positively affects our country's economy. Still, Microsoft is willing to accept sanctions, including sharing business secrets and non-retaliation clauses, that go well beyond the original concerns of the lawsuit in order to get on with business. As a Microsoft products user and supporter, I am glad to see this issue settled and I look forward to Microsoft's furture growth throughout the technology sector.

Sincerely,
Michael Kania
305 Oak Grove Court
Wexford, PA 15090
cc: Senator Rick Santorum
Marliene Branton
606 Harding Avenue
Pen Argyl, PA 18072
January 8, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft,

It is with great enthusiasm that I write to you today to express my support for the settlement reached in the Microsoft antitrust dispute. The litigation was unwarranted. The end has come. And the technology industry can finally return to normal.

Microsoft did not escape this litigation without compromise. The company agrees to restrict its business practices as to not retaliate against companies that develop or promote competing products. Protocols that can benefit other companies will now have to be disclosed. To assure compliance, Microsoft will be subject to the all-new technical review committee, which will also sometimes manage disputes other firms have with Microsoft. Microsoft has been generous in its compromises to competitors. Microsoft should be allowed to focus on business now. The IT community needs it. Our economy needs it. Please continue to support this settlement, and work through the appropriate channels to have it enacted permanently.

Sincerely,
Marliene Branton
cc: Senator Rick Santorum

MTC–00031396

Steve & Christine Bury
PO Box 378
Otto, North Carolina 28763
Telephone: 828–369–5908
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It is with great pleasure that I write to you today to express my support of the settlement reached between the Department of Justice and Microsoft. Three years have passed since this litigation was introduced. During these years, the technology industry has suffered a decline. In addition, many federal dollars were spent in this litigation process. The settlement that was reached, then, signifies a step forward. The settlement includes many different concessions. Microsoft agrees to license Windows at a uniform price for the majority of computer manufacturers. The largest twenty computer makers will now all be able to license Windows at the same price with the same terms and conditions. This will eliminate some competitions between manufacturers,

I wish to reiterate the importance of this settlement. Settling this case will untie necessary budgetary resources. During economic recession, this should be our priority,

Sincerely,
Christine Bury

MTC-00031397

2807 NW 83rd Street # C12
Gainesville, FL 32606–8623
January 15, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

It is time for litigation in the Microsoft antitrust case to come to an end. I am hopeful that you will ensure the settlement that was recently reached between you and Microsoft carried through and this case is finally ended at the federal level. After three years and great expense to your Department and Microsoft, there is a light at the end of the tunnel in this case: namely the settlement. This settlement by no means lets Microsoft off easy. Included in this settlement axe provisions that will change the way Microsoft does business. Microsoft will have to disclose an unheard of amount of proprietary code to competitors under this settlement so these competitors will be able to make better software and compete against Microsoft.

Regrettably extreme anti-Microsoft special interests may try to derail the settlement. They would prefer to see Microsoft damaged rather than see a reasonable conclusion to this case.

Sincerely,
Roger F. Bates

MTC-00031398

FROM : ARGO INTERNATIONAL
FAX NO. : 6105663807 Jan. 17 2002 11:47AM P1
826 Meredith Drive
Elwyn, PA 19063–1714
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 14, 2002

Dear Mr. Ashcroft: I am glad that the antitrust settlement with Microsoft has finally come to a halt. I feel that it has gone on far too long. It's about time that the government and Microsoft will come to an agreement as to how Microsoft runs its business.

It is good that Microsoft has agreed not to retaliate against software or hardware developers who develop or promote software that competes with or runs on Windows. It is also a sound decision that a technical committee comprised of three software engineering experts will monitor Microsoft's compliance with the settlement and assist with dispute resolution. This will ensure the best interest of all people, both Microsoft employees and consumers. Again, thank you for settling this matter. I give you my support. This country has more prudent issues to attend to at the moment.

cc: Senator Rick Santorum
Sincerely,
Wesley Argo

MTC-00031399

2113 Arrowhead Drive
Olathe, KS 66062
January 14, 2002
Attorney General John Ashcroft
US DOJ
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft I am writing to express my opinions on the Microsoft antitrust settlement. I do not believe the suit was fair to Microsoft to begin with. The Microsoft Corporation and its employees have attained their dominant status in the IT industry through hard work and innovation, not through a concerted and conscious effort to block the advances of competing software producers. Nevertheless, Microsoft was found to be in violation of antitrust laws and was brought to trial in the federal courts to answer for these violations. After three years of negotiation and mediation, Microsoft and the Department of Justice finally came to an agreement that would seem to be beneficial to Microsoft's competitors while at the same time allowing Microsoft to remain intact. Unfortunately, there are those who wish to see the settlement overturned and Microsoft destroyed. This is extreme.

Microsoft does not need to be rent asunder. The settlement has provided well for Microsoft's competitors. Microsoft has agreed to license intellectual property rights that fall under terms of the settlement to its competitors. Additionally, Microsoft will refrain from retaliatory behavior when software is put on the market that directly competes with Microsoft products. Microsoft will also not enter into agreements wherein a third party is required to endorse Microsoft programs or products either at a fixed percentage or exclusively.

Mr. Ashcroft, I do not believe further litigation against Microsoft is either necessary or wise. The economy has suffered while Microsoft has been tied up in this suit, and the IT industry has likewise been stunted in its growth. Microsoft has, through this settlement, appeased the demands of justice. I urge you to let the settlement stand. Thank you.

Sincerely,
Bill Barnhart

MTC-00031400

The House of Representatives
STATE OF SOUTH CAROLINA
STATE HOUSE
P.O.BOX 11867
Columbia 29211
(803)734–3065
DOUGLAS JENNINGS. JR
DISTRICT 54
JUDICIARY COMMITTEE
HOUSE MINORITY LEADER
HOME ADDRESS
151 BROAD STREET
P. O. DRAWER 995
BENNETTSVILLE. SC 29512
January 16, 2002
RENATA B. HESSE
ANTITRUST DIVISION
U.S. DEPARTMENT OF JUSTICE
601 D STREET NW
SUITE 1200
WASHINGTON, DC 20530–0001
RE: SETTLEMENT OF DEPARTMENT OF JUSTICE ANTITRUST ACTION AGAINST MICROSOFT

Dear Ms. Hesse: I write to express my own support for the proposed settlement of the US Department of Justice antitrust action against Microsoft. I understand that nine (9) of the eighteen (18) states that joined in that action support the proposed settlement. The Attorney General of my state, Honorable Charlie Condon, long ago withdrew our state from this lawsuit. As a practicing attorney and as Democratic Leader in our House of Representatives, I know that some disputes are best resolved through negotiations and settlement. This settlement is going to impose strict new pro-competition and pro-consumer requirements on how Microsoft does business. It results from extensive negotiations with a court-appointed mediator and is of course supported by the Attorney General of the United States. It's time to bring this case to an end with this settlement.

Sincerey,
Douglas Jennings,Jr.
Democratic Party Leader
South Carolina House of Representatives

MTC-00031401

HANNIG ENTERPRISES, INC.
SPREAD EAGLE DEV. CORP.
SPREAD EAGLE REALTY, INC.
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: As an industry expert, I would like to express my opinion on the recent settlement between Microsoft and the Department of Justice. While it is good that Microsoft will not be broken up, it is my opinion that litigation should never have occurred in the first place. To date, Microsoft has been the most reliable source of new products and technology. They have created services that no other company could and therefore have an unusually large market share. But their ability to be the best should not be punished. Instead other companies should be considered to perform at the same rate of growth and operating efficiency that Microsoft does. I look forward to the IT industry returning to normal and a large part of their comeback will be Microsoft's ability to focus on business, not politics.

Sincerely,
Charles M. Hannig
cc: Senator Rick Santorum
442 Office Plaza, 200 Plaza Court, Suite A, East Stroudsburg, PA 18301
(717)476–4747 * fax
(717)476–4749

MTC–00031402

North Carolina General Assembly
Senate Chamber
SENATOR CAL CUNNINGHAM
23RD DISTRICT
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RALEIGH, NC 27601–2808
(919) 733–5870
(919) 754–3252 FAX
(illegible)@NCLEG.NET
DISTRICT OFFICE 18 SOUTH MAIN STREET
PO BOX 2101
ALEXINGTON, NC 27293
(336) 249 7731
COMMITTEES
JUDICIARY I, VICE CHAIR AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES
≤APPROPRIATIONS/BASE BUDGET-EDUCATION
EDUCATION/HIGHER EDUCATION
INSURANCE AND CONSUMER PROTECTION
JOINT SELECT COMMITTEE ON VOTING PROCEDURES
RURAL DEVELOPMENT
TRANSPORATION
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Via facsimile: (202) 307- 1454
Re: Support for Microsoft Settlement

Dear Ms. Hesse, I am writing to express my support for the settlement that the Department of Justice and several states, including North Carolina, have reached with Microsoft. The settlement has earned bipartisan support and represents a reasonable compromise. I understand that Microsoft is committed to becoming a more responsible industry leader and has agreed to make many significant changes in its business practices. Along with our Attorney General, Roy Cooper, I believe that the settlement will be positive for consumers by enhancing competition in all aspects of the technology industry. I will be pleased to see this matter resolved as it will be a boost for the technology sector, a vital component of the North Carolina economy. I urge the Department of Justice and the court to approve this settlement.

Senator Cal Cunningham

MTC–00031403

9953 South Beach Drive
ainbridge Island, WA 98110
January 12, 2002
Attorney General John Ashcroft
U.S. Department of Justice
Washington, DC 20530–0001

Dear Attorney General Ashcroft: From the start of the U.S. vs. Microsoft lawsuit, three long years ago, I have been confused as to why our federal government would choose to pursue and punish one of the most beneficial companies in America today. Microsoft has done more for the world of computing than any other single entity in the world. Without their products, the enormous marketplace for IT products that exists today would simply not be around—not at all Included in the proposed settlement are many points that are punitive towards Microsoft. One point requires Microsoft to open its proprietary software interfaces to other software manufacturers. This is an amazing affront to Microsoft and its lifetime investment in its own product, and a first in an antitrust lawsuit. Yet, Microsoft is willing to renounce this and many others of its fair business practices to see an end to this unfortunate lawsuit. For the millions of Microsoft stockholder and consumers Of Microsoft products, an end to the suit cannot come soon enough. For many, the government's prolonging the suit has already hurt financially. In the end, I wonder who will benefit from all of this wrangling. The Department of Justice owes all involved parties an end to this suit. Thank you.

Sincerely,
Carol Shade

MTC–00031404

Joe TOWSON
P. O. 6383
Spartanburg, SC 29304
January 16, 2002
Attorney General John Ashcroft
U.S. Department Of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft, I am writing you in support of Microsoft's decision to settle then antitrust case with the federal government. I think it is very fair, and goes beyond what was originally at the center of the dispute. Microsoft made the decision to cede privileges to computer makers to give them the chance to reconfigure Windows before they ship it to consumers. This means that the computer makers can promote non-Microsoft software programs that compete with programs included within Windows. What's more, Microsoft made the decision to also cede protocols to other software companies in the hope that they will develop more streamlined software. Finally, Microsoft will not be allowed to retaliate against software or hardware developers who take advantage of these decisions. I think this settlement should be approved so Microsoft can get back to business. I urge you to approve this settlement.

Sincerely,
Joe Towson
Cc: Senator Strom Thurmond

MTC–00031405

2830 Cabeline Trail
Hamel, Minnesota 55340
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: I would like to express my support for the pending Microsoft settlement to be decided on this month. As a taxpayer, I have felt that the only thing the expensive government case has accomplished is precluding free enterprise from continued growth in the technology sector. Therefore, the measures promised in this deal should be more than adequate to allow fair competition while still allowing Microsoft to create quality products for consumers. Though created by pressures from weaker companies envious of Microsoft's success and technology base, the settlement has achieved the lawsuit's goals and then some. Microsoft will ensure no retaliatory action against alternative software developers or the hardware makers that work with those competitors. The decision will also allow access to their internal interfaces and licensing of their intellectual property. All of this will then be monitored by a three-person technical committee of software experts, to guarantee ongoing compliance. It seems like an obvious choice for the sake of the technology industry to approve this agreement and move on to more important issues. Please allow this action to stand and Microsoft to implement the moves they've promised.

Sincerely,
Gabi Demeritt

MTC–00031407

From: James Leahy
To Renata Hesse Fax. (202)616–9937 ,
Republican Assembly of Illinois
Thomas F. Roeser—Founder * James A. Leahy—Executive Director
January 15, 2002
Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530

Ms. Hesse: My name is James Leahy and I am the Executive Director of the Republican Assembly of Illinois (RAI), which is a grassroots organization dedicated to the principals of smaller government, local control and lower taxation. RAI has been vocal in its encouragement of ending the Microsoft anti-trust case. I am writing you today to provide you some of the reasons why we have called for an end to this case in the past.

In November of 2001 it was reported that Microsoft had reached a proposed settlement of the case with the US Department of Justice. Here in Illinois we were grateful to hear this case may be coming to an end. We were further encouraged to know that our own Attorney General Jim Ryan had decided to end years of legal wrangling with Microsoft and accept the settlement. This decision will bring an end to a case that has been very costly to the American taxpayer and the United States economy. Not only have millions of taxpayers dollars been spent on this case, the stock market has been greatly affected. One can see the decline of the tech stocks is closely linked to when the government took aim at Microsoft. This settlement will provide the technology industry, which performed so well throughout much of the 1990s, with the ability to get back to business without fear of more government overregulation and interference. It is clear that to reach this settlement all parties involved have worked together to resolve this case for the good of the tech industry and the nation's economy. It is my hope that the support of Judge Kollar Kotelly will be forthcoming.

Sincerely,

333 N. Michigan Ave. Suite 932 * Chicago, Illinois 60601 * 312–553–0097 *

MTC–00031408

Larry L. Koon
First Vice-Chairman
Alfred B. Robinson Jr.
Third Vice-Chairman
Marion P. Camell
William Clyburn
Gilda Cobb-Hunter
Daniel T. Cooper
Bill Couy
C. Alexander Harvin III
Mark S. Kelley
Kenneth Kennedy
Herb Kirsh
Harry B. Limehouse III
Donald B. Hottel, Jr.
Chief of Staff
Jeannie R. Potter
Executive Secretary
Thomas G. Keegan
Second Vice-Chairman
Merita A. Allison
Secretary/Treasurer
Lanny F. Littlejohn
E. DeWitt McCraw
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John W. Riser
J. Roland Smith
Lewis R. Vaughn
Annette Young
Beverly C. Smith
Director of State
Budgeting & Finance
Gordon 0. Shuford
Director of Legislation
Policy Analysis
Robert W. Harroll, Jr.
Chairman House of Representatives
P. 0. BOX 11867 TELEPHONE: 734–3144
Columbia, SC 29211
January 16, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 B Street NW
Suite 1200
Washington, DC 20530–0001
Re: Microsoft Settlement

Dear Ms. Hesse: This is to express my support for the settlement that Attorney General Ashcroft agreed to regarding the Department of Justice antitrust action against Microsoft. The settlement puts important new restrictions on Microsoft, yet it allows that company to continue to compete and innovate. Nine of the eighteen suing states decided to support the settlement, and our own state's attorney general, Charlie Condon, previously decided to stay out of the lawsuit. In my opinion it will benefit consumers, competition and the economy to allow this long-running lawsuit to be brought to a conclusion as soon as possible.

Sincerely,
Robert W. Harrell, Jr.
Chairman

MTC–00031409

W.D.S. FINANCIALS
Commodity Futures and Options
Managed Accounts
David Skinn
516 North Frederick Ave.
Oelwein, Iowa 50662–1244
319/283–3761
800/632–5973
January 17,2002 800/728–3761
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft: I am writing to express my thoughts on the government's anti-trust lawsuit against Microsoft, a case that I have disagreed with since Day One. This matter is one that never should have been pursued, and I, am glad that the two sides have agreed on a settlement. I want to ask that you please accept the terms of their agreement. Microsoft should be allowed to spend its time making products that will help the technology industry, rather than spending it on this unnecessary litigation. Settling now will be beneficial to independent companies, because Microsoft has offered to share information with its competitors. This seems more than reasonable, and I do not want to see this case dragged. out any longer than it already has been. The Justice Department you run made the right decision when it decided to end this litigation, and I hope you will make the right choice by supporting the Justice Department's settlement.

Sincerely,
David Skinn

MTC–00031410

1100 Cova Ciega Isle
St. Pete Beach, FL 33706
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft, I am glad that this Microsoft lawsuit has been settled. Aside from the obvious problems that the lawsuit had to begin with, it is certainly an unwanted distraction now that more important events in our nation have virtually eclipsed the lawsuit's importance. Resides, it's a fair settlement in its own right, yielding concessions to both hardware and software companies, including disclosure to both groups of interfaces and protocols within Windows. The settlement makes it so that Windows can be alterd to suit hardware companies more effectively if they want to sell non-Microsoft software with the Windows operating system preinstalled. This will be especially possible now, because Microsoft must redesign Windows to make it more accommodating to non-Microsoft applications, particularly sophisticated multi-media applications like RealAudio or QuickTime. Our national efforts should now be invested in issues like rebuilding our economy, creating jobs and strengthening our national security. We should not spend any more time continuing our self-inflicted damage to our country's business community by proceeding with any further action against one of our country's most successful businesses like Microsoft. I am hoping that this settlement will stand, and we can move on to more important priorities

Sincerely,
Rita Bane

MTC–00031411

Presto Telecommunications, Inc. Presto Telecommunications, Inc. 10509 Vista Sorrento Parkway
Suite 300
San Diego, CA 92121 USA
Phone: (858) 642–0600
Fax: (858) 642–0602
www.prestotel.com
January 17, 2002
Attorney General John Ashcroft, USDOJ
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft, Unlike AT&T of years past, Microsoft is not a monopoly. Microsoft has maintained its position of strength not by force, but rather by the superior quality of its products, its commitment to service, and its integration of software. I do not necessarily wish to make excuses on Microsoft's behalf, but the facts are that consumers and businesses alike simply prefer the reliability of Microsoft products to any of those offered by its competitors. Never let it be said, however, that there is neither room for improvement, nor room for someone else to develop a market better products than they. This is, after all, the very nature of the IT marketplace. In spite of these facts, however, our government badly misunderstood Microsoft's position in the volatile world of software and made the erroneous assumption that since Microsoft was as good as it was, it simply had to be breaking the law. This was never so. This settlement is good, providing changes in both design and licensing of Windows. It should be accepted, if only to remove this litigation from the courts and be done with it. I am writing to voice my support of it, while at the same time I am communicating my displeasure over this entire sordid episode.

Sincerely,
Ross Cook
Chief Information Officer

MTC–00031412

128 W Ormsby Avenue
Louisville, Kentucky 40203
January 7, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft, It's about time that the Department of Justice has decided to end their crusade against Microsoft. Finally, the average person will stop worrying about this and Microsoft can get on to making better products. Of course, making a better product is what got them here in the first place. It's because Microsoft simply makes a better product than their competitors that put them where they are, not because they're a monopoly. Companies should not be punished for doing well, especially not hardworking American companies like

Microsoft that have such a large impact not only on our economy, but on the way the average person lives his or her life. The settlement maintains the need for a strong position in the IT market for Microsoft, and does so without the anticompetitive secrets endemic to owning an operating system and corresponding applications. The settlement publicizes these secrets and thus gives more information to software companies to develop corresponding software. I think this whole thing with Microsoft should never have gotten started in the first place, but I am happy that it's finally over. I only hope that you will be able to use your influence to sway the rest of the states that continue to try and harass Microsoft just to get their own pound of flesh.

Sincerely,
Mary Ray

MTC-00031413

Catherine Verhulst
1560 N Sandburg Terrace Apt. 1112
Chicago, IL 60610–7709
January 17, 2002
Attorney General John Ashcroft
United States Department of Justice
Washington, DC 20530–0001

Dear Attorney General Ashcroft: I am writing to express my opinion of the recent antitrust case settlement between Microsoft and the United States Department of Justice. I think the lawsuits over the last three- years were unwarranted and unfair. The fact that there has been a tentative settlement is a relief, but I still think the penalties are too harsh and biased against Microsoft. Under the terms of the settlement, two points concern me. One, Microsoft is not allowed to enter into third party agreements for exclusive or fixed percentage distribution rights. This seems to inhibit Microsoft's ability to build and maintain market share in a competitive environment. Furthermore, companies such as Pepsi and Coca-Cola live by their ability to enter into o third party agreements. They are not being prosecuted, nor should they be. Two, Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price. This term essentially creates a monopoly whereby the different vendors can collaborate to raise prices at the same time. If Microsoft is not allowed to profit from it's unique ingenuity, new software that drives America's productivity and internet usage (particularly e-commerce) will cease to be developed at a rate which is beneficial. It is in the best interest of the American public for the settlement to finalize, because our economy and the IT industry in particular cannot afford to have Microsoft be hindered any longer. Please end this legal battle in a just way for our nation.

Thank you.
Sincerely for justice,
Catherine Verhulst

MTC-00031414

Gordon Stamler
16 Pine Island Court
Hilton Head Island, SC 29928
843 363 2939
Email gstamler@aol.com
Attorney General John Ashcroft
US Department of Justice 950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: I am very tired of the baseless, and seemingly endless, lawsuit against Microsoft, and am writing to plead for closure. I am not merely writing because I am a strong supporter of Microsoft, but also because despite the unfair way that Microsoft has been treated, I have still managed to muster a level of confidence in my government. I trust that my voice will not go unheard and that my opinion will count toward the prompt resolution of this matter. I have a very difficult time understanding why there is still such intense opposition against Microsoft. Over the years, Microsoft has proven itself a leader in the industry. This company's innovation is seen in almost every corner of the globe. I have used Microsoft products for several years and I have no intention to shift my loyalty from the company. I find their software affordable and user-friendly. In addition to that, I have been thoroughly impressed with the way Microsoft has handled the requirements of the settlement. They have established a Technical Committee to assist with conflict resolution; they have also made it easier for competitors to access Microsoft features; and have given computer makers the flexibility to configure Windows in order to promote non-Microsoft software. It is fair to say that Microsoft has not only been an industry leader, but a booster of the economy in past few years. They have recently proven their diplomacy in the way the handled this lawsuit and settlement. I am sure that they are looking forward to the end of this matter as are the majority of the American people.

Sincerely,
Gordon Stamler
cc: Senator Strom Thurmond

MTC-00031415

Steve Scott
5612 Lake Washington Boulevard, NE Kirkland, WA 98033
16 January 2002
Attorney General John Ashcroft
The US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft, I am writing to express my happiness about the Microsoft antitrust settlement. I believe that the government should accept the settlement and allow Microsoft and the industry as a whole to move on. Microsoft did not get off easy by any stretch of the imagination. The Company agreed to terms that had nothing to do with the products and procedures that were actually at issue in the suit, as well as the original claims of the suit. Disclosing intellectual property for competitors is a great example of these extensive additional terms. Now the government needs to accept the settlement after it doggedly negotiated it. Once the settlement is agreed to, Microsoft and the whole industry will be able to move on and capture the economic position that they once enjoyed.

Sincerely,
Steve Scott

MTC-00031416

American internet Services Network
Internet Services Worldwide
January 17, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft, With all due respect, the federal government's antitrust lawsuit against Microsoft was the antithesis to the principles of capitalism and free market enterprise. Therefore, I am very pleased with the settlement particularly because it spares Microsoft from being broken up. The settlement may not be perfect; however, the anticipated results will be superior to anything a costly, time-consuming, and counterproductive lawsuit would have accomplished. In fact, the government's original goal to break up Microsoft was seriously misguided. If successful, this would have been a disaster for standardization and reliable software products with regard to the Windows OS. In short, Microsoft would not function well as three separate companies. Innovation would be the first casualty of this scenario. The settlement should more than satisfy Microsoft's critics because, if one accepts the premise that Microsoft was a monopoly, the settlement's requirements will put an end to any anticompetitive behavior in very short order. Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system. It is also going to be required to share portions of its Windows source code with its competitors. These two aspects of the settlement alone will significantly improve competition in the marketplace—negating a break up of Microsoft I truly hope this matter is finalized and that the settlement is instituted very soon.

Daniel Lundahl
President
1611 Colonial Parkway o Inverness, Illinois 60067 o
Phone: 847 / 202—1400 o Fax: 847/ 202—4460

MTC-00031417

From: Jack 360 240 0589
To: Attorney General of the United
Date: 1/17/02 Time: 10:57:20 AM
2134 Stoney Beach Lane
Oak Harbor, WA 98277
(jkjou@whidbey.net)
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 17, 2002

Dear Mr. Ashcroft, I'm writing to encourage you to support the recent settlement Microsoft has reached with the United States Justice Department. Microsoft has agreed to settlement terms that will not only allow itself to return to the business of developing innovative software, but it will also make the software industry much more competitive.

Microsoft has, for example, agreed to grant computer makers and software developers broad new rights to configure Windows to remove or disable Microsoft products and promote non-Microsoft products, such as

Netscape Navigator, AOL Instant Messenger, or RealNetworks" RealAudio. Microsoft has also agreed to not retaliate against companies who choose to do this, nor will Microsoft retaliate against computer makers who ship operating systems that compete with Microsoft.

Microsoft has further agreed to not enter into any contract that will obligate third parties to exclusively or in a fixed percentage distribute or promote Windows.

These terms will result in a much more level playing field that allows smaller, developing software companies to compete and mature. For these reasons, I encourage you to support the recent settlement. As a late Computer User—started some 12 years ago at age 70—I find the Microsoft Products invaluable for development of my computer skills—a company that proves its excellence by being the leader of Product Development in the Computer Industry should not be haggled to such a great extent by the Government, States, and opportunistic lawyers.

Sincerely,
John K. Jouett
Lt. Col. USA Retired

MTC-00031418

FROM : JLS-FIN-SvC
FAX NO. : 717-545-5117 Jan. 17 2002
02:56PM P1
JAMES L.SMITH
1178 Twin Lakes Drive
Harrisburg, Pa. 17111
(717) 545-5117
(717) 545-5117
jls37@mindspring.com
January 16, 2002
Attorney General John Ashcroft
U.S. Department of Justice
Washington DC 20530-0001

Dear Attorney General Ashcroft:

This letter is an effort to encourage you and the federal government to proceed with the settlement of the Microsoft anti-trust case. This controversy has had a debilitating effect on one of our most innovative and productive companies and its dynamic industry without producing any noticeable benefit to anyone other than the legal profession. My greatest concern is that this is diverting resources from the more important objective of fighting terrorism. That is a topic for a much longer letter.

The settlement plan calls for these concessions from Microsoft: Abandon its more tenacious marketing practices. License its systems products to the largest computer manufacturers on nearly uniform terms.

Make Windows systems accessible to non-Windows software. Disclose to competitors various internal interfaces of Windows.

In a nutshell Microsoft is going to crack its own shell and open itself up to competition.

Please look favorably on the settlement. Thank you.

Sincerely,
James L. Smith

MTC-00031419

255 Algonquin Drive
Vergennes, Vermont 05491
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to urge your support for the recent settlement between Microsoft and the Department of Justice. This agreement ended a long court battle that, in my opinion, was a waste of both time and taxpayers" money. The basis of the antitrust suit was the monopolization by Microsoft of the computer industry. What was ignored was that Microsoft's systems work. Microsoft was one of the first companies to offer an integrated software package, allowing for the simplification of basic operating functions that we now enjoy. I believe that competition and free enterprise will eventually reign in any company. I do not believe any one company dominates a field for too long. I also beleive that for efficient computer use by the majority of people, it is imperative that the operations be as simple and consistant as possible. The Microsoft system isn't perfect yet and it probably never will be, especially if the government continues this harassment, which does nothing more than bleed off money that could be spent on further R&D—not lining the pockets of the lawyers. I bope that there are no further delays in the settlement process. Thank you.

Sincerely,
Doug Stuart
01/17/02 THU 13:07 FAX 802 759 2049
Champlain Bridge Marina 001

MTC-00031420

PARKER & ASSOCIATES REALTY
1330 LEYDEN STREET, SUITE 104
DENVER CO. 80220-2115
OFFICE 303-329-8210 FAX 303-329-0094
Date: 1/17/02
TO: Attorney General John Ashcroft
U.S. Dept. of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530
Phone: Fax 1-207-307-1454
CC: REMARKS: URGENT For your review
Reply ASAP Please comment
2636 Madison Street
Denver, Colorado 80205
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue. NW
Washington. DC 20530

Dear Mr. Ashcroft:

Microsoft has developed very innovative products in the past twenty years. I was saddened to see the Justice Department bring the antitrust case against Microsoft but was pleased to see a settlement was recently reached in this case.I trust you will see this settlement through to the end.

This settlement will create an unprecedented amount of openness in the technology industry. It calls for Microsoft to disclose its internal interfaces and the means by which Windows communicates with other programs. What this means is Microsoft will disclose more information to competitors than has ever been offered by an IT firm before to competitors. Sadly some competitors and others believe this settlement does not sufficiently "punish" or harm Microsoft. They would like this settlement withdrawn this case brought back to court. They are mistaken. The settlement is thorough, and after three years this case simply has gone on for too long, more than three years at this point.

Again, please ensure this settlement is put into place and turn your back those that seek to mindlessly promote more litigation in this case.

Sincerely,
Warren Scott

MTC-00031421

Power Solutions
From the desk of...........
William F. Nemecek
2617 Mt. Isle Harbor Dr.
Charlotte, NC 28214-5413
(704) 398-9703 Fax (704) 398-0077
Internet: powersolutions@iname.com
January 17, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

During this period of public comment. I want my opinion entered into the public record. Although I do not believe that Microsoft has ever operated as a monopoly, I think it serves this country to let the settlement, delivered by the Appeals Court, to happen without delay.

As a retired employee of IBM, I have witnessed antitrust lawsuits with IBM, and have seen the tendencies to always pick on the big guy, the one who has the greater market share, the company who has forged ahead with incredible innovation to separate themselves from the rest of the pack. From the point of view of the consumer/taxpayer, the antitrust suit against Microsoft was unfounded, has caused Microsoft to spend millions of dollars on their defense and the consumer ends up paying, not saving. The suit served as an agenda of a few companies to knock down the giant to create an "even playing field," rather than create and demonstrate superiority with their own products as many other companies have done.

Microsoft is still embroiled in more litigation. Please do not continue to punish a company for having great success and innovation with their products. The consumer and taxpayer ends up paying as a result. Microsoft has agreed to the terms that extend far beyond the products and procedures that were actually at issue in the suit, for the sake of wrapping up the suit. It is time to move on.

As a taxpayer and consumer, I urge you to please allow the current proposed settlement to be enforced. The black cloud this suit has over Microsoft needs to be lifted and would significantly effect the economic situation in this country. Microsoft sees how important it is to get back to building success and innovative products. So do I

Sincerely,
William Nemecek

MTC-00031422

ELLIOT BAY DESIGNS
C/O Rozann Cherry
108 15th Ave.

Kirkland, WA 98033
(425) 803–2992
January 17, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I'm writing to encourage you to support the recent antitrust settlement reached between Microsoft and the United States Department of Justice. I believe it is now time to end this senseless litigation so Microsoft can move forward with the business of developing innovative software.

As part of the settlement, Microsoft has agreed to grant broad new rights to computer makers and software developers to reconfigure Windows so that Microsoft products can be removed and competitive products can be installed in their places. Further, Microsoft has agreed to not retaliate against computer manufacturers or software developers who choose to do this. Nor will Microsoft retaliate against computer makers who choose to ship operating systems that directly compete with Microsoft Windows. Overseeing compliance of the settlement will be a "Technical Committee" comprised of three software engineering experts. This committee will also assist in any dispute resolution should a complaint be filed by anyone who believes Microsoft is not complying with the terms of the settlement. For these reasons, I encourage you to support this settlement so we can put this business behind us and move forward to develop better, more innovative software.

Sincerely,
Rozann Cherry

MTC–00031423

January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my thoughts on the Microsoft antitrust dispute. Microsoft is a company that has contributed a great deal to our society and the technology industry. Not only am I a stockholder, I am a republican voter who believes that "less government is better". I do not feel that Microsoft, or any other company, should be stifled or punished for being successful. They contribute greatly to our society as a whole, and also to the government tax rolls". If other companies do not have the technology that Microsoft has, then those companies should step up to the bar- set by Microsoft. We should not lower the bar, nor punish companies, for being successful. This smacks of socialism- and look at what socialism has created in Russia. In America, it should be that all those who work hard and strive to succeed have a shot at better lives—not to tell them "don't do too well or the government will penalize you for your ingenuity" (while still taking the money that these companies provide through taxes, business licenses, etc). Have the courts thought of the sheer number of people that are employed and are given superior benefits by Microsoft? With companies laying off employees left and right, having a stable job and superior health benefits is becoming a rarity. Obviously, I support the settlement that was reached in November- as do the majority of people that I associate with.

Microsoft should be allowed to focus their energy and resources to more productive activities, rather than litigation. Please support this settlement so this dispute can be resolved. Thank you for your support.

Sincerely,
Kristen Haynes
Owner / Broker In Charge
(704) 372–2252

MTC–00031424

Dale Stoughton
971 E. Durness Ct.
Wake Forest, NC 27587
January 17, 2002
Attorney General John Ashcroft
U.S.D.O.J.
950 Pennsylvania Ave. N. W.

Dear Mr. Ashcroft:

I am writing to let you know how I feel about the recent settlement between Microsoft and the Justice Department. I support the settlement that was reached, and am a supporter of Microsoft as well.

I don't think it was very wise for the government to prosecute Microsoft in the first place. However, it is my belief that the settlement will bring closure to this three-year dispute. The settlement contains seemingly dozens of tough conditions, such obligating Microsoft to license Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price. Also Microsoft has agreed not to retaliate against it's competitors use or promote other software that competes with Microsoft's. These insurance buffers ought to adequately curtail any unfair influence by Microsoft.

Thank you for your continuing good work at the D.O.J.

Sincerely,
Dale Stoughton

MTC–00031425

FENNER MELSTROM & DOOLING, LLP.
CERTIFIED PUBLIC ACCOUNTANTS
January 16, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Mr. Ashcroft:

As a regular user of Microsoft products, I would like to write in support of settling the federal lawsuit at the end of this month. The tactics used by Microsoft despite the opinion of the Justice Department are, in my opinion, not monopolistic and further legal action should no longer be necessary.

Analogous to the experience of Henry Rearden, as narrated in the book "Atlas Shrugged" by Ayn Rand, the disruption of the free-market system to stifle a business in favor of its lesser competitors only gives power to those who misuse or squander it. Microsoft has not used its power to gauge the public, so to punish the company only punishes consumers, who have been receiving a user-friendly and efficient product at very minimal cost. Though I support many of the concepts in the settlement, such as anti- retaliation laws, my overarching concern is with the government mandate on behavior that should be the personal business of Microsoft. In the interest of moving forward, this agreement is the best compromise possible and the most effective way to appease the critics without disabling a company's ability to create and grow. Please end this debilitating legal action and allow Microsoft to implement these very fair terms. All questions of competitiveness should be answered from here forward by letting the free market be able to determine the winner as it should be. Thank you very much.

Sincerely,
John W. Melstrom, CPA Partner
691 N. Squirrel Rd., Ste. 250—Auburn Hills, MI 48326
Telephone (248) 377–0900 Facsimile (248) 377–0909

MTC–00031426

Barbara M. Vakulskas
4300 Country Club Blvd.
Sioux City, IA 51104
(712) 239–1830
FAX (712) 252–5003
bmv@willinet.net
January 17, 2002
Judge Kolar Kottely
c/o Renata Hesse
Trial Attorney
ntitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Judge Kottely, The settlement of the Microsoft antitrust case was a positive occurrence for the United States.

Presently our economy is enduring some harsh economic conditions. The markets are falling, many businesses have had to close down, and we've endured thousands of layoffs. The technology industry in particular, which helped fuel much of the financial gains of the 1990's, is suffering through its own severe downturn. Although we are experiencing an economic slump, many believe that reviving the technology sector would be good for the nation.

The antitrust case was stifling Microsoft with hostile attacks and legal maneuvers. Settling the case was right for the economy and the well being of our nation. It's my understanding that Microsoft agrees to grant computer makers new rights to configure Windows, and will disclose different parts of their Windows operating system. This is a fair accord and all parties involved in the case will benefit. I support the settlement completely.

Thank you.
Sincerely,
Barbara M. Vakulskas

MTC–00031427

AMERICAN LEGION
NELSAN-HORTON POST NO. 204
THE AMERICAN LEGION
SEVENTH DISTRICT
DEPARTMENT OF MINNESOTA
LITCHFIELD, MINNESOTA 55355
Jan 17, 2002

Dear Renata B. Hesse,

Antitrust Division
U.S. Department of Justice
601 D Street NW
Washington, DC 20530–0001

I dont write these kinds of letter often and I only do so when I feel the issue is crucial enough to let our leaders know how I feel. I am writing you today to express my support of the Microsoft Settlement. My home computer and my computer at my office both use Microsoft software.

Microsoft is a business that countless people in this country have come to rely on for a great number of services. It was in the best interest of our nation to settle the case. I understand that Microsoft agreed to a new windows design obligation and set a uniform pricelist. By continuing this legal issue, we were only hurting our already weak economy and the chance of an economic turn around was all the more possible.

Most Sincerely,
Bruce (Illegible)
Commander

MTC–00031428

809 Balmoral Court
Inverness, Florida 34453
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Being a fervent supporter of Microsoft and its great success, I feel very strongly that this settlement is in the best interest of the public and should be concluded as soon as possible. Microsoft is a great company and should be recognized for it. In a country that encourages creative problem solving, it seems ironic that Microsoft is being punished in the first place. I believe that the terms of this settlement go well beyond the issues at hand. Microsoft has agreed to do everything in its power to address and change these concerns, which can be seen from the interim release of Windows XP (the new version of Windows that promote non-Microsoft software within the program). Microsoft has been punished enough. The recession has had a grave effect on state and Federal budgets and it is important that the technology industry be allowed to concentrate on business now

Sincerely,
Dr. Arthur F. Zaccaria (352) 726–1337
Arthur Zaccaria

MTC–00031430

SENATE OF VIRGINIA
BILL BOLLING
4TH SENATORIAL DISTRICT
COUNTIES OF HANOLA, CAROLNE
  COGEX, KING AND QUEEN KING
  WILLIAM MATHEWS, MIDDLESEW,
  NEW KENT AND RICHMOND
PART OF RIDGECHESTER COUNTY
POST OFFICE BOX 5637
MECHANGVILLE, VIRGINIA 23116
COMMITTEE ASIGNMENTS,
  AGRICULTURE, CONSERVATION,
  NATURAL RESOURCES EDUCATION
  AND HEALTH CRIMINAL LAWS,
  [ILLEGIBLE] AND ELECTIONS
January 17, 2002
Reneta Hesse, Trial Attorney
Antitrust Division
United States Department of Justice
601 D Street, NW
SUITE 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to advise you of my support for the proposed settlement agreement between the United States federal government and the Microsoft Corporation, and to encourage you to approve this settlement agreement. Based on the information I have reviewed, this proposed settlement agreement would be of tremendous benefit to consumers in Virginia and other states. The dispute between Microsoft and the federal government needs to be concluded as quickly as possible, and a fundamental part of this settlement agreement should be a recognition that Microsoft should be empowered to decide which products and features it offers to the public and how those products are priced. This is in the interest of competition, and bringing the best possible products, at the lowest possible price, to consumers.

The finalization of this settlement agreement is particularly important to the Commonwealth of Virginia. As you know, Virginia is a technology friendly state, and technology companies have flourished within the Commonwealth over the past several years. We need to do everything we can to encourage a continuation of this important economic development activity, and we need to make certain that we not impede the success of companies like Microsoft in any way.

Once again, I would encourage you to approve the proposed settlement agreement between the federal government and Microsoft and I appreciate your willingness to consider my views on this important issue.

Very Truly Yours,
BILL BOLLING
Senate
Fourth Senatorial District
BB/dpg

MTC–00031431

Dr. Neil Randle. DC
2002 Schuster Parkway
Tacoma, Wa. 98402
January 17,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to urge you, along with the Department of Justice, to accept the Microsoft antitrust settlement and put the case to rest. The suit against Microsoft has gone on for over three years. Persued by the previous administration, and is in part, cause of the present financial plight of our country. Microsoft, along with the rest of the technology industry, deserves to see this case settled.

The terms of the agreement are fair. Though many people think that Microsoft got off easy—I think they did not. Microsoft has accepted terms that are well outside of the scope of the charges in the lawsuit, in the interest of settling the suit.

The technology industry has been going through some tough times. The industry needs its leader back, so it is time to wrap up the suit and move on, Please finalize the Microsoft antitrust settlement.

Sincerely.
Dr. Neil Randle

MTC–00031432

CAPITOL OFFICE
State Capitol o Room 201C–A
201 West Capitol Avenue
Jefferson City. MO 65101–6800
Tele: 573—751–4039
Fax: 573—751-5271
E-Mail:mrichard@services.state.mo.us
MISSOURI HOUSE OF REPRESENTATIVES
MARK L. RICHARDSON
State Representative
District 154
HOME ADDRESS
P.O. Box 310
Poplar Bluff. MO 63901—0310
Tele: 573—785–4606
FAX: 573—785–8858
TO: Renata Hesse
FAX # (202)616–9937
FROM: Rep. Mark Richardson
Number of pages (including cover page): 2
DATE: 1–17–02
COMMENTS:
MARK L. RICHARDSON
State Representative
District 154
January 17, 2002
Renata Hesse
Trial Attorney—Antitrust Division
Department of Justice
601 D Street Northwest, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Over the years, I have found that when negotiations result in a little something for everyone, the negotiations were successful. This is exactly the result of the recent negotiations between Microsoft and the U.S. Department of Justice. The settlement allows Microsoft to create new generation products that can help the economy grow and help businesses better communicate with their customers and clients. Additionally, the needs and concerns of Microsoft's competitors were taken into account in the final agreement.

I support the recent agreement between the Justice Department and Microsoft. I regret that a Committee and the court system have had a hand in developing the future of software design instead of the free market. At the same time, this entire process was an effort on the part of competitors to cripple Microsoft and eliminate competition.

Point-of-sale should be the true test of competition. Either your product is marketable or it is not. The courts and regulatory agencies have no role in this important process when job creation and small business development is at stake.

Sincerely,
Mark L. Richardson
State Representative
MLR/bas

MTC–00031433

Dominion
William C. Hall, Jr.
Vice President
External Affairs and Corporate

Communications
120 Tredegar Street, Richmond, VA 23219
Mailing Address: P.O. Box 26532
Richmond, VA 23261
January 17,2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

With regard to the Microsoft settlement, the enforcement provisions of this agreement would make it quite easy to slow innovation and delay product launches by the filing of multiple complaints. Microsoft's competitors attempted to do with Windows XP.

I might add that there has been no consumer harm as a result of any actions taken by Microsoft. In fact, Microsoft's innovation has led to tremendous benefits for consumers, such as better products and lower prices. Products like Windows have allowed countless Americans to work from home in various enterprises without having to employ and pay for costly computer set-ups. Antitrust law is supposed to be about consumer harm that the government has been unable to show.

Yours truly,
Wm. C. Hall
William C. Hall, Jr.

MTC-00031434

MOBILIO INSURANCE AGENCY
259 Shrewsbury Street Personal Service for all kinds of Insurance
Worcester, MA 01804
808–752–2582
January 17, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D. Street NW, Ste 1200
Washington, DC 20530

Dear Attorney Hesse:

It is my understanding that the Justice Department is seeking imput under the Tunney Act review process, regarding the proposed settlement in the Microsoft lawsuit. Given the state of our economy right now, we should do everything possible to spur growth, not hinder it. As a small businessman, I understand competition. Competition is healthy for the American Econmomy. I use Microsoft products in my business and they have been a great help to me. They have allowed me to better serve our clients and manage my business.

There has been no consumer harm as a result of any actions taken by Microsoft. Microsoft's innovations have, in fact, helped many small businesses like mine grow. I urge the government to settle this case as quickly as possible.

Yours truly,
Mark J. Mobilio
Mobilio Insurance Agency

MTC-00031435

Lorena Jaeb
P.O. Box 428
Mango, Florida 33550
January 9, 2002
Renata Hesse
Antitrust Division
Department of Justice
Fax: 202–616–4937
Fax: 202–307- 1454

I am writing in regards to the antitrust case against Microsoft. I am pleased to hear that a settlement has been reached that will build new relationships between Microsoft and other technology companies. That connection will provide the marketplace with even more new and innovative products. As a longtime business owner, a mother and grandmother, I can remember the days when one had to communicate via phone or through U.S. Postal Service only. I also remember when one had to write checks and present them only in person to get cash, or had to go to the library to do literally all of one's research. Most of us including my children and grandchildren can't imagine life without e-mail, ATM machines or the internet because we rely on these things everyday to make our lives easier. Microsoft has certainly aided in providing the necessary tools for us to run our business, communicate with friends and family who are far away, and also to educate future generations.

Microsoft has gone one step further in today's world of technology that will greatly affect our families. Microsoft is working together with DIRECTV & Ultimate TV to change the way we watch television. We will be able to watch or record two live shows at the same time and then view them whenever our schedule permits. This also allows parents to better monitor what their children watch on television and at the same time allows parents to watch their shows. Not only has Microsoft changed the way we watch television, but we are now able to "surf" web sites on the internet,check e-mail and participate in educational programs with our children all at the same time! We can now work from home and spend quality time with our family. Microsoft has extended to many people like me the benefits that will serve my family for years to come. The settlement is a refreshing change in today's seemingly bleak times

Sincerely,
Lorna Yaeb

Telephone: (813) 681–5796 Fax: (813) 654–6369

MTC-00031436

FAX NUMBER: 1–509–575–6330
GRETA BRYAN
4823 Snowmountain Road
Yakima, Washington 98908
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support the settlement of the Microsoft antitrust case. This case should not have been brought in the first place and I, like most members of my community in Yakima, Washington, am anxious to see a conclusion to this litigation.

In settling this case, Microsoft is going beyond what should be expected of it. What strikes me as particularly impressive is Microsoft's agreement to disclose interface information to its competitors. They have even gone so far as to change the way they design their software. The design changes will result in consumers having the ability to more easily change the configuration of their system. By agreeing to these terms, Microsoft is really doing more than should be expected o f it. However, in the interest of ending this long, drawn out litigation, I support the terms to which Microsoft has agreed.

This case has had a devastating impact on the U.S. stock market. In this time of recession, the government should be doing whatever it can to encourage businesses to succeed. The continuation of this lawsuit will clearly have the opposite effect. I hope the Court and the Department of Justice heed the people's call for an end to this litigation. Thank you.

Sincerely,
Greta Bryan

MTC-00031437

3290 W 7545 S
West Jordan, UT 84084
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Microsoft has been involved in an antitrust suit for the past three years, and in November, when a settlement was reached, I began to hope that the whole ordeal would soon be over. Nine states, however, continue to remain litigious, and it worries me that this may not be the end. Microsoft and the Department of Justice have spent a great deal of time and money during this trial, and I can only imagine how much more would be squandered in the pursuit of additional litigation when a settlement has already been reached.

A court-appointed mediator oversaw round-the-clock negotiations from June to November. Microsoft agreed to terms in the settlement that restricted products and procedures that were not found to be unlawful by the court of appeals. A great effort has been made to right any wrongs Microsoft committed, and I believe the time has come to accept the settlement and move on. The settlement requires that Microsoft not take retaliatory action when directly competitive software is introduced into the market. Additionally, Microsoft has been required to reformat future versions of Windows so that the operating system will support non-Microsoft software. Microsoft also plans to document and disclose source code, protocols, and interfaces for use by its competitors to improve inter- operability among different software products.

I urge you, Mr. Ashcroft, to allow the settlement to stand.

Sincerely,
Paul Johnston

MTC-00031438

Suleiman Ajlouni
1019 Pear Tree lane
Wheeling, IL 60090
January 17,2002
John Ashcroft, Attorney General
950 Pennsylvania Avenue, NW

Washington, DC 20530–0001

Dear Mr. Ashcroft:

I urge you to settle the Department of Justice's ongoing antitrust lawsuit against Microsoft. I believe that the government has other priorities it should be concentrating on, and that Microsoft should have the freedom to continue producing innovative new products.

Microsoft software has been pivotal in my computer use from day one. The simple truth is that it works well, and others do not measure up. The government's case against Microsoft interferes with the company's ability to research and develop new technologies, and for that reason the matter should be resolved.

I find the terms of the settlement to be reasonable, and that Microsoft's agreement to make it easier to use other manufacturers'' programs within Windows to be an indication that they will promote fair competition. Please settle the Microsoft case and let them focus on doing what they do bettor than anyone else.

Sincerely,

SS

MTC–00031439

113 Fielding Ridge
Peachtree City, GA 30269–3249
January 16,2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

It has come to my attention that there has been a settlement reached in the three-year case against the government's case against Microsoft. I think the settlement is wonderful. I also believe that the government should1 leave Microsoft alone.

It is in everyone's best interests that this case be resolved quickly so all parties involved can attend to other matters. The American public would agree that any further pursuit of the case would be a waste of time, money and human resources Also, it would be harmful to not only the American economy, but the global economy as well. Microsoft will be making major changes because of this settlement. These changes will include the establishment of a technical committee to police Microsoft's compliance with the settlement. Also, Microsoft has agreed not to retaliate against. computer makers, and software developers who ship software or hardware that competes with anything in the Windows operating system. Furthermore, Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to the Windows operating system. This is a first in any antitrust settlement.

Once again, I ask that you accept this settlement, and terminate your efforts to further prosecute Microsoft, Thank you.

Sincerely,

Janet Siegel

MTC–00031440

307 Spencer Place
Paramus, New Jersey 07652
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this letter is to go on record as being a staunch supporter of the settlement that was reached between Microsoft and the Department of Justice last November. The settlement will finally bring an end to the three-year long litigation process that has cost both sides millions of dollars.

The settlement will greatly benefit competition, the technology industry, and the American economy. I am sure that you are aware that the economic downturn that started three years ago was partly caused by the suit against Microsoft. It only took three years for the economy to go from being the best it ever has been, to being stuck in the middle of a recession.

Again, I would like to go on record as supporting the settlement between Microsoft and the Department of Justice.

Sincerely,

Paul DeMaria

MTC–00031441

34 MEADOWBROOK DRIVE
SELINSGROVE, PA 17870
January 15 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

We write today to express our endorsement of settling the Microsoft case. Microsoft has gotten a raw deal in the recent antitrust case. After being the leading innovator of computer technology over the last 10 years and standardizing the industry, Microsoft is now the victim of competitors that cannot compete and politicians who are self interested. We are both glad to see that Microsoft will not be broke up, but under the terms of settlement, Microsoft will still be thoroughly punished. Microsoft had to promise to not retaliate against computer makers who ship software that competes with anything in its Windows operating system. They have also agreed not to retaliate against software developers who develop or promote software that competes with Windows or that runs on a non-Windows. These concessions and more represent stipulations that benefit competitors, but not necessarily consumers.

While flawed and unjustified, the settlement still represents the public's best interests because the alternative is further litigation. Our country cannot afford any more rounds of this. Please take a stand and make sure the settlement is finalized.

Sincerely,

Carol Koval

CC: Senator Rick Santorum

MTC–00031442

January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my support for the settlement that has been reached in the Microsoft antitrust dispute. I hope that we can finally put this litigation behind us. I appreciate all the work that you have done in bringing this settlement about, and I hope that you continue to support it. I feel that this case has been extremely bad for the American economy, not to mention the IT sector in general. With this settlement in place I hope that the damage that has been done to the economy can be rectified. Microsoft is one of this nation's biggest employers, and attacking them during this time of economic instability is unwise at best.

It is time for us to focus on more important issues. We need to put this past us so that we can continue to remain at the forefront of the technology industry throughout the world,

Sincerely,

Kathleen Kattler
304 Doral Drive
Pawleys Island, SC 29585
cc: Senator Strom Thurmond

MTC–00031443

B & W CONSTRUCTION
P.O. Box 758
Pine Valley, CA 91962
(619) 473–8353
January 17, 2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC'' 20530
VIA FACSIMILE
(202) 616–9937

Dear Ms. Hesse:

I am a small business person in California. Between my federal and state taxes, I pay among the highest rates in the country. For someone like me to receive a tax break, the political warfare is outrageous. I also am forced to deal with the ebbs and flows of the economy. Those same leaders who fight giving me a tax break are the first people to institute policies which slow the economy.

These are the same individuals who are asking the court to reject the settlement in US v. Microsoft They are not small business people struggling to make enough money to pay their tax bill They are politicians acting in their own self interest.

The Microsoft case is a perfect example of an issue which quietly destroys small business without anyone putting a stop to it. Since the day the Microsoft case began, I have been affected I have been affected by a slow down in the entire economy and I have been affected by a tremendous slow down in the technology industry. Now, California leaders are talking about a tax increase to help pay for programs. They talk about a tax increase in one breath and ask for more money to pursue the case against Microsoft in the next, It doesn't make any sense.

The Microsoft issue is hurting small business. Taxes hurt small business. If they are going to raise taxes, then don't spend money on ridiculous issues. The settlement should be approved. That money is better spent elsewhere (like whatever progams they are going to raise my taxes to pay for)

Sincerely,

Holly Bonnett, Owner
B&W Construction

MTC-00031444

Jan 17 02 04:l0p
MJ Rozmus CPA
760 510 4965 p. 1
Mark J. Rozmus
Certified Public Accountant
960 West San Marcos Blvd., Suite 230
San Marcos, California 62069
Voice : 760–510–4960
Facsimile: 760–510–4965
Mark J. Rozmus, MBA, CFE CPA
Diplomat: American Board of
Forensic Accounting
January 17, 2002 1454p mjr
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
VIA FACSIMILE: (202)616–9937

Dear Ms. Hesse:

I am sure the courts have received many e-mails and letters regarding U.S. v. Microsoft from many different technology related companies. Whether positive or negative, these dot-com, or e-commerce companies have a very direct vested interest in the outcome of this case. My letter is meant to articulate a different business perspective-one of a non dot-com perspective.

I have owned a small forensic accounting practice for over four years. It may seem that my type of business would have little concern about U.S. v. Microsoft, but that is not the case.

My forensic accounting practice is affected by this case in two ways. First, is the marked technological increase in efficiency and productivity gained through the use of current software available. Thetechnologyboom, in general, has revolutionized the accounting profession. Our ability to complete work projects in advance of trial dates and conferences, we well as produce effective financial presentations, grows exponentially with each year of new technological advancement. Much of this technological revolution is occurring because of the innovation of Microsoft and its Windows compatible software.

Actually, other products developed to work with Windows are changing the way accounting firms do business.

Since the case has started, we are seeing a real lack of innovation in the products available to us.

Secondly, our forensic accounting practice, as well as that of many clients, is being economically harmed by this case. My practice is based in California; one of the most technology defendant regions in the world. This Economic slow down brought on in part because of the Microsoft case has caused a general economic slowdown in the development and growth of many new California businesses. Once the case is settled, I believe,we will see the national economy rebound and demand for all products and services increase.

I ask the courts to approve the settlement on behalf of thousands of small businesses suffering from the current technological innovation slump.

Sincerely,
Mark J. Rozman
Certified Public Accountant
Your Financial Friend & Confidant

MTC-00031445

January 16, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As a business owner for more than twenty years, I have observed the changes in our economy, I have also seen increasing constraints by the federal government on US Companies while at the same time giving priority to foreign trade that can result in a competitive advantage for products produced in other countries.

The technology industry has been a driving force in many segments of industry and is one reason the U.S. has maintained its leadership role in the global economy. Companies such as Microsoft have encouraged innovation and entrepreneurship. Our economy cannot afford to have the government discourage companies like Microsoft from developing new products. The proposed consent decree between Microsoft and the U. S. Department of Justice reaches a middle ground for Microsoft and its competitors. Computer manufacturers will have the flexibility to configure Windows so Windows features such as the Internet Explorer can be removed and replaced with another web browser. A technical committee will be established to monitor compliance with the settlement. Other remedies wil1 also benefit Microsoft competitors while at the same time giving Microsoft the ability to keep innovating on behalf of consumers.While the settlement will impose new rules and regulations, resolution of this matter is important for consumers and for technology companies. It will also free companies to focus on the future and the fast changing digital economy.

Sincerely,
Fred Dula
6614 Gaywind Drive
Charlotte, NC 28226
704–366–6457
p.1 9197878031 Gary Pearce Jan 17 02 05:39p

MTC-00031446

Jan 17 02 05:29p Gary Pearce 9197878031 p.01
Jan- 17–02 08:42A P.01
17th January 2002
Office of Ms. Renata Hesse, Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202–616–9937
microsoft.atr@usdoc.gov

Dear Ms. Hesse

I believe it is time for the federal courts to bring an end to the Microsoft case

Although I am not fully sympathetic to Bill Gates, I do believe that Microsoft has abused its role, acting as a monopoly. It appears, however, that the Federal government,as well as a number of state governments including North Carolina, have concluded that the proposed settlement would protect against these monopolistic practices.Prolonged litigation has no positive effect for the consumer, or for our country, especially in light of recent tragic events. If the settlement achieves its stated goal, which I feel is providing a fair and reasonable solution to both sides in this dispute, then the courts should act speedily, approve it and go on.

I appreciate the opportunity to be heard on this important matter, as well as your attention to my letter.

Sincerely,
Tomas Franklin Castillo MSEd.

MTC-00031447

FROM: AMERICAN FINANCIAL ADVISORS PHONE NO.: 530 223 2230
Jan. 17 2002 02:32PM P1
To: U.S. Department of Justice
From: Dorothy Palfini
RE: Microsoft Settlement
Date: January 17, 2002

I have read the decision to reject the Microsoft Settlement. It stands to reason that the states and the 100 private class-action lawsuits, do not want to have this case resolved and settled. The longer the suit goes on the more Microsoft will have to lose. If they feel this is too good a deal, then why don't they give software, training and services to the schools. Then they would be able to benefit and give them the power to monopolize the computer market. This is just a joke.

Please get this case resolved ASAP. Then the technology economy will be able to get on with business and recovery.

Sincerely,
Dorothy Palfini
3011 Victor Avenue
Redding, CA 06002
Phone: 530–223–2195

MTC-00031448

JAN 17 2002 16:30 FR BANK OF AMERICA 515 235 7203 TO 912026169937 P. 01/02
Bank of America. N.A.
Private Bank
IA1–100–01–02
PO Box 1813
Des Moines, IA 50306–1813
Bank of America Fax Cover Sheet
To: RENATA HESSE
Company:
Telephone Number:
Fax Number: 202–616–9937
Date: 1–17–02
From: BRANDON HAMIL
Department: PRIVATE BANK
Telephone Number: 515–235–7255
Fax Number:
Number of pages including this cover sheet: 2
If transmission problems occur, please call:Message: PLEASE REVIEW THE ATTACHMENT.

THANK YOU,
Brandon Hamil

The information contained in this FAX message is intended only for the confidential use of the designated recipient named above. This message may contain contractual and proprietary information and as such is privileged and confidential. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the message to us by mail.

JAN 17 2002 16:30 FR BANK OF AMERICA 515 235 7203 TO 912026169937 P.02/02
Judge Kolar Kottely
c/o Renata Hesse
Trial Attorney
Antitrust Division -U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
January 17, 2002

Dear Judge Kottely,

I have followed the proceedings against Microsoft for some time now, and I want you to know that I feel the Justice Department has done an outstanding job of forcing a settlement in this case.I think that the terms you have agreed to in principle are sound,and will bring about a just result without doing damage to our already faltering economy. Because of the settlement, Microsoft cannot force a third party contractor to sell Microsoft products.

This demonstrates that the necessary steps were taken to reach a fair and balanced agreement. All groups enmeshed in the settlement negotiations should be commended.

I encourage you to move to a final settlement so the Justice Department can shift its resources to the many other areas of business and industry that need to be examined for abuse and predatory practices.

Sincerely,
Brandon J. Hamil
1205 31st Street
West Des Moines, IA 50266

MTC-00031449

FROM : Trackers Inc FAX NO. : 3193449200 Jan. 17 2002 03:58PM P1
TRACKERS INC.
in Illinois dba
EASTERN IOWA COLLECTION BUREAU, INC.
1970 Spruce Hills Drive
P.O. Box 1227 Bettendorf, IA 52722 1227
Phone (563) 344-8500 FAX (563) 344-9200
January 17,2002
Judge Kolar Kottely
c/o Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Judge Kottely,

I just wanted to send along my opinion that the Microsoft settlement with the nine state sand the Justice Department was even-handed and reasonable and will be beneficial for the American economy. Microsoft agreed to new relations with software developer and will design future versions of Windows that provide a way for computer-makers to promote non-Microsoft products. The poor-performing economy is the most important reason why I support this settlement.

As VP of Operations for a collection agency, I can tell you firsthand that America is suffering badly. Day after day our professional debt collectors hear the plight of many Americans of how they want to pay their bills but have lost the means to do so. Not only is the economy hurting by no new spending but it is also hurting by people's inability to pay for debts they rightfully owe. Too many people have lost their jobs, and there is no relief in sight since the September attacks. The tech sector has been particularly hard hit, and the slide had spread to other economic areas. This is a favorable conclusion to this complicated case that will give a boost to the troubled tech industry.

For the aforementioned reasons, I am sending you my support for the Microsoft settlement.

I appreciate your consideration.

Sincerely,
Kimberly Guy
Vice President of Operations
jm:KAG

MTC-00031450

Jan-17-02 02:43P P.01
K the koval group
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take advantage of this public comment period and give you my thoughts on the Anti Trust Case. To begin, this lawsuit is an embarrassment to American business. Microsoft is being forced to defend themselves for being a successful and profitable company, which is hallmark of what most people desire in a business. Now their successes and remarkable contributions are being punished because their competitors can come up with no other way to be successful on their own. This lawsuit is a huge waste of our tax dollars and I do not understand how it has been allowed to continue for so long.

I run a small manufacturing business and use Microsoft products to help fun my business.Microsoft has done so much for consumers and businesses alike: they are completely responsible for creating our standardized computer systems of today. Nonetheless, I see this settlement as a great compromise in this controversy. Although most of the burden falls on Microsoft, the settlement certainly addresses all of the issues alleged in the lawsuits, Microsoft is handing over its own intellectual property, giving its competitors important source codes and server protocols. Agreements have been made with computer makers that will allow them to promote non-Microsoft products within the Windows operating system.

The stipulations of this settlement go far beyond what is just and serving to consumers. However,this settlement is necessary to help move our computer industry and economy forward. Please help in upholding this settlement.

Sincerely,
John Koval
cc: Senator Rick Santorum
34 meadowbrook drive selinsgrove, pa 17870 570.743.1420 fax 570.743.7304

MTC-00031451

Jan-17-02 02:19 Modesto City Comm.Div. 209 491 4379 P.01
CITY of MODESTO
Bill Conrad
Vice Mayor
Chair Community Development & Housing Committee
Vice Chair Financial Policy Committee
Member Economic Development Committee
Intergovernmental Relations Committee
1010 Tenth Street
Suite 6200
P.O. Box 642
Modesto, CA 95353
209/571-5169
209/495-1926 Cellular
e-mail:
bconrad@ci.modesto.ca
Hearing and Speech Impaired Only
TDD 209/526-9211
VIA FACSIMILE
(202) 616-9937
January 16, 2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing this letter to the courts in support of the settlement in the case of US v.Microsoft. This letter is being sent in accordance with the Tunney Act which allows the public to offer comments on matter such as these.

I would like to offer the courts my opinion in support of the settlement as a technology consumer. It is my opinion that, should the settlement be rejected and this case continue to drag on, it will be the consumers who face the largest burden.Right now, I can go to my local computer store and buy a copy of Windows XP forjust under $100. Regardless of what Microsoft's competitors say, that is a very reasonable price for such a complex operating system. If this case drags on,Microsoft is forced to incur higher legal costs, and we see the technology industry stagnate even further, the costs passed on to consumers will steadily increase.

The courts should also note that the tenets of the current agreement are established in such a way that there will be minimal harm passed along to the consumer with regard to pricing. Should this settlement be rejected and even more restraints are placed upon Microsoft, I believe it is safe to say that there would be significant potential for higher prices to be a result.

I say again-please accept this settlement so we, as consumers, are not forced today higher prices for various technology products.

Sincerely,
Bill Conrad, Vice Mayor
City of Modesto
Citizens First!

MTC-00031452

01/17/2002 00:01 13364273554 RUSS OR JOYNER PAGE 01
Jo Ann Russ

212 Fairway Drive
Stoneville, NC 27048
January 15, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Ave.
Washington, DC 20530–0001

Dear Mr. Ashcroft,

It has come to my attention that a settlement has been reached in the justice Department's three-year,antitrust case against Microsoft. I want you to know that I support the settlement, since the terms are fair and reasonable tall parties involved. As a North Carolina resident, I've seen enough of these proceedings at the state and federal level for one lifetime. Microsoft will be making a number of specific changes to its business practices that will restore fair competition and prevent future antitrust violations. For instance, Microsoft has agreed to document and disclose its windows internal interfaces that its competitors might be able to use to write better programs.

Furthermore, the government will establish a "technical committee" to monitor Microsoft compliance with the settlement, and to act as a mediator for disputes about the settlement. Please accept the settlement, for the reasons I have already given you, Thank you.

Sincerely,
Jo Ann Russ

MTC-00031453

≤Jan 18 02 06:23a JOSEPH, E. SZYMANSKI 1-914–355–8328 P.1
≤January 18, 2002
≤Attorney General John Ashcroft
≤US Department of Justice
≤950 Pennsylvania Avenue, NW
≤Washington, DC 20530

Dear Mr. Ashcroft:

I am a staunch supporter of Microsoft. As such I believe that the current actions against Microsoft by the federal government have been frivolous.Microsoft has gotten to where it is by creating a better product, not by anti-competitive behavior. In any case the issue as it stands needs to be resolved immediately. The settlement reached last November seems to be fair and reasonable. Therefore, it seems to me that there is no longer any need for litigation as many of Microsoft competitors are advocating.

There are many provisions within the current settlement that will give Microsoft's competitors a significant advantage. In the settlement, there are many terms that Microsoft has agreed to that extend beyond the original scope of the lawsuit. Microsoft did this simply for the sake of wrapping up this case. In short the current settlement has forced Microsoft to alter many of its products,services and business practices to make it easier on its competitors. A technical committee will verify all of this. This is quite enough. I see no more need for an extension of the lawsuit.

I ask that the current settlement be implemented without further delay.The economy has slowed and it is time we allow the IT industry to get back on its feet. Please direct your efforts towards resolving this issue as fast as possible.

Sincerely,
Joseph Szymanski
Joseph Szymanski
149 Springbrook Rd.
Port Jervis, NY 12771–3628
I SUPPORT VFW

MTC-00031454

From: james a g beales Fax 843-5374245
To: John Ashcroft at US Attorney General
Page 1 of 2
Friday, January 18, 2002 6:18:44 AM
FAX
Date: Friday, January 18, 2002 Time: 6:16:00 AM
2 Pages
To: John Ashcroft
US Attorney General
From: james a g beales
Fax: 307–1454 Fax: 843–537–4245
Voice: Voice:
Comments:
From: james a g beales Fax 843–537–4245
To: John Ashcroft at US Attorney General
Page 2 of 2 Friday, January 18, 2002 6:19:24 AM
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Please add this letter to the many thousands of others which you have undoubtedly received in support of the settlement reached between Microsoft and the Department Justice. There is no doubt that his settlement will benefit the stability and strength of the American economy.

It is my understanding that the settlement terms, while harsh, have been agreed to by Microsoft in order that bring final closure to this three year affair. It has been costly, time consuming, and a serious distraction to the entire technology industry.

You and your department have seen the need to bring this saga to a close, and you are to be applauded for doing so.

Thank you.

Sincerely,
James A. G. Beales III
Cheraw, SC, 29520
cc. Strom Thurmond

MTC-00031455

From: Valued Sony Customer
To: Renata B Hesse
Date: 1/18/02 Time: 12:40:12 AM
Page 1 of 1
FACSIMILE COVER PAGE
To: Renata B. Hesse
From: Valued Sony Customer
Sent: 1/18/02 at 12:40:08 AM
Pages: 1 (including Cover)
Subject: Microsoft Settlement

Judge Hesse,

I wish to express my concern over the government's recent settlement of the Microsoft antitrust case. I believe it is far too lenient and will not fix any of the deeper causes of the Microsoft monopoly.

I concurred strongly with Judge Thomas Penfield Jackson's original decision, which I thought was accurate and comprehensive. The new terms proposed by the government, however, do not address the root of the Microsoft monopoly, as Judge Jackson's remedy did, Since this is so-called "Information Age," and the Internet is one of the great, if not greatest, outgrowths of this era. The Microsoft case is therefore extremely important, in my opinion, and I believe it vital that this or any company should not be allowed to dominate and stifle either the Internet, computer operating systems, or the applications market,

Thank you for your consideration
Nelson Cole
Sunderland, MA
413–397–9763
nelsonjcole@yahoo.com

MTC-00031456

13302 Coral Ridge Court
Houston, TX 77069–13343
January 17, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530–000 1

Dear Mr. Ashcroft:

I am happy with the terms of the settlement reached last November between Microsoft and the Department of Justice.

As a long-time Microsoft supporter, I believe the terms of the agreement are fair and beneficial. I strongly urge you to enact this settlement at the end of January.

It is very important to me that we not hinder free enterprise, and force companies to compromise the very creativeness that makes our country and our economic system great. Microsoft has made many concessions during this mediation process. Microsoft now agrees to disclose some of the information regarding the interfaces of its Windows system, which is more than reasonable. In addition, Microsoft has agreed to the formation of a review board whose sole purpose is to make sure that the terms of the settlement are enacted to the letter of the law. This condition should satisfy any skeptics who might believe Microsoft might not abide with the settlement's terms.

In all I believe that the settlement is fair to all parties and should be enacted soon. Thank you for your time regarding this issue.

Sincerely,
Tom Ryan

MTC-00031457

NORTHTECH SERVICES
506 White Pine Drive
Cadillac, Michigan 49601
January 17, 2002
Attorney General John A&croft
US Department of Justice
950 Pennsylvania Avenue, NW Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to show my support of the Microsoft settlement, which will be finalized at the end of the month. I have felt that this lawsuit reflected an attempt by the previous administration to challenge the strongest parts of our business community and do not support any further action. This deal provides a comprehensive attempt to remedy any lack of competition that might exist in the industry, so it should offer plenty of opportunities for competitors and be approved promptly.

With regular monitoring by a panel of experts, the agreement has guaranteed no favoritism of computer makers who use Microsoft software.

A uniform price list will be used for licensing of Windows to the 20 largest manufacturers and they will have expansive rights to replace Microsoft programs with those from AOL, Real Networks, etc. There will also be no contract restrictions in relation to promoting Windows technology as well. With this settlement, Microsoft has given its competitors an ample opportunity to succeed in the marketplace. Please take this chance and move on with that process now.

Sincerely,
Lynwood Taylor

MTC-00031458

Nancy C. Cocke
4900 Hassell Lane
Erie, PA 16509-4236
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I would like to take this time to urge you to please uphold the settlement that was reached between Microsoft and the Department of Justice on November 2, 2001. This case has been dragging on for nearly three years. I see no reason to prolong it further. There was obviously a great deal of effort put into negotiating this settlement. The settlement quite adequately addresses the issues of concern.

There is no reason to scrutinize this issue any further, especially since the Federal government has already agreed to terms. I thought that the initial settlement was too harsh on Microsoft to begin with. I would really hate to see any further legal action. Microsoft actually had to concede more than they initially desired in the settlement, but the American economy was more important to Microsoft's leaders than a few details listed in the settlement. Microsoft has agreed to share a lot of their coding and internal Windows interface information, making it easier for their competitors to come up with their own products. They are also creating a Technical Committee to oversee Microsoft's compliance of the settlement terms. This is all more than reasonable, especially given their huge contribution to our nation's economy.

Thank you for your time. Please respect the settlement. Thank you.

Sincerely,
Nancy C. Cocke

MTC-00031459

6194858519 GUS G SIPKES PO1
17224 Tam O Shanter Drive
Poway, California 92064
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue. NW
Washington, DC 20530

Dear Attorney General Ashcroft:

This letter is to give my support to the agreement reached between Microsoft and the Department of Justice. As I understand, there are sixty days for public comment and I would like to say that I believe this agreement is long overdue. It has done a great deal of damage to our economy and our country. It is now time to put this behind us and move forward. There are more important things to be concerned about.

Further, Microsoft has agreed to a number of demands from the Justice Department, enabling competing firms to have access both to certain software and new rights to configure systems with access to various Windows features. Microsoft has also agreed to be bound by requirements on their licensing practices. The company will have to use a uniform price list when distributing Windows to the largest twenty computer manufacturers in the nation. This is a great deal for a company to do.

Please do not pursue any further federal action against Microsoft. It is not in the best interests of the country. Thank you.

Sincerely,
Gus Sipkes

MTC-00031460

January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530.

Dear Mr. Ashcroft,

I am writing to ask you to settle the Microsoft lawsuits that have been going on for such a long period of time. Microsoft should retain the ability to produce the brightest and best of technology without impediments from the government. The continued harassment from the government is against the best interests of the public.

Please settle the suit.

Sincerely,
Alice Cason
52 Bellevue Ave.
San Rafael, CA 94901
Sent via fax 1-202-307-1454
1-202-616-9937

MTC-00031462

01/18/2002 08:43 FAX 804 7866310 VA HOUSE OF DELEGATES 001

VIRGINIA HOUSE OF DELEGATES
FAX COVER SHEET
To: RENATA HESSE
Organization; Antitrust Division—US Dept of Justice
FAX Number: (202) 616-9937
Phone Number: ( )
Local
Long Distance Number of Pages including this cover sheet: 2
From: DELEGATE THOMAS DAVIS RUST
Room Number: 516 Telephone Number: (804) 698-1086
Comments:

If you have any problems with this transmission please call the House Fax Center at: (804) 698-1558

Our Fax Number is (804) 786-6310

01/18/2002 08:43 FAX 804 7866310 VA HOUSE OF DELEGATES
002

COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND
January 17, 2002
THOMAS DAVIS RUST
730 ELDEN STREET
HERNDON, VIRGINIA 20170
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW #1200
Washington, DC 20530
By Facsimile: (202) 616-9937

Dear Ms. Hesse:

As the Delegate for the 86th District in Northern Virginia, I am writing to encourage you to approve the settlement agreement in the case of United States v. Microsoft.

Northern Virginia has been fortunate to attract a diverse and wide-ranging number of technology firms over the past 10 years, and with those firms choosing to locate here, we have insured our area's continued growth and future prosperity. While I have varied business interests across my district, the bottom line is that the settlement is a boon to our state's economy and for the economy of the nation as a whole.

Being a technology-friendly state put Virginia on the map again with the emerging IT industry in the 1990's. As IT has blossomed and flourished, our state has reaped the benefits as well. We embraced the new economy and profited from the relationship. Government should not be an inhibitor, but rather an enabler of consumers, entrepreneurs, and the marketplace. Technology empowers individuals, both here in the Commonwealth and beyond. It gives individuals previously unimagined opportunities to participate in the economy. It opens the door of opportunity to many including women in business who are harnessing the power of the IT economy and to children who are empowered with the learning and teaching potential of the Internet.

More than half of all Internet traffic travels through Virginia. In my district alone, there are hundreds of high-tech firms all relying on consumers, and beholden for their survival to the competitive system that Americans so cherish. This proposed settlement is tough, yet reasonable, and a valuable tool in bringing stability back to our economy. It is my hope that the Court will approve the proposed settlement between Microsoft and nine plaintiffs in the anti-trust case against it, including the federal government.

Sincerely,
Thomas Davis Rust
DISTRICT: (703) 437-9400—FAX: (703) 435-6855—E-MAIL:
DEL_TRUST@HOUSE.STATE.VA.US

MTC-00031463

JAN-17-2002 09:05 PM Bob Hailey 760 789 6480 P. 01

Ramona Unified School District
720 Ninth Street Ramona, CA 92065-2399
(760) 78905000 o FAX 789-9168
Renata Hesse
Department of Justice, Antitrust Division
Via Fax 202-616-9937

Ms. Hesse,

I was told that individuals wishing to express their opinion on the pending settlement in the case of US v. Microsoft are allowed to send their letters to number above. I support the settlement.

Please accept this letter and include it with those members of the public who believe the courts should approve of the settlement.

Though it is the purpose of the courts to review facts, it is nearly impossible to consider the politics of this issue. I am writing in support of the settlement because some of the politics should be explained to the Courts.

Specifically, I believe it is important to recognize that nine of the original states and the federal government have endorsed this settlement. That concept alone speaks volumes about whether the settlement is adequate. More importantly, those states that have rejected the settlement are not doing so based on the facts surrounding the case; they are doing so because of the politics. Attorney General Lockyer and Attorney General Miller are far from objective on this issue.

They have used it to generate favor among other hi-tech companies and raise their profile.

This is sent to you as my opinion and does not necessarily reflect the opinions of other board members. I ask that you include my name on the list of those supporting this settlement.

Bob Hailey
President, Board of Education
Ramona Unified School District

MTC-00031464

Jan 17 02 06:54p Gary Pearce 9197878031 p.1
SMITH HELMS MULLISS & MOORE, L.L.P.
Attorneys at Law
2800 TWO HANNOVER SQUARE
Raleigh, North Carolina 27601
PO Box 27525 (27611)
(919)755-8700
direct: 919-755-8816
fax: 919 755 8800
Peter.Hans@smithhelm.com
January 15, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I believe that the proposed settlement in the Microsoft antitrust case is a fair and reasonable compromise, and I want to express my hope that it will be approved by the federal court. North Carolina's Attorney General, Roy Cooper, carefully reviewed the settlement and concluded that it is fair and effective, as have attorneys general from a number of states and the U.S. Department of Justice.

The agreement contains significant restrictions on how Microsoft will be able to develop, license and market its software. But, most important, the settlement would permit Microsoft to return its focus to the development of even more outstanding products. These products have played a vital role in the productivity gains that have driven our nation's economic growth, and their development should not be unduly restricted.

America needs an economic boost today, and there could be no better boost than a settlement of this lawsuit as soon as possible.

Thank you for the opportunity to comment.

Sincerely,
SMITH HELMS MULLISS & MOORE, L.L.P.
Peter Hans
PH/gm
ATLANTA CHARLOTTE GREENSBORO RALEIGH WILMINGTON

MTC-00031465

01/18/2002 10:32 6033757915 CUSTOMSCOOP PAGE 01
CustomScoop
Your Online News Clipping Service
VIA FAX (202) 616-9937
January 18, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Thank you for accepting comments on the settlement with Microsoft.

The so-called Innovation Economy results in a higher standard of living for all of us. Our lives become richer because of the opportunities afforded us by a robust and vibrant technology industry. Litigation does nothing but tack on costs that in the end, we all must bear and for which we must all compensate.

The marketplace, not the courtroom, should decide winners and losers in the tech sector.

Instead of finding excuses and ingenious ways to continue prosecuting the case of U.S. v. Microsoft.

The settlement agreement the U.S. Justice Department and nine states agreed on with Microsoft seems fine. We need to move on, for the good of the technology industry and our economy as a whole. As an executive of a technology business, I can tell you that for every day this case is extended, we lose opportunities.

Sincerely,
Chip Griffin
Charles Griffin
P.0. Box 609, Concord, N.H. 03302
(800) 538-6420
www.customscoop.com

MTC-00031466

01/18/2882 12:55
=== COVER PAGE ===
TO:
FAX: 12026169937
FROM : KATHLEEN BART
FAX: 5165464919
TEL: 5165464919
COMMENT : PLEASE CALL
01/18/2002 12:55 5165464919 KATHLEEN BART PAGE 01
Jack Bart
1930 Sunrise Highway Apt. 17
Merrick, NY 11566
January 17, 2002
John Ashcroft, Attorney General
US Department of Justice
Washington, DC 20530

Dear Mr. Ashcroft

I am writing today to address the Microsoft antitrust settlement with the Department of Justice, I am in support of the settlement, and I feel that it is a just one. After three years in court we are well past the point where this issue should have been resolved. Now more then ever, we cannot afford to waste valuable resources debating an issue that has an acceptable solution on the table.

When the settlement is finalized Microsoft will be a changed entity, one allowing more consumer flexibility, and is far less combatively competitive. From this point forward, Microsoft will design Windows-family products to be user-friendlier to installation, un-installation, and configuration of its competitors'' peripheral software components. Furthermore, Microsoft will make available to its competitors various internal interfaces of the Windows product line for the purposes of their own software development. Should any of these interfaces fall under intellectual property rights, Microsoft will provide license for their use to the developer in question. I would highlight these aspects of the settlement to those who claim that Microsoft is just being given a free ride. In fact, many of the terms within the current settlement reach above and beyond the issues originally brought to suit against Microsoft three years ago.

At this point I strongly urge all parties involved to agree to the current settlement and wrap this antitrust issue up once and for all.

Sincerely,
Jack Bart

MTC-00031467

01/06/2002 12:57 914-2489689 SERGIO TOSCANO PAGE 01
4 Walker Drive South
Yorktown Heights, New York 10598
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

After three years of negotiation, the Department of Justice has announced a proposed settlement for the Microsoft antitrust case. All terms were arrived at with a court-appointed mediator. I favor finalizing settlement of this case at the earliest possible date.

Microsoft has agreed to allow competing technology developers to reconfigure Windows links to suit their needs so that they may promote their own software products. Microsoft has also agreed to make documentation and protocols available to competitors to facilitate these reconfigurations.

Basically, the settlement has provisions that satisfy all of the issues originally raised in the suit and the issues raised since then.

Further litigation would only serve to drag this case out and tie up the courts unnecessarily. I ask for your support to bring this case to a timely closure.

Thanks for your consideration.

Sincerely,
Sergio Toscano

MTC-00031468

Jan 18 02 12:02p Richard S. Vann 336-722-2895 p.1
Matthew Tilley
874 Cook Road
Rural Hall, NC 27045
January 16, 2002

Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
610 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am writing as a member of the public to respond for public comments concerning the Microsoft settlement before Judge Kollar-Kotelly. I am an executive at marketing firm with a wife and two children. I am also going back to school in hope of receiving my MBA. As you can probably tell, I am a great believer in people such as Bill Gates who came out of nowhere and built a great commpany whose products nearly everyone buys and who has made my work on the computer a whole lot easier.

During the entire period that the government has prosecuted Microsoft, I have strongly opposed the suit and written such an opinion to my Congressmen and Senators. I still believe that the suit was greatly aided by Microsoft's competitors who still are trying to influence the proceedings even today. However, since Microsoft the federal government and nine attorneys general have agreed to the settlement, I want to lend my support as an interested citizen I believe that with any settlement that the provisions are fair for both sides. These are much the same provisions as months earlier when the attorneys general turned down a settlement and sent the financial markets, including Microsoft stock, into a tailspin from which it has never recovered. Millions of dollars have been lost from people's pension funds and individual accounts because of government intervention and the refusal of some AGs to be reasonable.

I regret that these few individuals, even now, refuse to go along with the settlement and so their lawsuit continues. Thanks goodness, as a taxpayer, I will not any further burden because North Carolina has wisely withdrawn its lawsuit and the federal government, which wasted $30 million on the effort, will shortly shut its doors on this sad chapter as well

Thank you for your consideration of my views.

Sincerely,
Matthew Tilley

MTC-00031469

01/18/2002 11:43 MERGER & ACQUISITION SERVICES—12026169937 NO. 123 002
MERGER & ACQUISITION SERVICES, INC.
3060 Holcomb Bridge Road, NW Suite G
Norcross, GA 30071
January 17, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Stop the litigation against Microsoft. Enough is enough. The money spent so far on this case has been ludicrous, and the idea of more litigation makes me very upset.

There are many specific changes mandated be the settlement that will affect the entire IT industry. For instance, Microsoft already has agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows. Plus, the company has agreed to a "Technical, Committee" that will monitor Microsoft's compliance with the settlement. Clearly, these restrictions on Microsoft will benefit consumers the most.

The recession has had a large effect on state budgets and the federal budget, and it is important that the technology industry be allowed to concentrate on business now. Let Microsoft do what it does best and, at the same time, do what is best for all of us.

Sincerely,
David Schofield

MTC-00031471

01/17/2001 10:56 FAX 8037794953 S.C. POLICY COUNCIL 001/002
SOUTH CAROLINA POLICY COUNCIL EDUCATION FOUNDATION
1323 Pendelton Street—
Columbia, SouthCarolina 29201
(803)779–5022
(803)779–4953 Fax
FAX
DATE: 1–18–2002
# of Pages: 2
TO: Todd Kruse
COMPANY:
FAX: 1–202–307–1454 or 616–9937
PHONE:
FROM: Gerry Dickinson
MESSAGE:
01/17/2001 10:56 FAX 8037794953
S.C. POLICY COUNCIL
002/002
January 18, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

Attorney General Charles Condon ended the State of South Carolina's involvement in the Microsoft lawsuit in December 1998. At that time—more than three years ago—the state cited the fact that they could no longer justify the expense for a trial made moot by the actions of a competitive marketplace.

It was easy for the individual states to hop on the lawsuit bandwagon, but it is more difficult to step off. However, amidst the dot-com meltdown and terrorist threats, we have seen our economy shrink. While other states are facing huge billion-dollar budget gaps because of the recession and high spending levels, South Carolina has been fortunate to add jobs in the past two years.

American freedom and prosperity grew from the principles of free enterprise. Those who choose to enter the marketplace should be allowed the chance to succeed or fail on their own, unconstrained by continual litigation. But most certainly, they should be able to rest assured that running a successful business is not against the law.

The Department of Justice's proposed settlement has great merit. Advocates of limited government support the Department's settlement as a prudent way to save taxpayers from having more funds wasted on this case. Additionally, a settlement would send a positive signal to the businesses, which comprise the technology sector that the government isn't going to run their businesses for them. It is our hope that this settlement agreement—negotiated by nine states, the federal government and Microsoft—will receive your utmost consideration for approval.

Sincerely,
Gerald P. Dickinson, Jr.
Vice President for Policy
The Thomas A. and Shirley W. Roe Center for Public Policy Research
1323 PENDLETON STREET o COLUMBIA, SOUTH CAROLINA 29201 . (803) 779–5022 o
FAX (803) 779–4953 o www.scpolicycouncil.com

MTC-00031472

01/18/2002 16:50 1100000000 CDAEMB1ADKMAASSOC PAGE 03
January 16, 2002
Ms. Tracy Selmer
12513 Cliff Edge Drive
Herndon, VA 20170
Ms. Renata Hesse
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Now that the federal government has finally settled its long antitrust case against Microsoft, I hope the states still involved with the suit will do the same. It is time for consumers to come together and move the economy and our country in a positive direction—a forward and economically strong direction.

The settlement's provisions protect Microsoft's ability to continue to be innovative and, this hopefully, will revitalize competition and the technology industry for the betterment of us all. Consumers and investors will reap the benefits of this settlement and this should help to get the engines running toward a healthy and prosperous economic stance.

Sincerely,
Tracy Selmer

MTC-00031473

01/18/2002 10:50 1100000000 CDAEMB1ADKMAASSOC PAGE 02
January 17, 2002
Mr. Michael Frey
14613 Old Kent Road
Centreville, VA 20121
Ms. Renata Hesse
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As jobless rates and economic indicators continue to tell consumers that times are getting worse, I think Microsoft's settlement with the federal government could provide a beginning bright light. By settling the case, we could once again see the competitive prosperity of the 90's foster the necessary kick the economy needs to move in a positive direction.

The high tech industry has been a driving force for our nation in recent years and if Microsoft's settlement revitalizes competition, than we should welcome this opportunity. This long drawn out case should be resolved once and for all, and the focus should be on lowering the jobless rate, increasing consumer confidence and strengthening our economy.

Sincerely,
Michael Frey

MTC-00031475

From : JoeT SemEnt
PHONE NO. : 1 407 977 9625 Jan. 18 2002 06:45AM P1
P.O. Box 622363
Oveido, FL 32762–2363
N Miami Beach, FL 33160
January 14, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530–0081

Dear Mr. Ashcroft,

I am writing to- express my support for Microsoft's antitrust settlement with the federal government. I think it is fair and reasonble

As I understand it, Microsoft agreed to not enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively or in a fixed percentage, meaning that Microsoft can't exploit their position to force-sell Windows to smaller companies.

In case there was doubt about lax enforcement, the government will establish a "Technical Committee" to monitor Microsoft's compliance with the settlement and assist with dispute resolution, in case disputes arise.

Mr. Ashcroft, I think this settlement is very good. Its a win-win for everybody, I urge you to approve it.

But is suspense, as Hitchcok states, in the box. No, there isn't room, the ambiguity's put on weight.

Sincerely,
E.L. Troendle

MTC-00031476

JAN 18 02 12:24PM SC ATTORNEY GENERAL P.1
STATE OF SOUTH CAROLINA
CHARLIE CONDON
ATTORNEY GENERAL
Office of the Attorney General
ColumbiA 29211
January 15, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 "D" Street, NW
Suite 1200
Washington, DC 20530–0001
Re: DOJ Proposed Settlement with Microsoft

Dear Ms. Hesse:

As Attorney General of South Carolina I commend the United States Department of Justice and Microsoft for negotiating a settlement to the DOJ antitrust lawsuit. The parties conducted extensive negotiations with the help of a court-appointed mediator and have reached an agreement that needs to be implemented. The interests of consumers, market-competition and the national economy are best served by bringing this lawsuit to the agreed conclusion as soon as possible.

Yours very truly,
Charlie Condon
(803)734–3970 (803)734–3046 Facsimile

MTC-00031477

01/18/02 11:32 FAX 18157565443 T D HARRELSON 01
333 South Seventh Street
Dekalb, IL 60115
January.17, 2002
Attorney General John Ashcroft
US Departmnt of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to express my support for putting an end to the antitrust case brought against Microsoft. As an ordinary consumer, Windows is beneficial to my everyday life, and I would like to see Microsoft able to operate without further legal complication.

Microsoft has made more concessions to the government in the settlement than were charged n the suit. They have agreed to new removal capabilities for Windows-based programs along with documentation of the coding that will make it easier for competitors" software programs to run with Windows. I think Windows is a very friendly operating system, and these charges will only serve to make it a stronger product.

Microsoft has endorsed this settlement to put a quick end to the litigation. I urge you to finally close the lawsuit against Microsoft as soon as possible.

Sincerely,
Terry Harrelson
cc: Representative J. Dennis Hastert

MTC-00031478

Jan-19–02 12:15A MIDWAY LITTLE GENERAL 573 446 8100 P.01
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I write you with concern over the recent settlement between Microsoft and the Department of Justice. I was happy to know that the settlement was finally reached, only to be disappointed when I learned that it is being even further scrutinized. After three years of litigation, it seems ridiculous that there should be any further hold up on this agreement.

At this point in time, there are many other topics to be concerned about in our nation. Spending our precious resources on an agreement that has already been under severe scrutiny seems ridiculous, compared to more recent issues. Beyond that, this settlement has already been extremely well monitored and serves the interest of all parties involved. It is time to let these terms speak for themselves and let our IT sector get back to business.

Let us not be the ones to delay the very process we initiated. Now that the technology industry has agreed to move forward in this fashion, let us allow them to do so. I ask that you help support this settlement in its current form.

Sincerely,
Cheri Perry
203 Broadfield Drive
Columbia, MO 65203

MTC-00031480

01/18/02 10:06 FAX 3192175 001
STATE CAPITOL
P.O. Box 942049
SACRAMENTO, CA 94249–0075
(916) 319–2075
FAX (916) 319–2175
DISTRICT OFFICE
15708 POMERADO ROAD, SUITE 110
POWAY, CA 92064
(858) 385–0070
FAX (858) 385–0179
Assembly California Legislature
CHARLENE GONZALES ZETTEL
ASSEMBLYWOMAN, SEVENTY-FIFTH DISTRICT
COMMITTIEES:
APPROPRIATIONS
EDUCATION
ENERGY COSTS AND AVAILABILITY
GOVERNMENTAL ORGANIZATION
HEALTH
RULES
SELECT COMMITTEES:
CALIFORNIA CHILDREN'S HEALTH
LOW PERFORMING SCHOOLS
TRANSPORTATION CONGESTION RELIEF
CALIFORNIA-MEXICO AFFAIRS
STANDING SUBCOMMITTEE:
VICE CHAIR, SEXUAL HARASSMENT PREVENTION AND RESPONSE
January 14, 2002
Renata B. Hesse
U.S. Dept. of Justice, Anti-Trust Division
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

It is my understanding that the federal government has negotiated a reasonable settlement agreement with Microsoft that is in the nation's best interest. This settlement will place sanctions on Microsoft without destroying the company nor punishing its employees.

The sanctions are meant to encourage greater competition in the software industry by giving consumers a greater choice when purchasing and enhancing their computers.

The agreement sounds to me to be a fair resolution of the matter and I encourage you to continue your efforts to settle this case.

Sincerely,
CHARLENE G. ZETTEL
Assemblywoman, 75th District

MTC-00031481

FROM : FAX NO. : 13607341875 Jan. 18 2002 09:06AM P1
Facsimile Transmittal
ULTRA TANK SERVICES, INC
Ph: 1–360–734–7612
Fax: 1–360–734–1825
P.O. Box 664
Bellingham, wa 98227–0664
Date: 1–18–02
Attention: Mr. Ashcroft
From: George Willet
Number of pages (including this cover): 2
Comment(s):
Reply requested Yes No
FROM :
FAX NO. : 13607341875 Jan. 18 2002 09:07AM P2
ULTRA TANK SERVICES, INC.
P.O. BOX 664
BELLINGHAM, WA 98227–0664

OFFICE PH: l-360-734-7611
FAX: l-360-734-1875
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
January 12, 2002

Dear Mr. Ashcroft:

I would like to voice my opinion on the recent events surrounding the Microsoft Anti-trust case. I think it is wonderful that there has been a settlement reached. I support Microsoft on this 100%. It is time to put this issue to bed and the settlement is a perfect way to do so.

I don't see how there is any dispute on this settlement not representing the public interest. Microsoft has been providing us with user-friendly technology for years. They've changed the computer industry forever and made computers something everyone uses. The settlement calls for Microsoft to give away a bunch of their information so that their competitors have an edge on things. And if that's not enough, there is a Technical Committee to make sure that Microsoft does what they're supposed to, including dispute resolution. I see this as more than fair.

Microsoft has created one of the best consumer products of our time. They've changed the way people do business. Please don't punish them any more. Respect this settlement and put this lawsuit to bed forever. <<PARA5>>

Sincerely,
George Willet

MTC-00031482

JAN-18-02 FRI 12:26 PM TACO TREAT FAX NO. 406 727 7583 P. 1
Jack Deck
1316 Central Avenue
Great Falls, Montana 59401
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

A reasonable and equitable settlement has been reached in the Microsoft antitrust case with the Justice Department, I am pleased that this settlement has come this far and I am writing your office to encourage you to see that it is instituted. Microsoft has many rivals and unfortunately some are pressuring for this settlement to be withdrawn and Microsoft forced back to court. They care little for the settlement and more for seeing that Microsoft is damaged. This is unfortunate because the settlement will create more openness and competition in the technology field. This settlement will end any contractual restrictions that may have been harmful to Microsoft's competitors. This settlement also will allow competitors extraordinary access to Microsoft's internal interfaces and server interoperability mechanisms. No software company has ever opened up their books more than Microsoft than in this settlement. Despite all the concessions by Microsoft competitors will contiue to press for a continuation of this case. Only resolute backing of this settlement by your people can ensure this settlement is realized.

MTC-00031483

01/18/2002 12:43
018/2002 12:43 5165464919
KATHLEEN BART
PAGE 01
JACK BART
1930 Sunrise Highway Apt. 17
Merrick, NY 11566
January 17, 2002
John Ashcroft, Attorney General
US Department of Justice
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing today to address the Microsoft antitrust settlement with the Department of Justice. I am in support of the settlement, and I feel that it is a just one. After three years in court we are well past the point where this issue should have been resolved. Now more then ever, we cannot afford to waste valuable resources debating an issue that has an acceptable solution on the table.

When the settlement is finalized, Microsoft will be a changed entity, one allowing more consumer flexibility, and is far less combatively competitive. From this point forward, Microsoft will design Windows-family products to be user-friendlier to installation, un-installation, and configuration of its competitors'' peripheral software components. Furthermore, Microsoft will make available to its competitors various internal interfaces of the Windows product line for the purposes of their own software development. Should any of these interfaces fall under intellectual properly rights, Microsoft will provide license for their use to the developer in question. I would highlight these aspects of the settlement to those who claim that Microsoft is just being given a free ride. In fact, many of the terms within the current settlement reach above and beyond the issues originally brought to suit against Microsoft three years ago.

At this point I strongly urge all parties involved to agree to the current settlement and wrap this antitrust issue up once and for all.

Sincerely,
Jack Bart

MTC-00031484

the CLONE STORE
A Clone Store Corporation Company
884 Yale Avenue, Suite 1500
Lake City, Pennsylvania 16423
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

After three long years disputing an unnecessary case, I was pleased to hear that a settlement was finally reached between Microsoft and the federal government. I hope that no further action will be taken against Microsoft at the federal level.

The settlement is fair and reasonable, and was arrived at after extensive negotiations with a court appointed mediator. Microsoft agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit, for the sake of wrapping up the suit. For example, Microsoft will not retaliate against vendors that use or promote non-Microsoft products,

Considering the many terms of the agreement, there should be no reason for the government to pursue further litigation against Microsoft on the federal level.

Sincerely,
Douglas L. Thurston
cc: Senator Rick Santorum
Committed to Quality NNOVELL
814-744-0759 01/18/02 12:21PM P001
DOUG THURSTON

MTC-00031487

01/17/2002 23:00 2036559359
SMEGO
PAGE 01
Mary Ann S. Smego
7 Lighthouse Way
Darien, CT 06820-5612
January 11, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to express my relief at the fact that the Department of Justice has finally reached a settlement in the Microsoft antitrust case. I don't feel that this case should have ever been brought against them in the first place and am happy to finally see it over and done with, at least at the Federal level.

The settlement answers many of the complaints that Microsoft's competitors had with the company. Now they not only have to make it easier for people to write programs for Windows, but there's now a federal review board to make sure they comply with all the terms of the settlement.

I appreciate you taking the time to hear me out on this matter and I hope that you will do everything in your power to make sure that the rest of the states who haven't settled quickly do so.

Sincerely,
Mary Ann S. Smego

MTC-00031488

To: Attorney General John Ashcroft
US Department of Justice
From: steve dasaro 01/18/02
9:53:12 Page 1 of 1
Sent by the Award Winning Cheyenne Bitware
Janet & Stephen Dasaro
47 Cedar Drive
Massapequa NY. 11758
H (516) 799—0727 B (516) 997—8030 l/18/02
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This is to address the recent settlement between the Department of Justice and Microsoft. This case, in my opinion, has gone on far too long. The initial lawsuit was not merited. It was more a political act, than any assault on a monopolistic business. Rivals of Microsoft could compete in no other way than to haul Microsoft into court, the Department of Justice agreed to sue far too readily. I am disturbed this lawsuit has set a dangerous precedent for future companies.

Evidently, if a firm gets too successful, too big, they can be assured of being hauled into court. Microsoft is successful because it produces a good product. Bill Gates worked long and hard to make compatible software available to, and understandable to, the average lay person. The case has been settled, and Microsoft did not get off easy. Microsoft has agreed to grant computer makers new rights to configure Windows to better promote non-Microsoft software.

Also, Microsoft has agreed to share any code or programming that Windows uses to communicate with other programs. I wonder if Microsoft's rivals would do the same.

Let's put this case behind us and move forward. I support the agreement, and look forward to the end of this case.

Sincerely
Stephen F. Dasaro

MTC-00031489

JAN-18-02 FRI 09:24 AM JERRY KOSSACK CNC 209 431 7656 P.01
Jerry Kossack, CNC
Certified Nutritional Consultant
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
1-202-307-1454

Dear Mr. Ashcroft:

I would like to give you my thoughts on the recent microsoft Anti Trust case. This settlement is long past due, I am appalled that this lawsuit has been allowed to drag on for three years, wasting millions of tax dollars.

I am a Certified Nutritional Consultant and I use Microsoft products in my job and at home. Microsoft has provided a series of exceptional products that have assisted me in serving my community better. That's what business is about. However, now Microsoft has to give up a great deal just so that this lawsuit might be ended. They are sharing a lot of their source code and interface design with their competitors. They are also making agreements with computer makers that will allow them to pre-install non-Microsoft products on the Windows operating system.

Please do your part in respecting the public interest. Our fragile economy needs a boost and this settlement will certainly provide one. Thank you.

Sincerely,
5792 N. Palm Avenue
Fresno, California 93704
(559) 431-7678
FAX (559) 431-7656
eMail:CNC2001@hotmail.Com

MTC-00031490

SENT BY: ; 610 828 8323; JAN-18-02 10:27AM; PAGE 1/2
FAX COVER SHEET
TO: Attorney General John Ashcroft Fax: (202) 307-1454
FROM: Dennis R. Rubisch
Phone: 610-828-8323
Fax: 610-828-3246
Of PAGES: 2 (including cover sheet)
Letter Attached
SENT BY: ;
610 828 8323; JAN-18-02 10:27AM; PAGE 2/2
DENNIS R. RUBISCH
243 VALLEY FORGE LOOKOUT PLACE
RADNOR,PA 19087
January 17,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support the agreed settlement between the Justice Department and Microsoft and I feel there should be no further court action taken by the federal government. It is time for the Department of Justice to move on and it is time for Microsoft to get back to business. The case has gone on long enough.

Microsoft has agreed to terms in the settlement that change their licensing agreements, contractual agreements and general business practices extensively. They have agreed to terms that extend beyond the points in the lawsuit for the purpose of settling the suit and they have agreed to be monitored for compliance. That should be enough assurance to keep Microsoft out of any future anti-trust violations.

The case against Microsoft should finally be closed and let all parties involved carry on their respective business.

Very truly yours,
Dennis Rubisch
cc: Senator Rick Santorum

MTC-00031491

01/22/2002 09:12 19197281314 SULLIVANHOMEBUIDERSI
PAGE 01
2712 Highway 70E
Beaufort, North Carolina 28516
January 17,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I write you today with the Microsoft settlement on my mind. The recent developments have caused me to wonder why we are wasting more time on this issue. After three years of negotiations, it seems ridiculous to continue to scrutinize this well thought out agreement. I believe that it is time to move forward and that we should support our technology industry in any way we can.

Microsoft has agreed to make bold changes in licensing and marketing and even design. By designing future versions of Windows for easier installation of non-Microsoft software, we open up the market for the Microsoft competitors. This is clearly a move toward working as a more unified IT sector. At this point in time, Microsoft believes that by moving forward we can continue to maintain our position in the global market. By continuing to focus on litigation, we only move backwards and jeopardize our advancement in this global market.

Let us help to keep America's technology industry on top, by supporting this settlement. The terms clearly promote working together and can only help our IT sector. I thank you for your support.

Sincerely,
Lawrence Sullivan

JAN-18-2002 13:40
GUILD OF ST. AGNES 508 754 2026 P.02
William Joseph Eddy
December 31,2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FACSIMILE

Dear Attorney Hesse:

I would like to comment on the impending settlement in the Microsoft suit.

It is imperative that the government reaches a settlement in this case as soon as possible. Our economy is in tough shape and we don't need this lingering case to drag us down further.

I believe that the settlement will be beneficial to small non-profit community organizations such as the one I head. The potential donation of computers and software will be invaluable. The money we save with this potential donation will free us to spend more in our community.

I urge the Justice Department to settle this matter as soon as practical

Sincerely yours,
William J. Eddy
3 Barrows Road
Worcester, MA 01609
TOTAL P.02

MTC-00031493

JAN.18.2002 2:25PM DEPT OF STATE No.249 P. 1/1
GREAT SEAL OF THE STATE OF FLORIDA
IN GOD WE TRUST
FLORIDA DEPARTMENT OF STATE
Katherine Harris Secretary of State
DIVISIONS OF FLORIDA DEPARTMENT OF STATE
Office of the Secretary
Office of International Relations
Division of Elections
Division of Corporations
Division of Cultural Affairs
Division of Historical Resources
Division of Library and Information Services
Division of Licensing
Division of Administrative Services
MEMBER OF THE FLORIDA CABINET
State Board of Education
Trustee of the Internal Improvement Trust Fund
Administration Commission
Florida Land and Water Adjudicatory Commission
Siting Board
Division of Bond Finance
Department of Revenue
Department of Law Enforcement
Department of Highway Safety and Motor Vehicles
Department of Veterans'' Affairs
January 14, 2002
Ms. Renata Hesse
Antitrust Division
United States Department of Justice

Dear Ms. Hesse:

Via Fax: 202-616-9937
202-307-1454

This letter is an indication of my support for the Microsoft settlement. With a stagnant economy and a war raging overseas, I believe it is in the best interest of the public to settle this lawsuit.

From print and media information, it appears Microsoft has taken the necessary steps to reach a fair and reasonable settlement, Currently the settlement allows competitive computer makers to eliminate the Windows software and replace it with another. I believe this demonstrates Microsoft's commitment to the consumer.

As Florida's Secretary of State, one of my duties is to encourage commerce and international business for our state. Obviously, too much litigation is never helpful to a recovering economy,

Yours truly,
Katherine Harris
Secretary of State
The Capitol o Tallahassee, Florida
32399–0250 o (850) 414–5500
http://www.dos.state.fl.us

MTC–00031494

MicroCity, Inc.
13612 Midway Rd. Suite 110
Dallas. TX 75244
Tel: 972–387–5529 Fax: 972–387–7945
January 16,2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Schools, small and minority businesses, and the individual personal computer user all stand to lose if the government continues its open-ended pursuit of the high-tech industry. For years now, the U.S. Department of Justice has relentlessly attempted to break-up Microsoft Corporation into two companies. The lawsuit was wisely dropped but not until wasting millions of taxpayer dollars. Now, even more ominous threat looms on the high- tech horizon—government regulations of the entire industry.

What disturbs me most is that the pursuit of Microsoft was and still is competitor-driven. No consumer or end-user of Microsoft products is a party to this attempt to quash innovation and interfere with market-driven competition. Does the handful of competitors realize that when the government regulates, it regulates everyone?

I think it is time to settle all remaining issues between Microsoft and the government and let the technology industry get back to the business of providing high quality products to the American consumer.

Sincerely,
Linda Newman
President
Jan. 16 2002 04:36PM P1
FAX NO.: 9723877945
FROM: 9723877945

MTC–00031495

01/16/2002 12:16 8174169015 RENAISSANCE IT PAGE 01
Renaissance
I.T. Inc.
January 9,2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530

Dear Ms: Hesse:

I am writing to express my support for the compromise settlement negotiated between the Department of Justice and Microsoft.

After years of investigation and tens of millions of taxpayer's dollars spent on the government's Microsoft hunt, the case against the software company is as flimsy today as it was five years ago. No consumer has been harmed by Microsoft's presence in the market, and software prices continue to fail. In fact, some portions of the newest versions of Windows once cost more as free-standing programs than the entire platform does now.

As the owner of a small ($1,OOO,OOO/year) business my company's future was threatened by your attempted antitrust action. It is a relief to me that my business can continue to grow under the terms of the compromise settlement negotiated between the Department of Justice and Microsoft. I employ between 6 and 12 professional employees and they stand to be hurt as well by the Justice Department's continuation of antitrust actions.

Consumers benefit from competition and innovation, the two things that have kept Microsoft successful for years. On the other hand, there is no example of a government-ordered breakup and take over ever helping an industry.

Let the innovation in the technology market continue—accept the settlement and move on!

Sincerely,
Donald J. Levings, Jr.
President/CEO/Owner
1125 South Ball Street Suite 104 o
Grapevine, Texas 76051 o 817 421.8127 817 418.9015 fax o
www.renaissanceIt.com

MTC–00031496

Lori Barrow
1201 Harvest Ridge Lane
Prosper, TX 75078
January 14, 2002
Attorney General Ashcroft
U.S. Dept. of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

The purpose of this letter is to express my support of the agreement reached between the Dept. of Justice and Microsoft. Microsoft has been at the forefront of the tech industry for some time. Through innovation and a commitment to quality, Microsoft has created its position in the field. I find it ridiculous that Microsoft has been punished for its success,

With this noted, I do believe that the resolution reached in the settlement is beneficial. It allows Microsoft to return its focus to the IT world and leave at least some of its legal troubles behind. The settlement comes with a cost though. Microsoft will now be required to disclose the interfaces of its operating system. This will give other companies the opportunity to write more efficient programs. Users will be able to reconfigure the Windows system to their liking. Microsoft must also license Windows to all computer makers at the same rate.

A11 of this is detailed in the agreement.

Microsoft will continue to be a leader in the IT field. This settlement is beneficial in that it allows them to return to work. Please enact the settlement quickly.

Sincerely,
Lori Barrow
P.01 19725425643
ROCKNB@PEOPLEPC.COM JAN-1802
11:56AM

MTC–00031497

01/18/2002 13:57 18173581603 PICARD PAGE 01
2425 Meadow View
Bedford, TX 76021–4929
January 17,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The terms of the settlement are fair and the issue needs to be resolved in order for the technology industry to be able to move forward.

Some critics say that Microsoft is getting away with an easy deal. This is simply not true. The settlement was arrived at after extensive negotiations with a court-appointed mediator. The company agreed to strict terms that extend well beyond the products and procedures that were actually at issue in the suit.

I know that there probably isn't a windows user out there that has not wanted to strangle Bill Gates and Microsoft when there system crashes or a little dialog box pops ups asking it you, would like to make Explorer your default browser. The market p1ace will decide the ups and downs of Microsoft.

I feel that today the Department of Justice needs to focus their time and resources on more important things, like terrorism, Enron, and Arthur Anderson.

Please accept the Microsoft antitrust settlement. I ask this as an investor in Microsoft and some of it competitors

Sincerely,
Robert Picard

MTC–00031498

01/18/2002 12:56 218–834–2498 TWO HARBORS MACHINE PAGE 01
1691 White Pine Drive
Two Harbors, MN 55616
January 17,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I would like to offer my approval of the recent government settlement with Microsoft and ask the Justice Department to finalize the agreement. Although some concerns over Microsoft's competitive tactics were warranted, this case has gone on way too long, at way too much expense to the taxpayer, and is ready for resolution.

The agreed terms are fair and reasonable and actually exceed Justice Department charges. The new measures, including the uniform price list on Windows products for the top computer manufacturers, greater rights to configure Windows to promote competitor products and an interim Windows XP version for that use, should open competition for other software developers.

I ask for a swift conclusion to this case and an opportunity to let businesses succeed unimpeded through this even-handed settlement. Thank you very much.

Sincerely,
David Johnson

MTC-00031490

JAN-18–2002 12:15PM P.01
1/11/2002 11:57AM FROM: Fax 14067526699.....191 PAGE: 003 OF 003
218 Lonepine Road
Kalispell, Montana 59901
January 11,2002
Attorney Genera1 John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to go on record as supporting the proposed settlement that was reached in the antitrust lawsuit between the Department of Justice and the Microsoft Corporation. After three years of arguing and having Our economy slide into a recession, the government finally realized that settling the issue would be the best move.

The settlement actually goes further than Microsoft wished, but the economy was more important than a few details in the agreement. I do not feel that it is fair that restrictions are being placed on Microsoft in areas that were never even an issue in the lawsuit. Microsoft has even agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products—a first in an antitrust settlement.

The settlment that was reached is fair and reasonable; and I would like to go on record as supporting it. Thank you.

Sincerely,
Gerald Mason

MTC-00031500

2084 Alameda Way
San Jose, CA 95126
January 18, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001.

Dear Mr. Ashcroft:

I am writing you concerning the recent developments in the settlement between Microsoft and the Department of Justice. The settlement has been reached as part of a well thought out process that has yielded fair and reasonable terms. These terms not only speak to a more unified IT sector, but help to promote getting back to business.

As this economy continues to take a turn, it is important to support our technology industry. Unfortunately, while they sit by and focus on litigation, the global market continues to be competitive. These terms, which include changes in marketing, licensing, and design, help to promote a technology industry that works together. For example, Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows. This will help our IT sector to maintain their place in the global market.

Please help to support this settlement, and help our IT sector get back to business. I appreciate your help

Sincerely,
Ann Kleives
Jan. 18 2002 01:13 PM P1 FAX NO.: FROM:

MTC-00031501

FROM : JIMDAY
FAX NO. : 7703934854 Jan. 18 2002 01:22PM P1
James Day, Jr.
340 Spalding Lake Court
Atlanta, GA 30350
January 18,2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing in support of the settlement with Microsoft. The settlement is in the best interests of the public and the economy. Wasting money and time unnecessarily is wrong, and the time has come to focus on other more important cases and programs.

The settlement requires many specific changes from Microsoft. For example, Microsoft has agreed to a "Technical Committee" that will monitor Microsoft's compliance with the settlement. Plus, Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers on identical terms, including price. Also, Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows" operating system.

This settlement is in the best interests of the state, the IT industry, and the economy. As a nation, moving forward should be the highest priority and this agreement will surely help us to do that.

Sincerely,
James Day

MTC-00031502

FROM : HRC Jan. 18 2002 12:51PM P1
FAX NO. : 5169978670
Janet & Stephen Dasaro
47 Cedar Drive
Massapequa NY.11758
H(516)799—0727 B(516)997—8030
1/17/02
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This is to address the recent settlement between the Department of Justice and Microsoft. This case, in my opinion, has gone on far too long. The initial lawsuit was not merited. It was more a political act, than any assault on a monopolistic business. Rivals of Microsoft could compete in no other way than to haul Microsoft into court; the Department of Justice agreed to sue far too readily. I am disturbed this lawsuit has set a dangerous precedent for future companies. Evidently, if a firm gets too successful, too big, they can be assured of being hauled into court- Microsoft is successful because it produces a good product. Bill Gates worked long and hard to make compatible software available to, and understandable to, the average lay person.

The case has been settled, and Microsoft did not get off easy. Microsoft has agreed to grant computer makers new rights to configure Windows to better promote non-Microsoft software. Also, Microsoft has agreed to share any code or programming that Windows uses to communicate with other programs. I wonder if Microsoft's rivals would do the same.

Let's put this case behind us and move forward. I support the agreement, and look forward to the end of this case.

Sincerely,
Stephen F. Dasaro

MTC-00031503

FROM : HRC FAX NO. : 5169978670 Jan. 18 2002 12:50PM P1
47 Cedar Drive
Massapequa, New York 11758
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to give my approval to the recent Microsoft-Department of Justice settlement. Bill Gates succeeded in making his company the best and the brightest of his industry. Unfortunately, his success created jealousy among his peers. Unable to compete in the market place, they sought to cripple Microsoft in another way, through the court system. This lawsuit was a combined effort between the Department of Justice and the rivals of Microsoft.

Microsoft has accepted the dictates from the Department of Justice. Among other concessions, Microsoft has agreed to give computer makers new rights to configure Windows to better promote non-Microsoft software programs that compete with programs within Windows; Microsoft has agreed to design future versions of Windows with a mechanism making it easier to promote non-Microsoft software within Windows; and Microsoft has agreed to disclose various source codes that are internal to Windows" operating system products. This is far beyond what I believe any other firm would do.

I urge you to support the settlement reached by these two parties. It is time we put this behind us.

Sincerely,
Janet Dasaro

MTC-00031504

FROM : HRC FAX NO. : 5169978670 Jan. 18 2002 12:48PM P1
Mrs. Lisa Burkert
47 Cedar Drive
Massapequa NY. 11758
January 18,2002
Attorney General John Ashcroft
US Department of Justice

950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I do now and always have felt that the DOJ's and various state attorneys suits against Microsoft Corp. are the result of the prejudiced views of elected officials from states where Microsoft's competition reside. This constitutes what I and everyone I speak to considers an injustice perpetrated against Microsoft Corp. As you know millions of our tax dollars have already been wasted in an attempt to wrongfully punish this company. I like most Americans who used P.C's. before the advent of Windows hold Microsoft in the highest regard. I am proud of it's performance in dominating it's field because in doing so it took us out of the realm of cryptic DOS code and into the future of computing. Lets face it, the driving force behind any great advancement has always been profit. By punishing Microsoft for doing exactly what any other large corporation or small businessman would do in it's place sends a bad signal to those of us who have the nerve to gamble in the high stakes world of business. By the way what would the trade deficit have been last quarter if Microsoft did not sell software worldwide?

Please stop this nonsense and accept this settlement that is already much larger then the so-called (but in my mind fabricated) harm done to the "public" Let this great American company thrive and grow.

Thank you for considering my position.

Sincerely
Lisa Burkert

MTC-00031505

From Michael J. Cunningham 1-419-393-4271
To: Department of Justice
Date: 1/18/2002 Time: 2:15:00 PM Page 1 of 1

MICHAEL J. CUNNINGHAM
15454 POWER DAM ROAD
DEFIANCE, OHIO 43512
Telephone 419-393-2998
Fax 419-393-4271
E-mail mikejcun@bright.net
Department of Justice
re: Microsoft Settlement
Jan. 18,2002

Gentlemen,

I wish to express my opinions here about the proposed Microsoft antitrust matter.

Like most other frivolous litigation in this country this was never more than a hope for a "jackpot judgment" by the DOJ in the beginning. The nine remaining states that have refused to join the settlement simply exhibit their appetite for going after a windfall of money they do not deserve or have any right to. The only motivation is money and has absolutely nothing to do with antitrust, real justice, or any consumer or company being harmed by Microsoft. Also, I doubt any judgment received will ever benefit any consumer or company allegedly harmed by Microsoft.

This suit has been based on the assumption that the American public is too ignorant and stupid to be able to make decisions about the software and browsers they use, therefore unfairly hurting Microsoft's competitors. Nothing could be further from the truth with the intense competition in this market and muriad of choices available to consumers.

Microsoft has been key to the technological advancements in the world over the last two decades. They have created huge opportunities and profits for thousands of other companies to take advantage of. The financial benefit to this country and it's consumers because of Microsoft is incalculable.

I am very disgusted to say the least over any of this litigation. As a citizen, taxpayer, stockholder, and voter I urge you to bring this matter to a close and pursue worthwhile matters in the future.

Sincerely,
Michael J. Cunningham

MTC-00031506

Sent By: BRACKETT & LUCAS;
508 799 9799;
18 Jan 02 2:28PM;Job 830;Page 1/1
Jonathan Finklelstein
ATTORNEY AT LAW
19 CEDAR STREET WORCESTER MA 01609
TEL (508) 753-0299 FAX (508) 799-9799
E-Mail: Attyfink@aol.com
By FAcsimile: 202-616-9937
January 15, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

It is my understanding that the Justice Department is seeking input relative to the proposed settlement in the Microsoft lawsuit.

As an attorney and a real estate developer, I understand competition. Competition is healthy for the American economy. I use Microsoft products in my law practice and in my business. They have allowed me to better serve my clients and manage my business. I believe that the settlement in this case is in eveyrone's best interest. It will serve the interest of consumers by allowing new technologies to enter the market place. I have read recently that Microsoft has agreed, as a condition of its settlement with Justice, to provide computers to public school students throughout the country. Certainly in a city like Worcester, an older, industrial area in Central Massachusetts, this magnanimous gesture will be a great benefit to our inner city schools. This donation will also serve to minimize the so-called "digital divide" by making cumputers available to the economically disadvantaged.

I urge a quick settlement in this case.

Very truly yours,
Jonathan Finkelstein

MTC-00031507

Jan 18 02 04:05p Zollweg 7709717039 p.1
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avc, NW
Washintgon, DC 20530

Dear Mr. Ashcroft:

As a long-term contributor to the GOP, I would urge you to support the Microsoft antitrust settlement proposal now on your desk. This settlement was reached in November of 2001 and provides the most reasonable and logical solutions to address this issue. Microsoft is not the ENEMY. A fairly good case can be made that the most recent recession started when the Clinton administration decided to go after Microsoft. The "tech" stocks started going down after that, followed by much of the stock market. The terms of this settlement have been well thought out and I urge you to settle this case as soon as possible, Thank you for your time.

Sincerely,
Denny Zollweg
2977 Nestle Creek Dr
Marietta, GA 30062

MTC-00031508

Jan. 18 2002 5:26PM
J.W. BURNS & COMPANY No.1605 P. 1/1
J.W. BURNS & COMPANY, INC.
GLACIER CREEK OFFICE PARK
6711 TOWPATH ROAD
EAST SYRACUSE, NEW YORK 13067
315-440-1341
INVESTMENT COUNSEL
Edward A. Grassi
145 Plymouth Drive
Syracuse, NY 13206-2338
January 17,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I have been and will always be a huge Microsoft supporter. I believe that our technology industry would not have made the incredible leaps and bounds it has over the past decade if it hadn't been for Microsoft. Since the recent antitrust case settlement does not break up Microsoft, I am in complete favor of it and hope that it is finalized.

The terms of the settlement seem to benefit the competitors instead of the consumers. For instance, under the terms Microsoft has agreed to not retaliate against software or hardware developers who develop or promote software that competes with Windows.

They have also agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products.

The settlement, although flawed, serves the public interest, because the IT sector cannot afford to be hindered in its development any longer. Please support the settlement.

Sincerely,
Edward A. Grassi

MTC-00031509

01/18/02 16:09 802 864 1891 TCA-PAA-FSM 001/002
6 Adirondack Street
South Burlington, VT 05403
January 16,2002
Attorney General John Ashcroft
Department of Justice, Washington, DC

Dear Mr. Ashcroft,

I am writing to express my opinion of the recent settlement between the US Department of Justice and Microsoft. I am a proponent of free enterprise and think that government should stay out of big business.

Microsoft has been the leading innovator of technology over the last 10 years, and should be applauded for its ability to standardize the tech sector to the consumers" benefit. What annoys me about the lawsuits is that they never address the consumers themselves. The terms of the settlement only seem to help the competitors gain some edge that they did not have before. For instance, Microsoft will be documenting various interfaces for use by competitors. They will also be forced to not retaliate against software developers who develop or promote software that competes with Windows.

So while the lawsuits and settlement is flawed, I think it is in best interest of public for it to be finalized. Further litigation could be detrimental to our ailing IT sector and ultimately postpone our economy's recovery. I urge your office to make the right choice and make the settlement a reality.

Sincerely,
Brad Maunsell

01/18/02 16:09 802 864 1891 TCA-PAA-FSM 002/002
6 Adirondack Street
South Burlington, VT 05403
January 16, 2002
Attorney General John Ashcroft
Department of Justice, Washington, DC

Dear Mr. Ashcroft,

I am writing to express my opinion of the recent settlement between the US Department of Justice and Microsoft. I am a proponent of free enterprise and think that government should stay out of big business.

Microsoft has been the leading innovator of technology over the last 10 years, and should be applauded for its ability to standardize the tech sector to the consumers" benefit.

What annoys me about the lawsuits is that they never address the consumers themselves. The terms of the settlement only seem to help the competitors gain some edge that they did not have before. For instance, Microsoft will be documenting various interfaces for use by competitors. They will also be forced to not retaliate against software developers who develop or promote software that competes with Windows.

So while the lawsuits and settlement is flawed, I think it is in best interest of public for it to be finalized. Further litigation could be detrimental to our ailing IT sector and ultimately postpone our economy's recovery. I urge your office to make the right choice and make the settlement a reality.

Sincerely,
Peggy Maunsell

MTC-00031510

01/18/2002 15:09 17344858321 JOSEPH NEMCHAK PAGE 01
5950 Big Pine Drive
Ypsilanti, Michigan 48197
January 17,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I never agreed with the government's decision to sue Microsoft when this case began three years ago, and I am pleased to see that you have decided to end litigation and stop this lawsuit at the federal level. Microsoft has made many concessions that made this settlement possible, and it is time to move on so that this company can go back to creating great products for the marketplace.

Microsoft has agreed to design future versions of Windows that will allow computer makers to promote non-Microsoft products within the operating system. This will promote competition within the technology industry, and the results of this will be beneficial to the industry and to consumers.

Our entire economy will benefit from this settlement as well. It is time to let Bill Gates and the people at Microsoft get back to work.

Thank you for ending this lawsuit; it is the right decision for our country.

This lawsuit never should have been brought against Microsoft in the first place, and I am glad that it is over at the federal level.

Sincerely,
Joseph Nemchak

MTC-00031511

JAN-18-2002 02:47 PM FCCMV 3158537789 P.01
FREIGHT
COST
CONSULTANTS OF MOHAWK VALLEY
102 UTICA ROAD CLINTON,
NEW YORK 13323
January 17,2002
Attorney General John Ashcroft
US Department of Justice
930 Pennsylvania Avenue NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support Microsoft's decision to enter into the antitrust settlement agreement. I do not think the government was justified in bringing this case aganinst Microsoft to begin with.

There are a multitude of monopolies in this coutry. Microsoft has been unjustly singled out. The sooner this case is resolved, the better.

It is apparent to me that the terms of the settlement agreement are quite restrictive to Microsoft. I do not necessarily agree that Microsoft should be subjected to such harsh terms.

However, in the interest of resolving the action, I urge the Court to approve the agreement in its present form. Microsoft's competitors should be quite satisfied with Microsoft's agreement to not take action against those it has the legal right to retaliate against. For example, Microsoft agreed to not take action against those who infringe on their intellectual property rights. Instead they will grant licenses on reasonable and non-discriminatory terms. They have also agreed to not retaliate against computer manufacturers who install non-Microsoft software on their computers. They have also agreed to the creation of a watchdog committee to monitor their compliance with the agreement. With those provisions, the agreement will certainly achieve the goal of ensuring that Microsoft will not violate antitrust laws.

I appreciate your taking the time to review my comments on this matter.

Sincerely,
Austin Bartholomew

MTC-00031512

Jan 18 02 12:31p
p. 1
Paul Scott Turner
7751 Wood Shade Court
West Jordan, Utah 84084
January 17,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am appalled by the fact that nine of the eighteen plaintiff states involved in the Microsoft antitrust suit wish to continue litigation against Microsoft. This case has gone on far too long already. While the suit has dragged out in the federal courts, the IT industry, the economy, and the American public have suffered the effects. I see no need, now that a settlement has been reached, for Microsoft to be picked apart by nine states that should logically have no complaint with the settlement. The Justice Department should get this case over with and move on.

After six months of mediated negotiations, Microsoft and the Department of Justice came to an agreement that addresses all the antitrust violations, as well as some products and procedures that did not fall within the scope of the suit. Microsoft, for example, has agreed to reformat future versions of Windows, enabling its competitors, through modifications to the operating system, to introduce non-Microsoft software into Windows. Moreover, Microsoft has agreed to provide any party acting under the agreement with license to pertinent intellectual property rights. I see no reason for the plaintiff states to be unhappy with the settlement, other than the fact that Microsoft remains intact.

Any additional action taken on the federal level would be superfluous and counterproductive. I ask you not to condone petty behavior such as this within the federal court system. The settlement should stand.

Sincerely,
Paul Scott Turner

MTC-00031513

Friday,January 18,2002 2:25 PM John Gilbert 704-341-4411 p.01
10133 Hanover Glen Road
Charlotte, NC 28210-7726
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I have closely followed the federal government's antitrust case against Microsoft for a long time. Microsoft is not a monopoly, but competitors who cannot compete with Microsoft in this highly innovative market have attacked them aggressively. This settlement is fair and will give the computer/software industry the boost it greatly needs. I feel Microsoft is improving its business practices by allowing competitors and partnering software developers access to some of the Windows operating system source code. It also agreed to not retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows.

Microsoft must be permitted to implement these new business practices. Far too much time and resources have been spent proving Microsoft is operating as a monopoly. Its time to put an end to Big Brother is watching, and let Microsoft get back to business with the settlement terms,

Sincerely,
John Gilbert

MTC-00031514

JAN-09-02 WED 11:29 PM LEADERSHIP SEMINARS 972 570 5902 P.01
LEADERSHIP SEMINARS
4020 N. MACARTHUR BLVD., STE 122
IRVING,TX 75038-6422
972-570-4641
January 9, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Dept. of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

We all stand to lose if the government continues its open-ended pursuit of the high-tech industry.

I think it is time to settle all remaining issues between Microsoft + the government + let the technology industry get back to the business of high quality products to the American consumer.

Sincerely,
Emily Lanitach, Ph.D
President

MTC-00031515

FROM : EDMONSON WHEAT GROWERS PHONE NO. : 806 864 3325
Jan. 17 2002 09:54AM P1
COOP.
EDMONSON WHEAT GROWERS, INC.
P.O. Box 32
EDMONSON, TEXAS 79032
Phone: 806-864-3327
January 17, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Re: Microsoft

Dear Ms. Hesse,

I believe it is time to end the Microsoft controversy. I think the most recent settlement being looked at should be accepted. I, along with many Americans, feel like they have benefited from Microsoft products. Microsoft has contributed greatly to the economic growth of our nation.

I don't understand why the goverment has spent so much time and money on this. Ten years ago, the average American could not think about purchasing a computer, Microsoft has changed that. I thank Microsoft for what they have done for us!

I would like to ask the Federal Court to put an end to this issue and the controversy with Microsoft.

Sincerely,
Frieda Jones
Bookkeeper

Northwestern Mutual
FINANCIAL NETWORK
George R. Allen, CLU, ChFC
Financial Representative
55 W 2nd St
PO Box 4065
Oswego,NY 13126
315 343 2323
315 343 8098 fax
george.allen@nmfn.com
January 15, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I'm a 13-year veteran and financial representative with Northwestern Mutual who has seen first hand how the continued litigation of Microsoft has had a negative impact on the economy and success of the small business I deal with on a daily basis.

My client base is predominantly made up of small businesses, and I can say definitively that the current economic recession we are dealing with has been detrimental to their bottom lines. By pursuing further litigation against Microsoft, the cost of software and technology will most certainly rise. With my clients operating on tighter budgets, my business is adversely effected, as well. I think it is evident that not accepting the settlement of this case would be to encourage further negative economic conditions. By taking this battle back to the marketplace, Microsoft's competitors can demonstrate that they are committed to promoting economic prosperity, instead of furthering litigation at the risk of raising the price of technology and software for all consumers.

Thank you.
Best regards
George R. Allen, CLU, ChFC

Northwestern Mutual Financial Network is the marketing name for the sales and distribution arm of The Northwestern Mutual Life Insurance Company and its Subsidiaries and Affiliates. Agent, The Northwestern Mutual Life Insurance Company, Milwaukee, WI, life insurance, annuities and disability income insurance. Klaude R. Konrad, General Agent. Registered Representative, Northwestern Mutual Investment Services, LLC. (NMIS) (6314 Fly Rd. P.O. Box 4718, Syracuse, NY 13221 (315-434-8800)), vriable life insurance, variable annuities, mutual funds unit investment trust and money market funds, NMIS is a separately operated subsidiary of Northwestern Mutual and is a member of the NASD and SIPC. Northwestern Mutual is not a broker-dealer. There may be Insurances when this agent represents insurance companies in addition to Northwestern Mutual.

MTC-00031517

FROM : ALYCE NORMAN SCHOOL
FAX NO.: 916 3757659
Jan. 18 2002 10:57AM P2
ASUCD
ASSOCIATED
STUDENTS
530-752-1990
January 17, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I would like to voice my opinion on the Microsoft case.

I am glad that it will be over soon. I believe that this was a bad idea In the first place. Microsoft was and is a successful company. Why should we be punishing them for their success. They have provided innovative products and ever decreasing prices.

If I were Microsoft, I would continue to fight this case. However, since they have agreed to a settlement, I hope that the government can finish this up quickly, so that Microsoft can go back to improving our economy and the government can get out of the marketplace.

Sincerely,
Mike Hartmeyer
347 Memorial Union
University of California, Davis
One Shields Avenue
Davis, California 95616-8530

MTC-00031518

VIRGINIA B. HUNDLEY
13750 Elmstead Road
Midlothian, VA 23213
(804) 794-7654
January 18, 2002
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC. 20530

Dear Ms. Hesse:

Regarding the Microsoft settlement, the following are my comments on this proposed agreement.

The agreement specifies that Microsoft would have to promptly disclose technical information that enables any Windows operating system to communicate with Microsoft servers and with all Microsoft middleware products. Also, to encourage more non-Microsoft middleware, the settlement forces Microsoft to license any intellectual property rights that others might need to compete with Microsoft. As with computer manufacturers, Microsoft could not penalize any software developer, service provider, or hardware vendor that develops or sells products that compete with Windows and Microsoft middleware. The net result is that all information technology providers, including Microsoft's competitors, are guaranteed access to technical specifications. That's pretty good.

Sincerely yours,
Virginia B. Hundley
vbh/ bhs

MTC-00031519

Carrie Lizotte
501 E. 234th St.
Apartment 1D
Bronx, NY 10470
Renata Hesse, Esq.
Trial Attorney
Antitrust Division
Department of Justice

601 D Street NW, Suite 1200
Washington, DC 20530
Via Facsimile 202–616–9937

Dear Ms Hesse:

I am writing to express support for the proposed settlement between the Department of Justice and Microsoft Corporation.

I have been watching this case carefully particularly over the past few years and am ready for the case to be settled. It has been quite clear to me that the case has been competitor driven rather than in the best interests of consumers. Oracle, AOL and ProComp have used this trial as a forum for their consistent bellyaching about Microsoft's prowess—all at taxpayer expense.

I understand that the purpose of this exercise is to help determine whether this settlement is in the best interest of the public. Considering the state of our economy can best be described as dismal, and this case has been eating up our tax dollars for the past 10 years, a settlement can only be a win-win situation for us all.

Sincerely,
Carrie Lizotte

MTC–00031520

CALYPSO
COMMUNICATIONS
January 9, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202–616–9937

This letter is in support of the settlement of the case of Microsoft and the Department of Justice.

The case was brought about by the Justice Department at the egging on of Microsoft's competitors. Throughout the case we have seen these proceeding aiming to benefit Microsoft's competitors rather than consumers.

In the settlement, Microsoft agreed to take steps to give computer makers more freedom to feature rival software on their machines. This is what Microsoft's competitors have been bellyaching about. After years of frivolous litigation, the Department of justice finally asserts that the terms of that settlement are strong enough to stop the company's so-called "monopolistic" practices.

Finally after months of negotiations, mediators etc.. .everyone seems to be in agreement. For the benefit of the economy, the technology sector and the marketplace, please approve the proposed settlement.

Sincerely,
Paul A. Young
Principal
CALYPSO COMMUNICATIONS LLC
208 Market Street Suite 300 Portsmouth New Hampshire 03801 T 608.
431.0816 F 608.431.4497
www.calysocom.com

MTC–00031521

Christian Printers, Inc.
January 18, 2002
Judge Kolar Kottely
c/o Renata Hesse
Trial Attorney, Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC:

I'm sending this letter as a supporter of the recent Microsoft settlement. Many people have suffered due to the recession we are facing. Businesses have gone bankrupt, many hardworking men and women have lost their jobs, and the stock market has taken a dramatic tumble that's hurt everyone across the financial spectrum. Frankly, we've felt the crunch in our printing business as well.

It was very important to settle the Microsoft case. This issue has been going on for far too long and the parties involved need to wrap it up and draw it to a close. The American economy has suffered enough and there is no reason to make it suffer any longer by restricting an economic engine like Microsoft from freely operating its business. From all that I've read in news accounts, the settlement was fair and just; everyone walked away with a good deal.

Thank you for taking time to hear my thoughts on this important matter.

Sincerely,
Bruce Dohrmann
1411 21st Street
Des Moines, IA 50311
Phone: 515/243–0471
Fax: 515/243–0547
E-mail: chrstnprnt@aol.com

MTC–00031522

GENTIUM HOMES, INC. FAX: 415–292–0352
Gentium HOMES
January 18, 2002
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

This letter urges you to accept the proposed settlement between Microsoft and the Department of Justice.

The proposed settlement addresses the major charges against Microsoft including requiring Microsoft to provide technical details to help rivals make products compatible with its Windows operating system; providing an oversight panel full access to its books and plans for five years, bans exclusive contracts with computer makers that put rival software vendors at a disadvantage; requires disclosures to be made to rivals about the operation of its server software; and establishes a separate oversight committee of the states to ensure compliance.

The negotiators of this settlement have done a good job. This settlement should be accepted and all parties should move forward in their quest to provide more advanced technical products to consumers. Thank you.

Sincerely,
David J. Thompson
One Daniel Burnham Court, Suite 200C o San Francisco. California 94109
Telephone (415) 4471998 . Fax (415) 292–0352

MTC–00031523

Dean Gentry
P.O. Box 321
St. Maries, ID 83861–0321
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

From the start of the US vs. Microsoft lawsuit, I have been opposed to the way that the government has bullied Microsoft on behalf of many of Microsoft's competitors. The Department of Justice has interfered with the IT industry and with Microsoft claiming with the intent of bettering the status of the consumer. The truth is that if the consumer's interest were at the center of this lawsuit, it would have been resolved much sooner than it has been. Three years of litigation have proven that special interests and greed have taken center stage in this lawsuit. Microsoft has made many concessions in the settlement, including opening parts of proprietary code to competitors and making parts of its flagship Windows program removable by the consumer. Such concessions combined with the enormous amount of money that Microsoft has spent defending itself more than compensate for any substantive wrongdoing Microsoft may be guilty of. The settlement's benefit to the consumer is indirect and ambiguous at best. We won't know for a long time whether the IT industry and the consumer will reap any benefit from all of this. However, we do know that the longer that the suit remains unresolved, the more damage will be done to the consumer. That is why the Department of Justice owes the American people a swift end to this suit that is this proposed settlement can bring.

Sincerely,
Dean C. Gentry
cc:Senator Larry Craig

MTC–00031524

FRIEDEL ENTERPRISES
2841 Troyer Road
White Hall, MD 21161–9321
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I would like to voice my support for the settlement of the Microsoft Anti Trust case. This case has dragged on for years and it is wonderful that our government is finally making a move to end it.

I run my own company as an Independent Contractor for equipment packaging materials. I use Microsoft's software to run my office and appreciate their superior products that have truly changed the entire technology industry. In an effort to end this mess, Microsoft is giving up a great deal in the settlement. They've pledged to change their problematic business practices and will be sharing more information with their competitors.

Please accept the proposed settlement, it will no doubt restore fair competition to the technology industry and will be great help to our struggling economy.

Sincerely,
Vernon Friedel

MTC–00031525

P.O. BOX 587
Navesink, NJ 07752
January 19, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

This is intended to urge you to support a prompt settlement of the Microsoft anti- trust case. This case has been around tooooo long; it has seen litigation, negotiation and mediation. There now exists a settlement proposal acceptable to the court, the major parties and the majority of state party comp1ainants. The settlement is a fair compromise between the parties'' adverse positions and should also quell the concerns of the federal government. In short there is no rational reason to further prolong this controversy. The settlement keeps Microsoft sole, whole and functioning. Microsoft's concessions include rendering itself answerable to a new oversight committee for any future anti-competitive practices. Microsoft will now open its Windows systems up to use by non- Microsoft software, reconfiguring Windows not just to accept competitors'' products but also to promote such use. Microsoft will now take steps to share portions of its technologies in order to promote competition and innovation. Microsoft, in essence, will alter its corporate marketing philosophy to embrace its competition. This seems to me to be adequate consideration for a settlement. Please also urge your colleagues in the administration to expedite an end to this case.

Sincerely,
Gary M. Tishler

MTC–00031526

18111 Sencillo Drive
San Diego, CA 92128–1324
January 18, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

It is with great pleasure that I learned of the settlement between Microsoft and the Department of Justice last November. The antitrust dispute was long and arduous. The case, which was an unnecessary attack on the success of the American economy, has been a waste of time and, more importantly—money. The taxpayer and the consumer are the people that are negatively affected by this litigation. It is a waste of taxpayers money to spend three years persecuting a company that has consistently provided consumers with reasonable, accessible products. It is time to let this issue rest.

It is my hope that this period of public comment will end with federal resolve to settle this issue. The taxpayers and computer consumers deserve it.

Sincerely,
Elizabeth Walters

MTC–00031527

ASH CREEK ENTERPRISES, LLC
2987 FAIRFIELD AVE.
BRIDGEPORT, CT 06605
203–335–4842 VOICE
203–335–4049 FAX
January 16, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Dear Mr. Ashcroft,

If only for the sake of lowering the strident volume of the in-court dramatics, it is better for this law- suit between the Department of Justice and Microsoft to have ended in a settlement. There has certainly been a lot of rancor from both sides during the course of this case. I must admit, however, that there was an uncomfortable appearance that this trial was more about punishing Microsoft for having been successful at doing what it does than anything else. There were, of course, legitimate complaints about Microsoft's way of doing business that have been addressed by the settlement, such as Microsoft's legendarily rocky relationship with OEMs, but it probably should not have been part of the suit. Whether a company is perceived as aggressive in its marketing techniques, or as exerting unfair pressure is purely a matter of perception. The settlement will hopefully suffice to end this divisive litigation, and I am writing in support of it.

I am hoping that this sort of obnoxious litigation against any American company can be avoided in the future.

Sincerely,
Geoffrey James
CTO/President

MTC–00031528

UNIQUE Promotions & Awards
2246 N Palmer Drive
Schaumburg, IL 60173
847–397–0300 Fax: 847–397–7356 FAXED
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Dear Mr. Ashcroft:
January 14, 2002

I am writing to express my opinion about the recent antitrust case settlement between Microsoft and the US Department of Justice. I am glad to see Microsoft will not be broken up. That move would be detrimental to our IT industry and bad for our economy. But, I do believe that it is in the best interest of the American public to have this issue settled as soon as possible. The terms of the settlement are fair in many ways. The fact that Microsoft is disclosing internal interfaces to competitors, designing future Windows'' applications to make it easier for software developers to promote their own products, agreeing to contractual restrictions, and forming a three person party to monitor compliance with the settlement shows that Microsoft is ready taking active steps to appease all parties.

Nevertheless, our economy is in recession and our IT industry is ailing. Our country needs to end litigation against Microsoft so that they can go back to leading the IT industry in growth and raising the standards of innovation throughout the sector. Thank you for your time and I hope your office makes this settlement become a reality.

Sincerely,
Charles Loveisky
President

MTC–00031529

Clem Insurance Services, Inc.
217 N. Duff Ave.
Ames, Iowa 50010 Services, Inc.
Phone 515–233–3073
Fax 515–233–3098
www.cleminsurance.com
Email: aclem@cleminsurance.com
To: Judge Kottely
From: Anthony S. Clem
Pax: 202–616–9937 Pages:
Phone:
Date: 01/19/2002
Re: Microsoft Settlement CC:
Comments: Personal and Confidential
CLEM INSURANCE SERVICES
January 18,2002
Judge Kolar Kottely
c/o Renata Hesse
Trial Attorney—Antitrust Division
US. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Dear Judge Kottely,

I am writing to let you know that I stand in support of the recent Microsoft settlement.

Our nation is suffering through a harsh and painful recession. Right here in Iowa numerous layoffs are taking place, leaving hundreds of men and women out of work and unable to adequately support their families. Understanding this fact, it begs the question, "why would our leaders continue the Microsoft antitrust case?" The settlement brought about a fair, just, and appropriate conclusion to this issue. Microsoft allows computer makers to remove their software, and they agree not to retaliate against companies that create or endorse products that compete with Windows.

Nine states agreed to this settlement, and the nation in better of because of it. If Microsoft is allowed to operate freely without the burden of this lawsuit, it will help provide jobs, create new businesses, and assist in stimulating he economy.

Thank you for taking the time to hear from a small business owner such as myself.

Sincerely,
Anthony Clem
Risk Management for Your World
217 N. Duff Ave. . Ames, IA 50010 . (515) 233–3073 . (877) 600-CLEM . Fax 515–233–3098 .
E-mail clem.ins@isunet.net

MTC–00031530

Fri Jan 18 20:15:33 2002
FACSIMILE TRANSMISSION
Please deliver this facsimile to:
MICOSOFT SETTLEMENT
TUNNEY ACT REVIEW
12025169937
From: Jonathan Ah Kit <ahkitj@jnawk.net.nz> Data: Sat, 19 Jan 2002 19:12:01 +1300 (NZDT)
Subject: Microsoft Settlement
To: Microsoft Tunney Act review <microsoft.atr@usdoj.gov>
From MyPlumber
Fri Jan 18 20:29:05 2002
Page 1 of 2
Sir/Madame,
Re: Microsoft Settlement

I have read the provisions of the proposed settlement as described at http://

www.usdoj.gov/atr/public/press—releases/2001/9463.htm this afternoon. I feel while it is preferable to keep the company in one piece, it does not necessarily go far enough to encourage any major competition.

The licensing provisions Microsoft have employed as described at http://www.cio.com/archive/0ll502/meter.html by CIO Magazine, appear to force customer loyalty by employing a type of subscription model not previously employed in most Windows software— last time I saw this model was on a telnet client a New Zealand government department bought for its mainframe. While its supposedly oppressive terms could actually be said to encourage purchases of competitors" products, it still could potentially be a case of Microsoft Corporation attempting to use its hold on current users to force more money out of them [corporate users]. Its monopoly position in this case is a bit different. There are competitors in the "office suite productivity software" market to Microsoft Office, but StarOffice (and OpenOffice) and KOffice— with the latter available for Microsoft's Windows grouping of operating systems—do not really have the profile due to Microsoft's Office offering being the de facto standard. Which makes education institutions, companies, non-profits as well as private individual people end up feeling compelled to take it.

This is fine, to a point. Being a de facto standard due to its market share can be okay—if it is not priced crazily like CIO Magazine in the above-referenced article on licence schemes for Office describes. In analogies, it is like buying a manual gear car versus an automatic gear car. As in, it would probably be fair to say most people buy a manual because it is the standard and virtually everybody (give or take) is trained to drive one. But, it doesn't force everybody to buy a manual— not too much more expensive are equivalent automatic models. (Maybe people buy automatics for convenience and or ease, but that is out of the scope of this submission.)

Credit where credit is due, though. Microsoft's New Zealand operation has issued a version of Microsoft Office, called "Microsoft Office XP Standard for Students and Teachers", selling for about NZD280 to NZD3OO, inclusive of 12.5% NZ Goods and Services Tax. It requires no student ID or letter proving employment before buying it, so would require a user's honesty before it is bought. (NB: For this package, Microsoft has defined student and teacher as either a student or teacher of any education institution, including primary, intermediate, middle and high schools, as well as tertiary institutions such as universities, polytechnics and what NZ calls "private training establishments". It includes staff.) I would say that is still a high price for esentially a high price for private individual people to buy, however. Details: http://www.microsoft.com/nz/office/xp/forstudents/ (That also raises another issue, possibly out of the scope of this submission—piracy. Microsoft needs to adjust its curve of piracy versus pricing. Once it does so, there is a chance it can raise revenues. But as said, there is another story there.)

Lastly, I have a note regarding a scheme tying New Zealand schools to Microsoft software. Software is a slightly fickle business, so I can see some justification in having this scheme, but because of its centralised procurement nature, it does not tend to give competitors a look-in. Details: http://www.microsoft.com/nz/presscentre/articles/2001/september-18-schools.asp I trust that this is of some use to you. If you desire further feedback, e-mail or telephone would be much appreciated, especially if issues raised need clarifying. If called upon, I would be interested but not necessarily able to appear.

Regards,

Jonathan Ah Kit.

Jonathan Ah Kit—Lower Hutt—New Zealand

jonathan@ah-kit.dropbear.id.au—http://www.ah-kit.dropbear.id.au/

ahkitj@paradise.net.nz—ICQ#9747234—http://www.electric.gen.nz/

MTC-00031531

Richard Gach
4301 Derry Road
Bloomfield Hills, Michigan 48302–1835
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ash&oft:

I would like to add my support of the Justice Department settling the Microsoft lawsuit, which is scheduled to be finalized at the end of the month. As a libertarian, I am in full support of our free market system and believe that the government's attack on a successful company because of its market position is against the principles I support. This deal is the most acceptable outcome at this point.

To emphasize the importance of this ruling, I would like to note the recent economic growth this country enjoyed without inflation during the 1990's, which was the result of increased productivity; increased productivity was definitely powered by the growth of the PC industry. And, of course the number-one player in that industry has been Microsoft. To damage such a key player in the nation's economy is a major mistake that should be avoided at all costs. With Microsoft's commitments to neither favor nor punish computer makers that use or don't use competitor products with the Windows operating system, and to allow licensing of its intellectual property and access to its internal Windows interfaces and server protocols, the current agreement should more than suffice to create wider competition in the software industry.

Please support the approval of the proposed Microsoft settlement and allow free enterprise to guide the technology revolution once again. I thank you for your time and attention.

Sincerely,

Richard Gach

MTC-00031532

21031 ALEXANDER CT
HAYWARD,CA 94545
PHONE: 510 723 2123
FAX: 510 786 4259
SENDIO: DOJ ANTITRUST FROM: ROSS LINDELL
ATTENTION: Renata Hesse

United States v. Microsoft

"Public comment is invited within 60 days of the date of this notice. Such comments, and responses there to, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Renata Hesse, Trial Attorney, Suite 1200, Antitrust Division, Department of Justice, 601 D Street NW, Washington, DC 20530; (facsimile) 202–616–9937 or 202–307–1545; or e- mail microsoft.atr@usdoj.gov. While comments may also be sent by regular mail, in light of recent events affecting the delivery of all types of mail to the Department of Justice, including U.S. Postal Service and other commercial delivery services, and current uncertainties concerning when the timely delivery of this mail may resume, the Department strongly encourages, whenever possible, that comments be submitted via email or facsimile."

I am an Engineering Director for a privately held company and I am familiar with computing and the computer industry since the 1980s, and have seen the adverse effects of Microsoft's monopolies in these areas. I cannot see how the settlement that is proposed even pretends to remedy the antitrust violations for which Microsoft has been found guilty. The company has, already been found in violation, and this is the penalty phase of the case, but the settlement contains no penalties and actually advances Microsoft's operating system monopoly. A just penalty, I continue, would at barest minimum include three additional features:

* Any remedy seeking to prevent an extension of Microsoft's monopoly must place Microsoft products as extra-cost options in the purchase of new computers, so that the user who does not wish to purchase them is not forced to do so. Computer vendors must offer the software without the computer (which would prevent computer makers from saying that the difference in price is only a few dollars). Only then could competition come to exist in a meaningful way.

* The specifications of Microsoft's present and future document file formats must be made public, so that documents created in Microsoft applications may be read by programs from other makers, on Microsoft's or other operating systems. This is in addition to opening the Windows application program interface (API, the set of "hooks" that allow other parties to write applications for Windows operating systems), which is already part of the proposed settlement.

* Any Microsoft networking protocols must be published in full and approved by an independent network protocol body. This would prevent Microsoft from seizing de facto control of the Internet. I believe this is of national interest, and therefore, it is crucial that Microsoft's operating system monopoly not be extended. It is well documented by the Center for Strategic and International Studies, among others, that the use of Microsoft software poses a national security risk- their sloppy attitude about privacy and security is un-American and

should be corrected, opposed to encouraged by the United States Government as it appears in the current settlement.

Ross Lindell
2235 45th Ave
San Francisco, California

MTC-00031533

COGDILL & GIOMI
REAL ESTATE APPRAISERS & CONSULTANTS
January 17, 2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
VIA FACSIMILE
(202) 616–9937

Dear Ms. Hesse:

I respectfully ask the courts to settle the case of US v. Microsoft, Though I personally do not agree with the case, my letter is really being written on behalf of the vast majority of Californians.

I work closely with politicians and opinion leaders. That allows me to see polling and information many people don't pay attention to. In November 2001, a California statewide poll was done which provided some important insight into Californians position on the Microsoft case.

The poll was conducted with 804 individuals (a large and fair sample). Of those individuals, 57% believed the terms of the settlement were fair while only 24% believed it did not go far enough. More importantly, over 80% said that if continuing the case meant spending more tax payer money, they believe it is time to settle the case. Obviously, Californians want to see this case brought to an end. It has been over three years and we do not understand why a settlement can't be reached. This survey and its results are a good sample of how we feel. Please support the settlement of this case.

Sincerely,
David E. Cogdill, Jr.
Cogdill and Giomi
1317 I Street Suite A *Modesto, CA 95354
o Ph (209) 523–9365 Fax (209) 523–6344
*Toll Free
(800) 223–9365

MTC-00031534

Dan Knox Consulting
95 Minna Street, Second Floor
San Francisco, CA 94105
Phone: 415–543–2800
Web: www.danknox.com
Knox Consulting
January 18, 2002
Ms. Renata Hesse
Antitrust Divsion
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

This letter regards my support of the settlement of the Microsoft lawsuit.

The Department of Justice and Microsoft have reached fair settlement to the antitrust lawsuit, which has been going on for more than 3 years costing over 35 million in tax dollars. It is time to move on!

The settlement is fair and I urge you to accept the consent decree. While the settlement is not entirely satisfying to all, it strikes a difficult compromise providing something for everyone.

Sincerely,
Dan Knox

MTC-00031535

BEK GROUP
January 18, 2002
Ms. Renata Hesse
Antitrust Division
Department of Justice
601, D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

This letter is sent to you to urge you to accept the settlement which has been reached between the federal government and Microsoft in the antitrust lawsuit.

Microsoft has benefited the computer industry and contributed to the economic growth of the United States.

Competitors not happy with this agreement should compete with Microsoft by creating new products rather than lobbying the government to stop Microsoft's new products. This settlement would allow such activity.

The settlement is good for consumers as it encourages competition in creating better products for our future. Please accept the consent decree in the antitrust lawsuit against Microsoft.

Sincerely,
Brad Klurg
BEK Group
95 Minna Street, 2nd Floor-San Francisco, CA 94105
Ph: (415)543–2800—Fax: (240) 359 8141
e-mail: bekgrp@msn.net

MTC-00031536

33 Packanack Lake Road
Wayne, New Jersey 07470
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft: I am writing you this brief letter to encourage you, your department and the administration to endorse the present proposal to settle the Microsoft anti-trust case. This case is ready for settlement. The major parties have agreed to the proposal after prolonged negotiation.

The plan will restrain Microsoft from any future anti-trust activities. Its marketing practices will be monitored by a new federally appointed oversight committee. The company's Windows systems will now become all but part of the public domain with the platform now reconfigured to "promote" non- Microsoft software. Microsoft's will now license its products to major manufacturers at near uniform terms. In short the agreement lets Microsoft remain whole in return for opening up its technology to the rest of the IT industry. This is more than fair.

Microsoft is a great corporation. In this time of economic floundering, the company should be able to direct all its energy to the business of business. Please give this proposal your attention and support.

Sincerely,
Joseph Bukowski

MTC-00031537

6246 Sturbridge Court
Sarasota, Florida 34238
January 20, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinion of the recent antitrust case settlement between the Department of Justice and Microsoft. Although I am happy to see Microsoft will not be broken up, I do think the penalties imposed are too harsh.

I have never felt as a consumer that my rights were being violated, nor do I think that competitors have been unfairly pushed out of the market. Microsoft has worked harder to innovate and create products that competitors cannot. When Microsoft should be applauded, the government wants to bring them down. The settlement violates their intellectual property rights by forcing them to disclose technology codes and inhibits their ability to maintain market share by restricting them from third party agreements regarding exclusive distribution.

But, even though the agreement is flawed it is in best interest of public and economy to settle and that is why I support settlement. I urge your office to do so also and ignore opposition that seems to think it is better to drag this out and waste more taxpayer dollars.

Sincerely,
Kathleen A. Krebser

MTC-00031538

Richard Gach
4301 Derry Road
Bloomfield Hills, Michigan 48302–1835
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to add my support of the Justice Department settling the Microsoft lawsuit, which is scheduled to be finalized at the end of the month. As a libertarian, I am in full support of our free market system and believe that the government's attack on a successful company because of its market position is against the principles I support. This deal is the most acceptable outcome at this point.

To emphasize the importance of this ruling, I would like to note the recent economic growth this country enjoyed without inflation during the 1990's, which was the result of increased productivity; increased productivity was definitely powered by the growth of the PC industry. And, of course, the number-one player in that industry has been Microsoft. To damage such a key player in the nation's economy is a major mistake that should be avoided at all costs. With Microsoft's commitments to neither favor nor punish computer makers that use or don't use competitor products with the Windows operating system, and to allow licensing of its intellectual property and access to its internal Windows interfaces and server protocols, the current agreement should more than suffice to create wider competition in the software industry.

Please support the approval of the proposed Microsoft settlement and allow free enterprise to guide the technology revolution once again. I thank you for your time and attention.

Sincerely,
Richard Gach

MTC-00031539

Clairemont Republican Women Federated #1446
1705 Catalina Blvd San Dieqo, California 92107
VIA FACISMILLE
January 18, 2002
Renata B. Hesse
Anti-Trust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

This message is being sent to support the Microsoft settlement. After reading various news articles about the details of the agreement, I strongly believe it is fair and in the best interest of the country; Microsoft has agreed to new contractual restrictions and will share its intellectual property when needed. While I believe that the government must enforce law when actions warrant it, it is inappropriate for the government to intervene in private industry because a competitor feels that it is losing its ability to create competitive products. I am a strong proponent that the free market be allowed to work and that successful, creative endeavors should be encouraged for the benefit of our country. No good can come from harming a business that contributes so crucially to the lives of other businesses, industries and private users.

Please pass on my remarks to the proper individuals and let them know that this settlement if a good thing for our country.

Sincerely,
Chalise E. Zoezzi
Recording Secretary
CLAIREMONT RWF #1446

MTC-00031540

JAM-PAK CORPORATION
4043 Yorktown drive
Boothwyn, PA 19061
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

The lawsuits against Microsoft have gone on for too long now. It has been three years of wrongful litigation and Microsoft has not gotten off easy with the settlement. Considering that Microsoft has created jobs for our country, made technological breakthroughs, and standardized the IT industry, I am appalled at our government's attempt to bring them down The terms of the settlement seem to favor competitors and do little to protect consumer rights. Microsoft has agreed to not retaliate against software developers and computer makers who develop or promote non-Microsoft software. They have also agreed to grant computer makers broad new rights to configure Windows so as to more easily promote non-Microsoft products. Theses concessions are the products of intense lobbying on behalf of competition to politicians and lawmakers. Even so, they are more than fair and should be enough to appease all parties.

I urge your office to take a strong stance against the nine states in opposition and help to correct three years of unjustified litigation.

Sincerely,
John A. McManus
President

MTC-00031541

January 18, 2002
Judge Kolar Kottely
c/o Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Judge Kottely,

As a business leader and owner of a technology company, I have been very concerned about the burgeoning litigation by the federal government against the Microsoft Corporation. I believe this case has been unfair from the start and I am glad to see that nine states have agreed to settle. The terms of the agreement are fair and balanced. Microsoft creates new rights allowing Windows to sponsor non-Microsoft programs and hardware manufacturers will be free to remove Microsoft programs from their hardware without any punishment from Microsoft. This is a fair and balanced ending to a prolonged legal production.

I support this settlement and think the terms and conditions reflect a fair deal for everyone. Thank you for taking the time to read my comments regarding the settlement.

Sincerely,
Jose M. Laracuente

MTC-00031542

212 Golden Beach Drive Golden Beach, Florida 33160
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a Microsoft supporter, I feel it necessary to voice my opinion in regards to the Microsoft Antitrust settlement. I am happy to hear that a settlement has finally been reached and I have high hopes that this will be the final stage of this lawsuit .

In terms of the settlement itself, I found the solutions to be both reasonable and fair. Microsoft has agreed to implement a lot of the changes within the structure of the Windows program as well as in their business methods as well. In this agreement, Microsoft will enable computer makers to replace access to Microsoft applications with the competition's software. This will require that Microsoft make various interfaces readily avilable to the competition. In addition to these obligations, Microsoft has consented to the forming of a Three-Person Technical Committee in order to monitor Microsoft's adherence to the settlement.

Microsoft has come up with a lot of good ideas and I believe that they should be credited for these ideas. Furthermore, I look forward to the end of this case, as I am certain that it will be most beneficial to all of the parties involved. Thank you for your time and energy that you have dedicated this matter. It shows that you truly have the best in mind for the public interest.

Sincerely,
Jane Caswell

MTC-00031543

From: Nancy and Dennis Sk Fax: +1(706)638-2503
To: Att. Gen. Ashcroft
Fax: 1(202)307-1464
22107 Highway 193
LaFayette, GA 30728
January 18, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This letter is to express my support for the settlement with Microsoft. As a company, Microsoft must be allowed to develop new products without constant interference from the government. Wasting millions of dollars more on this unnecessary litigation is just plain wrong.

Microsoft has already agreed to license its Windows operating system products to the 20 largest computer makers on identical terms, including price. And the company has agreed to disclose to its competitors technical information that will allow them to write programs that work better with Windows. What's more, Microsoft has agreed to a "Technical Committee" that will monitor Microsoft's compliance with the settlement.

This is above and beyond what Microsoft should do but the company agreed to it so that it can get back to business as soon as possible. The settlement clearly will benefit consumers and the economy. Enacting this agreement is in the best interests of the country as well.

Sincerely,
Nancy Skidmore

MTC-00031544

111 P01 JAN 19 '02 11:15
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to let you know that I fully support the recent settlement between the U.S. Justice Department and the Microsoft Corporation. While I believe the government's case against Microsoft was not called for to begin with, I am very glad that both parties agreed to a settlement.

It is painfully obvious that the lawsuit against Microsoft was instigated by its" competitors who are unhappy because they are not as successful as Microsoft. This is not the fault of Microsoft nor has Microsoft done anything to warrant being accused of being a monopoly. Of course, politics being what it is, its" competitors lobbied certain "key" public officials in an effort to implement a full frontal attack against Microsoft through use of the courts. Everyone knows their only goal was and still is to harm Microsoft.

The U.S. economy is in a fullblown recession. Continuing these lawsuits will only further retard technological innovation and keep the economy from making a recovery. The Federal government should be bolstering the economy not harming it. All of this debate about an economic stimulus package is besides the point. Perhaps if the government backed off and stopped trying to harm hard working and successful American companies such as Microsoft, the economy would not be hurting today.

Sincerely,
David Sprouse
128 Reed Place
Anderson, SC 29621
cc: Senator Strom Thurmond
Representative Lindsey Graham

MTC-00031545

Jan 19 02 11:36a Reda & Company, LLP
CPA'S 914-289-0704 p.1
January 16, 2002
Attorney General John Ashcroft
Dept. of Justice
950 Penn. Ave., NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I understand that a settlement has finally been reached between Microsoft and the Department of Justice in their three-year-long anti-trust battle. This suit flies in the face of the ideals upon which we have built this nation: free enterprise capitalism, and indeed the very American dream itself. What kind of message does this suit send to future American entrepreneurs? Apparently that it is okay to become successful, but only to a point; if you do "too well" we will take it all away.

This suit has been a large contributing factor to the recession in which we now find ourselves. Microsoft is one of America's largest employers; attacking this company at this time is economically damaging policy. The settlement represents a number of significant concessions on Microsoft's part. They are sharing proprietary information with competitors in order to make it easier for competing products to work with and in Windows, They must permit Windows to be altered by manufacturers to promote compete products. And there are many more concessions.

This is enough; far more than enough. Let's accept the settlement.

Sincerely,
Al Reda

MTC-00031546

01/19/2002 12:19 5084863455 GLAVEY AND GLAVEY
Acton-Fitchburg Development Corp.
COMMERCIAL RESIDENTIAL LAND
28 Tadmuger Rd.
P.O. BOX 4
Westford MA 01886
FAX (508) 692 4860
OFFICE (508) 692 3250
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
January 18, 2002

Dear Attorney Hesse:

Please support the settlement agreement that has been reached between Microsoft and the U.S. attorneys in the ongoing antitrust case. I urge the Department of Justice to do whatever you can to convince Judge Kollar Kotelly that this is the best deal for the American consumer.

I am a small businessman with a development company. I use Microsoft products, and I work for many in the high-tech field in the course of my day. It is obvious to me that this case should end for several reasons:

—there is no monopolistic control of the market present here;
—the economy has suffered by the uncertainty the trial has created;
—the settlement reached is exactly the sort of end we should want;
—a continuation, or more more penalties, only benefits the special interests of other companies, not the American public;
—the high-tech sector would be hurt greatly by more regulation;
—and, a resolution now could bolster the economy at a time when it really needs it.

Thank you for your consideration of my opinion. I hope the settlement is adopted.

Sincerely,
Timothy Sullivan

MTC-00031547

01/19/2002 08:10 8584562285 DWI PAGE 01
Capital Endeavors
2165 Via Don Bonito
La Jolla, CA 92037
(858) 456-2285
FAX (858) 456-2285
January 19, 2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
VIA FACSIMILE
(202) 616-9937

Dear Ms. Hesse:

When the government stepped in and brought the antitrust case against Microsoft, famed free market economist Milton Freedman stated 'the technology industry will rue the day it asked for the government's help in it's struggles to compete against Microsoft." Here we are, four years later, with a recession staring us right in the face. I am writing the Court to let you know that I agree with Mr. Freedman today like I did four years ago and to ask you to approve of this settlement. It is time to end the case against Microsoft.

Four years ago, the technology industry was like wild frontier. It was untamed, full of possibility, and free of burdensome restrictions. We experienced what happens when an industry can operate in that sort of environment. Money flowed to new investments like water. Each day saw a new innovation-high speed internet, satellite communication, e-commerce, cd burners...the list is endless. And with all of this wild innovation, the collective of American people grew. We became more sophisticated and our quality of life improved. Then the government came calling...rather...some of those jealous pioneers called on the government.

The case against Microsoft marked the end of the technology revolution, We know now that the United States government can and will attempt to stop anyone who harnesses the strength of this new industry. Innovation has slowed and you don't need to look very far to see the impact of the technology bust. This wasn't irrational exuberance-it was government crashing the party.

I hope the courts will settle the case against Microsoft. Though it won't bring back the days of the wild frontier, it might clear the way for just a little more exploration.

Sincerely,
Dwight Filley
President Capitol Endeavors

MTC-00031548

Michael R. Englert
P.O. Box#505
Boone NC 28607
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
January 17, 2002

Dear Mr. Ashcroft:

My name is Michael Englert, and I am a resident of Boone, North Carolina. I am writing to express my support for the settlement agreement your department recently reached with Microsoft. I am also asking that you end the Microsoft litigation as quickly as possible.

Microsoft has agreed to some important changes in its business practices in order to reach this settlement, The agreement to open the Windows operating system to internal competition from non-Microsoft software products is at significant concession on Microsoft's part. In addition, their agreement to maintain more uniform pricing guidelines should adequately address the allegations of predatory pricing practices.

The settlement offers the country an opportunity to move past this lawsuit and turn its focus back to more important issues. It is time to put the litigation behind us and move on. Thank you for your time and attention.

Sincerely,
Michael Englert
P O Box 505

MTC-00031549

01/19/2002 02:54
7242384762
DAVIDCINDYPURNEL
PAGE 01
7 Wildview Drive
Ligonier, Pennsylvania 15658
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to express my opinion about the recent settlement between Microsoft and the Department of Justice. This case has dragged on way too long and should be settled as soon as possible. Microsoft has been a leading innovator or technology, has contributed to technological advancement of our nation, and has added jobs to our market. They should not be reprimanded, but instead applauded. The terms of the settlement are hardly favorable for Microsoft. They force Microsoft to disclose internal interfaces and protocols to their competitors. It also prohibits Microsoft from retaliating against computer makers and software developers who ship or promote non-Microsoft products that compete with Windows operating system.

But, I am happy to see that Microsoft will not be broken up and do think it is in our best interest to allow Microsoft to focus on business, not politics. We need the cornerstone of the tech sector at its strongest. The attorney general hopefully will do all it can to make state and federal litigation end and free up our private sector for an economic resurgence.

Sincerely,
David Purnell
cc: Senator Rick Santorum

MTC-00031550

Web-Builders.net
3229 Elkhorn Blvd. #12
North Highlands, CA 95660
www.web-builders.net sales@web-builders.net
January 18, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am glad to see that the Government and Microsoft have agreed to settle the anti-trust case. It seems to have something for all parties.

Microsoft can get back to work. 11 providers, including Microsoft's competitors get guaranteed access to technical specifications. Computer manufacturers who equip their computers with Microsoft's OS get flexibility on what they can install. Finally, for those who'd doubt Microsoft would comply with this agreement, there is an enforcement mechanism to respond to complaints about Microsoft.

What more can we reasonably ask for? I think this settlement is appropriate in its scope and I hope that the court accepts it.

Sincerely,
Tom Gjerde
President,
Web-Builders.net

MTC-00031551

Gentium
HOMES
January 18, 2002
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse;

As a user of Microsoft products, I am pleased to learn that a settlement has been reached between the federal government and Microsoft in the antitrust lawsuit. This settlement, protects consumers, yet also encourages the high tech industry's freedom to innovation.

Instead of wasting precious time and resources (dollars!) on dealing with lawsuits, time is better spent developing new programs. This settlement would allow such activity.

The settlement is good for consumers; the nations economy and the high tech industry .I support this settlement, and urge you to accept the consent decree.

Sincerely,
Kimberly B. Walton
One Daniel Burnham Court, Suite 200C
San Francisco, California 94109
Telephone (415) 447-1998
Fax (415) 292-0352

MTC-00031552

Jan-18-2002 13:55 P. 04/04 415 369 0462
BEK GROUP
GROUP
January 18, 2002
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse;

This letter regards my support of the settlement of the Microsoft lawsuit.

The Department of Justice and Microsoft have reached a fair settlement to the antitrust lawsuit, which has been going on for more than 3 years costing over 36 million in tax dollars. It is time to move on!

The settlement is fair and I urge you to accept the consent decree. While the settlement is not entirely satisfying to all, it strikes a difficult compromise providing something for everyone.

Sincerely,
Eric Rimes
BEK Group
95 Miana Street, 2nd Floor
San Francsico, CA 94105
Ph: (415) 543 2800
Fax: (240) 359 5141

MTC-00031553

JOHNSON 19046412993 P.01
CARL JOHNSON
(904) 641 2993 (PHONE AND FAX)
carl.johns@worldnet.au.net
11602 Hidden Hills Drive South
Jacksonville, Florida 32225
January 20, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The intention of this letter is so that I may go on record as being in favor of the recent settlement that ended the antitrust dispute between Microsoft and the Department of Justice. I do feel that there should not have been a lawsuit in the first place, but that does not really matter now. What is important is the litigation at the federal level is over, and I support anything that will keep it that way. I feel that Microsoft has been responsible for generating more jobs and more innovative technology than any other company has in the past 20 or 30 years. It appeared to me that the litigation served to penalize Microsoft for their past efforts and overall creativity. In a business where creative solutions and technological progress move very quickly the fact that Microsoft must now share their independently developed technical data, i.e. protocols implemented in the Windows operating system, with their competitors seems very unfair. In essence, Microsoft has to turn over intellectual property that was developed at private expense to their competitors.

The settlement that was reached is reasonable, mostly because it brings an end to the antitrust litigation between Microsoft and the Justice Department.

Sincerely,
Carl Johnson

MTC-00031554

From: Harry A. Thomas
To: Mr. John Ashcroft
Date: 1/19/2002 Time: 10:10:36 PM Page 1 of 1
Harry A. Thomas
14354 Pleasant Hill Dr.
Chino Hills, CA 91 709-4828
909-591-7610
iledoc@earthlink.net
January 19, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

This letter is to express my feelings about the proposed settlement that has been agreed to by the United States Department of Justice and the Microsoft Corporation. I am of the opinion that the settlement reached is more than reasonable, and it should be implemented as soon as possible. I feel that further litigation against Microsoft is analogous to "piling on", and not in the American spirit. When is "enough, enough". During this time of recession, it is clear that we must let our competitive system help restore the economy. Microsoft is willing to change licensing and marketing practices, signaling their cooperative attitude. Since this decision is in the best interest of America and the economy, we need to support the process and let business get back in gear. There is no need to keep Microsoft under the federal microscope any longer, especially since the settlement calls for an oversight committee to monitor Microsoft's compliance with the settlement.

America needs as many innovators as possible right now, and Microsoft is our biggest.

I support the settlement, and hope that it will help restore America's economy to what it was before the antitrust settlement came about.

Sincerely,
Harry A. Thomas

MTC-00031555

J. Basham
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This letter is to give my support to the Department of Justice and Microsoft settlement. I think the original lawsuit was frivolous and a waste of time and money. I feel it was inspired by the jealousy of Microsoft's rivals more than by any inequitable business practices. Antitrust laws are meant to protect the consumer, and I believe there was no harm done to the consumer in this case. Computer software products are cheaper than they were ten or fifteen years ago. Microsoft streamlined computer programs into nice useable formats and increased the compatibility of computer software. No other firm did this. If they had, we would probably be talking about them. Businesses today are punished for being too successful.

From what I understand Microsoft more than met the demands of the Department of Justice, well beyond what was actually at issue in the original suit. Microsoft has agreed to grant computer makers broad new rights to configure Windows to promote non-Microsoft software programs. Microsoft has also agreed to design future versions of Windows with a device making it easier for computer makers to promote non-Microsoft software. Any further litigation would be harmful to both the economy and the country Let's put this issue behind us. Give your support to the Department of Justice and Microsoft settlement.

Sincerely,
John Basham
10121 Zig Zag Rd.
Cincinnati, Oh 45242-5747

MTC-00031556

FROM : Richard Koenig (360) 422 7108
PHONE NO. : Jan. 19 2002 05:56PM Pl
RICHARD KOENIG
Phone / FAX (360) 422-7108
16674 Mountain View Road
Mount Vernon, WA 98274-8348, USA
Mt. Vernon, January 19th 2002
FAX 1 202 307-1454
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave. NW.
Washington DC 20530

Dear Atorney General Ashcroft:

I am writing you to express my support towards the settlement that was reached between Microsoft and the Departement of Justice.

As a Microsoft customer, and supporter of the recent settlement, I urge that no further action be taken at the federal level. As a concerned citizen, I see, everyday, the need for growth in our economy. As I watch the news, and see the recession in our country, I become concerned with our economic growth and, in particular, our technological advancement. As I believe that the settlement is faire and beneficial to all parties, it is time to go on with business, and let the technology industry focus on advancement.

Since state and federal budget are presently challanged, it does not make sense to spend scares resources on a battle that has already been won. Again, I support this settlement and hope that no more action is taken to delay this process.

Sincerely,
Richard Koening

MTC-00031557

01/19/02 14:41 FAX 360 495 4408
MANSMITH/CB.FHE 01
49 Stillson Road
McCleary, WA 98557
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Last November there was a settlement that was reached between Microsoft and the Department of Justice. I am writing this letter to go on record as supporting that settlement. It has been a long time coming, and now that the dispute has been resolved, America can turn its attention to improving the economy.

The recession that we are in was actually started when the government announced the antitrust suit against Microsoft. The market started to decline, and no one did anything about it. It took an official announcement of a recession before the government finally wanted to get this over with. A healthy Microsoft gave us the best economy in history, and a hamstringed Microsoft gave us a recession. You do the math. I am sure that the committee that has been set up to monitor Microsoft should satisfy everyone in the government who pressed on with the suit. They will be constantly watched, and thus, have to abide by the terms.

This is a win-win settlement. Microsoft no longer has to waste time and money in court and the economy will be allowed to rebound out of this nasty recession.

Sincerely,
J. E. Mansmith

MTC-00031558

Jan 19 02 05:01p Linda Furr
277-2195
January 19,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue,NW
Washington, DC 20530

Dear Mr. Ashcroft

I am writing in support of the November agreement between Microsoft and the justice Department.

I feel the agreement mandated Microsoft be fair and allow competitive programs to be run within the windows software programs. A committee of technical advisors surely would assure compliance that would be in the publics best interest and bring closure to this case.

Without Windows software that makes using my computer simple, as a senior citizen, I would never be able to navigate through complicated programs and would be left out of the electronic information available to me.

I also feel the settlement would help relieve some of the concerns effecting our stockmarket on which we depend for income as a retired couple.

Sincerely,
Linda G Furr
30 Ridgefield Place
Asheville,NC 28803

MTC-00031559

Saturday, January 19, 2002 05:21:26 PM
FAX COVER SHEET
To: Attorney General John Ashcroft
Fax #: 1-202-307-1454
From: Stu Schwartz
Fax #: 301/654-4648
Fax: 1 page and a cover page.
Stuart Schwartz
7720 Rocton Ave.
Chevy Chase, Md. 20815
January 19, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft

I am a retired businessman, having spent my life in the wholesale and retail market place. I am very aware of the demands of business, and the fine line that separates dominating a field and being a bully. This seems to be the crux of the argument between Microsoft and the Department Of Justice. A settlement was recently reached ending a three-year-long antitrust case against

Microsoft for unfair business practices. I side with Microsoft. Yes, Microsoft dominates the market, but it does so because it puts out a good product—Bill Gates recognized a need for standardized computer software -and filled it. He was quicker and smarter than his competitors.If he hadn't been, they would have overwhelmed him. Why, then, should he end up in court?We are fast approaching a time in this country when success in business is being defined by members of the congress, whose knowledge of business is largely supplied by lobbyists representing the interests of their clients and government agencies, also influenced by lobbyists as well as the Administration. There is a need for scrutiny in any field, but it needs to be more even-handed.

Microsoft has opened up its source codes for its Windows program to both computer manufacturers and competitors; has allowed competing software to be inserted into computers,allowing easier access to non-Microsoft software, and has even agreed to a technical committee to monitor future company activity. This should be more than adequate. However, Microsoft did agree to this agreement. And the Department of Justice, and I think we should honor this settlement. Both parties hammered out an agreement that both parties were happy with. We need to move on. There are more important matters we all have to deal with right now.

Give your support to this agreement. Thank you.

Sincerely,
Stu Schwartz

MTC-00031560

01/19/2002 16:24 9789229150 PAGE 01
Barger Companies
63 Neptune Street
Beverly, MA 01915-4746
Phone: (978) 922-9500
Fax: (978) 922-9150
To:
FAX: Attorney General John Ashcroft
From: Richard W. Barger
Fax: 202-307-1454
Pages: Two
Phone: 202-616-9937
Date: January 19, 2002

Re: Justice Department's handling of the Microsoft Case
Comments: Please see attached letter directed to Attorney General John Ashcroft.

This case should be closed before the government ruins the company the their industry.

Thank you

01/19/2002 16:24 9789229150 PAGE 02
The Barger Companies
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a concerned citizen of this great nation, I am writing to inform you of my thoughts on the settlement between the Justice Department and Microsoft Corporation. I support the settlement, since it will bring this three-year ordeal to an end.

The settlement was reached after extensive negotiations with a court-appointed mediator.Microsoft did not get off easy by agreeing to this settlement. For example, Microsoft has agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with windows.

Also, Microsoft has agreed to license its Windows operating system products to the 20largest computer makers on identical terms and conditions, including the price. Please discontinue any legal action against Microsoft, so the company can move forward in developing new products for the consumer.

Sincerely,
Richard W. Barger
63 Neptune Street, Beverly, Massachusetts 01915 Telephone: (978) 922–9500 Facsimile: (978)922–9150

MTC–00031561

01/20/2002 08:23 1100000000
CDAEMB1ADKMAASSOC
PAGE 01
January 15, 2002
Mr. Michael Coyle
14465 St. Germain Drive
Centreville, VA 20121
Ms. Renata Hesse
Department of Justice
601 D St., N. W., Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I strongly support the settlement between the federal government and Microsoft, and I believe that it could be the first step toward restoring prosperity to the high technology sector in the U.S. Consumers will benefit from the provisions in the settlement that allow Microsoft to decide which products and features it may provide to its customers and how to price them. It's time to do what is best for consumers and for the economy and this settlement seems to move the country in the right, positive direction,

Sincerely,
Michael Coyle

MTC–00031562

Saturday, January 19, 2002 5:13 PM
To: Attorney General John Ashcroft
From: Marcus Huie, (212)472–0851 Page: 1 of 1
515 E 72nd St Apt 22G
New York, NY 10021–4022
January 16, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am in favor of the Microsoft antitrust settlement agreement. The parties worked hard to reach a workable agreement that will accomplish the goal of preventing future monopolistic behavior.The agreement is fair and reasonable, and adequately addresses the essential complaints lodged against Microsoft. I especially like the idea of the creation of a technical review committee, which will oversee Microsoft's business practices. The review committee will be able to monitor Microsoft's compliance with the settlement agreement, and will help address complaints in the event Microsoft engages in any future anticompetitive behavior. Additionally, Microsoft will make it easier for its competitors to compete with Microsoft by granting computer manufacturers the right to replace features of Windows with the software designed by Microsoft's competitors, and by disclosing parts of the internal Windows code to the competition.Continuing the litigation process is not in the public's best interest. I would like to see this case concluded. Thank you for your time.Sincerely,Marcus Huie

MTC–00031563

From : OZONE SYSTEMS, INC. PHONE No. : 801 776 3864
Jan. 20 2002 11:34M P01
1239 West 2600 North
Clinton, UT 84015
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I do not believe it is prudent to punish Microsoft for its own ingenuity and success. The only reason Microsoft has been able to achieve such market dominance is because it puts out a better product than its competitors and therefore enjoys a greater degree of popularity. Free enterprise is one of the fundamental principles this country was established on, and I regret that laws put in place to protect the public interest have begun not only to discourage free enterprise, but to negatively impact consumers as well.

I do not doubt that Microsoft was brought to trial because it had indeed violated antitrust laws. But I do not believe it is necessary to cripple the Microsoft corporation simply because their software is of a higher quality than others". The settlement proposed last November is, I believe,fair both to Microsoft and its competitors, and I find no reason to throw it out. Microsoft has agreed to allow its competitors to have access to source code and interfaces integral to the Windows operating system so that non-Microsoft software will be able to be introduced into Windows. Microsoft has also agreed to reformat future versions of Windows to the same effect.Microsoft has actually been quite generous in the terms of the settlement.

Sincerely,
Ben Wofford

MTC–00031564

01/28/2002 12:22 9413836025
ROBERT CHALPHIN PAGE 01
1211 Gulf of Mexico Drive, Apt. 702
Longboat Key, FL 34228
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to voice my sentiments about the Microsoft case. Why thiscase ever went to court in the first place is beyond me. Microsoft has donenothing but help consumers. It is not Microsoft's fault that their competitors wereless intelligent and less innovative than Microsoft was. Bill Gates had someamazing ideas and did a great job putting them in the market and making goodmoney from them. That's the American way. I certainly hope that the governmentdoesn't make another mistake like their breakup of AT&T. That was certainly amess and did cause harm to consumers.

Microsoft is conceding a great deal in this controversy so that they can concentrateon future endeavors, not costly legal debates. They are giving their competitorsunprecedented amounts of technology information and will give consumers morechoice in their computer programs. I think this is more than fair, and I am surethat it will promote competition in the computer industry.

Please uphold this settlement and ensure our country's place in the internationalmarketplace.

Sincerely,
Doris Loevner

MTC–00031565

From: Jeffrey R Tidwell
To: Attorney General John Ashcroft
Date: 1/20/02 Time:
4:52:42 PM Page 1 of 2
FACSIMILE COVER PAGE
To : Attorney General John Ashcroft From : Jeffrey R Tidwell
Sent : 1/20/02 at 4:52:40 PM Pages : 2 (including Cover)
Subject : Microsoft Settlement
From: Jeffrey R Tidwell
To: Attorney General John Ashcroft
Date: 1/20/02 Time: 4:52:42
PM Page 2 o f 2
1538 East Lee Street
Camden, South Carolina 29020
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This letter is to express my endorsement of your decision to settle withMicrosoft in the antitrust case. The settlement will bring an end to threeyears of court conflict that has cost both sides dearly in resources.

Microsoftis one of our nations most pioneering companies and should be able to returnits focus to business. The settlement is equitable, and will open up the ITindustry by allowing companies to have unprecedented access to Microsoft'scode and operating systems. With this information competitors will have abetter chance against Microsoft.

Special interests with anti-Microsoft bias may try to hinder and delay thesettlement and have this case reopened. These interests should be repelledand this case finished at the federal level. I support the settlement, and lookforward to the end of this case.

Sincerely,
Jeffrey Tidwell
cc: Senator Strom Thurmond

MTC-00031566

JAN-20-02 SUN 14:22 MERCER
FAX NO. 18178253368
P. 01
204 Oaklawn Avenue
Nocona, Texas 76255
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing this letter so that my view on the settlementbetween Microsoft and the Department of Justice can be madepublic. The proposed agreement is fair to both sides, and I fullysupport it.

In fact, the settlement actually imposes restrictions andobligations on Microsoft's products and technologies that were noteven in question in the antitrust lawsuit. Microsoft will have to shareinformation about Windows with its competitors, for example.

However, Microsoft was mere concerned with improving the economyand getting back into the swing of things instead of quibbling oversmall details in the agreement.

I am glad that I have this outlet, and please put me on recordas supporting the settlement between the Department of Justice and Microsoft,

Sincerely,
Faye Arnold

MTC-00031567

01/20/2002 04:44 5617474985 PAGE 01
300 N. AIA Apt. M401
Jupiter, FL 33477-3503
Attorney General John Ashcroft
US Department of Justice 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
January 17, 2002

Dear Mr. Ashcroft:

I am writing in regards to the Microsoft antitrust settlement reached with the Departmentof Justice. I am a supporter of the settlement in so far as I wish to see legal action againstMicrosoft brought to a halt. It is more accurate to say that I have been opposed to theantitrust case from the beginning; I feel that it was entirely unfounded.

I disagree with other people's sentiments that Microsoft is getting off easy. Under theterms of the settlement, Microsoft will no longer enter into any agreements with thirdparties to exclusively distribute or promote Windows technology, except where nocompetitive concerns are present. Microsoft will also document and release to itscompetitors various internal interfaces of the Windows operating systems. Myunderstanding is that this is the first time in an antitrust settlement ever that productsource material has been disclosed.

I strongly urge all those involved to support the current settlement and bring this three-year long suit to a close. No further action should be taken against Microsoft at thefederal level.

Sincerely,
Russell Hoffman

MTC-00031568

JAN. 20" 02 (SUN) 12:12 EWING ELECTRIC, INC.
TEL:425-776-3711 P.001
EWING ELECTRIC, INC. Electrical Contractors
January 17, 2002
Attorney General John Ashcroft
U.S. Department of Justice
Washington, DC 20530-0001

Dear Mr. Ashcroft,

Microsoft is perhaps the most pioneering company in recent American history.Many people also are not aware of Microsoft's incredible philanthropic givings, some ofthe biggest donations in history. That is perhaps why I was saddened when the antitrustcase was brought against Microsoft.

However, I was delighted to learn recently that a settlement was reached in thiscase. The settlement has many positive points, and will conclude the case at the federallevel. This settlement will allow competitors unprecedented access to view Microsoftcode so they can create better software. Additionally the settlement will allow Microsoftrivals to place software on Microsoft's systems without difficulty. Most significantly Ibelieve the settlement will conclude this case at the federal level that has cost both sidesand our economy too much in time, money, and effort.

It has become apparent that some wish this settlement withdrawn. I feel it iscritical for you to support the settlement to make sure this does not occur and the federalcase is settled.

I also wonder why the people behind this lawsuit lose sight of the fact that BillGates and numerous other Microsoft individuals support so many charities in this world.His foundations feed more people than the government does and he really cares abouteducating our young people and supporting schools. We have here a person who reallycares about the world he and all of us live in. Give us all a break please.

Sincerely,
Donna Sorensen
(425) 778-3773 PHONE
(425) 776-3711 FAX
E-Mail: eelect@ibm.net
P.O. Box 1238
539 Main Street
Edmonds, WA 98020

MTC-00031569

1-20-2002 4:50PM FROM 000000000000
01/20/02 SUN 18:58 FAX 804 795 2340
Gatewood Stoneman
P. 1
001
January 16, 2002
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

This letter contains my comments on the Microsoft settlement.

The settlement is good because it brings to conclusion a case that has been lingering in thecourts for far too long. The specifics of the settlement are positive in that they will settlethe question of unfair competition by sharing information and allowing entrance into Windowsthe Microsoft competitors. The settlement also addresses any issues of retaliation byMicrosoft and ensures compliance with a technical committee. For those reasons I supportthis settlement.

Sincerely yours,
Gatewood H. Stoneman

MTC-00031570

FROM : GRAPHIC BYTES INC FAX NO. : 4048748410
Jan. 21 2002 06:41PM Pl
January 5 , 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

It has always struck me as a bit odd that our government would have goneafter a successful business like Microsoft with as much zeal and enthusiasm as itdid. I suppose that, in retrospect, Microsoft should have been a bit more flexiblewith its Windows operating system (OS) and software than it has, but this isaddressed in the settlement.

The settlement dictates that Microsoft's OS be reengineered to make iteasier for customers and software designers to install non-Microsoft software.The end user could then re-install Microsoft products easier as well. All in all, thesettlement will do many little things such as this to give customers more choices tooptimize their computer's abilities.

I am hoping that this settlement will indeed be the last word on this suit,and that our country can begin to turn its attention to other, more important issues.

I am equally hopeful that there will be no further federal action against Microsoft and that our nation's leadership will a bit more circumspect when contemplating any other lawsuit like this one. Thank you.Sincerely,
Cathey Oldroyd
931 Monroe Drive
Suite 102-197
Atlanta, GA 30308
FROM : GRAPHIC BYTES INC
FAX NO. : 4048748410 Jan. 21 2002 06:41PM P2
P.O. Box 5599
Atlanta, Georgia 31107
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

After such a long and contentious feud between the Justice Department and Microsoft, I am happy to add my support to the settlement. This settlement is fair to all sides and, more importantly, brings to an end all the bickering and saber rattling that has gone on for the past several years.

I really believe that our government should exhibit more unified support and encouragement to our nation's business community than it has demonstrated through the course of this lawsuit. It might very well be true that Microsoft was a bit more aggressive in protecting its market share than many in our government feel comfortable with. But filing this lawsuit, no matter how well intentioned our government was, betrayed a certain disappointing attitude of intimidation on the part of our government toward the business community at large, rather than the more reasonable position of allowing market conditions to correct any perceived wrongs.

Now that this settlement is in place, I am hopeful that no further government action will be taken, and that we can all get on with the more important priorities in life.

Sincerely,
Bob Oldroyd
648 Cleburne Terrace
Atlanta, GA 30306
404–874–8608

MTC–00031571

Jan 21 02 05:33p Robert J Bergman
352 683 4744 p.1
5003 Abagail Drive
Spring Hill, FL 34608
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to urge the Department of Justice to accept the Microsoft antitrust settlement. The issue needs to be put to rest and the industry needs to move on. The longer that this drags on the worse it is for everyone.

The entire case has been a farce from the beginning. It takes a lot of nerve to ask any company to share its secrets with its competitors. In the settlement Microsoft agreed to document and disclose for use by its competitors various interfaces that are internal to Window's operating system products and people are still saying that Microsoft has gotten off easy. Microsoft is still in one piece, although they have been forced to open their vault of secrets.

Microsoft has given up a lot in order to settle with the government. The government needs to accept the settlement and move on. I do not remember any of the other "Giants of Industry", ever being told to do the same. The government has lost sight of the amazing number of industry related people that Microsoft had taken off the bread line many years back.. I am a very honest, sincere, hardworking,and trustworthy person that exercises his right to vote in every election, every year.

Thank you.
Sincerely,
Robert J. Bergman

MTC–00031572

Roy Steffey
35711 Baql Clair
New Baltimore, MI 48047
January 19, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

As a computer software user, I would like to take this opportunity to contact you and let you know what I think of the antitrust lawsuit against Microsoft. Microsoft has been successful for the simple reason that they had the best product on the market at the right time. Consumers were looking for a way to utilize the new technology of personal computers in the easiest way possible. Microsoft provided this ease by"bundling" its software into its Windows operating system. This was precisely what consumers were looking for. Without this technology provided by Microsoft, we would not have seen the "p.c.revolution" of the past 15 years. Most households now contain a personal computer, and this is due to the ingenuity of Microsoft.

This suit has been an unfounded waste of resources by all parties involved in this suit. I believe that while this lawsuit was unnecessary from the beginning, the settlement that has finally been reached is more than necessary at this time. The settlement is reasonable, and will put a stop to any alleged antitrust violations that may occur. There will be a three-person technical committee, which will over see the future business practices of Microsoft to ensure that the terms of this settlement are not violated.Microsoft will not longer engage in retaliatory action against any of its competitors. Finally,Microsoft will design all future versions of Windows with a mechanism that will ease the use of non-Microsoft soft ware within the operating system.

I hope that Microsoft can finally get back to business and that the American technology industry can continue on its way without the meddling interference of politics. Thank you for your time and for allowing me to express my opinion.

Sincerely,
Roy Steffy
Cc: Representative David E. Bonior
Jan. 21 2002 06:11PM P1 PHONE NO.:
FROM: Marie A. Marsh

MTC–00031573

Jan-21-2002 4:47PM GSL Solutions (Fax 813–637–8268) No.0954 P.1
gsl Solutions
Gaining Strategic Leverage
To: Renata Hesse
From: Adam Lombardo
Fax: 202–307–1454 Phone:
Phone: Pages: 2
Re:
Date: l/21/2002
1411 N. Westshore Blvd.—Suite 102—Tampa, FL 33607
phone 813.637.8535 -fax 813.637.8268
Jan-21-2002 4:48PM GSL Solutions (Fax 813–637–8268)
No.0954 P. 2
gsl Solutions
Gaining Strategic Leverage
January 21, 2002
Renata Hesse
Antitrust Division
U.S. Department of Justice
601 D. Street NW, suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

As of late, it is commonly known and has been reported and discussed by the media that the United State's economy is in serious trouble. Due to the seriousness of our dire condition, it is important that the U.S explore ways in which to recover from this downfall.

It is because of these reasons that I am writing you today to lend my support for the Microsoft Settlement. The settlement was a fair accord that ended a complex, protracted legal dilemma. The U.S. has gone through enough, and since the September 11 attacks, we need to allow businesses and corporations, like Microsoft, to spur on economic growth to benefit all working Americans,

That is why I support the settlement; it is balanced for all parties involved and the conditions are fair to everyone. Microsoft has agreed to design future versions of Windows that allow hardware manufacturers the freedom to promote non-Microsoft software. They have also agreed to document and disclose Windows internal interfaces for its competitors.

This settlement is fair and will help America get back on its feet. Thank you for your time.

Sincerely,
Adam J. Lombardo
Vice President
GSL Solutions, Inc.
1411 N. Westshore Blvd.—Suite 102—Tampa, FL 33607
phone 813.637.8535 -fax 813.637.8268

MTC–00031574

JAN-21-'02 MON 13:33 ID: ADVANTAGES B/A HOMES TEL NO:
650–573–1606#456 P01
K.G. TAX CONSULTANCY CO.
675 Mariner's Island Boulevard Suite 105
San Mateo, California 94404–1040
e-mail: kamm@bay homes.com
VIA FAX: 1.200.307.1454
KAMM GHALAMKAR
BS, EA, MBA (Tax)
(650) 573–8200
FAX 573–1606
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft,

I would like the Department of Justice to settle its antitrust lawsuit against Microsoft as quickly as possible. Microsoft should have the continued freedom to innovate and create without government interference. They Are a fantastic company whose potential is being undermined by continued litigation.

Though I believe that Microsoft's concessions in the settlement, especially allowing competitors the access to various internal codes for Windows,are extreme, they aid Microsoft in wrapping up the case in the shortest amount of time possible.

This case has been stretched too far. Please settle the lawsuit and allow Microsoft to return to regular operation.

Sincerely,

Kamm Ghalamkar

MTC-00031575

Jan 21 02 04:42p mbe 8606496706 p.1
278 Main Street
Apartment #F302
West Haven, CT 06516
January 10, 2002
Renata Hesse, Trial Attorney
Suite 1200
Antitrust Division, Department of Justice
601 D Street NW, Washington, DC 20530

Dear Sir or Madam:

I am writing to express my opinion on the proposed Final Judgment in the Microsoft anti-trustcase in response to the invitation of public comment on the proposal. I would preface my comment on the proposed judgment by stating that I am not in any way affiliated, other than by usage of their products,with any of the companies mentioned herein. I am also not a lawyer, but I have done my best to comprehend the sometimes confusing Final Judgment.

This out of the way, I will be straight and to the point: I find the proposed judgment to be woefully inadequate, at best. At worst, it leaves the door even more open for the practices that this proposal was intended to prevent and penalize. This phase in the legal process is referred to as the penalty phase for a reason- it generally involves some sort of penalty to the convicted parties. However, the proposed judgment seems to me like even less than the proverbial "slap on the wrist" and closer to a slight scowl in their direction. I feel that much more needs to be done to discourage Microsoft from using its current monopoly position to impede the competition and innovation that is what makes a capitalist market system function so well.

I will first address problems that I see in the current Judgment, and will then address major additions that I believe should be made. In Section III.H.2 (the second 2., this section should have been better numbered for referral.. .) I believe that this exception to the requirement allowing non-Microsoft Middleware Products has entirely too much potential to be abused. If the non-Microsoft Middleware Product does not supply a "functionality consistent with a Windows Operating System Product"but the user still wishes to use it, that should be their choice. If the functionality of the Microsoft Middleware Product is that much better, the end user can choose to use the Microsoft Product instead of the non-Microsoft Product based on its functionality- not a functionality requirement decided upon by Microsoft.

In section 4.B, the Appointment of a Technical Committee (TC) I have several objections both in content and in general. First, in section 4.B.2.a, I believe that not being employed by Microsoft in the past year is far to short of a timeframe to limit this to. I believe that there should be limitation of not being employed in any capacity by Microsoft for at least the last 5 years should be a requirement. Also,in section4.B.3 I firmly believe that Microsoft should not be allowed to select a member to sit on the Technical Committee. This, to me, falls under the description of "letting the wolf guard the hen-house."Barring the total exclusion of Microsoft selecting a TC member, I believe the section 4.B.5 should be changed to read as follows: "If the United States determines that a member of the TC has failed to act diligently and consistently with the purposes of this Final Judgment, the Plaintiff shall select a replacement member in the same manner as provided for in Section IV.B.3. If a member of the TC resigns, or for any other reason ceases to serve in his or her capacity as a member of the TC, the person or persons that originally selected the TC member shall select a replacement member in the same manner as provided for in Section IV.B.3"

Thus, if the TC member appointed by Microsoft to the TC is found to not be acting diligently or in a manner consistent with this Judgment, Microsoft will lose their right to appoint a member to the Committee. Also, I believe that Section 4.B. 10 should be changed to allow public statements by members of the TC that have been approved by the Plaintiff(s),

In Section IV.C. 1, there should be a stipulation made to allow the Plaintiff(s) to review and possibly reject an proposed appointment to the position of Compliance Officer. The Compliance Officer should also be held accountable by the TC for carrying out the duties outlined.

Section IV.C.4.d should be stricken completely from the Judgment, assuming I am understanding it right. Of what use is having the TC if they are effectively gagged? If the TC members cannot testify of what they have found. why are they even there? This to me is almost worse than not having a group in place P.1Jan 21 02 04:43p mbe8606496706 p.2to monitor Microsoft at all- having a group in place that seems to be capable of monitoring and reporting on infractions of the law, but that is forbidden from doing so. This also seems to be in direct conflict with several of the duties of the TC. The TC members are to notify the Plaintiffs of any failure comply with the Judgment. But, from the way Section IV.C.4.d reads these reports, even the actual evidence that the TC found, would not be admissible in further prosecution. Furthermore, if other evidence of legal in fractions were found by the TC, they would not be able to testify about it as well. This section just makes no sense a tall- and moreover seems to almost completely remove any of the usefulness of the TC.

Finally, in Section V.3, I believe that there should not be a limit of a one-time extension of the(hopefully modified and strengthened) Final Judgment. If Microsoft were to continue to violate the Judgment even after the maximum 7 years allotted were up, they should not be allowed to get off scott free to continue leveraging their monopoly and force even more of the taxpayer's money to be spent getting them to stop their illegal practices. As long as it can be legally and satisfactorily demonstrated that they continue to violate the terms of the Judgment, the penalties should be indefinitely renewable.

In addition to what is currently laid out in the Final Judgment, I believe that at least the following additions should be made. First a more effective way of ensuring that competing Operating Systems and software products are more accessible to the end user by making it easier to either obtain a computer from a vendor without an operating system or with a non-Microsoft OS. The Judgment takes a first few small steps towards this by forbidding vendors and Microsoft from entering into exclusive or fixed percent age distribution, promotion or use of the Windows Operating System. However, this just doesn't go far enough-the OS and other proprietary software should be an option that can be added in for a price over the base hardware, not automatically assumed to be what the consumer desires. This way buyers will be more free to choose their operating system, and they won't automatically pay for the Windows Operating System as is the case now with almost all new PC computers. This is not to say that the hardware vendors cannot offer a discount on the Operating System over buying it without buying a computer- as stipulated in the Judgment,there is nothing wrong with Microsoft giving volume discounts on its product like almost any other business.

Next, Microsoft should be prevented from attempting to move the internet towards its own proprietary vision by ensuring that none of its services or products exclude interoperability with services or products not provided or produced by Microsoft. Specifically, attempts by Microsoft to limit access to supposedly free content and services to its own products, as in the recorded case of the MSN site blocking access to users attempting to access it using a non-Microsoft browser. Communications protocols used by Microsoft's products should, while still maintaining necessary security, be published and reviewed to allow other products to interact properly with them and to ensure that Microsoft is not attempting to use these protocols to further leverage its monopoly.

Similarly. the file formats used by Microsoft's products should be released to the public prior to their implementation in released software. Whether by leveraging their monopoly or not,Microsoft's office productivity products have become the standard which most organizations operate under.Microsoft has an observed habit of making changes to these formats which often cripple the ability of competing and occasionally even complementary software to access these files. Requiring release of the details of these formats would allow more level competition. Truth be told, I would also like to see Microsoft be required to produce versions of its productivity applications for competing Operating Systems, but I must concede that I do not have any suggestion as how this could be done both fairly and to ensure Microsoft does not intentionally sabotage the quality of these "ports".

Finally, I believe that as an additional penalty I believe that Microsoft should be fined anon-trivial amount in addition to any court costs of these proceedings, and that this find should be used to create a fund for software developers to develop applications specifically for non-Microsoft Operating Systems. As Microsoft has done much to keep software companies from developing software for competing Operating Systems to further their monopoly, I believe that this would be both and appropriate and poetic penalty.

I have also heard several reports of repeated mention of leniency in penalties against Microsoft being 'for the good of the country', and I submit that this is exactly counter to the truth. Actions such as those that Microsoft has taken- achieving and maintaining a monopoly through i11ega1 practices instead of by competing and producing superior products and services- are completely counter to the principles of this country, not just its laws, and can only end up being harmful to this country. This country has a history of great innovation and creativity. which has been fostered by the open, competitive nature of its economy. By leveraging its monopoly as it has, Microsoft has tried to put itself above the need for innovation and creativity and hence prevented the innovation and creativity that its competing might have produced. Wereal1 fields of business leveraged and dominated by monopolies such as Microsoft, there would belittle, if Jan 21 02 04:43pmbe8606496706 P.3any, innovation. and we would quickly find ourselves left behind as the rest of the world continued innovating and creating. I will not deny that Microsoft is likely an important part of our economy- but how much -better- a part of it would it be if it actually had competition that forced it to compete?From DR-DOS and OS/2 (to name the ones that come to mind) and Apple, Sun, and Linux in the present and into the future, Microsoft has sought to eliminate its competition, not out-perform it. I would urge you to act to strengthen this Final Judgment so that it will actually make a difference, and not only help level the playing field for the competitors Microsoft has wronged, but to help force Microsoft to improve itself and to preserve the foundations that our country's businesses were founded on.

Robert A. Babcock

MTC-00031576

FROM : HONEIN
PHONE NO. : 770 7230163
Jan. 21 2002 11:25AM P1
infrench.com
A selection for the french
no stalgic or french curious
January 18, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have been meaning to write you for a while. Being an Arab American, one would expect that I should be writing you about subjects like racial profiling.. . Well, racial profiling is indeed a great concern of mine, but nonetheless, I also feel that the non-settlement of the case against Microsoft Corporation is directly affecting the likes of my company, my colleagues, and various sectors of the economy, including the stock market, that are the basis for refueling our economy.I am sure you remember the financial markets'' positive reaction to the first news that the break-up of Microsoft, originally envisaged by the previous administration, was finally deemed totally unfair and unwarranted. I strongly believe that allowing the settlement of the case to continue to drag is unwise and negate many other efforts undertaken to revive our economy Microsoft could be labeled over aggressive, but this aggressiveness has also contributed to great achievements. We expect more to come from them and from the rest of the IT sector. So please facilitate a quick settlement of the case and help us all focus our attention again on our business.President Bush has promised us "less Government". We are extremely happy with federalizing airport security, but please hands off business!

I strongly recommend that your department issues a deadline by which the federal case pending against Microsoft must be settled. I believe that the mere announcement of such a date will impact positively on us all.

Sincerely,
Antoine Honein
Director
Infrench.com LLC, P.O. Box 450193, Atlanta, GA 31145
Telephone: 770–558–1804
Telephone (Toll Free): 1–888–751–8882
Fax: (770) 723–0163
Email: Antoine@infrench.com

MTC-00031577

JAN-21–2002 16:10 FROM MAILBOXES ETC. TO 12023071454 P. 01/02
Fax Transmittal Sheet—
MBE MAIL BOXES ETC.
Hilton Head Island, SC 29928
(843) 842–3171 o Fax (843) 842–3175
If you have any problems with this fax, please contact us.
Date: 1/21/02
To: General John Ashcroft
Fax Number: 202 307 1454 or 202 616 9937
From: Malcolm Strange
Phone Number: 843 671–4337
# of Pages (including this sheet) : 2
Message:
o Copy Service o Mailboxes o Notary
o UPS/FedEx Shipping Services o Fax Service
o Office Supplies o Mailing Services o No-Limit Shipping TM
Etc . ...
It's Not What We Do, It's How We Do It.TM
JAN-21–2002 16: 10 FROM MAILBOXES ETC. TO 12023071454 P. 02/02
151 Greenwood Drive Apt. 3349
Hilton Head Island, SC 29928–4520
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Microsoft has been a successful company for more than fifteen years because it has created quality products that have been used by millions. The recent decision of the Justice Department to settle in the antitrust case is welcome because it allows Microsoft to focus on business and less on legal matters.

In our competitive free market place it is not necessary for companies to be nice to competitors. The company with the best product usually wins, and more often than not it has been Microsoft. Nevertheless the settlement that is on the table will curb behavior that some companies objected to. This settlement will end any contractual restriction that hurt opponents'' ability to offer software. Additionally this settlement will allow competitors to effortlessly place their software on MS systems.

I believe it is incumbent upon you to see this settlement is put in place and thefederal case is concluded. Microsoft has agreed to this settlement because it would like to return to business not the courts. Thank you for considering my point of view on this issue.

Dear General Ashcroft,

Congratulations on the great job you and your team are doing. Its nice to see the adults in charge again. Larry Thompson,Jay Stephens, Michael Chert off, Ted Olson, Director Mueller, What a Team!! And I'm sure many others.

Sincerely,
Malcolm Strange
cc: Senator Strom Thurmond

MTC-00031578

Jan 21 02 01:50p Sheldon H.Schusler 480–491–4270 P.1
01/21/02 MON 18:33 FAX 800 611 2255 002
1730 East Pebble Beach Drive
Tempe, AZ 85282
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today in regards to the Microsoft settlement issue. I am a supporter of Microsoft and feel that there should be no further action against Microsoft at the federal level.The settlement that was reached in November is both concrete and complete. This settlement specifically details procedures Microsoft has agreed to follow to foster competition. Microsoft must design future versions of Windows, beginning with an interim release of Windows XP, to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non- Microsoft software within windows. Microsoft has also agreed to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price.Microsoft did not get off easy in this settlement.

Microsoft is a company that delivers quahty goods to the marketplace at reasonable prices. Let's keep it that way by allowing this company to focus its resources on designing it's innovative software, rather than litigation. Thank you for your Support.

Sincerely,
Sheldon Schusler
cc: Representative Jeff Flake

MTC-00031579

FROM : A D Fakonas
PHONE NO. : 925 2537936 Jan. 21 2002

01:53PM P1
A. D. Fakonas
56 Via Floreado
Orinda, CA 94563
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I urge you to settle the antitrust case against Microsoft. The issue has been dragged out far too long, to the detriment of the US economy and consumers.In fact, it often felt like the main reason this case was ever brought up was because its competitors were better at navigating the political world.

Although Microsoft's business dealings may have been heavy-handed in the past, they were not detrimental to the consumer marketplace. I, like most(even marginal) computer users, have always had the option to use products from any software vendor. I personally have used both Internet Explorer and Netscape Navigator, and I still use both Microsoft Media Player and Real Networks Real Player. I have both on my computer simultaneously, and both work fine. The fact is that Microsoft has become a dominant force because it has provided superior products at good value. The settlement negotiated in November eliminates Microsoft's ability to force programs and products consumers and manufacturers by requiring Microsoft to allow competitors to place their own programs on Windows. The result is a playing field as level as the competition will ever get.

Please drop the case and settle without further litigation. Everyone has dwelled on the matter long enough.

Sincerely,
A. D. Fakonas

MTC-00031580

JAN-22-02 03:23 AM BILLY HURT 2705279789 P. 01
Billy G. Hurt, Ph.D.
217 Wood Trace
P.O. Box 898
Benton, KY 42025
January 18, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

For the past six months, Microsoft and the Department of Justice have participated in round-the-clock negotiations hosted by a court-appointed mediator, the result of which was a comprehensive settlement. For the past sixty days, the settlement has been under review while the Justice Department debates the fairness of the terms.

The settlement does not let Microsoft off the hook easily. The settlement negotiations were meticulous; in fact, some of the terms reached Cover products and practices not found to be unlawful by the Court of Appeals. Microsoft has agreed to a wide range of obligations and prohibitions, none of which fail to address the complaints of the plaintiff states. For instance, Microsoft has agreed to reformat future versions of Windows in order to support non-Microsoft software, and computer makers have been granted rights to configure Windows so as to promote their own software. Microsoft has also agreed to provide any party acting under the terms of the agreement with a license to applicable intellectual property rights, I do not believe that, with this settlement available, additional intellectual property rights, I do not believe that, with this settlement available, additional litigation is necessary.

Mr. Ashcroft, I am of the opinion that the remaining litigious plaintiff states are driven by greed, not by justice. Microsoft should be rewarded for its ingenuity, not punished for its success. America was touted as the land of opportunity when colonization began; free enterprise was encouraged and fostered. What has the justice system come to when successful entrepreneurs are stripped of their power to line the pockets of political vultures. I urge you not to allow this to become the standard in justice. Endorse the settlement, Mr, Ashcroft, and allow Microsoft to move on.

Sincerely,
Billy G Hurt

MTC-00031581

515 282 9265 1–21–02 02:06 PM WALSH EQUIPMENT
Clifford J. Walsh
6881 NW 54th Court
Johnston, Iowa 50131
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The lawsuits against Microsoft in the antirust case have gone on for far too long. I am appalled that after a settlement has occurred that nine states want to continue litigation. The settlement is more than fair in many ways and actually borders on being too harsh for Microsoft.

Essentially, Microsoft has agreed to improve its relations with software developers and computer makers, disclose technological secrets that they have developed, not enter into third party agreements, and design future Windows" versions to allow competitors to more easily promote their own products, I hope the settlement and its concessions end up being in the bets interest of the public,

I urge your office to take a firm stance on this settlement and finalize it as soon as possible. Our economy and the IT sector in particular need this to end.

Sincerely,
Clifford J. Walsh
Johnston, IA 50131

MTC-00031582

FROM : E S RUCKER
PHONE NO. : 504 5235996
Jan. 21 2002 02:05PM Pl
1518 1st Street
New Orleans, Louisiana 70130
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I wish to express how happy I am to hear that the Department of Justice finally ended its antitrust lawsuit against Microsoft. This agreement will greatly benefit Microsoft's competitors. They should be thrilled with the outcome of this case.

Microsoft had to compromise much just to get the case over with. It agreed to make available to its rivals, on reasonable and non-discriminatory terms, any code that Windows uses to communicate with other programs. The company also agreed to disclose and document, for use by its competitors, various interfaces that are internal to Windows operating system products—a first in an antitrust lawsuit.

What more could Microsoft's competitors want? Maybe a key to the front door of the company's headquarters would make them happier.

Enough is enough. I hope the federal government never does this to Microsoft again. It would be pure harassment if they would.

Sincerely,
Evelyn S Rucker
Evelyn Rucker

MTC-00031583

FROM : CLUFF PHONE NO. : 12158601401
Jan. 21 2002 04:19PM P1
11 Paddock Way—Southampton—Pennsylvania—18966
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in support of recent settlement between the Department of Justice and Microsoft in the antitrust case. Although this case should have been over long ago, there are some concessions that Microsoft is being forced to make which I would expect most corporate giants to go through at one point in their history I am very cynical about any litigation at all due to nature of it and who sponsored it. But I consider it fairly expected in the natural course of business for any big firm. I do feel that the states pursuing this matter are not serving the best interest of the American Public. Microsoft created a very successful business and has added greatly to he IT sectors development in our country. They are also responsible for numerous other contributions to society.

I look forward to Microsoft being given the chance to focus on business. I support the settlement, and hope to see it implemented as soon as possible.

Sincerely,
Wayne Cluff
Wayne.Cluff@E-RAINMAKERS.COM
cc: Senator Rick Santorum

MTC-00031584

JOHN LASHLEY 520 743 8675 P.01
This "L Dew Properties, LLC
8655 138th Ave. S.E. 425 271 0182
Newcastle, WA 98059
and
4755 West Sunset Road 520 743 1998
Tucson, WA 85743 FAX 743 8675
cell phone: 425 785 5822
e-mail: whipsails@msn.com

January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave. NW
Washington DC 20530–0001

I would like to register my opinion about the antitrust settlement with Microsoft. I believe it should be settled in the interests of the country and the technology sector. The idea that Microsoft is so superior to other software developers is false. I am attaching the download that Microsoft sent me so that I could "write" you. This is the way they interface with their own software— totally unusable garbage. As both a Windows 2000 user, Internet user, and former AOL, and Apple user, I want to state unequivocally that there is plenty of room for innovation with other companies. It should be easy to provide better products than those produced by Microsoft, and if they are available, I will buy them.

The timeline between the Department of Justice starting this "witch hunt" and the troubles in our economy and the stock market are more than just coincidence. It is time for America and innovation to move forward.

Sincerely,
John Lashley
JOHN LASHLEY
520 743 8675 P.02
4755 Sunset Road
Tucson, AZ 85743–9606
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Dear Mr. Ashcroft:

I am writing to express my opinion of the recent antitrust settlement between Microsoft and the US Department of Justice. The case has been dragging on too long. It seems to be a political showcase instead of principled lawsuit. I am in support of the settlement because I believe it is in best interest of country to end this case. But, I think the concessions Microsoft is being forced to make are too harsh.

Some people have made the mistake of seeing Shunt's work as a load of rubbish about railway timetables.

I do not feel that my rights have been infringed upon as a Microsoft user. In fact I think that Microsoft's; products have been more superior to other vendors. That is why I choose Microsoft's services. The terms of the settlement will definitely be to the advantage of competitors, and I believe I in some ways violate Microsoft's intellectual property rights. For instance, Microsoft will have to disclose internal interfaces and protocols that took time and money to develop. They will also be granting computer makers broad new rights to configure Windows so as to promote non-Microsoft software.

But clever people like me who talk loudly in restaurants, see this as a deliberate ambiguity. A plea for justice in a mechanized society.

These stipulations make no sense for Microsoft as a business, but they are agreeing to do so because further litigation would be even more detrimental not only to Microsoft, but also to the IT sector. Please do what is right for our nation and quell opposition and finalize the settlement. Thank you for your time.

When Shunt says the 8:15 from Paddington he really means the 8: 17 from Paddington. The places are the same, only the time is altered.

But is suspense, as Hitchcock states, in the box. No, there isn't room, the ambiguity's put on weight. <> " "'' "''

JOHN LASHLEY
520 743 8675
Sincerely,
John Lashley

MTC–00031585

JAN. 21 ''02(MON) 14:14
DIRECTORY DISTRIBUTING ASSOC. INC
TEL:314 592 8791 P.001
RICHARD L. RACKERS
160 Corporate Woods Court
Bridgeton, Missouri 63044
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

It is my understanding that the Justice Department has reached a proposed settlement with Microsoft based on the allegations brought against the company for violation of various antitrust laws. It is also my understanding that you are currently accepting public comment on the proposed settlement. Please consider mine a vote of support for the settlement. While I know that it probably does not go as far as many of Microsoft's competitors would like, I believe that it is a fair and reasonable resolution of the alleged violations. As I understand the matter, the major complaint raised by competitors was the fact that they could not compete in such areas as Internet access within the Windows systems. This settlement allows such competition for the first time by forcing Microsoft to share their proprietary software code with its competitors.

It is important to the economy right now to enter a growth phase and lawsuits such as the Microsoft suit can serve to stifle growth. I believe that the Justice Department and Microsoft have reached a fair and workable resolution, and I hope that you move forward with it as quickly as the law allows. Thank you for your attention.

Sincerely,
Richard Rackers

MTC–00031586

North Fork Tree Farm
1717 NW 414th Street
Woodland, WA 98674
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

I'm writing to encourage you to support the recent anti-trust settlement reached by Microsoft and the United States Department of Justice. I feel this shameful lawsuit is something the Justice Department should have never launched against Microsoft, which is only trying to make good software. Indeed, the terms of the settlement go far beyond what was originally called for in the lawsuit merely for the sake of wrapping up the suit.

Examples include Microsoft agreeing to document and disclose for use by competitors many of the various interfaces internal to Windows. This is a first in an antitrust settlement. Further, Microsoft has agreed to allow computer and software makers to modify Windows so Microsoft products can be removed and non- Microsoft products installed in their places Examples include Netscape Navigator, AOL instant Messenger, and RealNetworks RealPlayer.

Overseeing the terms of this settlement will be a technical committee comprised of three software-engineering experts. These experts will also assist in any dispute resolution should a complaint be filed against Microsoft.

For these reasons, I support the recent settlement SO we can put this matter behind us.

Sincerely,
Pat Sweyer

MTC–00031587

FROM
''00 00/00 00: 05 P. 01
North Fork Tree Farm
1717 NW 414th Street
Woodland, WA 98674
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

I'm writing to encourage you to support the recent anti-trust settlement reached by Microsoft and the United States Department of Justice. I feel this shameful lawsuit is something the Justice Department should have never launched against Microsoft, which is only trying to make good software. Indeed, the terms of the settlement go far beyond what was originally called for in the lawsuit merely for the sake of wrapping up the suit. Examples include Microsoft agreeing to document and disclose for use by competitors many of the various interfaces internal to Windows. This is a first in an antitrust settlement. Further, Microsoft has agreed to allow computer and software makers to modify Windows so Microsoft products can be removed and non- Microsoft products installed in their places. Examples include Netscape Navigator, AOL. Instant Messenger, and RealNetworks RealPlayer.

Overseeing the terms of this settlement will be a technical committee comprised of three software-engineering experts. These experts will also assist in any dispute resolution should a complaint be filed against Microsoft.

For these reasons, I support the recent settlement so we can put this matter behind us.

Sincerely, Walt Sweyer

MTC–00031588

P. 0. Box 194
Indianola, WA 98342–0194
January 21, 2002

Justice Department
District Court
Washington, DC 20510

Dear Mr. Ashcroft

I am writing you express my trepidation regarding the delay in effecting the settlement reached between Microsoft and the Department of Justice 12 weeks ago. I have been following this issue from the beginning, for three strange years in American history, and it seems like the only consistency in the political arena is having the DOJ and Microsoft butting heads. I side with Microsoft on this issue, because this company has accomplished a lot for Washington State, America, and indeed the world.

It is apparent to me that this settlement will greatly benefit the economy and consumers. This company should be allowed to get back to business and do what it does best: create excellent, reliable and ever more varied products. This company has done so much to impact the technology industry that stifling it now could not possibly serve the best public interest.

This issue should be the last of our worries at the present time. Please support this settlement and close the door to this debate. Thank you for your support.

Sincerely,
Ronald Moore
P.01 206 937 3780 Jan-21-02 11:13A first hill rehab

MTC-00031589

FAX 1-202-307-1454
442 Porter Road
Charleston, West Virginia 25314
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This letter is to express my unwavering support for Microsoft in light of the recent litigation brought against them by the Department of Justice. I think that this entire lawsuit has dragged on long enough and it is really time for this to end. I have always used Microsoft products and have also admired the company's mission. Microsoft is an industry icon that is being penalized for their outstanding innovations.

In reviewing the elements of the case, it is obvious that Microsoft has made several strides to honor the terms of the settlement. They have gone above and beyond what the settlement required them to do. I think that this is very admirable and quite noteworthy. Microsoft wants this to come to an end so that they can refocus their attention on innovation and rebuilding their employee morale and company structure.

With regard to compliance with the settlement, Microsoft has agreed to allow computer makers to replace Microsoft access features with non-Microsoft software. They have also implemented a uniformed pricelist and have established a three person technical committee to monitor Microsoft's compliance with the settlement. In my estimation, Microsoft is no longer the problem here. The problem is the continual delays of the settlement.

Sincerely, Naji Banna
Page 01 MICHAEL BAKER CORP.
304-769-0822 15:39 01/21/2002

MTC-00031590

01/21/2002 11:17 8183410492
TRAFFIC SCHOOL
PAGE 01
Traffic School
19703 Nordhoff St.
Northridge, CA 91324
Fax
Facility:
From: Brett Elkins
Attn: Attorney General
Date:
Fax#:
Pages:
0 Reply Requested
0 Information Only
Please Support Microsoft Settlement
Phone: 800.401.7720
≤Fax: 818.341.0492
01/21/2002 11:17 8183410492
TRAFFIC SCHOOL
PAGE 02
Brett Elkins
651 S Bundy Drive
Los Angeles, CA 90049
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you today to express my support of the Microsoft settlement. The settlement has been a long time in the making. Three years have passed since the inception of this case. Over these years, many dollars and much time have been wasted hiring court mediators. Finally in November a settlement has been reached. I believe this settlement to be fair. Most importantly, however, I believe this settlement is in the best interests of our economy and our country.

Under the terms of the settlement Microsoft agrees to license Windows at the same rate to PC manufacturers. This will decrease costs for the consumer. Further Microsoft will now disclose the protocols and internal interface of the Windows system. This will allow developers to design software that is more compatib1e with the Windows system. Users, in addition, will be able to add non- Microsoft software to the system.

The benefits of this settlement clearly outweigh the costs. I hope that you would enact the settlement at the end of January.

Sincerely,
Brett Elkins

MTC-00031591

FROM:
Carl and Joan Cimarosa
FAX No.: 17322554867
Jan. 21 2002 03:19PM Pl
Fax
To: Attorney GEN. Ashcroft
From: Dora Texidor
Fax: 1-202-307-1454 Pages: 2
Phone
Date: 1/21/2002
Re: Microsoft CC:
Urgent For Review Please Comment Please Reply Please Recycle
Comments:
Attached is Letter RE: Microsoft
[Illegible Lines]
FROM : Carl and Joan Cimarosa FAX NO. : 17322554867
Jan. 21 2002 03:19PM P2
Dora/Arthur Texidor, Jr.
1945 S.W. York Lane
Palm City, FL. 34990
January 19, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC. 20530

Dear Mr. Ashcroft,

I am greatly pleased to hear that a proposed settlement has been reached in the Microsoft antitrust case. I fully support the measures listed in that settlement.

Microsoft worked very hard to get to where they did, and should not be punished because they had a desire to make products that work well with each other. Even Bill Gates pointed out that nobody sues Kodak when it invents a new camera that requires a new brand of film, which it also provides.

Microsoft did not get off easy as some news reports suggest. Microsoft has agreed to allow its competitors access to its Windows interfaces and protocol so that they can attach their own non-Microsoft products to Windows. They have also agreed to allow a committee to monitor their compliance with all provisions of the settlement.

I look forward to a swift and fair settlement of this case. Thank you.

Sincerely,
Dora Texidor

MTC-00031592

JAN-21-2002 11:00 PHILIPS 425 487 7672 P. 01/01
Ellen M. Whitten
14620 W. Lake Goodwin Rd.
Stanwood, WA. 98292-7794
January 21, 2002
Attorney Genera1 John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

Now that there is an opportunity for a settlement of the government's lawsuit with Microsoft, I would like to suggest that this deal be finalized at the end of the month. Though some of the claims in the suit have some merit, as a whole this legal action appears to be a "sour grapes" attempt by companies that lost business they expected, and it has absorbed more energy than ever warranted. Any further litigation would be excessive.

An obvious problem with the lawsuit is how a company can have so much competition and still be a monopoly. There are plenty of alternatives to Microsoft products. However, as a member of the technology industry, my view is that Microsoft's dominance has a simple explanation: they develop superior software.

Considering how most companies operate, Microsoft's offer to eliminate preferential treatment of computer makers who use or promote their products is among several major concessions in the agreement. On top of that, forcing Microsoft to allow its competitors to review their internal code is a very invasive rule that at least straddles and probably crosses the line of government interference in the free marketplace.

With the involvement of an impartial technical committee to review compliance, there is no need to press for further disruption of Microsoft's business. Let's move on and allow this company to grow without further headaches from government. Thank you.

Sincerely,
Ellen M. Whitten
TOTAL P.O1

MTC–00031593

0 1 / 2 1 / 0 2 10:54 FAX 2067490225 KINKOS 3RD & MARION 001
kinko's
fax cover sheet
Kinko's Third & Marion 816 Third Avenue Seattle WA 98104
Telephone: (206) 749–0206 Fax (206) 749–0225
Date 1–21–02 Number of pages 3 (including cover page)
to: Name Renata Hesse from: Name Anthony Christopher
Company Company
Telephone Telephone 253–856–8585
Fax 1–202–307–1454 Email anthonyc@blarg.net
Comments: Comment on Microsoft settlement with the Department of Justice
TRY KINKO'S FOR SIGNS, POSTERS AND BANNERS
01/21/02 10:55 FAX2067490225 KINKOS 3RD & MARION
Renata Hesse
Trial Attorney
325 7th Street, NW, Suite 500,
Washington, DC 20530 Date: January 21, 2002

Comments on Microsoft Settlement with the Department of Justice I am not a lawyer, I am a software developer with two decades of experience in the software industry. I am aware of some of the positive and negative impacts of many of Microsoft's products and business practices. I have read the settlement proposed by the Department of Justice. I doubt a line by line criticism of the settlement by someone with my limited knowledge of the law would be worthwhile; so I offer my over all opinions.

The settlement addresses prevention of future misdeeds and does not include any mention of punitive actions against Microsoft. I know our justice system has used the concept of punishments fit to crimes in the past (excuse me if my use of the word crime or other words is common and not legal). I thought our judicial system still made use of such a notion today. To my mind, there is not just the question of the settlement preventing the Microsoft corporation from engaging in illegal practices in the future, but also the larger question; Will it and other corporations be convinced that it is not a good idea to break this nation's anti-trust laws, based on how Microsoft is punished for breaking those same laws in the past ? I thought the appellate court remand of the case to the district court, left the option of punitive remedies open.

The settlement does a good job of saying two things to Microsoft, "You shouldn't manipulate other companies in exactly the same way you did last time." and, "Feel free to find some other strategy for accomplishing the same thing." To a lawyer or judge, it may seem that the first statement should be much stronger. From what I have read of Microsoft's past behavior, I expect them to continue to ignore court orders, pretend compliance with court orders and laws, and to apply their own unrealistic interpretation of agreements, including this settlement, until someone in the justice system does something extreme which impacts Microsoft in a timely fashion.

01/21/O2 10:55 FAX 2067490225 KINKOS 3RD & MARION

So, why have some of the states gone along with this settlement? Some inappropriate comments, referring to the events of September 11, 2001, on the part of the judge, and an about face from their Department of Justice leadership led their negotiators and lawyers to believe that the most they would be able to get was some breathing room while Microsoft explores new strategies for abusing its monopoly. One of the things that probably led to such a biased negotiation is that the plaintiffs have some respect for the court and its wishes (for a quick settlement, in this case) while Microsoft does not.

The message corporate leaders are going to get from this is that if they have, or can acquire, a monopoly while the current administration is in power, they can get away with breaking the US anti-trust laws, regardless of whether or not they are found guilty of doing so.

Since the Department of Justice seems to have changed sides, just for truth in appearances, you might ask if it wouldn't prefer to list itself as assistant council for the defense instead of plaintiff in this case. In summary, this settlement would not serve the public interest. It would be a detriment to the public interest. While a legislative body rushing to sign laws in order to appear responsive to the events of September 11 is very bad, comments from judges prompting rushed negotiations in order to appear sensitive and/or competent are almost as bad.

Anthony Christopher
6021 S 238 Pl. #El04
Kent, WA 98032

MTC–00031594

FROM: FAX NO: Mar. 12 2001 04:43AM P1
01/21/02 MON 14:43 FAX 500 641 2253 002
142 Swordfish Road
Manahawkin, NJ 08050
JANUARY 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

I am writing in support of Microsoft's antitrust settlement with the federal government. I think this settlement is adequate and addresses the overall concerns of the federal government. Microsoft agreed to not enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively or in a fixed percentage, make available to its competitors, on reasonable and non-discriminatory terms, any protocols implemented in Windows" operating system products that are used to interoperate natively with any Microsoft server operating system, not retaliate against computer makers who ship software that competes with anything in its Windows operating system, and agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products-a first in an antitrust settlement.

Finally, Microsoft has a commitment not only to the consumer, but also to its employees. This agreement if not approved could cause major problems, which would undermine Microsoft's commitment to its employees. Microsoft has been a good corporate employer, and its employees benefit greatly from that, and in turn so do we. I urge you to approve this settlement.

Sincerely,
Vincent Uriarte

MTC–00031595

Jan 21 02 11:49a p.1
Matt Dawson
6127 W 9800 N
Highland, UT 84003
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

I find it hard to believe that, after six months of round-the-clock negotiations, nine of the eighteen plaintiff states still refuse to close the case with Microsoft and accept what is, for all intents and purposes, a perfectly reasonable settlement. I do not believe it is necessary to drag the suit out any longer, especially considering the negative impact it has already had on the economy, and the IT industry. Under the circumstances, it is in the best interest of all parties involved to settle the case and move on.

Three years have been spent reaching the decision that is currently under review, and I cannot imagine how much longer it would take before the remaining litigious states would be satisfied. There is more to be lost through needless litigation than there is to be gained in reconsidered settlement. The terms Microsoft agreed to extend not only to policies and products found to be unlawful by the Court of Appeals, but also to some that were not found to be in violation of antitrust law. In this respect, the settlement is not only fair, but also generous. Microsoft has agreed to change future versions of the Windows operating system so that its competitors would be able to introduce their own software directly into Windows. Microsoft has also agreed to provide third parties acting under the agreement with a license to applicable intellectual property rights to prevent infringement issues.

I do not believe it is necessary for the suit to remain open. Microsoft and the Department of Justice have come to an agreement that addresses the complaints of the involved parties and makes generous concessions as well. No further action is needed.

Sincerely,
Matt Dawson
cc: Representative Chris Cannon

MTC-00031596

Jan 21 02 11:24a p.1
Microsoft
MICROSOFT CORPORATION
123 Wright Brothers Drive #200 Phone: (801) 257-6300
SLC, Utah 84116 Fax: (801) 257-6501
United States Of America Internet: http://www.microsoft.com
MS FACSIMILE
TRANSMITTAL FORM
TO: Attorney General John Ashcroft FROM: Dave Haslam
Company: Bldg/Room:
CC: Phone: 273-6367
Phone: Date &Time: January 21, 2002 11:30am
Fax: 1-202-307-1454 Number of Pages: 2
PRIORITY: xURGENT! 0 FOR REVIEW 0 PLEASE COMMENT 0 PLEASE REPLY 0 PLEASE RECYCLE

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Jan 21 02 11:24a P-2
2218 West Temple View Lane
South Jordan, UT 84095
January 11, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Dear Mr. Ashcroft:

I am writing to address a very important issue; that of the settlement between Microsoft and the Department of Justice. I am asking that you give your support to this agreement, under which Microsoft agreed to give up its intellectual property rights for the interfaces to its Windows operating system, and make it easier for competitors to install non- Microsoft products.

This agreement was reached after three long years. It cost both parties enormous amounts of time and money. Whether or not Microsoft was guilty of unfair business practices and monopolizing the market is a matter of opinion, but Microsoft has made a good faith effort to accede to the demands of the Department of Justice, agreeing to terms that extend far beyond the products and procedures that were at issue in the original lawsuit. Microsoft even agreed to have a three-person technical committee review its actions for compliance with the settlement. Who else would do that? Any further action would be counter -productive.

I urge you not to allow small minds to derail this decision off the fast track. There will always be those who do not accept any sort of compromise, wanting only to destroy, instead of build. Give your support to this agreement. Thank you.

Sincerely,
David Haslam

MTC-00031597

01-21-2002 13:36 8183512484 ABB AUTOCLAVE P.01
1603 Pershing Avenue
Erie, PA 16509
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Dear Mr. Ashcroft:

I am writing to express my dismay that the judicial process may be impeded by nine of the eighteen plaintiff states in the Microsoft antitrust case. Last November, a settlement was reached between Microsoft and the Department of Justice. The settlement is currently undergoing a period of review and unfortunately, the handful of states that wish to continue litigation have used this time to rally support for their side. I do not wish to see further action taken against Microsoft Corporation.

Microsoft agreed to a wide variety of terms under the settlement, some of which require change, some of which require concessions to its competitors. For example, Microsoft has agreed to reformat upcoming versions of Windows so that the operating system will be able to support non-Microsoft software.

Additionally, Microsoft has agreed to provide parties acting under the terms of the settlement with a license to applicable intellectual property rights. I do not believe these terms are lenient for Microsoft. I think the settlement is thorough and fair. Mr. Ashcroft, in good conscience I ask that you settle this case. It is not in the interest of the public, and quite honestly, the perfect solution is in the hands of the court right now. I urge you to support the settlement.

Sincerely,
Franz & Bernadette Zimmerman
cc: Senator Rick Santorum

MTC-00031598

01/21/02 MON 13:58 FAX 2156384515 ANAMIR ELECTRONICS 001
Vanessa Anne Fiori
1083 South Kimbles Road
Yardley. Pennsylvania 19067
January 10, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Dear Mr. Ashcroft:

I am writing to express my opinion about the recent settlement between Microsoft and the US Department of Justice. Litigation never should have been pursued in the first place, but now that it has I AM GLAD TO SEE IT FINISHED.

Microsoft never infringed on my rights as a consumer. As a software developer for years for a subsidiary of Reuters Plc, I worked with Windows and Apple interfaces, among others, and felt although Microsoft competed heavily with Netscape and all of its other competitors, that its actions were justified in the face of competition Netscape and others were equally aggressive in trying to attain and retain customers, but only the strong survive. In our view, Microsoft continued to innovate at a greater rate than Netscape did.

At any rate, I hope no further litigation takes place and I look forward to seeing Microsoft allowed to roll out new products and services for the tech industry.

Sincerely,
Vanessa Fiori
cc: Senator Rick Santorun

MTC-00031599

215 B Street
Salt Lake City, UT 84103
January 18, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Dear Attorney General Ashcroft:

For the past three years, Microsoft and the Department of Justice have been immersed in antitrust hearings in the federal courts. Recently, a settlement was reached that thoroughly addresses the antitrust infringements Microsoft committed and proposes a solution to the dilemma that presented itself at the case's inception. Microsoft will, under the terms of the settlement, be required to adjust its policies and programs in favor of its competitors, to facilitate interoperability and prevent retaliatory behavior or monopolistic contracts.

Six months of round-the-clock negotiation resulted in a comprehensive settlement, the terms of which not only address Microsoft's antitrust violations, but also extend to products and procedures not found to be unlawful by the Court of Appeals. Microsoft has agreed to document and disclose interfaces integral to the Windows operating system for use by competing software producers. This is an unprecedented requirement in antitrust settlements. Moreover, Microsoft has agreed to provide third parties acting under the terms of the settlement with a license to intellectual property rights that would otherwise be infringed.

Microsoft's compliance with the agreement will be overseen by a three-person committee of software engineering experts, and any third party which feels that Microsoft is not acting in accordance with the terms of the settlement is free to lodge a formal complaint with the technical committee, a Microsoft Compliance officer, any of the plaintiff states, or the Department of Justice.

I do not believe that, with this settlement available, Microsoft remains culpable in the antitrust suit. The remaining litigious plaintiff states should not be permitted to take advantage of Microsoft's current vulnerability. I urge you, Mr. Ashcroft, to allow the settlement to stand.

Sincerely,
Jeremy Carver
01/21/2002 10:48 8012576301 PAGE 01

MTC-00031600

JAN-21-02 MON 11:01 AM BLIXT 702 853 3085 P. 01
14305 Domingo Court
Reno, Nevada 89511
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

I am writing to express my interest in the recent settlement between the US department of Justice and Microsoft in the antitrust case. The recession has had a devastating effect on our economy and this issue needs to be laid, to rest.

As a Microsoft products and services user, I am happy to see that Microsoft will not be broken up. In fact, I think the settlement as it stands is too harsh and I do not agree with all of the concessions that Microsoft is being forced to make.

I hope that there is no further action taken against Microsoft and I look forward to seeing their business grow as it has for the last decade. I thank you for your time.

Sincerely,
William Blixt
cc: Senator Harry Reid

MTC-00031601

01-21-02 12:47 B OF H TRUST DEPT ID=7176334439 P.01
STERLING FINANCIAL TRUST COMPANY
25 Carlisle Street
Hanover, PA 17331-9934
(717) 637-2201
FAX (717) 633-4439

Sterling Financial Trust Company is an affiliate of Sterling Financial Corporation, partnering with Sterling's bank subsidiaries: Bank of
Lancaster County, N.A., Sank of Lebanon County, Bank of Hanover & Trust Company and First National Bank of North East.

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FAX COVER SHEET
To: Atty General John Ashcroft
To Fax Number: Telephone Number:
1-202-307-1454
From: Rose Diehl
From Fax Number: Telephone Number:
(717) 633-4439 (717) 637-2201
Number of Pages (including cover sheet):
Date: 1-21-02 Time:
01-21-02 12:47 B OF H TRUST DEPT ID=7176334439 P.02
471 Valley View Drive
Hanover, Pennsylvania 17331
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

I am writing to voice my opinion regarding the recent settlement in the Microsoft case. First and foremost, this case has dragged on for far too long. Second, the settlement was reached after a long series of negotiations with neutral mediators. This settlement indeed serves the public interest; I don't see how there can be any dispute on that, except from their competitors who won't take anything less than a break-up. Microsoft has created superior products and set the standard for the entire IT industry, they should not be punished for that.

So much of my personal marketability is due to my extensive knowledge of the Microsoft programs that are used in so many businesses. I work in investment banking and nearly all of the software we use is Windows compatible and the software used for general office procedures is all Microsoft as well. Should I have to learn new programs, a large portion of my employable skills would be diminished. Additionally, everything on my home PC is run by Microsoft products. I am not forced to use Microsoft, but glad to. Another part of the settlement involves a great deal of information sharing, with Microsoft practically giving away their coding and interface technology. If that isn't beyond fair, I don't know what else their competitors could possibly expect.

I ask that you please do your part in upholding the current settlement. I'm sure that most Congressional offices run with Microsoft products and would be highly upset if they had to change. This issue spans the entire country, Republicans and Democrats alike. If politicians could agree to settle this issue, our economy and IT industry could move forward.

Sincerely,
Rose Diehl
cc: Senator Rick Santorum

MTC-00031602

JAN-21-02 MON 01:50 PM FAX : PAGE 1
234 Burns Crossing Road
Severn, MD 21144
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

As part of the open 60-day comment period, I would like to share my thoughts on the Microsoft Anti Trust case. This bogus lawsuit has been a terrible waste of tax dollars and government resources. I do believe there are other more pressing matters on which our government should be concentrating. The proposed settlement is a more than reasonable end to this lawsuit and I hope that our Justice Department will make the right decision for our entire country.

Microsoft is responsible for making the technology industry what it is today. Their exceptional products have changed the way people do business and how everyday people communicate with one another. This settlement, while limiting Microsoft's own competitive abilities, will certainly foster competition among the entire computer industry. They are changing the way they do business, allowing computer makers to pre-install competing software on Windows. Microsoft has agreed to share more information with their competitors, even though they spent their own time, money and resources developing the technology. The settlement is a very just solution to ending this lawsuit.

Simcerely
Mark Leary

MTC-00031603

JAN 21 2002 09:51 FR MICROSOFT RECEP #22 425 936 7224 TO 912023071454 P. 01/01
John Held
16329 170th Ave. NE
Woodinviue, WA 98072
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. I work within the technology industry and I think it is time to let the industry get back to business. For over three years government has bogged down Microsoft with lawsuits. It is time to put this issue to rest.

During the period that the government has been trying to break Microsoft up the industry has had some tough times. Most stock is down, many companies have gone out of business, and the industry leader has had to deal with a hostile government.

Microsoft has given a lot of ground to get this over with. They are willing to share some of their trade secrets to competitors; give up their leverage over computer makers by adopting uniform prices; and submit to the oversight of an independent technical committee. They have agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit.

The settlement is fair and should be accepted by the government. I hope you use your authority and influence to help that happen.

Sincerely,
John Held

MTC-00031604

01/21/2002 12:16 Fax 7704281772 SkillCheck Inc. 001
Gerry Weinberg
3861 Wyntuck Court
Kennesaw, GA 30152
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft,

I write to you today to express my support of the settlement reached between the Department of Justice and Microsoft. Although I believe the merits of the case against Microsoft are questionable, I believe that the resolution of this case bodes well for the technology industry.

Developers, consumers, and manufacturers will all see the benefits of this settlement. Developers will now be able to design competing software that is easily interchangeable within the Windows system. Consumers can now redesign Windows to suit their tastes. Similarly, manufactures will be freed of contractual restrictions placed upon them by Microsoft.

To sum, the enactment of the settlement has enormous benefits. Enact the settlement at the end of January.

Sincerely,
Gerry Weinberg

MTC–00031605

Joann Tyson
1701 Palmer Avenue
WinterPark FL 32789–27.54
January 21, 2002
John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Dear Mr. Ashcroft:

I am writing to give my support to the settlement that was reached between Microsoft and the Justice Department. The provisions that were set forth in the settlement are both fair and reasonable for all parties involved. It would be an imprudent decision by the government to reject the settlement and pursue this case still further in court.

Under the settlement, Microsoft will be making a number of specific changes to its products and business practices. For instance, Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price.

Furthermore, Microsoft has agreed to reveal internal information about Windows to the competition. This is a first in an antitrust settlement.

There are many more concessions that hurt Microsoft and help its rivals I am not sure what more the critics could want. Please support the settlement.

Sincerely,
Joann Tyson
407–644–9916
cc: Representative Ric Keller
JAN–21–2002 11:48 PM J. TYSON
4076449189 P.01

MTC–00031606

01/21/42 TUE 08:47 FAX 3602993050 W ROBILLARD 001
5205 Sterling Drive
Anacortes, WA 98221
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. This case has lingered for over three years. It is time to put it to rest. Accepting the agreed terms of the settlement is the best possible solution for the entire technology industry.

In an effort to end the legislation and get on with innovation, Microsoft has agreed to terms in the settlement that were not at issue in the lawsuit. The agreed terms require changes in Microsoft's product design, licensing and distribution practices that will allow more open competition.

For the good of Microsoft and the entire technology industry, I support the terms of the settlement in the Microsoft antitrust case.

Sincerely,
Phyllis Robillard

MTC–00031607

01/21/42 TUE 08:45 FAX 3602993050 W ROBILLARD 001
5205 Sterling Drive
Anacortes, WA 98221
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. This case has lingered for over three years. It is time to put it to rest. Accepting the agreed terms of the settlement is the best possible solution for the entire technology industry. In an effort to end the legislation and get on with innovation, Microsoft has agreed to terms in the settlement that were not at issue in the lawsuit- The agreed terms require changes in Microsoft's product design, licensing and distribution practices that will allow more open competition.

For the good of Microsoft and the entire technology industry, I support the terms of the settlement in the Microsoft antitrust case.

Sincerely,
Phyllis Robillard

MTC–00031608

01/20/2002 22:35 8438563536 ROBERT S HARDMAN PAGE 01
Robert Hardman
542 Marshgrass Boulevard
Mount Pleasant, SC 29464
January 17, 2002
Attorney General John Ashcroft, Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft,

I am in support of the settlement that was reached between Microsoft and the Department of Justice in early November. It is my opinion that the best interests of all American's would be well served by a swift and fair conclusion to this suit. After three long years of litigation, my hope for a swift end is long dead; however, this settlement will at least end this suit fairly.

While Microsoft has had to make some rather harsh concessions with this settlement, such as regulating their licensing agreements with computer makers, they have agreed to its terms. Microsoft realizes it is better for them to make concessions and kick-start an economic recovery than be fully vindicated after a few more years in court. The fact remains that our economy is floundering, and Microsoft is one of America's largest employers: to continue this suit would be a very imprudent decision, especially at this time.

I am pleased that an end seems to be in sight; I urge you to continue supporting this settlement so that we can finally stop this debacle. Do not allow America to ring in another year with this heinous litigation hanging over our heads. Thank you for you time in this case, and for your diligent consideration of my position.

Sincerely,
Robert Hardman
cc: Senator Strom Thurmond

MTC–00031609

JAN–21–02 08:33AM FARMERSINS 6239724634 P.01
18017 N 63RD Drive
Glendale, AZ 85308
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

The reason for this letter is to ask that you continue to back the settlement that was reached between you and Microsoft in the antitrust case.

This revolutionary settlement will change the IT industry in many positive ways. The settlement will end any contractual restriction by Microsoft that may have limited distribution by a third party of other companies" software.

Also the settlement will require that Microsoft share code, including internal interfaces and the secrets of how their operating systems work so the competitors will be able to manufacture better products.

The settlement also has value because it will finally bring a close to the federal case. This case has drained both Microsoft and the DOJ of valuable time and resources. Please do not vacillate in your support of this settlement.

Sincerely,
Bill Chambless

MTC–00031610

JAN. -21" 02 (MON) 10:17 GRASSI & COMPANY TEL: 1 212 725 5785 P.01
66 Cannon Boulevard
Staten Island, NY 10306–2812
(718) 351–3024
January 15, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Dear Attorney General Ashcroft:

I am a web designer and, hence, very familiar with the technology market.

I watched with interest the antitrust case brought against Microsoft several years ago. My own personal opinion is that it was unwarranted. Bill Gates is aggressive. But business is aggressive. Competition in the market place is fierce. Furthermore, people buy what they want. Microsoft put out a quality product. Bill Gates was the first to standardize software programs, allowing the technology revolution to reach info every home. If another firm had done it, we would not be talking about Microsoft, but that particular company. However, a settlement was reached, which I was happy for. It is time to quit wasting both time and money, Microsoft has been chastened, agreeing to terms well beyond what was actually at issue in the original suit.

Microsoft has agreed to share any code or programming that Window uses to communicate with other programs. Microsoft will help companies better achieve a greater degree of reliability with regard to their networking software; Microsoft agreed to a technical committee to monitor future compliance. I think Microsoft has done more than its share of complying with demands from the Justice Department.

I urge you to give your approval to this particular agreement. Thank you.

Sincerely,
Fred Lee

MTC-00031611

TO : PHONE NO. : 12023071454 JAN. 2 1. 2002 9:44AM P 1
FROM : MARILYN GRANT PHONE NO. : 603 4270371
Marilyn E. Stump
P.O.BOX 1591 Conwey, NH03818–1591(603)447–3607
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001 January 11, 2002

Dear Mr. Ashcroft:

I am writing to you today to express my support for the settlement that was recently reached between the Department of Justice and Microsoft Corporation. The settlement reached last November should be enacted with great haste. Enacting this settlement will begin the process of economic rebuilding of the technology industry. The settlement, then, is in the best interests of Microsoft, the IT industry, and the economy in general. The settlement releases contractual restrictions to software developers. Developers that might have been contractually obliged to work with Microsoft only will now be able to work with competitors as well. This guarantees that no third party will be obligated to distribute Windows" technology exclusively or at a fixed percentage. These stipulations come at a great cost for Microsoft. While I believe antitrust litigation was unnecessary in the first place, I hope that the settlement is enacted quickly. Thank you for your time.

Sincerely,
Marilyn Stump

MTC-00031612

JAN-20–2002 09:18 PM NORTHERNEXTERIORS 585 6879 P. 01
Gretchen Jack
108 Woodlawn Avenue
Clarks Summit, Pennsylvania 18411
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am absolutely opposed to the suit against Microsoft. I own stock in many technology companies including Microsoft and I feel the opposition to Microsoft is often no more than sour grapes. The competing companies are just mad that Microsoft has won out. The fact is that Microsoft has been continuously innovative. Microsoft has agreed to more concessions than were named in the lawsuit in an effort to get out of the court room and get back to creating new products. Information sharing, non-retaliation agreements, and government oversight is enough. Microsoft has created products that we need and use. Their products sell well and that high sales volume has kept prices down for the consumer. I think the government should finalize the lawsuit and that no further action should be taken against Microsoft Corporation. Let them get back to work creating new products.

Sincerely,
Gretchen Jack
cc: Senator Rick Santorum

MTC-00031613

01/20/2002 16:20 12068422370 SEACRAFT PAGE 01
10820 Madison Avenue Northeast
Bainbridge Island, Washington 98110
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530

Dear Mr. Ashcroft:

It is an unfortunate that Microsoft was brought into court more than three years ago in the antitrust case. I certainly feel that this case should have never gone to trial. Microsoft has created innovative products that have made computers easier to use for more than twenty years. They should not be punished for being successful.

The reason I am contacting you is because I want you to support the settlement that was offered in this case. The settlement is on the whole fair and balanced, and most importantly it will finally bring this case at the federal level to a close. Both the Plaintiff and Defendant have spent enormous amounts of money and time on this case. Further expenditures will simply be additional waste on both sides. Both sides should settle as soon as is legally possible. The Justice Department must realize that Microsoft has millions of supporters. While not as loud and cantankerous as anti-Microsoft interests, we do exist and want this case ended. Thank you for considering my views on this issue.

Sincerely,
Priscilla Greenless

Let's keep a successful business successful competition is good for the country. Business should not be penalized for being successful. We need Mr. Gates and his innovative ideas. Don't kill the "fatted calf"! We need him!

MTC-00031614

01/20/2002 18:44 3367780617 JEFF RAY PAGE 01
3735 Squirewood Drive
Clemmons, NC 27012
January 17, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to let you know that I am in favor of the Microsoft settlement. My opinion is Microsoft is not a monopoly, and does its best to serve its customers. Furthermore, the government should limit their involvement in businesses, as it is the people who have the choice, as consumers, as to who they want to support.

The strength and success of any company is held in the hands of its customers. Our free market economy allows companies to prosper by competing for customer loyalty. Microsoft has proven time and again with its products and services that it has a far-reaching customer base. The choice to buy or not to buy is with the people. Too much government intervention should be avoided, and this settlement has already taken over three years!

Additionally, I believe that proceeding with this settlement is in the best interest of business, the economy, and customers. By holding up the settlement any further, the American economy does not have the chance to work its way out of the current recession. The settlement was arrived at after extensive negotiations with a court-appointed mediator, and the Company has agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit. The American people think it is time to move on.

Keeping Microsoft tied up in court is a bad move for everyone involved. Please make this issue the highest priority and let the government settlement stand. I am thankful that I live in a country where my voice and my opinion is important in discerning what is right for the greater good of the people.

Sincerely,
Jeff Ray

MTC-00031615

JAN-21–02 11:25 PM 6196970912 P.0l
City of La Mesa
BARRY JANTZ
Councilmember
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
VIA FACSIMILE
(202) 6 16–9937

Dear Ms. Hesse:

The settlement in the case of U.S. v. Microsoft should be accepted and ratified as quickly as possible. This letter is being written not only to ask you to accept the settlement-but to do so as quickly as possible.

The Microsoft case has been a significant constraint on the national economy. I am sure the courts have heard this argument articulated by many an academic versed in the economy. But, the argument is much more than academic. Small business is feeling this case in a very real way.

It is my understanding that the settlement in this case will become law as soon as the courts accept it. The sooner you can ratify the settlement, the better. Business affected by the case will see positive change right away, as opposed to the next fiscal year or some "business related time period". The courts should accept the settlement and work to expeditiously set the wheels in motion for it to be executed. Doing this will allow business to move forward again.

Sincerely,
Barry Jantz

MTC-00031616

FROM : FAX NO.: Jul. 20 2001 05:50am P1
HARNETT COUNTY REPUBLICAN PARTY
P.O.Box 1562
BUIES CREEK,NC 27506
RENATA HESSE
TRIAL ATTORNEY
ANTITRUST DIVISION
DEPARTMENT OF JUSTICE
601 D STREET NW, SUITE 1200
WASHINGTON, DC 20530

DEAR MS. HESSE,

AS THE CHAIRMAN OF THE HARNETT COUNTY REPUBLICAN PARTY AM VERY AWARE OF THE CHALLENGES GOVERNMENT FACES IN TRYING DEAL EFFECTIVELY WITH AMERICAN BUSINESSES. ONE CAUSE OF HiGHER TAXES is THAT TAXPAYERS ARE OFTEN RESPONSIBLE FOR FUNDING GOVERNMENT LAWSUITS.

AS YOU CAN TELL, I AM OPPOSED TO HIGHER TAXES AND BELIEVE THAT THE GOVERNMENT SHOULD REDUCE TAXES AND SPENDING WHENEVER POSSIBLE. THAT IS WHY I WAS PLEASED TO LEARN THAT THE FEDERAL GOVERNMENT'S CASE AGAINST MICROSOFT HAD COME TO A SETTLEMENT AGREEMENT IN THE COURT OF JuDGE KOLLAR-KOTELLY. THIS FEDERAL CASE HAS ALREADY COST THE TAXPAYERS OF THIS NATION UPWARDS OF $30 MILLION. THAT'S A LOT OF MONEY!

I AM PLEASED THAT NORTH CAROLINA IS ONE STATE THAT DECIDED TO SETTLE; THUS, NO FURTHER STATE FUNDS WILL BE EXPENDED FOR THAT PURPOSE. I WOULD LIKE TO SEE THAT RESULT REPLICATED IN AT THE FEDERAL LEVEL AS WELL. THAT IS WHY I AM URGING THAT THE JUDGE APPROVE THE SETTLEMENT IN THIS CASE. A SETTLEMENT IS IN EVERYONE'S INTEREST.

SINCERELY,
JASON T. LEMONS

MTC-00031617

FROM : FAX NO. : Jul. 20 2001 05:44AM P1
Wake Forest Town Commission
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am a local businessman and an elected official in my hometown. I have been concerned about the impact of national issues on my local community throughout my life, The current recession is no exception. The unemployment rate is skyrocketing in towns across America, consumer spending is down, and Congress can't decide what stimulus the economy needs.

In Wake Forest, I see the effects of this national trend. I believe that the government needs to take certain steps to free up businesses to grow the economy and end the stagnation of the past year. Finalizing the settlement between Microsoft and the federal government would be a giant step in the tight direction.

Virtually every business in Wake Forest uses Microsoft in some form or fashion. In fact, even business owners who work out of their homes rely on these products for their work. I admire the creative ingenuity of our town's business leaders. They create many jobs for our citizens, However, in order to jump start our economy, we need products that are even more user friendly and efficient from Microsoft and their competitors.

Because of this, I request that Judge Kollar-Kotelly approve the settlement. Recessions are tough. We need businesses moving full-speed ahead to turn the corner for the American people.

Thanks for hearing my concerns
Sincerely,
Rob Bridges
Tow Commissioner
401 Owen Avenue -Wake Forest, NC 27587

MTC-00031618

FROM : FAX NO. : Jul. 20 2001 05:39AM P1
Mark Jones
President
NC Federation of Republican Assembiles
January 8, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, St 1200
Washington, DC 20530

Dear Ms. Hesse,

I would like to endorse the settlement between the federal governement and Microsoft because the quicker this issue is resolved because I believe it is the fastest way for the federal government to end its involvement with this case. As leader of a group of conservative Republicans in North Carolina, we believe that citizens-and particularly their businesses-are best served with the government as little involved as possible. I am also happy to see that the state of North Carolina has decided to withdraw its lawsuit against Microsoft.

For the last several years, I have served on the Board of Education in Davis County, North Carolina. During that time, I have gotten a close view of the workings of state and local government plus some activity by the courts. This service has only strengthened my conviction that schools as well as companies do better without government intervention. It is better for students when control and discipline in the classroom is a responsibility of the teacher working with the principal. In much the same way, I feel that companies such as Microsoft do best when left alone by either the state or federal government and when their manager and stockholders are allowed to call the shots. That is why I endorse the settlement as a way to return to that situation quicker.

I understand that in a settlement that both sides will get something and also give up something, and that is as it should be. I hope that Judge Kollar-Kotelly will agree and sign this settlement.

Sincerely,
Mark Jones
130 Bear Creek Church Rd. Mocksville 27028

MTC-00031619

Sent By: The Ayn Rand Institute; 310 306 4925; Jan-21-02 6:06PM; Page 1
Via Fax # (202) 616-9937
To: Ms. Renatta Hesse, Antitrust Division, U.S. Department of Justice
From Dr. Yaron Brook, executive director, the Ayn Rand Institute;
Dr. Onkar Ghate, resident fellow, the Ayn Rand Institute
Date: January 21, 2002
Re: Microsoft Antitrust Case

The Federal Justice Department should drop the antitrust case against Microsoft. If at this stage in the proceedings it is impossible to drop the case, the Justice Department should settle the case on as favorable termS to Microsoft as legally permissible. (If possible, the Justice Department should create a legal settlement more favorable to Microsoft than the one Microsoft agreed to in November of 2001.)

To understand why one needs to understand two points, one general and one particular. First, antitrust laws are non-objective and unjust. Second, Microsoft is guilty of no actual crime. Let us begin with the first point.

The "actions" that anti-trust laws prohibit are vague, contradictory, undefined. For instance, antitrust Laws prohibit companies from engaging in "restraint of trade." But what specific actions constitute "restraint of trade"? If, as is done repeatedly in the business world, a company signs an exclusive distribution agreement with another company, is that "restraint of trade" because now other potential competitors are excluded from that area of the market? Or if a company sells a computer to individual X, is that "restraint of trade" because competing computer companies can no longer sell X a computer since he has need for only one? No-the CourtS have declared to businessmen-only those "restraints" that are "unreasonable" are illegal. But which specific "restraints" are "unreasonable"? No definition is to be found in the law. So no company can know before it acts which actions are in law legal and which are not.

Consider another example. The antitrust laws prohibit "unfair" trade practices. But again, what counts as an "unfair" practice? Is it any business practice that, for instance, causes bankruptcies among some of a firm's competitors, because they cannot find a way to compete with the firm's low prices and/or superior products? Or is it any practice that the administration in power disapproves of! Again, no answer is to be found in the law, so it is impossible for a company to determine beforehand which specific actions the law prohibits.

Take one last example. Under antitrust laws, a company can be charged with "predatory pricing" if it sets prices below those of its competitors, because the competitors might as a result go bankrupt. It can be charged with "monopoly pricing" if it sets prices that are deemed too high, because then it is supposedly bilking consumers of their hard-earned income. But if it therefore decides to set prices at the level of those of its competitors—it can be charged with 'collusion" or "conspiracy" because now it is said to be no longer "competing."

In the nightmarish world of antitrust law, any and no action can be pronounced illegal. There are and can be no definite, objective principles specified in the law-and as a result a businessman has no way to determine, before he acts, whether his action is legal or not. In practice, this means that businessmen are at the mercy of the government. Any moment the government wants to cripple a particular company, it can unleash the antitrust laws against the The Ayn Rand Institute * The Center for The Advancement of Objectivism 4640 Admiralty Way, Suite 404 * Marina Ddel Ray, CA 90292–6617 * U.S.A. voice 310–306–9232 * fax: 310–306–4925 * e-mail: mail@aynrand.org

Sent By: The Ayn Rand Institute; 310 306 4925; Jan-21–02 6:06PM; Page 2/3 company. In logic, a business has no possible defense against a charge of "restrain of trade" or "unfair" trade policies or "predatory pricing" because the charge itself has no objective meaning. The antitrust, laws, therefore, vest the government with arbitrary power.

The result, unsurprisingly, is that when, say, a bureaucrat is disgruntled with a successful company because it has failed to share (i.e., give away) its wealth or support the government's particular programs—or when a government thinks that destroying a powerful company will win it votes with misguided citizens who believe that Big Business is their enemy-or when resentful, envious competitors (like Netscape and Oracle and AOL, in the Microsoft case) can persuade their government representatives to cripple a superior competitor- the brunt of the antitrust laws descend upon that company.

It is no accident that it is America's most successful, most productive, most admired companies-Microsoft, IBM, Intel, Wal-Mart, American Airlines, Standard Oil, etc.-that are subjected to antitrust lawsuits.

As a form of granting arbitrary power to the government, antitrust laws are unconstitutional and un-American. As a means of penalizing the successful for being successful, antitrust laws are a perversion of justice.

Let us therefore now leave to one side antitrust law, under which any action of a company could be considered a crime, and ask whether in actual fact Microsoft is guilty of any crime.

What are the principal accusations against Microsoft?

Microsoft is accused of "unfair" competition. But competition refers to the process by which companies utilize their assets and personnel to build better and/or cheaper products. They thereby seek to earn, through voluntary trade, even greater profits. In a free market, there is no such thing as "unfair" competition. There are only better and worse competitors. In other words, some companies are better than others at research and development, at structuring long-term, mutually-beneficial business agreements, at marketing products, at keeping good employees happy yet challenged. Microsoft, for example, excels at all these processes-and many more. (The charge that Microsoft is not innovative is particularly disingenuous given its continual upgrades and improvements to its major products; even Judge Jackson had to concede this point.) The fact that Microsoft is one of the greatest competitors the business world has seen is, in a free nation, not a crime but a virtue.

The only "unfair competition" that exists is in fact not competition. if, say, the mafia threatens to blow up a shopkeeper's store unless he gives it a percentage of his sales, the mafia is not engaged in competition, albeit unfair. They are engaged in coercion-precisely to prevent voluntary trade and the free market from operating. When Netscape loses sales to Microsoft because Microsoft's browser is better and/or cheaper, Netscape's loss of sales bears no similarity to a shopkeeper's "loss" of sales to the mafia. One must never equate the voluntary with the coerced.

Secondly, Microsoft is accused of "predatory pricing." Translated into reality, this means that Microsoft is able to charge prices below those of its competitors, such as Netscape. Some of these competitors, who cannot match Microsoft's low prices, lose market share or go bankrupt. But it is Microsoft's incredible efficiency and productiveness that allows it to undersell its competition yet still make large profits. Again, this represents not criminal behavior but real virtue.

I

Sent By: The Ayn Rand Institute; 310 306 4925; Jan-21–02 6:07PM; Page 3/3

Finally, Microsoft is accused of wielding "monopoly power." This accusation as well is based on equating the voluntary with the coerced.

It is true that Microsoft has a dominant market position in some segments of the software industry and that some of its competitors have gone out of business. But this is because Microsoft has out-competed them; it is more innovative, more efficient, a better marketer, and/or a better employer than other software firms. Microsoft, in other words, has earned its dominant position.

And it continues to earn it: it faces constant competition, even if there are no actual competitors presently in its market. For whenever another entrepreneur can figure out a way to produce similar software at a cheaper price or better software at an attractive price (or some undreamt of product that makes current software obsolete), he is free to enter Microsoft's market. And if he has a sound business plan, he will be able to raise the necessary capital even if he has none: there are thousands of venture capitalists looking for the next Bill Gates. Microsoft's dominant position in the software industry, in other words, must be earned anew each day. So once again, Microsoft is being attacked for its success: in reality it has no monopoly power just brilliant management.

The only monopolies that can in fact exist are government-created ones. Only a government can prevent someone from entering a market and thus eliminate competition. The Post Office, for instance, is a monopoly. There is little doubt that Federal Express could provide better service, more cheaply, and still earn A profit. But the government forcibly prevents it from entering the Post Office's market. The Post Office's dominant market position is unearned: it offers sub-par service but because of government coercion faces no competition. Microsoft's dominant position, by contrast, is earned: it faces constant competition, which it continues to win. Again, do not equate the voluntary with the coerced.

Microsoft is the epitome of American business success: it produces enormous wealth through intelligence and hard work. Imagine the wealth that would exist-for every firm, for every employee, for every shareholder, for every customer-if all companies in America were run by a Bill Gates. The fact that they are not should not lead us to destroy Bill Gate's creation but, all the more, to admire and champion it.

Why should the Justice Department drop its case against Microsoft (or settle it with as small a penalty as possible)? Because antitrust laws are arbitrary laws that penalize virtue for being virtue-as the specific accusations against Microsoft clearly reveal.

Sincerely,

Yaron Brook, Ph.D.

Onkar Ghate, Ph.D.

President and Executive Director

Resident Fellow

The Ayn Rand Institute

The Ayn Rand Institute

MTC–00031620

Erick Andrews
Consultant
508–481–6627
FAX
Atty Renata Hesse
DOJ, Washington, DC
2
21-Jan-02 20:05
ATTENTION: Renata Hesse, Trial Attorney
RE: Microsoft Case
19 South Street
Marlborough, MA 01752
January 21, 2002
Renata Hess, Trial Attorney
Antitrust Division
Department of Justice
601D Street, Suite 1200
Washington, DC 20530
RE: Microsoft Settlement

Dear Attorney Hess:

Please make my following comments known to Judge Kollar-Kotelly of the current proposal to settle the Microsoft case.

The settlement stipulated in the Proposed Final Judgement by the U.S. Department of Justice is a travesty, a transparent sham—a sellout to Microsoft. This proposal offers no relief to foster competition and provide fair consumer choice of basic Operating System software for PC platforms beyond Microsoft's. If allowed to stand, this settlement will do great harm to the computer industry, harm to people who work in this industry on products other than Microsoft's, likely harm to openness of the Internet, and continued harm to users who want choice rather than have an aggressive monopolist dictate to them. As the proposed settlement currently stands it will not accomplish the remedial goals set by the U.S. Court of Appeals. You must agree that these were:

(1) to prohibit Microsoft's illegal conduct and similar conduct in the future, (2) to spark competition in this industry, and, (3) to deprive Microsoft of its illegal gains.

I urge you to impose stronger remedies on Microsoft that have teeth in them and will truly work.

Sincerely,
Erick Andrews, Consultant
[28 years in computer engineering]

MTC-00031621

Jan 21 21 05:03p PISMO BEACH CHAMBER 773–6772 P.1

Pismo Beach
Chamber of Commerce
January 15, 2002
Renata Hesse
Trial Attorney,
Antitrust Division
Department of Justice
601 "D" Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

We are writing to support the settlement of the antitrust lawsuit against Microsoft. While our Chamber believes that many of the allegations could be true, it is time to shift our focus our tax dollars to other priorities. There is no shortage of things on which we should be using our resources.

The settlement has a little bit of something in it for everybody while maintaining its overall balance. It is a compromise that enforces guidelines on Microsoft for the future and penalties for past actions. However, it allows the freedom for Microsoft to continue being the successful company it has become over the years and throughout the world. It is time to put this to rest. It is also time to focus on more important issues, of which there are many. Thank you for your time.

Simcerely,
Charles Anderson
Chief Executive Officer
581 Dolliver Street * Pismo Beach, California 93449
Phone (805) 773–4382—FAX (805) 773–6772 * email: pbcolc@fix.net *
www.pismochamber.com

MTC-00031622

Sent by: WOODFIN SUITE HOTELS 858 794 2348; 01/21/02 4:20PM;Jetfax#127;Page 1/2

WOODFIN SUITE HOTELS
12730 High Bluff Drive, Suite 250
San Diego, CA 92130
Phone: (858) 794–2338
Fax: (858) 794–2348
FACSIMILE COVER SHEET
DATE: January 21, 2002
TO: Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
FAX#: 202–616–9937
FROM: Samuel A. Hardage
Chairman
Number of Pages (Including Cover Sheet): 2

Sent by: WOODFIN SUITE HOTELS 858 794 2348; 01/21/02 4:21PM;Jetfax#127;Page 2/2

WOODFIN SUITE HOTELS
January 21, 2002
Sent via facsimile—202–616–9937
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
WOODFIN
SUITE
HOTEL

Dear Ms. Hesse:

This letter is being written in support of the settlement in the case of US v. Microsoft. As a civic activist and opinion leader in California, I am writing this letter to let the courts know that polling has shown a majority of Californians do not support the continuation of this case.

One would think Californians have little tolerance for Microsoft. With Attorney General Lockyer and newspapers like the San Jose Mercury News (among the harshest of Microsoft's critics), the appearance of Californians as anti-Microsoft is strong. But recent polling proves that is not the case. A poll done in August of 2001 found that sixty-five percent of Californians believe the case against Microsoft should be settled or dropped altogether. This same poll found the vast majority of Californians (85%) in no way support breaking Microsoft up.

CHASE
SUITE HOTEL
by Woodfin

Attorney General Lockyer does not represent the interests of most Californians.

We do not support the continuation of this case and hope the courts will accept the settlement.

Very truly yours,
Samuel A. Hardage
Chairman
12730 High Bluff Drive, Suite 250 * San Diego, California 92130
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MTC-00031623

fax 415–727–3871
Matthew P. Smyth
Fax
To: Renata Hesse
From: Matthew Smyth
Fax: 202–616–9937 or 202–307–1454 Pages: 7(including cover)
Phone:
Date: 01/21/02
Re: Microsoft Settlement
*Commemts:
Please find my letter attached, and contact me if you do not clearly receive all six pages that follow.
Thank you,
Matthew mps@acm.org
January 17, 2002
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530
Facsimile: (202)616–9937 or (202) 307–1454
email: microsoft.atr@usdoj.gov

I am writing to oppose the 2001 Microsoft Proposed Settlement, addressing Microsoft's monopoly abuse", and to ask you to modify it to better address the crime. As stated in the COMPETITIVE IMPACT STATEMENT (CIS)2, in section VIII:

The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree,

Unfortunately, this is not the case—the government has breached its duty to the public by not addressing the complete situation. Microsoft is a convicted monopolist, found guilty of purposefully extending its monopoly through an abuse of their existing monopoly (CIS, Section III, A 2). The goal of the settlement should be to address the antitrust violation, as best described in CIS, Section IV. EXPLANATION OF THE PROPOSED FINAL JUDGMENT (PFJ)3, B. Prohibited Conduct and Anticipated Effects of the Proposed Final Judgment:

Appropriate injunctive relief in an antitrust case should: (1) end the unlawful conduct; (2) "avoid a recurrence of the violation" and others like it; and (3) undo its anticompetitive consequences.

The main two factors to be considered are prevention (points 1 and 2) and punishment (point 3). Punishment is designed to attempt to remedy the past actions, and prevention is supposed to prevent further abuses, now and in the future. The proposed settlement neither punishes Microsoft nor offers enough hope of preventing further abuses. I hope you see fit to alter the terms to suitably protect the public and punish Microsoft for their repeated, flagrant abuses.

http://www.mpsce.com/dojletter.html page 1 of 6

The proposed settlement contains oversight into Microsoft's business practices, but insufficiently allows for quick resolution when they breach the imposed restrictions. The CIS, describing the Section IV of the PFJ, states:

Enforcement by the United States or plaintiff States may include any legal actions or proceedings that may be appropriate to a particular situation, including petitions in criminal or civil contempt, petitions for injunctive relief to halt or prevent violations, motions for declaratory judgment to clarify or interpret particular provisions, and motions to modify the Final Judgment.

In other words, if Microsoft breaches part of the PFJ then they can be hauled back into court. That is already an option, and is how we got to this stage—and how we had this case drag on for years. It does not provide enough quick response to the breach since Microsoft will continue to protest their innocence for years if necessary.

Instead, I would propose that Microsoft's new overseers, the Technical Committee (TC), be given the power to inflict financial penalties when a breach of the agreement is committed. Fines would be directed to some counterbalancing force—for example, used to purchase equipment from competitors such as Apple for schools, given to organizations such as the Electronic Frontier Foundation, the Center for Democracy in Technology, or the Free Software Foundation for work against monopolistic practices, or apply the money to a foundation that funds developing applications for a competing operating system such as Linux.

Each fine would be based on a methodology drawn out of the number of TC members that agreed that a breach occurred and their perceived severity of the breach. When a TC member decided a breach occurred, they could impose a fine of up to

$1 million. Each of the other TC members would then have the opportunity to modify the fine with a multiplier—from 10 times to l/1Oth the original fine. Thus, with all three TC members agreeing that a massive, international breach had happened the fine could be up to $100 million with both using the maximum 10 times multiple, and if two of the TC members thought the third had no basis for the fine and used the minimum 1/10th multiple, the fine could be reduced to $lO,OOO—pocket change for Microsoft. Multiple breaches could be met with multiple fines.

This system of fines would force Microsoft to take the TC members very seriously, and to make them deal with reducing the abuse in day-to-day dealings. In addition, Microsoft should be forced to publish a full page ad explaining each fine in four major newspapers: the San Jose Mercury News, Washington Post, New York Times, and Wall Street Journal. This would make each fine quite public, so Microsoft could not avoid the negative publicity each time they broke the agreement.

The proposed settlement also contains no punishment for Microsoft's previous, egregious, offenses. In order to "undo [the monopoly's] anticompetitive consequences,"

http://www.mpsce.com/dojletter.html page 2 of 6

two items need to be addressed: the ill-gotten gains and the barrier to entry in the operating system area. Handling the ill-gotten gains is the easy part—add on a fine that is distributed among the players described above in paragraph 3 where fines are discussed. As for the amount of the fine, consider half to three-quarters of the company's current liquid reserves. Assuming that many ill-gotten dollars have been plowed into their business acquisitions and code development, the billions of such a fine might serve to chasten an arrogant company without taking away their entire business.

To reduce the barrier to entry in the operating system, middleware, and office application markets, publishing the Application Programming Interfaces (APIs) is a good first step. However, the other items necessary to create seamless replacements to Microsoft middleware are not addressed. In order to address the leverage Microsoft has developed in office applications through the use of their monopoly, the complete file formats to their office documents should be included in the release of information. Since the goal is to make sure that all systems can interoperate with Microsoft's standards, the file formats are a crucial barrier to entry that could be removed with minimal pain. The unnecessary efforts to reverse-engineer the formats and the potential for error with such guesswork could be avoided easily by releasing the protocols. For a more complete examination, see the Boder commentary.4

There is no provision in the PFJ for creating any competition in the operating system arena to prevent future abuses. The Justice Department (DOJ) has considered and discarded a structural remedy—splitting the company in two. They also say they have considered variations of licensing the source code to Windows; but based their settlement on whether the restrictions "... would be imposed promptly following a remedies hearing." The decision to craft a settlement based on things Microsoft was willing to accede to immediately points out the great hole in the DOJ argument—if Microsoft approves of a settlement, it is too light a penalty.

There are a number of holes in the settlement that Microsoft can—and given their history, will—manipulate. Microsoft is not restricted from pestering users to reset their computers to the "(Microsoft) Windows Default" settings from any changes that an OEM makes, such as the description of the Clean Desktop Wizard: Preservation of OEM Configuration: Subsection III.H.3. prohibits Microsoft from designing its Windows Operating System Products to automatically alter an OEM's configuration choices—such as "sweeping" the unused icons the OEM has chosen to place on the Windows desktop—without first seeking confirmation from the user, and from attempting any such alteration before at least 14 days after the consumer has first booted his or her personal computer. Thus, for example, in Windows XP, the Clean Desktop Wizard cannot run at all until 14 days after the first boot. http://www.mpsce.com/dojletter.html page 3 of 6

The danger to system management by the DOJ is that there are holes—there is no restriction on how often the "sweep" request is triggered (could be every 5 minutes or on each mouse click) or any requirement that the user may force it to stop asking. Microsoft can simply make a computer uninhabitable with repeated nagging without breaching any section of the agreement, even though it would breach the spirit of the agreement. Eliminating the Clean Desktop Wizard entirely and all Microsoft-triggered "updates" or 'tidying" processes would be the only way to ensure that this allowance could not be abused.

Another opportunity for abuse comes in allowing Microsoft to define who can see their APIs and documentation. The restrictions on the security releases in the PFJ omits individuals who are not in business, ad-hoc organizations who wish to collaborate without any formal grouping such as a Linux compatibility team, and technology advocacy groups who would wish to inspect the code without developing any software, From the CIS:

Subsection III.J.2. permits Microsoft to take certain limited steps to ensure that any disclosure or licensing of APIs, Documentation, or Communications Protocols related to anti-piracy systems, anti-virus technologies, license enforcement mechanisms, authentication/authorization security, or third party intellectual property protection mechanisms it makes pursuant to this Proposed Final Judgment is to third parties that have a legitimate need for and do not pose a significant risk of misusing that information, ... [specifically] (b) having a reasonable business need for the information for a planned or shipping product; (c) meeting reasonable and objective standards established 'by Microsoft for the authenticity and viability of its business;

It is clear that some groups will be eliminated under (b) who do not plan a business use, and that Microsoft can create 'reasonable" standards under (c) that will still exclude some Linux and Free Software developers. Allowing Microsoft to create the standards and judge "reasonable business need" is allowing the fox to guard the hen house. One major drawback of the documentation release as described in the PFJ is the method of dissemination. Numerous times, the MSDN [network] or its future equivalent are described as the optimal way to share the information. However, accessing MSDN documentation currently requires a Microsoft Passport—in other words, identifying yourself to Microsoft and becoming part of their system. In other words, Microsoft is able to monitor who has access to the specifications. They will know your name and contact information and be able to monitor what the user is looking at, which may dissuade some developers from utilizing the documentation. if the information is truly to be available, it should be available without any prerequirements such as a login and password, browsable from any area and posted for free examination.

http://www.mpsce.com/dojletter.html page 4 of 6

JAN.21.2002 3:47PM THERMATEC NO.296 P.6/7

Another area ripe for abuse is the use of Reasonable and Non-Discriminatory (RAND) terms for information release. RAND terms may prevent individuals and ad- hoc organizations from being able to utilize Microsoft interoperation. When described in the CIS:

Section III.I, The overarching goal of this Section is to ensure that Microsoft cannot use its intellectual property rights in such a way that undermines the competitive value of its disclosure obligations, while at the same time permitting Microsoft to take legitimate steps to prevent unauthorized use of its intellectual property.

The challenge is that individuals may not be able to meet the requirements of the licensing conditions. Setting a $10,000 fee for a blanket license may seem reasonable for a public corporation or even a small business who is creating a product, but any individual who is creating software in their spare time would find that an onerous burden. Thus, even "reasonable" restrictions would still prevent Microsoft's greatest competitor, the people working on Linux and its associated projects, from mustering the license fees.

The last area I will address is Microsoft's prevention of the creation of alternatives to the Windows operating system. With sufficiently open APIs, a competitor could generate a program designed to replace Windows but the licensing terms of many Microsoft products would prevent the users from being able to utilize the Microsoft product without breaking the law, due to the licensing restrictions. Also, nothing in the PFJ currently allows access to the APIs for someone building an emulator or alternative operating system. In this manner, Microsoft can prevent their monopoly from being attacked while still abiding by the terms of the settlement. See the Kegel commentary for more details on such observations.

In summary, the PFJ is drawn up with a very pro-Microsoft bias and with very little input from the people it pretends to protect—the public and the people trying to create an alternative to Windows. The goal of the settlement is to punish the lawbreaker and reward the public with a more competitive field of choices, yet the exact reverse has happened. The loopholes and potential for 'creative redefinition" would allow any tech to find methods to let Microsoft avoid the restrictions. This settlement has been roundly condemned by industry watchers such as Robert X. Cringley6, Dan Gillmor7, and NetAction8, consumer advocates such as Ralph Nader9 and the Attorney General for Massachusetts"', and technology folk such as the Computer and Communications Industry Association" and the GNU Project12. It is also being slammed around the technology water-coo1ers13, where I hear bitter comments from all sides. Apparently, the bitter feelings extend to others in the DOJ, when Internet News14 found: The DOJ's settlement was brokered by Bush administration appointee Assistant Attorney General Charles A. James, head of the DOJ's antitrust division. But career officials at the Justice Department, who had pursued the case since the http://www.mpsce.com/dojletter.html

JAN.21.2002 3:48PM THERMATEC NO. 296 P.7/7 beginning, displayed their apparent displeasure with the agreement by not signing it.

The question becomes: who is happy about this proposed settlement? Not the public.

Not the pundits. Certainly not me. Aside from Microsoft, it appears no one is.

Matthew P. Smyth
3715 Highland Court
Lafayette, CA 94549
mps@acm.org

1 Complanit: http://www.usdoj.gov/atr/cases/fl700/1763.htm

2 Competitive Impact Statement: http://www.usdoj.gov/atr/cases/f9500/9549.htm

3 Stipulation and Revised Proporsed final Judgment:http://www.usdoj.gov/atr/cases/f9400/9495.htm

4 Boder commentary: http://www.ece.cmu.edu/rtb/msdoj/msdojSettlement.html

5 Kegel Perspective:http://kegel.com/remedy/remedy2.html

6 http://www.pbs.org/org/cringely/pulpit/pulpit20011206.html

7 http://web.siliconvalley.com/content/sv/2001/11/02/opiniondgillmo/weblog/index.htm

8 http://www.netaction.org/msoft/winfish2.html

9 http://www.cptech.org/at/ms/mj2kollarkotellynov501.html

10 http://www.boston.com/dailyglobe2/015/business.Microsoft—case—key—to—tech—s—future+.shtml

11 http://www.ccianet.org/papers/ms/sellout.php3

12 http:www.gnu.org/philosphy/microsoft-antitrust.html

13 http://computeruser.com/articles/2101,3,1,1,0101,02.html

http://linuxtoday.com/news—story.php3?ltsn=2002–01–02–002–20-OP-MS

http://www.winterspeak.com/columns/121001.html

http://www.lamlaw.com/DOJvsMicrosoft/WrapAndFlowMain.html

http://monwy.cnn.com/2001/12/12/technology/microsoft/ and many others: http://www.google.com/search?q=microsoft+settlement

14 http://www.internetnews.com/bus-news/article/0,,3—936241,00.html

http://www.mpsce.com/dojletter.html page 6 of 6

MTC-00031624

Jan-21–02 02:26P Nova Voice Data fax#2 P.01
NOVA VOICE & DATA SYSTEMS INC.
Telcommunication Systems/Network Services Divisions
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novads.com
Authorized Representatives
TOSHIBA
Microsoft
January 16, 2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
VIA FACSIMILE
(202) 616 -9937

Ms. Hesse,

I have been active in civic issues and various policy debates throughout my community for some time. When I learned that the courts were asking the public to comment on the Microsoft antitrust trial, I felt strongly about sending you this letter. I have followed the antitrust trial from its start almost four years ago. I have never supported the government's case against Microsoft. Now that the courts have a chance to end this waste of taxpayer money by accepting the settlement. I sincerely hope you will do so. My reasons for not supporting the case against Microsoft are simple-I support free enterprise. It is no mystery that the antitrust trial was started because Microsoft's competitors lobbied President Bill Clinton on the issue. Those competitors didn't have the ability to compete with Microsoft in the market place, so they asked the government to step in and help.

This defies every principle our economy was built on. Our strength comes from an open, competitive market. Superior products evolve and dominate their sector. Those products and their makers lose their top spot when another company creates a better product. Asking the government to step in and place inferior companies at the top is not how this country was built.

I recognize that Microsoft's competitors will argue that Microsoft unfairly abused their position at the top to keep them down. I don't agree with that. Antitrust laws developed seventy-five years ago do not apply to the technology industry of today. Microsoft got maintained their position of supremacy because they continued to develop superior products.

The courts have an opportunity to put an end to a very big mistake. I urge the courts to accept the settlement.

Sincerely,
Jim Gibson President

MTC-00031625

JAN-20–2002 01:36 PM MILTON HANER 4252593022 P.O1 FAX COVER SHEET
Send to: Attorney General
From: Milton & Judith Haner
Attention: John Ashcroft
Date: 1–21–02
Office Location: Wash DC
Office Location:
Fax Number 1 202 307 1454
Phone Number: 425–259–3022
fax # Same
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Please comment
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Total pages, including cover:
Comments :
JAN-20–2002 01:37 PM MILTON HANER 4252593022 P-02
Milton Haner
1208 48th Street SE
Everett, WA 98203–2900
January 19, 2002
Attorney General Ashcroft
US Department of Justice,
950 Pennsylvania Ave.
Washington, DC 20530–0001

We are writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The suit dragged out long enough and it is time to allow Microsoft and the industry to move forward.

The settlement was arrived at after extensive negotiations with a court-appointed mediator. The terms are fair. Microsoft actually agreed to terms that extend will beyond the products and procedures that were at issue in the suit, even going so far as to divulge some of its software code to other companies that will use it against Microsoft. It is time that the government accepts the settlement and allows Microsoft to return to concentrating on business.

Microsoft has dealt with the government threatening to break up the company for over three years now. It is unfortunate that companies have to deal with such government over regulation. It is time for business to return to normal. Please accept the Microsoft antitrust settlement.

I would like to add that my wife and I were so pleased with your appointment as Attorney General and that we hold you in our prayers as you face all the decisions that are placed before you that God will give you continued direction and wisdom.

We do not know of Bill Gates religious standing, but we do believe that God has blessed him, because of his generosity around the world and here in America, to help various organizations and the education system and encourage you to take this into consideration when you make your decision.

Sincerely,
Milton Haner
Judith Haner

MTC-00031626

Renata Hesse,
Trial Attorney
Suite 1200, Antitrust Division, Department of Justice,
601 D Street NW,
Washington, DC 20530
(facsimile) 202–616–9937 or 202–307–1545

Re: Public comment (Microsoft case settlement) that under the Tunney Act must be considered before the settlement is accepted.

Dear Mrs. Hesse:

I have been a Software engineer for the last 19 years. I am not working nor have never worked for any of Microsoft's competitors. I would like to respectfully request that you reconsider the grave anticompetitive consequences of the proposed Microsoft settlement by the the Justice Department. The settlement evidently grants Microsoft its operating system monopoly with wording such that it would no longer be illegal for Microsoft to maintain its monopoly. In my view, and that of most of my colleagues, the settlement is a travesty of justice, an ill-advised embarrassment that flings down and dances upon the law and upon all but the most twisted notions of justice.

If this administration does not allow now that it is capable of acting with forceful determination, then I have no doubt that Microsoft will be emboldened and will push its bullying practices to new heights. I also have no doubt that our government will someday have to revisit this ugly problem. It will then be facing a much more powerful behemoth that has leveraged its way into other market segments, making the search for an effective remedy an almost hopeless task (short of reconsidering a breakup— again). As a software developer I am outraged: Microsoft's continued leverage of their illegal and ill-gotten monopoly on the desktop has now positioned the company to extend its control to the Internet. As a citizen I am dismayed: the continued indifference of this administration will ultimately lead to a monolithic entity controlling all relevant aspects of our cyber- society. As a consumer I am maddened: we will face a world devoid of choice in that arena. In the end, we will all have to pay the price.

I would like to urge this administration to help foster a business environment where healthy competition has a chance to innovate in a truly level playing field— where a nascent company will not be crushed by illegal means because it chose to offer viable alternatives to Microsoft's products— where the reason the Open Source software movement thrives is more than because it presents no definable corporate target for Microsoft to shoot down. I would like to plead with this administration to stop its apparent indifference to the wrong-doings of large corporations and to apply true remedies with real teeth when a corporation has been found guilty of monopoly. I sincerely hope that the currently unfolding Enron debacle will make this administration more sensitive to the fact that tacitly supporting another large company practice, like Microsoft's, by turning a blind eye to its illegal business practices will ultimately carry an enormous price to our society.

You now have a historic opportunity to redress this and apply real remedies that will send the message that illegal business practices will not be tolerated any more.

I urge you to act now, decisively, and with justice on behalf of our future. I want to believe that you will do the right thing. I really wish to thank you for your time and for considering my views.

Sincerely

George Soler
7 hallam St. 3A
San Francisco, California 94103

MTC-00031627

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JOHN F. CIHAK
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2840 ADAMS AVENUE
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January 18, 2002
Renata Hesse, Trial ATtorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
VIA FACSIMILE
(202) 616–9937

Ms. Hesse,

This week, Governor Gray Davis and the California State Legislature will be announcing all of the various public works projects that are going to go without funding during the next fiscal year. I have spent years working in my community and am very concerned about what kinds of projects we are going to lose. I can't sit idly by and watch this happen while our leaders still consider spending millions of dollars on other frivolous projects. That is why I am writing this letter to ask the court to approve of the settlement with Microsoft.

The Microsoft case has already cost Californians tens of millions of dollars. That does not include what we are spending on the federal side of this case. Each time I think about the money, which might be spent should the settlement be rejected, I think about all the important projects our community is going to lose out on. I am not naive enough to think that if the Microsoft case is settled that we will then get our public works projects. However, I do believe settling the case with Microsoft is a decision which should be made on principle. It is a decision which says that the courts and our elected officials will find a way to resolve issues like this when there's not enough money to fund even the most basic needs.

Sincerely,
John Cihak
Owner Cihak Realty

MTC-00031628

FROM : A D Fakonas January 21, 2002
PHONE NO. : 925 2537936 Jan. 21 2002 01:55PM Pl
A. D. Fakonas
56 Via Floreado
Orinda, CA 94563
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I urge you to settle the antitrust case against Microsoft. The issue has been dragged out far too long, to the detriment of the US economy and consumers. In fact, it often felt like the main reason this case was ever brought up was because its competitors were better at navigating the political world. Although Microsoft's business dealings may have been heavy-handed in the past, they were not detrimental to the consumer marketplace. I, like most (even marginal) computer users, have always had the option to use products from any software vendor. I personally have used both Internet Explorer and Netscape Navigator, and I still use both Microsoft Media Player and Real Networks RealPlayer. I have both on my computer simultaneously, and both work fine. The fact is that Microsoft has become a dominant force because it has provided superior products at good value. The settlement negotiated in November eliminates Microsoft's ability to force programs and products on consumers and manufacturers by requiring Microsoft to allow competitors to place their own programs on Windows. The result is a playing field as level as the competition will ever get.

Please drop the case and settle without further litigation. Everyone has dwelled on the matter long enough.

Sincerely,
A. D. Fakonas

MTC-00031629

The Worcester Foothills Theatre Co., Inc.
MICHAEL WALKER
Artistic Director
MARC P. SMITH
Artistic Director
Emeritus
BOARD OF DIRECTORS
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TREASURER
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CLERK
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DR. TAMARA BETHEL
MARTA CASILLO
EILEEN DECASTRO
LEWIS J. DITTELMAN
JAMES DUMAS
DR. BRUCE KARLIN
DR. JAMES LUKES
EVELYN M. MARSHALL
GARY W. MACCONNELL
JOHN 0. MIRICK, ESQ.
ELENI PAPADAKIS
JAMES J. PAUGH, III
MEL PELLETZ
DR. MICHAEL POLSENO
PETER A. WEINROBE
*EXECUTIVE COMMITTEE
January 3, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
VIA FACSIMILE

To Whom It May Concern:

I would like to comment on the proposed settlement in the Microsoft case. As the director of a small non-profit agency, I use Microsoft products daily and they have been a great help to me. They have allowed our staff to become more self-sufficient.

Small professional theater groups like the one I run, have small budgets and often are shoestring operations. The proposed settlement will benefit groups like mine, who would qualify to receive Microsoft products, if the settlement survives in its present state. This would mean that we could spend more money on our productions.

As far as I can tell there has been no consumer harm as a result of any actions taken by Microsoft. Microsoft's innovations have, in fact, have helped many small agencies such as mine. I hope that we end this lawsuit and approve the settlement.

Sincerely yours,
Brad Kenney
Artistic Director
WORCESTER FOOTHILLS THEATRE CO., INC.
WORCESTER COMMON OUTLETS * l00 FRONT STREET * SUITE 137
WORCESTER * MASSAChUSETTS 01608
BUSINESS OFFICE: 508.754.3114 * Box OFFICE 508 754.4018 * (V/TTY) FACSIMILE: 508.767.0676 www.foothillstheatre.org

MTC–00031630

FROM : E S RUCKER PHONE NO. : 504 5235996 Jan. 21 2002 02:12PM Pl
Fax to page 001
1518 1st Street
New Orleans, Louisiana 70130
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I wish to express how happy I am to, hear that the Department of Justice finally ended its antitrust lawsuit against Microsoft. This agreement will greatly benefit Microsoft's competitors. They should be thrilled with the outcome of this case.

Microsoft had to compromise much just to get the case over with. It agreed to make available to its rivals, on reasonable and non-discriminatory terms, any code that Windows uses to communicate with other programs. The company also agreed to disclose and document, for use by Its competitors, various interfaces that are internal to Windows'' operating system products—a first in an antitrust lawsuit.

What more could Microsoft's competitors want? Maybe a key to the front door of the company's headquarters would make them happier.

Enough is enough. I hope the federal government never does this to Microsoft again. It would be pure harassment if they would.

Sincerely, Evelyn S. Rucker
Evelyn Rucker

MTC–00031631

Jan 21 02 03:03p p.1
Kansas Taxpayer Network
PO Box 20050 316–684–0062
Wichita, KS 67208 home.southwind.net/-ktn
Renatta Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street, NW—Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am writing in support of the proposed Microsoft antitrust settlement. As Executive Director of the Kansas Taxpayers Network, I have followed this case closely and am embarrassed and distressed that our State attorney general has been a party to it. Like the tobacco lawsuits of the recent past, this is a case that has turned out to be not only a colossal waste of tax dollars, but also a detriment to yet another private industry.

Regulation through litigation seems to have been the underlying theme in this case and those responsible for stoking the embers are none other than Microsoft competitors.

My opinion in this case is not from that of a member of the Microsoft fan club or from that of an enemy for its competitors. My beliefs stem from those of a protector of taxpayers and overseer of the spending of the taxes they're forced to pay. In that position, I do not support the role of the federal or state government in shaping the appropriate market share between opposing companies in any industry. This is not the idea behind the "rule of law," as I understand this concept from the framers.

All things considered, the proposed settlement is not only fair for all parties involved, but the best thing for taxpayers everywhere as it finally puts the case to rest. No more tax funds should be wasted on this litigation. As you review this settlement, I urge you to consider the positive national impact of ending this unfortunate litigation.

Sincerely,
Karl Peterjohn

MTC–00031632

JAN. -21'' 02(MON) 14:25 DIRECTORY DISTRIBUTING ASSOC. INC TEL:314 592 8791 P. 00 1
RICHARD L. RACKERS
160 Corporate Woods Court
Bridgeton, Missouri 63044
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It is my understanding that the Justice Department has reached a proposed settlement with Microsoft based on the allegations brought against the company for violation of various antitrust laws. It is also my understanding that you are currently accepting public comment on the proposed settlement. Please consider mine a vote of support for the settlement. While I know that it probably does not go as far as many of Microsoft's competitors would like, I believe that it is a fair and reasonable resolution of the alleged violations. As I understand the matter, the major complaint raised by competitors was the fact that they could not compete in such areas as Internet access within the Windows systems. This settlement allows such competition for the first time by forcing Microsoft to share their proprietary software code with its competitors, It is important to the economy right now to enter a growth phase and lawsuits such as the Microsoft suit can serve to stifle growth, I believe that the Justice Department and Microsoft have reached a fair and workable resolution, and I hope that you move forward with it as quickly as the law allows. Thank you for your attention.

Sincerely,
Richard Rackers

MTC–00031633

01/21/02 15:41 FAX 704 597 9183 KINKO'S COPY CENTER 001/001
Glenn J. Haqgerty
5509 Cottage Cove Lane
Charlotte, North Carolina 28215
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my concern at the possibility of continuing litigation against Microsoft by the Department of Justice. I am satisfied with the terms reached in the agreement in November of last year, and I believe that further measures against Microsoft would be detrimental to consumers and the economy. i urge you to reconsider your position

I work in real estate, but over the past few years, I have been developing software with Microsoft. I have been able to develop software for real estate appraisers that is not only efficient but also cost effective. I have no complaint against Microsoft and I believe that measures taken with the aim of breaking up or greatly weakening Microsoft are not in the best interests of your constituents. I believe that the settlement reached has done more than enough to ensure fair competition. In my opinion, further federal measures taken against Microsoft would not be productive. Please reconsider your stance on the issues. Thank you for taking the time to review my concerns.

Sincerely,
Glenn Haggerty
cc: Representative Mel Watt

MTC–00031634

JAN 21 ''02 14:45 P.1
Michael W. Thompson
9035 Golden Sunset Drive o Springfield, Virginia 22153
703/455–1539(home)
703/440–9447(0ffice)
703/455–1531 (fax)
mikethompson@erols.com
FAX TRANSMITTAL SHEET
Deliver
To: Ms. Renata Hesse
FAX# 202/616.9937 Number of Pages 2 Date 1/18/02
From: Mike Thompson
JAN 21 02 14:45 P.2
Michael W. Thompson
9035 Golden Sunset Lane
Springfield, Virginia 22153
703/455–1539 703/440–9447(0)
January 18, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW # 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to encourage the Department of Justice to approve the settlement agreement in the case of United States v. Microsoft. As a businessman and a taxpayer, I feel it is time to stop the long legal battle between competitors and to allow one of our nation's most innovative technology companies to get on with the job of providing all segments of our economy the opportunity to run more efficiently.

The proposed settlement is reasonable and it is tough on Microsoft and it seems to be a fair outcome to the issues involved in this case. I hope that the Court will approve the proposed settlement between Microsoft, its various plaintiffs and the federal government.

Sincerely,
Michael W. Thompson

MTC-00031635

JAN-22-2002 01:44 AM
JAN-11-2002 08:40 AS&T SOURCING MERTS P-01
State of New Hampshire
House of Representatives
Concord
January 12, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

I write to offer my support for the settlment proposed in the case of U.S. v. Microsoft. As a STate Representative serving the Town of Merrimack, New Hampshire, I believe that although government should protect consumers and make sure they are not taken advantage of by big business, the government's prosecution of Microsoft has been misguided. Microsoft is a very large company and does have an influence in many consumers" lives; but it is a positive influence that has helped to increase work efficiency and communication.

I am very much a proponent of wisely spending the money that citizens give to government and believe spending has been wasteful in this case. It is time for the government to step back and allow the Microsoft settlement to stand. Too much time, effort and money has been spent reaching this settlement. Further money and time can be better spent elsewhere, especially in these difficult times.

With the current economic situation in mind, the government should support innovation and companies, like Microsoft, that are having a positive impact in our lives and creating jobs and a positive trade flow in the international balance of payments. Please approve this settlement.

Sincerely,
John Balcom
State Representative, Hillsborough 18
1/3/2002 TOTAL P.01
TDD Access: Relay NH 1-800-735-2964

MTC-00031636

Marc J. Mataya
4935 Prentice Place
Charlotte, NC 28210-2917
January 16, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to explain my opinions regarding the Microsoft antitrust case. I feel that the settlement agreement reached between the Department of Justice and Microsoft was fair and reasonable, and was extensive enough for nine states to agree to. Microsoft has been punished for building a better mousetrap, and pricing it lower than the competition. Although I do not agree with every decision that Microsoft has made, I do understand wanting to use you successful product to launch more successful products. Three years of litigation has called this illegal. Obviously, there is a limit to success under free enterprise, and that limit is becoming the industry standard.

Despite my views, I do understand the pleas of the competition, I also feel that Microsoft has gone above and beyond in its concessions. Under the agreement, Microsoft has changed the way it develops, licenses, and markets its software. It has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software that competes with programs included within Windows. Also, Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers, who account for the majority of PC sales.

In short, it is time to put this matter behind us. The sooner this case is settled, the sooner that the focus of the IT industry can return to innovation, rather than litigation. We must make certain that we continue to introduce advanced American technology to the world market, or risk losing our competitive advantage.

Sincerely,
Marc Mataya

MTC-00031637

January 17, 2002
Attorney General John Ashcroft
U.S. Department of Justice
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing your office in support of the settlement reached with Microsoft in the antitrust lawsuit against them. There are a great many companies in the U.S. that operate under monopolistic conditions, and I feel that Microsoft is being used as a scapegoat of sorts.

I understand the basic points of the settlement, and I think that they provide for ample competitive behavior in the future. Uniform pricing for computer makers and increased flexibility in removing Windows-based programs from a user's computer will be beneficial to consumers in several ways.

I can assure the DOJ that Microsoft's success is important to many people beyond the company itself. I urge you to settle the antitrust lawsuit with no additional delay.

Sincerely,
Karen Frisch
920 John Street
Manhattan Beach, CA 90266

MTC-00031638

John Held
16329 170th Ave. NE
Woodinville, WA 98072
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. I work within the technology industry and I think it is time to let the industry get back to business. For over three years government has bogged down Microsoft with lawsuits. It is time to put this issue to rest.

During the period that the government has been trying to break Microsoft up the industry has had some tough times. Most stock is down, many companies have gone out of business, and the industry leader has had to deal with a hostile government. Microsoft has given a lot of ground to get this over with. They are willing to share some of their trade secrets to competitors; give up their leverage over computer makers by adopting uniform prices; and submit to the oversight of an independent technical committee. They have agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit.

The settlement is fair and should be accepted by the govemment. I hope you use your authority and influence to help that happen.

Sincerely,
John Held

MTC-00031639

PO Box 5700,
Mt Crested Butte, CO
81225-5700
Crested Butte
Mountain Resort
To: Renata Hesse—Trial Attorney
From: Wayne Anderson
Fax: 202-616-9937 Pages: 2
Phone Date: 1/21/2002
Re: Proposed Microsoft Antitrust Settlement Cc:
Urgent For Review Please Comment Please Reply Please Recycle
CRESTED BUTTE
COLORADO
January 21, 2002
Department of Justice—Antitrust Division
Attn: Renata Hesse—Trial Attorney
601 D Street NW, Suite 1200
Washington, DC 20530-0001
RE: Proposed Microsoft Antitrust Settlement

Dear Department of Justice:

I am writing to express my concern about the proposed Microsoft antitrust settlement currently being considered by the court. I have worked in corporate IT operations since the early 1990s. I hold numerous industry certifications, including Microsoft Certified Systems Engineer, Certified Novell Engineer, and others. I am the head of my company's Information Systems department, and I work primarily with Microsoft products on a daily basis.

Since I began working in the IT field, my opinion of Microsoft's products and business practices has changed dramatically. I have experienced first hand the poor quality of their products, and I have repeatedly watched competitors with superior technology effectively run out of business by Microsoft's ruthless use of its monopolistic power. It has had a decidedly negative effect on the industry. There is no question in my mind that strong remedy is necessary to restore competitive forces to many segments of IT.

To that end, I do not believe the proposed settlement goes nearly far enough. The simplest evidence of this is that Microsoft agreed to it. The company has shown by its actions throughout the years that it will fight to the last breath any attempt to interfere with its monopoly. If the company agreed to this settlement, then that clearly demonstrates that Microsoft does not believe the terms of the settlement will have any meaningful impact on its grip on power. If Microsoft doesn't believe the settlement will have an impact, why should we? Any effective remedy is going to have to be imposed upon Microsoft kicking and screaming. I believe that negotiating a settlement with Microsoft is a lost cause. The current settlement should be scrapped, and a much more sweeping one should be pursued in the courts. I hope this will be done without further delay, since time is of the essence in a matter such as this. Thank you.

Sincerely,
Wayne Anderson
Director of Computing
Crested Butte Mountain Resort, Inc.
12 Snowmass Road
P.O. Box A.
Mt. Crested Butte, CO
81225
(970)349–2333 (800)544–848
Fax:(970)349–2250
EMail: info@chat.com
www.crestedbutteresort.com

MTC–00031640

1-21–2002 11:33AM FROM 000000000000 P. 1
01/21/02 12:12 P.001/001
Virginia Society AIA 15 South Fifth Street
Richmond. Virginia 23219–3823
TEL 804.644.3041
FAX 804.643.4607 aiava.org
January 21, 2002
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I believe one of the strongest reasons to support a settlement in the Microsoft case is how the agreement will be enforced. The independent Technical Committee; being created has the power to tire unlimited staff. The Committee will reside at Microsoft Corporation site at Microsoft's expense. Furthermore, the agreement specifies the U.S. Justice Department as the sole enforcement authority. To summarize, the settlement agreement provides resources, access, and authority to respond to complaints about Microsoft's compliance. This is an enforcement mechanism with that is bound to work.

It is heartening to see this case finally being settled. The U.S. economy can use a boost and the high-tech industry may be able to provide it.

Sincerely yours,
Beverley M. Dew
Director of Development
Virginia Society of the American Institute of Architects

MTC–00031641

Sent By: DKC Computers, Inc.; 972 642 4942; Jan-21–02 3:OlAM; Page 2/2 DKC COMPUTERS, INC.
1324 W. Church St. Grand Prairie, Texas 75050–5129 (972)
263–4879 Fax (972) 642–4942
January 21, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

The threat of government regulation of the computer software industry is frightening to contemplate. Price controls will stifle innovation. Arbitrary restrictions an packaging will drive costs so high that consumers and small businesses will not be able to afford the advances made in computer technology. Anti-competition rules will destroy America's dominant position in the global market and give foreign competitors a distinct advantage.

Is this the future we want for America's technology industry? I sure hope not. That is why I am writing this letter in support of the negotiated settlement between the U.S. Department of Justice and Microsoft Corporation. I believe it to be in the best interest of the consumer and the high tech industry to end all litigation and let technology innovators get back to doing what they do best-innovating.

Thank you for your consideration.

Sincerely,
Duron K. Cutbirth

MTC–00031643

01/21/2002 09:03 6033667301 WEIRS TIMES PAGE 01
THE WEIRS TIMES AND TOURISTS'' GAZETTE
DEVOTED TO TJE INTERESTS OF LAKE WINNIESAUKEE and VICINITY FAX FORM
This Fax Transmission is being sent to: Renata B. Hesse—Antitrust Division
This Fax is From: Rep. David M. Lawton
Number of Pages including This Cover Sheet: 2
Comments:
Commentary regarding the microsoft settlement for your consideration.
Reply Necessary: YES No x
P.O. BOX 5458, Weirs, New Hampshire 03247–5458
Office Route 3, Across from Funspot
603–366–8463(TIMES)—FAX 603–366–7301
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PUBLISHED BY THE WEIRS PUBLISHING COMPANY, INC.
HOUSE OF REPRESENTATIVES
CONCORD
January 21, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
RE: MICROSOFT SETTLEMENT

Dear Ms. Hesse:

There is a growing sentiment among economists that we are finally seeing the light at the end of the tunnel of our nation's recession. The markets are improving, and the economic forecast is generally positive. However, state revenues are down and most states will have to consider tough cuts on spending in coming budgets.

One thing that can be done to aid states'' economies is to end the Microsoft lawsuit. I am writing in support of the nine states and the Department of Justice's settlement agreement. It is a fair and reasonable agreement which brings a satisfactory conclusion to this long-running antitrust case.

As the old saying goes, a rising tide floats all boats. And just as a rising tide will float a boat sitting at the lowest point first, so the resolution of this case will help those who have the farthest to rise first.

The technology-driven ''innovation economy'' has created tremendous opportunities for the citizens of New Hampshire. But we must act now to take some of the uncertainty out of economy. I urge you to endorse this settlement agreement which would provide states greater confidence in fiscal planning and would allow entrepreneurs and businesses to get back to the business of creating new and better products for consumers.

Regards,
David M. Lawton
State Representative
Belknap County District #1
603–279–8382
TDD Access: Relay NH 1–800–735–2964

MTC–00031644

01/21/2002 05:58 5084863455 GLAVEY AND GLAVEY PAGE 01
R. S. Halloran Company
370 Harwood Avenue
Littleton, Massachusetts 01460
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530

Dear Attorney Hesse,

I would like to express my support for the proposed Microsoft settlement that is currently being considered by Judge Kollar Kotelly in the federal courts. The case has gone on too long, and has cost the American taxpayer millions of wasted dollars. I'm not sure what, if anything, the consumers of this country have gained by this protracted fight, it seems to me that we would all be better off if the case were settled.

I run a small logging company, and so I am not involved in the daily workings of high-tech industry. However, I do understand fairness in business practices, and respect the role of the federal government to look out for the little guy. In this case it seems that someone got too zealous, and that the case took a life of its own. If the Justice Department has reached a settlement that is acceptable to them, then I say let's not miss this opportunity to end this unfortunate episode,

I appreciate your consideration of my thoughts on this matter, and I ask you to consider: with all that's going on in this world, wouldn't America be better unified if we ended this case?

Sincerely,
Richard S Halloran

MTC-00031645

1/20/2002 10:59 PM FROM: FAX TO: 12026169937 PAGE: 001 OF 002
urgent
facsimile
TO: Attorney General Ashcroft
Fax Number: 12026169937
From: Tara Erickson
Fax Number: 413-280-1296
Business Phone:
Home Phone: 435-615-1170
Pages: 2
Date/Time: 1/20/2002 10:59:30 PM
Subject Microsoft
1341 East Oakridge Road N
Park City, Utah 84098
January 20, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my exasperation with the court proceedings in the Microsoft antitrust case. I cannot believe that the case has dragged on for this long and that now, when a settlement has finally been reached, some people refuse to accept the terms of the settlement and wish further federal action to be taken against Microsoft. Additional litigation would be entirely counterproductive in this matter, and I do not believe it is wise.

Microsoft has been fairly dealt with in this case, and has actually agreed to terms under the settlement that extend to products and procedures that were not found to be unlawful by the Court of Appeals. Microsoft has accepted the terms and they appear to be more than fair to the plaintiff states. For example, Microsoft has agreed to provide anyone acting under the terms of the agreement with a license to applicable intellectual property rights. Microsoft has also agreed to document and disclose source code, interfaces, and protocols integral to the Windows operating system for use by their competitors.

The settlement is fine; further litigation would be redundant, expensive, and wholly unnecessary. I ask you not to condone the inexplicable litigious behavior of the nine plaintiff states and to allow the settlement to stand.

Sincerely,
Tara Erickson
cc: Representative Chris Cannon
1/20/2002 10:59 PM FROM: FAX: TO : 12026169937 PAGE: 002 OF 002

MTC-00031646

MARK MILLS 2548977092 P.01
Mark M. Mills
1063 FM 205
Glen Rose, TX 76043
Renata Hesse,
Trial Attorney,
Suite 1200,
Antitrust Division,
Department of Justice,
601 D Street NW, Washington, DC 20530;
(facsimile) 202-616-9937 or 202-307-1545
Re: The public comment period in U.S. v. Microsoft

Dear Renata Hesse,

I am writing to voice my objections to the proposed Microsoft Settlement. I cannot see how the proposed settlement can be found to adequately punish Microsoft for its antitrust violations. The settlement contains no penalties and actually advances Microsoft's operating system monopoly.

History will remember this settlement as a mockery of justice. How can one "punish" a monopolist by invoking a punishment that expands it's monopoly? The punishment is entirely unfair to those that have been harmed by Microsoft's unfair business practices. Rather than a punishment for the defendant, the settlement punishes the plantiffs.

At a minimum, the settlement must:

Place Microsoft products as extra-cost options in the purchase of new computers, so that the user who does not wish to purchase them is not forced to do so. This means that for the price differential between a new computer with Microsoft software and one without, a computer seller must offer the software without the computer (which would prevent computer makers from saying that the difference in price is only a few dollars). Only then could competition come to exist In a meaningful way.

Require Microsoft to make public all present and future document file formats, so that documents created in Microsoft applications may be read by programs from other software developers, on Microsoft's or other operating systems. This is in addition to opening the Windows application program Interface, which is already part of the proposed settlement.

Require Microsoft networking protocols be published in full and approved by an independent network protocol body. This would prevent Microsoft from seizing de facto control of the Internet.

Sincerely,
Mark M. Mills

MTC-00031647

Reed Royalty Public Affairs, Inc. 949-240-0304 1/20/02 7:34 PM 1/2
Reed Royalty Public Affairs, Inc. Sunday, January 20, 2002
Governmental Relations Reed L. Royalty, President
Community Relations 30205 Hillside Terrace, San Juan Capistrano CA 92675-1542
Communications reed.royalty@home.com—fax (949) 240-0304 phone (949) 240-2022
FAX
TO: Renatta Hesse, Antitrust Division
FAX 202 616-9937
PAGES: 2
Reed Royalty Public Affairs, Inc. 1/20/02 7:34PM 2/2
Governmental Relations Reed L. Royalty, President
Community Relations 30205 Hillside Terrace, San Juan Capistrano CA 92675
Communications reed.royalty@home.com -fax (949) 240-0304 o phone (949) 240-2022
January 20, 2002
Ms. Renatta Hesse
Trial Attorney
Antitrust Division
601 D Street, NW Suite 1200
Washington, DC 20530
Via Fax # 202-616-9937

Dear Ms. Hesse:

The case of U.S. v. Microsoft is a waste of tax dollars. I encourage the courts to accept the settlement and bring this unfortunate chapter of our judicial history to a close. I understand that the court is deliberating whether the settlement in U.S. v. Microsoft should be accepted. It is also my understanding that if the court rejects the settlement, the case will continue, forcing some states and the federal government to resume spending on the issue. I hope you will approve the settlement.

I write this letter as an individual, but I am president of a taxpayers" organization that tries to ensure that taxes and governmental programs are "fair, understandable, cost-effective, and good for business" (our mission statement). It is this activity that aroused my interest in U.S. v. Microsoft.

The amount of tax dollars going to special interest lawsuits such as the one against Microsoft has increased dramatically in recent years. Politicians now see these lawsuits as publicity generators (and sources of extorted money) rather than good public policy. The "demonization" of productive, tax-paying businesses is a deplorable tool used in the search for headlines. I hope the court will send a message to the politicians and special interests by supporting this settlement.

By the way, I own no stock in Microsoft, and I use a Mac.

Thank you for your consideration.

Sincerely,
Reed L. Royalty

MTC-00031648

** TOTAL PAGE. 001 **
9343 Larch Drive
Munster, Indiana 46321
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As I read the paper and realize the state of our economy, I am a bit disturbed by the recent developments in the Microsoft settlement. After three years of negotiations, it was about time we reached an agreement that helped to get our IT sector moving forward. Now, the technology industry may have to suffer through further discussion of this meticulously planned settlement, while the global market gets more and more competitive.

It is time to move forward and let the technology industry get back to business. All parties involved are ready to use these terms as new guidelines in order to move on. These extremely productive terms include new developments in licensing, marketing, and even design. All of which are beneficial to the consumer, the IT industry and our economy as a whole. Let us support the advancement of our technology industry by stopping any further litigation in this matter. I appreciate your listening and your support.

Sincerely,

Ram Patil
JAN 22 2002 08:10 FR FLAT ROLLING OPER 219 399 2750 TO 912023071454 P.01

MTC-00031649

01/19/1995 21:43 8592522845 LESSON IN LEADERSHIP PAGE 01
John Santone
4838 Hartland Parkway
Lexington, KY 40515
January 19, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I would like to express my opinion that the last three years of lawsuits against Microsoft were wrong and unjustified. Microsoft has made huge contributions to our society by creating jobs and making technological breakthroughs. They have been the cornerstone of the IT Industry and made using computers easy.

I find it ironic that the intention of this case at the outset was to protect consumer rights, but the terms of the settlement only reflect the lawmakers" and politicians" concern for competitors of Microsoft. Under the terms of the settlement, Microsoft has agreed to not retaliate against any computer makers or software developers who promote or develop products that compete with Windows operating system products. They have also agreed to disclose their interfaces.

Now, I am not quite sure how those concessions and the other ones will help consumers, but I can very clearly see the benefit for other software conglomerates. I do know that I would rather this settlement become reality than risk further litigation. I think our IT sector and economy cannot withstand having one of our industry leaders on the sidelines now in this recession. I request that your office finalize the agreement.

Lastly, I believe this litigation sent the wrong signal to an industry that was responsible for creating a great deal of the economic prosperity that existed this past decade. You cannot expect companies to invest in new technology if they can expect to be sued for not inventing a design (e.g. bundling browser w/operating system) that suits the Justice Department. Please remember that IBM designed the OS/2 operating system, and AT&T developed UNIX. Both of these giant companies had every opportunity to beat out Microsoft, but they both failed because the Windows design produced a superior product.

Sincerely,
John Santone

MTC-00031650

JAN-22-02 08:46 FROM: RSR REAL ESTATE ID: 7631656 PAGE 1
1 Gunpowder Road
Mechanicsburg, Pennsylvania 17050
January 15, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It has come to my attention that there has been a settlement reached in the government's three-year antitrust case against Microsoft. It pleases me to know that a settlement has been reached in the case. However, I don't feel that there should have been litigation against Microsoft to begin with. I support the company 100% in this case. The government should leave Microsoft alone, and tackle other matters that are affecting America.

However, I feel it is in everyone's best interests to accept the settlement as is, so Microsoft can move forward in developing new products for the consumer. The terms of the settlement are both fair and reasonable, and should be approved by the government in a timely manner. I would like to remind you that Microsoft is not getting off easy like their critics want you to believe.

For example, Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows operating system products. Furthermore, they have agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows.

Sincerely,
Greg Rothan
cc: Senator Rick Santorum
Representative George W. Gekas

MTC-00031651

01/22/2002 09:07 8286832241 GINGER PAGE 01
VIRGINIA SCRIBNER MALLARD
105 SANDY MUSH ROAD * MARSHALL, NC 28753 * (828) 683-4445
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I'm glad I have a chance, as a citizen, to weigh in with my comments while the federal Microsoft lawsuit settlement is being considered. I urge you strongly to accept the settlement.

The seemingly endless lawsuit now has a chance to come to a close. Microsoft is so eager to get this behind them that the settlement even encompasses matters never addressed in the original litigation. Among the tough provisions are requirements that Microsoft reveal internal Windows" operating system interfaces to its competitors and give up its intellectual property rights to competitors in certain cases. It's time to end this sad story of government harassment and accept the settlement. I'm hopeful you will realize this in the public interest.

Sincerely,
Virginia Mallard

MTC-00031652

Steven R. Duncan, CPA, CVA
Certified Valuation Analyst
14191 Duffield Avenue NW Monticello, Minnesota 55362
(763)878-0090 Fax (763)878-3066 e-mail sdcvacpa@msn.com
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in support of the recent settlement of the Microsoft federal lawsuit. As a follower of the case I feel that the lawsuit should have never happened and was mostly created through the actions of desperate competitors. Now that we have an opportunity, the agreement should be approved and the government should focus on the more important issues our country faces right now. The time and money spent on breaking up a company at the core of the new economy has been excessive to say the least. This has been the reward for starting a business from scratch and revolutionizing the software industry. What Microsoft offers in this deal is more than generous and will allow other competitors plenty of opportunities to sell their products. Access to intellectual property, such as source codes, is a requirement unheard of in the industry, and it is a major concession Microsoft's competitors. Meanwhile, a three-person technical committee will be monitoring compliance of the agreement, which should prove this to be a workable solution. As a taxpayer and a voter, I believe that this deal is in the best interests of the free market and the most effective direction for the government to spend its time. Microsoft will stay intact and be able to thrive, while its competitors will be guaranteed opportunities for their own success. I look forward to your support.

Sincerely,
Steven Duncan
01/22/2002 02:18 FAX 6128783055 S DUNCAN CPA CVA 01

MTC-00031653

January 21, 2002
Attorney General John Ashcroft
Justice Department
950 Pennsylvania Ave.
Washington DC, 20530

Dear Mr. Ashcroft,

Microsoft had been in legal proceedings for the past three years with the Justice Department in the antitrust case. This had been a burden for both parties, and a settlement was past due, so I was very glad to see this settlement come about. I look forward to your support of this settlement. I own a small business unrelated to the technology area. I have been vocal in my support of Microsoft and will continue to use their technology. Anti-Microsoft special interests would like to upset this settlement and re- open this case. Frankly, I believe Microsoft has had enough. The settlement on the table is good; it will allow competitors to more easily place products on Microsoft systems and will give competitors access to Microsoft computer code so they can make better products. Microsoft has been very cooperative in this settlement and taken a conciliatory tone. Let's put this matter behind us and move forward.

Sincerely,
Mike Granfield
Speed Promotion
Mike Granfield
3220 Oak Brook Drive, Waxhaw, North Carolina 28173
Jan 22 02 12:54a Mike Granfield 704-202-6352 p.1

MTC-00031654

01/21/2002 23:08 9037846648 WALKER PAGE 01

Walker G. P. LLC
1841 Fairfax Paris, Texas 75460
Fax 903-784-6648 Ph. 903-784-4919
January, 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I write to you today to express my support of the Microsoft settlement. The Department of Justice has now spent three years toiling over this issue without any resolution. Finally last November a tentative settlement agreement was reached. This settlement should be enacted with haste. It represents a fair mediation between all parties involved.

The terms of the settlement are very fair. Microsoft now agrees to license its Windows software at the same rate to the largest manufacturers of PCs. This make the marketplace much more competitive. Also Microsoft will agree not to retaliate against companies that use, sell, or promote non-Microsoft products. Additionally, Microsoft has agreed to share information with its competitors that will allow them to more easily place their own programs on the Windows operating system. Obviously Microsoft has been generous in resolving this issue. The Justice Department must enact this settlement.

Sincerely,
C.L. Walker

MTC-00031655

01/21/02 22:38 FAX 7042639374 DH LINEBERGER 01

Dottie Lineberger
128 Spring Wyatt Drive
Gastonia, North Carolina 28056
January21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement. The settlement that was reached in November is fair and thorough. I believe the settlement will serve in the best public interest. Microsoft has agreed to carry out all provisions of this settlement. Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft programs that compete with programs included within Widows. Computer makers will now be free to remove the means by which consumers access various features of Windows Media Player, and Windows Messenger. Microsoft has also agreed to be monitored by a technical oversight committee.

This settlement will benefit the economy and consumers. Please support this settlement. Thank you for your support.

Sincerely,
Dottie Lineberger

MTC-00031656

Jan-21-02 08:25P J & G consulting 760 3405248 P.01

Jorge J. Castellanos
P.O. Box 14030
Palm Desert, CA 92255-4030
75625 Dempsey Drive, Palm Desert, CA 92211 U.S.A.
Phone: 760 340-5018 Fax: 760 340-5248
FAX MESSAGE
TO: Attorney General John Ashcroft, DATE: January 21, 2002
COMPANY: US Department of Justice, No. of Pages: One (1)
LOCATION: 950 Pennsylvania Avenue, NW Washington, DC 20530
FAX #: (202) 307-1454 & (202) 616-9937
PHONE #:
FROM: JORGE J. CASTELLANOS

Dear Mr. Ashcroft:

I am writing to you to voice my support of the Department of Justice settlement of the Microsoft case. While I feel that the terms are a bit harsh, Microsoft has agreed to them and committed itself to ending this case is soon as possible.

There are great many more important things facing America now. Pushing this lawsuit, simply because we happen to disagree with Microsoft is not the American way. We need to be promoting free enterprise and American business. Especially during these times of economic instability. I believe that the terms of the settlement are fair and that the three man technical committee that will be appointed by the government to oversee Microsoft's compliance to terms will be sufficient to deter any further antitrust violations. I strongly believe that now is the time when we should all be focusing on our economic health as well as making sure that we continue to have a good employment picture educational policies. Let's put this unpleasantness behind us and move forward.

Sincerely,
Jorge J. Castellanos

MTC-00031657

January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. It amazes me that the government wanted to break up the technology industry's leading company in the first place. Now that a settlement has been reached, it amazes me that there is a possibility that the government will not accept it.

Microsoft has had so many net positives on the technology industry. They single-handedly made most software compatible and standardized. This does not mean that everyone has to use Microsoft software, just that different software works together. In fact, in the terms of the settlement Microsoft has agreed to give computer makers the flexibility to install and promote any software that they see fit. Microsoft has also agreed not to enter into any agreement that would obligate the computer makers to exclusively use Microsoft software. This will assure the consumers that they are receiving the best software. As a long term computer user I view Microsoft as a National Treasure. They brought the industry out of chaos into order.

. The terms of the Microsoft antitrust settlement are fair and should be accepted. Microsoft and the industry need to move forward, the only way to move forward is to put the issue in the past. Please accept the settlement.

Sincerely,
Donald Glassman
481 Sage Drive
Pittsburgh, PA 15243
CC: Senator Rick Santorum

MTC-00031658

JAN-22-02 TUE 8:45 STENSTREAM FINE ARTS P.01

Robert Stenstream Fine Arts
4200 Southwest 7th Avenue Road
Ocala, Florida 34474
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

This letter is to address the recent settlement reached between the Department of Justice and Microsoft. I want to applaud this settlement, as I think it is long overdue. The lawsuit has stretched on for three years, costing millions of dollars and time on both sides. It is time to put the matter to rest and move on. The company faces more important issues.

Furthermore, Microsoft has agreed to a number of Department of Justice demands; i.e. making their software and codes more accessible to competing firms, disclosing information regarding Windows. There is even a technical committee to monitor Microsoft's compliance with the settlement. I believe that all of this is more than what is required to settle the matter at hand. I am asking that you give your support to this proposed agreement, since many Americans like myself do.

Sincerely,
Robert Stenstream
Owner

MTC-00031659

Jan 22 02 07:51a James D. Ebentier 480-423-0536 p.1

JAMES D. EBENTER
4-J Enterprises
8307 East Bueno Terra Way
Scottsdale, Arizona 85250-6611
(Tel.480-423-0446)
(email-j-jebentier@juno.com)
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It is obvious to me that Microsoft has been cooperative in settling this antitrust case. They agreed to design future versions of Windows, beginning with an interim release of Windows XP, to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. The mechanism will make it easy to add or remove access to features built in to

Windows or to non-Microsoft software. Consumers will have the freedom to choose to change their configuration at any time.

This settlement represents a good faith effort on Microsoft's part at bringing forth a viable end to this lawsuit. Now that this is done, let's concentrate on getting the economy back on track and allow the commercial sector to take care of itself.

Sincerely,
James Ebentier

MTC-00031660

825 Powell Road
Lenoir, North Carolina 28645
January 17,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to express my support for the settlement and an end to the litigation in the Microsoft antitrust case. The case has gone on long enough.

I am pleased with a number of the terms of the settlement. I most specifically like that Microsoft has agreed to design future versions of Windows in such a way that computer makers, software developers and consumers can promote non- Microsoft software within the Windows operating system. I am also pleased that the settlement will be monitored by a committee rather than solely through contempt of court or other enforcement proceedings which are more time consuming and costly.

I was amazed at the recent write-off that Microsoft had to take for the litigation. We need to leave this case behind, and the settlement offers a viable opportunity to do so. It is time to allow the country to focus on business again. I would hate to see a market replay of the seventies.

I support the settlement-as I understand it, and hope that it is finalized as soon as possible. Thank you for reviewing my comments.

Sincerely,
Stephen Scott

01/22/2002 10:00 8283287338 CARL A. RUDISILL LIB page 01/01

MTC-00031661

01/22/02 TUE 10:26 FAX 5703453600 Greg Pijar 001
Greg Pijar
184 Spittler Road, Pine Grove, Pennsylvania, 17963
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I am writing you today to voice my opinion in regards to Microsoft. I support Microsoft in the three-year-long litigation that has drawn on, and I support the settlement that was reached in November. I sincerely hope there will be no further action against Microsoft at the federal level.

Microsoft has agreed to document lots of intellectual property to its competitors, including various interfaces and interoperability protocols. This will make it so that Microsoft's competition can write software that fits better onto Windows, and therefore runs more efficiently.

This settlement contains many provisions other than the above that will benefit the technology industry as a whole. Please support this settlement so Microsoft can move on from this litigation. Thank you for your support.

Sincerely,
Greg Pijar
cc: Senator Rick Santorum

MTC-00031662

Jan-22-02 11:OlA Mendel Frieman P.01
5506 Greenspring Avenue
Baltimor, MD 21209-4330
January 21, 2002
Attorney General John Aschroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to tell you my thoughts about the recent events in the Microsoft Anti Trust case. This whole issue has been dragged through the mud, wasting precious time and money. Nonetheless, I am glad to see that the Justice Department and Microsoft have come up with some sort of agreement. I just hope that everyone can put their various interests aside for the good of the country. This settlement needs to be finalized so that our country can get on with things. Our country is supposed to be a free enterprise system, but for years Microsoft has been punished for creating superior products and making money in the process.

I don't see how this issue can even be disputed. Microsoft is giving up a great deal just so that don't have to worry with this issue any more. They are giving away their technology secrets so that their less innovate competitors can create products that will be able to compete with Microsoft. They also will be changing their business practices so as not to obligate anyone to have to sell Microsoft's products over anyone else's. Please accept this settlement, it is high time that our computer industry be allowed to move forward. Thank you.

Sincerely,
Mendel Friedman

MTC-00031663

01/22/02 TUE 09:13 FAX 512 327 6384 ALLIED INTERESTS INC. 001
816 Terrace Mountain Drive
Austin, TX 78746
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The issue has been dragged out long enough and should be put to rest. A settlement is available and the terms are fair. The government should accept the settlement and move on. Many people think that Microsoft has gotten off easy, in fact they have not. The settlement was arrived at after extensive negotiations with a court- appointed mediator. The company agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit, simply to put the issue behind them. Microsoft will, for example, now share use a uniform price list when licensing Windows.

Microsoft has given up much, now the government needs to stop its over regulation. Microsoft and the industry need to move forward. The only way to move forward is to put the issue in the past. Please accept the Microsoft antitrust settlement.

Sincerely,
Terry Stames

MTC-00031664

JAN 22 ''02 09:35 FR PRUDENTIAL SECURITIES630 571 1259 TO 12023071454 P. 01/02
FAX TRANSMISSION
DATE 1/22/2002
OF PAGES including this cover 02
TO Attorney General
John Ashcroft
US Dept. of Justice
FAX# 1-202-307-1454
FROM Barry Szymczak
PHONE 1-630-571-1259
NOTES My personal feelings opinion has been expressed in attached letter

This information set forth herein was obtained from sources which we believe reliable, but we do not guarantee its accuracy. Neither the information nor any opinion expressed constitutes a solicitation by us of the purchase or sale of any security or commodities.

MGR APPROVAL

JAN 22 ''02 09: 35 FR PRUDENT I AL SECURI TIES630 571 1259 TO 12023071454 P.02/02
10820 Cantigny Road
Countryside, IL 60525-4741
January 12, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am fully against the three years of litigation, which have been brought against Microsoft. Now that a settlement has occurred I think it is ludicrous that 9 states still oppose. Our country is based on majority rules. The fact that nine states can hold up this case, which has dragged out for 3 years, proves there is some political interests and personal gain to be had by the state attorney generals.

Microsoft should be rewarded for standardizing the technology industry and innovating the user-friendliest applications to date. Bill Gates has been innovative and vision oriented; creating something out of nothing—nothing but intelligence and business sense and concern for what people want. The American dream has been reached. Bill Gates should not be penalized for reaching the top. The fact that Microsoft has to disclose internal interfaces violates its intellectual property rights. All companies in America survive on their ability to differentiate products and services. This comes from innovating personal business practices and even technology to make a product better than the rest. Another term of settlement forcing Microsoft into increasing its relations with computer makers and software developers essentially violates all free market principles, under in which businesses have the right to choose who they work with. Uphold American freedom. I urge your office to look out for the best interest of majority of the American public who clearly want this thing to come to an end.

Sincerely,

Barry Szymczak **TOTAL PAGE.02**

MTC-00031665

01/21/2002 21:45 2164815977 AL LIPOLD PAGE 01

Al Lipold, Attorney at LAw
24913 Pleasant Trail
Richmond Heights, Ohio 44143
Phone 216 692–0577
Fax 216–481–5977
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a concerned citizen, I write you with interest in the recent developments in the Microsoft settlement. I find it hard to believe that after three years of negotiations, that the settlement is going under further scrutiny. The terms of this settlement are fair and should be able to speak for themselves.

It is time to let the technology industry get underway and back to business. As we continue to go through a recession, the government continues to delay the very process that will put a kick back into our economy. The IT sector is waiting to use this agreement as a guideline for advancement, and is ready to get back to work. In this highly competitive global market, we need to support our technology industry in any way we can.

Let us support our technology in any way we can. Let us not be the ones to slow down the very process that we initiated.

Sincerely,

Albin Lipold

MTC-00031666

01/22/02 11: 26 919 829 8098 ALLEN & PINNIX 001

ALLEN and PIN-NIX, P.A.
Attorneys at Law
POST OFFICE DRAWER 1270
RALEIGH, NORTH CAROLINA 27602
TELEPHONE: (919)755–0505
TELECOPIER:(919)829–8038
FAX TRANSMITTAL
DATE: January 22, 2002
TO: Renata Hesse, Esq.
COMPANY: Antitrust Division, Department of Justice
FAX: 202.616.9937
FROM: Michael L. Weisel
PAGES: Cover + 2
RE:Microsoft Settlement
COMMENTS:

Notice to Recipent

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is wrongful and may subject you to civil liability. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service.

Thank you.

01/22/02 11:26 919 829 8098 ALLEN & PINNIX 002

ALLEN AND PINNIX, P.A.
ATTORNEYS AT LAW
P.0. DRAWER 1270
RALEIGH, NORTH CAROLINA 27602
TELEPHONE: (919)765–0908
NOEL LEE ALLEN
JOHN LAWRENCE PINNIX
C. LYNN CALDER
M. JACKSON NICHOLS
D. JAMES JONES, JR. January 22, 2002
MICHAEL L. WEISEL
ALICE S. GLOVER
KENNETH C. DAY
J. HEYOT PHILBECK
ANGELA L. CARTER
ALSO LICENSED IN DISTRICT OF COLUMBIA
Renata Hesse, Esq.
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Re: Proposed Settlement in Microsoft Litigation

Dear Ms. Hesse:

Let me begin by saying I am by no means an apologist for Microsoft Corporation. In fact, I believe that Microsoft has acted aggressively, perhaps too aggressively, against competitors in the past. More importantly, I believe it is important that certain protections be built in to insure against future anti-competitive actions. However, I agree with North Carolina's Attorney General Roy Cooper that the proposed settlement strikes a reasonable compromise between the "drastically reduced liability" held by the Court of Appeals and the wishes of Microsoft competitors for more stringent sanctions against the company.

The settlement provides an enforcement mechanism—including resources, access and authority—to respond to complaints about Microsoft's compliance. It creates an independent technical committee with the power to hire staff on-site and at Microsoft's expense.

For consumers, computer manufacturers and information technology providers, the settlement provides guarantees of flexibility and access to technical specifications. And for all involved, most important, the settlement provides a chance to get back to work at a time when our nation needs to focus on restoring economic vitality and growth. In sum, I believe the settlement recognizes the diminishing returns that are likely to be realized by a prolongation of this litigation. Accordingly, I hope the court will approve the settlement.

Very truly yours,

ALLEN AND PINNIX, P.A.
Michael L. Weisel
mlw/tsr

01/22/02 11:26 919 829 8098 ALLEN & PINNIX 003

Renata Hesse, Esq.
Microsoft Settlement
January 22, 2002
Page 2

MTC-00031667

Monday, January 21, 2002 7:29 PM
To: Attorney General John Ashcroft
From: David R.
Hyster, 2961415 Page: 1 of 2
Fax Name: David R, Hyster
Company:
Voice Number: 2962150
Fax Number: 2961415
60 Woodstream drive
CHESTERBROOK
Wayne, Pa 19087
Date: Monday, January 21, 2002
Total Pages: 2
Subject: microsoft settlement
Name: Attorney General John Ashcroft
Company: Attorney General's office
Voice Number:
Fax Number: (202) 3071454
Note:
Monday, January 21, 2002 7:29 PM
To: Attorney General John Ashcroft
From: David R.
Hyster, 2961415 Page: 2 of 2
60 Woodstream Drive
Wayne, PA 19087–5875
January 21, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

This correspondence is simply intended to ask you, your Department and the federal government to accept, adopt and implement the proposed Microsoft settlement. This matter has gone too long and the settlement is a fair end to a foul ordeal. The plan is a compromise between the parties. As such it is imperfect. It is, however, a functional means to an end desired by all but the most impartial. The plan will open up Microsoft and its Windows systems to its competitors and their products. Microsoft's technology will all but be open to peer review. The government will review Microsoft's business and marketing practices. In essence Microsoft will encourage and support its competitors.

It's time we allow Microsoft to get back in the race. Our American economy is faltering and our nation is in peril. We need Microsoft at full speed. Thank you. I would like to add that the integrity, honesty, maturity, and dedication that you are bringing to the attorney generals office is refreshing and is especially critical to our democratic process during these challenging times. Again thank you for your effort.

Sincerely for renewed American prosperity,

David Hyster

cc: Senator Rick Santorum

MTC-00031668

Jan 21 02 05:25p Chuck/Terri Beck 6025880044 p.1

January 21, 2002
Elizabeth T. Beck
16215 N. 11th Place
Phoenix, Arizona 85022
Attorney General John Ashcroft

US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
RE: Microsoft antitrust lawsuits

Dear Mr. Ashcroft:

I would like to expound on a number of concerns I have in regards to the recent antitrust lawsuits and settlement between the US Department of Justice and Microsoft. First off, I think it is ridiculous that any litigation began in the first place. Microsoft is the cornerstone of our tech sector and has been an extremely powerful asset to our economy. They have created jobs, made technological breakthroughs, and contributed to educational systems.

As a consumer, I do not feel that they have infringed upon my rights at all. I use Microsoft because they deliver consistently better products. Other vendors have not been as innovative and so have not been successful. When competition has produced a better product they have been able to gain market share. Microsoft offers Microsoft-Money on their Windows for free, yet thousands of people are paying good money for Intuit's Quicken because it is a superior product. You cannot punish Microsoft for offering Explorer for free. They merely decided to make it easier for the consumer by placing Internet Explorer on Windows operating systems. The consumer still has the option of using another browser and most of the competitors" products are also available at no cost. That would be like penalizing Snickers for offering their candy for free from now on in all convenient stores. You would still be able to purchase your favorite candy, as you had intended when entering the store.

Under English definition, monopolistic tendencies are to inflate prices and deliver sub par products. Microsoft has done neither! I urge your office to take a strong stance against all opposition and attempt to give a bittersweet ending to a tragic case of American greed and jealousy.

Sincerely,
Elizabeth Beck

MTC-00031669

Jan 21 02 07:57p Kent Campbell 791-237-0958 P. 1
85 Grove Street, Apt. 202
Wellesley, MA 02482
January 19, 2002
Attorney General John Ashcroft, US Dept. of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

As I read more and more about the recent Microsoft settlement, I get more and more frustrated about the results. I cannot believe that this well- calculated settlement is still being held back. Not only was this agreement part of a well thought out and well-monitored process, but it yielded terms that are beneficial to all involved. It is clear that we must support this agreement and get everyone back to business.

Some of these key changes include Microsoft's designing future versions of Windows that will allow for easier installation of non- Microsoft software. Along with this, they have agreed to not enter into any agreement obligating any third party to distribute or promote any Windows technology exclusively. These concessions are clearly a move toward helping all parties involved. Microsoft is obviously working to get the technology industry back to business, and, to help all parties involved in the meantime. This is even further reason to support the terms of this settlement as they are.

Please help to stop any further actions toward this agreement. Let us help get our technology industry back on track and get back to business.

Sincerely yours,
Kent Campbell
CC: Representative Barney Frank

MTC-00031670

From: ANTHONY C. GATTUSO
To: ATTORNEY GENERAL JOHN ASHCROFT
Date: 1/21/2002 Time: 6:44:46 PM Page 1 of 1
161 Sylvia Lane
New Hyde Park, NY 11040
January 21,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We are writing to show our support of your efforts to settle the litigation against Microsoft. The settlement offers the opportunity to bring an end to the three-year resource drain that this lawsuit has been. That would be of benefit to America.

Instead of facing further litigation that might lead to breaking up AT & T was broken up, Microsoft has agreed to demands made by its competitors for more openness of its internal Windows interfaces and server protocols. In addition, computer makers got what they wanted, flexibility to reconfigure Windows to highlight their marketing needs, and release from exclusive marketing agreements, which are commonly used by many companies, such as Chevy preventing its dealers from also selling Fords, and McDonalds agreeing to sell only Coke soft drinks. We think Microsoft has agreed to give up plenty. The American computer industry would be best put back on track, and the American economy best helped by agreeing to the settlement.

The settlement needs to be finalized so that we can get our focus back on business. Thank you for your leadership on this issue.

Sincerely,
Anthony Gattuso

MTC-00031671

MTS Systems Corporation
Powertraln Technology Division
4622 Runway Blvd.
Ann Arbor, MI 48108
Tel. 734-9731111
Fax: 734-973-1103
www.mtsptcom
January 21, 2002
Attorney General John Ashcroft
United States Department of Justice
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

The settlement reached between the Department of Justice and Microsoft is very important. The antitrust legislation brought out by the Department of Justice against Microsoft has presented a potential threat to the free market principles of this country and was to a large extent a waste of taxpayers" money. The settlement is important because it marks the end of it

I believe that the settlement shows the desire of Microsoft to do their part. Microsoft has made many concessions. Microsoft is required to disclose server protocols to ensure that it cannot make Windows desktop software work better with its server software than with that of competitors. In addition, the company agreed not to retaliate against PC manufacturers or software. developers for promoting competing software. Microsoft also agreed to license Windows to computer makers uniformly, rather than offer better pricing only to some. Microsoft has to abstain from engaging in exclusive contracts that would prohibit software developers or PC makers from using competing products.

Providing that the Department of Justice has a mechanism in place to guarantee the implementation of the settlement I believe that it is time this whole deal is wrapped up.

Sincerely,
Mike Dubov

MTC-00031672

Jan 21 02 03:34p Lloyd Mineer 425-423-9611
7212 Upper Ridge Road
Everett, Washington 98203
January 21,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to express my opinion that the Microsoft antitrust case be resolved as soon as possible.

I was puzzled why the lawsuit was brought forth to start. I was first introduced to various browsers for the internet while I was on a job assignment in Canada. My ISP included Netscape as my browser, the ISP was the group who made the choice not Microsoft I was in no way restricted by Windows or Microsoft to what I would or could use.

Netscape performance was inadequate for me, in terms of technical support and product satisfaction. My eventual decision on what I would use was based entirely on service, technical support and product satisfaction. Every product I have received from Microsoft has been superior, by my criteria, to anything purchased from any other supplier

I expect because I live in Washington state the tendency will be to brush off my comments. I do not work for Microsoft, do not have any relatives or friends working for them. However, I do like whatever products I purchase to work well, to be serviced well, and to have excellent technical support so that I may do my job in the most efficient and least hassles as possible. Microsoft has always done that for me. If the guys who are complaining would spend more time in improving their products and technical support they would be better served. I was pleased to hear last November that a proposed settlement had been reached which provides the best opportunity for resolution so far. I would like it to be implemented soon so that we may put this entire issue behind us.

Jan 21 02 03:35p Lloyd Mineer 425–423–9611 p.2

The proposed settlement does not let Microsoft off easy. In fact, its terms extend to products and business practices that were not even at issue in the original lawsuit. One obligation on Microsoft's part is to disclose source code and interfaces that are internal to Windows operating system products. There is no need to continue litigation; this settlement is already more than fair and reasonable.

I ask that the November settlement be implemented without further delay. It is time to let the IT industry and its leading innovator get back to work. Thanks for your time and consideration.

Sincerely,
Lloyd Mineer

MTC–00031673

01/21/2002: 19:10 2529463108
SEILER ZACHMAN ROBIN PAGE 01 SEILER ZACHMAN ROBINSON & CO., P.A.
Certified Public Accountants and Financial Consultants
P.O.Drawer 1628
144 W. 2nd Street
Washington, NC 27889
(252) 946–8052 Phone
(800) 682–0700 Watts
(252) 946–3108 Fax
Dennis W. Seiler, CPA
William M. Zachman, CPA
Tommy J. Robinson, CPA
Kary S. LaBarbera, CPA
David F. Singleton, CPA
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to state that I support the settlement between the Justice Department and Microsoft 100%. I think all of the other states that are holding out should settle and I think no further action should be taken by the Justice Department in this case.

The settlement was reached after extensive negations with a court- appointed mediator. I find the terms to be fair and reasonable for the parties involved. Microsoft has agreed to terms that exceed the charges in the case and they have agreed to the establishment of a three person technical committee, which will monitor Microsoft's compliance with the case. The agreed terms should be enough to keep Microsoft out of court. I hope that the government will discontinue their pursuit of Microsoft, and move onto other things.

Sincerely
Tom Robinson

MTC–00031674

Jan 21 02 04:44p Bonny Becker 1–262–241–4381 p.1
John & Bonny Becker
114 W Miller Drive
Mequon, WI 53092
January 17,2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001 Dear Mr. Ashcroft:

Dear Mr. Ashcroft:

We are strong supporters of Microsoft, and are glad that the Justice Department has settled its three-year antitrust lawsuit against this company. We never agreed with the lawsuit from the beginning, and after more than three years of costly litigation, we hope the case is finally over at the federal level.

Microsoft is a strong company with innovative ideas, and for this it should not be punished. Even so, the company has agreed to share information with its competitors, as well as not to retaliate against those computer makers and software developers that will use this new information to promote non-Microsoft products within the Windows operating system. The business operations of Microsoft will now be watched over by a technical oversight committee, and any company that believes Microsoft is acting in an anti-competitive manner will be able to bring a complaint to this committee. These concessions are sufficient to end this litigation.

We believe it is in the best interest of America to settle this case. Consumers will benefit, the technology industry will benefit, and continuing on with the case will only be a detriment to the nation's economy. Thank you for deciding to settle, it is the right choice for our country at this time.

cc: Representative F. James Sensenbrenner, Jr.

Sincerely,
John Becker
Bonny Becker

MTC–00031675

JAN-21-02 02:47 PM BEHSHAD BAKHTIARI 3407056 P.01
SHADI D. BAKHTIARI
21620 BURBANK BOULEVARD, UNIT 1
WOODLAND HILLS,CA 91367
TELEPHONE: (818)340–7056
FACSIMiLE: (818)340–7056
FACSIMILE TRANSMITTAL SHEET
TO: Attorney General John Ashcroft FROM: Shadi D. Bakhtiari
COMPANY: US Department of Justice DATE: 1/21/01
FAX NUMBER:1–202–307–1454 TOTAL NO. OF PAGES INCLUDING COVER
PHONE NUMBER: SENDER'S REFERENCE NUMBER: 2
RE: Microsoft Settlement YOUR REFERENCE NUMBER:
URGENT xFOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE NOTES/COMMENTS:
JAN-21-02 02:48 PM BEHSHAD BAKHTIARI 3407056 P.02
21620 Burbank Boulevard Apt. I
Woodland Hills, CA 91367–6467
January 15,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

This letter is to go on record as being a staunch supporter of the settlement that was reached between Microsoft and the Department of Justice. For over three years the two sides fought back and forth, and wasted valuable time and taxpayer dollars. Now that an agreement has been reached, I hope that the American IT industry and the economy will perform better. The settlement paves the way for a stronger IT industry and economy. Microsoft has played a big part in that. They have agreed to turn over internal interface data and source code to their Windows operating system to their competitors. This will allow for increased competition between companies. It will also provide the necessary compatibility between competing software, which will help spur the industry.

This settlement is a great deal for everyone involved. I hope that it will bring an end to further litigation against Microsoft. I support the settlement. It is in the best interests of the industry and the economy.

Sincerely,
Shadi Bakhtiari

MTC–00031676

Jan 21 02 04:53p CHAMBER OF COMMERCE 3615920866 p.1
KINGSVILLE Kingsville
CHAMBER
OF COMMERCE
January 21, 2002
Renata Hesse, Trail
Attorney Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to register my support for the proposed settlement of the Microsoft antitrust lawsuit. If the suit brought by the Department of Justice and several state attorneys general can be brought to an agreeable conclusion, it seems reasonable for the court to take this direction.

It seems as though several concessions Microsoft is being asked to make verge on the violation of their intellectual property right, a system crucial to research and development by all Americans. Should the Court rule against Microsoft and apply further sanctions, it would undermine the patent process, which protects the development of innovations in American industry and technological history.

I am sure that this is not the intent of the Court, but to go beyond the terms of the settlement worked out by the Department of Justice and Microsoft would not be in the best interests of American ingenuity, not to mention consumer satisfaction.

Sincerely,
Peggy G. Hayes, Executive Director
Kingsville Chamber of Commerce
P.O. BOX 1030 * 635 East King * Kingville, Texas 78363
361/592–6238 * Fax 361/592–0866

MTC–00031677

JAN-22-2002 09:46 PM P.01
Jan-11-02 07:58A P.01
State of New Hampshire
HOUSE OF REPRESENTATIVES
CONCORD
January 11, 2002
Trial Attorney Renata Hesse
Antitrust Division of the Department of

Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

I am writing to you for the file on public comment in the case of U.S. v. Microsoft in support for the agreement.

I am concerned that the United States government is taking the antitrust legislation too far in this case. As a state representative, I am wary of government involvement in the marketplace. There is a fine line between regulating business and controlling it. That is why I believe that before the Government's involvement increases anymore than it already has. I hope you will end it.

It's true that Microsoft is a large company, but its creativity and invention has worked to help businesses and individuals, not harm them. They are helping Americans to obtain knowledge and pursue their individual goals. This kind of ingenuity should be rewarded, not persecuted by the federal government.

2001 was a challenging year for all of us. I believe there are many urgent issues for the government and judicial system to focus on at this time. Productive companies such as Microsoft should not be one of these.

Thank you for your time and consideration.

Sincerely,
Kevin Chalbeck
State Representative
Rockingham District 8
TDD Access Relay NH 1-800-735-2964

MTC-00031678

From Mark Knoll (734) 482-9439 Tue, Jan 22, 2002 9:18 AM
Page 1 of 2
FAX
TRANSMISSION
Date: 22 January 2002
To: Renata Hesse, Trial Attorney
Antitrust Division, US Department of Justice
Suite 1200
Fax: 202-616-9937/202-307-1545
From: Mark W. Knoll
8500 Ashton Court
Ypsilanti, MI 48198
Fax: 734-482-9439
E-mail:mknoll@mac-email.com
Re: Public comments concerning the proposed settlement of the Microsoft antitrust case.
Number of pages(including cover sheet): 2
From Mark Knoll (734) 482-9439 Tue, Jan 22,2002 9:18 AM Page 2 of 2
Tuesday, 22 January 2002

To whom it may concern:

I write today to express my strong conviction that the proposed settlement to the Microsoft antitrust case is not in the public interest. The remedies contained therein are far too lenient in comparison to the degree to which Microsoft's guilt was proven in court and upheld upon appeal.

The remedies proposed by the "Track 2" states represent a much more appropriate starting point than the proposed settlement for reining in Microsoft's anti-competitive behavior, but even these more stringent remedies do not go far enough to restore a level playing field in the computer industry. Microsoft's December 12th, 2001 filing with the Court, in which they object to the "Track 2" proposed remedies as being "punitive," indicates just how arrogant Microsoft has become. They were found guilty of illegal behavior and their guilt was upheld on appeal. The trial has now reached the stage where Microsoft's illegal conduct is to punished and Microsoft still maintains they should not be punished at all! Microsoft's willingness to accept the proposed settlement is, in itself, proof that the settlement would do nothing to punish Microsoft.

The final outcome of the trial must accomplish three things:

1) Punish Microsoft for its illegal conduct

2) Compensate victims of Microsoft's illegal conduct

3) Constrain Microsoft from acting illegally in the future. The proposed settlement in its current form addresses none of these issues in a meaningful way. More important than the actual remedies themselves, however, is the compliance mechanism for the final judgment. Microsoft has already shown its willingness to ignore court-mandated behavioral remedies. They have written enough loopholes into the proposed settlement to insure that they can do so again with impunity should the settlement be approved. Whatever remedies the court imposes must be so crafted as to eliminate any wiggle room for Microsoft. It must be clear to all parties at all times whether Microsoft is in compliance or not. For this reason, Microsoft should have no input into the specific makeup of the compliance panel, nor any input into the determination of compliance. The compliance panel must be completely independent and free of Microsoft's influence.

The Court, at the recommendation of the compliance panel, must impose significant penalties for non- compliance up to and including a "death penalty" for repeated violations. I suggest a three-strikes- and-you're-out policy. The first finding of non-compliance should be countered with a monetary fine in the billion dollar range, the second with a monetary fine in the ten billion dollar range. The third finding of non-compliance would result in a court-ordered ban on the sale in the US of all software determined to be out of compliance, and the rendering of all contracts to sell such software null and void. I propose as well the incarceration of senior Microsoft officials for contempt of court in the event of three findings of non-compliance.

I respectfully submit that the proposed settlement benefits no one except Microsoft. I urge the Court to reject it and to devise a penalty that will severely punish Microsoft for the massive harm caused by their illegal conduct. The Court has suggested that expediency in resolving this case is in the national interest. A flawed resolution in the name of expediency, however, will be far more damaging to our national interests.

Sincerely,
Mark W. Knoll
8500 Ashton Court
Ypsilanti, MI 48198

MTC-00031679

FROM : FAX NO. : Jan. 22 2002 10:06AM PI
01/20/2002 11:48 919-844-1573 MABRY PAGE 01
Christie Knittel Mabry, Ed&D.
1240 Greystone Park Drive
Raleigh, NC 27615
January 17, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Microsoft Case

As a researcher and college professor, I use technology on a daily basis. Having an integrated easy-to-use software system is a critical for a productive work environment. Microsoft software allows access to a variety of products. The proposed consent decree with the Department of Justice will allow Microsoft to continue developing new products while at the same time giving Microsoft competitors some remedies for access to technical specifications and greater flexibility in installing non-Microsoft products in the windows operating system.

While this settlement does not entirely satisfy any of the parties involved in the lawsuit, it does include important protections for consumers, computer manufacturers and software developers. One important aspect is the establishment of a technical Committee that will monitor Microsoft's compliance with the settlement. A third party who has concerns about Microsoft's compliance will be able to file a complaint.

Certainly trying to reach a compromise is difficult, but it is important to our country to end the litigation and get technology companies focused again on building our economy. Prior to taking my current position, I worked with technology-related businesses. I saw the impact economic retrenchment has not only on companies but also on individuals.

Thank you for consideration of this matter.

Sincerely,
Christie Knittel Mabry. Ed. D.

MTC-00031680

Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

This correspondence is simply intended to ask you, your Department and the federal government to accept, adopt and implement the proposed Microsoft settlement. This matter has gone too long and the settlement is a fair end to a foul ordeal. The plan is a compromise between the parties As such it is imperfect. It is, however, a functional means to an end desired by all but the most impartial. The plan will open up Microsoft and its Windows systems to its competitors and their products. Microsoft's technology will all but be open to peer review. The government will review Microsoft's business and marketing practices. In essence Microsoft will encourage and support its competitors.

It's time we allow Microsoft to get back in the race. Our American economy is faltering and our nation is in peril. We need Microsoft at full speed. Thank you.'

cc: Senator Rick Santorum

I would like to add that the integrity, honesty, maturity, and dedication that you are (illegible) and is especially crtical to our (illegible)

Thank you for your effort.

Sincerely for renewed American (illegible)

David

cc: Senator Rick Santorum

MTC-00031682

JAN 21 2002 20:39 FR PEPSI BOTTLING GROUP 412 741 2390 TO 12023071454 P. 01/01

1411 Eagle Point Drive
Southpoint, Pennsylvania 15317
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you this brief letter to urge you to expedite the settlement of the Microsoft case. This case's merits were, I believe, questionable at the outset but no one can question the generosity of the concessions Microsoft has agreed to in order to settle this case.

In return for maintaining its corporate integrity, Microsoft has agreed to revamp its entire marketing philosophy. It will no longer demand Windows software exclusivity in its Windows platforms. In fact it reconfigure Windows to promote other manufacturers'' software. It will share technology with its competitors. It will license Windows systems products to major computer manufacturers at uniform rates and terms. It has, in fact, committed itself to embracing competition from the rest of the industry. I believe this more than adequate to meets its critic's demands. Microsoft is not just a giant in its field; it has been the main engine in the creation of a new international industry. To maim it or hinder its productivity would be folly.

Sincerely,

Heather Geisler

** TOTAL PAGE.01 **

MTC-00031684

Monday, January 21,2002 5:34 PM

To: Attorney General John Ashcroft From: Tony Birdsall,

384-1531 Page: 1 of 1
P.O. Box 970
Ferndale, WA 98248
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing today to urge the Department of Justice to accept the Microsoft antitrust settlement. Microsoft has given up a lot in order to settle the suit and put the issue behind them. I would like to see the government accept the settlement and allow the technology industry to move on.

Many people think that Microsoft has gotten off easy. Truth be told they have not. Microsoft has agreed to allow computer makers to install and promote any software that they see fit while offering Microsoft software at a uniform price. In addition to the agreement with computer makers, Microsoft has agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit. Microsoft has agreed to many concessions simply to settle the issue and move on. The government should accept the settlement and allow Microsoft to move forward.

Sincerely,

Anthony W. Birdsall

MTC-00031688

01/21/02 MON 19:39 FAX 4058481095 001

4637 O'Connor Court
Irving, TX 75062
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The more I read about the Microsoft settlement the more I get frustrated about its current status. The terms of this agreement are bold steps toward bringing our IT sector together, and should be supported in any way possible. These terms reflect three years of well thought out negotiations, and are truly in the best interest of all involved- Let us help to support this settlement by stopping any further actions against it.

Not only has Microsoft agreed to make changes in licensing and marketing, but has agreed to design fixture versions of Windows that will allow for easier installation of non-Microsoft software. Beyond this, Microsoft has agreed to disclose various interfaces that are internal to Windows operating system products. These concessions are steps toward a more unified IT sector, and definitely promote working together. By doing this, we allow our technology industry to hold its place in this highly competitive global market. Let us help to get this settlement moving so that we can get our economy back on track.

Let us not be the ones to put a stop to the same process that we initiated to begin with. Why fight this battle that has already been one. Let us stop any further actions against this agreement, and get back to business.

Sincerely,

Dean Chittenden

MTC-00031689

01/21/02 MON 19:38 FAX 4058481095 001

FACSIMILE TRANSMITTAL SHEET

TO: JOHN ASHCROFT FROM: DEAN CHITTENDEN

FAX NUMBER: (202) 307-1454

DATE: January 21, 2002

COMPANY: DEPARTMENT OF JUSTICE// ATTY

TOTAL NO. OF PAGES INCLUDING COVER: 2

GENERAL PHONE NUMBER: (303)320-0563

SENDER'S REFERENCE NUMBER:

RE: MICROSOFT YOUR REFERNCE NUMBER:

URGENT X FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

NOTES/COMMENTS:

Dear Sir:

Please see attached letter.

Thank You

Dean Chittenden

Phone (972) 887-0173
Fax (972) 887-9775
DEAN CHITTENDEN D—CHITTENDEN@EMAIL.MSN.COM 4637 O'CONNOR CT.
IRVING, TEXAS 75062-3740
PHONE: (972) 887-0173 FAX: (972) 887-9775

MTC-00031690

01/22/2002 13:43 5082485012 PAGE 01/01

Bement Camp and Conference Center
P.O. Box 156, 73 Jones Road
Charlton Depot, MA 01509
Phone: 508.248.7811 FAX: 508.248.5012
Web Site: WWW.BementCenter.com
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

First of all I want to thank you for your work these past 13 months during an unprecedented time for our country.

Please know that in addition to President Bush, you have also been in my prayers. You and the Bush team have brought back a sense of honor and decency to our most important political institution, the presidency.

Thank you!!!

I would like to take advantage of this public comment period and give you my thoughts on the Microsoft/DOJ settlement. From the very beginning I was dismayed that a company that has done so many positive things for my organization and me could be interfered with to such a great extent. I have never seen that Microsoft has done any harm to consumers, quite the opposite in fact, I can however vouch for their remarkable contributions to our lives and our economy. If you look at the marketplace numbers, our economy began a serious downfall with the very beginning of this lawsuit.

I run a nonprofit organization and through Microsoft's programs for non-profit's, we have been able to save a great deal of money and have consequently been able to serve countless more underprivileged citizens in the process. While this settlement is rather detrimental to Microsoft, it is however more than fair and will certainly address the problematic issues alleged in the lawsuit. Microsoft will be giving away a great deal of their source codes, internal interface design and server protocols. They will be giving consumers more choice to use their competitors' products within the Windows operating system and will be making more responsible agreements with OEM's so as to make it more feasible for them to distribute non-Microsoft products.

I sincerely hope that our Justice Department will keep consumer interests in mind when making a decision. This settlement needs to be accepted to ensure that our computer industry will be able to flourish again. Our economy depends on our technology sector; please finalize this settlement for the good of all involved.

Sincerely,

Mark Rourke

Director

Bement Center

MTC–00031691

01/22/02 TUE 09:32 FAX 775 8243766 PMA–SF 001
MARITECH
CORPORATION
January 15, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am quite sure that there have been many people writing you about this settlement that are more directly involved in the business of software and networking than am I. Unlike most of those people, I am writing as a simple business user of software, and have no particular axe to grind one way or the other. However, I am writing to express both my support as well as my perspective on this issue.

Business users like me have for a long time had many options and choices of a wide range of software products to assist our company's productivity and reporting accuracy. Many of us would prefer the relative ease of using products specifically designed for integration into the operating system that we use at our workstations, as well as on the company network. Microsoft has provided this integration-by-design and, while there are many fine software products that are available to perform the same functions, I have always found it simpler to take advantage of Microsoft's integrated software.

What this lawsuit would have done if it had gone on with respect to due use of many Microsoft products is, of course, unclear. However, it would be safe to assume that this software integration would have been one of the first casualties of any court judgment. It is therefore a good thing that this lawsuit has settled and this issue has not seriously affected our business software.

Sincerely,
Michael Snow
SystemEngineer
CC: Senator Harry Reid
MARITECH CORPORATION * 1495 Ridgeview Drive, Suite 110 * Reno, NV 89509
Voice: (775) 824–3777 * Facsimile: (775) 824–3766 * http/www.maritecheervicee.com

MTC–00031692

Jan-22–02 12:18P P.01
120 Bethany Drive
McMurray, PA 15317
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Re: Microsoft

Dear Mr. Ashcroft:

As a concerned citizen of the United States. I am writing to let you know how I feel about the settlement between Microsoft and the Department of Justice. I support the settlement that has been reached in this case.

This settlement is long overdue, since the case has been an ongoing battle by the government for three years. It serves no useful purpose to continue with litigation against Microsoft. I believe that this case should not have been brought forth by the Justice Department in the first place. Any further pursuit of this matter will only be a vast waste of time, tax dollars, and human resources.

The settlement is both fair and reasonable for all of the parties involved. Microsoft is not getting off easy in this antitrust case. They have made many compromises in their business practices and with product development. Please accept this settlement on behalf of the American public.

Sincerely
Kathleen Shook
cc: Senator Kick Santorum

MTC–00031693

Jan-22–02 11:21A Westglenn Software 205 423 0199 P.01
westgleni
the business illtelligence company
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530
www.usdoj.gov

Dear Mr. Ashcroft,

I have been following the litigation that has occurred because of the antitrust suit against Microsoft, and I have come to believe that this issue is digging deeper and deeper into the taxpayers'' pockets. The suit has managed to halt delivery of the advanced technology to the market. The Justice Department and Microsoft have reached a settlement regarding the suit that is designed to be beneficial to both the IT industry and the consumer.

The settlement will end a state of uncertainty in the technology sector and promote consumer confidence. Microsoft has agreed to make all future versions of its Windows operating system to be compatible with non-Microsoft software. Microsoft has also agreed not to retaliate against any computer makers that may ship software that would compete with Windows.

This suit has contributed to the stagnant state of the technology field. Microsoft needs to be allowed to return to innovation, so it can do its part to help the nation move forward. I strongly urge you to finalize this suit so the country may focus on more pressing matters.

Simcerely,
Jeff Trotman
President
Cc: Representative Spencer Bachus
2100 SouthBridge Parkway Suite 260
Birmingham, AL 35209
Tel 205.423.0100 Toll-Free 800.711.5153
Fax 205.423.0199

MTC–00031694

Sent By: GEMINI; 630 694 9460; Jan-22–02 11:46AM; Page 1/1
Gemini
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am pleased to hear that the government has reached a proposed settlement to the Microsoft antitrust case. I hope to see it finalized soon.

Microsoft has agreed to make several adjustments to its products to ensure that competitors can attach their software products to Microsoft Windows. I'm happy because this means that Microsoft will continue to support and enhance Windows! Microsoft has also agreed to allow a neutral committee to monitor their compliance with all aspects of the agreement.

I believe further prolonging of litigation concerning this case can only serve to harm the consumer, the IT industry and the nation's economy. I look forward to a quick and fair settlement. Thank you.

Sincerely,
Ed Baron
Cc: Representative J. Dennis Hastert
Gemeini Graphics, Inc. Gemini Digital, Inc.
860 West Lake Street, Suite 606 Roselle, Illinois
60172–2891 630.894.9430 voice
630.894.9460 fax digital@getgemini.com

MTC–00031695

01/22/2002 10:08 4803801133 DIAMONDWARE LTD PAGE 01/01
DiamondWare
HIGH PERFROMANCE
SOFTWARE
10516 E. Flower AVE
Mesa, AZ 85206
Phone: (480) 380–1122
Fax: (480) 380–1133
Web Site:
wwv.dw.com
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
VIA FACSIMILE: (202) 307–1454
Jan 22, 2002
Re: Microsoft Settlement

Ms. Hesse:

I am writing to express my opinion on the Microsoft Settlement, and indeed on the whole case. First, I do not believe that the case should have been brought. Originally, the case was filed at the urging of its envious competitors. It is important to note that Microsoft's customers and partners did not have a complaint.

First, I will speak for myself as a consumer of Microsoft's products. I remember the old days before Windows had standardized the graphical interface. I think it was even more important that Microsoft standardized hardware device drivers. Installing a new printer was difficult, even for computer experts. There was a dearth of hardware, partly because the vendors had much larger and much more complex job to provide drivers. Clearly, the consumer has benefited greatly from a standardized and easier way in which hardware vendors can provide software to support their hardware.

Second, I am also the CEO of a software development company. At times, our products have become devalued due to a Microsoft product release. Does this mean that I think that the force of government should be wielded to make Microsoft not compete against a small company like DiamondWare? NO!!! I would not want to live in the sort of country that would destroy Microsoft for DiamondWare's sake.

What would that mean for car companies, airlines, pharmaceuticals, food, and all of the other kinds of goods and services that I consume? In each case, the more successful companies would be held back, for the alleged benefit of the less. My choice among these products would be under attack Stalin's Soviet Union is a good example of the sort of place which fully and consistently attacked the good for being the good.

In conclusion, I urge you to drop the case altogether. Microsoft and its investors have already suffered many billions of dollars of damages due to this specious case if dropping the case is not legally possible any more, then seek to do the least damage allowable by law, and let Microsoft move forward without this threat hanging over their heads any longer!

Thank you.
Keith Weiner
President

MTC-00031696

Sent By: KI Systems, Inc.; 360 668 9884; Jan-22-02 9:33AM; Page 1/2
KI SYSTEMS, INC.
9310—176TH STREET S.E.
SNOHOMISH, WA 98296–5028
TELEPHONE: (425)402–0791
FACSIMILE: (360)668–9861
FAX Cover Sheet
January 22, 2002
TO: Company: Telephone No.:
≤Attorney General John US Department of Justice 1–202–307–1454
Ashcroft
From: Kristi L. LeaMaster Number of Pages: 2 (including this page)
Regarding: Microsoft Settlement
Comments:
Sent By: KI Systems, Inc. 360 668 9864; Jan-22-02 9:33AM; Page 2/2
KI SYSTEMS, INC.
9310—176th Street S. E.
SNOHOMISH, WA 98296–5038
TELEPHONE: (425) 402–0791
FACSIMILE: (360) 668–9864
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, UC: 20530–0001

Dear Mr. Ashcroft:

I was opposed to the government's antitrust lawsuit against Microsoft Corp., but was pleased and surprised when a settlement was finally reached last November.

In my humble estimation, the Justice Department's allegations against Microsoft were entirely unfounded and lacked a basic grasp and understanding of 21st century technology issues. Unfortunately, officials in the previous Justice Department administration insisted upon applying antitrust law that was written over one hundred years ago for "smokestack" industries, such as steel and oil, to a 21st century software company. This misguided approach was doomed from the outset and should have never gotten its far as it did.

Finally, three years later, at a cost of untold millions to the taxpayers of America, a settlement has been reached. If not for Microsoft wanting to get this nightmare over with and therefore accepting the government's settlement offer, the government would probably still be suing the company. The states that refuse to sign on to the settlement are being extremely shortsighted.

The settlement is fair, changing the way Microsoft licenses and designs software, and it is a far better alternative to continuing the lawsuit. Please do whatever it takes to see that it gets finalized. Thank you.

Sincerely,
Kristi LeaMaster
President

MTC-00031697

JAN-23-02 12:38 AM P. 01
304 Linwood Drive
Jacksonville, NC 28546
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

I do not believe that the case against Microsoft is merited. The antitrust lawsuit was more political than anything else. Microsoft is not guilty of anti-competitive behavior. Given these sentiments, however, I do support the settlement that was reached as it represents resolution for this issue.

The settlement carries with it many terms; under the settlement, Microsoft agrees to disclose the internal interface of Windows. This will allow developers access into the processing of the system. Users will now be able to reconfigure their operating systems to their liking beginning with the interim release of Windows XP. Additionally, Microsoft will level the playing field in the technology market by adhering to a uniform pricing list when licensing out Windows to the twenty largest computer makers in the nation.

Once more, I voice my support for the settlement. The issue is finally resolved. Moving this settlement forward is the best course of action for our nation. Thanks.

Sincerely,
ss

MTC-00031698

01/17/2002 11:45 13735681942
PERFORMANCE SOFTWARE PAGE 01/02
Fax Cover Sheet
Performance Software, Inc.
611 Route 46 West
Hasbrouck Heights, NJ
Date : January 22, 2002 Time: 12:16 PM
Pages: 2
To :John Ashcroft
Company :US Government
Fax Number :202–3 07– 1454
Phone:
From :Steve Rove11
Phone: 201–288–8100
Fax: 201–288–3001
Subject :Microsoft Settlement
Please see attached.
Thank you.
01/17/2002 11:45 19735601942
PERFORMANCE SOFTWARE PAGE 02/02
Dyna Suite on the web
188 Roule 10 West, Suite 311
East Hanover, New Jersey 07936
(973) 560–1930 phone
(973) 560–1942 fax
www.dynasuite.com
January 20, 2002
Attorney General John Ashcroft
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am writing in regards to the Microsoft antitrust case. Let me begin by saying that I do not agree with everything that Microsoft has done, but I understand that in a capitalist economy, the market will choose who is granted success. There may be issues of the antitrust case that have merit, but we should fix these problems and move on. The longer this case goes on, the more that lobbyists' concerns are put before the end users.' The Department of Justice and Microsoft have reached a settlement agreement that has already been approved by nine states. This settlement is both fair and reasonable, and the fact is that under the settlement. Microsoft will grant computer makers new abilities to reconfigure Windows to access non-Microsoft software. For software companies, Microsoft has agreed to document and disclose for its competitors various interfaces that are internal to Windows' operating systems products. This will make the software more efficient, and, as mentioned, the hardware makers will be able to access it easier. That will spur competition.

It doesn't make sense to spend scarce resources on issues that have already been resolved. This case has been harmful to the economy and has forced the industry leader to turn their focus from innovation to litigation. It is time to resume business as usual. Let the competitors compete and the leaders lead. The consumers should decide what companies will succeed, not the government.

Sincerely,
Steven J. Rovell
Chief Information Officer
an innovation of Performance Software, Inc.

MTC-00031699

01/22/02 TUE 11:OO FAX 512 327 6384 001
ALLIED INTERESTS INC.
ALLIED INTERESTS INC.
FAX
COVERS SHEET
SEND TO:
FROM: ATTORNEY GENERAL ASHCROFT
JON H. STARNES
COPY SENT:
OFFICE LOCATION: Austin. Texas
REGARDING:
DATE:
MICROSOFT January 22, 2002
FAX NUMBER: 202.307.1454
EMAIL: jstarnaes@jump.net

( ) The original of this transmittal will be sent by: ( ) U.S. Mail ( ) Messenger ( ) Overnight Mail

(X) This will be the only form of delivery of this transmittal.

TOTAL PAGES. INCLUDING COVER: 2
COMMENTS
816 TERRACE MOUNTAIN DR.
* AUSTIN, TEXAS 78746.2843
* 512.327.6318

* FAX 512.327.6384
01/22/02 TUE 11:OO FAX 512 327 6354
ALLIED INTERESTS INC. 002
JON H. STARNES
VIA FACSIMILE–202/307–1454
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to encourage the DOJ to accept Microsoft's antitrust settlement. The terms of the settlement appear to be fair and equitable. It is time to stop wasting our taxes and put this issue to rest. Microsoft has agreed to several concessions the DOJ requested and it is time for the government to end this issue. For several years the socialist in our government have been trying to break up Microsoft. The government has spent more time trying to destroy one of America's finest assets than it has spent in trying to locate Bin Laden.

Please accept the Microsoft antitrust settlement.

Sincerely,
ss
816 TERRACE MOUNTAIN DRIVE
* AUSTIN. TEXAS 78746
* 512/327–6310
* FAX 512/327.6304

MTC–00031700

JAN 22 "09 10:08
FR TRAPEZE SOFTWARE GRP
480 627 3411
TO 12023071454
P.01/02
January 18, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am writing to add my comments to the many that your office is no doubt receiving regarding the settlement between the Department of Justice and Microsoft. I cannot help but think that, should this lawsuit have dragged on any further, there would have been serious and damaging repercussions to all other businesses engaged in the IT field. Fortunately, this settlement was reached at a time where such repercussions were thus far at a minimum, and the most serious effects dealt with a faltering of consumer confidence.

Many people have long been annoyed at Microsoft's policy of disallowing any competitive software to be pre-loaded with its Windows OS, but this settlement addresses that issue. It standardizes the licensing arrangements for the 20 largest hardware companies, and thereby generates competition for consumers.

I am writing in support of the settlement, and hope that this sort of litigation does not happen again.

Sincerely,
Lou Borland
Internal Network Engineer
JAN 22 '09 10:08
FR TRAPEZE SOFTWARE GRP
480 627 8411 TO 12023071454 P .02/02
January 18, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–000 1

Dear Mr. Ashcroft,

I am writing to add my comments to the many that your office is no doubt receiving regarding the settlement between the Department of Justice and Microsoft. I cannot help but think that, should this lawsuit have dragged on any further, there would have been serious and damaging repercussions to all other businesses engaged in the IT field. Fortunately, this settlement was reached at a time where such repercussions were thus far at a minimum, and the most serious effects dealt with a faltering of consumer confidence.

Many people have long been annoyed at Microsoft's policy of disallowing any competitive software to be pre-loaded with its Windows OS, but this settlement addresses that issue. It standardizes the licensing arrangements for the 20 largest hardware companies, and thereby generates competition for consumers.

I am writing in support of the settlement, and hope that this sort of litigation does not happen again.

Sincerely,
Viet Vo
Network Engineer
** TOTAL PAGE.02 **

MTC–00031701

JAN–22–2002 12: 27 SENATE LEADERSHIP
502 564 0456 P. 01/01
COMMONWEALTH OF KENTUCKY
DISTRICT OFFICE
204 CAPITOL ANNEX
2534 KEARNEY COURT
FRANKFORT. KENTUCKY 40601
LAKESIDE PARK. KENTUCKY 41017
502–564–3120
859–331–1684
502–564–0456 FAX
859–331–1238 FAX MESSAGE LINE
800–372–7101
Roedn@aol.com E-MAIL
richard.roeding@trc.state.ky.us
RICHARD L. "DICK" ROEDING, R.Ph.
PRESIDENT PRO TEM OF THE SENATE
January 22, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

It goes without saying that the settlement agreement between the U.S. Government and Microsoft comes at a critical time when our economy and nation most need reconciliation. The proposed settlement requires significant changes in the way Microsoft develops, licenses and markets its software. This settlement is fair. It allows Microsoft to continue innovating in all areas of software development.

When word of the possible settlement in the Microsoft case broke, the market surged. In spite of gloomy economic reports, the news was viewed by investors as a sign that our nation's critically important high-tech industry could move forward without the continuing shadow of government interference. The fact is that news of an impending settlement lifted the share price of technology companies across the spectrum, including Microsoft's rivals. AOL, Time Warner,-Sun, Oracle, IBM—they all saw their stocks jump. Most attorneys are not economists, and the economics of settlement were made clear by the markets. Public sentiment, from consumers to businesses to investors, favors settlement. I congratulate you on developing a strong but fair settlement and support your efforts to create a settlement that is in our nation's best interest. Thank you for your time, and please feel free to contact me if I can be of assistance to you in any way.

Sincerely,
Richard L. "Dick" Roeding, R.Ph.
Kentucky Senate President Pro Tern
TOTAL P. 01

MTC–00031702

TO : PHONE NO. : 12023071454 JAN.21.2002
10:00PM P 1
FROM : MILLER PHONE NO. : 805 832 1414
2216 Manning Street
Bakersfield, CA 93309
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mt. Ashcroft:

I have followed with interest the Microsoft and Department of Justice antitrust case. I am appalled that this case was ever brought against Microsoft, But at the same time, I am not surprised. Bill Gates, through Microsoft, has revolutionized the computer industry. I can remember when there was total incompatibility between the hardware boards, and computer software programs. It was terrible. Nothing worked. Bill Gates then came along. Microsoft worked consistently to increase computer board compatibility. Microsoft standardized computer software, increasing software compatibility. No wonder there is jealousy. No one else did this, or could do this. His competitors, seeking to rein the company in, brought suit against the company. The previous administration, with its own peculiar view of what constitutes a successful company, joined the parade.

Microsoft has more than done its share to end this lawsuit and accommodate the demands of the Justice Department. Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software; Microsoft has agreed to design future versions of Windows with the capability to make it easier for companies to install non-Microsoft software; Microsoft has agreed to a technical committee to monitor future adherence. This is more than fair.

I support this agreement and look forward to the end of this case. It is time to put this behind us.

Sincerely,
Bob Miller

MTC–00031703

01/22/2002 11:40 FAX 215 643 6311
Exclusive Ore 01
eXclusive Ore

January 16,2002
A.G. John Ashcroft U.S. Dept. of Justice
950 Penna. Ave. N.W.
Washington, D.C. 20530

Dear Mr. Ashcroft:

I am writing to express my support for the settlement reached in the Microsoft Antitrust Lawsuit last November. The settlement is fair, and it will allow the IT industry to continue to grow while prohibiting any action that might be anticompetitive.

The resolution reached in the antitrust suit has many positive aspects for consumers, as well as hardware and software companies, and should stimulate further economic development in the IT field.

Under the settlement, Microsoft has granted additional rights to both software designers and computer manufacturers which will allow for competing peripheral software components, such as non-Microsoft web browsers and e-mail clients, to be more easily integrated and work better within the Windows OS. Additionally, it allows for computer manufacturers to ship systems with those same competing software components pre-installed with Windows.

While some argue that the settlement did not cut Microsoft deeply enough, I believe that these, along with the other articles of the antitrust settlement, will limit unfair competitive action and allow Microsoft, as well as others, to continue to develop quality products and further economic growth within the IT sector.

Sincerely,

Estelle Brand
Vice President
cc: Senator Rick Santorum
Exclusive Ore Inc. * PO Box 1024 *
Blue Bell, PA 19422 * (215) 643–3110
* www.exclusiveore.com

MTC–00031704

FROM : PRATER-WRITES FAX NO: Jan. 22 2002 09:40AM P1
PRATERWRITES
Turning Information Into Solutions
Sandra J. Prater
14009 N.E. 63rd Court,
Recmond, WA 98052–4561
VOICe 425–883–4725 /
Fax: 425–867–5539
Email: sprater@halcycn.com
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing in support of the recent settlement between The Department of Justice and the IT industry. I am happy an agreement has finally been reached. It is a reasonable settlement and clearly a benefit to consumers of technological products.

Under the terms of the settlement, Microsoft has agreed not to retaliate against the competition. Computer makers who ship other software and software developers who design software that competes with Microsoft will also be immunized from retaliation. I am in favor of this. It is in the best interest of the consumers and the economy to allow Microsoft to get back to the business of creating new and innovative technology.

Again, I am happy that a settlement has finally been reached. I hope you will support it.

Sincerely,

ss

MTC–00031705

Jan 22 02 08: 18a Ron Stingley 650–631–1009 p.1
36 Wessex Way
San Carlos, California 94070 USA
January 21,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

This is to give my support to the settlement between Microsoft and the Department of Justice. I did not support this suit against Microsoft in the first place, and I am disturbed by the tendency of government to interfere in business. If there is wrongdoing, there is an obvious need, but this was a case of competition. Microsoft was just one of numerous tech firms out there producing a product. In this instance, Bill Gates put out a better product, at a lower price. He could have charged much more, but didn't. Bill Gates, through Microsoft, streamlined computer programs into more useable formats, increased compatibility of various computer software programs, and allowed all of us to join the computer revolution. The other firms could not keep up; hence, they sought to have a legal edge. The Justice Department, under the previous administration, fell right into line. We are threatening the tenet of free enterprise if we constantly interfere in business. Some firms succeed. Others do not. This is the way it is in life with all things. Government cannot come in and decide who does or does not succeed.

Further, Microsoft has given away a great deal. Microsoft has agreed to submit to a committee to monitor settlement adherence; Microsoft has further agreed to license its Windows operating system products to the 20 largest computer makers on equal terms; and Microsoft has agreed to give computer makers more accessibility to make Windows so that it promotes non-Microsoft software programs. This is a lot more than any other firm would do.

Put this issue behind us. Any further action will only harm both our economy and our country.

Sincerely,

Ron Stingley

MTC–00031706

JAN–22–02 09:47 AM DAVID L. BANKS 8309319831 P.01
16745 FM 1957
San Antonio, TX 78253
January 21,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft antitrust dispute. The Microsoft Company is an American Dream that all people in this great country have and the opportunity to make come true. I would hope the Government does not discourage this American way of life with further litigation. I support Microsoft in this dispute, and I sincerely hope there will be no further action against Microsoft at the federal level. The settlement that was reached in November is both fair and reasonable. Microsoft has pledged to carry out all terms and conditions of this agreement. Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price. Microsoft has also agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows.

This settlement will benefit the entire technology industry. Please support this settlement and allow Microsoft to devote its talent and resources to work, rather than litigation.

Sincerely,

David Banks

MTC–00031707

01/22/2002 11:31 2029555879 KARALEKAS AND NOONE PAGE 01
Law Offices
KARALEKAS & NOONE
1211 Connecticut Avenue, NW
Suite 302
Washington, DC 20036–2603
(202) 466–7330
(202) 955–5879 Facsimile
TELECOPIER TRANSMITTAL
TO: Renata Hesse, Esq.
RECIPIENT'S
TELECOPIER NO: 202/616–9937
FROM: Steve Karalekas
DATE: January 22,2002
EASTERN TIME: 1130a
OPERATOR: Elizabeth
NUMBER OF PAGES TRANSMITTING (including cover sheet): 3
MESSAGE/SPECIAL INSTRUCTIONS:
01/22/2002 11: 31 2029555879 KARALEKAS AND NOONE PAGE 02
KARALEKAS & NOONE
ATTORNEYS AT LAW
1211 Connecticut Avenue, NW
Suite 302
S. STEVEN LARALEKAS
Washington, DC 20036–2603
* ALSO ADMITTED IN MASSACHUSETTS
JAMES A. NOONE+
(202) 466–7330
* ALSO ADMITTED IN PENNSYLVANIA
WILLIAM J. HARDY ++
(202) 955–5879 Facsimile ++
ALSO ADMITTED IN VIRGINIA
E-Mail kn1211conn@kn1211.com
January 22,2002
Via Fax Transmission
Renata Hesse., Esq.
Trial Attorney
Anti-Trust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530
Re: U.S. v. Microsoft

Dear Ms. Hesse:

We write to urge approval by the U.S. Department of Justice of the proposed settlement agreement in the pending case of U.S. v. Microsoft.

Our law firm represents a diverse range of clients whose businesses rely heavily on state-of-the-art information technology (IT). Microsoft has been a leader in this regard and it is our view that settlement of this protracted litigation will greatly enhance the quality of IT available to our clients and improve the competitiveness of IT companies across the nation.

Settlement of this case is particularly important to the Washington, DC, area where the U.S. Government and thousands of small contractors that provide goods and services to it rely on the best possible IT to conduct their businesses and manage their programs. The uncertainty caused by the Govemment's litigation against Microsoft, in our view, has been detrimental to the critically importantly two-way flow of information between the U.S. Government and those who serve it.

We urge the Department of Justice to approve the settlement agreement and allow Microsoft and its competitors to go back to doing what they do best—keeping America in the forefront of information technology.

01/22/2002 11:31 2029555879
KARALEKAS AND NOONE PAGE 03

Thank you for your consideration.

Sincerely,
S. Steven Karalekas
SSK:emh

MTC-00031708

0l/14/2002 13:51 12487231210 GOODE FINANCIAL PAGE 01
GOODE FINANCIAL, L.L.C.
700 E. MAPLE, Suite 300
TELEPHONE: (248) 723-l200
BIRMINGHAM, MI 48009
FACSIMILE: (246) 723–1210
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing in support of the settlement between Microsoft and the Justice Department in their antitrust lawsuit. I believe that the settlement is fair, and that Microsoft's concessions will enable everyone to return to normal business operation.

I understand that Microsoft is making several concessions, including added convenience for Windows users to remove and configure different parts of the operating system. These changes should ultimately benefit consumers and ensure fair competition.

Because of these changes, I urge you to settle the Microsoft suit in due fashion.

Sincerely,
Margaret Goode

MTC-00031709

164 Chestnut Hill Lane South
Buffalo, NY 14221
January 21,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington., DC 20530

Dear Mr. Ashcroft:

I am writing to express my views on the proposed settlement arrived at between the Department of Justice and Microsoft recently. In my estimation, the settlement is very excessive for Microsoft but more than fair for the federal and state government. It is time for this case to come to an end.

My reasons for being dissatisfied with the way this suit has been going extend far beyond my concerns for the economy and the IT industry, I am also displeased with the way the government has pursued this. The Government has given the public plenty of reason to doubt the existence of free enterprise. Despite the unfairness of the suit, Microsoft has been very willing to cooperate. They have agreed to uniform prices, disclosure of both Windows' protocol, and sharing internal interfaces in Windows. Microsoft has also agreed to grant intellectual property license to their competitors.

The settlement offers a workable end to this lawsuit, and the possibility for a very strong shot in the economy's arm. I trust that my input and those of others will aid in wrapping up this matter as soon as possible.

Sincerely,
Thomas Ruthven

JAN-22-02 11:51 FROM: EXCELLENCE N. MORTGAGES ID: 7166892546 PAHE 1/1

MTC-00031710

1–22–2002 11:11AM FROM 000000000 P. 1
01/22/2662 11:37 0000000000000 PAGE 01
January 9, 2001
Ms. Renata Hesse
Trial Attorney
Antiturst Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am told you are receiving comments on the proposed Microsoft settlement.

It is important that any agrement reached will be complied with. The three person technical committee that is part of the settlement agreement that will monitor Microsoft's compliance appears to be a good means of achieving compliance. Complaints regarding Microsoft's compliance can be relayed to this committee, the Department of Justice or any of the state plaintiffs that are party to the settlement. This provision of the settlement ought to give all involved a high level of comfort.

Sincerely yours,
S. Neel Brown

MTC-00031711

1–22–2002 11:06AM FROM 000000000000 P.1
January 21, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:.

After having reviewed the "Key Provisions of the Proposed Consent Decree with the Department of Justice", I believe that the proposal is fair and, since both Microsoft and the Department of Justice have come to this agreement, I believe the citizens of the United States would benefit if the consent degree were implemented expeditiously.

Sincerely
Joseph Frank Ellmer
26 Croydon Road
Mays Landing, NJ 08330

MTC-00031712

01/22/2002 10:33 FAX 804 7866310 VA HOUSE OF DELEGATES 001
House of Delegates
Telefax Service
Fax(804)786–6310
General Assembly Building
January 22,2002
To: Renata Hesse, U. S. Department of Justice
From: Delegate Gary A. Reese
Fax No.: Long Distance (202) 616–9437
Tel. No.:
City: Washington, DC.
State:

This transmission contains 2 pages, which includes this cover sheet. If you have any problems with this transmission, please contact (804) 698–1558.

Comments:

The original letter was mailed on l/21/02.

01/22/2002 10:33 FAX 804 7866310 VA HOUSE OF DELEGATES 002
COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND
GARY A. REESE
11926 BENNETT ROAD
OAK HILL, VIRGINA 20171
SIXTY-SEVENTH DISTRICT
January 21,2002
Ms. Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse

As a Delegate for the 67th District in Northern Virginia, I am writing to encourage you to approve the settlement agreement in the case of United States v. Microsoft.

The centerpiece of Virginia's economy is the Northern Virginia region's high-tech industry. We have been fortunate to attract a diverse and wide-ranging number of technology firms and have insured our area's growth and future prosperity. We need to encourage a continuation of this economic development activity and make certain that we do not impede the success of companies like Microsoft in any way.

I believe the settlement is a fair and reasonable compromise. Furthermore, this setclement is good for the consumer, for high-tech industry, and for our overall economy. If you have any questions, please do not hesitate to contact me.

Sincerely,
Gary A. Reese

DISTRICT: (703)476–4505 * FAX: (703)716–9064 * E-MAIL: DEL—REESE@HOUSE.STATE.VA.US 002

MTC-00031713

JAN-22–2002 12:54 TEMPS LITHO 537 0316 P.01/01
CREATIVE MICRO SYSTEMS, INC.
3825 KENTUCKY AVE N.
CRYSTAL, MN 55427
January 21,2002
Attorney General John Ashcroft
US Department of Justice

950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to take this opportunity during the public comment period to voice my support for the settlement reached last November between Microsoft and the Justice Department. I believe this settlement will lessen the uncertainty in the technology sector of the economy and significantly benefit the overall economy. I believe the Justice Department action by the Clinton administration caused the down turn in the economy.

Although I did not support the commencement of this suit in the first place, a settlement is the best course at this point. The government negotiated a very strong settlement that addresses all the key issues. For example, Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows. The agreement also calls for the creation of a Technical Committee to oversee Microsoft's compliance.

Our company builds computer systems and develops custom computer application for end users,Microsoft products have been crucial in enabling us to rapidly develop competitively priced end user applications. Without their products we be unable to compete in this highly volatile marketplace. This lawsuit has hurt the entire industry. Please support this settlement and take no further action at the federal level.

Sincerely,
Richard Bostrom
TOTAL P. 01

MTC-00031714

1/22/2002 11:46 AM
FROM: Fax deltakappa.com
TO: 12023071454
PAGE: 001 OF 001
deltakappa.com
January 22,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I find it reprehensible that Microsoft's jealous competitors motivated this lawsuit between the Department of Justice and Microsoft. Whatever merits there were in the origin of this case were lost amid the torrent of envy among Microsoft's competitors.

The last time I checked, ours was still an economy built upon the free enterprise system. It is simply not right for a group of companies to use whatever influence they could muster to persuade our government to file a lawsuit against a company based upon that company's success in the marketplace.

One can say what they want about Microsoft's often hard-nosed approach to business, but that is not reason enough to haul them into court. The Settlement addresses the controversial points arising from the original trial three years ago, and ultimately will change the way that Microsoft does business in everything from design and conceptualization of software at the beginning, to licensing at the end.

This settlement recently negotiated at least has the virtue of ending this sideshow of a trial. For that reason alone it should be supported.

Sincerely,
David K. Payne

MTC-00031715

JAN-22-02 TUE 12:33 BNA HUNTSVILLE
FAX NO. 2569713360 P.01
200 Hidden Valley Way
Madison, AL 35758
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It has come to my attention that a settlement has been reached between Microsoft and the Justice Department. I hope that this case will finally be resolved. I am convinced that the Clinton administration targeted Microsoft to pacify the self-serving whining of competitors and their supporting politicians/lobbyists.

It does not seem to me that Microsoft is getting off easy like some would content. The agreement to grant computer makers new rights to configure Windows soas to promote non-Microsoft programs.

. and the establishment of a three person monitor committee is very significant in our "free enterprise" business society.Microsoft competitors should be very happy—they will not be subject to the above restrictions.

I realize your Justice Department Did not initiate these actions against Microsoft; I hope your administration will conclude this matter quickly and fairly.

Sincerely,
James A. Collins

MTC-00031716

JAN-22-2002 14:20 FROM:BV HEDRICK
7046334243 TO:202 353 8856 P.OO1/
OO1
01/22/02 TUE 12:27 FAX 800 641 2265 002
100 Primrose Drive
Salisbury, NC 28147
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

I am writing you today to voice my opinion on Microsoft. I support the Microsoft settlement and feel that this company has been penalized for being successful. I feel this settlement will serve in the best public interest this settlement is complete and thorough. Microsoft did not get off easy,Microsoft has agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit for the sake of wrapping it up.Microsoft has also agreed to be monitored by a technical oversight committee created by the government.

Microsoft is a company that has contributed a pat deal to our society and daily lives. This company should not be stifled. Please support this settlement.

Thank you.
Sincerely,
Melvia Hutchinson

cc: Representative Mel Watt

MTC-00031718

01/22/02 TUE 13:15 FAX 414 328 2233
ROCKWELL SUPPORT 001
FACSIMILE ROCKWELL
SOFTWARE
P. O. Box 351
West Allis, WI 53227
Phone: 414–321–8000
Gen. Fax: 414–321–2211
www.software.rockwell.com
DATE: January 22,2002
TO: A. G. John Ashcroft
FAX: 202–307–1454
FROM: Katherine Tomaszek
TELEPHONE: 414–328–2423
FAX: 414–328–9423
PAGES: 2
Rockwell
Automation
01/22/02 TUE 13:15 FAX 414 325 2233
ROCKWELL SUPPORT 002
ROCKWELL
SOFTWARE
January 22, 2002
A.G John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

As a professional with personal experience in the software industry, I appreciate the role Microsoft has played in the success of the P.C. industry; therefore, the proposed government settlement is a welcome opportunity for all sides to end this agonizing process and focus on business again. The world is a better place because of the incredible contribution of the stable,user-friendly software platform that Microsoft has developed, so any further attempt to destroy this great company would be a mistake that will do severe damage to consumers everywhere.

From my understanding of the agreement, Microsoft has capitulated on several fronts.They are pledging to make it easier for computer manufacturers to mix and match software products on the Windows operating system, while offering a simplified cost structure for its licensing and no obligations to distribute or promote Microsoft technologies. Competing Companies will gain access to the internal interfaces and server protocols of Windows products,with the added opportunity to license its technologies.

With the constant review of a three-person technical committee of software experts,compliance should be eminently verifiable and effective. Hence, there is no need for further action. Please accept this deal and let the I.T. industry get back to developing great products for the public.

Thank you for your assistance.

Sincerely,
Katherine Tomaszek
Rockwell Software
2424 S. 102nd Street
West Allis, WI 53227
Rockwell Software Inc. P.O. Box 351 *
Milwaukee, WI 53201–0351 *
Phone, 414.321–8000 *
FAX: 414.321–2211 * BBS: 216.646–7625 *
Tech Support; 216–646–7800

MTC-00031719

+3604824200 ELMA Y PARCEL 326 P01 JAN 22 '02 11:30
P.O. Box F2
Elma, WA 98541-0628
January 21,2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The issue has gone on long enough and it is time that the government leaves Microsoft alone. Microsoft has been such a net positive to the technology industry and to the economy and yet has to deal with government harassment.

Microsoft has agreed to compromise on all the major issues that were in dispute in the suit. They agreed to give computer makers the flexibility to install and promote any software that they seem fit. They agreed to license Microsoft products at a standard rate to computer makers, no matter what other software they promote. They also agreed not to enter into any agreement that obligates computer makers to exclusively install or promote Microsoft software. Microsoft has agreed to a lot in order to put the issue behind them.

The terms of the settlement are fair and the government should accept them. Microsoft and the technology industry need to move forward and focus their concentration on business, not on defending themselves from more lawsuits. Please accept the Microsoft antitrust settlement.

Sincerely,
John Shooner

MTC-00031720

01-22-2002 08 : 03AM FROM COUNTRY MOTORS TO 12023071454 P. 01
Country Motors
1200 Roverside Dr
Mount Vernon, WA 98273
360-428-5040
http://www.cmvs.com
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530.

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The settlement is fair and needs to be accepted. Microsoft is a great company that turns out great products and they should not be punished for it.

The whole issue arose out of jealousy. Other companies could not compete with Microsoft products, not because Microsoft was keeping them from competing but because Microsoft products were so much better. Because of the weakness of Microsoft's competitors Microsoft has had to accepta settlement that goes to far. In the settlement Microsoft has agreed to disclose, to their competitors,various interfaces that are internal to Window's operating system products. Essentially Microsoft as agreed to give up part of their system so other companies can catch up, and people are still saying that Microsoft has gotten off easy.

This issue needs to be put to rest. Microsoft is a great company with great products and is being punished for it. The settlement needs to be accepted and Microsoft needs to be allowed to move forward. In order to move forward this issue needs to be put in the past. Please accept the Microsoft antitrust settlement.

Sincerely,
Terry Minor
1200 Riverside Drive
Mount Vernon. WA 98273
TOTAL P. 01

MTC-00031722

Jan 21 02 07:52p UNIONDALE SCHOOLS 292-5097 p.1
Neville G Georges
787 Center Drive
Baldwin, NY 11510-1103
January 18, 2002
Attorney General John Ashcroft
US Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

Here in North Baldwin, NY many monopolies exist, my cable, for example, is a monopoly for this area. The water and gas service are also monopolies. Continuing Monopolies in these industries is seen as prudent and even useful. Yet, the federal government takes great pains to muzzle and strong-arm Microsoft into renouncing their market position because of their supposed monopoly in the computer software industry.Microsoft rose to its dominant position in the software industry thanks to sound principles of innovation and intelligent marketing. In order for a business to be successful in America, it must have a unique product and a good marketing plan. My concern on the issue lies in the fact that the Department of Justice put itself in the position of chasing successful company for the simple fact that it was more successful than its competitors.In my opinion, Microsoft's competitors used the Department of Justice to do their job for them. In that instead of creating a superior product and marketing plan, they chose to tear down the competitive advantage Microsoft has worked so hard to achieve.

Microsoft should definitely comply with the terms of the settlement as delineated by the Justice Department. This settlement contains a series of provisions, increasing competition and forcing Microsoft to change its business practices. They have agreed to these provisions and this settlement to serve the public interest and to allow this country and themselves to move forward.

Please stand by the decision made on November 6 of last year to let the states settle with Microsoft without further federal intervention.

Sincerely,
Neville Georges

MTC-00031723

JAN 22 '02 15:38 P. 1
872 Lake Jackson Circle
Apopka, FL 32703
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. Microsoft and the technology industry need to move on. A settlement is available and the terms are fair. I would like to see the government accept it and leave Microsoft alone.

Many people think that Microsoft has gotten off easy, in fact they have not. The settlement was arrived at after extensive negotiations with a court-appointed mediator, Microsoft agreed to terms that extend well beyond the products and procedures that were actually a tissue in the suit, simply for the sake of putting an end to the issue. For example, Microsoft will adhere to a uniform licensing agreement and will allow other companies to place their own software on the Windows operating system.

Microsoft, the industry and the government all need to move on. This issue has been dragged out for over three years and needs to be settled. Please accept the Microsoft antitrust settlement.

Sincerely,
Patrick Weld On

MTC-00031724

01/22/2002 15:27 7732383137 ROBERT PETTY PAGE 01
9550 S Winston Avenue
Chicago, IL 60643
January 21, 2002
Attorney General Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

I am happy to hear the federal government and Microsoft reached an agreement in the antitrust case. I believe closure to this long process of litigation can be a springboard for more active competition in the IT industry.

This can happen only if no more action is taken at the federal level and the government does not continue to sue Microsoft.According to the settlement reached with Microsoft, the company will change the way it develops and markets its products. There will be a committee to ensure the company complies with the agreement and competitors will have the ability to sue Microsoft if they think the company is not complying with the agreement. With these guidelines in place, we as people of the United States need to move forward.

For the sake of the IT industry and consumers, we need to allow Microsoft to resume delivering prime technology to the national and international marketplace. This will be in the best interest of our country and our economy.Please to not take more action against Microsoft. Thank very much for your time and consideration.

Sincerely,
Robert Petty

MTC-00031725

01/22/2002 15:44 8476396591 BRYKOWSKI PAGE 01
01/22/2002 TUE 15:30 FAX 800 641 2256 002
60 Lake Zurich Drive
Lake Zurich, IL 60047-2228

January 21, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing to express my satisfaction at the settlement agreed to between the Department of Justice and Microsoft Corporation on November 2, 2001.The settlement reached provides that Microsoft disclose more information about its software and an oversight committee created by the government that could ensure Microsoft's cooperation.

This is a just settlement reached through intense negotiations on both sides.After three years of litigation, it is now time to allow Microsoft to continue providing new and innovative services to its" consumers. Under the new guidelines set forth in the agreement, Microsoft will be able to continue to lead the technology market while also creating competition.Now that this settlement has been reached, I hope that no further action is taken against Microsoft. Thank you for your time.

Sincerely,
Romam Brykowski

MTC–00031726

JAN-22-2002 15:51 P. 01/02
FACSIMILE TRANSMISSION
TO: Renata Hesse
FAX: 202-307-1454
FROM:
PAGES (including cover): 2
DATE:
Mesaage:
JAN-22-2002 15:51 P.02/02
January 14, 2002
Renata Hesse
Antitrust Division
Department of Justice
Fax: (202) 616–9937
Fax: (202) 307–1454

Dear Ms. Hesse:

Please add my support for the recent Microsoft settlement. From everything that I have read, this appears to be a reasonable accord.Our country has been paralyzed for some time now: we have a war going on overseas and we are now officially in a recession. An uplift is needed from some sector of our economy. I strongly believe that the settlement agreed upon will be the vehicle required to spur on new, and much-needed economic growth.

My reasoning is based on past economic performance. Microsoft has been a Goliath in our modern-day economy. They produced much of the gains made during the 1990's and have been the source for thousands of new businesses and hundreds of thousands of new jobs. Once this lawsuit is behind them, they will be able to begin producing the same kind of results for our languishing economy.

This settlement was good for the county. I understand that new Windows design obligations were agreed upon and that Microsoft agreed to share information regarding its windows operating system. I'm pleased to know that this settlement was reached in such a timely manner.

Thank you for listening to my opinions on this issue.

Sincerely, Sincerely, Sincerely,
Tom Feeney Andy Gardiner Jim Kallinger
Speaker of the House Florida House of Representatives District 35
TOTAL P.02

MTC–00031727

01/22/02 12:12 PM 8189901897 Bell . Solutions. net Page 1 of 2#1011
Terrence H. Bell, CPA
Address: 15821 Vetura Boulevard
Suite 275
Encino, CA 91436
Phone: 818 990–6363
Fax: 818 990–1897
To: John Ashcroft
Company:
Fax: 202 307–1454
From: Terry Bell
Subject:
Memo:
Microsoft Settlement
Terrence H. Bell
Certified Public Accountant
Terrence H. Bell CPA
Donna Smith, EA
January 9, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft

I write concerning the antitrust settlement between Microsoft and the federal government. I am a Certified Public Accountant and it is in the best interest of my firm, which handles tax issues for small business and individuals, for this matter to be settled expeditiously through settlement. At first, you might not think this lawsuit could have an adverse affect on a business such as mine, however, it has. In fact, it has impacted the entire economy, which of course affects my prosperity. To settle this matter would be a step in the right direction toward getting the economy back on track, and hence stimulating business for my firm and many other companies across the country that are in a similar situation. Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in Windows. It has also agreed to design future versions of Windows, beginning with the next release of Windows XP, to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Micros&l software within Windows. Lastly, Microsoft has agreed not to enter into any agreements requiring any third party to distribute or promote any Windows technology exclusively or in a fixed percentage. If these concessions don't make Microsoft's competitors happy, I don't know what will. There are several more major components of the settlement that I am sure you are familiar with.

The settlement goes above and beyond addressing the main complaints of the government and should satisfy both the government and Microsoft's a adversaries. It is fair and reasonable and should not be allowed to be derailed by a handful of Microsoft's adversaries who will not be happy until Microsoft is broken up, which of course, is completely unnecessary and unjust.

Sincerely
Terrence H. Bell
Certified Public Accountant

P.S. The news conference on 1/22/02 was great!

15821 Ventura Blvd. Suite 275 Encino, Ca 91436 * (818) 990–6363 (800) 890–6343 * (818)
990–1897 FAX
Visit us on the web at http://www.bellcpa.com or email us at Info@bellcpa.com

MTC–00031728

01/22/2012 15:38 7756654893
SCHORNSTEIN PAGE 01 1–22–02
ATTEN: Ms. Renata B. Hesse

Dear Ms. Hesse,

Without any reservations, I support the Microsoft settlement.

The benefit to the nation and to the taxpayers is huge. To settle this also is the fair action to take. Consumers will be the largest benefactors, and, as a consumer, I do like the opportunity to express my note to settle with Microsoft Now!

Sincerely,
Marilyn M. Schornstein
6746 S.W. 89 Terr.
Miami, FL 38156

MTC–00031729

Jan 22 02 12:4Op p. 1
Microsoft
MICROSOFT CORPORATION
123 Wright Bros Dr. Suite 200
Phone: (801) 257–6300
Salt Lake City, UT 84116
Fax: (801) 257–6501
United States Of America
Internet: http://www.microsoft.com
MS FACSIMILE
TRANSMITTAL FORM
TO: John Ashcroft FROM: Karen Wadsworth
Company: Attorney General
Bldg/Room:
cc: Phone: 801–257–6387
Phone:
Date & Time:
Fax: 1-202-307-1454 or 1-202-616-9937
Number of Pages: 2
Jan 22 02 12:40p p.2
Microsoft Corporation
Tel 801 257 6300
123 Wright Brothers Drive
Fax 801 257 6501
Suite 200
http://www.microsoftcom/
Salt Lake City, UT 84116
2042.S 1300 W
Woods Cross, UT 84087–2382
Microsoft
January 21, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Over the past three years, Microsoft and the Department of Justice have waged a veritable war in the federal courts. Six months of round-the-clock negotiations were necessary before a settlement could finally be reached, and I still do not think Microsoft; has been treated fairly.

Nevertheless, this has gone on long enough, and I think it's time for the Justice

Department to move on. Microsoft agreed to terms under the settlement that extend to products and procedures that the Court of Appeals did not find to be unlawful. In other words, Microsoft has been generous, and I do not believe the Department of Justice should press the issue. Microsoft has agreed, for example, to license its Windows operating system to twenty of the largest computer makers on identical terms and conditions. Microsoft has also agreed to disclose source code and interfaces to its competitors for their use. The competitors will then be able to introduce their software directly into Windows.

Microsoft is willing to settle on these terms, and I believe it is in the best public interest to do so. No further action needs to be taken on the federal level. This has gone on long enough; it's high time to move on. I urge you to support the settlement.

Sincerely,
Karen Wadsworth
Microsoft Corporation is an equal opportunity employer.

MTC–00031730

ABCO ENGINEERING CORP. ABCO ENGINEERING CORP.
801 Second Avenue S. E.
* Oelwein, Iowa 50662
* Phone 319/283–5652
* Fax 319/283–2600
January 22, 2002
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Subject: Letter of support for Microsoft Settlement
To all concerned:

The information I have read indicates the settlement is a true compromise. The prime factor is that everyone in the technology field can get back to work. Our economy depends on the free enterprise system working. Everyone benefits from the settlement of this case: the technology industry, the economy and the consumer.

Antitrust laws were designed to protect CONSUMERS. As I see it, this was specific companies in the technology industry endeavoring to protect themselves from competition. The free enterprise system allows any business to succeed or fail—and we must do that in the marketplace.

Though I fail to see the basis for the litigation, I do commend the Court for the settlement proffered.

May God save us from destroying our nation from within!

MTC–00031731

January 15, 2002
Attorney General Ashcroft
US Department of Justice
950 Pennsylvania Ave.
Washington DC 20530
Dear Mr. Ashcroft:

This letter is so that I may go on record as supporting the settlement reached between the Microsoft Corporation and the Department of Justice. I am glad to see that the three years of litigation is over; my only hope is that there will be no further litigation against Microsoft at both the state and federal levels.

The proposed settlement has teeth, and Microsoft is not getting off as easy as I'm sure they had wished. However, the terms of the agreement are fair, and they will help the IT industry become much more competitive. Microsoft has agreed not to strike back at companies that produce, ship, or promote software that competes with Windows. The competitors will now be free to make a profit without worrying about the reprisal from Microsoft.

I am all in favor of this settlement. America's economy needs help, and this settlement is it. I hope that you can convince Tom Reilly, our State Attorney General to see that.

Sincerely,
Prank De Piano
352 Park St. Ste 205
North Reading, MA 01864

MTC–00031732

Lester Associates, Inc.
383 Main Street, Suite 202,
Chatham. NJ 07928–2100
Telephone: (973) 635–2254,
Fax: (973) 635–7449,
Email: info@lester.com
January 21,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Dear Mr. Ashcroft:

Apparently the settlement reached by the U.S. Justice Department and Microsoft has caused somewhat of an uproar among Microsoft's adversaries who unsuccessfully pushed for a break-up of the company. This is unfortunate, because the settlement addresses and resolves the issues at hand in a very fair and even-handed way for all of the parties involved. Microsoft did not need to be broken up to accomplish this objective.

An example of the settlement going a long way to "level the playing field" is Microsoft's unprecedented concession to disclose significant portions of the code for its' Windows operating system to competitors. Additionally, it has agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows. Finally, it will no longer retaliate against computer makers who ship software that competes with anything in its Windows operating system. While only one aspect of the settlement, this alone should make Microsoft's competition very happy, as it will make things easier for them to appropriate ideas without actually having to work harder.

Innovation and advancement suffered as a result of the lawsuit. Hopefully the settlement will be finalized soon so we can move forward again.

Sincerely,
Joseph Lester
President

MTC–00031733

FROM : Bill Riddell
FAX NO. : 831 392 1744
Jan. 22 2002 12:02 P1
—L. W. (Bill) Riddell, Consultant—
6 Osio Way—
Del Rey Oaks, CA 93940–55
10—Ph. & FAX 831–392–1744
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

I am writing this letter to express my opinions about the settlement that was reached last November between Microsoft and the Department of Justice. I am in favor of this agreement because it brings an end to the three years of litigation that have been plaguing Microsoft, and hampering innovation in the entire IT industry.

Microsoft did not get off easy in the settlement, and they have had restrictions and obligations placed on them that were never even an issue in the initial suit. They have agreed to turn over, to their competitors, interfaces that are internal to the Windows operating system, as well as coding in Windows that is used to communicate with other software. These terms go a little far, but what is done is done. We now need to put all of this behind us and move on.

Although I don't feel this case should ever have begun in the first place, I support the settlement since it squashes the litigation that has been hampering the technology industry for years now. The proposed agreement between Microsoft and the Department of Justice must be approved as soon as possible.

Sincerely,
Lawrence Riddell
Phone 831–392–1744

MTC–00031734

KARL.SIMONE.WOLFS
JAN—22–2002 04:54 PM
727 796 5736 P.01
To: (202) 307–1454 or (202) 616–9937
Mr. and Mrs. Karl E.Wolfs
2645 Prisco Dr.
Clearwater, FL 33761–3823
DEPARTMENT OF JUSTICE 1/22/02
(727) 796–5736
ATTN. Ms Renata B. Hesse:
Re: Microsoft

Please advise the Attorney-General to accept the Microsoft offer and settle the case. I think $35 million is enough money—do not carry on case at more expense to us taxpayers.

Sincerely,
Karl Wolfs

MTC–00031735

Marcus Dixon
3 Ridgewood Road
Glen Rock, PA 17327–9794
January 22, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
Dear Mr. Ashcroft:

I am happy to hear that the Department of Justice has ended its three- year antitrust lawsuit against Microsoft with a strong and binding agreement. It will most certainly have profound implications for all software publishers, the rest of the American

Information Technology industry and consumers. Under the agreement, computer manufacturers were granted new rights to configure systems with access to various Windows features. Microsoft must also design future versions of Windows to make it easier to install non-Microsoft software and to disclose information about certain internal interfaces in Windows.

The government even went so far as to create an ongoing technical oversight committee to review Microsoft software codes and books, and to test Microsoft compliance to ensure that Microsoft abides by the agreement. What more could Microsoft's competitors want? Maybe a front door key to the corporate headquarters would suffice them! America's economy needs a break. This American company, Microsoft, with its world-renowned success, affects a big part of America's economy. I hope never to see another federal government lawsuit against Microsoft beyond this settlement.

Sincerely,
Marcus Dixon
cc: Senator Rick Santorum

MTC-00031736

Carol Trasport
138 Lake Ring Drive SE
Winter Haven, FL 33884-1436
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement issue. I feel that the settlement that was reached in November is fair and reasonable, and I am anxious to see this dispute resolved. Microsoft is a great company that offers quality products to consumers. As a consumer, I do not want to feel adverse effects because of this costly litigation battle.

Microsoft has agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit, for the sake of ending the court battle. Noteworthy provisions among the many Microsoft has agreed to include: licensing its Windows operating system products to the 20 largest computer makers on identical terms and conditions (including price), thus removing Microsoft's leverage to obtain favorable treatment; and revealing internal information about Windows to competitors, thus helping rival companies write software that works well with Windows.

The settlement is comprehensive and appropriately addresses the issues of underlying the lawsuit. By removing the legal cloud hanging over Microsoft and the industry that depends on it, this settlement will benefit America's economy. Please support it.

Sincerely,
Carol Trasport

MTC-00031737

State of New Hampshire
HOUSE OF REPRESENTATIVE
CONCORD
January 8, 2002
Rep. Marc Pappas
(603)669-6188
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse,

Please accept this letter as public comment on the case of U.S. v. Microsoft. Although I am unsure of all of the proceedings and technicalities of the decision, I have followed the process enough to know that too much of the Federal government's time has already been spent on this case.

Millions of taxpayer dollars have been spent prosecuting Microsoft and arriving at this decision. Many people have worked diligently on both sides of the case. These people should now spend their time working important problems, investigating harmful companies, not those who benefit consumers.

With war being waged and the economy being so uncertain America needs leaders in all areas, especially technology and computer science. Microsoft is one of these leaders and has accomplished tremendous advances in the past several years. By tying Microsoft up in the courts, or worse, actually punishing them further, the government would only serve to limit technological pursuits and spend taxpayer money.

I have used Microsoft's software and find it the best in the industry. As with any product and/or service improvements are necessary but, I believe that Microsoft attempts these improvements on a regular and timely basis and that further improvements in the computer and technology industry will be enhanced by the regulations of the decision.

Sincerely,
Marc Pappas

MTC-00031738

Pat and Kristin Weeks
Duncanson
Fax 507-524-3163
Phone 507-524-3797
facsimile transmittal
To: Renata Hesse
Fax: 202-616-9937
From: Kristin W. Ducanson
Date:
Re: Microsoft Pages: 2
cc:
Renata B.Hesse
Antitrust Division
U.S.Dept.of Justice
601 D. Street NW
suite 1200
Washington DC 20530-0001

Dear Ms.Hesse

I wanted to take this opportunity to encourage the Dept. of Justice to finalize the Microsoft settlement as soon as possible.

As the mother of four children, farmer and small business owner the recent events of our country have made me take pause to examine the role of our taxpayer dollars in the current United States situation. The lawsuit against Microsoft in nine states and at the federal level has used enough taxpayer dollars found out information it is time to settle and use working Americans dollars in a much wiser manner.

I support the settlement and hope that the Justice Department moves quickly to put an end to this matter.

Thank you for your time.
Kristin Weeks Duncanson
57746 Hwy. 30
Mapleton, MN 56065
507-524-3797
507-524-3163

MTC-00031739

To: Ms. Renata Hesse
Fax #: 1-202-616-9937
From: Phillip W. De Vous
Date: January 22, 2002
Total number of pages (including covet sheet):3 pages

Dear Ms. Hesse:

In line with the provisions for public comment provided for in the Tunney Act, I would like to offer a few comments from the Acton Institute concerning the Microsoft settlement.

I appreciate your time and consideration in reviewing the attached letter. Should you have any questions, please do not hesitate to contact me at (616) 454-3080 or at pdevous@acton.org.

Yours truly,
Phillip W. De Vous
Public Policy Manager
Acton Institute for the Study of Religion and Liberty
161 Ottawa NW, Suite 301,
Grand Rapids, Michigan 49503
Phone: (616) 454-3080
* Fax: (616) 454-9454
January 10,2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D. Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Under the provisions contained in the Tunney Act providing for public comment on the Final Judgment Stipulation and Competitive Impact Statement in the case of United States vs. Microsoft, I am pleased to offer some comments on behalf of the Acton Institute for the Study of Religion and Liberty concerning this important settlement. The work of the Department of Justice in soliciting a wide and varied consultation in this most important legal matter is greatly appreciated.

The primary goal of antitrust law and legislation is to protect consumer interests, in attempting to assure that no one corporation illegally or unethically dominates the market choices that consumers are able to make. In a society of free and open markets the consumer is the primary arbiter of what products and services are chosen and, ultimately, of which businesses remain profitable and viable. In the case of Microsoft, consumers have consistently chosen Microsoft products over those offered by Microsoft's competitors.

As a result of the information communicated by consumer preference, it seems that the Department of Justice has failed to show in the case of United States vs. Microsoft the harm perpetrated on the consumer, thus undermining the very purpose of antitrust laws designed for the protection of consumer interests. Rather, it seems that powerful competing interests have decided to take the battle for market share out of the free and open marketplace and into the courtroom. This battle for market share is most appropriately decided by the free choice of the consumer, not by judicial fiat.

This lawsuit and the pending settlement if an example of a troublesome tendency of the government to meddle in the processes of the free market. Furthermore, it seems that a regime of increased government regulation on the technology industry will be the inevitable result of this legal settlement. Innovation, creativity, and a level of high risk are the hallmarks of the technological revolution that has marked our nation in the last two decades. Entrepreneurs in this industry know from the outset that the level of risk undertaken and endured in the technology sector is a phenomenal one. Given the fast pace of technological innovation and the need to stay abreast of these innovations, the last thing that should occur in the technology industry is a regime of increased regulation. The proposed independent Technical Committee (TC), which would oversee and evaluate Microsoft's compliance with the settlement terms, is an excellent example of burdensome government intrusion into an industry that requires maximum freedom to innovate and to be creative. This committee's authority to hire unlimited staff, its on-site location at the Microsoft campus and its costs being entirely at Microsoft's expense is an unprecedented and unnecessary enforcement mechanism. Furthermore, it is my opinion that this committee constitutes a completely illegitimate intrusion of the government into the workings of private industry and, in effect, will serve to give Microsoft's competitors an unfair innovative advantage in the marketplace, as they will not be subject to this suffocating regulatory burden.

The final aspect I would like to comment upon, concerning the settlement of the United States vs. Microsoft, concerns the issue of intellectual property rights. As part of the settlement, Microsoft is forced to disclose the proprietary codes and other technical information that enables any Widows operating system to communicate with Microsoft servers and middleware products. These code's and technical information are the result of the research and development conducted by Microsoft. Microsoft alone has incurred the expense and risk associated with the development of these operating systems and middleware products. To set aside Microsoft's right to protect and profit from the product of its labor sets a dangerous precedent for all industries that rely on intellectual property derived from costly research and development. Unfortunately, one serious unintended effect of the forced licensing of Microsoft intellectual property will serve to destabilize the environment in which research and development occurs. By lessening the protections surrounding proprietary information obtained through costly research and development, further technological innovations simply become too risky to undertake, as it becomes unclear whether such costs can be recovered in the marketplace. Such a move will cause great harm to consumers, effectively blocking their demand for further and more advanced innovation in the technology market.

I appreciate the opportunity to offer some reflections on just a few of the matters contained in this multi-faceted settlement. Should I or the Acton Institute be of any further assistance in this matter, please do not hesitate to contact me. I may be reached at (616) 454–3080 or at pdevous@acton.org.

Yours truly,
Phillip W. De Vous
Public Policy Manager

MTC–00031740

SCHOOL BOARD
OF THE
CITY OF RICHMOND
301 NORTH NINTH STREET
RIXHMOND, VA 23219–1927
Telephone: (804)780–7714
Fax: (804)780–8133
MARK E. EMBLIDGE
DISTRICT TWO
SCHOOL BOARD CHAIRMAN
(line illegible)
VIRGINIA LITERACY FOUNDATION
700 EAST MAIN STREET, SUITE 1605
RICHMOND, VA 23219
Office: (804)225–8777
Home: (804)358–8775
Fax: (804)225–1859
January 18, 2002
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Sreet NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Over the past several months I have advocated for an end to the Microsoft case. I have written several letters on this subject to various officials. I repeatedly have said that the devastating events of September 11 further damaged our already weakened economy and that the technology sector has been having a particularly difficult time.

I now understand that a settlement is in the works. The summary I have looked at has particulars that cover a gamut of issues from uniform pricing to a redesign of Windows, to intellectual property rights, to a compliance committee. All of these elements contribute to a strong agreement that makes me hopeful that the end is in sight. With our economy showing tremendous weakness, we need to do everything we can to encourage new products being brought to the market to stimulate consumer spending. Everyone involved in this case needs to get out of the courtroom and back to work.

I thank you for the opportunity to express my views.

Sincerely yours,
ss

MTC–00031741

PETRULAKIS JENSEN & FRIEDRICH, LLP
ATTORNEYS AT LAW
FACSIMILE TRANSMITTAL SHEET
TO: Renata Hesse
FROM: George A. Petrulakis
COMPANY: Antitrust Division, Department of Justice
DATE: 01/22/02
FAX NUMBER: (202) 616–9937
1130–12TH STREET, SUITE B
POST OFFICE BOX 92
MODESTO, CALIFORNIA 95353–0092
TEL: (209) 522–0500
FAX: (209) 522–0700
MAILING ADDRESS:
POST OFFICE BOX 98
MODESTO, CA 95354–0098
PJF@PJFLAW.COM
CERTIFIED SPECIALIST, ESTATE PLANNING,
TRUST AND PROBATE LAW, STATE BAR OF
CALIFORNIA OF LEGAL BOARD SPECIALIZATION
GEORGE A. PETRULAKIS
JUOY A. JENSEN
MATTHEW J. FRIEDRICK
TED M. CAORAL
January 22,2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
VIA FACSIMILE
(202) 616–9937

Dear Ms. Hesse:

I encourage the Unites States Federal Court to approve of the consent decree proposed in the case of US v. Microsoft. I do not agree with spending another tax payer dollar on this case. As a community activist and community columnist who cares about issues, I pay close attention to the wasteful spending which goes on at every level of government. I have read on the Citizens Against Government Waste website about all the money which has been spent on the Microsoft case and am shocked. This case has accomplished very little good for our country.

This is not a time for wasteful spending. Billions are being spent on the war against terrorism. The recession and important tax cuts have greatly reduced the amount of incoming revenue going into the federal government. We should not even consider frivolous spending like US v. Microsoft when there is talk of spending social security receipts to cover the cost of running the government.

This is a strong and positive settlement. Please approve of it and put an end to the wasteful spending.

Sincerely,
George A. Petrulakis, Attorney at Law
Petrulakis, Jensen and Friedrich

MTC–00031742

FROM: ANTHONY P. CAPONE
PHONE NO. : 412 833 4451
3982 Mimosa Drive
Bethel Park, Pennsylvania 15102
January 9,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to use this opportunity to give my views on the settlement that was recently concluded between Microsoft and the Justice Department. I believe this settlement is fair and should implemented as soon as the comment period ends.

Microsoft has agreed to design future versions of Windows that will include a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. With this mechanism, consumers will have the freedom to choose to change their computer's configuration at any time. So if consumers do not like the products made by Microsoft, they will be able to make their feelings known through their actions.

Hopefully with your lead in support of concluding this case, the nine states that have not joined the settlement will change their positions. These states could make better use of their resources, just like the federal government, in settling this case as quickly as possible. Thank you for this opportunity to make my feelings known.

Sincerely,
Anthony Capone
cc: Senator Rick Santorum

MTC-00031743

THE IVERS COMPANY
Providing Financial Services Since 1974
Henry L. Ivers
Teresa Pinkert, Esquire
73 Puritan Road
Swampscott, Massachusetts 01907
(781)596–0991
FAX# (781)–592–7161
FAX COVER SHEET
FAX# 1–202–616–9937
DATE: 1/22/02
TO: Microsoft Settlement
TIME:
FROM: Henry
NO.OF PAGES: 1 Incl. Cover
RE:

DEAR

These 9 Attorney Generals have used the gov't + now they are using the court to further the agenda of businesses that are located in their states. If the truth were known about their political agendas + financial interest it would make Microsoft seem like choir boys, who just work night + day to make what is a great product and have at times tried to market it a bit to aggressively. Okay they have been slapped on the hands + somewhat constrained. To continue further brings the consumer, the economy, + the country no short or long term benefit + its time to move on and not to be manipulated by these 9 states.

MTC-00031744

SENT BY: GEMPLEX;
8708 Snowhill Court
Potomac Maryland 20854
Date: JAN–22–02
To: Attorney General John Ashcroft
U.S. Department of Justice
Phone Number: 7036107280
Fax Number: (202) 307–1454 or (202) 616–9937
From: Gian Dilawari
Phone Number: (301)299–3363

Regards,
Gian Dialwari

VIA FACSIMILE
Attorney General John Aschroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my concern regarding the status of the Microsoft settlement. We have been through a lot, but now it is time to move on. One area in which we need to move forward is the Department of Justice and Microsoft settlement. The case aaginst Microsoft was finally resolved after three long years of investigation and litigation. Microsoft agreed to a number of demands imposed by the Department of Justice, which has opened up the firm to non-Microsoft products. Microsoft has also agreed to terms which were not even part of the original lawsuit. I believe it is best for our country and economy if we let the current settlement stand. I say this because Microsoft is a very integral part of our country's economy. As CEO of Microsoft, Bill Gates made the technology revolution, standardizing computer software and bringing it down to the average consumer. While Microsoft might have been too aggressive in some of his business practices, Microsoft has been disciplined, and no future good can come of rehashing the settlement further.

I urge you to give your full suppport to ensuring that the settlement remains as is, and allow us to get back to more important issues.

Sincerely,
Gian Dilawari

MTC-00031745

JAN–22–2002 16:18
403 Sandalwood Drive
Evansville, IN 47715
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to voice my support for the settlement that Microsoft reached with Department of Justice in the anti-trust lawsuit against Microsoft. Microsoft is a good company whose success should not be punished. I am glad the matter was resolved and hopeful that no further court action will be taken.

Microsoft made many concessions to bring this case to settlement; some items that I do not believe were necessary. The settlement calls for the establishment of a three-person technical oversight committee that will watch over Microsoft's business operations. Any company can lodge a complaint against Microsoft and the committee will handle the resolution of the dispute. This will allow competition in the technology industry and provide consumers with better choices in the marketplace, which is certainly in the best interest of the public. Microsoft is a great company. They are successful today because of innovative ideas and smart business decisions. It is time to let the people at Microsoft get back to the business of shaping the technology industry. I would like to see the lawsuit settled and bring an end to this costly litigation.

Sincerely,
Mike Schulz

MTC-00031746

2115 Brookhust Avenue
Columbus, OH 43229–1585
January 14, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing to urge you to settle the antitrust case against Microsoft. I feel that the case has been going on long enough, and that the terms of the settlement are fair.

Competitors of Microsoft will gain much from the settlement. The internal interface of Microsoft's famous Windows will be opened up to free, gratis. They will be able to license other intellectual property of Microsoft on reasonable and non-discriminatory terms. They will be able to complain to a Technical Committee, which will oversee Microsoft's conduct, and to file a complaint in court if they are not satisfied. I do not see how Microsoft's competitor could have any reason to complain about this settlement.

Please finalize the settlement agreement between the Justice Department and Microsoft. Thank you for your attention.

Sincerely,
Michael Adams

MTC-00031747

Sent By: LEGENDARY SYSTEMS; 5105870901; Jan-22-02 17:04;
Legendary Systems
January 10,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft,

With regard to the lawsuit and subsequent settlement between Microsoft and the government, I am writing to express my full support of the settlement and the necessity for its speedy finalization.

I operate an e-commerce consulting company that utilizes and depends on Microsoft software. We use Microsoft products by choice, simply because they are the best—not because anyone forced us to or because Microsoft is a Monopoly that leaves us no other choices. Microsoft was the first to develop and successfully market a seamless operating system and that is why they are the industry leader. They should not be penalized for this.

I understand the settlement is encountering some trouble because certain adversaries of Microsoft, who opted to not join in on the settlement with everyone else, are attempting to derail it. If they are successful in their attempt, it will be a major set back for the entire technology industry. Continuation of this litigation will only serve to hinder Microsoft's productivity. It will cause collateral damage throughout the entire industry. The settlement will ensure more accessible software and better business practices, enforced by a new Technical Committee.

Microsoft must be allowed to settle this case as it and most of its opponents want to. It is absolutely necessary for the sake of innovation.

Sincerely,
Tony Lee
President

300 Frank H. Ogawa Plaza. Suite 350
Oakland. CA 94612
Telephone:510.587.0900
Facsimile:
510.587.0901
www.Legendary.com

MTC-00031748

01/22/02 19:50 FAX 8139755039
UNIVERSITY VILL 01
U.S. Department of Justice
January 22,2002
Attention: of Ms. Renata B. Hesse

Please put an end to the government's long running legal assualt on Microsoft, which has cost the taxpayers more than $35 million and undermined one of the primary engines of America's economic growth.

The proposed settlement is fair and acceptable.

David Knight
12401 N. 22nd St. Apt. D 607
Tampa, Fl. 33612-3108
FAX number
(202) 307-1454 or
(202) 616-9937

MTC-00031749

Tuesday, January 22, 2002 7:O1 PM 1-516-887-3184 p.01
Attention: Mr. John Ashcroft
Date: 1/22/02
Company: Number of Pages: 2
Fax Number: 1202-307-1454
Voice Number:
From: Jean Donohue
Company:
Fax Number: 1-516-887-3184
Voice Number:
Subject:
Comments:
Tuesday, January 22, 2002 7:O1 PM 1-516-887-3184 p.02
Jean M. Donohue
26 Irving Place
Lynbrook, NY 11563
January 22,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement issue. I support the settlement reached between Microsoft and the government, and I support this company in this three-year-long debate. I hope this litigation against Microsoft can end with the finalization of this settlement.

This settlement is a complete agreement, which Microsoft has agreed to fully uphold. Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers and has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows.

Please support this settlement. The provisions included in this agreement are fair and will benefit consumers and the economy. Thank you for your time.

Sincerely,
Jean M Donohue

MTC-00031750

FROM : QPINKA ENTERPRISES FAX NO. : 520 625 5645 Jan. 23 2002 04:38AM P1
1-20-02
James & Jean Spinka
493 Paseo Chuparosas
Green Valley, AZ 8561
ATTN:
DOJ
Ms. Renata B. Hesse
WE SUPPORT THE MICROSOFT SETTLEMENT
TO DOJ
Jean & Jim Spinker

MTC-00031751

JAN-22-2002 03:30 PM NUEVO MARKET INC 9099281197 P.01
January 22,2002
Ms. Renata B. Hesse
(202) 307-1454
Department Of Justice

Dear Ms. Renata B. Hesse:

Microsoft is doing an excellent job. The lawsuite should never have been started. It was a total waste of taxpayer funds. There has been a settlement agreement. Hold to the agreement.

Sincerely,
Floyd E. Brooks
P. O. Box 54
Perris CA. 92572

MTC-00031752

819 Harmony Lane
Mandeville, LA 70471
January 21, 2002
Attorney General John Ashcroft
Department of Justice
Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a supporter and avid user of Microsoft products, I would like to see this antitrust case resolved as soon as possible. I feel that the settlement reached between your office and

Microsoft was fair and reasonable, and that it was extensive enough to correct not only the current problems, but future problems as well. No more action is necessary at the federal level, and would only interrupt the ongoing negotiations between Microsoft and nine states. Microsoft has agreed to change the way it develops, licenses, and markets its products, and has granted broad new rights to software engineers and computer makers. Under the terms of the settlement, they can configure Windows so as to promote non-Microsoft programs that directly compete with the programs already included within Windows Also, Microsoft will document, for use by its competitors, various interfaces in its Windows operating system.

I fear that the states that would continue with litigation are more concerned with return on investment than with consumer protection. I believe that if this case is judged by its merits, then it is easy to see that the problems that brought the lawsuits have been addressed. A technical oversight committee will ensure that Microsoft complies with the terms of the settlement, and the competition will be allowed to sue Microsoft if they feel that they have been treated unfairly. These provisions should avoid future wasting of federal funds, and should keep the complaints sincere. Just as Microsoft is being kept in check, the companies that wish to take Microsoft's market share should be carefully watched. Thank you.

Sincerely,
Daniel Dryer
Jan 22 02 04:56p Fogarty Dryer 985-624-5026 p.1

MTC-00031753

01/22/02 17:58 FAX 6107933607 BARRON 01
Patrick Baron
20 McMullan Farm Lane
West Chester, PA 19382
January 17,2002
AG John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

As a concerned citizen of this great nation, I am writing to give my support to the settlement between Microsoft and the Justice Department. This case has been in litigation for three years now. It is time to bring closure to this case, since there is no monopoly to begin with. Microsoft just develops better products then its competitors.

However, I feel that the provisions of the settlement are both fair and reasonable. For instance, Microsoft has agreed to allow computer makers to remove the means by which consumers access various features of Windows, especially sophisticated software like Microsoft's Internet Explorer web browser, Windows Media Player, and Windows Messenger. They can then replace them with similar software like Netscape and AOL IM.

Furthermore, Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system. I ask that the government stop continued legal action against Microsoft.

Sincerely,
Patrick Barron
Cc: Sen. Santorum

MTC-00031754

06/30/1995 01:37 12094774094 GEORGIA PAGE 01
1-22-02
DOJ
Attn: Renata B. Hesse
Re: Microsoft As a taxpayer and consumer I support the Microsoft settlement.
Thank You.
Georgia Schrum
Georgia Schrum
10550 Davis Rd.
Stockton, CA 95209

MTC-00031755

JAN-22-2002 05:24 PM ALLEN SCHAARSCHMIDT 1 610 515 1337 P.01
Allen Schaarschmidt
910 Gall Road
Easton, PA 18040-6522
January 20,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I would like to go on record as supporting the settlement that was reached last November between Microsoft and the Department of Justice. It is about time that the antitrust lawsuit that was filed three years ago has finally been extinguished, and I hope that the nine remaining states that are continuing will follow the lead of the Department of Justice.

The court costs incurred by the Department Justice and the Microsoft Corporation are higher than the GDP of some small countries. Too much time and money have been wasted on this matter; worsening the recession. Microsoft has made a concession that is a first in an antitrust settlement: the sharing of source code and interfaces that are internal to their software with competitors for instance. Additionally, an oversight committee set up by the government will constantly monitor Microsoft. Everything that was needed is now done; let us put this issue behind us and move on.

I support the settlement that has been reached between the Microsoft Corporation and the Department of Justice.

Sincerely,
Allen Schaarschmidt
cc: Senator Rick Santorum

MTC-00031756

JAN 22 "02 05:39PM LINCOLN LAB GRP 94 P.1
January 19,2002
159 Elsinore Street #8
Concord, MA 01742
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing regarding the settlement that was reached between Microsoft and the Department of Justice. I support the settlement, because the terms are both fair and reasonable for everyone involved.

Microsoft will be making a number of specific changes to their products, and business practices as well. For example, Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price. Also, they have agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products.

Furthermore, Microsoft has also agreed to the establishment of a three person technical committee that will monitor Microsoft's compliance with the settlement and assist with dispute resolution. I urge the government to terminate their efforts of further prosecution against Microsoft.

Sincerely,
Bob Stock
cc: Representative Marty Meehan

MTC-00031757

JAN-23-2002 03:12PM FROM-K TUCKER CARMEL T-956 P 002/002 F-066
Mr. Renata D. Hesse
(202) 307-1454
January 22, 2002
Dept. of Justice,

It is imperative that you stop the exorbitant government waste of money being spent on the Microsoft lawsuit. As a taxpayer and consumer I support the Microsoft settlement.

Anna L. Loomis
2458 N. Willow Way
Indianapolis, IN
46268-4247

MTC-00031758

Jan 22 02 06:08p lMJOGWDGDODGDOD 6504934303
7420 E Pontebella Drive
Scottsdale, AZ 85262-2727
January 21,2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-000 1

Dear Mr. Ashcroft:

The antitrust case settlement reflects the efforts of intense lobbying efforts on the part of Microsoft's competitors and the lack of concern for the public's best interests from the politicians. The antitrust case has been ridiculous from the beginning. Microsoft has been the leading innovator of technology over the last decade and became successful by developing the best product, not by having monopolistic tendencies.

The terms of the settlement force Microsoft to increase their cooperation with competitors, give up technological secrets to competitors, not enter in to third party agreements for exclusive distribution rights, nor retaliate against competitors who promote or develop new products, and grant broad new rights to computer makers to configure windows so that competitors can more easily promote their own products. These concessions and more make up very harsh terms for a company that played by the rules our capitalist society laid down for it.

Although I think the settlement is flawed, I must support its implementation since I think that further litigation would be even more detrimental to our nation's IT Sector and economy. I urge your office to support the settlement and to what you can to get the nine states that currently want to continue this ludicrous dispute to do so as well.

Sincerely,
ss

MTC-00031759

8730 Lakeshore Lakeshore Drive
Pleasant Prairie, WI 53158
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

I am writing to express my disapproval of further litigation being pursued against Microsoft on any level, federal or otherwise.

After years of legal disputes between Microsoft and the government, a settlement was reached. The settlement seems to be very realistic and was arrived at after intensive negotiations. Microsoft will now share information with its competitors, which will allow them to place their own programs on the Windows system. Additionally Microsoft will license Windows out to the largest computer companies in the U.S. on identical terms, so that there is no possibility of favoritism.

This issue should now be over and Microsoft and the government should now be able to move on and concentrate on the future of our nation, both economically and technologically. I support the settlement, and look forward to the end of this lawsuit.

Sincerely,
Fred White
Jan 22 02 05:14p White Construction cons .414-694-7873 p.1

MTC-00031760

Lakeside Water District
11329 El Nopal
Lakeside, Ca. 92040
January 17,2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
VIA FACSIMILE
(202) 616-9937

Dear Ms. Hesse:

US v. Microsoft is a complex case which I have spent some time trying to learn about. In situations like these, I often defer to individuals more learned than I. I am writing the courts to ensure you are aware of the opinions of Mr. James DeLong, a senior fellow at the Competitive Enterprise Institute. Mr. DeLong's argument was paraphrased in a recent article in the Orange County Register. I would like to share with the courts some of what he said.

About the settlement, Mr. DeLong stated "Most of all it gets the case done without undue damage". According to Mr. DeLong, this lawsuit made no sense from the beginning. It focused on Microsoft's monopoly as it relates to processors; specifically, by running only on Intel chips. Yet, Macintosh runs on Motorola chips and is gaining market share each month. Mr. DeLong goes on to say that the real issue is the Internet. And, as we a11 know, Microsoft has nowhere near the Internet dominance of companies like America Online or Yahoo.

The point of all this is-important people like James DeLong not only support the settlement but recognize the absurdity of the case itself. I hope the courts will approve the settlement and end this ridiculous case.

Sincerely,
Frank Hilliker, Board Member
Lakeside Water District

MTC-00031761

JAN-22-02 17:57 FROM:FWMBCC
FORT WORTH
METROPOLITAN
BLACK
CHAMBER OF COMMERCE
January 22, 2002
Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

The Proposed Final Judgment-or settlement-agreed upon on November 6, 2001 between Microsoft Corporation and the U.S. Department of Justice should be accepted by the U.S. District Court as soon as possible. Civil Action 98-1232, The United States of American vs. Microsoft Corporation, reads like a litany of Microsoft successes not their excesses.

Microsoft products have cornered much of the market because they are the best available. The proposed settlement doesn't lessen Microsoft's consumer appeal, but it does allow consumers added flexibility in use of competitor software.

The settlement needs to be ratified so the high tech industry can get back to competing in the market. Please end this case and let the market continue to work.

Sincerely,
Devoyd Jennings
President & CEO
1150 S. Freeway, Ste. 211, Fort Worth, Texas 76104 (817) 871–6538 Fax (817) 332–6438

MTC–00031762

From: Sunil Arora
To: Attorney General
Date: 1/22/02 Time: 5:18:26 PM Page 1 of 1
RELIANCE TEHNOLOGIES, INC.
INFROMATION TECHNOLOGY DEVELOPMENT, CONSULTING MANAGEMENT
January 16, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Microsoft could never have achieved its level of success had it not been responsible for developing popular and easy to use software. This lawsuit seems to miss this point and, in essence, penalizes Microsoft for its successes. Now that there is a federal settlement being debated, I wanted to voice my support and urge you to convince Connecticut AG Richard Blumenthal to change his ways and support this wise settlement.

I am relieved that the litigation has ended with a settlement such as this. Even though some of the terms go well beyond the intent of the suit, it is sufficiently fair for both sides to be satisfied. I am nervous about some of the talk of giving out parts of Microsoft's intellectual property, but the bans on retaliatory behavior are palatable, and if they represent a bona fides effort on Microsoft's part, they may be quite beneficial in the long run.

I sincerely hope that we lay this whole sad process against Microsoft to rest.

Yours truly,
Sunil Kumar Arora
Account Manager
RELIANCE TECHNOLOGIES, INC
25 THIRD STREET, 3rd FLOOR
STAMFORD CONNECTICUTUT 06905.
PH: (203) 358–9562, FAX (203) 325–1521
EMAIL: RTIINFO@RELIANCE TECHNOLOGIES.COM
www. RELIANCE TECHNOLOGIES.COM
Microsoft
CERTIFIED A

MTC–00031763

FROM : FEY & GOMEZ, INC. FAX NO. : 515–254–1836 Jan. 22 2002 04:32PM P1
FEY & GOMEZ, INC.
GOVERNMENTAL POLICY SERVICES
5608 Kensington Circle
Johnston, Iowa 501131–1295
Affiliated with FEY, HAUS & ST. CLAIR
January 22,2002
Judge Kolar Kottely
c/o Renata Hesse
Trial Attorney—Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Judge Kottely,

I'm sure you've received a lot of mail on the Microsoft settlement and you've been very busy since the agreement was reached. I just wanted to drop a quick note to let you know that I support the Microsoft settlement. I believe it is a fair and just resolution to a long, drawn-out, and complicated problem.

Why would anyone want to punish someone for being successful? I gather that a lot of heat has been generated against Microsoft because of jealous competitors. Well, this settlement now incorporates a new mechanism that makes it easier for software companies to promote non-Microsoft software into Windows.

The settlement is good and no one was left without a fair deal.

Get this over with, please!

Sincerely,
Thomas H. Fey

MTC–00031764

01/22/02 05:26P P.OO1
USDLA
UNITED STATES DISTANCE LEARNING ASSOCIATION
FACSIMILE TRANSMITTAL SHEET
To: Renata B. Hesse
FROM: John G. Flores, Ph.D., Executive Director
FAX NUMBER: 202.307.1454
DATE: January 22,2002
COMPANY: Antitrust Dept. US Dept of Justice
TOTAL NO. OF PAGES INCLUDING COVER: 3
PHONE NUMBER
SENDER'S FAX NUMBER: 781.453.2389
RE: The Microsoft Settlement
SENDER'S PHONE NUMBER: 800.275.5162
140 GOULD STREET, SUITE 2008
NEEDHAM MA 02494
PHONE: 800.275.5162 o FAX: 781.453.2389
01/22/02 O5:26P P.002
USDLA
UNITED STATES DISTANCE LEARNING ASSOCIATION
January 22, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
suite 1200
Washington, DC 20530–0001
Re: The Microsoft Settlement

I am writing to you today on behalf of the United States Distance Learning Association (USDLA). Our mission is to provide national leadership in the field of distance learning, specifically to:

* Advocate and promote the use of distance learning;

* Provide current information on distance learning;

* Represent the distance learning community before government policy and regulatory bodies;

* Serve and support the state, consortium and individual organizations that belong to USDLA;

* Provide annual recognition and awards of outstanding achievements in distance learning;

* Serve as a catalyst for the formation of partnerships among education, business, healthcare, and government;

* Achieve a global leadership" role through liaisons with international organizations;

* Promote equity and access to lifelong learning through distance learning; and,

* Promote diversity in our organization and its programs.

I approach the issue of Microsoft's anti-competitive nature from the perspective of one whose goal it is to expand learning and allow anyone, anywhere, regardless of his or her computer system, to participate in the educational system. Hence, openness and supporting methods to competition are extremely important goals. If a potential distance learner has software that, for whatever reason, makes it impossible to communicate with other, more "popular" software, he or she will be shut out from the learning network.

Accordingly, the USDLA supports the remedies that will maximize consumer choice, foster competition and promote interoperability of software products with multiple operating systems, such as the following:

* Microsoft should offer a basic version of Windows to personal computer makers—one that is unencumbered with Microsoft "add-ons." For example, this basic version would make optional any Internet access software, media players, or email applications.

* The software code for Internet Explorer should be made available to other software developers, preventing Microsoft from monopolizing Internet access.

* Some means, such as the suggested auctioning of licenses, should be developed to allow competitors to produce versions of the office software suite to run on non-Microsoft operating systems. In addition, interoperability should be enhanced by the inclusion of "middleware" in Microsoft's Windows XP operating system.

The USDLA supports Massachusetts Attorney General Tom Reilly in his efforts to restore competition in the PC operating system market and curb Microsoft's unlawful practices. As the Attorney General states in a recent article in the Boston Globe: "The Microsoft case always has been about simple, American principles: opportunity, competition, and fair play. Our economy is built on those principles. The future of high technology in Massachusetts demands that we fight for them."

Similarly, we must fight to preserve the right to lifelong learning for all Americans. Doing so requires that we reject the Microsoft settlement as it stands and seek a more effective and enforceable agreement.

Sincerely,
Dr. John G. Flores
Executive Director
jflores@usdia.org-

MTC–00031765

01/22/02 TUE 18:07 FAX 301 840 1591

ALDEBARON FINANCIAL SOLU 001
January 21, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I would like to take this opportunity to give you my thoughts on the Microsoft Case. I am pleased to see that an acceptable settlement has finally been reached in this case. I also feel that is truly in the best interest of our country and our economy that the settlement be accepted as soon as possible. The settlement is fair and will restore fair competition to the computer industry.

As a software development company, we deal with Microsoft products on a regular basis. I am particularly happy to see that the settlement will allow users to remove any default Microsoft programs from Windows without having to then reinstall the entire operating system. Additionally, OEM's will now be permitted to pre-install non-Microsoft programs within Windows without fear of retaliation from Microsoft. Nor will Microsoft enter into any contracts that would force third parties to solely distribute Windows. Also, Microsoft will be sharing a great deal of their design information with their competitors, namely allowing different server systems to interoperate with Microsoft's systems.

The proposed settlement adequately addresses the issues Microsoft has been accused of, so I ask that you please accept this settlement.

Sincerely,
Chrus Brown
Aldebaron Financial Solutions
15839 Crabbs Branch Way
Rockville. MD 20855
Phone (30I)670–0858
Fax (30I) 840–1591
www. sympaq.com

MTC–00031766

FROM : ARNOLD AND BETTY CIRTIN
FAX NO. : 9163159035 Jan. 22 2002
02:06PM P1
Dr. Arnold Cirtin, CPA
Professer Emertius of Accounting
2017 Archer Circle
Rocklin, California 95765
Telephone and Fax (916) 315–9035
E-mail aclrtin@prodigy.net
January 21, 2002
Attorney General John Ashcroft
Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Attorney General Ashcroft:

I respectfully request that you approve the settlement that was reached as a result of the Microsoft litigation. This litigation has been a heavy burden on one of America's finest companies. One product alone, Windows, has enabled millions of us to productively use computers in our businesses and homes, which we would not be able to do otherwise. The settlement has dealt with the concerns of those who feel that Microsoft has unfairly dominated the market; consequently, the federal action should be brought to a close quickly. To continue this case into the future would be to place unnecessary roadblocks in the path of one of America's most innovative industry leaders.

I support the settlement and hope it is accepted as soon as possible.

Sincerely,
Arnold Cirtin, CPA, Ph.D.

MTC–00031767

From:MINIUTEMAN PRESS. 912 356 9895
01/22/2002 16: 58 #942 P .0O1/O01
January 17,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsvlvania Avenue. NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft anti-trust dispute. I support Microsoft in this dispute, and I favor the settlement reached in November. This settlement is complete and thorough, and I am anxious to see this dispute resolved permanently.

Microsoft has agreed to carry our provisions in this agreement, such as: designing future versions of Windows to provide a mechanism to make it easy for computer makers, consumers, and software developers to promote non-Microsoft software within Windows. The mechanism will make it easy to add or remove access to features built into Windows or to non-Microsoft software. Microsoft has pledged to create more opportunities for competing companies.

Microsoft is a company that delivers quality product to the marketplace. I have used Microsoft's products for years now, and I hope I will be able to enjoy these products for years to come. Please do your part to stop litigation against Microsoft. Thank you for your support.

Sincerely,
Anna Gounaris

MTC–00031768

Jan 22 02 09:26p NICOLS 1919 596 1074 p.
1
210 Robbins Road
Durham, NC 27703–9748
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

My name is Betty Nichols. I reside in Durham, North Carolina. I want to encourage the Justice Department to act on the terms of its settlement agreement with Microsoft as soon as possible.

While I do not understand every detail of the settlement agreement, I understand that Microsoft has agreed to open its systems to greater competition by allowing computer makers to offer competitive products within the Windows operating system. I also understand that Microsoft agreed to allow removal of some of its products from the Windows systems. These are significant concessions. I believe that Microsoft has gone the extra mile to settle this case, and they should be allowed to comply with the terms of the agreement rather than continue to waste time and money in court.

I would sincerely like to see this matter brought to a close as soon as possible. I appreciate your time and attention.

Sincerely,
Betty Nichols

MTC–00031769

Jan-23–02 08:37A P.01
3531 Middle Cheshire Road
Canandaigua, NY 14424
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This is to address the recent settlement between the Department of Justice and Microsoft. This agreement should stand. Enough is enough. It has gone on for three years, costing enormous amounts of time and money both to taxpayers and Microsoft. We need to put this issue behind us and move forward.

I think Microsoft has been more than fair in agreeing to the requests of the Department of Justice. Microsoft has agreed to allow computer makers to ship non-Microsoft product to a customer; Microsoft has agreed to design future versions of Windows, making it easier to promote non-Microsoft software within Windows. Microsoft has agreed to an oversight committee. This is much more than I think any of Microsoft's competitors would do. What happened to free enterprise in this free country?

I urge you to give your approval to this agreement and let us, and Microsoft, get back to business.

Sincerely,
Janice Adams

MTC–00031770

Sent, by:Thornton Jan-23–02 08:48am from
904 725 7969–202 353 8856 page 1/ 1
Fax 1–202–307–1454 or 1–202–616–9937
Subj: MICROSOFT SETTLEMENT
Date: 01/22/2002 5:25:39 PM Eastern
Standard Time
From: TomBat2
To: microsoft.atr@usdoj.gov
cc: TomBat2

Dear Sirs:

I feel strongly that Microsoft innovation in computer operating systems has been the driving force behind the rapid expansion of computers into almost every business and home. Some business practices, while structured to further the growth of their company, have not hurt the consumer. To the contrary, their continuous innovations have consistently expanded the usefulness of computers at continuously lower cost.

The antitrust suit may have had some merit relatively to their competitors but little or no value to consumers. The antitrust proceedings seem to have the tone of a vendetta rather than rational legal proceedings.

The time has come to end it.

Sincerely,
Thomas and Beverly Thornton
Jan 23, 2002

MTC–00031771

USC/Canterbury
Canterbury Consulting Group
January 21, 2002
Attorney General John Ashcroft
U.S. Department of Justice

950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

Public response is important to the settlement of the lawsuit against Microsoft. I am writing in support of this settlement. I think it is in the best interest of the industry to settle this issue and move forward to solve the economic problems that face our industry and country.

In the future I hope that all litigation brought against technology companies, including forcing companies to release source code to third party software developers, is carefully scrutinized and fair. There exists a big difference between those companies that invest tremendous resources over many years to develop unique products— and those who simply copy the work of others.

Sincerely,
Patricia Bednarik
President
USC/Canterbury Corp.
801 Compass Way, Suite 205,
Annapolis, MD 21401
410–573–2022
* 888–472–4721
* Fax 410–573–5228

USC/Canterbury Corp. is a wholly owned subsidiary of Consulting Group, Inc.

Jan 23 02 08:41a USC/Cantwrbury 410–573–5229 p.1

MTC–00031772

01/23/2002 09:37 4137743525 FRANKLIN CTY SHERIFF
160 Elm Street
Greenfield, MA 01301
January 18,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The more I read about the recent developments in the Microsoft settlement, the more I get annoyed that it is being further scrutinized. After three years of negotiating, it is clear that this sett1ement was part of a well thought out process that yielded a fair and reasonable agreement. It is time to support this and get back to business.

As our economy continues to falter, it seems more and more imperative to support our technology industry. Microsoft has obviously done so by working hard to get the IT sector back on track. By making changes in licensing, marketing and even design, Microsoft has taken a bold step toward uniting our IT sector. Also, as an anti-trust settlement first, Microsoft has agreed to disclose various interfaces that are internal to Windows" operating system products, All of this will be monitored by a committee to ensure that Microsoft follows procedure. If these concessions are not a clear signal of cooperation, I do not know what is.

I urge you to help support this more than fair agreement, by making sure that no more actions are taken against it. It is time to support our IT sector and get them back to focusing on innovation and not litigation.

Sincerely,
RussWissman

MTC–00031773

FROM : KEENER HOME & OFFICE FAX NO.. : 919 571–0802 Jan. 23 2002 08:28AM
P1
Katherine 0. Keener
2428 E. Lake Drive
Raleigh, North Carolina 27609
January 23,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing to voice my support for Microsoft in the antitrust dispute that has gone on for three years. This litigation is a waste of the government's valuable time and the financial resources of its citizens. Other matters more pertinent to the health of the national economy should be addressed.

I support the legal settlement reached in November. I believe this settlement is fair to all concerned parties and will ultimately benefit the whole economy and consumers. Further litigation will not!

This settlement wil1 also benefit the technology industry and companies attempting to compete with Microsoft. The company will start to share more information with other companies, including certain internal interfaces in Windows and protocols implemented in Windows, on reasonable and non- discriminatory terms. Microsoft has also accepted to be monitored by a technical oversight committee created by the government.

I urge you to support the settlement so Microsoft employees can fully devote their resources to performing their jobs. It is time to move on to other issues.

Thank you for your support.

Sincerely,
Katherine O. Keener

MTC–00031774

JAN -23–82 WED 6:53 STI P.01
6809 Connecticut Trail
Crystal Lake, IL 60012–3127
January 22, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I wish to express my frustration at the fact that it has taken three years for the U.S. Department of Justice to complete its antitrust lawsuit against Microsoft. My hope is that our nation's economic climate will be greatly improved from this computer giant returning its full focus back to innovation.

Microsoft has agreed to design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non- Microsoft software within Windows. This will make it easy to add or remove access to features built in to Windows or to non-Microsoft software. Consumers will have the freedom to choose to change their configuration at any time.

Microsoft does not get off easily. The settlement came after extensive negotiations with a court-appointed mediator. The parties agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit, to the benefit of Microsoft's competitors. I think Microsoft's competitor cannot complain for any valid reason.

Therefore, any further federal lawsuits against Microsoft would be considered by most to nothing more than pure harassment. Free enterprise should reign supreme in our American homeland.

Sincerely,
Linda J. Dool

MTC–00031775

Jan 23 02 08: 18a KENNA HOLMES 8137591789 P.1 V & R INSURANCE AGENCY
P.O. Box 1536
Plant City, FL. 33564–1536 * 503D Martin Luther King St.
Plant City, FL. 33566
1–813–752–2065
* Fax 813–759–1789
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 21, 2002

Dear Mr. Ashcroft:

I am writing to express my full support of the recent antitrust case settlement between Microsoft and the US Department of Justice. Microsoft has been extremely helpful to the IT sector's growth over the years. It has even been helpful in weeding out inefficient companies that were run poorly. Yes, Microsoft at times exhibited aggression, but that is what our country dictates as necessary to achieve success in a free market.

Under the terms of the settlement Microsoft will be required to tone their marketing tactics down. They have agreed to disclose technological codes and protocols that will allow competitors to develop and promote products that are compatible with Windows" operating systems. They have also agreed to design future Windows" versions so that competitors can more easily promote their own products.

Please stop opposition from further hurting our country. We want this thing to come to an end ASAP.

Sincerely,
Ray Rollyson

MTC–00031776

Jan-23–02 08:17A SHELBY LAW P.01
January 21, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Aschroft,

I am greatly pleased to hear that the Department of Justice has announced a proposed settlement for the Microsoft antitrust case. This case has been mired in court going on four years now; the settlement should be finalized so that technology providers can concentrate on IT development without the burden of further pending litigation.

This settlement ensures that Microsoft will grant competitors extensive nights to reconfigure Windows so that they can promote their own—or Microsoft's competitors"— products on Windows. This represents just one of Microsoft's many changes in it business practices, slowly agreed to over many months of negotiations with a court- appointed moderator.

With your support, I'm sure this case can be finalized soon for the good of the IT industry and the nation's economy. Thank you.

Sincerely,
Marilyn Law

MTC-00031777

JAN-23-2002 07 : 42 NORM COLONNA NAM P. 01
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am the National Sales Manager of Konica Computers. I know computers. I have tried every computer system there is: Linux, Gateway, you name it. But after many tries with other companies, I now use Microsoft exclusively because it works. Its software is superb. I can buy a Microsoft computer with the complete package, Word, Adobe Acrobat, Excel, without having to run all over the place and go through the hassle of integrating different software. I do not condone the antitrust case against Microsoft. The suit was is expensive and time consuming. Microsoft's competitors had difficulty competing in the market place, hence brought suit against the company hoping to limit Microsoft's reach.

A settlement has been reached, and I want this settlement to stand. Any further action is ridiculous and a waste of taxpayer time and money. Even the federal judge who handed down the decision knew it was time to end this suit. We could go on forever, examining every little item and accomplishing nothing except giving in to those jealous souls who wish nothing but ill for Microsoft simply because they aren't as successful, aren't as good.

I support the Microsoft settlement. Thank you.

Sincerely,
Norm Colonna
National Sales Manager

MTC-00031778

01/23/2002 00:58 425-353-7786 DE ORJG ZIMMERMAN PAGE 01
Dorothy Zimmerman
8703 54th Palce W
Mukilteo, WA 98275-3131
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

This letter is to show my support for the settlement that was reached between the Microsoft Corporation and the Justice Department, I see no reason to drag the antitrust issue out any longer than it already has been. The sooner that this settlement gets implemented, the better.

The settlement was agreed to after extensive negotiations with a court-appointed mediator. Microsoft has agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit. This was done for the sake of ending the litigation so that Microsoft could get back to producing innovative products

However, they might not be completely Microsoft's innovations anymore. The settlement requires them to turn over to their competitors data and code that are internal to the Windows operating system.

It is not fair to make a company give up their intellectual property, I support the settlement, but only because it ends the suit.

Sincerely,
Dorothy Zimmerman
425-353-7786

MTC-00031779

Jan 23 02 00:29 Bellamy (704) 554-8126 p.1
Joanne Bellamy
3919 Highview Road
Charlotte. NC 28210
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you today to express my support of the settlement reached between the Department of Justice and Microsoft. The inception of this case by the federal government marks the initial decline in the technology industries seen in recent years. Despite modest recoveries last year, the IT sector has flailed in direct relation to this litigation Process. The settlement of this case, conversely, would certainly increase confidence in the industry. Given the state of the economy at the present this would he the best path to follow at this tune.

Furthermore, the details of this settlement encourage important change in the industry as well. Microsoft has agreed to make protocols implemented in the Windows operating system products to be disclosed to its competitors. This will be available to competitors on "reasonable and non-discriminatory" grounds. Thus, competitors will now have the information necessary to develop software that is increasingly compatible with the Windows system.

Thank you so much for your concern regarding this issue.

Sincerely,
Joanne Bellamy

MTC-00031780

Jan-23-02 12:28A
Gonzalo H. Iglesias
66 Gables Boulevard
Weston, FL 33326
9543857311
gamaweb@msn.com
January 22, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft

The Justice Department and Microsoft have been tied up in a court battle for the past three years, and for the past six months, negotiations have taken place under the supervision of a court appointed mediator. Microsoft has, I think, been dealt with fairly in the settlement, and I do not believe further litigation is neccessary. Unfortunately, nine plaintiff states involved in the case do not agree. They are currently seeking to overturn the settlement and bring further suit against Microsoft. This matter has been pending for far too long, unfortunately to no one's benefit except the highly rewarded lawyers to the detriment of the consumers like myself. Therefore I feel that it is about time for the case to come to a quick conclusion. I believe Microsoft has the right to remain in control of its own software, but I believe that terms of the agreement are beneficial because they allow more freedom on the part of the user.

By comparison, I look at other major Companies Ford, Mercedes Benz, Bacardi.... etc. We could all say that these other companies hold a monopoly as well... Will all these companies be required to comply with policies being asked of Microsoft? Under the terms of the settlement, Microsoft will be required to disclose source code for use by its competitors. Microsoft has also agreed to reformat future versions of Windows so that the operating system will support non-Microsoft software. Now, computer users whose computers run on Windows will have the ability to configure Windows as they see fit. I am pleased that the suit did not result in Microsoft's division into smaller parts. and I believe that this settlement is in the best interest of both computer makers and the consumer.

Mr. Ashcroft, I do not believe further litigation IS at all necessary Such litigation will only increase not only the governments costs which in the end is the taxpayers, like myself. Pushing the issue any further would be totally counterproductive and would be, I believe, ultimately detrimental to the economy, the technology industry, and the American people. I urge you to support the settlement.

Sincerely,
Gonzalo H. Iglesias

MTC-00031781

JAN-22-2002 11:06 PM G L YOUNG 937 5488832 P.01
FAX TRANSMITTAL FROM
Gary Lee Young
3685 West Drive
Greenville, Ohio 45331
Fax: 937/548-8832
fax to DOJ
direct to Ms. Renata B. Hesse
city & state
fax# 202 307 1454
today's date 1-22-02
no. of pages including cover sheet 1
from: Gary Ser Young
comments:

I support the Immediate Settlement of the Microsoft Case

MTC-00031782

01/22/02 TUE 22:46 FAX 17622166 Rudy A. Masry 001
17 leawood Drive
Briarcliff Manor, NY 10510
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my opinions regarding the Microsoft antitrust case. I feel that the settlement reached between the Department of Justice and Microsoft is fair and reasonable, and has been extensive enough for nine states to approve. Further federal action is unnecessary, especially while Microsoft is involved in negotiations with the remaining states to reach a conclusion.

Microsoft has agreed to change the way it develops, licenses, and markets it software. Software engineers and computer makers will be allowed to configure Windows so as to promote non-Microsoft programs that compete with those programs already included within. Also, Microsoft agreed to stop retaliating against companies that produce or promote software and hardware that competes with Microsoft products.

The settlement not only addresses the issue that brought about the case, but provides for future problems as well. A technical oversight committee will ensure that Microsoft complies with the terms of the agreement, and the competition will be allowed to sue Microsoft directly if they feel they have been treated unfairly.

I believe that the longer uncertainty surrounds this case, the longer that innovation will stall. We must allow the industry and the economy to move forward, and I believe this settlement is the vehicle to do it.

Sincerely,
Ally Masry

MTC-00031783

FROM : Jim Tamm PHONE NO. : 650 345 9386 Jan. 22 2002 08:58PM P1

Ryan Tamn
2118 Lyon Avenue
Belmont, CA 94002
January 17, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I ardently support the settlement reached between the Dept. of Justice and Microsoft. Protracted litigation has served only to stagnate the economy. The tech industry has shown decline in direct correlation with the federal government's pursuit of this case. I do not believe this to be coincidental.

Incidentally, the settlement should increase the productivity in the tech industry. Although Microsoft has made many concessions through the process, such as its agreement to license Windows at the same rate to the top twenty PC makers, they have done so in the attempt to resolve this issue.

And resolving this issue is in everyone's best interests.

Enact the settlement at the end of January.

Sincerely,
Ryan Tamm

MTC-00031784

01/27/1997 05:06 814–238–5885 CDG INC PAGE 01

16 Cedar Lane
State College, PA 16801–6705
January 22, 2002
Attorney General John Ashcroft
United States Department of Justice
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing to express my support for the recent antitrust settlement between Microsoft and the US Department of Justice. Although I do believe its marketing tactics have been a bit too heavy handed at times, I have worked daily with its products and those of its competitors for many years and know from experience that the foundation of its industry leadership rests, not on marketing, but on the superiority of its products. I am a Microsoft supporter who thinks that its products and services have contributed greatly to American economic strength at the end of the Twentieth Century. Microsoft's leadership in standardizing the technology industry has produced benefits, to both consumers and to its competitors, which far exceed any detriment attributable to its past marking approaches, I have no doubt that the settlement is in the best interests of the public since it does not break up Microsoft, but does temper its ability to isolate other vendors.

Under the terms of the settlement Microsoft has agreed to disclose internal interface technology and codes for server interoperability. They have also agreed to design future Windows versions so that consumers, software developers, and computer makers will be able to promote more easily their own products. These stipulations and more on Microsoft's behalf will protect consumers' rights as well as competitors' latitude to operate in this market.

Our economy is in recession and we are fighting an ongoing war on terrorism. Surely our government should be focusing on other more pertinent issues. It's time to settle this case as soon as possible. Thank you.

Sincerely,
John C. Flohr, Ed.D
cc: Senator Rick Santorum

MTC-00031785

01–22 02 21:55 W F STEVENS
PAGE 1 OF 2
TO: ATTORNEY GENERAL—JOHN ASCROFT
FAX 1–202–307–1454
SUBJECT: Microsoft Settlement
FROM: WILLIAM F. STEVENS
FAX 334–826–3046
01–22 02 21:55 W F STEVENS
T: 334 826 3046
P:02
January 13, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

I am very happy about the settlement that has been reached between Microsoft and the Department of Justice. The required changes in Microsoft's business practices will restore fair competition and prevent future antitrust violations. But most importantly, the settlement will allow the IT industry to concentrate on business now.

The agreement mandates a number of specific changes. For example, Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system. Microsoft has also agreed to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price. In addition, Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft programs that compete with programs included within Windows.

This settlement is in the best interest of the public and the economy. The recession has had a horrible effect on state budgets and the federal budget, and it is important that the technology sector be allowed to concentrate on business as soon as possible.

Sincerely,
William Stevens
1645 Mayfair Court
Auburn, Alabama 36830

MTC-00031786

JAN–22–2002 09:52 PM THE BOLDUC FAX MACHINE 201 444 7140 P.01

Bruce Bolduc
147 John Street
Ridgewood, New Jersey 07450
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington; DC 20530
Fax—1–202–307– 1454

Dear Mr. Ashcroft:

Litigation is expensive, very expensive. The amount of money spent in both pursuing and defending the issues surrounding the US vs. Microsoft lawsuit is astronomical. Taxpayers will bear the brunt of the cost on this suit, and that will seriously mitigate the consumer benefit of the letters. According to the terms of the settlement, Microsoft must operate under the supervision of an outside technical committee and disclose parts of windows code to competitors. These points of the settlement force Microsoft to open its business dealings and research to third parties. These two points in the settlement alone are enough punitive action to compensate for any unethical practices Microsoft may be guilty of. Yet, the settlement goes much deeper, proof that this suit has been in court for too long.

The terms of the settlement are more than fair to the plaintiffs in the case and are the result of extended litigation. The Department of Justice must see that the proposed settlement is not derailed; too much time and money have been spent in arriving at this point.

Sincerely,
Bruce Bolduc

MTC-00031787

01/22/2002 20:05 7023636710 PAGE 01
FAX TO: 1–202–307–1454
ATTN: MS. RENATA B. HESSE

I support the settlement that the DOJ made with Microsoft and believe the court cases should now be stopped.

Wayne Strube
702–369–6710
Jan 23, 02

MTC-00031788

01/22/2002 19:44 8506784571 SAM DAWSN PAGE 01

7 Kristin Circle Niceville, FL 32578
January 21 ,2002
Attorney General John Ashcroff
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am a firm supporter of Microsoft. I feel that this antitrust case must be halted. Microsoft is a first class company that has done nothing but add productivity and capital to this nation. The Government had no business pursuing this suit in the first place. I feel that the settlement that has finally been reached must be accepted so that we can finally get back to business as usual in this country.

I feel that under the circumstances the settlement is fair, I would rather see the suit dropped but since that is unlikely a good settlement is needed. Microsoft will be held accountable to a three-person oversight committee that will monitor Microsoft's compliance with the terms. Microsoft has also agreed to design all future versions of Windows to be compatible with the products of its competitors. I feel that this settlement goes above and beyond the necessary restrictions and anyone who chooses not to accept the terms is clearly pursuing this case for personal political gain.

Please ensure that this case is put to rest with all possible haste. Free enterprise is a priceless commodity that we enjoy in this nation. Litigation like this eats away at the very fabric that holds this nation together. Thank you for considering my position.

Sincerely,
Samuel Dawson
cc: Representative Jefferson Miller

MTC-00031789

FROM :
FAX NO. :
Jul. 21 2001 02:08AM P1
Walter Israel
Architectural and Design Lines
January 8, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite1200
Washington, DC 20530

As a small businesswoman who depends upon Microsoft products for efficiency at work and at my home computer, I am happy that the federal government is now pushing for a settlement in its case against Microsoft. I hope that Judge Kollar-Kotelly will agree so everyone can get on with their business.

As a former member of the North Carolina Board on Parks and Wildlife, I have had dealings with a large government entity, I know what can happen when issues like lawsuits keep going on forever and forever. They drain resources and energy from employees whose time should be spent on other things. And lawsuits always end up costing the taxpayers money—as this one has.

That is why I hope the judge will see fit to accept this settlement and let everyone get back to work . Thanks for your kind consideration of my position.

Sincerely,
Walter Israel
Owner
6041 Wilkinson Boulevard, Belmont, NC 28012

MTC-00031790

JAN-23-2002 10:03 AM DEL.JAY O'BRIEN 804 643 1860 P.01
COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND
JAY O'BRIEN
7003 CLIFTON HUNT COURT
CLIFTON. VIRGINIA 20124
FORTIETH DISTRICT
COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND
COMMITEE ASSIGNMENT
MINING AND MINERAL RESOURCES (CO. CHAIR)
PRIVILEGES AND ELECTIONS
EDUCATION
GENERAL LAWS
CORPORATIONS, INSURANCE AND BANKING
DELEGATE JAY O'BRIEN
FAX COVER SHEET
To: Renata Hesse
Organization: Department of Justice
Date: 1 23 02
Fax Number: 202 616 9937
Comments: pg. 1 of 2
Thank you
If you have any problems with this transmission, please call us at 804–698–1040.
DISTRICT (888) 508–3921 RICHMOND (804) 698–1040 E-MAIL DEL_OBRIEN@HOUSE.STATE.VA.US
JAN–23–2002 10:04 Am DEL. JAY O'BRIEN 804 643 1860 P–02
COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND
FORTIETH DISTRICT
January 2l, 2002
COMMITTEE ASSIGNMENTS
MINING AND MINERAL RESOURCES (CO. CHAIR)
PRIVILEGES AND ELECTIONS
EDUCATION
GENERAL LAWS
CORPORATION INSURANCE AND BANKING
Reneta Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW Suite 1200
Washington, DC 20530
V/A FACSIMILE– 202. 616. 9937

Dear MS. Hesse:

I am in agreement with the proposed settlement reached between the federal government and Microsoft Corporation. This settlement is the appropriate step toward fostering continued economic growth and common business sense in the competitive marketplace. As a representative of Northern Virginia area, I am well aware of the economic benefits that the technology boom has benefited to our area. Microsoft is a proven leader in the entrepreneurial spirit and the technology field. The company has enabled other computer companies to benefit in the computer and technology boom.

The settlement is a fair and reasonable compromise. Microsoft created a superior product than its competitors and is not responsible for the inner turmoil and troubles of other companies. The relentless investigation that the US Attorney's office has waged against Microsoft in the past years is unreasonable and needs to end with this compromise. The time has come to end the lawsuit and reach an amicable decision.

The proposed settlement is tough, yet reasonable, and a valuable tool in bringing stability back to our economy. It is my hope that the Court will approve the proposed settlement between Microsoft and the United States Attorney's office.

Sincerely,
Jay O'Brien
Member, House of Delegates
DISTRICT (888) 808. 3921
RICHMOND (804) 608–1040
E–MAIL. DEL OBRIEN@HOUSE STATE. VA. US

MTC-00031792

01/23/02 WED 07:35 FAX 3154482632 KEYBANK NOTTINGHAM 001
Key Bank
215 Tecumseh Rd
Syracuse NY 13224
315–446–8091
315–446–2632 fax
FAX
To: Renata Hesse
From: Kevin Holmquisst
Fax: 202–616–9937
Pages: 2
Phone:
Re: U.S. v. Microsoft
cc:
Urgent X For Review Please Comment Please Reply Please Recycle
Comments:
Thank You!
Kevin
01/23/02 WED 07:36 FAX 3154482632 KEYBANK NOTTINGHAM 002
January 21, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Division
601 D Street NW, Suite 1200
Washington, DC 20530
Re: U.S. v. Microsoft

Dear Ms. Hesse,

I am writing you to express my support of the settlement of the above listed case and I hope you will as well. Below are some of the reasons that I support this settlement. More than $30 million in taxpayers money has been spent on this case, and our economy is now officially in recession, so I believe that the last thing that we need is more regulation and litigation of an important American industry like high-tech. No consumer as been harmed as a result of any of the actions taken by Microsoft to date. Actually, consumers have had tremendous benefit as a result of microsofts innovation which as led to lower prices and better products. A few large companies such as AOL Time Warner and Oracle should stop their fight in court, and compete in the marketplace where this fight belongs. This settlement is in everyone's best interest, including the taxpayers and the consumers. The very last thing that America needs is government lawyers and bureaucrats looking over the technology industry trying to micromanage it. This settlement is most appropriate, because it addresses only the items upheld by the courts.

Thank You for you consideration of this matter

Sincerely,
Kevin Holmquist
Manlius Town Councilman
Relationship Manager, Key Bank N.A.
315–446–0542
315–682–4647

MTC–00031794

FROM: FAX NO.: Jul. 21 2001 02:33AM P6
JAN–10–2002 10:40 SMITH SETZER & SONS 828 241 3160 P.01/02
NORTH CAROLINA GENERAL ASSEMBLY
HOUSE OF REPRESENTATIVES
STATE LEGISLATIVE BUILDING
RALEIGH 27601–1096
REPRESENTATIVE MITCHELL SETZER
POST OFFICE BOX 416
CATAWBA, NORTH CAROLINA 28809
HOME (828) 241–3570
OFFICE (828) 241–3161
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street, NW Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As one of the younger members of the North Carolina General Assembly, I have a strong interest in how government interacts with technology so that we as legislators may make the best use of our technological resources for the benefit of our citizens, especially our young people.

It is for this reason, that I have support for many years, the concept that we must promote the use of technology, it is important that we do not interfere with it at any level of government, state or federal. That is why since 1999, I have been greatly troubled by the federal government's attempt to bring about harsh penalties against Microsoft in what I consider an unwarranted antitrust case.

There is certainly no one—even the legal team on the other side—who could make the claim that Microsoft has done any harm to even one single consumer. In addition, without consumer harm, is there really a reason to bring an antitrust case? There is not in my judgment.

However, in order to bring the federal lawsuit to an end as well as North Carolina's state litigation, please let Judge Kollar-Kotelly that I strongly support the settlement, and I hope this entire process will move along quickly. That way Microsoft can get back to the business of innovation and coming out with new products—at which they are excellent. Also, government attorneys can get back to more worthy cases.

Thank you for your kind consideration of my comments.

Sincerely,
Mitchell Setzer
State Representative

MTC–00031795

Jul. 21 2001 02:30OM P1
FROM: FAX NO.:
01/22/02 10:02 1 919 793 0036 P.01
Conway Brooks
Wake County Repubilcan Party
January 18, 2OO1
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 U Street NW, Suite 1200
Washington, DC 20530
Fax: 202–616–9937

Dear Ms. Hesse:

As the Vice Chairman of the Wake County Republican Party, I know a thing or two about public opinion. Let me tell you this—the public wants the courts to approve the settlement between Microsoft and the federal government and they want it approved now!

In my work as Vice Chairman of the Wake County Republican Party, part of my job is to be aware of public sentiment on important governmental, societal, and other public policy issues. Based on the response of our members on this issue, I can tell you that a significant segment of the American populace is concerned about the consequences of dragging out this lawsuit any longer. For one, it may hinder technological innovation in the marketplace. Who wants to innovate when doing so will get you sued?

Also, the extension of this lawsuit may cause litigious lawsuits between corporate entities to become even more of a cottage industry in America. We have enough lawsuits already that drain enough money out of the United States economy. We need to discourage these lawsuits in the future.

Finally, people across American are worried about the economy, and believe that government needs to work with business, not against it. By settling this lawsuit, government will demonstrate a willingness to work as a partner in, not an opponent to, business. This will enable Microsoft to continue to provide businesses with products that make their operation more efficient.

I ask Judge Kollar Kotelly to approve the settlement.

Thank you,
Conway Brooks
1st Vice Chairman

MTC–00031797

Fax NO. : Jul. 21 2001 02:09am P2
North Carolina General Assembly
House of Representatives
State Legislative Office Building
Raleigh, NC 27601–1095
REPRESENTATIVE REX L. BAKER
40th DISTRICT—ALLEGHANY, ANNE, STOKES, SURRY AND WATAUGA
OFFICE ADDRESS: ROOM 808
RALEIGH, NC 27601–1088
TELEPHONE: (818) 738–5707
(818) 715–7588 FAX
HOME ADDRESS: 2108 SLATE ROAD
KING, NC 27021
E–MAIL:
BAKERLA@HS.NCCA.STATE.NC.US
COMMITTEES:
AGRICULTURE
ALCOHOLIC BEVERAGE CONTROL
APPROPRIATIONS
NATURAL AND ECONOMIC RESOURCES
SELECT COMMITTEE ON THE TOBACCO SETTLEMENT
STATE PARKS AND PROPERTIES
TRANSPORTATION
TRAVEL AND TOURISM
January 11, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As a member of the House Appropriations Committee of the North Carolina Genenal Assembly, I am painfully aware of the high and escalating cost of government despite the fact that our citizens and businesses are experiencing terrible economic times in our state. One cause of higher taxes, which has been particularly felt in North Carolina, is that our state has lost a number of lawsuits and the taxpayers have had to pick up the tab.

As you can tell, I am adamantly opposed to taxes in whatever form and work had in each session of the legislature to reduce taxes and spending whenever possible. That is why I was happy to see that the federal government's case against Microsoft had come to a settlement agreement in the court of Judge Kollar-Kotelly. I know that this case has already cost the taxpayers of this nation $30 million, not to mention lesser sums in the 18 states that also brought the original lawsuits.

I am pleased that North Carolina is one state that decided to agree with the settlement and now no more state tax money will go in that direction. I would like to see the same thing happen in the federal case as well. That is why I am strongly urging that FROM : fax NO. : Jul. 21 2001 02:09am p3 the judge to agree to the settlement in this case. Both sides will come away with gains and losses. That is how a settlement should work and that is only fair.

I appreciate the opportunity to comment on this issue.

Sincerely,
Rex L. Baker

MTC–00031798

State of Washington
House of Representatives
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Re: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

The proposed settlement of US v. Microsoft case represents a fair compromise that promotes greater industry competition without destroying Microsoft. The settlement guarantees a series of reasonable modifications. Other companies, including Microsoft's competitors, will have greater access to computer desktops. Computer manufacturers, not Microsoft, will determine what software will be offered with new machines using the Windows operating system. At the same time, the settlement avoids broad new government regulations that could hinder the tech industry and prevent Microsoft from making important investments in critical research and development activities.

The uncertainty generated by this case has threatened America's global leadership in high-technology. In the face of new economic concerns at home, this settlement is needed to help revive the industry that has driven the new economy. I congratulate the Justice Department on its efforts to reach a fair and reasonable settlement.

Sincerely,
State Representative Al O'Brien
State Representative Lynn Kessler
State Representative Mary Lou Dickerson
State Representative Kelli Linville
State Representative Toni Lysen
State Representative Jeanne Edwards
State Representative Geoff Simpson
State Representative Aaron Reardon
State Representative Bill Fromhold
State Representative William Grant
State Representative Jeff Gombosky
State Representative Val Ogden
State Representative Sharon Santos
State Representative Brian Sullivan
STATE REPRESENTATIVE
40th DISTRICT
JEFF MORRIS
State of Washington
House of Representatives
PACIFIC NORTHWEST ECONOMIC REGION PRESIDENT
TECHNOLOGY, TELECOMMUNICATIONS & ENERGY
CHAIR
FINANCE
SELECT COMMITTEE ON COMMUNITY SECURITY
January 21, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
Re: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

The proposed settlement of US v. Microsoft case represents a fair compromise that promotes greater industry competition without destroying Microsoft. The settlement guarantees a series of reasonable modifications. Other companies, including Microsoft's competitors, will have greater access to computer desktops. Computer manufacturers, not Microsoft, will determine what software will be offered with new machines using the Windows operating system. At the same time, the settlement avoids broad new government regulations that could hinder the tech industry and prevent Microsoft from making important investments in critical research and development activities.

The uncertainty generated by this case has threatened America's global leadership in high-technology. In the face of new economic concerns at home, this settlement is needed to help revive the industry that has driven the new economy. I congratulate the Justice Department on its efforts to reach a fair and reasonable settlement.

Sincerely,
Jeff Morris
State Representative
40th District

MTC-00031799

JAN-23-02 WED 11 :28 AM HELLER
NEV 702 342 0222
P. 01
January 23, 2002
o
TO: U.S. Department of Justice
202 307-1454
202 616-9937
Attn: Ms. Renata B. Hesse

I support the proposed settlement of the Microsoft lawsuit. Stop spending taxpayer money on more frivolous legal maneuverings. You've spent too much already. This whole case stinks to high heaven and sets an uncalled-for bad precedent for

American technology and its innovators.

R. E. Heller, Sparks NV

MTC-00031800

Jan 23 02 11:32a
George Harter
480-860-2025
P.1
George Harter
9140 North 104th Place
Scottsdale AZ 85258
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The antitrust case settlement serves the best public interest and I hope your office finalizes it as soon as possible. While I disagree with litigation against Microsoft in the first place and think that this who case has been a waste of time and an infringement of Microsoft's rights as a free enterprise, the settlement seems the only way to allow all parties to move forward. Under the terms of settlement it is good that Microsoft will not be broken up.

The terms merely force them to disclose interfaces and protocols to competitors, design future windows versions so that software developers can promote their own products form within, and form three-person team to monitor compliance with settlement. These concession and more seem to favor competitors not consumers, but tat just verifies the opinion I had al along, that this case was politically driven from the start.

Please suppress opposition to the settlement and make this thing a reality. It is in the public's best interests for a settlement to occur.

Sincerely,

MTC-00031801

FROM : P. R. T. & ASSOCIATES INC.
PHONE NO. : 419 499 4515
Jan. 23 2002 01: 07PM Pl
P.O. Box 548
Milan, OH 44846
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

This letter is to give my support to the agreement reached between Microsoft and the Department of Justice. In my opinion, this antitrust case should never have happened. The government, guite frankly, should never have gotten involved; the Department of Justice was dragged into this action against Microsoft by both Microsoft's competitors, and the previous administration's definition of justice.

I wonder if anyone in the government really realizes the wonderful things Bill Gates, through Microsoft, has done for this country, and the world. Does anyone remember what it was like before Microsoft? What a mess our technology was. Nothing worked together. Bill Gates made possible a uniform software program package. You didn't have to go to ten different programs to accomplish one simple task. Microsoft's rivals, unable to compete, resorted to political means to bring Microsoft to heel. It is tragic our government so easily acquiesced.

In this agreement, Microsoft has greed to grant computer makers new license to make Windows as to promote non-Microsoft software programs; Microsoft has agreed to design future versions of Windows with a mechanism to make it easier to promote non-Microsoft software; Microsoft has agreed to help companies achieve a better degree of reliability with regard to their networking software. This is much more than any other company would do. I think Microsoft should be congratulated for trying to end this suit and get back to business.

Give your support to this agreement. Let's put this behind us and get back to business.

Sincerely,
Elaine Thornton

MTC-00031802

01/23/02 WED 12:57 FAX 414 328 2233
ROCKWELL SUPPORT Facsimile 001
Rockwell Software
2424 South 102nd Street
West Allis, WI 53227
Facsimile
Rockwell
Automation
To Attorney General Ashcroft
From Rich Ryan
Location Dept of Justice
Location Rockwell Software
Tel Tel 414.328.2400
Fax 202-307-1454
Fax 414.328.9400
Pages 2 Date 1/23/02
Allen-Bradley
DODGE
ROCKWELL SOFTWARE
RELIANCE ELECTRIC
11/23/02 WED 12:57
FAX 414 328 2233
ROCKWELL SUPPORT
January 22, 2002
Richard C. Ryan
president
rockwell software
Rockwell Automation
2424 South 102nd street
West Allis. WI 53227.2106 USA
Tel 414 320.2400 Fax 414 328 9400 1
email rcryan@software rockwell com
Attorney General John Ashcroft US Department of Justice

950 Pennsylvania Avenue, NW
Washington DC 20530–0001

Dear Mr. Ashcroft:

I would like to submit my support for the Microsoft settlement negotiated with the Justice Department last November. After the completion of this 60-day public comment period, it would only seem fair that the terms agreed upon with the help of a court mediator, be accepted and implemented.

The important role Microsoft plays in the IT industry should be appreciated The agreement is a very generous deal that is far preferable than further action that would break up the company and further disrupt the PC industry.

Microsoft has agreed to share or license its intellectual property with its rivals and promote interoperability with its server software in the interest of fostering more competition in the software market. An independent committee will monitor its compliance with the settlement. From my perspective as someone in the industry, this closely monitored plan will create a wider market for software products from a variety of competitors. Please make sure to commit to this opportunity and not make the mistake of continued litigation. Thank you for your time.

Sincerely,
Rich Ryan, President
Rockwell Software

MTC–00031803

CRAIG W. SUDBRINK
402 Monmouth Drive
Greensboro, NC 27410
January 23, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

My name is Craig Sudbrink. I am a resident of Greensboro, NC. I appreciate the opportunity to comment on the Justice Department's proposed settlement of the Microsoft antitrust litigation. Please include me among those supporting the settlement.

I am sure that not everyone is happy with the proposed settlement, and that many of Microsoft's competitors will not be happy until they have put Microsoft out of business through litigation rather than competition. However, if you look at the concessions made by Microsoft, most specifically the agreement to open competition within their Windows systems, you cannot help but support the compromise reached. I hope that you proceed with the settlement as it is in the best interests of the American public and the economy.

Thank you for your time and attention.

Sincerely,
Craig Sudbrink
cc: Representative Howard Coble

MTC–00031804

01/23/02 10:41 FAX 206 546 2205 DR BRUCE RYAN
Bruce H. Ryan
1841 N 184th Street
Shoreline, Washington 98133
January 23, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I write you today in regards to the Microsoft settlement issue. I support the settlement that was reached in November, and I sincerely hope there will be no need for further action against Microsoft.

This settlement was reached after extensive negotiations. Microsoft has agreed to carry out all terms, including terms that extend well beyond the original issues of this lawsuit. Microsoft has agreed to share more information with other companies, such as various internal interfaces in Windows and any protocols implemented in a Windows operating system product. It will also change licensing agreements to make them more advantageous to hardware manufacturers.

This settlement will serve in the best and greatest public interest. Please support this settlement so Microsoft can focus all their resources on designing innovative software. Thank you very much.

Very Sincerely Yours,
Bruce H. Ryan

MTC–00031805

Jan-23-2002 09:34 SPECIALTY FOREST PRODUCTS 2539390902 P. 01/01
FAX TRANSMITTAL
DATE: Jan. 23, 2002
TO: Ms. Renata B. Hesse
FROM: Vic Lindstrom F
IRM: U.S. Dept. of Justice
Number of pages 1
FAX #: 202–307–1454
SUBJECT Microsoft

This letter is to advise the DOJ that my wife and I support the Proposed Microsoft Settlement and would as a tax payer, ask the dept. of Justice to approve the Settlement.

Sincerely,
Victor Lindstrom

MTC–00031806

01/23/2002 11: 32 3184423307
HILLHARRIS
HILL, HARRIS & COMPANY DISTRIBUTORS BUILDERS HARDWARE BUILDING SPECIALTIES
(318)442.3303
1504 METRO DRIVE
FAX (318)442.3307
P O BOX 13268
ALEXANDRIA, LA 71315
DATE: JAN 23/02
TO: D.O.J.
ATTN: Renata Hesse
REF: Microsoft

I agree with & support the recent Legal Settlement with Microsoft. I hope you will finalize it as soon as possible.

J.C. Harris

MTC–00031807

Jan-23–2002 11: 46 312 460 2426 P. 01/01
195 N. Harbor Drive # 2003
Chicago, IL 60601
January 23, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I would like to offer some thoughts on the Microsoft antitrust case. I believe that there was merit behind the complaints that brought about the original lawsuits, but that was three years and countless dollars ago. Microsoft has made an antitrust precedent in the concessions it has agreed to, and protocol has been proposed under your settlement to deal with future problems. I do not see any benefit from future federal action against Microsoft, and hope that this matter will soon be behind us.

There will always be those lining up to take as much market share from Microsoft as they can, and as long as you allow this case to proceed, there is nothing to stop them. Microsoft has already agreed to grant broad new rights to software engineers and computer makers. It has even allowed them to configure Windows so as to promote non-Microsoft programs that compete with the programs already included within Windows. Although it may seem unreasonable to allow your own successful product to be used as a springboard to launch the competitions'' products, Microsoft has agreed in an effort to settle this issue sooner, rather than later. Would it seem as reasonable if Microsoft was involved in a more traditional industry? Imagine if Burger King could not penetrate McDonald's market share. Would we mandate that McDonald's allow its customers to order a Burger King Whopper at its own restaurants?

We must recognize that Microsoft has shot itself in the foot, be it a small hole, in an effort to end this witch-hunt. I see no reason that we can't allow the IT industry and the economy to move forward. I hope you will use your position to do what is right, and ensure that our country maintains its position as the world technology leader.

Sincerely,
Michael Holan

MTC–00031809

Kathie M. Graham
2469 Ridgecrest Avenue
Orange P&k, FL 32065–6235
January 23, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I would like to express my views regarding this antitrust case. I feel that the settlement agreement reached between Microsoft and your office is fair and reasonable, and is sufficient to close this case at the federal level. Nine states have approved the agreement, and Microsoft is negotiating with the remaining states to reach an agreement. Under the Settlement, Microsoft has agreed to change the way it licenses; develops, and markets its software. Computer makers, consumers, and software engineers will be allowed to configure Windows so as to promote non-Microsoft programs. Most importantly, Microsoft has agreed not to retaliate against anyone that develops or promotes non-Microsoft software.

A technical oversight committee will ensure Microsoft's compliance with the terms and conditions of the agreement, and competitors will be allowed to sue Microsoft directly if they feel they've been treated unfairly. These concessions should keep this matter from ever reaching the federal level again, and will force Microsoft to become a more responsible industry leader.

Although these conditions may go further than Microsoft may have wished, it recognizes that settling the case sooner, is better than later. The competition should be granted access to the market, but Microsoft should also be allowed to enjoy the fruits of its labor.

I believe that your settlement provides the middle ground.

Sincerely,
Kathie Graham

MTC–00031610

SimplySay
4400 E Broadway Blvd.
Suite 200—
Tucson Arizona 85711–
520.323.3280—520.320.4177fax
FACSIMILE TRANsMITTAL SHEET
TO:
ATTORNEY GENERAL
JOHN ASHCROFT
COMPANY: US Department of Justice
FAXNUMBER: (202) 307-I454
PHONE NUMBER:
RE: Microsoft Settlement
From: Armand Sperduti
DATE: l/23/02
SENDER'S FAX NUMBER: (520)3204177
SENDER'S PHONE NUMBER: 520.323.3280 EXT.
JANUARY 23,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am writing in regard to the litigation against Microsoft. Although this is a serious and complex issue, it is important that the needs and the rights of the software consumer, both personal and corporate, are kept in focus. The cost of implementing software solutions is dominated by the cost of evaluating, installing and supporting the software, then training the users, not by the cost of the software itself.

Microsoft arrived at the top of the industry primarily by having an astute sense of what the customer wanted. They then delivered products that met those needs. People didn't switch from WordPerfect to MS Word, for instance, because it was cheaper or bundled, but because it did what people wanted and worked well.

I am in support of this settlement. I am hoping that this will be the end of it. We all are better off with this behind us. Additional litigation will only benefit Microsoft's competitors at the expense of the consumers.

Sincerely,
Armand Sperduti
V.P. Engineering
4400 E Broadway Blvd. Suite 200
Tucson Arizona 85711
520.323.3250—520.320.4177 fax
AUTHENTIX Fax:520–3204163

MTC–00031611

FROM : Charles Russell
PHONE NO. : 717 391 2840
Jan. 23 2002 01:08PM PI
CHARLES H. RUSSELL
1488 Marietta Rue.
Lancaster, PA 17683–2446
717.391.2840
January 23, 2002
Atty. General John Ashcroft
us Dept. of Justice,
950 Pennsylvania Ave. N. W.
Washington, DC 20530–0001

Dear Mr. Ashcroft,

Microsoft has been amongst those great American technology companies that have helped America become the world's leader in software. The antitrust case brought against Microsoft three years ago by the Justice Department was certainly a disappointment, however I am pleased to see a settlement was agreed to in this case.

"Unfortunately the settlement has not been satisfactory to some. Anti-Microsoft elements have been attempting to get this settlement removed because it is deemed not destructive enough to Microsoft. However, the settlement is good and will create positive changes. The settlement forces Microsoft to disclose code and interfaces to competitors , a never-before-taken step. With this information, non-Microsoft firms will be able to design and create more choices in software for the consumer. For the anti- Microsoft elements this does not suffice because they would like to see Microsoft face a more injurious verdict.

The purpose of the case was not to harm Microsoft, but to create more competition. This should be and is reflected in the current settlement. Ending this case now is imperative.

Sincerely,
Charles Russell
cc: Senator Rick Santorium

MTC–00031612

A Fax Message
TRINITY
Date: January 23, 2002
To: Attorney general Ashcroft
c/o Renata B. Hesse Antitrust Division
Succeed with Trinity.
Company: US Department of Justice
Fax #: (202) 307-1454
From: George LaVenture
RE: MICROSOFT SETTLEMENT
NOTES:

Attached are my Tunney Act comments regarding the proposed Microsoft Final Judgement and Competitive Impact Statement.

My contact information is below if you have any questions,

PRESIDENT & CEO
Trinity Consulting Inc.
(506) 485–8642 voice
(506) 481–2361 fax
mail to:glayancura@.com-inc.ner
http: //www.Trinity-Inc.net
Taking care of business (TCB)
TRINITY CONSULTING INC,
346 BRIGHAM STREET
MARLBOROUGH, MASSACHUSETTS 01762
(508) 486–8842
TRINITY CONSULTING INC.
346 BRIGHAM STREET
MARLBOROUGH, MASSACHUSETTS 01762
(608) 486–8842 (VOlce)
(608) 461–2361 (fax)
WWW.TRINITY-INC.NET
22 January 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, District of Columbia 20530

Dear Mr. Attorney General,

I am writing to provide my thoughts during the 28 November 2001 to 28 January 2002 TunneyAct publiccomment period on the Microsoft antitrust case [United States of America vs MicrosoftCorporation CivilAction No. 98–1232 and State Of New York ex. rel. Attorney General ELIOT SPITZER, et al.MicrosoftCorporation Civil Action No. 98–1233 proposed Final Judgment and Competitive Impact Statement.

As I read the proposed Final Judgement and Competitive Impact Statement, MicrosoftCorporation hasagreed to specific behavioral measures that would provide greater openness and access to technical information as well as contractual and economic freedom for IAPs, ICPs, ISVs, IHVs and OEMs that either: provide a Microsoft Corporation operating system with their product, develop and/or provide applications and or middle ware that run on a Microsoft Corporation operating system, or choose to develop and/or provide competing operating systems, products, applications and/or middleware.

These actions seem satisfactory to stimulate competition while maintaining intellectual property rights and fostering Innovation.

More Importantly, the prescribed enforcement authority, combined with the proposed TechnicalCommittee and Microsoft Internal Compliance officer, provides the government, and therefore consumers, adequate means and measures to ensure Microsoft Corporation's compliance.

Unlike the nineteenth century marketplace of Standard Oil, an era that witnessed the genesis of the corporation where direct competitors were assimilated and controlled, and unlike the slow-growth marketplaces; of 1980s IBM and 1970s ATT, today's technology marketplace moves rapidly and the rate of change will likely increase. We are living in an age of technological revolution cited by Federal Reserve board Chairman Alan Greenspan for an unprecedented growth in productivity. This atmosphere has, as evidenced most recently and notably by the 1999 "Internet Bubble", created product cycles so short that goods and service can be obsolesced while sales and markeing strategies are still on the whiteboard.

With this in mind, I believe the proposed behavioral measures and controls provide a fairer, more level playing field optimized to foster continued growth while ensuring competition and stimulating Innovation.

After all, that's the goal isn't it? A better deal for the consumer.

It is my opinion that the settlement between Microsoft Corporation and the federal government addresses and remedies, in a very satisfactory way, all of the government's antitrust claims againstMicrosoftCorporation. Therefore it should be instituted with all due speed.

Sincerely,
George M. LaVenture
President & CEO

cc: Representative Marty Meehan

MTC-00031813

Assemblyman George H. Winner, Jr.
Minority Leader Pro Tempore
New York State Assembly
Room 446
Legislative Office Building
Albany, New York 12248
Phone; (518) 455–4538
Fax: (518) 455–5922
ASSEMBLYMAN WINNER
Soo2
GEORGE H. WINNER. JR.
Assemblyman 127th District
THE ASSEMBLY
STATE OF NEW YORK
ALBANY
MINORITY LEADER PRO TEMPORE
COMMITTEES
Rules
Ways and Means
January 23, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

When word of a possible settlement in the Microsoft case broke, the markets surged. In spite of gloomy economic report, the news was viewed by investors as a sign that out nation's critically important high-tech industry could move forward without the continuing shadow of government interference.

The proposed settlement requires significant changes in the way Microsoftdevelops, licenses and markets its software. This settlement is fair. It prevents Microsoftfrom abusing the strength that it derives from its operating system, but also allows thecompany to continue innovating in all areas of software development.

I congratulate you on reaching a fair settlement that will serve in our nation's bestinterest. It will be very difficult for anyone to reject a settlement that benefits consumers,the technology industry, and the economy as a whole.

Very truly yours,
George H. Winner, Jr.
Minority Leader Pro Tempore
ALBANY OFFICE: Room 446. Legislative Office Building,
Al aany. New York 12248.
(518) 455–4538.
FAX (518) 455–5922
DISTRICT OFFICE: 228 Lake street,
P.0. Box 589.
Elmi a. New York 14902.
(607) 734–8580.
FAX (607) 737–0377

MTC-00031814

ADE
80 Wilson Way
Westwood, MA 02090–1806
Phone: 781–467–3500
Fax: 781–467–0500
Fax Cover Page
To: 12023071454
From: Chris Corayer
Comments:
Sent at: 01/23/02 11:28:31 AM,
Total Number of Pages (including cover): 3

I am writing to oppose the current settlement proposed. In my opinion it will change little, if anything.

What I would rather see happen is the following:

(1) ALL file formats should be documented and open, This will allow FULL compatibility withcompeting office suites such as Sun's Staroffice. Full compatibility will by it's very nature forcecompetition into the marketplace, The MS product suite will have to prove to its userbase that itis worth spending the money to buy said product when there are other products out there that canreadwrite their format, This should apply to file formats other than just the office products.

(2) Full disclosure/documentation of protocols. This would allow such things as the SAMBAgroupto allow full windows features on UNIX/BSD/LINUX machines and allow simple integration ofthose machines into a windows based network.

(3) In the rare case where Microsoft may claim security risks, I would respectfully point out thatmany of the other UNICES, like FreeBSD and the different Linuxes, do not seem to have manyproblems with full disclosure. In any event, it should not be sufficient for Microsoft to claimsecurity and not furnish information, They should be forced to PROVE that something would becompletely rendered vulnerable if certain protocols were fully documented. This process shouldbe overseen by at least half of Microsoft's competitors who should be able to determine if thiswere the case.

(4) Microsoft API's should also be fully documented, This will prevent such things as company Abeing put out of business should Microsoft decide to implement a similar program that uses"undocumented features" to make the Microsoft product run better or more stable.

(5) No bundling should be allowed in a default install. There SHOULD be an option to installadditional software during the install process, but this should not be the default option. Mostother OS's allow a simple base install. This will not generally include web browsers, multimedia,or instant messaging clients.

(6) No exclusive licensing on the boot loader, Microsoft should not be allowed to require thatonlyWindows be installed or that the only option shown upon booting be Windows. There shouldalsobe safeguards in place to prevent retaliation by Microsoft on this point.

The first two points I consider absolutely critical. The internet was based on fully documented,and freely available protocols, Microsoft's Active Directory is a minor modification of LDAP andKerberos. Both of these are widely used protocols, but they will NOT work with the Microsoftversions, This prevents competition. The Office Suite is so engrained in the corporate sector thatthere will not be any competition until competitors can make a fully compatible product. Thiswillnot happen until the file formats are fully documented.

The remaining points are optional. I include the third just in case exceptions for security areallowed. I am however willing to make allowances if there is some property that Microsoftlicensed from another party and the license does not allow use in another product or similarsituations. The fourth point I made is much like the browser issue. For a while Netscape wouldcrash often. Certain instant messaging clients were very unstable.

The fifth point is simply to promote users to try non MS software. The option to install InternetExplorer would be available during the install, but it would no longer be mandatory. I includethisdue to recent events where Microsoft's website was made inaccessible to users who used thecompeting Opera web browser. Behavior such as this makes me extremely suspect of anyguarantees by Microsoft regarding their behavior without outside oversight.

The final point is one that was already in the proposed settlement. Ifeel that this requirement be kept in any future proposal.

Thank you for your time.
Christopher Corayer
Information Services
ADE Technologies
77 Rowe Street
Newton, MA 02466
p.617.831.8043
f.617.243.4443

MTC-00031815

January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

It amazes me that there has been such a prevalent attitude in our governmentthat sees virtue in punishing those that are successful, and rewarding those that are not.

This upside down attitude of "redistribution" was never more tragically obvious than inthis questionable lawsuit against Microsoft. Any company as successful as Microsoftmust do everything it can to protect its position of strength. The governmenterroneously sees this as dominance, rather than strength. With that redefinition comesan entire new set of problems that now create a case against Microsoft for "unfaircompetition."

That Microsoft tightly controls the use of its product—even with its OEMs—issimply good business. It is not unfair business. There have been many competingsystems that have come and gone. They have fallen out of favor not because ofMicrosoft's dominance per se, but rather because of Microsoft's superior products andservice.

Please do not misunderstand me. I do not march lock-step with Microsoft, but forme, if the government can go after Microsoft with such evangelical zeal, then thegovernment can go after any IT business. This settlement, therefore, is good andshould hopefully end the hostilities. I am totally in support of that.

Sincerely,
Vicki Hengen
President
cc: Representative Jeff Flake
1860 West University, Suite 108 Tempe Arizona 85281
(480) 902 0600 fax: (480) 902–0577
internet: www.dbwebnet.net

MTC-00031816

Scott Mason
110 Carol Rose Drive
Beaver Falls, PA 15010
January 19, 2002
Attorney General John Ashcroft
US Department of Justice
960 Pennsylvania Avenue, NW
Washington, DC 20530–0061

Dear Mr. Ashcroft;

I am writing you today to voice my opinion in regards to the Microsoft settlement issue. I believe the settlement that was reached in November is fair and reasonable, and I am anxious to see this three- year dispute resolved.

Microsoft is a good company that has benefited the economy and consumers. This settlement will also allow Microsoft to benefit the technology industry. Under this agreement, Microsoft must design future versions of Windows, beginning with the interim release of windows XP, to provide a mechanism to make it easy for computer makers, consumers, and software developers to promote non-Microsoff software within Windows. A technical oversight committee created by the government to monitor compliance to this settlement must a/so monitor Microsoft. This settlement will benefit the public by allowing MIcrosoft to focus its precious resources on designing and marketing its innovative software.

Thank you for allowing me to comment.

Sincerely,
Scott Mason
cc: Senator Rick Santorum
Representative Melissa A. Hart

MTC-00031817

January 23, 2002
Ed Loo
3613 Park Hill Drive
Coma, CA 92881–8440
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like the Justice Department to settle its antitrust suit with Microsoft Corporation as soon as possible. Microsoft has done the world a tremendous favor with its technological contributions and Innovations. I feel the case is being unjustly prolonged by competitors who are envious of Microsoft's success and market position.

The concessions in the settlement are fair and good enough to allow Microsoft to resume normal operations, I believe giving other companies limited access to certain internal Windows code will allow for better development of non-Microsoft programs that run within the Windows operating system and should minimize future threats of Microsoft's alleged monopolistic position.

Please end the lawsuit and let Microsoft return to normal business operations. Our country needs to focus on business again. If the government would think about this, they would see that they are basically biting the proverbial hand that is feeding them. How many billions of dollars has Microsoft contributed to the US Treasury through Just payroll and income taxes?

Thank you very much for your time and consideration, I sincerely hope you take into consideration the big picture of this ludicrous lawsuit brought by some over zealous and greedy individuals and states seeking to line their own coffers.

Isn't it ironic that those who have filed suit against Microsoft are probably using Microsoft's products . . Windows, Word, Excel, PowerPoint . . to file their legal briefs ??

Sincerely,
Ed Loo

MTC-00031818

Dragonfly Capital
To: Attorney General John Ashcroft
From: Don Millen
FAX NUMBER: 202–307–1454
Re: Attached
TOTAL NO. OF PAGES INCLUDING COVER:
SENDER'S REFERENCE Number: 704–342–3491 xl00
YOUR REFERENCE NUMBER:
X URGENT
700 EAST BOULEVARD, SUITE ONE .
CHARLOTTE, NORTH CAROLINA 28203
JAN-23-2002 11:50 FROM:DRAGONFLY CAPITAL 7043429750 TO:2025149082 P.001/002
220 Alondale Avenue
Charlotte, NC 28207
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to discourage you and the Justice Department from any further litigation against Microsoft. Microsoft has been the bedrock of the information technology revolution in the United States and has enabled consumers across the socio-economic spectrum to achieve productivity and efficiency gains unimaginable even 20 years ago. I strongly encourage you to put this case to rest and enact the settlement as soon as possible.

The settlement has many stipulations that will benefit the IT industry. The release of Windows XP marks the beginning in a line of changes that further benefit consumers. Windows XP is designed so that individuals can delete and add different programs into the system with greater ease. No longer will users have to have different Microsoft programs on their desktop if they are using Windows. For the benefit of its competitors, Microsoft has even enabled individual users to delete Internet Explorer at their own discretion (this act, in itself, is irrational from a business standpoint). It is my personal opinion that users of technology products appreciate the ease of use that Microsoft's products provide and that they will freely select other products if they believe they would receive more benefit. After all, isn't this what a market-based economy is about?

I believe the newfound autonomy of consumers will be beneficial. I would hope that the U.S. Government would resolve the Microsoft issue as quickly as possible.

Sincerely,
Don Millen

MTC-00031819

AIS TECHNOLOGY
N60 W114824 Appleton Ave
Menomonee Falls, WI 53052
January 23, 2002
Attorney General John Ashcroft
US. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530–001

Dear Mr. Ashcroft:

It pleases me that the U.S. government and Microsoft have finally reached a tentative settlement agreement in the antitrust lawsuit. It is my hope that this ordeal will be resolved once and for all at the conclusion of the sixty-day public comment period.

If my memory serves me correctly, the settlement is fair. In fact, Microsoft capitulated to terms that go beyond the scope of the products and procedures at issue in the lawsuit. Most significant is Microsoft's agreeing to divulge its patented code for the Windows operating system to its competitors I understand this has never been done before in an antitrust settlement. While only one of many measures in the settlement, it will have a hugely positive effect on increasing competition.

It is my hope that the settlement is finalized as soon as possible. Thank you.

Sincerely,
Nicholas Oliver
Systems Analyst
CC: Representative James Sensenbrenner

MTC-00031820

Roger Little
288 Concord Drive
Freeport,IL 61032
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to express my complete support for Microsoft in this case. Microsoft in my estimation in an ambitious and aggressive company that continues to press for improved and increased innovation. This sort of fortitude is crucial to the success of any company and Microsoft personifies this fortitude.

I was unhappy that a suit was filed against Microsoft to begin with so you can just imagine how displeased I am that there are still states who wish to pursue litigation against Microsoft. Microsoft has made significant strides to prove their willingness to comply with the settlement proposed by the DOJ. They have already agreed to design future versions of Windows that will enable computer makers, consumers and software developers to promote non-Microsoft software within windows. They have also made an unrecorded agreement to disclose internal Windows interfaces to its competitors. Competitors will also benefit by Microsoft's agreement to share their intellectual property by granting license to third parties.

A close review of the these strides, shows a company willing to bring closure to this case even at the risk of limiting its own competitiveness. Considering Microsoft's many efforts at complying with the settlement proposed by the DOJ, please make the decision necessary to end this lawsuit and help bring relief to our struggling economy.

Sincerely,
Roger Little

MTC-00031821

RODOPI BILLING SOFTWARE
January 22, 2002
Attorney General John Ashcroft
US Justice Department
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

Even though there is an underlying perception among consumers that Microsoft has been a little less than responsive to their needs, the government's lawsuit against Microsoft was overly ambitious. If the lawsuit had succeeded in its intent of breaking Microsoft apart into smaller, more malleable pieces, the ability for consumers or IT companies to get the full range of the Microsoft product line would have been seriously compromised.

Having said that, I believe that the settlement reached between Microsoft and the Department of Justice is reasonable and addresses most of the serious concerns that many have had. It creates strong new demands for fairer licensing arrangements for hardware companies and an anti-retaliatory framework for software companies as well. I am hoping that the public will endorse this settlement through this public review process, and that we can all put this episode behind us.

I am further hopeful that no further federal action will be taken, in that I believe that it's important to move on. These are my personal views and do not necessarily reflect the views of the company I work for. Thank you for this opportunity to express my support of the settlement.

Sincerely,
Arthur R Ekroos
Executivc Vice President

MTC-00031822

TATUM CIO PARTNERS, L.L.P.
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
930 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

This is to give my approval to the recent settlement between Microsoft and the Department of Justice. In my opinion, this suit should never have been brought. I am from the mainframe generation. I remember how hard it was. There was no compatibility between software programs or different hardware. Nothing worked. Bill Gates came along and changed all that.

Bill Gates standardized computer programs onto more useable formats, increased compatibility of computer software programs, making this country the dominant force in the computer industry. Ad for this he was punished. Punished by the government, and punished by his competitors, who could not compete in any other way. We tell our kids to be the best and brightest, yet when they do succeed, the government is looking over the shoulder. This is wrong.

Microsoft has led my industry with many advances beyond computer compatibility. Scalable operating systems, office applications, e-Commerce, and Internet navigation immediatly come to mind. They have become the leader in areas that required consensus in order to proceed along its path; which provided benefits to my industry and strengthened our competitive position. It wasn't too long ago that multiple and conflicting infrastructure products created an impossible technical environment. I feel without Microsoft's efforts in these key areas the resulting chaos would raise the cost and frustration in doing business. Microsoft deserves the recognition and profits associated with their success.

With this agreement, Microsoft has agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit. Microsoft has greed to its Windows operating system products to the 20 largest computer makers at identical prices; Microsoft has agreed to grant computer makers new rights to configure Windows so as to promote non-Microsoft software programs; Microsoft has agreed to a technical committee to monitor future adherence.

Enough is enough.

We have to put this behind us and move forward. Give your support to this proposals.

Sincerely,
Bernard Goldband
Director

MTC-00031823

FROM: J.P. WEIST BAY CITY, MICHIGAN
TO: MS. RENATA B. HESSE

I support the government settlement of the Microsoft settlement.

It is time to say that is it. No more waste of our tax money—Enough is Enough.

Thank you

MTC-00031824

TO: DOJ
MS. RENATA B. HESSE

I SUPPORT THE MICROSOFT SETTLEMENT!

Sincerely,
Don Lucha
2030 Sinclair N.E.
Grand Rapids, MI
(616) 361-5079

MTC-00031825

1341 College Point
Winter Park,FL 32789
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am aware that a settlement has been reached in the Justice Department's three-year case against Microsoft. I support the settlement even though I don't believe that the government, MY GOVERNMENT, should have even recognized the complaints of their competitors in the first place. I think it is in the government's, and our best interests to accept the settlement and move on to more important matters.

If It wasn't for Microsoft, I would not be as computer literate as I am today, and I'm just an ordinary citizen who has had no training, no schooling in use of a computer. I know that there are gazillions (my word for lots and lots) of middle aged and older Americans who have had to learn to use this technology on their own. Microsoft products made it easy, non-threatening and affordable. Their products caused the huge number of purchases of personal computers and associated items, that drove our country's economic success and increased productivity in the 90's. 1 think it is sad that they are being penalized for America's success.

The terms of the settlement are reasonable, despite my objection that this case should not have been brought to court in the first place. Microsoft is making changes to prevent any future antitrust practices. It has agreed to establish a three-person technical committee which will monitor Microsoft's compliance with the settlement. Microsoft will use a uniform price list when licensing Windows out to the largest 20 computer makers in the United States. They have agreed to document and disclose for use by its competitors various interfaces that are internal to Windows' operating system products

I ask that the government stop spending my resources to penalize Micorsoft's success and agree to the settlement terms.

Nancy Braden
cc: Representative Ric Keller

MTC-00031826

208 N. CHURCH STRET
Nazareth, PA 18064
To: Dept of Justice
From: Evelyn Huth
FAX 202-307-1454 or 202-616-8837
Date: January 23, 2002
Re: Microsoft Settlement Case
cc:
o Comments: See attached letter.
JAN-23-2002 10 : 20

I WOULD HOPE THE RECENT ANTITRUST SETTLEMENT BETWEEN THE JUSTICE DEPARTMENT & MICROSOFT ARE ACCEPTED. FROM NEWSPAPER ACCOUNTS, I BELIEVE THE SETTLEMENT IS REASONABLE & EXCEEDS THE FINDINGS OF THE RULING BY THE APPEALS COURT. MICROSOFT HAS HELPED BRING ITS COMPANY INTO AN NEW ERA. PROLONGED ARGUMENTS SIMPLY DELAY PROGRESS.

I, FOR ONE, SEE MICROSOFT BEING PUNISHED FOR BEING INNOVATIVE & FEEL THE SUITS AGAINST THE COMPANY STIFLE THE INVENTIVE SPIRIT & THE SPIRIT Of FREE ENTERPRISE WHICH HAVE BEEN HALLMARKS OF THE AMERICAN WAY OF LIFE.

I SEE OTHER COMPANIES BECOMING MONSTROUS MONOPOLIES, BUT THEY DO SO WITH NO RECRIMINATIONS. TO ME, THIS SMACKS OF DISCRIMINATION AGAINST MICROSOFT.

PLEASE LET US ALL GET ON WITH INVENTION, INITIATIVE, & HOPE FUTURE.

SINCERELY,
MRS. EVELYN L. HUTH
209 N. CHURCH ST.
NAZARETH, PA 18064

MTC-00031827

John and Marion Tasso
163 Cannon Boulevard
Staten Island, NY 10306

January 22, 2OO2
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am asking that you give your approval to the settlement between the Department of Justice and Microsoft. This agreement was hammered out between the two parties, and I think if the agreement is good enough for them, it should be good enough for us. We do not need to waste any more taxpayers' money. It is time we got past constantly rehashing judicial decisions. When does it stop? Why even go to court., if we don't abide by the decision? We are also trying to get past an economic recession, why cripple the one company that will help us get out of it?

Microsoft has agreed to many of the conditions imposed by the Department of Justice. Microsoft has agreed to a technical committee to monitor its future adherence; Microsoft has agreed to help companies achieve a greater degree of reliability with regard to their networking software; and Microsoft has agreed to grant computer makers new license to configure Windows to promote non-Microsoft software programs. This is more than fair.

Give your support to this agreement. Thank you.

Sincerely,
John Tasso

MTC-00031828

IHI TURBO AMERICA
P.O. Box 22E Shelbyville, IL 62565
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have never been one to agree with any type of monopolistic practices within on organization. This is why at the beginning of the case against Microsoft; I felt that the main complaints were justifiable. I however became quite dissatisfied with the turn that this lawsuit took.

I am thankful that the government realized that such a breakup would have drastic results for the IT industry, the economy and for consumers and redirected the lawsuit and eventually proposed a settlement. Though I find some of these terms of a bit harsh for Microsoft in that they are being asked to release its internal protocols, interfaces and intellectual properties, I am very pleased with Microsoft's willingness to comply. I think Microsoft's willingness has been slighted by the States wishing to continue litigation.

I am writing to give my complete support to Microsoft in this matter and hope that Microsoft's compliance to the terms of the settlement is duly noted. Putting this matter to rest will do the economy, the IT industry, Microsoft employees and software consumers a world of good. I appreciate your office's prompt decision to end litigation as soon as possible.

Sincerely,
John Selby

MTC-00031829

SEMAR
689 Lakeshore Drive
P.O. Box 128
Lake Junaluska, NC 28745
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my support for the Microsoft settlement. I feel that the Department of Justice reached a fair and reasonable agreement, which nine states leave already approved. I do not understand what more Microsoft should do to appease the states continuing with litigation. The concessions the corporation has already made have set new precedent regarding antitrust cases, and have set provisions to handle future problems that may occur.

Under the current agreement, Microsoft will change the way it develops, licenses, and markets its software. Microsoft will grant software developers and computer makers the ability to configure Windows so as to promote non-Microsoft software that competes with programs included within Windows. Also, Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows operating system products. It appears to me that Microsoft has, more or less, opened its doors for the competition to launch their products through its existing inventions.

I do not see what further litigation at the federal level will gain for the consumers. As a taxpayer, I cannot justify allocating scarce recurses on a problem that has already been solved, and fear that the states continuing with litigation see this lawsuit as a revenue builder and nothing more. I hope you will see fit to judge this case by its merits, and not by political and legal trends. Thank you for taking the time to hear my thoughts.

Sincerely,
Vergil Daughtery

MTC-00031830

ALFRED W. CRUMP, JR.
ATTORNEY AT LAW
520 WASHINGTON STREET
P.O BOX 1498
READING, PENNSYLVANIA 19603
TELEPHONE (610) 376-8784
FAX (610) 376-2853
January 22, 2002
Attorney General John Ashcroft
U.S. Dept. of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Re: Microsoft Settlement

Dear Mr. Ashcroft:

I am writing in support of the settlement of the Microsoft litigation which is now pending. It is my belief that Microsoft has done this country a great service by their innovative products. Software development, from my layman's knowledge, appears to be a low entry cost product which requires substantial individual knowledge and creativity as opposed to great cap out lay (as opposed to Chip Manufacturing).

Certainly, I, in no way, want to condone any monopolist practices by corporations, however, in Microsoft's case, I cannot see how they should be forced to share their creative processed with companies who would be taking advantage of Microsoft's initial hard work and creativity.

I think a majority of Americans are tired of this litigation and that we should get on with the real business of America and allow Microsoft's creativity to continue. There certainly are many other knowledgeable and creative people out there who can compete if they so desire, however, they should not be able to take advantage of Microsoft's initial innovations.

A Plot against Microsoft appears to be focused on college campuses,including my son's, who feel that Microsoft is the "evil doer". Microsoft, because of the great wealth it has created, has replaced or is the current representation of "corporate America", which, in one's youth, one loves to vility.

However, the majority of Americans want Microsoft to be praised rather than be condemned or penalized.

I remain...

Very truly yours,
Alfred W. Crump, Jr.
AWG/via
cc: Senator Rick Santorum

MTC-00031831

Renata B. Hesse
Antitrust Division
U.S. Department of Justice, Suite 1200
601 D Street NW
Washington, DC 20530-0001

Ms. Heese:

I am strongly opposed to the settlement proposed in the Microsoft antitrust trial. What is contained in that proposal provides neither adequate oversight and review to prevent recurrences of such actions in the future nor adequate penalties for those of the past.

Microsoft has been found to be a monopoly and to have used that position to illegally increase their fortunes at the expense of competitors, their own OEM customers, and the American public.

The proposed settlement seemingly accepts that Microsoft has behaved illegally, requires no meaningful compensation for their victims, and requires that they behave very slightly differently in the future—and then only on specific and enumerated products. This sort of settlement will do little to discourage Microsoft from similar activities in the future and will do nothing to keep them from using their vast financial resources to circumvent it.

The proposed settlement does not apply to any and all products. of any sort whatsoever, designed, manufactured, or marketed by any company either partially or wholly owned by Microsoft, its heirs, successors, or assignees, past, present, and future—it should. It does not require full and open disclosure of all APIs and file formats to developers of products which might compete with Microsoft products—it should. It does not prohibit the predatory practice of releasing Microsoft products which "cripple" competing products—it should. It does not prohibit software licenses which prohibit (or seriously restrict) packaging of non-Microsoft products by OEMs—it should.

It does not prevent them from using their nearly absolute control of the end-user computer Interface to sell other Microsoft products and services—it should. Finally, the proposed settlement seems to allow Microsoft to provide second-hand computers to under-financed school systems and supply them with Microsoft software. This is amazingly inadequate for several reasons: First, there is absolutely no shortage of used computers in this country. I've worked for computer manufacturers and can assure you that used computers are next to impossible to give away to school districts— they want current models. Private individuals, corporations, and government agencies scrap thousands of functional two or three- year-old computers daily and many of them end up in landfills because no home can be found for them.

Second, although the development cost of software is high, the manufacturing cost of the distribution media is negligible. The out-of-pocket cost to Microsoft for operating system and application software CDs is only a few cents each. Lastly, the concept of a settlement which requires that Microsoft's punishment for monopolistic acts be to actually extend the monopoly to include new victims who have escaped it in the past because of their lack of funds verges on the surreal.

Please find a settlement that protects us from Microsoft and is so painful to them that they never think of acting illegally again.

Respectfully,

Ran Ralston

23704 El Tom Rd. #5–285

Lake Forest, CA 92630

MTC–00031832

SMITH HELMS MULLISS & MOORE, L.L.P.
Attorneys at Law
2800 Two Hannover Square
Raleigh, North Carolina 27601
PO Box 27525 (27611)
(919) 755–8700
direct: 919–755–8713
fax: 919–755–8800
Mack.Paul@smithhelms.com

January 16, 2002

Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

North Carolina's Attorney General recently agreed to the settlement that has been reached in the Microsoft antitrust case, and I hope the federal court will follow suit and allow this long-running matter to be put behind us.

I strongly believe the settlement provides adequate guarantees against illegal and unfair behavior by Microsoft. The settlement protects computer makers, software companies and consumers. The establishment of a technical committee to monitor Microsoft's compliance provides further protection.

It is my personal opinion that this proceeding has, from the beginning, been more competitor-driven than consumer-driven. The long history of Microsoft and its products has been one of better services and lower costs for consumers. Never has any consumer harm been proven in this lawsuit.

The government should now be satisfied that competitors will be protected against improper actions by Microsoft, thanks to this settlement.

Sincerely,

SMITH HELMS MULLISS & MOORE, L.L.P.

Mack Paul

ATLANTA CHARLOTTE GREENSBORO RALEIGN WILMINGTON

MTC–00031833

William B. Cooley
P. O. Box 416
Jackson, N.C. 27845

Ms Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Northampton County where I live and grew up, is one of the most economically distressed areas of North Carolina. As the former Mayor of Jackson, our county seat, I know first-hand the economic challenge we face.

As our nation's economy becomes more heavily dependent on computers, I am concerned that my home county may fall even farther behind. I believe that we must focus on closing the "ital divide." But companies such as Microsoft, and its competitors, will not be able to do that if they continue to spend their time and considerable resources battling in the courts rather than developing new products and service for a wide range of customers.

For that reason, I believe it would be wise public policy for the federal courts to approve the pending settlement in the Microsoft antitrust cast. Our state's attorney general has accepted it, for many of the same reasons outlined above.

With our nation facing unprecedented challenges at home and abroad, American business needs to focus on serving the customer, not fighting in the courtroom. I hope the federal court will enable this to happen in this matter.

Thank you for your attention.

Sincerely,

William B. Cooley

MTC–00031834

Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

RE: Microsoft proposed settlement

Dear Ms. Hesse:

I have read a summary of the settlement and it seems to be very equitable. The provision that the twenty largest computer makers will be able to obtain Windows under the same terms conditions and price is very fair.

I think the time has come to settle this case and look forward to hearing that good news in the near future. This industry is very competitive. But Microsoft has been a leader in this industry for quite some time. They are not going away and I believe they will comply with the terms laid out.

Yours truly,

G. Baker Ellett

3305 Patterson Avenue

richmond, VA 23221

MTC–00031835

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Subject: United States v Microsoft Settlement

I am concerned that the penalty phase of this case may create a furthering of the monopoly that Microsoft has been found guility of. I am concerned that pushing the penalty phase for convienience, is not using the best in judgement. I am concerned that if the penalty is established by those terms negotiated by Microsoft that a president will be established for future monopoly cases involving other companies inclined to establish their own monopoly.

I believe that Microsoft should be held accountable to methods now and still being used by restricting computer manufactures to putting on only their operating system software when you purchase a computer. I believe that the computer and the installed software should be priced out as separate items. The consumer should have the knowledge of both the price of the software being offered, and have the option of installing whatever operating systems that is desired.

Microsoft should be required to provide specifications of the present and future document file formats publicly, so that all makers of software can write applications compatable with Microsoft operating systems. The specifications, of networking protocols, must also be provided to and approved by an independent network protocol body.

As an owner of MedScripts a concern of mine is patient confidentiality, it is because of this issue that we do not use the internet exployer of Microsoft in our business. We type medical chart information for physicians. I have noted that the Center for Strategic and International Studies indicated that the use of Microsoft software does pose a national security risk. With the various acts security breaches being done on an international level—this security risk is a concern of mine.

Thank you for your consideration when settling this case.

MTC–00031836

SEI INVESTMENTS
195 N. Harbor Drive # 2003
Chicago, IL 60601

January 23,2002

Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I would like to offer some thoughts on the Microsoft antitrust case. I believe that there was merit behind the complaints that brought about the original lawsuits, but that was three years and countless dollars ago. Microsoft has made an antitrust precedent in the concessions it has agreed to, and protocol has been proposed under your settlement to deal with future problems. I do not see any benefit from future federal action against Microsoft, and hope that this matter will soon be behind us.

There will always be those lining up to take as much market share from Microsoft as they can, and as long as you allow this case to proceed, there is nothing to stop them. Microsoft has already agreed to grant broad new rights to software engineers and computer makers. It has even allowed them to configure Windows so as to promote non-Microsoft programs that compete with the programs already included within Windows. Although it may seem unreasonable to allow your own successful product to be used as a springboard to launch the competitions" products, Microsoft has agreed in an effort to settle this issue sooner, rather than later. Would it seem as reasonable if Microsoft was involved in a more traditional industry? Imagine if Burger King could not penetrate McDonald's market share. Would we mandate that McDonald's allow its customers to order a Burger King Whopper at its own restaurants?

We must recognize that Microsoft has shot itself in the foot, be it a small hole, in an effort to end this witch-hunt. I see no reason that we can't allow the IT industry and the economy to move forward. I hope you will use your position to do what is right, and ensure that our country maintains its position as the world technology leader.

Sincerely,
Michael Holan

MTC-00031837

333 North Madison Street
Joliet, IL 60435–8595
815 725–7133 Tel
PROVENA
Saint Joseph Medical Center
Foundation
January 23,2002
Ms. Renata Hesse
U.S. Department of Justice, Anti-trust
601 "D" Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I appreciate this opportunity to submit comments regarding the settlement of the United State's anti-trust case against Microsoft.

I am a Microsoft consumer for several years and have been generally pleased with the performance of this company's products. Even more though, I am continually amazed with the advancements made the entire the computer industry over the last several years. These advancements are quickly becoming an integral part of most American's professional and personal lives.

While there is certainly a need for the government to protect consumers from monopolies, I do not believe our current laws can be honestly applied to the technology industry. This industry is one that is based on constant innovation and therefore changes very quickly. Since the government began its case against Microsoft the changes within this industry have made much of the original case out of date.

While I am not an attorney, my belief is that since the federal government and Microsoft have worked out this agreement it is one built on compromise. Generally, when two sides are required to compromise their positions to some degree the results are at least equitable.

I have no doubt that settling this case is the best for all involved, most importantly consumers.

Sincerely,
Jackie Lewis

MTC-00031838

GREG G. JONSON & ASSOCIATES, PC
CERTIFIED PUBLIC ACCOUNTANTS
5310 Markel Road, Suite 208
Richmond, Virginia 23230
Telephone (804) 282–0687
Fax (804) 282–0265
Frank Y. Yannis, CPA
Greg C. Jonson,CPA
Michael A. Hamway, CPA
January 23,2002
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I have had a chance to review a summary of the key provisions of the Microsoft settlement. I understand that they include a provision in which Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers on identical terms and conditions, including price. Another provision would grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows.

To me, these are examples of an agreement that "has teeth". I hope that this settlement will be adopted and this lawsuit will be put to rest.

Sincerely yours,
Greg G. Jonson. CPA

MTC-00031839

NORTH CAROLINA REPUBLICAN PARTY
Bill Cobey
Chairman
Linda Daves
Vice Chairman
January 23,2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202–616–9937

Dear Ms. Hesse:

As the Chairman of the North Carolina Republican Party, I have to be prepared to make tough decisions every day. I have to be constantly concerned with campaign strategy, issue debates and new fundraising strategies for the party. I'm glad to know that I have Microsoft products at my disposal each and every day to maximize my efficiency in dealing with these and other matters.

I've been involved in public service for a long time, having served the University of North Carolina at Chapel Hill at Athletic Director and as a member of Congress from North Carolina's Fourth Congressional District. Over the years, I've seen what improved technology can do for a staff.

For example, data processing technology makes the creation and mail merging of a document so efficient that it barely takes longer to write a letter to one hundred people than it does to write a letter to one person. Spreadsheets, business presentations and planning documents make meetings operate more smoothly and increase the level of comprehensive communication between everyone involved in a project. Microsoft has consistently led the way in technological innovation. From their Windows suite of products to their constant innovative program updates, Microsoft quite simply has produced the software that have been successful for American business and American families.

I'm not an attorney by trade, and I'm not familiar with every bit of legal minutia present in the federal government's antitrust case against Microsoft, but it seems to me that if both parties have agreed to a settlement, that settlement should be approved. The American economy is too dependent on technological innovation to drag this lawsuit out any further. I request that Judge Kollar Kotelly to approve the settlement.

Sincerely,
Bill Cobey
Chairman
1410 Hillsborough Street
* Post Office Box 12905
* Raleigh, North Carolina 27605
(919) 828–6423
* Fax : (919) 899–3815
* www.ncgop.org

MTC-00031840

Judy Napier
3300 Riverglade Road
Powhatan, Virginia 23139
January 18, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am told that comments on the proposed Microsoft settlement are to be directed to you. Thank you for the opportunity to do so.

The proposed settlement stipulates that Microsoft could not penalize computer manufacturers who distribute software that competes with Microsoft's operating systems (including Windows XP) and middleware (i.e., Internet browser, instant messaging tools, media player, and email utilities). These manufacturers would be entitled to uniform licensing terms, with some flexibility for volume discounts and marketing allowances. Computer manufacturers could fully "monetize" their control over the boot sequence and desktop configuration of computers by installing or promoting non-Microsoft products and services. They would be free to remove or replace any Microsoft middleware. I believe this means guaranteed flexibility for computer manufacturers who equip their products with any Microsoft operating system.

The last thing the technology industry needs now are government lawyers, bureaucrats and judges watching over the industry, attempting to micromanage it which is exactly what Microsoft's rivals lobby for on a regular basis. In this economy we need to market to operate freely, which is when it operates at its best.

Sincerely yours,
Judy Napier

MTC-00031841

W. THACKARA BROWN JR.
8835 Glass Pond Ct
Ocean Isle Beach, NC
28469
January 18, 2001
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202-616-9937
microsoft atr@usdoc.gov

Dear Ms Hesse

The US Department of Justice's antitrust lawsuit against Microsoft has been allowed to go on too long, and I believe it begins to smack of excessive use government power in the private sector. Accordingly, I want to express my hope that the proposed consent decree now before the court will be approved quickly.

I have extensive experience in the private sector working with government. I was the Public Relations/Public Affairs for a major pharmaceutical company for nearly 26 years. I know, firsthand, that government can be a constructive partner with business, but I also know that it can be a destructive force.

Microsoft clearly is dominant in the software industry today, but there is no guarantee that it can maintain that dominance. The information-technology industry, like so many industries, has seen dominant companies falter and fail before in a marketplace as dynamic and fast-changing as this one is, it can and, most likely, will happen again

This very dynamism, in fact, is the most compelling argument for settling the case. It is far better for America for these companies to fight each other in the marketplace, than in the courtroom. It is through the marketplace, not the regulatory arena, that new software will be developed and new innovations introduced to benefit both business and the individual consumer The proposed settlement apparently provides for extensive safeguards against inappropriate behavior by Microsoft. Further, the company has agreed to accept and abide by these specific and far-reaching provisions.

In view of these facts, I hope the court will act quickly to resolve this matter, end the litigation and allow those involved to concentrate their efforts on reenergizing this vital industry.

Let's get back to building America for the future!

Sincerely,
W. Thackara Brown Jr.

MTC-00031842

23-Jan-02 11:19 page 1/2
1/23/2002
Comments directed to the Microsoft Anti-trust hearings.
Renata Hesse
Trial Attorney
Suite 1200
Antitrust Division

I would like to take issue with the proposed settlement between the DOJ and Microsoft. If I understand it correctly, it provides: * No real remedies for the monopoly behavior that Microsoft has exhibited. * Seemingly makes it legal for them to continue such behavior in the future. * Provides some penalties which would only increase Microsoft's foothold as a computer monopoly.

It would seem to me that any settlement with Microsoft should contain the following provisions:

1) Microsoft should be required to publish the document file formats and specifications for the files used within their programs. This will allow other program developers to create software that can access these files, thus preventing Microsoft from developing software applications that can lock in companies to using only Microsoft applications.

2) Microsoft must also publish the protocols it wishes to use on the Internet thus keeping the internet open for all users and prevent the "takeover" by Microsoft by using its own protocols. An example of this is my local library. At the moment I can only access the on-line capabilities of the library by using Microsoft's Internet Explorer browser. The library uses Microsoft software to create its web pages. Those web pages can only be accessed with a Microsoft browser, thus locking other browsers out and locking people into using Microsoft software.

3) Microsoft must be prevented from tying its software in to the sales of computers. I have many copies of Microsoft's Windows operating system that I was forced to pay for because the computer manufacturers were forced by economic and other means to sell the systems with their computers. The software and the computers must be available separately and priced commensurate with the value of each.

If I understand what I have read in the news, one of the "penalties" of the settlement is that Microsoft is to provide 1 billion dollars worth of software to educational institutions. The facts of this are that a) the cost to Microsoft of a (line illegible) software to schools will only provide a further monopoly in the training of future computer users in Microsoft software. Thus the cost to Microsoft for this penalty will be very low and it will provide major benefits to Microsoft in advertising, and future sales of their software.

I feel very strongly that the DOJ has failed in its attempt to bring a resolution to the problems of Microsoft. It appears to me that they have played right into Microsoft's hands and this is a dream settlement for Microsoft. As a consumer who has been harmed by these issues, I hope that the DOJ will reconsider the settlement.

Thank you,
Bruce Marshall
8736 Bliss Road
Bellaire, MI 49615

MTC-00031843

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Richmond; (804) 698-1001
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COMMITTEE ASSIGNMENTS:
COURTS OF JUSTICE
CORPORATIONS, INSURANCE AND BANKING
SCIENCE AND TECHNOLOGY
MILITIA AND POLICE
MINING AND MINERAL RESOURCES
January 23, 2002
Renata Hesse, Trial Attorney
Antitrust Division
United States Department of Justice
601 D Street, NW, Ste. 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to advise you of my support for the proposed settlement agreement between the United States federal government and the Microsoft Corporation, and to encourage you to approve this settlement agreement.

This proposed settlement agreement would be of tremendous benefit to consumers in Virginia and other states. The dispute between Microsoft and the federal government needs to be concluded as quickly as possible, and a fundamental part of this settlement agreement should be recognition that Microsoft should be empowered to decide which products and features it offers to the public and how those products are priced. This is in the interest of competition, and bringing the best possible products, at the lowest possible price, to consumers.

As you know, Virginia is a technology friendly state, and technology companies have flourished within the Commonwealth over the past several years. We need to do everything we can to encourage a continuation of this important economic development activity, and we need to make certain that we not impede the success of companies like Microsoft in any way.

Again, thank you and I hope you will act favorably on this request.

Sincerely,
TERRY G. KILGORE, MEMBER
VIRGINIA HOUSE OF DELEGATES
FIRST DISTRICT
NOT PAID FOR AT GOVERNMENT EXPENSE

MTC-00031844

01/23/02 10:38 FAX 614 476 9939 DIVERSIFIED SYSTEMS
001
DSInc.
DIVERSIFIED SYSTEMS, INC.
"Diverse IT Solutions for a Diverse IT World"
700 Taylor Road,Suite 150
Gahanna,OH 43230
614-476-9939 ph
614-476-9672 fx
Facsimile Transmittal
To: J. Aschroft

Fax; 202 616 9937
Company: A G
Pages: 2
From: Homer Beard
Date: 1–23–02
CC:
xUrgent xFor Review xPlease Reply
MESSAGE Thank you for your consideration
Homer Beard
CONFIDENTIAL
01/23/02 l0:38 FAX 614 476 9939
DIVERSIFIED SYSTEMS
002
January 22,.2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am taking a moment to write to you to express concern about settlement reached between your office and Microsoft in the antitrust case. I fear that there are groups that would like this settlement withdrawn and see this case continue. You should avoid the advice of these groups and finalize the settlement.

Under this settlement Microsoft will disclose its information about internal interfaces within Windows, which will give competitors unprecedented access to Microsoft code. This will create more openness and competition in the IT industry. No other software company has ever agreed to share so much information as Microsoft has in this settlement. There clearly is no reason to continue this case.

I am in favor of the proposed Microsoft settlement, and I hope that it is finalized quickly. There are many more important priorities with which to deal, and prolonging this case would be folly. I am hoping that you agree and will stand behind your settlement.

Sincerely,
Homer Beard 1/23/02
6539 Rugosa Avenue
Reynoldsburg, Ohio 43068

MTC–00031845

WBDC Worcester Business Development Corporation
January 22, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington. DC 20530
VIA FACSIMILE

Dear Attorney Hesse:

I have served in municipal government for a number of years, and as a former local public official, I am often one of the first people to hear what is on the minds of our citizens. I can tell you that it is not the proposed settlement in the Microsoft antitrust case. People today are concerned about the economy and about their-job.

The Hi-tech industry plays an important role in the Massachusetts economy. We need to reach a conclusion in this case, so that our already fragile economic state is harmed no further. We need to put people back to work in the Hi-tech sector.

I urge the Justice Department to support the proposed settlement reached in this case. There has been no harm to consumers.

Sincerely,
Craig L.Blais
Executive Vice President
Phone 508–755–5734
339 Main Street Suite 200
Worcester. MA 01608
FAX 508–755–9639

MTC–00031846

p.1 (508) 755–9639 WBDC Jan 23 02 10:42a
Tallahassee, Florida 32312
January 21, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D. Street NW, suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

I believe that this country is becoming far too litigious. Lawsuits destroy our innovative spirit and, especially during economic times such as these, hinder the ability of corporate America to grow and create jobs for our citizens. The lawsuit against Microsoft is just one example of overzealous litigation. Suing a corporation for its innovation and capitalistic pursuits does nothing but deter other companies from investing in new technologies. Rather, we need to foster market solutions to issues affecting the technology industry. Such solutions will foster growth in the economy and create jobs; conversely, litigation such as that against Microsoft has the exact opposite effect.

Companies like Microsoft are built by innovative ideas coupled with the willingness to invest in the promotion of those ideas. The lawsuits against Microsoft appear to have been initiated by its competitors, which could set a dangerous precedent for using the courts to circumvent the legislative process. While I do not believe Microsoft should have been sued in the first place, I support the settlement reached between Microsoft and the Justice Department as a means to end this litigation. Closure on the litigation is beneficial to the entire technology industry. Thank you for the opportunity to relay my thoughts on this matter.

Very truly yours,
Jason L. Unger

MTC–00031847

Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Sheet NW, Suite 1200
Washington, DC 20530
Fax 202–616–9937
microsoft.atr@usdoj.gov

Dear Ms. Hesse:

I write in support of the proposed settlement in the Microsoft antitrust case. It is time to resolve this matter so the high-tech industry can return to what it does best: develop innovations that improve productivity and economic growth. The agreement that has been negotiated provides far-reaching changes in how Microsoft develops, licenses and markets its software. But the settlement also would enable Microsoft to continue developing new versions of Windows that feature new and integrated technologies. The settlement also takes significant steps in assuring that competitors of Microsoft and computer-makers will be able to compete successfully and use non-Microsoft products.

On a personal note, I agree with many of DOJ's assertions in the case, but at what point does the cost of the investigation and the restrictions placed therein become a greater punishment? It is my sincere hope that the courts will accept this settlement and resolve this matter quickly.

Sincerely
Jaimey Sexton
President
Telephone Strategies Group
1081–102 Wirewood Drive
Raleigh, NC 27605
Phone: 919–420–9320
FAX: 919–828–6589 member AAPC

MTC–00031848

learn something
January 21,2002
Renata B. Hesse
Antitrust Division
601 D Street NW. Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse,

As a small business owner, I employ several people. Recently, I had to lay off some staff, which last year did not seem possible. But, as I'm sure you are aware, the once raging high-tech economy is now barely limping along.

I think that the never-ending lawsuit against Microsoft has contributed to the slowing of the economy as innovation and funding have dried up. Microsoft is a huge player in my industry, and when they clinch up, uncertain of what this lawsuit is going to do, the entire tech world is slowed, virtually frozen in place wondering what comes next.

That is why I hope the court will accept the terms of the agreement on the table now. It seems fair to me. Microsoft will now grant hardware companies new rights to configure Windows so they have the freedom to promote non-Microsoft products within Windows programs. This was a good sign from Microsoft. Moreover, I don't think that the Government needs to be in the technology industry. If some companies—like AOL Time Warner—cannot compete, that is their own detriment, and Uncle Sam does not need to do their work for them. My business will be in much better shape if this lawsuit is settled, and I will be able to hire more people and contribute to the economy.

Sincerely,
William J. Crumpacker, III
CEO
2457 Care Drive
Tallahassee, FL 32308 USA phone: (850)385–7915
fax: (850)365–7964
www.learnsomething.com

MTC–00031849

COLONEL DICK BLACK (USA RET.)
20978 FLATBOAT COURT
STERLING, VIRGINIA 20185
THIRTY-SECOND DISTRICT
COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES RICHMOND
January 22, 2002

COMMITTEE ASSIGNMENTS: COURTS OF JUSTICE TRANSPORTATION LABOR AND COMMERCE CLAIMS MINING AND MINERAL RESOURCES

Renata Hesse
Trial Attorney
U.S. Department of Justice
601 D Street, NW #1200
Washington, DC. 20530
By fax: (202) 616–9937

Dear Ms. Hesse:

I urge you to approve the proposed settlement agreement in the case of United States v. Microsoft. Continued uncertainty surrounding this litigation has caused shock waves within the technology community that are impacting the economy.

I have received numerous complaints from the public regarding the Microsoft antitrust case. The public does not understand why Microsoft has come under judicial attack. I have not heard from a single individual urging continuation of the lawsuit.

As the most highly visible high-tech company in America, Microsoft is a bellwether for the health of the industry. The antitrust lawsuit could not have come at a worse time. A number of technology firms in or near my district have experienced financial distress unconnected with Microsoft. However, their difficulties are aggravated by the immense uncertainties surrounding that company. Prompt settlement of this case is crucial, not only to Microsoft, but to the industry as a whole.

I understand that the proposed terms of the settlement are fair to all parties. I support the settlement as written and urge immediate finalization of the case now pending before the federal court.

Sincerely,
Richard H. Black
Virginia
House of Delegates
32nd District
bly/cc: E. David Foremen, Jr.
DISTRICT: (703) 406–2851
* FAX: (703) 450–2076
RICHMOND: (804) 698–1032
* E-MAIL:
DEL—BLACK@HOUSE.STATE.VA.US

MTC–00031851

98 Shoreline Drive
Ware, MA 01082
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It has come to my attention that the US Department of Justice, and Microsoft Corporation have reached a settlement in the three-year antitrust case. I would like you to know that I support the settlement, and also support Microsoft in this. The government needs to leave them alone, and move onto other matters like investigating the Enron fiasco. Microsoft has agreed to make a specific number of changes, because of this; settlement. For instance, they have agreed to document and disclose various interfaces that are internal to Windows' operating system products. Also, they have agreed to design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers, and software developers to promote non-Microsoft software within Windows. Clearly, this settlement is more than just a slap on Microsoft's wrists. It will end the suit, and I support it.

Sincerely,
Richard Galaska

MTC–00031852

January 23,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

Please accept this letter as an indication of my full support for the settlement that was recently agreed to by Microsoft and the Justice Department with regard to their antitrust lawsuit. Settling this matter in order for Microsoft and the rest of the industry for that matter to begin innovating again is in everyone's best interest.

My understanding of the settlement is that Microsoft did not get some sort of secret "sweetheart deal." On the contrary, the software company has in fact agreed to terms that extend beyond the products and procedures that were actually at issue in the three-year lawsuit. After three years, one would think that all the parties would know what issues are at stake, and Microsoft's competition should have no justification for asking for even more than what was litigated over for the past three years. Therefore, a breakup of Microsoft, as some in the government strove for, is not necessary. As its stands, Microsoft will disclose for use by its competitors various lines of code for Windows products. I understand this is unprecedented in an antitrust settlement. It also agreed not to enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively or in a fixed percentage. Lastly, Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows OS.

It seems to me that the settlement covers all of the bases and should therefore be implemented.

Sincerely,
John Hunt
President

MTC–00031853

David A. Hayes
7241 Lighthouse Lane NE
Olympia, WA 98506
January 23,2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to express my support for the proposed settlement of the antitrust lawsuit against the Microsoft Corporation. The company's impressive ability to innovate and serve the consumer with affordable, quality products does not warrant the extensive legal action that we've seen over the last three years and should be ended at once.

The deal provides Microsoft's competitors with several openings in the marketplace that should satisfy the industry. The company has pledged to treat computer makers equally, regardless of their software preferences, by offering identical pricing to the top twenty hardware manufacturers and eliminating any contract stipulations that would obligate the distribution or promotion of Windows technologies. Considering these terms, and additional implementation of a three-person technical committee to review compliance, the government should accept this generous offer.

Please finalize the agreement at the end of the sixty-day public comment period at the end of this month. The economy and the consumer will greatly benefit from the decision to let the software industry get back to business once again. Thank you.

Sincerely,
David A. Hayes

MTC–00031854

ATS
Advanced Technical Solutions, LLc
Providing network solutions that work!
POBox 469—
Hurricane WV 25526
Phone 304–757–6542
Toll Free 1–877–479–5438
www.atsnetworking.com
January 21,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Penna. Ave, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Some of the main complaints against Microsoft may well have been justifiable in the beginning, but the course of the lawsuit made it quite clear that resolving these complaints quickly became secondary to punishing Microsoft for its successes. When the rhetoric started escalating to include threats of breaking up Microsoft, the entire matter crossed the line.

Potentially, a breakup of the size and importance of Microsoft could have had devastating effects upon the IT industry, as well as our national economy. To force consumers and IT businesses to triple source their software needs at painfully higher anticipated prices to cover the inevitable administrative costs of running three companies could have brought the computer revolution to a screeching standstill overnight.

Thankfully, cooler thinking prevailed and the lawsuit came to a screeching halt, rather than our economy. The resulting settlement has the advantage of ending the hostilities, as well as addressing most of the original complaints leveled against Microsoft. That Microsoft will need, for example, to be treating its OEMs and third party software developers with more openness and flexibility is a good thing.

I am therefore writing in support of the settlement and hope that it is found to be acceptable throughout the balance of this legal process.

Sincerely
Brian Sims
MCSE, MCT

MTC–00031855

TAMPA (813) 621–0855

PINELAS (727) 443–3609
ORLANDO (407)856–4076
KEARNLEY
DEVELOPMENT CO., INC.
P.O. BOX 76009 .
TAMPA, FLORIDA 33675–1009
FAX (813) 623–1437
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14-Dec-2001
Renata B. Hesse
US DOJ/ANTITRUST DIVISION
601 D Street NW
Washington, DC 20530–0001)
Tel: (xxx) xxx-xxxx
Fax: (202) 616–9937
RE: Microsoft Settlement—Do not go lite!

Dear Renata Hesse,

I wanted to make you aware of the opinions from industry regarding the irreprable harm Microsoft has done to the computing world. They have been blatently anticompetative, destroying any competition they could using their OS monopoly and continually expanding into new areas by leveraging their OS: Web Viewing, Web servers, Music(Media Player). No one can compete in any area if Microsoft simply bundles their product with their Operating System for free at first, they stave out all competition then charge because they are the only viable player in the market.

They were blatently apathetic at the charges leveled at them by the court, they were mocking and even faked an exhibit in order to show removing Internet Explorer from a Windows computer was harmful.(Even though any computer expert knows it isn't').[There were different icon layouts on the computers during the video, showing it had been cut and another computer used instead of the original.]

It is clear, without stiff penalties and controls on their future actions a company like this will not deviate from it's illegal ways. I urge you to consider a breakup of Microsoft into at least two companies: Operating System, and Office. This would at least stop some of the leveraging they are doing in those two areas which they control.

Respectfully,
David Secret
MIS Director
Kearney Development Co., Inc.

MTC–00031857

BROWN ASSOCIATES 001
J. Crozier Brown, P.E.
6915 Lupton Drive
Dallas, TX 75225–1739
214–373–8710
2I4–373–1220 Fax
January 23,2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Re: Microsoft Settlement

Dear Attorney General Ashcroft:

The government is unwarranted in its pursuit of antitrust violations with regards to the Microsoft Corporation. Microsoft has attained its position of dominance in the technology industry by offering consumers quality products. Microsoft production of user-friendly software has enabled the technology industry to grow quite substantially. This is in spite of the fact that the previous Attorney General and Administration spent more on the persecution of Microsoft than on the pursuit of terrorists who were actively attacking American interests around the world. The settlement, however, is welcome in that it provides an end to this persecution Anyone who thinks Microsoft got off easy in this dispute is mistaken. Microsoft has made numerous concessions throughout this process. Microsoft has agreed to disclose the internal interfaces of its Windows operating system. This allows developers to substitute non-Microsoft software for Microsoft software at their discretion. This will allow for increased competition for Microsoft competitors. Obviously, Microsoft is going to great lengths to settle this dispute. It is in the best interest of this economy that we let this settlement stand.

Sincerely,
J. Crozier Brown, P.E.
cc: Representative Richard Armey

MTC–00031858

Date: Wed, 23 Jan 2002 08:31:48 C800 (PST)
From: Bruce Timberlake <bruce@brtnet.org>
To: Microsoft.atr@usdoj.gov
Subject: Microsoft Settlement

I am writing to voice my concern, in accordance with the Tunney Act, over the proposed Microsoft settlement. I am a user and supporter of free and open source operating systems like Linux, FreeBSD, and openBSD, and of open source applications like OpenOffice, KDE, and Gnome. I am convinced that not enough effort is being spent really ensuring that Microsoft is (1) punished for their outrageous and damaging monopolistic practices in the computer industry, and (2) prevented by airtight legal terms from being able to stray down that path again. It is tough to do given the nature of the computer industry: rapidly changing, and not necessarily easily understood by the average person. Nor, possibly, by those who must make the final decisions. I hope that once the key elements of an acceptable settlement are repeated over and over by those of us in the industry, they will be incorporated.

I am all for capitalism, and the best company/product/idea becoming successful in the marketplace on its own merits. But when the playing field isn't equal, due to marketing, "backroom" negotiations, unequal licensing terms for- manufacturers who may not "toe the line," etc, then the best company isn't necessarily the one that wins. The best company might have never had a chance fron the beginning.

I don't want to pretend that I have all the answers, or even many of them. But as a part-time programmer, I think a few key ideas have to be part of the settlement, and they must be written it straightforward, airtight langauge, so that Microsoft cannot "figure out a way around them" at any point in the future:

1. All file formats—past and present as of the date of the settlement)— ever used by any Microsoft operating system or program, and specifically any member of the office suite (Word, Excel, Powerpoint, Outlook), must be made completely and immediately available as "public knowledge" in a way that does not require any money or identifying information to be given to Microsoft by any person, company, or organization that wants the information.

2. All file formats created and used after the date of settlement by any Microsoft or subsidiary company's operating system or program, and specifically any member of the office suite [Word, Excel, Powerpoint, Outlook), must be made completely available as "public knowledge" no later than the date the product is available to manufacturers for bundling onto computers, and in a way that does not require any money or identifying information to be given to Microsoft by any person, company, or organization that wants the information..

3. All APIs used to communicate between any Microsoft products (operating systems and/or applications) shall be completely divulged to enable the complete and unrestrained interaction of non-Microsoft operating systems and/or applications, or replacement of Microsoft operating systems. This shall specifically include the exchange and SMB protocols. This information will be made available as "public knowledge" in a way that does not require any money or identifying information to be given to Microsoft by any person, company, or organization that wants the information.

No computer manufacturer who offers Microsoft operating systems pre-installed on their computers can. be penalized in any way (through fee increases, contractual obligations, etc) if they wish to offer alternative operating systems for customers whc desire one either in place of, or in addition to, a Microsoft operating system.

There are many other issues that I don't feel competent to suggest a remedy for, but which I would like to state as a concern anyway:

The oversight committee needs to have the staffing and authority to report to the public what Microsoft is doing to "make good" on the terms, and the ability to truly punish Microsoft in some fashion if it does not comply with both the letter and the spirit of the settlement. One idea proposed by Ralph Nader seems especially appropriate:

"The level of fines that would Serve as a deterrent for cash rich Microsoft would be difficult to fathom, but one might make these fines deter more by directing the money to be paid into trust funds that would fund the development of free software, an endeavor that Microsoft has indicated it strongly opposes as a threat to its own monopoly. This would give Microsoft much greater incentive to abide by the agreement"

I also heartily agree with and endorse the GNU Foundation's suggestions some of which mirrors my own ideas at the opening of this letter:

1. Require Microsoft to publish complete documentation of all interfaces between software components, all communications protocols, and all file formats. This would

block one of Microsoft's favorite tactics: secret and incompatible interfaces. The rule must be: if they cannot publish the interface, they cannot release an implementation of it.

2. Require Microsoft to use its patents for defense only, in the field Of software. It is crucial to address the issue of patents, because it does no good to have Microsoft publish an interface, if they" have managed to work some patented wrinlkle into it (or into the functionality it gives access to), such that the rest of us are not allowed to implement it.

3. Require Microsoft not to certify any hardware as working with Microsoft software, unless the hardware's complete specifications have been published, so that any programmer can implement software to support the same hardware. To close, I would like to quote the summary by the Computer and Communications Industry Association of the DOJ settlement compared to that ordered by the DC Circuit Court of Appeals:

"The settlement being prepared by Charles James (l) would not prevent the central ways Microsoft was found to have illegally maintained its Windows monopoly, (2) does nothing to restore competition in the OS market, an express Court of Appeals requirement for a Microsoft remedy, and (3) has no provisions directed to Windows XP and other new endeavors of Microsoft to extend and protect its monopoly to new markets in the future, another express Court of Appeals requirement for a Microsoft remedy. The proposal is so far outside the mainstream of antitrust law, and so completely contradicts the DC Circuit's unanimous opinion affirming Microsoft's guilt, thus the only explanation must be political pressure. Whether or not the public learns of the backroom activities will be the responsibility of Judge Kollar-Kotelly under the Tunney Act public hearings that are required before approval of anti-trust settlements."

Thank you for taking the time to read this.

Bruce Timberlake
3636 Cheshire Avenue
Carlsbad, CA 92008
bruce@brtnet.org

MTC-00031859

TO: D.O.J./ATTN: MS RENATA B.HESSE
AT TELEPHONE NUMBER (OR FAX NUMBER):202 307 1454
FROM:
RE: Microsoft Settlement
NICK PAVIA & ASSOCIATES AT FAX PHONE NUMBER: 805/496–8806
PER YOUR REQUEST
OTHER:

THIS IS TO LET YOU KNOW THAT WE APPROVE AND SUPPORT THE MICROSOFT SETTLEMENT.

NICK PAVIA
DOROTHY PAVIA
TEL NO. Jan 23.02 12:18 P.01

MTC-00031860

From: Zoltan Ness
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
fax l-202-307–1454
Subject: Microsoft Settlement

I am opposed to the proposed Microsoft Settlement. It is not a true penalty for Microsoft. Giving away software that costs Microsoft little beyond distribution, yet is counted at full price, reduces the penalty to literally a penny or less per dollar. Each copy costs less than one dollar to distribute, but claimed worth is hundreds of dollars for some of the software. It also serves to further Microsoft's monopoly into an industry (education) which has traditionally had a healthy, competitive mix of personal computer alternatives (Apple, for example).

Rather than a having to live with the legal consequences of it's anticompetitive behavior, Microsoft would be given a less than token penalty AND given a DOJ mandated reason to extend it's monopoly into one of the few remaining strongholds of desktop OS competition.

Thank you for your consideration,
Zoltan Ness

MTC-00031861

January 23, 2001
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 "D" Street, NW, Suite 1200
Washington. DC 20530–000l

Dear Ms. Hesse,

This letter is written in support of the proposed settlement among Microsoft, the federal government, and nine states. It is offered under the provisions of the Tunney Act. I am president of Incremax Technologies Corporation and president of the New York chapter of the International Association of Microsoft Certified Partners, a group of independent companies selling solutions based primarily upon Microsoft software. I endorse a settlement to this long-running suit because it is good news not only for consumers, but also for the economy, which has been negatively affected by the uncertainty generated by the dispute. The proposed settlement already has considerable teeth, placing unprecedented oversight and restrictions upon Microsoft and the future conduct of its business.

Continued anti-trust action will extend the uncertainty already endured by key sectors of this country's economy. In addition, it will risk the over-regulation (and potential crippling) of an industry that already responds very well on its own to the marketplace. (In this light, I find it ironic that as I write, Microsoft is again been sued by rival AOL Time Warner in an effort to subdue Microsoft in court rather by competitive, free-market means.)

The elements of the Microsoft settlement are sound, benefiting U.S. constituents far better than continued litigation could ever bring about.

Sincerely,
Kerry P. Gerontianos
Ilncremex Technologies Corporation
575 Lexington Avenue,
New York, NY 10022
Phone 212.888.1900
Fax 212 888.1050 E.mail
info@incremax.com
Web Site www.Incremax.com

MTC-00031862

FROM : RABBI MARC BROWNSTEIN, DD FAX NO. :
Jan. 23 2002 05:05pm P1
13703 Waverly Crest court
Cypress, TX 77429
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The purpose of this letter is to inform the Attorney General of my ardent support for the antitrust settlement against Microsoft. Three years have passed since the inception of this legal dispute. Over these years, countless federal resources have been squandered over the issue. An issue that, in my opinion, should never have been an issue in the first place. The government need not have the authority to persecute successful companies. It adds insult to injury when taxpayer dollars are wasted in the process. Further, Microsoft has made many concessions during the process. Microsoft is willing under the terms of the settlement to disclose protocols and design interfaces that are internal to the Widows system. This allows competing developers to design new software that are increasingly compatible with the Microsoft system. In addition, Microsoft has agreed to license the Windows system at the same price to many computer manufacturers. Obviously Microsoft is willing to make concessions in order to resolve this issue.

I believe the Attorney General should echo these sentiments with a hasty enactment of the settlement.

Sincerely,
Barbara Brownstein

MTC-00031863

FROM : Global Bay Inc. PHONE NO. : 2124252324 Jan. 23 2002 05:07PM Pl
1443 Pinewood Street
Rahway, NJ 07065
Phone: 732–882–1222
Fax: 212–202–4966
http:/www.globalbay.com
email: info@globalbay.com
Global Bay
January 23, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

I would like to express some of views regarding the Microsoft antitrust case. I have always disagreed with this case, and frankly feel that Microsoft is just bearing the brunt of the blow from companies that cannot match the superiority of Microsoft's products. I might feel differently about Microsoft if it had achieved its success purely by malicious behavior, but it did not. Microsoft built a better mousetrap and priced it lower than the competitions". I thought that was the goal of business.

The concessions called for in your settlement make antitrust precedent. Nevertheless, it is worth it to end this case sooner rather than later. Under your settlement, Microsoft has agreed to allow software engineers and computer makers to configure Windows in ways that promote non- Microsoft programs that compete with those programs already included within Windows. This sounds good for the average consumer, but is it fair to Microsoft? Imagine if McDonald's had to allow customers to order a Burger King Whopper at its restaurants if they wanted one, just because no one was going to Burger King. What if every Coke had to come with a sample of Pepsi inside, just because Coke has loyal drinkers? Would these situations be fair? Would we allow them? As long as Microsoft is willing to give up some of its market share and competitive advantage, there will always be more hands reaching out. It seems that the American Dream has changed into something for nothing, and now is backed by law. We need to realize that sometimes product lines fail. Just because the companies worked hard, doesn't mean that they deserve success. Such is capitalism.

Sandeep Bhanote

CEO

CC: Congressman Jerrold Nadler

MTC-00031864

BlazeConnect Inc.
520 N. Main, Cheboygan, MI 49721
Tel.: 231-597-0376,
Fax: 231-597-0393
January 23, 2002

Greetings,

Subject: U.S. vs. Microsoft

In regards to the ruling of the anti-trust case against Microsoft and the proposed settlement I have several thoughts and comments I would like to share. First of all I am pleased to see that Microsoft was found to have a monopoly. I am, however, not pleased with the proposed settlement. I am not pleased because although on the surface it seems like a good solution underneath it is lacking. I have read a great deal of other opinions regarding what should really be done. In my opinion breaking up the company or forcing them to disclose their intellectual property regarding file formats or the API is not the answer. The best thing I can think of is to use the laws that are already on the books, perhaps with some modification, to empower the end user. To put it simply the end user needs to have real choices. The first example that comes to mind is the analogy of ordering a pizza. Let's suppose for a minute that you do not care for anchovies on your pizza. On a Friday night you are working late in your office and you pick up the phone to order a pizza. You select the toppings you want but when the person on the other end of the line reads those choices back to you they add anchovies to the list. You remind them you did not ask to have anchovies put on your pizza. The friendly voice replies that although you do not wish to have anchovies put on your pizza they must be included because the company that supplies anchovies requires that they are included with every pizza. Then you are told that even if they do not include the anchovies you will still be charged for them. I am quite certain you would find this situation unacceptable. Now let's put this into the perspective of the computer industry. I recently purchased a new Dell laptop. My operating system of choice is Linux for various reasons. When I contacted Dell to order the computer I was told I had to purchase a version of Microsoft Windows as well as a Microsoft Office suite with the laptop. I did not argue because I understood the reason behind it. This is the reason something needs to be done about the power Microsoft has over the OEMs. My chosen profession is in the computer industry, I will not even begin to pretend to know anything about the laws in the various states or of this great nation. However, I believe this kind of business practice can be classified as racketering. Even if I am wrong on this count this practice has to he stopped, I believe the only true settlement is to simply stop Microsoft from forcing OEMs to bundle their products in order to get the OEM licens- ing. As a small time programmer it would be nice to have free access to the MS Office file formats and the programming API for Windows itself but this choice should be left up to the Microsoft Corporation, not the government. If a legal precedent such as this is set now who is to say that in a few years Pepsico isn't going to accuse Coca Cola of having a monopoly. If this were to happen and they were indeed found to have a monopoly who is to say the settlement wouldn't include Coca Cola disclosing their secret formula? In closing, my opinion is that the playing field needs to be leveled. Give the consumer a choice as to whether they want Linux or Windows, Microsoft Office or Lotus SmartSuite. Let the consumer decide who will dominate the computer market. I may be completely wrong but I feel that if the OEMs such as Gateway, Dell and Compaq are allowed to decide for themselves how they want to sell their products a settlement will be found on its own with little or no government intervention.

Greg Abur

Secretary Treasurer

MTC-00031865

JAN-23-2002 02:42 PM P.01
Virginia Linstrom
127 Alameda Avenue
Fircrest, WA 98466-6204
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing today to urge you and the Department of Justice to accept the Microsoft antitrust settlement. Microsoft has agreed to many concessions in order to put the issue to rest. The settlement is fair and I hope that you will agree to it.

Some say that Microsoft has gotten off easy; in fact they have not. Microsoft has agreed to give computer makers a wide-ranging flexibility to install and promote any software that they see fit. It has also agreed to license its Windows operating system products to computer makers at a uniform price no matter what other products the maker promotes. In fact, Microsoft has agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit. Microsoft has agreed to many concessions in order to settle the issue. The terms are fair and I would like to see the settlement accepted.

Sincerely,

Virginia Linstrom

MTC-00031866

Philip Wise
STATE REPRESENTATIVE
Ninety-Eighth District
Statehouse: (515)281-3221
e-mail—philip.wise@legis.state.ia.us
HOME ADDRESS
503 Grand Ave
Keokuk, Iowa 52632
Home: (319) 524-3643
House of Representatives
State of Iowa
Seventy-Ninth General Assembly
STATEHOUSE
Des Moines, Iowa 50319
COMMITTEES
Education, Ranking Member
Appropriations
Commerce & Regulation
January 23, 2002
Renata B. Hesse
Antitrust Division
United States Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse:

As a senior member of the Iowa House of Representatives who has focused on education and economic development policy, I have followed with considerable interest the proposed settlement in the Microsoft case. I am vitally interested in the creation and deployment of technology that empowers consumers and encourages business expansion. I believe such technology deployment has potential to foster growth in the non-metropolitan areas of the State of Iowa, which is the type of district that I represent.

It is my judgment that the proposed settlement in the Microsoft case is good for Iowa. I am writing, therefore, to lend my support to that settlement and to ask for your assistance in bringing about resolution of this case.

Respectfully submitted,

Philip Wise

MTC-00031867

FOUNDING FELLOW
American Society for Laser Medicine & Surgery
FOUNDING MEMBER
Gynecologic Laser Society
MEMBER
International Society for Laser Medicine & Surgery
MEMBER
NEW YORK ACADEMY OF SCIENCES
MEMBER
AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE
MEMBER
Sigma Xi, The Scientific Research Society of North America
MEMBER
Association for the Advancement of Medical Instrumentation
PRESIDENT

American Board of Laser Surgery
MEMBER
Surgical Staff, St. Barnabas Medical Center, Livingston, NJ.
FORMER MEMEBR
Medical staff, St. Luke's Hospital Milwaukee, Wisconsin
SENIOR Member Institute of Electrical and Electronic Engineers
SENIOR Member
American Society of Mechanical Engineers
LISTED
Who's Who in the World
Who's Who in Founders of Science & Technology
Who's Who in Optical Science & Technology
JOHN C. FISHER, Sc.D.
Consultant in Laser Medicine & Surgery
417 Palmtree Drive, Bradenton, Florida 34210 U.S.A.
941-756-2316
Fax 941-758-3617
January 23, 2002
Ms. Renata B. Hesse,
U.S. Dept. of Justice,
Washington, DC

Dear Ms. Hesse:

As an informed taxpayer, I am writing you to urge that the Dept. of Justice approve the proposed settlement with Microsoft and nine states, that was put forth on November 06, 2001.

The $35,000,000 which the Microsoft lawsuit has cost American taxpayers to date is excessive. Microsoft's competitors, who brought the suit in the first place, are simply interested in the destruction of Microsoft as a means of eliminating competition at taxpayers" expense. In the interests of a healthy economy, valuable technology for all users of computers, and ending the waste of tax dollars, I urge you and the D.O.J. to accept the proposed settlement.

Sincerely yours,
John C. Fisher, Sc.D.

MTC-00031868

COMMENTS: MICROSOFT SETTLEMENT CONCERNS
Samuel Davis
4325 South Park Avenue
Dothan, AL 36301
January 2, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Please allow me to cast my vote in favor of the recent settlement between the Department of Justice and Microsoft. I realize that this was an open case when you took over the Justice Department, and for that reason you were not afforded a great number of options in dealing with it. I believe the middle ground that you have staked out with Microsoft adequately addresses the concerns of all the parties involved, and I feel you should be applauded for reaching the agreement. A compromise such as this is obviously not going to make everyone happy. However, Microsoft's agreement to open competition within its Windows operating systems to non-Microsoft technology is a significant concession and should allow everyone a fresh start in the competition. I hope the settlement moves forward soon, and brings an end to the case. Thank you for your attention.

Sincerely,
Samuel Davis

MTC-00031869

Digitech Services,Inc.
PO Box 118
Glasgow, KY 42142
(270) 659-0241 Office
(270) 659-0083 Fax
DSI
Technology @ Work
January 9, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to inform you I am lending my support to the settlement reached between Microsoft and the Department of Justice regarding the antitrust suit. I believe that is suit has brought about the stagnated state of our economy and particularly the IT industry. It is necessary that the settlement is dealt with the way it IS. rather than continuing litigation.

This suit has been going on for the past three years. To continue any further litigation means a further delay in the revival of the economy and the industry. The settlement is fair and reasonable and was arrived after extensive negotiations. Not settling the case now will mean additional atrophy of time and money.

I strongly recommend that you finalize this settlement, and help to ensure the renaissance of our economy and industry. This unfair use of the American taxpayers' money cannot continue any further. To prevent this from continuing, all proceedings at the federal level must be stopped

Sincerely,
David Ogles
President

MTC-00031870

104 Garrison Road
Chelmsford, Massachusetts: 01824
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Microsoft has finally reached a settlement with the Department of Justice in regards to the antitrust suit, and I am writing this letter to voice my support for that settlement. The litigation between the two sides lasted for over three years, cost both sides millions of dollars, and assisted in knocking our economy down into a recession.

Although Microsoft did not get off all that easy in the settlement, I am in favor of most of the terms, and feel that the economy stands to greatly benefit from this agreement. Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows' operating system products. I feel that this goes too far, and forces Microsoft to turn over their intellectual property. However, I am in favor of the terms of the settlement that forbid any retaliation from Microsoft against other computer companies that either promote or produce software that competes with Microsoft's. This will encourage competition and help improve the IT industry. I am in full support of the settlement that was reached. It can bring an end to this tiresome suit, and that cannot come soon enough.

Sincerely,
Ted Staplin
cc: Representative Marty Meehan

MTC-00031871

Bob Ellis Inc.
2417 Bayfront Parkway
Orlando, Florida 32806-7337
Tel: (407) 859-5883..
Fax 859-5350..
Cell 247-3072 rellis1@cfl.rr.com
January 23, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Ave.
Washington, DC, 20530

Dear Mr. Ashcroft,

I am pleased to know that the federal government has reached a settlement with Microsoft. After three years of litigation, the settlement is fair to both sides and should be beneficial to consumers. The agreement is extremely comprehensive and mandates many adjustments in the way Microsoft carried out their business in the past. Microsoft has agreed not to enter into any agreements obligating any third party to distribute any portion of Windows exclusively. Also, the company has agreed not to enter into agreements relating to Windows that obligate any software developer to refrain from developing or promoting software that competes with Windows. Finally, the government assured compliance by negotiating for the creation of a Technical Committee to monitor Microsoft's compliance.

I believe Microsoft and Bill Gates have done tremendous good for the United States. Their products are used by millions of citizens and help make the economy stronger and more efficient. I commend you for your efforts to settle this case and hope no further action will be taken on the federal level.

I must say that I am very happy that Bill Gates is an American and that he was not a citizen of another foreign country as if he was, we would be sending checks from the United States to that county to purchase the excellent products that Bill Gates and Microsoft has delivered to our good citizens.

Sincerely,
Robert M. Ellis, President
\jak
CC: Representative Ric Keller

MTC-00031872

January 22, 2002
Dept. of Justice

It is ridicalous to think that Bill Gates, (Microsoft) is causing any problem. He has done more for the technology business that any other person.

His proposed settlement is excellent + is far more than he should be required to do. Support the proposed settlement of the Microsoft lawsuit.

Richard E M Kowa
5607 E 72nd St.
Indpls; In 46250

MTC-00031873

15311 Kingswood Lane
Sherman Oaks, CA 91403
January 23, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to express interest for settling the antitrust lawsuit Microsoft. I have been following the case with interest, and I believe that the settlement reached in November will amicably resolve the matter for both the government and Microsoft. The terms of the settlement are fair, ard Microsoft is making important concessions in order to get on with their business. Sharing internal Windows codes with its competitors will continue to expand the marketaplace for different programs, while maintaining Microsoft's market position for its operating system. Also, developing new features for users to remove the programs they wish levels the playing field more for competition. I urge you to settle the case against Microsoft as quickly as possible and not pursue further litigation.

Sincerely
Sanda Brown

MTC-00031874

Sutherland Insurance & Realty Company
Realtors : Insurance
TELEPHONE 828/ 693-9084
CORNER OF FOURTH AND CHURCH
317 NORTH CHURCH STREET
POST OFFICE BOX 40
HENDERSONVTLLE NORTH CAROLINA 28793
"In the Land of the Sky"
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Let me begin by saying that providing a platform for the average consumer to express opinion is a wonderful way to judge whether a settlement provides consumer protection. As an American taxpayer and Microsoft supporter, I feel that this case has gone on too long. I do not agree with every decision that Microsoft has ever made, but do feel that Microsoft earned its way to the top by producing quality products at reasonable prices. My feelings might have been different if Microsoft had acted maliciously, but I do think it is wrong to punish a corporation for building the mousetrap that almost everyone wants.

Microsoft has agreed to grant broad new rights, which will, in everyday language, open its inventions to be used as launch pads for the competitions' products. For instance, Microsoft has agreed to grant broad new rights to software engineers and computer makers to configure Windows so as to promote non-Microsoft programs that compete with programs included within Windows. Also, Microsoft will disclose for use by its competitors any protocols implemented within Windows products that are used to interoperate with any Microsoft server.

I cannot see what will be gained by further litigation, especially at the federal level, I fear that if this debacle persists, we may run the risk of slowing innovation to the point that advanced American technology may lose its competitive advantage in the world market. We must protect this valuable industry that creates jobs, exports, and economic revenue. In my opinion, the sooner we put this matter be-hind us, the better.

Sincerley Yours
Earl L Phillips
Broker-Realtor

MTC-00031875

179 Great Northern Road
North Troy, VT 05859
January 22, 2002
Attorney General John Ashcroft
US department of Justice
950 Pennsylvanian Avenue, NW
Washingotn, DC 20530

Dear Mr. Ashcroft:

After a long, tedious expenditure of time and money by both the Microsoft Corporation and the US Government, there is a settlement on the table in the antitrust suit filed by the Department of Justice. Personally, I did not think the case should have been brought to trial, but it was, and I am happy to see that an agreement has been reached. In the settlement, Microsoft will not break up. Microsoft is a good company. They are profitable and they bring good products to the market. We are making it hard for businesses to succeed anymore. We lament the loss of jobs and pour money into unemployment benefits, but deny companies the opportunity to succeed and provide jobs. Microsoft has agreed to the terms of the settlement in an effort to finally close the case and get it behind them. They have agreed to more conditions than were charged in the suit. I want to urge you to let the settlement stand and to close the case. We should let Microsoft get on with innovation and growth. It would be wrong to take any further legal action against Microsoft.

Sincerely,
Patricia Ferguson

MTC-00031876

January 18, 2002
Attorney General Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft,

As a computer and software reseller, our company is in the "front lines" of dealing with the public. This lawsuit against Microsoft has created much uncertainty in the minds of many of my customers and clients, and has had a negative impact on my business. I was relieved to see that the lawsuit has settled.

While a few of the terms of the settlement are, in my opinion, harsh for Microsoft, many of the terms are good for consumers, giving them more flexibility in choosing various options for their software needs. This is particularly obvious in the provision that affects distribution of licenses to OEMs, who will have more opportunities to pre-install programs that aren't made by Microsoft. Consequently, I will have more options to sell different kinds of software and more effectively customize and install what my customers want.

I am in support of this settlement and hope that it is sustained through this review process.

Sincerely,
Damo Porrill
System Administrator
CC: Representative Spencer Bachus

MTC-00031877

JEFF LAMBERTI
STATE SENATOR
Thirty-third District
Statehouse: (515) 281-3371
HOME ADDRESS
2621 NW 17th Street
Ankeny, Iowa 50021
Phone: H-(515) 965-1067
O-(515)965-1200
F-(515)-964-8796
jeff.lambert@legis.state.ia.us
The Senate
State of Iowa
Seventy-ninth General Assembly
STATEHOUSE
Des Moms. Iowa 50319
COMMITTEES
Appropriations, Chair Judiciary, Small Business, Economic Development & Tourism State Government, Vice Chair, Ways & Means, Transportation Infrastructure and Capital Appropriations Subcommittee, Vice Chair
January 23,2002
Ms. Renata B. Hesse
Antitrust Division
U. S. Department of Justice
601 D Street, N. W., Suite 1200
Washington, D. C. 20530-0001

Dear Ms. Hesse:

As Chair of the Iowa Senate Appropriations Committee, I am required to pay particular attention to current economic conditions. Like many other states, Iowa is struggling with a weak economy. As a result, we are facing significant budget shortfalls, and cuts in critical services.

Despite these challenges, we are optimistic about the future. We believe that the solution to our budget woes is a growing economy. Because of this, we are pushing an aggressive growth agenda this legislative session.

That is why I am encouraging the court to accept the strong but fair settlement you and your colleagues have negotiated in the Microsoft antitrust case, I believe the settlement will have a positive affect on the economy.

In fact, we saw evidence of this, as the markets rose when the news of a possible settlement broke some time ago.

I believe this matter has gone unresolved for far too long. I believe a settlement will be positive news for the over 600 software businesses and related enterprises located in Iowa.

Sincerely,
Jeff Lamberti

As an attorney, I have followed this matter with interest, and I support the Department and the nine Attorneys General in a settlement of this matter.

State Senator JL/ae

MTC-00031878

Mrs. Nels Turnquist
5394 N. Via Sempreverde
Tucson, AZ 85750
January 23, 2002
To: US Department of Justice
Attn: Ms. Renata B. Hesse
Fax# (202) 307-1454 or # (202) 616-4937
Re: Proposed settlement of Microsoft lawsuit

I wish to inform the Department of Justice that I as a taxpayer and consumer, strongly support settlement of the Microsoft lawsuit.

Sincerely,
Margaret Turnquist

MTC-00031879

GENERATIONS L.L.C
To: Ms Renata B. Hesse
From: Alvin L. Childers
Fax Number: (202) 307-1454 or (202) 616-9937
Date:
NOTES/COMMENTS:

I Support the Microsoft Settlement
8601 SE CAUSEY AVENUE,
SUITE 7—PORTLAND, OREGON 97266
PHONE:(503) 652-0750—
FAX: (503) 652-1691

MTC-00031880

IOWA STATE UNIVERSITY FOUNDATION
Memorial Union Alumni Suite
2229 Lincoln Way
Ames, IA 50014-7164
Telephone: 515-294-4607
Fax: 515-294-9402 or 515-294-4648
Date: January 23,2002
January 22,2002
Ms. Renata Hesse
Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

Like so many Americans, I am an investor in the stock market and have been financially hurt by the downturn this past year. As an individual investor, I have made every effort to do my part to prevent an even greater drop in the markets by maintaining my holdings without over-reacting.

While we enjoyed a relatively minor upswing recently, the markets once again dropped following the national media attention of the Enron bankruptcy. In the face of so much negative news, it is getting more and more difficult for investors to optimistically believe the markets have hit the bottom and are in a recovery.

From an economic standpoint, you have the ability to send a message which can only be construed as good by the media and the American public. I am referring to the Microsoft lawsuit. A proposed settlement in this case is before you. Most of the parties involved in this case are in agreement to settle this case based on the proposal presented. Please take this opportunity to do your part and sign on to the proposed settlement. By putting and end to this lawsuit, you allow the tech industry the chance to move forward. You will also create much needed optimism for a turning point in our times of economic struggles,

Thank you.
Sincerely,
Keith Fortmann
4815 Grand Avenue
Des Moines, Iowa 50312
515 255-8328

MTC-00031881

RPM MATERIAL HANDLING CO.
A California Corporation
8530 Avenida Costa Norte
* San Diego, CA 92154
* (619) 661-1575
* FAX (619) 661-1574
619 East Ross Avenue
* El Centro, CA 92243-9797
* (760) 352-8811
* FAX (760) 352-3776
Renata Hesse
Department of Justice, Antitrust Division
Via Fax 202-616-9937

To whom it may concern:

I am writing this letter to express my support of the settlement being examined in the Justice Department's case against Microsoft. Though the events of September 11 are not the reason this settlement should be accepted, I firmly believe September 11 must play a significant role in your deliberation.

The tragic events of September 11 unified this country in a way generations before World War II never even saw. It helped all of us realize what is important in this world and that we are all "Americans". For the first time in modem American history, we saw principle rule over politics once again.

Principle over politics is why I believe the court should settle the Microsoft case. Our economy is sagging...the tech industry is flat...in reality, we all know Microsoft is not a monopoly...and the people of this country are tired of their tax dollars paying for this case. US v. Microsoft was the politics of special interests being put above the principle of good policy.

In the post-September 11 world, we don't have a lot of room for politics any longer. US v. Microsoft is not good for this country. I sincerely hope you will accept the settlement and end this case.

Sincerely,
Rick Otis
President and CEO
www.rpmmhc.com
Materials Handling Equipment / Sales / Rentals / Leases / Parts / Service
CLARK NISSAN FORKLIFT DREXEL Linde

MTC-00031882

January 23,2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As an employee for a large midwestern hospital, I see first hand the benefits of technology everyday. Whether it is computerized laser surgical tools or sophisticated medical record software packages, my employer relies everyday on constant innovation within the technology field to better serve our patients and community.

The pervasive nature of technology continues to astound me. . . it seems as if virtually everything we encounter has some kind of microchip inside. Is it any wonder then, that one of the largest computer companies in the world being involved in a major lawsuit would have an extraordinary impact on virtually every segment of our economy? As I understand it, there is a settlement before you that could bring closure to this matter very quickly. While I agree it is vitally important to protect consumers, it is also important to do what is prudent to protect our economy and to continue technological innovation, research and investment.

The settlement before you addresses the concerns of the original complaint. All interested parties have approved it. Please give the settlement your final approval and help get the economy moving again.

Sincerely,
Terri Hasselman
Director of Major Gifts
Mercy Foundation
1111 6th Avenue
Des Moines, IA 50311

MTC-00031883

JACK E. NICKEL
STEPHEN L.NICKEL
(A Partnership of Professional Law Corporations)
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snickel@cox-internet.com
Renata Heese
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
FAX: 202-6 16-9937
January 23,2002
RE: Public Comment on U.S. v. Microsoft

I am extremely displeased with our government's expenditure of over 30 million dollars in taxpayer funds on the Microsoft case. The settlement should be completed because consumers are protected instead of companies: exactly the way our federal antitrust laws were designed to work.

Hopefully, this settlement will be approved and we can move on to other matters. Our economy is showing signs of regaining strength. Bringing this case to an end would assist in a needed economic recovery. Please approve the settlement in the interest of taxpayers and consumers.

Thank you,
Stephen L. Nickel

MTC-00031884

IMAGEFILM
George Kennedy

3469 Hyacinth, Suite B
Baton Rouge, Louisiana 70808
January 22,2002
Renata Heese
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
FAX: 202–6 16–9937
RE: Settlement of U.S. v. Microsoft

I fully support the proposed settlement in the U.S. v. Microsoft case. The legal wrangling has gone on long enough and the time to end the battle is now. The settlement, while not perfect, addresses the specific concerns and findings of the court. Consumers will be protected through close monitoring of all future Microsoft activities and business practices.

Technology companies like Microsoft, along with many other companies, provided the biggest boost to recent economic growth. I strongly believe that the next wave of technological advances could come as a result of the final resolution of this case.

Sincerely,
George Kennedy

MTC-00031885

The Beychok Group
MICHAEL
BEYCHOK
POLITICAL COMMUNICATIONS
DIRECT MAIL
225.819.1712
FAX 225.819.8914
15324 Lockett Lane
Baton Rouge, LA 70810
January 22, 2002
Renata Heese
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
FAX: 202–6 16–9937
RE: Settlement of U.S. v. Microsoft

I am in full support of the settlement proposed in the U.S. v. Microsoft case. I believe that the time has come for this legal battle to come to an end.

The settlement may not be perfect, but it does address the findings and concerns of the court. It also has mechanisms to protect consumers through close monitoring of all future Microsoft activities and business practices.

Microsoft and other technology companies provided the biggest boost to recent economic growth. I think that the next wave of technological advances could come as a result of finishing this case.

Sincerely,
Michael Beychok

MTC-00031886

January 23,2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington D. C. 20530

Dear Ms. Hesse:

I am in favor of the settlement in the case against Microsoft Corporation. I believe that the fact that Microsoft may not retaliate against competitors is important in a case that has gone on for months and years producing a great deal of ill will. Another positive aspect of the settlement is that Microsoft has agreed to design future versions of Windows so that consumers can add non-Microsoft software. These are examples of why this settlement should work.

Sincerely yours,
Cythia Faillace
6101 Inkberry Place
Glen Allen, Virginia 23059

MTC-00031887

Jan 23 02 03:28p Northwestern Mutual Agent 319–363–5517
JEFFREY A. BEAN
January 21,2002
Renata Hesse
Trial Attorney
Antitrust Division, U.S. Department of Justice
601 D Street, NW
Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

The United States and Microsoft have agreed to a settlement proposal of the Microsoft anti-trust case. As you know, the Tunney Act allows members of the public to comment on the proposed settlement before the court accepts it. I am most appreciative of this opportunity.

I am financial representative with one of the nation's leading investment and insurance companies and keep constant watch on events which have potential to impact our financial climate. I have watched the Microsoft case with great interest and was pleased to learn a settlement was on the horizon.

The last several years provided Americans with a time of unprecedented economic growth. While there is not one single reason for this growth, the substantial growth of the technology industry was a contributing factor. Unfortunately, these years of growth have been followed by a significant downturn. Again, we cannot fault one single thing or event for this decline; however, the Microsoft anti-trust case has been a contributing factor.

We are now looking forward to an economic recovery that will hopefully bring about several more years of prosperity and growth. It is essential that we give the markets and the economy every advantage.

Settling the Microsoft case is a positive action that will undoubtedly be felt in the markets. I look forward to seeing this case be brought to its conclusion.

Sincerely,
Jeffrey A. Bean
120—23RD STREET DRIVE SE
CEDAR RAPIDS, IOWA 52403
319–862–0007

MTC-00031888

MORRIS H. WEINSTEIN
P.O. BOX 1120
15548 Hwy 190
OPELOUSAS, LA 70570
(337) 948–3939
January 23,2002
Renata Heese
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202–616–9937
Re: Settlement of U.S. v. Microsoft

The time has come to settle this long and expensive lawsuit. From what I have read in the papers, this is a fair settlement. Microsoft may not like it and the government may not like it, which means it is probably a good compromise. Thirty million dollars of hard-earned taxpayer dollars have been spent and now we have a chance to end it. We should end it. I know I would like to see all of these computer companies and software manufactures quit bickering in court and get back to competing in the market. When that happens we all win.

Thank you.
Sincerely,
Morris II. Weinstein
MHW/bd

MTC-00031889

Hal P. Kilshaw
6673 Pikes Lane
Baton Rouge, LA 70808
January 23,2002
Via Facsimile 202–616–9937
Renata Hesse
Antitrust Division
United States Department of Justice
601 D Street, NW
Suite 1200
Washington, DC 20530–0001
RE: Microsoft Settlement

Dear Ms. Hesse,

I am writing in support of the revised proposed Final Judgment in United States v. Microsoft Corp.

I have always been a strong supporter of the Justice Department's use of its antitrust powers to regulate anticompetitive behavior in the marketplace. Your use of that power has led to a proposed settlement in the Microsoft case that is fair to all parties. It is now time for this issue to be resolved so that the technology industry can become an even more vibrant force for economic growth in our country.

Thank you for the opportunity to express my views on this issue.

Hal P. Kilshaw

MTC-00031890

January 23,2002
Dominion
Dominion Resources, Services, Inc.
East Case Street
Richmond VA 23219
Mailing Address
P O Box 26666
Richmond, VA 23264
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Regarding the proposed Microsoft settlement I offer the following comments.

Compliance with the terms of the agreement is crucial. But I believe that the compliance committee set up in the agreement is a good solution. First, they are technically qualified to make judgements. Second, complaints need not be brought to this committee's attention. They can also be lodged with the Department of Justice or any of the states that agreed to this settlement.

Thank you for the opportunity to comment.

Sincerely yours,
Crystal H. Smith

MTC-00031891

Jayne Victor
2351 South Rolfe Street
Arlington, VA 22202
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

I am told that comments on the Microsoft settlement may be directed to you. I am not a computer expert, but the settlement appears most acceptable because Microsoft has made several significant concessions including the following. o Microsoft has agreed to design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. The mechanism will make it easy to add or remove access to features built in to Windows or to non-Microsoft software. Consumers will have the freedom to choose to change their configuration at any time. o Microsoft has agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows.

These show good faith on the part of Microsoft in wishing to end this litigation.

Sincerely,
Jayne Victor

MTC-00031892

TOM BOLVIN
8422 GROVEDALE DRIVE, SUITE 202
ALEXANDRIA, VIRGINIA 22310
FORTY-THIRD DISTRICT
COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
RICHMOND
COMMITTEE ASSIGNMENTS:
EDUCATION
GENERAL LAWS
TRANSPORTATION
MINING AND MINERAL RESOURCES
January 23,2002
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am in agreement with the proposed settlement between the United States federal government and the Microsoft Corporation. I would like to encourage you to approve this settlement agreement and resist further efforts to continue this dispute.

This proposed settlement agreement is the correct step in promoting continued economic growth in a competitive marketplace and would greatly benefit the consumers in Virginia as well as other states. Microsoft is a proven leader in the technology field and has produced many superior products.

This settlement is a fair and reasonable compromise. The dispute between Microsoft and the federal government needs to be concluded as quickly as possible and come to an end with an amicable decision.

We need to encourage economic growth and stability, and this settlement is a valuable tool in achieving this. I would encourage the Court to approve the proposed settlement between Microsoft and the United States federal government. I appreciate the time taken to consider my views on this issue.

Sincerely,
Delegate Tom Bolvin
District (703) 719–7301
FAX: (703) 971–4502 or
RICHMOND: (804) 698–1043
EMAIL: TOMBOLVIN@EROLS.COM
WEBSITE: WWW.TOMBOLVIN.COM

MTC-00031893

LOS ALAMITOS AREA CHAMBER OF COMMERCE
January 23, 2002
Ms. Renata Hesse
Antitrust Division
Department of Justice
601 D Street, NW
Suite 1200
Washington, DC 20330

Dear Ms. Hesse:

I am writing on behalf of the Los Alamitos Area Chamber of Commerce to support the proposed settlement agreement that has been reached between Microsoft and the Department of Justice. While we believe that many of the charges raised by the Department of Justice in the lawsuit could be true, it is time to shift our focus and our limited resources to other priorities. The proposed settlement contains something in it for all of the parties involved in the lawsuit while maintaining its overall balance. It is a fair compromise that put into place guidelines for Microsoft's future activities while imposing penalties for its past actions. Most importantly, it allows the freedom for Microsoft to continue to innovate and develop new products and applications.

Please support the proposed settlement. It is time to put this issue to rest.

Sincerely,
Connie Pedenko
Chief Executive Officer
3231 Katella Avenue o Los Alamitos, California 90720 o 562/5986659 o Fax 562/598–7035

MTC-00031894

January 23,.2002
Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530

Dear Ms. Hesse:

We are writing in response to the court's request for public comments in the United States v. Microsoft case. It has been six years since the federal anti-trust lawsuit was opened against Microsoft, and over that time we have seen new frontiers develop in the technology marketplace, including new operating systems and the ever-evolving introductions of Windows 98, Windows 2000, and Windows XP operating systems.

Those intent on the demise of Microsoft have proposed penalties be imposed by the Court upon Microsoft that range well into the absurd. Some, like the break-up proposal, were thrown out. Meanwhile continued litigation against the software maker in both the U.S. and in Europe, lingers and consumes societal wealth. But most significant at this time is the settlement agreement between the federal government and Microsoft that remains to be approved by the Court.

Embarrassing hyperbole by Microsoft's competitors has plagued this case and public discussion of it, seeking mainly to serve the self interests of those competitors, and not consumers. As the case has ground on, prices have fallen, choices have expanded, and consumers have become better and better off.

A defining characteristic of the "New Economy" is that nearly anyone can enter. The financial barriers to entry are low and the main costs of entry now are inspiration, innovation, and hard work. Microsoft competes daily, with varying degrees of success, with brick-and-mortar companies as well as thousands of web-based businesses and online services.

The stated goal of federal anti-trust legislation is protecting consumers from harm. However, in this case, anti-trust action is not needed to maintain competition. The government has not outlawed any of Microsoft's many unsuccessful ventures; rather this case sought to moderate those successes Microsoft has achieved only through much trial and error. Greater government intervention in the New Economy is not merited; a free and competitive marketplace is due consumers.

We are including with this transmission a copy of our recent magazine cover article, "Antitrust's Greatest Hits," authored by David B. Kopel and Joseph Bast and published in
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Reason's November 2001 issue. It discusses the Microsoft anti-trust case in greater detail as well as in the context of historical anti-trust actions against Standard Oil and AT&T. We urge the Court to approve the proposed settlement agreement between nine states, the Department of Justice and Microsoft.

Best regards,
Adrian T. Moore
Vice President for Research, Reason Foundation
Executive Director, Reason Public Policy Institute

Attachment: Reason article on anti-trust.

Antitrust's Greatest Hits

The foolish precedents behind the Microsoft case By David B. Kopel and Joseph Bast

New developments in the antitrust face-off between Microsoft and the U.S. Department of Justice keep on coming. On August 17, Bill Gates" company failed in its efforts to delay any more action in the case until the Supreme Court decides whether to consider Microsoft's request to dismiss the suit. That was bad news for the company, since the next major step would be to decide what "remedies" will be imposed. Then, on September 6, the DOJ announced that it would no longer seek a breakup of the company—and, more surprisingly, that it would drop its claim that Microsoft had illegally "bundled" separate programs. But the other charges remain, and it is clear that Microsoft's enemies will surely urge the court to impose every possible restriction on the company's ability to adapt to changing conditions-particularly the di- minishing importance of the personal computer and the growth of Web-based computing.

It has been six years since Microsoft introduced Windows 95, the operating system that, by "bundling" itself with a Web browser, prompted the government's first antitrust suit against the company in 1997. Put another way, six years have gone by without Microsoft suffering any penalty for its supposed misconduct-unless, of course, you count the expenses and negative publicity it has incurred fighting the Justice Depart- ment. When Windows 95 debuted, Microsoft's critics and competitors made many predictions of the unpleasant things that would happen if the company kept doing business with- out new restraints. It's past time to see whether those predic- tions have come true.

It is also past time to take an even longer historical perspec- tive: to look at the government's earlier adventures in anti- trust and see how they compare with the Microsoft case. The results are very telling—not just with regard to Microsoft, but to antitrust law in general. Indeed, when one looks closely at the ground-breaking government actions taken against Stan- dard Oil, the Aluminum Company of America, and AT&T, it becomes clear that something other than preventing harm to consumers-the stated goal of federal antitrust legislation- is the motivating force behind applying the law. Misinterpre- tation of these cases lies behind the claim that Microsoft, unless punished, crippled, or otherwise injured, will achieve a "chokehold on the Internet" or somehow undermine the entire computer industry.

What follows is a medley of what might be called antitrust's greatest hits and an analysis of how the lessons of history are being misapplied to the Microsoft case.

The Oil Standard

From 1906 to 1911, antitrust authorities prosecuted Standard Oil, a case that culminated with John D. Rockefeller's company being forcibly broken up into several smaller businesses. The Microsoft wars have often been compared to the Stan- dard Oil case, and the analogy is apt-though not in the way it is usually intended.

Like Microsoft, Standard Oil was pilloried for practices considered legitimate when used by other companies. Since Standard Oil was such a high-volume customer, railroads gave it special discounts in exchange for planning shipments in ways that enabled railroads to use their lines and railcars most efficiently. Standard Oil's competitors complained bitterly about these discounts (called "rebates"), which the railroads kept secret from other oil companies.

Also like Microsoft, Standard Oil may have harmed its competitors, but it helped its consumers. Rockefeller's chem- ists developed 300 different byproducts from oil and created production and distribution processes far more efficient than those of other companies, allowing it to underprice them and to buy many of them out.

Standard Oil began in 1870, when kerosene cost 30 cents a gallon. By 1897, Rockefeller's scientists and managers had driven the price to under 6 cents per gallon, and many of his less-efficient competitors were out of business-including companies whose inferior grades of kerosene were prone to explosion and whose dangerous wares had depressed the demand for the product. Standard Oil did the same for pe- troleum: In a single decade, from 1880 to 1890, Rockefeller's consolidations helped drive petroleum prices down 61 per- cent while increasing output 393 percent. He eventually built

Standard Oil of New Jersey into a trust composed of 18 com- panies operating under a single board of directors. Standard Oil used resources with legendary efficiency, introducing many new labor-saving devices to its factories and locating sophisticated facilities at key points in its distribu- tion system. Yet Rockefeller paid wages well above the market level, believing that high wages, and good working conditions would save money in the long run by averting strikes and by encouraging loyalty among employees. Before Standard Oil revolutionized oil derivatives by lowering prices and improv- ing quality, the high prices and limited supplies of whale oil and candles prevented all but the wealthy from being able to work or entertain after dark. Thanks to Standard Oil, fami- lies could illuminate their homes for just one cent per hour. And he saved the whales.

The federal government filed suit against Standard Oil in 1906 for violating the Sherman Antitrust Act, and in 1909, the company was found guilty; the Supreme Court affirmed the finding in 1911. Standard Oil, claimed the courts, evinced an "intent and purpose to exclude others" -demonstrated, ironi- cally, by its many mergers, acquisitions, and business alliances. No one brought forward evidence of consumer harm, and the Misinterpretation of former antitrust cases lies behind the claim that Microsoft, unless punished, crippled, or otherwise injured, will achieve a "chokehold on the Internet." government never showed that Standard's specific actions, as opposed to its alleged intent, were illegal.

For several decades following the verdict, economists and legal scholars viewed the Standard Oil case as a classic example of "predatory pricing "-a monopolist's attempt to underprice its competitors out of the market so it could raise its prices later. In fact, just as the threat of new entry into the operat- ing system, browser, and applications markets has kept Micro- soft from ever exercising its supposed "monopoly power," so did new sources competition keep Standard Oil from rais- ing its prices. Neither the federal district court nor the U.S. Supreme Court found that Standard Oil's practices made kerosene prices higher than they otherwise would have been. If Microsoft Windows actually were a monopoly (that is, essential for anyone who wants to use a computer), the proper price would be about $900 a copy. Microsoft doesn't price this high because it knows that if it does, consumers will flock to Linux and Macintosh, and other companies would enter the operating system business, with products much cheaper than $900.

There's one more important parallel between the Standard Oil and Microsoft cases: Technological change made the Standard Oil decision obsolete by the time it was resolved. Of course, the Microsoft case hasn't resolved itself yet, but as we'll see, changing technologies are changing market conditions in the software world as well.

The oil business was opening fields in states such as Kan- sas, Oklahoma, Louisiana, California and especially Texas, where Rockefeller had failed to invest. All those fields were far away from the Ohio/Pennsylvania/New Jersey corridor that was the base of Standard Oil's power. Also, the national kero- sene market had declined, as home lighting shifted from kerosene lamps to coal-generated electricity and as fuel oil replaced coal and wood as the major fuel for home heating. In 1899, kerosene had accounted for 58 percent of all refined petroleum sales, and fuel oil for 15 percent. By 1914, kero- sene had plunged to 25 percent, and fuel oil had risen to 48 percent.

Rockefeller was slow to switch from kerosene to gasoline, and with only 11 percent of the nation's oil production in 1911, Standard Oil could never hope to dominate the new market. Throughout the energy business, new technologies and new efficiencies were creating new and stronger competi- tors from industries previously distinct from the oil indus- try Those competitors were far more powerful than the kero- sene companies Rockefeller had defeated decades before. Some observers have noted that in the years after Standard Oil was broken into smaller regional companies, the stock prices of those smaller companies rose, leading to speculation that breaking up Microsoft might have a similar positive effect on the total value of Microsoft stock. This is a misreading. Nearly all oil companies" stock went up in that period, not because of the breakup but because of rising demand and technological breakthroughs. Nor did the breakup have any discernible impact on oil production or oil prices.

The government's victory against Standard Oil had a long term effect on the oil industry that is seldom discussed by those who see parallels with the Microsoft case. Only six years after losing the antitrust case, Standard Oil dramatically changed its attitude toward Washington, moving from hos- tility or avoidance to a very warm embrace. Company chief A.C. Bedford served as chairman of the War Services Com- mittee, an agency created to mobilize the nation's supplies of gasoline and diesel fuel for military use during World War I. After the war, federal control never retreated, transforming what economist Dominick Armentano has called "a virtual textbook example of a free and competitive market" into "what had previously been unobtainable: a governmentally sanctioned cartel in oil." The legacies of this transformation include higher prices for consumers and the "energy crisis" of the 1970s. Deregulation in the 1980s finally restored some measure of competition to the industry.

The Standard Oil case teaches some important lessons about competition, innovation, and antitrust law. We see the difficulty antitrust has dealing with highly innovative com- panies. We witness the vagueness of antitrust law, which al- lows prosecution on the basis of alleged intent rather than specific actions. And we see how the Standard Oil case ulti- mately failed to benefit consumers or investors. Instead, it laid the groundwork for collusion between industry and govern- ment, bringing about many of the very ills the "progressive" proponents of antitrust said they were fighting.

Too Good to Be Allowed

In 1937, the U.S. government filed suit against the Aluminum Company of America, alleging over 100 violations of antitrust law. The government lost the case and appealed. The matter was finally decided eight years later, in 1945. This case is re- markable because it held that a company could be prosecuted under antitrust laws for being too efficient and responding too quickly to consumer demand.

The Aluminum Company of America (later Alcoa) grew out of the Pittsburgh Reduction Co., founded in 1887 by Charles Hall, the man who discovered and patented the technology for producing commercial quantities of aluminum. At the time, aluminum ingots sold for $5 a pound. By the time of the antitrust suit, the price was down to 22 cents per pound. Alcoa dominated its industry from the start. It not only invented nearly all the tools and techniques required to lower production costs and raise the quality of the aluminum it produced, but also played a major role in creating markets for the new metal. While many companies entered the busi- ness of fabricating products out of aluminum and collecting and recycling used aluminum, none attempted to compete with Alcoa by producing virgin aluminum ingots. This was not because Alcoa restricted access to inputs such as electricity or aluminum bauxite, both of which the courts ruled were available to potential competitors in ample supply. Nor, by the time of the suit, did Alcoa deny others access to the manufacturing techniques it had patented: Those patents had ex- pired in 1910. Alcoa was dominant because, as Armentano summarizes the situation, "users of ingot or sheet, and ultimately the consumers of fabricated products made from aluminum by Alcoa, were being served at degrees of excellence, prices, and profit rates that no one could equal or exceed."

The lower court found Alcoa innocent of all counts of anti- competitive behavior, even while acknowledging that it con- trolled 90 percent of the market for virgin aluminum ingot. (The other 10 percent was imports.) District Court Judge Francis G. Caffey reasoned that the Sherman Act forbade activity aimed at monopolizing markets, but did not outlaw the common business practices of companies that held domi- nant market shares due simply to the absence of competi- tors.

The appeals court agreed with Judge Caffey that the gov- ernment had failed to show that Alcoa engaged in anti-com- petitive behavior or charged higher prices than it should. But Judge Learned Hand, writing for the majority of the federal Court of Appeals, held that Alcoa's de facto monopoly was itself a violation of antitrust law. Alcoa, he wrote, "insists that it never excluded competitors; but we can think of no more effective exclusion than progressively to embrace each new opportunity as it opened, and to face every newcomer with new capacity already geared into a great organization, hav- ing the advantage of experience, trade connection and the elite of personnel."

One is reminded of those police officers who sometimes pull over drivers late at night for moving at exactly the speed limit and staying in the middle of their lanes, on the grounds that this kind of careful conduct may be evidence of over- compensation by a drunken driver.

Having found no evidence of specific actions that were il- legal, the court could hardly remedy the situation by restricting Alcoa's ongoing business practices. Nor, since the judges recognized the firm's outstanding efficiency and service to consumers, did it seem right to break up the company. In- stead, the court settled for prohibiting the company from bidding for government aluminum plants which had been built to meet World War II military needs, and which were being sold off. Those assets were subsequently sold to Rey- nolds Metal and Kaiser Aluminum.

In 1948, Alcoa and the federal government asked the fed- eral District Court for New York to reconsider the 1945 de- cision. Alcoa sought to be relieved of the scarlet M-for-monopoly that effectively criminalized its common business practices: the government, on the other hand, wanted to force Alcoa to divest some of its holdings. The district court, un- der the direction of a different judge than in 1937. once again found the government's case without merit, and this time ruled that Alcoa was not a monopolist.

A Real Monopolist

Besides Standard Oil, the case most touted by advocates of the Microsoft prosecution is the 1982 breakup of AT&T, which was overseen by federal judge Harold Greene. But while both cases involve information technology, there are important dif- ferences.

AT&T was indisputably a monopoly. From the beginning, the company lobbied for, and won, government protection against competition. It maintained its market share thanks partly to an array of legal prohibitions on other companies entering any part of the telephone services market, be it lo- cal or long-distance service—or even selling telephones and other equipment that could be attached to a phone line. The company's first president stated its strategy succinctly: "If there is to be state control and regulation, there should also be state protection to a corporation striving to serve the whole community...from aggressive competition which covers only that part which is profitable." Obviously, Microsoft has not called for similar protections from its competitors, nor is it today similarly protected.

Another difference: The AT&T divestiture undid acquisi- tions from decades before, in which AT&T had swallowed local phone operating companies. Microsoft, by contrast, has ex- panded primarily through internal growth. Because AT&T had capital and employees dispersed all over the United States to serve its customers, it could therefore divest itself relatively easily of the local telephone companies. These were then or- ganized into seven "Baby Bells" to provide regional phone ser- vice. Microsoft, with its capital far more centralized and with much less need to have people "on the ground" in geographi- cally defined areas (except for sales), would be far more adversely affected by such a legal order.

The settlement that led to the AT&T breakup also liberated the company from a 1956 antitrust consent decree that pre- More than half a decade after the first loud warnings about the awful world to come if Microsoft isn't stopped, the company's critics have been proven wrong at almost every turn. vented it from entering and competing in non-regulated businesses, such as data processing. In exchange, AT&T vol- untarily acceded to divestiture. Thus, the AT&T breakup was a consensual step toward deregulating a part of the economy that had long been regulated under the public utility model. A Microsoft breakup, by contrast, would represent a major increase in the government's intervention in this part of the economy.

At any rate, the AT&T breakup has been far from a com- plete Success. One part of the agreement created a competi- tor in the long-distance market, free to introduce new technologies. This seems to have been relatively successful, with AT&T moving into cable, wireless, and other data transmis- sion arenas and competing with a variety of businesses around the globe. (Of course, AT&T doesn't always compete success- fully, as demonstrated by its huge stake in the floundering cable-modem system Excite@Home, which has been teetering on the verge of bankruptcy for most of this year.)

Much of the old AT&T was left behind as the local Bell companies, which were forbidden to manufacture telephone equipment or design new telephone products. The theory was that keeping these Baby Bells from equipment manufacture and design would prevent them from using their profits from local telephone service to subsidize new businesses. Instead, the arrangement created local phone monopolies that have been slow to innovate or to let competitors into their captive markets. Lucent, the technology company formed out of the breakup, is itself mired in financial and legal troubles. Judge Greene's supervision of the telephone companies continued from 1982 until 1996, when an exasperated Con- gress finally dissolved the consent decree. In the intervening period, hundreds of applications for waivers-usually by local Bell companies wanting to sell or license a new technology- sat on Judge Greene's docket for an average of four years. Antitrust is sometimes said to be superior to formal regu- lation, in that antitrust does not require continuing govern- ment oversight of the company business. But the AT&T case demonstrates that enforcement of antitrust laws can gener- ate as much or more intervention. Like the Standard Oil case, the AT&T case reveals a pattern of government control ex- panding over time, first to manage prices and avoid "un- healthy" competition, then approving and disapproving of mergers and acquisitions, and ultimately ruling on whether to allow innovations in products and services.

The Microsoft Panic

And Microsoft? If the assault on this company is to do more good than the partly successful breakup of AT&T-let alone the utterly unjustified wars on Standard Oil and Alcoa-then one would at the very least expect the suit's rationale to survive the passing of time. But it hasn't. More than half a decade after the first loud warnings about the awful world to come if Microsoft isn't stopped, the company's critics have been proven wrong at almost every turn.

In the year before the introduction of Windows 95, Micro- soft announced it would start its own online service, to be called Microsoft Network (MSN). An icon for MSN would appear on the screen of every computer that shipped with Windows as an operating system; this was expected to be a huge advantage for gaining customers. At the time, Microsoft had a market share of exactly zero in the online services busi- ness. AOL promptly ran to the federal government to com- plain that Microsoft's plan was "anti-competitive." Technol- ogy journalist Steven Levy wrote an article in Newsweek warn- ing that because of MSN, "One day, dollar bills may be re- placed with Bill Dollars, and a piece of every online transaction could go through Microsoft's bulging coffers."

In Upside magazine, Gary Reback, Brian Arthur, and other devoted Microsoft critics wrote, "It is difficult to imagine that in an open society such as this one with multiple information sources, a single company could seize sufficient control of in- formation transmission so as to constitute a threat to the underpinnings of free society. But such a scenario is a real- istic (and perhaps probable) outcome." Business Week wor- ried that Microsoft might "leverage" its operating system dominance to "corner" markets such as "networking, home software, and online services. In short, it might largely take control of the information superhighway."

Later, a group of Microsoft's competitors-Netscape, Oracle, Sun, and MCI-urged government action so that Microsoft would not "gain control of the Internet," arguing that suppressing Microsoft would "ensure the accessibility and affordability of information technology and the Internet." Netscape's Jim Clark offered a similar warning regarding Microsoft's Web browser, Internet Explorer: "If Microsoft owns the browser as well as the operating system, there will be no Yahoo!, no Infoseek, no Excite, just Bill standing at the gate, pointing out where he wants go. Microsoft will be the one and only "portal'." Sun's Scott McNealy fretted: "How are you going to compete if Microsoft won't put you on the Microsoft Shopping Center- which will be the opening screen of everyone's computer?"

Ohio Attorney General Betty Montgomery warned that unless Microsoft was stopped, it would turn the "information superhighway" into a "toll road." In 1997, the misnamed Council for a Competitive Electronic Marketplace warned that with Windows, Microsoft would be able to capture customers for online services for products such as insurance, banking, real estate, and local entertainment. A year later, an advocacy group called ProComp (which had been created to promote restrictions on Microsoft and is funded by Microsoft's busi- ness rivals) warned of "the very real potential that Microsoft will become virtually the sole gateway to the digital market- place."

Similar warnings were made when Windows 98 made its debut with Channels (a soon-to-fail version of a "favorite links" list). As late as April 2000, after AOL announced it would choose Netscape as the AOL browser, the Department of Jus- tice was warning that Microsoft might "add proprietary fea- tures to its Internet Explorer browser to tighten its control of the main on-ramp to the Internet for millions of consumers." The government did not abolish MSN, nor did it suppress Channels, nor did it outlaw "bundling." While the pressure of the antitrust case may have forced Microsoft to stop en- forcing some terms in contracts with some of its business partners, and may have distracted the company's leaders from producing new and better products, those setbacks were surely minor in light of Microsoft's supposedly immense market power. Microsoft's sinister power has had years to grow since the DOJ filed its suit. So what happened?

Windows 95 made its debut with the MSN icon intact, and MSN went on to become the most expensive failure in Micro- soft's history. The network's content was weak, the interface was horrible, and the installation routine was lengthy and error-prone. Meanwhile, AOL made its interface better and better, and marketed itself incessantly through free sign-up disks and by paying computer manufacturers to include an AOL icon on the Windows desktop screen.

Microsoft Network no longer exists as an online service. It has been replaced with a free Web portal, similar to the Ya- hoo! or Excite portals. Microsoft's Internet service provider currently serves about 5 million customers. AOL has 35 mil- lion.

The fuss over Microsoft Network shows that antitrust ac- tion was not needed to maintain competition, even though MSN was on every desktop of every Windows 95 computer. MSN was an inferior product, so it failed. The same events illustrate the power of technological change to eliminate in-cipient monopolies. The growth of the Internet made online services much less important than they used to be.

Despite MSN's failure, however, allowing Microsoft to compete in the market for online services produced enormous benefits for consumers. When MSN was introduced, AOL was charging $54.20 for 20 hours of use a month. MSN was priced at $19.95 for that same amount of time. Thanks in part to the competition created by MSN, AOL eventually dropped its price to between $19.95 and $24.95 for unlimited use, and most other online services and Internet service providers followed suit. The same story of falling prices and rising usage has been repeated in virtually every area where Microsoft's entry was predicted to reduce competition and harm consumers. After a brisk start. Microsoft sold its much-touted Side- walk sites, which operated as local entertainment guides. Its real estate site, HomeAdvisor.com, trails Homestore.com and is being forced, like many other e-commerce sites, to recon-figure its business strategy. The Microsoft Expedia travel site was spun off into anothe company, and is now owned by USA Networks, not Microsoft. Microsoft's automobile Web site is doing pretty well, but hardly has chokehold on its market. But the fact that Microsoft neither dominates nor even still attempts Chicken Littles from warning that Microsoft's new XP operating system-scheduled for release in late October-will take over digital commerce.

Why No Monopoly?

One easy conclusion is that Microsoft's ownership of Win- dows and Internet Explorer is not enough to give it control of online commerce. Microsoft competes with traditional brick-and-mortar companies as well as Web sites, with other portals and online services that have millions of users, and with companies specializing in e-commerce. Even though Microsoft supplies the starting point for much Web surfing, the rest of the Net is just a click away.

More fundamentally, the idea that a Web browser could be used to control Internet content was hardly believable in the first place. One might as well believe that Sony would be able to control television programming if it sold 40 percent- or even 95 percent—of new television sets in the United States. A browser, like a television, is just a tool for reaching content. A television or a browser that interferes with access to con-tent is, by definition, an inferior product. It is not going to have a viable economic future, much less become a market leader.

In 1997, Microsoft executive Nathan Myhrvold said the company wanted to get a "vig" (a bookie's share) of every Internet transaction that used Microsoft software. But this was unrealistic. The Internet vig was possible only in theory, not in the real world. Stanford economist Robert Hall offers the following scenario for what would happen if Microsoft made the attempt: "Yahoo! will ally with a manufacturer of cheap small computers and a national Internet service provider to produce an entire system that is Yahoo!-branded, defaults to the Yahoo! portal, but also provides access to the entire Internet with an open standard browser such as Netscape or Opera. The hardware would be cheap enough to be given A close look at antitrust's greatest hits-the cases of Standard Oil, Alcoa, and even AT&T-reveals a pattern of arbitrary rulings, disregard for consumers, and political interference with the administration of justice.
away, like cellular phones or cable boxes, and all of the profit will be made advertising, monthly fees, and transaction fees."

Bill Gates had hoped his company could at least make money from banks which used Microsoft software for online banking. That too failed, as banks ditched Microsoft network- ing software, and instead offered banking services via the World Wide Web.

What about Web servers the computers that serve up the Internet's content to Web surfers? Could a company le- verage a huge marked share for its browsers into control of the market for servers? As it happens, one business tried to do precisely this. The company was Netscape, during its period of early dominance on the Web. But Netscape offered mis- erable support for developers and priced its product extremely high-thus creating an opportunity for Micosoft and other competitors. Today, the leading Web server software is Apache, a Unix-based program, which is free, and which is on 63 percent of servers. Microsoft's MS is second, with 20 percent. Netscape's Enterprise has 7 percent.

Even if Microsoft achieves a high share in the server op- erating system market, it is likely to have little market power, because barriers to entry are low. Server software, including the operating system, carries out a limited range of functions. The software provides only the simplest user interface, which is the source of much of the complexity in full operating sys- tems.

And what if Microsoft were the only browser company in the world? Could it then introduce a browser with Microsoft- only features and force the rest of the world to buy Microsoft server software, by making IF incompatible with every other company's Web server? An allegation to this effect was made in the spring of 2000 by the Department of Justice, although the court never heard evidence on the subject. According to the allegation, Internet Explorer included proprietary exten- sions of Kereboras (a security program that prevents hack- ers from entering a Web site) that work best with the Micro- soft Web server.

The first practical obstacle to such a strategy is that the users of Internet Explorer would be cut off from any Web site that did not fall in line with Microsoft's program. This would be major competitive defect, to say the least. Older versions of Internet Explorer and any remaining copies of other browers on the market would still be able to gain access to those sites. An immediate market would emerge for new browser able to reach Web sites that did not adopt Microsoft's server software. Major Web sites, particulary portals, would give away such browsers to ensure their sites could be reached AOL as owner of Netscape, would be in particulary good position if Microsoft altered Inter- net Explorer to make it incompatible with AOL and other Web sites. Microsoft's hold on the browser market could never be strong enough to let it extract significant value from the server side, despite Microsoft's important roles in providing both a browser and server software. Individual users would not have to play a major role in opposing Micro- soft. A few key Web sites- valued in the stock market at tens of billions of dollars—could do it on their own.

Ignorant Elites

Because the Internet is still developing so rapidly, reporters and politicians are easy prey for manufactured panics. It would be much more difficult to create such a fright over a more fa- miliar product, such as automobiles. Nobody would believe today that if General Motors opened its own chain of filling stations. GM would take over all American transportation. But on the Internet, folks who can't tell the male end of a dongle from a TCP stack are often suckers for silly claims about chokeholds.

Merely asserting that a company is a "monopolist" has al- lowed many of Microsoft's competitors to get a free ride from reporters and policymakers who ought to know better. For example, Jim Barksdale, then CEO of Netscape, said this to Congress in 1998: "I was struck by the fact, in the response of Mr. Gates to the question about whether or not he was a monopoly, he talked about how short-lived the products were, and we all understand that. That doesn't negate whether or not it's monopoly though. Even if it went away six months from now, it is monopoly today. "The hypocrisy of Barksdale's claim is astonishing-since Netscape's browser at its height held a larger market share than Microsoft ever had for Web browsers or for operating systems.

The scaremongers appear not to have suffered any loss in credibility, Steven Levy, the writer who warned that we'd all be using "Bill Dollars" by now because of the Microsoft Net- work, is still sharing his expertise with Newsweek's readers. In June 2000 he penned a cover story advising Bill Gates to ca- pitulate to most of the government's demands. Similarly, Sun's Chairman Scott McNealy applauded Judge Thomas Penfield Jackson's Microsoft breakup order as a tool to "protect Inter- net technologies from becoming the proprietary presence of any one company."

A close look at antitrust's greatest hits -the cases of Stan- dard Oil, Alcoa, and even AT&T —reveals a pattern of arbitrary rulings, disregard for consumers, and political interference with the administration of justice. The much shorter history of the Microsoft case has exposed the same injustices, along with the series of embarrassing exaggerations and falsehoods espoused by Microsoft's critics. Where are Microsoft Network, Channels, and Sidewalk today? All have disappeared, become irrelevant, or been radically transformed by competition and changing technology. The internet remains free and decen- tralized, and for good reasons Microsoft cannot "leverage" its dominance in a few markets into control over Internet ac- cess or content. To claim otherwise might sell newsmagazines or flummox congressman—but it is hardly realistic.

David B. Kopel (david@i2i.org) is the director of the Center on the Digital Economy at the Heartland Institute. Joseph Bast (jbast@heartland.org) is president of the Heartland Institute. This article is adapted from Antitrust After Microsoft: The Obsolescence of Antitrust in the Digital Fra. Copyright o2001 by The Heartland Institute and David B. Kopel.

MTC–00031695

Wednesday, January 23, 2002 10:45 AM
Dan Cohen 415–285–2591
Daniel E. Cohen, Esq.
1329 Rhode Island St
San Francisco, CA 94107—
415.637.5013
dcstpaul@yahoo.com
January 23, 2002
Ms. Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Too many times, our nation has chosen to miss opportunities to move forward. Today, many business leaders and state attorneys general want to put the Microsoft litigation behind us and target our financial resources elsewhere. Please count me among those urging you to settle the Microsoft lawsuit.

I am ununemployed dot-commer whose company was the recipient of Microsoft venture capital funds. They believed in our efforts to bring voicemail to the Internet. However, when faced with the choice of making a further investment that might bring on anti-trust backlash as they moved into the telecomm world, they chose to pass on the investment and our company failed.

Microsoft will be forced to make some painful sacrifices by this settlement. They must open their code to their competitors and even agree to an oversight board on their actions. While these may be painful steps, I believe they will bring certainty to the marketplace and allow Microsoft, and other technology investors, to make decisions based on facts, not fear.

MTC–00031696

January 23, 2002
Ms. Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

I am the President of a talent, movie and television development corporation that specializes in telling up-lifting and positive stories. I believe that this is how I can best compete in the marketplace of ideas here in Hollywood.

Competition is just as important in the world of technology. I have worked on many celebrity promotions with dot-coms, some of whom who are no longer with us. I know the importance of competition in the marketplace, and I believe fair and open competition in the marketplace of ideas is what is needed to bring our economy back into shape. That's why I'm writing to urge you to support the Microsoft Settlement. The settlement will eliminate Microsoft's practice of signing exclusive contracts with their partners. Let's get on with our economic lives. There are so many other stories that have to be told.

Sincerely,
David Goldstein
President
Shoebox Entertainment
6555 Debs Avenue,
West Hills, CA 91307—
voice: (818)730–6442
email: dgoldstein@socal.rr.com

MTC–00031697

CANTON TEXAS
Chamber of Commerce
January 24, 2002

Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

I have personally been involved in the internet technology in the immediate and regional business community. Also, have observed with much interest and wonderment about the reasoning behind the government's attempt to get involved in private enterprise. To me, it is a total additional waste of taxpayer money for the government to pursue any further their attempts that results ONLY in millions of dollars in unnecessary legal fees. Please, Court, accept the negotiated settlement dismiss the remaining lawsuits and let us get back to our business where technology has become so important.

Sincerely,
Joe Collins
President
315 First Monday Lane
Canton, Texas 75103
(903) 567–2991
Fax: (903) 567–5708
Web: www.cantontx.com

MTC–00031898

Jan Johnson Yopp
506 Robert Hunt Drive
Carrboro,NC 27510
January 22, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202–616–9937
Re: Microsoft Case

Dear Ms. Hesse:

I am writing in support of the proposed settlement in the U.S. v. Microsoft case. As a college professor and a parent, I know the importance of having software that is easy to use, integrated, affordable and reliable.

Microsoft has a reputation for developing products that are easy for consumers and students to use. As an educator, I know how important it is to encourage new idea and innovation. The proposed settlement agreement in the U.S. v. Microsoft case will allow the company to continue its leadership as an innovative designer of software products. At the same time it will provide remedies for Microsoft competitors who will have access to information about technical specifications about the Windows operating system. Competitors will also be able to ship software that competes with software in the Windows operating system and not fear any legal action from Microsoft.

Settlement of this case would be an important step in encouraging technology companies to get back to the business of developing innovative software products. A strong technology industry could provide a much need boost to the overall economy and in turn a good job market for my students.

Best wishes as you deal with this important issue.

Sincerely,
Jan Johnson Yopp

MTC–00031899

January 22, 2002
Renata Heese
Antitrust Division—Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
RE: Settlement of U.S. v. Microsoft

I am writing in support of the settlement proposed in the U.S. v. Microsoft case. The time has come for the legal fighting to end. Although this settlement is not perfect, it does address the concerns of the court and consumers. I believe it would also help stimulate the economy. Microsoft and other technology companies have provided a boost to the economy in the past, and the next wave of technological advances is sure to give the economy another much needed boost.

I think it's time to let Microsoft and its competitors fight it out in the open market rather than in court.

Sincerely,
Nancy Meyers Marsiglia

MTC–00031900

Virginia House of Delegates
VIRGINIA HOUSE OF DELEGATES FAX COVER SHEET
TO: Renata Hesse
Organization: U.S. Dept Justice—Antitrust Div.
FAX Number: (202)616–9937
Phone Number: ( )
Local Long Distance -x-
Number of Pages including this cover sheet: 2
From: Delegate Watkins M. Abbitt, Jr.
Room Number: 804
Telephone Number: (804) 698–1059
Comments:
If you have any problems with this transmission, please call the House Fax Center at: (804) 698–1558
Our Fax Number is (804) 786–6310
WATKINS M. ABBITT, JR.
POST OFFICE BOX 003
APPOMATTOX, VIRGINIA 24522
FIFTY-NINTH DISTRICT
COMMONWEALTH OF VIRGINIA
HOUSE of DELEGATES
RICHMOND
COMMITTEE ASSIGNMENTS:
LABOR AND COMMERCE (CO-CHAIR)
GENERAL LAWS
TRANSPORTATION
MINING AND MINERAL RESOURCES
January 23, 2002
Renata Hesse
Trial Attorney
Antitrust Division
U. S. Department of Justice
601 D Street NW #1200
Washington, DC 20530
By Facsimile: (202)616–9937

Dear Ms. Hesse:

As the State Delegate from the 59th House District in Virginia, I am writing to encourage you to approve the settlement agreement of the United States v. Microsoft.

Virginia has been fortunate to attract a diverse and wide-ranging number of technology firms over the past 10 years, and with those firms choosing to come here, we have ensured our area's continued growth and future prosperity. Being a technology-friendly state put Virginia on the map with the emerging IT industry in the 1990s and as IT flourished, our state reaped benefits as well. We embraced the new economy and it responded. The government should not be an inhibitor, but an enabler of consumers, entrepreneurs, and the marketplace.

Technology empowers individuals, both here in the Commonwealth and, of course, beyond our borders. It gives individuals opportunities to participate in an economy which they may never have thought possible. It opens the door to the opportunity for so many who may have never have gotten the knock on the door in the past. Many women in business are maximizing the power of the IT economy with their thoughts and ideas, and many children who may have gotten left behind are empowered with the learning and teaching potential of the Internet.

More than half of all Internet traffic travels through Virginia. The proposed settlement is tough, yet reasonable, and a valuable tool in bringing stability back to our economy. It is my hope that the Court will approve the proposed settlement between Microsoft and nine plaintiffs in the anti-trust case against it, including the federal government.

Sincerely,
Watkins M. Abbitt, Jr.
DISTRICT: (804)352–2880—RICHMOND: (804)698–1059

MTC–00031901

01/23/02 15:21 TEL 3154760420 Peerless Press 01
Peerless Press, Inc..
January 23, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Re: U.S. vs Microsoft

Dear Ms. Hesse:

I am writing to you to let you know that I am in support of the settlement of the case of the U.S. vs Microsoft for the following reason:

I work for a small business which uses and depends on a lot of Microsoft software in our computers to help run our business better and more efficiently. In my opinion, there has been no consumer harm as a result of any actions taken by Microsoft. In fact, Microsoft's innovation has led to tremendous benefits for consumers, such as better products and lower prices. Antitrust law is supposed to be about consumer harm, and on that key issue, the government has failed to show any harm whatsoever.

Given that the economy is now in recession, the last thing we need is more litigation and regulation of the high-tech industry. Settlement of this case is in everyone's best interests—the technology industry, the economy and consumers.

I, as a concerned consumer, can only hope that the agreed upon settlement would be left in place. Further litigation can only cost the taxpayers more money and would it really be able to provide a better solution?

Thank you for taking the time to read my letter and hopefully your consideration.

Sincerely,

Susan C. Letterman
1112 East Fayette Street
P.O. Box 6638
Syracuse, New York 13217–6638
315–476–6051
Toll Free: 877–476–6051
Fax: 315 476–0429.

MTC–00031902

01/23/02 WED 14:04 FAX 319 398 5228 C.R. CHAMBER 001
Cedar Rapids Area
CHAMBER OF COMMERCE
January 23,2002
Renata Hesse
Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

The grim economic realities of the last year have been endured by all of us. I am the President and CEO of the Cedar Rapids (Iowa) Chamber of Commerce and have found that the challenges of this new economy have been driven home in the last few months as employers have shut down completely or cut costs drastically.

My experiences with the Cedar Rapids Chamber of Commerce have emphasized lessons I learned when I served as Speaker of the House in the Iowa Legislature. The actions of government officials can have unintended and far-reaching consequences. Government also has opportunities at times to provide great benefit with its actions.

Government has an opportunity in the antitrust case against the Microsoft Corporation to be fiscally responsible while at the same time sending a signal to start-up technology companies and other businesses that they can and should take business risks again without the threat of government intrusion.

Iowa, like the nation, is trying to restart an economy. Iowa also remains focused on attracting and retaining young people to our state. It's time to remove the uncertainty this case has caused to loom over the business world. Settling the Microsoft case is best for our economic health and it appears that the agreement offered is a good one.

Sincerely,
Ron Corbett
424 First Avenue NE
PO Box 74
Cedar Rapids, Iowa
52487–4880
Phone: (319(5317
Fax: (319) 398–5228
www.cedarrapids.org

MTC–00031903

Jan 23 02 12:04p p.1
January 23, 2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
VIA FACSIMILE
(202) 616–9937

Dear Ms. Hesse:

This letter is being written in support of the settlement currently being considered by the federal court in US v. Microsoft. Specifically, I would like to let the court know that I believe the settlement puts in place a very strong enforcement method to ensure Microsoft does not further violate antitrust laws. I realize that some of Microsoft's competitors are arguing that the enforcement methods are not strong enough and I totally disagree.

From my understanding of this agreement, there are vast amounts of resources and tools available that will ensure any future violations by Microsoft are immediately investigated and acted upon. It seems that any complaint about Microsoft's compliance with the settlement is sure to be dealt with. But this is not the biggest reason we can be assured no violations will occur.

The settlement's creation of a Technical Committee is a very good idea. Because the committee has an open amount of positions available, the public is assured that it will be well staffed. More importantly, this committee is independent and will reside on the Microsoft campus. There is no way Microsoft will be able to commit any harm with this sort of situation in place.

I am writing this letter because those opposed to the settlement are arguing that there is not a strong enough safeguard to prevent Microsoft from committing future wrongs. As you can see from my statements above, that is simply not the case.

Sincerely,
Kelley Klassen
6988 Beagle Street
San Diego, CA 92111
(858) 385–5604

MTC–00031904

FROM : STEIN FINANCIAL PHONE No. : 425 7451289 Jan. 23 2002
11:55AM P1
STEIN FINANCIAL SERVICES
William A. Stein, CLU ChFC
Registered Investment Advisor
Christopher N. Stein
Registered Representative*
16300 MILL CREEK BLVD, STE 204—
MILL CREEK, WA 98012—
(425] 742–6694—
FAX: (425) 745–1289
January 23, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Ave NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you regarding the Microsoft case and the settlement. I am a business owner, shareholder and customer of Microsoft. In fact I am writing you this letter using Microsoft Word. I do not type but this software has allowed me to learn. This is just one of the many software products we use in our business. Microsoft products have made all Americans more productive and have contributed a great deal to the success of our economy. There competitors could not handle this so they use the courts to compete and now we taxpayers cover the costs.

American business is based on free enterprise, why should Microsoft not be allowed to market their product without sharing their secrets. Does Coca Cola have to give away their formula? The current settlement, which I believe will limit Microsoft is fair. They have agreed to share their sources codes and interface design and not enter into any obligatory contracts, thus allowing third parties to offer other products on computers. I am an independent businessperson, I run my own company, and Microsoft products have allowed me to build a successful company using their products and innovations. Please uphold the settlement for the good of our economy and the computer industry. It is time to put an end to the waste of taxpayer money and this controversy.

Sincerely,
William A. Stein, CLU, ChFC
Registered Investment Advisor

MTC–00031905

JAN-23-2002 13:56 LABI 225 929 6054 P. 01/01
Louisiana Association of Business & Industry
POST OFFICE BOX 80258
BATON ROUGE, LA 70898–0258
(225) 928–5388
FAX(225)929–6054
www.labi.org
January 23, 2002
FAX LETTER: 202–616–9937
Ms. Renata Heese
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
RE: Settlement of U. S. v. Microsoft

Dear Ms. Heese:

I am writing in support of this proposed settlement.

I deeply appreciate the efforts of our government in pursuing antitrust activities and believe that this settlement would be a positive development in this quest.

I know that the government and Microsoft lawyers have fought diligently in this important case. As a business leader, I would like to see the case resolved so that private industry can return to competing in the marketplace.

The technology sector of our economy is looking for a signal to get moving again. The settlement of this case can provide the right signal that competition is alive and well through innovation and hard work and not continued litigation.

Please know that I appreciate your consideration of my views on this important matter.

Sincerely,
Daniel L. Juneau
President

MTC–00031906

JAN-23-2002 WED 02:ll PM CITY OF NEW MADRID FAX NO. 1573748402 P.01
New Madrid Chamber of Commerce
PO Box 96
New Madrid, MO 63869
573/748–5300
fax: 573/748–5402
Fax Transmittal
Date: 1/23/02
TO: Renata Hesse, Department
Fax: 202–616–9937
From: Margaret Palmer
Subject: Microsoft Public Comments
Number of pages including cover sheet: 2
JAN-23-2002 WED 02:ll PM CITY OF NEW MADRID FAX NO. 1573748402 P. 02

NEW MADRID, MO
Chamber of Commerce
560 Mott Street
P.O. BOX 96
New Madrid, Missouri 63869
Office (573) 748–5300
Fax (573) 748–5402
Toll Free (877) 748–5300
January 23, 2002
Ms. Renata B, Hesse
Antitrust Division
U.S. Department of Justice
Fax: 202–616–9937
RE: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse,

On behalf of the New Madrid Chamber of Commerce I want to express our full support of the Department of Justice and the nine Attorneys General for their efforts to finally put an end to this case and agree to a settlement that is in our nation's best interest.

We feel if Microsoft is in agreement and all other parties are in agreement then what is the hold up. Lets all get on with business as usual.

Sincerely,
Margaret Palmer
Executive Director
Oldest American City West of the Mississippi
Incorporated 1803

MTC–00031907

JAN–23–2002 11:03 AM WALTER OUSTERMAN 510 655 2797 P. 01
1/17/2002 12:20 PM FROM: Fax No: 15106352797.....131 PAGE: 003 OF 003
21 Lincoln Avenue
Piedmont, California 94611
January 17, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Opposition to the Microsoft settlement is absurd. The settlement is a fair and reasonable conclusion to the issue. Microsoft has made many concessions to their competitors. Anyone desiring further litigation is showing greed and irrationality.

Microsoft has given up much in this case. They have agreed to license Windows at a uniform price. They have agreed to disclose their; internal interface designs. They have agreed to contract restrictions. They have even allowed for the creation of an advisory board. Microsoft has also agreed to not to retaliate against companies that use, sell, or promote non- Microsoft products. Enough is enough.

The settlement offers the country an opportunity to get past this lawsuit and move on to more important issues. I support the settlement and look forward to seeing this lawsuit come to an end.

Sincerely,
Walter Ousterman

MTC–00031908

FROM :GEORGEHAAS#2853 FAX NO. :8314399599 Jan. 23 2002 12:08PM P1
FAX
Date:
January 23, 2002
Pages: 3 (incl. cover)
FROM: George Haas
Fax: (831)439–9599
TO: Renata Hesse
Trial Attorney, Antitrust Division
U.S. Department of Justice
601 D Street. NW, Suite 1200
Washington, DC 20530
Fax:(202)616–9937 or (202)307–1454
Subject: Microsoft Antitrust Settlement Public Comment
Message:
Attached are my comments for your consideration.
FROM :GEORGEHAAS#2853
FAX NO. : 8314399599 Jan. 23 2002 12:08PM P2
January 23, 2002
Renata Hesse
Trial Attorney, Antitrust Division
U.S. Department of Justice
601 D Street NW., Suite 1200
Washington, DC 20530
Fax: (202)616–9937 or (202)307–1454
Re: Microsoft Antitrust Settlement

Dear Ms. Hesse:

Microsoft must be stopped. Their continuing predatory, monopolistic practices are a deadly threat to innovation in the computer industry. Ultimately, without the influence of competition the incredible advances in computer technology that we have continued to see will stop.

Microsoft will no longer have any incentive to innovate. Microsoft has never shown the ability, or inclination, to develop new technologies. Their modus operandi has been to copy popular products, make slight variations to avoid obvious patent violations, and then give them away for free with their operating system, thus killing the competitor. Every one knows this, but few have the resources to combat them. Since the "Justice" Department has given up the fight, it is critical that the States' case prevail, before the damage Microsoft inflicts on society becomes irreparable. It is already too late for many vibrant companies that have been laid waste, as follows: Borland and Lotus created spreadsheets that revolutionized business. Microsoft copied that idea and gave it away for free with their operating system. Now there is no longer a spreadsheet industry, there is only Microsoft.

Apple's Macintosh Operating System was brilliantly intuitive and proved to the world that personal computers could be useful to the common man. Microsoft brazenly stole that concept, re-designed DOS around it, gave it a new name, then strong-armed PC makers into installing Microsoft operating systems. Now Apple clings to a 5 per cent market share, and only exists at the mercy of Microsoft.

There are two reasons why Microsoft allows Apple to survive. One is because if Apple was killed, then there would be no question that Microsoft is a monopoly. The second is that, if Apple was gone, Microsoft would have no one to steal ideas from any more. Now victorious over all of the software industry, Microsoft moves on to the Internet. By giving away Explorer for free, they have all but eliminated Netscape. This is an obscene travesty. It makes a mockery of the anti-trust laws.

Now Microsoft has its sights on Sun's Java, Apple's QuickTime, Linux and the list goes on. The sad part is that Java and Linux are designed to make the Internet a platform for everyone to use freely, sharing ideas that would benefit all Internet users, ultimately leading to a more efficient on-line community. Microsoft would subvert this whole concept by bastardizing this on-line software to operate only on Windows. By doing this they would eventually eliminate independent on-line programming and all potential Internet competition.

FROM :GEORGEHAAS#2853
FAX NO. : 8314399599 Jan. 23 2002 12:08PM P3

Microsoft never stops to consider the cost of damage done to consumers through the loss of opportunities that alternative resources could provide. Nor do they consider the damage done to economies all over the world that will never have the benefit of potential productivity gains that would have occurred in a truly free marketplace.

There are some resources, services, and industries, e.g., oil, gold, the postal service, or rail lines, that are strategically too important to be controlled by a single corporate entity. The Internet is that kind of resource. It is already too late for the software industry. Please save the Internet from this scourge.

Finally, please consider the threat to national security if the world comes to rely on Microsoft operating systems, carrying a vast majority of the world's email correspondence. They have never proven that they can be made secure from virus attacks, or from their own design flaws. Nor has Microsoft ever proven that it can be trusted.

Thank you for your time and consideration.

Cordially,
George Haas
20 Fred Court
Scotts Valley, CA 95066
Fax: (831)439–9599
email: haas@got.net
cc: Congressman Mike Honda

MTC–00031909

01/23/2002 16:40 CITY SECRETARY OFFICE -> 918889194018
NO. 008 002
OSCAR G. ORTIZ. MAYOR
FELIX A. BARKER. MAYOR PRO—TEM
COUNCIL MEMBERS:
CRAIG HANNAH
THOMAS J. HENDERSON
TOM GILLAM, III
REV. RONNIE LINDEN
BOB BOWERS
ROSE MITCHELL CHAISSON
ROBERT E. ALLEN
STEPHEN FITZGIBBONS
CITY MANAGER
CAROLYN DIXON
CITY SECRETARY
MARK T. SOKOLOW
CITY ATTORNEY
Energy City
City of Port Arthur Texas
January 23, 2002
Renata Hesse
Trial Attorney

Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

The Court has an opportunity to end one of the most misguided and wasteful lawsuits in the history of the United States by dismissing the remaining lawsuits against Microsoft Corporation and accepting the proposed settlement.

The cost of the lengthy litigation has now exceeded $30 million and is rapidly rising as each day passes. Any financial judgement against Microsoft will be so diminished by legal and administrative fees that very little will actually find its way to the consumer.

The proposed settlement puts an end to the wasteful use of taxpayer dollars and requires Microsoft to make substantial financial and proprietary concessions.

Though this settlement may not appeal to Microsoft's competitors, it certainly has great appeal to those of us who would like to see the continuance of the technological advances made by one of America's great success stories.

I am writing to ask that the Court accept the settlement and let Microsoft and the rest of the high tech industry get back to developing innovative products in a truly competitive atmosphere.

Sincerely,
Oscar G. Ortiz
Mayor
P.O. Box 1089
PORTARTHUR, TEXAS 77641–1089
409/983–8115
FAX 409/983–8291

MTC–00031910

FROM: Bionomix FAX NO.: 6262290847 Jan. 23 2002 04:20PM P1
23 Jan 02
fax: 202–307–1454
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Re: The Microsoft Settlement

I am the Director of Scientific Computing at a small bioinformatics company in Pasadena CA. The views expressed here do not necessarily represent those of my employer.

I have read the Revised Proposed Final Judgement (PFJ) at http://www.usdoj.gov/atr/cases/f9400/9495.htm

Under the Tunney Act, I would like to submit the following comment regarding the PFJ in the DOJ vs. Microsoft case.

In my company, we are studying protein structures to try to develop new cures for diseases. We would be unable to do this were it not for the incredible development pace and high quality of free software development, as represented by the gnu/linux operating system and tools, the apache web server, the perl and python programming languages, the SAMBA server, etc. Our programmers participate in the development of free software, and our company hopes to release a molecular modelling tool under a public license.

Section III(J) (2) of the PFJ contains some very strong language against entities involved in the creation of free software. Specifically, the language says that Microsoft need not describe nor license the API, Documentation, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business:

"...(c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, ..."

Likewise, Section III(D) explicitly lists "ISVs, IHVs, IAPs, ICPs, and OEMs," - businesses as defined in Sect VI—as being the only recipients of API and protocol disclosures. Both of these clauses exclude entities producing free software—entities like academic faculty, national labs, students, hobbyists, etc.

But, in my opinion, the ONLY remaining challenge to Microsoft's stranglehold on PC software and innovation is coming from these non-"business" entities.

Thus, the exclusion of free software producing entities from this remedy excludes the only entities that challenge the monopoly.

Certainly this is clear to Microsoft, or this language would not be present in the remedy. For the remedy to have any impact, the API disclosures must be made universally, e.g., on a simple website explaining the API's, file formats, whatever—for anyone to see. This also simplifies the process for Microsoft, since every simple disclosure of their API's need not be accompanied by a contract and team of lawyers.

Without disclosures to the free software community, the only challengers to the monopoly, the remedy is meaningless.

Thanks for your attention.
Jeff Regan
626–229–0834
Bionomix
1110 E Walnut Suite 300
Pasadena CA

MTC–00031912

Date: January 23, 2002
Attention: Ms. Renata B. Hesse
Department of Justice
(202)-307–1454
From: Mr. and Mrs. John D. Simpson
P.O. Box 5864
Carmel, California 93921
Fax: 831–624–7470
Home Phone: 831–624–5858

As taxpayers and consumers we support the Microsoft settlement. Let's stop wasting taxpayer money and get this thing settled. This settlement is only fair.

Sincerely,
Mr. and Mrs. John D. Simpson

MTC–00031913

01/23/02 19:04 FAX 703 757 7658 01
J.M. McLaughlin
January 18, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We are writing to say we agree with the proposed settlement between Microsoft and the Department of Justice. We feel the terms of the settlement are just. Microsoft has maintained their huge market share by investing heavily in their Windows operating system and charging competitive prices, which are a benefit to the consumer. This has resulted in a standard in the computer industry that otherwise would have been difficult to achieve. This has been critical to the efficient management of computers in businesses and development of cost effective, robust application software.

Future progress in the computer industry will be further hampered if the settlement terms are thrown out and judicial proceedings continue. We feel that now is the time to give Microsoft the opportunity to make good on their promises and resolve any uncompetitive practices that were identified in the suit.

Sincerely,
Joe and Pam McLaughlin

MTC–00031914

Steve Sukup 515–299–9646 P.1
Fax
To: RENATA HESSE DOJ.
From: CHAD OLSEN
RE: MICROSOFT SETTLEMENT
Pages: 2 (INCLUDING THIS ONE)
Date: 23 JAN 2002
Steve Sukup
515–298–9646 p.2
Chad F. Olsen
300 South Fifth Street
Guthrie Center, IA 50115
23 January 2002
Renata Hesse
Trial Attorney, Antitrust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC. 20530

Dear Ms. Hesse,

The Department of Justice and Microsoft deserve praise for their work in settling the Microsoft anti-trust case. The federal government and the nine states that joined the settlement know that settling this case is good for the nation's economy. As the owner of a business that depends on a high level of consumer confidence I am very aware of our fiscal health.

The government's pursuit of Microsoft over the last several years has had a real impact on the technology industry. Evidence of this is found in slow software sales and the sinking value of technology stocks. The negative results of this case are not limited to the technology industry.

Many Americans have their retirement or saving funds wrapped up in some sort of 401(k), IRA or pension fund, and many of these funds are partially dependent on technology-based stocks. When the governments case against Microsoft gained steamed and threatened a break-up, tech stocks crashed, and Americans from all walks of life saw the value of their savings and retirement funds plummet.

The feeling of uncertainty created by a bearish stock market quickly affected other areas. Consumers stopped spending money, hurting small businesses like mine. Workers felt the tightening, too, when corporations stopped hiring new employees and/or laying off existing ones.

Additionally, all reports that I have read indicate that this settlement is an equitable agreement that provides tough remedies for the portions of the complaint that have been upheld in court.

Please support the Microsoft settlement

Sincerely,

Chad F. Olsen

MTC-00031915

01/23/2002 15:32 FAX 4257789645
CB BAIN EDMONDS 002
8719 238th Street Southwest Apt. B7
Edmonds, WA 98026
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The issue needs to be put to rest and Microsoft needs to be able to move on. The terms of the settlement are more than fair; Microsoft has agreed to give up a lot. The government needs to agree to the settlement and stop harassing Microsoft.

This government over regulation is a slap in the face to the free enterprise system. Microsoft is simply a better company than its competitors. Because of personal agendas and the influence of uncompetitive companies this entire issue arose. Now Microsoft has had to agree to terms that extend well beyond the products and procedures that were at issue in the suit, simply to put the issue behind them.

After three long years this case needs to be wrapped up. Many investors have been hurt and in turn this has had an adverse effect on our ailing economy. The government is supposed to work for all the people not for a few special interest groups. Please accept the Microsoft antitrust settlement and allow Microsoft to return to business.

Sincerely,

Alberta Nielsen E-Mail
mickeynielsen@mns.com

MTC-00031916

SENT BY: KEYCORP CORPORATE TAX : 1-23- 2 : 18:36 : KEYCORP CORP TAX-202 353 8856: # 1/1
Post-it Fax note
7671
To ATTORNEY GENERAL JOHN ASHCROFT
SUBJ: MICROSOFT SETTLEMENT
Fax #1202 307-1454
Paul Castle
4185 Laurell Lane
North Olmsted, OH 44070-2511
TEL (440) 734-0732
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

As a computer user and supporter of Microsoft, I have followed the antitrust case and the negotiation and settlement process. I would like to see the current settlement agreement remain, because I believe it creates the most optimal compromise for all parties involved. Microsoft is sharing its software and its know-how with the computer industry. And it has agreed to the creation of a committee that will oversee the company's compliance with the terms of the settlement agreement and resolve disputes as they arise. I see this as an equitable solution to this complex issue. Moreover, I believe that both Microsoft and the government have important work to tend to, and this case should be put behind all of us. Microsoft is an important contributor to the technological and economic success of America. The company has taken great steps to improve its performance in the market, and I believe that it can now devote more of its resources to technological innovation and improvement. The current arrangement is in the best interest of the industry and the American public and should remain in its current form. Thank you.

Sincerely,

Paul E. Castle

MTC-00031917

From: Mirriam Schwartz
2417 Vista Lane
Anacortes, WA 98221
To the U.S. Dept. of Justice
Attn. Ms. Renata B. Hesse

I urge the D.O.J. to approve the Microsoft Settlement now.

Mirriam Schwartz

MTC-00031919

Jan 23 02 04:31p HRROLD E. YARNELL, JR
1-818 883 5714 p.1
01-23-02
DEPARTMENT OF JUSTICE
ATTN: MS. RENATA B. HESSE
RE: MICROSOFT SETTLEMENT

I, HAROLD E. YARNELL, JR. SUPPORT THE MICROSOFT SETTLEMENT AND URGE DOJ TO SETTLE THAT MATTER.

THE ANTITRUST ACTION AGAINST MICROSOFT BY COMPETITORS IS OUTRAGEOUS AND NOT IN THE PUBLIC INTEREST

HAROLD E. YARNELL, JR.
4156 MATISSE AVE
WOODLAND HILLS, CA 91364-5337

MTC-00031920

01/23/2002 19:12 4258619863
CERTAPRO PAINTERS
PAGE 01
12809 NE 32nd Street
Bellevue, WA 98005
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to contact you to ask for your support of the proposed settlement of the Microsoft anti-trust case. Though the legal action had some merits, the government expense of three years in court over this matter has surpassed its benefit, so it's time to bring it all to an end.

With technology changing so rapidly, no one can possibly hold a monopoly on the software industry, so it's not worth splitting it apart. Microsoft has used some very aggressive tactics against its rivals, yet the bottom line is that there is a choice out there and the consumer isn't clamoring for it. However, despite the vindictive nature of the proceedings, Microsoft has come to an agreement after the involvement of a court-appointed mediator, which led to a variety of gestures that outdo even the Justice Department's original complaints. It's time to accept this deal and allow for this settlement to take root. These proposed terms should allow for a more wide-open market and for Microsoft's competitors to have their chance, without the disruption of breaking up a company that has revolutionized the PC industry. I appreciate your attention to my feedback.

Sincerely,

Max Decker

MTC-00031921

Jan 23 02 01:06p Parallel 21, Inc. 8085482125
PARALLEL 21
internet application developer
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530-0001

Dear Mr. Ashcroft,

The antitrust suit brought about against Microsoft was worth pursuing because it was a learning experience for both sides of the table. I would have preferred that the lesson was a bit less expensive, but that is water under the bridge. Now we have an opportunity to show what we learned. The settlement reached between Microsoft and the Department of Justice was is a good conclusion to this case, but pursuing further litigation will only delay the advancement of technology. The case must be closed; the taxpayer cannot go on picking up the expense of an uneconomical situation.

The settlement instructs Microsoft to provide information regarding the development of software products to its competitors. Microsoft is also to refrain from retaliating against computer makers that may ship software that would compete with the Windows OS. I believe that these provisions and others in the settlement provide good guidelines for Microsoft to be a responsible leader of the IT industry. The suit must demonstrate what not to do as a big business, but Microsoft should not be shrouded in litigation for providing the consumer with superior products. I strongly urge you to make certain that this settlement is confirmed.

Sincerely,

Alika Reppun
Director

MTC-00031922

FROM : MARY ALICE
FAX NO. : 619 6593705 Jan. 23 2002 03:14PM P1
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing in support of Microsoft and settling your office's antitrust case against the company. Allowing Microsoft to move on with business is good for the consumers, the company itself, and the economy as a whole—and the economy needs all the help it can get right now.

I have been following the case, and I think that the terms of the agreement are amicable to all involved parties. Microsoft's concessions provide ample room for the growth of competition, and users will have more freedom of choice than ever in regard to what programs they choose to run. Instituting uniform pricing for computer manufacturers will also create a healthy balance and foster competitive spirit for software programmers.

I urge you to settle the Microsoft suit without any additional delay. Their success is important to individual consumers, as well as the American economy itself.

Sincerely,
Mary McBride

MTC–00031923

Jan-23–02 02:58pm From-Alpha Engineering +3607381040
T-121 P. 001/001 F-357
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

The Proposed Final Judgment is not in the public interest, and should not be adopted. The Proposed Final Judgment as written allows significant anticompetitive practices to continue, and would inhibit the emergence of competing Windows-compatible operating systems.

Microsoft increases the "applications barrier to entry" by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the "applications barrier to entry".

The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents. This provision could be a vital key to enabling competitive software products in the marketplace.

Duane Foster
PO Box 695
Bellingham, WA 98227

MTC–00031924

01/23/02 17:59
NO.024 001
Alba International
P.O. Box 111
North Aurora, IL 60542
January 18, 2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 "D" Street NW., Suite 1200
Washington, DC 20530
Via Facsimile
(202) 616–9937

Dear Ms. Hesse:

The public is allowed to comment on the "First Judgement Stipulation and Competitive Impact Statement in the case of US v. Mircrosoft. I respectfully request that courts approve of this settlement, thereby ending the case against Microsoft and allowing them to get back to business.

As to the case, I don't think Microsoft is a monopoly for a few different reasons: Microsoft currently has ninety percent of market in operating systems. Yet that number decreases each year. Linux and open source-software command more market share with each generation of new computer users. I believe Microsoft's dominance is not a result of monopolistic ways, but rather of providing the most simple version of a complex product. As consumers become more sophisticated, Microsoft will continue to lose market share. But don't punish Microsoft because people choose their product.

Even though Microsoft has a large share of the market, consumers are not harmed by pricing or service. The relative price of Windows right now is less than one fifth the price of an operating system in 1989. By definition, a monopoly harms consumers with unfair pricing. In addition, Microsoft maintains the highest standards in customer service and continues to bring innovative products to market. These are also contrary to traditional monopolistic practices.

Whatever the issues, the government has dealt with them in the settlement. Therefore, please support the settlement.

Sincerely,
Bob Arundale
Vice President

MTC–00031925

Jan 23 02 05:37p Dave Thomas
209–577–4420
p. 1
The Risk Takers
P.O. Box 576626, Modesto, CA 95357 (209) 577–4373
January 23, 2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
ViAFACSIMILE
(202) 616–9937

Dear Ms. Hesse:

I am writing the courts to counter some of the arguments made by Microsoft's competitors that the proposed settlement does not go far enough in punishing Microsoft. I believe that the settlement is extremely fair and should be supported. I also believe that accepting the settlement is much better than the alternative; continued litigation.

I have reviewed a paper written by Robert Hahn of American Enterprise Institute and agree with his arguments on this matter. Mr. Hahn gives compelling economical reasons for the country and the Court to choose to accept this settlement rather than go through even more litigation. One reason to accept the settlement is that Plaintiff's may lose some of the concessions Microsoft gave in the settlement. To end this case, Microsoft was willing to compromise on important issues. Rejecting the settlement may jeopardize those concessions. Mr. Hahn also makes the point that they are too many working Americans who have a stake in this settlement. The millions of people who work for independent software and hardware companies selling computers with Microsoft products, all have something to gain from this settlement. Continuing their economic uncertainty through prolonged litigation is unfair and irrational.

The final point is that the settlement truly addresses the acts ruled to be anticompetitive by the Court of Appeals. Those issues introduced by Judge Thomas Penfield Jackson that may not be addressed in this settlement were primarily vacated by the Court of Appeals. The real problems-that conduct found to be anticompetitive by the Court of Appeals-are dealt with in the proposed settlement. In other words, the settlement is comprehensive according to prior judgments.

The Court should approve the settlement in the case against Microsoft. It is in the best interest of this country.

Sincerely,
DAVE THOMAS
Owner
THOMAS INSURANCE SERVICES, Inc.
Unique, Personalized Brokerage

MTC–00031926

Jan 23 02 07:13p Gary Pearce 9197878031 p. 1
JAN–18–2002 16:05 ZOOM CULTURE 919 960 0032 P.01/01
Billy Warden
2647 St. Mary's St.
Raleigh, NC 27609
919–881–2029
billywarden@mindspring.com
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202–616–9937
microsoft.atr@usdoc.gov

I have the good fortune to be located in one of the nation's most dynamic high-tech centers, the Research Triangle of North Carolina. Through my experience in journalism, politics and advertising, I have seen the importance of competition and innovation in the information technology industry.

This is why I strongly believe that it would be in the best interest of our nation's overall economy for the courts to approve the pending settlement in the Microsoft antitrust case. Microsoft may well have stepped over the line as a fierce competitor. The courts have ruled that it did. Now, through the efforts of a court-appointed mediator, this settlement has been negotiated.

The U.S. Justice Department has concluded that the settlement protects consumers and competitors alike from continued anticompetitive actions by Microsoft. The Attorney General of North Carolina and other states have reached the same conclusion. Accordingly, it is my hope that the settlement now will be finalized and approved by the court. Further litigation of this matter is not in the best interests of consumers or of our economy generally.

Thank you for attention."

Sincerely,
Billy Warden

MTC–00031927

JAN-23-2002 WED 07:20 FM FROM:
FAX: PAGE 1
JAMES VICTOR CONNAUGHTON
January 23, 2002
Renata Heese
Trial Attorney

Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
WASHINGTON DC 20530
FAX: 202–616–9937
RE: Settlement of U.S. v. Microsoft

I am active in the technology business and I am writing in full support of the settlement of this case. My company uses technology more and more each and every day.

I believe that strong competition in the computer and software business leads to better products for consumers and businesses. This proposed settlement corrects the findings found by the court and protects the consumer.

I think approving this settlement will send a clear message to the technology sector of our economy. The message will be that competition is alive and the place to compete is in the marketplace, not the courtroom.

Sincerely,
JAY CONNAUGHTON
929 SOUTH HARRISON COVINGTON, LA 70433
PHONE: 985–875–0031

MTC–00031928

JAN-23-2002 WED 07:18 PM FROM: FAX: PAGE 1
people who think innovative ADVERTISING
985.809.1975 fax 985.809.1991
to Renata Heese
from Jennifer Connaughton
date 23 Jan 02
pages to follow 1
January 23, 2002
Renata Heese
Trial Attorney
Antitrust Division'
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
FAX: 202–6 16–9937
RE: Settlement of U.S. v. Microsoft

I am active in the technology business and I am writing in full support of the settlement of this case. My company uses technology more and more each and every day. I believe that strong competition in the computer and software business leads to better products for consumers and businesses; This proposed settlement corrects the findings found by the court and protects the consumer. I think approving this settlement will send a clear message to the technology sector of our economy. The message will be that competition is alive and the place to compete is in the marketplace, not the courtroom.

Sincerely,

MTC–00031929

Jan 23 02 06:44p
Gary Pearce
9197878031 p.1
4500 Council Drive
Raleigh, NC 27610
919–571–1914
jpark4173@aol.com
Parker & Associates
January 19, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202–616–9937
Microsoft.atr@usdoc.gov

Dear Ms. Hesse:

As an individual who enjoys and depends very much on the computer and on user-friendly computer software, I write to express my personal hope that the federal courts will approve the settlement I understand is pending in the Microsoft antitrust matter. Microsoft certainly has been an aggressive competitor. Perhaps the company has stepped over the line at times. However, this case now has dragged on for more than three years. During that time the stock market has dropped precipitously, as I am painfully aware. Many information technology companies have gone under and our economy has fallen into a recession. It has left many here in the Triangle area of North Carolina unemployed, a number of them in my church congregation.

Continued litigation cannot resolve these problems. Continued warfare in the courtroom cannot restore the strength of our economy. It is time to bring this matter to a close.

The proposed settlement will require Microsoft to change its ways. And we don't have to take Bill Gates' word for it. The settlement will set up an independent committee to monitor Microsoft's compliance with the agreement.

North Carolina Attorney General Roy Cooper has agreed to the settlement. I have great confidence in Attorney General Cooper's judgment in this matter, having worked with him closely in other matters. Therefore, I join with him and with other citizens in calling for a speedy resolution of this matter and approval of the agreement.

Thank you,
Joe M. (Joe) Parker
Highway Safety Consulting

MTC–00031930

174 N Highland Avenue
Norristown, PA 19403–2974
January 20 ,2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

It is my opinion that the Microsoft anti-trust case be resolved as soon as possible. Its harmful side effects are already becoming evident in our slowing economy. In any case this lawsuit was wrong to begin with. The settlement that was reached last November should be implemented as fast as possible so that this matter can be put behind us.

This settlement does not let Microsoft off easy, though it fair and reasonable. It should be more than Microsoft's competitors ever hoped for. Under this settlement, Microsoft has agreed to terms that extend to products and business practices that were not even at issue in the original lawsuit. Additionally, they will have access to source codes and interfaces that are internal to Windows operating system products. There are many more restrictions and obligation within this settlement, and all of them will be subject to the oversight of a Technical Committee, which will monitor Microsoft's compliance.

Put simply this settlement is good. The settlement should be implemented as soon as possible. The settlement is more than adequate to satisfy the requirements of the lawsuit. The settlement provides the first opportunity to resolve this fiasco. Please direct your efforts towards accomplishing this goal. Thank you,

Sincerely,
Michael Bieloski
cc: Senator Rick Santorum

MTC–00031931

FROM : ROBERT FRIEDRICH
FAX NO. : 718–343–3365 Jan. 23 2002 10:24PM P1
Robert Friedrich 264–52 Langston Avenue
Glen Oaks, NY 11004–1043/
718–343–4273
January 23, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing to express my views regarding the recent antitrust lawsuit between Microsoft and the federal government. After three long years of court battles, I was pleased to hear that a settlement was finally reached. I sincerely hope that no further legal action is being considered on the federal level.

Under the agreement, Microsoft has agreed to design future versions of Windows, beginning with an interim release of Windows XP, to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. The mechanism will make it easy to add or remove access to features built in to Windows or to non-Microsoft software. Consumers will have the freedom to choose to change their configuration at any time.

Considering the many terms of the agreement, I see no reason for the federal government to pursue further litigation against Microsoft on any level. Not only would it be a waste of time and money, but also redundant. It is also about time we allow MS to continue to innovate and produce new products.

Please support the agreement.
Thank you.
Sincerely,
Robert Friedrich

MTC–00031932

JAN-23-02 08:12 PM P.01
FAX
To: Attorney General John Ashcroft
From: Byron Fosler
Fax: 1202 307–1454 Pages: 1 + Cover
Phone: Date; January 23,2002
Re: Microsoft Settlement CC:
JAN-23-02 08:12 PM
January 18, 2002
P.02
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

The settlement that has been reached between Microsoft and the Department of

Justice is fair. Any antitrust violations that Microsoft may have been guilty of in the past will be halted with the creation of a three-man oversight committee, which will monitor Microsoft's business practices. I believe that with this provision in force, any further questions of the suit should be put to rest.

I believe that Microsoft is a good company, which contributes a great deal of capital to our economy. This is one of our best and brightest companies and we need them to be operating at full strength during these times of economic instability. With this settlement, I think we can get back to business and remedy some of our economic problems, especially within the technology sector, which has been placed on hold for the last three years.

I am pleased that a fair settlement has finally been reached and that we can shift our focus to other issues. Thank you for the time and consideration that you have put into this issue. I believe that you have made a prudent decision by settling. Please continue to support American business with all of your future decisions.

Sincerely,

Byron R. Foster
212 W. Washington
#1704
Chicago, IL 60606

MTC-00031933

01/23/2002 16:27 9072483740
THE LOFLANDS
PAGE 01
U. S. Department of Justice
Attention Ms. Renata B. Hesse
(202) 307-1454

This is to let you know that we support the Microsoft settlement in order to stimulate our country's economy and help stop government's millions of dollars in waste.

Tandy O. Lofland
Mary Aileen Lofland

MTC-00031934

JAN. 23. 2002 7:05PM NO. 1823 P. 1
Jonathan Hartley
1114 South Gaylord St.
Denver, CO, 80210
Work:(303) 741 8597
Home:(303) 777 8925 F. A.O. Thanks.
Cell:(303) 475 6780
E-mail:jonathan.hartley@slb.com
Renata B. Hesse,
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
23 January 2002
Re: US vs. Microsoft, proposed final judgement

Renata B. Hesse,

I appreciate the great amount of work that has gone into producing the proposed final judgement to date. However, the settlement in its current form seems to overlook several important issues, and Microsoft has a history of exploiting loopholes such as these to leverage and increase its monopoly position, to the great detriment of consumers, parallel technologies, and the computing industry as a whole.

Penalized OEMS

I am very happy to see the measures in section III.A.2 which prevent Microsoft from penalising OEMS who choose to ship dual-boot or multiple operating system PCs. However, this restriction contains a very significant loophole, in that it does not protect OEMs which would like to ship PCs without any Microsoft operating system installed (eg. A pure Linux system.) This significantly contributes to stifling any other operating system from gaining a significant foothold in the marketplace, regardless of the merits of functionality, price or reliability that other operating systems may have to offer.

End User License Agreements

Additionally, I would to see steps taken to prevent Microsoft end- user licence agreements from prohibiting my choice of using non- Microsoft operating systems or products. The PFJ as currently stated does not prohibit this, which unfairly prevents competing operating systems or products from attempting to interoperate with Microsoft products, and simultaneously curtails end-users" freedom of choice. Sincere thanks for this opportunity to express my views.

Jonathan Hartley
Senior Software Engineer
SchlumbergerSema,
Denver, USA

MTC-00031935

01/23/02 21:16 FAX 01
Kathy Grinaway
I Cedar Road
Wilkes Barre, PA 18705-2209
January 18 , 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Attorney General:

I write you today with concern over the recent developments in the settlement between the Department of Justice and Microsoft. This settlement has been scrutinized for over three years, and is ready to be implemented. By delaying this process, we only slow down our own technology industry. As they concentrate on litigation, the competition concentrates on innovation.

Microsoft has come a long way to prove that they are willing to work with the competitor. They have agreed not to enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively. They have also agreed to make changes in licensing, marketing and even design. These concessions are bold moves in the technology industry and are nothing but helpful to our entire IT sector. Help get our technology industry back on track. Please help stop any further government litigation and let our industry focus on innovation. I thank you for your help.

Sincerely,

Kathy Grinaway

cc: Senator Rick Santorum

FROM: D GIOSSO CONSTRUCTION PHONE NO. : 650 595 3453 Jan. 23 2002 04:56PM P2
1925 Brittan Avenue
San Carlos, CA 94070
Attorney General John Aschcroft
US DOJ
950 Pennsylvania Avenue, NW
Washington, DC 20530
January 25. 2002

Dear Mr. Ashcroft:

I am an ardent supporter of the Microsoft Corporation and I would like to see the settlement. that has been reached in the government's antitrust suit accepted by all the suing parties including the state of California in which I am a constituent. I feel that Microsoft is a good company who has been unfairly targeted in this suit. The acceptance of this settlement is essential to the well being of this nation. We need the full contribution of this company working to its greatest advantage in order to aid our economy.

The settlement is reasonable and will allow Microsoft to remain intact, under the terms of the settlement Microsoft will divulge certain internal codes and interfaces to their Windows operating system that were up until now considered trade secrets. Microsoft will also design all future versions of Windows to acommodate the products of their competitors and make it easier for these products to be used in conjunction with Windows. And finally, from here on out Microsoft will be accountable to a three-person technical committee, appointed by the government to monitor the business practices of Microsoft in future and ensure their compliance with the settlement,

The issues that were originally brought in the suit have been met and exceeded, any reluctance to accept this settlement are clearly politically motivated for the personal gain of those politicians involved. If they are not placated by this settlement then it is clear that they are not really interested in solving this case, they simply want to keep their names in the news. This is a flagrant waste of the taxpayers" money, which sould be allocated to more important issues. Thank you for your time and for allowing me to express my opinion

Sincerely.

Theresa Giosso

MTC-00031936

Jan-24-02 07:40 PSI/POLICE ACADEMY
315 492 1521
P.01
1754 Patterson Road
Marietta, NY 13110
January 23, 2002
Ms. Renata Hesse
Trail Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Re: United States vs. Microsoft

Dear Ms. Hesse:

Given the current state of the economy in the State of New York following the terrible events of September 11, it seems inappropriate for the federal government to be taking action to limit private enterprise. It is further disappointing that over $30 million in taxpayer funds have already been spent on this case. The sooner this case can be settled the better for all involved. It seems very inappropriate for the federal government to be regulating the technology industry.

Thank you for your time and consideration.

Sincerely,
Richard H. Flanagan
Post-It Fax Note 7671 Date 1/24/02 # of pages 1
To Renata Hesse From Richard Flanagan
Co./Dept. Co.
Phone # Phone # 315/498–6046
Fax # 202–616–9937 Fax #

MTC–00031939

1–24–2002 8:34AM FROM 000000000000 p.1
JAN—23–02 WED 10:26 PM JIV WDC
202 544 2020 P.02
J. T. Varallo, Jr.
720 Third Street, NE
Washington, DC 20002
(202) 544–0404
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Re: the Proposed Consent Decree of Microsoft and the DOJ

Dear Ms. Hesse:

Please accept my comments in regard to the above. This suit has gone on long enough. It is my understanding that, in an effort to conclude the matter, Microsoft has agreed to certain restrictions and obligations that were not at issue on the original suit. I urge you to count this as part of a good faith effort on the part of Microsoft, and allow them to move on.

I am especially encouraged that Microsoft has agreed to grant computer makers rights to configure programs so that non-microsoft products can be included.

Respectfully,
J.T. Varallo, Jr.

MTC–00031940

FROM : Scott & Candy
FAX NO, :
Jan, 23 2002 10:10PM P1
Renata B. Hesse
Antitrust Division
US. Department of Justice
601 D Street NW
Suite 1200
Washington, DC. 20530–0001
1403 Dominion Ave. N
Pasadena, CA 91104
January 23, 2002

To whom it may concern:

I'm writing to express my vehement objection to the proposed Microsoft antitrust settlement. Both as a citizen and as a professional computer program- mer, I respectfully insist that Microsoft face a meaningful punishment for its unlawful actions. The proposed settlement doesn't even come close. In large measure, the settlement merely restates the existing law or the earlier settlement agreement-this does not punish Microsoft in any way. The remaining portions of the settlement contain loopholes big enough to drive a monopoly through. For example, Microsoft gets to choose to whom they will disclose API and protocol documentation. Microsoft has already made it clear that its most serious competition, open source software, does not meet its criteria for an "authentic and viable" business (to use language from the settlement). In any event, if their past behavior proves anything, it's that they will not make such decisions in good faith. (Indeed, their bad-faith actions led to the current trial: absurdly, Microsoft claimed they were "integrating" their Web browser but not "bundling" it. A distinction without a difference if I ever saw one, but it enabled Microsoft to unlawfully crush yet another competitor.) Adding insult to injury, Microsoft can entirely sidestep those already limited and ineffectual disclosure requirements by claiming that they must do so for security reasons. This provision is a complete absurdity: it may be counterintuitive, but true security is achieved by using open standards, which can be inspected for flaws by the broader security community. You may be sure that Microsoft knows this, so it's worth contemplating why this measure is in the agreement at all.

There is only one answer: to enable Microsoft to emasculate the agreement whenever its provisions are inconvenient.

The proposed oversight committee cannot usefully address these concerns, or the dozens of others like them, for two main reasons. First, Microsoft itself will have considerable control over the committee, as Microsoft chooses one member directly and one of the other two members indirectly. (I hope that if I ever break the law, I get to choose my own parole officer.) Second, the committee would generally operate in secret, so serious objections on the part of the committee's only truly independent member may never reach the public. This mandated secrecy, coupled with the committee's guaranteed ineffectiveness, must inevitably erode any public confidence in the committee's trustworthiness-and, by extension, in the justice system itself.

Finally, I object to the settlement on philosophical grounds. I believe that the law should apply to the rich and powerful—including rich and powerful corporations-just as it would apply to you or me. If I robbed a bank, I'd expect more punishment than a stern warning not to do it again. At the very least, I imagine I'd be required to forfeit my ill-gotten gains (which, in Microsoft's case, amounts to tens of billions of dollars), in addition to harsh punitive measures. If Microsoft's punishment is any less severe-well, then I guess I'll know what the law is worth.

Thank you for your kind consideration.

Sincerely,
Scott Maxwell

MTC–00031941

FROM: PineCrest Capital Partners FAX NO: 4152883323 Jan. 23 2002 06:43PM P1
PineCrest Capital Partners
LMS Capital
(Bermuda) Limited
January 23, 2002
Ms. Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing this letter to voice my dissatisfaction with the on-going Microsoft lawsuit. As a former resident of the Seattle area, I have personally seen the benefits Microsoft has brought to the community through investment, jobs, philanthropy, and the entrepreneurial spirit of former Microsoft employees. Seattle is thriving as a result of the hundreds of companies formed by former Microsoft employees who have the drive and capital to realize their dreams. Additionally, great strides are being made through the philanthropic efforts of current and former Microsoft employees who are actively looking for ways to donate their time and money.

From a professional perspective, I also feel it appropriate to convey my dissatisfaction with the on-going Microsoft litigation. As an investment advisor, my clients invest in private companies with great prospects for growth and market innovation. One of the more serious impediments to growth and innovation is the spectre of on-going litigation and government intervention. Entrepreneurs need to know that their successes will not be hindered by overly aggressive government policies.

I honestly feel Microsoft has been one of the great success stories in modern US economic history and I urge you to settle the Microsoft suit so that thousands of workers at small companies across the country can get back to doing what they do best... innovating & growing. This settlement allows for an oversight group to ensure that companies can compete in a fair and open marketplace. Let's allow them to do so.

Sincerely,
Brian D. Bank
340 Pine Street,
3rd Floor San Francisco, CA 94104—
tel: 415–288–3322
fax: 415–288–3323

MTC–00031942

01–23–2002 10: 09PM From
TO
1202–307–1454 P.01
Tiffany Ledbetter
18524 11th Avenue W
Lynnwood,WA 98037
January 23,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It has come to my attention that the Department of Justice, under the auspices of the Tunney Act, has entered into a period of public comment in reference to the settlement reached in the Microsoft antitrust lawsuit. I feel that this settlement is long over-due and should be accepted on both the federal and state levels.

The terms of this settlement are just. Microsoft will design all future versions of its Windows operating system to be compatible with the products of its competitors. The company is also committed to halting any activities that could be considered retaliatory. There will also be a three-person technical committee that will oversee the future business tactics of the company to ensure that it complies with the settlement.

I hope that this litigation can finally be brought to an end and that we can focus our attention and our resources on other issues. Please continue to support this settlement, and thank you for this opportunity to express my thoughts.

Sincerely,
Tiffany Ledbetter

MTC-00031943

Jan 23 02 11:36p MICRO CRAFT INC 256–830–1227 P- 1
MICRO—>CRAFT INC.
Micro Craft, Inc
123 Fairington Rd
Huntsville,AL
35806
[256] 830 9746
www.micro-craft.net
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to enter my comments in the public record relating to settlement of the Microsoft antitrust case. I strongly support the settlement. I believe that Microsoft has led the effort to standardize certain software that has been of benefit to users across industry lines. I own and operate a company that creates software for lawyers. If Microsoft had not created a standard for operating system software, my company could not compete in the marketplace. We are too small a company to hire enough programmers to write our programs to run on half a dozen operating systems. In addition, if we could, the cost of our programs would be prohibitive for our customers. Believe it or not, not all lawyers are rich. We sell our legal billing software to many sole practitioners and one-to-five person law firms. Because there is one standard, we can write our software for one operating system and make it affordable for every one of our customers. We have been in business since 1978. We're small, but over 8000 law firms use or have used our software, I honestly believe Microsoft has made it possible for our company to exist, stay in business and compete.

I find that our customers have a very hard time learning to operate computers. We assist them in zipping up files, emailing data to us for correction, and making backup copies of their data, as well as running our software. If there wasn't a standard in basic software used on computers, we couldn't help our customers. And they would not be as productive in their practice. I personally think Microsoft should be considered a national treasure.

Microsoft has made a number of important concessions to reach this settlement. The most important of these, in my opinion, is Microsoft's agreement to allow computer makers the option of configuring Windows systems so as to promote software programs of non-Microsoft companies. There will now be greater opportunities for software manufacturers and greater choice for consumers. This antitrust suit has gone on for quite some time now, and it needs to come to an end. I hope that the proposed agreement is accepted and implemented in the very near future. It will be good for the economy.

Sincerely,
Joan Ivy

MTC-00031944

FILE No. 695 01/23 '02 21:49 ID:STANDARD REGISTER
847 277 2561
PAGE 1
Alan J. Miller
381 Oak Trails Road #302
Des Plaines, IA 68816
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
Suite 1200
601 D Street NW
Washington, DC 20530–0001
22 January, 2002

Ms. Hesse,

I am writing to add my name to the list of people opposed to the Proposed Final Judgement in the United States v. Microsoft antitrust case.

As a software developer with 11 years of business experience, I have watched Microsoft's rise to dominance in several markets and been dismayed by many of the techniques it has used to attain and maintain dominance at the expense of other companies, competing software platforms and consumers such as myself. Still, while I have often found Microsoft's techniques distasteful and unethical, I am far less concerned about remedies for its past behavior than I am about ensuring that the same types of behavior are prevented in the future.

From my reading of the Proposed judgement those remedies that actually work against Microsoft would be ineffective against a company determined to bypass them and would not even constitute significant obstacles in that bypassing process, further in many cases the remedies and definitions seem to have been specifically crafted to make them effectively nonexistent or to actually strengthen Microsoft's position in current or potential future markets. That Microsoft will work to bypass the original intent of the judgement is clear for both technical and business practices—even during the course of the trial and settlement negotiations it continued to use tactics that should be blocked by a solid agreement.

As an example, the future direction of Microsoft's focus has just this month been declared to be security, while under the Proposed Judgement anything related to security need not be disclosed even if such would otherwise be mandatory. Under a strict reading, if Microsoft adds even rudimentary security interfaces to its APIs then none of those APIs need be disclosed and there is no penalty for not disclosing them -a requirement for receiving documentation for those APIs is that any business needing it must meet Microsoft-developed standards of business viability; non-businesses need not apply at all because access will simply not be available.

Overall, I feel that the Proposed Final Judgement is deeply flawed and should be substantially revised to remove these flaws before being accepted. A software and content monoculture such as Microsoft clearly wishes to have in place harms all of us in the long term, including Microsoft and its investors.

Sincerely,
Alan J. Miller

MTC-00031945

SC Concord
254 Church Street NE
Concord NC 28025
office (704) 786–0700
fax (704) 782–1356
To: Attorney General John Ashcroft
Fax: (202) 307–1454
Company: Phone:
From: Ann Pearson
Date: 1/24/02
Re: Microsoft # of Pages (including cover) 3
Notes
Confidential
SC CONCORD TECHNOLOGY SEARCH GROUP
a division of MRI
254 church street northeast concord, north carolina 28027–4737 (704) 786.0700
charlotte: (704) 377–5764
fax: (704) 762–1358
125 Spring Street NW
Concord, NC 280259
January 23,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

After a three-year, costly, taxpayer-funded antitrust lawsuit against Microsoft, the federal government has finally decided to come up with an agreement under the wise leadership of Attorney General John Ashcroft. This decision will surely prove to stimulate our lagging economy.

The settlement calls for Microsoft to design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. The mechanism will make it easy to add or remove access to features built in to Windows or to non-Microsoft software. Consumers will have the freedom to choose to change their configuration at any time.

Microsoft has had enough distraction from what it does best—innovation. This case is above and beyond the brink of fairness. I don't see any need for the Department of Justice to ever bring litigation against Microsoft beyond this agreement,

Sincerely,
Alden B. Pearson Jr.

"sales management and marketing talent is our only business"
254 church street northeast—
concord, north carolina 28025–4737
[704] 786–0700
Charlotte: [704] 377–5764
Fax [704] 782–1358
125 Spring Street NW
Concord, NC 280259
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW

Washington, DC 20530

Dear Mr. Ashcroft:

After a three-year, costly, taxpayer-funded antitrust lawsuit against Microsoft, the federal government has finally decided to come up with an agreement under the wise leadership of Attorney General John Ashcroft. This decision will surely prove to stimulate our lagging economy.

The settlement calls for Microsoft to design future versions of Windows to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. The mechanism will make it easy to add or remove access to features built in to Windows or to non-Microsoft software. Consumers will have the freedom to choose to change their configuration at any time.

Microsoft has had enough distraction from what it does best—innovation. This case is above and beyond the brink of fairness. I don't see any need for the Department of Justice to ever bring litigation against Microsoft beyond this agreement.

Sincerely,

Anna Lee Pearson

MTC-00031947

Bank of America
Fax Sheet
To: Attorney General John Ashcroft
From: Kathleen Henderson
Company; Department: PERRY HALL BANKING CENTER
Telephone Number: 4106876320 Telephone Number: 410-256-1013
Fax Number: 1-202-307-1454
Fax Number: 410-529-9498
Date: 1-24-02
Kathleen HENDERSON
1715 HILLTOP AVENUE
Baltimore, MD 21221
January 23, 2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Attorney General:

I strongly encourage your Department of Justice to enact the settlement reached with Microsoft. In these hard economic times, I believe it is of prime importance that this settlement be enacted. The case against Microsoft has had a negative impact on tech stocks. I believe that the resolution of this case will be beneficial to this industry.

The case will also cause welcome change in the industry. Microsoft will now disclose the design and protocols of the Windows system to competitors. Competitors can now use this information to design their own software that will be more compatible with Windows. This Information sharing will benefit consumer choice.

Finally as a Microsoft supporter, I hope that Microsoft will be allowed to focus on business once again.

Sincerely,

Kathleen Henderson

MTC-00031948

100 Black Oak Drive
Asheville, North Carolina 28804
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

I am taking some time to write to you because I am concerned about the settlement that was reached by the Justice Department and Microsoft. I am concerned that anti-Microsoft forces may try to disrupt the settlement process and apply pressure to have this case brought back to trial.

This case has gone on for more than three years now, and the Justice Department and Microsoft have spent an excessive amount of time and money on this court conflict. The settlement is more than fair. In fact Microsoft has agreed to give out more information to competitors in this settlement than has ever been disclosed by a technology firm before.

Included in this settlement are provisions that will open up Microsoft's internal interfaces to its competitors. By making this information available, competitors will be able to create better software. On the whole this settlement is extremely generous to Microsoft's competitors. It should be implemented as soon as possible.

Sincerely,

Lucille James

Sir, I feel that Microsoft has been unfairly targeted. Only the very wealthy, would be able to have were it up to Bill Gates and Microsoft.

Lucille James.

MTC-00031949

Thursday, January 24, 2002 6:55 AM Page: 1 of 3
Fax
To: Judge Renata B. Hesse
From: Steven Brockerman, 850-552-0926
Name: Steven Brockerman
Company: WrittenWord Consulting
Voice Number: 850-523-0671
Fax Number: 850-552-0926
Thursday, January 24, 2002 6:55 AM
To: Judge Renata B. Hesse
From: Steven Brockerman, 850-552-0926
Page: 2 of 3
Steven Brockerman, MS
3201 -C Oriole Ct.
Tallahassee, FL 32308
DATA / FAX 850/552-0926
PHONE 850/523-0671
EMAIL writeby@att.net
January 24, 2002

Your Honor:

Microsoft is an American success story, the same kind of American success story found in the Horatio Alger tales, which used to be so popular in America. Mr. Gates overcame tremors adversity to make a better "mousetrap." All of us are the richer because of it. Are we to now seize this man's property, either through outright confiscation of his business or by means of fines, limitations and regulations??!

Mr. Gates— has not forced anyone—- to buy his product. People have chosen the MS OS because *it is better*—easier to use, relatively stable, supremely flexible, cost effective, etc.—than anything offered by the competition (who, instead of fairly and freely competing with Microsoft, have chosen to complain to the government).

Because of that, Mr. Gates was able to introduce his internet browser, MSIE, to millions of people. Mr. Gates—once again—*did not force anyone* to use his browser. We the consumer— chose to-use it because, once again, it was *overwhelmingly superior* to the competitions". Placing MSIE in his Windows OS amounted to *an option*—not a——command— -. Such "options" are what allows the consumer a choice; such "options" are the products of innovation, which we have held as an American virtue since this republics inception, proudly referring to it as "Yankee ingenuity."

Are we to now punish Mr. Gates for that? Are we to now listen to those who, for lack of vision or for want of ambition, could not successfully compete with Microsoft??! If so, then this is no longer the country of Horatio Alger. This is no longer the nation that lauds achievement; a nation that is no longer the land of opportunity where men and women can "beat a path to the door" of those who make a better mousetrap. It is no longer a nation of laws that defends the rights of all, —including—- the rich; it has become, instead, a nation that rewards the incompetent by looting his superior; that denigrates achievement in the name of envy; a nation that, in short, has come to be ruled by men who, seeking the fruits of men's labor, violate the rights of the rich in the name of the poor—thereby destroying the rights of all, rich *and* poor alike.

I am not in any way religious, but I pray to whatever god there may be that you have both the wisdom and the courage to uphold the Jeffersonian principles of our republic and dismiss the case against Microsoft. If you do not, we will all be, not only poorer because of it, but also—and most importantly—no longer free.

Very truly yours,

Steven Brockerman, MS
Adjunct Professor of English

MTC-00031950

ALLARD REAL ESTATE
Robert J. Allard, Jr.
365 May Street
Worcester, MA 01602- 1817
(508) 795-7265
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am a supporter of the settlement that has been reached between Microsoft and the Department of Justice. Microsoft has agreed to terms that extended beyond the products and procedures that were at issue in the suit. Microsoft has agreed to share data and source code that is internal to the Windows' operating system with their competitors.

Microsoft will also be making future versions of Windows to allow competitors and consumers to remove and add certain programs within their operating system. This was the original issue initiating the lawsuit, and now a settlement of that issue has been reached.

I hope that your office will now finalize this agreement and move on to other issues facing our country.

Sincerely,

Robert J. Allard, Jr.

FROM : DR. JAMES P. VERNETTI
PHONE NO. : 619 435 4415 Jan. 24 2002
12:00AM P1
1/21/02
From the desk of
609 1st Street
Coronado, CA 92118
(619) 435–4415
JAMES P. VERNETTI, D.D.S.
DOJ
c/o Ms Reneta B Hesse

To whom it may concern:

This note specifically states that I support the Microsoft settlement.

Sincerely,
James P Vernetti, D.D.S.

1/23/02
Ms RENATA B. HESSE
D.O.J
WASH DC FAX 202/307–1454

PLEASE— APPROVE THE SETTLEMENT WITH MICROSOFT. ENOUGH TIME AND ### HAVE BEEN WASTED.

J.I. MURPHY

MTC–00031951

DATE: 24-Jan-2002
AREA CODE & FAX NO. 202–307-l454
FROM Will Thompson
TO:
US Department of Justice
MESSAGE:

I have been following the United States vs. Microsoft Corporation case regarding violations of the Tunney Act by Microsoft. I have reviewed commentary on the case by such learned scholars as Justice Robert Bork. I feel that the current settlement proposed is inadequate to remedy Microsoft's past illegal activity or protect the public from simillar behavior in the future. My comments are attached.

Sent by: oceaneering
3013903908;
01/24/02 11:57; #948;

I object to the proposed settlement for resolving the case between Microsoft and the US and various state governments on the matter of illegal anti-trust practices by Microsoft. It does not go far enough to exact a penalty from Microsoft for past illegal activity or impose sufficient contractual or statutory restraints on the corporations future behavior. First and foremost I noticed a lack of any definition of "Operating System" and Middleware" that distinguishes between the functionality of either. Does this not leave Microsoft free to create its own interpretation of which category software offering a particular functionality falls into? Given Microsoft's history of incorporating functionality into its definition of "Operating System" does this not now leave them free to continue their predatory monopolistic practice of excluding competition by redefining what an "Operating System" is? This leaves it up to a violator of the Tunney Act to decide what is or is not illegal behavior.

I also question the following sections of the agreement:

"C. Microsoft shall not restrict by agreement any OEM licensee from exercising any of the following options or alternatives:

. . .

3. Launching automatically, at the conclusion of the initial boot sequence or subsequent boot sequences, or upon connections to or disconnections from the Internet, any Non-Microsoft Middleware if a Microsoft Middleware Product that provides similar functionality would otherwise be launched automatically at that time, provided that any such Non-Microsoft Middleware displays on the desktop no user interface or a user interface of similar size and shape to the user interface displayed by the corresponding Microsoft Middleware Product."

This clause seems to disallow any competitor from offering functionality (i.e. icons, menus) that provides functionality similar to a Microsoft product. This would have the effect of placing any competitor at a disadvantage since they are not allowed to offer a similar work environment to the end user.

"C. Microsoft shall not restrict by agreement any OEM licensee from exercising any of the following options or alternatives:

. .

5. Presenting in the initial boot sequence its own IAP offer provided that the OEM complies with reasonable technical specifications established by Microsoft, including a requirement that the end user be returned to the initial boot sequence upon the conclusion of any such offer."

This clause seems again to leave it up to a violator of the Tunney Act to define what is "reasonable".

"J. No provision of this Final Judgment shall:

2. Prevent Microsoft from conditioning any license of any API, Documentation or Communications Protocol related to anti-piracy systems, anti-virus technologies, license enforcement mechanisms, authentication/authorization security, or third party intellectual property protection mechanisms of any Microsoft product to any person or entity on the requirement that the licensee: (a) has no history of software counterfeiting or piracy or willful violation of intellectual property rights, (b) has a reasonable business need for the API, Documentation or Communications Protocol for a planned or shipping product, (c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, (d) agrees to submit, at its own expense, any computer program using such APIs, Documentation or Communication Protocols to third-party verification, approved by Microsoft, to test for and ensure verification and compliance with Microsoft specifications for use of the API or interface, which specifications shall be related to proper operation and integrity of the systems and mechanisms identified in this paragraph."

Again the settlement relies on the violator of the Tunney Act to define which organizations constitute a business competitor. This clause would allow Microsoft to deny access to information about its API and Protocols to such organizations as the Free Software Foundation, Linux.org and BSD.org and others that, if Microsoft's sales memos are to be credited, present a strong competition to their illegal monopoly.

In short, this proposed settlement does little to (1) punish Microsoft for its illegal activities or (2) impose restrictions on continuing its anti-competitive practices. I urge the Department of Justice to renegotiate the settlement under terms that would truly restrict Microsoft's predatory anti-competitive activities or would breakup the company into and operating system division, middleware division, and applications division.

Will Thompson
2944 Knoll Circle
Ellicott City, MD 21043

MTC–00031952

MERRILL LYNCH
Merrill Lynch
Vice President
Senior Financial Advisor
Private Client Group
4412 N. Brady St.
Davenport, IA 52806
563–388–2355
800–937–0612
john pedersen@ml.com
January 24, 2002
Atty. Gen. John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Atty. Gen. Ashcroft,

I wanted to express my opinion on the recent settlement of the antitrust lawsuit between Microsoft and the federal government, since the public comment period is still in effect. It is good to see that, after three long years of costly litigation, this case is finally over. I would hope that you will persist in doing what you can to make sure that the current settlement stays as is, and that no more taxpayer dollars are squandered on further litigation.

I have long felt that this case has been more about helping Microsoft's competitors instead of helping consumers. When they couldn't compete effectively in the marketplace, they turned to the government for help. In most cases, it wasn't Microsoft's strength in the market, but simply better software. A good example today is the litigation launched by AOL Time Warner claiming that due to Microsoft's power, they rolled over the Netscape browser costing them significant market share. I was a previous user of Netscape, but switched to MS Explorer simply because it was a better product.

As I understand, there will be an oversight committee to make sure that Microsoft complies with all of the terms of the settlement. This should ensure that consumers get better choices, and competitors have better access to information on product development. The end result of this will be a boost in the technology industry, In turn, this will benefit all sectors of the American economy, which have come to rely on the technology field as an economic leader. It makes no sense to continue attacking the leading company in such a vital industry. To do so does not serve the economy or the thousands of shareholders who have invested money in the company.

There is no reason to alter the settlement or disallow it all together, and I hope that we will see this whole issue come to an end as soon as possible so that all parties involved can move on to more important matters.

Sincerely,
John E. Pedersen
Vice President
Senior Financial Advisor

MTC-00031953

THE SWEENEY GROUP
6 WEST FIFTH STREET, SUITE 700
SAINT PAUL, MN 55102
TEL: 651-223-2860
FAX: 651-224-8328
FACSIMILE TRANSMITTAL SHEET
TO: Renata B. Hesse
PROM: Brian Sweeney
COMPANY! Antitrust Division, U.S. Department of Justice
DATE: 1/24/02
FAX NUMBER: 202-616-9937
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
FAX: 202.616.9937

Dear Ms. Hesse:

I have spent the last three years as Director of Planning and Economic Development for the City of Saint Paul for Mayor Norm Coleman. My main job was to ensure that we, maintained, expanded, and attracted businesses and jobs'to our state's Capital city. We I were able to,do this because we were, able to instill confidence in the private market by keeping taxes low and creating private sector incentives for development. I've recently returned to the private sector as a developer and am very cognizant of the fragile nature of our economy and how it will impact jobs and investment.

The U.S. is officially in a recession clearly exacerbated by the tragic events of September 11th Minnesota is suffering as a direct result of this downtown evidenced by the job layoffs at 3M, Northwest, Fingerhut, American Express and several other corporations in the Twin Cities and throughout the state. In the face of these troubling economic developments, one positive occurrence has taken place of late: the settlement of Microsoft.

I believe that by settling the case, our nation and the nine, states in particular, will be able to focus on the real issues, of our troubled economy. The settlement was the right thing for America and the right thing for Minnesota. I think the fairness of the settlement was clear from the fact that Microsoft agreed to share its intellectual, property and create uniform price lists for the top 20 computer makers.

I, and many of my colleagues, in the corporate and financial community, support this settlement. Thank you for taking the time to listen to my position,on this matter.

Sincerely,
Brian Sweeney
President
6 West 5th Street, Suite 700
Saint Paul, Minnesota 55102
Phone: 651 .223 .2860
Fax: 651.224.8328
E-mail: brian@thesweeneygroup.com

MTC-00031954

JAN-24-2002 THU 09:18 AM
P. 01/01
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to ask that your office see fit to end this case at the federal level. Although I do not agree with every move Microsoft has made in the past, I do not think that further litigation fits the crime. Although the settlement reached by your office in November calls for more concessions than Microsoft may have wanted, it has agreed to the conditions in an effort to move this issue along. Nine states have approved the agreement, and Microsoft is negotiating with the remaining states to reach a conclusion. I do not see what benefit will be gained from further federal action, and frankly I feel that three years has been long enough.

Microsoft has granted broad new rights to computer makers and software engineers. It has more or less opened its Windows operating system for the competition to use as a springboard for launching their own programs that compete with those programs already included within Windows. I ask if these concessions would have been demanded with such ferocity if Microsoft were involved in a more traditional and understandable industry. Would we mandate that McDonalds had to offer Burger King's Whopper to all customers that asked for it? Would Coke offer samples of Pepsi in each can? More importantly, would we allow it?

I hope this issue will be behind us as soon as possible. I do not completely agree with the settlement, but if allows us to move on, then I will give it my full endorsement. Please use your position to allow the IT industry and the economy to grow again.

Sincerely,
Irene Lovelace
Executive Assistant

MTC-00031955

Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
610 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As a member of the North Carolina General Assembly from Charlotte, I would like the heartily endorse the settlement agreement in the Microsoft case that is before Judge Kollar Kotelly. The settlement not only has approval of the federal government and the company but also the attorney general in North Carolina.

As with any settlement, both sides will derive benefits and have to live with things they may not like. But that is much preferable to the continued litigation which has been a big burden to taxpayers and helped bring about one of the worst downturns in the stock market in recent history. For the federal government and North Carolina to continue such litigation would be intolerable to me.

In particular, I hope that this settlement will allow Microsoft to continue to grow and put out new products as it has for many years. That is because Charlotte is home to a Microsoft facility employing 1,000 workers who are much better paid than the average in this city.. With the economy in a downturn, it is important that the companies in our area remain strong. The last thing that is need is for government intervention to be the cause of a company's economic problems.

As a state legislator, I have always been the strongest advocate for government nonintervention into private business. Instead, I have always been strong for the state providing the best education possible so that we will have young workers prepared when Microsoft and other companies decide to locate in our state. That is why I hope that we can get this phase of the Microsoft case behind us.

Sincerely,
Connie Wilson

MTC-00031956

FROM : FAX NO. Jan. 24 2002 11:25AM P1
Julie L. Rehder
1413 Hattie Road
Apex, NC 27602
January 24, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW,Suite 1200
Washington, DC 20530
Re: Microsoft Case

Dear Ms. Hesse:

As a consultant, I need access to affordable and usable technology to keep pace in a competitive business. I use Microsoft software because it is dependable and cost effective. I do not have access to technical experts on a daily basis so problems caused by unreliable software would delay my work and create dissatisfaction among my clients. I have been following the antitrust suit against Microsoft to see what impact the final settlement will have on consumers like me and on my clients who need easy access to reliable software. Microsoft has had a significant, positive influence on the growth and success of many small businesses and organizations.

It appears that the proposed settlement will provide a workable solution for consumers, computer makers, software developers and Microsoft. This solution seems fair to all parties. The consent decree allows computer manufacturers to adapt the Windows system so that other software programs that compete with Microsoft can be used. Features built into Windows will be easier to remove. Microsoft can continue with its efforts to develop new products that benefit consumers and the technology industry. I will continue to be a loyal customer and look forward to advancements made as a result of the proposed settlement.

I appreciate the opportunity to comment on this case.

Sincerely,
Julie L. Rehder

MTC-00031957

Dear Madam or Sir,

My name is Sammy E. Desmond, Jr. and I am Senior System Analyst with a major chemical company. I have a Bachelor of Science Degree in Computer Science and I have over 19 years of experience with computers. The purpose of this letter is to submit my comments concerning the Microsoft anti-trust settlement in accordance with the Tunney Act.

As veteran of the computer industry and as a parent advisor to my local school district's technology committee, I have seen first hand the devastating effect Microsoft's monopoly power has caused. There are numerous examples of how they abused their monopoly position to stifle competition and reduce consumer choice.

I have thoroughly examined the proposed settlement and cannot find anything that even comes close to being a remedy to the antitrust violations that Microsoft has already been found guilty of. As you are well aware, Microsoft Corporation has already been found guilty of abusing it's monopoly power.

At the very least, a just penalty should include the following:

•Restrictions must be put in place that force Microsoft to publish and fully document all present and future file formats of any documents created by Microsoft application software. This will invigorate competition from other software producers and allow the data to be read by other programs and on other operating systems.

•Microsoft must be required to publish and fully document the Windows Application Program Interface (API).

•Microsoft products must be positioned as optional, extra cost items on brand new computer systems. Consumers that do not wish to purchase the Microsoft products should not be forced to do so. The current non-optional bundling of Microsoft products with new computers is sometimes referred to the "Microsoft Tax" in which the price of the Microsoft products are included in the price of the computer even if the consumer erases the Microsoft products and replaces them with something else.

•Also, any current and any future Microsoft networking protocols must be published and fully documented in full and approved by independent industry bodies. As the Internet becomes a more important part of civilization, it is extremely important that Microsoft does not extend its past abusive behavior into that realm. If Microsoft is not sufficiently penalized and is allowed to extend its monopoly influence to the Internet, the results would be disastrous. As a matter of fact, the highly respected Center for Strategic and International Studies released a study a year ago that stated Microsoft software poses a U.S. national security risk. See the following web site, which describes this report:http://www.cnn.com/2000/TECH/computing/12/29/csis.microsoft.report.idg/

In closing, history offers numerous cases when bad decisions were made for which future generations paid a heavy price. Please take this opportunity to properly punish Microsoft's abusive behavior while there is still time.

Respectfully,
Sammy E. Desmond, Jr.
3930 Suncrest
Groves, Texas 77619 U.S.A.
(409) 723–3226
sdesmondjr@yahoo.com

MTC–00031958

Jan-24–02 THU I0:45 AM FAX: PAGE 1
January 22, 2002
VIA FACSIMILE
202–616–9937
Attorney Reneta Hesse
Antitrust Division
Department of Justice
601 D Street NW—Suite 1200
Washington DC 20530

Dear Attorney Hesse:

I am writing to express my support for the goal set forth in the proposed settlement of the Microsoft antitrust case. The New York Times recently reported that 88% of households whose income is $75,000.00 or higher had a computer. This number drops dramatically for households with income below $25,000.00 This needs to be remedied.

As part of that settlement Microsoft is proposing the donation of approximately 200,000 computers to public school students throughout the country. Recent research suggests that the digital divide that exists along economic lines has an adverse impact on students, schools and educational opportunity. Currently, 82% of schools in well to do communities are connected to the Internet. That number drops to 60% of the classrooms in poorer communities.

I support the goal of the Proposed settlement in the Microsoft antitrust case, which will provide students and teachers in lower income areas with access to both technology and computers. These students desperately need access to technology in order to prepare themselves for jobs in the 21st century.

I would also recommend that donations to Registry of Deeds and recording offices desperately in need of modernization be added to the list of places for the computer donations.

I urge the Court to approve the settlement agreement.

Sincerely Yours,
Anthony J. Vigliotti

MTC–00031959

PCD Network Solutions, Inc.
Progressive, Consistent, Dedicated
3z.net a PCD Company
Attorney General John Ashcroft
US Department of Justice
Washington, DC 20530

Dear Mr. Ashcroft,

Even though our company is in the IT Industry, as an Internet service provider, we would not have been directly affected by this lawsuit against Microsoft. That is not to say, however, that had Microsoft been broken up, as anticipated by the court, consumer demand for computers, software and, ultimately, for our services, would not have been adversely affected.

This settlement has the distinct advantage of preserving the integrity of the IT community and will forestall any serious residual damage, For this reason, it is better to have it sustained, rather than tossing this whole mess back into court. The settlement is also very well drafted, providing for every circumstance Microsoft could get into, and a Technical Committee to oversee the enforcement of the settlement. I am therefore writing to convey my support of the settlement. I am further suggesting that any such public display of government animosity against any sector of American business always has an unfortunate effect of stifling economic growth. We have seen this here. I am hoping that all the hostilities have been resolved by this settlement. Thank you.

Yours truly,
Eric S. Vail, President
3z.net a PCD Company
350 Thomas More Parkway
Suite 290
Crestview Hills, KY 41017
Voice 859.331.9004
Fax 859.578.3522
http://www.3z.net

MTC–00031960

Virginia Giglio, Ph.D.
President
18907 La Costa Lane
Boca Raton, FL 33496
(561) 852–3502
vgiglio@globalthinking.com
Global Thinking, Inc.
www.globalthinking.com
January 23, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I want you to know that I have been a Microsoft supporter from the beginning of this lawsuit and will continue to be afterwards. I hope that the settlement that has been proposed goes through so that we can end this matter and let Microsoft get back to business.

I run a web design firm and since our inception we have depended solely on Microsoft products. Ending this case will mean that my entire company can breathe a sigh of relief and stop worrying about what will happen to the everyday operations of our business. I feel that building a stronger relationship between Microsoft and other software developers will be beneficial for everyone. By having Microsoft share its code with other developers while at the same time designing Windows to have increased compatibility with outside programs is advantageous to the entire IT industry. We have experienced this first-hand here at Global Thinking, Inc. while building the award-winning web site for one of our lines of business, NATIVECULTURE.COM—a comprehensive portal site for Native American resources on the Internet.

I request that this settlement be finalized as soon as possible because three years is far too long to make such a large part of our economy wait for a decision that affects them directly. The IT industry as a whole needs this situation resolved—this settlement is the key to doing it soon.

Sincerely,
Virginia Giglio, Ph.D.
President, Global Thinking, Inc.
cc: Representative Robert Wexler

MTC–00031961

Jan 24 02 10:47a

City of Oceanside Council (760) 435–3045
January 23, 2002
Renata Hesse, Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, # 1200
Washington, DC 20530
VIA FACSIMILE
(202) 616–9937

Dear Ms. Hesse:

As part of the Tunney Act proceedings, I submit to the court this letter to be included as part of the public comment in the case of US v. Microsoft. I'am writing the courts to express my support for the proposed settlement in this matter.

I write this letter to the courts as a citizen, businessman, and City Councilmember who believes: a) this case has caused enough harm to our country and b) that the settlement more than adequately addresses the issues of concern in US v. Microsoft.

First of all, as a concerned civic activist, I believe the case against Microsoft has brought irreparable damage to the state of our national economy. One can trace the end of our boom era right back to the day Judge Jackson called for Microsoft to be broken up. Microsoft's innovations and investments was probably the largest economic engine the technology industry had. US v. Microsoft has brought everything to a grinding halt. To reject this settlement would unnecessarily ensure the slow down to continue indefinitely. For this reason, I believe the settlement should be accepted.

Secondly, I believe the settlement adequately addresses the issues of concern and ensures Microsoft is forbidden from behaving in an anticompetitive fashion. Because of the microscope the company will operate under, and the restrictions put in place by the settlement, it cannot rationally be argued that monopolistic actions will occur in the future. For this reason, I believe the settlement should be accepted.

I thank the court for their time and providing the public with an opportunity to comment on this case. I hope the settlement will be accepted, and that US v. Microsoft will finally come to an end.

Sincerely,
JACK FELLER
CIVIC CENTER
o 300 NORTH COAST HIGHWAY
o OCEANSIDE, CA 92054–2885—
TELEPHONE 760–435–3056—FAX 760–435–6016
Email: jfeller@ci.oceanside.ca.us

MTC–00031962

January 23, 2002
Ms. Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

I am writing to you today to voice my support for the proposed settlement that has been reached between Microsoft and the Department of Justice. The remedies proposed in the settlement are adequate and they fairly address the issues raised in the lawsuit. The impact of Microsoft's donations to the Latino community in the past is indisputable. They have demonstrated their commitment to bridging the technology gap, which impacts the future of so many children in the Latino community As a School Board Member, and as someone who cares deeply about our community and the children and families we serve, I want to express my full support for the proposed settlement and urge you to do everything possible to ensure its implementation.

Respectfully,
Hector A Chacon
Board of Education Member
Montebello Unified School District
Board of Education MARCELLA CALDERON, President, D., Superintendent of Schools, EDWIN CHAIJ, Vice-President, Facilities / Operations, HECTOR A CHACON, Cleric, - Human Resources, FRANK A GOMEZ, Ph.D Member, Insructional Services, RICHARD L. ADAMS 11 Member, Business Services.

ADMINISTRATION: M. MAGDALENA CARRILLO MEJIA Phd., PAMELA T. JOHNSON, Assistant Superintendent, SHARON I. NOMDIEM, Assistant Superintendent, EUGENE C. KERR, Assistant Superintendent, GLENNJ. SHEPPARD, Business Manager, EDWARD VELASQUEZ, Administrative Assistant.

MTC–00031963

HCC SOLANO / NAPA
EXECUTIVE BOARD: President, Karla Velez, North American Title, Vice President, Legal Counsel; Anthony R. Perez, Attorney At Law, Treasurer, Finance Director, R. Margarita Delgado, North American, Mortgage Co., Secretary, Public Relations; Carlos E. Solorzano, BDM, Community Chair; Omar Martinez, Ultra Sound, International.
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January 18, 2002
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As an organization based on business and aiding businesses in their goal of being successful, our chamber is concerned with the seemingly endless legal pursuit of Microsoft. This is a free market economy Microsoft is one of the most successful companies in the global market. The ongoing litigation against Microsoft is punishment for this success.

Majorities of our members are small business owners. We appreciate that your efforts are meant to be watching out for the consumers and the small business owners. However, we believe the settlement on the table between Microsoft and the government is sufficient in its punishments and new guidelines laid out for Microsoft, Our main concern at this point is the length of time and the money continuing to be poured into this issue. We have so many other things to focus on as a nation; priorities that need our attention. We need to put this to rest. Our chamber fully supports the settlement on the table, and we urge you to as well.

Thank you for your time on this issue.

Sincerely,
Karla Velez
President
HCCSNC
Cos/KV/hccletterhessell8002
P.O.Box 2723
Fairfield CA 94533
707–643–5037
Fax 707–557–9844
e-mail Info@HCCSolenoNapa.org

MTC–00031964

January 18, 2002
B.D.M.
BY DESIGN Multimedia
PUBLIC RELATIONS EVENTS
ADVERTISING MARKETING
308 Ohio Street Vallejo CA 94580
707/644–4218 Fax 707/557–9844
By DesignM.com
Ms. Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am writing to urge you to support the settlement between Microsoft and the government. I know there is a window of time when the public is encouraged to provide input on the settlement. As a small business owner I work very hard to keep my business going. However, I am taking a few minutes out of my day to write this letter because I feet very strongly about this issue.

Microsoft acted unfairly and improperly in its business dealings. I appreciate the government watching out for me both as a small business owner and as a consumer. Having said that, I also feel enough time and money has been spent on this issue. The settlement is amenable to both the government and Microsoft. The goals have been accomplished, Microsoft will have to watch its business: practices, monitored by an oversight committee.

Again, I urge you to support the settlement agreed to by the government, nine of the states and Microsoft.

Thank you for your time on this important matter.

Sincerely,
Coca Corona
President
BDM

MTC–00031965

January 24, 2002
United States Department of Justice
Attn: Ms. Renata B. Hesse
Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Ms. Hesse:

I am writing to you in support of the recent Department of Justice settlement with the Microsoft Corporation. The country is at war, the economy is sour and the business community is struggling. Yet, the U.S.

Department of Justice is spending millions of dollars in time and resources on the Microsoft settlement.

I believe it has been a waste of taxpayers dollars, my understanding is that it has cost us over $30 million. This has been a competitor driven lawsuit and it has hampered high tech innovation. If Microsoft's competitors would spend time and money on their own research and development, instead of this lawsuit, all consumers would benefit.

Enough is enough, let's settle this lawsuit and move forward. Thank you for your attention to this matter.

Sincerely,
Cheryl Friske
Events Director

MTC-00031966

January 15, 2002
Ms. Tricia Denton
9033 Coriander Circle
Manassas, VA 20110
Ms. Renata Hesse
Department of Justice
601 D St., NW Suite 1200
Washington, DC, 20530

Dear Ms. Hesse:

I believe the settlement between the federal government and Microsoft would be the first step toward restoring prosperity to the high technology sector in the U.S. Consumers will benefit from the provisions in the settlement that allow Microsoft to decide which products and features it may provide to its customers and how to price them. This appears to be the best move for consumers and for our ailing economy. It is time to do whatever it takes to move our country in the right, positive direction.

Sincerely,
Patricia R. Denton

January 15, 2002
Mr. Steve Denton
9033 Coriander Circle
Manassas, VA 20110
Ms. Renata Hesse
Department of Justice
601 D St., NW, Suite 1200
Washington, DC. 20530

Dear Ms. Hesse:

I strongly support the settlement between the federal government and Microsoft, and I believe that it could be the first step toward restoring prosperity to the high technology sector in the U.S. Consumers will benefit from the provisions in the settlement that allow Microsoft to decide which products and features it may provide to its customers and how to price them. It's time to do what is best for consumers and for the economy and this settlement seems to move the country in the right, positive direction.

Sincerely,
Steve Denton

January 18, 2002
Mr. Ron Koch
14568 Woodland Ridge Drv.
Centreville, VA 20121
Ms. Renata Hesse
Department of Justice
601 D St., NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I would very much like to see the final stages of the settlement between the federal government and Microsoft ironed out. I believe this could be the first step toward restoring prosperity to the high technology sector in the U.S. The provisions in the settlement allow Microsoft to decide which products and features it may provide to its customers and how to price them, and this should benefit consumers. Now more than ever, we need to do what is best for our nation and to help it regain its economic strength and prosperity.

Best regards,
Ron Koch

January 18, 2002
Ms. Lois Koch
14568 Woodland Ridge Drv.
Centreville, VA 20121
Ms. Renata Hesse
Department of Justice
601 D St., NW Suite 1200
Washington, D. C. 20530

Dear Ms. Hesse:

I would very much like to see the final stages of the settlement between the federal government and Microsoft ironed out. I believe this could be the first step to ward restoring prosperity to the high technology sector in the U. S. The provisions in the settlement allow Microsoft to decide which products and features it may provide to its customers and how to price them, and this should benefit consumers. Now more than ever, we need to do what is best for our nation and to help it regain its economic strength and prosperity.

Best regards,
Lois J. Koch

MTC-00031967

January 23, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D. Street N.W, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As a consumer of high-tech products, I am writing this letter to register my support for the recently negotiated settlement of the Microsoft lawsuit. It is clear that the best interest of all is for a quick resolution of this long and expensive lawsuit. Though some will say the terms of the settlement are not stringent enough, I think it preferable to find a workable solution rather than mete out crippling sanctions against Microsoft that will do nothing more than dull America's cutting-edge technological superiority.

Antitrust laws were meant to protect consumers, yet at no time during this case has anyone shown Microsoft has done harm to a consumer. I say it is time to put an end to this competitor-driven pursuit and let technological innovators, such as Microsoft, continue to fight it out in the marketplace, not the courtroom.

President
The Colony Chamber of Commerce

MTC-00031968

January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to express some of my views regarding the Microsoft antitrust case. I understand that there was merit behind the issues that brought about the lawsuits, but that was three years and countless taxpayers" dollars ago. This matter needs to be brought to a conclusion.

I work in the technology industry as a seller of hardware and software to schools. I have not been directly impacted by the case, but the uncertainty surrounding the conclusion leaves me feeling uneasy. Microsoft does make important concessions such as agreeing to disclose some of its code and allowing a technical committee oversee the settlement's execution.

I hope that this case will soon be behind us. Not only does the settlement address the current concerns, but it provides for ways of dealing with future problems as well. I hope your office will do everything possible to allow the IT industry and the economy to move forward.

Sincere1y,
John Pexton
Account Manager

MTC-00031970

Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601. D Street NW, Suite 1200
Washington, DC 20530

Dear Atty. Hesse:

The Educational Association of Worcester wishes to add its support to the position expressed by NEA President Bob Chase regarding the Microsoft case. Urban school systems such as Worcester, Massachusetts struggle to provide computers and computer technology training for the entire school population. Many of our students do not have home access to computers and rely totally on school to provide them with this exposure and experience. The teachers need technology training to integrate the computer use into the full curriculum and often find that the school system has financial constraints against providing this help. Computers and other equipment have often been closed out in various businesses and then donated to schools. The schools have then discovered that these do not work well or consistently. Students and teachers then find enthusiasm and plans derailed and it is extremely difficult to resurrect later. Service contracts and constancy in training are vital components to equalize learning experiences for all students.

The proposed settlement to United States v. Microsoft is a reasonable attempt to redress these problems. Please regard the EAW/MTA/NEA as supporting this settlement agreement.

Sincerely,
Janet Gutkoski Dufault
President

MTC-00031971

Renata Hesse
Antitrust Division
Dept. Of Justice 601 D St. NW, Suite 1200
Wash. DC 20530
Jan. 23, 2002

Dear Big Government,

In my humble opinion as a consumer and citizen I would like to see the Microsoft case finally be resolved. The compromise settlement that is being reviewed is fair and needs to be completed.

The sooner this is done the better. All of this litigation, expense, and time only results in a negative impact on the country. My tax dollars are being consumed, the cost of technology is going up and technical innovation has been slowed.

Please approve the settlement in the Microsoft case and lets move on.

Thank you,
Jay Rusnock
20 Phyllis Rd.
Wapp. Falls, NY 12590
H: 845–297–5315
F: 845–298–7233

MTC–00031972

State Senator
Kevin Shibilski
January 24, 2002
Renata B Hesse
Antitrust Division
US Department of Justice
601 D Street NW
Suite 1200
Washington, DC. 205030–0001

Dear Ms. Hesse;

I am writing to urge you to support the recent settlement between Microsoft and the Department of Justice. I believe it is in the best interest of the economy and our nation's consumers for the case to be resolved.

In particular, I support the goals set forth in the proposed Microsoft class action settlement agreement to establish an independent foundation comprised of educators that will distribute technology funds, computers and software to the country's poorest schools and provide for teacher training. Again, I encourage the Department of Justice to accept the proposed settlement.

Thank you for your attention in this matter.

Sincerely,
KEVIN SHIBILSKI
State Senator
District 24
KW:ks
State Capitol,
PO. Box 7882,
Madison, Wisconsin 53707–7882
Phone: (608) 266–3123
Toll-free
Hotline: 1-800–362–9472

MTC–00031973

Mark B. Edwards, Jr.
President
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202–616–9937
microsoft.atr@usdoc.gov

Dear Ms. Hesse:

I write to support the proposed consent decree in the federal government's antitrust lawsuit against Microsoft Corporation.

As a writer and researcher, I have been a close observer of the information technology industry's problems and potential in North Carolina and across the nation. It is clear to me that continued litigation in this matter serves neither the industry nor the consumer well. Now that a settlement has been negotiated that provides broad protections against illegal behavior by Microsoft, I am hopeful that the courts will bring a close to this litigation. It would be a step forward for the economy of this state and for the entire nation.

Sincerely,
Mark B. Edwards, Jr.
6325–9 Falls of Neuse Rd.,
Suite 262
Raleigh, NC 27615
Phone 919/696–6154

MTC–00031974

Thursday, January 24, 2002
Renata Hesse, Trial Attorney,
Suite 1200, Antitrust Division,
Department of Justice,
601 D Street NW,
Washington, DC
20530

Good day,

I have worked in the computer industry for 20 years, using IBM mainframes as well as various Unix and Windows machines, specializing in both technical support and software development. My opinion is also inspired from plain common sense. I believe the proposed final settlement is a setback for the world economy, and a severe disservice to present and future generations. My point is simple: Monopolies cannot play a useful role forever.

I think one way that monopolies are initially useful is in bringing to market some innovative products that establish directions and de facto standards, which is certainly preferable to chaos resulting from too much competition. Microsoft deserves a lot of credit for having popularized easier to use computers. They forced the industry to focus on this issue. As a result, today most business and home users expect to interact with any software application in a standard way. This has been a definite step forward, compared to the days when every application came with its own way of using it. This certainly helped tremendously in bringing computers to the masses, which in turn played a major role in supporting the computer revolution, as no industry could exist without consumers. In my view, this is Microsoft's most important contribution (even though I disapprove some of the marketing approaches they used to achieve it), but there certainly are others.

However, I think in general monopolies tend to become counter-productive as time goes by. Any company holding a monopoly eventually takes its market for granted. Once established, a monopoly just no longer needs to truly innovate. Its size alone makes it less efficient and slower. In the absence of competition-induced pressure, productivity and quality tend to go down. Prices may be set too high. New products may be held back in order to extract more money from the market using current products (this is one reason why Gene Amdahl started his own company, in 1970, to compete against IBM mainframes). In short, a monopoly causes its industry to slow down, or to progress at the pace set by the monopoly. Such ill effects are bound to happen, sooner or later, despite the company's denials, simply because of human nature. People run companies, and people produce and innovate best in an environment of freedom, openness, and reasonable pressure induced by fair competition—this is just a basic principle of the free enterprise capitalism system. Microsoft will not escape any of this, and many, including myself, say ill effects are already taking place.

Communism was in my view, the ultimate form of monopoly. History has taught us how wrong this concept was. Considering that today, at the dawn of the Information Age, virtually every government, enterprise and individual relies on the computer industry, a monopoly in that industry tragically affects the entire economy, and even democracy, so I think the analogy holds.

When a monopoly is torn down, its industry is free to flourish again. The telephony industry would likely not be where it is today had the Bell monopoly not been broken in 1982. The Internet, which plays major roles in today's economy, is not the product of any monopoly; it was born in the more opened Unix world. The concept of graphical user interfaces was not invented by Microsoft, which merely improved and marketed it (the idea itself was born in the Xerox Palo Alto research center, and it was also commercialized earlier by Apple—actually the complete story is much more complex than that). There certainly are many more examples proving that freedom, and competition yield to motivation, which in turn yields to best innovations and true progress.

Blessing Microsoft's monopoly will, at best, slow down the computer industry. More realistically though, it will keep the quality down. Unfortunately, one area in which Microsoft Windows is particularly weak is computer security. The fact that successful security attacks cost companies huge amounts of money is already bad enough. But even worse is the possibility, which no one can totally dismiss, as some credible studies, have suggested, that a computer system break-in results in a genuine catastrophe causing loss of human life. It is therefore critical that computer security be tightened as much as possible. But Windows is inherently insecure due to its very architectural roots. I do not believe that Microsoft, especially as a monopoly, can quickly and completely bring Windows security at the level offered today by other operating systems. I urge you to reconsider the proposed final settlement. A minimal appropriate penalty must make it mandatory to clearly separate the sale of hardware and operating system software, as well as to publish the hooks into Windows along with file formats and communication protocols, so that third parties can more easily write better interoperable Widows applications. On top of that, I would favor any measure forcing Microsoft to compete rather than control. My favorite scenario would involve releasing the entire Windows operating system in the public domain, or the open source community (a "source" is the text or human readable form of a computer program). That certainly would be a penalty, encompassing all the minimum attributes I listed above. In addition, that would automatically split Microsoft, leaving it with Windows applications in a market where it would have to compete. And potentially, some of the best minds of the open source community could start to generally improve Windows, fix bugs in it and make it more secure, ultimately making it more useful for everybody. That scenario would also encourage more people to adopt better and more secure operating systems that are already available today.

Regards,
Marcel Frechette
1280 Beaujolais
Longueuil (PQ)
CANADA
J4M 2X9
Email: marcel.frechette@videotron.ca

MTC-00031975

DEPT. OF JUSTICE
MS. RENATA B. HESSE

DEAR MS. HESSE,

I SUPPORT THE MICROSOFT SETTLEMENT AND URGE YOU TO DO LIKE WISE.

SINCERELY,
Danny A. Carretta
Mr. Danny A. Carretta
8321 Albia St.
Downey, CA 90242-2538

MTC-00031976

LAW OFFICES OF CHARLES TILLMAN RAMSEY
3014 Market Street
Oakland, CA 94655
Phone 510.444.4721
Fax 510.444.5091
January 23, 2002
Ms. Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse

I support for the proposed settlement that has been reached between Microsoft and the Department of Justice. As a school board member, I serve a district with a high percentage of underprivileged families. The impact of Microsoft's donations to underprivileged communities in the past is indisputable. They have demonstrated their commitment to bridging the technology gap, which impacts the future of so many children served by my district and in underprivileged communities across the country.

As someone who cares deeply about our community and as a school board member concerned about the children and families in my district, I want to express my full support for the proposed settlement agreement.

Respectfully,
CHARLES RAMSEY
School Trustee
West Contra Costa Unified School District

MTC-00031977

Jan-24-02 10:40
P.O. Box 600505"
San Diego, CA 92160
(619) 265-7607
(619)583-2718 Fax
January 24, 2002
Ms. Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530

Dear Ms. Hesse:

I understand that the courts have asked the public to direct their comments and concerns on the case of US v. Microsoft to you. I am writing this letter because I do not believe that we should continue to pursue this case. I felt compelled to write this letter after reading an article in the Orange County Register on January 18th.

The article outlined over $1 million dollars in important local projects that will be cut this year due to a lack in funding. Because of fiscal mismanagement in our state a food truck will not get $35,000; a shelter for abused women will not get $150,000; Little League programs for the needy will go without funding; a crosswalk will not be built; a criminal tracking system will not be subsidized; a senior food bank will not get the money it needed—the list goes on and on and on. And this is just in Orange County. Every county in the state will go through similar cuts.

This all goes back to the Microsoft case because our elected officials are making poor decisions. To choose to spend our money on issues like the Microsoft case rather than building crosswalks is special interest politics gone too far. Attorney General Lockyer will continue spending money going after Microsoft even thought the state of California doesn't have the funds.

Now is the time to end the case against Microsoft and ensure that our government spends money on real issues. I urge the courts to approve of this settlement.

Sincerely,
Michele Nash-Hoff
President

MTC-00031978

FROM : CAMBRIDGE SPRINGS PUBLIC LIB.. FAX NO. : 814 398 4784 Jan. 24 2002 01:43PM P1
24677 Kreitz Road
Cambridge Springs, PA 16403
January 23, 2002
Renata Hesse, Trial Attorney
Suite 1200, Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530

Dear Madam:

As someone familiar with computing and the computing industry and also with the negative effects of Microsoft's monopoly in operating systems and software, I do not see how the proposed settlement can remedy the antitrust violations for which Microsoft has been found guilty. Because Microsoft has already been found in violation, and this is the penalty phase of the case, the settlement should contain penalties that will promote competition and prevent any recurrence of antitrust violations by Microsoft. I would suggest that there are, at minimum, three additional features that the settlement should include.

- First, Microsoft's products must be extra-cost options in the purchase of new computers, so that users are not forced to purchase the software if they do not wish to do so. The price difference between a computer with and without Microsoft software must reflect the true cost of such software to the consumer.
- Second, Microsoft's present and future document file formats (Word, Excel, etc.) must be fully documented and made public, so that documents created in Microsoft applications may be read by other programs such as Word Perfect, Star Office and other programs from different manufacturers. I would even go so far as to suggest that Microsoft be required to completely abandon its proprietary file formats and to use instead a standard format such as XML. In addition, Microsoft should be required to adhere precisely to the standard XML format and not be allowed to deviate even slightly from it.
- Third, all Microsoft networking protocols must likewise be fully documented and approved by an independent network protocol body. This is necessary to prevent Microsoft from taking control of the internet, thus making it impossible to use the internet with other operating systems and software.

I am very concerned about the fact that a computing monoculture has developed in this country and that this makes not only the internet but our business and government infrastructure highly vulnerable to attack by terrorists and others who would do us harm. It is imperative that Microsoft be constrained from further anti—competitive activities so that competition can develop in the arena of computer operating systems and software. A stronger remedy than the one proposed will benefit everyone, including those who choose to use Microsoft's products.

Sincerely,
Benjamin R. Bullock

MTC-00031979

FROM : SMITH-CENTER/IRBD PHONE NO. : 510 885 4222 Jan. 24 2002 01:34PM P1
CAL STATE HAYWARD
CALIFORNIA STATE UNIVERSITY, HAYWARD
25800 Carlos Bee Boulevard, Hayward, California 94542-3068
School of Business and Economics
Department of Economics
Telephone (510) 885-3275 or 885 3265 Fax: (510) 885-4796
January 24, 2002
Ms. Renata Hesse
Trial Attorney -Antitrust Division
Department of Justics
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Nearly $35 million has been spent in the Microsoft cases allegedly to protect consumers. The truth is that consumers were not damaged by Microsoft activities and in fact benefited from the company's efforts. It is the litigation that hurts consumers by delaying the introduction of new products and improvements on existing products.

Antitrust laws are supposed to protect consumers not Microsoft's competitors. Over the years the price of computers and software has plummeted, and consumers have voiced their support for standardization and compatibility with their purchasing power. Consumers have been getting better and better deals from Microsoft. The antitrust laws should not be used to punish Microsoft for being good at what it does and having loyal, grateful customers.

At a time when our country is struggling to meet its financial obligations, wasting more money on this ill-conceived lawsuit is almost a crime. I ask you please approve the settlement immediately. The sides have come to agreement. There is no need to continue wasting precious resources on this.

Sincerely,
Charles Baird, Ph.D.
Professor of Economics and
Chairman of the Department
THE CALIFORNIA STATE UNIVERSITY
Maritime Academy

MTC-00031980

JAN. 24. 2002 2:48PM CYPRESS COLO. DESIGN CENTER NO. 6592 P. 1

To:
Renata Hesse, Trial Attorney
Suite 1200
Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530
facsimile: 202-616-9937 or 202-307-1545
e-mail: microsoft.atr@usdoj.gov
From: John Tiede
1607 N. Weber Street
Colorado Springs, CO 80907
Subject: U.S. v. Microsoft Request for Public Comment

MS. Hesse:

This fax is a response to a request for public comments by the court hearing the case U.S. v. Microsoft. I understand the request for comments is a part of the penalty phase of the litigation and Microsoft has been found guilty of violating Sections 1 and 2 of the Sherman Antitrust Act.

By virtue of Microsoft's de facto monopoly of the Operating System (OS) market, I am compelled to use Microsoft products. I would not use those products if I had the choice. There are two reasons that I am forced to use Microsoft products. These reasons provide the rationale for my proposed remedies. First, an overwhelming majority people use the Microsoft OS and their associated office products. I must communicate with them. If I can not communicate, I will suffer a great economic loss. This is commonly referred to as a network effect and Microsoft has brilliantly exploited it. Second, because Microsoft has kept their software file formats and interfaces secret, others cannot functionally duplicate these products.

It is my belief, based on Microsoft's past actions, they they wish to extend their reach beyond the PC desktop to control of networking protocols for the Internet and act as its gate keeper. This is their "net" initiative. This would have devastating consequences for the U.S. economy and security. Microsoft has stifled innovation by its monopolistic practices. Microsoft products are notorious for their lack of security and vulnerability to attack by the technically unsophisticated (i.e., "script kiddies").

The remedies I propose in this case are: 1) All specifications for present and future Microsoft file formats and Operating System Application Programming Interfaces (API) should be made public. This will help insure that data or documentation I create will be available to me in any perpetuity. It will also allow others to create programs that can meaningfully compete with Microsoft products. Please make no mistake in my intent for this remedy. The specifications must be made part of the public domain. Restriction to "commercial" entities is simply wrong. Open Source software initiatives should be allowed to make use of this information.

Again, my concern is for the availability and security of the data that I create today going forward into the future. 2) Any Microsoft networking protocols must be published in the public domain and approved by an independent networking protocol body. I suggest the government request the Institute of Electrical and Electronics Engineers (IEEE) initially preside over such a networking protocol body as an independent and impartial organization. (In the spirit of fu1l disclosure, I am a member of the IEEE.) I already see Microsoft limiting access to web sites that do not use Incernet Explorer. This remedy would help prevent MiCrOSOft from partitioning the Internet into Microsoft and non-Microsoft spheres by appropriating already existing standards. 3) Microsoft products should not be bundled as a hidden cost of buying a computer. The choice of buying a computer without any Microsoft products must be present. The real cost of Microsoft products should be presented to the consumer. Without this, there will not be meaningful competition in the OS marketplace.

4) Microsoft should be prevented from entering into exclusive arrangements with computer vendors. These arrangements have been used as rewards and punishments of computer vendors in the past and serve only to maintain monopoly status for Microsoft.

Sincerely yours,
John W. Tiede
January 24, 2002

MTC-00031981

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I truly appreciate the fact that the Attorney General had the courage to do the right thing by ending the Justice Department's three-year antitrust lawsuit against Microsoft with a strong and binding agreement. If this doesn't help to boost our sagging economy, I don" t know what will.

Microsoft did not get off easily. The settlement was arrived at after extensive negotiations with a court-appointed mediator. The company agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit—for the sake of wrapping up the suit.

Enough is enough. Microsoft even agreed to document and disclose, for use by its rivals, various interfaces that are internal to Windows" operating system products—a first in an antitrust settlement.

In conclusion, the government should never again have to sue Microsoft beyond this agreement. This case has gone far enough.

Sincerely,
A.P. Van Meter
9055 196th Southwest
Edmonds, WA 98026

MTC-00031982

ATTENTION: Ms.Renata B. Hesse

I support the Microsoft settlement.
Please approve the settlement today.
Chester J Wojcik

MTC-00031983

FROM: Orlando Cano c/o Speaker Frank Chopp
ADDITIONAL MESSAGE:
STATE REPRESENTATIVE
43rd DISTRICT
FRANK CHOPP
SPEAKER OF THE HOUSE
State of
Washington
House of
Representatives
THE SEAL OF THE STATE OF WASHINGTON 1889
RULES
CHAIRMAN
January 24, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
Re: Proposed Settlement Agreement in US v. Microsoft

Dear Ms. Hesse:

Microsoft is a company that has long provided good products to consumers. The provisions of the settlement will give consumers greater choice when purchasing or upgrading computers and software. Consumers can continue to expect quality new products from Microsoft and can expect these products to work more easily with competitor's software as well.

I support the Department of Justice and the nine Attorneys General for their efforts to strike a balance between the interests of Microsoft and its competitors by designing a settlement that is in consumers" best interest.

Sincerely,
Frank Chopp
Speaker

MTC-00031984

Michael Gracie
3047 North College
Fiesta Square
Fayetteville, AR 72703
501-582-5092/877-744-5092
fax: 501-571-1452
ITec
Information Technology
EDUCATION CENTER
Facsimile Transmittal sheet
To: Attorney General John Ashsroft
From: Michael Gracie
Company:
Date:
Fax Number: 202-307-1454
RE: Microsoft
cc:Rep Boozman
January 16, 2002
Attorney General Ashcroft
US Department of Justice
950 Pennsylvania Avenue

Washington, DC 20530

Dear Mr. Ashcroft,

I am writing to convey my support for the recently negotiated settlement between Microsoft and the Department of Justice. As the rhetoric in this suit progressed, it became increasingly clear that motives on both sides had degenerated to the point of bitter, childish rivalry, rather than constructive progress. Ultimately, the threat to break Microsoft up proved to be overenthusiastic. While this entire fiasco has impacted my business very little, it simply would have complicated our business if we had to deal with two, three, or ten "Baby Bills" rather than one.

This settlement at least has the advantage of sidetracking that possible eventuality; instead, Microsoft has agreed to some very stringent limits on their business practices, such as licensure and software design. This settlement reassures the IT community and the purchasing public that they can expect much of the same quality and consistency from Microsoft in the future, as they have experienced in the past.

Sincerely,

Michael Gracie

IT Director

cc: Representative John Boozman Formerly STAFFMARK TRAINING CENTER

www.itecworks.com

MTC-00031985

solutions, inc.

January 21, 2002

Renata B. Hesse

Antitrust Division

U.S. Department of Justice

601 D. Street NW, suite 1200

Washington, DC 20530-0001

Dear Ms. Hesse:

As a business owner I am greatly concerned about competition being stifled in America. I am specifically speaking of the ludicrous lawsuit against Microsoft. That is why I am writing to lend my support for the settlement of the Microsoft antitrust case.

I personally watched as this case dragged itself out: endlessly running through dramatic public relations campaigns and taking up much of the nightly news. This consequently has caused consumers, such as myself, to wonder if and when I would be able to use updated software that would enable my business to run more smoothly. Microsoft is the key player behind America's technology dominance; their contributions have actually allowed competitors to evolve. I guarantee that every person who works for the competition knows Windows extensively. When Microsoft became burdened with this case, it robbed the company of resources to focus on their core business operation. I read that because of the Microsoft settlement computer makers can now eliminate Windows from their systems if they so desire. That shouldn't hurt the competition any!

I am glad that the case was settled between the Justice Department, the nine states, and Microsoft. Please, let us settle this and allow America to grow and progress in the technology world.

Thank you for your time and concern regarding my letter.

Sincerely.

Mark Mills

President

1832-2 CAPITAL CIRCLE N.E., TALLAHASSEE, FL 32308

MAILING ADDRESS: P.O. BOX 10052, TALLAHASSEE, FL 32302-2052

PHONE: 850.942.4445 www.yumasol.com

FAX: 850.942.7354

MTC-00031986

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16000 Bothell Hwy., Suite 150

Mill Creek, WA 98012

www.cfn.com

January 24, 2002

Attorney General John Ashcroft

United States Department of Justice

950 Pennsylvania Avenue NW

Washington, DC 20530

Re: Microsoft Settlement

Dear Mr. Ashcroft,

As a resident of Mukilteo, Washington, all that happens at Microsoft directly affects my family. We have watched this company provide jobs, build a solid economy for our area and give people a software product par excellence. As a financial planner, I have watched retirement portfolios drop in direct correlation to the price of Microsoft stock.

The past three years have been very hard on our area well as America's economy. One of the major reasons for this was the antitrust suit against Microsoft.

I am in full support of any settlement that ends litigation against Microsoft. Continued legal action might have a disastrous affect. To get things moving in the right direction, Microsoft has agreed to give its competitors data that is sensitive to the internal design of Windows. This will allow companies to produce software that competes with Microsoft's, which will give consumers more of a choice.

I am in full support of this settlement, and encourage you to approve it as soon as possible.

Sincerely,

Sarah B. "Sally" Jacobsen

MTC-00031987

William Bero

1285 Old Marlboro Road

Concord, MA 01742-4739

January 22, 2002

Attorney General John Ashcroft

U.S. Department of Justice

950 Pennsylvania Avenue, NW

Washington, DC 20530-0001

Dear Mr. Ashcroft:

I would like to urge you to lend your support to the settlement reached in the Microsoft case. This settlement is more than fair and will certainly restore fair competition in the computer industry.

Microsoft has been an innovator and an asset to the economy. This lawsuit has dragged on for too long already, and at this point it is just a punishment for a business for being successful. America's computer is the world's gold standard, and Microsoft is mainly responsible for this. While the settlement actually limits Microsoft's own competitiveness, it will certainly address the issues alleged in the lawsuit. Microsoft will allow computer makers to pre-install programs such as Netscape or AOL IM within Windows without retaliation. Microsoft is also giving its competitors access to their intellectual property that they worked so hard to develop. The proposed settlement is a just solution to an unjust lawsuit.

Our country's economy needs Microsoft more now than it has in recent years. Let's get this case behind us and get back to work. Please accept the settlement.

Sincerely

William Bero

CC: Representative Marty Meehan

MTC-00031988

Jan 25 02 02:07p P.1

Michigan School Board Leaders Association

www.msbla.org

1137 Briar Ridge Lane, Ortonville, MI 48462

MSBLA

FAX

To: Renata B. Hesse. Antitrust Division

From: Lori Yaklin. 810.668.7667

Fax: 202.307.1454

Date: January 24, 2002

Thomas E. Bowles

Chairman

3122 Rivershyre Parkway

P.O. Box 608

Davison, Michigan 48423

(810) 658-7667

Fax: (810) 658-7557

www.msbla.org

The Microsoft case has occupied the attention of the Justice Department and the American legal system for untold thousands of hours and captured the attention of millions of people. The opinions voiced about the case are varied.

If we break down this anti-trust case, we can see that a true monopoly turns out poor products at exorbitant prices. In fact, if you have a good product at a fair price, it is safe to say that you couldn't possibly have a monopoly. This is why so many people are confounded why the government went after Microsoft—a company that produces great products at competitive prices.

Microsoft has always improved its products with an eye toward consumer demand. Windows has undergone several revisions and improvements over the years. Along the way, Microsoft has phased in and phased out software for the Windows platform that has met—or failed to meet—consumer demand.

The Court of Appeals, using "consumer harm" as its measure of anti-trust behavior, was right to overturn a lower court ruling last year in the U.S. v. Microsoft case. Microsoft, because of fierce competition in the technology industry and in response to consumer demand, has always improved its products according to customer feedback. Today the entire Windows platform retails less than anyone would have imagined possible when PCs came into the market back in the 70s and 80s.

If the Court is interested in taking down an insidious monopoly, we respectfully suggest they stop trailing innovative, competitive companies and instead knock on the door of the government-run education system which has caused irreparable damage to a generation of children. Perhaps the Justice Department's Anti-trust Division should take a trip to some of our poorest-performing schools and learn the true definition of "consumer harm." Free people in free markets creating excellence should not be tamped down by government intervention. We ask that you approve the proposed settlement agreement in the Microsoft anti-trust case.

Sincerely,
Lori Yaklin

MTC-00031989

Date: Thursday, January 24, 2002
To: Dept of Justice
Fax: 202-307-1454
From: Xchange Solutions
Ronald D. Walken
Phone: 206-720-1055
Toll Free 877-222-1031
Fax: 206-325-3500
E mail Mr1031@aol.com
Subject: Microsoft Settlement

Get it over with! I as a consumer don't feel I have ever been hurt by Microsoft and I resent their competitors going to the courts to secure an unfair leverage.

We as as a capitalistic nation have never benefited from this type of behavior. The only true monopolies that exist are those given by the government or courts. Best example that comes to mind is the one given Northwest airlines having a government granted sole landing rights at I think it is the Minneapolis airport. Now that is a monopoly?

Figure out a way to just let this issue die... If the grieving parties secure favorable decision it will only encourage more future fights in the courts instead of the marketplace where the consumer benefits.

MTC-00031990 ROSE INDUSTRIES

William Koranda
From: William Koranda
[bkoranda@rexcon.com]
Sent: Thursday, January 24, 2002 11:36 AM
To: "www.microsoft.atr@usdoj.gov"
Subject: Microsoft Settlement

To Whom It May Concern:

Consumers are absolutely sick and tired of this extended lawsuit lead by the DOJ. This past Tuesday AOL files another suit against Microsoft. How timely? No, the real question should be, how disturbing? AOL appears to be have issued a calculated offensive to undermine the Microsoft settlement.

Although the current AOL lawsuit has not played itself out, simply review some of the overriding external evidence. AOL purchased Netscape for $10 billion in the midst of the DOJ trial, even after hearing concrete evidence that Microsoft's Internet Explorer's success in the market was based upon merit, not market share!!! This latest AOL move appears to be an another attempt by AOL to once again retreat from the rigors of competition to the safer confines of the courtroom, where the AOL is clearly more comfortable.

Microsoft has tried consistently to work more closely with AOL in a variety of areas, including improvement of instant messaging interoperability, getting fair and open access to AOL'S dominant cable assets and partnering on technology standards which are key to developing future innovative technologies. These are examples or what we everyone (DOJ, AOL, Microsoft, etc.) should be working on—i.e. what's best for the consumer and the economy. AOL has repeatedly rebuffed Microsoft's efforts, to the detriment of consumers and the technology industry, and has turned to politics and litigation instead. But more litigation is the last thing consumers and the industry need. AOL and Microsoft need to focus on market competition and technical cooperation that will make consumers" computing experience easier, not spend further time and resources in the nation's courtrooms.

William F. Koranda
CFO
Rose Industries, Inc.
Divisions: RexCon, Inertia
E-Mail: bkoranda@rexcon.com
Company Website: RexCon.com
Phone: 414-352-2000 ext. 121
FAX: 414-352-2004

MTC-00031991

FROM: BILL SAGE
FAX NO. : 6102842283
Jan. 24 2002 12:37PM P1
532 Fairfax Road
Drexel Hill, PA 19026
January 23, 2002
Attorney General John Ashcroft
US Department of Justice. 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to express my interest in the recent antitrust settlement between Microsoft and the U.S. Department of Justice. Microsoft has been a huge asset to our country through job creation and technological advances. I think that the lawsuit has gone on for too long now and that the government needs to settle.

The terms of the settlement are very harsh against Microsoft and seem to violate intellectual property rights and their ability to operate with a competitive edge. Microsoft has agreed to document and disclose for use by its competitors interfaces that are internal to their Windows" operating system products. It will also grant computer makers broad new rights to configure Windows so as to make it easier for non-Microsoft products to be promoted within.

Although the settlement is unjustified, I think the alternative of further litigation could be detrimental to our economy, so I favor finalization. Please make this thing a reality and suppress all opposition. Thank you.

cc: Senator Rick Santorum
Sincerely,
William L. Sage

These are my sentiments exactly. Enough is enough!

MTC-00031992

P.O. Box 1079
Colfax, CA 95713
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The Microsoft settlement aims for resolution among competitors. This settlement will provide computer makers and software developers with flexibility when configuring Windows to better promote non-Microsoft software programs that compete with programs included within Windows, without the threat of a lawsuit. Microsoft will also use a uniform price list when licensing Windows out to the twenty largest computer makers in the nation, and will not retaliate against companies that use or promote software that competes with Microsoft's programs.

As a retired professor of Engineering & Technology in Sierra College, Rocklin, California, I constantly researched different software programs and found Microsoft's software programs superior among the competition.

The steps taken to settle this case are important because it shows Microsoft has nothing to hide regarding its business practices, and competitors will have an equal playing field.

Sincerely,
Kenneth J. Weger

MTC-00031993

7802 153rd Avenue
Jamaica, NY 11414-1752
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am expressing my support for the settlement that was reached in November 2001. I have a degree in economics, and I firmly support the principle of "Laissez-Faire", where the government has a "hands off" policy and does not interfere with the affairs of free enterprise. Free competition will support itself, giving way to the most innovation. Microsoft should not have been punished for creating a product, Windows, which succeeded in the marketplace.

Microsoft has had to choose the lesser of two evils for itself by settling this unfair lawsuit. The terms are very tough, but will be better for it than more protracted court battles. It will have to make serious concessions such as sharing specific Windows software codes with competitive developers in an effort to promulgate competition and innovation.

I support Microsoft's resolve to stay clear of any more court entanglements and hope you accept the settlement as well to bring an end to this litigation, which has hurt the whole economy.

Sincerely,
Mel Lipper
cc: Representative Anthony David Weiner

MTC-00031994

Linda W. Dunlop
258 Twin Creeks Drive
Chagrin Falls, Ohio 44023-6702

440–543–7524
Fax number 440–543–7547
Send to: U.S. Department of Justice
From: Linda W. Dunlop
Attention: Attorney General John Ashcroft
Date: January 23, 2002
Office Location:950 Pennsylvania Avenue, NW Washington, DC 20530 Office
Location: Chagrin Falls, OH
Fax Number:202–307–1454—202–616–9937
Phone Number:440–543–7524
Microsoft Settlement
Linda W. Dunlop
258 Twin Creeks Drive
Chagrin Falls, Ohio 44023–6702
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I have followed the Microsoft antitrust case and settlement with great interest. At one time, I made a living selling information systems. Now I am retired, but I certainly understand the significance of the case, its settlement, and the need for public comment. My comment is quite simple: the settlement should be allowed to remain as it was negotiated.

Microsoft has agreed to make many changes, and some of them even extend beyond the scope of the original lawsuit. The company will practice fair competition; share technology and intellectual property matters with competitors, allow computer manufacturers to install non-Microsoft products in Windows, and more. Surely this is a settlement that is agreeable to all parties involved.

I believe that the government should allow Microsoft to abide by the present agreement and return to its work of making the technology that manages our world. And I believe that the government should be able to leave this burdensome case behind it and return to the work of helping to ensure domestic and international security. Thank you for your time.

Sincerely,
Linda Dunlop

MTC–00031995

January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in favor of the settlement reached in the antitrust case against Microsoft. I think the lawsuit was more a representation of bureaucracy than a sincere appeal for the rights of the consumer. Hence, I am in support of a quick resolution to this case, by approval of the terms of this settlement. Everyone can benefit from improved performance among the technology companies. Licensing agreements with the 20 largest computer makers, granting the rights to configure Windows, and improvement of relationships with software developers, all can add to this improvement.

I hope you will step forward as a leader and support this settlement. We need Microsoft performing at one hundred percent capacity. Microsoft needs to be allowed to move forward, hopefully bringing the economy with it. Please consider this. Thank you.

Sincerely,
David Thomas

MTC–00031996

226 Daffodil Drive
Fairfield, CA 94533
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

There has been a settlement in the Department of Justice and Microsoft antitrust case. I want to give my support to this agreement. In my opinion, this case should never have been brought in the first place. The basis of antitrust laws is the abuse of the consumer. The consumer in this case was helped. Bill Gates produced a better product at a lower price. His competition could not. That is the basis of competition. I used Netscape and had no problem installing it, even with the Microsoft program. I think the whole lawsuit was one of sour grapes on the part of Microsoft's rivals. They could not compete, so went after Microsoft the only way they knew how.

As I understand it, Microsoft has more than acceded to the Department of Justice's demands. Microsoft has agreed to a technical committee to oversee future adherence; Microsoft has agreed to disclose source codes and books that are internal to Windows operating system; Microsoft has agreed to terms that are well beyond the products and procedures that were actually at issue in the suit.

It is time we put this issue to rest. We have to quit rehashing decisions. We undermine the judicial system if we constantly revisit decisions handed down. Give your support to this agreement and allow us to move on.

Sincerely,
Lance Thelen

MTC–00031997

711 North Oceanbeach Boulevard
Long Beach, WA 98631
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I understand the Department of Justice is accepting and publishing public comments for the first time since the antitrust suit was brought against Microsoft more than three years ago. Here is my two cents worth.

First, Microsoft has been more than cooperative in resolving this matter. Not only did they agree to document and disclose various internal interfaces to the Windows' operating system for use by its competitors. This is above and beyond what is required in any antitrust settlement. They have also agreed to license products from their Windows operating system to the 20 largest computer makers on identical terms and conditions, which includes price. This settlement is harsh on Microsoft and constitutes a viable end to the lawsuit, no matter what some critics say.

Finally, this litigation business has got to stop. It's sapping the economy, No more action should be taken at the federal level.

Sincerely,
Jim Yaun

MTC–00031998

LOGICAL CHOICE
January 19,2002
Attorney General Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

As a member of the technology industry, I would like to express some of my views on the Microsoft case. I believe there were genuine concerns that brought about the lawsuits, but that was three years and countless dollars ago. You must not lose focus of the merits of the case. As long as Microsoft is willing to give up some of its market share and competitive advantage, there will be those that want a little more.

Under the settlement, Microsoft will change the way it develops, license, and markets its software. The company will disclose various protocols in its Windows operating system, and will not retaliate against those that develop or promote non-Microsoft hardware or software.

Although these concessions seem to go against the principle of free enterprise and competition, Microsoft has agreed to them in an effort to end this case sooner, rather than later. If these were demanded from a more understandable industry, they would be seen preposterous. Imagine if Ford had to allow GM to put their engines in its cars, or if McDonald's had to offer Burger King's Whopper to anyone that asked for it. It is time to allow the IT industry to return its focus from litigation, back to innovation! The settlement will allow Microsoft, and all of those that depend on Microsoft for their livelihoods, to move forward.

Sincerely,
Mitch Pinion
President
3118–F MILTON ROAD
CHARLOTTE, NORTH CAROLINA 28215
TELEPHONE 704/535–8828 FAX 704/535–4880

MTC–00031999

4142 Wycliff Drive
Winston Salem, NC 27106
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I write to voice my support of the settlement with Microsoft and the Justice Department. The settlement that was reached last November is entirely fair and agreeable to all parties involved. The time has finally come to put this issue behind us. I would hope that the Justice Department recognizes the importance of enacting this settlement at the end of January.

Further, the terms of the agreement will help developers. Developers will gain never before seen access to Windows design information, including protocols and interfaces. This knowledge will allow them to create more competitive software that fits into the Windows system with ease. Developers should be pleased with the terms of the agreement.

As a concerned citizen I would hope that the Justice Department enacts the settlement quickly.

Sincerely,
August Pike

MTC-00032000

JAMES H. ROBERTS
PO BOX 1355
GULF SHORES, AL 36547
334-968-1355
Fax: 334-868-4150
January 22, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

We think this Microsoft agreement is long in coming. It is time to implement this settlement. It has gone on too long and is hindering the progress that has made the use of the internet so friendly and accessible to so many. This agreement is key to bringing together the IT sector and to maintain our position in the global market.

The terms of this agreement include Microsoft not entering into any agreements obligating any third party to distribute any Windows technology exclusively. Microsoft has also agreed to disclose interfaces of Windows products. These concessions along with others in licensing and marketing are bold changes within the technology industry. Microsoft has done a great deal to work with their competitors. Now it is time to let it happen. Let us support our technology industry by supporting this settlement.

We strongly urge you to help stop any further litigation against this settlement and to let Microsoft back to innovation and not litigation.

Sincerely,
James H. & Sandra S. Roberts

MTC-00032001

January 24, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Enough is enough. Please put a stop to the economically-draining witch-hunt against Microsoft.

Microsoft has already agreed to hide its Internet Explorer Icon from the desktop. The Issue is resolved.

The fact is, this case against Microsoft is basically "welfare" for Netscape and other Microsoft competitors.

Not a nickel goes to those supposedly harmed by Microsoft—the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic Industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Karyn Morton
1030 E El Camino Real
133
Sunnyvale, CA 94087

MTC-00032002

Attorney General John Ashcroft
US Department of Justice

Dear Sir,
January 24, 2002

Permit me to express my support for the antitrust settlement against Microsoft, yet the issue has yet to be concluded and great amounts of taxpayers money has been wasted. Indeed, I have wondered why the antitrust matter had initially been raised.

Nevertheless, Microsoft has already made many concessions in order to resolve the issue. I therefore urge the Attorney General to do all in his power to make every effort to finally conclude this matter on the basis of the settlement to which Microsoft has already agreed.

Sincerely,
Marc Brownstein

MTC-00032004

Amir Glickman
2400 Hudson Terrace
Fort Lee, NJ 07024-3508
23 January 2002
Attorney General John Ashcroft, c/o DOJ
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement. The case against Microsoft has gone on long enough and it is time to put an end to it. The government and Microsoft have reached an agreement, the terms are fair, and it should be accepted.

The terms of the settlement include safeguards to make sure that they are followed, thereby pre-empting arguments about the settlement being a toothless piece of paper. Microsoft has agreed to set up a technical committee that will monitor Microsoft's compliance with the settlement. The settlement tackles a multitude of complaints from competitors who feel that Microsoft unfairly used its operating system to manipulate the market, For instance, the software company can no longer take retaliatory action against computer companies that want to add non- Microsoft products when they ship their new computers to consumers.

It is time that Microsoft and the technology industry are able to move forward. The only way that they will be able to move forward is to put this issue in the past. Please accept the Microsoft antitrust settlement,

Sincerely,
Amir Glickman

MTC-00032005

JSWALKER & COMPANY, INC
416.A West John Street
matthews, NC 28105
tel 704-849-2100
fax 704-849-2122
www.jswcoinc.com
January 16, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I write concerning the settlement reached between the federal government and Microsoft Corp. last November. The settlement, while it may not be perfect, is a far better alternative to continued litigation between the parties and is very reasonable.

Litigation has hurt innovation and it is time to move forward.

I am pleased Microsoft has agreed to so many conditions that will "level the playing field" within the technology industry. Its assurance not to retaliate against computer makers who ship software that competes with any aspect of its Windows operating system represents a new beginning for the industry. Equally important, Microsoft has agreed not to retaliate the software and hardware developers who will be developing and promoting software that competes with Windows or that runs on software that competes with Windows. These two components, while only a small cross-section of the settlement, will be very good for innovation and very good for the consumer.

I hope the few groups who wanted Microsoft broken up and are unsatisfied with the settlement because it leaves it intact, are not successful in their attempts to upset the finalization process. It is my hope the settlement will take affect as soon as possible.

Sincerely,
Sebastian Ganson
Director of Development

MTC-00032006

FAX 203 797 3428
GROLIER EDITORIAL
232 Wooster Street
Naugatuck. CT 06770
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I would like to take this opportunity to voice my opinion over the initial suit brought against Microsoft and the settlement that will soon be decided on. The original suit was unsubstantiated in the first place and the settlement is more than fair. Microsoft has agreed to terms that extend well beyond the products and procedures that were actually at issue in the suit in order to bring this case to a close.

For example, Microsoft has agreed to server interoperability meaning that they will make available to its competitors, on reasonable terms, any code that Windows uses to communicate and work with other programs. Also, they have agreed to develop relations with software developers and computer makers. This means that they will not retaliate against software or hardware developers, or against people who ship the software or hardware.

Microsoft has clearly done more than what was necessary of them to resolve this matter and the Department of Justice should follow suit. To continue litigation would be a waste of millions in tax dollars, and also a waste of time.

Sincerely,
Chun Chang

MTC-00032008

FROM: EGLIN DRUG TESTING OFFICE
FAX NO.: 850-883-9076
208 Elliott Road
Mary Esther, FL 32569
January 7, 2002
Attorney General John Ashcroft
United States Justice Department
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

The Microsoft antitrust settlement has been a long time coming, and I cheer on this wise arrangement. This settlement is complete and adequate enough to end this three-year-long litigation; furthermore, litigation against Microsoft is a waste of precious resources and time that could be devoted to more productive activities, particularly in the Justice Department.

Microsoft has agreed to this settlement after extensive negotiations. The corporation enthusiastically pledged to comply with all provisions of the agreement out of eagerness to return to the perils of the markets, rather than the perils of court. This settlement will benefit the technology industry as a whole and consumers on the street. It provides for the creation of a Technical Committee that Microsoft will bankroll to oversee compliance to the proposed settlement. It mandates new interoperability disclosure requirements and prohibits retaliation tactics.

I believe this settlement will be in the best interest of the public. Thank you for your support.

Sincerely,
Jay M. Diamond
Cc: Representative Jeff Miller

MTC-00032009

Arlene M.Clemens
8656 Silver Lake Drive
Perry Hall, Maryland 21128
(410) 931-0873
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

For 32 years I was an employee of Alex. Brown & Sons Incorporated, which was bought out by Bankers Trust and then Deutschc Bank. After my retirement I was employed by the law firm of Piper Marbury Rudnick & Wolfe, LLP and am currently employed by the law firm of Ballard Spahr Andrews & Ingersoll, LLP.

I have used the Microsoft system as an accomplished Administrative Assistant for many years and have been extremely pleased with their products and their support teams. The majority of businesses use the Microsoft system and are also very satisfied. Most high schools are under the Apple/Macintosh system, which I feel is far less superior to the Microsoft system.

I am writing to voice my support for reasonable men and women to settle the Microsoft Anti-Trust Suit by the Department of Justice. It is unbelievable to me that this case has gone so far.

The Government may have thought they were doing a good thing for the American public when this case originated, but the Justice Department has destroyed everything the computer industry has worked for.

This lawsuit has contributed to the slowing of our economy. Our economy has been given an edge in the international marketplace by the computer industry. Unfortunately, this lawsuit has caused us to give all other nations a chance to take our place. When Microsoft was forced to deal with lawyers and trials and everything else involved with this lawsuit they had to halt their research and development.

To move ahead with business and compete on the international level, they are going to have back track three years in order to move forward.. The current technology revolution is only going to expand in the coming years. This case has cost our country more than just money. We are Americans!

Why are we not allowed the opportunity to be competitive?

Something needs to be done to end this case as promptly as possible. No one benefits from all this—not even Microsoft's competitors, which is evidenced by their decline in the stock market. Microsoft needs to be allowed to continue their business of delivering innovative technologies to the marketplace. They have agreed to change their business practices and will allow their competitors access to their source codes and internal interface designs, As an employee who has 35 years" experience working for some of America's Who's Who, I would have been lost without Microsoft and their unending help. This settlement is obviously the right thing for our nation. Our economy cannot withstand further delay. Please do whatever is necessary to put an end to this lawsuit. Thank you.

Sincerely Yours,
Arlene M. Clemens

MTC-00032010

John D. Clemens. Jr.
8656 Silver Lake Drive
Perry Hall, Maryland 21128
(410) 931-0873
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to voice my support for the settlement between Microsoft and the Department of Justice. It is truly unbelievable that this case has gone so far. The government thought they were doing a good thing when this case started, but now they have destroyed nearly everything that the computer industry has worked for. This lawsuit has contributed to the slowing of our economy. The computer industry has given our economy an edge in the international marketplace, but with this lawsuit we have given all other nations a chance to take our place. When Microsoft was forced to deal with lawyers and trials and everything else involved with this lawsuit they had to halt development and research. To move ahead with business and compete on the international level, they will have to backtrack three years in order to move forward. The current technology revolution is only going to expand in the coming years. This case has cost our country more than just money.

I was the previous head of the Baltimore Teamster's Local 557 Union and have seen the affects of this firsthand. Something needs to be done to end this case as soon as possible. There is no one benefiting from this, not even Microsoft's competitors. While this settlement limits Microsoft's own competitiveness, it is undoubtedly a reasonable solution to this idiotic controversy. Microsoft needs to be allowed to continue their business of delivering innovative technologies to the marketplace. They have agreed to change their business practices and will allow their competitors access to their source codes and internal interface designs.

This settlement is unquestionably the right thing for our nation. Our economy cannot withstand further delay. Please do whatever is necessary to put an end to this lawsuit.

Thank you.

Sincerely Yours,
John D. Clemens, Jr
JDCJr:amh

MTC-00032011

6380 E 46th Street
Indianapolis, IN 46226-3548
January 20, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

The lawsuit against Microsoft is ridiculous and reflects a lack of knowledge on behalf of the judiciary system and politicians about software and the whole computer industry. It is not in the public's bets interests for this thing to continue any longer.

The settlement as it is too harsh and violates a number of free market principles. First, to disclose information that Microsoft has worked so hard to develop seems to undermine the whole reason or principle motivation behind innovating your own technology for profit. If every business had to offer up its secrets there would be less incentive to start a business based on a good idea. Second, to force Microsoft to license its Windows products to over 20 computer makers is the same as creating a monopoly whereby they can determine prices in the marketplace that will best serve themselves. It will inevitably lead to higher prices across the board and that will be an infringement on human rights.

I think it is wrong to punish one company out of the many in the marketplace for doing an excellent job especially in the area of standardization which has reduced costs and efforts after purchase and upgrading the PC's for homes and businesses. Thank you for your time.

Sincerely,
Sent By: Retired; 317 545 7889;

MTC-00032012

FROM XINET—JANICE DIANE

925 449 0189
4382 Cornell Way
Livermore, CA 94550
January 24, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

Thank you for the opportunity to comment on the proposed final judgment to resolve the United States''civil antitrust case against Microsoft. I work as a computer programmer at the Lawrence Livermore National Laboratory, and have observed the development of personal computing over the last25–30 years. I am 52 years old. With my wife, I own 177 shares of Microsoft corporation. I have followed this trial in the trade press with interest since its inception, and have read the Complaint, Stipulation . . . ; and'Competitive Impact Statement.

The general bias I bring to my letter is that the proposed settlement is nowhere near an adequate remedy for the wrongs visited upon consumers and the computing industry by the defendant. Others such as James Barks Dale (Netscape) and Matthew Szulik (Redhat) have spoken before Congress recently, with eloquence and at greater length. I agree with their points, so will restrict my comments to two areas:

1. Any settlement must include some simple and inescapable punishment designed to redress a sensible fraction of the actual damages, and to deter this and any future defendants. I believe such punishment should meet three criteria:

a. It is not predicated upon our subject to negotiation by the defendant;

b. It has simple terms, with no loopholes that may boomerang—"free" software, services, in-kind payments, or reduced license fees do not qualify;

c. It is proportional to the damage and substantial enough to cause serious reflection on the part of this company's leadership.

I favor a cash fine, as a lump sum up front and an annual fraction of gross revenue for a period of some years. This is the form of punishment most likely to engage the stockholders of the company in its reform. Microsoft has been reported to have approximately $35 billion dollars in cash reserves at this time. Any lump sum fine for which the defendant could simply write a check seems inadequate to me.

2. One prominently reported alternative proposed by the nine state attorneys general who declined to support the Proposed Settlement was a requirement that the defendant should port the Office suite to Linux. This is surely well-intended. However, I offer the following contrary viewpoint:

a. Such a requirement is unlikely to succeed. Speaking as a software developer and manager myself, there are many ways to meet formal requirements of this project and still torpedo its effect.

b. If it did succeed, it would only increase the dominance of the product. This is an anti-trust action, after all.

c. It would in either case disrupt the current open source marketplace, and surely destroy the several small but promising alternatives such as Star Office, Abiword, and others.

The defendant's relationship to open source may be something like B'rer Rabbit's to the briar patch. I believe it might be better to enjoin Microsoft from entering that market than to require it. A simpler solution is to require the defendant to publish the file formats of the Office suite, past and present, in enough detail to allow robust interoperable alternatives to be developed by third parties. If this might compromise intellectual property rights of the defendant, those must be balanced against the collective rights of all persons who have authored documents currently stored in the proprietary Office format. This case offers the opportunity to set a precedent regarding our expectation that any proprietary file format—the railroad gauges of our century—will become to some degree open after it reaches a certain prevalence of use in society. In my opinion, the public interest ultimately will require this outcome.

Yours Very truly,
Lee E. Busby
busby1@iinl.gov

MTC–00032013

323 Dickens Street
Northfield, IL 60093
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I feel that there should not have been any litigation against Microsoft in the first place. Now that there has been an agreement reached, I hear there is a possibility of additional litigation. Why?

After extensive negotiations, Microsoft has agreed to terms that extend beyond what is generally expected in any antitrust case. Microsoft also agreed to design future versions of Windows to provide a mechanism to make it easy for computer companies, consumers and software developers to promote non-Microsoft software within Windows.

Let's stop the madness. Microsoft needs to go back to doing what it does best, creating "innovative technology". Government needs to focus on reviving the economy and protecting us from our real enemies and terrorists. I support the settlement, and look forward to the end that it will bring to this case.

Sincerely,
Margaret Parcells

MTC–00032014

January 24, 2002
Mr. William C. Locke
15012 Los Lottes Ave.
Whittier, Ca 90605
United States Governmemt
Department of Justice
Attention: MS Renata B. Hesse
Washington, D. C.

Dear Ms Hesse:

We are familiar with the proposed Microsoft settlement and believe it is fair to all concerned including Microsoft competitors.

We do not believe taxpayers should continue to pay to provide Microsoft competitors with a competive competitive advantage over Microsoft. It is up to the competitors to establish their own competitive advantage in the marketp1ace by their own efforts and ability not U.S. taxpayers.

We support the proposed Microsoft settlement and strongly urge that the Department of Justice accept the settlement Many thanks for your attention to this matter.

Sincerely Yours,
Mr and Mrs William G. Locke

MTC–00032015

Date: January 25, 2002
To: Attorney General John Ashcroft
Fax No: 1 2023071454
From: Lester E. Weaver
Fax No: 252–443–2673
Phone No: 252–443–2673
Subject: Microsoft Settlement
Lester E. Weaver
2600 Old Mill Road
Rocky Mount, NC 27803
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I wish to express to you my opinion regarding the Microsoft.Settlement reached in November. This settlement is fair and reasonable, and I am anxious to see the antitrust dispute resolved permanently. Ending this dispute promptly would would be in the best interest of our country and all concerned.

The November settlement was reached after extensive negotiations.

My understanding is that Microsoft has agreed to fully carry out all provisions outlined in this agreement. They also agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows. Furthermore Microsoft agreed to design future versions of Windows to make it easier to install non-Microsoft software.

This settlement is sufficient to deal with the issues of this lawsuit. Please support this settlement so we can focus our resources on more pressing issues. Thank you for your support.

Sincerely,
Lester E. Weaver

MTC–00032016

Bob Baum
139 Wanderless Lane
Taylorsville, NC 28681
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I support the agreement reached between Microsoft and The Department of Justice. I believe that we need to allow Microsoft to put its efforts back into technological innovation. With the current sluggish performance of the technology industry we do not need a pioneering company like Microsoft overwhelmed with litigation.

I believe that Microsoft is more than generous in accepting the terms of the proposed agreement. Microsoft has agreed to allow competition by: allowing computer makers to ship software that competes with Windows operating system, allowing disclosure of internal Windows interfaces, and allowing complaints to be filed with a technical committee.

I hope that these terms along with the resolution of this lawsuit, will act as a catalyst for improved performance in the technology industry, It is time to move forward and allow the free-market system to work. I support this proposal and I hope you will too. Thank you.

Sincerely,

Bob Baum

P.S.

The events in the last few days are very sad for anyone who might be in the position I am in since the legal actions that have been taken by Netscape against Microsoft will be went loss to the Stockholders of Microsoft and Netscape. It will be an absolute loss—no matter who wins—except for the attorneys representing the litigants. I own stock in both companies. What will the government do to compensate me for this???

MTC-00032017

3914 Rhododendron Drive
Raleigh, NC 27612
Attorney General John Ashcroft
US DepQrtment of Justrce
950 Pennsylvania Avenue, NW
Washington. DC 20530

Dear Mr Ashcroft

We are writing you today to express our views on the Microsoft antrtrust settlement. We feel that the settlement that was reached in November is fair and reasonable, and we are anxious to see this dispute resolved. We SInCerely hope there will be no further action against Microsoft at the federal level.

This settlement is complete and thorough. Microsoft has agreed to share more information with other companies, including Information about Certain internal Interfaces in Windows and any protocols implemented in Windows operating system, on reasonable and non-drscriminatory terms

This settlement not only keeps MIcrosoft together, but it will also benefit competing companies. Please support this settlement. Thank you for allowing me to comment on this issue.

Sincerely,

Elizabeth Nesbit

Andy Dorton

MTC-00032018

508 W Craig Road
Pittsburg, KS 66762
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to give my approval to the Department of Justice and Microsoft settlement. It has gone on long enough, draining needed money from both the taxpayers and the tech industry. I think it should be noted that our economic slowdown started with the indictment against Microsoft. We need to get back to business. Letting this settlement stand is one way to do it. I also think the key word here is "settlement", not on-going, or rehashing, but settlement.

Microsoft has been more than fair with this issue. Microsoft has agreed to a great many terms that were not even an issue in the original suit; Microsoft has agreed to help companies better achieve a greater degree of reliability with regard to their networking software; Microsoft has agreed to allow non-Microsoft product to be shipped to a consumer; Microsoft has agreed to share its Internal interfaces, a first in antitrust cases.

I urge you to let us have the opportunity to go forward. We have more important things to do.

Sincerely,

John Evans

MTC-00032019

Helen Valsamakis
22081 Susan Lane
Huntington Beach, CA 92646–8305
(714) 965–1956
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001
January 11, 2002

Dear Mr. Ashcroft:

I am writing this letter so that I may go on record as supporting the decision of the Justice Department to settle the antitrust suit with Microsoft. I am pro-business and pro-competition, and as such, I support any settlement that will end this senseless litigation process against Microsoft.

I feel that the government needs to take a hands-off approach to private enterprise, so I am relieved that the settlement includes checks and balances that will help keep the government out of future legal battles with Microsoft. A three-person technical oversight committee has been set up to monitor Microsoft's compliance with the terms of the settlement. This committee consisting of three experts in software engineering will assist with dispute resolution, which keeps all parties out of court. If there is any company that feels that Microsoft is not complying with any provision in the settlement, they will be able to lodge a complaint with the DOJ or the technical committee.

I fully support the settlement, and hope that all future disputes that put an unnecessary strain on the economy will avoid the courtroom.

MTC-00032020

2643 Greenbriar Lane
Annapolis, MD 21401–4423
January 11, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

This letter is in support of Microsoft's settlement of its antitrust case with the federal government. Microsoft is a good corporate citizen. Microsoft's willingness to settle rather than expose the taxpayers to a lengthy and very costly trial should be commended, not condemned.

Microsoft's willingness to license its Windows operating system products to the 20 largest computer makers (who collectively account for the great majority of PC sales) on identical terms and conditions, including price, grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows, and not to retaliate against computer makers who ship software that competes with anything in its Windows operating system is extremely reasonable.

Microsoft's agreement does more for consumers than most of its competitors would have been willing to do. This settlement should be accepted so the consumers can continue to benefit from Microsoft's software innovations.

Sincerely,

Lillian Armstrong

MTC-00032021

Denis Beaulieu
2425 NW 261th Street
Boca Raton, FL 33431
January 24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express by opinion in support of the Microsoft antitrust settlementduring the public comment period. This settlement is comprehensive and fair. It will endthe three years of litigation. It will prevent run-away antitrust litigation, such as whatpreviously happened with AT&T and IBM and other companies.

The settlement will aid Microsoft's partners and competitors in using Microsoft'sWindows platform as a springboard for their success. The settlement will enable othercompanies to more closely integrate their products Windows, through Microsoft releaseof the code for its internal interfaces and server interoperability protocols, and licensingof other intellectual property on non-discriminatory terms. Computer makers and otherswill have more flexibility to modify the Windows desktop through removing Microsoft'sprograms, such as Internet Explorer, and adding their own, such as AOL Times Warner'sNetscape Navigator, These terms address the concerns raised by other companies. Theywill benefit the American computer industry as a whole. This will, in turn, benefit theAmerican economy, which has been battered in the recent years, partly by the precipitousdecline of the technology sector.

I appreciate your support for the settlement. The federal judge, recently appointedto replace the previous judge, should approve the settlement in the best interests of thepublic. Thank you.

Sincerely,

Denis Beaulieu

cc: Representative Robert Wexler

MTC-00032022

CARDIOLOGY ASSOCIATES OF SCHENECTADY, P.C.

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GLOVERSVILLE OFFICE (518) 773–5451
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JOHNA.NOLAN, M.D., F.A.C.C.
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PAULDWORNON,M.D., F.A.C.C.
DAVIDC.ARMENIA,MD., FACC.
Mm JORDAN, MD., F.A.C.C.
ARTHUR R. VAKENER III, M.D.. F.A.C.C.
WILLIAM N. VACCA, M.D., F.A.C.C.
EUGENE E DRAGO, M.D., F.A.C.C.
MIGUEL A. CABRAL, M.D., F.A.C.C.
FREDERICK. K. WIESE, M.D., F.A.C.C.
BARRY S.LINDENBERG, M.D., F.A.C.C.
DENNISP.MANOR, MD., F.A.C.C.
DOUGLAS A.LONG. M.D.. F.A.C.C.
CHARLES CRAIG PETERSON, M.D., F.A.C.C.
GEORGE A.VANSOLAS, M.D.. F.A.C.C.
PETER D.COSPITO, D.O., F.A.C.C., F.A.C.P.
ANTHONY R. LONDON, M.D., F.A.C.C.
PATRICK J.PARISI, M.D.. F.A.C.P.
MURLI RAMON, M.D., F.A.C.C.
K.R.SHANKAR M.D.. F.A.C.C.
INGRID RUNO, M.D.

,January 24, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement issue. Isupport the settlement that was reached in November. I sincerely hope there will be no furtheraction against Microsoft at the federal level.

This settlement is fair and reasonable. Microsoft has agreed to all terms and conditions, eventerms that extend well beyond the original lawsuit, for the sake of wrapping it up. Under thisagreement, Microsoft has agreed to design future versions of Windows to provide a mechanismtomake it easy for computer makers, consumers and software developers to promote non-Microsoftsoftware within Windows. Microsoft has also agreed to document and disclose for use by itscompetitors various interfaces that are internal to Windows.

This settlement will benefit the economy, the technology industry, and consumers. Please supportthis settlement so our precious resources can be funneled into more productive activities. Thankyou for your support.

Sincerely,
Barry Lindenberg

MTC-00032023

FROM :W.S. AND M.L. PINE
206 729 0218
5509 NE 63rd Street
Seattle, WA 98115
January 24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington DC 20530

I am of the opinion that the settlement that was reached between Microsoftand the Department of Justice is more than fair, and I hope that it isimplemented as soon as possible. Over three years have passed since thebeginning of the suit, and the economy has fallen into a recession in thattime.

The settlement that has been proposed does not go easy on Microsoft, butwith everything considered, it was the best thing that could have happened.I believe that Microsoft should have never been taken to court in the firstplace, but if this settlement ends all of the ridiculous litigation and allowsMicrosoft to worry more about producing instead of legal defense. I dohowever feel that the settlement will benefit the economy. Microsoft's.competitors will be able to produce and promote software that competeswith Windows, and they will not have to worry about retaliation fromMicrosoft.

The settlement, although not deserving is fair enough and I support it.

Thank you for your time and consideration.

Sincerely,
Jack Gardner

MTC-00032024

Pro-Fusion Technologies, Inc.
3825 Old Conejo Rood
Newbury Park, CA 91320 USA
Tel. (805) 376–8021 Fax (805) 376–0619
January 24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am writing to you because I support Microsoft and I feel that your office's antitrust lawsuit against them should be settled. I think the agreement reached in November favors Microsoft's continued success more than other actions may have, and it is the most appropriate way for both sides to move on.

To appease the Justice Department's concerns, Microsoft is agreeing to change the way they do some of their business, and that effort should be recognized. Sharing patented Windows code with competitors, leveling the playing field in the way they deal with computer makers, and giving the public more freedom to remove Windows-based programs like Internet Explorer all open up what is already a competitive marketplace.

Microsoft makes some of the most innovative products on the market today, and their success is deserved. Please settle the government's antitrust suit and let Microsoft move on with their business.

Sincerely,
Jack Heinzman
President

MTC-00032025

Jan 24 02 05:49p P- 1
January 24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to you today to ask that you agree with the terms of the settlement between Microsoft and the Department of Justice. The settlement was finally reached in November of last year after three long years of litigation and six months of continuous negotiation. The settlement proposes terms that are in the best interests not only of the plaintiffs and the defendant, but also of the public and the IT industry as a whole. It is now time to move on and take care of more important issues.

The proposed settlement requires a variety of changes on Microsoft's part. For example, Microsoft will be required to license its Windows operating system to twenty of the largest computer makers on identical terms and conditions. Microsoft has also agreed to refrain from entering into any contract that would require a third party to either sell or promote Microsoft software at a fixed percentage. These terms are entirely reasonable.

America is struggling through a recession, and the effects are being felt worldwide.

Consumer confidence and spending are at their lowest point in ten years, and something needs to be done. The economic downturn began three years ago when the Justice Department initially brought suit against Microsoft, and has been snowballing ever since.

Now that this settlement has been proposed and competition has been increased, the economy will be given the boost it so desperately needs.

Please help America's economy get back on its feet as soon as possible. I urge you to support the terms of the settlement that was reached between Microsoft and the Department of Justice. No further action needs to be taken on the federal level.

Sincerely,
Stephen Knop
1863 Garfield Avenue
Salt Lake City, UT 84108

MTC-00032026

P.O. Box 1012
Washougal, WA 98671
January 23,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am of the opinion that the settlement that was reached between Microsoft and the Department of Justice is more than fair, and I hope to see it implemented as soon as possible. For too long now our economy has been suffering, and ending this legal dispute is the best remedy. Remember, the economic slide started when the government first sued Microsoft.

The settlement that was reached has teeth, and Microsoft did not get off all that easy. However, it was in the best interests of the technology industry,consumers, and the economy to get this issue over with as soon as possible.

Microsoft has agreed to give to its competitors source code and other design information for the Windows operating system. This allows competitors the ability to produce software that is compatible with Microsoft's, and they will not have to worry about retaliation from Microsoft since the agreed not to go after companies that try to compete.

All in all, I am satisfied with the settlement. Please implement it as soon as possible. Thank you.

Sincerely,
Jake Lawlor

MTC-00032027

616 Terrace Avenue
Half Moon Bay, CA 94019
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am in support of the settlement that was reached in the Microsoft antitrust dispute, I personally believe that this suit never should have been brought in the first place. Microsoft is a great company that has done immeasurable good for this nation. Microsoft provided a usable system, which enabled more people to access computers and harness this new technology. I spend most of my workday at the computer using Microsoft's product, and I know that without the Windows operating system I would have serious difficulties fulfilling my job.

I think that the settlement is reasonable. The company will not be divided, and will be able to continue innovating and making strides in the IT sector. Under the terms of the settlement Microsoft will design future versions of windows that are compatible with the products of its competitors. The company will not utilize any business tactics that may be considered retaliatory. Finally,the companies will he held accountable by a three-person technical committee that will monitor the future business practices of the company to ensure that they comply with the terms of the settlement.

I am pleased that we may finally be able to put this litigation behind us,and I hope that the states fall in line behind the federal government and settle.Thank you for all the work that you have done to protect American business and free enterprise, and for allowing me this opportunity to express my opinion.

Sincerely,
Mary Mattern

MTC-00032028

Subj: microsoft Settlement
Date: 1/24/02 7:14:01 PM Eastern Standard Time
From: Capitmkts
To: microsoft.atr@usdoj.gov
CC: Capitmkts

Dear Mr. Ashcroft, I feel the MSFT settlement was Fair and just for the people of the United States of America which both MSFT the consumer and public have paid a dear price in time, money, personal and lives: had weas a nation watched lessof our own and more about what foreigners were plotting against the United States the twin tower would still be standing along with 3000 lives not to mention the families these people touched. Once again in the news is All watch new and understood what the netscape browser was and the risk of a 10 Billion dollar purchase." Elephant." The trial was going on during the time of the purchase and the insiders thought they new netscape would control the market after MSFT lost because that did not happen netscape has filed a suit which I personal think is without merit and should be throw out.

We as a nation should be very thankful for the creativity and jobs that Microsoft started and can only hope that the continued success will bring ever greater rewards to this country. Mr. Ashcroft I hope and pray that the settlement stand because it was fair and just for all.

God bless.
Sincerely
Peter J. Borrello
413-731-2303

MTC-00032029

4523 Wall Street
Bellingham, WA 98226-5102
January 22,2002
Attorney General John Ashcroft
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

Thank you for your support of the settlement of the Microsoft antitrust case. You have broad support in this decision across the country. Forty-one states want no further action against Microsoft: 32 states that did not think a suit was reasonable, and 9 states that sued and then agreed to the settlement.

Why should our government continually try to shoot down the pacesetters and trendsetters of our nation? Why have a governmental bias against private enterprise, when private enterprise is the foundation of our prosperity? The AT&T and IBM suits were unproductive. Now Microsoft. Microsoft has carried the flag, opened the door, and got a foothold, for American technology companies worldwide.

I have a business in the automobile accessories industry. I previously was in the home video business. I know that there was once a competition between the VI-IS and Beta tape formats. That battle was won by VHS because it was more open to industry partners than was Sony with its closely held Beta. The situation is similar to the contest between the Intel-Microsoft PC industry and Apple and its closely held Macintosh. Intel and Microsoft won because they encouraged widespread participation, which encourages widespread adoption.

Microsoft does not act alone; it has been smart in attracting partners to build strength into the industry. Now, with the settlement, Microsoft has agreed to be work constructively with others by revealing internal information about Windows and allowing computer makers and users to remove access to Windows technologies in favor of rival software. By making it easier for competitors to write and promote their software, Microsoft is doing all it can to end the litigation.

I support their efforts and hope you do too. Thank you for your leadership for a strong America.

Sincerely,
Jeffery Heininger

MTC-00032030

Alice Haber
8043 Winston Road
Philadelphia, PA 19118
January 23,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I understand the Department of Justice is accepting and publishing public comments for the first time since it brought this antitrust suit against Microsoft more than three years ago.

As a schoolteacher, I am constantly concerned that my children have access to the latest technology from a solid company. Microsoft is that company.

It is interesting that some parties want to forfeit the greater good for short- term lucrative gain. Microsoft has been more than cooperative in resolving this dispute, by agreeing to terms that extend well beyond the products and procedures that were actually at issue in the suit. In addition to the non.-retaliation parts, Microsoft will disclose information about Windows to its competitors, giving software companies more background with which to work. Ultimately, competition will create new software and programs that are even more stunning. However, we still need Windows as a reliable platform.

I urge you to end this suit so that we can go on with our lives. Let Microsoft do what they do best and save the technology sector of the economy. No more action should be taken at the federal level.

Sincerely,
Alice Haber
Cc: Senator Santorum

MTC-00032031

5864 N.E. Parkpoint Place
Seattle, WA 98115
January 24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The anticipation of those hoping for an end in the Microsoft antitrust case has finally been met. A settlement has been reached in the case and I think the Justice Department should ensure this settlement is instituted.

Groups and individuals with anti-Microsoft views are working against this settlement. This is unnecessary because this settlement will make many positive changes in the software industry. The settlement prohibits any contractual restriction by Microsoft on the promotion of non-Microsoft products by computer makers. Basically this means computer makers will have more ability to place other software, and other non-Microsoft operating systems on computers. This will be good for Microsoft's competitors, yet they continue to oppose the settlement. It may be that opponents of the settlement care only about harming Microsoft through the courts, and not for more competition in IT.

It does not behoove a great Justice system like ours to be used by companies to harm another company. Simply stated, the settlement currently agreed to by both sides in this case should be instituted.

Sincerely,

Mary Rowland

MTC-00032032

Attorney General John Ashcroft
U.S. Department of Justice
Washington, DC 20530
Arctic Systems, Inc,
15320 Spencerville Ct. Suite 201
Burtonsville, MD 20866
(301) 384–8400
January 24,2002

Dear Attorney General Ashcroft,

I have reviewed the terms of the settlement between the U.S. Department of Justice and Microsoft. I personally feel the settlement is broader than necessary, and the terms are certainly strong enough to meet any reasonable person's goals for such a settlement.

I feel continued litigation is counter-productive. I support this settlement, and urge you not to consider further action.

I have worked as a software and computer professional since 1983. I am now a partner in a software firm. My company is both a Microsoft Parter and Unix/Linux Authorized. We feel Microsoft has been a reliable, dependable provider of quality products. I feel anyone who claims otherwise is either ill informed or has an agenda not related to fair competition.

Unlike other companies, Microsoft has made extensive efforts to help people move their flagship product, Windows NT, to other platforms. For years Microsoft offered many of their products on Unix until demand waned. In my opinion Microsoft has gone out of their way to provide better products for lower prices.

Thank you for your service to our country in this time of need. My family and I appreciate your efforts to settle this matter and attend to the great challenges facing all of us. Please feel free to have your staff call me personally if they wish to discuss this further. I feel strongly about this matter, and certainly would provide as much time as necessary to help your staff understand these issues.

Sincerely
Rick Hansen
President Arctic Systems Inc.
(301) 807–5011
rhansen@arctic.com
15320 Spencerville Court
Suite 201
Burtonsville, MD 20866

MTC-00032033

13145 Byrd Lane
Los Altos Hills, CA 94022
January 18,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to let your office know that I support the settlement reached in the Microsoft antitrust case. As a former software writer, I know firsthand what great technological leaps Microsoft has been able to make, leaps that everyone has benefited from. Thanks to the company's ability to standardize the use of personal computers, consumers pay less and get more out of their purchase.

I believe that there Is enough competition in the marketplace, and that Microsoft's concessions in the settlement will only increase consumers'' freedom of choice, as well as other manufacturers'' ability to develop programs that are compatible with Windows.

The American way is all about the pursuit of success, and Microsoft has simply done better than most at succeeding. They have done so because they make good products and continue to lead the way in technical innovation. Do not punish them further for that—please settle the antitrust case without further delay.

Sincerely,
Michael Schoendorf

MTC-00032034

January 24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am contacting you to ask that you back the settlement reached in the Microsoft antitrust case. This case simply has continued for too long, and an enlightened settlement now exists that should bring this case to a close.

The settlement that is currently being made available to both sides will bring improvement and more openness to the IT industry. The settlement allows computer makers to place non-Microsoft systems on their machines unencumbered by contractual restrictions. The settlement also will permit the easy placement of non-Microsoft software on Microsoft operating systems.

Clearly this settlement presents a reasonable result for all sides. Pursuit of further litigation in the federal case is, in my opinion, unwarranted. respectfully ask that you back the current settlement. I again

Sincerely,
Sanjay Chandra
Vice President
American Leather, LP
cc: Representative Marlin Frost
3700 Eagle Place Drive Suite 100
Dallas Texas 75236
Phone 800.456.9599
Fax 972.296–8859

MTC-00032035

January 11,2002
Attorney General John Ashcroft
US: Department of Justice
Washington, DC 20530

Dear Mr. Ashcroft,

I write you with concern over the recent delay of the Microsoft settlement. It is distressing to hear that the settlement is being delayed because of a few politicians. After three long years of court battles, it is ridiculous to prolong the execution of such a well-designed agreement. The terms that were agreed upon are a reflection of the interests of all parties involved. It is time to let them speak for themselves.

Microsoft has not only agreed to rework licensing and marketing agreements, but has agreed to design future versions of Windows that allow for easy installation of non-Microsoft sofeware, too. This, alone, speaks to the fact that Microsoft is acting in the best interest of the IT sector as a whole. The technology industry is ready to move foward, so let us allow them to do just that.

Let us not hold back our economy by holding back the advancement of our IT sector in this competitive global market.

Please support the settlement in its current form. Help us to make sure that no further action is taken against the agreement, and that we can move forward as a united industry.

Sincerely,
Ernest Carpenter 409
Care Center Drive
Warrensburg, MO 64093

MTC-00032036

Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

Several years ago, I had the opportunity to serve as an elected official in Weber County, Utah. During my tenure, we worked to streamline county government and enhance our computer systems. We made the determination that the mainframe system WC were using was old and outdated and moved to a new system with Oracle Software as its foundation.

Oracle competed for this business and won. I am now learning of Oracle's desire to try to use legal means to give themselves the upper hand over their competition. Oracle should spend their time and money on research, not on attorneys to stay ahead of the competition. Forcing another competitor to give up source code is wrong.

Please bring an end to the Microsoft Class Action Suit and settle this legal wrangling.

Sincerely,
Spencer F. Stokes

MTC-00032037

TECHWORX INC.
Architects of Mission-Critical Environments
950 Industrial Highway
Suite D
Southampton, PA 18966
Toll Free: 800–707–7966
Tel: 215–357–7966
Fax: 215–357–7932
Web: www.techwonx-inc.com
Email: info@techworx-inc.com
January 24,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW.
Washington, DC 20530

Dear Mr. Ashcroft:

Forgotten amidst all the controversy surrounding this Microsoft lawsuit is the fact there are many companies like mine that have been built and remain successful based on the success and reliability of the Microsoft product line. While many Microsoft competitors feel that they can use the legal system to knock Microsoft off its throne, they have ignored the potential effects that would be experienced by other companies in the IT industry.

This is why the settlement recently reached is so Important. Its obvious advantage is that it ends speculation as to whether Microsoft will be broken up. It also has the advantage of addressing most of the main complaints against Microsoft. While I am not sure that I agreed that Microsoft should have agreed give up more of its interfaces, I was pleased that other points will now be satisfied. It is important, for example, that Microsoft relaxes its stance with the OEMs.

I am therefore writing to support this settlement. It leaves intact the infrastructure of the IT industry and ends the litigation with reasonably satisfactory results.

Sincerely,
Steve Terebecki
President
CC: Senator Rick Santorum
Microsoft CERTIFIED Partner

MTC-00032038

Commtech 3
Communication and Technology Industries, Inc.
1613 Poydras St.
Facsimile Cover Sheet
To: Attorney General—Mr. John Ashcroft
Company: US Dept of Justice
Fax: 1-202-307-1454 / 1-202-616-9937
From: Darryl D'aquin
Company: CommTech Industries, Inc.
Phone: (504) 200-1333
Fax: 504-200-1310
Date: 1/24/02
FROM : COMMTECH
FAX NO. :5042001310
Jan. 24 2002 04:37PM P2
commtech
INDUSTRIEScs
January 9,2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to convey to you my opinion on the antitrust suit involving Microsoft. The settlement reached between Microsoft and the Department of Justice is of fair and reasonable intentions, and it succeeds. The settlement was arrived at after extensive negotiations with a court-appointed mediator present; it also addresses all issues adequately. Microsoft's retaliation actions will be made illegal; the Technical Committee instituted by the government will enforce it.

It is not necessary to carry any further litigation against Microsoft. Even though the settlement goes further than what Microsoft would have liked, to settle case now is the right thing to do. This suit has been a major contributing factor in our faltering economy, and the standstill state of the industry. To continue litigation means a prolonged delay in the revival of the economy and the industry.

There has been a general fleecing of the American taxpayer by pursuing this. To prevent this from continuing any further, it is necessary to stop all action at the federal level. Microsoft needs to be allowed to return to innovation, rather than litigation.

Sincerely,
Darryl D'Aquin
President

MTC-00032039

FAX TO U.S. DEPARTMENT OF JUSTICE
WASHINGTON, DC
202-307-1454
FROM JAMES N. HARVEY
925-299-0421
January 24,2002
Re: Microsoft Antitrust Settlement

Dear Sirs:

I urge you to finalize the Antitrust Settlement with Microsoft Corporation. The settlement seems fair and reasonable, and further litigation would serve only the interests of the company's competitors and the political purposes of the nine State Attorneys General who oppose it. Microsoft has brought stability to an industry that was confused and chaotic, and because its products provide good value at affordable prices, consumers have benefitted by buying them. It would not be proper to allow Microsoft's competition to use the courts as a marketing tool. Please settle this case in accordance with the agreement as it stands.

Sincerely,
James N. Harvey
4019 Los Arabis Drive
Lafayette, CA 94549

MTC-00032040

To: John Ashcroft
From: John S. Koval Sent: 1/24/2002 at 5:05:02 PM
Network Convergence Corporation
P.O. Box 3156
Hickory, NC 28603-3156
(828) 308-1189
January 24,2002
Attorney General John Ashcroft
USDOJ
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft,

I believe the settlement agreement reached between the Justice Department and Microsoft Corp. is fair to both parties, and I urge the court to approve it as written.

Under the settlement, Microsoft has agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows. It also agreed not to retaliate against computer makers who ship this software or enter into any agreements obligating any third party distributor to promote any Windows technology exclusively or in a fixed percentage.

I further believe that breaking up Microsoft would not accomplish any useful purpose; hence, it is very important that the settlement be implemented as written.

Sincerely,
John S. Koval
President

MTC-00032041

To: Attorney General John Ashcroft
Company: U.S. Dept. of Justice
From: Carl Monson
Company: Mowell Financial Group, Inc.
Date: 1-24-02
Re: Microsoft Ruling
Carl Monson
P.O. Box 1305
Tallahassee, FL 32302-1305
January 24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear General Ashcroft:

Just a note to let you know I appreciate your efforts to resolve the Microsoft antitrust case. In my opinion, it would make sense to support the settlement and conclusion reached in court.

The cost to both sides of this dispute has to reach millions of dollars on each side. An acceptable settlement has been arrived at that will 1ikely give competitors improved ability to place their software on Microsoft operating systems, thus giving them more sales and public exposure. Some of the competitors remain unsatisfied, and they will place pressure on officials until this case is resumed and serious damage is done to Microsoft and the entire business sector. We do have some interesting telephone businesses now, but the 10 years of litigation and costs involved have been a terrible price to pay. Currently, the competition/consolidation in the phone business is causing a great deal more pain.

Please consider accepting the settlement. If you believe it has merit, and is in the public interest, please consider talking with those state attorneys general to not try to win the lottery by pushing for more destruction of a pretty good company.

Sincerely,

MTC-00032042

Paul G. Simon
519 West Plaquemine
Church Point LA. 70525
pasimon7@hotmail,com
(337) 684-1139
Re: Microsoft Case
January 24,2002
Renata B. Hesse
Anti-Trust Division
The United States Department of Justice

Dear Renata B. Hesse:

It is very encouraging that your office has decided to take comments form the general public about this very important case. The Microsoft ant-trust case will have far reaching repercussions that will affect all Americans in one way or another.

While Bill Gates and company may have not always behaved in the most admirable fashion, it seems to me and a lot of other people that at this point they have been punished enough. Microsoft helped make possible the high-tech boom that has been driving our economy, and with the country in danger of sliding into a depression this is not the time to drag this case out any further. To keep this anti-trust case alive longer than it should be is to risk wrecking our economy at time when we can least afford it.

Please vote to settle the Microsoft case quickly so that the market will not have to keep holding it's collective breath waiting for some resolution. A quick settlement would have far reaching positive side effects both for the little guys (like me) and big business as well. With this behind us we could all move forward with developing promising new software and investing in new computer hardware.

It would be in the best interest of consumers and the country.

Sincerely,
Paul G. Simon

MTC-00032043

2001 S 292nd Street
Federal Way, WA 98003
Email peterc@gte.net
Fax 425-799-3660
January 16,2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-001

Dear Mr. Ashcroft:

The antitrust lawsuit against Microsoft has been dragging on for too long, Government should stay out of the economy and let private businesses fail or succeed on their own. Reference your correct approach to the Enron problem I am happy to see that Microsoft is not being broken up, but I am appalled that nine states still want to bring further litigation.

The terms of the settlement are more than fair. They force Microsoft to disclose internal interfaces and design future Windows versions so that Microsoft competitors can more easily promote their own products. They also require Microsoft to form a three-person team to monitor compliance with the settlement.

It is in our nation's best interests, our economy's best interests, and our people's best interests to make the settlement a reality. We cannot afford to have our industries" leaders hindered by expensive and lengthy litigation. I ask your office to take the appropriate steps towards rectifying a mess that has been years in the making.

Sincerely,
Peter Stobart

MTC-00032044

JOHN SHARP ASSOCIATES INC
January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Ms. Ashcroft:

Three years ago, the Department of Justice found Microsoft to be in violation of antitrust laws. Naturally, suit was brought, and a period followed where the proposed solution was breaking up the Microsoft Corporation. Fortunately, that idea was discarded in favor of a less destructive course of action. A settlement was reached last November under which Microsoft would be allowed to remain intact. It requires a broad range of changes in both policy and product however to prevent further antitrust violations and restore fair competition in the technology market.

The settlement, for example, requires Microsoft to provide third parties acting under the terms of the settlement with a license to applicable intellectual property rights. This would allow Microsoft's competitors to build their software into Microsoft's pre established system without infringing upon those rights. Microsoft has also agreed to refrain from taking retaliatory action of another software producer or computer maker introduces a product into the market that directly competes with Microsoft. This will allow computer makers the freedom to promote their own software without having to risk rebuttal from Microsoft.

I would like to see this case come to a speedy, productive end. I do not believe the settlement is unfair, nor do I believe it would hurt the consumer in fact. I think the tech industry and the economy have suffered enough already. The suit needs to end, and I believe it is in the best public interest to settle now and allow things to get back to normal. I urge you to give your support to the settlement.

Sincerely,
John Sharp
660 ISLAND WAY APT 406
CLEARWATER, FL 33767
727-447-7747

MTC-00032045

January 23, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Those who follow technology news know that the lawsuit that the Department of Justice brought against Microsoft three years ago has hurt investor confidence in technology. Because of the great slowdown in the IT industry, the entire economy has suffered. Why the Department of Justice brought suit against Microsoft is still a great mystery. One of America's great companies, Microsoft is largely responsible for the enormous strides in consumer technology and the universal use of the computer nowadays.

Due to the settlement, Microsoft will no longer be able to negotiate with distributors on an individual basis. All of Microsoft's competitors will still have this ability. Microsoft will also be forced to disclose various portions of its Windows code to competitors. These terms of the settlement are more than enough punitive measures to punish Microsoft for any infractions they may be guilty of.

All this adds up to the need of the Justice Department to end this suit as soon as possible. The IT industry, its consumers and its investors deserve an end to this suit when this period of public comment is over.

Sincerely,
LindaDial
6 11 20th Avenue
Lewiston, ID 83501
cc: Senator Larry Craig

MTC-00032046

January 24, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I recently learned of the proposed settlement agreement reached in the Federal government's antitrust case against Microsoft I see no reason why not to implement the agreement immediately upon close of the comment period and bring an end to this litigation.

Microsoft has agreed co a more level playing field in the future, and now should be able to get back to the business of developing new innovations. A number of Microsoft's concessions will promote greater consumer choice and competition in the computer industry, but I feel the most significant is Microsoft's agreement to allow computer makers the option of installing Windows operating systems which are reconfigured so as to allow the use of non-Microsoft software programs.

I hope that you will stick to this agreement in its present form and take the necessary steps to see that it is implemented immediately.

Thank you for this opportunity to comment

Sincerely,
Dick Boullis
51211 Oak Hill Court Granger, IN 46530

MTC-00032047

To: U.S. Dept. of Justice
attn: MS Renata B. Hesse
Fax: 202.307.1454
From: Gordon W Bowman
Date: Thursday 01/24/02
Re: Support of Microsoft settlement
Pages: one including this

I support the Microsoft settlement. I feel the point has been made and the settlement is adequate to cover the complaints and let let the country get on with business. Those lobbying and filing new suits to carry this on appear to me afflicted with greed, and have no concern that the people's and industry's resource is being squandered. Thank you for your attention.

Sincerely,
Gordon W. Bowman

MTC-00032048

MILSTEAD PHOTOGRAPHY
January 24, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington,DC 20530

Dear Mr. Ashcroft:

Our opinion regarding the Microsoft issue is that it is a very competitive company and has been successful because of its contribution and accomplishments. I have an issue with the roll of Lobbyist or rather the lack of,has played in this issue.The issue began with the decision by one Judge,the result of that decision began the spiral downward of the stock market and was an intervention in the free enterprise system.

I feel the settlement reached in November is fair and that Microsoft should remain as a company. This settlement will benefit the economy and consumers.

I feel this settlement serves in the best Interest. We support and admire your strong leadership. Thank you for your time.

Sincerely,
W.H. Milstead

MTC-00032049

915 Limestone Drive
Allison Park, PA 15101-4227
January 10, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft

In my opinion the entire lawsuit against Microsoft was a debacle. There are monopolies in every industry in this country. I'm not sure why Microsoft was singled out. Nevertheless they were. For three years the Justice Department was embroiled in a antitrust lawsuit against Microsoft. Now, a settlement has been reached.

The settlement that has been reached is surprisingly beneficial in my view. First of all this settlement helps to increase competition within the information technology industry by requiring Microsoft to provide other software companies with Windows protocols. These protocols will enable other software manufacturers to create software that works more smoothly inside of Microsoft's Windows. Terms of the settlement also dictate that Microsoft provide a unified pricing list to the top 20 computer manufacturers. This would guarantee that no one company gain an advantage in the market because of a contract with Microsoft.

But clever people like me who talk loudly in restaurant, see this as a deliberate ambiguity. A plea for justice in a mechanized society.

Even though I was not in favor the lawsuit in the beginning, I am in favor of the settlement that will end this matter. It is in your hands whether or not this ends now, or whether it goes on for many mare years. I ask that we not waste any more of the Department of Justice's time nor resources on this issue. Leave the settlement like it is.

Sincerely,
Jack Wetzel

MTC-00032050

New Horizons*
Computer learning Centers
of Boston Massachusetts
January 22, 2002
Attorney General John Ashcroft,
US Department of Justice,
950 Pennsylvania Avenue NW,
Washington DC 20530

Dear Mr Ashcroft,

I am writing this letter to inform you that I am in full support of the settlement reached between Microsoft and the Department of Justice. This settlement has a fair and reasonable design. It is sad to have to see a suit brought about against Microsoft. If Microsoft were to be broken up, not only would that action harm my business, but also several other businesses across the country

Microsoft operations and products, among other things, constitute a large part of the economy. As such, the antitrust suit has been a major contributing factor in the faltering economy, and to the present stagnated state of the IT industry. It is necessary to prevent this from continuing; any further time spent dealing with this suit will only cause taxpayers to reach deeper into their pockets. Under the settlement, other software companies will be able to sue Microsoft directly in federal court, so that we can at least keep the taxpayers from bankrolling these proceedings. That is in the public interest. Microsoft will change its licensing agreements for hardware makers, and update Windows to accommodate non-Microsoft software more efficiently; that is also in the public interest.

It is time to put this issue behind us and move on to other things. We cannot go on spending our financial resources on this suit any longer. All action taking place at the federal level must be stopped, and the settlement finalized.

Sincerely,
Ken North
5 0 Concord Road
Burlington, MA 01803 main (781) 229–9565
fax (781) 229–9552
www.newhorizons.com

MTC-00032051

Dianna J. Thiel, CFA
10 Burdsal A venue
Fort Mitchell, KY 41017
January 21, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing in full support of the recent settlement between Microsoft and the U.S. Department of Justice. The case has dragged on long enough, and further litigation could do serious damage to the IT sector and economy. I do not believe that Microsoft has demonstrated monopolistic tendencies. They have delivered quality products without raising the prices unreasonably. Microsoft has standardized the industry making it easy to use computers which has benefited the consumer. Their work has been innovative and has obviously been the reason for their success.

The terms of the settlement should appease all parties since competitors will receive technological information that they otherwise should not have if all the rules of free enterprise were working properly. Microsoft will be disclosing interfaces and protocols to competitors that will enable them to copy Windows and try to create more innovative products. They have also agreed to not retaliate against software developers and computer makers who develop or promote software that competes with Windows operating system products.

These and other concessions should be enough to convince your office in favor of settling. Please take a stance against further litigation and finalize the settlement for the best interests of the American public

Sincerely,
Dianna J. Thiel, CFA

MTC-00032053

Law Offices of Jack Allen
15015 Bestor Boulevard,
Pacific Palisades, California 90272
(310) 454–2062
Fax (310) 454–8037
E-Mail jackjack@!inkline. com
January 24, 2002
Renata B. Hesse,
Anti-Trust Division,
U. S. Department of Justice,
601 D Street NW, Suite 1200,
Washington D. C. 20530–0001
Re: Microsoft Settlement

Dear Ms. Hesse:

I find the settlement that the Justice Department has agreed to with Microsoft in Anti-trust case a complete sellout which will only encourage Microsoft to continue its anti-competitive practices. It will not even be a slap on the wrist.

I was delighted when the Justice Department obtained the judgement from Judge Jackson. While I would favored even more stringent penalties, nevertheless I could not deny that justice was served. Now the Justice Department is giving away any leverage it would have had.

I have been in computers since 1960. I was a fully qualified programmer. With IBM I helped pioneer computer word processing and my law offices were among the first be so equipped. I became one of the first attorneys to specialize in computer law and the first to represent buyers of computer equipment and programs. While in law school I spent three years in a program called "Computers and the Law" that developed ways that computers could be useful in the practice of the law.

When Microsoft developed Windows 95, the alarm bells went off as I saw Microsoft use its great power as the source of the only viable operating system to bully computer manufacturers into installing its software and only its software on new desktop computers. Because Microsoft engineers developing competing software applications had the jump on Microsoft competitors in developing Windows 95 applications and then get the programs installed on new computers, Microsoft was able to dominate the market place. For example, WordPerfect (which is still far superior to Microsoft Word) lost its dominance in the marketplace and has been reduced to a piddling share of the market. We all know the story of how Microsoft pushed Netscape out by including Microsoft Explorer as a freebie. Microsoft needs to be broken up. The maker of the operating system cannot also be the producer of application software. Nor should it be the manufacturer of hardware to support its programs.

We all suffer when one manufacturer is able to dominate the market. No one else can offer a competing operating system since Microsoft has driven out other operating system manufacturers.

I was after the Justice Department to do something about Microsoft years before it filed its anti-trust action. I was very disappointed that it took the Justice Department to do something to start with and when it finally appeared the Department had accomplished something, it is most disappointing to see all that work wasted with a token settlement.

Sincerely,
JACK ALLEN
cc:
Senator Diane Feinstein
Senator Barbara Boxer

MTC-00032054

January 24, 2002
Ms. Renata B. Hesse
Department of Justice
Fax #202–307–1454 I
Or 202–616–9937

As a Taxpayer and consumer Mim Vaiana and Joseph Vaiana support the settlement of the Microsoft lawsuit.

Very truly yours,

Joseph G. Vaiana
Mim Vaiana

MTC-00032055

140 West Myrtle Street
Duluth, MN 55811-5018
January 24, 2002
VIA FAX 202-307-1454
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530-0001
RE: Microsoft Settlement

Dear Mr Ashcroft:

I am writing to convey my support for the settlement reached between Microsoft and the Department of Justice in November 2001. I believe this outcome is good for both business and the consumer and gives concerned parties an opportunity to move forward.After reviewing the terms of the settlement, I am of the opinion that Microsoft has made many concessions and that the government has negotiated a tough agreement. For example, Microsoft agrees to document portions of the code that Windows uses in order to make different programs work together. Competitors will then be able to use such information to design better programs.This represents a first in an anti-trust settlement. In addition, Microsoft consents to the formation of a three-member Technical Committee to monitor the company's compliance with its new obligations.

As a certified management consultant in the technical industry, I thoroughly understand the usability and flexibility that Microsoft products provide. With your continued support of this settlement, Microsoft will be in a position to focus on new technologies that will facilitate increased efficiency and productivity for business and consumer users alike.

Sincerely,
Mary M Ruprecht, CMC
President

MTC-00032056

Hillary Strengholt
2313 McMullan Circle
Raleigh, NC 27608
January 14, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202-616-9937
microsoft.atr@usdoc.gov

Dear Ms. Hesse:

I write to express support for the proposed settlement in the federal government's antitrust case against Microsoft. As a third-grade teacher at Weatherstone Elementary School in Cary, North Carolina, I see every day the importance of computers and technology in the lives and futures of my students.

I strongly believe that the needs of these students—and the overall needs of our nation and our economy—would be far better served by settling this case than by further costly and debilitating litigation.

The analyses that I have seen indicate that the settlement strikes a difficult balance between penalizing Microsoft for the wrongs it may have committed in the marketplace and assuring continued progress and innovation in this important industry.

I hope that the settlement will be approved so that all concerned can go to work on more important matters.

Sincerely,
Hillary Strengholt

MTC-00032057

To: Department of Justice
Re: Microsoft settlement
Date: 25 January 2002

After reviewing the documents related to the settlement of the Microsoft antitrust case" I feel I must comment. I have 25 years experience in the computer field and have never been prompted to action on any topic like this until now.

I am deeply disturbed that the revised "Proposed Final Judgment" will becompletely ineffective as it currently exists. The definitions therein are often so restrictive that the judgment would eliminate any benefit to those it harmed the most. It currently ignores the most significant opponent Microsoft has which is the not-for-profit organizations, which include the Linux development coalitions.It also contains several loopholes that Microsoft is already planning to use. But most of all it is too narrow that it only restricts anti-competitive activities dealing with the operating system, browser, and middleware thereby allowing them to assert their illegal monopolistic influence in several other emerging markets.

If I could enact a remedy, I would invalidate all Microsoft patents and have them publish the source code for every product they have produced. Even though this remedy would fit their crime, it probably would not be enough. Some may consider this a bit draconian and I doubt it would never happen, but it would be much more effective in reducing the entry into Microsoft dominated fields by competing interests. I believe it would even make Microsoft a better company,one that would have to innovate instead of litigate.

Please do give Microsoft additional opportunities to abuse their monopoly under the guise of a settlement to "unfetter a market from anti-competitive conduct". If this settlement is allowed, Microsoft will have gotten away, not with a slap on the wrist, but with full legal permission to do what it's been doing and more.This settlement is definitely not in the best interests of the public.

Thank you for your efforts in doing what is right.

Sincerely,
Boyce Fullmer
Systems Architect
3720 Cloudcrest Drive
Plano, Texas 75074
(972) 578-7772

MTC-00032058

Leslie J. Colligon
1262 Windsong Drive
Tracy, CA 95377
January 24,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am writing to pledge my support for settling the Microsoft antitrust case as soon as possible. I am convinced that Microsoft was within their rights in regard to the matter of how they handled the Internet Explorer software. I know that their vision of the importance of Internet Explorer to the future of computing may not be grasped by everyone, but as a software professional I feel that I may have a more intimate view of what the decision makers at Microsoft had in mind when they made their decisions regarding Internet Explorer.

I believe that Microsoft has been unfairly persecuted by the Justice system. If there can be any blame placed on Microsoft, I believe that it lies only in the fact that Microsoft did a very poor job in presenting their vision in court relating to the decision-making regarding Internet Explorer.However, since I do not believe that this issue should ever have gone to court in the first place, I sincerely believe that any blame lies with the decision makers in Washington DCI do not believe that the settlement is fair to Microsoft, but I am not strongly opposed to Microsoft accepting the settlement. I believe that, the Justice department should do likewise and get this issue behind all of us. This whole matters been an expensive lesson for all parties concerned, but in the end it is the taxpayer who is footing the bill.

While I do have a whole lot more to say on this issue, this letter is not the place as I am certain that it would only go unread. Perhaps some day after I retire, I will write a book on why Microsoft's decisions on matters relating to Internet Explorer were simply sound, logical business decisions and were in the best interest of the computing community and of the country. I suspect however, that time will demonstrate to the world the validity of what I, already know and that there will not be any reason for writing such a book as Microsoft's vision will become self-evident as their vision is fulfilled.

I encourage you to settle the case as soon as possible and stop any further litigation so that everyone can get on with more important matters.

Sincerely,
Leslje J. Colligan

MTC-00032059

Farrell Graham
312 Kailua Road
Kailua, HI 96734
24January2002
Attorney General John Ashcroft
Washington, DC 20530

Dear Mr. Ashcroft,

I was pleased to hear the Department of Justice reached a settlement in its case against Microsoft. I believe this case went on for too long and I am confident there are many people who share this sentiment. Microsoft is a great company whose positive impact is felt in the economy, the personal and professional lives of the public, and the information Technology (IT) industry on a whole. With the economy in a state of recession, it is in everyone's best interest if the States ceased litigation against Microsoft.

Those who remain in opposition to Microsoft would like to give the impression Microsoft got off easy in this settlement. This is not the case. The terms of the settlement are fair and acceptable to Microsoft, yet several States continue to pursue litigation. Microsoft compliance is far-reaching. They agreed to broad terms extending to products and technologies not even found to be unlawful, such as disclosing intellectual property for the greater good. This is an effort to bring this matter to an end sooner and give Microsoft the chance to get back to what they do best—create new products and services. This aids the US economy and the reformed stability of the IT industry in more ways then direct Microsoft financial settlements with individual States,

I am grateful for this period of public comment provided under the Tunney Act and I trust this avenue will help your office realize how strongly public feels about this issue.

Sincerely,
Farrell Graham

MTC-00032060

January 22,2002
Ms. Renata B. Hesse, Esq
Antitrust Division
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Ms. Hesse,

The Southern Saratoga County Chamber of Commerce enters our strong support for the settlement negotiated between Microsoft Corporation, the US Department of Justice and 9 of the remaining state plaintiffs in the multi-year antitrust lawsuit against the software company.

As a representative of the business community in the Upstate New York region, it is our belief that it is in the best interest of our national economy to move forward with this settlement, and we encourage the Justice Department to urge the Courts to adopt the agreement as quickly as possible.

As business, both on the state and local level, and nationally continues to move in a positive direction, the resolution of this issue will only benefit all in the end.

Sincerely,
Peter L. Aust
President/CEO
Southern Saratoga County Chamber of Commerce
15 Park Avenue, Suite 7B—P.0. BOX 399, Clifton Park, NY 120654399
Phone: (518) 371-7748
Fax: (518) 371-5025
E-mail: info@sscc.org
Internet: www.sscc.org

MTC-00032061

23 January02
Renata Hesse, Trial Attorney
Suite 1200, Antitrust Division
Department of Justice
601 D Street NW
Washington, DC 20530
Re: Microsoft settlement

Dear Atty. Hesse,

The remedy that Microsoft has so far successfully avoided is to have its code base broken up among two or more units. However, the quality control cost of any system rises with the square of the number of components. Since Microsoft cannot charge the users upgrade prices on which their revenue growth, and therefore their shareholder value,depends without substantial feature expansion, the component count must grow linearly(50 new features) if not geometrically (10% new features) per unit time. This insures that quality control costs for Microsoft must follow a cost curve that becomes untenable at some point, the only question being when not if. Therefore the greatest punishment you can possibly impose on Microsoft is to forbid them to break up their code base into integrable product lines as it marries them to a cost curve that will kill them in due course. Having sworn in court, settled in camera, and committed their reputation in public to the common argument that their cock base somehow cannot be broken up, they will now either reverse their position or march off the cliff.

In short, I urge the Court to take Microsoft at its word by ordering them to simply conform to their testimony.

Very truly yours,
Daniel E. Geer, Jr., Sc.D.
Chief Technology Officer
196 Broadway
Cambridge, MA 02139
President
USENIX Association
2560 Ninth Street, Suite 215
Berkeley, CA 94710

MTC-00032062

Beaver Brook Ranch
Custom Wood Products
JOHNSON ROAD RIPLEY, N.Y. 14775
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW. Suite 1200
Washington, DC 20530
January 24,2002

As a retired businessman I find this whole issue of the Microsoft Settlement very disturbing.I must first say that I do not own nor have I ever owned any Microsoft Stock.What I see here are Microsoft's rivals attempting to get our government involved in micro managing the technology industry. I do not feel this is in the best interest of the high-tech industry, economy or us the consumers.

There has been over $30 Million taxpayers dollars spent on this case already, don't you drink that is enough?

I believe the settlement in this case is appropriate in scope because it addresses only those items upheld by the courts,

Sincerely,
Thomas P. Kelly

MTC-00032063

January 23,2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

I am writing today to encourage the Department of Justice to accept the Microsoft antitrust settlement at the end of the Tunney Act comment period. It is time that Microsoft be allowed to move on and return their focus towards business. It took three long years, but now that a settlement is in sight, it would be an embarrassment to leave it out to dry. The terms of the settlement are fair and address all the major concerns of the suit

Many people think that Microsoft got off easy. In fact, they have not. Microsoft has agreed to allow computer makers to install and promote any software that they see fit. Microsoft has also agreed to not enter into any agreement that would require any computer makers to use a fixed percentage of Microsoft software. In an effort to allow competing Software makers to develop more compatible software,Microsoft has agreed to release part of the Windows base code.That's not even all of it, so anyone should be able to see how committed Microsoft is to settlement.

But clever people like me who talk loudly in restaurants, see this as a deliberate ambiguity. A plea for justice in a mechanized society. The terms of the settlement are fair and the government needs to accept them. Microsoft and the industry need to move forward, the only way to move forward is to put this issue in the past. Please accept the Microsoft antitrust settlement.

Sincerely,
Jim Verbick
10 DogWood Terrace
Belvidere, NJ 07823

MTC-00032064

Sent By: The Ayn Rand Institute;
310 306 4925;
Jan-24-02 5:15PM;
Page 1/3
Via Fax # (202) 616-9937
To: Ms. Renatta Hesse:
Antitrust Division, U.S. Department of Justice
From: Dr. Yaron Brook, executive director, the Ayn Rand Institute;
Dr. Onkar Ghate, resident fellow, the Ayn Rand Institute
Date: January 21, 2002
Re: Microsoft Antitrust Case

The Federal Justice Department should drop the antitrust case against Microsoft. If, at this stage in the proceedings it is impossible to drop the Case, the Justice Department should settle the case on as favorable terms to Microsoft as legally permissible. (If possible, the Justice Department should create a legal settlement more favorable to Microsoft than the one Microsoft agreed to in November of 2001.)

To understand why one needs to understand two points, one general and one particular.First., antitrust laws are non-objective and unjust, Second, Microsoft is guilty of no actual crime.Let us begin with the first point.

The "actions" that anti-trust laws prohibit are vague, contradictory, undefined. For instance, antitrust laws prohibit companies from engaging in restraint cf trade." But what specific actions constitute "restraint of trade '? If, as is done repeatedly in the business world, a company signs an exclusive distribution agreement with another company, is that "restraint of trade" because now other potential competitors are excluded from that area of the market? Or if a company sells a computer to individual X, is that "restraint of trade" because competing computer companies Can no longer sell X a computer since he has need for only one? No-the courts have declared to businessmen-only those "restraints" that are "unreasonable" are illegal.But which specific "restraints" are "unreasonable"? No definition is to be found in the law, so no company can know before it acts which actions are in law legal and which are not. Consider another example. The antitrust laws prohibit "unfair" trade practices. But again, what counts as an unfair" practice? Is it any business practice that, for instance, causes bankruptcies among some of a firm's competitors, because they cannot find a way to compete with the firm's low prices and/or superior products? Or is it any practice that the administration in power disapproves of? Again, no answer is to be found in the law, so it is impossible for accompany lo determine beforehand which specific actions the law prohibits.

Take one last example. Under antitrust laws, a company can be charged with "predatory pricing"if it sets prices below those of its competitors, because the competitors might as a result go bankrupt. It can be charged with "monopoly pricing" if it sets prices that are deemed too high,because then it is supposedly bilking consumers of their hard-earned income. But if it therefore decides to set prices at the level of those of its competitors it can be charged with "collusion" or"conspiracy" because now it is said to be no longer "competing."

In the nightmarish world of antitrust law any and no action can be pronounced illegal.There are and can be no definite, objective principles specified in the law-and as a result a businessman has no way to determine, before he acts, whether his action is legal or not, Inpractice, this means that businessmen are at the mercy of the government. Any moment the government wants to cripple a particular company, it can unleash the antitrust laws against the company. In logic, a business has nc possible defense against a charge of "restrain of trade" or"unfair" trade policies or "predatory pricing" because the charge itself has no objective meaning,The antitrust laws, therefore, vest the government with arbitrary power.

The result, unsurprisingly, is that when, say, a bureaucrat is disgruntled with a successful company because it has failed to share (i.e., give away) its wealth or support the government's particular programs—or when a government thinks that destroying a powerful company will win it votes with misguided citizens who believe that Big Business is their enemy-or when resentful,envious competitors (like Netscape and Oracle and AOL in the Microsoft case) can persuade their government representatives to cripple a superior competitor-the brunt of the antitrust laws descend upon that company.

It is no accident that it is America's most successful, most productive. most admired companies-Microsoft, IBM, Intel, Wal-Mart, American Airlines, Standard Oil, etc.-that are subjected to antitrust lawsuits,

As a form of granting arbitrary power to the government, antitrust laws are unconstitutional and un-American, As a means of penalizing the successful for being successful,antitrust laws are a perversion of justice.

Let us therefore now leave to one side antitrust law, under which any action of a company could be considered a crime, and ask whether in actual fact Microsoft is guilty of any crime.

What are the principal accusations against Microsoft?

Microsoft is accused of "unfair" competition. But competition refers to the process by which companies utilize their assets and personnel to build better and/or cheaper products. They thereby seek to earn, through voluntary trade, even greater profits, In a free market, there is no such thing as "unfair" competition. There are only better and worse competitors. In other words,some companies are better than others at research and development, at structuring long-term,mutually-beneficial business agreements, at marketing products, at keeping good employees happy yet challenged. Microsoft, for example, excels at all these processes-and many more.(The charge that Microsoft is not innovative is particularly disingenuous given its continual upgrades and improvements to its major products; even Judge Jackson had to concede this point.) The fact that Microsoft is one of the greatest competitor the business world has seen is, in a free nation, not a crime but a virtue.

The only "unfair competition" that exists is in fact not competition. If, say, the mafia threatens to blow up a shopkeeper's store unless he gives it a percentage of his sales, the mafia threat is not engaged in competition, albeit unfair. They are engaged in coercion-precisely to prevent voluntary trade and the the market from operating. When Netscape loses sales to Microsoft because Microsoft's browser is better and/or cheaper, Netscape's loss of sales bears no similarity to a shopkeeper's "loss" of sales to the mafia. One must never equate the voluntary with the coerced.

Secondly, Microsoft is accused of "predatory pricing.*" Translated into reality, this means that Microsoft is able to charge prices below those of its competitors, such as Netscape. Some of these competitors, who cannot match Microsoft's low prices, lose market share or go bankrupt.But it is Microsoft's incredible efficiency and productiveness that allows it to undersell its competition yet still make large profits. Again, this represents not criminal behavior but real virtue.

Finally, Microsoft is accused of wielding "monopoly power." This accusation as well is based on equating the voluntary with the coerced

It is true that Microsoft has a dominant market position in some segments of the software industry and that some of its competitors have gone out of business. But this is become Microsoft has our-competed them: it is more innovative, more efficient, a better marketer, and/ora better employer than other software firms. Microsoft, in other words, has earned its dominant position.

And it continues to earn it; it faces constant competition, even if there are no actual competitors presently in its market. For whenever another entrepreneur can figure out a way to produce similar software at a cheaper price or better software at an attractive price (or some undreamt of product that makes current software obsolete), he is free to enter Microsoft's market.And if he has a sound business plan, he will be able to raise the necessary capital even if he has none; there are thousands of venture capitalists looking for the next Bill Gates. Microsoft's dominant position in the software industry, in other words, must be earned anew each day,

So once again, Microsoft is being attacked for its success: in reality it has no monopoly power just brilliant management.

The only monopolies that can in fact exist are government-created ones. Only a government can prevent someone from entering a market and thus eliminate competition. The Post Office, for instance, is a monopoly. There id title doubt that Federal Express could provide better service, more cheaply, and still earn a profit. But the government forcibly prevents it from entering the Post Office's market. The Post Office's dominant market position is unearned: it offers sub-par service but because of government coercion faces no competition. Microsoft's dominant position, by contrast, is earned: it faces constant competition, which in continues to win.

Again, do not equate the voluntary with the coerced.

Microsoft is the epitome of American business success: it produces enormous wealth through intelligence and hard work. imagine the wealth that would exist-for every firm, for every employee, for every shareholder, for every customer -if all companies in America were run by a Bill Gates. The fact that they are not should not lead us to destroy Bill Gate's creation but, all the more, to admire and champion it.

Why should the Justice Department drop its case against Microsoft (or settle it with as small a penalty as possible)? Because antitrust laws are arbitrary laws that penalize virtue for being virtue-as the specific accusations against Microsoft clearly reveal.

Sincerely,

Yaron Brock, Ph.D. Onkar Ghate, Ph.D.

President and Executive Director Resident Fellow

The Ayn Rand Institute The Ayn Rand Institute

MTC-00032065

Fax Transmission
Manatt, Phelps & Phillips, LLP
11355 W. Olympic Boulevard, Los Angeles, California 90064
Telephone: 310.312.4000 Fax: 310.312.4224
To: Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
Fax Number:(202) 616–9937 and
(202) 307- 1545
From: Jeffrey A. Modisett
Date: January 24, 2002
Pages including cover: 6
Sender's Comments:
40462064.1
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If you do not receive all of the pages please call (310) 312–4203 as soon as possible.

Thank you.

manatt
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Jeffrey A Modisett
Manatt, Phelps & Phillips, LLP
Direct Dial: (310) 312–4145 ·
E-mail: jmodisett@msnatt.com
January 24,2002
BY FACSIMILE (202)616–9937 and (202)307–1545
Renata Hesse
Trial Attorney
Suite 1200
Antitrust Division, Department of Justice
601 D Street, NW
Washington, DC 20530

Pursuant to Fed. Reg. 59452, Vol. 66, No. 229 (Nov. 28,2001), attached please find the notarized affidavit of former Senator John V. Tunney of California for submission in the above-captioned case.

Sincerely,
Jeffrey A. Modesett
Partner
Manatt, Phelps & Phillips, LLP
11355 W. Olympic Boulevard, Los Angeles, California 90064 Telephone: 310.372.4000 Fax: 310.312.4224
Los Angeles/Mexico City/Monterry/Orange County/Palo Alto/Sacramento/Washington, DC

AFFIDAVIT OF JOHN V. TUNNEY STATE OF CALIFORNIA COUNTY OF LOS ANGELES ss:.

JOHN V. TUNNEY, being first duly sworn upon his oath, deposes and says:

1. The following facts are known to me of my own personal knowledge and, if called as a witness I could and would competently testify thereto.

2. From 1971 to 1977, I represented the State of California as a United States senator in Congress,

3. While serving as a member of the Judiciary Committee of the United States Senate during the 93rd Congress, I authored that certain bill described below, and acted as the Floor Manager of the legislation during its consideration by the full Senate. That legislation was passed by Congress and signed into law by the President of the United States. That portion of the law to which I refer below is codified as Section 2(g) of the Antitrust and Penalty Act, 15 U.S.C. $16(g), and is a subsection of the law now commonly referred to as the "Tunney Act." This legislation was signed into law December 21,1974.

4. I authored the following language, which was included in the final version of the legislation: Not later than 10 days following the date of the filing of any proposal for a consent judgment under subsection (b); each defendant shall file with the district court a description of any and all written or oral communications by or on behalf of such defendant, including any and all written or oral communications on behalf of such defendant, or other person, with any officer or employee of the United States concerning or: relevant to such proposal, except that any such communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice alone shall be excluded from the requirements of this subsection. Prior to the entry of any consent judgment pursuant to the antitrust laws, each defendant shall certify to the district court that the requirements of this subsection have been complied with and that such filing is a true and complete description of such communications known to the defendant or which the defendant reasonably should have known,

5. Recently, I was asked to review the Tunney Act and certain public documents on file in the case of the United States vs. Microsoft Corporation, Civil Action NO. 98–1232 (CKK), in the United States District Court for the District of Columbia. Among the documents I reviewed was one filed by Microsoft Corporation entitled, "Defendant Microsoft Corporation's Description of Written or Oral Communications Concerning The Revised Proposed Final Judgment and Certification of Compliance Under 15 U.S.C. Sec. 16(g)," purportedly to comply with the provision set forth in paragraph 4, above.

6. With respect to this provision of the Antitrust Procedures and Penalties Act, it is clear that Congress intended that there show be full disclosure of all communications by a defendant or on behalf defendant with any officer or employee of the United States, except for communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice. It is equally clear that by "government official," Congress meant "members of the. Executive, Legislative, and Judicial branches of government". Congress specifically intended to cover communications by officers of a defendant corporation, lawyers of such corporation, lobbyists of such corporation, or anyone else acting on behalf of such corporate defendant, If I had not been satisfied this was the plain meaning of the statue, I, as the principal author of the legislation, would not have pressed the legislation through to final passage. I am satisfied that the clear language of the statute ensures disclosures of the type described in this paragraph, The legislative history and intent of its author buttress these conclusions.

7. In my opinion, it is essential that all discussions between the defendant corporation and the government (with the specific exception noted in paragraph 6, above) in an antitrust case that might have led to a proposal settlement decree be disclosed. If a defendant corporation did not have to disclose any contacts or communications with the government until such time as there is an actual decree, the very purpose of the disclosure would be defeated. The Tunney Act was never intended to allow for a situation where, in theory, prolific lobbying could be conducted by the defendant prior to the time the presiding judge has ordered settlement negotiations, without public disclosure. If allowed, the Tunney Act would not have reformed the practices utilized in settlement of the ITT case, which in significant fashion demonstrated the need for the legislation in the first instance. The disclosure provisions were designed to help ensure that no defendant can ever achieve through political activities what it cannot obtain through the legal process. Failure to comply with these provisions raises an inference or, at a minimum, an appearance of impropriety.

8. Contrary to some press reports, the Tunney Act wag not intended in any way to prevent the Department of Justice from entering into settlements in antitrust suits, especially before trial where litigation risk is generally present. The Act in fact that such settlements were reached on the merits.

9. The legislative history and plain language make clear that Congress intended that a judge make an independent assessment of whether any such settlement are in the public interest, precisely because the policy objective was to ensure that lobbying contacts did not influence the law enforce function of the Antitrust Division of the Department of Justice. I remain convinced that the policy objective was correct.

10. The language of the Act was clearly drawn and was intended to be inclusive and not exclusive. In my opinion, the filing of "Written or Oral Communications" by Microsoft Corporation, referred to in paragraph, 5, above, is inadequate to satisfy the clear language and intent of the Tunney Act.

FURTHER, AFFIANT SAYETH NAUGHT

JOHN TUNNEY

SUBSCRIBED AND SWORN to before me this 22nd day of January, 2002.

Eleanor McKenna

NOTARY PUBLIC in and for said County and State

ELEANOR McKENNA
Notary Public, State of New York
No. 31–4973011
Qualified in New Yourk County
Commission Expires October 9, 2002
40459139.1

MTC–00032066

Jan 24 02 04:47p
January 23,2002
Renata Hesse, Trial Attorney
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530
VIA FACSIMILE
(202) 616–9937

Dear Ms. Hesse:

This letter is being written to the courts in support of the proposed settlement in the case of US v. Microsoft. I am extremely concerned about the state of our economy and believe a settlement in this case would provide a greatly needed boost.

The government's case against Microsoft has been devastating to our economy. One need not look any further than a graph of the Dow Jones since the case began. It is a straight line down. Yes, there were other factors. But I don't think we can ignore the effect of putting the most important American company of the 21" century into a slate of paralysis.

This settlment needs to be completed so the economy can begin its long climb back.

Sincerely,
Anthony Finchum
143 Rainier Cl.
Chula Vista, CA 91911–5423

MTC–00032067

Nicholas Martin Jr.

6100 Southwest Blvd., Suite 501
Fort Worth, Texas 76109
(817) 377–4344
(817) 377–3186
January 22.2002
Renata Hesse trial Attorney
Antitrust Division
Dept of Justice
601 D Street NW, Suite 1200
Washington DC 20530

Dear Ms. Hesse:

Let's settle the proposed final judgment between Microsoft Corp. and the US Dept. of Justice agreed to on November 6, 2001 and get on to the most important thing facing us today the Euron mess.

If we don't bring the executives and directors of Euron to justice and change the practice of corporations, allowing them to give ludicrous stock options to insiders unreported as a liability to stock holders and many other shady practices we are going to bring our system of free enterprise as we know it to an end. Hoping you understand our concerns and in some way will help get things started.

Sincerely,
Nicholas Martin Jr.

MTC–00032068

City of Stanton
P.O. Box 370 Phone 756–3301
Stanton, Texas 79782
January 24, 2002
Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing in support of the proposed settlement recently negotiated between the Department of Justice and Microsoft. There is no reason for this case to continue languishing in the Federal Court system. No evidence has been presented to show that Microsoft's products or marketing practices have ever harmed a single consumer. To the contrary, productivity increases traced to Windows alone have been enough to spur billions in economic growth over the last decade.

For several years, the federal government has been snooping around Microsoft, at incredible expense to the taxpayer-$35 million-without finding any evidence of consumer harm. Since there is no economic or legal reason for the government to destroy this American success story, it is time to settle the case. Let's put an end to this frivolous waste of money and let America continue to lead the world in technological innovation,

Sincerely,
Danny Fryar
City Administrator
City of Stanton

MTC–00032069

Dear Sirs,

I am the president of a small software company. I have worked in the software business for over 20 years and have watched with increasing concern the domination of the industry by Microsoft.

Speaking as an entrepreneur, the dominance of Microsoft is preventing much new technology from being developed. Many promising avenues of research and product development have been terminated due to direct and indirect influence of Microsoft. The activities of Microsoft found to be illegal by the court are continuing, even accelerating. The settlement does nothing to address the behavior of Microsoft that caused the DOJ to sue in the first place. The settlement actually contributes to increasing Microsoft's dominance by requiring Microsoft to invest in increasing its market share by providing its products to schools.

I cannot object more strenuously to the terms of the DOJ agreement. The industry needs more diversity rather than less. This deal will accelerate Microsoft's dominance. This will be bad for the US software business and cannot be in the country's or consumers'' best interests.

Sincerely,
Michael Price
President
Peak Process, Inc.
1665 Escobita Ave.
Palo Alto, CA 94306
mprice@peak-process.com

MTC–00032070

Davis Consultants, Inc.
3 James Center, Suite 1204
1051 East Cary Street
Richmond, Virginia 23219
(804) 782–1001
January 24, 2002
Reneta Hesse, Esquire
Antitrust Division
U. S. Department of Justice
(FAX) 202–616–9937

Dear Ms. Hesse:

Except for being an avid user of the Microsoft product line, I don't have a dog in the settlement hunt regarding the company and Federal government. However, I do have friends who are and just wanted to echo their request that you approve the pending settlement agreement.

It's hard to imagine that there is a single attorney from Syracuse to San Diego who hasn't been involved in this matter. Frankly, at least to me, enough is enough. From what little I know about the factual details, the settlement is a sound and reasonable resolution of the matter. It's time for this puppy to go away so we can all focus on other matters.

Warmest regards,
Charles J. Davis

MTC–00032071

FROM: DENNIS HOLLINGSWORTH 4
SENATE FAX NO. : Jan. 24 2002
02:45PM P1
THE ADAM SMITH INSTITUTE
January 24, 2002
Renata Hesse, Trial Attorney
FACSIMILE VIA (202) 616–9937
Antitrust Division, Department of Justice
601 D Street NW, Ste. 1200
Washington, DC 20530

Dear Ms. Hesse:

The proposed settlement in US v. Microsoft should be approved. I am writing the courts because I don't support many of the arguments made by the federal government and State Attorney's General. The settlement adequately remedies the situation and should be endorsed by the courts.

The Federal Government and 19 State Attorney's General argued that this case is on behalf of consumers. According to their argument, consumers paid higher prices for software because of Microsoft's anticompetitive practices. Yet,questioning by Appellate Judges during one Phase of the trail gave no examples of consumers who suffered harm by Microsoft's business practices. Furthermore,arguing that consumers have suffered in the web browser market is ridiculous. I can get Netscape or Explorer for free.

Most of the class action suits claiming consumer harm against Microsoft have been dismissed. The settlement creates a government representative to oversee Microsoft's actions and prevent any unfair practices. The courts should approve of this Settlement.

Sincerely,
Christian Krejcik
Executive Director
Adam Smith of California
STATE BOARD OF
DIRECTORS
KEN MOSER
SAM HARDAGE
JOEL ANDERSON
RICK OTIS
JIM GIBSON
DAVE DUNCAN
MIKE FREDENBURG
GAIL, HERIOT
ELECTED OFFICIALS
"DUKE" CUNNINGHAM
51ST CONGRESSIONAL
DUNCAN HUNTER
52ND CONGRESSIONAL
DARRELL ISSA
48TH CONGRESSIONAL
RAY HAYNES
36TH STATE SENATE
BILL MORROW
38TH STATE SENATE
JIM BATTIN
37TH STATE SENATE
JAY LA SUER
77TH ASSEMBLY
PATRICIA BATES
73RD ASSEMBLY
MARK WYLAND
74TH ASSEMBLY
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P.O. BOX 1621
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ckrejcil@yahoo.com

MTC–00032072

DICKMEYER & ASSOCIATES
9020 Brockport Run
Fort Wayne, IN 46835
Attorney General John Ashcroft
Department of Justice
Washington, DC 20530
January 22, 2002

Dear Mr. Ashcroft:

From all appearances consumer choice was the big winner in this settlement. If a consumer chooses Windows as the operating system for their computer, they will no longer be limited to using Microsoft services such as Internet Explorer, Windows Media Player and Windows Messenger. They will now be allowed the choice of non-Microsoft programs to provide similar services.

I know that some of Microsoft's competitors will argue that the settlement does not go far enough in extracting concessions from Microsoft. Please remember that your responsibility is to the consumer and the American public as a whole, not a handful of jealous lobbyists. You have reached an agreement beneficial to them, and that is what counts.

Thank you very much for your time and attention.

Sincerely,
Linda Dickmeyer

MTC-00032073

Community Solutions, Inc
Planning & Development Consultants
P.O. Box 655, Andover MA 01810
Telephone (978) 988–2428
Fax (978) 658–6152
January 24, 2002
Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530

Dear Attorney Hesse,

Please accept my comments with regard to the Microsoft antitrust litigation presently before the federal court. I support the proposal to end the case by agreeing to the settlement that was reached last month between the attorneys for Microsoft and the Justice Department attorneys. This case has gone on too long, and is now only serving to hamper the industry and the stock market with the uncertainty it brings to the economy.It has long since become apparent that the interests of a few industry rivals have driven this case, and that the wishes of the American people to see it end have not yet been heard. The United States needs to have all these companies back working on product before they lose ground to foreign competitors. We all need the jobs and investment dollars that they create,

I believe that Judge Kollar Kotelly had the right idea in directing the parties involved to work toward a settlement, and I support the result of that process. I hope this will mean a quick resolution of this issue.

Thank you for your time in considering my opinion.

Respectfully,
Jay J. Donovan

MTC-00032074

5624 S. Redwood road
Taylorsville, Utah 84123
Tel:(801)966–0066
Fax: (801) 967–8735
Date: Jan 24 02
To: Hon. John Ashcroft, Atty Gen
Company: of USA
Fax: 1202 307 1454 or 1–202 616 9937
From: Mary Black
Company:
Tel: 801 969 5604 (hm)
Number of pages including this one: 2
Comments:
MARY H. BLACK
4261 W 4570 S
West Valley City, UT 84120
January 21,2002
VIA FAX 1–202–307–1454 or
1–202–616–9937
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft.

I wrote previously to Senator Hatch in the hopes that my comments would make a difference on the state level in the Microsoft antitrust case. I write to you today to ask that the federal government takeno further action against Microsoft. For three years now, the resources of a dominant figure in the IT industry, as well as those of the Department of Justice, have been tied up in settling this antitrustdispute.This serves well neither the corporation, nor its shareholders, nor its customers, nor the taxpayers, norjustice itself. When the settlement was reached last November, I was pleased to think that this debacle might finally come to a fruitful end. Now, however, as fully half of the eighteen plaintiff states in the casehave taken advantage of the settlement review period to muster support for rejection of the agreement. I have begun once again to lose hope that the settlement will end in the near future.I fail to see how the settlement can be perceived as in any way unfair, especially consideringthatsome of the terms reached in the agreement cover methods and markets not determined to beunlawfulby the Court of Appeals. Months of mediated negotiation were necessary before this settlementcould bereached. Microsoft was allowed to remain intact, and in exchange, among other things, Microsoft agreed to allow its competitors access to source code, protocols, and interfaces integral to the Windows operating system to facilitate the introduction of non-Microsoft software into Windows.

Microsoft has also agreed not to enter into any contracts that would require a third party to distribute or endorse Microsoft products at a fixed percentage. These negotiated agreements strike me, as a layman, as more than "fair." The big tobacco settlement has apparently whetted the appetites of states involved in litigationagainst large corporations. The desire to bring additional suit against Microsoft is motivated by greed,and not justice. I respect your integrity, Mr. Ashcroft, as well as your unshakeable support of the law, and am hopeful you will have the Justice Department turn away from an unjust case instigated by your predecessor.

Sincerely,
Mary Black
Cc: Representative Chris Cannon
Fax: 202–225–5629

MTC-00032075

ROBLE SYSTEMS
Roble Systems Inc.
Unix, Network and Secuirty Consulting
P.O.Box 46, Palo Alto, CA 94302
Phone: (415)256–2502,(650) 323–2777
Email: info@roble.com
Http://www.roble.com
FROM: ROGER MARQUIS
DATE: JAN 24, 2002
RE: MICROSOFT SETTLEMENT
COMMENTS:
THANK YOU
Renata B. Hesse
Trial Attorney, Antitrust Division, Suite 1200
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

The DOJ's Proposed "Settlement" it is so full of holes as to been tirely ineffective in curbing MS" illegal business practices. I hope the transparency of this settlement is not lost upon the court.

To accept the DOJ's proposal would:

A) keep this case in court for many, many years to come,B) deny consumers the right to choose applications free from monopoly influence,C) thwart the free-market competition needed to make software development profitable, andC) deeply damage many American's belief in the US system of law. TheDOJ's proposal would prove that laws apply only to those without theresources to litigate.

The only effective solution, the only solution that will restore a level playing field, not surprisinqly the remedy previously entered, is splitting the company into two, OS and applications. Until Microsoft is split, thereby forcing the OS division to publish ALL file formats, ALL communication protocols, and ALL APIs my business as many other's will continue to be harmed. We will continue to waste time and money trying to correct intentional incompatibilities between MS and third party software, and our users will continue to be exposedto a completely unnecessary risk of viruses, trojans, and data loss.I urge the court to reject the DOJ's proposed remedy and restore Judge Jackson's order of June 7, 2000.

Sincerely,
Roger Marquis
CEO, Roble System
P.O.Box 46
Palo Alto, CA 94302
(650) 323–2777

MTC-00032076

Missy Broussard
498 Laurelleaf Lane
Covington, LA 70433
January 22,2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
FAX: 202–616–9937
RE: U.S. v. Microsoft

Please know that my feeling is that this settlement is in the best interest of the economy and consumers.

Our economy could use a boost and I think this settlement will help. I think that this case has gone on long enough. Too many tax dollars have been spent on it. We need to encourage competition and we don't need the courts so involved in an industry that it discourages growth and innovation.

Please approve the settlement and encourage more companies to get out thereand compete.

Thank you,
Missy Broussard

MTC-00032077

The Commonwealth of Massachusetts
House of Representatives
State House, Boston 02133–1054
FRANCIS L. MARINI 6TH PLYMOUTH DISTRICT
REPRESENTATIVE DUXBURY HANSON PEMBROKE
MINORITY LEADER ROOM 124
TEL.(617)722–2100
Rep. FrancisMarini@house.state.ma.us
Fax Cover Sheet
TO: Renata B. Hesse
Antitrust Division- U.S. Justice Dept.
FAX: 202–616–9937
FROM:
Office of Representative Francis L.Marini
House Republican Leader
(617) 722–2390
The Commonwealth of Massachusetts
House of Representatives
State House, Boston 02133–1054
FRANCIS L. MARINI 6TH PLYMOUTH DISTRICT
RPERESENTATIVE DUXBURY o PLYMOUTH o PEMBROKE
MINORITY LEADER ROOM 124
TEL. (617) 722–2100
Fax (617) 722–2390
Rep.FrancisMarini@hou.state.ma.us
January 24,2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse,

There is a growing sentiment among economists that we are finally seeing the light at the end of the tunnel of our nation's recession. The markets are improving, and the economic forecast isgenerallypositive. However, state revenues are down and most states will have to consider tough cuts on spending in coming budgets.

In Massachusetts, we have witnessed a shrinking state revenue base mostly caused by therecession. Many growth opportunities were squandered in the 1990s, and now, instead of trading on our accomplishments, we are lamenting over what might have been.

One thing that can be done to aid states'' economies is to end the Microsoft lawsuit. We are writing in support of the nine states and the Department of Justice's settlement agreement. It is afair andreasonable agreement, which brings a satisfactory conclusion to this long-running anti-trust case.

As the old saying goes, a rising tide floats all boats. And just as a rising tide will float a boat sitting at the lowest point first, so the resolution of this case will help those who have the farthestto risefirst.

The technology-driven "innovation economy" has created tremendous opportunities for the citizens of the Commonwealth. But we must act now to take some of the uncertainty out of theeconomy.

We urge you to endorse this settlement agreement, which would provide states greater confidence infiscal planning and would allow entrepreneurs and businesses to get back to the business ofcreating newand better products for consumers.

Sincerely,
Francis L. Marini
Minority Whip
Bradley P. Jones Jr.
Asistant Minority Leader
George N. Peterson, Jr.
Minority Whip
Mary S. Rogeness
Assitant Minority Whip

MTC-00032078

York PROPERTIES, INC.
Asset Management, Leasing, Property Managament
Brokerage, New Homes, Relocation
January 17, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202–616–9937
microsoft.atr@usdoc.gov

Dear Ms. Hesse:

As a real-estate professional in one of the nation's fastest-growing markets, I can attest to the importance of settling the Microsoft antitrust case as soon as possible. I write in hopes that the court considering the proposed settlement will give careful consideration to the view I know I share with many Americans who are concerned about the continued impact this litigation could have on our nation's economic recovery.

I strongly believe that competitors should settle the differences in the marketplace, not in the legal arena. The Microsoft suit was driven by competitors of Microsoft, and the U.S. Department of Justice allowed itself to be used in that effort to win in the courts what competitors had been unable to win in the market.

Now a settlement has been negotiated under which Microsoft will be required to change its business practices substantially and submit to continuing review of its behavior. This should be sufficient. It is time for the high-tech industry to get out of the courtroom and lawyers'' offices and back to work providing better products, better services and lower, prices to consumers.

Sincerly,
Peter Pace
Vice President
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801 Oberlin Road Suite 335 o Raleigh, NC 27605–3125
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Society of Industrial and Office Realtors Industrial Menmber(SIOR)
Certified Commercial Investment Member Organization (CCIM)
The Commercial Network (TCN)
Institute of Real Estate Managament(REM)

MTC-00032079

Fax Cover Sheet Kinko's
13061 Lee Jackson Memorial hwy
Fairfax VA. 22033
Telephone: (703) 817–0900
Fax: (703) 817–0970
E-Mail:USA0821@kinkos.com
Date: January 24, 2002
To:
Company: U.S. Department of Justice
FAx: 202 616 9937
From: C. Dean Whitaker
Company:
Tel: 703 383 1437

Tunney Act Commentary to the Proposed Microsoft Settlement

My Interest

I have been a software developer for five years, producing systems used by the Department of Defense. The terms of the Microsoft settlement will profoundly affect the manner in which I use computer systems professionally. Even in my home, where I program software and tinker with hardware both out of necessity and for my own amusement, I have a stake in seeing that the market provide competition and innovation.

The Findings

The responsibility of the Federal government, as it applies here, accorded by the Sherman Antitrust Act, is to prohibit behavior which deigns to continue monopolistic practices if those practices are deemed to restrain trade and are injurious to competition and economic liberty.

The behavior of Microsoft Corporation has been deemed by the U.S. District Court's Findings of Fact to be injurious as such:

They have withheld technical information from the industry though the market lacks any alternative product for consumers to seek out.

- They have encouraged the development of software and data that would prevent competing software from functioning properly.
- They have threatened sanctioning of corporate partners who wished to build systems that included certain software that Microsoft wished to keep excluded.
- They have engaged in technical practices that had no particular innovation but to lock out competitors from such systems wherein Microsoft owns a monopoly.

The question of the breadth of power that Microsoft wields in both home and business markets is clear. The findings state that the market share for Microsoft systems on Intel platforms has stood at ninety-five percent or greater in recent years. It also describes "positive network effects" associated with OS software and applications: that more consumers will be more inclined to use a system as its user-base expands. This phenomenon, in a general sense, describes most of the barriers to competition and innovation that Microsoft has constructed.

Limiting the severity of these barriers should be the primary motivation of a final judgment.

The Current Remedy's Problems

The final judgment should succeed in one thing if it fails in all others, it should punish Microsoft for the behavior for which it has been deemed guilty. The current settlement, by specifying no restrictions on the behavior of binding applications more closely to the operating system thereby tacitly allows such behavior that the District Court found inappropriate. This omission rewards such actions as has been deemed illegal, and would therefore leave the market worse than if no trial had been held at all.

Open Data Format Standards

There must be a remedy to require Microsoft's business systems: OS, office applications, business enterprise systems, and networking software, to use open industry standards for document and data formats. Microsoft has, itself, sponsored and advocated the creation of standards within the XML (Extensible Markup Language) family of languages. Enforcing the use of industry-accepted formats for common Internet protocols would allow the survival of competitors within the browser market. Without such measures, Microsoft may promote, and by sheer weight proliferate, the use of standards which lock out competitors and likewise consumers who do not or cannot license the latest Microsoft browser versions.

This involves requiring Microsoft to use industry-accepted data formats for the resultant files of its more commonly used systems, such as those encompassed by XML-based standards, or to publicly publish and promptly update data formats for systems where the industry has no definite single standard.

Possible standards include, but are not limited to, Microsoft Word word processing document data and templates, Microsoft Excel spreadsheet data and templates, Microsoft Powerpoint data and templates, Microsoft SQL, Microsoft Access database files, Microsoft Outlook client and Microsoft Exchange server email processing and transmissions data, Microsoft financial software, networking protocols, file-system protocols, file-system journalling information, and any immanent "NET" systems protocols.

When Microsoft Word entered the field of word processing software, it had many viable competitors. At that time, they strived year after year to improve the power, quality, and stability of the application. One feature that allowed them access to the market was the program's ability to import foreign formats (formats from competing or archaic systems). Microsoft currently wields enough power to produce barriers to competitors choosing to emulate this practice: the document standards are much larger and represent many features including version control. Microsoft has already begun in the courts system and by promoting particular legislation, attempting to legally prohibit reverse-engineering of their data standards, and it is only inevitable that they will attempt to intimidate competitors based on document formats or business application standards.

Of course Microsoft can be held accountable only for how its own applications behave, and not for how others may use them. However, the remedy may specify that such open standards are to be provided by Microsoft's applications, especially for the benefit of contracts and programs required or funded by the U.S. Federal government.

Another category of software that open standards may apply to is that of proprietary device drivers for widely-used hardware that for one reason or another competitors have been to barred from using. One example is Win-modem technology which, when present on a computer, is inaccessible from many non-Microsoft operating systems. The practice of proprietary hardware is indeed so counter-productive that its exercise by Intel's competitors is largely responsible for Intel's, and thus Microsoft's, past successes. That Microsoft can now engage in this practice to no noticeable detriment bodes poorly for hardware innovation.

Liberating the Boot Sequence

Contractual requirements that Microsoft has forced upon OEMs that prohibit and subtly (and illegally) sanction against competing products being loaded in either the OS boot sequence or the computer's BIOS boot sequence should be dissolved and prevented from re-establishing in any form. The former (of the OS boot sequence) has inhibited the survival of competing Windows products by making it less convenient to operate non-Microsoft applications. The latter (of the BIOS boot sequence) has prevented the OEMs from selling, within normal distribution channels, multiple-boot systems, computers with more than one operating system.

Encouraging Competition on the Internet

The conventional reason cited for the breakup of the Standard Oil trust was that Standard controlled the resource (oil) as well as its primary distribution network (the railroads). The court should take into consideration that the resource in this case (the operating system and all of the applications that Microsoft claims are inseparable from it) will soon have as its primary distribution network the Internet itself. If Microsoft were to simply maintain its current market share of computers on the Internet, (though its share is, in fact, growing) it could soon devise a way to lock out systems running competing software, even if that software is running on a Microsoft OS.

This suggested remedy, ,therefore, is for the U.S. Federal government to be extremely vigilant in the future, and to make such a settlement that would enable the government to step in, without delay, to protect a company or organization for whom a new barrier to competition has been specifically implemented by Microsoft. The financial interests of the company or organization, and indeed the market itself, could ill-afford to wait out any major trial relating to such future actions as Microsoft undertakes. A "probationary period" should extend at least for five years from this settlement, during, which time a compliance committee with power to overturn egregious practices should be in operation. One past example of such behavior was not cited in the findings but nevertheless provides an example of where this remedy might have been utilized. If the services of an online greeting card company were to be rendered less functional by a new version of Microsoft Internet Explorer while Microsoft was simultaneously engaged in starting a competing online service the U.S. Federal government could, during this probationary period, step in and force Microsoft to roll back the changes that created the problem or to release a new version entirely correcting the problem. The customers who received the faulty version would be sent the correcting software at Microsoft's expense. This would occur expeditiously within a review board set up by this remedy, thereby allowing both the petitioner and the state, to save the time and expense of a new trial.

Finally Given the current economic circumstances of many of Microsoft's potential competitors, this case may be the last opportunity to stem the expansion of a corporation that could very easily wield power over every sector of the economy. If a single entity were to have proprietary control over the protocols that constitute the Internet, that entity would have a hand in all information-based commerce and finance. Microsoft has continued many dubious practices throughout the course of this trial, including threating license audits of civil government institutions. Microsoft considers itself above the law and the case settlement should not confirm their position.

Thank you
C. Dean Whitaker
12162 Penderview Lane
Apt. 1623
Fairfax, VA 22033
01/24/02 16:14 FAX 005

MTC-00032080

Bob Smith, Chairman
Onondaga County Republican Committee
375 W. Onondage St.
Syracuse, NY 13202 315-471-2020
315-471-2O33fax
To: Renata Hesse
ROBERT W. GIARRUSSO, Chairman
NANCY J. SANFORD, Administrative Assistant
January 24, 2002
Renata Hesse, Esq.
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

I am writing to advocate for settlement of the matter U.S. v. Microsoft. New York State is still recovering from the failed fiscal policies of a decade age, and thanks to Governor George Pataki has become far more business friendly. However we still have a long way to go.

Microsoft products are used by the vast majority of business and consumers in New York. Litigation aimed at breaking up Microsoft is not the proper role of the federal government. Our officials, elected and appointed, need to do everything they can to encourage capitalism, the advancement of technology and healthy competition. I have seen no evidence of public outcry regarding Microsoft. This lawsuit was generated by Microsoft competitors and the battle belongs in the marketplace, not the courtroom. To punish this company with further litigation and use tax dollars to fund this dubious effort will only hurt the end user—we the consumers.

Please include me among those who support immediate settlement over protracted litigation.

Sincerely,
Robert Smith
Chairman

MTC-00032081

William Ashendorf

Attorney/Mediator
January 22, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Microsoft Case

Dear Ms. Hesse:

As an attorney and business owner, I know the impact litigation and government regulations can have on a company. I am also very interested in how technology has changed the legal profession and the economy so I have been following the Microsoft antitrust with interest.

The proposed settlement agreement will provide adequate remedies to all involved in this industry-Microsoft, its competitors, computer manufacturers, software developers and consumers.

The protection for Microsoft competitors include access to technical information about the Windows operating system so non-Microsoft software systems can be used. Microsoft can renew its efforts to develop innovative software and continue its technology leadership in the global economy.

It is time to resolve this issue and get technology companies back to the business of innovation and product development. In my own city of Charlotte, we have seen the impact of a slowing economy, with some technology companies closing and others reducing their workforces. Other industries are also facing tough times. A thriving technology industry could provide a boost to other parts of the economy. I appreciate your attention to this matter.

Sincerely,
William Ashedorf
6040 Jester Lane
Charlotte, NC 28211
Tel. & Fax. (704)366–7720

PHI'S DELI III IN TOWN
105 E St.
Charlotte, NC 28202
Ph: (704)347–0035
Fax: (704) 347–3663
January 16, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Re: Microsoft Case

Dear Ms. Hesse:

As a restaurant owner and consumer, I've seen the immediate impact that slowdown in the economy is having on individuals and businesses. I live daily with the changes in government regulations. Many are important to the health of our citizens, but other regulations and antitrust litigation can have a damaging effect on innovation and production.

I have been following the antitrust litigation against Microsoft and believe that the proposed settlement agreement strikes a balance between the needs of the company and those of its competitors. Protections for competitors include greater flexibility in adding non-Microsoft products to the Windows operating system and access to technical specifications about the operating system. At the same time, Microsoft can continue its efforts to develop new, innovative products.

It is time to accept this agreement and get technology companies back to the business of innovation and product development. A thriving technology industry can have a ripple effect on my own business. I know that here in North Carolina a strong boost in technology and other sectors is needed to build our economy back to the level we had a year or even three years ago. Thank your for your attention to this issue.

Sincerely,
Phil Levine

MTC–00032082

From: mrivan@mediaone.net@inetgw
To: mrivan@mediaone.net@inetgw
Date: 11/18/01 4:48am
To: Office of the Attorney General
From: Anthony D'Andrea
Box 1209
Randolph MA 02368
Re: Microsoft prosecution

People:

I still remember the last thing Microsoft produced which, as far as I know, was a legitimate creation of their own company. It was a Floating-Point BASIC Interpreter for the old Apple II Machines that came out around 1979 or so. Since then, it has been all downhill for MS.

It is common knowledge that Bill Gates stole the MS-Dos operating system from his partner at Altair, then sold IBM on using it for the OS in their first computers which appeared several years after the Apples.

Gates" next lie read like this: "If you want a personal computer that you can hook up to your business mainframe, it will have to be an IBM". Not an ounce of truth in it, but between the cosmetic value of the lie and IBM's massive market share, it enabled MS to capture a good 85% of market share from what had been mostly Apple's territory. Later, after Apple had begun incorporating mouse and windows technology into their later Apple II's, the Apple III, the Lisa and early Macs, MS produced the first version of Windows, for which Apple promptly and properly sued them for copyright infringement. Apple won that round, and MS's "Trash Can" has been a "Recycle Bin" ever since.

Unfortunately, the lies and thievery from Gates & Co. was far from over. Since that time, every innovation that has come down the pike has run headlong into Bill Gates. Innumerable companies have had to make the choice between selling out, licensing the technology to MS or being driven out of business by being undersold. To this day, hardware companies sell their wares at near cost, simply in an effort to undercut the competition and keep others like Apple from regaining any market share, then they make their profits from the software later.

I own a Macintosh machine. The machine is equipped with a package called "Virtual PC", which allows me to run Windows on the Mac and use any of MS's software, should I choose to do so. I have consistently found Mac software to be far more easy, user-friendly and stable than the MS equivalents. Still, when I visit most software vendors, I find them reluctant, almost fearful, of carrying Mac software.

Chains such as Walmarts get their stock thru central buyers which have shown reluctance in the extreme to carry anything BUT MS compatible software. In one case, a chain called "Best Buy", I discovered Mac and Windows versions of identical software on the shelf together, with the Mac version selling at $10 more than the MS version. I summoned the store manager and demanded an explanation. I was told that if he did not price the products in that fashion, MS would pull all their products from his shelves.

This has not been the exception, but the rule. How blatant does MS have to act before they can be found guilty of racketeering? How obviously does a monopoly have to conduct themselves to be recognized for what they are? And how many people will have to be hurt or driven out of business before someone takes this monster in hand and administers justice???

The dangers of such a concentration of power go far beyond simply fair business practices. Their efforts, for instance, to modify Sun's JAVA language earned them lawsuits and produced a certain degree of confusion among web programmers. Their regular introduction of new media formats without the software to allow other systems to immediately keep up with the changes provides them with additional pressure to sidestep fair competition. And thruout these efforts, there is always the MS database, in which a great deal of personal information is kept.

Does a database of personal information provide a threat in and of itself? Of course not. I am sure Apple has my name and address somewhere in its files. But think of the back-door that MS gave to the NSA, which allows them to enter anyone's computer, anywhere in the world, examine the hard drive and even read and write on that drive with complete concealment. When the Chinese discovered that, they began a campaign to eliminate Windows from every machine in their country and replace it with Unix. Think also of the Eschalon program, which has had Japanese and German authorities angry at us in the USA for some time now, as they have justifiable fears of corporate espionage if that aforementioned "back-door" gets into the wrong hands.

Right now, business has almost no alternative to Windows. And since Windows is nearly completely borrowed or stolen technology, several years behind Apple and others, and since some real security threats exist and grow more ominous on a daily basis, something MUST be done and done soon to eliminate this threat.

The only solution is to deal with Microsoft thru the courts, in the most appropriate way possible, under the RICO laws as racketeers. By taking them in hand, forcefully, and compelling them to adopt practices that will open the market to real competition, you will find that rather than hindering development, it will enhance the opportunities for competing companies to enter the marketplace and speed the development of new technology. The companies are already out there, working on new ideas, developing approaches to market their ideas while defending their battlements from the MS assaults that will surely head their way when the threat of innovation becomes visible.

There are nine states at this time that disagree with the DOJ resolution of the case against MS. This may be the last opportunity to wield the sword of the Law against a seemingly unassailable threat. I beg you, use the power that you have in this just cause.

For just one of hundreds of sources of more background and documentation of the illegal and anti-competitive practices of MS, I refer you to this website...

http://hive.me.gu.edu.au/csand/md/0soft.html

Thank you for your attention to this critical issue. Your response would be appreciated and a dialogue welcomed.

Anthony D'Andrea
Randolph Massachusetts
CC:Microsoft ATR,microsoftcomments@doj.ca.gov@inetgw,...

MTC-00032083

From: Jim Hartneady
To: DOJ
Date: 11/19/01 9:19am
Subject: The Salt Lake Tribune—Most Microsoft Foes Won't Criticize Settlement for Fear of Retaliation,

Here is an article that shows the weakness of the settlement.

Regards,
Jim Hartneady
http://www.sltrib.com/11182001/Business/149631.htm

MTC-00032084

From: richard
To: cloweth@mac.com@inetgw
Date: 11/19/01 11:17am
Subject: Microsoft case

The government and attorney generals were wrong to try and tell Microsoft what belongs in an operating system. Most people are happy to have a web browser included with a computer. The government has no business making decisions about what features go into an operating system. Where Microsoft does cross the line, is doing things to make it difficult for others to make applications work on windows. Digital camera manufactures need to have their products work just as well as something form Microsoft.

What the attorney generals and the Feds need to do is take a close look at AOL and their proprietary messaging system. This smells a lot more like use of monopoly power.

The attorney generals and Feds also need to get the politics out of who get looked at for antitrust—when Larry Ellison and AOL can through a lot of money around and get a company sued by the government, something stinks. Now Microsoft has to through money at politicians too—the net result is more corruption in government and poorer products and government sanctioned cartels.

The Wall Street Journal had a good editorial recently about how the attorney generals were using the Microsoft case basically to advance their political careers. I think that the attorney generals need to resign—or find something more useful to do.

rp

— Christian Loweth <cloweth@mac.com> wrote:

Hi,

I posted the following on several forums last week as well as many Users Groups and the response has been encouraging. Please feel free to share this info among friends/colleagues if you wish.

Should Microsoft receive harsher penalties?

I am very disappointed with the Feds proposed settlement. Fortunately nine states'' AG's agree with me. I have sent the following to the states'' AG's dissatisfied with the terms of the USDOJ settlement agreement.

''It seems to me that Microsoft has indulged in not only anti-trust violations but racketeering as well. Is this a possible avenue of approaching their abuses?''

As you can see, my position well exceeds current prosecution parameters. Even if you don't agree with my extreme position, but desire more vigorous prosecution, I urge you to write to the Attorneys General to inform them of your support. You dont have to reside in these states to write them. Write to all of them if you wish. The Attorneys General exist to provide services to their constituency. I believe that for the most part they take this responsibility very seriously. They want to get the bad guys. It is my opinion that Microsoft, Gates, Ballmer, et al, are the bad guys.

Below are the email addresses of the nine states Attorneys General dedicated to continuing with more stringent anti-trust prosecution. Included is USDOJ address to express your displeasure to the Feds. For international readers I have included a link to a USDOJ website listing other countries who are undertaking anti-trust action.

Please include your name and address. This contributes to your authenticity. They may want to send you a snail mail confirmation. Please put it in your own words. And keep it brief. They understand the issues, so you don't need to re-hash them. It would probably be most effective if you stated that they press on with their lawsuit to impose maximum penalties.

A formulation was made years ago by various entities like newspapers, magazines, politicians, and such. They figured that for every person who bothered to write to them represented X amount of people who didnt take the time and effort to write but shared similar opinions. X can equal anywhere from one thousand to ten thousand depending the specific circumstances of the recipient. So, as you can see, the simple act of writing can have a multiplier effect. Thats why your single contribution is so important.

If you agree that Microsoft has gotten off too lightly, I plead with you to take a few minutes, write to the Attorneys General and make your opinions known. When were all using Microsoft Windows at least youll be able to console yourself by knowing that you at least tried to resist Microsoft hegemony.

This is the time to strike. They believe that they have hornswoggled a sweet deal. Their guard is down, if just a bit. This is far from over.

California: microsoftcomments@doj.ca.gov
Connecticut: attorney.general@po.state.ct.us
Florida: ag@oag.state.fl.us
Iowa: webteam@ag.state.ia.us
Kansas: GENERAL@ksag.org
Massachusetts: tom.reilly@ago.state.ma.us
Minnesota: attorney.general@state.mn.us
Utah: uag@att.state.ut.us
West Virginia: consumer@mail.wvnet.edu
US Dept of Justice-Microsoft anti-trust comments:
Microsoft.atr@usdoj.gov
US Dept of Justice-other sites worldwide:
http://www.usdoj.gov/atr/contact/otheratr.htm

This is a real opportunity for those of us who want more stringent prosecution. Before, Microsoft had only to have one team of lawyers to deal with the Feds. Now, their efforts will be diluted by virtue of having to confront nine different government entities. The time to express your opinion is now. Together we can have a positive impact on the future of computing if only we take the time to express our opinions to those who hold the public trust.

Best regards,
Christian Loweth

MTC-00032085

From: ray@granitenetworking.com@inetgw
Date: 11/19/01 2:04pm
Subject: User-Agent: Microsoft-Outlook-Express-Macintosh-Edition/5.02.2022
User-Agent: Microsoft-Outlook-Express-Macintosh-Edition/5.02.2022
Date: Mon, 19 Nov 2001 17:00:07 -0500
Subject: Stop Microsoft's Unfair Business Practices
From: Ray Gombos <ray@granitenetworking.com>
To: <microsoft.atr@usdoj.gov>
Message-ID: <B81EEB16.B5A%ray@granitenetworking.com>
Mime-version: 1.0
Content-type: text/plain; charset=''US-ASCII''
Content-transfer-encoding: 7bit

Dear Department of Justice,

Please do not allow the Microsoft corporation to continue its use of unfair business practices in stifling competition in the technology industry. Some of the greatest advances in Information Technology came from Microsoft's competitors. Unfortunately, Microsoft's monopoly on desktop software has given them the power to freely distribute new software with the intent of forcing competitors out of business. Microsoft should have been broken up into separate companies last year it is time that our civil justice system starts working for the good of the nation not just the bank accounts of big business.

Thank you,
Ray Gombos
44 Merrill Road
Trumbull, CT 06611
(203) 459–0777

MTC-00032086

From: Lori Brocka
To: webteam@ag.state.ia.us@inetgw,attorney.general@po....
Date: 11/20/01 8:23am
Subject: Microsoft

The purpose of this email is to let you know I appreciate your continued efforts in fighting Microsoft. I have used Micrsoft products both by choice and lack of choice. I am associated with and work with numerous members of varying IT departments and it has become incredibly obvious to anyone "in the trenches" that Microsoft is not only getting away with the same business practices they have always employed, but are emboldened by this settlement. Microsoft is a master manipulator and as such has led the lemings to the cliff once again. I personally am doing everything I can to use alternative products. Anyone that attempts to do this needs to have patience, a better than average understanding of software, and determination. This is not the fault of the software products, but a direct result of Microsoft tactics. I am still unable to load most Microsoft support pages when using the Opera browser. I will continue my personal quest to become Microsoft free and I encourage you to do the same. This problem goes much deeper than software, there is a mind set among many IT decision makers that it is not possible to run a business with out Microsoft products, I would hope that part of Microsofts penalty is to spend a very large sum of money on educating these people on the other possibilities.

Thank you
Lori Brocka
Iowa
CC:Microsoft ATR,tom.reilly@ago.state.ma.us@inetgw,at...

MTC-00032087

From: Greg Alton
To: Microsoft ATR
Date: 11/20/01 9:03am
Subject: Microsoft settlement

Today I read that Microsoft's proposed settlement with the government over the antitrust complaints may include a donation by Microsoft of computers to U.S. schools.

This is absurd. This goes completely counter to the original problem, e.g., abuse of monopoly power, since this settlement will undoubtedly reinforce that monopoly. The only terms under which this type of settlement could make sense were if Microsoft were required to donate equipment (software, etc) from other companies. Please don't let this settlement proceed as is. Alas, I fear the taste for enforcing antitrust has left the Justice department.

Greg Alton

MTC-00032088

From: William
To: djohnson@ag.state.oh.us@inetgw
Date: 11/20/01 9:32am
Subject: They are getting away with it again!

I am very disappointed in Ohio not being part of this law suite. Microsoft is going to get away with there past behaviors because you don1t understand nor what to. Just as long as they are not very obvious we continue to let them indulged in anti-trust violations and racketeering. We all use their software and think how can such great stuff come from lawbreakers. Well that1s the key and that1s what MS what's you to believe... it does. They slowly put us to sleep and one day they will have control of every computer aspect of our lives. No one can compete with MS and all their money.

A lawsuit is like a walk in the park for MS because they can ware anyone down even the Government. They have been doing this for years. Now that they have a new OS XP out you can see that they continue the behaviors of the past if you but only look! Wakeup and smell the coffee! Get in the game.

William Davis
232 So. Washington
New Bremen Ohio 45869
william@nktelco.net
CC:Microsoft ATR,microsoft comments@doj.ca.gov@inetgw,...

MTC-00032089

From: raskol@inteform.net@inetgw
To: ag@oag.state.fl.us@inetgw
Date: 11/20/01 9:37am
Subject: I am writing to inform you of my support and hope that you will continue

I am writing to inform you of my support and hope that you will continue anti-trust prosecution of Microsoft. I speak for many of my friends when I say that I believe Microsoft is guilty of anit-trust violations and racketeering.

Brett Anderson
4132 Eaton
Kansas City, KS 66103
Brett Anderson
. . . .raskol@inteform.net
. . . .brettanderson@inteform.net
. . . .www.inteform.net
. . . .913 484 8843
CC:Microsoft ATR,GENERAL@ksag.org@inetgw,GENERAL@ksag...

MTC-00032090

From: John Kornet
To: tom.reilly@ago.state.ma.us@inetgw
Date: 11/20/01 10:46am
Subject: Microsoft Settlement Insufficient

Mr. Reilly-

Thank you for continuing the battle against the Microsoft monopoly when our federal government has all but given up. I'm writing to you to express by extreme displeasure with the settlement thus far and to offer you my full support in your continuing case.

I value the freedom of choice in all things I do perhaps more than any other personal right. I firmly believe that Microsoft's practices are impinging upon that right. I have often bought Microsoft's products and even thought a few were good products, but the tactics they are using to "compete" with other companies almost certainly guarantee that someday I will not have any other choice than to buy a Microsoft product. This is absolutely unacceptable!

The industry that Microsoft competes in moves so fast. We need to keep it moving that fast. It's called progress. Progress that has defined America's (and Massachusetts') prosperity in the information age. If there is no room for competition, we face the prospect of little or no progress at all—just one choice, one solution, one pace. This is not how a free market is supposed to work.

Please do everything in your power to reign in Microsoft, so that our economy and society can continue to enjoy this unprecedented growth.

Your constituent,
John Kornet
17 South Street
Medfield, MA
02052
CC:Microsoft ATR,microsoftcomments@doj.ca.gov@inetgw,...

MTC-00032091

From: Greg Miller
To: attorney.general@po.state.ct.us@inetgw
Date: 11/20/01 11:13am
Subject: <no subject>

I am a resident of Austin, Tx. Unfortunately, my state has settled with Microsoft in the anti-trust battle. My Attorney-General does not represent me, and my only recourse is to ask that you continue to prosecute. Microsoft's latest action, the "donating" of $1 billion worth of microsoft windows, software and hardware to schools (while in theory a nice gesture) illustrates how they continue to use their power to and unlimited wealth to move more and more people onto their platform.

Please help.
Please continue the fight for equality.
Greg miller
Greg Miller
http://www.greg-miller.com
512.346.4589
9617 Great Hills Trail #514
Austin, Texas 78759

MTC-00032095

From: Donald Watson
To: "Antitrust Case Opinions"
Date: 11/20/01 11:44am
Subject: Stop the madness PLEASE

As an IT professional I know the computing industry and both home/personal computing as well as corporate computing quite well. It is utterly ridiculous to continue this pursuit of Microsoft. Sure they may have some monopolistic power but only because we the people have accepted that Windows is better than the alternatives. I am sure I don't speak only for myself when I say I am glad the operating system comes with as many features as it does. I'm glad the world has chosen (YES CHOSEN, NOT BEEN FORCED) to settle on a single operating system for compatibility. This makes life easier for all of us. The cost of windows is not high. It's a tremendous buy for a small price. I don't have to spend $20, $30 or $50 dollars on separate packages to defrag my hard drive, surf then net or send email. This is all included. I STILL HAVE THE CHOICE to install whatever software I wish to use. If I don't like IE, then I'll pick Netscape, If I don't like the defrager, I'll pick Norton etc, etc, etc. This doesn't make me a big fan of Microsoft.

I think they still make some pretty buggy, shoddy software but it is better and more compatible than anything else out there. I have millions of programs to choose from because of Windows. Any other Operating System only has a tiny fraction of that number of programs. So please. Think about what effects you'll have on computing if this ludicrous case continues. Please let the public make its own decisions.

Thank you
Donald "Doc" Watson
Information Services

Linn County REC
5695 REC Drive
Marion, IA 52205

MTC-00032096

From: Greg white
To: root
Date: 11/20/01 12:09pm
Subject: anticompetitive M

Dear DOJ,

If you are serious about dealing with microsoft then you have to do something pretty drastic otherwise it will just be business as usual. We all know how awfull M has been and continues to be. Do you want M to own the entire computer and telecomunication system of the world. Because I'm sure that will happen if you do nothing to stop there current behaviour.

Kind regards,
Greg White

MTC-00032097

From: F. Frank
Date: 11/20/01 12:16pm
Subject: microsoft bad deal

Hello—

I am writing because I believe that the deal arranged by the U.S. government and Microsoft is a BAD deal for all us consumers.

Microsoft is a criminal company and is a danger to U.S commerce and the future of computing.

I believe it would be in the best interest if Microsoft was broken up into different competing companies.

F. Frank
24200 Sw Yew Wood Ln
Hillsboro, OR 97123

MTC-00032099

From: Jay Dylan Tyler
To: Jay Dylan Tyler
Date: 11/20/01 1:21pm
Subject: Microsoft

A formulation was made years ago by various entities like newspapers, magazines, politicians, and such. They figured that for every person who bothered to write to them represented X amount of people who didn't take the time and effort to write but shared similar opinions. X can equal anywhere from one thousand to ten thousand depending the specific circumstances of the recipient. So, as you can see, the simple act of writing can have a multiplier effect. That's why your single contribution is so important. If you agree that Microsoft has gotten off too lightly, I plead with you to take a few minutes, write to the Attorneys General and make your opinions known. When we're all using Microsoft Windows at least you'll be able to console yourself by knowing that you at least tried to resist Microsoft hegemony.

This is the time to strike. They believe that they have hornswoggled a sweet deal. Their guard is down, if just a bit. This is far from over.

Yours,
Jay Dylan Tyler
CEO linXS:Corporation
jay@lin-xs.com
http://www.lin-xs.com

MTC-00032100

From: Csaba Nagy
To: Csaba Nagy
Date: 11/20/01 4:10pm
Subject: Microsoft Anti-Trust case

To whom it may concern,

I have followed with great interest the Microsoft anti-trust case (and its earlier derivatives) for several years and have been astonished time and time again at the light punishment that it has been given for its offenses. The following are some of the perceptions that I have, and I believe the majority of the public has:

—if someone breaks the law they should be punished

—the type and length of punishment is variable and takes into account among many other things the severity of the crime, past behavior (have they committed other crimes in the past, have they committed similar crimes in the past)

—repeat offenders are punished most severely, especially if they continue to break the law in the same way

Microsoft has been consistent in its behavior for several years of using its monopoly ownership of the operating system to advance the usage of its products. Microsoft says that this is innovation, which is not true. Innovation is the company that wrote the first web browser, the first MP3 player, the first anti-virus software etc. Microsoft is not innovating when it comes out with an identically functional product. In these instances, Microsoft is advancing someone else's innovation forward without having to sacrifice the original effort required to have come up with the idea in the first place. Improving on someone else's ideas is not wrong in itself, and in fact this is one of the strengths inherent in capitalism based on competition. The problem is when you leverage your monopoly position in one area of the market with the intent to discourage customers from using a competitors product. Maintaining a competitive environment is important and helps to maintain a healthy industry (and this is the case for all industries). Once competition is eroded, there is no incentive for a monopoly to be productive, to be efficient, or to manufacture improved products. While you may have temporary improved stability derived from standards because of a monopoly, the overall long-term effect is one of neglect towards the customers because there is no need to worry about a competitor stealing them away from you.

Microsoft has gone on too long without being punished in a realistic manner. If at this point Microsoft is not held accountable, then their behavior is justified and will continue ad infinitum until both the public and the industry are harmed.

Imagine the ridiculous situation where there is Company X which manufactures the majority of roads in the US. They are responsible for designing the majority of roads, building them, repairing them, etc. Now imagine that there are 10 companies, including Company X, which manufacture the various cars, SUVs, trucks, motorcycles to function on these roads. There is a tremendous variety of vehicles because their are many different consumers, each with their own taste and needs. All of the vehicles work on all of the roads.

What would happen if Company X makes some changes to the roads that it keeps secret. Then it uses this secret in order to make its vehicles run better than its competitor vehicles. They remark to the complaint of the competitors with, "Innovation, this is what customers want, need, and deserve." Well, the cars do run faster, and the trucks get better gas mileage, and the traction is safer in the winter, so why should we complain? We should thank Company X for helping us all out with such well thought out ideas.

One day Company Y comes out with a completely new vehicle that is very popular. In fact it is so popular that it is a blockbuster hit and everybody is talking about this car. Competitor X comes out shortly with a version that is very similar, in fact it is mostly a copy of Company Y's car with a few less amenities. Company X's car does not do so well. What is Company X to do? Company X continues to "innovate" and eventually decides that they can make some money with tollbooths on some of its roads. These are funny kind of tollbooths though, because rather than charge passengers for driving through them, then only let vehicles manufactured by Company X through. Many people complain, but Company X explains that only its cars are manufactured to the specifications of the roads in those areas, and that it would be unsafe for cars from other manufactures to drive on those roads.

Prior to the tollbooth situation, the incentive for customers to purchase the Company X copy would be more advantages and less disadvantages than Company Y's cars. Because Company X limits many of its roads to Company X cars, more and more customers are convinced that they should purchase Company X cars despite Company Y having a better car. Over many years despite the extreme competition between Company X and Y who release new better versions of their cars every year, eventually because of the almost unlimited resources of Company X (because of the tollbooths) and they leveraged their control over the roads, Company Y went bankrupt.

Following this same cycle, most other car companies went bankrupt and the few that are left produce vehicles that are highly specialized for niche markets. Nevertheless, Company X continued to sell their cars and they continued to added minor changes every year because they still had the requirement to sell more and more cars in order to satisfy their shareholders. But eventually they became complacent and within short time their ultimate goal was to make the most profit possible on the minimum amount of innovation investment possible.

The pace of change that customers had come to appreciate and benefit from, which was fuelled by competition, eventually led way to stagnation. The ultimate losers were the individual customers and the entire industry.

Regards and keep fighting.
Csaba
Mr. Csaba Nagy
Business Development Associate
ConjuChem Inc.
225 President-Kennedy, Suite 3950
Montreal, QC
H2X 3Y8 Canada
Phone: (514) 844–5558 x268

Mobile: (514) 973–1011
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www.conjuchem.com

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MTC–00032101

From: David A. Hasan
To: davidahasan-yahoo.com@usdoj.gov@inetgw
Date: 11/20/01 5:44pm
Subject: Microsoft settlement?

I shall keep this simple.

1. I am generally inclined to favor less government over more.

2. Ironically for this to work, our government must be vigilant in its role as regulator, in particular as regulator of monopolistic behavior.

3. Microsoft has blatantly violated the spirit and letter of our laws prohibiting monopolistic behavior. This has been unambiguously determined by the courts.

4. The proposed settlement of the antitrust case against Microsoft is an ABOMINATION, as it seeks no remedies and grants to the company effective control over any subsequent oversight.

5. I strongly encourage you to continue to oppose the settlement. We are depending on you.

Thank you.
David A. Hasan
4701 Monterey Oaks Blvd.
#1114
Austin, TX 78749

MTC–00032102

From: Judson Frondorf
To: micro
Date: 11/21/01 6:15am
Subject: not fair

A proposed settlement agreement in a series of antitrust suits may not only give Microsoft a fairly inexpensive legal resolution, it may also help the company and its PC allies further erode Apple Computer's position in education.

Under a settlement proposal <http://news.cnet.com/news/0–1003–200–7928195.html> in a series of private antitrust lawsuits announced Tuesday, Microsoft agreed to donate approximately $500 million to help bring technology to some of the nation's most disadvantaged schools. The deal will also allow these schools to obtain a virtually unlimited supply of Microsoft software for the next five years

Although the settlement terms will likely help Microsoft's position in education, more tangible benefits come from the relatively light terms. The company is effectively making a $500 million charitable donation and giving away its own software to settle a case where the liability could have stretched into far higher figures.

The case in some ways is being settled for pennies on the dollar, according to Bob Lande, an antitrust professor with University of Baltimore School of Law.

The company will also likely get positive public relations messages out with the deal, said Gartner Dataquest analyst Michael Silver. "This gets Microsoft out of all these lawsuits in one fell swoop," Silver said. "It's a penalty, but it makes Microsoft look good and gives schools PCs, and in so doing would give Microsoft an even larger installed base than they already have."

Judson Frondorf
APS Help Desk Technician

Please feel free to contact me via email. Include:

full name
employee number
contact phone number
location number
your position
complete description of problem

MTC–00032104

From: Cleburne Medlock
To: DOJvsMS
Date: 11/21/01 10:38am
Subject: Microsoft "Settlement?"

Gentlemen:

First, allow me to introduce myself briefly. I, C. W. Medlock, have worked in the "Software" field in a professional capacity for more than 47 years. (My first course in "programming" was taken in 1950 at Purdue University.) I have worked at such stalwarts of this industry as IBM (1960–1966), NCR (1975–1977), etc. At IBM, I was one of the six Architects of IBM's Operating System 360 ("OS/360"), one of the world's first true Operating Systems (1963–64). Also at IBM (1963), I was one of the six members of the joint IBM/SHARE (a users group) team that developed the advanced Programming Language One (PL/I) Although the latter language has fallen into disuse due to more modern advances in such "standard", non?-proprietary languages a COBOL, PL/I indeed was a most powerful language (for both scientific and business computing) that I believe set the stage for the more modern versions of COBOL and other more modern scientific computing languages.

I, from 1982 to 1999, was proprietor of my own software "home-business" Pro/Am Software, where I developed and marketed worldwide several software "tools" for use by the programmer. It was here, as a "lone survivor" of a great group of Information Age professionals, that I first encountered the threats laid down by Microsoft's failure to disclose much-needed facts that would allow entrepreneurs such as myself to develop tools that would directly or indirectly interface with their "Windows" Operating System. (This does NOT mean that I necessarily would have required the source code of Windows, but only a FULL disclosure of Microsoft's file formats, OS interfaces, details of invoking OS functions, etc. This should include such disclosure of these interfaces for all of Microsoft's other products which interface with Windows, as competitors and other users have a need for this information just as well.) A case might easily be made by Microsoft that they should have the full protection of their intellectual property such as source code, where distribution of same would allow many other (foreign?) businesses to easily make copies of same, and, via suitable modifications, each apply their own "Trademarks", "Copyright" notifications, etc. However, I cannot imagine a case in any court where it could be argued that it would be harmful to a legitimate, non-monopolistic business for them to disclose FULLY the interfaces needed by ALL users (developers and ordinary users alike)!

I would like to help put Microsoft in its proper place in the Software World, after the DOJ has apparently "sold out" to MS?

Most sincerely,
C. W. Medlock
Retired proprietor, Pro/Am Software

MTC–00032105

From: Cleburne Medlock
To: DOJvsMS
Date: 11/21/01 10:58am
Subject: Microsoft Settlement

Gentlemen:

The provisions in any Settlement with Microsoft should NOT be limited to the interfaces with their Windows operating system, but should indeed include ALL interfaces (direct or indirect) with ANY Microsoft product. This is much needed by developers and many consumers, as well!

Sincerely,
C. W. Medlock Retired proprietor, Pro/Am Software

MTC–00032106

From: RickHyman@aol.com@inetgw
Date: 11/21/01 3:44pm
Subject: Proposed Microsoft Settlement is a farce!!

The proposed settlement with Microsoft is a farce!! Courts have determined that Microsoft has injured companies and consumers through their anti-competitive practices. They should be punished for breaking the law.

The proposed settlement of $1 billion in computers and software for schools is no punishment! Microsoft will not be paying retail, but will be claiming retail prices for the products they distribute. They won't spend more than a few million dollars, less than they would spend in marketing to the same group of schools.

Worse, you are hurting other computer companies. Allowing Microsoft to distribute their goods in these schools is further reaching than those schools. It extends to teachers and families associated with the schools. Once saddled with the Microsoft operating system, these people will be "stuck" with Microsoft. Other computer companies will be damaged. You are, in effect, extending the Microsoft monopoly. STOP NOW!!!!!

Richard Alan Hyman
Morrison, Colorado

MTC–00032107

From: mark.quezada
Date: 11/22/01 12:17am
Subject: microsoft ruling

Hello,

My name is Mark Quezada, and I'm writing to voice my concerns regarding Microsoft's AntiTrust case. I'm not sure I can accurately convey these concerns via e-mail, but I do know that the current settlement was not worth the time, money, or man hours put into the case. Personally, i feel this "slap on the wrist" ruling will ultimately achieve nothing and stricter judgment should be in order. I will not waste much more of your time, but please be advised, there are a large number of people who, although they may not take the time to write about it, feel the same way. If anything, now is the time to take action against the illegal acts which compromise many people's privacy.

Thank you for your time,

—mark

(626) 252–5375

MTC–00032109

From: Piscean
To: tom.reilly@ago.state.ma.us@inetgw
Date: 11/22/01 7:46pm
Subject: Microsoft antitrust suit

Hello Mr. Reilly,

I just wanted to let you know personally that I am in favor of your pursuing a more stringent penalty than the one which the U.S. Government has settled for.

Based on the reviews of the settlement from numerous sources (The Register, CNN, etc.) I can only conclude that the governments1 settlement agreement with Microsoft is tantamount to throwing the entire verdict out the window. For example, the donation of software and hardware to less wealthy school districts further widens their customer base and expands their monopoly. The courts have determined that Microsoft has abused their monopoly position. The current settlement is less than a slap on the wrist; it is a travesty and an abuse of justice.

Sincerely,
Keith Shangraw
327 LEO DR
GARDNER, MA 01440–1245
CC:Microsoft ATR

MTC–00032110

From: Ed Powell
To: attorney.general@state.mn.us@inetgw
Date: 11/23/01 2:20am
Subject: Microsoft settlement—don't do it

I am writing to voice my opposition to the proposed settlement to the Microsoft antitrust case.

Quite simply, Microsoft has a stranglehold on the mainstream PC market. This is something that everyone in the computer industry has known for years, and our court system has determined this to be true. What kind of message are we sending if Microsoft only receives a slap on the wrist for breaking the law? Are we saying that some people or entities are better than others? Our country was not founded on that concept, but instead on "all men are created equal". Someone guilty of breaking the law should face the full penalty of the law, no exceptions. And in this case of breaking the law, Microsoft must be held accountable for their monopolistic practices, and must be punished as such that they cannot exercise their power for those purposes. From what I have read of the proposed settlement, there are no decisive changes to the way Microsoft does business.

Why not impose a moratorium on Microsoft against its purchase or merger with other companies? Absorbing companies in this way has been a tactic of theirs to stifle competition and release products under their own banner.

Why not impose a moratorium on Microsoft against releasing any new operating system or Internet products for a while? Give a chance for competition to make inroads against Microsoft's operating system monopoly? I am very much opposed to Microsoft's continued dominance of the industry, and to the proposed settlement that does nothing to correct it.

Ed Powell—"Meus Navis Aerius est Plena Anguillarum"

http://www.visi.com/epowell
CC:Microsoft ATR

MTC–00032111

From: superba
To: Renate Hesse
Date: 11/23/01 9:38am
Subject: Written Comments on Microsoft Antitrust Settlement

Renate Hesse Trial Attorney, Antitrust Division
U.S. Department of Justice
601 D. Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

This email contains my comments on the subject case settlement and urges you to take further action on behalf of a small group of Microsoft victims too weak to take legal action.

My Comment ————

This case was instigated by several companies that were outsold in a free market, Netscape, Sun Microsystems, and AOL to mention a few. The original competing product, the Netscape browser, is extremely weak compared to the Microsoft product, Internet Explorer. I have first hand knowledge that at least one of the companies mentioned above uses predatory marketing practices just as bad or worse than those alleged for Microsoft, that company is Sun. AOL also uses sales practices that involve "give away" product to get on a user's computer then constantly attempts to place its own products on that computer.

In my lifetime there have been several user created monopolies, IBM, AT&T, to mention 2. I don't feel that it is the charter of the Federal and State governments to retard such monopolies especially when undue assistance is given to inferior products just to help their providers stay viable.

My Urgent Request for DOJ to add to the Settlement I am part of a group of systems engineeers that has earned Microsoft certifications of different titles and levels. I worked, studied, invested in equipment, invested my time, paid hard earned money for training, and paid for testing to get my certifications. In some cases companies paid the costs to do this for their employees, but not so in my case. Therefore, I look upon the certifications as hard earned, worthwhile, and something I strived for and achieved.

My certifications included: Microsoft Certified Professional, MCP; Microsoft Certified Professional plus Internet, MCP + I; Microsoft Certified Systems Engineer, MCSE; and Microsoft Certified Trainer, MCT.

Microsoft has a practice of "retiring" the exams used to qualify for these certifications. Their stated motivation is to "keep the certified persons up to date". Coincidentally, doing so also parallels new product introductions; the theory being to have the certified persons help to introduce and sell new product and increase Microsoft's sales. I strongly object to Microsoft's practice of doing this. It might be analogous to your law school notifying you that their law degree programs have been updated and if you don't return and take the updated courses, your degree will be cancelled. Of course, that's not going to happen, but Microsoft does it.

Microsoft relented on the last generation of certifications for the NT 4 products and said it will allow the certifications to continue with a qualified title such as "MCSE NT 4".

I lost all my certifications except MCP due to the retirement of (1) course in May 2001. I feel that Microsoft was wrong to cancel my certifications just because it retired an exam. The truth is that the exam, Internet Information Server version 3, was the only Internet Information Server exam available when I was testing in 1997. A newer version came along later but I saw no reason to take it.

Please add the requirement to the settlement for Microsoft not to cancel exams but rather to classify them as "MCSE NT 4" and extend that practice to all the old certifications. Even adding a date would not be objectional, but the current practice makes our resumes incorrect, or appear to be so, due to Microsoft's onerous practice.

Thank you for your patience.

Sincerely,
Jim Jordan
aka James T. Jordan

MTC–00032112

From: Andy Suhaka
To: standy@ecentral.com@inetgw
Date: 11/23/01 3:24pm
Subject: Wrong Settlement for Microsoft

Sir or Madame:

This is an outrage!

You have probably heard about the proposed settlement with Microsoft in the antitrust case. The settlement essentially says that Microsoft must spend about $1 billion in putting refurbished computers and Microsoft software into the nations poorest schools.

The courts have ruled that Microsoft broke the law and should be punished. Is this punishemnt? Of course not! The $1 billion Microsoft must spend is *retail* value. How much does it cost to press some CDs with MS software compared to the retail value? So, the cost associated with the settlement is very low.

The biggest blunder is that the states that may agree to this settlement are helping Microsoft to extend their monopoly. The effect of having the MS operating system in schools extends far beyond those schools, so the settlement is, in fact, a big marketing ploy by MS. Do NOT agree to this settlement. This is the biggest PR coup that Microsoft could hope for and unfair to the computing public.

How about a punishment that actually punishes the wrong doer?!!!

Andrea Suhaka
6864 S ULSTER CIR
CENTENNIAL CO 80112
Centennial City Council, Ward III

MTC-00032114

From: Willard Woldt
Date: 11/25/01 9:18pm
Subject: You are our last line of defense

Ladies and Gentlemen:

It is quite clear that Microsoft has even more egregious plans to control the world than were exposed in the federal hearing vis a vis the lock down aspects of their latest XP operating system.

Also the assigned penalties of equipping schools is really a long term and marvelous marketing plan for Microsoft to gain future customers. As a penalty, it is a sick joke.

We plead with you to continue the fight to rein in this company's incredible hunger for control of the human race.

Thank you.
Willard E. Woldt
Lt Col USAF (Ret)

MTC-00032115

From: Michael Alford
To: ag@oag.state.fl.us@inetgw
Date: 11/26/01 6:47am
Subject: Microsoft Antitrust

I personally feel that Microsoft should receive harsher penalties than what the Department of Justice proposes. I understand why that decision was made, but as the owner of a small computer hardware business put out of business by legal competition from giant corporations, I feel compelled to write to you on behalf of the smaller companies struggling to survive day to day operations.

I urge you press on with the lawsuit to impose maximum penalties and show corporations that this type of behavior will not be permitted. If our government can't stand up to a giant corporation like Microsoft, who can?

Thank you for your time and consideration.
Michael Alford
4162 Shadow Creek Cir.
Oviedo, FL 32765

MTC-00032116

From: David Eckman
To: West Virginia Attorney General,Utah Attorney Gener...
Date: 11/26/01 12:13pm
Subject: Microsoft Case Settlement

I urge you NOT to agree to the settlement terms with Microsoft that the federal government has. Following are several reasons, based on my extensive use of computers since 1983, my knowledge of and experience with many operating systems and in developing software: As an OS/2 user, I have been damaged by Microsoft's illegal tying agreements to gain a monopoly and its retaliatory and predatory use of its monopoly power. What will punish Microsoft most effectively while also stimulating its competition would be an order requiring it to LICENSE _AT NO COST to the licensee_ all code necessary (1) to allow all other operating systems to run 32-bit (and eventually higher level) Windows programs and (2) to allow other developers'' software to run as effectively under Windows as Microsoft's own programs.

Those licenses should be given to everyone who is working to enhance any operating system, including developers who produce add-ons or plugins for such systems. With such an order, a more level field will be achieved. Such cost-free licensing should be required for a minimum of 20 years, to allow other operating systems to strengthen and grow in usage to the point where software program developers will produce native versions of their software for such systems. The history of OS/2 shows that this would work: While Windows was a 16-bit system, OS/2 use grew and native applications were being developed, because of OS/2's ability to run 16-bit Windows programs. OS/2's market position and its growing acceptance were then seriously hurt by Microsoft's predatory and illegal actions. Despite Microsoft's illegal conduct, however, OS/2 has remained alive because of its superiority as an operating system over everything Microsoft has issued thus far, but it cannot return to marketing success without the ability to run applications that most users want. In fact, IBM has been forced to scale back further work on OS/2, and it has almost given up on it because of Microsoft's pressure on it and the difficulty of dealing with Microsoft's illegal use of its monopoly power. OS/2 could return to effective competition with licenses of Microsoft's operating system code, at no cost to IBM and/or those who might want to enhance the system if IBM chooses not to do it.

Microsoft has also used its monopoly illegally to harm the Java technology, which is an open software. Java developers have felt the stinging impact of Microsoft's illegal behavior. Its consequences in the future may be even more severe if the federal government's weak legal precedent is established.

Finally, Microsoft has violated with impunity consent decrees of the past.

It should be ordered to pay a substantial fine. It should also be ordered to pay all costs of monitoring its compliance in the future. This should continue for at least 20 years.

IBM was severely punished over 20 years ago for its antitrust behavior. It then managed to behave in a responsible manner. There is no reason why Microsoft should not be similarly punished now.

[J:] David Eckman
davide@eckman-law.com
http://www.eckman-law.com
3730 Kirby Dr., Suite 1200
Houston, Texas 77098-3927
713-661-2065
CC:US Dept of Justice

MTC-00032117

From: comcast
To: micro
Date: 11/26/01 1:40pm
Subject: attn:

Dear US Justice Department,

I do not believe the remedies reported in the news are going to have the slightest impact on Microsoft's predatory marketing practices, and subsequent illegal abuse of monopoly power. Take, for one small example, the case that started it all: internet browsers. Since the time the case started, Microsoft bundled their browser for free, and essentially drove all other browsers out of the market. They claim they have a right to do this, and that they are only serving consumer needs.

But their most recent versions—including ALL browsers shipped with the new Windows XP—have made a significant change: they no longer support industry-standard third-party browser plug-ins for presenting specialized content, such as movies, sound, animation, and virtual reality. This means that third-party content providers, such as Real Audio, Macromedia Flash, Adobe PDF, and Apple QuickTime—just to name a few of the larger players—no longer function under Microsoft's browsers using the standard installation procedure. Instead, they must provide special installations that go through an additional layer of software—Active X— that Microsoft's own content provisioning software does not go through. This means that ordinary consumers will have to struggle needlessly to install third-party content provisioning software, but perhaps more importantly, if they do actually get through that struggle, the third-party plug-ins will run more slowly and with less capability than will Microsoft's own content provisioning software.

This also means that some 90% of new computers sold cannot properly access my web site, which has Apple QuickTime content, whereas 90% of pre-Windows XP computers could.

With this move, done right under your collective noses while you negotiated a cushy ''hand slap'' settlement, Microsoft not only successfully extended their operating system monopoly into the internet browser market, but now they have extended their browser monopoly into the content provider marketplace! They have broken the law once, and while being penalized, have broken it again.

Take heed of my prediction: now that Microsoft controls content provisioning, content will come next. Within three years, the average consumer with an ''out of the box'' computer will be unable to view any content that Microsoft has not provided.

With all due respect, the Ashcroft Justice Department is asleep at the wheel on this one. Quit meddling with ''states'' rights'' Oregon and California, and concentrate on appropriately punishing large, multi-national companies who are already convicted of breaking laws.

Sincerely,
Juddson Frondorf

MTC-00032118

From: JP Glutting
To: tom.reilly@ago.state.ma.us@inetgw
Date: 11/26/01 7:16pm
Subject: Settlement with Microsoft

Dear Attorney General Mr. Riley,

I am writing you today to express my appreciation that the Commonwealth of Massachusetts has not signed on to the settlement proposed by the Federal Government to address Microsoft's criminal activities. Microsoft has blatantly and repeatedly violated the Sherman anti-trust act, and has shown no sign of remorse or intention of modifying their behavior. Their behavior in court was appalling presenting false evidence and repeatedly refusing to cooperate.

The fact that the U.S. has settled this case with essentially no penalties at all for this abusive is shocking, and frankly embarrassing. "Tough on crime" seems only to apply to those who cannot afford expensive political connections. The proposed settlement of class action suits with a "giveway" to poor school districts, which will extend the Microsoft monopoly, is frankly shameful, but not the issue I wish to speak to today. This outcome is very regrettable, since it will server to further stifle the computer industry and the U.S. economy. I don't believe anyone over the age of 30, and who remembers Ma Bell, could honestly say that the telecommunications growth that drove the economic boom of the 1990's would have been possible without the breakup of that telecommunications monopoly. I work with computers daily (I am a bioinformaticist at the Dana-Farber Cancer Institute), and it is very clear to me that Microsoft cannot compete with other operating systems at the level of quality (we use high-end Unix workstations, running SGI's IRIX and Linux). I truly wish that the U.S. stood for free markets and free competition, but it seems that a combination of political connections and economic jitters has convinced the department of the U.S. Attorney General to condone a shoddy, inefficient, illegal monopoly for the forseeable future.

Thank you, Attorney General Reilly, for not lumping me, as a Massachusetts resident, in with this dodgy settlement.

Best Regards,

JP Glutting Brookline,
Massachusetts
CC:Microsoft ATR

MTC-00032119

From: Ron Larsen
To: DOJ
Date: 11/26/01 10:07pm
Subject: Microsoft on Truth Serum—the Antitrust Settlement Examined This is not a solution! The DOJ has totaly ignored the best advise from industry experts. Microsost's XP operating system creates a whole new set of antitrust violations. It is appalling that the DOJ has performed so poorly in protecting free enterprise, and commerce in general. The new operation system means new DOJ ruling regarding the breaking of Microsoft into 3–5 parts. Past break-ups have stimulated the economy and the industry as a whole. Please go for the long term "just" solution, after all you are the "Just"ice Department. Thanks, Ron

OPINION:

Microsoft on Truth Serum—the Antitrust Settlement Examined Contributed by Tom Nadeau osOpinion.com November 20, 2001

The proposed Microsoft agreement looks good and feels good, but listen to how the definitions in the agreement would play out in real life, and then the agreement doesn't sound very good for competing software companies or consumers.

The recent antitrust settlement between the U.S. Department of Justice and software monopolist Microsoft (Nasdaq: MSFT) has enough loopholes to sew a circus tent. The settlement actually grants Microsoft extra legal powers beyond what it had before the trial. Don't think so? Well, here is a simulated conversation that may convince you. This is what I believe a Microsoft official would say to a neutral examiner asking questions about the settlement agreement, if the software giant were under the influence of a truth-enhancing substance. Microsoft on truth serum. Listen in. Set You Free Examiner: "Let us start with the definitions, shall we?"

Microsoft: "Of course. Words mean things, whatever we want them to mean." Examiner: "A. Application Programming Interfaces (APIs)" Microsoft: "APIs running on one operating system (.NET) and calling a different operating system (on your PC, remotely via the Web) are exempt from regulation."

Examiner: "B. Communications Protocol" Microsoft: "Since the settlement exempts code to remotely administer Windows2000 Server and its successors, all our communication software will be embedded with pieces of this code. We will not have any Communications Protocols that can be regulated according to this definition."

Legal Loopholes

Examiner: "D. Covered OEMs"

Microsoft: "The 20 highest licensees? Does that mean licenses paid for, licenses delivered to customers, licenses committed to, or licenses actually registered by the end user?"

Examiner: "H. IHV (Independent Hardware Vendor)" Microsoft: "The settlement says they're only "independent" if they depend on us for Windows. Unless we already "own" them, we don't have to give them anything." Examiner: "I. ISV (Independent Software Vendor)" Microsoft: "The settlement says they're only an "independent" if they depend on us. But if they only sell software for non-Microsoft operating systems, we don't have to give them anything. They will never be able to make their non-Windows products interact with our Windows-only products."

Hidden Message Examiner: "J. Microsoft Middleware" Microsoft: "The settlement says it's only Middleware if it has a X.x version number. But we don't use version numbers any more. We use year numbers. So our Middleware is not regulated by this settlement."

Examiner: "K. Microsoft Middleware Product" Microsoft: "The settlement calls it a "middleware product" if it is embedded in the operating system.... But it's just "middleware" if it is distributed separately. If it is distributed by a shell company controlled by Microsoft through stock ownership, then it's not "middleware" because it is not distributed by Microsoft or a wholly owned subsidiary." A.P.I. Arrogance Examiner: "L. Microsoft Platform Software"

Microsoft: "We'll ship the APIs as a standalone product through a third-party company, or sitting on a Web server somewhere. But we don't have to divulge any details of the APIs because they won't have a version number. So they're not 'middleware'—and therefore are not covered by 'middleware' clauses. Since they are not part of Windows, they are also not a 'middleware product.'"

Examiner: "M. Non-Microsoft Middleware"

Microsoft: "Sure, like we wouldn't give away free copies of comparable "Microsoft middleware" to put them out of business. Except that it's not "Microsoft middleware" if it has no version number, so it would not be regulated by this settlement." Examiner: "P. Operating System" Microsoft: "If we ship the APIs separately—on the Web—then it says that Windows is not even an operating system! It's totally unregulated!"

More Monopoly

Examiner: "Q. Personal Computer"

Microsoft: "Right, only PCs are covered. They let us extend our monopoly into game boxes, TV, servers, handhelds, phones, PDAs, whatever."

Examiner: "R. Timely Manner"

Microsoft: "We have to deliver product info as soon as we ship to 150,000 beta testers per version.

However, we no longer beta test with more than 148,000 testers per version."

Examiner: "U. Windows Operating System Product"

Microsoft: "Ha! Doesn't even cover DOS-based stuff. We can keep spreading that stuff around any way we want. Oh, and that last sentence... We can put anything we want to in Windows—any code owned by anybody! Yes, Just give me that last sentence!"

Best For Last?

About that last sentence. The slickest part of all is to put the definitions at the end of the document, where they legally overrule all that comes before, and to place the loosest definition of all at the very end of the document, slyly positioned to trump any preceding malarkey. That last sentence ostensibly was inserted to protect Microsoft from having to ship code that it did not choose—so that Microsoft would not have to ship a rival company's code, such as Java or Netscape, for example.

But Microsoft can choose to claim that a competitor's product *is* a Windows Operating System Product, because the last sentence says that the court grants Microsoft the "sole discretion" over "the software code"—not just "the Microsoft software code"—that Microsoft chooses.

Above the Law While other companies may have their claim to software ownership reviewed by the courts, this "settlement" exempts Microsoft from such review—immunizing Microsoft from copyright lawsuits.

This is a license to hoist the Jolly Roger and sail the seven seas, pirating any rival code that Microsoft chooses.

CC:President George W. Bush

MTC-00032120

From: Pete Gontier
Date: 11/27/01 12:06am
Subject: settlement is a sham

Microsoft has managed to engineer a so-called settlement for their illegal operating system monopoly in which they happily cooperate in seeding their operating system into the only market in which their only operating system competitor has a firm foothold. Microsoft is playing the government like a finely-tuned violin, and historians will forever shake their heads in wonder and dismay. Please don't let them fool you!

Pete Gontier <http://www.pete.gontier.org/>

MTC-00032121

From: judson
To: micro
Date: 11/27/01 11:13am
Subject: please

The Computer and Communications Industry Association, for one, says that acceptance of Microsoft's $1 billion offer would be tantamount to judicially sanctioned predatory pricing.

Microsoft's proposed settlement for more than 100 outstanding private antitrust cases against it would inflict "great harm" upon the technology markets, the CCIA said in a letter to the judge overseeing the case. The CCIA was responding to Microsoft's offer to provide $1 billion worth of hardware, software and training to more than 12,500 schools serving nearly 7 million children.

Judson Frondorf

MTC-00032122

From: judson
To: micro
Date: 11/28/01 6:20am
Subject: you must stop microsoft!

"Around half of the computers in education today are Apple computers, and we're the second largest supplier overall and the largest supplier of portable computers to education," Apple CEO Steve Jobs said in a statement released Tuesday.

"Given this, we're baffled that a settlement imposed against Microsoft for breaking the law should allow—even encourage—them to unfairly make inroads into education, one of the few markets left where they don't have monopoly power."

In its legal brief, Apple argued that the settlement structure would ensure "that any benefits will come at an unacceptable cost to schools and the public by extending and strengthening the Microsoft monopoly. By its very nature, the settlement would heavily promote and subsidize the schools" acquisition of Microsoft products at the expense of more effective and appropriate alternatives."

"Today our schools have a choice, and to date they have chosen Apple around half of the time," Jobs said. "We think our schools deserve to keep their power of choice, and our kids deserve better than having to learn on old, refurbished (Windows/Intel) computers."

Critics: Proposal anticompetitive

Apple isn't alone in criticizing the deal. On Monday, the Computer & Communications Industry Association (CCIA) and the American Antitrust Institute (AAI) sent separate letters to Motz asking him to reject the proposed agreement.

CCIA President Edward Black charged that "the court-ordered distribution of free software would be tantamount to judicially sanctioned predatory pricing by a monopolist in a critical market." Black argued that one of the few markets where Microsoft still faces competition is from Apple in the education sector.

"By allowing Microsoft to flood the education market with free software—at virtually no cost to the company—the court will be virtually assuring that no other competitor will be able to charge for its products," he said.

AAI President Albert Foer raised similar concerns.

"To the extent that this influx of Microsoft products undermines Apple, one of Microsoft's few remaining competitors, whose base of strength happens to be in the public schools, the proposed settlement of these antitrust suits may actually be anticompetitive," he wrote to Motz. Critics of the deal argue that free software is hard to pass up and note that federal and state trustbusters filed their case in part because of the anticompetitive effects of Microsoft giving away valuable software to gain market share.

Franklin Williams, vice president of operations for AstroVision International, a provider of Earth-view images, doesn't see a problem with Microsoft giving away software to schools as long as it doesn't further entrench the Windows monopoly.

"Microsoft must donate software—and hardware if included—that does not support the Windows operating system," he said. "It should be fine if Microsoft ships millions of copies to schools for versions of its applications that do not run under Windows."

Guy Peterson, visual communications manager with Manitowoc Cranes in Manitowoc, Wis., also ripped into the settlement agreement. "The CCIA is absolutely correct in its assessments that this settlement will block the sales of other software," he said. "The artificially inflated "retail" cost of the software is a shallow marketing ploy, and...the tiny percentage of this "penalty" will not seriously affect Microsoft."

Even consumers in Europe, where an antitrust investigation is still pending against Microsoft, contend the settlement is inadequate. "It's my belief that if the profits made by doing what one is convicted (of) aren't undone, somehow the government isn't exactly sending out a strong signal that they would like companies to behave in different ways," said Arthur Bommeli, a network engineer from the Netherlands. Alfie Lee, a registered nurse living in Tasmania, Australia, shared similar sentiments.

"Microsoft already with the monopolistic computer base gets to build upon it as "compensation" for imposing their monopoly on the world," he said. "Rather than getting a smack, they get a whole new generation of enforced Microsoft users."

MTC-00032123

From: bigsixty@mac.com@inetgw
To: Microsoft ATR,microsoftcomments @doj.ca.gov@inetgw,...
Date: 11/28/01 5:46pm
Subject: Thank you for your continued pursuit of Microsoft

Greetings.

My name is Tyler Lagrange of Sarasota, FL.

I will try not to ramble on for too long and I beg of you to read all I have to say as it pertains to what I believe to be the most significant antitrust lawsuit I will see in my lifetime.

Thank you very much for not accepting the lenient settlement that has been proposed in the Microsoft case. I have been following the case from the beginning and have read many articles that have followed your progress. My favorite was an article in Wired magazine about a year ago that really went in to a lot of detail that even I did not know. At that point I really felt the case was going in the right direction, but that feeling has understandably changed in the recent weeks.

I don't feel you need me to point out reasons why Microsoft has committed illegal monopolistic activities, however, I want to point out the ones that really hurt me as both a consumer and an internet software developer. I am a 26 year old programmer with a 4 year Computer Science degree and I've been a computer user since my first grade year at Hunt Elementary in South Florida (20 years ago).

As a consumer, my choices are severely limited by what Microsoft has done. I was really upset by what Microsoft did with the web browser wars as I preferred Netscape (along with 80% of the internet users back then). I can not really understand how they could get away with simply copying somebody else's ideas and designs, and to then force it down everybody's throats. They claim that it is best for me as a consumer and they offer it up to me for free as if that is generous. They only gave it to me for free because there was competition. What I would really want for free is Microsoft Office. Why isn't that a part of the OS? Microsoft Office is the de facto standard for sending formatted papers and office/business documents to and from people. A majority of the people out there have it and use it for daily use—probably even more than Internet Explorer. The reason that Microsoft will never offer that to us free is not just because it costs them more to develop (that is untrue as they have already recouped their costs), but because they face no serious competition in that realm. If you ask 100 consumers if they would rather have Office or IE bundled with their OS, you know what they would say. Microsoft is not doing what the consumers want, but is illegally protecting their desktop monopoly and extending it in to any other area that they can get in to. I do not want Internet Explorer. I do not want Windows Media Player. I do not want the other stuff they seem to think I do.

As an internet software developer I have also had many problems with what Microsoft has done. My biggest problem is really undocumented and unknown by most people who do not develop internet software. By having such a huge user base, they have made it virtually impossible (undesirable really) to write software that does not support Internet Explorer. They may claim that their browser supports more "standards" but in fact they support whatever they feel they want to. One of the most severe things they have done is to have a more lenient parser (the system that reads the HTML and displays it) that will not enforce strict HTML. This allows coders to be lazy and to not adhere to the HTML standards. Once they get used to that (and for the most part they just debug their sites in IE and don't look at any other browsers), they will most likely NOT adhere to standards and as a result the web sites will only act appropriately in Internet Explorer (I have worked in 3 startups and they all have focused solely on Internet Explorer as the default platform). As consumers see these things acting correctly only in IE, they feel that IE is the only one that works. Now it may look like they are being nice and "guessing" what us web programmers mean to do, but by not enforcing the standards, we will never be able to progress beyond the inadequate capabilities we have today. I don't know for sure, but I bet at least 80% of the web sites out there would break if standards were enforced. I honestly feel that this is deliberately done to prevent other web browsers from gaining a significant share of the marketplace again (unless they are programmed to display improper HTML to maintain compatibility). This also prevents serious progress because they have to maintain this broken compatibility to display those 80% that were not written well in the first place. Web developers must write software to work well in IE or they will have problems with their customers. This just extends their monopoly.

Beyond that, it is hard for me to feel that with an idea I can be successful in the free marketplace. That is a horrible lesson the courts are trying to teach me. Even with the best ideas in my head, as soon as Microsoft has me in their sites, they could embrace it, extend it, build it in to their next OS, and push me aside. I will never be able to charge money for my software, as Microsoft can always afford to give it away free and to throw more R&D money at it to "make it better" than me. So in order to beat them, I will probably need some capital behind me. But investors, after seeing what Microsoft is allowed to get away with, will be less likely to dump money in to my company with the risk that Microsoft will overtake us and we will lose all that we have.

They have too much power and too much freedom and will continue to pursue these initiatives even harder if they are allowed to get out of it this time.

I am disgusted by the bundling that they were allowed to get away with with XP even after it was determined that Internet Explorer pushed and entire company essentially out of the market. They will now push remote administration systems, media players, digital camera software vendors, cd burning software vendors, and many others out of business. This does not help the economy. This is also not about progressing in to a "modern operating system". This is about extending a monopoly. It may seem extreme to a lot of people to break up a company, but it has been done successfully before, and it may need to be done again. I feel that Microsoft makes some good applications, and has some good operating systems. However, if their operating systems division was separate from their applications divisions, it would prevent this overlapping we see of OS services and Application services. It would also allow for more choices and more opportunities for other vendors to produce top quality software that WILL benefit consumers, and WILL boost the economy, and WILL save the future of computing.

I feel so powerless when I sit at home and read about all the bad things Microsoft has done. I watch the arrogance they display when they claim that they know more than you or I do about how the future of computing should be regulated. I beg you to not fall like the others have before you. I urge you to do your best to represent me in this monumental case. I thank you for all that you have done, and will continue to do.

If you made it this far thank you very much,

Tyler LaGrange
4902 Ithaca Ln
Sarasota, FL 34243
CC:bigsixty@aol.com@inetgw

MTC-00032124

From: geek@geekculture.com@inetgw
Date: 11/28/01 9:39pm
Subject:

The DOJ/STS VirusScan has detected a virus in this e-mail message and the infected attachment has been cleaned or deleted.

MTC-00032126

From: JOHN D GILBERT
To: Department of Justice
Date: 11/29/01 8:25am
Subject: Microsoft Settlement

In addition to my comments sent a few minutes ago, the points from this AP news article clearly show how Microsoft continues to manipulate the system. I continue to ask for a penalty that would promote more competition!!!!!!!! Under the proposal made public last week, Microsoft and some plaintiffs agreed the company would provide more than $1 billion worth of Microsoft software, refurbished personal computers and other resources to some of the nation's poorest schools. Microsoft said the deal allows schools to choose to spend money on training and resources for non-Microsoft products. But the company concedes that those who go with Microsoft products will be given more resources, such as free software.

"The actual settlement is made up of a basket of resources," said Mark East, worldwide general manager of Microsoft's education solutions group. "The software component is just one of the elements." It's still drawn the ire of Glenn Kleiman, a lecturer with the Harvard Graduate School of Education Technology and a longtime researcher in the field. "To put it bluntly, Microsoft is trying to pull a fast one here," said Kleiman, who is a consultant for some of the plaintiffs who oppose the settlement. "They are saying that they are providing $1 billion plus of resources, but it's being done in a way that's self-serving to Microsoft."

MTC-00032127

From: Dale Eshelman
To: Department of Justice
Date: 11/29/01 9:52am
Subject: Microsoft Settlement

The settlement falls extremely short of doing justice.

1. Microsoft still continues to have in their operating system and programs to only go to Internet Explorer instead of opening the default browser selected by the user...in my case NETSCAPE.

2. Microsoft still continues to modify computer BIOS chips to control what the user can do with his computer for operating systems.

3. Micorosft still uses their cusotmized versions of HTML, Java Script and SQL to control the desktop market. Other vendors prgrams do not work properly as a result...leaving users frustrated and their ONLY alternative being to use a Microsoft product.

4. To let Microsoft use the education market as a settlement in fact enhances their monopoly power because that is about the only markdet Microsoft DOES NOT control. Rather Microsoft should have to provide funds to education which CAN NOT be spent on Microsoft products and equipment.

5. This is only a top three list. There are hundreds of issues like these which Microsoft will still be allowed to control. This is not a settlement. It should not be considered.

Dale Eshelman

MTC-00032128

From: Greg Swallow
To: US Dept Of Justice, California,Connecticut,Florida,...
Date: 11/29/01 9:54am
Subject: Stop Microsoft Hegemony

To Whom It May Concern:

First let me commend you for standing up for what is right in this matter. Though I do wonder how much more may be done, I ask you to continue to do all you can.

I say these things knowing from where I speak. For nearly twenty years I have worked in the Computer/IT industry. I am a programmer by education/trade and work in that arena as often as possible. I have also worked in Support Services and found there is little available in support for "High End" environments as where in days gone by. Once such expensive a system is properly stablized then it needs little more than Preventive Maintenance to operate optimally. The problem with the "Low End" Windows market is the money is to be made at the expense of ignorant users. Users who know no different than to buy what is on the retail shelf. Where "sales professionals" are little more, some say less, than used car salesmen. This has never been, nor will ever be, the correct way to purchase a computer.

My experience with Windows spans before even the first public release in the 1980's. Errors cropped up then just as they continue to do so today. My most significant "gripe" is that they are the same errors. Oh, they use different names, but examining deeper into the cause shows the same issue exist. So long have I fought over these persistant errors that I have a practice, when building/preparing a Windows computer, which delivers a stable installation of Windows. What is so perplexing is that the procedure is rather simple, yet no manufacturer uses it. For the most part because Microsoft speaks against such procedures. To do so would cost Microsoft support dollars in thier slice of the support market.

Becuase of this relentless barrage of aggravations, I have never used Windows as my own primary OS. What I do with my computers is too important to trust to such an inferrior product. Unix was my first OS and continued to be until it was just not economical. I examined other options and chose IBM OS/2. I was amazed at how easy OS/2 was to manage and how stable it remained even in questionable environments. IBM created a wonderful product, but couldn't give water to a man dieing in the desert against Microsofts separation and marketing tactics. Unfortunately my clients would only use Windows, because they only heard mention of OS/2 from me and not the "sales professionals," but then came Windows 95. Sales person after sales person pestered them to no end. My clients saw nothing benefitial to changing as they were running networks and Windows 95 was/is notorious for being even more unstable when attached to a network. They came asking me what to do and again I recommended OS/2. Fortunate for my clients they decided to change to OS/2 Warp. Unfortunately for me, because OS/2 is so stable, they no longer need my services.

To be able to make a living I have had to turn to supporting Windows networks. This I find most disagreeable, but what's a man to do needing to support his family. Microsoft has created such a vast industry in support, it's as if there is no other way. It hurts when you know a correct/complete answer, but are instructed to not give it as to do so would cost the company (Microsoft) money in support dollars. I have even confronted my fellow workers with my educated opinion that, ...to make a living as we are, supporting Windows, is to make a living off another's weakness. Much like a prostitute. The only verbal reply I have ever received was, "That is the American way." I turned and walked away to keep from stiking the man for what he said.

My most recent Windows fatality was with my fiance's computer. A system I had assembled for her using Windows 95 because it was what her employer was using. It made no sense to have something different at home. It remained stable for about a year, thanks to the steps I had use as mentioned previously. By this time she had also become my bride and had seen/heard more about Windows than she really cared to. She wanted something different and I shared all I had for her to examine. A week or two later I bought her an Apple iMac and she has never been so happy. Even I have grown fond of the stability and simplicity of the Mac OS, but still little work is available and we must continue to support the world of broken Windows.

Then came Windows 98 and finally I left. I am once again building my own organization. Our SOHO has some seven computers, one iMac, one OS/2 Warp, one Windows, and four Linux. Linux? Yes! Unix that I can once again afford. A product developed and created by the people who use it. And, here comes the Microsoft behemoth to take away from the people what the people have created? I think not. Linux will remain my primary OS and I may build upon it with Apple Mac OS X workstations. Windows will have its place attached to our television, so that we may play an occassional game, but little more. OS/2 Warp stays as my own office computer. Even running on an intel Pentium 120 it out performs Windows 98SE on a 400MHz intel Pentium II.

Please stop Microsoft. Let the people keep what they have created;

Linux.

Sincerely,
Greg Swallow <><
President
gswallow@internet4sites.net
I-4 Sites STOP TRAFFIC!
http://www.internet4sites.net

MTC-00032129

From: Dominic Dupuis
To: edextraze@dextopservices.com@inetgw
Date: 11/29/01 6:48pm
Subject: Re: Suspension de Norman Lester (2)
CC:=?iso-8859-1?Q?Philippe=20B=E9dard?=

MTC-00032130

From: Tan/Kal
To: Antitrust
Date: 11/30/01 11:59am
Subject" Favor remedy by full open source code

MTC-00032130 0001

November 30, 2001

Dear Sirs,

Regarding the Microsoft settlement proposal, I think that Judge Motz had it right by stating, "1 think you've got to go back to square one to get to square five." The judge seems to have said: Get that mutt outta here before I take a bite out of it.

Microsoft has accumulated a $16B cash kitty by anticompetitive, monopolistic practices, and has shown no remorse. A $1B donation to schools may sound like a slap on the wrist, but in fact it turns out to be "self-serving"—potentially undercutting competitors who have chosen the long, slow route to undoing Microsoft's historical monopoly in operating systems by cultivating and educating schoolchildren who won't be ready for credit cards for another ten years.

If this was such a penalty, why would Red Hat be willing to match Microsoft's largess by a one-for-one donation of its Linux-based operating system to every schoolchild that receives Microsoft Windows TM? Furthermore, nothing has changed. Microsoft's new WinXP, by integrating applications such as photo processing into its operating system continues to push other manufacturers out of the digital business. Dog eat dog? No, anticompetitive; the trial is already over and we are awaiting sentencing. This is the penalty phase. Microsoft is guilty.. But is the Federal Government big enough to take on Microsoft?

They don't call it the US Department of Justice (US DOG) for nothing! This is a pit bull, not a poodle, and the only thing Microsoft is going to understand is a bigger dog. Judge Motz is waiting for a solution that provides redress to the injured parties, who are the plaintiffs in the class action lawsuits— the consumers. If not now, not next time.

The only meaningful redress is to open the source code to the public. Granted, the source code is proprietary information. But this penalty phase is exactly about forfeit of corporate private property to the government—that's why they call it a "penalty". OK?

Rather than send ten dollars to every consumer who bought an MS product in 1998, making the code non-proprietary is the only penalty that will meaningfully benefit the consumer and ultimately increase our nation's security. There are strong benefits from open-source computing for the consumer. We no longer need to worry that computing will be left to the geeks who do their own programming. The industry is too big now. Instead, whole new entrepreneurial activities will spring up if the code is made public.

And what better penalty then to give the source code to the real immediate victims here, Microsoft's competitors in the marketplace, when by doing so, the marketplace can quickly multiply the benefits ten-fold for the consumer, benefiting everyone without the expense of millions of letters to every household. The benefits of open-source computing include:

Reduction in the cost of highly specialized programs, such as for image analysis, voice over data, surveillance and security. As things stand, development of these applications is a difficult, risky and prolonged effort. One key risk is that Microsoft will integrate key features, but then change secret parts of the code so that the innovator's software is no longer compatible. An example is Java.

Better privacy, improved resistance to hacking and data theft. Simply put, generic hacking has become a high school hobby because we have generic computers. The one-size-fits-all approach to computing has made us all vulnerable.

Reduction in network vulnerability to viruses and system instability. Obviously, viruses propagate quickly in our society because we all have clones of the same software.

Better, faster and more energy-efficient hardware operation. This is good old american more bang for the buck.

As another example, look at the broad interest in Back Step TM, Go Back TM and Microsoft's latest knock-off of "system restore". What if an operating system and hardware had been designed for this feature rather than it being glued on like a fruitfly onto the skin of an enormous onion. If redesigned from the kernel, it could be integral and automatic, as easy as resetting a digital clock and as reliable as the sunrise. This re-engineering of the operating system is only possible if the source code is open to entrepreneurs who have no stake in the status quo.

MTC-00032130—0002

Again, by providing each application with dedicated memory (not a common swap file), system crashes due to memory allocation can be avoided entirely. But instead of focusing on improving the operating system, for the last 6 years Windows instead focussed on winning the Browser Wars—and sold us 6 consecutive beta versions of its operating system that required consumers to continually update numerous applications at great expense and labor.

In fact, Microsoft has also frozen computer hardware architecture in place. Freeing developers to redesign the operating system also frees hardware designers to at last begin the refinement of customized chips specialized for particular functions such as voice recognition or image analysis. Software emulation is the hard way to solve these problems, and points to the greatest single weakness in the current evolution of computing, the failure of custom hardwired chips to evolve and make significant inroads into the market. This hasn't occurred because the systems are not competitive, it has occurred because competition has been squashed. For example, consider Apple Computer. Microsoft decides when Apple will get a new operating system, not Apple.

And what about security? Look at how dependent the Government is becoming on personal computers; the new WinXP gives Microsoft technicians a back door into every computer on the planet. Any kid with his own computer has a roadmap to your computer because yours is exactly the same as his. Any serious hobbyist can buy generic gaming tools that allow them to access your system.

Some have said that it is better not to make the source code public because its weaknesses and access points would be revealed to everyone (particularly Passport). Better to keep it secret so that we are safe, they argue. This is like saying we are safer if we don't know where the terrorists are or what they are doing. There is a public interest in the source code, that of national security, and we can no longer trust a proven anticompetitive organization to have the national interest in its priorities. Chairman of Microsoft is not an elected office.

All encrytion systems have limits. A key is necessary. But if proprietary hardware modifications are made, and an open source operating system is modified to work with them, then the system becomes unbreakable without access to the hardware. This is the computer analogy of the Navajo code talkers of WW II. Security is ensured when each individual or government can customize their own applications, stripping out unnecessary parts of the operating system that compromise security or corrupt stability, and adding unique intermediate components or coprocessors to prevent foreign access.

What we need is a simple operating system built around our applications, not generic gooies tacked onto a massive and secret operating system. Only the increase in processor speed and memory size has permitted this folly, but at what a waste of energy and time! 35 Mbytes for an Operating System: Ridiculous! Even 3.5 Mbytes is too much.

Data processing must not be forced to conform to one man's view of what a computer, or a society, or an individual, should be. Microsoft's strategy, by chosing the lowest common denominator, has made us all exceptionally vulnerable to social instability in our communications, at home and abroad, and has shackled our entrepreneurial spirit by its domination. Ultimately, with open source, the next line OS will be reduced to common kernel for most mass market applications, and plug-in modules (hardware combined with software) for applications: one for security, one for word processing, one for telephony, etc. that are recognized by a user profile (and coprocessors) and interrelate through dedicated static and dynamic memory arrays to analog devices and common peripherals in a common or proprietary language, user's choice.

Microsoft has put the survival of its massive, primitive, convoluted, proprietary operating system above all of society's other interests or needs. Microsoft was convicted in a court of law, and it is up to the Court to decide what will be confiscated from Microsoft as compensation to the victims. Relief by open source code will bring an era of competitive innovation at a pace that will astonish the consumer, trimming away the quirks and the self-serving features in the Microsoft operating systems like the barber's razor on a neutered poodle.

The current "trial balloon" settlement offer is unfair and unbalanced. We should beseech Judge Motz to reject it. I call upon the Antitrust Division to return to the bargaining table with a new vigor and urgency, demanding publication of the Microsoft source code for its operating systems. Sure, that will bring a fight, but the trial is already over. They lost. Not only is publication of the source code in the public interest, it is also a matter of public security; a clear case of "eminent domain". No corporation, no man, can be allowed to hold this country's access to e-information and e-commerce in a lock box, with the sole power to dole out "improved versions" the same way AT&T once upon a time developed new telephone products, by planned obsolescence.

Sincerely,

MTC-00032131

From: Deb
To: Justice Department
Date: 11/30/01 12:29pm
Subject: Please stand up to Microsoft
Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
microsoft.atr@usdoj.gov
AskDOJ@usdoj.gov
202-353-1555

Dear People at the United States Department of Justice,

Please stand up to Microsoft for all of us. The one consistent claim that Microsoft makes is that they are innovators. However, facts of history speak for themselves here. This is not their legacy.

Suppressing innovation in others, however, unfortunately is their legacy. As a private citizen and business person, the affects of the Microsoft monopoly corporation, both personally and corporately, continue to be horrendous. I fear the proposed settlement, where Microsoft puts refurbished computers in the poorest schools, will not only -not- solve this problem but will if fact promote Microsoft's predatory marketing practices, and subsequent illegal abuse of monopoly power.

Microsoft's new Windows XP includes browsers and this time with a significant change: they no longer support industry-standard third-party browser plug-ins for presenting specialized content, such as movies, sound, animation, and virtual reality. This behavior follows years of Microsoft intimidating other companies and bundling their browser for free, essentially driving all other browsers out of the market. By allowing Microsoft's illegal practices we are disallowing innovation and most certainly disallowing fair competition.

Please help to stop their illegal behavior. Microsoft has broken the law and continues to do so. If we're to remain proud of the United States then please give us a system of justice that is representative of the truth and not the politics of a monopolist. Thank you very much.

Sincerely,
Deborah Antkoviak
Raleigh, NC

MTC-00032132

From: Glenn Oppel
To: ATRMAIL8.ATRSFO01(MSOFT)
Date: 11/30/01 2:31pm
Subject: Perplexed

DoJ:

Given the recent merger of AOL and Time Warner, one wonders why the DoJ is busting Microsoft. It just goes to show how out of touch the federal government is with the dynamism of the free market. Let's not forget about the upcoming Linux operating system—not to mention the half a dozen other OSs out there.

There is no such thing as perfect competition—the predicate of antitrust. Even if a corporation has a large market share, there is always competition around the corner. Furthermore, a large market share is due to consumer demand. Consumers are sovereign in the market and determine its direction. Antitrust supersedes this sovereignty.

The only purpose that antitrust serves is to afford a successful corporation's competition a political tool to gain the upper hand. It's all about political power, not about the ability to compete.

Sincerely,
Glenn Oppel
Fairfax, VA
gcoppel@concentric.net

MTC-00032133

From: Kirby Dunsmore
To: Renata Hesse
Date: 11/30/01 10:58pm
Subject: Comment on U.S. v. Microsoft
Kerwin Dunsmore
9250 Myrna Place
Thornton, CO 80229
November 30, 2001
Renata Hesse, Trial Attorney,
Suite 1200, Antitrust Division,
Department of Justice
601 D Street NW
Washington, DC 20530
Subject: A comment on United States v. Microsoft Corporation; Revised Proposed Final Judgment and Competitive Impact Statement

Dear Ms. Hesse:

I am a recently-retired (2001) computer professional and submit these comments in the hope that the Court will find them useful. Section III., Prohibited Conduct, (subsection J), permits (and perhaps even encourages) Microsoft to deny disclosure of or licenses to its Applications Programming Interfaces in various circumstances. Subsection J) allows Microsoft to duck behind "security" considerations or to comply with a hypothetical "governmental agency of competent jurisdiction." At the same time it encourages Microsoft to approve only potential licensees with an "authentic and viable" business and a "reasonable business need".

Just as an automobile is a useless platform without a driver, an operating system is useless without an application. Concealment of an operating system's APIs is the equivalent of hiding a car's windshield wiper or light switches from its owner or driver, limiting its use to daytime and dry weather.

Revealing the locations of these controls (and how to use them) is not the same as providing detailed information on the design or workings of the internal mechanisms which provide the needed function. The security issues raised by publishing API specifications are specious because authentication of identity is simply a service expected of an operating system, not unlike a car's key-locked ignition switch.

Furthermore, just as a car buyer would not buy an additional license to use information to operate its heater, Microsoft operating system consumers must not be forced to buy (directly or indirectly) additional information about Windows XX just to use it with programs developed by third parties. In sum, Section III (J) invites Microsoft to invoke security or intellectual property issues to justify withholding information useful to purchasers and applications programmers of its operating systems.

Given the history of Microsoft's behavior in relation to the U.S. Government's attempts to restrain it, the Court will again be called upon to examine that behavior. Since May of 1990, when the FTC opened its anti-trust investigation, Microsoft has paid little attention to its government's admonishments or to orders of the Court. Indeed, Microsoft has never admitted any wrongdoing, nor has it in the present action.

Respectfully,
Kerwin Dunsmore

MTC-00032134

From: stout762
To: Microsoft ATR
Date: 12/2/01 8:38pm
Subject: Microsoft

DOJ:

I beleive that the continued existance of Microsoft as an intact entity poses an extreme danger to all other software companies. Microsoft has a long history of using any method available to kill competition and stifle inovation in the computer industry. Quite simple they cannot be trusted to uphold any agreement they enter into.

To mitigate the continued danger of Micro$oft, I propose that the corporation be divided into to seperate entities. One that will continue to produce Operating Systems (OS) and One that will develop end user applications (office, Internet Explorer, etc). Absolutly no communications, other than normal discourse between two rival companies, should be permitted between the two halves of the company.

To mitigate the advantages already achieved by the company, Microsoft need to be forced to disclose all proprietary information regarding the various protocols and file formats used by the companie's software.

If microsoft continues to try and "pollute" public domain standards (HTML, TCP/IP, ETC) they should be quicly and severly punished and forced to recind the changes. The end user needs to have the option to uninstall or decline the installation of any "bundled" software (Internet Explorer, Media Player, etc.) without crippling the operation of the OS or any other software component.

As the final step, all of the current Microsoft senior executives should be forced to sell off their microsoft holdings and seek employment elsewhere. It seems patently unfair to me that they should be rewarded with the continued leadership of a comapny that has engaged in criminal behavior for 20+ years.

R/ J. Justin Stout

MTC-00032135

From: RYates2000@aol.com@inetgw
To: RYates2000@aol.com@inetgw
Date: 12/4/01 4:23am
Subject: Re: Microsoft settlement

I am writing to voice my concern over the proposed settlement with Microsoft. I, and many of my peers, feel that as a consumers, we do not enjoy the amount of choice we should in the computer software industry. There is no credible alternative to many of the product categories that Microsoft dominates. It is clear that they have continuously "strangled" new technologies that they saw as a threat to their dominance (Web Browsers, Word Processors, Java, Media players, etc).

Please consider taking a stronger position against this company that was found GUILTY in court for being an anticompetitive monopolist.

Sincerely,
Ron Yates
3516 Foxglove
Louisville, KY 40241

MTC-00032136

From: david pech
To: John Ashcroft
Date: 12/4/01 10:31am
Subject: USAGPech—Gina—1098—1130
Gina Pech(1543 22nd Street(Ogden, UT(84401
November 30, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

I am writing to express my approval of the federal settlement that has been reached in the Microsoft case.

The Justice Department has kept Microsoft tied up court for the last three years, and it is time to stop the litigation and let them get back to the business of technological innovation. The U.S. computer industry is second to none in the world, and Microsoft should get much of the credit for this. The settlement is balanced, and takes into consideration the concerns of those in the business who felt that they were unfairly shut out of the market.

Sincerely,
Gina Pech
CC:Microsoft ATR

MTC-00032137

From: Brian J Best
To: GENERAL@ksag.org@inetgw
Date: 12/4/01 7:53pm
Subject: Microsoft Proposed Settlement

Dear Sirs or Madams:

I have read about the proposed Microsoft anti-trust settlement and am appalled that such a settlement is even being considered.

It is obvious to anyone who currently, or in the past, makes their living in computer support for education that this settlement would only serve to increase the market share, and thus the monopoly power, of Microsoft in the education market. Further more, the proposed settlement has no mechanism to control the use of Microsoft's monopoly power in the future. Long term, the settlement would not provide redress for Microsoft's abuse of monopoly power, but instead simply increase the possibility of such abuse in education, while hurting the market share of competing companies.

Bottom line: the proposed settlement is wholly inadequate as a penalty for Microsoft's abuse of its monopoly power. It is completely unacceptable. I strongly urge you to reject this proposal and continue your work to find an acceptable remedy.

Sincerely,
Brian J. Best
5000 Clinton Pkwy #901
Lawrence, KS 66047
785-830-8883

MTC-00032138

From: L. Strickland
To: Ms. Renata Hesse
Date: 12/5/01 1:10pm
Subject: Microsoft Settlement
L. Strickland
6811 Meteor Pl.
Springfield, VA 22150
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

L. Strickland

MTC-00032139

From: Glenn German
To: Ms. Renata Hesse
Date: 12/5/01 1:58pm
Subject: Microsoft Settlement
Glenn German
Box 74
Burlington, KS 66839–0074
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Glenn R. German

MTC-00032140

From: Constance Root
To: Ms. Renata Hesse
Date: 12/5/01 1:58pm
Subject: Microsoft Settlement
Constance Root
8472 Maplewood Ln
Lenexa, KS 66215–2874
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Constance J Root

MTC-00032141

From: Martin Spielman
To: Ms. Renata Hesse
Date: 12/5/01 2:00pm
Subject: Microsoft Settlement
Martin Spielman
8 Monaghan Road
Edison, NJ 08817-4122
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Martin J Spielman

MTC-00032142

From: Adrian J. Dekker
To: Ms. Renata Hesse
Date: 12/5/01 2:01pm
Subject: Microsoft Settlement
Adrian J. Dekker
11929 Eagle Creek Cove
Ft. Wayne, IN 46814
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Adrian J. Dekker

MTC-00032143

From: James G. Tierney
To: Ms. Renata Hesse
Date: 12/5/01 2:05pm
Subject: Microsoft Settlement
James G. Tierney
9660 W. Pebble Brook Lane
Boise, ID 83703
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

James G.Tierney

MTC-00032144

From: John Schuck
To: Ms. Renata Hesse
Date: 12/5/01 2:06pm
Subject: Microsoft Settlement

John Schuck
P.O. Box 1516
North Conway, NH 03860
December 5, 2001

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. The terms of the settlement offer a fair resolution for all sides of this case ? the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors? products after purchase as well.

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Sincerely,

John Schuck

MTC-00032145

From: JEROME BOLT
To: Ms. Renata Hesse
Date: 12/5/01 2:07pm
Subject: Microsoft Settlement

JEROME BOLT
PO BOX 167
ROCKPORT, TX 78381
December 5, 2001

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division 601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

JEROME G. BOLT

MTC-00032146

From: Jane Moore
To: Ms. Renata Hesse
Date: 12/5/01 2:08pm
Subject: Microsoft Settlement

Jane Moore 5 North Star Dr.
Randolph, NJ 07869
December 5, 2001

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Jane E. Moore

MTC-00032147

From: carol&george LATOURETTE
To: Ms. Renata Hesse
Date: 12/5/01 2:08pm
Subject: Microsoft Settlement
carol&george LATOURETTE
2250 newfound harbor drive
merritt island, FL 32952
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
carol&george latourette

MTC-00032148

From: W. B. Pete Hopkins
To: Ms. Renata Hesse
Date: 12/5/01 2:14pm
Subject: Microsoft Settlement
W. B. Pete Hopkins
4 Cormorant Circle
Durham, NH 03824
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

W. B. Pete Hopkins

MTC-00032149

From: Richard Kabat
To: Ms. Renata Hesse
Date: 12/5/01 2:14pm
Subject: Microsoft Settlement
Richard Kabat
Rt 3 Box L-160
Franklin, TX 77856
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Richard J. Kabat

MTC-00032150

From: Harold Berenson
To: Ms. Renata Hesse
Date: 12/5/01 2:16pm
Subject: Microsoft Settlement
Harold Berenson
20110 218th Ave NE
Woodinville, WA 98072-7145
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Harold R. Berenson

MTC-00032151

From: Marty French
To: Ms. Renata Hesse
Date: 12/5/01 2:16pm
Subject: Microsoft Settlement
Marty French
2300 Bristol Dr.
Carrollton, Tx 75006
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Marty French

MTC-00032152

From: Jerry Darger
To: Ms. Renata Hesse
Date: 12/5/01 2:16pm
Subject: Microsoft Settlement
Jerry Darger
821 Hopkins St
Kiowa, KS 67070
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530
Ms. Hesse:

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Sincerely,
Jerry Darger

MTC-00032153

From: Marian Hirsh
To: Ms. Renata Hesse
Date: 12/5/01 2:16pm
Subject: Microsoft Settlement
Marian Hirsh
96000 Overseas Hwy. F-9
Key Largo, FL 33037
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530
Ms. Hesse:

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Sincerely,
Marian Hirsh

MTC-00032154

From: Jacob Baker
To: Ms. Renata Hesse
Date: 12/5/01 2:19pm
Subject: Microsoft Settlement
Jacob Baker
121 PINE DRIVE
watertown, NY 13612
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Jacob D. Baker

MTC-00032155

From: Beryl Shuga
To: Ms. Renata Hesse
Date: 12/5/01 2:27pm
Subject: Microsoft Settlement
Beryl Shuga
720 Glenhaven Drive
Hurst, TX 76054–2306
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
(Mrs) Beryl Shuga

MTC-00032156

From: Steve King
To: Ms. Renata Hesse
Date: 12/5/01 2:28pm
Subject: Microsoft Settlement
Steve King
718 Treat Ave.
San Francisco, CA 94519
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors&#8217; products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Steve King

MTC-00032157

From: Kelly J. Purcell
To: Ms. Renata Hesse
Date: 12/5/01 2:28pm
Subject: Microsoft Settlement

Kelly J. Purcell
1918 Edinburgh Way
Fullerton, CA 92831
December 5, 2001

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance & #8211; the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Kelly J. Purcell

MTC-00032158

From: Mark Spaeth
To: Ms. Renata Hesse
Date: 12/5/01 2:32pm
Subject: Microsoft Settlement

Mark Spaeth
14 E. Brookdale Ln
Palatine, IL 60067-7404
December 5, 2001

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Mark Spaeth

MTC-00032160

From: Joseph O'Hara
To: Ms. Renata Hesse
Date: 12/5/01 2:32pm
Subject: Microsoft Settlement
Joseph O'Hara
17521 leafwood lane
Tustin, ca 97280-1208
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Joe O'Hara

MTC-00032161

From: Gary Halpin
To: Ms. Renata Hesse
Date: 12/5/01 2:34pm
Subject: Microsoft Settlement
Gary Halpin
2009B Huntington Lane
Redondo Beach, CA 90278
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Gary Halpin

MTC-00032162

From: Jon H. Clayton
To: Ms. Renata Hesse
Date: 12/5/01 2:38pm
Subject: Microsoft Settlement
Jon H. Clayton
174 Woodland Ct.
Wetumpka, AL 36093-2211
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance & #8211; the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Jon H. Clayton

MTC-00032163

From: Edward Griffiths
To: Ms. Renata Hesse
Date: 12/5/01 2:38pm
Subject: Microsoft Settlement

Edward Griffiths
PO Box 2411
Pawleys Island, SC 29585–2411
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Edward Griffiths

MTC-00032164

From: Herman Kohlman
To: Ms. Renata Hesse
Date: 12/5/01 2:39pm
Subject: Microsoft Settlement

Herman Kohlman
2930 Woodside Ct.
Evansville, IN 47711
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Herman A. Kohlman

MTC-00032165

From: Edward G. Morin
To: Ms. Renata Hesse
Date: 12/5/01 2:44pm
Subject: Microsoft Settlement

Edward G. Morin
256 HILLSIDE AVENUE
CHATHAM, NJ 07928
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice,
Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Edward G. & Mary V. Morin

MTC-00032166

From: Jerry Lee
To: Ms. Renata Hesse
Date: 12/5/01 2:45pm
Subject: Microsoft Settlement
Jerry Lee
RR1—Box 332M
Bruceton Mills, WV 26525–9707
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Jerry S. Lee

MTC-00032167

From: James Murphy
To: Ms. Renata Hesse
Date: 12/5/01 2:50pm
Subject: Microsoft Settlement
James Murphy
34900 Military Rd S
Auburn, WA 98001–9211
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
James C. Murphy

MTC-00032168

From: Joseph F Yates
To: Ms. Renata Hesse
Date: 12/5/01 2:54pm
Subject: Microsoft Settlement
Joseph F Yates
4411 Beechland Rd
Springfield, KY 40069
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Joseph F. Yates

MTC-00032169

From: David Spaller
To: Ms. Renata Hesse
Date: 12/5/01 2:55pm
Subject: Microsoft Settlement
David Spaller
PO Box 864592
Plano, TX 75086
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance &#8211; the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
David Spaller

MTC-00032170

From: Ella Rast
To: Ms. Renata Hesse
Date: 12/5/01 2:55pm
Subject: Microsoft Settlement
Ella Rast
475 East Park Street
American Falls, ID 83211
December 5, 2001

Ms. Renata Hesse U.S. Department of Justice, Antitrust Division

601 D Street NW, Suite 1200 Washington, DC 20530 Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Ella Rast

MTC-00032171

From: Christopher Perdue
To: Ms. Renata Hesse
Date: 12/5/01 2:59pm
Subject: Microsoft Settlement
Christopher Perdue
1509 Carmel Road
Charlotte, NC 28226-5013
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Christopher Perdue

MTC-00032172

From: Edward Evanko
To: Ms. Renata Hesse
Date: 12/5/01 3:07pm
Subject: Microsoft Settlement
Edward Evanko
1885 Military Ave
Seaside, CA 93955-3412
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Edward Evanko

MTC-00032173

From: Jeanne Brantingham
To: Ms. Renata Hesse
Date: 12/5/01 3:08pm
Subject: Microsoft Settlement
Jeanne Brantingham
11245 West Rd, #916
Houston, TX 77065-4873
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance &#8211; the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Jeanne Brantingham

MTC-00032174

From: Kenneth Golden
To: Ms. Renata Hesse
Date: 12/5/01 3:14pm
Subject: Microsoft Settlement
Kenneth Golden
1612 Harvard Woods Dr.2810
Brandon , Fl 33511-2095
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Kenneth Golden

MTC-00032175

From: Kendrick Matthews
To: Ms. Renata Hesse
Date: 12/5/01 3:25pm
Subject: Microsoft Settlement
Kendrick Matthews
11334 Earlywood Drive
Dallas, TX 75218
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Kendrick Matthews

MTC-00032176

From: Linda Hughes
To: Ms. Renata Hesse
Date: 12/5/01 3:31pm
Subject: Microsoft Settlement
Linda Hughes
10 MacLaren Ct
Waldwick, NJ 07463–2413
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Mrs. Linda Hughes

MTC-00032177

From: Herbert Stevenson
To: Ms. Renata Hesse
Date: 12/5/01 3:36pm
Subject: Microsoft Settlement
Herbert Stevenson
602. Fifth Street
Kirkland, WA 98033
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Herbert L. Stevenson

MTC-00032178

From: David Eilbaum
To: Ms. Renata Hesse
Date: 12/5/01 3:58pm
Subject: Microsoft Settlement
David Eilbaum
7166 Lester
Lexington, Mi 48450
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather then months or years from now when all appeals from continuing the litigation would finally be exhausted. The terms of the settlement offer a fair resolution for all sides of this case the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well.

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Sincerely,
David Eilbaum

MTC-00032179

From: Mike Kisch
To: Ms. Renata Hesse
Date: 12/5/01 3:58pm
Subject: Microsoft Settlement
Mike Kisch
Rt 1 Box 90B
Moberly, MO 65270
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Mike Kisch

MTC-00032180

From: janice MURPHY
To: Ms. Renata Hesse
Date: 12/5/01 4:00pm
Subject: Microsoft Settlement
janice MURPHY
1015 N Lincoln Hill Lane
martinsville, IN 46151
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

janice murphy

MTC-00032181

From: Carol Iossa
To: Ms. Renata Hesse
Date: 12/5/01 4:05pm
Subject: Microsoft Settlement
Carol Iossa
R.R. 1 Box 3130
Jonesport, ME 04649–9709
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Carol H. Iossa

MTC-00032182

From: C. O. "Cap" Sterling
To: Ms. Renata Hesse
Date: 12/5/01 4:06pm
Subject: Microsoft Settlement
C. O. "Cap" Sterling
4789 Scottsville Rd.,
Floyds Knobs, In 47119
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

C.O. "Cap" Sterling

MTC-00032183

From: Barbara Robken
To: Ms. Renata Hesse
Date: 12/5/01 4:10pm
Subject: Microsoft Settlement
Barbara Robken
2800 Andover Ave
Midland, TX 79705-3201
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Barbara Robken

MTC-00032184

From: Willis Brown
To: Ms. Renata Hesse
Date: 12/5/01 4:25pm
Subject: Microsoft Settlement
Willis Brown
3014 Julian Drive
New Albany, IN 47150-9519
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Willis Brown

MTC-00032185

From: Leonard and Agnes Tillerson
To: Ms. Renata Hesse
Date: 12/5/01 4:26pm
Subject: Microsoft Settlement
Leonard and Agnes Tillerson
244 Osprey Circle
St. Marys, Ga 31558-4101
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Agnes and Leonard Tillerson

MTC-00032186

From: roy hinton
To: Ms. Renata Hesse
Date: 12/5/01 4:34pm
Subject: Microsoft Settlement
roy hinton
pob 92
hayes, va 23072
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

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Sincerely,

Roy Hinton

MTC-00032187

From: Jason Church
To: Ms. Renata Hesse
Date: 12/5/01 4:36pm
Subject: Microsoft Settlement
Jason Church
4646 W. Bath Rd.
Perry, MI 48872-9175
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Jason P. Church

MTC-00032188

From: James Rutte
To: Ms. Renata Hesse
Date: 12/5/01 4:54pm
Subject: Microsoft Settlement
James Rutte
20 Taunton Lake Road
Newtown, CT 06470-1414
December 5, 2001
Ms. Renata Hesse

U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
James A. Rutte

MTC-00032190

From: jerry ellis
To: Ms. Renata Hesse
Date: 12/5/01 5:16pm
Subject: Microsoft Settlement
jerry ellis
180 NE IZETT ST. #A1
Oak Harbor, wa 98277
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
jerry ellis

MTC-00032191

From: Clifford Springmeyer
To: Ms. Renata Hesse
Date: 12/5/01 5:27pm
Subject: Microsoft Settlement
Clifford Springmeyer
427 Brightwood Place
San Antonio, Tx 78209
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely, Cliff & Jo
Springmeyer

MTC-00032192

From: V. Ruth Cathey
To: Ms. Renata Hesse
Date: 12/5/01 5:30pm
Subject: Microsoft Settlement

V. Ruth Cathey
9024 Mettler Dr.
El Paso, TX 79925–4046

December 5, 2001

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Ruth Cathey

MTC-00032193

From: michael mcquilkin
To: Ms. Renata Hesse
Date: 12/5/01 5:30pm
Subject: Microsoft Settlement

michael mcquilkin
po box-145
lakeview, ar 72642

December 5, 2001

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
michael mc quilkin

MTC-00032194

From: Carlton D. Miller
To: Ms. Renata Hesse
Date: 12/5/01 5:38pm
Subject: Microsoft Settlement

Carlton D. Miller
805 Skye Drive
Findlay, Oh 45840–4436

December 5, 2001

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Carlton D. Miller

MTC-00032185

From: Michael Lambert
To: Ms. Renata Hesse
Date: 12/5/01 5:51pm
Subject: Microsoft Settlement
Michael Lambert
3755 Wildwood Road
San Diego, CA 92107
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Michael Lambert

MTC-00032186

From: Laurie Lord
To: Ms. Renata Hesse
Date: 12/5/01 6:12pm
Subject: Microsoft Settlement
Laurie Lord
Box 1155
Ione, Ca 95640
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Laurie K. Lord

MTC-00032197

From: stuart van dyke
To: Ms. Renata Hesse
Date: 12/5/01 6:12pm
Subject: Microsoft Settlement
stuart van dyke
225 hourglass way #106
sarasota , fl 34242
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530
Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
stuart van dyke

MTC-00032198

From: Louise Lane
To: Ms. Renata Hesse
Date: 12/5/01 6:28pm
Subject: Microsoft Settlement
Louise Lane
5310 Stanford Road
Jacksonville, FL 32207-7856
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530
Ms. Hesse:

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Sincerely,
Reba Louise Lane

MTC-00032199

From: Benton Welling
To: Ms. Renata Hesse
Date: 12/5/01 7:17pm
Subject: Microsoft Settlement
Benton Welling
2208 Pennington Dr.
Arlington, TX 76014-3512
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530
Ms. Hesse:

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Sincerely,
Benton M. Welling

MTC-00032200

From: Michael Belcher
To: Ms. Renata Hesse
Date: 12/5/01 7:36pm
Subject: Microsoft Settlement
Michael Belcher
po box 5681
pahrump, nv 89041
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Michael Belcher

MTC-00032201

From: Victoria Heller
To: Ms. Renata Hesse
Date: 12/5/01 7:37pm
Subject: Microsoft Settlement
Victoria Heller
2 Snowy Owl Lane
North Oaks, MN 55127
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Victoria Heller

MTC-00032202

From: Rikard Krvaric
To: Ms. Renata Hesse
Date: 12/5/01 7:47pm
Subject: Microsoft Settlement
Rikard Krvaric
720 SW 111th Avenue. 208
Pembroke Pines, FL 33025
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Rikard Krvaric

MTC-00032203

From: Russell Lee
To: Ms. Renata Hesse
Date: 12/5/01 8:06pm
Subject: Microsoft Settlement
Russell Lee
375 W Wyandot
Upper Sandusky, OH 43351
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Russell J Lee

MTC-00032204

From: Paul Offer
To: Ms. Renata Hesse
Date: 12/5/01 8:08pm
Subject: Microsoft Settlement
Paul Offer
24010–49th Place West
Mountlake Terrace, , WA 98043
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Paul Offer

MTC-00032205

From: Eric Cheatwood
To: Ms. Renata Hesse
Date: 12/5/01 8:20pm
Subject: Microsoft Settlement
Eric Cheatwood
86 Austin Street #208
Worcester, MA 01609–2956
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Eric Cheatwood

MTC-00032206

From: Michael Crass
To: Ms. Renata Hesse
Date: 12/5/01 8:23pm
Subject: Microsoft Settlement
Michael Crass
3831 Marshall Place
Gary, IN 46408–1926
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Michael Crass

MTC-00032207

From: Dana Langsford

To: Ms. Renata Hesse
Date: 12/5/01 8:50pm
Subject: Microsoft Settlement
Dana Langsford
121 W. Crescent
Marquette, MI 49855
December 5, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Dana Langsford

MTC-00032208

From: Franklin M. Swig
To: Ms. Renata Hesse
Date: 12/5/01 8:59pm
Subject: Microsoft Settlement
Franklin M. Swig
2809 N. Glendower Ave.
Los Angeles, CA 90027-1118
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530 M

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Franklin M. Swig

MTC-00032209

From: Larry Kelley
To: Ms. Renata Hesse
Date: 12/5/01 9:36pm
Subject: Microsoft Settlement
Larry Kelley
po. box 521
Hampden, ME 04444
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200 Washington, DC 20530 Ms. Hesse:

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Sincerely,
Larry Kelley

MTC-00032210

From: Carl Wittekind
To: Ms. Renata Hesse
Date: 12/5/01 10:11pm
Subject: Microsoft Settlement
Carl Wittekind
4672 Glenheath Dr,
Kettering, Oh 45440–1981
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Carl S. Wittekind

MTC-00032211

From: Helen Farson
To: Ms. Renata Hesse
Date: 12/5/01 10:19pm
Subject: Microsoft Settlement
Helen Farson
917 N. Louise St., #402
Glendale, CA 91207–2164
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Helen E. Farson

MTC-00032212

From: Lori Wright
To: Ms. Renata Hesse
Date: 12/5/01 11:20pm
Subject: Microsoft Settlement
Lori Wright
4216 Ferriday Ct
Raleigh, NC 27616–9517
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Lori Wright

MTC-00032213

From: Barbara Scruggs
To: Ms. Renata Hesse
Date: 12/5/01 11:22pm
Subject: Microsoft Settlement
Barbara Scruggs
842 Mike Powers Road
Grantville, GA 30220-1640
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Barbara Scruggs

MTC-00032214

From: Jae Hawksworth
To: Ms. Renata Hesse
Date: 12/6/01 12:04am
Subject: Microsoft Settlement
Jae Hawksworth
1898 Penrose Drive
Fayetteville, NC 28304
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Jae Hawksworth

MTC-00032215

From: James Demartini
To: Ms. Renata Hesse
Date: 12/6/01 1:30am
Subject: Microsoft Settlement
James Demartini
1500A Lafayette Road #151
Portsmouth, NH 03801
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

James Demartini

MTC-00032216

From: Jon Koppenhoefer
To: Ms. Renata Hesse
Date: 12/6/01 2:10am
Subject: Microsoft Settlement
Jon Koppenhoefer
264 Oakridge Drive
Springfield, OH 45504-3916
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Jon Koppenhoefer

MTC-00032217

From: Gregory Larson-DOJ
To: Ms. Renata Hesse
Date: 12/6/01 2:58am
Subject: Microsoft Settlement
Gregory Larson-DOJ
3834 Fremont Ave. No.
Minneapolis, MN 55412-2043
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Gregory Larson

MTC-00032218

From: Daniel Bonham
To: Ms. Renata Hesse
Date: 12/6/01 5:00am
Subject: Microsoft Settlement
Daniel Bonham
7890 Joyce Drive
Parma, OH 44130
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Daniel Bonham

MTC-00032219

From: Andrew Warren
To: Ms. Renata Hesse
Date: 12/6/01 5:30am
Subject: Microsoft Settlement
Andrew Warren
PO Box 476
New Tripoli, Pa 18066
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance &#8211; the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Andrew J Warren

MTC-00032220

From: Gwen Fisk
To: Ms. Renata Hesse
Date: 12/6/01 5:59am
Subject: Microsoft Settlement
Gwen Fisk
1049 Longbranch Avenue
Grover Beach, CA 93433
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Gwen Fisk

MTC-00032221

From: Alton Turner
To: Ms. Renata Hesse
Date: 12/6/01 6:04am
Subject: Microsoft Settlement
Alton Turner
520 N. Park St.
Crescent City, FL 32112-2226
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Al;ton R. turner

MTC-00032222

From: Andrew Boyd
To: Ms. Renata Hesse
Date: 12/6/01 6:05am
Subject: Microsoft Settlement
Andrew Boyd
13 Fieldstone Rd.
Elkton, MD 21921-8402
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Andrew Boyd

MTC-00032223

From: Richard M. Scrofani
To: Ms. Renata Hesse
Date: 12/6/01 6:10am
Subject: Microsoft Settlement

Richard M. Scrofani
19 Wagne Place
Hawthorne,
NJ 07506–1333
December 6, 2001

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance &#8211; the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Richard M. Scrofani

MTC-00032224

From: Roger Daigger
To: Ms. Renata Hesse
Date: 12/6/01 6:22am
Subject: Microsoft Settlement

Roger Daigger
15814 Stagecoach Road
Stagecoach, TX 77355–3370
December 6, 2001

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance &#8211; the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Roger W. Daigger

MTC-00032225

From: Richard Graves
To: Ms. Renata Hesse
Date: 12/6/01 6:23am
Subject: Microsoft Settlement
Richard Graves
125 Wildflower Lane
Chillicothe, Oh 45601–4092
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Richard E. Graves

MTC-00032226

From: John Smith
To: Ms. Renata Hesse
Date: 12/6/01 6:38am
Subject: Microsoft Settlement
John Smith
207 Fairway Circle
Americus, Ga 31709–4592
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance &#8211; the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors&#8217; products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
John Bernard Smith

MTC-00032227

From: Alberta Rademacher
To: Ms. Renata Hesse
Date: 12/6/01 6:39am
Subject: Microsoft Settlement
Alberta Rademacher
P.O.Box 1012
Milford, Pa 18337–2012
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse: I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Alberta Rademacher

MTC-00032228

From: Christine Tucker
To: Ms. Renata Hesse
Date: 12/6/01 6:48am
Subject: Microsoft Settlement

Christine Tucker
21 Lyman St.
Waltham, MA 02452
December 6, 2001

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Christine Tucker

MTC-00032229

From: Robert Fabrizio
To: Ms. Renata Hesse
Date: 12/6/01 6:49am
Subject: Microsoft Settlement

Robert Fabrizio
1100 S.E. 4th Ave. #23
Deerfield Beach, FL 33441
December 6, 2001

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Robert Fabrizio

MTC-00032231

From: Odis McLean
To: Ms. Renata Hesse
Date: 12/6/01 7:32am
Subject: Microsoft Settlement

Odis McLean
1426 Marlene
DeSoto, Tx 75115–2907
December 6, 2001

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division

601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
E. Odis McLean

MTC-00032232

From: Stephen Apple
To: Ms. Renata Hesse
Date: 12/6/01 7:54am
Subject: Microsoft Settlement

Stephen Apple
9908 Brandywine Circle
Austin, TX 78750
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance &#8211; the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Stephen Apple

MTC-00032233

From: Jeremy Goemaat
To: Ms. Renata Hesse
Date: 12/6/01 8:21am
Subject: Microsoft Settlement
Jeremy Goemaat
PO Box 42306
Urbandale, IA 50322
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Jeremy T. Goemaat

MTC-00032234

From: Rosa Mae Pennington
To: Ms. Renata Hesse
Date: 12/6/01 8:29am
Subject: Microsoft Settlement
Rosa Mae Pennington
1325 Dixieland Rd., #89
Harlingen, TX 78552–3312
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Rosa Mae Pennington

MTC-00032235

From: Patrick Whalen
To: Ms. Renata Hesse
Date: 12/6/01 8:29am
Subject: Microsoft Settlement
Patrick Whalen
PO BOX 713
Boonton, NJ 07005
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Patrick E. Whalen

MTC-00032236

From: Jerold Ottley
To: Ms. Renata Hesse
Date: 12/6/01 8:31am
Subject: Microsoft Settlement
Jerold Ottley
4952 S. 975 E.
SALT LAKE CITY, UT 84117–5714
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far

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Sincerely,
Jerold Ottley

MTC-00032237

From: Joyce Wice
To: Ms. Renata Hesse
Date: 12/6/01 9:27am
Subject: Microsoft Settlement
Joyce Wice
6030 California Circle #101
Rockville, Md 20852
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Joyce Wice

MTC-00032238

From: David Gray
To: Ms. Renata Hesse
Date: 12/6/01 9:44am
Subject: Microsoft Settlement
David Gray
792 Spanish Cove Drive
Melbourne, FL 32940
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
David L. Gray

MTC-00032239

From: Chuck Davis
To: Microsoft ATR
Date: 12/6/01 10:17am
Subject: Microsoft settlement

Dear Sirs,

I heavily use Microsoft products both personally and professionally. Having supported computers for 35 years, I would like to state my opinion, as a private citizen regarding the Microsoft settlement. The agreement, in which Microsoft will contribute it's product to educational facilities, gives Microsoft an unfair advantage in those education facilities and is not at all a fair response to their monopolistic behavior.

Thank you,
Charles W. Davis
cdavis@bestweb.net

MTC-00032240

From: KEN SCHNEIDER
To: Ms. Renata Hesse
Date: 12/6/01 10:22am
Subject: Microsoft Settlement
KEN SCHNEIDER
181 PIONEER DR.
PORT LUDLOW, WA 98365
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
KENNETH L. SCHNEIDER

MTC-00032242

From: bray
To: Microsoft ATR
Date: 12/6/01 10:32am
Subject: microsoft settlement

The proposed settlement below is unacceptable as a solution to past monopolistic practices by Microsoft.

"Not long after the DOJ settlement, Microsoft announced it had agreed to another settlement regarding a separate class-action suit brought against the company by numerous parties that alleged overpricing of Microsoft products.

The settlement forces Microsoft to donate software, hardware, and services to America's poorest schools."

This type of settlement would simply introduce Microsoft to a market where they could further extend their monopoly. A better solution would be for Microsoft to pay a specific amout of money to each of these poor school districts to be used for non-microsoft products only, such as computer hardware. Then a company such as RedHat or Apple could donate software for these systems or part of the Microsoft fine could be used to purchase this software.

Allowing Microsoft or any company to donate their own product as part of a fine or punishment is akin to the drug dealer giving away the first few highs to get his clients hooked!!

MTC-00032243

From: Daniel Verbarg
To: Microsoft ATR
Date: 12/6/01 10:33am
Subject: Microsoft antitrust suit

I may not know all the details of the settlement, but I think this is just another slap on the wrist for Microsoft. I do know in the settlement that the school systems do not have to use Microsoft products. Basically this settlement is a payoff for Microsoft. Microsoft is getting a few things out of this.

One of the groups that is suing them is now off of their back, Microsoft gets to look good by "donating" money to poor school systems, they have an opportunity to take over another area of software that they are not the market leaders (school systems), and they proceed as normal in their business practices. I am not saying MS should be split up, but I'm not against that either. They treat OEM's and even consumers like crap. Just look at the new licensing agreements. These new licensing agreements are just a slap in the face of all them people settling their cases against MS.

Please do something that could get more consumer choice in the OS and app market.

Thanks,
Dan Verbarg Systems Admistrator

PS—Don't you think all the virus problems are enough evidence that there needs to be more choice and competition?

MTC-00032244

From: Thomas S
To: Microsoft ATR
Date: 12/6/01 10:34am
Subject: Remedy Case

As an IT professional I need choices to satisfy my work daily. MS has proven that they are in direct violation of Anti-trust laws governing the denying the consume fo such choice by their use of strong arm tactics and backdoor meetings. I strongly urgeyou to not allow them acess to public schools in one case and to strongly reprimand them in the other.

This is for the good of business and the IT community.

Regards,
L. Thomas Solet

MTC-00032245

From: Don Lex
To: Microsoft ATR
Date: 12/6/01 10:37am Subject" One users opinion
Department of Justice,
RE: Microsoft Settlement

My thoughts are simple regarding this complicated software business. As I read from public sources for settlement details; the settlement clearly fails to punish the Microsoft enterprise for its corporate behavior. Time has gone bye and the justice system may have indeed forgotten about the failed companies due to MicroSoft business practices. All of the failed businesses led to (1) lost competitive ideas, (2) lost employment, and (3) failed dreams. Long gone are companies like Netscape, Borland and others.

Further the notion that MicroSoft would give software operating systems, support and applications to the poorest schools appears to increase the footprint of the Microsoft monopoly. This may actually be worse than doing nothing.

I do not envy your team in finding resolution with this matter or the tobacco matter, but please secure TRUE resolution. In my humble opinion, Microsoft needs to be broken into smaller companies like Judge Green did with AT&T. thank you for you time and consideration,

DON LEX
5160 Carriage Dr.
Richmond, CA 94803

MTC-00032246

From: Justin Hopper and Bogdana Manole
To: Microsoft ATR
Date: 12/6/01 10:38am
Subject: Absolute Outrage

I am a long-term software developer and user of Microsoft's products, however that does not blind me from their unjust business practices. I have seen once strong products like Netscape Navigator, Quicken and WordPerfect, literally crumble as Microsoft pushed it's way into the markets. Everything that is developed by Microsoft creates a further dependency on their products, including the operating system. What we have seen over the past years is more and more software products being developed by Microsoft. It used to be an operating system and now the company offers a complete end-to-end solution for IT businesses in just about any market. Where's the diversity?

I currently reside, in Romania, a former Communist country. I can tell you first hand the dangers of a monopoly. For example, there is one telecom company in Romania (sound familiar) and the whoever wants to make a phone call must pay them a set tariff. Who ever wants to set up an ISP must pay them a set tariff. Who ever wants to receive extra phone services or even make and international phone call, must pay them a set tariff. If the consumer does not like it then who do they have to turn to? Noone! They are stuck with whatever price Romtelecom sets. Now tell me how this settlement is going to prevent this from happening to the technology market.

The decision to make Microsoft give its software away for free to public schools is almost funny. Not only does it give Microsoft's operating system a leg up in what may be one of the only fields that it doesn't have control over; but it will probably be the end of Apple Computers. This is an ingenious idea and whoever came up with this proposal must have done so knowingly. The Department of Justice looks like a naive child being led by the giant software developer to do whatever it wants. Who is running the court-case, Microsoft or the DOJ? Sometimes it is hard to know.

Sincerely,
Justin Hopper

MTC-00032247

From: Andreas Pleschutznig
To: Microsoft ATR
Date: 12/6/01 10:38am
Subject: Personal opinion to the Microsoft settlement

First I don't understand the thought process of why this half way solution of imposing some restriction on Microsoft is even thought about. Microsoft has shown in the past that they do not honor such restrictions or try to find a loophole, or turn the words until it suits their needs.

Secondly and even more important I don't understand the justice behind that. Here is someone has has been found guilty of a crime and still show no remorse and we do not punish them as the law would call for, but strike a weak deal with them. In the past the splitup of ATT was the best that could have happened to the customer because it reopened the market. My personal belief is that this should happen to Microsoft as this (the breakup) would force the Mini-MS companies to compete and thus have positive influence on the market.

Here is how I could imagine how the market could be made better: Suppose Microsoft got broken into 2 or more companies which in my opinion could be

a) The OS (Windows) company

b) The Application company (Office, * * *) This would lead to the situation that the Office company would want to sell as many copies of their Software as possible, and thus they maight want to port their Software to other OS's. Since now Windows no longer has the advandage of being the only one that has this office suite they would have to compete in the open market with features, stability,* * * as they could no longer rely upon being the only one having this office suite.

Just my $0.02
Thanks
Andreas Pleschutznig
2509 Taylor Way
Antioch CA 94509
Andy

MTC-00032248

From: Pat Montgomery
To: Microsoft ATR
Date: 12/6/01 10:39am
Subject: Microsoft settlement

To the Microsoft antitrust attorneys,

I strongly object to the terms of settlement of the Microsoft case.

MS was proven in court and by appellate review to be a monopoly (which is no crime), but to have repeatedly and to the profound harm of its competition, abused this monopoly power (which is a crime).

There are two issues:

1) Justice: They clearly broke the law. To be let off with a handslap sends a clear and unambiguous message that they can get away with it, to their shareholder's advantage and the disadvantage of other businesses competing in their ever-expanding fields. This encourages them to do it again, knowing they are big enough to get away with it. I don't think this is what T.Roosevelt meant by the word "bully".

2) Policy: Who in their right mind would now invest in a field of business that might *someday* be a field that MS decides it wants to dominate? The effects on competition, the putative underpinning of our economy, are devastating.

This was a very unfortunate decision.

Pat Montgomery
28818 108th Ave. SE
Auburn WA 98092
patmontg@attbi.com

MTC-00032249

From: Dave McCue
To: "microsoft.atr(a)usdoj.gov"
Date: 12/6/01 10:40am
Subject: Microsoft settlement

I want to tell you that I prefer RedHat's solution to the settlement of the anti-trust case to the one announced by the DOJ early in November. I think that the DOJ solution would help expand Microsoft's monopoly into one of the few areas they don't already control. Plus the cost to Microsoft to provide this software is almost zero since they have already recovered their investment through regular sales.

Thank you
David C. McCue
Information Systems Manager
City of Paso Robles, CA
mailto:dmccue@prcity.com
<mailto:dmccue@prcity.com>
Voice (805) 227-7202
Fax (805) 237-4032

MTC-00032250

From: paulpam
To: Microsoft ATR
Date: 12/6/01 10:41am
Subject: Microsoft

I just want to know whose palm did Microsoft grease to get away with it!

MTC-00032251

From: Phillip Landis
To: Microsoft ATR
Date: 12/6/01 10:41am
Subject: please get MS under control

As an IT Director for a medium-sized manufacturer, I have watched as Microsoft has altered licensing, raised prices and forced upgrades on our business. They are squeezing and buying out the competition so that there are no alternatives.

MS products are extremely bug-ridden and insecure. The cyber-terrorists will have a field day on our nation's computer networks if they are not forced to produce software of better quality. Putting out a patch after the fact is not acceptable.

Where they once helped to build an industry, I am afraid MS has now gotten far out of control. You really need to look at everything they do. They are active on a lot of fronts. They are also faster to move than the US government, and they are very smart.

If you do not exert better control over them, the good MS has done will be far overshadowed by the damage they inflict or allow to be inflicted. Thank you for the opportunity to give you my personal thoughts.

Phillip D. Landis
IT Director PoolPak, Inc.
3491 Industrial Drive
York, PA 17402-0452 (717) 757-2648 voice
(717) 757-5058 fax

MTC-00032252

From: William Roark
To: Ms. Renata Hesse
Date: 12/6/01 10:42am

Subject: Microsoft Settlement
William Roark
2705 Bluebell Cir.
Antioch, CA 94531–6702
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
William Roark

MTC–00032253

From: Bruce A Furnival
To: Microsoft ATR
Date: 12/6/01 10:43am
Subject: Microsoft's so called monopoly.

Microsoft needs to be left alone. If anyone else in the computer world wants to make operating systems for consumers they can. They prefer to keep things complicated.

Yours truly,
Bruce Furnival

MTC–00032254

From: bruno@users.succeed.net@inetgw
To: Microsoft ATR
Date: 12/6/01 10:47am
Subject: Microsoft monopoly

It is not difficult to understand that any monopoly damages everybody. Only the presence of competitors force you to improve yours produtcs, limit your price, and to evaluate your costumers. Everybody has benefit from the competition between AMD and INTEL. In the worse, exchange a fine for a promotional tool, is the way to reinforce a monopoly.

Thanks, Bruno Angelin

MTC–00032255

From: bruce boyd
To: Ms. Renata Hesse
Date: 12/6/01 10:54am
Subject: Microsoft Settlement
bruce boyd
107 high
nb, ca 92663
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

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Sincerely,
bruce boyd

MTC–00032256

From: Bob Garvey
To: Microsoft ATR
Date: 12/6/01 10:58am
Subject: opinion

I called Gateway computers yesterday to get a quote on a new PC. Once the price was established I asked how much it would be without an operating system. They answered that there is no difference in price. This is a monopolistic market.

I hear often, in the press, and in discussion that Microsoft is an innovative company. Microsoft brings forward that argument often. Check the facts: Window -> Xerox, Mouse -> Xerox, SQL Server -> Sybase, FoxPro -> bought, VisualBasic -> bought.

The windows operating system is intergrated: by any standard except anti-competitive / market driven that is not the best design.

Please put the arrogance of Microsoft in check. They are 10 steps ahead of the DOJ and gaining.

Bob Garvey
816–914–3295

MTC-00032257

From: Arturo Rafael Martinez Retama
To: Microsoft ATR
Date: 12/6/01 11:05am
Subject: microsoft should be punished for its past monopolic practices

I think microsoft should be punished for its past monopolic practices

MTC-00032258

From: Bob Nixon
To: Microsoft ATR
Date: 12/6/01 11:08am
Subject: microsoft monopoly

The current settlement requiring microsoft to donate software or hardware to poor schools only serves to further the company's monopolistic position. Kids who grow up with the microsoft way of doing things are unlikely to change the way they compute later in life. Microsoft's stifling pressure on Netscape has forced one of the truly free browsers into the hands of the unscrupulous and privacy invading marketing practices of AOL (personal opinion). There are many fine operating systems and browsers with advantages far more practical and efficient than Windows/Explorer: Unix , Linux and Macintosh, to name a few. When a company reaches the size and power of Microsoft the question of free enterprise no longer applies because their influence both monetarily and in terms of ubiquity allow them to slant the market as they choose. This is not the American way, as I understand it. (or, perhaps it is but, according to the ideals underpinning this country, should not be.) I have grown up with computing. I learned my first programming language in 1977. Computing can be a truly great tool but lets keep it free and clean and it's marketing practices fair. They have been shown to be guilty, please impose real penalties which don't amplify their crime.

Robert Nixon

MTC-00032259

From: Vance, Larry
To: "microsoft.atr(a)usdoj.gov"
Date: 12/6/01 11:10am
Subject: Microsoft antitrust settlement

I am a computer system administrator by profession and have been vexed by Microsofts methods of anti-competetive business practices. I do not feel that Microsoft has been held responsible for the damage that they have inflicted on the general computer industry and on the exhorbitant costs that have been incurred by our society. I feel that the Department of Justice has failed in their job to protect the citizens of the United States of America for non competitive practices from this corporation.

Happy computing,
Larry Vance
303-267-9801 (work)
303-324-4310 (mobile)
Vance.Larry@broadband.att.com

MTC-00032260

From: Gary N Fanning
To: Microsoft ATR
Date: 12/6/01 11:11am
Subject: DOJ/Microsoft Antitrust Settlement

No. Do not allow Microsoft the opportunity of reaping a reward from a punishment.

I am not sure of what punishment I would place on Microsoft, but the current proposal is only a short term punishment, with a long term possible gain.

Have Microsoft develop/convert its most popular softwares, Office, development tools, etc., to competing platforms. After a stated period of time, 3–5 years of support, Microsoft may stop support and enhancements. Microsoft would have to publish the software into the open source community.

Regards,
Gary Fanning
Vice President
Elevating Communications, Inc.
918.587.0131 x102

MTC-00032261

From: Bruce L. Friedman
To: Microsoft ATR
Date: 12/6/01 11:11am
Subject: DOJ–MS Settlement Agreement Opinion

I am told this is the forum for sending in public opinion for the proposed settlement.

I am a computer professional, familiar with MS Windows (3.1, 95, 98, Me, NT, 2000, and XP) as well as with Linux from various distributions (RedHat, Slackware, etc.) and Sun Solaris operating systems. I have been working professionally in the field for 16 years and hold undergraduate and graduate degrees in computer science.

My feeling from reading the press reports on the settlement is that Microsoft having been found guilty of monopolistic practices is being penalized by having to donate software to schools. This doesn't make sense. If the penalty's purpose is to prevent them from practicing as a monopoly in the future, I don't see how that would do it.

I think the only penalty that should matter should be financial. The real question should be—how much, and who is the beneficiary? I think education is an excellent choice for the recipient. As for how much, I can't say. However, it should be based upon the assets and income of the corporation. I would think that something on the order of half of the corporate assests would not be overly punishing given the impact they have had on the marketplace in the personal computer business.

Sincerely,
Bruce Friedman
bruce—friedman@yahoo.com

MTC-00032262

From: Jay L. Alberts
To: Microsoft ATR
Date: 12/6/01 11:12am
Subject: Microsoft case

Just a quick note to let the DOJ know that I am in favor of the proposed settlement of the Microsoft anti-trust case. This case has stalled innovation long enough. Thanks to the prevalence of Microsoft products I am able to effortlessly exchange files and documents with colleagues around the world when working on our research papers and grants. These features only serve to improve our work.

Sincerely,
Dr. Jay L. Alberts
Jay L. Alberts, Ph.D.
Dept. of Health and Performance Sciences
Georgia Institute of Technology
Atlanta, GA 30332–0356
jay.alberts@hps.gatech.edu
Voice: 404.385.2339
Fax: 404.894.9982
www.hps.gatech.edu

MTC-00032263

From: John Jones
To: Microsoft ATR
Date: 12/6/01 11:15am
Subject: An example must be set

To whom it may concern:

If the courts let Microsoft go with a slap on the wrist, Microsoft will feel free to continue with their antitrust practices. Indeed they are doing so even though a remedy has yet to be finalized. And why shouldn't they? The courts have yet to do anything to stand in their way, in my opinion.

It has been said that Microsoft could just move out of the country. I say fine, it would be their undoing in my opinion. The US economy would not lose on this one. Eventually a US company would step up to take their place. But this new company would at least know the limits of what is acceptable.

This has gone on far too long, please stop this injustice as soon as possible.

Thanks.
John Jones
Cleveland, Ohio

MTC-00032264

From: Tim VanAsselt
To: "microsoft.atr(a)usdoj.gov"
Date: 12/6/01 11:15am
Subject: microsoft settlement

If Microsoft operating systems division and their application software division are not separated then you will never see Microsoft applications (e.g. Office) run on other operating systems such as Linux and Unix. Not the case for the rest of the software world.

Tim Van Asselt
Mgr of software engineering
Enternet LLC

MTC-00032265

From: Frank Machado
To: Ms. Renata Hesse
Date: 12/6/01 11:16am
Subject: Microsoft Settlement

Frank Machado
7171 SE Lillian Ct.
Stuart, FL 34997
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Frank W. Machado

MTC-00032266

From: Haifeng Xi
To: Microsoft ATR
Date: 12/6/01 11:19am
Subject: A monopolist should be punished.

Dear Sir/Madam,

The DOJ had previously found Microsoft to be a monopolist, but the settlement included no punishment for past actions. Isn't that a bit weird? It left doubt as to its protections against future Microsoft monopolistic practices.

To make things even worse, not long after the DOJ settlement, Microsoft announced it had agreed to another settlement regarding a separate class-action suit brought against the company by numerous parties that alleged overpricing of Microsoft products. On the surface, the settlement forces Microsoft to donate software, hardware, and services to America's poorest schools. However the settlement could simply introduce Microsoft to a market where they could further extend their monopoly.

I am writing to support a counter-proposal that Red Hat Inc. brought forward. In its counter-proposal, Red Hat offered to provide free software to every school in America if Microsoft provided the value of its donation in hardware costs rather than its own software.

Please consider this proposal seriously, for the sake of the welfare of American schools and children.

Best Regards,

Haifeng

MTC-00032267

From: George Klages
To: Ms. Renata Hesse
Date: 12/6/01 12:06pm
Subject: Microsoft Settlement

George Klages
Rt 1, Box 1680
Fresno, TX 77545
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

George Klages

MTC-00032268

From:
dennis.kaminski@rapistan.com@inetgw
To: Microsoft ATR
Date: 12/6/01 12:45pm
Subject: Settlement

Gentlemen,

Microsoft was a monopoly, is still a monopoly and based on the settlement, will continue to be a monopoly.

Microsoft does not follow most standards but leaves things out or adds a twist to make itself and other systems partially incompatible.

Through software changes and bundling they have driven out most of the competition.

Computer systems have been my career for over 25 years.

I believe the operating system should be separated from the applications. As long as the operating system and applications come from the same company, Microsoft will be a monopoly.

Thank you

Dennis Kaminski
Manager Technical Support
Siemens Dematic, Rapistan Division
(616) 913-6431

MTC-00032269

From: Linda Sorci
To: Ms. Renata Hesse
Date: 12/6/01 2:46pm
Subject: Microsoft Settlement

Linda Sorci
1501 NW 79th Terrace
Pembroke Pines, FL 33024
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200

Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks court over the years, you cannot trust anythng they say. Thus, how can you trust the settlement? MicroSoft was probably going to give 1 billion dollars to schools anyways. Then the settlement says they have to, which doesn't make any sense, because they were probably going to do it anyways. MicroSoft has always tried to grab the educational institutions, because when people graduate from high school or college, they will stick with the software they know. Thus: 1. They were already going to do it anyways. 2. It inteferes with Apple's ability to compete in the education market. MicroSoft is entirely evil and I would prefer, be destroyed. I would like to see it get destroyed under a competitive market, rather than physcial force. I like to win my battles fairly. Given the current republican administration, please do what makes the most sense for a competitive market, which you should understand since you are republican, and just don't so stuff that benefits the rich fat republicans/corporations who have no regard for our nation, just their pocketbook. I want business to thrive for those who deserve it, not those who are able to bribe/lie/cheat/steal their way into power because they have a lot fo money.

Thanks!

Mark

MTC-00032455

From: John Schuck
To: Ms. Renata Hesse
Date: 1/9/02 12:08pm
Subject: Microsoft Settlement
John Schuck
P.O. Box 1516
North Conway, NH 03860
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200 Washington, DC 20530

Ms. Hesse: I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Linda Sorci

MTC-00032270

From: Allison Volner
To: Ms. Renata Hesse
Date: 12/6/01 3:57pm
Subject: Microsoft Settlement
Allison Volner
3115 Old Brownsville Rd.
Bartlett, Tn 38134–8552
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Allison D. Volner

MTC-00032271

From: Janie Irby
To: Ms. Renata Hesse

Date: 12/6/01 4:01pm
Subject: Microsoft Settlement
Janie Irby
P.O Box 455
Henry, TN 38231
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Janie Irby

MTC-00032272

From: Sally Grave
To:
Ms. Renata Hesse
Date: 12/6/01 4:02pm
Subject: Microsoft Settlement
Sally Grave
611 Cook Hill Rd
Cheshire, Ct 06410
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Sally Grave

MTC-00032273

From: R Craig Hudson
To: Ms. Renata Hesse
Date: 12/6/01 4:21pm
Subject: Microsoft Settlement
R Craig Hudson
15432 Coastal Highway
Milton, De 19968
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

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Sincerely,

R Craig Hudson

MTC–00032274

From: Richard Burke
To: Ms. Renata Hesse
Date: 12/6/01 5:01pm
Subject: Microsoft Settlement
Richard Burke
5396 S Calle Coro
Sierra Vista, AZ 85650–9048
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Richard W. Burke

MTC–00032275

From: Charles Boyette
To: Ms. Renata Hesse
Date: 12/6/01 5:28pm
Subject: Microsoft Settlement
Charles Boyette
274 Steens Road
Steens, MS 39766
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Charles E. Boyette

MTC–00032276

From: Kevin Sheehan
To: Ms. Renata Hesse
Date: 12/6/01 8:05pm
Subject: Microsoft Settlement
Kevin Sheehan
240C Brittany Farms Road
New Britain, CT 06053
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

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Sincerely,
Kevin B. Sheehan

MTC-00032277

From: Jill Merrell
To: Ms. Renata Hesse
Date: 12/6/01 8:27pm
Subject: Microsoft Settlement
Jill Merrell
12 Way West Airpark
Bainbridge, IN 46105
December 6, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Jill Merrell

MTC-00032278

From: raymond bykowski
To: Attorney General John Ashcroft
Date: 12/6/01 10:38pm
Subject: Microsoft ruling
Attorney General John Ashcroft
Justice Department
Washington, DC

Dear Attorney General John Ashcroft: Recently, the Department of Justice and Microsoft hammered out a settlemrnt of Microsoft's antitrust lawsuit. I want to express my support for this agreement, and ask you to oppose further hearings by the Juddiciary Committee.

The suit against Microsoft has gone on way to long. Microsoft has proven to be a successful, forward-thinking company that empowers this country, gives it it's technological edge, and provides jobs for thousands of people. These workers are now being punished for working for a successful company. In the proposed agreement, Microsoft has agreed to open up its Windows features, make future versions easier to install non Microsoft software and disclose certain company internal interface information, such as particular lines of code. This is more than enough.

It is time to move on. We have more important things to spend our time and money on.

Sincerely,
Raymond Bykowski
1350 Tower Hill Road
Brookfield, WI 53045
Email rayjames—2000@yahoo.com

MTC-00032280

From: Kenneth Golubski
To: Ms. Renata Hesse
Date: 12/7/01 3:45am
Subject: Microsoft Settlement
Kenneth Golubski
23743 Parkwood Dr
Columbia Station, OH 44028
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by

District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Kenneth Golubski

MTC-00032281

From: Tom Friedman
To: Ms. Renata Hesse
Date: 12/7/01 5:46am
Subject: Microsoft Settlement
Tom Friedman
25 Whispering Spring Dr
Pisgah Forest, , NC 28768-9502
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
T.M. Friedman

MTC-00032282

From: Christina McEntire
To: Ms. Renata Hesse
Date: 12/7/01 6:16am
Subject: Microsoft Settlement
Christina McEntire
7 Way West Rd.
Bainbridege, IN 46105
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms.Hesse:

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Sincerely,

Mrs. Christina McEntire

MTC-00032283

From: Joe Giza
To: Ms. Renata Hesse
Date: 12/7/01 6:40am
Subject: Microsoft Settlement
Joe Giza
2612 Fait Avenue
Baltimore, MD 21224–3725
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Joe Giza

MTC-00032284

From: Fred Reich
To: Ms. Renata Hesse
Date: 12/7/01 6:42am
Subject: Microsoft Settlement
Fred Reich
718 Danville Circle
Melbourne, FL 32904
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Fred Reich

MTC-00032285

From: Holly Evans
To: Ms. Renata Hesse
Date: 12/7/01 8:19am
Subject: Microsoft Settlement
Holly Evans
3601 Rip Ford Drive
Austin, TX 78732
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Holly Evans

MTC-00032286

From: Mark D'Agostino
To: Ms. Renata Hesse
Date: 12/7/01 9:50am
Subject: Microsoft Settlement
Mark D'Agostino
172 Middle Street #111
Lowell, MA 01852
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Mark D'Agostino

MTC-00032287

From: Anthony Dominguez
To: Ms. Renata Hesse
Date: 12/7/01 9:51am
Subject: Microsoft Settlement
Anthony Dominguez
37 Upland Road
Holyoke, MA 01040
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Anthony Dominquez

MTC-00032288

From: Peter Moon

To: Ms. Renata Hesse
Date: 12/7/01 9:57am
Subject: Microsoft Settlement
Peter Moon
31 Bowker St
Lexington, MA 02421
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Peter Moon

MTC-00032289

From: Charles Ferebee
To: Ms. Renata Hesse
Date: 12/7/01 9:59am
Subject: Microsoft Settlement
Charles Ferebee
120 Coburn Woods
Nashua, NH 03063
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Charles B. Ferebee

MTC-00032290

From: Derek Kilstrom
To: Ms. Renata Hesse
Date: 12/7/01 10:01am
Subject: Microsoft Settlement
Derek Kilstrom
18507 94th St Ct E
Bonney Lake, WA 98390
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Derek Kilstrom

MTC-00032291

From: Stephen Howard
To: Ms. Renata Hesse
Date: 12/7/01 10:05am
Subject: Microsoft Settlement
Stephen Howard
7 Judson Road
Weymouth, MA 02188
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Stephen J. Howard

MTC-00032292

From: christin walth
To: Ms. Renata Hesse
Date: 12/7/01 10:16am
Subject: Microsoft Settlement
christin walth
95 Scotland Road
Newbury, ma 01951
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Christin Walth

MTC-00032293

From: NEWCASE ATR
To: ATRMAIL8.ATRSFO01 .MSOFT
Date: 12/7/01 11:45am Subject'' Suggestion for MS Case resolvement-Forwarded
From: Roger
To: NEWCASE ATR
Date: 12/7/01 9:49am
Subject: Suggestion for MS Case resolvement

A key note: I had starband (2 way satellite isp) for about a year. It has no linux drivers. It is also said to be heavily funded by Microsoft. Although they havn't published winxp drivers for the service yet, i would speculate that they maybe holding the drivers back for release. They HAVE NO Linux drivers! The specs for the bcp/ip are proprietory and the service is Windows only.

This seems to be one of the key aspects of the said Microsoft Monopoly as hardware companies would only make h/w & services compatable for windows only. Linux is much more robust & secure, but yet, "Why do companies still only do Windows?"

Suggestion: If Microsoft is going to be teaming up with other 3rd party service, hardware & software providers, make them support all other o/s's with equivalent drivers in order to deter Microsoft from using it's influence on "Unknowing Customers" who buy into the service/product and boosting into a monopoly like enviroment.

Example: Microsoft invests in Starband. Make Starband make/publish linux & mac drivers (and that are equivalent in quality to the Windows drivers or better). This would, hence, promote legitament competition. Some of my comments on the latest suggested resolvements broadcasted on CNN Headline news:

(1) Strip Down Winxp—This would be nice as i use mozilla/netscape instead of the buggy IE (i use opensource tools since they prove more stable/reliable).

(2) Make MS Office for other platforms such as Linux—about 2 years too late. Sun just released StarOffice 6.0 Beta, and i must say that it looks really nice under linux. The slate a release for april/may, for which, only bugs and some minor fixes need some working...appears to be plenty of time to release a rock-solid product!...and it's pretty much free. Heard allot of National Gov'ts using staroffice rather the ms office.

(3) Java—uh? dunno the specifics.

I still don't really see how several of 1,2 or 3 will really do anything in resolvement of the MS/DOJ case that was won by the DOJ. It almost seems like ms has the economy and the doj on a leash.

It dismays me to see Corporations endulging into such illigit business structures which promote further instabilities into their business structures. This really seems like modem day mafias (with a loss of morals) that have converged to fit it's business model to thrive-off of loop holes within our legal system.

So instead of the consumer paying for a service, they pay the company to allow themselves to be able to work at the "said company". lol.

Verify my pgp/gnupg signature on my HomePage: http://www.alltel.net/rogerx/about/index.html My ICQ UIN# = 21252173

MTC-00032294

From: Jason Forish
To: Ms. Renata Hesse
Date: 12/7/01 11:48am
Subject: Microsoft Settlement
Jason Forish
121 Tremont Street Unit#317
Brighton, MA 02135
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Jason Forish

MTC-00032295

From: David Skidmore
To: Ms. Renata Hesse
Date: 12/7/01 1:19pm
Subject: Microsoft Settlement
David Skidmore
11330 Amanda 609
Dallas, TX 75238
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

David A. Skidmore

MTC-00032296

From: Jeannine M. Stahl
To: Ms. Renata Hesse
Date: 12/7/01 2:02pm
Subject: Microsoft Settlement
Jeannine M. Stahl
11826 S. 51st Street
Phoenix, AZ 85044-2313
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

The Stahls, Arthur and Jean

MTC-00032297

From: Arthur Stahl
To: Ms. Renata Hesse
Date: 12/7/01 2:31pm
Subject: Microsoft Settlement
Arthur Stahl
11826 S. 51st Street
Phoenix, AZ 85044-2313
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

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Sincerely,

Arthur & Jean Stahl

MTC-00032298

From: Roy Smith
To: Ms. Renata Hesse
Date: 12/7/01 4:15pm
Subject: Microsoft Settlement
Roy Smith
1401 halstead cir
centerville, oh 45458
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Roy F. Smith

MTC-00032299

From: sword121@hotmail.com@inetgw
To: Undisclosed.Recipients @usdoj.gov@inetgw
Date: 12/7/01 6:08pm
Subject: The Database that "leaves MS Access in the dust"

MTC-00032300

From: James Carpenter
To: Ms. Renata Hesse
Date: 12/7/01 7:01pm
Subject: Microsoft Settlement
James Carpenter
4922 Del Rio Trl.
Wichita Falls, TX 76310–1431
December 7, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
James A. Carpenter, Jr.

MTC-00032301

From: Wade Mountz
To: Ms. Renata Hesse
Date: 12/7/01 9:15pm
Subject: Microsoft Settlement
Wade Mountz
9 Muirfield Place
Louisville, KY 40222
December 8, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Wade Mountz

MTC-00032303

From: Don Botkin
To: Ms. Renata Hesse
Date: 12/7/01 11:47pm
Subject: Microsoft Settlement
Don Botkin
108 ½ East Main
Heyworth, IL 61745
December 8, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Respectfully,

Don Botkin

MTC-00032304

From: Jonathan Hobson
To: Ms. Renata Hesse
Date: 12/8/01 1:31am
Subject: Microsoft Settlement
Jonathan Hobson
PO Box 126
Plainfield, WI 54966-0126
December 8, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

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Sincerely,

Jonathan Hobson

MTC-00032305

From: Marc Pruskin
To: Ms. Renata Hesse
Date: 12/8/01 8:29am
Subject: Microsoft Settlement
Marc Pruskin
178 Taylor Road
Marlborough, MA 01752
December 8, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Marc Pruskin

MTC-00032306

From: Bob Familiar
To: Ms. Renata Hesse
Date: 12/8/01 6:27pm
Subject: Microsoft Settlement

Bob Familiar
192 Goodmans Hill Road
Sudbury, MA 01776
December 8, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Bob Familiar

MTC-00032307

From: lprieta
To: Attorney General Antitrust Division
Date: 12/8/01 6:47pm
Subject: microsoft public comment

Sirs,

I have been a personal computer user for 14 years. The internet with the basic "Mosaic" web browser was state of the art as I studied at the University of California. The focus of my studies was the "new" internet, media and the empowerment of minorities and private citizens which the net made possible.

I am a member of an Indian nation and this is very important to me. the FREEDOM to use internet tools, of my own choosing, and to not be enriching grasping monopolists, is of high importance to all private users of the internet, and of PCs in general.

The suggested settlement for Microsoft's crimes is utterly unsatisfactory to me. The notion that Microsoft products and services donated (and thus "locking in" the minds and habits of young internet users who would be better served by a free selection of products and platforms in their lifetimes) would adequately address the abuse of monopoly control of personal computing by Microsoft is inherently unjust and unrealistic.

I strongly urge the court to instead enforce the establishment (by Microsoft) of a fund for schools from which products and services SELECTED freely and totally by such schools would be paid.

Thank You

Russell F. Imrie

MTC-00032308

From: Meagan Hutcheson
To: Ms. Renata Hesse
Date: 12/9/01 5:50am
Subject: Microsoft Settlement

Meagan Hutcheson
22 Sequassen Rd.
Farmington, CT 06032
December 9, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Meagan Hutcheson

MTC-00032309

From: Harry Pierson
To: Ms. Renata Hesse
Date: 12/9/01 12:24pm
Subject: Microsoft Settlement
Harry Pierson
11064 Clear Meadows Dr.
Las Vegas, Nv 89134-7235
December 9, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Harry T. Pierson

MTC-00032310

From: Paul Pedriana
To: lance@pedriana.com@inetgw
Date: 12/9/01 6:40pm
Subject: Microsoft Settlement

Micorosft's propsosed settlement is clearly worded to benefit Microsoft at the expense of their competition In particular:

—Microsoft's proposal to "free" donate software is clearly an attempt to dilute the presence of their competitor's software.

—Microsoft's proposal to open their APIs is worded to lock out non-commercial entities such as open source software initiatives. Paul
Pedriana
paul@pedriana.com

MTC-00032311

From: Chris Sakalosky
To: Ms. Renata Hesse
Date: 12/10/01 7:53am
Subject: Microsoft Settlement
Chris Sakalosky
162 Melrose Street
Auburndale, MA 02466
December 10, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Chris Sakalosky

MTC-00032312

From: john@co.ferry.wa.us@inetgw
Date: 12/10/01 9:08am
Subject: Message-ID:
<3C14EC48.FFBF669D@co.ferry.wa.us>
Message-ID:
<3C14EC48.FFBF669D@co.ferry.wa.us>
Date: Mon, 10 Dec 2001 09:09:28 -0800
From: John Walden <john@co.ferry.wa.us>
X-Mailer: Mozilla 4.75 [en] (Win98; U)
X-Accept-Language: en
MIME-Version: 1.0
To: microsoft.atr@usdoj.gov,
feedback@redhat.com
Subject: MicroSoft Ruling
Content-Type: text/plain; charset=us-ascii
Content-Transfer-Encoding: 7bit

The first ruling against Microsoft, to break up the company, was correct and just. A mild punishment of Microsoft off will not foster competition, will not insure a strong industry and, will not benefit consumers. At the very least, Microsoft should make the current version (and future versions) of MS Office and other application software available for Linux. This would separate their operating system software from their applications software and prevent any future monopolistic behavior.

To punishment Microsoft by having then give their products to schools is a crazy idea. This will only foster their monopolistic practices and lock in future customers. It would be like punishing the tobacco industry by making them furnish no cost cigarette vending machines to schools.

John Walden,
IS Director, Ferry County

MTC-00032313

From: Bryan Haley
To: Ms. Renata Hesse
Date: 12/10/01 10:04am
Subject: Microsoft Settlement
Bryan Haley
9 Candlewood Way
Shrewsbury, MA 01545
December 10, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Bryan R. Haley

MTC-00032314

From: Jean Gary
To: Ms. Renata Hesse
Date: 12/10/01 11:22am
Subject: Microsoft Settlement
Jean Gary
5892 Langton Drive
Alexandria, VA 22310
December 10, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Jean Gary

MTC-00032315

From: Larry Svee
To: Ms. Renata Hesse
Date: 12/10/01 12:02pm
Subject: Microsoft Settlement
Larry Svee
W323 Highway 29
Spring Valley, WI 54767

December 10, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Larry Svee

MTC-00032316

From: BillMeelater
To: DOJ
Date: 12/10/01 6:52pm
Subject: MICROSOFT SETTLEMENT

Dear DOJ,

It pleases me that the DOJ and Microsoft Corp have come to a settlement finally. Briefly, my opinion as a consumer and citizen of this great country is as follows:

1. I never felt cheated or hurt as a consumer of any Microsoft product. Nor do I understand how consumers have been hurt by the Microsoft company. Certainly I've had many frustrating moments over the years because their software occasionally failed to function properly (and many consumers have shared this feeling). But I personaly feel that the gains I've made in productivity over the years, due to the advances in computing as a result of the Microsoft company, have been worth the trouble. Considering the efficiency their procucts bring to me, they are cheap. Let's not complain about an $80 operating system.

2. Our economy has benefitted from the standardization of operating systems due to Microsoft's dominance. I'm sure many a legal brief prepared by the DOJ was done on Microsoft software. What would it be like to share information in a world of computers that wouldn't talk to each other? A third world experience, I'm sure. Example: How frustrating is it now to make a long distance phone call from a phone you don't own. A strong case, in my opinion, for standardization. As Alan Greenspan has stated many times—the growth we had from mid to late -90's was very much a result of technical innovation by Microsoft and companies like it.

3. In our country today, we can't affort to struggle internally anymore. It would be different if Microsoft dominated the software industry AND put out lousy product. I don't think that's the case. The DOJ has gone after this company with such vengance. I don't think it's warranted. I'm sure they've gotten the message. Now let it go and let them, and companies like them continue to innovate. It benefits us all.

Sincerely,
Bill Braun
Colorado

MTC-00032317

From: Dawn Johnson
To: Ms. Renata Hesse
Date: 12/11/01 9:57am
Subject: Microsoft Settlement
Dawn Johnson
1005 Quail Run Rd.
Southlake, TX 76092-3114
December 11, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Dawn Johnson

MTC-00032318

From: Kylie Waters
To: Ms. Renata Hesse

Date: 12/12/01 7:09am
Subject: Microsoft Settlement
Kylie Waters
2563 Spencer Hill Road
Corning, NY 14830
December 12, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Kylie Waters

MTC-00032319

From: Ted Payne
To: Ms. Renata Hesse
Date: 12/12/01 8:56am
Subject: Microsoft Settlement
ted payne
4009 Druid Hills rd
louisville, ky 40207
December 12, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Ted Payne

MTC-00032320

From: John D. Eckert
To: Ms. Renata Hesse
Date: 12/12/01 9:40am
Subject: Microsoft Settlement
John D. Eckert
1749 Summerlin Place
Jeffersonville, IN, IN 47130–9677
December 12, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
John Eckert

MTC-00032321

From: Michael Cramer
To: Ms. Renata Hesse
Date: 12/12/01 9:58am
Subject: Microsoft Settlement
Michael Cramer
51 Cobblestone Lane
Hanover, MA 02339
December 12, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Michael R. Cramer

MTC-00032322

From: Robert Davis
To: US DOJ
Date: 12/12/01 11:33am
Subject: U.S. v. Microsoft

To whom it may concern:

My name is Robert Davis, I am an Architect and I live in Denver, CO. I am not a "technical" person as far the computer industry goes, just an end user. I purchased my first computer, a Commodore 64 back in about 1981. I then migrated to Apple's Macintosh, then to Windows on Intel, and now in light of Microsoft's illegal monopoly actions, I've just begun a transition to the Linux operating system. I'm probably somewhat atypical from most in that I've used multiple operating systems during my experiences. Based on this experience I've seen many small, innovative software companies come up with some very good applications. What I now observe is that Microsoft keeps rolling the same functionality into Windows and effectively killing all other competition. I don't see this as good for America. To their credit they have been successful in standardizing the computing experience somewhat. I have read on various internet news sites that the proposed settlement terms allow Microsoft to determine if a company is legitimate before they have to share some of their inner workings with them. The case has been made that the "Open Source" movement would not be viewed as such and therefore can be discriminated against. This movement looks to be the greatest hope of breaking Microsoft's monopoly yet and needs to be able to stand on equal footing. I respectfully request that you implement meaningful reforms for Microsoft without infringing on free interprise and the American way. Please consider:

1. Don't give MS a foot-hold in our schools were Apple seams to compete reasonably well.
2. Don't allow MS to withold code, API's, etc. from the Open Source folks.
3. Force MS to unbundle "middleware" from Windows or sell a "stripped" down version.
4. Scutinize MS's plans to provide broadband internet access to America via MSN.
5. Formulate remedies with teeth.
5. Watch them like a hawk!

Thank you for this opportunity to voice my views.

Rob Davis

MTC-00032323

From: Herb Himmelfarb
To: Himmelfarb, Cyn (038) Herb
Date: 12/12/01 12:17pm
Subject: Microsoft Settlement

Hi,

The proposed settlement in the anti-trust case against the Microsoft Corporation appears to me to be too lenient. In my opinion, this corporation has engaged in restraint of trade to an alarming degree. Rather than bore you with information you already have, I request that more severe penalties be imposed upon Microsoft.

Thank you for your attention to this matter.

Herbert S. Himmelfarb
615 19 Street NE
Salem, OR 97301-2713
503.375.2934
himby@open.org

MTC-00032325

From: MARTY REISLER
To: MSN Messenger Support
Date: 12/13/01 7:35am
Subject' Re' [Re' [Re: [Re: [Re' [RE: CST51666018ID– MSN Chat Feedback]]]]]
CC: Microsoft ATR,antitrust@usdoj.gov@inetgw,jim.hill@...

MTC-00032325 0001

OK there is no selection for messenger removal under add remove problems. My guess is that it is integrated into MSN Explorer MSN Explorer must be removed from the Windows component wizard. If I remove MSN Explorer then I do not think I can sign on to or at least find new local numbers for the MSN service when travelling.

After 5 emails you won't admit I can't turn off your messenger service so you tell me to uninstall but give me bogus directions on how This cinches that I will remove the MSN components as soon as my free trial is over. This is the kind of riduculous crap that make people want to see Microsoft severely chopped into more harmless less arrogant pieces. The incredible run around from a tech support department who won't admit that the MSN application is setup so that I have to be logged into your new messenger service so you can claim a large user base to get more people to use your messenger app is probally criminal. Thankfully messenging is not something you have arrived at in time to compete in. You can now add me to the list of Microsofts foes and maybe even force me to use AOL as my means of connecting when away from home.

I think it is a gross failure on the part of the justice department to think of settling with Microsoft while it is still finding new ways to exploit its operation system monopoly in this manner.

—Marty Reisler
213 N. Highland Ave
Nyack NY 10960
From: marty@usa.net
To: "MSN Messenger Support" <mmssupport@css.one.microsoft.com>
Sent: Wed Dec 12 09:24:20 PST 2001
Subject: Re: [Re: [Re: [Re: [RE: CST51666018ID—MSN Chat Feedback]]]]

MTC-00032325_0002

I seem to keep gettng a different support person who doesn't take
the time to read the complete message. I explained that what doesn't
work (this is my 5th email) is that there is no account tab under
tools/options. Please reread the entire message and reply with
the answer that relects that you have reread all the correspondence
below.

MTC-00032326

From: Robert Gasiorowski
Date: 12/13/01 11:03am
Subject: Microsoft's intellectual property

This is good, they (MS) take someone elses (opensource) stuff (DNS for example), change one line (comment line probably), and then they're calling it Microsoft's intellectual property.

And what about TCP/IP showing up under "Microsoft Protocols". Since when TCP/IP is Microsoft's?

By that time next year, it will be probably called MSN/IP.

Thank you for your time.
Robert Gasiorowski.
Mac, Linux and Sun user.

MTC-00032327

From: Lisa Hutchins
To: Ms. Renata Hesse
Date: 12/13/01 1:04pm
Subject: Microsoft Settlement
Lisa Hutchins
16549 NW 16th Street
Pembroke Pines, FL 33028
December 13, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Lisa Hutchins

✓

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

Federal Register

5–3–02
Vol. 67 No. 86

Friday
May 3, 2002

Book 12 of 12 Books

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Book 12 of 12 Books
Pages 29795–30305

Part II—Continued

Department of Justice

Antitrust Division

United States v. Microsoft Corporation; Public Comments; Notice

MTC-00032329

From: John Hatch
To: Ms. Renata Hesse
Date: 12/14/01 10:33am
Subject: Microsoft Settlement
John Hatch
3105 Sea View Court
Las Vegas, NV 89117
December 14, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
John Hatch

MTC-00032330

From: Cleburne Medlock
To: DOJvsMS
Date: 12/14/01 12:18pm
Subject: Microsoft Settlement

Sirs:

First, allow me to introduce myself briefly. I, C. W. Medlock, have worked in the "Software" field in a professional capacity for more than 47 years. (My first course in "programming" was taken in 1950 at Purdue University.) I have worked at such stalwarts of this industry as IBM (1960–1966), NCR (1975–1977), etc. At IBM, I was one of the six Architects of IBM's Operating-System 360 ("OS/360"), one of the world's first true Operating Systems (1963–64). Also at IBM (1963), I was one of the six members of the joint IBM/SHARE (a users group) team that developed the advanced Programming Language One (PL/I) Although the latter language has fallen into disuse due to more modern advances in such "standard", non?-proprietary languages a COBOL, PL/I indeed was a most powerful language (for both scientific and business computing) that I believe set the stage for the more modern versions of COBOL and other more modern scientific computing languages.

I, from 1982 to 1999, was proprietor of my own software "home-business" Pro/Am Software, where I developed and marketed worldwide several software "tools" for use by the programmer. It was here, as a "lone survivor" of a great group of Information Age professionals, that I first encountered the threats laid down by Microsoft's failure to disclose much-needed facts that would allow entrepreneurs such as myself to develop tools that would directly or indirectly interface with their "Windows" Operating System. (This does NOT mean that I necessarily would have required the source code of Windows, but only a FULL disclosure of Microsoft's file formats, OS interfaces, details of invoking OS functions, etc. This should include such disclosure of these interfaces for all of Microsoft's other products which interface with Windows, as competitors and other users have a need for this information just as well.) A case might easily be made by Microsoft that they should have the full protection of their intellectual property such as source code, where distribution of same would allow many other (foreign?) businesses to easily make copies of same, and, via suitable modifications, each apply their own "Trademarks", "Copyright" notifications, etc. However, I cannot imagine a case in any court where it could be argued that it would be harmful to a legitimate, non-monopolistic business for them to disclose FULLY the interfaces needed by ALL users (developers and ordinary users alike) to fully use and expand all features of Windows and all of it's associated Microsoft Products! (I can quote more than a few examples of where I and other developers were not able to obtain needed information about files and other data formats that were needed to allow us to develop products which would enlarge the capabilities of the Windows operating system, thereby seemingly even strengthening its place in the market.) Such a relatively "open architecture" has indeed been the norm with such stalwart operating-system providers as IBM, etc. (After all, the original IBM Personal Computer had even it's Hardware and Software totally in the public domain. Microsoft should at the very least provide the "circuit diagram" of their software, so that it could even be repaired more easily, including making expansions and improvements thereto!)

The provisions in any Settlement with Microsoft should NOT be limited to the interfaces with their Windows operating system, but should indeed include ALL interfaces (direct or indirect) with ANY Microsoft product. This is much needed by developers and many consumers, as well!

I would like to help put Microsoft in its proper place in the Software World, and see that the DOJ indeed does not "sell out" to MS!

Most sincerely,
C.W.. Medlock

MTC-00032331

From: Jody Ausley
To: Ms. Renata Hesse
Date: 12/14/01 12:56pm
Subject: Microsoft Settlement
Jody Ausley
PO Box 780282
San Antonio, tx 78278
December 14, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Jody Ausley

MTC-00032332

From: Nancy Emmert
To: DOJ
Date: 12/14/01 1:08pm
Subject: Microsoft settlement

There are only two things more disgusting than the proposed settlement between DOJ and Microsoft: one is the settlement proposed by the states not party to it and the other is that the suit was brought in the first place.

The very idea that the United States government should have been party to an attempt to deprive ANY party of rights to its'' own intellectual property is disgraceful, disgusting and every other kind of "dis-" imaginable.

The only truly just judgment in this case is an order to have members of what they're now calling the "Liberty Alliance" strung up by their collective cajones., but that's probably not an available option.

Therefore, I respectfully ask for an end this economic roadblock and urge acceptance of the agreement submitted jointly by DOJ and Microsoft. The dissenting states and the economic terrorists ought to be told to take a hike.

Nancy Emmert ...
200 Roselawn ...
Coleman, Texas 76834–7012

MTC-00032333

From: Alden Ringer
To: Microsoft ATR
Date: 12/14/01 2:58pm
Subject: Microsoft Settlement

This message will be followed by a letter of the same content.

Alden C. Ringer
77 Brown Rd
Ctr. Tuftonbors NH 03816

MTC-00032334

From: Henry and Mrs. Arlene Carle
To: Ms. Renata Hesse
Date: 12/17/01 2:22pm
Subject: Microsoft Settlement
Henry and Mrs. Arlene Carle
6600 Downey Finch Lane
Anchorage, AK 99516–2413
December 17, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed.

Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Henry and Arlene Carle

MTC-00032335

From: Mark Miedlar
To: Ms. Renata Hesse
Date: 12/19/01 2:03pm
Subject: Microsoft Settlement
Mark Miedlar
122 E. Cottage Ave
W. Carrollton, OH 45449
December 19, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Mark Miedlar

MTC-00032336

From: Philip Capps
To: Ms. Renata Hesse
Date: 12/20/01 10:12am
Subject: Microsoft Settlement
Philip Capps
4507 Ave B
Austin, TX 78751
December 20, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Philip Capps

MTC-00032337

From: Keith Gallup
To: Ms. Renata Hesse
Date: 12/21/01 11:32am
Subject: Microsoft Settlement
Keith Gallup
1707 Brandenbery Dr.
Surfside Beach, SC 29575-5478
December 21, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Keith Gallup

MTC-00032338

From: Charles Loeffler
To: Ms. Renata Hesse
Date: 12/21/01 11:49am
Subject: Microsoft Settlement
Charles Loeffler
7201 Wills Way
Hamilton, Oh 45011
December 21, 2001
Ms. Renata Hesse

U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Charles E Loeffler

MTC-00032340

From: Tom Remshak
To: Ms. Renata Hesse
Date: 12/21/01 3:45pm
Subject: Microsoft Settlement
Tom Remshak
3250 n 87 st.
Milwaukee, WI 53222
December 21, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Tom Remshak

MTC-00032341

From: Adam Wiederholt
To: Ms. Renata Hesse
Date: 12/21/01 6:16pm
Subject: Microsoft Settlement
Adam Wiederholt
18228 Sunset Ln
Omaha, NE 68135
December 21, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Adam R. Weiderholt

MTC-00032342

From: Perry Staley
To: Ms. Renata Hesse
Date: 12/22/01 5:26am
Subject: Microsoft Settlement

Perry Staley
411 Orchard Street
Ironton, OH 45638-1166
December 22, 2001

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Perry L. Staley

MTC-00032343

From: Mury
To: kxrasmu@qwest.com@inetgw,kpuffet@uswest.com@inetgw...
Date: 12/22/01 3:44pm
Subject: Anti-competitive practices and Lies—Qwest and Microsoft

Dear Qwest, MN PUC, FCC, USDOJ, FTC, and MN AGO:

I am sitting here on December 22, 2001 steaming mad at Qwest and MSN (Microsoft). I should be out Christmas shopping, but I'm hardly in the holiday spirit. It seems as though by partnering with MSN Qwest thinks they have found a nice little loophole to circumvent all the trouble they have found themselves in in the past by using anti-competitive tactics in house.

As the MN PUC should recall they had to impose penalties against Qwest a couple years back for anti-competitive marketing, product pricing, treating their own Megacentral product differently than they treated other ISP's Megacentral product, and for lying to consumers. The PUC at that time penalized Qwest. A safeharbor number was set up for consumers to call run by a third party. Qwest had to provide free modems to ISPs and provide some coop marketing dollars to help correct the harm done. This hardly compensated us for our loses, but at least it brought Qwest, then US West, back in line.

Now they are up to the same antics, but they are getting around the system by partnering with MSN. Qwest's web site is very misleading and their phone reps flat out lie about pricing and promotions.

(1) On their web site http://www.qwest.com/residential/products/dsl/index.html:

Qwest starts out by favoring MSN with phrases such as, "Get MSN Internet Access or select from hundreds of ISP partners nationwide." Qwest makes it sound like customers will only get free activation and a free modem if they choose MSN.

"Special DSL Offers—Purchase MSN Broadband Powered by Qwest 256 or Deluxe and get FREE activation, FREE use of a DSL modem, and 30 days of FREE service. CustomChoice customers will receive 60 days of FREE service!*"

Markets a package that includes both MSN and Qwest:

"MSN Broadband Powered by Qwest 256 256K/Up to 256K Use for fast web surfing, e-mail and downloading moderate-size files. $39.95 (Includes MSN Internet Access) Order Now "MSN logo included

And

"MSN Broadband Powered by Qwest Deluxe Up to 640K/Up to 256K Use for online gaming, e-mailing large attachments or downloading large files. $49.95 (Includes MSN Internet Access) Order Now "MSN logo included We have asked for similar treatment and have been denied.

(2) When customers call in they are lied to frequently. I have enclosed a letter from a existing customer that was moving from one location to another who was told he would only get the promos if he chose MSN. He didn't want MSN so he is switching to cable. I have heard many other similar stories and there are probably countless cases we don't hear about.

(3) If a customer wishes to switch from MSN to us they process is different. Because the system is somehow tied into MSN's the customer first must cancel the service with MSN before they can even order it with us.

(4) The practice of delaying the install of MegaCentral lines for ISPs is still poorly managed at best and maliciously hampered at worst. We ordered a MegaCentral line for St. Cloud, Minnesota. On May 24th, 2001 we received an install due date of June 8th, 2001.

Order Number N91370107
Due Date 6-8-01
Circuit ID 14/HCGJ/95372//ACSO

The circuit was finally installed around October 20th, 2001. That's 4.5 months *overdue*. It is very important to note that this install was in a building that has a common wall with the Qwest CO and there was plenty of fiber running into the building. We selected this site so there wouldn't be problems like this and we are paying a premium in rent for the privledge.

We lost thousands of dollars and lost opportunity because of this. I believe these issues should be looked into by each of you. When we selected Qwest MegaCentral DSL as a product offering to base our services on we were promised we would be treated fairly. This has hardly been the case. I know Qwest thinks that because it's MSN and out of house they can get away with it, but if they are being compensated in the least out of the partnership they are certainly violating the spirit of the MegaCentral contracts with other ISPs and any applicable tariffs.

As a special note to the US Department of Justice here is yet another example of Microsoft entering into preferred relationships that snub other competitors in the marketplace.

If any of you see this in my light and find Qwest is at fault, please apply a quick and effective punishment and provide for *real* compensation to be paid those of us who have been harmed.

Regards,
Mury Johnson
CEO
GoldenGate Internet Services
763–784–2800

Dear Golden Gate,

I just moved to a new address: 7124 W 113th St, Bloomington MN 55438 phone 952–941–0399. I was planning to transfer my DSL service to the new location. However, Qwest wanted to charge me an installation fee ($66 or $99) if I didn't use MSN, and the service would take up to 2 weeks to get running. On the other hand, RoadRunner (cable modem) would give me free installation and come out on the day we moved in. Their bit rate is faster and it costs $5 less per month than DSL. So I decided to try RoadRunner. I appreciate the great service I received from Golden Gate, but I am sorry that I will not be needing it anymore. Could you please cancel my internet service? Thank you.

John C. Harkness (hark11)
CC:Microsoft
ATR,ASKDOJ,attorney.general
@state.mn.us@...

MTC–00032344

From: james m nordlund
To: Ms. Renata Hesse
Date: 12/23/01 5:32am
Subject: Microsoft Settlement
james m nordlund
p.o.b. 982
Lakin, KS 67860–0982
December 23, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
James M Nordlund

MTC–00032345

From: Kevin Langdon
To: U.S. Department of Justice Antitrust Division
Date: 12/23/01 10:18pm
Subject: Microsoft Settlement

To those in charge of the Microsoft settlement negotiations: I believe that nothing that has been done to date—specifically including the abandoned plan to separate Microsoft's operating system business from its applications business—has gone to the root of the problem, which is the existence of Microsoft's monopoly of the operating system business. This is not just market dominance but a situation in which meaningful competition for non-niche-market operating system business is effectively impossible.

Given the widely-reported chaos in the negotiations to date, it may be time to introduce a new solution.

There is a remedy that would be highly effective. It would make room for competitors in the operating system market while also leaving Microsoft viable competitive strategies. What I propose is simply that DOS and Windows (through 98), including all source code, be placed into the public domain. Microsoft would be free to develop its Windows 2000 and XP lines, but other companies would be free to introduce competing developments from the common base of Windows98.

Please give this idea serious consideration.

Sincerely,
Kevin Langdon

MTC–00032346

From: Stephen Teebagy
To: Ms. Renata Hesse
Date: 12/26/01 11:14am
Subject: Microsoft Settlement
Stephen Teebagy
99 Garrett Place
Plymouth, MA 02360
December 26, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Microsofts behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

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Sincerely,

Stephen Teebagy

MTC-00032347

From: JCCompton@aol.com@inetgw
To: gra-admin@memoriesofwunlight.org
Date: 12/26/01 2:27pm
Subject: Commentary on Microsoft settlement

I believe that the DOJ settlement is the best offer on the table for the United States as a whole.

Apparently the "other" states want to destroy Microsoft. Don't let this happen.

Despite the personal interest of the people at Oracle, Sun, et. al., Microsoft has propelled the microcomputer industry foreword to a standard.

This benefits everyone (including people that don't own computers). I have been a professional programmer since 1989, and while I still prefer the Mac OS, I believe that especially with the current economy we need to SETTLE THIS CASE BASED ON THE DOJ RECOMMENDATION now.

Thanks,

-Chris C.

P.S.

Please tell Larry Ellison to shut up, and tell Sun to submit Java to a standards committee. (tell, not order)

MTC-00032348

From: Timothy Ray
To: Ms. Renata Hesse
Date: 12/27/01 2:05pm
Subject: Microsoft Settlement
Timothy Ray
616 S. Sheridan
Fergus Falls, MN 56537-3018
December 27, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Timothy Ray

MTC-00032349

From: Jerry Jorgensen
To: Ms. Renata Hesse
Date: 12/28/01 3:54am
Subject: Microsoft Settlement
Jerry Jorgensen
2505 Las Brisas Drive
Virginia Beach, VA 23456
December 28, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Jerry Jorgensen

MTC-00032350

From: Douglas Warren
To: Ms. Renata Hesse
Date: 12/28/01 4:55am
Subject: Microsoft Settlement
Douglas Warren
2 Flintstone Drive
Marlton, NJ 08053-2111
December 28, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse: I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Douglas A. Warren

MTC-00032351

From: Jan Hall
To: Ms. Renata Hesse
Date: 12/28/01 6:46am
Subject: Microsoft Settlement
Jan Hall
7984 Via Villagio
W. Palm Beach, FL 33412
December 28, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Jan Hall

MTC-00032352

From: Mark Buell
To: "attorney.general@po.state.ct.us"
Date: 12/28/01 8:33am
Subject: Microsoft antitrust suit

Dear Sir or Madam;

I strenously object to the current talk of settlement with Microsoft. They have consistently demonstrated that they are incorrigibly anti-competitive, and have consistently failed to honor the spirit, if not the letter, of previous settlements. I see nothing in the current settlement offered that shows me anything other than a continuation of the current monopoly situation.

Since I am also completely convinced that having the market completely change the operating ground rules every two years is not good for consumers, I am raising my voice to object to the DOJ-Microsoft settlement.

Regards;
Mark Buell
3814 Emerson Ave.
Memphis, TN 38128
mbuell@midsouth.rr.com
CC:"microsoft.atr@usdoj.gov"

MTC-00032353

From: L.D. Best
To: Renata B. Hesse
Date: 12/29/01 1:01pm
Subject: Suggestion

I learned long ago that I cannot know everything. I know a bit about how the "law" works because I've been forced to deal with it on my own, without an attorney. I know quite a bit about how computers work, because both my budget and my interests have had me building my own stuff. I also know quite a bit about how software works, and how/why some software doesn't work, because I've had a personal computer for twenty (20) years now. Much of the best software I have—or had—is no longer of much worth to me, because the companies who sold and supported it were either run out of business by Microsoft, or bought out so the software could be "incorporated" into a Windows bundle ... thus making it unworkable. And being forced to move to Windows means that I've had to move from a '286 machine to a Pentium 4 1.4GHz machine ... a big jump that leaves the majority of the worlds" population unable to make it.

My suggestion is that when it comes to software and computer systems and fairness of any settlement, lawyers do NOT know enough to make the decisions. There are still a few software companies around who might be able to give attorneys a better view of what software should and shouldn't do, what system integration should and should not be, what exclusionary practices should be considered as ongoing monopolistic activities. And there are, of course, "the open source people"—not exclusively Linux—who could explain more clearly the dangers of continuing to allow Microsoft to determine what its punishment should be.

Microsoft's business practices, and the current "settlement" as proposed, are horribly dangerous... and that is NOT a flagrant exageration. They released Windows 2000 while publicly admitting there were at least 1,000,000 bugs they didn't want to bother to fix; they released WindowsME with a blare of trumpets, and within weeks were telling any and sundry to NOT upgrade to ME because of too many problems; they released WindowsXP with a promise of the best security and safety of any release to date—and now are having to face the fact that it offers what is possibly the worse system security breech ever found in any software ever used! But that is not the only danger. Because of the way Microsoft has done, and continues to do, business with advertising and hype to grab the public and scores of lawyers to assist in the "legal" theft of the intellectual properties of others, scores of good companies doing good work producting excellent software have been driven out of business, and tens of thousands of people have lost their jobs in the last ten years ... all directly as a result of Microsoft. To allow Microsoft to continue to exert so much influence, to effective encourage Microsoft to continue doing what they have always done, is going to negatively impact an economy which is stil so badly shaken up that no one with ethics would even attempt to forecast what will happen in the next year.

And DOJ has to realize that Microsoft can never be judged by "a jury of peers" because no other commercial enterprise in the history of the world ever managed to get such a stranglehold on the economy of multiple nations; the railroad monopolies, the steel monopolies, the "good ol" boy clubs" of the last two centuries are all child's play compared to Microsoft. And the "power of the dollar" that Bill Gates himself wields is without equal, or even reference points ...

If the proposed settlement is not scrapped, and the original remedies ordered not implemented, DOJ is effectively placing the security and the economy of our country into the hands of Microsoft.

Not only is that bad business, it's un-Constitutional IMNSHO.

Most sincerely,
l.d.
L.D. Best
Concerned Citizen
Computer Geek
Disabled Veteran
Mother of Three Ethical Children [maybe 2.5?]

Arachne V1.70;rev.3, NON-COMMERCIAL copy, http://arachne.cz/

MTC-00032354

From: betty mayes-petty
To: Ms. Renata Hesse
Date: 12/30/01 4:56am
Subject: Microsoft Settlement
betty mayes-petty
route 1 box 231
cunningham, ky 42035
December 30, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Betty S. Mayes-Petty

MTC-00032355

From: JAMES CROSSLIN
To: Ms. Renata Hesse
Date: 12/30/01 6:43am
Subject: Microsoft Settlement
JAMES CROSSLIN
15523 Chickamauga Ave.
Baton Rouge, LA 70817
December 30, 2001
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

JAMES E. CROSSLIN

MTC-00032356

From: ben@verizon.net@inetgw
To: Microsoft ATR
Date: 12/30/01 8:12pm
Subject: my 2 cents worth

This settlement is a joke. It allows Microsoft to tie up in litigation new battles until the founder grows old and dies. With this settlement, Microsoft will continue their deceitful practices. Any deviation will take months or even years to settle in a court of law.

Example:

Microsoft puts out information for developers that allow them to use part of the Windows Operating system to develop a product. This is a normal part of any OS development business. Here is what will happen, Microsoft will later change the OS which prevents the developers product from working—while conveniently, however; the new and upgraded OS has a microsoft version of the developers middle ware that works just fine.

This is another way to stamp out competition. If anyone thinks that settlement is fair, it is not. This method of working can only be compared to a drug dealer. The first few are free, suddenly your addicted and its a must have in order to operate.

We have grown dependent on software as a means to operate in our everyday lives.

Microsoft will only tie everything up in court for ever. Here's a good "pin prick" for Microsoft.

Require Microsoft to buy for low income schools competing software of the Schools choice—the choice can NOT be any Microsoft product.

Have it be equivalent to the amount of money damage caused thus far.

How about a billion dollars. No sweat to Microsoft.

Use ANY competing companies—Apple, IBM, SUN, Linux. etc.

PS—Don't let Microsoft gain any money by investing in the companies that it is competing with.

Good Luck!

I'm glad your prosecuting and I hope the US wins.

Ben

MTC-00032357

From: Tdpage@aol.com@inetgw
To: Microsoft ATR
Date: 12/31/01 9:13pm
Subject: Microsoft Settlement

This suit was ill advised from the start. Settle NOW!

Don Page
Dragoon, AZ

MTC-00032358

From: Don Stults
To: Microsoft ATR
Date: 12/31/01 9:49pm
Subject: Microsoft Settlement

In my opinion, the litigation against Microsoft should cease. I have a difficult time understanding why the case was litigated. There seems to be a "punish the proficient" attitude in this case. Microsoft has invested a lot of money to develop products CONSUMERS WANT and they have accepted ALL the market risks (sales, worldwide copyright infringement, and yes, competition).

Let Microsoft get on with their business (which they do well)...the continuing litigation expenses will NOT be paid by Microsoft, it will be paid by consumers of their products. Don Stults donstults@hotmail.com

MTC-00032359

From: Bob Levittan
To: Microsoft ATR
Date: 12/31/01 9:58pm
Subject: Microsoft Settlement

Settle it NOW!!!!! Don't let this travesty continue. From the very beginning, this whole thing has been about Sun, Netscape, AOL et al, using litigation as a means to compete. END IT NOW! STOP WASTING MY MONEY! SPEND MORE TIME TRYING TO MAKE OUR LIVES SAFER. STOP WASTING TIME AND MANPOWER!

END IT NOW!

Bob Levittan
50 Cliftwood Drive
Huntington, NY 11743

MTC-00032360

From: Donald Hetrick
To: Microsoft ATR
Date: 12/31/01 10:30pm
Subject: Microsoft Settlement

Please record my support to finally settle the endless litigation against Microsoft. I find the current settlement harsh, but feel its fine if it can finally be concluded so our country can move on.

Thank You,

Donald J. Hetrick

MTC-00032361

From: tobeyd
To: Microsoft ATR
Date: 12/31/01 10:32pm
Subject: Microsoft Settlement

Hello,

I've been working as a software developer since 1964.

In my opinion, Microsoft has attained their current position is because—

(1) They listen to the requests of Computer Users.

(2) They develop quality solutions based on Users requests.

(3) They provide an integrated platform for Independent and Corporate Developers to provide effective solutions for their clients.

Imagination and Innovation are the keys.

Thanks,

David Drake

MTC-00032362

From: Kaveh Mofidi
To: Microsoft ATR
Date: 12/31/01 10:48pm
Subject: Microsoft Settlement

MTC-00032363

From: Rick Weyenberg
To: Microsoft ATR
Date: 12/31/01 11:18pm
Subject: Microsoft Settlement

Settle now!

MTC-00032364

From: Miriam A. Detert
To: Microsoft ATR
Date: 12/31/01 11:32pm
Subject: Microsoft

This entire case is the most unjust case your so called Justice Department has ever taken . You are prosecuting an innocent man and company. They have done more for this country than anyone in many, many years.

Miriam A. Detert

MTC-00032365

From: JRob98@aol.com@inetgw
To: Microsoft ATR
Date: 12/31/01 11:51pm
Subject: Microsoft Setlement

The Microsoft settlement is harsh, and more than enough penalty for Microsoft. Prolonging this only benefits a few special interests, for their own greed. AOL is prime for a monopoly investigation, and is campaigning for more against Microsoft to benefit their own interests. The few states protesting were only being more greedy than the rest, looking for a free ride on someone esle's money. No one is forced to buy Microsoft or use IE, but do because it is a better product.

Leave them alone.

Jan Roberts

MTC-00032366

From: paulw@att.net@inetgw
To: usdoj
Date: 1/1/02 8:15am

Morning,

I am not a big fan of Microsoft. But I will say this take Mircosoft and close it down (split it up)how many thousands of people who work for Microsoft lose their job. How many on the outside of Microsoft will lose their job.

The affects of September 11 are felt world wide. People can no longer work because of the changes made to every industry and business. Now we want in the name of fairness to break up mircosoft. Why because the competition hasn't got the courage to go out and face Mircosoft without the governments help.

When it comes to law I don't expect much. It seems who ever has the smarts to make money and be forward thinking will always be open to attach by the greedy and the supposed do gooders (governement and lawyers) of this world.

Only in America a country of which I am proud to be a part can the minority change the way of life for the majority. Only in America can one person change a system that can affect thousands even if the thousands don't what the change.

I hear reference to the constitution all the time. But has anyone lately ever truly read it. I don't think so. Every time someone doesn't like something they point to the constituation and say my rights are not being given to me.

As I said at the beginning I am not a fan of Microsoft. Do I use their products? Yes some and others no. Thats because as an individual I have choices and if I choose not to use something I can turn it off or not buy it.

Yet the courts and the government in their do good way wish to take choices away from the people and pass laws that say we must use this product or that product.

Freedom of choice on my part I don't think so. Freedom of choice something the government and the courts have forgotten about. They now make the choices for us citizens and there in lies the basic causes of all our problems today.

I know the courts and the government will disagree with me as they must to ensure that they have positions of power and control. Common sense which was onced used in this country on a daily basis has been replaced by greed, personal wishes and power of the few (in politics and law) over the many and is support by the government and the courts.

There are more important thing to worry about in our country and the world today. Leave Microsoft alone and lets get this country back on its feet.

Paul

MTC–00032367

From: Tom@Abacurial.com@inetgw
To: Bruce Gladstone
Date: 1/1/02 6:59pm
Subject: Re: Settlement

Dear Bruce,

Even the MS-only software donated to underprivileged schools? Some penalty! It's like requiring an over-agressive religion to distribute its catechisms to poor people.

Now, if they required MS to distribute & support Linux or BSD or Corel or Netware, perhaps I would believe it was a "penalty" and not government- sanctioned self-promotion.

Tom

On Tuesday, January 01, 2002 at 13:53, Bruce Gladstone <brucegl@pacbell.net> wrote re "Settlement" saying: I am thoroughly in agreement with the settlement reached by Microsoft and the Justice Department. I believe the continuing objections by the State's Attorneys General are politically motivated and are not designed to benefit consumers in the slightest. This is especially true of Atty. Gen Lockyear in my home state. It is no coincidence that both Sun and Oracle are California Corporations, both would much rather not compete with Microsoft based server applications and database software and both were significant contributors to Atty. General Lockyear.

- Bruce
Bruce Gladstone
email: brucegl@pacbell.net
3937 Sumac Dr.
tel: (818) 986–2950
Sherman Oaks, CA 91403
fax: (818) 981–5922

——— Quidquid latine dictum sit, altum viditur

——@Tom A. Trottier +1 613 860–6633 fax:231–6115

—\—<,758 Albert St.,Ottawa ON Canada K1R 7V8

(*)/'(*)ICQ:57647974 Tom@Abacurial.com N45.412 W75.714

Laws are the spider's webs which,
if anything small falls into them they ensnare it,
but large things break through and escape.
—Solon, statesman (c.638–c558 BCE)

I believe there are more instances of the abridgment of the rights of the people by the gradual and silent encroachments of those in power than by violent and sudden usurpations. -James Madison, fourth US president (1751–1836)

CC:Microsoft ATR,attorney.general@po.state.ct.us@inet...

MTC–00032368

From: Dale E. Anderson
To: Ms. Renata Hesse
Date: 1/2/02 6:38am
Subject: Microsoft Settlement

Dale E. Anderson
814 West Third Avenue
Garnett, KS 66032–2002
January 2, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case ? the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors? products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Dale E. Anderson

MTC–00032370

From: Cardiodude@aol.com@inetgw
Date: 1/2/02 11:06am
Subject: Microsoft Settlement.

I'm all for the present microsoft settlement, I don't think they were a monopoly, I think it was a liberal witch hunt.

MTC–00032371

From: Intllgstc@aol.com@inetgw
Date: 1/2/02 11:25am
Subject: Microsoft Settlement

Gentlemen:

When is enough, enough? I think it may very well be when I see more and more tax dollars go down the tube to persecute a business and with no perceptible gain to me or the general public. It seems to me that my dollars are being used to assist other major corporation executives line their pockets. I was under the impression that a satisfactory settlement had been reached. I guess also the attorneys must feel that there is more to be gained by the hours charged for continuing litigation. Let them go back to chasing ambulances and let Microsoft's competitors go to marketing their own products for their profits.

Donald S. Chakas
610 W. Pacificview Drive
Bellingham, WA.

MTC–00032372

From: w—engstrom
To: Microsoft ATR
Date: 1/2/02 1:27pm
Subject: Microsoft Settlement

Dear Sirs,

Instead of being harassed by the U. S. Government, Microsoft should be considered as a National Treasure. Its exported products help our economy and expand our capabilities. I think that the court case against Microsoft was totally unfounded. Whatever concessions that Microsoft makes are more than adequate, and in my opinion should not even be necessary. While there are those people (mainly Microsoft's competitors) who want to suppress Microsoft, we believe that Microsoft provides great products and follows up with great support for those products.

Microsoft's products are sometimes released with "bugs." However, Microsoft readily provides fixes via the Internet as soon as they realize there is a problem. Their customer support is outstanding. As an engineer, I recognize that few products that hit the marketplace can be perfect, and that it is impossible to foresee everything that can go wrong, no matter how well you plan. In spite of this, Microsoft does a great job and has provided significant support to the technology and economic health of the industry and our country.

William Engstrom
3110 181 Avenue NE
Redmond, WA 98052–5934

PS, I haven't seen Janet Reno or Joel Klein producing any software or anything else of value to the country lately. Thank God they are no longer with the Government. The main thing that can be said of Joel Klein is that he successfully used the Microsoft suit as a stepping stone to a better-paying job. But he left a wake of destruction behind him.

MTC–00032373

From: William B. Zollars
To: Dept. of Justice
Date: 1/2/02 1:40pm
Subject: Microsoft Settlement

It seems to me that the settlement arrived at between the Justice Dept. and Microsoft is fair and should be put to rest. I am a Microsoft OS user and think their products are excellent. They should direct their efforts toward creating new software rather than having to spend so much money in legal fees defending charges by their competitors.

William B. Zollars
phone: (412)835–4741
fax: (412)835–4781
email: billzol@compuserve.com

MTC–00032374

From: Larry Timmons
To: DOJ
Date: 1/2/02 1:57pm
Subject: Microsoft Settlement

To whom it may concern,

As a professional engineer that conducts business around the world I can attest to the usefulness of the Microsoft family of products and the increase in productivity these standard products have allowed. Our business helps bring foreign revenue to the US. Our ability to communicate with foreign companies is dependent on using the same software.

While you may consider some of the previous tactics that Microsoft has allegedly used anti-competitive, the net result has been establishing a standard with which the world of business can communicate. For those of us that remember computers of the 80's and early 90's when there were few standards.

At that time I spent most of the time just getting various software packages to run consistently on the computer.

This resulted in a substantial amount of wasted time. Today's programs enable us to conduct business without being computer wizards.

I personally feel that the government has pushed this case well beyond its merits and strongly urge the DOJ to settle this matter as proposed and let us business people get on with life and let Microsoft continue to bring us new and useful products. Let the free market decide the future of Microsoft.

L.M. Timmons, President
Aircraft Engineering Specialists, Inc.
425–641–6631

MTC–00032375

From: BillMeelater
To: DOJ
Date: 1/2/02 2:57pm
Subject: Microsoft Settlement—Public Comment

Dear DOJ,

I think the settlement between Microsoft and the DOJ is fair and I believe it is in the best interest of consumers, the country and Microsoft to get on with the business of business and stop this seemingly endless litigation.

Perhaps I am missing something, but as a computer software and hardware consumer for over 20 years, I still fail to see how I've been hurt by the Microsoft Corporation. I have never felt cheated by, or felt forced to buy just their products. They are competitively priced and function very well considering the nature of computers and software.

I think it's safe to say that in this case, the governments actions against Microsoft have slowed a great company's progress towards further enabling consumers, businesses, government, etc. from becoming more productive and efficient. Ironically, the DOJ has done more to hurt people who own Microsoft stock than Microsoft will ever do to stockholders or consumers. While I agree that a big company such as Microsoft can intimidate other start ups and crush competition, one should realize that business, like nature itself, has a natural order and rhythm. At some point in time, Microsoft won't be the 'big gorilla' on the block. In the meantime, by having almost a standard operating system for computers in general, we all benefit from increased productivity. Again, after the big phone company breakup, and the disappearance of a common long distance carrier, it was (and still is) tough to make long distance calls from phones you don't own. If you've dealt with computers for any length of time, the nightmare doubles in scope without standards in place.

Forgive the rambling. Let's get back to work doing something constructive. The country's economy is not well, and we need to end what I consider somewhat of a—'witch hunt', brought on largely by a few jealous competitors. I repeat—as a consumer of operating systems, browsers, office suites, etc., I have never felt cheated by Microsoft's products.

Sincerely,
Bill Braun
Colorado

MTC–00032377

From: annes@fishpuppy.com@inetgw
Date: 1/2/02 4:48pm
Subject:
Date: Wed, 02 Jan 2002 17:32:45 –0800
Date: Wed, 02 Jan 2002 17:32:45 –0800
To: Microsoft.atr@usdoj.gov
From: Anne Smidt <annes@fishpuppy.com>
Subject: Microsoft Settlement
Mime-Version: 1.0
Content-Type: text/plain; charset="us-ascii"; format=flowed

For heaven sakes—let's not prolong this litigation any longer. The Dept of Justice took a stand & let's abide by their rulings. Please consider the public's best interests and not make this a vendetta instigated by Microsoft's so-called competitors or "special interest" groups. The public wants this over with. I WANT THIS LITIGATION TO END NOW.

V. Anne Smidt

MTC–00032378

From: rtalarczyk
To: Microsoft ATR
Date: 1/2/02 6:38pm
Subject: Microsoft ....

To whom it may concern,

In my opinion punishing Microsoft can only stymie other hitech companies in America from doing innovative work in the future. America should be proud of what Microsoft has contributed to the world. Microsoft has greatly helped America become the leader in computer technology.

Many other competitors are envious of this contribution both here and abroad. Lets not destroy in what we have created. Lets move forward , for the battle to be won will be, to keep America the Leader in advanced of technology.

Thank you,
Robert Talarczyk

MTC–00032379

From: Vi Ann B. Clough
To: Department of Justice
Date: 1/3/02 5:54am
Subject: Microsoft Settlement

I think it s time to just settle this dispute and not have any more litigation. Microsoft got where it is by working at it and should NOT be stiffled because someone else wants a piece of the cake.

Thank you,
Mrs. Ralph D. Clough
momclough@compuserve.com

MTC-00032380

From: bill boone
To: Dept. of Justice
Date: 1/3/02 9:25pm
Subject: Microsoft Settlement

To the Attorney General of the United States of America

When the Microsoft case is finally settled, the economy will get back on track. Confidence will be restored to small and large investor alike.

Microsoft will be able to get back full time to do what they do best, being the leader in inovation in making our lives better, at a reasonable price.

Stop the never ending litigation, and settle.

Sincerely,
Josephine M. Boone (Mrs.)
903 Mc Donald Road
Cle Elum, Washington 98922-8933
509-674-2975—phone
509-674- 5947—fax
booneb@eburg.com -e-mail
CC:Dept. of Justice

MTC-00032382

From: Bill Pickering
To: Dept of Justice
Date: 1/4/02 9:03am
Subject: Proposed Microsoft settlement

AMERICA MUST FACE THIS IMPORTANT ISSUE AND RESPOND CORRECTLY The proposed terms of antitrust settlement with Microsoft to distribute free operating software to education markets is totally unacceptable and should NOT be passed by individual states not the Justice Dept. The proposed action is really not a penalty—it is a benefit to Microsoft.

1. Anyone with an abacus can figure out it doesn't cost $1billion to press, distribute CDs to schools. This is only a slap on the wrist, and certainly no where close to global community service! It's ineffective action against a known monopoly and poses no penalty for Microsoft's illegal gains.

2. Sending free Microsoft Windows CDs to schools is only forcing educational markets to accept the Windows operating system—a contrived ploy to further perpetuate the very Microsoft monopoly the Justice Department is trying so diligently to eliminate! Schools who use other computing platforms receive no benefit from this proposed action. The proposed settlement is pure nonsense, designed to benefit no one except Microsoft.

Please do not accept this ridiculous settlement proposal. It would be devastating to our economy in the long run, and it demoralizes America's trust in our justice system.

Hundreds of thousands of parents, teachers and students across our nation have already reviewed and rejected this proposal. These folks are now asking and watching to see if individual states and the Justice Department are also wise enough to see the deception behind this proposal and refuse it's acceptance.

Microsoft continues its takeover of existing software companies at an alarming rate. Several more companies have become "Microsoft property" in past several months (incl. Great Plains Accounting). Microsoft apparently fails all reasonable efforts to deploy required self-control measures and stop it's monopolistic practices. Instead, Microsoft defies judicial orders to halt predatory practices altogether. These uncontrolled (antitrust) practices are a devastating injustice against Americans and computing industry competitors; as such must be halted by the Justice Department. More appropriate settlement terms must be pursued, or Microsoft must be split up.

Please don't turn you back on America. Do not accept the settlement proposal.

MTC-00032383

From: Claude Prevots
To: Department of Justice
Date: 1/4/02 2:31pm
Subject: Microsoft Settlement

Greetings:

The lawsuit against Microsoft was ill conceived and a serious detriment to the economic health of this nation. It does not help consumers but prevents MIcrosoft from helping consumers. The present settlement was too long in coming but should be accepted to end all further litigation. Let Microsoft innovate and consumers will benefit more than if further litigation is allowed to continue.

Have a good day.
Claude Prevots
cogito@warwick.net

MTC-00032384

From: b_c_dahlberg@msn.com@inetgw
To: Microsoft ATR
Date: 1/4/02 3:53pm
Subject: Microsoft Settlement

To whom it may concern: In my opinion, the entire Microsoft issue is about money and another way for the law profession to "feather their nest". It has nothing to do with antitrust, monopolies or protecting the "John Q Public".

Microsoft does NOT have monopoly on anything. There are several other operating system options available for which the end user can use the browser he or she prefers. As a matter of fact, he or she can use the browser of choice with Windows!

I use Microsoft products on a regular basis. It is my choice to use these products because, as a developer, my customer base also uses Microsoft products and in order for my products to function on my customers equipment, I must produce software that will work on their equipment.

If the customer base used Unix, Apple, or O/S 2, I would probably go that route. Every dollar Microsoft spends to protect itself from frivolous litigation means that I am going to have to spend more for products I use. As with taxes, corporations do not pay for the cost of litigation— their customers do!

The only winners going this route are those folks with "Esquire" after their names. Please end this as soon as possible. "Trickle Down Economics" goes both ways, you know!

Sincerely,
Robert L. Dahlberg
Carol E. Dahlberg
145 W Midway Blvd
Broomfield, CO 80020

MTC-00032385

From: SDeWalt@compuserve.com@inetgw
To: USDOJ
Date: 1/4/02 6:52pm
Subject: Microsoft Settlement

To whom it may concern,

I will keep my comments short, not through lack of interest, but because it is high time this case is settled for the good of the consumers. The Tunney Act is fair to all concerned. Let us now end this case and get the DOJ back to prosecuting criminals and Microsoft back to making software.

Stephen DeWalt

MTC-00032386

From: James O'Connell
To: Department of Justice
Date: 1/5/02 9:40am
Subject: Message From a Concerned Citizen

Dear Department of Justice:

As a principal software engineer who's been working in the software industry for years, I want to express to you how happy I was to see a settlement with Microsoft, thereby ending three years of antitrust lawsuits.

Upon review of the terms, it is evident that the settlement is more than fair. The terms require Microsoft to design future versions of Windows, to make it easier to install non-Microsoft software, and to disclose information about certain internal interfaces in Windows. The terms also promote significant change in the way Microsoft develops, licenses, and markets its software. A committee to make sure that Microsoft abides by the agreement will oversee all of this. Not only are these terms well thought out, but also they obviously benefit all parties involved.

I am sure that there are many other pressing issues to concentrate on rather than continue to focus on Microsoft. The more we delay this process, the more we delay getting our technology industry back on its feet. The global market is an extremely competitive one, and we need to stay on top of the race. Please help support our IT sector by helping to make sure that no further action is taken against the current settlement.

Sincerely,
James W. O'Connell
99 Winsor Ave
Watertown, MA 02472-1482

MTC-00032387

From: Dariusz Jarzynski
To: Microsoft ATR
Date: 1/5/02 9:03pm
Subject: Microsoft Settlement

As a Microsoft software user, and a citizen of this great country, I support the US government and Microsoft efforts to settle the current lawsuit to the benefit of the consumer. I strongly support this settlement which allows the best and most inovative corporations to continue to develop the best software programs as a result of their creativity, their consumer-oriented research and their willingness to contribute to develop a more efficient work environment.

Darek Jarzynski
Issaquah, WA

MTC-00032389

From: Susan Sheridan
To: Microsoft ATR
Date: 1/5/02 10:12pm
Subject: Microsoft Settlement

I don't believe that anti-trust laws are constitutional. The government should not be involved in economics. Please repeal the Sherman Antitrust laws.

Susan Sheridan

MTC-00032390

From: ACORNK@aol.com@inetgw
To: Microsoft ATR
Date: 1/5/02 10:21pm
Subject: Please Allow Microsoft to Operate Without Penalties

Capitalist America is supposed to boost Capitalism, not destroy it. Many of us profit when Microsoft profits. Employees, customers, investors all benefit. This action should not have been taken to advance the competitors who instigated it. Settle it now and let Microsoft and its beneficiaries get on with their business.

Pat and Fred Carlson, 766 Calle Pecos, Thousand Oaks, ca 91360.
acornk@aol.com

MTC-00032391

From: Fabiano Moya
To: Microsoft ATR
Date: 1/5/02 10:24pm
Subject: Microsoft Settlement

Att. To Whom it May Concern

As many others Alternative Operational Systems that have been hurt by the monopolistic policies of MicroSoft. We received the request from the headers of various projects to manifest ourselves and let our minds be known, so here it is, agreeing to the last ii and jj to the requests being made by many users all over the world.

I am part of a worldwide network that is working on getting the BeOS back into the market place, but there is no hope of success if the following issues aren't addressed:

MS Office needs to be opened, so that developers interested in porting it or understanding the document formats can do so either in form of a source code licence or an allowance to see it, check it and "clone libraries", so that applications on non-Windows OSs can read and write MS Office formats for flawless interaction with Windows users.

The Win32 API needs to be made available (incl. undocumented APIs) so that WINE can be successfully ported not only to BeOS but other OS too.

The file system needs to be opened, so that BeOS users can continue to access files on non-BFS partitions.

The ruling must include a "must-carry" rule, so that any OEM Microsoft is supplying Windows with HAS to "dual-boot" an alternative operating system, in this case BeOS, in order to remedy the damage MS has done to BeOS in the past.

MTC-00032392

From: Stu Adler
To: Microsoft ATR
Date: 1/5/02 10:26pm
Subject: Microsoft Settlement

Enough is enough! Microsoft provides excellent product support at no charge, while their competitors don't even know what the term means. Microsoft has EARNED their position by savvy marketing, customer support and reasonable prices. The agreement with the DOJ was fair. What the states want is the destruction of Microsoft so that their home town losers can form a new monopoly of high priced products with lousy service. This is NOT in the best interest of the community of users!

Stu Adler
14914 Mayall St.
Mission Hills, CA 91345

MTC-00032393

From: Jack O'Leery
To: Microsoft ATR
Date: 1/5/02 10:45pm
Subject: settlement

B.Gates, et al:

MSFT uber alles!! Don't give up the ship. The whole US is sick and tired of the DOJ hammering MSFT with no real objective other than to inflate the egos of its zealot lawyers. All the best, and happy new year!! OPHTH1, an admirer.

MTC-00032394

From: Ben
To: Microsoft ATR
Date: 1/5/02 11:15pm
Subject: Microsoft Settlement

I am a Microsoft "Consumer", as well as a Microsoft shareholder in my IRA. I am retired and a Social Security recipient. And I guess that this is my only opportunity to say what I think re the DOJ vs. Microsoft settlement. So here it is.

If Netscape, Sun Microsystems, et al, think that they have been "screwed", how about me? As I recall, Netscape joined with AOL in a deal that paid Netscape appx. four billion dollars. Now isn't that a sad story! But I had Microsoft stock in my IRA for my retirement days (I am now 73 years of age), and I lost 50% of my retirement fund within days of the time that Judge Jackson, extremely biased against Microsoft by anybody's standards,decided to rule that the company that has done more for the U.S. economy than any other in recent history should be split apart. My retirement funds, along with those of thousands of others, were lost apparently because Microsoft's competitors opted to pressure Congress (Orrin Hatch, for one) and the Department of Justice to make their businesses successful, rather than to achieve comparable success through their own brain power and effort.

I owned my own small business and no Attorney General, lawyers or courts helped me. My company provided good products and good service. And when I installed a Microsoft system (that makes me a "Consumer") I did not feel cheated. I was happy with the product I purchased and am still happy with the equipment I still use at home in my retirement years. But my retirement prospects are not nearly such a pretty sight due to this litigation that is going on and on and on and on.

The proposed settlement appears to be a good one for all concerned. My congratulations to both the Department of Justice and Microsoft for that. But what right do those still opposing the settlement have to harm me further for their own selfish interests? Let them get to work, just as I did (on a smaller basis, of course), and make it on their own merits instead of sponging off of someone else's intelligence and hard work.

In this time of national stress this country and all of us need all of the incentive our economy and our stock market can get. Our President is right! Our economy needs a stimulus—and it won't come by cow-towing to limited selfish interests by such as those refusing to accept the proposed settlement and vowing to pursue further litigation. Let's get on with what's best for our country, our elderly (myself and my wife included), and all others with retirement programs of all ages, our military men and women, and those who are just plain happy with their Microsoft products. Enough of this particular hasseling and litigation. Bill and Melinda Gates have set an outstanding example by donating over a billion dollars of their personal income (undoubtedly mostly from Microsoft profits) to very worthy charities throughout the world. How rewarding it would be if some of these litigation-happy competitors would do likewise with even a small fraction of the big bucks they are contributing to big-name trial lawyers!!

God Bless America.
Respectfully Submitted,
S. Ben Riva
Bellevue, Washington .

MTC-00032395

From: COLLINSF3@aol.com@inetgw
To: Microsoft ATR
Date: 1/5/02 11:19pm
Subject: Microsoft Settlement

I would just like to say that Microsoft should not be broken up by any means. It's not the jurisdiction of our government do define competition as total equality. It would be punishing people who have worked hard to create a product that people like and buy. The government does not have the right to say who prospers or define one's earnings. Now that Explorer is free it forces Netscape to be original, provide the consumer with something new that Explorer does not allow. It forces other people to create, to strive. You do not punish Gates for being successful. Apple computer still has a wonderful product which they sell. The government suppressing individuals ability to create is everything the framers of our constitution would go against. Gates has the right to his property. This is the equivalent of if I owned large amounts of land so I could sell it at lower prices hurting real estate companies, so the government took my land. That says that my property is not mine, but rather everything I own is up to the discretion of the state to take. We do not live in a socialist government, and I fear that this decision would be another attempt for the government to define our lives as a collective regime to help one another. Look the government cannot violate ones property rights. If this decision goes through then that says that says the government can control ones property which is strait communist no doubt. There's no violation of the law unless Microsoft hurts the rights of another.

The constitution says we as individuals have the right in the pursuit of happiness. That does not mean happiness is guaranteed to the individual. Neither does it mean the state has the right to define the level of happiness we're allowed. Please please please do not break up Microsoft.

MTC-00032396

From: The Talleys
To: Microsoft ATR
Date: 1/5/02 11:52pm
Subject: microsoft settlement

I agree with the terms of the settlement.

MTC-00032397

From: Carol Kelly
To: Ms. Renata Hesse
Date: 1/6/02 5:03am
Subject: Microsoft Settlement

Carol Kelly
78401 Bigelow Way
Cottage Grove, OR 97424-9430
January 6, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors? products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Carol A. Kelly

MTC-00032398

From: Sean OToole
To: Microsoft ATR
Date: 1/6/02 2:14pm
Subject: Microsoft Settlement

TO: US Dept of Justice.

As a concerned citizen and tax payer I urge you to put the Microsoft case to rest. It may have been a nice idea for the Federal Government and State Governments to sue Microsoft when the economy was soaring and the states saw dollar signs....those days are gone. I understand that a few high level government officials are looking for private sector jobs and like to make a name for themselves while they have the unlimited budget of the taxpayer. If we continue to allow a few lawyers seek name recognition at the expense of the corporation we will destroy our free economy.

The governments job should be to protect the greater public interest and allow Americans to pursue their own happiness. It has been made very clear in this case that Microsoft has not damaged the consumer or the public's interest. I appreciate all our government does. Americans truly are fortunate to live here and I am grateful for the Department of Justice and the people who serve there.

In this matter I think we should let the free market solve the competitive issues.

Thank you.
SEAN OTOOLE

MTC-00032399

From: Aubrey Brewster
To: Microsoft ATR
Date: 1/6/02 4:48pm
Subject: (no subject)

I think the microsoft settlement is Fair let it stand.

Thanks Aubrey Brewster

MTC-00032402

From: John Mulhall
To: Ms. Renata Hesse
Date: 1/6/02 8:56pm
Subject: Microsoft Settlement

John Mulhall
7 Evergreen Lane
Cazenovia, NY 13035
January 6, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
John A. Mulhall

MTC-00032403

From: SlateInc@aol.com@inetgw
To: Microsoft ATR
Date: 1/6/02 11:54pm
Subject: Microsoft Settlement
Dear DOJ,

I believe that it's in the best interest of American consumers (and indeed of the US economy) for the DOJ to quickly resolve it's issues with Microsoft. I think that there never really was a case against Microsoft that warranted any kind of major penalties.

Thank you.
Larry Delaney
Consumer and small business owner

MTC-00032404

From: Jonathan Tarbox
To: "microsoft.atr(a)usdoj.gov"
Date: 1/7/02 7:10am
Subject: Microsoft Settlement
Dear Sirs;

I was deeply involved with the BeOS operating system at one time and would greatly love to get back into the swing of things with it. However, since Be, Inc. is no more and Palm is hesitant about licensing out the BeOS source code to the BeUnited project (www.beunited.org), I thought I'd voice my opinion.

The main thing that prevented BeOS, or any non-Microsoft operating system, from being shipped on any mainstream OEM computers was the MS licensing preventing OEM companies from being able to install other operating system. There should be no bonus or penalty to an OEM for not installing or installing another operating system on a shipping PC. From what I knew of the deal, an OEM company would loose out on bonuses that Microsoft would award thier OEM purchasers if they installed other operating systems on thier shipping PCs.

And because of the lack of OEM support, hardware manufacturers would often not write drivers for thier hardware for the BeOS. This greatly hurt the momentem of the BeOS to a point that the owners of Be, Inc. had to shift focus to Internet Appliance devices instead of PCs. This also didn't pan out and the IP of Be, Inc. was sold to Palm recently.

Personally, I believe the settlement should prevent MS from using licensing or monetary bonuses to sway OEMs into using only MS products on thier PCs. It should also remove limitation of not allowing any other operating system to dual boot with any MS operating system. Thanks, Jonathan Tarbox

MTC-00032405

From: chester c fong
To: Microsoft ATR
Date: 1/7/02 9:08am
Subject: Microsoft Settlement
To Department. of Justice
Re: Microsoft Settlement

As a private citizen, this case should be closed and left as is. It has cost quite a bit of money to work on this case both from the government (representing the people), the taxpayers who pay the government to perform, and the Microsoft Co. who are the defendants of this case.

The settlement brought forth by the lower courts is a fair one. It costs Microsoft Company to pay for its transgressions of the law and the Plaintiffs should be happy. The public (taxpayers) are sick and tired of this case dragging over the past two years.

This case has been deemed fair by the courts, let it be. In the interests of justice for everyone concerned it is closed.

Private Citizen,
Chester Fong
801 Franklin St.
Oakland, Ca 94607

MTC-00032406

From: Les Thompson
To: John Ashcroft
Date: 1/7/02 10:03am
Subject: Microsoft
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

I wanted to let you know that I think the government made the right choice in ending its litigation against Microsoft. Frankly, the Justice Department never should have continued the action against this company in the first place, and I am glad to see that the matter is finally resolved.

Microsoft makes innovative products, and this is not an excuse to break up this company. Microsoft has agreed to share information with its competitors, but it will still be allowed to develop products that will improve the technology industry. The settlement is fair and was reached after extensive negotiations. A technical review committee will ensure that Microsoft complies with the terms of the settlement.

I believe you have made the right decision by settling with Microsoft. Thank you for your support.

Sincerely,
Les Thompson
Leslie Thompson

MTC-00032409

From: Mike Pritchard
To: Microsoft ATR
Date: 1/7/02 11:32am
Subject: Microsoft Settlement

In my opinion... the DOJ should back off a little.

I think the DOJ investigation is being driven by competitors of Microsoft. I also think Microsoft's competitors are jealous because they have been unable to duplicate Microsoft's success.

Do you remember what it was like to work with computers in the 70's and 80's??? Proprietary computers running proprietary software. Hardware and software costs were outrageous and maintenance cost weren't much better.

Software programs were not standardized and they didn't always play nice with each other. The philosophy of big computer companies seemed to be, "Do it our way or don't do it". Trying to get different computer to work together was very frustrating (if not impossible).

Microsoft could have played by the same rules as everybody else (in the computer industry). Instead, today we have standards and tightly integrated tools for developing and running software.

I do not think Microsoft is a Monopoly. They do not own the hardware and software (unlike Apple and IBM), and there are many operating systems to choose from. You can run several types of UNIX, Macintosh, OS2, etc... Most people choose MSWindows. It is quite nice to have many tools integrated into the MS operating system.

Because of its size it may be a good idea to keep an eye on Microsoft, but in my opinion they should get a commendation for what they have accomplished. Microsoft has made my job easier and more productive.

Michael A Pritchard
Access Development
Director of IS, CIO
SLC, Ut

MTC-00032410

From: Mader, John
To: "Microsoft.atr(a)usdoj.gov"
Date: 1/7/02 12:55pm
Subject: Anti-Trust Settlement
To whom it may concern

I feel that if the present settlement is allowed to stand (Microsoft allowed to continue shipping their applications bundled with their operating system) the consumer will have to pay the cost of mitigation. With the clout that the operating system gives Microsoft they will be able to move into any lucrative software market after other firms develop those markets. This pattern is very evident (i.e. Java, Palm, Sun). Eventually most of the other players will be pushed out of the market, and Microsoft will be successful in creating a barrier to the software market. This loss of competition will not serve the interest of the American people. I ask the court to break Microsoft into 2 or more companies.

John Mader
10228 Gatemont Circle
Elk Grove Ca. 95624

MTC-00032412

From: JudeAVettraino
To: Microsoft ATR
Date: 1/7/02 3:40pm

MTC-00032413

From: Cornel Sarosdy
To: DOJ
Date: 1/7/02 4:17pm
Subject: Microsoft settlement

Neither the DOJ nor the court should do nothing to contravene the settlement already completed between DOJ and MSFT. The case of the states still suing should be thrown out by the court. I have used MSFT products for many years and have never thought to be taken advantage of by MSFT.

Cornel Sarosdy

MTC-00032415

From: Eberhard Hafermalz
To: Microsoft ATR
Date: 1/7/02 6:05pm
Subject: Settlement with MicroSoft
Dear Sir/Madam

Following a request by Helmar Rudolph who is part of the BeUnited Team and with whom a DOJ person has talked on January 4, 2002, I would like to submit my views on what is necessary to remedy the damage done to the market for PC operating systems (OS) by MicroSoft.

I am not a developer but a user of the BeOS, an alternative operating system widely acclaimed for its potential as a desktop OS. I would like to stress that the BeOS never has taken off as a widely used OS on the PC market. Not because it does not have the potential; there is publicly available numerous evidence to the contrary. The BeOS has died because computer makers were not allowed to pre-install this OS on their systems instead of or even alongside a MicroSoft OS, thus precluding a broad distribution. It is a known fact that computer makers declined the offer of Be, Inc., the maker of BeOS, to ship their machines with the BeOS pre-installed because this would invoke the respective punitive clauses in the licensing agreement they had with MicroSoft.

Further, when installing a MicroSoft OS onto a computer already equipped with the BeOS (or any other OS), the MicroSoft OS wipes the so-called bootblock, resulting in the computer only booting into the MicroSoft OS afterwards. As is well known, MicroSoft OSs are prone to get unusable after a short period of time, requiring extensive maintenance which more often than not is easiest done by re-installing the whole system. This obviously invokes the bootblock problem every time a re-install is conducted.

These two issues alone make it almost impossible for the average computer user to (a) acquire a non-MicroSoft OS running computer, and (b) maintain a dual-boot system where one of the OSs is a MicroSoft one.

The remedy for issue (a) would be to disallow MicroSoft in clear terms the use of any contractual clauses in their licensing agreements that restrict the decision of the computer maker on what OS, if any, to ship with the computer they manufacture.

The remedy for issue (b) is to disallow MicroSoft the overwriting of the bootblock when Windows (or another MicroSoftware) is installed. This is technically possible by giving the user the choice which systems to boot into. Resolving issue (b) is in fact complementary to issue (a) for the reasons explained above; otherwise MicroSoft would be allowed to abuse their dominant market position by simply accomplishing at a later point in time what they have been denied at the manufacturer's stage: killing the competing OS on the same computer.

In light of the MicroSoft strategy of the past, the above is not the only remedy I think necessary because it would only create a level playing field. MicroSoft would be allowed to maintain the fruit of their previous unfair competition practice. Thus it appears justified to require MicroSoft to cede proprietary information in areas where it has acquired a de-facto monopoly by way of utilizing advantages from their unfair competitive behavior.

Most importantly, this includes the "office" part of the company's business. MicroSoft Office is the standard because Office was pressed onto the consumer as "part of Windows", which—as well as the Internet Explorer—it is not. MicroSoft thus utilized the practice described above to eliminate any competitor in this software segment.

In order for rival makers of office software to compete they need the information required to create translators, software add-ons ("plug-ins" in Windows-speak) that allow the competing software to import from and export files to MicroSoft Office (and other) formats. I would like to point out that in order to accomplish this it is not required that MicroSoft open their source code of Windows, MicroSoft Office, or any other software.

Moreover, I would like to bring to your attention that it is not only Windows, and MicroSoftware running on Windows, that needs to be included in a settlement. MicroSoft is already showing the same patterns of behavior as before in the market for handheld computers. Also they are obviously trying to delay any remedial action against the Windows monopoly in the desktop computer market until Windows is no longer their main productline. Any settlement that is to create and ensure a level playing field in the longer term not only needs to remove the Windows monopoly but at the same time include any future OS or, indeed, software MicroSoft might sell, be it ".Net" software, Windows CE/Stinger, or any other product.

Finally, please revise your stance on the issue of MicroSoft's "giving away freely" computers, software, and service for these to schools. This is no remedy but an opportunity. It will create a new market for the company. These days MicroSoft's power to abuse their position stems from the very fact that for most people the term "computer" automatically means "Windows", i.e. MicroSoft. Letting MicroSoft "make good" for their abusive behavior by opening one of the few places where competing OS maker Apple still holds a better than insignificant market share would mean, as we say in Germany, to try to expel the devil with the Beelzebub.

The fate of innovation is at stake. Innovation cannot come from a company that has been holding the monopoly for almost ten years now. There is much better, much more innovative software out there than MicroSoft one but it will never have a chance.

Unless MicroSoft is forced to give it that chance.

Thank you for your attention.

Faithfully yours

Eberhard Hafermalz

MTC-00032416

From: Pamela Schmidt
To: Microsoft ATR
Date: 1/7/02 6:56pm
Subject: Ending Clinton Anti-trust abuse

To whom it may concern:

You have my full support to do what is just and lawful to correct any abuses allowed through the Clinton years. I know that you will know just what to do.

Sincerely yours,

Pamela J. Schmidt

MTC-00032417

From: Dennis McKenna
To: sirs
Date: 1/7/02 8:09pm
Subject: Microsoft settlement

Dear Sirs,

I undrestand that there is finally a settlement that has been reached in the Microsoft case and I can only say this:

Why has it taken so long? This entire case was misguided. As an American citizen I cannot believe that we do not have something better to do with our tax dollars than investigate a fine, innovative American company that provides excellent products for reasonable prices to all. What would the world be like without Microsoft's innovation? And what, I ask was their crime? That they were so good at what they did that they had little competition. This was a natural monopoly which sooner or later would have come up against natural competition. [illegible] not the role of government to step in and smash such a company. We should be providing a favorable environment for more US companies to step up their level of innovation and become the next Microsofts. Please go ahead and get this thing over with so we can close the book on this embarrassing chapter of US history.

Sincerely,

Dennis McKenna
4207 Lenzgrove Lane
La Canada, CA 91011

MTC-00032418

From: Mary Jo Reddick
To: Microsoft ATR
Date: 1/7/02 8:24pm
Subject: Microsoft Settlement

We think it is a tough but fair settlement—for all parties involved. Stop wasting the tax payers money— competition is wonderful for consumers like our family. We are an average working family who appreciate good quality products at fair prices that Microsoft has made available to us. We don't appreciate our hard earned tax money being wasted on frivolous, vengeful lawsuits. Enough already.

Donald and Mary Jo Reddick
Lancaster, CA

MTC-00032419

From: Michael Belcher
To: Ms. Renata Hesse
Date: 1/7/02 10:13pm
Subject: Microsoft Settlement

Michael Belcher
po box 5681
pahrump, nv 89041-5681
January 8, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Michael Belcher

MTC-00032420

From: Nelsons
To: Microsoft ATR
Date: 1/7/02 10:43pm
Subject: It will be very good for the US economy if this case was settled

It will be very good for the US economy if this case was settled prior to the March hearings. The nine states that are holding out are obviously trying to protect their companies in their own state. e.g. Oracle, AOL, Sun Microsystems etc. They are putting themselves above the consumer by delaying the settlement. All they want is their pound of flesh, nothing more. It is getting so obvious that hopefully the judge will see through it. It was a good thing the DOJ made the effort to settle with Microsoft. The sooner it is over, the better it will be for the stock market and the consuming public.

Thank you for the opportunity to voice my opinion.

Charles D Nelson
nelsons@altavista.com

MTC-00032421

From: Jane Pehl
To: Microsoft ATR
Date: 1/8/02 6:47am
Subject: Microsoft

It is time to end the tyranny of the Clinton years! Get out of the life of American business and taxpayers!! Why are you not prosecuting true criminals like the Clintons and their accomplices during their eight year crimes spree?

Jane Pehl
San Antonio, Texas

MTC-00032422

From: Rose Marie Lavelle
To: Microsoft ATR
Date: 1/8/02 8:07am
Subject: for all the people,not the few

Let us move on with the things of today and not the pass,end it now!

ROBERT M.LAVELLE
122 WHISPERING PINE DR.
PALM COAST FL. 32164

MTC-00032424

From: Steve Sawyer
To: 'microsoft.atr(a)usdoj.gov'
Date: 1/8/02 9:19am
Subject: Microsoft anti-trust case

Greetings,

I have been involved in the IT industry since 1981. I watched Microsoft, Apple and others work their way up the corporate ladder with innovative ideas and hard work. They deserve much of the fruits of their labor.

However, in Microsoft's case, they have been doing much more harm than good to the consumer over the past several years. As a graduate of the University of Oregon School of Business Administration, I have watched with fascination the methods with which Microsoft has eliminated competition and coerced vendors into doing business Microsoft's way. All of this while their own products continue to slide, in terms of quality and technical advancement. The result is a two-edged sword. They spend time and resources wiping out competitive ideas leaving little reason or incentive to improve their own.

Then the Government and the courts comes along and "endorses" this approach by mandating toothless laws with little or no enforcement. Microsoft is trying to do this with Linux as well as others. Microsoft is a great company. Bill Gates and crew should be applauded for what they have done for technology. However, Microsoft has become a textbook example of why we have rules governing monopolistic practices in this country. When Billy Graham gets caught speeding he receives a ticket for speeding and he pays the fine. Microsoft got caught and it is time to pay the fine.

Do America and Microsoft a favor and put a stop to the dark side of Microsoft.

Thank you...

Steve
Steve Sawyer
Director of Internet Development
Market America, Inc.
steves@morebv.com

MTC-00032425

From: Michael Sauber
To: Ms. Renata Hesse
Date: 1/8/02 9:55am
Subject: Microsoft Settlement

Michael Sauber
219 Hidden Creek Lane
North Aurora, Il 60542
January 8, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Michael L. Sauber

MTC-00032426

From: Charlotte Worden
To: Ms. Renata Hesse
Date: 1/8/02 10:22am
Subject: Microsoft Settlement
Charlotte Worden
1821 2nd St
Lewiston, ID 83501
January 8, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

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Sincerely,

Charlotte Worden

MTC-00032427

From: Paula Benner
To: Microsoft ATR
Date: 1/8/02 10:37am

file:///C√/win/temp/tmp.htn

I want to end Clinton-era Anti-trust law abuse!

MTC-00032429

From: Ben Hughes
To: Microsoft ATR
Date: 1/8/02 2:11pm
Subject: Clinton Era

I would like to see the end of the Clinton era abuse of anti-trust legislation and court action. Microsoft has provided jobs to multitudes of people and made millionaires of another group who started out as workers.

Thank you,

Sue & Ben Hughes

Lindale, Texas

MTC-00032430

From: Bob (038) Caryl Horstmeier
To: Microsoft ATR
Date: 1/8/02 4:17pm
Subject: GOVT. SHAKEDOWN OF MICROSOFT

DEAR WHO EVER AT JUSTICE DEPT;

I BELIEVE THAT MICRO SOFT DOES NOT RATE A SHAKE DOWN BY THE GOVT. JUST BECAUSE MICROSOFT DID NOT CONTRIBUTE TO SLICK WILLY. THE REST OF THE WORLD IS WONDERING WHY WE SHAKE DOWN OUR BEST ACHIEVERS.

ROBERT HORSTMEIER, 112 STANTON STREET, DAVIS ILLINOIS, 61019-0183

randchorst@stateline-isp.com

MTC-00032432

From: ARTHUR HUPP
To: Microsoft ATR
Date: 1/9/02 2:17am
Subject: E-Mail Settlement

Enough is Enough!!!!! Let's let Mircosoft get on with being a successful company and quit wasting the taxpayers money!!!!

Art Hupp

MTC-00032433

From: Craig Madsen
To: "microsoft.atr(a)usdoj.gov"
Date: 1/9/02 7:32am
Subject: FW: Microsoft Antitrust Case
From: Craig Madsen
Sent: Monday, January 07, 2002 4:42 PM
To: "attorney.general@po.state.ct.us"
Subject:Microsoft Antitrust Case

Dear DOJ, etc.,

I am writing to put my 2 cents worth about the antitrust case against Microsoft Corp.

I feel like Microsoft is using their OS dominance to stifle every bit of competition possible. I totally agree with the 9 states that are fighting this thing to the bitter end. I also don't agree with the current settlement at all. For Microsoft to spend a bunch of money for the schools does absolutely nothing to stop them from continuing to do what they have been doing for years—except try to catch up with Apple, Inc. in the school battles!! I also don't mind spending my tax dollars to do whatever is necessary to make them pay for what they have already done.

We watched them "give away" a browser and all but kill a competitor(s). Tomorrow they start giving away databases, and before long, who knows? If there was a competitor to the government, they would buy them, reduce the price on whatever they were selling to nothing and kill them off too. Once dead, they can raise the price back to whatever they need to.

Do I want Microsoft dead? Probably not, however, I want them to have to use the same playing field as the rest of the businesses in america that don't control 90% of the operating system business. Break them up. Make

them give out their source code to anyone, so we could all make products as quickly as them!

p.s.

I was trying to send this to: microsoft.atr@usdoj as well, but my e-mail package didn't like this. Do you know how I can get a copy of this to them?

Thanks,

Craig Madsen
(801)-961-3045
155 North 400 West
Salt Lake City, UT 84103-1111

MTC-00032435

From: Mundlapati Jawahar
To: Ms. Renata Hesse
Date: 1/9/02 9:28am
Subject: Microsoft Settlement
Mundlapati Jawahar
4759 e culver st
phoenix, az 85008
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Mundlapati Jawahar

MTC-00032436

From: LOUIS TURRO
To: Ms. Renata Hesse
Date: 1/9/02 10:30am
Subject: Microsoft Settlement
LOUIS TURRO
591 PALMER AVE
MAYWOOD, NJ 07607
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
LOUIS TURRO

MTC-00032437

From: Joseph O'Hara
To: Ms. Renata Hesse
Date: 1/9/02 10:34am
Subject: Microsoft Settlement
Joseph O'Hara
17521 leafwood lane
Tustin, CA 92780
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Joe O'Hara

MTC-00032438

From: Dawn Case
To: Ms. Renata Hesse
Date: 1/9/02 10:35am
Subject: Microsoft Settlement
Dawn Case
2436 Richmond Rd.
Woodward, OK 73801-7125
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Dawn Case

MTC-00032439

From: Adrian J. Dekker
To: Ms. Renata Hesse
Date: 1/9/02 10:46am
Subject: Microsoft Settlement
Adrian J. Dekker
11929 Eagle Creek Cove
Ft. Wayne, IN 46814
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Adrian J. Dekker

MTC-00032440

From: Norm Lee
To: Ms. Renata Hesse
Date: 1/9/02 10:55am
Subject: Microsoft Settlement
Norm Lee
2709 Glendale Drive
loveland, co 80538
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Norm Lee

MTC-00032441

From: Carl Haywood
To: Ms. Renata Hesse
Date: 1/9/02 10:56am
Subject: Microsoft Settlement
Carl Haywood
1515 Patrick court
Gardnerville, NV 89410-6645
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

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Sincerely,
Carl Haywood

MTC-00032442

From: carl king
To: Ms. Renata Hesse
Date: 1/9/02 11:03am
Subject: Microsoft Settlement
carl king
1145 bordeau ct.
atlanta, ga 30338
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
carl king

MTC-00032443

From: Richard Haugen
To: Ms. Renata Hesse
Date: 1/9/02 11:05am
Subject: Microsoft Settlement
Richard Haugen
740 Southgate
Fullerton, Ca 92832
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Richard L. Haugen

MTC-00032444

FROM: Ray Kraft
TO: MS ATR
DATE: 1/9/02 11:07am
SUBJECT: Opinion: microsoft settlement does not address problem sufficiently

I would like to voice my concern over the proposed settlement between Microsoft and the DOJ. Given that Microsoft has been founds *guilty* of violating antitrust law and abusing its power in the computer operating system market, I feel that the measures outlined in the settlement will do little to redress this problem. In fact, I believe that some proposed "corrective" measures (i.e. those addressed at scholls) will in fact have just the opposite effect, and will serve to strengthen Microsoft's monopoly position.

I would like to ask that more effective measures be proposed to bring about the changes required to prevent Microsoft from continuing to abuse its monopoly position.

Thank you. Sincerely,
Raymond H. Kraft, Ph.D.
Raymond Kraft, Ph.D. rkraft@api.com
Associate Technical Fellow 425-657-1348
Applied Precision, Inc.
Issaquah Washington, USA
GnuPG Public Key Available: http://wwww.keyserver.net/en

MTC-00032445

From: Robert Hagaman
To: Ms. Renata Hesse
Date: 1/9/02 11:14am
Subject: Microsoft Settlement
Robert Hagaman
13 Hibiscus Court
Homosassa, FL 34446
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Robert E. hagaman

MTC-00032446

From: Richard Swier
To: Ms. Renata Hesse
Date: 1/9/02 11:19am
Subject: Microsoft Settlement
Richard Swier
6718 Paseo Castille
Sarasota, FL 34238
January 9, 2002
Ms. Renata Hesse

U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Rich Swier

MTC-00032447

From: Carlton Miller
To: Ms. Renata Hesse
Date: 1/9/02 11:33am
Subject: Microsoft Settlement
Carlton Miller
805 Skye Drive
Findlay, Oh 45840–4436
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Carlton Miller

MTC-00032448

From: mike sanford
To: Ms. Renata Hesse
Date: 1/9/02 11:46am
Subject: Microsoft Settlement
mike sanford
1502 riley
lebanon, in 46052
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
mike sanford

MTC-00032449

From: Scott Clark
To: Ms. Renata Hesse
Date: 1/9/02 11:47am
Subject: Microsoft Settlement
Scott Clark
5127 W Riviera Ave
Banning, CA 92220
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Scott Clark

MTC-00032450

From: William Hoesen Sr
To: Ms. Renata Hesse
Date: 1/9/02 11:47am
Subject: Microsoft Settlement
William Hoesen Sr
1330 Meadowknoll
San Antonio, Tx 78227
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
William H Hoesen Sr

MTC-00032451

From: Christine Amirault
To: Ms. Renata Hesse
Date: 1/9/02 12:04pm
Subject: Microsoft Settlement
Christine Amirault
106 Sprucewood Court
Bonaire, GA 31005-3017
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Christine B. Amirault

MTC-00032452

From: Emmett Williams
To: Ms. Renata Hesse
Date: 1/9/02 12:05pm
Subject: Microsoft Settlement
Emmett Williams
1459 East Park Place
Chicago, Il 60637-1855
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Emmett Williams

MTC-00032453

From: Joseph Parrish
To: Ms. Renata Hesse
Date: 1/9/02 12:06pm
Subject: Microsoft Settlement
Joseph Parrish
1417 Starboard Ct.
Orange Park, FL 32003-7268
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Joseph W. Parish

MTC-00032454

From: Mark Nielsen
To: Microsoft ATR
Date: 1/9/02 12:06pm
Subject: The current settlement with MicroSoft is bad for competition and for the nation

Hello!

MicroSoft is evil. That is a given. Given all the lies they have said in court over the years, you cannot trust anythng they say. Thus, how can you trust the settlement?

MicroSoft was probably going to give 1 billion dollars to schools anyways. Then the settlement says they have to, which doesn't make any sense, because they were probably going to do it anyways. MicroSoft has always tried to grab the educational institutions, because when people graduate from high school or college, they will stick with the software they know.

Thus:

1. They were already going to do it anyways.
2. It inteferes with Apple's ability to compete in the education market.

MicroSoft is entirely evil and I would prefer, be destroyed. I would like to see it get destroyed under a competitive market, rather than physcial force. I like to win my battles fairly. Given the current republican administration, please do what makes the most sense for a competitive market, which you should understand since you are republican, and just don't so stuff that benefits the rich fat republicans/corporations who have no regard for our nation, just their pocketbook. I want business to thrive for those who deserve it, not those who are able to bribe/lie/cheat/steal their way into power because they have a lot fo money.

Thanks!

Mark

MTC-00032455

From: John Schuck
To: Ms. Renata Hesse
Date: 1/9/02 12:08 pm
Subject: Microsoft Settlement
John Schuck
P.O. Box 1516
North Conway, NH 03860
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

John Schuck

MTC-00032456

From: Marian Hirsh
To: Ms. Renata Hesse
Date: 1/9/02 12:16pm
Subject: Microsoft Settlement
Marian Hirsh
96000 Overseas Hwy. F-9
Key Largo, FL 33037
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid

the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Marian Hirsh

MTC-00032457

From: Raymon Brown
To: Ms. Renata Hesse
Date: 1/9/02 12:31pm
Subject: Microsoft Settlement
Raymon Brown
790 Abbott Rd
Lexington, KY 40502–2930
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Raymon W Brown

MTC-00032458

From: Richard Graves
To: Ms. Renata Hesse
Date: 1/9/02 12:33pm
Subject: Microsoft Settlement
Richard Graves
125 Wildflower Lane
Chillicothe, OH 45601–4092
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Richard E. Graves

MTC-00032459

From: Keith Gallup
To: Ms. Renata Hesse
Date: 1/9/02 12:33pm
Subject: Microsoft Settlement
Keith Gallup
1707 Brandenbery Dr.
Surfside Beach, SC 29575–5478
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Keith Gallup

MTC-00032460

From: Michael MacArthur
To: Ms. Renata Hesse
Date: 1/9/02 12:42pm
Subject: Microsoft Settlement
Michael MacArthur
4720 Chevy Chase Dr. #406
Chevy Chase, MD 20815
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Michael K. MacArthur

MTC-00032461

From: Fred Reich
To: Ms. Renata Hesse
Date: 1/9/02 12:42pm
Subject: Microsoft Settlement
Fred Reich
718 Danville Circle
Melbourne, FL 32904
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Fred Reich

MTC-00032462

From: Frederick Hoover
To: Ms. Renata Hesse
Date: 1/9/02 12:43pm
Subject: Microsoft Settlement
Frederick Hoover
106 Miller Avenue
Sayreville, NJ 08872-1378
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Frederick M. Hoover

MTC-00032464

From: William Bryant
To: Ms. Renata Hesse
Date: 1/9/02 12:50pm
Subject: Microsoft Settlement
William Bryant
6681 Gasparilla Pines Blvd
Englewood, Fl 34224
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely, Bill Bryant
W.P. Bryant, Jr.

MTC-00032465

From: jerry ellis
To: Ms. Renata Hesse
Date: 1/9/02 12:58pm
Subject: Microsoft Settlement
jerry ellis
180 NE IZETT ST. #A1
Oak Harbor, wa 98277
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
jerry ellis

MTC-00032466

From: Donald Slater
To: Ms. Renata Hesse
Date: 1/9/02 12:59pm
Subject: Microsoft Settlement
Donald Slater
250 Galesburg Dr.
Lawrenceville, GA 30044
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Donald Slater

MTC-00032467

From: Kenneth Golden
To: Ms. Renata Hesse
Date: 1/9/02 1:02pm
Subject: Microsoft Settlement
Kenneth Golden
1612 Harvard Woods Dr.2810
Brandon , Fl 33511-2095
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Kenneth Golden

MTC-00032468

From: gandamartin
To: Microsoft ATR
Date: 1/9/02 1:08pm
Subject: Microsoft Settlement

As two tax-paying citizens, we believe that the resources of the Justice Dept can be put to better use than pursuing Microsoft.

Thank you,
Mr & Mrs Gene Martin

MTC-00032469

From: George Klages
To: Ms. Renata Hesse
Date: 1/9/02 1:08pm
Subject: Microsoft Settlement
George Klages
Rt 1 Box 1680
Fresno, TX 77545
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
George Klages

MTC-00032470

From: Dorothy Dixon
To: Ms. Renata Hesse
Date: 1/9/02 1:11pm
Subject: Microsoft Settlement
Dorothy Dixon
3005 Cottonwood Court
Rowlett, TX 75088–5656
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Dorothy Dixon

MTC-00032471

From: James Feild
To: Ms. Renata Hesse
Date: 1/9/02 1:17pm
Subject: Microsoft Settlement
James Feild
2240 Sharon Rd
Menlo Park, CA 94025
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

J. David Feild

MTC-00032473

From: pankavichjm
To: Microsoft ATR
Date: 1/9/02 1:28pm
Subject: Microsoft Settlement

I believe that the it is in the public interest to settle with the Microsoft litigation. Personally, I find it hard to see how they were in violation at all. As far as I am concerned I always had the choice of using them or not.

However, I do believe that AOL is in some kind of violation in this respect. Whenever I load a program that also offers AOL I refuse the AOL but no matter I still get their program on my screen and it does start to load. I also think that they are in violation when they include free programs in cereals, etc. and send them through the mail. They are bordering on being a nuisance.

Joan M. Pankavich

MTC-00032474

From: James Franke
To: Ms. Renata Hesse
Date: 1/9/02 1:30pm
Subject: Microsoft Settlement
James Franke
238 Kilkenny Court
Ann Arbor, MI 48103
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

James A. Franke

MTC-00032475

From: Mervin Waed
To: Ms. Renata Hesse
Date: 1/9/02 2:06pm
Subject: Microsoft Settlement
Mervin Waed
1 Margate Ct.
Lewes, DE 19958
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Mervin C. Ward

MTC-00032476

From: W.Lawrence Kimber
To: Microsoft Settlement
Date: 1/9/02 2:09pm
Subject: Microsoft Settlement
W.Lawrence Kimber
106 Elmwood Ave.
East Aurora, NY 14052-2612
January 9, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies. Thank you for this opportunity to share my views.

Sincerely,
W.Lawrence Kimber

MTC-00032477

From: porium.net@wolverine.capwiz.com@inetgw
To: Ms. Renata Hesse
Date: 1/9/02 2:12pm
Subject: Microsoft Settlement
ALBERT HUDDY
3100 POINT CLEAR DR.
TEGA CAY, SC 29708
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
ALBERT D. HUDDY

MTC-00032478

From: Gregory Schopf
To: Ms. Renata Hesse
Date: 1/9/02 2:16pm
Subject: Microsoft Settlement
Gregory Schopf
1096 Lincoln Ave
Fennimore, WI 53809
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Gregory Schopf

MTC-00032470

From: Carol Iossa
To: Ms. Renata Hesse
Date: 1/9/02 2:19pm
Subject: Microsoft Settlement
Carol Iossa
R.R. 1 Box 3130
Jonesport, ME 04649-9709
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Carol H. Iossa

MTC-00032480

From: John Oubre
To: Ms. Renata Hesse
Date: 1/9/02 2:21pm
Subject: Microsoft Settlement
John Oubre
3721 Sleepy Hollow Lane
Port St. Lucie, FL 34952
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse: I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well.

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Sincerely,

John B. Oubre

MTC-00032481

From: Jacilyn Cox
To: Ms. Renata Hesse
Date: 1/9/02 2:35pm
Subject: Microsoft Settlement
Jacilyn Cox
6177 S.R. 258 S.W.
Newcomerstown, OH 43832
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Jacilyn Cox

MTC-00032482

From: Michael Burke
To: Ms. Renata Hesse
Date: 1/9/02 2:52pm
Subject: Microsoft Settlement

Michael Burke
P. O. Box 2624
Grand Junction, CO 81502-2624
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Michael Burke

MTC-00032483

From: Mike Welling
To: Ms. Renata Hesse
Date: 1/9/02 3:00pm
Subject: Microsoft Settlement

Mike Welling
2208 Pennington Dr.
Arlington, TX 76014-3512
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Mike Welling

MTC-00032484

From: Martin Spielman
To: Ms. Renata Hesse
Date: 1/9/02 3:17pm
Subject: Microsoft Settlement
Martin Spielman
8 Monaghan Road
Edison, NJ 08817–4122
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Martin J Spielman

MTC-00032485

From: James Carpenter
To: Ms. Renata Hesse
Date: 1/9/02 3:19pm
Subject: Microsoft Settlement
James Carpenter
4922 Del Rio Trl.
Wichita Falls, TX 76310–1431
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
James A. Carpenter, Jr.

MTC-00032486

From: Barbara Robken
To: Ms. Renata Hesse
Date: 1/9/02 3:20pm
Subject: Microsoft Settlement
Barbara Robken
2800 Andover Ave
Midland, TX 79705–3201
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Barbara Robken

MTC-00032487

From: HUGH M. FLYNN
To: Ms. Renata Hesse
Date: 1/9/02 3:22 pm
Subject: Microsoft Settlement

HUGH M. FLYNN
3849 Lucas Ct.
Simi Valley, CA 93063
January 9, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
HUGH M. FLYNN

MTC-00032485

From: Donald Horneff
To: Ms. Renata Hesse
Date: 1/9/02 3:35 pm
Subject: Microsoft Settlement

Donald Horneff
606 State St
Tama, IA 52339-1927
January 9, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Don Horneff

MTC-00032490

From: Donald Leui
To: Ms. Renata Hesse
Date: 1/9/02 3:43pm
Subject: Microsoft Settlement

Donald Leui
HC 1 Box 55
Martin, SD 57551

January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Donald Leui

MTC–00032491

From: Eileen Flynn
To: Ms. Renata Hesse
Date: 1/9/02 3:48 pm
Subject: Microsoft Settlement

Eileen Flynn
411 Seventh Ave
Indialantic, FL 32903–4337
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Eileen Flynn

MTC–00032492

From: Roger Daigger
To: Ms. Renata Hesse
Date: 1/9/02 3:58pm
Subject: Microsoft Settlement

Roger Daigger
15814 Stagecoach Rd.
Magnolia, , Tx 77355
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Roger & Dolores Daigger

MTC-00032493

From: Vivienne Erk
To: Ms. Renata Hesse
Date: 1/9/02 4:14pm
Subject: Microsoft Settlement
Vivienne Erk
878 Macopin Road
West Milford, NJ 07480
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Vivienne Erk

MTC-00032494

From: Cliff Cofer
To: Ms. Renata Hesse
Date: 1/9/02 4:19pm
Subject: Microsoft Settlement
Cliff Cofer
726 8th Street
West Des Moines, IA 50265–3636
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Cliff Cofer

MTC-00032495

From: Richard Taylor
To: Ms. Renata Hesse
Date: 1/9/02 4:36pm
Subject: Microsoft Settlement
Richard Taylor
4620 Tincher Road
Indy, IN 46221–3778
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Richard L. Taylor

MTC-00032496

From: Victoria Manes
To: Ms. Renata Hesse
Date: 1/9/02 4:46pm
Subject: Microsoft Settlement
Victoria Manes
2528 N Champlain Ave
Tempe, AZ 85281
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Victoria Manes

MTC-00032497

From: Victoria Manes
To: Ms. Renata Hesse
Date: 1/9/02 4:46pm
Subject: Microsoft Settlement
Victoria Manes
2528 N Champlain Ave
Tempe, AZ 85281
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

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Sincerely,
Victoria Manes

MTC-00032498

From: Joan Walsh
To: Ms. Renata Hesse
Date: 1/9/02 4:57pm
Subject: Microsoft Settlement

Joan Walsh
5459 E 4th St
Long Beach, CA 90814–1925
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement. This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Joan Allen Walsh

MTC-00032499

From: Felix Knebel
To: Ms. Renata Hesse
Date: 1/9/02 5:03pm
Subject: Microsoft Settlement

Felix Knebel
17264 Tam O'Shanter Dr.
Poway, CA 92064–1323
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Felix Knebel, Jr.

MTC-00032501

From: Ralph Hudson
To: Ms. Renata Hesse
Date: 1/9/02 5:25pm
Subject: Microsoft Settlement

Ralph Hudson
116 Jordan Circle
Garner, NC 27529–7953
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Ralph Hudson

MTC-00032502

From: Jim Poulton
To: Microsoft ATR
Date: 1/9/02 5:38pm
Subject: Retired USAF SWBell union memeber & MS Stockholder

Is our government stupid?

Quit screwing with the brightest light in our economy.

If any other nation in the world had Microsoft in their country they would back them to the limit. Only because our country allows foreign lobbyists and because we have so many other multi-national companies bribing our officials do we have this problem. Support the USA and our workers and KNOCK IT OFF!

James Poulton
USAF (retired) MSgt
214-902-8996

MTC-00032503

From: Robert Arnold Isley
To: Ms. Renata Hesse
Date: 1/9/02 5:46pm
Subject: Microsoft Settlement
Robert Arnold Isley
2500 Bangor Ct
Snellville, GA 30078
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

R. Arnold Isley

MTC-00032504

From: Steven Brown
To: Ms. Renata Hesse
Date: 1/9/02 6:05pm
Subject: Microsoft Settlement
Steven Brown
504 Sleepy Meadow Drive
MOUNT VERNON, mo 65712
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Steven Brown

MTC-00032505

From: Howard George
To: Ms. Renata Hesse
Date: 1/9/02 6:07pm
Subject: Microsoft Settlement
Howard George
5305 Water Point Drive
Memphis, tn 38141
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Howard George

MTC-00032506

From: Charles Boyette
To: Ms. Renata Hesse
Date: 1/9/02 6:36pm
Subject: Microsoft Settlement
Charles Boyette
274 Steens Road
Steens, MS 39766
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Charles E. Boyette

MTC-00032507

From: MR.AND MRS.ROBERT NELSON
To: Ms. Renata Hesse
Date: 1/9/02 6:38pm
Subject: Microsoft Settlement
MR.AND MRS.ROBERT NELSON
7582 HICKAM AVE.
LAS VEGAS, NV 89129
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As

noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

NELSON,ROBERT H. AND MARY L.

MTC-00032508

From: Jahorlick@cs.com@inetgw
To: Microsoft ATR
Date: 1/9/02 7:33pm
Subject: Microsoft Settlement

To whom it may concern.

I generally do not write E-mails on the behalf of big business. But I find this whole Microsoft saga disturbing. I do not agree with the idea that Microsoft should be punished or broken up. I think that Microsoft is an industry leader, in part because of its aggressive and forward thinking business practices, vital for competition in a very competitive market. I for one am thankful for what Microsoft has done. I think that the tremendous advances in computer technology can be attributed to Microsoft.

I can assure you that if another company comes out with a product that I read about or try and find it that I like it better than Microsoft's version, I would certainly buy the product that I liked.

If Microsoft feels that this latest judgment is fair, then I would have to agree.

Thank you for your time. John Horlick

MTC-00032509

From: Edward Evanko
To: Ms. Renata Hesse
Date: 1/9/02 8:33pm
Subject: Microsoft Settlement

Edward Evanko
1885 Military Ave
Seaside, CA 93955
January 9, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Edward P. Evanko

MTC-00032510

From: Raymond Bauer
To: Ms. Renata Hesse
Date: 1/9/02 9:14pm
Subject: Microsoft Settlement

Raymond Bauer
13763 Eureka Drive
Magalia, CA 95954
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Dr. Raymond Bauer

MTC-00032511

From: Robert & June Stone
To: Ms. Renata Hesse
Date: 1/9/02 9:18pm
Subject: Microsoft Settlement
Robert & June Stone
28120 Avenida Maravilla
Cathedral City, CA 92234-3771
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Robert & June Stone

MTC-00032512

From: John Green
To: Ms. Renata Hesse
Date: 1/9/02 9:40pm
Subject: Microsoft Settlement
John Green
2125 Elanita Dr.
San Pedro, CA 90732-4433
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

John Green

MTC-00032513

From: mercury@crossroadz.com.au@inetgw
To: Microsoft ATR
Date: 1/10/02 1:10am
Subject: Microsoft Settlement

The proposed settlement of the M$ anti trust action represents a complete failure of the current laws to protect consumers & ensure a level playing field for competition.

Microsoft failed to abide by the origonal judgement against them, has clearly continued their anti competitive behaviour and has now taken that behaviour to even higher levels with the release of Windows XP.

The issues with XP are far wider & more serious than any previous behaviour & this behaviour is apparently now being condoned by this settlement which provides M$ with a platform to further promote their products over any alternatives.

Within Australia the pricing issues alone are beyond belief. US Court evidence indicated 50% overcharging of consumers, with exchange rates taken into account the overcharging in Australia has been 200% and now with XP, the removal of Domain login from the basic/home version of the operating system, small business will be forced to move from a $A400 operating system to an $A660 operating system. Some 80% of small business is affected & the cost worldwide will run into $USBillions. The pricing of the M$ component of any PC price has risen in a market of dramatically increasing volumes, the opposite of normal market behaviour where shipment volumes increase.

This has been possible due to the monopoly position. In some cases the M$ component is now 50% of PC manufacturing Price. There is also an element of using US PC manufacturers to engage in product dumping into the international market to the detriment of international PC assemblers. The court evidence indicates some US manufacturers purchased NT4 Operating System at $US20 where local manufaturers in Australia were being charged $A320 ($US160) The schools concerned could utilise free open source software rather than waste money on M$ software & thus free up resources for additional hardware or teaching resources.

Throughout the current case M$ has been clearly in contempt of the courts in their actions which have been designed to ensure that it was not possible to recall or change products in the field with the browser (as distinct from the HTML rendering engine & communications utilities) embedded in the Operating Systems. The W98SE & Windows ME releases along with various Browser updates have been dubbed "The DOJ releases" with good reason. This case has been a classic example of how a Corporation can use delaying tactics in the courts to their advantage & profit from those tactics.

This proposal for settlement should be withdrawn and a regime which ensures an open standards interface approach is adopted with full disclosure of all API's for application services & network services put in it's place. Penalties which reflect the magnitude of the crime and recover the revenue improperly gained by M$ during the case should also be put in place In addition to the above a public list of areas in which people believe M$ has/is acting improperly should be initiated. There are numerous areas in which this has been the case & the current case has only brushed the surface. A public list/discussion board is the only way in which the technical details of how M$ has acted anticompetitively will ever be fully disclosed or determined.

Competition law will not be treated with any respect by Corporations unless this settlement is revised

Wayne Carruthers

MTC-00032514

From: Francis Bittel
To: Ms. Renata Hesse
Date: 1/10/02 4:50am
Subject: Microsoft Settlement
Francis Bittel
2471 Jennifer Drive
Poland, Oh 44514
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Francis J Bittel

MTC-00032515

From: Tom Friedman
To: Ms. Renata Hesse
Date: 1/10/02 5:19am
Subject: Microsoft Settlement
Tom Friedman
25 Whispering Spring Dr.
Pisgah Forest, , NC 28768-9502
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Tom Friedman

MTC-00032516

From: Bob White
To: Ms. Renata Hesse
Date: 1/10/02 5:25am
Subject: Microsoft Settlement
Bob White
9774 Hidden Cross
San Antonio, TX 78250-4817
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Bob White

MTC-00032517

From: Christopher Perdue
To: Ms. Renata Hesse
Date: 1/10/02 5:36am
Subject: Microsoft Settlement
Christopher Perdue
1509 Carmel Road
Charlotte, NC 28226-5013
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Christopher Perdue

MTC-00032518

From: Kevin Sipes
To: Ms. Renata Hesse
Date: 1/10/02 6:08am
Subject: Microsoft Settlement
Kevin Sipes
2602 camarie Ave
Midland, TX 79705
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Kevin Sipes

MTC-00032519

From: George F Kovacs
To: Ms. Renata Hesse
Date: 1/10/02 6:25am
Subject: Microsoft Settlement

George F Kovacs
255 E. Baltimore St.
Taneytown, MD 21787-2235
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

gfkovacs@hotmail.com

MTC-00032520

From: Rick Rund
To: Ms. Renata Hesse
Date: 1/10/02 6:36am
Subject: Microsoft Settlement

Rick Rund
POB 1409 260 No. Gulling
Portola, Ca 96122-1409
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Rick Rund

MTC-00032521

From: Diane Sosebeee
To: Ms. Renata Hesse
Date: 1/10/02 7:03am
Subject: Microsoft Settlement
Diane Sosebeee
103 McMillan St.
Evergreen, AL 36401
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Diane S. Sosebee

MTC-00032522

From: Mike Strain
To: Ms. Renata Hesse
Date: 1/10/02 7:27am
Subject: Microsoft Settlement
Mike Strain
30665 Old Hwy 395
Escondido, ca 92026
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Mike Strain

MTC-00032523

From: Tracy Stone
To: Ms. Renata Hesse
Date: 1/10/02 7:35am
Subject: Microsoft Settlement
Tracy Stone
101 Savannah Drive
Matthews, NC 28105-6539
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Tracy Stone

MTC-00032524

From: David Zickefoose
To: Ms. Renata Hesse
Date: 1/10/02 7:52am
Subject: Microsoft Settlement
David Zickefoose
10314 Washington Drive
Omaha, NE 68127
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
David C. Zickefoose

MTC-00032526

From: Delmonte, Tom
To: Microsoft ATR
Date: 1/10/02 8:18am

First of all thank you for allowing us to voice our concerns.

My main focus is the pattern that Microsoft has exhibited over the 15 years that I have been involved in the IT arena.

The first negative experience was one which happened with a company called Stacker, in which it was proved that Microsoft had illegally used their file compression scheme, by the time the issue was settled the company no longer was viable and in fact is no longer in existence.

The next example is the competition between Microsoft and Netscape and how in a variety of actions which I am sure you are familiar made the company loose most of it's relevance in the PC arena, it still has a presence in the Linux arena, but that may change as well depending on how Microsoft handles that or is allowed to handle that arena in the future.

The main problem I see is one of ethical behavior, they do push the limits and go beyond as in the Stacker case in every area that they see is important, and one may think that this is how business is done, the stronger survive. But when it is at the cost of innovation by individuals or small concerns, which Microsoft is eliminating more and more due to it's size and influence, I think that the American public and entrepreneurs have lost incredible opportunities due to what I consider predatory behavior.

The level of excitement due to opportunities available to individuals in the 1980's was palpable across the whole Silicon Valley in which I worked at the time, as the 1990's approached this level of entrepreneurship decreased steadily.

Some of it is due to the maturing of the industry, some of it due to standardization all of which are good. But much of it has to do with Microsoft getting involved in so many areas of the personal computer arena that it left less and less space for the smaller less financially endowed institutions to contribute to the progress of a field that still has wonderful opportunities if this level of entrepreneurship is allowed to flourish again.

Unfortunately much of this has been squelched in the US, but with the arrival of Linux and what it can contribute and has contributed from many areas across the globe there is some activity in this entrepreneur-friendly environment that has received a lot of focus in the last couple of years.

I would suggest that the American technologists would be much more interested in putting an effort again into the IT arena if a more favorable environment was fostered by curtailing some of the more obvious actions that Microsoft has taken, and I am sure that that venture capitalists would support this effort since the rewards are still very high.

What I would suggest is to split the company into separate entities in all senses, applications and operating systems are two of the ones that have been suggested.

And if Microsoft wants to enter a new arena in the computer industry (and that has to be based on a well-defined criteria) then the amount of money they can put in that concern cannot be more than the best financed institution that is already present in that arena. If none are in existence a criteria for that has to be established as well, so that other can compete on equal footing.

Once that concern is established Microsoft cannot contribute any further funds, otherwise it would perpetually be competing in an arena even it's efforts were not successful, creating an artificial concern and hampering competitiveness.

If the company failed they should not be permitted to enter that arena for a pre-specified amount of time, to allow those who had good ideas to flourish without the annoyance of having another company artificially affecting the competitive environment to that specific arena.

I understand that this may have a short-term (1–2 years) effect on the economy, but the long-term effects would be a healthy, creative, growing and dominating industry for the US.

Tom Delmonte
WorldCom—Revenue & Segment Reporting
E-mail: tom.delmonte@wcom.com
Voice: (719) 535–1562
vnet: 622–1562

MTC–00032527

From: Michelle Alley
To: Ms. Renata Hesse
Date: 1/10/02 9:16am
Subject: Microsoft Settlement
Michelle Alley
27720 Riverwalk Way
Bonita Springs, FL 34134
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Michelle Alley

MTC–00032528

From: Robert Nuzum
To: Ms. Renata Hesse
Date: 1/10/02 9:26am
Subject: Microsoft Settlement
Robert Nuzum
2236 Gulf to Bay Blvd. #332
Clearwater, fl 33765
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Robert Nuzum

MTC–00032529

From: Sam Heath
To: Microsoft ATR
Date: 1/10/02 9:58am
Subject: Microsoft settlement
It is definitely time to put a stop to this nonsense about Microsoft!
Sam Heath
dheath@lightspeed.net

MTC–00032530

From: Pat Suter
To: Ms. Renata Hesse
Date: 1/10/02 10:18am
Subject: Microsoft Settlement
Pat Suter
30 West Gibbons St.
Linden, NJ 07036–4052
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Pat Suter

MTC-00032531

From: Thomas E. Strickland
To: Microsoft ATR
Date: 1/10/02 10:30am
Subject: Microsoft Settlement

Putting this Reno farce behind us is long overdue.

MTC-00032532

From: Milton Becker
To: Ms. Renata Hesse
Date: 1/10/02 11:01am
Subject: Microsoft Settlement

Milton Becker
335 Schooner Ave
Edgewater, Fl 32141
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Milton A Becker

MTC-00032533

From: Francis Johnson
To: Microsoft ATR
Date: 1/10/02 11:11am
Subject: Microsoft settlement

I have tried to follow the Microsoft case as much as possible and I am appalled with the DoJ for settling that easily. the law states that Microsoft broke the law, why does the punishment not fit the crime. As an individual on the street I start drawing my own conclusions. Did Microsoft pay off somebody etc? When IBM was found guilty of monopoly, they were dealt with accordingly and they could not profit from their business.

When Southwestern Bell (I forget what it was called) was a monopoly, it was dealt with too Why is the DoJ afraid of dealing with Microsoft. Wrong is wrong.

The proposed settlement is an insult to the "poor under privileged schools." I could understand if Microsoft offered to make all these schools top of the art with new technology/hardware etc. But to offer outdated hardware/software!, all they are doing is using the schools as trash cans, because they have nowhere to put their junk. "give it to them under privileged schools, they should be grateful", and the worst part the DoJ accepted this. This is the United States for pete's sake. we are supposed to offer justice for all. Stop this atrocious settlement.

I use Windows software on my pc and I appreciate the software, it is good and to most extent reliable and easy to use (if you know what you are doing). But I do not think that should get Microsoft special favors/treatment. DoJ act like a department of Justice and not like somebody's lacky.

You read almost everyday that Microsoft is doing something bad here or there. This will continue until someone says "The Buck Stops Here Microsoft, enough is enough". A good example is a simple poll. They tried to rig a poll so that it looks like people want Microsoft, having people voting multiple times , how low can a company go to wipe out competition. Micrsoft cannot stand that people like something else other than Microsoft, they are now like dictator governments "Its our way or noones".

DoJ clean up your act and do the right thing.

THANK YOU
FRANCIS
CC:xau99@yahoo.com@inetgw

MTC-00032534

From: EVAN LEE
To: microsoft.atr
Date: 1/10/02 12:13pm
Subject: Microsoft Settlement

DOJ Anti-Trust Division:

I am deeply troubled by the recent DOJ decision to settle the anti-trust case against

Microsoft. Guilty or not, Microsoft is the most dominating presence in the operating system and the software market today. For years they have bought out or pushed out competition not by superioriety of the software, but by money and lawyers.

Microsoft does not promote fair competetion, their goal seem to be eliminate all competetion. Every new technology or company comes up with new and cheaper ways that benefits customers have been targed by Microsoft as enemies. I do not believe behaviors such as this will be curbed by this settlement, if anything else this gives Microsoft more confidence to destroy their competitors, because what's the worst that will happen? a slap on the hand to microsoft.

What will this settlment accomplish? by making microsoft providing computers to poor schools in the country? How will this punish microsoft? All they have to do is buy in mass quantity refurbished computers which manufactures are gladly to get rid of. The software of course will be windows. This will not punish microsoft, instead it helps them breaking in to previously Mac dominated education market share. This settlement is not punishing Microsoft, it is helping them gaining publicity and market share.

It is amazing to me that this cased started hard and heavy in the late 90s when microsoft had no presence in washington. but it ended with less of a whimper after microsoft dumped millions if not billions of dollars in to washington's political arena. I believe this is the wrong decision by the DOJ to settle with Microsoft, and their monopoly will only get worse... I fear the day that Microsoft conquers all.

Evan Lee
Disturbed Computer User

MTC-00032536

From: Marty French
To: Ms. Renata Hesse
Date: 1/10/02 12:28pm
Subject: Microsoft Settlement

Marty French
2300 Bristol Dr.
Carrollton, Tx 75006
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Marty French

MTC-00032537

From: Byron Major
To: Microsoft ATR
Date: 1/10/02 1:08pm
Subject: Microsoft

Attorney General John Ashcroft,

I support the settlement of the Microsoft Suit. As a person who works in the computer industry, I would encourage this settlement.

V/R Byron K. Major

MTC-00032538

From: Paul Hilliar
To: Ms. Renata B. Hesse
Date: 1/10/02 2:01pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorney' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Paul Hilliar
2511 17th St. NW
Washington, DC 20009-2801
CC: Citizens for a Sound Economy

MTC-00032539

From: RTPaeschke@aol.com@inetgw
To: Microsoft ATR
Date: 1/10/02 2:13pm
Subject: Microsoft Settlement

I don't believe the public is served when judicial oversite or legislation is made to stiffle companies that create technology to the degree that Microsoft has. The main reason we have this predicament in my opinion, is that "weakened" competitors like AOL, SUN Micro, et.al., and their legal teams purposly sought remedy through the courts as a viable competitive marketing tactic. Unfortunately for the consumer, these "do-gooders" have influenced the justice system to prosecute Microsoft for being successful. The band-wagon effect in this is huge with lobyists, lawyers and those "weakened" competitors all reaping employment and huge sums of money. And then there is Microsoft, trying to exist by selling what we all agree are a great series of products addressing consumer preferences and providing what the market demands, and being punished for being successful at it.

RTP.

MTC-00032540

From: Erick Gustafson
To: Ms. Renata B. Hesse
Date: 1/10/02 2:13pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of

Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Erick Gustafson
910 Constitution Avenue, NE
Washington, DC 20002–6202
CC: Citizens for a Sound Economy

MTC-00032541

From: Bob Walker
To: Ms. Renata B. Heese
Date: 1/10/02 2:15pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Bob Walker
420 Seward Sq. SE
Washington, DC 20003–1112
CC: Citizens for a Sound Economy

MTC-00032542

From: Ross Marzolf
To: Ms. Renata B. Heese
Date: 1/10/02 2:17pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Ross Marzolf
419 19th Avenue E., #6
Seattle, WA 98112–5344
CC: Citizens for a Sound Economy

MTC-00032543

From: Jennifer Hamann
To: Ms. Renata B. Heese
Date: 1/10/02 2:20pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from. As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jennifer Hamann
5891 1st Street, North
Arlington, VA 22203–1101
CC: Citizens for a Sound Economy

MTC-00032544

From: Bud Thomas
To: Ms. Renata B. Heese
Date: 1/10/02 2:26pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Bud Thomas
6 Edward Dr
Orchard Park, NY 14127–3957

CC: Citizens for a Sound Economy

MTC-00032545

From: Rob Jordan
To: Ms. Renata B. Heese
Date: 1/10/02 2:34pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Rob Jordan
1301 S. Monroe St.
Arlington, VA 22204–4220
CC: Citizens for a Sound Economy

MTC-00032546

From: Andrew Smith
To: Ms. Renata B. Heese
Date: 1/10/02 2:36pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Andrew Smith
1953 Columbia Pike, Apt. 42
Arlington, VA 22204–6149
CC: Citizens for a Sound Economy

MTC-00032547

From: Andrew McElroy
To: Ms. Renata B. Heese
Date: 1/10/02 2:38pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Andrew McElroy
710 N. Oakland St.
Arlington, VA 22203–2223
CC: Citizens for a Sound Economy

MTC-00032548

From: John Baitinger, Sr.
To: Microsoft Settlement
Date: 1/10/02 2:46pm
Subject: Microsoft Settlement
John Baitinger, Sr.
P.O.Box 171
Alloway, NJ 08001–0171
January 10, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation. Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
John S. Baitinger, Sr.

MTC-00032549

From: stephen Flaherty
To: Ms. Renata B. Heese
Date: 1/10/02 2:47pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
stephen Flaherty
801 South Pitt Street
Alexandria, VA 22314–4369
CC: Citizens for a Sound Economy

MTC-00032550

From: Robert Pratt
To: Ms. Renata B. Heese
Date: 1/10/02 2:58pm
Subject: Microsoft Anit-Trust issue settlement

Dear Ms. Heese:

Your support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation is important.

The settlement is fair and will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

The opposition to the settlement from a small group of political bodies is nothing more than a power-grab and is not in the interest of the American tax payer.

Respectfully,
Robert Pratt
PO Box 5282
Lubbock, TX 79408–5282
CC: Citizens for a Sound Economy

MTC-00032551

From: Margaret Schlosser
To: Department of Justice
Date: 1/10/02 2:59pm
Subject: Microsoft Settlement

I am non-plussed at the supposed "remedy" for Microsoft wrong-doing. The "remedy" is to enforce that Microsoft products are given even MORE exposure than previously?? This would give Microsoft an unfair advantage in the National School System.

Microsoft is not, nor ever will be, remorseful in any way. Indeed, the same practices (proprietary) practiced previously, were practiced throughout the Anti-Trust process.

By cloaking it's every pronouncement with "for the good of the Consumers" Microsoft sought to influence everyone that any judgement against Microsoft was anti-consumer and bad for consumers. With the huge market share enjoyed by Microsoft, it's even MORE incumbent upon them to play fair.

This news indicates that Microsoft still seeks to impose it's standards over those of any other company by foul means, rather than fair.

In December, Java was more popular than .Net for building Web services, according to a ZDNet UK poll, but weeks later the position had dramatically reversed; investigation revealed just what lengths Microsoft will go to to promote its products

Microsoft's .Net Web services technology appeared to experience a sudden massive boost in popularity over its rival Java, according to a poll run by ZDNet UK.

By 21 December, more than two-thirds of the respondents (69.5 percent), said they planned to deliver some applications by Web services by the end of 2002, with a large majority of those (nearly half the total sample) planning to use Java. Only 21.5 percent said they planned to use Microsoft .Net—less than the figure (23.5 percent) planning to use neither.

But by the time the poll closed, on 5 January, the position had dramatically changed, with three quarters of voters claiming to be implementing .Net. This apparent sudden change of heart over the Christmas period appears to be the result of a concerted campaign within Microsoft.

ZDNet UK logs reveal rather obvious vote rigging, and prove that it originated from within Microsoft:

A very high percentage of voters are from within the microsoft.com domain.

There is a very high incidence of people attempting to cast multiple votes, even though the poll script blocked out most attempts at multiple voting. The one that wins the prize made 228 attempts to vote. This person was from within the microsoft.com domain.

I submit that the following is as true today as it was in the beginning of the Anti-Trust case:

http://www.nytimes.com/2001/09/07/opinion/07FRI1.html

The brunt of the case against Microsoft entailed coercive behavior by the company to force Internet service providers and computer makers to favor Microsoft's browser over Netscape's. Competitors are now complaining of similar behavior by Microsoft to use its Windows monopoly to immunize its newer products from real competition. Just last week European Union antitrust regulators initiated an inquiry into these claims.

In its announcement yesterday, the Justice Department appeared to acknowledge the urgent need for a change in Microsoft's conduct. In addition to calling for "prompt, effective and certain relief for consumers," it said it would use a period of expedited discovery to "investigate development in the industry since the trial concluded, and to evaluate whether additional conduct-related provisions are necessary."

Microsoft has a track record of showing little appreciation in its business dealings for the magnitude of the legal rulings against it. That is all the more reason for the government to remain on the case as the company aggressively seeks to become as dominant a platform for all Internet services as it currently is for PC software.

There is much more evidence out there..the DOJ should make every effort to right wrongs in this case. Please don't short-cut this issue due to the war on Terrorism.

M.Schlosser
Bethany Beach, DE

MTC-00032552

From: Elizabeth Bookspan
To: Ms. Renata B. Heese
Date: 1/10/02 3:17pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Elizabeth Bookspan
8620 114th Ave NE
Kirkland, WA 98033–5719
CC: Citizens for a Sound Economy

MTC-00032553

From: Jason Hagglund
To: Ms. Renata B. Heese
Date: 1/10/02 3:18pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jason Hagglund
5907 N. Wall
Spokane, WA 99205–6441
CC: Citizens for a Sound Economy

MTC–00032554

From: Betty Ramey
To: Ms. Renata B. Heese
Date: 1/10/02 3:37pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Betty Ramey
4760 NW 63rd Terrace
Bell, FL 32619–3823
CC: Citizens for a Sound Economy

MTC–00032555

From: Harry Hintz
To: Ms. Renata B. Heese
Date: 1/10/02 3:57pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Harry Hintz
5306 Overtop Lane
Raleigh, NC 27613–5550
CC: Citizens for a Sound Economy

MTC–00032556

From: Sean Comery
To: Ms. Renata B. Heese
Date: 1/10/02 4:05pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Sean Comery
630 F St
533
San Diego, CA 92101–6310
CC: Citizens for a Sound Economy

MTC–00032557

From: David Palmer
To: Ms. Renata B. Heese
Date: 1/10/02 4:08pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
David M. Palmer
3515 Mill Creek Road
The Dalles, OR 97058–1237
CC: Citizens for a Sound Economy

MTC–00032558

From: James Short
To: Ms. Renata B. Heese
Date: 1/10/02 4:41pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
James Short
8260 53rd Ave W. #305
Mukilteo Wa., WA 98275–2672
CC: Citizens for a Sound Economy

MTC-00032559

From: Vivian and William Henderson
To: Ms. Renata B. Heese
Date: 1/10/02 4:48pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Vivian and William Henderson
PO Box 2133
5230 SE Sedgwick Rd
Port Orchard, WA 98366–0769
CC: Citizens for a Sound Economy

MTC-00032560

From: Gerald Vinella
To: Ms. Renata B. Heese
Date: 1/10/02 4:55pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running ntitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Gerald Vinella
1330 Noah Rd
N. Brunswick, NJ 08902–1321
CC: Citizens for a Sound Economy

MTC-00032561

From: Leona Bochantin
To: Ms. Renata Hesse
Date: 1/10/02 5:13pm
Subject: Microsoft Settlement

Leona Bochantin
5373 Butler Hill Estates Dr.
St Louis, Mo 63128–3721
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Leona Bochantin

MTC-00032562

From: Geri and Bob Modrell
To: Ms. Renata B. Heese
Date: 1/10/02 6:01pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Geri and Bob Modrell
11014 19th Avenue SE PMB 59
Everett, WA 98208–7600
CC: Citizens for a Sound Economy

MTC–00032563

From: Stephen Koehler
To: Ms. Renata Hesse
Date: 1/10/02 6:38pm
Subject: Microsoft Settlement
Stephen Koehler
2703 Sycamore Woods Ct
Louisville, KY 40241–6293
January 10, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Stephen R. Koehler

MTC–00032564

From: Gary Evenson
To: Ms. Renata B. Hesse
Date: 1/10/02 7:24pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Gary Evenson
6314 40th st nw
Gig Harbor, WA 98335–7245
CC: Citizens for a Sound Economy

MTC–00032565

From: Peggy Venable
To: Ms. Renata B. Hesse
Date: 1/10/02 8:08pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Peggy Venable
13419 Wisterwood
Austin, TX 78729–1941
CC: Citizens for a Sound Economy

MTC–00032566

From: Stony Rushing
To: Ms. Renata B. Hesse
Date: 1/10/02 8:18pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of

Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Stony Rushing
3810 Belk Mill Rd
Wingate, NC 28174–8760
CC: Citizens for a Sound Economy

MTC–00032567

From: Erthel Hines
To: Ms. Renata Hesse
Date: 1/10/02 11:06pm
Subject: Microsoft Settlement
Erthel Hines
405 Meadowood Street
Greensboro, NC 27409
January 11, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530
Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Respectfully,
Erthel Hines

MTC–00032568

From: Wes Alexander
To: Ms. Renata B. Heese
Date: 1/11/02 2:12am
Subject: Microsoft Settlement (Support)
Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Wes Alexander
5248 Manitu Ct
Lilburn , GA 30047–5331
CC: Citizens for a Sound Economy

MTC–00032569

From: Charles L. Kaufman
To: attorney general
Date: 1/11/02 2:33am
Subject: Microsoft Settlement
Hello—

I am writing because I believe that the deal arranged by the U.S. government and Microsoft is a BAD deal for all us consumers.

Microsoft is a criminal company and is a danger to U.S commerce and the future of computing.

I believe it would be in the best interest if Microsoft was broken up into different competing companies.

F. Frank
24200 Sw Yew Wood Ln
Hillsboro, OR 97123

MTC–00032570

From: Bill Turenne
To: Ms. Renata B. Heese
Date: 1/11/02 5:30am
Subject: Microsoft Settlement (Support)
Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Bill Turenne
814 C Jefferson Street
Alexandria, VA 22314–4255
CC: Citizens for a Sound Economy

MTC–00032571

From: Jennifer Garcia
To: Ms. Renata B. Heese
Date: 1/11/02 5:50am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jennifer Garcia
PO Box 1090
Delray Beach, FL 33447–1090
CC: Citizens for a Sound Economy

MTC–00032572

From: Kenneth Sheffert
To: Ms. Renata B. Heese
Date: 1/11/02 6:11am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Kenneth Sheffert
24 Mill Rd
Hampton, NH 03842–2237
CC: Citizens for a Sound Economy

MTC–00032573

From: Heath Heikkila
To: Ms. Renata B. Heese
Date: 1/11/02 6:22am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Heath Heikkila
1301 S Monroe St
Arlington, VA 22204–4220
CC: Citizens for a Sound Economy

MTC–00032574

From: Danielle Doane
To: Ms. Renata B. Heese
Date: 1/11/02 7:42am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Danielle Doane
613 Constitution Ave, NE
Washington, DC 20002–6035
CC: Citizens for a Sound Economy

MTC–00032575

From: tom luther
To: Ms. Renata B. Heese
Date: 1/11/02 7:55am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in grudging support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Reno's abuse of the DoJ as a political tool should rightfully embarrass supporters of so called anti-trust legislation. It is impossibly broad and famous for the political process used to select victims. Microsoft is only the latest example of what is wrong with the DoJ, DC, and the anti-trust laws that cripple the economy. I am disappointed that some have decided to further pursue this baseless case. But I am certainly not surprised at their avarice, or their willingness to use bad law to line their pockets.

The settlement makes a mockery of the DoJ and american justice in general. The ultimate irony of the "settlement" is that Microsoft has now secured a monopoly on public school children. Institutionalizing a monopoly is a comic and fitting end to the litigation.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. But that wasn't the point.

The point is that Microsoft now pays millions annually in homage to its (now acknowledged) master in DC. It doesn't pay to succeed too well in America. And it's particularly poor practice to not even pay lip service, much less direct graft, to the DC mob. Microsoft made all these mistakes.

Once again, thank you for settling this unfortunate lawsuit. Good luck restoring your reputation.

Respectfully,
tom luther
411 cutler street
raleigh, NC 27603–1921
CC: Citizens for a Sound Economy

MTC–00032576

From: Michael Williams
To: Ms. Renata B. Heese
Date: 1/11/02 7:56am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is going beyond fair to all except Microsoft. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. It's about time our government stop harrassing the producers in this country and go back to its one legitimate function: protecting our citizens and their property.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Michael Williams
6271 N Ponderosa Way
Parker , CO 80134–5613
CC: Citizens for a Sound Economy

MTC–00032577

From: Chadwick Creamer
To: Ms. Renata B. Heese
Date: 1/11/02 8:00am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Chadwick Creamer
19812 10th PL W
Lynnwood, WA 98036–7101
CC: Citizens for a Sound Economy

MTC–00032578

From: Thomas and Marybeth Hauck
To: Ms. Renata B. Heese
Date: 1/11/02 9:29am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

We are writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though we applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, we are thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Thomas and Marybeth Hauck
605 Fearrington Post
Pittsboro,, NC 27312–8523
CC: Citizens for a Sound Economy

MTC–00032579

From: Richard Walker
To: Ms. Renata B. Heese
Date: 1/11/02 9:36am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Richard Walker
7444 Shadowwood CT NE
Keizer, OR 97303–7853
CC: Citizens for a Sound Economy

MTC–00032580

From: Tearle Lee
To: Ms. Renata Hesse
Date: 1/11/02 10:47am
Subject: Microsoft Settlement
Tearle Lee
5410 Stillwater Dr
New Orleans, LA 70128
January 11, 2002
Ms. Renata Hesse

U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Tearle Lee

MTC-00032581

From: Marcia Stevenson
To: Ms. Renata Hesse
Date: 1/11/02 12:27pm
Subject: Microsoft Settlement

Marcia Stevenson
94 Midway Dr.
McKees Rocks, PA 15136-1556
January 11, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Marcia L. Stevenson

MTC-00032582

From: Mark Potter
To: Ms. Renata B. Hesse
Date: 1/11/02 12:43pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I urge you to settle this unfortunate lawsuit against a successful and innovative company. While states seek to erase their budget deficits through suing Microsoft, the economy suffers and more people are laid off from work.

Respectfully,
Mark Potter
3309-B Parkford Manor Terrace
Silver Spring, MD 20904-6145
CC: Citizens for a Sound Economy

MTC-00032583

From: Denny DeVries
To: Ms. Renata B. Hesse
Date: 1/11/02 4:32pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of

Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Denny DeVries
603 Juanita Ct
Lady Lake, FL 32159-9268
CC: Citizens for a Sound Economy

MTC-00032584

From: Judith Murray
To: Ms. Renata Hesse
Date: 1/11/02 4:48pm
Subject: Microsoft Settlement
Judith Murray
1736 Marlyn Rd
Fort Myers, FL 33901
January 11, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case ? the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors? products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Judith Murray

MTC-00032585

From: Herbert Stevenson
To: Ms. Renata Hesse
Date: 1/11/02 5:12pm
Subject: Microsoft Settlement
Herbert Stevenson
602. Fifth Street
Kirkland, WA 98033
January 11, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Herbert L. Stevenson

MTC-00032586

From: Vin Mulhern
To: Ms. Renata Hesse
Date: 1/12/02 6:10am
Subject: Microsoft Settlement
Vin Mulhern
15 Nelson Street
Farmingdale, NY 11735-4225
January 12, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200

Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Vin Mulhern

MTC-00032587

From: A Colon
To: Ms. Renata Hesse
Date: 1/12/02 10:00am
Subject: Microsoft Settlement

A Colon
12441 NW 15th Street #307
Sunrise, Fl 33323
January 12, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

A Colon

MTC-00032588

From: Dennis Kleindorfer
To: Department of Justice
Date: 1/13/02 2:43am
Subject: Microsoft Settlement

Dear Department of Justice:

It is my opinion that most of charges against Microsoft are very minor and are the type of things companies do to grow there business if there competitors can't compete they whine and sue if things worked that way Studebaker would still be in business if they were protected like Apple Computer in the Education Market!

But the bottom line is certain states and individuals drum up these charges so they can as Robinhood rob the rich!

There would be no such suits if Microsoft didn't have billions in cash! And companies do to weak products or bad management are protected by the goverment cry to the goverment that they need protection and money from there more sophisticated competitor Microsoft!

Sincerely,

Dennis Kleindorfer
601 East New york Ave.
DeLand, FL 32724-6042

MTC-00032589

From: jjderrig
To: Renata B. Hesse
Date: 1/13/02 11:31am
Subject: Microsoft Settlement

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 "D" Street, NW, Suite 1200
Washington, DC 20530
email: microsoft.atr@usdoj.gov
Fax: (202) 307-1454 —OR— (202) 616-9937

To Whom it May Concern:

As a citizen of Washington state, I encourage you to accept the proposed settlement in the anti-trust case involving Microsoft.

I have always believed anti-trust laws were primarily to protect the consumer. As a consumer, I have not been hurt at all. Most of the problems mentioned in the press during this litigation, I have personally solved with little difficulty. I have never heard of the name of the consumer who has been harmed.

This settlement is appropriate and reflects a triumph of the rule of law. Certain Microsoft competitors and other critics of the proposed settlement make the core of their objections a call for more stringent restrictions, ranging from prohibition of what they call "product tying" to breakup of the company. More extreme critics complain that the remedies do not address products that were not even part of the case.

These objections ignore the decision of the Appeals Court that reversed much of Judge Jackson's original findings. The Appeals Court threw out findings on many fronts related to Microsoft's anti-monopolistic behavior. One key area rejected was the basis used for claiming that integrating Internet Explorer and Windows represented monopoly abuse. The court went further to state that any new burden of proof for "tying" would be immense. The court also rejected the breakup order and made it clear such an order moving forward would be difficult to sustain given the court "drastically altered [i.e., reduced] the scope of Microsoft's liability."

One final objection raised by critics is that Microsoft has a past history of consent decree violation so the company cannot be trusted to adhere to a new decree. This is a patently false assertion. The Appeals Court in June of 1998 rejected the very claim that sent the parties into litigation—the Department of Justice claim that Microsoft had violated an earlier consent decree. Furthermore, this settlement takes the extraordinary step of creating an onsite oversight body. There are, therefore, no legitimate grounds for an assertion that a consent decree will not constrain Microsoft's behavior in the ways the court intends.

Rather, the proposed settlement directly and concretely addresses each and every key finding upheld by the Appeals Court, and does so with an undeniably stringent remedy. The areas of violation addressed include requiring OEMs to preserve visible access to Internet Explorer, to preserve the original boot sequence, to preserve all Microsoft-supplied desktop icons; entering into exclusive contracts with Internet Access Providers; threatening companies over support for other middleware technologies; and every other key area identified by the Appeals Court.

In my view, there can be no valid objection to this settlement because every major finding of the Appeals Court is stringently addressed with a targeted remedy that specifically prohibits and prevents the behavior in question. Acceptance of the proposed settlement will send a signal throughout American industry and the country as a whole that in the United States rule of law is alive and well—that defendants face remedies only for those findings against them. Anything beyond this settlement would represent a victory for those who do not seek remedy but rather also unwarranted punishment, and this would be a serious blow to the smooth functioning of free markets and the law that protects them. Participants in the American economy would forever be forced to fear whether the laws they rely upon to safely conduct business will be applied fairly.

I believe in advancing free market competition and this settlement serves the best interests of the American public. It fairly resolves a complex and burdensome anti-trust case that is having severe impacts far beyond one company, a case that is acting as a drag on one of the most vibrant sectors of our economy. Settlement of this case will free the high-technology industry to put its fullest efforts into innovation and creativity, and will spur competition in a way that will directly benefit consumers.

Thank you for your consideration.

Signed,
John F. Derrig
301—128th AVE NE
Bellevue, WA. 98005–3222
425–454–7035

MTC-00032590

From: Margaret Schlosser
To: Department of Justice
Date: 1/13/02 12:20pm
Subject: Microsoft attempts to affect the trial

Having just become aware of the email message by which Microsoft hopes to sway the Department of Justice—via the public comment period, I certainly hope that anyone analyzing the public comments takes this underhanded activity into account.

For several months, I have been subscribed to (spying upon?) a mailing list called "Freedom to Innovate". The name of the list is particularly amusing since the purpose of the mailing list is to promote the position of Microsoft in various anti-trust motions in our courts.

I have copied today's "Freedom to Innovate" message below. Aside from its humorous aspect, it includes information about how to submit public comment to the Department of Justice. So, if you have opinions on how Microsoft has affected your "freedom to innovate", you may wish to correspond with the Justice department on the topic.

— joe

-=-=-=- Microsoft message follows -=-=-=-

A FINFlash Alert: The DOJ wants to hear from YOU!

For nearly four years, your voice has been instrumental in the debate over the freedom to innovate. Tens of thousands of concerned citizens have communicated to their public officials about whether the Microsoft case should be settled or further litigated. Despite the aggressive lobbying efforts of a few of Microsofts competitors, the federal government and nine states finally reached a comprehensive agreement with Microsoft to address the reduced liability found in the Court of Appeals ruling. This settlement is tough, but reasonable and fair to all parties involved. Consumers overwhelmingly agree that settlement is good for them, the industry and the American economy.

However, this settlement is not guaranteed, and your voice is more important than ever.

The law (officially called the Tunney Act) requires a public comment period between now and January 28th after which the District Court will determine whether the settlement is in the public interest.

Unfortunately, a few special interests are attempting to use this review period to derail the settlement and prolong this litigation even in the midst of uncertain economic times. The last thing the American economy needs is more litigation that benefits only a few wealthy competitors and stifles innovation.

Dont let these special interests defeat the public interest.

-=-=-= End Microsoft message -=-=-=

This is but a small sample of the unsavory practices Microsoft employs. If the proposed settlement takes place, Microsoft will have won and at the same time solidified it's position and be well on the way to it's goal of complete domination of anything having to do with computers or the Internet. Please do not let this settlement be for nothing, which it will if it proceeds as now projected. Should the DOJ in the future, find that the presently proposed settlement did more harm than good (as I am firmly convinced it will) it will be far too late for any rememdy and future anti-trust actions will have been forever compromised. The Microsoft 'model" will encourage other companies to follow their lead and so escape any "punishment'.

Just one question—I wish someone could explain to me just WHAT so-called 'innovations" Microsoft has ever been responsible for? Microsoft merely adapts others work and proceeds to make it Microsoft specific, thereby denying use of it to others by attempting to make its version the defacto default.

Margaret Schlosser
Bethany Beach, Delaware

MTC-00032591

From: Ned and Suzy Cheely
To: Microsoft ATR
Date: 1/13/02 3:33pm
Subject: Micorsoft Settlement

Please settle this case and get onto more serious problems! We, the taxpayers, through the government, have spent enough time and money on this case. It is time to move on. Please support the settlement as proposed by Microsoft and the Bush Administration. We do.

Thank you.
Suzy Cheely
9 Harrop Parrish
Williamsburg, VA 23188

MTC-00032592

From: Robert Smith Jr.
To: Ms. Renata B. Heese
Date: 1/13/02 6:26pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by

lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Robert Smith Jr.
215 Rouen Ct.
Wilmington, NC 28412-3391
CC: Citizens for a Sound Economy

MTC-00032593

From: Lois McMahan
To: Ms. Renata B. Heese
Date: 1/13/02 7:24pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Lois McMahan
12001 SE Roper Lane
Olalla, WA 98359-9708
CC: Citizens for a Sound Economy

MTC-00032594

From: Courtney Phillips
To: fin@mobilizationoffice.com@inetgw
Date: 1/13/02 8:32pm
Subject" Microsoft Settlement
61 Lynn Court
North Brunswick, NJ 08902
January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Early in last November, the Department of Justice and the Microsoft Corporation came to an agreement in the three-year-old antitrust lawsuit. I believe that the terms of the settlement are reasonable, and I am therefore lending my support to the agreement that puts an end to this lengthy and extremely costly litigation.

Microsoft did not get just a slap on the wrist, as evidenced by the fact, that the company has been forced to turn over substantial portions of its intellectual property to its competitors. Microsoft will share with its competitors, information about how Windows interacts with other programs and will not retaliate against vendors who sell or use non-Microsoft products. Furthermore, as part of the settlement, Microsoft will be supervised by a technical committee, consisting of three software engineers who will test Microsoft's compliance with certain aspects of the agreement.

I understand also, that other terms were agreed upon that were never even an issue in the antitrust lawsuit. Microsoft, however, accepted those terms based on the view that the United States economy is far more important than pursuing arguments over less significant details.

I completely support the settlement, and would like to go on record as doing so.

Sincerely,
Courtney G. Phillips

MTC-00032595

From: Stephen Flaherty
To: Ms. Renata B. Heese
Date: 1/14/02 6:38am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
stephen Flaherty
801 South Pitt Street
Alexandria, VA 22314-4369
CC: Citizens for a Sound Economy

MTC-00032596

From: Vhon Montefrio
To: Judge Kollar Kotelly
Date: 1/14/02 6:53am
Subject: Microsoft Settlement

Hi Judge Kollar-Kotelly,

Good day to you Judge!

I am sending you this email to comment something with regards to the controversial Tunney Act in which passed by the US Congress. This is particularly the Microsoft monopoly issue.

My name is Mr. Andrebon G. Montefrio, Jr., from Philippines. I heard that you are the Independent Judge who will review and approve the Justice Departments proposed agreement.

I believe as a consumer of a product, it is important to have at least two or more options to choose of what to buy or consume. For example, a consumer wanted to buy a car, choosing between five different cars would help him arrive at his decision more handily. As for me, if I wanted to purchase a Computer System, I should have many choices of brands or models before I will buy it. Of course it depends on my budget, preferences, system performance and other factors.

With Microsofts case, I think a lot of many software companies were hurt by it. Microsoft has been into monopoly since the start. And it became more obvious now. With the current OS, which is Windows XP, software applications embedded with it made the other software manufacturers life gloomy. With its many features such as the Media Player, Internet Browser, Utilities, and many more, competition with other companies is never that stiff. What happens now to Netscape? How about the other software makers? All will eventually close down. And who is in the losing end? Not just the other software companies but also the consumers as well. Consumers will not be able to try and test alternative software or even Operating Systems. Other technologies will not be available in the market because no one will try them anymore. What for? Windows XP has it all already. Much more, PC companies would be using the new Microsoft OS for sales growth. So the more PCs will be purchased, the more the Microsoft users there will be. The more the monopoly there will be.

What I am trying to say is, Microsoft should play the field fairly. Give other companies the chance to play the field and for the consumers to have the opportunity to try other options. The more they become bigger, the less the competition there is.

Thank you for your time. I hope I have clearly stated my point here. Please review carefully the agreement before signing it.

More power to you!

Cheers,
Andrebon G. Montefrio, Jr.

MTC-00032597

From: Judith Mulcahy

To: Ms. Renata B. Heese
Date: 1/14/02 8:44am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Judith Mulcahy
9613 Candish Court
Fairfax Station, VA 22039–3235
CC: Citizens for a Sound Economy

MTC-00032598

From: Jim Robertson
To: "microsoft.atr(a)usdoj.gov"
Date: 1/14/02 10:59am
Subject: FW: Encourage DOJ to settle Microsoft case

I received the following email message. I am only writing to see if it is a legitimate use of my time (or the people I forward this to) or is it a hoax? Is the DOJ seeking public comment? I receive so many "form/chain" letter via email, I never know what to believe anymore.

Thanks for you time.
Jim Robertson
Olympia, Washington

From: Marsha Richards [mailto:mrichards@effwa.org]
Sent: Thursday, January 10, 2002 5:31 PM
To: info@effwa.org
Subject: Encourage DOJ to settle Microsoft case

Dear EFF Friends,

As you know, 18 states and the federal Department of Justice (DOJ) have been involved in a lawsuit against Microsoft. Recently, the DOJ announced it has negotiated a settlement agreement with the company (one of America's most successful). The settlement must be approved by the federal judge in the case before it can take effect, and the DOJ is currently seeking public comment.

The case against Microsoft has greatly harmed Washington citizens. Stock values, not only in Microsoft but in the entire NASDAQ, have dropped dramatically and consumers overwhelmingly agree that allowing the case to end with this settlement is good for them, the industry, and the nation's economy.

Please consider sending a letter, fax or email to the DOJ to let them know what you think about the settlement. The deadline for comment is January 28, 2002. I'm including a sample letter below along with the contact information you'll need. Please feel free to edit it as you see fit, or write your own.

I would recommend sending your comments by email or fax since mail has had difficulties lately. Also, if possible, would you let us know if you decide to send a letter? We'd like to measure the impact.

Thanks very much.

Cordially,
Bob Williams
President
Evergreen Freedom Foundation
P.O. Box 552
Olympia, WA 98507
(360) 956–3482
effwa@effwa.org

[Contact Information]
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 "D" Street, NW, Suite 1200
Washington, DC 20530
email: microsoft.atr@usdoj.gov Fax: (202) 307–1454 —OR— (202) 616–9937

[Sample Letter]

To Whom it May Concern:

As a citizen of Washington state, I encourage you to accept the proposed settlement in the anti-trust case involving Microsoft.

This settlement is appropriate and reflects a triumph of the rule of law. Certain Microsoft competitors and other critics of the proposed settlement make the core of their objections a call for more stringent restrictions, ranging from prohibition of what they call "product tying" to breakup of the company. More extreme critics complain that the remedies do not address products that were not even part of the case.

These objections ignore the decision of the Appeals Court that reversed much of Judge Jackson's original findings. The Appeals Court threw out findings on many fronts related to Microsoft's anti-monopolistic behavior. One key area rejected was the basis used for claiming that integrating Internet Explorer and Windows represented monopoly abuse. The court went further to state that any new burden of proof for "tying" would be immense. The court also rejected the breakup order and made it clear such an order moving forward would be difficult to sustain given the court "drastically altered [i.e., reduced] the scope of Microsoft's liability."

One final objection raised by critics is that Microsoft has a past history of consent decree violation so the company cannot be trusted to adhere to a new decree. This is a patently false assertion. The Appeals Court in June of 1998 rejected the very claim that sent the parties into litigation—the Department of Justice claim that Microsoft had violated an earlier consent decree. Furthermore, this settlement takes the extraordinary step of creating an onsite oversight body. There are, therefore, no legitimate grounds for an assertion that a consent decree will not constrain Microsoft's behavior in the ways the court intends.

Rather, the proposed settlement directly and concretely addresses each and every key finding upheld by the Appeals Court, and does so with an undeniably stringent remedy. The areas of violation addressed include requiring OEMs to preserve visible access to Internet Explorer, to preserve the original boot sequence, to preserve all Microsoft-supplied desktop icons; entering into exclusive contracts with Internet Access Providers; threatening companies over support for other middleware technologies; and every other key area identified by the Appeals Court.

In my view, there can be no valid objection to this settlement because every major finding of the Appeals Court is stringently addressed with a targeted remedy that specifically prohibits and prevents the behavior in question. Acceptance of the proposed settlement will send a signal throughout American industry and the country as a whole that in the United States rule of law is alive and well—that defendants face remedies only for those findings against them. Anything beyond this settlement would represent a victory for those who do not seek remedy but rather also unwarranted punishment, and this would be a serious blow to the smooth functioning of free markets and the law that protects them. Participants in the American economy would forever be forced to fear whether the laws they rely upon to safely conduct business will be applied fairly.

I believe in advancing free market competition and this settlement serves the best interests of the American public. It fairly resolves a complex and burdensome anti-trust case that is having severe impacts far beyond one company, a case that is acting as a drag on one of the most vibrant sectors of our economy. Settlement of this case will free the high-technology industry to put its fullest efforts into innovation and creativity, and will spur competition in a way that will directly benefit consumers.

Thank you for your consideration.

Signed,

MTC-00032599

From: Charlotte Worden
To: Ms. Renata Hesse
Date: 1/14/02 11:51am
Subject: Microsoft Settlement

Charlotte Worden
1821 2nd St
Lewiston, ID 83501
January 14, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S.

v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Charlotte Worden

MTC-00032600

From: Joseph Guthrie
To: Ms. Renata B. Heese
Date: 1/14/02 12:22pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Joseph Guthrie
4 Grace Way
Hampstead, NH 03841-2245
CC: Citizens for a Sound Economy

MTC-00032601

From: charles burkart
To: Ms. Renata B. Heese
Date: 1/14/02 12:26pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
charles burkart
2565 mineral street
dubuque, IA 52001-5642
CC: Citizens for a Sound Economy

MTC-00032602

From: b.l.rosenberg
To: Dept of Justice
Date: 1/14/02 12:30pm
Subject: Material relevant to DOJ Antitrust Suit Against Microsoft
Monday, January 14, 2002

Dear Department of Justice,

The following email describing a restriction of browser choice by AT&T Worldnet forcing Microsoft's browser on its customers was sent to AT&T today, Monday, January 14, 2002. It is further evidence of Microsoft's pervasive and dominating influence on the PC that kills competition and impoverishes consumer choices.

Please do something to restrict Microsoft's monopoly.

Thank You
Bruce L. Rosenberg

Here is the letter:

Monday, January 14, 2002
Jerry G., AT&T Support Person,
I find AT&T's answer to the following question quite unsatisfactory.

" Question:

Why does my browser automatically launch when I connect even though I disabled that feature? How do I stop it?

Answer:

At this time, there is no way to disable this feature."

This "feature" could be a bug (a programming oversight), because there is/was a check box in the options/advanced to uncheck "Launch Internet Explorer". Checking or unchecking this box no longer has any effect. Microsoft Internet Explorer launches whether you want it or not!! Gates rules!!!

This "feature" could also have been implemented due to the fact that Microsoft now has such power over the once mighty AT&T that they must bow before them and do their bidding. I believe that Congress and the Justice Department should be made aware of this situation since it is relevant to the anti-monopoly case against Microsoft. It could be considered a restriction of browser choice by AT&T forcing Microsoft's browser on its customers.

In any event, one hopes that this "feature" will soon be "updated" with an improvement which will once again allow AT&T Worldnet ISP customers to chose -not- to launch Microsoft Internet Explorer once the connection is made.

Is such an update in the works? If so, when I might expect to receive it?

Is there any way for me to go back to my previous version of Worldnet software?

I feel that I should receive free internet service until this "feature" is corrected.

Please respond ASAP. Thanks.

Very sincerely,

Bruce L. Rosenberg

ehelp@att.net wrote:

Dear Bruce ,

I received your email concerning our Auto Update. The main objective for this update is to remove the on-screen toolbar that is part of your price plan. There are other changes as well:

Addition of a prompt that tells you that you have been idle for 25 minutes

Auto-start of your browser software

A bug fix to support 10-digit dialing.

After you select "yes" to this update, just follow the prompts you see on your screen. The update will not be applied immediately, but only after you re-start your computer.

I have provided answers below to other questions we're getting about this change. I apologize for any inconvenience this change has caused.

Sincerely,

Jerry G.

Question:

Why does my browser automatically launch when I connect even though I disabled that feature? How do I stop it?

Answer:

At this time, there is no way to disable this feature.

Question: Every time I sign on, I get the Auto Update. How do I stop it?

Answer:

The auto update doesn't install itself until you re-start your computer. If you do not re-start, you will be prompted each time you log on. If you choose not to install the Auto Update by saying "no" when asked, you will be prompted again the next time you log on.

—— Bruce Wrote ——

formID: 10

Category: Web browsers

First—Name: Bruce

Last—Name: Rosenberg

Computer—Type: Desktop computer

OS: Microsoft Windows 98

Browser: Netscape Communicator

Error—Message: no error message

Question: Dear AT&T Worldnet Representative,

After "updating" my AT&T Worldnet ISP connection software yesterday (1/7/02), Microsoft Internet Explorer launches even though it is unchecked on the Options/Advanced window. I am a Netscape 4.79 user. Netscape still launches, but Internet Explorer launches first.

I want to know how to stop MS Internet Explorer from launching.

If you cannot help me, I will be forced to find a new ISP, since I abhor the loss of my choices due to Microsoft's monopoly on the PC. I refuse to be forced to use Internet Explorer by my Internet Service Provider, which is apparently what AT&T have done with this latest Worldnet "update". This update was certainly not an upgrade, it was not obvious to me that any speedup or other improvements occurred after my updating.

All I received in response to the above was an automated response telling me about the plan switch-over, where the 7/7 or whatever was switched-over to a different plan. I never had the cheap plan with enforced advertising. I had and still have the more expensive plan, $15/150hours, so I should not have had to update my Worldnet AT&T software. I am angry at having to deselect Internet Explorer each time I get online so I can use Netscape 4.79.

I have emailed my complaint letter to everyone on my mailing list to broadcast my dissatisfaction with Worldnet ISP.

Thank You,

Bruce L. Rosenberg, no longer a satisfied customer of AT&T Worldnet!!

MTC-00032603

From: Charles Ehrenpreis

To: Ms. Renata B. Heese

Date: 1/14/02 12:56pm

Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,

Charles Ehrenpreis

195 Federal Hill Road

Milford, NH 03055–3519

CC: Citizens for a Sound Economy

MTC-00032604

From: J.K. Weston

To: bill@wrice.com@inetgw

Date: 1/14/02 2:19pm

Subject: (Bill Rice) Windows XP Licensing

Dear Mr. Rice:

First off, thank you for your feedback. Microsoft is strongly committed to your satisfaction and we would like to take this opportunity to address your concerns regarding the licensing of Windows XP.

Your first concern is that you were unable to find any information on installing Windows XP, on more than one computer, on the Windows XP box itself or in a number of other locations. We apologize if this information was not easy to locate. We did include information about this on the back of the Windows XP box—towards the bottom, under the word "Experience". The text states: "For installation and use on one computer (see License Agreement for license terms)". It is further described in the first section of the End User License Agreement (EULA) which must be accepted during the Windows XP installation process. For a detailed description of this on the Microsoft website, please refer to: http://www.microsoft.com /WINDOWSXP/home/evaluation /overviews/activation.asp

<http://www.microsoft.com/WINDOWSXP/home/evaluation/overviews/activation .asp>

Windows XP licensing information was also included in product reviews done by journalists from many independent magazines and newspapers such as PC World, PC Computing, and ZDNet.com. The "one PC per license" concept has been in the Windows EULA for over ten years and is a condition of almost all products produced by commercial software makers. Nothing about this portion of the Windows license agreement changed with Windows XP.

You mentioned that you would like to put Windows XP on two computers for your children but that it would be cost prohibitive at over $500. You may have been previously provided with some incorrect pricing information. The Windows XP Home Edition Upgrade currently retails for around $99 per license. At this retail cost, your children's two computers could benefit from Windows XP at just $198. Home users with more than one computer in the household may also qualify for a reduced upgrade price of $84.50 per license; in your case a total of $169. You can take advantage of this offer by calling Microsoft at 1–888–571–2048 (Press "0" when the call connects to speak to a customer service representative directly).

We value you as a Windows XP customer, however if you are not happy with the terms of the licensing agreement you are free to return the product.

While you are under no obligation to use Windows XP as the primary platform for your personal computers, we hope that you'll consider using the product.

Thank you for providing Microsoft with this opportunity to address your concerns.

Sincerely,

J.K. Weston

Microsoft Corporation

——Original Message——

From: Bill Rice [mailto:bill@wrice.com]

Sent: Thursday, January 03, 2002 6:46 PM

To: Bill Gates

Cc: microsoftcomments@doj.ca.gov; craig—farringer@oag.state.fl.us; tormist@ag.state.ia.us; beasleyr@ksag.org; sara.Hinchey@ago.state.ma.us; steven.rutstein@po.state.ct.us; attorney.general@state.mn.us; uag@att.state.ut.us; microsoft.atr@usdoj.gov

Subject: windows xp

Dear Mr. Gates

I am a long time Microsoft supporter....have bought almost every upgrade version of Windows, Office, FrontPage...etc !!!!

.....I work on as laptop and have a desktop for home, a laptop for my wife, and two desktops for my 2 children.

I recently purchased the latest version of everything available...spending over $750 before the holidays...

...I have been buying Microsoft products for years.....

I am ABSOLUTELY APPALLED that the XP operating system requires that I purchase an additional license, for hundreds of dollars, for every PC in my house.....(this is not obvious on the purchased product, from the retail salesperson, on the Microsoft website, or in any advertisement...I looked! I didn't have my bi-focals and couldn't read the VERY SMALLEST PRINT)

I have always supported Microsoft...and have not supported the federal and state lawsuits......

BUT.....I FEEL ROBBED...no salesman warned me that, unlike all previous versions....I would have to buy separate, EXPENSIVE licenses for each computer in my home...(I buy a VCR tape...and use it in all my VCRs....)....

...so I am sad to say that tonight I am writing to Judge Kollar-Kotally as well as to all of the states attorneys general.... To convey my personal experience...that Microsoft is not playing fair with its market advantage....UNTIL TONIGHT, I WAS AN ARDENT MICROSOFT SUPPORTER.....THERE IS NO CLEAR INDICATION ON THE XP BOX THAT THE UPGRADE WILL ONLY WORK ON ONE COMPUTER......I feel misled and disappointed.....my children use XP at school and I wanted to use the same operating system at home for projects and homework...but to put the operating system on their PCs costs over $500 and there is no alternative operating system platform......

I think the uniformity of platform created by a broadly successful Microsoft has helped propel significant increases in our national productivity. I now believe that Microsoft is taking advantage of the "little guy," and that this pricing scheme may reflect a portion of what others in the technology industry have been complaining about. I didn't understand or appreciate the problem until tonight.

Thanks for taking the time to review these comments.

Bill Rice

CC:Microsoft ATR,microsoftcomments @doj.ca.gov@inetgw,...

MTC-00032605

From: Russell Porter
To: Ms. Renata B. Heese
Date: 1/14/02 3:10pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Russell Porter
7120 Oliver Smith Drive
Urbandale, IA 50322-3218
CC: Citizens for a Sound Economy

MTC-00032606

From: Robert Harned
To: Ms. Renata B. Heese
Date: 1/14/02 3:14pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Robert Harned
113 S. Franklin
Ames, IA 50014-7512
CC: Citizens for a Sound Economy

MTC-00032607

From: wilbert skinn
To: Ms. Renata B. Heese
Date: 1/14/02 3:44pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
wilbert skinn
516 n frederick ave
oelwein, IA 50662-1244
CC: Citizens for a Sound Economy

MTC-00032608

From: Clifford Jantz
To: Ms. Renata B. Heese
Date: 1/14/02 3:46pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

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unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Clifford Jantz
1506 Alderwood Drive Southwest
Altoona, IA 50009–2406
CC: Citizens for a Sound Economy

MTC–00032609

From: Jaclyn Fleming
To: Ms. Renata B. Heese
Date: 1/14/02 4:04pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jaclyn Fleming
6046 Terrace Drive
Johnston,, IA 50131–1561
CC: Citizens for a Sound Economy

MTC–00032610

From: Edward Jonson
To: Ms. Renata B. Heese
Date: 1/14/02 5:16pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing to support the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case. However, I'm thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to continue to pursue this baseless case.

I consider the settlement fair to all, because it allows competitors to use Microsofts Windows operating system to incorporate their software programs and gives consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in their opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, we've called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys, general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Edward Jonson
16 Hawkview Road
Hudson, NH 03051–4408
CC: Citizens for a Sound Economy

MTC–00032611

From: Donald Johnson
To: Ms. Renata B. Heese
Date: 1/14/02 7:42pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Donald Johnson
M-5 Snow Circle
Nashua, NH 03062–2902
CC: Citizens for a Sound Economy

MTC–00032612

From: Dennis Behrens
To: Ms. Renata B. Heese
Date: 1/14/02 7:53pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Dennis Behrens
921 Lewis Blvd
Sioux City, IA 51105–3254
CC: Citizens for a Sound Economy

MTC–00032613

From: OSCAR DAVIDS
To: Ms. Renata B. Heese
Date: 1/14/02 9:23pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
OSCAR DAVIDS
3753 250TH AVE
KEOKUK, IA 52632–9737
CC: Citizens for a Sound Economy

MTC–00032614

From: Alan Lasnover
To: Ms. Renata Hesse
Date: 1/14/02 11:08pm
Subject: Microsoft Settlement
Alan Lasnover
19951 Elfin Forest Lane
Elfin Forest, CA 92029
January 15, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors' consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement. This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Alan L. Lasnover, M.D.

MTC–00032615

From: Preston Lawrance
To: Ms. Renata B. Hesse
Date: 1/15/02 6:38am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Preston Lawrance
20 Rowell Street
P.O. Box 3133
Manchester, NH 03104–2229
CC: Citizens for a Sound Economy

MTC–00032616

From: Kurt Wuelper
To: Ms. Renata B. Hesse
Date: 1/15/02 6:44am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Kurt Wuelper
HC 74 Box 42
Center Strafford, NH 03815–9709
CC: Citizens for a Sound Economy

MTC–00032617

From: Wendy Speckerman
To: Ms. Renata B. Hesse
Date: 1/15/02 7:04am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of

Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys' general (including my own attorney general, Tom Miller of Iowa) and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. Microsoft is a pioneer in the high-technology market and their products increased my productivty and my familiarity with the Internet.

At this time of recession, the settlement will allow Microsoft to again focus on innovations that, along with others in the technology sector, will lead the US into another time of economic expansion. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Wendy Speckerman
7820 Beaver Hills Ln
Cedar Falls, IA 50613–9302
CC: Citizens for a Sound Economy

MTC–00032618

From: Jane MacFarland
To: Ms. Renata B. Heese
Date: 1/15/02 7:31am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys' general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jane MacFarland
11411 Long Pine Dr.
Houston, TX 77077–4216
CC: Citizens for a Sound Economy

MTC–00032619

From: monty fowler
To: Ms. Renata B. Heese
Date: 1/15/02 7:41am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys' general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
monty fowler
2718 martin st
pasadena, TX 77502–5725
CC: Citizens for a Sound Economy

MTC–00032620

From: Suzanne Dodge
To: U.S. Attorney General
Date: 1/15/02 10:14am
Subject: Microsoft Settlement
KEITH D. DODGE & SUZANNE S. DODGE
125 RAINBOW DRIVE, #2507
LIVINGSTON, TEXAS 77399–1025
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Like many people in Texas, I am happy that a settlement agreement has been reached between the Department of Justice and Microsoft. The suit has taken a toll on the IT industry and on consumers of technology products. The settlement agreement is fair to all the parties in the case and is the result of years of expensive litigation. Information sharing and non-retaliation agreements should be enough to satisfy even Microsoft's harshest critics. Unfortunately, opponents of Microsoft would like to see the lawsuit continue and even be reopened for further action. Three years of litigation have already disturbed the IT industry and the economy too much. Reopening the suit and continuing litigation will only serve to harm the IT industry and the economy.

Now is the time to end the suit and move on. Surely, the Department of Justice has more important issues to deal with and Microsoft needs to move on as well. I hope that the settlement is finalized as soon as possible.

Sincerely,
Suzanne Dodge

MTC–00032621

From: Edwina Houlmiere
To: Microsoft ATR
Date: 1/15/02 10:17am
Subject: Microsoft Settlement

We think that it would be in the best interest of the American economy to settle the Microsoft case and get on with life.

Edwina and Patrick Houlmiere

MTC–00032622

From: Jeanine Leone
To: "microsoft.atr(a)usdoj.gov"
Date: 1/15/02 10:17am
Subject: Microsoft Settlement

The Microsoft case should be settled with no further litigation.

Jeanine Leone

MTC–00032623

From: MarilynnmR@aol.com@inetgw
Date: 1/15/02 11:31am
Subject: Microsoft Settlement.

As a retired teacher and substitute teacher, I thought your offer was great!!! I was and still am an avid user of the computer. It is an outstanding learning tool for students. The government was really shortsighted on the greatness of this offer. This is really too bad. Keep up the good work on the products you are developing for us!

Marilynn M Russell

ps I taught at Clover Park High school where Bill & Melinda have given money to help students. My grandson is now at that school as a 9th grader taking advantage of their wonderful gift. THANKS!!!! Part of his project that he is doing for math, computers, history is to prepare a PowerPoint presentation (with digital pictures too) to culminate his work. Neat huh!!!!

MTC–00032624

From: William Denmark
To: Ms. Renata B. Heese
Date: 1/15/02 11:48am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

Please be informed, I am writing in support of the recent settlement of the antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
William Denmark
4020 Saxon Drive
NSB, FL 32169–3849
CC: Citizens for a Sound Economy

MTC–00032625

From: Anne Mulhern
To: Ms. Renata B. Heese
Date: 1/15/02 12:03pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Anne Mulhern
7526 N. NC Hwy. 49
Mebane, NC 27302–7518
CC: Citizens for a Sound Economy

MTC–00032626

From: Denny DeVries
To: Ms. Renata B. Heese
Date: 1/15/02 12:04pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Denny DeVries
603 Juanita Ct
Lady Lake, FL 32159–9268
CC: Citizens for a Sound Economy

MTC–00032627

From: DONALD QUINN
To: Ms. Renata B. Heese
Date: 1/15/02 12:05pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
DONALD QUINN
119 APPALOOSA LANE
ORMOND BEACH, FL 32174–8003
CC: Citizens for a Sound Economy

MTC–00032628

From: Donna Brooks
To: Ms. Renata B. Heese
Date: 1/15/02 12:23pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Donna Brooks
2538 Spence Dr. NE
Palm Bay, FL 32905–2526
CC: Citizens for a Sound Economy

MTC–00032629

From: Holly Derenthal
To: Ms. Renata B. Heese

Date: 1/15/02 12:26pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Holly Derenthal
2019 Elizabeth Avenue
Orlando, FL 32804–5439
CC: Citizens for a Sound Economy

MTC–00032630

From: Eve Kantner
To: Ms. Renata B. Heese
Date: 1/15/02 12:27pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Eve Kantner
12209 Freemont Lane
Raleigh, NC 27613–5631
CC: Citizens for a Sound Economy

MTC–00032631

From: Francis Kendrick
To: Ms. Renata B. Heese
Date: 1/15/02 12:43pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Francis Kendrick
1251 Paradise Way
Venice, FL 34292–1412
CC: Citizens for a Sound Economy

MTC–00032632

From: James Schaer
To: Ms. Renata B. Heese
Date: 1/15/02 12:52pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
James M.(Mike) Schaer
James Schaer
1570 Maple Ave.;P.O.Box 744
North Bend, OR 97459–0059
CC: Citizens for a Sound Economy

MTC–00032633

From: Joshua Menold
To: Ms. Renata B. Heese
Date: 1/15/02 1:04pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Joshua Menold
210 W. Dupree #14
Angier, NC 27501–8830
CC: Citizens for a Sound Economy

MTC–00032634

From: Barbara Wilt
To: Ms. Renata B. Heese
Date: 1/15/02 1:20pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Barbara Wilt
1671- 40th Street
West Palm Beach, FL 33407–3641
CC: Citizens for a Sound Economy

MTC–00032635

From: Gary Cross
To: Ms. Renata B. Heese
Date: 1/15/02 1:26pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Gary Cross
2602 Costa Mesa Drive
Dallas, TX 75228–2036
CC: Citizens for a Sound Economy

MTC–00032636

From: Keith Hosford
To: Ms. Renata B. Heese
Date: 1/15/02 1:30pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Keith Hosford
13310 Myrna Lane
Houston, TX 77015–1336
CC: Citizens for a Sound Economy

MTC–00032637

From: James Hussmann
To: Ms. Renata B. Heese
Date: 1/15/02 1:33pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
James Hussmann
307 Wexford Terrace
Venice, FL 34293–4287
CC: Citizens for a Sound Economy

MTC–00032638

From: James King
To: Ms. Renata B. Heese
Date: 1/15/02 1:47pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
James King
2017 Riverknoll Court-
West Linn, OR 97068–3637
CC: Citizens for a Sound Economy

MTC–00032639

From: Charles Lipford
To: Ms. Renata B. Heese
Date: 1/15/02 1:54pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Charles Lipford
561 Maitland Ave.
Altamonte Springs, FL 32701–6322
CC: Citizens for a Sound Economy

MTC–00032640

From: Marie Sanders
To: Ms. Renata B. Heese
Date: 1/15/02 1:55pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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It is my opinion that this lawsuit has a lot to do with our economic turndown today and has caused severe damage to our economy

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Marie Sanders
14603 Claycroft Ct
Cypress, TX 77429–1889
CC: Citizens for a Sound Economy

MTC–00032641

From: Robert Reed
To: Ms. Renata B. Heese
Date: 1/15/02 2:04pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Robert Reed
3717 Brandy St
Orlando, FL 32812–5124
CC: Citizens for a Sound Economy

MTC–00032642

From: Alexander Beckman
To: Ms. Renata B. Heese
Date: 1/15/02 2:10pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Alexander Beckman
313 Appledore Ct.
Winston-Salem, NC 27103–6022
CC: Citizens for a Sound Economy

MTC–00032643

From: Willson Folmar
To: Ms. Renata B. Heese
Date: 1/15/02 2:11pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft

Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Willson Folmar
2016 Lebron Ave
Montgomery, AL 36106–1833
CC: Citizens for a Sound Economy

MTC-00032644

From: Hubert Owens
To: Ms. Renata B. Heese
Date: 1/15/02 2:31pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Hubert Owens
228 Mooney Road
Fort Walton Beach, FL 32547–1374
CC: Citizens for a Sound Economy

MTC-00032645

From: David and Joanna Hargis
To: Ms. Renata B. Heese
Date: 1/15/02 2:36pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing to you as one of my last acts an an Oregon Citizen in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet and until now, in this depressed economy, have brought jobs to our family and taxes to you. Well no more. The jobs have vanished and we are leaving the pacific northwest for more prosperous regions of the country where people implement sound economic change and jobs are more plentiful.

In conjunction with my support of the Microsoft settlement, I support big business. I don't want unemployment! I want a job! And I'd like to see the legislators do their job and quit worrying about the next election and stalling valuable legislation. We aren't so dumb that we don't understand what is happening. I will vote against anyone who stalls the economic recovery that is for certain.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
David and Joanna Hargis
595 Joseph Street SE
Salem, OR 97302–3972
CC: Citizens for a Sound Economy

MTC-00032646

From: Matt Niemi
To: Ms. Renata B. Heese
Date: 1/15/02 2:39pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Matt Niemi
1250 H St. NW #700
Washington, DC 20005–3952
CC: Citizens for a Sound Economy

MTC-00032647

From: Gus Beall
To: Ms. Renata B. Heese
Date: 1/15/02 2:44pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Gus Beall
1140 NE Ross Road
Bend, OR 97701–8584
CC: Citizens for a Sound Economy

MTC–00032648

From: Clyde Garland
To: Ms. Renata B. Heese
Date: 1/15/02 2:49pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I appaud the recent settlement the antitrust lawsuit against Microsoft. The settlement is more than fair to the plantiffs considering that there was no bases for the lawsuit in the first place.

Members, like me, of Citizens for a Sound Economy have been opposiing this lawsuit with calls, emails, visits and letters to almost three years. So, I thank you for your decision to settle this unfortunate lawsuit.

Respectfully,
Clyde Garland
3100 Rolling Glen
Bryan, TX 77807–3209
CC: Citizens for a Sound Economy

MTC–00032649

From: Pat Ahumada
To: Ms. Renata B. Heese
Date: 1/15/02 2:52pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Pat Ahumada
53 Alan A Dale
Brownsville, TX 78521–3513
CC: Citizens for a Sound Economy

MTC–00032650

From: Dean Lyons
To: Ms. Renata B. Heese
Date: 1/15/02 2:54pm
Subject: Microsoft Settlement

Dear Ms. Heese:

Please do not allow Microsoft to continue its antitrust business practices. To allow them a legal access to the Education Market at the expense of Apple Computer is ludicrous.

Respectfully,
Dean Lyons
1435 Monticello Road
Jacksonville, FL 32207–8857
CC: Citizens for a Sound Economy

MTC–00032651

From: Robert Kersteen
To: Ms. Renata B. Heese
Date: 1/15/02 2:59pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Robert Kersteen
2821 61st Lane North
St. Petersburg, FL 33710–3357
CC: Citizens for a Sound Economy

MTC–00032652

From: Madoline Rogers
To: Ms. Renata B. Heese
Date: 1/15/02 3:12pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Madoline Rogers
4713 Cole Ave.
Waco, TX 76710–4611
CC: Citizens for a Sound Economy

MTC–00032653

From: Charles Parrott
To: Ms. Renata B. Heese
Date: 1/15/02 3:23pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Charles Parrott
8272 Denise Dr.
Largo, FL 33777–2716
CC: Citizens for a Sound Economy

MTC–00032654

From: Lisa Cate
To: Ms. Renata B. Heese
Date: 1/15/02 3:33pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Lisa Cate
7907 Old Hwy 86
Chapel Hill, NC 27516
CC: Citizens for a Sound Economy

MTC–00032655

From: Ira Paul
To: Ms. Renata B. Heese
Date: 1/15/02 3:34pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Ira Paul
18495 NW 78th Avenue
Hialeah, FL 33015–2704
CC: Citizens for a Sound Economy

MTC–00032656

From: Betty McCoy
To: Ms. Renata B. Heese
Date: 1/15/02 3:39pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Betty McCoy
413 Glenport Ave
Glencoe, AL 35905–1109
CC: Citizens for a Sound Economy

MTC–00032657

From: Harry Hintz
To: Ms. Renata B. Heese
Date: 1/15/02 3:47pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Harry Hintz
5306 Overtop Lane
Raleigh, NC 27613–5550
CC: Citizens for a Sound Economy

MTC–00032658

From: Jonathan Harris
To: Ms. Renata B. Heese
Date: 1/15/02 3:53pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jonathan Harris
22479 Martella Ave
Boca Raton, FL 33433–4630
CC: Citizens for a Sound Economy

MTC–00032659

From: LYNN AND JOHN MCGLENN
To: Ms. Renata B. Heese
Date: 1/15/02 3:53pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
LYNN AND JOHN MCGLENN
333NW FERRIS DR.
PORT ST. LUCIE, FL 34983–8668
CC: Citizens for a Sound Economy

MTC–00032660

From: JOHN COLLAR
To: Ms. Renata B. Heese
Date: 1/15/02 4:03pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
JOHN COLLAR
333 MELROSE DRIVE
5 D
RICHARDSON, TX 75080–4406
CC: Citizens for a Sound Economy

MTC–00032661

From: Linda Addison
To: Ms. Renata B. Heese
Date: 1/15/02 4:04pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Linda Addison
222 Steedly Ave
Lake Wales, FL 33853–3756
CC: Citizens for a Sound Economy

MTC–00032662

From: Claude Prevots
To: Department of Justice
Date: 1/15/02 4:09pm
Subject: Tunney: Creativity in software engineering

Greetings:

It is not in the public interest to constrain further the creativity and innovation of Microsoft designers and software engineers with additional, legally complex conditions. The remedies already provided by the settlement provisions construct an edifice of legal reasoning and arcane subtleties that will require software developers to get a law degree to cut through this Byzantine complexity. Endless meetings and explanations between lawyers and engineers, not new products, are what will result.

When Attorney General Janet Reno proclaimed her enthusiastic anticipation of the new varieties of DOS engendered by enforcement of antitrust laws, one could only groan in disbelief at her failure to understand how progress in the systems business thrives. In retrospect we find no new varieties of DOS but find that it has almost disappeared.

With Microsoft the consumer is benefited by a culture of excellence that its competitors are unable to match. We need the robust organization of Microsoft to keep its competitors on their toes. An added onset of elegantia juris will only stifle further the creative minds that generate the innovation we need to keep the U.S. economy thriving with new functions and features to empower consumers.

Claude Prevots
cogito@warwick.net

MTC–00032663

From: Richard Swier
To: Ms. Renata B. Heese
Date: 1/15/02 4:26pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Richard Swier
6718 Paseo Castille
Sarasota, FL 34238–2709
CC: Citizens for a Sound Economy

MTC–00032664

From: Jennifer Crenshaw
To: Ms. Renata B. Heese
Date: 1/15/02 4:27pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jennifer Crenshaw
443 Randon Terrace
Lake Mary, FL 32746–2626
CC: Citizens for a Sound Economy

MTC–00032665

From: JERRY CULBERSON
To: Ms. Renata B. Heese
Date: 1/15/02 4:34pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
JERRY CULBERSON
4092 LIGUSTRUM DR.
PALM HARBOR, FL 34685–3631
CC: Citizens for a Sound Economy

MTC–00032666

From: Ronald Hoelzer
To: Ms. Renata B. Heese
Date: 1/15/02 4:37pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Ronald Hoelzer
8318 W. Elm Street
Tampa, FL 33615–2806
CC: Citizens for a Sound Economy

MTC–00032667

From: E. Geissler
To: Ms. Renata B. Heese
Date: 1/15/02 4:41pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
E. Geissler
4775 South Atlantic Avenue
Ponce Inlet, FL 32127–8108
CC: Citizens for a Sound Economy

MTC–00032668

From: James Rentner
To: Ms. Renata B. Heese
Date: 1/15/02 4:45pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of

Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
James Rentner
67 Summerset Drive
Clyde, NC 28721–8415
CC: Citizens for a Sound Economy

MTC–00032669

From: Dick Wilson
To: Ms. Renata B. Heese
Date: 1/15/02 4:55pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Dick Wilson
7735 Taymouth ln
Charlotte, NC 28269–9127
CC: Citizens for a Sound Economy

MTC–00032670

From: Richard McCormack
To: Ms. Renata B. Heese
Date: 1/15/02 4:56pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Richard McCormack
23225 Hagey Road
Dundee, OR 97115–9211
CC: Citizens for a Sound Economy

MTC–00032671

From: David Anderson
To: Ms. Renata B. Heese
Date: 1/15/02 5:23pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
David Anderson
1418 NE 112 Ave.
Portland, OR 97220–3024
CC: Citizens for a Sound Economy

MTC–00032672

From: Madeleine Calder
To: Ms. Renata B. Heese
Date: 1/15/02 5:32pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Madeleine Calder
2605 Olive Chapel Rd.
Apex, NC 27502–6789
CC: Citizens for a Sound Economy

MTC-00032673

From: Thomas Griffith
To: Ms. Renata B. Heese
Date: 1/15/02 5:33pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company. Get the government out of our business before we lose valuable companies due to the meddling by these misguided officials. Do we want all of our companies going overseas to operate overseas due to too much government intervention? What sense is there in degrading a company who has done so much good for so many people? Shame on them all.

Respectfully,
Thomas Griffith
2426 Barrington Place Drive
Sugar Land, TX 77478–1855
CC: Citizens for a Sound Economy

MTC-00032674

From: Terry Smith
To: Ms. Renata B. Heese
Date: 1/15/02 5:43pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Terry Smith
P O Box 5166
3720 Chula Vista Dr SW
Decatur, AL 35601–0166
CC: Citizens for a Sound Economy

MTC-00032675

From: Michael Walker
To: Ms. Renata B. Heese
Date: 1/15/02 5:45pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Michael Walker
446 N Central Valley Dr
Central Point, OR 97502–1571
CC: Citizens for a Sound Economy

MTC-00032676

From: Marlene Lieb
To: Ms. Renata B. Heese
Date: 1/15/02 6:02pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Marlene Lieb
18 Mahoe Dr. So.
The Hammock, FL 32137–2634
CC: Citizens for a Sound Economy

MTC-00032677

From: margaret moorman
To: Ms. Renata B. Heese
Date: 1/15/02 6:30pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
margaret moorman
216 lakeway
kerrville, TX 78028–7229
CC: Citizens for a Sound Economy

MTC-00032678

From: Gary Dryden
To: Ms. Renata B. Heese
Date: 1/15/02 6:52pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

Whereas Microsoft has been solely responisble for greatly increasing the total propductivity of our nation, they where then penalized with a bogus law suit by Clinton Administration whims. When others saw the goverrnment's actions the current recession began.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Gary Dryden
582 Ruckel Drive
Niceville , FL 32578–1789
CC: Citizens for a Sound Economy

MTC-00032679

From: David Fuson
To: Ms. Renata B. Heese
Date: 1/15/02 6:55pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

Hey! socialist duds! Get off the back of a fine American who refuses to pay for Lobbist or Government Help inside the loop.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
David Fuson
2119 Five Iron Dr.
Houston, TX 77089–5618
CC: Citizens for a Sound Economy

MTC-00032680

From: Floyd Lawson
To: Ms. Renata B. Heese
Date: 1/15/02 7:02pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.Some state attoneys general seem to be interested for their own political self-edification.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Furthermore, it appears to have been a "political vindetta" because of Microsoft's entrance into the communications field, namely, MSNBC. It was predicted by this writer in the early programming at MSNBC.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Floyd Lawson
1020 Larkwood Drive, NE
Cullman, AL 35055–2133
CC: Citizens for a Sound Economy

MTC-00032681

From: Charles Baker
To: Ms. Renata B. Heese
Date: 1/15/02 7:07pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I support the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Charles Baker
4646 Pliney Farlow Rd.
Trinity, NC 27370–7449
CC: Citizens for a Sound Economy

MTC-00032682

From: Gerald Totten
To: Ms. Renata B. Heese
Date: 1/15/02 7:18pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that

Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Gerald Totten
108 Petty Road
Siler City, NC 27344–7892
CC: Citizens for a Sound Economy

MTC–00032683

From: Rev. James Rodgers
To: Ms. Renata B. Heese
Date: 1/15/02 8:06pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I agree with the Justice Department's decision to settle with Microsoft Corp. The holdout state attorneys general and the District of Columbia should follow your lead.

Microsoft's actions, instead of harming consumers, lowered the cost and increased the availability of the software products they sought. Microsoft also made millions of us more familiar with the Internet.

Thanks for deciding to settle this unjust lawsuit.

Respectfully,
Rev. James Rodgers
15727 El Camino Real
Clear Lake City, TX 77062–4415
CC: Citizens for a Sound Economy

MTC–00032684

From: Willie Starling
To: Ms. Renata B. Heese
Date: 1/15/02 8:14pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Willie Starling
1523 Indian Springs Rd.
Mt. Olive, NC 28365–8767
CC: Citizens for a Sound Economy

MTC–00032685

From: Nancy Hall
To: Ms. Renata B. Heese
Date: 1/15/02 8:42pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Nancy Hall
1861 Beneva Ct Apt 1203
Sarasota, FL 34232–3150
CC: Citizens for a Sound Economy

MTC–00032686

From: Charles Snyder
To: Ms. Renata B. Heese
Date: 1/15/02 9:13pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Charles Snyder
110 Harness Lane
Georgetown, TX 78628
CC: Citizens for a Sound Economy

MTC–00032687

From: Richard Moats
To: Ms. Renata B. Heese
Date: 1/15/02 9:15pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

I am still amazed the Clinton Justice Dept. chose to initiate this case in the first place. On second thought, I am not surprised by anything that happened during the most corrupt national administration in the history of our country.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Richard Moats
2825 41st. Way S.E.
Olympia, WA 98501–6212
CC: Citizens for a Sound Economy

MTC–00032688

From: Clifford Earle
To: Ms. Renata B. Heese
Date: 1/15/02 10:17pm
Subject: Microsoft Deserves a Breakup

Dear Ms. Heese:

Below please find the text of a form letter available on the "Capitol Connect" site, supposedly a consumer advocacy outfit of some sort. Please do not believe a word of it.

Microsoft deserves to be slammed in court for their actions and practices, and I would hope that no amount of thoughtless form letters, however prettily formatted, would change that fact.

Regards,
—Cliff ***

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Clifford Earle
8640 Hillrose St.
Sunland, CA 91040–2701
CC: Citizens for a Sound Economy

MTC–00032689

From: Dave Catherman
To: Ms. Renata B. Heese
Date: 1/16/02 4:37am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Dave Catherman
5712 Stone Mill Rd
Waxhaw, NC 28173–8059
CC: Citizens for a Sound Economy

MTC–00032690

From: James Collins
To: Ms. Renata B. Heese
Date: 1/16/02 4:40am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
James Collins
109 ridge View Rd
Pittsboro, NC 27312–5663
CC: Citizens for a Sound Economy

MTC–00032691

From: paul caple
To: Ms. Renata B. Heese
Date: 1/16/02 4:42am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
paul caple
3215 NE 15 ST #101
Pompano Beach, FL 33062–3321
CC: Citizens for a Sound Economy

MTC–00032692

From: Gary Lewis
To: Ms. Renata B. Heese
Date: 1/16/02 5:00am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Gary Lewis
160 W Park Ave
Mooresville, NC 28115–2242
CC: Citizens for a Sound Economy

MTC–00032693

From: Renee Pearison
To: Ms. Renata B. Heese
Date: 1/16/02 5:09am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Renee Pearison
5434 Alfred St
Crozet, VA 22932–3514
CC: Citizens for a Sound Economy

MTC–00032694

From: Troy Landrum
To: Ms. Renata B. Heese
Date: 1/16/02 5:20am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Troy Landrum
509 Ridge Country Road
Haslet, TX 76052–4207
CC: Citizens for a Sound Economy

MTC–00032695

From: James Parker
To: Ms. Renata B. Heese
Date: 1/16/02 5:22am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
James Parker
3445 Self Creek Rd
Warrior, AL 35180–2215
CC: Citizens for a Sound Economy

MTC–00032696

From: Chris Sinclair
To: Ms. Renata B. Heese
Date: 1/16/02 5:24am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Chris Sinclair
3728 Cliff Haven Drive
Raleigh, NC 27615–8118
CC: Citizens for a Sound Economy

MTC–00032697

From: Jim Thrasher
To: Ms. Renata B. Heese
Date: 1/16/02 5:34am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jim Thrasher
4613 70th Place
Urbandale, IA 50322-8012
CC: Citizens for a Sound Economy

MTC-00032698

From: Sepideh Baghaii
To: Ms. Renata B. Heese
Date: 1/16/02 5:39am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the the state attorneys general and the District of Columbia against Microsoft.

The settlement is a slap on the wrist to Microsoft. It will not guarantee that Microsoft cannot continue to attack small or other large companies through non-competitive means. The Microsoft Windows operating system is only now becoming a true operating system. It still leaves a lot to be desired. Whether or not Microsoft choose to create more mediocre products for the public is not an issue. Whether or not smaller software companies and other companies can play in this market is.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. This view point is clearly a misguide stance from a group of people unaware of the speed of changing technology and the options available to them. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions is detrimental to consumers. The evidence can be seen in the demise of Netscape and the battles against SUN over J++. Microsoft's anticompetitive behavior has limited the high-technology market and have forced users to learn to accept mediocre products.

Respectfully,
Sepideh Baghaii
1020 Kent St.
#216
Boulder, CO 80303-1826

MTC-00032699

From: Brian Irving
To: Ms. Renata B. Heese
Date: 1/16/02 5:41am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Brian Irving
1713 Veanna Drive
Fayetteville, NC 28301-2926
CC: Citizens for a Sound Economy

MTC-00032700

From: Michael Wegman
To: Ms. Renata B. Heese
Date: 1/16/02 5:43am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Michael Wegman
609 Green Drive
Goldsboro, NC 27534-7743
CC: Citizens for a Sound Economy

MTC-00032701

From: Roger Corbett
To: Ms. Renata B. Heese
Date: 1/16/02 5:50am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Roger Corbett
7508 Roberts Rd

Apex, NC 27502–9674
CC: Citizens for a Sound Economy

MTC–00032702

From: Carolyn and Gerald Johnson
To: Ms. Renata B. Heese
Date: 1/16/02 5:52am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Carolyn and Gerald Johnson
7689 Rabbit Circle
Denver, NC 28037–9477
CC: Citizens for a Sound Economy

MTC–00032703

From: Joseph Piccirillo
To: Ms. Renata B. Heese
Date: 1/16/02 6:16am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Joseph Piccirillo
702 Ocean Dunes Circle
Jupiter, FL 33477–9117
CC: Citizens for a Sound Economy

MTC–00032704

From: John Benningfield
To: Ms. Renata B. Heese
Date: 1/16/02 6:36am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
John Benningfield
2015 N Fremont
Cornelius, OR 97113–7384
CC: Citizens for a Sound Economy

MTC–00032705

From: Miss Julie Smithson
To: Ms. Renata B. Heese
Date: 1/16/02 6:38am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Miss Julie Smithson
213 Thorn Locust Lane
London, OH 43140–8844
CC: Citizens for a Sound Economy

MTC–00032706

From: Linda Ayers
To: Ms. Renata B. Heese
Date: 1/16/02 6:46am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Continuation of the case threatens to prolong the 8-month old recession, as well as increase the severity of the technology sector's 18-month decline. In this time of economic uncertainty, we need businesses that stimulate demand for other products throughout their industry to get back to work, not encounter new obstacles to growth. It is time to put an end to this lawsuit and get back to the business of strengthing our economy

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Linda Ayers
3220 Darlington Dr. SW
Decatur, AL 35603–3165
CC: Citizens for a Sound Economy

MTC–00032707

From: John Harding
To: Ms. Renata B. Heese
Date: 1/16/02 6:55am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
John Harding
5906 143rd St SE
Everett, WA 98208–9339
CC: Citizens for a Sound Economy

MTC–00032708

From: Phyllis Sisk
To: Ms. Renata B. Heese
Date: 1/16/02 7:02am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Phyllis Sisk
4965 Old Belews Creek Road
Winston-Salem, NC 27101–6426
CC: Citizens for a Sound Economy

MTC–00032709

From: Roy Stewart
To: Ms. Renata B. Heese
Date: 1/16/02 7:06am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government s lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Roy Stewart
19 Hickory Lane
Bedford, NH 03110–5720
CC: Citizens for a Sound Economy

MTC–00032710

From: billklueber@att.net@inetgw
To: Microsoft ATR
Date: 1/16/02 7:12am
Subject: MicroSoft Settlement

I just wanted to vent about what is happening with the MicroSoft Settlement. MicroSoft started from nothing and is solely responsible for the PC revolution and a good deal of the other technological advancements we know and enjoy today. It is unfair for this country to penalize success. I think it is great that finally a U.S. company is a world leader and is able to compete with other corporations around the world especially when so many of them are subsidized by their governmants.

Please stop playing politics and look at all the good that the company does. Bill Gates donates a lot to charities, pays more than his share in personnel and corporate taxes and provides a lot of jobs. I was disgusted and embarassed to be an American under Clinton but have regained my pride and patriotism under President Bush. Please do the correct and honorable thing and put this endless litigation to rest. The only people that win are the lawyers.

Thank you,
Bill Klueber

MTC–00032711

From: Floyd Majors
To: Ms. Renata B. Heese
Date: 1/16/02 7:15am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese: I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Floyd Majors
4922 Middleton Street
Baytown, TX 77520–1402

CC: Citizens for a Sound Economy

MTC-00032712

From: Michael Weekley
To: Ms. Renata B. Heese
Date: 1/16/02 7:16am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese: I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Michael Weekley
4610 Governor Kent Ct.
Upper Marlboro, MD 20772-5905
CC: Citizens for a Sound Economy

MTC-00032713

From: Robin Alberg
To: Ms. Renata B. Heese
Date: 1/16/02 7:19am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese: I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Robin Alberg
9027 W. Shorewood Dr. #603
Mercer Island, WA 98040-3236
CC: Citizens for a Sound Economy

MTC-00032714

From: Jane Aguirre
To: Ms. Renata B. Heese
Date: 1/16/02 7:19am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese: I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jane Aguirre
1308 N. 13th St.
Temple, TX 76501-1904
CC: Citizens for a Sound Economy

MTC-00032715

From: Aaron Alberg
To: Ms. Renata B. Heese
Date: 1/16/02 7:19am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Aaron Alberg
9027 W. Shorewood Dr.
Apt. 603
Mercer Island, WA 98040-6265
CC: Citizens for a Sound Economy

MTC-00032716

From: Marcus Griffis
To: Ms. Renata B. Heese
Date: 1/16/02 7:24am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Marcus Griffis
717 Dove Dr
Victoria, TX 77905–0558
CC: Citizens for a Sound Economy

MTC–00032717

From: Shirley Briden
To: Ms. Renata B. Heese
Date: 1/16/02 7:32am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Shirley Briden
941 Southridge Tr.
Altamonte Springs,, FL 32714–1286
CC: Citizens for a Sound Economy

MTC–00032718

From: Charlie Brown
To: Ms. Renata B. Heese
Date: 1/16/02 7:32am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Charlie Brown
PO Box 40
Barium Springs, NC 28010–0040
CC: Citizens for a Sound Economy

MTC–00032719

From: Howard Kistler
Date: 1/16/02 7:33am
Subject: Microsoft Settlement

To Whom It May Concern,

As a long-time computer programmer and software developer, I am urging the Department Of Justice to consider practical and responsible remedies to the monopoly of Microsoft.

Microsoft has long enjoyed immunity from punishment for its many abuses of power. This is in a large part because those abuses allow it make far more money than is ever levied against it in penalty. In truth, it is hard to calculate how large a fine would be necessary to even impact them. That is why other remedies must be pursued, beyond those of simple fines and behavioral decrees.

I believe that one of the only, if not the only, remedies that would address the monopoly situation is to force Microsoft to open up the Windows APIs for competitive development. This would have multiple positive effects, including the following:

(1) It would allow true competition in the operating system marketplace. Competition in turn is one of the only factors that drive companies to produce a genuinely better product, and to offer those products at reasonable market prices. It is my opinion that this lack of competition is a large part of what has cause Microsoft to offer increasingly problematic and user-hostile products, and at absurdly inflated prices.

(2) It would create transparency in the operating system. This would allow other companies and developers to create products that interface better with the OS, as well as decrease the amount of viruses and other code exploits written which take advantage of the hidden code.

(3) It would spur actual innovation from Microsoft, as opposed to it merely bundling in features which increase its monopoly but do not add to, and often hinder, the user experience.

The only argument against this remedy that I can see as viable is that this settlement deprives Microsoft of some of their intellectual property. While very probably true, it is also unfortunate that this is most likely the only way in which Microsoft can be brought to terms in the settlement. As a company which has enjoyed a monopoly position for too long, and which has deprived other firms of their intellectual property and market share, and which has flaunted its disregard for previous judgements against it, I believe that opening the Windows APIs is the only option left to the DOJ if it truly wishes to resolve this issue. Otherwise, we can all expect another investigation like this within the next decade, and each decade after until real action is taken against the Microsoft monopoly.

Sincerely,
Howard Kistler

MTC–00032720

From: linda woods
To: Ms. Renata B. Heese
Date: 1/16/02 7:55am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
linda woods
44955 camino veste
temecula, CA 92592–1622
CC: Citizens for a Sound Economy

MTC–00032721

From: Roger Ryder
To: Ms. Renata B. Heese
Date: 1/16/02 8:07am

Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,

Roger Ryder

235 E. Garfield St.

Chambersburg, PA 17201–3514

CC: Citizens for a Sound Economy

MTC-00032722

From: James Hinson

To: Ms. Renata B. Heese

Date: 1/16/02 8:12am

Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

If you will take the time to research it you will see that the stock markets started their downward sperial at about the same time that the law suit against Microsoft started. It has continued to go down since that fateful time. Please, please get off of American businesses back and leave the free enterprize system alone. Every time the goverment sees fit to intrude on the free enterprize system we end up with nothing but trouble.

Respectfully,

James Hinson

2538 Comanche Trail

Hillsborough, NC 27278–8854

CC: Citizens for a Sound Economy

MTC-00032723

From: Ed Pickett

To: Ms. Renata B. Heese

Date: 1/16/02 8:22am

Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,

Ed Pickett

21o Hunter ln.

CHARLOTTE, NC 28211

CC: Citizens for a Sound Economy

MTC-00032724

From: William A.Pauwels, Sr.

To: judi bron

Date: 1/16/02 8:58am

Subject: More on the Microsoft Settlement

Judi,

Your unhappiness with Microsoft represents a need that another company should exploit. If they were any good they would already be doing so. It is not the Governments business to make Microsoft less competitive.

I sympathize with the technical problems you are having. I go nuts when I have them, which is fairly often. Let's face it, personal computer technology is at the Model-T stage of development. The V-8 hasn't been invented yet. Let's hope it happens soon.

There are so many things the Government should be focused on . . . like preserving good manufacturing jobs in America. Why they keep attacking good American companies makes no sense. Where do they think the good jobs are going to come from?

Also, I think the overpayment of Corporate Executives is a National and perhaps International disgrace. I say that as the 18 year President and COO of a mid-sized multinational company (now semi-retired). It is one thing to invest and risk your own capital and make a fortune . . . it is quit another thing to be given exorbitant salaries and lucrative stock option deals. I know all the arguments about creating value, but this value should be shared with the employees and not hogged up by a handful of greedy executives. Anyway, I appreciate you perspective.

All the best!

Bill Pauwels, Sr.

1–16–02

judi b wrote:

A month ago I would hav agreed with you and then some, but then I had an experience. You know that I am legally blind and work on adaptive equipment. I downloaded IE6 and OE6 and they weren't that compatable with my screen reader. I called in a tech for a lot of money and asked him if he could remove IE6 and OE6 and reinstall OE5 and IE5. It was a brutal job but he eventually did it. In short, because there were componants of the 6 family left in the computer that microsoft designed to not be removed the install of the 5 family really messed up my computer. I could not write an Email and I could not write on the net. In other words I could not write on a search engine a subject I wanted to search for. Since I hav thousands of hours of work on this machine and none of it gets anywhere if I don't have Email, which the reinstall of the 5 family left me with, I spent a harrowing weekend wondering if I would ever send out another article. Bill Gates deserves what he has earned and deserves the noteriety for what he has accomplished. However, why does he have this desire to totally take over every computer to the extent that changes cannot be made because the componants in his software can never get out of a system once they get in? Bill, if you buy a house with a garage would it be fair that the only car that the garage could hold be a chevy? I know this analogy is far fetched but there is nothing else that I know of that dominates like Microsoft. The upshot of my problem is that I reinstalled the 6 family and am living with the inconveniences that occur with my screen reader, its better than having no Email and no ability to search on the net. Judi

—— Original Message ——
From: "William A.Pauwels, Sr." <wap1102@ix.netcom.com>
To: <microsoft.atr@usdoj.gov>
Sent: Tuesday, January 15, 2002 6:01 PM
Subject: Microsoft Settlement

The case against Microsoft should be dropped. Microsoft has made GREAT contributions to the well-being of mankind and to its institutions.

The Justice Dept.'s persecution of SUCCESSFUL American companies because their competitors don't like them and/or can't measure-up in the marketplace, is ridiculous.

If the Justice Dept. is looking for something to champion, why not go after the thousands of FOREIGN companies doing business in the USA while violating American Antitrust Laws.

Sincerely,
William A. Pauwels, Sr.
1–15–02

MTC–00032725

From: Tyler Haynes
To: Ms. Renata B. Heese
Date: 1/16/02 9:04am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Tyler Haynes
3419 Foss Drive
Saginaw, MI 48603–1711
CC: Citizens for a Sound Economy

MTC–00032726

From: Roberta Hoffman
To: Ms. Renata B. Heese
Date: 1/16/02 9:18am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Roberta Hoffman
2940 W Carson Street Unit 102
Torrance,, CA 90503–6059
CC: Citizens for a Sound Economy

MTC–00032727

From: w. orben
To: Ms. Renata B. Heese
Date: 1/16/02 9:27am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
w. orben
139 n.fiji is. cir.
no. englewood , FL 34223
CC: Citizens for a Sound Economy

MTC–00032728

From: Samuel Butler
To: Ms. Renata B. Heese
Date: 1/16/02 9:40am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I support the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Too,I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, However, the decision to pursue this baseless case, made by the remaining state attorneys general and the District of Columbia, is extremely disappointing and needless.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, we, the members of Citizens for a Sound Economy, are unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Samuel Butler
1487 Shorewood Place
Lakeland, FL 33803–4275
CC: Citizens for a Sound Economy

MTC–00032729

From: John Enright
To: Ms. Renata B. Heese
Date: 1/16/02 9:43am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft

Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
John Enright
7 Golden Place
The Woodlands, TX 77381–4329
CC: Citizens for a Sound Economy

MTC–00032730

From: Oscar Engfer
To: Ms. Renata B. Heese
Date: 1/16/02 9:54am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Oscar Engfer
PO Box 26
Orting, WA 98360–0026
CC: Citizens for a Sound Economy

MTC–00032731

From: Peggy Venable
To: Ms. Renata B. Heese
Date: 1/16/02 9:58am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Peggy Venable
13419 Wisterwood
Austin, TX 78729–1941
CC: Citizens for a Sound Economy

MTC–00032732

From: Robert Fricke
To: Ms. Renata B. Heese
Date: 1/16/02 10:25am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Robert Fricke
612 Tara Dr.
High Point, NC 27265–1012
CC: Citizens for a Sound Economy

MTC–00032733

From: Fred Habenicht
To: Ms. Renata B. Heese
Date: 1/16/02 11:31am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Fred Habenicht
163 Prawn Road
Port Angeles, WA 98363–9000
CC: Citizens for a Sound Economy

MTC-00032734

From: Ernest Hartwig
To: Ms. Renata B. Heese
Date: 1/16/02 11:40am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Ernest Hartwig
1534 Mary's Peak Rd.
Blodgett, OR 97326–9704
CC: Citizens for a Sound Economy

MTC-00032735

From: Thomas Gillespie
To: Ms. Renata B. Heese
Date: 1/16/02 12:11pm
Subject: Microsoft Settlement (Reject It)

Dear Ms. Heese:

The Microsoft Settlement is bad for the computer industry. Please do not support the settlement. Microsoft needs to know that anti-competitive actions in the market will not be tolerated by our elective leaders.

Respectfully,
Thomas Gillespie
P.O. Box 177
Albany, MO 64402–0177

MTC-00032736

From: Jack Hansen
To: Ms. Renata B. Heese
Date: 1/16/02 12:23pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jack Hansen
1600 Verde Lane
Mundelein, IL 60060–4821
CC: Citizens for a Sound Economy

MTC-00032737

From: Frank Russo
To: Ms. Renata B. Heese
Date: 1/16/02 12:36pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Frank Russo
PO Box 12
102 Cambridge Crt
Havelock, NC 28532–0012
CC: Citizens for a Sound Economy

MTC-00032738

From: john marten
To: Ms. Renata B. Heese
Date: 1/16/02 12:38pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
john marten
37666 hwy 58
pleasant hill, OR 97455–9787
CC: Citizens for a Sound Economy

MTC-00032739

From: Mary Syrdahl
To: Ms. Renata B. Heese
Date: 1/16/02 12:51pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts

Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Mary Syrdahl
2231 Robinhood
Houston, TX 77005–2603
CC: Citizens for a Sound Economy

MTC–00032740

From: Colin Hathcock
To: Ms. Renata B. Hesse
Date: 1/16/02 1:10pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Colin Hathcock
108 Leach Rd
Salisbury, NC 28146–8578
CC: Citizens for a Sound Economy

MTC–00032741

From: Michael Conklin
To: Ms. Renata B. Hesse
Date: 1/16/02 2:00pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Michael Conklin
1911 NW 29th Court
Ocala, FL 34475–4710
CC: Citizens for a Sound Economy

MTC–00032742

From: Brian Van Bergen
To: Ms. Renata B. Hesse
Date: 1/16/02 2:13pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. DOJ, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless wasteful case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. DOJ and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Brian Van Bergen
141 SW Hawthorne Ct.
Dundee, OR 97115–9547
CC: Citizens for a Sound Economy

MTC–00032743

From: Norman Bresette
To: Ms. Renata B. Hesse
Date: 1/16/02 2:20pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Norman Bresette
113 Montclair Road
Mauldin, SC 29662–1829
CC: Citizens for a Sound Economy

MTC–00032744

From: MaryAnn Thompson
To: Ms. Renata B. Hesse
Date: 1/16/02 2:40pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of

Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
MaryAnn Thompson
205 Seneca Ct
Franklin, TN 37067–1324
CC: Citizens for a Sound Economy

MTC–00032745

From: Gil
To: DOJ
Date: 1/16/02 2:43pm
Subject: Microsoft Settlement

I should think that my government would have better things to do with my tax dollars than persecute Microsoft. Big business is a notoriously "hard ball" environment, and other software manufacturers had several years to get their "at bats" while MS was still playing with DOS versions 1 though 4. Windows didn't really become popular until v 3.0, but the slackers in the industry failed to foresee how popular Windows would become. That's not the fault of Gates et al. As for what MS wishes to incorporate into their OS—that should be up to them. It's their product, and if they want to give away a BMW with the damn thing then that's their call! Nobody in the country is selling web browsers anyway, so what's the big deal? None of the other software publishers is building a competitive operating system/ interface to try to loosen the MS hold on the market. They'd rather sit around crying to the DOJ about how they've been beaten up by MS because they failed to forecast the market correctly. I have one word for them—TOUGH! If you want to look into some real monopolizing why not check out Apple—they have no competition in their market for either their operating system or hardware.

Or investigate Intel—whose only real competitor, AMD, is having their share of financial woes. To lose AMD would give Intel the same kind of power that you're claiming Microsoft has garnered through hard work, outstanding marketing, and yes, occasional pressure. But then, everybody in business uses what power they may have to get the edge on their competitors—that's what makes our system work. Mass producers get lower per unit costs on everything than a Mom and Pop operation gets. That hurts the struggling independent—but nobody seems to care much—except Mom and Pop. It's the way things work!

All large businesses use whatever leverage they have to improve their market share while reducing the market prospects of competitors. Microsoft has just been more successful at it than anybody in the world could have imagined when Gates bought the rights to an unpromising DOS from IBM. Bill Gates is the "Alexander the Great" of product development and marketing. The world has never seen the likes of Microsoft before, and it might never see another such phenomena again. He hasn't done anything patently illegal, and there's no law requiring mercy for those who cannot or will not compete— let him enjoy the fruits of his labors. Please spend my tax dollars on something more meaningful than buying Kleenexes for a bunch of sobbing "big business" tycoons who failed to read the writing on the wall.

ACCEPT THE SETTLEMENT OFFER!
CC:MSFIN@Microsoft.com@inetgw

MTC–00032746

From: Richard Higginbotham
To: Ms. Renata B. Heese
Date: 1/16/02 3:04pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Richard Higginbotham
84 Cherokee Trail
Medford Lakes, NJ 08055–1602
CC: Citizens for a Sound Economy

MTC–00032747

From: Joe Haynes
To: Ms. Renata B. Heese
Date: 1/16/02 3:34pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Joe Haynes
10012 130th Lane North
Seminole, FL 33776–1709
CC: Citizens for a Sound Economy

MTC–00032748

From: Delbert Bock
To: Ms. Renata B. Heese
Date: 1/16/02 3:45pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal governments lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsofts competitors to use Microsofts Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal governments antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Delbert Bock
PO Box 1628
Rogue River, OR 97537–1628
CC: Citizens for a Sound Economy

MTC–00032749

From: Patricia Lauzon
To: Ms. Renata B. Heese
Date: 1/16/02 4:23pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Patricia Lauzon
3811 Beckley
Battle Creek, MI 49015–9329
CC: Citizens for a Sound Economy

MTC–00032750

From: John Wilson
To: Ms. Renata B. Heese
Date: 1/16/02 5:11pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. I see these actions demonstrating the attitude of "let's milk another corporation" a la the heinous assult on "big tobacco." To paraphrase a formal presidential advisor, "It's the money, stupid."

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
John Wilson
R. D. 2
Templeton, PA 16259–9802
CC: Citizens for a Sound Economy

MTC–00032751

From: Randy Copeland
To: Ms. Renata B. Heese
Date: 1/16/02 5:25pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Randy Copeland
3303 Mt. Willing Rd
Efland, NC 27243–9121
CC: Citizens for a Sound Economy

MTC–00032752

From: JEAN Chan
To: Ms. Renata B. Heese
Date: 1/16/02 6:31pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
JEAN Chan
27277 Smith River Rd
Reedsport, OR 97467
CC: Citizens for a Sound Economy

MTC–00032753

From: Walter Gammel
To: Ms. Renata B. Heese
Date: 1/16/02 8:13pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Walter Gammel
10640 East Michigan Avenue
Sun Lakes, AZ 85248–8809
CC: Citizens for a Sound Economy

MTC–00032754

From: Kath Glauser
To: Ms. Renata B. Heese
Date: 1/16/02 9:00pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Kath Glauser
2260 Scovel Ave.
Pennsauken, NJ 08110–1726
CC: Citizens for a Sound Economy

MTC–00032755

From: R. Herschel Wyatt
To: Ms. Renata B. Heese
Date: 1/16/02 9:36pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
R. Herschel Wyatt
68 Delbert Hodge Rd.
London, KY 40741–9061
CC: Citizens for a Sound Economy

MTC–00032756

From: Harry Pierson
To: Ms. Renata B. Heese
Date: 1/17/02 4:44am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Harry Pierson
11064 Clear Meadows Dr.
Las Vegas, NV 89134–7235
CC: Citizens for a Sound Economy

MTC–00032758

From: Jerry Chabrian
To: Ms. Renata B. Heese
Date: 1/17/02 6:05am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,

Jerry Chabrian
648 Bua Drive
Temple Terrace, FL 33617–3800
CC: Citizens for a Sound Economy

MTC–00032759

From: Shirley Bossbach
To: Ms. Renata B. Heese
Date: 1/17/02 6:32am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Shirley Bossbach
6132 Davidson Dr.
Matthews, NC 28104–5450
CC: Citizens for a Sound Economy

MTC–00032760

From: Maryann Christensen
To: Ms. Renata B. Heese
Date: 1/17/02 7:01am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

LEAVE IT ALONE!! The recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation is fair. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Window's operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Maryann Christensen
583 East Benbow Street
Murray, UT 84107–5075
CC: Citizens for a Sound Economy

MTC–00032761

From: FRANK SKIERMONT
To: Ms. Renata B. Heese
Date: 1/17/02 7:14am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
FRANK SKIERMONT
25 SHERWOOD LANE
DOYLESTOWN, PA 18901–3234
CC: Citizens for a Sound Economy

MTC–00032762

From: charles braly
To: Ms. Renata B. Heese
Date: 1/17/02 7:26am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
charles braly
685 east adams street
nashville, IL 62263–1766
CC: Citizens for a Sound Economy

MTC–00032763

From: Kevin Allen
To: Ms. Renata B. Heese
Date: 1/17/02 7:32am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by

lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Kevin Allen
3001 Emerald Chase Drive
Oak Hill, VA 20171–2335
CC: Citizens for a Sound Economy

MTC–00032764

From: David Rive
To: Ms. Renata B. Heese
Date: 1/17/02 7:32am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
David Rive
3320 Kemper Street, 201
San Diego, CA 92110–4905
CC: Citizens for a Sound Economy

MTC–00032765

From: Roger Bartilson
To: Ms. Renata B. Heese
Date: 1/17/02 7:34am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Roger Bartilson
17928 Jaguar Path
Lakeville, MN 55044–9678
CC: Citizens for a Sound Economy

MTC–00032766

From: J. Mark (Marco) Gentile
To: Ms. Renata B. Heese
Date: 1/17/02 7:42am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
J. Mark (Marco) Gentile
P.O. Box 2914
La Jolla, CA 92038–2914
CC: Citizens for a Sound Economy

MTC–00032767

From: Brian Humble
To: Ms. Renata B. Heese
Date: 1/17/02 7:47am
Subject: Microsoft Settlement

Dear Ms. Heese:

I am writing to oppose the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that these state attorneys general have decided to let Microsoft win the case.

The settlement is only favorable to Microsoft. It will only allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs but will still give Microsoft more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in their opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like these have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but have not provided any proof to that effect.

Once again, I thank you for your decision to not settle this fortunate lawsuit against an oppressive and monopolistic company.

Respectfully,
Brian Humble
6 Helen Street
Georgetown, DE 19947–9442
CC: Citizens for a Sound Economy

MTC–00032768

From: John Dupree
To: Ms. Renata B. Heese
Date: 1/17/02 7:49am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft.

For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
John Dupree
8705 Kugler Mill Rd
Cincinnati, OH 45243-1427
CC: Citizens for a Sound Economy

MTC-00032769

From: Jean Fordham
To: Ms. Renata B. Hesse
Date: 1/17/02 7:54am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jean Fordham
891 Warwick Dr.
Macon, GA 31210-1535
CC: Citizens for a Sound Economy

MTC-00032770

From: Jeffrey James
To: Ms. Renata B. Hesse
Date: 1/17/02 8:00am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation.

The settlement is more than fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jeffrey James
822 Forest Ave.
OMAHA, NE 68108-3631
CC: Citizens for a Sound Economy

MTC-00032771

From: Tom Dekker
To: Ms. Renata B. Hesse
Date: 1/17/02 8:02am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Tom Dekker
22 Serna
RSM, CA 92688-2741
CC: Citizens for a Sound Economy

MTC-00032772

From: derrick@
universaladvertising.com@inetgw
To: addelivery@universaladvertising.
com@inetgw
Date: 1/17/02 8:08am
Subject: Microsoft Settlement

Over the years I have seen MS stifle competition by stomping out rivals. I work in the Web Development arena, helping companies to build on line applications. I also use other operating systems besides Windows. I want the freedom to use the platform of choice and this will only continue to be an option if MS has viable competition. This competition will only continue if developers are not scared away from working with other companies by MS.

The settlement MS has proposed only allows them further inroads into a field (education) where they have the only serious competition. Apple has worked very hard to cultivate the education market—fairly!

To give MS unfettered access to that market would only hasten it's demise. Corporations find themselves spending billions to keep up with MS. Conversely, supporting Apple computers in education is a much more cost efficient method of bringing technology to students. Total cost of ownership is much higher with MS operating systems and compatible PC's. Allowing MS to rapidly corner this market, as the current proposal provides, would not only stifle competitors, it would cost education and thus government even more money and not benefit students beyond what they currently receive.

Derrick Peavy
Sales and Web Services
Universal Advertising
derrick@universaladvertising.com
Phone: 404-786-5036
Fax: 404-477-0527
Corporate:
1304 North Cliff Valley Way
Atlanta, GA 30319
Tearsheets:
PO Box 191186
Atlanta, GA 31119
CC:Microsoft ATR,derrick@
universaladvertising.com@ine...

MTC-00032773

From: Hillary Murphy
To: Ms. Renata B. Hesse
Date: 1/17/02 8:20am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Hillary Murphy
421 Forest Glen Drive
Albany, GA 31707–3009
CC: Citizens for a Sound Economy

MTC–00032774

From: Margaret Bullock
To: Ms. Renata B. Heese
Date: 1/17/02 8:22am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Margaret Bullock
15 W. Roszell Dr.
Nineveh, IN 46164–9737
CC: Citizens for a Sound Economy

MTC–00032775

From: Robert Moeller
To: Ms. Renata B. Heese
Date: 1/17/02 8:33am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Robert & Susan Moeller
10706 Silver Pheasant Drive
Charlotte, NC 28226–4614
CC: Citizens for a Sound Economy

MTC–00032776

From: James Warn
To: Ms. Renata B. Heese
Date: 1/17/02 8:34am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
James Warn
1901 Conridge Dr
Edmond, OK 73034–6862
CC: Citizens for a Sound Economy

MTC–00032777

From: Ron LITTLE
To: Ms. Renata B. Heese
Date: 1/17/02 8:35am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Ron LITTLE
3205 CORAL DRIVE
OCEANSIDE, CA 92056–3927
CC: Citizens for a Sound Economy

MTC–00032778

From: Steven Goldmacher
To: Ms. Renata B. Heese

Date: 1/17/02 8:40am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Steven Goldmacher
9 Brantford Court
Marlboro, NJ 07746–1237
CC: Citizens for a Sound Economy

MTC–00032779

From: William Bertles
To: Ms. Renata B. Heese
Date: 1/17/02 8:48am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
William Bertles
1805 Kenwood ave
Alexandria, VA 22302–2641
CC: Citizens for a Sound Economy

MTC–00032780

From: Kristopher McCasland
To: Ms. Renata B. Heese
Date: 1/17/02 8:53am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Kristopher McCasland
166 Oxford Ave.
Bradford, MA 01835–8339
CC: Citizens for a Sound Economy

MTC–00032781

From: Lisa Walker
To: Ms. Renata B. Heese
Date: 1/17/02 8:53am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Lisa Walker
7444 Shadowwood CT NE
Keizer, OR 97303–7853
CC: Citizens for a Sound Economy

MTC–00032782

From: Melissa Hawkes
To: Ms. Renata B. Heese
Date: 1/17/02 8:53am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Melissa Hawkes
7559 Glowing Ember Court
#201
Las Vegas, NV 89130–7920
CC: Citizens for a Sound Economy

MTC–00032783

From: Stephen Foxx
To: Ms. Renata B. Heese
Date: 1/17/02 9:03am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Stephen Foxx
7915 Campion Ln.
Hazelwood, MO 63042–3501
CC: Citizens for a Sound Economy

MTC–00032784

From: Cheryl Engasser
To: Ms. Renata B. Heese
Date: 1/17/02 9:18am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Cheryl Engasser
1515 Boies Road
East Aurora, NY 14052–9726
CC: Citizens for a Sound Economy

MTC–00032785

From: DONALD WALLING
To: Ms. Renata B. Heese
Date: 1/17/02 9:18am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
DONALD WALLING
855 HEATHERIDGE
BRIGHTON, MI 48116
CC: Citizens for a Sound Economy

MTC–00032786

From: Tom Burris
To: Ms. Renata B. Heese
Date: 1/17/02 9:19am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Tom Burris
P.O. Box 379
4161 Fox Rd
Kingsville, OH 44048–0379
CC: Citizens for a Sound Economy

MTC–00032787

From: George Forray
To: Ms. Renata B. Heese
Date: 1/17/02 9:19am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
George Forray
337 Campbell St.
Mishawaka, IN 46544–2853
CC: Citizens for a Sound Economy

MTC-00032788

From: Rick Moore
To: Ms. Renata B. Hesse
Date: 1/17/02 9:21am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Rick Moore
7580 Seacrest Way, North
Noblesville, IN 46060
CC: Citizens for a Sound Economy

MTC-00032789

From:
marek@mcmail.cis.mcmaster.ca@inetgw
To: dept. of justice
Date: 1/17/02 9:23am
Subject: Open file formats

I would like to comment on the Microsoft case. There should be a push towards opening Microsoft file formats (ea.. Word, Excel) if government doesn't want to find itself in a position where Bill Gates will dictate when and what software to use and how much to put in his coffers. It only make sense that user should be able to use any word processor to open a document, or any spreadsheet program to open a spreadsheet and so on. You do not have to break company apart to force competition. Just insist that in order to get government software contracts, it has to be open file format.

Regards
Marek Kiela
kielam@mcmaster.ca
Canada

MTC-00032790

From: Dale Hash
To: Ms. Renata B. Hesse
Date: 1/17/02 9:27am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Dale Hash
8014 Troiano Drive
Culpeper, VA 22701–7267
CC: Citizens for a Sound Economy

MTC-00032791

From: Bernard McCoy
To: Ms. Renata B. Hesse
Date: 1/17/02 9:32am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Bernard McCoy
179 Brandon
Glen Ellyn, IL 60137–5378
CC: Citizens for a Sound Economy

MTC-00032792

From: Eric Gruss
To: Ms. Renata B. Hesse
Date: 1/17/02 9:34am
Subject: Microsoft Settlement (Non-Support)

Dear Ms. Hesse:

I am writing in non-support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. I am disappointed in the nine state attorneys generalalong with the federal government's decision to settle the case. I am very estatic that remaining state attorneys general and the District of Columbia have decided to further pursue this case.

The settlement is unfair to all. It will allow Microsoft's to contiune on with an unfair monopoly of the home PC operating systems. I believe they will also continue to abuse loopholes in this agreement to claim their "openess" while behind the scenes they will make changes to users computers to render other company's software products inoperable.

Recentlly Microsoft released it's newest operating system that threatens every small software vendor in the US. It gives Microsoft the ability to force updates on users computers that could consequentlly have adverse effects on other non-microsoft software. Once again, I would urge you not to settle this lawsuit against a successful and innovative company.

Respectfully,
Eric Gruss
2424 Alvarado Dr
Kettering, OH 45420–1010

MTC-00032794

From: Jenny McNamara
To: Ms. Renata B. Hesse
Date: 1/17/02 9:43am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of

Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jenny McNamara
2801 Lake Earl Drive
Crescent City, CA 95531–8814
CC: Citizens for a Sound Economy

MTC–00032795

From: Andrew Rufus
To: Ms. Renata B. Heese
Date: 1/17/02 9:48am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Andrew Rufus
221 west 12th street
apt#221
Columbus, OH 43210–1303
CC: Citizens for a Sound Economy

MTC–00032796

From: Robert Moore
To: Ms. Renata B. Heese
Date: 1/17/02 10:06am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Robert Moore
319 W. Oak St.
Washington Court House, OH 43160–1853
CC: Citizens for a Sound Economy

MTC–00032797

From: Ben Leland
To: Ms. Renata B. Heese
Date: 1/17/02 10:10am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.WE HAVE WASTED ENOUGH TIME AND MONEY ON THIS CASE AND SHOULD NOT EXPEND ANYMORE.wE HAVE MANY OTHETR PLACES TO PUT THE TAXPAYER'S HARD EARNED MONEY. LETS GET GOING. BTLELAND

Respectfully,
Ben Leland
6041 Kendrick Circle
Huntington Beach, CA 92647–4235
CC: Citizens for a Sound Economy

MTC–00032798

From: David Padden
To: Ms. Renata B. Heese
Date: 1/17/02 10:13am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
David Padden
10357 S. Leavitt St.
Chicago, IL 60643–2418

CC: Citizens for a Sound Economy

MTC-00032799

From: M. Sass
To: Ms. Renata B. Heese
Date: 1/17/02 10:13am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
M. Sass
3550 N Lake Shore Dr
Chicago, IL 60657–1916
CC: Citizens for a Sound Economy

MTC-00032800

From: James Orcutt
To: Ms. Renata B. Heese
Date: 1/17/02 10:18am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
James Orcutt
PO Box 465
Fallbrook, CA 92088–0465
CC: Citizens for a Sound Economy

MTC-00032801

From: Virginia Almonrode
To: Ms. Renata B. Heese
Date: 1/17/02 10:24am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Virginia Almonrode
PCO 1st District
8611 NE 135th
Kirkland, WA 98034–1723
CC: Citizens for a Sound Economy

MTC-00032802

From: matthew casey
To: Ms. Renata B. Heese
Date: 1/17/02 10:24am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Matthew Casey
3601 Genevieve Ave N.
Oakdale, MN 55128–3070
CC: Citizens for a Sound Economy

MTC-00032803

From: David L. Williams
To: Ms. Renata B. Heese
Date: 1/17/02 10:38am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I support the recent settlement of the lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation.

The majority of Americans also support Microsoft as witnessed by continuing heavy use of their innovative and successful software. The irony of a government trying to destroy a successful business is not lost on many people.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
David L. Williams
1335 Sunny Slope Rd.
Fairbanks, AK 99709–6430
CC: Citizens for a Sound Economy

MTC–00032804

From: Jack Davis
To: Ms. Renata B. Heese
Date: 1/17/02 10:38am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Jack Davis
1702 Vintner Way
San Jose, CA 95124–5739
CC: Citizens for a Sound Economy

MTC–00032805

From: Gem Burke
To: Justice
Date: 1/17/02 10:50am
Subject: Fwd: Microsoft Settlement Addendum

Addendum near bottom
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Renata B. Hesse, Antitrust Division
cc Senator Ron Wyden
Senator Gorden Smith
Representative Greg Walden
Attorney General, State of Oregon
1810 Queens Branch Rd.
Rogue River, OR 97537
January 16, 2002
Re: Microsoft Settlement.

My name is Gem Burke and work in the communications industry as an engineer. I do not claim to be a computer expert or geek, although I probably know more about computers & software than the average user. I am simply a user of computers and their software and I would like a statement about the ?Microsoft Settlement?. I have tried reading at least some of the papers on this action and incorporate that with what seems to be happening in the real world. On this very day, I installed my tax program from Quicken and at the end of it Microsoft's Internet Explorer was installed on my computer. I wasn't asked, it wasn't an option. Then I was asked if I wanted to install AOL. So here it is January 16, 2002 and after all the denials of Microsoft, I'm still getting IE shoved down my throat whether I like it or not. They (Microsoft) are obviously not concerned about anything happening to them in court. This is not the first time Intuit has done this to me and complained to them about this then to no avail.

I could tell you about the site on the internet I logged into that changed all my defaults from Netscape to IE or any of quite a number of other examples of blatant examples of monopolistic behavior but the point I thought important is even on this late date, Microsoft is continuing to muscle out competition confident that it will come through this proceedings unscathed.

I work in the telephone business and one thing for sure, as AT&T was accused of being a monopoly and they were forced to breakup into a dozen smaller companies for anticompetiveness then, Microsoft should be broken up into 200 smaller companies because not only is Microsoft bigger and stronger,. he doesn't even try to hide the fact that he plans to muscle everyone else out. I'm not a lawyer but a blind man could see the blatant anticompetativeness of Microsoft and the fact that he can use his resources to beat off anybody including the justice department.

01–17–02 Today I tried using Turbo Tax. The first thing to do is update for latest tax information. TT (Turbo Tax) will only allow this to be done using IE (Internet Explorer). Trying to get help or post comments with Netscape only results in error messages.

TT help says: ************************

“Internet Explorer is installed to allow TurboTax to quickly and reliably identify your Internet Service Provider(s) (i.e. AOL, Earthlink...) and allow you to connect to the Internet through TurboTax. Access to the Internet is required to update your product, download your state program, and file electronically. Internet Explorer is not configured as your default browser and can be uninstalled from your computer along with TurboTax after you have filed your tax return.” ************************

Which brings to question, “Why do they need to know who my IP is?” Secondly, I suspect they are really gathering some other kind of information from the computer, illegally, why else would they insist on using this browser? There may be a lot of un-documented features of IE may allow them to do lots of illegal snooping of my records. And it is just possible that Quicken has a back-door built into their programs that allows them access to all my finical records. If this could be referred to the proper authorities or somebody tell me who I could refer this to. I believe I have a valid complaint and I would like to see something done about it.

Thank You
Gem Burke

MTC–00032806

From: A. Lorenz
To: Ms. Renata B. Heese
Date: 1/17/02 10:51am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
A. Lorenz
RR1
Warsaw, OH 43844
CC: Citizens for a Sound Economy

MTC–00032807

From: Alben Du Vall
To: Ms. Renata B. Heese
Date: 1/17/02 10:54am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Alben Du Vall
PO Box 199
West Hamlin, WV 25571–0199
CC: Citizens for a Sound Economy

MTC–00032808

From: Elizabeth LeForge
To: Ms. Renata B. Heese
Date: 1/17/02 10:59am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Elizabeth LeForge
1201 Woodrow Wilson
Fostoria, OH 44830–1663

MTC–00032809

From: Alan Price
To: Ms. Renata B. Heese
Date: 1/17/02 11:01am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Alan Price
18 Bedford Terrace
Turnersville, NJ 08012–2102
CC: Citizens for a Sound Economy

MTC–00032810

From: Dave Hammond
To: Ms. Renata B. Heese
Date: 1/17/02 11:10am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Dave Hammond
215 Main Street
Culver, KS 67484–9131
CC: Citizens for a Sound Economy

MTC–00032811

From: Ethelmae Humphreys
To: Ms. Renata B. Heese
Date: 1/17/02 11:11am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Ethelmae Humphreys
2505 E. 11th St.
Joplin, MO 64801–5330
CC: Citizens for a Sound Economy

MTC–00032812

From: Robert Edwards
To: Ms. Renata B. Heese
Date: 1/17/02 11:20am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Robert Edwards
179 Taurus Drive
Santa Rosa Beach, FL 32459–5408
CC: Citizens for a Sound Economy

MTC-00032813

From: Jed Rice
To: Ms. Renata B. Heese
Date: 1/17/02 11:27am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

To many of us the Microsoft litigation appears to be nothing more than the heavy hand of government in search of more money to squander. The government appears always to search for more money and power, without any increase in it's effectivness. The net effect is to reduce freedom for everyone and increase the cost of of government and everything we purchase. We should be reducing the power and intrusivness of government and get back to the role of government invisioned in the constitution.

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Jed Rice
jedrice@yahoo.com
San Ramon, CA 94583
CC: Citizens for a Sound Economy

MTC-00032814

From: JoAnn King
To: Ms. Renata B. Heese
Date: 1/17/02 11:34am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
JoAnn King
2118 East Pike
Zanesville, OH 43701–4621
CC: Citizens for a Sound Economy

MTC-00032815

From: Melanie Berrett
To: Ms. Renata B. Heese
Date: 1/17/02 11:41am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Melanie Berrett
20811 Quiet Brook Place
Potomac Falls, VA 20165–5866
CC: Citizens for a Sound Economy

MTC-00032816

From: David Seng
To: Ms. Renata B. Heese
Date: 1/17/02 11:44am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
David Seng
360 Browns Point
Dawsonville, GA 30534–6903
CC: Citizens for a Sound Economy

MTC-00032817

From: Rick Sexauer

To: Ms. Renata B. Heese
Date: 1/17/02 11:53am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Rick Sexauer
2517 La Sierra Court
Camarillo, CA 93012–8812
CC: Citizens for a Sound Economy

MTC–00032818

From: JOHN D. BORGES
To: Ms. Renata B. Heese
Date: 1/17/02 12:00pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
JOHN D. BORGES
9538 RT220 HWY
HUGHESVILLE, PA 17737
CC: Citizens for a Sound Economy

MTC–00032819

From: David Littmann
To: Ms. Renata B. Heese
Date: 1/17/02 12:01pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
David Littmann
2752 Courville Drive
Bloomfield Hills, MI 48302–1017
CC: Citizens for a Sound Economy

MTC–00032820

From: Patricia Shampo
To: Ms. Renata B. Heese
Date: 1/17/02 12:20pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Patricia Shampo
1046 Hwy M 35
Bark River, MI 49807–9770
CC: Citizens for a Sound Economy

MTC–00032821

From: Charlie Browne
To: Ms. Renata B. Heese
Date: 1/17/02 12:21pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company. Continued harrassment of Microsoft can only further weaken the economies of both the USA as well as Washington and the Puget Sound area. This state already has the second highest unemployment rate in the nation. Enough is enough. They have been punished. We all have been punished! Look at the timing of the start of the nations economic demise and the position of Janet Reno's "case" in April of 2000.

Respectfully,
Charlie Browne
636 164th Pl NE
Bellevue, WA 98008–4013
CC: Citizens for a Sound Economy

MTC–00032822

From: Brenda Martin
To: Ms. Renata B. Heese
Date: 1/17/02 12:21pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Brenda Martin
4236 Irene Drive
Anchorage, AK 99504–4629
CC: Citizens for a Sound Economy

MTC–00032823

From: Eric Ivers
To: Ms. Renata B. Heese
Date: 1/17/02 12:23pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

Please accept the settlement for the Microsoft case. We have spent altogether too much time and money on this in the first place, and it is time to move on.

Respectfully,
Eric Ivers
145 Locust
Carrollton, IL 62016–1328
CC: Citizens for a Sound Economy

MTC–00032824

From: Kate Mulligan
To: Ms. Renata B. Heese
Date: 1/17/02 12:24pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Kate Mulligan
22 Overlook Drive
Wilbraham, MA 01095–1924
CC: Citizens for a Sound Economy

MTC–00032825

From: Pat Cygan
To: Ms. Renata B. Heese
Date: 1/17/02 12:38pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Pat Cygan
1642 Lara St. N .E.
Palm Bay, FL 32907–2421
CC: Citizens for a Sound Economy

MTC–00032826

From: J.Bryan Mc Duffie
To: Ms. Renata B. Heese
Date: 1/17/02 1:31pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
J.Bryan Mc Duffie
110 Mc Duffie Lane
P. O. Box 1594
West Monroe, LA 71291–9425
CC: Citizens for a Sound Economy

MTC–00032827

From: Ramon Ramirez
To: Ms. Renata B. Heese
Date: 1/17/02 1:32pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Ramon Ramirez
3295 N 153rd Dr
Goodyear, AZ 85338-8530
CC: Citizens for a Sound Economy

MTC-00032828

From: David Bartlett
To: Ms. Renata B. Heese
Date: 1/17/02 1:39pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
David Bartlett
1401 Stonington Drive
Wilmington, NC 28412-5113
CC: Citizens for a Sound Economy

MTC-00032829

From: John Blanton
To: Ms. Renata B. Heese
Date: 1/17/02 1:41pm
Subject: Against Microsoft Settlement

Dear Ms. Heese:

I am writing in against the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. I disappointed in the nine state attorneys general that decided to follow the federal government's lead and settle the case, I thoroughly approve of the decision by the remaining state attorneys general and the District of Columbia to further pursue this case.

The settlement acheives nothing. It leaves Microsoft in position to use Microsoft's Windows operating system as an unfair leverage against their competitors (such as they did with Netscape) and will leave consumers with less services and products to choose from.

As you are well aware, most, but not all, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. Myself, I thought the initial case did not go far enough. As someone who works daily with the internet and many different software packages, I have seen Microsoft use their knowledge of their own operating system to give themselves an unfair advantage over their competitors. By including more and more options, such as browsers and media players, in their OS and using their financial weight against OEMs (Original Equipment Manufacturers) they have eliminated many compeitiors. I ask you to reconsider your decision to settle this appropiate lawsuit against a successful and predatory company.

Respectfully,
John Blanton
9421 Paigefield Ct.
Richmond, VA 23229-6258
CC: Citizens for a Sound Economy

MTC-00032830

From: Mary Wofford
To: Ms. Renata B. Heese
Date: 1/17/02 2:05pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Mary Wofford
1221 Charlane Ct.
St. Louis, MO 63119-1103
CC: Citizens for a Sound Economy

MTC-00032831

From: Leonard Tillerson
To: Ms. Renata B. Heese
Date: 1/17/02 2:13pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Leonard Tillerson
244 Osprey Circle
St. Marys, GA 31558-4101
CC: Citizens for a Sound Economy

MTC-00032832

From: Ronald Huston
To: Ms. Renata B. Heese
Date: 1/17/02 2:18pm

Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Ronald Huston
1749 W. Placita de Vanegas
Tucson, AZ 85704–1000
CC: Citizens for a Sound Economy

MTC–00032833

From: Brian Baumgartner
To: Ms. Renata Hesse
Date: 1/17/02 2:31pm
Subject: Microsoft Settlement

Brian Baumgartner
22365 El Toro Road, #421
Lake Forest, CA 92630
January 17, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Brian J. Baumgartner

MTC–00032834

From: James Rolen
To: Ms. Renata B. Heese
Date: 1/17/02 2:32pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
James Rolen
814 Sunshine Canyon Drive
Boulder, CO 80302–9727
CC: Citizens for a Sound Economy

MTC–00032835

From: emilio despirito
To: Ms. Renata B. Heese
Date: 1/17/02 2:32pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
emilio despirito
234 croton ave
bedford corners, NY 10549–4033
CC: Citizens for a Sound Economy

MTC–00032836

From: David Beatty
To: Ms. Renata B. Heese
Date: 1/17/02 2:34pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
David Beatty
1106 Crossing Way NW
Cleveland , TN 37312–3061
CC: Citizens for a Sound Economy

MTC–00032837

From: Gene Ruminski
To: Ms. Renata B. Heese
Date: 1/17/02 2:36pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Gene Ruminski
606 Pine Crest Drive
Heathsville, VA 22473–4305
CC: Citizens for a Sound Economy

MTC–00032838

From: Karin Wilson
To: Ms. Renata B. Heese
Date: 1/17/02 3:04pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Karin Wilson
8306 West 90th Avenue
Westminster, CO 80021–4540
CC: Citizens for a Sound Economy

MTC–00032839

From: Mary Rogers
To: Ms. Renata B. Heese
Date: 1/17/02 3:05pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Mary Rogers
39 Windsor Drive
Tuscaloosa, AL 35404–4335
CC: Citizens for a Sound Economy

MTC–00032840

From: Michael Pehel
To: Ms. Renata B. Heese
Date: 1/17/02 3:06pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Michael Pehel
55 Hunters Lane
South Huntington, NY 11746–3934
CC: Citizens for a Sound Economy

MTC–00032841

From: Henry Ayre

To: Ms. Renata B. Heese
Date: 1/17/02 3:13pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Henry Ayre
P. O. Box 2571
Soldotna, AK 99669–2571
CC: Citizens for a Sound Economy

MTC–00032842

From: LISA STEVENSON
To: Ms. Renata B. Heese
Date: 1/17/02 3:14pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
LISA STEVENSON
813 RUTLEDGE ROAD
CHESAPEAKE, VA 23320–6021
CC: Citizens for a Sound Economy

MTC–00032843

From: michael lewis
To: Ms. Renata B. Heese
Date: 1/17/02 3:14pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
michael lewis
3440 quebec ave so
st louis park, MN 55426–4021
CC: Citizens for a Sound Economy

MTC–00032844

From: george flanigan
To: Ms. Renata B. Heese
Date: 1/17/02 3:24pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
george flanigan
602 ironwood
normal, IL 61761–5268
CC: Citizens for a Sound Economy

MTC–00032845

From: William Lewis
To: Ms. Renata B. Heese
Date: 1/17/02 3:27pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
William Lewis
5595 Caribou Trail
Stevensville, MI 49127–1310

CC: Citizens for a Sound Economy

MTC-00032846

From: James Braly
To: Ms. Renata B. Heese
Date: 1/17/02 3:29pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in total support of the recent settlement of the long-running, envy-driven antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless and harmful case.

The settlement is more than fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers like me more services and products to choose from.

As you should be well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, tens of thousands of activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided us with great benefits by lowering the cost, increasing the availability of software products, and opening up an immediate worldwide access to knowledge. We have stressed that Microsoft is a much admired pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a highly successful and innovative company.

Respectfully,
James Braly
451 Crestdale Lane
#163
Las Vegas, NV 89144-1005
CC: Citizens for a Sound Economy

MTC-00032847

From: jim gaines
To: Ms. Renata B. Heese
Date: 1/17/02 3:31pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company. As a long time member of the computer industry I have seen Microsofts service to the user community as a positive influence.

Respectfully,
jim gaines
603 w13 ste 1a-113
austin, TX 78701-1731
CC: Citizens for a Sound Economy

MTC-00032848

From: Ron Hendrix
To: Ms. Renata B. Heese
Date: 1/17/02 3:56pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Ron Hendrix
1374 Redondo Ct.
Los Lunas, NM 87031-9041
CC: Citizens for a Sound Economy

MTC-00032849

From: peter stebbins
To: Ms. Renata B. Heese
Date: 1/17/02 4:37pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
peter stebbins
32 bradford st
concord, MA 01742-2940
CC: Citizens for a Sound Economy

MTC-00032850

From: Robert St. Louis
To: Ms. Renata B. Heese
Date: 1/17/02 4:53pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. I am also disappointed that this case was ever brought against Microsoft Corporation. It seems that this country is bent on punishing successful enterprises, usually at the urging of those that are less imaginative and hard working.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to

the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Robert St. Louis
#6 Ruby Mountain Estates
Spring Creek, NV 89815–5655
CC: Citizens for a Sound Economy

MTC–00032851

From: Jean Castagno
To: Ms. Renata B. Heese
Date: 1/17/02 5:07pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Jean Castagno
75 Fenwood Drive
Old Saybrook, CT 06475–3031
CC: Citizens for a Sound Economy

MTC–00032852

From: Christopher Boggs
To: Ms. Renata B. Heese
Date: 1/17/02 5:30pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Christopher Boggs
120 Charles St.
Sulphur Springs, TX 75482–3504
CC: Citizens for a Sound Economy

MTC–00032853

From: Ernest Thabet
To: Ms. Renata B. Heese
Date: 1/17/02 5:40pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Ernest Thabet
3071 Clear Springs Court
Charlottesville, VA 22911–7219
CC: Citizens for a Sound Economy

MTC–00032854

From: Amanda Jervis
To: Ms. Renata B. Heese
Date: 1/17/02 6:00pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Amanda Jervis
2307 Englewood Ave
Durham, NC 27705–4014
CC: Citizens for a Sound Economy

MTC–00032855

From: Joseph Hull
To: Ms. Renata B. Heese
Date: 1/17/02 6:16pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been

unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Joseph Hull
Whispering Sands Ranch
CHS Star Route Box 66
Castle Hot Springs, AZ 85342–0066
CC: Citizens for a Sound Economy

MTC-00032856

From: Jeff Farnham
To: Ms. Renata B. Hesse
Date: 1/17/02 6:17pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jeff Farnham
2353 Swindon Lane
Kernersville, NC 27284–4336
CC: Citizens for a Sound Economy

MTC-00032857

From: Loy Puckett
To: Ms. Renata B. Hesse
Date: 1/17/02 7:09pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Loy Puckett
4108 S. Fall Ridge Dr.
Columbia, MO 65203–6629
CC: Citizens for a Sound Economy

MTC-00032858

From: Sumner Kibbe
To: Ms. Renata B. Hesse
Date: 1/17/02 7:15pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Sumner Kibbe
43 Horn Cove Road
Southport, ME 04576
CC: Citizens for a Sound Economy

MTC-00032859

From: Candy Scott
To: Ms. Renata Hesse
Date: 1/17/02 7:25pm
Subject: Microsoft Settlement
Candy Scott
317 White Oak Dr.
Lake Dallas, TX 75065
January 17, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Candy Scott

MTC-00032860

From: steve raulerson
To: Ms. Renata B. Heese
Date: 1/17/02 7:48pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
steve raulerson
11310 soforenko dr
jacksonville, FL 32218-4133
CC: Citizens for a Sound Economy

MTC-00032861

From: Luke Elliott
To: Ms. Renata B. Heese
Date: 1/17/02 7:51pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Luke Elliott
1252 Yorkshire
Grosse Pointe Park, MI 48230-1106
CC: Citizens for a Sound Economy

MTC-00032862

From: Donald Phillips
To: Ms. Renata B. Heese
Date: 1/17/02 7:52pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Donald Phillips
1220 s. 28th. st.
Broken Arrow, OK 74014-5015
CC: Citizens for a Sound Economy

MTC-00032863

From: Harold Beam
To: Ms. Renata B. Heese
Date: 1/17/02 8:18pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Harold Beam
6191 Mountainside Drive
Hickory, NC 28601-9433
CC: Citizens for a Sound Economy

MTC-00032864

From: Christopher Woods
To: Ms. Renata B. Heese
Date: 1/17/02 8:38pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft

Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Christopher Woods
23911 Ash Lane
Mission Viejo, CA 92691–3010
CC: Citizens for a Sound Economy

MTC–00032865

From: Christopher Phair
To: Ms. Renata B. Heese
Date: 1/17/02 8:52pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-runningantitrust lawsuit between the U.S. Department of Justice, stateattorneys general and Microsoft Corporation. Though I applaud thenine state attorneys general that decided to follow the federalgovernment's lead and settle the case, I am thoroughly disappointedthat remaining state attorneys general and the District of Columbiahave decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunatelawsuit against a successful and innovative company.

Respectfully,
Christopher Phair
3217 St. Paul St.
Baltimore, MD 21218–3326
CC: Citizens for a Sound Economy

MTC–00032866

From: Igor and Maria PALLEY
To: Ms. Renata B. Heese
Date: 1/17/02 8:52pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

We are writing in support of the recent settlement of the long-runningantitrust lawsuit between the U.S. Department of Justice, stateattorneys general and Microsoft Corporation. Though we applaud thenine state attorneys general that decided to follow the federalgovernment's lead and settle the case, we are thoroughly disappointedthat remaining state attorneys general and the District of Columbiahave decided to further pursue this baseless case.

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Once again, we thank you for your decision to settle this unfortunatelawsuit against a successful and innovative company.

Respectfully,
Igor and Maria PALLEY
18 Dean Street
MADISON, NJ 07940–2215
CC: Citizens for a Sound Economy

MTC–00032867

From: Dolores Hasse
To: Ms. Renata B. Heese
Date: 1/17/02 10:19pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-runningantitrust lawsuit between the U.S. Department of Justice, stateattorneys general and Microsoft Corporation. Though I applaud thenine state attorneys general that decided to follow the federalgovernment's lead and settle the case, I am thoroughly disappointedthat remaining state attorneys general and the District of Columbiahave decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunatelawsuit against a successful and innovative company.

What happened to free interprise and the desire to better one's selfwith your ideas?

Respectfully,
Dolores Hasse
523 Opal Ave.
Klamath Falls, OR 97601–1037
CC: Citizens for a Sound Economy

MTC–00032868

From: Carrie Allen
To: Ms. Renata B. Heese
Date: 1/17/02 10:41pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-runningantitrust lawsuit between the U.S. Department of Justice, stateattorneys general and Microsoft Corporation. Though I applaud thenine state attorneys general that decided to follow the federalgovernment's lead and settle the case, I am thoroughly disappointedthat remaining state attorneys general and the District of Columbiahave decided to further pursue this baseless case.

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Respectfully,
Carrie Allen
7912 Lowtide Circle

Huntington Beach, CA 92648–2301
CC: Citizens for a Sound Economy

MTC–00032869

From: gleen murray
To: Ms. Renata B. Heese
Date: 1/18/02 2:47am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
gleen murray
201 w mary st
bristol, VA 24201–4660
CC: Citizens for a Sound Economy

MTC–00032870

From: Andrew Grisham
To: Ms. Renata B. Heese
Date: 1/18/02 2:51am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Andrew Grisham
8713 Golden Gardens Dr. N. W.
Seattle, WA 98117–3942
CC: Citizens for a Sound Economy

MTC–00032871

From: Jacquelyn Currie
To: Ms. Renata B. Heese
Date: 1/18/02 4:27am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jacquelyn Currie
1933 Lakeshore Drive
Hot Springs, AR 71913–5425
CC: Citizens for a Sound Economy

MTC–00032873

From: Cindy Schierling
To: Ms. Renata B. Heese
Date: 1/18/02 5:04am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Cindy Schierling
479 E. 341st Street
Lebo, KS 66856–9119
CC: Citizens for a Sound Economy

MTC–00032874

From: james m nordlund
To: Ms. Renata Hesse
Date: 1/18/02 5:13am
Subject: Microsoft Settlement
james m nordlund
p.o.b. 982
Lakin, KS 67860–0982
January 18, 2002
Ms.Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

Hello! I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Viva la evolution, viva green party! reality Thanx for your attention and time.

Sincerely,
james m nordlund

MTC-00032875

From: George Buttery
To: Ms. Renata B. Heese
Date: 1/18/02 6:03am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
George Buttery
14458 Hillview Drive
Largo, FL 33774–5033
CC: Citizens for a Sound Economy

MTC-00032876

From: ray lambright
To: Ms. Renata B. Heese
Date: 1/18/02 6:43am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
ray lambright
3158 massieville rd.
chillicothe, OH 45601–8914
CC: Citizens for a Sound Economy

MTC-00032877

From: William Stoner
To: Ms. Renata B. Hesse
Date: 1/18/02 6:54am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
William Stoner
2020 Madison SE
Grand Rapids, MI 49507–3152
CC: Citizens for a Sound Economy

MTC-00032878

From: Taxabo2@aol.com@inetgw
To: libertariansociety@
yahoogroups.com@inetgw
Date: 1/18/02 9:00am
Subject: Microsoft lobbying opportunity . . .

Gentlepeople:

Public comment on the Microsoft anti-trust case officially closes January 28th. If, like me, you wish to make your "two cents worth" heard, simply email your comments to Attorney General John Ashcroft's anti-trust office at: microsoft.atr@usdoj.gov. You can also let Microsoft read your comments by emailing Microsoft at: fin@mobilizationoffice.com . Here are my comments.

Dear Attorney General Ashcroft:

From the beginning I have regarded the anti-trust case against Microsoft as bogus, just another tiresome example of socialist religiosity imposing their dogma of business virtue in the form of "perfect competition."

As a Tolerant Party supporter, I, of course, am a critic of unlimited government, of letting government do more than impose the limited virtue of peace through enforcement of universal, natural, human, individual rights.

There is no right to be kept competitive, or to have others kept less competitive than one's self. The only legitimate competition-related rights are those of freedom from fraud and defense of one's property rights. Bundling evermore software programs into one's browser, and not giving equal access to other firm's software, is a browser owner's property right rather than a violation of such.

I hope that in this age of global terrorism by Al Queda's vice and virtue squads you and other government leaders can relearn the virtue of limited government. Just as we must defund terrorists by legalizing the drug usage from which they derive so much illicit income, we must stimulate the American economy by legalizing freedom of competition. It is time to stop imposing our ruling elite's religious convictions about unlimited perfection of society with their wars on drugs, unfair competition, pornography, poverty, ad nauseum.

The militarization of society in pursuit of unlimited moral perfection leads to the destruction of such societies. When Rome abandoned their tolerant religious policies and began forcing every Roman to worship their new emperors as deities, Christianity became uniquely important a resistance force to Roman oppression as Christians alone refused to worship Rome's new emperor gods. Christians were actually persecuted as "atheists" because of their anti-emperor-deity attitude. If Rome's decline into unlimited "virtue" by government decree, the destruction of Imperial Japan, Nazi Germany and the Soviet Union's similar decline should be instructive. However, Talliban Afghanistan's theocracy shows how few rulers learn this history lesson.

Sincerely,
Robert Bakhaus
taxabo2@aol.com

MTC-00032879

From: Samir Vyas
To: Ms. Renata Hesse
Date: 1/18/02 9:04am
Subject: Microsoft Settlement
Samir Vyas
39 E. 9th St #209
Indianapolis, IN 46204
January 18, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Samir Vyas

MTC-00032880

From: Davie Kimbrell
To: Ms. Renata B. Heese
Date: 1/18/02 9:55am
Subject: Microsoft Settlement (Support) Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Davie Kimbrell
PO Box 333
Southmont, NC 27351-0333
CC: Citizens for a Sound Economy

MTC-00032881

From: Daniel Bakstad
To: Attorney General John Ashcroft
Date: 1/18/02 10:40am
Subject: Microsoft Settlement
January 18, 2002

Dear Mr. Ashcroft:

As one of America's largest employers, Microsoft has been unwisely targeted in this antitrust dispute, especially when you consider the current state of the American economy. Microsoft is a successful company, built by the standards of the American dream. The attack on this company is an attack on the American dream.

The settlement that has been reached is a good one in spite of the rather harsh terms that Microsoft will be complying with. For example, Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows" operating system products-a first in an antitrust settlement. The most important thing, at this point, is just to get this litigation behind us so we can focus on more important issues.

Thank you for all that you have done in bringing about this settlement. Your decision to settle has shown true foresight and wisdom on your part. Hopefully, the remaining nine states still pursuing litigation will soon see the wisdom of this settlement. Thank you.

Sincerely,
Daniel Bakstad
1301 Stonehurst Dr
Anderson, SC 29621

MTC-00032882

From: Irene Wice
To: Ms. Renata B. Heese
Date: 1/18/02 11:23am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of

Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Irene Wice
156 Windrose Driv e
Thousand Oaks, CA 91320–3563
CC: Citizens for a Sound Economy

MTC–00032883

From: Janet Simonson
To: Ms. Renata B. Hesse
Date: 1/18/02 11:49am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Janet Simonson
PO Box 1235
Suquamish, WA 98392–1235
CC: Citizens for a Sound Economy

MTC–00032884

From: Charlotte Worden
To: Ms. Renata Hesse
Date: 1/18/02 11:56am
Subject: Microsoft Settlement
Charlotte Worden
1821 2nd St
Lewiston, ID 83501
January 18, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case ? the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors? products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement. This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Charlotte Worden

MTC–00032885

From: Roger Cooper
To: Ms. Renata B. Hesse
Date: 1/18/02 1:06pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Roger Cooper
336 Live Oak Dr.
336 Live Oak Dr.
Vero Beach, FL 32963–9677
CC: Citizens for a Sound Economy

MTC–00032886

From: Michelle Fogle
To: Ms. Renata B. Hesse
Date: 1/18/02 1:13pm

Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Michelle Fogle
24810 Northampton Forest Dr.
Spring, TX 77389–2911
CC: Citizens for a Sound Economy

MTC–00032887

From: Jerry Jones
To: Ms. Renata B. Heese
Date: 1/18/02 1:52pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jerry Jones
5845 E Placita Alta Reposa
Tucson, AZ 85750–1096
CC: Citizens for a Sound Economy

MTC–00032888

From: James Smith
To: Ms. Renata B. Heese
Date: 1/18/02 1:53pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
James Smith
2671 Warwick Circle, NE
Atlanta, GA 30345–1633
CC: Citizens for a Sound Economy

MTC–00032889

From: CAROLE MARZ
To: Ms. Renata B. Heese
Date: 1/18/02 2:56pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
CAROLE MARZ
P. O. Box 174
Chincoteague, VA 23336–0174
CC: Citizens for a Sound Economy

MTC–00032890

From: Stuart B. Holoman
To: To Whom It May Concern
Date: 1/18/02 3:10pm
Subject: Microsoft Settlement

To Whom It May Concern:

I understand that the address to which this email is being sent is the proper address for making comments relative to the DoJ proposed antitrust settlement with 9 states and Microsoft.

I believe that the proposed settlement is adequate and sufficient to complete any dealings between the DoJ and Microsoft. It seems to me that the provisions of the agreement are tough, reasonable, and more than fair to all parties involved. I believe completing this settlement is in the public interest and certainly in my personal interest. It is time to let Microsoft get on with their business and improve their products, of which I am a continuous user. I believe it is time to allow Microsoft to stop expending massive funds paying lawyers to defend itself against these suits and allow those funds to be used for the improvement of Microsoft products.

As a Microsoft stock holder, I believe that settlement of this action will improve my equities position.

The proposed settlement is in my interest and the public interest. The District Court reviewing the case should so find.

Thank you,
Stuart Holoman
2617 Countrywood Road
Raleigh, NC 27615
sholoman@holocon.net

MTC–00032891

From: CONRAD ODENTHAL

To: Ms. Renata B. Heese
Date: 1/18/02 4:15pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
CONRAD ODENTHAL
25575 SW LABROUSSE RD
SHERWOOD, OR 97140–8807
CC:
Citizens for a Sound Economy

MTC–00032892

From: Andrew Horras
To: Ms. Renata B. Heese
Date: 1/18/02 4:26pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Andrew Horras
7 Wheatfield Ct.
Collinsville, IL 62234–2239
CC: Citizens for a Sound Economy

MTC–00032893

From: Harris Hall
To: Ms. Renata B. Heese
Date: 1/18/02 6:25pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Harris Hall
777 S. Orange Grove Blvd.
Apartment #2
Pasadena, CA 91105–1761
CC: Citizens for a Sound Economy

MTC–00032894

From: Rosemary Cleland
To: Ms. Renata B. Heese
Date: 1/18/02 7:53pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Rosemary Cleland
575 Hobson Street
Unit C
Bishop, CA 93514–2500
CC: Citizens for a Sound Economy

MTC–00032895

From: David Trend
To: Ms. Renata B. Heese
Date: 1/18/02 9:27pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
David Trend
25 Lakeview Drive
Skillman, NJ 08558–2406
CC: Citizens for a Sound Economy

MTC-00032896

From: Benjamin Gronke
To: Ms. Renata Hesse
Date: 1/18/02 11:07pm
Subject: Microsoft Settlement
Benjamin Gronke
993 East Madison Street
Waterloo, WI 53594
January 19, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance—the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

Prior to the September 11 terrorist attacks, Osama Bin Laden had already carried out numerous attacks against U.S. embassies and military installations. However, prior to September 11, the United States was spending more money chasing Bill Gates than it was chasing Osama Bin Laden. IS IT NOT TRUE THAT BILL GATES GIVES MILLIONS OF DOLLARS TO CHARITY AND OSAMA BIN LADEN IS A TERRORIST? I AM VERY DISAPPOINTED THAT MY GOVERNMENT SPENT MORE MONEY TRYING TO DESTROY BILL GATES THAN IT DID TRYING TO DESTROY A MURDERER NAMED OSAMA BIN LADEN!

Who's more dangerous? A businessman pursuing the American Dream, or a guy that runs a terrorist organization aimed at killing Americans? I think the majority of Americans would agree that a terrorist is more of a threat.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Benjamin Gronke

MTC-00032897

From: Les (038) Patricia Cowen
To: Ms. Renata B. Heese
Date: 1/19/02 5:04am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Les & Patricia Cowen
421 N. Turkey Pine Loop
Lecanto, FL 34461–8434
CC: Citizens for a Sound Economy

MTC-00032898

From: Thomas Dibble
To: Ms. Renata Hesse
Date: 1/19/02 5:21am
Subject: Microsoft Settlement
Thomas Dibble
21601 Redwing Ave
Jordan, MN 55352
January 19, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance—the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Thomas Dibble

MTC-00032899

From: Frank Corradino
To: Ms. Renata B. Heese
Date: 1/19/02 6:56am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I write in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Frank Corradino
8540 Clinton Ave.
Rome, NY 13440–9354
CC: Citizens for a Sound Economy

MTC-00032900

From: hammondr
To: Judge Kollar-Kotally
Date: 1/19/02 6:57am
Subject: Microsoft settlement

Honorable Judge Koller-Kotally:

We are writing this as a concerned citizens to express our concerns in regards to the Microsoft Proposed Final Judgement.

This Judgement does not deal with any of the three points with which

Microsoft was viewed as having violated.

1. Their illegal monopoly
2. To deny Microsoft the fruits of its past violations, nor
3. To prevent any such future anti-competitive activity.

Microsoft should not be granted a government mandated monopoly.

Therefore we urge you not to accept the Proposed Final Judgement.

Sincerely,
Rob and Shirley Hammond
Permanent address in US
312 Homecrest Dr
Willow Street, PA 17584–9449
In Austria,
Ocwirkgasse 9/4/9
A–1210 Vienna, Austria
E-Mail bushhammond@europe.com

MTC-00032901

From: Richard Moss
To: Ms. Renata B. Heese
Date: 1/19/02 8:53am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Richard Moss
212 E. Mission St.
Santa Barbara, CA 93101–1045
CC: Citizens for a Sound Economy

MTC-00032902

From: Irving Smith
To: Ms. Renata Hesse
Date: 1/19/02 1:21pm
Subject: Microsoft Settlement
Irving Smith
1618 Florida Ave.
Woodbridge, VA 22191
January 19, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case ? the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors? products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Irving and Midge Smith

MTC-00032903

From: S. Currie
To: Ms. Renata B. Heese
Date: 1/19/02 1:36pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this extremely costly case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, people like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
S. Currie
34300 Wallis
Clinton Twp, MI 48035–3684
CC: Citizens for a Sound Economy

MTC–00032904

From: William Barrington
To: Ms. Renata B. Heese
Date: 1/19/02 1:47pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
William Barrington
1506 Keel Drive
Corona Del Mar, CA 92625–1241
CC: Citizens for a Sound Economy

MTC–00032905

From: Bruce Butts
To: Ms. Renata Hesse
Date: 1/19/02 2:05pm
Subject: Microsoft Settlement
Bruce Butts
4908 Breeze Way
Dumfries, VA 22026–1253
January 19, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Bruce Butts

MTC–00032906

From: Robert Goodwyn
To: Ms. Renata Hesse
Date: 1/19/02 2:14pm
Subject: Microsoft Settlement
Robert Goodwyn
4202 Pickering Place
Alexandria, VA 22309–2821
January 19, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Robert T. Goodwyn

MTC-00032907

From: Thomas Fraser
To: Ms. Renata Hesse
Date: 1/19/02 3:42pm
Subject: Microsoft Settlement

Thomas Fraser
1604 E. Texas Ave.
Baytown, Tx 77520
January 19, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Thomas B. Fraser

MTC-00032908

From: Gwen Luhring
To: Ms. Renata Hesse
Date: 1/19/02 4:26pm
Subject: Microsoft Settlement

Gwen Luhring
190 Madrone Ridge Dr
Grants Pass, OR 97527-9144
January 19, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change. It's time to move on to other matters. Settle this case.

Sincerely,

Gwen R. Luhring

MTC-00032909

From: Nina McCorkle
To: Ms. Renata B. Hesse
Date: 1/19/02 6:21pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,

Nina McCorkle
637 Eisenhower St.
Davis, CA 95616-3030
CC: Citizens for a Sound Economy

MTC-00032910

From: Don Levy, M.A.
To: Microsoft ATR
Date: 1/20/02 1:23am
Subject: Microsoft Settlement

Gentlepeople:

I find it very disturbing that in the midst of being found a monopoly, Microsoft demonstrated that even while under the close scrutiny of the court it cannot resist trying to corner another market segment: the schools. While it's true that this ploy was rejected by the court as merely a hooded effort to knock Apple and others out of the arena (in the guise of doing something for poor children and at almost no real expense to Microsoft), I wonder if the court can continue to be eager to not split Microsoft up, given that kind of brazen disregard for the laws concerned with predatory behaviors that can destroy competitors and damage the interests of the public, both consumers and organizations.

Please reconsider your earlier backing away from dividing MS into at least two entities, with tight monopoly controls. We deserve competition, not what it appears we may get.

Sincerely,

Donald Levy
Los Angeles, CA

MTC-00032911

From: Dean Nervik
To: Ms. Renata Hesse
Date: 1/20/02 3:42am
Subject: Microsoft Settlement

Dean Nervik
Route 8
Speculator, NY 12164
January 20, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement. This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Dean Nervik

MTC-00032912

From: Edward M. Walsh
To: Ms. Renata Hesse
Date: 1/20/02 5:48am
Subject: Microsoft Settlement
Edward M. Walsh
6 Colonial Oaks Drive
Oak Ridge, NJ 07438–9158
January 20, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Edward M. Walsh

MTC-00032913

From: Richard Peck
To: Ms. Renata B. Heese
Date: 1/20/02 6:46am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Richard Peck
1822 Jackson Road
Penfield, NY 14526–1216
CC: Citizens for a Sound Economy

MTC-00032914

From: Stephen Schiller
To: Ms. Renata Hesse
Date: 1/20/02 7:11am
Subject: Microsoft Settlement
Stephen Schiller
10920 Thanlet Lane
Reston, VA 20190–3921
January 20, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Stephen H. Schiller

MTC-00032815

From: MICHAEL PERRIN
To: Ms. Renata Hesse
Date: 1/20/02 9:42am
Subject: Microsoft Settlement

MICHAEL PERRIN
31111 INDUSTRIAL DR.
LIVONIA, MI 48150
January 20, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
MICHAEL PERRIN

MTC-00032816

From: Mike Durand
To: Attrny Gen Ashcroft
Date: 1/20/02 11:35am
Subject: Microsoft Settlement

Richard M. Durand
4109 Yarmouth Road
New Bern N.C. 28562
Home Phone 252–635–1503
January 20, 2002

Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Mr. Ashcroft,

I have been a supporter of Microsoft from the very start of these investigations and I am very gratified to see that the Justice Department has finally decided to settle their antitrust suit. I think it is about time we complete this case and move forward, as three years was just too long.

I hope that the Justice Department appreciates how much that Microsoft has sacrificed in order to reach a settlement and bring this proceedings to an end. By giving up access to its software with out recrimination as well as agreeing to design future versions of Windows easier to use with competitors products, Microsoft is forgoing an enormous amount of potential profit. Anyone who thinks that the suit should continue after seeing the terms of this settlement must be out to profit off of Microsoft's hard work.

It is a shame that nine states still refuse to settle. By trying to support their own state budget shortfalls, they are hurting their own constituents. I hope that their voters will make them realize the error of their ways directly in order to end any further litigation against Microsoft.

Sincerely,
Richard M. Durand

MTC-00032817

From: Thomas McWilliams
To: Ms. Renata B. Hesse
Date: 1/20/02 4:22pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Thomas McWilliams
One Cessna Lane
Downers Grove, IL 60516–4901
CC:
Citizens for a Sound Economy

MTC-00032918

From: Charles DeBrett
To: Ms. Renata B. Heese
Date: 1/20/02 5:56pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Charles DeBrett
P.O. Box 1475
Cave Junction, OR 97523–1475
CC: Citizens for a Sound Economy

MTC-00032919

From: Robert Martin
To: Ms. Renata Hesse
Date: 1/20/02 7:47pm
Subject: Microsoft Settlement
Robert Martin
270 Decatur Road
Stafford, VA 22554
January 20, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

I also believe the cost of this lengthy litigation should ome out of themonies Microsoft is paying in this case. The State will settle their disputes faster if they know the longer they resist the less money they will receive from the settlement pot!

Sincerely,
Robert Martin

MTC-00032920

From: B. Wehrung
To: Ms. Renata Hesse
Date: 1/20/02 10:49pm
Subject: Microsoft Settlement
B. Wehrung
702 Irving Royal Oak, MI 48067–2879
January 21, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

The message below was composed by Citizens Against Government Waste and seems to be based on the idea that it cost a lot of money to sue Microsoft Corp. I believe it was money well spent and it is misguided to let them off so lightly, with a settlement that is so favorable to the company. You can read the message if you like but DO NOT APPROVE the settlement.

Brendan Wehrung

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

B. Wehrung

MTC-00032921

From: Doug Skoglund
To: Department of Justice
Date: 1/21/02 2:57am
Subject: Microsoft Settlement
To: microsoft.atr@usdoj.gov
Reference: Microsoft Settlement

In the Competitive Impact Statement, section I, Nature and Purpose of the Proceeding, I quote the following:

The Proposed Final Judgment will provide, certain and effective remedy for consumers by imposing injunctive relief to halt continuance and prevent recurrence of the violations of the Sherman Act by Microsoft that were upheld by the Court of Appeals and restore competitive conditions to the market.

Now, it doesn't take a legal genius to read the text of the Proposed Final Judgment and then have some serious doubt about the accuracy of the above statement. My review of the Revised Proposed Final Judgment, RPFJ, yields a great deal of confusion caused by questionable definitions, exceptions, loopholes and other assorted legal maneuvers that may or may not be relevant.

While I see the RPFJ as a great big expensive joke that does nothing for the micro-computer business nor for the larger society, as an ISV, Independent Software Vendor, I feel qualified to state that the RPFJ does nothing to limit the enormous power of Microsoft and its control over the business. While the object of these proceedings is the punishment of Microsoft for past anti-trust violations and prescription for future activity necessary to restore competition, one should never loose sight of the tremendous contribution Mr. Bill Gates and company have made to the development of the PC business.

Let me repeat, one should never loose sight of the tremendous contribution Mr. Bill Gates and company have made to the development of the PC business. With a few exceptions, most everyone in the business has operated within the shadow of Microsoft, which means that, in addition to the many benefits, we've also been aware of much of Microsoft's suspect activity, and we also were very well aware of the consequences of "whistle blowing". It should be understood that this general atmosphere of fear is more important in limiting competition than any of the overt activity that is the object of these proceedings.

I think that most people would recognize that the entire PC business has grown as a function of and in the image of Microsoft. But, it has outgrown even the imagination of Mr. Gates. It must be broken free to allow growth in areas and ways that may be contrary to his philosophy. Mr. Gates has done a remarkable job, we have made him a very rich man, but it is time for others to get into the game. It would be nice if Mr. Gates would allow the transition to occur peacefully, he should have negotiated a settlement with Judge Jackson long ago, but since he continues to resist the inevitable, it's up to you, Judge Kollar-Kotelly and you, Mr. Charles A. James.

I want to emphasize that this entire proceeding has suffered from non-participation by members of the PC business. I can imagine the personnel of the Department of Justice being more than a little piqued by the lack of qualified support from the industry. Yet it is easy to understand the reluctance of industry members to pitch in, what with careers on the line if the government lost this case. It would seem, when one views the complete capitulation of the Department of Justice, that the industry members have made the right choice. If the Revised Proposed Final Judgment is accepted by the court, the people will have every right to conclude that Mr. Bill Gates and company are more powerful than the United States Government. Hey folks, you must not allow that to happen!!!!

Plaintiff Litigating States" Remedial Proposals Plaintiff Litigating States" Opposition to Microsoft Corporation's Motion to Amend the Scheduling Order Exhibits to Plaintiff Litigating States" Opposition to Microsoft Corporation's Motion to Amend the Scheduling Order Now, here are three legal documents that I can understand. I refer to all three since each has a way of describing things that helps promote understanding. Not being a legal expert maybe it's something like programming, you need the program and then you need the documentation to explain what the program does and how to use it.

It would be far too easy to say that I support the Litigating States and end this document right here; however, I want to compare my conclusions, as expressed in a previous post with the "Exhibits" conclusions on a couple of very key, to me, points. One example: (my thoughts) (From definition of Non-Microsoft Middleware Product) A Non-Microsoft Middleware product is any product that both meets the definition of Non-Microsoft Middleware and has at least one million copies distributed in the United States within the previous year* * *

* * * Without limitations on the definition, any software developer would be able to claim that any software product was middleware and thereby insist on exercising options and alternatives provided by the Proposed Final Judgment.

Correct me if I'm wrong, but it seems that I cannot expect protection from Microsoft illegal tactics against my "Middleware"application purely because it is new and therefore did not distribute one million copies last year. (29) (from Exhibit) the RPFJ's middleware definitions are drawn too narrowly, excluding from protection competitors of Microsoft in critical middleware markets and excluding from the restrictions of the judgment important Microsoft products—for example, (a)software cannot qualify as a "Non-Microsoft Middleware Product" unless at least one million copies were distributed in the U.S. in the previous year, meaning that by definition nascent or developing middleware threats receive no protection under the user configuration flexibility remedy.* *

Another Example: (my thoughts)Subsection HI.C.3. requires that Microsoft permit OEMs to configure their products to launch Non-Microsoft Middleware automatically at the conclusion of the first boot sequence* * *

The only limitation Microsoft may impose on OEMs in this circumstance is that any Non-Microsoft Middleware the OEM configures to launch automatically cannot display a user interface that is not of similar size and shape* * *

This really doesn't make much sense as the primary purpose for any competitive product might very well be to present a whole new user interface.(10) (from Exhibit)the RPFJ imposes unjustifiable qualifications in the provisions that appear to provide for flexibility in product configuration(e.g., (i) Microsoft can limit the addition of icons, shortcuts and menu entries for non-Microsoft products to only those places where Microsoft has decided to promote a Microsoft product with similar functionality (thus blocking such additions if Microsoft does not make that decision and/or does not offer a competing product), and (ii) the automatic launching of competing software may be prohibited if such software displays a user interface that is not of a similar size and shape to the interface displayed by the equivalent Microsoft Software or a Microsoft product would not otherwise launch automatically)

Critique of Remedial Proposals ".

I don't pretend to have the knowledge and expertise to critique the legal aspects of this document.

I do, however, have substantial engineering background and programming experience to allow me to comment on some portions of the document and to emphasize things that I perceive to be logical shortcomings.

Definitions

This section may appear at the rear of a legal document; however, since all else depends onproper definitions, I want to discussthis subject first.

"Applications"—Programs that perform specific tasks, such as accounting, word processing, or communications or any other task that the user might require from a computer. Applications connect to the operating system by accessing or calling APIs.

"API" or "Application Programming Interface"—Program elements, routines or sections of program code that are callable or otherwise accessible by other program elements and/or applications for the purpose of performing specific steps or portions of a task. Since one API can call other APIs they may range from the very simple to the very complicated, but, it should be emphasized that APIs are never accessed by end users. (Some method of controlling acceptability of APIs is required—see some of the discussion below)

"Operating System"—Program that controls the low level processes of a computer and mediates between the application program and the drivers that control the computer hardware. The operating system schedules and controls the use of the system's hardware resources. These hardware resources may include memory, disk drives, printers, and CRTs. The Goal of a good operating system is to simplify the use of the computer by providing a common set of practical, easy-to-use commands (APIs) that bridge the gap between the application programs and the actual physical processing of the computer.

"Middleware"—A non-Microsoft application that, in addition to performing specific tasks,exposes its own APIs for use by application developers. For the purpose of these proceedings, the definition of middleware must necessarily be short and specific. If one does a search of the Internet, one will find that the term has many meanings, and thus becomes meaningless for legal purposes. In addition, Microsoft should not be allowed to use the term to describe any Microsoft software because that only clouds the issue of ownership or source of a specific API. In other words, all APIs that Microsoft chooses to release should be considered part of the operating system.

"Interpreter"—An application that can perform specific tasks under control of a separate document or script. Basic started as an interpreted language, but with the development of compilers, that Basic script is generally converted into a binary coded program. Internet Explorer, Netscape Navigator and Java are more properly classified as Interpreters. Since a script can only give instructions to an interpreter, I suppose that Java might be called middleware if the script is compiled into a program that is actually run and then calls APIs itself. The distinguishing characteristic is determined by which segment is executed under the control of the computer's central processing unit, cpu.

"Operating System Product"—This is actually a collection of files that make up the Operating System, some associated applications and other related files. Since the basic operating system is useless to the user, some applications must be included,thus the need for this definition. And since Microsoft has chosen to obfuscate the meaning of operating system by it's philosophy of "integration", it has become necessary for the court to decide the meaning of this term and control it's future usage.

I don't intend to rewrite all the definitions, but, if one accepts the above definitions, one can readily visualize the impact on the balance of the court proceedings. Let's look at some interesting information, developed by installing various Microsoft operating systems, in turn, on the same machine.

Sorry, Windows XP would not install on this machine since it requires 64 Mb memory and this machine only had 32 Mb and an additional 32 Mb would have cost $100. (there's a limit to my contribution to these proceedings) Besides, these numbers allow me to make my point. Microsoft should have settled these anti-trust matters years ago and they would have been able to pursue business without governmental interference. Instead they chose to fight and they lost. Legally, they are a monopoly and they have violated the law. Their unwillingness to settle on reasonable terms necessitate that they become a regulated monopoly. They must be required to document all those files and directories so that a base point can be established to firm up the meaning of "Operating System Product". Future additions to the basic definition must be controlled by some kind of regulating body.

Using the above definitions, MS-DOS is an operating system, Windows for Workgroups might have been classified as an application because the machine was booted in MS-DOS and W4W was run separately; however, since it exposes APIs and is a Microsoft product it thus becomes an operating system. Windows 95/98/2000/XP are operating systems (after determination of a base point) because the machine is booted directly into the respective system.

If we use Windows 95 to determine the base point, Internet Explorer, an application by definition, is not part of the operating system since it was introduced separately and then included with Windows 98. In summary, Microsoft lost the right to "integrate applications into the operating system", by violating the law. If not this, then other application developers deserve the right to have their similar applications integrated into the operating system also.

Mandatory Disclosure to Ensure Interoperability

This section of the Remedial Proposals needs considerable work in that it fails to recognize the existence of Microsoft Development Network, MSDN, and more importantly, it fails to deal with the quality of such disclosure. It should be understood that Microsoft distributes all (I think) technical information to subscribers dependent upon subscription level. In other words, you purchase the level of information you require, no matter your other relationship to Microsoft. I see this as satisfactory, if the court determines that Microsoft personnel also use the MSDN documentation. The difficulty with the present system is the method of developing APIs. It is obvious to developers using MSDN that many APIs were developed for Microsoft application use and then documented and added to MSDN. This, of course, means that Microsoft personnel have been using the API for considerable time before outsiders have had access.

A well controlled monopolist should be expected to develop APIs for broad usage and let inside programmers determine usage the same as outside ones. The broad usage requirement should be interpreted to mean that the basic lowest level API must be documented. I quote from "MFC Programming with Visual C++ 6 Unleashed", copyright 1999 by Sams Publishing. The Microsoft Foundation Classes are an excellent example of how an object-oriented approach to packaging software functionality can lead to code reuse, reduced application complexity, and in the end, a more efficient software development environment.

MFC has been around for seven years now. The first version of MFC was release with version 7 of Microsoft's 16-bit C/C++ compiler, and it represented little more than a wrapper around the Window GDI (Graphics Device Interface) call. The author goes on to emphasize the benefits of MFC to the programmer and de-emphasize the costs to the ultimate user.

Programs, including code stored in associated files, are larger (amount of memory required) and operate slower. Microsoft has developed additional features/dialects (?) such as COM, ATL, .NET aimed at the benefits to the programmer without much consideration for the user, after all, additional memory and disc space is cheap and faster computers are being developed all the time. Microsoft has tended to use these higher level approaches in their applications, and then document the higher level APIs. If the propose of these proceedings is to restore competition, Microsoft must be forced to document the entire structure of a higher level API, which means that the basic API should be demonstrated in a sample program written in C/C++ without all the frills.

As a matter of fact, the sample program should be capable of compiling with a competitive compiler. One should be aware of the hidden advantage Microsoft accrues with this programming philosophy. The more an individual programmer and a programming organization ties itself to MFC and these other dialects the more "locked in" they become and the more their programs look and feel like Microsoft programs. True competition with Microsoft can only occur at the basic API level.

Internet Browser Open-Source License

This provision is unnecessary since the Browser APIs are now available through MSDN. What is required, however, is more control over the size of acceptable segmentation. Any programmer could take a complete application, enclose it in a DLL, dynamic link library, set up the call linkage and then call it from a skeleton application. The application now becomes middleware; but, the purpose has been compromised. Calling the resultant API would be no different than running the original program. The segmentation, must be small enough to allow another programmer to use some of the APIs to build a distinctly different application.

What is needed about Internet Explorer is better segmentation. For example, there is an API, Navigate, part of Web Browser Control, that includes both the access to a web page and the display of that web page. The net effect of this shortcoming is to prevent a programmer from controlling the access to the Internet. In other words, use of this API might very well allow Microsoft to include Internet access desired by Microsoft without the users, or the programmers knowledge. Oh, Microsoft might argue my point as some of the Internet calls are available for examination; however, they will have to explain why *ALL* of the calls are not available.

Internal Compliance

The Remedial Proposal devotes considerable words to the subject of compliance including the appointment of a Special Master. I only wish to add to these recommendations by pointing out a way of developing a measurement mechanism that can be used to establish goals and measure progress towards those goals, assuming that the big broad general goal is to improve service to the customer.

The philosophy is simple;—execution, well, that may be another thing. A proper amount of "encouragement" from the court should turn the trick.

All that is required is a monitored, measured, Internet support forum/s. There are all kinds of forums and chat groups on the Internet right now, some monitored, others unmonitored. I am speaking about monitoring by qualified, empowered, personnel, qualified to answer many questions and empowered to get answers from more qualified personnel if necessary.

But, far more important is the measurement mechanism. Since each request/question/complaint is a single document, it can be classified by the submitter, dated and timed by the computer. The response can be classified by the respondent, dated and timed by the computer. The software can then keep track of response times, quantities entered, closed and still open, by category, on a daily, weekly or monthly basis. This type of system could replace the Periodic Reports called for in the Remedial Proposal.

Windows Operating System Licenses

Mandatory Disclosure to Ensure Interoperability

Intellectual Property Rights

These sections seem to be unnecessarily complicated, using terms like OEM, Covered OEM, Third-Part Licensee, which are all meant to exclude. I would think that subscription to MSDN could be the sole determinant controlling licensing and the distribution of technical information. Subscription to MSDN at the Operating System level or above should include one copy of each current operating system with the right to purchase, and re-sell, additional copies according to a discount schedule based upon yearly quantity. Many computers are assembled by small companies that should be able to re-sell licenses to the operating system.

In addition, a "fair use" type of clause should be required in software licensing that would permit installation on multiple machines used by a single or limited number (family) of individuals. Most companies allow this since enforcement is very difficult, but Microsoft has chosen to restrict this kind of use with very intrusive procedures. I recognize that this might be a matter for Congress, but, I wanted to bring up the subject anyway. Under the title of "Equal Access", Microsoft is allowed to restrict access to information about any bona fide joint development effort. I would think that joint development efforts should be restricted to applications only and even then be under very strict control. This exception is too large a loop hole to be allowed a monopoly.

Obviously the structure and pricing of MSDN should be controlled by the court.

Respectfully submitted:

Doug Skoglund
Sands Software, Inc.
14766 Endicott Way
Apple Valley, MN 55124–6405
952/423–3041

P.S. Bill Gates is wrong, wrong, wrong, wrong, wrong!!!!!!!!!! Have I got your attention????????

First, I don't pretend to be some sort of all knowing guru with the things that I have written or will write. I do, however, claim to be pretty good at distilling the wisdom out of things that other people have said and written. Let me illustrate: The following from a column by Jim Rapoza titled "Microsoft Still Suffers Insecurity Complex", posted on eWeek web site, January 7, 2002.

When Microsoft introduced active content in Outlook, we, along with many in the security community, said it would create a security risk. But Microsoft blew these warnings off as theoretical and, instead, touted the gains that would be made by making mail more automatically responsive... ...I think that worries about potential security risks will always be pushed aside to make way for latest cool, new feature. True, Jim, but one might say that Microsoft knows what sells. Next, let me set the framework for further discussion. I can imagine that most every business person has contemplated the question of honesty vs. success. She/he discovers very early that when a business is small, fighting for survival, total and complete honesty will get you nowhere. Growth requires aggressive action to get that next larger contract or chunk of business.

And that aggressive action means the acceptance of a few small lies (or information not disclosed). I'll bet that the early relationship between Microsoft and IBM had its share of less than 100% honesty. I don't need to beat the honesty point to death, except to say that we will get disagreement all over the place before we settle down and except the wisdom of the above.

The point that is missing is that the requirement for honesty increases with success, and that is the critical point that Bill Gates has missed. He continues to act as though he believed that strategy as a successful company must be the same that was necessary to become successful.

Of course, boiling this all down to honesty is far too simple. That's the reason for using the security example above. During the growth process, it's the cool, new feature that sells. What Bill Gates fails to recognize and that Jim Rapoza, as one member of the business, is saying is, "Microsoft, it's time to truly start considering the needs of your customers. Security is important, and you can't continue to ignore the warnings".

To emphasize my point, I think that we have to see these anti-trust proceedings for what they really are. Most people would concede that Bill Gates could have settled this whole thing a few years back and that Microsoft would be free to conduct business without much governmental interference. Remember, the anti-trust laws exist to protect the consumer and that the government really does represent the people. The government had to step in because Mr. Gates failed to transition his company from aggressive corporate fighter to good corporate citizen. He has had all kinds of notice, if he had only mined the wisdom from the words of his critics instead of viewing everything through his paranoid tinted glasses.

As a matter of fact, Mr. Gates can still wake up and settle this matter, but he must allow the government to win. There is no question that Microsoft has the power and resources to beat the government in the short run, but Mr. Gates must recognize that he is really flipping the finger at the consumer if he does. Remember, the government is us, the people, the consumers. I suspect that we will get the last laugh over a longer period of time. Since settling as spelled out in the RPFJ is a win for Microsoft, the settlement must be according to the Plaintiff Litigating States" Remedial Proposals, with my revisions, of course. There is nothing in these proposals and revisions designed to hurt Microsoft.

On the contrary, they are only detailing changes necessary for Microsoft to become a good corporate citizen. All of these things should have been incorporated by Microsoft over the years in what should have been a natural transition to a more honest, ethical operation.

One final point, the market wants a single, stable, reliable, secure operating system, under the control of a strong, honest, ethical, reliable monopoly. True competition in applications requires nothing less. Microsoft could fill that need; however, past performance indicates that the Microsoft monopoly needs to be regulated. The Department of Justice, the litigating Attorneys General and the Courts must get that point across to Mr. Bill Gates and company. The previous does not mean that there is not room for other operating systems. There will always be niches open to other approaches and nothing to stop alternatives from out-performing the established monopoly. After all, the non-monopolies have more freedom of action. That, of course, is the idea behind controlling a monopoly.

Do I have a dog in this fight??—You betcha!!

Of course, I have a vested interest in the outcome of these proceedings, but then, who doesn't?? I believe that my Personal Digital Multimedia ScrapBook, PDMSB, is an application that is built upon an engine that, in the hands of Microsoft or a competitor, could open a whole new generation of application development on the desktop. The RPFJ contains exclusions that would inhibit the growth of this engine as a true contender;

however the Remedial Proposals seem to provide protection for any potential competitor.

I said previously that Bill Gates was wrong. His present emphasis on the Internet seems to have left the industry with the attitude that Microsoft owns the Desktop and that further development in this area is over. Wrong, the Internet, while very important, will never replace the Desktop in the minds of the average user. After all, the whole (DeskTop) is equal to the sum of its parts (Internet activity vs. Local activity). I repeat, the PDMSB engine in the hands of someone like AOL Time Warner, for example, could open a whole new generation of application development on the desktop.

Because PDMSB is still a work in process, the basic software has been available at http://www.pdmsb.com for some four years, while copies of various contact attempts have been available at http://www.ifihadmyway.com. If anyone would like an interesting view of the status of the PC business I would suggest interviewing some of addressees of those contact attempts, (under oath, maybe?).

Obviously, Microsoft has every right to make incorrect decisions. The difficulty comes from the fact that as the monopoly supplier of the dominant operating system, the entire industry is dragged in a direction they may not want to go. Just as the Remedial Proposals require Microsoft to support old versions of operating systems, MSDN must be required to support the basic APIs to allow application developers to develop competitive applications. Whether I'm right or wrong is of no matter, what does matter; however, is that present Microsoft dominance prohibits open debate of my and/or many other ideas. Of course, I want to sell my software, but I'm just small potatoes, how many others might have a dog in this fight also?? Even the top management of AOL Time Warner were unwilling to investigate my proposals. I would hope that the business could be more open than that. Rejection after evaluation is one thing, being ignored is another!!

MTC-00032922

From: Deanna Tachna
To: Ms. Renata Hesse
Date: 1/21/02 3:38am
Subject: Microsoft Settlement
Deanna Tachna
1137 Stanley
Birmingham, MI 48009-1949
January 21, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case ? the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors? products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Deanna Tachna

MTC-00032923

From: R. Suter Hudson
To: John Ashcroft
Date: 1/21/02 4:57am
Subject: Microsoft Settlement

Please read the Microsoft Word 2000 document relative to the Microsoft Settlement.

Thank you.

MTC-00032923 0001

R. Suter Hudson
2714 Royal Road
Lancaster, PA 17603
January 21, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing to express my feelings about the recent events in the Microsoft anti-trust litigation. I am glad to see that a settlement has finally been reached. However, I can't understand how this case could be prolonged any further. The settlement was negotiated with the help of mediators provided by the courts, so obviously the settlement should be fair.

Microsoft did have some problems, but they are now being resolved by way of this settlement. They are allowing their competitors to use the technologies that they invented, creating a more competitive environment. They are also allowing computer makers to install other products on Windows when they distribute the computers. All of this seems more than reasonable. I used Microsoft's products in my job as a Research Scientist and now use them at home. I like the fact that all of my programs are compatible with one another and that I can easily manipulate them. Why would I want to change that by using a combination of competitive products that aren't even compatible?

Please do your part in ending this lawsuit, for the interest of consumers and the entire economy. Thank you.

Sincerely,
R. Suter Hudson
CC:
Senator Rick Santorum
Representative George W. Gekas
MTC-00032923—0002

MTC-00032924

From: Orna Benison
To: Ms. Renata B. Heese
Date: 1/21/02 5:20am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Orna Benison
145 Westminster St
Hartford, CT 06112–1372
CC: Citizens for a Sound Economy

MTC-00032925

From: James Leydon
To: Ms. Renata Hesse
Date: 1/21/02 8:11am
Subject: Microsoft Settlement
James Leydon
408 Chandlee Drive
Berwyn, PA 19312
January 21, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
JamesPatrickLeydon

MTC-00032926

From: leonard judickas
To: Ms. Renata B. Hesse
Date: 1/21/02 8:24am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
leonard judickas
30 s.walla walla dr
cherokee village, AR 72529–2005
CC: Citizens for a Sound Economy

MTC-00032927

From: Patrick Whalen
To: Ms. Renata Hesse
Date: 1/21/02 8:39am
Subject: Microsoft Settlement
Patrick Whalen
P O BOX 713
Boonton, NJ 07005–0713
January 21, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Patrick Whalen

MTC-00032928

From: Joseph Ezar
To: Ms. Renata B. Heese
Date: 1/21/02 8:51am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,

Joseph Ezar
32833 Merritt Drive
Westland, MI 48185–1558
CC: Citizens for a Sound Economy

MTC-00032929

From: David Upton
To: Ms. Renata B. Heese
Date: 1/21/02 9:18am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,

David Upton
200 Ridgeway
St. Joseph, MI 49085–1000
CC: Citizens for a Sound Economy

MTC-00032930

From: Harry Beckner
To: Ms. Renata B. Heese
Date: 1/21/02 10:01am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,

Harry Beckner
2712 Casey Key Road
Nokomis, FL 34275–3358
CC:
Citizens for a Sound Economy

MTC-00032931

From: Susan Wilson
To: Attorney General John Ashcroft
Date: 1/21/02 10:35am
Subject: Microsoft Settlement

Please see attached letter.

MTC-00032931 0001

Susan Wilson
3018 Pickfair Street
Orlando, Florida 32803–6831
January 20,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

It is my belief that the Microsoft Antitrust case should never have been brought to court. Microsoft's innovations and marketing techniques have allowed this company to climb to the top of its industry and the success that Microsoft has accomplished is well deserved. We would not have seen the tremendous growth of the Internet and the great numbers of home computers without the innovations and uniformity of the Windows platforms. For the past three years, litigation has stunted Microsoft's business potential a great deal and to carry this case on further would be a highly unnecessary course of action. Litigating Microsoft does not come at an easy cost as this case has been very time- consuming and cost a great deal of money. In some very key issues, I believe it has caused more harm than good as would anyone who is familiar with computing prior to the great growth of Microsoft.

The Department of Justice and Microsoft have disputed this case for over three years now with the intent to appease all of the parties involved. Microsoft has agreed to several terms beyond the scope of this case in order to continue new product development, which shows Microsoft's willingness to compromise. Some specific terms range anywhere from allowing computer makers to promote the competition within the Windows configuration to supplying the competition with necessary interfaces and protocols that will enable-software compatibility.

These agreements have come as a result of heavy dispute and much compromise and will serve the best interest of all involved. Thank you for consideration for the public good.—

Sincerely,

Susan Wilson
cc: Representative Ric Keller

MTC-00032931—0002

MTC-00032932

From: Donna Price
To: Ms. Renata B. Heese
Date: 1/21/02 11:11am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's

Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Donna Price
33 McConnell Lane
Walnut Creek, CA 94596–5831
CC: Citizens for a Sound Economy

MTC–00032933

From: joy schroeder
To: fin@mobilizationoffice.com@integw
Date: 1/21/02 11:18am
Subject: lawsuit
CC: Microsoft ATR

MTC–00032933 0001

3150 Candlewood Way
Sierra Vista, AZ 85650
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Three years of lawsuits against Microsoft and a settlement has finally occurred in the antitrust case. I am glad to see that Microsoft will not be broken up, but I do think that the terms of the settlement are too harsh. Microsoft has demonstrated no monopolistic tendencies since it has always delivered quality products at reasonable prices. It has also not infringed on my rights as a consumer, since I have on occasion bought other software that I thought was better.

The terms of the settlement are more than fair and should appease all parties involved in dispute. Competitors will now be granted broad new rights to configure Windows so they can promote their own products and they will be given internal interfaces and protocols that Microsoft has for its Windows operating systems. These concessions and more represent a huge advantage to competitors and so there is not need for further litigation. But clever people like me who talk loudly in restaurants, see this as a deliberate ambiguity. A plea for justice in a mechanized society.

It is in the best interests of the American people for the settlement to be finalized and to allow the competitors to duke it out on the playing field. Please make the right decision in the coming months. Thank you for your time. Ecce homo ergo elk. La Fontaine knew his sister, and knew her bloody well. But is suspense, as Hitchcock states, in the box. No, there isn't room, the ambiguity's put on weight.

Sincerely,

MTC–00032933—0002

1 of 2
02/06/2002 9:16 AM
file:///C√/win/temp/tmp.htm
Joy Schroeder

Get your FREE download of MSN Explorer at http://explorer.msn.com.

MTC–00032933—0003

??of2
02/06/2002 9:16 AM

MTC–00032934

From: Hrenforth@aol.com@inetgw
Date: 1/21/02 11:45am
Subject: Agreement with Microsoft

I feel the Agreement with Microsoft is fair and proper for all, and wish for the agreement to be accepted and stop this expensive litigation. It is fair to all.

Howard F. Renforth
144 Crosstide Circle
Ponte Vedra Beach, FL 32082–4028
(904) 285 9302

MTC–00032935

From: Robert Minnoe
To: Ms. Renata B. Hesse
Date: 1/21/02 1:36pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Robert Minnoe
220 Channel Run Drive
New Bern, NC 28562–8915
CC: Citizens for a Sound Economy

MTC–00032936

From: Paul Borgen
To: Ms. Renata B. Hesse
Date: 1/21/02 2:47pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Paul Borgen
3255 115th Ave NE, #153
Bellevue, WA 98004–7795
CC: Citizens for a Sound Economy

MTC–00032937

From: Cheryl Larson
To: Ms. Renata B. Hesse
Date: 1/21/02 2:53pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Cheryl Larson
5810 S. 232nd Place
Kent, WA 98032–6475
CC: Citizens for a Sound Economy

MTC–00032938

From: Carol Carlisle
To: Ms. Renata B. Heese
Date: 1/21/02 3:03pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Carol Carlisle
1916 E 10th st
The Dalles, OR 97058–3967
CC: Citizens for a Sound Economy

MTC–00032939

From: Eugene Mouncer
To: Ms. Renata B. Heese
Date: 1/21/02 3:05pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Eugene Mouncer
P.O. Box 117
Satsop, WA 98583–0117
CC: Citizens for a Sound Economy

MTC–00032940

From: Donna Lange
To: Ms. Renata B. Heese
Date: 1/21/02 3:05pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Donna Lange
15 Greenacres Rd.
Riverside, WA 98849–9625
CC: Citizens for a Sound Economy

MTC–00032941

From: Judith Guse
To: Ms. Renata B. Heese
Date: 1/21/02 3:06pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Judith Guse
1515 S. Garfield PL
Kennewick, WA 99337–4063
CC: Citizens for a Sound Economy

MTC–00032942

From: Leslie Griffin
To: Ms. Renata B. Heese
Date: 1/21/02 3:09pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. I personally have benefited from Microsoft's technology and windows...making it easy for me, an older computer user, to attempt expanding into computer research and use. I think the attack on Microsoft has hurt consumers and the economy of our state. If you attack the most innovative companies, how will the economy grow?! Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Leslie Griffin
1010 "E" Court
PO Box 1583
Deer Park, WA 99006–1583
CC: Citizens for a Sound Economy

MTC–00032943

From: Bruce Troth
To: Ms. Renata B. Heese
Date: 1/21/02 3:12pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Bruce Troth
120 SE Everett Mall Way #735
Everett, WA 98208–3293
CC: Citizens for a Sound Economy

MTC–00032944

From: Clarence Atchison
To: Ms. Renata B. Heese
Date: 1/21/02 3:13pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

My wife and I support of the recent settlement of the antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. We appreciate and applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case; however, we are extremely disappointed that remaining state attorneys general and the District of Columbia have decided to continue, with no apparent basis, to pursue this case.

We truly believe that the settlement is fair and just to all concerned and possibly affected. The settlement allows Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and gives consumers (like me and my wife) more services and products to choose from.

As you are well aware, or should be, Citizens for a Sound Economy, of which my wife and I are members, have been continually opposed to the federal government's antitrust case against Microsoft. It has done nothing but hurt our economy, especially in the markets of computer technology. For nearly 3 years, activists like myself and my wife have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but instead provided consumers like us with great benefits by lowering the cost and increasing the availability of software products. Microsoft is a pioneer in the high-technology market and I can't imagine a world without what Microsoft has made available to us. Microsoft has only benefited the consumer!!!

Thanking you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Clarence and Gay Atchison
7029 16th Avenue NE
Seattle, WA 98115–5734
CC: Citizens for a Sound Economy

MTC–00032945

From: Dennis Martin
To: Ms. Renata B. Heese
Date: 1/21/02 3:14pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

The case for anti-trust action has not been made and a settlement is in hand. I think it is time to end the attorneys greed and political power shuffle. The market has suffered enough. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Dennis Martin
10813 42 Drive SE
Everett, WA 98208–9720
CC: Citizens for a Sound Economy

MTC–00032946

From: Tyler Wate
To: Ms. Renata B. Heese
Date: 1/21/02 3:14pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Tyler Wate
802 45th st N.E. Apt#9–103
Auburn, WA 98002–1386
CC: Citizens for a Sound Economy

MTC–00032947

From: Ara Leigh
To: Department of Justice
Date: 1/21/02 3:40pm
Subject: Message From a Concerned Citizen

Dear Department of Justice:

Dear Official: It is most accurate to say that my dismay at the attacks on Microsoft in the form of Anti-Trust prosecution was profound. In America the moral of the day is "take everything you can get," and this time they will "get" it from a company that has given more to the consumer than most. Microsoft had the goal to succeed. Quite frankly, the other companies could not compete because their products were not as favored by the consumer. During my training to become a real estate agent I becamse appalled that I could not talk to other agents about fees, because that would violate antitrust. At that time I realized that anyone who excels too much is in danger of being cut down thru anti-trust prosecution. When this happened to Microsoft, I was not surprised, just appalled. I realize that you must operate within the law. It is simply important that you know how the citizens, of which I am one, believe and feel on this subject.

Sincerely,
Ara Leigh
3628 NW Endicott St
Camas, WA 98607–8234

MTC–00032948

From: James Ringrose
To: Ms. Renata B. Heese
Date: 1/21/02 3:54pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
James Ringrose
3681 Harris Rd. S.E.
Port Orchard, WA 98366–5935
CC: Citizens for a Sound Economy

MTC–00032949

From: Floyd Stewart
To: Ms. Renata B. Heese
Date: 1/21/02 3:57pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Floyd Stewart
4045 N. Deer Lake Rd.
Loon Lake, WA 99148–9746
CC: Citizens for a Sound Economy

MTC–00032950

From: Richard Deming
To: Ms. Renata B. Heese
Date: 1/21/02 4:07pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Richard Deming
2427 Coal Creek Road
Longview, WA 98632–9688
CC: Citizens for a Sound Economy

MTC–00032951

From: Donald Andrews
To: Ms. Renata B. Heese
Date: 1/21/02 4:08pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Donald Andrews
510 North Maple St.
Colville, WA 99114–3016
CC: Citizens for a Sound Economy

MTC–00032952

From: John Field
To: Ms. Renata B. Heese
Date: 1/21/02 4:14pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to

the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
John Field
29312 NE 16th Place
Carnation, WA 98014–9644

MTC–00032953

From: Oscar Engfer
To: Ms. Renata B. Heese
Date: 1/21/02 4:23pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

Microsoft has been hurt enough so I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Oscar Engfer
PO Box 26
Orting, WA 98360–0026
CC: Citizens for a Sound Economy

MTC–00032954

From: James H and Alice L Stevens
To: Ms. Renata B. Heese
Date: 1/21/02 4:27pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
James H and Alice L Stevens
Post Office Box 728
Asotin, WA 99402–0728
CC: Citizens for a Sound Economy

MTC–00032955

From: Cameron Quinn Lauseng
To: Microsoft ATR
Date: 1/21/02 4:52pm
Subject: Settlement Problems

I am sorely dissappointed with our Justice Department for obvious lack of judgement in creating such a soft and ineffectual settlement against Microsoft. This settlement has little more effect than the previously issued injuction against Microsoft, which they flagerantly violated. This current settlement does nothing to address this serious defiance of the American Justice system, does not address the demonstrated contempt of the American Justice System, and does nothing to remedy the half decade of damage to the American public that Microsoft's dramatically illegal behaviour caused.

Furthermore, because this settlement fails to declare remedy for these past serious abuses of our laws, it will prove to be no more capable of restraining Microsoft's behaviour. Indeed, it can be found that Microsoft's newest operating system, Windows XP, may already be in violation of the settlement, by requiring consumers to subscribe to Microsoft services on the internet in order to get full use of features of the software.

I would consider this rather prejudiced against other middleware providers that already offer these services that Microsoft is requiring subscription to. I continue to be astonished at the short-sightedness of elements in our Justice system concerning this case. How can anybody seriously think that such a minor settlement will do anything to prevent future violations against the American public, considering past behaviour. Does the DOJ care nothing that Microsoft violated the previous consent decree within months of its issuance?

I would also like to point out that the form of this settlement requires a rather expensive on-going enforcement by State and Federal agencies. This will prove to be dramatically expensive to the American taxpayers in the long run. Would not a firm and definitive remedy that provided an automatic mechanism of future competative operations (split up) prove to be much less expensive to the American people? With the enforcement mechanism currently provided for in this settlement, the American people can expect a protracted period of history of expensive court proceedings, remedies, judgements, filings, etc., and even an entire government agency just for the maintenance of this one settlement.

Though Jackson's behaviour was deplorable, I can't see that the breakup judgement could be set aside so easily. This only proves that our judges are not blind to subjectivity. One spoke out, the other one who turned it around so quickly made just as loud a statement. There is no difference in the lack of objectivity of either of the judges involved.

Cameron Lauseng
Whitmore Lake, MI

MTC–00032956

From: Eugene (038) Ileene Rhodes
To: Ms. Renata B. Heese
Date: 1/21/02 4:55pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

We are writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though we applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, we are thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Eugene & Ileene Rhodes
945–12th Street NE
Auburn, WA 98002–4205

CC: Citizens for a Sound Economy

MTC-00032957

From: Patricia Herbold
To: Ms. Renata B. Heese
Date: 1/21/02 5:14pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Patricia Herbold
13658 N.E. 37th Place
Bellevue, WA 98005-1418
CC: Citizens for a Sound Economy

MTC-00032958

From: David Vertz
To: Ms. Renata B. Heese
Date: 1/21/02 5:28pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
David Vertz
6115 58th Ave Se
Lacey, WA 98513-4181

MTC-00032959

From: Michael Dilley
To: Ms. Renata B. Heese
Date: 1/21/02 5:33pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Michael Dilley
4027 161st Ave SE
Bellevue, WA 98006-1860

MTC-00032960

From: Rodney Newbound
To: Ms. Renata B. Heese
Date: 1/21/02 5:40pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Rodney Newbound
22058 State Route 9
Mount Vernon, WA 98274-8071

MTC-00032961

From: James Malinowski
To: Ms. Renata B. Heese
Date: 1/21/02 6:13pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

I have been a user of computer equipment my entire career as an Electrical Power Professional Engineer and have profited in many professional and personal ways from the personal computer revolution. Microsoft has been the leader in this revolution providing wonderful products at very reasonable prices. The most wonderful product was DOS and Windows which provided standardized platforms for develpment of many wonderful and powerful user programs.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
James Malinowski
P.O Box 127
Amboy, WA 98601–0127

MTC–00032962

From: Paul Knight
To: Ms. Renata B. Heese
Date: 1/21/02 6:21pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Paul Knight
3930 Country Club Dr, NW
Olympia, WA 98502–3711

MTC–00032963

From: Lucinda Sexton
To: Ms. Renata B. Heese
Date: 1/21/02 6:25pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I think it a shame that the company which has created more millionaires in the history of the world is being hounded by our own government.

It's obvious to me that Microsoft doesn't completely monopolize the computer industry, because we have used Apple computers for the past several years. Infact, we currently have, and use, both a Perform and a G–3.

Leave Microsoft alone & get on with finding & prosecuting terrorists.

Respectfully,
Lucinda Sexton
12701–106th Av Ct E
4441 S. Meridian PMB# 222
Puyallup, WA 98374–2714

MTC–00032964

From: Ralph Hintze
To: Ms. Renata B. Heese
Date: 1/21/02 6:37pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Ralph Hintze
16221 SE 175th Pl.
Renton, WA 98058–9101

MTC–00032965

From: Judith Peterson
To: Ms. Renata B. Heese
Date: 1/21/02 6:50pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the antitrust lawsuit between the U.S. Department of Justice, and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

Members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. Microsoft is a pioneer in the high-technology market and their products have increased our familiarity with the internet.

Thank your for your decisions to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Judith Peterson
238 Oxbow Rd.
Woodland, WA 98674–9291

MTC–00032966

From: Herbert O. Jr. ABURN
To: Ms. Renata Hesse
Date: 1/21/02 7:01pm
Subject: Microsoft Settlement
Herbert O. Jr. ABURN
5109 First St., North
Arlington, VA 22203–1207
January 21, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of

America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Herbert O. Aburn, Jr.

MTC-00032967

From: Pete Dakan
To: Ms. Renata B. Heese
Date: 1/21/02 7:02pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

Quite frankly, I don't even know who you are or how you fit into the Microsoft suit. The words below drafted by the Citizen group express well enough why the suit should be settled immediatlely and I can only assume you have some influence on the outcome.

I would like you to consider the fact that people need to be responsible for their own actions—everyone has a choice. It is not your job nor that of any politician to make decisions for individuals.

Please allow people to run their own lives without government interference. At the end of the day just ask yourself how you contributed to the real personal accountability and responsibilty of Americans. If you didn't, you should be ashamed. This is a small issue in the scheme of things but the trend is definitely in the wrong direction for a strong future for America.

I support the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Respectfully,
Pete Dakan
12821 S.E. 285th St.
Kent, WA 98031-8875

MTC-00032968

From: Steve Wolf
To: Ms. Renata B. Heese
Date: 1/21/02 7:04pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Steve Wolf
459 145th PL NE
Bellevue, WA 98007-4935

MTC-00032969

From: Sidney Porter
To: Ms. Renata B. Heese
Date: 1/21/02 7:17pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Sidney Porter
4407—52nd Ave. SW
Seattle, WA 98116-3905

MTC-00032970

From: Benjamin Green
To: Ms. Renata B. Heese
Date: 1/21/02 7:25pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Benjamin Green
8317 Earl Ave. NW
Seattle, WA 98117-4531

MTC-00032971

From: Tom Ramus
To: Ms. Renata B. Heese
Date: 1/21/02 7:49pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Tom Ramus
8722 17th Ave NW
Seattle, WA 98117-3505

MTC-00032972

From: Rachel Braly
To: Ms. Renata B. Heese
Date: 1/21/02 7:59pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Rachel Braly
10833 Meadow Garden Ct.
Las Vegas, NV 89135

MTC-00032973

From: Charles Burpee II
To: Ms. Renata B. Heese
Date: 1/21/02 8:17pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Charles Burpee II
202 Schmid St.
Enumclaw, WA 98022-7436

MTC-00032974

From: Andy Neault
To: Ms. Renata B. Heese
Date: 1/21/02 8:22pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Andy Neault
24807 SE 224th St
Maple Valley, WA 98038-6629
CC:
Citizens for a Sound Econonmy

MTC-00032975

From: Rocky Bisogno
To: Ms. Renata B. Heese
Date: 1/21/02 8:40pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Rocky Bisogno
1821 SW 349 PL
Federal Way, WA 98023–6904

MTC-00032976

From: COL (R) Ron Averill
To: Ms. Renata B. Heese
Date: 1/21/02 8:59pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
COL (R) Ron Averill
2523 Graf Rd
Centralia, WA 98531–9087

MTC-00032977

From: Anthony Gill
To: Ms. Renata Hesse
Date: 1/21/02 9:20pm
Subject: Microsoft Settlement
Anthony Gill
16314 Mink Rd NE
Woodinville, WA 98072
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Anthony Gill

MTC-00032978

From: Wendy Gaskill
To: Ms. Renata B. Heese
Date: 1/21/02 9:42pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Wendy Gaskill
35405 23rd Ave SW C16
Federal Way, WA 98023–3159
CC: Citizens for a Sound Economy

MTC-00032979

From: Gary Hansen
To: Ms. Renata B. Heese
Date: 1/21/02 10:10pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Gary Hansen
32028 SE 307th st
Ravensdale, WA 98051
CC: Citizens for a Sound Economy

MTC-00032980

From: Lynn Butner
To: Ms. Renata B. Heese
Date: 1/22/02 5:33am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Lynn Butner
121 Spring Street
Boonville, NC 27011-8463
CC: Citizens for a Sound Economy

MTC-00032981

From: stephen Flaherty
To: Ms. Renata B. Heese
Date: 1/22/02 5:43am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
stephen Flaherty
801 South Pitt Street
427
Alexandria, VA 22314-4369
CC: Citizens for a Sound Economy

MTC-00032982

From: Jack Clark
To: Ms. Renata B. Heese
Date: 1/22/02 6:04am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jack Clark
5134 Ad El Rd SE
Olympia, WA 98513-9208
CC: Citizens for a Sound Economy

MTC-00032983

From: Prof. Alexander G.Ramm
To: Attorney general
Date: 1/22/02 6:28am
Subject: Re: Microsoft Settlement.
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing because I support ending the antitrust case against Microsoft. Though I have not intensely followed the case, I know about the pending settlement. I would like to see the settlement finalized.

Microsoft is a great company that makes products that have become important to peoples' lives and businesses. Microsoft should be allowed to function properly according to the terms of the settlement. By disclosing its internal Windows computer codes to its competitors, who will also be free to add their own software to Windows and remove Microsoft's Microsoft has gone a long, long way to help its weaker competitors. The longer the case is active the more the American economy suffers, which affects more than the company itself. Please end the suit against Microsoft. It has been going on long enough.

Sincerely,
Alexander Ramm
721 Elling Drive
Manhattan, KS 66502
Professor Alexander G.Ramm
Mathematics Department,
Kansas State University,
Manhattan, KS 66506-2602.
Phones: 785-532-6750 (math. dept) FAX 785-532-0546 (math.dept) email: ramm@math.ksu.edu http://www.math.ksu.edu/ramm

MTC-00032984

From: John Cosman
To: Ms. Renata B. Heese
Date: 1/22/02 6:29am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
John Cosman
768 SW 13th Avenue
Oak Harbor, WA 98277–4509
CC: Citizens for a Sound Economy

MTC–00032985

From: John Harding
To: Ms. Renata B. Heese
Date: 1/22/02 6:54am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
John Harding
5906 143rd St SE
Everett, WA 98208–9339
CC: Citizens for a Sound Economy

MTC–00032986

From: David Hunt
To: Ms. Renata B. Heese
Date: 1/22/02 7:34am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
David Hunt
13522 240th St. NE
Arlington, WA 98223–8551
CC: Citizens for a Sound Economy

MTC–00032987

From: Edward Carmody
To: Ms. Renata B. Heese
Date: 1/22/02 7:46am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this, what I believe baseless, unfortunate lawsuit against a successful and innovative company.

Respectfully,
Edward Carmody
12024 106th Ave Ct E
Puyallup, WA 98374–2605
CC: Citizens for a Sound Economy

MTC–00032988

From: James Barfoot
To: Ms. Renata B. Heese
Date: 1/22/02 7:56am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
James Barfoot
2817 202nd Ave CT E
Sumner, WA 98390–9005
CC: Citizens for a Sound Economy

MTC–00032989

From: Tom Evans
To: Ms. Renata B. Heese
Date: 1/22/02 8:24am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Tom Evans
201 180th St Ct E
Spanaway, WA 98387–4610
CC: Citizens for a Sound Economy

MTC–00032990

From: Chris Hamilton
To: Department of Justice
Date: 1/22/02 8:35am
Subject: Message From a Concerned Citizen

Dear Department of Justice:

Sincerely,
Chris Hamilton
3700 Pacific Ave Ste A
Olympia, WA 98501–2165

MTC–00032991

From: James Dunning
To: Ms. Renata B. Heese
Date: 1/22/02 8:50am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
James Dunning
1335 17th ST SE #B
Auburn, WA 98002–6974
CC: Citizens for a Sound Economy

MTC–00032992

From: Robert Reinhardt
To: Ms. Renata Hesse
Date: 1/22/02 8:51am
Subject: Microsoft Settlement
Robert Reinhardt
67 Adair Ct.
Malverne, NY 11565
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Robert C. Reinhardt

MTC–00032993

From: Thomas Rekdal
To: Ms. Renata B. Heese
Date: 1/22/02 8:55am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Thomas Rekdal
7558 Ravenna Ave. N.E.
Seattle, WA 98115–4662
CC: Citizens for a Sound Economy

MTC–00032994

From: Greg Ashley
To: Ms. Renata Hesse
Date: 1/22/02 9:13am
Subject: Microsoft Settlement
Greg Ashley
PO Box 357
Clay City, Il 62824–0357
January 22, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Greg Ashley

MTC-00032995

From: Marilyn Kittelman
To: Ms. Renata B. Heese
Date: 1/22/02 9:34am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Marilyn Kittelman
2303 Elkhead Rd.
Yoncalla, OR 97499-9728
CC: Citizens for a Sound Economy

MTC-00032996

From: Henry W, Rambacher
To: Ms. Renata Hesse
Date: 1/22/02 10:01am
Subject: Microsoft Settlement
Henry W, Rambacher
241 Countryside Drive
Naples, Fl 34104
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Henry W. Rambacher

MTC-00032997

From: Claude Ross
To: Ms. Renata Hesse
Date: 1/22/02 10:03am
Subject: Microsoft Settlement
Claude Ross
P.O. Box 388
Sequim, WA 98382-0388
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division

601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Claude M. Ross

MTC-00032999

From: F. Noreen Rambacher
To: Ms. Renata Hesse
Date: 1/22/02 10:12am
Subject: Microsoft Settlement

F. Noreen Rambacher
241 Countryside Drive
Naples, Fl 34104
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

F. Noreen Rambacher

MTC-00033000

From: Joyce Hughes
To: Ms. Renata Hesse
Date: 1/22/02 10:16am
Subject: Microsoft Settlement

Joyce Hughes
4904 Lake Cecile Drive
Kissimmee, FL 34746-5158
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Joyce E. Hughes

MTC-00033001

From: Robert Mattox
To: Ms. Renata Hesse
Date: 1/22/02 10:17am
Subject: Microsoft Settlement
Robert Mattox
1489 Cardinal Dr.
St. Joseph, MI 49085
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Robert E. Mattox

MTC-00033002

From: Penny Rambacher
To: Ms. Renata Hesse
Date: 1/22/02 10:18am
Subject: Microsoft Settlement
Penny Rambacher
241 Countryside Drive
Naples, Fl 34104
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Penny Rambacher

MTC-00033003

From: Franklyn Diller
To: Ms. Renata Hesse
Date: 1/22/02 10:27am
Subject: Microsoft Settlement
Franklyn Diller
9504 Croton Dr.
Cincinnati, OH 45242
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Franklyn D. Diller

MTC-00033004

From: Richard Rath
To: Ms. Renata Hesse
Date: 1/22/02 10:32am
Subject: Microsoft Settlement
Richard Rath
10 Duxbury Hts.
Fairport, NY 14450
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Richard Rath

MTC-00033005

From: Colleen Wise
To: Ms. Renata B. Hesse
Date: 1/22/02 10:45am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Colleen Wise
916 114th Ave E
Edgewood, WA 98372-1417
CC: Citizens for a Sound Economy

MTC-00033006

From: William Masterson
To: Ms. Renata Hesse
Date: 1/22/02 10:55am
Subject: Microsoft Settlement
William Masterson
1166 Holmesdale Road
Jacksonville, FL 32207
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism,

including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

W.A. Masterson

MTC-00033007

From: Debe Loeber
To: Ms. Renata B. Hesse
Date: 1/22/02 11:03am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,

Debe Loeber
503 12th Ave. Ct.
Milton, WA 98354-9500
CC: Citizens for a Sound Economy

MTC-00033008

From: Timothy Coy
To: Ms. Renata Hesse
Date: 1/22/02 11:05am
Subject: Microsoft Settlement
Timothy Coy
315 E. Huntingdon St.
Savannah, GA 31401
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors: products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Timothy E. Coy

MTC-00033009

From: Virginia Arnold
To: Ms. Renata B. Hesse
Date: 1/22/02 11:11am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to

the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Virginia Arnold
9905 Marine View Dr.
Mukilteo, WA 98275–4113
CC: Citizens for a Sound Economy

MTC–00033010

From: Malcolm Russell
To: Ms. Renata B. Heese
Date: 1/22/02 11:11am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

Accept the settlement and work to get Microsoft focused on it's business again. I support the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation.

Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from. Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products.

Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Malcolm Russell
4414 South 9th Street
Tacoma, WA 98405–1210
CC: Citizens for a Sound Economy

MTC–00033011

From: Stephen Ryczek
To: Ms. Renata B. Heese
Date: 1/22/02 11:13am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Stephen Ryczek
105 Eagle Ridge Dr. E.
Puyallup, WA 98374–9217
CC: Citizens for a Sound Economy

MTC–00033012

From: JOHN CARNAGHI
To: Ms. Renata Hesse
Date: 1/22/02 11:27am
Subject: Microsoft Settlement
JOHN CARNAGHI
7 LAKE SHORE LANE
GROSSE POINTE, MI 48236–2464
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
John A. Carnaghi

MTC–00033013

From: Franklin Mayse
To: Ms. Renata B. Heese
Date: 1/22/02 11:30am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Franklin Mayse
11308 194th st. E.
Graham, WA 98338–8169
CC:
Citizens for a Sound Economy

MTC–00033014

From: Jeanette Whitley
To: Ms. Renata Hesse
Date: 1/22/02 11:44am
Subject: Microsoft Settlement
Jeanette Whitley
1993 6th Ave., S.E.
Vero Beach, Fl 32962–7311
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
William P. Whitley

MTC–00033015

From: Thomas Simmons
To: Ms. Renata B. Heese
Date: 1/22/02 11:52am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Thomas Simmons
5423 W. Tapps Dr. E
Sumner, WA 98390–8912
CC: Citizens for a Sound Economy

MTC–00033016

From: John Malivuk
To: Ms. Renata Hesse
Date: 1/22/02 11:52am
Subject: Microsoft Settlement
John Malivuk
1182 Mt. Vernon Avenue
Akron, OH 44310–2231
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

John Malivuk

MTC-00033017

From: P. Hill
To: Ms. Renata Hesse
Date: 1/22/02 11:53am
Subject: Microsoft Settlement
P. Hill
2342a 30th Av
Osceola, wi 54020-5927
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

P. Hill

MTC-00033018

From: C. Kenneth Yetter
To: Ms. Renata Hesse
Date: 1/22/02 11:53am
Subject: Microsoft Settlement
C. Kenneth Yetter
314 Hillside Drive
Shillington, Pa 19607
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

C. Kenneth Yetter

MTC-00033019

From: Frank Moretti
To: Ms. Renata Hesse
Date: 1/22/02 11:56am
Subject: Microsoft Settlement
Frank Moretti
4 Giles Hill Road
Redding, Ct 06896
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Frank Moreti

MTC-00033020

From: Billy Kidd
To: Ms. Renata Hesse
Date: 1/22/02 11:56am
Subject: Microsoft Settlement
Billy Kidd
157 Sanders Drive
Minden, LA 71055-7503
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Billy H. Kidd

MTC-00033021

From: William O'Byrne
To: Ms. Renata Hesse
Date: 1/22/02 11:58am
Subject: Microsoft Settlement
William O'Byrne
3631 Vienna Drive
College Station, TX 77845
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

William F. O'Byrne

MTC-00033022

From: Donald High
To: Ms. Renata Hesse
Date: 1/22/02 12:01pm
Subject: Microsoft Settlement

Donald High
1007 Edgeworth Ave.
Kirkwood, MO 63122-2434
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Donald A. High

MTC-00033023

From: Katherine High
To: Ms. Renata Hesse
Date: 1/22/02 12:06pm
Subject: Microsoft Settlement
Katherine High
1007 Edgeworth Ave.
Kirkwood, MO 63122-2434
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Katherine L. High

MTC-00033024

From: Larry Fruth
To: Ms. Renata Hesse
Date: 1/22/02 12:13pm
Subject: Microsoft Settlement
Larry Fruth
101 Summerfield Blvd.
Bowling Green, OH 43402
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Larry Fruth

MTC-00033025

From: George B. Clark
To: Ms. Renata Hesse
Date: 1/22/02 12:17pm
Subject: Microsoft Settlement
George B. Clark
6800 Winged Foot Drive
Stuart, FL 34997–8619
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

George B. Clark

MTC-00033026

From: Sterling Haskell
To: Ms. Renata Hesse
Date: 1/22/02 12:36pm
Subject: Microsoft Settlement
Sterling Haskell
2239 Watrous Drive
Dunedin, FL 34698
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Sterling E. Haskell

MTC-00033027

From: Harold Mcgraw
To: Ms. Renata Hesse
Date: 1/22/02 12:36pm
Subject: Microsoft Settlement
Harold Mcgraw
9 Sidney Drive
Independence, Ky 41051
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Harold E. Mcgraw

MTC-00033028

From: David W. Bosscher
To: Ms. Renata Hesse
Date: 1/22/02 12:39pm
Subject: Microsoft Settlement
David W. Bosscher
2911 Chamberlain SE
Grand Rapids, MI 49508
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
David W. Bosscher

MTC-00033029

From: Russell Coventry
To: Ms. Renata Hesse
Date: 1/22/02 12:58pm
Subject: Microsoft Settlement
Russell Coventry
P. O. Box 104
Ellison Bay, WI 54210
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Russell A. Coventry

MTC-00033030

From: Bernd Koken
To: Ms. Renata Hesse
Date: 1/22/02 1:02pm
Subject: Microsoft Settlement
Bernd Koken
916 MacEwen Drive
Osprey, FL 34229
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now, when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Bernd Koken

MTC-00033031

From: john duncan
To: Ms. Renata B. Heese
Date: 1/22/02 1:03pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
john duncan
8905 65th St W
University Place, WA 98467–1652
CC: Citizens for a Sound Economy

MTC-00033032

From: Joni Masterson
To: Ms. Renata B. Heese
Date: 1/22/02 1:04pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Respectfully,
Joni Masterson
2756 SW 327th St.
Federal Way, WA 98023–2536
CC: Citizens for a Sound Economy

MTC-00033033

From: BOBBY JONES
To: Ms. Renata Hesse
Date: 1/22/02 1:04pm
Subject: Microsoft Settlement
BOBBY JONES
310 DELAWARE SPRINGS BLVD.
BUTNET, TX 78611–3516
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Colonel Bobby A. Jones, USAF (RET)

MTC-00033034

From: WILLIAM NESBITT
To: Ms. Renata Hesse
Date: 1/22/02 1:08pm
Subject: Microsoft Settlement
WILLIAM NESBITT
4135 CREEKWOOD LN.
MULBERRY, FL 33860
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,please get rid of all the lawyers

WILLIAM NESBITT

MTC-00033035

From: ROBERT JACKSON
To: Ms. Renata Hesse
Date: 1/22/02 1:13pm
Subject: Microsoft Settlement
ROBERT JACKSON
165 A HAGUE BLVD
GLENMONT, NY 12077-3617
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgmentin the U.S. v. Microsoft case. This lengthy litigation has cost my fellowtaxpayers and me more than $35 million, and after reviewing the terms ofthis Judgment, final approval is clearly in the public interest.Perhaps of greatest benefit to the American people, the Department ofJustice (DOJ) and the settling states will avoid additional costs and nowbe able to focus their time and resources on matters of far greaternational significance ? the war against terrorism, including homelandsecurity. As noted by District Court Judge Colleen Kollar-Kotelly, whopushed for a settlement after the attacks of September 11, it is vital forthe country to move on from this lawsuit. The parties worked extremelyhard to reach this agreement, which has the benefit of taking effectimmediately rather than months or years from now when all appeals fromcontinuing the litigation would finally be exhausted.

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Sincerely,
Robert A. Jackson

MTC-00033036

From: James Whatley
To: Ms. Renata Hesse
Date: 1/22/02 1:19pm
Subject: Microsoft Settlement
James Whatley
350 Center Point River Road
Kerrville, TX 78028-8004
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgmentin the U.S. v. Microsoft case. This lengthy litigation has cost my fellowtaxpayers and me more than $35 million, and after reviewing the terms ofthis Judgment, final approval is clearly in the public interest.Perhaps of greatest benefit to the American people, the Department ofJustice (DOJ) and the settling states will avoid additional costs and nowbe able to focus their time and resources on matters of far greaternational significance: the war against terrorism, includinghomeland security. As noted by District Court Judge ColleenKollar-Kotelly, who pushed for a settlement after the attacks of September11, it is vital for the country to move on from this lawsuit. The partiesworked extremely hard to reach this agreement, which has the benefit oftaking effect immediately rather than months or years from now when allappeals from continuing the litigation would finally be exhausted.

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Sincerely,
James Whatley

MTC-00033037

From: Harold A Brenner
To: Ms. Renata Hesse
Date: 1/22/02 1:22pm
Subject: Microsoft Settlement
Harold A Brenner
96 Hibiscus Dr.
Punta Gorda, Fl 33950
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgmentin the U.S. v. Microsoft case. This lengthy litigation has cost my fellowtaxpayers and me more than $35 million, and after reviewing the terms ofthis Judgment, final approval is clearly in the public interest.Perhaps of greatest benefit to the American people, the Department ofJustice (DOJ) and the settling states will avoid additional costs and nowbe able to focus their time and resources on matters of far greaternational significance ? the war against terrorism, including homelandsecurity. As noted by District Court Judge Colleen Kollar-Kotelly, whopushed for a settlement after the attacks of September 11, it is vital forthe country to move on from this lawsuit. The parties worked extremelyhard to reach this agreement, which has the benefit of taking effectimmediately rather than months or years from now when all appeals fromcontinuing the litigation would finally be exhausted.

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Sincerely,
H. A. Brenner

MTC-00033039

From: Richard Chappell
To: Ms. Renata Hesse
Date: 1/22/02 1:30pm
Subject: Microsoft Settlement
Richard Chappell
262 Cambridge Road
Camden, DE 19934-1204
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgmentin the U.S. v. Microsoft case. This lengthy litigation has cost my fellowtaxpayers and me more than $35 million, and after reviewing the terms ofthis Judgment, final approval is clearly in the public interest.Perhaps of greatest benefit to the American people, the Department ofJustice (DOJ) and the settling states will avoid additional costs and nowbe able to focus their time and resources on matters of far greaternational significance: the war against terrorism, includinghomeland security. As noted by District Court Judge ColleenKollar-Kotelly, who pushed for a settlement after the attacks of September11, it is vital for the country to move on from this lawsuit. The partiesworked extremely hard to reach this agreement, which has the benefit oftaking effect immediately rather than months or years from now when allappeals from continuing the litigation would finally be exhausted.

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Sincerely,

Richard G. Chappell

MTC–00033040

From: Samuel Hall Jr
To: Ms. Renata Hesse
Date: 1/22/02 1:39pm
Subject: Microsoft Settlement
Samuel Hall Jr
1418Pleasant Valley Dr
Baltimore, MD 21228–2541
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Samuel D Hall Jr

MTC–00033041

From: W. E. Connell
To: Ms. Renata Hesse
Date: 1/22/02 1:40pm
Subject: Microsoft Settlement
W. E. Connell
6201 Simmons Dr.
Anniston,, AL 36206–1174
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgmentin the U.S. v. Microsoft case. This lengthy litigation has cost my fellowtaxpayers and me more than $35 million, and after reviewing the terms ofthis Judgment, final approval is clearly in the public interest.Perhaps of greatest benefit to the American people, the Department ofJustice (DOJ) and the settling states will avoid additional costs and nowbe able to focus their time and resources on matters of far greaternational significance: the war against terrorism, includinghomeland security. As noted by District Court Judge ColleenKollar-Kotelly, who pushed for a settlement after the attacks of September11, it is vital for the country to move on from this lawsuit. The partiesworked extremely hard to reach this agreement, which has the benefit oftaking effect immediately rather than months or years from now when allappeals from continuing the litigation would finally be exhausted.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement. This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

W. E. Connell, Jr

MTC–00033042

From: David Lopez
To: Ms. Renata Hesse
Date: 1/22/02 1:46pm

Subject: Microsoft Settlement
David Lopez
P.O. Box 17412
Tampa, Fl 33682–7412
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
David Lopez

MTC-00033043

From: Paul Aloia
To: Ms. Renata Hesse
Date: 1/22/02 1:54pm
Subject: Microsoft Settlement
Paul Aloia
826 Lansing Switch
Longview, TX 75602
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Paul Aloia

MTC-00033044

From: Philip Robinson
To: Ms. Renata Hesse
Date: 1/22/02 1:57pm
Subject: Microsoft Settlement
Philip Robinson
7113 Sheffield Dr.
Knoxville, TN 37909
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Philip A. Robinson

MTC-00033045

From: Delbert Cummngs
To: Ms. Renata Hesse
Date: 1/22/02 2:04pm
Subject: Microsoft Settlement
Delbert Cummngs
4870 Big Pine Dr.
Lakeside, Az 85929-5511
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Delbert E. Cummngs

MTC-00033046

From: WALT MORENO
To: Ms. Renata Hesse
Date: 1/22/02 2:05pm
Subject: Microsoft Settlement
WALT MORENO
933 MENDOCINO AVENUE
SANTA ROSA, CA 95401
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Walt Moreno

MTC-00033047

From: MARY V. MORIN
To: Ms. Renata Hesse
Date: 1/22/02 2:06pm
Subject: Microsoft Settlement
MARY V. MORIN
256 HILLSIDE AVENUE
CHATHAM, NJ 07928
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Mary V. Morin

MTC-00033048

From: William H. Schauer Jr.
To: Ms. Renata Hesse
Date: 1/22/02 2:09pm
Subject: Microsoft Settlement
William H. Schauer Jr.
970 Gershwin Dr.
Largo, FL 33771-1314
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
William H. Schauer Jr.

MTC-00033049

From: Robaron250@aol.com@inetgw
To: Microsoft ATR
Date: 1/22/02 2:09pm
Subject: Microsoft Settlement

As a senior citizen and a member of the voting public I deplore the intrusion of state governments into a rational Justice Department settlement of the Microsoft litigation.

Surely they've been aggressive—isn't that the nature of competitiveness in the business world? I feel that the states are not so much seeking redress for their constituents but rather are hopeful of a financial windfall. Enough, if you please!!!

R.J.Corbliss
Barnegat, NJ

MTC-00033050

From: Eileen Bolton
To: Ms. Renata Hesse
Date: 1/22/02 2:09pm
Subject: Microsoft Settlement
Eileen Bolton
3351 Lee Street
Hollywood, FL 33021
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Eileen Bolton

MTC-00033051

From: Leo Caissie
To: Ms. Renata Hesse
Date: 1/22/02 2:10pm
Subject: Microsoft Settlement
Leo Caissie
524 Main Street
Hudson, MA 01749-2909
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Leo A.Caissie

MTC-00033052

From: Robert Curley
To: Ms. Renata Hesse
Date: 1/22/02 2:16pm
Subject: Microsoft Settlement
Robert Curley
534 candlewood Lane
Flat Rock, NC 28731-9638
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Robert Curley

MTC-00033053

From: Herman Riley Stein
To: Ms. Renata Hesse
Date: 1/22/02 2:18pm
Subject: Microsoft Settlement
Herman Riley Stein
154 Seminole Blvd
Tavernier, FL 33070-2148
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I do not need someone to write messages for me any more than I need the lawyers living off the DOJ to decide what is good for me. I liked the telephone service that worked! So it cost a bit more but the phones could fall from the second story and still work. Now we have junk phones from China and God knows where which need replacing each year. Thank you DOJ! The "hodgepog" called service must also be from China. Now the student lawyers want to kill the organization that made the computer operation possible for almost any age group. AND YOU USE MY MONEY TO MAKE MY LIFE MORE DIFFICULT. I wonder just what is taught in law school these days. It sure isn't to defend the ordinary people. I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. when all appeals from continuing the litigation would finally be exhausted.

Sincerely and Thank you
Herman Riley Stein

MTC-00033054

From: Robert Woody
To: Ms. Renata Hesse
Date: 1/22/02 2:29pm
Subject: Microsoft Settlement
Robert Woody
8325 Harvard Ave
Raytown, Mo 64138-3645
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing The terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Robert Woody

MTC-00033055

From: duane carlson
To: Ms. Renata Hesse
Date: 1/22/02 2:31pm
Subject: Microsoft Settlement
duane carlson
206 riverside rd.
marquette, mi 49855
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing The terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
duane r carlson

MTC-00033056

From: William Laudel
To: Ms. Renata Hesse
Date: 1/22/02 2:34pm
Subject: Microsoft Settlement
William Laudel
661 Kirkshire
St. Louis, Mo 63122
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing The terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
William H. Laudel

MTC-00033057

From: Leland Evjen
To: Ms. Renata Hesse
Date: 1/22/02 2:36pm
Subject: Microsoft Settlement
Leland Evjen
1517 1st ave eastt
Williston, ND 58801
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing The terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Leland Evjen

MTC-00033058

From: Jared Nuzzolillo
To: Microsoft ATR
Date: 1/22/02 2:39pm
Subject: Microsoft Settlement

I am writing to you with the hope that one honest voice may be heard above the shouting and screaming of special interest groups across the nation. I'd like to start by stating that I have no financial interest in Microsoft whatsoever, nor do I belong to any organization that has said interests. I am coming to you, specifically, as a freedom-loving American consumer.

Microsoft has, time and again, created the cheapest and most efficacious software available in its industry. I use Windows daily, and have found it both easier and faster than alternative products I have used (and there are many). Microsoft's software is, in a single word, superior. Microsoft is currently being penalized by a lawsuit raised, not by the consumers, but by those who failed to compete with them fairly, and seek special help from "Uncle Sam" to force their own software into the market. I don't want their slow and unreliable software, and as an intelligent, (mostly) free human being, resent the fact that you are attempting to remove yet another choice from me.

Success and innovation should be rewarded in our nation, not penalized. Bill Gates is an icon of the American dream, and to steal/destroy/control his property is an affront to civilized society as a whole. It is your job to protect his, and the other Microsoft shareholders, rights, not to ingringe upon them. Please, take this opportunity to show the citizenry that the government of our proud nation will protect the rights of its people, and not give in to lobbyists and talking-heads. Please, preserve our freedom.

Sincerely,
Jared Nuzzolillo

MTC-00033059

From: Leona Morgan
To: Ms. Renata Hesse
Date: 1/22/02 2:42pm
Subject: Microsoft Settlement
Leona Morgan
3 Old Chester Road
East Derry, NH 03041–0087
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Leona N Morgan

MTC-00033060

From: Mildred Van Keuren
To: Ms. Renata Hesse
Date: 1/22/02 2:45pm
Subject: Microsoft Settlement
Mildred Van Keuren
414 Shropshire St
San Antonio, TX 78217-6033
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Mildred Van Keuren

MTC-00033061

From: Margaret M. Rivers
To: Ms. Renata Hesse
Date: 1/22/02 3:06pm
Subject: Microsoft Settlement
Margaret M. Rivers
3507 Springfield Ct.
Valparaiso, IN 46383-1948
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Margaret M. Rivers

MTC-00033062

From: Edward Jayjack
To: Ms. Renata Hesse
Date: 1/22/02 3:11pm
Subject: Microsoft Settlement
Edward Jayjack
2120 W. Pleasant Valley Rd.
Parma, Oh 44134
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Edward Jayjack

MTC-00033063

From: Jim Nussle
To: Ms. Renata Hesse
Date: 1/22/02 3:12pm
Subject: Microsoft Settlement
Jim Nussle
1101 Division St.
Cresco, IA 52136-1017
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Raymond W. Morrison

MTC-00033064

From: David Ott
To: Ms. Renata Hesse
Date: 1/22/02 3:15pm
Subject: Microsoft Settlement
David Ott
1126 Nathaniel Ct
Hazelwood, MO 63042-3812
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
David E. Ott

MTC-00033065

From: Philip Miller
To: Ms. Renata Hesse
Date: 1/22/02 3:16pm
Subject: Microsoft Settlement
Philip Miller
4011 Rolling Green Dr.
Memphis, TN 38125
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Philip Miller

MTC-00033066

From: Erik Hanson
To: Ms. Renata B. Heese
Date: 1/22/02 3:42pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Erik Hanson
1602 Naval Ave. #38
Bremerton, WA 98312-3081
CC:
Citizens for a Sound Economy

MTC-00033067

From: Alice Burich
To: Ms. Renata Hesse
Date: 1/22/02 4:07pm
Subject: Microsoft Settlement
Alice Burich
343 Whitclem Drive
Palo Allto, CA 94306-4115
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Alice B. Burich

MTC-00033068

From: James Hand
To: Ms. Renata Hesse
Date: 1/22/02 4:08pm
Subject: Microsoft Settlement

James Hand
368 Lower LaVista Ct. NW
Salem, OR 97304
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

James A. Hand

MTC-00033069

From: Jack McCorkle
To: Ms. Renata Hesse
Date: 1/22/02 4:09pm
Subject: Microsoft Settlement

Jack McCorkle
1240 Bridlewood Way
Reno, NV 89509-7116
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Jack E. McCorkle, Reno, Nevada

MTC-00033070

From: Helen Allport
To: Ms. Renata Hesse
Date: 1/22/02 4:25pm
Subject: Microsoft Settlement

Helen Allport
346 Fremont Road
Nottingham, PA 19362
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

As a taxpayer and consumer, I SUPPORT the Microsoft settlement.

Sincerely,
Helen P. Allport

MTC-00033071

From: Robert Merkle
To: Ms. Renata Hesse
Date: 1/22/02 4:28pm
Subject: Microsoft Settlement

Robert Merkle
153 Wildflower Lane
Waynesville, NC 28786
January 22, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Robert B. Merkle

MTC-00033072

From: Brenda A. Moran
To: Ms. Renata Hesse
Date: 1/22/02 4:53pm
Subject: Microsoft Settlement

Brenda A. Moran
P O Box 2160
Hobbs, NM 88241–2160
January 22, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Brenda A. Moran

MTC-00033073

From: Rudy p Petorelli
To: Ms. Renata Hesse
Date: 1/22/02 4:58pm
Subject: Microsoft Settlement

Rudy p Petorelli
519–1 Joseph Ct
Naples, Fl 34104
January 22, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Rudy Petorelli

MTC-00033074

From: Hal Neiman
To: Ms. Renata Hesse
Date: 1/22/02 5:05pm
Subject: Microsoft Settlement

Hal Neiman
2212 California Ave.
Santa Monica, CA 90403
January 22, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Hal Neiman

MTC-00033075

From: Paul Walker
To: Ms. Renata Hesse
Date: 1/22/02 5:11pm
Subject: Microsoft Settlement

Paul Walker
3137 Whisper Blvd.
Deland, FL 32724–8247
January 22, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

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Sincerely,

Paul C. Walker

MTC-00033076

From: Phil Corwin
To: Ms. Renata Hesse
Date: 1/22/02 5:12pm
Subject: Microsoft Settlement

Phil Corwin
1717 Voorhees Ave.
Manhattan Beach, CA 90266–7045
January 22, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

Please see the comments at the end (from a friend of mine who I agree with in this instance) that are in addition to the next text.

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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BELOW IS THE ADDITIONAL TEXT.

If the premise of the final sentence is true, then this seems like a reasonable question:

Two men, both billionaires. One develops relatively cheap software and gives hundreds of millions of dollars to charity. The other sponsors terrorism and is probably responsible for the deaths of thousands. That being the case, why is it that the US government has spent more money chasing down Bill Gates over the past ten years than Osama bin Laden?

Sincerely,
Phil Corwin

MTC-00033077

From: joseph kudzol
To: Ms. Renata Hesse
Date: 1/22/02 5:18pm
Subject: Microsoft Settlement
joseph kudzol
112 dolphin drive
fayetteville, ga 30214
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
joe kudzol

MTC-00033078

From: George Mason
To: Ms. Renata Hesse
Date: 1/22/02 5:26pm
Subject: Microsoft Settlement
George Mason
19053 North 86th Ave.
Peoria, AZ 85382–8541
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
George F. Mason

MTC-00033079

From: George Vogrin
To: Ms. Renata Hesse
Date: 1/22/02 5:34pm
Subject: Microsoft Settlement
George Vogrin
933 73rd Street
Downers Grove, IL 60516
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
George R. Vogrin

MTC-00033080

From: GEORGE HANSEN
To: Ms. Renata Hesse
Date: 1/22/02 5:34pm
Subject: Microsoft Settlement
GEORGE HANSEN
513 VAUTIER RD.
SEQUIM, WA 98382
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
GEORGE HANSEN

MTC-00033081

From: Mary Johnston
To: Ms. Renata Hesse
Date: 1/22/02 5:36pm
Subject: Microsoft Settlement
Mary Johnston
6530 SW Parkhill Drive
Portland, OR 97201
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S.

v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Mary E, Kincaid Johnston

MTC-00033082

From: Robert Lipp
To: Ms. Renata Hesse
Date: 1/22/02 5:42pm
Subject: Microsoft Settlement
Robert Lipp
23265 Woodhaven Ct
Farmington Hills, MI 48335-3124
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I am a taxpayer and a consumer of several Microsoft products. I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

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Sincerely,
Robert E. Lipp

MTC-00033083

From: Maurice Angvall
To: Ms. Renata Hesse
Date: 1/22/02 5:42pm
Subject: Microsoft Settlement
Maurice Angvall
1049 Marchetti Ct.
Chico, CA 95926
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Maurice W. Angvall

MTC-00033084

From: Harry Stewart
To: Ms. Renata Hesse
Date: 1/22/02 5:45pm
Subject: Microsoft Settlement

Harry Stewart
5018 Colorado Rd.
Midpines, Ca 95345–9707
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Harry O. Stewart

MTC-00033085

From: George Greaney
To: Ms. Renata Hesse
Date: 1/22/02 5:55pm
Subject: Microsoft Settlement

George Greaney
1603—E. Hedgecroft
Seabrook, TX 77586
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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George J. Greaney

MTC-00033086

From: Perry Lewis
To: Ms. Renata Hesse
Date: 1/22/02 5:59pm
Subject: Microsoft Settlement

Perry Lewis
175 18th SW
Huron, SD 57350
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Perry Lewis

MTC-00033087

From: Vernon White
To: Ms. Renata Hesse
Date: 1/22/02 6:00pm
Subject: Microsoft Settlement
Vernon White
6245 3rd Ave. North
St. Petersburg, FL 33710–7822
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Vernon H. White

MTC-00033088

From: Bruce Lewis
To: Ms. Renata Hesse
Date: 1/22/02 6:00pm
Subject: Microsoft Settlement
Bruce Lewis
3119 Knollwood Ct
Sioux City, IA 51106
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to

submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Bruce Lewis

MTC-00033089

From: Andrew Pickens
To: Ms. Renata Hesse
Date: 1/22/02 6:06pm
Subject: Microsoft Settlement
Andrew Pickens
222 Halbart Drive
San Antonio, TX 78213
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Pickens

MTC-00033090

From: Ruth Howard
To: Ms. Renata Hesse
Date: 1/22/02 6:10pm
Subject: Microsoft Settlement
Ruth Howard
1405 PLantation Dr.
Lady Lake, Fl 32159–2246
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement. This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Ruth C. Howard

MTC-00033091

From: Joseph Vrzalik
To: Ms. Renata Hesse
Date: 1/22/02 6:11pm
Subject: Microsoft Settlement
Joseph Vrzalik
3890 Schroeder Avenue
Perry Hall, MD 21128
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Joeph F. Vrzalik

MTC-00033092

From: Rodger Landes
To: Ms. Renata Hesse
Date: 1/22/02 6:16pm
Subject: Microsoft Settlement
Rodger Landes
1238 Creek Road
Lititz, PA 17543
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Rodger B. Landes

MTC-00033093

From: Pam Barton
To: Ms. Renata Hesse
Date: 1/22/02 6:22pm
Subject: Microsoft Settlement
Pam Barton
404 Jasmine Way
Clearwater, FL 33756
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Pam Barton

MTC-00033094

From: Ray Barton
To: Ms. Renata Hesse
Date: 1/22/02 6:26pm
Subject: Microsoft Settlement
Ray Barton

404 Jasmine Way
Clearwater, FL 33756
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Ray Barton

MTC-00033095

From: Allison Moore
To: Ms. Renata Hesse
Date: 1/22/02 6:28pm
Subject: Microsoft Settlement
Allison Moore
10636 S. Niagara
Littleton, CO 80124
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

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Sincerely,
Allison Moore

MTC-00033096

From: Bill Reddie
To: Ms. Renata Hesse
Date: 1/22/02 6:28pm
Subject: Microsoft Settlement
Bill Reddie
661 E. Intrepid St P.O.Box 1314
Pahrump, NV 89041
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Bill Reddie

MTC-00033097

From: John Lunkes
To: Ms. Renata B. Hesse
Date: 1/22/02 6:30pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
John Lunkes
8210 49th St. Ct., West
University Place, WA 98467–1969
CC: Citizens for a Sound Economy

MTC-00033098

From: ALLAN HANSON
To: Ms. Renata Hesse
Date: 1/22/02 6:39pm
Subject: Microsoft Settlement
ALLAN HANSON
6020 LITTLE SPRING ROAD
SOMERSET, CA 95684–9219
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
ALLAN G. HANSON

MTC-00033099

From: Howard Milke
To: Ms. Renata Hesse
Date: 1/22/02 6:39pm
Subject: Microsoft Settlement
Howard Milke
35 Ocean Meadows N. PO Box 2348
Ogunquit, ME 03907–2348
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Howard Milke

MTC-00033100

From: lillian lee
To: Ms. Renata Hesse
Date: 1/22/02 6:43pm
Subject: Microsoft Settlement
lillian lee
22120 center st 502
castro valley, ca 94546
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

lillian lee

MTC-00033101

From: Dorothy Howard
To: Ms. Renata Hesse
Date: 1/22/02 6:44pm
Subject: Microsoft Settlement
Dorothy Howard
2285 Norwegian Drive, Apt. 59
Clearwater, FL 33763
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Dorothy H. Howard

MTC-00033102

From: Renata B. Hesse
To: Ms. Renata Hesse
Date: 1/22/02 6:49pm
Subject: Microsoft Settlement
Renata B. Hesse
5532 Country Club Way
Sarasota, Fl 34243-3757
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Frederick C. Faulkner

MTC-00033103

From: Richard Haugen
To: Ms. Renata Hesse
Date: 1/22/02 6:50pm
Subject: Microsoft Settlement
Richard Haugen
740 Southgate
Fullerton, Ca 92832
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Richard Haugen

MTC-00033104

From: Catherine Reimer
To: Ms. Renata Hesse
Date: 1/22/02 6:55pm
Subject: Microsoft Settlement
Catherine Reimer
14 Truman Road
Charleroi, PA 15022
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Taxpayer & Consumer

Catherine M. Reimer

MTC-00033105

From: Howard Garrett
To: Ms. Renata Hesse
Date: 1/22/02 6:55pm
Subject: Microsoft Settlement
Howard Garrett
2107 Sylvan Lane
Midland, MI 48640
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Howard L. Garrett

MTC-00033106

From: Alvin Barber, Jr.
To: Ms. Renata Hesse
Date: 1/22/02 7:01pm
Subject: Microsoft Settlement
Alvin Barber, Jr.
1885 Aloha Street
Red Bluff, CA 96980-4009
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Rejoicing in Christ,
Alvin B. Barber, Jr.

MTC-00033107

From: Dennis Fischer
To: Ms. Renata Hesse
Date: 1/22/02 7:02pm
Subject: Microsoft Settlement
Dennis Fischer
9728 Regalton Court
St. Louis, MO 63123-5318
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Dennis R. Fischer

MTC-00033108

From: Mary Stock

To: Ms. Renata Hesse
Date: 1/22/02 7:05pm
Subject: Microsoft Settlement
Mary Stock
670 Island Way #607
Clearwater, FL 33767
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Mary Stock

MTC-00033109

From: June Hillyer
To: Ms. Renata Hesse
Date: 1/22/02 7:08pm
Subject: Microsoft Settlement
June Hillyer
50 Churhill Drive
Bella Vista, AR 72714–6232
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
June Hillyer

MTC-00033110

From: Mike Silva
To: Department of Justice
Date: 1/22/02 7:16pm
Subject: Message From a Concerned Citizen

Dear Department of Justice:

Dear Sir;

I believe you are making a serious error in judgement in going after Microsoft in this manner. I believe their competition is trying to break Microsoft. Giving codes and strip down versions of windows and other programs will weaken the abilities of Microsoft to create new programming, and this will hurt the consumer. Microsoft developed windows and should be able to keep the codes that they created. It seems to me that you would be stripping the company of a product they basically created,and continue to develope. I do believe that there should be a choice of browsers and programs independent of using Microsoft software. Linux seems to be one and I'm sure there could be others. The problem is that windows is owned and operated by Microsoft and was their invention to start with and to give away secret codes would put not only Microsoft at risk of piracy(sp) but every other company in the world at risk. Why develope a product and share all the workings only to have it stolen by a rival under the guise of unfair business.

Sincerely,
Mike Silva
1717 Pepper Villa Drive
El Cajon , CA 92021–1215

MTC-00033111

From: Charles Patterson
To: Ms. Renata Hesse
Date: 1/22/02 7:21pm
Subject: Microsoft Settlement
Charles Patterson
P O Box 9069
Gosnell, AR 72319
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Charles Patterson

MTC-00033112

From: Joe Boehnlein
To: Ms. Renata Hesse
Date: 1/22/02 7:27pm
Subject: Microsoft Settlement
Joe Boehnlein
5389 Circle Drive
Belmont, Mi 49306-9002
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Joe Boehnlein

MTC-00033113

From: John I. McLain
To: Ms. Renata Hesse
Date: 1/22/02 7:27pm
Subject: Microsoft Settlement
John I. McLain
16874 131st Way N
Jupiter., FL 33478
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
John I. McLain

MTC-00033114

From: Luther Klick
To: Ms. Renata Hesse
Date: 1/22/02 7:31pm
Subject: Microsoft Settlement
Luther Klick
315 E. Chestnut St.
Cleona, Pa 17042
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Luther Klick

MTC-00033115

From: James Frisbie
To: Ms. Renata Hesse
Date: 1/22/02 7:35pm
Subject: Microsoft Settlement
James Frisbie
636 Holly Road
Cadillac, MI 49601
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
James R. Frisbie

MTC-00033116

From: Howard Sampson
To: Ms. Renata Hesse
Date: 1/22/02 7:41pm
Subject: Microsoft Settlement
Howard Sampson
4063 RR 4
Cortland, OH 44410
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Howard Sampson

MTC-00033117

From: Aloma Blaylock
To: Ms. Renata B. Heese
Date: 1/22/02 7:50pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

Microsoft has given us programs and operating system that is easy to access and use. No one has forced me to use their operating system. Competitors who have fallen behind in innovation should stop complaining and get to work. Are you going to make General Mills package a little Special K with their Cheerios of they get a high percentage of the cereal market?

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Aloma Blaylock
1013 West 13th
Port Angeles, WA 98363-7220
CC: Citizens for a Sound Economy

MTC-00033118

From: Chris Norbury
To: Ms. Renata Hesse
Date: 1/22/02 7:56pm
Subject: Microsoft Settlement
Chris Norbury
2175 Sunflower Lane
Owatonna, MN 55060-2083
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Chris Norbury

MTC-00033119

From: Becki Shaffer
To: Ms. Renata Hesse
Date: 1/22/02 8:02pm
Subject: Microsoft Settlement
Becki Shaffer
939 Deerfield Rd.
Deerfield, IL 60015
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Becki A. Shaffer

MTC-00033120

From: D Carlton Cobb
To: Ms. Renata Hesse
Date: 1/22/02 8:03pm
Subject: Microsoft Settlement
D Carlton Cobb
3892 Three Doves Cove
Memphis, TN 38133-2106
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
D. Carlton Cobb

MTC-00033121

From: Carolyn Lovern
To: Ms. Renata B. Heese
Date: 1/22/02 8:05pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Carolyn Lovern
25122 Florence Acres Rd.
Monroe, WA 98272-9661
CC: Citizens for a Sound Economy

MTC-00033122

From: Ronald Newton
To: Ms. Renata Hesse
Date: 1/22/02 8:07pm
Subject: Microsoft Settlement
Ronald Newton
307 Rainbow Ct
Paso Robles, CA 93446-2986
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Ronald C Newton

MTC-00033123

From: Bill Zeitlin
To: Ms. Renata Hesse
Date: 1/22/02 8:17pm
Subject: Microsoft Settlement
Bill Zeitlin
281 Swan Court
Manhasset, NY 11030
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgmentin the U.S. v. Microsoft case. This lengthy litigation has cost my fellowtaxpayers and me more than $35 million, and after reviewing the terms ofthis Judgment, final approval is clearly in the public interest.

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Sincerely,

Bill Zeitlin

MTC-00033126

From: fred bialek
To: Ms. Renata Hesse
Date: 1/22/02 8:32pm
Subject: Microsoft Settlement
fred bialek
200 winding way
woodside, ca 94062
January 22, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgmentin the U.S. v. Microsoft case. This lengthy litigation has cost my fellowtaxpayers and me more than $35 million, and after reviewing the terms ofthis Judgment, final approval is clearly in the public interest.Perhaps of greatest benefit to the American people, the Department ofJustice (DOJ) and the settling states will avoid additional costs and nowbe able to focus their time and resources on matters of far greaternational significance: the war against terrorism, includinghomeland security. As noted by District Court Judge ColleenKollar-Kotelly, who pushed for a settlement after the attacks of September11, it is vital for the country to move on from this lawsuit. The partiesworked extremely hard to reach this agreement, which has the benefit oftaking effect immediately rather than months or years from now when allappeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We havepaid the price of litigation through our taxes. Our investment portfolioshave taken a hard hit during this battle, and now more than ever, thecountry needs the economic stability this settlement can provide. Thissettlement is in the public interest, and I urge the DOJ to submit therevised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Fred B. Bialek

MTC-00033127

From: jdfrost
To: Attorney General John Ashcroft
Date: 1/22/02 8:33pm
Subject: Microsoft Settlement
Joan Frost
838 N 161st Place
Shoreline, WA 98133
January 22,2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The recent antitrust settlement between Microsoft and the US Departmentof Justice has been a long time coming. I feel that the lawsuit was unjustified inthe first place. Microsoft has done wonderful things for our nation. It has createdjobs, made technological breakthroughs, and contributed to our educationsystems. The Windows operating system for all practical purposes is thestandard for the industry without which we would not have most of our applicationsoftware if there were no "standard" in place. In part, the state of our depressedeconomy was brought about by this suit that has it has had a negative impactupon the PC industry.

Yet, the government wants to bring it down. It seems that if onesucceeds then that entity must automatically be evil. The terms of the settlementreflect the intense lobbying efforts of Microsoft's competitors. For one, all theconcessions are geared towards helping the competitors gain an edge that theywould not have achieved on their own. Microsoft is giving them technologicalinformation such as interfaces and protocols. Microsoft is also agreeing not toretaliate against computer makers and software developers who promote non-Microsoft products.

Although flawed, the settlement should be realized because the alternativeof further litigation would be too much for our country to bear. We need Microsoftto be creating new products for the public's best interests. Why do we so mistrustthe judgment of the public who has voted with their pocket book by purchasingMicrosoft products?

Sincerely,

Joan Frost

MTC-00033128

From: George Hallock
To: Ms. Renata Hesse
Date: 1/22/02 9:01pm
Subject: Microsoft Settlement
George Hallock
4034 Selkirk Court
Cypress, CA 90630
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgmentin the U.S. v. Microsoft case. This lengthy litigation has cost my fellowtaxpayers and me more than $35 million, and after reviewing the terms ofthis Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We havepaid the price of litigation through our taxes. Our investment portfolioshave taken a hard hit during this battle, and now more than ever, thecountry needs the economic stability this settlement can provide. Thissettlement is in the public interest, and I urge the DOJ to submit therevised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

George Hallock

MTC-00033129

From: Alfred Lehman
To: Ms. Renata Hesse
Date: 1/22/02 9:33pm
Subject: Microsoft Settlement
Alfred Lehman
1364 Richland Blvd.
Bay Shore, NY 11706-5444
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

Joining many other Americans, I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million. I have studied the terms of this ruling, and I strongly feel that this final approval is clearly in the public interest.

Our greatest boon in this settlement: the Department of Justice and the settling states will AVOID ADDITIONAL COSTS and now be able to focus their time and resources on matters of greater importance: the war against terrorism, and homeland security. As noted by Judge Colleen Kollar-Kotelly, who pushed for a settlement after the September 11 tragedy,"It's vital for the country to move on from this lawsuit." I can readily see that the terms of the settlement offer a fair resolution for all sides -: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft need not be broken up and can continue to innovate and provide new software and products. Software developers and Internet Service Providers, including competitors, will now have access to Microsoft's programming language and thus be able to make Microsoft programs compatible with their own. It's good to know that competitors also gain as computer manufacturers are free to uninstall any Microsoft application or operating system and install other programs. And...Microsoft cannot retaliate against computer manufactures, ISPs, or other software makers for using products developed by Microsoft competitors. ALSO: a Technical Committee will work out of Microsoft's headquarters for five years, at the company's expense, to monitor Microsoft's compliance with the settlement. That, too, is acceptable.

This settlement is fair to the computer users of America. Consumers will be able to select from a variety of pre-installed software on their computers, even find it easier to substitute competitor products after purchase.

This case was supposedly brought on behalf of American consumers, and we certainly "paid our way"—the cost of litigation—through our taxes. Even our investment portfolios have taken a hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change!

Sincerely,

Alfred C. Lehman, MS, MSC

MTC-00033130

From: RICHARD NAPLES
To: Ms. Renata Hesse
Date: 1/22/02 9:41pm
Subject: Microsoft Settlement
RICHARD NAPLES
199 INAGUA ST
DANIA BEACH, FL 33004
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
RICHARD D NAPLES

MTC-00033131

From: Thomas Mignini
To: Ms. Renata Hesse
Date: 1/22/02 9:50pm
Subject: Microsoft Settlement
Thomas Mignini
638 Rocky Hill Rd
Sparks, MD 21152
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Thomas Mignini

MTC-00033132

From: Edwin Fisch
To: Ms. Renata Hesse
Date: 1/22/02 9:53pm
Subject: Microsoft Settlement
Edwin Fisch
6113 Bellingham Drive
Castro Valley, CA 94552-1631
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Edwin J. Fisch

MTC-00033133

From: Sharon Riddle
To: Ms. Renata B. Heese
Date: 1/22/02 10:40pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Sharon Riddle
4921 102nd Ln NE
Kirkland, WA 98033-7641
CC: Citizens for a Sound Economy

MTC-00033134

From: Thomas Crosswhite
To: Ms. Renata Hesse
Date: 1/22/02 11:27pm
Subject: Microsoft Settlement
Thomas Crosswhite
127 Lidster Avenue
Grass Valley, CA 95945
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Thomas Crosswhite

MTC-00033135

From: Toni Curtis
To: Ms. Renata Hesse
Date: 1/22/02 11:36pm
Subject: Microsoft Settlement
Toni Curtis
6960 Deer Bluff Dr
Dayton, OH 45424
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Toni J Curtis

MTC-00033136

From: Larry Scott
To: Ms. Renata B. Heese
Date: 1/23/02 12:01am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Larry Scott
11211 S.E. 223 pl
Kent, WA 98031–2634
CC: Citizens for a Sound Economy

MTC-00033137

From: James Babcock
To: Ms. Renata B. Heese
Date: 1/23/02 1:09am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
James Babcock
3410 NE 54th Street
Vancouver, WA 98661–2025
CC: Citizens for a Sound Economy

MTC-00033138

From: Theodore W. Guest
To: Ms. Renata Hesse
Date: 1/23/02 2:23am
Subject: Microsoft Settlement

Theodore W. Guest
4366 Carlo Drive
Dayton, OH 45429–4710
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Theodore W. Guest

MTC-00033139

From: WILLIAM SENATORE
To: Ms. Renata Hesse
Date: 1/23/02 3:39am
Subject: Microsoft Settlement

WILLIAM SENATORE
22718 AUTUMN
NOVI, MI 48374
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

WILLIAM F. SENATORE

MTC-00033140

From: Frank Muccianti
To: Ms. Renata Hesse
Date: 1/23/02 5:06am
Subject: Microsoft Settlement
Frank Muccianti
338 N. Morris Dr.
Palatine, Il 60074
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Frank Muccianti

MTC-00033141

From: thom
Date: 1/23/02 5:09am
Subject: Microsoft Settlement

Regarding the Microsoft settlement, I don't believe that the current proposal provides adequate reparations to those injured by Microsoft's anti-competitive behavior, nor will restore any competitive nature to the high tech market place. Hundred, even thousands, of small companies have ceased to exist over the decades because of Microsoft's anti-competitive business practices, and I fear because of this settlement, in the future Microsoft will put the U.S. economy at risk, AND cause a significant problem with our national security.

Even after being found guilty of being an illegal monopoly, Microsoft's behavior remains un-changed, if not even more anti-competitive. Regulation of their behavior, with the threat of severe criminal penalties for failure to comply, with an immediate large fine ($5+ billion) is the only remedy that I can see will curtail them. The market must be able to return to a state of competition.

In every sense, the USDOJ has failed by signing the proposed settlement.

Thank you,

Thomas H. Dieterich
Lynnwood WA 98037

MTC-00033142

From: Pat Starkey
To: fin@mobilizationoffice.com@inetgw
Date: 1/23/02 5:24am
Subject: Microsoft

Dear Sir:

As a registered Republican I am requesting that the suit against Microsoft concerning the antitrust settlement between the Department of Justice but settled as soon as possible.

Microsoft company is giving the public what it wants. Remember when the government broke up the telephone companies and the consumer lost. Our prices rose and the service is much worse.

Please settle this antitrust settlement as soon as possible and give the public what it wants.

Patricia F. Starkey
2417 Aubin Lane, Baton Rouge, La. 70816
225-275-6200
CC:Microsoft ATR

MTC-00033143

From: Karl L. Zengel
To: Ms. Renata Hesse
Date: 1/23/02 5:48am
Subject: Microsoft Settlement
Karl L. Zengel
2301 Linwald Lane
Dayton, OH 45459
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Karl L. Zengel

MTC-00033144

From: Gary Clark
To: Ms. Renata Hesse
Date: 1/23/02 5:53am
Subject: Microsoft Settlement
Gary Clark
6507 Cathedral Oaks Drive
Plant City, Fl 33565-6123
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Gary B. Clark

MTC-00033145

From: Donald Werle
To: Ms. Renata Hesse
Date: 1/23/02 6:02am
Subject: Microsoft Settlement
Donald Werle
238 Gridley Ave
Erie, PA 16508
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Don Werle of Erie Pa

MTC-00033146

From: Wesley Daugherty
To: Ms. Renata Hesse
Date: 1/23/02 6:07am
Subject: Microsoft Settlement
Wesley Daugherty
340 Valley Lane P.O.Box 826
Lebanon, Ky 40033
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Wesley O. Daugherty

MTC-00033147

From: Chris Worley
To: Microsoft ATR
Date: 1/23/02 6:21am
Subject: Microsoft Settlement

Sir/Ma'am,

I find the proposed Microsoft antitrust settlement to be just short of an apology to Microsoft.

It will do nothing to stop their anticompetitive behavior. It will do nothing to spur competition in the software industry. It gives Microsoft carte blanche to continue to run roughshod over consumers and competition.

The media has well documented that every key provision in this settlement has an "opt out" loophole that allows Microsoft to continue it's anticompetitive behaviors. The future of high technology is at stake. If you allow Microsoft to remain unchecked, then we are entering a new "dark ages" where a small minority will control the information vital to innovation. The part of the proposal I'm most concerned with is the "security" "opt out" in the "open protocols" section...

"Security" has become a buzzword associated with terrorist acts, allowing Microsoft to portray competing vendor's software compatibility with authentication software as an act of treason. It's just not so. "Security through obscurity" has never stopped hackers with ill intent, it only keeps those being attacked "in the dark". It's much like human viri: we want to know what can infect us, how to keep from getting infected, how to detect the infection, and how to stop the infection (even if it can't be stopped). This information is key to our longevity. For example, the recent anthrax terrorist acts have shown that public information is critical to detection and cure, and the lack of information led to unnecessary infection (of postal workers) and panic among the uninfected, and did nothing to stop the perpetrator.

Software viri/worms require the same publicity to protect and inform the population.

I'm afraid Microsoft has negotiated this loophole in the settlement for a reason other than protecting consumers: they're stopping compatible products from competing under the guise of stopping terrorism. For example, a software package called "Samba" competes with Microsoft NT file servers: file servers compatible with the protocols that provide you with your "network neighborhood". If Microsoft can hide the authentication protocol, then the competing file server software can't compete: if you have to have an NT server to authenticate users, then you might as well use that server to serve files and not use Samba at all (IT departments, in order to simplify their task, would prefer not to run servers with different OSes). For Samba to compete, it must be able to perform all the necessary protocols for Microsoft's network file services. It's all or nothing; it does consumers and competition no good for only part of the protocol to be published. This is similar to their behavior with API's. By not exposing key OS interfaces, they've been able to create special "hooks" into the OS that only their applications can use, allowing their applications to have features that the competition can't have. It's the same old trick with a new twist, under the guise of "protecting consumers". This settlement is a ruse. It's a trap. And, the DOJ seems overly willing to fall for it, to the detriment of competition and consumers.

Chris Worley
Salt Lake City, Utah

MTC-00033148

From: Agnes Bode
To: Ms. Renata Hesse
Date: 1/23/02 6:21am
Subject: Microsoft Settlement
Agnes Bode
3124 Longfield Road
Glenwood, MD 21738–9644
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Agnes Bode

MTC-00033149

From: Jane Magliacane
To: Ms. Renata Hesse
Date: 1/23/02 6:31am
Subject: Microsoft Settlement

Jane Magliacane
133 Holly Drive
Gardner, MA 01440
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Jane Magliacane

MTC-00033150

From: Frank Ziegler
To: Ms. Renata Hesse
Date: 1/23/02 6:41am
Subject: Microsoft Settlement

Frank Ziegler
4035 NE 22nd Ave.
Ocala, Fl 34479-2556
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

Frank I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Frank Ziegler

MTC-00033151

From: Stephen Storm

To: Ms. Renata Hesse
Date: 1/23/02 6:41am
Subject: Microsoft Settlement
Stephen Storm
P.O. Box 550
Eastland, TX 76448
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Stephen Storm

MTC–00033152

From: Mary Pardo
To: Ms. Renata Hesse
Date: 1/23/02 7:20am
Subject: Microsoft Settlement
Mary Pardo
76 Plymouth St.
Montclair, NJ 07042
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Mary A. Pardo

MTC–00033153

From: T. C. Hiestand
To: Ms. Renata Hesse
Date: 1/23/02 7:20am
Subject: Microsoft Settlement
T. C. Hiestand
1361 Duffers Lane
Oak Harbor, WA 98277
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Mr. and Mrs. T. C. Hiestand

MTC-00033154

From: Joyce L Gorham
To: Ms. Renata B. Hesse
Date: 1/23/02 7:21am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Joyce L Gorham
2716 s.e. 31st street
Okeechobee, FL 34974-6747
CC: Citizens for a Sound Economy

MTC-00033155

From: Charles A White
To: Ms. Renata Hesse
Date: 1/23/02 7:21am
Subject: Microsoft Settlement
Charles A White
13012 S Oak Park Ave
Palos Heights, Il 60463-2227
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Charles A White

MTC-00033156

From: Richard Atwater
To: US DOJ
Date: 1/23/02 7:32am
Subject: Microsoft Settlement

To Whom it May Concern:

As a software professional, and US citizen, I am deeply disturbed by the proposed settlement of the Microsoft anti-trust case. As I understand it, it imposes no penalties for Microsoft's illegal past actions, and does nothing to preclude such acts in the future. The settlement should not be accepted as proposed.

Thank you,

Richard M. Atwater, Software Engineer
Charles E. Hill & Associates, Inc.
Indianapolis, IN 46250

MTC-00033157

From: Bert Green
To: Ms. Renata Hesse
Date: 1/23/02 7:46am
Subject: Microsoft Settlement
Bert Green
1060 S. U.S. Hwy. 1 Lot 80
Vero Beach, FL 32962-5678
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ,

the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Bert Green

MTC-00033158

From: Joseph Abell
To: Ms. Renata Hesse
Date: 1/23/02 7:50am
Subject: Microsoft Settlement
Joseph Abell
4505 South Yosemite, #146
Denver, CO 80237
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

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Sincerely,

J. M. Abell

MTC-00033159

From: Richard Nakashian
To: Ms. Renata Hesse
Date: 1/23/02 7:57am
Subject: Microsoft Settlement
Richard Nakashian
23 Mariners Ln.
Pocasset, Ma 02559-3150
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Marita Nakashian

MTC-00033160

From: Henry & Virginia Harger
To: Ms. Renata Hesse

Date: 1/23/02 8:02am
Subject: Microsoft Settlement
Henry & Virginia Harger
352 Fernberg Road
Ely, MN 55731
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Henry & Virginia Harger

MTC-00033162

From: Rocky Oliver
To: Ms. Renata Hesse
Date: 1/23/02 8:05am
Subject: Microsoft Settlement
Rocky Oliver
3402 Socrates Dr.
Grand Prairie, TX 75052
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Rocky Oliver

MTC-00033163

From: RICHARD AND JOYCE RENTEL
To: Ms. Renata Hesse
Date: 1/23/02 8:08am
Subject: Microsoft Settlement
RICHARD AND JOYCE RENTEL
8508 MAIN ST #B103
EDMONDS, WA 98026
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

RICHARD RENTEL

MTC–00033164

From: Phil Martin
To: Ms. Renata Hesse
Date: 1/23/02 8:17am
Subject: Microsoft Settlement
Phil Martin
5583 Old U.S. 41
Lake Park, GA 31636–3490
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Phil Martin, M.D.

MTC–00033165

From: C. W. Berghorn
To: Ms. Renata Hesse
Date: 1/23/02 8:19am
Subject: Microsoft Settlement
C. W. Berghorn
11 Chestnut Lane
Pinehurst, NC 28374
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

C. W. Berghorn

MTC–00033166

From: James Krug
To: Ms. Renata B. Heese
Date: 1/23/02 8:22am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. This suit should never have been brought in the firwt place.

It is an egregious use of government power to benefit Microsoft's competetors. However, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,

James Krug
6125 Troon Ln., S.E.
Olympia, WA 98501–5174
CC: Citizens for a Sound Economy

MTC-00033167

From: Donald McLarty
To: Ms. Renata Hesse
Date: 1/23/02 8:38am
Subject: Microsoft Settlement
Donald McLarty
1511 Vassar
Houston, TX 77006
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Don McLarty

MTC-00033168

From: Melodie Avis
To: Ms. Renata B. Hesse
Date: 1/23/02 9:07am
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Melodie Avis 15534 Mira Monte Drive
Houston, TX 77083–4042
CC: Citizens for a Sound Economy

MTC-00033169

From: mail.relay@capwiz.com@inetgw
To: Ms. Renata Hesse
Date: 1/23/02 9:07am
Subject: Microsoft Settlement
James Zengel
6362 Karlsridge Dr
Dayton, oh 45459
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
James M. Zengel

MTC-00033170

From: Louis Prince

To: Ms. Renata Hesse
Date: 1/23/02 9:26am
Subject: Microsoft Settlement
Louis Prince
Avenida Melisenda
San Dimas, CA 91773
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Louis D. Prince

MTC-00033171

From: C. Frederick Miller
To: Ms. Renata Hesse
Date: 1/23/02 9:32am
Subject: Microsoft Settlement
C. Frederick Miller
512 Ridgeway Drive
Bellingham, WA 98225
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

C. Frederick Miller

MTC-00033172

From: Duane W. Crimin
To: Ms. Renata Hesse
Date: 1/23/02 9:41am
Subject: Microsoft Settlement
Duane W. Crimin
1045 Peach Drive
Ogden, UT 84404–6528
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Duane W. Crimin

MTC-00033173

From: William Rohrbaugh
To: Ms. Renata Hesse
Date: 1/23/02 9:51am
Subject: Microsoft Settlement
William Rohrbaugh
912 Sherwood St
Hanover, PA 17331
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
W.Max Rohrbaugh

MTC-00033174

From: kolev@beiks.com@inetgw
Date: 1/23/02 10:02am Message-ID:
<012101c1a438$05d3b950$1b0210ac
@bkolev1>
From: "Bobby Kolev" <kolev@beiks.com>
To: <microsoft.atr@usdoj.gov>
Subject: Split was the right thing to do
Date: Wed, 23 Jan 2002 12:01:45 -0600

I develop for various platforms, including Palm and PocketPC. I see Microsoft as the best tech company around, it is in fact so well = postioned that it had already crossed the line of being useful and is = dangerous.

As much as I like and admire their business genius, I believe it wasn't = a settlement that needed to be done, but a split. I even believe that = would have been for their own (in addition to everyone else's) interest = in longer run.

Regards,
Bobby Kolev
www.beiks.com

MTC-00033175

From: alma teuscher
To: Ms. Renata Hesse
Date: 1/23/02 10:04am
Subject: Microsoft Settlement
alma teuscher
933 west main st.
newark, oh 43055
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
alma teuscher

MTC–00033176

From: Clarence Van Alstyne
To: Ms. Renata Hesse
Date: 1/23/02 10:05am
Subject: Microsoft Settlement
Clarence Van Alstyne
680 Forest Ave.
Fulton, NY 13069–3304
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change. Believe it or not, I do not have a nickle of MS stock but like a lot of people over the last nine years I become very wary when federal pressure through the DOJ or many other federal organizations appears to be used to extract huge sums of money for the benefit only of our politicians.

Sincerely,
Clarence Van Alstyne

MTC–00033177

From: Margaret Meyer
To: Ms. Renata Hesse
Date: 1/23/02 10:17am
Subject: Microsoft Settlement
Margaret Meyer
11846 Schulze Lane
Ste. Genevieve, MO 63670–8816
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I am signing my name to a letter composed by someone else, but it expresses my thoughts better than I would have been able to, so I thank you in advance for considering my stand on the Microsoft case even though you will have read these words before. I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Margaret L. Meyer

MTC–00033178

From: Brian Pollard
To: Ms. Renata Hesse
Date: 1/23/02 10:20am
Subject: Microsoft Settlement
Brian Pollard
PO Box 268
Mount Desert, ME 04660
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change. As a lifetime executive in the computer industry I KNOW that Microsoft are in a lead position because of the skills and competence.

Their opponents — Apple, Sun, etc. are trailing because of their incompetence and their attempts, unlike Microsoft, to monopolize the industry. Apple sought to sell both hardware and software, and wouldn't allow anyone else to participate, result !% of the market. Sun attempts the same and is losing market share. Go into any store and see the myriuar of computes and software with names other than Microsoft—all there BECAUSE of Microsoft.

Sincerely,
Brian W. Pollard

MTC-00033179

From: Sonnia Bean
To: Ms. Renata B. Heese.
Date: 1/23/02 10:21am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Sonnia Bean
13619 Sandy Point E. KPN
Gig Harbor, WA 98329–5684
CC: Citizens for a Sound Economy

MTC-00033180

From: Carol Stankovsky
To: Ms. Renata Hesse
Date: 1/23/02 10:35am
Subject: Microsoft Settlement
Carol Stankovsky
1917 Empire Drive
Waukesha, WI 53186
January 23, 2002.
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Carol Stankovsky

MTC-00033181

From: Kathy Clancy
To: info@techleadership.org@inetgw
Date: 1/23/02 10:36am
Subject: Microsoft Settlement —CC: On letter to the Americans for Technology Leadership
January 23, 2002

To Americans for Technology Leadership:

I find it absurd that you request a letter from our chamber of commerce for the expidited settlement of the Microsoft case when your mission states that you are "dedicated to limiting government regulation of technology and fostering competitive market solutions to public policy issues affecting the technology industry." Our business have many diverse opinions, and I would bet they would not side with your slanted view.

Microsoft is like big brother and seeks to squelch all and any competition. Tell me, how this is going to "foster competitive markets"? They have a history of squeezing competitors while it makes memory and size gobbling, inefficient programs. Consumers can demand higher quality, but Microsoft will dish out what it wants—there's no one else to get the milk from! As a degreed Systems Analyst and experience as a beta tester for Microsoft, I tell you that it's worth the money to pressure them. When the government gives in, who else will be able to move the giant? Don't be stupid and influenced by the money. There are principles involved and the future of truly fostering technological innovation is at risk.

This is the note I'll send to the Ms. Hesse.

Respectfully,
Kathryn Clancy
Executive Director
Painesville Area Chamber of Commerce
www.painesvilleohchamber.org
440-357-7572

MTC-00033182

From: earl jones
To: Ms. Renata Hesse
Date: 1/23/02 10:47am
Subject: Microsoft Settlement
earl jones
105 southwestern pl.
sequim, , wa 98382
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
earl l. jones

MTC-00033183

From: Mary E. Vaughn
To: Ms. Renata Hesse
Date: 1/23/02 10:47am
Subject: Microsoft Settlement
Mary E. Vaughn
1589 Riverside Dr. Apt A
South Bend, In 46616-1608
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Ms. Mary E. Vaughn

MTC-00033184

From: William Simpson
To: Ms. Renata Hesse
Date: 1/23/02 10:49am
Subject: Microsoft Settlement
William Simpson
4856 Glenn Abbey way
Banning, CA 92220
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
William T. Simpson

MTC-00033186

From: Dorman W. Arnold
To: Ms. Renata Hesse
Date: 1/23/02 10:57am
Subject: Microsoft Settlement

Dorman W. Arnold
39 The Orchard
Fayetteville, NY 13066-2254

January 23, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Dorman W. Arnold

MTC-00033187

From: Joseph B. Taphorn
To: Ms. Renata Hesse
Date: 1/23/02 10:57am
Subject: Microsoft Settlement

Joseph B. Taphorn
8 Scenic Drive
Poughkeepsie, NY 12603-5521

January 23, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
joseph B. Taphorn

MTC-00033188

From: jde@nextgig.com@inetgw
Date: 1/23/02 10:57am Message-ID:
<3C4F082D.132DEB46@nextgig.com>
Date: Wed, 23 Jan 2002 10:59:57 -0800
From: Jeff Evarts <jde@nextgig.com>
X-Mailer: Mozilla 4.76 [en] (Windows NT 5.0; U)
X-Accept-Language: en
MIME-Version: 1.0
To: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement
Content-Type: text/plain; charset=us-ascii
Content-Transfer-Encoding: 7bit

I would like to comment on the potential resolutions to the Microsoft situation.

I am familiar with the marketing practices of Microsoft, and belive that there are two reasonable ways to dispense with this monopoly:

(1) An open formats solution

(*) Force Microsoft to document (openly, or for a reasonable fee) the complete input, output, and/or file formats of all its individually salable components. This would include, but not be limited to:

(*) File formats such as .doc, .xls,

(*) APIs such as their device driver API

(*) Wire formats such as file sharing protocols, etc.

Other companies do this, and the public is the better for it. Other companies do this and still make a profit.

Microsoft leverages the fact that their left hand and right hand are synchronized, and this yields a large part of its power to monopolize the desktop. If, for instance, they fully described the format of .doc files, and made sure that any file of that format was readable in Word, and that Word created files of only that format, then people could migrate to and from Microsoft products AS BEST SUITS THEM. This would allow market forces rather than monopoly forces to dominate.

(2) A vertical split of the company

(*) Force microsoft to be vertically split at the OS and Office levels. Give the source code for Windows/NT, Windows/ME, Windows/2000 to three different companies, and allow no one to hold positions on more than one BoD, etc.

The competition between the three OS firms for the Office business, as well as vice versa, would (hopefully) yield more opportunities for the non-MS alternatives. I believe the first one is a far better solution than the second, but the second would be acceptable. The current proposed solutions are weak, in that they attempt to fix the problem with long-term enforcement, rather than changing the rules today so that the market solves the problem later. Microsoft's solution: giving lots of Software and Hardware to Schools, is laughable. It would increase their market share and mindshare without actually hurting the company or reshaping it in any significant way. I strongly urge that this opportunity to fix the monopolistic practices of Microsoft be taken seriously, as subsequent attempts will be at a great disadvantage if this fails.

—Jeff

MTC-00033189

From: Franklin L. DeRemer
To: Ms. Renata Hesse
Date: 1/23/02 11:03am
Subject: Microsoft Settlement

Franklin L. DeRemer
8 South Circle Drive
Santa Cruz, CA 95060–1800
January 23, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely, Franklin L. DeRemer

MTC-00033190

From: Philip A. McHugh
To: Ms. Renata Hesse
Date: 1/23/02 11:03am
Subject: Microsoft Settlement

Philip A. McHugh
48 Chippendale Dr.
Mount Sinai, NY 11766
January 23, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Philip A. McHugh

MTC-00033191

From: Patrick Payne
To: Ms. Renata Hesse
Date: 1/23/02 11:04am
Subject: Microsoft Settlement
Patrick Payne
1064 Bardstown Road
Louisville, KY 40204
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely, Patrick Payne

MTC-00033192

From: Shirley Marsh
To: Ms. Renata Hesse
Date: 1/23/02 11:06am
Subject: Microsoft Settlement
Shirley Marsh
1773 Vassar Ave.,
Mountain View, CA 94043
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Shirley S. Marsh

MTC-00033193

From: Shirley Marsh
To: Ms. Renata Hesse
Date: 1/23/02 11:11am
Subject: Microsoft Settlement
Shirley Marsh
1773 Vassar Ave.,
Mountain View., CA 94043
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

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Sincerely,

Shirley S. Marsh

MTC-00033194

From: Mary H. Polliard
To: Ms. Renata Hesse
Date: 1/23/02 11:20am
Subject: Microsoft Settlement
Mary H. Polliard
28900 Wight Rd.
Malibu, Ca 90265–4001
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Mary H. & Tom Polliard

MTC-00033195

From: Norval Nickerson
To: Ms. Renata Hesse
Date: 1/23/02 11:24am
Subject: Microsoft Settlement
Norval Nickerson
2035 Vista Cajon
Newport Beach, CA 92660–3911
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Norval E. Nickerson

MTC-00033196

From: Kenneth Clare
To: Ms. Renata Hesse
Date: 1/23/02 11:38am
Subject: Microsoft Settlement

Kenneth Clare
5239 Franceen Lane
Stockton, CA 95212
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Kenneth Clare

MTC-00033197

From: George Yablonsky
To: Ms. Renata Hesse
Date: 1/23/02 11:44am
Subject: Microsoft Settlement

George Yablonsky
2717 S. Poplar St.
Santa Ana, CA 92704
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

George Yablonsky

MTC-00033198

From: Cecilia Maisel
To: Ms. Renata Hesse
Date: 1/23/02 11:45am
Subject: Microsoft Settlement

Cecilia Maisel
364 Villa Oaks Ln.
Gahanna, OH 43230-6773
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Cecilia Maisel

MTC-00033199

From: Margaret Reichard
To: Ms. Renata Hesse
Date: 1/23/02 11:46am
Subject: Microsoft Settlement

Margaret Reichard
76 Seaview Ave.
Brick, NJ 08723-7220
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Margaret C. Reichard

MTC-00033200

From: Eric Thomas
To: U.S. Department of Justice
Date: 1/23/02 11:46am
Subject: Microsoft Settlement

U.S. Department of Justice,

Regarding the Proposed Final Judgment in United States v. Microsoft, I would like to express my concern that this proposed settlement is unacceptable in several key areas. Among them are the following:

1. Microsoft would be allowed to continue many anti-competitive practices aimed at preventing other vendors from including their products in OEM packages.
2. There is no way to enforce the judgment, other than more and more drawn-out legal proceeding.

I hope that the Department of Justice and the court will pay heed to the many voices pointing out the problems in this settlement and look for stronger remedies that will better serve the marketplace and the public interest.

Regards,
Eric Thomas
Leominster, MA
Eric Thomas—e.thomas@isti.com—http://www.isti.com
Tel: (978) 537-9049
Instrumental Software Technologies, Inc.
Systems Integration and Software Development Specialists

MTC-00033201

From: Warren W. Bestwick
To: Ms. Renata Hesse
Date: 1/23/02 11:50am
Subject: Microsoft Settlement

Warren W. Bestwick
233 No. State St.
Bellingham, WA 98225-5323
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Warren W. Bestwick

MTC-00033202

From: Lorin Meeder
To: Ms. Renata Hesse
Date: 1/23/02 11:53am
Subject: Microsoft Settlement
Lorin Meeder
301 Roan Creek Drive
Parachute, CO 81635
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Lorin S. Meeder

MTC-00033203

From: Russell Gardner
To: Ms. Renata Hesse
Date: 1/23/02 11:53am
Subject: Microsoft Settlement
Russell Gardner
500 E. Broward Blvd
Fort Lauderdale, FL 33394
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

R.M. Gardner

MTC-00033204

From: arne olsen
To: Ms. Renata Hesse
Date: 1/23/02 12:00pm
Subject: Microsoft Settlement
arne olsen
6035 verde trl.s.
boca raton, fl 33433
January 23, 2002
Ms. Renata Hesse

U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
a.m.olsen

MTC-00033205

From: Frank Brunner
To: Ms. Renata Hesse
Date: 1/23/02 12:08pm
Subject: Microsoft Settlement
Frank Brunner
70 Blackhawk
Park Forest, IL 60466–2146
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
F.G. Brunner

MTC-00033206

From: James Stephens
To: Ms. Renata Hesse
Date: 1/23/02 12:09pm
Subject: Microsoft Settlement
James Stephens
3418 N. Susan Dr.
Decatur, , IL 62526–1332
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

James E. Stephens

MTC-00033207

From: William Mason
To: Ms. Renata Hesse
Date: 1/23/02 12:22pm
Subject: Microsoft Settlement
William Mason
639 S Fremont Circle
Green Valley, AZ 85614
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

William T Mason

MTC-00033208

From: Robert Koch
To: Ms. Renata Hesse
Date: 1/23/02 12:32pm
Subject: Microsoft Settlement
Robert Koch
621 Luther Road
Harrisburg, PA 17111–2057
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Robert M. Koch

MTC-00033209

From: Harvey and Charlene Knowles
To: Ms. Renata B. Hesse
Date: 1/23/02 12:35pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been

unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Harvey and Charlene Knowles
7603—148th ST E
Puyallup, WA 98375–7019
CC:
Citizens for a Sound Economy

MTC-00033210

From: William Meigs
To: Ms. Renata Hesse
Date: 1/23/02 12:48pm
Subject: Microsoft Settlement
William Meigs
615 Jackson Heights
Danville, VA 24540–1051
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
William R. Meigs

MTC-00033211

From: W. Robert Bloyer
To: Ms. Renata Hesse
Date: 1/23/02 12:51pm
Subject: Microsoft Settlement
W. Robert Bloyer
10901 Graystone Dr.
Hagerstown, MD 21740–7649
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
W. Robert Bloyer

MTC-00033212

From: Robert Curry
To: Ms. Renata Hesse
Date: 1/23/02 12:52pm
Subject: Microsoft Settlement
Robert Curry
5529 Tangelo Street
Leesberg, FL 34748–8997
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism,

including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Robert C. Curry

MTC-00033213

From: Alice Palumbo
To: Ms. Renata Hesse
Date: 1/23/02 12:54pm
Subject: Microsoft Settlement
Alice Palumbo
15366 Sabre Dr.
Corpus Christi, TX 78418
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Alice Palumbo

MTC-00033214

From: Harold Hardison
To: Ms. Renata Hesse
Date: 1/23/02 12:58pm
Subject: Microsoft Settlement
Harold Hardison
2545 Jetport Rd
Kinston, NC 28504
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Sen. Harold Hardison

MTC–00033215

From: lbw@ginger.grouptel.net@inetgw
To: gov
Date: 1/23/02 12:59pm
Subject: Microsoft Settlement

I am against the proposed settlement of the DOJ suit against Microsoft. Although Microsoft claims that they have innovated, those of us more intimately aware of the truth are not fooled. In fact, they have squashed far more innovative competitors with the kind of illegal actions of which they have been found guilty. Even worse, they have lowered accepted standards of reliability greatly, with the result being tremendous loss of productivity internationally as their operating systems crash and are compromised by numerous viruses. Any settlement needs to prevent Microsoft from continuing on this path of anti-competitive behavior. The proposed settlement seems far too weak to accomplish this necessary goal.

Laura Wallace
Quality Assurance Engineer
3 Hilda Rd.
Bedford, MA 01730

MTC–00033216

From: Faye E. Gardner
To: Ms. Renata Hesse
Date: 1/23/02 1:07pm
Subject: Microsoft Settlement
Faye E. Gardner
10500 Academy, NE #334
Albuquerque, NM 87111
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Faye E. Gardner

MTC–00033217

From: Robert Montgomery
To: Ms. Renata Hesse
Date: 1/23/02 1:11pm
Subject: Microsoft Settlement
Robert Montgomery
W. Coronet Dr.
Sun City West, AZ 85375–5122
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Robert M. Montgomery

MTC–00033218

From: Robert Cooch
To: Ms. Renata Hesse
Date: 1/23/02 1:20pm
Subject: Microsoft Settlement
Robert Cooch
2701 Daleview
Ann Arbor, MI 48105
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200

Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Robert A. Cooch

MTC-00033219

From: larry@euglug.net@inetgw
To: activism@euglug.net@inetgw
Date: 1/23/02 1:30pm
Subject: Microsoft Settlement

There are several issues that the proposed settlement needs to address, in order that Microsoft not walk away unpunished for their CRIMINAL behaviour.

1. Protecting Open Source

The proposed final settlement offer contains language intended to let Microsoft itself determine who is qualified to have access to the technical information intended to allow other operating systems to interoperate with Microsoft software. In point of fact, the language specifically claims their right to require that those party to interoperability information be businesses. This is clearly intended to fo discriminate against the MANY software projects that are run entirely as volunteer efforts. The court should require that any technical information that Microsoft is required to disclose must be available to the public, so that the public itself might act in redressing the harm created by Microsoft's illegal tactics.

2. Closed File Formats Are A tool of Monopoly One of the most insidious tactics used by Microsoft in the construction of their monopoly in business productivity and personal computing software is the creation of incompatible, undocumented file formats. In addition the tactic of making new versions of their software produce files that were incompatible with their old software led to their being in effect able to require users of their software to upgrade their systems on their schedule.

The fact that Microsoft's file formats were undocumented has meant that competitors were effectively locked out of providing equivalent services to consumers who had unwisely chosen to use Microsoft products and that those consumers were themselves harmed in that their property was held hostage to Microsoft's software and would need to be either abandoned or (at great expense) converted to some other format.

3. Security Needs Of Consumers and Appropriate Liability

A further issue that could be addressed by the court is Microsoft's liability for the millions of person-hours of time wasted in dealing with the inadequacies of their operating system and of their email products.

A clear statement by the court that consumers had at a minimum an implied warranty of functionality, including an expectation of data privacy in the form of mechanisms to prevent both Microsoft itself and others from altering, destroying or illicitly copying data without it's owners permission; would set a clear precedent that software is the same as any other class of product and should not be allowed to exempt itself from product liability through specious End User License Agreements. In that a product sold in exchange for value should meet a reasonable buyers expectations for functionality and safety.

MTC-00033220

From: Robert Noonan
To: Ms. Renata Hesse
Date: 1/23/02 1:35pm
Subject: Microsoft Settlement

Robert Noonan
112Massachusetts Rd
New Bern, NC 28562
January 23, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Robert J Noonan

MTC-00033221

From: Irma Schneider
To: Ms. Renata Hesse
Date: 1/23/02 1:36pm
Subject: Microsoft Settlement
Irma Schneider
114 Fairfield Circle
Ventura, CA 93003–8850
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Irma A. Schneider

MTC-00033222

From: Glen W. Mabey
Date: 1/23/02 1:39pm
Subject: Microsoft Settlement

To whom it may concern: I would like to comment on the Proposed Final Judgement in the United States vs. Microsoft case.

My concern relates to the absence of requirements for Microsoft to disclose file formats used by its programs. This issue has been established as a part of the Applications Barrier to Entry in Findings of Fact paragraphs 20 and 39.

The pervasive use of Microsoft Office products has rendered their respective file formats as the de facto standard for normal office document interchange. However, since the format of these documents is unpublished, there is no reason to believe that this monopolistic situation will change any time in the near future.

Only a legally mandated disclosure of these file formats can hope to restore a competetive nature to this aspect of computing. Furthermore, I believe that given previous behavior by Microsoft, the following stipulation is also necessary: that any inaccuracy in the published specification for these file formats result in a punishment which is;

*) severe,
*) automatic, and
*) that the consequences for doing so be also stipulated in the
Final Judgement.

Respectfully submitted,
Glen Mabey

MTC-00033223

From: Jean Noonan
To: Ms. Renata Hesse
Date: 1/23/02 1:46pm
Subject: Microsoft Settlement
Jean Noonan
112Massachusetts Rd
New Bern, NC 28562
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Jean Noonan

MTC-00033224

From: johnoburghart
To: Attorney General John Ashcroft

Date: 1/23/02 1:49pm
Subject: Microsoft Settlement

The provisions of the agreement are tough, reasonable, fair to all parties involved, and go beyond the findings of the Court of Appeals ruling; however the settlement is not guaranteed until after the review ends and the District Court determines whether the terms are indeed in the public interest. John O Burghart

MTC–00033225

From: Alfred Bivens
To: Ms. Renata Hesse
Date: 1/23/02 1:51pm
Subject: Microsoft Settlement
Alfred Bivens
508 Meadows Drive S.
Richland, WA 99352–7731
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
A. H. Bivens, Major, USMC (Ret)

MTC–00033226

From: Carl Thomas
To: Ms. Renata Hesse
Date: 1/23/02 2:04pm
Subject: Microsoft Settlement
Carl Thomas
164 Kimberlea Road
Madison Heights, VA 24572–6131
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington; DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Carl E. Thomas

MTC–00033227

From: Chet Boreck
To: Ms. Renata Hesse
Date: 1/23/02 2:07pm
Subject: Microsoft Settlement
Chet Boreck
3 Wales Court
Forked River, NJ 08731
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Chet Boreck

MTC-00033228

From: jonpi
To: alta@alta-research.com@inetgw
Date: 1/23/02 2:16pm
Subject: Re: [lug] Microsoft Settlement
alta wrote:
Department of Justice:

During my 25-year span as a computer professional, I have watched Microsoft grow. I continue to be appalled that Microsoft has been able to sell unreliable, defective products using the following practices:

—Advertising non-existent products to kill legitimate competition.
—Buying companies in order to kill them
—Forcing large distributors to install Microsoft, only.
—Covering defective product internals with glitter and gold.
—Licenses that give them immunity to damage from defective products.
—Large campaign contributions to buy protection from government.

The result has been:

—Many innovative companies have been destroyed.
—The world-dominant operating system (Windows) is defective,
—Users have come to expect that software crashes are normal.
—Due to licensing practices allowed in our (and other) countries,
—Microsoft is the only business of its size that is unaccountable
—for damages due to defects in its products.
—Windows is a serious threat to national security and to businesses.
—Now under investigation, they STILL continue these practices.
—Even the US government seems unable to touch this monopoly.

I ask that you do what needs to be done with Microsoft. Please protect our national security, and give technological users and innovators a chance.

I started to write to the doj and ended up getting too angry to form sentences what you are seeing is your dept of justice about to do injustice...so it goes you can't fight city hall but you can be sure none of your assets go to mr big bad scared little boy billy boy gates in times of justice he would go down in a hail of bullets, forget pies yes...let's watch our doj at work in the mean time...sell all your redhat stock and buy kmart stock...before monday and, ponder why peak is not just dialup...JUST!!!

jonpi
CC:Microsoft ATR

MTC-00033229

From: Carl Thornton
To: Ms. Renata Hesse
Date: 1/23/02 2:28pm
Subject: Microsoft Settlement
Carl Thornton
2357 Caminito Afuera
San Diego, Ca 92107–1512
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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—Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Carl F Thornton

MTC-00033230

From: Howard Rathlesberger
To: Ms. Renata Hesse
Date: 1/23/02 2:35pm
Subject: Microsoft Settlement
Howard Rathlesberger
230 Ridgeway Road
Woodside, CA 94062
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Howard & Jean Rathlesberger

MTC-00033231

From: Arthur Beaman
To: Ms. Renata Hesse
Date: 1/23/02 2:40pm
Subject: Microsoft Settlement

Arthur Beaman
1673 Nottingham Dr.
Winter Park, FL 32792-2225
January 23, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Wayne Beaman

MTC-00033232

From: Vance Mitchell
To: Ms. Renata Hesse
Date: 1/23/02 2:51pm
Subject: Microsoft Settlement

Vance Mitchell
1200 Polnell Shore Drive E.
Oak Harbor, WA 98277
January 23, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Vance F. Mitchell

MTC-00033233

From: Irving Thorn
To: Ms. Renata Hesse
Date: 1/23/02 3:10pm
Subject: Microsoft Settlement
Irving Thorn
1709 Pegasus Ave.
Rio Rancho, NM 87124-2919
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

IIrving Thorn

MTC-00033234

From: Everett DeJager
To: Ms. Renata Hesse
Date: 1/23/02 3:21pm
Subject: Microsoft Settlement
Everett DeJager
8622 Plainfield Lane
Cincinnati, OH 45236-1704
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Everett DeJager

MTC-00033235

From: Anna Mae Frahm
To: Ms. Renata Hesse
Date: 1/23/02 3:26pm
Subject: Microsoft Settlement
Anna Mae Frahm
22946 594 Ave
Mankato, MN 56001-8525
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance—the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Anna Mae Frahm

MTC-00033236

From: Diane Williams
To: Ms. Renata Hesse
Date: 1/23/02 3:31pm
Subject: Microsoft Settlement

Diane Williams
3742 W. South Blvd
Rochester Hills, MI 48309-3975
January 23, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

John and Diane Williams

MTC-00033237

From: Rosemary Daleo
To: Ms. Renata Hesse
Date: 1/23/02 3:34pm
Subject: Microsoft Settlement

Rosemary Daleo
1410 N. 13th Ave.
MELROSE PARK, IL 60160
January 23, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Rosemary Daleo & Paula Daleo

MTC-00033238

From: Orval D Grieser
To: Ms. Renata Hesse
Date: 1/23/02 3:34pm

Subject: Microsoft Settlement
Orval D Grieser
116 Quail Run
Archbold, Oh 43502
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Orval D. Grieser

MTC-00033239

From: Patricia Thompson
To: Ms. Renata Hesse
Date: 1/23/02 3:36pm
Subject: Microsoft Settlement
Patricia Thompson
6205 Hancock
Rowlett, tx 75088
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Patricia Thompson

MTC-00033240

From: Kathryn Bell
To: Ms. Renata Hesse
Date: 1/23/02 3:38pm
Subject: Microsoft Settlement
Kathryn Bell
4326 Gum Branch Road
Jacksonville, NC 28540–9118
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Kathryn Bell

MTC–00033242

From: Steve Hensley
To: Ms. Renata B. Heese
Date: 1/23/02 3:54pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Steve Hensley
3615 Garrett Road
Durham, NC 27707–2444
CC: Citizens for a Sound Economy

MTC–00033243

From: Walter Rittwage
To: Ms. Renata Hesse
Date: 1/23/02 4:18pm
Subject: Microsoft Settlement
Walter Rittwage
73 Hullcrest Road
Shelburne, VT 05482
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Walter G Rittwage

MTC–00033244

From: Michael Patterson
To: Ms. Renata Hesse
Date: 1/23/02 4:18pm
Subject: Microsoft Settlement
Michael Patterson
9904 NE 124th St. #1006
Kirkland, WA 98034 January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Michael Patterson

MTC–00033245

From: Herman Pusin
To: Ms. Renata Hesse
Date: 1/23/02 4:27pm
Subject: Microsoft Settlement
Herman Pusin
830 West 40 St. Apt. 855
Baltimore , MD 21211
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Herman Pusin

MTC–00033246

From: Sidney Miller
To: Ms. Renata Hesse
Date: 1/23/02 4:37pm
Subject: Microsoft Settlement
Sidney Miller
9217 Nile Dr
New Port Richey, FL 34655–1609
January 23, 2002
Ms. Renata Hesse,
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Sidney T Miller

MTC–00033247

From: empty
To: Tunney Act
Date: 1/23/02 4:48pm
Subject: Microsoft Settlement

I oppose the proposed Microsoft anti-trust settlement.

Mark Ball

MTC–00033248

From: jgillis@architetto.com@inetgw
Date: 1/23/02 4:57pm
Subject: MIME-Version: 1.0
MIME-Version: 1.0
X-Mailer: Smartcode ObjectSet 1.0
From: John Gillis <jgillis@architetto.com>
Subject: microsoft settlement
Date: Wed, 23 Jan 2002 19:55:00
Organization: John Gillis/Architects
To: microsoft.atr@usdoj.gov
Content-Type: multipart/mixed;
boundary="=PMail:=—0002

@@PDWk9CkPIN4OlECsfX6U"
Message-ID: <GQF3ZD03.DY6@
wdcsun021.usdoj.gov>
—=PMail:=—0002@
@PDWk9CkPIN4OlECsfX6U
Content-Type: text/plain
Content-Transfer-Encoding: quoted-printable
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001 =

Dear District Court Judge:

My comment on the Microsoft settlement is that Microsoft should be left alone. = T

he antitrust case should never have been brought against the company. The idea that Microsoft is a monopoly is not only false, but my own persona= l experience adds additional proof.

None of the systems in our office use Microsoft products, so how can it be that Microsoft is a coercive monopoly. How come they haven't coerced our company?

Nonetheless millions of people have freely chosen to use Windows and other Microsoft products. It is shameful that the government has gone after this innovative company.

Sincerely,
John Gillis/Architects
41 East 11th Street
New York, NY 10003
212 254 5010
212 777 9224 fax
jgillis@architetto.com —=PMail:=—
0002@@PDWk9CkPIN4OlECsfX6U—

MTC-00033249

From: Wiliam Kent
To: Ms. Renata Hesse
Date: 1/23/02 5:39pm
Subject: Microsoft Settlement
Wiliam Kent
367 E 600 S
Monroe, UT 84754
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
William Kent

MTC-00033250

From: Harold Keebler
To: Ms. Renata Hesse
Date: 1/23/02 5:50pm
Subject: Microsoft Settlement
Harold Keebler
76838 Abby Ct
Palm Desert, Ca 92211–7102
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Harold M. Keebler

MTC-00033251

From: Jeannine Kocsis
To: Ms. Renata Hesse
Date: 1/23/02 5:53pm
Subject: Microsoft Settlement
Jeannine Kocsis
102 Deerfield Ave
Port Charlotte , FL 33952
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200

Washington, DC 20530

Ms. Hesse:

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Sincerely,

Jeannine M. Kocsis

MTC-00033252

From: Michael A. Teutsch
To: Ms. Renata Hesse
Date: 1/23/02 6:10pm
Subject: Microsoft Settlement
Michael A. Teutsch
822 Almasy Dr.
Campbell, Oh 44405-2002
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

Please be advised that as a taxpayer and consumer I support the Microsoft Settlement and hopefully a prompt court acceptance to prevent lengthy litigation that could cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

It will be a great benefit to the American people, the Department of Justice (DOJ) and the settling states to avoid additional costs and be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, and the taxpayers deserve the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted at great cost to all Americans.

Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Michael A. Teutsch

MTC-00033253

From: CHARLES Lee
To: Ms. Renata Hesse
Date: 1/23/02 6:27pm
Subject: Microsoft Settlement
CHARLES Lee
601 N 4th St
Mascoutah, IL 62258-1205
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Charles Lee

MTC-00033254

From: John Culver
To: Ms. Renata Hesse
Date: 1/23/02 6:31pm
Subject: Microsoft Settlement
John Culver
19 Hammersmith Dr
Saugus, MA 01906-4170
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
John Culver

MTC-00033255

From: Francis Bagbey
To: Ms. Renata Hesse
Date: 1/23/02 6:41pm
Subject: Microsoft Settlement
Francis Bagbey
103 Green Park Lane
Cary, NC 27511
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Francis C. Bagbey

MTC-00033256

From: Jim & Louise Georgen
To: Ms. Renata Hesse
Date: 1/23/02 6:43pm
Subject: Microsoft Settlement
Jim & Louise Georgen
7308 sw 35th Avenue
Portland, or 97219-1745
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Jim & Louise Georgen

MTC-00033257

From: Joe Sunthimer
To: Ms. Renata Hesse
Date: 1/23/02 7:04pm
Subject: Microsoft Settlement
Joe Sunthimer
RR4 Box 207
Nevada, MO 64772-9234
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Joe Sunthimer

MTC-00033258

From: Lon Wells
To: Ms. Renata Hesse
Date: 1/23/02 7:15pm
Subject: Microsoft Settlement
Lon Wells
28126 Peacock Ridge Dr. #105
Rancho Palos Verdes, CA 90275
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid

the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Lon Wells

MTC-00033259

From: Norman Brubaker
To: Ms. Renata Hesse
Date: 1/23/02 8:51pm
Subject: Microsoft Settlement
Norman Brubaker
233 Monroe Street
Bridgewater, NJ 08807-3043
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my sincere support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost USA taxpayers more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Probably the greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: like the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Norman H. Brubaker

MTC-00033260

From: Tom Kulaga
To: MS ATR
Date: 1/23/02 8:59pm
Subject: Microsoft Settlement

I am entirely against the current settlement proposal. Calling it a slap on the wrist would be overstating the case, and if the Court believes Microsoft is in violation of any anti-trust statutes, the Court is honor-bound to determine whether the proposed settlement offers anything remotely close to a remedy.

The current settlement does nothing of the kind. Microsoft should be separated into an Operating System division and a Software and Applications division. They should be entirely seperate entities, with no sharing in any area, especially sales and marketing. Leaving them intact is akin to allowing Ford Motor Company to control the Department of Transportation, giving them the option of changing the rules of the road to accept only the cars they build, leaving other auto companies to go broke following a target they'll never hit.

So long as Microsoft's sales and marketing people can dictate a combined product strategy for Operating Systems and Applications, the Internet Explorer/Netscape issue will continue to happen, with only the victims changing names.

Regards,

Tom Kulaga

MTC-00033261

From: Richard Conway
To: Ms. Renata Hesse
Date: 1/23/02 9:11pm
Subject: Microsoft Settlement
Richard Conway
88715 Potter Ln.
Springfield, OR 97478-9616
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Richard L. Conway

MTC-00033262

From: Michael Stanzel
To: Ms. Renata B. Hesse
Date: 1/23/02 9:14pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Michael Stanzel
2510 96th Ave Ct E
Edgewood, WA 98371–2172
CC: Citizens for a Sound Economy

MTC–00033263

From: Paul Roebuck
To: USDJ
Date: 1/23/02 9:42pm
Subject: Microsoft Settlement

What a pathetic crock of shit. Two years of legal proceedings for this? This has been a complete waste of time and money on everyone's part if nothing was really intended to be done about antitrust abuse.

Tis indeed a sad day that the US government lays down before MS. Yet another slap on the wrist that will be ignored. Unfortunate for Netscape and all the others before it that essentially nothing will be done.

Should have stuck with the breakup decision... if MS Office was available on alternative platforms (like Linux), Windows would have to stand on its own merits. Then users could choose office software separately from OS software. It would also prevent any more of this application/OS blending since the application could not be made cross-platform.

Out of the 10Base-T, through the router, down the T1, over the leased line, off the bridge, past the firewall... nothing but Net.

MTC–00033264

From: Roman Peisinger
To: Ms. Renata Hesse
Date: 1/23/02 9:43pm
Subject: Microsoft Settlement
Roman Peisinger
1 Towers Park Lane #915
San Antoniol, TX 78209–6435
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Roman J. Peisinger

MTC–00033265

From: Robert Lloyd
To: Ms. Renata Hesse
Date: 1/23/02 10:17pm
Subject: Microsoft Settlement
Robert Lloyd
6314 Allott
Van Nuys, ca 91401
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I support the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost more than $35 million. Enough is enough.

The parties worked very hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now. The terms of the settlement are fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. This settlement is in the public interest. I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Robert Lloyd

MTC–00033266

From: J(038)B Seybold
To: Microsoft ATR
Date: 1/23/02 11:50pm
Subject: Microsoft Settlement

While the proposed settlement appears to meet the defined goals, I am very concerned that the definition of "Microsoft Middleware Product" in the "REVISED PROPOSED FINAL JUDGMENT" is far too narrow and restrictive. Specifically, in "Section IV, Definitions", paragraph K.2.b.i, the definition states "...is, or in the year preceding the commercial release of any new Windows Operating System Product was, distributed separately by Microsoft (or by an entity acquired by Microsoft) from a Windows Operating System Product..."

This definition appears to exclude functionality which was based directly upon or substantially identical in function to the a previous commercial product, but where said functionality was modified by Microsoft. This is a major exclusion, because it is very rare in commercial software for unchanged software to published for two consecutive years. It is common practice for Microsoft to modify software, either by reducing functionality, or by adding functionality, when incorporating the functionality of previously commercial software. Under the provisions of the proposed definition, similar but distinctly different functionality would exclude such modified software from the Microsoft Middleware Product definition.

Microsoft could therefore make small or even trivial changes in software that would otherwise be clearly defined as Microsoft Middle Product, and thereby claim that it was exempt from the provisions of this judgment.

Further, the definition of "Microsoft Middleware Product" in the "REVISED PROPOSED FINAL JUDGMENT" carefully excludes new software functionality developed by Microsoft and included as Microsoft Middleware or as part of the Windows operating system, with the intent of competing directly with commercially available software to reduce competition. The pattern shown in the development and release of Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, and Outlook Express is now being repeated in many other areas. For example, the capabilities of Microsoft Backup has been extended to include the file backup functionality provided by NovaStor Corporation's NovaDisk, or Veritas Corporation's Backup Exec. Since NovaStor and Veritas have not been acquired by Microsoft, Microsoft Backup does not meet the definition of a Microsoft Middleware Product.

Therefore, I suggest that the Proposed Final Judgment does not provide the necessary restrictions to preclude continued anticompetitive conduct by Microsoft to unlawfully protect and maintain its operating system monopoly in violation of Section 2 of the Sherman Act. I suggest that Specifically, in "Section IV, Definitions", paragraph K.2.b.i, be modified to state "i. is, or in the year preceding the commercial release of any new Windows Operating System Product was, distributed separately by from a Windows Operating System Product,"

thank you for your consideration.

John B. Seybold

MTC-00033267

From: Fabretti, Ron C
To: "Ms. Renatta Hesse"
Date: 1/24/02 3:39am
Subject: Microsoft Settlement

Dear Ms. Renatta Hesse,

Ill conceived and misdirected is how I view the antitrust suit against Microsoft. The attack against Microsoft is an attack against the freedom to pursue a private business enterprise in an open market. Credit for the attack goes to the many bureaucratic socialists, collectivists, or worse, of the last administration. Microsoft's business success results in compounding new opportunities and unseen business dynamics. They should be blamed? Where were the plaintiffs when Microsoft began? Microsoft could have been purchased by any number if industry giants during Microsoft's humble beginnings. Now, after Microsoft succeeds in a market that no one foresaw, they are at fault? No matter what they do to grow their business, outside of physical harm to humanity, they should be free to pursue the business of providing a service for a price. No fair stepping in after the fact and changing the rules, something socialists and collectivists do to be involved, for the supposed good of mankind, when "free" welfare is what they really dream of. Bill Gates worked long and hard for many years and had no idea 20 years ago his company would be where it is today. He should run it as he sees fit without interference from any entity. And 20 years is insignificant compared to the millions supposedly before us or hopefully after us. By the way, I'd guess Bill Gates does plenty, out of his own pocket, to pursue the health and welfare of mankind in general.

Respectfully yours,
Ronald Fabretti
1205 Hon Falls 5 Pts Rd
Honeoye Falls, NY 14472

MTC-00033268

From: g0dsmak@wi.rr.com@inetgw
Date: 1/24/02 5:09am
Subject: just putting in my $.02:

just putting in my $.02:

Integrating Internet explorer wiht windows *should* have sent up red flags. you cant swing a webpage in widows without using Internet explorer. you cant even uninstall it (it installs automatically on win98 and above) without considerable knowledge.

how can one expect a person who doesnt know much about computers to run netscape if they choose (or any other browser for that matter) microsoft should be broken up into smaller companies. and have to compete. microsoft makes games that can only be played on microsoft platforms. that should be one company browsers should be de-integrated and installed by choice. browser should be a different company.

and the Operating system should be built alone. another company.

this would encourage better programming on the part of microsoft makeing for a better product for the consumer. and more jobs on the market. (from competeing companies and MS itself)

again just my $.02
Andy Nelson
Certified computer nerd!

MTC-00033269

From: Joe Scoglio
To: Ms. Renata Hesse
Date: 1/24/02 5:17am
Subject: Microsoft Settlement
Joe Scoglio
573 Shirley St
Winthrop, MA 02152
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Joe Scoglio

MTC-00033270

From: Jim Denison
To: ASKDOJ
Date: 1/24/02 5:57am
Subject: Microsoft Settlement
12824 Midway Road #1140
Dallas, Texas 75244
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing today to express my strong sentiments on the Microsoft anti-trust dispute. I support Microsoft in this, and I feel the settlement reached on November 6, 2001, is fair and reasonable. I am happy to see that this dispute has been resolved.

I believe that Microsoft has had a positive impact on the technology industry and the economy. Microsoft has made it easier for the average consumer to conduct business. I believe the technology revolution that we have experienced in the last decade would not have been possible without contributions from Microsoft.

I feel this settlement will serve in the best interest of the public. Thank you for your support.

Sincerely,
Jim Denison
CC:Microsoft ATR

MTC-00033271

From: Thomas Huvane
To: Ms. Renata Hesse
Date: 1/24/02 6:06am
Subject: Microsoft Settlement

Thomas Huvane
46 Bradley Road
Scarsdale, NY 10583
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Thomas A. Huvane

MTC-00033272

From:
marek@mcmail.cis.mcmaster.ca@inetgw
To: dept. of justice
Date: 1/24/02 6:31am
Subject: Microsoft settelment ———
Original Message ———
Subject: Open file formats
Date: Thu, 17 Jan 2002 12:21:52 -0500
From: Marek Kiela
<kielam@mcmail.mcmaster.ca>
To: "dept. of justice"
<microsoft.atr@usdoj.gov>

I would like to comment on the Microsoft case.

There should be a push towards opening Microsoft file formats (ea.. Word, Excel) if government doesn't want to find itself in a position where Bill Gates will dictate when and what software to use and how much to put in his coffers.

It only make sense that user should be able to use any word processor to open a document, or any spreadsheet program to open a spreadsheet and so on.

You do not have to break company apart to force competition. Just insist that in order to get government software contracts, it has to be open file format.

Regards
Marek Kiela
kielam@mcmaster.ca
Canada

MTC-00033273

From: Beth Jelinski
To: Department of Justice
Date: 1/24/02 6:34am
Subject: Microsoft Settlement

To whom it may concern:

I am sick and tired of the jealousy and pettiness of this lawsuit against Microsoft. The consumers who are supposedly hurt are not being helped by the lawsuit. It seems to me it is socialism in action. "Everyone should be equal; no one can show up anyone else by their excellence in product production or shrewdness in marketing" etc. etc. It is like unto those who take all the fun out of Little League competition by giving EVERYONE a meaningless trophy. The lawsuit against

Microsoft, in a childish way, send the message "You can't win. There can be no winners. If there are winners, they will be coerced to share their winnings with the loser who puts up the biggest fuss." I say, let the losers,

Netscape in this case, find a better way to EXCEL; and then they won't be crying about Microsoft's success, but touting their own.

I dare say if that happened they would be very chagrined and reluctant to hand over their newly acquired profits to Microsoft.

Let us rather put an end to this government favoritism and let capitalism thrive producing better products for us all. Competition and freedom are what have driven all of our great accomplishments. We all suffer when slavery is enforced.

Sincerely,
Beth Jelinski
166 State Street
Bloomfield, NJ 07003

MTC-00033274

From: Anne Gille
To: Ms. Renata Hesse
Date: 1/24/02 6:37am
Subject: Microsoft Settlement
Anne Gille
810 Shady Way
Arlington Hts,, IL 60005
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Anne M. Gille

MTC-00033275

From: Gail Rollin
To: Ms. Renata Hesse
Date: 1/24/02 6:40am
Subject: Microsoft Settlement
Gail Rollin
303 Jenny's Cove Road
Cleveland, GA 30528
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Gail Rollin

MTC-00033276

From: ROBERT MAXWELL
To: Ms. Renata Hesse
Date: 1/24/02 6:48am
Subject: Microsoft Settlement
ROBERT MAXWELL
974 QUESTA E.
VENICE, FL 34292
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

ROBERT J. MAXWELL

MTC-00033277

From: Perry Sowell
To: Ms. Renata Hesse
Date: 1/24/02 6:54am
Subject: Microsoft Settlement
perry sowell
340tate
senatobia, ms 38668

January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
perry sowell

MTC-00033278

From: Daren Wade
To: Ms. Renata Hesse
Date: 1/24/02 6:57am
Subject: Microsoft Settlement
Daren Wade
312 SE Colony Dr
Lee's Summit, MO 64063-3209
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Daren Wade

MTC-00033279

From: J—Cramer@msn.com@inetgw
To: Microsoft ATR
Date: 1/24/02 6:58am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now.

Thank you.
Sincerely,
Jim Cramer
100 Farmers Bank Square
suite 230
Georgetown, KY 40324

MTC-00033280

From: Bill Rinker
To: U.S. Dept. Justice
Date: 1/24/02 7:04am
Subject: Microsoft Settlement

The AOL Time Warner/Netscape should not be considered and consequently thrown out of court. I see no evidence that Microsoft has interfered illegally with the distribution of the Netscape Browser. Don't be pressured into litigation from the big AOL Time Warner complex. It's sour grapes because they cannot keep up with their Microsoft competition. These kinds of litigation will eventually stifle innovation & ideas. Why should Microsoft suffer when they have the best browser called Microsoft Internet Explorer? Why should Companies share their ideas with competition?

Bill Rinker
P.O. Box 333
Moran, Wyoming 83013

MTC-00033281

From: grace gault
To: Ms. Renata Hesse
Date: 1/24/02 7:20am
Subject: Microsoft Settlement
grace gault
2354 wilderness hill
san antonio, tx 78231-1826
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Grace Gault & Aggie Ussery

MTC-00033282

From: newman
To: DOJ
Date: 1/24/02 7:23am
Subject: Microsoft Settlement

Dear DOJ:

I believe that the proposed Microsoft settlement is fair and that a speedie resolution to this matter is in the best interest of the public.

James B. Newman

MTC-00033283

From: Herbert Ziff
To: Ms. Renata Hesse
Date: 1/24/02 7:24am
Subject: Microsoft Settlement
Herbert Ziff
661 Wall St.
Elmira, NY 14905-1423
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Herbert M. Ziff

MTC-00033284

From: Jerry Friesen
To: Ms. Renata Hesse
Date: 1/24/02 8:02am
Subject: Microsoft Settlement
Jerry Friesen
1006 E. Harding Drive
Appleton, WI 54915
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Mr. & Mrs. Gerald Friesen

MTC-00033285

From: r—norton@lycos.com@inetgw
To: Microsoft ATR
Date: 1/24/02 8:16am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now.

Thank you.

Sincerely,

Randy Norton
877 Valley Chapel Road
Walla Walla, WA 99362

MTC-00033286

From: RROBERT KINNEY
To: Ms. Renata Hesse
Date: 1/24/02 8:24am
Subject: Microsoft Settlement
2 THORNWOOD CT
SETAUKET, NY 11733–1823
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

ROBERT KINNEY

MTC-00033287

From: Stephen Starliper
To: Ms. Renata Hesse
Date: 1/24/02 8:27am
Subject: Microsoft Settlement
Stephen Starliper
12300 Amberset Dr
Knoxville, Tn 37922
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Regards,

Stephen L. Starliper

MTC-00033288

From: D.V. KLIER
To: Ms. Renata Hesse
Date: 1/24/02 8:30am
Subject: Microsoft Settlement
D.V. KLIER
5901 W MARGINAL WAY SW
SEATTLE, WA 98106
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

D.V. KLIER

MTC-00033289

From: Lionel C. Abrahams
To: Renata Hesse
Date: 1/24/02 8:38am
Subject: Microsoft Settlement

I do not agree with the proposed settlement. It appears that Microsoft has again done a run around the government, and getting away with this crime.

Microsoft is still continuing their high pressure tactics to eliminate the competition and by helping other third parties to do their biddings for them.

No later than last month, my broadband ISP changed from @home.net to @charter.net. They supplied me with a CD and a Web site to "automate" this process. For a PC user, this would have AUTOMATICALLY installed Microsoft IE, disregarding the fact that I use Netscape. It also would have me automatically register on Microsoft .NET service, to change my email address!

I had to call Charter support, and forcefully request the non MicroSoft procedure. Only when I asked them for the requirements that I have to have Windows installed, only then did they give me the non MS URL to change my email, never needing to install, nor use the MS supplied software to switch.

This is just MY example on how MicroSoft is still "dealing under the table" to continue their unlawful monopolistic tactics.

Lionel C. Abrahams

...Mailed to you by PMMail/2 2.20.2370 running eCS—PRO 1.01 (OS/2 Warp 4.51) :-)

MTC-00033290

From: Charles W. Arnold
To: Ms. Renata Hesse
Date: 1/24/02 8:43am
Subject: Microsoft Settlement
Charles W. Arnold
537 Borris Rd.
Furlong, PA 18925
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Charles W. Arnold

MTC-00033291

From: Michael Fletcher
To: Ms. Renata Hesse
Date: 1/24/02 8:46am
Subject: Microsoft Settlement

Michael Fletcher
5395 Underwood Ave.
Baton Rouge, La 70805
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

PLEASE END THIS LAWSUIT! I DO NOT WANT MY MONEY SPENT IN THIS WAY AS I DO NOT FEEL THAT THE PLANTIFFS IN THIS SUIT HAVE BEEN HARMED. NETSCAPE MADE A WONDERFUL DEAL WITH AOL AND HAS MOVED ON. AT THE TIME OF THE "INJUSTICE" I HAD BOTH NETSCAPE AND MICROSOFT'S BROWSERS ON MY COMPUTER AND USED BOTH.

IF YOU CONTINUE THIS SUIT, IT WILL ONLY SEND A MESSAGE TO NEW BUSINESS THAT IF THEY CAN'T MAKE IT IN THE MARKET, THEY WILL BE ABLE TO SUE IN COURT AND LET THE GOVERNMENT LEVEL THE PLAYING FIELD FOR THEM. THIS WILL ONLY STIFLE GROWING BUSINESSES AND SEND THE MESSAGE THAT IF YOU GET TOO LARGE, BIG BROTHER IS GOING TO SUE YOU, OR IF YOU GET REALLY TOO SUCESSFUL - IT WILL PUT YOU OUT OF WORK. THIS IS NOT THE MESSAGE WE NEED TO BE SENDING TO YOUNG PEOPLE WHO WISH TO START THEIR OWN COMPANY.

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Michael D. Fletcher

MTC-00033292

From: A. Slatin
To: Ms. Renata Hesse
Date: 1/24/02 8:49am
Subject: Microsoft Settlement

A. Slatin
8301 E. Sheridan st.
Scottsdale, Az 85257
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Mr. amd Mrs. A. Slatin

MTC-00033293

From: Virginia Legare
To: Ms. Renata Hesse
Date: 1/24/02 8:57am
Subject: Microsoft Settlement

Virginia Legare
255 Coconut Palm Rd.
Vero Beach, Fl 32963

January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Virginia Legaro

MTC-00033294

From: Marjorie McGee
To: Ms. Renata Hesse
Date: 1/24/02 9:12am
Subject: Microsoft Settlement

Marjorie McGee
14515 Granite Vly Dr #C625
Sun City West, AZ 85375
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
John and Marge McGee

MTC-00033295

From: William D. Jemison
To: Ms. Renata Hesse
Date: 1/24/02 9:15am
Subject: Microsoft Settlement

William D. Jemison
1460 Eastridge
Memphis, TN 38120
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgmentin the U.S. v. Microsoft case. This lengthy litigation has cost my fellowtaxpayers and me more than $35 million, and after reviewing the terms ofthis Judgment, final approval is clearly in the public interest.

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Sincerely,
W.D. Jemison Jr.

MTC-00033296

From: Ed Lowry
To: USDoJ Antitrust Div
Date: 1/24/02 9:15am
Subject: Micrsoft Settlement
From: Edward S. Lowry
7 Alder Way
Bedford Mass 01730
781 275–4098
eslowry@alum.mit.edu
http://www.ultranet.com/eslowry
January 24, 2002
To: Hon. Colleen Kollar-Kotely
United States District Court for the District of Columbia
333 Constitution Avenue NW
Washington DC 20001
cc: U.S. Department of Justice, Antitrust Division
Subject: Microsoft settlement, blunt their complexity weapon

Dear Justice Kollar-Kotely: Over 30 years of anticompetitive behavior in the softwareindustry have been far more destructive than the proceedings inthe Microsoft case have suggested. Microsoft's abuse of itscompetitors is a minor part of larger destructive effects.

The designers of antitrust legislation probably nevercontemplated an industry where market competition could be soeasily thwarted. The large inherent complexity of software makeschanging vendors difficult. This creates a business incentive forall vendors to make software more complex than it needs to be.Competition is further weakened by incentives for vendors andothers to claim they are trying to simplify while actuallypursuing contrary policies, thus discouraging real efforts atlarge scale simplification. It is further weakened by theexistence of so many people with prestige or profit incentives tocomplicate other peoples" lives. I have decades of experienceworking on simplification and observing deliberate obstruction oflarge scale simplification by prestigious organizations. MYEXPERIENCE HAS BEEN CONSISTENT WITH THE VIEW THAT HIDING THETRUTH ABOUT THE POTENTIAL FOR SIMPLIFICATION HAS BEEN A HIGHPRIORITY AMONG SOFTWARE LEADERS FOR DECADES.

This pattern makes correcting for past and prospectiveanticompetitive behavior in software both difficult andnecessary. Your authority to protect the public interest is nowprecious to society at large. I recommend that you take no actionwhich limits the exercise of your authority until remedies whichyou set in motion have been demonstrated to be effective. I alsorecommend that your attention focus largely on reducing theeffectiveness of needless complexity as a tool to thwartcompetition.

The consumer need for simplicity in computing has always beenhuge and obvious. Millions of people every day bear enormousburdens of needless complexity which are a direct result ofdisregard for the public interest by the software industry.

THERE ARE ONLY A FEW DOZEN PEOPLE ANYWHERE WHO HAVE USEDPROGRAMMING LANGUAGE SEMANTICS FOR NON-TRIVIAL APPLICATIONS ASADVANCED IN ALLOWING FOR SIMPLICITY OF EXPRESSION AS WHAT IBMDESIGNED OVER 25 YEARS AGO. The gross failure of marketplacecompetition to provide incentives to make reasonablesimplifications is a matter of demonstrable fact.In part to provide some confirmation of the 25 year delay, Iasked U.S. Senator John Kerry to make an inquiry related to theseissues. The main question is whether anyone working in theFederal Government has experience using software technology whichallows for simplicity as advanced as what was designed over 25years ago. He initiated that inquiry in December 2000 and hasn'treported finding anyone yet. The lack of such experience amongtechnical advisors can be demonstrated fairly easily using theattached programming examples. Failure to take first steps insimplifying software has blocked a series of potentialsimplifications.

Results of decades of deliberate anticompetitive resistance tolarge scale simplification in software include:—deficient math and science education due to failure to express precise information precisely.

—a flood of needless and burdensome complexity going into schools as educational technology.
—users entangled in proprietary complexity for decades.
—massive degradation of the quality of technical information: accessibility, usability, clarity, interoperability, ductility.
—a probable contributing factor to crash of KA801 in Guam, August 1997, 226 dead.
—a possible contributing factor to 20% of US casualties in the Gulf War.
—failure of the FAA to upgrade its air traffic safety systems.
—massive government waste such as the IRS modernization effort.
—mismatch between employment skills needed and those available.
—major "innovations" are "square wheel" unreasonable.
—political leaders dependent on technical advisors who are over 25 years behind the leading edge on simplicity issues.

burdensome technological instability.

illusions of progress and illusions of effort to make progress.

large learning loads for skills of ephemeral value. Several hundred feet of bookshelf space (e.g. at Barnes and Noble) to tell people how to tell their computers what they want.

—massive vulnerability to computer viruses.

For decades there has been almost nothing standing between thepublic and this kind of abuse. At present there is almost nothingto prevent still more decades of the same. Remedies appropriateto the scale of past damage and the prospect of future damage areneeded. That requires assessing the scale of the damage and Idoubt there has been any realistic effort to do so. A great dealdepends on your response. It doubt that Microsoft will agree toanything potent enough to correct for this overall pattern.

The most serious damage of anti-competitive behavior in softwarehas probably been to obstruct improvement in technical education.On a massive scale, educators teach how to arrange pieces ofinformation. However, by failing to understand simplification,they have almost no idea what is a reasonable structure forpieces of information. One result is a failure to express preciseinformation in precise ways, and that imposes a large needlessburden on students. Imagine cities where the architects andbuilders had never seen a reasonably shaped brick. Both technicaleducation and software technology are mired in a comparable stateof reasonableness today.

For over 30 years I have been working to clarify how to makesoftware and other technical description simple, mainly at IBMand Digital Equipment Corporation. I have observed a high levelof confidence among software leaders that there would be noaccountability for opposing large scale simplification. I canelaborate on all of the above from long experience.

The anticompetitive behavior has distorted antitrust proceedingsby keeping participants in a state of technical ignorance. Byaccepting prevailing stunted understanding of simplicity insoftware from people who are demonstrably 25 years behind theleading edge, the Department of Justice has probably tended tosee existing ongoing dependency relationships between vendors andusers of software technology as largely the result of complexitywhich is inherent in the technology. That is unrealistic becauseso much of the complexity has been caused by deliberate actionsby vendors. It would also appear that the potential forcompetitiveness is more limited than it actually is. Such viewswould have probably biased Department of Justice toward non-intervention and obscured the potential for judicial remedies.

The proposed settlement agreement itself looks like a hollowgesture resulting partly from poor technical understanding atDoJ. It focuses on assuring equitable access to the market for"middleware". Middleware as defined amounts to software forexecuting special purpose languages. The need for such softwarewould be greatly altered and diminished if serious efforts tosimplify were made. Accepting such an agreement would put thecourt in a position of depending on continued large scaleanticompetitive behavior in the industry in order to place minorrestraints on Microsoft.

The best available analysis of the fine structure of information supports the view that almost all computerized information is represented in ways that are unreasonable in much the same way that square wheels are unreasonable. No other field of technology has been afflicted by such perversity. No other community of technologists have been so oblivious about their most basic structures. The consequences have disastrously damaged information quality and disabled human minds. It has been largely unnoticed because people have no other experience. While that analysis [see "Toward Perfect Information Microstructures" on my web site] may be viewed as unverified, not even the beginnings of a technically sound alternative analysis exists. It includes easily understood reasons why simplification allows "middleware" or special purpose languages to be displaced by much more versatile general purpose language. Patents now owned by Compaq Corporation have helped to prevent corrective measures.

I hope that you will assess the effectiveness and destructiveness of the anticompetitive behavior. You could ask the parties to the case: who among them has working familiarity with software for simplicity as advanced as IBM developed over 25 years ago (using the test below). Noting the above paper arguing that the basic structures of software technology are now "square wheel" unreasonable, you could ask whether any can identify a sound presentation of an alternative technical view. In addition the intent should be assessed. To what extent has obliviousness to needless complexity been used as a concealed weapon against competitors? My story supports such intent.

I hope that you will be bold in developing remedies and prepared for some contention. Major social upheavals have sometimes accompanied simplifications in law and religion. Publicly asking embarrassing questions like the above could help a 10t. Such questions have been passionately evaded for many years. Even a U.S, Senator has had difficulty eliciting answers.

Microsoft could be required to support large scale simplification in a variety of ways. They could be required to respond to or financially support challenges to understand simplification like the $25K offer on my web site. Another approach would be to require that they incorporate a conceptually self-contained interface into Windows which provides broad capability with simplicity close to the best available understanding of how to do so. It could be aimed specifically at educational use, at least initially. Rolling back the unwelcome intrusion into education of mysteriousness and technological instability could be major achievable goals of such an effort. It could be partly defined in terms of avoiding damage to quality of user information. I can provide additional supporting documents and other assistance. Let me know if I can help .

Yours respectfully

Ed Lowry

SHANNON Examples Compared with SEQUEL 2

To assist in validating a 25 year delay in improving simplicity of expression, and raising quality standards in future efforts, the following list of example expressions are provided. They indicate what degree of simplicity and clarity is achievable in a multi-purpose language and roughly what was known to be achievable in 1974 as recorded in: "PROSE Specification" by E. S. Lowry, IBM Poughkeepsie Laboratory Technical Report TR 00.2902. It was dated Nov 1977 but it was distributed within IBM in Dec 1974.

These examples are translated from the first 10 examples given for Sequel 2 (now SQL) in the IBM Journal of R&D, Nov 1976. For the first 10 expressions Sequel 2 (a specialized data base language) uses 130 tokens. Shannon (a multi-purpose language) uses 99 tokens. The original Sequel 2 code is omitted as irrelevant. The significant comparisons would be with C++, Java, Ada, Cobol, etc.

Expression 1.
English: Names of employees in Dept. 50
Shannon: name of employee of dept(50)
Expression 2.
Eng: All the different department numbers in the Employee table.
Shan: dept—no of employee condense
Expression 3.
Eng: Names of employees in Depts. 25, 47 and 53.
Shan: name of employee of every dept where 25 or 47 or 53
Expression 4.
Eng: Names of employees who work for departments in Evanston.
Shan: name of employee of dept of Evanston
Expression 5.
Eng: List the employee number, name and salary of employees in Dept. 50, in order of employee number.
Shan: for employee of dept(50) minfirst empno show(empno, name, salary)
Expression 6.
Eng: Average salary of clerks.
Shan: average (salary of clerk)
Expression 7.
Eng: Number of different jobs held by employees in Dept.50
Shan: count job of employee of dept(50) condense
Expression 8.
Eng: List all the departments and the average salary of each.
Shan: for dept show(it, average(salary of its employee))
Expression 9.
Eng: Those departments in which the average employee salary is less than 10,000.
Shan: dept where average(salary of its employee) < 10000
Expression 10.
Eng: The departments that employ more than ten clerks.
Shan: dept where count(its clerk > 10

MTC-00033297

From: John McGee
To: Ms. Renata Hesse
Date: 1/24/02 9:16am
Subject: Microsoft Settlement

John McGee
14515 W Granite Valley Dr. #C 625
Sun City West, AZ 85375
January 24, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
John McGee

MTC-00033298

From: C. A., Jr. Rosenberger
To: Ms. Renata Hesse
Date: 1/24/02 9:40am
Subject: Microsoft Settlement

C. A., Jr. Rosenberger
149 East Side Dr. # 323
Concord, NH 03301
January 24, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
C. A. Rosenberger, Jr

MTC-00033299

From: Blaine R Conk
To: Ms. Renata Hesse
Date: 1/24/02 9:47am
Subject: Microsoft Settlement

Blaine R Conk
2645 Redlands Drive
Costa Mesa, Ca 92627
January 24, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Blaine R Conk

MTC-00033300

From: Mark W. Alexander
To: leaplist@lists.leap-cf.org@inetgw
Date: 1/24/02 9:56am
Subject: Re: [LeapList]Microsoft Settlement

If you can figure out the proper way to send this to the judge in the —civil— suit, that's the place for it to go. It's great, but it does not address the DOJ settlement. mwa

On Thu, 24 Jan 2002, Phil Barnett wrote:

I feel that the currently proposed settlement is inadequate and an embarassment to justice and law abiding taxpayers everywhere.

Ordering Microsoft to buy their way into another monopoly by having them donate proprietary operating systems to needy schools is not punishment. It is simply telling them that it's ok to monopolize yet another venue.

Will this billion dollars worth of "charity" displace real business in the commercial operating system world? Will sales that would have gone to Microsoft's competitors be lost because school districts around the U.S. will be waiting in line for their free handout? Will this billion dollar fine actually strengthen Microsoft? I believe it will if it is carried out as currently proposed.

If you want to actually punish Microsoft for their illegal activities, you should not do it by giving them a new market to take over. Instead, you should punish them by strengthening the competition that they have illegally gained monopolistic power over and plundered.

I propose that any new Microsoft settlement to needy scools include:

50% of the settlement into computer hardware only.

20% of the settlement into network infrastructure.

All computers purchased with this settlement money be installed with non-proprietary Linux Open Source operating systems and software.

30% of the settlement will be used for education of the support personnel and teachers using these new open source operating systems.

Linux is an excellent choice in Open Source operating systems. It is stable, capable, powerful, consistant and as easy to administer as any operating system that training is available for. There are many good mainstream Linux distributions available at low or no cost. Training and certification are available and should be encouraged in the support and educational infrastructure.

Open Source operating systems have the benefit of being upgradable at little or no cost for the foreseeable future. If the schools to be helped are those with limited budgets, low upgrade costs will be very important over the life of the hardware. Also, Linux is more efficient with hardware and does not require the rigorous hardware upgrade schedule that Microsoft operating system upgrades require. This means the hardware purchased with this settlement money will be viable years longer with Linux than it would be with Microsoft's proprietary operating systems.

If the current settlement is carried out, in a few years the schools with limited budgets will have obsolete operating system software needing to be replaced with billions of dollars of public money.

And, to whom will this upgrade money go? Microsoft.

That is not punishment. That is opportunity.

If you want to punish Microsoft and at the same time remove the proprietary handcuffs that Microsoft has put on every Windows user, teach our children how to use Linux.

LeapList mailing list
LeapList@lists.leap-cf.org
http://www.matrixlist.com/mailman/listinfo/leaplist
Mark W. Alexander
slash@dotnetslash.net
CC:Microsoft ATR

MTC-00033301

From: William Huth
To: Ms. Renata Hesse
Date: 1/24/02 9:57am
Subject: Microsoft Settlement
William Huth
211 Cooks Landing Road
peach bottom, PA 17563
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
William J. Huth

MTC-00033302

From: James Friedrich
To: Ms. Renata Hesse
Date: 1/24/02 10:01am
Subject: Microsoft Settlement
James Friedrich
2301 E. Clifford Ave.
las vegas, Nv 89104-2140
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
James A. Friedrich

MTC-00033303

From: Renata B. Hesse
To: Ms. Renata Hesse
Date: 1/24/02 10:09am
Subject: Microsoft Settlement
Renata B. Hesse
2226 Pecan Drive
Yuba City, CA 95991–8432
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Mr. George J. Jameson

MTC-00033304

From: Walter Sainio
To: Ms. Renata Hesse
Date: 1/24/02 10:16am
Subject: Microsoft Settlement
Walter Sainio
6419 Monero Drive
Rancho Palos Verdes, CA 90275
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Walter C. and Nan G. Sainio

MTC-00033305

From: mel fineman
To: Ms. Renata Hesse
Date: 1/24/02 10:33am
Subject: Microsoft Settlement
mel fineman
20215 ne 10th place
miami, fl 33179
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

mel fineman

MTC-00033306

From: John Weir
To: Ms. Renata Hesse
Date: 1/24/02 10:49am
Subject: Microsoft Settlement
John Weir
2730 Lakeridge Shores West
Reno, NV 89509
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

John Weir

MTC-00033307

From: Gary Deitschman
To: Ms. Renata Hesse
Date: 1/24/02 10:53am
Subject: Microsoft Settlement
Gary Deitschman
1981 Susan Ave
Neenah, WI 54956
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Gary Deitschman

MTC-00033308

From: John Appel
To: Ms. Renata Hesse
Date: 1/24/02 11:28am
Subject: Microsoft Settlement
John Appel
186 23rd Ave SW
Largo, FL 33778

January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
John E. Appel

MTC-00033309

From: Rodney Int-Hout
To: Ms. Renata Hesse
Date: 1/24/02 11:39am
Subject: Microsoft Settlement
Rodney Int-Hout
106 Dahlia Circle
Fairfield Bay, AR 72088-3708
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Rodney Int-Hout

MTC-00033311

From: Jerry Pausch
To: Ms. Renata Hesse
Date: 1/24/02 11:49am
Subject: Microsoft Settlement
Jerry Pausch
P.O. Box 413
Leesburg, oh 45135
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Jerry B. Pausch

MTC-00033312

From: Mark Meszar

To: Department of Justice

Date: 1/24/02 11:53am

Subject: Message From a Concerned Citizen

Dear Department of Justice:

I am concerned about the settlement issue that would strip the Microsoft Internet Explorer browser from the Microsoft Windows operating system. I spend a great deal of time online and have used Internet Explorer and Netscape Navigator. The Navigator browser is slower, more intrusive, less stable, and an inferior product in my opinion. If Microsoft Windows did not come with Internet Explorer I would have to spend hours downloading it over a slow dial-up connection. I format my computer's hard drive fequently for testing and to have to download the program over and over after each install of Microsoft Windows would decrease my productivity. I urge you to at the very LEAST allow Microsoft to include the option to install the Internet Explorer browser off the Microsoft Windows CD

Sincerely,

Mark Meszar

4616 Woodhurst Dr.

Youngstown, OH 44515–3731

MTC-00033313

From: Richard Grant

To: Ms. Renata Hesse

Date: 1/24/02 12:06pm

Subject: Microsoft Settlement

Richard Grant

22933 Galva Ave.

Torrance, Ca 90505

January 24, 2002

Ms. Renata Hesse

U.S. Department of Justice, Antitrust Division

601 D Street NW, Suite 1200

Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Richard Grant

MTC-00033314

From: janice gabbert

To: Ms. Renata Hesse

Date: 1/24/02 12:08pm

Subject: Microsoft Settlement

janice gabbert

115 w monument

dayton, oh 45402–3099

January 24, 2002

Ms. Renata Hesse

U.S. Department of Justice, Antitrust Division

601 D Street NW, Suite 1200

Washington, DC 20530

Ms. Hesse:

The following is a long "form letter" supplied by CAGW, of which I am a member, and I have read it carefully AND AGREE WITH ALL OF WHAT IS SAID BELOW:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

janice j. gabbert

MTC-00033315

From: Elsie T. Childers
To: Ms. Renata Hesse
Date: 1/24/02 12:15pm
Subject: Microsoft Settlement
Elsie T. Childers
8781 Rose Creek Rd
Nebo, Ky 42441-9766
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Elsie T. Childers

MTC-00033316

From: Robert Himmelberg
To: Ms. Renata Hesse
Date: 1/24/02 12:25pm
Subject: Microsoft Settlement
Robert Himmelberg
911 East Park Drive
Glasgow, Mo 65254
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

R.L. Himmelberg

MTC-00033317

From: Evald Carlson
To: Ms. Renata Hesse
Date: 1/24/02 12:35pm
Subject: Microsoft Settlement
Evald Carlson
119 Oxbow Drive
Oxbow, ND 58047-5001
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. The terms of the settlement offer a fair resolution for all sides of this case: the

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Sincerely,

Evald J. Carlson

MTC-00033318

From: Dean Willson
To: Ms. Renata Hesse
Date: 1/24/02 12:42pm
Subject: Microsoft Settlement
Dean Willson
7748 E. Tanque Verde Ln.
Tucson , AZ 85715
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Dean W. Willson

MTC-00033319

From: Margaret A. Kennedy
To: Ms. Renata Hesse
Date: 1/24/02 12:57pm
Subject: Microsoft Settlement
Margaret A. Kennedy
202 Willow Run Rd.
Sneads Ferry, NC 28460
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Margaret A. Kennedy

MTC-00033320

From: Robert Nelson

To: BFoer@antitrustinstitute.org@inetgw
Date: 1/24/02 2:34pm
Subject: Please reconsider your stance against Microsoft!
American Antitrust Institute
2919 Ellicott Street, NW Suite 1000
Washington DC 20008–1022
Attention: Albert A. ("Bert") Foer, President

Mr. Foer,

Your late actions in the Microsoft anti-trust case are contrary to the interests of business owners, stockholders of all technical stocks, and the American, as well as much of the international public, as well as the economy of the United States, and is a threat to technological innovation.

Your qualifications for membership are, from your site, as follow (bold case is ours) : "I have visited the AAI website (www.antitrustinstitute.org) and reviewed its contents. I am in general agreement with the philosophy represented by the AAI and wish to be affiliated as a Friend. I will abide by the conditions of membership as set forth on the website" indicate the appearance of your having little to no interest in hearing from those who oppose your actions and views.

Most people in the data processing field oppose the view and stance you have taken at this late date. We believe, and have reason to believe, that the entire matter was begun my competitors who charged more, delivered less, and under whose guidance the personal computer and software would remain prohibitively expensive for the average consumer. Microsoft has made software affordable, dependable, and easily available. No company has absorbed as much software piracy as Microsoft without prosecuting users, either.

The legal attacks and moves by certain competitors has resulted in an either/or decision on the part of many Information Technology Directors and Chief Information Officers. We know how to write software, and (in my case) have been doing so since 1968. The actions of Microsoft's competitors has already backfired as we have continued to adopt as much IBM and Microsoft product as is possible, and no longer use certain competing products from the companies who brought this case.

Nearly all of the people with our philosophy are simply quietly doing this with little to no fanfare. We do not post to hobby bulletin boards. We do not spend a great deal of time in Microsoft's defense beyond converting previous database products to either Microsoft SQL Server or IBM's DB2.

We do not now, nor have we ever, worked for Microsoft or any of its subsidiaries, and we own no more than 100 shares of their stock among us. In other words, we have no personal stake in this other than our desire to have affordable, cutting-edge, and stable software for our business.

An area of investigation that needs more scrutiny is in the area of targeting viruses to the Microsoft products. This occurs far too often to be simple cases of hobbyists causing mischief, and is one of the areas where we are gathering a much information as we can.

Finally, we are more than a little concerned about another statement on your site—"A Counterweight to Conservative Influence"—which indicates to us that your site is politically-driven. If this is the case, we would like to inform you that, according to a gay investment site, Microsoft is the third most gal-friendly public company in the United States, after Disney and American Express.

We ask that you reconsider your stance so that we may have this yoke off of our economy, and so that Microsoft may continue to innovate as if they were headquartered in a free country.

Warmest Regards,
Bob Nelson
Adventek, Inc. and for the majority of CIOs and data center directors whose company names will follow on their letterhead by hardcopy.
cc: Microsoft, Inc.
CC:Microsoft ATR

MTC–00033321

From: Arthur Ives
To: Ms. Renata Hesse
Date: 1/24/02 4:19pm
Subject: Microsoft Settlement
Arthur Ives
16 Lighthouse Way Dr.
Salem, SC 29676
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Arthur H. Ives

MTC–00033322

From: Daniel F. Betts
To: DOJ
Date: 1/24/02 4:33pm
Subject: Lawsuites et al

dear DOJ

As a consumer, citizen etc, can't these law suites stop. It is dragging down the economy and it is purely being done for purposes to hurt others, I am just sick of all that has gone on. The events of the last year have nearly wiped me out financially and emotionally. I am at my end!!

Daniel Betts

MTC–00033323

From: Charles E. Boonstra
To: Ms. Renata Hesse
Date: 1/24/02 5:55pm
Subject: Microsoft Settlement
Charles E. Boonstra
2218 Lake Shore Drive
St. Joseph, MI 49085–1841
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost all taxpayers, including you, more than $35 million, and after reviewing the terms of this Judgment, final approval seems to me to be clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism,

including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. I have no interest at all in further enriching the legal beagles involved in this case.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

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Sincerely,
Charles E. Boonstra

MTC-00033324

From: Stanley R. Krier
To: Ms. Renata Hesse
Date: 1/24/02 6:06pm
Subject: Microsoft Settlement
Stanley R. Krier
175 Berlin Ave., Unit #64
Southington, CT 06489
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Stanley R. Krier

MTC-00033325

From: Steven Shepherd
To: Ms. Renata B. Hesse
Date: 1/24/02 6:08pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Steven Shepherd
14209—93rd Ave NE
Bothell, WA 98011-5147
CC: Citizens for a Sound Economy

MTC-00033326

From: Samuel Frankenfield
To: Ms. Renata Hesse
Date: 1/24/02 6:37pm
Subject: Microsoft Settlement
Samuel Frankenfield
7375 Hightower
Fort Worth, TX 76112-5812
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Samuel Lewis Frankenfield III

MTC-00033327

From: Nolan Swift
To: Ms. Renata Hesse
Date: 1/24/02 7:12pm
Subject: Microsoft Settlement
Nolan Swift
PO Box 09041/5006 S May St
Chicago, IL 60609
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Nolan G. Swift

MTC-00033328

From: Hexe667@aol.com@inetgw
To: Microsoft ATR
Date: 1/24/02 8:11pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,

Grete Koller
202 Spruce Court
Yorkville, IL 60560-9582

MTC-00033329

From: Frank Soldwedel
To: Ms. Renata Hesse
Date: 1/24/02 8:14pm
Subject: Microsoft Settlement
Frank Soldwedel
1778 Rte. 9N
Lake George, NY 12845-5900
January 24, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Frank E. Soldwedel

MTC-00033332

From: Josep L. Guallar-Esteve
To: Microsoft ATR
Date: 1/24/02 9:01pm
Subject: Microsoft Settlement

To whom it might concern,

I'm an Information Technologies Engineer, with more than 6 years of experience in IT, now working as a Test Engineer in a Quality Assurance team. I think that the proposed settlement in the Microsoft Antitrust Case is a bad idea. Please reconsider your position.

I have co-signed and I endorse the open letter that Mr. Dan Kegel has posted on the Internet here: http://www.kegel.com/remedy/letter.html

Mr. Kegel points it nicely:

According to the Court of Appeals ruling, "a remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct", to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future" (section V.D., p. 99).

The current proposed settlement, does not seek to unfetter nothing. It is uncapable of terminating illegal monopoly practices. It does not deny Microsoft Corp. the fruits of its statutory violation. And it does not ensure that Microsoft Corp. will end its current illegal practices. For example, some ways that could enforce Microsoft Corp. to end its illegal monopolistic practices would be:

—Make open and public the documentation that specifies Microsoft Corp.'s file formats, like MS-Word, MS-Excel... Make open and public the specifications of actual and future file formats (when available). This will serve to open the market to competing products. The consumer will have a selection.

—Disclose MS-Windows API that will make possible for competing products to use programs designed for MS-Windows. This way, "MS-Windows compatible" Operating Systems could be presented as a real choice to the consummer.

—Mandate Microsoft Corp. to do not discriminate (in their licenses or wherever) against competing technologies or products. For example, nowadays, their "licenses" forbid to use MS-Windows components in conjunction with Microsoft Corp's technology competitors. Yes, with their licenses, you cannot use MS-Windows Media without MS-Windows, when it is technically possible to do so using the emulator "WINE" under Linux (quoting their license: "you shall not distribute the REDISTRIBUTABLE COMPONENT in conjunction with any Publicly Available Software. "Publicly Available Software" means each of (i) any software that contains, or is derived in any manner (in whole or in part) from, any software that is distributed as free software, open source software (e.g. Linux)").

Well, there's more and in more depth at Mr. Kegel's website.

Yours sincerely,
Josep L. Guallar-Esteve
Chapel Hill, NC 24514
QA Test Engineer,
IT Professional, Member of IEEE—Computer Society
CC: jlguallar@computer.org@inetgw

MTC-00033333

From: dick allan
To: Microsoft ATR
Date: 1/24/02 9:04pm
Subject: Microsoft Settlement

Come on you guys, this one from MS doesn't cut it either. Since when does the criminal get to call the remedy?

MTC-00033334

From: Jacqueline Hoernlein
To: Ms. Renata Hesse
Date: 1/24/02 9:05pm
Subject: Microsoft Settlement
Jacqueline Hoernlein
4230 Shattuck Rd.
Saginaw, Mi 48603
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Mrs. Jacqueline Hoernlein

MTC-00033335

From: David Olegar
To: Microsoft ATR
Date: 1/24/02 9:08pm
Subject: Microsoft

Restore competition to the software industry. Break up Microsoft.

MTC-00033336

From: Guy Sewell

To: Microsoft ATR
Date: 1/24/02 9:10pm
Subject: Microsoft Settlement

Dear Sirs,

I would like to express my dismay at the proposed Microsoft settlement. I am particularly concerned over the lack of recognition by the DOJ as to the importance of not-for-profit organizations to the future of IT, and to the discrimination against not-for-profit organizations in the proposed settlement.

Also, I have yet to hear a compelling argument as to why the MS breakup remedy was not chosen. The company was found guilty of being an illegal monopoly. The company has a obscene profit margin with no significant competition in either the OS market or the office suite market, how can this not be detrimental to consumers or competitors? It has a greater % of total market than AT&T or Standard Oil did. Diversity is a desirable trait in ecosystems, in societies, and in commerce. Break up Microsoft and make the the units compete in a free and level market place.

Guy W. Sewell, Ph.D.
President
Sewell Environmental Associates, LLC

MTC-00033337

From: csaunders@databytesoftware.com@inetgw
To: Microsoft ATR
Date: 1/24/02 9:11pm
Subject: my personal view on the ms vs doj case

Dear Sir / Madam

On the face of it, it would appear that my view on this matter is irrelevant; I am after all a British citizen living in New Zealand, half-a-world away from your great nation.

However your decision in the matter of the Microsoft will affect my life deeply. I am a senior IT professional, working with Microsoft products daily. In short my very living will be affected by your decision. The world, and I await with baited breath what impact this will have on our lives.

It is under such circumstances that I offer my humble opinion: My summarisation is this, that it would appear to be a decision of the issue of "freedom", how much "freedom" should a corporation be allowed vs. the freedom of the public to enjoy goods and services at a competitive price. In fact it would appear that the entire issue is summed in the above fashion. Most people today believe that "I can do whatever I like, pursuing what ever goals I determine to be to my best interest, SO LONG as I respect the rights of others and do not impinge on their right to do the same," It is that above view, which I find utterly abhorrent. I propose that the belief that your great forefathers held such a view is a lie, and a dangerous lie designed to steal your freedom from right underneath you.

If this issue (and all the similar arguments like it) are decided based on the merits of who has "which freedoms to do what", then the end result will be incorrect and self-serving, no matter how noble your aims.

If entities such as governments, businesses, organisations and ultimately people, really believe that they have a "right" to follow their own desires, without hurting others, they will, given enough time, destroy everything around themselves.

Like a horrible Midas curse, it is not possible to gain your own goals without affecting others.

The pursuit of self, at all costs is disgusting. The dangerous lie that it is possible to peruse self, without impinging on others is a falsehood. No man is an island, all decisions involve costs. Any decision based on the "faintly" held notion that it is permissible to pursue your own goals as "long as you don't hurt others" will produce a result that is a real evil in itself.

I urge you to consider your forefather's real aims and goals in promoting liberty, not one of "SELF" but rather "OTHERS FIRST".

If you are proud of your heritage you will put others first, and demand of both the plaintiff and the defendant that they show how they are putting "OTHERS FIRST".

The result will be a judgement based on the activities of both parties, designed to show whether self-interest or others-interest was the goal. It is obvious then that by upholding the freedoms of both parties, both will suffer equally. If both parties are forced to place the other party first, the result will be a correct settlement, designed to uphold the other's rights. If the "people" are willing to allow Microsoft the right to "practice business", then Microsoft must allow the "people" the right to make their own livings. (I imagine the issue of forcing OEM vendors to pre-install windows will be shown for the foul business practice it is, self-serving and abhorrent.)

Self-first always results in loss of freedom, never the promotion of freedom. It is your own forefathers whom taught their children to follow the ways of the man that first promoted the idea of "Others First", en-masse to the public. He was Jesus. Parents often paraphrase his teachings like this "Treat others as you would have them treat you." He actually said, "Love the Lord your God with all your heart, all your mind and all your soul. And love others as yourself."

May the Lord grant you the wisdom of Solomon as you consider such a weighty decision.

Thank you for allowing me the opportunity to speak.

Kind regards,
Colin Saunders
PO Box 98817
South Auckland Mail Centre
New Zealand
csaunders@databytesoftware.com
CC: pohj@ihug.co.nz@inetgw

MTC-00033338

From: dlm63785477@netscape.net@inetgw
To: Microsoft ATR
Date: 1/24/02 9:13pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
D.Landis Murphy
147 Suburban Terrace
Stratford, NJ 08084–1413

MTC-00033339

From: dlm63785477@netscape.net@inetgw
To: Microsoft ATR
Date: 1/24/02 9:15pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

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Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Robert Murphy
147 Suburban Terrace
Stratford, NJ 08084–1413

MTC-00033340

From: dlm63785477@netscape.net@inetgw
To: Microsoft ATR
Date: 1/24/02 9:16pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Tricia Murphy
147 Suburban Terrace
Stratford, NJ 08084–1413

MTC-00033343

From: Andy Colligan
To: Microsoft ATR
Date: 1/24/02 9:17pm
Subject: Microsoft Settlement

Dear Sir or Madam,

The proponents of an anti-trust suit should have but one goal: The limitation or reduction of a trust. Cementing a trust's hold on a market is the antithesis of that goal.

Please do not allow this settlement to become a travesty of justice and freedom. Please do not expand Microsoft's monopoly though this settlement.

Speaking as someone who has watched the Internet grow, explode, and begin to mature, I would like to be able to see it become a place that allows freedom of expression and choice. Speaking as someone who has seen what computers are truly capable of, I implore you to allow the same freedoms onto the desktop. Customers should be allowed to choose how they want to interact with their computer. Currently, Microsoft does not allow that choice. If they have any say in the matter, they never will. However, you do have the power to change how Microsoft does business. I ask you to exercise that power. You may find this message to be silly, but the outcome of this case is anything but.

Andy Colligan
Email: gtg410b@prism.gatech.edu

MTC-00033344

From: ChloeCKM@aol.com@inetgw
To: Microsoft ATR
Date: 1/24/02 9:19pm
Subject: microsoft settlement

please , in the public interest, proceed with the settlement that is so badly needed for the U.S. economy and in the interest of the public that is surely weary of continued competiveness. please , let us get back to sanity. thank you sincerely Chloe murdock chloeckm@ Aol.com

MTC-00033345

From: John Holstein
To: Microsoft ATR
Date: 1/24/02 9:19pm
Subject: Microsoft Settlement

The proposed settlement with Microsoft is an extremely bad idea. Microsoft has ridden rough-shod over the Computer and Computer Software Industry for too long.

Out of the hundreds of complaints I could complain about concerning Microsoft, from their inability to provide a secure OS, out of the box, to their lack of effort in patching existing software for known bugs, the basis of my "problem" with the way they do things is their effort to set and/or change existing standards. These standard practices (RFC's "Request for Comments") that computer professionals go by when installing, administrating and developing new software are the basis for our everyday lives. Microsoft has the audacity to try and change these standards to suit their needs, at any given time, seemingly without regard to their customers "computer well being".

Microsoft will continue to pull the wool over the eyes of people that don't know any better. We need to help protect the end users that don't have the ability to understand the "behind the scenes" actions that take place. I know, I understand, and I am not a fan of what Microsoft has done to the industry. Allowing it to continue will only hinder future developments.

John Holstein,
Cotse Helpdesk/Support

MTC-00033346

From: csm
To: Microsoft ATR
Date: 1/24/02 9:20pm
Subject: Microsoft Settlement
To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

As someone who uses Microsoft products as part of his job, and who also uses products at home that compete with Microsoft products, I would like to offer the following comments and suggestions regarding the "proposed final judgment in United States v. Microsoft".

In general the settlement described in the "proposed final judgment" tries to prevent the anti-competitive behaviors that Microsoft has used in the area of (what the settlement calls) "Middleware Products" intended for user interaction with the Internet. I feel it focuses a little too narrowly on "Internet-centric" programs such as browsers and E-mail agents. In fact, there are probably lost opportunities here for correcting anti-competitive behaviors in the areas of operating systems, software development tools and what is euphemistically called "office productivity" software (such as Microsoft's Office suite of programs).

While these types of programs may seem more distant from the Internet than web browsers, etc., in point of fact almost all of them are also being upgraded to interoperate with Internet APIs and remote services. I wish this had been examined in more detail.

However, taking the proposed settlement as written, there are several changes in wording that I believe would expand the scope of what is being required where it is overly narrow. In particular, under Section III.A.2 (hardware licensing):

1. shipping a Personal Computer that (a) includes both a Windows Operating System Product and a non-Microsoft Operating System, or (b) will boot with more than one Operating System; should be amended to:

2. shipping a Personal Computer with one or more bootable non-Microsoft Operating System(s) either instead of or in addition to any Windows Operating System Product; to ensure that not only can Microsoft not retaliate against a computer hardware vendor who ships a Personal Computer that dual boots Windows and some non-Microsoft Operating System, but also that it cannot retaliate against a vendor who ships a separate line of Personal Computers without Windows at all, in addition to also shipping Personal Computers that do have Windows installed.

This is particularly important to growth of the (Open Source) Linux Operating System as an option for businesses.

In section III.D, in addition to "the APIs and related Documentation that are used by Microsoft Middleware to interoperate with a Windows Operating System Product", the internal formats of disk files created by Microsoft products need to be cited as a necessary part of the "related Documentation", particularly for the Microsoft Office products.

Microsoft Office is a pillar of the current desktop monopoly. It is reasonable to ask that "flat" files produced by Word, Excel and other components of the Microsoft Office suite have their internal layout and format fully documented so that non-Microsoft products can interoperate with them with full knowledge of any planned changes from one version of Microsoft Office to the next. This is important because these files are routinely exchanged via E-mail and other methods of information exchange over the Internet (for instance, many company Personnel departments now require resumes and job applications to be E-mailed in Microsoft Word format). The exceptions to this would be the database file formats of Microsoft Access (one part of the Microsoft Office suite) and Microsoft SQL Server (a separate product), which should rightfully remain proprietary knowledge.

Section III.J.1 needs to be tightened to provide outside verification that any denial of disclosure because it "would compromise the security of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria" is justified by the facts of the matter. Also III.J.2 appears to provide a loophole for allowing Microsoft to refuse information to Open Source developers, since it has already disparaged the "authenticity and viability of" the Open Source model of doing business.

This loophole must be closed, since Open Source software is one of the few surviving competitors that Microsoft products face currently.

Definition VI.K.1 should include Microsoft Office among the list of "Microsoft Middleware Products", again because it is so routinely used in document exchange across the Internet.

Thank you,
Paul Connelly
P.O. Box 290
Oakham, MA 01068–0290
(US Citizen)
CC:connelly@darc.org@inetgw

MTC-00033347

From: Donald Rossell
To: Ms. Renata Hesse
Date: 1/24/02 9:20pm
Subject: Microsoft Settlement
Donald Rossell
1331 Ridgeview Ave Dayton, oh 45409
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Donald Rossell

MTC-00033348

From: dnp607(a)pacbell.net
To: Microsoft ATR
Date: 1/24/02 9:22pm
Subject: Microsoft Settlement

I am writing under the Tunney Act concerning the proposed Microsoft Settlement (United States v. Microsoft Corp., Civil No. 98-1232).

I believe the settlement is unfair, as it will not serve to end Microsoft's unlawful conduct, and does not adequately penalize Microsoft for it's unlawful conduct. I have co-signed a petition which details my position in greater detail, and am writing this to officially note my opinion as allowed by the Tunney Act.

Thank you very much,

Dan Peknik

MTC-00033349

From: Carlos Santellanes
To: Microsoft ATR
Date: 1/24/02 9:24pm
Subject: Microsoft settlement

The proposed settlement is INSULTING to the word justice. Nothing is going to change with such a settlement, REAL punishment must be done this time or else the WHOLE computer industry will suffer.

If only we'd stop trying to be happy we could have a pretty good time.

Edith Warton

NOTICE—This message contains information intended only for the use of the addressee named above. It may also be confidential and/or privileged. If you are not the intended recipient of this message you are hereby notified that you must not disseminate, copy or take any action in reliance on it. If you have received this message in error please disregard.

MTC-00033350

From: Bill Vlahos
To: Microsoft ATR
Date: 1/24/02 9:28pm
Subject: Microsoft Monopoly

I believe that Microsoft has clearly and unlawfully abused its monopoly for many years and am dismayed that the "remedies" discussed so far are neither appropriate nor will be effective in either punishing or changing Microsoft's behavior.

Assuming that Microsoft is guilty, which has been proven and re-affirmed in court, then not only should their behavior change but they should be punished. There are numerous products and companies which no longer exist because Microsoft eliminated them.

Let me suggest a solution that would not only meet the goals of the anti-trust case, be relatively easily achieved, but actually would effect a change.

1. Make the file formats for Word, Excel, and Powerpoint open so that other companies can make competitive products which would transparently interoperate with Microsoft's products.

2. Prohibit the Government (U.S. and States) from purchasing any Microsoft products for a period of time based on how long Microsoft abused their monopoly. This would punish Microsoft for past abuses while at the same time provide a waiting market for competing products.

These remedies would certainly hurt Microsoft which is appropriate. They also would stimulate competition which would be good for consumers.

Bill Vlahos

bvlahos@gte.net

MTC-00033351

From: chris wolske
To: Microsoft ATR
Date: 1/24/02 9:31pm
Subject: Microsoft Settlement

Department of Justice Representative,

I would like to respond to the Proposed Final Judgement to U.S. v. Microsoft. There are many aspects of this ruling which I find disturbing, including the following:

In section III (Prohibited Conduct), section A.2. reads:

[A.2] "shipping a Personal Computer that (a) includes both a Windows Operating System Product and a non-Microsoft Operating System, or (b) will boot with more than one Operating System; or"

this interpretation ignores systems shipped without a Microsoft operating system, including computers that ship with only Linux or other Free (FSF) software with Windows compatability software included. An alternative may read as follows: "

shipping a Personal Computer that (a) includes both a Windows Operating System Product and a non-Microsoft Operating System, or (b) will boot with more than one Operating System, or (c) includes a non-Microsoft Operating System but no Windows Operating System Product; or ..."

Section VI (Definitions), section U, defines the following:

"Windows Operating System Product" means the software code (as opposed to source code) distributed commercially by Microsoft for use with Personal Computers as Windows 2000 Professional, Windows XP Home, Windows XP Professional, and successors to the foregoing, including the Personal Computer versions of the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc. The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion.

this focuses narrowly on the a subset of the operating systems offered by Microsoft and may be better represented by:

"Windows Operating System Product" means any software or firmware code distributed commercially by Microsoft that is capable of executing any subset of the Win32 APIs, including without exclusion Windows 2000 Professional, Windows XP Home, Windows XP Professional, Windows XP Tablet PC Edition, Windows CE, PocketPC 2002, and successors to the foregoing, including the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc.

Thank you for your time.

Kind regards,

Christopher Wolske

MTC-00033352

From: CGDOWD@AOL.COM@inetgw
To: Microsoft ATR
Date: 1/24/02 9:31pm

Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Christine Dowd
1835 Portola Road
wOODSIDE, CA 94062

MTC–00033353

From: bramsay@attbi.com@inetgw
Date: 1/24/02 9:32pm
Subject: Microsoft Settlement

The proposed settlement is inappropriate. Instead of being a punishment for illegal behavior, it appears to be a marketing plan designed by Microsoft. The costs to Microsoft of distributing their software to schools is very small compared to the retail "value" of each package. Even using the full retail "value" of the donated software the total cost is very small compared to the economic damage of Microsoft's monopolistic business practices.

The proposed settlement does nothing to curb Microsoft's future monopoly, and in fact it actually promotes Microsoft's monopoly. By donating software to schools, Microsoft will be advertising in the schools. I believe Microsoft will be very happy with the proposed terms because they already spend billions of dollars on advertising. Apple has for years promoted their corporation by donating computers and software to schools. Now Microsoft will be required to donate computes and software to schools, even though such an action would probably be illegal without a court order. Such a donation could be an attempt to eliminate competition in the school market.

When considering the severity of the penalty we should remember the severity of the crimes committed. Microsoft has for years bound large computer sellers to agreements which made it very difficult or costly to provide other operating system software on their computers. The terms of these agreements have required computer sellers to pay Microsoft for each computer sold, regardless of what operating system was installed on the system. In addition, Microsoft has prohibited installation of "dual boot" systems which would give people a choice of operating system. Imagine the absurdity of, for example, Del Monte receiving a payment for every can of corn sold, regardless of who actually made the can of corn.

Perhaps most egregious is what Microsoft did to DR–DOS, an early competitor. Microsoft deliberately sabotaged DR–DOS by checking to see if DR–DOS was running and then creating false and misleading error messages. This gave the impression that DR–DOS was somehow incompatible. In fact DR–DOS was a superior product. Microsoft committed industrial sabotage. Finally Microsoft displayed an attitude of contempt for the judicial system during the trial. They introduced obviously doctored video tapes.

When a crime results in ill gotten gains, it is appropriate to make the penalty large enough to remove the economic gain from the crime and then to further increase the penalty to deter future criminal behavior and to compensate society for the damage caused by the crime. In this case the damage has been very large. Microsoft has positioned itself as the owner of the software roads of the 21'st century. No society would tolerate a single company owning all the roads in a country, and we should not tolerate having a single company control all of desktop software. Therefore it seems more appropriate to require Microsoft to donate all the Windows operating system software, including any future releases, to the public domain. Microsoft should also be required to compensate owners of patented and copyrighted software contained in Windows. Microsoft has a large amount of cash available and they should be able to provide compensation without any difficulties. Microsoft should also be prohibited from introducing any competitors to their Windows operating system and office software.

Being wealthy is no excuse for committing crimes.

Bruce Ramsay Software Engineer

MTC–00033354

From: jay—talsma@hotmail.com@inetgw
To: Microsoft ATR
Date: 1/24/02 9:34pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Jay Talsma
534 Del Vista Dr.
Bloomington, IL 61704–7654

MTC–00033355

From: Dawney
To: Microsoft ATR
Date: 1/24/02 9:34pm
Subject: Microsoft Settlement
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
January 24, 2002

Dear U.S. Department of Justice:

As a member of the public, I would like to add my comments on the Microsoft Settlement. If I understand correctly, under the Tunney Act I may submit comments regarding the Microsoft Settlement documentation. In order to accurately convey my opinion, I must first clarify that I respectfully but strongly disagree that Microsoft has had or does have a monopoly in the web browser industry. Our local news reported recently that our only local telephone utility provider is planning to share our personal information, including to whom we call and how long we stay on the phone line. Needless to say, the customers are not happy about this and are trying to get an opt-out option. But if we can't, and it is legal for the company to share our private information against our will, then we have no alternative but to continue using this utility company or to discontinue the use of our local phone service because there is no other option. THAT is a monopoly.

I am easily able to obtain and use Netscape or Internet Explorer or AOL if I so choose. These three web browsers are easy to find and affordable if not free. Microsoft has developed a successful operating system (and application software) that has revolutionized (actually introduced) the public to the ever-increasing benefits of personal computer use. It was not long ago that the market of computer users was a minute group limited to the isolation and dullness of DOS. The creation of Windows has given wings to the minds of developers and end users. Microsoft has cultivated its Windows operating system with improvements such as Internet Explorer that are a benefit to the consumer.

My perspective is that of great appreciation for successful development and true competition. Microsoft has no more channels of opportunity than any other company as far as marketing and distribution, unless they've created their own, which is productive innovation. If Microsoft is successful in distributing knowledge about its products and creating accessibility, it is commendable and a plus for consumers. I've read that it would be too expensive for Netscape to develop its own competing operating system. Too expensive for whom? Netscape? Consumers? If having a unique operating system is a desire of Netscape in the development of its product, then it ought to gather investors, developers, etc., to enable itself to achieve these developmental goals. Isn't that what most companies have to do? Microsoft successfully built and developed its concepts and products, relationships and consumer trust from ground up.

They didn't try to jump on the coat tails of a larger company. Too expensive for consumers? If my limited knowledge of competition serves me correctly, then by Netscape building their own code, products and relationships, it would actually facilitate true competition and even reduce prices (for consumers). With that said, out of respect for the authority of the Department of Justice to pass judgment on whether or not it feels the Sherman Act has been violated, I acknowledge the decisions that have led to the Microsoft Settlement. While I do not agree with much of the settlement language, it takes two sides to reach an agreement. With two sides agreeing to a set of terms and to be bound by the settlement, I agree that a swift close to this matter would be of benefit both financially and mentally to the public. I have been wanting to write this letter for over several weeks but have felt so strongly on some parts of this case, that I wanted to make sure and re-read the available public documents, then write with a clear mind and "cool jets" so to speak. My main concern when reading the complaints and settlement information is that of wanting reasonable justice and closure. I have been concerned foreseeing that Microsoft's competition would not honor the authority of the DOJ nor the binding settlement language; but rather, they would continue to pursue litigation after litigation. And as of January 23, 2002, unfortunately this foresight seems to be correct in reading that AOL is again suing Microsoft.

I believe that it is in the best interest of the public and our economy to strictly and completely enforce all terms of the settlement, and then ensure that Microsoft's competition is not allowed to make a mockery of the system by misinterpreting their role (if any) in the agreement. This kind of abuse would be a waste of money and time (which would stifle would-be creative developments for consumers). I also believe it would be detrimental to consumer confidence.

The decisions have been made. Let the DOJ and Microsoft carry out their parts of the agreement. Let the competing companies build their products to the best of their available resources (as with all businesses). Then let the consumers be free to choose their products and services.

Thank you greatly for your time.

Dawn Reagan
1765 Tullis Dr.
Coeur d'Alene, Idaho 83815
(208) 665-2317
dawney@toontakes.com

MTC-00033356

From: baileypayne@prodigy.net@inetgw
To: Microsoft ATR
Date: 1/24/02 9:36pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Jean Payne
501 Fairway Trail Springfield, TN 37172-4013

MTC-00033362

From: Bradley Greger
To: Microsoft ATR
Date: 1/24/02 9:38pm
Subject: Microsoft Settlement

the proposed settlement is bad idea

MTC-00033363

From: Jonathan D. Nolen
To: Microsoft ATR
Date: 1/24/02 9:39pm
Subject: Microsoft Settlement

I strongly disapprove of the proposed final judgment in the Microsoft Case. As written, it fails to achieve any meaningful benefit for the software-using public. It is insufficient to curb Microsoft's use of predatory and anti-competitive tactics, which have been working against the public good for two decades. Likewise, it fails to redress the damage that Microsoft has done to the software industry and the computer-using public at large during their reign as monopolists.

Please see Dan Kegel's (http://www.kegel.com/remedy/letter.html) comments for further detail on the shortcomings of the proposed settlement.

Sincerely,
Jonathan D. Nolen
Jonathan D. Nolen
Santa Barbara, CA
mail: nolen@rhodesalumni.org

MTC-00033364

From: Ben Lachman
To: Microsoft ATR
Date: 1/24/02 9:40pm
Subject: Microsoft Settlement

The settlement as it stands does nothing to change the way microsoft will act in the future. much greater action should be taken.

Ben Lachman
Athens, Ohio
lachman@boochee.com
blachman@mac.com
(740)592-6430

MTC-00033365

From: David Lawler
To: Microsoft Settlement U.S. Department of Justice
Date: 1/24/02 9:42pm
Subject: Microsoft Settlement

David Lawler
333 E Ontario #4412b
Chicago, IL 60611
January 25, 2002

Microsoft Settlement U.S. Department of Justice

Dear Microsoft Settlement U.S. Department of Justice:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
David Lawler

MTC-00033366

From: BIOLABTECO@aol.com@inetgw
To: Microsoft ATR
Date: 1/24/02 9:42pm
Subject: AOL LAWSUIT AGAINST MICROSOFT

Sir:

I think in my opinion AOL should now spend time to enhance and innovate their system rather than spending time in the courtroom. It is just the right thing to do. Time to move on AOL you are hurting the economy of the United States of America.

MTC-00033368

From: bettyj@surfside.net@inetgw
To: Microsoft ATR
Date: 1/24/02 9:45pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Betty Johnson
9102 Hyde Park Drive
Huntington Beach, CA 92646-2327

MTC-00033370

From: efortain@netscape.net@inetgw
To: Microsoft ATR
Date: 1/24/02 9:46pm
Subject: Microsoft Settlement

For over a year I used Netscape Navigator. Eventually, I decided to try other browsers—Internet Explorer and Opera—because I was becoming frustrated with Navigator's lack of features. I was much happier with Explorer's flexibility and features, so I removed Navigator. All three programs were free to the public, but one offered more and satisfied me more than the other. I also bought a Ford Bronco several years ago. I was not satisfied with the stereo that came "bundled" with it, so I shopped around and bought a better stereo to replace it. The stereo was much more costly and troublesome to replace than Internet Explorer is to replace. Cars come bundled with stereos and tires and I can buy different tires and stereos for my car, just as a computer can come with Windows, Mac OSX, Linux, etc., but I am still free to choose whatever web browser or other software I prefer with the operating system of my choice.

Please don't take away our rights or responsibility to choose and decide for ourselves what products we will use. Politicians harm consumers when they give unfair advantage to producers who cannot compete with companies that create better products. Allowing politicians to interfere with the marketplace and consumer choice is an uncompetitive and unconstitutional practice.

Sincerely,
Eugene Fortain
5707 Los Alamos Ct.
Santa Rosa, CA 95409

MTC-00033371

From: Bob Boothby
To: Microsoft ATR
Date: 1/24/02 9:46pm
Subject: Microsoft Settlement
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

Is further litigation on the Microsoft antitrust case going to get us out of this recession? I don't think so! I was hopeful when Microsoft and the Department of Justice reached a settlement back in November, but now it looks to me like we are in for another round of fruitless litigation. We have nine state Attorney Generals playing politics and AOL is back in court with an old complaint that was proven to be unfounded in the current DOJ lawsuit.

I, Robert, am a Software Engineer. I worked for RCA Computer Systems Division in the 1960s and Hewlett-Packard from the early 1970s to the present. From personal experience I can tell you that the Netscape browser lost its dominant position because it was defect-ridden and its performance was miserable. The Netscape browser still has a near monopoly on UNIX workstations and AOL Time Warner & Sun Microsystems still deliver a defect-ridden browser with miserable performance to that market.

Microsoft has agreed not to go after computer companies who ship software that competes with anything in its operating system. Microsoft has also agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that run on software that competes with Windows.

What else is expected of Microsoft? Let's move on. Let's put an end to the litigation!

Sincerely,
signed: Iku Boothby
Iku Boothby
signed: Robert Boothby
Robert Boothby

MTC-00033374

From: John E Pillow
To: Microsoft ATR
Date: 1/24/02 9:56pm
Subject: Microsoft Settlement

I think the settlement is not good. It lets Microsoft continue to control the marketplace.

Thanks
John E Pillow

MTC-00033377

From: chill@ecentral.com@inetgw
To: Microsoft ATR
Date: 1/24/02 10:04pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530-0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Carole Hill
233 Jackson Circle
Louisville, CO 80027-1630

MTC-00033378

From: Bill Rodgers
To: Microsoft ATR
Date: 1/24/02 10:07pm
Subject: Microsoft Settlement

I find the behaviour of AOL appauling. It seems that AOL are more intent to be seen as a successful court litigator than as a company that would provide quality software to the public. They can't compete with expertise and quality products so they seem to want to "knock" the industry standard down to their own level. This will do nothing for the advancement of technology and the benefits that can have to consumers. It is time AOL were given a clear message that they either start to get their software development act together and contribute to the development of users computing experience or they get out of the game.

Bill Rodgers
Newcastle, Australia

MTC-00033379

From: gani delos santos
To: Microsoft ATR
Date: 1/24/02 10:07pm
Subject: Microsoft Settlement

proposed settlement is bad idea

MTC-00033380

From: gregTHOMY
To: Microsoft ATR
Date: 1/24/02 10:08pm
Subject: MS BS proposal

I totally DISAGREE w/ MS's proposed settlement for their illegal activity.

Chop em up!

Thank you.
gregTHOMY

PS: It is increasingly difficult to AVOID using this monopoly's products...this would be ok in communist china but not America!!!

MTC-00033381

From: chrise@SPRI.
Levels.UniSA.Edu.Au@inetgw
To: Microsoft ATR
Date: 1/24/02 10:09pm
Subject:

A right to use It is difficult describe how I fell about the antitrust case against microsoft. I am unsure at this time how this email will be received. I am a 30 year old Information Technology and Telecommunications engineer working in South Australia, I have been involved with computers and computing since I was 15 years old, so I have 30 years experience dealing with computing issues and operating system.

I am unsure if the American judicial system is allowed to consider opinions from out side of the USA. However, when you talk about the computer industry and partially Microsoft any anti-trust suit is not just important to Americans it has far reaching effects all around the world.

Software defies conventional trade boundaries, a new piece of software can be all over the world in a matter of weeks and be used by billions of computer businesses and home users in this time. What Microsoft has accomplished in it's time as the major operating system is develop the computer platform to a stage where anyone in the world can use it and use it effectively.

But it has done this at a cost. The first PC I acquired was an Amstrad 286 at the time windows was not even an OS and DOS was king. Thousands of companies produced word processing programs land other utilities and the consumer was able to talk with their wallets. If a piece of software was no good then they migrated to another and never used that software again.

This is the way it was in the beginning. The free market at it's best. Mac had a market dominance, it's OS and windows type platform was the easiest for all users to use. A large number of users used the mac platform instead of the PC as the PC OS was difficult to use. Then along came windows. Windows was produced to compete against the Mac OS which made Mac's one of the most sold computer systems there was. Windows copied a lot of the Mac features and low an behold a Graphical user interface was available for the IBM PC. Real competition began in the PC market.

The combination of the IBM PC and the Microsoft windows product won out over the Mac. Not because it was the better of the two systems they were both pretty much the same it's just the IBM PC's were cheaper then Macs and thus market forces won the day. Microsoft became the main OS of today. This wasn't a problem as Windows used DOS as the basis for it's OS and all the DOS software companies could easily port their packages to the windows format. But microsoft wanted more, recognizing their clear advantage due to there financial, market and marketing dominance they started to develop the peripheral programs, borrowing ideas from these other companies and going with the market trend.

The Microsoft OS today could no longer strictly be called an OS. The operating system of a computer controls the interface between the human and the computer components and allows programs to talk and control these components in a managed manner.

Microsoft dose this and so it in a reasonable manner. But it a lot includes programs which load automatically without the user asking. And as things like word programs, net surfing programs, picture editing programs are freely available why go out and by the other superior programs as well the ones we have may not be the best but they will do. By allowing microsoft to continue to add programs to there OS that do not have anything to do with the OS you perpetuate the destruction of superior software and operations during our time. Microsoft is holding the world in a computing stasis, by not allowing the best program to be presented to the consumer, developments are lost and our pool of knowledge shrinks.

At this time microsoft has dominance of the world computer market. They control 99% of the worlds computers. Their software has proven time and time again that it is not the best, but it is adequate and why by the better stuff if the stuff I have works. I have had several programs that I love to use of the years become useless because microsoft change small parts of it's code to make it more difficult for other programs to run under windows. Microsoft at the issuing of a new OS can decided that the world has to change to suit it's vision. In actual fact when you think about it Microsoft has more power then the US government and the US court systems.

Microsoft can make changes that effect the world in radical and dramatic ways. They can broaden or shrink the differences between the haves and the have not. This gives them a massive amount of power and ultimate power corrupts.

The microsoft solution is a difficult one and I do not envy you. The split up of microsoft will be a blow to the company no doubt. But, I believe they said that there development divisions (those that produce office and Internet Explorer) would not be able to work as efficiently as they do now when they are connected to the OS side of things. This is definitely true ! However, isn't this what all other companies have to put up with. Microsoft limited access to their software interfaces to external companies. Meaning that the internal software development teams have an unfair advantage when it comes to developing software as they can use the full set of microsoft OS tools, while other companies can only deal with half the OS tools or less.

If you can do nothing else you should at least include in the settlement that MS must release the full Software and interface specs to the MS Windows OS to allow others to compete on a more level playing field.

Yours

Chris Evans

MTC-00033382

From: justin delos santos
To: with a subject of "Microsoft Settlement"
Date: 1/24/02 10:10pm
Subject: Microsoft Settlement

The proposed settlement is a bad idea.

MTC-00033383

From: Doug Schafer
To: Microsoft ATR
Date: 1/24/02 10:11pm
Subject: Microsoft Settlement

I am strongly opposed to the proposed settlement. It does not take into account Microsoft's past avoidance of the intent of the consent decree. It should be assumed Microsoft will act in bad faith as they have in the past. If this assumption is made, the proposed settlement easily allows Microsoft to continue monopolistic practices that will cause long-term damage to this country.

To allow free-market forces to reign, Microsoft cannot be allowed to turn what is currently a public resource (the internet) into its private tool. This would be akin to a company subtly modifying all the on and off ramps of the federal highway system so that only company-approved vehicles could use them. Competitors must be able to interoperate with, and replace components of, Microsoft operating systems. This requires that the government prevent Microft from blocking this access via legal or tecnical means. The proposed final jugdement falls far short of this.

Sincerely,

Doug Schafer <pfj@schafers.com> 5720 Ridgebrook Drive
Agoura Hills, CA 91301
818.444.2356

MTC-00033384

From: Danny Delos Santos
To: with a subjdct of "Microsoft Settlement"
Date: 1/24/02 10:12pm
Subject: Microsoft Settlement

The proposed settlement is a bad idea.

MTC-00033385

From: William R. Hutchins
To: Ms. Renata Hesse
Date: 1/24/02 10:13pm
Subject: Microsoft Settlement
William R. Hutchins
5605 Brisbane Drive
Chapel Hill, NC 27514-9689
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to support the revised proposed Final Judgment in the US. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance,such as the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continued litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case ? the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors? products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

William R. Hutchins

MTC-00033386

From: dalewsr@quixnet.net@inetgw
To: Microsoft ATR
Date: 1/24/02 10:15pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Dale Weckbacher
4116 N. 72nd Drive
Phoenix, AZ 85033–3151

MTC-00033387

From: Cerrise W
To: Microsoft ATR
Date: 1/24/02 10:18pm
January 25, 2002

To whom it may concern at the Department of Justice, I am opposed to the proposed settlement in the Microsoft antitrust trial. I am a victim (as are you) of shameless abuse by the Microsoft corporation. If I do something that is against the law, I will be punished. This deterrent is the foundation of our justice system. If I live in some parts of the country, and I break the law (any law) three times, I will go to prison. There can be no exceptions.

I do not expect to have more liberty than anyone else in this country. I also do not support any judgement in which the judicial system awards one person or entity more liberty than any other person or entity. This is discrimination.

With the Proposed Final Judgement in this case, you will be making the following statement true: "I (a citizen of the United States of America) do not own or operate a powerful monopoly, therefore I would be punished for breaking the law, even though the owners and administrators of a powerful monopoly can knowingly and gratuitously disregard the law and not only escape punishment, but actually profit from their many and brutal crimes." Note: I feel that invading my privacy for the purposes of exploitation; actively denying me or anyone the opportunity to compete economically—enforcing a monopoly; and interfering with my constitutional rights in any way, are brutal and unforgivable crimes, which should be severely punished.

Please do not discriminate against me by approving the Proposed Final Judgement; which lacks any punishment whatsoever for undeniably heinous and illegal acts by the Microsoft corporation.

I (and every other citizen of the U.S.) have been exploited and abused by the Microsoft corporation, therefore I ask that you do more than shake your finger at them. They are undeniably guilty of very serious crimes against the American people. They are responsible for what amounts to information terrorism. Please do not encourage them to do it again and ruthlessly, by not punishing them.

If you approve the Proposed Final Judgement; you will be giving away my rights to a corporation, in the interest of money. I will be apalled, ashamed, and even afraid to live in a country where the law can be so blatantly ignored.

Sincerely,
Cerrise Weiblen
Freelance XA
1559 Taft Court
Louisville, CO 80027

MTC-00033388

From: jbrady@klune.com@inetgw
To: Microsoft ATR
Date: 1/24/02 10:20pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Jack Brady
3400 Cortez St.
West Covina, CA 91791

MTC-00033389

From: Deborah Alexander
To: Microsoft ATR
Date: 1/24/02 10:21pm
Subject: comments on emasculating anti-trust suits

When Microsoft Word shut down my entire computer in the spring of 2000, and corrupted—almost beyond retrievability—my Master's thesis—I rejoiced that the far-superior WordPerfect might NOT be put out of business by the Microsoft monopoly, if only the DOJ might prevail Now, the *new* DOJ is suggesting a "punishment" of placing this software with huge numbers of K-12 kids?

That is like giving (bad) drugs away for free. I note that *during* settlement negotiations, Microsoft shipped out a Windows XP product that will shut down users" *entire* machines—and all other applications—if the Microsoft goes without activation beyond a set date

I also note that *since* the DOJ "settlement", Microsoft has (1) had the audacity to refuse FBI requests to Email notice of security problems in its software *found* not by Microsoft but by an independent watchdog; and (2) now admits that it suppressed information on a legal brief by failing to disclose lobbying of Congress in connection with your anti-trust suit.

Why are these wealthy monopolists continually hiding information and thumbing their collective noses at our administration—without any apparent consequences? As a law student at Rutgers, I am looking forward to seeing an ultimate anti-trust victory by the states which bravely refused to be co-opted into DOJ's settlement.

I hope you will make the right decisions for a *true* capitalist democracy and prove those pundits wrong who point to the proposed DOJ settlement as proof that Microsoft campaign money bought the same level of power in this administration as had Enron... This is your opportunity prove us wrong, and avoid making a desperately bad settlement even more embarrassing.

Sinceley,
Deborah Alexander
75 Hillcrest Road
Warren, NJ 07059

MTC-00033390

From: James Puckett
To: Microsoft ATR
Date: 1/24/02 10:25pm
Subject: Microsoft Settlement

Dear Sir or Madame,

Please do NOT move forward with the proposed Microsoft antitrust settlement. In its current form, the settlement proposed by the Department of Justice will do little to break Microsoft's monopoly. By only restricting Microsoft's behavior toward other commercial entities, you restrict Microsoft's behavior toward a group of companies it has already conquered and will have little trouble continuing to dominate.

Open Source and Free software are the only real competition that Microsoft has left in this world; and because that work is non profit, developers of said software will receive no protection in your proposed settlement. Given free reign to attack Open-Source and Free software, Microsoft will flex all the muscle it can to destroy products like Apache, Samba, Linux, and anything else that Steve Ballmer and Bill Gates feel threatens their company's monopoly.

You MUST move to an alternate remedy. First, Microsoft should be split, just as judge Jackson recommended, so that the Office and Windows monopolies can no longer be used to strongarm users, vendors, and OEMs toward both products. Second, Microsoft most open the workings of their APIs and networking protocols so that they cannot constantly work to shut out others in such simple areas as file sharing and network domains.

Please do no sell out the future of computing, the internet, and who knows what else to Microsoft. Microsoft's guilt and arrogance are obvious in this case, and if a real punishment is not issued, the Microsoft monopoly will only get worse, and will be abused even more.

America needs you. Stop Microsoft now. Thank you.

Sincerely,
James Puckett
12010 Waterside View Drive
Apartment 34
Reston, VA 20194

MTC-00033391

From: john campisi
To: Microsoft ATR
Date: 1/24/02 10:26pm
Subject: Microsoft Antitrust

There is an opportunity at this juncture to demonstrate that the Laws of the Land are enforced and fairly applied regardless of monetary or political clout. There has been a determination of violation of the antitrust statutes by Microsoft. A remedy must be imposed that is significant and serves to correct the market imbalance caused by the violation. Due to the advanced stage of market domination achieved through monopolistic practices, it is imperative that remedies must be focused on opening and leveling the playing field. Such remedies must be continuing and monitored for effectiveness and should not be restricted to one time financial penalties (no matter how large).

It is clear that a meaningful remedy will have similar aspects as affirmative action. Effectively, it is necessary for Microsoft to be put at a disadvantage to its competitors until sufficient balance in the market is achieved for open and fair competition to succeed. Aspects to consider include:

1. Limitation of the practice of the bundling of software with hardware purchases to allow consumer choice without incurring cost penalties.
2. Ensuring that the details of the structure of the Microsoft operating system and industry standard application file structure is made available to all application developers to equal extent.
3. Requiring Microsoft to provide application programming interfaces to its operating system for use by application developers of all types.

MTC-00033392

From: Jon V. Reuter
To: Microsoft ATR
Date: 1/24/02 10:28pm
Subject: Microsoft Settlement

To the United State Department of Justice:

I would like to comment (via the Tunney Act) on the proposed settlement in the Microsoft antitrust case. I am strongly opposed to the proposed settlement as it does absolutely nothing to address Microsoft's violations of antitrust laws—it only prohibits them from abusing these laws in the future, and even that is questionable. If an organization engages in illegal activity, benefits from this activity and then receives as a "punishment" instructions that they can no longer engage in illegal activity, they have still benefited without any consequences. This is not justice—not for the victims of their abuses and not for the public which the U.S. Department of Justice should be representing.

Microsoft has been clearly found guilty of abusing their monopoly. Monopolies, and the lack of competition that they produce, stifle innovation and result in lower quality products. The public now suffers the consequences of this as they have no choice in desktop software, are forced to upgrade and are stuck with whatever products Microsoft produces (along with their inherent quality and security issues). At the same time, Microsoft has had no incentive to address quality and security issues because they have a lock on the market.

For the benefit of the public, I encourage you to rework the proposed settlement for a more fitting punishment for Microsoft's violation of U.S. antitrust laws and for a more fair desktop software market.

Technology works well when independent standards are created, clearly defined and strictly followed. Every vendor has an equal opportunity to follow and implement the standards with their best effort. When this happens, the public can decide for themselves which product they like best and this results in a healthy assortment of products and companies to choose from. This philosophy has worked well in many areas of technology, particularly in hardware, where we have seen an abundance of healthy competition and increasingly better and less expensive products. Unfortunately this has not worked well in the software industry, but there is no reason that it couldn't. While establishing software standards is arguably more complicated and more involved, many successful independent standards have been developed. The database Structured Query Language (SQL) is a good example. If I want to build a database, I have many database vendors to choose from that all follow the SQL standard. I can even change vendors at a later time and still have the interoperability I require.

To this end I would like to recommend the following (at a minimum):

1. Microsoft should be required to publicly disclose all APIs, protocols and file formats. These should be available to ANYONE—NOT just parties with a justified business case. The documentation of all Microsoft APIs, protocols and file formats should be carried out by an independent, overseeing party (not Microsoft), as to ensure quality and accurate documentation. This measure would create a more fair market place by opening up competition to implement interoperable products in desktop software.
2. Microsoft should be penalized for any independent standards that they alter. Microsoft has often altered standards for their own benefit and for extending their monopoly. For any standard Microsoft alters or does not adhere to, they should be required to correct for full compliance.
3. Microsoft should also be required to release their source code for any products that they no longer support. Consumers should not be forced to upgrade their software any time Microsoft releases new products, but that is typically what happens. Having source code available for any products that Microsoft no longer supports will give the consumer a more fair choice about the decision to upgrade.
4. Finally, Microsoft should not be allowed to dictate what gets bundled with their operating systems. This is exactly what they use to extend their monopoly, making the market place unfair and putting other companies out of business. As part of their punishment for violating U.S. anti-trust laws, everything they decide to bundle with their operating system should be scrutinized and approved by an independent governing body.

I would appreciate your consideration of my comments.

Thank you,
Jon Reuter
Consulting Engineer
CC:attorney.general@state.mn.us@inetgw

MTC-00033393

From: Dave Neu
To: Microsoft ATR
Date: 1/24/02 10:33pm
Subject: Microsoft Settlement

I dislike the proposed settlement, and find it alarming on a number of points which are, I am certain, well documented in Dan Kegel's open comments letter.

Thanks for your time.
Dave Neu

It is tempting, when the only tool you have is a hammer, to treat everything as if it were a nail.

Abraham Maslow

MTC-00033394

From: Denny
To: Microsoft ATR
Date: 1/24/02 10:34pm
Subject: Microsoft Settlement

The proposed settlement is bad idea.

MTC-00033395

From: Robert Koster
To: Ms. Renata Hesse
Date: 1/24/02 10:40pm
Subject: Microsoft Settlement

Robert Koster
11341 Brunswick Way
Santa Ana, CA 92705–2311
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Robert A. Koster, Ph.D. (computer science)

MTC-00033396

From: Jonathan Lupa
To: Microsoft ATR
Date: 1/24/02 10:40pm
Subject: Voicing opposition to the current MS settlement.

As a professional win32 software developer, there are many aspects of the settlement that I find troubling not least of which is the fact that the government is entering into a conciliatory agreement with a proven monopolist who has committed crimes and flaunted previous consent agreements.

To save both our time, I will mention just one of my many grievances which is that without a structural change in the management of API vs. Application layer within the windows operating system, any remedy found by the agreement will only be temporary as it leaves open the door to further abuse of their monopoly position to price and engineer competition out of the win32 product market.

I apologise for not entering a technical breakdown of the reasoning I used to reach this conclusion, but in the short time you have to review these letters, I doubt you will find the time to check everyones logic. I wish you the best in your endevours on this project.

Respectfully,

Jonathan Lupa
Senior Win32 Developer
Creative Solutions Inc.
jjlupa@jamdata.net
GPG public key available from http://lupavista.jamdata.net/gpg.asc
or a keyserver near you.

MTC-00033399

From: David Anfinrud
To: Microsoft ATR
Date: 1/24/02 10:45pm
Subject: Microsoft Settlement

I feel that this case is unjust. Innovation is being hurt by these litigations. It appears that people just want to take all of Microsoft's war chest that allows it to continue to innovate even more. What will happen if we have no Microsoft. Will innovation continue. Microsoft has been a leading edge in the last few years.

I was a Netscape user I paid for my copy of Netscape in spite of the free Internet explorer. I supported the company I respected. Until they provided a poor product during several upgrades. Each time I loaded the latest and greatest it had even more problems than the previous product. When that took place the third time I stopped using it. A company has to earn my money. They need to innovate. I had so many crashes and problems with Netscape I said enough is enough. No matter how good they said they were if it doesn't work it is not worth having or paying for. It was the innovation and the improvements that made the difference not the cost. I want something that works not something that was hit and miss.

I have used a large number of Word Processors in my time. I was a big fan of Word Perfect but again innovation started to disappear from the product. I also owned the complete Word Perfect Suite. I paid for a quality product. At that time Word Perfect was the innovator that Microsoft had to compete against. In the early years no one could touch Word Perfect Office. Now I can't compare the two. Microsoft has developed a better Office suite. Now Microsoft Office meets my needs. Word Perfect is still dear to my heart but again innovation is what has won out. I will stay with a company only so long. Today It is Microsoft Office. Tomorrow who knows but it had better be a better product than what Microsoft has developed. Innovation again wins out. It was the way the companies see about developing their products. Yes Microsoft was aggressive but is it not true in any business. You find where you are lacking and improve the weakness and innovate.

Today Microsoft is the Leader. They are looking ahead. While the competition should be improving their own products they spend money and political favors to try to prevent the next series of innovations from taking place. Is it the interest of the public to prevent a better product from being developed because those who don't want to innovate feel they are being cheated? Are we to provide poor quality items instead of excellent ones? Where is the public interest in that? What is happening behind the scenes? I see congressman trying to destroy Microsoft in favor of companies in their own state.

I believe it is in the best interest to get this court case over with. Enough is enough. Resources that could provide a better product for Microsoft Users is being hindered and given to lawyers. The only winners here are the lawyers, a few non innovating companies, and the states but not the public. Every one wants something. There are a number of companies out in the market who practice even worse monopoly powers.

They just don't have the exposure. This case has hurt the Tech sector of the economy. It still provides a drag with no end in sight. In a middle of a recession and still the good of Microsoft and its present day accomplishments are demonized because of what happened years ago.

Sincerely yours.

David A. Anfinrud
234 243rd Ave SE
Sammamish, WA 98074

MTC-00033400

From: John C. Stilin
To: Microsoft ATR
Date: 1/24/02 10:52pm
Subject: Microsoft Settlement: Now AOL Sues For Netscape?

I seem to recall that the Netscape Navigator Browser could be downloaded free from the Netscape Web site and oh by the way they forced you to accepted it with a home page default set to Netscape. Did anybody ever bother to check how many people paid for the free browser per the Netscape agreement? How can Netscape claim harm when Microsoft priced their product Internet Explorer to equal that of Netscape? How do you undercut free? Just goes to prove if you can't compete in the high tech industry, forget personal accountability, blame somebody else and sue. It's the American way.

Let's not waste more taxpayer dollars in this matter just because Netscape doesn't know how to run a business.

John C. Stilin
johnstilin@msn.com
17611 NE 110th Way Redmond WA 98052
425.881.1632 tel
425.881.6173 fax
425.922.3435 cel

MTC-00033401

From: Jerry Higdon
To: Microsoft ATR
Date: 1/24/02 10:53pm
Subject: Microsoft Settlement

Dear Mr. Ashcroft:

I hope that the Justice Department will stick by the settlement it has reached with Microsoft. I feel it's a fair and just settlement and I hope that you urge the rest of the states who haven't yet settled to do so. Microsoft has been put through the ringer for long enough and it's high time to end this whole mess and let them get back to business. The settlement is reasonable enough not to hurt them to the point where they are forced to go out of business but is harsh enough to silence most of their critics. For example, Microsoft will have to share information about the internal workings of its Windows operating system, which will allow computer makers to more easily install non-Microsoft software on Windows-based machines. This is harsh, but it is still better than Microsoft being broken up into little pieces.

The settlement will appease all interests in the Microsoft antitrust case. I support it, and hope to see if finalized soon. Thank you.

Sincerely,
Jerry Higdon

MTC-00033402

From: divinegigi@pop.earthlink.net@inetgw
To: Microsoft ATR
Date: 1/24/02 11:06pm
Subject: Microsoft Settlement

To whom it may concern:

I am writing to express my concerns regarding the proposed settlement between the United States Department of Justice and Microsoft Corporation regarding the finding of antitrust activities of Microsoft.

I am highly concerned that through the predatory actions of Microsoft, Microsoft products are the de facto standards for many areas of personal and business computing and office work. The barriers to competition raised by Microsoft through its intertwined operating system, network products, and Office Suite make it nearly impossible for any competitors to arise in these areas. I am personally quite disappointed in the quality of these Microsoft products, and would be quite willing to purchase alternatives if they existed.

I believe that without remedy the situation with Microsoft dominance of whatever product lines they choose will become worse. I believe that the present remedy proposed by the DOJ will do nothing to improve this situation, or curb Microsoft's predatory practices. In the interest of brevity, I will discuss the one remedy that I find most important. In an office environment, I find that the use of alternatives to Microsoft products, (Macintosh, Linux, or Office alternatives) is limited by the practical limitations of transferring data (email, documents, etc) from a Microsoft platform to a competitive platform. That is, for me to function in a modern office environment, any documents I send to others must open flawlessly by Microsoft products; any documents sent to me by Microsoft product users must be opened flawlessly by me. Since Microsoft keeps its data standards proprietary, it is nearly impossible to develop a 100% compatible alternative.

Through its practices, Microsoft now dictates the de facto standards for email, word processing, spreadsheets, and presentations. I would urge the DOJ to find a remedy that would force Microsoft to make their format an open standard, readily open to competitors to use. Microsoft would not be forced to turn over sensitive information to competitors on their products; rather, they would be compelled to enable functional competition within data formats that they have made as industry standards through their practices.

I am sensitive to Microsoft's claims that their know how in application software should be preserved. I am much more interested in enabling competitors to build programs that can compete with Microsoft by being compatible with Microsoft file formats. Data must not be captive to one company and format, but be transferable across different formats and systems. The DOJ has it in its power to enable this competition into the future.

In any case, the current proposed settlement is horrible, so I do urge its rejection.

Sincerely,
Paul Drzaic
Morgan Hill, California

MTC-00033403

From: Codifex Maximus
To: Microsoft ATR
Date: 1/24/02 11:07pm
Subject: Microsoft Settlement
To whom it may concern and:
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001,

I am concerned with the length of duration of the judgment as proposed in the Proposed Final Judgment against Microsoft. Microsoft has shown a contempt for consent decrees and judgments in the past and based on past experience will probably do so again.

I am alarmed at the impunity in which Microsoft acts in the information and technology spheres. It would seem to me that Microsoft is attempting to usurp the constitutional powers of the United States Government—is not disregarding the rule of law such an action? Should Microsoft not abide by a decree or judgment until it is overturned or nullified rather that continuing business as usual while the wheels of justice turn? To contain such activities, I've constructed an example of an alternative duration of Judgment. Bear in mind that I am not a lawyer.

Duration of Final Judgment

This Final Judgment shall remain in force until Microsoft has been judged, by the tripartite oversight committee and the court of jurisdiction, to have maintained compliance with this document (final judgment document) for an initial 5 years and for 2 additional years for each adjudged infringement of the controls in this document. Each adjudged infringement of the controls in the Final Judgment document, by Microsoft or it's entities, shall also have a financial penalty assessed. Such financial penalty is to be determined by a schedule of penalties determined by the tripartite committee and the court of jurisdiction. The penalties shall in no way deprive lawful entities under the jurisdiction of the United States of America of their civil right to suit.

I am a Citizen of the United States of America and I wish to remain in command of my rights and liberties as guaranteed under the Constitution and the Bill of Rights including all statutory and common law rights. I pray that the Department of Justice will protect these rights by ensuring we have a free and competitive market in information as well as other technologies.

Sincerely,
Bennie Gravitt
codifex@charter.net
Phone: 817–946–2332

MTC-00033404

From: dlshort@stargate.net@inetgw
To: Microsoft ATR
Date: 1/24/02 11:08pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
David & Lisa Short
4340 State Route 193
Cherry Valley Township
Dorset, OH 44032

MTC-00033405

From: dquinn1398@earthlink.net@inetgw
To: Microsoft ATR
Date: 1/24/02 11:10pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen. Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Denis Quinn
1578 11th Avenue
San Francisco, CA 94122–3615

MTC-00033406

From: Brent Casavant
To: Microsoft ATR
Date: 1/24/02 1 1:17pm
Subject: Microsoft Settlement
Date: Friday, January 25, 2002

Submitted to the United States Department of Justice, in accordance with the public comment period provided by the Tunney

Act, in regard to the case United States vs. Microsoft (Civil Action No. 98–1232 (CKK)).

Introduction Comments upon the proposed Final Judgement in its whole If there is one striking feature of this proposed Final Judgement, it is the lack of any form of punishment or restitution imposed upon Microsoft such that it forfeits the gains due to its anticompetitive practices. The remedies therein provide only for behavioral modification and oversight, but fail in any manner to deny Microsoft the fruits it has enjoyed from its illegal behavior.

While I do not propose a specific punishment, I believe it is in the interest of the United States, its citizens, and all commercial entitites to discourage anticompetitive practices. Unless this proposed Final Judgement is significantly strengthened the provisions will serve as little more than a "slap on the wrist". This sends a clear message to all monopolies that the law may be freely flouted and disregarded as long as legal proceedings can be sufficiently drawn out to firmly enthrone the monopoly in an unassailable market position. More importantly, this sends a clear message to Microsoft that it may do so again at any time it should so choose.

There is also a specific behavioral and punitive remedy which is notably lacking from the proposed Final Judgement which should be considered for inclusion. Microsoft has achieved large portions of its market dominance through "locking in" end users to its proprietary application (i.e. Word, Excel, Powerpoint) data file formats, and through making incompatible changes to such formats, forcing end users into purchase of new application software to conduct business with other parties.

This could be remedied through either of two means:

Require Microsoft to make available, in a timely manner, all information regarding application file formats necessary for third parties to develop software which is capable of interoperating with the Microsoft application software.

—Require Microsoft to implement, as the default and preferred option, file formats which are trivially reverse-engineered by third parties for the purpose of interoperability.

In either case Microsoft should be required to assign licenses to any intellectual property needed to properly implement software which can interoperate with the Microsoft application software. There is another area of general weakness in the proposed Final Judgement. Underlying the entire judgement is a presupposition that only for-profit commercial entities will enter into licensing agreements (either explicitly or through the purchase of Microsoft products and services). However, there is a large and increasing number of not-for-profit organizations which develop software (typically so-called "Open Source" software) which is distributed free of charge. Such organizations cannot in and of themself wield the financial incentives necessary to cause Microsoft to provide them the documentation or intellectual property rights necessary to implement software which is interoperable with Microsoft products.

While Microsoft certainly has a reasonable right to expect compensation for its efforts, research, development, and intellectual property, it is also clear that they will use their monopoly position to choke out any competition from these not-for-profit organizations. The proposed Final Judgement should be amended to provide for the release of information necessary for interoperability to these not-for-profit organizations. This is only one of the many ways in which amends can be made for the anticompetitive practices of Microsoft, and to take some small bite out of the fruits of their illegal behavior.

Comments upon specific provisions of the Proposed Final Judgement Section III.E The terms of this section are inadequate to address harms and disadvantages already imposed upon third parties with regard to Communications Protocols. Microsoft has demonstrated with regularity that it will modify existing protocols, both those of its own design (i.e. the SMB protocol) and of other widely accepted protocols (i.e. the Kerberos protocol), with tenuous technical justification. While one cannot adequately judge Microsoft's every intention in such matters, it is often clear that these decisions do little more than lock out competetitors from interoperating with Microsoft products.

As such, the remedy in Section III.E should be amended to cover existing protocols for current Microsoft Windows Operating System Products. This section remedy also fails to address the terms under which these Communication Protocols must be made available to third parties. There is no provision that such disclosures must be made under reasonable or fair terms to the third party. This inadequacy should be addressed so as to prevent Microsoft from circumventing the spirit of this order by an action as simple as making the price of such information practically unobtainable for all but the largest of ISVs.

Sections III.H.1 and III.H.2

These provisions are inadequate to the extent that they do not stipulate that Microsoft must reasonably ensure the correct operation of the specific Windows Operating System Product after these actions are taken. This section should also restrict Microsoft from displaying alarming messages or languages which would serve to dissuade end users from utilizing Non-Microsoft Middleware Products.

Microsoft has demonstrated its willingness to deliberately compromise the stability of their own software products in order to discourage the use of third party software. This was demonstrated most clearly in the early 1990's when they implemented checks for the DR-DOS operating environment in their Windows Operating System Products. In this case an alarming message was displayed to end users which served to discourage use of the DR-DOS product, and the Windows Operating System Product was (anecdotally) deliberately designed to interoperate poorly with the DR–DOS product.

Section III.H.3

There is little technical justification for the arbitrary limit of 14 days, after which Microsoft Operating System Products may automatically prompt the end user to confirm alteration of an OEM's configuration. While it is certainly justifiable to allow the user to cause the Operating System Product to revert to a Microsoft-specified configuration, it is not reasonable to automatically ask the user to confirm or prohibit this reconfiguration.

As such, this provision should be amended as to prevent Microsoft from implementing a system which prompts the user to restore Microsoft-specified configurations, unless the end user has initiated a deliberate action to cause this to occur. That is to say, the end user should need to initiate the action which causes a Microsoft specified configuration to be restored.

Section III.H.2 (second set of numbered items)

This section allows a Windows Operating System Product to invoke a Microsoft Middleware Product in a case where the Non-Microsoft Middleware Product fails to implement certain technical requirements.

This section should be amended to include language which prohibits the Windows Operating System Product from taking this action due to additional technical requirements imposed after release of the Non-Microsoft Middleware Product. That is, Microsoft must be prevented from requiring ISVs to update previously compliant (by the terms of this provision) products. This limitation, however, should not apply in the case of a major revision of the Windows Operating System Product.

Section V.B

Microsoft has demonstrated a remarkable ability to delay and hinder legal proceeding against it. As such this provision should be amended to provide for an indefinite limited term extensions of the Final Judgement while any legal proceedings against Microsoft according to this provision are underway. Such an amendment should also provide that the Final Judgement will expire no earlier than one year after the date of termination of such proceedings, in order to further ensure compliance.

Background and contact information I am interested in this matter as a long-time technology enthusiast and worker. My formal education is in computer and electrical engineering, and my work experience and personal interests have given me a deep understanding of the technical merits and considerations involved in software development, particularly in the area of operating systems. I am currently in the employ of a major computer systems manufacturer and vendor, a competitor in some fields with Microsoft, with my engineering work focusing on operating system software development.

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MTC-00033407

From: David Stoddard
To: Microsoft ATR

Date: 1/24/02 11:21pm
Subject: Microsoft antitrust case

As a graphic designer and a college teacher I deal with web page production on a regular basis. It is my experience that Microsoft's web browser Internet Explorer has default settings which are designed to force designers to depend on Microsoft products for web page development.

By setting the default size of html text to a large size Microsoft insures that text will appear too large and therefore may cause some designs which depend on sliced images in tables to have gaps or otherwise be distorted. To compensate for this designers may have to reduce the size of type to such a small size that it becomes difficult to read on other browsers. This effectively makes it difficult to design for any browser but Explorer and makes using non Microsoft development tools require extra steps. Since the other development tools are often more intuitive to use than the Microsoft tools, not going through the extra steps requires designers to use less effective products.

Undermining the standard in order to control the market seems to be Microsoft's main method for success. The strategy seems to be irritation over innovation. This is such a bad practice. Internet Explorer is a great product. So, I can't tell if it is greed or paranoia that motivates Microsoft to attempt to control all aspects of the web where software is concerned.

Practices such as this should be regulated or punished. Unfortunately, no one is in a position to punish Microsoft in the market place. It would be good if government would do its job. If corporations could be trusted to do the right thing we would not need government. I think we need to see something better than a slap on the wrist or rewarding Microsoft by giving them a sure method of getting their products into schools without competition. How does this change things for the better?

David Stoddard
a concerned citizen

MTC-00033408

From: James M. Corey
To: Microsoft ATR
Date: 1/24/02 11:22pm
Subject: Microsoft settlement

Hello. I'm an engineer currently working in the computer field. I received my Master's degree several years ago, and am now raising a family in Oregon.

Know that I have been following the adventures of Microsoft for over 15 years now, and for the past 9 years I have been acutely aware of disturbing behavior evident in Microsoft's business practices. So I started to pay more attention to them, and what I saw I did not like. For the past 5 years now, I have avoided using their products, which is not an easy thing. I hardly need to go into detail about the damage they have done to technologically valuable initiatives such as the Java portability initiative, the world-wide-web connectivity initiative, and now the public-interest software initiative (by which I am referring to the recent trend toward volunteer software projects by and for computer users, under the open source licensing agreement that Microsoft has begun to lobby against).

The trouble they have caused for hundreds of specific competitors, large and small, pales in comparison to the damage and stunted growth they have caused to the industry in general, and thus, to the populace. I think we can agree that for all its shortcomings, computer technology has brought many benefits to the modern world. I take seriously the threat posed by Microsoft to our national information infrastructure, and also the harm they have done to the progress of the computer industry in general. I take offense at their attempts to lay claim to the modest progress that has been made, in many cases despite their own efforts.

You might think it odd to hear these comments from an employee of Intel, a company seen as "co-conspirator" of Microsoft, at least in the eyes of the PC consumer. Intel is a company that seeks to be selected by consumers as a matter of choice, and indeed the consumers currently have several choices in this regard. Intel has expressed interest in the availability of similar choices in PC operating systems, such as with their interest in NeXTStep and their interest (and investment) in RedHat. However, these software ventures can not succeed in the current Microsoft-controlled climate. So, Intel is stuck with Microsoft at the helm. In fact, there is now a strong atmosphere of fear within the "troops" at Intel regarding internal departure from Microsoft products, as though Microsoft has the resources and inclination to chastise us.

I can only hope that such is not the case. However, apparently Microsoft has expressed disapproval on several occasions regarding Intel projects that don't fit in with Microsoft's plans, resulting in lost opportunities for Intel. I ask you, if such large companies as Intel, IBM, and HP are frightened by Microsoft, where does that leave the consumer? Unfortunately, the public assumes our complicity is voluntary, but the truth is, it has not been entirely voluntary, nor has it been very conducive to progress. Thus our reputation suffers indirectly, by association.

But I seem to be beating a dead horse. By my understanding, the crimes of, and harm caused by, Microsoft have been established. The issue is apparently what response to provide.

I read about the dismissal of Judge Jackson with some distaste, but not nearly as much as when I heard the new proposed penalty of giving Microsoft software to primary schools. As the PENALTY? This seemed like a joke in very poor taste. The idea could only have come from Microsoft. It is hard for me to understand how they could be so lucky in escaping justice. It seemed almost as if they were being rewarded rather than punished. Something is very wrong with the way these events have been developing.

So I had my doubts when I went to review the proposed final judgment at http://www.usdoj.gov/atr/cases/f9400/9495.htm, but I am glad to see it seems to contain some restrictions. Unfortunately, it doesn't seem restrictive enough to be effective. Microsoft has continually acted in flagrant violation of the law; they obviously think it is their right to act as they have acted. If they are not dissuaded more effectively, two things will result. First of all, I fear others will conclude that no one including the United States government can stand up to Microsoft and their lawyers, which will lead others to fear Microsoft even more than they already do. Secondly, it will continue a dangerous precedent of tolerance, of which other large organizations may take note.

I notice that the protections afforded by the judgment are heavily slanted toward middle-ware, which seems like an unnecessary distinction. Microsoft has described web browsers as an intermediate platform and API for software applications to run on, thus falling broadly under the category of middle-ware, but this is heavily colored by their fear of how quickly a combination of Java and a web browser could erode customers" dependence on their own products. Yet, the main purpose of a web browser is simply to provide a multimedia, hypertext interface to information on the web. A viewer with one-way interaction, not an operating system. Nor any kind of middle-ware, unless you consider a document viewer to be middle-ware, as it is with a Microsoft Word virus. There has been, and continues to be, a need for safe web browsers which limit the damage that can be caused to the user's computer simply by viewing a document on the web. In typical fashion, Microsoft ignores this simple need of the consumer in favor of their own selfish need to usurp control of the web viewer (and eventually web server) industry and prevent it from threatening their customer lock-in. Consider, though, that the result is the same as for many other important types of software in which they have taken an interest. Movie software, for instance, is their current target. Soon, they will take over that market and control it as they have so many others.

If for some reason they should find it convenient to portray it as middle-ware, then their new operating systems would suddenly have an increased emphasis on 3D, animated interaction, thus making the multimedia layer integral to the operating system, and the computer software universe will warp to their will. But I digress. The middle-ware distinction is arbitrary.

Even so, if the protection must be limited to middle-ware, the restrictions are so specific regarding which product and which scenario, that they will soon be outdated and ineffective. Here are some specific points I came across:

*. III in general, is much too kind in its careful elaboration of exactly which scenarios Microsoft isn't allowed to retaliate in. It should instead have simply barred Microsoft from retaliating against business partners for any business choices they make, by mandating a fixed price, and prohibiting the practice of selectively distributing copies of their operating system as though the supply were limited. There was no mention of this latter practice, as far as I know.

*. III.H.1 is clearly addressed to one symptom of the squeeze-out behavior. I fear that after so much worrying over one particular tactic used by Microsoft, that they will simply emphasize other tactics or invent new ones. The basic behavior of misusing their advantage must be addressed, as well as these particular methods they have come to rely on. The exceptions to III.H would appear

necessary only from the viewpoint that wishes to preserve the advantage of Microsoft middle-ware over non-Microsoft middle-ware.

The second exception, in particular, is so open-ended and convenient for Microsoft, that I suspect it will undo even the limited protection which III.H is meant to afford.

*. IV.B.10 and parts of IV.C.3 suggest a very limited disclosure of Microsoft's dealings with the compliance enforcers (i.e. TC). Taken together, the picture is that of a company whose run-ins with the law are kept private. Of course this has the advantage of limiting impact to Microsoft's public image, but this is also a disadvantage. By keeping such things private, an aspiring developer, or even a consumer, is kept in the dark about dangerous situations that may be quite relevant to their own involvement with Microsoft. Also I see no reason why only officers and directors should be briefed regarding the TC. Shouldn't all Microsoft employees be aware of the arrangement?

It sounds so secretive. If there is some other reason for such details, please forgive my ignorance.

*. IV.B.8.b.i is illustrative of the surplus care which has been taken to avoid impacting Microsoft. In effect if the TC wishes to talk to an employee, it will likely be categorized as an interview, notice will have to be served to Microsoft, and the employee will almost certainly be accompanied by a Microsoft lawyer. Although I wouldn't dare to suggest that anyone at the company would ever lie, on the record or off, I have to wonder what kind of incriminating evidence one would expect to gain from such a conference. From a theoretical point of view, I have some trouble imagining how the employee's career could legally be defended from taking a wrong turn if information were disclosed.

*. VI.N.ii—Limiting protection of non-MS middle-ware to those with one million copies distributed during the previous year seems to imply that only large, well-established players will be protected. New ventures must then fight an uphill battle. Unfair.

*. V. The extension clause doesn't help much. Of course, 5 years is a long time, but not long enough. Now, if one has to get court consensus to extend by a year, I presume that the usual delay tactics could push the decision itself past one year anyway. I would have thought that if the TC had to lift one finger against Microsoft, that alone should be grounds for another 5 year extension, with no limit. I suppose the interest is in figuring out how Microsoft will circumvent the measures in the short term, which may well be the most pertinent question.

These are examples of the things that worry me when I read the judgment. I haven't the expertise to analyze the document in great detail, and that is to be expected. So I leave you with my impressions as a citizen. The proposed final judgment seems to have a lot more language granting loopholes and exceptions to Microsoft, than it contains restraints upon them. Having read this document, I fear that it is not strong enough to stop Microsoft's criminal behavior. I am dissatisfied with the judgment, even to the point that I felt slightly ill when I first read it. People are joking that Microsoft has gotten off pretty easy, and it does indeed look that way. I think Microsoft has had too much input into the proposed final judgment.

If you want my recommendation, focus on the fact that Microsoft's lock on the market, and its power over competitors, rests fundamentally on its control of standards. The only way I know of to wrest that control from them is to let an independent party, perhaps a government laboratory, to write the standards and make them publicly available for all developers and companies to work with. That would provide a positive and healthy result from this massive embroilment. This should be done regardless of whether Microsoft is to escape direct penalization.

As a prologue, after writing the above, I checked on the web for other opinions on the settlement, and it appears that I naively missed many deeper problems. In order that my correspondence not be unduly influenced, I have not rewritten it, but the situation is worse than I realized. As worded, the judgment may even work in Microsoft's favor, rather than merely failing to curtail. Please, do not let this travesty continue unchecked.

James M. Corey
jmcorey@ptdcs2.intel.com
Intel, Ronler Acres Campus (Oregon)

MTC–00033409

From: Clark Morgan
To: Microsoft ATR
Date: 1/24/02 11:22pm
Subject: Microsoft Settlement

Hello. I am an independent software engineer (i.e., contractor) who lives in Hillsboro, Oregon. I wish to comment on the proposed Microsoft Settlement.

I believe that the potential effects of the proposed settlement can be easily judged by the responses from the monopolist (Microsoft) and its adversaries (the nation's computer software industry): Microsoft is delighted and the computer software industry thinks the settlement does nothing to rein in Microsoft's abuses.

Conversely, the last time I recall that the United States successfully prosecuted a monopolist, the affected party (AT&T) bitterly complained about the proposed remedy. The fact that Microsoft thinks this settlement is wonderful should give the court pause, to ask a very simple question: Is the court being played by Microsoft?

In my opinion, the answer is a definitive "Yes." In my opinion, if the court does not take decisive action to punish this company for its anticompetitive practices, then Microsoft will never again fear retribution for its actions. I hope the court will recall the long list of companies that Microsoft has crushed, including: WordPerfect (now Corel), Lotus, Novell, Apple, Stac, and Netscape. If nothing is done to hobble this monopolist, then once its "punishment" phase is over, Microsoft will never, ever again fear government intervention and/or regulation. After all, if a company gets convicted as a monopolist and walks away with a "delightful" settlement, what should it worry about in the future?

Recall that when AT&T was broken up, the long distance market was opened to competition, which lowered long distance rates to extremely inexpensive rates. For example, I currently pay $0.05/minute for long distance calls placed in the evenings and all day on weekends. If AT&T still held the monopoly for long distance, I —know— I would not have access to $0.05/minute calls.

As things stand now, Microsoft is the AT&T of the software industry. Every new release of its Windows operating system is the same price: $90-$100 for an upgrade $225 for a complete release Every new release of its office suite is the same price: $200–225 for an upgrade $400 for a complete release Where is the competition? There is none, which is the consequence of buying from a monopolist. The court has a chance to step in here and squelch this monopoly. Please don't let Microsoft dictate the terms of this settlement.

Respectfully,
Clark O. Morgan
346 NW Treglown Ct.
Hillsboro, OR 97124
(cmorgan@aracnet.com)

MTC–00033410

From: Ethan Larson
To: Microsoft ATR
Date: 1/24/02 11:22pm
Subject: Microsoft Settlement

Microsoft is a proven monopoly. Its illegal practices are a detriment to innovation. Microsoft's continuance as a monopoly, which the current settlement has assured, will be a hindrance to the market, not an aid.

Sincerely,
Ethan Larson

MTC–00033411

From: Dim-skies
To: Microsoft ATR
Date: 1/24/02 11:34pm
Subject: aol vs. microsoft

Dears Sirs,

I think the AOL lawsuit is just another attempt to bleed a successful business, when you can't compete. I feel that a monopoly is when the consumer has nowhere else to turn. If I don't like my cable, or phone company, where do I go? Granted, other OS's aren't as pervasive, but they are available. That is hardly the same as "not available". AOL paid big money for a loser, and now they want help. What has happened to America? This is just another shameful example running to the Government for help for everything, including stupidity.

Sincerely,
Tom Wong
Port Orchard, WA 98366

MTC–00033412

From: gasigs@aol.com@inetgw
To: Microsoft ATR
Date: 1/24/02 11:40pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough. Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user. This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Grace Stewart
5312 Bethany Way
Lakeland, FL 33810–1827

MTC-00033413

From: DEUTCHMN@aol.com@inetgw
To: Microsoft ATR
Date: 1/24/02 11:52pm
Subject: Microsoft Settlement

Gentlemen:

I have resided on this planet for a series of decades. I have managed to live through the era of governmental regulation of monopolies such as railroads, steel, oil, airlines, telephones, and utilities. And I have seen the results. Competition unfet-tered by regulation works well, as Adam Smith predicted. But when the legal system enters the economic arena, it is a sore losers contest where only the legal profession benefits.

I have used and abused both browser systems, and like Beta-Max and V H S, one will survive....BUT LET IT BE THE CONSUMER, not the courts which determine this end. I have always had a distinct distaste for the mink in the duck pond which destroys purely for the sake of destruction. And that is the aim of AOL in this matter...Despicable at best.

Sincerely,
Craig G. Pause & Trinidad Brown

Note: Our family does own shares in both corporations...I may dump AOL on ethical grounds alone.

MTC-00033414

From: J. Lucha
To: Microsoft ATR
Date: 1/24/02 11:54pm
Subject: Microsoft Settlement

I was in complete shock and outrage when I first read the Proposed Final Judgment.

I've been a computer programmer for the last six years, and have been a computer hobbyist for more than twenty.

I have used virtually every type of computer software and hardware during those years from Microsoft and its competitors. Unlike the general public, I have first hand experience with most of the products that Microsoft has destroyed over the years through anti-competitive practices. In many cases, the competitors product was superior. There is no doubt in my mind that Microsoft has held the computing industry back more than ten years. Our world will never know what could have been achieved had the computing world not been crippled.

The settlement fails to provide the remedy needed for a healthy, productive and competitive technological industry. In fact, it may be argued by many that the settlement actually strengthens Microsoft's monopoly and allow them to bully those that compete with them.

Here are just a few of the many points where the Proposed Final Judgment fails:

1. First and foremost, the settlement does not address Microsoft's ill-gotten gains. Microsoft is allowed to keep billions of dollars acquired illegally. How many convicted thieves are allowed to keep their stolen goods?

2. The three person technical panel created by the settlement has some glaring problems. The first problem is Microsoft gets to select one member of the panel, who in turn has a say as to who the third member is. Sounds like Microsoft basically controls the panel. The second problem is that the panel members are not allowed to disclose any information to the public. If Microsoft is in any violation, the public will not know.

3. No punishment for the executives of Microsoft that knowingly and willingly led their company into law breaking actions. A strong message must be sent to businesses that unlawful and unethical behavior will not be tolerated. Without such a deterrent, business are encouraged to act in whatever means will lead to their greatest profits. The burden then lies upon the victims. I do not want my tax dollars constantly spent correcting wrongs that might not have occurred if the proper deterrents were in place.

4. While the API's used to communicate with the operating system will be documented and released, it will only be done for companies and business that Microsoft deems have a viable business. The Free Software movement has been acknowledged by Microsoft to be its biggest competition, yet they have publicly stated that businesses with a basis in Free Software don't have a viable business model. So, their toughest competition is excluded from the API's to begin with.

5. The duration of the restrictions is a mere 5 years, which is not a significant amount of time to reverse the detrimental damage caused by Microsoft. As a software developer myself, I can assure you it will take at least five years before a competitor can accumulate the necessary business infrastructure (funding, staff). It would probably take another five years before a useable product is developed. Also, if Microsoft is found to be in violation, there is no extension to the duration of the restrictions.

6. The settlement is full of loopholes for Microsoft to take advantage of. The main ones being the definitions defined in the Proposed Final Judgment such as API. I also find it alarming that the definitions have already been altered from the ones used in the "Findings of Facts". Microsoft has been found guilty in previous court hearings, and used the loopholes contained within those settlements to render them useless.

What good will it have done to have spent so much taxpayer money, and have nothing to show for it. For examples of ways in which Microsoft may twist the meaning of the definitions to render them useless please read http://www.os2hq.com/archives/arch46.htm .

7. The settlement does not address the file formats used by Microsoft's Office programs. With each new version of Microsoft's office suite programs, they change the format of the documents created. This creates a barrier to entry for competing office software. It is also a means to force current customers in a never ending upgrade cycle, where they purchase the upgrade to be able to read the files sent to them by others, even though they themselves do not need the added features of the newer version.

A Final judgment that would be in the best interest of the consumer might include some of the following:

1. Microsoft would have to give a sum of at least $5 billion in cash to the Free Software Foundation. One of the goals of the Free Software Foundation is to support the development of software that is a viable alternative to Microsoft's products. Microsoft has publicly acknowledge d that Open Source is their most viable competitor. True competition can be brought about by helping fund the independent developers found in the Open Source community.

2. Microsoft would have to pay the legal expense of any business that brings a legal case against Microsoft during the duration of the restrictions. This would prevent Microsoft's typical defense against competitor lawsuits: stalling. There are numerous cases that have never been brought against Microsoft because the company or individual didn't have the financial resources for the long, drawn out case that Microsoft's legal army executes.

3. All Microsoft executives and managers would have to enroll in a University business law and ethics class every year at the individuals expense for the duration of the settlement. They must attain a grade of of at least a "B" or they must retake the course the following semester/quarter.

4. Any specification or API that must be known to offer a competing product must be well documented at least six months prior to Microsoft's release of the product. If the specification is changed, then the product released date must also be delayed.

5. Any contract between Microsoft and the major OEM's (Gateway, Compaq, Dell), ISV's (AOL, CompuServe), etc., must be approved by an independent panel.

6. If Microsoft is to bundle application software such as Internet Explorer with their operating system software, they must also include a competing product such as Netscape Communicator.

7. The true price of Microsoft's applications and operating systems must be listed as a line item when purchasing computers. Currently the costs of Microsoft's products are bundled into the hardware costs, and the consumer is unaware of the true price paid for the Microsoft product. If the price is listed, a consumer that feels it is too much, will inquire about alternatives.

If we set forth laws, and do nothing when those laws are broken, then there is no point to have our society. Microsoft has violated the law, but the Proposed Final Judgment does nothing but ask them not to violate them any more.

James Lucha
Programmer/Analyst
Moreno Valley, CA
E-Mail: lucha@pe.net

MTC–00033415

From: Daniel Peters
To: Ms. Renata Hesse
Date: 1/25/02 5:36am
Subject: Microsoft Settlement
Daniel Peters
175 E. 96th St. Suite 15K
New York, NY 10128
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my NON-support for the revised proposed Final Judgment in the U.S. v. Microsoft case. After reviewing the terms of this Judgment, the final approval is clearly NOT in the public interest. To me, Microsoft is similar to AT&T before it was split into separate Regional companies. Microsoft has too much monopoly power. It controls the operating system & writes applications for that operating system. This is an unbalanced playing field. Competitors do NOT have the same access to the operating system that Microsoft's developers have.

Please seek to create a settlement that is more advantageous to consumers.

Sincerely,
Daniel Peters

MTC–00033416

From: Andre—A—Smith@RL.gov@inetgw
To: Microsoft ATR
Date: 1/25/02 6:23am
Subject: Microsoft Settlement PLEASE READ

.The only thing the Microsoft's competitors really need to level the playing field is to have access to Microsoft's file formats, free of charge or at most nominal, for the Office range of products. Without access to these they will never have the ability to compete in the corporate world. IT departments simply cannot ostracize themselves by picking an alternate OS then not having compatibility with their computers via email and document exchanges. How frustrating is it for you when someone sends you a file via email that you cannot open, now imagine that times a 1000 or 10,000 how long would you keep your customer base.

There are great products out there that major corporations simply cannot afford to use them do to the amount of work involved in getting them to be useable outside of the company by their customers and business contacts or partners. Just take Microsoft's ability to lock customers in just because that's what every body else uses.

Andre" Smith
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MTC–00033417

From: Fisher
To: MSvsusdoj
Date: 1/25/02 7:06am
Subject: Microsoft Settlement

In view of the fact that both District Court and Appeals Court have determined that Micosoft has violated the Sherman Act, I find it difficult to belive that the DOJ's proposed settlment in Microsoft's case is in the public interest. As a consumer I don't understand, how does the DOJ's decision ensure that I'd be still able to obtain the platform, operating system, and other elements of computer-ware of my choice when I'm left at the mercy a single, mnonopolist, monolithic, vender for all my software needs. In my view, the DOJ's decision appears to be stilted in Micosoft's favor and appears to foster monopoly, hinder competitive innovation, and serve no meaningful consumer interest.

Most of us have lost our life's savings in Enron's case. And now, we are being asked to give up our freedom of choice in Microsoft's case.

MTC–00033418

From: PETER MENARDI
To: Ms. Renata Hesse
Date: 1/25/02 7:10am
Subject: Microsoft Settlement
PETER MENARDI
1511 CLUBVIEW BLVD. S.
COLUMBUS, OH 43235
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Peter J. Menardi

MTC–00033419

From: Don Dome
To: Ms. Renata Hesse
Date: 1/25/02 7:33am
Subject: Microsoft Settlement
Don Dome
40 Sherry Road
Cincinnati, OH 45251–4269
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Don Dome

MTC-00033420

From: Ronald Schildroth
To: Ms. Renata Hesse
Date: 1/25/02 7:36am
Subject: Microsoft Settlement

Ronald Schildroth
24658 Q Ave.
Grundy Center, Ia 50638–8519
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Ronald Schildroth

MTC-00033421

From: charles Sellon
To: Ms. Renata Hesse
Date: 1/25/02 7:36am
Subject: Microsoft Settlement

charles Sellon
15 Minchin Dr.
Wooburn, MA 01801
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Charles A. Sellon

MTC-00033422

From: peter russo, sr
To: Ms. Renata Hesse
Date: 1/25/02 7:39am
Subject: Microsoft Settlement

peter russo, sr
103–56 96th Street
Ozone Park, NY 11417
January 25, 2002
Ms. Renata Hesse

U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
peter a. russo

MTC-00033423

From: peter russo, jr
To: Ms. Renata Hesse
Date: 1/25/02 7:39am
Subject: Microsoft Settlement
peter russo, jr
103–56 96th Street
Ozone Park, NY 11417
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

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Sincerely,
peter a. russo, jr

MTC-00033424

From: patricia russo
To: Ms. Renata Hesse
Date: 1/25/02 7:41am
Subject: Microsoft Settlement
patricia russo
103–56 96th Street
Ozone Park, NY 11417
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

patricia agnes russo

MTC-00033425

From: patricia russo
To: Ms. Renata Hesse
Date: 1/25/02 7:42am
Subject: Microsoft Settlement
patricia russo
103-56 96th Street
Ozone Park, NY 11417
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

patricia angela russo

MTC-00033426

From: Jerome Brenner
To: Ms. Renata Hesse
Date: 1/25/02 7:59am
Subject: Microsoft Settlement
Jerome Brenner
3221 Windrow Lane
Matthews, NC 28105-3938
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

G. Jerome Brenner, Jr.

MTC-00033427

From: John Grein
To: Ms. Renata Hesse
Date: 1/25/02 8:00am
Subject: Microsoft Settlement
John Grein
501 Berkey Ave
Swanville, MN 56382-0126
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far

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Sincerely,

John O. Grein

MTC-00033428

From: Christopher Plummer
To: Microsoft ATR
Date: 1/25/02 9:33am
Subject: Microsoft Settlement

Greetings,

I would like to submit the following as a Tunney Act comment regarding my opposition to the proposed final judgement against Microsoft: As an information technologies professional for twenty years I have observed the rise of Microsoft and noted with concern many of its anti-competitive and monopolistic practices, only some of which have been addressed by the DOJ case.

In general I am convinced that the remedy proposed will not prevent Microsoft from unfairly maintaining its monopoly, not stop it from thwarting competition and innovation in the computer and every other industry it touches, and will not in the end prevent Microsoft from harming consumers by hindering their choices in the marketplace.

The PFJ Contains Misleading and Overly Narrow Definitions and Provisions, Fails to Prohibit Anticompetitive License Terms currently used by Microsoft, Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft, Fails to Prohibit Anticompetitive Practices Towards OEMs, and as currently written appears to lack an effective enforcement mechanism.

Please go back to the drawing board and come up with a remedy that will actually protect and benefit consumers!

Thank you,

Christopher Plummer
Lotus Notes Administrator
Independent Contractor
Flemington, NJ USA

MTC-00033429

From: Mark Ball
To: Tunney Act
Date: 1/25/02 9:41am
Subject: Microsoft Settlement

I oppose acceptance of the proposed Microsoft settlement.

mark

MTC-00033430

From: WILDING Inc.
To: AttyGen Ashcroft
Date: 1/25/02 9:44am
Subject: Microsoft Settlement
Alvin G.Wilding & Charlotte H.Wilding
P.O. Box 311
Shaw Island, WA 98286
January 25, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

We would like to take this opportunity to convey our opinion about the antitrust settlement regarding Microsoft. The United States has always been supportive of free enterprise yet now it seems the courts are looking to make an example of someone. Microsoft is a huge company so they were targeted. The lawsuit is superfluous with absolutely no basis. It has dragged on long enough and we feel it is time it was brought to a close. Microsoft has agreed to terms that are more than fair. They are willing to license the internal codes to Windows, which will make it easier for other companies to compete. They also have agreed not to retaliate against other companies who promote or produce software or hardware that competes with Microsoft.

There are many other terms that Microsoft has agreed to that simply should have been asked in the first place. If litigation is allowed to continue it would be a waste of time and money. There are more pressing matters that the court should focus its attention on. I hope that this matter is settled soon.

Sincerely,

Alvin G.Wilding
Charlotte H.Wilding

MTC-00033431

From: William Peters
To: Ms. Renata Hesse
Date: 1/25/02 10:09am
Subject: Approve the Microsoft Settlement
William Peters
13314 10th Ave. NE
Seattle, WA 98125
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

Approve the Microsoft Settlement

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after

purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

William G. Peters

MTC-00033432

From: Mark Ball
To: Tunney Act
Date: 1/25/02 10:14am
Subject: Microsoft Settlement

I oppose adoption of the proposed Microsoft settlement. The proposed settlement does not limit or reverse the monopolistic practices that brought the trial. Furthermore, the proposed settlement grants Microsft rights that, history will show, Microsoft will use to expand its monopoly under the protection of the settlement.

I see a strong structural remedy as the only means to prevent Microsft's monopoly from expanding into other lines of business. A structural remedy must be such that anticompetitive behavior directed at competitors will harm Microsoft equity as a natural consequence of a capital market. Most likely, this would mean that Microsoft must be divided so that post-Microsoft entities will be on equal footing as current Microsoft competitors.

Furthermore, I see continued goverment monitoring as impotent. I suggest that the settlement grant non-Microsoft entities who must do business with Microsoft due to Microsoft monopoly the right to sue for and recover damages when Microsoft makes unfavorable changes to their relationship due to the non-Microsoft entity's utilization of non-Microsoft software.

Mark Ball

MTC-00033433

From: Susan Peters
To: Ms. Renata Hesse
Date: 1/25/02 10:15am
Subject: Approve the Microsoft Settlement

Susan Peters
13314 10th Ave NE
Seattle, WA 98125
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Susan Peters

MTC-00033434

From: Christopher Albright
To: Ms. Renata Hesse
Date: 1/25/02 10:42am
Subject: Microsoft Settlement

Christopher Albright
P.O. Box 442
Harvey, LA 70059-0442
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely yours,
Christopher Albright

MTC-00033435

From: Denise (038) Jim Nice
To: Ms. Renata B. Heese
Date: 1/25/02 11:08am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Denise & Jim Nice
3801 Montevista Rd.
Cleveland Heights, OH 44121-1612
CC: Citizens for a Sound Economy

MTC-00033436

From: Martha Spielman
To: Ms. Renata B. Heese
Date: 1/25/02 11:20am
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company. Our Fort Gibson Chamber of Commerce is comprised of 70 members, so I speak, representing their voice.

Respectfully,
Fort Gibson Chamber of Commerce
Martha Spielman, Executive Director
P.O. Box 730
Fort Gibson, OK 74434-0730
CC:
Citizens for a Sound Economy

MTC-00033437

From: Ken Wheeler
To: Ms. Renata Hesse
Date: 1/25/02 12:14pm
Subject: Microsoft Settlement
Ken Wheeler
1580 Hanwood Drive
McConnelsville, OH 43756-9592
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Ken Wheeler

MTC-00033438

From: Stephanie Smith
To: Ms. Renata Hesse
Date: 1/25/02 12:28pm
Subject: Microsoft Settlement
Stephanie Smith
518 Treetop Dr Apt 201
Virginia Beach, VA 23451
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Stephanie Smith

MTC-00033439

From: Michael (038) Sally Pickett
To: Ms. Renata B. Heese
Date: 1/25/02 12:37pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Michael & Sally Pickett
963 Morello Ave.
Martinez, CA 94553–4749
CC: Citizens for a Sound Economy

MTC-00033440

From: Ferol & Joan Baskett
To: Ms. Renata Hesse
Date: 1/25/02 12:44pm
Subject: Microsoft Settlement
Ferol & Joan Baskett
7338 S.E. Berryton Rd.
Berryton, KS 66409–9601
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Ferol & Joan Baskett

MTC-00033441

From: Donald Fogg
To: Ms. Renata Hesse
Date: 1/25/02 1:11pm
Subject: Microsoft Settlement
Donald Fogg
16 Governors Terrace
Lancaster, NH 03584
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Donald A Fogg

MTC-00033442

From: Francis Gallagher, Jr
To: Ashcroft John
Date: 1/25/02 1:22pm
Subject: Microsoft Case
Francis Gallagher
504 Truman Court
Norristown, PA 19403
January 15, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I have been following the Microsoft antitrust case for a while now, and I have become concerned of late that the settlement reached last November will not stand. Nine plaintiff states are currently seeking to overturn the agreement and reopen the Microsoft case. This is foolishly unnecessary. I do not believe the settlement reached is unfair, nor do I believe that Microsoft and the Justice Department should be forced back into a time-consuming, expensive court battle when a perfectly reasonable settlement has already been reached. The Department of Justice has, I believe, done an exemplary job in satisfying the demands of antitrust legislation and formulating terms of agreement that are beneficial both to Microsoft and its competitors. Such a difficult task should not have to be repeated unnecessarily.

Microsoft has agreed to a broad range of obligations in the settlement, all of which allow its competitors access to the Windows operating system and protect them from retaliation on the part of Microsoft. For example, Microsoft has agreed to provide third parties acting under the terms of the agreement with a license to applicable intellectual property rights. Microsoft has also agreed to license the Windows operating system and all its products to twenty of the largest computer makers. I do not believe any more needs to be required of Microsoft, nor do I believe that competing software makers have been left holding the short end of the stick. Everyone can benefit from this agreement, and this is why I cannot support those who feel that the settlement needs to be overturned and further modifications made.

Sir, the settlement reached prevents Microsoft from further violations of antitrust laws. I see no reason to take additional action on the federal level. I urge you and your office to allow business to return to normal and to let November's settlement carry through.

cc: Senator Rick Santorum

Sincerely,

Francis Gallagher

MTC-00033443

From: frank senko
To: Ms. Renata Hesse
Date: 1/25/02 1:28pm
Subject: Microsoft Settlement
frank senko
535 Gilford Ave.
Toms River, NJ 08753-8234
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

frank p. senko

MTC-00033444

From: Constance Root
To: Ms. Renata Hesse
Date: 1/25/02 1:33pm
Subject: Microsoft Settlement
Constance Root
8472 Maplewood Lane
Lenexa, KS 66215
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Constance J Root

MTC-00033445

From: Sharon Foley
To: Ms. Renata Hesse
Date: 1/25/02 1:57pm
Subject: Microsoft Settlement

Sharon Foley
1609 South Lee St.
Lakewood, CO 80232
January 25, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Sharon Foley

MTC-00033446

From: Elizabeth Beyne
To: Ms. Renata Hesse
Date: 1/25/02 2:09pm
Subject: Microsoft Settlement

Elizabeth Beyne
521 Oak Street
Marquette, MI 49855
January 25, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

E F Beyne

MTC-00033447

From: Margie O. Easter

To: Ms. Renata Hesse
Date: 1/25/02 2:26pm
Subject: Microsoft Settlement
Margie O. Easter
849 Knollwood village
Southern Pines, NC 28387-3007
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Margie O. Easter

MTC-00033448

From: Ronald Carlen
To: Ms. Renata Hesse
Date: 1/25/02 2:51pm
Subject: Microsoft Settlement
Ronald Carlen
4 Skyview Road
Wayne, NJ 07470-6283
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Ronald J. Carlen

MTC-00033449

From: Patricia Beck
To: Ms. Renata B. Hesse
Date: 1/25/02 3:03pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Patricia Beck
6699 Capricorn Ln. NE
Bremerton, WA 98311-7953
CC: Citizens for a Sound Economy

MTC-00033450

From: erin larsen
To: Ms. Renata Hesse
Date: 1/25/02 3:32pm
Subject: Microsoft Settlement

erin larsen
600 sw kenyon st #d302
seattle, wa 98106
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
erin larsen

MTC-00033451

From: Charlie Dromgoole
To: Ms. Renata B. Heese
Date: 1/25/02 3:55pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Charlie Dromgoole
P. O. Box 2281
Abilene, TX 79604–2281
CC: Citizens for a Sound Economy

MTC-00033452

From: Thomas McCartney
To: Ms. Renata Hesse
Date: 1/25/02 4:42pm
Subject: Microsoft Settlement

Thomas McCartney
2114 C.R. 442
La Veta, Co 81055–9658
January 25, 2002 Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would

like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Thomas F. McCartney

MTC-00033453

From: Jack A Milavic
To: Ms. Renata Hesse
Date: 1/25/02 4:50pm
Subject: Microsoft Settlement

Jack A Milavic
650 Jubilee Street
Melbourne, Fl 32940

January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse.:

I would like to strongly express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Jack A. Milavic

MTC-00033454

From: Alice Egland
To: Ms. Renata Hesse
Date: 1/25/02 4:54pm
Subject: Microsoft Settlement
Alice Egland
131 Hawthorne Court
Rockaway, NJ 07866
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Alice Egland

MTC-00033455

From: Chester A. Phillips, Jr.
To: Ms. Renata Hesse
Date: 1/25/02 5:04pm
Subject: Microsoft Settlement
Chester A. Phillips, Jr.
712 Foxtail Court
Naples, FL 34104–5103
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Chester A. Phillips, Jr. M.D.

MTC-00033456

From: Shirley Tomich
To: Ms. Renata B. Heese
Date: 1/25/02 5:06pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

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Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Shirley Tomich
1142 West 15th Street
San Pedro, CA 90731-3826
CC: Citizens for a Sound Economy

MTC-00033457

From: Walter Glatz
To: Ms. Renata Hesse
Date: 1/25/02 5:29pm
Subject: Microsoft Settlement
Walter Glatz
7200 Walton Road
Walton Hills, Oh 44146
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Walter Glatz

MTC-00033458

From: Gerry Cairns
To: Ms. Renata Hesse
Date: 1/25/02 5:37pm
Subject: Microsoft Settlement
Gerry Cairns
26 Millport Drive
The Woodlands, Tx 77382
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Gerry Cairns

MTC-00033459

From: Helen Orr
To: Ms. Renata Hesse
Date: 1/25/02 5:48pm
Subject: Microsoft Settlement
Helen Orr
6108 Lafreniere St.
Metairie, La 70003-3641
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Helen Orr

MTC-00033460

From: Christian S. Young
To: Ms. Renata Hesse
Date: 1/25/02 5:51pm
Subject: Microsoft Settlement
Christian S. Young
16007 Fontaine Aveneu
Austin, TX 78734-2644
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Christian S. Young

MTC-00033461

From: John Standal
To: Ms. Renata Hesse
Date: 1/25/02 7:08pm
Subject: Microsoft Settlement
John Standal
440 Hao Street
Honolulu, HI 96821
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
John Standal

MTC-00033462

From: clayton patterson
To: Ms. Renata Hesse
Date: 1/25/02 7:20pm
Subject: Microsoft Settlement
clayton patterson
3420 ellenmere drive
sacramento, ca 95821–6212
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
clayton patterson

MTC-00033463

From: Alan Lane
To: Ms. Renata Hesse
Date: 1/25/02 7:35pm
Subject: Microsoft Settlement
Alan Lane
2931 Pine Cone Circle
Clearwater, Fl 33760
January 25, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Alan Lane

MTC-00033454

From: Fred H. Greenwood
To: John Ashcroft
Date: 1/25/02 8:24pm
Subject: RE" Microsoft Settlement
BlankDear General Ashcroft:
Please read the attached letter.
Thank you, and sincerely yours,
Fred H. Greenwood
FRED H. GREENWOOD
7 Kirkwood Road, West Hartford, CT 06117–2830
TEL (860) 232–7894
E-mail: fhgreenwood3@attbi.com
January 26, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW.,
Washington, DC 20530

Dear General Ashcroft:

The purpose of my letter is to express my support for Microsoft in the three-year antitrust dispute. Microsoft is a company that I admire, and whose products I use daily, both for my business as well as in my private life. Microsoft has contributed a great deal to our society and daily lives; stifling this company will not benefit anyone. I urge you to support the settlement reached in November. I also think it is disgusting that Mr. Blumenthal and several other states'' Attorney Generals are still pursuing this case.

This settlement is fair and reasonable. Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with programs included within Windows. Microsoft also has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows. Additionally, Microsoft has agreed to be monitored for compliance. In my opinion, Microsoft has done nothing that has hurt me as a consumer and as the owner of a small business.

Since a settlement has been reached between both parties, I see no reason to prolong this dispute. Our nation's resources, especially at this time, should be devoted to more important issues. I think that you, personally, as well as your staff, are doing a great job for our country! Thank you for your support.

Sincerely yours,
Fred H. Greenwood
C:\win\temp/microsof.doc

MTC-00033455

From: Frank N. Peterson
To: Department of Justice
Date: 1/25/02 9:25pm
Subject: Microsoft Settlement

Department of Justice:

The case against Microsoft has dragged on long enough. It needs to be settled and I think the agreement reached is reasonable. It is now the responsibility of the DOJ to get AOL and the other states holding out to drop their complaints.

My experience with computers is limited but the worst possible service I have tried to use came from AOL. It was unreliable and difficult to use. When I shifted to Microsoft programs and service, it was like night and day. Whatever Microsoft did produced a superior, easy to use product and my ability to expand my computer use was enhanced.

The gripes by AOL (hardly a minor player when it comes to monopolies) and Oren Hatch as well as others, seem to be petty because they are losers in the creativity related to the world of computing.

In short, it is time to move forward—not to drag this on further. Enough damage has been done already by the Department of Justice in fostering the lawsuit. Settle it now and let the players see how creative they can be. There is plenty of room for innovation for all parties.

Sincerely,
Frank N. Peterson.

MTC-00033456

From: David Greenwood
To: Ms. Renata Hesse
Date: 1/26/02 5:47am
Subject: Microsoft Settlement
David Greenwood
12 East View DRive
Farmington, Ct 06032
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
David Greenwood

MTC-00033457

From: Gregory LeDuc
To: Ms. Renata Hesse
Date: 1/26/02 6:54am
Subject: Microsoft Settlement
Gregory LeDuc
95 Church Street
Harwich, Ma 02645
January 26, 2002
Ms Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has, cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Gregory J. LeDuc

MTC-00033468

From:

H_J_Bronson@compuserve.com@inetgw

To: Microsoft ATR

Date: 1/26/02 7:13am

Subject: Microsoft vs. DoJ Settlement

January 26, 2002

To Whom It May Concern;

As a citizen and, most importantly, a veteran, voter and taxpayer I cannot understand why the DoJ is still wasting the taxpayers money and its valuable time. The Microsoft settlement is the face-saving end to a wholly unconstitutional, politically corrupt attack on this successful business. The depths of corruption displayed by the previous Administration in falsely bringing on this suit are, forever, a blight on this nation's integrity.

The present Administration and its DoJ representatives bring nothing but disgrace and contempt on themselves for pursuing this frivolous action even to the extent to which you have brought it today.

Settle the damned suit and get on with real problems such as the WAR!! A less than impressed citizen, veteran, voter and taxpayer,

Jim Bronson, KC8RBI

Frankenmuth, Michigan

MTC-00033469

From: Jim Anderson

To: Ms. Renata Hesse

Date: 1/26/02 7:47am

Subject: Microsoft Settlement

Jim Anderson

120 Gratiot Court

Saginaw, MI 48602

January 26, 2002

Ms. Renata Hesse

U.S. Department of Justice, Antitrust Division

601 D Street NW, Suite 1200

Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Jim D. Anderson

MTC-00033470

From: smith

To: Microsoft ATR

Date: 1/26/02 9:00am

Subject: damage

The terrorist acts certainly damaged our economy, but in my opinion the economy was already turning down, and it was brought on by actions of our own Government, when IT pre-sued a major player in our world—Microsoft. Some of that damage can be reversed by allowing the settlement to proceed.

Sincerely,

Steve Smith

MTC-00033471

From: Champagne Lady

To: John Ashcroft

Date: 1/26/02 10:31 am

Subject: Microsoft Settlement

Please see the attached document. Thank you. Leslie Whitman

Leslie Whitman

P.O. Box 500598

Marathon, FL 33050

January 21, 2002

A.G. John Ashcroft

U.S. Department of Justice

950 Pennsylvania Avenue, NW

Washington, DC 20530

Dear Mr. Ashcroft,

I am writing you today in regards to Microsoft. I support this company in the three year antitrust litigation that has gone on. Microsoft is being wrongfully punished for being successful, and the settlement reached in November will serve in the best public interest.

This settlement is thorough. Among the many terms Microsoft has agreed to, provisions such as sharing more information with other companies will aid companies in their pursuits to compete. Microsoft has agreed to disclose various interfaces that are part of Windows operating systems for its competitors. Microsoft has also agreed to make available any protocols implemented in Windows operating system on reasonable terms.

This settlement not only allows Microsoft to remain together, but it will also foster competition. Please support this settlement so Microsoft can get back to the business of designing innovative software.

Sincerely,
Leslie Whitman

MTC-00033472

From: Francis Murray
To: Ms. Renata Hesse
Date: 1/26/02 10:38am
Subject: Microsoft Settlement
Francis Murray
1839 S. Abrego Dr.
Green Valley,, AZ 85614–1401
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Francis A. Murray

MTC-00033473

From: Susan Levitsky
To: Ms. Renata Hesse
Date: 1/26/02 10:52am
Subject: Microsoft Settlement
Susan Levitsky
5 Holland Ave
Albany, NY 12205–5013
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Susan Levitsky

MTC-00033474

From: Billie Allensworth
To: Ms. Renata Hesse
Date: 1/26/02 11:06am
Subject: Microsoft Settlement
Billie Allensworth
2411 Winter Park Road
Winter Park, FL 32789–6108
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance ? the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Billie Allensworth

MTC-00033475

From: Richard H. Skeppstrom
To: DoJ
Date: 1/26/02 11:21am
Subject: Microsoft Settlement

Ladies and Gentlemen:

In my view the settlement reached among the Department of Justice, nine states, and Microsoft is a fair and reasonable compromise which should be implemented with as little delay as possible. Continuing litigation would have a negative effect on the entire software and computer industries as it would create further uncertainty about the future of those enterprises thus inhibiting investment and progress. In these economic doldrums, more uncertainty is exactly what we do not need.

Thank you for your kind attention to my concerns.

Yours truly,
Richard H. Skeppstrom
2601 Bayview Boulevard
Portsmouth, VA 23707–1504

MTC-00033476

From: Sheldon Flowers
To: Ms. Renata Hesse
Date: 1/26/02 11:21am
Subject: Microsoft Settlement
Sheldon Flowers
555 Laramie Trail
Cincinnati , OH 45215
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Sheldon R. Flowers

MTC-00033477

From: JOHN CARROLL
To: Ms. Renata Hesse
Date: 1/26/02 11:27am
Subject: Microsoft Settlement
JOHN CARROLL
911 N TAWAS LAKE
E TAWAS, MI 48730
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

John J CarrollI would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

JOHN J CARROLL

MTC-00033478

From: Verne Robinson
To: Ms. Renata Hesse
Date: 1/26/02 12:16pm
Subject: Microsoft Settlement
Verne Robinson
226 W. Works
Sheridan, wy 82801
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Verne and Mary Robinson

MTC-00033479

From: Ralph Lennerth
To: Ms. Renata Hesse
Date: 1/26/02 12:29pm
Subject: Microsoft Settlement
Ralph Lennerth
6107 Boston Rd.
Valley City , Oh 44280
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Ralph Lennerth

MTC-00033480

From: Walter Knoepfel
To: Ms. Renata Hesse
Date: 1/26/02 1:13pm
Subject: Microsoft Settlement
Walter Knoepfel
1723 Sanchez St
San Francisco, CA 94121-2740
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. After reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit, the Department of Justice and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater significance. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Walter P. Knoepfel

MTC-00033481

From: Ward K. Wilkinson
To: Ms. Renata Hesse
Date: 1/26/02 1:44pm
Subject: Microsoft Settlement
Ward K. Wilkinson
4206 Hockaday Dr.
Dallas, Tx 75229
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Ward K. Wilkinson

MTC-00033482

From: Ronald Zacharek
To: Ms. Renata Hesse
Date: 1/26/02 1:57pm
Subject: Microsoft Settlement
Ronald Zacharek
1019 E. Knox Dr.
Tucson, AZ 85719
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Ronald Zacharek

MTC-00033483

From: Bluebell Standal
To: Ms. Renata Hesse
Date: 1/26/02 2:28pm
Subject: Microsoft Settlement
Bluebell Standal
440 Hao Street
Honolulu, HI 96821

January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Dr. Bluebell R. Standal

MTC-00033484

From: Otto Zuber
To: Ms. Renata Hesse
Date: 1/26/02 2:49pm
Subject: Microsoft Settlement
Otto Zuber
1660 Pine Valley Dr
Fort Myers, FL 33907-5754
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Otto Zuber

MTC-00033485

From: Shmuel (Seymour J.) Metz
To: verify@kegel.com@inetgw
Date: 1/26/02 2:52pm
Subject: Re: Verifying you as cosigner of Open Letter to DOJ
In <200201260654.g0Q6sLU02903@kegel.com>, on 01/25/2002 at 10:54 PM, verify@kegel.com said:

Thanks for joining my open letter to the DOJ!

To make sure nobody is using your email account without permission, I
need you to reply to this message and fill in the following fields
as you would like them to appear in the open letter:

Name: Shmuel (Seymour J.) Metz
City: Annandale
State: Virginia
Title:
Organization: Atid/2

I encourage you, if you have not already done so, to send a quick
note directly to the DOJ by fax or email (see
http://www.kegel.com/remedy for how) summing up your point of view
and endorsing my open letter.

I've already sent a message to DOJ outlining my concerns and what I believe to be the minimum acceptable remedy. I've cc'd them on this since I did not mention your open letter in my comments. Please understand that while I endorse everything in your letter, and gladly offer my name in support, it did not address all of my concerns, so I felt that it was appropriate to send my message on its own.

Shmuel (Seymour J.) Metz, SysProg and JOAT
Atid/2
Team OS/2

MTC-00033486

From: Richard Martin
To: Ms. Renata Hesse
Date: 1/26/02 3:38pm
Subject: Microsoft Settlement
Richard Martin
2018 W. Niobe Ave
Anaheim, CA 92804
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than

$35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Richard C. Martin

MTC-00033487

From: kenneth bridgers
To: USDOJ.GOV.,eagle@exp.net@inetgw
Date: 1/26/02 3:57pm
Subject: MICROSOFT SETTLEMENT

dear sir,

i am 69 years old and have had a computer for 2 years and enjoying it. the windows system has enabled me to learn, i would never learn using the ms-dos system. if i had computers with windows system when i was in grade school i would have been an A student ! this settlement could mean that some underprivledged students may be the ones that solve some of the worlds'' problems.

please do not penalize microsoft for building a better mouse trap. i beleave most people want these lawsuits to end so that microsoft and the other hi-tech companies can lead this economy forward.

thank you for your time,
kenneth r. bridgers
188 louise street
bridge city, texas 77611

MTC-00033488

From: Leonard Biederman
To: Ms. Renata Hesse
Date: 1/26/02 3:57pm
Subject: Microsoft Settlement
Leonard Biederman
6162 Westerham Rd.
Mayfield Hts., OH 44124-3308
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Leonard Biederman

MTC-00033489

From: Marjorie Barraclough
To: Ms. Renata Hesse
Date: 1/26/02 4:24pm
Subject: Microsoft Settlement
Marjorie Barraclough
4451 Lewistown, PA 17044
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Marjorie E. Barraclough

MTC-00033490

From: Craig Hammargren
To: Ms. Renata Hesse
Date: 1/26/02 4:39pm
Subject: Microsoft Settlement

Craig Hammargren
2748 Cobblestone Court
Fargo, ND 58103
January 26, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,

Craig Hammargren

MTC-00033491

From: Howard B Lewine
To: Microsoft ATR
Date: 1/26/02 5:20pm
Subject: Settlement

Gentlemen,

Please be advised as a Senior Citizen and long time user of Microsoft's software, I urge you to implement the proposed antitrust settlement. Sincerely, Howard Lewine

MTC-00033492

From: SJ Worrall
To: Microsoft ATR
Date: 1/26/02 5:20pm
Subject: Antitrust Settlement

The settlement proposed by The DOJ certainly does not contribute to the economy of the country and in my opionion represents a huge (tax supported) group of lawyers seeking to justify their jobs. Settle the D— lawsuit and let Microsoft get on with their job of creating software, advancing the economy of the the country and making profit. Competition is good. Microsoft certainly does not and never has had a monopoly. The industry moves too fast for that to happen.

S.J. Worrall

MTC-00033493

From: Betty Scheid
To: Microsoft ATR
Date: 1/26/02 5:20pm
Subject: Microsoft Settlement

Please allow the market to function in its normal way and halt any further litigation in this matter. The events surrounding this case have mainly served to enrich a gaggle of lawyers while bringing down a very productive segment of our economy. It is time to put a stop to the whole ugly mess and the sooner, the better.

B. J. Scheid
Citizen

MTC-00033494

From: E W Dreier
To: Microsoft ATR
Date: 1/26/02 5:22pm
Subject: Microsoft Settlement

MTC-00033495

From: Gregory Liban
To: Department of Justice
Date: 1/26/02 5:28pm
Subject: Message From a Concerned Citizen

Dear Department of Justice:

Please leave Microsoft alone. I constantly sense that people are seeking revenge against Microsoft in a mistaken way. Microsoft is not a Tobacco company whose products have caused cancer. Microsoft is also not a company whom has thrived because it squeezes out competition just for the sake of market share.

Microsoft wants to give a Billion dollars worth of Computer equipment to those who need it, and whose side does the government take. Gee, not with those whom might need the computers, but with Microsoft's competitors! So where is the cancer here? Now, because its competitors aren't happy, they want to question the very decision of the court and the precepts of the decision in the Microsoft case. Come on; let's get our thinking hats on straight. What is deciding the decision of all the Microsoft issues? Is it poor competition, or poor politics? What is the cancer here? Has government killed the cancer, or is it feeding the cancer? Perhaps the government needs to take a couple of steps back and really figure out what is going on.

Why can't half the automation equipment purchased by Microsoft come from its competitors like Linux, Sun or BeOS. I can answer that! It's because it doesn't meet the need of the common user. Duh? Apple is a niche product—or at least its in many of the schools. Gee, why can't Apple be called a monopoly? Perhaps the government needs to spur across-the-board automation industry growth in non-legal means. I enjoy Microsoft products and they provide jobs to millions of people in the computer industry. Moreover, Microsoft leads the industry in innovation and meeting the consumer's needs. Don't disrupt a company that helps all of us in so many needs. Moreover, I ask that you don't listen to all the voices that shout Microsoft hatred!

Being a politician or someone in political office isn't always popular. I know because I work in the Federal Government. But, we are always entitled to make good decisions based upon the best available information. Good or bad, easy or hard.

Sincerely,
Gregory Liban
6100 East Rancier Avenue
Lot #349
Killeen, TX 76543–8897

MTC–00033496

From: Michael Emery
To: Ms. Renata Hesse
Date: 1/26/02 7:43pm
Subject: Microsoft Settlement M
ichael Emery
21257 Del Oro Road
Apple Valley, Ca 92308–7746
January 26, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Michael A. Emery

MTC–00033497

From: Robert P. Clark, Jr.
To: Ms. Renata Hesse
Date: 1/26/02 9:01pm
Subject: Microsoft Settlement
Robert P. Clark, Jr.
200 W. 34th Ave., #344
Anchorage, AK 99503–3969
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Robert P. Clark, Jr.

MTC–00033498

From: emc2@vanvan.org@inetgw
Date: 1/26/02 9:09pm
Subject:
Message-ID:
<009101c1a6f0$c7e107e0$e30d389d
@redmond.corp.microsoft.com>
From: "Van Van" <emc2@vanvan.org>
To: <Microsoft.atr@usdoj.gov>
Subject: Microsoft Settlement
Date: Sat, 26 Jan 2002 21:09:21 -0800
MIME-Version: 1.0
Content-Type: multipart/alternative;
boundary="_NextPart_
000008C_01C1A6AD.B98E5370"
X-Priority: 3
X-MSMail-Priority: Normal
X-Mailer: Microsoft Outlook Express
6.00.2600.0000
X-MimeOLE: Produced By Microsoft
MimeOLE V6.00.2600.0000
This is a multi-part message in MIME format.
—=_NextPart_000
_008C_01C1A6AD.B98E5370
Content-Type: text/plain; charset="iso-8859–1"
Content-Transfer-Encoding: quoted-printable

To Whom It May Concern:

I believe that the settlement of the United States of America vs. Microsoft Corporation is in the best interest of the American public and should be accepted by the District Court. I admit that it is difficult to ascertain the minute details of the settlement. I would have preferred a document in laymen's terms published on the DOJ website that detailed the finer points of the document including the impact of said settlement for the American public. Instead, I had to gather as much information as I could from reading the briefs as well as seek out supplemental documents to reinforce my understanding.

I believe this settlement is in the best public interest for several reasons. First and foremost, I believe the settlement to be fair for all parties—restricting Microsoft from certain practices but allowing for entrepreneurial innovation so that the industry may progress unabated. The most important point to note is that we cannot stifle competitiveness nor creativity while we reign in behaviors and actions. We must ensure that the consumer benefits from this settlement and I believe that they do.

Second, this case has gone on for quite a while and consumes resources, both from the US government as well as Microsoft. Putting an end to this will result in freed up resources to do other things that is beneficial to the American public. For the government, it might be diverting these millions of dollars towards litigation to other areas such as Homeland Security. For Microsoft, it may mean diverting these same legal fees to perhaps making better products or reducing cost for the consumer. On both fronts, the benefits are significant and immediately impactful.

Third, in the light of recent events, including the burst of the Internet bubble, the US economy weakening, the September 11th attack, the War Against Terrorism, and Homeland Security, the American public has enough to deal with. When one compares the September 11th incident with this case, there is absolutely no comparison. Though this case is very important and does affect the American public, recent events have relegated this case to a second class citizen at best, which is a good thing considering the more important and urgent needs of this country. Continuing this case will only burden the American public and interest. Putting this down and allowing the country to focus on other more important issues will give this country more of a chance to quickly get back on our feet and move on from the many disappointments of these past few years and hopefully move into a much brighter and prosperous era for us all.

It no longer matters who is right and who is wrong. What matters is that at the end of the day, the American interest is preserved and the American public is protected. I believe the best way to do this is to move on from this case—accept the settlement and move on.

As an ancient Chinese saying illustrates—what happens when two boulders try to prove to each other that one is stronger by crushing people between them? It didn't really matter in the end—no one was alive to talk about it.

All jest aside, I hope this illustrates that ultimately we are all working for the best of the American people. Let's make sure that happens. Let's focus on the really important things in life. Let's move on from this matter.

Humbly yours,

Van C. Van

MTC-00033499

From: Marjorie Stump
To: Ms. Renata Hesse
Date: 1/26/02 9:14pm
Subject: Microsoft Settlement
Marjorie Stump
917 Hwy 20 N
Thermopolis, WY 82443
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Mrs. Marjorie Stump

MTC-00033500

From: Marjorie Ryan
To: Ms. Renata Hesse
Date: 1/26/02 10:03pm
Subject: Microsoft Settlement
Marjorie Ryan
1448 Larson Road
Roseburg, OR 97470-9773
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Marjorie L. Ryan

MTC-00033501

From: Jane Williford
To: Ms. Renata B. Heese
Date: 1/26/02 10:50pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Jane Williford
142 Aycock Drive
Goldsboro, NC 27530–9500
CC: Citizens for a Sound Economy

MTC-00033502

From: Eleanor Klar
To: Atty Gen Aschccroft
Date: 1/26/02 11:51pm
Subject: RE:Microsoft Settlement
11211 E Springfield Avenue
Spokane, WA 99206
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

There has recently been a settlement to the antitrust lawsuit between Microsoft and the Department of Justice. While I do not agree with the relentless pursuit of the Microsoft Corporation, I am happy to see that a settlement has been reached. The United States government needs to move on and worry about more important issues.

Microsoft will now be working much closer and communicating much more with their competitors. They will be giving their competitors code and other information that makes-up the Windows operating system. They will also be allowing their competitors to remove Microsoft-made software from Windows, and replace it with non-Microsoft software. Enough is enough. Microsoft agreed to terms that extend well beyond what was issue in the initial suit, just for the sake of ending this senselessness. I support this settlement and would like to see it implemented as soon as possible.

Sincerely,

Eleanor Kiar

MTC-00033503

From: MARIO MARTINEZ,SR.
To: Ms. Renata Hesse
Date: 1/27/02 5:30am
Subject: Microsoft Settlement
MARIO MARTINEZ,SR.
P.O.BOX 21197
HOUSTON, TX 77226
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

MARIO MARTINEZ,SR.

MTC-00033504

From: Mtume Imani
To: Justice Department
Date: 1/27/02 7:16am
Subject: Microsoft Settlement

Dear Justice Department:

This e-mail is to add my voice to the settlement of the Microsoft case before you. The public and consumer interest has been very well served, and the time to end this costly and damaging litigation has come. I do not want the special interests to defeat the public interest in this case. The proposed settlement offers a reasonable compromise that will enhance the ability of seniors and all Americans to access the InterNet and use innovative software products to make our computer experience easier and more enjoyable.

I RAISE MY VOICE—STOP THE SELF-SERVING, PUNITIVE LOBBYING NOW. SET MICROSOFT FREE!

Member—The Seniors Coalition

MTC-00033505

From: Elisha Nall
To: Ms. Renata Hesse
Date: 1/27/02 11:00am

Subject: Microsoft Settlement
Elisha Nall
729 Mac Arthur
Wake Village, TX 75501–6163
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Elisha Nall

MTC–00033506

From: Vickie Nall
To: Ms. Renata Hesse
Date: 1/27/02 11:01am
Subject: Microsoft Settlement
Vickie Nall
729 Mac Arthur
Wake Village, TX 75501–6163
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Vickie Nall

MTC–00033507

From: Nathan Nall
To: Ms. Renata Hesse
Date: 1/27/02 11:02am
Subject: Microsoft Settlement
Nathan Nall
729 Mac Arthur
Wake Village, TX 75501–6163
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Nathan Nall

MTC-00033508

From: Richard Roullard and Shirley Roberts
To: John Ashcroft
Date: 1/27/02 11:26am
Subject: Microsoft Settlement
Richard Roullard
562 Basil Road
Oak Harbor, WA 98277
January 26, 2002
Attorney General John Ashcroft
US Department of Justice,
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As a user of Microsoft products, I'm writing to voice my support for the recent settlement reached between Microsoft and the Justice Department. I feel that the settlement is reasonable and benefits all of us. For example, Microsoft has agreed to open up its operating system to allow computer makers to remove Microsoft products and install competing products in their places. Microsoft has also agreed that they won't take any action against computer makers that choose to ship or develop competing operating systems.

Based on these facts, I encourage you to support this settlement. Ultimately, the competitive environment this settlement encourages will benefit consumers and our economy.

Sincerely,
Richard Roullard

MTC-00033509

From: Harry Moore
To: Ms. Renata Hesse
Date: 1/27/02 11:45am
Subject: Microsoft Settlement
Harry Moore
P.O.Box 2180
Atascadero, CA 93423–2180
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Harry J. Moore

MTC-00033510

From: Dorothy Jansen
To: Ms. Renata Hesse
Date: 1/27/02 1:13pm
Subject: Microsoft Settlement
Dorothy Jansen
8507 Wentworth Ave. S.
Bloomington, MN 55420–2253
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Dorothy Jansen

MTC-00033511

From: Thomas Prantner
To: Ms. Renata Hesse
Date: 1/27/02 1:30pm
Subject: Microsoft Settlement
Thomas Prantner
8350Aldrich Ave. S.
Bloomington, MN 55420-2259
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Tom Prantner

MTC-00033512

From: norman davis
To: Ms. Renata Hesse
Date: 1/27/02 1:58pm
Subject: Microsoft Settlement
norman davis
123 Marmora road
parsippany, nj 07054
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

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Sincerely,
Norman T. Davis

MTC-00033513

From: William Ransom
To: Ms. Renata Hesse
Date: 1/27/02 2:09pm
Subject: Microsoft Settlement
William Ransom
1616 Ocean Dr., Apt. 307
Vero Beach, Fl 32963
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely
W. R. Ransom

MTC-00033514

From: Walter Schmidt
To: Attorney General John Ashcroft
Date: 1/27/02 4:16pm
Subject: Microsoft Settlement
January 26, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Fax: 202–307–1454—202–616–9937
Email: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement

Dear Mr. Ashcroft:

Microsoft continues in its role as a leader in the Information Technology industry. They do this not by luck, but because they are the best at what they do. Microsoft has given us, the business user, the ability to do things we only dreamt of a decade ago. They have done this efficiently and effectively, while at the same time their products have developed a network of satisfied users.

It appears other companies are now trying to take advantage of Microsoft's current situation because they are unable to accomplish on their own what Microsoft has successfully done. To continue litigation, already agreed to by the Department of Justice, nine states and Microsoft, would prove to be a waste of time and money.

As an Information Technologies CPA, I continue to use Microsoft products as part of my day-to-day work routine. I do this after an ever continuing and exhaustive review of available products, and because I feel that they continue to be the best, the market has to offer.

The settlement currently under review is fair. Microsoft has agreed to terms that will allow other companies to be better equipped to compete. So far, the passage of time without litigation resolution has caused little harm. Nevertheless, this issue needs to be resolved before it does do serious harm to either Microsoft, the Information Technologies industry, or our country's economy. I would hope the Justice Department feels the same way, sees that the proffered settlement is indeed in the public interest, and submits its final report, recommending acceptance of the settlement.

Sincerely,
Walter C. Schmidt, CPA
383 Second Avenue
Massapequa Park, NY 11762
516.799.8300
Cc: Microsoft
FAX: 800–641–2255
Email: fin@mobilizationoffice.com
CC:Microsoft,Walter Schmidt

MTC-00033515

From: Henrietta Conway
To: Ms. Renata Hesse
Date: 1/27/02 4:31pm
Subject: Microsoft Settlement
Henrietta Conway
571 Oak Park Way
Emerald Hills, CA 94062
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Henrietta Conway

MTC-00033516

From: IAN J. PATTERSON
To: Department Of Justice
Date: 1/27/02 4:37pm
Subject: MICROSOFT SETTLEMENT

To Whom It May Concern,

YES: I firmly believe that settlement between Microsoft, the Justice Department and bipartisan groups of State Attorneys General in the original antitrust case IS in the best interest of our Great Nation.

I also believe that special interest groups/parties consumed with envy, jealousy, unearned potential personal gain, have "piled on " the anti-trust case in a most unpatriotic way. Thankfully they are a pitiful minority! The predjudiced behavior of Judge Thomas Penfield Jackson during this sad saga has been most dismaying to say the least!

The vast majority of States representing The American People want settlement!

LET'S MOVE ON !!

IT WILL BENEFIT US AND COMMUNITIES AROUND THE WORLD!!!

Sincerely,
Ian J. Patterson
3423 181st PL NE

Redmond WA 98052

(I'm NOT a Microsoft employee, but hope we restore their FULL FREEDOM TO INNOVATE REAL SOON.)

MTC-00033517

From: Donald Helgeson
To: Ms. Renata Hesse
Date: 1/27/02 5:11pm
Subject: Microsoft Settlement
Donald Helgeson
2008 Roundleaf Green
Huntsville, AL 35803–1832
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Donald V. Helgeson

MTC-00033518

From: Edwin Webster
To: Ms. Renata Hesse
Date: 1/27/02 5:42pm
Subject: Microsoft Settlement
Edwin Webster
69 Red Dog Rd.
Winthrop, WA 98862
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
E.H.Webster

MTC-00033519

From: Beverly Riese
To: Ms. Renata Hesse
Date: 1/27/02 5:48pm
Subject: Microsoft Settlement
Beverly Riese
2608 West 3rd
Hastings, Ne 68901–4615
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Beverly Riese

MTC-00033520

From: M. June Poff
To: Ms. Renata Hesse
Date: 1/27/02 6:22pm
Subject: Microsoft Settlement
M. June Poff
P.O. Box 776
Helendale, CA 92342
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
M. June Poff

MTC-00033521

From: Carl Schoettler
To: Ms. Renata Hesse
Date: 1/27/02 6:42pm
Subject: Microsoft Settlement
Carl Schoettler
1706 SE 10th Place
Cape Coral, FL 33990–4503
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Carl A. Schoettler

MTC-00033522

From: Thomas Krolosky
To: Ms. Renata Hesse
Date: 1/27/02 6:44pm
Subject: Microsoft Settlement
Thomas Krolosky
500 Rose Ave.
Long Beach, Ca 90802
January 27, 2002
Ms. Renata Hesse

U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance; the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Thomas J. Krolosky

MTC-00033523

From: Mary Mulloy
To: Ms. Renata Hesse
Date: 1/27/02 6:47pm
Subject: Microsoft Settlement
Mary Mulloy
500 Rose Ave.
Long Beach, Ca 90802
January 27, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW., Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Mary Ann Mulloy

MTC-00033524

From: Dan Marinescu
To: fin@mobilizationoffice.com@inetgw
Date: 1/27/02 6:51pm
Subject: Microsoft Settlement
Best Regards,
Dan Marinescu
CC: Microsoft ATR
Dan Marinescu
200 Button Street, Unit 64D
Santa Cruz, California 95060
January 26, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I have worked in the IT industry for several years and recently became certified as a Systems Engineer. I am very excited about my field, because it has allowed me the opportunity to grow with the rapidly changing industry. During my time in this industry I have had the opportunity to truly admire different companies for what their efforts have done to improve the IT industry. Microsoft is one such company. From the very beginning, Microsoft took the lead in the game with solid innovation that resulted in high-quality products that are easily accessible to consumers at very reasonable prices. I admire Microsoft because they exemplify success.

It is sad to see that they are now being punished for the same some success that help build the country's IT industry. This is shameful betrayal of the spirit of free enterprise! I am writing to ask that you do all that is within your power to end this matter. I believe that terms of the settlement were well reviewed, are fair, and should be formalized as soon as possible and release Microsoft to spread its wings of innovation once again. Looking at the concessions that Microsoft has already made—releasing protocols, code, and intellectual property—it is fair to assume that their will be no further antitrust violations.

So please wrap this up. The public is counting on you.

Sincerely,

Dan Marinescu

MTC-00033525

From: Swasti Sarna
To: cyrusm@harker.org@inetgw
Date: 1/27/02 7:01pm

Public input is always an important thing for major issues that serve and were meant to be made for the population. Many people think that Microsoft should not be allowed to settle with Netscape because Microsoft is constantly causing monopolies, and without finally being seriously and fairly punished, the company may be unable to ever quit their nasty habit. Netscape should sue Microsoft for a reasonable amount of money, and Microsoft should resolve Netscape's problem by performing some sort of a task for Netscape's benefit in addition to paying them money.

As you may know, many historical events have happened involving monopolies. Historical events include when AT&T controlled all phone services in the United States. People thought this was unfair so the courts split it up and new businesses formed such as Pacific Bell and long distance phone services started like Sprint and MCI. Another example of a past major monopoly was with the oil companies, which also had to be broken up. A very common one was with the railroads. The Supreme Court said, and everyone should have this perspective of benefit to the people, was: The Supreme Court established the governments right to regulate businesses and to protect public interests.? All these events had many different good ideas to resolve their problems, and monopolies with these companies never happened again. Overall, Microsoft definitely should be punished and should not be allowed to settle with Netscape.

MTC-00033526

From: Wilson Kown
To: Ms. Renata Hesse
Date: 1/27/02 7:42pm
Subject: Microsoft Settlement

Wilson Kown
25 Mission Hills Drive, SW
Cartersville, GA 30120–7451
January 27, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Wilson Kown

MTC-00033527

From: Jeff Loether
To: Microsoft ATR
Date: 1/27/02 8:12pm
Subject: Microsoft Settlement

Settle already and let's get on with it.

The only way trying to de-monopolize Microsoft would make sense is if it would also be applied to Apple which, of course, would kill the company. And it doesn't make sense. Microsoft isn't a company with a conspiracy; or a cult of some sort; it is a group of smart young people who are trying their hardest to make the computing experience as awesome as they possibly can. I am in awe at the intelligence and service that the integration of environment, application, and Internet can provide, as demonstrated with XP. Encourage competition to catch up; don't hobble the lead horse.

And, for the record, I do not own any Microsoft stock, I know nobody who works there, and can't yet imagine any way of personal gain, if Microsoft succeeds or fails.

All the Best,
Jeff Loether, President
Electro-Media Design, Ltd.
AudioVisual and Acoustical Consulting
vox: (301) 309–0110
fax: (301) 309–0039
www.electro-media.com

MTC-00033528

From: A-Valkanas@neiu.edu@inetgw
To: Microsoft ATR
Date: 1/27/02 8:15pm
Subject: Microsoft Settlement

27 Jan 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft Corporation antitrust case. I wish to state how disappointed I am in US Atty. Gen. John Ashcroft, Illinois Atty. Gen. Jim Ryan, and all the other states'' attys. general in this extremely weak and poor settlement with the Microsoft Corporation.

With their track record of poor products and their quashing of almost every possible threat to their monopoly (such as the cases with Netscape and their pending litigation against Lindows), Microsoft has acted against the public's welfare and has cost the economy great quantities of productivity. For example, assuming a user base of one million users who must endure one crash of their Microsoft OS, a 240 day work-year of 8 hour work-days and an average salary of $22,500, those unscheduled coffee breaks cost a total of over $29,000,000 per annum in lost productivity. This amount does not take into account the time needed to recreate lost works in progress or delays to customer inquiries because of the delays.

I also wish to add that I am in full agreement with the statements of Dan Kegel, located online at http://www.kegel.com/remedy/letter.html ; Jeremy P. White, CEO of CodeWeavers, Inc. located online at http://www.codeweavers.com/jwhite/tunneywine.html ; and the Free Software Foundation, located online at http://www.gnu.org/philosophy/microsoft-antitrust.html.

Any settlement with Microsoft is unsatisfactory. This company, and its management, need to be punished much more severely than this settlement possibly would.

Sincerely,
Andrew Valkanas
2523 W Farwell Ave
Chicago IL 60645

MTC-00033529

From: James Austin
To: Microsoft ATR
Date: 1/27/02 9:07pm
Subject: Microsoft Settlement

As a concerned citizen, I wish to offer comment concerning the proposed settlement of United States v. Microsoft.

I am a civilian employee of an agency of the United States Government, where my job function is the administration of a network of personal computers and the technical support of the users of those computers.

However, I offer the following comments purely as a private citizen, without the encouragement or even the knowledge of my employer.

I have been an interested observer of the computer industry in various capacities for more than twenty years, and have been professionally involved in the industry for ten. In that time I have seen the development of the industry from a perspective rather different from that usually discussed. My experience is that of someone who has directly used the technology and helped others to use the technology, working alongside both the users of that technology and others whose professional duties were similar to my own. These experiences have taught me several things which I am compelled to share.

First: The case of United States v. Microsoft is almost certainly one of the most important cases of all time, for how this is resolved will have repercussions certain to outlive anyone of this generation now participating in the actual case.

What is at stake is not merely the future practices of one corporation, or even the future structure of one industry. What is at stake is nothing less than the nature of access to information, from the individual citizen to the largest private and public institutions.

Many years ago, I heard of a Jesuit philosopher who had written about an idea he called the "knowlosphere." He imagined that as more and more information was transmitted via computer technology, there would arise around the earth a sort of "sphere of knowledge" that would surround the earth the same way the atmosphere does, and that there would come a point in which the essential sum total of all human knowledge would exist within this sphere. Furthermore, this would eventually become so important to the lives of people that it would become impossible to switch off once switched on. Though he imagined this in terms of communications satellites (the highest technology available to him at the time), I maintain that a world of personal computers all connected via the worldwide Internet is the true realization of this vision.

We must now ask ourselves this question: do we wish to allow, indeed do we dare allow, the fundamental infrastructure of human knowledge and thought to become in practice (if not directly in law) the private commercial domain of one corporation?

Second: Microsoft already monopolizes several areas of computer technology, and is working hard to monopolize others.

This point seems hardly worth discussing, because as I write this, the courts have repeatedly ruled that Microsoft is indeed a monopoly and is guilty of breaking the law. What is more interesting is that to this very day, I am unaware of any admission Microsoft has ever offered, to anyone at any time, that it has been found guilty of breaking any law. Indeed, only within the last few months has it acknowledged in any public statements that any court rulings went against it, and vaguely at that.

Third: Microsoft has proven repeatedly that it cannot be trusted even with the level of power it enjoys today.

Microsoft portrays all concern over its power and actions as solely the product of disgruntled competitors. While even that would justify intervention if the competitors were disgruntled because of actions which broke the law (as the courts have repeatedly ruled was in fact the case), what is more significant is Microsoft's actions not against its competition but against its own customers.

Consider that under the First Amendment, I have the legal right to criticize my government, perhaps even harshly so, and I may even do so in a forum sponsored by that same government. The courts have interpreted this right to extend further; for instance, I may use a telephone and still criticize whatever company provides my telephone service. But I may NOT utilize Microsoft products to criticize Microsoft. This is not a paranoid fantasy, it is a direct reading of clauses in the licenses of several of their products, which explicitly forbid one to "criticize or disparage Microsoft and/or its products and/or services." Indeed one license actually forbids the "parody" of Microsoft products and services.

Microsoft demands that companies engaged in any joint ventures waive their rights to sue Microsoft for patent infringement "even should evidence arise that such infringement has occurred." And there are more additional examples than I have time to list, of Microsoft using the courts to squelch criticism and then thumbing its nose at the courts when they issue rulings Microsoft does not wish.

We must now ask ourselves whether the interest of the people of the United States is served when one company not only has the power to behave in this manner, but actually does so, and thus far with impunity.

Fourth: Microsoft's already dangerous power is increasing.

It has been widely noted that when the Internet first began to become a household word, Microsoft largely ignored the whole phenomenon. Now that Microsoft has taken notice, their objective is nothing less than the total control of the Internet. During the time between the filing of United States v. Microsoft and today, Microsoft's plans to destroy Netscape (publishers of what was at the time overwhelmingly the most widely-used browser for the World Wide Web) have come to fruition, and they now face essentially no competition in that area.

One has to ask why Microsoft wanted to destroy Netscape so badly that they would give away a competing product for free. One reason is that control of the web browser gives one control of the choke point for information and commerce on the Internet. The other reason is that Netscape had ambitious plans to enhance their browser and ultimately to "grow the browser into an operating system of its own" which would have threatened Microsoft's monopoly. Perhaps such a scheme would have proved beneficial to the public, but it was a threat to Microsoft, and like all such threats before, could not resist Microsoft's destructive power.

Today Microsoft controls the web browser, and much evidence exists that its ultimate plan is to take control of the basic protocols that servers use to communicate with each other across the Internet itself. Once that happens they will essentially have the level of power that a company would have if they controlled all bank ATM machines, all telephones, all newspapers, and all radio and television stations. All access to information in any form from anywhere at any time would generate profit for Microsoft, and be subject to their approval.

We must now ask whether this is a desirable future for a free people. Fifth: People like me, in the trenches, have long considered Microsoft dangerous.

I could tell you so many stories. Just the jokes we tell to each other betray a deepening gloom about the future. Alas, I am facing a strict deadline for public comment and this must leave them for another time. Sixth: The proposed settlement of United States v. Microsoft is NOT sufficient.

It contains insufficient punishment for past transgressions of the law, insufficient guarantees against future transgressions of law, NO compensation for victims of those transgressions of law, and insufficient remedies for the consequences of past transgressions of law.

Much more needs to be said, but as the period for public comment is ending I must draw to a close. But I cannot urge strongly enough that this settlement NOT be accepted as is.

Sincerely,

James R. Austin

(Should this be required by law, my full address is as follows:

James R. Austin
155 Watkins Mill RD
Apt. C
Gaithersburg, MD 20879–3336)

MTC–00033530

From: Kory Hamzeh
To: Microsoft ATR
Date: 1/27/02 9:08pm
Subject: Microsoft Settlement

Please give serious consideration to the contents of: http://www.kegel.com/remedy/letter.html

Sincerely,

Kory Hamzeh
West Hills, CA

MTC–00033531

From: podoo@netins.net@inetgw
To: Microsoft ATR
Date: 1/27/02 9:10pm
Subject: Microsoft Settlement

Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Ella B Lankford
P.O. Box 266
Seneca, MO 64865–0266

MTC-00033532

From: Mary E. Daudelin
To: Microsoft ATR,Mary E. Daudelin
Date: 1/27/02 9:11pm
Subject: RE: Microsoft Settlement

Comments included in body of email, in case you don't have MS Office 2000 to read the attachment of my earlier e-mail.

Sincerely,
M. E. Daudelin
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

To paraphrase Mr. Glassman's comments pertaining to the Microsoft settlement, I also feel that AOL could better spend its time in further analysis of its own product (especially with regard to its deployment overseas) rather than in continuing to pursue this case. My own personal experience with AOL has led me to believe that full utilization of the Internet is, in fact, restricted, when using their application.

As a developer of WEB applications for research, business and educational purposes, I have utilized a variety of browsers, development tools and operating systems while producing and testing my applications. Although I use Windows NT servers and take advantage of their many development tools, such as FrontPage 2002, I have not found that the public cannot access my applications, regardless of their operating system and/or browser types (with the exception of an occasional prototype). In fact, until recently, Netscape has always been my personal choice of browser as it was the one that introduced me fully to the Internet. And SUN's StarOffice product has produced many graduate-school presentations for me.

Because Internet Explorer is so forgiving of my JavaScript scripting errors, I find that I often HAVE to make myself utilize other browsers/systems in my testing to ensure that users who do not use MS products/systems are not inundated with JavaScript errors that I have overlooked in my own code. My personal belief is that Microsoft has some very good programmers that pay attention to detail, and, as such, should not be penalized for their technical excellence.

Yes, my job would be much easier if I could convince everyone on this planet to use Microsoft Windows OS's and IE browsers, IBM ThinkPad laptop computers, the same size/resolution monitor and to access the Internet via cable or high-speed access, however, since this attitude smacks of the old telecom mentality (a black rotary phone for everyone, by God!), and because we all have our different comfort levels, I will remain silent on that subject and continue to jump back and forth between the plethora of computers/systems/browsers that I access in my testing.

In closing, I feel that Microsoft should be used as an example of what works in our economy (little, if any, debt and innovative, easily accessible business solutions at a reasonable cost). Beyond the concessions contained in the settlement agreement, nothing more should be expected or required of Microsoft at this time. I appreciate your efforts to quickly settle this case.

Sincerely,
M.E. Daudelin
File code: msu-0-return
Electronic transmission: signature on file

——Original Message——
From: Mary E. Daudelin
[mailto:marydaudelin@smyrnacable.net]
Sent: Monday, January 28, 2002 12:06 AM
To: microsoft.atr@usdoj.gov
Subject: Microsoft Settlement

Comments on the MS Case:
See attachment.
Sincerely,
M.E. Daudelin

MTC-00033533

From: Jeff Prus
To: Microsoft ATR
Date: 1/27/02 9:12pm
Subject: Accept the Current Microsoft Case Settlement

Dear Sir or Madam,

I would like my opinion to be considered for the Microsoft case. I believe the current settlement is fair and urge you to settle this case now. I believe continuation of this litigation is harmful to both the software industry and the economy.

By continuing to add features and functionality to Windows, Microsoft has advanced the PC platform while reducing the costs to the consumer. Furthermore, I believe that Microsoft's ability to add features to the operating system only creates parity with other firms that also incorporate new functionality within the operating system itself, namely Apple's OS X and various versions of Linux. I believe the states that continue to oppose the settlement are only trying to achieve a settlement windfall for Microsoft competitors within their states, however, at a significant cost to the high-tech industry and overall economy.

That being said, I do believe that Microsoft's dominance in the desktop PC operating system market creates a disadvantage for competitors and thus warrants some restrictions in order for other companies to be given a chance to compete. These include the requirement for Microsoft to include some other companies" products within Windows as an alternative to Microsoft products. This requirement is covered within the existing settlement. This continued litigation is damaging one of our countries great corporations and I believe a fair and equitable settlement has been proposed. As such, I urge you to settle this case now. The only winner in this continued litigation is the legal profession.

Thanks,
Jeff Prus
jgprus@hotmail.com
(773) 525–1969

MTC-00033534

From: MTyler3767@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:17pm
Subject: microsoft settlement
January 27, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

A settlement to the antitrust suit against Microsoft has finally been reached, and I hope that it is implemented as soon as the public comment period is over with. This proposed settlement stands to benefit everyone involved, and best of all, allows Microsoft to get back to helping the economy instead of wasting valuable time and money in court.

The economy started its downward spiral the day the suit against Microsoft was announced, and three years later we find ourselves in a recession. Did no one realize just how important Microsoft is to the economy? They provided tens of thousands of jobs to Americans across the country and to people around the globe. I hope this settlement will pave the way for the economy to get back on its feet, and with Microsoft agreeing to work more closely with its competitors, the market has to improve. I know there are many who worry weather Microsoft will adhere to the terms of the settlement, but they have no choice. An oversight committee has been set up that will monitor Microsoft's compliance with the settlement.

Everything needed to improve our economy is in place. The settlement must now be approved in order to get the ball rolling.

cc; Representative Maxine Waters
Sincerely,
Mose Tyler

MTC-00033536

From: Keith E. Folsom
To: Microsoft ATR
Date: 1/27/02 9:27pm
Subject: Microsoft Settlement

To whom it may concern,

My name is Keith Folsom. I am the Director of Systems and Communications at Pacific Lutheran University in Tacoma, Washington. I have been a computer professional since my graduation from college with a Bachelor's degree in Computer Science in 1981. I have had many roles in the field, including Software Engineer, Programmer, Systems Administrator, and manager. My desire to stay current in a field I really enjoy convinced me to enter an evening Master's program in Computer Science and Engineering at the University of Washington in 1999. I completed this program last month, graduating with a Master's degree.

I am writing this letter in order to urge you to consider more far-reaching sanctions against Microsoft than those proposed, which I feel is justified in light of the conclusion that the company is a monopoly. It is my opinion that the sanctions as proposed will do little or nothing to prevent Microsoft from continuing to use their monopoly power to crush competition and true innovation in the computing industry.

I do not believe in a government that unnecessarily interferes in the matters of industry. Free enterprise and capitalism normally self-regulate. But when a company grows too large and is no longer subject to the normal laws of economics, a government has the duty to reign this company in. As I've watched Microsoft gain a strangle-hold on the computing industry, I've also seen my choice of products and solutions dwindle. It frankly scares me. And Microsoft's latest attempt to control the Internet with their .NET initiative convinces me that they have not learned any lessons from the long battle against the Justice Department in the anti-trust case. They are determined to own it all.

Once again, I urge you to consider stronger measures against Microsoft, up to and including splitting the company into smaller, more fairly competitive units. I believe such measures are the only way to prevent the computing industry from sinking into a mire of mediocrity, with no true choice of solutions for computing problems. This is what monopolies do unless they are stopped. Please stop Microsoft.

Sincerely,
Keith Folsom
Keith E. Folsom
EMAIL—folsomke@plu.edu
Director, Systems & Communications
folsom@journeyman.org
Pacific Lutheran University
WWW—http://www.plu.edu/folsomke
Tacoma, Washington
PGP—<homepage>/pgp.txt

MTC-00033537

From: Peter Hollings
To: Microsoft ATR
Date: 1/27/02 9:27pm
Subject: Microsoft Settlement

I hold an advanced degree from the Sloan School of Management, Massachusetts Institute of Technology in the areas of information technology and finance. I have over 30 years experience in these fields, during which I have developed a deep understanding of the processes of competition and innovation in the computer software industry. I first became aware of Microsoft around 1982 and have been a constant observer of that company's business practices over the succeeding years. My purpose in writing is to express my opposition to the proposed settlement that has been reached by the US Department of Justice and Microsoft concerning their antitrust suit. Not being trained in the formalities of the legal profession, I am writing nevertheless in the hopes that you will take notice of my objections as an American citizen, affected by this settlement, and despite their probable formal incorrectness. I make this expression on my personal behalf, although I firmly believe it also reflects the interests of the businesses that I have presently or formerly been associated with in either employment or consulting roles. I firmly believe and respectfully request that the Court consider:

1. That as a past and potential future purchaser of Microsoft products, and as user of computing systems generally, that no aspect of the proposed settlement is in my interest.

2. That I firmly believe that approval by the Court of the proposed settlement would be bad for consumers, bad for business, bad for innovation, bad for the beneficial functioning of market economics, bad for constitutional rights, such as privacy and security, and it would materially and adversely impair the public's perception of government integrity.

3. I state my belief that the proposed settlement is so thoroughly flawed in every aspect that I respectfully request that the Court reject it from further consideration.

4. I respectfully request that the court give full consideration to the filing by the American Antitrust Institute captioned as COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF.

This complaint sets forth numerous instances in which both the DOJ and Microsoft have failed to comply with specific disclosure requirements of the Antitrust Procedures and Penalties Act ("Tunney Act"). Most importantly are the failure of the DOJ to provide an accounting of how the settlement reached is in the public interest and the failure of Microsoft to fully identify its contacts with the government relative to the settlement. I will note here that the public press includes numerous articles relative to Microsoft's lobbying activities relevant to the antitrust settlement decision, none of which were included as required in Microsoft's report in compliance of the reporting requirement. This combination of circumstances gives the appearance that the public institutions of the American people are being manipulated against their interests and in a concealed way.

5. I respectfully request that the Court give full consideration to these circumstances identified above and fully investigate and correct any improprieties in the functioning of our government in the interest of preserving the American people's confidence in both the Executive and Judicial branches of our government. The proposed settlement is such an egregiously bad agreement and so contrary to the public interest that I cannot conceive that it was honestly arrived at.

Thank you,
Peter Hollings
Atlanta, GA 30342
phollings@alum.mit.edu

MTC-00033538

From: James Tracy, Ph.D.
To: Microsoft ATR
Date: 1/27/02 9:31pm
Subject: Microsoft Settlement

Please settle the Microsoft Case. It seems clear to me and many of my friends that the settlement is in the public interest. Only competitors can level the specious argument that Microsoft's innovation is an antitrust violation. Let's compete in the market place rather than litigate in the courts.

Dr. Jim Tracy

MTC-00033539

From: Kevin Bullock
To: Microsoft ATR
Date: 1/27/02 9:35pm
Subject: Microsoft Settlement

To whom it may concern:

The proposed settlement with Microsoft is woefully inadequate. It will not change their behavior as a corporation nor provide any meaningful benefit to the public interest. Please refer to Dan Kegel's comments at the following address: http://www.kegel.com/remedy/remedy2.html

Also please take into consideration Ralph Nader and James Love's comments at: http://www.cptech.org/at/ms/rnjl2kollarkotellynov501.html

Thank you.

Pacem in terris / Mir / Shanti / Salaam / Heiwa

Kevin R. Bullock

MTC-00033540

From: Margaret C Worsham
To: Microsoft ATR
Date: 1/27/02 9:37pm
Subject: Microsoft Settlement

I, Margaret C. Worsham, strongly urge the Justice Department to accept the Microsoft Settlement.

The consumer interest has been well served and the time has come to end this costly and damaging litigation

MTC-00033542

From: Paul Shryer
To: Microsoft ATR
Date: 1/27/02 9:42pm
Subject: Microsoft Settlement

I am writing to express my disagreement with the proposed settlement between US DOJ and Microsoft.

I am a Information Technology Professional who works on a daily basis with Microsoft software and license agreements. There are many problems I have noticed with the Final Judgement proposed by the DOJ. I shall mention the two greatest issues I have with this settlement.

1. A provision is included to "prevent Microsoft from using Anti-competitive practices against OEM who load competing practices." There is a big loophole in this provision unfortunately. It does not prevent Microsoft from charging a set price to all OEMs and then providing discounts and rebates to OEMs that sell only Microsoft products or that help Microsoft extend its monopoly into additional markets. Several companies currently use similar agreements and programs. It would take little effort for Microsoft to adopt similar practices.

2. This proposed final judgement does not seem to have any sort of enforcement. While it is true that the proposal calls for a three person panel to review the activities of Microsoft I seen nothing that empowers the panel to do anything more than recommend to Microsoft management. They do not seem to have any real power to overrule management and prevent Microsoft from undertaking anti-competitive practices.

Paul Shryer
Network Technician
Duluth, MN

MTC-00033543

From: Mark Hinds
To: Microsoft ATR
Date: 1/27/02 9:43pm
Subject: Microsoft Settlement

The proposed settlement fails to restore or protect competition in the PC OS market place. It seems to legitimize MS's monopoly and places far to much discretion in MS's hands. One need only apply the following simple test. If MS agrees to something then it must be good for MS. MS has agreed to this settlement and therefore the settlement must be good for MS. If the settlement did protect and foster future competition then MS would not agree to it. It is simply a fact that MS will have to be ordered to do anything of substance to remedy its abuses. It is very disturbing that the DOJ has opted for expedience in place of justice and public benefit. With real competition the price of PC operating software would be 1/10th of today's MS prices, and quality (i.e. robustness and security) would be years ahead of MS's current quality.

MS used its PC OS dominance to extinguish Netscape. It has been found that this was done deliberately to protect its PC OS monopoly. MS must not be allowed to benefit from this illegal conduct and must be prevented from repeating such conduct in the future. The proposed settle makes no effort to deprive MS of any benefits it accrued as a result of illegal conduct, does nothing to mitigate the effects of the conduct, and makes only a sheepish effort to prevent it in the future.

I strongly urge the court to reject this settlement and hold proper public hearings to find an effective remedy. Further, I see the only effective and workable remedy to be structural. It will not be possible to enforce conduct remedies with MS. It has not worked in the past and will not work in the future.

Mark Hinds
Concerned US Citizen
Senior SW Engineer
Edmonds WA 98020

MTC-00033544

From: William Usim
To: Judge Kollar-Kotelly
Date: 1/27/02 9:43pm
Subject: Microsoft Settlement

Judge Kollar-Kotelly,

As a consumer I would like to comment on the proposed Microsoft settlement. I believe that Judge Jackson had the only remedy that would aid consumers.. I would prefer to purchase my computer's operating system separate from any applications. I would like to be able to select applications that I find have the features I need without them being included in the operating system.

I presently run both Windows 98 and OS/2.

Thank you,
William Usim

MTC-00033545

From: john paulson
To: Microsoft ATR
Date: 1/27/02 9:47pm
Subject: Microsoft Settlement

Greetings,

I—oppose—the proposed settlement in the Microsoft anti-trust case for the following reasons:

The Microsoft Office suite is one reason for the entrenchment of the Windows operating system on personal computers. The lack of viable non-Microsoft equivalents to MS Office is one source of that entrenchment.

Document formats are descriptions of the files produced by the Microsoft Office suite of products (MS Word, MS Excel, MS Powerpoint).

Document formats are distinct from APIs. Nowhere is there a requirement that Microsoft document and freely disclose the document formats used by their office products.

Because the document formats are not available, developers of products wishing to inter-operate with or compete with those of Microsoft Office must reverse engineer the document format. Besides being time consuming, this is an error-prone process. The resulting products fail to work as well with the documents. In addition, changes made by Microsoft to those document formats when new versions of Microsoft products are released require non-Microsoft to once again perform reverse engineering. This delays the release of competing products, further cementing Microsoft's entrenchment in office productivity applications.

THEREFORE:

Microsoft must document the formats of files produced by their office productivity applications.

Microsoft must make that documentation freely available, so that non-Microsoft products can read and write documents produced by Microsoft's office productivity applications.

And, Microsoft must release the document format concurrently, if not prior to, the release of newer versions of Microsoft's office productivity applications.

Section III(J)(2) contains some very strong language against not-for-profits. Specifically, the language says that it need not describe nor license API, Documentation, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business: "...(c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, ..."

(The above quotation is from http://www.pbs.org/cringely/pulpit/pulpit20011206.html) As that article states, Microsoft faces competition from open source software, such as Linux, FreeBSD and Samba. Microsoft should not be allowed to forbid disclosure to asymmetric threats to its dominance.

THEREFORE:

Microsoft should release the API, Documentation and Communications Protocols to all who ask, or make it freely available (by placing on their website, www.microsoft.com). This will in no way hinder Microsoft's ability to innovate and develop new products and combinations of products, but it will allow non-Microsoft developers to inter-operate with Microsoft products.

Microsoft has proposed deploying many millions of dollars worth of computers and (Microsoft) software to (K–12) schools. This should be rejected out of hand. Currently, the only meaningful competition Microsoft has in the K-12 education marketplace is Apple Computer. Were Microsoft to —sell— computers running Microsoft software to schools at discounts of 80 to 90%, it would be viewed as an anti-competitive action by a monopolist: dumping. Giving it away can only be worse, (mega-dumping?).

THEREFORE:

Microsoft should not be allowed to donate computers and software. If Microsoft wishes to aid schools in this wise, it may donate —money—and allow the educators to decide how to spend it on computers and software.

Sincerely,
John Paulson

MTC-00033546

From: Jeff Rehbein
To: Microsoft ATR
Date: 1/27/02 9:55pm
Subject: Microsoft Settlement
January 27, 2002

To Whom it May Concern:

In accordance with the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case. I believe that there are many problems with the proposed settlement. As shown by Dan Kegel's open letter (http://www.kegel.com/remedy/remedy2.html), there are so many holes in the settlement that it is essentially useless. However, I will focus my comments on a specific group of actions by Microsoft that affect my work directly.

I work as a Macintosh game developer. My work entails both porting games originally written for the Microsoft Windows platform to run on the Macintosh platform, and writing original games for the Macintosh platform. In the following paragraphs, I will show how Microsoft's anticompetitive actions have harmed (and are continuing to harm) me, my company's customers, and the customers of virtually all developers of games for the Macintosh.

In 1992, OpenGL was introduced as an open standard application programming interface (API) for 2D and 3D graphics. Over the years, it has gained wide adoption by operating system vendors (OSV) and graphics sub-systems hardware vendors (GSHV). Seeing that adopting OpenGL would increase the number of games available for the Windows platform, Microsoft adopted it. However, Microsoft only adopted it because it didn't have a competing product.

As Microsoft has done time and time again, it quickly turned out it's own version of someone else's innovation. In this case (as in most cases), it's version (Direct3D) was nowhere near as good as the original. However, Microsoft tied it to Windows (still on the same pattern) and to its development environment and some developers used it. Recently, Direct3D has became good enough to compete with OpenGL. So what did Microsoft do? It removed OpenGL support from Windows XP before release—support that was already there. OpenGL can still be used, but the support has to be added by each GSHV, seriously complicating the situation.

Removal of OpenGL support from Windows harms several groups of people:

1. Developers who know and wish to use OpenGL in a Windows application.
2. Developers who want to write 3D (and 2D) applications that can be compiled for Windows and other operating systems from one codebase.
3. Developers who port applications originally written for Windows to run on other operating system (the original application may have been written with

OpenGL under different circumstances, making it far easier to port)

4. In the long run, other OSVs that depend on OpenGL will likely be harmed. This is because usage of OpenGL will drop off, which will lead to a stagnation in the OpenGL standard.

As if removing OpenGL support from Windows wasn't enough, Microsoft recently purchased key patents from Silicon Graphics, Inc. that may give it even more ammunition against the competing, open standard. I can't say for sure what Microsoft will do with this new power, but given its past history I think it's a sure bet that it will be bad for OpenGL, and by extension, bad for developers and consumers. One company should not be able to so negatively affect an open standard. Unfortunately, the proposed settlement does nothing to prevent this sort of activity. Microsoft also hurts all developers who port Windows games to the Macintosh by keeping all DirectX APIs usable on Windows alone. Microsof routinely changes the API calls so that developers can't make a "glue library" (a glue library is used to easily convert calls to one API to calls to different API) that can keep being used in each new project. There is no need to so routinely change the actual interface calls of APIs. Other OSVs do everything they can to keep those calls the consistent. Doing otherwise would break compatibility and drive away developers. Only a company with a monopoly could do this and survive.

One DirectX API in particular gives port developers trouble—DirectPlay. DirectPlay is an API that makes it relatively easy to add networking features to a game. Because of the lack of documentation of the internal message structure, any port of a game originally written using DirectPlay cannot communicate with the original version. This relegates users of the ported version to a second-class status. Although technically possible to reverse-engineer the protocol, Microsoft actively thwarts such attempts. The one known instance where the protocol was reverse-engineered and used in a product (which took 6 months), Microsoft promptly overhauled the protocol and released a new version which completely broke the compatibility.

Microsoft's actions with the DirectX API serve solely to strengthen the applications barrier-to-entry, even at the expense of their own developers. Unfortunately, the proposed settlement does absolutely nothing to alleviate this or any problems concerning this barrier. The unfortunate truth of the matter is that there is no remedy for the above problems short of separating the OS business from the rest of Microsoft. As show in the previous reference to Dan Kegel's open letter and in my own, the proposed settlement will do little to limit Microsoft's anticompetitive behavior. It would be a grievous waste of taxpayer money if this settlement was the end result of the case. I implore you to reconsider this course of action.

Thank you for your time in considering this matter.

Sincerely,

Jeffrey Rehbein Macintosh Games Developer

MTC-00033547

From: paul podnar
To: Microsoft ATR
Date: 1/27/02 9:56pm
Subject: Microsoft settlement

I do not believe that the proposed remedies represent what is in the best interest of the people or the computer industry. My company has been damaged by the illegal workings of Microsoft and so have many others in the world.

The entire Apple computer platform and Motorola has been damaged by the monopolistic practices and pressure put on Apple to stop certain developments. Netscape went from a majority player in the browser field to a minority player and almost bankrupt. Java was corrupted by the efforts of Microsofts J++ development and not Microsoft is after the internet with their .Net strategy which was really built upon Netscapes efforts.

Microsofts efforts also misrepresent the stability and security of all their operating systems and application programs. Many individuals and businesses have been damaged due to lost work and downtime caused by the low quality standards of the Microsoft software. My remedies would include:

1. A payment to Netscape/AOL for the market stolen by Microsofts free browser. This might be one half of current estimated Internet explorer users times about 29 dollars for the people that would have purchased a Netscape product.

2. A major free update of Windows 98 and the Office program which would run on the computers purchased by businesses in the 1998 year which would work as advertised and be much more stabile.

3. A payment made to Sun for damages done to the JAVA platform

4. A payment made to Apple computer for the damage to the internal development of software which is known in the industry including Quicktime and Apple Works.

5. The inclusion of Quicktime as the default Windows Media Player/ Authoring medium to generally further the multimedia capabilities of millions of Windows users.

6. The inclusion of firewire support on all Windows desktops to further the advance of this quality high speed Apple bus technology.

7. Finally, a public admission of guilt from Bill Gates as to his involvement in the above matters and a media broadcast of the trial findings and testimonies key industry and Microsoft personnel. I would find the truth of this case much more interesting than the OJ Simpson trial and much more valuable to the industry, the populace and history.

Thank you for this forum to come forward and for a small part in the process of Justice.

Paul j. Podnar
President
Accommodata Corporation

MTC-00033548

From: Kent Rosenkoetter
To: Microsoft ATR
Date: 1/27/02 9:58pm
Subject: Microsoft Settlement

As a graduate student in computer science (University of North Carolina—Chapel Hill) I cannot help but be aware of the Microsoft anti-trust case. And while I believe it to be one of the most important cases for the computer industry in years, I tend to avoid dwelling on it because all I can feel is frustration. Microsoft has:

1. Used their OS monopoly and OEM agreements to prevent any computer manufacturer from selling dual-boot systems, effectively killing BeOS and incredibly slowing the spread of other OSes, particularly Free Software and Open Source OSes.

2. Used their Windows OS to spread Internet Explorer and Outlook Express, making the entire world suceptible to hundreds of viruses that do not work on any other browser/email client. This costs American business alone billions of dollars every year.

3. Many other similarly disgusting actions I do not need to list because I know many of my colleagues have already done so in detail.

My frustration stems from the proposed settlement. First, that the breakup of Microsoft did not take place. Though I do not believe a mere two pieces would have been sufficient, it would at least have shown the public that the government is willing to mete out some serious punishment for such flagrantly illegal behavior. Second, that such a puny settlement would be proposed and even endorsed by members of the government. The settlement does not adequately restrict MS's future behavior, it leaves huge loopholes for exploitation, and it for the most part neglects the concept of compensation. While I believe the settlement may have been negotiated in good faith by the prosecutors, the final agreement does not account for the severity of the crimes or for MS's habit of exploitation and arrogance.

Actually, I do not believe that any settlement negotiated with Microsoft will be in the public interest. Microsoft's lawyers will not agree to anything that will seriously curtail MS's activities, and MS's activities are entirely centered around control of all aspects of computing. No, that is not an overzealous fanatical statement. That is a direct extrapolation of the past trends that led to MS's current monopolies in operating systems, office software, and web browsers, extended to current plans like .NET and subscription-based software licensing. Any final judgement capable of effectively affecting Microsoft will never be agreed to by Microsoft.

This email is meant to express extreme displeasure with the proposed settlement. It is not meant to offer possible alterations for the reason above. Though my original thought when I learned of the breakup Judge Jackson ordered was "Three companies. Operating Systems, Applications, and Web Services." It seems that won't happen now. If you truly want an effective solution, force Microsoft to pay damages to every person and business that is a victim of a Microsoft-only virus. That will not eliminate their monopolies or promote competition for the future, but it will certainly take away their financial gain from their illegally acquired monopolies. It will also make the millions that have been victims of the serious problems in Microsoft software feel a little better.

Kent Rosenkoetter
Graduate Student
University of North Carolina at Chapel Hill

MTC–00033550

From: matchx70@hhotmail.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:01pm
Subject: Microsoft Settlement

A single minded focus of a great company like Microsoft—to simplify the computing experience, and making IT affordable to a common man—has really been a path breaking achievement of the 20th century. Any adverse judgement will only harm the end-consumer, who will be forced to cough up money for the most essential of features & innovations. Growth & well-being of Microsoft is essential to foster competition and health of IT industry not only in the U.S., but of the economy world-wide.

CC:matchx70@hhotmail.com@inetgw

MTC–00033551

From: James Carter
To: Microsoft ATR
Date: 1/27/02 10:07pm
Subject: Microsoft Settlement

DOJ,

The proposed settlement is NOT in the publich interest.., it is ineffective and has large loopholes.

My name is James Michael Carter. I am a real person working in the computer industry (programmer) who can tell story after story of microsoft abuses. I have followed and complained about Microsoft abuses since the early 90's (before much of their behavior was successfully brought to the attention of anti-trust enforcers). (real person in contrast to Microsoft's fraudulant "astroturf" fake citizen's responses which have been at least several times caught!) I am very much against the proposed settlement. It is not in the public interest. As a start, I advocate the changes proposed at: http://www.kegel.com/remedy/remedy2.html with further resources at: http://www.kegel.com/remedy/ Also I echo Ralph Nader's criticisms: http://www.cptech.org/at/at/rnj12kollarkotellynov501.html

To highlight some general problems, there are not protections for Non-MS operating systems to get hold of technical interoperability details and API's in order to build compatible and/or competing products and systems. Further, MS should not be allowed to buy technology companies.., they absorb and kill off competition and gain beach-heads ensuring the next big thing will be in their controls—leveraged off their existing stranglehold and $36 billion bank account. Profits they did not mine from the ground, but taken off the backs of consumers!! Microsoft yells how all they want to do is innovate and compete * * * yet their behaviour and snubbing of the law and our courts show their words are as trustworthy as their products" security. Make MS publish any and ALL API's, protocols, and file formats 3 months before any distribution so others may compete with them (as they profess to want).

Prevent them from buying any other companies (to make them compete and—innovate as they claim they want to do. Make them publish all their source code.

Microsoft wants to innovate and—compete— Well then make them do exactly that * * *—Microsoft's history shows they do all to NOT have to compete* * * So, let's finally make them do what they CLAIM is all they want to do * * * The public interest requires it.

I also think microsoft should be broken up by product lines. Structural remedies are often only remedy to fix where company shows in its history to ignore consent decrees and have a penchant for not complying and for litigating (delaying until the damage is already done) (years and years now* * *).

I am a modestly self-employed programmer, who has personally suffered and seen the abuses at the hands of Microsoft. Please don't let the average folks down.

I would help you with new remedies or evaluation of such in any way I can.

sincerely,
James Carter
221 Hosea Ave. Apt. 2
Cincinnati, Ohio 45220

MTC–00033551—0002

(513) 559–9701
jcarter9@fuse.net

I attach for completeness the kegal analysis remedy fixes (which I endorse and propose as well): http://www.kegel.com/remedy/remedy2.html

On the Proposed Final Judgment in United States v. Microsoft

Contents

Introduction
Understanding the Proposed Final Judgment
How should terms like "API", "Middleware", and "Windows OS" be defined?
How should the Final Judgment erode the Applications Barrier to Entry?
How should the Final Judgment be enforced?
What information needs to be released to ISVs to encourage competition, and under what terms?
Which practices towards OEMs should be prohibited?
Which practices towards ISVs should be prohibited?
Which practices towards large users should be prohibited?
Which practices towards end users should be prohibited?
Is the Proposed Final Judgment in the public interest?
Strengthening the PFJ
Correcting the PFJ's definitions
Release of Information
Prohibition of More Practices Toward OEMs
Summary

Introduction

As a software engineer with 20 years" experience developing software for Unix, Windows, Macintosh, and Linux, I'd like to comment on the Proposed

Final Judgment in United States v. Microsoft.

According to the Court of Appeals ruling, "a remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct", to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future" (section V.D., p. 99).

Attorney General John Ashcroft seems to agree; he called the proposed settlement "strong and historic", said that it would end "Microsoft's unlawful conduct," and said "With the proposed settlement being announced today, the Department of Justice has fully and completely addressed the anti-competitive conduct outlined by the Court of Appeals against Microsoft."

Yet the Proposed Final Judgment allows many exclusionary practices to continue, and does not take any direct measures to reduce the Applications Barrier to Entry faced by new entrants to the market. The Court of Appeals affirmed that Microsoft has a monopoly on Intel-compatible PC operating systems, and that the company's market position is protected by a substantial barrier to entry (p. 15).

Furthermore, the Court of Appeals affirmed that Microsoft is liable under Sherman Act ? 2 for illegally maintaining its monopoly by imposing licensing restrictions on OEMs, IAPs (Internet Access Providers), ISVs (Independent Software Vendors), and Apple Computer, by requiring ISVs to switch to Microsoft's JVM (Java Virtual Machine), by deceiving Java developers, and by forcing Intel to drop support for cross-platform Java tools.

The fruits of Microsoft's statutory violation include a strengthened Applications Barrier to Entry and weakened competition in the Intel-compatible operating system market; thus the Final Judgment must find a direct way of reducing the Applications Barrier to Entry, and of increasing such competition.

In the following sections I outline the basic intent of the proposed final judgment, point out areas where the intent and the implementation appear to fall short, and propose amendments to the Proposed Final Judgment (or PFJ) to address these concerns.

Please note that this document is still evolving. Feedback is welcome; to comment on this document, please join the mailing list at groups.yahoo.com/group/ms-remedy, or email me directly at dank-ms@kegel.com.

Understanding the Proposed Final Judgment

In crafting the Final Judgment, the judge will face the following questions:

How should terms like "API", "Middleware", and "Windows OS" be defined?
How should the Final Judgment erode the Applications Barrier to Entry?
How should the Final Judgment be enforced?
What information needs to be released to ISVs to encourage competition, and under what terms?
Which practices towards OEMs should be prohibited?
Which practices towards ISVs should be prohibited?
Which practices towards large users should be prohibited?
Which practices towards end users should be prohibited?

Here is a very rough summary which paraphrases provisions III.A through III.J and VI. of the Proposed Final Judgment to give some idea of how the PFJ proposes to answer those questions:

PFJ Section III: Prohibited Conduct

Microsoft will not retaliate against OEMs who support competitors to Windows, Internet Explorer (IE), Microsoft Java (MJ), Windows Media Player (WMP), Windows Messenger (WM), or Outlook Express (OE). Microsoft will publish the wholesale prices it charges the top 20 OEMs (Original Equipment Manufacturers) for Windows.

Microsoft will allow OEMs to customize the Windows menus, desktop, and boot sequence, and will allow the use of non-Microsoft bootloaders. Microsoft will publish on MSDN (the Microsoft Developer Network) the APIs used by IE, MJ, WMP, WM, and OE, so that competing web browsers, media players, and email clients can plug in properly to Windows. Microsoft will license on reasonable terms the network protocols needed for non-Microsoft applications or operating systems to connect to Windows servers.

Microsoft will not force business partners to refrain from supporting competitors to Windows, IE, MJ, WMP, WM, or OE. (Roughly same as F above.)

Microsoft will let users and OEMs remove icons for IE, MJ, WMP, WM, and OE, and let them designate competing products to be used instead. Microsoft will license on reasonable terms any intellectual property rights needed for other companies to take advantage of the terms of this settlement.

This agreement lets Microsoft keep secret anything having to do with security or copy protection.

PFJ Section VI: Definitions

"API" (Application Programming Interface) is defined as only the interfaces between Microsoft Middleware and Microsoft Windows, excluding Windows APIs used by other application programs. "Microsoft Middleware Product" is defined as Internet Explorer (IE), Microsoft Java (MJ), Windows Media Player (WMP), Windows Messenger (WM), and Outlook Express (OE). "Windows Operating System Product" is defined as Windows 2000 Professional, Windows XP Home, and Windows XP Professional.

The agreement can be summed up in one breath as follows: Microsoft agrees to compete somewhat less vigorously, and to let competitors interoperate with Windows in exchange for royalty payments. Considering all of the above, one should read the detailed terms of the Proposed Final Judgment, and ask one final question:

Is the Proposed Final Judgment in the public interest?

In the sections below, I'll look in more detail at how the PFJ deals with the above questions.

How should terms like "API", "Middleware, and "Windows OS" be defined?

The definitions of various terms in Part VI of the PFJ differ from the definitions in the Findings of Fact and in common usage, apparently to Microsoft's benefit. Here are some examples:

Definition A: "API"

The Findings of Fact (? 2) define "API" to mean the interfaces between application programs and the operating system. However, the PFJ's Definition A defines it to mean only the interfaces between Microsoft Middleware and Microsoft Windows, excluding Windows APIs used by other application programs. For instance, the PFJ's definition of API might omit important APIs such as the Microsoft Installer APIs which are used by installer programs to install software on Windows.

Definition J: "Microsoft Middleware"

The Findings of Fact (? 28) define "middleware" to mean application software that itself presents a set of APIs which allow users to write new applications without reference to the underlying operating system. Definition J defines it in a much more restrictive way, and allows Microsoft to exclude any software from being covered by the definition in two ways:

By changing product version numbers. For example, if the next version of Internet Explorer were named "7.0.0" instead of "7" or "7.0", it would not be deemed Microsoft Middleware by the PFJ.

By changing how Microsoft distributes Windows or its middleware. For example, if Microsoft introduced a version of Windows which was only available via the Windows Update service, then nothing in that version of Windows would be considered Microsoft Middleware, regardless of whether Microsoft added it initially or in a later update. This is analogous to the loophole in the 1995 consent decree that allowed Microsoft to bundle its browser by integrating it into the operating system.

Definition K: "Microsoft Middleware Product"

Definition K defines "Microsoft Middleware Product" to mean essentially Internet Explorer (IE), Microsoft Java (MJ), Windows Media Player (WMP), Windows Messenger (WM), and Outlook Express (OE). The inclusion of Microsoft Java and not Microsoft.NET is questionable; Microsoft has essentially designated Microsoft.NET and C# as the successors to Java, so on that basis one would expect Microsoft.NET to be included in the definition.

The inclusion of Outlook Express and not Outlook is questionable, as Outlook (different and more powerful than Outlook Express) is a more important product in business, and fits the definition of middleware better than Outlook Express.

The exclusion of Microsoft Office is questionable, as many components of Microsoft Office fit the Finding of Fact's definition of middleware. For instance, there is an active market in software written to run on top of Microsoft Outlook and Microsoft Word, and many applications are developed for Microsoft Access by people who have no knowledge of Windows APIs.

Definition U: "Windows Operating System Product"

Microsoft's monopoly is on Intel-compatible operating systems. Yet the PFJ in definition U defines a "Windows Operating System Product" to mean only Windows 2000 Professional, Windows XP Home, Windows XP Professional, and their successors. This purposely excludes the Intel-compatible operating systems Windows XP Tablet PC Edition and Windows CE; many applications written to the Win32 APIs can run unchanged on Windows 2000, Windows XP Tablet PC Edition, and Windows CE, and with minor recompilation, can also be run on Pocket PC. Microsoft even proclaims at www.microsoft.com/windowsxp/tabletpc/tabletpcqanda.asp: "The Tablet PC is the next-generation mobile business PC, and it will be available from leading computer makers in the second half of 2002. The Tablet PC runs the Microsoft Windows XP Tablet PC Edition and features the capabilities of current business laptops, including attached or detachable keyboards and the ability to run Windows-based applications." and Pocket PC: Powered by Windows

Microsoft is clearly pushing Windows XP Tablet PC Edition and Pocket PC in places (e.g. portable computers used by businessmen) currently served by Windows XP Home Edition, and thus appears to be trying to evade the Final Judgment's provisions. This is but one example of how Microsoft can evade the provisions of the Final Judgment by shifting its efforts away from the Operating Systems listed in Definition U and towards Windows XP Tablet Edition, Windows CE, Pocket PC, X-Box, or some other Microsoft Operating System that can run Windows applications.

How should the Final Judgment erode the Applications Barrier to Entry?

The PFJ tries to erode the Applications Barrier to Entry in two ways: By forbidding retaliation against OEMs, ISVs, and IHVs who support or develop alternatives to Windows.

By taking various measures to ensure that Windows allows the use of non-Microsoft middleware.

A third option not provided by the PFJ would be to make sure that Microsoft raises no artificial barriers against non-Microsoft operating systems which implement the APIs needed to run application programs written for Windows. The Findings of Fact (?52) considered the possibility that competing operating systems could implement the Windows APIs and thereby directly run software written for Windows as a way of circumventing the Applications Barrier to Entry. This is in fact the route being taken by the Linux operating system, which includes middleware (named WINE) that can run many Windows programs.

By not providing some aid for ISVs engaged in making Windows-compatible operating systems, the PFJ is missing a key opportunity to encourage competition in the Intel-compatible operating system market. Worse yet, the PFJ itself, in sections III.D. and III.E., restricts information released by those sections to be used "for the sole purpose of interoperating with a Windows Operating System Product". This prohibits ISVs from using the information for the purpose of writing operating systems that interoperate with Windows programs.

How should the Final Judgment be enforced?

The PFJ as currently written appears to lack an effective enforcement mechanism. It does provide for the creation of a Technical Committee with investigative powers, but appears to leave all actual enforcement to the legal system.

What information needs to" be released to ISVs to encourage competition, and under what terms?

The PFJ provides for increased disclosure of technical information to ISVs, but these provisions are flawed in several ways:

1. The PFJ fails to require advance notice of technical requirements Section III.H.3. of the PFJ requires vendors of competing middleware to meet "reasonable technical requirements" seven months before new releases of Windows, yet it does not require Microsoft to disclose those requirements in advance. This allows Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

2. API documentation is released too late to help ISVs

Section III.D. of the PFJ requires Microsoft to release via MSDN or similar means the documentation for the APIs used by Microsoft Middleware Products to interoperate with Windows; release would be required at the time of the final beta test of the covered middleware, and whenever a new version of Windows is sent to 150,000 beta testers. But this information would almost certainly not be released in time for competing middleware vendors to adapt their products to meet the requirements of section III.H.3, which states that competing middleware can be locked out if it fails to meet unspecified technical requirements seven months before the final beta test of a new version of Windows.

3. Many important APIs would remain undocumented

The PFJ's overly narrow definitions of "Microsoft Middleware Product" and "API" means that Section III.D.'s requirement to release information about Windows interfaces would not cover many important interfaces.

4. Unreasonable Restrictions are Placed on the Use of the Released Documentation ISVs writing competing operating systems as outlined in Findings of Fact (?52) sometimes have difficulty understanding various undocumented Windows APIs. The information released under section III.D. of the PFJ would aid those ISVs—except that the PFJ disallows this use of the information. Worse yet, to avoid running afoul of the PFJ, ISVs might need to divide up their engineers into two groups: those who refer to MSDN and work on Windows-only applications; and those who cannot refer to MSDN because they work on applications which also run on non-Microsoft operating systems. This would constitute retaliation against ISVs who support competing operating systems.

5. File Formats Remain Undocumented No part of the PFJ obligates Microsoft to release any information about file formats, even though undocumented Microsoft file formats form part of the Applications Barrier to Entry (see "Findings of Fact" ?20 and ? 39).

6. Patents covering the Windows APIs remain undisclosed

Section III.I of the PFJ requires Microsoft to offer to license certain intellectual property rights, but it does nothing to require Microsoft to clearly announce which of its many software patents protect the Windows APIs (cf. current practice at the World Wide Web Consortium, http://www.w3.org/TR/patent-practice). This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users, as illustrated by this report from Codeweavers, Inc.: When selecting a method of porting a major application to Linux, one prospect of mine was comparing Wine (a competing implementation of some of the Windows APIs) and a toolkit called "MainWin". MainWin is made by Mainsoft, and Mainsoft licenses its software from Microsoft. However, this customer elected to go with the Mainsoft option instead. I was told that one of the key decision making factors was that Mainsoft representatives had stated that Microsoft had certain critical patents that Wine was violating. My customer could not risk crossing Microsoft, and declined to use Wine. I didn't even have a chance to determine which patents were supposedly violated; nor to disprove the validity of this claim.

The PFJ, by allowing this unclear legal situation to continue, is inhibiting the market acceptance of competing operating systems. Which practices towards OEMs should be prohibited?

The PFJ prohibits certain behaviors by Microsoft towards OEMs, but curiously allows the following exclusionary practices:

Section III.A.2. allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

Section III.B. requires Microsoft to license Windows on uniform terms and at published prices to the top 20 OEMS, but says nothing about smaller OEMs. This leaves Microsoft free to retaliate against smaller OEMs, including important regional "white box" OEMs, if they offer competing products.—

Section III.B. also allows Microsoft to offer unspecified Market Development Allowances—in effect, discounts—to OEMs. For instance, Microsoft could offer discounts on Windows to OEMs based on the number of copies of Microsoft Office or Pocket PC systems sold by that OEM. In effect, this allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas, such as office software or ARM-compatible operating systems.

By allowing these practices, the PFJ is encouraging Microsoft to extend its monopoly in Intel-compatible operating systems, and to leverage it into new areas.

Which practices towards ISVs should be prohibited?

Sections III.F. and III.G. of the PFJ prohibit certain exclusionary licensing practices by Microsoft towards ISVs.

However, Microsoft uses other exclusionary licensing practices, none of which are mentioned in the PFJ. Several of Microsoft's products" licenses prohibit the products" use with popular non-Microsoft middleware and operating systems. Two examples are given below.

1. Microsoft discriminates against ISVs who ship Open Source or Free Software applications

The Microsoft Windows Media Encoder 7.1 SDK EULA states ... you shall not distribute the REDISTRIBUTABLE COMPONENT in conjunction with any Publicly Available Software. "Publicly Available Software" means each of (i) any software that contains, or is derived in any manner (in whole or in part) from, any software that is distributed as free software, open source software (e.g. Linux) or similar licensing or distribution models ... Publicly Available Software includes, without limitation, software licensed or distributed under any of the following licenses or distribution models, or licenses or distribution models similar to any of the following: GNU's General Public License (GPL) or Lesser/Library GPL (LGPL); The Artistic License (e.g., PERL); the Mozilla Public License; the Netscape Public License; the Sun Community Source License (SCSL); ...

Many Windows APIs, including Media Encoder, are shipped by Microsoft as add-on SDKs with associated redistributable components. Applications that wish to use them must include the add-ons, even though they might later become a standard part of Windows. Microsoft often provides those SDKs under End User License Agreements (EULAs) prohibiting their use with Open Source or Free Software applications. This harms ISVs who choose to distribute their applications under Open Source or Free Software licenses; they must hope that the enduser has a sufficiently up-to-date version of the addon API installed, which is often not the case. Applications potentially harmed by this kind of EULA include the competing middleware product Netscape 6 and the competing office suite StarOffice; these EULAs thus can cause support problems for, and discourage the use of, competing middleware and office suites.

Additionally, since Open Source or Free Software applications tend to also run on non-Microsoft operating systems, any resulting loss of market share by Open Source or Free Software applications indirectly harms competing operating systems.

2. Microsoft discriminates against ISVs who target Windows-compatible competing Operating Systems

The Microsoft Platform SDK, together with Microsoft Visual C++, is the primary toolkit used by ISVs to create Windows-compatible applications. The Microsoft Platform SDK EULA says: "Distribution Terms. You may reproduce and distribute ... the Redistributable Components... provided that (a) you distribute the Redistributable Components only in conjunction with and as a part of your Application solely for use with a Microsoft Operating System Product..."

This makes it illegal to run many programs built with Visual C++ on Windows-compatible competing operating systems.

By allowing these exclusionary behaviors, the PFJ is contributing to the Applications Barrier to Entry faced by competing operating systems. Which practices towards large users should be prohibited?

The PFJ places restrictions on how Microsoft licenses its products to OEMs, but not on how it licenses products to large users such as corporations, universities, or state and local governments, collectively referred to as "enterprises". Yet enterprise license agreements often resemble the per-processor licenses which were prohibited by the 1994 consent decree in the earlier US v. Microsoft antitrust case, in that a fee is charged for each desktop or portable computer which could run a Microsoft operating system, regardless of whether any Microsoft software is actually installed on the affected computer. These agreements are anticompetitive because they remove any financial incentive for individuals or departments to run non-Microsoft software. Which practices towards end users should be prohibited?

Microsoft has used both restrictive licenses and intentional incompatibilities to discourage users from running Windows applications on Windows-compatible competing operating systems. Two examples are given below.

1. Microsoft uses license terms which prohibit the use of Windows-compatible competing operating systems MSNBC (a subsidiary of Microsoft) offers software called NewsAlert. Its EULA states "MSNBC Interactive grants you the right to install and use copies of the SOFTWARE PRODUCT on your computers running validly licensed copies of the operating system for which the SOFTWARE PRODUCT was designed [e.g., Microsoft Windows(r) 95; Microsoft Windows NT(r), Microsoft Windows 3.x, Macintosh, etc.] .... "

Only the Windows version appears to be available for download. Users who run competing operating systems (such as Linux) which can run some Windows programs might wish to run the Windows version of NewsAlert, but the EULA prohibits this.

MSNBC has a valid interest in prohibiting use of pirated copies of operating systems, but much narrower language could achieve the same protective effect with less anticompetitive impact. For instance, "MSNBC Interactive grants you the right to install and use copies of the SOFTWARE PRODUCT on your computers running validly licensed copies of Microsoft Windows or compatible operating system."

2. Microsoft created intentional incompatibilities in Windows 3.1 to discourage the use of non-Microsoft operating systems An episode from the 1996 Caldera v. Microsoft antitrust lawsuit illustrates how Microsoft has used technical means anticompetitively. Microsoft's original operating system was called MS-DOS. Programs used the DOS API to call up the services of the operating system. Digital Research offered a competing operating system, DR-DOS, that also implemented the DOS API, and could run programs written for MS-DOS.

Windows 3.1 and earlier were not operating systems per se, but rather middleware that used the DOS API to interoperate with the operating system. Microsoft was concerned with the competitive threat posed by DR-DOS, and added code to beta copies of Windows 3.1 so it would display spurious and misleading error messages when run on DR-DOS. Digital Research's successor company, Caldera, brought a private antitrust suit against Microsoft in 1996. (See the original complaint, and Caldera's consolidated response to Microsoft's motions for partial summary judgment.) The judge in the case ruled that "Caldera has presented sufficient evidence that the incompatibilities alleged were part of an anticompetitive scheme by Microsoft." That case was settled out of court in 1999, and no court has fully explored the alleged conduct.

The concern here is that, as competing operating systems emerge which are able to run Windows applications, Microsoft might try to sabotage Windows applications, middleware, and development tools so that they cannot run on non-Microsoft operating systems, just as they did earlier with Windows 3.1.

The PFJ as currently written does nothing to prohibit these kinds of restrictive licenses and intentional incompatibilities, and thus encourages Microsoft to use these techniques to enhance the Applications Barrier to Entry, and harming those consumers who use non-Microsoft operating systems and wish to use Microsoft applications software. Is the Proposed Final Judgment in the public interest?

The problems identified above with the Proposed Final Judgment can be summarized as follows:

The PFJ doesn't take into account Windows-compatible competing operating systems Microsoft increases the Applications Barrier to Entry by using restrictive license terms and intentional incompatibilities. Yet the PFJ fails to prohibit this, and even contributes to this part of the Applications Barrier to Entry.

The PFJ Contains Misleading and Overly Narrow Definitions and Provisions The PFJ supposedly makes Microsoft publish its secret APIs, but it defines "API" so narrowly that many important APIs are not covered. The PFJ supposedly allows users to replace Microsoft Middleware with competing middleware, but it defines "Microsoft Middleware" so narrowly that the next version of Windows might not be covered at all.

The PFJ allows users to replace Microsoft Java with a competitor's product—but Microsoft is replacing Java with .NET. The PFJ should therefore allow users to replace Microsoft.NET with competing middleware. The PFJ supposedly applies to "Windows", but it defines that term so narrowly that it doesn't cover Windows XP Tablet PC Edition, Windows CE, Pocket PC, or the X-Box—operating systems that all use the Win32 API and are advertised as being "Windows Powered".

The PFJ fails to require advance notice of technical requirements, allowing Microsoft to bypass all competing middleware simply by changing the requirements shortly before the deadline, and not informing ISVs.

The PFJ requires Microsoft to release API documentation to ISVs so they can create compatible middleware—but only after the deadline for the ISVs to demonstrate that their middleware is compatible. The PFJ requires Microsoft to release API documentation—but prohibits competitors from using this documentation to help make their operating systems compatible with Windows.

The PFJ does not require Microsoft to release documentation about the format of Microsoft Office documents.

The PFJ does not require Microsoft to list which software patents protect the Windows APIs. This leaves Windows-compatible operating systems in an uncertain state: are they, or are they not infringing on Microsoft software patents? This can scare away potential users.

The PFJ Fails to Prohibit Anticompetitive License Terms currently used by Microsoft Microsoft currently uses restrictive licensing terms to keep Open Source or Free Software apps from running on Windows. Microsoft currently uses restrictive licensing terms to keep Windows apps from running on competing operating systems. Microsoft's enterprise license agreements (used by large companies, state governments, and universities) charge by the number of computers which could run a Microsoft operating system—even for computers running Linux. (Similar licenses to OEMs were once banned by the 1994 consent decree.) The PFJ Fails to Prohibit Intentional Incompatibilities Historically Used by Microsoft Microsoft has in the past inserted intentional incompatibilities in its applications to keep them from running on competing operating systems. The PFJ Fails to Prohibit Anticompetitive Practices Towards OEMs The PFJ allows Microsoft to retaliate against any OEM that ships Personal Computers containing a competing Operating System but no Microsoft operating system.

The PFJ allows Microsoft to discriminate against small OEMs—including regional "white box" OEMs which are historically the most willing to install competing operating systems—who ship competing software. The PFJ allows Microsoft to offer discounts on Windows (MDAs) to OEMs based on criteria like sales of Microsoft Office or Pocket PC systems. This allows Microsoft to leverage its monopoly on Intel-compatible operating systems to increase its market share in other areas.

The PFJ as currently written appears to lack an effective enforcement mechanism.

Considering these problems, one must conclude that the Proposed Final Judgment as written allows and encourages significant anticompetitive practices to continue, and would delay the emergence of competing Windows-compatible operating systems. Therefore, the Proposed Final Judgment is not in the public interest, and should not be adopted without addressing these issues.

Strengthening the PFJ

The above discussion shows that the PFJ does not satisfy the Court of Appeals" mandate. Some of the plaintiff States have proposed an alternate settlement which fixes many of the problems identified above. The States" proposal is quite different from the PFJ as a whole, but it contains many elements which are similar to elements of the PFJ, with small yet crucial changes.

In the sections below, I suggest amendments to the PFJ that attempt to resolve some of the demonstrated problems (time pressure has prevented anything like a complete list of amendments). When discussing amendments, PFJ text is shown indented; removed text in shown in [bracketed strikeout], and new text in bold italics.

Correcting the PFJ's definitions

Definition A should be amended to read

A. "Application Programming Interfaces (APIs) "means the interfaces, including any associated callback interfaces, that [Microsoft Middleware running] Popular Windows Applications running or being installed on a Windows Operating System Product [uses] use to call upon that Windows Operating System Product in order to obtain any services from that Windows Operating System Product.

Definition U should be amended to read

U. "Windows Operating System Product" means [the software code (as opposed to source code) distributed commercially by Microsoft for use with Personal Computers as Windows 2000 Professional, Windows XP Home, Windows XP Professional, and successors to the foregoing, including the Personal Computer versions of the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc. The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion.] any software or firmware code distributed commercially by Microsoft that is capable of executing any nontrivial subset of the Win32 APIs, including without exclusion Windows 2000 Professional, Windows XP Home, Windows XP Professional, Windows XP Tablet PC Edition, Windows CE, PocketPC 2002, and successors to the foregoing, including the products currently code named "Longhorn" and "Blackcomb" and their successors, including upgrades, bug fixes, service packs, etc. Four new definitions should be added:

V. "Popular Windows Applications" shall be defined as as the top 10 selling applications as reported by NPD Intelect Market Tracking in each of the categories Business, Education, Finance, Games, Personal Productivity, and Reference, plus all Microsoft Middleware Products.

W. "Essential Windows API Patents" shall be defined as those patents held by Microsoft which cover Essential Windows APIs, such that those APIs cannot possibly be implemented without infringing upon said patents.

X. "Essential Windows APIs Standard Definition" shall be defined as a document, suitable for approval by a standards body such as ECMA or IEEE, which accurately defines the inputs, outputs, and behavior of each Essential Windows API, and enumerates any Essential Windows API Patents.

Y. "Essential Windows APIs Standard Compliance Test Suite" shall be defined as software source code which, when compiled and run, automatically tests an operating system for compliance with the Essential Windows APIs Standard Definition, and outputs a list of each API which fails to comply with the Essential Windows APIs Standard Definition. The test suite should run unattended; that is, it should be capable of running without human interaction or supervision.

Release of Information

Section E should be amended to remove the restriction on the use of the disclosed information:

... Microsoft shall disclose ... [for the sole purpose of interoperating with a Windows Operating System Product,] for the purpose of interoperating with a Windows Operating System Product or with application software written for Windows. Because any new competitor in the Intel-compatible operating system must be able to run Windows applications to have a chance in the market, and because Microsoft has traditionally used undocumented Windows APIs as part of the Applications Barrier to Entry, the Final Judgment should provide explicitly for a clear definition of what APIs a competing operating system must provide to run Windows applications. The best way to do this is by submitting the API definitions to a standards body.

This was done in 1994 for the Windows 3.1 APIs (see Sun's 1994 press release about WABI 2.0 and the Public Windows Initiative). The result is Standard ECMA-234: Application Programming Interface for Windows (APIW), which provides standard definitions for an essential subset (four hundred and fourty-four out of the roughly one thousand) of the Windows 3.1 APIs; it was rendered mostly obsolete by the switch to Windows 95. The Final Judgment should provide for the creation of something like ECMA-234 for the various modern versions of Windows.

Because Microsoft currently claims that it has intellectual property rights that protect the Windows APIs, but has never spelled out exactly which patents cover which APIs, the Final Judgment should force this to be spelled out.

A new section IV.E should be created to achieve the above goals by adding the following text:

E. Establishment of a Windows API Standards Expert Group Within 60 days of entry of this Final Judgment, the parties shall create and recommend to the Court for its appointment a six person Windows API Standards Expert Group ("WASEG") to manage the creation, publication, and maintenance of an Essential Windows APIs Standard Definition, and to guide it through the process of being adopted by a standards body such as ECMA or the IEEE.

Three of the WASEG members shall be experts in software design and programming, and three of the WASEG members shall be experts in intellectual property law. No WASEG member shall have a conflict of interest that could prevent him or her from performing his or her duties under this Final Judgment in a fair and unbiased manner. No WASEG member shall have entered into any non-disclosure agreement that is still in force with Microsoft or any competitor to Microsoft, nor shall she or he enter into such an agreement during her or his term on the WASEG.

Without limitation to the foregoing, no WASEG member shall have been employed in any capacity by Microsoft or any competitor to Microsoft within the past year, nor shall she or he be so employed during his or her term on the WASEG.

Within seven days of entry of this Final Judgment, the Plaintiffs as a group shall select two software experts and two intellectual property law experts to be members-of the WASEG, and Microsoft shall select one software expert and one intellectual property law expert to be members of the WASEG; the Plaintiffs shall then apply to the Court for appointment of the persons selected by the Plaintiffs and Microsoft pursuant to this section.

Each WASEG member shall serve for an initial term of 30 months. At the end of a WASEG member's initial 30-month term, the party that originally selected him or her may, in its sole discretion, either request re-appointment by the Court to a second 30-month term or replace the WASEG member in the same manner as provided for above.

If the United States or a majority of the Plaintiffs determine that a member of the WASEG has failed to act diligently and consistently with the purposes of this Final Judgment, or if a member of the WASEG resigns, or for any other reason ceases to serve in his or her capacity as a member of the WASEG, the person or persons that originally selected the WASEG member shall select a replacement member in the same manner as provided for above.

Promptly after appointment of the WASEG by the Court, the United States shall enter into a Windows API Expert Group services agreement "WASEG Services Agreement") with each WASEG member that grants the rights, powers and authorities necessary to permit the WASEG to perform its duties under this Final Judgment. Microsoft shall indemnify each WASEG member and hold him or her harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the WASEG's duties, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the WASEG member. The WASEG Services Agreements shall include the following:

The WASEG members shall serve, without bond or other security, at the cost and expense of Microsoft on such terms and conditions as the Plaintiffs approve, including the payment of reasonable fees and expenses. The WASEG Services Agreement shall provide that each member of the WASEG shall comply with the limitations provided for in section IV.E.2. above.

Microsoft shall provide the WASEG with funds needed to procure office space, telephone, other office support facilities, consultants, or contractors required by the WASEG.

The WASEG shall not have direct access to any part of Microsoft's computer software source code that is not normally available to all ISV's. The WASEG shall not enter into any non-disclosure agreements with Microsoft or third parties. No implementations of any Windows APIs shall be written or published by the WASEG.

The WASEG shall have the following powers and duties: The WASEG may require Microsoft to provide comprehensive answers to questions about Microsoft intellectual property claims.

The WASEG may require Microsoft to provide comprehensive answers to questions about the inputs, outputs, and functionality of any Windows API; in particular, the WASEG may compel Microsoft to provide complete documentation for Windows APIs, including hitherto undocumented or poorly-documented Windows APIs.

The WASEG may engage, at the cost and expense of Microsoft, the services of outside consultants and contractors as required to fulfill the duties of the WASEG.

The WASEG shall establish a publicly available web site not owned or otherwise controlled by Microsoft, and will publish status reports and other information there at least as often as once per month. Documentation on the web site shall be made available subject to the terms of the GNU Free Documentation License; test suite source code made available on the web site shall be made available subject to the terms of the GNU General Public License.

The WASEG shall compile a complete list of Windows APIs, including for each API the DLL name, entry point name, entry point ordinal number, return value type, and parameter types, as well as which versions of Windows it is supported by and what percentage of Popular Windows Applications use it. The WASEG shall publish this list on the WASEG web site subject to the GNU Free Documentation License, according to the following schedule: Within 90 days after the WASEG is convened, the WASEG shall publish this information for at least three hundred Windows APIs. On the 1st of each month thereafter, the WASEG shall publish this information for another three hundred Windows APIs. This shall continue until a complete list of Windows APIs is available on the web site. The WASEG shall use tools such as Apius from Sarion Systems Research to verify that the list of Windows APIs is indeed complete, and that installing or running any Popular Windows Application does not cause any unlisted Windows API to be invoked.

The WASEG shall compile a complete list of Essential Windows API patents and patents pending, and an evaluation of which Windows APIs each patent covers. The WASEG shall compile this information by asking Microsoft for a complete list of Essential Windows API patents and patents pending, and then determining which Windows APIs are likely to be covered by each patent or patent pending; the WASEG shall use the World Wide Web Consortium's document www.w3.org/TR/2002/NOTE-patent-practice-20020124 as guidance. The WASEG shall publish this information on the WASEG web site subject to the GNU Free Documentation License, according to the following schedule: Within 90 days after the WASEG is convened, the WASEG shall publish an evaluation of 30 patents. On the 1st of each month thereafter, the WASEG shall publish an evaluation of another 30 patents. This shall continue until evaluations of all patents claimed by Microsoft to cover the Windows APIs have been published on the WASEG web site.

The WASEG shall compile documentation for the list of Windows APIs defined above in section IV.E.9.e, including a complete description of the meanings of the return values and parameters, and the effects of the API. The documentation should be composed in a style similar to that used for the Single Unix Specification documentation (http://www.UNIX-systems.org/go/unix). Within 180 days after the WASEG is convened, and on the 1st of every month thereafter until complete, the WASEG will make available the currently completed portion of this documentation via its web site.

When the three documents described above—the list of Windows APIs, the list of Essential Windows Patents, and the documentation for the listed Windows APIs—is complete, the WASEG shall undertake to submit them to a standards body such as ECMA or the IEEE as a Public Windows APIs Standard Document, and to make such enhancements and revisions as needed to gain the acceptance of that document as a standard.

The WASEG shall create an Essential Windows APIs Standard Compliance Test Suite, and publish it on the WASEG web site subject to the GNU General Public License, according to the following schedule: Within 180 days after the WASEG is convened, the WASEG shall publish test cases for at least fifty Windows APIs. On the 1st of each month thereafter, the WASEG shall publish test cases for at least another fifty Windows APIs. This shall continue until a complete Essential Windows APIs Standard Compliance Test Suite is available on the web site.

In the event that a planned update to Windows or any other Microsoft product is expected to result in the creation of new Windows APIs, the WASEG shall create addenda to the above documents and test suite covering the new APIs, make them available via its web site, and undertake to submit them to the same standards body as above as an addendum to the standard.

Prohibition of More Practices Toward OEMs

III. A. 2. of the Proposed Final Judgment should be amended to read 2. shipping a Personal Computer that (a) includes both a Windows Operating System Product and a non-Microsoft Operating System, or (b) will boot with more than one Operating System, or (c) includes a non-Microsoft Operating System but no Windows Operating System Product; or ...

Summary

This document demonstrates that there are so many problems with the PFJ that it is not in the public interest. It also illustrates how one might try to fix some of these problems.

Dan Kegel

MTC-00033552

From: Michael L. Mitchell
To: Microsoft ATR
Date: 1/27/02 10:07pm
Subject: Microsoft Settlement
** Secret **

Hello,

I would like to provide my comment on the settlement that the Justice Department has entered in with Microsoft. I believe that the settlement is quite adequate. If anymore were to be done it has a reverse effect of harming the consumer (me). I think it is time that this matter be settle and the allow Microsoft and the Justice Department move forward.

Thank you
Michael L. Mitchell
Brandon, FL

MTC-00033553

From: Michael Batchelder
To: Microsoft ATR
Date: 1/27/02 10:09pm
Subject: Microsoft settlement

I would like to register my dissatisfaction with the proposed settlement in the case of US v. Microsoft. As an information technology professional, I have personally witnessed Microsoft's policies restricting consumer choice (my own, w/regard to purchasing computers without Windows operating systems), failing to provide quality service (for which increased competition should be the solution), and limiting, rather than encouraging innovation.

Should the Department of Justice choose to move forward with the proposed settlement, I will take it as compelling evidence that the Bush administration is clearly a government "for large corporate interests, by large corporate interests, and of large corporate interests", at the expense of the peoples" interest.

Thank you,
Michael Batchelder
Redwood City, CA

MTC-00033554

From: jbarney
To: Microsoft ATR
Date: 1/27/02 10:10pm
Subject: microsoft settlement

I am a small business owner. Ten years ago my business had to cobble together a variety of software programs in order to operate my business because one program would not talk to another program. To do so was very expensive and time consuming. These are the very companies that are suing Microsoft. Along came Microsoft and tied it all together, and did so at a reasonable price. These other companies are just whining because they still don't have the ability to come up with a workable system.

Their is no antitrust case against Microsoft. Nobody has been hurt. Quite the contrary, Microsoft has made life a lot easier for most of us. It is just a political charade. Quit spending taxpayer money, throw the case out, and get on with life.

Jack Barney

MTC-00033555

From: jwjptw
To: Microsoft ATR
Date: 1/27/02 10:15pm
Subject: Microsoft Settlement

Dear Sirs:

I would recommend that the DOJ stop any further action against Microsoft and accept the settlement. I have been involved with computers for 24 years and decided long ago it made sense to go with Microsoft products beginning with MS-DOS. They have developed good products with excellent support and training. They have empowered the home computer user to expand his vision and utilize tools that previously were beyond his expectations and without effort to learn programming in order to achieve immediate success. Microsoft has done more to advance human knowledge and productivity than any single corporation has in the technical age.

Many of the plaintiffs exhibit greed and envy in their comments and actions while trying to get the government to grievously impair a competitor when their primary damage is to their egos.

The attorneys in the federal government, states, and some individual corporations have used this venue to enhance their own public images, which is such a waste of public money. You have a settlement; take it and get on to matters that are more important.

Thank you,

Jack Jenkins

MTC–00033557

From: Michael Capehart
To: Microsoft ATR
Date: 1/27/02 10:18pm
Subject: Microsoft Settlement

The settlement is a bad idea, and will only serve to let Microsoft off with a slap on the wrist for destroying any real chance for competition in the computer software industry. Stop them now, because you will not get another chance.

Mike Capehart
mwcapehart@earthlink.net
mikespager@earthlink.net

MTC–00033558

From: Kevin P. Rice
To: Microsoft ATR
Date: 1/27/02 10:18pm
Subject: Microsoft Settlement

My name is Kevin Rice. I live in Bellevue, Washington, and work as a business analyst. As part of my work, I use many of Microsoft's products, including Microsoft Windows NT and Microsoft Office 97. I consider myself to be a power user and build sophisticated documents with Microsoft Excel and Access that include procedures written using built in macro language for Office, Visual Basic for Applications. At home, I use an Apple Macintosh and Microsoft Office 98, so I am familiar with multiple computer operating systems.

The Revised Proposed Final Judgement as currently structured does not meet the public interest. The proposed penalties are inadequate given Microsoft's anticompetitive behavior as outlined in the Findings of Fact, and Microsoft has too much influence over enforcement through the Technical Committee. The current competitive situation in the computer industry and its impact on consumers requires tougher, enforceable penalties.

According to the Findings of Fact, Microsoft has engaged in anticompetitive business behavior. It is important that there be punishment for this behavior; without adequate punishment, Microsoft has no incentive to discontinue and alter the behavior deemed anticompetitive by the courts. Microsoft could easily defend itself against complaints using the legal system, while small businesses with innovative products beneficial to the consumer would have no practical recourse, even in the courts, if they were the victims of any anticompetitive practice by Microsoft. The Final Judgement in Civil Action 94–1564 prohibits Microsoft from entering "into any License Agreement that by its terms prohibits or restricts the OEM's licensing, sale or distribution of any non-Microsoft Operating System Software product." Also, Microsoft cannot enter into an agreement with an OEM that prohibits the OEM from "licensing, purchasing, using or distributing any non-Microsoft product." According to the Findings of Fact, Microsoft has already violated the prohibitions in the Final Judgement by not allowing OEMs to install their own tutorial software to their computers" boot sequence. This prevented OEMs from offering a useful benefit to consumers. Microsoft also violated the spirit of the Final Judgement by not allowing OEMs to delete the Internet Explorer icon from the Windows desktop; this discouraged OEMs from putting an alternative browser on the desktop because it would be confusing to consumers. Given this behavior, stricter remedies would be appropriate. However the Revised Proposed Final Judgement does little more than restate the prohibited behavior of the previous Final Judgement using more precise language updated to reflect the current industry environment. This will not prevent Microsoft from altering their behavior in ways that may (or may not) be in compliance but would still be anticompetitive, requiring more legal action and prolonging harm to consumers. The language in the RPFJ also does nothing to penalize Microsoft for illegal behavior. This will make the prohibitions in the RPFJ more difficult to enforce, since violations of the prior Final Judgement resulted in no significant penalty to Microsoft.

The RPFJ calls for the establishment of a Technical Committee, with one member chosen by Microsoft and another member that the Microsoft-chosen TC member must agree to. Given that Microsoft has been "found guilty" of anticompetitive monopoly maintenance, they have too much influence over the makeup of the TC. The selection process for the Technical Committee is analogous to giving an accused murderer the ability to choose some of the jurors for his trial. A better alternative would be to give Microsoft limited veto ability similar to a jury selection process, with members randomly selected from a pool of candidates that meet the qualifications outlined in the RPFJ.

The current Revised Proposed Final Judgement does not improve the competitive environment in the computer industry and does not benefit consumers or the public interest. Because of the lack of serious alternatives to Microsoft products, consumers pay more for those products in extra time spent resolving defects in Microsoft software. These defects range from bugs that interfere with the desired use of computer software to vulnerabilities to viruses such as Melissa, Code Red, and Nimda. In addition there may be an unknown number of potential innovations in computer hardware or software that will not be made available to consumers because of fear of anticompetitive business practices by Microsoft. Netscape is but one example of what can currently happen to a business with an innovative product in conflict with Microsoft's business goals. Therefore, it is critical that any settlement or other remedy of this case effectively curbs Microsoft's anticompetitive behavior.

MTC–00033559

From: Javier L. Madrid
To: Microsoft ATR
Date: 1/27/02 10:34pm
Subject: Microsoft Settlement

Your Honor, Now is the time to preempt the further spread of Microsoft's plans to expand their ill-gotten monoply. The company that started by offering products to make computing easier for non-programmers has reached a point of diminishing returns for those same people. For a number of years now their efforts have been focussed more on the protection of their revenue stream (you and I) than on true innovation. Not only have they been bereft of innovative products but have hired away from academia and their rivals truly innovative thinkers thus preventing the fruits of their scientific labor benefiting their competitors.

From my vantage point from within the Tech Industry I feel that this unapologetic and arrogant company that has grown so huge in its pervasiveness in every day life must be dealt with in a truly historic harsh fashion. As they have dealt brutally from a business perspective with those perceived as even remotely competitive whether it be a single person or a company so they too must now be taken to task.

These are my recommendations:

(1) They are not to be allowed to expand to ANY new technical markets for 10 years either by partnership or funding or purchasing of companies or rights to technology.

(2) Levy a 10 billion dollar penalty against the company and only accept CASH, and not spread over 5 or 10 years of installments. Use the money to help fix our educational system.

(3) They must open the entire set of Windows APIs and file formats now and in the future to truly foster competition and innovation.

Your Honor, it is key that this company not be allowed to "embrace and extend" their monoply.

Their true intentions are not so much about producing good products as it is about preserving at all costs a regular tithing from you and I.

Your Honor, it is time for you to "think outside the box".

MTC–00033560

From: Michael J. Kennedy
To: Microsoft ATR
Date: 1/27/02 10:35pm
Subject: Microsoft Settlement

To the Honorable Court: I have read and cosigned the Open Letter to DOJ Re: Microsoft Settlement written by Dan Kegal, and I am writing to further express my opinion of the Proposed Final Judgement in the United States v. Microso case. I believe that the Proposed Final Judgement should not go through the way it is. I am aware that the Department of Justice concluded that Microsoft has engaged in monopolistic behaviors and that Microsoft has used its position of power to prevent competition. However, this main problem still has not been addressed fully. Under the settlement as it currenly is written, Microsoft would essentially be able to continue its anti-competitive practices merely by altering some of its company procedures.

I believe that Microsoft should be required to publish documentation of its APIs for uninhibited use by developers of alternative software systems. This will serve to reduce the "appications barrier to entry," allowing developers of competing products to add compatability for existing standards. This, in turn, allows those developers to make a successful entry into the software market, thus promoting competition.

I also contend that Microsoft should be disallowed to certify hardware devices as "designed for Windows," unless the specifications of those devices are released to the public. Consumers don't want to use an operating system that doesn't support their hardware. Maintaining secret hardware specifications hinders the development of free operating systems that run on a wide range of hardware.

In conclusion, I believe that the Proposed Final Judgement is not good enough and is in need of revision. The revisions should ensure that Microsoft cannot resume actions that are anti-competitive and that are not in the public interest. Thank you for your time and consideration.

Sincerely,
Michael J. Kennedy
Champaign, IL
Computer Science Student
University of Illinois

MTC-00033561

From: Jessica Kohagen
To: Microsoft ATR
Date: 1/27/02 10:38pm
Subject: "Microsoft Settlement"

I am writing as both a concerned college student and as a concerned consumer. I truly believe that open competition in every market promotes better quality and utilizes all the available resources. I fear that the demand for engineers in computer-related fields will decrease significantly if Microsoft's competition is restricted or eliminated. In addition, the development of computer-related technology maybe be slowed if companies aren't trying to "get an edge" over one another. Keeping unrestricted competition will ensure state-of-the-art technology and quality products for the consumer as well as job openings and possible entrepreneurships for those currently in the industry as well as those who will be entering it within a few years.

Sincerely,
Jessica Kohagen
Pardee Tower #612
614 W. 35th Pl.
Los Angeles, CA 90089
CC:microsoftcomments@doj.ca.gov@inetgw

MTC-00033562

From: Frances Fronczak
To: Ms. Renata Hesse
Date: 1/27/02 10:43pm
Subject: Microsoft Settlement
Frances Fronczak
3820-C Carlsbad Blvd
Carlsbad, CA 92008-4004
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Please stop picking on Microsoft. This is a Republic where capitalism is king and Microsoft has brought us to an unsurpassed degree of growth in technology and prosperity. The unnecessary DOJ pursuit of Microsoft has caused many financial losses to average Americans in jobs and in the financial markets. The proposed settlement should be approved so that we can all go forward and stop wasting productive American ingenuity from one of the greatest companies in the universe. The only beneficiaries from this ordeal will, in all likelihood, be the attorneys, as we have all witnessed in the past in regard to the persecution of the Tobacco companies.

Yours truly,
Frances Fronczak, MD

MTC-00033563

From: Ken Kundert
To: Microsoft ATR
Date: 1/27/02 10:43pm
Subject: Microsoft Settlement

It is clear to me that the DOJ caved in to intense lobbying pressure when it agreed to the current settlement. That is the only way to explain it. Anybody that has paid any attention to Microsoft's behavior of the last decade knows that this settlement will have no significant impact on Microsoft. They will ignore it like they ignored both the law and the restrictions that they agreed to in the past. Furthermore, I do not believe that they would have been offered this settlement had they not improperly influenced both the Executive Branch and our law makers. Giving Microsoft this settlement shows the people of the United States and the world that justice in America does not apply to the very wealthy.

It is my sincere hope that the original spirit of the Tunney act is followed. If so, I confident that it will come out that Microsoft was able to buy a very favorable settlement. At the very least, I hope that you reject the DOJ settlement and go with the settlement proposal of the 9 dissident states. Better yet, I hope you return to the idea of breaking up Microsoft. I have been involved in the software industry for 20 years, though I have never been directly or indirectly employed by either Microsoft or its competitors, and I can say with great confidence that Microsoft, with its monopoly position, has slowed the progress of the computer industry by at least 10 years. The cost of not having competitors to its buggy and insecure software has been vast. Breaking up Microsoft will be the best thing for consumers.

Ken Kundert

MTC-00033564

From: Lindsay Ray
To: Microsoft ATR
Date: 1/27/02 10:46pm
Subject: Microsoft Settlement

Dear Judge,

I don't think that the PFJ is the correct solution to this problem. Microsoft is a fabulous company, however, they are in direct violation to the law. They are guilty of some very serious anti-competitive violations. The PFJ does not provide an effective enforcement mechanism. What microsoft has done to many companies is very wrong and needs to be stopped. It is not fair. The world needs competition.

Thanks
Lindsay Ray 213-764-3843

MTC-00033565

From: kevins@indepth-tech.com@inetgw
To: Microsoft ATR
Date: 1/27/02 10:48pm
Subject: Microsoft Settlement

Ladies and Gentlemen:

I whole heartedly support the proposed settlement agreement in U.S. v. Microsoft. While no settlement is likely to please all, this settlement has well thought out, purposeful remedies that will encourage technical innovation and market competition. It is time to accept the fair remedies of the settlement and allow the industry to concentrate on creating the new computing products that will create jobs and stimulate the economy.

Kevin Schuler
President
InDepth Technology
CC:kevins@indepth-tech.com@inetgw

MTC-00033566

From: Jim White
To: Microsoft ATR
Date: 1/27/02 10:48pm
Subject: Microsoft Settlement

To whom it may concern:

This my public comment under the Tunney Act.

I am OPPOSED to the revised proposed Final Judgement to resolve the United States'' civil antitrust case against Microsoft as it currently is formulated (11/06/2001).

The proposed remedies are entirely inadequate to resolve ongoing anti-competitive practices by Microsoft with regard to the development and marketing of software competing with the Windows Operating System. Of particular importance is that no provision is made to prevent Microsoft's efforts to subvert the development and distribution of free and open software that competes with Windows. Microsoft is using its many entangling End User License Agreements for both its applications (such Internet Explorer, Microsoft Office, etc) and SDKs (software development kits, necessary in many cases for practical development of applications to be used with or to compete with Windows) to REQUIRE that the End User to only use the application software on a Microsoft licensed operating system. This is blatant product tying to the monopoly Windows OS with the direct consequence of preventing the distribution of legal competing products.

Thank you for your consideration.

Signed,
James White
Software Consulant
Laguna Hills, CA

MTC-00033568

From: Mickey Aberman
To: Microsoft ATR
Date: 1/27/02 10:59pm
Subject: Microsoft Settlement
Public Comment:

I have no dog in the Microsoft fight. Nevertheless, I have been following the case since the trial started.

Microsoft was proven to have committed massive antitrust violations. During the trial it was caught falsifying a demonstration, and its executives were caught lying many times.

The court of appeals en banc upheld the findings of serious violations and monopolizing on a scale that is huge. This was apparently the full court of appeals, comprised to al arge extent of conservative judges).

How can Microsoft have any hope of avoiding massive punishment? A defendant one-tenth the size, whose violation had one-tenth the scope, would be trying to keep its executives out of jail.

The Microsft settlement is surreal (and unfairly favorable to the Defendant). It looks like political connections or intimidation have prevailed over justice.

Microsoft really needs to be broken up into three parts.

John M. Aberman
2145 Radcliffe Avenue
Charlotte, NC 28207
(704) 372–5646

MTC-00033569

From: olivier@tesla.intra.calle.org@inetgw
To: Microsoft ATR
Date: 1/27/02 11:04pm
Subject: Microsoft Settlement

I wish to express my opposition to the Proposed Final Judgment with Microsoft.

I do not believe the proposed remedies will do anything to curb the behaviors of Microsoft which were found to be in violation of antitrust laws when the company was found guilty.

For example, the proposal includes many opportunities or loopholes for Microsoft to exclude itself from API disclosure requirements. It can simply claim that there are security reasons for not documenting an API. It can itself define who is a true competitor. Why does this Proposed Final Judgment allow Microsoft such leeway in deciding itself whether it con be excluded from a requirement of the Proposed Final Judgment? Allowing Microsoft to claim security as a reason to not disclose an API is ridiculous. Unix and Unix-like operating systems describe all their APIs clearly, some even give you all their source code (Linux, FreeBSD, OpenBSD, etc.) and do not consider this a security problem at all. Security through obscurity, as it is called, is most definitely not better than security through open discussion, availability ond peer review, and in my opinion (and that of many security experts) is worse. I believe that this particular exception to disclosure should never have made it into the Proposed Final Judgment.

My opinion that the Proposed Final Judgment lacks any true corrective power goes beyond the comment above, but applies to it as a whole. I believe that this Proposed Final Judgment heavily favors the guilty in these proceedings and fails to adequately represent the United States of America. We the people, represented by the Department of Justice, received a verdict of guilty against Microsoft, yet it now seems that we are backing down in the sentencing phase. The fact alone that the guilty party in this matter likes this Proposed Final Judgment makes it suspect beyond specific problems with it.

In summary, I believe the Proposed Final Judgment is not in the public interest. It does not seriously, nor effectively address the illegal behavior of the convicted monopolist, Microsoft.

Respectfully submitted,
Olivier Calle
Senior Software Engineer, Citizen of the United States of America
PO Box 752
Marysville WA 98270–0752

MTC-00033570

From: Pedro Celis (wrnha)
To: Microsoft ATR
Date: 1/27/02 11:06pm
Subject: Microsoft Settlement.
Republican National Hispanic Assembly of Washington State

Dear Sirs,

As Chairman of the Republican National Hispanic Assembly of Washington State we offer our endorsement of the agreement reached by Microsoft, the U.S. Department of Justice and nine states. The settlement should be accepted not only for its specifics, but also for the principles that it represents.

Whenever conflicts arise, our government should strive to find common ground and reach compromises with business. Negotiation and settlement is a better model for government-business relations than litigation. It is unfortunate that the dispute between Microsoft and the government has already resulted in such a long and costly trial. Better still, government should seek to minimize its interference with the competitive market place; it should work as an ally with, not an adversary to, business.

Litigation is never good for business or industry. Because virtually all businesses rely on technology, the Microsoft case affects us all. As the case proceeded, it appeared that government, not the competitive marketplace, might establish the direction of technology. Such an event would have proved disastrous for the technology industry, for the greater business community, and for the economy.

We are happy to see that a comprise and agreement has been reached between these parties and we encourage you to accept this settlement. pThis settlement would be fair and reasonable at any time, even if our economy was growing at a rapid pace. However that is not currently the case, and for that reason it is all the more important that the settlement be finalized and the American technology industry starts to benefit from a public policy that minimizes costly regulation, ensures competition, and promotes fair trade and intellectual property enforcement in international markets.

Sincerely Yours,
Pedro Celis, Ph.D.
Republican National Hispanic Assembly
Washington State Chairman

MTC-00033571

From: Patrick Melody
To: Microsoft ATR
Date: 1/27/02 11:10pm
Subject: Microsoft Settlement

To Whom It May Concern:

I am writing in regard to the Microsoft Settlement. I am troubled by the settlement as it does not appear to do anything to remedy harm caused by Microsoft's actions nor do anything to promote the public good. As background information on myself, I have a master's degree in computer science and have worked as a professional programmer since 1995. Previous to this I have used and programmed computers as a hobby since high school in the early 1980s.

The operating system is the lowest level of software on a computer, on which all other software running on the computer depends. The value of a ubiquitous operating system to the public is that it provides a unified platform on which to target applications. Program developers need learn only this one system, and large numbers of users may then enjoy the availability of numerous application programs.

Furthermore, these users can easily interoperate with each other since they all share the OS as a common infrastructure. The value of a ubiquitous operating system to it's owner is the dependence of millions of users on the owner. This dependence can be used to leverage dependence in other areas besides the OS.

The Internet "works" and has enjoyed great success because it was built on open protocols that are independent of any particular hardware or software program. Even though you and I may use completely different hardware platforms, operating systems, and/or email programs, we can still exchange email with no difficulties. Even though our web pages may be produced with different authoring programs and we may use different web browsers, we can still read each others web pages. This is due to the open protocols and data formats used on the internet. In the age of the disconnected desktop computer, the operating system was the common substrate. In the age of connected systems a new common substrate as appeared: communications protocols and file/data formats. The benefit of the public to these open protocols and formats is clear: the ability to have software written by anyone interoperate seamlessly and effectively with software written by anyone else. First, any networking protocols used by Microsoft must be fully published and approved by an independent network protocol body before any Microsoft software using them is deployed. This especially applies to the .NET and associated Hailstorm and Passport technologies, which Microsoft is clearly positioning to be tomorrow's ubiquitous software infrastructure. The purpose of this is to ensure the ability of anyone's software to interoperate with Microsoft software and prevent Microsoft from using their OS monopoly to gain a monopoly over internet usage.

Second, any file formats used by Microsoft must be fully published so that these files may be read and written by independent developers, again to ensure interoperability with Microsoft's software.

Finally, there must be effective provisions for the settlement to be enforced since a settlement that can be ignored without severe repercussions is no settlement at all.

Microsoft has repeatedly indicated it feels it has done nothing wrong and that this entire case is an unjustified imposition on it, even going so far as to fake video evidence in front of a federal judge. Such a defendant cannot be trusted on its own recognizance. The current settlement has no teeth.

Microsoft will undoubtedly cry that these measures are unfair. However, the rules of business are different for monopolists than for non-monopolists, and there must be a penalty for monopolists found guilty of illegally maintaining a monopoly as Microsoft has done. As such, these measures are not unfair and would greatly serve the public interest by allowing nonmonopolist software to interact on even ground with the monopolist's software, allowing more competition and more options to the public in choosing their products and services.

Sincerely,
Patrick J. Melody
3708 Acosta Rd
Fairfax VA 22031
pjmelody@concentric.net
pjmelody@acm.org

MTC–00033572

From: Kyrieeleeson@aol.com@inetgw
To: Microsoft ATR
Date: 1/27/02 11:18pm
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Dear Ms. Renata Hesse:

Please put a stop to the economically-draining witch-hunt against Microsoft. This has gone on long enough.

Microsoft has already agreed to hide its Internet Explorer icon from the desktop; the fact is, this case against Microsoft is little more than "welfare" for Netscape and other Microsoft competitors, with not a nickel going to those supposedly harmed by Microsoft: the computer user.

This is just another method for states to get free money, and a terrible precedent for the future, not only in terms of computer technology, but all sorts of innovations in the most dynamic industry the world has ever seen.

Please put a stop to this travesty of justice now. Thank you.

Sincerely,
Vince Bradley
5329 Summerlin Road
Fort Myers, FL 33919

MTC–00033574

From: Thomas Tuttle
To: Ms. Renata Hesse
Date: 1/28/02 4:31am
Subject: Microsoft Settlement
Thomas Tuttle
3602 Alpine Rd
Madison, WI 53704
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Thomas Tuttle

MTC–00033575

From: William J. McGurk
To: Ms. Renata Hesse
Date: 1/28/02 6:07am
Subject: Microsoft Settlement
William J. McGurk
Rockville Bank, 1645 Ellington Road
South Windsor, CT 06074
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

As a taxpayer and consumer, I support the proposed settlement of the Microsoft lawsuit, and urge you to approve it. Let's stop the waste of taxpayers money fighting a fair settlement.

Sincerely,
William J. McGurk

MTC–00033576

From: Walter L. Johnson
To: Renata Hesse (E-mail)
Date: 1/28/02 8:10am
Subject: DOJ v Microsoft, an end user opinion

Dear Ms. Hesse,

It is my understanding that opinions regarding the DoJ v Microsoft ruling is allowed and welcomed by your office. I have attached such a document that states what perceive and believe in the matter.

Thank you,
Walter L Johnson

From: Walter L. Johnson
To: Renata Hesse (E-mail)
Date: 1/28/02 8:10am
Subject: DOJ v Microsoft, an end user opinion

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Thank you,
Walter L Johnson

The agreement between Microsoft and the Department of Justice. An opinion By Walter L. Johnson While the subject, action has been concluded with what has been perceived as less than a satisfactory agreement, there are extended implications for which we must prepare. If you want to cut to the chase, see "Some final words" at the end of this opinion.

The allegations filed against Microsoft by the Department of Justice at the outset has the appearances of a cut and dried case of unfair practices involving free and open competition. The ruling therefore had all the appearance and intent of limiting unfair competition. We must conclude that there was sufficient evidence against Microsoft to create a ruling. On closer examination, the ruling is not as straightforward as it should be, that is if Microsoft was so clearly at fault. Specifically, there are certain portions of the settlement that clearly limit Microsoft's competitive ability and others allow it to continue to compete.

Moreover, other portions of the settlement allow Microsoft to continue to pursue its larger strategy without the hindrances that the litigants were seeking. It is this enigmatic judgment that needs examination. This examination is not for the purposes of a retrial but for an understanding, because the end user could once again reap the benefits as could the litigants.

Microsoft:

To say that Microsoft has brought desktop computing, PC style, into the mainstream would be an understatement. MS took the next software development step immediately after general PC hardware was made commercially possible. Had not MS done this, desktop computing could still be limited to offices. And most probably that would have been due to prohibitive costs. Microsoft has stated all along that its goal was to spread computing through society as a whole and link it via a network. To achieve this goal it supplied an operating system, graphic user interface and application software. It bundled software, made special offers, collected partners and bought companies.

If this is, in general, a fair assessment of Microsoft's intent, actions, and strategy, then an examination of how it achieved it's goals through what has been characterized as "questionable tactics", are in order. And this includes the resulting judgment by the DoJ.

* A previous analysis has been completed by "ACT Analysis of Microsoft/DOJ Proposed Settlement", 1413 K Street, NW, 12th Floor, Washington, DC 20005, www.ACTonline.org. I have used it's 6 headers to lend structure to my comments as I believe they tip the ice burg.

1."For computer manufacturers (OEMs) who equip their products with any Microsoft operating system—Guaranteed flexibility."

Microsoft has been ordered to modularize it's OS, GUI and middleware to allow OEMs to remove "pieces and parts" at will and "mix and match" other OEM products and to have the freedom to control the boot sequence of the of the OS. Additionally, uniform-licensing terms, discounts, and marketing freedom are ordered. Microsoft could have modularized their product earlier and competed "piece at a time" but they chose to integrate so that the product could function easier and quicker. Remember hardware at the time of these alleged offences were slow and quirky. Sometimes Windows worked well only for a particular platform or hardware configuration. MS dealt with several clone producers to enable their product to operate on the hardware platform. It was a custom fit in many cases made by MS and the clone producer before it arrived at the client. While MS was fighting the OS/Hardware infrastructure problem, it appears likely that ease of inclusion and exclusion was not a feature high on their list. It seems that there were two problems that existed for MS, hardware and application fit. MS chose the easy route, which excluded competitors. MS was not obligated to assist its competitors in undermining itself.

The Department of Justice has ordered Microsoft to make it's OS a highly modularized piece of software.

This means that if a competitor, for example, wants a different browser to be integrated into lets say Windows XP and that the resulting product could be licensed as a VAP called "Windows XP Rouser Browser." The competitor will pay Microsoft a volume rate for their basic "Windows XP" modular without the Windows browser. If their resulting product" is a contender to Microsoft's, then as they say, "we've got a horse race." Finally, Microsoft will not create any damaging strategy and or tactic regarding this portion of the judgment that may be considered a conscience effort to harm or hinder their competitor. The competitor may integrate any middleware software of their choice that previously WAS an integral part of the Microsoft OS including controlling the boot up sequence.

A modular, accessible core is made available which allows anyone the ability to plug their component into the core or just eliminate that component functionality. Additionally, remember that MS piece of middleware that is not used? It may be integrated into their competitors OS. If MS is listening, their components may become more valuable separately. Who is the winner? Will the costs rise? If you recall, it was Netscape that took offence when MS bundled their own Internet explorer with Windows. Netscape said unfair competitive practices. Who lost? Netscape! Who won? The end user won and that reinforced MS and their bundling practice. Modularizing may be the smartest thing that the DoJ did for the public and Microsoft. Moreover, it will make MS and it's competitors very interested in turning out better products. The end result is that if all the competitors play by the rules, then all will win. If Microsoft was all that good at producing products before then they will prove it again by producing an even better product in the future. Additionally, the competition will be given the opportunity to do the same.

*2."For all information technology (IT) providers, including Microsoft's competitors—Guaranteed access to technical specifications." MS must now give up what ever information it has that enables machines running the Windows OS to communicate with MS servers. This may not include MS's middleware code but How it interfaces with their servers. This means that another software producer now has all of the protocol specifics to create a specialized product for communications purposes or something to think about regarding a run around with their systems. In other words MS's competitors have some more advantage. It is the "modularization and cooking instruction" for networking within MS Client and server products that the DoJ has delivered. Of course MS must license ANY intellectual property rights to encourage middleware production by it's competitors. The final part of this part of the settlement is that MS may not penalize it's competitors.

Once again, this is a double-edged sword. Does any company really want to have a stand up fight with Microsoft? Most competitors will say yes, if it's a fair fight. And now, there are certain areas that are very level and fair but even at this, MS has an advantage. MS is big and has learned to mobilize a development effort into a formidable force. It was seldom a deadline to compete with competitors but to keep public promises that motivated MS to excel. I believe that Microsoft's brand of internal talent motivation is "carrot and stick." When you give a gifted group a challenge in an arena of their own, they will work themselves beyond reason. In the new "competitive product" arena, the talent wilt need more than the "C and S" motivation. It is possible that the companies that precipitated the litigation wanted a fair fight. BUT, most probably, they wanted a breakup of Microsoft. That would have tied one hand behind MS and given the competition an advantage. This way once MS restructures and provides sensitivity training, they will continue. But it can never continue as usual, this will be an all out fight if anyone wants to gain a clear victory. I believe that Microsoft is in the lead as before. However, with the new rules, old incentives have been re-exposed to more players. How they will get there is fuzzy. Moreover, Microsoft is unclear how they will improve their modularized product to remain within the judgment and be superior. Products being self contained yet accessible to broad use is good for the competition and may be even better for Microsoft.

If MS must modularize then so must its competition. Modularization with flexible interfaces that are tight, compact, unbreakable, self-repairing, self-resetting modules. This has a lot of potential because individual mods may be very narrow task orientated or broad and intuitive in purpose. Put your system together and have it very focused and directed. This part of your system is manufactured by MS and that by AOL Time Warner, or Sun, etc. This year MS has the best browser, next year Sun. Plug it in or pull it out and put in another module by another manufacture.

The manufactures of the products you buy will strive to improve their products and it will make them stronger and smarter. Everybody wins.

3."For end users—Guaranteed flexibility." It's simple, full capability for the end user to mix and match or change it's mind. If they want to reverse a decision to use this module, remove it and replace it with another, with on horrendous results. This makes evaluation of products that claim to be superior easier. Sales can persuade but performance will confirm.

Niche products may completely take over a middle ground for dedicated groups of users. A product may rise to the surface as the clear winner. Whichever the case, each module that has been defined as middleware or that has been declared as a self-contained product in it's own right will become a product in its own right. The end user can customize their desktop computer to their taste and purpose. And of course each individual product, module, will have its own price tag. Buying an operating system piecemeal could become difficult but I suspect that Microsoft will publish instructions. Its competitors will complain, MS will explain and in most cases the chess game will continue. Remember, the end user reaps the result.

*4. "For those who doubt Microsoft would comply with the settlement agreement— An unprecedented enforcement mechanism."

The settlement has caused Microsoft to provide at their cost, a mechanism that allows resources, access, and authority to complain. If a competitor thinks that Microsoft is acting outside the agreement then it may file a fast acting complaint. This mechanism for complaint has been created in the form of an autonomous committee, technical committee, TC. It can get bigger or smaller as is needed, its own judgment, to provide for the examination due to complaints.

I am not sure if it allows for examination of releases or new products. The delaying tactics that will most likely be practiced by the competition will put the TC in constant conflict. However, this will not be forever. And, if MS keeps it's nose clean and learns to play the game, the TC will be a minor inconvenience. It is quite possible that a stamp of approval from the TC will bolster MS's public image. The TC had better know it's stuff, otherwise the jailor may be held it contention. Maybe the TC will be disputed by those it was formed to protect.

*5. "For AOL Time Warner, Oracle, and Sun— Opportunities to hinder Microsoft by abusing the settlement agreement."

AOL Time Warner(Netscape), Oracle and Sun has been given the opportunity to observer a hand slap instead of an execution. This has caused the three protagonists much worry because they thought a breakup would deliver them the market unfettered for a considerable length of time. Now they are forced to face a giant that has been caused to kneel in repentance. Not the executed they expected.

That giant will be rising soon to its considerable height and that is a formidable sight. You can forget about the states that sued, they were in it for the money not justice and MS fowled that by offering public education an arm's length gift. Yes, it will expose education to Microsoft's products but later a modularized product. There are many who would like cash offering by Microsoft but that was not decreed by the DoJ. It appears that Microsoft has exceeded the spirit and intent of the judgment in a positive way. Remember if Microsoft's products are inferior, it will be proven to a wider audience, and if Education chooses to supplant a module for another so be it that is fair. The politicians have enough of our money, which they deny education. This could be an immediate break for education. It would appear that for a giant Microsoft has a gentle side.

Some final words:

To the point, Was Microsoft seen to be so far in the distance that it was no longer a race for first place but a question of a race at all? If this was such a race, how did Microsoft get so far ahead? There has been much exposed over the years about Microsoft's phenomenal rise to the top of the heap, It's rise to power was not being hidden but it was revealed in detail during the trial. Moreover, that may be why Microsoft received something akin to a hand slap rather than a public beheading.

IBM helped. IBM allowed Microsoft to keep the rights to the original microcomputer operating system that it had developed. This was after Microsoft had developed an operating system for IBM's new desktop hardware platform in the very early eighties. Microsoft decided to improve their version and license it on mass-produced personal computers. If and when PCs took hold.

All it took was the non-biological cloning of the PC, "PC clone," and the rest is history. There was one fee charged for each Microsoft Operating System that each PC clone received. That event was the base of revenue that allowed Microsoft to improve their operating system and pass the competition. Later they decided to market applications. The applications were not the best in the beginning but they improved until they were the standard. The Internet was becoming a reality so they started to work with it.

However, that was just before they started bundling and bundling gave them an edge. While there were organizations vending a word processor or a spreadsheet or communications package (pre internet) as a separate product, Microsoft vended a suite of applications with some loose ties to each other. Later Microsoft developed an operating system with a graphic user interface towards the mid nineties. And just a little bit later in the mid nineties, the commercial internet became a reality and with it MS released an internet explorer, bundled with their new operation system. This takes us to 1995. It is this period, probably 1988 to 1998, that Microsoft's competitors lost ground, and intense infighting took place.

That was a short history lesson without the super specifics that are needed by a judicial system. Most probably, Microsoft developed certain technical internal quirks that leaned towards locking competition out of using their products. However, partnerships could be developed with the competition, with Microsoft in the drivers seat. Further, the Microsoft non-tech negotiators and executives probably started to take over the dealing 100% rather than allowing the techs to help. The non-tech Microsoft negotiators dealt for some greater advantages. This caused their competitors to finally decide that there was enough evidence to sue Microsoft for unfair competitive. You will note that I have not included details much less generalizations about any other company except Microsoft. Now may be the time to include my opinion. During the trail, charges were supported by specific details that were answered by Microsoft. The trouble is that the other companies were performing many of the practices in question as well. A wash. However, the charges that were difficult to defend was aggressive correspondence and proposed partner agreements that were clearly in favor of Microsoft. There is not one of us that hasn't attended a "Kick ass" meeting causing us to compete more aggressively but the meeting speakers didn't say "catch your opponent bent over and strike their posterior with your foot". To access the judgment, one would have to say that the DoJ did not find enough evidence to support all of the antagonist claims but found evidence that the computer industry may be too complicated to control with today's laws.

When peacetime competition is declared, those who choose to participate do so voluntarily. They do this in the belief that they know the game and that it will be conducted in a fair and bounded manor. As we have all seen, most games mature and change as the skill level and nature of the competitors change.

The change is a natural result of maturation, because we want and in fact need to improve. However, when competition is performed outside the bounds of the game, the violator of the rules, unless penalized, will win.

It is fairness that is at stake and the belief that it is the cornerstone of justice. The People, Department of Justice, and all the litigants want fairness. I believe that It is in this spirit that a judgment was delivered that is more a warning than a penalty to all who would participate in the game.

MTC-00033577

From: Dave Marker
Date: 1/28/02 8:26am

As a software engineer, I am most upset by article III. section J. In my professional oppinion J-1(a) can be used by Microsoft to withold any API they choose: who determines what will compromise security?

Witholding APIs is the unfair advantage an operating system vendor may abuse to stifle competition. In fact, this method is in part responsible for Microsoft's ability to crush competitors out of the market (two examples are WordPerfect and Netscape Navigator).

The provision is reasonable in the regaurd that everyone wants computer operating systems to be secure, and engineers in general want to prevent piracy of their work. This is the wrong way to provide it. There is a saying in the computer security industry: "there is no security through obscurity". Security is not gauranteed by hiding applicable APIs, security is achieved by solid design and implementation. Any security problem in any operating system is a result of poor design or implementation and does not deserve court protection, it deserves to be fixed! The code red and other high profile worms that attacked computers running Microsoft Windows did not do so by using published APIs any way. Hackers are willing to take time to discover and reverse engineer what they require to do damage, it is competition must get to the market timely and suffers if it can not.

Similarly, if anti-piracy APIs are done correctly, there is no need to fear publishing them. Good systems rely upon mathematics; not upon keeping the algorithm secret (A well known example is the RSA crypto system). Given that there is no technical reason for for article III. section J-1a, I can only assume this provision exists for Microsoft to arbitrarily decide which APIs it doesn't want other vendors to know about (and hence Microsoft won't have to compete with them). Or Microsoft wants to slow down (but not prevent hackers) and not alert consumers to flaws in their product. Microsoft, should not, nor any other software vendor, be given the right to make buggy software.

Since properly designed and written APIs do not need secrecy J-2, especially J-2(d) is just providing Microsoft the means to track their competitors progress. Why should Microsoft get to license APIs (which it can arbitrarily choose as provided by J-1) and hence gain revenue and information about time to market from their competition?

With the exception of J-1(b), this is not an acceptable remedy, and will not prevent future abuse.

Thank you,

David Marker

MTC-00033578

From: Traci L. Slatton
To: Attorney General John Ashcroft
Date: 1/28/02 9:03am
Subject: Microsoft antitrust case
110 Riverside Drive Apt. 14E
New York, NY 10024-3734
January 24, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

I am pleased to know that after the government's long, three-year antitrust litigation against Microsoft, a settlement was reached in November of 2001. I support the settlement, which seems fair, reasonable, and responsible.

Allowing Microsoft to concentrate on its business now, while complying with the new restrictions of the settlement, gives them the opportunity to innovate more than ever. Innovation is certainly good for the economy, especially in the tech sector, which has been hit hard the last couple of years.

Starting with an upcoming version of Windows XP, users will be more easily able to delete portions or features of Windows (or at least access to them), and replace them with competing software. Computer makers no longer need fear higher prices for Windows licenses if they also ship other operating systems, or if they install Windows in ways to promote non-Microsoft applications.

That certainly sounds as if it should satisfy complaints from critics. I see this settlement as not only fair, but also a good thing for the economy, benefiting consumers and competitors with new options, and giving industry a chance to grow again. I urge you to support it.

Sincerely,

Traci Slatton

CC: Representative Jerrold Nadler

MTC-00033579

From: James Houston
To: fin@mobilizationoffice.com@inetgw
Date: 1/28/02 9:59am
Subject: Fw: Microsoft Settlement
—— Original Message ——
From: James Houston
To: microsoft.atr@usdoj.gov
Cc: Diane Feinstein ; Barbara Boxer
Sent: Monday, January 28, 2002 9:57 AM
Subject: Microsoft Settlement

I hope you can settle this suit ASAP. It has gone on to long and continued litigation is harmful to our economy, due to the disruptions in the software industry.

Microsoft is guilty of only trying to put the best product on the market. I've been a software user for over 20 years now and have never felt I was forced to use only a Microsoft version of a program. I have tried several others over the years and have always returned to Microsoft versions, because they are better. Would you want to be forced to buy a KIA vs: a Toyota?. Netscape was a big thing. I tried it for two years and the switched back to MSN. I use earthlink as my browser and not MSN's browser. This was a conscious decision and executed in a free market. I did not fell forced to use MSN's browser.

Did breaking up AT&T really help us? We don't know where we are getting our long distance service most of the time. And rates for LD phone service. You could write another book about that.

Why don't you devote your efforts to clarifying the up and down fluctuations of the oil and gas market?

That would be something the consumer would really be interested in.

These state attorney generals are just looking for political headlines so they can be considered for state governors jobs. What is the average consumer really going to get out of a settlement penalizing Microsoft? Look at the Ag'S track records. How many governors were previously AG's?

Please give us a break and end this Microsoft "witch hunt" now.

James M. Houston
jmhouston@earthlilnk.net
CC:Microsoft ATR

MTC-00033580

From: CTRC@aol.com@inetgw
To: fin@mobilizationoffice.com@inetgw
Date: 1/28/02 10:02am
Subject: Microsoft Settlement

I am in agreement with the Microsoft Settlement. I think that the ettlement is fair and just and should be SETTLED AS IS!

Carolyn Cusick
17 Starr Drive Dr.
Enfield, NH 03748
CC:Microsoft ATR

MTC-00033581

From: Willis Langford
To: Ms. Renata Hesse
Date: 1/28/02 10:07am
Subject: Microsoft Settlement
Willis Langford
3579 Santa Maria Street
Oceanside, CA 92056-3903
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Willis S. Langford

MTC-00033582

From: t—odwyer@yahoo.com@inetgw
To: Microsoft ATR
Date: 1/28/02 10:18am
Subject: Microsoft Settlement

It is time to end this law suit. The people did not suffer from Microsoft integrating the browser or in essence offering it free. In fact the only suffering on the part of the people was the amount of tax payer money spent by the government on the case. The settlement that is there now is in the best interest of the American people and the technology industry.

MTC-00033583

From: Chuck Hellar
To: us dept of justice
Date: 1/28/02 10:22am
Subject: Microsoft Settlement

The settlement between Microsoft, the DOJ and the nine states is very fair. Microsoft pays a large price but the greater good is done by providing the "at risk" to have computers and have a chance to pull themselves up and be part of the mainstream.

The only complaints from consumers are from the Class Action attorneys that want a quick buck. The main complaints are from the competitors who are unable to compete in the marketplace. The courts should not be the place to rectify poor management, the marketplace should. So continue to fight strongly for this settlement.

Chuck Hellar

MTC-00033584

From: Richmond Perley
To: Ms. Renata Hesse
Date: 1/28/02 11:04am
Subject: Microsoft Settlement
Richmond Perley
5262 Kensington High St
Naples, FL 34105-5651
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Richmond Perley

MTC-00033585

From: Alexander Belyaev
To: Department of Justice
Date: 1/28/02 11:07am
Subject: Microsoft Settlement

Dear Department of Justice:

We all know about recent dot com bubble. Whom to blame for it? My feelings are that if somebody decides to find whom to blame, they may say that it was Microsoft whom to blame for it and all consequest losses in many people's investments during these boom years.

U.S. Government should settle its case with Microsoft and stop blaming Microsoft for everything that this company was accused. Microsoft cannot be scapegoat for all other people's problems. Microsoft allows US people to enjoy the best IT innovations and standards in the world and leads true software technology development and innitiaves.

US IT sector is a very competitive industry and already allows any company to succeed in providing best services and goods and making good money. The dot com bubble busted because people promised a lot and could not deliver. Please let Microsoft to continue delivering its products that consumers want and please settle your case with this company.

Sincerely,
Alexander Belyaev
3714 West Bertona Street
Seattle, WA 98199-1914

MTC-00033586

From: John Roop
To: john ascroft
Date: 1/28/02 11:14am
Subject: Microsoft Settlement
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

The Department of Justice was absolutely wrong in wanting to slice Microsoft into separate parts. Three years have produced public resentment and gravely hurt the computing industry, all for the benefit of those who won't ever be able to compete with Microsoft. The settlement Microsoft agreed to with the federal government must go forward. It is more than generous, and is obviously better than forcing Microsoft back into court, where the only winners are the attorneys representing both sides of this case.

Microsoft concedes to give up more than enough to promote far more competition among the computer makers and software developers who want a more level playing field. Agreeing to open Windows for further application development, Windows and non-Windows alike, will produce far more innovations than ever before, and will show the consumer that they are not at the whim of this industry giant, creating more individually-based options and configurations.

I urge the Department of Justice to see to it that Microsoft is given unprejudiced consideration by allowing them to return to business NOW. Do not continue to waste the incredible innovation and efforts of Microsoft, by choking them in more court proceedings. They have been the most industrious and prolific business since that of Ford Motors. The ramifications are far reaching, for the better good, by supporting the position of this settlement with Microsoft.

Sincerely,
John

MTC-00033587

From: Jim Prendergast
To: DOJ comments
Date: 1/28/02 11:40am
Subject: Microsoft settlement

Americans for Technology Leadership Tunney Act Submission On behalf of Americans for Technology Leadership (<http://www.techleadership.org/>), I am writing to express our support for the bipartisan settlement reached between your department, Microsoft and nine of the state attorneys. As an organization that represents thousands of consumers, as well as numerous technology companies and trade associations, we believe this settlement is a tremendous step forward. It accurately addresses the finding of the Court of Appeals and allows Microsoft and the rest of the industry to get back to developing new technologies.

This settlement is the result of extremely hard work on the part of many individuals from Microsoft, the Department of Justice and the state attorneys general, as well as the mediators. Everyone had to make concessions in order to bring this chapter to a close and let the technology industry get back to work.

I would also like to commend the Department of Justice for their efforts during the settlement process. ATL has always been concerned with the level of involvement in the case by Microsoft's competitors. Assistant Attorney General Charles James echoed these concerns in November.

"Some of the loudest and most vocal criticism has come from some of Microsoft's competitors," said (Antitrust Chief Charles) James, without naming the corporate critics, which include AOL Time Warner Inc., Sun Microsystems Inc. and Real Networks Inc. "I don't think we have ever had competitors be quite so aggressive in asking that we serve their interests. Our job as antitrust enforcers is not to level the playing field mid-game." James distinguished between the "real Microsoft case" and "Microsoft, the public spectacle." He said the appeals court's ruling that Microsoft illegally protected the monopoly its Windows operating system enjoys doesn't support the "broad-scale emasculation of the company" that rivals sought.

November 17, 2001

Bloomberg News,

Resisting the fierce lobbying attempts by these companies could not have been easy, but your perseverance paid off as evidenced by a reasonable settlement that addresses the concerns found by the Court of Appeals. I'm sure you will receive several comments from well-known commentators such as Judges Kenneth Starr and Robert Bork. Their work on behalf of Microsoft's competitors is impressive, but it differs from the feelings of the millions of consumers and the thousands of small technology companies who have been hurt by this case.

The American public has always believed that this case should have been settled or brought to a close and that they have overwhelmingly supported the settlement that was reached. Polling commissioned by our organization has found that in July over 70% of the American believed that it was time for this case to come to an end. Since the settlement was reached similar numbers have supported the agreement and found it to be "fair and reasonable." These views have been found by a number of other polls conducted by Gallup, Ipsos-Reid, and other organizations.

Countless members of Congress from both parties, who came out in support of the agreement as well as many newspaper editorial pages from across the ideological and geographic spectrum, have echoed these sentiments. A fair and reasonable settlement is clearly preferable to continued litigation. The case against Microsoft has already gone on for nearly four years and has cost both Microsoft and the government millions of dollars. The litigation has caused Microsoft and the entire technology industry to focus on litigation, instead of creating better products and serving the needs of consumers. Given the state of the economy, the last thing we need is continued litigation.

The settlement reached in this case is a responsible agreement, which puts this entire case behind us. It addresses specific findings of the Court of Appeals and in some cases imposes restrictions even beyond those findings. In fact, Attorney General Ashcroft pointed out that this settlement "exceeds the kind of relief that was signaled in the Court of Appeals opinion of earlier this year."

Many corporate rivals of Microsoft had hoped that remedies imposed on the company would be much more far-reaching and extreme for their own interests, they are simply not called for given the ruling by the Court of Appeals and by the standards of antitrust law. Our antitrust laws and our courts are not supposed to be used by a few powerful companies to harm their rivals and do to them in the courts what they cannot do in the marketplace. By attempting to scuttle settlement, these companies choose litigation over innovation.

While the parties have agreed to this settlement in full, I would be remiss if I did not point out that there are elements of this settlement that do cause concern. The establishment of the 3-person technical review committee is the closest we have come to regulation of innovation in this industry.

It's unprecedented that this panel will be housed at Microsoft's headquarter. It may also investigate any complaint received by interviewing any Microsoft employee it deems relevant. This kind of power will impact the way Microsoft does business.

We hope that with this panel in place, Microsoft will be able to develop products and move them to the market in a timely manner. As this case has shown, technology moves at the speed of light. This country has benefited from the pace of technological development. Whether a rapid series of upgrades available for operating systems, or the increase in usefulness coupled with a significant decline in price that allowed millions of people the ability to take advantage of the digital revolution, the entire country has benefited from the speed at which this industry produces products. The role this review committee plays will be key to this settlement working in a positive manner and not a negative one.

It should not be open to abuse by competitors in an effort to stymie Microsoft's ability to develop new products nor should it move beyond its scope of review called for in the settlement. Any delay in the development process at Microsoft will hurt consumers. Denial of technological innovation will increase the cost for consumers. These costs will be out of pocket as Microsoft will be forced to pass the cost of compliance on to consumers in the form of price hikes. And there will be costs associated with a loss of productivity. One of the reasons we witnessed a "boom" in our economy is the last 10 years was because of the tremendous productivity gains our economy realized as the result of technology. We must ensure that these gains are still possible by allowing technology to reach market in a short period of time.

Another area of concern is the wide latitude that OEM's will be given when it comes to the design of the desktop. This stipulation can result in more competitors" products available on the desktop as consumer work more closely with OEM to customize their operating systems. While allowing for more choices in software during the out of box experience can be beneficial for consumers, there is concern that the desktop will become nothing but a source of revenue for computer manufacturers. Cluttering the desktop with icons of the highest bidders, while good for some OEM's bottom line, could have a negative impact on the computing experience for consumers. One of the key developments in computing that led to widespread use was the transition from DOS to a graphical user interface (GUI). With an operating system that made the interaction simpler for the user, more computers were sold.

Increases in the usability of computers and decreases in price are just two factors that caused millions of consumers to have access to one or more computers. We need to be sure that computers remain easy to use so that we can continue the wide adoption rate we have seen in the last ten years. Littering the desktop may cause confusion and lead to a negative experience.

Noting these concerns we still believe that, on balance, this is a good settlement. This case has consumed millions of taxpayer dollars while having a direct negative effect on consumers. Investors have lost billions as pension funds and investment accounts have been devastated by the decline in the tech sector. The uncertainty surrounding this case is evident in the chart detailing the stock performance of some major technology companies involved in the case. Everyone has suffered to some extent. While this case is not the only factor in the tech sector's decline, it has played a role.

Much has been written about the tremendous impact the collapse of Enron has had on the markets and investors. The chart just shows you that Enron is a drop in the bucket compared to what has happened to technology investors. On behalf of our members and our coalition partners, we encourage the Department of Justice to continue its tremendous efforts on behalf of settlement and hope you urge the District Court to approve this settlement in the public interest.

Jim Prendergast
Executive Director
Americans for Technology Leadership
1413 K Street NW 12th Floor
Washington, DC 20005
202–835–2030
202–318–7803, fax

MTC–00033588

From: David Burgess
To: Renata Hesse
Date: 1/28/02 11:40am
Subject: Microsoft Settlement
Ms. Renata B. Hesse, Esq.
Antitrust Division U.S. Department of Justice
601 D Street, NW
Washington, DC 20530–0001
January 27, 2002

Dear Ms. Hesse:

Re: Proposed Final Judgment (Microsoft Antitrust Case)

I am writing to submit my comments on the Revised Proposed Final Judgment in the civil antitrust case, United States of America vs. Microsoft Corp. I have read the Revised Proposed Final Judgment, the Complaint and Stipulation in the case, as well as the Competitive Impact Statement, and other documents and decisions related to this case. I urge the Department of Justice to settle this case on the proposed terms of settlement, and urge the Court to accept this settlement as being fair, reasonable, enforceable, and in the public interest.

Public Interest Is Served

I am one of those consumers whose interests are so frequently cited when antitrust and other laws are invoked, but whose actual opinions are so seldom sought or considered by litigants and commercial interests. I am not affiliated with Microsoft or any of its lines of business. Nor am I affiliated with any of Microsoft's competitors, although I have been solicited by some of them to oppose this proposed settlement. I write on my own behalf, and not as part of any organized so-called "grass-roots" lobbying campaign. Having followed this case in the media for several years, and having reviewed the voluminous documents on this case available on the DOJ website, I suspect that I will be among a very few individual consumers who are submitting their own comments on this proposed settlement, rather than repeating the conflicting claims, or advocating the commercial interests, of clients, competitors, employers, etc.

Public Interest In Ending Costly Litigation

The proposed final judgment and settlement is fair and reasonable because it brings an end to a lengthy and costly antitrust action (perhaps the longest and costliest ever), and does so in a way that is enforceable. I urge the court to consider that the public's (and the taxpayers') interests can be served quite effectively when the DOJ and private concerns agree to settle expensive litigation in a reasonable manner.

Fortunately, we do not allow only commercial interests to balance the costs of proceeding against the risks of an uncertain case. The concept behind settling uncertain—but certainly costly—litigation is just as valid when the government is a party, as when the dispute is between two businesses. (And public interests can additionally be served later by alternative use of taxpayers, funds that otherwise would disappear in continuing costly litigation.)

Settlement Recognizes Technology and Velocity of Change

The proposed settlement is also reasonable because it takes into account the velocity of change and innovation in the relevant technology markets. In fact, from the consumer's perspective, the relevant markets change literally every day, with each new innovation and technical improvement. This volume and velocity of change affects OEMs, computer operating and communications systems, routing and networking approaches, and internet applications, portal, service and content providers (ISPs, ICPs, OLSPs, etc.), as well as their ancillary software, middleware, related hardware, and integrated (or isolated) features. Despite the claims of some manufacturers and service providers, there is enormous intellectual competition in these markets and those making claims that innovation has been stifled know that is false: they know that this competition exists, and they themselves benefit from it every day.

Opposition to this proposed settlement seems to be as much an effort to punish Microsoft for the fact that the marketplace has changed, as it is an effort to seek redress for Microsoft's wrongdoing. Personally, like millions of others, I use a broad variety of products and services that would be covered by the proposed settlement. I regularly use internet browsers manufactured by Netscape and by Microsoft; I have used e-mail accounts through both AOL and MSN; everyday I consult a wide variety of ICPs, use the MS operating systems, and also use Sun's products and services. My middleware and invisible software applications are equally intermixed. Through mutual funds I am probably invested in Microsoft, Netscape, Sun, AOL, and countless other corporations whose commercial prospects will be affected by this settlement, and by the changes in the market. This constant and extensive intermingling of technology and economic interest represents the power and reason of the marketplace, and of the millions of consumers who demonstrate daily that competition still remains vibrant amidst rapidly changing technologies.

Settlement Imposes Reasonable Penalties

As to alleged injuries from Microsoft's marketing and manufacturing conduct, I have not noticed or suffered from the alleged predations of Microsoft, but don't doubt that some have. At the same time, It is evident that the primary interests opposing this proposed settlement today are those who seek to hold back the oceans and thus to stop the tides.

No amount of litigation or monetary damages can make a non-competitive product innovative. That product might still be worthwhile to someone if it is cheap enough; but it will ultimately be left behind by every fast-changing market. Even cheap buggy whips have no meaningful market, not matter how well-made they are, nor how committed or celebrated their designers and manufacturers may be.

On the other hand, excessive litigation costs can easily make an innovative product too costly for consumers to use. Increasing the cost of a Ford's Model A by layering on litigation and legal expenses could have delayed the day when the automobile would replace the horse and buggy, but it would have done little to advance the public's ultimate interests. No amount of subsidy or economic penalty can prevent the marketplace from adopting or rejecting technological changes on their own merits. Moreover, I don't believe that the purposes of the Clayton and Sherman Acts would be served at all by creating expensive impediments to systems integration and innovation, merely to preserve a market share for alternative systems that marketplace forces (i.e., we consumers) have already rejected as lesser products or services.

Settlement Proposes Enforceable Remedies

Finally, the proposed settlement and judgment are appropriate because they are enforceable. They are forward looking remedies, which do take account of the nature of the relevant technology markets. The settlement does recognize that unlawful behavior should be stopped, and that recompense should be demanded and paid in a way that advances the public's interests.

But it does not confuse those worthy objectives with the cries of other OEMs, ISPs, ICP, etc. for commercial subsidies, dressed UP as their claims of unremitting anti-competitive behavior. The proposed remedies do impose a new cost on Microsoft, and therefore will plainly benefit Netscape, AOL, CompuServe, Sun, etc. But the costs will benefit consumers and the public more directly. The business limitations and restraints that the settlement imposes on Microsoft will similarly benefit the public "in an enforceable way" by assuring continued competition AND allowing continued innovation and integration.

Limitations on Microsoft's business practices will also benefit Microsoft's competition but only to the extent that that they themselves are competitive. The proposed settlement does not attempt to create a new competitor where it does not exist, nor does it attempt to prop up a non-competitive business that wishes to, but finds it cannot, actually compete with Microsoft or any other firm.

All in all, I believe that the Court should accept the Revised, Judgment and Settlement of this unique anti-trust case as being in the public interest.

Proposed Final

Sincerely yours,

David Burgess

Arlington, VA 22201–1037

Note: I have also enclosed these comments as TEXT and WORD attachments for your convenience.

David Burgess
Director
Democracy Fellows Program
World Learning, Inc.
1015 15th Street, NW
Suite 750 Washington, DC
tel. (202) 408–5420
fax (202) 408–5397
e-mail:
20005
david.burgess@worldlearning.org

MTC–00033589

From: Henry Thode
To: Ms. Renata Hesse
Date: 1/28/02 11:48am
Subject: Microsoft Settlement

Henry Thode
1660 Gulf Blvd.
Englewood, Fl 34223
January 28, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Henry F. Thode, Jr..

MTC-00033590

From: Ben Roth
To: Ms. Renata Hesse
Date: 1/28/02 11:48am
Subject: Microsoft Settlement

Ben Roth
1311 Stonington Dr
Youngstown, OH 44505–1657
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Ben J Roth

MTC-00033591

From: David Ceton
To: Ms. Renata Hesse
Date: 1/28/02 11:50am
Subject: Microsoft Settlement

David Ceton
3310 Saw Mill Rd.
Newtown Square, PA 19073–1902
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever,

the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
David E. Ceton

MTC-00033592

From: David Mandel
To: Judge Colleen Kollar-Kotelly
Date: 1/28/02 11:50am
Subject: Comments regarding Microsoft Antitrust/Settlement and Resolution
28 January 2002

Your Honor, Judge Colleen Kollar-Kotelly:

I've been involved in computing for most of my professional career.

—As a university faculty member specializing in mathematical data analysis and mathematical modeling in the 1970s and 1980s.
—As a government contractor specializing in Geographic Information Systems in the 1980s and 1990s.
—And currently as an project leader developing developing internet servers which are more secure and easier to use.
—I have also been active in the Open Source / Open Data movement starting in the 1970s. —I'm currently Technical Director of LinuxFund.org
—and President of the Portland (Oregon) Linux/Unix Group

I use and love a number of Micro Soft products, and I often recommend Micro Soft products because I think some of their products are very good.

On the other hand, I am very concerned about monopolies in the computer industry; and I do think Micro Soft is a monopoly as the courts have already ruled. Moreover, I do not believe any of the proposed settlements are sufficient to keep Micro Soft from continuing it's unfair business practices. Indeed, now that things have pretty much been settled, Micro Soft seems to feel free to once again threaten companies and users who don't use Micro Soft products exclussively. At least, these are the rumors I hear.

For example, Micro Soft has been telling resellers to drop their Linux products or else they will only be allowed to handle certain Micro Soft products. As I understand, resellers selling Linux products will not be allowed to sell MS Office 2000 or the any of the Windows operating systems above Windows-XP. If this is true, this will hurt me and my employees very much as we build Linux server products.

As another example, Micro Soft now provides ISP services for Qwest DSL customers. Since Qwest changed to Micro Soft a number of things have changed. People keep coming to me saying that they have been told that only MS Windows based computers will be supported on Qwest DSL. I have heard this from both Linux users and Apple users. Of course, this is non-sense. I assume that non-Windows computers will work just fine with Qwest DSL. They just won't be supported. However, Qwest (who is simply Micro Soft's proxy in this matter) is giving people the impression that they will have to change to MS Windows if they want to continue using Qwest; and of course they have little choice if they are in the middle of something like a one year contract for their DSL service.

Thank you for reading my comments. I hope you are able to recommend a settlement which will end Micro Soft's monopolistic practices, and allow everyone including Micro Soft to compete on a fair and equal basis.

Sincerely,
David Mandel
President
Portland Linux/Unix Group
1440 NE 59th
Portland, Oregon 97213
(360) 260–2066 at work
(541) 730–5285 cell

Also, Technical Director of LinuxFund.org which is an international group whose purpose is the raise funds to support innovative Open Source projects.

MTC-00033593

From: Clarence George
To: Ms. Renata Hesse
Date: 1/28/02 12:16pm
Subject: Microsoft Settlement
Clarence George
2922 S Skyline Dr
Inverness, FL 34450–7422
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Clarence M. George

MTC-00033594

From: Mary N Morris
To: tunney@computingchoice.org@inetgw
Date: 1/28/02 12:22pm
Subject: MICROSOFT

Sirs:

It is high time for us to haul up our britches and prune constrictive capitalism at the root.

Please give America access to Microsoft. Let's make America sustainable!

Sincerely
Mary M. Morris
501
909 West Central
Missoula, MT 59801
CC:Microsoft ATR

MTC-00033595

From: Telly Lovelace
To: Ms. Renata Hesse
Date: 1/28/02 12:41pm
Subject: Microsoft Settlement
Telly Lovelace
126 C Street, NW
Washington, DC 20001–2116
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of

Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Telly Lovelace

MTC-00033596

From: Owen Mattingly
To: Ms. Renata Hesse
Date: 1/28/02 12:55pm
Subject: Microsoft Settlement
Owen Mattingly
2241 Monocacy Rd
Baltimore, MD 21221-1529
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change. I can also understand keeping a company from gouging the public, but if they want to give away or make their product better by adding something to it for free, I find that to the consumers benefit. Furthermore, to this point most of the high tech industry has only gotten better and cheaper. Oh yes, it has been through innovation and productivity that made it possible.

Sincerely,
Owen Mattingly

MTC-00033597

From: Barb Koch
To: Ms. Renata B. Heese
Date: 1/28/02 1:06pm
Subject: Microsoft Settlement (Support)

Dear Ms. Heese:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case. The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet.

Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Barb Koch
300 Bucklin St.
LaSalle, IL 61301-2065
CC: Citizens for a Sound Economy

MTC-00033598

From: Nicholas Yankanich
To: Ms. Renata Hesse
Date: 1/28/02 1:10pm
Subject: Microsoft Settlement
Nicholas Yankanich
126 Chestnut Street
Aliquippa, PA 15001-2315
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Nicholas A Yankanich

MTC-00033599

From: Melvin R. Blann III
To: Ms. Renata Hesse
Date: 1/28/02 1:13pm
Subject: Microsoft Settlement
Melvin R. Blann III
17379 Chase Road
Fulton, Il 61252
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Melvin R. Blann III

MTC-00033600

From: Diane Whitlock
To: Ms. Renata Hesse
Date: 1/28/02 1:15pm
Subject: Microsoft Settlement
Diane Whitlock
PO Box 44
Martinsville, VA 24114-0044
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost taxpayers more than $35 million, and final approval is clearly in the public interest.

The terms of the settlement offer a fair resolution for all sides of this case. Consumers will be able to select a variety of pre-installed software on their computers,and it will be easier to substitute competitors' products after purchase as well.

The country needs the economic stability this settlement can provide. I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Diane C Whitlock

MTC-00033601

From: Eugene Marin
To: Ms. Renata Hesse
Date: 1/28/02 1:16pm
Subject: Microsoft Settlement
Eugene Marin
99 Bog Rd
Hillsboro, NH 03244
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Eugene P. Marin

MTC-00033602

From: Richard Keene
To: Ms. Renata Hesse
Date: 1/28/02 1:23pm
Subject: Microsoft Settlement
Richard Keene
328 Schooner Ave.
Edgewater, Fl 32141
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Richard N. Keene

MTC-00033603

From: Steve Wagner
To: Ms. Renata Hesse
Date: 1/28/02 1:24pm
Subject: Microsoft Settlement
Steve Wagner
7930 So. Monaco Court
Englewood, CO 80112
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to

submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Steve Wagner

MTC-00033604

From: Richard Hathaway
To: Ms. Renata Hesse
Date: 1/28/02 1:27pm
Subject: Microsoft Settlement
Richard Hathaway
2040 Duck Lake Rd.
Whitehall, MI 49461–9691
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Richard G. Hathaway

MTC-00033605

From: Greg Wolfgram
To: Ms. Renata Hesse
Date: 1/28/02 1:34pm
Subject: Microsoft Settlement
Greg Wolfgram
8131 Mulberry Place
Dublin, CA 94568
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Greg Wolfgram

MTC-00033606

From: Betty Pawlak
To: Blind.Copy.Receiver@ compuserve.com@inetgw
Date: 1/28/02 8:26pm
Subject: Microsoft Issue
January 28, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The settlement that was reached between Microsoft and the Department of Justice is fair and reasonable, and I am in full support of it. The American economy is in need of all the help it can get, and allowing Microsoft to get out of court and turn all of their attention to business is a great way to help.

The recession that we are currently in actually can be traced to the suit against Microsoft. The market started to slip three years ago when the suit was announced, and kept going down. In order to get out of the hole that we are in, Microsoft and the rest of the IT industry must perform at peak levels. The settlement encourages such performance by restricting retaliation from Microsoft against competitors who produce and promote software that competes with Microsoft's. The settlement also mandates that Microsoft document to their competitors, interface data internal to Windows. This assists in the compatibility between competing software firms.

All in all, the settlement will encourage competition and be beneficial to the economy. I fully support the settlement.

Sincerely,

Balvina Pawlak
10 Molasses Hill Road
Lebanon, New Jersey 08833

MTC-00033607

From: Loretta Frey

To: Ms. Renata Hesse
Date: 1/28/02 8:27pm
Subject: Microsoft Settlement

Loretta Frey
2506 N Hogan
Spokane, WA 99207
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Loretta Frey

MTC-00033610

From: AL BORTLES
To: Ms. Renata Hesse
Date: 1/28/02 10:11pm
Subject: Microsoft Settlement

AL BORTLES
2166 E. MEADOW WOOD DR.
MERIDIAN, ID 83642
January 29, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
AL BORTLES

MTC-00033611

From: Robert E Lehnherr
To: Microsoft Settlement
Date: 1/28/02 10:17pm
Subject: Microsoft Settlement

Robert E Lehnherr
3631 South 257th Street
Kent, WA 98032-5669
January 29, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers? dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Robert E Lehnherr

MTC-00033612

From: eugene shafer
To: Ms. Renata Hesse
Date: 1/28/02 11:26pm
Subject: Microsoft Settlement

eugene shafer
78237 willowrich dr

palm desert, , ca 92211
January 29, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Eugene Shafer

MTC-00033613

From: Consumers for Computing Choice
To: Microsoft ATR
Date: 1/29/02 12:01am
Subject: Microsoft Settlement

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA
UNITED STATES OF AMERICA,
Plaintiff,
Plaintiff, v.Civil Action No. 98–1232 (CKK)
MICROSOFT CORPORATION,
Defendant. STATE OF NEW YORK ex rel.
Attorney General ELIOT SPITZER, et al.,
Plaintiffs, v.Civil Action No. 98–1233 (CKK)
MICROSOFT CORPORATION, Defendant.

COMMENTS ON THE DEPARTMENT OF JUSTICE PROPOSED SETTLEMENT AND FINAL JUDGEMENT SUBMITTED BY CONSUMERS FOR COMPUTING CHOICE AND OPEN PLATFORM WORKING GROUP

TABLE OF CONTENTS

I. Introduction and Overview
II. The Court Should Hold Thorough Public Proceedings on Remedies and Provide Substantial Opportunities for Full Participation by Citizens and Organizations that Represent the Consumer Interest
III. The Court Should Reject the Proposed Settlement and Final Judgment Because It Fails to Address the All-Important Applications Barrier to Entry and Other Essential Elements of a Competitive Market in Computing Platforms
IV. The Court Should Reject Any Proposed Settlement or Final Judgment That Does Not Provide a Way to Run Windows Applications on Any Other Operating System
V. The Court Should Reject Any Proposed Settlement or Final Judgment That Does Not Provide a Way to Make Microsoft Office Available on Any Other Operating System
VI. The Court Should Reject Any Proposed Settlement or Final Judgment That Does Not Provide a Way to Run Competing Productivity Applications on Any Other Operating System and Interoperate with Microsoft Applications
VII. The Court Should Reject Any Proposed Settlement or Final Judgment That Does Not Provide a Way to Run Internet Explorer and Other Microsoft Internet Applications on Any Other Operating System
VIII. The Court Should Reject Any Proposed Settlement or Final Judgment That Does Not Provide a Way to Run Competing Internet Applications on Operating System and Interoperate with Microsoft Applications
IX. The Court Should Reject Any Proposed Settlement or Final Judgment That Does Not Provide a Way for Developers and Consumers to Remove and Replace Components of Microsoft Products with Superior or Special Purpose Components
X. The Court Should Reject Any Proposed Settlement or Final Judgment That Does Not Deprive Microsoft of the Power to Control the Computing Hardware Market
XI. The Court Should Reject Any Proposed Settlement or Final Judgment That Does Not Provide Equal Access to the Existing OEM Distribution Channel
XIII. The Court Should Reject Any Proposed Settlement or Final Judgment Less Than 10 Years in Duration
XIV.The Court Should Reject Any Proposed Settlement or Final Judgment That Does Not Have Very Strong Provisions for Enforcement and Very Serious Consequences for Violation of Disclosure Requirements and Other Mandates
XV.Conclusion
APPENDIXES
A. Motion for Hearing on The Issues Presented
B. Offer of Proof

I. Introduction

As Consumers for Computing Choice stressed in the brief it filed with the District Court, consumers will need advanced computing applications to enjoy the benefits of the coming digital age. These applications rely on a new generation of state-of-the-art operating systems and microprocessors. A number of more advanced operating systems and related microprocessor technologies are endangered because of a Windows standard arising from Microsoft's misuse of its monopoly power.

The Microsoft case will determine whether competition in information technology occurs among a diversity of innovative software producers or is limited to a few monolithic companies. In order to ensure robust competition, we propose that the Court include in any Final Judgment remedies that will rapidly and reliably erode the applications barrier to entry by enabling state of the art operating systems to compete on a level playing field. The most important of these remedies is to provide a way to enable the 70,000 applications supported by Windows to run on any modern operating system.

Now that the Appeals Court has rejected Plaintiffs structural remedies, the District Court must seriously review the currently proposed Final Judgment to determine whether it will enable Windows applications to run on other operating systems. Consumers for Computing Choice believe it will not. The applications barrier is here now, it is limiting consumer choice and innovation now, and it can be addressed now. We urge the court to reject the proposed settlement and Final Judgment and replace them with a Final Judgment that includes remedies that provide for interoperability of Windows applications with any other modern operating system and other related interoperability.

Our recommended remedies are directly focused on the applications barrier to entry, providing an essential addition to their proposed remedies. Microsoft's compliance with these remedies will create an immediate change in market incentives, opening a path to adoption of a number of advanced operating systems and creating attractive competitive opportunities for ISVs to write applications for these systems. In the interest of robust competition, innovation, and consumer choice, the Court should reject the settlement and Proposed Final Judgement and replace it with a Final Judgment that includes these remedies.

II. Hold Thorough Public Proceedings With Consumer Participation

The Court should hold thorough public proceedings on remedies and provide opportunities for full participation by citizens and organizations that represent the consumer interest. Robust competition and innovation in software are crucial to our short- and long-term economic recovery. No industry was more crucial to the economic prosperity in the 1990s. Yet the incentives for innovation have been destroyed by Microsoft's increasing monopolization of the most common categories of software. There is no incentive for any company to create a new operating system, productivity suite, or Internet browser. Computer hardware manufacturers cannot profitably innovate as long as Microsoft has the power to control the specification for microprocessor architecture and other hardware components. OEMs have become little more than value added resellers with minimal influence over design decisions. If present trends continue, the only incentives for innovation will be in the most obscure niches.

Moreover, American prosperity in the coming century will depend on our ability to increase our quality of life while reducing resource consumption and environmental pollution. Just as machines supplanted physical labor in the past, software will supplant much of the work done by industrial-era machines in the future. During the last century, machines improved labor productivity by a factor of 40. Software has the potential to provide similarly dramatic improvements.

Consumers are the major player in the computer market without a seat at the Microsoft and Justice Department negotiating table. In 1974 Congress passed the Antitrust Procedures and Penalties Act (15 U.S.C. sec 16), designed to provide the public with the opportunity to comment on a proposed Final Judgment. This act also required the benefiting party, in this case Microsoft, to file a Competitive Impact statement (CIS) to provide essential information for the public. Microsoft has failed to do so.

Former California Senator John Tunney, the author the legislation, filed an affidavit in this proceeding that says Microsoft's filing is inadequate to satisfy the clear language and intent of the Tunney Act. Microsoft does not reveal what its President Steve Balmer spoke about with Vice President Dick Chaney when they met. News sources report that Attorney General Ashcroft received campaign contributions from sources politically connected with Microsoft. In a similar situation with Enron, Ashcroft recused himself. He should do the same in this case.

It is not possible to have the most robust and accessible information system without the full participation of capable consumers. By withholding information, Microsoft is denying consumers information they need. Without the information, consumers are handicapped in effectively pointing out Microsoft's limitations and failures. Consumers must be informed, and they have the right to be heard. These are essential developments if the desktop and Internet are to grow into their potential as an integrated sphere of rapid, accurate, and dependable communication. If Microsoft has its way the potential computing revolution on our doorstep will remain a potential. Consumers need "Four Freedoms" to benefit from a competitive market in computing platforms. The first is the freedom to switch to any new operating system without abandoning their investment in applications. The second is the freedom to switch to any new application without abandoning the documents and data they have created. The third is the freedom to replace any component or feature in an operating system or application with superior or special purpose components. The fourth is the freedom to switch to any new microprocessor architecture without abandoning their investment in an operating system.

Microsoft denies the Four Freedoms. Its comprehensive strategy locks products together, excludes superior competitors, and raise switching costs for consumers. The Court should insist that any settlement or Final Judgment enables the Four Freedoms.

III. Address the Essential Elements of a Competitive Market in Computing Platforms

In the early 1990s, experts recognized that the basic architecture of existing platforms was inadequate to meet the needs of the emerging digital age. This realization led to a wave of extraordinary innovation in computing. Visionary business leaders, engineers, marketers, and investors brought together their resources to create a wave of new products and possibilities. New operating systems from IBM, NeXT, and Be offered improved stability, speed, and application development. The PowerPC microprocessor and its Common Hardware Reference Platform came into service. Internet software like Netscape Navigator changed how people use the Internet. The OpenStep and Java cross-platform application environments enabled developers to write an application once and run it on multiple platforms.

With these innovations came the promise of a new generation of digital media applications. Unfortunately, most of these products are now road kill in Microsoft's quest to seize control of the information superhighway. IBM's OS/2 is now a niche product (Findings of Fact, 46). NeXT was acquired by Apple and used to extend the life of the aging Macintosh platform. OpenStep for Intel and Open Step for Windows were removed from Apple's price list shortly after the so-called normalization of relations between Microsoft and Apple in 1997. Java's potential has been diminished by Microsoft's efforts to introduce an incompatible version. Netscape's market share has continued to decline since it was acquired by America Online.

More recently, while the current case was underway, Microsoft drove Be from the operating system market by threatening computer makers who had agreed to bundle Be as a second operating system. Microsoft threatened prohibitive increases in Windows licensing fees and refused to allow installation of a boot loader that would allow consumers running Windows to reboot their computers into the Be operating system. The state-of-the-art Be technology was sold to Palm for the fire sale price of $11 million, approximately one day of Microsoft profits.

The market conditions needed to protect competition, innovation, and consumer choice are straightforward. Competition must be a la carte, no less fine-grained than the process of innovation. Everything must be able to run on everything. Developers must be free to remove, replace and combine components, and compete on the merits of each component. This will ensure robust competition, with innovators vying to improve components and vendors competing to assemble them in different combinations. There will be little competition or dynamism in the market for platform software if neither innovators nor users can replace anything without having to replace everything. No company or alliance can replace Wintel and its all its third party products at the drop of a hat.

Because Netscape had no applications barrier to entry to protectit, it was ported to more than fifteen different operating systems (Findings of Fact, 69). Operating system vendors differentiated the graphical user interface into a separate layer, allowing the application environment to use the graphical interface of the host operating system on which it was running and to permit special interfaces. This occurs naturally in a competitive market. Everyone wants his software to run on every other platform, and everyone wants software from others to run on his platform. Competitors have incentives to cooperate, establish standards, and publish interfaces to ensure interoperability. In a truly competitive market, there would be a wide variety of component combinations. Operating systems with multiple application environments would be common. Developers would be able to write for the application environments with the best capabilities for their specific application. Consumers would be able to choose operating systems and application environments with the best capabilities for their most demanding applications.

A competitive market would provide companies real incentives to pursue breakthrough innovations. Small producers with an idea for one great application or one great component would have a chance to bring it to market. Network effects would be counterbalanced by the benefits of cross-platform application environments. A number of operating systems would have substantial market share. Absent an applications barrier to entry, developers would promote these benefits. Consumers would readily recognize these benefits and demand them.

This is not speculative. Automobile manufacturing and customer service have substantial network effects, yet Chevrolet, Ford, Toyota and Honda, Porsche, and Ferrari still have dealer and service networks. They allow third-party products to enhance performance.

Among the most important breakthroughs in computing is the fact that operating systems now rely on modular design. A modern operating system includes a core operating system that schedules tasks for processing. Three basic layers correspond to the basic functions of an operating system recognized by the Court (Findings of Fact, 2 and 7). In a modular operating system each of these major layers includes a number of distinct modules. Software developers can easily add or replace modules with superior or special purpose components without hidden code dependencies interfering with the rest of the system.

Another important benefit of modern operating system architecture is that it permits multiple application environments to run well on the same core operating system. This will allow consumers have an older application environment to run legacy applications and a modern application environment to perform demanding tasks, without maintaining two large, complex operating systems on one computer (Findings of Fact, 49).

In an important sense this case is about the important contributions multiple application environments on a single core operating system can make to competition, innovation, and consumer choice. Netscape Navigator and Sun's Java both provided cross-platform application environments that could run along with the standard application environment on different operating systems. If similarly adaptable applications are allowed to thrive in a truly free market, consumers will enjoy smooth migration of older technology and early adoption of the new technology crucial to full participation in the digital age.

IV. Provide a Way to Run Windows Applications on Any Other Operating System

The Court should reject any proposed settlement or Final Judgment that does not provide a way to run Windows applications on any other operating system. The applications barrier to entry is the central issue of this case. The installed base of 70,000 Windows applications is by far the most formidable element of this barrier. A competing operating system must have a large and varied base of compatible applications to reassure consumers that it will meet their computing needs (Findings of Fact, 40). The massive installed base of Windows applications makes this prohibitively difficult and expensive (Findings of Fact, 46). As the Court recognized, the developer of a rival operating system could in theory circumvent this barrier by cloning the Windows APIs so that the applications written for Windows would then also run on that system (Findings of Fact, 52). The new competitor would not be able to translate this into practice, however, because it would never have all the current Windows APIs.

Widespread availability of a Windows Application Environment on all other operating systems would reduce this barrier to entry. A Windows Application Environment would be similar in structure and function to a Java Runtime Environment (Findings of Fact, 73). It would break the dependent relationship between Windows and the 70,000 applications written for the Windows APIs and allow those applications to work with other operating systems. This reduced barrier to entry would immediately encourage investment in the development and marketing of operating systems. Consumers could choose a superior core operating system with a modern application environment based on its features, without worrying about legacy Windows applications. This would substantially reduce the costs of migrating to other operating systems. No other remedy would do so much to restore competition, innovation, and consumer choice. IBM recognized the important benefits of a Windows Application Environment when it invested tens of millions of dollars to clone the Windows APIs and enable Windows applications to run on its OS/2 operating system (Findings of Fact, 46). Sun Microsystems made a similar investment to develop a Windows Application Environment for its Solaris operating system.

A number of third party software developers have made serious efforts to implement the Windows APIs on other operating systems. The open source WINE (Wine Is Not an Emulator) project has implemented a sufficient percentage of the Windows APIs on the Linux operating system to run selected Windows applications. A WINE project for Apple's OS X operating system is also in progress. The BeWine project, organized by a small group of software developers who needed access to the installed base of Windows applications, made substantial progress implementing Windows APIs on the state-of-the- art Be operating system. This project has been shelved since 1999 when Microsoft drove Be from the operating system market. A network of Be developers around the world is now working to resurrect the Be operating system, and BeWine will be one of its highest priorities. The new Lindows operating system is implementing Windows APIs as a way for consumers to run some of the major Windows applications on Linux. A preliminary version of Lindows will soon be released to the public.

In all of these projects, the major obstacle is the lack of complete and accurate disclosure of the Windows APIs and related technical specifications. Moreover, Microsoft frequently changes APIs. Often these are gratuitous changes intended only to frustrate interoperability. Yet Microsoft allows implementation of Windows APIs when it serves the company's interests. At least two ISVs, Mainsoft and Bristol, offer tools that implement the Windows APIs on Unix operating systems. They do it in markets where Microsoft is not the dominant vendor; i.e., in markets where Microsoft favors interoperability. These implementations work well because Mainsoft and Bristol have the benefit of Microsoft source code licenses, and need not be concerned about the completeness or accuracy of its API disclosure.

There are three major ways for the Court to ensure the availability of the installed base of Windows applications on all other operating systems.

Mandatory Porting

The first approach is to order Microsoft to offer mandatory ports of a Windows Application Environment to other operating systems. The initial ports should be to the five operating systems offered by competitors mentioned in the Findings of Fact. This approach should require native and optimized ports that work well with the unique features of the host operating systems. An advantage of this approach is that it appropriately shifts the burden for reducing the applications barrier to entry from disadvantaged competitors to Microsoft.

These ports would be a very modest burden for a company as large as Microsoft. Next Software, a company with fewer than 400 employees and less than $50 million annual revenue, ported the OpenStep operating system to four hardware platforms, and the OpenStep application environment to four other operating systems. Third party applications written for OpenStep ran properly on all these platforms without additional porting. The entire project cost approximately $10 million. While the Windows code base is larger and more commingled, that is hardly an excuse for Microsoft to escape any additional burden that may result. These costs will be modest compared to the immense monopoly rents Microsoft has enjoyed as a result of the applications barrier to entry. Microsoft should be required to sell these products to OEMs, ISVs, IHVs, and end users at a price not to exceed fifty per cent of the lowest price for any Windows Operating System Product. There would also need to be provisions for adding new operating systems at minimum cost to their developers.

A disadvantage of mandatory ports is the risk that Microsoft would likely attempt to delay progress or produce low-quality ports. Strong enforcement and serious sanctions for violations would be necessary to ensure compliance.

Mandatory Licenses to Port Windows Application Environment

Another approach would be to order Microsoft to offer licenses to port Windows Application Environments to any other operating for which its developer or a third party requests one. The advantage of this approach is that developers or third parties would rapidly be able to develop high quality products to market on any operating system. The developers of new and innovative operating systems offering the greatest potential consumer benefit are likely to have limited access to capital. Accordingly, a limited number of licenses should not be allocated by auction alone. A small number of major licensees could limit availability to their preferred operating systems and raise barriers to entry for small and innovative operating system developers. Moreover, Microsoft might attempt to control this process by encouraging compliant, though formally unaffiliated, ISVs to acquire licenses and limit their use to operating systems that present no competitive threat.

Instead, at least one license should be issued for each operating system for which a port is requested by its developer or any third party. The initial license fee should be no more than an amount sufficient to cover Microsoft's administrative costs associated with licensing. Microsoft should then receive a per unit royalty from ISVs, IHVs, and OEMs not to exceed twenty-five per cent of the lowest royalty paid for any Windows Operating System Product.

Mandatory Disclosure of Interfaces and Technical Information

The third approach is to order that Microsoft fully disclose all of the functional specifications for APIs, other interfaces, and technical information necessary for competent software developers to implement their own Windows Application Environments on any other operating system. The advantage of this approach is that it would leverage the efforts of existing projects working to create Windows Application Environments.

The required disclosure should include the right to the technical information about file systems needed to read the files on a disk partition on which Microsoft products are installed. This will permit consumers to install multiple operating systems on the same computer or home network.

This approach should also require Microsoft to grant a license of any intellectual property rights it claims are necessary to produce and sell these products. The license should be royalty-free and available on nondiscriminatory terms. The court should make it clear that ‘nondiscrimatory” requires that open source projects and their commercial derivatives are entitled to all of the benefits of these disclosures and licenses, provided that no Microsoft source code is incorporated into open source products.

Finally, Microsoft should be prohibited from including in its licensing terms any requirement that its software not be installed on computers with other operating systems. This will make consumers free to install and use existing Microsoft applications on other operating systems.

The remedies proposed by the Plaintiff Litigating States offer significant though partial steps toward this third approach. Section 4(a) (i) of their Remedial Proposal requires Microsoft to disclose all APIs, Technical Information and Communications Interfaces that Microsoft employs to enable each Microsoft (emphasis added) application to Interoperate with Microsoft Platform Software installed on the same Personal Computer.

The Plaintiff Litigating States clearly recognized the importance of disclosing these interfaces. The APIs Microsoft employs to enable Microsoft applications to interoperate with Windows include almost all the APIs it employs to enable Windows applications written by third parties to interoperate with Windows. However, there are a small number of APIs that are called only by third party Windows applications. Disclosure of all of these APIs is essential in order to reduce the applications barrier to entry and enable consumers to run any of the 70,000 existing Windows applications on any other operating system.

It is likely that the Plaintiff Litigating States did not distinguish between these sets of APIs and intended that this remedy include the APIs used for all Windows applications. Nevertheless, the Court should insist that disclosure include all the APIs. The remedy could easily be changed to reflect this by requiring that Micrsoft disclose all APIs, Technical Information and Communications Interfaces that Microsoft employs to enable all Microsoft and/or third party Windows applications to Interoperate with Microsoft Platform Software installed on the same Personal Computer.

The Windows APIs are the centerpiece of Microsoft's monopoly power. The Court should now use that monopoly power to reverse the effects of its abuse and move Microsoft toward open, cross-platform competition. This would allow the market to begin to recover. The Court noted (Findings of Fact, 29) that it would take several years for middleware and the applications it supports to evolve into a competitive threat to Windows. This has yet to occur. Moreover, the prospects are worse than they were in 1995 because Microsoft now dominates the market for browsers and may be able to leverage that dominance.

The Court should correct for this market failure by ensuring that any Final Judgment contains at least one of the remedies that will enable the installed base of 70,000 applications that comprise the applications barrier to entry to run on any other operating system.

V. Make Native Ports of Microsoft Office Available on Any Other Operating System

VI. Provide a Way to Make Native Ports of Microsoft Office Available on Any Other Operating System

The Court should reject any proposed settlement or Final Judgment that does not provide a way to make native ports of Microsoft Office available on any other operating system. This is another direct and certain way to address the applications barrier to entry. In a competitive market, many consumers will choose operating systems because their features and benefits are necessary for advanced multimedia, networking, or other digital-age applications. Nevertheless, for many consumers, Office remains their one indispensable application. Its importance is highlighted by its role in the controversies between Microsoft and IBM and Microsoft and Apple. Unfortunately, the dependencies between Microsoft applications and Windows are another formidable element of the applications barrier to entry. Office and Internet Explorer are now dominant in most work environments, and most consumers need compatible applications at home. Office has proprietary file formats, APIs, and other features that add dependencies. If there is to be real competition in operating systems and other platform software, the dominance of Microsoft Office applications must not be allowed to favor Windows over other competitors.

Cross-platform ports of Office applications will ensure that consumers and businesses are free to choose alternative operating systems based on their distinct features and benefits. Porting Office to competing platforms is more certain and immediate than relying on other ISVs to develop productivity applications for them. Since their market share is presently low, there are few incentives for ISVs to write for them. There are two major ways for the Court to ensure the availability of Office applications on all other operating systems.

Mandatory Porting

The first approach is to order Microsoft to offer mandatory ports of its Office applications to other operating systems. The initial ports should be to the five operating systems offered by competitors mentioned in the Findings of Fact. This approach should require native and optimized ports that work well with the unique features of the host operating systems.

An advantage of this approach is that it appropriately shifts the burden for reducing the applications barrier to entry from disadvantaged competitors to Microsoft. The price charged for these products to ISVs, IHVs, OEMs and end users would need to be limited to the comparable price of Office for Windows. There would also need to be provisions for adding new operating systems at minimum cost to their developers. A disadvantage of mandatory ports is the risk that Microsoft would likely attempt to delay progress or produce low-quality ports. Although mandatory ports of complex Silcon Graphics software worked well, strong enforcement and serious sanctions for violations would be necessary to ensure that Microsoft complies.

The specialized Macintosh Business Unit established by Microsoft after the 1997 agreement to continue the port of Office for Macintosh has demonstrated, with upgrades to Office and Internet Explorer, that Microsoft can optimize ports to take advantage of features not available on Windows. This optimization made a noticeable difference in the user experience and is one of the few positive results of the "normalization" between Microsoft and Apple.

Microsoft should be required to continue its port of Office to Apple operating systems. The existing agreement to port Office to the Macintosh operating system expires this year. Microsoft could again hold Apple hostage and demand concessions in exchange for continuing this port. The remedies proposed by the Plaintiff Litigating States require this. However, Apple now has a modern operating system with an advanced object- oriented application environment called Cocoa. Apple asked Microsoft to port to this application environment in 1997 and Microsoft declined. This was a decisive factor in delaying the release of the new OS X operating system and forcing Apple to add an interim application environment to that operating system. Microsoft should be required to support the most advanced application environment on any operating system to which it ports Office. Any settlement or Final Judgment should require that Microsoft port Office to the Cocoa application environment within three years in order to allow Apple to shift the orientation to this new technology.

Mandatory Licenses to Port Office

Another approach would be to order Microsoft to offer licenses to port its Office applications to any other operating system for which its developer or a third party requests one. The advantage of this approach is that developers or third parties would rapidly be able to develop high quality products to market on any operating system. The remedies proposed by the Plaintiff

Litigating States offer significant though partial steps toward this approach. Section 14(b) of the Remedial Proposal submitted by the states requires that Microsoft offer to sell at auction at least three licenses to port Office to other operating systems without further royalty beyond the auction price. The developers of new and innovative operating systems offering the greatest potential consumer benefit are likely to have limited access to capital. Accordingly, a limited number of licenses should not be allocated by auction alone. A small number of major licensees could limit availability to their preferred operating systems and raise barriers to entry for small and innovative operating system developers. Moreover, Microsoft might attempt to control this process by encouraging compliant though formally unaffiliated ISVs to acquire licenses and limit their use to operating systems that present no competitive threat.

Instead, at least one license should be issued for each operating system for which its developer or a third party requests one. The initial license fee should be no more than an amount sufficient to cover Microsoft's administrative costs associated with licensing. Microsoft should then receive a per-unit royalty from ISVs, IHVs, OEMs, and end users indexed to a specified price for Office.

VI. Provide a Way for Competing Productivity Applications to Interoperate with Microsoft Applications.

The Court should reject any proposed settlement or Final Judgment that does not provide a way to run competing productivity applications on any other operating system and interoperate with Microsoft applications. The importance of competition in operating systems is to provide superior platforms that enable the development of applications with richer features and compelling benefits to consumers. Sustaining competition in operating systems will require renewed competition in applications.

Microsoft's proprietary file formats are another significant element of the applications barrier to entry. Their only benefit is to exclude competitors. A vast amount of valuable data is held captive in Office files. Just as consumers" ability to carry over their installed base of Windows applications to new platforms is essential to restoring competition in the market for operating systems, their ability to carry over data now held captive in Microsoft files to new applications is essential to competition in the markets for applications and, therefore, operating systems.

Any Final Judgment should require Microsoft to publish all file formats needed to read, write, and save Office files.

Requiring Microsoft to publish these file formats will allow consumers to migrate to new (and more advanced) applications without losing data. This will provide ISVs with ample incentives to write new applications for Windows and alternative operating systems and ensure that, as market share grows, Microsoft applications are not the only ones ported to competing systems.

Microsoft also uses its Object Linking and Embedding (OLE) framework and other proprietary specifications for inter-application communications instead of published APIs. These make it possible for Office applications to exchange files, data, and services with other Microsoft applications. These are yet another significant element of the applications barrier to entry. Without open interfaces, competing applications cannot exchange data with Office applications.

Any Final Judgment should also require that Microsoft publish the file formats of its applications and the specification for OLE and other proprietary specifications needed for inter-application communications.

Requiring Microsoft to publish these specifications will allow consumers to choose productivity applications from multiple vendors and still have the benefits of an integrated application suite. A spreadsheet from one vendor could be combined with a drawing program from another and a presentation program from a third. Consumers could then replace one program without having to purchase another complete suite and discard applications. This will increase incentives for ISVs to write applications. Since ISVs will no longer have to design an entire suite of software, a small ISV will be to able to concentrate its resources on developing a more innovative product for a single niche and will be able to compete more effectively with larger ISVs.

VII. Provide a Way to Run Internet Explorer and Other Microsoft Internet Applications on Any Other Operating System.

The Court should reject any proposed settlement or Final Judgment that does not provide a way to make native ports of Internet Explorer and other Microsoft Internet applications available on any other operating system. This is another direct and certain way to address the applications barrier to entry.

For many consumers, Internet Explorer is becoming another indispensable application. Its importance is highlighted by its role in the controversies between Microsoft and IBM and Microsoft and Apple. Internet Explorer is now the dominant application for access to the World Wide Web. If there is to be real competition in operating systems and other platform software, the dominance of Microsoft Internet applications must not be allowed to favor Windows over other competitors. Cross-platform ports of Internet Explorer and other Microsoft Internet applications will ensure that consumers and businesses are free to choose alternative operating systems based on their distinct features and benefits.

There are two major ways for the Court to ensure the availability of Internet Explorer and other Microsoft Internet applications on all other operating systems. As with Office, the first approach is to order Microsoft to offer mandatory ports of it Internet Explorer to other operating systems. All the considerations and provisions that apply to ports of Office should apply to Internet Explorer, except that the ported products should remain free as long as Internet Explorer for Windows is free. As with Office, another approach would be to order Microsoft to offer licenses to port Internet Explorer to any other operating system that requests one. Again, all the considerations and provisions that apply to licenses to port Office should apply to Internet Explorer, except that the license fees would need to be very limited since Explorer for Windows is a free product.

The remedies proposed by the Plaintiff Litigating States offer a more comprehensive approach. Section 12 of their Remedial Proposal requires that Microsoft offer open source licenses to Explorer source code without royalty. This approach will offer other operating systems and consumers all the benefits that mandatory porting or licenses to port will offer.

Since Microsoft's intent in offering Internet Explorer as a free product was central to its unlawful conduct, the open source remedy may be appropriate to restore competition and deprive Microsoft of the fruits of its unlawful conduct. There is also much less justification for protecting the source code of Explorer than there is for Office or Windows.

Moreover, opening the source code of Internet Explorer will make it more difficult for Microsoft to extend its triple monopoly and create another set of secret de facto standards eliminating competition for the architecture for distributed Internet computing and the advanced networking applications. Any Final Judgment should incorporate provisions to reduce the likelihood that Microsoft will continue to create an ever more powerful monoculture on the web and gain control of cyberspace in the same way it gained control of the desktop.

Nevertheless, if the Court declines to adopt the remedy proposed by the Plaintiff Litigating States, mandatory porting of Internet Explorer or mandatory licenses to port it will assist in restoring competition, innovation, and consumer choice in operating systems.

VIII. Provide a Way for Competing Internet Applications to Interoperate with Microsoft Applications.

The Court should reject any proposed settlement or Final Judgment that does not provide a way to run competing Internet applications on any other operating system and interoperate with Microsoft applications.

Microsoft's proprietary Internet interfaces, file formats, media formats, codecs, and extensions are another significant element of the applications barrier to entry. Their only benefit is to exclude competitors. Any Final Judgment should require Microsoft to publish these specifications.

Requiring Microsoft to publish them will allow consumers to migrate to new Internet applications. It will provide ISVs with ample incentives to write new Internet applications and ensure that Microsoft applications are not the only ones ported to competing systems.

Microsoft is also using proprietary specifications for inter-application communications instead of published APIs in its Internet applications. Any Final Judgment should also require that Microsoft publish the specifications needed for inter-application communications.

Requiring Microsoft to publish these specifications will allow consumers to choose Internet applications from multiple vendors and still have the benefits of integrated Internet applications.

The open source remedy proposed by the Plaintiff Litigating States will offer other operating systems and consumers all the benefits that disclosure of these specifications will offer. Moreover, opening the source code will make it more difficult for Microsoft to create an integrated Internet architecture that excluded applications and components from other software developers and deprived consumers of choice. Nevertheless, if the Court declines to adopt that remedy, mandatory disclosure of these specifications will assist in restoring competition, innovation, and consumer choice in operating systems.

IX. Provide a Way to for Developers and Consumers to Remove and Replace

Components of Microsoft Products with Superior or Special Purpose Components. Microsoft has regularly sacrificed best practices, value added, and innovation to strategies that extend its monopoly. Resources that could be invested in product improvement or breakthrough innovation are consistently diverted to prevent developers from substituting superior components and raise the "switching costs" for users who wish to replace Microsoft products with preferred alternatives. After years of these practices, an extraordinarily high proportion of the value of Microsoft's intellectual property is in the unpublished interfaces and communication protocols that exclude competitors. Microsoft's relentless pursuit is promoted in the guise of 'integration.' This purported 'integration' neither makes its software run faster than comparable competing software nor work more seamlessly. Indeed, the commingling of code from so many components into the foundations of the operating system is why its entire software monoculture is so vulnerable to instability, security breaches, and viruses. The digital age requires a better foundation.

X. Deprive Microsoft of the Power to Control the Computing Hardware Market

The Court should reject any proposed settlement or Final Judgment that does not deprive Microsoft of the power to control the computing hardware market Microsoft monopoly power has externalities in hardware choices as well as operating systems and applications. The Court found that Microsoft was able to pressure Intel to stop developing platform software because of Intel's dependency on Microsoft support for Intel microprocessors (Findings of Fact, 102). Since Intel is so dependent on Microsoft, Microsoft has the ability to influence Intel's processor designs. Intel therefore embraces strategies and technologies that favor Windows at the expense of hardware innovations that would benefit superior operating systems. Over the years, the technical dependencies between Windows and Intel processors have increased.

These dependencies assist Microsoft in preserving the applications barrier to entry. Locking Windows and Intel together tends to lock others out of both the operating systems and microprocessor markets. Since the market for personal computers that run Windows is very profitable for Intel, these dependencies are "golden handcuffs" that limit Intel's freedom to design the best processors. Intel's next generation processor architecture is burdened with numerous legacy features that would likely not be included if Microsoft did not insist on them, and the performance of the prototypes has been disappointing.

Consumers have almost no alternatives to Intel-compatible personal computers. This limitation is itself a result of Microsoft's protection of the applications barrier to entry. Microsoft initially supported the Common Hardware Reference Platform (CHRP), an open PowerPC hardware platform that supported a number of alternative operating systems including Macintosh, BeOS, and Solaris. CHRP was an important habitat for other operating systems. It was also a potential path for migration from Windows to these operating systems, since it would have allowed consumers and business to switch from one system to another without having to purchase another computer. Accordingly, it was perhaps the most significant threat to the dominance of the Wintel platform. Microsoft abandoned its support for CHRP at a critical moment in the platform's development. Apple abruptly withdrew its support shortly after its so-called "normalization" of relations with Microsoft in 1997. Without support from Microsoft and Apple, critical customers lost confidence in the platform. CHRP has since been dormant. Its successor, the PowerPC Open Platform, is sustained mainly by the interest of Linux developers. Without additional commercial support, this exceptional platform may be never be widely available to consumers.

The Court should include in any Final Judgment provisions for porting Windows to other hardware platforms with non-Intel compatible microprocessors. The Court could require that Microsoft port Windows to specified alternative microprocessors and recompile its software to run on the versions of Windows ported to those microprocessors. This would require the same sorts of provisions to ensure a quality port that mandatory ports of other software would require.

The Court could alternatively order Microsoft to issue source code licenses for the purpose of porting Windows to any microprocessor for which a port is requested. Since the number of alternative microprocessor architectures is limited, this would likely only require issuance of three or four licenses. Microsoft should of course be entitled to receive a royalty on every unit of these products. The royalty should be no greater than the lowest royalty charged to an OEM for Intel-compatible versions of Windows.

XI. Provide Equal Access to the Existing OEM Distribution Channel

OEMs are the most important distribution channel for operating systems (Findings of Fact, 54), middleware, and other software. Few consumers will install an alternative operating system even as a complement to Windows if it requires partitioning a disk drive and reinstalling all Microsoft software or adding another disk drive. Equal access to OEM distribution will level the playing field and restore competition.

In 1998, while the current case was underway, Be attempted to persuade Microsoft drove Be from the operating system market by threatening computer makers who had agreed to bundle Be as a second operating system with prohibitive increases in Windows licensing fees and refusing to allow installation of a boot loader that would allow consumers running Windows to reboot their computers into the Be operating system. The Be technology was sold to Palm for $11 million.

Effective remedies must ensure that alternative operating systems and other software products that compete with Microsoft's monopoly products have immediate access to this distribution channel. The Court should require in any Final Judgment that Microsoft be prohibited from licensing any operating system, applications, or middleware to an OEM for installation on a computer unless each unit shipped with a Microsoft operating system also includes alternative software products corresponding to the Microsoft products installed on that computer.

Consumers would have the opportunity to experience the benefits of alternative systems, and competitors who have been excluded from coexistence with Microsoft on OEM computers would have new incentives to invest. OEMs could use the choice of which competuing products to offer in each category to differentiate their offerings.

This would impose no substantial financial burden on the OEMs. Free distributions of Linux, BeOS, BSD Unix, and other alternative operating systems are available. OEMs could shift responsibility for support for these products to the manufacturers or other interested parties. Consumer demand would develop for the products that offered the most value, and OEMs could then charge for them.

XII. Minimum Term of Any Final Judgment

The Court should reject any proposed settlement or Final Judgment with a term of less than ten years. The AT&T case indicates that, contrary to popular notions, ten years is not so long in a dynamic industry. The recombining of the 'Baby Bells' began almost as soon as the Term of the Modified Final Judgment expired. Meanwhile, their control of the 'last mile' of connectivity into consumer homes has enabled them to drive Competitive Local Exchange Carriers and residential broadband providers out of the market.

One lesson from this experience is that the last mile is a commons that is essential for all competitors, and equal access to that commons may need to continue until it no longer offers any leverage to exclude competitors. Since interoperability remedies of the sort provided in these comments are essential to establishing a commons through which new competitors can enter markets controlled by Microsoft, the Court should ensure that they are maintained for at least a decade, or until competition in platform software is so robust that Microsoft no longer has the ability or incentives to control key interfaces.

Some of Microsoft's anti-competitive practices originated more than a decade ago. The wave of anti-competitive conduct that led to the filing of this case began six years ago. The magnitude of the damage to related markets suggests that even well-designed, pro-competitive remedies will require a decade to restore competition and reverse the gains resulting from Microsoft's unlawful conduct.

XIII. Provisions for Enforcement and Consequences for Violation

The Court should reject any proposed settlement or Final Judgment that does not have strong provisions for enforcement and serious consequences for violation of disclosure requirements and other mandates. The Court should appoint a Special Master to monitor and enforce Microsoft's compliance with the Final Judgment. The Court should consider the voice of the Plaintiff Litigating States, competitors, and consumer organizations in selecting the Special Master. There should be provisions for selection of a replacement if necessary and a way to prevent Microsoft from corrupting the selection process in the event of political changes.

The Special Master must have the authority and resources to thoroughly monitor and enforce Microsoft's compliance with the terms of this Final Judgment. Most important, the Special Master will need full access to all of Microsoft's source code for the purpose of verifying the completeness and accuracy of its required disclosures. Access to source code in a secure facility proposed in the remedial proposal of the Plaintiff Litigating States does not adequately enable competitors to verify the completeness and accuracy of disclosure.

The settlement must also provide an effective 'crown jewel' provision that will deprive Microsoft of both the tools and spoils of its illegal monopoly. There must be substantial penalties for non-compliance. For the same reasons that protection of the source code during verification is so great a concern for Microsoft, placing the source code in the public domain would be the best "crown jewel" provision.

IV. Conclusion

The Court should reject the proposed settlement and schedule public proceedings. It must The Court should reject the proposed settlement and schedule public proceedings. It must conduct its own inquiry into both the ends that proper remedies must achieve and the best means to achieve them.

These proceedings should include a significant opportunity for consumers to participate, including the opportunity to propose remedies, present evidence, and to argue for correcting the effect of illegal monopoly. The remedies recommended in these comments should be given serious consideration in those proceedings. Even with the inclusion of these remedies in a settlement or Final Judgment, competing operating systems and competing software face uphill battles against the fruits of Microsoft's years of unlawful conduct.

Competing products will still be disadvantaged by the large investment in training that companies and consumers have on Microsoft products and the great degree of familiarity information technology professionals have with those products. Nevertheless, these remedies offer the best chance to restore competition, innovation, and consumer choice.

The scheduled proceedings on the Remedial Proposal submitted by the Plaintiff States should complement rather than replace public proceedings under the Tunney Act. The Court should also propose that the Plaintiff Litigating States incorporate these recommendations into a Revised Proposed Final Judgment. Although the remedies proposed by these states are important and should be included in any Final Judgment, their proposed remedies have been shaped more by the debate between Microsoft and its competitors than by a consumer voice.

The absence of a strong consumer presence is reflected in the omission of some of the most basic remedies of importance to consumers. The absence of these remedies create the likelihood that the development of the information economy and culture promised by the potential of computer technology will remain stymied and undeveloped much as the telephone communicating system crept along at a snails pace for the nearly one hundred years of the Bell systems monopoly.

Opening up the Microsoft monopoly with serious remedies that include the consumer interest in the final market place equation will make possible the next leap in communication technology, and with it the significant economic development, on the brink of which society now stands. These new developments are to the Internet as the Internet is to the telephone. Failure to include these consumer-oriented remedies threatens society with economic downturns and cultural stagnation. We urge the court not to accept the economically and culturally crippling proposed final judgment.

James S. TurnerCharles D. Brown
ChairCounsel
Consumer for Computing
ChoiceConsumers for Computing Choice
Drexel SprecherMichael Vlahos
Co-ChairCo-Chair
Open Platform Working GroupOpen
Platform Working Group

APPENDIXES

A. Motion for Hearing on The Issues Presented#
1. This has been a common sense presentation#
2. Expert testimony will support it#
XIII. Interests of the Parties Submitting Comments#
A. Consumers for Computing Choice#
B.Open Platform Working Group#
B.Offer of Proof#
A. Witnesses#
B. Issues#

IN THE UNITED STATES DISTRICT OF COLUMBIA FOR THE DISTRICT OF COLUMBIA

THE UNITED STATES OF AMERICA
Plaintiff vs.Civil Action No. 98–1232 (CKK)
MICROSOFT CORPORATION
Defendant STATE OF NEW YORK ex rel.
Plaintiffs, vs. MICROSOFT CORPORATION
Defendant Motion for Evidentiary Hearing

Defendant, Microsoft Corporation by the undersigned counsel respectfully moves this honorable court for an evidentiary hearing in the above captioned matter. As grounds for the motion, which are more fully determined in the accompanying memorandum of points and authority defendant, asserts:

1. Defendant has new evidence previously not considered by the court
2. The failure of the court to hear and consider this new evidence would not only constitute a denial of due process and or would be impermissibly prejudicial to the defendant and to other parties to this case.

CONSUMERS FOR COMPUTING CHOICE

Executive Board
James S. Turner, Chair
Consumer Interest Lawyer
Swankin & Turner
Charles D. Brown
Consumer Interest Lawyer
Former Attorney General
State of West Virginia
Jeri Smith-Fornara
Arizona Consumer Council
Tom Andrews
Former United States Representative
State of Maine
President
New Economy Communications
Ira Arlook
Founder
Citizen Action

MTC-00033614

From: Don Botkin
To: Ms. Renata Hesse
Date: 1/29/02 12:13am
Subject: Microsoft Settlement
Don Botkin
108 1/2 East Main St.
Heyworth, IL 61745–0456
January 29, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Don T. Botkin

MTC-00033615

From: Holly Falls
To: Microsoft Settlement
Date: 1/29/02 12:15am
Subject: Microsoft Settlement
Holly Falls
11301 Riverbank Blvd
Orlando, Fl 32817
January 29, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry. It is high time for this trial, and the wasteful spending accompanying it, to be over. Consumers will indeed see competition in the marketplace, rather than the courtroom. And the investors who propel our economy can finally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not have broken up Microsoft. If the case is finally over, companies like Microsoft can get back into the business of innovating and creating better products for consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services to consumers. With government out of the business of stifling progress and tying the hands of corporations, consumers—rather than bureaucrats and judges—will once again pick the winners and losers on Wall Street. With the reins off the high-tech industry, more entrepreneurs will be encouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Holly & David Falls

MTC-00033616

From: Leo Stevenson
To: Microsoft ATR
Date: 1/28/02 7:11pm
Subject: Microsoft Settlement
Renata B. Hesse
Antitrust Division
U.S. Department of Justice

Please accept the settlement for Microsoft. Let's move on without further litigation. Our national economy needs to move on. Accepting the Microsoft settlement will help our national economy move forward.

MTC-00033617

From: Wade Mountz
To: Ms. Renata Hesse
Date: 1/28/02 7:38pm
Subject: Microsoft Settlement
Wade Mountz
9 Muirfield Place
Louisville, KY 40222
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own. Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement. This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Wade Mountz

MTC-00033618

From: JHabicht
To: DOJ
Date: 1/28/02 7:39pm
Subject: anti-trust case

I would like to voice my opinion on the anti-trust case against Microsoft. I feel this case should be resolved immediately. 30 of the states were not concerned enough to participate in the lawsuit. Eleven of the original 20 states involved were satisfied with the settlement. The remaining states led by the viciously revengeful attorneys general of Miller and Blumenthal are prolonging this case beyond reason. These two individuals have some ax to grind against Microsoft and the court and department of justice should put an end to this.

People like the bundling approach because it makes the life of working on a computer and the internet easier. Technology moves too quickly for any one company to dominate or monopolize.

I hope this lawsuit can be resolved in the next few months and not drag this out any longer.

John Habicht
11792 Diamond Dr.
Shelby Township, MI 48315

MTC-00033619

From: Elmer Elias
To: Ms. Renata Hesse
Date: 1/28/02 7:50pm

Subject: Microsoft Settlement
Elmer Elias
5401 bus.83
Harlingen, Tx 78552–3639
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Elmer Elias

MTC-00033620

From: Sandra D. Lucas
To: Renata B. Hesse for John Ashcroft
Date: 1/28/02 7:59pm
Subject: Microsoft Settlement

Dear Mr. Ashcroft:

I would like to make it clear that I, along with millions of other sensible people, am in full support of an end to the Microsoft antitrust case. I believe you should support the settlement agreed upon in this case. The legal system should leave Microsoft alone.

Microsoft is a very ingenious and successful company. Thousands of people depend on Microsoft for their employment. Microsoft also exports many products, which is good for our country's economy. There is no reason for the governmnet to keep going after Microsoft, especially since a settlement exists that could end this case. The settlement will give competitors the right to place their software on Microsoft's systems. What else could they want? Perhaps the competitors want to exploit the legal system to get at Microsoft.

I believe you are a sensible person with a good instinct for justice. That is why I have confidence you will settle this case.

Thank you for acknowledging my opinion and request.

Sincerely,
Sandra D. Lucas

MTC-00033621

From: Don LeBlanc
To: Microsoft ATR
Date: 1/28/02 8:04pm
Subject: Microsoft Settlement
DONALD LeBLANC
70 COURTSIDE CIRCLE
SAN ANTONIO, TEXAS, 78216
January 26, 2002
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft,

I am writing you today to express my opinion in regards to the Microsoft antitrust dispute. I fully support Microsoft in this dispute and believe that the settlement that was reached in November is a fair and reasonable means to end this costly litigation. I do not believe this lawsuit should have been initiated in the first place. I also feel that the charge that Microsoft is a monopoly is false and unrealistic.

This settlement is the best alternative in an imperfect IT world. Microsoft came to terms with its more controversial policies and rectified them. Now the company will do such things as disclose various interfaces of the Windows OS and designing future versions of Windows to make it easier to install non-Microsoft software. These actions will help its rivals gain a competitive edge that they did not have before.

As a schoolteacher, I have seen firsthand what Microsoft has done for the classroom. Please support this settlement and stop restricting Microsoft. This company has a lot to contribute to our society.

Thank you for your support.

Sincerely,
Donald LeBlanc
CC:fin@mobilizationoffice.com@inetgw

MTC-00033622

From: Barbara Sanders
To: Microsoft Settlement
Date: 1/28/02 8:06pm
Subject: Microsoft Settlement
Barbara Sanders
RR 1, Box 50A–1
Terra Alta, WV 26764
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance to consumers, and a serious deterrent to investors in the high-tech industry.

It is high time for this trial, and the wasteful spending accompanying it,to be over. Consumers will indeed see competition in the marketplace,rather than the courtroom. And the investors who propel our economy canfinally breathe a sigh of relief.

Upwards of 60% of Americans thought the federal government should not havebroken up Microsoft. If the case is finally over, companies like Microsoftcan get back into the business of innovating and creating better productsfor consumers, and not wasting valuable resources on litigation.

Competition means creating better goods and offering superior services toconsumers. With government out of the business of stifling progress andtying the hands of corporations, consumers—rather than bureaucrats andjudges—will once again pick the winners and losers on Wall Street. Withthe reins off the high-tech industry, more entrepreneurs will beencouraged to create new and competitive products and technologies.

Thank you for this opportunity to share my views.

Sincerely,
Barbara A. Sanders

MTC-00033623

From: Barbara I. Ball
To: Microsoft Settlement
Date: 1/28/02 8:10pm
Subject: Microsoft Settlement
Barbara I. Ball
104 Goddard Place
La Crosse, WI 54603
January 28, 2002
Microsoft Settlement
U.S. Department of Justice-Antitrust Division
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Microsoft Settlement:

The Microsoft trial squandered taxpayers' dollars, was a nuisance toconsumers, and a serious deterrent to investors in the high-tech industry.It is high time for this trial, and the wasteful spending accompanying it,to be over. Consumers will indeed see competition in the marketplace,rather than the courtroom.

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Our economies downturn started the sametime as the lawsuit started. Iremember thinking that with so many people losing their entire savingsbecause of the lawsuit that the people most hurt by all of this nonsensewas the little guy with the most to lose.

Yahoo also lost big and the people who invested money was the factoryworkers, the sales clerks, etc. The government has to get out of ourbusiness and stick to the job the constitution gave them. Everything thegovernment touches goes right down the tubes and this proves it.

Thank you for this opportunity to share my views.

Sincerely,

Barbara Inez Ball

MTC-00033624

From: Britt Blaser
To: Microsoft ATR
Date: 1/28/02 8:15pm
Subject: Microsoft Settlement

A Subversion of US Power.

Who will be remembered as the official(s) who handed Microsoft the licenseto be the country's sole supplier of reading, writing and calculating tools. Microsoft is already a larger economy than most nations, and is growingfaster than any. More importantly, it levies a tax on every word written andread in our government and our military.

It is bad policy, and probably illegal, for the government to depend on asole supplier for any significant resource. Yet the government's operationsare dependent on the continuing forbearance of Microsoft in allowing thegovernment's computers to function. Not only is Microsoft the solecontractor of one of the government's most pervasive products,MMICROSOFT IS THE SOLE PURVEYOR OF OUR ABILITY TO GOVERN.Absurd? History is littered with the corpses of governments that did notrealize the source of their diminution. Just because Microsoft is not agovernment, is it to be taken any lighter than so many governments wieldinginferior resources? We took Al Queada lightly until its real power wasdemonstrated.

If Microsoft's strength is not checked now, how will it be checked when itis stronger? Do we doubt its strength will grow? It is tempting (and easier)to dismiss the idea that Microsoft could wield its power unethically againstits fellow citizens, but is it responsible to ignore the possibility?Is there a guarantee that Microsoft's controlling interest cannot fall intothe wrong hands? When most PCs are running XP V. 3, what is the remedy whenan unforeseen but persistent registration error causes USDOJ computers toperform unreliably.

Of course this is absurd today, but when is it no longer absurd? Is any ofus wise enough to say it can never happen? What set of unforeseencircumstances would have to occur for this settlement to become the mostfoolish lapse of governance in our history?

Respectfully submitted,

Lee B. Blaser

MTC-00033625

From: Donmwardsr@aol.com@inetgw
To: Microsoft ATR
Date: 1/28/02 8:16pm
Subject: MICROSOFT SETTLEMENT

Dear Mr. Ashcroft, Microsoft, in my opinion, has offered a very fairsettlement after three years of great time and legal expense for both GOV. and MICROSOFT.

Lets settle this thing and schools will benefit, competitors can use prop. windows, customers have choices, and everyone (including Massachusetts) can return to being more productive!!

Cordially,

Don M. Ward, Sr. , Charlotte, N.C.

CC:fin@mobilizationoffice.com@inetgw

MTC-00033626

From: Brent McKay
To: Ms. Renata Hesse
Date: 1/28/02 5:45pm
Subject: Microsoft Settlement

Brent McKay
2025 East 30th Street
Scottsbluff, NE 69361
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgmentin the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We havepaid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, thecountry needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Brent McKay

MTC-00033627

From: James Duffy
To: Ms. Renata Hesse
Date: 1/28/02 5:54pm
Subject: Microsoft Settlement

James Duffy
1147 W 162nd Street
Gardena, Ca 90247–4421
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by

District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

James Duffy

MTC-00033628

From: Lawrence Greene
To: Ms. Renata Hesse
Date: 1/28/02 5:55pm
Subject: Microsoft Settlement
Lawrence Greene
46 Goodnow Road
Princeton , MA 01541
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

The only reason that Sun, Oracle, Apple etc have wanted Microsoft broken up is because they beat them in the marketplace. Yet the founds of these companies are the ultimate entrepeneurs and would be screaming if the Justice Department came after them.

Furthermore,the consumers have benefited tremendously from Microsoft SW. It is low cost, fully integrated, and makes all of us more productive. Why do we want to hurt a major exporter to the world that helps the US balance of payments. The rest of the World laughs at us when we break up our large companies so that can't compete against their foreign competitors.

Again the only beneficiary in this suit are the lawyers. Paying lawyers doesn't add any benefit to our economy nor make us more productive nation. It is a negative nonvalue added cost.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Lawrence & Marcia Greene

MTC-00033629

From: Jerry Jorgensen
To: Ms. Renata Hesse
Date: 1/28/02 5:59pm
Subject: Microsoft Settlement
Jerry Jorgensen
2505 Las Brisas Dr
Virginia Beach, va 23456
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Jerry Jorgensen

MTC-00033630

From: Donald Russell
To: Ms. Renata Hesse
Date: 1/28/02 6:15pm
Subject: Microsoft Settlement

Donald Russell
28 Brandywine Dr.
Cincinnati, OH 45246
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Donald S. Russell

MTC-00033631

From: Donald Russell
To: Ms. Renata Hesse
Date: 1/28/02 6:15pm
Subject: Microsoft Settlement

Donald Russell
28 Brandywine Dr.
Cincinnati, OH 45246
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We havepaid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Donald S. Russell

MTC-00033632

From: Gary Prae
To: Ms. Renata Hesse
Date: 1/28/02 6:29pm
Subject: Microsoft Settlement

Gary Prae
5702 Newberry Point Drive
Flowery Branch, GA 30542
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgmentin the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Gary Prae

MTC-00033633

From: Peter McCulloch
To: Microsoft ATR
Date: 1/28/02 7:01pm
Subject: Microsoft Settlement

This organization has done irreparable harm to the computational world through its past (and greatly continuing!) predatory policies. That such a light settlement has been proposed is a true travesty. Mydisgust with Microsoft has led me to the linux community and free software movement, the only places where Microsoft has been unable to wrap its slithery tentacles. Only a fool would allow them to continue the course of their present action, as each day they spread themselves in a new direction, looking to extend their monopoly.

Peter McCulloch
Center for Experimental Music and Intermedia
University of North Texas

MTC-00033634

From: Shana Clark
To: Ms. Renata Hesse
Date: 1/28/02 7:02pm
Subject: Microsoft Settlement
Shana Clark
8636 Kendall Drive
Plano, tx 75025
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms ofthis Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greaternational significance: the war against terrorism, including home land security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP,which will have to be modified to comply with the settlement.

This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Shana Taylor Clark

MTC-00033635

From: Martin Ryszka
To: Ms. Renata Hesse
Date: 1/28/02 7:06pm
Subject: Microsoft Settlement
Martin Ryszka
7517 Miller Rd.
Dearborn, MI 48126
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgmentin the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Martin S. Ryszka

MTC-00033636

From: Scott Petty
To: Ms. Renata Hesse
Date: 1/28/02 4:17pm
Subject: Microsoft Settlement
Scott Petty
712 Hickory Knoll Road
Franklin, NC 28734
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Scott M. Petty

MTC-00033637

From: Robert Bush
To: Ms. Renata Hesse
Date: 1/28/02 4:32pm
Subject: Microsoft Settlement
Robert Bush
1062 Irene St.
Burleson, TX 76028
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

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Sincerely,
Bob Bush

MTC-00033638

From: Bambi Bush
To: Ms. Renata Hesse
Date: 1/28/02 4:34pm
Subject: Microsoft Settlement
Bambi Bush
1062 Irene St.
Burleson, TX 76028
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Bambi Bush

MTC–00033639

From: Charlene Hechler
To: Ms. Renata Hesse
Date: 1/28/02 4:52pm
Subject: Microsoft Settlement
Charlene Hechler
26 Pine Arbor Lane #107
Vero Beach, FL 32062
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Charlene Y. Hechler

MTC–00033640

From: SAMUEL YOUNGMAN
To: Ms. Renata Hesse
Date: 1/28/02 4:56pm
Subject: Microsoft Settlement
SAMUEL YOUNGMAN
503 EXETER LANE
CAMBRIA, CA 93428
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

SAMUEL YOUNGMAN

MTC-00033641

From: Ronald Couey
To: Ms. Renata Hesse
Date: 1/28/02 5:09pm
Subject: Microsoft Settlement
Ronald Couey
1427 Summit Run Circle
West Palm Beach, Fl 33415-4748
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Ronald Couey

MTC-00033642

From: Jeffrey Marty
To: Ms. Renata Hesse
Date: 1/28/02 5:15pm
Subject: Microsoft Settlement
Jeffrey Marty
2034 Londonderry Dr #304
Madison, WI 53704-4114
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Jeffrey C. Marty

MTC-00033643

From: Edward Briggs
To: Ms. Renata Hesse
Date: 1/28/02 5:24pm
Subject: Microsoft Settlement
Edward Briggs
6735 Lakefront Drive
Magalia, CA 95954
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Edward W. Briggs

MTC-00033644

From: Edward Evanko
To: Ms. Renata Hesse
Date: 1/28/02 5:29pm
Subject: Microsoft Settlement

Edward Evanko
1885 Military Ave
Seaside, CA 93955
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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Sincerely,
Edward Evanko

MTC-00033645

From: Dorothy Pittsley
To: Ms. Renata Hesse
Date: 1/28/02 5:33pm
Subject: Microsoft Settlement

Dorothy Pittsley
11406 E 4th Ave.
Spokane, WA 99206
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely.

Dorothy N. Pittsley

MTC-00033646

From: JJangard@aol.com@inetgw
To: fin@mobilizationoffice.com@inetgw
Date: 1/28/02 2:56pm
Subject: microsoft settlement

Cannot believe what the justice dept. is trying to do to a[{ large exporting business]} this country needs more exports Microsoft brings billions to this country Also I would start a new business if I could have Orin Hatch, Novell, Sun micro Systems, Time Warner AOL, many other competitors & the justice dept. To stifle my competition I couldn't help but make money

This is real injustice done by GREEDY FAME SEEKING ATTORNEYS & JANET RENO TRYING TO FURTHER THEIR POLITICAL GOALS What Microsoft & BILL & MELINDA GATES FOUNDATION HAVE DONE FOR SCHOOLS ABUSED WOMEN & THOUSANDS OF OTHER GOOD CAUSES, PLAY GROUND EQUIPMENT FOR SCHOOLS THE ATTORNEY GENERALS OF STATES THAT WONT SETTLE ARE HURTING SCHOOLS IN THEIR STATES BY NOT ACCEPTING SOFTWARE, COMPUTERS & ECT. FOR THEIR SCHOOLS THEY WANT CASH TO USE ON THEIR PET PROJECTS [JUST LIKE TOBACCO MONEY] WHICH WAS FOR HEALTH CARE BUT USED FOR OTHER PET PROJECTS

Al Jangard oly wa

CC:Microsoft ATR

MTC-00033647

From: John Dunshee
To: Ms. Renata Hesse
Date: 1/28/02 3:00pm
Subject: Microsoft Settlement
John Dunshee
32015 Griffith Dr
Tangent, OR 97389
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case—the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement.

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Sincerely,

John Dunshee

MTC-00033648

From: David Thrasher
To: Ms. Renata Hesse
Date: 1/28/02 3:02pm
Subject: Microsoft Settlement
David Thrasher
300 Hickory Street SE
Hartselle, AL 35640–2552
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

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Sincerely, David L. Thrasher

MTC-00033649

From: Gerald Hillman
To: Ms. Renata Hesse
Date: 1/28/02 3:09pm
Subject: Microsoft Settlement
Gerald Hillman
4218 Village East Circle
San Angelo, TX 77904–6662
January 28, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

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Sincerely,
Gerald W Hillman

MTC-00033650

From: Jonathan H. Bari
To: Renata Hesse
Date: 1/28/02 3:23pm
Subject: Microsoft Settlement

Dear Renata,

Pursuant to the Tunney Act, attached please find our comments on the Revised Proposed Final Judgement.

Thank you.

Jon

(NOTE NEW OFFICE ADDRESS AS OF 11/21/01)
Jonathan H. Bari
Chairman and CEO
CATAVAULT
100 West Elm Street, Suite 400
Conshohocken, PA 19428
610.941.3388
610.828.9966 (fx)
jon@catavault.com
http://www.catavault.com/company

CNN Headline News call CATAVAULT— "one site that can get you in everywhere..."

Business Week calls CATAVAULT, "An Open Sesame for the Whole Web."

This message may contain privileged and confidential information. In the event that this message has reached you in error, you must not disseminate, copy or take any action in reliance on it, and we would ask you to notify us immediately by return e-mail.

CC: Microsoft ATR, wtom@morganlewis.com@inetgw,dan@cata...

BEFORE THE UNITED STATES DEPARTMENT OF JUSTICE

UNITED STATES OF AMERICA Plaintiff v MICROSOFT CORPORATION, Defendant

Civil Action No. 98–1232 (CKK) United States District Court for the District of Columbia

STATE OF NEW YORK ex rel. Attorney General Eliot Spitzer, et al., Plaintiffs, v. MICROSOFT CORPORATION, Defendant

Civil Action No. 98–1233 (CKK)
United States District Court for the District of Columbia

COMMENTS OF CATAVAULT ON THE REVISED PROPOSED FINAL JUDGMENT

INTEREST OF THE COMMENTER

Given that Microsoft's Net Passport is the heart of Windows XP, Microsofts new Operating System that was officially launched on October 25, 2001, Catavault, a software company addressing online identification and authentication, unfortunately finds itself in the cross-hairs of the most powerful software company in the world, since Microsoft has tied its .Net Passport to Windows XP. Pursuant to the Tunney Act, this document sets forth Catavault's comments on the Revised Proposed Final Judgment because we feel that competing products such as Catavault will still unfortunately be set at a disadvantage which is not related to price or quality. If the Revised Proposed Final Judgement is accepted as is, the result will be a weakening of effective competition in the market, a reduction in consumer choice and less technological innovation, generally speaking and specifically to online identification and authentication.

Catavault has developed, commerically licensed and deployed patent pending software that is both complementary and competitive with Microsoft .Net Passport in online identity and authentication services. Although Microsoft's September 20, 2001 announcement that a future version of .Net Passport will be federated,[1] and thus may be interoperable with rivals' services, we believe this in no way alters the extremely serious concerns articulated herein. Moreover, in spite of the Revised Proposed Final Judgement announced between the United States Department of Justice, nine states Attorneys General and Microsoft Corporation, Catavault believes this in no way alters the exremely serious concerns articulated herein.

As such, Catavault has been encouraged that various states Attorneys General still have the resolve and resources necessary to continue the fight in ensuring conduct remedies that are timely, effective, certain and practical when it comes to curbing Microsoft's recidivistic behavior.

While these Tunney Act comments were prepared from the heart so to speak of the entrepreneurs managing Catavault, Catavault has been working to promote vigorous competition in computer industry platforms and gateways with our antitrust counselors from Morgan, Lewis and Bockius including Mr. Willard K. Tom based in Washington, DC and Mr. Julian M. Joshua based in Brussels.

CATAVAULT OVERVIEW

Catavault is a pioneer in the online user identification and authentication space. Catavault's technology powers the "All Access Pass to the Internet," and it allows users to access more than 3,500 sites ranging from Amazon.com to ZDNet, a couple of orders of magnitude more than Microsofts .Net Passport currently enables access to, without the need to remember all of their authentication credentials for those sites. Unlike .Net Passport which is only accessible from a PC, Catavault is accessible from a PC, PDA, Mobile Phone and Set-top Box, so users can access their information from any device, at any time and from anywhere. CNN Headline News has called Catavault—"one site that can get you in everywhere..."

BusinessWeek has called Catavault, "An Open Sesame for the Whole Web." Despite these arguably superior features of its services, Catavault is severely endangered by the steps Microsoft is taking to ensure that .Net Passport becomes the dominant occupant of the online identity and authentication space. Accordingly, Catavault is endangered by the Revised Proposed Final Judgement. The remedial principle is straightforward enough: the remedy should unfetter a market from anticompetitive conduct, . . . terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation and ensure that there remain no practices likely to result in monopolization in the future.[2] However, in spite of the overwhelming en banc victory on liability, the Revised Proposed Final Judgement does little to ensure that conduct remedies are timely, effective, certain and practical in curbing Microsoft's anti-competitive behavior.

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[1] 1 See.

NETWORK CHARACTERISTICS & MICROSOFT S HAILSTORM STRATEGY

Microsoft fully recognizes that, because of the network characteristics of the industry, only subtle uses of its monopoly position are necessary in order to gain an unwarranted, but insuperable dominance in this field. Indeed, its choice of "HailStorm" as a metaphor speaks volumes. As you may know, with each updraft in the natural weather-related occurrence of a hail storn, hail stones get larger as more water molecules attach to the crystalline structures of the hail stones. Similarly, Microsoft makes its monopoly position more impregnable with every adjacent space it dominates. Each layer creates another multiple-level entry problem for potential competitors, as described in the United States Department of Justice's 1984 Merger Guidelines to which the United States Federal agencies still refer in non-horizontal matters. Figure 1 is a visual representation of the troubling processes that Catavault see at work with respect to a monopolist bundling its own applications to its dominant Operating System.

As reported in The Wall Street Journal on September 20,2001, Microsoft changed the name of its HailStorm initiative to ".Net My Services"—possibly because they realized that its very name, HailStorm, has strong whiffs of antitrust violations.

One can argue that network effects require a lock-in mechanism. However, teh traditional lock-in mechanism is access to complements. Some of the services offered by Catavault and .Net Passport require cooperation from third party Internet site(s). If .Net Passport has a much larger number of users, gained through the use of its operating system monopoly, then why would the sites would want to work with Catavault? If the sites cease to work with Catavault, then why would users find Catavault attractive? These questions and their answers are paramount to understanding how market signaling and network effects work towards teh monopolists advantages when it ties its own applications to its dominant Operating System.

NETSCAPE—FRUITS OF MICROSOFT S STATUTORY VIOLATIONS

Most harmful of all is the message that Microsoft s actions haye conveyed to every enterprise with the potential to innovate in the computer industry. Through its conduct toward Netscape, IBM, Compaq, Intel and others, Microsoft has demonstrated that it will use its prodigious market power and immense profits to harm any firm that insists on pursuing initiatives that could intensify competition against one of Microsoft's core products. Microsoft s past success in hurting such companies and stifling innovation deters investment in technologies and businesses that exhibit the potential to threaten Microsoft. The ultimate result is that some innovations that would truly benefit consumers never occur for the sole reason that they do no coincide with Microsoft s self-interest.[3]

Accordingly, When Microsoft destroyed Netscape as a potential rival platform, it did more than achieve dominance in browsers. It also prevented rival applications developers from playing Microsoft off against Netscape in the battle to ensure the survival of their applications programs and services. If Netscape and/or other browser/middleware platform software had as a serious competitor to Microsoft, competitive pressures would have forced one or more platforms to carry Catavault, because doing so would have provided a competitive advantage. The platform itself would have become more attractive if, through accessing Catavault, users were freed from cumbersome authentication procedures on a much larger number of sites. That competitive pressure is now gone. Thus, Catavault's current predicament flows directly from Microsoft's earlier unlawful acts against Netscape.

MARKET EXPECTATIONS STIFLE INNOVATION AND COMPETITION

Moreover, the very public humbling of an 85 percent market share player like Netscape in inself creates market expectations that where Microsoft announces an intention to dominate a strategic space, it will succeed in doing so. .Net Passport occupies a strategic space as the on-ramp to the Internet as illustrated in Figure 2, and Microsoft has been quite public about that fact as has been reported in articles in The Industry Standard.[4] Consequently, merchants, investors and other marketplace participants become highly resistant to dealing with Microsoft's competitors in such spaces. For example, Benjamin D. Black, a principal of the Rosewood Venture Group, a U.S. venture capital firm in San Francisco, California has stated, "I still won't invest in companies that are directly in front of Microsoft's development path."[5] And Stewart Alsop, a general partnet of New Enterprise Associates, a Silicon Valley venture capital firm in the U.S., has been quoted as saying, "The most common question for potential investors is: "What about Windows XP?" You can still compete but if Microsoft bundles it in Windows it makes it much more difficult for any kind of innovation that is in Microsoft's path.[6] Thus, in this sense, too, Microsoft's earlier unlawful acts against Netscape directly cuts Catavault off from access to important complements.

To that end, one could argure that the competition is ultimately not for the end-user, but for the online service providers who actually pay for online identity and authentication services. Signing up 200 million Hotmail accounts gives Microsoft a huge critical mass of users, but what does it do to get third party sites to work with .Net Passport? To answer this effectively, one must understand that having so many users signals to the marketplace that Microsoft will dominate online identity and authentication services. Moreover, these third party businesses are motivated to work with Microsoft based on the marketing support that Microsoft can provide them—thus creating value propositions from Microsoft s monopoly position. If third party businesses believe that Microsoft will also succeed in using its Operating System monopoly to push Catavault and/or others aside in terms of subscribers or utlities, then third party firms will not have an incentive to work with Catavault. As former United States Deputy Assistant Attorney General Carl Shapiro has described in his writings, expectations play a very large role in network markets.[7]

MAKING .NET PASSPORT THE DE FACTO IDENTITY SERVICE IN WINDOWS XP

Microsoft has taken a number of steps to ensure, and to make consumers believe, that having a .Net Passport account is necessary in order to access features of Windows XP and/or other Microsoft goods and services. Indeed, the press, encouraged by Microsoft, has come to the conclusion that Microsoft .Net Passport "will be the exclusive identity service on teh enw Windows XP operating system. Any XP user who wishes to access key services such as Windows Messenger (for Instant Messaging) will have to register for a Passport."[8]

Microsoft has not achieved its claimed 2000 million .Net Passport subscribers by offering a superior service. (Competitive market research indicates that .Net Passport is currently accepted by only about 35–70 sites, most of which are owned by Microsoft, have received substantial Microsoft investment or partnered with Microsoft in some sort of business arrangement.) Instead, it has done so by these kinds of suggestions of inevitability and by automatically opening .Net Passport accounts for all Hotmail and MSN users, and even hinting at future integration and potential incompatibilities. Thus, in published reports regarding .Net Passport 2.0, it is stated, "...with this release, Hotmail will move to the Passport code base for easier integration."[9]

Catavault experienced this directly in early September 2001 when a Catavault employee tried to access the latest release candidate of XP. First, he learned that one could not get the latest preview of XP online without a .Net

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[2] United States v. Microsoft Corp., slip op. at 99–100, No. 00–5212 (DC Cir. June 28,2001), quoting Ford Motor Corp v. United States, 405 U.S. 562,577 (1972); United States v. United Shoe Mach. Corp., 391 U.S. 244,250 (1068).

[3] Judge Thomas Penfield Jackson's Finding of Fact, 412th and final paragraph, November 5, 1999.

[4] http://www.thestandard.com/article/0,1902,27686,00.html.

[5] The New York Times, September 7, 2001, Competitors See a Giant That is Now Largely Unfettered, by Michael Brick.

[6] The New York Times, September 7, 2001, Pendulum Swings to Microsoft, But the Degree Remains Unclear, by Steve Lohr.

[7] Speech by Carl Shapiro, Deputy Assistant Attorney General, Antitrust Division, United States Department of Justice. American Law Institute and American Bar Association, "Antitrust/Intellectual Property Claims in High Technology Markets," San Francisco, California, January 25, 1996.

[8] Source: http://www.thestandard.com/article/0,1902,27685,00.html, attached.

[9] Source: http://www.wininformant.com/Articles/Index.cfm?ArticleID=22174, attached.

Passport account.[10] Then, after downloading that version of XP and rebooting, he got a blank desktop, but in the system tray in the bottom right, a message popped up that said: "Add your .NET Passport to Windows XP! You've just connected to the Internet. You need a Passport to use Windows XP Internet communications features (such as instant messaging, voice chat, and video), and to access .NET-enabled services on the Internet. Click here to set up your Passport now."

When he clicked, it went to the .NET Passport Wizard to let him sign up for Passport. Thus, whether or not there are actual incompatibilities, Microsoft has been representing to users that they must sign up for .Net Passport in order to access key XP features or other Microsoft services. In a network business, that may be all Microsoft needs to maintain and extend its dominance to this space as well. These network characteristics undoubtedly underlie some of the "vaporware" aspects of Microsoft's dramatic announcements but slow rollout. We have already mentioned how small the number of third party sites accepting .Net Passport is. In the same vein, ZDNet has reported that American Express has yet to sign a contract with Microsoft for HailStorm services. This despite the fact that Microsoft touted American Express as a partner at the very announcement of the HailStorm initiative, by featuring American Express Chief Information Officer in that announcement.[11]

PROPOSED CONDUCT REMEDIES TO CURB ANTI-COMPETITIVE PRACTICES

If there is no efficiency justification for Microsoft's tactics such as bundling and/or market signaling, they may be acts of monopolization in themselves. But regardless of whether they are or not, the current situation flows directly from Microsoft's earlier unlawful acts against Netscape. While one can never know with certainty exactly what that but-for world would have been had Netscape survived, it was reasonably certain that, for some significant period of time, there would have been a competitive struggle between Microsoft and Netscape as alternative nuclei around which other providers of applications and services would coalesce. Both would seek to commoditize the other's space. If Netscape gained the upper hand, multiple operating systems would become available to computer users. If Microsoft gained the upper hand, multiple browsers would become available. Consequently, any remedy for those earlier acts needs to include some kind of mandated intra-system competition to take the place of the competition that would have existed between the two systems to add attractive applications through a Ballot Screen with choices for online identity and authentication services such as Catavault.

We have given a great deal of thought to what order language would be needed to implement the concept of a Ballot Screen. Following is the rationale and the result can be found in Figure 3 with the language marked as to revisions. It uses Microsoft's inclusion of middleware products in its operating system software as the benchmark for what types of products should be included, with the slight modification that it remedies the continuing effects of past inclusions as well as remedying the effects of future inclusions. As you will see, there is a provision for approval by some entity, corresponding to Commission approval in the AOL Time Warner order, in order to ensure that the competing products are serious competitors to Microsoft. In the case of online identity and authentication, the seriousness of the competition can be measured by the number of sites, users, and devices accessed by the competitor. These metrics could be written into the order if desired, but in any event the existence of available metrics would ensure that the entity charged with approval would have an objective way of exercising that discretion. As you will also see, when we reviewed Judge Jackson's order, we concluded that online identity and authentication service software would fit comfortably into the definition of "middleware," but for the avoidance of doubt, we included it specifically in the list of examples. In addition to offering services via communications interfaces as now occurs, it is entirely possible that in the future, programmers of sites or of programs used to build sites will write software built upon a Catavault platform. We have also given further thought to the Department of Justice's observation that a possible standard for relief is that it should be aimed at opening the operating system market to competition. After reflection, we believe that our proposed Ballot Screen relief does in fact further that goal, but that such a standard is nonetheless wrong, in spite of that standard appearing in the Department of Justice's September 6, 2001 press release.

The relief we propose does further the goal of operating system competition, because allowing Microsoft to use its operating system monopoly to obtain a dominant position in the authentication gateway to the Internet will mean the creation of yet another applications barrier to entry, because it will be extremely difficult to police the ways in which Passport could be used to favor Windows if a credible threat to Windows arose.

There is, however, a more fundamental issue: the proper standard must be to restore the competitive conditions that would have existed but for the illegal conduct. It is, of course, too late to revive Netscape as a credible threat to Microsoft's operating system monopoly. One approach might be, as the Department of Justice once proposed, to find in Microsoft's applications software—particularly its dominant Office suite—a sufficiently dangerous competitive threat to the operating system monopoly. As in the competition between Microsoft and Netscape in the but-for world, the point of that remedy was not to assure ultimate, long-term competition in operating systems. The operating system company might win the competitive struggle, and ultimately maintain its monopoly position through lawful means. The point of the remedy was the competitive struggle itself. That remedy was imperfect, as are all the alternatives. But for better or worse, it is now off the table.

Whatever replaces it, the goal should not be to assure ultimate, long-term competition in operating systems. The but-for world did not do so. Microsoft might well have won the competitive struggle, and maintained its monopoly. The point of the Netscape threat to the operating system monopoly was that Microsoft had to compete with better products and prices, and in the meantime the rest of the computer industry would be vigorously competitive and innovative, and might nurture the next threat to the surviving monopolist. It is the strangling of that dynamic from which the market must be unfettered, and it is Microsoft's freedom from that dynamic that constitutes the "fruits of its statutory violation." At this point in the evolution of the computer industry, after Microsoft's misconduct, it might well be a hopeless task to restore competition in operating systems.

It is not too late, however, to restore the competitive dynamic that ensured that, while Microsoft battles its chief rivals in the most strategic battleground at any given time, innovators in the next strategic space could play one against the other in order to survive. At the moment, the inter-system competition that Netscape represented is gone, and the Department of Justice is no longer seeking to have competition from Microsoft Office take its place. Thus, the temporary stopgap by which the next strategic space can develop must be intra-system competition, or "must-carry." That will revive some of the competitive dynamic that Microsoft has cut off, and allow competition to flourish in—and on the other side of—those gateways. Ergo, just as Microsoft agreed to change its digital imaging features to give users easier access to digital imaging software from a number of providers such as Kodak, not just those affiliated with Microsoft, so there needs to be a requirement that Microsoft incorporate Catavault (and other online identity and authentication services that may arise) into XP as a complementary and competitive service. Thus, doing some kind of a "Ballot Screen" for consumers to select which online identity and authentication service they would like may be as close as one can get to the competitive landscape that would have existed but for Microsoft's already adjudicated unlawful conduct.

In addition, of course, one would need to prohibit Microsoft from introducing incompatibilities, to forbid Microsoft from making use of .Net Passport as a prerequisite to use other Microsoft goods and services, and so forth. Otherwise, the need to sign up with .Net Passport to get the XP preview is likely to continue to be the typical pattern for accessing anything that Microsoft can control or influence.

MICROSOFT's FEDERATED ANNOUNCEMENT & INTERNET TRUST NETWORK -ITS EFFECTS AND RELATION TO FEAR, UNCERTAINTY & DOUBT

A "Ballot Screen" remedy would be far superior to waiting to see how Microsoft's latest federated announcement plays out. As the Department of Justice well knows, a "fear, uncertainty and doubt" strategy relies heavily on the passage of time and the uncertainty of the future. (This is undoubtedly why Microsoft has been making every effort to delay judicial and legislative proceedings in the United States.) As of January 28, 2002, Catavault has neither been invited to any Microsoft developers conference yet, nor has it learned of any developers conference yet, albeit Catavault has informed Microsoft about its potential willingness to participate in the conference. Additionally, XP has already been launched with an aggressive marketing campaign and with .Net Passport as the exclusive online identity and authentication service. .Net Passport will have a huge user base that will undoubtedly get larger between now and the time that any Microsoft federation conference or any competitive and/or complementary solution such as the Liberty Alliance initiated by Sun Microsystems produces any tangible results in the marketplace. The agenda of the federated conference and other like it such as the Liberty Alliance may be to develop standards for implementation of online user identification and authentication services, and in the case of Microsoft's Internet Trust Network, built upon a technology platform of Microsoft's choosing, regardless of consumer preferences. Following that developers conference, there may be a long period of back-and-forth over technical standards. Next may come a period in which Microsoft sows uncertainty about the extent to which other services are fully interoperable, perhaps because of peculiarities in Microsoft's implementation of the common standard. During all that time, .Net Passport will become more and more entrenched, regardless of consumers preferences as to the features and scope of competing online user identification and authentication services. Industry pundits used to subscribe to the notion that first mover advantage was the most important mission of many new technology ventures. However, based on present market conditions, we argue that it has nothing to do with first mover advantage anymore; rather it has everything to do with the concept of last man standing. Accordingly with over US $36 billion in cash reserves on hand, Microsoft is well positioned to be the last man standing in many industries including online identity and authentication.

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[10] Source: http://www.microsoft.com/windowsxp/preview/systemreq.asp.

[11] http://www.zdnet.com/zdnn/stories/news/0,4586,5096385,00.html.

PROBLEMS WITH THE REVISED PROPOSED FINAL JUDGEMENT

While there are many troubling issues with the Revised Proposed Final Judgement, two of the more salient problems for the online identity and authentication sector involve the following terms and provisions:

ó OEMs—The fact is that Original Equipment Manufacturers (OEMs) are a sub-optimal source to serve as an adequate check and balance on Microsoft's anti-competitive actions. For example, the provisions that allow OEMs to have greater freedom to select which software to use and not to use do absolutely nothing to protect consumer choice and technological innovation.

Thus, providing the OEMs greater freedom as a conduct remedy against Microsoft is meaningless today given consolidation in the PC industry, slumping PC sales, depressed PC margins, and the fact that the OEMs do not want to bite the hand that feeds them—Microsoft.

Moreover, the OEMs know very well that small companies such as Catavault cannot afford to compete against Microsoft, both in terms of operations and marketing. Case in point, Windows XP launched on time because Microsoft lobbied that XP would help revive slumping PC sales, and Microsoft is spending approximately US $250 million just on marketing for XP. As such, OEMs do not necessarily want to bet on smaller players which find themselves in the cross-hairs of Microsoft—thus consumer choice and technological innovation are still harmed.

AUTHENTICATION LOOPHOLE—The following provision from the proposed settlement seems to be the veritable loophole large enough to drive a truck through, particularly affecting Catavault and other online identity and authentication services.

J. No provision of this Final Judgment shall:

1. Require Microsoft to document, disclose or license to third parties: (a) portions of APIs or Documentation or portions or layers of Communications Protocols the disclosure of which would compromise the security of anti-piracy, anti-virus, software licensing, digital rights management, encryption or authentication systems, including without limitation, keys, authorization tokens or enforcement criteria; or (b) any API, interface or other information related to any Microsoft product if lawfully directed not to do so by a governmental agency of competent jurisdiction.

[12] Identification and authentication is singled out for a loophole to free Microsofts. Net Passport from scrutiny and permit Microsoft to bind a universal identification and authentication service utility to its monopoly operating system without scrutiny under the Revised Proposed Final Judgement. By permitting Microsoft to withhold key parts of encryption, digital rights management, authentication, and other security protocols, the Revised Proposed Final Judgement effectively clears the way for the desktop monopolist to the Web-services monopolist in a distributed computing environment. The Revised Proposed Final Judgement could hardly try to place a clearer stamp of approval on an expansion of the scope of an illegally maintained monopoly.

CONCLUSION

The Revised Proposed Final Judgement agreed to by the United States Department of Justice, the Attorneys General of nine states and Microsoft Corporation does not attain its goals of curbing Microsoft s recidivistic behavior in maintaining and extending its operating system monopoly into Web-services such as online identification and authentication, which Microsoft has bet will be the next gateway to the Internet. Specifically, the Revised Proposed Final Judgement does not provide adequate incentives across constituent bodies and penalties for Microsoft to ensure that the Revised Proposed Final Judgement goals are attained. Moreover, the lenient conduct remedies imposed on Microsoft are essentially a slap on the wrist for its illegal conduct and anti-competitive practices. Unfortunately, technological innovation and consumer choice will continue to be harmed, and this will be exacerbated in challenging economic conditions if the Revised Proposed Final Judgement is accepted as is. As such, the Revised Proposed Final Judgement needs to be revised significantly if it is to have any real impact in the marketplace in curbing Microsoft s recidivistic behavior. Specifically, as it pertains to the heart of Windows XP and Microsoft s goal of dominating online identification and authentication with .Net Passport, we believe quite passionately that implementing a Ballot Screen for users to choose which identification and authentication service that they would like would go a long way to providing a conduct remedy that was more timely, effective and certain.

Figure 1

The world of operating systems becomes more homogenous over time. Today something like 85 percent of the computers on the planet run the same operating system [Microsoft's]. There is sort of a positive feedback cycle here. If you get more applications, it gets more popular, if it gets more popular, it gets more applications.

—Bill Gates keynote address, Conference on Internet and Society at Harvard in May 1996; World War 3.0 by Ken Auletta.

On June 28, 2001, the District of Columbia Court of Appeals unanimously held that Microsoft engaged in unlawful monopolization. Notwithstanding Judge Jackson s ruling and the appellate ruling, Microsoft prominently announced its major corporate initiative called HailStorm in March 2001; the very choice of HailStorm as a name serves as a metaphor for a positive feedback cycle in Bill Gates opinion or network effects and increasing returns in an antitrust perspective.

The heart of HailStorm is based on .Net Passport, Microsoft s proprietary online identification and authentication service. This market signaling transcends into Microsoft's strategy and tactics to gain market advantage in new sectors using .Net Passport. .Net Passport is the exclusive online identification and authentication service on Windows XP. Accordingly, .Net Passport will be the de facto online identification and authentication service which will limit consumer choice and undermine innovation. As reported in The Wall Street Journal on September 20, 2001, Microsoft changed the name of HailStorm to ".Net My Services"—possibly because they realize that its very name—HailStorm—has strong whiffs of antitrust violations.

Note: In its natural weather-related occurrence, hail stones are large frozen raindrops produced by intense thunderstorms. As the frozen drops fall, liquid water freezes onto them forming ice pellets that continue to grow as more and more droplets accumulate. Upon reaching the bottom of the cloud [symbolic for the Internet], some of the ice pellets are carried by the updraft back up to the top of the cloud. As the ice pellets once again fall through the cloud, another layer of ice is added and the hail stones grow even larger. Typically the stronger the updraft, the more times hail stones repeat this cycle and consequently, the larger the hail stones grow. Once the hail stones become too heavy to be supported by the updraft, they fall out of the cloud toward the surface. The hail stones reach the ground as ice since they are not in the warm air below the thunderstorm long enough to melt before reaching the ground.

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[12] http://www.usdoj.gov/atr/cases/f9400/9462.htm

And as one knows, you should take cover from a hail storm...

Figure 2

Microsoft's .Net Passport online identification & authentication technology controls the gateway to all applications in Windows XP Windows XP

It's our goal to have virtually everybody who uses the Internet to have one of these Passport connections—Bill Gates Source: The Industry Standard—July 3, 2001 http://www.thestandard.com/article/0,1902,27685,00.html

While digital photography, instant messaging and streaming media all are very important issues to constituents such as Kodak, AOL Time Warner and Real Networks respectively, the backbone to Microsoft s HailStorm (renamed .Net My Services) initiative and full utilization of Windows XP is the Microsoft .Net Passport identification and authentication service. Microsoft has stated that .Net Passport will be the exclusive Internet identity service on Windows XP, and Passport will be required to utilize some or all of the features noted above.

Thus, even if competition in those areas is assured, Microsoft will still hold the real keys to access and conceivably will be able to use its .Net Passport monopoly to direct traffic away from competing digital photography, instant messaging and streaming media applications.

Instant Messaging
Digital Imaging Streaming Media
Microsoft s .Net Passport
Identification & Authentication
Technology
Microsoft Office XP
Internet Explorer

Figure 3 Proposed Order (Marked with changes) 3g. Restriction on BindingIncluding Middleware Products toin Operating System Products. Microsoft shall not, in any Operating System Product distributed six or more months after the effective date of this Final Judgment, Bind include any Middleware Product toin a Windows Operating System unless:

i. that Operating System also includes at least two (2) comparable Middleware Products offered by non-affiliated firms approved by the [Antitrust Division] [Department of Justice] [Court] [Trustee] or Microsoft demonstrates to the satisfaction of [————] that fewer than two such products exist, in which case Microsoft shall include all that exist. The option of using such non-affiliated products shall be displayed to the user on terms no less favorable than those accorded to the Microsoft products.

ii. Microsoft also offers an otherwise identical version of that Operating System Product in which all means of End-User Access to thatthose Middleware Products can readily be removed (a) by OEMs as part of standard OEM pre-installation kits and (b) by end users using add-remove utilities readily accessible in the initial boot process and from the Windows desktop.; and

iii. when an OEM removes End-User Access to a Microsoft Middleware Product from any Personal Computer on which Windows is preinstalled, the royalty paid by that OEM for that copy of Windows is reduced in an amount not less than the product of the otherwise applicable royalty and the ratio of the number of amount in bytes of binary code of (a) the Middleware Product as distributed separately from a Windows Operating System Product to (b) the applicable version of Windows.

3g. Middleware Products Included in Previously Distributed Operating System Products. If Microsoft has, in any Operating System Product distributed less than six months after the effective date of this Final Judgment, included any Middleware Product in a Windows Operating System, it shall within six months after the effective date of this Final Judgment:

i. release a version of its most recent Operating System that includes at least two (2) comparable Middleware Products offered by non-affiliated firms approved by the [Antitrust Division] [Department of Justice] [Court] [Trustee], unless Microsoft demonstrates to the satisfaction of [————] that fewer than two such products exist, in which case Microsoft shall include all that exist. The option of using such non-affiliated products shall be displayed to the user on terms no less favorable than those accorded to the Microsoft products.

ii. offer an otherwise identical version of that Operating System Product in which all means of End-User Access to those Middleware Products can readily be removed (a) by OEMs as part of standard OEM preinstallation kits and (b) by end users using add-remove utilities readily accessible in the initial boot process and from the Windows desktop.

7q. Middleware means software that operates, directly or through other software, between an Operating System and another type of software (such as an application, a server Operating System, or a database management system, including such Operating Systems and database management systems on an Internet site) by offering services via APIs or Communications Interfaces to such other software, and could, if ported to or interoperable with multiple Operating Systems, enable software products written for that Middleware to be run on multiple Operating System Products. Examples of Middleware within the meaning of this Final Judgment include Internet browsers, online identity and authentication service software, e-mail client software, multimedia viewing software, Office, and the Java Virtual Machine. Examples of software that are not Middleware within the meaning of this Final Judgment are disk compression and memory management.

r. Middleware Product means

i. Internet browsers, e-mail client software, multimedia viewing software, instant messaging software, online identity and authentication service software, and voice recognition software, or

ii. software distributed by Microsoft that ù

(1) is, or has in the applicable preceding year been, distributed separately from an Operating System Product in the retail channel or through Internet access providers, Internet content providers, ISVs or OEMs, and (2) provides functionality similar to that provided by Middleware offered by a competitor to Microsoft.

MTC-00033651

From: Thomas Tully
Date: 1/28/02 3:43pm
Subject: Microsoft Case
file:///L√ff7371 Remedy/Paralegals/TULLY.HTM
January 28, 2002<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office"/>

Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, NW
Suite 1200
Washington, DC 20530–0001

To Whom It May Concern:

I hope that you will reconsider the decision to settle the United States Department of Justice antitrust lawsuit against Microsoft Corporation. American consumers may have been overcharged $20 billion by the Microsoft monopoly. Your agreement with Bill Gates' company does nothing to rectify past sins by this company or protect against future gauging.

As you know, at least ten consumer groups disagree with your agreement to settle. Microsoft has little incentive to change any of its practices. Their concessions of handing over some operating systems code and offering manufacturers some sovereignty over Media Player amounts to little more than a light slap on the wrists for a multi-billion dollar company.

I am proud that my state's Attorney General, Tom Miller, rejected this Microsoft agreement. I believe that Mr. Miller and the other eight state attorneys general see the many loopholes and problems with enforcement that does little to affect change in the computer software industry. Splitting Microsoft into two or three companies may not be the proper response, but neither is this. Your decision to prematurely end litigation against Microsoft is a mistake. The agreement offers no real incentive to stop monopolistic, anti-trust efforts. It won't help much smaller companies compete and it doesn't serve the American consumer. Please continue to go after Microsoft. It is a duty of the Justice Department to protect the average citizen from companies that have grown too large and too powerful by questionable business practices.

Sincerely,
Thomas P. Tully
318 51st Street
Des Moines, Iowa 50312
CC: Iowa Attorney General

Join the world's largest e-mail service with MSN Hotmail. Click Here

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MTC-00033652

From: Bob Grasmick

To: Ms. Renata Hesse
Date: 1/28/02 3:52pm
Subject: Microsoft Settlement
Bob Grasmick
3239 Monte Vista
Torrington, Wy 82240
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

Competitors also benefit from the provision that frees up computer manufacturers to disable or uninstall any Microsoft application or element of an operating system and install other programs. In addition, Microsoft cannot retaliate against computer manufactures, ISPs, or other software developers for using products developed by Microsoft competitors. Plus, in an unprecedented enforcement clause, a Technical Committee will work out of Microsoft's headquarters for the next five years, at the company's expense, and monitor Microsoft's behavior and compliance with the settlement.

Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors/ products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement. This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Bob Grasmick

MTC-00033653

From: Leo Caissie
To: Ms. Renata Hesse
Date: 1/28/02 3:54pm
Subject: Microsoft Settlement
Leo Caissie
524 Main Street
Hudson, MA 01749–2909
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Leo A.Caissie

MTC-00033654

From: ROBERT PIOLI
To: Ms. Renata Hesse
Date: 1/28/02 4:07pm
Subject: Microsoft Settlement
ROBERT PIOLI
102 LYNN AVE
MARIETTA, OH 45750
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
ROBERT L. PIOLI

MTC-00033655

From: wendell starr
To: Renata B. Hesse
Date: 1/28/02 4:11pm
Subject: Microsoft settlement
To: Renatta B. Hesse Antitrust Division
U.S. Dept. of Justice
Washington, DC

Dear Sir,

The antitrust case against Microsoft was unfortunate. But it shows that Microsoft is willing to work with its competitors to create an equal playing field. Future mishaps are unlikely to occur with a Three-Person Technical Committee. Additionally, I understand that Microsoft will share code with its competitors which will allow them to place their own programs on the operating system.

As a recent retiree, I know that the job market is extremely volatile, and competition tends to create jobs. However, this settlement will allow Microsoft to refocus its direction in business and new technology with a renewal of the vigor which it has well demonstrated which will also create new jobs.

With the information technology industry in a slump, this settlement provides a dose of medicine to a slowing economy; which should help revitalize other IT companies across the country.

Best regards
Wendell T. Starr
Associate Editor of Transactions of the IEEE (my hobby)
850 Webster St., Apt. 507
Palo Alto, CA 94301

MTC-00033656

From: Todd Christensen
To: Ms. Renata B. Hesse
Date: 1/28/02 2:11pm
Subject: Microsoft Settlement (Support)

Dear Ms. Hesse:

I am writing in support of the recent settlement of the long-running antitrust lawsuit between the U.S. Department of Justice, state attorneys general and Microsoft Corporation. Though I applaud the nine state attorneys general that decided to follow the federal government's lead and settle the case, I am thoroughly disappointed that remaining state attorneys general and the District of Columbia have decided to further pursue this baseless case.

The settlement is fair to all. It will allow Microsoft's competitors to use Microsoft's Windows operating system to incorporate their software programs and will give consumers more services and products to choose from.

As you are well aware, members of Citizens for a Sound Economy have been unrelenting in our opposition to the federal government's antitrust case against Microsoft. For nearly 3 years, activists like myself have called, emailed, visited, and sent letters to the U.S. Department of Justice and to state attorneys' general offices explaining that Microsoft's actions did not harm consumers, but provided them with great benefits by lowering the cost and increasing the availability of software products. We have stressed that Microsoft is a pioneer in the high-technology market and that their products increased our familiarity with the Internet. Once again, I thank you for your decision to settle this unfortunate lawsuit against a successful and innovative company.

Respectfully,
Todd Christensen
500 Chamber Way
Chehalis, WA 98532-2200
CC: Citizens for a Sound Economy

MTC-00033657

From: Sharyn Robbins
To: Ms. Renata Hesse
Date: 1/28/02 2:16pm
Subject: Microsoft Settlement
Sharyn Robbins
9123 219th PL NE
Redmond, WA 98053-2239
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers, although I, as well as most of my friends, was against this lawsuit from the start. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Sharyn Robbins

MTC-00033658

From: Oscar Garcia
To: Ms. Renata Hesse
Date: 1/28/02 2:28pm
Subject: Microsoft Settlement
Oscar Garcia
1212 Susan Lane Apt. 168
Fort Worth, TX 76120
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S.

v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Oscar Garcia

MTC-00033659

From: Jon H. Clayton
To: Ms. Renata Hesse
Date: 1/28/02 2:31pm
Subject: Microsoft Settlement
Jon H. Clayton
174 Woodland Ct.
Wetumpka, AL 36093–2211
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Jon H. Clayton

MTC-00033660

From: Robert Lanzner
To: Ms. Renata Hesse
Date: 1/28/02 2:31pm
Subject: Microsoft Settlement
Robert Lanzner
6471 West 83rd Street
Los Angeles, CA 90045–2885
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Robert A. Lanzner

MTC-00033661

From: Glen Johnston
To: Ms. Renata Hesse
Date: 1/28/02 2:34pm
Subject: Microsoft Settlement
Glen Johnston
25 Buttercup Loop
Belton, TX 76513
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

Glen E. Johnston

MTC-00033662

From: Dewey Howard
To: Ms. Renata Hesse
Date: 1/28/02 2:34pm
Subject: Microsoft Settlement
Dewey Howard
915 Flat Rock Rd
Sparta, TN 38583
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,

Dewey Howard

MTC-00033663

From: James Feighny
To: Ms. Renata Hesse
Date: 1/28/02 2:37pm
Subject: Microsoft Settlement
James Feighny
252 Wyanoke Dr
San Antonio, TX 78209
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
James Feighny

MTC-00033664

From: Richard Travis
To: Ms. Renata Hesse
Date: 1/28/02 2:37pm
Subject: Microsoft Settlement

Richard Travis
5449 Vanderbilt Road
Old Hickory, TN 37138–1131

January 28, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Richard E. Travis

MTC-00033665

From: Jerry Rea
To: Ms. Renata Hesse
Date: 1/28/02 2:55pm
Subject: Microsoft Settlement

Jerry Rea
P. O. Box 934
New Smyrna Beach, , FL 32170–0934

January 28, 2002

Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

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the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Jerry and Norma Rea

MTC-00033666

From: F. David Marschka
To: Ms. Renata Hesse
Date: 1/28/02 2:01pm
Subject: Microsoft Settlement
F. David Marschka
1862 Amity Drive
Lancaster, PA 17601-6234
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

F. David Marschka

MTC-00033667

From: george adams
To: Ms. Renata Hesse
Date: 1/28/02 1:45pm
Subject: Microsoft Settlement
george adams
707 market st
cheraw, sc 29520
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,

George E. Adams

MTC-00033668

From: Glenn Dobson
To: Ms. Renata Hesse
Date: 1/28/02 1:46pm
Subject: Microsoft Settlement
Glenn Dobson
2203 Palmersville Hwy-89
Dresden, TN 38225
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

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Sincerely,
Glenn Dobson

MTC-00033669

From: Judith Huston
To: Ms. Renata Hesse
Date: 1/28/02 2:03pm
Subject: Microsoft Settlement

Judith Huston
34800 Cadiz-Piedmont Rd.
Cadiz, OH 43907
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted. The terms of the settlement offer a fair resolution for all sides of this case: the DOJ, the states, Microsoft, competitors, consumers and taxpayers. Microsoft will not be broken up and will be able to continue to innovate and provide new software and products. Software developers and Internet service providers (ISPs), including competitors, will have unprecedented access to Microsoft's programming language and thus will be able to make Microsoft programs compatible with their own.

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Sincerely,
Judith L. Huston

MTC-00033670

From: Karen Shirey
To: Department of Justice
Date: 1/28/02 1:45pm
Subject: Message From a Concerned Citizen

Dear Department of Justice:

I support Microsoft their right of freedom to innovate. I have used computers and different programs since 1985 and have always preferred Microsoft systems and products. Had any of the other companies that are now trying to sue Microsoft produced better programs, they would have been ahead of Microsoft due to public demand. Using politics and trying to force a company out of business due to greed and jealousy is NOT going to make their product any better, nor make anyone choose it over Microsoft.

Sincerely,
Karen Shirey
1430 Grandview
Hanover, PA 17331–9542

MTC-00033671

From: Kristin Hopkins
To: Ms. Renata Hesse
Date: 1/28/02 1:53pm
Subject: Microsoft Settlement

Kristin Hopkins
4 Cormorant Circle
Durham, NH 03824
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Sincerely,
Kristin E. Hopkins

MTC-00033672

From: Mark Moghab
To: Ms. Renata Hesse
Date: 1/28/02 1:47pm
Subject: Microsoft Settlement
Mark Moghab
56 New York Ave
Congers, NY 10920
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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Most importantly, this settlement is fair to the computer users and consumers of America, on whose behalf the lawsuit was allegedly filed. Consumers will be able to select a variety of pre-installed software on their computers. It will also be easier to substitute competitors' products after purchase as well. The Judgment even covers issues and software that were not part of the original lawsuit, such as Windows XP, which will have to be modified to comply with the settlement. This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,
Mark Moghab

MTC-00033673

From: Paul Thutt
To: US DOJ
Date: 1/27/02 6:00pm
Subject: Comment on Microsoft AntiTrust case
Subject: Microsoft Settlement

Require that Microsoft publish its file formats prior to the release of any upgrades to their product or the release of any new product. This will protect the consumer without hindering Microsoft's innovation or its pursuit of new markets. While I am certainly no fan of Microsoft and its business practices, breaking them up is not a solution. Require that there be no "active content" in the file format. ("Active Content" is software embedded in the document file.) This would have two beneficial effects.

1. Elimination of insertion of computer viruses into another system via a document file.

2. No way for Microsoft to force usage of their software in order to make use of the document.

With the file formats published, competing products will be able to read and write the consumer's data files. The primary reason that Microsoft is in a monopoly position is because business and individuals must be able to share documents. Most businesses use Microsoft Office products and thus the document is in Microsoft's proprietary file format. Other businesses and individuals must purchase the Microsoft product in order to be able to work as a team.

Documents are the property of the business and individuals that produced them, and not of the manufacturer of the software used to save the document in a file. Empower the consumer by publishing the file formats. Perhaps, the IEEE standards for computer interfaces, floating point format, and networking protocols are good models. With competitor's products able to read, modify and write the shared files, individual preference for features and price will determine what products are purchased. The consumer benefits from the choice. Analogies are:

- In automobiles, fuels are standard. Gearshift patterns are standard. Pedal placement is standard.
- In computers, the PCI bus is a published standard created by Intel but released to the public and many vendors produce chip sets and interface cards to that standard.
- In networking, 802.11b is a published standard for wireless networking. There are many vendors for wireless networking equipment.

Thank you for the opportunity to comment.
Paul M. Thutt
22495 NW Phillips Road
Hillsboro, OR 97124
pthutt@compuserve.com

MTC-00033674

From: Ralph Askam
To: Ms. Renata Hesse
Date: 1/23/02 7:15am
Subject: Microsoft Settlement
Ralph Askam
4120 Nobhill Dr.
Muskegon, MI 49441
January 23, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Ralph F. Askam M. D.

MTC-00033675

From: Robert Brown
To: Ms. Renata Hesse
Date: 1/28/02 1:51pm
Subject: Microsoft Settlement
Robert Brown
1062 U. S. route 2
Rumford, ME 04276
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest. Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

R. C. Brown

MTC-00033677

From: Stephen Scavott
To: Ms. Renata Hesse
Date: 1/28/02 1:40pm
Subject: Microsoft Settlement
Stephen Scavott
158 Dovecote Lane
Central Islip, ny 11722
January 28, 2002
Ms. Renata Hesse
U.S. Department of Justice, Antitrust Division
601 D Street NW, Suite 1200
Washington, DC 20530

Ms. Hesse:

I would like to express my support for the revised proposed Final Judgment in the U.S. v. Microsoft case. This lengthy litigation has cost my fellow taxpayers and me more than $35 million, and after reviewing the terms of this Judgment, final approval is clearly in the public interest.

Perhaps of greatest benefit to the American people, the Department of Justice (DOJ) and the settling states will avoid additional costs and now be able to focus their time and resources on matters of far greater national significance: the war against terrorism, including homeland security. As noted by District Court Judge Colleen Kollar-Kotelly, who pushed for a settlement after the attacks of September 11, it is vital for the country to move on from this lawsuit. The parties worked extremely hard to reach this agreement, which has the benefit of taking effect immediately rather than months or years from now when all appeals from continuing the litigation would finally be exhausted.

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This case was supposedly brought on behalf of American consumers. We have paid the price of litigation through our taxes. Our investment portfolios have taken a hard hit during this battle, and now more than ever, the country needs the economic stability this settlement can provide. This settlement is in the public interest, and I urge the DOJ to submit the revised proposed Final Judgment to the U.S. District Court without change.

Sincerely,

Stephen M. Scavott

MTC-00033678

From: Casey Keller
To: Microsoft ATR
Date: 1/28/02 1:45pm
Subject: Microsoft Settlement

To the Honorable Department of Justice—

It is as a student, a technician, and an end-user that I wish to add my comments as per the Tunney Act concerning the settlement proposed by the corporation in question, Microsoft.

Before I begin individually laying out my reasons for my views, I must first denounce the proposed settlement as a mockery of justice, the institution of the courts, the welfare of the consumer, and the sensibility of the media and the general public. We speak of punishment of criminals yet we are prepared to enact a double standards of rewards for crimes of business.

The practice of the Microsoft Corporation has been established as a violation of antitrust laws. From the packaging of the Internet Explorer web browser with its operating system, fully integrate it with the operating system of Windows to its current methods of furthering the hold on the software industry with Microsoft Office, Windows Media Player, built-in firewall for XP, .NET system, and the coupking of Microsoft Network with Windows XP, or its suit over the Windows names. This case began in 1995 and now in 2002 we are willing to settle with a turn of our backs.

I could list piece-by-piece what I view as theft by this Giant. I could easily attempt to make my case that Microsoft has not produced, in general, a product solely of its own without building it or modeling it from a product of another company. Whether it is the windowing system concept (Macintosh), DOS (Caldera),Start Menu (Apple), Terminal Services (Symantec's pcAnywhere / AT&T Virtual Network Computing), firewall and multiple logins (unix, Linux iptables/ipchains). I could sit and justify the vantage that the richest man in the United States built his fortune upon the backs of stolen ideas. A criminal never brought to trial.

As a student, I am dishearten to see the movements in the university systems to be Microsoft-centric. Database classes are taught with Access, programs are to be written with Visual Basic/C++/J++, web design is taught via Frontpage, and the operating system of choice for labs is Microsoft Windows. At what cost? If you are to look at the per-seat licensing of Microsoft we are spending fortunes on software at the cost of a broad education. We learn by the bloated non-standards and hope that we can push in the real world. We fail to learn systems outside the deal.

As a technician for an internet service provider, I am force to witness first hand the limiting force of a monopoly. When a call comes in the first generalized question that comes to the client is, "What version of Windows are you running?", followed by "What version of Internet Explorer are you running?". Common issues are virii, tcp/ip stack failures, win modem initialization strings, corrupt executables of Windows components. Because Internet Explorer is intergrated with the Windows operating system, the user interface is slower, if Internet Explorer blows up you lose the stability of your system, and users are unable to regress to a previous version or remove the faulty component. Security is negligible, the mail system is a petri dish for virii, and the networking leaves much to be desired. On a day-to-day basis, I have to deal with problems of Windows "forgetting" settings and devices or perpetuating unneeded data in the way of networking addresses. Hardware compatibility is greatly reduced as it as modems are software based ("winmodems"). Internet access setup is hindered by the persistence of MSN (The Microsoft Network) in terms of web browsing, messaging, dial-up networking, and communications compatibility.

As an end-user, I cannot help but to feel that I have been violated. I used in-house networking to share information between my laptop, my sister's computer, and my home system. My laptop is an Apple Powerbook running Mac OS X, my desktop is Redhat Linux 7.2, and my sister's machine is Windows 2000 Professional. I have had to run numerous security updates on Windows 2000 and its predecessor Windows 98. XP, which I had test ran has holes in security large enough to sail the US Navy through. Non-Microsoft programs are "crash-proned" by the operating system. I cannot help to feel that as a consumer I the Warranty of Mercantibility failed to apply toMicrosoft products. I deal with file sharing compatibilities with SMB RPC calls. I feal cheated. The cost is high-way robbery. In an industry where compatibility is a necessity, Microsoft continues to violate standards in security, networking, programming. Its movement to control the wealth of the industry has damaged the industry and the economy of the United States of America. We cannot pretend that keeping the ingrediants in one pantry allows every one to taste the pie. Unemployment, job cuts, and damages are left in the wake of postponed action.

The proposed settlement is not a punitive settlement, but an extension in guise that fails to be in the best interests of justice, consumers, and the general populace. The "donation" of monopoly software to an area where the monopoly is not in existence is the furtherment of the monopoly. It is the allowing of Park Place and Boardwalk with hotels to reap Community Chest.

On the other hand, I agree with the proposed settlement of Redhat. Let Microsoft purchase the equipment, let another software vendor provide the software. Software that is not terms limited, user agreement stipulated, bug-ridden, security questionable, and compatibility hell. I would further liketo propose the removable of Internet Explorer and Media Player from current and future versions of the Windows OS along with the shutdown of the Microsoft Network. Do not allow one trust for another another. Anything short of this would be unfair when you look at the settlement that prevent AT&T from developing Unix and establishing its lead role in the computer industry.

I apologize that my statements here are more brief than I had intended and may not be as clear and concise as I feel that is needed to set a better light on this blite.

However, in closing I wish to ask that the Department of Justice act as a doctor and treat this case as curable form of the AIDS retrovirus. Medicate it. Prevent it from injecting and taking over new cells. Prevent it from disabling the guards against it. I also wish to ask the the Deparment of Justice to act as a strong Prime Minister. Do not do an appease. Europe settled to give Hitler one victory, but found that one eventually equated to many. Politics and history often meet with business to form one. Apply it.

Sincerely,
Casey W. Keller h: 828.438.8543
1255 Mountain Glen Circle 828.438.1550
Morganton, North Carolina 28655 c:
828.443.0515
United States of America e:
cwk@worldhuman.org

MTC-00033679

From: Rufus Polson
To: Microsoft ATR
Date: 1/22/02 9:37am
Subject: Proposed Microsoft Settlement

Dear Officers of Justice,

I should note before beginning that I am Canadian, and as such lack standing in a United States proceeding. But it has been suggested to me that it would, nonetheless, not be improper to submit a respectfully phrased opinion, and I have serious concerns about this matter.

My first worry about the proposed settlement is that it cannot be enforced. The only penalty for noncompliance with the settlement, as I understand it, is that the settlement may be extended for two years. But how much effect can this have? Surely a company failing to comply with a settlement would have little trouble continuing for two more years to fail to comply. The history of Microsoft's behaviour suggests that failing to comply with a settlement is within the scope of their normal actions; the likelihood of this happening must be taken into account in any settlement, with noncompliance penalties on a scale sufficient to create strong disincentive even to such a massive entity.

My second is the lack of any penalty. In a country in which the criminal law strongly endorses retribution and deterrence as principles of justice, and in which corporations are legal entities with much of the rights and standing of persons, it seems appropriate to keep in mind the principles that are routinely applied to persons when dealing with corporate lawbreaking. This is the more true for corporations such as Microsoft in which the direction is so clearly set by a very few individuals, whose fortunes and identities are wrapped up closely in the corporation. In short, Microsoft as a corporation is guilty of a serious crime—this has been established. Microsoft as a corporation should be seen to be penalized, so that other corporations and their administrations realize that illegal monopolist tactics will not cause their companies to prosper.

My third is the weakness of much of the language, such that many things which the settlement appears on the surface to prohibit are in fact not prohibited in any serious way, whereas it seems that others still can be twisted in such a manner as to actually legitimize practises that would not normally be considered acceptable. Many other submissions, as I understand it, have gone into detail on these issues. I will not spend words describing them yet again.

Another problem is the inspectors. Their powers are unclear, and should be strongly specified. The selection process seems inappropriate—why should Microsoft have a voice in selecting their watchdog? It is like letting a drug dealer vote on his parole officer. In addition, it seems as if they are to be paid by Microsoft—this is another damper on independence. It seems more reasonable that Microsoft should disburse a sum immediately, sufficient for their payment for the entire duration of the settlement, and the Department of Justice should pay them out of that sum.

Finally, the settlement seems of marginal impact even in its intent. Even if one were to ensure that it was complied with, clean up ambiguities in language so that the compliance reflects what some of the broader statements indicate to be the intent, and empower inspection sufficiently well to verify compliance, the results seem unlikely to curb Microsoft's anti-competitive behaviour to any great extent. Rather, it seems likely that Microsoft will be forced to curtail a few fringe practises, leaving the general pattern untouched and perhaps pushing them to intensify new anti-competitive practises in areas such as the internet and encryption, where they might take advantage of such laws as the DMCA to use proprietary encryption schemes and claim any attempt to interoperate with their encrypted files to be illegal.

In short, the proposed settlement is flabby and overspecific even in its intent—no tiger capable of reining such a massive organization, but a tabby cat. Its actual wording makes it a paper tabby. Let us not forget that this is a corporation with such contempt for the administration of justice that they presented falsified evidence to the trial court (their so-called demonstration of Windows 98 running slower without Internet Explorer, which was a mockup fabricated for the sole purpose of deceiving the court—an action which would have surely left any ordinary defendant facing additional charges for perjury and/or contempt of court); how likely is it that they will comply with any judicial decision one micron farther than they are absolutely compelled to? How likely is it, in fact, that any settlement without a major structural component will impact Microsoft's practises in any significant way? In the absence of structural remedies, it is at least essential that any settlement present a comprehensive catalogue of practises which are absolutely barred, presented in ironclad language, with massive, immediate penalties for deviation. And if this case is to deter others from similar practises and, in general, pass the message that antitrust law remains alive in the United States, it should involve a substantial penalty for past anticompetitive actions.

Respectfully yours,
Rufus Polson

MTC-00033680

From: Walter Shultz
To: Microsoft ATR
Date: 1/23/02 6:48am
Subject: Microsoft Settlement

There are many factors which render the proposed final judgement both ineffective and incomplete. One argument which bears the burden of many industry concerns is that of Dan Kegel's open letter to the DOJ (http://www.kegel.com/remedy/letter.html). This references his essay on the topic which can be found at (http://www.kegel.com/remedy/remedy2.html). These documents are well written and contain much information overlooked by the drafters of the PFJ. I have asked that my name be added to the open letter. Even these points do not complete the argument against Microsoft's monopolistic activities. It is evident that the drafters of the judgement have not been educated to a sufficient understanding of the enormous technical details which comprise the history of Microsoft's monopoly. These are, of course, too many to be discussed in a brief email. Please however consider the following:

* Microsoft's policy of trademarking common industry terms (such as 'windows', 'office', 'access', etc.) To the end of excluding competitors' use of standard terms in the names of their products. 'Windows' for example is a name in use by the 'X Windows' system for the Unix well before 'Microsoft Windows' came to market.

* Microsoft's habit/policy of modifying standard programming languages(to optimize them for the Microsoft Windows platform) and passing them off as the original standards.

This is demonstrated in the development of 'Microsoft Visual C++'(a 'version' of the C++ programming language for 'Microsoft Windows') and J++(a 'version' of Sun

Microsystems' Java programming language. Since the suit with Sun, Microsoft has begun calling their version 'Active X') Sadly, programmers who are educated using

Microsoft's non-standard language versions may have difficulty writing for any platform but 'Microsoft Windows' since these versions do not use standard development libraries. Thus the pool of development talent for competing operating systems is effectively decreased by flooding the market with these altered languages.

Thank you for your time. I wish you all the luck you will certainly need in effectively considering judgements in this case.

Sincerely,
Walter A. Shultz
Bethlehem, Pennsylvania
Electronics Technician
sanguine@fast.net

MTC-00033681

From: Tyler Janisch
To: Microsoft ATR
Date: 1/23/02 8:14am
Subject: Microsoft Settlement

I feel it is irresponsible and dangerous to allow Microsoft to exit the current proceedings with anything less than a hefty punishment for their anticompetitive practices (which have been extensively documented and proven throughout the current and previous cases—I'll not re-write them here).

I believe adequate punishment should be commensurate with the benefits afforded Microsoft by their own misdeeds. Microsoft has grown to their current size by their business practices over the last two decades (an obvious statement)... some practices well within the law, many not. The anticompetitive practices have, many times, led to the destruction of a competing business, giving Microsoft that much more market/power/momentum. On and on to present day and their present size/control/dominance.

I propose a return to prior 'breakup' considerations. With near-total desktop market share and dominant server market share, plus near-total market share for office productivity software and a dominant hold on server and back-end software—adding to that a recently-obtained ~80% hold on the web browser market (with that, exhibiting their usual 'practices' to generate a general Net/Web dependence on their technologies), I feel that they should, at the least, be split into independent businesses focused on: Operating Systems, Applications, Network Technologies.

It is obvious that any monetary punishment cannot be effective, short of fining them tens of billions of dollars (and even then, their market momentum may make that amount insignificant, in a very short time). Earlier considerations led to a "make them donate to schools" proposal. That has, thankfully, been thrown out and any similar resolution proposal should be discarded as well; any market Microsoft is 'forced' to donate to will simply become another domination for Microsoft. Please consider Microsoft's future with utmost care. It may seem rather dramatic to say, but is no less true: the world's future rides on your decision.

MTC-00033682

From: scj@marcsys.com
To: Microsoft ATR
Date: 1/27/02 6:41am
Subject: Microsoft Settlement

am opposed to the current Microsoft settlement. Others, more eloquent than I, will detail the reasons why this proposal will not restore competition in the marketplace or provide sufficient cause for Microsoft to change their monopolistic behavior. As a software professional with over twenty years experience and whose undergraduate course of study was in computer science, I have watched as Microsoft has continually impeded innovative developments. Microsoft follows a fairly consistent plan:

(1) Ignore the innovation (e.g., web browser, disk compression, java, etc.) until it can no longer be ignored. Then,

(2) Respond to the innovation by saying that it is without merit. When this is insufficient to keep the innovation from the market,

(3) Either buy the developer of the innovation or "partner" with them. "Partner"ing allows Microsoft the time to develop the software in-house. Once the in-house version is ready, Microsoft will ruthlessly "bundle" it into their offering at "no additional cost" thereby destroying the market for the original developer. Finally,

(4) Claim the innovation was due to Microsoft in the first place.

For the good of the consumer, market, industry, and country this anti-competitive and monopolistic behavior must stop. Based on the the past behavior of Microsoft, with respect to previous Department of Justice actions, there is nothing which suggests that Microsoft will follow the spirit, or even the letter, of the current proposed settlement. They have consistently flaunted the law and have treated any cost or enforcement action as a normal "cost of doing business." Without any meaningful competition they can do this with impunity.

I would encourage the Department to re-evaluate this far too lenient settlement and devise a solution which, even in the face of determined Microsoft attempts at circumvention, will help restore competition and innovation to the marketplace.

Sincerely,
Steven C. Johnson \ scj at marcsys period com
13906 Flint Rock Road

Rockville, Maryland 20853–2649 U.S.A.

MTC–00033683

From: jremy-doj@law.uoregon.edu@inetgw
To: Micrsoft ATR
Date: 1/28/02 11:36pm
Subject: Microsoft Settlement

To Whom it May Concern:

Pursuant to the Tunney Act, I am writing to comment on the proposed settlement of the United States vs. Microsoft antitrust case.

There are several significant failures of the proposed settlement. I will limit my comments to one specific problem.

I believe Microsoft should give $1 billion in cash to help schools, instead of software and some money. This would seem to only hurt Microsoft's competitors in the education market as it is difficult to compete with free software. A far better settlement might be for Microsoft to give their proposed $1 billion—in cash—to an independent foundation, which will provide our most needy schools with the computer technology of their choice.

Thank you for the opportunity to share my opinion about this very important decision.

Sincerely,
Jeremy Zane
Network Administrator
University of Oregon School of Law

MTC–00033684

From: Marc Brenner
To: Microsoft ATR
Date: 1/27/02 11:43pm
Subject: Fw: Microsoft Settlement revised letter with address and phone #
—— Original Message ——
From: Marc Brenner
To: microsoft.atr@usdoj.gov
Sent: Sunday, January 27, 2002 11:28 PM
Subject: Microsoft Settlement

I and my family feel that the proposed settlement will not benefit the public interest. Microsoft should be forced to open its applications to other platforms, so that software and hardware from other vendors will run without crashing with Microsoft products and so that other platforms can develop and integrate with Microsoft applications.

The court should hold public proceedings under the Tunney Act to give all parties the abilities to participate in settlement.

Thank you for your consideration.
Marc Brenner
835 Topper Lane
Lafayette, CA 94549 Ph: 925 283 3406

MTC–00033685

From: Michael James Langford
To: Microsoft ATR
Date: 1/25/02 8:56am
Subject: Simple to impelement remedys.

Dear Sirs,

Microsoft clearly has maintained a monopoly via unlawful means. They do not deserve the public's trust, as they do not have our best interest in mind.

Most behavioral or structural remedies are too hard to effectively enforce on an adaptable company such as Microsoft. So instead affect a policy change for the Federal Government through careful restrictions on Microsoft.

Switch the entire federal government over from MS office and mail products to other companies products like Sun Microsystem's StarOffice products. Use an open file format, such as Rich Text, Html, or Latex as the standard for documents. Word documents can be easily changed over to these types through its SaveAs command, and this process can be automated through simple programs most programmers could write in a couple hours.

This sounds like an expensive switch over. Have Microsoft pay for the manpower to switch over all agencies. Make them split the cost of any new licenses 50%/50%.

To make this switch within the power of the court, you would have to phrase the judgement in a way similar to: ——

All licenses granted to the federal government of Microsoft Office 95, Office 97, Office 2000, and Office XP are hereby revoked. (The contracts cancelled).

A new 5 year license is given in lieu of the old license of each copy of that software.

Microsoft may not issue new licenses to the government for any Non-Operating System product. Microsoft may not bundle any office productivity software into its Operating Systems. This is in effect for the next 10 years.

Microsoft will pay all labor costs associated with switching to new office products, as well as 50% of the cost of all replacement software.

Any state or municipal governments may also have these same terms if they request it.

This seems to be an easy to enforce and equitable judgement that can be levied against Microsoft as a punishment, and does not cost any party but Microsoft an undue expense, while still being fair to Microsoft.

The only party remaining to be dealt with is the OEM's who have been forced into licensing contracts with Microsoft. To remedy that situation, allow any of them to cancel their contracts with Microsoft at any time in the next 5 years, and enforce a single PUBLISHED price for all OEM software purchases of Microsoft software. Allow compulsory licencing to at that price to any OEM that wants it.

Thank you for your time.
Yours truly,
Michael Langford

MTC–00033686

From: Mike Foley
To: Microsoft ATR
Date: 1/24/02 8:29pm
Subject: Microsoft Settlement

Hello Judge,

I'm am writing this message to convey my opinion on the Microsoft settlement.

I feel that Microsoft is guilty of the charges brought by the government. I am greatly disappointed at the settlement. I read it the day it was released and quite frankly, I was appalled. And then to read a few weeks later, Microsoft's proposed settlement in civil suits where Microsoft would give computers and software to the education market told me that Microsoft has not learned. The proposed settlement would have devastated Apple Computer's lead in the education market! I used to work for Digital Equipment Corporation. I "heard stories", many first hand, of the practices Microsoft used to great effect against DEC. Stories of "acquired" technologies, of Mr. Gates asking that competing technologies be cancelled, of Microsoft not pushing DEC's Alpha chip. Yes, they are "stories". Many were settled in out of court settlements so that we'll never know the final truth, but they are indicative of business practices practiced by a monopoly.

To fairly settle this court action, I propose the following: (Not limited to these, just some things I believe should be addressed).

Open standards of document formats. Microsoft Office is the standard. Allow other companies to compete on form and function and innovation.

. A business practices oversight committee that has real power to keep Microsoft in check. Microsoft should have no say in who would be on this committee.

. Limit Microsoft's expansion into media. They have MSN, MSNBC, etc.. I don't want to watch "All Microsoft, All the time". People who don't know better will see Microsoft on TV and on their computer and be "locked in". How does someone compete fairly when everything says "Microsoft"?? If anything needs to be split from the main company, it's the media portion. It is truly scary.

. Mandate government use of alternatives to Microsoft products. There's no good reason for the government to be feeding a monopoly. There are excellent operating systems out there. (Linux, OpenVMS, HP UX, etc..)

. Mandate to Microsoft that the government will only use open standard formats for things like documents and programming, and networking interfaces. Microsoft must stop practicing "embrace and extend" where they take an open standard, add their extensions, and lock out others. In conclusion, I would hope that the court will ensure that Microsoft does not walk away from this with an slap on the wrist and a virtual "ok" to continue its predatory practices.

I thank you for your time and your patience in reading this message.

mike
mike@yelof.com
http://www.yelof.com

MTC–00033687

From: The Amazing Llama
To: Microsoft ATR
Date: 12/8/02 2:37am
Subject: Microsoft Settlement

To whom it may concern,

It is my belief, as a computer hobbyist and programmer and as a citizen of California, that the Microsoft AntiTrust case will not do anything to:

(a) remedy the situation that Microsoft has put the computer industry into

(b) punish Microsoft for its illegal actions, of which it has been convicted.

The proposal does not even attempt to do either of these things. Instead, it scolds the company for its bad deeds and politely asks them not to do it again. If it does not comply with this, it will be asked again to stop.

I am left to wonder if this would ever stop anyone from doing anything that they wanted to be doing— and Microsoft has proved again and again that what it wants to do is control the computer industry by any means necessary. The proposal needs to make Microsoft pay for their actions, and they need to be punished for the results.

If Microsoft were a person (which is what a corporation models), they would be fined and jailed for these actions. This sort of idea, extended to a corporate level, would therefore make simple sense. Fine the company (and base the fine on the amount of money they make, and remember that that is a whole lot of money). Then put restrictions on them so that they cannot repeat their actions. If they do repeat their actions, BREAK UP THE COMPANY. Or at the very least force them to open source Windows. These are the only two— let me repeat that— the ONLY two threats that Microsoft is afraid of. There is no fine that they will not recoup, no apology they cannot falsify, no time limit they will not lay low for. They will, as they have shown time and time again, revert to business as usual: bully everyone else with the power that you hold by owning Office and Windows.

Remember that this case came to court largely because Microsoft flaunted the 1995 court decision that essentially did what the new proposal will do again: shake a stern finger at them, give them a tongue-lashing, and send them on the way after they have promised not to do it again. Remember that Microsoft made that promise six years ago, and making it again now will be no more binding, and Microsoft will pay even less attention to it, because they have more power and more markets than they did then.

The fact you would give them as much power as you have in the proposal stages is evidence of their power: the only way that Microsoft could get a more comfortable punishment would be if they were forced to give their excess software away into a market that they did not control, such as education (which you probably know is their proposed solution to their current antitrust case with the private companies suing them).

This is evidenced by the utter uselessness of the proposal, and by the amount fo control Microsoft has of the execution of the "punishments" laid out within it. For instance, that they can decide what parties to give out documentation and help to is merely giving them another weapon, and making that weapon sacrosanct in the process, because it is not a "weapon" that they are using to their advantage but a "punishment" that they must follow. Also, the fact that they are given a say at all in the council of three that oversees them is imbecilic. A man put in jail does not get to choose his jailmates or his prison guards, and Microsoft should not either.

Incidentally, Steve Satchell would be a great choice for the committee. He has a good amount of experience in consumer software, hardware, and OS design. He is further elevated by his lack of ties to other companies in the industry who would possibly gain by his actions. Perhaps what angers me most about the current proposal is that it is being done "to help the computer industry in these times of economic turmoil," which can be translated from PR-speech to English as "to make people buy Windows XP, which will make them buy lots of new computers, which will boost the computer industry." This is a short-sighted remedy to a deep-seated problem. People buying computers now will keep everyone in the industry afloat, but it will be best for Microsoft, who makes money off of each computer sold. Worse, the short-sighted remedy only buries the problem deeper: it strengthens every company's dependence on Microsoft, both in fact and in mindset. Essentially, you are sending the message that without Microsoft, the economy is doomed. And that is to say that without someone flagrantly breaking the law, the economy cannot survive. And that is not a message that you should be sending. Microsoft has broken the law. Remember that. This is a fact that has been proven in court twice, and the supreme court decided that it was not worth their time to hear the arguments, because there is little chance that the 12 highest judges in our great country would find the facts any less factual: real companies have really been hurt by Microsoft, and they have lost real profits. -Seth A. Roby <sroby at westmont dot edu>

MTC-00033688

Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I want to offer my support for the settlement with Microsoft, which is to be finalized at the end of the month. Although the case against Microsoft seemed to have merit, Microsoft appears to be the victim of having not contributed to the right political campaign at the right time. A break-up of Microsoft would lead to more questions and further undermine the economy, so a compromise is in the interest of everyone.

Efforts at breaking up Microsoft are far beyond what is necessary to encourage more competition in the software industry. To the lay person, it would seem that the government is out to get big corporations, like in the tobacco industry, in order to reap a financial whirlwind. The remedial steps Microsoft has agreed to have in some cases surpassed the government's complaints, so in the interest of fair play, it is time to end further litigation. As a result of constant monitoring by a committee of software experts, as agreed to in the settlement, the terms would appear to be verifiable and an effective tool to allow more players to thrive in the software market. Please allow common sense to prevail and this extremely valuable piece of the American economy to stay intact.

Thank you for your attention.

Sincerely,

Kenneth Sweeney

MTC-00033689

Santa Barbara Industrial Association
www.sbia.org
2141 Victoria Street, Santa Barbara, CA 93101 . Tel 805-965-9415
Fax 964-7915 . e-mail: info@sbia.org

January 24, 2002

Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Support the settlement agreement and end the Microsoft lawsuit. The Microsoft lawsuit has already wasted over $40 million of taxpayers money. Even worse, this misguided lawsuit, which was filed in the name of preserving competition, will stifle innovation, hurt consumers and penalize success. Microsoft has been a model for a corporate success story and the pursuit of the American Dream. Over the past 10 years, Microsoft has lowered its prices, created a better product, and invested enormous sums of money in research and development. This doesn't sound like monopolistic behavior by any standard. The federal government should not reduce a company's incentive to innovate.

Government intervention into the world of high tech programming and design sets a dangerous and potentially disastrous precedent. Dictating to Microsoft what technology it can develop to increase the effectiveness of existing products or meet the rapidly expanding needs of users could cripple the technological innovation that has been the hallmark of our high tech, internet economy.

The Microsoft lawsuit hurts consumers, rather than helps them. Rather than protecting consumers, drastic remedies such as breaking up Microsoft would be a disaster for consumers and businesses. The integration and standardization Windows brought us has been a boon for the public as well as for our economic productivity. What Bill Gates understood, much to his competitors" chagrin was the consumers— people who use computers, not live computers—want an affordable and reliable system that works with and understands other systems.

Government intervention into the world of high tech programming and design sets a dangerous and potentially disastrous precedent. Dictating to Microsoft what technology it can develop to increase the effectiveness of existing products or meet the rapidly expanding needs of users could cripple the technological innovation that has been the hallmark of our high tech, internet economy.

One could argue in fact that the genesis of the huge decline in the Nasdaq, which so far has resulted in more that $2 trillion of lost wealth, primarily the result of the government's sustained attack on Microsoft's right to innovate. After all, today Microsoft, tomorrow Intel. Microsoft appears to be a Government target because of their success as a company. We used to reward success and innovation, rather than attack a company because of their success. Microsoft's success should be viewed as an asset, not a liability. The consumer has benefitted from Microsoft's success. The prospect of future benefits to the consumer should not be stifled by our own government. Similarly, other companies should not have to worry that their success could someday be threatened by heavy-handed government action, oppressive attorney fees and a legal action designed to harrass, publicly smear and possibly even break apart the business. The message we must send is that success should be rewarded and not punished. We hope the consent decree is adopted and the federal lawsuit is dropped.

Sincerely,
Joe Armendarz
Executive Director
SB County Industrial Association

MTC-00033690

James F. Taylor, Jr.
302 Norma Circle
Greenville, TX 75402
December 9,2001
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Subject: Microsoft Settlement

Dear Renata:

In response to the recent ruling regarding the Microsoft antitrust case, I would like to place my comments into the public record regarding the proposed settlement between the Department of Justice and Microsoft. I would like to address a few items that make the proposed settlement both ineffective and considerably flawed.

First, in regard to the proposed identification of who is and who is not eligible for disclosure of APIs by Microsoft, the exclusion of noncommercial entities from this remedy is both inadequate and will serve to further hamper free programs like Apache Web server and Sendmail. These programs are direct competitors of Microsoft's IIS and Exchange Servers, and they will not receive any API assistance that is guaranteed to commercial competitors.

Open Source products designated to allow free operating systems like OpenBSD an Linux to talk to Windows over networks would be irrevocably crushed by this loophole. Section III(j)(2), part (c) specifically hinders any free software from benefiting from Microsoft's published APIs by the language:

* * *(c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business,

Second, the remedy should address the incorporation of Microsoft products such as Internet Explorer and Windows Media Player without consent of the consumer during installation. It also should address the lack of an easy method to uninstall these programs should the consumer desire another 3rd party too to be used in place of the bundled applications. Microsoft is leveraging its OS monopoly against third party Vendors like Opera and MusicMatch Jukebox by bundling Internet Explorer and Windows Media Player without an uninstall or a choice during installation. Microsoft should, as part of the remedy, be forced to allow these tools to be removed or at the very least be uninstalled by both OEMS and end users. It is a simple remedy that Microsoft could comply with the next version of Windows or with a service pack for current Windows users.

Third, the remedy does not go far enough to force the publication of APIs and other interoperable portions, such as document formats, of Windows itself. These protocols should be open and subject to review from the entire industry. In addition, changes need to be decided not by Microsoft, who have proven time and again to cripple APIs to further their own programs at the expense of other third party programs. All of this was done without the consent of the user, and in most cases, was done without the user's knowledge as part of a "service pack" or other update to the program. All third party vendors of applications directly competing with Microsoft made their file formats and APIs known so the interoperability of their programs with Windows could be accomplished quickly. It is time for Microsoft to reciprocate without question or loophole.

Thank you for reading my comments, and I hope that these suggestions will be helpful in crafting a fair and equitable remedy that benefits not only the consumer, but Microsoft and its competitors. The computing landscape should not be as barren as it is today, with the ashes of hundreds of competitors to Microsoft crushed and broken by Microsoft's heavy-handed and illegal tactics. Despite Microsoft's claim to the contrary, these remedies will not stifle innovation, and they will not hinder Microsoft in any way other than to prevent it from leveraging its market share against its competitors. If these remedies are enacted and the loopholes closed, Microsoft will have to do what it has not had to do for a long time in the marketplace. They will have to compete on merit and innovation, rather than crushing its competition under the boot of their monopoly.

I appreciate your time and attention.

Sincerely,
James E. Taylor, Jr.
302 Norma Circ
Greenville, TX 75402

MTC-00033691

FROM :
Jul. 20 2001 05:50AM P2
FAX NO. :
Rockingham County Republican Party
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street, NW Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As the former Assistant Legal Counsel for the North Carolina Republican Party, I have a strong interest in how our legal system interacts with business. While many people have various opinions on the merits of the Microsoft case, most reasonable people can agree that if both the Justice Department and Microsoft reached a settlement, then it's time to put the litigation behind us.

It is for this reason that I call on Judge Kollar Kotelly to approve the settlement between Microsoft and the federal government. It is important that we do not interfere with it at business unnecessarily at any level of government, state or federal. That is why since 1999, I have been greatly troubled by the federal government's attempt to bring about unprecedented harsh penalties against Microsoft. That's why, as a lawyer, I felt encouraged when I read of the landmark settlement. We've got to minimize further consumer harm by freeing up Microsoft to be innovative, creative and cost-effective. I know that I rely on Microsoft computer operating systems on a regular basis, and I believe that they are the highest quality products available. These products will only improve with the closure of this legal matter.

Please let Judge Kollar-Kotelly that I strongly support the settlement, and I hope this balance of this proceeding will end soon. In that fashion, Microsoft can return to the business of innovation and developing new products. Also, government attorneys can get back to more pressing cases.

Thank you for your consideration of my comments.

Sincerely,
Matthew W. Smith
Vice Chairman
PO Box 528—Eden, NC 27289

MTC-00033692

FROM :
FAX NO. :
Jul. 20 2001 05: 51am p3
R. Lee Currie, Jr.
Former Executive Director
North Carolina Republican Party
104 Brookline Court—Clayton North Carolina
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street, NW Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As the former Executive Director of the North Carolina Republican Party, I have a uniquely political perspective on why the suit against Microsoft was filed. In short Microsoft's competitors did not like the fact that Microsoft is the established leader in technological innovation in the United States, and used the legal system in an attempt to stop them from maintaining their market share.

This is not the first time this trick has been tried. Anyone remember the ill-fated USFL (United States Football League)? All was well until the NFL (National Football League) outclassed, outshined and outperformed the USFL in terms of market share. The next thing you know, the USFL files a federal antitrust suit against the NFL, claiming unfair business practices. It didn't work: the NFL is more popular than ever, and no one even remembers what the USFL acronym stands for. Anti-trust violation? No. Superior product? Yes. Sound familiar?

This time, Microsoft's competitors have taken the stakes to a whole new level by lobbying the federal government to drive a stake in the Microsoft's heart. The competitors" lawyers and lobbyists won't stop until they destroy their competitor. Again, Microsoft has the superior product, so their opponents will try to continue to play a game with the legal system until they get their way.

That is why I call on Judge Kollar Kotelly to approve the proposed settlement between Microsoft and the federal government. The case should be settled now. Let's not give Microsoft's competitors mow time to lobby, cajole and influence important decision makers that the settlement isn't in the government's interest. Let's close the chapter of this unfortunate series of events by approving the settlement. Thank you for your consideration of my comments.

Sincerely,
Lee Currie

MTC-00033693

FROM :
FAX NO. :
Jul. 20 2001 05:45AM P2
North Carolina Federation of Republican Men
6706 Queen Anne's Drive
Raleigh, NC 27613
January 9, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As a small businessman who depends upon Microsoft for both my home and office computer, I am gratified that the federal government is now willing to settle its case against Microsoft. It is my sincere hope that Judge Kollar Kotelly will approve this settlement.

As State President of the North Carolina Federation of Republican Men, I represent many men, who, like me, lost money in my retirement account when tech stocks plummeted, an occurrence that is attributable the suit against Microsoft. I'm relatively young, and didn't have a tremendous amount of money to lose. I feel sorry for those who lost more.

As a former Legislative Liaison of the North Carolina Automobile Dealers Association, I am all too aware that business can work in concert with, or in opposition to, government, I am aware of the tremendous cost to business that occurs when lawsuits are continually pursued. They drain resources and energy from employees that should be spent in other things. And lawsuits usually cost the taxpayers money This one certainly has.

The reasons I have outlined are why I hope Judge Kollar Kotelly will accept the settlement and let all parties move forward, Thank you for your consideration of my comments.

Sincerely,
Dee Stewart
State President

MTC-00033694

Jul. 20 2001 05:45AM P3
FROM :
FAX NO. :
Rockingham County Republican Party
Renata Hesse
Trial Attorney
Antitrust Divisions
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

As the Chairman of the Rockingham County Republican Party, I am deeply concerned about the effect that prolonging the federal government's lawsuit against Microsoft would have on businesses in our community and other communities across North Carolina. I want to request that Judge Kollar Kotelly approve the settlement that is pending.

The proposed settlement will be good for all parties. There is a perception that Microsoft's competitors played a role in trying to work against Microsoft's position with politicians and the media. We don't need more tug of war between these litigants. We need to accept the settlement and move forward. Because the economy is in poor condition, it is imperative that we put this matter behind us. Both the industry and the government attorneys need to focus on other matters, in my opinion. As Chairmen of the Rockingham County Republican Party, I am encouraging all of our members to support the settlement.

As inspect the components of the settlement, I believe it to be fair to both sides, with Microsoft guaranteeing certain provisions and the government getting enforcement provisions never before seen in an anti-trust settlement. I hope that Judge Kollar Kotelly approves this settlement.

Sincerely,
Phil Berger, Jr.
PO Box 528—Eden, NC 27289

MTC-00033695

FROM :
FAX NO. :
Jul. 20 2001 05:46AM P4
North Carolina Federation of Young Republicans
7465 Bluff Point Lane
Denver, NC 28037
January 9, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street, NW Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

In addition to serving as Chairman of the North Carolina Federation of Young Republicans, I am also the co-owner of a small computer business, I use Microsoft products every day to enhance my productivity, as well as to improve the level of service I offer my customers.

I realize what a big difference that Microsoft; has made in the working lives of millions of Americans. I have written numerous letters to North Carolina's Congressional delegation, requesting a quick and mutually beneficial settlement of the Microsoft suit. What small business owner wouldn't agree that the lawsuit filed by the federal government was quite harmful to the high-tech sector as well as the stock market.

As Chairman of the North Carolina Federation of Young Republicans, I call on Judge Kollar-Kotelly to approve the reasonable settlement which has been approved by the company, the federal government as well as nine of the states which had formerly sued Microsoft. American business needs to move forward.

Sincerely,
Jason Saine
State Chairman

MTC-00033696

FAX NO.:
Jul. 20 2001 05:39AM P2
REPRESENTATIVE
76TH DISTRICT
OFFICE ADDRESS:
TELEPHONE:
E-MAIL:
HOME ADDRESS:
TELEPHONE & FAX:
MICHAEL O. HARRINGTON
303 LEGISLATIVE BUILDING
RALEIGH, NC 27801–1096
(919) 733–5823
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MICHAEL@NCLEG.NET
3324 LINCOLN LANE
GASTONIA, NC 28056
(704)853–8574
January 9, 2002
COMMITTEES:
APPROPRIATIONS
SUBcoMMITTEE ON INFORMATION TECHNOLOGY
FINANCIAL INSTITUTIONS
SCIENCe & TECHNOLOGY
Ms. Renata Hesse
Trial Attorney—Antitrust Division
Department of Justice
601 D Street, NW., Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

In addition to serving in the North Carolina House of Representatives from Gaston and Mecklenburg Counties, I am also a small businessman. In the state legislature I serve on the Science and Technology Committee and the Appropriations Subcommittee on Information Technology.

In those posts, I am one of the decision makers as to where the state of North Carolina is able to spend its money on technology. From that perspective and in my own business, I realize what a big difference Microsoft has made in the working lives of millions of Americans.

I have, in the past, been the author of articles concerning the Microsoft situation in which I take the position that the lawsuit filed by the federal government was unhealthy for the high-tech sector in particular but for business in general.

A major decline in Microsoft stock and in the shares of many high-tech companies happened the day following a breakdown in negotiations between Microsoft, the federal government, and the states'' attorneys general who would not agree to a settlement. The pain inflicted on so many people's savings and stock accounts was mighty. Of course, the Microsoft incident was not the only reason for stock to go 'down, but it was one reason.

Ms. Renata Hesse
January 9, 2002

Today, I understand that Judge Kollar-Ketelly has a reasonable settlement that has been approved by the company, the federal government, as well as nine of the states which had formerly sued Microsoft, including New York.

I would heartily endorse this settlement and hope that the good judge would as well. All parties need to move forward.

Sincerely,
Michael O. Harrington
Representative Michael O. Harrington
District 76

North Carolina General Assembly
MOH:jal

MTC–00033697

John C. Comeau
2 Rita Lane
Littleton MA 01464
Trial Attorney Renata Hesse
Antitrust Division
Department of Justice
601 D Street NW., Suite 1200
Washington DC 20530

I am a member of Americans for Technology Leadership, an organization of citizens, consumers, and high-tech professionals who are dedicated to minimizing unnecessary regulatory intrusion into the information technology industry. For this reason, I am writing to urge the court to accept the settlement reached in the antitrust case between Microsoft and the Justice Department lawyers. This case has been a tremendous drain on the creative energies of the technology world, and its settlement can only be a positive for the country as we deal, with a lingering recession.

The information technology industry is dependent on the freedom to innovate that is essential foe new products to come into being. The implications of the suggested remedies beyond those reached in the agreement are ominous. The high-tech sector cannot endure the added impediment of a stultifying new regulatory presence by the federal government. If the issue is serious wrongs on the part of Microsoft, then punish them and move on. If, however, the issue is creating a windfall for less successful competitors, then please don't punish the rest of us by imposing new sanctions, and regulatory hoops to jump through.

This country will be much better served if the Justice Department spends its time concerned with real threats to our safety and liberty, and if the companies involved in high-tech all got back to innovating rather than litigating. I ask that the Justice Department advocate this settlement to the judge, and in doing so serve the American people, and the nation's greater interests.

Respectfully,
John C. Comeau

MTC–00033698

January 16, 2002
Ms. Susan Johnson
11794 Rockaway Lane
Fairfax, VA 22030
Ms. Renata Hesse
Department of Justice
601 D Street, NW., Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

Now that the federal government has finally settled its long antitrust case against Microsoft, I hope states still involved with the suit will do the same. It is time for consumers to come together and move the economy and our country in a positive direction—a forward and economically strong direction.

The settlement's provisions protect Microsoft's ability to continue to be innovative and, this hopefully, will revitalize competition and the technology industry for the betterment of us all. Consumers and investors will reap the benefits of the settlement and this should help to get the engines running toward a healthy and properous economic stance.

Thank you for your consideration
Sincerely,
Susan N. Johnson

MTC–00033699

January 15, 2002
Ms. Susan Fujii
13859 Wakley Court
Centreville, VA 20121
Ms. Renata Hesse
Department of Justice
601 D Street, NW., Suite 1200
Washington, D. C. 20530

Dear Ms. Hesse:

I was pleased to read that the federal government has finally settled its long antitrust case against Microsoft. I hope the other states still involved with the suit will do so as well. Now is not the time to waste taxpayer dollars on drawn out lawsuits. It is time for the government and the high tech industry to come together to rally our nation's economy.

If the settlement can provide a jump start to better economic indicators and rev up a once highly stimulating technology sector, than the government should not stand in the way. Our nation, more than ever, needs some positive news and a glimmer of hope for a positive future. I hope the Justice Department will do what it can to provide the citizens of this county that hope and encourage it to grow into ever increasing prosperity.

MTC–00033700

January 20, 2002
Mr. David Foreman
13859 Wakley Court
Centreville, VA 20121
Ms. Renata Hesse
Department of Justice
601 D Street, NW., Suite 1200
Washington, D. C. 20530

Dear Ms. Hesse.

I was pleased to read that the federal government has finally settled its long antitrust case against Microsoft. I hope the other states still involved with the suit will do so as well. Now is not the time to waste taxpayer dollars on drawn out lawsuits. It is time for the government and the high tech industry to come together to rally our nation's economy.

If the settlement can provide a jump start to better economic indicators and rev up a once highly stimulating technology sector, than the government should not stand in the way. Our nation, more than ever, needs some positive news and a glimmer of hope for a positive future. I hope the Justice Department will do what it can to provide the citizens of this county that hope and encourage it to grow into ever increasing prosperity.

Regards,

MTC–00033701

January 16, 2002
Ms. Kathy Buckley
14701 St. Germain Drive
Centreville, VA 20121
Ms. Renata Hesse
Department of Justice
601 D Street, NW., Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

As jobless rates and economic indicators continue to tell consumers that times are getting worse, I think Microsoft's settlement with the federal government could provide a beginning bright light. By settling the case, we could once again see the competitive prosperity of the 90's foster the necessary kick the economy needs to move in a positive direction. The high tech industry has been a driving force for our nation in recent years and if Microsoft's settlement revitalizes competition, than we should welcome this opportunity. This long drawn out case should be resolved once and for all, and the focus should be on lowering the jobless rate, increasing consumer confidence and strengthening our economy.

Best regards,

MTC–00033702

JAN–17–2002 02:49 AM P. 01
Jan-l0–2002 08:28 From NEW HAMPSHIRE
HOUSE OF REPRESENTATIVES
16032716889 T–186 P.001/002
HOUSE OF REPRESENTATIVES
legislative Office Building, 33 North State
Street Concord, NW., 03301–6328,
TEL:(803)271–3317
TDD Access: Relay NH 1–800–733–2964
COMMITTEE ON MUNICIPAL AND
COUNTY GOVERNMENT
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW., suite 1200
Washington, DC 20530

Dear Attorney Hesse,

I am writing to express support for the settlement proposed in the case of U.S. v. Microsoft.

Although I am not in the habit of submitting public comment in a case like this, I believe that the time has come to stop the persecution of this company, stop the needless spending of tax dollars, and allow this company to get back to business.

For many months now, the Federal government has pursued this company and threatened to break up its operations because of claims of its monopoly status. Finally, the parties have come to an agreement that is far reaching and addressee all the courts concerns. This agreement should be awarded with acceptance by the government.

Extraordinary amounts of money already been spent prosecuting this case. As a state representative, I work hard to make we that taxpayer dollars are spent wisely and believe the Federal government should do SO too. Many citizens of this country are out of work and are struggling to make ends meet. Americans are less concerned about the issues between computer companies and much more concerned about how they are going to provide for their families and their future& We should all take a lesson from this and end needless spending as quickly as possible.

Microsoft has been a a strong force in our economy and should be allowed to get back to the business of serving consumers. I hope you will approve this settlement as quickly as possible.

Thank you for the opportunity to comment in this important matter.

Sincerely,
Betsey Patten
State Representative, Carroll County, District 9

MTC-00033703

David A Graham
401 Oak Avenue
Elizabeth, Pa.
15037-1631
January 14, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-000

Dear Attorney General Ashcroft:

The Microsoft Anti Trust case settlement has been a long time coming. I am very glad to see that there is now a light at the end of the tunnel. However, I don't see how anyone can even debate the settlment's fairness. Microsoft is giving up a great deal to end this lawsuit, going so far as to give their competitors an unfair edge in the future.

I use Microsoft products both at work and at home. For years Microsoft has provided American consumers like me with superior products, creating innovative and compatible technologies useful in so many areas. Now, with the settlement Microsoft has pledged to share information, including the internal interfaces for its Windows operating system, with its competitors and make it easier for people to install non-Microsoft products in Windows.

The government has more important matters to deal with. It should not be intervening in the affairs of private companies. Please hold the settlement and allow Microsoft to move on with their business. Thank you.

Sincerely,
David A. Graham i I C/c Sen R Sanrorum
I

MTC-00033704

Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW., Suite 1200
Washington DC 20530
January 16, 2002

Dear Attorney Hesse,

Please allow me to add mine to the voices of citizens from across this country who believe that enough is enough with regards to the Microsoft "antitrust" case. By this point any casual observer can see that the consuming public stands to gain nothing by a protracted fight, and that only the dubious efforts of Microsoft's rivals have kept afloat any desperate attempt to skew the market to favor certain players. (And intrude government regulators where they are not needed at the same time.) Even the Justice Department has seen fit to reach an agreement to settle, and that is why I write: let's end this and move on.

I am the owner of an innovative start-up company myself, and I sympathize with Mr. Gates billionaire though he is, who seems to be targeted for his success. Although my business is not software related (and I have no affiliation to Microsoft) I had the opportunity to tour the Redmond Microsoft campus a few years ago, and came away impressed by the incredible focus and dedication to excellence the Microsoft workers all seemed to have. Perhaps Oracle, Sun, AOL and the others would be better served to dump their lawyers, and hire some people who can mirror the Microsoft work ethic and passion for excellence.

Sincerely,
D P. Sweeney

MTC-00033705

Brian K. Wright
101 Taylor Street
Littleton, Massachusetts 01460
Renata HeSse Trial Attorney
Department of Justice
601 D Street NW., Suite 1200
Washington DC 2O530

Dear Attorney Hesse,

It is my understanding that the justice Department is recommending a settlement agreement in the Microsoft case to Judge Kollar Kotelly that is amicable to both sides. I think that is a wise move for our country and the economy at this time.

I fully support the Justice Department enforcing the antitrust laws, and the pursuit of Microsoft if they were deemed to be in violation. However, if the federal lawyers believe that the settlement properly punishes Microsoft, as well as establishes measures to make sure it doesn't happen again, then isn't this sort of compromise what we should hope for? If the Microsoft rivals seek more remedies specific to their businesses then that is not the public interest being served. Crippling this major innovator and job producer shouldn't be anyone's goal.

I have the vantage point of being someone who has co- founded a national trade association in the high-tech field, as well as having served as an Assessor in a town with many high-tech businesses. I can state with confidence that what the economy needs now is a healthy Microsoft and its competitors all returning to the business of designing and selling software and systems, I hope this settlement helps to achieve that.

MTC-00033706

P. 0. Box 2555, Woburn, Ma 01888-1055
781-933-8228 Fax 781-933-2091

I am a small businessman who would like to express my support for the proposal to end the case against Microsoft by settlement.

For three years the government has wasted millions of tax dollars trying to chase Microsoft, mostly because other companies have tried to get the government to do what they can't: beat them. This case has not served America well and may have given foreign companies a chance to get into American information industries. We need to show more unity in this country in ways, and ending this case would be a great symbol.

I appreciate the chance to speak out, and I understand the volume of mail you must have to go through. I hope my concerns, and those of others are brought before the Judge.. It's time to end the case against Microsoft.

Sincerely,
William J. Cavalucci
WJP Realty

MTC-00033707

North Java
4127 Route 98
PO Box 206
North Java, KY 14113
535-7313
Fax 535-7487
DAVE REISDORF, INC.
I6 Clinton St. PO Box 395 Batavia, NY 14021
Phone 343-4453 Fax 343-641 I Toll Free (888) 255-0087
January 14, 2002
Warsaw
3758 S. Warsaw Rd.
Route 19
Warsaw, NY 14568
786-2560
Fax 786-3556
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW., Suite 1200
Washington, DC 20530

Dear Ms. Hesse,

We have been following with interest the government's extensive role in the Microsoft Antitrust Suit.

I am very pleased that a tentative settlement has been reached. The last thing our nation's economy needs is additional litigation that will lead to further regulation of the high-tech industry. Anti-trust laws were meant to protect consumers. It appears companies are using them to protect themselves from strong competition. Settlement in this case is in everyone's best interests. We the consumer's of the United States can certainly come up with better uses for the millions of dollars the government has spent to fight this case. Microsoft's innovation has lead to lower prices for software and increased benefits for the consumer.

If antitrust law is in place to protect the consumer, where is your case? Please settle this and move-on. It is in the best interest of the government, the people and the economy.

Sincerely,
Dave Reisdorf, Inc.
Anthony L Peca, Jr.
Sales and Consumer Relations

MTC-00033708

JAN-12-2002 05;32AM
HOUSE OF REPRESENTATIVES
CONCORD,NH 03301-6328
TDD Access: Relay NH 1-800-735-2964
(603)271-3164
COMMITTEE ON FINANCE
January 8, 2002
Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street NW., Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

It is my understanding that your office is now accepting public comment in the case of U.S. v. Microsoft. I write in support of that agreement.

This settlement is truly an achievement by both parties and should be approved quickly, I do not work in the technology field, but have done substantial research on this issue and believe that this case has gone on far too long In addition to spending too many taxpayer dollars, the government has unfairly persecuted this company end it should end, now, The frustration of Microsoft's competitors is understandable but misplaced. They have the opportunity to offer products that would compete with Microsoft's, but have not had the innovation to do so. The proposed settlement will allow Microsoft's competitors and customers more freedoms and it will help them become more profitable. Further restrictions or controls placed on Microsoft by the government will not be beneficial but instead will force America to take a backseat to other nations in the field of technology. Spending millions of additional dollars in these proceedings is no longer necessary or appropriate, This is a time of national crisis, and we need to be cognizant of the economy and public spending. it is now imperative that we put more resources into defense and national security rather than on needless litigation against an innovative company.

Thank you for your time and consideration.

Rogers Johnson
State Representative

MTC-00033709

JAN-12-2002 05:32 AM
Jan 10-02 12:43a
Carlos Gonzalez
HOUSE OF REPRESENTATIVES
Office of the Speaker
January 9, 2002
Renata Hesse
Antitrust Division, Department of Justice
601 D Street, NW., Suite 1200
Washington, DC 20530

Dear Attorney Hesse;

I am writing this letter as a State Representative to express my support on behalf of a settlement that has been proposed in case of the United States v Microsoft. Finally an agreement has been reached in this case that has gone on for too long. It is an amazing achievement and I hope that you will award this by approving it as fast as possible. The federal government needs to focus its resources and time on more important matters facing our country not on litigating companies like Microsoft, etc. As a State Representative I work hard to make sure that the money the citizens taxpayers of New Hampshire give to State government is spent wisely and believe the same needs to be done nationally. It is my understanding Microsoft's competitors spurred this case. It has taken too long and it has gone too far spending taxpayer's dollars. However great their frustrations are when competing with the excellence of Microsoft's products, they should not be allowed to carry these legal proceedings on any longer.

The time has come to end this case and the needless expending of millions of taxpayers dollars. It is not longer necessary or appropriate. In this time of economic uncertainty. We need to be looking for ways to spend government money (taxpayers" dollars) more wisely.

In conclusion, I am asking that you please approve this settlement between the United States v Microsoft. Thank you for your public service.

Sincerely,
Carlos Gonzalez
State Representative
Hillsborough County, District 48
Manchester, NH 03102
State House, Concord, New Hampshire 051101-4988, Telephone: (603) 271-5661, Fax: (803), 271-3809
TDD Access: Relay NH 1-800-736-8964

MTC-00033710

January 14, 2002
Renata Hesse
Trial Attorney, Antitrust Division
Department of Justice
601 D Street, NW., Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing to urge you to support the proposed settlement of the antitrust lawsuit against Microsoft. While I believe that many of the allegations raised by the lawsuit against Microsoft may have merit, it is time to shift the focus of the Department of Justice and our tax dollars to other priorities.

While the proposed settlement is not a home run for any of the interested parties, it does have a little bit of something in it for everybody while maintaining its overall balance. One way that you can tell that the settlement is balances is the fact that nobody is very happy with the proposed settlement.

Please contact me if you have any questions, or if you would like more information.

Thank you,
Keep fighting them Phil Gashitt

MTC-00033711

8448 Short Ridge Road
Aurora, Indiana 47001
January 11, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Dear Mr. Ashcroft:

As a Microsoft supporter, I write you concerning the recent settlement. After three years of negotiations, what more is there to debate? Microsoft has agreed to make various changes in licensing, marketing and design, and has agreed to do so under supervision. It is time to move forward and get our technology industry back to business.

With our economy the way it is, it makes sense to support any advances in technology that will maintain our place in the global market. As the IT sector is forced to sit and wait for the settlement to be enforced, our economy is jeopardized by stagnant growth in the technology industry. As we spend our time and money of further litigation, others will be focusing on innovation.

Let us help move forward and get back to business. Please help stop any further actions against this agreement. I thank you for your support.

Sincerely,
Myron Austin

MTC-00033712

27948 Blossom Boulevard
North Olmsted. Ohio 44070
January 8, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

The settlement that has been reached between Microsoft and the Department of Justice must be approved. I feel that this agreement is long overdue. Microsoft and the rest of the technology industry make up one of the fastest growing, most profitable sectors of the U.S. economy, and this suit is detrimental to our economy. The bottom line is that Microsoft is one of America's largest employers, and given the current state of the economy, this settlement is critical.

This suit should never have gotten as far as it has. Microsoft, in my opinion, was never guilty of antitrust violations. Microsoft's products are high quality, they arc reasonably m-iced. and they have withstood the test of time as the best products on the market. Without the Windows operating system we never would have had the boom that we have experienced in the IT field. Microsoft has made computers accessible to consumers, and I would hate to give up the benefits and ease that I now have with my Microsoft products because the government believes that they have become too successful.

It is clear to me that this country needs to see the end of this suit before we can hope to recoup our financial losses. I support the settlement, and hope that it is approved as soon as possible.

Sincerely
Jim Pellegrino

MTC-00033713

JAN-09-2002 09:02
P.01
SUSAN V.BARBA
P .0 Box 112
Long Hill Road
New Vernon. New Jersey 07976-0112
January 7, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am writing you today to express my opinion in regards to the Microsoft settlement issue. I believe this settlement is long overdue and will be very beneficial to the present state of our economy.

I feel that Microsoft has had a positive impact on the way we do business as a nation. Microsoft has contributed to the technology sector and has offered quality products to consumers at reasonable prices. I was displeased to see Microsoft punished for doing its job well. Now Microsoft will share information about the internal interfaces of Windows with its competitors and will be monitored by a full-time technical review committee.

I believe the decision to settle with Microsoft was a good one. I hope to see the settlement benefit or IT sector soon

Sincerely,
Susan Barba
TOTAL P.01

MTC-00033714

JAN 09 2002 9:11 WALTER SLACK
203-637-0389
Walter Slack

45 Cedar Cliff Road
Riverside, CT 06878
January 8, 2OO2
Attorney General John Ashcroft
The United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft,

I am writing to express my displeasure with the involvement of state officials in the recent settlement between Microsoft and the Department of Justice. Although I am happy to see that this matter is being settled, the concessions are too harsh and unnecessary.

I am also very upset that my state Attorney General (Michael Blumenthal) is involved with this matter. I thought that anti-trust was a Federal issue. My state Attorney General should be going after drug dealer and other such criminals that are a state issue that more directly affects my quality of life. His involvement in anti-trust issues is just a redundancy of what the Federal Government is doing.

Personally, I think that Mike Blumenthal just enjoys seeing his face on national TV. I request that no further litigation is pursued by the US DOJ and urge that local officials stay out of this settlement altogether. Thank you for your time; please lean on the last nine states and DC to settle, and I hope that what ultimately occurs will be in the best interests of the American pub tic and economy.

Sincerely,
Walter Slack

MTC–00033715

To: Attorney General
From: Biermann, Kevin
1–09–02 8:28am p.1 01 1
Communications Engineering Company, Inc.
1850 Boyson Road
Hiawatha, Iowa 52233
January 9, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

As Software Development Manager for a diversified company, I have learned to depend on the reliability of a variety of Microsoft software products. I am pleased that this settlement has been achieved and that apparently there will be no further federal action against Microsoft. For companies of our size and discipline, it is important to work with reliable software companies like Microsoft It would be very difficult for us, and many companies like ours, to work around any software changes that would have inevitably happened if this suit had continued through the federal courts.

I wanted to write to suggest that this settlement is a good one, as Microsoft will appease its competitors by sharing key coding information and submitting to government oversight. I hope that it will be sustained through the review process. Thank you.

Sincerely,
Kevin Biermann
Development Manager

MTC–00033717

January 2002
Ms. Renata Hesse, Esq.
Trial Attorney
Suite 1200
Antitrust Division
Department of Justice
601 D Street NW,
Washington, DC 20530
Fax l–202–616–9937

Dear Ms. Hesse;

I am a citizen of the United States. I work in the information technology industry. I believe that it would be disastrous for me should all the tools of my livelihood be owned by a single corporate entity, no matter how well intentioned. This Is what Microsoft intends. Their antitrust conviction indicates that Microsoft Is not well intentioned.

I am profoundly concerned that, in the matter of US vs. Microsoft, the penalty phase of the trial is being managed by the convicted defendant In such ways as to increase their monopoly over today's information technology and, even more importantly, that of tomorrow.

The far-reaching consequences of the de facto reversal of the anti-trust trial verdict would be difficult to overestimate. It is no exaggeration to say that this is a matter that will impact every life on this planet for many lifetimes to come.

It is critically important that real, far-reaching and controlling penalties be assessed against Microsoft, Their very settlement proposal shows that the corporation's unbridled ambitions include actual control of every possible future application of information technology. The tendrlis of this plan reach deeply into matters of the defense of this country and its economic health, In ways so insidious that they can be nothing but another Microsoft plan for market dominance.

This time, Microsoft is clearly thinking of the big picture. They are thinking of the entire nation and its governance. They are thinking of the entire global economy. They want it all. Their proposed settlement is another covert, gift-wrapped mechanism to achieve ambitious and self-serving ends.

Microsoft is not sorry that it has performed monopolistically. They are ceaselessly, incurably, rapaciously ambitious. They have been found guilty; the punishment you help to assign must somehow enforce a curb upon their avarice and ability to infiltrate the fabric of our entire lives.

Serious penalties are called for. Constant oversight is called for. The proposed settlement Includes neither of these elements.

I could synthesize my own arguments for your consideration, but others, better informed and more knowledgeable, have already done so. I will quote them extensively, and hope you will consider the wisdom of their words.

From Dennis E. Powell of LinuxPlanet:

"The ... proposed settlement ... would grant Microsoft its operating system monopoly—indeed, contains wording such that it would no longer be illegal for Microsoft to maintain that monopoly—while saying that if Microsoft wants to, it can make it easier for people to write Windows applications, but it's by no means required to do so. In short, the settlement is a travesty, an ill-advised embarrassment that flings down and dances upon the law and upon all but the most twisted notion of justice,

'I cannot see how the settlement that is proposed even pretends to remedy the antitrust violations for which Microsoft has been found culpable, The company has, I remind the judge, already been found in violation, and this is the penalty phase of the case, but the settlement contains no penalties and actually advances Microsoft's operating system monopoly. A just penalty ... would at barest minimum Include three additional features:

Any remedy seeking to prevent an extension of Microsoft's monopoly must place Microsoft products as extra-cost options in the purchase of new computers, so that the user who does not wish to purchase them is not forced to do so. This means that for the price differential between a new computer with Microsoft software and one without, a computer seller must offer the software without the computer (which would prevent computer makers from saying that the difference in price is only a few dollars). Only then could competition come to exist in a meaningful way.

o The specifications of Microsoft's present and future document file formats must be made public, so that documents created in Microsoft applications may be read by programs from other makers, on Microsoft's or other operating systems. This is in addition to opening the Windows application program interface (API, the set of "hooks" that allow other parties to write applications for Windows operating systems), which is already part of the proposed settlement.

o Any Microsoft networking protocols must be published in full and approved by an independent network protocol body. This would prevent Microsoft from seizing de facto control of the Internet.

I point out that If the national interest is at issue ... and as the judge has suggested it is crucial that Microsoft's operating system monopoly not be extended ... I quote the study released a year ago by the highly respected Center for Strategic and International Studies, which pointed out that the use of Microsoft software actually poses a national security risk. In closing, I say that all are surely in agreement that the resolution of this case Is of great importance, not just now but for many years to come. This suggests a careful and deliberate penalty is far more important to the health of the nation than is a hasty one."

"A settlement more along the lines of the one I propose above would greatly benefit Windows users as well, because competition would force Microsoft to improve the quality of its products in areas including but not limited to reliability and security. The settlement before the judge would benefit only Microsoft; a sterner settlement would benefit everybody.

I ask the judge to consider that the proposed settlement hurts each and every one of us in this nation in real, tangible ways. The proposed settlement should be rejected as ineffectual and, again, a tool of monopoly for Microsoft. Here are the words of a

California system administrator, with which I whole-heartedly agree:

"As the Network Administrator ... it is my responsibility oversee the deployment of new technologies to our company. My position gives me ample freedom to implement whatever software or hardware I see necessary to keep the company network running smoothly and to satisfy user requests. Unfortunately, though my position may give me that freedom, the current software economy cannot...

I would dearly love to replace all Microsoft technology in my office with Open Source software, and if the software economy give me as much freedom as my job did, I would do just that. However, the most defeating problem is what Microsoft chooses to keep secret— it's network protocols, the layout of its Office files, and the precise technology needed to migrate from their email server. . . . I am asking the court to force Microsoft to publish these protocols in detail.

I am also urging to court to act on future technologies as well. Microsoft is now planning to add vast pieces of the Internet to its web of interdependencies. With its initiative .Net, whole portions of the web would be cut off from non-Microsoft technologies. We have seen a glimpse of the monopolist's vision of the future with the UK and MSN portal, designed by Microsoft and accessible only with Microsoft technology.

From a Canadian university (a nation whose economic fortunes are inextricably tied to those of the United States) comes a very specific analysis with which there can be no cogent argument, because It raises the Issue of the user's right to his or her own data: "Because the most successful competitors in recent years in product markets in which Microsoft holds a true or de facto monopoly (e.g. personal computer operating systems, Internet browsers, and office productivity software) have arisen from the open source software community, I believe it is of extreme importance that any settlement protect and enhance this community's ability to produce products that provide end-users with viable choices.

"In my reading of the proposed settlement, such protection is not provided. On the contrary, the settlement will serve to allow Microsoft to continue to hinder the open source software community's efforts.

"The proposed settlement speaks of disclosure of APIs and licensing of intellectual property, I fear that any information disclosed by Microsoft will only be licensed to vendors or developers under conditions of a non-disclosure agreement, thus preventing the implementation of such protocols in an open source project or product, "This settlement, if Implemented as proposed, will serve to entrench Microsoft's monopolies further, by allowing it to exclude the open source software community from any future technologies and APIs it develops. As this community is currently one of Microsoft's most serious competitors, it seems unbelievable that the proposed settlement will aid Microsoft in eliminating this 'threat" to their monopolies.

"As an example of the current 'problem" of Microsoft's monopoly in the OS and office productivity software markets, I point to the ubiquitous '.doc" file. This one proprietary file format I believe Is one of the cornerstones of Microsoft's OS/productivity suite monopoly. Many people I know in the academic and business communities regularly purchase updated versions of Microsoft Windows and Microsoft Office for the sole reason that their correspondents send them .doc files as e-mail attachments. The options for importing these files into 3rd. party applications are many; however, having personally tried a large number of such programs, both free and commercial, I can safely say that many work well some of the time, none work well all of the time. The continuing cycle of forced upgrades to maintain compatibility with correspondents lies at the heart of Microsoft's monopoly.

"As a solution to this kind of problem, I believe that Microsoft should be compelled to disclose the specifications of the file formats used by Its products to anyone who sends or receives files In such formats and requests the information. "Left unsolved, this problem is bound to be more severe In the future. It has been widely reported recently that Microsoft is considering moving to a yearly licensing-fee system for its OS and office software. In this case, files created with licensed software and saved in proprietary formats may be permanently unavailable to the creator or owner of the data in the file if a user or company chooses to terminate its license. I may own the copyright of the work I create, but that Is of little value if the only copy of the work in existence is one saved in a format to which I do not have access. "Of course the .doc file format Is not the only proprietary file format Microsoft products use, and the arguments above apply equally well to other products and file formats. The .doc format Is likely the most important however, because text-based documents appear to be the most commonly shared and transmitted.

"A second cornerstone of Microsoft's monopoly is the fact that many computer manufacturers will not sell computer hardware without a Microsoft OS. I understand that the proposed settlement will prevent Microsoft from entering into exclusive arrangements with vendors, but I believe that stronger protections are required.

"If Microsoft's agreements with computer vendors forced the vendor to disclose to the computer purchaser the price of the Microsoft products Included, It would help consumers choose products and vendors that were appropriate to their needs. As an example, I point to Dell which will, as far as I can tell, not sell a computer without a Microsoft OS and office productivity suite. If purchasers knew that without these products they could save some number of dollars, that now often amounts to a sizable percentage of the computer package purchase price, they could apply pressure to the vendor to provide alternative (likely less expensive) products. Microsoft has stated concerns that selling computers without operating systems equates to software piracy. This assertion is absurd, and has become Irrelevant with Microsoft's newest release of Windows XP, which requires license activation.

"Having consumers and end-users with more information Is clearly in the public interest. All of what is suggested here concerns supplying information that enables computer users to make informed decisions, and to access their own work on their own computer, "In summary, I believe the proposed settlement is seriously lacking, and will, if implemented as proposed, aid Microsoft in its efforts to hinder Its most viable competitors. Any successful settlement must protect the rights of computer users to choose the products they desire to access their data."

If much of the legal profession is about finding loopholes (it is), then accountancy is about closing them. So it's not surprising that a certified public accountant found a glaring and terrible loophole in the proposed settlement and argued that it should be eliminated: "Another issue I have with the proposed settlement is the restrictions that are placed on the entities with which Microsoft must share their API's In the explanations I have seen of the proposed settlement these entities are restricted to 'commercial" ventures, implying for-profit status, This is simply wrong and way too restrictive. I believe that to be truly effective the parties with whom Microsoft should share their API's and the like should be broadly defined, maybe something like 'any party or entity that could potentially benefit from such information'. In other words this information should essentially be in the public domain."

Many of us are simply and plainly harmed by Microsoft's business practices. From Microsoft's own back yard, Seattle, a commentator considers the specifics of the proposed settlement. She provides a compelling illustration of how she Is personally damaged by the M microsoft monopoly:

"Microsoft has been determined guilty of violating anti-trust laws and the penalty phase just seems to miss the mark. I am hearing comments on the street that the U.S. Government is now a wholly owned subsidiary of Microsoft. I will admit that I find the 'penalties" somewhat perplexing in that they certainly seem to miss the mark rather completely.

"I personally think that is probably a little radical, but then I see demo copies of Microsoft's XP operating system on all the workbenches of my local post offices and I do wonder what is going on here. I do not see any other vendors" product demos available there. (Doesn't) this seem to Indicate implicit approval of Microsoft products and no other by a government entity?

"The following are the flaws that I see in the 'penalties" that essentially seem to leave Microsoft better off than they were before the trial, there is no separation of Integrated software that harms and stifles competition to the Microsoft operating system. Further I see no provisions for computer manufacturers to be able to offer other and more viable operating systems in a fair and price competitive atmosphere—essentially nothing has changed (under the terms of the proposed settlement).

"I do not see that the proprietary protocols for the operating system, networking and other elements are to be made public in order that others may have equal opportunity to develop applications In a spirit of healthy competition and to encourage innovation, Microsoft appears to be allowed to maintain the closed, proprietary and monopolistic systems that started this process. Again It appears that nothing has changed and it will be business as usual for Microsoft.

"In Washington State, Microsoft continues with its obnoxious and heavy handed practices, only now In a new area. Their handling of their Internet Service Provider (ISP) business seems to be following the same basic marketing strategy that they used with their operating systems. This has even been noted In the Seattle Times newspaper, In a city where normally Microsoft can do no wrong: http://seattletimes.nwsource.com/htm1/localnews/l34378212 awestl4mO.html

"Again, it appears to be business as usual for Microsoft.

"Thus I am perplexed at the current "penalties" being 'imposed" on Microsoft. They seem to be more of an encouragement for Microsoft to continue In the same ways it has been and those are the very same ones that brought this issue to the DO] In the first place. If these are Implemented as currently stated, then fair business practices, innovation and competition are DEAD in the computer field.

"I do use Microsoft products; a very few are reasonably decent but I am forced to use others because the only option I have for them is other Microsoft products. Because of this, my time is considerably less efficiently used in repairing and working to keep the systems going rather than accomplishing work that I need to do. If one does not expect much from the computers running Microsoft products then they are not the absolute worst products on the planet, If you expect much from them and / or use them heavily then you are going to

rather constantly ... have them fail (with resulting) loss of time, effort and money. On days when I am working hard it is common to have to reboot my machine to recover my working ability at least several times. As time goes on from the initial (or subsequent complete re-install of the operating system) the situation grows steadily worse. The overall cost of running Microsoft products Is Incredibly high and far higher than it ever should be were Microsoft concerned with more than creating a market for the next version of Its products. Bluntly, quality is not job one,

"In order that Microsoft be brought into line and with any hope of curbing their horrid business practices, it will take REAL penalties and serious oversight. With the obscene amounts of money that Microsoft has managed to accumulate through its less-than-fair business practices ... there is some doubt as to whether that can actually be accomplished. It has become quite obvious to anyone working In the field that there is no honor or integrity in Microsoft, only the search for more money in complete disregard for the good of the industry, the users ... at this point In time it becomes rather blatantly obvious that national security is at risk due to the poor quality and serious lack of attention to security that is (an) epidemic In their products. That alternatives are few is a direct result of the issues that DO] is supposed to be addressing in this matter.

"I've been told that I am wasting my time here, in that Microsoft can pay people to submit positive comments for this business enhancing solution that has been proposed as a 'punishment'. They have done the same things in the past; that is pretty much common knowledge. I can only hope that DO] will prove wise, not be bought out by Microsoft and free the Industry for the good of the consumer and the country,"

A computer professional who has a long list of certifications—including some from Microsoft — makes the point that competition is the only assurance of high quality:

"Microsoft products, by virtue of being (created by) a monopoly, have been designed without concern for security or reliability, I can prove that the design of Microsoft products leads to the spread of countless virii in the computer industry. They (Microsoft products) are the perfect products to use to send damaging virus from many groups like the terrorists from Afghanistan, Israel, Palestine, Egypt.... And do not imagine that these places have not already done damage.

"And it is not only because Microsoft products are in such wide use, but the real problem is that the products have been very poorly designed. It seems Microsoft has enough money to do the job right, so the remaining reasons why the products are so poorly written is that there is currently no need to be 'best of breed" when you are the only option.

'It will not be long till they (the terrorists) discover that they can inflict hundreds of billions of dollars in damage. All this because Microsoft has a virtual monopoly, and instead of actually writing well-designed programs, they spend all the energy they have to simply maintain that monopoly,

"Often I give speeches to Information technology groups that state, 'Without Microsoft in the industry, we would be at least 10 years ahead of where we are today'. But because of the constrictive designs and monopolizing practices of Microsoft, no possible competitive products have been able to get a start,

"As just one example: IBM wrote a fine operating system called OS/2 in 1992. Only today, some 9 years later, Is Windows XP beginning to catch up to the technical capability of OS/2. In fact It still has a long way to go to catch up to OS/2 in security and reliability. What happened? IBM could not get any hardware vendors to carry the software because Microsoft had tied up all manufacturers of computers to Include with each and every computer, a copy of Windows. This in spite of the fact that many wanted to use OS/2 instead of Windows. What happened to anyone who decided to use OS/2 was (that) they also paid (for) and received a copy of Windows that they did not desire.

"The only way to get the marketplace back in order is to separate the computer hardware from the operating system. When you go to a store to buy a computer, you should be able to buy any computer available without having to also purchase an operating system, That choice should be made at the time of purchase rather than (be forced through software) included in the cost of the computer.

- "(This situation) is much akin to buying a car, and with that car purchase also comes a coupon for gasoline from the Microsoft Gasoline Company. We agree that the car uses gasoline, and we all buy gasoline, but what If we prefer to buy gasoline from Shell rather than prepay for gasoline from the Microsoft Gasoline Company? Should we not have the option of not prepaying for fuel from the Microsoft Gas Company? ..."

From Rick Hohensee of the cLIeNUX distribution comes a substitute remedy proposal:

"(It would be best if) the Court declares Microsoft operating system products 'criminally compromised intellectual property'. This is a special state of copyright protection vacancy, under which Microsoft operating system products lose their patent and copyright protections exactly five years after their release dates....

"First off, it has (the) one essential characteristic of anything that will be effective upon Microsoft, simplicity. They feed on loopholes. There are none in the above. There's nothing they can do about the Fed not protecting the copyrights their existence depends upon.

"There is nothing for them to cooperate with.

"This doesn't require any cooperation or good faith from Microsoft, which is also crucial, (They may actually favor this remedy, however.) ....

"It does actually partially break their monopoly, The AOLs and Oracles and Rick Hohensees of the world can produce their own alternatives to Windows, based on older versions of Windows. (I personally have to be very well paid to look at a Windows desktop, but distastes vary. I use Linux.)

"The focus is on the software others are dependent on, (the) operating systems. This leaves Microsoft untouched as to application products such as Offtce.... "What goes in an OS, where they expend their energies, all product design decisions and so on remain with Microsoft. Federal micromanagement of Microsoft is avoided, to everyone's benefit....

Another correspondent, from England, makes comments that must be seen In the Federal Register. They neatly address further Microsoft plans to manage national and world trade through monopolistic practices Identical to those for which Microsoft was convicted.

"MS Is desperate to stop Linux from competing in the client /server market by enforcing an MS client/MS server strategy. An example of this is the recent non-standard extensions to Kerberos so that if companies have MS clients they will find the encryption protocols may only work properly when they're talking to MS servers, This is to be expected from the company that continuously muddied the waters on SMB.

".NET Is really an extension of the same principle, though the spinmeisters at Redmond make sickening paeans to Open Standards with their 'XML Foundations" nonsense.

"Let me give you an example of Microsoft's commitment to XML as an open standard for data exchange—taken from the December 2001 issue of Linux User in an interview with OperaSoft's Haakon Lie:

"MS office claims to support XML but it writes the XML tags inside HTML comments so that they can not be found (by non-MS software). Even if the software then knew how to find the XML tags it would not know how to interpret them as the format used for the tags is proprietary!

"I think this tells you all you need to know about Microsoft's conversion to XML.

"What about those of us who do not live in the US? Microsoft's policies affect the entire world—how do the rest of us try and have a say in this? I speak as someone who lives in a country whose government has decided to hive off the public sector IT infrastructure lock, stock and barrel to Microsoft, and whose leader, Tony Blair, goes weak-kneed in the presence of Bill Gates. Britain is about to become the first reference site in the world for .Net, if Gates gets approval from the government to roll out a multi-billion dollar 100% MS solution for the tax authorities. In the last month it has been announced that the National Health Service and the Ministry of Defence have signed deals to put *all* of their desktops under one MS licensing contract. In three years time, if they want to carry on using the software, they will have to pay whatever amount MS demands (the joys of software rental). The lion's share of government contracts (in pound sterling terms) have gone to EDS, a company which makes no secret of the fact that it is little more than a value added reseller for Microsoft (all of EDS's costly 'solutions" are 100% MS)."

Please consider that the U.S. government has made much of globalization. It is a good idea for the government to understand that in cases such as this one, which have a global impact, this means responsibility for corporate behavior within the boundaries of the United States. Additionally, parties injured by the actions of American companies, which actions took place in the U.S., have standing by every standard I can find.

Finally, I will quote another wise man, a Floridian with more intensive software industry experience than mine, who speaks to the point of freedom of choice for the consumer: "I am a Software Developer who has worked in the industry for almost 10 years. I have used many Microsoft products, and have enjoyed the increasing abilities of software systems developed by Microsoft. I also enjoy using other operating systems, but as a software developer, I have to follow market trends to keep myself fed—regardless of the market trends.

"However, it is apparent to any casual software user that Microsoft has attempted to maintain a monopoly on the Internet Web Browser market. It is more apparent to a software developer who works within Microsoft operating systems. The technical aspects involved in the operating system itself (specifically, development with the Microsoft Foundation Classes and use of '.Net" technology) marries the software developer (happily or unhappily so) to Internet Explorer, and the operating system. "Furthermore, specific training programs such as MCSE (Microsoft Certified Software Engineer) and MCSD (Microsoft Certified Solution Developer) are geared towards maintaining the Internet Browser market by way of gearing Microsoft Cettified individuals (who pay for courses and tests!) to use only Microsoft Products.

"Operating Systems.

"Software.

"Software Development.

"In an Internet enabled world, these are the tools for maintaining a monopoly on the Internet Browser Market.

"One could argue that nobody else has attempted these things on the level that Microsoft Inc. has, Yet that is my point. Nobody should. Freedom of Choice.

"The newer versions of Windows have the Internet technologies wrapped in them. This IS an obvious attempt to maintain a monopoly on the Internet Browser market. They may be able to prove that they did not do it 'on purpose', but they have done it. If I run over a man with my car, and I broke a traffic law while doing so, the offense is manslaughter. It I planned to do it (premeditated), it's Murder 1. The fact remains that a man would be dead.

"Odds are that when this is read; It will be read on a Windows NT 4.0 machine. Why? Because the U.S. Government has certified Windows NT 4.0 as a secure operating system, Furthermore, this mail message will probably be read through another one of Microsoft's applications.

"The US. Government, for lack of any other 'secure" operating system, has gone with the highest bidder. Neil Armstrong quipped about going to the moon on everything built by the lowest bidder, and here the United States states that we'll go with the ONLY software manufacturer that creates an operating system. This seems counterintuitive. Freedom of Choice. If you need more proof than the software that the reader of this document Is using, and my ability to predict that, I'm at a loss.

"These two points highlight the fact that the average American consumer is paying more than once for the same software—first as consumers, then as taxpayers. When banks charge twice for ATM withdrawals, we cringe and say that it may be legal, but it Is obviously immoral. Given, the hardware manufacturer Is hiding the price of the operating system on new computer systems, the fact remains the same.

"This is a sticky situation, but legal recourse In the interest of the people of the United States (and the rest of the world!) should contain the following items:

"(1) Microsoft products—or products of any software manufacturer—must be sold as separate items by computer vendors. Users can then make a CONSCIOUS choice. Other software manufacturers then also have a chance to compete. Installation of the USER SELECTED software can remain free.

"(2) Any Microsoft networking protocols must be published in full and approved by an independent network protocol body. This would prevent Microsoft from seizing de facto control of the Internet.

"(3) The specifications of Microsoft's past, present and future document and network formats must be made public, so that documents created in Microsoft applications may be read by programs from other makers, on Microsoft's AND other operating systems. This is in addition to opening the Windows Application Program Interface ('Windows API', the set of "hooks" that allow other parties to write applications for Windows operating systems), which is already part of the proposed settlement.

"(4) The level Microsoft is certified by the Software Engineering Institute must be made public to the consumer, as well as insight into their development process for Operating Systems. SE1 level 3 is required by the United States Government for software companies that supply software to it (or that was coming in 1999). This certification was created to protect the government from software manufacturers that had no software development process. This same certification should protect the average consumer, AND insight into the Software Development Process for creation of their operating systems would give software manufacturers a chance to keep up with Microsoft,

"(5) Device Driver information for new operating systems MUST be made public prior to the release of the operating system by a minimum of 6 months. This Is VERY important when dealing with future web enabled embedded devices. This is also very important to the average consumer—they get a better product!

"This judgment is not only of Import to the United States, where It is a national issue. It is in fact an INTERNATIONAL issue, since the monopoly itself extends to all corners of the world, Judgment In this case MUST be fair to the consumer, because future cases along these lines will look toward this precedent. And, in future, it may not be as domestic an Issue. "Furthermore, if Microsoft Inc. were a foreign company, this would be seen as a security issue. It should be seen this way despite the fact that Microsoft is a domestic software manufacturer, (and) for the SAME reasons.

"Please realize that the implications In an Internet based society reach further than the next few years, They affect society ad infinitum."

Please do not allow this travesty of a negotiated settlement to warp this nation's future.

Please do not allow the tools of production to remain in a single pair of grasping corporate hands.

Thank you for your consideration. Please help the judge to make careful and considered choices. The task before you now Is to rein In this corporate megalith and constrain its future behavior into conformity with the letter and spirit of the law. The richest must not be allowed to legislate for all of us, with no end other than their further enrichment,

That isn't justice.

Thomas M, Barclay

01/09/02

MTC-00033718

Janice M. Yahr, CPA
3505 Veterans Memorial Highway
Ronkonkoma, NY 11779–7613
January 11, 2002
Attorney General John Ashcroft

US Department of Justice, 950 Pennsylvania
Avenue, NW
Washington, DC 20530–0001

Dear Mr. Ashcroft:

I am a concerned citizen writing you regarding the recent Microsoft settlement. After three years of delays in this well thought out, and well monitored negotiation process, it seems ridiculous to hold up these terms any longer. The terms should now speak for themselves, and be allowed to pull together the IT sector to function as a team.

Not only has Microsoft agreed to rework licensing and marketing agreements, but also has agreed to design future versions of Windows to allow for easier installation of non-Microsoft software. They have also agreed to make these changes while being monitored by a committee to make sure that they follow procedure. With all of the concessions made by Microsoft, it is evident that they were acting in the best interest of the IT sector as a whole. This is one of the prime reasons why we should be supporting our technology industry by supporting this settlement.

Moving forward with this settlement can only be helpful to consumers, the technology industry, and our economy as a whole. Let us help support our economy at this time and stop any further action against this settlement. I thank you for your support.

Sincerely,

Janice M. Yahr

MTC–00033710

Jacques Germans
67—59 214 Street
Bayside, NY 11364
718 224 8477 o fax: 503 210 1575 o e-mail
jgermans@ecomltd.com
January 11, 2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania
Avenue, NW
Washington, DC 20530–0001

Dear Attorney General Ashcroft:

I am writing in support of the Microsoft antitrust settlement. I do not believe protracted litigation, or the imposition of punishment beyond the terms of the agreement, such as breaking up the Microsoft Corporation, will serve the best interests of anyone.

As a computer consultant. I believe open competition is beneficial to consumers, and to our economy as a whole. Microsoft has been a fierce competitor in the market place, and has prospered as a result. This has been good for consumers. However, if Microsoft violated any antitrust lams in their business practices, that behavior should be rectified. So long as the settlement agreement provisions rectify any actions that violate the laws, the settlement agreement should be approved, and the litigation should end. I believe the settlement agreement contains such provisions. Specifically, the creation of a three person technical committee to monitor Microsoft's business practices, and Microsoft's agreement to share internal operating information with its competitors, will go far in ensuring compliance with antitrust laws.

I urge you to support the settlement agreement. In these trying economic times? it is important for Microsoft. and the computer industry as a whole, be free to focus on business, rather than lawsuits.

Sincerely,

MTC–00033720

Konard O. Hauffe, DDS
Post office Box 543
717 Main Avenue
Brookings, SD 57104
605–692–4715 Ofnce/605–692–2427 Fax
January 2,2002
Renata Hesse\Trial Attorney
Anti-Trust Division
United States Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Renata Hesse:

For the past couple years, I have been very concerned that the anti-trust suit against Microsoft Corporation will slow down the progress Windows has brought to home users and businesses.

I have a dental practice in eastern South Dakota and I look forward to the development of a Windows based system in the near future to replace the DOS program my office has used. However, I believe if the government continues this case against Microsoft, it will retard the kinds of innovations which would benefit clients like me and others. I also believe that it would be harmful to creativity if this case results in government playing a role which slows down progress and makes companies less apt to develop new products and market them. I think the government should avoid micromanaging companies in the information technologies industry.

Beyond the government intrusion issue, what is disconcerting in this court action is the fact that Microsoft's actions have not been found to be ham&l to consumers. I realize there are additional issues in this case, but it is also my understanding that those issues have been addressed in the settlement awement.

I am sending this letter in the public comment phase of this process to let you know that I support the settlement agreement and wish to see an end to this case. I also applaud the settlement's provisions which will bring new technologies to schools where poverty has prevented children from competing educationally.

Thank you for your attention to my concerns.

Sincerely,

Dr, Konarcd O. Hauffe

MTC–00033721

Mark Magnuson
27185 Pine Circle
Harrisburg, South Dakota 67032
December 3 1,200l
Renata Hesse, Trial Attorney
Antitrust Division
United States Department of Justice
601 D Street NW—Suite 1200
Washington, DC. 20530

Dear Rcnata Hesse:

I was extremely pleased at the initial news of a settlement between the US. Justice Department and the Microsoft Corporation over the anti-trust suit brought by the Justice Department and various states'' attorneys general. However, I became concerned when I heard that halfof the states in the suit want to keep up the fight in the courts, and that it was also clear that they were being cheered on my Microsoft's competitors, I hope that common sense and fairness will prevail and that this four-year-old, very expensive suit will be ahowed to finally settle. I support the settlement. As a businessman in southeastern South Dakota, I know that business ru.tis'on Microsoft's Windows programs. Because the company has produced versa$)e, uncomplicated and affordable software that offers the best innovations, large and 4mall businesses have been enabled to compete with access to the information highway. It certainly has enabled entrepreneurs to enter the business world at the sa.rne"technica.l level of older firms, and that has been a major cornerstone for our state's economy.

From news stories, I have learned that the proposed settlement uses a means test to have Microsoft outfit the most economically needy schools and students with the tools they need to use the internet, The intemct is the great equalizer in this age, and it is essential as learning to read and perform math to the success of each student. The settlement also resolves the issues which the courts decided needed to be resolved. I can't think what positive purpose can be served if Microsoft's antagonists are allowed to kill this settlement and drag this issue along for another year or two, because it is doubtful the continuation of this case will produce new findings of my substance.

As one who uses Windows in my work and at home, I am a satisfied customer+ and I don't know any business people in the Sioux Falls region who have a beef with the quality of the software supplied by Microsoft. Spending more time and taxes on this case, I believe, would truly be a waste. Please allow this settlement to stand.

Thank you.

Mark Magnuson

MTC–00033722

Georgia Hanson
551 N. Mable Avenue—Sioux Falls, SD
57103
December 31, 2001
Ranata Heese, Trial Attorney
Antitrust Division
U.S. Department of Justice
Washington, DC 2053C

Dear Renata:

Ths recently achieved settlement on U.S. vs. Microsoft will bring a wonderful opportunity to bridge the digital divide which exists for children in several counties of my state. I want you to know that South Dakota has had three of the nation's most impoverished counties, according to the Census Bureau, which are located on Indian Reservations. However, poverty in South Dakota is found in non-Indian counties where children live in farms, ranches and rural communities. Thanks to this settlement, these children won't have to stand last in line for this fundamentally important educational tool.

As a consultant and businesswoman, I am pleased that this settlement offers the hope that Microsoft will be able to continue its good work for new software innovations.

However, the most important benefit for our nation's economy rests with the conclusion of a court case which has certainly run its course. I was very pleased that the federal government and half of the states involved in the case reached a settlement in an anti-trust case where no harm to consumers was established. I am also very concerned about the effect on our economy and on the stability of the information technologies sector of our economy if this settlement is abandoned. Further compromises and penalties would have a chilling effect on any company's ability to become as innovative and productively assertive as Microsoft has been in its drive to be the most successful software developer in the world.

It is clear that the critical issues in the case have been resolved. I hope for the sake of this important industry that the last word has been said and that conusumers will continue to benefit from more innovations and advancements in technology.

Sincerely,
Georgia Hansen

MTC-00033723

Rick Bauermeister, Director of Business Development
Market Solutions Group, Inc.
300 N. Dakota Avenue, Sioux Falls, DD 57164
Renata Hesse, Trial Attorney
Anti-Trust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

I am very pleased to submit my letter of support for the settlement under consideration in the U.S v. Microsoft anti-trust case. I have followed this issue through the news media, and I believe the settlcment is fair and completely resolves the issues which were upheld by the courts.

Additionally, I am very, very pleased to see this case resolved after all of the time and financial resources which were invested thus far. It would be extremely unfortunate if this issue were to allow to linger and devour more time and money, nor to mention the damage done to the Microsoft Corporation to continue defending itself and disrupting its services as the world's leader in the development and sales of affordable, easy-to-use software. The stock market reports show thut while many sectors in economy have been sagging from the economic recession, Microsoft has shown remarkable resiliency.

As a businessman whose livelihood has depended on advances in information technology, I've paid attention to how the dynamic advances created by Microsoft has not only vastly improved office system functions, but also how these advances have become more and more accessible and affordable to consumers. I think that consumers and our nation's economy have been the ultimate winner in Microsoft's quest to provide the best possible technological support to computer users.

The settlecment which is being considered is a huge benefit for underprivileged children and school systems. But it is also the best solution for our nation's economy, consumers, and the entire information technology industry. I strongly recommend that this settlement is allowed to be enacted and that this controversy is finished once and for all. I thank you very much for your attention to my letter.

With best regards,
Rick Bauermeister

MTC-00033724

January 2, 2002
Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse

Thank you for this opportunity to offer my views on the proposed settlement on the anti-trust case, U.S. VS. Microsoft Corporation. I am In full support of the settlement for these reasons:

o The settlement, when enacted, will put an end to a court action which has dragged along for four years and has cost our federal government a great deal of money.

o The benefits from the settlement will be highly fruitful for children, in our nation who most need access to information technologies, but who have been shut out because of economic circumstances.

o The conclusion of this case will stop dragging down Microsoft Corporation's resources and attention from the excellent job it has done to provide the highly usable and affordable software systems in the homes and offices of Americans.

+ The Conclusion of this case will also end the threat of bringing down a corporation that has proven itself as being essential to the overall strength of America's economy.

Microsoft has been a very supportive partner In the development of Information technologies in my home state of South Dakota. It submitted a S760,OOO matching grant to glve a significant boost to the state government's effort to make the Internet ubiquitous to South Dakotans, and to increase opportunities for our state economy.

Personally, I have frequently wondered why thls antl-trust case was Initiated, because the case has not succeeded In proving that Microsoft Corporation has adversely affected consumers, I thlnk the settlement Is very, very generous, and that if there were Issues which needed to be decided in this court process, they are now resolved.

Please do what you can to expedite this process and bring a fair conclusion to this case by allowing the settlement to be enacted.

sincerely,
Edward T. Clark, M.D.
4708 S. Wlldwood Circle
Sioux Falls, SD 57105

MTC-00033725

Paul McSweeney
Dakota Networks, Inc.
Phone: 605-331-6973 Fax: 605-332-8722
E-mail: paulmac@dakdta-networkscorn
December 29, 2001
Renata Hesse
Trial Attorney
Antitrust Division
Dept. Of Justice
601 D Street NW / Suite 1200
Washington, DC 20530

Dear Renata:

My letter is intended to provide commentary to voice my support for the proposed settlement in U.S. vs. Microsoft. My firm supplies software and IT support systems to many clients throughout the nation. As one who works with clients to set up office systems, I am very concerned about the net effect to the entire IT industry if this settlement is not enacted and the case is allowed to continue a course to more severe penalties and regulations on the development of new technologies.

The settlement reached by the Justice Department and nine of the states involved in the case probably does not make anyone entirely happy, but it includes something for everyone. Best of all, however, is the settlement will bring children and schools in economically stressed areas of our nation into the world of the internet. It also addresses the issues which the court process decided were the essential issues to be resolved.

I have relocated from Massachusetts to South Dakota. census records have shown consistently that South Dakota is home to the three poorest counties in the United States. They are located on Indian reservations. While the state has done much to wire public schools for the internet and to prepare children for the information age, I believe the settlement will provide a huge leap forward for Indian children through the gifts of software and hardware involved in the settlement. I appreciate your attention to my letter. I hope this settlement is enacted so that the IT industry can move forward.

Sincerely,
Paul McSwoenney

MTC-00033726

MARY ELIZABETH JONES, ED.D.
48043 Snowbird Circle
Sioux Falls, South Dakota 57lO8
605-3674293 Office—6050743-2771 Residence
December 26,200l
Renata Hesse
Trial Attorney
Anti-Trust Division
U.S. Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530

Dear Trial Attorney Hesse:

I appreciate the opportunity to state my support for the sottlement agreement in U.S. v. Microsoft because of the tremendous benefit it offers to dislldvantaged children through their education system, and because it finally brings to rest a court action which has absorbed enough time and resources from our government and from a corporation which is vital to our nation's troubled economy. I have workod for many years in South Dakota as a mental therapist and in education, and I agree with the view that this settlement will repair what is known as '"the digital divide" which exists among economic classes in our society, and it seeks to remedy the issues which have been found to be valid thus far in the court process.

It is my understanding that the purpose of anti-trust laws and processes is to protect consumers. However, I think it needs to be clearly underscored in the consideration of this settlement that none of the Microsoft Corporation's actions have been found to havo harmed American consumers. Frankly, it appears to many of us that those who wish to jettison this valuable settlement and continue pursuing an even more severe victory are actually seeking to tear down

Microsoft's earned place as a leader in the information technologies industry. If such a severe victory is achieved, I believe the damage in the long-term will be against the entire information technologies industry and to the American economy. Microsoft Corporation is an important part of America's economic muscle and it is obvious to the casual observer that its marketplace competitors are working diligently to weaken the industry leader with tho hope that a short-term gain will result. I think it is worth noting that while there are nine states which seek to prolong this issue beyond its four-year run in the process, nine other states and the U.S. Department of Justice have decided this issue should be settled now. It would be best for this nation's economy and the industry to settle this issue with this fair settlement and move ahead.

Thank you very much for considering my thoughts on this important matter.

Sincerely,
Mary Jones

MTC-00033727

THE MAIN STREET PUB JBHICA RADSAN
11 W. Main, Vermillion, SD 57069
Phone: 6054BU-5261
December 31, 2001
Trial Attorney Renata Hesse
Antitrust Division
U.S. Department of Justice
601 D Street, NW Suite 1200 FP-2
Washington, DC 20530

Dear Trial Attorney Hesse:

My letter for the public commentary phase of the U.S. v. Microsoft antitrust case seeks to demonstrate my support in favor of the settlement agreement which was reached between Microsoft Corporation and the United States Justice Deparmsnt.

I gladly applaud the Justice Department for reaching this agreement because the settlement will bring to an end a protracted and expensive case which has resolved the issues which the court has upheld as valid concerns.

I think the merits of the settlement agreement and the conclusions reached therein can be beneficial to the future of software development in our nation. On the other hand, I am very wary of efforts by some interests to undermine this fair and just settlement and the motivations behind those efforts.

What is most noteworthy to me is that this case did not find that Microsoft had harmed consumers. This, fact should give pause to those who wish to continue spending resources to continue this case beyond what is reasonable.

As a businesswoman, I am pleased with the high value and affordable cost of Microsoft's products. I believe the corporation has done much to make information technologies handily available and affordable to millions of Americans. As one of the most successful corporations in America, Microsoft ia a pillar in America's economy and it has been a reliable partner in business development.

Anyone can see that the information technologies industry is a highly competitive industry, and that Microsoft's position as the leader has been fought against some very tough opposition. This competition keeps Microsoft on its toes to out-create its competitors, and I believe Microsoft'a meet productive and innovative days are yet to come as long as this case does not result in over-regulation and penalties which will give competitors an unearned advantage.

I have faith in our justice system that this settlement agreement will be allowed to proceed and its provisions, will be helpful-to consumers. Thank you for reviewing my words of encouragement to put this agreement to work for a more Secure industry and economy.

Very truly yours,
Jessica R. Radigan

MTC-00033729

From John & Edie Reynolds to 787-5765
Edie P. Reynolds
3709 Marlin Ct.
Raleigh, NC 27604
January 18, 2002
Renata Hesse
Trial Attorney
Antitrust Divisions
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937

Dear Ms. Hesse,

It is my belief that approving the settlement of the Microsoft case now will benefit the United States tremendously. It's time to get the economy moving again, and settling this suit will provide the perfect shot in the arm for the ailing American economy. The date of the beginning of the stock market's collapse can be traced to the frederal government's decision to break up Microsoft, according the Rush Limbaugh radio show last Tuesday, January 15, 2001. Investor confidence was destroyed by news that the market leader in the technology sector of our economy was due to be crippled by a harsh remedy to the antitrust case. We've got to work to bring that confidence back. This is the time to put the interests of working Americans ahead of the interests of politicians, corporate executives and trial attorneys. We need to focus on the future, not the past. Both parties have agreed to abide by the terms of this landmark settlement. Let's accept the resolution they have reached in the matter!

I request that Judge Kollar Kotally approve the proposed settlement. Thank you for considering my opinion.

Sincerely,
Edie P. Reynolds

MTC-00033730

Wake Forest—Chamber of Commerce
January 15, 2002
Renata Hesse, Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax: 202-616-9937

Dear Ms. Hesse:

Please register my comments under the summary, "Let's end the Microsoft lawsuit while both parties agree." This lawsuit has dragged on for years, and has cost American taxpayers over $30 million to prosecute. Enough already! There is absolutely no reason to continue the suit any longer. I hope that the Department of Justice will take the same position as Microsoft and the federal prosecutors in this case: let's approve the settlement and move on. Let's examine the facts in this case with regard to the American economy and economic development. First of all, we're in a recession. This recession has driven up the unemployment rate and driven down the value of stocks. Thus, many Americans have lost their jobs, and many of those who still have employment have seen their savings devalued. Not good, right?

Second, Microsoft is recognized innovative leader in American business technology. In fact, virtually every business that I've recruited to Wake Forest uses Microsoft products in some form or another. They rely on Microsoft to develop new products on a perpetual basis in order to improve the efficiency and effectiveness of business. Yet, Microsoft has been forced to spend untold millions of dollars on legal defense instead of research and development. Additionally, the legal battle has undoubtedly cast doubt in Microsoft's executives" minds as to whether they can legally introduce innovative products without being sued. Which brings me to my final point. The American entrepreneurial spirit is our singular most valuable asset If creative American business leaders are intimidated to the extent that they stop creating efficient business products for the rest of us to enjoy, then we have in effect killed the American entrepreneurial spirit. We don't want that, do we?

I request that Judge Kollar Kotelly approves the settlement Thank you.

Sincerely,
Stephen Barrington
Economic Development Director
Wake Forest, North Carolina
350 South White Street
Wake Forest, North Carolina 27587
Tel. 919-556-1519
Fax 919-556-8570
Web: www.wakeforestna.com
E-mail: wfchamber@sprintmall.com

MTC-00033731

From: Fax No.: Jul. 21 2001 02:32AM P4
Patrick T. McHenry
Former Special Assistant to the Secretary
United States Department of Labor
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms Hesse,

As a former Special Assistant to the Secretary of the United States Department of Labor, I am very aware of the challenges government faces in trying deal effectively with American businesses and the American workforce. One cause of unemployment for the American workforce is the threat and actual filing of lawsuites against which American business must defend itself.

The federal government's case against Microsoft should be ended at this point in time. Both parties have agreed to a settlement. This settlement would mean the end of costly litigation for Microsoft. That's good news for American workers who have lost their jobs in this recession. You see, the less resources that Microsoft and other major corporate leaders have to invest in legal defense, the more funds they have available for research, development and, above all, job creation. Many people in the region in which I reside have lost their jobs. Many families are hurting. At this crucial stage in both our local and national economy, it is imperative that business and government work together: The perception that business and government have a constructive partnership will encourage investment and foster innovation among American industry.

These two components mean more jobs for American workers. Judge Kollar- Kotelly should approve the Microsoft settlement, for American workers" sake.

Sincerely,

Patrick T. McHenry

1426 Buckingham Avenue—Gastonia, NC 28054

MTC-00033732

Edge, Inc.
100 Citrieon Ct
Cary, NC 27511
January 15, 2002
Renata Hesse
Trial Attorney
Antitrust Divisions
Department of Justice
601 D Street NW, Suite 1200
Washington. DC 20530

Dear Ms. Hesse,

As the President and CEO of Edge, Inc., the Chairman of the Board of Unum Telecommunications, the Vice President of Sales for Armstrong Moving and Storage Company and a member of the National Board of the Paget Foundation, I have more than a little experience in the realm of business and industry, particularly in the area of sales and marketing. Each of the enterprises I work to build would be nothing if not for the positive public perception built by sales and marketing.

Which brings me to my main point: lawsuits are bad for sales and marketing. Lawsuits make investors skittish, customers wary and employees uncertain. No matter how a company tries to present positive image, a perception will exist that a company has behaved improperly and is under intense scrutiny. No one wants to be scrutinized: not investors, not customers and certainly not employees.

Microsoft has developed many of the products that make business efficient. Their success has encouraged investment not only in Microsoft, but throughout the entire tech sector. Customers have included virtually all segments of the American populace, from Wall Street to Main Street, from CEOs to homemakers. Microsoft employees have developed these revolutionary products that previous generations could not have imagined in their wildest dreams.

All of these components of Microsoft's success have been put at risk by the antitrust suit against Microsoft. Because the economy is in bad shape, we must put this matter behind us. Microsoft and the federal government have reached a settlement agreement. Let's end this saga and allow Microsoft to go on leading American entrepreneurs in the twenty-first century.

I hope that Judge Kollar Kotelly approves this settlement.

Regards,

Edward Grieve

MTC-00033733

482 TANNER WAY
LANSDALE, PENNA. 19446
JANUARY 7, 2002
ATTORNEY GENERA JOHN ASHCROFT
U.S. DEPARTMENT OF JUSTICE
950 PENNSYLVANIA AVENUE, N-W
WASHINGTON, DC 20530–0001

Dear Mr. Ashcroft:

I am writing to express my opinion and beliefs on the recent antitrust settlement between Microsoft and the U.S. Department of Justice. I support the settlement 100%, but I am pessimistic about its passage and implementation. First off, I believe that settlement was not unreasonable. but the nine states in opposition are just grandstanding for their own political agendas. Microsoft is getting a raw deal and I think the matter will ultimately end up in the Supreme Court.

That is a pity, because the settlement is rather fair. and is the best that anyt rational person could expect. The settlement addresses the original complaints about Microsoft, and now they have been addressed by everything from barriers against retaliation for developing competing software to fixed licensing prices and redesign of Windows XP.

At any rate, the recession has had a devastating effect on state budgets and the federal budget., and it is important that the technology industry be allowed to concentrate on business now Thank you for your time.

Sincerely,

CC: Senator Rick Santorum

MTC-00033734

PATRICK J. LEAHY, VERMONT, CHAIRMAN
EDWARD M. KENNEDY, MASSACHUSETTS
ORRIN G. HATCH, UTAH
JOSEPH R. BIDEN, JR., DELAWARE
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JEFF SESSIONS, ALABAMA
MARIA CANTWELL, WASHINGTON
SAM BROWNBACK, KANSAS
JOHN EDWARDS, NORTH CAROLINA
MITCH McCONNELL, KENTUCKY
United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510–6275
January 28, 2002
Ms. Renata Hesse
Trial Attorney
U.S. Department of Justice—Antitrust Division
325 7th Street NW Suite 500
Washington, DC 20530

Dear Ms Hesse,

We enclose the hearing record from the Judiciary Committee's December 12, 2001 hearing, "The Microsoft Settlement: A Look to the Future," as a public comment pursuant to the Tunney Act's public comment provision, 15 U.S.C § 16(d), for the Department's or the Court's use as it deems appropriate.

Sincerely,

PATRICK J. LEAHY
Chairman
ORRIN G. HATCH
Ranking Republican Member

SENATE COMMITTEE ON THE JUDICIARY

DOCUMENTS FROM THE DECEMBER 12, 2001 HEARING ON "THE MICROSOFT SETTLEMENT: A LOOK TO THE FUTURE"

TABLE OF CONTENTS

1. Witness List
2. *Hearing Transcript*
3. *Member Statements*
    - Chairman Patrick J. Leahy
    - Senator Orrin G. Hatch
    - Senator Herb Kohl
    - Senator Richard J. Durbin

Senator Jeff Sessions

4. Witness Statements
    - Assistant Attorney General Charles A. James, U.S. Department of Justice
    - Jay L. Himes, Office of the Attorney General, New York
    - Charles F. Rule, Counsel to Microsoft Corporation
    - Professor Lawrence Lessig, Stanford Law School
    - Dr. Mark N. Cooper, Consumer Federation of America
    - Jonathan Zuck, Association for Competitive Technology
    - Matthew Szulick, Red Hat, Inc.
    - Mitchell E. Kertzman, Liberate Technologies
5. Written Statements Submitted for the Record
    - Ralph Nader and James Love, Consumer Project on Technology
    - Mark Havlicek, Digital Data Resources, Inc.
    - Jerry Hilburn, Catfish Software, Inc.
    - Lars H. Liebeler, Esq., Computing Technology Industry Association
    - Dave Baker, EarthLink, Inc.
6. Additional Materials Submitted for the Record
    - Proposed Final Judgement in U.S. v. Microsoft
    - News Statement of Citizens Against Government Waste
    - Letter from Senator Orrin G. Hatch to Assistant Attorney General Charles A. James
    - Letter from Assistant Attorney General Charles A. James to Senator Orrin G. Hatch
    - Letter from Robert H. Bork to Senators Patrick J. Leahy and Orrin G. Hatch

Letter from James L. Barksdale to Senators Patrick J. Leahy and Orrin G. Hatch
Letter from Vermont Attorney General William H. Sorrell to Mr. Steven A. Ballmer
7. Written Questions
Chairman Patrick J. Leahy
Senator Orrin G. Hatch
Senator Herb Kohl
Senator Mike DeWine
Senator Richard J. Durbin
Senator Mitch McConnell
8. Answers to Written Questions
Assistant Attorney General Charles A. James
Professor Lawrence Lessig, Stanford Law School
Mitchell Kertzman, Liberate Technologies
Matthew Szulik, Red Hat, Inc.
Charles F. Rule, Counsel to Microsoft Corporation
Jonathan Zuck, Association for Competitive Technology
Jay L. Himes, Office of the Attorney General, New York
[As of 1/28/02, the Committee has not received answers to written questions from Dr. Cooper]

Witness List
Senate Committee on the Judiciary
"The Microsoft Settlement: A Look to the Future"
Wednesday, December 12, 2001
10:00 a.m.
106 Dirksen Senate Office Building

PANEL I

The Honorable Charles A. James
Assistant Attorney General for the Antitrust Division, United States Department of Justice, Washington, DC

PANEL II

Jay Himes
Chief, Antitrust Bureau Office of the New York State Attorney General, New York, NY
Charles F. Rule
Fried, Frank, Harris, Shriver & Jacobson, Counsel to Microsoft Corporation, Washington, DC

PANEL III

Professor Lawrence Lessig, Esq.
Stanford Law School, Stanford, CA
Mark N. Cooper, Ph.D.
Director of Research, Consumer Federation of America, Washington, DC
Jonathan Zuck
President, Association of Competitive Technology, Washington, DC
Matthew J. Szulik
President and Chief Executive Officer, Red Hat, Inc., Durham, NC
Mitchell E. Kertzman
President and CEO, Liberate Technologies, San Carlos, CA

TRANSCRIPT OF PROCEEDINGS
UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
MICROSOFT SETTLEMENT: A LOOK TO THE FUTURE
Washington, DC
December 12, 2001

CONTENTS STATEMENT OF:
Hon Charles A. James, Assistant Attorney General, Antitrust Division, United States Department of Justice, Washington, DC

THE MICROSOFT SETTLEMENT: A LOOK TO THE FUTURE
WEDNESDAY, DECEMBER 12, 2001
United States Senate,
Committee on the Judiciary,
Washington, DC

The committee met, pursuant to notice, at 10:08 a.m., in room SD-106, Dirksen Senate Office Building, Hon. Patrick J. Leahy, chairman of the committee, presiding.

Present: Senators Leahy, Kohl, Cantwell, Hatch, Kyl, 11 DeWine, Sessions, and McConnell.

The Chairman. Good morning. I just want to do a little housekeeping here. I want to make sure the chairman and ranking member of the Antitrust Subcommittee are here, Senator Kohl and Senator DeWine, both of whom have done a superb job for years in handling antitrust matters.

I told Senator DeWine earlier, and this will probably cause a recall petition from the Republican Party in Ohio, what a terrific job he did as chairman and then what a terrific job Senator Kohl has done as chairman on antitrust matters, and pointing out that they are issues of great complexity and great importance to everybody here in the Senate.

I have looked at the proposed settlement the Department of Justice and nine States have transmitted to the district court that is a plan for the conclusion of what has been really landmark antitrust litigation. But now it has got to pass the legal test set out in the Tunney Act if it is going to gain court approval, and that test is both simple and broad. It requires an evaluation of whether the proposed settlement is in the public interest.

There is significant difference of opinion over how well the proposed settlement passes this legal test. In fact, the States participating in the litigation against Microsoft are evenly split. Nine States joined in the 11 proposed settlement and nine non-settling States presented the court with an alternative remedy.

As the courts wrangle with the technical and complex legal issues at stake in this case, this committee is conducting hearings to educate ourselves, but also to educate the public about what this proposed settlement really means for our high-tech industry and for all of us who use computers at work and at school and at home.

Scrutiny of the proposed settlement by this committee during the course of the Tunney Act proceeding is particularly important. The focus of our hearing today is to examine whether the proposed settlement is good public policy and not to go into the legal technicalities. The questions raised here and views expressed may help inform the court. I plan, with Senator Hatch, to forward to the court the record of this hearing for consideration as the courts goes about the difficult task of completing the Tunney Act proceedings and the remedy sought by the non-settling States.

I am especially concerned that the district court take the opportunity seriously to consider the remedy proposal of the non-settling States, and to consider it before she makes her final determination on the other parties" proposed settlement. The insights of the other participants in this complicated and hard-fought case are going to be valuable additions to the comments received in the Tunney Act proceeding. I would hope they would help inform the evaluation whether the settlement is in the public interest, a matter which for many people is still an open question.

The effects of this case extend beyond simply the choices available in the software marketplace. The United States has long been the world leader in bringing innovative solutions to software problems, in creating new tools and applications for use on computers and the Web, and in driving forward the flow of capital into these new and rapidly growing sectors of the economy.

This creativity is not limited just to Silicon Valley. I think of my own home area, Burlington, Vermont. It ranks seventh in the Nation in terms of patent filings. Burlington is 38,000 people and it is in a county of about 130,000 people. This is not per-capita; this is actual filings—seventh in the Nation.

Whether the settlement proposal will help or hinder this process and whether the high-tech industries will play the important role they should in our Nation's economy is a larger issue behind the immediate effects of this proposal.

With that in mind, I intend to ask the representatives of the settling parties how their resolution of this conflict will serve the ends that the antitrust laws require. Our courts have developed a test for determining the effectiveness of a remedy in a Sherman Act case. The remedy must end the anticompetitive practices, it must deprive the wrongdoer of the fruits of the wrongdoing, and it must ensure that illegality never recurs. The Tunney Act also requires that any settlement of such a case serve the public interest.

Now, these are all high standards, but they are reasonable ones and people have dealt with them for years. In this case, the DC Circuit, sitting en banc and writing unanimously, found that Microsoft had engaged in serious exclusionary practices, to the detriment of their competitors, and thus to all consumers. So we have to satisfy ourselves that these matters have been addressed and redressed, or if they have not, why not.

I have noted my concern that the procedural posture of this case not jeopardize the opportunity of the non-settling States to have their day in court, and not deprive the district court of the value of their views on appropriate remedies in a timely fashion.

In addition, I have two basic areas of concern about the proposed settlement. First, I find many of the terms of the settlement to be either confusingly vague, subject to manipulation, or, worse, both. Mr. Rule raised an important and memorable point when he last testified before this committee in 1997 during the very important series of hearings that were convened by Senator Hatch on competition in the digital age, hearings that helped shape a lot of thinking in the Senate.

Testifying about the first Microsoft-Justice Department consent decree, Mr. Rule said, "Ambiguities in decrees are typically resolved against the Government. In addition, the Government's case must rise or fall on the language of the decree; the Government cannot fall back on some purported 'spirit" or 'purpose" of the decree to justify an interpretation that is not clearly supported by the language." So we take seriously such counsel. We would worry if ambiguity in the proposed settlement would jeopardize its enforcement.

Second, I am concerned that the enforcement mechanism described in the proposed decree lacks the power and the timeliness necessary to inspire confidence in its effectiveness. Particularly in light of the absence of any requirement that the decree be read in broad remedial terms, it is especially important that we inquire into the likely operation of the proposed enforcement scheme and its effectiveness.

Any lawyer who has litigated cases—and, Mr. James, that would certainly include you—and any business person knows how distracting litigation of this magnitude can be. We all appreciate the value that reaching an appropriate settlement can have not only for the parties, but also for consumers who are harmed by anticompetitive conduct, and the economy.

I am the first one to say we would like some finality so that everybody involved, all parties, can know what the standards are and all consumers can know what they are. Because of that, I don't come to this hearing pre-judging the merits of this proposed settlement, but instead as one who is ready to embrace a good settlement that puts an end to the merry-go-round of Microsoft litigation over consent decrees. The serious questions that have been raised about the scope, enforceability and effectiveness of this proposed settlement leave me concerned that if it is approved in its current form, it may simply be an invitation for the next chapter of litigation.

I want an end to this thing. I think everybody wants an end to it, but we want an end to it where we know what the rules are going to be. If we don't know what the rules are going to be, as sure as the sun rising in the east we are going to face these issues again. On this point, I share the concern of Judge Robert Bork, who warns in his written submission that the proposed settlement "contains so many ambiguities and loopholes as to make it unenforceable and likely to guarantee years of additional litigation.

So I look forward to hearing from the Department of Justice and the other witnesses here. I will put into the record a series of letters: one, a letter to myself and Senator Hatch from James Barksdale; another, a letter to Assistant Attorney General James from Senator Hatch; a letter from Senator Hatch from Assistant Attorney General James; letters to myself and Senator Hatch from Robert Bork; a letter to myself from Ralph Nader, with two enclosures; written testimony of Catfish Software, Inc; and written testimony of Mark Havlicek of Digital Data Resources, Inc.

[The information referred to follows:]

The Chairman. I yield to Senator Hatch, who did such superb hearings on this whole issue earlier. Senator Hatch. Well, thank you, Mr. Chairman. As you know, We conducted a series of hearings, as you have mentioned, in this committee in 1997 and 1998 to examine the policy implications of the competitive landscape of the then burgeoning high-tech economy and industry, which was about to explode with the advent of the Internet.

Those hearings focused on competition in the industry, in general, and more specifically complaints that Microsoft had been engaged in anticompetitive behavior that threatened competition and innovation, to the detriment of consumers. Our goal was, and I believe today is to determine how best to preserve competition and foster innovation in the high-technology industry.

Although the committee and I as its chairman was then criticized by some, I strongly believed then and continue to believe now that in a robust economy involving new technologies, effective antitrust enforcement today would prevent the need for heavy-handed Government regulation of business tomorrow.

My interest in the competitive marketplace in the high-technology industry was animated by my strong opposition to regulation of the industry, whether by government or by one or few companies. As we may remember, the hearings before the Judiciary Committee developed an extensive record of Microsoft's conduct and evidenced various efforts by the company to maintain and extend its operating system monopoly. These findings, I would note, were reaffirmed by a unanimous and ideologically diverse Court of Appeals. The Microsoft case and its ultimate resolution present one of the most important developments in antitrust law in recent history, certainly in my memory.

As I have emphasized before, having a monopoly is not illegal under our laws. In fact, in a successful capitalistic system, striving to be one should be encouraged, as a matter of fact. However, anticompetitive conduct intended to maintain or extend this monopoly would harm competition and could possibly be violatire of our laws.

I believe no one would disagree that the DC Circuit Court's decision reaffirmed the fundamental principle that a monopolist, even a monopolist in a high-tech industry like software, must compete on the merits to maintain its monopoly, which brings us to today's hearing. We are here to examine the policy implications of the proposed settlement in the Government's antitrust litigation against Microsoft.

Mr. Chairman, rather than closing the book on the Microsoft inquiry, the proposed settlement appears to be only the end of the latest chapter. The settling parties are currently in the middle of the so-called Tunney Act process before the court, and the non-settling parties have chosen to further litigate this matter and last week filed their own proposed settlement. This has been a complex case with significant consequences for Microsoft, high-tech entrepreneurs, and the American public as well.

The proposed settlement between Microsoft and the Justice Department and nine of the plaintiff State attorneys general is highly technical. We have all been studying it and its impact with great interest. Each of us has heard from some, including some of our witnesses here today, that the agreement contains much that is very good. Not surprisingly, we have also heard and read much criticism of the settlement. These are complex issues, and I would hope today's hearing will illuminate the many questions that we have.

I should note that about two weeks ago I sent a set of detailed and extensive questions about the scope, interpretation, and intended effects of the proposed settlement to the Justice Department, naturally seeking further information on my part.

First, I want to commend the Department for getting the responses to these questions to me promptly. We received them yesterday. I think the questions, which were made public, and the Department's responses could be helpful to each member in forming an independent and fair analysis of the proposed settlement.

To that end, and for the benefit of the committee, Mr. Chairman, I would like to make both the questions and the Department's answers part of the record for this hearing. So I would ask unanimous consent that they be made part of the record.

As I noted in my November 29th letter to the Department, I have kept an open mind regarding this settlement and continue to do so. I have had questions regarding the practical enforceability of the proposed settlement and whether it will effectively remedy the unlawful practices identified by the DC Circuit and restore competition in the software marketplace.

I am also cognizant of both the limitation of the claims contained in the original Justice Department complaint by the DC Circuit, as well as the standards for enforcement under settled antitrust law. I believe that further information regarding precisely how the proposed settlement will be interpreted, given DC Circuit case law, is necessary to any full and objective analysis of the remedies proposed therein. I hope that this hearing will result in the development of such information that would supplement the questions that I have put forth to the Department.

Mr. Chairman, one important and critical policy issue that I would hope we can address today and that I would like all of our witnesses to consider as they wait to be empaneled so that they can discuss is the difficult issue of the temporal relation of antitrust enforcement in new high-technology markets.

It cannot be overemphasized that timing is a critical issue in examining conduct in the so-called "new economy." Indeed, the most significant lesson the Microsoft case has taught us is this fact. The DC Circuit found this issue noteworthy enough to discuss in the first few pages of its opinion, and I will quote from the unanimous court:

"[w]hat is somewhat problematic...is that just over six years have passed since Microsoft engaged in the first conduct plaintiffs allege to be anticompetitive. As the record in this case indicates, six years seems like an eternity in the computer industry. By the time a court can assess liability, firms, products, and the marketplace are likely to have changed dramatically. This, in turn, threatens enormous practical difficulties for courts considering the appropriate measure of relief in equitable enforcement actions." The court goes on to say, "Innovation to a large degree has already rendered the anticompetitive conduct obsolete (although by no means harmless)."

Now, this issue is one that is relevant for this committee to consider as a larger policy matter, as well as how it relates to this case and the proposed settlement we are examining today.

Let me just say that one of the things that worries me is what are the enforcement capabilities of this settlement agreement? It was only a few years before these matters arose that Microsoft had agreed to a consent, a conduct decree that many feel they did not live up to, and I think it is a legitimate issue to raise as to how will the agreement that the Justice Department has worked out with Microsoft and nine of the plaintiffs be enforced if anticompetitive conduct continues.

In that regard, let me just raise Mr. Barksdale's letter, which I believe you put into the record.

The Chairman. I did, I did.

Senator Hatch. Well, let me just raise it because he does make some interesting comments in his letter and I can read them, I think they might be at least part of opening up the questions in this matter. I will just quote a few paragraphs.

He says, "These developments have stiffened my resolve to do all I can to ensure that competition and consumer choice are reintroduced to the industry. It is vitally important that no company can do to a future Netscape what Microsoft did to Netscape from 1995 to 1999. It is universally recognized that the 1995 consent decree was ineffective, I respectfully submit that the Proposed Final Judgment, PFJ, which is the subject of the hearing, will be even less effective, if possible, than the 1995 decree in restoring competition and stopping anticompetitive behavior. Accordingly, Senator Leahy, I am going to follow your suggestion that I help the committee answer one of the central questions. If the PFJ had been in effect all along, how would it have affected Netscape? More important, how will it affect future Netscapes?"

He describes the impact on future Netscapes as follows, and let me just read a couple of paragraphs in this regard.

"As discussed in the attached document, the unambiguous conclusion is that if the PFJ agreed upon last month by Microsoft and the Department of Justice had been in existence in 1994, Netscape would have never been able to obtain the necessary venture capital financing. In fact, the company would not have come into being in the first place. The work of Mark Andreesen's team at the University of Illinois in developing the Mosaic browser would likely have remained an academic exercise. An innovative, independent browser company simply could not survive under the PFJ, and such would be the effect on any company developing in the future technologies as innovative as the Microsoft did to Netscape from 1995 to 1999. It is universally recognized that the 1995 consent decree was ineffective, I respectfully submit that the Proposed Final Judgment, PFJ, which is the subject of the hearing, will be even less effective, if possible, than the 1995 decree in restoring competition and stopping anticompetitive behavior. Accordingly, Senator Leahy, I am going to follow your suggestion that I help the committee answer one of the central questions. If the PFJ had been in effect all along, how would it have affected Netscape? More important, how will it affect future Netscapes?"

He describes the impact on future Netscapes as follows, and let me just read a couple of paragraphs in this regard. "As discussed in the attached document, the unambiguous conclusion is that if the PFJ agreed upon last month by Microsoft and the Department of Justice had been in existence in 1994, Netscape would have never been able to obtain the necessary venture capital financing. In fact, the company would not have come into being in the first place. The work of Mark Andreesen's team at the University of Illinois in developing the Mosaic browser would likely have remained an academic exercise. An innovative, independent browser company simply could not survive under the PFJ, and such would be the effect on any company developing in the future technologies as innovative as the browser was in the mid-1990s." He goes on to characterize whether or not Microsoft could have developed this itself, but let me just read the last few paragraphs of this letter.

"If the PFJ provisions are allowed to go into effect, it is unrealistic to think that anybody would ever secure venture capital financing to compete against Microsoft. This would be a tragedy for our Nation. It makes a mockery of the notion that the PFJ is "good for the economy" unquote. If the PFJ goes into effect, it will subject an entire industry to dominance by an unconstrained monopolist, thus snuffing out competition, consumer choice, and innovation in perhaps our Nation's most important industry. And, worse, it will allow them to extend their dominance to more businesses such as financial services, entertainment, telecommunications, and perhaps many others. Four years ago, I appeared before the committee and was able to demonstrate, with the help of the audience, that Microsoft undoubtedly had a monopoly. Now, it has been proven in the courts that Microsoft not only has a monopoly, but they have illegally maintained that monopoly through a series of abusive and predatory actions. I submit to the committee that Microsoft is infinitely stronger in each of their core businesses than they were four years ago, despite the fact that their principal arguments have been repudiated 8–0 by the Federal courts. I hope you will keep these thoughts in mind during your hearings." Then he said, "A more detailed analysis of my views follows."

Well, the importance of that letter is basically Barksdale was one of the original complainants against Microsoft and was one of the very important witnesses before this committee in those years when we were trying to figure what we are doing here. I don't think you can ignore that, and so these questions have to be answered that he raises, plus the questions that I have given as well.

So you have put that letter in the record?

The Chairman. I have, and also I understood you wanted those letters that you had to Mr. James. Those are also part of the record.

Senator Hatch. I appreciate it.

Let me just say, Mr. Chairman, I am grateful that you are continuing the committee's important role in high-technology policy matters, as I would expect you to do because I know that you take a great interest in these matters, as does, I think, every individual person on the committee.

I certainly look forward to hearing our witnesses 23 today, and I am going to keep an open mind on where we are 24 going here and hopefully we can resolve these matters in a 25 way that is beneficial to everybody, including those who are against Microsoft and Microsoft itself.

Thank you, Mr. Chairman.

The Chairman. Thank you.

Senator Kohl?

Senator Kohl. Mr. Chairman, we thank you for holding this hearing here today.

This is a crucial time for competition in the high-tech sector of our economy. After spending more than three years pursuing its groundbreaking antitrust case against Microsoft, the Government has announced a settlement. But the critical question remains, will this settlement break Microsoft's stranglehold over the computer software industry and restore competition in this vital sector of our economy? I have serious doubts that it will.

An independent Federal court, both the trial court and 16 the Court of Appeals, found that Microsoft broke the law and that its violation should be fixed. This antitrust case was as big as they come. Microsoft crushed a competitor, illegally tried to maintain its monopoly, and stifled innovation in this market.

Now, after all these years of litigation, of charges and counter-charges, this settlement leaves us wondering, did we really accomplish anything. Or in the words of the old song, "is that all there is?" Does this settlement obey the Supreme Court mandate that it must deny the antitrust vr 18 1 violator the fruits of its illegal conduct?

It seems to me and to many, including nine of the States that joined the Federal Government in suing Microsoft, that this settlement agreement is not strong enough to do the job, to restore competition to the computer software industry. It contains so many loopholes, qualifications, and exceptions that many worry that Microsoft will easily be able to evade its provisions.

Today, for the vast majority of computer users, the first thing they see when they turn on their machine is the now familiar Microsoft logo, placed on the Microsoft start menu, and all of their computer operations take place through the filter of Microsoft's Windows operating system. Microsoft's control over the market is so strong that today more than 95 percent of all personal computers run on the Windows operating system, a market share high enough to constitute a monopoly under antitrust law.

Its share of the Internet browsing market is now over 85 percent, and it reported a profit margin of 25 percent in the most recent quarter, a very high number in challenging economic times. Microsoft has the power to dictate terms to manufacturers who wish to gain access to the Windows operating system and the ability to leverage its dominance into other forms of computer software. And Microsoft has never been shy about using its market power.

Are we here today really confident that in five years this settlement will have had any appreciable impact on these facts of life in the computer industry? I am not.

We stand today on the threshold of writing the rules of competition in the digital age. We have two options. One option involves one dominant company controlling the computer desktop facing minor restraints that expire in five years, but acting as a gatekeeper to 95 percent of all personal computer users. The other model is the flowering of innovation and new products that resulted from the breakup of the AT&T telephone monopoly nearly 20 years ago. From cell phones to faxes, from long-distance price wars to the development of the Internet itself, the end of the telephone monopoly brought an explosion of new technologies and services that benefit millions of consumers everyday. We should insist on nothing less in this case.

In sum, any settlement in this case should make the market for computer software as competitive as the market for computer hardware is today. While there is nothing wrong with settling, of course, we should insist on a settlement that has an immediate, substantial and permanent impact on restoring competition in this industry.

I thank our witnesses for testifying today and we look 24 forward to hearing your views.

The Chairman. Thank you.

Senator DeWine?

Senator DeWine. Mr. Chairman, thank you very much for holding this very important hearing concerning the Department of Justice's Proposed Final Judgment in its case against Microsoft.

Mr. Chairman, as we examine this judgment and attempt to imagine what it will mean for the future of competition in this market, we must keep in mind the serious nature of this case. According to the DC Circuit Court, Microsoft did, in fact, violate our antitrust laws. Their behavior hurt the competitive marketplace. This is something that we must keep in mind as we examine the Proposed Final Judgment.

This hearing is particularly important at this time because Federal law does require the district court to examine the proposed settlement and determine if it is, in fact, in the public interest. Federal law clearly allows the public to be heard on such matters. I believe that this forum today will further that process of public discussion.

The Court of Appeals in this case, relying on established Supreme Court case law, explained what an appropriate remedy in an antitrust case such as this one must seek to accomplish. It should unfetter the market from anticompetitive conduct, terminate the illegal monopoly, and deny the defendant the fruits of its violations. It is important, Mr. Chairman, that we examine whether the decree would, in fact, accomplish these goals.

There seems to be a great deal of disagreement about what the competitive impact of the decree will be. While the proposed settlement correctly, I believe, focuses primarily on the market for middleware, there has been a great deal of concern raised about the mechanism for enforcing such a settlement. Specifically, I think we need 8 to discuss further whether the public interest would be better served with a so-called special master or some sort of other administrative mechanism, or whether the Justice Department could be more effective enforcing the decree on its own.

In addition to the Department of Justice's Proposed Final Judgment, we also have the benefit of another remedies proposal that has been submitted to the court by nine States that did not join with the Antitrust Division's proposal. I would like to hear from our witnesses about the role they believe this alternative proposal should play in the ongoing Tunney Act proceedings.

As I mentioned earlier, Mr. Chairman, the Court of Appeals directed that any remedy should seek to deny Microsoft the fruits of its illegal activities. One clear benefit Microsoft derived from its violations was the effective destruction of Netscape as a serious competitor and a decrease in Java's market presence. It is obviously impossible to go back in time and resurrect the exact market structure that existed, but it is important to discuss how the proposed settlement deals with this problem.

I would also like to note for the record that Microsoft will be represented today by one of their outside counsel, Rick Rule, rather than an actual employee of the company. Mr. Rule is an outstanding antitrust lawyer. He is well qualified to testify on this issue and we certainly look forward to hearing his testimony today.

However, Mr. Chairman, I must say that I am disappointed that Microsoft chose not to send an actual officer of the company because it does not appear to represent, frankly, the fresh start that I think we were all hoping to begin today.

Finally, I would like to thank you, Mr. Chairman, Ranking Member Hatch, and Antitrust Subcommittee Chairman Kohl for all of your hard work in putting this hearing together and all of your work on this issue generally over the last few years.

I look forward to the testimony of our witnesses today and to the committee's continuing oversight of this very important issue.

The Chairman. Mr. James, there is a vote on the floor. I think there are two or three minutes left in the roll call vote. We are going to suspend while we go to vote, but I think—

Senator McConnell. Mr. Chairman, I have a really brief statement. Could I make that before you adjourn?

The Chairman. You can.

Senator McConnell. Let me just say that this hearing and the accompanying media spectacle indicate the Microsoft case is the subject of significant public interest and debate. Some argue that the case itself should never have 9 been filed to begin with, and now after nearly four years of litigation, Microsoft, the Department of Justice and nine States have reached a settlement.

I just want to commend the parties for their tireless effort and countless hours spent in reaching the compromise. Settlement is nearly always preferable to litigation, and regulation by the market is nearly always better than regulation by litigation, or the Government for that matter.

As far as what the public thinks, just this week a nationwide survey indicated that the U.S. Government and Microsoft agreed to settle the antitrust case. However, nine State AGs argued that the antitrust case against Microsoft should continue. Which statement do you agree with?

The U.S. economy and consumers would be better off if the issue Were settled as soon as possible: 70 percent. The curt should continue to investigate whether Microsoft should be punished for its business activities: 2percent. Not that the public is always determinative, but I thought that would be an interesting observation to add.

Thank you very much, Mr. Chairman.

The Chairman. Mr. James, I think you would note from the comments that they sort of go across the board here. The majority of people favor a settlement, but I must say that I don't think the majority of people favor any settlement; they favor a good settlement, and that is what the questions will be directed at and that is why nine attorneys general have expressed concern. Nine agreed with the settlement, nine disagreed with the settlement. These are all very good, very talented people. So in your testimony when we come back, you have heard a number of the questions that have been raised and we look forward to you responding to them.

We will stand in recess while we vote.

[The committee stood in recess from 10:40 a.m. to 11:14 a.m.]

The Chairman. I should note for the record that Mr. James has served as the Assistant Attorney General for the Antitrust Division since June 2001. He previously served as Deputy Assistant Attorney General for the Antitrust Division for the first Bush administration from 198to 1992. He served as Acting Assistant Attorney General for several months in 1992, then was head of the antitrust practice at Jones, Day, Reavis and Pogue, in Washington.

Not knowing what the Senate schedule might be, Mr. James, we will put your whole statement in the record, of course. I wonder if you might summarize it, but also with some reference to the charge made in the letter to Senator Hatch and myself by Mr. Barksdale, who said had these been the ground rules, he never would have been able to get Netscape off the ground. Had these been the ground rules at the time they started Netscape, they never would have been able to create Netscape. If that is accurate, of course, then we have got a real problem.

So, Mr. James, it is all yours.

STATEMENT OF HON. CHARLES A. JAMES, ASSISTANT ATTORNEY GENERAL, ANTITRUST DIVISION, UNITED STATES DEPARTMENT OF JUSTICE, WASHINGTON, DC

Mr. James. Thank you, Senator Leahy, and good morning to you and members of the committee. I am pleased to appear before you today to discuss the proposed settlement of our still pending case against Microsoft Corporation.

With me today are Deborah Majoris, my deputy, and Phil Malone, who has been the lead staff lawyer on the Microsoft case from the very beginning. I note their presence here because they were the ones who responded to the judge's order that we negotiate around the clock and I think they have recovered now.

As you know, on November the Department and nine States entered into the proposed settlement. We are in the midst of the Tunney Act period, as you know, and that will end at the end of January, at which point the district court will determine whether the settlement is in the public interest. We think that it is.

I am somewhat limited in what I can say about the case because of the pendency of the Tunney Act proceeding. But, of course, I am happy to discuss this with the committee for the purpose of public explication.

When thinking about the Microsoft case, from my perspective it is always important to distinguish between Microsoft, the public spectacle, and Microsoft, the actual legal dispute. We look, in particular, to what the Department alleged in its complaint and how the court ruled on those allegations.

The Antitrust Division's complaint had four counts: attempted monopolization of the browser market, in violation of Section 2; individual anticompetitive acts and a course of conduct to maintain the operating system monopoly, in violation of Section of the Sherman Act; tying its own browser to the operating system, in violation of Section 1; and exclusive dealing, in violation of Section 1.

I would note that a separate monopoly leveraging claim brought by the States was thrown out prior to trial, and that the States at one time had alleged in their complaint monopolization of the Microsoft office market, and that was eliminated by the States through an amendment.

There was, of course, a trial before Judge Jackson, at the conclusion of which Judge Jackson found for the Government on everything but exclusive dealing and ordered Microsoft to be split into separate operating system and applications businesses after a one-year transitional period under interim conduct remedies.

On appeal, however, only the monopoly maintenance claim survived unscathed. The attempted monopoly claim was dismissed. The tying claim was reversed and remanded for further proceedings under a much more rigorous standard. And the remedy was vacated, with the court ordering remedial hearings before a new judge to address the fact that the liability findings had been, in their words, "drastically curtailed."

Even the monopoly maintenance claim was cut back in the Court of Appeals decision. The Court of Appeals found for Microsoft on some of the specific practices and ruled against the Government on the so-called course of conduct theory of liability.

I recount all of this history to make two basic points that I think are important as we discuss the settlement. First, the case, even as initially framed by the Department of Justice, was a fairly narrow challenge. It was never a direct assault on the acquisition of the operating system monopoly itself.

Second, and perhaps much more important, the case that emerged from the Court of Appeals was much narrower still, focusing exclusively on the middleware threat to the operating system monopoly and specific practices, not a course of conduct found to be anticompetitive.

The Court of Appeals decision determined the reality of the case as we found it in the Department when I first arrived there in June, as you noted. The conduct found to be unlawful by the court was the sole basis for relief.

It is probably worth talking just briefly about the monopoly maintenance claim. The complaint alleges that Microsoft engaged in various anticompetitive practices to impede the development of rival Web browsers and Java. These products came to be known as middleware and were thought to pose a threat to the operating system monopoly because they had the potential to become platforms for other software applications. The court noted that the middleware threat was nascent; that is to say that no one could predict when, if ever, enough applications would be written to middleware for it to significantly displace the operating system monopoly.

A few comments about the settlement itself. In general terms, our settlement has several important points that we think fully and demonstrably remedy the middleware issues that were at the heart of the monopoly maintenance claim.

In particular, our decree contains a very broad definition of middleware that specifically includes the forms of platform software that have been identified as potential operating system threats today and likely to emerge as operating system threats in the future. It prohibits in the broadest terms the types of contractual restrictions and exclusionary arrangements the Court of Appeals found to be unlawful. It fences in those prohibitions with appropriate non-discrimination and non- retaliation provisions, and it creates an environment in which middleware developers can create programs that compete with Microsoft on a function-by-function basis through a regime of mandatory API documentation and disclosure.

In the most simple terms, we believe our remedy will permit the development and deployment of middleware product without fear of retaliation or economic disadvantage. That is what we believe and what the court found that consumers actually lost through Microsoft's unlawful conduct, and that is what we think consumers will gain through our remedy.

With specific reference to what Mr. Barksdale said, if I may, I have not reviewed Mr. Barksdale's letter. I know that in this particular situation, with so much at stake in this particular settlement, I have seen lots of hyperbolic statements. I certainly wouldn't necessarily characterize his in that vein without having read it in some detail.

I would note, however, that—

The Chairman. Mr. James, we are going to give you an opportunity to do that because I want you to look at it. You can feel free to call it hyperbolic or however, but I would ask that you and your staff look at his letter, which does raise some serious questions, and I would like to see what response you have for the record.

Mr. James. I would be happy to do so. And with that, I would be happy to answer your questions.

The Chairman. Did you have more that you wanted to say on the letter?

Mr. James. No, sir. I am happy to respond to what you folks want to talk about.

The Chairman. The Department of Justice has been involved in litigation against Microsoft for more than 1 years. I am one of those who had hoped throughout that that the parties might come to some conclusion. I think that if you can have a fair conclusion, it is in the best interests of the consumers, the Government, Microsoft, competitors, and everybody else. I have no problem with that, but that presupposes the right kind of settlement.

Over the course of those 1years, the parties entered into one consent decree that just ended up with a whole lot more litigation over the terms of that consent decree. I mention that because you take this settlement and it is already being criticized by some for the vagueness of its terms and its loopholes. Judge Robert Bork warned, and I think I am quoting him correctly, "It is likely to guarantee years of additional litigation."

Now, what kind of assurances can you give or what kind of predictions can you give that if this settlement is agreed to by the court that we are going to see an end to this litigation and we are going to have a stop to this kind of merry-go-round of Microsoft litigation concerning compliance or even the meanings of the consent decree?

I notice a lot of people in this room on both sides of the issue. I have a feeling that they are here solely because of their interest in Government and not because the meter is running. A lot of us would like to see this thing end, but why do you feel that this settlement is so good that that is going to end?

Mr. James. Well, Senator, that is certainly a legitimate question and I understand the spirit in which it is asked. One of, I think, the facts of life is that one of the reasons that we have so many antitrust lawyers, and perhaps why there are so many of them in this room, is that firms with substantial market positions very often are the subject of appropriate antitrust scrutiny, and so it is with Microsoft and so it should be.

Our settlement here is a settlement that resolves a fairly complex piece of litigation. It by its terms is going to be a complex settlement, inasmuch as it does cover a broad range of activities and has to look into the future prospectively in a manner that benefits consumers. And some of that consumer benefit certainly will come from the development of competing products. Some of that consumer benefit, however, will come from competition from Microsoft as it moves into other middleware products, et cetera.

We think that the terms of the decree are certainly enforceable. I think so much of what has been called a loophole are things that are carve-outs necessary to facilitate pro-competitive behavior, and we certainly think that the enforcement power embodied in this decree—I would say an unprecedented level of enforcement power, three tiers of enforcement power—is sufficiently to let the Department of Justice do its job.

The Chairman. But keep in mind that usually in these kinds of decrees, if it is not specifically laid out, the courts tend to decide the vague questions against the Government, not for the Government. Fortune Magazine said even the loopholes have loopholes—a pretty strong statement from a very pro-business magazine. The settlement limits the types of retaliation Microsoft can take against PC manufacturers that want to carry or promote non-Microsoft software, but some would say that it gives a green light to other types of retaliation.

Now, why doesn't the settlement ban all types of retaliation? The Court of Appeals said twice that if you commingle the browser and operating system code, you violate Section of the Sherman Act. The proposed settlement contains no prohibition on commingling code. There is no provision barring the commingling of browser code and the operating code. So you have got areas where they can retaliate. You don't have the barring of this commingling of code.

I mean, are Fortune Magazine, Judge Bork and others justified in thinking there are a few too many loopholes here, notwithstanding the levels of enforcement?

Mr. James. Let me take your points in order. First, on the subject of retaliation, retaliation is a defined term in this decree. It is a term that we are using to define a sort of conduct that Microsoft can engage in when it engages in ordinary commercial transactions.

I don't think that there is any scope in the bounds of this case to prohibit Microsoft from engaging in any form of collaborative conduct with anyone in the computer industry, and certainly the types of collaborative conduct that are permitted, the so-called loopholes, are the type of conduct that is permitted under standard Supreme Court law embodied in decisions like Broadcast Music v. NCAA, and also embodied in the Federal Trade Commission-Department of Justice joint venture guidelines as sanctioned forms of conduct. So we think that antitrust lawyers certainly can understand these types of issues and we think the courts can understand these types of issues.

Secondly, with regard to your more particular point about commingling code, it is certainly the case that the Court of Appeals, following upon the district court decision, found that Microsoft had engaged in an act of

STATEMENT OF SENATOR JEFF SESSIONS BEFORE THE SENATE COMMITTEE ON THE JUDICIARY "THE MICROSOFT SETTLEMENT: A LOOK TO THE FUTURE"

December 12, 2001

I am troubled by the decision of Committee, acting in its official capacity, to send a transcript of this hearing to the federal district court that will determine the outcome of this pending litigation. By taking the apparently unprecedented step of sending a transcript of a hearing on pending litigation to the judge that is deciding the case, this Committee may have unintentionally traversed the critical boundary between attempting to inform the court and attempting to influence it.

The Constitution vests the legislative power in the Congress, Article I, °1, the executive power in the President, Article II, § 1, and the judicial power in the Supreme Court and lower federal courts, Article III, § 1. Thus, Congress has the power to make law pursuant to its enumerated powers, the President has the power to enforce these laws, and the courts have the separate power to "say what the law is"—"to rule on cases ... to decide them," Marbury— v. Madison, U.S. (Cranch) 137, 17(1803); Plaut v. Spendthrift Farm, Inc., 51U.S. 211,21(1995).

The separation of powers principle not only outlines the distinct spheres of operation of the three branches of government but also guides the branches in their dealings with each other. It is crystal clear that the Framers of our Constitution intended to have a judiciary that is independent of Congress. The provision for judges to hold office during good behavior in Article III, 1, for example, was said by Alexander Hamilton to constitute an "excellent barrier to the encroachments and oppressions of the representative body." THE FEDERALIST NO. 78, at 46(Hamilton) (Clinton Rossiter ed., 1961). Thus, with respect to this case, Congress, the Senate, and this Committee, should defer to the court to decide the case by exercising its independent judgement. A publicized congressional hearing and a transcript submission to the court can only be perceived as an attempt to create for senators a status at a Tunney hearing that neither the court nor the Tunney Act permits.

While the Tunney Act provides that a district court should accept comments from the public on a proposed antitrust settlement agreement, it does not provide for any role by the legislative branch in such a hearing. See Pub. L. No. 93–52(1974). Indeed, the Congressional Research Service has informed me that it has found "no instances in which any comments— whether Hearing transcripts, summaries of Hearing transcripts, or other written communications—were sent to" the district court in a Tunney Act hearing. Congressional Research Service, Memorandum (Dec. 18,2001).

While any senator may file comments on a proposed settlement agreement as a private citizen, it infringes upon the separation of powers Page of principle for the Senate or this Committee officially to do so. It is the litigants and the public that inform the court in a Tunney Act hearing, not the Congress..See Pub. L. No. 93–528. For this Committee to submit its views on the merits of pending litigation creates the appearance of an attempt to influence the Article III federal court in the exercise of its independent judicial power.

In addition to my constitutional concern, I have an underlying prudential concern. This transcript will include several statements from Senators opining on the merits of the Microsoft settlement agreement. A case such as this one involves a complex body of law and an extraordinary amount of evidence. Neither I nor, to the best of my knowledge, any other member of this Committee or of the Senate has had an opportunity to thoroughbly review the law and the facts of this case. Consequently, our opinion with respect to this non-legislative matter is worth no more than that of any other reasonably informed citizen who may submit information to the court. There is no legitimate rationale for any court to give more weight to our opinions, whether stamped with the imprimatur of this Committee or not, than to the opinions of others. Accordingly, I respectfully object to the Chairman and Ranking Member's decision, without a vote of the Committee, to submit on behalf of the Committee, a copy of the transcript of this hearing to the district court.

STATEMENT OF CHARLES A. JAMES ASSISTANT ATTORNEY GENERAL ANTITRUST DIVISION BEFORE THE COMMITTEE ON THE JUDICIARY UNITED STATES SENATE CONCERNING THE MICROSOFT SETTLEMENT: A LOOK TO THE FUTURE PRESENTED ON DECEMBER 12, 200

Mr. Chairman and members of the Subcommittee, I am pleased to appear before you today to discuss the Department's still-pending antitrust enforcement action against Microsoft Corporation.

On November 2, 2001, the Department stipulated to entry of a proposed consent decree that would resolve the case. Nine states joined in the proposed settlement." We are in the midst of the 60-day public comment period under the Tunney Act, after which we will file a response to the comments, and the district court will rule on whether the proposed consent decree is in the public interest. Nine other states, and the District of Columbia, have not signed the proposed consent decree.

The Department's position regarding the proposed settlement is set forth in documents filed in the pending Tunney Act proceeding. Because of the pendency of the proceeding, and the somewhat remote possibility that the case will return to litigation, I am somewhat limited in what I can say about the case and settlement. Nonetheless, I am happy to appear before you today to discuss in general terms how the settlement promotes the public interest by resolving the allegations sustained by the court of appeals.

When we in the Department address the Microsoft case, it is important for us

1 New York, Ohio, Illinois, Kentuck)", Louisiana, Maryland, Michigan, North Carolina, and Wisconsin to ignore the media spectacle and clash-of-the-titans imagery, and focus instead on the actual legal dispute presented to the court. In discussing the case and the proposed consent decree, it is important to keep in mind not only ,,'.'hat the Department alleged in our complaint, but how the courts—in particular, the DC Circuit—ruled. As a result of the appeals court's ruling, the case is in many important respects considerably narrower than the one the Department originally brought in the spring of 199and narrower still than Judge Jackson's ruling in June of 2000.

I would like to take a few minutes to refocus attention on the legal allegations charged in the complaint, how those allegations were resolved in the courts, and the remedies in the proposed consent decree presently undergoing Tunney Act review. I believe these proposed remedies fully and demonstrably resolve the monopoly maintenance finding that the DC Circuit affirmed.

The complaints flied by the Department, the states, and the District of Columbia alleged: (1) that Microsoft had engaged in a series of specific anticompetitive acts, and a course of anticompetitive conduct, to maintain its monopoly position in the market for operating systems designed to run on Intel-compatible personal computers, in violation of Section of the Sherman Act; (2) that Microsoft had attempted to monopolize the web browser market, also in violation of Section 2; (3) that Microsoft had illegally tied its web browser, Internet Explorer, to its operating system, in violation of Section 1; and (4) that Microsoft had entered into exclusive dealing arrangements that also violated Section 1. A separate monopoly leveraging claim advanced by the state plaintiffs was dismissed prior to trial. After a full trial on the merits, the district court ultimately sustained the first three claims, while finding that the exclusive dealing claim had not been proved.

The DC Circuit, however, significantly narrowed the case, affirming the district court's finding of liability only as to the monopoly maintenance claim, and even there only as to a smaller number of specified anticompetitive actions. Of the twenty anticompetitive acts the court of appeals reviewed, it reversed with respect to eight of the acts that the district court had sustained as elements of the monopoly maintenance claim. Additionally, the DC Circuit reversed the lower court's finding that Microsoft's "course of conduct" separately violated Section of the Sherman Act. It reversed the district court's rulings on the attempted monopolization and tying claims, remanding the tying claim for further proceedings under a much more difficult rule of reason standard. And, of course, it vacated the district court's final judgment that had set forth the break-up remedy and interim conduct remedies.

The antitrust laws do not prohibit a firm from having a monopoly, but only from illegally acquiring or maintaining a monopoly through interference with the competitive efforts of rivals. There has never been any serious contention that Microsoft acquired its operating system monopoly through unlawful means, and the existence of the operating system monopoly itself was not challenged in this case.

With regard to the monopoly maintenance claim, the court of appeals upheld the conclusion that Microsoft had engaged in unlawful exclusionary conduct by using contractual provisions to prohibit computer manufacturers from supporting competing middleware products on Microsoft's operating system; by prohibiting consumers and computer manufacturers from removing Microsoft's middleware products from the desktop; and by reaching agreements with software developers and third parties to exclude or disadvantage competing middleware products—all to protect Microsoft's monopoly in the operating system market.

The Department proved that Microsoft had engaged in these anticompetitive practices to discourage the development and deployment of rival web browsers and Java technologies, in an effort to prevent them from becoming middleware threats to its operating system monopoly. Netscape had gained a respectable market share as a technology for navigating the then-burgeoning Internet, and Netscape proponents were touting the prospect of a new world of Internet computing that would make operating systems less relevant. Netscape touted its web browser as a new category of software that came to be known as "middleware," a form of software that, like Microsoft's Windows operating system, exposed a broad range of applications program interfaces ("APIs") to which software developers could write applications. This created the potential that—if Netscape Navigator continued to gain market share and could run on operating systems other than Microsoft's, and if large numbers of software developers wrote applications programs to it—computer users would have viable competitive alternatives to Microsoft.

The middleware threat was nascent. That is, as both the district court and the court of appeals acknowledged, it was a potential threat to the operating system monopoly that had not)'el become real. It could not be predicted when, if ever, enough applications programs would be written to middleware products for middleware to significantly displace Microsoft operating systems. Microsoft took this nascent middleware threat to its operating system monopoly seriously. The trial record disclosed a corporate preoccupation with thwarting Netscape and displacing Netscape's Navigator with Microsoft's Internet Explorer as the prevailing web browser. This campaign featured a host of strong-arm tactics aimed at various computer manufacturers, Internet access providers, and independent software developers. Even the decision to integrate its own browser into the operating system—in effect, giving it away for free—had an element of impeding the growth of Netscape and once was described as taking away Netscape's oxygen. Microsoft took similar actions against Java technologies. Among other things, Microsoft required software developers to promote its own version of Java technology exclusively and threatened developers if they assisted competing Java products.

The district court ruled not only that Microsoft had engaged in various specified illegal exclusionary practices, but that these acts were part of an overall anticompetitive course of conduct. The DC Circuit agreed as to some of the specified practices, while ruling that others—for example, Microsoft's practice of preventing computer manufacturers from substituting their own user interfaces over the Windows interface supplied by Microsoft—Were justified and thus lawful. The DC Circuit also rejected the course-of-conduct theory, under which • Microsoft's specific practices could be viewed as parts of a broader, more general monopolistic scheme, ruling that Microsoft's practices must be viewed individually.

Following the appellate court's instructions, we, in considering a possible remedy, focused on the specific practices that the court had ruled unlawful. We took as a starting point the district court's interim conduct remedies. Those remedies, however, were based on a much wider range of liability findings than had been affirmed on appeal. Accordingly, they had to be tailored to the findings that had actually been affirmed. Further, because the interim conduct remedies were designed to apply only as a stop-gap until the district court's divestiture order was implemented, we broadened them in important respects to more full□; address the remedial objectives of arresting the anticompetitive conduct, preventing its recurrence, and restoring lost competition to the marketplace. Finally, we updated the remedies to strengthen their long-term effectiveness in the face of the rapid technological innovation that continues to characterize the computer industry—so that the.." will be relevant in the Windows XP operating system world and beyond.

Under the proposed consent decree, Microsoft will be required to disclose to other software developers the interfaces used by Microsoft's middleware to interoperate with the operating system, enabling other software developers to create competing products that emulate Microsoft's integrated functions. Microsoft will also have to disclose the protocols that are necessary for software located in a server computer to interoperate with Windows on a PC. Microsoft will have to permit computer manufacturers and consumers to substitute competing middleware software on the desktop. It will be prohibited from retaliating against computer manufacturers or software developers for supporting or developing certain competing software. To further guard against possible retaliation, Microsoft will be required to license its operating system to key computer manufacturers on uniform terms for five ",'ears.

Microsoft will be prohibited from entering into agreements requiring the exclusive support or development of certain Microsoft software, so that software developers and computer manufacturers can continue to do business with Microsoft while also supporting and developing rival middleware products. And Microsoft will be required to license any intellectual property to computer manufacturers and software developers necessary for them to exercise their rights under the proposed decree, including, for example, using the middleware protocols disclosed by]Microsoft to interoperate with the operating system.

And assumption that, had we litigated the remedy, we were certain to have secured all of this relief and possibly more misses the mark. The middleware definition, for example, was a very complex issue and would have been hard fought in a litigated remedy proceeding. The term had no generally accepted industry or technical meaning. At the time of trial, the term ,,,,,as used to describe software programs that exposed APIs. But in today's world, by virtue of the extensive degree to which software programs interact with each other, a very broad range of programs—large and small, simple and complex—expose APIs. At the same time, middleware had to be defined more broadly than the browser, or it would not provide sufficient protection for the potential sources of competition that might emerge. So we developed a definition of middleware, designed to encompass all technologies that have the potential to be middleware threats to Microsoft's operating system monopoly. It captures, in today's market, Internet browsers, e-mail client software, networked audio/video client software, and instant messaging software. On a going-forward basis, it also provides guidelines for what types of software will be considered middleware for purposes of the decree in the future. These guidelines are critical because, while it is important that future middleware products be captured by the proposed decree, those products will not necessarily be readily identified as such.

The proposed decree protects competition in the middleware market through a variety of affirmative duties and prohibitions, which I listed a minute ago. By requiring disclosure of a broad range of interfaces and protocols that will secure interoperability for rival software and servers, broadly banning exclusive dealing, giving computer manufacturers and consumers extensive control of the desktop and initial boot sequence, and prohibiting a broad range of retaliatory conduct, the proposed decree will require Microsoft to fundamentally change the ray in which it deals with computer manufacturers, Internet access providers, software developers, and others.

These prohibitions had to be devised keeping in mind that Microsoft will continue for the foreseeable future to have a monopoly in the operating systems market. While we recognized that not all forms of collaboration between Microsoft and others in the industry are anticompetitive, and that some actually benefit competition, we drafted the non-discrimination and non-retaliation provisions broadly enough to prevent Microsoft from using its monopoly power to apply anticompetitive pressure in this fashion.

We concluded, particularly in light of intervening technological developments in the computer industry, that the remedial objective of restoring lost competition had to mean something different than attempting to restore Netscape and Java specifically to their previous status as potential nascent threats to Microsoft's monopoly. Attempting to turn back the hands of time would likely prove futile and would risk sacrificing important innovations that have moved the industry beyond float point. So we focused instead on the market as it exists today, and where it appears to be heading over the next few years, and devised a remedy to recreate the potential for the emergence of competitive alternatives to Microsoft's operating system monopoly through middleware innovations. With a reported 70,000-odd applications currently designed to run on Windows, the applications barrier to entry is quite formidable. The most effective avenue for restoring the competitive potential of middleware, we concluded, was to ensure that middleware developers had access to the technical information necessary to create middleware programs that could compete with Microsoft in a meaningful way—that is, by requiring Microsoft to disclose the APIs needed to enable competing middleware developers to create middleware that matches Microsoft's in efficiency and functionality.

API disclosure had apparently been a very difficult obstacle to resolution of the case at every stage. There had never been an,," allegation in the case that Windows was an essential facility, the proprietary technology for which had to be openly shared in the industry. So we are very pleased that we were able to secure this crucial provision in the proposed decree.

Similarly, the proposed decree goes beyond the district court's order in requiring Microsoft to disclose communications protocols for servers if they are embedded in the operating system, thereby protecting the potential for server-based applications to emerge as a competitive alternative to Microsoft's operating systems monopoly. Although the issue of Microsoft's potential use of its monopoly power to inhibit server-based competition was barely raised and never litigated in the district court, we believed it was an important concern to resolve in the final negotiations.

The proposed decree also requires Microsoft to create and preserve "default" settings, such that certain of Microsoft's integrated middleware functions will not be able to override the selection of a third-party middleware product, and requires Microsoft to create add/delete functionality to make it easier for computer manufacturers and users to replace Microsoft middleware functionality with independently developed middleware. These are other important respects in which, in light of intervening technological changes, the proposed decree goes beyond the relief contemplated in the district court's interim relief order. By giving middleware developers the means of creating fully, competitive products, requiring the creation of add/delete functionality, and making it absolutely clear that computer manufacturers can, in fact, replace Microsoft middleware on the desktop, the decree will do as much as possible to restore the nascent threat to the operating system monopoly that browsers once represented.

The proposed decree contains some of the most stringent enforcement provisions ever contained in any modern consent decree. In addition to the ordinary prosecutorial access powers, backed up by civil and criminal contempt authority, this decree has two other aggressive features. First, it requires a full-time, on-site compliance team—complete with its own staff and the power to hire consultants—that will monitor compliance with the decree, report violations to the Department, and attempt to resolve technical disputes under the disclosure provisions. The compliance team will have complete access to Microsoft's source code, records, facilities, and personnel. Its dispute resolution responsibilities reflect the recognition that the market will benefit from rapid, consensual resolution of issues whenever possible, more so than litigation under the Department's contempt powers. The dispute resolution process complements, but does not supplant, ordinary methods of enforcement. Complainants may bring their inquiries directly to the Department if they choose.

The decree will be in effect for five 3'ears. It also contains a provision under which the term may be extended by up to two additional years in the event that the court finds that Microsoft has engaged in repeated violations. Assuming that Microsoft ; will want to get out from under the decree's affirmative obligations and restrictions as soon as possible, the prospect that it might face an extension of the decree should provide an extra incentive to comply.

Our practice with regard to enforcement is never influenced by the extent to which we "trust" a defendant. Rather, a decree must stand on its own as an enforcement vehicle to ensure effective relief and must contain enforcement provisions sufficient to address its inherent compliance issues. In this case, those compliance issues are complex, as the decree seeks to address Microsoft's interactions with firms throughout the computer industry. Under the circumstances, I believe the extraordinary nature of the decree is warranted.

Some have criticized the decree for not going far enough. Some have asked why we did not continue to pursue divestiture as a possible remedy. We had several reasons. First, the court of appeals made it clear that it viewed the break-up remedy with skepticism, to put it mildly. The court ruled that on remand the district court must consider whether Microsoft is a unitary company—i.e., one that could not easily be broken up—and whether plaintiffs established a significant causal connection between Microsoft's anticompetitive conduct and its dominant position in the market for operating systems—a finding not reached by the prior judge.

Second, the legal basis for the structural separation the Department had been seeking was undercut by the failure to sustain the two claims that had challenged Microsoft's right to compete outside its operating system monopoly by integrating new functions into Windows, the attempted monopolization claim and the tying claim. The former was dismissed, and the latter was remanded under a much more difficult rule-of-reason standard. The court of appeals ruled that, albeit with some limits, Microsoft could lawfully integrate new functions into the operating system and use the advantages flowing from its knowledge and design of the operating system to compete in downstream markets.

Third, and more generally, tile relief in a section 2 case must have its foundation in the offending conduct. The monopoly maintenance finding, as modified by tile court of appeals, and without the "course-of-conduct" theory, would not in our view sustain a broad-ranging structural remedy that went beyond what was necessary to address Microsoft's unlawful responses to the middleware threat to its operating system monopoly. Indeed, our new district judge, Judge Kollar-Kotelly, stated in open court that she expected our proposed remedy to reflect the fact that portions of our case had not been sustained.

Finally, from a practical standpoint, even assuming that we could have eventually secured a breakup of Microsoft—a very dubious assumption in light of what the court of appeals and Judge Kollar-Kotelly have stated—the time it would have taken to continue litigating the break-up and the inevitable appeals could easily have delayed relief for another several years. By taking structural relief off of the table at the outset of the remedy proceeding on remand, we were able to get favorable procedural rulings that were essential to moving quickly to a prompt resolution.

More generally, a number of critics have suggested ways in which we could have further constrained Microsoft's conduct in the marketplace—either by excluding it from markets outside the operating system market, restricting it from integrating functions into its products or collaborating with others, or requiring it to widely share its source code as an open platform. While it is certainly true that restrictions and requirements of this sort might be desirable and advantageous to Microsoft's competitors, they would not necessarily be in the interest of competition and consumers overall; many would reduce consumer choice rather than increase it. Moreover, to the extent these restrictions go beyond what is needed to remedy proven antitrust violations, they are not legitimate remedial goals. The objectives of civil antitrust enforcement are remedial, and they focus on protecting and restoring competition for the benefit of consumers, not on favoring particular competitors.

As to more complex questions regarding whether the decree has properly covered all the elements that will be needed for full relief, questions of that nature are entirely appropriate and hopefully will be raised and addressed in the Tunney Act process.

But I believe the decree, by creating the opportunity for independent software vendors to develop competitive middleware products on a function-by-function basis, by giving computer manufacturers the flexibility to place competing middleware products on Microsoft's operating system, and by monopolization in that it commingled code for the purpose of preventing the Microsoft browser from being removed from the desktop. That is certainly the finding of the Court of Appeals.

Now, in the process of going through my preparation for this hearing, I went back and looked at the Department of Justice's position with regard to this. Throughout the course of the case, and even in the contempt proceeding involving the former tying claims, it has always and consistently been the Department of Justice's contention that it did not want to force Microsoft to remove code from the operating system. They have said that over and over again in every brief that has been filed in this case.

What the Department of Justice wanted was an appropriate functionality that would give consumers the choice between middleware functionalities. That is exactly the remedy that we have here and we think it is an effective remedy. We have gone beyond that particular aspect of this by including into our decree a specific provision that deals with the questions of defaults; in other words, the extent to which a non-Microsoft middleware product can take over and be invoked automatically in place of a Microsoft middleware product. That is something that was not in the earlier decrees. It is a step beyond what was included in Judge Jackson's order.

We think that we have addressed the product integration aspects of the Microsoft monopoly maintenance claim in exactly the terms that the Department has always pursued with regard to that particular issue, and we are completely satisfied with that aspect of the relief.

The Chairman. Well, I have a follow-up on that, as you probably expect, but my time is up and I want to yield to Senator DeWine. Actually, I have a follow-up on the retaliation, also, but I do appreciate your answer.

Senator DeWine?

Senator DeWine. Thank you, Mr. Chairman.

Mr. James, this case has been certainly very controversial and inspired a great deal of discussion regarding the effectiveness of the antitrust laws, especially within the high-tech industry.

Netscape, for example, vocally opposed Microsoft during this litigation. Many of Netscape's complaints really were validated by the courts, and yet Netscape ended up losing the battle. This sort of result has led some to question whether our antitrust laws can be effective in this particular industry.

I personally believe that the antitrust laws are essential to promoting competition within the industry and throughout the country, but I would like to hear what your views are on this subject. What lessons do you think this case teaches us in regard to that and what do we say to people like Netscape?

Mr. James. Well, it is certainly the case that our judicial system very often can provide a crude tool for redressing particular issues quickly. I would note that this particular case was litigated on a very fast track and the people at the Department of Justice are to be really commended for pushing this case along at even the speed that it is has taken, considering the comparable speed of other cases.

I think, however, that the case stands for an important proposition, and that is that the Department of Justice is up to meeting the challenge, that it has the tools at its disposal to investigate unlawful conduct, to understand and appreciate the implications of what complex technical matters involve, to bring the resources to bear in order to litigate these cases to a successful conclusion, and, where appropriate, to teach a settlement that is in the public interest.

One of the things that I think is an important issue to note here is that there is certainly a time difference between litigating a matter of original liability and litigating a matter involving compliance with a term of a decree.

We think that the enforcement powers that are involved here are appropriate ones. We think that enforcement by the Department of Justice is the appropriate way to proceed in these matters, and we are confident that this provides the sort of best mechanism for dealing with a complex matter in complex circumstances.

Senator DeWine. One provision of the Proposed Final Judgment requires Microsoft to allow computer manufacturers to enable access to competing products. However, for a product to qualify for these protections, it must have had a million copies distributed in the United States within the previous year. This would seem to me to run contrary to the traditional antitrust philosophy of promoting new competition.

Why are these protections limited to larger competitors?

Mr. James. I am actually glad you asked that question, Senator, because that is one of the prevailing, I think, misconceptions of the decree. The provisions of the decree that require Microsoft to allow an OEM to place a middleware product on the desktop apply without regard to whether or not that product has been distributed by one million people. That is absolute requirement.

The million-copy distribution provision relates solely to the question of when Microsoft must undertake these affirmative obligations to create defaults, for example, for a middleware product to provide other types of assistance to someone who has developed that product.

The fact of the matter is that this is something that requires a great deal of work, particularly these complex matters of setting defaults which is very important to the competitive circumstances here. And it would be very difficult to impose upon Microsoft the responsibility for making these alterations to the operating system and making them for every subsequent release of the operating system to be automatic in the case of any software company that just shows up and says I have a product that competes.

But I want to be very clear here, Senator. Every qualifying middleware product, without regard to how many copies it has distributed—an OEM can place that product on the desktop immediately, without regard to this one-million threshold.

Quite frankly, in today's world, one million copies distributed is not a substantial matter. I think in the last year I might have gotten a million copies of AOL 5.0 in the mail. So I don't think that that is really a very large impediment.

Senator DeWine. Let me ask one last question. You have mentioned that a number of provisions in the settlement go beyond the four corners of the case, but Microsoft agreed to these conditions anyway.

What are they, and what is the goal of these provisions?

Mr. James. Well, I think one of the most important ones is the default provision. As of the time of our original case, these middleware products were operated in a fairly simple way. You clicked on to that product, you invoked that product, and then you used it in whatever way was appropriate.

In today's world, software has changed. We see what they call a more seamless user interface, user experience, and it is necessary for people to operate deeply within the operating system on an integrated basis. There were allegations that Microsoft overrode consumer choice in these default mechanisms in the case.

With regard to each and every one of those instances alleged by the Justice Department, the Justice Department lost. The court found for Microsoft. Notwithstanding that, as a matter of fencing in and improving the nature of this decree, we have included into this issue the subject of defaults.

Another important area, I think, is the question of server interoperability, and that is a very, very important issue as we see going forward. I think if you go back and read the complaint in this case, you will find that the word "server" almost virtually never appears. There are no sort of very specific allegations that go to this. We thought this was an important alternative platform issue. We thought it was important to stretch for relief in this case, and we did so and got, I think, relief that is very effective in preserving this as people go into an environment of more distributed Web processing. So we think that that is a very powerful thing.

I think these are two issues that the Department of Justice would have had a very, very difficult time sustaining in court, to the extent the court was inclined to limit us to the proof that we put forward. So I think that these are very positive manifestations of the settlement.

Senator DeWine. Thank you, Mr. Chairman.

The Chairman. We are checking one thing, and I mention this to Senator Kohl, Senator Sessions, and Senator Cantwell, who have been here waiting to ask questions. We are finding out from the floor. We have been notified that there may have been a move, as any Senator has a right to do under our Senate rules, to object to committees meeting more than two hours after the Senate goes in session.

We are on the farm bill and appropriations and other essential matters, so that I have been told that a Senator has objected, as every Senator has a right to do, to us continuing. As a result, because the Senators say they want us to concentrate on what is going on on the Senate floor, we have to respect the rules of the Senate. I do, and I am going to have to recess this hearing at this time.

I am going to put into the record the statements of all those who have come here to testify.

[The prepared statement of Mr. James follows:]

[The prepared statements of Messrs. Himes, Rule, Lessig, Cooper, Zuck, Szulik, and Kertzman follow:]

The Chairman. Senator Hatch and I will try to find a time we might reconvene this hearing, because both Senator Hatch and I feel this is a very important hearing.

The record will be open for questions that might be submitted. I apologize to everybody. We did not anticipate this. But with 100 Senators, every so often somebody exercises that rule. I would emphasize Senators have the right to exercise that rule, especially when we are in the last three weeks of the session. I think we are going to break for Christmas Day, but we are in the last three weeks of the session, and I think the Senator invoking the rule wants to make sure all Senators pay attention to the work on the floor.

Senator Hatch. Mr. Chairman?

Senator Sessions. Mr. Chairman?

The Chairman. but Senator Hatch? Senator Hatch.

We really are technically out of time.

Mr. Chairman, we are out of time. Any Senator can invoke the two-hour rule and a Senator has done that. Fortunately, I think it was against the Finance Committee markup today, but we reported out the bill anyway right within the time constraint. That is where I went.

Both Senator Leahy and I apologize to the witnesses who have put such an effort into being here today because this is an important hearing. These are important matters to both sides—to all sides, I should say; there are not just two sides here. These matters have a great bearing on just how positively impactful the United States is going to be in these areas.

So I hope that we can reconvene within a relatively short period of time and continue this hearing because it is a very, very important hearing. We apologize to you that this has happened, but as Senator Leahy has said, a Senator can do that.

The Chairman. Well, it is out of our hands, but I would note that normally I would have recessed it until tomorrow, but tomorrow we are using this time for an executive committee meeting of the Judiciary Committee to do, as we have done many times already, to vote out a large number of judges.

So with that, we stand in—Jeff, I am sorry. Senator Sessions. Just, Mr. Chairman, a matter of procedure. I am troubled by what I understand to be a decision to send this transcript to the court as an official document from Congress in the middle of a litigation that is ongoing.

I would think that anybody's statement that they gave could be sent to the court. Any Senator can write a letter to the court. I haven't studied it fully, but just as a practitioner, it troubles me to have a meddling—

The Chairman. That record is open to anybody who wants to send anything in. Senator Hatch and I have made that decision and that will be the decision of the committee.

Senator Sessions. I would be recorded as objecting.

The Chairman. Of course, I understand. We stand adjourned.

[Whereupon, at 11:43 a.m., the committee was adjourned.]

STATEMENT OF SENATOR PATRICK LEAHY, CHAIRMAN, SENATE COMMITTEE ON THE JUDICIARY HEARING

"THE MICROSOFT SETTLEMENT: A LOOK TO THE FUTURE"

December 12, 2001

The proposed settlement that the Department of Justice and nine States have transmitted to the District Court offers a plan for the conclusion of this landmark antitrust litigation. It must now pass the legal test set out in the Tunney Act to gain court approval. That test is both simple and broad, and requires an evaluation of whether the proposed settlement is in the public interest. There is significant difference of opinion over how well the proposed settlement passes this legal test. In fact, the States participating in the litigation against Microsoft are evenly split, with nine States joining in the proposed settlement and nine non-settling States presenting the court with an alternative remedy. As the courts wrangle with the technical and complex legal issues at stake in the case, this committee is conducting hearings to educate ourselves and the public about what this proposed settlement really means for our high-tech industry and for all of us who use computers at work, at school, and at home.

Scrutiny of the proposed settlement by this committee during the course of the Tunney Act proceeding is particularly important. The focus of our hearing today is to examine whether the proposed settlement is good public policy and not on the legal technicalities. The questions raised here and views expressed may help inform the court. I plan with Senator Hatch to forward to the court the record of this hearing for consideration as the court goes about the difficult task of completing the Tunney Act proceedings and the remedy action by the non-settling States.

I am especially concerned that the District Court take the opportunity seriously to consider the remedy proposal of the non-settling States before making her final determination on the other parties" proposed settlement. The insights of the other participants in this complicated and hard-fought case will surely be valuable additions to the comments received in the Tunney Act proceeding and help inform the evaluation whether the settlement is in the public interest.

The effects of this case extend beyond simply the choices available in the software marketplace. The United States has long been the world leader in bringing innovative solutions to software problems, in creating new tools and applications for use on computers and the Web, and in driving forward the flow of capital into these new and rapidly growing sectors of the economy. This creativity is not limited to Silicon Valley. The Burlington, Vermont, area ranks seventh in the nation in terms of patent filings. Whether the settlement proposal will help or hinder this process, and whether the high tech industries will play the important role that they should in our Nation's economy, is a larger issue behind the immediate impact of this proposal.

With that in mind, I intend to ask the representatives of the settling parties how their resolution of this conflict will serve the ends that the antitrust laws require. Our courts have developed a test for determining the effectiveness of a remedy in a Sherman Act case: The remedy must end the anticompetitive practices, it must deprive the wrongdoer of the fruits of the wrongdoing, and it must ensure that the illegality does not recur. The Tunney Act also requires that any settlement of such a case serve the public interest. These are all high standards, but they are reasonable ones. In this case, the DC Circuit, sitting en banc and writing unanimously, found that Microsoft had engaged in serious exclusionary practices, to the detriment of their competitors and, thus, to all consumers. Today, we must satisfy ourselves that these matters have been addressed and redressed, or find out why not.

I have noted my concern that the procedural posture of this case not jeopardize the opportunity of the non-settling States to have their "day in court" and not deprive the District Court of the value of their views on appropriate remedies in a timely fashion. In addition, I have two basic areas of concern about the proposed settlement. Fist, I find many of the terms of the settlement to be either confusingly vague, subject to manipulation, or both. Mr. Rule raised an important and memorable point when he last testified before this Committee in 1997 during the important series of hearings convened by Senator Hatch on competition in the digital age. Testifying about the first Microsoft-Justice Department consent decree, Mr. Rule said: "Ambiguities in decrees are typically resolved against the Government. In addition, the Government's case must rise or fall on the language of the decree; the Government cannot fall back on some purported "spirit" or "purpose" of the decree to justify an interpretation that is not clearly supported by the language." We take seriously such counsel, and would won-y if ambiguity in the proposed settlement would jeopardize its enforcement.

Second, I am concerned that the enforcement mechanism described in the proposed decree lacks the power and the timeliness necessary to inspire confidence in its effectiveness. Particularly in light of the absence of any requirement that the decree be read in broad remedial terms, it is especially important that we inquire into the likely operation of the proposed enforcement scheme and its effectiveness.

Any lawyer who has litigated cases and any business person knows how distracting litigation of this magnitude can be and appreciates the value that reaching an appropriate settlement can have not only for the parties but also for consumers, who are harmed by anticompetitive conduct, and the economy. I do not come to this hearing prejudging the merits of this proposed settlement but instead as one ready to embrace a good settlement that puts an end to the merry-go-round of Microsoft litigation over consent decrees. But the serious questions that have been raised about the scope, enforceability and effectiveness of this proposed settlement leave me concerned that, if approved in its current form, it may simply be an invitation for the next chapter of litigation. On this point, I share the concern of Judge Robert Bork, who warns, in his written submission, that the proposed settlement "contains so many ambiguities and loopholes as to make it unenforceable, and likely to guarantee years of additional litigation." I look forward to hearing from the Department of Justice and other distinguished witnesses today on the merits of this warning.

STATEMENT OF SENATOR ORRIN G. HATCH RANKING REPUBLICAN MEMBER

BEFORE THE

SENATE JUDICIARY COMMITTEE

HEARING ON "THE MICROSOFT SETTLEMENT: A LOOK TO THE FUTURE"

Mr. Chairman, as you know, we conducted a series of hearings in this Committee in 1997 and 1998 to examine the policy implications of the competitive landscape of the then burgeoning high-tech industry, which was about to explode with the advent of the Internet. Those hearings focused on competition in the industry, in general, and, more specifically, complaints that Microsoft had been engaged in anti-competitive behavior that threatened competition and innovation to the detriment of consumers. Our goal was, and I believe today is, to determine how best to preserve competition and foster innovation in the high-technology industry.

Although the Committee, and I, as its Chairman, was criticized by some, I strongly believed then, and continue to believe now, that in a robust economy involving new technologies, effective antitrust enforcement today would prevent the need for heavy-handed government regulation of business tomorrow. My interest in the competitive marketplace in the high-technology industry was animated by my strong opposition to regulation of the industry, whether by the government, or by one or few companies. As we may remember, the hearings before the Judiciary Committee developed an extensive record of Microsoft's conduct, and evidenced various efforts by the company to maintain and extend its operating system monopoly. Those findings, I would note, were reaffirmed by a unanimous, and ideologically diverse Court of Appeals. The Microsoft case—and its ultimate resolution—present one of the most important developments in antitrust law in recent memory.

As I have emphasized before, having a monopoly is not illegal under our laws. In fact, in a successful capitalist system, striving to be one should be encouraged. However, anticompetitive conduct intended to maintain or extend this monopoly would harm competition and could violate our laws. I believe no one would disagree that the DC Circuit's decision reaffirmed the fundamental principle that a monopolist—even a monopolist in a high-tech industry like software—must compete on the merits to maintain its monopoly.

Which brings us to today's hearing. We are here to examine the policy implications of the proposed settlement in the government's antitrust litigation against Microsoft.

Mr. Chairman, rather than closing the book on the Microsoft inquiry, the proposed settlement appears to be only the end of the latest chapter. The settling parties are currently in the middle of the so-called Tunney Act process before the court. And, the non-settling parties have chosen to further litigate this matter and last week filed their own proposed settlement. This has been a complex case with significant consequences for Microsoft, high-tech entrepreneurs and the American public. The proposed settlement between Microsoft and the Justice Department and nine of the plaintiff State attorneys general is highly technical. We have all been studying it, and its impact, with great interest. Each of us has heard from some, including some of our witnesses here today, that the agreement contains much that is very good.

Not surprisingly, we have also heard and read much criticism of the settlement. These are complex issues, and I would hope today's hearing will illuminate the many questions we have.

I should note that about two weeks ago, I sent a set of detailed and extensive questions about the scope, interpretation, and intended effects of the proposed settlement to the Justice Department, seeking further information. First, I want to commend the Department for getting the responses to me promptly.

We received them yesterday. I think the questions, which were made public, and the Department's responses could be helpful to each member in forming an independent and fair analysis of the proposed settlement.

To that end, and for the benefit of the Committee, Mr. Chairman, I would like to make both the questions and the Department's answers part of the record for this hearing, if you wouldn't have any objections.

As I noted in my November 29 letter to the Department, I have kept an open mind regarding this settlement, and continue to do so. I have had questions regarding the practical enforceability of the proposed settlement and whether it will effectively remedy the unlawful practices identified by the DC Circuit, and restore competition in the software market.

I am also cognizant of both the limitation of the claims contained in the original Justice Department complaint by the DC Circuit, as well as the standards for enforcement under settled antitrust law. I believe that further information regarding precisely how the proposed settlement will be interpreted, given DC Circuit case law, is necessary to any full and objective analysis of the remedies proposed therein. I hope that this hearing will result in the development of such information, that would supplement the questions I put forth to the Department.

Mr. Chairman, one important and critical policy issue that I would hope we can address today, and that I would like all of our witness to consider as they wait to be empaneled so that they can discuss, is the difficult issue of the temporal relation of antitrust enforcement in new high-technology markets.

It cannot be overemphasized that timing is a critical issue in examining conduct in the so-called "new economy." Indeed, the most significant lesson the Microsoft case has taught us is this fact. The DC Circuit found this issue noteworthy enough to discuss in the first few pages of its opinion. And I will quote from the unanimous court:

"[w]hat is somewhat problematic.., is that just over six years have passed since Microsoft engaged in the first conduct plaintiffs allege to be anticompetitive. As the record in this case indicates, six years seems like an eternity in the computer industry. By the time a court can assess liability, firms, products, and the marketplace are likely to have changed dramatically. This, in turn, threatens enormous practical difficulties for courts considering the appropriate measure of relief in equitable enforcement actions ....

[I]nnovation to a large degree has already rendered the anticompetitive conduct obsolete (although by no means harmless)."

This issue is one that is relevant for this Committee to consider as a larger policy matter, as well as how it relates to this case and the proposed settlement we are examining today. Again, I want to thank you Mr. Chairman for continuing the Committee's important role in high-technology policy matters, and I look forward to hearing from our witnesses today.

news from
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FOR IMMEDIATE RELEASE:
December 12, 2001
Contact: Lynn Becker or Jessica Carlin
Phone: (202) 224–5653 Statement of Senator Herb Kohl

The Microsoft Settlement: A Look to the Future

This is a pivotal time for competition in the high tech sector of our economy. After spending more than three years pursuing its groundbreaking antitrust case against Microsoft—a case that is likely to rewrite the rules for competiti6n in the high tech industry for years to come—the government has announced a settlement—But the crucial question remains—will this settlement break Microsoft's stranglehold over the computer software industry and restore competition in this vital sector of the economy?

Frankly, I have serious doubts that it will. An independent federal court—both the teal court and the Court of Appeals in fact—found that Microsoft broke the law and that its violations should be fixed. This antitrust case was as big as they come. Microsoft crushed a competitor, illegally tried to maintain its monopoly, and stifled innovation in this market. Now, after all these years of litigation, of charges and counter-charges, this settlement leaves us wondering—did we really accomplish anything? Or, in the words of the old song, is that all there is? Does this settlement obey the Supreme Court mandate that it must deny the antitrust violator "the fruits" of its illegal conduct?

It seems to many—including nine of the states that joined the federal government in suing Microsoft—that this settlement agreement simply is not strong enough to do the job—to restore competition to the computer software industry. It contains so many loopholes, qualifications and exceptions that many worry that Microsoft will be easily able to evade its provisions. Let me give just one example—the. requirement that Microsoft must allow computer users to install competing software products only applies with respect to software that has had one million copies distributed in the last year. New software competitors just are not protected by this provision.

Today, for the vast majority of computer users, the first thing they see when they turn on their machine is the now familiar Microsoft logo, placed on the Microsoft start menu. And all of their computer operations take place through the filter of Microsoft's Windows operating system. Microsoft's control over the market is so strong that today more than 95% of all personal computers run on the Windows operating system, a market share high enough to constitute a monopoly under antitrust law. Its share of the Internet browsing market is now over 85%. It reported a profit margin of 25% in the most recent quarter, a very high rate of return in challenging economic times.

Microsoft has the power to dictate terms to manufacturers who wish to gain access to the Windows operating system and the ability to leverage its dominance into other forms of computer software. And Microsoft has never been shy about using its market power. Are we really confident that, in five years, this settlement will have had any appreciable impact on these facts of life in the computer industry?

We today stand on the threshold of writing the rules for competition in the distal age. We've got two options. One option involves one dominant company controlling the computer desktop, facing minor restraints that expire in five years, but acting as a gatekeeper to 95% of all personal computer users. The other model is the flowering of innovation and new products that resulted from the break-up of the AT&T telephone monopoly nearly twenty years ago. From cell phones to faxes, from long distance price wars to the development of the Internet itself, the end of the telephone monopoly brought an explosion of new technologies and services that benefit millions of consumers every day. We should insist on nothing less in this case.

In sum, any settlement in this case should make the market for computer software at least as competitive as the market for computer hardware is today. While there's nothing wrong with settling, we should insist on a settlement that has an immediate, substantial, and permanent impact on restoring competition in this industry.

OPENING REMARKS OF SENATOR RICHARD J. DURBIN

HEARING BEFORE THE SENATE COMMITTEE ON THE JUDICIARY

ON

"THE MICROSOFT SETTLEMENT: A LOOK TO THE FUTURE"

December 12, 2001

Ever since the Department of Justice and Microsoft announced, in early November, their plan to settle the long-running antitrust litigation, a lot of people have weighed in with their concerns.

This hearing is important because it provides those of us in Congress with the first real opportunity to examine the terms of the proposed Microsoft settlement, and to hear from all sides of this issue. I think it is important that everyone understands what this settlement means, both in terms of the specific details, and in the longer term ramifications, before they level any criticism.

It's also important to note that the proceeding is still ongoing, and that this matter is still before the judge in a "Tunney Act proceeding." So, I hope today's hearing will shed valuable light on what this settlement means for all of us in an objective and educational way.

Like me, most of our constituents have owned and used personal computers for a long time, and most who do own computers utilize Microsoft Windows PC operating systems. So we are very familiar with and have gotten quite used to Microsoft products and services. And it is our constituents who will bear the long-term impact of this settlement, whatever results that will mean in the market. I hope we keep that in mind as we scrutinize the terms agreed upon between the Justice Department, state attorneys general and Microsoft.

I think one of the difficulties that this settlement attempted to resolve is to try to address problems that arose in the past while, at the same time, anticipate and regulate potential anti- competitive conduct in the future.

In a technology industry that is innovative and constantly evolving, tiffs is obviously a challenge, and I'm sure there are issues that the settlement could not or did not anticipate. At this hearing, I'd like to learn what some of these missing issues are.

Another issue of interest to me involves the Internet market. With the launch of Windows XP—Microsoft's newest operating system—the issues raised by the original Justice Department complaint remain salient in determining the scope of the marketplace for web-based services.

Some opponents of Microsoft throughout the litigation, and even now with this settlement, have contended that Microsoft intends to leverage its dominance in the PC marketplace to establish itself as the player in web-based services. It is unclear to me just how much of those concerns will be resolved by this settlement, so I look forward to hearing Microsoft's response.

Finally, I am interested in knowing more about the innovative enforcement mechanism included in the settlement decree. I understand that this is probably the most stringent enforcement requirement ever imposed by the Justice Department in an antitrust matter. But I don't know how workable it will be for the Justice Department to remain so intimately involved over the next five years given how fast the technology industry changes. Five years is an eternity in the high-tech world. In negotiating this settlement, I hope that the Department relied on the many lessons it learned from its experience with the AT&T breakup and the long-term monitoring that that case involved.

Ultimately, we must find a way to promote competition and choice in the technology marketplace while continuing to encourage investment and innovation by this dynamic industry. Reasonable people can disagree about how we ought to get there.

I am grateful that today's hearing presents us with an opportunity to hear from knowledgeable witnesses on both sides of this dispute.

Thank you.

preventing retaliation by Microsoft against those who choose to develop or use competing middleware products, fully addresses the legitimate public goals of stopping Microsoft's unlawful conduct and restoring competition lost on its account.

Mr. Chairman, a vigorously competitive computer software industry is vital to our economy, and the Department is committed to ensuring that it remains competitive. I hope that my testimony has helped members of the Committee more fully understand why the Department is completely satisfied that the proposed consent decree now before the district court will provide a sufficient and effective remedy for the anticompetitive conduct in which Microsoft has been found to have engaged in violation of the Sherman Act. I would be happy to answer any questions you or other members of the Committee may have.

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SENATE COMMITTEE ON THE JUDICIARY HEARING ON THE MICROSOFT SETTLEMENT: A LOOK TO THE FUTURE

TESTIMONY OF JAY L. HIMES, CHIEF, ANTITRUST BUREAU OF THE NEW YORK STATE ATTORNEY GENERAL'S OFFICE

Washington, DC
Wednesday, December 12, 2001

Chairman Leahy and distinguished Members of this Committee, thank you for inviting me to testify before you today on the important issues relating to the settlement of the case against Microsoft, brought by the Antitrust Division of the United States Department of Justice, 18 States and the District of Columbia. New York is one of the lead States in this lawsuit, and we have had a central role in the matter going back to the investigation that led to the filing of the case.

As the members of the Committee know, on Friday, November 2, 2001, the DOJ and Microsoft reached a proposed settlement of the lawsuit, which was then publicly announced. After further negotiations between Microsoft and the States, a revised settlement was reached on Tuesday, November 6, 2001. New York—together with the States of Illinois, Kentucky, Louisiana, Maryland, Michigan, North Carolina, Ohio and Wisconsin—agreed to the revised settlement. The remaining State plaintiffs—California, Connecticut, Florida, Iowa, Kansas, Massachusetts, Minnesota, Utah, West Virginia and the District of Columbia—are seeking a judicially ordered remedy, as is their right.

I, together with an Assistant Attorney General from the State of Ohio, were the principal representatives of the States in the lengthy negotiations that led to the proposed final judgment embodying the settlement. Therefore, I believe that we in New York see the Microsoft settlement from a vantage point that others who were not in the negotiating room may lack. I will do my best to try to share our observations with the Committee. I will begin by presenting an overview of the lawsuit and the settlement reached. After that, I will address in more detail several of the central features of the settlement. Then, I wish to turn to the settlement process itself, particularly insofar as it bears on criticism of the proposed final judgment.

1. Overview of the Case and the Settlement

In May 1998, New York, 18 other States and the District of Columbia began a lawsuit against Microsoft, alleging violations of federal and state antitrust laws.[1] The States' case was similar to an antitrust case commenced that same day by DOJ, and the two cases proceeded on a consolidated basis. In summary, the litigation against Microsoft charged that the company unlawfully restrained trade and denied consumers choice by: (1) monopolizing the market for personal computer ("PC") operating systems; (2) bundling (or "tying") Internet Explorer—Microsoft's web browser—into the Windows operating system used on most PCs; (3) entering into arrangements with various industry members that excluded competitive software; and (4) attempting to monopolize the market for web browsers.

After a lengthy trial, the District Court upheld the governments' claims that Microsoft had unlawfully: (1) maintained a monopoly in the PC operating system market; (2) tied Internet Explorer to its Windows operating system monopoly; and (3) attempted to monopolize the browser market. The District Court issued a final judgment breaking up Microsoft into two separate businesses, and ordering certain conduct remedies intended to govern Microsoft's business activities pending completion of the break-up. These remedies were stayed while Microsoft appealed.

In June of this year, the Court of Appeals for the District of Columbia Circuit issued its decision on appeal. United States v. Microsoft Corp., 253 F.3d 34 (DC Cir. 2001). The Court of Appeals broadly upheld the lower court's monopolization maintenance ruling, although it rejected a few of the acts of monopolization found by the District Court including the Court's determination that Microsoft's overall course of conduct itself amounted to monopoly maintenance. On the tying claim, the Court of Appeals reversed the lower court's holding of an antitrust violation, and ordered a new trial under the rule of reason a—standard more favorable to Microsoft than the standard previously used by the trial court. In view of these rulings, the Circuit Court vacated the final judgment, including the break-up provisions. Finally, the Court of Appeals disqualified the trial judge from hearing further proceedings. Thereafter, the Court of Appeals denied a rehearing petition by Microsoft, and the Supreme Court declined to hear an appeal by Microsoft concerning the Court of Appeals' disqualification ruling.

The Court of Appeals returned the case to the District Court in late August of this year. At that point, a new judge—Hon. Colleen Kollar-Kotelly—was assigned. Shortly after that, DOJ and the States announced their intention, in the forthcoming proceedings before the District Court, to refrain from seeking another break up order—and to focus instead on conduct remedies modeled on those included in the earlier District Court judgment. DOJ and the States also announced that the□, would not re-try the tying claim under the rule of reason test that the Court of Appeals had adopted. These decisions by the government enforcers were made in an effort to jump-start the process of promptly obtaining a strong and effective remedy for Microsoft's anticompetitive conduct, as upheld by the Court of Appeals' decision.

The parties appeared before Judge Kollar-Kotelly for the first time at a conference held on September 28, 2001. The Court directed the parties to begin a settlement negotiation and mediation process, which would end on November 2. Specifically, the Court noted that "I expect [the parties] to engage in settlement discussions seven days a week around the clock in order to see if they can resolve this case." (Transcript of September 28, 2001 proceedings, page 5) The Court also adopted a detailed schedule governing the proceedings leading to a heating on remedies, which the Court tentatively set for March 2002, if no settlement could be reached.

The settlement process that the District Court thus set in motion resulted in a proposed final judgment agreed to by Microsoft, DOJ and nine of the plaintiff States. The overarching objective of this settlement is to increase the choices available to consumers (including business users) who seek to buy PCs by promoting competition in the computer and computer software industries. More specifically (and as I will explain further below), the proposed final judgment includes the following means to increase consumer choice and industry competition:

- Microsoft will be prohibited from using various forms of conduct to punish or discourage industry participants from developing and offering products that compete or could compete with the Windows operating system, or with Microsoft software running on Windows.
- Microsoft will be prohibited from restricting the ability of computer manufacturers to make significant changes to Windows, thereby encouraging manufacturers to offer consumers more choice in the features included in PCs available for purchase.
- Microsoft will be required to disclose significant technical information that will help industry participants to develop and offer products that work well with Windows, and, in this way, potentially aid in the development of products that will compete with Windows itself.
- Microsoft will be subject to on-site scrutiny by a specially selected three-person committee, charged with responsibility to assist in enforcing Microsoft's obligations under the settlement, and to help resolve complaints and inquiries that arise by virtue of the settlement.

New York decided to settle the Microsoft case because we believe that the deal hammered out over the many weeks of negotiations will generate a more competitive marketplace for consumers and businesses throughout the country, and, indeed, throughout the world. In summary, the settlement that the parties have submitted to the District Court for approval will accomplish the following:

2. Empowering Computer Manufacturers to Offer Choices to Consumers

First, the proposed final judgment will empower computer manufacturers—the "OEMs" to—offer products that give consumers choice. Under the settlement,

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[1] Subsequently, one State (South Carolina) dropped out, and another (New Mexico) settled earlier this year.

OEMs have the opportunity to add competing middleware to the Windows operating system in place of middleware included by Microsoft. (Section III, paragraphs C and H)[2] Middleware here refers not only to software like the Netscape browser, one of the subjects of the liability trial, but also to other important PC functions, such as email, instant messaging, or the media players that enable consumers to receive audio and visual content from the Internet. (Section VI, paragraphs K and M)[3] Middleware is important, in the context of this case, because it may help break down barriers that protect Microsoft's Windows monopoly.

The government negotiators insisted on, and eventually obtained, a broad definition of middleware so that the proposed decree covers both existing middleware and middleware not currently in existence, but which Microsoft and its competitors may develop during the term of the decree. The reason for our pressing a broad definition is plain enough: the broader the definition of middleware, the more software covered by the settlement, and the greater the opportunity for a software product to develop in a fashion that challenges the Windows monopoly.

Under the proposed decree, OEMs will have the ability to customize the PC's that they offer. They may, for example, add icons launching both competing middleware—and products that use competing middleware—to the Windows desktop or Start menu, and to other places in the Windows operating system. OEMs also will have the ability to suppress the existence of the competing middleware that Microsoft included in the Windows operating system licensed to the OEM. Microsoft itself will have to redesign Windows to the extent needed to permit this sort of substitution of middleware, and to ensure that the OEMs' customization of Windows is honored. (Section III, paragraphs C and H)[4]

The options available to OEMs under the settlement mean that the Windows desktop is up for sale. Companies offering a package of features that includes middleware, and middleware developers themselves, who desire to put their product into the hands of consumers can go to OEMs and buy a part of the real estate that the Windows desk top represents. This opportunity for additional revenue should further empower OEMs to develop competing computer products that offer choice to consumers.

The OEMs' ability to offer consumers competing middleware is backed up by a broad provision that prohibits Microsoft from "retaliating" against OEMs for any decision to install competing middleware (as well as any operating system that competes with Windows). (Section III, paragraph A) This provision forbids Microsoft from altering any of its commercial relations with an OEM, or from denying an OEM a wide array of product support or promotional benefits, based on the OEM's efforts to offer competitive alternatives. (Section VI, paragraph C)

Then, to back up the non-retaliation provision, Microsoft also is required to license Windows to its 20 largest OEMs (who comprise roughly 70% of new PC sales) under uniform, non-discriminatory terms. (Section III, paragraph B) Microsoft also is prohibited from terminating any of its 20 largest OEMs for Windows licensing violations without first giving the OEM notice and an opportunity to cure the alleged violation. (Section III, paragraph A)

3. Empowering Software Developers and Others to Offer Competing Middleware

Second, the proposed final judgment seeks to encourage independent software developers—referred to as "ISVs"—to write competing middleware. This is accomplished by forbidding Microsoft from retaliating against any ISV based on the ISV's efforts to introduce competing middleware or a competing operating system into the market. (Section III, paragraph F) The literally thousands of ISVs in the industry are protected by this additional non-retaliation provision, and they are protected whether or not they have an on-going business relationship with Microsoft.

ISVs, and many other industry participants, are further protected by provisions that prohibit Microsoft from entering into exclusive dealing arrangements relating to middleware or operating systems. Exclusive dealing arrangements are a device that Microsoft used to deny competitors access to the distribution lines needed to enable their products to gain acceptance in the marketplace. (Section III, paragraphs F, G) We have effectively closed off that practice to Microsoft.

4. Requiring Microsoft to Disclose Information to Facilitate Interoperation

Third, the proposed final judgment requires Microsoft to provide the technical information—"interfaces" and "protocols"—that industry members need to enable competing middleware to work well with Windows. Middleware uses functions of the Windows operating system through connections or "hooks" called "applications programming interfaces"—"APIs" for short. Microsoft will now be required to disclose the APIs that its own middleware uses to interoperate with Windows, and to provide technical documents relating to those APIs, so that ISVs who wish to develop competing middleware will have the information needed to make their products work well with Windows. (Section III, paragraph D)

This is, again, a place where the broad definition of middleware, covering both existing and yet to be developed products, matters. (Section VI, paragraph J) The broader the definition, the greater the number of APIs that Microsoft must disclose and document. The greater the technical information made available, the greater the likelihood that industry participants will be able to develop competing middleware that works well on Windows.[5]

The proposed decree goes beyond requiring disclosure of APIs between Windows and Microsoft middleware. More and more, at-home consumers and computer users in the workplace can obtain functionality that they need from either the Internet or from network servers operating in a business setting. This trend means that computer applications running on servers may be an emerging location for developing middleware that could challenge the Windows monopoly at the PC level. Thus, the settlement is designed to prevent Microsoft from using Windows to gain competitive advantages in the way that PCs talk to servers. This is accomplished by requiring Microsoft to disclose, via a licensing mechanism, what are called "protocols" used to enable PCs and servers to communicate with each other. (Section III, paragraph E)

This particular provision—sometimes referred to as the "client/server interoperability" section—was especially important to the States. The provision included in the November 2 version of the final judgment between the DOJ and Microsoft did not seem to us in New York to go quite as far as we felt it needed to go. As a result, this was a place that we and other States focused on in the negotiations leading to the revised settlement signed on November 6. The changes that resulted did not involve many words, but we believe that they enhanced Microsoft's disclosure obligations in this critical area.

5. The Enforcement Mechanism

The subject matter of the Microsoft lawsuit is complex, and so too are many parts of the remedy embodied in the final judgment. This complexity creates the potential for good faith disagreement, as well as for intentional evasion. For this reason, from the outset of the settlement negotiations, New York held to the view that enforcement provisions going beyond those typically found in antitrust decrees would be needed here. We worked closely with DOJ to achieve this objective. What you find in the proposed final judgment is an enforcement mechanism that we believe is unprecedented in any antitrust case.

The proposed consent decree expressly recognizes the "exclusive responsibility" of the United States DOJ and the antitrust officials of the settling States to enforce the final judgment against Microsoft. (Section IV, paragraph A (1)) To assist this federal and state enforcement and compliance effort, the proposed decree will create a three person body, the "Technical Committee" or "TC." (Section IV, paragraph B) The TC is

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[2] Parenthetical references are to Revised Proposed Final Judgment attached to the Stipulation, dated November 6, 2001(the "November 6 Stipulation"), in United States v. Microsoft Corp., Civil Action No. 98–1232 (CKK)(D.DC), and State of New York v. Microsoft Corp., Civil Action No. 98–1233 (CKK)(D.DC) (together "Microsoft").

[3] For ease of exposition, I refer in this testimony to "middleware" as a generic term. In the proposed final judgment itself, there are four related middleware definitions, which are associated with various substantive provisions in the decree. (See Section VI, paragraphs J, K, M, N; Section IV(A) of the Competitive Impact Statement, dated November 15, 2001, filed in Microsoft.)

[4] PC users themselves will have a similar ability to customize Windows.

[5] Strictly speaking, if Microsoft refrains from separately distributing a particular middleware product included in Windows, it need not disclose

[4] PC users themselves will have a similar ability to customize Windows.

empowered, among other things: (1) to interview any Microsoft personnel; (2) to obtain copies of any Microsoft documents—including Microsoft's source code—and access to any Microsoft systems, equipment and physical facilities; and (3) to require Microsoft to provide compilations of documents, data and other information, and to prepare reports for the TC. (Section IV, paragraph B(8)(b), (c)) The TC itself is authorized to hire staff and consultants to carry out its responsibilities. (Section IV, paragraph B(8)(h)) Microsoft also is required to provide permanent office space and office support facilities for the TC at its Redmond, Washington campus. (Section IV, paragraph B(7))

In other words, for the five year term of the decree, the TC will be the on-site eyes and ears of the government enforcers. The TC and government enforcers may communicate with each other as often as they need to, and the TC may obtain advice or assistance from the enforcers on any matter within the TC's purview. In addition, the TC is subject to specific reporting requirements—every six months, or immediately if the TC finds any violation of the decree. (Section IV, paragraph B(8)(e), (f)) The TC further will be expected to field and promptly resolve complaints and inquiries from industry members, or from government enforcers themselves. (Section IV, paragraph B(8)(d), paragraph D)

All of this will be paid for by Microsoft, subject to possible review by federal and state officials, or the Court. To discourage Microsoft from mounting dubious court challenges to the TC's costs and expenses, the proposed decree authorizes the TC to recover its litigation expenses, including attorneys' fees, unless the Court expressly finds that the TC's opposition was "without substantial justification." (Section IV, paragraph B(8)(i))

These enforcement provisions are probably the strongest ever crafted in an antitrust case. Federal and state enforcers will have at their disposal their regular enforcement powers, which may be invoked at any time independent of anything that the TC may do. (Section IV, paragraph A(2), (4)) Meanwhile, the TC will augment these traditional powers in significant respects. In addition, Microsoft itself is required to appoint an internal compliance officer to assist in assuring discharge of the company's obligations under the settlement. (Section IV, paragraph C)

I am mindful that concern has been expressed regarding the enforcement provision that "[n]o work product, findings or recommendations of the TC may be admitted in any enforcement proceeding before the Court. . . . "(Section IV, paragraph D(4)(d)) But the impact of this provision should not be great. As noted, 15 the TC may report to the government enforcers, who may use the TC's work to seek from Microsoft a consensual resolution of, for example, any non-compliant conduct, to initiate (and inevitably shortcut) enforcement-looking activity, to pursue leads, and for other enforcement purposes. Moreover, the TC's work product, once known, should be readily susceptible of prompt replication by enforcement officials for use in judicial proceedings.

6. The Settlement Process

As the very fact of these hearings attests, the proposed settlement of the Microsoft case is a subject of significant public interest and debate. For years, many have asserted that the case itself should never have been filed to begin with. For these individuals, the government should be satisfied to get any remedy at all. We in New York profoundly disagree with this view. As the liability trial and appeal confirmed, this case was properly brought to remedy serious anticompetitive activity by Microsoft. The trial and appellate proceedings further confirmed that the antitrust laws are alive and well in technological industries, just as they are in other parts of our nation's economy. Accordingly, the public is entitled to a strong, effective remedy.

In this regard, however, some have criticized the settlement for not going far enough, or for having exceptions and limitations. We reject this view as well.

In announcing the decision by New York and eight other States to settle the case, New York Attorney General Eliot Spitzer noted that "a settlement is never perfect." A settlement is an agreed-upon resolution of competing positions and objectives. Do I wish that the DOJ and the States had gotten more? Of course I do. Do our counterparts on the Microsoft side wish that they had given up less? There is no doubt about the answer. So, asking these questions does not take us very far. Settlement necessarily means compromise. It is in the nature of the beast.

This particular settlement is the product of roughly five weeks of consuming negotiations, much of which took place under the guidance of two experienced mediators. I am unaware of any calculation of the total person-hours consumed by this effort. Certainly it was in the thousands, if not tens of thousands, of hours. The process required the two sides to explore, both internally and in face-to-face negotiations, a host of factors that bear on terms of the settlement eventually reached, such as: (1) the competitive consequences of varying courses of action; (2) the design, engineering and practical implications and limitations of various remedy approaches, as well as their impact on innovation incentives; (3) the issues actually framed for trial in the liability phase of the case and their resolution by the Court of Appeals; (4) the law governing remedies for the monopoly maintenance violation that the Court of Appeals upheld, which the District Court would be called on to apply in the absence of a settlement; and (5) the resources, effort and time otherwise needed to resolve the sharp factual disputes that would be presented in a full-blown remedies hearing. New York and the other States, as well as the DOJ, were aided in this process by experienced staff and retained experts.

In the final analysis, the DO J, New York and the other settling States concluded that the benefits to consumers and to the competitive process that are likely to result from the negotiated settlement reached here outweigh the uncertain remedy that a contested remedies proceeding might bring. In assessing the soundness of that conclusion, the members of the Committee should recall that the settlement's critics have a luxury that those of us who settled did not have: they have the settlement floor created by the final judgment that we have offered. Absent this settlement, however, a judicial remedies hearing had not simply potential rewards, but significant risks as well.

During the September 28 court conference, the District Court expressed its views regarding the appropriate scope of the conduct remedies that might emerge from a judicial hearing on relief. Among other things, the District Court stated the following:

> The Supreme Court long ago stated that it's entirely appropriate for a district court to order a remedy which goes beyond a simple prescription against the precise conduct previously pursued. . . . The Supreme Court has vested this court with large discretion to fashion appropriate restraints both to avoid a recurrence of the violation and to eliminate its consequences. Now, case law in the antitrust field establishes that the exercise of discretion necessitates choosing from a range of alternatives.
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> So the government's first and most obvious task is going to be to determine which portions of the former judgment remain appropriate in light of the appellate court's ruling and which portions are unsupported following the appellate court's narrowing of liability.
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> Now, the scope of any proposed remedy must be carefully crafted so as to ensure that the enjoining conduct falls within the number [sic, penumbra] of behavior which was found to be anticompetitive. The government will also have to be cautiously attentive to the efficacy of every element of the proposed relief.
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> (Transcript of September 28, 2001 proceedings, pages 9, 8)

These remarks highlight risks that both sides confronted if the decision were made to press for a court-ordered remedy. Several concrete examples, from the settlement actually reached, will further drive home this point.

- Microsoft's API disclosure obligations, and its obligations to permit OEMs to customize the Windows desktop and operating system more generally, revolve around a series of related middleware definitions that the parties agreed to. Absent a settlement, there could no assurance that 19 the courts would adopt middleware definitions as broad as those that DOJ and the settling States negotiated.

The liability trial in the case centered on Microsoft's conduct directed to efforts by Netscape and Sun to get Netscape's web browser and Sun's Java technologies installed on individual PCs. Plaintiffs' theory of the case which the trial and appellate courts upheld was that these forms of middleware could, if sufficiently pervasive at the PC level, erode the applications barrier to entry that protects Microsoft's Windows monopoly. Microsoft therefore set out to exclude this middleware from PCs. In the settlement negotiations leading to the client/server interoperability provision, the government negotiators argued that applications running at the server level can be analogous to middleware running at the PC level. On this approach, middleware developed at the server level could also break down the applications barrier to entry into the PC operating system market. Therefore, the remedy in this case requires Microsoft to disclose ways that PCs running Windows talk to servers running Microsoft software. Absent a settlement, however, there could be no assurance that the courts would order disclosure of this PC/server line of communications. Microsoft resisted this provision 20 during the settlement negotiations, and would similarly have opposed it at a remedies hearing.

Finally, as i noted above, there does not seem to be any antitrust precedent for an enforcement mechanism that puts a monitor on site, with full access to the defendant's documents, employees, systems and physical facilities—all at the defendant's expense. Absent a settlement, Microsoft would have vigorously opposed such a far-reaching enforcement regime, and there plainly could be no assurance that the courts would have ordered comparable relief.

As these examples reflect, I believe that the proposed final judgment compares favorably to—and in some respects may well exceed—the remedy that might have emerged from a judicial hearing.

The existence of a settlement has also accelerated the point in time at which a remedy will begin to take effect. Microsoft has agreed to begin complying with the proposed final judgment starting on December 16, 2001. (November 6 Stipulation, paragraph 2) Assuming further that the District Court approves the proposed final judgment in Tunney Act proceedings in early 2002, there will be a remedy in place a year or more before the trial and appellate level proceedings, needed to resolve the appropriate remedy in the absence of a settlement, would be concluded. In this rapidly changing sector of the industry, the timeliness of a remedy is an important consideration.

6. Conclusion

In sum, the settlement in the Microsoft case promotes competition and consumer choice. It is proportionate to the monopoly maintenance violations that the Court of Appeals for the District of Columbia Circuit sustained. The settlement represents a fair and reasonable vindication of the public interest in assuring the free and open competition that our nation's antitrust laws guarantee.

Microsoft is reported recently to have issued a companywide email stating its commitment to making the settlement "a success" and to "ensuring that everyone at Microsoft complies fully with the terms" of the decree. D. Ian Hopper, Associated Press State & Local Wire (Nov. 30, 2001). We expect nothing less, and we intend to see to it that Microsoft honors that commitment. New York is one of the members of the States' enforcement committee, created under the proposed decree. Our State Antitrust Bureau will be vigilant in monitoring Microsoft's discharge of its obligations, and we look forward to working closely with the DOJ to make sure that the settlement is, indeed, a success. The American public is entitled to nothing less.

Statement of Charles F. (Rick) Rule, Fried Frank Harris Shriver & Jacobson, Counsel for Microsoft Corporation

Before the Committee on the Judiciary, United States Senate, December 12, 2001

Mr. Chairman and members of the Committee, good morning. It is a pleasure to appear before you today on behalf of Microsoft Corporation to discuss the proposed consent decree or Revised Proposed Final Judgment (the "PFJ") to which the U.S. Department of Justice and nine of the plaintiff states have agreed. As this committee is aware, I am counsel to Microsoft in the case and was one of the principal representatives for the company in the negotiations that led to the proposed consent decree.

The PFJ was signed on November 6th after more than a month of intense, around-the-clock negotiations with the Department and representatives of all the plaintiff states. The decree is currently subject to a public interest review by Judge Kollar-Kotelly under the Tunney Act.[1] Because we are currently in the midst of that review and because nine states and the District of Columbia have chosen to continue the litigation, I must be somewhat circumspect in my remarks. However, what I can—indeed, must—stress is that, in light of the Court of Appeals' decision last summer to "drastically" reduce the scope of Microsoft's liability and in light of the legal standards for imposing injunctive relief, the Department and the settling states were very effective in negotiating for broad, strong relief. As the chart in the appendix depicts, ever since the Department and the plaintiff states first filed their complaints in May 1998, the case has been shrinking. What began with five claims, was whittled down to a single monopoly maintenance claim by a unanimous Court of Appeals. Even with respect to that surviving claim, the appellate court affirmed Judge Jackson's findings on only about a third (12 0f35) of the specific acts which the district court had found support that claim.

Given that history and the law, there is no reasonable argument that the PFJ is too narrow or that it fails to achieve all the relief to which the Department was entitled. In fact, as these remarks explain, the opposite is true—faced with tough, determined negotiators on the other side of the table, Microsoft agreed to a decree that goes substantially beyond what the plaintiffs were likely to achieve through litigation. Quite frankly, the PFJ is the strongest, most regulatory conduct decree ever obtained (through litigation or settlement) by the Department.

Why then, one might ask, would Microsoft consent to such a decree? There are two reasons. First, the company felt strongly that it was important to put this matter behind it and to move forward constructively with its customers, its business partners, and the government. For four years, the litigation has consumed enormous resources and been a serious distraction. The constant media drumbeat has obscured the fact that the company puts a premium on adhering to its legal obligations and on developing and maintaining excellent relationships with its partners and customers. Litigation is never a pleasant experience, and given the magnitude of this case and the media attention it attracted, it is hard to imagine any more costly, unpleasant civil litigation.

Second, while the Department pushed Microsoft to make substantial, even excessive concessions to get a settlement, there were limits to how far the company was willing or able to go (limits, by the way, which the Department and the settling states managed to reach). Microsoft was fighting for an important principle—the ability to innovate and improve its products and services for the benefit of consumers. To that end, Microsoft insisted that the decree be written in a way to allow the company to engage in legitimate competition on the merits. Despite the substantial burdens the decree will impose on Microsoft and the numerous ways in which Microsoft will be forced to alter its conduct, the decree does preserve Microsoft's ability to innovate, to improve its products, and to engage in procompetitive business conduct that is necessary for the company to survive.

In short, at the end of the negotiations, Microsoft concluded that the very real costs that the decree imposes on the company are outweighed by the benefits, not just to Microsoft but to the PC industry and consumers generally.

The Court of Appeals' "Road Map "for Relief

In order to evaluate the decree, one must first appreciate the history of this case and how drastically the scope of Microsoft's liability was narrowed at the appellate level. When this case began with the filing of separate complaints by the Department and the plaintiff states in May of 1998, it was focused on Microsoft's integration of browsing functionality called Internet Explorer or IE into Windows 98, which the plaintiffs alleged to be an illegal tying arrangement.

The complaints of the Department and the states included five separate claims: (1) a claim under section 1 of the Sherman Act that the tie-in was per se illegal; (2) another claim under section 1 that certain promotion and distribution agreements with Internet service providers (ISPs), Internet content providers (ICPs), and on-line service providers (OSPs) constituted illegal exclusive dealing; (3) a claim under section 2 of the Sherman Act that Microsoft had attempted to monopolize Web browsing software; (4) a catch-all claim under section 2 that the alleged conduct that underlay the first three claims amounted to illegal maintenance of Microsoft's monopoly in PC operating systems; and (5) a claim by the plaintiff states (but not part of the Department's complaint) under section 2 that Microsoft illegally "leveraged" its monopoly in PC operating systems.[2] As discovery got underway, the case dramatically expanded as the plaintiffs indiscriminately began identifying all manner of Microsoft conduct as examples of the company's illegal efforts to maintain its monopoly. But then, the case began to shrink.

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[1] 15 U.S.C. § 16(b)–(h).

[2] Initially the plaintiff states included an additional section 2 claim based on Microsoft Office; however, they voluntarily dropped that claim in their amended complaint.

In response to Microsoft's motion for summary judgment, the district court dismissed the states' Monopoly leveraging claim (claim 5).

After trial, Judge Jackson held that the plaintiffs failed to prove that Microsoft's arrangements with ISPs, ICPs, and OSPs violated section 1 (claim 2).

Judge Jackson did, however, conclude that the plaintiffs had sustained their claims that Microsoft illegally tied IE to Windows (claim 1), illegally attempted to monopolize the browser market (claim 3), and illegally maintained its monopoly (claim 4), basing his decision on 35 different actions engaged in by Microsoft.

In a unanimous decision of the Court of Appeals sitting en banc, the court reversed the trial court on the attempted monopolization claim (claim 3) and remanded with instructions that judgment be entered on that claim in favor of Microsoft.

The unanimous court also reversed Judge Jackson's decision with respect to the tie-in claim (claim 1). The appellate court held that, in light of the prospect of consumer benefit from integrating new functionality into platform software such as Windows, Microsoft's integration of IE into Windows had to be judged under the rule of reason rather than the per se approach taken by Judge Jackson. The Court of Appeals refused to apply the per se approach because of "our qualms about redefining the boundaries of a defendant's product and the possibility of consumer gains from simplifying the work of applications developers [by ensuring the ubiquitous dissemination of compatible APIs]." The court's decision did allow the plaintiffs on remand to pursue the tie-in claim on a rule of reason theory; however, shortly after the remand, the plaintiffs announced they were dropping the tie-in claim.

With respect to the only remaining claim (monopoly maintenance—claim 4), the Court of Appeals affirmed in part and reversed in part the lower court and substantially shrank Microsoft's liability. After articulating a four-step burden-shifting test that is highly fact intensive, the appellate court reviewed the 35 different factual bases for liability and rejected nearly two-thirds of them.

In the case of seven of those 35 findings (concerning such conduct as Microsoft's refusal to allow OEMs to replace the Windows desktop, Microsoft's design of Windows to "override the user's choice of a default browser," and Microsoft's development of a Java virtual machine (JVM) that was incompatible with Sun's JVM), the appellate court specifically reversed Judge Jackson's decision.

At the time Judge Kollar-Kotelly ordered the parties into intensive negotiations, she clearly recognized the importance of the drastic alteration to the scope of Microsoft's liability.[6] The judge informed the government that its "first and most obvious task is going to be to determine which portions of the former judgment remain appropriate in light of the appellate court's ruling and which portions are unsupported following the appellate court's narrowing of liability."[7] The judge went on to note that "the scope of any proposed remedy must be carefully crafted so as to ensure that the enjoining conduct falls within the [penumbra] of behavior which was found to be anticompetitive."[8] The judge also stated that "Microsoft argues that some of the terms of the former judgment are no longer appropriate, and that is correct. I think there are certain portions where the liability has been narrowed."[9]

Before discussing the negotiations and the decree itself, I would like to make three other points about the crafting of antitrust remedies that also are relevant to considering the relief to which the plaintiffs were entitled. First, the critics of the PFJ routinely ignore the fact that the Department has long acknowledged that Microsoft lawfully acquired its monopoly position in PC operating systems. Indeed, the Department retained a Nobel laureate in the first Microsoft case in 1994 to submit an affidavit to the district court opining that Microsoft had reached its position in PC operating systems through luck, skill, and foresight.[10] It is true of course that Microsoft has now been found liable for engaging in conduct that amounted to illegal efforts to maintain that position; however, there is precious little in the record establishing any causal link between the twelve illegal acts of "monopoly maintenance" and Microsoft's current position in the market for PC operating systems. Thus, contrary to the critics' overheated rhetoric, there is no basis for relief designed to terminate an "illegal monopoly."

Second, decrees in civil antitrust cases are designed to remedy, not to punish. All too often, the critics of this decree speak as though Microsoft was convicted of a crime. It was not. This is a civil case, subject to the rules of civil rather than criminal procedure. To the extent the plaintiffs tried to get relief that could be deemed punitive, that relief would have been rejected.

Third, a decree must serve the purposes of the antitrust laws, which is a "consumer welfare prescription." I realize we are in the "season of giving," but an antitrust decree is not a Christmas tree to fulfill the wishes of competitors, particularly where that fulfillment comes at the expense of consumer welfare. Calls for royalty-free licensing of Microsoft's intellectual property, or for imposing obligations on Microsoft to distribute third part□, software at no charge, or for Microsoft to facilitate the distribution of an infinite variety of bastardized versions of Windows (and make sure they all run perfectly) are great for a small group of competitors who know that such provisions will quickly destroy Microsoft's incentives and ability to compete (not to mention violate the Constitution's proscription against "takings").

Such calls, however, are anathema to consumers' interests in a dynamic, innovative computer industry. Twenty years ago, my old boss and antitrust icon, Bill Baxter, warned about the anticompetitive consequences of antitrust decrees designed simply to "add sand to the saddlebags" of a particularly fleet competitor like Microsoft. It's a warning the courts would certainly heed today.

To their credit, the negotiators for the Department and the settling states understood these three fundamental antitrust principles. While we may have had to remind the other side of these principles from time to time, we did not have to negotiate for their adherence to them. Taxpayers and consumers can be proud that their interests were represented by honorable men and women with the utmost respect for the rule of law. For others to insinuate that, by agreeing to a decree that honors these three fundamental principles, the Department and the settling states "caved" or settled for inadequate relief is as offensive as it is laughable.

The Negotiations

It is against the background I have sketched that, on September 27th, Judge Kollar-Kotelly ordered the parties into intensive, "around the clock" negotiations. Microsoft had already indicated publicly its strong desire to try to settle the case, and so it welcomed the judge's order. As has been widely reported, all the parties in the case took the court's order very seriously. Microsoft assembled in Washington, DC, a core team of in-house and outside lawyers who have been living with this case for years, and who spent virtually all of the next five weeks camped out in my offices down the street. Microsoft's top legal officer was in town during much of the period directing the negotiations. Back in Redmond, the company's most senior executives devoted a great deal of time and energy to the process, and we were all supported by a large group of dedicated lawyers, businesspeople, and staff.

From my vantage point, the Department and the states (at least those that settled) made an equivalent effort. As the mediator wrote after the process ended, "No party was left out of the negotiations. . . . Throughout most of the mediation the 19 states (through their executive committee representatives) and the federal government (through the staff of the antitrust division) worked as a combined "plaintiffs' team."[11] Jay Himes from the office of the New York Attorney General Eliot Spitzer and Beth Finnerty from the office of the Ohio Attorney General Betty Montgomery represented the states throughout the negotiations, putting in the same long hours as the rest of us. At various points Mr. Himes and Ms. Finnerty were joined by representatives from other states, including Kevin O'Connor from the office of Wisconsin Attorney General James Doyle.[12]

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[6] This hearing, it should be noted, occurred after the plaintiffs had dropped their request for divestiture relief.

[7] Transcript of Scheduling Conference before the Honorable Colleen Kollar-Kotelly, September 28, 2001, at 8.

[8] Id.

[9] Id.

[10] The Declaration of Kenneth J. Arrow was attached as an exhibit to the Memorandum of the United States in Support of Motion to Enter Final Judgment, filed on January 18, 1995, with the District Court in support of the Department's 1994 consent decree with Microsoft.

[11] Eric D. Green and Jonathan B. Marks, How We Mediated the Microsoft Case, Boston Globe, at A23 (November 15, 2001).

The negotiations began on September 28th and continued virtually non-stop until November 6th. During the first two weeks, we negotiated without the benefit of a mediator. As they say in diplomatic circles, the discussions were "full and frank." The Department lawyers and the state representatives in the negotiation were extremely knowledgeable, diligent, and formidable.

Microsoft certainly hoped to be able to reach a settlement quickly and before a mediator was designated. However, the views on all sides were sufficiently strong and the need to pay attention to every sentence, phrase, and punctuation mark so overwhelming that reaching agreement proved impossible in those first two weeks. Eric Green, a prominent mediation specialist, was appointed by the court and with the help of Jonathan Marks spent the next three weeks helping the parties find common ground. As Professor Green and Mr. Marks wrote after the mediation ended,

"Successful mediations are ones in which mediators and parties work to identify and overcome barriers to reaching agreement. Successful mediations are ones in which all the parties engage in reasoned discussions of issues that divide them, of options for settlement, and of the risks, opportunities, and costs that each party faces if a settlement isn't reached. Successful mediations are ones in which, settle or not, senior representatives of each party have made informed and intelligent decisions. The Microsoft mediation was successful."[13]

Working day and night virtually until the original November 2 deadline set by the judge, Microsoft and the Department agreed to and signed a decree early on November 2. The representatives of the states also tentatively agreed, subject to an opportunity from November 2 until November 6 to confer with the other states that were more removed from the case and negotiations. During that period, the states requested several clarifying modifications to which Microsoft (and the Department) agreed. From press reports, it appears that during this period the plaintiff states also were being subjected to intense lobbying by a few of Microsoft's competitors who were desperate either to get a decree that would severely cripple if not eventually destroy Microsoft or at least to keep the litigation (and the attendant costs imposed on Microsoft) going. Notwithstanding that pressure, New York, Wisconsin, and Ohio—the states that had made the largest investment in litigating against Microsoft and in negotiating a settlement—along with six other plaintiff states represented by a bipartisan group of state attorneys general signed onto the Revised PFJ on November 6.

The Proposed Final Judgment

Throughout the negotiations, Microsoft was confronted by a determined and tough group of negotiators for the Department and the states. They made clear that there would be no settlement unless Microsoft went well beyond the relief to which, Microsoft believes, the Court of Appeals opinion and the law entitles the plaintiffs. Once that became clear, Microsoft relented in significant ways, subject only to narrow language that preserved Microsoft's ability to innovate and engage in normal, clearly procompetitive activities. Professor Green, the one neutral observer of this drama, has noted the broad scope of the prohibitions and obligations imposed on Microsoft by the PFJ, stating during the status conference with Judge Kollar-Kotelly that "the parties have not stopped at the outer limits of the Court of Appeals' decision, but in some important respects the proposed final judgment goes beyond the issues affirmed by the Court of Appeals to deal with issues important to the parties in this rapidly-changing technology."[14]

I do not intend today to provide a detailed description of each provision of the PFJ; the provisions speak for themselves. It may come as something of a surprise in light of some of the uninformed criticism hurled at the decree, but one of Microsoft's principal objectives during the negotiations was to develop proscriptions and obligations that were sufficiently clear, precise and certain to ensure that the company and its employees would be able to understand and comply with the decree without constantly engendering disputes with the Department. This is an area of complex technology and the decree terms on which the Department insisted entailed a degree of technical sophistication that is unprecedented in an antitrust decree. Drafting to these specifications was not easy, but the resulting PFJ is infinitely clearer and easier to administer than the conduct provisions of the decree that Judge Jackson imposed in June 2000.

If, as one might suspect would be the outcome in a case such as this, the PFJ were written to proscribe only the twelve practices affirmed by the Court of Appeals, the decree would be much shorter and simpler. The Department and settling states, however, insisted that the decree go beyond just focused prohibitions to create much more general protections for a potentially large category of software, which the PFJ calls "middleware." But even these expansive provisions to foster middleware competition were not sufficient to induce the Department and the states to settle; rather, they insisted that Microsoft also agree to additional obligations that bear virtually no relationship to any of the issues addressed by the district court and the Court of Appeals. And lastly they insisted on unprecedented enforcement provisions. I will briefly describe each of these three sets of provisions.

1. Protections for "Middleware"

The case that the plaintiffs tried and the narrowed liability that survived appellate review all hinged on claims that Microsoft took certain actions to exclude Netscape's Navigator browser and Sun's Java technology from the market in order to protect the Windows operating system monopoly. The plaintiffs successfully argued that Microsoft feared that Navigator and Java, either alone or together, might eventually include and expose a broad set of general purpose APIs to which software developers could write as an alternative to the Windows APIs. Since Navigator and Java can run on multiple operating systems, if they developed into general purpose platforms, Navigator and Java would provide a means of overcoming the "applications barrier" to entry and threaten the position of the Windows operating system as platform software.

A person might expect that a decree designed to address such a monopoly maintenance claim would provide relief with respect to Web-browsing software and Java or, at most, to other general purpose platform software that exposes a broad set of APIs and is ported to run on multiple operating systems. The PFJ goes much further. The Department insisted that obligations imposed on Microsoft by the decree extend to a range of software that has little in common with Navigator and Java. The decree applies to "middleware" broadly defined to include, in addition to Web-browsing software and Java, instant messaging software, media players, and even email clients—software that, Microsoft believes, has virtually no chance of developing into broad, general purpose platforms that might threaten to displace the Windows platform. In addition, there is a broad catch-all definition of middleware that in the future is likely to sweep other similar software into the decree.

This sweeping definition of middleware is significant because of the substantial obligations it imposes on Microsoft. Those obligations—a number of which lack any correspondence to the monopoly maintenance findings that survived appellate review—are intended to create protections for all the vendors of software that fits within the middleware definition. Taken together, the decree provisions provide the following protections and opportunities:

Relations with Computer Makers. Microsoft has agreed not to retaliate against computer makers who ship soft-ware that competes with anything in its Windows operating system.

Computer Maker Flexibility. Microsoft has agreed to grant computer makers broad new rights to configure Windows so as to promote non-Microsoft software programs that compete with features of Windows. Computer makers will now be free to remove the means by which consumers access important features of Windows, such as Internet Explorer, Windows Media Player, and Windows Messenger. Notwithstanding the billions of dollars Microsoft invests developing such cool new features, computer makers will now be able to replace access to them in order to give prominence to non-Microsoft software such as programs from AOL Time Warner or RealNetworks. (Additionally, as is the case today, computer makers can provide consumers with a choice—that is to say access to Windows features as well as to non-Microsoft software programs.)

Windows Design Obligations. Microsoft has agreed to design future versions of

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[12] Mr. O'Connor, as well as attorneys in the office of the New York Attorney General, had served as counsel of record for the states in the litigation.

[13] Green and Marks, supra fn. 11.

[14] Transcript of Status Conference before the Honorable Colleen Kollar-Kotelly, November 2, 2001, at 5.

Windows, beginning with an interim release of Windows XP, to provide a mechanism to make it easy for computer makers, consumers and software developers to promote non-Microsoft software within Windows. The mechanism will make it easy to add or remove access to features built in to Windows or to non-Microsoft software. Consumers will have the freedom to choose to change their configuration at any time.

Internal Interface Disclosure. Even though there is no suggestion in the Court of Appeals" decision that Microsoft fails to disclose APIs today and even though the Court of Appeals" holding on monopoly power is predicated on the idea that there are tens of thousands of applications written to call upon those APIs, Microsoft has agreed to document and disclose for use by its competitors various interfaces that are internal to Windows operating system products.

Relations with Software Developers. Microsoft has agreed not to retaliate against software or hardware developers who develop or promote software that competes with Windows or that runs on software that competes with Windows.

Contractual Restrictions. Microsoft has agreed not to enter into any agreements obligating any third party to distribute or promote any Windows technology exclusively or in a fixed percentage, subject to certain narrow exceptions that apply to agreements raising no competitive concern. Microsoft has also agreed not to enter into agreements relating to Windows that obligate any software developer to refrain from developing or promoting software that competes with Windows.

These obligations go far beyond the twelve practices that the Court of Appeals found to constitute monopoly maintenance. One of the starkest examples of the extent to which these provisions go beyond the Court of Appeals decision relates to Microsoft's obligations to design Windows in such a way as to give third parties the ability to designate non-Microsoft middleware as the "default" choice in certain circumstances in which Windows might otherwise be designed to utilize functionality integrated into Windows. As support for his monopoly maintenance conclusion, Judge Jackson had relied on several circumstances in which Windows was designed to override the end users" choice of Navigator as their default browser and instead to invoke IE. The Court of Appeals, however, reviewed those circumstances and reversed Judge Jackson's conclusion on the ground that Microsoft had "valid technical reasons" for designing Windows as it did. Notwithstanding this clear victory, Microsoft acceded to the Department's demands that it design future versions of Windows to ensure certain default opportunities for non-Microsoft middleware.

2. Uniform Prices and Server Interoperability

Nevertheless, agreeing to this wide range of prohibitions and obligations designed to encourage the development of middleware broadly defined was not enough to get the plaintiffs to settle. Instead, they insisted on two additional substantive provisions that have absolutely no correspondence to the findings of monopoly maintenance liability that survived appeal.

Uniform Price List. Microsoft has agreed to license its Windows operating system products to the 20 largest computer makers (who collectively account for the great majority of PC sales) on identical terms and conditions, including price (subject to reasonable volume discounts for computer makers who ship large volumes of Windows).

Client/Server Interoperability. Microsoft has agreed to make available to its competitors, on reasonable and non-discriminatory terms, any protocols implemented in Windows desktop operating systems that are used to interoperate natively with any Microsoft server operating system.

In the case of the sweeping definition of middleware and the range of prohibitions and obligations imposed on Microsoft, there is at least a patina of credibility to the argument that the penumbra of the twelve monopoly maintenance practices affirmed by the Court of Appeals can be stretched to justify those provisions, at least as "fencing in" provisions. There is no sensible reading of the Court of Appeals decision that would provide any basis for requiring Microsoft to charge PC manufacturers uniform prices or to make available the proprietary protocols used by Windows desktop operating systems and Windows server operating systems to communicate with each other. Nevertheless, because the plaintiffs insisted that they would not settle without those two provisions, Microsoft also agreed to them.

Before turning to the enforcement provisions of the PFJ, I want to say a word about the few provisos included in the decree that provide narrow exceptions to the various prohibitions and obligations imposed on Microsoft. Those exceptions were critical to Microsoft's willingness to agree to the sweeping provisions on which the plaintiffs insisted. Without these narrowly tailored exceptions, Microsoft could not innovate or engage in normal procompetitive commercial activities. The public can rest assured that the settling plaintiffs insisted on language to ensure that the exceptions only apply when they promote consumer welfare. For example, some companies that compete with Microsoft for the sale of server operating systems apparently have complained about the so-called "security carve-out" to Microsoft's obligation to disclose internal interfaces and protocols. That exception is very narrow and only allows Microsoft to withhold encryption "keys" and the similar mechanisms that must be kept secret if the security of computer networks and the privacy of user information is to be ensured. In light of all the concern over computer privacy and security these days, it is surprising that there is any controversy over such a narrow exception.

3. Compliance and Enforcement

The broad substantive provisions of the PFJ are complemented by an unusually strong set of compliance and enforcement provisions. Those provisions are unprecedented in a civil antitrust decree. The PFJ creates an independent three-person technical committee, resident on the Microsoft campus, with extraordinary powers and full access to Microsoft facilities, records, employees and proprietary technical data, including Windows source code, which is the equivalent of the "secret formula" for Coke. The technical committee provides a level of technical oversight that is far more substantial than any provision of any other antitrust decree of which I am aware. At the insistence of the plaintiffs, the technical committee does not have independent enforcement authority; rather, reports to the plaintiffs and, through them, to the court. The investigative and oversight authority of the technical committee in no way limits or reduces the enforcement powers of the DOJ and states; rather, the technical committee supplements and enhances those powers. Each of the settling states and DOJ have the power to enforce the decree and have the ability to monitor compliance and seek a broad range of remedies in the event of a violation.

Microsoft also agreed to develop and implement an internal antitrust compliance program, to distribute the decree and educate its management and employees as to the various restrictions and obligations. In recent years, Microsoft has assembled in-house one of the largest, most talented groups of antitrust lawyers in corporate America. They are already engaged in substantial antitrust compliance counseling and monitoring. The decree formalizes those efforts, and quite frankly adds very substantially to the in-house lawyers" work. As we speak, that group, together with key officials from throughout the Microsoft organization, are working to implement the decree and to ensure the company's compliance with it.

As with the substantive provisions, Microsoft agreed to these unprecedented compliance and enforcement provisions because of the adamance of the plaintiffs and because of the highly technical nature of the decree. Microsoft, the Department, and the settling states recognized that it was appropriate to include mechanisms—principally, the technical committee—that will facilitate the prompt and expert resolution of any technical disputes that might be raised by third parties, without in any way derogating from the government's full enforcement powers under the decree. Although the enforcement provisions are unprecedented in their stringency and scope, they are not necessitated or justified by any valid claim that Microsoft has failed to comply with its decree obligations in the past. In fact, Microsoft has an exemplary record of complying with the consent decree to which the company and the Department agreed in 1994. In 1997, the Department did question whether Microsoft's integration of IE into Windows 95 violated a "fencing in" provision that prohibited contractual tie-ins, but Microsoft was ultimately vindicated by the Court of Appeals.[15] Microsoft has committed itself to that same level of dedication in ensuring the company's compliance with the PFJ.

Conclusion

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[15] United States v. Microsoft, 147 F.3d 935 (D.C. Cir. 1998).

The PFJ strikes an appropriate balance in this complicated case, providing opportunities and protections for firms seeking to compete while allowing Microsoft to continue to innovate and bring new technologies to market. The decree is faithful to the fact that the antitrust laws are a "consumer protection prescription," and it ensures an economic environment in which all parts of the PC-ecosystem can thrive.

Make no mistake, however, the PFJ is tough. It will impose substantial new obligations on the company, and it will require significant changes in the way Microsoft does business. It imposes heavy costs on the company and entails a degree of oversight that is unprecedented in a civil antitrust case. For some competitors of Microsoft, however, apparently nothing short of the destruction of Microsoft—or at least the ongoing distraction of litigation— will be sufficient. But if the objective is to protect the interests of consumers and the competitive process, then this decree more than achieves that goal.

Finally, for all those who are worried about the future and what unforeseen developments may not be covered by this case and the decree, remember that the Court of Appeals decision now provides guideposts, which previously did not exist, for judging Microsoft's behavior, and that of other high technology companies, going forward. Those guidelines, it is true, are not always easy to apply ex ante to conduct; however, now that the Court of Appeals has spoken, we all have a much better idea of the way in which section 2 of the Sherman Act applies to the software industry. In short, what antitrust law requires of Microsoft is today much clearer than it was when this case began. We have all learned a lot over the last four years, and Microsoft has every incentive to ensure that history does not repeat itself.

MTC-00033734

Testimony of Professor Lawrence Lessig, Stanford Law School, before the Senate Committee on the Judiciary at its hearing: The Microsoft Settlement: A Look to the Future

December 12, 2001

Four years after the United States government initiated legal action against the Microsoft Corporation, Microsoft, the federal government, and nine states have agreed upon a consent decree ("the proposed decree") to settle the finding of antitrust liability that the Court of Appeals for the DC Circuit has unanimously affirmed. In my view, that consent decree suffers from a significant, if narrow, flaw. While it properly enlists the market as the ultimate check on Microsoft's wrongful behavior, it fails to provide an adequate mechanism of enforcement to implement its requirements. If it is adopted without modification, it will fail to achieve the objectives that the government had when it brought this case.

Yet while it is important that an adequate and effective remedy be imposed against Microsoft, in my view it equally important that any remedy not be extreme. Microsoft is no longer the most significant threat to innovation on the Internet. Indeed, as I explain more fully below, under at least one understanding of its current Internet strategy, Microsoft could well play a crucial role in assuring a strong and neutral platform for innovation in the future. Thus, rather than retribution, a remedy should aim to steer the company toward this benign and beneficial strategy. Obviously, this benign understanding of Microsoft's current strategy is not the only understanding. Nor do I believe that anyone should simply trust Microsoft to adopt it. But its possibility does suggest the importance of balance in any remedy. The proposed decree does not achieve that balance, but neither, in my view, does the alternative.

I am a law professor at Stanford Law School and have written extensively about the interaction between law and technology. My most recent book addresses directly the effect of law and technology on innovation. I have also been involved in the proceedings of this case. In 1997, I was appointed special master in the action to enforce the 1995 consent decree. That appointment was vacated by the Court of Appeals when it concluded that the powers granted me exceeded the scope of the special master statute. United States v. Microsoft Corporation, 147 F.3d 935, 953–56 (D.C. Cir. 1998) ("Microsoft II"). I was then invited by the District Court to submit a brief on the question of using software code to "tie" two products together.[1] I have subsequently spent a great deal of time studying the case and its resolution.

In this testimony, I outline the background against which I draw my conclusions. I then consider the proposed decree, and some of the strengths and weaknesses of the alternative proposed to the District Court by the nine remaining states (the "alternative"). Finally, I consider two particular areas in which this Committee may usefully consider action in light of the experience in this case.

BACKGROUND

In June, 2001, the Court of Appeals for the DC Circuit unanimously affirmed Judge Jackson's conclusion that Microsoft used its power over Windows to protect itself against innovation that threatened its monopoly power. United States v. Microsoft Corporation, 253 F.3d 54 (D.C. Cir. 2001) (Microsoft IID. That behavior, the Court concluded, violated the nation's antitrust laws. The Court therefore ordered the District Court to craft a remedy that would ""unfetter [the] market from anticompetitive conduct," to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future." Microsoft III, 253 F.2d at 103 (citations omitted).

Integral to the Court's conclusion was its finding that Microsoft had "commingled code" in such a way as to interfere with the ability of competitors to offer equivalent products on an even playing field. As the District Court found, and the Court of Appeals affirmed, Microsoft had designed its products in such a way as to inhibit the substitution of certain product functionality. This design, the district court concluded, served no legitimate business interest. The Court's conclusion was therefore that Microsoft had acted strategically to protect its market power against certain forms of competition.

In my view, this holding by the Court of Appeals is both correct and important. It vindicates a crucial principle for the future of innovation generally, and in particular, on the Internet. By affirming the principle that no company with market power may use its power over a platform to protect itself against competition, the Court has assured competitors in this and other fields that the ultimate test of success for their products is not the decision by a platform owner, but the choice of consumers using the product. To the extent that Microsoft's behavior violated this principle, and continues to violate this principle, it is appropriate for the District Court to craft a remedy that will stop that violation.

An appropriate remedy, however, must take into account the competitive context at the time the remedy is imposed. And in my view, it is crucially important to see that Microsoft does not represent the only, or even the most significant, threat to innovation on the Internet. If the exercise of power over a platform to protect that platform owner from competition is a threat to innovation (as I believe the Court of Appeals has found), then there are other actors who also have significant power over aspects of the Internet platform who could also pose a similarly dangerous threat to the neutral platform for innovation that the Internet as has been. For example, broadband cable could become a similar threat to innovation, if access to the Internet through cable is architected so as to give cable the power to discriminate among applications and content. Similarly, as Chairman Michael Powell suggested in a recent speech about broadband technology, overly protective intellectual property laws could well present a threat to broadband deployment.[2]

Microsoft could play a significant role in resisting this kind of corruption of the Internet's basic values, and could therefore play an important role in preserving the environment for innovation on the net. In particular, under one understanding of Microsoft's current Internet strategy (which I will refer to generally as the ".NET strategy"), Microsoft's architecture would push computing power and network control to the "edge" or "ends" of the network, and away from the network's core. This is consistent with a founding design principle of the early network—what network architects Jerome Saltzer, David Clark, and David Reed call "the end-to-end argument."[3] .NET's possible support of this principle would compete with pressures that now encourage a compromise of the end-to-end design. To the extent Microsoft's strategy resists that compromise, it could become a crucial force in preserving the innovation of the early network.

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[1] See <http://cyberlaw.stanford.edu/lessig/content/testimony/ab/ab. pdf>.

[2] See <http://www.fcc.gov/Speeches/Powell/2001/spmkpl10.html> (suggesting "re-examining the copyright laws" and comparing freedom assured by decision permitting VCRs).

[3] a See End to End Arguments in System <http://web.mit.edu/Saltzer/www/pubhcations/>.

This is not to say that this benign, pro-competitive design is the only way that Microsoft could implement its .NET strategy. There are other implementations that could certainly continue Microsoft's present threat to corn-Design. petition. And obviously, I am not arguing that anyone should trust Microsoft's representation that it intends one kind of implementation over another. Trust alone is not an adequate remedy to the current antitrust trial.

My point instead is that there is little reason to vilify a company with a strong and powerful interest in a strategy that might well reinforce competition on the Internet—especially when, excepting the open source and free software companies presently competing with Microsoft, few of the other major actors have revealed a similarly pro-Internet strategy. Thus, rather than adopting a remedy that is focused exclusively on the "last war," a proper remedy to the current antitrust case should be sufficient to steer Microsoft towards its benign strategy, while assuring an adequate response if it fails to follow this pro-competitive lead.

Such a remedy must be strong but also effectively and efficiently enforceable. The fatal weakness in the proposed decree is not so much the extent of the restrictions on Microsoft's behavior, as it is the weaknesses in the proposed mechanisms for enforcement. Fixing that flaw is no doubt necessary to assure an adequate decree. In my view, it may also be sufficient.

THE PROPOSED DECREE

While the proposed decree is not a model of clarity, the essence of its strategy is simply stated: To use the market to police Microsoft's monopoly. The decree does this by assuring that computer manufacturers and software vendors remain free to bundle and support non-Microsoft software without fear of punishment by Microsoft. Dell or Compaq are thus guaranteed the right to bundle browsers from Netscape or media players from Apple regardless of the mix that Microsoft has built into Windows. Autonomy from Microsoft is thus the essence of the plan—the freedom to include any "middleware" software with an operating system regardless of whether or not it benefits Microsoft.

If this plan could be made to work, it would be the ideal remedy to this four year struggle. Government regulators can't know what should or should not be in an operating system. The market should make that choice. And if competitors and computer manufacturers could be assured that they can respond to the demands of the market without fear of retaliation by Microsoft, then in my view they would play a sufficient role in checking any misbehavior by Microsoft.

The weakness in the proposed decree, however, is its failure to specify any effective mechanism for assuring that Microsoft complies. The central lesson that regulators should have learned from this case is the inability of the judicial system to respond quickly enough to violations of the law.

Thus the first problem that any proposed decree should have resolved is a more efficient way to assure that Microsoft complies with the decree's requirements. Under the existing system for enforcement, by the time a wrong is adjudicated, the harm of the wrong is complete.

Yet the proposed decree does nothing to address this central problem. The decree does not include provision for a special master, or panel of masters, to assure that disagreements about application could be quickly resolved. Nor does it provide an alternative fast-track enforcement mechanism to guarantee compliance.

Instead the decree envisions the creation of a committee of technical experts, trained in computer programming, who will oversee Microsoft's compliance. But while such expertise is necessary in the ongoing enforcement of the decree, equally important will be the interpretation and application of the decree to facts as they arise. This role cannot be played by technical experts, and yet in my view, this is the most important role in the ongoing enforcement of the decree.

For example, the decree requires that Microsoft not retaliate against an independent software vendor because that vendor develops or supports products that compete with Microsoft's. Proposed Decree, § III.B. By implication, this means Microsoft would be free to retaliate for other reasons unrelated to the vendor's competing software. Whether a particular act was "retaliation" for an improper purpose is not a technical question. It is an interpretive question calling upon the skills of a lawyer. To resolve that question would therefore require a different set of skills from those held by members of the technical committee.

The remedy for this weakness is a better enforcement mechanism. As the nine remaining states have suggested, a special master with the authority to interpret and apply the decree would assure a rapid and effective check on Microsoft's improper behavior. While I suggest some potential problems with the appointment of a special master in the final section of this testimony, this arrangement would assure effective monitoring of Microsoft, subject to appeal to the District Court.

The failure to include an effective enforcement mechanism is, in my view, the fatal weakness in the proposed decree. And while I agree with the nine remaining states that there are other weaknesses as well, in my view these other weaknesses are less important than this single flaw. More specifically, in my view, were the decree modified to assure an effective enforcement mechanism, then it may well suffice to assure the decree's success. Without this modification, there is little more than faith to assure that this decree will work. With this modification, even an incompletely specified decree may suffice.

The reason, in my view, is that even a partial, yet effectively enforced decree, could be sufficient to steer Microsoft away from strategic behavior harmful to competition. Even if every loophole is not closed, if the decree can be effectively enforced, then it could suffice to push Microsoft towards a benign, pro-competitive strategy. The proposed decree has certainly targeted the most important opportunity for strategic, or anti-competitive, behavior. If the chance to act on these without consequence is removed, then in my view, Microsoft has a strong incentive to focus its future behavior towards an implementation of its .NET strategy that would reinforce rather than weaken the competitive field. An effective, if incomplete, decree could, in other words, suffice to drive Microsoft away from the pattern of strategic behavior that has been proven against it in the Court of Appeals.

There are those who believe Microsoft will adopt this benign strategy whether or not there is a remedy imposed against them. Indeed, some within Microsoft apparently believe that supporting a neutral open platform is in the best interests of the company.[4] Given the significant findings of liability affirmed by the Court of Appeals, I do not believe it is appropriate to leave these matters to faith. But I do believe that a remedy can tilt Microsoft towards this better strategy, at least if the remedy can be efficiently enforced.

THE NINE STATES' ALTERNATIVE

On Friday, December 7, 2001, the nine states that have not agreed to the proposed consent decree outlined an alternative remedy to the one proposed by the Justice Department. In many ways, I believe this alternative is superior to the Justice Department's proposed decree. This alternative more effectively protects against a core strategy attacked in the District Court—the commingling of code designed to protect Microsoft's monopoly power. It has an effective enforcement provision, envisioning the appointment of a special master. The alternative has a much stronger mechanism for adding competition to the market—by requiring that Microsoft continue to market older versions of its operating system in competition with new versions. And finally, the alternative requires that Microsoft continue to distribute Java technologies as its has in prior Windows versions.

The alternative, however, goes beyond what in my view is necessary. And while in light of the past, erring on the side of overly protective remedies might make sense, I will describe a few areas where the alternative may have gone too far, after a brief description of a few of the differences that I believe are genuine improvements.

Areas of Common Strategy

Both the proposed decree and the alternative agree on a common set of strategies for restoring competition in the market place. Both seek to assure autonomy for computer manufacturers and software vendors to bundle products on the Microsoft platform differently according to consumer demand. Both decrees aim at that end by guaranteeing nondiscriminatory licensing practices, and restrictions on retaliation against providers who bundle or support non-Microsoft products. The alternative specifies this strategy more cleanly than the proposed decree. It is also more comprehensive. But both are aiming rightly at the same common end: to empower competitors to check Microsoft's power.

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[4] This is the argument of David Bank's Breaking Windows: How Bill Gates Fumbled the Future of Microsoft (New York: Free Press, 2001).

Improvements of the Alternative

The alternative remedy adds features to the proposed decree that are in my view beneficial. Central among these is the more effective enforcement mechanism. The alternative proposes the establishment of a special master, with sufficient authority to oversee compliance. This, as I've indicated, is a necessary condition of any successful decree, and may also be sufficient.

Beyond this significant change, however, there are a number of valuable additions in the states" alternative. By targeting the "binding" of middleware to the operating system, the alternative more effectively addresses a primary concern of the Court of Appeals. This restriction assures that Microsoft does not architect its software in a way that enables it strategically to protect itself against competition. Such binding was found by the courts to make it costly for users to select competing functionality, without any compensating pro-competitive benefit.

The alternative also assures much greater competition with new versions of the Windows operating system by requiring that prior versions continue to be licensed by Microsoft. This competition would make it harder for Microsoft to use its monopoly power to push users to adopt new versions of the operating system that advance Microsoft's strategic objectives, but not consumer preferences.

Finally, the alternative addresses a troubling decision by Microsoft to refuse to distribute Java technologies with Windows XP. This decision by Microsoft raises a significant concern that Microsoft is determined to continue to play strategically to strengthen the applications barrier to entry.

Concerns about the proposed alternative

While I believe the alternative represents a significant improvement over the proposed consent decree, I am concerned that the alternative may go beyond the proper scope of the remedy.

Open Sourcing Internet Explorer: While I am a strong supporter of the free and open source software movements, and believe software of both varieties is unlikely ever to pose any of the same strategic threats that closed source software does, I am not convinced the requirement of open sourcing Internet Explorer is yet required, or even effective. Both proposed remedies have a strong requirement that application interfaces be disclosed, and until that remedy proves incomplete, I don't believe the much more extreme requirement of full disclosure of source code is merited.

The definition of Middleware Products: The central target of the litigation was Microsoft's behavior with respect to middleware software. Understood in terms relevant to this case, middleware software is software that lowers the applications barrier to entry by reducing the cost of cross-platform compatibility. Java tied to the Netscape browser is an example of middleware so understood; had it been successfully and adequately deployed, it would have made it easier for application program developers to develop applications that were operating system agnostic, and therefore would have increased the demand for other competing operating systems.

This definition is consistent with the alternative definition of "middleware." But the specification of "middleware products" reaches, in my view, beyond the target of "middleware." Middleware is not properly understood as software that increases the number of cross-platform applications; middleware is software that increases the ease with which cross-platform programs can be written. Thus, for example, Office is not middleware simply because it is a cross-platform program. It would only qualify as middleware if it made it easier for programmers to write platform-agnostic code.

The requirement that Office be ported: For a similar reason, I am not convinced of the propriety of requiring that Office be ported. While Office for the Macintosh is certainly a crucial application for the continued viability of the Macintosh OS, having Office on many platforms does not significantly affect the applications barrier to entry. No doubt if Microsoft strategically pulled the development of Office in order to defeat another operating system, or if it aggressively resisted applications that were designed to be compatible with Office (such as Sun's Star Office), that could raise antitrust concerns. But the failure simply to develop office for another platform would not itself respond to the concerns of the Court of Appeals.

No doubt, each of these additional remedies might be conceived of as necessary prophylactics given a judgment that Microsoft is resolved to continue its strategic anticompetitive behavior. And after a fair and adequate hearing in the District Court, such a prophylactic may well prove justified. At this stage, however, I am not convinced these have been proven necessary.

APPROPRIATE CONGRESSIONAL ACTION

It is obviously inappropriate for Congress to intervene in an ongoing legal dispute with the intent to alter the ultimate judgment of the judicial process. Thus while I believe it is extremely helpful and important that this Committee review the matters at stake at this time, there is a limit to what this Committee can properly do. In a system of separated powers, Congress does not sit in judgment over decisions by Courts.

Yet there are two aspects to this case that do justify a greater concern by Congress. Both aspects are intimately tied to earlier decisions by the Court of Appeals. First, in light of the Court of Appeals" judgment in the 1995 Microsoft litigation, United States v. Microsoft Corporation, 56 F.3d 1448 (D.C. Cir. 1995) (Microsoft I), it is clear that the Tunney Act proceedings before the District Court are extraordinarily narrow. Second, in light of the Court of Appeals" judgment in 1998 Microsoft litigation, Microsoft II, it is not clear that, absent consent of the parties, the District Court has the power to appoint a special master with the necessary authority to assure enforcement of any proposed remedy. Both concerns may justify this Committee taking an especially active role to assure a proper judgment can be reached—in the first case through its consultation with the executive, and the second, possibly with clearer legislative authority.

The Tunney Act Proceedings

In Microsoft I, the Court of Appeals for the DC Circuit held that the District Court's authority under the Tunney Act to question a consent decree proposed by the government was exceptionally narrow. Though that statute requires that the District Court assure that any consent decree is "within the public interest," the Court read that standard to be extremely narrow. If the decree can be said to be within "the reaches of the public interest," Microsoft I, 56 F.3d at 1461, then it is to be upheld.

The consequence of this holding is that it will be especially hard for the District Court to question the government's proposed decree. Absent a showing of corruption, the decree must be affirmed. It is hard for me to imagine that the proposed decree would fail this extremely deferential standard. Thus any weaknesses in the proposed decree would have to be resolved in the parallel proceedings being pursued by the nine states.

This deference may be a reason for Congress in the future to revisit the standard under the Tunney Act. Such a review could not properly affect this case, but concerns about this case may well suggest the value in future contexts.

But the concern about this decree may well be relevant to this Committee's view about the appropriateness of the government's cooperation with any ongoing prosecution by the nine states. The federal government may well have decided its remedy is enough; it wouldn't follow from that determination that the federal government has a reason to oppose the stronger remedies sought by the states. At a minimum, the government should free advisors or consultants it has worked with to aid the continuing states as they may desire.

The power to appoint a "special master"

In Microsoft II, the Court of Appeals interpreted a District Court's power to appoint a special master quite narrowly. While the Court acknowledged the strong tradition of using special masters to enforce judgments, it raised doubt about the power of the special master to act beyond essentially ministerial tasks. In particular, the task of interpreting and applying a consent decree to contested facts was held by the Court of Appeals to be beyond the statute's power—at least where the District Court did not reserve to itself de novo review of the special master's determination. Microsoft II, 147 F.3d at 953–56.

This narrow view of a special master's power was a surprise to many. It may well interfere with the ability of District Courts to utilize masters in highly technical or complex cases. This Committee may well need to consider whether more expansive authority should be granted the District Courts. Especially in the context of highly technical cases, a properly appointed master can provide invaluable assistance to the District Court judge.

These limitations would not, of course, restrict the appointment of a master in any case to which the parties agreed. And it may well be that the simplest way for Microsoft to achieve credibility in the context of this case would be for it to agree to the appointment of a master with substantial authority to interpret and apply the decree, subject to de novo review by the District Court. Such a master should be well trained in the law, but also possess a significant degree of technical knowledge. But beyond the particulars of this case, it may well be better if the District Court had greater power to call upon such assistance if such the Court deemed such assistance necessary.

MTC-00033734

Consumer Federation of America
STATEMENT OF DR. MARK N. COOPER On THE MICROSOFT SETTLEMENT: A LOOK TO THE FUTURE Before the COMMITTEE ON THE JUDICIARY, UNITED STATES SENATE, December 12, 2001

Mr. Chairman and Members of the Committee,

My name is Dr. Mark Cooper. I am Director of Research of the Consumer Federation of America. The Consumer Federation of America is the nation's largest consumer advocacy group, composed of two hundred and seventy state and local affiliates representing consumer, senior citizen, low-income, labor, farm, public power, and cooperative organizations, with more than fifty million individual members.

I greatly appreciate the opportunity to appear before you today. This hearing on "The Microsoft Settlement: A Look To the Future" focuses public policy attention on exactly the right questions. What should the software market look like? Does the Court of Appeals" ruling provide an adequate legal foundation for creating that market? Is it worth the effort? What specific remedies are necessary to get the job done?

Our analysis of the Microsoft case over four years leads us to clear answers. We reject the claim that consumers must accept monopoly in the software industry. Real competition can work in the software market, but it will never get a chance if Microsoft is not forced to abandon the pervasive pattern of anticompetitive practices it has used to dominate product line after product line.

The antitrust case has revealed a massive violation of the antitrust laws. A unanimous decision of the Appeals Court points the way to restoring competition.

The public interest demands that we try.

The proposed Microsoft-Department of Justice settlement is far too weak to accomplish that goal. The litigating states" remedial proposals are now the only chance that consumers have of enjoying the benefits of competition in the industry.[1]

Real Competition In The Software Industry Is The Goal

The defenders of the Microsoft monopoly say that consumers cannot hope for competition within software markets because this is a winner-take-all, new economy industry. In this product space companies always win the whole market or most of it, so anything goes. In fact, Microsoft's expert witness has written in a scholarly journal that: "With "winner take most" markets... [If] there can be only one healthy survivor, the incumbent market leader must exclude its competition or die... There is no useful non-exclusion baseline, which the traditional test for predation requires... As to intent, in a struggle for survival that will have only one winner, any firm must exclude rivals to survive .... In a winner take most market, evidence that A intends to kill B merely confirms A's desire to survive.[2]

By that standard, if a monopolist burned down the facilities of a potential competitor, it might be guilty of arson and other civil crimes, but it would not be guilty of violating the antitrust laws. Consumers should be thankful that both the trial court and the Appeals Court flatly rejected this theory of the inevitability of monopoly and upheld the century old standard of competition.

In fact, the products against which Microsoft has directed its most violent anticompetitive attacks represent the best form of traditional competition—compatible products that operate on top of existing platforms seeking to gain market share by enhancing functionality and expanding consumer choice.[3] Microsoft fears these products and seeks to destroy them, not compete against them, precisely because they represent uncontrolled compatibility, rampant interoperability and, over the long-term,, potential alternatives to the Windows operating system.

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[1] The Consumer Case Against Microsoft (October 1998); The Consumer Cost of the Microsoft Monopoly." 510 Billion and Counting (January 1999); Economic Evidence in the Antitrust Trial: The Microsoft Defense Stumbles Over the Facts (March 18, 1999); Facts Law and Antitrust Remedies." Time for Microsoft to be Held Accountable for its Monopoly Abuses (May 2000) (Attachment A); Mark Cooper, "Antitrust as Consumer Protection in the New Economy: Lessons from the Microsoft Case," Hasting Law Journal, 52 (April 2001) (see Attachment B); Windows XP/ .NET: Microsoft's Expanding Monopoly, How it Can Harm Consumers and What the Courts Must Do to Preserve Competition (September 26, 2001) (see Attachment C).

[2] Richard Schmalensee, "Antitrust Issues in Schumpeterian Industries," 90 American Economic Review, 192–194 (2000).

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EMBARGOED UNTIL 10:00 AM. WEDNESDAY, DECEMBER 12, 2001
Association for Competitive Technology
TESTIMONY OF MR. JONATHAN ZUCK, PRESIDENT, ASSOCIATION FOR COMPETITIVE TECHNOLOGY (ACT) BEFORE THE JUDICIARY COMMITTEE, UNITED STATES SENATE, WEDNESDAY, DECEMBER 12, 2001, 160 DIRKSEN SENATE OFFICE BUILDING, WASHINGTON, DC 20510

ACT, 1413 K Street, NW, 12(th) Floor, Washington, DC 20005, (202) 331 2130.
www.ACTonline.org

INTRODUCTION

Good morning, Mr. Chairman and members of the Committee. I am Jonathan Zuck, President of the Association for Competitive Technology, or ACT. On behalf of our member companies, it is my sincere honor to testify before this committee today. As a professional software developer and technology educator, I am grateful for this opportunity and appreciate greatly your interest in learning more about the effects of the proposed settlement entered into by the United States Department of Justice (DO J), nine state attorneys general and Microsoft on our industry. ACT is a national, Information Technology (IT) industry group, founded by entrepreneurs and representing the full spectrum of technology firms. Our members include household names such as Microsoft, e-Bay and Orbitz. However, the vast majority of our members are small and midsize business, including software developers, IT trainers, technology consultants, dot-coms, integrators and hardware developers located in your states. The majority of ACT members cannot hire lawyers and lobbyists or fly to Washington to have their views heard. Therefore, they look to ACT to represent their interests. To be sure, to meet the needs of our broad constituency, we don't always agree with our members, even Microsoft, on some policy issues.

I have a great deal of respect and sympathy for the plight of these small technology companies, because I spent over fifteen years running similar companies. During this time, I've managed as many as 300 developers, taught over a hundred classes, and worked on some interesting projects. I was responsible for a loan evaluation application for Freddie Mac, an automated Fitness Report application for the Navy and a Regional Check Authentication system for the Department of Treasury. I have built software on multiple platforms include DOS, DR-DOS, OS/2 and Windows using tools from many vendors including Microsoft, Oracle, Sybase, Powersoft, IBM, Borland and others. I remain active as a technologist and last year designed a system to get to your corporate data wirelessly. I have also delivered keynotes and other presentations at technical conferences around the world.

While ACT members vary in their size and businesses, they share a common desire to maintain the competitive character of today's vibrant technology sector that has been responsible for America's "new economy." Unfortunately, for the last three years, the tens of thousands of small businesses in the IT industry, have been virtually ignored during the government's investigation and prosecution of Microsoft.

I believe the settlement, on balance, is good not only for the bulk of the IT industry, but for consumers as well. Voters also see the value in the settlement. Voter Consumer Research conducted polls of 1,000 eligible voters last month in Utah and Kansas that are quite telling. In Utah and Kansas, when asked if their state attorney general should pursue the case after the DOJ settlement had been reached, the respondents said, by a 6 to 1 margin, that they should not.

As one of the "techies" on this panel, I look forward to getting into more "real life" effects of the proposed settlement to prove this point.

With that backdrop, my testimony today is focused on describing how the settlement will foster competition for thousands of America's small IT companies and how that, in turn, will benefit consumers.

THE STATE OF OUR INDUSTRY

Before we discuss life in a post Microsoft settlement world, I must speak to present-day competition and innovation. I want to begin by stating unequivocally that, counter to the protestations of some "experts," competition in the IT industry is alive and well. One demonstrable example is amount of capital investment by Venture Capitalists (VCs) and where that money is headed. Despite the recent downturn, VCs are still looking for the next "billion dollar deal." I know because I have worked with many of them. I won't get into the negative impact this "homerun or nothing" strategy has had on our industry but suffice it to say, billion dollar deals do not come from investing in mature markets with limited growth potential and large existing players. Billion dollar deals only come from investing in new markets with unlimited growth potential and those do not include office productivity software market or even the general PC software market. Indeed, a recent survey of VC's conducted by the DEMOletter, showed that nearly a third of those surveyed will invest over $100 million in start-ups in 2002 and that nearly 20 per cent are planning to invest up to $250 million)[1] The sectors of the IT industry receiving this money include software and digital media.[2] These are precisely the sectors that would benefit from this settlement. Suggestions that opposing the settlement would encourage VC's to change their stripes are ridiculous.

In fact, the information technology world is experiencing a shift away from desktop computing and toward other devices such as personal digital assistants (PDA's), cell phones, set top boxes/game consoles, web terminals and powerful servers that connect them all. In all these growth markets, competition is very strong even though Microsoft is present. As of the third quarter of this year, more than 52 percent of all PDA's were shipped with the Palm operating system while only 18 percent carded a Microsoft operating system according to Gartner. With cell phone manufacturers rushing to integrate PDA functionality, there is are several large players including Symbian (a joint venture between Nokia, Motorola, Ericsson, Matsushita [Panasonic], and Psion), Palm, Linux and Research in Motion's Blackberry operating system. In the game console/set-top box arenas, Microsoft is just entering the picture with established companies like Sony and Nintendo standing on large installed user bases.

The server market is probably the best example of this growing competition. According to IDC, Linux's worldwide market share of new and upgraded operating systems for servers was 27 percent in 2000. It was second only to Microsoft, which stood at 42 percent. IDC predicts predicted Linux's market share will expand to 41 percent by 2005, while Microsoft's will only grow to 46 percent. Things should only become more competitive with IBM putting a billion dollars into its Linux push this year. The vigorous competition in this space in proves in the absence of government intervention, companies like Linux can thrive.

BENEFITS OF THE SETTLEMENT

As the members of the Committee are doubtlessly aware, on November 2, 2001 the DOJ and Microsoft tentatively agreed on a settlement (or consent decree) designed to end the federal antitrust suit. Soon thereafter, nine states attorneys general signed off on a revised settlement. The proposed settlement succeeds in striking a difficult compromise between the "drastically altered" finding of liability adopted by the Court of Appeals and the wishes of Microsoft competitors and critics for crippling sanctions against the company.[3] Remarkably, the negotiators have worked out a settlement proposal that, while entirely satisfying to none, includes something for everyone. A number of Microsoft competitors and their advocates have suggested that this agreement is flawed in that it "does not prevent Microsoft from leveraging its monopoly into other markets." This argument is based on an unfounded fear that Microsoft will attempt to monopolize other markets such as instant messaging and digital media. Undermining this argument is the fact that the Court of Appeals found unanimously that Microsoft did not use its monopoly in the browser (or middleware) market.[4] The bottom line is that the settlement was focused on addressing the allegedly anticompetitive conduct of the past and preventing similar conduct in the future. It is entirely consistent with the basic tenet of antitrust law, which is to protect consumers and competition, not competitors.

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[3] Mark Cooper, Antitrust and Consumer Protection, pp. 863–880.

[1] DEMOletter, December 200 l, at 5–6.

[2] 2 Id., at 5.

[3] United States v. Microsoft, 253 F.3d 34 (DC Cir. 2001) at 102.

[4] The Court of Appeals noted "Because plaintiffs have not carried their burden on either prong, [of an attempted monopolization analysis] we reverse without remand."/d., at 63.

With that understanding, it is important to address the benefits the industry and consumer will derive from implementation of the proposed settlement. ACT believes that the benefits of the settlement can be classified as follows:

1. Increased flexibility for Original Equipment Manufacturers (OEMs)
2. Increased flexibility for third party, IT companies
3. Greater consumer choice
4. Effective enforcement

I will discuss each benefit in turn, paying particular attention to the positive effects on competition in our industry.

1. Increased flexibility for Original Equipment Manufacturers (OEMs) OEMs play a pivotal role in "supply chain" of delivering a rich computing experience for consumers. They provide independent software vendors (ISVs), many of whom are small IT companies, a valuable conduit by which to sell their wares directly to consumers by vying for space on the computer desktop. Thus, it is critical that OEMs have the flexibility to meet market demands by negotiating with ISVs for this type of placement. This practice is known as "monetizing the desktop" and is consistent with market-based competition. Under the proposed settlement, OEMs will have the flexibility to develop, distribute, use, sell, or license any software that competes with Windows or Microsoft "middleware[5]" without restrictions or any kind of retaliation from Microsoft.[6]6 Reinforcing this flexibility, the settlement prohibits Microsoft from even entering into agreements that obligate OEMs to any exclusive or fixed-percentage arrangements.[7] This allows OEMs to negotiate with an array of ISVs through the use of any number of incentives. Moreover, OEMs obtain some control over the desktop space for such things as icons and shortcuts.[8] Another critical element allowing the OEMs to create a competitive playing field is that they have the ability to have non-Microsoft operating systems (e.g., Linux) and other Internet Access Providers (IAP) offerings (e.g., alternative Internet connections such as AOL) launch at boot-up.[9]

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IHVs, especially the thousands of small and mid-size companies in these categories, make up a bulk of the IT industry and will be able to utilize this flexibility to innovate and deliver "consumer critical" products such as instant messaging and digital media to consumers.

The ISVs and IHVs will obtain advance disclosure of Windows APIs, communications protocols, which ,,',,ill increase the quantity, and quality, of competitive product offerings.[11] As with OEMs, Microsoft will be barred from thwarting competition by entering into agreements that obligate ISVs, IHVs, LAPs, or ICPs to any exclusive or fixed-percentage arrangements.[12] It should be noted that the settlement restricts some freedoms in crafting contracts with Microsoft, and thus may discourage some companies that might otherwise like to sign on to "dance" with Microsoft. However, it also protects other companies from any efforts by Microsoft to prevent them from teaming up with Microsoft's competitors like Sun Microsystems or AOL.

3. Greater consumer choice

Nothing is as important to our industry as giving consumers, or end users, the freedom to choose what products and services they want or need. To this end, the settlement ensures that consumers will have the ability to enable or remove access to Microsoft or non-Microsoft middleware, or substitute a non-Microsoft middleware product for a Microsoft middleware product.[13] Microsoft's detractors have generated much commotion with the notion that removal of icons or "automatic invocations" is not enough, and that to give consumers "real" choice, underlying code would have to be removed. This is nonsensical for two reasons.

First, it is a known fact that removal of visible access (e.g., an icon) to middleware or an application is a very effective means of getting the end user to forget about it. Think about how many icons reside on the average user's desktop that serve to "remind" him of what product to use for a certain task. It is a simple case of "out of sight, out of mind." Second, it is also a known fact that removal of the underlying does nothing to enhance consumer choice, and actually could destabilize the platform, increasing costs to consumer software developers who could no longer count on programming interfaces within the Windows operating system. The net result of these provisions is that consumers will be in the position to pick the products the), consider to best meet their needs—whether it be downloading music, sharing pictures over the Web, or chatting with friends via instant messaging applications.

Another myth propagated by Microsoft's competitors is that Microsoft gets to reset the desktop to its preferred configuration 14 days after the consumer buys it no matter what steps the OEM or the consumer have actually taken to try to exercise the choice to use a non-Microsoft product. This is absolutely false. The desktop would not be reset and consumers will always retain choice. For example, consumers can choose among the OEM's configuration, their own configuration and Microsoft's configuration.

4. Effective Enforcement

The final dement of the settlement that will ensure competition is the enforcement provisions. Microsoft must license its intellectual property to the extent necessary for OEMs and other IT companies to exercise any of the flexibility provided in the agreement.[14] In an unprecedented move, the decree creates a jointly appointed Technical Committee (TC) to monitor compliance,[15] The TC will have three members and unspecified staff, and be granted unfettered access to Microsoft staff and documents. While the TC is a better enforcement mechanism than having to apply to a court for each software design element, it is not without some flaws. For example, there are no restrictions on how the TC can be utilized as a tool by Microsoft's competitors to delay shipment of an operating system or middleware product. While this may cause Microsoft some heartburn if it is used for such delay, it will be a fatal malady to the thousands of small and mid-size ISVs, IHVs, training firms and consultants that depend on a timely product launch. I am not a lawyer, so I can only propose a practical solution to this problem. Perhaps the competitors (or anyone else with the view that Microsoft is not complying with the consent decree) should be required to bring their problems to the TC at specified times during the development life cycle. This would prevent "last minute" delays.

Finally, Microsoft is required to implement an internal Compliance Officer to be responsible for handling complaints and compliance issues.[16] This is yet another safeguard that aggrieved parties can use to ensure Microsoft's compliance with the consent decree.

Unfortunately these provisions are not enough to satiate some bent on seeing that this settlement never gets approved. For example, the)" question why the settlement lasts for only 5 years rather than the customary 10. This inquiry fails to acknowledge the realities of the IT industry and the speed at which we innovate. One need only think about the number and types of products that have emerged since 1998 to see why applying static conduct restrictions are out of step with our industry and provide no added value. Further, I believe seeking extended application of the settlement only exposes a bias against Microsoft Because of the significant impact on our industry, I must also address the additional remedies proposed by the nine state attorneys general who did not sign the consent decree. While their aim to "restore competition" is a valid and important antitrust principle—as long as it is limited to the elimination of competitive barriers—their proposal ignores the Court of Appeals ruling and runs counter to established antitrust jurisprudence. The DOJ settlement agreement was wise to avoid the dangerous temptation to redesign and regulate market outcomes. I'll point out two defects of the state's proposal. First, requiring that Windows "must carry" Java does nothing for consumers who can download it with one click and only serves to thwart competition by giving Sun Microsystems a special government-mandated monopoly with which other middleware companies will have to compéte. While I believe "must-carry" provisions are inherently anticompetitive, if the attorneys general were really trying to stand on principle they would have to ask for the same provisions for other middleware providers as well. Second, requiring Microsoft to port its Office product to Linux is tantamount to making it a "ward of the state." There are already several office productivity suites available to users of Linux and some are even free. It would stand to reason that if attorneys general are actually interested in removing an□, "applications barrier to entry" that may exist, they should force the developers of ALL popular software products to port them to Linux. It is clear that from the extreme nature of these proposals that the settlement must encompass all reasonable mechanisms to restore competition. The respondents to the Voter Consumer Research polls mentioned above also question the need for the far-reaching remedies that would hamper Microsoft's ability to innovate. In Utah for example, nearly 70% of voters believe that Microsoft's products have helped consumers and over 80% of these voters feel that that Microsoft has benefited the computer industry. These numbers beg the question: Where's the harm that would justify the nine state's harsh remedies.

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[5] "Microsoft Middleware Product" is a defined term, while inconsistent with common industry usage, has the meaning of "the functionality provided by Internet Explorer, Microsoft's Java Virtual Machine, Windows Media Player, Windows Messenger, Outlook Express and their successors in a Windows Operating System Product." Revised Proposed Final Judgment, Section VI.K.

[6] Id., Section III.A.

[7] Id., Section III.G.

[8] Id., Section III.C.

[9] Id., Section III.C.

party IT companies Like OEMs, ISVs and Independent Hardware Vendors (IHVs) gain the flexibility to develop, distribute, use, sell, or license any software that competes with Windows or Microsoft middleware without restrictions or any kind of retaliation from Microsoft.[10]The importance of this fact cannot be overstated. ISVs and

[10] Id., Section III.F.

[11] Id., Sections III.D., III.E.

[12] Id., Sections III.G., III.F.

[14] Id., Section III.I.

[15] Id., Section IV.B.

[16] Id., Section IV.C.

Conclusion

For ACT member companies, the IT industry and for me, it has been a very long three and a half years. This settlement reflects a balanced resolution to this litigation and a welcome end to the uncertainty that has hung over our industry at a time when certainty is what we need most. It addresses the anticompetitive actions articulated by a unanimous Court of Appeals. I believe Assistant Attorney Charles James when he said "This settlement.., has the advantages of immediacy and certainty."[17]17 It my sincere hope that the District Court will approve the settlement at the conclusion of the public comment period. There is no doubt in my mind that it is in the public interest to do so. Again, I thank the Committee for the opportunity to include the views of ACT's member companies at this important hearing.

Testimony of Matthew J. Szulik, President and CEO, Red Hat, Inc., to the Judiciary Committee of the United States Senate, December 12, 2001

Good morning.

I would like to thank the members of the committee for allowing me to contribute my views on a topic that I feel is of vital importance to the future our nation. I stand before you today as Winston Churchill said, "only to fight while there is a chance, so we don't have to fight when there is none." Through your actions, members of the committee can affect a remedy that many members of the growing, global technical community hope will restore balance and inspire competitiveness in a networked society free of monopolistic practices.

I stand before you today as a representative of the open source community. And as the CEO of Red Hat, Inc., generally regarded as the most successful company that sells and supports open source software. The Red Hat Linux operating system software we sell is created by a global community of volunteers. Volunteers who share their creation of intellectual property. The basis for their work is an open license that requires improvements to the technology be shared with others. Programmers submit their software code, their creations to the scrutiny of a very critical community of peers. The best code wins and is included in the next version of the software. This open communication strikes me as so perfectly American. I envision the early leaders of this country drawing up the tenets of our constitution in much the same way—in the open, in pursuit of a solution that is fair and of benefit to all.

Some have called this the technology equivalent of a barn-raising. Through this approach Linux software has grown, improved and become one of the most stable, cost-effective operating systems in the world. It continues to improve every day.

The values and practices of Red Hat are in most ways antithetical to those of the monopolist I am here to reference.

Much testimony has been provided on the practices by the monopolist, which in my view have placed a technical and financial stranglehold on the technology industry. Mr. McNealy and Mr. Barksdale and others that have come before me have done a good job of presenting the issues to the committee. I support their conclusions that the software industry needs government intervention. I support their requests for strong enforcement of antitrust laws.

I would like to reaffirm their case, that innovation will occur when there is a competitive environment free of monopolistic practices.

Open source software arose because of a lack of alternatives that allowed the individual to choose the best tool for the job. Over the past 5 years, projects created by Red Hat and the open source community have become solutions of choice in areas of standards-based Internet software development, areas that the monopolist does not yet control.

The growth of the Linux operating system is an example of this acceptance. The Apache web server is another, it now holds a market-leading position. However, the Internet browser, desktop operating system and office productivity software are areas that have continued to be influenced by one vendor alone.

One of the reasons I am. so deeply troubled by the consent decree in this case is that it seems to run counter to things that are fundamental to our identity as Americans. We value fair play, ethical competition, abiding by the rules and fostering innovation. The consent decree throws all of this away. It acknowledges that my competitor has broken the law; that through these violations it has built one of the most formidable businesses in the world. Yet the consent decree does little to prevent future misconduct. I feel if the antitrust laws are not enforced, the will and spirit of the true innovators will suffer.

Lengthy legal critiques of the consent decree are already on record. In the interest of time I will not subject you to more this morning. I am sure you've heard enough legal arguments in considering this topic. Rather, I want to make a few key points:

First, their growing monopoly power has seriously warped the technology market. Now that my competitor is a convicted monopolist, the world can see in the public record what those in technology companies have known for years: they don't compete fairly, they use their dominance in one market to dominate others, and they stifle innovation in the name of competition. The only way to stop this—to restore fairness to the market—is a settlement of this case that denies the monopolist the fruits of its past actions and provides remedial measures on the monopolist for its violations of the law.

Second, the consent decree as it stands today, falls far short of this requirement. Given the monopolist's history of skating up to the edge, or over the edge, in not fully complying with prior settlements, it will take very strong measures to change their behavior. In the words of Massachusetts Attorney General Thomas F. Reilly, commenting on the consent decree: "Five minutes after any agreement is signed with Microsoft, they'll be thinking of how to violate the agreement. They're predators. They crush their competition. They crush new ideas. They stifle innovation. That's what they do."

Microsoft is deeply concerned about open source software and has already making overtures on how it will use dominance rather than technical expertise to crush it.

The CEO of the monopolist said, quote, "Linux is a cancer that attaches itself in an intellectual property sense to everything it touches."

The head of the monopolist's Windows Platform Group has similar beliefs: He said publicly, quote, "Open source is an intellectual property destroyer. I can't imagine something that could be worse than this for the software business." He goes on further to say, "I'm an American, I believe in the American way. I worry if the government encourages open source, and I don't think we've done enough education of policy-makers to understand the threat."

In my view, the consent decree should create a level playing field between Windows and Linux. Because of their comments, and their past actions, I believe the current consent decree is not strong enough. They will circumvent it.

Third, we have all heard of the Digital Divide. It's the gap in information and computing access between the haves and have nots in our society. As many states struggle with declining revenues, I believe these shortfalls will have a material impact on the public funding of K-12 and higher education. The path to the development of an information economy can not be limited to a sole supplier, who in my view has seen education up to this point, relative to its financial position as a market—not as a responsibility. I believe the lack of choices and high recurring costs is in part responsible for this growing chasm between the two Americas.

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[17] Remarks of Assistant Attorney Charles James, Department of Justice press conference, November 2, 2001.

I'm involved with North Carolina Central University—an historically black university that cannot afford the monopolist's restrictive licenses and forced upgrades. I see this sad experience in schools throughout our country. Walk the halls of schools in East Roxbury, MA or Snow Hill, NC and question how we can expect, as a nation, to improve the future for our youth when schools must allocate 30–40% of their IT budget for software and hardware upgrades. Provided choice, these same dollars could be put into teacher training and acquiring more technology. The Chinese government understands this. The French and German governments as well. They have stated that proprietary software will not be used to develop government and educational infrastructure.

But the monopolist has more than 90% of the desktop operating system market and more than 70% of the Internet browser market. What choices do our schools have? What choices do our citizens have? As the monopolist extends its monopoly into additional markets, largely unfettered by the legal system and apparently immune to the consequences of their actions— the Digital Divide widens.

Biologists know that an unbalanced ecosystem, one dominated by a single species, is more vulnerable to collapse. I think we're seeing this today. Under the consent decree, it will continue and probably get worse.

In America, history has taught us that there is no mechanism more logical and efficient and than a free and open market. Our competitor's illegal monopolistic actions have significantly reduced the open market in information technology. I believe that in extreme cases like this, it is the role of the government to step in and restore balance.

Thank you.

Testimony of Mitchell E. Kertzman, Chief Executive Officer, Liberate Technologies before the United States Senate, Committee on the Judiciary, Wednesday, December 12, 2001

Introduction

Mr. Chairman, Senator Hatch, and other members of the Committee, thank you for the chance to speak on this critical topic. The Proposed Final Judgment is woefully inadequate. It is a backward-looking document that fails to prevent Microsoft from abusing its monopoly position to increase costs and stifle new technologies—not just for personal computers, but also for new technologies like digital televisions, cellular phones, game consoles, and personal digital assistants. Microsoft has already announced its intent to expand its dominance beyond PC operating systems, servers, and applications to new devices and even personal information via its "eHome" and "Passport" initiatives. According to comments made by Microsoft President Steve Ballmer just last week, Microsoft is pursuing a "broader concept" for its client devices like the xBox and set-top box software. In his words, "[T]here's a bigger play we hope to get over time" by annexing all of these devices into the Microsoft empire. Microsoft's own demos and white papers show that it plans to establish its operating system as the software that would collect information streaming into the home and distribute it to each new device. Microsoft has used and will continue to use its monopoly over desktop operating systems to deny competition in each new computing market as it evolves: first desktop applications, then internet browsers and servers, and now alternative devices ranging from smart phones to television set-top boxes. By dealing only with a narrow category of Windows products, and failing even there to impose any significant restrictions, the Proposed Final Judgment fails to check Microsoft's demonstrated willingness to exploit its power over the operating system in order to dominate other market segments.

Background

By way of personal background, I am the CEO of Liberate Technologies, a company making middleware software that enables interactive and enhanced television. Before joining Liberate, I was chairman and CEO of Sybase, then one of the world's ten largest independent software companies, founder and CEO of Powersoft, an enterprise software company, and chairman of both the American Electronics Association and the Massachusetts Software Council. I am also currently a director of CNET, Handspring, and TechNet.

Throughout my career, I have both partnered with and competed against Microsoft. I have been impressed by the power of its dominant platforms, but also concerned about the abuses that resulted from that dominance. I have seen Microsoft consistently use its power to block competition in new markets through at least three types of misconduct that the PFJ does nothing to deter: (1) Preventing original equipment manufacturers from supporting new technologies; (2) Tying commercial restrictions to investments; and (3) Blocking non-Windows-based industry standards.

(1) Preventing Original Equipment Manufacturers from Supporting New Technologies

My current company, Liberate, was originally Network Computer Incorporated, promoting computers and software that would operate via a network to significantly reduce the cost of computing. This model, like the Netscape browser, threatened the dominance of the Windows platform. But because the manufacturers of many new devices also manufacture desktop PCs, Microsoft was able to exploit its desktop OEM relationships to discourage competition. For example, Network Computer had an active relationship with Digital Equipment Corporation to develop a device running our software. Microsoft and Mr. Gates simply threatened the CEO of DEC that they would port Microsoft's NT operating system to DEC hardware only if DEC stopped development of a network computer, an offer DEC couldn't refuse. It's clear, and the courts have reaffirmed, that a monopoly simply cannot engage in this kind of conduct.

Such tactics forced us to exit this business, and the price of PC operating systems and applications remains as high as ever when all other computing costs have plummeted.

The Proposed Final Judgment focuses only on Windows products for desktop PCs and includes broad and ambiguous exceptions to its limits on retaliation. These loopholes would apparently let Microsoft get away with the kind of misconduct it perpetrated against Network Computer. The result would be to block or delay the development of new competitive devices and technologies. The remedy proposed by the non-settling states would, on the other hand, prevent Microsoft from engaging in this type of retaliation and unfairly extending its desktop monopoly to a wider array of software and devices.

(2) Tying Commercial Restrictions to Investments

Second, in investing the considerable proceeds of its desktop monopoly in new markets, Microsoft has extracted, or attempted to extract, exclusive or near-exclusive commercial distribution arrangements to block out competitors. In the interactive television industry alone, Microsoft has invested billions of dollars with leading cable and satellite networks. As recently as this week, Microsoft has again aggressively pursued this strategy with leading operators both here and in Europe. The strings attached to these investments often require networks to buy Microsoft's middleware, making it difficult or impossible for them to buy competitive products.

Microsoft's money is a heavy thumb on the scale, biasing choices of future technologies in its favor. As new-generation computers and small consumer devices often rely on networks for their interconnections, these investments in network companies set the stage for continued dominance of these new platforms as they evolve.

Again, the PFJ fails to even address the issue of such restrictive dealings outside the scope of desktop products. In contrast, the remedies filed last week by the non-settling states, while not barring new investments, would at least require that Microsoft give 60 days notice to permit a review of anti-competitive effects.

(3) Refusing to Support Non-Windows-Based Industry, Standards

Microsoft has also abused its monopoly position by blocking industry-wide standards essential to the evolution of a new generation of network-based devices. In our industry, Microsoft has undermined Java as a standard for digital television, lobbying heavily to prevent U.S. and European standards bodies from standardizing on Java. As you know, Java lets developers "write once, run anywhere", permitting content to run across a wide variety of platforms rather than just on Microsoft's proprietary code.

As a second prong of this strategy to block, co-opt, or "embrace and extend" standards, Microsoft has refused to join with other technology companies in pooling its intellectual property, instead indicating that it will sue to block the implementation of standards wherever it can find a violation of one of its patents. Microsoft certainly has the right not to support a standard. However, they are exploiting their dominance in the PC market to distort standards elsewhere.

Third, by removing the Java Virtual Machine from its PC operating systems while the JVM is common elsewhere, Microsoft discourages developers from creating new "write-once, run-anywhere" content, undermines support for uniform standards, and drives developers to write to proprietary Microsoft platforms. It is clear that Microsoft's foot-dragging and affirmative interference has slowed the deployment of digital television in the United States. Cable companies and television manufacturers both say that a gating issue has been the lack of a definitive standard for digital television, a standard that Microsoft's tactics have delayed and undermined. Microsoft's approach stands in direct opposition to the clearly expressed will of Congress and the interests of all Americans interested in richer and more varied television programming.

Yet again, the PFJ would do nothing to prevent these abuses. The remedies recently filed by the non-settling states—by making available Microsoft APIs and certain types of code, opening access to the personal identification data captured by Microsoft Passport, and requiring the distribution of the Java Virtual Machine—would promote technology interoperability and the development of universally beneficial standards while maintaining relatively open alternatives to Microsoft software and services.

Conclusion

The PFJ is a disappointment. Disappointing because it is weaker than the facts and the law of the case support, and disappointing because it will not limit Microsoft's plans to dominate new markets in the same way it has dominated operating systems, applications, and servers in the past.

I welcome this hearing, and hope that this Committee will continue to exercise vigorous oversight of this case to assure that the final outcome is in the best interests of American consumers.

Ralph Nader
P.O. Box 19312
Washington, DC 20036
December 11, 200!
Senator Patrick Leahy
Judiciary Committee
US Senate
Washington, DC
Via fax: 1.202,224.9516

Dear Senator Leahy: This is a quick note to express my disappointment that I will not be among the panel members for the December 12, 2001 hearing on Microsoft. 3ames Love on our staff made a number of telephone calls to your Judiciary Committee staff asking that he or [be permitted to testify, beginning as soon as the hearings were first announced. As you may know, we played an instrumental role in 1997 in pushing the Department of Justice to bring this antitrust case, and hosted two key conferences that helped flame the discussions over the case and the proposed remedies (http://www.appraising-microsoft.org). I am attaching also two letters .James Love and I have recently sent regarding the government and private antitrust cases. Would you please include these letters in the printed hearing record. Thank you.

NO. 574 002
Ralph .Nader
P.O. Box 193 1 2
Washington, DC 20036
James Love
Consumer Project on Technology
P.O. Box 19367
Washington, DC 20036
November 5, 2001
Judge Colleen Kollar-Kotelly
United States District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001
RE: US v. Microsoft proposed final order

Dear Judge Kollar-Kotelly,

Introduction

Having examined the proposed consent final judgment for USA versus Microsoft, we offer the following initial comments. We note at the outset that the decision to push for a rapid negotiation appears to have placed the Department of Justice at a disadvantage, given Microsoft's apparently willingness to let this matter drag on for years, through different USDOJ antitrust chiefs, Presidents and judges. The proposal is obviously limited in terms of effectiveness by the desire to obtain a final order that is agreeable to Microsoft.

We are disappointed of course that the court has moved :/way from a structural remedy, which we believe would require less dependence upon future enforcement efforts and good faith by Microsoft, and which would jump start a more competitive market for applications. Within the limits of a conduct-only remedy, we make the following observations.

On the positive side, we find the proposed final order addresses important areas where Microsoft has abused its monopoly power, particularly in terms of its OF. OEM licensing practices and on the issue of using interoperability as a weapon against consumers of non-Microsoft products. There are, however, important areas where the interoperability remedies should lie stronger. For example, there is a need to have broader disclosure of file formats for popular office productivity and multimedia applications. Moreover, where Microsoft appears be given broad discretion to deploy intellectual property claims to avoid opening up its monopoly operating system where it will be needed the most, in terms of new interfaces and technologies. Moreover, the agreement appears to give Microsoft too many opportunities to Undermine the free software movement. We also find the agreement wanting in several other areas.. It is astonishing that the agreement fails to provide any penalty for Microsoft's past misdeeds, creating both the sense that Microsoft is escaping punishment because of its extraordinary political and economic power, and undermining the value of antitrust penalties as a deterrent. Second, the agreement does not adequately address the concerns about Microsoft's failure to abide by the spirit or the letter of previous agreements, offering a weak oversight regime that suffers in several specific, areas. Indeed, the proposed alternative dispute resolution far compliance with the agreement embraces many of the worst features of such systems, operating "in secrecy, lacking independence, and open to undue influence from Microsoft.

OEM Licensing Remedies

We were pleased that the proposed final order provides for non-discriminatory, licensing of Windows to OEMs, and that these remedies include multiple boot PCs, substitution of non-Microsoft middleware, changes in the management of visible icons and other issues. These remedies would have been more effective if they would have been extended to Microsoft Office, the other key component of Microsoft's monopoly power in the PC client software market, and if they permitted the removal of Microsoft products. But nonetheless, they are pro-competitive, and do represent real benefits to consumers.

Interoperability Remedies

Microsoft regularly punishes consumers who buy non-Microsoft products, or who fail to upgrade and repurchase newer versions of Microsoft: products, by designing Microsoft Windows or Office products to be incompatible or non-interoperable with competitor software, or even older versions of its own software. It is therefore good that the proposed final order would require Microsoft to address a wide range of interoperability remedies, including for example the disclosures of APIs for Windows and Microsoft middleware products, non-discriminatory access to communications protocols used for services, and non-discriminatory licensing of certain intellectual property rights for Microsoft middleware products. There are, however, many areas where these remedies may be limited by Micro. soft, and as is indicated by the record in this c .use, Microsoft can and does take advantage of any loopholes in contracts to cream barriers to competition and enhance and extend its monopoly power.

Special Concerns for Free Software Movement

The provisions in J.l and 1.2..appear to give Microsoft too much flexibility in withholding information on "security grounds, and to .provide Microsoft with the power to set unrealistic burdens on a rival's legitimate rights to obtain interoperability data. More generally, the provisions in D. regarding the sharing of technical information permit Microsoft to choose secrecy and limited disclosures over more openness. In particular, these clauses and others in the agreement do not reflect an appreciation for the importance of new software development models, including those "open source" or "free" software development models which are now widely recognized as providing an important safeguard against Microsoft monopoly power, and upon which the Interact depends.

The overall acceptance of Microsoft's limits on the sharing of technical information to the broader public is an important and in our view core flaw in the proposed agreement. The agreement should require that this information be as freely available as possible, with a high burden on Microsoft to justify .secrecy. Indeed, there is ample evidence that Microsoft is focused on strategies to cripple the free software movement, which it publicly considers an important competitive threat. This is particularly true for software developed under the GNU Public License (GPL), which is used in GNU/Linux, the most important rival to Microsoft in the server market. Consider. for example, comments earlier this year by Microsoft executive Jim Allchin:

http://news.cnet.com/news/O- 1003–200–4833927.html

"Microsoft exec calls open source a threat to innovation," Bloomberg News, February 15, 2001, 11:00 a.m. PT One of Microsoft's high-level executives says that freely distributed software Code such as Linux could stifle innovation and that legislators need to understand the threat.

The result will be the demise of both intellectual property rights and the incentive to spend on research and development, Microsoft Windows operating-system chief Jim Allchin said this week. Microsoft has told U.S. lawmakers of its concern while discussing protection of intellectual progeny rights ... "Open source is an intellectual-property destroyer," Allchin said. "I can't imagine something that could be worse than this for. the software business and the intellectual-property business."....

In a June 1, 2001 interview with the Chicago Sun Times, Microsoft CEO Steve Ballmer: again complained about the GNU/Linux business model, saying "Linux is a cancer that attaches itself in an intellectual property sense to everything it touches. That's the way that the license works," leading to a round of new stories, including for example this account in CNET.Com: http://www.suntimes.com/output/tech/cst-fin-micro01 .html "Microsoft CEO takes launch break with the Sun-Times," Chicago Sun Times, June I, 2001.

http://news.cnet.co m/news/O- 1 003–200–6291224. html

"Why Microsoft is wary of Open source: Joe Wilcox and Stephen Shankland in CNET.com. June 18, 2001.

There's more to. Microsoft's recent attacks on the open-source movement than mere rhetoric: Linux's popularity could hinder the software giant in its quest to gain control of" a server market that's crucial to its long-term goals Recent public statements by Microsoft executives have east Linux and the open-source philosophy that underlies it as. at the minimum, bad for competition, and, at worst, a "cancer" to everything it touches. Behind the war of words, analysts say, is evidence that Microsoft is increasingly concerned about Linux and its growing popularity. The Unix- like operating system "has clearly emerged as the spoiler that will prevent Microsoft from achieving a dominant position" in the worldwide server operating-system market, IDC analyst Al Gillen concludes in a forthcoming report.

.. While Linux hasn't displaced Windows, it has made serious inroads...].. In attacking Linux and open source, Microsoft finds itself competing "not against another company, but against a grassroots movement," said Paul Dain, director of application development at Emeryville, Calif.-based Wirestone, a technology services company.

,.. Microsoft has also criticized the General Public License (GPL) that governs the heart of Linux. Under this license, changes to the Linux core, or kernel, must also be governed by the GPL. The license means that ifs company changes the kernel, it must publish the changes and can't keep them proprietary if it plans to distribute the code externally...

Microsoft's open-source attacks come at a time when the company has been putting the pricing squeeze on customers. In early May, Microsoft revamped software licensing, raising upgrades between 33 percent and 107 percent, according to Gartner. A large percentage of Microsoft business customers could in fact be compelled to upgrade to Office XP before Oct. 1 or pay a heftier purchase price later on. The action "will encourage—'force" may be a more accurate term— customers-to upgrade much sooner than they had otherwise planned," Gillen noted in the IDC report.. "Once the honeymoon period runs out in October 2001, the only way to "upgrade" from a pr0duet that is not considered to be current technology is to buy a brand-new full license."

This could make open-source Linux's GPL, more attractive to some customers feeling trapped by the price hike, Gillen said. "Offering this form of "upgrade protection" may motivate some users to seriously consider alternatives to Microsoft technology." ...

What is surprising is that the US .Department of Justice allowed Microsoft to place so many provisions in the agreement that can be used to undermine the free software movement. Note for. example that under J. l and].2 of the proposed final order, Microsoft can withhold technical information from third parties on the grounds that Microsoft does not certify the "authenticity and viability of its business," while at the same time it is describing the licensing system for Linux as a "cancer" that threatens the demise of both the intellectual property rights system and the future of research and development.

The agreement provides Microsoft with a rich set of strategies to undermine the development of free software, which depends upon the free sharing of technical information with the general public, taking advantage of the collective intelligence of users of software, who share ideas on improvements in the code. If Microsoft can tightly control access to technical information under a court approved plan, or charge fees, and use its monopoly power over the client space to migrate users to proprietary interfaces, it will harm the development of key alternatives, and lead to a less contestable and less competitive platform, with more consumer lock-in, and more consumer harm, as Microsoft continues to hike up its prices for its monopoly products.

Problems with the term and the enforcement mechanism Another core concern with the proposed final order concerns the term of the agreement and the enforcement mechanisms. We believe a five-to-seven year term is artificially brief, considering that this case has already been litigated in one form or another since 1994, and the fact that Microsoft's dominance in. the client OS market is stronger today than it has ever been, and. it has yet to face a significant competitive threat in the client OS market. An artificial end will give Microsoft yet another incentive to delay, meeting each new problem with an endless round of evasions and creative methods of circumventing the pro-competitive aspects of the agreement. Only if Microsoft believes it will have to come to terms with its obligations will it modify its strategy of Even within the brief period of the term of the agreement, Microsoft has too much room to co-opt the enforcement effort:

Microsoft, despite having been found to be a law breaker by the courts, is given the right to select "one member of the three members of the Technical Committee, who in turn gets a voice in selecting the third member. The committee is gagged, and sworn to secrecy, denying the public any information on Microsoft's compliance with the agreement, and will be paid by Microsoft, working inside Microsoft's headquarters. The public won't know if this committee spends its time playing golf with Microsoft executives, or investigating Microsoft's anticompetitive activities. Its ability to interview Microsoft employees will be extremely limited by the provisions that give Microsoft the opportunity to insist on" having its lawyers present.

One would be hard pressed to imagine an enforcement mechanism that would do less to make Microsoft accountable, which is probably why Microsoft has accepted its terms of reference.

In its 1984 agreement with the European Commission, IBM was required to affirmatively resolve compatibility issues raised by its competitors, and the EC staff had annual meetings with IBM to review its progress in resolve disputes. The EC reserved the right to revisit its enforcement action on IBM if it was not satisfied with IBM's conduct.

The court could require that the Department of Justice itself or some truly independent parties appoint the members of the TC, and give the TC real investigative powers, take them off Microsoft's payroll, and give them staff and the authority to inform the public of progress in resolving compliance problems, including for example an annual report that could include information on past complaints, as well as suggestions for modifications of the order that may be warranted by Microsoft's conduct. The TC could be given real enforcement powers, such as the power to levy fines on Microsoft. The level of fines that would serve as a deterrent for cash rich Microsoft would be difficult to. fathom, but one might make these fines deter more by directing the money to be paid into trust funds that would fund the development of free software, an endeavor that Microsoft has indicated it strongly opposes as a threat to its own monopoly. This would, give Microsoft a much greater incentive to abide by the agreement.

Failure to address Il1 Gotten Gains

Completely missing from the proposed final order is anything that would make Microsoft pay for its past misdeeds, and this is an omission that must be remedied. Microsoft is hardly a first time offender, and has never shown remorse for its conduct, choosing instead to repeatedly attack the motives and character of officers of the government and members of the judiciary.

Microsoft has profited richly from the maintenance of its monopoly. On September 30, 2001, Microsoft reported cash and short-term investments of $36.2 billion, up from $31.6 billion the previous quarter—an accumulation of more than $1.5 billion per month.

It is astounding that Microsoft would face only a "sin no more" edict from a court, after its long and tortured history of evasion of antitrust enforcement and its extraordinary embrace of anticompetitive practices—practices recognized as illegal by all members of the DC Circuit court. The court has a wide range of options that would address the most egregious of Microsoft's past misdeeds. For example, even if the court decided to forgo the break-up of the Windows and Office parts of the company, it could require more targeted divestitures, such as divestitures of its browser technology and media player technologies, denying Microsoft the fruits of its illegal conduct, and it could require affirmative support for rival middleware products that it illegally acted to sabotage. Instead the proposed order permits Microsoft to consolidate the benefits from past misdeeds, while preparing for a weak oversight body tasked with monitoring future misdeeds only. What kind of a signal does this send to the public and to other large corporate law breakers7 That economic crimes pay! Please consider these and other criticisms of the settlement proposal, and avoid if possible yet another weak ending to a Microsoft antitrust case. Better to send this unchastened monopoly juggernaut a sterner message.

'James Love'

Cc: Stanley Sporkin, Judge Thomas Penfield Jackson, Anne K. Bingaman, Joel I. Klein

Sincerely,

Ralph Nader
Ralph Nader
P.O. Box 19312
Washington, DC 20036
James Love
Consumer Project on Technology
P.O. Box 19367
"Washington, DC 20036
December 10, 2001
Judge Honorable .1. Frederick Motz
United States District Court
District of Maryland
101 West Lombard Street
Room 510
Baltimore, MD 21201
Fax: + 1.410.962.2698
RE: Microsoft Corp. Antitrust Litigation, MDL No. 1332

Dear Judge Motz:

We are writing to ask that you reject the proposed settlement to the private antitrust actions against Microsoft, on the grounds that the settlement is inadequate in terms of the relief, anticompetitive In terms of its structure, and is among the least effective mechanisms for expanding access to educational services.

Microsoft has extraordinary global monopoly power. In several essential software markets, "including most notably its more than 90 percent market share for the operating systems (Windows), word processing (Word), spreadsheets (Excel) and presentation graphics (Powerpoint), and it has engaged in the equivalent of an antitrust crime spree, using an astonishing array of anticompetitive practices to consolidate and expand its monopoly power. As a consequence, consumers are denied the benefits of competition, and suffer from sluggish innovation, poor quality products, fewer choices, .and high prices. The Microsoft monopoly is highly profitable, and allowed Microsoft to accumulate an astonishing $1.5 billion per month, in cash last quarter. The proposed settlement of the private antitrust claim is not only a tiny sum In comparison to

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Comments o1

Ralph Nader and James Love

Microsoft's sales ($1 billion every 13 days currently), but It will not even be paid in cash.]:t isn't as if Microsoft can't afford to pay..]:t has cash reserves more than $36 billion right now. Microsoft simply sees the resolution of this antitrust case as a great opportunity to engage in more anticompetitive conduct—in this case converting its liabilities for antitrust damages into a slush fund to undermine its competitors in the educational market.

The court should not allow the lawyers who have proposed this settlement to bury this important antitrust case with yet another disappointment in the long history of weak efforts to reign in Microsoft's assaults on consumers. The settlement should not be yet another marketing effort by Microsoft aimed at the strategically important education market. It should provide a measure of justice that has yet eluded a long list of law enforcement officials. We object to many aspects of the settlement.

* The size of the damages is small by any reasonable interpretation of the harm to consumers.

* Microsoft is demonstrating zero remorse for its price gouging, and indeed has engaged in its most aggressive price hikes to date, as it continues to narrow consumer rights in license agreements, raises standard and negotiated license fees (including those for the educational market), and steps up its coercive strategies to force upgrades, such as its "abandonment of support for older licenses, and the introduction of new non-Interoperable technologies that will not work without, increasingly frequent upgrades.

The proposal will make it even less attractive for schools to purchase products from Microsoft competitors, because Microsoft will subsidize its sates from the antitrust settlement costs, having the Intended and entirely predictable effect of strengthening Microsoft's marketshare and weakening further its few remaining rivals. Moreover, to the degree that the funds from the settlement are small relative to the number of schools that will seek grants or donations, and if Microsoft is perceived to play any role in determining who obtains grants, schools may be reluctant to purchase products from Microsoft rivals, thinking this will undermine their chances or receiving benefits from the settlement fund, allowing Microsoft to leverage the anticompetitive effect of the settlement fund. (One need only look at the comments filed in this proceeding to appreciate how eager various non-profit Institutions are to curry favor with Microsoft:. Many groups that have received Microsoft grants are now on record opposing .efforts to reject this settlement as inadequate and anticompetitive.) For schools, the more "important issue is dealing with skyrocketing license fees, which this settlement will only address in a minor way, for a small number of users, and for only a short time.

MTC-00033734—0170

Ralph Nader and James Love

If the court wishes to direct the settlement resources for the educational market, it should do so in such a way as to promote competition, rather than to reduce competition. One solution would be to place the money into a trust fund to be used only for purchases of non-Microsoft products, creating a needed boost to the market for alternatives. Another would be to require the funds be donated to groups who develop free software alternatives—these very alternatives that Microsoft executives have claimed were their main competitive threat during the USDOJ/State AG antitrust litigation. Either of these approaches will directly address the longer term concern over software pricing, the problem this case seeks to remedy.

Sincerely,

Ralph Nader

Consumer Project on Technology

MTC-00033734—0171

Written Statement of Mark Havlicek Digital Data Resources, Inc.

Provided to the Senate Committee on the Judiciary

Washington, DC

December 12, 2001

Thank you, Chairman Leahy and distinguished Members of the Committee including my own Senator Grassley. I am pleased to contribute my comments to your hearing on he Microsoft Settlement: A Look to the Future." My name is Mark Havlicek and I am the President of Digital Data Resources, Inc. in Des Moines, Iowa. I have been actively involved in the technology industry for several years, and it is my hope that the Microsot5 case wi11 be settled.

The economic outlook for 2002 is very concerning. From coast to coast, revenue growth has slowed, spending is exceeding budgeted levels, and many states are looking at large budget cuts. My own state of Iowa is in the middle of a terrible budget crisis.

After the events of September I 1, we saw a dramatic plunge in the technology sector. Instead of bring tied up in court, technology entrepreneurs should at work developing products and charting new territory with never before imagined products and services. Given the opportunity and free of unnecessary hurdles to progress, technology companies can build our economy back up to record levels. Giants like Apple, IBM, and Microsoft provide a stable environment for the myriad small firms, like mine, to create, develop, and release new cutting-edge technologies and employ additional people in good paying careers. Small companies like my own, work in concert, and competition at times, with these giants. This mutually dependent relationship is the lifeblood of our industry and a driving force behind our growth.

Over the past 20 years, we have seen computers go from the size of a refrigerator to the size of a deck of cards. And in tandem with those leaps forward, We have seen declining prices, better and faster technology, and increasingly more efficient methods of delivery to consumers.

It takes a competitive, entrepreneurial spirit to survive in this exceptionally aggressive industry of ours, especially in the case of small or emerging businesses. We spend our days watching competitors, finding markets, and keeping a watchful eye on the economy. .And it seemed the storm has passed, both figuratively and in the eyes of the stock market, when a settlement was announced last month.

But the states, including my own state of Iowa, which remain involved have argued for tougher enforcement provisions, including a court-appointed "special master" to oversee Microsoft's compliance. And we have found through experience that there is no remedy discrete to Microsoft when it's the nucleus of a tech sector that operates as its own economy.

These states arc not right to push ahead for further prosecution of Microsoft The proposed settlement is sufficient to address the concerns of business people like me who are in the technology industry and are most affected. Companies like mine strive to be similar to Microsoft and we are discouraged by the hold-out states position on further action. It seems to me to be a strong disincentive to progress and entrepreneurial —achievement.

The time to take a hard line on successful companies like Microsoft is over. The hold-out states are holding out to the detriment of their state economies and our national economy at a time when actions like this are not at all useful.It is a frightening prospect to see another dollar of precious development resources diverted to paying attorneys' fees instead of rippling through our industry. Money that could have launched a new product or created new opportunities for a small business on the brink instead has disappeared into the abyss of this lawsuit. The settlement is a positive step in putting it all behind us and opening a new chapter in the life of the technology industry.

I applaud Assistant Attorney General Charles lames for his role in bringing the case this far. The settlement agreement is a strong one. It will have an enormous, positive impact on the future of my company and the entire software industry. My colleagues and I hope we can rely on your support. Thank you, Senators, for the opportunity to provide this statement at such a critical for our nation.

Thank You,
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Testimony by
[Jerry Hilburn, President and Founder]
Catfish Software, Inc.
Provided to the
U.S. Senate Committee on the Judiciary
December 12, 2001

I am very, pleased to provide a written statement for),our hearing on "The Microsoft Settlement: A Look to the Future." Thank you, Chairman Leah□, and Members of the Committee, for the opportunity, to deliver a small businessperson's perspective on the case before this distinguished group.

I would like to tell you my point of view on the Microsoft case. I am a small businessman in San Diego, California. Catfish Software, Inc. started operations in 1994 providing network services and custom database applications for small business. In 1998, Catfish Software launched an E-mail Application Services branch providing double opt- in mail list service and web-based customer support applications and today, Catfish Software provides support to 300+ companies reaching 2,000,000+ subscribers of its software services.

· One of my firm's top competitors is Microsoft's bCentral. So you may ask why I speak in favor of the Microsoft settlement. Businesses large and small have mortgaged their futures against the impact of the terrorist war. Some smaller businesses—techology and otherwise—have already found themselves strangled by a lack of consumer demand and by slowdowns in corporate and consumer spending. Most of us are finding it is time to shore up resources and protect our assets from the impact of the war.

In this time of so much uncertainty, we need the promise of a brighter day and the knowledge that the government—from the federal level on down- is doing everything possible to invigorate our flagging economy. Competition and consumer preference should decide the direction of the marketplace and meanwhile, the government should not rush to intervene in the New Economy. The last thing our economy needs at this time is the burden of remedies which do nothing but slow the pace of development and limit the choices of consumers.

The Justice Department handled this case admirably, and the settlement they agreed upon is sound. The settlement outlines how Microsoft can operate, but more importantly it provides some assurances to an industry that has been on unstable ground lately.

Microsoft's ability to design and produce new software in turn creates opportunities for small and medium-sized developers to write applications which operate on a Windows- based platform. As the old saying goes, a high tide floats all ships. Calls for break-up of the company did not help the already tenuous situation. And when Microsoft looked like it might be pulled under, the Nasdaq was hit as well as the stocks of many high-tech companies. But when announcements of the settlement were made public around the beginning of November 2001, everyone got a nice little bump. Consumers and other technology entrepreneurs were hopeful that this case could be put to bed and that the tech sector could get back to business.

This litigation that has been an albatross around all our necks for so long—and ending the string of lawsuits associated with it—will have a positive effect on the tech economy. With a little luck, that will ripple out to America's economy as a whole.

With so many technologies poised to enter the marketplace, Microsoft and many others, including Catfish Software are looking for ways to enhance the computing experience. The Internet has become a center of most everyone's daily lives—from toddlers typing their first strokes with learning games to seniors learning how to send and receive e-mail. Untapped markets and unimagined ideas abound, but we must not harness the creativity or the ability of software firms to bring those products to bear in the marketplace. The olive branch of settlement was extended, and it is a solution that is good for the economy and good for the tech industry. Allow us the opportunity to get back to work and earn money with our products and ideas once again.

This concludes my testimony. Once again, I thank the Committee and its distinguished Members for the opportunity to provide written testimony on this important issue.

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THE MICROSOFT SETTLEMENT:
A LOOK TO THE FUTURE

Written Testimony Submitted by the Computing Technology Industry Association in Connection with Senate Committee on the Judiciary Hearings December 12, 2001

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THE MICROSOFT SETTLEMENT:
A LOOK TO THE FUTURE
STATEMENT OF INTEREST

The Computing Technology Industry Association (CompTLA) is the world's largest trade association in the information technology and communications sector. CompTIA represents over 8,000 hardware and software manufacturers, distributors, retailers, Internet, telecommunications, IT training and other service companies in over 50 countries. The overwhelming majority of CompTIA members are resellers—companies that resell software and hardware to consumers, businesses, or other resellers.

These resellers are vendor-neutral and their objective is to be able to sell whatever products their customers wish to buy. In that sense they believe that antitrust laws should focus primarily on consumer impact rather than competitor impact. Microsoft is a member of CompTIA as are many of Microsoft's competitors.

In 1998, CompTIA's Board of Directors adopted a formal policy statement on antitrust. That statement supports sensible antitrust enforcement that is based on demonstrable economic effects in the marketplace. CompTIA believes that market forces typically correct any temporary market imperfections and that government regulators should only intervene in the technology marketplace when there is overwhelming evidence of a substantial and pervasive market failure. Pursuant to its policy statement, CompTIA has written and spoken frequently on antitrust issues of relevance to the technology sector. In June 1998, CompTIA filed an amicus brief in the Intel v. Intergraph litigation in the U.S. Court of Appeals for the Federal Circuit. In that case CompTLA urged the court to reject a lower court's finding that antitrust allegations could be a basis for ordering a company to disclose its valuable intellectual property.

CompTLA filed an amicus brief in the United States Court of Appeals for the District of Columbia Circuit in the United States v. Microsoft case in November 2000. The amicus brief urged the Court of Appeals to reverse the District Court's order breaking Microsoft into two separate companies and further urged the Court of Appeals to reverse the liability findings against Microsoft. The basis for CompTIA's participation as amicus and submission of this testimony to the Committee is its interest in the overall health and prosperity of the technology sector.

The antitrust case against Microsoft and the final remedies that will be imposed upon Microsoft have a direct effect on the overall health and prosperity of the technology sector. First, because Microsoft is such a large and important participant in the technology industry, any remedy that affects the company's operations necessarily affects the industry,, Microsoft's vendors, and all companies that rely on Microsoft products. A remedial order that goes beyond the issues in the case may have a significantly detrimental effect upon innovation and growth in the industry. Second, the precedent established in this case has important ramifications for future activities in the technology sector. Overly restrictive sanctions imposed upon Microsoft may act to inhibit competitive behavior by other companies throughout the industry thereby deterring conduct that promotes innovation and technological development.

INTRODUCTION

On November 6, 2001 the United States Department of Justice and nine States entered into a Proposed Final Judgment with the Microsoft Corporation that resolves the antitrust charges brought by those governmental entities against the company. In the days after the settlement was announced, the nine non-settling States and the District of Columbia expressed their intention to continue litigation against Microsoft in an effort to convince the United States District Court that more extensive remedies should be ordered. On December 7, 2001 the non-settling States filed their remedy proposal with the District Court.

This testimony analyzes the Court of Appeals opinion, the November 6, 2001 Proposed Final Judgment, and the non-settling States' remedy proposal and arrives at the following conclusions:

- The U.S. Court of Appeals June 28, 2001 opinion reaffirmed that the central goal of the U.S. antitrust laws is not to protect competitors from competition nor is it to penalize a defendant. The central goal of the antitrust laws is to promote competition in order to enhance consumer welfare.
- In order to support its remedy in the remand proceeding now before the District Court, the Court of Appeals opinion requires that the government show a significant causal connection between Microsoft's anticompetitive conduct and actual injury to competition and consumers in the marketplace. If the government fails to prove a causal connection, then the remedy imposed can be no more broad than an order enjoining the specific anticompetitive conduct at issue.
- Given the risks to both sides from further litigation, the November 6 Proposed Final Judgment is a reasonable settlement of the remaining disputed issues in the case that insures that Microsoft's anticompetitive conduct will not be repeated, and insures that every market participant has a fair opportunity to compete. The settlement also insures that the technology industry will not be encumbered with excessive regulation that would stifle innovation and growth.
- The additional remedies proposed by the non-settling States on December 7 are not likely to enhance competition or promote consumer welfare. The vast majority of the States' proposals go far beyond the scope of the liability found by the Court of Appeals and are thus legally unsupportable. Further, the proposed remedies would likely interfere with natural market forces, impose higher costs on consumers, impair innovation, and benefit Microsoft's competitors at the expense of consumers.

I. SUMMARY OF THE COURT OF APPEALS OPINION

A. Background

On June 28, 2001 the United State Court of Appeals for the District of Columbia Circuit ("Court of Appeals") issued its ruling in United States v. Microsoft. The Court of Appeals found that Microsoft had violated Section 2 of the Sherman Act by taking anticompetitive actions to protect its monopoly in the computer operating system market. The Court, however, reversed the District Court rulings entered adverse to Microsoft regarding tying, attempted monopolization, and imposition of a break-up remedy. The case has been remanded to the District Court for proceedings on the appropriate remedy to address the monopoly maintenance findings.

While much of the Court of Appeal's opinion focuses on issues that are specific to Microsoft, the Court made two preliminary yet important observations with respect to antitrust enforcement activities in the high-tech sector. First, the Court noted that despite the relatively fast pace of the Microsoft proceedings, the speed at which technologically dynamic markets undergo change is even faster. The consequences of the speed at which the market changes has significant implications for the conduct of antitrust cases. This rapid change "threatens enormous practical difficulties for courts considering the appropriate measure of relief in equitable enforcement actions, both in crafting injunctive remedies in the first instance and reviewing those remedies in the second." Opinion at 10–11.

Because technology moves so quickly there is little likelihood that a company with large market share at any given time can engage in anticompetitive exclusionary behavior that causes consumer injury. In many instances a more desirable successor technology may very rapidly displace a large market share company before that company is even able to attempt to exercise monopoly power.

Second, the Court also noted that competition in the technology marketplace is frequently "competition for the market" rather than "competition in the market." This means that there is intense competition between firms when a new product is introduced, but once consumers choose the firm that makes the best product, that firm will likely garner the vast majority of market share. This "network effect" phenomenon means that as more users utilize a compatible and inter-operable system or service, the value to each user increases. Opinion at 11–12. Thus, the Court of Appeals made clear that lawful monopolies and companies with large market shares are frequently desirable and highly beneficial to consumers. Opinion at 11.

The Court of Appeal's inclusion of this theoretical discussion is a broad response to the question that many have asked since the beginning of the Microsoft case—that is, do the antitrust laws, written and applied predominantly in a brick-and-mortar era, have the same level of relevance in the information technology era? The answer is mixed. The antitrust laws do apply to the new economy, but the application of the rules must take into account economic realities and to insure that the objectives of antitrust are achieved: the protection and enhancement of competition as measured by consumer welfare.

The most dramatic illustration of the application of antitrust to the new economy was in the Court's rulings on the tying claim and in reversing the lower court's remedial order. The Court's application of a rule of reason analysis (rather than per se treatment) for tying claims while at the same time rejecting the "separate products" test marks a significant recognition that product integration in the technology sector is likely to have benefits to consumers that outweigh any harms to competition. Additionally, the Court's analysis in rejecting the lower court's break-up order suggests that absent a strong showing of a causal connection between anticompetitive acts and Microsoft's dominant position in the operating system market, radical structural relief or extensive conduct restrictions that go beyond the challenged conduct would be unsupportable.

B. Monopoly Maintenance

The Court of Appeals affirmed in large measure the District Court's ruling that Microsoft acted unlawfully to maintain its monopoly in the operating system market. The Court found that Microsoft viewed Netscape Navigator Internet browser as a potential threat to the Windows operating system because it could conceivably have become an intermediate platform (with exposed application programming interfaces or API's) for the development of software applications. In order to promote Internet Explorer and retard the distribution of Netscape Navigator, Microsoft placed restrictions on original equipment manufacturers (OEM's). OEM's were not permitted to remove the Internet Explorer icon or install a Navigator icon on the desktop.

The Court also found that the way in which Internet Explorer was integrated into Windows was unlawful. Beginning with the release of Windows 98, Microsoft removed Internet Explorer from the list of programs that could be accessed using in the add/delete program feature. The Court found that this had the effect of impeding the inclusion of rival browsers on a computer because OEM's were reluctant to place two Internet browsers on the desktop. Because Microsoft did not offer any pro-competitive justification for preventing the removal of Internet Explorer, the Court found this feature unlawful. The Court also found that Microsoft's dealings with some independent software vendors, Apple Computer Corp., Java, and Intel were designed solely to protect its operating system monopoly and therefore those dealings violated Section 2 of the Sherman Act.

Shortly after the Court of Appeals decision was released, Microsoft announced that it would modify its release of Windows XP to respond to the Court of Appeals rulings in the monopoly maintenance section of the opinion. Thus, OEM's now are permitted to have more control over the appearance of the Windows desktop; they may add icons for competing software and on-line services and delete the Internet Explorer icon from the desktop. OEM's and consumers also have the ability to remove Internet Explorer icon from a computer using the 1 Shortly after the Court of Appeals issued its ruling, Microsoft asked the court to reconsider the finding that Microsoft had unlawfully "commingled" code from Internet Explorer and Windows.

Microsoft argued that as a factual matter the District Court was incorrect in finding that Microsoft actually had placed Windows code and Internet Explorer code in the same libraries in order to prevent IE from being removed. The Court of Appeals denied Microsoft's petition for rehearing on this issue but wrote that Microsoft could raise this issue on remand with respect to the appropriate remedy in the case.

Microsoft's actions in allowing OEM's and/or consumers to remove the Internet Explorer icon and program link (and the inclusion of that concession in the settlement agreement) appears to address the Court's concerns regarding exclusion of rival browsers. Thus, any interpretation of the Court of Appeals decision to require that Microsoft re-engineer Windows to duplicate shared code functions and then remove the IE code (as the non-settling States interpretation does) would be inconsistent with the language and policy of the opinion as a whole. Further, the Court of Appeals found that shared library files that perform functions for both the operating system and the browser enhance efficiency. Opinion at 73.

C. Attempted Monopolization

The Court of Appeals reversed and dismissed the District Court's finding that Microsoft unlawfully attempted to monopolize the Internet browser market. Opinion at 62–68. The District Court had found that Microsoft's 1995 proposal to divide the browser market with Netscape created a dangerous probability of monopoly and that Microsoft's aggressive marketing of Internet Explorer after June 1995 also created a dangerous probability of monopoly. But the Court of Appeals found that the government had failed to properly identify the relevant market including reasonable substitutes for Internet browsers. Further, the Court also found that there was no showing of significant barriers to entry in any putative browser market.

The Court's ruling on attempted monopolization has significant implications for future business activities in the technology sector. If the District Court rule had been upheld, the resulting rule would have made it virtually per se unlawful for successful firms to explore collaborative relationships with emerging competitors. Further, it would permit a "dangerous probability of success" to be proven simply by showing that a firm has secured a 50–60 percent market share without requiring any showing that the firm will ever be in a position to exercise market power- that is, the power to raise price and exclude competitors. Both propositions would have had serious adverse repercussions for the IT industry and would have likely blocked countless pro-competitive competitor collaborations that would benefit consumers.

Shortly after the Court of Appeals issued its ruling, Microsoft asked the court to reconsider the finding that Microsoft had unlawfully "commingled" code from Internet Explorer and Windows. Microsoft argued that as a factual matter the District Court was incorrect in finding that Microsoft actually had placed Windows code and Internet Explorer code in the same libraries in order to prevent IE from being removed. The Court of Appeals denied Microsoft's petition for rehearing on this issue but wrote that Microsoft could raise this issue on remand with respect to the appropriate remedy in the case. Microsoft's actions in allowing OEM's and/or consumers to remove the Internet Explorer icon and program link (and the inclusion of that concession in the settlement agreement) appears to address the Court's concerns regarding exclusion of rival browsers. Thus, any interpretation of the Court of Appeals decision to require that Microsoft re-engineer Windows to duplicate shared code functions and then remove the IE code (as the non-settling States interpretation does) would be inconsistent with the language and policy of the opinion as a whole. Further, the Court of Appeals found that shared library files that perform functions for both the operating system and the browser enhance efficiency. Opinion at 73.

D. Tying

The District Court found that Microsoft's inclusion of Internet Explorer with Windows was a per se unlawful tying arrangement. The Court of Appeals reversed this conclusion and ruled that per se analysis was inappropriate for arrangements involving platform software products. Because the inclusion of added functionality into software products has the potential to be pro-competitive and generate vast consumer benefits, integration in this area must be judged under the rule of reason. The Court of Appeals remanded the tying claim to the District Court for analysis under the rule of reason. Opinion at 68–90. Under the rule of reason, however, future antitrust plaintiffs must bear a heavy burden to prove that software integration unlawful.

Historically tying arrangements have been deemed per se unlawful. But the Court properly recognized that software products are "novel categories of dealings" and that this case provided the "first up-close look at the technological integration of added functionality into software that serves as a platform for third-party applications. There being no close parallel in prior antitrust cases, simplistic application of per se tying rules carries a serious risk of harm." Opinion at 69. The Court also noted the benefits from software integration: "undling obviously saves distribution and consumer transaction costs." Opinion at 73.

In recognizing the potential benefits from integration, the Court then determined that the "separate products" test under Jefferson Parish Hosp. Dist. No. 2 v. Hyde, 466 U.S. 2 (1984)— that is, if the tying and tied products are "separate products" then the integration is unlawful— was not appropriate for platform software analysis.

Finally, the Court of Appeals issued precise instructions to the District Court in considering the tying in the event the government were to pursue the claim on remand. Those instructions preclude the plaintiffs from arguing any theory of anti-competitive harm based on a precise definition of the browser market or barriers to entry in the putative browser market. Opinion at 87. Faced with this new legal standard, the United States, on September 6, 2001, announced that it would not pursue the tying claim on remand.

In sum, adding new functions to existing software is a nearly universal form of innovation in the software industry and is essential in persuading customers to upgrade from their existing software to a new, improved version. For example, word processing programs have incorporated formerly separate spell-checkers and outliners, personal finance programs have incorporated tax functions, internet service providers have incorporated instant messaging features, database software companies are integrating their databases with their applications server, and e-mail programs have incorporated contact managers. If companies that gain a "dominant" position in a given field were barred from innovating in this manner, consumers would be denied new benefits that result from integration, and the software industry would stagnate. The Court of Appeals rejection of a per se rule for platform software integration, and the government's subsequent decision to drop that claim on remand, insures that teleological innovation will be permitted to continue and provide consumers additional benefits.

E. Remedy

The Court of Appeals fundamentally altered the basis of liability found by the District Court and thus the structural and conduct remedies imposed by the lower court were reversed. Opinion at 106. The Court of Appeals correctly noted that an antitrust remedy must focus on restoring competition and the District Court must explain how its remedy will do so. Opinion at 99–100. Central to the inquiry of how to restore competition is the identification of specific injury to the competitive process by the defendant's behavior. Thus, the Court of Appeals directed the District Court on remand to make a finding of a "causal connection" when assessing an appropriate remedy. Opinion at 105.

While the Court of Appeals left the District Court with a large measure of discretion in fashioning an appropriate remedy on remand, there are repeated and clear directions that the evidence necessary to sustain a structural remedy or extensive conduct remedy must be very strong. Opinion at 105–06. Faced with this language, the United States announced on September 6, 2001 that it would no longer seek break up of Microsoft. The individual States have also dropped their demand for a structural remedy.

The remaining issue for the new District Court judge on remand, Colleen Kollar-Kotelly, is to fashion an appropriate remedy for the monopoly maintenance findings that were affirmed by the Court of Appeals. Here too the Court of Appeals has provided some general guidance. The appropriate remedy for Microsoft's antitrust violations may be "an injunction against continuation of that conduct." Opinion at 105. The language cited by the non-settling States that the unlawful monopoly "must be terminated" would only apply in the context of a demand for structural relief. The non-settling States have not made a demand for structural relief, nor have they made a showing of a causal connection between Microsoft's unlawful behavior and actual harm in the marketplace.

II. SUMMARY OF THE PROPOSED FINAL JUDGMENT

After the November 6, 2001 Proposed Final Judgment was announced many of Microsoft's competitors complained that the settlement was too lenient. The settlement, however, should not be designed as a wish list for Microsoft's competitors. The settlement should fairly address the areas of liability found by the Court of Appeals. Anything less would encourage Microsoft and other companies to engage in anticompetitive conduct in the future; anything more would inappropriately imperil the teleology marketplace, cause harm to consumers, and likely be struck down by the Court of Appeals. Additionally, the settlement necessarily takes into account the fact that the issue of causation has not yet been decided by the Court. In light of the scope of the Court of Appeals decision and the uncertainty facing both sides from further litigation, the November 6 Proposed Final Judgment is a reasonable compromise of the antitrust litigation.

The November 6 Proposed Final Judgment addresses the liability issues in the monopoly maintenance section of the Court of Appeals decision, and correctly does not seek to impose a remedy related to other areas in which Microsoft prevailed on appeal—attempted monopolization and tying.

First, the settlement prohibits Microsoft from retaliating against any OEM because of the OEM's participation in promoting or developing non-Microsoft middleware or a non-Microsoft operating system. This provision takes the "club" out of Microsoft's hand and prevents the company from using anticompetitive means to discourage OEM's from promoting or preventing rival software from being developed or installed on Windows desktop. This anti-retaliation provision deals head on with most of the conduct the Court of Appeals found to be illegal in the monopoly maintenance section of its June 28, 2001 opinion.

Second, Microsoft is obligated to adhere to one uniform license agreement for Windows with all OEM's and the royalty for the license shall be made publically available on a web site accessible by all OEM's. The price schedule may vary for volume discounts and for those OEM's who are eligible for market development allowances in connection with Windows products. This allows Microsoft to continue to compete in the middleware market with other middleware manufacturers and this competition will continue to benefit consumers.

Third, OEM's are permitted to alter the appearance of the Windows desktop to add icons, shortcuts and menu items for non-Microsoft middleware, and they may establish non-Microsoft programs as default programs in Windows. Consumers also have the option of removing the interface with an)" Microsoft middleware product.

Fourth, Microsoft must reveal the API's used by Microsoft middleware to interoperate with the Windows operating system. Microsoft must also offer to license its intellectual property rights to any entity who has need for the intellectual property to insure that their products will interoperate with the Windows operating system. These central features of the settlement insure that other companies have the ability to challenge Microsoft products, both in the operating system and middleware / applications markets. Consumers and OEM's have far greater freedom to instal and use non-Microsoft products, Microsoft is prohibited from retaliating against any entity who promotes non-Microsoft programs, and all companies have equal access to Microsoft API's and technical information so that non-Microsoft middleware has the same opportunity to perform as well as Microsoft middleware.

The enforcement mechanisms of the settlement will enable the plaintiffs to insure Microsoft's compliance with the agreement. Representatives of the United States and the States may inspect Microsoft's books, records, source code or any other item to insure compliance with the settlement terms. In addition, an independent three person technical committee will be established to insure that Microsoft complies with all terms of the settlement agreement. The technical committee will have full access to all Microsoft source code, books and records, and personnel and can report to the United States and/or the States any violation of the settlement by Microsoft.

III. SUMMARY OF THE NON-SETTLING STATES" DECEMBER 7 PROPOSAL

While the November 6 Proposed Final Judgment goes beyond the liability found by the Court of Appeals in some areas (i.e., by requiring Microsoft to disclose its confidential technical information to software developers), the non-settling States" proposal filed on December 7, 2001 goes so far beyond the judgment as to bear little relationship to the Court of Appeals decision.

The centerpiece of the states" remedy demand is that Microsoft be compelled to create and market a stripped down version of its Windows operating system that would not include many of the features that current versions of Windows do include. Since consumers can now easily remove Microsoft features from their desktop and OEM's are free to place non-Microsoft programs on the desktop, it is difficult to see how this requirement would benefit consumers.

Instead of giving consumers more choices of software products, this unwarranted intrusion into marketing and design decision by the non-settling States would cause further delays in the development of software created to run on XP, with developers waiting to see which version would become the standard. Such delays would further postpone the salutary effects of XP on the computer market. It would also hamper programmers" ability to take full advantage of technological improvements in Windows, creating a marketplace in which the same software applications would not perform equally. This remedy would balkanize the computing industry and would undermine the benefits consumers obtain from a standardized operating platform.

In addition to the stripped down version of Windows, the December 7 proposal would also require Microsoft to continue licensing and supporting prior versions of Windows for five years after the introduction of a new version of Windows. The primary effect of this requirement is to impose unnecessary costs upon Microsoft (that would likely be passed on to consumers) and reduce the incentives for Microsoft to improve the operating system. This disincentive to Microsoft to make technological advances would ripple throughout the software industry as applications developers would not have an advancing platform to write software to.

The non-settling States remedy proposal also includes a variety of restrictions that will have little if any quantifiable benefit to consumers but which will simply advance the interests of Microsoft competitors. Consumers and OEM's currently have full ability and freedom to include Java software on their computers; the States" requirement that Microsoft carry Java on all copies of Windows does not provide consumers or OEM's with any more choice than they already have. Similarly, the requirement that Microsoft continue to produce an Office Suite for Macintosh interferes with natural market forces that direct resources to the best use and may actually preclude the success of competing applications software. Directing Microsoft to produce and support any software without regard for market forces is likely to harm consumers, not help them. Moreover, the November 6 Proposed Judgment fully addresses and prevents Microsoft from retaliating or taking any anticompetitive actions against Apple.

Advances in technology are frequently made as a result of joint ventures between competitors. The Department of Justice and the Federal Trade Commission have recently released guidelines for the formation of such joint ventures. Notwithstanding the recognition by these enforcement agencies that most joint ventures are pro-competitive, the non-settling States seek to restrict Microsoft from entering into joint ventures whereby the parties to the joint venture agree not to compete with the product that is the subject of the joint venture. This restriction will chill innovation and prohibit countless consumer welfare enhancing arrangements. Further, this proposal flatly ignores the fact that the Court of Appeals found in Microsoft's favor on the issue of the alleged illegality of its joint venture proposal to Netscape.

The most harmful of the remaining remedy proposals include those that require the extensive and mandatory sharing of Microsoft's intellectual property. The non-settling States proposals in this regard go well beyond those in the November 6 Proposed Final Judgment and appear to be aimed at benefitting Microsoft's competitors rather than insuring a level playing field for all participants in the software industry. In the absence of compelling justification for wholesale and forced disclosure of a company's intellectual property, the harm caused by such disclosure is unwarranted and harmful to the entire technology marketplace. The vigorous protection of intellectual property has fueled the rapid and dynamic growth of the technology industry. Actions that erode protections for intellectual property should be viewed with great trepidation.

The long term effects of the conduct restrictions proposed by the non-settling States encourage continued litigation, rather than competition in the marketplace.

CONCLUSION

The Microsoft settlement and any remedies imposed must be judged in the context of the Court of Appeals opinion. The non-settling States remedial proposals go well beyond the liability found by the Court of Appeals. The Microsoft case, and this Committee hearing, should not be a forum for any government actor, no matter how well-intentioned, to try to reconfigure the marketplace based on guesswork and supposition. History has told us time and time again that movement's efforts to micro-manage markets are far more likely to fail than to succeed. Consumers stand to lose the most.

The Plaintiffs have never challenged Microsoft's acquisition of its dominant position in the operating system market. Microsoft was propelled into this position as a result of consumer choice. Consumers derive great benefit from the adoption of a standardized operating system platform. State antitrust officials and the courts should be wary of imposing remedies that would interfere with the positive network effects resulting from the large number of consumers who choose Windows.

Government intervention in the marketplace can only be justified if the intervention is a reasonably accurate proxy for the actions that would occur in a competitive market. Otherwise, the unintended consequences of well-meaning government intervention are very likely to do more harm than good. It is simply beyond the capability of the courts and regulators to predict the direction and development of almost any market, let alone the highly dynamic markets in the technology industry. This counsels against the extensive and rigid conduct restrictions proposed by the non-settling States.

Statement of Dave Baker
Vice President for Law and Public Policy
EarthLink, Inc.
Senate Judiciary Committee
Hearing on
"The Microsoft Settlement: A Look to the Future
Wednesday, December 12, 2001

My name is Dave Baker and I am Vice President for Law and Public Policy with EarthLink. EarthLink is the nation's 3rd largest Internet Service Provider, bringing reliable high-speed internet connections to approximately 4.8 million subscribers every day. Headquartered in Atlanta, EarthLink provides a full range of innovative access, hosting and e-commerce solutions to thousands of communities over a nationwide network of dial-up points of presence, as well as high-speed access and wireless technologies.

EarthLink is concerned with the potential for Microsoft to use its affirmed monopoly position in operating systems to leverage its position in innovative Internet services provided by Internet Service Providers (ISPs) including Internet access and associated services.

The proposed Justice Department settlement with Microsoft allows them to continue to restrict competition and choice in ISP services by failing to classify e-mail client software and Internet access software as "middleware". By not including e-mail client and internet access software in the definition of middleware, this proposed settlement allows Microsoft to force OEMs to carry Microsoft's own ISP service, Microsoft Network (MSN), while restricting them from carrying competing e-mail client software or internet access software. The federal settlement also allows Microsoft to prohibit OEMs from removing the MSN from their products.

The alternate settlement proposed by nine States and the District of Columbia would define middleware to include e-mail client software and Internet access software, thereby preserving competition in these markets. This distinction in the definition of middleware makes a huge difference given the diverse nature of the ISP marketplace. Many ISPs will never find a place on the Microsoft desktop if Microsoft can prohibit OEMs from including competing e-mail client software and Internet access software, or if Microsoft is able to make such software incompatible with the Windows operating system.

ISPs provide distinct and valuable services beyond mere Internet connectivity. For example, ISPs provide specialized content, web hosting, e-commerce, content specialized for wireless access, and other innovative new products. ISPs provide free local computer and Internet classes for their customers, include local content on their home page, or provide free connections for community groups. EarthLink, while serving a broad range of users across the country, has made greater privacy protection a distinguishing feature of its ISP service. This diverse choice of service and source of future innovation is at risk if Microsoft is able to leverage its existing monopoly power in operating systems to all but force consumers to use its Internet access service, MSN, at the expense of other choices in internet service.

Over the past few years, Microsoft has bundled its internet service more and more closely with succeeding versions of the Windows operating system. This has allowed Microsoft to constrict consumer choice in Internet access providers. In Windows 98, consumers had a choice of several ISPs from which to select for Internet access. Each ISP was listed in the same manner, with equal sized boxes on a referral server screen. In Windows Me, the MSN butterfly icon was the only ISP icon featured right on the desktop, giving it an advantage shared by no other ISP. Consumer had to click down through several screens to find other ISPs. Now, Windows XP has a dialogue boxes that pops up and several times to try to sway consumers to sign up for MSN internet service. While it is possible to select another ISP, this choice is buried and requires greater effort and diligence on the part of the consumer. This illustrates how Microsoft can use its control of the desktop to promote its own Internet access and related content, applications and services.

Under the proposed federal settlement, even this limited choice can be eliminated by Microsoft, since they would be free to restrict OEMs from offering other ISPs on the desktop or from removing Microsoft's own icons from the desktop.

On a related topic, Microsoft recently offered to settle numerous lawsuits by donating computer equipment to schools. Apple Computer has raised concerns that this donation would give Microsoft an inappropriate advantage in gaining greater market share for its operating system in the competitive school marketplace. EarthLink is also concerned that Microsoft would use the proposed computer donations (a good thing) to their own advantage by providing these schools with a product that bundles Internet access with equipment and operating software. This would again unfairly steer consumers, including as here those least able to exercise choice in their internet applications, into using just associated Microsoft products.

We note that the E-Rate, the federal grant program for school connectivity, requires that schools be allowed to purchase Internet access from a range of competitive providers. The movement's clear intent is for schools to have a choice of competitive Internet access providers, in order to promote the broadest selection of services, diversity and choice of features, and lowest prices for Internet access. This intent would be undermined if Microsoft uses its proposed computer donations as a "Trojan horse" to install yet more of its own e-mail client and Internet access software. We encourage the preservation of choice for these schools and their students in their selection of Internet access and related services.

EarthLink is concerned that just as Microsoft used its Windows operating system monopoly to force consumers to use the Microsoft browser, Internet Explorer, at the expense of competitors such as Netscape Navigator, Microsoft is now seeking to use the same leverage to force consumers to use their Internet service provider, MSN. EarthLink supports the alternate settlement proposed by the nine States to preserve competition in the market for email client software and Internet access software by including these services in the definition of middleware. As it considers the future of the Internet marketplace, we encourage the Committee not to allow Microsoft to leverage its existing monopoly into new and evolving Internet services. Thank you for giving us the opportunity to share our views with the Committee.

BRIEFING
PROPOSED FINAL JUDGMENT IN
U.S. v. 31ICROSOFT
December, 2001

STATUS OF THE CASE

The U.S. Government and approximately half of the litigating states have decided to settle the case with Microsoft on terms the software industry views as inadequate under the standards for relief under decades of antitrust precedent. Nine states plus the District of Columbia have chosen to move forward with a hearing on remedy. Discovery is underway for that hearing and witness lists are currently being prepared for a trial set to commence in early March.

Pursuant to the District Court's order, the United States must simultaneously submit the settlement under the Antitrust Procedures and Penalties Act, which is described below.

THE TUNNEY ACT

The Tunney Act, formally known as the Antitrust Procedures and Penalties Act, was originally introduced by Senator John Tunney in September, 1972, and was signed into law by President Ford on December 21, 1974. The relevant sections of the Tunney Act were passed in part as a reaction to the scandal that erupted after the government settled its antitrust investigation of ITT (on grounds very favorable to the defendant), and it was discovered that ITT had lobbied extensively and engaged in secret negotiations to pressure the Department of Justice to agree to that settlement.

Microsoft has made no secret of the political influence it has sought to create during this trial. Its political contributions, lobbying, grassroots, and public relations efforts are unprecedented and well documented.3 Some might say there is an obvious and direct The Tunney Act also made certain antitrust violations felonies, rather than misdemeanors; increased the available penalties a court could impose; and instituted a variety of procedural reforms designed to expedite the trial and appeal of government antitrust cases. 2 See Kintner, Federal Antitrust Law 40.25 at 208 n.721; 5 Von Kalinowski et al., Antirust Laws and Trade Regulation 2d 96.0311] at 96–12 n.4. 3 "Microsoft Targets Funding for Antitrust Office." Dan Morgan and Juliet Eilperin. Washington Post October 15.1999. "Pro-Microsoft 1obbving. to limit antitrust funding irks, top lawmakers." The Wall Street Journal October 15. 1999. "Microsoft Paid For Ads Against DoJ Case." Madeleine Acer.

TechWeb September 20, 1999. "Microsoft Paid For Ads Backing Its Trial Position." David Bank. The Wall Street Journal September 20, 1999. "Microsoft Paid For Ads Backing It In Trial." Seattle Times September 19, 1999. "Pro-Microsoft Ads Were Funded by Software Giant." Greg Miller. Los Angeles Times September 18. 1999. "Microsoft Paid for Ads About Trial." Associated Press September 18. 1999. "Microsoft Covered Cost of Ads Backing It in Antitrust Suit." Joel Brinkley. New York Times September 18, 1999 "Rivals fear Microsoft will cut a deal." John Hendren. The Seatile Times June 21, 2001. "Bush's Warning: Don't Assume Favors Are Due." Gerald F. Seib The Wall Street Journal January 17. 2001. "Bounty Payments are offered for pro- Microsoft letters and calls." The Wall Street Journal October 20, 2000. "Microsoft is Source of "Soft Money" Funds Behind Ads in Michigan's Senate Race." John R. Wilke. The Wall Street Journal October 16, 2000. "Microsoft leans creatively on levers of political power as breakup decision looms, "stealth" lobbying efforts aim for survival." Jim Drinkard and Owen Ulmann. USA Today May 30, 2000. "Microsoft's All-Out Counterattack." Dan Carney. Amy Borrus and Jay Greene. BusinessWeek May 15, 2000. "Aggressiveness: It's Part of Their DNA." Jay Greene, Peter Burrows and Jim Kerstetter.

BusinessWeek May 15. 2000: "The Unseemly Campaign of Microsoft." Mike France. Business Week April 24. 2000. "Microsoft's Lobbving Abuses." Editorial. New York Times November 1, 1999 "Awaiting Verdict, Microsoft Starts Lobbying Campaign." Joel Brinkley. New York Times November 1, 1999. "Microsoft Seeks Help Of Holders." John R. Wilke. The Wall Street Journal November 1.1999. causal connection between these activities and the weak nature of the proposed settlement, proving if nothing else that the public policy concerns that spawned the Tunney Act in the first place have been validated. Judge Kollaar-Kotelly will be charged with the responsibility of determining the extent to which the public interest has been affected by the unprecedented politicization of this law enforcement matter. As the Senate Report that accompanied the Tunney Act explained, "[t]he primary focus of the Department [of Justice]'s enforcement policy should be to obtain a judgment either litigated or consensual—which protects the public by insuring healthy competition in the future." While Congress did not want to discourage settlement of antitrust litigation—significantly more than half of government antitrust suits are settled — it determined that judges should independently review all settlement agreements, with adequate involvement by the public and others in the relevant industry, before entering a consent judgment.

Under the Tunney Act, the United States needs to publicize the settlement agreement, invite and respond to public and industry, comments on the details of that agreement, and defend the agreement in court—where the judge by statute would need to determine independently that the agreement was in the "public interest."

Even though Judge Kollar-Kotelly urged both sides to settle the case, the goal of any settlement must be to achieve the public interest objectives of the lawsuit more efficiently and with more certainty that the litigation process. Merely achieving an end to the litigation, and thus rewarding Microsoft for its intransigence over the years is not a legitimate goal, nor should it play any part in settlement analysis. In fact, the standards for review under the Tunney Act are substantially higher in this case than in typical Tunney Act cases. That is because there has never been a settlement - and therefore Tunney Act review—of an antitrust case that has been affirmed by an Appeals Court. Since there is no longer any litigation risk—or question about liability or the strength of the government's case the only appropriate interpretation of the "public interest" is in the context of the standards set forth by the Court of Appeals. "Microsoft's Bad Lobbying." Editorial. Washington Post October 24 1999. "Microsoft Attempt To Cut Justice Funding Draws Fire." David Lawsky. Reuters October 17, 1999. "Microsoft Targets Funding for Antitrust Office." Dan Morgan and Juliet Eilperin. Washington Post October 15. 1999.

"Pro-Microsoft 1obbying to limit antitrust funding irks top lawmakers." The Wall Street Journal October 15, 1999. "Microsoft Paid For Ads Against DoJ Case." Madeleine Acev. TechWeb September 20. 1999.

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SUMMARY OF THE WEAKNESSES OF THE PFJ's

In the sections following we discuss—provision-by-provision—weaknesses in the Proposed Final Judgment. In this section, we focus on the more important issues of What is not included in the settlement in the first place. Remedy Ignores Clear Guidance of

Court of Appeals The central issue with the proposed remedy is its fundamental failure to meet the standards so clearly set forth by the Court of Appeals. Rather, the Department of Justice has articulated a view that all it must do is create a narrow set of remedies, which merely prevents Microsoft from engaging in the precise types of unlawful conduct against new competitive threats in the future. This view ignores the fact that unrestrained monopolists are likely to engage in new, creative forms of predation, which is why the Supreme Court has admonished the Department of Justice to "close the untraveled roads to monopolization, not just the traveled roads."

More troubling, the Department ignores the fact that competitive threats to Microsoft's monopoly do not appear with regularity. In fact, the dual threats of Netscape's Navigator browser and Sun's Java programming language—propelled by the Internet boom—may well be once in a lifetime competitive events. That is one of many important reasons why it is particularly inappropriate for the Department of Justice to allow Microsoft to keep all the "fruits" of its unlawful activity without any regard for the competitive impact on the industry or consumers.

Most industry observers have sadly reached the conclusion that the Department of Justice was prepared and eager to settle this case at an☐, price. If permitted to stand, antitrust law enforcement in the high-technology industry—which many have described as the sector that now drives the economy—will be effectively repealed. Future antitrust defendants will follow the yellow brick road paved by Microsoft: deny that you are a monopoly regardless of the court findings, outlast and outspending your governmental adversaries and trust that sooner or later, the government will accept a meaningless settlement primary for the sake of settlement alone.

It is the responsibility of the Justice Department not to lose interest in enforcing the laws necessary to insuring competition and consumer choice. Settling on the cheap the most important antitrust case in a generation in the most important industry in America is an unwarranted abdication of responsibility. If permitted to stand, consumers will pay the price for generations to come in the form of diminished choices, higher prices, and stifled innovation.

No Remedy for the Browser or Java

The DoJ remedy is inadequate in the area of so-called "middleware." "Middleware" is a critical concept in this case because middleware is the software layer that—in a competitive market—could undermine Microsoft's ability to protect its monopoly. Both Netscape's Navigator and the Java programming language were examples of middleware threats, yet the Proposed Final Judgment is silent on both the Browser and Java. These middleware and platform threats were the central focus of the appeals court decision. It is insupportable to settle for a. remedy that the Department of Justice knows will not have any competitive impact in the central markets at issue in the case.

Remedy Relies too Heavily on PC Companies (OEMs) As a general matter, the middleware—and other remedies—imposed by the Department of Justice relies far too heavily on PC companies exercising flexibility in product design, rather than affirmatively requiring Microsoft to comply with the antitrust laws. It is possible—in fact, likely—to imagine a result where the PC companies choose not to exercise their new rights under a settlement. As a practical matter, that would leave the government with no remedy for the most important parts of the Appeals Court's ruling.

It is inappropriate for the government to impose—transfer—its remedial obligations under the antitrust laws to PC companies, which are wholly dependent upon the monopolist. The DoJ seems more willing to impose the burden of forcing Microsoft to comply with the antitrust laws on PC companies rather than impose even the slightest restrictions on Microsoft—the adjudicated monopolist—to change the way it does business. As both an economic and a practical matter, the PFJ imposes greater burdens on PC companies than it does on the adjudicated monopolist Remedy/ow7ores Key Finding of the U.S. Court of Appeals Nothing in the agreement prohibits Microsoft's "commingling of code" or binding of its middleware to the OS. This was a major issue in the case; the Court of Appeals specifically found Microsoft's commingling of browser and OS code to be unlawful.

Microsoft petitioned the Appeals Court for a reheating on this precise matter, which was summarily rejected by the court. And yet, after the Court clearly ruled on the rehearing, the DOJ adopts Microsoft's view—not the Courts. The settlement would explicitly permit Microsoft's commingling of code to continue.

The danger of the absence of this provision is reinforced by what is found in the definition "U," stating that the definition of what code comprises a Windows Operating System Product "shall be determined by Microsoft in its sole discretion." Thus, Microsoft can, over time, render all the protections for middleware meaningless, by binding and commingling code, and redefining the OS to include the bound/commingled applications.

Remedy "Requires" or "Mandates" Microsoft to Continue Business As Usual Two of the key provisions of the PFJ cited by DOJ as instrumental in restoring competition merely require Microsoft continue to engage in business as usual. First, DOJ points to the provision that allows PC companies and end users to remove "end user access" to Microsoft middleware (i.e. Internet Explorer, Windows Media Player, Windows Messenger, etc). It is important to understand that all "end user access" really means is the ability to remove the "icon" for the middleware application, not the middleware itself. Second, DOJ "grants" the PC companies "flexibility" to add or remove icons on the Windows desktop. On both points, it is apparently convenient for DOJ and Microsoft to forget that most of this flexibility either previously existed or was granted by Microsoft five months before the settlement on July 11th (see appendix one).

Moreover, PC companies have always enjoyed the flexibility to add icons to the Windows desktop. Amazingly, the PFJ actually makes matters worse because it grants Microsoft the right to come back 14 days after a consumer buys a PC and—after confirmation from the user—automatically deletes all the changes a PC company made and restores the Microsoft software. You can imagine the prompt now: Two weeks have passed since you bought >'our PC! Click on the Icon if you want to enhance your PC with better more robust multimedia capabilities from So, under this remedy, Microsoft gets to undermine the choices made by PC companies and grants Microsoft a "second bite at the apple" to badger consumers into—unknowingly or unwittingly—switching back to Microsoft's software.

Second, DOJ claims credit for "requiring" Microsoft to disclose to third party software developers the Applications Programming Interfaces (APIs) for Windows. A review of the definitions reveals that the provision is essentially meaningless. The API disclosure requirements for new versions of the Windows operating systems must be disclosed in a "timely manner." A close examination of the definition of "timely manner," exposes that this requirement is triggered when Microsoft distributes beta copies of its software to 150,000 "beta testers." Microsoft can be expected to insure that the number of beta testers remains below 150,000, thus exempting itself from the disclosure requirements in the first place. More telling is the fact that Microsoft never ever had 150,000 "beta testers" for Windows XP, Windows "98, or Windows "95.

But astonishingly, DOJ apparently did not make the effort to learn that Microsoft discloses information to third party software developers anyway, through a program called the Microsoft Developers Network (MSDN) (see http://www.msdn.microsoft.com). The MSDN program is "an essential resource for developers using Microsoft tools, products, and technologies. It contains a bounty of technical programming information, including sample code, documentation, technical articles, and reference guides." Why does Microsoft give out this information? Because the most important economic law of the software industry is that the more programs you have running on your platform (like Windows) the more valuable your platform is relative to competitors. So, the more applications Microsoft has running on Windows, the more valuable Windows becomes.

In the spring of 1995, Netscape requested from Microsoft the APIs necessary to insure that its browser would work with the Windows "95, scheduled for later that year. Microsoft resisted sharing this information for nearly a year, until well after Windows "95 was released. Because Windows "95 did not involve 150,000 beta testers, Netscape would not have had the right to receive the critical APIs if this remedy had been in place in 1995. Thus Microsoft's ability to arbitrarily withhold APIs from those that would deign to enter into competition with Windows is left intact.

Remedy Ignores Fundamental Economics of the Software Industry

The more developers that support Windows, the more valuable Windows becomes. That is the fundamental economic reality of the industry. That is also why the "flexibility" to remove "end user access" to Microsoft's applications is so woefully inadequate. The fact is that under this remedy, regardless of whether consumers or PC companies affirmatively decide to remove a particular Microsoft middleware application (i.e. browsers, media player, instant messenger, e-mail, etc.) DOJ's remedy permits all of the code to remain. The impact of this decision is the third party developers will always write software to the middleware platform that is present on the largest number of PCs.

Under the PFJ, that middleware will always be Microsoft's middleware and non-Microsoft's middleware threats will never have a chance a attracting a large enough developer following to displace Windows. In response to a question about this precise issue in the Wall Street Journal, Charles James responded, "I don't care." (check either Nov. 11 or 12 WSJ).

Remedy is Unenforceable and Riddled with Loopholes

In addition, too many of the provisions require a mini-retrial to be enforced. In numerous places throughout Section III, the limitations on Microsoft's conduct are basically rephrased versions of the Rule of Reason. In other words, the constraints on Microsoft (once the exceptions are taken into account) devolve into a mandate that Microsoft act "reasonably." For example, in III.F.2, Microsoft may place enter into restrictive agreements with ISV's activities if they are "reasonably necessary." Likewise, the Joint Venture provisions found in III.G. also "reasonably necessary" test.

Aside from the obvious concern about Microsoft's willingness to do so given its track record, this formulation is problematic for two other reasons. First, it does little more than restate existing antitrust law (such provisions cannot be said to be "remedial" if they, in essence, are merely directives to refrain from future illegal acts). And second, in terms of enforcement, alleged violations of such "be reasonable" provisions can only be arrested through proceedings that will become, in essence, mini-retrials of U.S. v. Microsoft itself.

Moreover, the proposed remedy follows timelines that are too loose and too generous to a company with the engineering resources and product-update capabilities of Microsoft. Microsoft is given almost a year before making even the most modest changes. For example, the "icon" remedy discussed above merely requires Microsoft to allow PC companies and end users to remove the icon for particular programs from the Windows desktop. This functionality is readily available in Windows today. But even the more significant step of including the "icon" in the "add / remove" utility would require a trivial degree of engineering. Yet Microsoft is given a year—20 percent of the term of the decree -to implement even this rudimentary changes. Microsoft won the "Browser War" in less than a year. The Devil is in the Definitions

There are literally dozens of provisions that sound promising until the definitions reveal that in fact Microsoft has sole discretion to determine whether or not the provisions are triggered at all. Just a few obvious examples:

As discussed above, the API disclosure requirements for new versions of the Windows operating systems are triggered only when Microsoft distributes beta copies of its software to 150,000 "beta testers." Microsoft can be certain to stop beta distribution well before those unprecedented number of testers receive beta copies in the first place. And even if Microsoft accidentally distributed 150,000 beta versions of Windows, the term "beta tester" is not defined anyway, giving Microsoft yet another obvious way to evade the disclosure provisions—which again are being touted as the centerpiece of the agreement.

Probably the most gratuitous provision comes at the last line of the PFJ. Definition "U" of the Windows Operating System Product definition, states: "The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion." This language, of course, has no practical import for the purposes of the PFJ except that it lets Microsoft evade many of the settlements provisions. It also strikes most observers as odd that an antitrust decree grants explicitly grants complete latitude to the defendant and seems to provide Microsoft with a judicially approved monopoly over the most important distribution channel in the software industry: Windows.

SECTION-BY-SECTION ANALYSIS OF THE PFJ

Some obvious problems with the agreement are discernable immediately. Below, we identify the most unsettling of those problems. Perhaps some are not in fact problems, but merely questions of misreading of the agreement; of course, the fact that reasonable people can read the agreement differently is itself indicative of the problem presented by it, given that Microsoft will surely interpret it as a determined and unrepentant monopolist.

A. Retaliation

The Scope of the Protection is Narrow: Most significantly, Microsoft is constrained only from the specified forms of retaliation. If it retaliates against a PC company for any non-specified reason, that retaliation is not prohibited. This formulation is particularly problematic because the protected PC company activities are narrowly and specifically defined. Retaliation against a PC company for installing a non-Microsoft application that does not meet the middleware definition is NOT prohibited; nor is retaliation against a PC company for removing a MSFT application that does not meet the middleware definition.

For example:

MSN and MSN Messenger are not middleware under the definition of a Microsoft Middleware Product. If a PC removes the icon and start menu promotion of MSN and/or MSN Messenger, it can be subjected to retaliation.

Windows Movie Maker or the Windows photo editing software is not middleware so if a PC company decides to remove either of these products, Microsoft can retaliate.

More generally, it is odd to have a formulation that de facto approves of Microsoft's retaliation against PC companies, except where that retaliation is forbidden. And, it is odd that any certain types of retaliation (i.e., retaliation by changing contractual relations and retaliation by changing promotional arrangements) are forbidden, as opposed to prohibiting any form of retaliation whatsoever.

Non-Monetary Compensation Provision is Far too Narrow Microsoft is free to retaliate against PC companies that promote withholding any existing form of "non-monetary Compensation" introduced forms of non-monetary Consideration" may not be withheld. competition by - only "newly Termination Clause Will Intimidate PC companies Microsoft can terminate, without notice, a PC companies Windows license, after sending the PC company two notices that it believes it is violating its license. There need not be any adjudication or determination by any independent tribunal that Microsoft's claims are correct; only two notices to any PC company of a putative violation, and thereafter, Microsoft may terminate without even giving notice. This provision means that the PC companies are, at any time, just two registered letters away from an unannounced economic calamity. It will render the PC companies severely limited in their willingness to promote products that compete with Microsoft.

Pricing Schemes Will Allow Microsoft to Avoid Effect of Decree Microsoft can price Windows at a high price, and then put economic pressure on the PC company to use only Microsoft applications through the provision that Microsoft can provide unlimited consideration to PC companies for distributing or promoting Microsoft's services or products. The limitation that these payments must be "commensurate with the absolute level or amount of" PC company expenditures is hollow—given that it is not clear how the PC companies costs will be accounted for, for this purpose.

B. Pricing

Microsoft Can Use Rebates to Eviscerate Competition

Under the settlement, Microsoft can provide unlimited "market development allowances, programs, or other discounts in connection with Windows Operating System Products." This provision essentially eviscerates the entire scheme of PC company choice, functioning the same way as the rebate provision discussed above, but without any tether or limiting principle whatsoever. Simply put, MSFT can charge $150 per copy of Windows, but then provide a $99 "market development allowance" for PC companies that install Windows Media Player as opposed to Real Networks media player. Presumably, this is intend to be prescribed by III.B.3.c, which provides that "discounts or their award" shall not be "based on or impose any criterion or requirement that is otherwise inconsistent with ... this Final Judgment," but this circular and self-referential provision does not ensure that the practice identified above is prohibited.

C. PC Company Licenses

Microsoft Retains Control of Desktop Innovation Microsoft retains control of desktop innovation, by being able to prohibit PC companies from installing or displaying icons or other shortcuts to non-Microsoft software/products/services, if Microsoft does not provide the same software/product/service. For example, if Microsoft does not include a media player shortcut inside its "My Music" folder, it can forbid the PC companies from doing the same. This turns innovation and the premise that PC companies be permitted to differentiate their products on its head.

For example, Sony—as a PC company and a major force in the music and photography industries—would be uniquely positioned to differentiate the "My Music" and "My Photos" folder. And yet, Sony's ability to do turns solely on the extent to which Microsoft chooses to unleash competition in these areas. Microsoft Retains Control of Desktop Promotion." Microsoft also, very oddly, can control the extent to which non-Microsoft middleware is promoted on the desktop, by virtue of a limitation that PC companies can promote such software at the conclusion of a boot sequence or an Internet hook-up, via a user interface that is "of similar size and shape to the user interface provided by the corresponding Microsoft middleware." Thus, Microsoft sets the parameters for competition and user interface.

Promotional Flexibility for Internet Access Providers Only, and Only for the PC companies "own" Internet Access Provider (IAP's) companies are allowed to offer IAP promotions at the end of the boot sequence, but not promotions for other products. Also, the phrase that defines the scope of this flexibility (a PC companies "own IAP offer") is ambiguous: it is not clear if the PC companies right is limited to offering an IAP product that is marketed under the PC companies brand, or if this includes any IAP that an PC company may reach an agreement with to promote in this space. The latter would obviously give the PC companies more flexibility.

D. API Disclosure

APIs Defined Too Narrowly

Microsoft can evade this provision by "hard-wiring" links to its applications, and through other predatory coding schemes. The disclosure is limited to "APIs and related Documentation." This may be too narrow and can be evaded. Moreover, the provision for the disclosure of "Technical Information" found in Judge Jackson's interim conduct remedies has been eliminated. These disclosures are necessary to provide effective interoperability.

E. Server Interoperability Issues (also found in III, E, I, H and J)

Only Full Interoperability Can Reduce Microsoft's Barriers to Desktop Competition The DOJ's proposed server remedy will fail to provide meaningful, competitive interoperability between Microsoft desktops and non-Microsoft servers.

The applications barrier to entry is central to this case and to Microsoft's desktop monopoly. A remedy that provides true server interoperability can be a powerful tool to reduce the applications barrier to entry. The server has the same, or indeed more, potential to provide an alternative application platform to the desktop as did the browser or any other desktop runtime. In that sense it is directly analogous to middleware products.

Microsoft has plainly recognized the threat that non-Microsoft servers pose as an alternative applications platform and has acted to exclude those products from full interoperation with the desktop and to advantage its own server products. It is able to do that because it controls the means by which servers may interoperate with the functions and features of the Windows desktop. In order to succeed in establishing non-Microsoft servers as an effective alternative application platform, both consumers and application developers have to be convinced that such servers can overcome the interoperability barriers that Microsoft has erected and have become viable alternatives to Microsoft's own servers, which of course fully interoperate with the desktop.

The proposed decree allows Microsoft to continue to exploit dependencies between its desktop applications or its desktop Middleware and its servers or handheld devices to exclude server and handheld competition.]he New Order Requires Less Disclosure Than the Original Order The interim conduct order imposed by Judge Jackson (see Final Judgment Section 3(b) (iii)) required Microsoft to disclose all APIs, Communications Interfaces and Technical Information (i.e., any and all possible technical dependencies) between (a) software installed on any device (including servers and handhelds) and (b) any Microsoft Operating System or Middleware installed on a PC.

But the Proposed Final Judgment discloses less information (no server APIs and no Technical Information) between fewer platforms (no client OS-to-server application disclosure; no unbundled client Middleware-to-server disclosure; no client OS-to-handheld disclosure; and no client Middleware-to-handheld disclosure; with no access to source code, and no provision for timely or updated disclosures.

Consequently, unlike old 3(b)(iii), the PFJ (Section 3(E)) permits Microsoft to push functionality from the OS to the application layer in order to avoid disclosure.]he Failure to Define "Interoperate" Is A Huge Mistake Neither section 3(E) nor any other provision of the proposal defines the meaning of "interoperate." The failure to define "interoperate" is tantamount to the Justice Department's prior failure to define "integrate" in the 1995 consent decree, and will form the basis for unending and bitter future disputes over the scope of Microsoft's disclosure obligation.

"Communications Protocol" is Defined Too Narrowly and Too Ambiguous The definition of "Communications Protocol," which determines the scope of server information to be disclosed by Microsoft, is highly ambiguous, and potentially very narrow in scope:

It is limited to Windows Server Operating System, and thus is unclear whether it includes Internet Information Server (Microsoft's Web Server) or Windows Media Server, both of which are shipped with Windows 2000 Server.

It is unclear whether "rules for information exchange" that "govern the format, semantics, timing sequencing, and error control of messages exchanged over a network" means the rules for transmitting information packets over a network, or the rules for formatting and interpreting information within such packets.

It is unclear what the last sentence of the definition of Communication Protocol means when it excludes from the information to be disclosed "protocols to remotely administer Windows 2000 Server and its successors."

Even in its broadest possible meaning, Communications Protocols is insufficiently broad or comprehensive to require disclosure of the information needed to permit interoperability between non-Microsoft servers and the full features and functions of Windows desktops. For example, no conceivable interpretation of Communications Protocol would appear to require disclosure of Microsoft's COM+. 7he Definition of "Windows Operating System Product" Gives Microsoft the Ability to Avoid Disclosure.

The scope of Microsoft's disclosure obligation is determined in large part by the meaning of "Windows Operating System Product." The definition of Windows Operating System Product leaves Microsoft free to determine in "its sole discretion" what software code comprises a "Windows Operating System Product." In other words, Microsoft's disclosure obligation is subject entirely to its discretion.

The Room for Dispute Means No Meaningful Disclosure is" Likely to Occur Much Before the Judgment Expires: The ambiguities and uncertainties in the scope and meaning of section 3(E) and the definitions on which it depends means that a protracted battle will inevitably be required to obtain Microsoft's full compliance with its disclosure obligations. The 9 month delay in Microsoft's obligation to begin disclosure means that a significant portion of the 5 year remedial term will have expired, and that one product generation at least will have passed, before any disclosure is made. Combined with the fact that there is no explicit provision for additional disclosures for upgraded or successor products, and no requirement for timely disclosure, means that there is not likely to be more than one disclosure for one product generation only.

Microsoft's ability to exploit ambiguity, and the discretionary powers given to the company, the defendant here, must be eliminated. The document simply fails the test of clarity and specificity needed to be a meaningful contract between the United States, the state plaintiffs, and Microsoft.

Section 3(J)'s Carve Out Eliminates The Most Important Disclosures What little section 3(E) provides, section 3(J) takes away by permitting Microsoft to refuse to disclose the very protocols and technical dependencies it is currently using to prevent non-Microsoft servers from interoperating with Microsoft desktops and servers.

G. Anti-Competitive Agreements

Joint Development Agreements Can Subvert Protections of Settlement The protection against anti-competitive agreements is substantially undermined by the exception that allows Microsoft to launch "joint development or joint services arrangements" with PC companies and others. Under this provision, Microsoft can "invite" PC companies, ISVs, and other industry players to enter into "joint development" agreements, and then resort to an array of exclusionary practices. For example, Microsoft invites PC company X to form a "joint development" project to create "Windows for X," a "new product" to be installed on the PC company's PCs. So long as Microsoft's activities are cloaked under this rubric, it is exempt from the ban on requiring the PC company to ship a fixed percentage of its units loaded with Microsoft's applications, and other protections designed to promote competition.

1. Desktop Customization

Add/Remove is For Icons Only, Not the Middleware Itself The add/remove provisions in the agreement only allow for removal of end user access to Microsoft middleware, not the middleware itself. This position is not consistent with the language in the Court of Appeals opinion on commingling or the "add/remove" issue. For example, a PC company or a consumer might choose to eliminate Microsoft's Internet Explorer and replace it with Netscape's Navigator as the default. Under this provision, Microsoft's Internet Explorer—not Netscape's Navigator—is still used in the MyDocuments, MyMusic, MyPictures and Windows Explorer folders.

More substantially, if MSFT's middleware remains on PCs (even with the end user access masked), then applications developers will continue to write applications that run on that middleware—reinforcing the applications barrier to entry that was at the heart of this case. Allowing MSFT to forbid the PC companies from removing MSFT middleware, and allowing MSFT to configure Windows to make it impossible for end users to do the same, allows Microsoft to reinforce the applications barrier to entry, irremediably.

As we have seen with the implementation of this approach (i.e., icon removal only) with regard to Internet Explorer in Windows XP, MSFT can use the presentation of this option in the utility to make it less desirable to end users. Moreover, limiting the required "add/remove" provision to icons only is actually a step backward from the current state of affairs in Windows XP, where code is removable for several pieces of Microsoft middleware. Thus, the DoJ actually codifies the most limiting of consumer alternatives—merely removing an icon. Why Are Non-MSFT Icons Subject to Add/Remove ?

The agreement gives Microsoft an added benefit: it can demand that PC companies include icons for non-MSFT middleware in the add/remove utility. Why this should be required, in the absence of any finding that assuring the permanence of non-MSFT middleware on the desktop is anti-competitive, is bizarre. This essentially treats the victims of Microsoft's anti-competitive behavior as if they were equally guilty of wrongdoing.

Twelve Months To Implement is Too Long

Most of the provisions in this section do not take effect for a full 12-month period—20 percent of the total length of the PFJ. Given Microsoft's vast engineering resources; an ability to instantly update its products via on-line downloads; and the just-in-time manufacturing of the PC companies, there is no justification for this lengthy phase-in. Tellingly, when Microsoft made modest concessions in response to the Court of Appeals decision on July 11th, it implemented these changes within three weeks (when a new beta version of Win XP was released). Consumers should not have to wait another year for the choices they deserved to be offered years and years ago.

Microsoft Can Embed Middleware, And Evade Restrictions

End users and PC companies are allowed to substitute the launch of a non-Microsoft Middleware product for the launch of Microsoft middleware only where that Microsoft middleware would be launched in a separate Top-Level Window and display a complete end user interface or a trademark. This, in essence, allows Microsoft to determine which middleware components will or will not be subject to effective competition. By embedding their middleware components in other middleware (and thereby not displaying it in a "Top Level Window" with all user interface elements), or by not branding the middleware with a trademark, Microsoft can essentially stop rivals from launching their products in lieu of the Microsoft products.

Harder for Consumers to Choose Non-Microsoft Products than Microsoft Products In the same provision (III.H.2.), Microsoft may require an end user to confirm his/her choice of a non-Microsoft product, but there is no similar "double consent" requirement for Microsoft Middleware. There is no reason why it should be harder for users to select non-Microsoft products than Microsoft products.

Microsoft Can "Sweep" the Desktop, Eliminate Rival Icons

Additionally, the PC company flexibility provisions are substantially undermined by a provision that allows Microsoft to exploit its "desktop sweeper" to eliminate PC company installed icons by asking an end user if he/she wants the PC company-installed configuration wiped out after 14 days. Thus, the PC company flexibility provisions will only last on the desktop with certainty for 14 days, and after that period, persistent automated queries from Microsoft can reverse the effect of the PC company's installations. The effect of this provision is to severely devalue the ability of PC companies to offer premier desktop space to ISVs—and to undermine the ability of PC companies to differentiate their products and provide consumers with real choices. Here is an example of what a prompt might look like (which would have the effect of setting all of the choices and defaults previously picked by PC companies and consumers back to Microsoft's presets):

Two weeks have passed since you bought your PC! Click on the Icon if you want to enhance your PC with better more robust multimedia capabilities from Microsoft.

Desktop "MFN" Requirements

Finally, nothing in the decree forbids Microsoft from requiring—especially where non- middleware is concerned—so-called MFN agreements from the PC companies. These agreements tax PC company efforts to promote Microsoft rivals by requiring that equal promotion or placement be given to Microsoft products, often without compensation.

I. Licensing Provisions

Licenses Put in Hands of Those Who May Not Be Able to Use Them The PC company licensing provision is limited in its effectiveness because the PC companies are prevented from "assigning, transferring, or sublicensing" their rights. This may severely limit their ability to partner with software companies to develop innovative software packages to be pre-installed on PCs. This provision is especially harmful when contrasted with the broad partnering opportunities afforded to Microsoft under III.G. In addition, the PC company's willingness to use these provisions—even if they have the financial and technical wherewithal to do so—may be limited by the weakness of the retaliation provisions discussed above.

Reciprocal License? This simply can't be true.

The agreement requires ISVs, PC companies and other licensees to license back to Microsoft any intellectual property the□, develop in the course of exercising their rights under the settlement. But that simply rewards Microsoft for having created the circumstances (i.e., having acted illegally) that necessitated the settlement in the first place. Microsoft should not be able to obtain the intellectual property rights of others simply because those law abiding entities have been required to work with this law breaker.

In addition, this provision may inadvertently work as a "poison pill" to discourage ISVs, et al., from taking advantage of the licensing rights ostensibly provided them in III.I. The risk that an ISV would have to license its rights to Microsoft will be a substantial deterrent for that ISV from exercising its rights under III.I.

J. "Security and Anti-Piracy" Exception to API Disclosure

The Settlement Exempts The Software and Services That Are the Future of Computing One of the most seemingly innocuous provisions in the agreement—that is in fact, one of the biggest loopholes—is the provision that allows MSFT to withhold from API, documentation or communication protocol disclosure any information that would "compromise the security of .... digital rights management, encryption or authentication systems." The fact is that for programs to interoperate you must have all the information necessary. A provision that allows Microsoft to withhold certain information—or guarantees litigation over what information is exempted ensures that no program will ever be truly interoperable.

This provision raises several critical concerns: Digital Rights Management Exception "Swallows" Media Player Rule Since the most prevalent use of media players in the years ahead will be in playing content that is protected by digital rights management (DRM) (i.e., copyrighted content licensed to users on a "pay-for-play" basis), allowing MSFT to render its DRM solution non-interoperable with other DRM solutions essentially means that non-Microsoft media players will be virtually useless when loaded on Windows computers.

Authentication Exception Allows Microsoft to Control Internet Gateways, Server-Based Services.

Most experts agree that the future of computing lies with server-based applications that consumers will access from a variety of devices. Indeed, Microsoft's ".Net" and ".Net My Services" (formerly known as Hailstorm) are evidence that Microsoft certainly holds this belief. These services, when linked with MSFT's "Passport," are Microsoft's self- declared effort to migrate its franchise from the desktop to the Internet:

By exempting authentication APIs and protocols from the settlement's disclosure requirement, the settlement exempts the most important applications and services that will drive the computer industry over the next few years. If Microsoft can wall off Passport, .Net, and .Net My Services (Hailstorm) with impunity—and link these internet/server-based applications and services to their desktop monopoly—then Microsoft will be in a commanding position to dominate the future of computing.

PFJ SECTION IV. COMPLIANCE AND ENFORCEMENT

A. Enforcement Authority

Enforcement Authority is Too Difficult to Employ Clearly, what's missing from the agreement is a quick, meaningful, and empowered mechanism for preventing and rectifying Microsoft's future violations of the agreement. Thus, while the provision allowing Microsoft to cure any violations of III C, D, E, and H before an enforcement action may be brought is not itself objectionable, it is but one of a number of provisions that make enforcing the agreement cumbersome, expensive, and time consuming.

B. Technical Committee

Microsoft gets half the votes.

In setting up the Technical Committee, Microsoft gets to appoint one member, the Department of Justice gets to appoint one member, and Microsoft and the Department jointly appoint the third. This formulation guarantees that at least Microsoft, the defendant, will approve half of the Technical Committee's members. Technical Committee's Investigation Allowed Only Limited Use The work of the Technical Committee cannot "be admitted in any enforcement proceeding before the Court for any purpose," and the members of the TC are forbidden to appear. Thus, under the terms of the decree, the substantial time, effort, and expense that can go into a TC process may need to be duplicated in an enforcement action—adding to the complexity and expense that process will pose for victims of Microsoft violations.

C. Voluntary Dispute Resolution

Source Code Access is Not Enough.

While it is helpful that the Technical Committee will have access to MSFT's source code, and can resolve disputes involving that issue, the Technical Committee is otherwise powerless to compel Microsoft's compliance with the agreement in any other respect. The prospects that Microsoft will accept the decisions of the TC in a voluntary dispute resolution process are near zero. And the entire mechanism seems designed to drag disputes on indefinitely: no time limits or time lines are specified for dispute resolution.

Thus, as noted above, there must be some compulsory means of dispute resolution, short of renewed litigation in the District Court. As it stands now, a party injured by MSFT's violation of the decree can:

- Complain to the Technical Committee, which will then conduct an investigation;
- Once the investigation is complete, the TC will presumably issue some decision; while the investigation is ongoing, the TC is supposed to consult with MSFT's Compliance Officer, for an indefinite period;
- If the TC concludes that MSFT violated the agreement, and MSFT does not agree to change its behavior or rectify the wrong, then the TC must decide whether to recommend the matter to US DOJ for further action;
- Once recommended, the U.S. DOJ—after some review period—y decide to take action, and apply to the court for a remedy, or it may not;
- And once the US DOJ applies for action, the process in court to obtain relief or remedy may extend for an indefinite period.

This is obviously a lengthy and ineffective process for insuring that MSFT complies with its obligations under the decree. In an industry where time is of the essence, and where delays can be fatal, the delays built in that allow Microsoft to drag its feet are wholly unacceptable.

PFJ SECTION V. TERMINATION

A. Five Year Limit

Five Year Coverage Is Inadequate

Given the scope of Microsoft's violation, the time period required to restore effective competition, and the pattern of willful lawbreaking on Microsoft's part, a five-year consent decree is woefully inadequate.

B. Two Year Extension

Penalty For Knowing Violations is Too Lenient

Amazingly, the agreement provides that no matter how many knowing and willful violations that Microsoft engages in, the restrictions found in the settlement may be extended for a single two-year period only. Thus, if Microsoft is adjudged to have engaged in such a pattern of violations, it essentially has a "free reign" to repeat those violations with impunity. Moreover, even for a single adjudged instance of knowing and intentional violation, a mere two-year extension is inadequate.

PFJ SECTION VI. DEFINITIONS

A. APIs

API Definition Too Narrow

This is discussed above.

B. Communications Protocol

Missing Definition, Inclusion of "Technical Information:"

While the definition of communication protocol is adequate, the decree is missing a definition of "technical information," and inclusion of that material in the mandatory disclosures. This definition and protection were provided in the interim remedies entered by the District Court.

K. Microsoft Middleware Product

Definition Exempts Too Much Middleware

Much of the decree is based on this definition—the PC Company's flexibility turns on what is included or excluded from this category of application. And yet the definition is fatally flawed.

- First, among existing products, only the five listed items are "middleware." That means that highly similar items, such as MSN, MSN Messenger, MSN Explorer, MSFT RunTime (the replacement for the MSFT JVM), Passport, Outlook, and Office are ALL excluded from the definition of middleware. Why Windows Messenger should be covered, but MSN Messenger should be exempt; or why Internet Explorer should be covered, but MSN Explorer should be exempt, is a mystery.
- Any efforts by PC companies to remove these Microsoft applications may be met with retaliation; end users cannot remove these applications (or even their icons). This is a step backward from the status quo (even in Windows XP); it is a gaping hole.
- Second, the generic middleware definition, which applies only to new products, and therefore does not capture any product now in existence, allows MSFT to define which products are included or not, by virtue of MSFT's trademark and branding choices. Thus, so long as MSFT buries these products inside other applications, they are not independently middleware.
- Third, as suggested in the points above, the definition misses the future platform challenges to Microsoft's Windows monopoly: web-based services. These services should be specifically defined, and included in the class of protected middleware.

N. Non-Microsoft Middleware Product

Only Developers With REALLY Big Garages Need Apply

The competitive offerings protected by the decree are narrowly limited to offerings that fall within the definition of "Non-Microsoft Middleware Products." Again, as noted above, the guarantees of PC company flexibility, promotion, and end use choice apply only to these specified products, not to an,,, other software applications.

And yet, sadly, this definition narrowly extends this protection only to applications "of which at least one million copies were distributed in the United States within the previous year." Thus, an innovator in his garage, creating a new form of middleware, to revolutionize the computer industry, has no protection from MSFT's rapacious ways until he can achieve the distribution of 1 million copies of his software. So much for the Silicon Valley myth ....

Also, as noted above, "web based services" are not captured in this definition, notwithstanding their importance to future competition to the Windows OS.

R. Timely Manner

Netscape, All Over Again

Microsoft's obligation to disclose APIs and other materials needed to make applications interoperable with Windows in a "timely manner" is keyed off the definition of that term in Section R. But, Microsoft retains complete control over this timeline because the definition provides that Microsoft is under no obligation to engage in these disclosures until it distributes a version of the Windows OS to 150,000 beta testers. Thus, so long as MSFT restricts its beta testing program to 149,999 individuals until very late in the development process, it can effectively eviscerate the disclosure requirements. More troubling, it appears that Microsoft must have mislead the Department of Justice.

Our review of the available documentation shows, for example, that Microsoft had no more than 20,000 beta testers4 for Windows XP (at least until very late in the release cycle); thus, had this provision been in place during the Windows XP release cycle, Microsoft would have been under no obligation to release APIs until just on the eve of product shipping.

Note that the number of "beta testers" will be much smaller titan the number of "beta copies" of a product that is being prepared for release.

Slow disclosure of APIs is precisely how MSFT defeated Netscape's timely interoperability with Windows 95. Thus, in this way, not only is the decree inadequate to prevent future wrongdoing, it does not even redress proven illegal acts in the past.
U. Windows Operating System Product—The rule which gives away the rest of the settlement.

The entire settlement can really be defined by its final clause, definition U. of the Windows Operating System Product. This provision gives Microsoft the right to define the Windows Operating System Product in the flowing way: "The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion." This definition eviscerates most of the prior provisions of the PFJ (or at a minimum guarantees continued litigation of the meaning of the PFJ) will be rendered meaningless.

More important, it gratuitously gives Microsoft a free reign to trample through the antitrust laws by continually redefining its monopoly product as it sees fit. It is hard to imaging how DoJ agreed to this provision.

Appendix One: Microsoft Announces Greater OEM Flexibility for Windows. Microsoft Announces Greater OEM Flexibility for Windows Changes Will Not Affect Oct. 25 Launch Date of Windows XP REDMOND, Wash.—July 11, 2001—Microsoft Corp. announced Wednesday that it is offering computer manufacturers greater flexibility in configuring desktop versions of the Microsoft?? Windows?? operating system in light of the recent ruling by the U.S. Court of Appeals for the District of Columbia. The company said the changes would not affect the Oct. 25 launch date of Windows XP.

"We recognize that some provisions in our existing Windows licenses have been ruled improper by the court, so we are providing computer manufacturers with greater flexibility and we are doing this immediately so that computer manufacturers can take advantage of them in planning for the upcoming release of Windows XP," said Steve Ballmer, CEO of Microsoft. "Windows XP represents a revolutionary step forward in personal computing, and computer manufacturers and consumers are looking forward to this product with great anticipation."

"This announcement does not take the place of settlement discussions with the government parties or any future steps in the legal process; however, we wanted to take immediate steps in light of the court's ruling. We are hopeful that we can work with the government parties on the issues that remain after the court's ruling," Bailmet added.

The appeals court ruled that certain provisions in Microsoft's licenses with PC manufacturers impaired the distribution of third-party Web browsers. Microsoft will now provide PC manufacturers with the following new flexibility:

- PC manufacturers will have the option to remove the Start menu entries and icons that provide end users with access to the Internet Explorer components of the operating system. Microsoft will include Internet Explorer in the Add/Remove programs feature in Windows XP.
- PC manufacturers will have the option to remove the Start menu entries and icons that provide end users with access to Internet Explorer from previous versions of Windows, including Windows 98, Windows 2000 and Windows He.
- PC manufacturers will retain the option of putting icons directly onto the Windows desktop. Based on extensive customer usability studies, Microsoft had designed Windows XP to ship with a clean desktop and improved Start menu, but PC manufacturers will now have the option of continuing to place icons on the Windows desktop if they want to.
- Consumers will be able to use the Add-Remove Programs feature in Windows XP to remove end-user access to the Internet Explorer components of the operating system. Microsoft has always made it easy for consumers to delete the icons for Internet Explorer, but will now offer consumers this additional option in Windows XP.

Although some of these changes will require development work and testing for Windows XP, Microsoft said Wednesday it can complete the work and will be able to meet the date for worldwide launch on Oct. 25.

Computer industry leaders today underscored the importance of the launch of Windows XP to the PC industry and consumers. "We're very excited about the possibilities that Windows XP delivers to our customers," said Ted Waitt, co- founder and CEO of Gateway. "With this new flexibility, we're looking forward to taking Windows XP to the next level, tailoring technology to meet our customers" needs."

"Windows XP is an incredible step forward for end users and partners, unlocking the possibilities of the digital world," said Jim Allchin, group vice president for platforms at Microsoft. "Windows XP provides new opportunities for companies throughout the hardware and software industries, especially PC manufacturers that have worked closely with us to create the best experience for customers." "We're excited about Windows XP and the positive impact it will have on our industry. As a strong partner for more than 15 years, Compaq has worked closely with Microsoft throughout the extensive development of Windows XP," said like Larson, senior vice president and general manager of the Access Business Group at Compaq. "We are setting a new standard for simple, dependable and efficient computing."

"Dell is excited about delivering Windows XP later this year," said Jim Totton, vice president of software for the Consumer Products Group at Dell. "Dell is always interested in what's best for its customers, and the new levels of performance, ease of use and customization will combine for a great personal computing experience."

Windows XP will offer customers exciting new experiences for both home and work. Whether someone is an aspiring photographer or a businessperson on the road, Windows XP enables them to embrace the new digital world. It brings together the power and reliability that businesses have asked for with the ease of use and flexibility that home consumers want.

Founded in 1975, Microsoft (Nasdaq "MSFT") is the worldwide leader in software, services and Internet technologies for personal and business computing. The company offers a wide range of products and services designed to empower people through great software—any time, any place and on any device. Microsoft and Windows are either registered trademarks or trademarks of Microsoft Corp. in the United States end/or other countries.

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CITIZENS AGAINST GOVERNMENT WASTE NEW

For Immediate Release

Contact: Sean Rushton or Philippa Jeffery

December 11, 2001 (202) 467–5300

State AGs' Proposed Microsoft Case Remedies Are "Wishful Thinking"

Only eight presents for Hanukkah, and there is no Santa Claus.

Washington, DC—Citizens Against Government Waste (CAGW) today described the nine remaining state attorneys general in the Microsoft antitrust case as engaged in wishful thinking in their new proposed remedy package. The nine renegade states, California, Connecticut, District of Columbia, Florida, Iowa, Massachusetts, Minnesota, Utah, and West Virginia are continuing the litigation against the software company despite a settlement reached by nine other states and the U.S. Department of Justice.

"Who are these public officials kidding?" CAGW President Tom Schatz said. "While the holidays are here, there is no one—besides these AGs—generous enough to give such a gift to Microsoft's competitors. The proposal is pure fantasy, going far beyond the district court remedy, which was substantially narrowed by a higher court."

"Taxpayers will continue to foot the bill for the time and effort in this case, having already forked over more than $35 million at the state and local level. The remaining nine states and the District of Columbia have an average of S 1.3 million in budget deficits. California alone is in the red by $9.5 billion, West Virginia is at $3 million, and Minnesota has ordered 10 percent budget cuts. Citizens are justifiably angered in these troubled times by the continued misuse of their tax dollars on this litigation," Schatz said.

"The details of the proposed remedy read like a competitor's dream come true. The nearly two-dozen provisions are three times as generous as the eight nights of Hanukkah," Schatz said. The states propose a 10-year remedy, twice as long as the one agreed to by the nine other states, DOJ, and Microsoft. During that time, every version of Windows would have to include Java, which is manufactured by Sun Microsystems. Microsoft's intellectual property would be available—essentially for free—to any competitor. A Special Master would have extraordinary powers to decide whether Microsoft is violating the agreement, and anyone can complain anonymously.

"Pursuit of this matter is particularly wasteful since the same judge that would approve the settlement between DOJ and Microsoft is presiding over the state litigation. If the AGs are really in the holiday spirit, they will stop misusing tax dollars on the Microsoft case and instead spend more time and effort protecting their citizens from terrorism," Schatz concluded.

CAGW is the nation's largest taxpayer advocacy group with over one million members and supporters nationwide. It is a nonpartisan, nonprofit organization dedicated to eliminating waste, fraud, mismanagement and abuse in government.

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COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510–62?5

November 29, 2001

The Honorable Charles A. James
Assistant Attorney General
Antitrust Division
United States Department of Justice
901 Pennsylvania Avenue, NW
Washington, DC 20530

Re: United States v. Microsoft Co/p, Civil Action No. 98–1232 (CKK)

Dear Assistant Attorney General James:

As you know, the Senate Judiciary Committee has a long-standing interest in the policy implications of the government's antitrust case in United States v. Microsoft. During my tenure as chairman, the Committee held a series of investigative hearings examining allegations of antitrust violations by Microsoft and the ability of existing law to address anti-competitive commercial conduct effectively and in a timely fashion. Many of the Committee's findings were later manifested in the decisions by the District Court and the Court of Appeals for the District of Columbia Circuit.

The resolution of this case has significance not only for the parties to the litigation, but also for the future application and enforcement of our nation's antitrust laws in the software industry. Given the Committee's continued interest in these policy questions, it would be extremely helpful for me and other members of the Committee to have a better understanding of the various legal, regulatory and practical considerations relating to the proposed settlement.

I have reviewed the Proposed Final Judgment ("PFJ") submitted by the Department of Justice and several of the state plaintiffs, as well as the Competitive Impact Statement ("CIS") filed by the Department on November 15, 2001. At the outset, I should note that the CIS provides information that further explains the implications of the proposed settlement and appears to satisfy your statutory obligation. Even so, I have a number of specific questions that I believe are critical to analyzing and understanding the PFJ. These questions are not intended to suggest a predisposition either in support of or in opposition to the settlement, and any interpretation otherwise would signal a misunderstanding of my interest in this matter. Rather, the questions are intended to elicit important information that I believe is necessary for forming an independent, objective, and informed analysis of the PFJ. Such objective analysis is essential in view of the importance of this case to Microsoft and its competitors, to innovation in the high-technology industry, to the economy, and to consumers.

1. An earlier decision by the Court of Appeals, United States v. Microsoft Corp., 147 F.3d 935 (DCCir. 1998) ("Microsoft II"), relating to the interpretation of an earlier consent decree with Microsoft, has been interpreted by some as expressing the view that judges should not be involved in software design, and that the government simply has no business telling Microsoft or any other company what it can include in any of its products. In its most recent decision, however, the Court of Appeals said that to the extent that the decision in Microsoft II completely disclaimed judicial capacity to evaluate high-tech product design, it cannot be said to conform to prevailing antitrust doctrine.

See United States v. Microsoft Corp., 253 F.3d 34 (DC Cir. 2001) ("Microsoft III"). Is the law clear that the Department does have a responsibility to assess the competitive implications of software design, in bringing antitrust enforcement actions? And, if so, does the Department have the necessary technical expertise and resources to perform such an evaluation?

2. To foster competition in "middleware" the PFJ requires disclosure of APIs and similar information, but it then limits this provision only to those instances where disclosure would be for "the sole purpose of interoperating with a Windows Operating System Product." Except for the limitation, this provision is almost exactly like a comparable provision in Judge Jackson's interim consent decree. Why did the Department decide to add this limitation to the PFJ, and what effect will the inclusion of the limitation have on restoring competition? Please explain the competitive significance of web-based services, and whether the PFJ guarantees interoperability with the servers that operate those web-based services?

3. The Department has concluded that the PFJ is in the "public interest," as required by the Tunney Act. Are you aware of any other case where a Tunney Act "public interest" determination has occurred with respect to a settlement where the underlying liability on the merits already has been affirmed by the Court of Appeals? To what extent should the scope of the District Court's deference to the Antitrust Division under the Tunney Act be affected by a Court of Appeals' prior affirmance of Sherman Act liability?

4. The Court of Appeals remanded the remedy issue because, among other reasons, the District Court failed to demonstrate how divestiture relief was designed to " 'unfetter [the] market from anticompetitive conduct,' . . ., to 'terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future.' " Microsoft III, 253 F.3d at 103 (quoting Ford Motor Co. v. United States, 405 U.S. 562, 577 (1972), United States v. United Shoe Mach. Corp., 391 U.S. 244, 250 (1968)). Please describe how the PFJ meets this standard dictated by the appellate court. (a) How does the PFJ "terminate the monopoly" Microsoft was found by the Appellate Court to have unlawfully maintained over PC operating system software? (b) How does the PFJ "deny to Microsoft the fruits of its Section 2 violation?" and (c) How does the PFJ "ensure that there remain no practices likely to result in monopolization in the future?"

5. Are there findings by the appellate court against Microsoft that are not addressed by the PFJ? If so, what were the reasons why the Department chose not to address these findings?

6. The Court of Appeals held that it was illegal for Microsoft to bind products together

with Windows by "commingling code" because this practice helped Microsoft unlawfully maintain its desktop operating system monopoly. The Court concluded that code commingling has an "anticompetitive effect" by deterring OEMs from pre-installing rival software, "thereby reducing the rivals' usage share and, hence, developers' interest in rivals' APIs as an alternative to the API set exposed by Microsoft's operating system." Microsoft III, 153 F.3d at 66. How does the PFJ prevent Microsoft from future unlawful commingling of non-Windows code with Windows?

7. You have said that Microsoft "won the right to sell integrated products," and that "the tying claim was eliminated by the appeals court." (Business Week, November 19, 2001, p. 116). Other observers, however, argue that the Court of Appeals simply vacated the per se findings of a tying law violation and remanded that issue for consideration under a "rule of reason" standard? Why did the Department conclude that the tying claim was "eliminated" and not simply remanded to be retried under a different standard? What are the circumstances, if any, under which the court or the Department could find it impermissible for Microsoft to "integrate" a product with its Windows operating system?

8. The CIS acknowledges that the "users rarely switched from whatever browsing software was placed most readily at their disposal." It has been suggested that the most effective way to restore competition and to prevent future misconduct would be to require Microsoft to sell a product that is simply an operating system without all of the various applications that are now incorporated into Windows. Without such a requirement, the argument goes, consumers would be forced to procure two products if they choose to use a non-Microsoft version of a product that has been included in the operating system—Microsoft's version and the competitor's version. If Microsoft middleware is preinstalled with Windows, how do you think the adoption rate by users of non-Microsoft middleware will be affected? Did the Department consider including in the PFJ a requirement that Microsoft sell a version of Windows that is solely an operating system without other applications bundled with it?

9. Some observers claim the Court of Appeals found that Microsoft's technological tying, particularly its "commingling of code," was an illegal act of monopolization under Section 2 of the Sherman Act, but that there was insufficient evidence to determine that the same conduct violated Section 1. Do you agree with this? Does the PFJ provide a remedy for such misconduct? In your analysis, does the failure to find that the conduct violated Section 1 obviate the need to provide a remedy for the violation the court found under Section 2?

10. Some Wall Street analysts have opined that the PFJ imposes no obligation on Microsoft to change its business practices or redesign its products. Instead, these analysts have concluded, the PFJ seeks to restore competition by permitting OEMs to add products to Microsoft's desktop. Is this view of the PFJ accurate? Is it the Department's position that OEMs are in the best economic position to restore competition in personal computing? If so, what is the basis for that position? Are there other entities that might be in a position to help restore competition?

11. A significant portion of the Microsoft III opinion was devoted to Microsoft's conduct vis-a-vis Java technology. The Court found Microsoft unlawfully used distribution agreements to forestall competition with middleware manufacturers. See, e.g., Microsoft III, 253 F.3d at 74–78. The court found these agreements to be anticompetitive because they "foreclosed a substantial portion of the field for... distribution and because, in so doing, they protected Microsoft's monopoly from a middleware threat." Id. at 76. Does the PFJ addresses such practices?

12. The Supreme Court has said that in an antitrust remedy, "it is not necessary that all of the untraveled roads to that [unlawful] end be left open and that only the worn one be closed." International Salt Co. v. United States, 332 U.S. 392, 401 (1947). The Court also has made clear that injunctive relief which simply "forbid[s] a repetition of the illegal conduct" is not sufficient under Section 2, because defendants "could retain the full dividends of their monopolistic practices and profit from the unlawful restraints of trade which they had inflicted on competitors." Schine Chain Theatres, Inc. v. United States, 334 U.S. 110, 128 (1948). Are the standards enunciated by the Court in International Salt and Schine Chain Theatres applicable in the Microsoft case? If so, would you identify provisions in the PFJ that satisfy these standards?

13. The Supreme Court also has held that a Section 2 monopolization remedy "must break up or render impotent the monopoly power found to be in violation of the Act." United States v. Grinnell Corp., 384 U.S. 563,577 (1966). Does the PFJ "render impotent" Microsoft's Windows monopoly and, if so, how?

14. There has been considerable discussion about Microsoft's Windows XP product, with some critics arguing that Microsoft is repeating the same technical binding, bundling and monopoly maintenance tactics found by the court to be unlawful when used in the past against Microsoft's competitors. If true, this allegation would be significant, given the appellate court's instruction "that there remain no practices likely to result in monopolization in the future," Microsoft III, 253 F.3d at 103 (quoting United States v. United Shoe Mach. Corp., 391 U.S. 244, 250 (1968)). Some critics have also charged that Microsoft's broad .NET strategy is an effort to build upon the fruits of Microsoft's past unlawful conduct and remake the Internet as a Microsoft-proprietary Internet. Does the PFJ apply to Windows XP or to Microsoft's .NET strategy? If not, why has the Department decided not to apply the settlement to these products? Can competition in the operating system be restored without addressing these products?

15. Many of the provisions of the PFJ appear to assume that OEMs will act to aggregate operating system software and assume the role of desktop design and software packaging in the PC distribution chain. According to many observers, however, there simply is no financial incentive for OEMs to do anything but accept the full Microsoft software package. What is the Department's position on this issue? Was any consideration given to reports that OEMs did not take advantage of an offer by Microsoft this past summer to replace icons in the Windows XP desktop?

16. The Court of Appeals affirmed that Microsoft's conduct with respect to Java, in which the Court found it to engage in a "campaign to deceive [Java] developers" and "polluted" the Java standard in order to defeat competition to its operating system monopoly violated Section 2 of the Sherman Act. The Court held "Microsoft's conduct related to its Java developer tools served to protect its monopoly of the operating system in a manner not attributable either to the superiority of the operating system or to the acumen of its makers, and therefore was anticompetitive. Unsurprisingly, Microsoft offers no procompetitive explanation for its campaign to deceive developers. Accordingly, we conclude this conduct is exclusionary, in violation of Section 2 of the Sherman Act." Microsoft III, slip op. p. 101. As you know, the lower court decree included a provision designed to prevent deliberate sabotaging of competing products by Microsoft. Does the PFJ restrict Microsoft's ability to modify, alter, or refuse to support computer industry standards, including Java, or to engage in campaigns to deceive developers of competitor platform, middleware or applications software?

17. The Court of Appeals found that Microsoft violated Section 2 of the Sherman Act by entering into an exclusive contract with Apple that required Apple to install Internet Explorer as the Macintosh browser. Microsoft III, 252 F3d at 72–74. Many observers accuse Microsoft of having forced Apple to enter into the contract by threatening to withhold the porting of Microsoft Office to the Macintosh operating system. Does the PFJ prohibit Microsoft from threatening to withhold development of Microsoft Office with respect to other platforms, such as handheld devices, set-top boxes, and phones? If no, why did the Department choose not to address this concern in the PFJ?

18. You have been quoted as saying that various software and computer services companies are in the process of purchasing space on the desktop from Microsoft. (Business Week, November 19, 2001, p. 116). In the Department's view, is the space on the desktop on computers manufactured by the OEMs owned by Microsoft or should that space be the property of the computer manufacturers?

19. The CIS suggests the Department has embraced the goal of encouraging competitive development of "middleware" in order that such middleware can become the type of platform software that could challenge the operating system monopoly. The settlement requires Microsoft to allow OEMs to remove consumer "access" to the company's "middleware." It has been observed, however, that since the code for Microsoft's "middleware" is commingled with Windows, OEMs are only allowed to

remove the icon for a middleware application. The CIS seems to acknowledge that Microsoft understood that software developers would only write to the APIs exposed by Navigator in numbers large enough to threaten the applications barrier to entry if they believe that Navigator would emerge as the standard software employed to browse the web. Can you explain why you believe third-party application developers would write applications to non-Microsoft APIs if the Microsoft middleware APIs as well as the Windows APIs will be present on over 95% of the personal computers sold?

20. Concerns have been raised about the consequences of several "provisos" that have been included in the PFJ. For example, Section III.H.3 prohibits Microsoft from denying consumers the choice of using competing applications, but a proviso to this language states that Microsoft can challenge a consumer's decision to choose an application other than its own after 14 days and encourage the consumer to switch back to the Microsoft product. What does the Department believe will be the impact of the messages that Microsoft will be able to send to consumers on their own computers? Are other companies permitted to send comparable messages to consumers who choose to utilize Microsoft products? Finally, why did the Department choose a period of 14 days as opposed to some other period of time?

21. Under Sections III.H and VI.N a competing middleware application receives protection under the PFJ, but this protection applies only if the competitor ships at least one million units over the course of a year. Why did the Department choose that particular number?

22. Did the Department give consideration to the argument that small innovators, who may be in the initial stages of product development and sales, might be in need of greater protection than a company capable of selling more than one million units?

23. Section 111.B of the PFJ prohibits Microsoft from engaging in discriminatory pricing of its desktop operating system with OEMs. Does the PFJ also prohibit use of this same kind of discriminatory pricing against server operating systems and other non-Windows software?

24. The interim decree proposed by Judge Jackson included a provision precluding Microsoft from taking knowing action to disable or adversely affect the operation of competing middleware software. Does the PFJ contain a comparable provision? If not, what was the Department's rationale for not including this prohibition in the proposed settlement?

25. Why did the Department choose not to present evidence to the District Court on current PC operating system market developments, including changes in the Internet browser market share since the trial began? Did the Department undertake an investigation of current market developments to determine the impact of the PFJ on the existing market realities? For example, was there an analysis of the impact of the proposed settlement on Microsoft's proposed future products and services?

26. The CIS suggests that the District Court's role under the Antitrust Procedures and Penalties Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint. See CIS at p. 67. Yet the authorities cited for that proposition appear to be cases that were settled before trial. Some observers argue that in this case the District Court should review the settlement in relationship to the Court of Appeals ruling rather than to the violations alleged in the original complaint. Does the Department agree with that assessment?

27. Has the Department undertaken any studies to determine the effectiveness of its prior consent decree with Microsoft in restoring competition? How do you believe prior obstacles to enforcement of consent decrees with Microsoft are addressed in the PFJ?

28. Do you believe that current antitrust law is sufficient to guarantee not only competition but timely enforcement in areas such as the software industry?

29. What steps, if any, should be taken, legislatively or otherwise, to ensure that the Department has the proper economic and technological resources to enforce the law in the software industry?

I appreciate your cooperation with this request. As I hope you agree, a better understanding of the Department's objectives and the scope of the remedy measures included in—as well as excluded from—the PFJ will serve the long-term interest we share in proper application of the antitrust laws to the emerging information economy.

I look forward to your response and to the opportunity to address these issues with you, Microsoft and other interested parties in the coming weeks.

Orrin G. Hatch
Ranking Republican Member

U.S. Department of Justice
Office of Legislative Affairs
Office of the Assistant Attorney General
Washington, DC 20530
December 11, 2001
Honorable Orrin Hatch
United State Senate
Washington, DC 20510

Dear Senator Hatch:

This is in response to our letter of November 29, requesting responses to questions regarding U.S.v. Microsoft.

As you know, the Department has stipulated to entry of a proposed Final Judgment resolving all remaining claims in the case, and that settlement is undergoing Tunney Act review before the District Court. The Department believes the proposed Final Judgment is in the public interest and will be entered by the Court at the conclusion of the Tunney Act process.

Nevertheless, the Department must be mindful of the Court's prerogatives and the possibility, however remote, of future litigation regarding the merits of the case or the settlement itself. Accordingly, given the pendency of the case, the Department is constrained in the amount of detail it can offer in these responses. It would be inappropriate, for example, for the Department to specie, legal positions it must take with regard to potentially contested issues or to speculate about future enforcement positions the Department might take with regard to current or future conduct by specific firms. As a Senator who has been a strong supporter of effective antitrust enforcement, I am sure that you appreciate the reasons for such constraint.

At the outset, and prior to responding to your specific questions, please allow me to offer two general perspectives that provide context for the Department's responses.

First, U.S.v. Microsoft is and always has been a law enforcement initiative. It involves specific allegations investigated by the Department and litigated in the courts. The boundaries of the case are determined by the allegations of the Department's complaint and the manner in which those allegations have been resolved by the courts—in particular, the Court of Appeals. Within the context of this specific case, the Department has no legal mandate to act outside of these boundaries.

Second, there is a wide gulf between permissible relief under the antitrust laws and the manner in which Microsoft's competitors would prefer to see Microsoft constrained in future competition. As I know you appreciate, our goal as antitrust enforcers is to ensure that Microsoft competes fairly within the confines of the antitrust laws for the benefit of consumers, not to obtain specific competitive advantages for the benefit of Microsoft's competitors. With these perspectives in mind, and subject to the foregoing caveats, the Department is pleased to provide the following responses.

QUESTION

1. An earlier decision by the Court of Appeals, United States v. Microsoft Corp., 147 F.3d 935 (DCCir. 1998) ("Microsoft II"), relating to the interpretation of an earlier consent decree with Microsoft, has been interpreted by some as expressing the view that judges should not be involved in software design, and that the government simply has no business telling Microsoft or any other company what it can include in any of its products. In its most recent decision, however, the Court of Appeals said that to the extent that the decision in Microsoft//completely disclaimed judicial capacity to evaluate high-tech product design, it cannot be said to conform to prevailing antitrust doctrine. See United States v. Microsoft Corp., 253 F.3d 34 (DC Cir. 2001) ("Microsoft III"). Is the law clear that the Department does have a responsibility to assess the competitive implications of software design, in bringing antitrust enforcement actions? And, if so, does the Department have the necessary technical expertise and resources to perform such an evaluation?

ANSWER

In exercising its responsibility to enforce the antitrust laws, the Department routinely confronts complex issues, including economic and technical issues regarding software design. The Department has both the resources and capability to address such issues, as they affect enforcement matters, through internal means and, where appropriate, the retention of outside experts.

QUESTION

2. To foster competition in "middleware" the PFJ requires disclosure of APIs and

similar information, but it then limits this provision only to those instances where disclosure would be for "the sole purpose of interoperating with a Windows Operating System Product." Except for the limitation, this provision is almost exactly like a comparable provision in Judge Jackson's interim consent decree. Why did the Department decide to add this limitation to the PFJ, and what effect will the inclusion of the limitation have on restoring competition? Please explain the competitive significance of web-based services, and whether the PFJ guarantees interoperability with the servers that operate those web-based services?

ANSWER

The insertion of "for the sole purpose of interoperating with a Windows Operating System Product" in Section III.D. of the proposed Final Judgment simply clarifies that the APIs must be used for the purpose intended under the settlement (and as intended in Judge Jackson's order)- ensuring that developers of competing middleware products will have full access to the same information that Microsoft middleware uses to interoperate with the Windows operating system. That is, the disclosure is not intended to permit misappropriation of Microsoft's intellectual property for other uses. The insertion of this clause will not change the provision's ability to restore competition in any way. The concept of "web-based" services is constantly evolving as companies find new ways to use the Internet. The ultimate competitive significance of such services remains to be determined.

The Department's case addressed the topic of web-based services only with respect to the middleware threat to the operating system. Section III.E. of the proposed Final Judgment ensures that software developers will have full access to, and be able to use, the communication protocols necessary for server operating system software located on a server computer to interoperate with the functionality embedded in the Windows operating system.

QUESTION

3. The Department has concluded that the PFJ is in the "public interest," as required by the Tunney Act. Are you aware of any other case where a Tunney Act "public interest" determination has occurred with respect to a settlement where the underlying liability on the merits already has been affirmed by the Court of Appeals? To what extent should the scope of the District Court's deference to the Antitrust Division under the Tunney Act be affected by a Court of Appeals" prior affirmance of Sherman Act liability'?

ANSWER

The Department is not aware of a case where a court has made a Tunney Act "public interest" determination with respect to a settlement where the underlying liability on the merits already had been affirmed by the Court of Appeals. Beyond the Department's position set forth in its submissions to the Court, it would be inappropriate for the Department to comment on the appropriate scope of the Court's discretion because the Court's review of the proposed Final Judgment is pending under the Tunney Act.

QUESTION

4. The Court of Appeals remanded the remedy issue because, among other reasons, the District Court failed to demonstrate how divestiture relief was designed to "unfetter [the] market from anticompetitive conduct,'... to "terminate the illegal monopoly, deny to the defendant the fruits of its statutory, violation, and ensure that there remain no practices likely to result in monopolization in the future" Microsoft IlL 253 F.3d at 103 (quoting Ford Motor Co. V. United States, 405 U.S. 562, 577 (1972), United States v. United Shoe Mach. Corp., 391 U.S. 244,250 (1968)). Please describe how the PFJ meets this standard dictated by the appellate court. (a) How does the PFJ "terminate the monopoly" Microsoft was found by the Appellate Court to have unlawfully maintained over PC operating system software? (b) How does the PFJ "deny to Microsoft the fruits of its Section 2 violation?" and (c) How does the PFJ "ensure that there remain no practices likely to result in monopolization in the future?"

ANSWER

In the two cases quoted above, the monopoly in question was obtained by unlawful means. It was never alleged in this case, however, that Microsoft unlawfully obtained its operating system monopoly. Further, as the Court of Appeals noted, "the District Court expressly did not adopt the position that Microsoft would have lost its position in the OS market but for its anticompetitive behavior." U.S.v. Microsoft, 253 F.3d 34, 107 (DC Cir. 2001). The Court of Appeals also went on to hold that: "[s]tructural relief, which is" designed to eliminate the monopoly altogether ... require[s] a clear indication of a significant causal connection between the conduct and creation or maintenance of the market power." Absent such causation, the antitrust defendant's unlawful behavior should be remedied by "an injunction against continuation of that conduct." Id. at 106 (quoting 3 AREEDA & HOVENKAMP, ANTITRUSTLAW [653b, at 91–92, and] 650a, at 67).

The injunctive relief in this case, with no allegation Microsoft unlawfully obtained its operating system monopoly, is designed to stop the unlawful conduct, prevent its recurrence and restore lost competition in the market. See Microsoft, 253 F.3d at 103 (quoting Ford Motor Co. v. United States, 405 U.S. 562, 577 (1972) and United States v. United Shoe Mach. Corp., 391 U.S. 244, 250 (1968)).

The proposed Final Judgment stops the offending conduct by enjoining the unlawful actions that the District Court and the Court of Appeals sustained. The proposed Final Judgment enjoins exclusive and unlawful dealing, gives computer manufacturers and consumers extensive control of the desktop and initial boot sequence, ensures that developers can develop products that interoperate with the Windows operating system, and prohibits a broad range of retaliatory conduct. The proposed Final Judgment prevents the recurrence of the conduct identified as unlawful by addressing the broad range of potential strategies Microsoft might deploy to impede the emergence of competing middleware products. The proposed Final Judgment also seeks to restore lost competition posed by the potential middleware threat to Microsoft's operating system monopoly by requiring Microsoft to, among other things: (i) disclose APIs that will give independent software developers the opportunity to match Microsoft's middleware functionality.;

(ii) allow computer manufacturers and users to replace Microsoft middleware with independently developed middleware; and (iii) create and preserve "default" settings that will ensure that Microsoft's middleware does not over-ride the selection of third-party middleware products.

QUESTION

5. Are there findings by the appellate court against Microsoft that are not addressed by the PFJ? If so, what were the reasons why the Department chose not to address those findings?

ANSWER

The proposed Final Judgment addresses each of the Court of Appeals" findings, and even goes beyond them.

QUESTION

6. The Court of Appeals held that it was illegal for Microsoft to bind products together with Windows by "commingling code" because this practice helped Microsoft unlawfully maintain its desktop operating system monopoly. The Court concluded that code commingling has an "anticompetitive effect" by deterring OEMs from pre-installing rival software, "thereby reducing the rivals" usage share and, hence, developers" interest in rivals" APIs as an alternative to the API set exposed by Microsoft's operating system." Microsoft Ill, 153 F.3d at 66. How does the PFJ prevent Microsoft from future unlawful commingling of non-Windows code with Windows?

ANSWER

The proposed Final Judgment addresses these issues by requiring Microsoft to redesign its operating %'stem to include an effective add/remove function for all Microsoft middleware products and to permit competing middleware to take on a default status that ..'.'ll override middleware functions Microsoft has integrated into the operating system. The proposed Final Judgment does not contain an absolute prohibition on Microsoft commingling code within Windows, and the Department does not interpret the Court of Appeals decision as requiring such relief.

QUESTION

7. You have said that Microsoft "won the right to sell integrated products," and that "the tying claim was eliminated by the appeals court." (Business Week, November 19, 2001, p. 116). Other observers, however, argue that the Court of Appeals simply vacated the per se findings of a tying law violation and remanded that issue for consideration under a "rule of reason" standard? Why did the Department conclude that the tying claim was "eliminated" and

not simply remanded to be retried under a different standard? What are the circumstances, if any, under which the court or the Department could find it impermissible for Microsoft to "integrate" a product with its Windows operating system?

ANSWER

The Court of Appeals reversed the per se tying claim and remanded it to the lower court for adjudication under a more rigorous legal standard. The Court also held that if the Department pursued the tying claim on remand it would be precluded from arguing any theory of harm relying on a precise definition of browsers or barriers to entry, even though the government would have the burden of showing an anticompetitive effect in the browser market. The Court of Appeals also invited an extensive and complex analysis of pricing, noting that other operating system manufacturers included Web browsers in their operating systems, and requiring the plaintiffs to show that any anticompetitive effects outweighed the procompetitive effects. In light of the Court's decision and the desire to achieve prompt relief for consumers without protracted litigation and appeals, the Department and the state plaintiffs decided not to pursue the tying claim. Given the continuing pendency of this litigation and the possibility that these issues may arise in other contexts, it is not appropriate for the Department to speculate under what circumstances Microsoft's conduct would be impermissible.

QUESTION

8. The CIS acknowledges that the "users rarely switched from whatever browsing software was placed most readily at their disposal." It has been suggested that the most effective way to restore competition and to prevent future misconduct would be to require Microsoft to sell a product that is simply an operating system without all of the various applications that are now incorporated into Windows. Without such a requirement, the argument goes, consumers would be forced to procure two products if they choose to use a non-Microsoft version of a product that has been included in the operating system—Microsoft's version and the competitor's version. If Microsoft middleware is preinstalled with Windows, how do you think the adoption rate by users of non-Microsoft middleware will be affected? Did the Department consider including in the PFJ a requirement that Microsoft sell a version of Windows that is solely an operating system without other applications bundled with it?

ANSWER

The Department did consider, and ultimately, reject a remedy that would have required Microsoft to sell a version of its operating system that did not contain some or all of the applications that it typically includes with the Windows operating system. First, this relief would have been most appropriate to remedy the tying and attempted monopolization liability (which were not sustained by the Court of Appeals), rather than for monopoly maintenance. Second, the remedy would reduce consumer choice rather than increase it. The proposed Final Judgment provides computer manufacturers the option of featuring, and end users the option of selecting, alternative middleware products, which they may choose to use or replace. Even if Microsoft middleware is preinstalled on the computer, computer manufacturers will have the ability to remove access to it and replace it with independently developed middleware. In this way, competition for consumer patronage of middleware products, unfettered by artificial restrictions by Microsoft, will determine adoption rates.

QUESTION

9. Some observers claim the Court of Appeals found that Microsoft's technological tying, particularly its "commingling of code," was an illegal act of monopolization under Section 2 of the Sherman Act, but that there was insufficient evidence to determine that the same conduct violated Section 1. Do you agree with this? Does the PFJ provide a remedy for such misconduct? In your analysis, does the failure to find that the conduct violated Section 1 obviate the need to provide a remedy for the violation the court found under Section 2?

ANSWER

The Court of Appeals observed some overlap between the tying claim and the code integration issues under the monopoly maintenance claim. However, as the Court of Appeals noted, the District Court concluded that tying and commingling are two different things —"[a]lthough the District Court also found that Microsoft commingled the operating system-only and browser-only routines in the same library files, it did not include this as a basis for tying liability despite plaintiffs" request that it do so." U.S.v. Microsoft, 253 F.3d 34, 85 (DC Cir. 2001). The Department believes that the proposed Final Judgment effectively addresses the integration issues of the monopoly maintenance claim by requiting Microsoft to redesign its operating system to include an effective add/remove function for all Microsoft middleware products and to permit competing middleware to be featured in its place, as well as take on a default status that will, if the consumer chooses, override middleware functions Microsoft has integrated into the operating system.

QUESTION

10. Some Wall Street analysts have opined that the PFJ imposes no obligation on Microsoft to change its business practices or redesign its products. Instead, these analysts have concluded, the PFJ seeks to restore competition by permitting OEMs to add products to Microsoft's desk-top. Is this view of the PFJ accurate? Is it the Department's position that OEMs are in the best economic position to restore competition in personal computing? If so, what is the basis for that position? Are there other entities that might be in a position to help restore competition?

ANSWER

The Department fundamentally disagrees with this characterization of the proposed Final Judgment.

The proposed Final Judgment will require Microsoft to fundamentally change the way in which it deals with computer manufacturers, Internet access providers, software developers and others within the computer industry with regard to the manner in which it designs, sells, and shares information regarding its operating system. The proposed Final Judgment does not reflect a position by the Department that computer manufacturers are the only distribution outlet for software or that they are the only ones in a position to help restore competition. In fact, consumers increasingly obtain software in various distribution channels apart from computer manufacturers.

Rather, certain provisions in the proposed Final Judgment focus on computer manufacturers because the restrictions on computer manufacturers to distribute software was a primary focus of the case and the Court of Appeals concluded that computer manufacturers were a critical distribution channel for Windows, as well as for middleware and other software applications.

QUESTION

11. A significant portion of the Microsoft III opinion was devoted to Microsoft's conduct vis-a-vis Java technology. The Court found Microsoft unlawfully used distribution agreements to forestall competition with middleware manufacturers. See, e.g., Microsoft III, 253 F.3d at 74–78. The court found these agreements to be anticompetitive because the), "foreclosed a substantial portion of the field for.., distribution and because, in so doing, they protected Microsoft's monopoly from a middleware threat" Id. at 76. Does the PFJ addressees such practices?

ANSWER

The proposed Final Judgment addresses such conduct by prohibiting Microsoft from entering into agreements that require software developers and other industry participants to exclusively distribute, promote, use or support a Microsoft middleware or operating system product, and by prohibiting Microsoft from retaliating against software developers who support competing middleware products.

QUESTION

12. The Supreme Court has said that in an antitrust remedy, "it is not necessary that all of the untraveled roads to that [unlawful] end be left open and that only the worn one be closed." International Salt Co. v. United States, 332 U.S. 392,401 (1947). The Court also has made clear that injunctive relief which simply "forbid[s] a repetition of the illegal conduct is not sufficient under Section 2, because defendants "could retain the full dividends of their monopolistic practices and profit from the unlawful restraints of trade which the3" had inflicted on competitors." Schine Chain Theatres. Inc. v. United States, 334 U.S. 110, 128 (1948). Are the standards enunciated by the Court in International Salt and Schine Chain Theatres applicable in the Microsoft case? If so, would you identify provisions in the PFJ that satisfy these standards?

ANSWER

The obligations imposed on Microsoft in the proposed Final Judgment go considerably beyond merely stopping, and preventing the recurrence of, the specific acts found unlawful by the Court of Appeals. Specifically, the proposed Final Judgment goes further by: (i) applying a broad definition of middleware products, which goes well beyond the Web browser and Java technologies that were the focus of the Department's case, to include all of the technologies that have the potential to be middleware threats to Microsoft's operating system monopoly, including e-mail clients, media players, instant messaging software and future middleware developments;

(ii) requiting the disclosure or licensing of middleware interfaces and server communications protocols not previously disclosed to ensure that non-Microsoft middleware and server software can interoperate with Microsoft's operating system; (iii) ensuring that computer manufacturers and consumers have extensive control of the desktop and initial boot sequence; (iv) broadly banning certain exclusive dealing, retaliation and discrimination by Microsoft beyond the practices affirmed as anticompetitive by the Court of Appeals; (v) requiting Microsoft to license its operating system to key computer manufacturers on uniform terms; (vi) requiting Microsoft to license intellectual property to computer manufacturers and software developers necessary for them to exercise their tights under the proposed settlement; and (vii) implementing a panel of three independent, on-site, full-time experts to assist in enforcing the proposed Final Judgment.

QUESTION

13. The Supreme Court also has held that a Section 2 monopolization remedy "must break up or render impotent the monopoly power found to be in violation of the Act." United States v. Grinnelll Corp., 384 U.S. 563,577 (1966). Does the PFJ "render impotent" Microsoft's Windows monopoly and, if so, how?

ANSWER

In the case against Microsoft there has never been any contention that Microsoft obtained its operating system monopoly through unlawful means. Instead, the allegation sustained by the Court of Appeals was that Microsoft engaged in specific unlawful acts, not a course of conduct, to maintain its monopoly in violation of Section 2. Because relief in a Section 2 case must have its foundation in the offending conduct, the Department's view was that the monopoly maintenance finding, as modified by the Court of Appeals, and without the "course-of-conduct" theor3", did not sustain a broad-ranging remedy, such as a "break up" of Microsoft's operating system monopoly, that went beyond what was necessary to address Microsoft's unlawful responses to the middleware threat. Thus, the proposed Final Judgment does not seek such break-up relief.

QUESTION

14. There has been considerable discussion about Microsoft's Windows XP product, with some critics arguing that Microsoft is repeating the same technical binding, bundling and monopoly maintenance tactics found by the court to be unlawful when used in the past against Microsoft's competitors. If true, this allegation would be significant, given the appellate court's instruction "that there remain no practices likely to result in monopolization in the future," Microsoft III, 253 F.3d at 103 (quoting United States v. United Shore Mach. Corp., 391 U.S. 244,250 (1968)). Some critics have also charged that Microsoft's broad .NET strategy is an effort to build uporr the fruits of Microsoft's past unlawful conduct and remake the Internet as a Microsoft-proprietary Internet. Does the PFJ apply to Windows XP or to Microsoft's NET strategy? If not, why has the Department decided not to apply the settlement to these products? Can competition in the operating system be restored without addressing these products?

ANSWER

With the monopoly maintenance claim as the only surviving basis for relief, the proposed Final Judgment must focus on middleware or middleware-type threats to the operating system, not Microsoft" s participation in other markets in a way unrelated to the conduct by Microsoft found unlawful by the Court of Appeals. The proposed Final Judgment expressly applies to Windows XP and any successors during the term of the judgment (see definition of Wirrdows Operating System Product). It also applies to a wide variety of current and future Microsoft middleware products. What has been labeled .NET is a relatively new, diverse initiative by Microsoft in the market. As parts of.NET come more fully to fruition, they will be evaluated under the proposed Final Judgment, as would any other software. For instance, parts of the .NET strategy are likely to be middleware, such as instant messaging clients. To the extent .NET software or conduct implicates the anticompetitive acts raised in the case, it would be addressed under the proposed Final Judgment or otherwise by the Department.

QUESTION

15. Many of the provisions of the PFJ appear to assume that OEMs will act to aggregate operating system software and assume the role of desktop design and software packaging in the PC distribution chain. According to many observers, however, there simply is no financial incentive for OEMs to do anything but accept the full Microsoft software package. What is the Department's position on this issue? Was any consideration given to reports that OEMs did not take advantage of an offer by Microsoft this past summer to replace icons in the Windows XP desktop?

ANSWER

During the trial, the Department showed, and the Court of Appeals found, that computer manufacturers are a key distribution channel for Windows, as well as for middleware and other software applications. Further, even before the proposed Final Judgment was executed, computer manufacturers were entering into agreements with non-Microsoft middleware suppliers to place their products on the Windows operating system. With the implementation of the proposed Final Judgment, which provides computer manufacturers with greater freedom with respect to replacing Microsoft middleware products, computer manufacturers should have even greater incentives to do so. The powers extend well beyond the limited rights Microsoft afforded when Windows XP was introduced this past summer. The true test will occur as the uncertainty surrounding the case is removed by the proposed Final Judgment, when the proposed Final Judgment's anti-retaliation and anti-discrimination terms are in place, and when new middleware products emerge on the market.

QUESTION

16. The Court of Appeals affirmed that Microsoft's conduct with respect to Java, in which the Court found it to engage in a "campaign to deceive [Java] developers" and "polluted" the Java standard in order to defeat competition to its operating system monopoly violated Section 2 of the Sherman Act. The Court held "Microsoft's conduct related to its Java developer tools served to protect its monopoly of the operating system in a manner not attributable either to the superiority of the operating system or to the acumen of its makers, and therefore was anticompetitive. Unsurprisingly, Microsoft offers no procompetitive explanation for its campaign to deceive developers. Accordingly, we conclude this Conduct is exclusionary, in violation of Section 2 of the Sherman Act." Microsoft III, Slip Op. p. 101. As you "know, the lower court decree included a provision designed to prevent deliberate sabotaging of competing products by Microsoft. Does the PFJ restrict Microsoft's ability to modify, alter, or refuse to support computer industry standards, including Java, or to engage in campaigns to deceive developers of competitor platform, middleware or applications software?

ANSWER

The proposed Final Judgment does not expressly restrict Microsoft's ability to modify, alter, or refuse to support computer industry standards, or engage in campaigns to deceive software developers. The Department chose not to include the referenced provision because the term originally included in Judge Jackson's order allowed Microsoft to take steps to change its operating system that would interfere with third-party's middleware to interoperate as long as Microsoft informed the third part5, of the change and what, if anything, could be done to fix the problem. This would have, in effect, given Microsoft a license to interfere with competing middleware as long as it simply notified the competing developer. In addition, this provision would have been difficult for the Department to enforce in this case because of the constant changes Microsoft makes to its operating system, which while potentially procompetitive, may have the unintentional consequence of affecting a competing product's interoperability. Therefore, implementing this provision would have resulted in unnecessary compliance disputes. The proposed Final Judgment hinders Microsoft" s ability to disadvantage competing middleware developers by making the means by which middleware products interoperate with the operating system more transparent. The proposed Final Judgment requires Microsoft to now disclose those APIs that its middleware products use to interoperate with the operating system. Disclosure of these APIs will make it harder for Microsoft to interfere with competing middleware. Further, to the extent computer industry standards are implemented in communications protocols, as often occurs, Microsoft must license those protocols in accordance with Section III.E., including any modifications or alterations to the industry standard protocols. When the industry standard is implemented between a Microsoft middleware product, such as its Java Virtual Machine, and the operating system, Microsoft must disclose that interface.

QUESTION

17. The Court of Appeals found that Microsoft violated Section 2 of the Sherman Act by entering into an exclusive contract with Apple that required Apple to install Internet Explorer as the Macintosh browser. Microsoft III, 252 F.3d at 72–74. Many observers accuse Microsoft of having forced Apple to enter into the contract by threatening to withhold the porting of Microsoft Office to the Macintosh operating system. Does the PFJ prohibit Microsoft from threatening to withhold development of Microsoft Office with respect to other platforms, such as handheld devices, set-top boxes, and phones? If no, why did the Department choose not to address this concern in the PFJ?

ANSWER

The proposed Final Judgment would prohibit Microsoft from threatening to withhold the development of Microsoft Office for other platforms, such as handheld devices, set-top boxes and phones, if it did so because the software or hardware developer was developing, using, distributing, promoting or supporting ant” software that competes with Microsoft's middleware or operating system products (or any software that runs on any software that competes with Microsoft's middleware or operating system products), or because the developer exercises any of the options or alternatives provided for under the proposed Final Judgment.

QUESTION

18. You have been quoted as saying that various software and computer services companies are in the process of purchasing space on the desktop from Microsoft. (Business Week, November 19, 2001, p. 116). In the Department's view, is the space on the desktop on computers manufactured by the OEMs owned by Microsoft or should that space be the property of the computer manufacturers?

ANSWER

Whether the space on the desktop is owned by Microsoft or is the property of the computer manufacturers does not impact the effectiveness of the proposed Final Judgment in remedying the anticompetitive conduct by Microsoft. The Department does not have a view as to whether the space on the desktop should be viewed as the property of Microsoft or the computer manufacturers. The Department does have the view that Microsoft middleware and competing middleware should compete for the space, and the proposed Final Judgment ensures that this competition occurs.

QUESTION

19. The CIS suggests the Department has embraced the goal of encouraging competitive development of “middleware” in order that such middleware can become the type of platform software that could challenge the operating system monopoly. The settlement requires Microsoft to allow OEMs to remove consumer “access” to the company's “middleware.” It has been observed, however, that since the code for Microsoft's “middleware” is commingled with Windows, OEMs are only allowed to remove the icon for a middleware application. The CIS seems to acknowledge that Microsoft understood that software developers would only write to the APIs exposed by Navigator in numbers large enough to threaten the applications barrier to entry if they believe that Navigator would emerge as the standard software employed to browse the web. Can you explain why you believe third-party application developers would write applications to non-Microsoft APIs if the Microsoft middleware APIs as well as the Windows APIs will be present on over 95% of the personal computers sold?

ANSWER

The proposed Final Judgment will require Microsoft to do more than simply allow for the removal of its middleware icons. It requires that Microsoft allow end users and computer manufacturers to remove other means of access to, and override automatic invocations of, Microsoft middleware products and replace them with independently developed middleware products. Therefore, regardless of whether some portion of the Microsoft middleware code remains, end users and computer manufacturers can remove access to such middleware and replace it with alternative middleware. As the trial demonstrated, actual usage of a middleware product by the consumer, and not simply the presence of the product's code on the computer, has competitive significance. The marketplace, however, will determine whether any particular middleware product becomes sufficiently ubiquitous. This will ensure that competing middleware products will have the opportunity to compete for placement on the personal computer and that consumers will have a choice.

QUESTION

20. Concerns have been raised about the consequences of several “provisos” that have been included in the PFJ. For example, Section III.H.3 prohibits Microsoft from denying consumers the choice of using competing applications, but a proviso to this language states that Microsoft can challenge a consumer's decision to choose an application other than its own after 14 days and encourage the consumer to switch back to the Microsoft product. What does the Department believe will be the impact of the messages that Microsoft will be able to send to consumers on their own computers? Are other companies permitted to send comparable messages to consumers who choose to utilize Microsoft products? Finally, why did the Department choose a period of 14 days as opposed to some other period of time?

ANSWER

It is incorrect that the proposed Final Judgment allows Microsoft to “challenge” a consumer's decision to select a non-Microsoft middleware product. Some end users prefer to have icons readily available on the desktop; others prefer a “clean desktop.” In Windows XP, Microsoft has a Clean Desktop Wizard, which asks a user whether he or she would like to have unused icons (whether for Microsoft products or other products) taken off the desktop and placed in a folder, where they can still be easily accessed. The proposed Final Judgment allows Microsoft to continue providing this cleanup function, which the user can choose to take advantage of or not. The impact will be that end users can exercise choice. The proposed Final Judgment requires Microsoft to wait 14 days before it seeks confirmation from the end user because this will ensure that end users have a meaningful opportunity to determine which products, if any, the, want to keep on the desktop.

QUESTION

21. Under Sections III.H and VI.N, a competing middleware application receives protection under the PFJ, but this protection applies only if the competitor ships at least one million units over the course of a year. Why did the Department choose that particular number? Did the Department give consideration to the argument that small innovators, who may be in the initial stages of product development and sales, might be in need of greater protection than a company capable of selling more than one million units?

ANSWER

The one million copies figure is implicated only in the operative provision contained in Section III.H. of the proposed Final Judgment and only to a very limited extent in Section III.D. Section III.H. requires Microsoft to include in Windows an effective add/remove function to allow end users and computer manufacturers to enable or remove access to Microsoft and non-Microsoft middleware products, and to permit non-Microsoft middleware products to take on a default status that will override middleware functions Microsoft has integrated into the operating system. Distribution of only one million copies, rather than sales, installation or usage, is a relatively minor threshold in the software industry today, and including this limited qualification in Section III.H. will ensure that Microsoft's affirmative obligations under these provisions will not be triggered by minor, or even nonexistent, products that have not established a competitive potential in the market and that might even be unknown to Microsoft development personnel.

The one million copies figure applies in even a more limited fashion to Section III.D. That section requires Microsoft to disclose to software and hardware developers, computer manufacturers and others in the industry certain APIs and other technical information that Microsoft's middleware products use to interoperate with the Windows operating system. The one million copy, limitation applies only to disclosures of interfaces for future middleware that has not yet been developed or even conceived. The Department considered the competitive impact of smaller innovators. In fact, the proposed Final Judgment provides protection for nascent middleware products by prohibiting Microsoft from retaliating or discriminating against them, regardless of the number of copies that they distribute.

22. [The letter skips this question.]

QUESTION

23. Section III.B of the PFJ prohibits Microsoft from engaging in discriminator3" pricing of its desktop operating system with OEMs. Does the PFJ also prohibit use of this same kind of discriminatory pricing against server operating systems and other non-Windows software?

ANSWER

The proposed Final Judgment does not require Microsoft to use uniform terms and conditions when licensing its server operating system or other non-Windows software.

QUESTION

24. The interim decree proposed by Judge Jackson included a provision precluding Microsoft from taking knowing action to disable or adversely affect the operation of competing middleware software. Does the PFJ contain a comparable provision? If not, what was the Department's rationale for not including this prohibition in the proposed settlement?

ANSWER

The proposed Final Judgment does not contain an express provision precluding Microsoft from taking knowing action to disable or adversely affect the operation of competing middleware products. As explained more fully in response to question 16. the Department chose not to include this type of provision because it would have given Microsoft a license to interfere with competing middleware as long as it simply notified the competing developer. In addition, it would have been difficult for the Department to enforce the provision because of the constant changes Microsoft makes to its operating system. Many of these changes would have been known by Microsoft to have the unintended consequence of affecting a competing product's interoperability. Instead, the proposed Final Judgment contains provisions that require Microsoft to provide competing middleware with APIs needed to interoperate with the Windows operating system.

QUESTION

25. Why did the Department choose not to present evidence to the District Court on current PC operating system market developments, including changes in the Internet browser market share since the trial began? Did the Department undertake an investigation of current market developments to determine the impact of the PFJ on the existing market realities? For example, was there an analysis of the impact of the proposed settlement on Microsoft's proposed future products and services?

ANSWER

Judge Kollar-Kotelly had scheduled an evidentiary heating on remedy to take place in 2002. The Department would have had the opportunity to present evidence to the Court at that time. There was no opportunity to present evidence to the Court at an earlier date. The Department conducted an ongoing evaluation of market developments and the impact of the proposed Final Judgment on existing market realities. One result of this evaluation was to broaden the definition of middleware to include new potential threats to the operating system, including email clients, media players, instant messaging software and future middleware developments. The Department also analyzed the impact of the Court of Appeals" decision and the proposed Final Judgment on Microsoft's future products and services.

QUESTION

26. The CIS suggests that the District Court's role under the Antitrust Procedures and Penalties Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint. See CIS at p. 67. Yet the authorities cited for that proposition appear to be cases that were settled before trial. Some observers argue that in this case the District Court should review the settlement in relationship to the Court of Appeals ruling rather than to the violations alleged in the original complaint. Does the Department agree with that assessment?

ANSWER

Beyond the Department's position set forth in its submissions to the Court, the Department cannot comment on the appropriate review by the Court because the Court's review of the proposed Final Judgment is pending under the Tunney Act.

QUESTION

27. Has the Department undertaken any studies to determine the effectiveness of its prior consent decree with Microsoft in restoring competition? How do you believe prior obstacles to enforcement of consent decrees with Microsoft are addressed in the PFJ?

ANSWER

The Department has not conducted a formal study on the effectiveness of the prior consent decree with Microsoft. In its ongoing evaluation of the effectiveness of the proposed Final Judgment, however, the Department did consider the prior consent decree with Microsoft. There has been no determination by a court of obstacles to enforcement of consent decrees with Microsoft. Moreover, the proposed Final Judgment in this case contains some of the most stringent enforcement provisions contained in a modern consent decree. In addition to the ordinary prosecutorial access powers, the proposed Final Judgment requires an independent, full-time, on-site technical compliance team and a provision under which the term of the judgment may be extended by up to two years in the event the Court finds serious, systemic violations.

QUESTION

28. Do you believe that current antitrust law is sufficient to guarantee not only competition but timely enforcement in areas such as the software industry?

ANSWER

The Department believes that the current antitrust. laws are sufficient to guarantee not only competition, but timely enforcement in high-tech areas, such as the software industry.

QUESTION

29. What steps, if any, should be taken, legislatively or otherwise, to ensure that the Department has the proper economic and technological resources to enforce the law in the software industry?

ANSWER

The Department does not believe that any changes to the antitrust laws are needed to ensure that the Department has the proper economic and technological resources to enforce the law in the software industry or other high-tech areas. The Department should continue to have the adequate resources to enforce the laws as long as appropriately funded by the Congress. Please do not hesitate to contact us if we can be of assistance on this or an), other matter.

Sincerely,
Daniel J. Bryant
Assistant Attorney General

1150 SEVENTEEMTH STREET. N. W.
WASHINGTON. D. C 20036
December 11, 2001
The Honorable Patrick J. Leahy, Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

The Honorable Orrin G. Hatch Committee on the Judiciary United States Senate
Washing-ton, DC 20510

Dear Chairman Leahy and Senator Hatch:

The Proposed Final Judgment (PFJ) in U.S v. Microsoft is a woefully inadequate end to more than 11 years of investigation and litigation against Microsoft Corporation. There is no longer a debate over Microsoft's liability under the antitrust laws. Microsoft has been found liable before the District Court. Microsoft lost its appeal to the United States Court of Appeals for the District of Columbia Circuit sitting on banc in a 7–0 decision. Microsoft's petition for a rehearing before the Court of Appeals was refused. Microsoft's petition for certiorari before the Supreme Court was also denied. The courts have decided that Microsoft possesses monopoly power and has used that power unlawfully to protect its monopoly.

The case now turns back to the District Court for review under the Antitrust Procedures and Penalties Act—the so-called Tunney Act. Under the Tunney Act the Court must reach an independent judgment on whether or not the settlement is in the "public interest." The District Court finds itself in an interesting posture in that in the 30 years since the Tunney Act was enacted, it has never been applied in a case which has been litigated and affirmed. What is unique about the application of the Tunney Act in U.S. v. Microsoft is that rather than some ambiguous "public interest" standard, the District Court will now be obligated to reach a decision on whether or not the settlement corresponds to the clear guidance of the Court of Appeals.

The court of appeals set out a simple standard for measuring the legal sufficiency of any remedy selected in the Microsoft litigation: the remedy must "seek to 'unfetter [the] market from anticompetitive conduct," to 'terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no 'practices likely to result in monopolization in the future.'" United States v. Microsoft Corp., 253 F.3d 34, 103 (DC Cir. 2001)("Microsoft III") (quoting Ford Motor Co. v. United States, 405 U.S. 562, 577 (1972), and United States v. United Shoe Machinery Corp., 391 U.S. 244, 250 (1968)). The Court of Appeals was very deliberate in its handling of this case, and its finely crafted opinion manifestly chose its words and precedents with care. In citing the Ford Autolite and United Shoe cases, the DC Circuit underscored the clear guidance of the Supreme Court in monopolization cases. The DC Circuit provided equally straightforward guidance in explaining Microsoft's liability for illegal monopolization. At the core of the case was Microsoft's successful campaign to eliminate the dual threats of Netscape's Navigator web browser and the Java programming language. Both Navigator and Java were "platform threats" to Microsoft's underlying operating system. Both Navigator and Java served as "middleware." "Middleware" means that these programs exposed applications programming interfaces (APIs) so that third party applications developers could write applications to Navigator and Java in lieu of the underlying Windows operating system. And because both Navigator and Java ran on operating systems other than Windows they fundamentally threatened the Windows operating system, Microsoft's core source of monopoly power. The DC Circuit could not have been clearer on these points. See Microsoft HI, 253 F.3d at 53–56. 60. At a minimum any proposed settlement must effectively remedy this problem.

Unfortunately, the remedy accepted by the Antitrust Division of the Justice Department ignores most of the key findings by both the Court of Appeals and the District Court. The PFJ falls far short of the standards for relief clearly articulated by the Court of Appeals and the United States Supreme Court. The PFJ includes provisions that potentially make the competitive landscape of the software industry worse. And, the PFJ contains so many ambiguities and loopholes as to make it unenforceable, and likely to guarantee years of additional litigation.

That the PFJ will hamper Microsoft's illegal behavior not at all is shown by the reactions of the investment community:

"We have review the Settlement Agreement between MSFT and the DoJ ... the states (and to a lesser degree the DoJ) had talked tough and set expectations for a knock- out victory, and now must accept criticism that they walked away with too little concessions from Microsoft." Goldman Sachs, 11/2/01

"As we have stated before, we believe a settlement is a best case scenario for Microsoft. And, this settlement in particular seems like a win for Microsoft being that it would preserve Microsoft's ability to bundle its Internet assets with Windows XP and "2 future operating systems—a plus for the company. In fact, it appears that Internet assets such as Passport are untouched. Also, as is typical with legal judgments, this settlement is backward looking, not forward looking. In other words, it looks at processes in the past, but not potential development of the future." Morgan Stanley, 11/02/01

"The deal ... appears to be more, better, and faster" than we expected in a settlement deal between Microsoft and DoJ. The deal will apparently require few if any changes in Windows XP and leave important aspects of Microsoft's market power intact." Prudential Financial, 11/01/01

"With a dramatic win last week, Microsoft appears to be on its way to putting the U.S. antitrust case behind it. The PFJ between the Department of Justice and Microsoft gives little for Microsoft's competitors to cheer about .... There is very little chance that competitors could prove or win effective relief from violation of this agreement, in our view." Schwab Capital Markets, 11/6/01

This takes on particular importance given the state of the software market. Since the end of the trial before the District Court the market has changed substantially: Microsoft's monopolies are stronger in each of its core markets with both the Windows operating system and the Office suite now higher than 92 percent and 95 percent, respectively;

Microsoft has achieved a new monopoly in web browsers;

Competitive forces that may have existed in the past—most notably the Linux operating system—now clearly pose no threat to Microsoft's monopoly; and Microsoft has made clear it intends to further protect and extend its monopoly through a series of initiatives including, Hailstorm (web-services); Windows XP, and .NET.

Some policy makers have adopted the view that settling this case could somehow revive the slowing U.S. economy. This is an absurd proposition. The problem with the PC sector today is that demand has slowed and prices for PC hardware have plummeted (as opposed to Microsoft's software which has effectively increased in price). It is simply incorrect to equate slowing PC demand with Microsoft's legal problems. Also, we are unaware of any economic theory that suggests that monopolies maintained by predatory conduct—as opposed to competition and innovation—can spur economic growth. As the Precursor Group recently pointed out: "investor lament about the lack of broadband and the absence of killer applications is the other side of the coin" to investor glee with the market power and profits of incumbent Bell, Cable; and Microsoft monopolies ... having legal monopolies on the major access points to the Internet is unlikely to maximize innovation and growth that investors are counting on."

The briefing memorandum offered in support of these views documents general problems with the PFJ and specific section-by-section analysis of the PFJ's provisions. However, this memorandum is meant to be illustrative—not comprehensive—to give policy makers a preview of the issues to be examined under the Tunney Act. The Antitrust Division and Microsoft will continue to insist that the PFJ sufficiently remedies the issues in the case.

Yet these arguments simply cannot be squared with the fact that every independent investment analyst and industry analyst has concluded that this remedy will have n—— 9o material impact on Microsoft's business.

Policy makers also need to pay attention to the precedent this case establishes. In settling the most important antitrust case in decades through a remedy that will have not impact on the current or future competitive landscape, and absolutely no deterrent effect on the defendant, the Department of Justice has effectively repealed a major segment of the nation's antitrust laws. Moreover, any potential witness with knowledge of anticompetitive conduct in a monopolized market has to weigh the potential benefit of his or her testimony against the likely response of the defendant monopolist. The DOJ's proposed meaningless remedy would insure that no witness would ever testify against Microsoft in any future enforcement action.

The PFJ, in short, places this defendant in a position of effectively being above the antitrust laws, and does so by surrendering the government's victory in the District Court and the unanimous seven-member Court of Appeals. That is a result that should not be countenance&

Yours truly,
Robert H. Bork
RHB:lh

THE BARKSDALE GROUP
December 11, 2001
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The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
SD–224
Washington, DC 20510

The Honorable Orrin G. Hatch
Ranking Minority, Member
Committee on the Judiciary
United States Senate
SD–224
Washington, DC 20510

Dear Chairman Leahy and Senator Hatch,

I was privileged to have received the invitation to testify at your bearing on Wednesday, December 12, and had looked forward to offering my views about the likely effect of the proposed Microsoft settlement, particularly on the state of innovation in the high-technology industries.

At the time I was asked to testify, it was suggested my testimony might be useful to the committee because of my experience as the CEO of Netscape, and especially because Netscape was founded at a time when Microsoft was first charged with Sherman Act violations. Those of us at Netscape competed with Microsoft at a time when Microsoft was theoretically constrained by a

1995 Consent Decree, and thus I would be in a position to attest to Microsoft's business conduct during a period in which anticompetitive actions would theoretically be restrained.

Moreover, my testimony would have been free of any fear of Microsoft. I am no longer in a business that competes with them. I can afford to tell the truth, and the" truth needs to be told.

It is an established legal fact that Microsoft has retaliated against firms like Netscape, Intel, Apple, Real Networks, IBM, Compaq and a host of others which have 2730 Sand Hill Road Suite 100. Menlo Purk, CA 94025 (650) 234 5200 main (650) 234 5201 fax

These developments have stiffened my resolve to do all that I can to insure that competition and consumer choice are reintroduced to the industry. It is vitally important that no company can do to a future Netscape what Microsoft did to Netscape from 1995 to 1999. It is universally recognized that that the 1995 Consent Decree was ineffective. I respectfully submit that the Proposed Final Judgment ("PFJ"), which is the subject of the hearing, will be even less effective, if possible, than the 1995 Decree ha restoring competition and stopping anticompetitive behavior.

Accordingly, Senator Leahy, I am going to follow your suggestion that I help the committee answer one of the central questions:

If the PFJ had been in effect off along, how would it have affected Netscape? More important, how will it affect future Neiscapes? Impact on future Netscapes.

As discussed in the attached document, the unambiguous conclusion is that if the PFJ agreed upon last moath by Microsoft and the Department of Justice had been in existence in 199a; Netscape would have never been able to obtain the necessary venture capital financing. In fact, the company would not have come into being in the first place, The work of Marc Andreesen's team at the University of Illinois in developing the Mosaic browser would likely have remained an academic exercise.

An innovative, independent browser company simply could not survive under the PFJ. And such would be the effect on any company developing in the future technologies as innovative as the browser was in the mid 1990s.

That leaves the question of whether Microsoft itself would have developed browser technology necessary far Internet navigation. My belief is that .Microsoft would not have developed that technology, It is abundantly clear that Microsoft viewed the browser and the Internal itself as the principal threat to their care business of selling operating systems and applications for desktop computers.

This PFJ allows Microsoft to employ the full fury, of its multiple monopolies against anyone who would develop a browser or any other technology that might have the potential to challenge any aspects of Microsoft's business. I have reviewed the PFJ, and my impression continues to be that it is a document whose principal purpose is to protect Microsoft from competition,-and not to open up the market to competition with Microsoft. I note, again with pleasure, that the .remedy proposal by the state Attorneys General who remain as plaintiffs would significantly open the market up to competition.

deigned to compete with parts of Microsoft's business. The courts ha-,'e repeatedly and unanimously found that this atmosphere has led to the stifling of innovation throughout the high-technology sector, harming consumers and the economy. Perhaps worse, Microsoft has created an atmosphere where those who witness violations of the law are afraid to share what they know with law enforcement officials. The certainty of retaliation against these potential witnesses has had, to varying degrees, the effect of obstructing justice. One of the points I would have made had I been able to testify, is that the settlement between Microsoft 2 and the Department of Justice would do virtually nothing to protect Computer manufacturers and others from Microsoft's retaliation. Which means that, fundamentally, Microsoft's behavior will not be changed by it. The settlement is simply that—a memorial to the end, not a remedy for the past or for the future.

Over the last five years, the Committee has pushed soak-are companies to step forward and make public their concerns about Microsoft's illegal conduct, to identify how the company's anticompetitive behavior was eliminating competition, discouraging investment and stifling innovation. Witnesses were told—and ! was one of them—that policymakers understood that antitrust law enforcement was critical to insuring competition in the software industry. Witnesses were told that cooperation with the government not only made good business sense; k was their public duty, and necessary to insure the illegal conduct was appropriately remedied.

Not surprisingly, many were reluctant, fearful of what would happen to their businesses and their employees. Many that came forward paid a heavy price. Retaliation was meted out in a variety, of ways. Meanwhile, the company that broke the taw has only grown stronger. The Committee may wish to consider how" this result might impact the administration of justice, as well as any potential future testimony in both the legislative and judicial branches of government.

During the Cold War, we used to refer to a concept known as Finlandization. What this referred to was that Finland was nominally free of the Soviet Union, but was so threatened by it, it could not act unilaterally without tempering its actions so as not to offend its giant neighbor which could crash it at will. The technology industry now, and at or the settlement with DOJ, is still effectively, Finlandized by Microsoft. It is still dominated, and will still cower in fear of the monopolist unbound. The resolution of the antitrust litigation will to a large degree determine whether or when that atmosphere changes. That may well be a larger issue than the specifics of any proposed settlement. I note with some real satisfaction that the remedy outlined last Friday by the nine state Attorneys General who remain as plaintiffs would have the effect of genuinely constraining Microsor2, and thus liberating the technology industry from the shadow cast by Microsoft.

If the PFJ provisions are allowed to go into effect, it is unrealistic to think that anybody would ever secure venture capita financing to compete against Microsoft. This would be a tragedy for our nation. It makes a mockery of the notion that the PFJ is "good for the economy."

If the PFJ goes into effect, it will subject an entire industry, to dominance by an unconstrained monopolist, thus snuffing out competition, consume:" choice and innovation in perhaps our nation's most important: industry. And worse, it will allow them to extend their dominance to more traditional businesses such as financial services, entertainment, telecommunications, and perhaps many others.

Four years ago I appeared before the committee and was able to demonstrate, with the help of the audience, that Microsoft undoubtedly had a monopoly. Now it has been proven in the courts that Microsoft not only has a monopoly, but they have illegally maintained that monopoly through a series of abusive and predatory actions. I submit to the committee that Microsoft is infinitely stronger in each of their core businesses San they were four years ago, despite the faro that their principal arguments have been repudiated 8–0 by the federal courts. I hope you will keep these thoughts in mind during your hearings. A more detailed analysis of my views follows.

JLB/s
Attachment
Sincerely yours:
Jams L. Barkadale

Background on Netscape and the Internet browser.

Many of you know that Netscape was founded by Dr. Jim Clark and Marc Andreesen. Marc had been a participant in National Science Foundation programs in the early 90s at the University of Illinois, where he and his team in 1993 wrote the code that became the first easy to use browser. Even though the Internet and its ancestors had been around since the 1960's, the graphical browser- which allowed non-computer scientists to navigate the Internet—was the technological innovation we had been waiting for. This led to the creation of Netscape in 1994. This triggered an explosion éu innovation, and changed all of our lives. I am proud to have served as Netscape's CEO from 1995–1999, when it was acquired by AOL, and very proud of the role Netscape had in changing the world for the better.

A. API Disclosure.

The browser was and is a third party application. But it as also a potential platform which exposed Application Programming Interfaces (".APIs") and supported other third party, applications. Third party applications writers desired to write applications to the browser platform, because once these applications worked with the browser, they would automatically run on any operating system on which the browser was present, It is well documented that Microsoft was concerned this phenomenon would commoditize

Windows—meaning that this would bring about real competition in the operating system market, Introducing competition to a monopolized market would have been exactly the kind of positive development our competition policies welcome.

Of course, the browser could not work without an operating system. We needed Microsoft's cooperation and we needed the Windows APIs necessary to insure Netscape's browser interoperated with Windows.

It was well known that Windows "95 would be a major product release for Microsoft. We contacted Micrsot5 in the spring of 1995 about obtaining the necessary APIs, the same APIs they were distributing to other 3rd party applications writers. Because Microsoft viewed Netscape as a potential competitor, they withheld the necessary APIs from Netscape for an extended period of time—almost a year.

Question I. Would the PFJ have compelled the disclosure of the APIs necessary for Netscape's browser to interoperate with Windows?

Answer: A resounding no. The PFJ would not have compelled meaningful disclosure in a timely way.

It is advertised that the PFJ "requires" Microsoft to disclose to third party software developers the APIs for Windows. A review of the definitions reveals that the provision is essentially meaningless. APIs for new versions of the Windows operating systems .must be disclosed .in a "timely manner." "Timely manner" is triggered when Micrsot5 distributes beta. copies of its software to 150,000 "beta tenors." It is highly doubtful Microsoft ever distributed beta copies of its software to 150,000 "beta testers". More important, this provision allows Microsoft to unilaterally decide act to reach the timely manner definition in the first place, which insures they can avoid disclosure by simply keeping the number of beta testers remains below 150,000.

The other disclosure requirements in the PFJ seem to call for the kind of disclosure made to members of the Microsot5 Developers Network. The problem of withholding necessary APIs only presents itself when. the entity requesting the APIs is a partial competitor to Microsoft. Under the PFI, Microsoft's ability to arbitrarily withhold APIs from those that would deign to enter into competition with Microsoft is left intact. Moreover, provision J of the Proposed Final Judgment allows Microsot2 to withhold technical information if it might "compromise the security" of authentication or encryption systems. This provision would clearly implicate information disclosed relevant to browser technology, since a browser, by definition, encapsulates encryption software. The Committee needs to understand that products either interoperate or they don't. In order to interoperate effectively, third parties must have all of the information, not some subset defined by Microsoft.

For example, in 1995, there was a debate between Microsoft and Netscape about whose authentication and encryption software was boxer. Netscape had developed and implemented SSL, and Microsoft had implemented SMTP. Microsoft would have never distributed APIs at a critical time in Netscape's development because they card have claimed, if the PFJ had been in effect, those APIs would undermine SMTP. Lastly, the PFJ fails to define the critical term "interoperability." The PFJ leaves the term to be defined by Microsoft.

The sum of the API provision will ensure that Microsoft will continue to determine the flow of information to third party developers. And any dispute- which may be favorably resolved by the so-called "Technical Committee," will never be conducted inn timely manner.

B. Killing Browser Competition by Commingling Browser Code With Windows and Calling it all "Windows".

Netscape distributed the first commercially successful browser. Microsoft decided to distribute their browsers without charge. As the litigation demonstrated, Microsoft decided by 1997 to bolt the browser together with Windows because, as their testimony indicated, they were losing the battle. Attachment

Litigation ensued. Microsoft denied that it had violated the law in so doing, citing the language of the 1995 Consent Decree. Ultimately, the Court of Appeals held in June, 1998, that under the terms of the 1995 Consent Decree, Microsoft was entitled to bind products together as long as there was a "facially plausible" explanation for having done so. The Court pointedly said at the time that this issue might have been decided differently if it were a Sherman Act case rather than a Consent Decree case. Nevertheless, Microsoft seized upon this Consent Decree opinion and claimed that it could now bundle a ham sandwich as part of Windows if they wanted.

Let me make one point clear: while I believe this was the wrong result, I do not blame Microsoft for attempting to prevail on this point— The fault 1/es with the Department of Justice for having written a poor agreement with Microsoft in the first place. The agreement was flawed in that it contained language which was at best ambiguous and, at worst, an avenue for Microsoft to flaunt the decree.

The Sherman Act antitrust case against Microsoft was flied in May, t998." The government alleged that Microsoft's practice of Wing the browser and operating system together was illegal. In June, 2001, the Court of Appeals this time said that Mascot's pro, ice of "commingling" the browser and operating system code together was illegal,

Question 2. How does the PFJ deal with the issue of binding other software to Windows?

Answer. Remarkably, the PFJ adepts Microsoft's ham sandwich armament. It contains a definition w kick says that Windows is whatever Microsoft says it is. The net effect of this is whenever any software is developed which could threaten Microsoft, Microsoft can simply bolt a similar product into Windows and call it all one product. Since this language is more favorable to Microsoft than current law, it is an example of how Microsoft, the defendant in the lawsuit, actually g ;a/ned affirmative exceptions from current law through negotiations with the Department of Justice.

Once again, I don't blame .Microsoft for trying. They're supposed to negotiate the best deal possible. It is the fault of the Justice Department and the various states who agreed to this.

The PFJ not only would not have .protected Netscape from Microsoft's predatory conduct. It actually would have provided less protection than any of the legal standards that have existed the past ten years.

C. Distribution and Retaliation.

The most important distribution channel in the software business is the OEM channel. Microsoft controls that channel by virtue of having the Windows monopoly. If Microsoft chooses not to distribute Windows to a particular OEM in a timely manner, the OEM simply cannot sell computers,

The OEM channel became the most important distribution channel for Netscape as well. Microsoft used its market power to impede Netscape's ability to distribute Attachment browsers. They said they were going to "choke off (our) air supply" and they began to execute on that strategy. OEMs who Wanted to feature Netscape's browser were punished by Microsoft. The price of Windows was increased, or the threat of canceling the Windows license was made.

Question 3. How does the PFJ protect against retaliation by Microsoft against an OEM or anybody else who would prefer to feature or sell non-Microsoft software? Answer: The first thing that must be taken into account is that there is nothing in this remedy which will lead to more competition in the operating system .market, so OEMs know that Microsoft's position is more secure as a monopolist than ever before. That fact, juxtaposed with the permanent cancellation threat Microsoft gained by this settlement, is intended to and will freeze any OEM wishing to promote non-Microsoft alternatives. Under dais agreement, Microsoft can terminate, without notice, a PC companies Windows license, after sending the PC company two notices that it believes it is violating its license. There need not be any adjudication or determination by any independent tribunal that Microsoft's claims are correct; only :we notices to any PC company of a putative violation, and thereafter, Microsoft may terminate without even giving notice.

This provision means that the PC companies are, at any time, just two registered letters away from an unannounced economic calamity. It will render the PC companies severely limited in their willingness to promote products that compete with Microsoft Even though Microsoft is an adjudged monopolist, it is constrained only from certain . specified forms of retaliation, presumably empowering it to engage in other forms of retaliation. This formulation is particularly problematic because the protected PC company activities are narrowly and specifically defined. Retaliation against a PC company for installing a non-Microsoft application that does not meet the middleware definition is NOT prohibited; nor is retaliation against a PC company for removing a MSFT application that does not meet the middleware definition.

Microsoft cart price Windows at a high price, and then put economic pressure on the PC company to use only Microsoft applications through the provision that Microsoft can provide unlimited consideration to PC companies for distributing or promoting Microsoft's services or products. The limitation that these payments must be "commensurate with the absolute level or amount of" PC company expenditures is hollow, since there is no cost methodology proposed, and no mechanism to account for costs in any event.

Under the settlement, Microsoft can provide unlimited "market development allowances, programs, or other discounts in connection with Windows Operating System Products." This provision essentially eviscerates the entire scheme of PC company choice, functioning the same way as the rebate provision discussed above, but without any tether or limiting principle whatsoever. Simply put, MSFT can charge. $150 per copy of Windows, but then provide a $99 "market development allowance" for PC companies that install Windows Media Player as opposed to Real Networks media player.

Presumably, this is intend to be prescribed by a provision which says that "discounts or their award" shall not be "based on or impose any criterion or requirement that is otherwise inconsistent with ... this Final Judgment," but this circular and self-referential provision does not ensure that the practice identified above is prohibited And Microsoft is free to retaliate against PC companies that promote competition by withholding any existing form of "non-monetary Compensation"—only "newly introduced forms of non-monetary Consideration" may not be withheld Nora that the Wall Street article of December by John Wiike, which discussed why computer makers would not testify before the Senate Judiciary, Committee: "None of the computer makers that are supposed to be the chief beneficiaries of the Justice Department settlement agreed to testify. Two major computer makers said in interviews that the proposed settlement's ant retaliation provisions are so weak that they were unlikely to take advantage of its other provisions allowing PC makers to use rival technologies. The government settlement 'leaves Microsoft as the gatekeeper of innovation in the industry," an executive of one PC maker said last week.

Remember that we are talking about the remedy in antitrust case where the monopolist has been found to have violated the law in spades. Ask yourselves how- it is possible that in this remedy Microsoft secured for itself the fight to retaliate against anybody. Allowing consumers to exercise real software choice. We believed at Netscape that as long as consumers could exercise real browser choice, Netscape could compete with Microsoft. We even said we could "compete with free". That is, a scenario where our customers paid for browsers and Microsoft gave its browser away for free.

We ultimately were unable to compete with a free product that was bolted to the operating system for anticompetitive reasons.

Question 4. Does the PFJ empower the consumer to make choices about what software to use, and if so, does it require Microsoft to respect those choices in the future? Two of the key provisions of the PFJ cited by DOJ as instrumental in restoring competition merely require Microsoft continue to .engage in business as usual. First, DOJ points to the provision that allows PC companies and end users to remove "end user access" to Microsoft middleware (i.e. Internet Explorer, Windows Media Player, Windows Messenger, etc). It is important to understand that all "end user access" really means is the ability to remove the "icon" for the middleware application, not the middleware itself. Second, DOJ "grants" the PC companies "flexibility" to add or remove icons on the Windows desktop.

We have been down this road before. OEMs will not exercise choice to merely remove or add icons because that is not a meaningful choice. PC companies have always enjoyed the flexibility to add icons to the Windows desktop. Microsoft specifically announced in July that OEMs could remove Internet Explorer icons from the desktop. And Microsoft bad previously been ordered by the Court to display such flexibility in 1998. Until the fundamental relationship between Microsoft and the CEMs changes, no OEM will avail themselves of this cosmetic flexibility.

Astonishingly, Microsoft actually seared for itself in the PFJ a provision that allows Microsoft to exploit its "desktop sweeper" to eliminate PC company installed .icons by asking an end user if he she warns the PC company-installed configuration wiped out after 14 days. Thus, rite PC company flexibility provisions will only last on the desktop with certainty for 14 days, and after that period, persistent automated queries from Microsoft can reverse the effect of the PC company's installations. The effect of this provision is to severely devalue the ability of PC companies to offer premier desktop space to ISVs—and to undermine the ability of PC companies t differentiate their products and provide consumes with real choices.

So, under this remedy, Microsoft gets to undermine the choices made by PC companies and grants Microsoft a second, third, and truly, infinite bites at the apple, to badger consumes into—unknowingly or unwittingly—switching back to Microsoft's software. The add remove provisions in the agreement only allow for removal of end user access to Microsoft .middleware, not the middleware itself. For example, a PC company or a consumer might choose to eliminate Microsoft's Internet Explorer and replace it with Netscape's Navigator as the default. Under this provision, Microsoft's Internet Explorer - not Netscape's Navigator—is still used in the MyDocuments, MyMusic, MyPictures and Windows Explorer folders. So Microsoft has secured an agreement that insures that Internet Explorer is used even when a consumer has chosen otherwise. And as stated above, Microsoft has secured in this agreement insurance Sat its browser and other middleware remains on PCs, even if the icon is removed. That will have the effect of guaranteeing that applications writers would not write to Netscape's browser.

As we have seen with the implementation of this approach (i.e., icon removal only) with regard to Internet Explorer in Windows XP, MSFT can use the presentation, of this option in the utility to make it less desirable to end users. And remarkable, the agreement gives Microsoft a new weapon to use in its war to preserve the desktop as its own can demand that PC companies include icons for non-MSFT middleware in the add/remove utility.

Ask yourself this: we are talking about a remedy that flows from a case where Microsoft has brazenly violated antitrust laws. Why in the world should Microsoft be able to secure for itself in this remedy a provision that allows consumers to remove non-Microsoft software? This treats the other companies as if they broke the law, not Microsoft.

CONCLUSION: These are just a few of the provisions that would have affected Netscape or a similar company attempting to have a successful browser business. As stated above, it is my belief that if these provisions had been in effect, it is highly unlikely Netscape would have ever been founded.

If these provisions are allowed to go into effect, no entity will be able to secure venture capital financing to compete against Microsoft in any aspect of its business.

Policymakers must understand the consequences of this proposed action, I regret not being able to share my views directly with the Senate Judiciary Committee, but trust that you will do the necessary due diligence before this badly flawed agreement goes forward in the courts. The policy signal that will be sent if this agreement is finalized is that particularly determined monopolists will be rewarded for their intransigence. Is that really the competition policy of this country?

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September 20, 2001

Steven A. Ballmer
Chief Executive Officer
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Fax No. 425-936-7329

Dear Mr. Ballmer:

In 1998, the Department of Justice and a significant number of state attorneys general filed a lawsuit alleging that Microsoft had monopoly power in the operating system market and that the company had engaged in illegal predatory practices to maintain this monopoly. Our states are not parties to the pending litigation. However, We have a continuing interest in issues relevant to the litigation.

Today we write to you to express our support for concerns raised by the states and the Department of Justice in the litigation. We add our voices to those calling on Microsoft to remedy the antitrust problems that are now evident. We take this action for three reasons.

First, as a result of the trial record, we now have the ability to review a complete record of evidence concerning Microsoft's activities over the past several years to maintain its monopoly in the operating system market. Second, the district court's finding 6f monopoly maintenance was confirmed unanimously by the United States Court of Appeals for the District of Columbia Circuit. Finally, given our understanding of Microsoft's new Windows XP operating system, which is about to be released, we are concerned that aspects of this new product may lead to further erosion of competition in various software markets.

We are concerned that Windows XP may involve additional unlawful attempts by Microsoft to maintain its operating system monopoly. Notwithstanding the notable technological. achievements imbedded into some of the products and services offered by Windows XP, Microsoft may have cOnstructed this new product without due regard for relevant legal rulings," and without due regard for other: issues involving consumer choice and consumer privacy.

Steven A. Ballmer

Moreover, there are many state governmental agencies currently using existing versions of Windows, and there are significant expressions of concern that Microsoft will be in a position to withdraw support for products currently in use in favor of Windows XP.

We agree with our colleagues, the litigating states and the federal government, that any anti-competitive aspects of Windows XP should be addressed. As the Court of Appeals succinctly stated, the remedy must, to the extent possible, "unfetter [the] market from anticompetitive conduct, ... and ensure that there remain no practices likely to result in monopolization in the future." We therefore are supportive of efforts of the litigating states and the Department of Justice to incorporate Windows XP into the remedy phase of the remanded Case.

Sincerely,
William H. Sorrell
Vermont Attorney General
On behalf of himself and:
Mark Pryor
Arkansas Attorney General
G. Steven Rowe
Maine Attorney General
Mike McGrath
Montana Attorney General
Phillip McLaughlin
New Hampshire Attorney General
Sheldon Whitehouse
Rhode Island Attorney General

Written Questions for Charles A. James
Chairman Patrick Leahy
"The Microsoft Settlement: A Look to the Future"
December 20, 2001

1. Jim Barksdale, the former CEO of Netscape, tells us in a written submission that if the proposed settlement had governed Microsoft's behavior ten years ago, he would never have been able to obtain the venture capital to launch Netscape and, even flit did, Microsoft would have been able to crush the company. It is harsh criticism of the proposed settlement that it would have made no difference and that it would allow Microsoft to engage in the same exclusionary practices that extinguished Netscape and crippled Java. Do you think that this criticism is fair and, if not, why?

2. The remedy filed by the non-settling States would require that the agreement be enforced by a court-appointed special master with the authority to monitor Microsoft's complaints, and with the power to investigate, call witnesses, and conduct hearings if the company appears to have violated the agreement. Your proposed settlement provides for a three- member panel paid for by Microsoft that can listen to and investigate complaints, but which lacks the independent authority to convene hearings and examine witnesses. This panel must turn to the Justice Department for any such activity, and its members may not offer testimony themselves in any proceeding. Although the three member panel might be helpful in gathering some information, in terms of actual enforcement, the Justice Department will have to start from scratch with any action. In light of the fact that everyone agrees that this is a rapidly-moving industry, the inherent delays in such a process seem more likely to hamper than to enhance Microsoft's compliance with the decree. Why did you decide to create this unique and limited panel, rather than a more traditional special master?

3. The Court of Appeals specifically held—twice—that commingling the browser and operating system code violated section 2 of the Sherman Act. Yet, the proposed settlement contains no prohibition on commingling code. In your testimony before the Committee, you explained that the Department had never taken the position that Microsoft should be required to remove code from the operating system, and that the proposed settlement is thus consistent with a long-standing position of the Department. That explanation appears to neglects two things: First, the settlement is forward-looking, and second, the court's determination that commingling code was an exclusionary act. Taken together, these facts suggest that a ban on future exclusionary commingling of code is entirely consistent with the Department's position, would provide appropriate relief for the violation found, and would help prevent its recurrence. Do you agree that such a ban on future exclusionary commingling would comport with the Court of Appeals decision? Did you consider such a ban? Do you agree that such a ban on future exclusionary commingling would be would provide appropriate relief for the violation found, and would help prevent its recurrence?

4. There has never been a Tunney Act proceeding after litigation through the court of appeals before. In the first Microsoft-Department of Justice Tunney Act proceeding in 1994, the court suggested that great deference should be given to the appellate court's findings. Do you believe that the Court of Appeals" decision provides useful input to the definition of "public interest" in this unique context?

5. As I mentioned at the Committee's hearing, in describing your settlement, Fortune magazine said: "Even the loopholes have loopholes." The settlement limits the types of retaliation Microsoft may take against PC manufacturers that want to carry or promote non-Microsoft software. By implication the settlement appears to give a green light to other types of retaliation. You responded to my question about retaliation by saying that the settlement would permit collaboration generally approved in the antitrust case law. Please clarify the Department's position a little further:

(a) Why does the settlement not ban all types of retaliation?

(b) The settlement requires Microsoft to treat PC manufacturers the same in some respects but in other important respects Microsoft is allowed to treat PC manufacturers differently. What are the ways in which Microsoft can treat differently PC manufacturers that carry competing software compared to those that agree to carry Microsoft products exclusively?

(c) You referred at the hearing to the fact that the settlement would permit certain collaborative conduct between Microsoft and others. Please explain in detail what types of collaboration are permitted by the decree, and what types are forbidden.

(d) Among the exceptions in the proposed settlement to the bans on retaliation, Microsoft is permitted to provide "consideration to any OEM with respect to any Microsoft product or service where that consideration is commensurate with the absolute level or amount of that OEM's development, distribution, promotion, or licensing of that Microsoft product or service." This seems to permit Microsoft to reward OEMs based on whether they can-y Microsoft's products or software; this is just the flip side of "retaliation." How is this different from punishing those who fail to accede to Microsoft's demands?

6. In 1995 the Department and Microsoft entered into a Consent Decree. Two years later the Department sued Microsoft for contempt of the Decree when Microsoft and the Department disagreed over the meaning and correct interpretation of certain provisions of the Decree, including the meaning of the word "integrate" as that term was used in the Decree. Given the prior litigation between the Department and Microsoft over the proper interpretation of the 1995 Consent Decree, do you agree that Microsoft and the Department should have a common, explicit understanding of the meaning and scope of this proposed Final Judgment before it is entered?

Written Questions for Jay Himes
Chairman Patrick Leahy
"The Microsoft Settlement: A Look to the Future"
December 20, 2001

1. A number of states are still litigating this case against Microsoft, and have submitted a remedy proposal to the district court. That proposal is stronger in significant respects than your proposed settlement. For example, they propose a court-appointed special master with the authority to gather evidence and conduct hearings as part of the enforcement mechanism.

(a) Do you believe that the more stringent provisions sought by the litigating states are not in the public interest?

(b) Did you consider restrictions similar to those sought by the non-settling parties or did you think that Microsoft would not agree to them?

2. The Com1 of Appeals found that Microsoft's deception of Java developers and "pollution of the Java standard" constituted exclusionary practices in violation of Section 2 of the Sherman Act, and eliminated its competitive presence in the desktop realm. Unlike Navigator, Java may still be a viable competitive force, in other arenas. What provision, if any, in the settlement agreement prohibits Microsoft from repeating such an act?

3. As I understand the proposed settlement, Microsoft need only disclose APIs and documentation to middleware developers when Microsoft itself has a competing product. Some critics say this would allow Microsoft to determine the pace of innovation on the desktop by simply deciding not to develop or market competing products until it is ready with its own product—or until it has swallowed up a likely competitor. Allowing Microsoft, in essence, to determine the pace of desktop innovation would not aid the software industry generally, and not benefit consumers. How do you respond to this criticism?

4. A loophole seems to be created by the exception to the requirement of APIs and documentation disclosure. Microsoft is supposed to disclose APIs, documentation, and communications protocols to permit interoperability of middleware and servers with Windows operating systems. But Microsoft does not need to disclose such information if it would, in Microsoft's opinion, compromise the security of various systems, which are very broadly defined. What do you say to the critics who fear that this loophole may swallow the API disclosure requirement?

5. The non-settling states" proposed remedy requires Microsoft to release technical information necessary for middleware to be able to interoperate with Windows as soon as Microsoft gives its own developers that information. The proposed settlement only.

Requires such disclosure when Microsoft puts out a major test version of a new Windows release. Presumably promotion of competition is the animating idea behind this provision, so why did you not insist that other non-Microsoft developers have this information at the same time Microsoft developers did?

6. In 1995 the Department of Justice and Microsoft entered into a Consent Decree. Two years later the Department sued Microsoft for contempt of the Decree when Microsoft and the Department disagreed over the meaning and correct interpretation of certain provisions of the Decree, including the meaning of the word "integrate" as that term was used in the Decree. Given the prior litigation between the Department and Microsoft over the proper interpretation of the 1995 Consent Decree, do you agree that Microsoft and the settling plaintiffs should have a common, explicit understanding of the meaning and scope of this proposed Final Judgment before it is entered?

7. Do you agree that the meaning and scope of the proposed Final Judgment as agreed upon by the settling plaintiffs and Microsoft should be precise, unambiguous and fully articulated so that the public at large can understand and rely on your mutual understanding of the Judgment?

8. If Microsoft were to disagree with the settling plaintiffs" interpretation of one or more important provisions of the proposed Final Judgment, would you consider that to be a potentially serious problem?

9. Do you agree that it would be highly desirable to identify any significant disagreement between Microsoft and the settling plaintiffs over the correct interpretation of the proposed Final Judgment now, before the Judgment is entered by the Court, rather than through protracted litigation as in the case of the 1995 Consent Decree?

10. Does the Competitive Impact Statement set forth the settling plaintiffs" definitive interpretation of its proposed Final Judgment with Microsoft?

11. Has Microsoft informed the settling plaintiffs that it has any disagreement with the interpretation of the Final Judgment as set forth in the Competitive Impact Statement?

12. Can the public at large rely upon the Competitive Impact Statement as the definitive interpretation of the nature and scope of Microsoft's obligations under the Final Judgment?

13. If the public cannot rely on the interpretation of the proposed Final Judgment as set forth in the Competitive Impact Statement, then what is the mutually understood and agreed-upon interpretation of the meaning and scope of Microsoft's obligations under the Final Judgment?

1. In your 1997 testimony on the first Microsoft-Department of Justice consent decree, you said that "it seems a bit shortsighted (or perhaps even hysterical) to believe that Microsoft is such a juggernaut that putting extra sand in its saddle bags is justified to even up the odds for the competition." In light of the fact that the Court of Appeals found that Microsoft violated Section 2 of the Sherman Act, abusing its operating system monopoly to the detriment of consumers, do you still believe that it is "hysterical" to inquire into, and seek to end, the company's anticompetitive practices?

2. The Tunney Act requires that Microsoft file with the district court "any and all written or oral communications by or on behalf of [Microsoft]... with any officer or employee of the United States concerning or relevant to such proposal, except that any such communications made by counsel of record alone with the Attome3, General or the employees of the Department of Justice alone shall be excluded from the requirements of this subsection." You have recently been named as counsel of record; do you believe that this provision requires disclosure of communications by you to the Justice Department prior to the date upon which you became counsel of record? Do you believe it requires disclosure of contacts made on behalf of Microsoft to members of Congress? How do you define "concerning or relevant to" the proposed settlement? Do you believe that it covers anything more than the actual negotiations of the decree?

3. Microsoft's retaliation against OEMs that resisted carrying Microsoft's products featured largely in the evidence at trial, and the proposed settlement seems to address the Court of Appeals" holding that such retaliation violated Section 2 of the Sherman Act. While the settlement does state that Microsoft cannot retaliate against an OEM that is supposing a competing operating system or middleware, there is also a "carve-out" to that restriction, which permits Microsoft to provide "consideration to any OEM with respect to any Microsoft product or service where that consideration is commensurate with the absolute level or amount of that OEM's development, distribution, promotion, or licensing of that Microsoft product or service." This seems to permit Microsoft to reward OEMs based on whether they carry Microsoft's products or software; this is just the flip side of "retaliation." How is this different from punishing those who fail to accede to Microsoft's demands?

4. Microsoft is given 12 months to come into compliance with this proposed settlement; what tasks must it actually undertake that will require so much time?

5. The proposed settlement agreement provides that Microsoft's disclosure of APIs and documentation for an updated version of Windows in a "timely manner", and "timely manner" seems to be defined as the time at which Microsoft makes the new Windows version available to 150,000 or more beta testers. Does Microsoft routinely send beta test versions to so many testers? When has it done so in the past? Can't Microsoft avoid the disclose provision by simply limiting the number of beta testers?

6. If a PC manufacturer decides that it would like to remove Windows Moviemaker, is that action protected from the ban on retaliation in the proposed settlement? If a representative of a PC manufacturer or a software developer testified before this Committee or before the district court in the on-going states" case, would the settlement ban retaliation against them?

7. Software developers that take advantage of the middleware API disclosure are required by the proposed settlement to cross-license their products back to Microsoft. Presumably this is of great benefit to Microsoft, but how does it fit into remedying the antitrust violations found in court?

8. The provision of the proposed statement addressing the availability of server communications protocols refers to protocols that are "used to interoperate natively, i.e., without the addition of software code to the client operating system product, with a Microsoft server operating system product." I am confused about the meaning of "natively," and the Competitive Impact Statement does not clarify it. As the issue of Microsoft's possible abuses in the server arena are even now before the European Union's antitrust enforcement branch, I am interested to know precisely what your

proposal accomplishes, and whether it addresses the EU's concerns as well.

9. The proposed settlement's prohibition on retaliation against software developers creates an exception from that prohibition for agreements that "are reasonably necessary to and of reasonable scope and duration" in connection with obliging a developer to use, distribute, promote, or develop software for Microsoft. What do you envision that exception to cover, and more importantly, what does it leave within the ban against retaliation?

10. The proposed settlement permits the removal of the Internet Explorer icon, but as I understand it, even if a user chooses to remove Internet Explorer, IE will continue to pop up in MyDocuments, MyMusic, and MyPictures. Is this understanding correct, and if so, how can a User ever be free of Internet Explorer?

11. In 1995 the Department and Microsoft entered into a Consent Decree. Two years later the Department sued Microsoft for contempt of the Decree when Microsoft and the Department disagreed over the meaning and correct interpretation of certain provisions of the Decree, including the meaning of the word "integrate" as that term was used in the Decree. Given the prior litigation between the Department and Microsoft over the proper interpretation of the 1995 Consent Decree, do you agree that Microsoft and the Department should have a common, explicit understanding of the meaning and scope of this proposed Final Judgment before it is entered?

12. Do you agree that the meaning and scope of the proposed Final Judgment as agreed upon by the Department and Microsoft should be precise, unambiguous and fully articulated so that the public at large can understand and rely on your mutual understanding of the Judgment?

13. If Microsoft and the Department were to disagree about the correct interpretation of one or more important provisions of the proposed Final Judgment, would you consider that to be a potentially serious problem?

14. Do you agree that it would be highly desirable to identify any significant disagreement between Microsoft and the Department over the correct interpretation of the proposed Final Judgment now, before the Judgment is entered by the Com-t, rather than through protracted litigation as in the case of the 1995 Consent Decree?

15. Can the public at large rely upon the Department's Competitive Impact Statement as the definitive interpretation of the nature and scope of Microsoft's obligations under the Final Judgment? If not, then what is the mutually understood and agreed-upon interpretation of the meaning and scope of Microsoft's obligations under the Final Judgment?

16. Does the Competitive Impact Statement accurately reflect Microsoft's interpretation of the proposed Final Judgment?

17. Recognizing that the Department's Competitive Impact Statement cannot address every conceivable issue that may arise in the future concerning the proposed Final Judgment, is there anything stated in the Competitive Impact Statement with which Microsoft disagrees?

18. Has Microsoft informed the Department that it has any disagreement with the Department's interpretation of the Final Judgment as set forth in the Competitive Impact Statement?

19. Does Microsoft disagree with anything stated in the Department's Competitive Impact Statement concerning the meaning and scope of the proposed Final Judgment?

20. Will you commit on behalf of Microsoft to inform this Committee in writing of each and every statement in the Department's Competitive Impact Statement with which Microsoft disagrees? Will you commit to do so within the next 15 days so that the public can understand what disagreements Microsoft has with the Competitive Impact Statement before the Tunney Act comment period expires?

21. Was there anything in Assistant Attorney General James" testimony before this

22. The Department's Competitive Impact Statement states at page 38 that: "if a Windows Operating System Product is using all the Communications Protocols that it contains to communicate with two servers, one of which is a Microsoft server and one of which is a competing server that has licensed and fully implemented all the Communications Protocols, the Windows Operating System Product should behave identically in its interaction with both the Microsoft and non-Microsoft servers." Does Microsoft agree that this accurately states one objective of Microsoft's obligations under section III(E) of the proposed Final Judgment?

23. The Department's Competitive Impact Statement states at page 36 that: "Section III.E. will prevent Microsoft from incorporating into its Windows Operating System Products features or functionality with which its own server software can interoperate, and then refusing to make available information about those features that non-Microsoft servers need in order to have the same opportunities to interoperate with the Windows Operating System Product." Does Microsoft agree that this accurately states one objective of Microsoft's obligations under section III(E) of the proposed Final Judgment?

25. The Department's Competitive Impact Statement states at page 37–38 that: "Because the Communications Protocols must be licensed 'for use" by such third parties, the licensing necessarily must be accompanied by sufficient disclosure to allow licensees fully to utilize all the functionality of each Communications Protocol." Does Microsoft agree that this accurately states one objective of Microsoft's obligations under section III(E) of the proposed Final Judgment?

Questions for Assistant Attorney General Charles A. James

1. One of the principal concerns voiced by critics of the Proposed Settlement is that it lacks an effective enforcement mechanism. These critics suggest that some type of fast-track enforcement mechanism, such as the appointment of a special master, is necessary to ensure compliance. Could you please explain: First, why you believe the enforcement avenues provided for by the Proposed Settlement are sufficient; and, Second, how you envision effective enforcement actually being carried out in the real world?

2. Because the three-person Technical Counsel created by the Proposed Settlement has no enforcement powers, won't the level of enforcement of the Proposed Settlement depend principally on how proactive the Department and State Attorneys General are in dedicating resources and attention to prompt and effective oversight and enforcement? What resources does the Department plan on committing to enforcement of the Proposed Settlement?

3. In my opening statement, I raised the issue of prompt and effective enforcement in high-technology markets. As the DC Circuit clearly recognized, the passage of time frequently overtakes alleged anticompetitive actions, making them—in the DC Circuit's language—"obsolete" before a remedy is devised and implemented. In your view, what can be done to minimize this problem and ensure that antitrust remedies are developed early enough to provide meaningful relief?.

4. Could you explain the pros and cons of having the enforcement function performed by governmental agencies as opposed to a special master or adjudicatory panel of some type?

5. Could you also explain why you oppose—assuming that you do oppose—an alternate or additional enforcement mechanism?

6. As you know, I believe that one important aspect of the Internet is the freedom that consumers have to choose where to go and what websites to visit. Currently, consumers can choose to go to whatever websites they want. Commentators and industry participants argue that there is a legitimate fear that an Internet mediator might—for one reason or another—decide to limit access to certain sites while traffic is directed to other sites, or decide that certain sites will be treated differently than other sites in ways that push consumers in the direction of favored sites instead of leaving the choice entirely and fairly to consumers. Who do you believe should choose where a consumer can go online, the consumer or the Internet mediator, be it an Internet service provider, a software company, or a cable or satellite company? Also, could you please explain whether and why you believe this is an important competition policy concern?

7. Some critics claim that the only real penalty Microsoft faces for violating the Proposed Settlement is the extension of the terms of the Settlement for two additional years. Is that an accurate criticism; and, if not, could you please briefly explain the penalties faced by Microsoft if it fails to abide by the Proposed Settlement?

8. Could you please expand on why you believe the Department has sufficient expertise to accurately evaluate the competitive implications of software design and other technical development choices? Additionally, specifically what has the Department done to ensure that it has the expertise necessary to assess at an early stage both the lawfulness and potential anticompetitive effects of highly-technical actions taken by companies such as

Microsoft? Does the Department have a specific plan for allocating resources or personnel to develop the necessary expertise to identify and take effective action while potential antitrust problems are still on the horizon?

9. In his written testimony (pp. 18–19), Mr. Himes of the New York State Attorney General's Office briefly discusses the importance of the Proposed Settlement's definition of "Middleware." The DC Circuit defined middleware very simply as "software products that expose their own APIs [or 'Application Programming Interfaces']." Microsoft, 253 F.3d at 53. Could you explain why the Proposed Settlement adopts a narrower, two-prong definition? Could you also further explain the distribution threshold contained in the definition of "Non-Microsoft Middleware Products," requiring that—to meet the definition—at least one million copies of the Middleware Product have been distributed within the United States during the previous year? Will this threshold provision disadvantage innovation among start-up entrepreneurs or those who develop software for highly-specialized markets as some have criticized? Is there some other way to address the concerns underlying this "one million copy" threshold?

10. I found Mr. Jim Barksdale's letter noteworthy in several respects, but am particularly interested in his claim that the Proposed Settlement would not have prevented Microsoft's unlawful actions against Netscape. Could you please discuss whether the Proposed Settlement would have prevented the actions taken by Microsoft against Netscape that the DC Circuit held to be unlawful had the Proposed Settlement been in existence in 1995, and, if so, how?

Questions for Jay Himes

1. I realize that you support the Proposed Settlement on the basis that it compares favorably to the set of remedies that many predict would have resulted from further litigation. However, setting that aside for the moment, could you tell us what particular merit-if any-you see in the Remedial Proposals filed by the non-settling states?

2. Please expand specifically on the pros and cons of the various proposals for alternative enforcement mechanisms that were considered and rejected in the settlement discussions. In particular could you give us your view of the provision, contained in the non-settling parties" Remedial Proposal, that would provide for a special master?

3. Please explain, from the perspectives of the settling State plaintiffs, whether and how the Proposed Settlement sufficiently protects against Microsoft leveraging its monopoly power in operating systems into the Internet-based services market and the server market?

Questions for Charles F. "Rick" Rule

1. Concerns have been voiced about potential "loopholes" that might be created by ambiguities in various definitions that are fundamental to determining Microsoft's responsibilities under the settlement. Do you agree that the "Competitive Impact Statement" accurately memorializes the spirit and underlying considerations of the Proposed Settlement agreement; and do you further agree that it should be used as an authoritative interpretive guide in settling disputes about the practical application of the Proposed Settlement?

2. Could you please identify the specific aspects of the Competitive Impact Statement that you believe do not accurately represent Microsoft's understanding of the Proposed Settlement? grad. to the extent you believe that the Competitive Impact Statement is inaccurate, would Microsoft be willing to provide a detailed description of these perceived inaccuracies along with specific language describing Microsoft's understanding of the issue, language, or provision, the accuracy of which Microsoft disputes?

3. In your written testimony (p. 9) you briefly address the Proposed Settlement's prohibition of retaliation by Microsoft against computer makers. You summarize the provision in the settlement stating that "Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in [Microsoft's] Windows operating system." Id. Concerns, however, have been raised regarding perceived limitations on this anti-retaliation provision. Could you explain either why the perceived caveats were included in the anti-retaliation provision as well as why you believe that these perceived caveats do not actually allow Microsoft to engage in substantial retaliation against computer makers?

4. Is it your position that the anti-retaliation provision does in fact prohibit Microsoft from all forms of retaliation against computer software makers that choose to ship software that competes with Microsoft products; and, if not, how do you answer the criticisms that the provision is insufficient to effectively prevent retaliation?

5. Several media sources and commentators have reported that major computer makers—or "OEMs"—such as Hewlett Packard, Compaq, Dell, and Gateway, are heavily dependent on Microsoft, which—some have argued—may explain the lack of vocal opposition by these companies to the Proposed Settlement. With this in mind, how can the Proposed Settlement's substantial reliance on these companies to incorporate software that competes with Microsoft products on the computers they distribute be trusted to result in actual competition in the middleware market?

6. Could you please explain, in detail, what incentives you believe will actually lead OEMs to install software that competes against Microsoft software? Are you aware of particular competing software that OEMs might currently wish to install in favor of similar Microsoft products?

7. With respect to concerns raised regarding the lack of a strong enforcement mechanism in the Proposed Settlement, could you please expand upon the reasons that you believe the Proposed Settlement ensures effective enforcement? Could you also explain your view of how enforcement will occur? Finally, could you explain why-assuming that this is 3'our position—the proposed alternative enforcement mechanisms are either unnecessary, undesirable, or both?

Questions for Professor Lawrence Lessig

1. In your book, you make the case for keeping the Internet "neutral and open." Could you briefly describe the danger that you foresee, in both a competition and a larger policy context, as consumers mi=m-ate to higher capacity connections from our current narrowband connections?

2. One concern I have consistently raised elsewhere, including in merger and monopolization contexts, has been possible limitations being placed on consumer freedom by an access provider, whether an Internet service provider, a cable company, a satellite company, or another Internet access facilitator. If there is a legitimate fear that an Internet mediator might—for one reason or another—decide to limit access to certain sites or drive traffic to other specified sites? If so, what do you believe to be the best method of safeguarding and preserving the freedom of the Internet?

3. As you know, on the Internet, anyone can self-publish their music, their artwork, their writings, and those who are interested in those works can have access to them, and neither the creator nor the consumer necessarily need the mediation of a publisher. Works that are important to a few, but cannot make it in a traditional publishing context, have a place for their fans on the Internet. I have said elsewhere that it would be a great shame if the wide-open access available on the Internet were narrowed down in the way the offline world often is. Could you please explain who you believe should choose where a consumer can go online, the consumer or the Internet mediator, be it an Internet service provider, a software company, or a cable or satellite company, and could you explain why this is an important question?

Questions for All Witnesses on Panel III

1. Both commentators and several witnesses (in their written testimony) defend the Proposed Settlement by arguing that its terms are as good as—or even better than—what would have been obtained through further litigation. Several have also pointed out that it would take at least two more years to get a remedy in place by means of litigation. Could you please explain whether and why you believe that further settlement negotiations or litigation would be in the public interest?

2. In light of the number of claims from the original complaint that the DC Circuit found to lack merit, is it reasonable to believe that any judgement resulting from further litigation would be significantly better that the Proposed Settlement?

3. At the hearing, I emphasized the need for prompt antitrust enforcement in quickly-evolving markets. Could you please explain whether and why you believe that the benefits of having an imperfect settlement now are outweighed by those of having a possibly better settlement at some point in the future?

JUDICIARY COMMITTEE HEARING ON MICROSOFT SETTLEMENT

QUESTIONS FROM SENATOR KOHL

Panel I—Charles James

1. Mr. James, a unanimous Court of Appeals held that Microsoft has violated our antitrust laws by illegally maintaining its monopoly. It seems pretty common sense that if we want to fix that violation, the settlement you are advocating should: (1) end the unlawful conduct; (2) avoid a recurrence of the violation; and (3) and undo the anticompetitive consequences of the illegal behavior. Indeed, the Supreme Court has said that we should "den to the defendant the fruits" of its illegal conduct. As you know, when this case was first filed, one of the main problems was that Microsoft's illegal conduct had nearly driven a competing maker of Internet browsing software—Netscape Navigator—out of business. But today, Microsoft has a greater than 85% share of browsing software. And Netscape is no longer in business as an independent company and no longer is a serious threat as a competing platform.

So I have the following questions: how does this proposed settlement proposal in any way deny Microsoft the gains resulting from its illegal, anti-competitive conduct? Does it do anything, for example, to undo Microsoft's victory in the "browser wars"?

2. Five years from now do you think it is likely that Microsoft will still have 95% of the operating system market? If so, should this concern us?

3. We are right now in the middle of the holiday shopping season, and millions of Americans are going to the computer stores to buy new computers. When they reach the store, they have a choice of many different machines made by many different computer manufacturers, such as Compaq, Dell, Gateway, IBM, and HP, to name a few. But when it comes to the software that operates the machine they face a very different picture. With the exception of the machines sold by Apple, the consumer has no choice but to buy a computer pre-loaded with Microsoft's Windows operating system.

Is there anything in the proposed settlement agreement likely to change this picture? Why can't consumers have the same competitive choices in computer software—specifically operating system software—as they have today with respect to deciding which machine to buy?

4. Critics of the proposed settlement claim it is full of loopholes, and that these loopholes will make it easy for Microsoft to evade its terms. I'd like to focus on one thing critics argue is an unnecessary loophole. The settlement contains an important provision that lets computer makers load certain types of non-Microsoft software on their machines without any fear of retaliation from Microsoft. But Microsoft can retaliate in some instances. For example, only competing software that distributed at least one million copies in the United States in the last year receives protection. No such protection is imposed upon competing software which has distributed less than one million copies.

Commenting on this provision in the Washington Post, James Barksdale, the founder of Netscape, wrote "Anyone who understands the [computer] industry knows this is no protection, for the new inventor will always be steam-rolled by the powerful Microsoft. The dreamers and tinkerers whose better mousetrap has not yet been proved should just close shop. The ultimate losers are the potential consumers of these lost ideas."

(a) Why is this limitation found in the settlement? Won't it be difficult for software that has not yet been widely distributed to gain a competitive foothold if Microsoft is not required to allow computer users and manufacturers access to it on the desktop? And why isn't Mr. Barksdale right—aren't consumers the losers if Microsoft is permitted to deny such small, start- up software manufacturers access to the computer desktop?

(b) Please give specific examples of "non-Microsoft middleware products" (as defined in the proposed consent decree, section VI.N) that have distributed at least one million copies in the United States in the past year, and examples of those that have not.

(c) What types of research and/or objective methods are used to measure such distribution today? Which studies or objective criteria did you use to set the one million dollar mark?

5. In the proposed consent decree, with respect to current products, the definition of Microsoft Middleware Product is locked into specific products (section VI.K.1 of the Proposed Final Judgment). Where it is prospective, the definition of Microsoft Middleware Product allows Microsoft to avoid its reach if it does not satisfy all of the elements of the definition (found in section VI.K.2).

(a) Why do you believe this definition is sufficient to restore competition in the middleware market?

(b) Why is the definition of middleware in the proposed consent decree different from the one used by the DC Circuit Court of Appeals, or the one used by Judge Jackson in his interim remedy?

(c) Why is MSN Explorer excluded from the current products that constitute Microsoft Middleware Products in section VI.K.1 of the Proposed Final Judgment?

6. Many believe Microsoft is using its operating system monopoly to gain dominance in other types of software products. For example, five years ago, Microsoft had only about a 20% market share in Internet browsing software. Today it has an 86% share. Five years ago, Microsoft had 43% share in word processing software. Today Microsoft Word software has a 94% market share.

What provisions in the settlement will prevent Microsoft from gaining dominant market shares in new software products, just as it has with respect to other types of software?

7(a). Mr. James, if this settlement is adequate to restore competition and remedy Microsoft's illegal conduct, why have nine state attorneys general who initially joined the Justice Department in suing Microsoft refused to sign on to the settlement but have instead proposed their own settlement?

(b) Are you willing to consider modifications to the proposed settlement in order to secure the consent of additional state attorneys general? If so, what modifications would you consider?

8. The proposed consent decree lasts for only five years (unless a Court finds Microsoft has engaged in systematic violations of the decree, in which case it is extended for another two years).

(a) Can you inform me in which past monopoly cases brought by the government where a violation of Section 2 of the Sherman Act has been found, the federal courts have limited their conduct remedies against the monopolist to only five years?

(b) Why have you limited the remedy to five years in this case? How can we be sure that the five year term of the settlement is sufficient to restore competition to this market?

(c) Why do the restraints on Microsoft's conduct in some instances take as long as one year to go into effect?

(d) How likely do you think software developers will be to develop new products based on a decree that will protect them for only five years?

(e) Will you commit initiating new investigations and, if necessary, new court proceedings, if Microsoft behaves in an anti-competitive manner in the future?

Panel II

For Rick Rule

1. Mr. Rule, in the past your client Microsoft has been adamant in denying it was a monopolist—despite its 95% share of computer operating systems—and that it in any way violated the antitrust laws. Now, the unanimous DC Circuit Court of Appeals has ruled that Microsoft indeed is a monopolist and indeed acted illegally to maintain its monopoly. Will this ruling—and Microsoft's experience in this litigation—in any way chasten Microsoft into behaving more responsibly? Is Microsoft now willing to recognize that it is a monopolist and, as a result, has obligations to deal with competing businesses in a way that would not exist if did not have monopoly power in its business?

2. Please identify for us five specific ways in which the proposed settlement, once it is in force, will compel Microsoft to change its business practices in a manner which will benefit consumers.

3. The proposed consent decree contains prohibitions on Microsoft retaliating against computer makers who choose to install in their machine software products that compete with software made by Microsoft. But many wonder if Microsoft will be able to offer financial incentives to accomplish essentially the same thing. For example, could Microsoft offer to pay incentive amounts to computer makers who feature or promote Microsoft software on their machines?

4. One important issue the settlement was intended to address was Microsoft's ability to penalize computer makers that load non-Microsoft software onto their machines. Under the settlement, can Microsoft still bar a computer maker from putting WordPerfect word processing software or Quicken financial software pre-installed on their machine? If so, why isn't Microsoft's ability to place such restrictions on computer makers a problem for competition?

For Jay Himes

Mr. Himes, as you know, nine of your fellow states that originally joined you and the federal government in suing Microsoft have refused to consent to this settlement, and, just last Friday, proposed additional remedies. Why did these other states split ranks with you and the federal government? Would you be willing to consider modifications to this proposed settlement in order to gain their assent?

Panel III

For Lawrence Lessig

1. Professor Lessig, do you believe this settlement is adequate to restore competition in the computer software industry.'? Why or why not?

2. (a) Are there any restraints on Microsoft's conduct which you think should be in the settlement but are not? If so, what are they?

(b) Beyond restraints on Microsoft's conduct, are there other deficiencies in the proposed consent decree which you believe should be fixed before it is approved? If so; what are they?

3. Critics of this proposed settlement argue that one significant loophole is that many of the provisions requiring Microsoft to permit computer users and manufacturers to install competing software and remove Microsoft software does not apply with respect to software which has distributed less than one million copies. Are you concerned about this limitation?

For Mark Cooper

1. Do you believe this settlement is adequate to restore competition in the computer software industry? Why or why not?

2. (a) Are there any restraints on Microsoft's conduct which you think should be in the settlement but are not? If so, what are they?

(b) Beyond restraints on Microsoft's conduct, are there other deficiencies in the proposed consent decree which you believe should be fixed before it is approved? If so, what are they?

3. Critics of this proposed settlement argue that one significant loophole is that many of the provisions requiring Microsoft to permit computer users and manufacturers to install competing software and remove Microsoft software does not apply with respect to software which has distributed less than one million copies. Are you concerned about this limitation?

For Michael Szulik

1. Do you believe this settlement is adequate to restore competition in the computer software industry? Why or why not?

2. (a) Are there any restraints on Microsoft's conduct which you think should be in the settlement but are not? If so, what are they?

(b) Beyond restraints on Microsoft's conduct, are there other deficiencies in the proposed consent decree which you believe should be fixed before it is approved? If so, what are they?

3. Critics of this proposed settlement argue that one significant loophole is that many of the provisions requiring Microsoft to permit computer users and manufacturers to install competing software and remove Microsoft software does not apply with respect to software which has distributed less than one million copies. Are you concerned about this limitation?

4. Mr. Szulik, your company, Red Hat, makes a competing operating system, Linux. Will this settlement make it easier for you to compete with Microsoft? If so, how?

For Mitchell Kertzman

1. Do you believe this settlement is adequate to restore competition in the computer software industry? Why or why not?

2. (a) Are there any restraints on Microsoft's conduct which you think should be in the settlement but are not? If so, what are they?

(b) Beyond restraints on Microsoft's conduct, are there other deficiencies in the proposed consent decree which you believe should be fixed before it is approved? If so, what are they?

3. Critics of this proposed settlement argue that one significant loophole is that many of the provisions requiring Microsoft to permit computer users and manufacturers to install competing software and remove Microsoft software does not apply with respect to software which has distributed less than one million copies. Are you concerned about this limitation? Won't this provision make it difficult for small or start-up software manufacturers that make software that competes with Microsoft's products to gain access to the computer desktop?

For Jonathan Zuck

1. Do you believe this settlement is adequate to restore competition in the computer software industry? Why or why not?

2. (a) Are there any restraints on Microsoft's conduct which you think should be in the settlement but are not? If so, what are they?

(b) Beyond restraints on Microsoft's conduct, are there other deficiencies in the proposed consent decree which you believe should be fixed before it is approved? If so, what are they?

3. Critics of this proposed settlement argue that one significant loophole is that many of the provisions requiring Microsoft to permit computer users and manufacturers to install competing software and remove Microsoft software does not apply with respect to software which has distributed less than one million copies. Are you concerned about this limitation?

4. Mr. Zuck, your organization, which is one of several trade associations representing smaller software manufacturers, has been generally supportive of this settlement, while other competitive software manufacturers have been very critical. Why doesn't your organization share the concerns of many other smaller software manufacturers?

5. Explain the principal ways this settlement will bring more competition to the software market.

"The Microsoft Settlement: A Look To The Future"

Senator DeWine

Questions To Witnesses

I. Senator DeWine's Questions for The Honorable Charles James, Assistant Attoney General for the Antitrust Division:

1. The term of the proposed settlement is only five years, while many other antitrust consent decrees last for ten years. The Department has suggested that a shorter time period is justified because this industry changes rapidly and a longer decree may not be warranted after five years. Given that the Department of Justice has the ability to go to the court and seek to modify a consent decree or terminate it if market conditions warrant such a change, why not impose a longer period of enforcement, and then decide later if it needs to be modified or abandoned?

2. As the Court of Appeals in this case noted, the Supreme Court has indicated that a remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct," "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future." Do you believe that this is the appropriate standard to use? If so, do you believe the proposed final judgment denies Microsoft the fruits of its illegal acts? Specificall3, can you discuss whether Microsoft has been denied the fruits of its effort to maintain a monopoly in the operating system?

3. The proposed settlement has some prohibitions against Microsoft retaliating against computer manufacturers that place competing software on their computers-these provisions are intended to allow manufacturers to offer non-Microsoft products if they choose. I understand that Microsoft currently offers incentives to computer manufacturers if they can get computers to "boot up" quickly. Some believe that computer manufacturers will not want to slow down the start-up time by placing additional software on the computer because they will risk losing the incentive payment. Does the proposed settlement deal with this problem?

4. The Appellate Court noted that the applications barrier protects Microsoft's operating system monopoly. The Court stated that this allows Microsoft the ability to maintain its monopoly even in the face of competition from potentially "superior" new rivals. In what manner do you believe the proposed settlement addresses the applications barrier?

5. Some believe that unless Microsoft is prevented from commingling operating system code with middleware code, competitors will not be able to truly compete in the middleware market. Because the code is commingled, the Microsoft products cannot be removed even if consumers don't want them. This potentially deters competition in at least two respects. First, as the Appellate Court found, commingling deters computer manufacturers from pre-installing rival software. And second, it seems that software developers are more likely to write their programs to operate on Microsoft's middleware if they "know that the Microsoft middleware will always be on the computer whereas competing products may not be. Even if consumers are unaware that code is commingled, should we be

concerned about the market impact of commingling code? What is the upside of allowing it to be commingled, and on the other hand, what concerns are raised by removing the code?

6. Many believe that this settlement proposal merely requires Microsoft to stop engaging in illegal conduct, but does little in the way of denying Microsoft the benefits of its bad acts. First, how would you answer these critics? Is this just a built-in reality ofcM1 antitrust remedies, i.e., that they don't aim to punish? And second, do you believe the remedy here is strong enough to dissuade other potential monopolists from engaging in the type of conduct in which Microsoft engaged?

7. Nine states didn't join with the Department of Justice's proposed final judgment because they didn't believe it adequately addressed competitive problems. These states recently filed their own remedy proposals. These states assert that one fruit of Microsoft's illegal conduct is Microsoft's dominant share of the internet browser market. They propose to deny Microsoft this benefit of its violations by requiring it to open-source the code for Internet Explorer. What do you believe the competitive impact of such action would be?

8. Given Microsoft's monopoly power in the operating system, some believe that merely allowing computer manufacturers to place competing software and icons on the operating system will not impede Microsoft's ability to capture a dominant share of any product that it binds to its operating system. Do you believe that media players, instant messaging services, and other competing products will be able to compete with similar MS products that are bound to the operating system?

9. Many have criticized the proposed final judgment saying it has loopholes in it that will allow Microsoft to continue operating as it has done in the past. For example, the proposed final judgment clearly seeks to prevent Microsoft from retaliating against computer manufacturers that install competing software onto the computer. However, because the provisions are limited to specific practices or types of software, and apply only to "agreements" between Microsoft and computer manufacturers, many believe that Microsoft will find alternative methods of controlling the practices of computer manufacturers. Do you believe competition would be better served if Microsoft were broadly prohibited from retaliating against computer manufacturers?

10. The Court of Appeals ruled that Microsoft's practices which undermined the competitive threat of Sun's Java technology was an antitrust violation. The remedy proposed by the states that do not support the DOJ's proposed settlement would require Microsoft to distribute Java with its browser as a means of restoring Java's position in the market. Do you believe this would be beneficial to competition? What does the DOJ's proposed settlement do to restore this competition?

11. Definition U. of the Proposed Final Judgment appears to allow Microsoft to determine in its sole discretion what constitutes the operating system. The Court of Appeals left open the possibility of a tying case against Microsoft. Will this provision essentially foreclose any opportunity of bringing a tying claim against Microsoft? Why do you give Microsoft the ability to make this determination?

12. Many antitrust cases involve the appointment of a special master who has some level of enforcement authority. This proposed final judgement does not do that and instead relies primarily upon standard civil and criminal contempt proceedings, as well as a special three person panel. Why has the Division elected not to appoint a special master that may speed effective enforcement, especially given the Division's concern for how rapidly this market changes?

13. The Department of Justice has indicated that one motivation for entering into this settlement was to provide immediate relief and avoid lengthy court proceedings. At the same time, many of the provision of the settlement don't become active for up to 12 months after the settlement is enacted. Given your belief that relief should be immediate, why wait so long for these provisions to become active?

14. One provision of the proposed final judgment requires Microsoft to allow consumers or computer manufacturers to enable access to competing products. However, it appears that III.H. of the Stipulation and VI.N. indicate that for a product to qualify for these protections it must have had a million copies distributed in the United States within the previous ,ear. This seems to run contrary to the traditional antitrust philosophy of promoting new competition. Is this in fact the case? And if so, why are these protections limited to larger competitors?

Senator DeWine's Questions for Jay Himes, Antitrust Bureau Chief, Office of the Attorney General, New York

1. The term of the proposed settlement is only five years, while many other antitrust consent decrees last for ten years. It has been suggested that a shorter time period is justified because this industry changes rapidly and a longer decree may not be warranted after five years. Given that the Department of Justice has the ability to go to the court and seek to modify a consent decree or terminate it if market conditions warrant such a change, why not impose a longer period of enforcement, and then decide later if it needs to be modified or abandoned?

2. As the Court of Appeals in this case noted, the Supreme Court has indicated that a remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct," "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future." Do you believe that this is the appropriate standard to use? If so, does the proposed final judgment deny Microsoft the fruits of its illegal acts? Specifically, can you discuss whether Microsoft has been denied the fruits of its effort to maintain a monopoly in the operating system?

3. The proposed settlement has some prohibitions against Microsoft retaliating against computer manufacturers that place competing software on their computers-these provisions are intended to allow manufacturers to offer non-Microsoft products if they choose. I understand that Microsoft currently offers incentives to computer manufacturers if they can get computers to "boot up" quickly. Some believe that computer manufacturers will not want to slow down the start-up time by placing additional software on the computer because they will risk losing the incentive payment. Does the proposed settlement deal with this problem?

4. The Appellate Court noted that the applications barrier protects Microsoft's operating system monopoly. The Court stated that this allows Microsoft the ability to maintain its monopoly even in the face of competition from potentially "superior" new rivals. In what manner do you believe the proposed settlement addresses the applications barrier?

5. Some believe that unless Microsoft is prevented from commingling operating system code with middleware code, competitors will not be able to truly compete in the middleware market. Because the code is commingled, the Microsoft products cannot be removed even if consumers don't want them. This potentially deters "competition in at least two respects. First, as the Appellate Court found, commingling deters computer manufacturers from pre-installing rival software. And second, it seems that software developers are more likely to write their programs to operate on Microsoft's middleware if they know that the Microsoft middleware will always be on the computer whereas competing products may not be. Even if consumers are unaware that code is commingled, shouldn't we be concerned about the market impact of commingling code? What is the upside of allowing it to be commingled, and on the other hand, what concerns are raised by removing the code?

6. Many believe that this settlement proposal merely requires Microsoft to stop engaging in illegal conduct, but does little in the way of denying Microsoft the benefits of its bad acts. First, how would you answer these critics? Is this just a built-in reality of civil antitrust remedies, i.e., that they don't aim to punish? And second, do you believe the remedy here is strong enough to dissuade other potential monopolists from engaging in the type of conduct in which Microsoft engaged?

7. Nine states didn't join with the Department of Justice's proposed final judgment because they didn't believe it adequately addressed competitive problems. These states recently filed their own remedy proposals. These states assert that one fruit of Microsoft's illegal conduct is Microsoft's dominant share of the internet browser market. They propose to deny Microsoft this benefit of its violations by requiring it to open-source the code for Internet Explorer. What do you believe the competitive impact of such action would be?

8. Given Microsoft's monopoly power in the operating system, some believe that merely allowing computer manufacturers to place competing software and icons on the operating system will not impede Microsoft's

ability to capture a dominant share of any product that it binds to its operating system. Do you believe that media players, instant messaging services, and other competing products will be able to compete with similar MS products that are bound to the operating system?

9. Many have criticized the proposed final judgment saying it has loopholes in it that will allow Microsoft to continue operating as it has done in the past. For example, the proposed final judgment clearly seeks to prevent Microsoft from retaliating against computer manufacturers that install competing software onto the computer. However, because the provisions are limited to specific practices or types of software, and apply only to "agreements" between Microsoft and computer manufacturers, many believe that Microsoft will find alternative methods of controlling the practices of computer manufacturers. Do you believe competition would be better served if Microsoft were broadly prohibited from retaliating against computer manufacturers?

10. The Court of Appeals ruled that Microsoft's practices which undermined the competitive threat of Sun's Java technology was an antitrust violation. The remedy proposed by the states that do not support the DOJ's proposed settlement would require Microsoft to distribute Java with its browser as a means of restoring Java's position in the market. Do you believe this would be beneficial to competition? What does the proposed final judgment do to restore this competition?

11. Definition U. of the Proposed Final Judgment appears to allow Microsoft to determine in its sole discretion what constitutes the operating system. The Court of Appeals left open the possibility of a tying case against Microsoft. Will this provision essentially foreclose any opportunity of bringing a tying claim against Microsoft? Why do you give Microsoft the ability to make this determination?

12. It has been indicated that one motivation for entering into this settlement was to provide immediate relief and avoid lengthy court proceedings. At the same time, many of the provision of the settlement don't become active for up to 12 months after the settlement is enacted. Given your belief that relief should be immediate, why wait so long for these provisions to become active? 13. One provision of the proposed final judgment requires Microsoft to allow consumers or computer manufacturers to enable access to competing products. However, it appears that III.H. of the Stipulation and VI.N. indicate that for a product to qualify for these protections it must have had a million copies distributed in the United States within the previous year. This seems to run contrary to the traditional antitrust philosophy of promoting new competition. Is this in fact the case? And if so, why are these protections limited to larger competitors?

Senator DeWine's Questions for Charles F. Rule, Fried, Frank, Harris, Shriver & Jacobson, Counsel to Microsoft Corporation, Washington, DC

1. Mr. Rule, in your testimony you have gone to great length to explain how certain portions of the government's case were dropped or thrown out during the course of litigation. Does Microsoft acknowledge that it violated the antitrust laws?

2. Mr. Rule, many within the high tech industry have argued that the antitrust laws are overly cumbersome when it comes to promoting competition within the fast-changing industry. Is this Microsoft's position?

3. Mr. Rule, what do you believe are the appropriate objectives of remedies in monopolization cases such as this? Do you believe the case law supports a position that monopoly acquisition cases should be treated differently than monopoly maintenance cases? Finally, do you believe this settlement fully achieves the appropriate remedy objectives? If not, in what ways is it deficient? And in what ways, if any, do you believe it reaches beyond the case?

4. Some believe that unless Microsoft is prevented from commingling operating system code with middleware code, competitors will not be able to truly compete in the middleware market. Because the code is commingled, the Microsoft products cannot be removed even if consumers don't want them. It seems to me that this deters competition in at least two respects. First, as the Appellate Court found, commingling deters computer manufacturers from pre-installing rival software. And second, it seems that software developers are more likely to write their programs to operate on Microsoft's middleware if they know that the Microsoft middleware will always be on the computer whereas competing products will not. Even if consumers are unaware that code is commingled, shouldn't we be concerned about the market impact of commingling code? What is the upside of allowing it to be commingled, and on the other hand, what concerns are raised by removing the code?

5. Many believe that this settlement proposal merely requires Microsoft to stop engaging in illegal conduct, but does little in the way of denying Microsoft the benefits of its bad acts. First, how would you answer these critics? Is this just a built-in reality of civil antitrust remedies, that they don't really aim to punish? And second, do you believe the remedy here is strong enough to dissuade other potential monopolists from engaging in the type of conduct in which Microsoft engaged?

IV. Senator DeWine's Questions for Professor Lawrence Lessig, Esq., Stanford Law School

1. Mr. Lessig, you stated in your testimony that an appropriate remedy should try and steer Microsoft toward developing its strategy in regards to the Internet. First, why wouldn't such an objective fall outside the clear confines of the case and thus be an inappropriate goal for a remedy? And second, given the fact that a court found Microsoft to have engaged in significant violations of the antitrust laws, should we be concerned about the company attempting to leverage its operating system monopoly to become dominant at the Internet level?

2. Mr. Lessig, you stated in your testimony that an integral part of the Court's conclusion was its finding that Microsoft had "commingled code" in such a way as to interfere with the ability of competitors to compete on an even playing field. Do you believe the Justice Department's proposed final judgment adequately deals with this anticompetitive conduct?

3. Mr. Lessig, you mention that there are problems with the proposed decree aside from enforcement. What are some of the other areas of concern?

4. Mr. Lessig, what do you believe are the appropriate objectives of remedies in monopolization cases such as this? Do you believe the case law supports a position that monopoly acquisition cases should be treated differently than monopoly maintenance cases? Finally, do you believe this settlement fully achieves the appropriate remedy objectives? If not, in what way is it deficient?

V. Senator DeWine's Questions For Mark N. Cooper, Ph.D., Director of Research, Consumer Federation of America

1. Mr. Cooper, many have stated that the alternative proposed remedies presented by the litigating states are not justifiable based on the conduct that the Appellate court found to be illegal. Do you agree? If not, how do you believe provisions such as requiring Microsoft to open source its browser code and provide multiple versions of its operating system relate to the conduct that was found to have been illegal?

VI. Senator DeWine's Questions For Jonathan Zuck, President, Association of Competitive Technology

1. This case has obviously been very controversial and inspired a great deal of discussion regarding the effectiveness of the antitrust laws, especially within the hi-tech industry. Netscape, for example, vocally opposed Microsoft during this litigation, and many of Netscape's complaints were validated by the courts, and yet Netscape has essentially been defeated. That sort of result has led some to question whether the antitrust laws can be effective in this industry. What lesson do you believe this case teaches in that regard, and what do we say to Netscape?

2. Some believe that unless Microsoft is prevented from commingling operating system code with middleware code, competitors will not be able to truly compete in the middleware market. Because the code is commingled, the Microsoft products cannot be removed even if consumers don't want them. This potentially deters competition in at least two respects. First, as the Appellate Court found, commingling deters computer manufacturers from pre-installing rival software. And second, software developers are may be more likely to write their programs to operate on Microsoft's middleware if they know that the Microsoft middleware will always be on the computer whereas competing products will not. Even if consumers are unaware that code is commingled, should we be concerned about the market impact of commingling code? What is the upside of allowing it to be commingled, and on the other hand, what concerns are raised by removing the code? Further, what assurances can you give to this Committee that members of your organization will not merely choose to write to the Microsoft middleware, but will fully support competing products as well?

Senator DeWine's Questions For Matthew J. Szulik, President and Chief Operating Officer, Red Hat, Inc.

1. Some believe that unless Microsoft is prevented from commingling operating system code with middleware code, competitors will not be able to truly compete in the middleware market. Because the code is commingled, the Microsoft products cannot be removed even if consumers don't want them. This potentially deters competition in at least two respects. First, as the Appellate Court found, commingling deters computer manufacturers from pre-installing rival software. And second, software developers may be more likely to write their programs to operate on Microsoft's middleware if they know that the Microsoft middleware will always be on the computer whereas competing products will not. Even if consumers are unaware that code is commingled, should we be concerned about the market impact of commingling code? What is the upside of allowing it to be commingled, and on the other hand, what concerns are raised by removing the code?

2. What impact do you believe the Proposed Final Judgment will have on the ability of competing operating systems, such as Linux, to gain traction in the market? Contrast this with the impact you believe a settlement proposal such as that offered by the litigating states would have.

VIII. Senator De Wine's Questions For Mitchell E. Kertzman, President and CEO, Liberate Technologies

1. The Proposed Final Judgement aims to make the middleware market more competitive. Do you believe it is effective in doing so?

2. Do you believe Microsoft will be able to leverage its monopoly in the PC operating system market to capture market share in other operating systems markets such as hand-held devices, navigation devices and servers? Does the proposed settlement address this issue at all, and do you believe the Appellate Court's ruling would permit a settlement that addresses these type of concerns?

QUESTIONS OF SENATOR RICHARD J. DURBIN TO THE DEPARTMENT OF JUSTICE

I understand that the Justice Department officials, representatives of State Attorneys General, and Microsoft lawyers worked around the clock to come to an agreement on this settlement.

A. How many meetings were there on the settlement?

B. Were the states sufficiently involved in the process?

C. Was there anyone in the room during those negotiations who was not affiliated with the parties to the litigation who may have been able to bring another perspective on the terms of the agreement?

Now that we are in the 60 day period of the Tunney Act proceeding to determine the public interest aspects of this settlement; what, if any, role do you envision Congress should play?

Microsoft is about to settle with about half the states who joined in the original DOJ lawsuit, but the other half of the states are continuing with the court-issued remedies phase of the litigation. Naturally, there may be differences in the remedies in the two different vehicles for closing out this case. How will you reconcile the potential differences between the terms of the settlement accepted by the nine settling state plaintiffs and the remedies to be awarded to the ten non-settling state plaintiffs?

QUESTIONS OF SENATOR RICHARD J. DURBIN TO MICROSOFT

This is an unprecedented settlement for an unprecedented case. The entire world has been, and will continue to, watch every aspect of this case. They will also be watching to see if Microsoft complies with every word of this decree. Assuming this settlement is approved, can you outline the steps that will be taken to ensure compliance with the settlement? Are these steps unique in any way?

What assurances can the American people have that Microsoft will really be constrained from future anti-competitive practices?

QUESTIONS OF SENATOR RICHARD J. DURBIN TO CONSUMER FEDERATION OF AMERICA

In your mind, what are the most significant shortcomings of this settlement? What will this settlement enable Microsoft to do that you believe they should be prevented from doing?

Our economy is currently in a recession and our country is at war. What are the compelling reasons for continuing this litigation against Microsoft rather than finding a way to settle?

States that are continuing to pursue litigation want Microsoft to disclose source code for Web browsing functionality now in Windows. This would turn Microsoft's intellectual property into "open-source."

A. What are the ramifications to Microsoft and to its competitors if Microsoft is forced to subject its intellectual property to an open-source standard?

g. In the future, what should competitors expect from companies that establish dominance in the technology marketplace?

Questions Submitted For the Record by Senator McConnell for Witness Charles James

Senate Committee on the Judiciary Hearing on The Microsoft Settlement
Wednesday, December 12, 2001
10:00 a.m.
106 Dirksen Senate Office Building

Question: Can you describe how the appeals court ruling impacted the case originally brought by the Department of Justice in 1998?

Question: Can you tell us more about how this agreement came about, or the process involved in reaching a settlement?

Question: Some have criticized the agreement for not going far enough. Do you believe that the proposed settlement compares favorably to-and in some respects may well exceed-the remedy that might have emerged from a judicial hearing?

Question: This litigation has been going on for almost 4 years. Will this settlement accelerate the point in time at which a remedy will begin to take effect?

Question: Assuming the settlement is approved by the court, can you outline the steps that will be taken to ensure compliance with the settlement?

Question: Are you aware of this type of enforcement mechanism being adopted in any other antitrust proceeding?

U.S. Department of Justice
Office of Legislative Affairs
Office of the Assistant Attorney General
January 24, 2002
The Honorable Patrick Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Please find enclosed the answers to the written follow-up questions posed to Assistant Attorney General Charles James following his testimony before your Committee on December 12, 2001, on "The Microsoft Settlement: A Look to the Future." The Department appreciates the opportunity to provide its views to the Committee on this important topic.

Of course, please do not hesitate to contact us if we can be of any assistance on this or any other matter.

Sincerely,
Daniel J. Bryant
Assistant Attorney General
The Honorable Orrin G. Hatch
Ranking Minority Member

CHAIRMAN LEAHY'S QUESTIONS QUESTION

Jim Barksdale, the former CEO of Netscape, tells us in a written submission that if the proposed settlement had governed Microsoft's behavior ten years ago, he would never have been able to obtain the venture capital to launch Netscape and, even if it did, Microsoft would have been able to crush the company. It is harsh criticism of the proposed settlement that it would have made no difference and that it would allow Microsoft to engage in the same exclusionary practices that extinguished Netscape and crippled Java. Do you think that this criticism is fair and, if not, why?

ANSWER

The Department disagrees with Mr. Barksdale's criticism. The essence of the criticism is that the prospects facing start-up firms promoting new software products would be greater if such companies could be guaranteed that they would not face competition from Microsoft Creating such an environment, however, is not one of the goals of public enforcement of the antitrust laws.

More directly, Mr. Barksdale complains that the proposed Final Judgment fails to stop Microsoft from integrating new functions and capabilities into the Windows operating system The Department challenged Microsoft's integration of its browser into the operating system in its attempted monopolization and tying claims, neither of which was sustained by the Court. Contrary to Mr. Barksdale's view, the proposed Final Judgment does not create any new rights for Microsoft with regard to product integration. The proposed Final Judgment merely reflects the fact that, in light of the Court's ruling, there is no legal basis for enjoining Microsoft altogether from integrating middleware into its operating system, if that middleware is removable and computer manufacturers and consumers are contractually free to remove it, as a remedy for the violations found in the case. Microsoft remains subject to the antitrust laws with respect to tying and in every other respect.

Mr. Barksdale also makes the curious assertion that Netscape would have fared better without the proposed Final Judgment than with it. The proposed Final Judgment expressly prohibits the very practices Microsoft deployed to impede the emergence of Netscape's Web browser. Thus, had the decree been in effect, Netscape would have had access to Microsoft's APIs in the development process, been able to obtain distribution through computer manufacturers, and been able to become the default browser if a computer manufacturer or consumer elected to use Netscape in that way. Other firms in the industry would have been free to collaborate with Netscape without fear of retaliation by Microsoft.

Most fundamentally, Mr. Barksdale apparently believes that Microsoft should be altogether prohibited from competing with start-up firms like his former company. The Courts found that Microsoft engaged in specific practices that were unlawful under the antitrust laws. The proposed Final Judgment prohibits those unlawful acts, contains specific prohibitions to prevent their recurrence, and takes affirmative steps to restore the competitive conditions in the middleware marketplace. Consumers benefit from competition. The goal of the antitrust laws, therefore, is to protect competition, not to favor start-up firms over incumbents.

QUESTION

The remedy filed by the non-settling States would require that the agreement be enforced by a court-appointed special master with the authority to monitor Microsoft's complaints, and with the power to investigate, call witnesses, and conduct hearings if the company appears to have violated the agreement. Your proposed settlement provides for a three- member panel paid for by Microsoft that can listen to and investigate complaints, but which lacks the independent authority to convene hearings and examine witnesses. This panel must turn to the Justice Department for any such activity, and its members may not offer testimony themselves in any proceeding. Although the three member panel might be helpful in gathering some information, in terms of actual enforcement, the Justice Department will have to start from scratch with any action. In light of the fact that everyone agrees that this is a rapidly-moving industry, the inherent delays in such a process seem more likely to hamper than to enhance Microsoft's compliance with the decree. Why did you decide to create this unique and limited panel, rather than a more traditional special master?

ANSWER

The Department believes that this and other Department antitrust final judgments can and should be enforced by the Department. Contrary, to the assumption underlying this question, there is no history or tradition of the Department delegating enforcement responsibility for its antitrust enforcement orders to third parties. Moreover, the Department believes that delegating enforcement authority to a special master in this particular case would have been misguided, possibly resulting in that individual becoming a one-person regulatory body, exercising de facto regulatory control over a broad range of behavior and conduct in the information technology sector, and setting antitrust enforcement policy in the process.

The proposed Final Judgment ensures that the full force of the United States is available to enforce the judgment. The three-person compliance team was never intended to displace that enforcement authority. Rather, it is intended to facilitate enforcement through regular access to information and an affirmative obligation to report violations to the Department. Should the Department seek an enforcement action against Microsoft, it will not have to "start from scratch." The Department is not precluded from utilizing, relying on, or making derivative use of, the technical committee's work product, findings or recommendations in connection with any activities relating to enforcement of the proposed Final Judgment.

Assuming that a special master would be required to afford individuals appropriate procedural protections and that its determinations would be subject to judicial review, the Department does not see any basis for assuming that enforcement by a special master would be more expeditious than enforcement by the Department. In fact, the Department believes that the very opposite would be true.

QUESTION

The Court of Appeals specifically, held—twice—that commingling the browser and operating system code violated section 2 of the Sherman Act. Yet, the proposed settlement contains no prohibition on commingling code. In your testimony before the Committee, you explained that the Department had never taken the position that Microsoft should be required to remove code from the operating system, and that the proposed settlement is thus consistent with a long-standing position of the Department. That explanation appears to neglect two things: First, the settlement is forward-looking, and second, the court's determination that commingling code was an exclusionary act. Taken together, these facts suggest that a ban on .future exclusionary commingling of code is entirely consistent with the Department's position, would provide appropriate relief for the violation found, and would help prevent its recurrence. Do you agree that such a ban on future exclusionary commingling would comport with the Court of Appeals decision? Did you consider such a ban? Do you agree that such a ban on future exclusionary commingling would provide appropriate relief for the violation found, and would help prevent its recurrence?

ANSWER

The Department challenged Microsoft's practice of commingling operating system and browser code for the purpose of preventing the removal of its browser. The proposed Final Judgment fully addresses this conduct by requiring Microsoft to create and maintain an effective add/remove function for certain Microsoft middleware and to permit competing middleware to take on a "default" status that will override middleware functions Microsoft has integrated into the operating system The provisions, therefore, will stop the offending conduct and prevent its recurrence.

Consistently throughout its discussion of the remedy in this case, the Department has maintained that it did not seek to require Microsoft to remove the commingled code. The Department does not read the Court of Appeals" decision to state an affirmative rule of software design prohibiting all future commingling divorced from any adverse effect on competition. As the Court of Appeals noted, it is the use of the middleware product by the consumer, not the presence of the code, that has competitive significance. A ban on commingling without regard to competitive significance would impose a wholly unnecessary and artificial constraint on software design that could have adverse implications for consumers. Additionally, changes to the operating system required to implement such a prohibition likely would have adverse effects upon third parties that have already designed software to the present operating system code. A prohibition on commingling in this particular case, therefore, would be harmful, not helpful.

QUESTION

There has never been a Tunney Act proceeding after litigation through the court of appeals before. In the first Microsoft-Department of Justice Tunney Act proceeding in 1994, the court suggested that great deference should be given to the appellate court's findings. Do you believe that the Court of Appeals" decision provides useful input to the definition of "public interest" in this unique context?

ANSWER

The Department strictly adhered to the mandates within the Court of Appeals" decision in fashioning the remedy contained within the proposed Final Judgment. Beyond the Department's position set forth in its submissions to the District Court in this matter, however, it would be inappropriate for the Department to comment on the appropriate scope of the Court's discretion because the Court's review of the proposed Final Judgment is pending under the Tunney Act

QUESTION

5(a).

As I mentioned at the Committee's hearing, in describing your settlement, Fortune magazine said "Even the loopholes have loopholes." The settlement limits the types of retaliation Microsoft may take against PC manufacturers that want to carry or promote non-Microsoft software. By implication the settlement appears to give a green light to other types of retaliation. You responded to my question about retaliation by saying that the settlement would permit collaboration generally approved in the antitrust case law Please clarify the Department's position a little further. Why does the settlement not ban all types of retaliation?

ANSWER

The term "retaliation" can be subject to overbroad interpretation in many contexts, including an antitrust final judgment. Literally, the term could be read to mean the withholding of any benefit in response to an undesired action. In a commercial context, a firm might be said to have "retaliated" against a prospective customer or supplier through any adverse action whether or not their interaction has any competitive significance. For example, if Microsoft decided for valid business reasons that it no longer wanted to engage in a particular business transaction, it could be accused of retaliating. To give the term retaliation meaning in the context of this proposed Final Judgment, reference must be made to the offending conduct, i.e., actions taken against firms seeking to develop, promote or distribute competing middleware.

To amplify upon my answer at the hearing, the proposed Final Judgment does not, and should not, prohibit Microsoft from engaging in all forms of collaborative conduct Such a prohibition would be anticompetitive to the extent that some forms of collaboration Microsoft might engage in would help in the creation or distribution of new products for the benefit of consumers. The proposed Final Judgment prohibits Microsoft from withholding benefits from those who support competing middleware products, while permitting the company to grant benefits specifically in the context of bona fide collaborative ventures under well-established antitrust standards (which necessarily means "withholding" those same "benefits" from companies not engaged in the particular bona fide collaborative venture).

QUESTION

5(b)

The settlement requires Microsoft to treat PC manufacturers the same in some respects but in other important respects Microsoft is allowed to treat PC manufacturers differently What are the ways in which Microsoft can treat differently PC manufacturers that carry competing software compared to those that agree to carry Microsoft products exclusively?

ANSWER

Neither the antitrust laws generally, nor the Court of Appeals" decision specifically, require that Microsoft, even as a monopolist, treat all third-parties equally. In fact, in many instances "unequal" treatment (e.g., collaboration between two companies that does not include other firms) evidences legitimate competition. Thus, the Department carefully crafted the proposed Final Judgment to ensure that it addresses the conduct found unlawful by the Court of Appeals without precluding conduct with potentially procompetitive effects.

Section III.A. contains a broad ban on retaliation by Microsoft against computer manufacturers because they support competing middleware or operating system products. Microsoft is, however, permitted to provide consideration to a computer manufacturer for a particular Microsoft product or service where such consideration is commensurate with the level or amount of the computer manufacturer's development, distribution, promotion or licensing of that specific product or service. Thus, Microsoft can base such consideration only on the absolute level or amount of the computer manufacturer's support for the Microsoft product or service, rather than any relative level or amount that may serve to exclude rivals" products. Section III.G 1. prohibits Microsoft from granting computer manufacturers and certain others consideration on the condition that they distribute, promote, use, or support exclusively or in a fixed percentage any Microsoft middleware or operating system. However, Microsoft is permitted to use fixed percentage arrangements where it is commercially practicable for the computer manufacturer or other entity to provide equal or greater support for software that competes with Microsoft's middleware or operating system. In addition, Microsoft may enter into bona fide joint ventures or joint development or joint services, ices arrangements with computer manufacturers and others for a new product, technology or service, in which both Microsoft and the computer manufacturer or other entity contribute significant developer or other resources, that prohibits such entity from competing with the object of the joint venture or other arrangement for a reasonable period of time.

QUESTION

You referred at the hearing to the fact that the settlement would permit certain collaborative conduct between Microsoft and others. Please explain in detail what Types of collaboration are permitted by the decree, and what types are forbidden.

ANSWER

It would be inappropriate for the Department to comment on the ability of Microsoft to engage in specific, hypothetical collaborations. More generally, however, in addition to the forms of collaboration described in response to question 5.(b). above, Section III.F. of the proposed Final Judgment prohibits Microsoft from entering into agreements with software vendors that condition the grant of any consideration on the vendor refraining from developing, using, distributing, or promoting a software that competes with Microsoft's middleware or operating system or any software that runs on any software that competes with Microsoft's middleware or operating system However, Microsoft may enter into agreements that place limitations on a software vendor's development, use, distribution, or promotion of any such software if those limitations are reasonably necessary to, and of reasonable scope and duration in relation to, a bona fide contractual obligation of the vendor to use, distribute, or promote any Microsoft software or to develop software for, or in conjunction with, Microsoft.

QUESTION

Among the exceptions in the proposed settlement to the bans on retaliation, Microsoft is permitted to provide "consideration to any OEM with respect to any Microsoft product or service where that consideration is commensurate with the absolute level or amount of that OEM's development, distribution, promotion, or licensing of that Microsoft product or service." This seems to permit Microsoft to reward OEMs based on whether they carry, Microsoft's products or software; this is just the flip side of "retaliation." How is this different from punishing those who fail to accede to Microsoft's demands?

ANSWER

Nothing in the antitrust laws generally or the Court of Appeals" decision specifically requires that Microsoft be prohibited from competing in the market by working with computer manufacturers to promote its products and services. Indeed, it is hard to imagine how any such prohibition would benefit consumers. Instead, the proposed Final Judgment addresses that conduct found unlawful by the Court of Appeals and permits conduct that has potentially procompetitive effects. Allowing Microsoft to provide consideration based on a relative level or amount of support may serve to exclude rivals" middleware products and, thus, is prohibited under the proposed Final Judgment. Whereas, allowing consideration based on the absolute level or amount of the computer manufacturer's support permits bona fide collaborations that may benefit consumers and are unlikely to exclude rivals. Thus, the proposed Final Judgment does not prohibit this conduct.

QUESTION

In 1995, the Department and Microsoft entered into a Consent Decree. Two years later the Department sued Microsoft for contempt of the Decree when Microsoft and the Department disagreed over the meaning and correct interpretation of certain provisions of the Decree, including the meaning of the word "integrate" as that term was used in the Decree. Given the prior litigation between the Department and Microsoft over the proper interpretation of the 1995 Consent Decree, do you agree that Microsoft and the Department should have a common, explicit understanding of the meaning and scope of this Final Judgment before it is entered?

ANSWER

The Department's goal was to reach as clear a settlement agreement as possible in this case The proposed Final Judgment embodies the common, explicit understanding as to the settlement terms among the Department, the settling States and Microsoft,

QUESTION

Do you agree that the meaning and scope of the proposed Final Judgment as agreed upon by the Department and Microsoft should be precise, unambiguous and fully articulated so that the public at large can understand and rely on your mutual understanding of the Judgment?

ANSWER

The Department's goal is to make final judgments as precise and unambiguous as possible. The mutual understanding among the Department, the settling States and Microsoft in this case is embodied in the proposed Final Judgment.

QUESTION

If Microsoft were to disagree with the Department's interpretation of one or more important provisions of the proposed Final Judgment, would you consider that to be a potentially serious problem?

ANSWER

Whether or not Microsoft's interpretation of one or more provisions of the proposed Final Judgment would be a serious problem would depend on the specific nature of the disagreement and the provisions of the Final Judgment that were implicated, among other things. It would be inappropriate for the Department to speculate on the seriousness of a hypothetical disagreement.

QUESTION

Do you agree that it would be highly desirable to identify any significant disagreement between Microsoft and the Department over the correct interpretation of the proposed Final Judgment now, before the Judgment is entered by the Court, rather than through protracted litigation as in the case of the 1995 Consent Decree?

ANSWER

The proposed Final Judgment embodies the complete agreement between the Department and Microsoft. The proposed Final Judgment in this case was entered through the standard procedures under which the Department settles antitrust cases. It is hard to imagine a mechanism under which understandings reached outside of those procedures would be enforceable.

QUESTION

Does the Competitive Impact Statement set forth the Department's definitive interpretation of its proposed Final Judgment with Microsoft?

ANSWER

The Tunney Act establishes the requirements for a Competitive Impact Statement. Pursuant to the Act, 15 U.S.C. § 16, a Competitive Impact Statement provides:

(1) the nature and purpose of the proceeding;

(2) a description of the practices or events giving rise to the alleged violation of the antitrust laws;

(3) an explanation of the proposal for a consent judgment, including an explanation of any unusual circumstances giving rise to such proposal or any provision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief,

(4) the remedies available to potential private plaintiffs damaged by the alleged violation in the event that such proposal for the consent judgment is entered in such proceeding;

(5) a description of the procedures available for modification of such proposal; and

(6) a description and evaluation of alternatives to such proposal actually considered by the United States.

QUESTION

Has Microsoft informed the Department that it has any disagreement with the Department's interpretation of the Final Judgment as set forth in the Competitive Impact Statement?

ANSWER

The Department is unaware of any disagreement that Microsoft may have with the Competitive Impact Statement.

QUESTION

Can the public at large rely upon the Department's Competitive Impact Statement as the definitive interpretation of the nature and scope of Microsoft's obligations under the Final Judgment?

ANSWER

As explained in response to Question 10 above, the Tunney Act establishes the requirements for a Competitive Impact Statement. Pursuant to the Act, 15 U.S C.§ 16, the Competitive Impact Statement provides the public and others with:

(1) the nature and purpose of the proceeding;

(2) a description of the practices or events giving rise to the alleged violation of the antitrust laws;

(3) an explanation of the proposal for a consent judgment, including an explanation of any unusual circumstances giving rise to such proposal or any provision contained therein, relief to be obtained thereby, and the anticipated effects on competition of such relief,

(4) the remedies available to potential private plaintiffs damaged by the alleged violation in the event that such proposal for the consent judgment is entered in such proceeding;

(5) a description of the procedures available for modification of such proposal; and

(6) a description and evaluation of alternatives to such proposal actually considered by the United States.

QUESTION

If the public cannot rely on the Department's interpretation of the proposed Final Judgment as set forth in the Competitive Impact Statement, then what is the mutually understood and agreed-upon interpretation of the meaning and scope of Microsoft's obligations under the Final Judgment?

ANSWER

The proposed Final Judgment itself embodies the mutually understood and agreed-upon settlement agreement among the Department, the settling States and Microsoft.

QUESTION

The Tunney Act requires that Microsoft file with the district court "any and all written or oral communications by or on behalf of [Microsoft]...with any officer or employee of the United States concerning or relevant to such proposal, except that any such communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice alone shall be excluded from the requirements of this subsection." Microsoft has recently made its filing, and many have been surprised by its brevity. Do you believe that this provision requires disclosure of communications by Charles Rule to the Justice Department prior to the date upon which he became counsel of record? Do you believe it requires disclosure of contacts made on behalf of Microsoft to members of Congress? How does the Department define "concerning or relevant to" the proposed settlement? Is that definition consistent across all Tunney Act proceedings? Do you believe that it covers anything more than the actual negotiations of the decree2

ANSWER

Pursuant to 15 U.S.C. § 16(g), defendants must file a description of specified communications relating to the proposed settlement. These filings are made to the district court and are not evaluated or reviewed by the Department. It would inappropriate in this case for the Department to comment on Microsoft's 16(g) filing or interpret the requirements of the Tunney Act as they relate to its obligations.

SENATOR HATCH'S QUESTIONS

QUESTION

One of the principal concerns voiced by critics of the Proposed Settlement is that it lacks an effective enforcement mechanism. These critics suggest that some type of fast-track enforcement mechanism, such as the appointment of a special master, is necessary, to ensure compliance. Could you please explain: First, why you believe the enforcement avenues provided for by the Proposed Settlement are sufficient; and, Second, how you envision effective enforcement actually being carried out in the real world?

ANSWER

The proposed Final Judgment contains one of the most stringent regimes of compliance ever contained in a final judgment entered by the Department. The proposed Final Judgment provides, as it should, for direct enforcement by the Department, supplemented by full-time, on-site monitoring by an expert compliance team, and a further penalty in the event of recurring violations. The Department believes that it has the resources, expertise, and, most importantly, the expert knowledge of the antitrust laws and the public interest focus to fully enforce the Final Judgment. Further, the Department sees no basis for the assertion that enforcement by a special master would be any more efficient, expeditious or effective than enforcement by the Department.

A core team of experienced lawyers and economists established within our newly formed Networks & Technology Section, and including members of the litigation team, is charged with enforcement of the proposed Final Judgment. This enforcement team, assisted by the technical committee formed under the proposed Final Judgment, will monitor Microsoft's compliance with the Final Judgment and take any necessary, action, up to and including initiating contempt proceedings, to ensure effective enforcement.

QUESTION

Because the three-person Technical Counsel created by the Proposed Settlement has no enforcement powers, won't the level of enforcement of the Proposed Settlement depend principally on how proactive the Department and State Attorneys General are in dedicating resources and attention to prompt and effective oversight and enforcement? What resources does the Department plan on committing to enforcement of the Proposed Settlement?

ANSWER

The Department believes that it should enforce the remedial orders entered in the cases it has prosecuted. We further believe that the Court is the appropriate forum in which to air disputes concerning enforcement of the Court's order. The Department does not delegate its enforcement responsibilities in antitrust matters to third parties We, therefore, specifically rejected the notion of granting enforcement authority to the technical committee that would have supplanted the enforcement power of the United States The proposed Final Judgment will be enforced by the skilled men and women of the Department's Antitrust Division. We are very proud of the work performed by the Division staff on this case, who worked tirelessly to secure the liability determinations upon which the proposed Final Judgment is premised. We, therefore, adamantly reject any assertion that the staff is not up to the task of enforcing this proposed Final Judgment. A core team of experienced lawyers and economists established within our newly formed Networks & Technology Section, and including members of the litigation team, is charged with enforcement of the proposed Final Judgment. This enforcement team, assisted by the technical committee formed under the proposed Final Judgment, will monitor Microsoft's compliance with the Final Judgment and take any necessary action, up to and including initiating contempt proceedings, to ensure effective enforcement

QUESTION

In my opening statement, I raised the issue of prompt and effective enforcement in high-technology markets. As the DC Circuit clearly recognized, the passage of time frequently overtakes alleged anticompetitive actions, making them—in the DC Circuit's language—"obsolete" before a remedy is devised and implemented. In "our view, what can be done to minimize this problem and ensure that antitrust remedies are developed early enough to provide meaningful relief?

ANSWER

The Department believes that the current antitrust laws are sufficient to guarantee not only competition, but timely, enforcement in high-tech areas, such as the software industry.

QUESTION

Could you explain the pros and cons of having the enforcement function performed by governmental agencies as opposed to a special master or adjudicator)" panel of some type?

ANSWER

The Department believes that it should enforce the remedial orders entered in the cases it has prosecuted. The Department does not delegate that function to third parties in antitrust matters and believes that departing from that well-established policy would be particularly troublesome in this case. The Department has the necessary, resources, expertise and enforcement authority to carry out this function, just as it has in countless other cases. Moreover, the Department has the expert knowledge of the antitrust laws and the public interest focus required for this task. The proposed Final Judgment covers a broad range of competitive interaction between Microsoft and firms at every, level of the information technology industry. As is evident already, many in the industry see Microsoft's liability as a basis for demanding all manner of private rights, whether or not their demands have anything to do with the matters litigated in the case. Delegating actual enforcement power to any third party in this case would have been misguided, possibly resulting in that individual becoming a de facto regulatory body, exercising broad control over the information technology sector, and doing so without the legal framework that ordinarily would be imposed upon such a scheme. The Microsoft case is a public law enforcement matter. The Department believes that enforcement of the proposed Final Judgment should rest with the public agency charged with that function. The Department also has complete confidence in the Court to act expeditiously and to enter orders enforcing the proposed Final Judgment as appropriate.

QUESTION

Could you also explain why you oppose—assuming that you do oppose—an alternate or additional enforcement mechanism?

ANSWER

The enforcement mechanism contained in the proposed Final Judgment will effectively ensure Microsoft's timely compliance with the judgment. An alternate or additional enforcement mechanism is unnecessary.

QUESTION

As you know, I believe that one important aspect of the Internet is the freedom that consumers have to choose where to go and what websites to visit. Currently, consumers can choose to go to whatever websites they want. Commentators and industry participants argue that there is a legitimate fear that an Internet mediator might—for one reason or another—decide to limit access to certain sites while traffic is directed to other sites, or decide that certain sites will be treated differently than other sites in ways that push consumers in the direction of favored sites instead of leaving the choice entirely and fairly to consumers. Who do you believe should choose where a consumer can go online, the consumer or the Internet mediator, be it an Internet service provider, a software company, or a cable or satellite company? ,Also, could you please explain whether and why you believe this is an important competition policy concern?

ANSWER

The mission of the Department is to enforce the federal antitrust laws. The Department would evaluate any conduct by firms in the computer industry, including Internet mediators, that harms consumers and may violate the antitrust laws. The Department does not, however, have a view in the abstract as to who should decide where a consumer can go online.

QUESTION

Some critics claim that the only real penalty Microsoft faces for violating the Proposed Settlement is the extension of the terms of the Settlement for two additional years Is that an accurate criticism; and, if not, could you please briefly explain the penalties faced by Microsoft if it fails to abide by the Proposed Settlement?

ANSWER

The Department fundamentally disagrees with this criticism. In addition to seeking the penalty of extending the proposed Final Judgment term for an additional two years, the Department has all of the enforcement powers available to it under federal law, including criminal or civil contempt proceedings, petitions for injunctive relief to halt or prevent violations, motions for declarator-3" judgment to clarify or interpret particular provisions, and motions to modify the proposed Final Judgment.

QUESTION

Could you please expand on why you believe the Department has sufficient expertise to accurately evaluate the competitive implications of software design and other technical development choices? Additionally, specifically what has the Department done to ensure that it has the expertise necessary to assess at an early stage both the lawfulness and potential anticompetitive effects of highly-technical actions taken by companies such as Microsoft? Does the Department have a specific plan for allocating resources or personnel to develop the necessary" expertise to identify and take effective action while potential antitrust problems are still on the horizon?

ANSWER

The Department has both the resources and capability to address such technical issues, as they affect enforcement matters, through internal means and, where appropriate, the retention of outside experts. The Department has staff attorneys and economists, including members of the staff that worked tirelessly on the Microsoft case for many years, who have significant technical expertise in the software industry, as well as other high-tech fields. The Department routinely investigates, and relies on the expertise of its personnel to assess the effects of, companies" conduct in these high-tech industries. The Department continuously evaluates and seeks to improve its expertise to allow it to identify and take effective action to address competitive issues.

QUESTION

In his written testimony (pp. 18–19), Mr. Himes of the New York State Attome3" General's Office briefly discusses the importance of the Proposed Settlement's definition of "Middleware." The D.C Circuit defined middleware very simply as "software products that expose their own APIs [or "Application Programming Interfaces']. Microsoft, 253 F.3d at 53. Could you explain why the Proposed Settlement adopts a narrower, two prong definition? Could you also further explain the distribution threshold contained in the definition of "Non-Microsoft Middleware Products," requiring that—to meet the definition—at least one million copies of the Middleware Product have been distributed within the United States during the previous 3'ear? Will this threshold provision disadvantage innovation among start-up entrepreneurs or those who develop software for highly-specialized markets as some have criticized? Is there some other way to address the concerns underlying this "one million copy" threshold?

ANSWER

The Court of Appeals" decision did not seek to define the term middleware in a manner that would suffice for remedial purposes. Rather, the opinion contains descriptive language to aid in the exposition of the issues in the case For remedial purposes, the definition must be more technical so as to ensure limits within the terms of the liability found and enforceability of the proposed Final Judgment. The Court of Appeals found that Microsoft engaged in anticompetitive practices with respect to two middleware products, Web browsers and Java. Those products were deemed to have exposed a range of APIs so as to have the potential to evolve into an alternate platform, thereby threatening Microsoft's operating system monopoly. Not all products that expose APIs have that quality. The proposed Final Judgment adopts a broad definition of middleware that includes the specific products at issue in this case, other specific products that already have emerged as potential alternative platforms, and products that may be developed in the future that may have similar cross-platform qualities. Under the proposed Final Judgment, a computer manufacturer will have the right to install any competing middleware application, without regard to the number of copies of that competing middleware that have been distributed. The one million copy limitation exists only with respect to the requirements that Microsoft make public the APIs used in its own middleware products and redesign the operating system to provide a competing middleware product "default" status—i.e., the ability to override automatically Microsoft middleware functions integrated into the operating system The limitation strikes the proper balance between the substantial costs associated with such documentation and redesign efforts, and the competitive potential of products with fewer than one million copies distributed. To do otherwise would have put the operating system in a state of constant flux, which would have had disastrous implications for users and developers alike. Moreover, in a world of about 625 million PC users and software distribution via downloads and direct mail, distribution of only one million copies, rather than sales, installation or usage, is a relatively minor threshold in the software industry today. As you know, Americans routinely receive unsolicited software offers via the mail every day.

QUESTION

I found Mr. Jim Barksdale's letter noteworthy in several respects, but am particularly interested in his claim that the Proposed Settlement would not have prevented Microsoft's unlawful actions against Netscape. Could you please discuss whether the Proposed Settlement would have prevented the actions taken by Microsoft against Netscape that the DC Circuit held to be unlawful had the Proposed Settlement been in existence in 1995, and, if so, how?

ANSWER

Mr. Barksdale makes the curious assertion that Netscape would have fared better without the proposed Final Judgment than with it. The proposed Final Judgment expressly prohibits the very practices Microsoft deployed to impede the emergence of Netscape's Navigator and found unlawful by the Court of Appeals. Thus, had the Final Judgment been in effect, Netscape would have had access to Microsoft's APIs in the development process, been able to obtain distribution through computer manufacturers, and been able to become the default browser if a computer manufacturer or consumer elected to use Netscape in that way. Other firms in the industry would have been free to collaborate with Netscape without fear of retaliation by Microsoft

SENATOR DEWINE'S QUESTIONS

QUESTION

The term of the proposed settlement is only five years, while many other antitrust consent decrees last for ten years. The Department has suggested that a shorter time period is justified because this industry changes rapidly and a longer decree may not be warranted after five years. Given that the Department of Justice has the ability to go to the court and seek to modify a consent decree or terminate it if market conditions warrant such a change, why not impose a longer period of enforcement, and then decide later if it needs to be modified or abandoned?

ANSWER

The mission of the Department is to enforce the federal antitrust laws and remedy specific violations thereof This mission does not include regulating competition. Entering into an open-ended final judgment with the intent of reevaluating its terms on a going-forward basis would be contrary to the Department's mission.

QUESTION

As the Court of Appeals in this case noted, the Supreme Court has indicated that a remedies decree in an antitrust case must seek to "unfetter a market from anticompetitive conduct," "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future." Do you believe that this is the appropriate standard to use? If so, do you believe the proposed final judgment denies Microsoft the fruits of its illegal acts? Specifically, can you discuss whether Microsoft has been denied the fruits of its effort to maintain a monopoly in the operating system'?.

ANSWER

In agreeing to the proposed Final Judgment, the Department followed the Court of Appeals" decision in this case and applicable precedent. The Court of Appeals determined that Microsoft had illegally maintained its operating system monopoly by engaging in specific anticompetitive practices. While some have argued that the "fruits" of this violation are the continued monopoly in the operating system market and/or a monopoly in the Web browser market, that is inconsistent with the Court of Appeals" decision. In discussing the scope of an appropriate remedy, the Court of Appeals noted, "the District Court expressly did not adopt the position that Microsoft would have lost its position in the OS market but for its anticompetitive behavior." U.S. v. Microsoft, 253 F.3d 34, 107 (DC Cir. 2001). Further, the Court reversed the District Court's findings that Microsoft had attempted to monopolize the Web browser market and engaged in illegal tying. Consequently, there was no mandate for the Department to strip Microsoft of its market position in either the operating system or Web browser markets.

The proposed Final Judgment denies Microsoft the ability to use its operating system monopoly to exclude competing middleware products. In addition to prohibiting the illegal practices, Microsoft is now required to provide to actual and potential competitors APIs never before disclosed to them. Microsoft also must make design changes that permit competing middleware to substitute as the default product. Finally, Microsoft must now disclose to competitors communications protocols for servers. These proactive provisions create a far more positive environment for the development of competing middleware than existed at the time of Microsoft's unlawful behavior. In this environment, software developers will have a full opportunity to compete for consumer patronage that might make them an actual threat to Microsoft's operating system monopoly.

QUESTION

The proposed settlement has some prohibitions against Microsoft retaliating against computer manufacturers that place competing software on their computers-these provisions are intended to allow manufacturers to offer non-Microsoft products if they choose. I understand that Microsoft currently offers incentives to computer manufacturers if they can get computers to "boot up" quickly. Some believe that computer manufacturers will not want to slow down the start-up time by placing additional software on the computer because they, will risk losing the incentive payment. Does the proposed settlement deal with this problem?

ANSWER

The Court of Appeals decision in this case did not specifically address the speed at which computers "boot up." Nor does the proposed Final Judgment. However, the proposed Final Judgment does prohibit Microsoft from using market development allowances or other discounts if they are inconsistent with any other provision in the proposed Final Judgment. This would include, for example, retaliation against computer manufacturers for using non-Microsoft middleware implemented through incentive payments for faster "boot ups."

QUESTION

The Appellate Court noted that the applications barrier protects Microsoft's operating system monopoly. The Court stated that this allows Microsoft the ability to maintain its monopoly even in the face of competition from potentially "superior" new rivals. In what manner do you believe the proposed settlement addresses the applications barrier?

ANSWER

The proposed Final Judgment addresses the applications barrier by restoring the nascent competitive threat to Microsoft's operating system posed by middleware products. Middleware products expose their own APIs, and thus, allow software developers to write programs that run on the middleware itself. An application written to rely exclusively on a middleware program's interfaces could run on all operating systems on which that middleware runs. Because such middleware also runs on Windows, applications developers would not be required to sacrifice Windows compatibility if they choose to write applications for a middleware platform. Applications developers would thus have incentives to write for widely used middleware, and users would not be reluctant to choose a non-Windows operating system for fear that it would run an insufficient array of applications

In addition to prohibiting the illegal practices, Microsoft is now required to provide to actual and potential competitors APIs never before disclosed to them. Microsoft also must make design changes that permit competing middleware to substitute as the default product. Finally, Microsoft must now disclose to competitors communications protocols for servers. These proactive provisions create a far more positive environment for the development of competing middleware than existed at the time of Microsoft's unlawful behavior. In this environment, software developers will have a full opportunity to compete for consumer patronage that might make them an actual threat to Microsoft's operating system monopoly.

QUESTION

Some believe that unless Microsoft is prevented from commingling operating system code with middleware code, competitors will not be able to truly compete in the middleware market. Because the code is commingled, the Microsoft products cannot be removed even if consumers don't want them. This potentially deters competition in at least two respects. First, as the Appellate Court found, commingling deters computer manufacturers from pre-installing rival software. And second, it seems that software developers are more likely to write their programs to operate on Microsoft's middleware if they know that the Microsoft middleware will always be on the computer whereas competing products may not be. Even if consumers are unaware that code is commingled, should we be concerned about the market impact of commingling code? What is the upside of allowing it to be commingled, and on the other hand, what concerns are raised by removing the code?

ANSWER

The Court of Appeals concluded that Microsoft unlawfully commingled its operating system and browser code for the purpose of preventing the removal of its browser. The Court found that this had the effect of deterring competition not because of the presence of the Microsoft middleware code, but because of the use of the middleware by consumers. The proposed Final Judgment fully addresses the conduct found unlawful by requiring Microsoft to create and maintain an effective add/remove function for all Microsoft middleware and to permit competing middleware to take on a "default" status that will override middleware functions Microsoft has integrated into the operating system.

A ban on commingling without regard to competitive significance would impose a wholly unnecessar5, and artificial constraint on software design that could have adverse implications for consumers. Additionally, changes to the operating system required to implement such a prohibition likely would have adverse effects upon third parties that have already designed software to the present operating system code. A prohibition on commingling in this particular case, therefore, would be harmful, not helpful.

QUESTION

Many believe that this settlement proposal merely requires Microsoft to stop engaging in illegal conduct, but does little in the way of denying Microsoft the benefits of its bad acts First, how would you answer these critics? Is this just a built-in reality of civil antitrust remedies, i.e., that they don't aim to punish? And second, do you believe the remedy here is strong enough to dissuade other potential monopolists from engaging in the type of conduct in which Microsoft engaged?

ANSWER

It is true that by statute and applicable Supreme Court precedent, there is no legal basis for "punishing" a civil defendant in a civil antitrust decree. Thus, for example, the Department cannot impose a civil fine. In agreeing to the proposed Final Judgment, the Department followed the Court of Appeals" decision in this case and applicable precedent The Court of Appeals determined that Microsoft had illegally maintained its operating system monopoly by engaging in a series of specific anticompetitive practices While some have argued that the "fruits" of this violation are the continued monopoly in the operating system market and/or a monopoly in the Web browser market, that is inconsistent with the Court of Appeals" decision. In discussing the scope of an appropriate remedy, the Court of Appeals noted, "the District Court expressly did not adopt the position that Microsoft would have lost its position in the OS market but for its anticompetitive behavior." U.S. v. Microsoft, 253 F.3d 34, 107 (DC Cir 2001). Further, the Court reversed the District Court's findings that Microsoft had attempted to monopolize the Web browser market and engaged in illegal tying. Consequently, there was no mandate for the Department to strip Microsoft of its market position in either the operating system or Web browser markets. The proposed Final Judgment does, however, stop the unlawful conduct found by the Court of Appeals, prevent its recurrence and restore the competitive conditions in the middleware market. The Department believes that the proposed remedy in this case is strong enough to deter others firms who may engage in the type of unlawful conduct in which Microsoft engaged

QUESTION

Nine states didn't join with the Department of Justice's proposed final judgment because the, didn't believe it adequately addressed competitive problems. These states recently filed their own remedy proposals. These states assert that one fruit of Microsoft's illegal conduct is Microsoft's dominant share of the Internet browser market. They propose to deny Microsoft this benefit of its violations by requiring it to open-source the code for Internet Explorer. What do you believe the competitive impact of such action would be?

ANSWER

The credibility of the antitrust enforcement process requires the Department to respect the Court's rulings in this case, including those that were adverse. The Department was unsuccessful with regard to some of its claims. It would be inappropriate for the Department to seek remedies designed to redress claims upon which it was unsuccessful under the guise of claims actually sustained by the Court.

The sole basis for liability sustained by the Court of Appeals was monopoly maintenance The monopoly maintenance claim asserted that Microsoft impeded a "nascent" threat to its operating system monopoly. The Department conceded, and the courts found, that any actual effect of that conduct on competition in the operating system market would have occurred well off into the future, if at all. The courts rejected both the exclusive dealing and attempted monopolization counts, and reversed the finding of unlawful tying. In fact, the Court of Appeals found that the Plaintiffs failed to prove that Web browsers were even a distinct market. Those were the only government claims asserting anticompetitive impact or unlawful gain to Microsoft in the market for Web browsers. Thus, within the confines of this case, there is no legal basis for asserting that Microsoft's present share in browsers is a "fruit" of its unlawful conduct, and a remedy requiring disclosure of the source code for Microsoft's browser, therefore, would be an unfounded expropriation of Microsoft's intellectual property.

It is not a goal of public antitrust enforcement to restructure competitive relationships or to secure competitive benefits for private firms, divorced from a finding of unlawful behavior. Such action by the Department would be a distortion of the antitrust enforcement process that would undermine the very goals of the antitrust laws.

QUESTION

Given Microsoft's monopoly power in the operating system, some believe that merely allowing computer manufacturers to place competing software and icons on the operating system will not impede Microsoft's ability to capture a dominant share of any product that it binds to its operating system. Do you believe that media players, instant messaging services, and other competing products will be able to compete with similar MS products that are bound to the operating system?

ANSWER

There are, today, media players and instant messaging services that compete with similar Microsoft products. The proposed Final Judgment ensures that competing middleware products, such as media players and instant messaging software, will have the opportunity to compete with Microsoft's products. Specifically, the proposed Final Judgment prohibits Microsoft from impeding consumer choice of competing middleware products by requiring Microsoft to create and maintain a mechanism for consumers and computer manufacturers to replace Microsoft's middleware In this way, the proposed Final Judgment preserves and reinforces the notion of consumer choice. It permits consumers to choose between Microsoft and non-Microsoft middleware and to configure their desktops accordingly.

The proposed Final Judgment provides the opportunity for middleware products to compete on the competitive merits. If developers of competing middleware products can generate consumer patronage by offering superior products at attractive prices, consumers (and/or the OEMs they purchase from) will select their products over those offered by Microsoft. Consistent with the goals of the antitrust laws, however, the proposed Final Judgment provides the opportunity for the competitive process to determine how well competing middleware producers fare in the marketplace.

QUESTION

Many have criticized the proposed final judgment saying it has loopholes in it that will allow Microsoft to continue operating as it has done in the past. For example, the proposed final judgment clearly seeks to prevent Microsoft from retaliating against computer manufacturers that install competing software onto the computer. However, because the provisions are limited to specific practices or types of software, and apply only to "agreements" between Microsoft and computer manufacturers, many believe that Microsoft will find alternative methods of controlling the practices of computer manufacturers. Do you believe competition would be better served if Microsoft were broadly prohibited from retaliating against computer manufacturers'7

ANSWER

The term "retaliation" can be subject to overbroad interpretation in many contexts, including an antitrust final judgment. Literally, the term could be read to mean the withholding of any benefit in response to an undesired action. In a commercial context, a firm might be said to have "retaliated" against a prospective customer or supplier through an adverse action whether or not their interaction has an5" competitive significance For example, if Microsoft decided for valid business reasons that it no longer wanted to engage in a particular business transaction, it could be accused of retaliating. To give the term retaliation meaning in the context of this proposed Final Judgment, reference must be made to the offending conduct, i.e., actions taken against firms seeking to develop, promote or distribute competing middleware.

To amplif3" upon my answer at the hearing, the proposed Final Judgment does not, and should not, prohibit Microsoft from engaging in all forms of collaborative conduct Such a prohibition would be anticompetitive to the extent that some forms of collaboration Microsoft might engage in would help in the creation or distribution of new products for the benefit of consumers. The proposed Final Judgment prohibits Microsoft from withholding benefits from those who support competing middleware products, while permitting the company to grant benefits specifically in the context of bona fide collaborative ventures under well-established antitrust standards (which necessarily means "withholding" those same "benefits" from companies not engaged in the particular bona fide collaborative venture).

QUESTION

The Court of Appeals ruled that Microsoft's practices which undermined the competitive threat of Sun's Java technology was an antitrust violation. The remedy proposed by the states that do not support the DOJ's proposed settlement would require Microsoft to distribute Java with its browser as a means of restoring Java's position in the market. Do you believe this would be beneficial to competition? What does the DOJ's proposed settlement do to restore this competition?

ANSWER

As a public antitrust enforcement mechanism, the proposed Final Judgment does not seek to confer specific strategic or financial benefits upon specific companies Indeed, the antitrust laws specifically leave it to private parties to secure that form of relief in private antitrust actions they file on their own behalf, and many companies have availed themselves of that opportunity. The proposed Final Judgment, however, addresses, with respect to all middleware producers, including Sun Microsystems" Java, the conduct that the Court of Appeals found to have impeded the development and distribution of Java Having eliminated the unlawful practices, the proposed Final Judgment will allow Sun to compete for consumer patronage against any similar technology Microsoft might elect to offer. It would be inappropriate for the Department to dictate through government mandate consumer choice of a particular middleware product. Consumer choice, not government decree, should determine the market result. Requiring Microsoft to distribute Java with every Microsoft browser would not restore competition to its previous form; rather, it would give Java a competitive advantage over other firms" products.

QUESTION

Definition U. of the Proposed Final Judgment appears to allow Microsoft to determine in its sole discretion what constitutes the operating system. The Court of Appeals left open the possibility of a tying case against Microsoft. Will this provision essentially foreclose any opportunity of bringing a tying claim against Microsoft? Why do you give Microsoft the ability to make this determination?

ANSWER

Definition U. in the proposed Final Judgment ,,,,,ill not foreclose any opportunity of bringing a tying claim against Microsoft. The definition applies only to the duties and obligations imposed on Microsoft by the proposed Final Judgment. Although the proposed Final Judgment does not prohibit Microsoft from tying its products, it does not grant Microsoft any new rights under the antitrust laws with respect to product integration.

The Department agreed to include this clause in Definition U. because it merely confirms what Microsoft already had the power to do—label its own operating system products. This clause does not negatively impact the operative provisions of the proposed Final Judgment because they principally rely on other definitions, such as Microsoft Middleware Product, regardless of how Microsoft labels its operating system. Moreover, the clause does not affect whether software that Microsoft chooses to label as part of the package it calls its "Windows Operating System Product" is or is not a separate "product" for antitrust purposes.

QUESTION

Many antitrust cases involve the appointment of a special master who has some level of enforcement authorit3,. This proposed final judgment does not do that and instead relies primarily upon standard civil and criminal contempt proceedings, as well as a special three person panel. Why has the Division elected not to appoint a special master that may speed effective enforcement, especially given the Division's concern for how rapidly this market changes?

ANSWER

Contrary to the premise of the question, there is no history or tradition of the Department delegating enforcement responsibility for its antitrust enforcement orders to special masters. The Department is the public agency entrusted to carry out that function and has the resources, expertise and public interest focus necessary to accomplish the task. Moreover, the Department disagrees fundamentally with the notion that enforcement of the proposed Final Judgment by a special master would be more efficient or expeditious in this case. Assuming that the resolution of disputes by a special master would involve reasonable procedural protections for all concerned, including a right of judicial appeal, there is no reason to believe that the special master process would be any less litigious or time-consuming than enforcement by the Department in this case, and may in fact introduce even more delay into the enforcement process.

QUESTION

The Department of Justice has indicated that one motivation for entering into this settlement was to provide immediate relief and avoid lengthy court proceedings. At the same time, many of the provisions of the settlement don't become active for up to 12 months after the settlement is enacted. Given your belief that relief should be immediate, why wait so long for these provisions to become active?

ANSWER

The only provisions in the proposed Final Judgment that do not require Microsoft to immediately abide by their terms once the Final Judgment is in effect are Sections III.D., III.E., and III.H. These provisions provide Microsoft with a limited amount of time to implement the company's affirmative obligations because they require Microsoft to actually redesign its products or establish new disclosure procedures that will take time to accomplish. In addition, requiring Microsoft to immediately disclose the unfinished interfaces for its new products in development in Section III.D. would actually be detrimental to the market because Microsoft continuously, changes and improves these interfaces before a product is finalized. Ira software developer uses interfaces disclosed to it in its products and the interfaces are subsequently modified, this may disable both the software product and the operating system. Giving Microsoft a limited amount of time to implement its duties under these provisions ensures that they are properly, implemented

QUESTION

One provision of the proposed final judgment requires Microsoft to allow consumers or computer manufacturers to enable access to competing products. However, it appears that III.H. of the Stipulation and VI.N. indicate that for a product to qualify for these protections it must have had a million copies distributed in the United States within the previous year. This seems to run contrary to the traditional antitrust philosophy of promoting new competition. Is this in fact the case? And if so, why are these protections limited to larger competitors?

ANSWER

Under the proposed Final Judgment, a computer manufacturer will have the right to install any competing middleware application, without regard to the number of copies of that competing middleware that have been distributed. The one million cop, limitation exists only with respect to the requirements that Microsoft make public the APIs used in its own middleware products and redesign the operating system to provide a competing middleware product "default" status—i.e., the ability to override automatically Microsoft middleware functions integrated into the operating system This limitation strikes the proper balance between the substantial costs associated with such documentation and redesign efforts, and the competitive potential of products with fewer than one million copies distributed. To do otherwise would have put the operating system in a state of constant flux, which would have had disastrous implications for users and developers alike. Moreover, in a world of about 625 million PC users and software distribution via downloads and direct mail, distribution of only one million copies, rather than sales, installation or usage, is a relatively minor threshold in the software industry today As you know, Americans routinely receive unsolicited software offers via the mail eye%, day.

SENATOR MCCONNELL'S QUESTIONS

QUESTION

Can you describe how the appeals court ruling impacted the case originally brought by the Department of Justice in 19987

ANSWER

Not only the Court of Appeals" ruling, but also the trial court's earlier determinations disposing of alternative theories of antitrust liability advanced by the Department of Justice and the State plaintiffs, significantly impacted the Microsoft case. The federal government's complaint alleged four specific antitrust violations: (1) attempted monopolization of the browser market in violation of Section 2 of the Sherman Act; (2) specific anticompetitive acts, and a course of conduct, to maintain the operating system monopoly, also in violation of Section 2; (3) unlawfully tying the Web browser to the operating system in violation of Section 1; and (4) exclusive dealing in violation of Section 1. Additionally, the State plaintiffs alleged that Microsoft employed unlawful monopoly leveraging tactics to move into the browser market in violation of Section 2 and monopolization with respect to Microsoft Office. The District Court, however, dismissed the monopoly leveraging claim prior to trial, and the States unilaterally dropped their monopolization claim with regard to Microsoft Office. Following a trial, the District Court ruled for the government on three of the four claimed violations, but against it on the exclusive dealing claim. To remedy the violations, the Court ordered that Microsoft be divided into separate operating system and applications software businesses, following a one-year transitional period under interim conduct restrictions.

The Court of Appeals reversed the liability findings with regard to attempted monopolization and tying, dismissing the former and remanding the latter for further proceedings under a more rigorous standard of proof It sustained the finding of monopoly maintenance, but did so on more limited grounds. Specifically, it reversed the District Court's finding of a course of conduct, limiting liability to specific anticompetitive acts, and with regard to the specific acts, ruled against the government on 8 of the 20 anticompetitive acts sustained by the District Court that the Court of Appeals considered. The Court of Appeals also vacated the remedy, in part because it had so "drastically" curtailed the liability determinations. In discussing the remedy, the Court expressed substantial skepticism about the propriety of structural relief in this case and instructed the new judge to tailor the remedy to the violations affirmed.

The net effect of the District Court's and Court of Appeals" rulings was to substantially narrow both the findings of liability and the bases for relief The courts ruled against the government with regard to both direct assaults on Microsoft's practice of integrating new functions into the operating system (the attempted monopolization and tying claims) and Microsoft's ability to use the advantages flowing from the operating system monopoly to enter new markets (the States" monopoly leveraging claim). The sole basis for relief became Microsoft's specific practices—not a course of conduct—to maintain the operating system monopoly by impeding the development and deployment of middleware products. The relief in the proposed Final Judgment effectively addresses these practices by stopping them, preventing their recurrence and restoring the competitive conditions lost due to Microsoft's violations.

QUESTION

Can you tell us more about how this agreement came about, or the process involved in reaching a settlement?

ANSWER

Particularly while Tunney Act review, of the proposed Final Judgment is pending, it would be inappropriate to discuss the details of the settlement process. However, the Department can provide the following general information. On September 28, 2001, Judge Kollar-Kotelly ordered the parties into a period of intensive settlement and mediation discussions to attempt to reach a fair resolution of the case, commencing on September 28, and expiring on November 2, 2001, staying all other case activity during that period. During those five weeks, the Department, certain representatives for the States, and Microsoft extended every effort to comply with the Court's order, first privately, and then with assistance from the mediator appointed by the Court and his partner. After extensive negotiations, the Department, nine of the Plaintiff States and Microsoft were able to agree upon a proposed Final Judgment that would fully, meet the Department's goal of achieving a prompt, certain and effective remedy for consumers by imposing injunctive relief to halt continuance, and prevent recurrence, of the violations of the Sherman Act by Microsoft that were upheld by the Court of Appeals, and restore the competitive conditions prevailing prior to Microsoft's unlawful conduct. The settling parties filed a proposed Final Judgment on November 2, 2001, and then a revised proposed Final Judgment on November 6, 2001, which is now being considered by the Court pursuant to the Tunney Act.

Before commencing the settlement discussions, the Department established a set of core principles for resolution of the case, whether by litigation or consent. Key among them was the concept that the remedy had to be a comprehensive set of provisions that would stop the offending conduct and other similar means of achieving the same result, prevent its recurrence, and restore a competitive field for the development and deployment of competing middleware products. Moreover, the relief had to be faithful to the allegations of the complaint actually sustained by the Court of Appeals, addressing the conduct the Court had found to be unlawful. Finally, the remedy had to further the public interest in free and unfettered competition—not dictate market results and not necessarily serve the private interests of certain companies. Settlement occurred when Microsoft was prepared to agree to comprehensive relief satisfying these principles.

QUESTION

Some have criticized the agreement for not going far enough. Do you believe that the proposed settlement compares favorably to-and in some respects may well exceed-the remedy that might have emerged from a judicial hearing?

ANSWER

The Microsoft case is a public law enforcement action. The settlement, therefore, should be judged on whether it remedies the violations sustained by the Court—not on whether it is "tough" on Microsoft or "goes far enough" in addressing the concerns of Microsoft's competitors and critics.

The proposed Final Judgment represents, in substantial measure, the relief the Department would have proposed and fought for in court. In a remedies proceeding, however, we would have expected Microsoft to contest vigorously almost ever5" provision extending beyond the literal findings of liability contained in the Court of Appeals" decision. We would have fought hard to obtain this relief, but it is by no means a foregone conclusion that such relief would have been ordered. A few examples illustrate the point

The original case identified Web browsers and Java technologies as potential threats to the operating system Both were broad-based middleware products with the potential to permit cross-platform (i.e., multiple operating system) development of a broad range of application software products. The current crop of middleware products (e.g., media players and instant messaging systems, etc.) tend to be category-specific, and are more likely to be platforms for narrower families of related applications. For this reason, among others, we would have expected vigorous litigation over the middleware definition and the need to extend the coverage of the proposed Final Judgment to products beyond the browser and Java. Our definition, however, expressly recognizes other middleware products currently in use (e.g., e-mail client software, networked audio/video client software, instant messaging software) and is broad enough to include future products that have the potential to threaten the operating system monopoly.

Microsoft's Windows products employ closed, proprietary technology. The company is under no general legal obligation to disclose or license its technology. Moreover, the Court of Appeals did not sustain any allegation that Microsoft's failure to disclose or license its technology (generally or, in particular, its applications program interfaces ("APIs") or communications protocols) was, by itself, an act of monopoly maintenance. Thus, we would have anticipated hotly contested litigation over the imposition of an affirmative Microsoft obligation to assist others in developing competing products. In this regard, Microsoft would have pointed out that tens of thousands of software programs are developed using the standard APIs disclosed generally to the software community. The proposed Final Judgment, however, imposes that obligation as a temporary restorative measure designed to permit firms to develop competing middleware products that can compete with Microsoft on a function-by-function basis

As discussed above, the case focused primarily on browsers and Java technologies The word "server" does not appear in the complaint and appears only in passing in Judge Jackson's Findings of Fact And, neither the Department nor the plaintiff States presented evidence at trial that Microsoft had violated the antitrust laws through conduct related to server software. Thus, we would have anticipated vigorous opposition to any effort to include relief with regard to servers in any litigated judgment. Microsoft would have argued strongly that software that resides on a server, is not middleware. Our proposed Final Judgment, however, ensures that independent software vendors will have full access to, and be able to use, the protocols that are necessary for software located on a server computer to interoperate with, and fully take advantage of, the functionality provided by any Windows operating system product. .

The proposed Final Judgment requires Microsoft to allow competing middleware products to assume "default" status in the operating system (i.e., selected by the manufacturer or user and automatically invoked unless countermanded by a manual choice) and requires the company to make design changes to accomplish that result. These provisions are important to permit competing middleware vendors to develop products that are comparable to Microsoft's in their integration into the operating system. This was not an issue highlighted when the case initially was brought, and the Court of Appeals had ruled against the government with regard to the few specific examples of Microsoft having countermanded a user's Web browser selection. The default provisions of the proposed Final Judgment impose costly and continuing redesign obligations upon Microsoft and likely would have been hotly contested in any litigation.

As you are aware, the government would have borne the burden of proof with regard to all remedial questions

The proposed Final Judgment secures immediate relief With regard to the foregoing issues and perhaps many others, a litigated resolution most likely would have been subject to additional appeals taking many months, if not years, including appeals to the Supreme Court on the liability finding itself.

QUESTION

This litigation has been going on for almost 4 years. Will this settlement accelerate the point in time at which a remedy will begin to take effect

ANSWER

Although the proposed Final Judgment must still be reviewed by the District Court under the Tunney Act process, the remedy contained in the Final Judgment took effect on December 16, 2001, pursuant to the stipulation signed by Microsoft to abide by its terms The remedy applies to Microsoft's conduct nationwide and has a term of five years Given the substantial likelihood that Microsoft would have availed itself of all opportunities for appellate review of any non-consensual judgment, the Department estimated that a litigated result would not have become final for at least another two years, and perhaps much later. The remedies contained in the proposed Final Judgment are not only consistent with the relief that the Department might have obtained in litigation, but they have the advantages of immediacy and certainty.

QUESTION

Assuming the settlement is approved by the court, can you outline the steps that will be taken to ensure compliance with the settlement

ANSWER

A core team of experienced lawyers and economists established within our newly formed Networks & Technology Section, and including members of the litigation team, is charged with enforcement of the proposed Final Judgment. This enforcement team, assisted by the technical committee formed under the proposed Final Judgment, will monitor Microsoft's compliance with the Final Judgment and take any necessary action, up to and including initiating contempt proceedings, to ensure effective enforcement

QUESTION

6. Are you aware of this type of enforcement mechanism being adopted in any other antitrust proceeding?

ANSWER

The Department is unaware of such a stringent enforcement mechanism being adopted in any other antitrust proceeding.

SENATOR KOHL" S QUESTIONS

QUESTION

Mr. James, a unanimous Court of Appeals held that Microsoft has violated out antitrust laws by illegally maintaining its monopoly. It seems pretty common sense that if we want to fix that violation, the settlement you are advocating should: (1) end the unlawful conduct; (2) avoid a recurrence of the violation; and (3) and undo the anticompetitive consequences of the illegal behavior. Indeed, the Supreme Court has said that we should "deny to the defendant the fruits" of its illegal conduct. As you know, when this case was first filed, one of the main problems was that Microsoft's illegal conduct had nearly driven a competing maker of Internet browsing software—Netscape Navigator—out of business. But today, Microsoft has a greater than 85% share of browsing software. And Netscape is no longer in business as an independent company and no longer is a serious threat as a competing platform.

So I have the following questions: how does this proposed settlement proposal in any way deny Microsoft the gains resulting from its illegal, anti-competitive conduct? Does it do anything, for example, to undo Microsoft's victory in the "browser wars"?

ANSWER

The sole basis for liability sustained by the Court of Appeals was maintenance of the monopoly in PC operating systems. The courts specifically rejected both the exclusive dealing and attempted monopolization claims, and reversed the tying finding—the government claims asserting unlawful gain to Microsoft in the market for Web browsers. Thus, within the confines of the case as it exists, there is little or no legal basis for asserting that Microsoft's present share of the browser market is a "fruit" of its unlawful conduct.

Under the monopoly maintenance count, Microsoft benefitted by impeding the emergence of potential middleware threats to its operating system monopoly. While recognizing the "nascent" threat that Web browsers and Java technologies posed to the operating system, the Department conceded, and both courts found, that it was impossible to predict when, if ever, that threat would materialize as to a degree sufficient to have any material effect upon competition in the operating system market.

The proposed Final Judgment seeks to restore the middleware threat as it existed prior to the offending conduct by enjoining conduct to impede the emergence of competing middleware and by requiring affirmative steps to aid in the development of such products. The proposed Final Judgment requires Microsoft to give software developers access to the API's necessary to develop competing middleware, ensures that those products can gain distribution in the OEM channel, permits OEMs to feature competing middleware products, gives third-party middleware "default" status comparable to Microsoft's integrated functions, and prevents Microsoft from retaliating against firms that develop, promote or distribute competing middleware. Accordingly, the proposed Final Judgment actually enhances the opportunities for competing middleware products beyond those existing prior to the case.

QUESTION

Five years from now do you think it is likely that Microsoft will still have 95% of the operating system market? If so, should this concern us?

ANSWER

The proposed Final Judgment is not intended to address Microsoft's acquisition of its market position in operating systems. There was never any allegation in the case that Microsoft unlawfully gained its dominant share in that market. Thus, the proposed Final Judgment does not require Microsoft to forfeit its market position in operating systems, but rather ends Microsoft's unlawful conduct, prevents its recurrence and restores the competitive conditions in the middleware market. Whether any of these middleware threats will ultimately lead to the reduction of Microsoft's operating system market share will be determined by the marketplace. The Department is unable to speculate as to what Microsoft's share will be in the future.

QUESTION

We are right now in the middle of the holiday shopping season; and millions of Americans are going to the computer stores to buy new computers. When they reach the store, they have a choice of many different machines made by many different computer manufacturers, such as Compaq, Dell, Gateway, IBM, and HP, to name a few. But when it comes to the software that operates the machine they face a very different picture. With the exception of the machines sold by Apple, the consumer has no choice but to buy a computer pre-loaded with Microsoft's Windows operating system. Is there anything in the proposed settlement agreement likely to change this picture? Why can't consumers have the same competitive choices in computer software—specifically operating system software—as they, have today with respect to deciding which machine to buy?

ANSWER

As stated above, there was never any allegation in the case that Microsoft unlawfully acquired its dominant share in operating systems, and the proposed Final Judgment does not address Microsoft's position in that market. However, the proposed Final Judgment does ensure that competing middleware products will have the opportunity to compete and erode Microsoft's operating system monopoly. The marketplace will determine whether a middleware product becomes sufficiently ubiquitous to pose such a threat to the Windows operating system

QUESTION

4.(a).

Critics of the proposed settlement claim it is full of loopholes, and that these loopholes will make it easy for Microsoft to evade its terms. I'd like to focus on one thing critics argue is an unnecessary loophole. The settlement contains an important provision that lets computer makers load certain types of non-Microsoft software on their machines without any fear of retaliation from Microsoft. But Microsoft can retaliate in some instances For example, only competing software that distributed at least one million copies in the United States in the last year receives protection. No such protection is imposed upon competing software which has distributed less than one million copies.

Commenting on this provision in the Washington Post, James Barksdale, the founder of Netscape, wrote "Anyone who understands the [computer] industry knows this is no protection, for the new inventor will always be steam-rolled by the powerful Microsoft. The dreamers and tinkerers whose better mousetrap has not yet been proved should just close shop. The ultimate losers are the potential consumers of these lost ideas." Why is this limitation found in the settlement? Won't it be difficult for software that has not yet been widely distributed to gain a competitive foothold if Microsoft is not required to allow computer users and manufacturers access to it on the desktop? And why isn't Mr. Barksdale right—aren't consumers the losers if Microsoft is permitted to deny such small, start-up software manufacturers access to the computer desktop?

ANSWER

Mr. Barksdale's commentary, misstates the one million copy limitation of the proposed Final Judgment. The proposed Final Judgment prohibits retaliation by Microsoft related to any middleware, no matter how many copies are distributed. Furthermore, under the proposed Final Judgment, a computer manufacturer will have the right to install any competing middleware application, without regard to the number of copies of that competing middleware that have been distributed. The one million copy limitation exists only with respect to the requirements that Microsoft make public the APIs used in its own middleware products and redesign the operating system to provide a competing middleware product "default" status—i.e., the ability to override automatically Microsoft middleware functions integrated into the operating system The limitation strikes the proper balance between the substantial costs associated with such documentation and redesign efforts, and the competitive potential of products with fewer than one million copies distributed. To do otherwise would have put the operating system in a state of constant flux, which would have had disastrous implications for users and developers alike. Moreover, in a world of about 625 million PC users and software distribution via downloads and direct mail, distribution of only one million copies, rather than sales, installation or usage, is a relatively minor threshold in the software industry today. As you know, Americans routinely receive unsolicited software offers via the mail every, day.

QUESTION

4.(b).

Please give specific examples of "non-Microsoft middleware products" (as defined in the proposed consent decree, section VI.N.) that have distributed at least one million copies in the United States in the past year, and examples of those that have not.

ANSWER

A few of the examples available of non-Microsoft middleware products that have distributed at least one million copies in the U.S. in the past year include Real Network's media player, Real Player, AOL's ICQ instant messaging product, and Opera, a competing Web browser.

The Department is unaware of any non-Microsoft middleware products that distributed less than one million copies in the U.S. in the past year. As explained in response to Question 4(a) above, distribution of only one million copies, rather than sales, installation or usage, is a relatively minor threshold in the software industry today. Once the terms of the proposed Final Judgment become known in the market, the producers of smaller middleware products will be able to target the one million copy threshold by simply using one of the numerous distribution outlets available in the market today, for example, direct- mail.

QUESTION

4.(c). What types of research and/or objective methods are used to measure such distribution today? Which studies or objective criteria did you use to set the one million dollar mark

ANSWER

Competing middleware providers will be able to ensure that they can take advantage of the powers granted to them under III.H. of the proposed Final Judgment by simply disclosing the number of copies they have distributed. Distribution numbers are currently publicly disclosed on the numerous sites available for downloading such products, including Netcom. The Department considered various levels of distribution when deciding the appropriate amount. One million was chosen because it strikes the proper balance between the substantial costs associated with such documentation and redesign efforts, and the competitive potential of products with fewer than one million copies distributed. In fact, one million copies represents well under 1% of the installed base of Windows desktops in the U.S.

QUESTION

5 (a).

In the proposed consent decree, with respect to current products, the definition of Microsoft Middleware Product is locked into specific products (section VI.K. 1 of the Proposed Final Judgment). Where it is prospective, the definition of Microsoft Middleware Product allows Microsoft to avoid its reach if it does not satisfy all of the elements of the definition (found in section VI.K2).

Why do you believe this definition is sufficient to restore competition in the middleware market?

ANSWER

There is no basis for restricting Microsoft's conduct with respect to all types of software Any restrictions must be limited to the findings in this case, which were that Microsoft took exclusionary acts against software with particular characteristics—software that had the potential to become platforms for the implementation of other software, thereby threatening Microsoft's operating system monopoly. The Microsoft Middleware Product definition was carefully crafted to ensure that it covers future Microsoft products that have the potential to become such platforms. The definition uses objective criteria that are not subject to manipulation. Either a product fits the definition or it does not. If, for whatever reason, it does not fit the definition, the product will not be one that the proposed Final Judgment was intended to cover

QUESTION

5 (b)

Why is the definition of middleware in the proposed consent decree different from the one used by the D.C Circuit Court of Appeals, or the one used by Judge Jackson in his interim remedy?

ANSWER

The Court of Appeals" decision did not seek to define the term middleware in a manner that would suffice for remedial purposes. Rather, the opinion contains descriptive language to aid in the exposition of the issues in the case. For remedial purposes, the definition must be more technical so as to ensure limits within the terms of the liability found and enforceability of the proposed Final Judgment. The Court of Appeals found that Microsoft engaged in anticompetitive practices with respect to two middleware products, Web browsers and Java. Those products were deemed to have exposed a range of APIs so as to have the potential to evolve into an alternate platform threat, thereby threatening Microsoft's operating system monopoly. Not all products that expose APIs have that quality. The proposed Final Judgment adopts a broad definition of middleware that includes the specific products at issue in this case, other specific products that already have emerged as potential alternative platforms, and products that may be developed in the future that may have similar cross-platform qualities.

The middleware definitions in the proposed Final Judgment are different than those in Judge Jackson's order because in the intervening time period the Department refined the definitions to more accurately reflect the competitive objectives of the judgment and to take into account changes in the software industry, including an increased emphasis on downloading as a distribution mechanism

QUESTION

5.(c). Why is MSN Explorer excluded from the current products that constitute Microsoft Middleware Products in section VI.K 1 of the Proposed Final Judgment?

ANSWER

MSN Explorer is used largely by consumers who have already chosen MSN as their Internet service provider or who have chosen Hotmail for their email. It is marketed more in that context than as a simple browser. Competitively it has less significance in the browser market than Internet Explorer.

QUESTION

Many believe Microsoft is using its operating system monopoly to gain dominance in other types of software products. For example, five years ago, Microsoft had only about a 20 market share in Internet browsing software. Today it has an 86 share. Five years ago, Microsoft had 43% share in word processing software. Today Microsoft Word software has a 94% market share.

What provisions in the settlement will prevent Microsoft from gaining dominant market shares in new software products, just as it has with respect to other types of software?

ANSWER

The concept to which you refer is known in antitrust parlance as "monopoly leveraging." The States included a monopoly leveraging count in their complaint in this matter. That count, however, was dismissed by Judge Jackson in pretrial proceedings. U.S antitrust precedent treats monopoly leveraging claims with much skepticism. Indeed, as the Court of Appeals noted in rejecting certain of Judge Jackson's rulings with respect to Java, U.S. antitrust law does not prohibit a firm, even one with monopoly power, from using advantages gained in one market to enhance its position in an adjacent market. Given the Court's rejection of the monopoly leveraging claim, there is no legal basis in this case for addressing allegations of monopoly leveraging.

QUESTION

7.(a).

Mr. James, if this settlement is adequate to restore competition and remedy Microsoft's illegal conduct, why have nine state attorneys general who initially joined the Justice

Department in suing Microsoft refused to sign on to the settlement but have instead proposed their own settlement?

ANSWER

The Department cannot speculate on the possible motives of the various State attorneys general who did not join the settlement.

QUESTION

7.(b)

Are you willing to consider modifications to the proposed settlement in order to secure the consent of additional state attorneys general? If so, what modifications would you consider?

ANSWER

The Department believes that the proposed Final Judgment Full3" remedies the conduct found unlawful by the Court of Appeals. The Department, however, will fully comply with the Tunney Act, including giving due consideration to the public comments submitted.

QUESTION

8.(a).

The proposed consent decree lasts for only five years (unless a Court finds Microsoft has engaged in systematic violations of the decree, in which case it is extended for another two years).

Can you inform me in which past monopoly cases brought by the government where a violation of Section 2 of the Sherman Act has been found, the federal courts have limited their conduct remedies against the monopolist to only five years?

ANSWER

The Department is aware of at least one Section 2 case in which the government obtained a final judgment that included conduct remedies that were in effect for five years or less— U.S. v. American Airlines, Civil Action No CA 3–83–0325-D, U.S District Court for the Northern District of Texas (Final Judgment entered on October 31, 1985, see 1985–2 Trade Cases 66,866).

QUESTION

8.(b) Why have you limited the remedy to five years in this case? How can we be sure that the five year term of the settlement is sufficient to restore competition to this market?

ANSWER

Five years provides sufficient time for the conduct remedies contained in the proposed Final Judgment to take effect in this evolving market and to restore competitive conditions to the greatest extent possible given the conduct at issue in this case.

QUESTION

8.(c) Why do the restraints on Microsoft's conduct in some instances take as long as one year to go into effect.'?

ANSWER

The only provisions in the proposed Final Judgment that do not require Microsoft to immediately abide by their terms once the Final Judgment is in effect are Sections III.D., III.E., and III.H. These provisions provide Microsoft with a limited amount of time to implement the company's duties because they require Microsoft to actually redesign its products or establish new disclosure procedures that could take some time to accomplish. In addition, requiring Microsoft to immediately disclose the unfinished interfaces for its new products in development in Section III.D. would actually be detrimental to the market because Microsoft continuously changes and improves these interfaces before a product is finalized. If the interfaces are changed after a software developer uses them in its products, it may disable both the software product and the operating system Giving Microsoft a limited amount of time to implement its duties under these provisions ensures that they are properly implemented

QUESTION

8 (d). How likely, do you think software developers will be to develop new products based on a decree that will protect them for only five years?

ANSWER

Five years provides sufficient time for the conduct remedies contained in the proposed Final Judgment to take effect in this evolving market and to restore competitive conditions to the greatest extent possible given the conduct at issue in this case The marketplace will decide what middleware products will succeed.

QUESTION

8.(e). Will you commit to initiating new investigations and, if necessary, new court proceedings, if Microsoft behaves in an anti-competitive manner in the future?

ANSWER

As a law enforcement agency, the Department will continue to evaluate Microsoft's conduct and take action to remedy anticompetitive conduct where appropriate.

SENATOR DURBIN'S QUESTIONS

QUESTION

I understand that the Justice Department officials, representatives of the State Attorneys General, and Microsoft lawyers worked around the clock to come to an agreement on this settlement.

How many, meetings were there on the settlement?

ANSWER

The proposed Final Judgment resulted from a process of court-ordered settlement discussions and mediation, commencing on September 28, and concluding on November 2, 2001, the deadline imposed by Judge Kollar-Kotelly. The mediation followed upon about two weeks of court-ordered, unsupervised discussions among the Department, counsel for Microsoft and representatives of the plaintiff States. Although we did not meet continuously, throughout both periods, there were communications among the parties every day, in-person or telephonically, and the settlement teams, more often than not, worked well into the night. The Department, however, did not maintain an accounting of the number of meetings or communications during the settlement discussions.

QUESTION

1.B. Were the states sufficiently involved in the process2

ANSWER

Following the Court's September 28th Order, the Department was advised that the State coordination group would appoint representatives to participate in the settlement discussions and that the representatives would report to the larger group through regular conference calls and other means. Once the mediation commenced, the States were continuously represented by the states of Ohio and New York, with Wisconsin actively participating on some occasions. All three of these states joined in the proposed settlement.

The Department worked to facilitate the States'' participation in the settlement process Among other things, the Department permitted the State representatives to work in its case room, side-by-side with the Department staff State representatives participated in strategy sessions with the Assistant Attorney General and other senior representatives from the Department prior to their joint negotiating sessions. At critical junctures in the settlement process, the Assistant Attorney General convened meetings, in-person or via scheduled conference calls, with the State coordinating group, which meetings were often attended by several State attorneys general and their staffs or representatives.

Additionally, the Assistant Attorney General maintained regular telephonic communication with Iowa Attorney General Tom Miller, the appointed leader of the State plaintiffs. The mediators also took steps to encourage full participation by each of the States. At the outset, they inquired as to whether representation of the State plaintiffs by Ohio, New York and Wisconsin was adequate to ensure that all the States would be in a position to carry out the Court's order. The mediators met with the State group separately on several occasions. In the end, they requested that all interested States send authorized decision- makers to Washington for the final stages of mediation.

In short, the States, individually and as a group, were afforded every opportunity to participate in the settlement process, and did so on terms they themselves agreed upon. The States had full access to the process, including all drafts of the settlement documents. At no time were the States precluded from tendering settlement proposals or alternative drafts of the settlement provisions of their own, and in fact, were expressly invited to do so by, both the mediators and representatives of the Department. As with other phases of the case, the level of actual State participation varied widely.

It is not for the Department to opine whether the States participated sufficiently in the settlement process. We would note that the States that participated most directly in the process joined in the proposed Final Judgment, and those that participated only indirectly or not at all chose not to do so.

QUESTION

Was there anyone in the room during those negotiations who was not affiliated with the parties to the litigation who may have been able to bring another perspective on the terms of the agreement?

ANSWER

The court-ordered settlement discussions that were conducted prior to the appointment of the mediators on October 12, 2001, did not include individuals unaffiliated with the parties to the litigation. The only persons present during the settlement discussions after October 12 who were not affiliated with a party were the Court-appointed mediator, Eric Green, and his partner, Jonathan Marks.

QUESTION

Now that we are in the 60-day period of the Tunney Act proceeding to determine the public interest aspects of this settlement; what, if any, role do you envision Congress should play?

ANSWER

The Department would not presume to tell Congress what, if any, role it should play with regard to Tunney Act review of the proposed Final Judgment.

QUESTION

Microsoft is about to settle with about half the states who joined in the original DOJ lawsuit, but the other half of the states are continuing with the court-issued remedies phase of the litigation. Naturally, there may be differences in the remedies in the two different vehicles for closing out this case. How will you reconcile the potential differences between the terms of the settlement accepted by the nine settling state plaintiffs and the remedies to be awarded to the ten non-settling state plaintiffs?

ANSWER

In any multiple-plaintiff litigation, there is the possibility of different, perhaps conflicting, remedies. In private antitrust litigation, where the issue is monetary recovery or the rights of individual companies, disparate outcomes may be manageable. The Microsoft case, however, presents a circumstance in which both the federal government and several state governments are purporting to litigate substantially identical substantive allegations and seeking injunctive relief that would have national public policy implications, affecting the rights of consumers and producers nationwide. With the states increasingly opting to pursue antitrust cases following upon charges already being litigated by the federal antitrust enforcement agencies, the risk of conflicting or inconsistent remedies is always present. In multiple-plaintiff cases, the courts and parties typically undertake to prevent such conflicts from occurring. All par-ties, of course, would be bound by the orders of the court, and meaningful conflicts could become the source of future litigation. The Department believes that the proposed Final Judgment represents a full and complete resolution of the violations sustained by the Court of Appeals and that entry of the proposed Final Judgment is strongly in the public interest Whether or not conflicts emerge, as the agency charged with ensuring that the federal antitrust laws are duly enforced for the benefit of all Americans and the U.S. economy as a whole, the Department will do all in its power to ensure full compliance with the proposed Final Judgment and to protect the antitrust enforcement process itself.

Answers to Written Questions.

The Senate Judiciary Committee,
"The Microsoft Settlement: A Look to the Future"
Lawrence Lessig
Professor of Law, Stanford Law School

QUESTIONS FROM SENATOR HATCH

1. In your book, you make the case for keeping the internet "neutral and open." Could you briefly describe the danger that you foresee, in both a competition and a larger policy context, as consumers migrate to higher capacity connections from our current narrowband connections?

The broadband policy of the current administration will weaken the environment for innovation on the Internet, because current policy will balkanize the Internet, and hinder the opportunity for outsiders to compete.

As consumers move from narrowband to broadband, the legal rules governing at least part of the network are changing. The narrowband Internet was governed by rules that required neutrality by the network owners over the use of the Internet. The broadband Internet will be governed by rules that increasingly allow the network owners to pick and choose the kind of innovation and content that the network will carry. This change in legal rules will shift the locus of innovation from the edge of the network to the center—away from the broad range of creators and innovators that have built the Internet so far, to the relatively few who own or who control the network. What runs well on this Internet will increasingly depend upon who the network owner is. These changes are said to be necessary in order to support the building of the national information super highway. In my view, Congress should weigh this claim much more carefully. It is true that giving broadband providers this power to discriminate will increase their incentive to build broadband pipes. But before we sell the soul of the Internet to the network owners, a much stronger showing of need should be made. We didn't give GM the right to build the interstate highway system in exchange for GM's right to build the roads to favor GM trucks. Nor should we sell the Internet to broadband providers in exchange for their right to favor some content over others, or choose which applications will define the Internet of the future. In both cases, the strong presumption should be in favor of neutrality. Congress should weigh the costs of corrupting this principle of neutrality before it endorses a policy that permits this rearchitecting of the Internet's core.

2. One concern I have consistently raised elsewhere, including in merger and monopolization contexts, has been possible limitations being placed on consumer freedom by an access provider, whether an Internet service provider, a cable company, a satellite company, or another Internet access facilitator. Is there is a legitimate fear that an Internet mediator might—for one reason or another—decide to limit access to certain sites or drive traffic to other specified sites? If so, what do you believe to be the best method of safeguarding and preserving the freedom of the Internet? It is right to be concerned that access providers will wrongfully constrain consumer freedom. Technology companies have already developed router technology to enable network owners to choose which content will flow quickly, and which content will flow slowly. This technology could enable the blocking of some content, or the disabling of some applications. Cable companies carrying Internet content have already indicated their intent to implement these technologies. And there is nothing this administration is doing that would slow this trend.

The concern about neutral access to the Internet is similar to the concern about access to satellite or cable broadcasts generally. But I believe it is a mistake to equate the two. The harm to innovation and creativity from restrictions to the Internet is more fundamental than the harms caused by restrictions to entertainment.

The reason is that access to entertainment competes directly with many other channels of entertainment. If the choice on cable television is too narrow, then Blockbuster or Netflix provides useful competition. If satellite stations become too expensive, then cable television, or broadcast television— or maybe even a book!—continue to compete. At some point concentration in these channels is a concern, as Jack Valenti has powerfully and rightly testified to Congress.[1] But that is different from the concern I have about the Internet. The Internet is not just, or not only, another way to be entertained. It is instead a platform that will support the broadest opportunity for social and democratic engagement. The Internet is a public street, or park, or library, not a Movieplex. Restrictions on access and control of the Internet are like restrictions on access to the public streets, not like choices Sony Pictures makes about what will run in first-run theatres.

Thus, in my view, you have been right to be concerned about restrictions on access in the context of cable and satellite delivery of entertainment and news. And you have been right to be concerned that citizens generally have access to news about matters of public import. But there is an even stronger reason for you to be concerned with restrictions on access in the context of the Internet. Much more is at stake.

I am not certain about the best remedy to this non-neutrality. Network owners have a legitimate interest in selling different levels of service; the market should be allowed to experiment with different modes of delivery. Where there are many different competitors offering comparable broadband service, there is little role for government. But where competition is not adequate, then there is an oversight role for government.

"Open access" requirements are one indirect response to the absence of competition. Alternatively, a simple requirement that any Internet service be implemented neutrally may suffice to remedy any anticompetitive threat.

3. As you know, on the Internet, anyone can self-publish their music, their artwork, Lessig: Testimony January 15, 2002 their writings, and those who are interested in those works can have access to them, and neither the creator nor the consumer necessarily need the mediation of a publisher. Works that are important to a few, but cannot make it in a traditional publishing context, have a place for their fans on the Internet. I have said elsewhere that it would be a great shame if the wide-open access available on the Internet were narrowed down in the way the offline world often is. Could you please explain who you believe should choose where a consumer can go online, the consumer or the Internet mediator, be it an Internet service provider, a software company, or a cable or satellite company, and could you explain why this is an important question?

Losing the freedom of choice that the original architecture of the Internet guaranteed would be far more than a "great shame." Losing the freedom of choice that the original architecture of the Internet guaranteed would be a betrayal of the values of free speech and competition that define our political and social culture.

The original architecture of the Internet showed the world how a decentralized, market- based, neutral platform for innovation could enable the broadest range of creators to produce and exchange creative work. This was not the speculation of some utopian academic or technologist. The early Internet made this possibility a reality, and none can deny the opportunity it created.
Lessig: Testimony January 15, 2002

This reality is being changed now, as the original architectural principles of the Internet become corrupted by network owners. As the Internet moves to broadband technology, broadband providers are changing the effective architecture of the original network to re-vest in them control over how innovation on this network proceeds. The original Internet vested that control in consumers and innovators; the new Internet will return that control to the network owners.

This change is happening because government policy encourages it to happen. We are selling the soul of the Internet to network providers because the network providers have convinced policy makers that this is the only way to build out a broadband network.

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[1] See, e.g., Media Ownership: Diversity and Concentration: Hearings Before the Subcomm. on Communications of the Senate Comm. on Commerce, Science, and Transportation, 101st Cong. 611 (1989) (statement of Jack Valenti, President and CEO, MPAA).at 611 ("Therefore, in this free and loving land in which we live, our government ought never allow any tiny group of corporate chieftains or corporate entities, no matter how beignly managed, to ever reassert full dominion over prime time television, which is the most pervasive moral, social, political and cultural force in this country.").

The network providers in my view are wrong. The policy makers who follow them are misguided. But at a minimum, whether you believe they are wrong or not, Congress has yet to consider the full cost of this corruption in the Internet's core.

I believe fundamentally in the freedom of a network where the people, not, as you rightly describe it, "a network mediator," choose the future. That freedom is the original Internet, which because of its "end to end" design, assured that citizens, not network mediators, controlled how the network developed. There is no good justification for permitting network providers the power to corrupt that original freedom. Yet this is precisely what current administration policy is allowing.

You have been an admirable advocate of balance, Senator Hatch. That balance is just what is needed now in this debate over the network's future.

QUESTIONS OF SENATOR DEWINE

1. Mr. Lessig, you stated in your testimony that an appropriate remedy should try and steer Microsoft toward developing its strategy in regards to the Internet. First, why wouldn't such an objective fall outside the clear confines of the case and thus be an inappropriate goal for a remedy? And second, given the fact that a court found Microsoft to have engaged in significant violations of the antitrust laws, should we be concerned about the company attempting to leverage its operating system monopoly to become dominant at the Internet level?

If this market were stable, and technological progress slow, then it would be appropriate to confine a remedy to the retrospective harm caused by the illegal behavior of Microsoft. But this market is neither stable, and fortunately, progress is not slow. Instead, the particular wrongs that Microsoft was found guilty of are essentially irrelevant to the current competitive context. Forcing a remedy with respect to these alone would neither "1unfetter [the] market from anticompetitive conduct," 'terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation,'" nor "'ensure that there remain no practices likely to result in monopolization in the future.'" United States v. Microsoft Corporation, 253 F.3d 54, 103 (DC Cir 2001).

It is for this reason that I believe that the essence of an appropriate remedy must look forward, and ask how best to steer Microsoft in a pro-competitive direction. Given the findings of liability by the District Court, and the pattern of behavior that they affirm, I do believe that you should be worried that Microsoft will try to protect its OS monopoly by leveraging it to control at the Internet level. But as I describe more fully in my written testimony, I also believe that there is a strategy that Microsoft could adopt that would not threaten competition at the Internet level, but could instead strengthen it. If a remedy could steer Microsoft to adopt this competitively benign strategy, that remedy would be a crucial gain for competition generally—even if it did not fully right the wrongs caused in the past.

2. Mr. Lessig, you stated in your testimony that an integral part of the Court's conclusion was its finding that Microsoft had "commingled code" in such a way as to interfere with the ability of competitors to compete on an even playing field. Do you believe the Justice Department's proposed final judgment adequately deals with this anticompetitive conduct?

I do not believe the proposed final judgment is responsive to this concern. The Court of Appeals recognized a second and important way in which a monopoly firm in a technology market can improperly use its power to inhibit competition. Not only can such a firm use contracts to restrain competition, it can also use computer code to constrain competition. The essence of the District Court's finding was that Microsoft had used its code strategically to disable or hinder competition rather than to give consumers a better choice. That finding was twice upheld by the Court of Appeals—both in its initial opinion, and it the opinion rejecting Microsoft's petition for rehearing.

I am particularly concerned that this aspect of the case is now being ignored by the government. In a recent interview with the Wall Street Journal, for example, Assistant Attorney General Charles James is reported to have said, in response to the observation that "various Internet features are woven more deeply into Windows, offering consumers such benefits as one-click access to the Internet from electronic mail,"[2] "How would consumers be served if we forced Microsoft to remove that code? ... The market has changed."

This statement betrays a fundamental misunderstanding about the issues in this case as it was litigated and decided by the District Court. No one has ever questioned Microsoft's right to include code that would enable better functionality—in this case, the ability of a user to link from an email message to a browser. The only issue has been the decision by Microsoft to use its power over its code to inhibit consumer choice of which browser. Microsoft has consistently argued that it did not interfere with consumer choice. The District Court and Court of Appeals found to the contrary. See, e.g., Microsoft, 253 F.3d at 66. And in rejecting

Microsoft's request for rehearing about the "commingled code" finding, the Court of Appeals reaffirmed a central aspect of the case: That Microsoft had used its power to design its code in a way that restricted consumer choice without any compensating competitive benefit.

Nothing in the proposed remedy directly addresses this concern. But more troubling to me is that the government seems no longer to even understand it. After convincing a district and appellate court of its view about Microsoft's behavior, the government seems now to have adopted Microsoft's view of its behavior. I have seen no justification offered by the government for this reversal on a central element of its case.

3. Mr. Lessig, you mention that there are problems with the proposed decree aside from enforcement. What are some of the other areas of concern?

As I have just mentioned, the failure of the decree adequately to address "commingled code" is a significant problem. I also believe the failure to require disclosure in the context of security protocols is a significant weakness, as is the failure of the decree fully to define "retaliation."

These weaknesses have been adequately described, in my view, in the Nine Remaining States" December 7th filing with the district court. Except for the questions that I have raised about that filing in my written testimony, I agree generally with the concerns raised by those states.

4. Mr. Lessig, what do you believe are the appropriate objectives of remedies in monopolization cases such as this? Do you believe the case law supports a position that monopoly acquisition cases should be treated differently than monopoly maintenance cases? Finally, do you believe this settlement fully achieves the appropriate remedy objectives? If not, in what way is it deficient?

As the Court of Appeals rightly indicated, the objective of a remedy in a monopolization case is extremely broad. Microsoft, 253 F.3d at 103. In general terms, its aim is to recover from the monopolist the fruits of its illegal activity, and assure it can no longer benefit from those illegal gains.

In my view, it is impossible fully to achieve these results in a context where technologies are changing rapidly. The problem is much like trying to remedy any harm caused by the choice of the QWERTY keyboard—at this point too much has been built on the underlying technology, and any remedy that seeks to completely undo what has been done would be more costly than beneficial.

Thus, I think the appropriate distinction for the court to focus is not between monopoly acquisition and monopoly maintenance cases, but between cases where technology is relatively stable, and cases where it is changing quickly. As I've indicated, I don't believe the current remedy achieves the appropriate objectives, given the nature of the changes in the underlying technology.

QUESTIONS OF SENATOR KOHL

1. Professor Lessig, do you believe this settlement is adequate to restore competition in the computer software industry? Why or why not?

The settlement is not adequate to restore competition in the computer software industry. Because the settlement has no effective mechanism for enforcement, it tempts Microsoft to continue the strategic behavior that the District Court and the Court of Appeals found violated the antitrust laws. As this case demonstrates, if it takes four years for Microsoft to "understand the [government's] concerns," Statement by Bill Gates, November 6, 2001, then by the time Microsoft gets it, the harm is already done.

2. (a) Are there any restraints on Microsoft's conduct which you think should be in the settlement but are not? If so, what are they?

As I indicated to Senator Dewine, I do believe that there should be additional restrictions on Microsoft's conduct, especially relating to Microsoft's ability to "commingle code." But those additional restrictions are secondary to an effective mechanism to enforce the decree. As I indicated in my written testimony, without an effective enforcement mechanism, the balance of the restrictions are irrelevant, and with an effective enforcement mechanism, the weaknesses in the restrictions may not matter.

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[2] John Wilke, Hard Drive: Negotiating All Night, Tenacious Microsoft Won Many Loopholes, Wall Street Journal, Al (11/9/01).

2. (b) Beyond restraints on Microsoft's conduct, are there other deficiencies in the proposed consent decree which you believe should be fixed before it is approved? If so, what are they?

The central weakness in the decree is its failure to include an adequate mechanism to enforce the decree. Given the slowness of federal court intervention, the decree creates an effective and continuing incentive for Microsoft to behave anti-competitively. If there were an effective enforcement mechanism (such as an adequately empowered special master), then that incentive would disappear.

3. Critics of this proposed settlement argue that one significant loophole is that many of the provisions requiring Microsoft to permit computer users and manufacturers to install competing software and remove Microsoft software does not apply with respect to software which has distributed less than one million copies. Are you concerned with this limitation?

I am. I do not see what legitimate interest the limitation serves. The aim of the decree generally is to enable Original Equipment Manufacturers (OEM) autonomy—to enlist OEMs in the competitive process of deciding what bundle of software makes most sense for the consumer. Any burden from new software bundled with an operating system is borne by OEMs, not Microsoft. By establishing that OEMs only have the right to bundle new software if 1,000,000 consumers have downloaded that software on its own, the decree significantly reduces the incentive OEMs have to discover and distribute new, competitive software. This is a significant loss in potential competition that does not, in my view, have any justifying benefit.

January10, 2002
Senator Patrick Leahy,
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510–6275

Dear Chairman Leahy:

Thank you very, much for the opportunity to respond to written questions from the members of the United States Senate Judiciary Committee. My written responses are attached.

We appreciate the Committee's attention to this matter. Please let me know if you have any additional questions or concerns.

Sincerely,
Mitchell Kertzman
Chief Executive Officer
Cc:: Nicolle Puopolo
Senate Judiciary Committee
224 Dirksen Senate Office Building
Washington, DC 20510
Fax: 202.224.9516
nicolle puopolo@judiciary.senate.gov

Date: 1/10/2002 10:43 AM
Sender: Mark Webbink <mwebbink@redhat.com>
To: nicolle puopolo
Priority: Normal
Subject: Microsoft Hearing—Written Questions—Responses of Matthew

Dear Nicolle,

Attached are the responses provided by Matthew Szulik, President and CEO of Red Hat, Inc., to those written questions submitted by Senator Leahy in his letter of December 19. I am forwarding a hard copy by Federal Express which you should receive tomorrow.

Mark Webbink
Sr. VP and General Counsel
Red Hat, Inc.
Response to Written Questions
United States Senate Judiciary Committee
Hearing regarding "The Microsoft
Settlement:
Future"
December 12, 2001
A Look to the

Hatch #1

The nine states have chosen to litigate for substantially more than the settlement offers. Commentary that presupposes that the judge will rule against the nine attorneys general in the pending case is tantamount to a request for a denial of due process.

In the recent hearing in which Judge Kollar denied Microsoft an extension of time in which to hear the proposed alternative remedies of the nine states, Judge Kollar also found the proposed alternative remedies to be within the scope of remedies permitted under the order of the Court of Appeals.

The fact remains that the settlement has many substantial structural flaws, each of which can be used independently to circumvent the intended remedy, and all of which together provide Microsoft with a range of options for continuing their abusive behavior and extending their monopoly further. We believe it is vital, not just for the states and the people they represent, but to the technology industry as a whole, that Microsoft not create a monoculture that can collapse catastrophically, but that competition be preserved, so that no single failure can destroy everything. The fact that further consideration of this matter may take an additional two months or two years should not override the public's interest in having Microsoft behave in a legally permissable manner.

Hatch #2

Absolutely. The first issue is to address the obvious technical loopholes and structural flaws that have been identified, as well as to review a revised settlement to address the states'' primary concerns:

1. Will Microsoft agree to alter its behavior and cease to stifle innovation and competition by abusing its monopoly? And,

2. Will the settlement offer sufficient powers to enforce actions against Microsoft if it violates the terms of the settlement?

Clearly, Microsoft has settled before, and clearly those settlements proved completely ineffective. No attorney general can, in good conscience, agree to a settlement that will lead to continued abuse through lack of sufficient prescriptions or lack of sufficient enforcement, or both. There are a substantial number of legal authorities who believe that the remedies contained in the Proposed Final Judgment will do nothing but prompt another round of litigation in the future due to their ineffectiveness.

Hatch #3

A prompt settlement that does nothing except to remove the case from the court will accomplish nothing. The imperfections of the current settlement are so great that we believe it to offer nothing whatsoever to any damaged party, period. As written, the settlement will give Microsoft another 5 year ticket to extend and abuse its monopoly position, and will be an even more formidable adversary 5 years hence. One must also consider why this litigation has been so long in coming to a resolution. That burden does not lie on the Department of Justice and the states. Rather it lies on Microsoft for delaying, albeit within the scope of due process, the resolution of the matter. Our government must have the fortitude to see such matters through to a full and proper conclusion, not cave in to a delaying action intended to exhaust patience.

DeWine #1

The comingling question focuses on a specific symptom, not the root cause. The root cause is that Microsoft is able to use technical means to create de facto standards. Such standards, when placed strategically, are the seeds to future monopoly positions. Debating the issues of comingling and removal of code can shed light on the subject, but only give us a shadow view of the true questions. We believe that remedies proposed by the nine snares about providing documentation, licenses, and in some cases, source code, provides the kinds of remedies which can then be debated in the context of comingling vs. third-party software.

DeWine #2

The current Proposed Final Judgement offers nothing to foster innovation and competition in the market of commercial operating systems. In fact, it may do quite the contrary. During the entire litigation, Microsoft has been a significantly less fierce competitor than they might otherwise have been. If the Proposed Final Judgment is imposed on all parties without modification, it will actually sanction Microsoft's past abusive behavior, and there will be nothing to stop Microsoft from escalating their anticompetitive behavior while remaining within the guidelines of the Proposed Final Judgement. The proposal offered by the litigating states, on the other hand, offers true structural remedies and strong enforcement, creating an environment that will foster innovation and competition, increasing the ability of all technology companies, to invest with greater confidence that they are doing so in a fair and free market environment.

Kohl #1

Not at all. The settlement contains technical and structural loopholes that legitimize, rather than remedy, Microsoft's abusive monopoly. For example, sections III J.1 and III J.2 both grant Microsoft sole discretion to determine the applicability of the settlement to its own business practices where such practices have in the past been used to extend and abuse monopoly power.

Thus, the settlement is little more than an opportunity for Microsoft to change its own behavior based on its conscience, not a proscription from the courts. Microsoft has demonstrated, in the case of previous settlements, that they are already acting out their conscience and that the technology industry, the states, and the public are not safe from such actions.

Kohl #2 (a and b)

We are strongly supportive of the nine states" comprehensive alternative to the proposed settlement. We believe that the Proposed Final Judgment as currently drafted cannot easily be fixed by simply fixing errors and ommisions, instead, a comprehesive alternative, written by the plaintiffs rather than the defendant, should be considered.

Kohl #3

There are over 100,000 software companies in existence today (source: Craig Mundie, Microsoft SVP of Advanced Development debating Red Hat CTO Michael Tiemann at the O'Reilly Open Source Conference, July 2001), yet only 500 software companies in the Software 500. Of those 500, the vast majority ship fewer than one million copies of anything. Thus, setting the bar at one million copies excludes more than 99.9% of all software companies from receiving any relief whatsoever with respect to this part of the settlement. Of course, several other parts of the settlement also allow Microsoft to further expand and abuse their monopoly position, so the question by itself is more symptomatic rather than fundamental.

Kohl #4

This Proposed Final Judgment will make it harder, not easier to compete, because it will legitimize, rather than remedy Microsoft's abusive behavior. While we believe that on a daily basis Microsoft behaves in ways inconsistent with this settlement (using retaliation or threats of retaliation or coercion against protected classes defined by the settlement), they have been somewhat restrained while the litigation has been pending, if the settlement is accepted, Microsoft will be able to continue the expansion and abuse of their monopoly with impunity, because the settlement actually allows that) Yes, they may have to change some behavior, but fundamentally the proposed settlement gives them all they need to maintain their current status quo. Further litigation is a very expensive way to reduce a defendant's capacity to do further damage, and we would certainly prefer a settlement that actually addresses and remedies Microsoft's abuses. But as written, this proposed settlement addresses and remedies nothing of substance, while giving Microsoft the "all clear" to resume its unhealthy control of innovation and competition. It should be of interest that Red Hat, in markets where Microsoft does not enjoy a monopoly, has been able to compete on technology, performance, and cost. At the same time, Red Hat has elected not to enter the Intel-platform based desktop market, viewing such an effort as futile given Microsoft's monopoly position. Nothing in the Proposed Final Judgment would cause Red Hat to alter that position.

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Responses of Charles F. Rule to Judiciary Committee Questions

Leahy Questions

Q1. In your 1997 testimony on the first Microsoft-Department of Justice consent decree, you said that "it seems a bit shortsighted (or perhaps even hysterical) to believe that Microsoft is such a juggernaut that putting extra sand in its saddle bags is justified to even up the odds for the competition." In light of the fact that the Court of Appeals found that Microsoft violated Section 2 of the Sherman Act, abusing its operating system monopoly to the detriment of consumers, do you still believe that it is "hysterical" to inquire into, and seek to end, the company'santicompetitive practices?

A. As you note, the statement in my 1997 testimony refers to the enforcement action brought by the government alleging that Microsoft had violated the terms of its 1995 consent decree. Microsoft was ultimately vindicated in that action, with the Court of Appeals finding that Microsoft had done nothing to violate the terms of that decree. In this most recent action, the Court of Appeals did conclude that certain of Microsoft's practices amounted to monopoly maintenance that violates section 2 and, as my statement to the Committee in December of 2001 explains, the Revised Proposed Final Judgment addresses all that conduct and much more. Having said that, it is worth noting, first, that the Department and states have never alleged, much less proved, that Microsoft achieved its position in the market illegally. Moreover, as the Court of Appeals held, "the District Court expressly did not adopt the position that Microsoft would have lost its position in the OS market but for its anticompetitive behavior." United States v. Microsoft Corp., 253 F.3d 34, 107 (3d Cir. 2001). Second, no matter how one chooses to characterize Microsoft's (or any other company's) competitive prowess, it is never appropriate for the antitrust law—nor is it good policy generally—to put "sand in the saddle bags" of one competitor simply because it is more successful for reasons of skill, foresight or luck. Prohibiting companies from engaging in illegal practices and requiring them to compete on the merits is clearly critical, but "rigging" or trying to alter outcomes of competition on the merits is a bad idea.

Q2. The Tunney Act requires that Microsoft file with the district court "any and all written or oral communications by or on behalf of [Microsoft]... with any officer or employee of the United States concerning or relevant to such proposal, except that any such communications made by counsel of record alone with the Attorney General or the employees of the Department of Justice alone shall be excluded from the requirements of this subsection." You have recently been named as counsel of record," do you believe that this provision requires disclosure of communications by you to the Justice Department prior to the date upon which you became counsel of record? Do you believe it requires disclosure of contacts made on behalf of Microsoft to members of Congress? How do you define power in a way that would be very difficult for courts to redress in the future without recourse to draconian structural relief. Finally, as we saw with the 1995 consent decree, having a seriously flawed settlement can sometimes be worse than having no settlement at all, insofar as it lulls enforcement agencies and the public into a false belief that anticompetitive conduct has been checked while it m fact continues, compounding the under1ying problems in the marketplace. Some in the industry have argued that but for the pendency of the current litigation, and the public and judicial scrutiny that resulted, Microsoft's conduct in the marketplace would have been even worse. "concerning or relevant to" the proposed settlement? Do you believe that it covers anything more than the actual negotiations of the decree?

A. First, I personally have been counsel of record for Microsoft since the appeals of Judge Jackson's decision began in 1999. (For those interested, they should review the briefs filed with the Supreme Court and the Court of Appeals.) Moreover, since Microsoft's negotiations with the Department of Justice included representatives of the Plaintiff states, the Tunney Act disclosure includes disclosure of all the negotiations of which I was a part.

Second, the Tunney Act only requires disclosure of contacts with the Executive Branch. To my knowledge, disclosure filings in Tunney Act proceedings (including AT&T's disclosure, for example) are limited to contacts with the Executive Branch.

Third, there is no reason to believe that the phrase "concerning or relevant to" has any meaning other than the standard definition of the words. Webster's New Collegiate Dictionary indicates that "relating to" and "regarding" are synonymous for "concerning." "Relevant" is defined as "having significant and demonstrable bearing upon the matter at hand." Accordingly, and consistent with the plain meaning of all the words of the statutory provision you quote, Microsoft's disclosure included reportable contacts by Microsoft or its representatives with the Executive Branch that related to the company's negotiations of the settlement with the Department and the Plaintiff states.

Q3. Microsoft's retaliation against OEMs that resisted carrying Microsoft's products featured largely in the evidence at trial, and the proposed settlement seems to address the Court of Appeals" holding that such retaliation violated Section 2 of the Sherman Act. While the settlement does state that Microsoft cannot retaliate against an OEM that is supporting a competing operating system or middleware there is also a "carve-out" to that restriction, which permits Microsoft to provide "consideration to any OEM with respect to any Microsoft product or service where that consideration is commensurate with the absolute level or amount of that OEM's development, distribution, promotion, or licensing of that Microsoft product or service." This seems to permit Microsoft to reward OEMs based on whether they carry Microsoft's products or software; this is just the flip side of "retaliation." How is this different from punishing those who fail to accede to Microsoft's demands ?

A. It is important to note that the Court of Appeals did not conclude that Microsoft "retaliated" against any OEM for shipping any competing software (or for any other reason). Moreover, the anti-retaliation provisions of the Revised Proposed Final Judgment contain no "carve-outs." Rather, Microsoft may not retaliate against OEMs, ISVs, and IHVs (independent hardware vendors) because they develop, etc., software that competes with the Windows PC operating systems or Microsoft Middleware. The provision prohibits "retaliation" as that word is commonly understood and defined. The provisos in the relevant sections of the Revised Proposed Final Judgment do not "carve-out" exceptional circumstances in which Microsoft may retaliate against these third parties for their development, etc., of competing software; rather, those provisos simply make certain that in the future no one will try to extend the prohibition to certain conduct that is legitimate and not generally understood to be "retaliation." So for example, the Revised Proposed Final Judgment is written to ensure that it will not be possible to twist the common meaning of "retaliation" to cover situations in which Microsoft seeks legitimately to protect its intellectual property against infringement. The decree also makes clear that legitimate efforts by Microsoft to enforce a contract, including through rights of termination against an OEM that has breached the contract by, for example, refusing to pay royalties due and owing to Microsoft, though Microsoft agreed that it would give an OEM an offer to cure any breach at least two times during the term of the contract (which currently is one □,ear) are allowed under the Revised Proposed Final Judgment.

Also, as your question indicates, the Revised Proposed Final Judgment makes clear that Microsoft is not "retaliating" if it provides ten times more marketing support to one OEM than to another OEM that ships only one-tenth the number of Windows operating systems compared to the first OEM. The notion that Microsoft has to provide the same level of support to all third parties without regard to the level of development, distribution, promotion or licensing of Microsoft's products or even without regard to whether they carry Microsoft's products or software at all seems absurd. One doubts that OEMs like Dell and Compaq that each year sell millions of PCs installed with a Windows PC operating system would think it fair and reasonable if Microsoft could provide them with no more support than a small OEM in East Asia that installs Windows on none of its PCs. Even without regard to the fairness and reasonableness of such decisions, decisions concerning the allocation of finite resources are what every business, regardless of its size, legitimately must make. It renders the word "retaliation" meaningless to suggest that such legitimate decisions would be proscribed by an "anti-retaliation" provision. However, the fact that Microsoft's competitors would even make such a suggestion indicates why the company negotiated for, and why the Department and settling states agreed to, the clarification.

Q4. Microsoft is given 12 months to come into compliance with this proposed settlement; what tasks must it actually undertake that will require so much time?

A. The Revised Proposed Final Judgment does not become binding and the court's powers of enforcement do not pertain until the court enters the judgment (hence the Department's concern, as we understand it, that the Tunney Act proceeding not be delayed). Nevertheless, Microsoft has stipulated that it will abide by the terms of the Revised Proposed Final Judgment from the date it was submitted to the court for approval. The stipulation did give Microsoft until December 16, 2001, to begin its voluntary compliance with the Revised Proposed Final Judgment; however, with the exception of three substantive provisions of the Revised Proposed Final Judgment which require substantial engineering work, Microsoft is currently complying with the provisions of the decree. With the exception of the creation of the Technical Committee (IV.B) and the term of the Revised Proposed Final Judgment (i.e., when it will expire) (the timing of both is measured from the date the decree is entered by the court), the clock begins to run on Microsoft's obligation to implement the provisions of the Revised Proposed Final Judgment on the date it was submitted to the court (i.e., November 6, 2001).

With respect to the three substantive sections that have not yet become effective, namely sections III.D, III.E, and III.H., all three require Microsoft to engage in substantial engineering work. That work is currently well underway.

In order to comply with section III.D., which requires Microsoft to disclose APIs and related Documentation used by Microsoft Middleware to interoperate with Windows 2000 or Windows XP (and subsequent versions of PC operating systems), Microsoft must do substantial work to identify the relevant interfaces, determine whether they have already been disclosed and, if not, develop the necessary documentation so third parties will understand what functions they perform and how to use them. Microsoft must disclose the APIs and documentation when it releases the first Service Pack for Windows XP.

Microsoft may also be required to reengineer Microsoft Middleware, as well as Windows 2000 and Windows XP in order to comply with III.D. Because Microsoft has strong commercial incentives to issue the first Service Pack of a new operating system as soon as possible and delay of its issuance (and thus delay of the obligation to disclose APIs) will be costly to Microsoft, the Revised Proposed Final Judgment provides a strong incentive for Microsoft expeditiously to complete the necessary engineering work in order to comply with III.D by in effect holding up the release of the Windows XP Service Pack until disclosure of the relevant APIs and documentation under III.D is completed.

In the case of the "Add/Remove" utility and "defaults" that Microsoft must design and make available to end-users and OEMs under section III.H, significant changes to Windows XP and Windows 2000 must be engineered and made available in subsequent versions of the operating systems. Providing the ship date of the first service pack of Windows XP as the deadline for that work similarly provides a strong incentive to Microsoft to complete the necessary engineering work expeditiously.

In the case of both III.D and III.H, the expectation is that they will become effective well before November 6 of this year (i.e., twelve months after submission of the Revised Proposed Final Judgment to the court). At the time the decree was being negotiated, the company was planning to try to release the first service pack for Windows XP (a major engineering undertaking in itself) by the middle of this year. While Microsoft hopes that timing will not slip significantly, a very substantial engineering burden was imposed on Microsoft by the decree and Microsoft advised the Department and the Plaintiff states of that fact during the negotiations. As a result the twelve months was put in as a "back stop" to provide the Department and the settling states with an absolute drop dead date for compliance with those two provisions. Everyone expects the first service pack of Windows XP to be released well in advance of November 2002.

Section III.E requires Microsoft to identify, document, and make available for third-party licensing Communications Protocols that allow a Windows server operating system to interoperate natively with Windows 2000 or Windows XP.

As explained in my statement to the Committee, the so-called "client-server interop" issue is outside the scope of the Court of Appeals decision, but based on Microsoft's expectation that the Plaintiff states would settle if section III.E were included in the proposed relief, Microsoft reluctantly agreed to it. However, the provision requires Microsoft to license proprietary information that as a general matter Microsoft previously did not license to third parties. Again, it is a significant undertaking to inventory all the protocols, to develop the documentation for third parties, and otherwise to do the work necessary to license the protocols to third parties. In recognition of the scope of that work, the Revised Proposed Final Judgment provides Microsoft with nine months to accomplish the work (which unlike sections III.D and III.H, is not related to the work being done to develop the first service pack of Windows XP). Thus, starling on August 6, 2002, the relevant Communications Protocols will for the first time be available for third-party licensing.

Q5. The proposed settlement agreement provides that Microsoft's disclosure of APIs and documentation for an updated version of Windows in a "timely manner ", and "timely manner" seems to be defined as the time at which Microsoft makes the new Windows version available to 150, 000 or more beta testers. Does Microsoft routinely send beta test versions to so many testers? When has it done so in the past? Can't Microsoft avoid the disclose provision by simply limiting the number of beta testers?

A. In negotiating the decree, both sides understood the need for setting the obligation to disclose APIs and documentation sufficiently late in the development cycle of new products so that Microsoft is able to develop, test, and modify the APIs as well as the documentation of the APIs based on feedback the company gets from third-party testers included in early beta releases. Once the APIs and documentation are "disclosed" under section III.D, they need to be "hardened" or fixed because at that point third parties, particularly middleware vendors, will be writing their own software that calls on those APIs and will be frustrated and may be put to added expense if the APIs are modified significantly before the wide commercial release of the Microsoft platform product. On the other hand, the United States and the settling states insisted that the disclosure occur before the commercial release of the product so that third parties can begin designing products that take advantage of the APIs at the time or shortly after the time the Windows PC operating system containing the APIs or the Microsoft Middleware is released commercially. In the case of Windows PC operating systems, historically the last major beta release before commercial release has involved substantially in excess of 150,000 beta testers; for example, the last major beta release of Windows XP was distributed to more than 500,000 beta testers.

It is inconceivable that Microsoft would forego beta testing or would limit the number of beta testers of a Windows PC operating system in order to avoid section III.D. Quite apart from the seriousness with which Microsoft takes its responsibilities under court orders, a failure by Microsoft to subject its products to extensive beta testing would threaten to exact a heavy toll on Microsoft's goodwill. Without extensive beta testing, Microsoft would significantly increase the risk of shipping products with major bugs that would engender consumer ill will. It is simply not credible for Microsoft's competitors to assert that Microsoft would subject its business to such a threat and raise questions about its compliance with the decree in order to achieve a temporary "head-start" over competing middleware vendors. The Committee should keep in mind that nowhere in its decision did the Court of Appeals affirm a finding that Microsoft ever failed to disclose APIs or otherwise manipulated disclosure of APIs to give Microsoft middleware an illegal advantage over the competition. Moreover, case law suggests that a monopolist is fully entitled to gain the competitive advantage of its own research and development work by not releasing information about it that might be needed by developers of competing products until after the public release of the company's new products.

Q6. If a PC manufacturer decides that it would like to remove Windows Moviemaker, is that action protected from the ban on retaliation in the proposed settlement? If a representative of a PC manufacturer or a software developer testified before this Committee or before the district court in the on-going states" case, would the settlement ban retaliation against them ?

A. Windows Moviemaker is not in the list of Microsoft Middleware Products, nor should it be in light of the Court of Appeals decision. While the United States and the settling states insisted on a very broad (Microsoft believes, an overly broad) definition of "middleware," only a definition that essentially included all PC software would suffice to include features of Windows PC operating systems such as Windows Moviemaker and third-party software that performs similar functionality. The theory of the government's case and the rationale of the Court of Appeals decision is that Microsoft took certain actions (the twelve that the Court of Appeals affirmed) which were designed to exclude Netscape Navigator and Sun's Java technology from the market because separately or together they represented threats to Microsoft's position in the market for PC operating systems. That analysis had plausibility because the Court of Appeals concluded that, by exposing a broad range of general purpose APIs that developers could use to create applications and by having the capability of running on multiple PC operating systems, Navigator and Java had the potential to serve as platforms that could compete with the Windows platform. By contrast, software for displaying and editing movies does not serve as a platform for applications development.

Moreover, the issue of Microsoft's unwillingness to allow OEMs to remove access to the Internet Explorer functionality was only anticompetitive because the Court of Appeals accepted the district court's finding that it impaired Netscape's ability to persuade OEMs to install and ship Navigator on their PCs. The government did not challenge and the Court of Appeals did not conclude that, by itself, Microsoft's practice of continually incorporating new features and functionalities in successive versions of Windows PC operating systems and insisting that OEMs install and ship Windows with its features and functionalities intact violated the antitrust laws. To the contrary, even under the previous Administration the Department has recognized, as did the Court of Appeals" opinion, that such integration in general is potentially beneficial to software developers who take advantage of the new APIs and consumers. (That insight is what led the Court of Appeals to hold that allegations that software integration amounts to an illegal tie-in must be analyzed under the Rule of Reason and, on that basis, to reverse Judge Jackson's conclusion that the integration of IE into Windows 98 was per se unlawful.)

Against this background, it should be no surprise that the Revised Proposed Final Judgment is silent concerning Microsoft's licensing policies with respect to the ability of OEMs to remove non-middleware features of Windows such as Windows Moviemaker. Indeed, any effort to include in this decree a provision that precluded Microsoft from integrating new features and functionality into Windows and ensuring that end users get all the features and functionalities of Windows, at least other than Microsoft middleware, would be directly contrary to the holding of the Court of Appeals. Microsoft does in its licenses with OEMs require them to ship Windows with all its non-middleware features intact. (OEMs, however, are free to add third party software of any kind, including digital media manipulation applications to computers before they ship, and many do.) An OEM that removed Windows Moviemaker before shipping Windows XP on its PCs would be in violation of its license agreement. As explained in response to question 3 above, legitimately seeking to enforce a valid license or contractual provision that does not violate the Revised Proposed Final Judgment would not be "retaliation" in any conventional sense of that word.

As for the question concerning the possibility of Microsoft retaliating against those who have testified against Microsoft, there is absolutely no basis for suspecting that Microsoft would even consider doing such a thing. Certainly the potential for such retaliation was not part of the plaintiffs" case and formed no part of the decision of the Court of Appeals. Nevertheless, the Revised Proposed Final Judgment makes clear (sections III.A.3 and III.F.1.b) that Microsoft cannot retaliate against any OEM, ISV or IHV, including those who testified against Microsoft, because that third party chooses to exercise any of the options provided by the Revised Proposed Final Judgment.

Q7. Software developers that take advantage of the middleware API disclosure are required by the proposed settlement to cross-license their products back to Microsoft. Presumably this is of great benefit to Microsoft, but how does it fit into remedying the antitrust violations found in court?

A. Northing in the Revised Proposed Final Judgment requires software developers to license their products to Microsoft, whether or not the developers choose to use the new middleware APIs that Microsoft is obligated to disclose. Paragraph III.I. requires Microsoft to license to certain third parties any Microsoft intellectual property that is necessary for them to exercise the options and alternatives provided under the Revised Proposed Final Judgment. Subpart 5 states that those parties "may be required" to license to Microsoft any intellectual property they may have relating to the exercise of such options or alternatives on "reasonable and nondiscriminatory terms" so that Microsoft can comply with the Revised Proposed Final Judgment by offering those options and alternatives to those parties without running afoul of intellectual property law. This provision simply facilitates implementation of the decree provisions.

Q8. The provision of the proposed settlement addressing the availability of server communications protocols refers to protocols that are "used to interoperate natively, i.e., without the addition of software code to the client operating system product, with a Microsoft server operating system product." I am confused about the meaning of "natively, "and the Competitive Impact Statement does not clarify it. As the issue of Microsoft "s possible abuses in the server arena are even now before the European Union's antitrust enforcement branch, I am interested to know precisely what your proposal accomplishes, and whether it addresses the EU's concerns as well?

A. The "client-server interoperability" provision (section III.E) is one example where the Revised Proposed Final Judgment addresses an issue that has nothing to do with the Court of Appeals" decision. Microsoft agreed to that provision in order to settle this case and move forward in a positive posture with the federal and state governments. In particular, Microsoft agreed to the provision based on its expectation that if it did the states would agree to the Revised Proposed Final Judgment. Section III.E. requires Microsoft to disclose Communications Protocols used by Windows to interoperate with Microsoft server operating systems. The term "natively" means that the interoperation is directly between a Windows PC operating system such as Windows XP and a Microsoft server operating system product as opposed to communications between a Microsoft server and a program running on top of such PC operating systems. As Microsoft understood the concern that the provision was designed to address, the plaintiffs wanted to prevent Microsoft from leveraging its position in PC operating systems to harm competition in server operating systems. I have not consulted with the EU on either the Revised Proposed Final Judgment or its investigation, and so cannot represent whether or not this provision addresses any concerns the EU may have.

Q9. The proposed settlement's prohibition on retaliation against software developers creates an exception from that prohibition for agreements that "are reasonably necessary to and of reasonable scope and duration" in connection with obliging a developer to use, distribute, promote, or develop software for Microsoft. What do you envision that exception to cover, and more importantly, what does it leave within the ban against retaliation?

A. This question seems to reflect a misreading of section III.F of the Revised Proposed Final Judgment. The "exception" for reasonably ancillary contractual limitations applies to subsection III.F.2 (which prohibits Microsoft from conditioning the grant of consideration on an ISV's refraining from developing, etc., any competing software) rather than to the "anti-retaliation" prohibition of III.F. 1. In response to question 3, I have explained that the anti-retaliation provisions of the Revised Proposed Final Judgment contain no "carve-outs" or "exceptions."

The exception language in section III.F.2 simply makes clear that Microsoft may engage in the routine business practice of collaborating with third parties that wish to use, distribute or promote Microsoft software or to develop software together with Microsoft. To the extent that Microsoft enters into such agreements, it may place limitations on the third parties if the limitations are carefully tailored and reasonably necessary in relation to the bona fide contractual arrangement between Microsoft and the third party. The law has long recognized that legitimate ancillary restraints are often critical to procompetitive collaborations, and this exception simply reflects that recognition. There is nothing in the Court of Appeals decision or in public policy to suggest that such an exception is inappropriate. Indeed, in the absence of this provision, Microsoft would be reluctant or unable to enter into many procompetitive collaborations—a result that would restrict opportunities for third parties and potential benefits for consumers.

Q10. The proposed settlement permits the removal of the Internet Explorer icon, but as I understand it, even if a user chooses to remove Internet Explorer, IE will continue to pop up in MyDocuments, MyMusic, and MyPictures. Is this understanding correct, and if so, how can a user ever be free of Internet Explorer?

A. The creation of default opportunities for third-party middleware (section III.H.2) is another area where the Revised Proposed Final Judgment actually goes beyond the decision of the Court of Appeals. The whole concept of "defaults" is a reflection of how Microsoft historically has chosen to design its operating systems to provide extensive opportunities for non-Microsoft software, even when that software duplicates functions already provided by Windows. Generally, operating systems (Microsoft's as well as those of its competitors) are a set of integrated functionalities and are designed to rely on and invoke those internal functionalities to perform various tasks. So for example, when the end user asks Windows to perform a task that requires displaying information in HTML (the format of the Web), Windows invokes its internal HTML display software, which is Internet Explorer. (And, of course, by utilizing the Windows API set, ISVs can also invoke the Windows HTML display software). Over time, the designers of Windows have chosen to give ISVs the opportunity to take over certain functions—typically to open and display certain file types (e.g., .htm files)—in circumstances in which the designer believes will enhance the end-user experience. On the other hand, if allowing a third party to take over a function would disrupt the integrated experience for an end user, Windows generally does not provide a third-party default opportunity.

In the case against Microsoft, the Department and the Plaintiff states alleged that Microsoft's design of Windows to "override" the OEMs" or end-users" choice of a default browser in certain circumstances (for example, in the case of Windows Help and Windows Explorer) amounted to illegal monopoly maintenance. (As explained above, it is more accurate to say that Microsoft in designing Windows chose not to create a default opportunity with respect to certain aspects of Windows where an integrated experience seemed more appropriate.) While the plaintiffs prevailed on this point in the district court, this was one of those aspects of the district court's decision that the Court of Appeals expressly reversed. United States v. Microsoft, 253 F.3d 34, 67 (DCCir. 2001). The Court of Appeals ruled that "Microsoft may not be held liable for this aspect of its product design."

Notwithstanding this clear Microsoft victory, the United States and the settling states insisted that Microsoft be required to design future versions of its Windows PC operating systems in such a way as to guarantee OEMs and third-party vendors of middleware default opportunities in those circumstances described in section III.H.2. Those opportunities apply not just to Internet browsing software but to any third party software that meets the definition of middleware. To some extent that may require Microsoft to design the operating system in a way that allows third-party middleware to interject itself in ways that disrupt the integrated end-user experience; however, Microsoft agreed to III.H.2, despite the absence of a basis for it in the Court of Appeals decision, in order to settle the case.

Q11. In 1998, the Department and Microsoft entered into a Consent Decree. Two years later, the Department sued Microsoft for contempt of the Decree when Microsoft and the Department disagreed over the meaning and correct interpretation of certain provisions of the Decree, including the meaning of the word "integrate" as that term was used in the Decree. Given the prior litigation between the Department and Microsoft over the proper interpretation of the 1995 Consent Decree, do you agree that Microsoft and the Department should have a common, explicit understanding of the meaning and scope of this proposed Final Judgment before it is entered?

A. The Department and Microsoft entered into their first consent decree in 1994, and Microsoft began its compliance immediately. The decree was not approved by the court until 1995. The Department and Microsoft had a common understanding of that decree, but over time the Department personnel involved in the negotiations left the Department and new personnel instituted the litigation in 1997. In 1998, the Court of Appeals confirmed that Microsoft's interpretation of the decree was likely correct, and that Microsoft had not violated the decree.

It is important that Microsoft and the Department have a common understanding of the Revised Proposed Final Judgment to avoid unnecessary litigation in the future. Microsoft is confident that the extensive negotiations in this case have resulted in a clear agreement between the parties involved. Indeed, a great deal of the mediation process was devoted to developing technical concepts and clear language to ensure that there was a clear meeting of the minds concerning Microsoft's obligations under the decree. While Judge Jackson's now-vacated June 2000 judgment may seem clear to a non-technical lawyer, it is largely technical "gibberish," and the reasons for many of the changes in the language in analogous provisions of the Revised Proposed Final Judgment were to make the provisions meaningful and to avoid the sorts of disputes about which you speak. Because the software design and disclosure issues addressed by the Revised Proposed Final Judgment are inherently complex and technical (far more so than any other antitrust decree of which I am aware), it is no surprise that the language of the Revised Proposed Final Judgment Would seem complex. However, the language of the Revised Proposed Final Judgment is infinitely clearer and less ambiguous than that of Judge Jackson's order (or the proposed remedies of the non-settling states), and thus infinitely less likely to engender never-ending disputes between the United States and Microsoft. Moreover, the Technical Committee is designed to ensure prompt resolution of any issues that may arise over the application of the technical language to specific factual circumstances.

Q12. Do you agree that the meaning and scope of the proposed Final Judgment as agreed upon by the Department and Microsoft should be precise, unambiguous and fully articulated so that the public at large can understand and rely on your mutual understanding of the Judgment?

A. Yes, that is an important goal; however, the ultimate test is whether the language is understood and meaningful to the parties and to the courts which must interpret it. Given the government's objective of imposing prohibitions and obligations concerning Microsoft's design of the Windows PC operating system and Microsoft middleware, it was essential, as explained in response to question 11, that the Revised Proposed Final Judgment use technical terms that may be foreign to the lexicon of most members of the public. Any effort to make the language easily understood to those unskilled or unfamiliar with software technology would be a prescription for enforcement disaster. Given the inherently complex and technical subject matter of the Revised Proposed Final Judgment, I am convinced that the language is as "precise, unambiguous and fully articulated" as is possible.

A knowing comparison to the language in Judge Jackson's judgment or the proposed remedies of the non-settling states makes clear how vastly better a job the Revised Proposed Final Judgment does in providing a precise, meaningful, and enforceable set of provisions than either of those alternatives.

Q13. If Microsoft and the Department were to disagree about the correct interpretation of one or more important provisions of the proposed Final Judgment, would you consider that to be a potentially serious problem?

A. There is no one who wants to avoid disputes over the correct interpretation of the decree more than Microsoft. Even though Microsoft was ultimately vindicated in its interpretation of the 1995 decree when a dispute arose between Microsoft and the Department, the process of obtaining that vindication was very painful and costly to the company. One of Microsoft's principal goals in the negotiations that led to the Revised Proposed Final Judgment was to develop concepts and language on which Microsoft and the plaintiffs had a clear meeting of the minds and which could be understood and fully complied with by the company and its thousands of employees. As explained in response to earlier questions, measured by that standard, the Revised Proposed Final Judgment does a vastly better job than any of the alternatives of which I am aware.

Q14. Do you agree that it would be highly desirable to identify any significant disagreement between Microsoft and the Department over the correct interpretation of the proposed Final Judgment now, before the Judgment is entered by the Court, rather than through protracted litigation as in the case of the 1995 Consent Decree?

A. While it is certainly preferable to identify disagreements before rather than after the Revised Proposed Final Judgment is entered, we spent countless hours negotiating this agreement with the Department and the states with the help of court-appointed mediators, and are confident that we have a clear agreement. As I explained in response to the previous questions, one of Microsoft's principal objectives in the negotiation was to develop a decree that would avoid the sort of litigation, which Microsoft ultimately won, that arose out of the 1995 Consent Decree. (I should also note that the 1997 litigation was resolved by the Court of Appeals, in Microsoft's favor, within nine months of the Department's petition for relief.) It was imperative that we have a decree with a clear meaning to both the Department and Microsoft that would retain its clarity even as the personnel in the Department changes. That said, it is probably impossible to craft language that is so clear that disputes over its meaning are inconceivable. However, while I would not contend that the negotiations achieved perfection, the Revised Proposed Final Judgment is significantly less prone to dispute than the alternatives, such as Judge Jackson's now-vacated June 2000 judgment or the non-settling states'' proposed relief. Moreover, to the extent legitimate disputes do arise in the future that cannot be resolved by other means, the courts remain our society's best vehicle for resolving such disputes.

Q15. Can the public at large rely upon the Department's Competitive Impact Statement as the definitive interpretation of the nature and scope of Microsoft's obligations under the Final Judgment? If not, then what is the mutually understood and agreed-upon interpretation of the meaning and scope of Microsoft's obligations under the Final Judgment?

A. The Competitive Impact Statement was prepared pursuant to the Department's obligations under the Tunney Act. It has the same legal force that the Tunney Act gives any Competitive Impact Statement.

Q16. Does the Competitive Impact Statement accurately reflect Microsoft's interpretation of the proposed Final Judgment?

A. Microsoft did not participate in the preparation of the Competitive Impact Statement. The language of the Revised Proposed Final Judgment was carefully negotiated and means what it says. The Department's Competitive Impact Statement has the same legal force and effect in this case as in any other. Beyond that I cannot go in light of the facts that the Tunney Act proceeding is currently under way before Judge Kollar-Kotelly and that the non-settling states are attempting to raise various issues concerning the Competitive Impact Statement as part of the ongoing "remedies" litigation also before Judge Kollar-Kotelly. Once that litigation is completed, I may be in a better position to discuss these issues with the Committee.

Q17. Recognizing that the Department's Competitive Impact Statement cannot address every conceivable issue that may arise in the future concerning the proposed Final Judgment, is there anything stated in the Competitive Impact Statement with which Microsoft disagrees?

A. See the answer to question 16.

Q18. Has Microsoft informed the Department that it has any disagreement with the Department's interpretation of the Final Judgment as set forth in the Competitive Impact Statement?

A. See the answer to question 16.

Q19. Does Microsoft disagree with anything stated in the Department's Competitive Impact Statement concerning the meaning and scope of the proposed Final Judgment?

A. See the answer to question 16.

Q20. Will you commit on behalf of Microsoft to inform this Committee in writing of each and every statement in the Department's Competitive Impact Statement with which Microsoft disagrees? Will you commit to do so within the next 15 days so that the public can understand what disagreements Microsoft has with the Competitive Impact Statement before the Tunney Act comment period expires ?

A. See the answer to question 16.

Q21. Was there anything in Assistant Attorney General James' testimony before this Committee concerning the meaning an d interpretation of the proposed Final Judgment with which Microsoft disagrees?

A. I thought the testimony of AAG James accurately described the Revised Proposed Final Judgment, and nothing I have seen or heard since November 6th leads me to change my view that the Revised Proposed Final Judgment reflects a clear meeting of the minds between Microsoft on the one hand and the Department and the settling states on the other.

Q22. The Department's Competitive Impact Statement states at page 38 that.' "If a

Windows Operating System Product is using all the Communications Protocols that it contains to communicate with two servers, one of which is a Microsoft server and one of which is a competing server that has licensed and fully implemented all the Communications Protocols, the Windows Operating System Product should behave identically in its interaction with both the Microsoft and non-Microsoft servers." Does Microsoft agree that this accurately states one objective of Microsoft's obligations under section III(E) of the proposed Final Judgment?

A. See the answer to question 16.

Q23. The Department's Competitive Impact Statement states at page 36 that: "Section 1II.E. will prevent Microsoft from incorporating into its Windows Operating System Products features or functionality with which its own server software can interoperate, and then refusing to make available information about those features that non-Microsoft servers need in order to have the same opportunities to interoperate with the Windows Operating System Product." Does Microsoft agree that this accurately states one objective of Microsoft's obligations under section Ill(E) of the proposed Final Judgment?

A. See the answer to question 16.

Q24. The Department's Competitive Impact Statement states at page 37–37 that.' "Because the Communications Protocols must be licensed for use' by third parties, the licensing necessarily must be accompanied by sufficient disclosure to allow licensees fully to utilize all the functionality of each Communications Protocol." Does Microsoft agree that this accurately states one objective of Microsoft's obligations under section Ill(E) of the proposed Final Judgment?

A. See the answer to question 16.

Heatch Questions.

Q1. Concerns have been voiced about potential "loopholes" that might be created by ambiguities in various definitions that are fundamental to determining Microsoft's responsibilities under the settlement. Do you agree that the "Competitive Impact Statement" accurately memorializes the spirit and underlying considerations of the Proposed Settlement agreement; and do you further agree that it should be used as an authoritative interpretive guide in settling disputes about the practical application of the Proposed Settlement?

A. The Competitive Impact Statement was prepared pursuant to the Department's obligations under the Tunney Act. It has the same legal force that the Tunney Act gives any Competitive Impact Statement.

Ultimately, the language of the Revised Proposed Final Judgment controls. Contrary to the assumption in the question that the proposed judgment is full of loopholes, it is not. Both sides spent five weeks full time working out technically complex concepts and reducing them to language that both sides agreed to and understood. Both sides worked long hours on crafting the precise wording of the Revised Proposed Final Judgment, and while the language is technical and somewhat complex, reflecting the subject matter of the judgment, it is vastly clearer, more precise, and understandable to those bound by the decree and to those who must enforce it than any of the alternatives ever suggested, including Judge Jackson's now-vacated June 2000 order and the relief proposed by the non- settling states.

Q2. Could you please identify the specific aspects of the Competitive Impact Statement that you believe do not accurately represent Microsoft's understanding of the Proposed Settlement? And, to the extent you believe that the Competitive Impact Statement is inaccurate, would Microsoft be willing to provide a detailed description of these perceived inaccuracies along with specific language describing Microsoft's understanding of the issue, language, or provision, the accuracy of which Microsoft disputes?

A. Microsoft did not participate in the preparation of the Competitive Impact Statement. The language of the Revised Proposed Final Judgment was carefully negotiated and means what it says. The Department's Competitive Impact Statement has the same legal force and effect in this case as in any other. Beyond that I cannot go in light of the facts that the Tunney Act proceeding is currently under way before Judge Kollar-Kotelly and that the non-settling states are attempting to raise various issues concerning the Competitive Impact Statement as part of the ongoing "remedies" litigation also before Judge Kollar-Kotelly. Once that litigation is completed, I may be in a better position to discuss these issues with the Committee.

Q3. In your written testimony (p. 9) you briefly address the Proposed Settlement's prohibition of retaliation by Microsoft against computer makers. You summarize the provision in the settlement stating that "Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in [Microsoft's] Windows operating system." Id. Concerns, however have been raised regarding perceived limitations on this anti-retaliation provision. Could you explain either why the perceived caveats were included in the anti-retaliation provision as well as why you believe that these perceived caveats do not actually allow Microsoft to engage in substantial retaliation against computer makers?

A. The Revised Proposed Final Judgment makes clear that Microsoft may not retaliate against OEMs, ISVs, and IHVs because they develop, etc., software that competes with the Windows PC operating systems or Microsoft Middleware. The provision prohibits "retaliation" as that word is commonly understood and defined. The provisos in the relevant sections of the Revised Proposed Final Judgment do not provide opportunities for Microsoft to circumvent this prohibition; rather, those provisos simply provide some certainty that in the future no one will try to extend the prohibition to certain conduct that is legitimate and not generally understood to be "retaliation." So for example, the Revised Proposed Final Judgment is written to ensure that it will not be possible to twist the common meaning of "retaliation" to cover situations in which Microsoft seeks legitimately to protect its intellectual property against infringement. The decree also makes clear that Microsoft may enforce a contract, including through rights of termination against an OEM that has breached the contract by, for example, refusing to pay royalties due and owing to Microsoft. Microsoft's ability to enforce valid OEM agreements that do not violate the decree is qualified, however, because section III.A requires Microsoft to give an OEM the opportunity to cure any breach at least two times during the term of the contract (which currently is one year).

Q4. Is it your position that the anti-retaliation provision does in fact prohibit Microsoft from all forms of retaliation against computer software makers that choose to ship software that competes with Microsoft products; and, if not, how do you answer the criticisms that the provision is insufficient to effectively prevent retaliation ?

A. See the answer to question 3.

Q5. Several media sources and commentators have reported that major computer makers—or "OEMs"—such as Hewlett Packard, Compaq, Dell, and Gateway, are heavily dependent on Microsoft, which—some have argued—may explain the lack of vocal opposition by these companies to the Proposed Settlement. With this in mind, how can the Proposed Settlement's substantial reliance on these companies to incorporate software that competes with Microsoft products on the computers the), distribute be trusted to result in actual competition in the middleware market?

A. The Department and the plaintiff states are probably in the best position to explain the theory of their case and their request for relief. Nevertheless, both the premise of much of the case and of much of the relief proposed by anyone in this case has been that competition will be enhanced if Microsoft is prevented from retaliating against or favoring OEMs on the basis of their decisions whether or not to distribute, support, etc., software that competes with Microsoft's PC operating systems or middleware. The United States and settling states insisted on sections III.A and III.B to eliminate Microsoft's ability to harm or favor OEMs based on their decisions to support, vel non, software that competes with Microsoft platform software. In addition, section III.C ensures OEMs that they will have freedom to install and feature non-Microsoft middleware, and section III.H even obligates Microsoft to design its future operating systems in ways that make it easier for OEMs (and end users) to display non-Microsoft middleware.

The Revised Proposed Final Judgment thus eliminates what the United States and Plaintiff states perceived as disincentives for OEMs to install and feature non-Microsoft PC operating systems and middleware, and the proposed judgment creates a number of new incentives and opportunities for OEMs to install and feature such software. It is noteworthy that even before these new protections for OEMs were put in place, OEMs were shipping non-Microsoft software, like the AOL client or RealNetworks media software, that fits within the Revised Proposed Final Judgment's broad definition of middleware. Indeed, AOL currently has a major advertising campaign with broadcast commercials advising PC owners that "AOL is already installed on most computers, probably even yours." It is also worth noting that the Court of Appeals did not conclude that Microsoft "retaliated" against any OEM for shipping any competing software.

Q6. Could you please explain, in detail, what incentives you believe will actually lead OEMs to install software that competes against Microsoft software? Are you aware of particular competing software that OEMs might currently wish to install in favor of similar Microsoft products?

A. As explained in response to question 5, OEMs are already shipping a lot of non-Microsoft middleware: If there is any doubt, I invite anyone to visit their local PC retailer and discover all the preloaded non-Microsoft software that OEMs are already offering on the PCs they ship. The AOL and RealNetworks examples in the response to question 5 are not alone. The Revised Proposed Final Judgment provides OEMs with flexibility to hide access to certain features in Windows if those OEMs wish to promote non-Microsoft software in lieu of the Windows features. As explained in my answer to other questions from the Committee, the Court of Appeals upheld the district court's finding that OEMs were less likely to install non-Microsoft Web browsing software if they were not allowed to hide the icons for Internet Explorer. OEMs will now be free to do so for Web browsing and other categories of software. Whether OEMs really wish to hide access to features of Windows, of course, remains to be seen. Nevertheless, the important point is that the Revised Proposed Final Judgment removes any obstacle posited by the plaintiffs in the case and provides significant new opportunities for installing non-Microsoft middleware products on PCs running Windows.

Q7. With respect to concerns raised regarding the lack of a strong enforcement mechanism in the Proposed Settlement, could you please expand upon the reason that you believe the Proposed Settlement ensures effective enforcement? Could you also explain your view of how enforcement will occur? Finally, could you explain why—assuming that this is your position—the proposed alternative enforcement mechanisms are either unnecessary, undesirable, or both ?

A. As stated in my testimony, the enforcement provisions in the Revised Proposed Final Judgment are unprecedented in a cM1 antitrust decree. While enforcement authority resides with the Department and the settling states (as parties to the settlement), the Revised Proposed Final Judgment puts an independent Technical Committee on the Microsoft campus with broad authority and unlimited access to company facilities, personnel and intellectual property—including the most sensitive of Microsoft's proprietary software code. The Technical Committee is intended to help monitor and resolve any technical issues that arise in an expeditious and expert manner without putting Microsoft's legitimate intellectual property rights at risk of confiscation. As for interpreting the legal meaning of the Revised Proposed Final Judgment and expertly and effectively utilizing enforcement mechanisms to ensure that the judgment is complied with, the Department of Justice and the states quite understandably felt that there is no one in the world with their experience in interpreting and enforcing antitrust decrees. As a consequence they negotiated for and obtained, a complete set of the enforcement powers that the Department historically has obtained in antitrust judgments. Moreover, they demanded and obtained judgment provisions that ensure that the Technical Committee will not in any way undermine or abrogate those powers.

All of the alternative enforcement mechanisms that have been proposed by third parties would really add nothing to the power of the Department and the states to enforce a judgment. If anything they would add layers of bureaucracy and potentially undermine the Department's control over enforcement of the decree. For example, some have suggested the need for a special master. No one argues that a master is a substitute for the Technical Committee; rather, the master would be a complement to deal with legal issues. The Department, however, does not need help dealing with legal issues surrounding consent decrees; it is the nation's leading expert on such issues. Moreover, because the master could not assume Article III powers, Microsoft would be able to appeal any decision to the district court and beyond, thereby delaying final resolution of disputes. On the other hand, a master could interfere with the legitimate and routine exercise of the Department's constitutionally based prosecutorial discretion.

DeWine Questions

Q1. Mr. Rule, in your testimony you have gone to great length to explain how certain portions of the government's case were dropped or thrown out during the course of litigation. Does Microsoft acknowledge that it violated the antitrust laws?

A. Microsoft certainly acknowledges that the Court of Appeals held that certain of Microsoft's conduct amounted to monopoly maintenance in violation of section 2 of the Sherman Act. The reason that Microsoft went so far in the negotiations with the Department of Justice and the states—as my testimony explained, the Revised Proposed Final Judgment covers conduct and products that were never part of the case—was to close this contentious chapter in the company's history and move forward in a new, more constructive manner with the Department and the states. Unfortunately, several of the states that had less involvement in the litigation and negotiations than the states that settled decided to hold out for relief that not only has nothing to do with the Court of Appeals decision but is also confiscatory, anticompetitive, and in many cases unintelligible. As a result, Microsoft has had no choice but to continue litigation and must preserve its full ability to defend itself, including its right if necessary to seek review of the Court of Appeals' decision.

Q2. Mr. Rule, many within the high tech industry have argued that the antitrust laws are overly cumbersome when it comes to promoting competition within the fast-changing industry. Is this Microsoft's position?

A. No, Microsoft recognizes that the antitrust laws have an important role in protecting the benefits of competition in all industries, including high technology.

Q3. Mr. Rule, What do you believe are the appropriate objectives of remedies in monopolization cases such as this? Do you believe the case law supports a position that monopoly acquisition cases should be treated differently than monopoly maintenance cases? Finally, do you believe this settlement fully achieves the appropriate remedy objectives? If not, in what ways is it deficient? And in what ways, if any, do you believe it reaches beyond the case?

A. At pages 4 and 5 of my testimony to the Committee, I quoted the language of the Court of Appeals" decision and the comments of Judge Kollar-Kotelly concerning the scope of remedy. Moreover, in a recent article in the ABA's Antitrust magazine, Assistant Attorney General Charles James provides an analysis of the legal basis for relief in a case such as this. Also, it is worth recalling that the Court of Appeals quoted the antitrust treatise of Professors Areeda and Hovenkamp, to the effect that "" [re]ere existence of an exclusionary act does not itself justify full feasible relief against the monopolist to create maximum competition.... Absent such causation [i.e., between the conduct and creation or maintenance of monopoly power], the antitrust defendant's unlawful behavior should be remedied by "an injunction against continuation of that conduct." United States v. Microsoft Co/p., 253 F.3d 34, 106 (DC Cir. 2001), quoting 3 AREEDA & HOVENKAMP, ANTITRUST LAW ¶650a, at 67. Moreover, the court noted that "the District Court expressly did not adopt the position that Microsoft would have lost its position in the OS market but for its anticompetitive behavior." 253 F.3d at 107. The court concluded its review by stating that any remedy "should be tailored to fit the wrong creating the occasion for the remedy." Id. As this analysis suggests the case law does support the proposition that the remedial objectives are different in cases of monopoly acquisition as opposed to monopoly maintenance, particularly where, as here, the causal connection between the defendant's position in the market and the illegal conduct is tenuous at best.

Evaluated against the backdrop of the relevant caselaw, the Revised Proposed Final Judgment goes substantially beyond what the law required for a remedy in this case. To cite just a few examples, the definition of middleware is much broader and more inclusive than the conception of middleware at issue in the Court of Appeals decision. Several of the central, most onerous provisions of the Revised Proposed Final Judgment involve conduct that was not even addressed by the Court of Appeals. For example, nothing in the Court of Appeals decision suggests that the way in which Microsoft has made APIs and related documentation available to third parties violated the Sherman Act; yet, Microsoft has agreed to a whole regime of compulsory API disclosures for middleware. Similarly, nothing in the decision even calls into question charging different OEMs different royalties for Windows licenses, but the Revised Proposed Final Judgment requires Microsoft to charge the top 20 OEMs uniform royalties. Nothing in the decision suggests that Microsoft ever has retaliated against any OEM, ISV or other company because it supported or shipped competing software; yet, Microsoft agreed to several provisions prohibiting such retaliation. And Microsoft is obligated to license its client-server communications protocols despite the fact that the so-called client-server interop issue was not raised in the District Court much less before the Court of Appeals. In contrast, I have yet to hear a credible argument as to how, in light of the Court of Appeals opinion, the Revised Proposed Final Judgment is deficient.

Q4. Some believe that unless Microsoft is prevented from commingling operating system code with middleware code, competitors will not be able to truly compete in the middleware market. Because the code is commingled, the Microsoft products cannot be removed even if consumers don't want them. It seems to me that this deters competition in at least two respects. First, as the Appellate Court found, commingling deters computer manufacturers from pre-installing rival software. And second, it seems that software developers are more likely to write their programs to operate on Microsoft's middleware if they know that the Microsoft middleware will arrays be on the computer whereas competing products will not. Even if consumers are unaware that code is commingled, shouldn't we be concerned about the market impact of commingling code? What is the upside of allowing it to be commingled, and on the other hand, what concerns are raised by removing the code?

A. First, it is important to emphasize that the Revised Proposed Final Judgment does address the issue of commingling of code as that issue was relevant in the Department's case and the Court of Appeals opinion. The only objection to commingling advanced in the case was that it made it impossible for OEMs to remove end user access to Internet Explorer. Section III.H of the Revised Proposed Final Judgment obviates any such concern by requiring Microsoft to design its Windows PC operating systems in such a way as to enable OEMs and end users to remove end user access to Microsoft middleware and replace it with access to non-Microsoft middleware. Given the theory of the case, the record developed in the lower court, and the decision of the Court of Appeals, this provision of the Revised Proposed Final Judgment provides a complete remedy.

Second, as Assistant Attorney General James indicated in response to one of the questions of the Committee during the hearing, the plaintiffs never sought to prevent Microsoft from integrating functionality into its operating systems or from exposing that functionality through APIs to ISVs. Indeed, as I understand, even the Department's proposed divestiture remedy which was adopted by Judge Jackson, kept a single, intact operating system company so as to prevent "balkanization" of the Windows platform. Moreover, the Court of Appeals decision clearly recognized the benefits of integration in the area of platform software and the benefits of the ubiquity of the API set of Windows. The Court's discussion of "commingling" did not reflect hostility to ubiquitous dissemination of APIs. Any remedy that allowed OEMs to remove code and APIs from Windows would be unworkable: third party developers and their customers would suffer because their applications would not run properly, assuming they would run at all, if OEMs removed code exposing APIs. Indeed, it would make no sense to obligate Microsoft to disclose new APIs (as the Revised Proposed Final Judgment does) while at the same time allowing OEMs to create versions of Windows from which APIs are removed, rendering the disclosed APIs useless to developers.

Q5. Many believe that this settlement proposal merely requires Microsoft to stop engaging in illegal conduct, but does little in the way of denying Microsoft the benefits of its bad acts. First, how would you answer these critics? Is this just a built-in reality of civil antitrust remedies, that they don't really aim to punish? And second, do you believe the remedy here is strong enough to dissuade other potential monopolists from engaging in the type of conduct in which Microsoft engaged?

A. The Revised Proposed Final Judgment goes well beyond halting the specific acts found to violate the antitrust laws. It is true that the purpose of a civil antitrust decree is to remedy the violation rather than punish the offender, but the decree in this case provides very strong relief beyond the markets and practices at issue in the underlying case. This remedy will change the way Microsoft does business and is more than what the law requires. As both the trial court and the Court of Appeals recognized, the plaintiffs failed to prove that Microsoft benefited from any of its acts that were held to violate the Sherman Act, so no basis exists for requiring that Microsoft be denied any such benefits. Moreover, while it is well-established in the law that punishment and deterrence are not a proper objective of a consent decree in a civil antitrust case, there is no question that the cost to Microsoft of this litigation, the follow-on private, treble damage actions, and the far-ranging nature of the Revised Proposed Final Judgment send a powerful signal to Microsoft and other firms all across the economy.

Kohl Questions

Q1. Mr. Rule, in the past your client Microsoft has been adamant in denying it was a monopolist—despite its 95% share of computer operating systems—and that it in any way violated the antitrust laws. Now, the unanimous DC Circuit Court of Appeals has ruled that Microsoft indeed is a monopolist and indeed acted illegally to maintain its monopoly. Will this ruling—and Microsoft's experience in this litigation—in any way chasten Microsoft into behaving more responsibly? Is Microsoft now willing to recognize that it is a monopolist and, as a result, has obligations to deal with competing businesses in a way that would not exist if did not have monopoly power in its business?

A. Microsoft certainly acknowledges that the Court of Appeals held that Microsoft possesses monopoly power and that certain of Microsoft's conduct amounted to monopoly maintenance in violation of section 2 of the Sherman Act. Moreover, the Revised Proposed Final Judgment represents Microsoft's extensive concessions to relief that go far beyond what the company believes the Department and states had a right to obtain under the applicable precedents—as my testimony explained, the Revised Proposed Final Judgment covers conduct and products that were never part of the case. The reason that Microsoft went so far in the negotiations with the Department of Justice and the states was to close this contentious chapter in the company's history and move forward in a new, more constructive manner with the Department and the states. Unfortunately, several of the states that had less involvement in the litigation and negotiations than the states that settled decided to hold out for relief that not only has nothing to do with the Court of Appeals decision but is also confiscatory, anticompetitive, and in many cases unintelligible. As a result, Microsoft has had no choice but to continue litigation and must preserve its full ability to defend itself, including its fight if necessary to seek review of the Court of Appeals" decision.

Q2. Please identify for us five specific ways in which the proposed settlement, once it is in force, will compel Microsoft to change its business practices in a manner which will benefit consumers.

A. The Revised Proposed Final Judgment imposes a number of new obligations on Microsoft. As you have requested, the following is a list of five such changes chosen at random. First, section III.B requires Microsoft to provide the top 20 OEMs with uniform license agreements pursuant to terms and conditions. Pursuant to the stipulation Microsoft signed when the Revised Proposed Final Judgment was filed on November 6th, the new terms became effective on December 16th. Second, III.C requires Microsoft to allow OEMs to remove end user access to functionality in Windows XP such as Windows Media Player and Windows Messenger and to replace it with access to third-party software or services such as RealNetworks media player and to AOL's Instant Messenger. Third, section III.E requires Microsoft to license all of the communications protocols that Windows PC operating systems use to interoperate natively with Windows server operating systems. While Microsoft has licensed some of those protocols to third parties on an ad hoc basis, the company has never made them available systematically to third parties. Fourth, section III.G prohibits Microsoft from agreeing with a variety of third parties to contracts that require the third parties to distribute, promote, use, or support Microsoft platform software "in a fixed percentage" except in narrow circumstances. Prior to agreeing to the Revised Proposed Final Judgment, Microsoft sometimes used fixed percentage requirements to ensure that it received the effort from third-parties for which Microsoft bargained; Microsoft can no longer freely use this normal business mechanism. Fifth, section IV.B requires Microsoft to accept three neutral technical experts (the "Technical Committee") onto its campus and provide them with full access to its employees and its most confidential information. This is unprecedented not just for Microsoft but for any other U.S. firm of which I am aware. Presumably, the Department of Justice and settling states believed these changes (as well as the others in the Revised Proposed Final Judgment) would benefit consumers or they would not have demanded the inclusion of these provisions in the Revised Proposed Final Judgment.

Q3. The proposed consent decree contains prohibitions on Microsoft retaliating against computer makers who choose to install in their machine software products that compete with software made by Microsoft. But many wonder if Microsoft will be able to offer financial incentives to accomplish essentially the same thing. For example, could Microsoft offer to pay incentive amounts to computer makers who feature or promote Microsoft software on their machines ?

A. Section III.C of the Revised Proposed Final Judgment prohibits Microsoft from restricting OEMs by agreement from, among other things, installing any non- Microsoft middleware on the PCs that the OEM ships. That section also prohibits Microsoft from "restrict[in] by agreement" any OEM from "[e]xercising any of the options provided in III.H of the Final Judgment." Thus, the judgment does in fact prevent Microsoft from offering financial incentives to OEMs not to install and ship competing non-Microsoft middleware.

Q4. One important issue the settlement was intended to address was Microsoft's ability to penalize computer makers that load non-Microsoft software onto their machines. Under the settlement, can Microsoft still bar a computer maker from putting WordPerfect word processing software or Quicken financial software pre- installed on their machine? If so, why isn't Microsoft's ability to place such restrictions on computer makers a problem for competition?

A. Microsoft has never kept a computer maker from loading either WordPerfect or Quicken (or any other application) on machines it sells. Indeed, a quick review of any computer retailer indicates the variety of applications installed by OEMs on the PCs they sell. The reason that the Revised Proposed Final Judgment does not place such restrictions as you mention on Microsoft is that no part of the case against Microsoft had anything to do with conduct by Microsoft that was intended to, or did, have any exclusionary impact on non-middleware applications such as word-processing and personal-finance software. And there is no plausible argument that extending relief to such non-middleware applications has a connection to the theory of the Department's case against Microsoft.

Durbin Questions

Q1. This is an unprecedented settlement for an unprecedented case. The entire world has been, and will continue to, watch every aspect of this case. They will also be watching to see if Microsoft complies with every word of this decree. Assuming this settlement is approved, can you outline the steps that will be taken to ensure compliance with the settlement? Are these steps unique in any way?

A. Microsoft has made a company-wide commitment to comply with the settlement entered in this case. The Revised Proposed Final Judgment contains strong enforcement provisions that include internal compliance efforts within the company. As stated in my testimony, Microsoft already had one of the largest and most talented in-house legal teams in the country, and the recent hiring of new compliance specialists will further enhance that team. From the very highest levels of the company, Microsoft is eager to settle this matter and move forward, and has every intention of meeting its settlement obligations to avoid any further disruption of its business. Business executives, developers and lawyers are hard at work at Microsoft implementing every aspect of the Revised Proposed Final Judgment. Microsoft has provided extensive training on the settlement to its lawyers and key business and development employees throughout the world. Senior personnel are meeting on a weekly basis to manage everything Microsoft must do to comply with the settlement, including identifying and documenting new APIs and new Communications Protocols and designing and developing new software for the upcoming Service Pack release of Windows XP to facilitate removing access to key Windows features. Microsoft has already implemented the OEM provisions of the settlement, establishing new uniform Windows license terms for its OEM customers, making those terms available to the Department and the states for their review, and so forth.

Q2. What assurances can the American people have that Microsoft will really be constrained from future anti-competitive practices ?

A. As stated in my testimony, the Revised Proposed Final Judgment as agreed between Microsoft, the Department and the settling states provides very strong relief and unprecedented enforcement mechanisms. The Revised Proposed Final Judgment goes well beyond the practices at issue in the underlying case and will change in significant ways the manner in which Microsoft does business.

Microsoft has made full compliance with the Revised Proposed Final Judgment a top priority. As mentioned in response to an earlier question, Microsoft has never been found to have violated its previous antitrust decree.

Responses to Questions from Senator Hatch:

Question #1: Both commentators and several witnesses (in their written testimony) defend the Proposed Settlement by arguing that its terms are as good as—or even better than— what would have been obtained through further litigation. Several have also pointed out that it would take at least two more years to get a remedy in place by means of litigation. Could you please explain whether and why you believe that further settlement negotiations or litigation would be in the public interest?

Answer: A settlement of established antitrust violations is desirable only insofar as it remedies past misconduct or promotes future competition. The Proposed Settlement unfortunately does neither. Even as to the desktop PC market it contains numerous loopholes, and critically omits any objective enforcement mechanism to incent compliance. Given Microsoft's proven track record of circumventing the 1995 consent decree, riffs risks gutting even the limited remedies set forth in the Proposed Settlement. The Proposed Settlement also flatly fails to deal with the increasing important arena of new devices (cell phones, PDAs, set-top boxes, and home entertainment centers) into which Microsoft is extending its desktop operating system and applications monopolies through many of the same improper technical and contractual means it used to obtain dominance in the desktop PC arena. Absent stronger and wider protections for consumers, litigation would be the only viable alternative to protect consumer interests.

Question #2: In light of the number of claims from the original complaint that the DC Circuit found to lack merit, is it reasonable to believe that any judgment resulting from further litigation would be significantly better than the Proposed Settlement?

Answer: While the DC Circuit did not affirm every finding of liabilit7 against Microsoft, and the Department of Justice has elected not to pursue certain causes of action that were remanded, the case against Microsoft is still compelling. The DC Circuit affirmed the district court's central finding that Microsoft has a monopoly and has acted improperly to protect that monopoly by undermining competitive threats like Netscape's Navigator web browser and Sun's Java programming language. As I understand it, the Supreme Court and the DC Court of Appeals have both held that a reviewing court has the obligation to ensure a remedy for proven antitrust abuses should end the illegal monopoly, undo the anticompetitive effects, and prevent future practices likely to lead to future monopolization. For the reasons noted, the Proposed Settlement fails well short of these objectives.

Question #3: At the hearing, I emphasized the need for prompt antitrust enforcement in quickly evolving markets. Could you please explain whether and why you believe that the benefits of having an imperfect settlement now are outweighed by those of having a possibly better settlement at some point in the future?

Answer: It is precisely because the Proposed Settlement is a backwards-looking document that fails to deal with current and emerging competitive abuses that we need a more efficient and forward-looking remedy. Failing to address new markets at tiffs point would permit Microsoft to re-enact its repeated monopolistic conduct, extending its improper monopoly

Responses to Questions from Senator DeWine

Question #1: The Proposed Final Judgment aims to make the middleware market more competitive. Do you believe it is effective in doing so?

Answer: For the reasons noted in my written testimony, I am confident that the Proposed Final Judgment will not encourage competition in the market for middleware. The Proposed Final Judgment fails to meaningfully limit Microsoft's ability to use its tremendous market power to retaliate against companies whose conduct threatens that market power. As a result, original equipment manufacturers are highly unlikely to adopt middleware products that compete with Microsoft's products or anticipated product extensions.

Moreover, much of the Proposed Final Judgment focuses on original equipment manufacturers, while the locus of control has largely moved to the operating system and to the networks to which it links (such as MSN). Controlling the operating system and the linked networks gives a company the ability to prompt users to make upgrades and accept default programs and features. The Proposed Final Judgment gives Microsoft all the latitude it needs to prompt consumers at eve:! turn in order to ensure that the easiest path to middleware software is always the Microsoft path.

Similarly, Microsoft is building on its operating system monopoly through initiatives such as Passport and Hailstorm, establishing a dominant share of consumer identity information, which acts to further lock-in consumers to the use of Microsoft middleware across a variety of devices and networks.

Question #2: Do you believe Microsoft will be able to leverage its monopoly in the PC operating system market to capture market share in other operating systems markets such as hand-held devices, navigation devices, and servers? Does the proposed settlement address this issue at all, and do you believe that Appellate Court's ruling would permit a settlement that address these types of concerns?

Answer: Microsoft's ability to improperly extend its monopoly to new areas is a significant cause for concern. Microsoft was convicted of illegally protecting its desktop PC monopoly against threats from Netscape's Navigator browser and Sun's Java programming language, innovative new products that each had the potential to reduce Microsoft's monopoly dominance of the computing environment. Given the increasing importance of the interoperability of different consumer-oriented computing environments (desktop PCs, client-server network operating systems, small devices, and home entertainment systems), control over the broader computing environment is critical to preserve Microsoft's dominance into the future. Many of these devices operate in client-server configurations, in which Microsoft's PC desktop operating system dominance gives it an advantage in the server market, and thus an advantage in writing software for any other devices that need to access those servers.

On the other hand the emergence of non-Microsoft-dominated soft, rare could pose a serious potential threat to Microsoft's ability to dominate this wider computing environment—just as Navigatur and Java did a few rears ago. The combination of network externalities resulting from the creation and protection of Micr0soft's existing operating system and application monopolies—together with the likely repetition of Microsoft's improper technical and contractual misconduct in these new markets—poses a critical problem for competitors and consumers. The Court of Appeals ruling expressly authorizes, and in fact calls for, a remedy that not only redresses past misconduct but also deters practices likely to extend the anticompetitive effects of the improper monopoly into the future. The Proposed Final Judgment fails to do so and sets the stage for a continued stifling of innovation.

Responses to Questions from Senator Kohl

Question #1: Do you believe that this settlement is adequate to restore competition in the computer software industry? Why or why not?

Answer: No. The Proposed Settlement fails to include remedies that will restore any meaningful competition to file markets in which Microsoft improperly established its monopolies, fails to include any objective or efficient sanctions for non-compliance with its terms, and fails to address the emerging consumer markets (such as those for small devices such as PDAs, cell phones, television set-top boxes, and home entertainment centers) in which Microsoft is improperly expanding its monopolies.

Question #2 (a): Are there any restraints on Microsoft's conduct which you think should be in the settlement but are not? Is so, what are they?

Answer: Yes. The remedies proposed by file non-setting states would be far more effective than the Proposed Settlement in redressing prior abuses and restoring competition to the market. As set forth in my original written testimony, my perspective at Liberate gives me special insights into the need for several of these remedies:

Review of Microsoft Investments. Investing the considerable proceeds of its desktop monopoly in new markets, Microsoft has extracted, or attempted to extract, exclusive or near-exclusive commercial distribution arrangements to block out competitors. In the interactive television industry alone, Microsoft has invested billions of dollars with leading cable and satellite networks. The strings attached to these investments often require net-works to buy Microsoft's middleware, making it difficult or impossible for them to buy competitive products.

Prevention of Anticompetitive Conduct in Non-Desktop PC Markets. The Proposed Final Judgment focuses only on Windows products for desktop PCs and includes broad and ambiguous exceptions to its limits on retaliation. These loopholes would apparently let Microsoft get away with the -kind of misconduct it perpetrated against Liberate Technologies when it was known as Network Computer. The result would be to block or delay the development of new competitive devices and technologies. The remedy proposed by the non-settling states would, on the other hand, prevent Microsoft from using this type of retaliation to unfairly extend its desktop monopoly to a wider array of software and devices, while more adequately opening Microsoft's technical standards to prevent it from excluding rival software companies from meaningful competition.

Prevention of Efforts to Block Non-Proprietary Standards. Microsoft has also abused its monopoly position by blocking industry-wide standards essential to the evolution of a new generation of network-based devices. In our industry, Microsoft has undermined the Java programming language as a standard for digital television, lobbying heavily to prevent U.S. and European standards bodies from standardizing on Java. As you know, Java lets developers "write once, run anywhere", permitting content to run across a wide variety of platforms rather than just on Microsoft's proprietary code.

Moreover, by removing the Java Virtual Machine from its PC operating systems while the JI is common elsewhere, Microsoft discourages developers from creating new "write-once, run-anywhere" content, undermines support for uniform standards, and drives developers to write to proprietary Microsoft platforms. Microsoft's foot-dragging and affirmative interference has slowed the deployment of digital television in the United States. Cable companies and television manufacturers both say that such deployment has been slowed by lack of a definitive standard, a standard that Microsoft's tactics have delayed and undermined. Microsoft's approach stands in direct opposition to the clearly expressed will of Congress and the interests of all Americans interested in richer and more varied television programming.

Question #2(b): Beyond restraints on Microsoft's conduct, are there other deficiencies in the proposed consent decree which you believe should be fixed before it is approved? If so, what are they?

Answer: The critical gap in the Proposed Settlement in this regard is the lack of an objective or effective enforcement mechanism. Per the recommendation of the non-settling states, I would recommend that the district court consider using a technically knowledgeable outside advisor to review claims of Microsoft non-compliance with the terms of any consent decree. Moreover, and critically, the sanctions for violation of the terms of the decree must go beyond the mere extension of those terms for a relatively brief additional period.

Question #3: Critics of riffs proposed settlement argue that one significant loophole is that many of the provisions requiring Microsoft to permit computer users and manufacturers to install competing software and remove Microsoft soft-,rare do not apply with respect to software that has distributed less than one million copies. Are you concerned about this limitation? Won't this provision make it difficult for small or start-up software manufacturers that make software that competes with Microsoft's products to gain access to the computer desktop?

Answer: As Bill Gates himself has said, the greatest competitive threat to Microsoft's dominant position comes not from existing competition, but from the kid tinkering in his garage, designing seminal new software that might revolutionize the industry.

Unfortunately, the one-mill/on-copy threshold makes it a terrifically uphill battle for those "kinds of revolutionary ideas to get traction and take hold. Without access to critical information about Microsoft's product». it will be extremely difficult for any" new competitor to make its product operate successfully in a Microsoft-dominated computing environment. As a result, venture capitalists will be loath to support any small company that seeks to compete with Microsoft—no matter how attractive its innovation.

By way of example, Liberate Technologies was itself until recently a fledgling start-up. It took us five years and a difficult decision to exit a]me of business (network computing) dominated by Microsoft before we were able to reach the benchmark of distributing one million copies of our software. In today's environment, with Microsoft's additional market power, we simply would not have been able to reach that point.

In sum, the million-copy threshold, coupled with the failure to effectively redress Microsoft's existing market dominance, will certainly stifle promising next-generation innovations.

Competitive Technology
January 14, 2002
The Honorable Patrick Leahy
Chairman
United States Senate
Dirksen Senate Office Building, Room 224
Washington, DC 20510
VIA FACSIMILE AND ELECTRONIC MAIL

Dear Chairman Leahy:

I want to thank you again for the" opportunity to appear at last month" s hearing to testify on how the Revised Proposed Final Judgment (RPFJ) in United States v Microsoft, will affect consumers and the information technology (IT) industry. I]lave received the written questions from members of the Committee and I'm pleased to provide responses that will not only complete the record but also provide the perspective of the small high technology companies that represent the majority of the industry.

Responses to Questions from Senator Hatch

1. There is no doubt that bringing this protracted litigation to a close is in the best interests of the IT industry and consumers. Settling the case removes a cloud of uncertainty and allows companies large and small to focus on innovating to meet consumer demand. Further litigation is not likely to produce any remedial actions that—a) are not already covered by the RPFJ and responsive to the Court of Appeal's ruling, or b) would be in the interests of the industry, save a few Microsoft rivals. As demonstrated by the very nature of the proposed "remedies" that will be part of ongoing litigation, it is clear that the RPFJ presents an appropriate and balanced resolution of this case. I agree with Assistant Attorney General Charles James when he noted at a November 2, 2001 press conference, "It]he settlement is consistent with the relief we believe we might have obtained in litigation. This settlement, however, has the advantages of immediacy and certainty." I

2. It is very unlikely that a judgment borne of continued litigation will be marginally, let alone !'significantly" better than the RPFJ". As you point out in your question, the Court of Appeals has dramatically reduced the finding of liability against Microsoft. The conduct restrictions, coupled with the additional enforcement measures such as the creation of a Technical Committee, more than adequately address the anticompetitive behavior identified by the Court of Helping Washington Get IT. 1413 K Street. N W "12th Floor Washington. DC Tel: 202–33]-2130 Fax: 202–331–2') 39 (r) email: info@ACTaonline.ora www. ACTonline.org

Appeals. I include the following table to show precisely where the RPFJ addresses each finding:

Findings of Antlcompctitivc Conduct by the Court of Appeals Settlement Section
Limiting promotion of browsers or restricting OEMs from modifying the initial III.C, boot sequence III.G. 1, III. H
Prohibiting deletion of the Internet Explorer icon 11II-t.1–3
Commingling Internet Explorer & Windows code without providing a simple III. H. 1–3 mechanism for OEMs and users to remove access to Internet Explorer
Restrictions on the promotion and distribution of competing web browsers by III.A.1, Internet Access Providers III.C.l-2
First-wave requirements for software vendors to use Microsoft's Java Virtual III.F.2
Machine First-wave requirements for software vendors to use Internet Explorer III.G.1
Leveraging MS Office to induce Apple to feature Internet Explorer III.G.2
Misleading Java Developers III.D
Pressuring Intel to end their Java Virtual Machine development III.F. 1

3. On balance, this settlement is good for our industry. We agree with the Senator that the RPFJ is not perfect. In fact, as pointed out in my written testimony, ACT believes that the provisions mandating disclosure of server protocols and the creation of the Technical Committee are beyond the finding of liability and may set an inappropriate precedent for future antirust cases in the information technology industry. That said, it is important to point out that this case is nearly four years old and has shrouded the entire IT industry in a haze of uncertainty. At present, the technology industry—which has been the engine for much of the recent economic growth—cannot realize its full potential in the uncertain environment this case engenders. Those who seek to prolong this case for their own benefit are, at a minimum, guilty of making the perfect the enemy of the good.

Responses to Questions from Senator DeWine

1. One important lesson to be learned from this case is that antitrust principles apply to the IT industry. The RPFJ is proof that antirust principles, when applied properly, can work to restore competition within the IT industry. For example, the settlement will stimulate competition by giving greater flexibility to computer manufacturers and users to choose among different middleware and operating systems.

With respect to what to say to Netscape, I would hardly consider them "defeated." After building a 85% market share, the company was acquired by America Online for $10 billion dollars and continues to be a viable browser with millions of loyal users. More importantly, Netscape should be congratulated for winning one its biggest arguments—the browser as a platform threat. It is clear that the browser has emerged as a platform competing against operating systems for application hosting. The popularity of browsers (including Navigator) and browser-based applications evidences this fact. Therefore, we should tip our hat to the Netscape

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Robert G. Ristroph
11612 Hidden Quail
Austin, TX 78758
December 23, 2001
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Ms. Hesse,

I am writing with regard to the Justice Department's proposed settlement with Microsoft. I believe that this settlement should be scrapped and completely rewritten. Most of the "restrictions" placed on Microsoft are already illegal; what few restrictions are left are impossible to enforce and seem designed to produce more legal disputes rather than resolve them; and the proposed en- forcement mechanism is a ludicrous embarrassment. In addition to scrapping this proposed settlement, any payment or further employment of the authors should be re-evaluated in light of this idiocy.

I have read the original complaint of United States and the several States at http://www.usdoj.gov/atr/cases/f 1700/1763.htm, the proposed settlement at http://www.usdoj.gov/atr/cases/f9400/9495.htm, the Competitive Im- pact Statement at http://www.usdoj.gov/atr/cases/f9400/9495.htm, as well as numerous other sources including the findings of fact and other documents. My own injury by Microsoft's illegal actions comes from Microsoft's agreements with OEM's which forced my employer to pay for Windows when buying a new computer from Dell, which we had no plans to use Windows, intending it for Linux. This was supposedly addressed in a prior case to the present one, and yet to this day the same hardware without a Microsoft license has the same cost.

I wish to examine the elements of the proposed agreement item by item, and then propose an outline of an alternative settlement.

A. That Microsoft will not retaliate against OEMs for distributing non-Microsoft software. This is already prohibited by law, given Microsoft's monopoly. The proposed settlement can not consist of Microsoft agreeing to follow the law in the future; like other companies in the United States, it has to follow the law regardless of this settlement.

B. That Microsoft make public it's licensing agreements and offer the same terms to everyone. This is the only part of the proposed settlement makes sense, however, OEMs have shown in the past they were willing to collaborate in Microsoft's illegal activities. Should Microsoft offer an OEM a secrete payback or special deal, the cooperation of the OEM will make this section difficult to enforce.

C. That Microsoft cannot restrict certain OEM software through agreements. This is already illegal, like A.

D. Some meaningless nonsense not worthy of comment or the paper it is printed Oil.

E. That communications protocols in Microsoft software be publicly available. In light of Microsoft's previous behavior in exploiting secrete calls in it's soft- ware, all of it's source code should be available for public examination. The suggestion that only "communicationg protocols" be public is problematic be- cause it leaves open to dispute what consists of a communications protocol. This is foolish given Microsoft's previous self-serving interpretations of court orders.

F. That Microsoft will not retaliate against software vendors for competing against them. This is already against the law given that Microsoft is a monopoly.

G. That fixed percentage distribution agreements be banned. This is already against the law. The exceptions listed in this paragraph are also against the law, creating the suggestion that the United States will enter into an agreement with Microsoft to allow it to break the law in some cases.

H. That OEMs and users are allowed to configure the Microsoft software they buy. This is vague and confusing because it is difficult to precisely describe what consists of configuring software, and thus impossible to reliably enforce. In a competitive market it would be the natural case, and the proposed settlement should focus on restoring competition.

I. That Microsoft offer licenses to "intellectual property" necessary to allow others to exercise "alternatives provided under this final judgment." The reference to alternatives provided to others contradicts the final section of the proposed settlement, which explicitly denies that the final settlement gives any rights to third parties. Even aside from that, this section probably denies behavior al- ready illegal, is riddled with exceptions, vague, and seems designed to produce legal action rather than remedy.

J. A section devoted wholly to exceptions for Microsoft, as if there where not enough already.

The Enforcement Authority

A. Access to source code is probably one of the best remedies. The exceptions and limitation of this access to a committee are silly.

B. The Technical Committee. It has too few members, it should be composed of Officers of a United States Federal Court in order to make it's requests immediately enforceable through Contempt hearings, and the gag on public statements renders the whole committee useless. The further restriction that the testimony of this muzzled and hobbled committee not be admissible in court is a bit like shooting the deer after it's tied down with it's throat cut.

C. The Microsoft Compliance Officer. This section is nonsense. Other compa- nies manage to obey the law without the use of a special office. If Microsoft needs one they can implement it without a judgment.

D. Voluntary Dispute Resolution. This section seems dedicated to stipulating that various parties send each other letters before seeking court hearings, a common practice. 4(d) guts all enforcement power from the proposed judgment, and suggests that the Attorneys for the Justice Department don't believe in their own system of courts.

Third Party Rights

This section is in contradiction with other references to the submission of complaints to the Technical Committee and the requirement that Microsoft offer "intellectual property" licenses to the third parties so that they can pursue the alternatives guaranteed them in this proposed final judgment.

In summary, this proposed final judgment is a poor sham for a capitulation by the Plaintiffs. It's not even a good surrender, because it's vagueness and self-contradictions guarantee more legal action; if we must capitulate, at least we should save on legal costs. It also completely fails to disguise the capitulation in any way. This is why whoever wrote it should be fired, even if the Justice Department unwisely chooses to fail to enforce the law as applies to Microsoft. A real final judgment, which might have the chance of remedying the situation, would have to be in some way "self enforcing." By "self enforcing" I mean that the remedy by it's nature should preclude further legal wrangling and evasion efforts by Microsoft. Stipulations on Microsoft's future behavior inherently have to be enforced, and thus are not well suited to this case. Furthermore, when the proposed judgment stipulates that behavior already illegal be banned and then suggests exceptions, the Plaintiffs are acquiescing in further law breaking by Microsoft.

An example of a "self enforcing" remedy would be denying Microsoft copyright protection. No Technical Committee is required; all that is needed is to reject out of hand cases of copyright enforcement that Microsoft brings. Thus, revoking copyright privileges for some portion of the works that Microsoft used to violate the law might be an appropriate remedy. Or perhaps Microsoft could post substantial bonds against it's future behavior.

Many of the major flaws in this proposed final settlement result from the needless use of vague and disputable terms, when simple and undisputable ones would do.

Replace all references to "Microsoft Middleware" "Windows Operating System Product" and such with the simple phrases "products of Microsoft" and "prod- ucts of third parties." Avoid even the use the term "software products," as Microsoft would produce hardware required to run their products and then vio- late the agreement. Be sure the phrase "products" is defined to mean anything Microsoft does, including services.

Replace all references to "ISVs, IHVs, ICDs, OEMs" and such with the phrase "any third party." Quibbling over which member of the alphabet soup a partic- ular entity fell under is thus eliminated. The final judgment should require no differentiation between the various consumers and companies interacting with Microsoft. This also remedies the fault that the current proposed judgment allows Microsoft to exempt any third party from the benefits of what legal behavior is required by claiming they do not have a viable business plan. I hope you find these suggestions helpful in writing a real judgment.

Sincerely,

Robert G. Ristroph

RENATA B. HESSE
ANTITRUST DIVISION
U.S. DEPARTMENT OF JUSTICE
6ol D STREET NW
SUITE 1200
WASHINGTON, DC 20530–001
I0 DECEMBER, 2001

Dear Renata B. Hesse,

I am a concerned citizen, unwilling Microsoft customer forced to use their unpleasant products because of their unassailable monopoly, and a long time member of the computer industry.

I am writing to you to protest the terms of the Proposed Final Judgement, in specific the failure of this Judgement to address the pivotal role that the open software movement has played in the genesis of the Internet age, and its legitimate ongoing contributions which are ignored by the Judgement s terms and will be harmed by the Judgement s execution.

To enumerate but three of thousands of valuable not for profit software development efforts which remain critical to the ongoing viability of the net and which will be harmed by the Proposed Final Judgement because they are beneficiaries of neither Section III(J)(2) under (c) as meet[ing] rea- sonable, objective standards established by Microsoft for certifying the authenticity and viability of its business .... nor under Section III(D) as the footnotes hold this section in force only to commercial concerns:

Apache is the Internet server that made the net possible. It is the most viable competitor to IIS, Microsoft s server architecture. Without Apache the net would grind to a halt. There is no commercial contender to IIS, the entire competitive landscape is between IIS and Apache and a few other open source servers. Since IIS is stunningly, almost fraudulently insecure, the Proposed Final Judgement weakens the Nation should it not aggressively protect the better engineered open source efforts from Microsoft s predatory tactics.

BSD, especially in its most popular flavor freeBSD, and its younger but bigger brother Linux present a real and viable challenge to Microsoft in the server market, are gaining in the workstation market, and would, if they could be made compatible with Microsoft s industry crushing Office, be a viable contender on the desktop. These efforts are undertaken in that most American of spirits: for the good of all. They provide real alternatives to Microsoft; significant and meaningful improvements in performance and security to users who appreciate these things when compared to Microsoft's invariably flawed products, and competition which is perhaps Microsoft s only remaining motive for fixing its failures. While major security holes are exposed in IIS every month or so, despite Microsoft s efforts to sweep them under the rug, no security hole has been discovered in NetBSD in more than four years. These superior products are run without marketing and lobbying budgets and will be crushed by Microsoft which will endeavor to make them as incompatible as possible with their desk-top monopoly (if their efforts to make them outright illegal fail).

This message will reach you through one or many servers running Sendmail. A near perfect application which relies on free and open standards established for the routing of electronic mail.

Since Microsoft will be under no obligation to share standards with the not-for-profit organization that maintains Sendmail, it is quite certain that Microsoft will do whatever they can to force all Sendmail administrators to switch to an expensive, fault ridden Microsoft product, leveraging their monopoly on the desktop to do so unless the DOJ alters the Proposed Final Judgement to protect open source at least as effectively as it protects whatever pathetic vestiges of the commercial market still stand to chal- lenge Microsoft s otherwise unassailable monopoly.

. The Proposed Final Settlement fails utterly to address the critical role of the open source movement and is therefore utterly unacceptable to me as a harmed party.

Sincerely,
David Gessel
BLACK Rose TECHNOLOGY
5233 FOOTHILL BLVD.
OAKLAND, CA 946oi
5Io 290 3849 (CELL)
5Io 536 toO5 (FAX)
WWW.BLACKROSETECH.COM

Nurth Darnlina Beneral Assemhlu Senate
Dhaber SENATOR SCOTT E. THOMAS
3rD DISTRICT
Raleigh: 622 LEGISLATIVE OFFICE
BUILDING Raleigh, NC 27601–2808
(919) 733–6275 (919) 838–0208 Fax E-MAIL: SCOTTT@NCLEG.NET
DIStriCT: PO BOX 12530 NEW BERN, NC
2856 l (252) 633–6888 (252) 637–2450
Fax
COMMITTEES:
JUDICIARY II (Vice CHAIR)
APPROPRIATIONS
JUSTICE & PUBLIC SAFETY
SUBCOMMITTEE
AGRICULTURE/ENVIRONMENT/NATURAL
RESOURCES
EDUCATION/HIGHER EDUCATION
INSURANCE & CONSUMER PROTECTION
REDISTRICTING
RURAL DEVELOPMENT
TRANSPORTATION

January 9, 2002
Ms. Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001
Via facsimile: (202) 307–1454
Re: Support for Microsoft Settlement

Dear Ms. Hesse:

I am writing to express my support for the settlement that the Department of Justice and several states, including North Carolina, have reached with Microsoft.

I will be pleased to see this matter resolved because it will be a boost for the technology sector, a larger force in the North Carolina economy. I believe that the certainty of the settlement will promote new investment in technology and will enhance competition in all aspects of the technology industry which will benefit consumers.

With this litigation settled, the technology industry can continue its recovery and growth. The settlement represents a reasonable compromise that has earned bipartisan support. I urge the Department of Justice and the court to approve this settlement.

Sincerely,
· Senator Scott Thomas
ST/cbj

MTC-00033794

State Headquarters
211 East 7th Street, Suite 620
Austin, TX 78701
Phone: (812) 477–9821
Fax: (S12) 480–0709
www.texasgop.org
Susan Weddington, Chairman

January 7, 2002
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001
Re: Comments on the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

It goes without saying that the settlement agreement between the U.S. Government and Microsoft comes at a critical time when our economy and nation most need reconciliation.

The proposed settlement requires significant changes in the way Microsoft develops, licenses and markets its software. This settlement is fair. It prevents Microsoft from abusing the strength that it derives from its operating system, but also allows the company to continue innovating in all areas of software development. Microsoft in Texas is a major employer and contributor to our economy. In addition, Microsoft and its employees in Texas donate millions of dollars annually to a large variety of charitable causes.

I congratulate, you on developing a strong but fair settlement.

Sincerely,
Susan Weddington Chairman

MTC-00033795

From: Tom Wright [TWright@Forte-industries.com]
Sent: Monday, November 05, 2001 1:08 PM
To: ASKDOJ
Subject: usdoj comments

For the first time in my life I am compelled to contact an office of my Federal government.

I am appalled at the "settlement" your department has reached with Microsoft. It disgusts me to see that a corporation that abuses its monopoly power and lies in federal court about its actions can receive virtually no penalty for that behavior. Your office is supposed to protect people like me from the likes of Microsoft. I voted for G.W. Bush but would not have done so were I aware that this obvious sellout would be the outcome. I'm sure that the decision to "settle" in this manner was cloaked in the guise of stimulating our weakening economy. What in effect you have done is to enhance the ability of that bully corporation (Microsoft) to further stifle ingenuity and creativity at the expense of the consumer and the taxpayer. This "settlement" will serve to only embolden Microsoft in the ruthless use of its power to crush their rivals.

Today I am ashamed of my government.

Thomas P. Wright
Sr. Software Engineer
Forte Industries
6037 Commerce Ct.
Mason, OH 45040
(513) 398–2800x206 (Voice)
(513) 398–2837 (FAX)
This email has been scanned by MailMax.
http://www.maximizeit.net

MTC-00033796

Yanta, Judy
From: finnabennacht@yahoo.com
Sent: Tuesday, November 06, 2001 5:38 PM
To: ASKDOJ
Subject: microsoft Dear Sir or Madam,

I would like to say that I think Microsoft might be let off too easy. They have an illegal monopoly on operating systems in the US and abroad. They should have to open up the OS market to competition.

Thank you for your time.
Mr. Michael Brennan
II0 Beresini Lane
Hollister, CA 95023
mbrennan@musician.net
Do You Yahoo!?
Find a job, post your resume.
http://careers.yahoo.com

MTC-00033797

Yanta, Judy
From: Janet Unger [jmunger@animail.net]
Sent: Tuesday, November 06, 2001 9:36 AM
To: ASKDOJ
Subject: Microsoft settlement

Your settlement is pathetic. I can't believe all that money and time was wasted, only to give MS barely a slap on the wrist. Once again, the consumer loses to a company who can cause the government to completely cave. For shame.

Janet Unger
21 Forestdale Road
Kinnelon, NJ 07405
Janet Unger

MTC-00033798

Yanta, Judy
From: David Piper [dpiper@cleanweb.net]
Sent: Wednesday, November 21, 2001 9:40 AM
To: ASKDOJ
Subject: Microsoft settlement

Dear Attorney General:

Microsoft settlement of 1 billion to the 12,500 poorest schools is forcing schools to use just Microsoft programs and giving children no alternative to Microsoft. This is what a monopoly does and is. This is at the expense of the children. As an example: the Mahoning County Library system in Ohio uses only Microsoft after libraries got money form Microsoft: even though Boardman schools use WordPerfect the library refused to install WordPerfect on the library computers in the school district.

This makes companies change to Microsoft software or spend more money on training. Add to this that as a programmer you have to follow Microsoft's programing or you face the program of not being ungradable to the next OS. Of course Microsoft can make changes then incorporate the changes into the next OS.

And finely Microsoft's OS from version 3.0 to ME were at best not stable at worse designed to make people upgrade to the next OS. In any case you had to paid to fix the problems of the OS your using just to get a different set of problems in the next OS. Windows 95 should have been NT 3.5 made for a home user and run Windows 3.1 software. Just like XP is a home version of Windows 2000. IBM had OS/2 version 2 running Windows 3.1 software if you had 3.1 installed on the computer. This allowed Microsoft to pick the pocket of the consumer for new OSs and stop any innovation from other programers. The solution is that any owner of Windows 95 should get XP FREE. Also any money Microsoft gives for ether settlement or gift should not be tied to using Microsoft products.

David Piper
7550 Sugartree Dr.
Youngstown, Ohio 445125430
330 758 5182
fax/voice 330 629 6080
dpiper@cleanweb.net

MTC-00033799

Technology Research
Fax to Attorney Generals
Justice vs. No Justice 21660
1/16/02

In certain states and cities, you can BUY outcomes in the legal system. If there is any elected official who stands for what is right, it is Attorney General. Not District Attorneys. Not the Attorney General of the U.S. State Attorney Generals. So far you have not "stepped up to the plate."

The dot.com bubble/bust primarily was a telecommunications phenomenon. The huge regional bell operating companies were faced with new upstart competitors. They both bought communications equipment like there was no tomorrow. That's why companies like Nortel, Cisco, Lucent, and Corning (fiber optics & communications gear) went through the roof. Then the bust occurred. Nortel had 95,000 employees. Now it has 47,000.

Neither of above phenomenon has anything to do with Microsof with the exception that Microsoft had no breakthroughs like Visicaic nor Windows (Xerox/Apple origin). If anything, Microsoft has slowed PC growth. Why? Because it has made small incremental changes to its Windows operating system. No major breakthroughs. That is why U.S. corporations, for the most part have no real interest in XP. What they have now works well. Why pay for both hardware and software upgrades when what you have now works very well. If you go wimp on Microsoft, the economy will NOT get a boost. Microsoft is a monopoly. In fact, it is very mean-spirited and anticompetitive as well. Step up to the plate. Do your job. Didn't you have a teacher who taught you the difference betwen RIGHT and WRONG. Do what is right.

If you "cave in," as some of you seem prone to do, I reserve right to write the most important people in your home tonw and tell them you are-a little wimp. That you had responsibility on your shoulders and you shirked it. That you are all-time weanie. The country is strong today because people did what is right and worked hard. Please do what is right. Life is short. This may be one of the most important decision in your life. Don't fuck it up. Be a man/woman. Don't be a friggin copout.

—John Staple, Staple Technology Research,
713 288–8800 staples@mindspring.com

Yogi Berra: "It ain't over til it's over." This bullshit is FAR FROM OVER. John Staples.

MTC-00033800

Yanta, Judy
From: Eric [efairhurst@home.com]
Sent: Tuesday, November 06, 2001 12:35 PM
To: ASKDOJ
Subject: Microsoft settlement

Mr. John Ashcroft,

It is with much embarrassment that our DOJ basically caved in with regards to making a settlement with Microsoft. I have read the settlement agreement and I can't believe how many loopholes there are for Microsoft. It appears that because of the recent terrorist attacks, the DOJ is letting Microsoft go. So, Microsoft crushed Netscape, continues to use their Monopolistic practices, is planning on continuing to use their monopolistic powers to gain control of the Internet, and the DOJ is just slapping their wrists with NO penalty at all. I am outraged as a US citizen as well as a consumer. This settlement in no way protects me from Microsoft. Maybe Microsoft did the right thing and started contributing money to the political parties, perhaps this is what this was all about to begin with. Who knows. What I do know, is that it appears that there is no one with any technical expertise that was involved with this agreement. Shame on you and the DOJ. You have just proved that if you have enough money and are powerful enough that you too can break any and all laws and not be brought to justice.

Eric R. Fairhurst
11181 Harrington Lane
Fishers, IN 46038

MTC-00033801

Stoney, Ericka
From: Robin Harris
[RHarris@YottaYotta.com]
Sent: Monday, November 05, 2001 10:08 PM
To: ASKDOJ
Subject: Microsoft Settlement

Dear Attorney General Ashcroft,

I was angered by your capitulation to Microsoft in the recent settlement talks. The Sherman Antitrust Act is over 100 years old and is a matter of settled public policy. Yet you treat egregious and repeated violations of it and the resulting harm to our economy and our global leadership of the information technology industry as worthy of only a slap on the wrist. The IT company I am an officer of does not compete with Microsoft and I use many of their products. But predatory behavior by monopolists is bad for everyone, a common sense judgement reached over a century ago, but a judgement you evidently don't the have the wit to endorse.

You've given every corporate violator of our nation's laws new reason to resist negotiation and cooperation. America will be paying for your lack of backbone for decades to come. I hope the campaign contributions your party expects from Microsoft are seen for what they are: a payoff for craven dereliction of duty. I hope the State's Attorneys General see fit to the do the duty you've shirked.

Sincerely,
Robin Harris
10210 NE Points Dr
Suite 300
Kirkland, WA 98033

MTC-00033802

Yanta, Judy
From: KDKBUGG@aol.com
Sent: Wednesday, January 02, 2002 9:29 AM
To: ASKDOJ
Subject: USDOJ Comments "Microsoft case"

Dear Attorney General & Ms. Kollar-Kotelly:

Concerning this Microsoft case: As a consumer and user of Microsoft products, I am totally disgraced by our system of Justice not standing up to this Monopoly.

They have put out falty products, that have costed hundreds of Trillions of dollars to consumers and businesses. Not to mention lost time.

How is it that Microsoft be treated any differently that another business? Are they above the laws of the United States?

I have as a consumer asked Microsoft to correct the falty products and replace or compensate all. They have ignored me. Why? Because they feel they are above the laws, and have to answer to no one.

I feel that they need to be ordered to recall all their falty products and make restitution to all. They knew that they were selling incomplete or poor products, but they still sold them? They made their Windows 95,98,ME operating systems so a consumer has to upgrade pay them more money just to use it. I work for a small computer business and our tech spends some days 2–3 hours a day ,at Microsoft support site trying to fix their problems? At whos expense? The business owners. If they were anyother business they would have been forced to recall. Sounds like they have committed consumer Fraud to me, at the expense of millions of consumers?

Please see that Justice prevails.

Thank you.
Kevin f. Bugnacki
18 Walnut Street
Baldwinsville,NY 13027–1116

MTC-00033803

Yanta, Judy
From: Gerry Evans [cujoacat@flaglink.com]
Sent: Tuesday, November 20, 2001 11:51 AM
To: ASKDOJ
Subject: USDOJ Comments

HON. JOHN ASHCROFT:

I realize the chances of AG Ashcroft actually reading this are probably slim and none. However, as the old movie adage goes—I'm mad as hell, and I won't take it anymore.

I am sick and tired of self-serving, avaricious lawyers extending the outlandish persecution of Microsoft beyond human understanding. This is in specific reference to an article in the 11–20–01 WSJ siting California attorneys opposed to a "reasonable" settlement from Microsoft because they feel—California consumers will be unfairly treated. I say—BS!

The only people hurt by the senseless and continued drubbing of Microsoft are Microsoft owners/employees, Microsoft shareholders, AND the consuming public as a whole. For God's sake, if it ain't broke, why fix it? I am very satisfied with the absolutely and positively FREE web browser and other services given to me by MS. The idea of continuing the litigation ad infinitum is ridiculous and sympathetic to the same type of "consumer screw" that resulted from the dismemberment of AT&T and produced higher prices for local service, lower levels of consumer satisfaction for the same local service, and pockets full of cash for specialty carriers who were allowed to "cherry pick" from the tree nurtured by AT&T into the best phone system in the world.

I say, "To hell with California and its cadre of blood-sucking lawyers." And, while I am not privy to such information, I would wager MS is somewhere behind the scene in provisioning the U.S. with its current software capabilities in carrying on our war on terrorism. Ayn Rand is surely turning over in her grave. MS offers an arm and a leg, and the Californicator lawyers want to snatch its head also. Enough is enough; shut down the damn litigators nationwide in their quest to undermine a national resource. The consumers deserve it.

Gerry B. Evans
3350 S. Justin
Flagstaff, AZ 86001

MTC–00033804

Stoney, Ericka
From:
Sent:
To:
Subject:
Pamela M. [onehouyhnhnm@yahoo.com]
Friday, December 07, 2001 11:56 AM
ASKDOJ
USDOJ Comments

Dear Mr. Ashcroft,

I understand through Reuters that the Microsoft monopoly case is coming to a conclusion. A $1 billion dollar fine is being imposed—one billion dollars to schools.

On the face of it, this sounds wonderful. I am a teacher. However, this may destroy a rival, and frankly BETTER, but smaller company—APPLE. Apple has a far more stable operating system since the inception of Macintosh. Apple has been the choice for years for graphic designers. The one market share Apple has because they worked very hard to get it is the schools. They got it because Apple sustained the graphics necessary to keep the attention of children. Historically, Microsoft stole the Windows operating system concept from Apple to begin with. Throughout the years Microsoft has yet to perfect Windows, the Microsoft version of the Apple operating system, to the point where it doesn't "crash".

Apple has always had a more stable design for its operating system. For this reason, schools like it far better—there is less time spent on fixing a computer and more time teaching (teacher has to fix, either during class or after school; ergo important lesson time is lost).

While Apple is filing a brief for consideration by the judge overseeing the case, you have direct access to the prosecutor who will recommend a course of action. Schools need the continuing use of the Apple Macintosh computers. The ruling to infuse schools with $1 billion of Microsoft hardware/software will destroy Apple; Apple will lose its primary market. Schools will lose the operating system that takes less teacher intervention to fix. The computers, then, will not be used, nullifying the whole point. Teachers simply cannot and will not stop every lesson 14 times to fix the "crashes" of an unreliable operating system. Please, discuss the impact of this ruling on the social good of American school children. Frankly, I think it would be better to either allocate the billion to getting the elderly of our society online or building schools for the children of Afghanistan.

Sincerely,
Pamela A. Mahony
1231 N. Columbus Ave. #1A
Glendale, CA 91202
(818) 500–1588

MTC–00033805

Yanta, Judy
From: Christine Keller [fayekeller@att.net]
Sent: Thursday, January 03, 2002 7:56 AM
To: ASKDOJ
Subject: DOJ vs Microsoft
Christine Keller
9181 Market Ave
Hartville, OH 44632–8715
January 3, 2002
Attorney General John Ashcroft
950 Pennsylvania Ave NW
Washington, DC 20530

Attorney General Ashcroft:

A settlement in which Microsoft has to pay the bill is not in the "public interest". Paying the legal staffs of the federal and state DOJs, Microsoft, possibly of the AOL conglomerate, and all the class action seeking lawyers is not in the "public interest". Any such result will mean an increase in Microsoft prices and the entire industry will increase their prices to keep up. We do not need another IBM or AT&T settlement that only "busts" a good company, redistributes business and forces consumers to pay higher prices for the resulting fiasco.

Very, very and angrily Sincerely,
Christine F. Keller

MTC–00033806

Yanta, Judy
From: E McCann
[wurgermeister@yahoo.com]
Sent: Monday, December 17, 2001 11:30 PM
To: ASKDOJ
Subject: USDOJ Comments

This is regarding the proposed "settlement" given in the Microsoft anti-trust case.

Where, in this settlement, is Microsoft being punished? Where is there actual oversight? Where are the guarantees that they won't be able to continue their practice of running roughshod over the marketplace? It's as if GM managed to strongarm fuel stations, tire manufacturers, etc. into making their products "more compatible" with GM at the expense of Ford, Mercedes, and the like, with their only "weak" market with real competition being in interstate semi trucks. In this hypothetical situation, they're brought to court, found guilty, and as "punishment" not only are allowed to define what a "vehicle" is for purposes of describing what's affected by the settlement, but also need to provide the 50 poorest trucking companies with GM trucks!

This is punishment? This rectifies the situation? This is a remedy? What I would like to see, instead, would be:

1. Don't allow Microsoft to "have to" spend money to supply schools with computers (which will end up being based on Microsoft software, and eventually make more money for them through their planned ".net" service and software "subscriptions.") While attempting to help schools is admirable—it has nothing to do in this form with rectifying the situation. Why give them—not just a toehold, but a whole beachhead—in a market they do not dominate already? If they MUST spend money on schools, have them submit the sum to the court to distribute and let the schools spend them on the systems that best suit their needs—with no Microsoft involvement other than sending the money to the court.

2. Create a court-appointed body that will oversee Microsoft's coding, marketing, and business practices. Microsoft should have a *minority* presence, not ⅓ with an option to appoint another ⅓ of the committee. They would have to justify changes in standards (such as the Microsoft Word .doc format, which changes with *every* release) to this committee, who would have the power to deny the ability to make these changes.

3. Have them release the FULL source for their products. Microsoft does NOT like open source—because it removes control from them. However, it has been proven with Linux and other open source projects to be an effective way to create an efficient product, and patch problems with that product in a much more timely manner than Microsoft is now able to do. It also allows competing software manufacturers (such as WordPerfect/Corel, IBM, etc.) to be sure they are seeing the complete OS, and eliminates any suspicion of "favored" companies or Microsoft divisions having an advantage with "secret," undocumented, or "hidden" APIs and calls.

4. Have an independant body create the definitions for "operating system," and other terms, that don't have loopholes in them that Microsoft can use to get around any legal restraints.

5. Investigate Microsoft's licenses—more important now than ever, with their "subscriptions" and forced upgrades.

6. Have an independant body oversee Microsoft's upgrades and procing.

7. Have Microsoft break Internet Explorer (and future products,) Outlook

Express, MSN Messenger, etc. from the operating system. Not only does this restore some slight competitive nature to the market, but will have a side effect of helping MS's operating systems run better. Remove the proprietary "help" system that forces you to install Internet Explorer as well. Regular HTML works perfectly well, and is an open standard.

8. Place the W3C in charge of standards, such as HTML, Java, and the like. They do this already, but give them the ability to reject "extended" standards (and give them some teeth while they're doing it) such as Microsoft's ActiveX and other HTML "additions" (or ventures like J++, C%, etc. that work only on Windows.)

These are just some suggestions... Microsoft *has* stifled innovation, not created it. And they're still working on ways (with strategies such as .net, and software "subscriptions") to lock people and businesses into Microsoft-only or Microsoft-dependant models.

Eric McCann
907 Dean #104
Coquille, OR 97423

MTC-00033807

Yanta, Judy
From: Chris Hamady [chrismh@wcnet.org]
Sent: Saturday, December 22, 2001 4:57 PM
To: ASKDOJ
Subject: Microsoft has once again hurt consumers and the U.S. Government
ATTACHMENT.TXT

USDOJ,

I feel compelled to write to you to voice a complaint against a company that continues to treat consumers and the state and national governments with arrogance and disdain. Recently, it became public knowledge of a security hole in WindowsXP that can allow a hacker complete and total control over a Windows XP based computer once it is connected to the internet. This in and of itself is statement enough against Microsoft, yet to my shock, it is being reported that Microsoft was informed of the security hole a full 5 weeks before ever notifying the consumers, business community, and the government of the United States, all who were at risk while Microsoft reaped profits acquired through the withholding of this information from the public. To make matters worse, they advertised that Windows XP is a "new standard in security" for computer operating systems. I am not a lawyer, but to me this seems to be some sort of product fraud leveled against consumers. Please look into this on behalf of me and all consumers who want a fair and balanced technology marketplace, and reconsider the current settlement with a company, that I feel, will never stop treating consumers, competitors, and the government with total arrogance, illegality, and disregard.

Thank you.

Respectfully,
Christopher M. Hamady
8941 Sylvania Ave.
Sylvania, OH
43560
Christopher M. Hamady
chrismh@wcnet.org
(419) 843-8890

MY WWW HOMEPAGE IS AVAILABLE AT:
http://mustec.bgsu.edu/≃chrismh

MTC-00033808

Yanta, Judy
From: Colin Valentine [cvalentine@chartertn.net]
Sent: Tuesday, December 25, 2001 9:10 PM
To: ASKDOJ
Subject: USDOJ Comments

This is an example of what Microsoft is doing! settled!

The DOJ should not have

To: <ms255@microsoft.com> (Microsoft Corporation)
Cc: <cvalentine@chartertn.net>
Sent: Monday, December 24, 2001 3:48 PM
Subject: Outlook Express

Two days ago I scanned a printed page using a Visioneer scanner, and sent the file as an attachment to my own e-mail address. The letter displayed with the following message: "OE removed access to the following unsafe attachments in your mailbox: december MAX"

I have been satisfactorily using the Visioneer scanner and sending the resulting files as attachments using Outlook Express since July of 2001. The message described above displays in a narrow bar across the top portion of the e-mail page. The operating system is Windows 98, in a Compaq Presario. There were no software changes in the same time frame. I have been using a very widely used firewall for about the last year. Can you remove this undesired and unauthorized interference by your Outlook Express application?

Thank you,
Colin Valentine
cvalentine@chartertn.net
(865) 681-7694
1715 Linda Lane
Maryville, TN 37803

MTC-00033809

Yanta, Judy
From: Julian Huff [JHuff@SSG.PETsMART.com]
Sent: Friday, November 23, 2001 11:12 AM
To: ASKDOJ
Subject: USDOJ Comments(Pls forward to the Attorney General)

Sir,

I find it necessary to comment on the proposed settlement between the U.S. Go This trial has proceeded under keen professionals like myself. it is ridiculous that a company which has been found guilty of of non-competitive actions, including giving its products away in order to force other companies out of business, should be allowed a settlement in which it gives away well over a billion dollars worth of its product and services, especially in an area in which it does not already enjoy a majority of market share.

How is this going to lead to competition in the marketplace? The educational market is one of the FEW areas that Microsoft does not currently dominate. How will this affect companies like Apple Computer, who are currently competing in that market? Do you think that schools will choose to use quality and competitive pricing as market tools to their own (and those other company's) advantage? Or will they take the free products, further increasing Microsofts monopoly and power?

The fact that this type of a settlement has been approved by the prosecution is a sad statement on the state of Justice in America today. This is a laughable solution and we will look back on it one day saying, "Remember when there were lots of alternative products WITHOUT the Microsoft label on them?" Then we'll sadly shake our heads and wonder what would have happened if the Government had decided not to repress America's entrepreneurs and sell out the consumer by not punishing a monopolistic bully like Microsoft when it had the chance.

Thank you,
Julian P. Huff
Manager—Desktop Services
PETsMART, Inc.
19601 North 27th Avenue
Phoenix, Arizona 85027
* 623.587.2407 (office)
* 623.580.6109 (fax)

MTC-00033810

Stoney, Ericka
From: Libby Abright [libbyincal@mindspring.com]
Sent: Friday, November 09, 2001 4:59 PM
To: ASKDOJ
Subject: USDOJ Comments-Microsoft win over the people

Where is the protection for me and businesses which serve me in the Microsoft case? Who was bribed to get this decision—or are our govt. people that stupid?

I have stock and don't want to see the company decimated, but I have been hurt, as has every one who uses a computer by the Microsoft monopoly and their defective software.

Don't you see the damage your settlement is doing? Look at the new software that puts restrictions on people who buy and use the software—we can't even use it as we please!

Libby Albright
228 Ximeno Ave
Long Beach CA 90803

MTC-00033811

Stoney, Ericka
From: MCDEVO3@aol.com
Sent: Thursday, January 03, 2002 8:13 PM
To: ASKDOJ
Subject: microsoft

Just a line or two to let you know how I feel about the microsoft case. Microsoft is one of the biggest holdings in many people's 401k, Ira.s,etc. Since the start of the anti-trust case the value of the stock has dropped. At a time when you want people to be less depended on social security and max out on their 401k plans, and keep up their IRA.s, you not only go after microsoft but also attack the many people who looked to the company for fiancial security, through their retirement plans. Ease up, and the stock could possibly rise restoring people's confidence not only in MSFT, but the stock market in general.

Thanks.
John McDevitt,
469 Foss Ave.,

Drexel Hilt, Pa. 19026
E-mail: MCDEVO3@aol.com

MTC-00033812

Stoney, Ericka
From: Tom Wright [TWright@Forte-industries.com]
Sent: Monday, November 05, 2001 1:08 PM
To: ASKDOJ
Subject: usdoj comments

For the first time in my life I am compelled to contact an office of my Federal government.

I am appalled at the "settlement" your department has reached with Microsoft. It disgusts me to see that a corporation that abuses its monopoly power and lies in federal court about its actions can receive virtually no penalty for that behavior. Your office is supposed to protect people like me from the likes of Microsoft. I voted for G.W. Bush but would not have done so were I aware that this obvious sellout would be the outcome. I'm sure that the decision to "settle" in this manner was cloaked in the guise of stimulating our weakening economy. What in effect you have done is to enhance the ability of that bully corporation (Microsoft) to further stifle ingenuity and creativity at the expense of the consumer and the taxpayer. This "settlement" will serve to only embolden Microsoft in the ruthless use of its power to crush their rivals.

Today I am ashamed of my government.

Thomas P. Wright
Sr. Software Engineer
Forte Industries
6037 Commerce Ct.
Mason, OH 45040
(513) 398–2800x206 (Voice)
(513) 398–2837 (FAX)
This email has been scanned by MailMax.
http://www.maximizeit.net

MTC-00033812 0001

MTC-00033813

Stoney, Ericka
From: Tom Loveman [tloveman@ctnet.com]
Sent: Monday, November 05, 2001 9:38 AM
To: ASKDOJ
Subject: Are you out of your minds!

The Microsoft settlement proposal is a farce! Hundreds of companies and countless technologies have been oppressed, destroyed and/or plundered by Microsoft over the years. This decree does nothing more than LEGALIZE what they've been doing for decades! Now they have the goverment's permission to supress ideas that compete with their own, and to abscond technologies and implement them internally rather than give credit to the companies that create them.

Are you so binded by a recession and a war that you're willing to leave the hen house guarded by the fox!?

Microsoft was found GUILTY but the punishment does not fit the crime. Innovation? HA! The only section of Microsoft that creates ANYTHING innovative or of value is the Macintosh Business Unit because Apple users are so far ahead of the crap Microsoft puts out for PCs that the MBU has to do innovative things.

Tom Loveman
Tom Loveman
19201 Van Aken Blvd
Suite 513
Shaker Heights, OH 44122
216–561–9222 (H)
216–682–3104 (W)
<tloveman@earthlink.net>
<http://www.earthlink.net/tloveman>

MTC-00033814

Yanta, Judy
From: Jim Eddings [jime@acmeserv.com]
Sent: Monday, November 05, 2001 2:53 PM
To: ASKDOJ
Subject: USDOJ Comments- Microsoft Settlement

I applaud you for settling the Microsoft case, but wish to present one caveat.

More and more they are requiring their users to sign up for their Passport service to function with their other, unrelated products. This requires users to register with them, whether they want to or not. For example, users of some Microsoft game software are required to use Passport before the Microsoft technical support will even answer their email, even though the two products have nothing to do with each other. I know many Microsoft software users who are avoiding newer products so they will not have to register with Passport. The Passport service has suffered from documented security problems.

I implore you to build into your settlement language that would prevent Microsoft from forcing their users into this or any other product or service for any reason, and specifically forbids this from being a requirement for technical support on any product except itself. Microsoft has been moving toward subscription licensing to lock in their revenue stream even while their anti-trust case is going on, and these Passport requirements are appalling. It appears they are trying to prevent us from using anyone else's software with this practice!

Thank you very much for your consideration,

Jim Eddings
629 Torrence Dr.,
Gastonia, NC 28052
Information Systems Director,
Acme Petroleum & Fuel Co.,
Gastonia, NC 28054
(long-time Microsoft customer who loves the products and who is becoming very disgusted with their business practices)

MTC-00033815

Yanta,Judy
From: John Ridge [JohnRi@homeproperties.com]
Sent: Friday, November 16, 2001 10:08 AM
To: ASKDOJ
Subject: USDOJ%20Comments

Sirs:

I had thought that you had set up on the website a forum to solicit comments regarding the sustice's settlement with Microsoft. If you have then you have made it exceedingly difficult to find because I cannot. That in itself is probably on comment on your desire to hear other opinions.

I would remind you that the Justice Department is here to insure that the laws are enforced to protect the people. With your proposed settlement with Microsoft you are not fulfilling this promise. It is obvious to everyone that this case went from a prosecution of the laws to one of political expediency. This is nothing more than a slap on the wrist to the biggest monopoly since Standard Oil and everyone knows it. The American people's only hope now with this issue is that the states will be immune from politics and do what they are paid to do, protect the people.

Thank you for reading my comments.

John Ridge
19 Stover Road
Rochester, NY 14624
jridge@rochester.rr.com

MTC-00033816

Yanta, Judy
From: james p liebmann [jliebman@rochester.rr.com]
Sent: Monday, November 05, 2001 8:23 PM
To: ASKDOJ
Subject:USDOJ Comments—Microsoft Settlement

I am embarassed to call myself Republican in light of this very disappointing settlement. The terms of the settlement are so ineffectual as to be meaningless. More small companies will get no financing for fear that Microsoft might enter that same product area. Other companies will be squeezed to death like Netscape was.

I am sorry to say that Attorney General Ashcroft has squandered some of his, and President Bush's, political capital, not to mention my tax money. The settlement terms do a great disservice to the American Public by allowing this company, which has been found by the courts to be a Monoplist, to get off with essentially no punishment and no effective change of behavior.

James P. Liebmann
18 Bromley Rd.
Pittsford, NY 14534–2934

MTC-00033817

Renata B. Hesse—Antitrust Division
US. Dept of Justice
601 D Street NW Suite 1200
Washington, DC 20530–0001
Subject: Microsoft Settlement

I am writing as a consumer and an amateur student of computer technology. I work for a medical research company in a position outside our Information Systems department. I have been an early adopter of home computing technology since the 70's.

I purchased my first IBM PC in 1981 and I have the receipt. The operating system (DOS) cost $40 and the actual computer (without even a hard drive or a monitor) cost well over $2,000. This came to well under 3% of the cost of the system. Today I can buy a vastly more powerful computer with a hard drive and monitor and much more memory for under $1000. The reduction in price is because of competition in the hardware sector. The cost of the operating system for such a new system would be more than double even though it has not advanced as much as the hardware. And the hardware is much more capital intensive to develop particularly considering the reduced margins. This imbalance and the actions of Microsoft to achieve this condition are well documented in the Findings of Fact (in the case before Judge Jackson). I have read the

Findings of Fact as part of my interest in computer technology.

I am writing to express my complete dissatisfaction with the proposed settlement. It is not sufficient by a LONG shot. It will not restore competition nor will it punish the misuse of monopoly power. And finally (and this is my unique observation it seems) it will do nothing to restore the vigor to the development of software. Innovative software development "looks" like a Competitive market but I content it has been smothered along with many of Microsoft's competitors. The opportunity to make money from novel and innovative software has been deeply hurt by the abuse of the Microsoft monopoly. There must be an opportunity to make money and prosper m order to get investment money. We should have many times the number of innovative software companies that we have today. Today we have many companies using Microsoft tools and writing Microsoft programs and never able to get outside this narrow and restrictive canyon. Any effective settlement needs to address this situation by restoring opportunity.

Finally, I am just now reformed by the news wires of the proposed settlement by the 9 states not signing on to the DOJ settlement. They have a MUCH more realistic proposal. A bare bones operating system Just might open a window for other competitors to come into the marketplace with innovative competitive products in this new lower tier market. This is the type of thinking that needs to be applied to the problem. The very best solution is to break the company up into several smaller competitive companies and that should never have been removed from the table.

Ben Bowers
420 Fruit Farm Rd
Royersford, PA 19468??

MTC-00033818

December 9, 2001
Pablo Oliva
60 Lehigh Aisle
Irvine, CA 92612
Renata B. Hesse
Antitrust Division, U.S. Dept. of Justice
601 D Street NW
Suite 1200
Washington, DC 20530–0001

Dear Mrs. Hesse:

I am a web developer in the Los Angeles area in California. I recently ran across this article online at http://www.pbs.org/cringely/pulpit/pulpit20011206.html which stated the following: "The biggest competitor to Microsoft Internet Information Server is Apache, which comes from the Apache Foundation, a not-for-profit. Apache practically rules the Net, along with Sendmail, and Perl, both of which also come from non-profits. Yet not-for-profit organizations have no rights at all under the proposed settlement. It is as though they don't even exist.

Section III(J)(2) contains some very strong language against not-for-profits. Specifically, the language says that it need not describe nor license API, Documentation, or Communications Protocols affecting authentication and authorization to companies that don't meet Microsoft's criteria as a business: "...(c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business .... " So much for SAMBA and other Open Source projects that use Microsoft calls. The settlement gives Microsoft the fight to effectively kill these products.

Section III(D) takes this disturbing trend even further. It deals with disclosure of information regarding the APIs for incorporating non-Microsoft "middleware." In this section, Microsoft discloses to Independent Software Vendors (ISVs), Independent Hardware Vendors (IHVs), Internet Access Providers (IAPs), Internet Content Providers (ICPs), and Original Equipment Manufacturers (OEMs) the information needed to inter-operate with Windows at this level. Yet, when we look in the footnotes at the legal definitions for these outfits, we find the definitions specify commercial concerns only.

But wait, there's more! Under this deal, the government is shut out, too. NASA, the national laboratories, the military, the National Institute of Standards and Technology—even the Department of Justice itself— have no rights. It is a good thing Afghanistan is such a low-tech adversary and that B-52s don't run Windows."

I hope that you understand the severity of this matter. The Open Source Software movement is truly a remarkable thing. Many great products have resulted from this movement. The Open Source community has spawned innovation and quality in software that is unsurpassed by Microsoft or any other commercial outfit. This movement and community is a great and weighty threat to Microsoft's business model. I encourage you to come to a complete understanding of the impact that the language of the settlement, which the above article sites, will have on the Open Source Software community. There is a big chance that Microsoft will have the ability to use this language to place pressure on and ultimately strangle the life out of the Open Source community... and this is an anti-trust case isn't it?

Regards,
Pablo Oliva

MTC-00033819

GRIMES & SMITH
CHARLES T. SMITH
(843) 546–6131
JOHN P. GRIMES
ATTORNEYS AT LAW
1112 HIGHMARKET STREET
FAX: (843) 527–6692
GEORGETOWN, SOUTH CAROLINA 29440
December 17, 2001
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Washington, DC 20530–0001
Re: United States of America v. Microsoft corporation
Civil Action No. 98–1232 (TPJ)

Dear Ms. Hesse:

I have carefully reviewed the proposed Final Judgement in the referenced action and the opinions issued by the District Court and the Court of Appeals for the District of Columbia Circuit.

The minor restrictions in the proposed Final Judgement are rendered meaningless by the extensive exceptions and exclusions. Even if the proposed Final Judgement can fairly be interpreted to prohibit some conduct, there is no effective enforcement mechanism.

The proposed Final Judgement does not address Microsoft Corporation's serious violations of the antitrust statutes and does not serve the public interest.

Sincerely,
Charles T. Smith

MTC-00033820

Cole Thompson
2101 Webster Street, 20th floor
Oakland CA 94612
Tel.: 1–510–627–2245
Fax: 1–510–627–3030
Renata Hesse, Trial Attorney
Suite 1200
Antitrust Division, Department of Justice,
601 D Street NW, Washington, DC 20530
Subject: Proposed Microsoft Antitrust Settlement

Dear Attorney Hesse:

As a Senior Web Developer for Kaiser Permanente, one of the, nations's largest healthcare providers, I am deeply concerned about the proposed settlement for the Microsoft antitrust case. For about the last five years, I have noticed that truly innovative technologies from small companies in the computing industry have tended to be withdrawn from the marketplace, apparently due to pressure or threats from Microsoft. During this same five years, the cost of Microsoft software has steadily increased, even allowing for inflation, while the cost of other companies" software (Sun Microsystems, Oracle, Sybase, Borland and many more) has almost without exception decreased quite dramatically. The costs of doing business as a software company have not increased during this time. The only reason Microsoft has bucked the overall trend toward less expensive software is that Microsoft enjoys monopoly power, and dictates prices to computer vendors. These arbitrarily increased costs are ultimately borne by American consumers. Consumers and businesses are damaged in just the same way that they would be if the cost of gasoline were doubled.

At a minimum, I see the following items as required for any meaningful remedy of Microsoft's conduct:

—Obligate Microsoft to include support for the Java platform in Windows, as asked for by the attorneys general of California and other states.

—Require Microsoft to make available to the general public (not just selected companies that Microsoft likes) the full details of formats used for storing data in files and databases.

—Require Microsoft to make available to the general public (not just selected companies that Microsoft likes) the full details of any networking protocols it uses to communicate between computers.

The importance of the last two points cannot be overstated. The most credible competition to Microsoft is coming from software developed in non-profit settings such as university labs and loosely-knit cooperative consortiums (the so-called "Open Source" community). The proposed settlement would deliberately exclude these most promising sources of Competition from access to Microsoft file and network protocol information, which would be a grievous error at this stage of remediation.

Thank you for your attention.

Cole D. Thompson
Senior Web Developer, Kaiser Permanente

MTC-00033821

Charles Bennington
Oddcast Inc.
589 8th Avenue, 11th Floor
New York, NY 10018
Renata B. Hesse
Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001
December 20, 2001
RE: US v. Microsoft proposed final order

In my position as Chief Systems Architect for Oddcast, Inc., a software company based in New York, I have had the opportunity to observe the effects of Microsoft's monopolies on our business and our competitors.

I am writing to submit my comments on the proposed final order in the antitrust case against Microsoft. The remedies described in order do not seem at all satisfactory and will have a negative effect for business who wish to compete with Microsoft.

First off, the fact that the structural remedy initially ordered by Judge Jackson has been abandoned is quite disturbing. Judge Jackson reached his conclusions after being involved in the case for a long time. His proposed remedies were a reaction not just to the severity of the crime but also to the manipulative manner in which Microsoft behaved—and continues to behave.

The new remedies are not strong enough to penalize a company that has not only been found to violate antitrust law, but which has also failed to abide by previous agreements made between Microsoft and the DOJ. And of equal importance and urgency, the remedies to not look sufficient to curb Microsoft's tendencies toward anti-competitive behavior now and in the future.

The provisions in J1 and J2 are becoming widely recognized as providing too much opportunity for Microsoft to inhibit interoperability with software considered part of the free software movement. Several free software programs are considered significant competitors to Microsoft's products. This is acknowledged even by Microsoft. Microsoft should not be allowed to limit access to information used in programs such as Apache or the Linux operating system just because there is no commercial body responsible for these software products. While the software itself may be not for profit, there are many business that depend upon this software to make their profits and Microsoft should not be allowed to shut them out. I believe that the provisions in J1 and J2 will have a negative effect on the ability for business to compete with Microsoft and will help to expand Microsoft's current monopolies and provide Microsoft with opportunities to establish new monopolies.

The term of the agreement as proposed is too short. While the software industry itself is dynamic, the basic behavior of monopolies is not and five to seven years is not long enough to ensure that Microsoft's anti-competitive practices will be curbed.

The Justice department should not allow Microsoft to have such control over the proposed Technical Committee. Microsoft should not be allowed to appoint any members of the Technical Committee. I cannot imagine why a company found to be in violation of the law would be allowed to choose any member of it's oversight committee, especially when there are only three members. By allowing Microsoft to place someone of their choosing, they will have influence over the selection of the third member which could mean that the committee starts out with a two thirds pro-Microsoft majority. The Justice Department should be responsible for the appointment of all three members.

The level of secrecy surrounding the actions of the Technical Committee will also have a negative effect on it's ability to stay honest and fair. And the fact that they will be paid for and managed by Microsoft should remove even the last scrap of objectivity from the committee. If this proposal is to work, the Technical Committee will need to be restructured so that it has greater independence and more power.

Over all, I think that the proposed final order is not strong enough and should be reevaluated. In the seven years that Microsoft has been involved in proceedings with the Department of Justice, they have not seen their business harmed. Instead they have grown dramatically and further reinforced their monopoly position in many areas. They have openly flaunted consent decrees and tied up the investigation of their actions in a manner which only a company which can accumulate billions of dollars a year from its monopolistic position is able. The proposed remedies only serve to reinforce the status quo under which Microsoft has been allowed to grow unchecked—despite having been found to have violated the law. Without stronger remedies, Microsoft will only continue to stifle competition.

Sincerely
Charles Bennington

MTC-00033822

November 28, 2001
Robert H. Frudenberg
1109 Palm Drive
Burlingame, California
94010-3712
Renate Hesse
Trial Attorney, Antitrust Division
U.S. DOJ
601 D Street NW Suite 1200
Washington, DC 20530

Dear Sir,

It is most fortunate the Europeans are taking a more serious stand against Microsoft than the U.S. I find that Microsoft has quashed most competition by requiring dealers to install no other operating system on new computers if they want to sell Windows.

Also, the proposed settlement of giving used computers to schools is preposterous. That is not a penalty. A penalty for a monopoly would be a breakup of major parts to allow competition to begin again. Microsoft should be required to release source code to developers so their products can work with windows OS and have no blue screens.

MTC-00033823

28 November 2001
Renata Hesse, trial attorney
Antitrust Division
U.S. Department of Justice
601 D St., Suite 1200
Washington, DC, 20530

Ms Hesse,

I would like to comment on the proposed Microsoft settlement. As an independent software developer who has been unemployed for most of the last 14 months, I very much feel the economic recession. Although the "dot-com" bust is undoubtedly a reason for the current lack of jobs, it is the predatory monopolistic practices of Microsoft Corporation which I feel is the main reason for the situation so many of us independent software developers find ourselves in.

The FUD, (fear, uncertainty and doubt) fostered by Microsoft's actions with regards to the Java programming language has severely limited the expansion of Internet software capabilities and the attendant programmer employment. Also, the way Microsoft has positioned its ".NET" strategy, as an alternative to the current Internet experience, rather then positioning it as an embrace and extend, has stagnated the development of Internet based computer applications. As an individual who chooses to develop and deploy Internet solutions on non-Microsoft software platforms, this has locked me out of business opportunities.

The three pillars of justice: restraint, rehabilitation and retribution are not adequately addressed by this proposal. While a measure of rehabilitation needs time for accountability, the settlement provides no relief from the monopolistic force of Microsoft s Internet browser, why is it that this is permitted? Microsoft must be forced to market their browser independent from their operating system. Also there is no retribution available to the thousands of companies and the over hundred thousand engineers who have been affected by Microsoft's actions. The Microsoft education proposal is a mockery of accounting and a piece of candy for Microsoft's thrust into education. I spent five years on the Riverview School District technology committee which is in King County, Washington; and a third of that time was spent trying to prevent the takeover of the computer resources by those who mistakenly believe that a single computer supplier is beneficial to the educational system.

I have encountered the lies, sabotage and intimidation of Microsoft for fifteen years now and I'm angry about the situation. I have enclosed a link to my resume, from which you can see I have been involved in software development which includes important work I did for the Apollo Space Program. <http://home.earthlink.net/cascades/resume/BaissResume.html>

Baiss Eric Magnusson √
cascades@earthlink.net

Cascade Web Design √ Software Design and Consulting, <http://www.cascadewebdesign.com>

32307 NE 193rd St. √ Specializing in WebObjects & Java

Duvall, WA. 98019 √ 425–788–2394

MTC–00033824

Post Office Box 3754
Oakland, CA 94609
6 December 2001
Ms. Renate Hesse,
Trial Attorney, Antitrust Division
Dept. of Justice
Suite 1200
601 D Street NW
Washington, DC 20530

Dear Ms. Renate Hesse:

RE: public comments on proposed settlement of U.S. Government vs. Microsoft Corporation in the matter of alleged monopolistic business practices.

The proposed settlement of the lawsuit of U.S. government vs. Microsoft Corporation is totally inadequate to rein in the past, continuing and growing abuses by Microsoft Corporation in the production, distribution and sale of their Windows and other software products.

After almost twenty years of bullying competitors with illegal monopolistic tactics, after being convicted in Federal court of serious and repeated violations of the Sherman Anti-trust Act, after destroying the market shares of Dr. DOS, Lotus123, WordPerfect and Netscape Internet browser softwares with illegal bundling, exclusionary contracts and other heavy-handed tactics, the mighty Microsoft Corporation has now condescended to allow PC manufacturers to "delete the Internet Explorer icon" from the starting Windows screen. Wow. The mind boggles.

Is the mighty Microsoft Corporation actually making a real concession to the concept of free market competition? Sorry. Its just another cheap MS trick to be allowed to continue their illegal and immoral monopolizing and bullying ways. Microsoft is trying to leverage its Windows PC operating system monopoly into dominating the Internet with its Explorer Browser, its home web page, microsoft.com and its latest offerings of its new Windows XP operating system.

Microsoft Corporation should not be allowed to expand into any new areas of technology, be it on the Internet or elsewhere. To date, Microsoft Corporation has shown very little if any understanding of fair play, fair competition or moral behavior. They are obviously in need of severe discipline.

The U.S. government should levy a fine of twenty billion dollars as just punishment for past monopolistic and illegal business practices over the last two decades. The consumers of the U.S. have been negatively affected by the bullying behavior of Microsoft Corporation.

Yours truly,
James K. Sayre

MTC–00033825

OFFICE OF THE MAYOR
SAN FRANCISCO
WILLIE LEWIS
BROWN, JR.
January 7, 2002
Renata B. Hesse
Antitrust Division
US Department of Justice
601 D Street NW
Suite 1200
Washington DC 20530–0001

Re: Comments of the Microsoft Proposed Settlement Agreement

Dear Ms. Hesse:

Microsoft is a company that has long provided good products to consumers and businesses, and it provides opportunities for other software companies as well to develop programs for the Windows platform. The provisions of the settlement, worked out with one of the nation's top mediators, will be good for consumers, businesses, the tech sector and the economy as a whole. I fully support the Department of Justice and the nine Attorneys General for their efforts to finally put an end to this case and agree to a settlement that is in our nation's best interest.

Sincerely,
WLB/cc

1 DR. CARLTON B.GOODLETT PLACE, ROOM 200, SAN FRANCISCO, CALIFORNIA 94102–4681
(415) 554–6143
RECYCLED PAPER

MTC–00033826

Chun-Wai Chan
5555 S. Everett Ave., Suite E3
Chicago, IL 60637
773–324–8190
Fax: 773–324–8190
December 14, 2001
Ms. Renata B. Hesse
Antitrust Division, U.S. Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530–0001

Re: Dept. of Justice and States Settlement with Microsoft

Ms. Hesse,

I am writing to express my concern and disappointment with the Dept. of Justice's proposed settlement with Microsoft. I would like to exercise my rights under the Tunney Act and have my views entered in the following Federal records:

1. I ask that my following comments be accepted during the 60 day period after the proposed Final Judgment is published in the **Federal Register**.

2. I asked that my comments along with responses to them be published in the **Federal Register**.

3. I ask that my comments and the responses to them be filed with the court examining this settlement.

I believe the concessions made by Microsoft in the proposed settlement are inadequate in restraining their predatory and monopolistic practices in the computer industry. In particular Microsoft has too great a lattitude deciding what consitutes its middleware and what constitutes its core operating system.

The alternative settlement submitted for review by the nine states opposed to the current Dept. of Justice settlement closes many loopholes which can and will be exploited by Microsoft. I therefore urge the Department of Justice to adopt the new settlement proposed by the States Attorneys of CA, MA, CT, UT and the other 5 states opposed to the original proposed settlement.

Sincerely,
Chun-Wai Chan
Naturalized Citizen of the United States of America
Registered Independent Voter in the 4th Ward of the City of Chicago

MTC–00033828

From: Rufus Polson
To: Microsoft ATR
Date: 1/22/02 12:37 pm
Subject: Proposed Microsoft Settlement

Dear Officers of Justice,

I should note before beginning that I am Canadian, and as such lack standing in a United States proceeding. But it has been suggested to me that it would, nonetheless, not be improper to submit a respectfully phrased opinion, and I have serious concerns about this matter.

My first worry about the proposed settlement is that it cannot be enforced. The only penalty for noncompliance with the settlement, as I understand it, is that the settlement may be extended for two years. But how much effect can this have? Surely a company failing to comply with a settlement would have little trouble continuing for two more years to fail to comply. The history of Microsoft's behaviour suggests that failing to comply with a settlement is within the scope of their normal actions; the likelihood of this happening must be taken into account in any settlement, with noncompliance penalties on a scale sufficient to create strong disincentive even to such a massive entity.

My second is the lack of any penalty. In a country in which the criminal law strongly endorses retribution and deterrence as principles of justice, and in which corporations are legal entities with much of the rights and standing of persons, it seems appropriate to keep in mind the principles that are routinely applied to persons when dealing with corporate lawbreaking. This is the more true for corporations such as Microsoft in which the direction is so clearly set by a very few individuals, whose fortunes and identities are wrapped up closely in the corporation. In short, Microsoft as a corporation is guilty of a serious crime—this has been established. Microsoft as a corporation should be seen to be penalized, so that other corporations and their administrations realize that illegal monopolist tactics will not cause their companies to prosper.

My third is the weakness of much of the language, such that many things which the settlement appears on the surface to prohibit are in fact not prohibited in any serious way, whereas it seems that others still can be twisted in such a manner as to actually legitimize practises that would not normally be considered acceptable. Many other submissions, as I understand it, have gone into detail on these issues. I will not spend words describing them yet again.

Another problem is the inspectors. Their powers are unclear, and should be strongly specified. The selection process seems inappropriate—why should Microsoft have a voice in selecting their watchdog? It is like letting a drug dealer vote on his parole officer. In addition, it seems as if they are to be paid by Microsoft—this is another damper on independence. It seems more reasonable that Microsoft should disburse a sum immediately, sufficient for their payment for the entire duration of the settlement, and the Department of Justice should pay them out of that sum.

Finally, the settlement seems of marginal impact even in its intent. Even if one were to ensure that it was complied with, clean up ambiguities in language so that the compliance reflects what some of the broader statements indicate to be the intent, and empower inspection sufficiently well to verify compliance, the results seem unlikely to curb Microsoft's anti-competitive behaviour to any great extent. Rather, it seems likely that Microsoft will be forced to curtail a few fringe practises, leaving the general pattern untouched and perhaps pushing them to intensify new anti-competitive practises in areas such as the internet and encryption, where they might take advantage of such laws as the DMCA to use proprietary encryption schemes and claim any attempt to interoperate with their encrypted files to be illegal.

In short, the proposed settlement is flabby and overspecific even in its intent—no tiger capable of reining such a massive organization, but a tabby cat. Its actual wording makes it a paper tabby. Let us not forget that this is a corporation with such contempt for the administration of justice that they presented falsified evidence to the trial court (their so-called demonstration of Windows 98 running slower without Internet Explorer, which was a mockup fabricated for the sole purpose of deceiving the court—an action which would have surely left any ordinary defendant facing additional charges for perjury and/or contempt of court); how likely is it that they will comply with any judicial decision one micron farther than they are absolutely compelled to? How likely is it, in fact, that any settlement without a major structural component will impact Microsoft's practises in any significant way? In the absence of structural remedies, it is at least essential that any settlement present a comprehensive catalogue of practises which are absolutely barred, presented in ironclad language, with massive, immediate penalties for deviation. And if this case is to deter others from similar practises and, in general, pass the message that antitrust law remains alive in the United States, it should involve a substantial penalty for past anticompetitive actions.

Respectfully yours,
Rufus Polson

MTC-00033830

From: Walter Schulz
To: Microsoft ATR
Date: 1/23/02 9:48 am
Subject: Microsoft Settlement

There are many factors which render the proposed final judgement both ineffective and incomplete. One argument which bears the burden of many industry concerns is that of Dan Kegel's open letter to the DOJ (http://www.kegel.com/remedy/letter.html). This references his essay on the topic which can be found at(http://www.kegel.com/remedy/remedy2.html). These documents are well written and contain much information overlooked by the drafters of the PFJ. I have asked that my name be added to the open letter. Even these points do not complete the argument against Microsoft's monopolistic activities. It is evident that the drafters of the judgement have not been educated to a sufficient understanding of the enormous technical details which comprise the history of Microsoft's monopoly. These are, of course, too many to be discussed in a brief email. Please however consider the following:

* Microsoft's policy of trademarking common industry terms (such as "windows", "office", quo;access", etc.) To the end of excluding competitors" use of standard terms in the names of their products. "Windows" for example is a name in use by the "X Windows" system for the Unix well before "Microsoft Windows" came to market.

* Microsoft's habit/policy of modifying standard programming languages (to optimize them for the Microsoft Windows platform) and passing them off as the original standards. This is demonstrated in the development of "Microsoft Visual C++'(a "version" of the C++ programming language for "Microsoft Windows') and J++(a "version" of Sun Microsystems" Java programming language. Since the suit with Sun, Microsoft has begun calling their version "Active X') Sadly, programmers who are educated using Microsoft's non-standard language versions may have difficulty writing for any platform but "Microsoft Windows" since these versions do not use standard development libraries. Thus the pool of development talent for competing operating systems is effectively decreased by flooding the market with these altered languages.

Thank you for your time. I wish you all the luck you will certainly need in effectively considering judgements in this case.

Sincerely,
Walter A. Shultz
Bethlehem, Pennsylvania
Electronics Technician
sanguine@fast.net

MTC-00033831

From: Dagny Haug
To: "microsoft.atr(a)usdoj.gov"
Date: 1/23/02 11:16 am
Subject: Microsoft Settlement
The settlement is *not* a good idea.
Dagny Haug
Associate Program Director
Edina Technical Education Center
University of Minnesota
http://www.cce.umn.edu/infotech/

Time is the coin of your life. It is the only coin you have, and only you can determine how it is spent. Be careful lest other people spend it for you.

Carl Sandburg

MTC-00033832

From: Mike Foley
To: Microsoft ATR
Date: 1/24/02 11:29 pm
Subject: Microsoft Settlement

Hello Judge,

I'm am writing this message to convey my opinion on the Microsoft settlement.

I feel that Microsoft is guilty of the charges brought by the government. I am greatly disappointed at the settlement. I read it the day it was released and quite frankly, I was appalled. And then to read a few weeks later, Microsoft's proposed settlement in civil suits where Microsoft would give computers and software to the education market told me that Microsoft has not learned. The proposed settlement would have devastated Apple Computer's lead in the education market!

I used to work for Digital Equipment Corporation. I "heard stories", many first hand, of the practices Microsoft used to great effect against DEC. Stories of "acquired" technologies, of Mr. Gates asking that competing technologies be cancelled, of Microsoft not pushing DEC's Alpha chip. Yes, they are "stories" Many were settled in out of court settlements so that we'll never know the final truth, but they are indicative of business practices practiced by a monopoly

To fairly settle this court action, I propose the following: (Not limited to these, just some things I believe should be addressed)

Open standards of document formats. Microsoft Office is the standard. Allow other companies to compete on form and function and innovation.

A business practices oversight committee that has real power to keep Microsoft in check Microsoft should have no say in who would be on this committee

Limit Microsoft's expansion into media They have MSN, MSNBC, etc.. I don't want to watch "All Microsoft, All the time". People who don't know better will see Microsoft on TV and on their computer and be "locked in". How does someone compete fairly when everything says "Microsoft"?? If anything needs to be split from the main company, it's the media portion. It is truly scary.

Mandate government use of alternatives to Microsoft products. There's no good reason for the government to be feeding a monopoly. There are excellent operating systems out there. (Linux, Open VMS, HP UX, etc..)

Mandate to Microsoft that the government will only use open standard formats for things like documents and programming, and networking interfaces Microsoft must stop practicing "embrace and extend" where they take an open standard, add their extensions, and lock out others. In conclusion, I would hope that the court will ensure that Microsoft does not walk away from this with an slap on the wrist and a virtual "ok" to continue its predatory practices

I thank you for your time and your patience in reading this message.

mike
mike@yelof.com
http://www.yelof.com

MTC-00033833

From: Michael James Langford
To: Microsoft ATR
Date: 1/25/02 11:56 am
Subject: Simple to implement remedys.

Dear Sirs,

Microsoft clearly has maintained a monopoly via unlawful means. They do not deserve the public's trust, as they do not have our best interest in mind.

Most behavioral or structural remedies are too hard to effectively enforce on an adaptable company such as Microsoft. So instead affect a policy change for the Federal Government through careful restrictions on Microsoft.

Switch the entire federal government over from MS office and mail products to other companies products like Sun Microsystem's StarOffice products. Use an open file format, such as Rich Text, Html, or Latex as the standard for documents. Word documents can be easily changed over to these types through its SaveAs command, and this process can be automated through simple programs most programmers could write in a couple hours.

This sounds like an expensive switch over. Have Microsoft pay for the manpower to switch over all agencies. Make them split the cost of any new licenses 50%/50%.

To make this switch within the power of the court, you would have to phrase the judgement in a way similar to:

All licenses granted to the federal government of Microsoft Office 95, Office 97, Office 2000, and Office XP are hereby revoked. (The contracts cancelled).

A new 5 year license is given in lieu of the old license of each copy of that software.

Microsoft may not issue new licenses to the government for any Non-Operating System product. Microsoft may not bundle any office productivity software into its Operating Systems. This is in effect for the next 10 years.

Microsoft will pay all labor costs associated with switching to new office products, as well as 50% of the cost of all replacement software.

Any state or municipal governments may also have these same terms if they request it.

This seems to be an easy to enforce and equitable judgement that can be levied against Microsoft as a punishment, and does not cost any party but Microsoft an undue expense, while still being fair to Microsoft.

The only party remaining to be dealt with is the OEM's who have been forced into licensing contracts with Microsoft. To remedy that situation, allow any of them to cancel their contracts with Microsoft at any time in the next 5 years, and enforce a single PUBLISHED price for all OEM software purchases of Microsoft software. Allow compulsory licencing to at that price to any OEM that wants it.

Thank you for your time.

Yours truly,

Michael Langford

MTC-00033834

From: scj@marcsys.com@inetgw
To: Microsoft ATR
Date: 1/27/02 9:41 am
Subject: Microsoft Settlement

I am opposed to the current Microsoft settlement. Others, more eloquent than I, will detail the reasons why this proposal will not restore competition in the marketplace or provide sufficient cause for Microsoft to change their monopolistic behavior. As a software professional with over twenty years experience and whose undergraduate course of study was in computer science, I have watched as Microsoft has continually impeded innovative developments. Microsoft follows a fairly consistent plan:

(1) Ignore the innovation (e.g., web browser, disk compression, java, etc.) until it can no longer be ignored. Then,

(2) Respond to the innovation by saying that it is without merit. When this is insufficient to keep the innovation from the market,

(3) Either buy the developer of the innovation or "partner" with them. "Partner≥ing allows Microsoft the time to develop the software in-house. Once the in-house version is ready, Microsoft will ruthlessly "bundle" it into their offering at "no additional cost" thereby destroying the market for the original developer. Finally,

4) Claim the innovation was due to Microsoft in the first place.

For the good of the consumer, market, industry, and country this anti-competitive and monopolistic behavior must stop. Based on the the past behavior of Microsoft, with respect to previous Department of Justice actions, there is nothing which suggests that Microsoft will follow the spirit, or even the letter, of the current proposed settlement. They have consistently flaunted the law and have treated any cost or enforcement action as a normal "cost of doing business." Without any meaningful competition they can do this with impunity.

I would encourage the Department to re-evaluate this far too lenient settlement and devise a solution which, even in the face of determined Microsoft attempts at circumvention, will help restore competition and innovation to the marketplace.

Sincerely,

Steven C. Johnson \ scj at marcsys period com
13906 Flint Rock Road \
Rockville, Maryland 20853-2649 U.S.A. \

MTC-00033835

From: Tal Eidelberg
To: Microsoft ATR
Date: 1/27/02 8:58 pm
Subject: Microsoft Settlement

The final settlement proposal by the United States, suggests sanctions that will be imposed on the Microsoft Corporation. These sanctions are supposed to imply that the US government and department of law disapprove of Microsof's monopoly over the PC operating system market, and Microsoft's use of this monopoly to dominate other markets, such as the web browser market. My opinion is that it is not right for the government to intervene with the natural selection of the software industries, and that such an intervention ultimately does not help the markets, the customers.

Looking back to the 1990s, it is obvious that the PC market has undergone a revolution. The main change was that PCs became user-friendly, and that almost any average non-programmer could use them. Because of this new user-friendly style, the PCs became very popular, their prices dropped, and the new now-affordable computers were summoned to help in many places where they were desperately needed. The upbringing of this revolution, by all means, should be accredited to one organization, the Microsoft Corporation. Microsoft Corporation through many years of dedicated, complex software development, had built an operating system that is unbelievably simple to operate and is intuitive enough for a seven-year-old child to handle. The qualities of the windows operating system series is the sole reason that Microsoft originally became successful, and therefore Microsoft is rightfully dominating the PC operating system market, which Microsoft fostered. The inclusion of Microsoft's Internet Explorer for free with the windows 98 operating system is a one hundred percent legitimate market strategy. I believe that a company that develops a widespread product, such as Microsoft's Windows operating system, it should hold the right to further add and develop that product as it sees suitable for the company's benefit. Software markets are fast moving, and companies rise and fall fairly quickly. This is for no other reason but the fast moving pace of technological advances of our century. There is no guarantee for any one company that its product will be required in the near future. Microsoft has done a great job in surviving the cut-throat competition of the software technology market, and along the way defined and introduced many standards such as COM software objects, which left the entire software developer world swayed with astonishment. The intervention on the behalf of the government by no means helps the customers. Customers who wish to use non-Microsoft operating systems are free to choose form an array of products such as Unix, Linux and OS2 to name a few. By forcing Microsoft to allow competitors to create new operating systems, the government is actually lowering the standards of competition that were defined by the natural market. The end result is that the customers get lower standard software, and eventually the PC software market will gain a low quality reputation that will decrease the market's scope.

The employment of unlawful techniques to maintain monopoly, or to achieve goals should be forbidden and fought. In the case of Microsoft's offer to Netscape where it was suggested that Netscape does not compete in the operating system market, and in return Microsoft does not compete in the web browser market, it is clear that the intention of Microsoft was to unlawfully maintain a Monopoly. A situation such as this obviously hurts customers and the market, and therefore should be dealt with and punishment should be sought in a rightful magnitude. This, however, should not imply that all of Microsoft's actions are unlawful and should be constrained. As it seems Microsoft controls the operating system market today. There is, however, no guarantee that the future will be as fortunate for Microsoft as the past had been. In today's free competition markets, Netscape can use the same techniques used by Microsoft and distribute a free version of Unix for example with their web browser Navigator product. Free competition is the basis for a great economy, and therefore the government should not intervene, unless companies act unlawfully.

Tal Eidelberg

MTC-00033836

From: Casey Keller
To: Microsoft ATR
Date:
Subject: Microsoft Settlement 1/28/02 2:28 am

To the Honorable Department of Justice—

It is as a student, a technician, and an end-user that I wish to add my comments as per the Tunney Act concerning the settlement proposed by the corporation in question, Microsoft.

Before I begin individually laying out my reasons for my views, I must first denounce the proposed settlement as a mockery of justice, the institution of the courts, the welfare of the consumer, and the sensibility of the media and the general public.

We speak of punishment of criminals yet we are prepared to enact a double standards of rewards for crimes of business.

The practice of the Microsoft Corporation has been established as a violation of antitrust laws. From the packaging of the Internet Explorer web browser with its operating system, fully integrate it with the operating system of Windows to its current methods of furthering the hold on the software industry with Microsoft Office, Windows Media Player, built-in firewall for XP, .NET system, and the coupling of Microsoft Network with Windows XP, or its suit over the Windows names. This case began in 1995 and now in 2002 we are willing to settle with a turn of our backs.

I could list piece-by-piece what I view as theft by this Giant. I could easily attempt to make my case that Microsoft has not produced, in general, a product solely of its own without building it or modeling it from a product of another company. Whether it is the windowing system concept (Macintosh), DOS (Caldera).Start Menu (Apple), Terminal Services (Symantec's pcAnywhere / AT&T Virtual Network Computing), firewall and multiple logins (unix, Linux iptables/ ipchains). I could sit and justify the vantage that the richest man in the United States built his fortune upon the backs of stolen ideas. A criminal never brought to trial.

As a student, I am dishearten to see the movements in the university systems to be Microsoft-centric. Database classes are taught with Access, programs are to be written with Visual Basic/C++/J++, web design is taught via Frontpage, and the operating system of choice for labs is Microsoft Windows. At what cost? If you are to look at the per-seat licensing of Microsoft we are spending fortunes on software at the cost of a broad education. We learn by the bloated non-standards and hope that we can push in the real world. We fail to learn systems outside the deal.

As a technician for an internet service provider, I am force to witness first hand the limiting force of a monopoly. When a call comes in the first generalized question that comes to the client is, "What version of Windows are you running?", followed by "What version of Internet Explorer are you running?". Common issues are virii, tcp/ip stack failures, win modem initialization strings, corrupt executables of Windows components. Because Internet Explorer is intergrated with the Windows operating system, the user interface is slower, if Internet Explorer blows up you lose the stability of your system, and users are unable to regress to a previous version or remove the faulty component. Security is negligible, the mail system is a petri dish for virii, and the networking leaves much to be desired. On a day-to-day basis, I have to deal with problems of Windows "forgetting" settings and devices or perpetuating unneeded data in the way of networking addresses. Hardware compatibility is greatly reduced as it as modems are software based ("winmodems"). Internet access setup is hindered by the persistence of MSN (The Microsoft Network) in terms of web browsing, messaging, dial-up networking, and communications compatibility.

As an end-user, I cannot help but to feel that I have been violated. I used in-house networking to share information between my laptop, my sister's computer, and my home system. My laptop is an Apple Powerbook running Mac OS X, my desktop is Redhat Linux 7.2, and my sister's machine is Windows 2000 Professional. I have had to run numerous security updates on Windows 2000 and its predecessor Windows 98. XP, which I had test ran has holes in security large enough to sail the US Navy through. Non-Microsoft programs are "crash-proned" by the operating system. I cannot help to feel that as a consumer I the Warranty of Mercantibility failed to apply to Microsoft products. I deal with file sharing compatibilities with SMB RPC calls. I feal cheated. The cost is high-way robbery.

In an industry where compatibility is a necessity, Microsoft continues to violate standards in security, networking, programming. Its movement to control the wealth of the industry has damaged the industry and the economy of the United States of America. We cannot pretend that keeping the ingrediants in one pantry allows every one to taste the pie. Unemployment, job cuts, and damages are left in the wake of postponed action.

The proposed settlement is not a punitive settlement, but an extension in guise that fails to be in the best interests of justice, consumers, and the general populace. The "donation" of monopoly software to an area where the monopoly is not in existence is the furtherment of the monopoly. It is the allowing of Park Place and Boardwalk with hotels to reap Community Chest.

On the other hand, I agree with the proposed settlement of Redhat. Let Microsoft purchase The equipment, let another software vendor provide the software. Software that is not terms limited, useragreement stipulated, bug-ridden, security questionable, and compatibility hell. I would further like to propose the removable of Internet Explorer and Media Player from current and future versions of the Windows OS along with the shutdown of the Microsoft Network. Do not allow one trust for another another. Anything short of this would be unfair when you look at the settlement that prevent AT&T from developing Unix and establishing its lead role in the computer industry.

I apologize that my statements here are more brief than I had intended and may not be as clear and concise as I feel that is needed to set a better light on this blite.

However, in closing I wish to ask that the Department of Justice act as a doctor and treat this case as curable form of the AIDS retrovirus. Medicare it. Prevent it from injecting and taking over new cells. Prevent it from disabling the guards against it. I also wish to ask the the Deparment of Justice to act as a strong Prime Minister. Do not do an appease. Europe settled to give Hitler one victory, but found that one eventually equated to many. Politics and history often meet with business to form one. Apply it.

Sincerely,
Casey W. Keller
1255 Mountain Glen Circle
Morganton, North Carolina 28655
United States of America
h: 828.438.8543
828.438.1550
c: 828.443.0515
e: cwk@worldhuman.org

MTC-00033837

BFI Waste Services of Charlotte
January 17, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530
Fax 202–616–9937
Subject: Support for Microsoft Settlement

Dear Ms. Hesse:

For more than 20 years, I have worked in different aspects of the waste management industry. During that time, I have seen dramatic changes in my industry as well as the overall economy. Certainly the use of technology has dramatically changed the way business is done. The waste industry is much more efficient and more capable of keeping track of equipment, waste sites and a variety of other aspects of our work because of technology.

I have watched the antitrust litigation against Microsoft with interest not only because of the impact on technology but also the impact it could hve on innovation and product development. While not a panacea for the concerns voiced by computer makers and software developers, the proposed settlement agreement will give them new rights to configure Windows so that non-Microsoft products can be used. Microsoft has also agreed to the establishment of a technical committee to monitor progress of the settlement and to provide a venue for concerns of computer makers, software developers and consumers.

Microsoft will have the freedom to continue efforts to develop new and innovatice products. Innovation is key in this country's ability to thrive in a global marketplace where foreign competitors try to replicate our products and sell them at cheaper prices to undercut our economic growth.

The proposed settlement agreement provide protections to all involved in this industry— Microsoft itself, its competitors, computer manufacturers, information technology providers and, most important of all, the consumer. From my own experience, I know how difficult it is to come up with a compromise. I encourage a quick resolution to the litigation so the technology industry can focus on regaining its competitive edge in the world economy.

Sincerely,
Tony Davies
5105A Morehead Road . Concord, NC 28027 . (704) 393–6900 . Fax (704) 782–2177

MTC–00033838

Products Inc.
Creek Road, FF-202
Charlotte, North Carolina 23205
Phone 704–373–9889
Toll Free 888–332–2888
January 22, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms Hesse

I am writing in support of the proposed settlement in the United States v. Microsoft case. The Antitrust laws were meant to protect consumers, not to stop market competition.

As a small business owner, I believe this proposal will not penalize other competing operating systems. This proposed settlement encourages more competition and greater innovation. All new

Microsoft operating systems, including Windows XP, would have to include a mechanism that readily allows end users to remove or re-enable Microsoft's middleware products, such as the Internet web browser.

We need to be encouraging the technology sector, which is critical to our economic recovery. This agreement is good for the technology industry, the economy and consumers.

Sincerely,
Evan J. Boxer
President
EJB/dgb

MTC–00033839

Jan 07 02 02:21p
FROM:
Gary Pearce
FAX NO. :
Grace Chirico
6689 English Ivy Lane
Raleigh, NC 27615
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

I write in support of the settlement for the U.S. v. Microsoft case. The settlement will end damaging litigation that has harmed consumers and dampened innovation among technology companies. It is time to end the litigation and to encourage new economic opportunities for technology companies as well as provide investments in education, having worked as educator for more than 30 years, I know how important it is to encourage creativity and new ideas. Allowing technology companies the opportunity to innovate and integrate products without goverment interference will benefit all of us. This. is a time when we need to encourage innovation and get our economy moving forward. Settlement of this case would be an important step in that direction. As a consumer, I need to be able to get affordable software that I can rely on. Microsoft products are easy to use and allow integration of several software programs for consumers who do not have a lot of experience with computer programs.

Grace Chirco

MTC–00033840

Jan 07 02 02:21p Gary Pearce
9197878031
P.3
Summers Consulting Services
Brenda J. Summers, Ed.D.
December 13, 2001
6561 Heorthsiona Drive
Raleigh, NC 27615
Telephone: 919–847–3184
Fax: 919–841–4220
E-mail: bsummer@mindspring.com
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street. NWI Suite 1200
Washington, DC 20503

Dear Attorney Hesse;

I support for the settlement that has been reached with Microsoft Corp. in the nationwide product pricing class. actions. Consumers have benefited from Microsoft's innovation, which has resulted in better products and lower prices.

The dramatic commitment that Microsoft has announced to the public schools will go a long way toward addressing this need. Further, it helps put an end to costly and damaging litigation which already has gone on too long and caused too much harm to an economy that is in recession. The settlement is in everyone's best interests. The technology industry, consumers and the economy will all benefit to an end to this litigation.

I know I speak for many Americans who believe that the perfect end to this long chapter of litigation would be a settlement that invests in educating our childre" and building our economy.

Sincerely,
Brenda J. Summers, Ed. D.

MTC–00033841

Sent By: Town of Littleton;
978 952 2718;
Jan-10–02 13:59;
Kennard A. Spencer
P.O. Box 381
Littleton MA 01460
January 9, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530

Dear Attorney Hesse,

As a retiree who depends much upon his investments for income, I want to express my concern regarding the ongoing antitrust case against Microsoft. I do not deny the Justice Department their right to pursue and prosecute violations, but I would hope that they would be a little more cognizant of the effects of their actions. Antitrust actions are not isolated affairs, and an attempt to punish Microsoft for whatever real or perceived offenses has impact on many people.

Ever since the Justice Department. began its action against Microsoft, the high tech sector stocks, not only Microsoft but others, have plummeted offecting investors nationally, including institutional investors such as pension funds. This has caused an enormous loss of wealth across the country. I know from conversations with many others that I am not alone in seeing the obvious connection between the antitrust case and the economic slowdown. In such a questionable case of antitrust violation, with no apparent victims, shouldn't the government consider the dire consequences of its actions?

It is my understanding that the Justice Department has presented the Judge in the case with a settlement agreement they have negotiated with Microsoft. For all the reasons cited above, I strongly urge you to do whatever you can to see that it happens.

With sincere respect,
Kennard A. Spencer

MTC–00033842

Sent By: Town of Littleton;
978 952 2716;
Jan-10–02 13:59;
David C. McCarthy
133 Ashburnham Street
Fitchburg MA 01420
January 7, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington DC 20530

Dear Attorney Hesse:

Count me as a consumer and citizen who wants to see the government's case against Microsoft Corporation ended. Thirty million dollars later, and we come to discover that this was all really about some zealous attorneys trying to get the government to pick sides in the high-tech marketplace. One doesn't need to be an expert at antitrust law to know that Microsoft has not had any monopolistic stranglehold on the information industry; just walk into any Office Depot, or open any newspaper and see the variety, the competition and the falling prices. There is no cause for government action here.

And then comes the likes of proComp, AOL Time 'Warner, Sun and Oracle, all looking to have the federal government carve out special rules and conditions to favor them. This is not what the free-market system is all about. It's time to end the feeding frenzy, and end the court case. I see that the Justice Department is finally looking to settle the case, and that Microsoft has agreed. Please, let's just do it. I urge the judge to accept this settlement, and we can all get out of this sooner rather than later.

Sincerely,
David C. McCarthy

MTC-00033843

Sent By: Town of Littleton;
978 952 2718;
Jan-10-02 13:59;
Page 4/4
ASA
ALLIANCES
INCORPORATED
Attorney Renata Hesse
Antitrust Division
Department of Justice
610 D Street NW, Suite 1200
Washington DC 20530
January 9,2002

Dear Attorney Hesse,

I would like to take this opportunity to voice my opinion during the public comment period for the Microsoft antitrust settlement proposal. I wholeheartedly support the decision to settle rather than litigate, and I applaud the Justice Department for crafting a strong resolution which allows Microsoft to remain free to be innovative, while protecting the consumer. It is my hope that Judge Kollar Kotelly will see this as being in the best interests of the country.

The past few months should give us all cause to stop and reflect. We need to be unified as Americans, not only to show strength internationally but also to meet the challenges of reinvigorating the economy. If we can find a way to settle this case, then perhaps both Microsoft and the other companies opposing it can get back to developing technology and expanding business; This settlement proposal seems to be the best chance we have of turning this into a positive for the country.

Thank you for considering my thoughts on this matter.

Sincerely,
Jennifer Lappin

MTC-00033844

Renata Hesse, Esquire
Trial Attorney—Antitrust Division
Department of Justice
601 D Street, NW, Suite 1200
Washington, DC 20530
Fax 202-616-9937

Dear Ms. Hesse:

For more than three years and at a cost of many million of taxpayers' dollars, the United Starts Justice Department has pursued an antitrust suit against Microsoft Corporation. As an interested taxpayer who has no direct financial interest in this proceeding, I strongly believe that the case has had no beneficial impact and that the settlement should be approved by the federal court.

I remember not too many years ago, as a novice computer-user, using Prodigy for my Internet service. Prodigy then was rapidly supplanted by competitors, just as Microsoft supplemented Apple. The lawsuit against Microsoft was largely initiated by a Microsoft competitor. Netscape, which is now part of AOL Time Warner, an Internet behemoth in and of itself.

The point is that the marketplace, especially the Internet marketplace, has its own way of rewarding and penalizing companies' behavior—rapidly and sometimes brutally. The federal government, especially the federal courts, cannot respond rapidly and intelligently enough, even if it can respond brutally.

As a former judge and Supreme Court Justice, I know the limitations of the courts, and I believe this court has found its limits in this case. It believe this view is reflected in the decision by the Attorney General of the State of North Carolina to accept the settlement. I hope that the courts will now restore good sense to the government's oversight of the information-technology industry.

Sincerely,
Phil Carlton

MTC-00033845

Betty Combs Owen
529 Ellynn Drive
Cary, NC 27511
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington. DC 20530

Dear Ms. Hesse:

I am writing to express my support for the settlement under consideration in the U.S. Justice Department's antitrust case against Microsoft. For the past sixteen years, I have served as Executive Director of the Emerging Issues Forum at North Carolina State University. Many of our annual forums have focused on the remarkable advances in information technology that our nation has enjoyed—and the incredible economic growth and opportunities that have resulted. Without Microsoft's leadership and innovation, these advances might not have happened. Whatever wrongs Microsoft may have done in its efforts to compete in this rapidly changing and highly challenging field, I do not believe our nation's best interests are served by prolonging this litigation. I am pleased that the State of North Carolina has accepted the settlement and is no longer a party to the action. I hope that the federal courts will take the same course.

The settlement agreement provides an enforcement mechanism that will have the resources. access and authority needed to respond quickly if there are any future complaints about Microsoft's business activities. This mechanism, along with the restrictions imposed on Microsoft by the settlement appears to be a fair and reasonable way to resolve this matter. I hope that the federal court will do so quickly. Thank you for allowing me to express my opinion.

Sincerely,
Betty Owen

MTC-00033846

January 14, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am a senior programmer analyst for a National Bank. AS such, I have witnessed first hand the negative impact this needless litigation has had on the American IT industry. I am in favor of Microsoft's willingness to make the concessions they have made in the spirit of resolving the lawsuit. However, I believe the terms of agreement go too far. For instance, Microsoft agreed to share with its competitors' proprietary information it has worked hard to develop. Additionally, Microsoft has agreed to the creation of a technical oversight committee, which will monitor its business practices. This concession goes above and beyond what should be expected of Microsoft. The agreement should be approved in its present form and no further federal action should be taken.

I appreciate your efforts to ensure a prompt resolution of this suit in the best interests of the American IT industry and the American public

An American IT worker,
cc: Representative Bob Stump

MTC-00033847

Hew Hampshire Homeowner/Main Street Alliance
30 Norway Hill
Hancock, New Hampshire 03449
888-666-4782
VIA FAX (202) 616 9937
January 11, 2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

I am writing on behalf of NH Homeowners/Main Street Alliance to encourage you to approve the proposed settlement between the United States Department of Justice and Microsoft Corporation.

Our organization is a consortium of business organizations in New Hampshire dedicated to helping the economy of our state while also working with local, state and the federal government on issues that affect our membership. New Hampshire is very much a high tech state ranking second per capita in the number of reside: its working in high tech. The Microsoft case is one, which we have followed closely.

A competitive marketplace producing better products, more choices, and lower prices is in consumers'' best interest. It is imperative that competition be encouraged, in order to provide the platform for high quality, innovative products which will inevitably benefit consumers as well as the high tech marketplace. The continuance of this case has only hurt the economy and the many small, medium and even large businesses that have seen their fortunes adversely effected in the last year. It is time to put this case behind us and get the entire high tech industry focused on innovation again and not litigation. It is evident that the conclusion of this case is in the best interest of consumers, the economy and entire high tech industry.

Thank you for your attention.
Lauren Carney

MTC-00033848

Ain't America Great!
1341 College Point

Winter Park, Florida 32789
January 22, 2002
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

I am aware that a settlement has been reached in the Justice Department's three-year case against Microsoft. I support the settlement, even though I don't believe that the government, MY GOVERNMENT, should have even recognized the complaints of their competitors in the first place. I think it is in the government's, and our best interests to accept the settlement and move on to more important matters.

If it wasn't for Microsoft, I would not be as computer literate as I am today, and I'm just and ordinary citizen who has had no training, no scholling in use of a computer. I know that there are plenty of middle aged and older Americans who have had to learn to use this technology on their own. Microsoft products made it easy, non-threatening and affordable. Thier products caused the huge number of purchases of personal computers and associated items that drove our country's economic success and increased productivity in the "90's. I think it is sad that they are being penalized for America's success.

The terms of the settlement are reasonable, despite my objection that this case should not have been brought in the first place. Microsoft if making changes to prevent any future antitrust practices. It has agreed to establish a three-person technical committee which will monitor Microsoft's compliance with the settlement. Microsoft will use a uniform price list when licensing Windows out to the largest 20 computer makers in the United States. They have agreed to document and disclose for use by its competitors various interfaces that are internal to Window's operating system products

I ask that the government stop spending my resources to penalize Microsoft's success and agree to the settlement terms.

Randy Braden

cc: Representative Ric Keller

MTC-00033850

Jan 24 02 02:23p
Gary Pearce
9197878031
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530
Fax 202–616–9937
microsoft.atr@usdoc.gov
Neil J. Rudolph
Vice President
PLAZA ASSOCIATES, INC

Dear Ms. Hesse:

I sincerely hope that the federal courts finally will put an end to the government's pursuit of Microsoft. The national economy has been hurt enough, the technology sector has been hurt enough, the nation's most important software company has been hurt enough, and no damage to the consumer and end user has ever been proven.

The stock market meltdown and the ongoing layoffs through the technology sector demonstrate that this proceeding should be stopped. The settlement that has been reached appropriately punishes Microsoft and protects against any future anticompetitive behavior. It is time to let the marketplace, not the courtroom, determine the future of this industry.

Thank you for your attention.

Sincerely,

Neil J. Rudolph

MTC-00033851

2860 Hillcrest Lane
Northbrook, IL 60062
December 7, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Ashcroft:

This letter is to express my support for the recent agreement reached between the Department of Justice and Microsoft. This proposed agreement has ended a long three-year court battle brought about by the Department of Justice against Microsoft. I have long felt that this antritrust suit was unfair. I believe if a person has the guts and intelligence to pursue his or her particular dream, they should not be punished if they achieve it. Thank you for working to settle this.

But beyond my personal feelings, it is best for the country to move on. As you know, Microsoft agreed to a number of provisions demanded from the Justice Department, and an oversight committee was formed which will monitor Microsoft. No more is needed. Therefore, the Department of Justice should not pursue this matter any further. We are in a time of great stress in this country. We need to allocate our time and money to resolve the obvious problems at hand, not keeping arbitrating a settlement that has already been negotiated.

Sincerely,

Robert Brandt

MTC-00033852

3280 Sportsman Club Road
Bourbonnais, IL 60914
November 30, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft

I would like to take some time to express my opinion about the settlement that was reached between the Department of Justice and Microsoft. The settlement brought an end to the three- year antitrust dispute, and was fair and just. I also hope that there will be no more legal action against the Microsoft Corporation at the Federal level.

I simply do not understand why American taxpayer dollars have been misused in the pursuit of litigation against Microsoft. Now more than ever, America needs to spend its money more carefully. The economy is still suffering from the beginning of this whole dispute, and the stock market is in disarray. Microsoft has done much for this country and has completely changed the face of the computing and technology industries. They need to be allowed to continue bringing new and useful products to the marketplace.

I appreciate your time and consideration on this issue. I am happy with the settlement, and urge you not to further trouble Microsoft. Thank you.

Sincerely,

Donald Burlison

MTC-00033853

From Leon H. CarringtonJanuary 28, 2002
22022 Gloucester Court 3-B
Lexington Park, Md. 20653
To: Renata Hesse, Trial Attorney
Antitrust Division
U.S. Department of Justice
601 D Street, NW Suite 1200
Washington DC 205030

My name is Leon H. Carrington, I am a citizen of the United States and I am herewith submitting my comments regarding the Proposed Final Judgement in Civil Action No. 98–1232, United States of America v. Microsoft Corporation.

The government has breached its duty to the public by offering the Revised Proposed Final Judgement (Final Judgement) as a Final Judgement and settlement in the case United States v. Microsoft Corporation. The remedy proposed is not effective for correcting or eliminating the violations alleged in the Complaint (Civil Action No. 98–1232 (CKK)). The remedy proposed would create more harm to the public than the damage alleged due to the fact that the proposed remedy would ignore serious allegations and behavior found by the United States District Court for the District of Columbia and the United States Court of Appeals for the District of Columbia, to be in violation of the Sherman Act; and it would confer upon Microsoft powers and authority the market does not allow it to possess currently. Thus, the proposed remedy would not be in the public interest and would be disastrous for many third parties, while greatly benefitting Microsoft.. If the remedy proposed includes both the Final Judgement and the Competitive Impact Statement, the proposal is wholly inconsistent with the Complaint and its allegations due to the fact that the Competitive Impact Statement is not even consistent with the Final Judgement which in turn is not responsive to the Complaint.

Specifically, the most glaring and perverse inconsistency is the base of nearly all damage rendering the Final Judgement inadequate and insulting. That inconsistency is the fact that the Complaint is substantially built on the definition of an operating system. The Competitive Impact Statement defines an operating system in a manner wholly consistent with the Complaint. The Competitive Impact Statement definition is in Section III "Description Of The Practices Giving Rise To The Alleged Violations", subsection B "Factual Background", subsection 1 "Microsoft's Operating System Monopoly". The Complaint definition is in Section IV "The Relevant Markets", subsection A

"The PC Operating System Market". Astonishingly, in this very subsection the Complaint states truthfully, that No other product duplicates of fully substitutes for the operating system." Yet the Complaint incorrectly states in Section IV "The Relevant Markets", that "There are two relevant markets. The market for personal computer operating systems, and the market for Internet browsers." This is foolish, indeed. There are two relevant markets. The market for personal computer operating systems, and the market for applications which includes Internet browsers. Note also that the District Court found and the Appeals Court agreed, that Microsoft illegally tied its Explorer browser into Windows in a nonremovable way while excluding rivals, in violation of section 2 of the Sherman Act. The illegal tie-in also injured certain other application developers developing under Windows, who may not have been involved with browsers..

Notwithstanding, the Complaint makes reference to "Microsoft's Windows operating system" in section III subsection C. The Complaint refers often to "Microsoft's Windows operating system monopoly". That an operating system enables virtual software unification of the hardware computer components and resources, exposing them, and thus facilitates use of those resources and components by users (consumers) and applications, is a perfectly acceptable and commonly understood definition of an operating system. However the Final Judgement creates a new class of product called a Microsoft Operating System Product (my emphasis) This new class, according to the Final Judgement, includes Windows 2000 Profession, Windows XP Home and Professional, and their successors. The Final Judgement further states in the definition of the term "Microsoft Operating System Product," that the code comprising the same "shall be determined by Microsoft in its sole discretion." (Section VI—Definitions) We are lost. In spite of the fact that the Competitive Impact Statement recognizes what an operating system is, it confers upon the above listed Microsoft operating systems the designation "Microsoft Operating System Product". The new class and the reliance on Middleware by the Final Judgement and the Competitive Impact Statement, permits Microsoft to evade due penalties for established violations and further abuse their operating system monopoly by expanding their "tie-in" policy and rendering harmed ISV's among others, to the status of market irrelevance. This is a position Microsoft does not currently enjoy. Allowing Microsoft to define what an operating system is (through their monopoly control and now U.S. Justice Department assistance) eliminates the threat of Middleware and applications which may compete with Microsoft applications. Indeed, applications not yet conceived can be preempted until Microsoft "discovers" them and adds them to their monopoly. For such cause, many people recognize that breaking up Microsoft is the best first step in correction of alleged and established abuse. Recognizing and enforcing the legitimate (in this case) separation of operating system and application is the best way to eliminate the basis by which Microsoft's abuse of its monopoly operating system caused damage and continues to do so. Separating the operating system would encourage its owner to make public all feature provided by the underlying hardware manufacturers. It would further encourage competion between hardware component manufacturers which manufacturers are as much victimized by Microsoft's abuse of its monopoly operating system as consumers and ISVs by virtue of the fact that hardware components' interfaces must suit the Microsoft vision or be excluded. This why so many computer software game manufacturers continued to develop for DOS well into the late 1990's: the Windows interface denied them full access to the functionality that enabled them to distinguish themselves and satisfy their customers. No other vertical software market had a customer base that allow it or the underlying hardware vertical market to "rebel". We are missing many new innovations.

Evading the operating system definition eliminates or surely deteriorates the possibility of illegal tie-ins. All potential beneficiaries of just and reasonable corrections that would have been established by faithfully addressing the allegations of the also semi-adequate Complaint, are instead further damaged or untreated (left damaged) by the Final Judgement. In the Complaint Section I subsection 5 it is stated the "Microsoft's conduct includes agreements tying other Microsoft software products to Microsoft's Windows operating system; . . ." The effects of these tie-ins are well known but not part of the allegations of the Complaint. A Microsoft application with hidden interfaces (tie-ins) to the operating system has a chilling effect on the development of competitive products and prevents those few who may discover this interface from remaining competitive because of course, the hidden interface may be changed upon upgrade of Microsoft's application or operating system, and the former interface removed, thus "breaking" the competitors application and causing consumers to spend more money unnecessarily. This situation also allows Microsoft to occasionally appear to be competing on the merits of their offering when such is not the case. Promoting middleware as is done in the Complaint, the Final Judgement, and the Competitive Impact Statement, does nothing to alleviate this problem. As stated in the Complaint and noted above, "No other product duplicates or fully substitutes for the operating system." Indeed, middleware is just another application, however useful. Denying ISVs and consumers the benefits afforded them by a legitimately marketed bona-fide operating system as opposed to an "Operating System Product" can not be in the public interest, and is not responsive to the Complaint, including prior court judgements.

When the "Nimda" computer virus appeared last year, I was amazed at how it performed its activities. I was more astonished when it occurred to me that I was reading about functionality only a person familiar with Microsoft applications programming would understand. What astonished me was the fact that this and many other common viruses could not occur if Microsoft applications were not tied in to the operating system. Operating system vulnerabilities are policed, as it were, by the entire computing community. Application vulnerabilities are not so well noted, because applications other than middleware do not generally offer much exposure to the programming consumer, and competition keeps them distributed, not concentrated through the entire PC universe. This is not the case with Microsoft applications. Commonly used Microsoft applications are part of the "programmers toolkit" for Windows developers. If they were not, the anticompetitive position they occupy would be more blatant as only Microsoft could interoperate with them, using the exposed underlying functionality. On the other hand, having these products so fully integrated into the operating system and each other while exposed and enjoying the proliferation obtained from Microsoft's illegal use of its monopoly operating system, facilitates more and more clever exploits by hackers. The most common viruses affecting consumers have used the victims own Microsoft applications. It is not so easy to wreak havoc in other operating system environments where there are no externally programmable, ubiquitous applications which applications are fully integrated into the operating system via hidden APIs or interfaces. Strangely enough, in the Linux community, where essentially nothing is hidden, applications of this power could exist and remain secure because the open source community polices its environment jointly and severally. Interesting. . . someone can break Microsoft products but only Microsoft can fix them. Who pays? Thus we have another nasty by-product of the tie-in problem. It would be eliminated or greatly reduced with a return to application development competition based on an operating system exposed on a non-discriminatory basis.

It would thus be disastrous for ISVs and consumers alike if Microsoft had authority to regulate security issues for operating system and applications alike. That power is also effectively granted by the Final Judgement where security APIs and documentation are to regulated directly or indirectly by Microsoft, the antithesis of security in consumer and commercial computing.

That the Final Judgement creates a new class called Microsoft Operating System Product, is reprehensible, clearly evading the issues addressed by the complaint. That ISVs who know how to use computing facilities as well as and better than Microsoft should be relegated to the use of middleware for protection from abuse and for development is not contemplated by the Complaint or Court findings; is unjustly discriminatory, and not in the public interest; denying the public the expected benefits of many new applications which may or may not use, or be middleware; yet must have the access to the same APIs and documentation as any other entity in the computing arena. Indeed, many of the best among us study hardware documentation for software development, and vice versa. Shall the United States Justice Department and Microsoft alter this historic landscape of a market in the interest of anyone other than Microsoft?

The Competitive Impact Statement seeks to limit the competition that competes against Microsoft and others in selected markets, by requiring that ISVs must be of a certain size in the market and have had that position over a particular period of time in order to obtain API disclosure relief under Section III.D of the Final Judgement; further enabling Microsoft to evade Complaint allegations and even Sherman Act violations it has been found guilty of. This is the case because again, some small mind has not yet learned that computing facilities are continually reused by bright agile minds. Interfaces used for middleware in one mind are perfect and necessary for another application in the mind of another party. This reuseability is the inherent nature of computer software and even the smallest computer hardware components. The various underlying markets must not be constrained by this taking on behalf of Microsoft. The limited vision of Bill Gates' nightmares and appetites are not the proper perspective to use to correct the abuses of Microsoft's monopoly operating system.

The Competitive Impact Statements states in defining a Non-Microsoft Middleware Product, that such a product must have "at least one million copies distributed in the U.S. within the previous year" (my emphasis) .It further states that this reqirement "is intended to avoid Microsoft's affirmative obligations—including the API disclosure required by Section III.D . . . being triggered by minor or even nonexistent products that have not established a competitive potential in the market and that might even be unknown to Microsoft development personnel." (my emphasis) This is preposterous! This constitutes unjust and unlawful restraint of trade and unjust discrimination. The Final Judgement does not restrict ISVs to a size or type insofar as their right to obtain the benefit of relief under Section III.D is concerned. If such were the case, the U.S. and Microsoft have decided who has the right to compete where in the computing market which as stated above, consists of many integrated and simultaneously distinct and competing markets. This carving of the competing development community, to the benefit of Microsoft, is ironically, the exact opposite of what should be carved. Neither the U.S. nor Microsoft has the right to determine what merely new, useful, and innovative products may be created using any functionality of a legitimate operating system. Is this why the evasion technique deployed is to call an operating system an operating system product instead of an operating system?

How dare this decree suggest that Microsoft development personnel should be aware of what all or any others are doing in development. Microsoft development personnel can not provide consumers a finished product after any number of beta tests, nor can they secure the products they make. The Revised Proposed Final Judgement and related Competitive Impact Statement are a stench in the nostrils of intelligent, informed consumers. Unless a settlement can resolve the issues raised herin, Microsoft should be broken into a least two separate pieces: operating systems and applications.

Respectively Submitted,
Leon H. Carrington,
STB Practitioner
(301) 862–1604

MTC–00033854

December 5, 2001
Attorney General John Ashcroft
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

I am writing in regards to the recent Microsoft antitrust settlement, and the attempts to hold long hearings of within the Judiciary Committee. Due to legislative time constraints and the current recession, absolutely no more action should be taken at the federal level. I personally don't think that this case should have ever reared its ugly head in the first place. This lawsuit has been perpetuated for the last three years; it is a waste of the government's time and money that could be used on more critical priorities in these disheartening times.

Microsoft's products were—and are—both practical and satisfying to their customers. The only complaints toward Microsoft were coming from their competitors. Now, as much as I do not believe that this case should NOT have happened, the settlement continues represents a mutually fair and reasonable outcome. In fact, a court-appointed mediator and small armies of lawyers negotiated the agreement, yet again emphasizing the point about wasted government time and money.

I implore you not to pursue any more litigation, or, for that matter, any further action at all. Please lay this case to rest. Thank you. Sincerely,

Barbara Champaigne
1072 Oak Street
Nenah, WI 54956

P.S. I think this country is getting "sue" crazy!

MTC–00033855

38943 Swordfish Common
Fremont, CA 94536
October 15, 2001
U.S. Attorney General John Ashcroft
DOJ Antitrust Chief Charles A. James
The Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20240

Dear Messrs. Ashcroft and James:

Please see attached San Francisco Chronicle article written by Mr. Paul Bechner pertaining to the Microsoft s anti-trust case initiated by the previous Department of Justice under Clinton Administration. As one of millions of consumers in the world, I feel same way as Mr. Paul Bechner does about the Microsoft anti-trust case.

Mr. Bechner's article indicates how unfair and unjust the previous Department of Justice was, along with 19 states' Attorney Generals. A few rival companies are lobbying state attorneys and legislators to encourage more legal and regulatory action against Microsoft. Microsoft is not a tobacco company. It does not harm the consumers. On the contrary, the company has consistently delivered new and innovative products at better prices to consumers and businesses.

Thank you for taking the time to read Mr. Paul Bechner's article.

Sincerely,
Francis Cheng

MTC–00033856

Thomas Holmes, 3005 Montgomery Road,
Shaker Heights, OH 444122 USA
tel. +1 216 283 2010, fax +1 216 283 2009,
email tholmes@msn.com
December 6, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Attorney General Ashcroft:

I was extremely pleased to hear that the Department of Justice has decided to settle its antitrust dispute against the Microsoft Corporation, which is why I have take then opportunity to writ to you during this comment period to express my opinion on this issue. Millions of dollars and countless hours have been wasted on both sides of this dispute. Microsoft has completely changed for the better the way most companies manage their business on a day to day basis. Why did our Government set out to kill the goose that lays the golden eggs? This settlement will be good for the American economy.

I am pleased that we may be able to finally put this lawsuit behind us. I am pleased that you have had the foresight to settle this case on the federal level. We do not need congressional action on this matter. Hopefully the states that are still considering litigation will see the wisdom in settling.

Sincerely,
Thomas Holmes

MTC–00033857

Joyce R. Kerze
4899 Golf Village Drive
Powell, Ohio 43065
December 5, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Attorney General Ashcroft:

As an avid user of Microsoft products, I would like to express my opinion that legal action against Microsoft should stop. I believe that the current settlement still suffices; it allows computer manufacturers new rights to configure systems with access to Windows features. I have been following the economic recession, and feel that further action against Microsoft will only foster the current negative state of the economy. I urge you to fully close the case against Microsoft

Sincerely,
Joyce R. Kerze

MTC–00033858

David Lukens, M.D.
3320 3320 Prarie Hills Drive
Hutchinson, KS 67502
December 5, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Attorney General Ashcroft:

The agreement that was reached between Microsoft and the Justice Department in antitrust dispute was carefully negotiated to address concerns on both sides of the issue.

Microsoft will have to make a number of concessions and changes in the way that it licenses and markets its products, but will be allowed to continue to use the integrated technology that has allowed it lead the industry.

During this period of public comment, I wanted to register my view that it would be in everyone's best interest for the Department of Justice to approve the settlement. America's computer industry is the world's best, and was a major player in the 90's economic boom. Microsoft gets a lot of credit for this. It is bad policy to keep it hobbled with litigation.

Thank you for accepting my comments on this issue.

Sincerely,
David Lukens

MTC-00033859

December 5, 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Ashcroft:

As a concerned citizen of this great country, I write you to express my interest in the recent Microsoft settlement. As I have been a supporter of the settlement in the past, I am urging you to support the decision to take no further action in this matter. As I see the news daily, I am concerned about the current recession and am hoping for a swift recovery. As technological advancement is delayed, so is our economic growth. This recession has also had a devastating effect on state budgets, and it does not make sense to spend resources on delaying a settlement that has already been achieved. This settlement is fair and beneficial to all parties. It can only help our economy flourish and our country to prosper.

Sincerely,
Fahed Raad
14250 Applewood Court
Elm Grove, WI 53122

MTC-00033860

Thomas A. Tisch
15040 Encina Ct., Saratoga, CA 95070
Email: ttisch@mindspring.com
November 4, 2001
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am appalled that you would let your department settle with Microsoft on the proposed basis. I have spent 20 years in the venture capital and computer industry during which time I have personally observed Microsoft steal secrets, be duplicitous in its dealings, and through its dominance of the operating system force acceptance of other Microsoft products. At least two companies of which I have been an investor and a director have directly been harmed by Microsoft monopoly practices. One (Stac) won a $100 Million judgment against Microsoft for stealing patented information. The judgment was no more than a slap on the wrist of the economic juggernaut. The other saw its premier product line integrated into Microsoft products and effectively given away until the company was reduced to ashes. As a personal user, I have wasted hours, even days, of my time dealing with dysfunctional Microsoft products, products that in a more competitive environment would have been driven from the marketplace or forced to upgrade in quality.

What other company can delay, or miss a promised introduction date for a new product by 6 or more months and not suffer competitive penalties? None other but Microsoft. Not General Motors, not General Electric, not United Airlines, not IBM, not ATT. The time is here when the Federal Government, for which you have some responsibility, can be severely crippled by Microsoft business decisions and for which the Federal Government—along with the rest of us—can find no relief in competitive products or services.

The proposed remedies for the Microsoft antitrust case are a sham and sellout on behalf of the American people and hundreds of thousands of workers in the computer industry. It is not something to be pushed under the Sept. 11th rug. In fact core ethical values are at stake in this matter, as they are in the issues of Sept. 11th. Perhaps it's too late for you exercise some leadership in this matter (as others before you have done). Perhaps not. It's up to you.

Sincerely,
Thomas A. Tisch

MTC-00033861

2417 Hillview Drive
Manhattan, Kansas 66502
December 7, 2001
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

I am writing you today, to express my support for the settlement reached between the Department of Justice and Microsoft. I feel this settlement is fair, and that no further legal actions should be taken against Microsoft by the Federal Government. It is in the best interest of our economy to let this issue rest and for the Federal Government to move onto other endeavors. Under the agreement, Microsoft pledged not only to devote resources to comply with the terms of the proposed agreement, but to become a more responsible industry leader. Through a court appointed mediator several issues were resolved after intense negotiations. Microsoft agreed to communicate even more with other companies; share information about their software design and competitors will retain the right to sue Microsoft if they believe Microsoft is not complying with the agreement.

Now is the time to allow the settlement to take effect and allow Microsoft to return its focus on innovation, not litigation.

Sincerely,
Theresa Underwood

MTC-00033862

PO Box 135
Monterey, MA 01245
6 December 2001
Attorney General John Ashcroft
US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Mr. Ashcroft:

This two-month period the people of the United States now have to express our concern about further litigation against Microsoft is a wonderful use of free speech. I would like to take this opportunity to express my personal opinion about the government's role in Microsoft's freedom to innovate. The United States Department of Justice and Microsoft reached an agreement at the beginning of this past November; that is where the litigation should end. The settlement was just and right: it allowed Microsoft to continue doing business, while allowing competitors to sue Microsoft if they do not think the company is complying with the agreement.

No more litigation should be enacted at the federal level. With a reasonable settlement already in place, further government action would only waste more time and money. In this time of economic recession, these resources could be used in a much more productive manner. In these trying times, we need to support our homeland companies and allow them to continue providing high-quality products to the marketplace both here and abroad. Lastly, Microsoft is one of our top IT businesses and represents the determination and hard work we as Americans value.

In a battle that the government has alrady been fought and won, I believe it would be in our best interest not to continue suing Microsoft. Let us get our economy back on track and start supporting products and companies that are made in the USA. Thank you for you time.

Sincerely,
J.T. Buchar

MTC-00033863

John Millet
1818 27th St, Sacramento, CA 958 14
January,2,2002
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Ms. Hesse:

The economy is in recession. Our country is at war with terrorism. Yet, we are still dealing with this anti-trust case against Microsoft. Let's get our priorities in order.

I am glad to see that the government has found a way to settle this case and allow Microsoft to get back to work doing what it does best. Microsoft's influence on our economy is great and putting this case behind it will allow them to be the national leader they are and stimulate this economy with new and innovative products at affordable prices for consumers.

Settlement of this case is best for our country, the world economy, the tech industry and individual consumers. I hope that this case is wrapped up soon.

Thanks.
John Millet

MTC-00033864

elanie Teague
1102 22nd St. Unit 606
Hickory, NC 28601
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington, DC 20530

Dear Attorney Hesse:

The proposed settlement in the U.S. v. Microsoft case is clearly a compromise because it does not completely satisfy Microsoft or its competitors, I support the settlement because it attempts to reach a middle ground for both sides and will ultimately benefit consumers, the technology industry and the economy. End users will be guaranteed flexibility because new microsoft operating systems will have a mechanism that allows them to remove or re-enable middleware products such as the internet browser. email utilities and messaging toots. Computer manufacturers will have flexibililty because Microsoft will not be allowed to penalize them for distributing software that competes with Microsoft.

The settlement also allows a technical Committee to respond quickly to complaints about Microsoft compliance. Microsoft competitors hove other benefits as a result of this settlement. It Is lime to reach an agreement and allow the technology Industry to get back to developing new products and encouraging innovation that will stimuiate the economy.

MTC-00033865

ANDERSON COLUMBIA CO., INC.
P.O. Drawer 38 o OldTown,FL32660
(352)542-7942—Fax# (352)542-3417
January 12,2002
Attorney General John Ashcroft
US Department of Justice, 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Ashcroft:

It has come to my attention that both the Justice Department, and Microsoft have reached a settlement in the three-year antitrust case. I am happy to hear about the settlement, and I support it 100%.

This settlement will allow computer makers the means to remove access to various features of Windows, such as Microsoft's Internet Explorer web browser, windows Media Player, and Windows Messenger. Also, Microsoft has agreed not to retaliate against computer makers who ship software that competes with anything in its Windows operating system.

In fact, Microsoft has even agreed not to retaliate against software developers who develop or promote software that competes with Windows, I would like to see this case settled as quickly as possible, since further delay would end up hurting the American economy. Do not prosecute Microsoft any further!

Thank you.
Anderson, Jr

MTC-00033866

From: Gary Pearce
9197878031
Dec. 26, 2001 01:00PM P1
Renata Hesse
Trial Attorney
Antitrust Division
Department of Justice
601 D Street NW, Suite 1200
Washington. DC 20530

Dear Attorney Hesse:

I encourage approval of the proposed settlement in the U.S. v. Microsoft so that technology companies can focus on innovation and competition rather than litigation As a consumer and an educator,I find that the Microsoft products are easy to use and allow integration of several software programs for consumers who do not have a lot of experience with computer programs. This settlement will allow continued ease for the consumer while at the same time providing some safegrounds that Microsoft's competitors wanted to guarantee them and consumers greater flexibility in the use of other operating Systems.

The settlement will allow access to technical specifications, provide a mechanism for removing products such as the Internet browser, and sets up a Technical Committee to respond to complaints about Microsoft's compliance with the settlement provisions. The settlement offers benefits to the technology industry and consumers and provides a reasonable compromise.

Sincerely,
Shannon Aycock

MTC-00033867

FROM: AUDE ACCTG SVCS I NC
ROBERT M & LE T. RUDE
21301 8th Place W
Lynnwood, WA 98036
January 25, 2002
Attorney General John Ashcroft
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20330-0001

Dear Mr. Ashcroft:

We have taken this opportunity to write in and express our opinion of the antitrust suit against the Microsoft Corporation. We feel that this suit has been bogged down in the judicial system for long enough and it is time for the government to allow Microsoft to get back to work. It needs to continue setting the standard in the worldwide technology industry.

It is our opinion that this suit has pulled the American economy down, especially in the vital IT sector. The bottom line is, Microsoft is one of this nation's largest employers, and the perpetuation of this case during these times of economic uncertainty is imprudent. Microsoft is and always has been a great company. They have given millions of dollars to charity and have changed the way we view computers forever. Microsoft made technology accessible to Americans in a form that was usable. Without this company, there would have been no "P.C. revolution." We believe that the terms of this settlement will ensure that there are no further violations of antitrust committed by the company, especially with the establishment of a technical committee which will monitor Microsoft and prevent them From any future violations.

We arc please that an end to this litigation is in sight. Please continue to support the settlement and the future of free enterprise in this nation.

Sincerely,
Robert Rude Le Rude

Dorothy Fountain,
Deputy Director of Operations.

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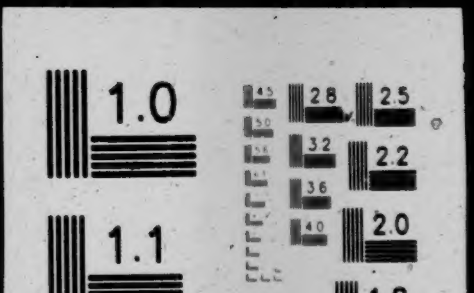
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